

MEEKER COUNTY BOARD OF ADJUSTMENT MEETING
September 10, 2019
Audio Available Upon Request

The Meeker County Board of Adjustment met at the Courthouse on **Tuesday, September 10, 2019 at 5:00pm** to consider the following variance applications and other business before the Board. Members present were Mike Brooks, Kim Hempel, Al Anderson, Zoning Dept official Monica Ankrum and Greg Schultz, Zoning Administrator.

Hempel calls the meeting to order at 5:00pm. There is a quorum.

The Board states their names for voice recognition.

Hempel asks the Board if there are any corrections or additions to the August 13, 2019 meeting minutes. None are noted.

Brooks makes a motion to approve the minutes.

Anderson seconds the motion.

Motion carried 3-0.

5:01pm

Hempel opens the continued public hearing for Chad Schumacher & Amanda Ryan (owners), 7415 N 103rd Ave, Brooklyn Park, MN 55443 and Mark Determan (applicant) 70268 219th St, Dassel, MN 55325. Property located at 70268 219th St, Dassel, MN 55325. Lot Two (2), Danielson's Lake Shore, Lake Washington, Collinwood Township. An application for an Area Variance to construct a dwelling in variance to the required 75' setback to the OHWL of a General Development Lake in the R-1 Suburban Residential District and within the Shoreland District.

Mark Determan was present.

Schultz: This property is a riparian R-1 Suburban Residential zoned property on Lake Washington in Collinwood Township within the plat of Danielson's Lake Shore. The plat of Danielson's Lake Shore was made before the shore land ordinance of 1972 and the lots are small in width, depth and area. Currently on this lot there is a 20x12 garage and a 12x10 utility shed, both in poor condition with no record of the date of construction. The applicant is proposing to construct a house in variance to the 75' setback to the OHWL of a GD lake which would allow him to meet the 35' road right of way setback.

Required setback OHWL: 75', Requested 70.6', Variance required: 4'6".

Hempel reads a letter from Ethan Jenzen, DNR Area Hydrologist:

As with the above application, I must ask if the application requests reasonable use of the property consistent with purpose and intent of the ordinance. As such, I must ask if the structure design elements are the result of design preferences of the applicant, or if they are specifically the result of limitations of

this parcel. If all required criteria established under MN Statutes Chapter 394.24, Subd. 7 cannot be satisfied, and/or all other requirements of the ordinance as listed above cannot be met, DNR recommends that this request be denied.

Please note that land use ordinances should seek to phase out nonconformities over time; not create more. Are there alterations to the design of this structure that would still accomplish the goals of the landowner, however, bring the structure into compliance with the requirements of the ordinance? If so, then I must recommend that the design of the structure be changed instead of approving this variance application.

Thank you for consideration of these comments. I look forward to working on similar issues with you in the future.

*Sincerely,
DNR Division of Ecological and Water Resources*

*Ethan Jenzen
Area Hydrologist*

Determan states that this is a small lot. Initially he was told that his road was private, which would be a required 25' setback. He made his house plans according to that setback. When he came into the Zoning office, he was told it wasn't private, so the setback changed to 35'.

Hempel asked why Determan chose to be closer to the OHWL instead of the road.

Determan said it was to be in line with the other cabins. Both cabins on each side of him are 50' from the lake.

Anderson asks if it is his preference to be closer to the lake. The hydrologist suggested trying to make a change, and moving the house closer to the road makes sense.

Determan said his preference would be more in line with the other houses, but if that isn't acceptable, he is okay with moving it closer to the road.

Brooks agrees with Anderson. He would be alright having the variance to the road instead of the OHWL.

Hempel asks about his water issues—a spring or a culvert running through the property.

Determan states that it is a drainage tile and it isn't draining anymore. He spoke with the water district manager and was told that it was very common for drainage tile to be drained into Lake Washington.

Schultz says that he will have to get some kind of landscaper out there to figure out how to divert the water. It can be dealt with.

Brooks states that he has a dead-end road and doesn't see a problem with a variance to the road.

Brooks makes a motion to close the public hearing.
Anderson seconds the motion.
Motion carried 3-0.

Anderson makes a motion to amend the variance and allow a 4'6" variance to the road right of way.
Brooks seconds the motion.
Motion carried 3-0.

5:14pm

Hempel opens the continued public hearing for John Martin, 19548 612th Ave, Litchfield, MN 55355. Property located at 19535 612th Ave, Litchfield, MN 55355. Lots forty one, forty two, forty three, forty four, forty five, forty six & forty seven (41, 42, 43, 44, 45, 46 & 47), Block three (3), Minnie Belle Shores, Lake Minnie Belle, Greenleaf Township. An application for a variance to remove an existing dwelling and construct a new dwelling in variance to required 35' setback to the road right of way to roads 195 ½ Street and 612th Avenue and a variance to construct a patio in variance to the required 35' setback to the road right of way to road 612th Avenue, all in the R-1 Suburban Residential District and within the Shoreland District.

John Martin is present.

Schultz: This property is a non-riparian R-1 Suburban Residential zoned property located on the west side of Lake Minnie Belle in Greenleaf Township. This property consists of seven lots in the plat of Minnie Belle Shores. The plat of Minnie Belle Shores was made before the Shoreland Ordinance of 1972 so the individual lots are small. This property is approximately 1.19 acres (51,836 square feet). These lots cannot be split and sold separately due to their individual sizes. Currently on this property there is a cabin constructed in 1960 with a three season porch addition completed in 1985, a detached garage constructed in 1960, a detached shed constructed in 1981, two small utility sheds, a shallow domestic water well and an SSTS installed new in 2013. The property has a township road on the easterly, northerly and southerly sides. This property was granted a variance in 2016 to allow for the removal of the existing dwelling in conjunction with the construction of a new dwelling 27'6" from the northerly township road. The applicant indicated on the 2016 application that the reason for the requested variance was because he wanted to avoid cutting down some trees and also to avoid his septic system. That construction never occurred and the variance expired. The property owner is now requesting a similar plan. He is requesting variances to both streets 195 1/2 (east/west road north of the dwelling) and 612th Avenue (north/south road east of the dwelling). The applicant has indicated that this variance is necessary because of the roads on three sides of his property, the septic system and the proposed location is the best location on the site for the new dwelling is the most appropriate location for a dwelling. As per 13.04.B.1 of the Meeker County Zoning Ordinance the structure setback in an R-1 zone is 35' to the road right of way.

Impervious: OK as per the site sketch Mr. Martin completed.

Variance necessary for the proposed construction:

Required Setback of 195 ½ street is 35' to the road right of way: Requested Setback 27.5', Variance required: 7.5'

Martin states that the he applied for a variance back in 2016 the Board granted him a variance to 195 ½ Street, but he did not do the construction. On the first plan he has was trying to connect onto the existing garage, but there are no frost footings in that garage, so he was advised against it.

He changed the plan to make it fit the previous variance, but will also needs a variance to 612th Ave. He states that he already took down two existing sheds.

Brooks comments that he does not see a problem with this variance being denied. Martin can't do anything about the existing garage, but there is no reason to need a variance on a vacant lot. He states that he was on the Board in 2016 when the first variance was approved and that was because of the trees. Now the trees are removed. After the house is removed, the lot will be vacant.

Hempel states that this is a large lot and doesn't see the need for a variance.

Anderson asks if he would be willing to remove the proposed patio between the two structures. If he did that, he wouldn't need a variance to the north road.

Martin says that if that is the Boards decision, he would probably just tear down both the house and the garage and start from scratch. He doesn't like the idea of a house being that close to the garage.

Anderson also asks if he would be willing to push the house back to satisfy the variance request to 612th Ave.

Martin would be willing to do that.

Anderson makes a motion to close the public hearing.

Brooks seconds the motion.

Motion carried 3-0.

Anderson makes a motion to deny the variance to 612th Avenue and approve the 7.5' variance to 195½ Street.

There is not a second.

Motion denied.

5:28pm

Hempel opens the public hearing for JBetco, LLC/Janet Betker, 67812 217th St, Darwin, MN 55324. Property located at 67798 217th St, Darwin, MN 55324. That part of Lot Sixteen (16), Pleasant View, Lake Washington, Ellsworth Township. An application for an Area Variance to construct a garage and entry addition to an existing house in variance to the required 35' setback to the road right of way in the R-1 Suburban Residential District and within the Shoreland District.

Paul Betker, Everet Zeppelin and David Jutz (Ellsworth Board) are present for this hearing.

Schultz: This property is a 12,238 square foot R-1 Suburban Residential zoned riparian property located on the southwest side of Lake Washington in Ellsworth Township within the plat of Pleasant View. The plat of Pleasant View was made before the shoreland ordinance of 1972 and the lot is small in width, depth and area. Currently on this site there is a dwelling with attached deck constructed in 1971 and a domestic water well. This property shares the septic system with the lot to the east of this site. The existing property owner is proposing to construct an attached garage and entry addition onto the existing dwelling and is requesting a variance to the road right of way. The construction is able to meet all other setback requirements.

Variance Necessary

Required Setback to 217th Street is 35' to the road right of way: Requested Setback: 16', Variance required: 19'.

Betker states that he wants to put a garage on a house that doesn't have one. He can't go back any further because he has to put a new septic in and that restricts him from putting it elsewhere.

Anderson says that he liked the layout and it makes sense. He won't be any closer to the lake. It's a secondary road, not a primary road. There will still be parking by the road. It is a variance based on situation, not preference.

Brooks states that he realizes it is a small lot that has been there many years. He noticed that there is already parking along the roadway, because there was a boat sitting there. After looking at the situation, he sees no way that he can do justice to the county and accept a variance of 16'. It seems that everyone on the lake thinks they can park closer to the road; the reason we have a 35' setback is because of suing, if somebody crashes into one of those cars. The county is technically liable in the court of law because we are allowing someone to build and/or park closer. Everyone parks along side of the road.

Hempel says we have to look to the future—traffic, adverse weather, safety, etc. We have to take in all those factors when making decisions.

Betker says he can shorten it two feet. That would be 18'.

Hempel states that the Board has never allowed a variance closer to the road that is less than 20'.

Brooks is having a hard time allowing this to be so close to the road.

Jutz says that he had a couple calls from people who are concerned, so he drove out there today. The concern is the garage being so close and cars parking in front of it, the plows will hit the cars. He is wondering if the garage can be moved.

After much discussion, it is found that Jutz didn't understand where the garage was going in relation to the road.

Hempel asks why Betker didn't try going closer to the lake.

Betker explains where the septic will be going and where the well is located.

Schultz believes he can locate the septic to a different location. He would like to take a look at the property again regarding the septic.

Hempel tells Betker that the Board can rule on how the variance request is right now, or they can continue the hearing to explore the septic location and perhaps make a change.

Brooks makes a motion to close the public hearing.

Anderson seconds the motion.

Motion carried 3-0.

Anderson makes a motion to continue this public hearing to October 8, 2019.
Brooks seconds the motion.
Motion carried 3-0.

5:54pm

Hempel opens the public hearing for Douglas Hightshoe, 36099 CSAH 2, Watkins, MN 55389. That part of Government Lot Six (6), more fully described in the application. Section Twenty Two (22), Township One Hundred Twenty One (121), Range Thirty (30), Clear Lake, Forest Prairie Township. An application for an Area Variance to construct a garage in variance to the required 35' setback to the road right of way and in variance to the maximum allowed 25% of impervious coverage in the R-1 Suburban Residential District and within the Shoreland District.

Doug Hightshoe is present.

Schultz: This property is a .46 acre R-1 riparian zoned metes and bounds property located on the southeast side of Clear Lake in Forest Prairie Township. This lot was made before the shoreland ordinance of 1972 and is small in width, depth and area and is served by the municipal septic system that serves a large portion of Clear Lake. Clear Lake is a Recreational Development Lake. Currently on this property there is a house constructed in 1964, an attached garage constructed in 2014, a deck constructed in 2012 and two utility sheds one was moved on-site in 2000 the other unknown. This property was granted a variance in 1979 for its construction and an after the fact variance granted in 2014 to allow for the construction of the attached garage in variance to the side lot line. A variance in 2014 was denied to allow the property to exceed the maximum permitted 25% of impervious surface coverage on a property. This property recently changed ownership. The existing property owner is requesting to be permitted to construct a 24' x 24' (576 square foot) detached garage in variance to the required 35' setback to the road right of way and in variance to the maximum allowed 25% of impervious surface coverage on this property.

Variations Necessary:

Road - Required setback to CSAH is 35' to the road right of way: Requested setback: 7.3' Variance required of 27.7'

Current Impervious - Maximum allowed: 5018 square feet, Current measured = 6081 sqft (30.3%), Currently they are over by 1064 sqft to be under the 25% impervious rule.

Proposed impervious including garage and new driveway portion = 6,957 square feet (34.7%), A Variance would be required of 1,939 sqft to be under 25% impervious.

Hightshoe states that he is asking for this variance because of his health. He bought this place to be closer to the St. Cloud VA Hospital. He'd like enough room for his car and his plow. If he isn't allowed this variance, he will figure something else out.

The Board discusses what is included in impervious coverage and the possibilities to get it reduced.

Hightshoe says that he can remove the hot tub slab.

Hempel explains that the issue of the road setback is a big problem.

Brooks says he can't grant this variance the way it sits now. He is wondering if there is a way to reduce some of the impervious coverage, because it is so high.

The Board discusses other possibilities to make this work. They feel bad that Hightshoe bought this property without knowing all the ordinances.

Hightshoe tells the Board that he appreciates their help, but would not be able to afford removing cement and putting in pervious pavers. He thanks the Board, but will have to go without.

Anderson makes a motion to close the public hearing.

Hempel seconds the motion.

Motion carried 3-0.

Brooks makes a motion to continue the public hearing to October 8, 2019.

Anderson seconds the motion.

Motion carried 3-0.

6:15pm

Brooks makes a motion to adjourn.

Anderson seconds the motion.

Motion carried 3-0.