

**Board of Adjustment
MINUTES
February 21st, 2019**

PRESENT: Bruce Bonebright, Mitch Czech, Mark Kaschmitter, Matt Marx, Marvin Neubert

Staff: Sean Moe, Karen Loehrer

1. Mitch called the meeting to order followed by the Pledge of Allegiance.
2. Bruce nominated Mitch as Chair. Mark seconded and the motion carried. Mitch nominated Bruce as Vice-Chair. Mark seconded and the motion carried.
3. Bruce moved to approve the agenda. Marvin seconded and the motion carried.
4. Bruce moved to approve the minutes from the December 20th, 2018 meeting. Matt seconded and the motion carried.
5. File #19-016, Christopher and Rebecca Nelson requesting a variance to construct an addition onto a non-conforming house that is 75 ft. from the ordinary high water mark (100 ft. required) in the R-3 Residential District. Pursuant to Sections 7S5.21 and 11.5.1. The affected property is described as follows: Lot 7, Block 1, Shoestring Acres, Section 16, Watab Township.

Sean stated that this is a request to add onto a legal non-conformation house which is 75ft from the ordinary high water mark. The addition will not encroach upon the setbacks.

Chris and Rebecca Nelson, 9085 Shoestring Loop NW, stated that they would like to construct an addition on top of their tuck under garage (boat house) to eliminate the water problems that they are having with the current flat roof. The addition will extend the current roofline.

No one spoke in favor, opposition or with general comments. Bruce moved to close the public hearing. Mark seconded and the motion carried.

In reviewing Section 11.5.1 the vote was as follows:

- 1) Mitch stated that a single family dwelling is a permitted use in the R-3 Single Family Residence District according to Section 7.5 of the Development Code. The vote was unanimous that the proposed use is not prohibited in the zoning district in which the subject property is located.
- 2) Matt cited Sections 2.1.1, 2.1.3, 2.1.4 and 2.1.5. The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
- 3) Bruce cited Housing Goal #1: Housing Stock. 2. Life Cycle Housing: Promote the improvement and maintenance of the existing housing stock to ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing. The vote was unanimous that the variance is consistent with the Comprehensive Plan.
- 4) a. Marvin stated that the addition of residential space to an existing dwelling within the R-3 zoning district, where single family homes are permitted is a reasonable use. The home will not encroach any further toward the OHW than its existing footprint. The house was built in 1971 prior to the 100 ft. setback requirement in 1972. Mitch agreed and stated that this is a well-kept site. The vote was unanimous that the Property Owner proposes to use the property in a reasonable manner not permitted by an official control.
b. Mark stated that the dwelling was constructed in 1971 prior to the setback requirements outlined in the Development Code. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.
c. Mitch stated that once the construction is completed it will not change the character of the area. The addition will eliminate a water problem and create more living space. The vote was unanimous that the variance will not alter the essential character of the locality.
d. Matt stated that the applicant is looking to add onto the space above the tuck-under garage as the flat roof above the garage has caused issues over the years with leaks. The vote was unanimous that the need for the variance involves more than economic considerations.

Marvin moved to include the development conditions to File #19-016. Bruce seconded and the motion carried.

Sean read the findings and conditions.

Findings

1. The proposed use is not prohibited in the zoning district in which the subject property is located.

A single family dwelling is a permitted use in the R-3 Single Family Residence District according to Section 7.5 of the Development Code.

2. The variance must be in harmony with the general purposes and intent of the official controls. In accordance with:

The Board of Adjustment shall determine which Sections apply to the variance request.

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas.

Section 2.1.4 To provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure.

Section 2.1.5 To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

- 3) The variance must be consistent with the comprehensive plan.

Housing Goal #1: Housing Stock

2. Life Cycle Housing: *Promote the improvement and maintenance of the existing housing stock to ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing.*

- 4) The variance may be granted if there are Practical difficulties in complying with the official control:
 - a. Property Owner proposes to use the property in a reasonable manner not permitted by an official control.

The addition of residential space to an existing dwelling within the R-3 zoning district, where single family homes are permitted is a reasonable use. The home will not encroach any further to the OHW than its existing footprint.

- b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
The dwelling was constructed in 1971, prior to the setback requirements outlined in the development code.
- c. The variance, if granted, will not alter the essential character of the locality.
The addition will be in line with the existing home and others in the area.
- d. The need for the variance involves more than economic considerations.
The applicant is looking to add onto the space above the tuck-under garage as the flat roof above the garage has caused issues over the years with leaks.
Add development conditions of file# 19-016

Conditions:

1. This variance is approved for the location shown on the plans submitted with this application and is not transferable to other land.
2. A Land Use and Building Permit shall be obtained prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.
3. A building permit shall be obtained from Watab Township. The township may also have requirements for other permits including but not limited to a land disturbance permit, that will be obtained and the applicant shall be responsible to obtain proper permits from the Township prior to the start of construction.
4. The applicant shall utilize appropriate erosion control devices to minimize runoff from the site and/or into the waterway.
5. Pursuant to Section 11.5.2 of the Development Code, this variance shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the people hours which it is reasonably estimated will be necessary for completion of the project. The Board of Adjustment may grant an extension of six months to complete the project if a written request for additional time is filed with the Board of Adjustment prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

6. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statues, rules and ordinances.

Bruce moved to accept the findings and conditions and grant File #19-016. Marvin seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

6. Bruce moved to adjourn at 7:25 p.m. Matt seconded and the motion carried.

Respectfully submitted,

Karen E. Loehrer
Administrative Secretary