

Board of Adjustment MINUTES March 18th, 2021

PRESENT: Roy Schneider, Dan Gottwalt, Mark Kashmitter, Marvin Neubert
Jane DeAustin remotely

Staff: Roxanne Achman, Karen Loehrer

1. Mark called the meeting to order followed by the Pledge of Allegiance.
2. Election of officers: Marvin nominated Jane for Chair. Mark seconded. Due to loss of connection Jane was unable to accept nomination. Roy moved to keep the Chair and Vice-Chair same as last year. Mark as Chair, Jane as Vice-Chair. Marvin seconded and the motion carried.
3. Dan moved to approve the agenda. Marvin seconded and the motion carried.
4. Marvin moved to approve the minutes from the November 19th, 2020 meeting. Dan seconded and the motion carried.
5. File #21-044, Ronald and Patty Welle requesting a variance to exceed 25% total lot coverage in the R-3 Residential District. Pursuant to Sections 7.6.6(B)(3) and 11.5.1. The affected property is described as follows: part of Gov't Lot 4, Section 34, Watab Township.

Roxanne stated that this property is in Watab Township along River Rd NE. The house was built prior to the ordinance being in place. Over time impervious surface has been added to the site as in, home additions, patio block and concrete. The request is to remove the existing concrete/pavement and gravel surfaces and reduce the amount of surface covered by RipRap, then replace a portion of it with permeable pavers. The amount of impervious surface would be reduced from 36% to 28%. This would be a significant improvement to the lot. The runoff from the road goes up to the garage door. The applicant's have spoken to the Highway Department because the improvements would abut the County Road. The Highway Department is in favor with improvements to the property. Watab Township was also sent the application and are in favor of the request. She showed

photos of the site and pointed out the existing impervious surface and where the permeable paver will be installed. Mark asked if the site would be tiled.

Todd Hodnefield, Heartland Landscaping, Inc, 21979 Franklin Rd, Clearwater MN, contractor for project. Todd showed a diagram and went over how the permeable pavers would be installed. An engineer will determine depth of base for the permeable pavers. He stated that a tile would likely be used.

Ron stated that they purchased the property in 2016. This will improve the lot and the drainage on the property.

No one spoke in favor, opposition or with general comments.

Dan moved to close the public hearing. Marvin seconded and the motion carried.

In reviewing Section 11.5.1 the vote was as follows:

- A. Marvin stated that impervious surfaces are not prohibited in the R-3 zoning district. The zoning code allows for up to 25 percent impervious surface. The vote was unanimous that the proposed use is not prohibited in the zoning district in which the subject property is located.
- B. Mark stated that it is in harmony with the official controls and will improve the neighborhood. Marvin cited (A)(L) under Section 2.1.1. Dan added (C). The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
- C. Dan felt the request is consistent. He cited Environment & Natural Resources Goal #1, Policy 2. Development Review. Protect the integrity of major natural resources through development review and regulation. The vote was unanimous that the variance is consistent with the Comprehensive Plan.
- D.
 1. Roy stated that the without approval this will increase the surface runoff and hamper good control of the water. The vote was unanimous that the Property Owner proposes to use the property in a reasonable manner not permitted by an official control.
 2. Marvin stated that the property owner inherited the issue and is trying to improve the lot and eliminate issues. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 3. Mark stated that the variance will improve the lot. Marvin stated that this will clean the water that runs to the river. The vote was unanimous that the variance, if granted, will not alter the essential character of the locality.
 4. Dan stated that economic considerations are not a factor in this request. The vote was unanimous that the need for the variance involves more than economic considerations.

Marvin moved to include the development conditions to File #21-044. Dan seconded and the motion carried.

Roxanne read the findings, conditions and decision.

Findings

- A) The proposed use is not prohibited in the zoning district in which the subject property is located.

Impervious surfaces are not prohibited in the R-3 zoning district. The zoning code allows for up to 25 percent impervious surface.

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

It is in harmony with the official controls and will improve the neighborhood.

In accordance with the following items in Section 2.1.1:

(A) To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

(L) To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

- C) The variance must be consistent with the comprehensive plan.
It is.

Environment & Natural Resources

Goal #1

Policy #2. Development Review: Protect the integrity of major natural resources through development review and regulation.

Goal #3

Policy #1. Best Management Practices: Protect water quality by encouraging the use of “Best Management Practices” and other features of the County’s Water Plan in private development and public improvements.

- D) The variance may be granted if there are Practical difficulties in complying with the official control:

- 1) Property Owner proposes to use the property in a reasonable manner not permitted by an official control.

It is hampering the property to leave the impervious surface as it currently

is on the lot. This will be an improvement.

- 2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The property issue was inherited. The improvement to the lot will eliminate issues.

- 3) The variance, if granted, will not alter the essential character of the locality.

The variance will improve the lot. It will allow cleaner water to run to the river. Less pollution.

- 4) The need for the variance involves more than economic considerations.

Economic considerations are not a factor in this request.

The development conditions for file no. 21-044 are adopted.

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 Shoreland Alteration Permit (from Benton County) shall be obtained prior to any work and shall be consistent with the plans and specifications submitted with the variance application.
3. Work the Benton County Highway Department on any required permits prior to beginning any work in the right-of-way.
4. Applicant shall check with Watab Township on any necessary permits prior to completing work.
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 ensure that the permit holder is in compliance with the conditions of approval and all other applicable statues, rules and ordinances.
7. A septic compliance inspection shall be completed and submitted to the Department of Development by June 1, 2021.
8. The permeable pavers shall be designed and installed by a Minnesota-licensed professional engineer.
9. Best management practices shall be followed in design, installation, and maintenance as found in the Minnesota Stormwater Manual and the Permeable Pavement Systems Department Policy.

Dan moved to accept the findings and conditions and grant File #21-044. Marvin seconded and the motion carried. The applicant will be mailed a copy of the findings and conditions.

6. Marvin asked about amending impervious surface regarding permeable pavers. Roxanne stated that she brought this to the Planning Commission. To allow property owners to add usable hard space, permeable pavers, to their lot without going over the allowed 25% impervious surface. The Commission is not sold on this change and asked for additional information. She has talked to Todd from Heartland Landscaping, about coming to the Planning Commission. Roy felt that the opportunity to see this project installed will help. Dan stated his concern with who will enforce the maintenance. Roy stated that if the site is not maintained and the system fails, the burden falls on the landowner. There was a discussion on who would do the inspections if this was included in the Development Code. Roy stated that this request was approved as impervious at 28%. With this project there will be no burden on the county. The property owner is responsible for maintaining the site to ensure the drainage works properly.
7. Roy moved to adjourn at 7:47 p.m. Dan seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary