

Board of Adjustment MINUTES April 15th, 2021

PRESENT: Roy Schneider, Dan Gottwalt, Mark Kaschmitter, Marvin Neubert, Jan DeAustin

Staff: Roxanne Achman, Karen Loehrer

1. Mark called the meeting to order followed by the Pledge of Allegiance.
2. Roy moved to approve the agenda. Dan seconded and the motion carried.
3. Marvin moved to approve the minutes from the March 28th, 2021 meeting. Jane seconded and the motion carried.
4. File #21-078, Michael and Shanon Molitor requesting a variance construct an addition onto a non-conforming house that is 70ft to the ordinary high water mark of the Mississippi River (100ft setback) in the R-3 Residential District. Pursuant to Sections 7.14.5(C)(1) and 11.5.1. The affected property is described as follows: Auditors Subd. of A-B-C Acres, Lots 18 and 19, Section 16, Watab Township.

Roxanne stated that the request is to expand a nonconforming structure in the shoreland/floodplain district which is required to apply for a variance. The addition will not be any closer to the water than the existing structure. All other setbacks will be met. This request went before the Watab Township Board and they are in favor. The septic system is compliant.

Mike Molitor stated that they are requesting approval of this variance.

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

In reviewing Section 11.5.1 the vote was as follows:

- A) Jane stated that the use is not prohibited. Single family homes are permitted in the R-3 zoning district. The vote was unanimous that

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

- B) Marvin cited (A), (C) and (L) under Section 2.1.1. The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
- C) Mark stated that the variance meets Quality of Life Goal #2 Housing Stock. Policy #2. Life Cycle Housing: Promote the improvement and maintenance of the existing housing stock to provide sanitary living conditions and ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing. Marvin added 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. Dan stated that this is a reasonable use. The property owners are expanding a legally non-conforming single-family structure. Single family homes are permitted in the R-3 District. The vote was unanimous that the Property Owner proposes to use the property in a reasonable manner not permitted by an official control.
2. Roy stated that the home was built before the setback policies were in place. To build this addition a variance is needed. Jane stated that the addition will not encroach any more on the setback from the Mississippi River. The addition will be built to meet all other setbacks. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.
3. Jane stated that there are larger homes in the area. An addition will not bring the structure closer to the Mississippi River. The site is significantly screened by trees and other vegetation. The vote was unanimous that the variance, if granted, will not alter the essential character of the locality.
4. Marvin 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.

Dan added the development conditions to file #21-078.

Roxanne read the findings and conditions.

Findings

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

It is not prohibited. Single family homes are permitted in the R-3 zoning district

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

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.

Quality of Life, Goal #2 Housing Stock

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

Environment & Natural Resources, Goal #1

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

- 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.
Yes, the property owners are expanding on a legally non-conforming single family structure. Single family homes are permitted in the R-3 District.

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

True. The home on this property was constructed before the setback policies were in place. The addition will not encroach any more on the setback from the Mississippi River. The addition will be built to meet all other setbacks.

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

The variance will not alter the essential character of the locality. There are larger homes in this area and the addition will not bring the structure any closer to the river. The site is significantly screened by trees and other vegetation.

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

Economic considerations are not a factor in this request.

Development Conditions for file no. 21-078 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 Land Use (from Benton County) and Building Permit (from Watab Township) shall be obtained prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.
3. 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.
4. 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 statutes, rules and ordinances

Marvin moved to accept the findings and decision and grant File #21-078. Dan seconded and the motion carried. The applicant will be sent a copy of the findings, conditions and decision.

5. Dan moved to adjourn at 7:16 p.m. Roy seconded and the motion carried.

Respectfully submitted,

Karen E. Loehrer
Administrative Secretary