

**Board of Adjustment  
MINUTES  
July 16<sup>th</sup>, 2020**

PRESENT: Dan Gottwalt, Matt Marx, Jane DeAustin, Marvin Neubert

Staff: Roxanne Achman, Karen Loehrer

1. Jane called the meeting to order followed by the Pledge of Allegiance.
2. Dan moved to approve the agenda. Matt seconded and the motion carried.
3. Matt moved to approve the minutes from the June 18<sup>th</sup>, 2020 meeting. Dan seconded. Marvin abstained. The motion carried.
4. File #20-329, Andrew Deters requesting a variance to construct a house addition that would be 75ft from the centerline of a township road (98ft required) in the Agricultural District. Pursuant to Sections 7.2.6(B)(1)(a)(ii) and 11.5. The affected property is described as follows: S330ft of N1100ft of E660ft of S2/3 NE1/4, Section 21, East Langola Township.

Roxanne stated that the request is for an 18ft addition. This house was built in 1987 as a subterranean home. A variance was granted in 1988 for a garage. In 2007 a variance was granted for a main level on the subterranean home when it was discovered that the house was built 91ft from the road instead of 98ft. The building area is limited due to the steep slope behind the house.

Andrew Deters, 14161 15<sup>th</sup> Ave NW stated that the reason for the addition is to add a bedroom to the main floor. Marvin asked if there was wetland behind the house. Andy stated that the low area is in the floodplain and gets wet.

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:

- 1) Jane stated that additions onto single family dwellings are a permitted use in the Agricultural District according to Section 7.2 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) Marvin cited A, C & 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.
- 3) Dan stated that it is consistent. He cited Quality of Life Goal #2, Policy #2. Life Cycle Housing. The vote was unanimous that the variance is consistent with the comprehensive plan.
- 4) a. Matt stated that additions onto single family dwellings are a permitted use. The vote was unanimous that the Property Owner proposes to use the property in a reasonable manner not permitted by an official control.  
b. Jane stated that the house was built in 1987. It has been improved over the years to meet the needs of those occupying it. The property is constrained by the steep slope behind (north and west) of the home. Any exterior modifications to the living space are limited to the area facing the road. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.  
c. Marvin stated that the addition will blend in with the old home and will look nice. There are no nearby neighbors. The vote was unanimous that the variance, if granted, will not alter the essential character of the locality  
d. Dan stated that a variance is needed because of the lay of the land to the north and west and the wetlands behind the house. The vote was unanimous that the need for the variance involves more than economic considerations.

Dan added the development conditions to File #20-329.

Roxanne read the findings and conditions.

#### Findings

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

*Additions onto single family dwellings are a permitted use in the Agricultural District according to Section 7.2 of the Development Code.*

- 2) 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.

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

*Yes it is.*

**Quality of Life**

Goal #2

**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.

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.

*Additions onto single family dwellings are a permitted use.*

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

*The property was built upon in 1987. It has been improved over the years to meet the needs of those occupying it. The property is constrained by the steep slope behind (north and west) of the home. Any exterior modifications to the living space are limited to the area facing the road.*

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

*It will not alter the character. The addition will blend in with the old home and will look nice. There are no nearby neighbors.*

d. The need for the variance involves more than economic considerations.

*A variance is needed due to the topography of the land to the North and West of the home, and the wetland behind the house.*

*Development Conditions for file no. 20-329 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 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.
5. This variance is granted solely for the residential dwelling. Any other structure placed on the lot must meet the required setbacks.

Dan moved to accept the findings and conditions and grant File #20-329. Marvin seconded and the motion carried. The applicant was given a copy of the findings and decision.

- 5) File #20-335, Tim and Gloria Rajkowski requesting a variance to allow a 160 square foot building mounted sign (32sf permitted) in the Agricultural District. Pursuant to Sections 8.1.8 and 11.5.1. The affected property is described as follows: part of the NW1/4 SW1/4, Section 35, Watab Township.

Roxanne stated that this property is in Watab Township off Hwy 10. The landowner received a conditional use permit for mini storage in May. This property is zoned

agricultural but with commercial uses, a communication tower and future mini storage. Across the CR33 is a business district. This area is identified as future Highway Commercial. The agricultural district limits the size of building mounted signs to 32sf. The business district has no limit on the size of building mounted signs. The request is for a 160sf building mounted sign for a business in the agricultural district. The sign will be located on a 31' x 12' area in the middle of a 270 ft building.

Tim Rajkowski, 320 60<sup>th</sup> St NW, stated that they are requesting a larger sign for their mini storage. He felt that a 4' x 8', 32sf sign would be too small. He stated that the sign will be lit from in front of the building. The lighting will have no effect on traffic. There will be a fence at the access point to the mini storage buildings. There will be security cameras. There is also a fence along the east side of the property.

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

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

In reviewing Section 11.5.1 the vote was as follows:

1. Matt stated that building mounted signs are permitted in the Agricultural District in accordance with Section 8.1 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. Under Section 2.1.1, Dan cited C. Matt added A and Marvin cited L. The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
3. Marvin cited Land Use Goal #3, Commercial and Industrial Development Policy #1, Commercial and Industrial Development. And Mobility Goal #3: Aesthetic Character and Function. Policy #2. Signage. The vote was unanimous that the variance is consistent with the comprehensive plan.
4. a) Jane stated that the signage will be for a business that was permitted as a conditional use. The vote was unanimous that the Property Owner proposes to use the property in a reasonable manner not permitted by an official control.  
b) Matt stated that the property is being used, and has been used for many years, as a commercial property. The uses are all properly permitted within the Agricultural District. The 2040 Comprehensive Plan anticipates this area to be developed for highway commercial over time. However, there has been no need to rezone the property to commercial as all the uses were permitted within the Agricultural District. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.

c) Dan stated that a building sign is unlikely to change the character of the area. The vote was unanimous that the variance, if granted, will not alter the essential character of the locality.

d) Marvin stated that the variance request is due to the area being developed commercial, but likely to be developed for commercial use according to the 2040 Comp Plan. The vote was unanimous that the need for the variance involves more than economic considerations.

Jane added the development conditions to File #20-335.

Roxanne read the findings and conditions.

### Findings

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

*Building mounted signs are permitted in the Agricultural District in accordance with Section 8.1 of the Development Code.*

- 2) 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.

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

### **Land Use**

Goal #3: Commercial and Industrial Development

**Policy #1. Commercial and Industrial Development:** Encourage the majority of new commercial and industrial developments to locate within Benton County cities in accordance with their comprehensive plans. Commercial and industrial development that does not need public sewer and water services should be located within planned areas with adequate road service and upland area and regulated through Conditional Use Permits.

**Mobility**

Goal #3: Aesthetic Character and Function

**Policy #2. Signage:** Promote the appropriate use of signs (directional informational and advertising) to create community identity.

- 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 signage will be for a business that was permitted as a conditional use.*

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

*The property is being used, and has been used for many years, as a commercial property. The uses are all properly permitted within the Agricultural District. The 2040 Comprehensive Plan anticipates this area to be developed for highway commercial over time. However, there has been no need to rezone the property to commercial as all the uses were permitted within the Agricultural District.*

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

*A building sign is unlikely to change the character of the area.*

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

*A variance request is due to the area being developed commercial, but likely to be developed for commercial use according to the 2040 Comp Plan.*

*Development Conditions for file no. 20-335 are adopted.*

Conditions:

1. This variance is approved for the size and location shown on the plans submitted with this application and is not transferable to other land.
2. A Land Use Permit (from Benton County) and Building Permit (if necessary 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.
5. All other signage requirements shall be met.

Marvin moved to accept the findings and conditions and grant File #20-335. Matt seconded and the motion carried.

6) Matt moved to adjourn at 7:34 p.m. Dan seconded, and the motion carried.

Respectfully submitted,

Karen E Loehrer  
Administrative Secretary