

**Board of Adjustment
MINUTES
August 15th, 2019**

PRESENT: Mitch Czech, Marvin Neubert, Matt Marx

Staff: Roxanne Achman

- 1) Mitch called the meeting to order followed by the Pledge of Allegiance.
- 2) Marvin moved to approve the agenda. Matt seconded and the motion carried.
- 3) Matt moved to approve the minutes from the June 20th, 2019 meeting. Marvin seconded and the motion carried.
- 4) 7:05 p.m. File #19-314, Lloyd and Christine Samuelson requesting a variance to construct an accessory structure 27 ft. from the right of way of a County Road (65 ft. required) and 75 ft. from the ordinary high water mark (100 ft. required) in the R-3 Residential District. Pursuant to Sections 7.5.3(d), 7S5.21A and 11.5.1. The affected property is described as follows: Part of Gov't Lot 2, Section 22, Watab Township.

The on-site inspection of this property was made at 1:30 today by Mitch, Matt and Roxanne. Marvin visited the site yesterday.

Roxanne stated that this property is located in Watab Township west of Gordon's Bridge on the Mississippi River. She showed the location of the proposed structure on an aerial photo. The applicant will be removing two small existing structures. The lots in the area were created and built upon before setback regulations. With the current setback requirements nothing could be built on this lot. The township has no issues.

Lloyd Samuelson stated they would like to replace the single stall garage and small shed with a 32' x 36' garage for storage. He stated that both existing structures are deteriorating.

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

In reviewing Section 11.5.1 the vote was as follows:

- 1) Mitch stated that a storage structure is permitted within the R-3 zoning district. It is within the allowable size limit. It fits the lot and they will be taking down two existing structures. 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 2.1.3 and 2.1.12. Marvin cited Section 2.1.1 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) Marvin stated that the site is planned rural residential. These areas are not expected to be annexed into the city. He cited Quality of Life Goal #2. Policy #2. Life Cycle Housing and Environmental & Natural Resources Goal #1. Policy #2. Development Review. The vote was unanimous that the variance is consistent with the comprehensive plan.
- 4) a. Mitch stated that the property owner will be removing two dilapidated structures and replace them with one nice looking structure. The proposed structure will not encroach any further than the existing house. It will improve the 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. Matt stated that the buildings were built prior to the building codes. The owner didn't create the current situation. 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 owners will be removing two structures in disrepair and replacing them with a new one. It will be in line with the house and existing garage. The vote was unanimous that the variance, if granted, will not alter the essential character of the locality.
d. Mitch stated that the old structures will be coming down and a new structure constructed. This will improve the site. The vote was unanimous that the need for the variance involves more than economic considerations.

Marvin moved to include the development conditions to File #19-314. Matt seconded and the motion carried.

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.

A storage structure is permitted within the R-3 zoning district. It is within the allowable size limit. It fits the lot and they will be taking down two existing structures.

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

Section 2.1.12 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.
This site is planned Rural Residential. These areas are not expected to be annexed into the City.

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.

Environment & Natural Resources

Goal #1

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

- 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 property owner is removing two old structures and replacing them with a storage structure that will match the area. The structure will not encroach any further to the OHW or ROW than the existing home and storage structure. It will improve the site.
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The existing dwelling and storage structures were constructed before the existing building code. The owners did not create the situation.

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

The owners will be removing two structures in disrepair and replacing them with a new one. It will be in line with the house and existing garage.

- d. The need for the variance involves more than economic considerations. *The old structure is coming down and a new one is being put up in its place. It will improve the site.*

The Development Conditions for File No. 19-314 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 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 statutes, rules and ordinances.

Matt moved to accept the findings and conditions and approve File #19-314. Marvin seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

- 5) Marvin moved to adjourn the meeting at 7:23 p.m. Mitch seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary
(prepared from audio)