



MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT
July 23, 2018

A meeting of the Zoning Board of Adjustment was held on July 23, at 7:48 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Becky Randall, Adam Mohrhauser, Ryan VanDerVliet, Mike Ralston, Doug Ode, Bonnie Duffy, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Maggie Gillepsie – States Attorney

The meeting was chaired by Bonnie Duffy.

Scott Anderson, County Planning Director, explained that the applicant for Item #4 submitted a request to withdraw the Appeal of Administrative Decision and recommended that the Planning Commission accept the withdrawal request for Item #4.

A motion was made to **withdraw** Item #4 from the Zoning Board of Adjustment agenda by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

A motion was made to **approve** the January 22 & June 25, 2018 meeting minutes by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.



ITEM 2. VARIANCE #18-03 to reduce the CAFO setback from the property line from 50 feet to 25 feet on the property legally described as SW1/4 (Ex. Lot 1) & Fuglsby's Addn. Tract 1, SW1/4, Section 34-T104N-R48W.

Petitioner: Anthony Siemonsma

Property Owner: same

Location: 48132 250th St. - Approximately 5 miles northwest of Garretson

Staff Report: Scott Anderson

This would reduce the CAFO setback from the property from 50 feet to 25 feet.

General Information:

Legal Description – SW1/4 (Ex. Lot 1) & Fuglsby's Addn. Tract 1, SW1/4, Section 34-T104N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – agriculture

Parcel Size – 159 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting a variance to the setback requirements. The Zoning Ordinance requires animal confinement buildings to be located fifty (50) from a property line. The intent for this recently adopted requirement was to insure that a neighbor wouldn't place an animal confinement building as little as 7 feet away from a property line. In this situation, it is a family owned property and future subdivision of the site will occur. When the parcel is platted, it will not meet the setback. The family is attempting to concentrate the animal feeding in a particular area.

On June 1, 2017, staff conducted a site visit. The area is primarily agricultural in nature. There is an existing animal confinement structure and feedlot to the south and west of the proposed site where the new confinement building is to be constructed. The site is located on a paved county highway.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

There is a Magellan gas pipeline which dissects the property. The applicant must meet a certain distance off of the established easement for the pipeline. This means either moving the building several hundred feet to the north or closer to the existing structure. An existing pipeline would constitute a specific condition to consider.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The proposed use is similar to uses in the area. The proposed use will not diminish or impair property values in the area.



3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

Requiring the proposed confinement building to meet the minimum setback would be a hardship. It would not allow the uses to be grouped together and would cause for more road infrastructure to be constructed.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The proposed reduction of the minimum setback is not contrary to the public interest. It is in harmony with the general development pattern of the agricultural uses in the area.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

A variance is necessary and enables reasonable use of the property. Strict conformance with the provisions of the Zoning Ordinance pose an undue hardship on this property owner, as the location of the existing pipeline would require the owner to use more land to construct the building.

The proposed addition and subsequent need for a reduced setback does not harm the public. Furthermore, staff finds that a reduced setback would be in harmony with the general purpose and intent of the Zoning Ordinance.

Recommendation: Staff recommends **approval** of Variance #18-03 to reduce the setback of an animal confinement building from a property line from 50 feet to 25 feet.

Public Testimony

Scott Anderson, County Planning Director, presented a brief overview of the staff report and recommendation for Variance #18-03.

Tony Siemonsma, 24954 477th Ave., identified himself as the petitioner and asked the planning commission for any questions regarding the requested variance.

Commissioner Ode mentioned that he believes the requested setback is appropriate given the situation of the lot arrangements.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.



Action

A motion was made to **approve** Variance #18-03 by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.

Variance #18-03 - Approved



ITEM 3. VARIANCE #18-04 to reduce the minimum lot area from 1 acre to 0.38 acre on the property legally described as N24.89 feet of the S149.52 feet of the W132.48 feet, Tract 1 Stoltenberg's Addn., SW1/4, Section 7-T103N-R47W.

Petitioner: Scott Buss (Minnehaha Community Water Corp.)

Property Owner: Nancy Hoeck

Location: NE Corner of 487th Ave. & 255th St. Intersection

Approximately 2 miles southeast of Garretson

Staff Report: Scott Anderson

This would reduce the minimum lot area from 1 acre to 0.38 acre.

General Information:

Legal Description – to be platted as: Watertower Addition NO. 1A, SW ¼ of Section 27, T103N, R47W, Minnehaha County, SD

Present Zoning – A1 Agriculture District

Existing Land Use – Water tower (private infrastructure)

Parcel Size – .38 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting approval to allow enlarging a lot that is less than one (1) acre in size. The applicant is purchasing a twenty-five (25) foot strip of property on the north side of the existing lot. The applicant has indicated that additional land is needed for a booster station planned to be constructed, which will serve a recently approved hog CAFO nearby. Currently there is an existing water tower on the site.

On July 3, 2015, staff conducted a site inspection. The site is located adjacent to County Highway 124. The area consists primarily of agricultural land in crop production. There are a few residential homesteads in the area.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

Not all situations or events can be covered by a zoning ordinance and thus a mechanism is put into place in which the public can seek a variation to the regulations. In this situation, there is a compelling set of circumstances and conditions which are somewhat unique and support the granting of a variance. The proposed use does not require an acre to function. Furthermore, the applicant is attempting to limit the amount of land taken out of agricultural production.

The one (1) acre minimum lot size may reflect the state's minimum lot size for a well and septic to be located on a residential lot. In this case, however, the lot being created will not be used for residential purposes. Furthermore, it will not be the site of any permanent work force requiring an office. Therefore, a smaller lot would benefit the applicant and surrounding land owners by reducing the footprint of the lot.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.



Private infrastructure facilities are allowed in the A-1 Agriculture District. The proposed use should not harm the property values in the area.

3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

Strict application would be a hardship on the property owner selling the land and would be unwarranted in the needs of the applicant. A smaller lot size is in the public's best interest.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The proposed use is a public use and will be part of a water system that will supply water to the region. The overall need is evident. The use is typical of any community.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

There is a public need for this infrastructure. The request is a reasonable use of the property and allows for the best development of the site.

Recommendation: Staff recommends **approval** of Variance #18-04 to reduce the minimum lot size in the A-1 Agriculture District from one (1) acre to approximately .38 acre in size.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for Variance #18-04.

Scott Buss, Executive Director for Minnehaha Community Water, identified himself as the petitioner and mentioned that the variance request is to accommodate

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Action

A motion was made to **approve** Variance #18-04 by Commissioner Ralston and seconded by Commissioner Barth. The motion passed unanimously.

Variance #18-04 - Approved



Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously. The meeting was adjourned at 8:03 p.m.