



**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT
October 25th, 2021**

A meeting of the Zoning Board of Adjustment was held on October 25th, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue – States Attorney

The meeting was chaired by Bonnie Duffy. The meeting was called to order by Chair Bonnie Duffy at 7:00 pm.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

A motion was made to **approve** the August 26th, 2019 meeting minutes by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.



ITEM 2. VARIANCE #21-02 to reduce the required rear yard setback from 30 feet to 22 feet and the required side yard setback from 7 feet to 4.5 feet for a new single-family dwelling on the property legally described as Tract 3 SW¼ Lot 8A Voigt's Subdivision (Ex. N25.3') Section 21 T101N-R51W Wall Lake Township.

Petitioner: Jeff Martens

Property Owner: Same

Location: 46268 West Shore Place, along the west shore of Wall Lake

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 3 SW¼ Lot 8A Voigt's Subdivision (Ex. N25.3') Section 21 T101N-R51W Wall Lake Township

Present Zoning – RR - Rural Residential

Existing Land Use – Residential

Parcel Size – .14 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting a reduction of rear and side yard setbacks on a parcel located on West Shore Place on Wall Lake. The parcel is 0.14 acres in size with the rough dimensions of about 50 feet wide and 114 feet long. A detailed site plan was submitted with the request which shows the proposed location of the new dwelling. However, no narrative or building plans have been submitted to provide further details of the property and plans. One neighbor expressed concerns about the potential of reduced sight line to Wall Lake with the rear yard reduction, and it is difficult to determine how the proposed setbacks compare to the current conditions of the site. It is estimated that the proposed dwelling will be approximately 5 feet closer to the rear property line than the current dwelling.

This variance request included a detailed site plan for a proposed new dwelling. The site plan shows the house will be placed equal distance from the two side yards and roughly perpendicular to the road. The proposed dwelling will include a two-stall garage in the front and a 40 feet by 32.33 feet house.

(a) The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

The property which is requested for a variance is small by county standards at 0.15 acres in area or about 6,000 square feet. The minimum lot size for a Rural Residential zoned property with available sanitary sewer is 20,000 square feet. The minimum lot width is 125 feet, where the subject property is less than 50 feet wide. Maintaining the required lot size would reduce the potential of the house and its ability to include an attached garage to a small and irregular sized area of the lot. The hardship would be in the form of a small structure or perhaps required to purchase extra ground from a neighbor.



(b) The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use.

The property conditions of small size and shape are common along West Shore Place. The development was platted before modern subdivision standards and the curve of the shoreline caused many lots to be irregular shaped. A variance for this property is generally applicable to other property in the area, because many properties in and around Wall Lake are small and irregular shaped. The attributes of the property are not generally applicable to rural residential parcels throughout the county. In addition, many of the existing dwellings already exceed setback requirements for front, side, and rear yards. Since 2014, two variance requests to reduce the rear and front yard setback were approved around the Wall Lake area, but no requests to reduce the side yard requirements were made.

(c) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.

A reduction in the rear yard setbacks may cause problems for future development of neighboring property because of building code considerations. The building code requires specific fire protection between separate buildings which are less than 10 feet apart from one another. If the proposed side yard setbacks for both properties are reduced further than 5 feet from the property lines, then considerable changes to the adjacent building would be required by the building code. Therefore, staff does not recommend reducing the side yard setback requirements any further than to a 5 feet setback in order to allow future development the same opportunity on a small and irregular shaped lot. The result of allowing a setback reduction to only 5 feet may require the petitioner to consider alternative building plans to accommodate the decision.

An appropriate reduction in setbacks would not be detrimental to the public welfare. Many of the existing dwellings in the area are already closer to property lines than the required setbacks.

(d) The proposed variance will not unreasonably impair: an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish or impair property values within the area.

The proposed property would have one dwelling replace another which will not likely impair the use of any of the neighboring properties. As stated in the previous criteria a reduction of the side yard setback to less than 5 feet may cause harm to future development of neighboring property due to building code. This concern should be address before approval of the variance request.

(e) 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.

The strict conformity of the zoning regulations creates a situation where modern building design with attached garage is difficult to build on the existing parcel. For the Board of Adjustment consideration: the petitioner is requesting a house with just under 1300 square feet of main floor living space and 528 square feet of garage space. The average house in 2019 has over 2000 square feet of main floor area and over 1200 square feet of attached garage space. A reduction



of setback is necessary to meet a more modern building style; however, a reduction to less than a 5 foot side yard setback would likely cause future hardship for neighboring property owners which must be avoided. If the full side yard setback reduction is granted, a possible condition of approval would be to require the side walls of the house meet fire wall requirements of the building code to accommodate future dwellings.

(f) That the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning regulations.

Staff would recommend that a minimum side yard setback variance be at or greater than 5 feet to allow future development of neighboring properties. The proposed rear yard setback is reasonable to accommodate what is required for a dwelling with attached garage.

Recommendation: Staff recommends **approval** of Variance #21-02 to reduce the rear yard setback from thirty (30) feet to twenty-two (22) feet and to reduce the side yard setback from seven (7) feet to five (5) feet.

Public Testimony

Kevin Hoekman, planning staff, presented the staff report and placed emphasis on the staff recommendation with less reduction of side yard setback than the petitioner is requesting.

Jeff Martins, 1604 E Keystone Dr., was present for comments and questions. He presented a site plan which includes the location of the existing dwelling in comparison to the proposed dwelling. He explained that the new dwelling is to make the property livable all year where the current space is only usable in summer months.

Commissioner Duffy asked about the new site plan. Kevin Hoekman described the site plan for the Commission and passed it for viewing.

Commissioner Randall asked if a restriction would be needed to meet fire code. Kevin Hoekman Explained that if a future house receives side yard setbacks which make the two structures less than 10 feet apart, further building code restrictions would need to be met.

Commissioner Barth confirmed with staff that notice was sent to all neighbors.

Action

A motion was made by Commissioner Barth to **approve** Variance #21-02 as requested by the petitioner with a rear yard setback reduction to twenty-two (22) feet and a side yard setback reduction to 4.5 feet. The motion was seconded by Commissioner Randall. The motion passed unanimously.

Variance #21-02 - Approved



**MINNEHAHA COUNTY
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

OCTOBER 25th, 2021

Old Business

none

New Business

none

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion passed unanimously. The meeting was adjourned at 7:17 p.m.