

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – October 3, 2018
Minutes

Members Present: Scott Hoese, Richard Buetow, Michael Huang, Richard Kvitek, Virgil Stender, Mark Willems

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Emily Schmitz, Jennifer Tichey

Pursuant to due call and published notice thereof, the October 3, 2018, meeting of the Carver County Board of Adjustment was called to order by Chairman Hoese at 7:00 p.m.

Minutes – A motion was made by Kvitek and seconded by Stender to approve the minutes of the September 5, 2018, meeting. All voted aye. Motion carried.

Public Hearing - File # 20180021 – Jonathan & Susan Foss –Chairman Hoese called the public hearing to order at 7:01 p.m. to consider the application of Jonathan & Susan Foss pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback to a DNR protected water pursuant to Chapter 152 of the County Code. The property is in Sections 5 & 6 of Laketown Township.

The following were present: Jonathan Foss, Kent Tangren

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated August 23, 2018

Exhibit F – Letter to the Board of Adjustment and Laketown Twp dated September 26, 2018, and all attachments

Mielke stated the applicant appeared before the Planning Commission in September and was given approval to replace a detached accessory structure which exceeds the allowable square footage for personal storage on the property. The variance request is to place the structure 60 feet from the OHW of Parley Lake. The required minimum setback from the OHW of Parley Lake is 100 feet. Mielke used an aerial map to show two existing structures, which meet the setbacks, stating that the smaller of them would be removed and replaced with the requested 40' x 60' foot structure. The existing structure would continue to be used as an office area, and the new structure would house property maintenance equipment. The applicant indicated that meeting the 100 foot setback would require substantial grading and cutting into the hillside, which would be impractical. The property is in the shoreland overlay district which requires septic compliance. This has been completed and the system is certified compliant. The DNR commented that the structure cannot be within the Shore Impact Zone, which is 50 feet from the

OHW, which will not affect this request. Laketown Township heard the request and recommended approval at their August 27th meeting. Mielke read the conditions for consideration if the request is approved.

Mr. Foss stated that the view of buildings from the lake was a concern. He went onto the lake and was not able to see any of his buildings and felt that this construction will not impair any view or sight lines from the lake.

Ken Tangren, 4500 Six Mile Creek Rd, stated he thought it was going to be a two-story building and stated the sheds are visible from his property. He also expressed concern that this will cause additional drainage into the lake.

Mr. Foss stated the current building is red and they are considering a more neutral color for the new structure. He also reiterated that placing the structure in any other area becomes quite an excavation project and since there are no water issues in that area, they would like to disturb as little area as possible.

Huang asked about the larger size of the new structure.

Mr. Foss explained the existing structure is in deteriorating condition and the space is tight. They need a larger mower and other equipment for maintaining the land and the additional space will make it more comfortable and convenient for storage.

A motion was made by Stender and seconded by Huang to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:12 p.m.

A motion was made by Willems and seconded by Huang to **approve and issue Order # PZ20180021** allowing for reduced setback from a DNR protected water and the following conditions:

1. The Permittee shall obtain the appropriate building permit(s) prior to the demolition of the existing structure and construction of the accessory structure. A grading plan and erosion/sediment control plan shall be prepared, submitted and approved as part of the building permit application process. The lowest floor elevation for the accessory building shall conform to the appropriate Carver County Shoreland Regulations.
2. All work shall be completed in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the OHW of Parley (Mud) Lake than approved as part of this permit application.
3. The accessory building shall be used only by the occupant(s) of the residence and for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.

All voted aye. Motion carried.

Public Hearing - File # 20180019 – Jeffrey & Rachel Swanson –Chairman Hoesle called the public hearing to order at 7:13 p.m. to consider the application of Jeffrey & Rachel Swanson pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback to a DNR protected water pursuant to Chapter 152 of the County Code. The property is in Section 26 of Watertown Township.

The following were present: Jeffrey Swanson

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated August 23, 2018

Exhibit F – Letter to the Board of Adjustment and Watertown Twp dated September 26, 2018, and all attachments

Schmitz explained the applicants own an approximate 166-acre parcel and have recently received approval for a Conditional Use Permit to construct a 118' x 236' personal equestrian facility and indoor riding arena. Plans have since changed and the structure size will be reduced to approximately 80' x 200' and will not include the indoor riding arena. The applicant is requesting to place the structure approximately 75 feet from the OHW of a DNR protected watercourse. The minimum setback is 150 feet. Schmitz used an aerial photo to illustrate the approximate water line and the area from which the setback was measured. The applicant stated a practical difficulty with several protected areas on the property and trying to place the structure to avoid rerouting or replacing drain tile for the house and the geothermal field. Access for parking and into the building would be from the south side, which would keep vehicles away from the protected watercourse on the north. The DNR reviewed the request and commented that the structure cannot be placed within the Shore Impact Zone, which is less than 75 feet from the OHW. Watertown Township heard the request at their September meeting and recommended approval of the request. Schmitz read the conditions for consideration if the request is approved. She also stated that the applicant has asked for an additional 12 months in which to secure a building permit, which would allow him up to 24 months from the approval date.

Buetow asked for clarification of the structure footprint size, since the initial plans were changed.

Mr. Swanson stated the proposed structure size would be 80' x 200' and would be used for hay storage and equipment. It would not include a riding arena.

Huang asked for the location of the septic system, the geothermal field and other drainage.

Schmitz used the aerial photo to illustrate the locations.

A motion was made by Buetow and seconded by Huang to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:20 p.m.

A motion was made by Hoesle and seconded by Stender to **approve and issue Order #**

PZ20180019 allowing for reduced setback from a DNR protected water and the following conditions:

1. The deadline for significant action to take place (i.e. obtaining required building permits), as approved by this variance, shall be granted a 12 month extension and shall expire 24 months from the date of approval of the variance (October 3, 2018).
2. The Permittee shall obtain the appropriate building permit(s) prior to the construction of an accessory structure or agriculture structure. A grading plan and erosion/sediment control plan shall be prepared, submitted and approved as part of the building permit application process. The lowest floor elevation for an accessory or agriculture building shall conform to the appropriate Carver County Shoreland Regulations.
3. All work shall be completed in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the OHW of DNR protected water 10-99P than approved as part of this permit application.

All voted aye. Motion carried.

Adjournment

Having completed all the agenda items and seeing no other business, Chairman Hoese deemed the meeting adjourned at 7:21 p.m.