

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – June 5, 2019
Minutes

Members Present: Scott Hoese, Richard Kvitek, Virgil Stender, Mark Willems, Robin Bielefeldt

Members Absent: Doug Weber

Members Late: None

Staff Present: Steve Just, Kathleen Russell, Al Langseth

Pursuant to due call and published notice thereof, the June 5, 2019, 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 May 1, 2019, meeting as corrected. All voted aye. Motion carried.

Request for Extension of Time - File # 20170046 – Michael Ewald –Chairman Hoese recognized the request for an additional 12-month extension on File# PZ20170046 by Michael Ewald on property in Section The property is located in Section 14 of Benton Township.

Just stated the Board has the authority to grant extensions and this one is unique in that it was already granted a 12-month extension when the variance was initially approved. The expiration of the 12-month limitation is related to changing conditions or an ordinance change. Nothing about the land use has changed on this property. The applicant has been working to obtain financing to put his plan into action.

A motion was made by Bielefeldt and seconded by Willems to approve a 12-month extension of the request in File# PZ20190046 by Michael Ewald. All voted aye. Motion carried.

Public Hearing - File # 20190018 – Tim Raser –Chairman Hoese called the public hearing to order at 7:05 p.m. to consider the application of Tim Raser pursuant to Chapter 54 of the County Code. The purpose of the public hearing was to consider a request for setbacks for a new feedlot pursuant to Chapter 54 of the County Code. The property is located in Section 31 of Dahlgren Township.

The following were present: Tim Raser

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

Exhibit F – Letter to the Board of Adjustment and Dahlgren Township dated May 24, 2019, and all attachments.

Just introduced the request and introduced Al Langseth, Carver County Feedlot Officer, to continue with the staff report. Langseth stated the applicant purchased this site in 2017 and would like to raise cattle. The former dairy barn was removed and will be replaced with a new 40-foot x 80-foot pole barn for hay, bedding and machinery storage. A 15-foot x 20-foot three-sided shelter on a 40-foot x 50-foot concrete slab sloped to the east will provide shelter for the cattle. The proposed feedlot area would be approximately 140 feet from the rear property line and approximately 900 feet from an existing residence. The applicant is requesting a new feedlot (more than 30 animal units) which must meet the ordinance setback requirements of 200 feet from a property line and 1,000 feet from an existing residence; therefore, a variance is required. The applicant has been actively raising cattle at his former location and would like the opportunity to move and continue raising cattle at this site. Dahlgren Township heard the request and made no recommendation at their meeting. Langseth read the proposed conditions for consideration if this request is approved.

Mr. Raser asked about the setbacks for the proposed pole barn.

Just explained the pole barn would be an agricultural structure and the required setback from a side property line is 15 feet and 30 feet from the rear (north) property line.

Mr. Raser confirmed the building would far exceed those setbacks.

Willems, speaking for Dahlgren Township, explained the Township was waiting to make a recommendation, pending any comments from neighbors. Seeing no one has commented about the request, he stated the Township recommends approval of the request.

A motion was made by Stender and seconded by Kvitek to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:08 p.m.

A motion was made by Kvitek and seconded by Willems to **approve and issue Order PZ20190018** allowing for reduced setbacks from a new feedlot and the following conditions:

1. Once the new feedlot perimeter has been established, future feedlot expansion shall not further encroach on the established setbacks.
2. Site will have a 50 Animal Unit limit.

All voted aye. Motion carried.

Public Hearing - File # 20190026 – Matthew & Emily Bergmann –Chairman Hoese called the public hearing to order at 7:09 p.m. to consider the application of Dale Kutzke on behalf of Matthew & Emily Bergmann pursuant to Chapter 152 of the County Code. The purpose of the

public hearing was to consider a request for reduced setback for a structure from a DNR protected water pursuant to Chapter 152 of the County Code. The property is located in Section 32 of Waconia Township.

The following were present: Dale Kutzke

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 May 6, 2019

Exhibit F – Letter to the Board of Adjustment and Waconia Township dated May 28, 2019, and all attachments.

Russell explained the applicant's request to construct a new three-season porch to replace an existing deck. The new porch would be approximately 93 feet from the OWH of Hydes Lake, a Recreational Development lake, which requires a 100-foot setback, therefore, a variance is required. The proposed porch is in the same general area and would extend approximately 6 feet closer to the water than the current deck. The property is in shoreland which requires septic compliance prior to issuance of any building permits. The DNR Hydrologist received the request information and commented about an accessory structure which is non-conforming and was constructed prior to the shoreland regulations. A recommendation for a rain garden was also suggested. Waconia Township heard the request and recommended approval. Russell read the proposed conditions for consideration if the request is approved.

Chairman Hoese asked if the rain garden suggestion is incorporated into the conditions.

Just stated it was a suggestion and did not know the applicant's intent concerning any erosion control measures.

Mr. Kutzke, representing the Bergmanns, confirmed they are planning to change the landscaping, so the contour of the yard does not drain into the lake. He further explained the process of silt fencing, digging and removing dirt and using gravel backfill.

Just stated that the Board could direct staff to work with the applicant on the erosion control plan as a part of the building permit process.

Mr. Kutzke stated the initial plans will indicate and illustrate the location of the silt fencing and the proposed flow away from the lake for the building inspector to review.

No one from Waconia Township was present to comment on this request.

A motion was made by Willems and seconded by Stender to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:13 p.m.

A motion was made by Hoese and seconded by Willems to **approve and issue Order PZ20190026** allowing for reduced setback for a structure to a DNR protected water course and the following conditions:

1. The Permittee shall obtain the appropriate building permit(s) prior to the 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 three-season porch shall conform to the appropriate Shoreland/Floodplain Regulations.
2. The property shall receive a Subsurface Sewage Treatment System (SSTS) Certificate of Compliance.
3. All work shall be completed in accordance with the submitted site plan(s). The new structure shall maintain a minimum of a 93-foot setback from the OHW of DNR Protected Water 88P.

All voted aye. Motion carried.

Public Hearing - File # 20190025 – Tim Zellmann –Chairman Hoese called the public hearing to order at 7:14 p.m. to consider the application of Tim Zellmann pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced width/depth ratio and reduced road frontage pursuant to Chapter 152 of the County Code. The property is located in Section 9 of Camden Township.

The following were present: Tim Zellmann, Paul Wickenhauser

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 May 2, 2019

Exhibit F – Letter to the Board of Adjustment and Camden Township dated May 28, 2019, and all attachments

Just explained the applicant's request to subdivide the building site from an approximate 80 acre parcel that currently has no legal road frontage. The proposal is to dedicate a 33-foot section to attach the driveway to the farmstead and another 33 feet from an adjacent parcel to the north, to extend the Township road right-of-way without platting the property. Typically, township road extensions are done through a platting process, but this parcel is a legal non-conforming parcel. The variance is for reduced road frontage and width to depth ratio to subdivide the approximate 5-acre farmstead with minimal road frontage. The applicant would retain the approximate 75 acres of tillable land and attach it to the adjacent parcel to the east which has road frontage, creating a conforming agricultural parcel. The neighbor to the north, Patricia Beier, has agreed

to participate and dedicate land to extend the township road at the end of 74th Street for a 66-foot total width. A compliant septic system or appropriate escrow amount will be required as a part of the minor subdivision process. Camden Township heard the request and recommended approval at their April 15th meeting, stating the township would not provide maintenance to the dedicated extension. Just read the proposed conditions for consideration if the request is approved.

Mr. Zellmann questioned the road easement and dedication process.

Just stated it would be a part of the surveying work and a legal description for the road extension would be developed and recorded.

Willems stated this would be an improvement for the property and the Township, by giving the parcel at least some legal road frontage.

Discussion ensued about the dedicated road area and the Township's use or maintenance of that extension. It was suggested that the applicant have a clear understanding with the Township to clarify the issues.

A motion was made by Stender and seconded by Kvittek to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:22 p.m.

A motion was made by Stender and seconded by Hoese to **approve and issue Order PZ20190025** allowing for a minor subdivision with reduced road frontage and width to depth ratio and the following conditions:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, a survey, and road easement description.
2. Prior to the Minor Subdivision completion, the township road easement (or deed) shall be dedicated to Camden Township, and recorded at the County Recorder's Office, providing for a minimum of 33 feet x 33 feet. The dedication as a right-of-way easement of the township road shall be pursuant to the approved site plan, providing frontage to all parcels. The easement shall be reviewed Camden Township and Carver County, prior to recording. The township road easement shall be privately maintained, pursuant to Camden Town Board requirements.

All voted aye. Motion carried.

Adjournment

Having completed the agenda items and seeing no other business, Chairman Hoese deemed the meeting adjourned at 7:26 p.m.