

**WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
RING CENTRAL VIRTUAL MEETING
JANUARY 21, 2021 – 1:00 PM**

1. Call to Order: Chair R. Redig called the meeting to order at 1:00 p.m.

Board Members Present: Robert Redig, Philip Schwantz, Elizabeth Heublein, Jordan Potter and Kelsey Fitzgerald

Absent: None

Others Present: Kay Qualley, Planning & Environmental Services Director; Lew Overhaug, Planner; Stephanie Nuttall, Assistant Winona County Attorney; Eric Johnson, Zoning Administrator; Carly McGinty, Feedlot Officer and Anne Schwertel, Administrative Assistant

2. Pledge of Allegiance: The Pledge of Allegiance was recited.

3. Introduction and Welcome New Members: All members and staff introduced themselves

4. Election of Chair and Vice Chair

A. Chair

Kay Qualley called for nominations for the Board of Adjustment Chair. P. Schwantz nominated R. Redig. Hearing no other nominations, K. Qualley called for a vote on R. Redig as the 2021 Board of Adjustment Chair. Vote: Yes – 4; No – 1 (RR). R. Redig agreed to continue role as Chair of the Board of Adjustment.

B. Vice-Chair

Kay Qualley called for nominations for the Board of Adjustment Vice-Chair. P. Schwantz nominated Jordan Potter. Hearing no other nominations, Kay Qualley called for a vote on J. Potter as the 2021 Board of Adjustment Vice-Chair. Vote: Yes – All.

5. Approval of Agenda: On motion of P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to approve the agenda. Vote: Yes – All.

6. Approval of the August 20, 2020 Minutes: On motion of R. Redig and seconded by P. Schwantz, the Board of Adjustment voted to approve the minutes. Vote: Yes – All.

7. Recommendation to the County Board: Planning Commission Liaison

P. Schwantz nominated Jordan Potter as the Planning Commission Liaison; seconded by R. Redig. Hearing no further nominations, the Board of Adjustment voted on the recommendation to the County Board of Jordan Potter as the Planning Commission Liaison. Vote: Yes – All.

8. Rules of Procedure: Annual Review and Adoption

K. Qualley addressed the Board of Adjustment and explained the process of reviewing and adopting the Rules of Procedures annually. No changes were recommended by staff or the BOA to the current Rules

49 of Procedures. On motion by P. Schwantz and seconded by E. Heublein, the Board of Adjustment voted
50 to re-adopt the Rules of Procedures. Vote: Yes – All.
51

52 9. Petitions

53 Docket # BOA 1-21-21-01

54 To consider the petition of Rebecca Snyder in regards to the following:
55

- 56 • A variance to allow an addition to a dwelling fifty (50) feet from the centerline of Runaway
57 Drive, instead of the required sixty-five (65) feet pursuant to Chapter 10.4.7(2)(a) of the Winona
58 County Zoning Ordinance.
59

60
61 Chair R. Redig read the petition request aloud.

62
63 Staff member L. Overhaug gave a PowerPoint presentation which included overview mapping exhibits of
64 the parcel and proposed addition location, project details, township acknowledgement form, criteria, and
65 considerations for the petition.
66

67 Chair R. Redig inquired if the road was a township road. L.Overhaug stated it was a township road with a
68 66 foot wide right-of-way.
69

70 Chair R. Redig asked if the petitioner wanted to give a presentation or share any information.
71

72 Petitioner Rebecca Snyder, of Winona County, explained the safety reasoning for the variance request as
73 well as preserving the agricultural acreage. R. Snyder thanked the Board of Adjustment members for
74 their consideration and time.
75

76 On motion of E. Heublein and seconded by J. Potter, the Board of Adjustment voted to open the public
77 hearing. Vote: Yes – All.
78

79 Chair R. Redig asked three times if any members of the public wished to speak for or against the petition;
80 no response.
81

82 On motion of P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to close the public
83 hearing. Vote: Yes – All.
84

85 Chair R. Redig asked if there was any discussion amongst the Board of Adjustment member or if there
86 were any questions about the approval criteria. No discussion or questions raised by the members.
87

88 On motion of K. Fitzgerald and seconded by E. Heublein, the Board of Adjustment voted to adopt the
89 Findings of Fact as presented and to approve the variance with the presented conditions. Vote: Yes – All.
90

91 Chair R. Redig read aloud the appeal of Board of Adjustment criteria.
92

93 **Findings of Fact:**

- 94 1. The variance request is in harmony with the intent and purpose of the ordinance.
95

96 *The Winona County Zoning Ordinance, and specifically the Agriculture/Resource Conservation*
97 *Zoning District, aims to balance the viability of the County's agricultural community with the needs*
98 *of neighboring low-density non-farm residents. Structural setbacks were fixed in the ordinance for*
99 *the health and safety of the present and future residents, however, there are other similarly located*
100 *historic structures along this portion of road that are set back similar distances. The proposal is for a*
101 *modest expansion of an old existing farmhouse on a low traffic and low speed local road.*
102

- 103 2. The variance request is consistent with the comprehensive plan.

104 *The Comprehensive Plan recommends dwellings "be carefully sited to minimize conflicts and*
105 *preserve valuable agricultural lands," and investment in the improvement of existing housing stock is*
106 *an important part of maintaining economic vitality in Winona County. This petition would allow the*
107 *property owners to update an old dwelling so that it can meet current needs and provide valuable*
108 *housing for many years to come. By not moving the addition to the west the petitioner would also*
109 *preserve existing farmland on that side of the home, something that is emphasized in the*
110 *Comprehensive Plan.*
111

- 112 3. The applicant has established that there are practical difficulties in complying with the official control
113 and proposes to use the property in a reasonable manner.

114 *The practical difficulties include the layout of the interior of the existing home, location of existing*
115 *driveway and garage to the east of the home, location of the septic system to the south, and desire to*
116 *preserve the viability of the agricultural field to the west. Further, the request is reasonable since the*
117 *proposed setback distance is the same as that of the home across the street and Runaway Drive is a*
118 *low volume low speed thoroughfare.*
119

- 120 4. The variance request is due to special conditions or circumstances unique to the property not created
121 by owners of the property since enactment of the Ordinance.

122 *Special conditions or circumstances unique to the property have been identified regarding the layout*
123 *of the existing home and its location in relation to the road, existing driveway and garage, septic*
124 *system, and agricultural field.*
125

- 126 5. The variance will not alter the essential character of the locality nor substantially impair property
127 values, or the public health, safety, or welfare in the vicinity.

128 *The scale of the project does not change the physical character or use of the area or impede*
129 *maintenance by the road authority or create safety concerns. Runaway Drive is a low volume dead*
130 *end rural road servicing a low-density agricultural area. The existing farmhouse is very old and*
131 *existed prior to the enactment of the zoning ordinance. It is likely to improve, not impair property*
132 *values with the investment in the property proposed by the petitioners.*
133

- 134 6. Economic considerations alone do not constitute practical difficulties.

135 *Economic considerations have not been mentioned as part of the justification for needing the*
136 *variance by the applicant. This is not speculative development for profit, but a request to update an*
137 *old house to make it more livable and which would preserve existing housing stock.*
138

- 139 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
140 variance which would alleviate the practical difficulty.

141 *The petitioners have considered different options for how they could update the home and meet the*
142 *required setback, but other options would not achieve the desired results and are limited by the*
143 *existing location of infrastructure and uses, such as the driveway, garage, and septic system. The*
144 *variance request is for a 15-foot deviation from the standard of a sixty-five-foot setback.*

- 145
146 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
147 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
148 elevation or permit standards lower than those required by State Law.
149 *The proposed use is permitted in the zoning district in which it is located and is not in a floodplain.*
150 *The request does not lower the degree of flood protection established by the Regulatory Flood*
151 *Protection Elevation or lessen State Law standards.*
152
153

154 **With the following conditions:**
155

- 156 1. The owner(s) of the property to which this variance is issued will abide by all representations and
157 commitments made during the permitting process as well as before the Board of Adjustment, in
158 accordance with all conditions to the variance.
159 2. The petitioners obtain the required Development Certificate and comply with all relevant regulations
160 and standards of Winona County and the State of Minnesota, to include meeting the State Electrical
161 Code, and obtaining the required permit and inspection if applicable.
162

163 **Docket # BOA 1-21-21-02**
164

165 To consider the petition of Randolph J Erdmann in regards to the following:
166

- 167 • A variance to allow a new dwelling seven-hundred sixty (760) feet from a feedlot, instead of
168 the required one-thousand (1,000) feet pursuant to Chapter 8.5.1(1)(c) and 10.4.4(5)(c) of the
169 Winona County Zoning Ordinance.
170

171 Chair R. Redig read the petition request aloud.
172

173 Staff member L. Overhaug gave a PowerPoint presentation which included mapping exhibits of the
174 proposed building site in relation to neighboring parcels, proposed project information, support from
175 Richmond Township. He also mentioned neighbor comments that were received, both for and against the
176 petition, after the packet was posted.
177

178 Chair R. Redig asked if the petitioners wished to speak on behalf of their application.
179

180 Petitioners Jordan Erdmann and Vanessa, of Winona County, shared their proposed plan to raise a family
181 in close proximity to other family in a location previously supported by the closest feedlot operator. They
182 reiterated building limitations on the parcel (slope, etc.) and stated their intention to maintain the integrity
183 of the land and thanked the Board of Adjustment members for their time and consideration.
184

185 On motion of E. Heublein and seconded by J. Potter, the Board of Adjustment voted to open the public
186 hearing. Vote: Yes – All.
187

188 Chair R. Redig asked if anyone wished to speak for or against the petition.
189

190 Weston Erdmann, of Winona County, spoke as the closest feedlot operator. He questioned if the project
191 would limit his feedlot expansion and in what way. He spoke of concerns if the petitioners sold their
192 home in the future. Lastly, he questioned if their family still had plans to purchase land on the other side
193 of his feedlot and build there as well.

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Chair R. Redig asked two more times if anyone wished to speak for or against the petition; no response.

On motion of E. Heublein and seconded by J. Potter, the Board of Adjustment voted to close public hearing. Vote: Yes – All.

P. Schwantz asked for clarification from staff regarding W. Erdmann’s concerns about feedlot expansion. Staff stated W. Erdmann could expand his feedlot as long as the expansion didn’t encroach closer to the surrounding properties.

The petitioners shared that the land by the feedlot operator is no longer in the process of being purchased.

J. Potter asked if a conditional use permit (CUP) is needed for under 40 acres. Per L. Overhaug, a CUP is not needed as it’s a parcel of record since prior to when the ordinance was enacted.

On motion of P. Schwantz and seconded by E. Heublein, the Board of Adjustment voted to adopt the Findings of Fact as presented and to approve the variance with the presented conditions.

Chair R. Redig asked for any discussion on the motion; no discussion.

Vote: Yes – All.

Chair R. Redig read aloud the appeal of Board of Adjustment criteria.

Findings of Fact:

1. The variance request is in harmony with the intent and purpose of the ordinance. *The Winona County Zoning Ordinance, and specifically the Agriculture/Resource Conservation Zoning District and Chapter 8 Livestock Feedlot section of the ordinance, aims to support and protect the continued health and viability of the County’s agricultural community and balance the needs of neighboring non-farm residents. In addition, the feedlot setback is intended to help reduce negative impacts on non-farm residents and properties and protect and provide space for agricultural operations to operate and not prevent future legal expansion. Since there are already three existing neighboring dwellings within 800 feet of the feedlot to the south, northeast, and east, if the feedlot were to ever expand it would need to do so to the north and it would need a variance to do so even at the present time. Adding this dwelling would not create more obstacles for expanding the feedlot business. The site where the home is proposed is currently a hay field and the petitioners plan to locate the home such that they can continue to grow and harvest hay in an efficient manner. Preservation of both existing agricultural operations, without creating new barriers to growth for a neighboring feedlot operation is in harmony with the intent of the ordinance.*
2. The variance request is consistent with the comprehensive plan. *The Comprehensive Plan recommends non-farm residential development, such as what is being proposed, “be carefully sited to minimize urban/rural conflicts and preserve valuable agricultural lands.” The petitioners have planned the proposed building site in order to preserve their ability to harvest hay from the most productive areas of their farm on valuable agricultural lands. The small size of the hay field located in a sloping landscape does not leave much room for larger scale agricultural activities and makes it a suitable place to fit a home in this landscape while preserving the more expansive agricultural land. The addition of one home with a 750-foot feedlot setback in an*

243 *area where three other homes are already inside the 1,000-foot feedlot setback (which are not*
244 *causing conflicts with their rural neighbors and feedlot operators) fits the goal of careful siting.*
245

- 246 3. The applicant has established that there are practical difficulties in complying with the official control
247 and proposes to use the property in a reasonable manner.

248 *Practical difficulties include that moving the proposed project beyond the feedlot setback would*
249 *place the residence on steeper slopes and designated bluffs that are not buildable. This location*
250 *allows them to preserve more productive hay land and develop the site in a way that is most efficient*
251 *for farming operations.*
252

- 253 4. The variance request is due to special conditions or circumstances unique to the property not created
254 by owners of the property since enactment of the Ordinance.

255 *Special conditions or circumstances of this property include topography (steep slopes and bluffs in*
256 *the areas beyond the feedlot setback) and the location of more productive soils that the petitioners*
257 *are trying to preserve for their existing farm operation.*
258

- 259 5. The variance will not alter the essential character of the locality nor substantially impair property
260 values, or the public health, safety, or welfare in the vicinity.

261 *This area has been scattered non-farm development for years due to its desirable location, making*
262 *this request consistent with the essential character of the locality. The site is sensitively located on*
263 *the parcel in order to have the smallest impact to the existing farming operations and to work with*
264 *the natural undulations of the landscape to minimize visual and natural resource impacts, which*
265 *should preserve local property values.*
266

- 267 6. Economic considerations alone do not constitute practical difficulties.

268 *Economic considerations have not been mentioned as a consideration in requesting the variance.*
269 *This is not speculative development for profit, but a request to allow a family member to build a*
270 *home.*
271

- 272 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
273 variance which would alleviate the practical difficulty.

274 *The need for a variance cannot be alleviated by a reasonable method, since that would require them*
275 *to build much further back on the property on steep slopes and bluffs that are not buildable, or*
276 *unreasonably require them to build a longer driveway onto steeper more unsuitable land where the*
277 *get the most productive hay from.*
278

- 279 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
280 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
281 elevation or permit standards lower than those required by State Law.

282 *The proposed use is permitted in the zoning district in which it is located and is not located in a*
283 *floodplain. The request does not lower the degree of flood protection established by the Regulatory*
284 *Flood Protection Elevation or lessen State Law standards.*
285

286 **With the following conditions:**
287

- 288 1. The owner(s) of the property to which this variance is issued will abide by all representations and
289 commitments made during the permitting process as well as before the Board of Adjustment, in
290 accordance with all conditions to the variance.
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2. The petitioner obtains the required Development Certificate, Septic Permit, and Driveway Access Permit and complies with all relevant regulations and standards of Winona County and the State of Minnesota.

3. This statement shall be recorded as a condition of approval:
“Owners, residents and other users of property in this zoning district or neighboring properties may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operation, including but not limited to, noise, odors, dust, operation of machinery of any kind including aircraft, the storage and disposal of manure or the application of fertilizers, herbicides and pesticides. Owners, residents and users of this property or neighboring property should be prepared to accept such inconveniences or discomfort, and possibly injury from normal operations, and are hereby put on official notice that the state Right-To-Farm Law (Minnesota Statute 561.19) may bar them from obtaining a legal judgment against such normal operations.”

10. Adjourn

On motion of E. Heublein and seconded by P. Schwantz, the Board of Adjustment voted to adjourn at 1:58p.m. Vote: Yes – All.

Respectfully submitted by,
Anne Schwertel
Administrative Specialist

Signed by Robert Realy 24 MAY 21
Board of Adjustment Chair Date