



WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
JULY 15, 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; Stephanie Nuttall, Assistant Winona County Attorney; Eric Johnson, Zoning Administrator; Lew Overhaug, Planner and Anne Schwertel, Administrative Assistant

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

3. **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.

4. **Approval of the June 17, 2021 Minutes:** On motion of P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to approve the minutes. Vote: Yes – All.

5. **Petitions**

Docket # BOA 07-15-21-01

To consider the petition of Rosanne Naunheim in regards to the following:

- A variance to allow a building site established on a Class III soil type, instead of the required Class IV through Class VIII soil types pursuant to Chapter 10.4.7 (6) of the Winona County Zoning Ordinance.

Chair R. Redig read the petition request aloud.

Staff member L. Overhaug gave a PowerPoint presentation which included overview mapping exhibits of the parcel, driveway and proposed dwelling location, project overview details and photos of the site. The staked-out building site would need to be adjusted to ensure at least 100 feet from the top of the bluff to achieve compliance.

The Board of Adjustment discussed required setbacks for the proposed dwelling location. Soil types are a consideration for dwellings but not for driveways.

Based on mapping of prime soils, there is only one location on the parcel that would eliminate the need for a variance for soils. Per petitioner Rosanne Naunheim, that area, if considered as an alternate site, is steep and the dwelling would be more visible on the bluff. Staff evaluated only the petitioners' requested site and pointed out the other location as not needing a prime soils variance, not as to its (or any other

50 location's) suitability as a building site or for meeting all other WCZO requirements. It was not
51 suggested by staff as an "alternate" building site. If a variance is granted to the prime soils requirement,
52 any location on the parcel which meets *all other* WCZO requirements is eligible to become a building
53 site.

54

55 On motion of J. Potter and seconded by P. Schwantz, the Board of Adjustment voted to open the public
56 hearing. Vote: Yes – All.

57

58 Chair R. Redig asked two times if anyone wished to speak for or against the petition.

59

60 Jeff Suchomel, brother to the petitioner Rosanne Naunheim, stated the alternate area is in the woods with
61 a steep drop off. The view would be much less preferred. He said he measured the house location to be
62 100 ft. from the bluff.

63

64 Rosanne Naunheim reiterated that the alternate building site would make the dwelling much more
65 visible on the bluff.

66

67 Chair R. Redig asked for a third time if anyone wished to speak for or against the petition; no response.

68

69 On motion of J. Potter and seconded by K. Fitzgerald, the Board of Adjustment voted to close the public
70 hearing. Vote: Yes – All.

71

72 The Board of Adjustment and staff discussed alternate building sites that would not require a variance.
73 Additionally, landowner rights and the compatibility of the project with the Comprehensive Plan were
74 discussed.

75

76 The Board of Adjustment moved on to discuss the Findings of Fact.

77

78 On motion by P. Schwantz and seconded by K. Fitzgerald, the Board of Adjustment voted to change
79 draft Finding of Fact #3 to read "...has established..." and gave justification, as noted in the final
80 Findings of Fact. Vote: Yes-4 (EH, PS, JP, KS); No-1 (RR). Motion passed.

81

82 On motion by P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to change draft
83 Finding of Fact # 2 to read "...is consistent..." and gave justification, as noted in the final Findings of
84 Fact. Vote: Yes-4 (EH, PS, JP, KS); No-1 (RR). Motion passed.

85

86 The Board of Adjustment discussed the number of homesteads on neighboring parcels or within close
87 vicinity.

88

89 P. Schwantz made a motion to change draft Finding of Fact #5 to read "...will not alter..." and gave
90 justification. Per Chair R. Redig, the motion failed due to lack of a second.

91

92 Chair R. Redig read Finding of Fact #7 aloud. The Board of Adjustment discussed building location,
93 current crops on the parcel and slopes of the parcel as they relate to the proposed building location.

94

95 On motion by P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to change draft
96 Finding of Fact #7 to read "...cannot be alleviated..." and gave justification, as noted in the final
97 Findings of Fact. Vote: Yes-4 (EH, PS, JP, KS); No-1 (RR). Motion passed.

98

99 On motion by P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to change draft

100 Finding of Fact #2 to read “...will not alter...” and gave justification, as noted in the final Findings of
101 Fact. Vote: Yes-4 (EH, PS, JP, KS); No-1 (RR). Motion passed.

102

103 On motion by P. Schwantz and seconded by K. Fitzgerald, the Board of Adjustment voted to adopt the
104 Findings of Fact as amended and approve the variance with the conditions as presented. Vote: Yes-4
105 (EH, PS, JP, KS); No-1 (RR). Motion passed.

106

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

108

109 **Findings of Fact:**

110 1. The variance request is in harmony with the intent and purpose of the ordinance.

111 *The Agriculture and Resource Conservation Zoning District is established for the purpose of*
112 *protecting the “working agricultural landscape of Winona County as a means to ensure the*
113 *continued viability of this resource.” This proposal would allow the owner to build a home on*
114 *existing agricultural land in a location that minimizes impact to agricultural activities in the area.*

115 2. The variance request is consistent with the comprehensive plan.

116 *The Winona County Comprehensive Plan includes general goals of promoting agriculture as a viable*
117 *land use activity throughout the county and protection of major natural resource areas in the County*
118 *to maintain the area’s high quality of life and serve as a basis for recreation and tourism in the*
119 *County. The agricultural field is currently in contour strips with perennial vegetation being cut in the*
120 *area of the proposed driveway and house and corn further back from the edge of the field.*
121 *Agricultural soils will be removed from production due to access driveway and the building site, but*
122 *the number of acres is minimal and inevitable for any building site on the property. The proposed site*
123 *is partially on an untilled portion of the field, directly behind Government Pointe, which is a*
124 *prominent bluff overlooking the Mississippi River and Winona to the north. Although the dwelling*
125 *will likely be visible during winter months, the proposed site would result in the least disturbance of*
126 *prime tillable soils and therefore would be consistent.*

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

129 *The building site was chosen because it is a relatively flat field that is not actively tilled. The*
130 *potential alternate site would consume additional agricultural land. The petitioner indicated that the*
131 *alternate site would also not be as flat of a site and would likely be more visible than the proposed*
132 *site.*

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

135 *There are no non-prime building site locations on the property.*

136 5. The variance will not alter the essential character of the locality or substantially impair property
137 values, or the public health, safety, or welfare in the vicinity.

138 *The proposed site is 900 feet from Government Point Road and over 1200 feet from the closest*
139 *neighbor. It is on top of the most prominent bluff in the area, with a large cliff face directly above*
140 *Highway 61 and the Mississippi River. There are trees between neighbors and the proposed dwelling*
141 *as well as between the house and edge of the bluff that provide leaf-on screening, though it will still*
142 *be visible across the field from Government Point Road. At 31-feet in height the structure will be seen*
143 *from the valley below potentially all year, but primarily in winter when leaves have fallen. The*
144 *proposed dwelling is a sufficient distance from neighbors and the public road right of way to*

145 *minimize the impact on the character of the area along Government Point Road, and the new*
146 *dwelling will blend in with other dwellings also built along the bluffline.*

147 6. Economic considerations alone do not constitute practical difficulties.

148 *Economic considerations have not been mentioned as the focus or featured consideration in*
149 *requesting the variance. The primary reason for building is to allow a new dwelling as a retirement*
150 *home for the property owners.*

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

153 *Although there is an alternate site, the proposed site would have less impact on prime soils than the*
154 *alternate site would because the driveway and alternate site would use more agricultural land.*

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

158 *The A/RC district permits the construction of a home and accessory uses on the parcel. The proposed*
159 *location is not located in a floodplain and the request does not lower the degree of flood protection*
160 *established by the Regulatory Flood Protection Elevation or lessen State law standards.*

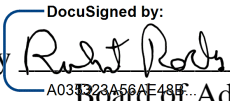
161
162 **With the following conditions:**

- 163 1. *The owner(s) of the property to which this variance is issued will abide by all representations and*
164 *commitments made during the permitting process as well as before the Board of Adjustment, in*
165 *accordance with all conditions to the variance.*
- 166 2. *The owner shall obtain the required Development Certificate and Septic Permit, and shall comply*
167 *with all relevant regulations and standards of Winona County and the State of Minnesota.*
- 168 3. *The proposed new driveway shall adhere to the standards described in Chapter 9.7 of the Winona*
169 *County Zoning Ordinance, and the owner shall obtain the required Driveway Access Permit from the*
170 *Winona County Highway Department.*
- 171 4. *A phase one archaeological survey shall be completed, pursuant to Chapter 11.6.5, prior to issuing a*
172 *Development Certificate for the proposed dwelling.*

173
174 **6. Adjourn**

175 On motion by P. Schwantz and seconded by J. Potter, the Board of Adjustment voted to adjourn at
176 2:07p.m. Vote: Yes-4 (EH, PS, JP, KS); No-1 (RR). Motion passed.

177
178
179 Respectfully submitted by,
180 Anne Schwertel
181 Administrative Specialist

182
183
184 Signed by  _____
185 A0312234591E489...
186 Board of Adjustment Chair

September 16, 2021 | 2:37 PM PDT

Date