

WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
JULY 21, 2022 – 1:00 PM

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

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

Absent: Ed Walsh

Others Present: Kay Qualley, Planning Director; Alex Thillman, 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 Jordan Potter and seconded Elizabeth Heublein, the Board of Adjustment voted to approve the agenda. Vote: Yes – All.

4. **Approval of the May 19, 2022 Minutes:** On motion of Jordan Potter and seconded by Elizabeth Heublein, the Board of Adjustment voted to approve the minutes. Vote: Yes – All.

5. **Petitions**

Docket # BOA 07-21-22-01

To consider the petition of Allen Detweiler regarding the following:

- Consideration of a variance to allow construction of a new dwelling on class I – III soils (class II soils) instead of class IV – VIII soils within the Ag/Resource Conservation District, pursuant to Chapter 10.4.7(6) of the Winona County Zoning Ordinance

Chair Robert Redig read the petition request aloud.

Lew Overhaug, Planner, gave a PowerPoint presentation which included overview mapping exhibits of the proposed parcel including soil classification and project overview, site photos and acknowledgement from St Charles Township indicating “no comments.”

The Board of Adjustment and staff discussed any known sinkholes on the property and the flexibility of an approved variance to apply to a different site plan or parcel.

Chair Robert Redig asked if the petitioner wished to speak on behalf of his application.

Petitioner Freeman Detweiler, of Winona County, shared that he tried to speak with his neighbor regarding the proposed project, but the neighbors had just received the notice and had not had time to discuss. After receiving the Board of Adjustment packet, Freeman Detweiler had not been able to speak

49 with the neighbor regarding the neighbor's letter of concerns. He has considered moving the building site
50 more to the west. In speaking with MNDOT, they will not grant him driveway access if he moves the
51 building site to the west side of the parcel as it would be too close to the intersection of 14 and 37, but
52 they would consider it if he moved maybe halfway.

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54 On motion of Elizabeth Heublein and seconded by Jordan Potter, the Board of Adjustment voted to open
55 the public hearing. Vote: Yes – All.

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57 Chair Robert Redig asked three times if any members of the public wished to speak for or against the
58 petition; no response.

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60 On motion of Jordan Potter and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to close
61 the public hearing. Vote: Yes – All.

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63 On motion of Jordan Potter and seconded by Elizabeth Heublein, the Board of Adjustment voted to adopt
64 the Findings of Fact as presented and to approve the variance with the conditions as presented.
65 Vote: Yes – All.

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67 **Findings of Fact:**

- 68 1. The variance request is in harmony with the intent and purpose of the ordinance.
69 *The Agriculture and Resource Conservation Zoning District is established for the purpose of*
70 *protecting the “working agricultural landscape of Winona County as a means to ensure the*
71 *continued viability of this resource”. This petition would allow the applicant to build a home on*
72 *existing agricultural land in a location that attempts to minimize impact to agricultural activities in*
73 *the area. The applicants plan to remove approximately 4.1 acres from crop production, but will*
74 *continue to be involved in the farming of the remaining land.*
- 75 2. The variance request is consistent with the comprehensive plan.
76 *The General Goals of the Winona County Comprehensive Plan includes “promotion of agriculture as*
77 *a viable land use activity throughout the County.” Agricultural soils will be removed from*
78 *production due to access driveway and the building site, but the number of acres is minimal and*
79 *inevitable for any building site on this property.*
- 80 3. The applicant has established that there are practical difficulties in complying with the official control
81 and proposes to use the property in a reasonable manner.
82 *The specific location on the property was chosen because it is a relatively flat field that is easily*
83 *accessible. There is an existing field access that MN DOT will require to be improved, but which will*
84 *be allowed to provide access to the site. There are no sites available that have poorer soils or that*
85 *would be less disruptive to agricultural activities.*
- 86 4. The variance request is due to special conditions or circumstances unique to the property not created
87 by owners of the property since enactment of the Ordinance.
88 *The special conditions or circumstances are that the Class I and Class II soils leave no location on*
89 *the property where the applicants could meet the standard.*
- 90 5. The variance will not alter the essential character of the locality nor substantially impair property
91 values, or the public health, safety, or welfare in the vicinity.
92 *The site is located in an area of rolling agricultural land that includes a mix of low-density dwellings,*
93 *cultivated agricultural fields, pasture, and forested hillsides. The site is located in the corner of the*
94 *property so as to interfere or disrupt agriculture activities as little as possible. The proposed site will*
95 *consist of a new farmhouse and a shed that will house a temporary dwelling unit and a business*
96 *consisting of a welding shop. A new dwelling on Class II soils will not alter the essential character of*
97 *the area and will not impair property values or the public health, safety, or welfare in the vicinity.*

- 98 6. Economic considerations alone do not constitute practical difficulties.
99 *Economic considerations have not been mentioned as the focus or featured consideration in*
100 *requesting the variances. The primary reason stated for building is to allow a family to establish a*
101 *new homestead and move their business there.*
- 102 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
103 variance which would alleviate the practical difficulty.
104 *The chosen building site is located near the road and in an area that would minimize the amount of*
105 *land to be converted to non-agricultural uses. There are no other areas on the property that would be*
106 *viable without a variance.*
- 107 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
108 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
109 elevation or permit standards lower than those required by State Law.
110 *The applicant's proposed dwelling is a permitted use in the A/RC Zoning District. The proposed*
111 *location is not located in a floodplain and the request does not lower the degree of flood protection*
112 *established by the Regulatory Flood Protection Elevation or lessen State Law standards.*

113
114 **With the following conditions:**

- 115 1. *The owner(s) of the property to which this variance is issued will abide by all representations and*
116 *commitments made during the permitting process as well as before the Board of Adjustment, in*
117 *accordance with all conditions to the variance.*
- 118 2. *The owner(s) shall obtain the required Development Certificate and Septic Permit and comply with*
119 *all relevant regulations and standards of Winona County and the State of Minnesota.*
- 120 3. *The proposed new driveway shall adhere to the standards described in Chapter 9.7 and the owner(s)*
121 *shall obtain the required Driveway Access Permit from the MN Department of Transportation.*

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123 **6. Adjourn**

124 On motion of Jordan Potter and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to
125 adjourn at 1:27 p.m. Vote: Yes – All.

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128 Respectfully submitted by,
129 Anne Schwertel
130 Administrative Specialist

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134 Signed by


Board of Adjustment Chair/Vice Chair


Date

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