

**WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
AUGUST 17, 2023 – 1:00 PM**

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

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11 **Board Members Present:** Robert Redig, Kelsey Fitzgerald, Jordan Potter and Ed Walsh

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13 **Board Members Absent:** Elizabeth Heublein

14
15 **Others Present:** Eric Johnson, Zoning Administrator; Alex Thillman, Assistant Winona County
16 Attorney; Lew Overhaug, Planner and Anne Schwertel, Administrative Specialist

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

19
20 **3. Approval of Agenda:** On motion of Jordan Potter and seconded by Ed Walsh, the Board of Adjustment
21 voted to approve the agenda. Vote: Yes – All.

22
23 **4. Approval of the June 15, 2023, Minutes:** On motion by Jordan Potter and seconded by Ed Walsh, the
24 Board of Adjustment voted to approve the minutes. Vote: Yes – All.

25
26 **5. Petitions**

27
28 **Docket # BOA 08-17-23-01**

29 To consider the petition of Beth Kieffer, who seeks a Variance regarding the following:

- 30
31 • To allow a sub-surface sewage treatment system (SSTS) drainfield, one (1) foot from a
32 property line instead of the required ten (10) feet pursuant to Chapter 13.6 of the Winona
33 County Zoning Ordinance SSTS standards adopted by reference (MN Rules 7080.2150 Subpart
34 2(F)-Table VII)

35
36 Chair Robert Redig introduced the petition.

37
38 Planner Lew Overhaug gave a PowerPoint presentation which included overview mapping exhibits of the
39 parcel showing the parcel location and restrictions, which were determining factors in the proposed
40 location of the new septic system. Additionally, Lew Overhaug presented project details including
41 setbacks, flood zone information, site photos, and acknowledgement from the City of Elba indicating “no
42 comments” regarding the request.

43
44 The Board of Adjustment asked questions about the distance from the well, septic system type and parcel
45 line verification.

46
47 Chair Robert Redig asked if the petitioner wished to speak on behalf of the project.
48

49 Beth Keiffer, of Winona County, stated Lew Overhaug explained her request well and could answer any
50 questions from the BOA members. BOA had no questions for the petitioner.

51
52 On motion of Jordan Potter and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to open
53 the public hearing. Vote: Yes – All.

54
55 Chair Robert Redig asked three times if anyone wished to speak for or against the petition; no response.

56
57 On motion of Jordan Potter and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to close
58 the public hearing. Vote: Yes – All.

59
60 On motion by Jordan Potter and seconded by Ed Walsh, the Board of Adjustment voted to adopt the
61 Findings of Fact and approve the Variance with the conditions as presented. Vote: Yes – All.

62
63 Chair Robert Redig read aloud the Board of Adjustment Appeal to District Court.

64
65 **Findings of Fact:**

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

67
68 *The request will allow a non-compliant subsurface sewage treatment system (SSTS) that is failing*
69 *to protect groundwater to be replaced with a compliant system in accordance with the Winona*
70 *County Zoning Ordinance and MN Rules Chapter 7080. The new system, if managed properly, will*
71 *provide for the health, safety, and general welfare of the public, protect and conserve natural*
72 *resources, minimize pollution, and improve water quality, which is in harmony with the intent and*
73 *purpose of Winona County Zoning Ordinance Chapter 2.1*

- 74
75 2. The variance request is consistent with the comprehensive plan.

76
77 *The Comprehensive Plan recommends protection of natural resources. A non-compliant SSTS*
78 *system can negatively impact water resources. The technical requirements that help ensure that there*
79 *is a properly functioning SSTS on the site will ultimately protect water resources and the health,*
80 *safety, and general welfare of the public.*

- 81
82 3. The applicant has established that there are practical difficulties in complying with the official control
83 and proposes to use the property in a reasonable manner.

84
85 *Practical difficulties related to this request arise from the parcel's small size and location within the*
86 *City of Elba, which lacks the public infrastructure to collect and treat wastewater or provide a*
87 *community water supply. The location of the existing structure and configuration of the parcel, does*
88 *not provide any other suitable locations where an SSTS can be installed and meet State standards.*

- 89
90 4. The variance request is due to special conditions or circumstances unique to the property not created
91 by owners of the property since enactment of the Ordinance.

92
93 *The residence was built, and the property was developed during a time when on-site wastewater*
94 *treatment and disposal was not as prioritized in site development as it is now. This was not a*
95 *situation created by the property owner but reflects judgments made in a prior time when there was a*
96 *lack of an adequate regulatory framework to plan for future wastewater needs on the property. The*

97 lot is small and cannot accommodate a soil treatment system, therefore special conditions are a
98 necessity and are not the sole actions of the owners of the property.
99

- 100 5. The variance will not alter the essential character of the locality nor substantially impair property
101 values, or the public health, safety, or welfare in the vicinity.
102

103 *SSTS are primarily subsurface and are part of the residential landscape in rural areas. Functioning*
104 *wastewater treatment systems are essential for maintaining property values and helps to preserve the*
105 *essential character of the locality. Fixing systems that are failing to protect groundwater will*
106 *improve public health, safety, and general welfare, as well as protecting property values for the*
107 *parcel and the adjacent parcel.*
108

- 109 6. Economic considerations alone do not constitute practical difficulties.
110

111 *Economic considerations have not been the primary focus of the applicant or the analysis of*
112 *practical difficulties in this case.*
113

- 114 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
115 variance which would alleviate the practical difficulty.
116

117 *The petitioner has hired a licensed SSTS designer to evaluate and determined the most reasonable*
118 *method of accommodating a system that meets the requirements of the Winona County Zoning*
119 *Ordinance and MN Rules Chapter 7080. Given the small lot size and location of existing structures,*
120 *there were no other locations or system types to consider, absent installing a holding tank, which*
121 *could meet the required setbacks on the site. However, holding tanks are the least preferable method*
122 *to deal with wastewater onsite.*
123

- 124 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
125 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
126 elevation or permit standards lower than those required by State Law.
127

128 *The variance is from dimensional standards (setbacks) which do not constitute a use variance. The*
129 *site is not located within a regulated flood zone and is located above the regulatory flood protection*
130 *elevation for the area.*
131

132 **With the following conditions:**

- 133 1. *The owner(s) of the property to which this variance is issued will abide by all representations and*
134 *commitments made during the permitting process as well as before the Board of Adjustment, in*
135 *accordance with all conditions to the variance.*
136 2. *The petitioners obtain the required Septic Permit and comply with all relevant regulations and*
137 *standards of Winona County and the State of Minnesota.*
138

139 **6. Adjourn**

140 On motion of Jordan Potter and seconded by Ed Walsh, the Board of Adjustment voted to adjourn at 2:01
141 p.m. Vote: Yes – All.
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143
144

145 Respectfully submitted by,

146 Anne Schwertel
147 Administrative Specialist

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152

Signed by


Board of Adjustment Chair/Vice Chair

21 SEP 23
Date