

Polk County
Board of Adjustments
June 28, 2013

Call to Order: 9:15 A.M.

Members in Attendance: Kerry Winkelmann, Robert Franks, Osmund Moe, Courtney Pulkrabek, and Donovan Wright.

Members Absent: None

Also Present: Polk County Environmental Services' staff: Joshua Holte & Michelle Erdmann.

Minutes: A motion was made by Wright to approve the minutes from May 24, 2013 meeting. Second by Moe. All in favor.

Public Hearing: Variance CHS Ag Services Parcel #03.00181.00

Winkelmann read the notice, waiving the full legal reading and turned the meeting over to Holte.

Holte stated that the applicant is requesting a variance to remove the requirement that a Bulk Fertilizer facility must be at least 1 mile from 5 or more homes or places of gathering, such as churches, schools or community halls. CHS plans to construct a dry fertilizer facility at their existing Erskine Terminal location located in the Agricultural District of Badger Township.

The PCZO requirements found in Section 13.7023 were discussed. The property is 151.94 acres in size. The facility would be 125' x 260' in size and would be 65' tall. The facility would replace the current facility in Winger and have a more direct route to Highways 59 and 2. Truck traffic would also be reduced by utilizing the railroad.

There are 7 homes and 1 gathering place within 1 mile of the proposed facility. CHS will need to obtain a CUP for construction of the facility. If all permits are approved, CHS will be applying for a septic permit to connect a septic system to the facility as well.

No comments were received. Holte went over slides showing the location and the property. Staff is recommending approval of the variance with the following conditions:

- 1.) The variance will only be approved if CHS is able to obtain a CUP from the County Board of Commissioners.
- 2.) CHS must comply with all other requirements of the ordinance.

The Board had no questions for CHS. Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	No	No	No	No	No
2.	No	No	No	No	No
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	No
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

With 31 no’s and 4 yes’s the criteria to grant the Variance request has been met.

A motion was made by Moe to approve the variance request with staff conditions:

- The variance will only be approved if CHS is able to obtain a CUP from the County Board of Commissioners
- CHS must comply with all other requirements of the ordinance.

Second by Wright. All in favor.

Public Hearing: Variance CHS Ag Services Parcel #01.00050.00

Winkelmann read the notice, waiving the full legal reading and turned the meeting over to Holte.

Holte stated that the applicant is requesting a variance to reduce the setback of a Bulk Fertilizer facility from 100 feet to 10 feet for the construction of a new dry fertilizer facility in the Agricultural District of Andover Township.

They are also requesting a Variance to reduce the setback of a Bulk Fertilizer facility from at least 1 mile to around ½ mile from platted property or an incorporated municipality for the construction of a dry fertilizer facility.

The PCZO requirements found in Section 13.7023 were discussed. The property is 30 acres in size. The facility would be 146’ x 163’ in size and would be 40’ tall and located on the existing Mid Valley Grain site. The facility would replace the current facility just to the east and within the city limits of Crockston and create safer traffic flows on Highway 75.

The new facility would be approximately ½ mile from the city limits of Crockston, but would not affect any residential dwellings. The proposed facility would only be around 10’ from the railroad right-of-way. This will allow them to utilize the rail for receiving fertilizer.

CHS will need to obtain a CUP for construction of the facility. If all permits are approved, CHS will be applying for a septic permit to connect a septic system to the facility as well.

No comments were received. Holte went over slides showing the location and the property. Staff is recommending approval of the variance with the following conditions:

- 1.) The variance will only be approved if CHS is able to obtain a CUP from the County Board of Commissioners.
- 2.) CHS must comply with all other requirements of the ordinance.

The Board had no questions for CHS. Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	No	No	No	No	No
2.	No	No	No	No	No
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	No
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

With 31 no's and 4 yes's the criteria to grant the Variance request has been met.

A motion was made by Pulkrabek to approve the variance request with staff conditions:

- The variance will only be approved if CHS is able to obtain a CUP from the County Board of Commissioners
- CHS must comply with all other requirements of the ordinance.

Second by Franks. All in favor.

Public Hearing: Variance Diane Magnuson Parcel #74.00321.00

Winkelmann read the notice, waiving the full legal reading and turned the meeting over to Holte.

Holte stated that the applicant is requesting a variance to construct a 576 sq. ft. (24 x 24) garage on a riparian lot on Maple Lake that would bring her total square footage of accessory structures to 1152 sq. ft. – the Ordinance would allow up to 800 sq. ft. of accessory structures.

The applicant is also requesting a Variance to exceed the number of accessory structures allowed. The proposed garage would be the third accessory structure – the Ordinance allows for no more than two accessory structures on a riparian lot.

The PCZO requirements found in Section 18.2225 were discussed. The applicant has a riparian lot on Maple Lake. The applicant has two lots, the lot the garage is going on is 50 feet wide and 188 feet long (9,400 sq. ft.) and the other lot is 50 feet wide and 188 feet long (9,400 sq. ft.).

The applicants house currently sits across the property line. The applicant currently has a 480 sq. ft. shed (boat house) and a 96 sq. ft. shed on her lots. The applicant has not submitted a passing septic compliance inspection on her existing septic system. This would need to be submitted before any permit could be issued.

The applicant's stated practical difficulty is that the existing boathouse and shed structure are in extremely good shape and have been with the property for many years, they would require extensive work to remove due to the trees and lot structure.

The applicant's also stated that the shed and boathouse were purchased with the cabin and lot, and with the lot slope it creates difficulty to make a connection to the existing cabin for attaching the garage.

No comments have been received. Holte went over slides showing the location and the property. Staff recommends that if a Variance is granted that conditions below be put on the variance:

1. The applicant's two adjoining lots must be combined together into one parcel before a building permit can be issued.
2. The applicant must submit a passing compliance inspection or a design for a new septic system before a building permit can be issued.
3. The 8' x 12' storage shed must be removed from the property once the new garage is constructed (this would remove the need for the variance allowing the applicant to have three structures)

Yell stated that the MLID sits neutral on this request. His opinion is that boathouses are generally opposed by the majority and although this one is in good shape, he was told it could easily be removed.

Gagner asked if the boathouse is made from concrete. Ms. Magnuson's contractor Corey Vreeland stated he believes that the back part underground is concrete the rest is wood. He is not sure what if anything has been done to the boathouse in the past.

Winkelmann said that the only way to permit without a variance is to remove the boathouse and not the shed. Holte said that she would still be over the allowed sq. footage for accessory structures based on her lot size if she only removed the shed and kept the boathouse.

Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	No	No	No	Yes	Yes
2.	No	No	No	No	No

3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	Yes
5.	No	No	No	No	No
6.	No	No	No	No	Yes
7.	No	No	No	No	No

With 27 no's and 8 yes's the criteria to grant the Variance request has been met.

Pulkrabek made a motion to approve the Variance with the following conditions:

1. The applicant's two adjoining lots must be combined together into one parcel before a building permit can be issued.
2. The applicant must submit a passing compliance inspection or a design for a new septic system before a building permit can be issued.
3. The 8' x 12' storage shed must be removed from the property once the new garage is constructed (this would remove the need for the variance allowing the applicant to have three structures)

Motion was seconded by Moe. All in favor.

Public Hearing: Variance Jeff Brekke Parcel #38.00124.00

Winkelmann read the notice and turned the meeting over to Holte.

Holte stated that the applicant is requesting a variance to reduce the front yard setback off the right-of-way of County Road 202 to 50 in order to build a 28 x 36 house to replace an existing mobile home – the Ordinance calls for a 100 foot setback. After conducting a site visit the applicant will actually be requesting a variance to reduce the front yard setback to 35'.

The PCZO requirements found in Section 13.8434 were discussed. The applicants property is 30 acres, however only 1.5 acres is buildable land. The road right-of-way is 50 feet off County Road 202 and 33' off of 310th St. SE.

The applicant originally requested a 50' variance, but would need an 85' variance to be able to replace the house on the property. The applicant is on Store Lake, which is an unprotected wetland. There is no defined setback off the OHW mark. The applicant is proposing to build approximately 65' from the OHW.

The applicant has received a passing compliance inspection. The location of the existing septic system and well also limit where the new structure can go. The applicants stated practical difficulty is that the only buildable location would be too close to the lake without a variance. A Variance would be needed no matter where he built on the property.

The applicant’s proposed location would be further back from the lake than the current existing home and wouldn’t be any closer to the ROW as the existing home is now.

No comments were received. Holte went over slides showing the location and property. Staff recommends allowing the applicant to alter the variance request of reducing the front yard setback from 50’ off the ROW of County Road 202 to 35’ off of the ROW of County Road 202. Staff then recommends approval with the following condition:

- 1.) Applicant must remove existing mobile home from site as soon as new house is livable and the mobile home must not be placed within the Right-of-way.

Moe asked about a garage? Holte stated that there is no garage and a variance would be needed from the township road for one to be located on the property.

Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	Yes	Yes	Yes	Yes	Yes
2.	No	No	No	No	No
3.	Yes	Yes	Yes	Yes	Yes
4.	Yes	Yes	Yes	Yes	No
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

With 22 no’s and 13 yes’s the criteria to grant the Variance request has been met.

A motion was made by Moe to approve the Variance with staff conditions. Second by Winkelmann.

Ayes – Winkelmann, Moe

Nays – Pulkrabek, Wright, Franks

Motion failed.

A motion was made by Franks to Deny the Variance request. Second by Wright

Ayes – Pulkrabek, Franks

Nays – Moe, Winkelmann, Wright

Motion failed.

Holte asked the Board if they wanted him to review the information again. Holte went over some of the slides again and stated that this is Mr. Brekke’s year round home and there is low traffic on these roads. The proposed structure will be farther from the lake and no closer to the road than the existing one.

Winkelmann made a motion to recommend approval with staff conditions:

Applicant must remove existing mobile home from site as soon as new house is livable and the mobile home must not be placed within the Right-of-way.

Motion was seconded by Moe.

Ayes – Moe, Franks, Winkelmann

Nays – Pulkrabek, Wright

Motion carries – the Variance is Approved with staff conditions.

Public Hearing: Variance Paula Davis Parcel #45.00335.00

Winkelmann read the notice and turned the meeting over to Holte.

Holte stated that the applicant is requesting a variance to reduce the side yard setback from 10' to 8' for a 9' x 24' addition onto the kitchen of her home on Union Lake – the Ordinance calls for a 10' setback from the side property lot line.

The PCZO requirements found in Section 18.2212 (e) were discussed. The applicant's lot is 150 feet x 100 feet wide. The applicant also owns a 100' wide x 200' deep back lot. The applicant had a new septic system installed in 2008.

The applicant's stated practical difficulty is that she currently has a very small kitchen which was cramped even for a seasonal use, but she is approaching retirement and plans to make the cabin her permanent home.

The applicant's neighbor, Dennis Nabben, called in and was against the variance and stated that the property line is closer than what the applicant thinks.

Holte went over slides showing the location and property. Staff recommends that if a Variance is granted the condition below be placed on the Variance:

1.) Applicant must have the property surveyed and staked to determine the correct location of the property lines before a building permit is issued to reduce the side yard setback to 8'.

Franks asked how close the neighbor's house is? Neighbor Dennis Nabben and his wife presented letters from Todd Foy, Tami Foy and Pat T. stating their opposition to the request by them and the neighbors next to them. They also stated that the earlier addition could have accommodated the kitchen needs then.

Powers asked what the current house size is? Holte stated it is 28 x 52.

Davis stated that the previous addition is nowhere near the kitchen and plumbing. They currently park along the cabin where the addition is going. Nabben's cabin is closer to the lake and the addition would create more privacy as she would not park there and there will only be one small window on that side. Davis also stated that they have a survey scheduled for next week. The current railroad ties that are 17' from the cabin are also 100' from the neighbor's survey pin on the side of her property.

Winkelmann stated it is hard to determine without the survey. Pat Travineck, a former neighbor 3 doors down – now on the north side of the lake – said cabins there are closer than the 10' and every time he walks to the lake you can look and see in the porch of the neighbors. It makes things look tight and everything seems to keep getting closer and closer together.

Davis stated that she won't be walking down to the lake after the addition and no window in kitchen for looking into the neighbors. Gagner stated that he has known that house for 30+ years and the kitchen is very small and if living there year round, it would not be feasible.

A motion was made by Franks to TABLE the Variance till the July meeting so that a survey could be done for our review, second by Wright. All in favor.

Next meeting is July 26, 2013.