

Board of Adjustment & Appeals

MINUTES

AUGUST 16, 2021

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	David Wendinger <input checked="" type="checkbox"/> <i>Chair</i>	David Hermanson <input checked="" type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input checked="" type="checkbox"/>	Dave Ubel <input checked="" type="checkbox"/>
ABSENT EXCUSED	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input checked="" type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input type="checkbox"/>
ABSENT	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input type="checkbox"/>
STAFF PRESENT	Property and Public Services Director Mandy Landkamer <input checked="" type="checkbox"/>				
	Deputy Zoning Administrator (DZA) Jon Hammel <input checked="" type="checkbox"/>				
	Assistant County Attorney (ACA) Megan E. Gaudette Coryell <input checked="" type="checkbox"/>				
	Other Staff: <input type="checkbox"/>				

REVIEW OF CANCELLATIONS & ADDITIONS		None.			
MOTION TO APPROVE MINUTES OF JULY 19, 2021		APPROVE <input checked="" type="checkbox"/>		APPROVE WITH REVISIONS <input type="checkbox"/>	
1 ST	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input checked="" type="checkbox"/>
2 ND	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input checked="" type="checkbox"/>	Dave Ubel <input type="checkbox"/>
VOTE TO APPROVE MINUTES		PASS <input checked="" type="checkbox"/>	FAIL <input type="checkbox"/>	VOTE: 4-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-27, WILLAERT; PLN21-29, ROEPKE		APPROVE <input checked="" type="checkbox"/>		APPROVE WITH REVISIONS <input type="checkbox"/>	
1 ST	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input checked="" type="checkbox"/>
2 ND	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input checked="" type="checkbox"/>	Dave Ubel <input type="checkbox"/>
VOTE TO APPROVE FINDINGS OF FACT		PASS <input checked="" type="checkbox"/>	FAIL <input type="checkbox"/>	VOTE: 4-0	

PUBLIC APPEARANCES	None.
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PUBLIC HEARINGS:

APPLICANT: DAVID AND TIFFANY KLOCKZIEM

FILE #: PLN21-30

DESCRIPTION: REDUCE THE OHWL SETBACK FOR THE PURPOSE OF INSTALLING A REPLACEMENT SEPTIC SYSTEM

APPLICANT COMMENT	David and Tiffany Klockziem were present.				
PUBLIC COMMENT	Neighboring landowner Brent Otto called to inquire about the water line running under the location for the proposed replacement septic system.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS <input checked="" type="checkbox"/>			DENY <input type="checkbox"/>	
1ST	David Wendinger <input checked="" type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input type="checkbox"/>
2ND	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input checked="" type="checkbox"/>
BOARD MEMBER DISCUSSION	Ubel asked if there was any permitting required from the DNR. Hammel responded no, there were no permits required. The DNR was informed of the request, but did not comment.				
VOTE	PASS <input checked="" type="checkbox"/>		FAIL <input type="checkbox"/>	VOTE: 4-0	

APPLICANT: GEORGE AND KAREN COTTOM

FILE #: PLN21-33

DESCRIPTION: REDUCE FRONT YARD SETBACK, REDUCE BLUFF SETBACK, AND ALLOW AN ACCESSORY BUILDING CLOSER TO THE FRONT LOT LINE THAN THE PRINCIPAL BUILDING FOR THE AFTER-THE-FACT CONSTRUCTION OF A SHED

APPLICANT COMMENT	George Cottom was present. He stated that he believed the shed does meet the 35-foot setback. He also said the realtor had told him that no permits would be required for a shed. He was unaware he needed a zoning permit prior to construction. He said he had spoken with Corey Hulke with the township and that the shed would not cause any issues with snow plowing.				
PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS, INCLUDING A CONDITION THAT RAIN GUTTERS BE ADDED TO THE STRUCTURE TO HELP CONTROL EROSION <input checked="" type="checkbox"/>			DENY <input type="checkbox"/>	
1ST	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input checked="" type="checkbox"/>
2ND	David Wendinger <input type="checkbox"/> <i>Chair</i>	David Hermanson <input checked="" type="checkbox"/> <i>Vice Chair</i>	Justin Laven <input type="checkbox"/>	Ron Regenscheid <input type="checkbox"/>	Dave Ubel <input type="checkbox"/>
BOARD MEMBER DISCUSSION	Wendinger asked if there were rain gutters on the shed. Cottom explained there were no gutters on the shed presently. Ubel stated he had spoken with Corey Hulke with Courtland Township and that Mr. Hulke had confirmed that the township did not foresee any road issues concerning the shed. He asked how far the shed was from the right of way. Hammel noted the survey indicated the shed was 10 feet from the right of way. Wendinger suggested adding rain gutters to the building to help prevent soil erosion on the sides of the shed.				
VOTE	PASS <input checked="" type="checkbox"/>		FAIL <input type="checkbox"/>	VOTE: 4-0	

APPLICANT: PATRICK AND SHANA GIESEKE

FILE #: PLN21-32

DESCRIPTION: EXPAND A NONCONFORMING STRUCTURE, REDUCE THE BLUF SETBACK, REDUCE THE FRONT YARD SETBACK, ALTER A BLUF AREA, AND ALLOW FILL TO BE PLACED IN A PROTECTED BLUFF AREA

APPLICANT COMMENT	<p>Patrick and Shana Gieseke were present. Also present was the Giesekes' lawyer Steven Franta. Mr. Franta said there were a number of misperceptions in the staff report. The construction has not been completed; it has currently been halted. The reason the applicants continued to construct the addition, after being told not to, was to protect their investment. The nonconformity was not being increased. The original garage was 4 feet from the original bluff line and now the addition is 20 feet from new bluff line. The placement of the fill in the bluff was reasonable and has not increased erosion. The existing house was already in the front yard setback. The applicants assumed the septic system was for a four bedroom house because that was what the house was listed as. The applicants were unaware a new septic system would be required. He then went through the variance criteria and noted that the applicants had submitted answers to the applicant questionnaires.</p>
PUBLIC COMMENT	<p>None.</p>
PUBLIC TESTIMONY	<p>None.</p>
BOARD MEMBER DISCUSSION	<p>Ubel asked if rip rap could be placed in the ravine to help with erosion.</p> <p>Wendinger stated he felt rain gutters should be placed on the addition.</p> <p>Hermanson stated he was concerned about the septic system being so close to the road. Wendinger asked if that was the only location the system could be placed. Hammel stated he had spoken with County Sanitarian Pete Otterness who confirmed that was the only place a system could be placed on the property. Landkamer noted it was the contractor who proposes the system location, which is reviewed by the county. Wendinger asked if the system could be moved to the north. Hammel noted that Mr. Otterness had stated the system could not be moved north because of the soil condition.</p> <p>Ubel asked that if a road project occurred forcing the system to be relocated, can a condition be added that made it the homeowner's responsibility to move the system. Gaudette-Coryell stated she believed such a condition could be added.</p> <p>Mrs. Gieseke stated that when they purchased the home everything stated it was a four bedroom system. They have since removed a wall between 2 of the 4 bedrooms, effectively making it a 3 bedroom house. She asked if they could remove another wall to decrease the size of the system.</p>
RECESS	<p>8:44 PM</p>
RECONVENE	<p>8:53 PM</p>
BOARD MEMBER DISCUSSION	<p>Landkamer stated the original system was installed in 1997. The original system was undersized for the number of bedrooms because there was a lack of space to install a complete system. The original system required a variance to the front yard setback. When a property is split State Rule requires a secondary septic system location be identified. Lastly, she stated that changing the number of bedrooms would not resolve the issues on the property.</p> <p>Ubel stated he thought placing rock in the ravine would help with erosion. Hammel noted the applicants' erosion and sediment control plan does call for the placement of rock in the ravine.</p> <p>Mr. Gieseke noted the proposed septic system location would be further from the right of way than the existing system. Hammel noted the proposed system would be 6.9 feet from the right of way. Landkamer noted the existing system is 5 feet.</p> <p>Franta asked if the system could continue to be used. Landkamer noted the system could continue to be used but the county cannot make any guarantee the system would continue to function correctly. That is why the identification of a secondary site is so important. She noted that undersized systems have a higher tendency towards failing. If the applicants want 4 bedrooms a new septic would need to be installed.</p> <p>Ubel asked what the current plan was – a 3 bedroom or 4 bedroom house. Franta stated the Giesekes were planning on a 4 bedroom house and are open to removing a wall to decrease the number of bedrooms.</p> <p>Ubel noted a continuation may be necessary. Landkamer stated staff would need to discuss the matter with Sanitarian Otterness and the applicants' septic contractor.</p> <p>Ubel asked the Giesekes how they felt about continuing the request. Mrs. Gieseke stated no, she did not want to see the request continued.</p> <p>Ubel asked staff if they had a recommendation.</p>
RECESS	<p>9:17 PM Motion by Ubel, seconded by Wendinger.</p>

RECONVENE

9:23 PM

Landkamer summarized the four options available: approve the request, deny the request, modify the request, or continue the request to the September 20, 2021 meeting to provide the applicants time to submit additional information and allow staff time to review the new information.

BOARD MEMBER DISCUSSION

Ubel asked that if everything but the septic system was approved, could the applicants continue construction. Landkamer stated no, because the septic system would still need to be resolved. She clarified that even if the request was approved in its entirety, the findings of fact would still need to be adopted at the next board meeting before the applicants could continue construction.

MOTION

CONTINUE TO SEPTEMBER 20, 2021 MEETING IN ORDER FOR THE APPLICANTS TO PROVIDE ADDITIONAL INFORMATION CONCERNING THE SWITCH FROM A 4 BEDROOM TO A 3 BEDROOM AND AN UPDATED SEPTIC DESIGN

1ST David Wendinger Chair David Hermanson Vice Chair Justin Laven Ron Regenscheid Dave Ubel

2ND David Wendinger Chair David Hermanson Vice Chair Justin Laven Ron Regenscheid Dave Ubel

VOTE

PASS FAIL VOTE: 4-0

OLD BUSINESS

None.

OTHER BUSINESS

None.

REVIEW OF ADMINISTRATIVE VARIANCES

None.

COMMUNICATIONS

None.

MOTION TO ADJOURN

9:37 PM

1ST David Wendinger Chair David Hermanson Vice Chair Justin Laven Ron Regenscheid Dave Ubel

2ND David Wendinger Chair David Hermanson Vice Chair Justin Laven Ron Regenscheid Dave Ubel

VOTE TO ADJOURN

PASS FAIL VOTE: 4-0

DAVID WENDINGER,
CHAIR

DATE

9/20/21

JON HAMMEL,
DEPUTY ZONING ADMINISTRATOR
/ PLANNER

DATE

9/20/21

Mandy Landkamer
County Administrator