



**WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
MAY 19, 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: Edward Walsh

Others Present: Kay Qualley, Planning & Environmental Services Director; Stephanie Nuttall, Assistant Winona County Attorney; Eric Johnson, Zoning Administrator; Lew Overhaug, Planner; Olivia Stroinski, Planner; Megen Kabele, 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 April 21, 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 05-19-22-01

To consider the petition of Galen & Theresa Neuzil in regards to the following:

- A variance to allow a subsurface sewage treatment system (SSTS) Holding Tank two (2) feet from a property line instead of the required ten (10) feet, and five (5) feet from a dwelling, instead of the required ten (10) feet. Relief is sought by the petitioner pursuant to Chapter 13.6 of the Winona County Zoning Ordinance SSTS standards adopted by reference (MN Rules 7080.2150 Subpart 2(F)-Table VII)

Chair Robert Redig read the petition request aloud.

Planner, Lew Overhaug, started his presentation with some background history of the Dresbach Township, City of Dakota septic systems, many of which have been brought before the Board of Adjustment for variances to update. Due to the age of the systems and the small lots in the area, these requests will likely increase. He gave a PowerPoint presentation which included overview mapping exhibits of the parcel and the proposed holding tank location. The photos and exhibits illustrated many of the limitations for the holding tank location, including close proximities to a well, the house and property lines on the parcel. The applicant, upon variance approval will also need approval from the Dept. of Health regarding the Holding Tank’s reduced setback to the well. The Township Acknowledgement form indicated “no comments” from the Dakota City Council. The Board of Adjustment acknowledged a letter received from neighbor, Lois Peterson.

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The Board of Adjustment and staff discussed the existing septic system and associated setbacks and neighboring septic systems.

Board of Adjustment member Kelsey Fitzgerald asked if proposed condition #2 addressed the Neuzil’s working with the Department of Health for the well setback; staff agreed that condition #2 adequately addressed that requirement.

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

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

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

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

Findings of Fact:

1. The variance request is in harmony with the intent and purpose of the ordinance.
The request will allow a non-compliant subsurface sewage treatment system (SSTS) that is failing to protect groundwater to be replaced with a holding tank system in accordance with the Winona County Zoning Ordinance and MN Rules Chapter 7080. The new system, if managed properly, will provide for the health, safety, and general welfare of the public, protect and conserve natural resources, minimize pollution, and improve water quality, which is in harmony with the intent and purpose of the Winona County Zoning Ordinance Chapter 2.1.
2. The variance request is consistent with the comprehensive plan.
The Comprehensive Plan recommends protection of natural resources. A non-compliant SSTS system can impact water resources. The technical requirements that help ensure that there is a properly functioning SSTS on the site, in turn protects water resources and the health, safety, and general welfare of the public.
3. The applicant has established that there are practical difficulties in complying with the official control and proposes to use the property in a reasonable manner.
Practical difficulties related to this request arise from the parcel’s small size and location within an old, platted municipality that does not have public infrastructure to collect and treat wastewater or provide a community water supply. The location and layout of the house, accessory structure and well locations do not provide any other suitable locations where an SSTS can be installed and meet required setbacks per State standards.
4. The variance request is due to special conditions or circumstances unique to the property not created by owners of the property since enactment of the Ordinance.
The house was built and the property was developed during a time when on-site wastewater treatment and disposal was not given as much thought and consideration as it should have been and is now. This was not a situation created by the property owner but just reflected the general lack of knowledge and technical expertise as well as adequate regulatory framework to plan for future wastewater needs on the property. The lot is small and the proposed system cannot be built within the usual setback parameters.

- 97 5. The variance will not alter the essential character of the locality nor substantially impair property
 98 values, or the public health, safety, or welfare in the vicinity.
 99 *SSTS are primarily subsurface and are part of the residential landscape in rural areas. Functioning*
 100 *wastewater treatment systems are essential for maintaining property values that helps to preserve the*
 101 *essential character of the locality. Fixing systems that are failing to protect groundwater will*
 102 *improve public health, safety, and general welfare, as well as protecting property values for the*
 103 *parcel and the adjacent parcel.*
- 104 6. Economic considerations alone do not constitute practical difficulties.
 105 *Economic considerations have not been the primary focus of the applicant or the analysis of*
 106 *practical difficulties in this case.*
- 107 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
 108 variance which would alleviate the practical difficulty.
 109 *The contractor hired by the property owner looked at the entire site and determined the most*
 110 *reasonable method of accommodating a system that meets the requirements of the Winona County*
 111 *Zoning Ordinance and MN Rules Chapter 7080. Given the small lot size and location of wells in the*
 112 *area there is no possibility of wastewater treatment so a holding tank became the only option. The*
 113 *proposed location of the holding tank is the most reasonable location that maximizes distance from*
 114 *wells while still providing access to the tank for maintenance.*
- 115 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
 116 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
 117 elevation or permit standards lower than those required by State Law.
 118 *The variance is from a dimensional standard (setback) which does not constitute a use variance. The*
 119 *site is not located within a regulated flood zone and is located above the regulatory flood protection*
 120 *elevation for the area.*

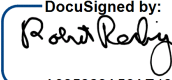
With the following conditions:

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

6. Adjourn

130 On motion of Jordan Potter and seconded by Elizabeth Heublein, the Board of Adjustment voted to
131 adjourn at 1:15p.m. Vote: Yes – All.

135 Respectfully submitted by,
136 Anne Schwertel
137 Administrative Specialist

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142 Signed by _____
143 Board of Adjustment Chair/Vice Chair

July 21, 2022 | 3:55 PM PDT

Date