

MINUTES OF THE WAHPETON BOARD OF ADJUSTMENT MEETING HELD ON MAY 16, 2023

Board Chairman Roger Mouw called the meeting to order at 5:00 P.M. on May 16, 2023. Board members present Roger Mouw, Bob Koerselman, and Amy Schlueter via Zoom Larry Den Herder and Doug Westerman. Others present were City Clerk/Administrator Carrie Funk, Zoning/Plant Operator/Public Works Brandon Berning, Patrick Boggess with Jacobson-Westergard & Associates, Kelly Gee, Laura Danforth, Roger Meyer, Randy Walters, Becky Batcheller, Kathren Petersen-Linder, Kay Tyrrell, Jerry Barowski, Judy & Rick Pertzborn, Jana Dunn, and via Zoom Deb Schoelerman.

Motion made by Koerselman and a second by Den Herder to approve the April 18, 2023 meeting minutes. All voting, aye. Motion carried.

ACTION & DISCUSSION ITEMS

The board considered the variance request submitted by Jacobson-Westergard & Associates on behalf of MEC Office 1, LLC (Terry Lutz), property owner of 2411 Lakeshore Drive, Milford, Iowa, also known as Lot 2, Plat of Anneberg's Replat, in the City of Wahpeton, Dickinson County, Iowa. The property owner wishes to construct a new single-family home and is asking the Wahpeton Board of Adjustment to grant a Variance for a rear setback of 15 feet instead of the required 35 feet rear yard setback as defined in section 165.05 of the Wahpeton Zoning Regulations. Chairman Mouw communicated that there were a few email letters received that were not in favor of the proposed structure. Mouw explained that going through the emails, he was looking for something of substance that would be a grabbing factor in deciding whether to support or oppose the request. Kathren Petersen-Linder of 2613 Eagle Point Pl. explained she is part of the Anneberg family and has read through the Wahpeton Zoning Ordinance concerning Variances referencing "literal enforcement of the provisions of the Chapter would result in unnecessary hardship" and requested an explanation as to how there is a "hardship" to live by the actual ordinance by following the 35 feet rear yard setback as a 15-foot rear yard setback from the road is very concerning and she felt the house could be redesigned. Pat Boggess with Jacobson-Westergard & Associates who was in attendance to represent Terry Lutz explained the reason for asking for the variance is that the lot is very irregular in the convergence of the front and rear yard as it progresses westerly and that it is not uncommon to have irregular lots, but most instances with a pie shape lot the front and the rear yard area where the width is significantly different so your depth is fairly consistent in this instance where the standard is 35-feet on lakeside and 35-feet on the rear now there is 70-feet of setback area across the lot and as you proceed west, you get down to the buildable area of approximately 20 to 25 feet, that is where we feel the configuration of this lot is a unique instance compared to other properties in Wahpeton and that is why a variance is being requested. Kelly Gee of 2501 Lakeshore Dr. expressed that the traffic on Lakeshore Dr. has increased exponentially with larger vehicles in the last ten years, and her main concern is public safety and her second concern is the fairness of the variance request as they worked on a project some years ago and worked very hard to abide by the Wahpeton Zoning Ordinances on their challenging lot. Boggess replied to the traffic concern by communicating that the driveway will hold a minimum of 3-5 vehicles and that the structure will have a four-stall garage. Chairman Mouw explained that in terms of alignment and of lakeshore and the close proximity and turning have been established for many years; aside from MEC Office 1, LLC putting any size structure on the lot will not facilitate a safer traveled way or pedestrian way. Board member Den Herder spoke to reach a couple of conclusions that he can tell that people are upset that some trees were removed and that the cart got ahead of the horse relating to the construction that was done with the elevation and that the contractor and engineer tried to make amends which doesn't make it right and history cannot be changed, and what is being focused on whether to allow the zoning variance and he would like to look at the neighborhood and review what variance requests that have been accepted and denied and looking at the history of other variances that have been granted and the precedence that has been set, and the goal of the BOA since he has been on the board is to try and build and allow projects that don't create an unworkable situation for the neighbors or for the land owner. Chairman Mouw explained that in studying the site plan if you were to consider the irregularity of the lot and Mouw agrees that nobody was forced to buy the lot and the shape it is, but that the builder is following the procedures to try what the builder considers to be a sufficient size structure on the lot and of all the variances the builder could ask for, they are only asking for one rear yard setback variance. Mouw further explained

that if you were to single one person out along Lakeshore Dr. and say sorry we can't make this happen when all other residences along Lakeshore Dr. were granted variances for rear yard setback, or does the BOA base their decision based on decisions that have been made before. A resident asked how many variances have been granted along Lakeshore Dr. in the last 15 years and Board member Koerselman replied there have been at least three that have been found in the last five years, and further explained that since he has been on the BOA, they take into consideration the line of sight and safety as a big item and in his opinion after reviewing the site and how close the structure is to the street that he has a hard time believing that the request is impacting safety and the inside radius of Lakeshore Dr. is where the line of sight issue is. Board member Schlueter asked if the project was compliant with the 35% open space zoning requirement and based on the site plan there is 44.9% open space. Board member Den Herder asked Boggess if there is any interference or hardships by the drainage to the neighbor's disadvantage; Boggess replied that all the water currently slopes away from the neighbor and it has been engineered to include all the water to drain to the westerly street side where it will be contained for the low impact development requirements and on the lakeshore side the same thing water will be held in soil quality restoration and funnel to the low spot on the lakeside where it would enter a drain to the lake so runoff does not go over the lake bank. Board member Westerman mentioned in the resident's comments made concerning "follow the ordinance" while we do have ordinances you have to have something in place, but you must keep in mind that one size does not fit all and that Wahpeton is unique which is why the BOA exists knowing that the ordinances cannot fit each situation. The residents expressed their concern about the size of the structure and how they love their neighborhood and understand that things change and new people come in but would like to preserve the neighborhood feel and not a mega-mansion feel. A motion by Westerman and a second by Mouw per section 165.05 of the Wahpeton Code of Ordinances to approve the variance as requested. Schlueter asked if there is room for compromise or does it have to be all or nothing; is there some compromise that could be reached to positively affect all parties involved? With no further discussion voting Aye: Westerman, Mouw, and Den Herder. Nay: Schlueter and Koerselman. Motion Carried.

The board considered a variance request submitted by Jana Dunn, owner of 1113 Harpen St. Milford, Iowa, also known as Lot 13 Block 12 in Meneyata Park, City of Wahpeton, Dickinson County, Iowa. The property owner wishes to construct an 11'x 6.1' concrete path from the house to a new 26.1'x 16.4' concrete patio in the backyard on a nonconforming structure. City Clerk/Administrator Funk communicated that there were two letters received one in opposition and the other letter in favor. Chairman Mouw and the board thanked Jana Dunn for fulfilling the request for an engineered drainage design. Dunn explained that instead of using cement she would be using pervious pavers. Motion by Koerselman and a second by Westerman to grant the variance for 1113 Harpen St. Milford, Iowa. Voting Aye: Den Herder, Westerman, Schlueter, Mouw, and Koerselman. Nay: None. Motion Carried.

ATTEST:

Roger Mouw, Chairman

Carrie Funk, City Clerk/Administrator