



Historic Courthouse
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Zoning Office

Minutes

MILLE LACS COUNTY BOARD OF ADJUSTMENT Mille Lacs County Courthouse August 22, 2022 7:00 p.m.

Members Present: Amy Birnbaum, John Roxbury Jr., Kyle Weimann, Chris Carlson

Members Absent: Loren Lueck

Ex-officio Members Present: Keenan Hayes, Zoning Administrator, Brandon Reinking, Deputy Zoning Administrator

Others Present: None.

- I. Call to Order: The meeting was called to order at 7:01 p.m. by Mr. Roxbury.
- II. Pledge of Allegiance: Mr. Roxbury led those present in the Pledge of Allegiance.
- III. Approval of the Minutes:

Motion by Mr. Carlson, seconded by Mr. Weimann, to approve the July 25th, 2022 meeting minutes.

All members voted aye. Motion carried.

- IV. Old Business:

None.

- V. New Business:

Consideration of a Request by Samantha Sams:

- Reduce the minimum lot width requirement for a commercial boarding kennel from six hundred sixty (660) feet to three hundred thirty (330) feet. **MLC Dog Ordinance Sec. 3-311 (2).**
- Reduce the minimum exterior confinement area setback to the side property line from two hundred (200) feet to thirty (30) feet. **MLC Dog Ordinance Sec. 3-311 (4).**
- Reduce the minimum exterior confinement area setback to an adjacent residential dwelling from five hundred (500) feet to four hundred fifty (450) feet. **MLC Dog Ordinance Sec. 3-311 (4).**

to allow a commercial dog boarding kennel license to be applied for on the parcel legally described as W 1/2 OF W 1/2 OF SW OF NE 5 37 26 10.00, Mille Lacs County, Minnesota. **Located at 9490 125th St, Milaca, MN.** PIN 01-005-0300.

Applicant Samantha Sams is present. The applicant explains that they own Muddy Pawz Pet Salon and are looking to expand their business to have 24-hour staffing with a doggy day care.

No written correspondence.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

A. The variance proposes the use of land in a reasonable manner;

The applicant is not proposing use of land in a reasonable manner. The lot width and setback distances listed in the Mille Lacs County Dog Ordinance were established to ensure that dog kennel operations do not have a negative impact on nearby homeowners or property values. The desired setbacks propose significant deviations from Ordinance standards.

B. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner is not due to circumstance unique to the property. Parcel 01-005-0300 is one of four parcels created by subdivision of the original forty-acre parcel. Each parcel is roughly 320 feet wide. This distance is not unique to the area, and is common for parcels of this acreage. Per Mille Lacs County Development Ordinance, the minimum lot width in Agricultural Residential zoned areas is 150 feet. This parcel is over double the minimum lot width.

C. The variance, if granted, will not alter the essential character of the area;

Granting the variance will alter the essential character of the area. The noise generated from a dog kennel may devalue neighboring properties. While the property to the west of the Sams' parcel is currently a field, noise from a dog kennel could inhibit the possibility of future ordinance compliant development. Dog kennel noise could also impact the daily lives of the neighbors lying to the east; this dramatic reduction of the established setbacks would amplify the negative impacts associated with a commercial use in a residential district.

D. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and

Economic considerations appear to be the main driver behind this variance. The applicant states they "... currently have no ability to purchase more acreage to create the width needed to successfully meet the Ordinance requirements". Presumably, were economic considerations not a factor, additionally property could be purchased, or, a property could be purchased that is better-suited to, and meets the minimum requirements for, a commercial boarding kennel.

E. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Commercial kennels are an allowed use in Agricultural Residential A-R zoned districts.

Mr. Carlson asks if there have been any variances in the past, there have not.

Mr. Weimann asks if a kennel license would need to be brought before the Planning Commission. It is noted that a kennel license is brought before the County Board of Commissioners.

Mr. Roxbury states that granting a variance is forever, unlike a conditional use permit.

Mrs. Birnbaum agrees that this request does not meet the criteria.

Mr. Carlson asks if there has been any correspondence from the township. A gentleman in the audience states he is there representing Bogus Brook Township and that they have no opinion either way.

The applicant explains that they have spoken with all of their neighbors and that they are in agreement with what they are proposing. It is stated that it is not because they cannot afford to purchase additional land, it is that the neighbors are unwilling to sell it.

Mr. Roxbury states that more land may not remedy all issues.

The applicant states that if more land is acquired, it may change the placement of the proposed kennel structure.

Mr. Roxbury states that we are bound by statute that all conditions must be met in order to issue a variance and in this case they are not.

No further discussion.

Motioned by Mr. Weimann to deny the variance as requested– Seconded by Mrs. Birnbaum

Mr. Carlson asks if they are hampered by the lot width. Staff affirms this.

**Mr. Roxbury, Mr. Weimann & Mrs. Birnbaum vote aye.
Mr. Carlson votes nay.**

Motion carried.

Consideration of a Request by Kevin Sorenson:

- Reduce the minimum building setback from the rear yard property line from fifty (50) feet to thirty (30) feet. **MLCDO Table 501.**
- Reduce the minimum building setback from the SSTS absorption area from twenty (20) feet to ten (10) feet. **MN Rules 7080.2150 Table VII.**

to allow the construction of a new dwelling on a parcel legally described as, Lot 11, Block 2, Izaty's Second Addition, Mille Lacs County, Minnesota. **Located at 40091 Par Five Dr, Onamia, MN 56359.** PIN 17-402-0140.

Applicant Kevin Sorenson is present. The applicant explains the nature of the request. The lot is currently covered approximately 25% by a protected wetland and there are "fingers" of the wetland that cause additional challenges. They have adjusted the location of the proposed septic system and decreased the size from a 3 bedroom to a 2 bedroom. They have been working a lot with the county and respect the wetland.

No written correspondence.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

F. The variance proposes the use of land in a reasonable manner;

The applicant is proposing a reasonable use of the property.

G. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner appears to be due to the unique wetland located on the property. Variances would be required to improve this property in the manner the applicant is proposing without negatively impacting the wetland.

H. The variance, if granted, will not alter the essential character of the area;

Granting the variance should not alter the essential character of the area. There are multiple single-family dwellings of the same nature along Par Five Dr.

I. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and

Economic considerations do not appear to be part of the request.

J. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Single family dwellings are an allowed use in the Agricultural Residential (A-R) zoning district.

Mr. Weimann thanks the applicant for working through the process to get things done correctly.

Mr. Carlson asks if the slab of the home will be elevated to allow for high water events. The applicant states the driveway and garage pad are already installed and the builder will place the house slab at approximately the same level.

No further discussion.

Motioned by Mrs. Birnbaum to approve the variance as requested – Seconded by Mr. Carlson.

All in favor.

Motion carried.

Consideration of a Request by Christine Komm/North Sierra Construction, LLC:

- Increase the maximum water-oriented accessory structure height from ten (10) feet to fourteen (14) feet. **MLCDO Sec 313.2 D. 1).**

to allow an addition to the water-oriented accessory structure on a parcel legally described as, E'LY 10 FT OF LOT 18 BLK 1 & LOT 19 BLK 1, Boening's North Twin Bay Subdivision, Mille Lacs County, Minnesota. **Located at 3495 Vista Rd, Isle, MN 56342.** PIN 05-127-0180.

Applicant Christine Komm is present and explains that they currently have a boat house and would like to add some dry storage to the structure. They have grand children and want to have all of their items stored in a new boathouse.

Mr. Roxbury asks where the 14 ft height is measured from, the ground level, or the floor of the structure. Mr. Hayes states that it is measured from the ground floor, at grade of where you enter the building on the lake side.

Mrs. Birnbaum asks if that measurement is to the peak. Mr. Hayes confirms that it is to the peak.

No written correspondence.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

K. The variance proposes the use of land in a reasonable manner;

The applicant is not proposing use of land in a reasonable manner. The water-oriented accessory structure setback listed in the Mille Lacs County Development Ordinance was established to ensure the lakeshore remains visually appealing, and to ensure these structures are not a blight on the shoreline landscape.

L. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner is not due to circumstance unique to the property. Parcel 05-127-0180 is similar in size to all other lots in neighborhood and no unique circumstance has been identified by the applicant.

M. The variance, if granted, will not alter the essential character of the area;

Granting the variance will alter the essential character of the area. This water-oriented structure is one of few in the area. Allowing an increase in height would create a structure not in line with others in the neighborhood.

N. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and

Economic considerations appear to be the main driver behind this variance. The applicant should be able to utilize other storage options for their dry goods.

O. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Water-oriented structures are an allowed use in General Development Shoreland.

Mr. Roxbury asks if they chose to rebuild the structure and raise the floor by 4 feet then they could add 4 feet to the top. Mr. Hayes states the height of the structure would remain the same.

There is much discussion on if raising the building up at grade would make a difference regarding the variance.

Mrs. Birnbaum asks about the plans in the staff report, whether they are existing or proposed. They are the proposed plans. Mrs. Birnbaum asks what the existing wall height is. It is 19 inches in the back and the applicant did not know because they did not

measure. The applicant states they want to put a roof similar as to what is on the current boathouse.

The board and the applicant continue to deliberate on the request at hand.

Mr. Weimann comments that the height should be measured on the lake side, not from the house side.

The board and staff discuss whether a two-level boat house with a deck on top would still meet the criteria of a water-oriented accessory structure. It is determined that it still would meet the criteria if it is used for the storage of water-oriented items.

The applicant states they are trying to save on impervious surface on the parcel with the larger boat house. They are close to the maximum allowed and it would be difficult to add an additional shed on the property to add more storage.

Mr. Carlson mentions that it has happened in years past that second stories sometimes turn into bedrooms.

Mr. Weimann states that he does not see unique circumstances to this property. There are many people that would like larger boat houses. He mentions they could put up an additional shed for more storage. The applicant states that it would be difficult to do this due to the location of their septic system.

Mr. Carlson asks if the floor of the boat house is dry or wet. The applicant states that it is mainly wet, especially when the waves are coming in.

Mrs. Birnbaum says that there are ways to make this structure useable without granting the variance as requested.

Mr. Carlson asks if there are very many structures like this on the lake anymore. The applicant says there are some in bay that they are located in.

Motioned by Mrs. Birnbaum to deny the variance as requested – Seconded by Mr. Weimann.

All in favor.

Motion carried.

Consideration of a Request by Mark Herr:

- Reduce the minimum building setback from the ordinary high-water line of Mille Lacs Lake from seventy-five (75) feet to sixty-four (64) feet. **MLCDO Table 501.**
- Increase the maximum impervious surface coverage of a shoreland parcel from twenty-five (25) percent to twenty-nine and a half (29.5) percent. **MLCDO Table 501.**

to allow the construction of a deck on a parcel legally described as, LOT 8 BLK A & PART OF LOT 9 BLK A, BEG AT SW COR E 20 FT, NW'LY TO NW COR, S TO PT OF BEG 48-0002-00 Mille Lacs LAKE, East Murry Beach, Mille Lacs County, Minnesota. **Located at 11138 Cove Dr, Onamia, MN 56359.** PIN 17-563-0070.

The applicant is not in attendance.

No written correspondence.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

P. The variance proposes the use of land in a reasonable manner;

The applicant is proposing a reasonable use of the property.

Q. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner appears to be due to the size of the lot as platted.

R. The variance, if granted, will not alter the essential character of the area;

Granting the variance should not alter the essential character of the area.

S. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and

Economic considerations do not appear to be part of the request.

T. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Single family dwellings are an allowed use in the General Development Shoreland (S-2) zoning district.

Mr. Weimann asks if we are allowed to consider a larger impervious surface percent (30.68% in staff report) than what was advertised in the legal notice to the paper (29.5%). Staff and board confirm that a higher amount of impervious surface percent should not be approved over what was advertised. The discrepancy arrived from what the applicant had applied for to what staff had calculated in their review.

The board deliberates whether they should table the request and re-advertise for the higher percent.

Mr. Reinking states that they were granted a variance in 2007 for 28.96% of impervious surface and suggests that the board could deny the additional impervious surface percent request and approve the setback to the OHWL knowing that the applicant may need to decrease the size of the proposed deck. Mr. Reinking also states that in the original request the applicant only asked for the distance to the OHWL and not the impervious surface. The impervious surface portion of the request was added by staff to account for the size of the deck that was proposed in the applicants site plan.

Mr. Roxbury states that they have really guarded that 25% mark and that it is a DNR requirement and does not see justification for additional impervious surface.

Mr. Carlson asks if the county came up with the 30.68%. Mr. Reinking confirms that number was produced by staff during review.

Mr. Weimann asks where the discrepancy was between the applicants' calculations and staff calculations. Mr. Reinking states staff used the sketch provided by the Assessor's office and the sidewalk/landscaping calculations provided the applicant. The applicant used a different number for the dwelling and staff could not confirm its accuracy.

Mr. Roxbury says that he has a problem with the "plight of the landowner" fact in the staff report. He does not feel that the size of the lot as platted is enough justification to grant a variance. Mr. Hayes mentions that this clause has been used historically for these types of requests. Mr. Roxbury says the size of the house on this one is pretty substantial and it is on the applicant if they used all of the impervious coverage allotted to them. Historically, the board have really guarded that 25% threshold and people have always wanted more coverage.

Mr. Carlson asks if there was cement under the deck. Mr. Reinking states the application does not say what will be under the deck.

Mr. Carlson asks if a deck is considered impervious surface even though water can flow through it. Mr. Reinking & Mr. Hayes confirm it is impervious per state statute.

Mrs. Birnbaum asks what the current coverage is. Mr. Reinking replies that the percent currently is 25.5%.

Mr. Reinking states that without granting the additional impervious surface percent, the applicant would have approximately 335 square feet to construct a deck.

The board and staff discuss the potential deck sizes that the applicant could build with the allotted impervious surface from the 2007 variance.

Mr. Weimann is inclined to agree with Mrs. Birnbaum that the OWHL setback request is not the biggest concern if they stay below the allowed impervious surface percentage.

Mr. Roxbury recommends that they grant the variance to the OHWL and deny the impervious surface request due them already being granted an increase in 2007. Also, to add a condition that the deck not be enclosed.

Motioned by Mr. Weimann to approve the variance from the OHWL setback to 64 feet for the construction of the deck with the condition that is not be enclosed and deny the impervious surface increase request – Seconded by Mrs. Birnbaum.

All in favor.

Motion carried.

VI. Other Business:

Mr. Hayes mentions that the training with Scott Anderson will be September 7th at 7:00 p.m.

VII. Adjournment:

Motion by Mr. Carlson, seconded by Mrs. Birnbaum, to adjourn the meeting.

Motion carried with all members voting aye.

The meeting of the Mille Lacs County Board of Adjustment adjourned at 8:10 p.m.