



**MINNEHAHA COUNTY
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

JULY 24, 2023

**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT
July 24, 2023**

A meeting of the Zoning Board of Adjustment was held on July 24, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Mike Ralston, Doug Ode, Ryan VanDerVliet, and Adam Mohrhauser.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue – States Attorney

The meeting was chaired by Bonnie Duffy. The meeting was called to order by Chair Bonnie Duffy at 9:31 pm.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

ITEM 1. Approval of Minutes – June 26, 2023

A motion was made by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** the meeting minutes from June 26, 2023. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.



**MINNEHAHA COUNTY
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

JULY 24, 2023

ITEM 2. VARIANCE #23-01 to allow an accessory building to be placed below the base flood elevation on the property legally described as the E760' S680' & E30' NE¼ NE¼ Section 6 T103N-R49W Sverdrup Township.

Petitioner: Michael Bemboom

Property Owner: Same

Location: 47299 250th Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – E760' S680' & E30' NE¼ NE¼ Section 6 T103N-R49W

Sverdrup Township

Present Zoning – RC Recreation/Conservation District

Existing Land Use – Residential Acreage

Parcel Size – 12.30 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant is requesting to build a 48' x 72' accessory building on his acreage approximately ¼ mile west of the town of Baltic. The property is approximately 12.3 acres in size and is located entirely within the floodplain. The variance request is to allow the proposed accessory building to be constructed with the elevation of the floor lower than the base flood elevation (100 year flood height). The 2017 Revised Floodplain Ordinance authorizes consideration for variance accessory buildings to be constructed in the floodplain if the structure is constructed to FEMA standards and that the structure creates no additional threats to public safety.

This may be the first floodplain development variance many of the board members have considered. As such, it may be beneficial to describe the basic requirements of the floodplain ordinance. Structures are regulated when placed within the area commonly referred to as the 100-year floodplain which has a 1% annual chance of flooding. Structures are required to be elevated higher than the expected height of the 100-year flood, also referred to as the base flood elevation. The base flood elevation is measured as feet above sea level. If the ground level of a floodplain is 100 feet above sea level and the base flood elevation is 102 feet above sea level, then the structure must be built up two feet higher than the ground. Building the structure two feet higher often means bringing in fill or raising the structure over a crawl space.

The applicant is not a stranger to floodplain development rules or flooding. In 2011, the house was permitted to be constructed at the minimum base flood elevation of 1467 feet above sea level. The applicant brought in dirt fill to raise the house four feet above the ground level. The applicant submitted photos of the 2019 record flood crest where the water was in the yard, but the structures stayed dry.

The elevation of the development site is approximately 1464 feet above sea level. Four feet of fill would be required to raise the structure to meet the 1467 feet base flood elevation. The applicant is requesting that the structure can be built at an elevation of 1465 feet above sea level



and provide flood venting to allow flood water to access the structure to avoid structural damage during flood. This flood venting is referred to as “wet-floodproofing”, and FEMA has published a technical bulletin to provide description for how to properly comply with requirements.

One consideration in the applicant’s request is published data from FEMA documenting mapping updates in process for the eastern 27 counties in South Dakota. The new maps are referred to as Enhanced Base Level Engineering maps (Enhanced BLE), and they are being prepared for updating the currently effective flood maps. The new Enhanced BLE maps show a decrease in floodplain elevation on the site to an elevation of 1464 feet above sea level. The proposed accessory building is planned to be raised to the 1465 feet elevation in anticipation of the change. County staff contacted the South Dakota Office of Emergency Management to better understand when the Enhanced BLE maps will become effective. The issuance of the maps is still to be determined but expected to become effective in 2025.

Considerations:

The county floodplain ordinance has listed considerations for reviewing floodplain variances. The considerations are listed below with staff reporting on each one.

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

The proposed accessory building is located in a yard which has experienced ponding flooding with little lateral flow. The accessory building will contain items and include wet-floodproofing techniques to allow water to flow into and out of the building automatically. If floodvents are maintained properly, the structure should have minimal risk of hydrostatic pressure pushing it over.

2. The danger to life and property due to flooding or erosion damage;

The proposed structure is for unheated accessory building for storage of equipment and tools. It will not be used for human occupancy.

3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

There will be an increase in susceptibility of flood damage to contents of the accessory building. To minimize this susceptibility, the applicant is planning to raise the structure at least to the base flood elevation as depicted in the enhanced BLE maps published by FEMA. If the published data are correct, then the structure will still be higher than the actual level of the 100-year flood event.

4. The importance of the services to the community which will be provided by the proposed development;

The accessory building will be on private property for private use. No community services will be affected.

5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion;

The location of the proposed accessory building is located southwest of the dwelling. Elsewhere



on the site are trees and even lower ground, which would be less suitable for development.

6. The compatibility of the proposed development with existing and anticipated development;

The property is a large acreage with a couple remaining farm buildings present. The proposed building will be accessory to the house and used for storage and maintenance of equipment for the property. Accessory structures such as the one proposed are common structures on acreage sites throughout the county.

7. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area;

Accessory buildings such as this one proposed are common structures within rural zoned properties in the county. Wet-floodproofing is an acceptable method of floodplain management for non-dwelling structures in Minnehaha County.

8. The safety of access to the property in times of flood for ordinary and emergency vehicles;

The property is accessed by a private driveway from County Highway 114. The driveway has been historically dry during flood events; however, the driveway has not been surveyed to determine susceptibility of flooding for future events.

9. The expected heights, velocity, duration, rise, and debris and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

The applicant states that flooding has not had velocity on the property, and floodwaters rise and fall slowly. Furthermore, debris has been limited to small branches and mulch. The trees, located on three sides of the property, should aid in limiting wave action during a flood event.

10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

The proposed accessory building will not need any governmental services since it is entirely privately owned. The owner will carry the cost of repair of any damage to the structure.

Conditions for Issuance:

The county floodplain ordinance has lists 5 conditions that must be met in order to issue a variance. The conditions for issuance are listed below with staff reporting on each one.

1. A technical showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;

The proposed building will be an unoccupied shed. Data provided by FEMA indicate the current base flood elevation may be too high, and the proposed shed elevation will meet the proposed base flood elevation based on Enhanced Base Level Engineering.



2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;

Accessory buildings are common structures of large lot rural development. Not granting the variance would make the development of an accessory building unattainable due to extra fill needed to raise the structure.

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

The proposed accessory building should not create any nuisances, public safety concerns, or public expense. Any time full dirt is used to elevate a structure potential floodwaters will be displaced. If the shed is constructed to full base flood elevation, more fill will be required and more potential displacement of floodwaters. Allowing this variance will reduce the total displacement of floodwater.

4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

The applicant proposed the accessory structure be built at an elevation of 1465 feet above sea level. This elevation is one foot higher than the proposed base flood elevation for the FEMA updating maps. Staff finds that this slightly raised elevation of the proposed structure is the minimum relief from brining in additional fill to raise it another two feet. It is suggested that all utilities and permanent equipment in the proposed shed be elevated above the current base flood elevation of 1467 feet. This would include any outlets, switches, and electrical panels, and also any fixed items such as air compressors, air conditioners, and similar equipment. No bathroom facilities will be allowed in the structure. These requirements will be in place until and if a future map change shows the structure out of the regulated floodplain.

5. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

The planning department will send this notice if the variance is approved.

Recommendation: Staff recommends **approval** of Variance #23-01 with the following conditions:

1. The proposed structure shall adhere to the submitted site plans and building size.
2. The elevation of the proposed structure shall be at or above 1465 feet above sea level. An elevation certificate must be submitted after construction is complete.
3. Flood vents shall be constructed in the building in accordance with FEMA requirements to allow floodwaters to flow into and out of structure freely.
4. All utilities and permanent equipment must be elevated at or above 1467 feet above sea level.



5. A new floodplain development permit must be obtained before a building permit can be issued.
6. A building permit is required for the structure prior to construction.

Public Testimony & Discussion

Kevin Hoekman, planning staff, presented the staff report with conditions.

Commissioner Mohrhauser asked how often FEMA maps changed are. Kevin Hoekman responded that changes happen periodically but can be a long time before maps change. Commissioner Mohrhauser asked if the maps increase the floodplain in the future would that bring the building out of compliance. Kevin Hoekman responded that the building would still be in compliance if floodplain raises since the flood vents that allow flood water to flow through the structure.

Mike Bemboom, 47299 250th Street, was available for questions. Commissioner Mohrhauser asked how long he had been living at the site and how many floods have happened since then. Mike Bemboom responded that he bought the property in 2009 and it flooded that fall. 2019 was the highest flood event on record. He would like to raise the driveway to allow access to the property to the property.

Commissioner Randall asked how the flood vents will work. Mike Bemboom responded that he plans to use acoustic steel with holes to vent the building at the rate of one inch per square foot.

Action

Commissioner Mohrhauser made a motion to **approve** Variance #23-01 with staff recommended conditions. Commissioner Ode seconded the motion. The motion passed unanimously with five votes in favor of the motion and zero votes against the motion.

Variance #23-01 – Approved



**MINNEHAHA COUNTY
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

JULY 24, 2023

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Randall and seconded by Commissioner Mohrhauser. The motion passed unanimously. The meeting was adjourned at 9:43 p.m.