



REDWOOD COUNTY ENVIRONMENTAL OFFICE

*Planning & Zoning • Parks & Trails • GIS
Aquatic Invasive Species • Septic Inspector
Drainage Inspector • Agricultural Inspector*

PO BOX 130
REDWOOD FALLS
MINNESOTA 56283
PH: 507-637-4023

REDWOOD COUNTY BOARD OF ADJUSTMENT

MINUTES

Meeting Date: May 10th, 2016

A meeting of the Redwood County Board of Adjustment convened on Tuesday, the 10th day of May, 2016. The meeting consisted of two public hearings. The meeting was convened at the residence and building site located at 26317 310th Street, Wabasso, MN 56293, owned by Jason Behrendt. The following Board of Adjustment members were present: Dan Tauer, John Rohlik, and John Schueller. The following individuals were also present: Jason Behrendt, Zoning Administrator Scott Wold, and Land Use & Zoning Supervisor Nick Brozek.

At 8:45 a.m., the meeting was called to order by Chair John Schueller.

Chair Schueller opened a public hearing on an *Application for Variance*, Permit Application No. 3-16v, submitted by Jason Behrendt. Prior to the Board of Adjustment meeting, the Board of Adjustment members were provided an informational packet which included the following information regarding the *Application for Variance*:

1. A public hearing will be held on May 10th, 2016, at 8:30 a.m. regarding an *Application for Variance* filed by Jason Behrendt pursuant to Section 26 of Redwood County Ordinance, requesting a variance of 10 feet from the 67 foot front yard setback for a structure, measured from the public road right-of-way, set forth at Sec. 7, Subd. 5.2.A.(1.) of Redwood County Ordinance.
2. Mr. Behrendt is proposing to rebuild a shop structure used for personal storage and garage space, which was destroyed by fire. The structure will be rebuilt on the existing foundation, but will be expanded an additional 5 feet to the east, on the following described property, situated in the County of Redwood, State of Minnesota, to wit: A tract commencing 1500 feet east of the Southwest section corner, thence north 470 feet, East 463.5 feet, South 470 feet, west 463.5 to the point of beginning, in Section 14, Township 112 North, Range 37 West, Sheridan Township.
3. The former shop building measured 55' x 66', on a poured concrete pad with floor drain. It also included a concrete apron for parking on the front of the building. Mr. Behrendt's plan is to rebuild on the same location, except that the new shop will extend 5 additional feet to the east. It will not be any closer to the road than the former shop. The building setback from the road right-of-way is 67 feet. The site is located on County Highway 30 (also called 310th Street), which has a right-of-way measuring 50 feet from the center line of the roadway. Consequently, the shop should be set back at least 117' from the center line of county Highway 30. However, the actual setback is only 109'.
4. Mr. Behrendt applied for and received a permit to construct the shop building in 2006 (Land Use/Zoning Permit #14-06). There was some discrepancy in the permit regarding the intended setback. First, the road was incorrectly listed as 310th Street, a township road, with a right-of-way of 33 feet. The source of

this erroneous information is not clear. However, the permit also specified that the building be set back 117 feet from the right-of-way line, or 157 feet from the center line of the road. Furthermore, the hand-drawn site plan lists the setback as 120 feet. It is not clear on the plan whether the 120' setback was intended to be measured from the center line, the road pavement edge, or the right-of-way line, but in any of those cases the shop building would have met the required 67' setback if the site plan had been followed.

5. Mr. Behrendt was asked whether he can move the new shop building back to meet the setback. He stated that the land behind the building is very steep and that moving the building back is not very feasible. Also, the slab from the old building would not be useable, since the doorway and drain contours would not be in the correct locations. This would cause surface water to run toward the garage doors, which would not fit properly to the existing contours of the concrete.
6. The following conditions are proposed to be attached to the variance:
 1. The variance from the road right-of-way is applicable to the described shop building only, and does not apply to any future building.
 2. The shop building may be enlarged in the future as long as the new addition(s) meet the required setbacks, along with any other applicable ordinance.

The following information was presented to and considered by the Redwood County Board of Adjustment at the public hearing:

Jason Behrendt was present to explain the project, making the following statements:

1. The old shop burned down. It measured 42' x 64' and sat on a concrete slab (still existing).
2. When the old shop was permitted, it should have been 117' from the center line of the road. The site plan drawn by Behrendt at that time indicates there would be 120 feet between the structure and the road. Behrendt stated that he doesn't know why it was built in the wrong spot, but it obviously was.
3. Behrendt wants to be able to reuse the concrete slab to rebuild. Due to the existing floor drains and doorways, the building must be rebuilt in the same spot in order to reuse the slab. Also, the ground drops off steeply behind the building, so a lot of fill would be needed to push it back.
4. Behrendt wants to extend the building to the east so that the new building will be 60 feet wide, but no closer to the road than before. That way he will be able to park all his trucks inside the building.
5. The trucks are all cleaned off-site and stored in the shop clean.
6. New concrete will be poured to extend the slab under the proposed eastward expansion. The new portion of the slab will be flat and will not have floor drains. The Board of Adjustment asked if there was any history of snow drifting onto the road. Behrendt stated that in the winter snow will start drifting on a hill to the west of the building site and can encroach on the road. However, this drift is not affected by the building. Behrendt stated he will work with the County Highway Department to address any snow issues.

The Board determined that the reconstruction of the building, along with the expansion to the east, will not change the snow drift patterns on the site, due to the western hill and the existing grove of trees.

No members of the public appeared in opposition to the variance.

Tauer made a motion to approve the variance subject to the conditions as presented. Rohlik seconded the motion and it was passed unanimously.

At 8:52 a.m. the hearing was closed and the meeting recessed. The Board of Adjustment then travelled to the location of the next scheduled hearing.

At 9:25 a.m. the meeting was reconvened by Chair Schueller at property known as "Albuville" located at 42133 County Highway 7, Belview, MN 56214, owned by David Albu. The following Board of Adjustment members were present: Dan Tauer, John Rohlik, and John Schueller. The following individuals were also present: Pete Albu, Jennifer Albu, Dave Albu, Zoning Administrator Scott Wold, and Land Use & Zoning Supervisor Nick Brozek.

Chair Schueller opened a public hearing on an *Application for Variance*, Permit Application No. 2-16v, submitted by David Albu. Prior to the Board of Adjustment meeting, the Board of Adjustment members were provided an informational packet which included the following information regarding the *Application for Variance*:

1. A public hearing will be held on May 10th, 2016, at 9:00 a.m., or as soon thereafter as may be, regarding an *Application for Variance* filed by David Albu pursuant to Section 26 of Redwood County Ordinance, requesting a variance of 131 feet from the 150 foot setback from a structure to the Ordinary High Water Mark set forth at Sec. 5.2.A.(1.) of Redwood County Shoreland Ordinance.

2. Mr. Albu owns and maintains a private family camping area on the banks of Boiling Spring Creek on the following described property, situated in the County of Redwood, State of Minnesota, to wit:

That part of the West Half (W1/2) of the Southwest Quarter (SW1/4) lying easterly of County Highway 7, except tracts, containing 29.8 acres, more or less,

.AND

a tract measuring 430 feet by 120 feet in the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4), containing 1.18 acres,

all in Section 20, Township 114 North, Range 37 West, Swedes Forest Township.

3. Mr. Albu purchased the property in 2007 from Iverson Tree Farm, which moved to its current location on the other side of the creek and the other side of Highway 7. In 2007 Mr. Albu applied for and received a building permit to construct a storage shed and a septic permit to install a septic holding tank on the property. Over the years since, he and his children have built roads and pads for camper trailers. They have laid lines to provide electricity to the campers. Additionally, they have moved in and constructed numerous small buildings, which are used for tool storage and other site maintenance and camping related storage. These activities have primarily occurred on the portion of the property that lies within both the Shoreland District and the Floodplain of Boiling Spring Creek. After the initial permits in 2007, no building permits were obtained for any of the structures. Additionally, the camping area and the structures in the camping area do not meet the required 150' setback from the Ordinary High Water Mark of Boiling Spring Creek, which is defined as the top of the bank of the creek channel. Many of the buildings are supplied with electricity.

4. The camping area is used by members of the Albu family and is not held open to the general public or used for commercial purposes. A locking gate is maintained on the access road from Highway 7.

5. Sewage produced on the site is captured in the RV sewage holding tanks with which each individual camper trailer is equipped. Sewage is transferred from the RV holding tanks to a mobile holding tank (on a cart), which is used to transfer the sewage to the holding tank permitted in 2007.

6. The buildings at issue are listed below. The list includes the dimensions of each building and the distance from the Ordinary High Water Mark (OHWM) as measured on the site by Environmental

Office staff. Notes are included for some of the structures. The descriptions are my own, used to differentiate one from another. Pictures of each building, numbered according to the list, are enclosed:

1. "Lone" building – 14' x 8.5' – 20' from OHWM - Albu plans to move to new location farther from the bank.
2. Former tree farm office/old hunting shack – dimensions not measured – 122' from OHWM - grandfathered in at current location and not subject to this variance.
3. Fish house – 8.5' x 12' – 19' from OHWM
4. Gazebo – 11' x 10' – 44' from OHWM
5. Flat roof "outhouse" – 4' x 4' – 24' from OHWM
6. Steel-front shed – 8.5' x 13' – 58' from OHWM
7. Wood-front shed – 8' x 12' – 53' from OHWM
8. Tapered building – 5' x 5' – 26' from OHWM
9. White camper cabin – 8' x 14' – 77' from OHWM – Albu plans to tear down and not replace
10. Gable-roof "outhouse" – 4' x 6' – 105' from OHWM
11. Gambrel roof shed – 10' x 16' – 145' from OHWM

7. The site and buildings are located in the Flood Fringe District of the Flood Plain District, according to the Flood Insurance Rate Maps (FIRM) prepared for Redwood County by the Federal Emergency Management Agency (FEMA). Buildings are allowable in the Flood Fringe as long as they are constructed and maintained in accordance with the Flood Plain Ordinance. Typically, buildings in the Flood Fringe must be elevated on fill so that the lowest floor of the building is at or above the regulatory flood protection elevation (RFPE), which is defined in the Ordinance as one foot above the level of the 1% (100 year) flood. However, as an alternative to elevation on fill, structures that are less than 500 square feet in area may be internally flood-proofed according to FP-3 and FP-4 flood proofing regulations in the MN Building Code, and the following requirements:

1. Buildings must be sufficiently anchored to the ground to prevent flotation or lateral movement
2. Mechanical and utility equipment must be elevated above the RFPE
3. In order to equalize hydrostatic pressure on the structure, two automatic openings must be maintained in the outside walls of the building. The openings must be sized at one square inch per square foot of enclosed area and must be placed no higher on the wall than 1 foot above grade.

8. Potential conditions for the variance are as follows:

1. The variance will apply only to the existing buildings and not to any additional buildings.
2. No building shall at any time be moved closer to the OHWM.
3. The buildings shall be used for storage only and shall at no time be used as sleeping quarters.
4. The site shall remain a privately used site and shall not be held open to the public for commercial use.
5. Any new camp sites shall be located outside of the 150' setback from OHWM.
6. The existing tree cover must be maintained or increased. If a tree dies or is removed it must be replaced with a same or similar tree in the same location.
7. Any containers holding fuel or chemicals must be stored outside of the flood fringe during the off-season. A plan must be in place to remove campers, fuel, and chemicals from the flood fringe in the event of a flood or flood warning.
8. Any permanent stairs or other heavy items must be anchored to prevent flotation and lateral movement, or moved out of the Flood Fringe.
9. A plan for creek bank stabilization must be formulated and acted upon for maintenance of the creek bank.

The following information was presented to and considered by the Redwood County Board of

Adjustment at the public hearing:

David and Pete Albu were present to explain the project, making the following statements:

1. After being contact by the Environmental Office, the Albus realized that their buildings are too close to the creek.
2. The buildings are small storage sheds used for parking golf carts, in connection with the family's use of the site as a private campground.
3. During flood times, water comes up and over the north bank of the creek, on the opposite side of the creek from the Albu property. The water doesn't come up over the south bank, which is higher, where the camp sites are. When the water does come up, it goes back down in an hour.

The Board of Adjustment discussed the following factors:

1. There appears to be minimal erosion and meandering the creek banks
2. The source of the creek is close by, so there is minimal upstream watershed from the camping site
3. The maintenance of the existing tree cover will reduce runoff and erosion
4. The site is located in the Flood Fringe of the Floodplain District, which mandates that all the buildings be retrofitted with anchors and automatic openings in the walls.
5. Any new campsites or buildings added will need to be at least 150' from the Ordinary High Water Level.

The Albus indicated that they are willing to undertake the necessary flood proofing required under the ordinance.

No members of the public appeared in opposition to the variance.

Brozek stated that the DNR had received notice of the hearing and that Brozek had spoken about the site with Area Hydrologist Lucas Youngsma. Youngsma's opinion is that he would prefer to see all the buildings moved beyond the required 150 foot setback from the Ordinary High Water Level in the Shoreland District. However, if they are not moved, he prefers that the site at least not be a held open as a commercial campground.

Tauer made a motion to approve the variance subject to the following conditions: 1) The buildings that exist may be maintained and/or replaced so long as the buildings are not increased in size, the buildings are not moved closer to the creek (they may be moved without needing to meet the 150' setback so long as they are moved farther away from the creek), and the buildings cannot be increased in number; 2) the existing trees must be left in place, or replaced in the same location. Rohlik seconded the motion and it was passed unanimously.

Discussion was held regarding the Minutes of the Board of Adjustment meeting held on the 9th day of March, 2016. On a motion made by Dan Tauer and seconded by John Rohlik, it was moved and passed unanimously that said minutes be approved as presented.

The meeting was then adjourned.



Nick Brozek, Land Use and Zoning Supervisor
Redwood County Environmental Office



John Schueller, Chair
Redwood County Board of Adjustment

