



REDWOOD COUNTY ENVIRONMENTAL OFFICE

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

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REDWOOD COUNTY BOARD OF ADJUSTMENT

MINUTES

Meeting Date: September 20, 2019

A meeting of the Redwood County Board of Adjustment convened on Tuesday, the 20th day of September, 2019. The meeting consisted of one public hearing. The meeting was convened at 14251 Duncan Avenue, Walnut Grove. The following Board of Adjustment members were present: John Rohlik, John Schueller, and Dan Tauer. The following individuals were also present: Eugene Swanson, Joel Swanson, Bruce Fujan, Robert Schultz, Mark Fujan, Joel McKinney, Amy Foster, Redwood County Environmental Director Scott Wold, and Redwood County Land Use & Zoning Supervisor Nick Brozek.

At 1:00 p.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. 4-19v, submitted by Mark Fujan. 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 September 20, 2019, at 1:00 p.m. regarding an Application for Variance filed by Mark Fujan, Trustee, on behalf of Theodora C Fujan Revocable Intervivos Trust, pursuant to Redwood County Code of Ordinances, Title XV, Sections 153.026 and 153.244, to the required setback from Plum Creek set forth in Redwood County Code of Ordinances, Title XV, Section 153.246.
2. Mr. Fujan is seeking to move in and place a building for use as a primitive seasonal dwelling, or hunting shack, near the banks of Plum Creek. He is also seeking to construct an outhouse, with a watertight septic holding tank underneath, to collect the sewage.
3. The proposed cabin is a building with some history. It is the original grain mill building from Walnut Grove. It measures 16'4" wide by 32'4" long. Fujan plans to retain as much of its original character as possible while renovating and repurposing it.
4. The cabin will replace the existing cabin on the site, which is the old granary building from the nearby farm building site. This farm site was formerly owned by the Fujan family. Likewise, the proposed outhouse and holding tank will replace the existing primitive outhouse on the site. Neither of these existing structures was ever permitted. The proposed building will be larger than the existing building, which is approximately 14 feet wide and 22 feet long.
5. Plum Creek is identified on the DNR's Public Waters Inventory map and is listed in the Redwood County Shoreland Ordinance as requiring a 150 foot setback for buildings and septic systems,

including outhouses. The Fujan site is only 10 to 20 feet from the creek, and therefore a variance is needed in order for the project to move forward.

6. A ten foot setback will need to be maintained from the property line with the next-door English Lutheran Church Cemetery.
7. Most of the quarter section, formerly the Fujan farm, on which the project site is located, is enrolled in the RIM program, and thus is subject to a perpetual conservation easement that prohibits the construction or placement of permanent structures or roads on the property. However, Environmental Office staff has confirmed through the SWCD and BWSR that the project area is outside of the area enrolled in RIM.
8. The project site is located on the northern end of a hill next to the creek. The rest of the hill is occupied by the cemetery. The hill is 10 to 12 feet higher than the surrounding land and there are no known instances of either the project site or cemetery flooding. After reviewing the FEMA floodplain maps, the Environmental Office determined that the project area is not located within the Plum Creek Floodplain, for zoning purposes. However, if the applicant ever wants to remove the project site from the Floodplain for the purposes of federal flood insurance requirements, they will need to make an application to FEMA.
9. Pursuant to Redwood County Ordinance, written notice shall be provided to all property owners of record within five hundred (500) feet of the affected property via U.S. Mail as to the time and place of the public hearing. Further, written notice shall also be provided to the affected board of township supervisors and the municipal council of any municipality within two (2) miles of the affected property. Additionally, written notice was provided to the Commissioner of the DNR, pursuant to the Shoreland Ordinance, via the DNR Office in Marshall, MN, and via direct mailing to the Commissioner's office in St. Paul.

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

Mark Fujan was present to explain the project. He made the following statements about the application:

- Most of the Fujan property was put into the RIM program in 1997, by Fujan's father.
- Fujan's father also attempted to create a private family burial plot on the property, but was not able to because the county required a \$50,000 perpetual maintenance account.
- At some point, fiberglass posts were placed at the corners of what was to be the private cemetery plot.
- The building Fujan now wishes to move to the site was purchased from neighboring property owner Robert Schultz.
- The building is a historic building, being the original granary in Walnut Grove.
- Jon Osland will move the building and place it at the site.
- The Fujan family uses the site, and will use the building, as a hunting shack. They will be there for two or three weekends in the summer for property maintenance, and many weekends between October and December for bow hunting.

The Board of Adjustment members had the following comments and questions:

- What toilet facility will be provided?

Fujan provided the following responses:

- A new concrete vault will be installed for the outhouse. It will be pumped out as needed.

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

One attendee asked how far the buildings will be from the English Lutheran Church Cemetery. Fujan stated that a ten foot setback from the cemetery will be maintained.

The Board of Adjustment members viewed the site of the proposed building and discussed that a small old building, uses seasonally, with no basement, should not unduly impact the creek. However, Tauer thought that a minimum 10-foot setback should be required.

Wold explained that the Redwood County Environmental Office staff had worked with the State of Minnesota to clarify the edge of the RIM easement on the property. Due to these discussions, the state determined that the edge of the easement runs just east of the existing hunting shack, contrary to how the line appears on the RIM easement map.

Wold stated that the deck the Fujan's recently added to the existing hunting shack is located inside of the RIM easement, even with the State's new boundary, and must be removed.

Brozek gave some background on the Fujan property:

- Environmental Office files show that Mr. Fujan's father (Gene Fujan) entered into the RIM easement agreement (CREP) in June of 2001. This agreement includes an attached map clearly showing the project area to be within the easement. However, the Environmental Office is comfortable using the State's new map showing the easement boundary further to the east.
- Correspondence between Gene and Brian Green, the Environmental Officer at that time, from 2002 discusses Gene's wish to create the private cemetery. In the correspondence, Green points out that the property appears to be in CREP.
- Correspondence between Gene and a surveyor from July 2003 shows that the fiberglass posts were placed by the surveyor hired by Gene.
- Correspondence from Gene to Green in September of 2003 states that the survey is complete and Gene is ready to apply for a permit for the cemetery.
- Gene submitted a permit application for the cemetery dated September 3, 2003.
- Green received information from then Soil and Water Director, Marilyn Bernhardsen, that the property was in CREP, and the cemetery was not allowed by the conservation easement.
- Meetings were held by the Redwood County Planning Commission to review the application in October and December. Minutes show that at the December meeting, the Planning Commission denied the cemetery application because the site is subject to a permanent conservation easement which does not allow cemetery use.

Brozek and Fujan measured ten feet from the top of the bank of the creek at the proposed building site.

Wold stated that the State's easement boundary runs roughly parallel to the creek bank at the proposed building site, and Fujan will need to have it surveyed so he can make sure to keep the building out of the easement. Brozek stated that the surveyor will also need to set the 100-year flood elevation, plus one foot, because the floor of the building needs to be at that level or higher.

Fujan stated that they will keep the building as close to the edge of the easement, and as far from the creek, as possible.

On a motion by Tauer, seconded by Rohlik, the variance allowing a ten foot setback from the creek for the proposed building, and a variance for the existing hunting shack and outhouse in their current locations, was approved by unanimous vote.

Discussion was held regarding the Minutes of the Board of Adjustment meeting held on the 19th day of August, 2019. On a motion made by Tauer and seconded by Rohlik, it was moved and passed unanimously that said minutes be approved as presented.

The meeting was adjourned at 1:44 p.m.



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



John Schueller, Chair
Redwood County Board of Adjustment