



Board of Adjustment & Appeals

MINUTES

MAY 17, 2021

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	David Wendinger ☒ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☒	Dave Ubel ☒
ABSENT EXCUSED	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
ABSENT	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
STAFF PRESENT	Property and Public Services Director Mandy Landkamer ☒				
	Deputy Zoning Administrator (DZA) Jon Hammel ☒				
	Assistant County Attorney (ACA) Megan E. Gaudette Coryell ☒				
	Other Staff: ☐				

REVIEW OF CANCELLATIONS & ADDITIONS		None.			
MOTION TO APPROVE MINUTES OF APRIL 19, 2021		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
VOTE TO APPROVE MINUTES		PASS ☒	FAIL ☐	VOTE: 5-0	

PUBLIC APPEARANCES	Mary Milbrath (53491 409 th Avenue, North Mankato MN 56003) spoke on behalf of Belgrade Township. She spoke concerning the Herrley decision. The Township felt the decision to approve the request was inappropriate. She noted there is now a pipe discharging into the ditch.
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MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-06, MEUER / TRUENBACH		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-08, BENCO ELECTRIC / OLSON		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-09, ZIMMERMAN		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-14, HERRLEY		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

PUBLIC HEARINGS:

APPLICANT: THOMAS AND PATRICIA BITTNER

FILE #: PLN21-18

DESCRIPTION: REDUCE THE MINIMUM FRONT YARD SETBACK AND TO ALLOW AN ACCESSORY BUILDING ON A PROPERTY WITH NO PRINCIPAL BUILDING, FOR THE PURPOSE OF CONSTRUCTING A STORAGE SHED/SHOP IN THE R-1 DISTRICT

APPLICANT COMMENT	The applicant was not present.				
PUBLIC COMMENT	Barb Haack inquired about the request prior to the meeting. She did not object to the request.				
PUBLIC TESTIMONY	Barb Haack (1305 Marshal Street Apt 301, St. Peter MN 56082) spoke on behalf of Resurrection Cemetery which is located directly east of the site. She noted concern over the impact the shop may have during funeral services. Hammel explained the shop would be for personal use and is not proposed to be a business. She did not object to the request.				
MOTION	APPROVE WITH CONDITIONS ☐		DENY ☒		
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	None. The motion was rescinded.				
MOTION	CONTINUE TO JUNE 21, 2021 BOARD OF ADJUSTMENT AND APPEALS MEETING TO PROVIDE THE APPLICANT THE OPPORTUNITY TO APPEAR AT THE HEARING ☐				
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐

2ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Laven asked about the setbacks depicted on the survey. Hammel noted the property has two front yards with applicable setbacks. Laven and Hermanson stated it appeared there was an area outside of the setbacks where the shed could be located. Hammel explained the applicant had chosen the proposed location due to the topography and drainage of the site. Regenscheid asked how far north the shed could be moved and that more information was needed concerning potential alternative locations.				
VOTE	PASS ☒		FAIL ☐	VOTE: 5-0	

APPLICANT: BRIAN MOCK

FILE #: PLN21-21

DESCRIPTION: AFTER-THE-FACT VARIANCE TO ALLOW MORE THAN ONE PERSON TO BE EMPLOYED BY A HOME OCCUPATION, TO ALLOW MORE THAN 25% OF THE GROSS FLOOR AREA TO BE USED FOR A HOME OCCUPATION, AND TO ALLOW THE OUTSIDE APPEARANCE OF THE PROPERTY TO HAVE VISIBLE EVIDENCE OF A HOME OCCUPATION IN THE R-1 DISTRICT

APPLICANT COMMENT	Brian Mock was present. He informed the Board he had a new septic system installed last year. He said with the COVID-19 pandemic he had been shut down for a year and relocating the business was not possible. He also stated he helps the neighbor maintain their properties and has no desire to expand beyond his current size.				
PUBLIC COMMENT	Mock provided two written comments supporting the request from the adjacent landowners.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS ☒			DENY ☐	
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Laven noted the business had been operating onsite for 22 years. He asked what was wrong with a business being in the county. Hammel explained the business is allowed in the county but must meet the applicable standards. Landkamer noted the variance was necessary because the property was zoned R-1 Urban/Rural Residential. The standards for home occupations in the R-1 district are more strictive than those for other districts.				
VOTE	PASS ☒		FAIL ☐	VOTE: 5-0	

APPLICANT: PATRICK AND SHANA GIESEKE

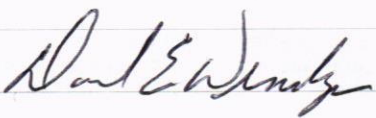
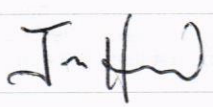
FILE #: PLN21-19

DESCRIPTION: APPLICANTS APPEAL THE DECISION OF THE DIRECTOR DATED APRIL 8, 2021, THAT REQUIRES THE APPLICANTS "TO SUBMIT VERIFICATION CONCERNING OFFSITE EARTH MOVEMENT... TO ENSURE THE PROPER PLACEMENT OF THE FILL PER COUNTY STANDARDS AND TO ENSURE PROTECTION OF THE ENVIRONMENT" AND THAT "THE LOCATION OF THE MATERIAL MOVED OFFSITE AND WHO MOVED THE MATERIAL OFFSITE" MUST BE RESOLVED. APPLICANTS ALSO APPEAL EACH AND EVERY DECISION MADE BY THE DIRECTOR AFTER THE DATE OF THIS NOTICE OF APPEAL i) WHICH PRESENTS AN IMPEDIMENT TO PROCEEDING WITH A HEARING BEFORE THE BOARD ON THE AFTER THE FACT VARIANCE APPLICATION, ii) WHICH CONCLUDES THAT THE APPLICATION FOR AN AFTER THE FACT VARIANCE IS INCOMPLETE, iii) WHICH REQUIRES SUBMISSION OF THE AMOUNTS ALREADY SUBMITTED ON MARCH 19, 2021, iv) WHICH DENIES THE APPLICANTS' REQUEST BECAUSE AN OFFICIAL APPLICATION HAS NOT BEEN COMPLETED BY THE DIRECTOR, AND v) WHICH REQUIRE ADDITIONAL "PRECISE ELEMENTS" BE LISTED AND IDENTIFIED ON THE APPLICATION.

APPLICANT COMMENT	Patrick and Shana Gieseke were present. The applicant's attorney, Steven Franta, was also present. Shana Gieseke stated she accepted responsibility for not getting a permit prior to the start of construction. She stated the violation was unintentional. Steven Franta stated it was impossible to find out who took the earthen material offsite and what they did with it. He did not feel there was a benefit or detriment to knowing that information. He requested the earthen material requirement be removed from the list of items required to achieve a complete application. Otherwise, he felt the applicants have submitted the information necessary to have a complete application. He noted the many letters that had gone back and forth between the applicants and staff. He said enough was enough, and asked the Board to order that the applicants be told exactly what they need in the application that has not already been provided. Patrick Gieseke explained why the applicants continued to construct the addition after the cease and desist order was issued. They believe it was necessary to protect the construction from the elements.
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PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	None.				
BOARD MEMBER DISCUSSION	Laven asked if the holdup with the application was the location of the offsite earth movement. Hammel stated that was the biggest component missing. Ubel asked if the applicants were aware they needed a permit for the earth movement. Mrs. Gieseke noted they did not know they needed a permit. Ubel asked if the applicants would still be coming back for a variance. Landkamer stated that was correct. The current decision only involved the status of the applicants' March application for an after-the-fact variance. Regenscheid stated he felt the offsite earth movement was important to the application. Landkamer clarified the missing items included the precise elements to be listed on the after-the-fact variance request.				
MOTION	AFFIRM THE DETERMINATION THE APPLICANTS' MARCH 19, 2021 APPLICATION FOR AN AFTER-THE-FACT VARIANCE IS INCOMPLETE ☒				
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
2ND	None. Motion died for a lack of second.				
MOTION	MODIFY THE DETERMINATION THE APPLICANT'S MARCH 19, 2021 APPLICATION FOR AN AFTER-THE-FACT VARIANCE – REMOVE THE OFFSITE EARTH MOVEMENT REQUIREMENT FOR A COMPLETE APPLICATION ☒				
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE	PASS ☒		FAIL ☐	VOTE: 4-1, with Regenscheid voting against	

OLD BUSINESS	None.				
OTHER BUSINESS	None.				
REVIEW OF ADMINISTRATIVE VARIANCES	None.				
COMMUNICATIONS	None.				
MOTION TO ADJOURN	8:59 P.M.				
1ST	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO ADJOURN	PASS ☒		FAIL ☐	VOTE: 5-0	

DAVID WENDINGER, CHAIR		DATE	2/21/21
JON HAMMEL, DEPUTY ZONING ADMINISTRATOR/ PLANNER		DATE	2.21.21