

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: August 15, 2022

Time: 7:00 p.m. (doors open at 6:45)

Location: Nicollet County Board Room, 501 S. Minnesota Ave., St. Peter, MN

Copies of the meeting agenda and packet are available on the Nicollet County website at:
<https://mn-nicolletcounty.civicplus.com/AgendaCenter>

Questions or comments regarding the meeting can be directed to Spencer Crawford, Deputy Zoning Administrator, at 507-934-7070, or spencer.crawford@co.nicollet.mn.us

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: July 18, 2022
5. Approval of Findings of Fact: July 18, 2022
 - PLN22-07, Michaletz
6. Public Appearances
7. Old Business
8. Other Business
9. Communications
10. Adjourn

Mission Statement

Providing efficient services with innovation and accountability.

Vision Statement

Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.

Board of Adjustment & Appeals

MINUTES

JULY 18, 2022

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	Justin Laven ☒ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☒	Lloyd Hoffmann ☒	
ABSENT EXCUSED	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
ABSENT	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
STAFF PRESENT	Property & Public Services Assistant Director, Pete Otterness ☒				
	Deputy Zoning Administrator (DZA) Spencer Crawford ☒				
	County Attorney (CA) Michelle Zehnder Fischer ☒				
	Other Staff: ☐				

REVIEW OF CANCELLATIONS & ADDITIONS		Zoning Administrator Crawford noted that the Planning & Zoning Advisory Commission Board workshop for the Floodplain Ordinance update had been canceled.			
MOTION TO APPROVE MINUTES OF FEBRUARY 5, 2021		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☒	
2ND	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
VOTE TO APPROVE MINUTES		PASS ☒	FAIL ☐	VOTE: 4-0	

PUBLIC HEARINGS:

Michaletz PLN22-07

To allow the construction of an additional single family dwelling within the Northwest ¼ of the Northeast ¼, Section 5-108-27, exceeding the density standard of one new dwelling per quarter-quarter on lots recorded after 07/31/1981 that meet minimum lot size requirements.

APPLICANT COMMENT	The applicant, Scott Michaletz, stated that his property has road access, along with water, sewer, and gas from the City of North Mankato due to an easement which runs to the North Links Golf Course. Mr. Michaletz explained to the members of the Board that his property is 40 acres; contains existing buildings from an old home site; his proposal meets all required setbacks; the proposed dwelling site is not close to the ravine; would maintain 18 acres of woods, and 22 acres of tillable land. Mr. Michaletz further explained that he and his wife
--------------------------	--

	purchased the land from Ruth Fitterer in 1985, and that a single family home would benefit the property by preventing further commercial development. His property is currently surrounded by a golf course and a campground. Mr. Michaletz stated that his variance request is in harmony with the one home per 40 acre rule, would be consistent with Nicollet County's Comprehensive Plan, and is a reasonable use of the property as it is a beautiful site. Mr. Michaletz stated his proposal would also increase tax revenue for Nicollet County. Mr. Michaletz stated that the current 40 acre quarter-quarter was not created by him, and that within the last 35 years the following changes have occurred: The Peterson property near him sold 10 acres, then built a home on the remaining 40; Mike Johnson, his neighbor to the south, sold a 10 acre parcel with an existing home, then built a second home on the remaining 30 acres; Dennis, who is down the road from him, has built two homes. Mr. Michaletz stated that he and his wife are proud citizens of Belgrade Township, and would like their proposal to be approved so that they may downsize, and stay in their neighborhood. Mr. Michaletz clarified that he and his wife jointly own Michaletz Building Properties.				
PUBLIC COMMENT	Chris Frederick, at 41396 526th Street, North Mankato, stated that he has empathy for the applicant and does not speak for or against the proposal, but wanted to offer caution and questions to the Board. He noted that Minnesota Statute requires <i>just difficulties</i> to grant a variance, and that he worries about the precedence granting this variance will set based on the language of the Ordinance. He explained that this was an opportunity for the County to evaluate the intent of the Ordinance. Mr. Frederick stated that other property owners will site this decision as a reason to build an additional home per quarter-quarter by using the same argument as the applicant. He further emphasized his opinion that the Board should take a closer look at the request.				
PUBLIC TESTIMONY	None.				
PUBLIC PARTICIPATION	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1ST	Justin Laven ☒ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
BOARD MEMBER DISCUSSION	Board Member Ubel asked for clarification about the one home per 40 acres rule, as the documents submitted by the applicant state the proposal is in compliance, whereas zoning staff disagree. Zoning Administrator Crawford interjected and asked Mr. Michaletz if he meant the proposal would be in compliance if the variance was granted, to which Mr. Michaletz stated yes. Mr. Michaletz then explained that he intentionally kept the property 40 acres. Zoning Administrator Crawford explained that a quarter-quarter is different from the lot size, and that the Ordinance states, "One new dwelling is allowed per quarter-quarter", which is 40 acres, not a 40 acre parcel. Board Member Ubel asked if he could take 20 acres from two different quarter-quarters and meet the requirements; Zoning Administrator Crawford stated no. Board Member Laven asked about the existing buildings and if they were a part of the Fitterer property; Mr. Michaletz stated that it was originally owned by the Michaels' family, contained a home, and the accessory structures were from a previous resident. Mr. Michaletz stated that staff told him the sheds could be replaced; Zoning Administrator Crawford confirmed this was true as the sheds predate the Ordinance. At the request of Board Member Laven, Mr. Michaletz clarified that he bought his current home in 1985 and purchased the Fitterer property about three years ago, then added two acres from the Fitterer property to his home site. Board Member Ubel asked staff how it was possible for the neighboring properties to build two homes on a ten acre site; Zoning Administrator Crawford stated that it may be that some of the homes were older than the quarter-quarter Ordinance, but that he would have to look into it. Board Member Hermanson asked how much land was farmable; Mr. Michaletz stated 22 acres which is farmed by Scott Fitterer. After hearing public comment, Board Member Laven asked if the applicant had any further statements. Mr. Michaletz stated that his quarter-quarter was odd shaped; Zoning Administrator Crawford confirmed this by saying it was more rectangular than typical but not a government lot. Mr. Michaletz stated other variances had been granted for additional homes, and that he thought the request was unique as the proposal would not need a septic system or well. Board Member Ubel asked Mr. Michaletz if he knew the Ordinance when he bought the neighboring 12 acres; Mr. Michaletz responded that he did. Board Member Ubel asked staff for clarification about the quarter-quarter map in the PowerPoint and				

		Board Packet; Zoning Administrator Crawford explained the map. Board Member Laven asked staff about the purpose of the quarter-quarter standard; Zoning Administrator Crawford read the purpose of the density standard from the Comprehensive Plan. Board Member Laven stated that each situation is unique, and made a motion to approve with conditions. Board Member Hermanson seconded the motion. Board members Hermanson and Laven agreed that the intent of the density standard was to preserve agricultural land.			
VOTE		PASS ☒	FAIL ☐	VOTE:4-0	
MOTION TO ADOPT FINDINGS					
1 ST	Justin Laven ☒ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
2 ND	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
VOTE TO ADOPT FINDINGS		PASS ☒	FAIL ☐	VOTE: 4-0	

OLD BUSINESS		None.			
OTHER BUSINESS		None.			
COMMUNICATIONS		Zoning Administrator Crawford noted that the Planning & Zoning Board workshop for the Floodplain Ordinance update had been canceled, and that further information was forthcoming.			
MOTION TO ADJOURN					
1ST	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☒	Lloyd Hoffmann ☐	
VOTE TO ADJOURN		PASS ☒	FAIL ☐	VOTE:4-0	

JUSTIN LAVEN, CHAIR	DATE	
SPENCER CRAWFORD, DEPUTY ZONING ADMINISTRATOR	DATE	



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant/ Scott Michaletz
Property Owner: Michaletz Building Partners LLP

Date: July 18, 2022

File #: PLN22-07

Variance Requested:

To allow the construction of an additional single family dwelling within the Northwest ¼ of the Northeast ¼, Section 5-108-27, exceeding the density standard of one new dwelling per quarter-quarter on lots recorded after 07/31/1981 that meet minimum lot size requirements

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The variance is in harmony with the general purpose and intent of the official control because it converts no agricultural land.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The variance is consistent with the intent of the Comprehensive Plan because it converts no agricultural land, minimally impacts the forest, has access to city sewer and water, and there was an existing home site on this property in the past. Public expenditure will be mitigated due to taxes on the new dwelling.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The variance establishes a practical difficulty in complying with the official controls because the site previously contained a dwelling and complies with the intent of the Comprehensive Plan.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The plight is related to the landowners desire to construct a dwelling on a parcel that previously contained a home site.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The variance will not alter the essential character of the locality because the parcel previously contained a home, the proposal is located out of view of the street, and the area has higher than normal development for the Agricultural Preservation Zoning District.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The practical difficulty is driven by the landowners desire to construct a home site for himself on land he owns.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD

**THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE**

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing

Viewed by Members of Board:

- ☐ Laven
- ☐ Hermanson
- ☐ Ubel
- ☐ Hoffmann
- ☐

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____