

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting December 4, 2024
Minutes

Members Present: Gerald Bruner, Andy Steinhagen, Amanda Gorra, Scott Selken, Jeff Thompson, Steve Washburn

Members Absent: Robin Bielefeldt

Members Late: None

Staff Present: Jason Mielke, Christina Neel

Pursuant to due call and published notice thereof, the December 4, 2024, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated six members are present with the absence of Robin Bielefeldt.

Agenda – Chairman Bruner asked if there were any additions or deletions to the agenda. Hearing none, he asked for a motion to approve the agenda. A motion was made by Steinhagen to approve the agenda as printed. Selken seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the November 6, 2024, meeting. Hearing none, he asked for a motion to approve the agenda. A motion was made by Gorra to approve the minutes of the November 6, 2024, meeting. Washburn seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20240045 – Donald Schlegelmilch – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Donald Schlegelmilch for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for a minor subdivision creating a non-conforming parcel of less than 20 acres with no building eligibility and exceeding the prime ag soils allowed pursuant to Chapter 152 of the County Code. The property is in Section 2 of Dahlgren Township.

The following were present: Donald Schlegelmilch, Joan Schlegelmilch, Shae Anderson, Brian Gennrich

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated October 14, 2024

Exhibit F – Staff Report addressed to the Board of Adjustment and Dahlgren Town Board dated November 22, 2024, and all attachments.

Neel stated the subject property is an approximate 72.48-acre parcel with an existing farmstead including a single-family dwelling, agricultural buildings, and tillable farmland. The applicant is requesting a variance to allow a minor subdivision to create an approximate 16.5-acre parcel with the agricultural buildings. Neel used an aerial photo as illustration of the proposed parcel. If created, the new parcel would consist of less than 20 acres, which is the minimum size for an agricultural parcel with no building eligibility. It would also contain approximately 6.6 acres of prime agricultural soils, which exceeds the maximum of 2 acres of prime ag soils in a parcel of less than 20 acres. Even though the proposed parcel would meet the required road frontage, width/depth ratio and all setbacks, it does not meet the required parcel size to be a conforming land only parcel. County Code limits the amount of prime agricultural land in parcels under 20 acres in size to a maximum of 2 acres. The proposed 16+ acre lot includes approximate 6.6 acres of prime ag soils and does not have a building eligibility. The proposed remnant parcel, including the existing house and tillable acreage south of Hampshire Rd, would be considered a conforming agricultural parcel. The proposed 16.5-acre parcel would lose its status as an agricultural and would not allow for the storage of personal belongings in the buildings with the absence of a principal use (single-family dwelling). The applicant's letter states the proposed 16.5-acre parcel is to be willed to Joan Schlegelmilch's grandchildren. The existing house and four buildings located nearest to the house are to be willed to Joan Schlegelmilch's son, Donald. The applicant states the proposed parcel is not 20 acres in size due to the railroad tracks, township road and surrounding property lines. The request was reviewed by Jacob McLain, Carver County Senior Environmentalist, who indicated the existing septic system was designed in 2017 with a secondary septic site identified, however, there is not a current certificate of compliance on file. Matt Steele, Carver County Feedlot Officer, reviewed the request and noted prior feedlot registrations on the property, with the most recent registration identifying a maximum number of 2 horses (2 animal units) on site within the past 5 years. On November 21, 2024, the feedlot status was permanently terminated after corresponding with the applicant. The subject parcel is within 2 miles of the cities of Carver, Victoria, and Chaska. The request materials were sent to each city and there were no comments or concerns expressed by any of the cities. The plight of the landowner is created by the landowner. It is possible to create a lot that would meet all regulations, which staff discussed with the applicant. The applicant is choosing a configuration that does not meet the minimum acreage for a land-only parcel and would contain an excessive amount of prime ag soils for a parcel of this size. The approval of this variance request would create one new non-conforming parcel. The applicant is proposing to use the property in a manner that is not in harmony with the general purpose and intent of the official control. The first official control is the standard related to the amount of prime ag soil being included in a new parcel under 20 acres. Since no building eligibility is available on the parcel, this request does not appear to meet the intent of the prime ag soil regulations. The second official control is the standard related to the size of an agricultural parcel. The proposed minor subdivision is inconsistent with a stated purpose of the subdivision regulations § 151.003 (C), "To preserve prime and good agricultural land in tracts large enough for viable commercial agricultural operations." The proposed minor subdivision would create a parcel with a collection of substantial agricultural buildings that would be inefficiently oversized to serve the adjoining 11.5-acre field. While the lot split is consistent with the current owner's desires, it violates the subdivision regulations policy to create orderly and efficient subdivision of land and would also not "protect and conserve. . . the value of buildings and improvements upon the land." Granting the variance appears to conflict with the intent of the Comprehensive Plan, which lists preservation of agriculture land as one of the major themes. Specifically, "the creation of parcels with no reasonable use shall be avoided." According to County Code, the agricultural buildings may only be used to store farm machinery, crops, or livestock animals. The proposed subdivision does not align with the Comprehensive Plan's intent regarding the reasonable land uses of residential lots, combination home and farm, and agricultural lots. The request and subsequent minor subdivision would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services. It would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property or be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties. The Dahlgren Town Board reviewed the request at their October 14, 2024, meeting and recommended approval,

stating ‘unanimous vote in favor.’ Neel read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be identified.

Chairman Bruner asked the applicant if he had any additional comments.

Shea Anderson, 11015 County Rd 43, confirmed the information presented was correct and the main goal was to fulfill the will of his grandmother.

Brian Gennrich, representing the Dahlgren Town Board, stated the applicants appeared at their October meeting and their request was recommended for approval by the township board members.

No one from the public was present to comment on the request.

A motion was made by Steinhagen and seconded by Selken to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:11 p.m.

Washburn found it difficult to identify a practical difficulty with the request, considering there are alternative options to create conforming parcels. He noted the required uses for agricultural structures and stated it would be better to avoid creating a non-conforming parcel and provide a better use of the land and the property. Maintaining large agricultural parcels will become more difficult in Carver County as development continues, and he felt it is better to not allow the creation of non-conforming parcels.

Steinhagen also noted the allowable storage uses in agricultural buildings and commented that with the termination of the feedlot registration, they could only be used for crop storage or farm machinery. He found it difficult to understand what might be stored in all the building space.

Gorra asked about possible reconfiguration and required parcel sizes to create conforming parcels and the consideration of a residential dwelling.

Neel explained the need for an existing dwelling or building eligibility on a parcel of less than 20 acres and the limitation of prime ag land.

Mielke further stated the existing residence and surrounding acreage would create a conforming residential parcel as shown on the aerial map. The agricultural buildings along with all the remnant tillable acres would be a conforming agricultural parcel because it is greater than 20 acres. The ag buildings would still have the requirement to be used for agricultural purposes only. He also stated that if the house and all the buildings would be subdivided from the tillable land, the ag structures, because of their age, could be used for seasonal storage, and the parcel would be conforming because the existing residence would be included. He also noted another option to subdivide all the buildings and land on the north side of Hampshire Rd from the remaining tillable acres. He stated this variance request was necessary to try and facilitate someone’s request in a family will, but a will cannot preclude the County Zoning Code standards.

Thompson asked the applicant why some of the suggested options to create conforming parcels were not accepted by the family.

Mr. Anderson stated they wanted to try and fulfill Joan Schlegelmilch's request. The best option they would entertain would be to keep all the buildings with the residence. He stated the tillable land on the north side of the road remains a small field separated from the rest of the tillable acres by the road. He stated to add 3½ acres of land from the south side of the road to make the proposed parcel a conforming 20-acre parcel would cut up the 35+ acre field on the south side of Hampshire Rd.

Steinhagen asked staff if adding 3.5 acres of land from the south side of Hampshire Rd would result in three conforming parcels.

Mielke replied that technically that would constitute three conforming parcels, however, this option is not real desirable because of the division of the land south of Hampshire Rd. Mielke used the aerial photo to illustrate how that might be done.

Steinhagen clarified his question to ask if the 11.5-acre tillable land on the north side of Hampshire Rd would establish a conforming parcel.

Mielke replied the 11.5-acre tillable parcel would not be conforming on its own because it exceeds the prime ag and doesn't have a building eligibility.

Bruner stated he was sympathetic to the wishes of the applicant but felt there were other ways to subdivide the land without requiring a variance. He would not be supportive of this request and configuration.

Steinhagen stated he is aware that if a variance is denied, there is a one-year period before the applicant can request another variance.

Mielke stated that the one-year period applies if the applicant is making a similar request. If the request is substantially different from what was previously granted, the one-year waiting period does not apply.

Washburn asked if the existing building site was subdivided from the tillable land, could conforming parcels be accomplished, with the exception of adhering to the will.

Mielke confirmed that two conforming parcels would be created if the existing building site was subdivided from all the tillable acreage. He also confirmed that the existing agricultural structures are older than 15 years and could be used for seasonal storage because the parcel is conforming and has a residence included.

Donald Schlegelmilch, 6350 Hampshire Rd, asked if the original configuration plus 3½ acres of land from the south side of Hampshire Rd would be conforming and be able to be subdivided.

Mielke stated it would create a conforming agricultural parcel and the structures on the proposed parcel could only be used for the required agricultural purposes, not used or rented for personal storage.

Mr. Schlegelmilch asked if the building site was subdivided with all the buildings, could the agricultural buildings still be used for agricultural purposes.

Mielke stated subdividing the building site from the tillable acreage would create a conforming parcel and the buildings could be used for personal or agricultural storage.

A motion was made by Washburn to **deny and issue Order #PZ20240045** to create a nonconforming lot with more than 2 acres of prime agricultural soils, no building eligibility, and defined as a parcel with no reasonable use, on the subject property legally described on the attached Exhibit "A". The request does not meet the grounds to obtain a variance pursuant to Section 152.215 (D) of the Carver County Zoning Code and is hereby **denied**.

Selken seconded the motion for approval of the request. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Other business

Mielke mentioned that two of the members, Bielefeldt and Gorra, have completed their 2nd and 1st three-year terms respectively, and are eligible to apply to serve on the board again. He explained the timing of appointments by the County Board and mentioned the possibility of potentially having 3 people missing from the January meeting because the Planning Commission will not have met to make their appointment for representative from that board. He stated the January meeting may be cancelled and will keep the board members informed as he learns more about the timing of things.

Adjournment

A motion was made by Selken and seconded by Gorra to adjourn. All voted aye. The meeting was adjourned at 7:37 p.m.