

Town of Rushford Appeals Board

MINUTES

FEBRUARY 24, 2021

7:00 PM

TOWN OF RUSHFORD TOWN HALL

ATTENDEES

Tom Jackson, Sue Bohn, Pat Schoonover, Cory Craig, Trevor Krueger, Jay Potratz, Steve Doro, Jake Peeters, Sara Rutkouski, Peggy Hendricks, Jerry & Jodie Schoonover, Attorney Blazel

Tom Jackson opened the meeting of the Appeals Board. He stated that the Committee will have to elect a chairperson and designate someone to be recording secretary. When a vote is taken, the vote has to be unanimous or 4-1 decision. It cannot be 3-2. Any decision is final, and the town board has no jurisdiction over the decision made by the Appeals board. The votes are recorded. The application was a request for a variance from Chapter 14-1-13 of the Town of Rushford Zoning & Subdivision Ordinance, to allow a lot with 111.61' road frontage instead of 150' as out forth in the Town of Rushford ordinances, at parcel # 022-0393, 9349 Bell School Road.

Pat Schoonover nominated Cory Craig to reside as chairman. Trevor Krueger 2nd the motion. Attorney Blazel explained that a variance for the Town is set forth in Chapter 14-1-13 in the Town of Rushford ordinance. A packet was sent to all committee members explaining the ordinance and variances. Attorney Blazel said he would be happy to answer any questions during the public hearing. Cory Craig asked for questions. Trevor Krueger asked if every homeowner is required 150' road frontage. Attorney Blazel explained that our code does not require 150' for every district. HDR & Commercial districts only require 100'.

Cory Craig opened the public hearing. Steve Doro stated that he had purchased the land 5 years ago. Steve Doro farms Lot 2 on the proposed CSM and their daughter and son-in-law bought the home, (Lot 1 on the proposed CSM. They always thought the extra land was part of the parcel, for there was a double driveway for parcel 022 039302. They have a buyer interested in the property and come to find out, not all of the driveway was included in the lot. Steve Doro said in the back part (parcel 022 0393) there has been a buried barn and silo. It is a nice grassy, apple orchard that also includes part of the driveway and they would like that to be part of 022 039302. At this time it is part of 022 0393.

Pat Schoonover asked if any of the neighbors disputed this. No one showed up and no one contacted the clerk or anyone else with an objection. The neighbor from Minnesota did call Steve Doro and said he was fine with the variance.

Tom Jackson said if the variance went though and if they were to sell the Lot 1, the property would have to be rezoned. Right now it is 1.6A – Rural Residential. With the additional land, it would bring that parcel to 2.1A which would be SER.

Chairman Cory Craig asked if there was anyone else to speak on the manner. Sara Butkouski, attorney for Jake Peeters. She put together the amended Section C of the application which explains that they are only asking for an area variance. The exceptional circumstances which apply is that during the survey it was found the Peeters driveway was not fully included in the property. This is extraordinary for a driveway is usually included with the house. Neither property owners in the adjoining lots were away of this and was under the impression for many years that the driveway was included with the home. This would call a hardship for there would be a loss of reasonable use of property and the homeowner would not be able to use the driveway. If a variance is not granted, this would make the property difficult to sell, for buyers are expecting full use of the driveway. By granting the variance, the properties remain in essence as they already are. The variance would put the Doro's access to a little over 111', however that is all the access they have had for years, for they were also under the impression the driveway was all included in the Peeters lot. They have no

issues at all with being able to access their property. There would be absolutely no adverse effects on the surrounding land. Attorney Sara Rutkouski feels that they have shown the 3 prong test to prove if this variance was not given, it would cause an unnecessary hardship, there are unique property limitations and there is no harm to the public or surround areas.

Jay Potratz asked for clarification on Lot 2, which is the lot Steve Doro owns and uses it for work land. Doro has 2 different access points for Lot 2. Steve Doro stated that the neighbor James Sobieski who lives in MD was happy they were asking for this variance for then houses would not be able to be built back on Lot 2.

Attorney Blazel explained that if a variance was granted, they do not set precedent. Each variance is based on the facts of each case. He stated that evidence has been provided and it is up to the committee if the 3 criteria has been met.

Jay Potratz asked if a person would be able to build houses at the bottom end of Lot 2. Attorney Blazel said Lot 2 is zoned LER, so someone could build a house on it.

Cory Craig closed the public hearing. The committee then went into deliberation.

Trevor Krueger made a motion to accept the proposal of granting the variance of moving the lot line. Motion 2nd by Pat Schoonover.

Roll call vote for the acceptance of the variance was taken:

Cory Craig	In favor
Trevor Krueger	In favor
Pat Schoonover	In favor
Jay Potratz	In favor
Sue Bohn	In favor

REASONINGS:

Cory Craig is in favor for he feels all criteria has been met.

Trevor Krueger is in favor, for no one made opposition, it has thought this parcel has been this way for years and it would be a hardship if a driveway was not included with the home.

Pat Schoonover is in favor for he feels all criteria has been met.

Jay Potratz is in favor for he feels the criteria has been met, but he had questions if someone wanted to build on Lot 2 at a later date.

Sue Bohn is in favor for she is appreciative that the natural flow and past use will continue and both parties are in agreement.

The Variance request passed unanimously. Jay Potratz made a motion to adjourn, 2nd by Pat Schoonover. Motion carried.