

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes
May 17, 2021

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met on May 17, 2021 via teleconference. Members of the Joint Planning Commission/Board of Adjustment participating were: Liam Culhane, Mark O'Neill, Bob Fox, Brenda Hanten, Blake Dahle, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Myron Johnson, Alex Kahnke, Mel Ries, Rodney Klatt, Katelyn O'Bryan, Rob Mack, Mike Barrett, Lee Shull, Jeff DeVille, and Becky Goens.

Bob Fox brought the meeting of the Joint Board of Adjustment to order at 7:36 pm.

Motion by Hanten, second by Culhane to approve the minutes of the April 19, 2021 meeting. Motion passed unanimously.

Motion by Hanten, second by Culhane, to approve the agenda. Motion passed unanimously.

Motion by Culhane, second by Hanten, to approve a 6' side yard setback variance for Robin and Susan Mack on their property in Lot 114 East Air Haven Subdivision, Section 11-T116N-R53W. Muller reviewed the Staff Report (attached). He is looking to replace an existing garden shed with a larger garden shed. Motion passed unanimously.

Motion by Hanten, second by Culhane, to approve a 15' side yard setback request y Donn Pulfrey on property in S100' of N1325' of W435.6' of NW1/4, Section 2-T116N-R52W. Muller reviewed Staff Report (attached). Pulfrey would like to construct an addition onto an existing garage. Motion passed unanimously.

Motion to adjourn made by Hanten, second by Culhane. Motion passed unanimously. Meeting adjourned at 7:58 pm.

Respectfully Submitted,

Becky Goens

MAY 2021
CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT
STAFF REPORT

ISSUE #1: VARIANCE

Applicant/Owner: Robin and Susan Mack

Property Description Lot 114 East Air Haven Subdivision, Section 11-T116N-R53W, Codington County, South Dakota. (Pelican Township)

Lat/Long (Existing Approach): 44.86975°; - 97.148749°

Action Items – Variance – 6’ Variance to allow a 9’ side yard setback on a lot adjacent to the lake

Zoning Designation: Lake Park

Request: The applicant requests to replace an existing shed with a larger one 8 feet from the west (side) property line.

Specifics of Property/Request:

1. The Mack’s own a 3.4 acre lot on the east end of Air Haven Subdivision.
2. Currently a 15’ x 23’ shed is located in the southwest corner of the property.
3. He seeks to replace the shed with a slightly elevated 16’ x 36’ shed. The shed is proposed to be used for personal storage (no living quarters).
4. The shed will use existing foundation as much as possible but is expected to project one foot closer than the existing structure (primarily due to the size of the poles.)
5. Much of the property (including a small area upon which the current shed sits) is mapped as in the floodplain.
 - a. The house was elevated out of the floodplain.
 - b. The southwest portion of this lot is the highest.
 - c. No portion of the applicant’s lot (outside the setback area) is wide enough for a 16’ wide structure.
 - d. The applicant proposes to use timbers to elevate the new shed above the floodplain and let water flow under if flooding should occur.

Ordinance/Variance History regarding this request:

Section 3.07.04.1

1. The Zoning Ordinance requires that lots adjacent to the lake have side yard setbacks of 15’.
2. The required setbacks on this lot leave 4,753 buildable square feet (narrow strip following and west of the driveway). In other words, the required setbacks and floodplain/standing water cover 94.75% of this lot.
3. This Board has a history of granting variances for lots in the Lake Park District where greater than 80% of the lot is covered by required setbacks, and has used avoiding construction in the floodplain as hardship for granting variances.
4. The accessory structure on the adjoining lot is located approximately 30’ from the right-of-way.
5. Regardless of the action taken on the variance, the applicant will be required to comply with the floodplain requirements of the county.

Staff Recommendation:

- **6' Side Yard Setback Variance to allow a 9' side yard on a lot adjacent to the lake:** The Board has the option to approve, deny, or postpone the request to replace an existing shed with a larger shed, one foot closer to the side property line. Approval would be based upon:
 1. The unique size and shape of the lot.
 2. The ordinance and topography creates a unique hardship on this property in that it renders 97% of the lot unbuildable due to setbacks and/or being under water or in the floodplain, without the variance(s).
 3. The applicant is requesting the minimum amount of adjustment to retain the ability to have a similarly sized shed as currently is located on the lot.
 4. The Board has a history of granting variances to lots with a similar percentage of the lot covered by required setbacks and/or floodplain.
 5. The Board would only consider approving other similar requests meeting the unique circumstances.

- Denial would be based upon:
 1. Literal interpretation of the ordinance would still allow the applicant to place this shed on site in an alternative location if and unspecified amount of fill were added to the site and engineering documentation were provided;
 2. The amount of fill necessary does not constitute a special condition or circumstance unique to this property; therefore
 3. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.

ISSUE #2: VARIANCE

Applicant/Owner: Donn Pulfrey

Property Description S100' of N1325' of W435.6' of NW1/4, Section 2-T116N-R52 West of the 5th P.M., Codrington County. (Sheridan Township)

Lat/Long (Existing Approach): 44.88643°; - 97.047345°

Action Items – Variance – 15' Variance to allow a 10' side yard setback

Zoning Designation: Agricultural

Request: The applicant requests to construct an addition on a non conforming garage.

Specifics of Property/Request:

1. The Pulfrey's own this 1 acre lot with a house which was constructed in 1965 and detached garage.
 - a. The Pulfrey's actually own two nonconforming lots, each with houses constructed prior to 1976. Therefore, each of the lots retain residential building rights if not decreased in size. If either of the houses are removed for more than one year, that house could not be built. (This is irrelevant to this request, but worth noting.)
2. Currently the existing 22 x 22 garage is estimated to be 10' from the south property line and makes getting to the back of the lot for a second garage impracticable.
3. The Pulfrey's request to at a 22 x 24' addition on the east side of the existing shed (in line with the southern edge.)

Ordinance/Variance History regarding this request:

1. The Zoning Ordinance requires a 25' setback in the Ag District.
2. The required setbacks on this lot leave 21,750 buildable square feet. In other words, the required setbacks cover 50% of this lot.
3. The Joint Board has a history of denying construction of NEW structures side or rear yard variances in similar situations.
4. The Joint Board has granted variance to allow in-line additions in the front yard of Lake Park zoned property (Miller) but not in the Ag District since 2015.
5. The County Board has a history of granting variance to allow additions which do not further encroach (get closer) to a side or rear property line in the Ag District if there are no objections from the affected neighbor.
6. Staff has received no comments regarding this request at the time of the report.

Staff Recommendation:

- **15' Side Yard Setback Variance to allow a 10' side yard:** The Board has the option to approve, deny, or postpone the request to replace an existing shed with a larger shed, one foot closer to the side property line. Approval would be based upon:
 1. The unique size of the lot and configuration of structures on the lot which pre-date the ordinance.
 2. The request is to add onto an existing building, but not encroach further (nearer) to the neighbor's property.
 3. Denial would result in unnecessary and unreasonable hardship to remove the existing garage and replace it with a garage elsewhere on the lot of the same size requested here.
 4. The applicant is requesting the minimum amount of adjustment to retain the ability to have a similarly sized shed as held on neighboring properties.
 5. The Board would only consider approving other similar requests meeting the unique circumstances.
- Denial would be based upon:
 1. Literal interpretation of the ordinance would still allow the applicant to place a new garage or move the existing garage to an alternative location;
 2. The necessity to move the nonconforming garage to add on to it does not constitute a special condition or circumstance unique to this property; therefore
 3. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.