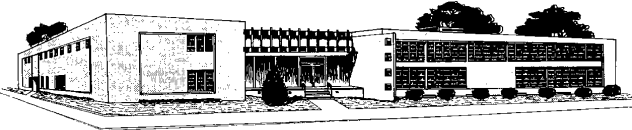


Coordinated Development In

MOWER COUNTY

AUSTIN, MINNESOTA



AUSTIN-MOWER COUNTY PLANNING DEPT.

55912

(507) 433-1846

December 1, 1977

MINUTES OF THE 25th MEETING OF THE MOWER COUNTY BOARD OF ADJUSTMENT

MEMBERS PRESENT: M. E. Chesebrough, Kenneth Trom, William Schlichter

MEMBERS ABSENT: None

STAFF PRESENT: Chris Huang

The 25th meeting of the Mower County Board of Adjustment was called to order at 4:00 p.m. on December 1, 1977, by Chairman Chesebrough, in the Commissioners Conference Room of the Mower County Courthouse.

The only petition was presented by Mr. Amos Jutzi for a 21' setback variance to allow an already built grain bin to set back 19' from a township road right-of-way. The petitioner constructed the grain bin without obtaining a building permit. The grain bin is now located only 19' west of the township road right-of-way. The petitioner's property is located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 22, Dexter Township. Immediately 5' south of the grain bin, there is an existing building which setb back approximately 25' from the township road.

Chairman Chesebrough read the setback section of the county zoning ordinance, and stated that a 40 foot setback is required on township roads. Mr. Jutzi was asked if he was aware that a variance should be granted prior to the time of construction. Mr. Jutzi stated that he did apply for a building permit for a hog building, and just didn't think that the grain bin needed a variance before construction was started. Chairman Chesebrough read a copy of a letter which was sent to the petitioner from the planning office. One of the paragraphs in the letter was that "----the planning commission also indicated that they do not rule on setback variances. This is the function of the Board of Adjustment. Since the setback for the township road is 40 feet, and the trailer is clearly in violation of that distance, you have indicated that you wish to petition for a variance of that setback. Enclosed you will find the appeal petition---"

Chairman Chesebrough stated that this letter would establish that petitioner was aware of variance requirements prior to construction of the grain bin.

A letter was read from Harry Boeff, one of the adjoining property owners. Mr. Boeff expressed his objection to the granting of the vairfance, based on two factors: (1) the pititoner is aware of the county regulation concerning setback regulations, and (2) the grain bin, about 19' from the road, may cause hazards during the winter, causing additional snow drifts on the roadway.

Chairman Chesebrough stated that considering the granting of the variance, it is not logical that the petitioner created a circumstance and asked for a variance. The consideration should be given back to the time that the grain bin was not erected.

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Checking into the requirements of granting a variance, the Board was not satisfied by the first requirements, that "the strict application of the provision of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with its general purpose and intent," because it would have available alternate sites, if the grain bin was not erected in the first place.

Mr. Trom stated that the requested 21' variance would create a new front line approximately 6' closer to the road than the old front line. The Board would consider granting a variance that there will be no new front lines created. The Board also felt that the second requirement stated in the petition form is not satisfactory to the Board, since the hardship encountered is the hardship created by the petitioner himself. As to the third requirement, two adjoining property owners, Arthur Pater and Robert Pater, stated that the grain bin is not the main factor which causes additional snow drifts on the road, as suggested by Mr. Harry Boeff in his letter.

After a short discussion, the Board felt that granting of this variance would not be significantly detrimental to the public welfare and neighborhood. The Board also felt that the petitioner could have lined up the grain bin with the existing building before he built 6' closer to the road. The grain bin lining up with the existing building would not cause any problem fitting into the existing facilities.

Chairman Chesebrough asked the petitioner if he feels any alternate sites are available for the grain bin. Mr. Jutzi said yes, but would have to be in the field or close to the house. He does not like farm buildings built too close to the house. The petitioner also explained that the alternate site suggested by the staff in the diagram is not exact. The grove of trees is about 10-12 feet north of the barn. If the grain bin is located northwest of the barn as the planning staff suggested, the bin would be located in the trees. Therefore, this alternate site is not proper.

Chairman Chesebrough stated that it is not the problem of the six feet difference, but the problem that the Board of Adjustment is not supposed to grant a variance which will create a new setback line unless the situation meets all three requirements.

Section 14-9 Setbacks of Zoning Ordinance provides that, "Setbacks of less distance may be permitted by the Board of Adjustment in order to conform to setbacks of adjacent residences constructed prior to October 2, 1973." Therefore, the Board of Adjustment has authority to grant a variance of 15' for the grain bin to line up with the existing building. Mr. Jutzi asked if the variance of 15' could be granted if he moves the grain bin 6' further west to line up with the existing building. Chairman Chesebrough said, yes, it is possible.

After a short discussion, Mr. Schlichter moved that a variance of 15' be granted to allow the grain bin to be placed approximately 25' from the township road right-of-way, lining up with the existing building to the south. The motion was seconded by Mr. Trom and carried unanimously. After discussing with the petitioner to determine a reasonable time period to move the grain bin 6' further back, Mr. Trom moved that the grain bin be moved further back about six feet to line up with the existing building to the south by October 1, 1978. The motion was seconded by Mr. Schlichter, and passed unanimously.

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The minutes of the 24th meeting of the Board of Adjustment was approved with a typing correction in the last paragraph.

Mr. Huang presented an opinion from the County Attorney concerning tape recording as the Board of Adjustment's official records. The county attorney indicated that, "a tape recording is not required by law. The minutes of the secretary, including findings and orders would serve as the public record."

The Board felt that preserving every tape is not necessary, but the tape shall be kept until the minutes are transcribed by the secretary and approved by the Board.

There being no further business, the meeting adjourned at 4:50 p.m.

Respectfully submitted,


Christopher Huang, Secretary
Mower County Board of Adjustment