

Coordinated Development In

**MOWER COUNTY**

AUSTIN, MINNESOTA



AUSTIN-MOWER COUNTY PLANNING DEPT.

55912

(507) 433-1846

June 29, 1978

MINUTES OF THE 28<sup>th</sup> MEETING OF THE MOWER COUNTY BOARD OF ADJUSTMENT

**Members Present:** M. E. Chesebrough, William Schlichter

**Members Absent:** Kenneth Trom

**Staff Present:** Chris Huang, Cheryl Johnson, William Buckley

**Others Present:** Art Anderson, Clare Vincent, Alden Adams, Don Kotron, Barry Duellman, Art Pater, L. R. Bergstrom

The 28<sup>th</sup> meeting of the Mower County Board of Adjustment was called to order at 4:00 p.m. on June 29, 1978 by Chairman Chesebrough in Conference Room I of the Mower County Courthouse. The minutes of April 27, 1978 meeting were approved on the motion by Mr. Schlichter and seconded by Mr. Chesebrough. The motion passed unanimously.

Two petitions were presented by Bernice and Wesley Crowder for two variances from the County Zoning Ordinance for their property located at 1201 18<sup>th</sup> Street SW (Lot 1 and the North 20 Feet of Lot 2, Block , Southern Heights First Addition.

Mr. and Mrs. Crowder are in the process of selling their lot to Clare Vincent who intends to build a new home on it. Due to the small size of the lot, the County Sanitarian has refused to issue a sewage disposal permit for installing a septic system on the lot. Without a sewage permit, Mr. Vincent is not able to get a building permit and build a house.

Chairman Chesebrough read a letter dated April 2, 1976, from County Attorney Wallace Sieh concerning Southern Heights Addition 1st and 2nd. The County Attorney was of the opinion that all lots in Southern Heights Addition 1s and 2nd were platted in 1957 and 1958, and were therefore platted before the County Zoning Ordinance and the sewage control ordinance were adopted (in 1961 and 1962). Therefore, lot sizes in these plats constitute a non-conforming usage, and for that reason the current zoning and sewage regulations do not apply. Based on the above legal opinion of the County Attorney, the Board of Adjustment felt it is not necessary to act on Petition A/V 65 which requests a variance from Section 14-19(b), in order to construct new buildings on lots which are previously platted and less than one acre, since lotsize in Southern Heights Addition are legal non-conforming uses. On a motion by Mr. Schlichter and seconded by Mr. Chesebrough, the Board decided not to take any action on A/V 65 petition.

The petition A/V 64 is for a setback variance from Section 14-9, which requires a 40 foot setback on subdivision roads rights-of-way. The petitioners request a 15 foot setback variance to build the house 25 feet from the road right-of-way. The granting of the variance would allow more space for a sewage disposal system.

Page two  
Board of Adjustment Minutes  
June 29, 1978

By using three diagrams, Mr. Buckley and Mr. Huang made a joint presentation regarding the proposed site for setback variance and two alternate house locations which will make it physically possible for installation of a sewage system on the property in question. Due to the small size and triangular shape of the lot, the house location, as proposed by Mr. Vincent to setback 25 feet from the 18<sup>th</sup> Street SW and 9 feet from the south property line, would not provide sufficient space to meet the following required standards for installation of a sewage system:

1. The septic tank shall be 10 feet from the house and property line, and 50 feet from the well.
2. At least a 20 foot wide strip and 100 foot long is needed for a drainfield.
3. Drainfield shall be 20 feet from the house and 10 feet from the property line and 50 feet from the well.

However, by using the above standards, two house locations on the lot are physically possible for building a house and installing an adequate sewer system. The house at these two locations would result in substantial setback variances and providing a very short driveway to the garage. Although these two alternate sites are physically feasible for construction of a house on the lot, Mr. Buckley is reluctant to recommend these alternatives. The most appropriate way is to increase the size of the lot to accommodate a proper sewage disposal system.

Alden Adams, Don Kofron and Barry Duellman, the adjoining property owners, stated the lots in Southern Heights Addition do have problems for an adequate sewer system. Increasing lot size will eliminate future sewage disposal problems.

Mr. Anderson and Mr. Vincent felt that they didn't have any choice and recommended the board to deny the petition. Therefore, they can probably convince the property owner to the south to sell the lot. It was the Board's feeling that the granting of a 15 foot variance will still not enable an adequate sewer system to be constructed on the property.

Mr. Schlicheer moved that the Board accept the staff's opinion and the county sanitarian's recommendation to deny the petition. The motion was seconded by Mr. Chesebrough and carried unanimously.

Mr. Art Pater and Mr. L. R. Bergstrom, representing Dexter Town Board, were present to discuss the Amos Jutzi situation. The Dexter Town Board requested the Board of Adjustment allow Mr. Jutzi's grain bin to stay where it is now, without moving it 6' further back, until the township road is widened.

Chairman Chesebrough stated that Mr. Jutzi was aware of the setback regulation, since he had the same problem previously when he put a mobile home closer than 40 feet from the right-of-way and asked for a variance. At that time, Mr. Jutzi owned property in Lodi Township. However, he again built a grain bin on his property in Dexter Township 19' from the township road without applying for a building permit or a variance. The Board believed that Mr. Jutzi could have built the grain bin and complied with the setback requirements if the bin was not already erected. Therefore, the hardship encountered was the hardship created by Mr. Jutzi himself. The Board was reluctant to approve the request from the Dexter Town Board, and went for the previous decision that Mr. Jutzi would have to remove the bin six feet further back by October 1, 1978.

Page three  
Board of Adjustment Minutes  
June 29, 1978

There being no further business, the meeting was adjourned at 5:30 p.m.

Respectfully submitted,

  
Christopher Huang, Secretary  
Mower County Board of Adjustment