

Coordinated Development In

**MOWER COUNTY**

AUSTIN, MINNESOTA

55912



AUSTIN-MOWER COUNTY PLANNING DEPT.

(507) 433-1846

January 13, 1983

MINUTES OF THE 59th MEETING OF THE MOWER COUNTY BOARD OF ADJUSTMENT

MEMBERS PRESENT: William Milbrath, Conrad Stemson

MEMBERS ABSENT: Ken Trom, M. E. Chesebrough

OTHERS PRESENT: William C. Buckley, Daryl W. Franklin, David L. Olson

The 59th meeting of the Mower County Board of Adjustment was called to order on Thursday, January 13, 1983 at 3:30 p.m. in Conference Room 1 of the Mower County Courthouse. Minutes of the December 30, 1982 meeting were approved as mailed on a motion by Mr. Milbrath, seconded by Mr. Stemson. The motion passed unanimously.

Joseph Construction Company Setback Variance: This is a request from Joseph Construction for a 20 foot variance from the required 40 foot setback from the road right-of-way. Mr. Wagner explained in detail what he was proposing for the site. Petitioner wishes to build a duplex on each of three lots, Lots 4, 5, 6, Block 1, Country Club 1st Addition. The variance is needed to allow enough room in the rear of the lots to construct a mound type sewer system. Mr. Olson read the minutes of the December 30, 1982 meeting to the board and citizens present. The request had been tabled at that meeting in order to have a legal clarification of the ordinance from the County Attorney.

Mr. Franklin explained legal aspects of the zoning ordinance and the fact that the purchase of the lots by Mr. Wagner took place prior to the amendments to the ordinance which took place in 1980. Mr. Wagner purchased these lots in 1979, and at that time duplexes were allowed in the rural zone. As a result, the ordinance prior to the amendments is the one which applies in this particular situation.

Mr. Buckley, county sanitarian, reviewed reasons why Mr. Wagner required this variance in order to install the sewer system and to have a good chance of the system functioning properly. Mr. Buckley presented a diagram of a typical mound system and how it functioned and explained not only installation but how the final system would operate once it was hooked up. There were several concerns by residents from the area present about standing water and adequate drainage of Mr. Wagner's property. Mr. Wagner stated for the record that would not want any standing water on any part of his property and would do anything to prevent it. He also stated that the system has to go in back because of the fact that the driveways would be in the front yards and the concrete could not be poured over the sewer system.

An announcement was made at the meeting that Mr. Kraft's office called and that Mr. Kraft would not be able to leave court in time to attend the meeting, but Mr. Franklin then again restated Mr. Kraft's opinion that since Mr. Wagner had bought the lots under the old ordinance which did allow for duplexes in the rural zone, that even though the ordinance was amended in 1980, the old ordinance would apply to Mr. Wagner's situation.

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Minnesota State Statutes require that variances be granted under the following conditions:

1. In harmony with the ordinance intent and general purpose.
2. Consistent with the comprehensive plan.
3. Practical difficulties or particular hardship shown.

Hardships are defined as follows:

1. Property cannot be put to use or used under conditions allowed by the official controls.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
3. Will not alter the essential character of the locality.
4. Economic considerations alone shall not constitute a hardship if a reasonable use of the property exists under the terms of the ordinance.

Mr. Milbrath stated that in light of the facts presented at the two hearings, and the fact that Mr. Wagner would not be able to install the proper type sewer system if the setback requirement were met. He moved to grant the 20 foot variance from the 40 foot setback requirement. Mr. Stemson seconded the motion. A brief discussion then took place during which several residents still at the meeting stated several of their concerns. After this brief discussion, the motion passed unanimously.

There being no further business, the motion was made by Mr. Stemson to adjourn the meeting. The motion was seconded by Mr. Milbrath and passed unanimously. The meeting adjourned at 4:10 p.m.

Respectfully submitted,



David L. Olson, Secretary  
Mower County Board of Adjustment