

MOWER COUNTY

AUSTIN, MINNESOTA

55912



October 30, 1986

Minutes of the 89th Meeting of the Mower County Board of Adjustment

Members Present: Jen Ulwelling, Merrill Chesebrough, Kenneth Trom

Members Absent: William Milbrath

Others Present: Craig Eliason

The 89th meeting of the Mower County Board of Adjustment was called to order by Chairman Trom on Thursday, October 30, 1986 at 4:00 p.m. in Conference Room I in the Mower County Courthouse. The minutes of the September 25, 1986 meeting were approved as mailed on a motion by Mr. Chesebrough, seconded by Mrs. Ulwelling and passed unanimously.

Donald Richardson - Request for a 55 Foot Variance From the Required 200 Foot Shoreland Setback on the Cedar River: Mr. Eliason read the staff report. Mr. Richardson is requesting a 55 foot variance from the required 200 foot shoreland setback on the Cedar River. He is proposing to place a 40'x 65' storage shed on the property located at 2511 4th Drive SW (S 155 feet of N 527.2 feet in Outlot 2, Section 15, Austin Township) 1.2 acres. In order to meet the 200 foot shoreland setback the building would be too close to the road. The existing land use is Residential and the existing zoning is Rural. The surrounding land use and zoning is as follows:

North - Residential, Zoned Rural
South - Residential, Zoned Rural
East - Residential, Zoned Rural
West - Residential, Zoned Rural

Mr. Richardson was present to answer any questions the Board might have.

Mr. Chesebrough explained that upon visiting the site it was found that there is an existing building in the area Mr. Richardson is proposing to place his storage shed. There is an approximate 30 foot drop 10 feet behind the existing building. He stated that the area is completely floodproof and the floodplain is on the other side of the river. Mr. Eliason stated that the staff had gotten no comments from Mr. Richardson's neighbors and that Bill Huber of the DNR had talked to Julie Lewon, Assistant Planner, and questioned whether a smaller variance would work if the building site was decreased.

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After further discussion, the Board reviewed the conditions for granting the variance and it was determined as follows:

- 1) The variance is in harmony with the ordinance's general intent and purpose as the proposed area is very large with no close neighbors and far from the shoreline.
- 2) The variance is consistent with the comprehensive plan because the plan's intent is to prevent water damage to buildings and the proposed location of the building is such that it is unlikely the building would be flooded.
- 3) Practical difficulties are shown by the following:
Placing the proposed building closer to the road would leave an area of unusable land to the rear of it and place the building too close to the house.

Following further discussion, a motion was made by Mr. Chesebrough to approve the 55 foot variance from the required 200 foot shoreland setback on the Cedar River. The motion was seconded by Mrs. Ulwelling and passed unanimously.

Mr. Chesebrough informed Mr. Richardson that the variance would be recorded on the deed to the property and the variance goes with the property and not the owner.

Continued Hearing - Charles Mayzlik - 50 Foot Variance from the 90 Foot Required Setback on Trunk Highway 63 and a 20 Foot Variance from the 40 Foot Required Setback on Township Road 197: The request was tabled at the September 25th meeting so that the planning staff could look into who actually holds the deed to the property, Mr. Mayzlik or the railroad. It was explained that the property is actually two separate parcels, .54 acre in the SE 1/4 SW 1/4 North & East of RR and 1.01 acres of Old C&NW Railroad right-of-way across the S 3/4 E1/2 W1/2 and across the SW corner SW 1/4 SE 1/4.

The .54 acre parcel is owned outright by Mr. Mayzlik. The 1.01 acre parcel was owned by the State of Minnesota and sold on a Contract for Deed along with all other abandoned railroad right-of-way in the area to the Return Our Land Association. Mr. Mayzlik in turn bought the parcel from the Return Our Land Association. He has paid in full for the piece. He does not, however, hold the deed to the property. The State will not release a deed to any single piece of property until the Return Our Land Association has sold all the property. When a person does purchase a piece of property, they get a receipt from the Association stating that the property has been paid for.

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Mr. Eliason told the Board that the county attorney was unavailable for comment but Dave Hoversten, the City Attorney, was contacted and it was his opinion that Mr. Mayzlik had an "equitable interest" in the property and therefore, had the right to request the variance.

After some discussion, the Board reviewed the conditions required for granting the 50 foot variance from the 90 foot required setback on Trunk Highway 63 and it was determined as follows:

- 1) The variance is not in harmony with the ordinance's general intent and purpose as the variance would be an encroachment on Trunk Highway 63 and would obstruct the view of southbound traffic on Township Road 197 as it approaches Trunk Highway 63 if a building and/or shelter belt were permitted on the property. Mr. Chesebrough pointed out that a similar request was denied by the Board when Mr. Thomas Nessa requested a 77 foot variance from the required 90 foot setback on Trunk Highway 63 in October, 1984.
- 2) The variance is not consistent with the comprehensive plan for the same reasons outlined in number one.
- 3) Practical difficulties are shown by the following:
Because of its triangular shape the property would not be large enough to build a house on without the variance.

Following further discussion, a motion was made by Mr. Chesebrough, seconded by Mrs. Ulwelling to deny the 50 foot variance from the 90 foot required setback on Trunk Highway 63 because all of the conditions required for approving the variance were not found. The motion passed unanimously.

The Board reviewed the conditions required for granting the 20 foot variance from the 40 foot required setback on Township Road 197 and it was determined as follows:

- 1) The variance is not in harmony with the ordinance's general intent and purpose as the variance would establish a new setback line from Township Road 197.
- 2) The variance is not consistent with the comprehensive plan for the same reasons outlined in number one.
- 3) Practical difficulties are shown by the following:
Because of its triangular shape, the property would not be large enough to build a house on and the plight of Mr. Mayzlik is due to circumstances unique to the property that were not created by him.

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Following further discussion, a motion was made by Mrs. Ulwelling, seconded by Mr. Chesebrough to deny the 20 foot variance from the 40 foot required setback on Township Road 197 because all of the conditions required for approving the variance were not found. The motion passed unanimously.

Other Business:

Special Meeting: Mr. Eliason handed out the packets of a special meeting which will be held on November 6, 1986.

November Regular Meeting: Mr. Eliason informed the Board that the regular meeting would be held on November 20th due to the Thanksgiving holiday.

Workshops: Mr. Eliason handed out brochures to two workshops. The first was a workshop to be held in Owatonna on December 4th. The second was an Annual Planning Institute to be held at various locations throughout the state.

There being no further business, the meeting adjourned at 5:35 p.m. on a motion by Mrs. Ulwelling, seconded by Mr. Chesebrough and passed unanimously.

Respectfully submitted,

Craig Eliason

Craig Eliason
Secretary