

MOWER COUNTY

AUSTIN, MINNESOTA

55912



Minutes of the 129th Meeting of the Mower County Board of Adjustment

Members Present: Kenneth Trom, Don Olson, Bill Milbrath and Merrill Chesebrough.

Others Present: Gerald Kerrins, Gary Luebke and William Buckley.

The regular meeting of the Mower County Board of Adjustment was called to order by Chair Kenneth Trom on Wednesday, February 24, 1993, at 4:00 p.m. in the Conference Room of the Mower County Office Building, Austin, Minnesota.

Minutes of the December 23, 1992, meeting were approved as mailed on a motion by Merrill Chesebrough and seconded by Don Olson. The motion passed unanimously.

Variance # 251 - A variance to allow an unlocatable well to remain unsealed, Gerald Kerrins, East 1/2, Southwest 1/4, Section 25, Grand Meadow Township, Mower County, Minnesota. The staff report was read. Mr. Kerrins is requesting that an abandoned well on his property be allowed to remain unsealed. The petitioner, Mr. Gary Luebke, and others have made various attempts using heavy equipment, aerial photographs and residents from the area to try to locate the well. Mower County Code and Minnesota Rules require that a well which no longer is in use either be sealed or a maintenance permit be obtained. The variance is being requested since all practical efforts appear to be exhausted in attempts to locate the well. The variance would allow the well to remain unsealed until such time that it is located without a Well Maintenance Permit having to be obtained.

Board members stated that a site investigation had been conducted prior to the meeting. Mr. Chesebrough acknowledged that, at the present time, it is difficult to determine where the building site had been located on the property. Gary Luebke, an agent for Farmer's National Company acting as petitioner for the variance, described the efforts made by himself and others totaling 3 different attempts to locate the well by excavation as well as efforts by the MN Department of Health to locate the well by use of a metal detector.

It was then stated that a letter granting the variance had been received from the MN Department of Health. The ten (10) conditions listed for the granting of the variance stipulated by the MN Department of Health were then read for the record and are as follows:

1. The variance is valid only with written approval of Mower County. Approval must be given in accordance with the Mower County Water Well Ordinance (Article VII). All conditions from the granted state approval must be within the county's final variance decree.
2. The MDH recommends the property owner make efforts to protect the general area of the old building site, where the well is located, from agricultural spray chemicals.
3. The property owner is prohibited from conducting any activities that would further reduce the accessibility of the well for the purposes of permanent sealing.
4. The county may, at any time, order the well to be located and permanently sealed if the county determines that the well is an imminent threat to public health, or that such action is necessary to protect the groundwater of the state, or if the conditions of this variance have been violated.
5. At the time of sale of the property, and any subsequent transfer of the property, in addition to disclosure of the location and status of the well as required by Minnesota Statutes, section 103I.235, the following information must be disclosed to the buyer by the property owner: casing approximately 60 feet; well is improperly sealed; well is located in the E 1/2 of the SW 1/4 of section 25.
6. If the well is located at any time in the future, the property owner must permanently seal the well in full accordance with Minnesota statutes and rules. The well may become accessible through prevailing technology, or other means.
7. The property owner must have an executed copy of the variance agreement recorded with the county recorder of the county in which the property is located. The recording of this agreement must be completed within 15 days of execution of the agreement.
8. The property owner must provide the county with an executed copy of the agreement and proof that the agreement has been recorded. The copy of the executed agreement and proof of recording must be received by the county within 15 days of the recording of the agreement.
9. The agreement will become effective upon the acknowledged signing of the agreement by both the county and the property owner.
10. The agreement, when executed, will serve as the variance approval by the county.

It was also noted for the record that the legal description given on the MN Department of Health letter was in error and should read: The E 1/2 of the SW 1/4, Section 25. Staff also provided a more specific location for the former building site on the property as provided by the county assessor as: The E 450 feet of the W 1050 feet of the N 350 feet in the NE 1/4 of the SW 1/4, Section 25, Grand Meadow Township.

Chairman Trom read through the three (3) conditions required under statute for the granting of a variance with the following conclusions made:

1. The variance is in harmony with the spirit and intent of the ordinance.
2. The variance is consistent with the comprehensive plan.
3. A hardship has been shown because of the difficulty in locating the well as demonstrated by the efforts which have been made by the petitioner and owner.

As a result of these findings, the motion was made by Don Olson to approve the variance with the ten (10) conditions listed by the MN Department of Health. The motion was seconded by Bill Milbrath. The motion passed unanimously.

There was then discussion regarding a letter which had been written to Jack Horstman by Daryl Franklin. A motion was made by Bill Milbrath to approve the letter as written. The motion was seconded by Don Olson and passed unanimously.

There being no further business, the meeting adjourned at 4:55 p.m. on a motion by Don Olson, seconded by Bill Milbrath. The motion passed unanimously.