



MOWER COUNTY

AUSTIN, MINNESOTA

55912

Minutes of the Mower County Board of Adjustment

Members Present: Bill Millbrath, Don Olson, Joan Roe, Kenneth Trom.

Members Absent: None.

Others Present: Bill Buckley, Rick & Cheri Schewe, Rory Durhman, Daryl W. Franklin.

The special meeting of the Mower County Board of Adjustment was called to order by Chair Ken Trom on Wednesday, February 16, 1994, at 3:15 p.m. in the Conference Room of the Mower County Office Building, 1105-1/2 NE 8th Avenue, Austin, Minnesota.

Minutes of the November 24, 1993, meeting were approved as mailed on a motion by Bill Millbrath, seconded by Don Olson. The motion passed unanimously.

Variance #261 - Rory Durhman - Variance to allow a well that is inaccessible to remain unsealed, from Section 6-82 and 6-84 of the County Code. The property is located at SW1/4, Section 2, Grand Meadow Township, Mower County, Minnesota. Reference was made to the on-site visit of the Board of Adjustment member to the site. Bill Buckley provided background information. The Minnesota Department of Health letter of approval was read to the Board. Ken Trom called for a review of the variance requirements.

- 1.) That the variance is in harmony with the spirit and intent of the Ordinance? The variance was determined to be in the spirit and intent of the ordinance, the well is not a threat to cause contamination.
- 2.) The variance is consistent with the Comprehensive Plan? Yes, because an appropriate attempt had been made to cap and seal this well.
- 3.) Are practical difficulties or particular hardships shown? Yes, because a building is constructed over the well and it is not practical to remove the building to seal the well.

As a result of these findings, a motion was made by Don Olson, seconded by Joan Roe, to approve the variance with the following ten conditions listed in the Minnesota Department of Health letter:

1. The variance is valid only with the 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 included within the County's final variance decree.

2. The fee owner must protect the well from contamination in accordance with the provisions of Minnesota Rules, Chapter 4725.
3. The fee 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 permanently sealed, regardless of accessibility, 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 fee owner: the well is located beneath the northwest corner of a 36 foot by 42 foot insulated machine shop/shed with a concrete floor. The northwest corner of this building is approximately 250 feet east of the edge of the township road surface and 75 feet south of the home. The well is located 4 feet south of the north wall and 15 feet east of the west wall of the building. The well head is located in a pit approximately 6 feet below-grade and the casing is likely 4 inches in diameter with a total well depth of approximately 80 feet. In 1979, the well was attempted to be sealed by the former owner by pushing paper feed sacks approximately 25 to 30 feet down the well casing and pouring cement in the casing, filling the well casing to the pit floor. The pit was then filled with native material and the building constructed over the well pit.
6. If the well becomes accessible at any time in the future, the fee owner must permanently seal the well in full accordance with Minnesota Statutes and Rules. The well may become accessible through prevailing technology, structural access, or other means.
7. The fee 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 shall be completed within 15 days of execution of the agreement.
8. The fee 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 the recording must be received by the County within 15 days of the recording of the agreement.
9. The agreement shall become effective upon the acknowledged signing of the agreement by both the County and the fee owner.
10. The agreement, when executed shall serve as the variance approval by the County.

Motion passed unanimously.

Variance #260 - Rick & Cheri Schewe - Additional non-farm per quarter-quarter in section 27 of Austin Township. Reference was made to the on-site visit by the Board of Adjustment. The property currently contains two dwelling units. One of these units was severely damaged in the August, 1993, flood. The property owner now wants to build a new house on the higher ground and tear down the one that was flooded in 1993. The staff report was read. The Schewes explained what they were proposing to do with the site. Ken Trom reviewed the conditions for granting a variance.

- 1.) That the variance is in harmony with the spirit and intent of the Ordinance? The property owner will not be adding an additional non-farm dwelling just replacing a building.
- 2.) The variance is consistent with the Comprehensive Plan? Agricultural land will not be taken out of production.
- 3.) Are practical difficulties or particular hardships shown? Yes, because the existing house is in the floodplain and has been damaged by flooding. The new house will be outside the floodplain (a survey has been prepared by a registered surveyor).

After some discussion, a motion was made based on the above findings by Bill Millbrath, seconded by Don Olson, to approve the variance with the following conditions:

1. The existing home shown on the "Topography and Site Sketch" prepared by Jones, Haugh & Smith, (1993) must be removed within one year from moving into the new housing unit but no later than July 1, 1996.
2. The property owners must submit to the Mower County Planning Department one year from when they move into the home but no later than July 1, 1996, an as-built site survey by a registered land surveyor showing the new home is outside the 100-year floodplain.
3. A new on-site septic system be installed for the new home that is in accordance with the Mower County Shoreland Management Ordinance, Mower County Floodplain Ordinance, and On-Site Sewage Disposal Ordinance.
4. The parcel can not be subdivided into two or more parcels.

Motion passed unanimously.

There being no further business, the meeting adjourned at 3:55 p.m. on a motion by Don Olson, seconded by Bill Millbrath. The motion passed unanimously.

Respectfully submitted:



Daryl W. Franklin