

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment

Members Present: Gary Braaten, Mary Kenyon, Don Olson, Joan Roe

Members Absent: none

Others Present: Citizens, Daryl W. Franklin.

The regular meeting of the Mower County Board of Adjustment was called to order by Chair Don Olson on Wednesday, June 25, 1997, at 3:30 p.m. at the Austin Public Library, 323 4th Avenue NE, Avenue, Austin, Minnesota. Minutes of the May 28, 1997, meeting were approved as mailed on a motion by Gary Braaten, seconded by Mary Kenyon. The motion passed unanimously.

Variance #338 - Holden Farms- Variance from Section 11-3 of the Mower County Individual Sewage Treatment Ordinance for an alternative sewage treatment system in Section 16 of Dexter Township. It was stated that a letter had been received from George Kaspel of Holden Farms withdrawing their request for a variance. They are going to be installing a standard sewage treatment system for the office. A motion was made by Mary Kenyon, seconded by Joan Roe, to accept the letter withdrawing the petition. The motion passed unanimously.

Variance #340 - Ken Legler- Variance from Section 14-50h(1) of the Mower County Zoning Ordinance to allow for the split of the existing farm site as a non-farm dwelling from a 7-acre parcel in Section 17 of Red Rock Township. Reference was made to the site visit by the Board of Adjustment at 12:35 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented. No feedlot is present within 1,000 feet of the location. Carlton Thompson, Lansing Township Representative, was opposed to the granting of the variance because of the one non-farm per 160-acres. After some discussion, a motion was made by Joan Roe, seconded by Gary Braaten, to approve Variance #340 because (1) the variance is in harmony with the spirit and intent of the ordinance because an additional building site is not being created, (2) the variance is consistent with the Comprehensive Plan because the economic viability of Mower County is being maintained, (3) there are practical difficulties and particular hardships shown because the building site is not needed for the agricultural use of the land for farming. The variance was approved with the following conditions:

1. Property can not be further subdivided in the future without another variance issued by Mower County.

2. An evaluation be conducted by a licensed Designer I or Inspector, on any sewage treatment system serving the property. If the sewer system is found to be failing as defined in the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards as a condition of the variance within one (1) year of approval of the variance. Inspection form must be forwarded to the Mower County Planning Department upon completion of evaluation.
3. No additional residential building on remaining parcel.

The motion passed unanimously.

Variance #341 - Marlene Halverson- Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for the split of the exiting farm site for an additional non-farm dwelling from a parcel in Section 19 of Lyle Township. Reference was made to the site visit by the Board of Adjustment at 2:20 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented - there is one feedlot present within 1,000 feet of the location. The feedlot is owned by relatives of the future owner. After some discussion, a motion was made by Gary Braaten, seconded by Joan Roe, to approve Variance #341 because (1) the variance is in harmony with the spirit and intent of the ordinance because no additional building site is being created, (2) the variance is consistent with the Comprehensive Plan because the economic viability of Mower County is being maintained, (3) there are practical difficulties and particular hardships shown because it isn't reasonable to require the new property owner to purchase the entire farm. The variance was approved with the following conditions:

1. Property can not be further subdivided in the future without another variance issued by Mower County.
2. An evaluation be conducted by a licensed Designer I or Inspector, on any sewage treatment system serving the property. If the sewer system is found to be failing as defined in the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards as a condition of the variance within one (1) year of approval of the variance. Inspection form must be forwarded to the Mower County Planning Department upon completion of evaluation.
3. No additional residential building on remaining parcel.

The motion passed unanimously.

Variance #342 - Thomas Soltau- Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for the split of the existing farm site for an additional non-farm dwelling in Section 22 of LeRoy Township. Reference was made to the site visit by the Board of Adjustment at 1:15 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented - there is one feedlot present within 1,000 feet of the location. After some discussion, a motion was made by Mary Kenyon, seconded by Joan Roe, to approve Variance #342 because (1) the variance is in harmony

with the spirit and intent of the ordinance because no additional building site is being created, (2) the variance is consistent with the Comprehensive Plan because the economic viability of Mower County is being maintained, (3) there are practical difficulties and particular hardships shown because it isn't reasonable to require the new property owner to purchase the entire farm. The variance was approved with the following conditions:

1. Property can not be further subdivided in the future without another variance issued by Mower County.
2. An evaluation be conducted by a licensed Designer I or Inspector, on any sewage treatment system serving the property. If the sewer system is found to be failing as defined in the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards as a condition of the variance within one (1) year of approval of the variance. Inspection form must be forwarded to the Mower County Planning Department upon completion of evaluation.
3. No additional residential building on remaining parcel.

The motion passed unanimously.

At this point, Chair Olson stated that they would deviate from the agenda to handle the farm splits.

Variance #344 - Paula Engen Estate- Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for the split of the existing farm site for an additional non-farm dwelling in Section 21 of Lansing Township. Reference was made to the site visit by the Board of Adjustment at 12:10 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented. After some discussion, a motion was made by Gary Braaten, seconded by Mary Kenyon, to approve Variance #342 because (1) the variance is in harmony with the spirit and intent of the ordinance because no additional building site is being created, (2) the variance is consistent with the Comprehensive Plan because the economic viability of Mower County is being maintained, (3) there are practical difficulties and particular hardships shown because it isn't reasonable to require the new property owner to purchase the entire farm. The variance was approved with the following conditions:

1. Property can not be further subdivided in the future without another variance issued by Mower County.
2. An evaluation be conducted by a licensed Designer I or Inspector, on any sewage treatment system serving the property. If the sewer system is found to be failing as defined in the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards as a condition of the variance within one (1) year of approval of the variance. Inspection form must be forwarded to the Mower County Planning Department upon completion of evaluation.
3. No additional residential building on remaining parcel.

The motion passed unanimously.

Variance #343 - Austin RV & Mini-Storage - Variance from Section 14-52b2 of the Mower County Zoning Ordinance from the rear yard setback requirement of 20 feet in Section 13 of Austin Township. Reference was made to the site visit by the Board of Adjustment at 2:45 p.m. on this date. Staff report was presented. Mr. Duane McFarland reported on his proposal and the fact that the variance is need to make the optimal use of his property. Mr. Roger Schwartz, neighboring property owner, stated that he objected to the variance because the building would shade his property stunting crop growth. After some discussion, a motion was made by Joan Roe, seconded by Gary Braaten, to approve Variance #343 because (1) the variance is in harmony with the spirit and intent of the ordinance because a lesser rear yard setback is not being created because the building will be aligned with an existing building that had been granted a waiver of rear lot line by the property owner previously; (2) the variance is consistent with the Comprehensive Plan because not granting the variance would necessitate purchasing land from the adjoining property owner and taking agricultural land out of production; (3) there are practical difficulties and particular hardships shown because the overall operation and safety of the storage units would be compromised by having the buildings closer together. The motion passed unanimously.

Variance #345 - Richard Miller/Morrison Well Co. - Variance from Section 6-82 of the Mower County Well Code to allow the petitioner to drill a cased and grouted Galena limestone well. Staff report was presented. A letter of approval from the Minnesota Department of Health was discussed. After some discussion, a motion was made by Mary Kenyon, seconded by Gary Braaten, to approve the variance because (1) the variance is in harmony with the spirit and intent of the ordinance because by following the standards of the State Health Department it will insure an adequate and safe supply of water, (2) the variance is consistent with the Comprehensive Plan for the reasons stated above; (3) there are practical difficulties and particular hardships shown because going to the St. Peter Sandstone would not insure any better quality or quantity of water. The variance was approved with the following 11 conditions of the Minnesota Department of Health and two conditions added that the well must be conformance with the Mower County nitrate standard and the old well sealed:

1. The variance is valid only with the written approval of Mower County (County). Approval must be given prior to construction and in accordance with the Mower County Water Well Ordinance (Article VII). All conditions from the granted state approval shall be included within the final variance decree of Mower County.
2. The Galena formation at the well location must be overlain by the Spillville, Maquoketa, and Dubuque formations.
3. The static water level in the completed well must be no lower than the elevation of the top of the Maquoketa formation.
4. The well must be cased and grouted to a minimum depth of 530 feet and at least 20 feet below the static water level in the well. If the gamma-log and

- geological cutting samples, analyzed by the Minnesota Geological Survey (MGS), indicate that the top of the Galena formation is at a shallower depth than the required minimum depth given in this condition, the well can be cased and grouted to a depth not less than 10 feet into the Galena formation.
5. The well must be constructed in a bore hole which is at least 3.25 inches larger than the outer diameter of the casing. If couplings are used, the bore hole must be at least 3.25 inches larger than the outer diameter of the couplings. The annular space around the casing must be filled with neat cement grout in the rock portion of the well.
 6. The well must be test pumped and the well water sampled prior to grouting. The water sample taken from the well must meet water quality standards for coliform bacteria (less than 1.0 organism/100 milliliter [ml] MF method or less than 2.2 organisms/100 ml MPN method) and nitrate nitrogen (less than 10.0 milligrams/liter [mg/l]). If the water quality in the Galena formation is unsatisfactory, the well must be cased and grouted into an underlying safe aquifer or be sealed in accordance with Minnesota Rules, Chapter 4725.
 7. Water from this well will be tested by the Minnesota Department of Health (MDH), upon completion of the well, for nitrate nitrogen. This sample is in addition to the sample that must be taken upon completion of the well, by the person constructing the well. The MDH may sample the well for nitrate nitrogen at future dates.
 8. Representative samples of drill cuttings must be collected for each 5-foot drilled interval. These samples must be collected in bags which will be sent to the well contractor under separate cover. The MGS will pick up the bagged drill cuttings.
 9. The MGS must be contacted at 612/627-4788 after the bore hole is drilled so that a gamma-log of the well may be obtained. The gamma log and cuttings will be used to determine the depth to the Galena limestone.
 10. Mr. Chris De Mattos or Mr. Peter Zimmerman at the MDH (507/285-7289) and the County (507/437-9527) must be notified at least 24 hours prior to the construction of the well.
 11. The well must be constructed in accordance with all other provisions of Minnesota Rules, Chapter 4725.

Two additional conditions were stated by the Board of Adjustment:

12. The nitrate-nitrogen concentration of the finished well shall be less than 5 mg/l as required by Mower County Ordinance.
13. The existing well is to be sealed according to Minnesota Rules, Chapter 4725 and Mower County Code.

The motion passed unanimously.

Section 14-50h of the Mower County Zoning Ordinance. After some discussion the Board of Adjustment decided to make a recommendation to the County Board to appoint a committee to evaluate Section 14-50h of the Zoning Ordinance to make the Ordinance more "user friendly".

Emergency Well Variance. A discussion regarding a well variance request from Troy & Jill Stewart and Thein Well Company was held. Mr. & Mrs. Stewart have made application for a variance but due to the fact that their current well is contaminated they would like to drill before the July meeting. After some discussion a motion was made by Gary Braaten, seconded by Joan Roe, to grant the emergency well variance to begin drilling before the July meeting with the following 2 conditions:

1. The nitrate-nitrogen concentration of the finished well shall be less than 5 mg/l as required by Mower County Ordinance.
2. The existing well is to be sealed according to Minnesota Rules, Chapter 4725 and Mower County Code.

Motion passed unanimously.

Other Business:

There being no further business, the meeting adjourned at 4:16 p.m. on a motion by Joan Roe, seconded by Mary Kenyon. The motion passed unanimously.

Respectfully submitted:



Daryl W. Franklin