

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment

Members Present: Don Olson, Joan Roe

Members Absent: Gary Braaten, Mary Kenyon

Others Present: Citizens, Daryl W. Franklin, William C. Buckley.

The regular meeting of the Mower County Board of Adjustment was called to order by Chair Don Olson on Wednesday, July 27, 1997, at 3:00 p.m. at the Austin Public Library, 323 4th Avenue NE, Avenue, Austin, Minnesota. Minutes of the June 25, 1997, meeting were approved as mailed on a motion by Joan Roe, seconded by Don Olson. The motion passed unanimously.

Variance #346 - Marlo & Dawn Postier Variance from Section 14-50h(1) of the Mower County Zoning Ordinance to allow for an additional non-farm dwelling site in Section 1 of Racine Township. Reference was made to the site visit by the Board of Adjustment at 2:15 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented. One feedlot is present within 1,000 feet of the location. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, to approve Variance #346 because (1) the variance is in harmony with the spirit and intent of the ordinance because an prime agricultural land is not being taken out of production, (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 #348 - Everett & Verla Haney- Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for the split of the existing farm site as a non-farm dwelling from a parcel in Section 31 of Lansing Township. Reference was made to the site visit by the Board of Adjustment at 12:45 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 and Ralph Noble, Lansing Township Representatives, expressed concerns about the selling off of the building site and the conflict with the agricultural land use in the area. George Moline, Realtor for the Haney's, stated that they had a new septic system and a good well on the site. He also explained that how the Haney's wanted the land split for sale. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, to approve Variance #348 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 and it is unreasonable to require a 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. No additional residential building on remaining parcel and no residential building on parcel north of township road in Lansing Township, Section 30.

The motion passed unanimously.

Variance #349 - William & Connie Hardwick- Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for the placement of an additional mobile home on their property for the use of their parents in Section 10 of Austin Township. Reference was made to the site visit by the Board of Adjustment at 11:45 a.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented - there are no feedlots present within 1,000 feet of the location. It was stated that there had been two mobile homes on this property in the past and that both septic systems have had a compliance inspection completed. The compliance inspection states that both systems are in compliance and is dated June 9, 1997. After some discussion, a motion was made by Joan Roe, seconded by Don Olson to approve Variance #349 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 the parents need the assistance of their children to continue to live independently. The variance was approved with the following conditions:

1. Mobile home be removed when the parents no longer use it.
2. Apply for a zoning permit for the mobile home at the Mower County Planning Office.

The motion passed unanimously.

Variance #350 - Roger Schramm 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 24 & 25 of Udolpho Township. Reference was made to the site visit by the Board of Adjustment at 1:25 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented - there are no feedlots present within 1,000 feet of the location, however, the site being split is an active feedlot. The house is located in Section 24 and the farm buildings are located in Section 25. A neighbor, Gladys Christians, did not have any problems with the granting of the variance. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, to approve Variance #350 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 and the purchaser is keeping the feedlot. 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 #351 - Kay Halverson Variance from Section 14-62a of the Mower County Zoning Ordinance to allow for the split of the existing dwelling from a parcel in the Urban/Rural Expansion District described as Lot 5, Block 9, Austin Homesteads, Austin 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. Petitioner would like to split the home off and sell the remaining lot as another building site. Jerry Keenan explained their proposal. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, to approve Variance #351 because (1) the variance is in harmony with the spirit and intent of the ordinance because this is an area in orderly annexation to the city of Austin, (2) the variance is consistent with the Comprehensive Plan because the municipal sewer and water will be provided to both lots when the orderly annexation is completed, (3) there are practical difficulties and particular hardships shown because it isn't reasonable for a person to buy the entire property into the city of Austin at once. 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 two (2) years of approval of the variance. Inspection form must be forwarded to the Mower County Planning Department upon completion of evaluation. OR The property be annexed into the city of Austin and install city services.
3. No additional residential building on remaining parcel.

The motion passed unanimously.

Variance #353 - Mike Littrell Variance from Section 14-50h of the Mower County Zoning Ordinance to allow for an additional non-farm dwelling site to be located less than 1,000 feet from an existing feedlot in Section 34 of Sargeant Township. Reference was made to the site visit by the Board of Adjustment at 2:00 p.m. on this date. Staff report was presented. Report from the Mower County Feedlot Officer was presented. One feedlot is present within 1,000 feet of the location. The site that Mr. Littrell wants to build a house on is currently and old farm site. Brad Schmidt questioned that if his current house burned down, could he re-build it? Mr. Franklin stated that it would have to be in conformance with the Mower County Zoning Ordinance. Mr. Schmidt questioned the need for a variance. This variance is for building a dwelling within 1,000 feet of feedlot. A questioned was raised on the definition of a "dwelling". The Board of Adjustment stated that staff would further investigate this application to determine if a variance was needed and if it was not needed a refund would be given. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, to approve Variance #353 because (1) the variance is in harmony with the spirit and intent of the ordinance because an prime agricultural land is not being taken out of production, (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 #345 - Troy & Jill Stewart/Thein 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. Bill Buckley explained that this was an emergency well due to the old well being contaminated and that drilling has already begun under the emergency variance procedure. Joan Bustad, neighboring property owner, expressed concern about the location of the Stewarts' new septic system and well. Ms. Bustad requested the Minnesota Department of Health (MDH) address to appeal the decision. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, 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 260 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.

Variance #352 - Bruce Henricks/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. Bill Buckley explained that this was an emergency well due to the old well collapsing and that drilling has already begun under the emergency variance procedure. After some discussion, a motion was made by Joan Roe, seconded by Don Olson, 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 255 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.

Other Business:

There being no further business, the meeting adjourned at 4:10 p.m. on a motion by Joan Roe, seconded by Don Olson. The motion passed unanimously.

Respectfully submitted:



Daryl W. Franklin

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: Daryl W. Franklin.

The regular meeting of the Mower County Board of Adjustment was called to order by Chair Don Olson on Wednesday, August 27, 1997, at 2:00 p.m. at the Mower County Offices, 1105-1/2 NE 8th Avenue, Austin, Minnesota. Minutes of the July 30, 1997, meeting were approved as mailed on a motion by Gary Braaten, seconded by Mary Kenyon. The motion passed unanimously.

Variance #354 - David Goodsell- 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 80-acre parcel in Section 23 of Frankford Township. Reference was made to the site visit by the Board of Adjustment at 1:30 p.m. on this date. Staff report was presented. After some discussion, a motion was made by Mary Kenyon, seconded by Gary Braaten, to approve Variance #354 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.

Other Business:

Zoning Amendments: Daryl Franklin informed the Board of Adjustment that Section 14-50(b & h) of the Mower County Zoning Ordinance was reviewed by the Ordinance Committee and that a recommendation is being forwarded to the Mower County Planning Commission. Mr. Franklin also stated that an amendment to the Mower County Well Code has been forwarded to the Board of Commissioners. This amendment, if approved by the Board of Commissioners, will allow for well variances to be approved by the State only and not require a county variance.

There being no further business, the meeting adjourned at 2:40 p.m. on a motion by Gary Braaten, seconded by Mary Kenyon. The motion passed unanimously.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Daryl W. Franklin".

Daryl W. Franklin