

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment

Members Present: Gary Braaten, Don Olson, Joan Roe.

Alternate Present: none.

Members Absent: Mary Kenyon.

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, August 26, 1998, at 4:00 p.m. at the Mower County Offices, 1105-1/2 NE 8th Avenue, Austin, Minnesota. Minutes of the July 29, 1998, meeting were approved as mailed on a motion by Joan Roe, seconded by Gary Braaten. The motion passed unanimously.

Variance #377 - Dan Shaw/James Irvine. Variance from Section 14-50(h1 & 4) of the Mower County Zoning Ordinance for an additional dwelling per quarter section in Section 9 of Dexter Township. Reference was made to the site visit by the Board of Adjustment at 2:30 p.m. on August 26, 1998. Staff report was presented. Feedlot report was presented. It was noted that there are no feedlots within 1,000 feet of the site. To approve a variance, the Board of Adjustment must find:

- 1.) That the variance is in harmony with the spirit and intent of the Ordinance?
- 2.) The variance is consistent with the Comprehensive Plan?
- 3.) Are practical difficulties or particular hardships shown?

Hardships are defined as follows:

- a.) The property can not be put to a reasonable use if used under the conditions allowed by official controls;
- b.) the plight of the landowner is due to circumstances unique to the property that were not created by the landowner;
- c.) the variance will not alter the essential character of the neighborhood;
- d.) economic considerations alone shall not constitute a hardship if a reasonable use of the property exists under the terms of the Ordinance.

The Board of Adjustment discussed the site with Mr. Dan Shaw. Mr. Shaw explained that there was two grain bins at the site that were destroyed by a storm and that the site has electricity. It was also explained that Mr. Irvine owns only this three acre parcel and the land surrounding it is owned by someone else. Mr. Shaw stated that a portion of the parcel is covered with crushed rock and concrete from being used as a grain bin site. After

consideration of all oral and written testimony, a motion was made by Joan Roe, seconded by Gary Braaten, to approve Variance #377 because (1) the variance is in harmony with the spirit and intent of the Ordinance because agricultural land is not being taken out of production, the parcel is an "island", and for practical purposes was taken out of agriculture production years ago; (2) the variance is consistent with the Comprehensive Plan agricultural land is not being taken out of production; (3) practical difficulties or particular hardships shown since it was a bin site, it is an "island" surrounded by agricultural land, it would be next to impossible to re-farm the land. The motion was approved with the following conditions:

1. A zoning permit and ISTS permit, be issued for the new dwelling by December 31, 2000, or the variance is void.
2. Property can not be further subdivided in the future without another variance issued by Mower County.

The motion passed unanimously.

Variance #378 - Jack Fox/Gene Dornink - Variance from Section 14-50(h1 & 4) of the Mower County Zoning Ordinance for an additional dwelling per quarter section in Section 12 of Frankford Township. Reference was made to the site visit by the Board of Adjustment at 3:15 p.m. on August 26, 1998. Staff report was presented. Feedlot report was presented. It was noted that there are no feedlots within 1,000 feet of the site. To approve a variance, the Board of Adjustment must find:

- 1.) That the variance is in harmony with the spirit and intent of the Ordinance?
- 2.) The variance is consistent with the Comprehensive Plan?
- 3.) Are practical difficulties or particular hardships shown?
Hardships are defined as follows:
 - a.) The property can not be put to a reasonable use if used under the conditions allowed by official controls;
 - b.) the plight of the landowner is due to circumstances unique to the property that were not created by the landowner;
 - c.) the variance will not alter the essential character of the neighborhood;
 - d.) economic considerations alone shall not constitute a hardship if a reasonable use of the property exists under the terms of the Ordinance.

The Board of Adjustment discussed the layout of the property. Mr. Fox and Mr. Dornink explained that access to the site will be from the old railroad right-of-way to a pasture land that had not been farmed because of the presence of lime rock near the surface. The site has approximately six acres of railroad and nine acres of pasture land. Mr. Fox and Mr. Dornink explained the proposed location of the house on the parcel. After consideration of all oral and written testimony, a motion was made by Joan Roe, seconded by Gary Braaten to approve Variance 378 because (1) the variance is in harmony with the spirit and intent of the Ordinance because agricultural land is not being taken out of production and access will be by an existing old railroad right-of-way; (2) the variance is consistent with the Comprehensive Plan agricultural land is not being taken out of production and the Board did not feel that pasture land is considered agricultural land; (3) practical difficulties or

particular hardships shown because of the railroad on the property it not practical to use it for agricultural production. The motion was approved with the following conditions:

1. A zoning permit and ISTS permit, be issued for the new dwelling by December 31, 2003, or the variance is void.
2. Property can not be further subdivided in the future without another variance issued by Mower County.
3. An evaluation be conducted by a licensed Designer 1 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. Compliance Inspection form must be forwarded to the Mower County Planning Department upon completion of the evaluation.
4. The house must be placed in the pasture area and may not be placed elsewhere on the property.

The motion passed unanimously.

Other Business:

There being no further business, the meeting adjourned at 4:25 p.m. on a motion by Gary Braaten, seconded by Joan Roe. The motion passed unanimously.

Respectfully submitted:



Daryl W. Franklin
Mower Co. Planning Director