

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment

Members Present: Joan Roe, Harold Boverhuis
Members arrived
at 3:00p.m.: Gary Braaten

Alternate Present: None

Members Absent: Mary Kenyon

Others Present: Glen Jacobsen, Daryl Franklin, Bill Buckley

The regular meeting of the Mower County Board of Adjustment was called to order by Chair, Gary Braaten on Wednesday, May 26, 1999, at 3:00 p.m. at the Mower County Courthouse, Courtroom #3, 201 1st Ave NE, Austin, Minnesota.

Minutes of the March 31, 1999 meeting were approved as mailed on a motion by Harold Boverhuis, seconded by Joan Roe. The motion passed unanimously.

Variance #392 – Amelia Forcelle & Anjanette Wells - Variance from Section 14-57(b) 1a&b of the Mower County Zoning Ordinance for a front yard variance for a mobile home and accessory building; and from Sections 11-3 Subd. (2) of the ISTS Ordinance to construct a sewage treatment system closer than 10' from the property line, PIN#08-039-0130 Section 10 of Lansing Township. Reference was made to the site visit by the Board of Adjustment at 2:30 p.m. on May 26, 1999. Information was presented that there was a previous mobile home on this site. Rebecca Windabow spoke in favor of the variance as a spokesperson for Amelia Forcelle. Dennis Wehrhan, a property owner in Block 6, stated that he was against granting the variance because it was setting a bad precedent. If it was approved you would be telling people you don't have to follow the rules and regulations. Sharon Cordes, east property, was against the variance because it was a bad precedent and the new trailer was larger than the previous one. Rebecca Peterson, property owner to the south, against the variance for the sewer system to be less than 10' from the property concerned that it may contaminate her water system. Doug Thompson, Clerk of Lansing Township, spoke that the Town Board was against it. Harold Boverhuis, Lansing Township Supervisor and Board of Adjustment member, said that the township was against the variance because the people did not get the necessary permits. Amelia Forcelle explained that the first letter was sent to a PO Box in Lansing before they had moved in therefore, she did not get the notice. Harold

Boverhuis asked Mr. Jacobsen if the court action against the Forcelle's should have bearing on this action. Mr. Jacobsen stated that it should not be a factor.

Harold Boverhuis stated that he may abstain from the voting since the town board had taken a position on the variance. After some discussion, Harold Boverhuis decided to vote on the issues because the variance was dealing with the land use issue. Harold felt that the trailer is a conforming and compatible with the existing land use, and it is not creating any greater setback to the area. After some discussion, A motion was made by Harold Boverhuis, seconded by Joan Roe, to approve the variance because:

- 1.) The variance is in harmony with the spirit and intent of the Ordinance because the new sewer system and well will be installed according to the County standards. Also the variance will not be creating greater setbacks than the ones that are currently in the area.
- 2.) The variance is consistent with the Comprehensive Plan because the viability of the County is being maintained.
- 3.) Practical difficulty existed since the lots were 88x100.

The motion passed unanimously with the following conditions:

1. The Zoning Permit and ISTS plans must be applied and submitted for approval by July 15, 1999;
2. The new ISTS must be installed by November 1, 1999;
3. No future subdivision of the parcel without applying for and receiving a variance, or the variance is void.

Variance #393 - Donald Hamilton - Variance from Section 14-50(h) 1&2 of the Mower County Zoning Ordinance for additional dwelling per quarter section and more than two dwellings per mile side of road and existing feedlot (based on the letter from the feedlot officer), Section 9, Redrock Township. Reference was made to the site visit by the Board of Adjustment at 2:10 p.m. on May 26, 1999. Staff Report was presented. Letter from MacVey, property owners across the road voicing their opposition to the variance was present. Gary Woodfill also spoke against it, they don't need more people in the area. Ronald Ross was concerned that the new home may de-water their well. Francis Guiney, Clerk of RedRock Township, stated that the town board hadn't taken a formal position.

After some discussion, A motion was made by Harold Boverhuis, seconded by Joan Roe, to approve the variance:

- 1.) The variance is in harmony with the spirit and intent of the Ordinance because prime Ag land is not taken out of production and this site is adjacent to other residential lots.
- 2.) The variance is consistent with the Comprehensive Plan because there is discussion taking place between property owners and the City of Brownsdale to annex the city. The proposed residential usage will conform with existing usage.

- 3.) The hardship is shown therefore, building on the parcel is reasonable.
 - a.) The property can not be put to a reasonable use if used under the conditions allowed by official controls; to farm the property the area would need to be cleaned of all trees.
 - b.) the plight of the landowner is due to circumstances unique to the property that were not created by the landowner; the property is limited by the growth on both sides.
 - c.) the variance will not alter the essential character of the neighborhood since other residents are adjacent to the location.

The motion passed unanimously with the following conditions:

1. The Zoning Permit and ISTS permit must be issued by December 31, 2004, or the variance is void;
2. No future subdivision of the parcel without applying for and receiving a variance.

Variance #394 – Kevin & Carie Hanson - Variance from Section 14-50(h) 1 of the Mower County Zoning Ordinance for a dwelling within 500' of an existing feedlot, PIN#12-023 0060 in Section 23 of Marshall Township. Reference was made to the site visit by the Board of Adjustment at 1:25 p.m. on May 26, 1999. Staff report was presented. Feedlot report was presented. It was noted that there is a feedlot within 1,000 feet of the site.

The Board of Adjustment discussed that it had been a previous farm site. Mr. Hanson explained that they will be associated with his fathers farming operation across the road. After some discussion, a motion was made by Joan Roe seconded by Harold Boverhuis to approve the variance because:

- 1.) The variance is in harmony with the spirit and intent of the Ordinance and Ag Land because it is not being taken out of production.
- 2.) The variance is consistent with the Comprehensive Plan because it allows a person who is associated with the feedlot operation to live close to it; it isn't taking any land out of production and it is maintaining the economic viability of the area.
- 3.) It is not reasonable to use the property as required by the ordinance which would require that Ag land be taken out production. This situation wasn't created by the land owner and it is due to circumstances unique to the area, and the variance will not alter the essential character of the neighborhood.

The motion passed unanimously with the following conditions:

1. The Zoning Permit and ISTS permit must be issued by December 31, 2004, or the variance is void;
2. No future subdivision of the parcel without applying for and receiving a variance.

Variance #395 – Terrill Gardner - Variance from Section 14-74 b (1a) of the Mower County Zoning Ordinance for a variance to build a metal shed 10' from the Right of Way,

Section 23, Lansing Township. Reference was made to the site visit by the Board of Adjustment at 2:50 p.m. on May 26, 1999. Staff Report was presented. Mr. Gardner explained that he wanted to put a building in front the existing building which would be approx. 10' from the ROW. The ROW had previously been 66' and had been widen to 110'. After some discussion, a motion was made by Harold Boverhuis, seconded by Joan Roe, to approve the variance because:

- 1.) The variance is in harmony with the spirit and intent of the Ordinance property sits as directly adjacent as to the city of Austin and the 110' ROW is of sufficient width so granting the variance will not create a maintenance or safety problem.
- 2.) The variance is consistent with the Comprehensive Plan because the property is zoned B-2.
- 3.) The hardship is established because if its property was annexed to the City of Austin a 10' setback could be legal

The variance passed 2 to 1. Those voting in favor Joan Roe, Harold Boverhuis. Opposed Gary Braaten. The following conditions:

1. The Zoning Permit and ISTS permit must be issued by December 31, 2004, or the variance is void;
2. No future subdivision of the parcel without applying for and receiving a variance.

There being no further business, the meeting adjourned at 4:40 p.m. on a motion by Joan Roe, seconded by Harold Boverhuis. The motion passed unanimously.

Respectfully submitted,
Daryl W. Franklin

