

## **MOWER COUNTY BOARD OF ADJUSTMENT**

### **Minutes of the Mower County Board of Adjustment**

Members Present: Mary Kenyon, Harold Boverhuis, Gary Braaten

Members Absent: Joan Roe

Others Present: Daryl W. Franklin, Glen Jacobsen, Citizens. Commissioner David Hillier, Commissioner Leonard Miller

The regular meeting of the Mower County Board of Adjustment was called to order by Chair, Gary Braaten on Wednesday, October 27, 1999, at 2:40 p.m. at the Mower County Courthouse, Courtroom, Commissioners Room, 201 1<sup>st</sup> Ave NE, Austin, Minnesota.

Minutes of the September 29, 1999 meeting were approved as mailed on a motion by Mary Kenyon, seconded by Harold Boverhuis. The motion passed unanimously.

**Variance #403 – Alan Akkerman/Laura Akkerman** - Variance from Section 14-52(b) 1a of the Mower County Zoning Ordinance to locate a new home 22' from the ROW of MN Hwy 56 instead of the required 40'. PIN#16-021-0020 Section 21 of RedRock Township. Reference was made to the site visit by Board of Adjustment members at 1:15 p.m. *Staff Report* was presented. It was explained that the older home that is in place will be torn down and a new home will be build approximately 4' back from the older home, however, still less than the required 40' setback. Mr. Akkerman explained that because of the location of the other out buildings in the farmstead it is not feasible to comply with the 40' setback. A letter from MN DOT was read into the record listing the ROW in the area. A telephone discussion between the MN DOT person and Mr. Franklin was reported that it was not a concern of MN DOT whether the proper setback was presented. After some discussion, A motion was made by Harold Boverhuis, seconded by Mary Kenyon, to approve the variance because:

1. The granting of the variance would be in harmony and the spirit and intent of the Zoning Ordinance because no additional building site is being created and they are not taking any ag land out of production,
2. The variance is consistent with the Comprehensive Plan because we are maintaining the agricultural viability of the county,
3. There are practical difficulties shown because we are not taking ag land out of production and the proposed setback is back further than the existing house that is being replaced.

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. A zoning permit and ISTS permit be issued for the new dwelling by December 31, 2001, or the variance is void.

The motion passed unanimously.

**Variance #404 – Robert Bryan/Jeremy Bryan** - Variance from Section 14-50(h) 1 of the Mower County Zoning Ordinance to allow the placement of a mobile home on an existing dwelling site of 4.1 acres owned by parents . PIN#03-006-0030 Section 6 of Bennington Township. Reference was made to the site visit by Board of Adjustment members at 2:15 p.m. *Staff Report* was presented. Noted that there are no feedlots. The Board discussed the location of the property as an existing farmstead. It was explained by Mr. Bryan that the farmstead is all grass now and windbreak all around the farmstead. Mr. Bryan explained that the practical difficulty is that they want to maintain the family unit and from their perspective it is very important and essential that the son & wife locate on the family property. From their perspective it is not appropriate to separate the family units. Also they are not taking any ag land out of production. After some discussion, A motion was made by Mary Kenyon, seconded by Gary Braaten, to approve the variance because:

1. The granting of the variance would be in harmony and the spirit and intent of the Zoning Ordinance because no permanent 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 and are not taking any ag land out of production,
3. Practical difficulties is shown as explained by Mr. Bryan in this particular case.

The variance was approved with the following conditions:

1. Property can not be further subdivided into two permanent separate parcels in the future without another variance issued by Mower County.
2. A zoning permit and ISTS permit be issued for the new dwelling by December 31, 2001, or the variance is void.
3. 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.
4. The mobile home must be removed and the variance is void when the Bryan family sells or transfers the total property.

Roll call was taken on the motion; Mary Kenyon, I; Harold Boverhuis, NA; Gary Braaten ,I. The Motion passed with a 2-1 vote.

**Variance #402 – David Murphy** - Variance from Section 14-52 (b) 1a of the Mower County Zoning Ordinance to locate a metal storage shed 16' from the ROW instead of the required 40'. PIN#01-040-0030 Section 10 of Adams Township. Reference was made to the site visit by Board of Adjustment members at 1:45 p.m. *Staff Report* was presented. Mr. Murphy explained that they applied for a Zoning Permit and at that time they asked of the required setback. It was stated that they would be 40' back from the ROW, he stated that someone said the ROW was the center of the road. It was explained that citizens had called to state that the building was too close, and a letter was sent on Sept. 21, 1999 to the Murphy stating they had several options in regard to this situation. The Murphy's explained that from

their perspective that they were attempting to follow all the rules & regulations when the building was built. Gary Braaten asked for individuals speaking against the variance: Pat Johnson stated that they were concerned that the structure would be detracting from the other homes in the area. They felt that when they built in that area that there was deed restrictions, however, there were not. They are also concerned on the setback and the construction as a steel shed. It was explained that the County is not involved with the construction but simply the setbacks. Penny Gilson stated that she was concerned that it will impact on snow removal and make it more difficult. Janice Wilson stated her concern of decreasing the value of their property. Wayne Boe stated that other sheds in the area complied with the setbacks and concerned on the decrease value of the adjacent lot that he owns to the property. Sandra Gillian spoke on the concern of the impact of the property values. Gene A. Kasel submitted an e-mail letter with several concerns and requested the variance be denied. Steve & Mary Maiers submitted an e-mail letter with their concerns and requested the variance be denied. Harold Boverhuis stated that from his perspective as a contractor seeing it is very difficult to determine where the ROW line is and from his perspective this is a situation where the practical difficulty in regard to this variance. After some discussion, A motion was made by Harold Boverhuis, seconded by Mary Kenyon, to approve the variance because:

1. The variance because it is in accordance with the spirit and intent of the zoning ordinance, building on a platted area, and not taking ag land out of production.
2. The Variance is consistent with the comp plan since we are not taking ag land out of production and encouraging development in a residential area.
3. The practical difficulties are shown that the individual tried to gather the information but because of the uniqueness of the road, practical difficulties existed.

The Variance was approved with the following conditions:

1. A zoning permit and ISTS permit, if necessary, must be issued for the new dwelling by December 31, 2001, or the variance is void.
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.

The motion passed unanimously.

A discussion then took place between the representatives of Commissioner Miller & Hillier in regard to the density situation of the County Zoning Ordinance.

There being no further business, the meeting adjourned at 4:54 p.m. on a motion by Mary Kenyon, seconded by Harold Boverhuis. The motion passed unanimously.

Respectfully submitted,



Daryl W. Franklin