

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment

Members Present: Mary Kenyon, Harold Boverhuis, Gary Braaten, Mike Adams

Members Absent: Joan Roe

Others Present: Daryl W. Franklin, Glen Jacobsen, Bill Buckley, citizens

The regular meeting of the Mower County Board of Adjustment was called to order by Chair, Gary Braaten on Wednesday, January 26, 2000, at 1:45 p.m. at the Mower County Courthouse, Courtroom, Commissioners Room, 201 1st Ave NE, Austin, Minnesota. Gary Braaten introduced the newest member, Michael Adams, who was appointed by the County Board. Mike's appointment brings Board of Adjustment membership to five members all are voting, there are no alternates

Minutes of the November 24, 1999 meeting were approved as mailed on a motion by Harold Boverhuis, seconded by Mary Kenyon. The motion passed unanimously.

Variance #406 - Amelia Forcelle & Anjanette Wells - Variance from Section 14-57(b) 1a&b of Mower County Zoning Ordinance for a front yard variance for a mobile home and accessory building; from Sections 11-3 Subd. (2) of the ISTS Ordinance to construct a sewage treatment system closer than 10' from the property line, Section 10 Lansing Township PIN#08-039-0130. Reference was made to the site by the Board of Adjustment at 1:15 p.m. *Staff Report* was presented. Ed Beckman, attorney representing the petitioners proceeded to explain there is an economic hardship because of the 88' X 100' lot. The character of the neighborhood is not being changed because of the proposed setback is similar to others in the area. He also stated that the petitioner had requested a ISTS site assessment by Harlan Peck. Mr. Peck was not allowed to get information from the Cordes for the well location. He also stated there was confusion on the petitioner application for a loan for the well and sewer system. The petitioner stated that they now have people in place to help them follow the correct procedure i.e. Mr. Beckman a well driller. Bill Buckley asked who the Well Contractor was and the petitioner explained that Mr. Clem Webber was working on it. Gary Braaten asked for people speaking in opposition. Sharon Cordes stated that we shouldn't even be here discussing this and the septic tank should not be allowed that close to her property line. Dennis Wehrhan stated that Harold Boverhuis should not be voting because of conflict of interest. Gary Braaten explained that Roger Levy, Chair of Lansing Township, had

called and left a message on his voicemail that the Town Board still opposes the variance. Mr. Beckman summarized that from their perspective it is un-reasonable to use the lot with the required setbacks. *Closing the Public Hearing.* After some discussion, A motion was made by Mary Kenyon, seconded by Mike Adams, to deny the variance because:

1. The plight of the landowner was due to circumstances created by the by the landowner actions and it was not unique to the property;
2. It is not in harmony with the spirit and intent of the Ordinance.
3. Previous lack of good faith of the petitioner's in not following the previous variance.

Gary Braaten called for a vote on the motion. Harold Boverhuis stated that he wanted a discussion on the motion. Mr. Jacobsen explained that this could take place if the people who voted in favor of the motion were allowed to make a motion to authorize the discussion. Mike Adams moved to re-open discussion, seconded by Gary Braaten, passed unanimously. Discussion took place. Harold Boverhuis stated that it is hard to understand this motion for denial considering the previous motion to approve the variance at the April 29, 1999 meeting. He felt that we should not be looking at the petitioners previous actions, but we should look at the setbacks. Gary Braaten stated that there is a concern of lack of the good faith effort. Mr. Beckman stated that we should be concerned about the 5th Amendment of the Constitution. Gary Braaten, Chair, called for a question on the original motion. Mike Adams, yes; Mary Kenyon, yes; Harold Boverhuis, no; Gary Braaten, yes.

The motion passed unanimously 3-1 for denial.

Variance #407 – Terry Miller - Variance from Section 14-12 (b) 4 of the Mower County Zoning Ordinance to construct a 16' high accessory building in a Rural Residential Zone. Section 23 Lansing Township. PIN#08-080-0010 Reference was made to the site by the Board of Adjustment at 1:30 p.m. *Staff Report* was presented. Mr. Miller presented drawings for what he is proposing and why he needed the 12' high garage doors and the over all height of approx. 16'. Brian Dolan a property owner in the area was concerned that it would create an inappropriate height. It would be too high for the area and 12' doors are generally for commercial and not in residential area. Lyla Stoike and Jan Christenson also wanted to keep the area residential. Bill Buckley raised a question on the proposed drainfield modification. It was discussed that additional information is needed. We need to know where the secondary and drainfield site is proposed, and proposed location of garage. Brian Dolan again spoke and stated he did not have a problem with the size of the garage but was concerned with the height and the impact of the new development. After some discussion, a motion was made by Mike Adams, seconded by Mary Kenyon to continue the hearing until the February 23, 2000 meeting.

The motion passed unanimously

There being no further business, the meeting adjourned at 3:15 p.m. on a motion by Harold Boverhuis, seconded by Mike Adams. The motion passed unanimously.

Respectfully submitted,

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

Daryl W. Franklin