

MOWER COUNTY BOARD OF ADJUSTMENT

Minutes of the Mower County Board of Adjustment – September 25, 2001

Members Present: Gary Braaten, Mary Kenyon, Michael Adams, Joan Roe, Harold Boverhuis

Members Absent: None

Others Present: Daryl W. Franklin, Pat Oman

The special meeting of the Mower County Board of Adjustment was called to order by Gary Braaten on Tuesday, September 25, 2001, at 3:40 p.m. at the Mower County Courthouse, Commissioners Room, 201 1st Ave NE, Austin, Minnesota.

Minutes of the August 29, 2001 meeting were approved as mailed on a motion by Harold Boverhuis and seconded by Mary Kenyon. The motion passed unanimously.

Variance #440 – Dave Forland (The Old Mill): Gary Braaten stated this hearing will be continued until the October 31, 2001 meeting to allow Mr. Forland to present information on the proposed addition.

Variance #441 – Robert Wilson and Brian Miller (Petitioners) and Dan and Marie Wilson (Owners)– Variance from Section 14-50(h) 1 of the Mower County Zoning Ordinance to build an additional dwelling per quarter section on property located at: E 293 ft. S 297 ft. SE ¼ NE ¼ and N 64 ft. S 362 ft. E 293 ft. SE ¼ NE ¼, Section 14, Windom Township, Mower County, Minnesota. PIN #20-014-0041 and 20-014-0042.

This variance request was tabled at last month's meeting pending additional information showing that a hardship does exist. Thomas Baudler, Attorney at Law prepared a document and Robert Wilson and Brian Miller discussed the proposal and the letter prepared by Mr. Baudler.

Jan Hajek, neighbor in the area, spoke against the variance and doesn't want a neighbor next to her.

After some discussion, a motion was made by Harold Boverhuis and seconded by Joan Roe to approve Variance #441 with the following conditions based upon the testimony and the document from Mr. Baudler which will become part of the official record showing that the criteria for granting a variance has been met.

- 1) A zoning permit and ISTS permit must be issued for the new dwelling by December 31, 2005 or the variance is void.
- 2) No future subdivision of parcel without applying for and receiving a variance.
- 3) The Owner/Petitioner is responsible for installation of driveway including culvert and fill.
- 4) Home must be at least 1,000 feet from any licensed feedlot.

Roll Call

Gary Braaten - Yes
Michael Adams – Yes
Harold Boverhuis – Yes

Mary Kenyon - Yes
Joan Roe – Yes

Summary: 5 Yeas; 0 Nays. Motion passed unanimously.

Variance #443 – Red Rock Township Board – Variance from Section 14-52(b)(1)(a) of the Mower County Zoning Ordinance to construct a new 56' x 56' Township Hall twenty feet from the road right-of-way instead of the required forty feet on property located at NE ¼ NE ¼ , Section 21, Red Rock Township, Mower County, Minnesota. Reference was made to the site visit by the Board of Adjustment at approximately 2:50 p.m. Staff Report was presented. Roger Slindee, Red Rock Chairman, discussed the proposal and talked about hardships that do exist.

After some discussion a motion was made by Joan Roe and seconded by Harold Boverhuis to approve Variance #443 with the following Findings of Fact which will be become part of the official record showing that the criteria for granting a variance has been met.

- 1) A zoning permit and ISTS permit must be issued for the new building by December 31, 2005 or the variance is void.

Roll Call

Gary Braaten - Yes
Michael Adams – Yes
Harold Boverhuis – Yes

Mary Kenyon - Yes
Joan Roe – Yes

Summary: 5 Yeas; 0 Nays. Motion passed unanimously.

Variance #444 – Earl & Jennifer Cotten (Petitioner) and Robert & Marjorie Haehn (Owner) – Variance from Section 14-50(h)(1) of the Mower County Zoning Ordinance to build an additional home per quarter section on property located at W ½ NE ¼ Exc. E 297 ft. N 297 ft. & Exc. 7.67 Ac. Hwy , Section 23, Pleasant Valley Township, Mower County, Minnesota. Reference was made to the site visit by the Board of Adjustment at approximately 2:10 p.m. Staff Report was presented. Earl & Jennifer Cotten discussed the proposal and letter prepared by Marty Helle.

Duane Hoeft spoke and stated he is opposed to an additional home per quarter section and wants to keep the land in production.

Marty Helle spoke about how the parcel was created and that I-90 broke the land and it has a unique size and is not usable.

After some discussion a motion was made by Mary Kenyon and seconded by Mike Adams to approve Variance #444 with the following conditions based upon the testimony and the document from Mr. Helle which will be become part of the official record showing that the criteria for granting a variance has been met.

- 1) A zoning permit and ISTS permit must be issued for the new building by December 31, 2005 or the variance is void.
- 2) No future subdivision of parcel without applying for and receiving a variance.
- 3) Apply for a wetlands exemption under the Minnesota Wetland Legislation.

Roll Call

Gary Braaten - Yes
Michael Adams – Yes
Harold Boverhuis – Yes

Mary Kenyon - Yes
Joan Roe – Yes

Summary: 5 Yeas; 0 Nays. Motion passed unanimously.

Variance #446 – Dennis & Lori Jones (Petitioner) and Thomas & Mary Graff (Owner) – Variance from Section 14-50(h) (1) & (4) of the Mower County Zoning Ordinance to build an additional home per quarter section on land which has been tilled in the last five years on property located at W 26 Rods S ½ NW ¼ and S ½ NW ¼ Exc. .6 Ac. RR & Exc. W 26 Rods , Section 14, Austin Township, Mower County, Minnesota. Reference was made to the site visit by the Board of Adjustment at approximately 1:20 p.m. Staff Report was presented. Dennis & Lori Jones discussed the proposal and letter prepared by Marty Helle.

After some discussion a motion was made by Harold Boverhuis and seconded by Joan Roe to approve Variance #446 with the following conditions based upon the testimony and the document from Mr. Helle which will be become part of the official record showing that the criteria for granting a variance has been met.

- 1) A zoning permit and ISTS permit must be issued for the new building by December 31, 2005 or the variance is void.
- 2) No future subdivision of parcel without applying for and receiving a variance.

Roll Call

Gary Braaten - Yes
Michael Adams – Yes
Harold Boverhuis – Yes

Mary Kenyon - Yes
Joan Roe – Yes

Summary: 5 Yeas; 0 Nays. Motion passed unanimously.

Variance #445 – Dan Hodgman – Variance from Section – 14-50(h) of the Mower County Zoning Ordinance to locate a subdivision 100 feet closer to a feedlot instead of the required 1,000 feet. A 900 foot variance is being requested on property located at N ½ Exc. N ½ NE ¼ & Exc. Red Rock Estates, Section 32, Red Rock Township, Mower County, Minnesota. Reference was made to the site visit by the Board of Adjustment at approximately 3:20 p.m. Staff Report was presented.

Tom Baudler and Dan Hodgman spoke and presented information of a letter from Don Abrams dated July 21, 2000. A letter from Scott Ulland, Realtor, was also presented. Mr. Ulland stated there was a need for the development, from his perspective.

Mr. Baudler also presented information on the University of Minnesota Report on Total Odor Emission of Separation Distance.

Casey Hatch, resident of the first Hodgman Subdivision spoke that he is in favor of this. He thinks this is reasonable and he doesn't have a problem with it.

Paul Sween, representing the Bartell's was concerned about the number of animal feedlots in the area and is concerned about granting a 900 foot variance which is too great. He is concerned that if a person applied for a feedlot to be 100 feet from a subdivision, this wouldn't be approved and there needs to be equity. The purpose of the regulation is to prevent conflicts between feedlots and landowners.

Gary Braaten asked Roger Slinde, Chairman of Red Rock Township, for their position. He stated that Red Rock Township is opposed to the granting of the 900 foot variance, but are in favor of the development.

Steve Bartells is concerned that Mr. Hodgman's proposal impacts on his feedlot operation and is concerned that the homes and dogs do not mix with his feedlot operation and there is a two-way street and this is why there are set-back requirements. He is also concerned by the groundwater impacted by all the individual wells.

Tom Finnegan spoke and stated he has a contract with Waste Systems for disposal of manure from the Hormel Company for land west of the proposed site.

Tim Gabrielson, resident in the area, spoke that from his perspective, and from driving on County State Aid Highway #24 it is not adequate for the area.

Mr. Baudler called upon Rick, the individual who has farmed the Hodgman property for the last five years. He stated that it is poor land and it is not the best of farmland.

Pat Oman wanted to know if there was any idea of annexation of the property into the City of Austin. Mr. Baudler stated they were not aware of it. Mr. Oman also wanted to know if there were covenants against feedlot complaints placed on a platted area. Mr. Baudler stated they would be willing to amend their petition for a 400 foot setback instead of the 100 foot.

Discussion took place between Board of Adjustment members and members of the audience on the possibility of accepting a motion.

After some discussion, a motion was made by Mary Kenyon and seconded by Harold Boverhuis to deny the 900 foot variance because:

- 1) The granting of the variance is not in accordance with the Comprehensive Plan, based upon the oral and written testimony that was presented.
- 2) Based on the written and oral testimony, there was not proof of undue hardship.

Based on these items, the motion was denied. A roll call vote was taken and there were four Ayes and one Nay (Mike Adams was opposed to it.

There being no further business, the meeting adjourned at 5:40 p.m. on a motion by Mike Adams, seconded by Joan Roe. The motion passed unanimously.

Respectfully submitted,

/s/ Daryl W. Franklin
Daryl W. Franklin