

BOARD OF ADJUSTMENT  
MINUTES OF FEBRUARY 24, 2003  
GOODHUE COUNTY JUSTICE CENTER  
454 WEST SIXTH STREET RED WING MN 55066

The Goodhue County Board of Adjustment was called to order at 7:00 p.m. by Chairman Allard Moorhouse in the Goodhue County Justice Center Building located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Allard Moorhouse Stanley Klair Conrad Rapp Richard Sviggum Darwin  
Fox Lisa Skipton

Darwin Fox made a motion to approve the February 24, 2003 agenda with the correction on the Dohmen request. Seconded by Stanley Klair. Motion carried 5:0.

Darwin Fox made a motion to approve the January 27, 2003 meeting minutes. Seconded by Stanley Klair. Motion carried 5:0.

Conflict / Disclosure of Interest – None to be disclosed.

Ronald Dohmen – Pt of W  $\frac{3}{4}$  of NW  $\frac{1}{4}$ , Section 17, T111N, R18W, Warsaw Township. The request is for a variance to create a parcel less than the required 35-acres in an (A-3) Urban Fringe Zoning District.

Ronald Dohmen and Leonard Dohmen were present. Ronald Dohmen explained he owns three different parcels and in the late 80's he approached the Board for three sites. He was given permission to build three homes on each of those parcels and all have homes on them. This particular house is one of those homes. He is asking to be allowed to sell the house on this parcel with approximately four acres to his son. He was recently told that he needed 35 acres and he doesn't want to sell his tillable land with the house. His plan is to sell approximately four acres with the house to his son and keep farming the tillable land. He stated that back in the 80's he was given permission to build a house on the wooded area and now the rules changed to 35 acres. He feels this parcel shouldn't need a variance, since he was granted a building site in the 80's.

Allard Moorhouse said Mr. Dohmen is asking to create a parcel less than the required 35-acre parcel. The house is existing.

Richard Sviggum asked Mr. Dohmen if the house is on the 93 acre parcel.

Leonard Dohmen said the house is currently on 93 acres, but he would like to purchase the house with approximately four acres and allow Ronald to continue to farm the tillable land.

Conrad Rapp said he was out to look at this particular site and the home is well defined in the wooded area. There was tillable on two sides of the home and the home is located on a non-tillable knoll.

Allard Moorhouse said the land behind the house slopes down and is wooded.

Allard Moorhouse opened the meeting to the public. There was no one present to speak for against the request. Two members of the Board of Adjustment were out to the site (Moorhouse and Rapp). Darwin Fox made a motion, it was seconded, and carried to close the public hearing.

Richard Sviggum asked Mr. Dohmen if he was willing to give up building on the remainder of the 35-acres.

Ronald Dohmen stated he did not feel he should have to because he was given permission in the 80's and the County changed the rules to 35-acres. He said he didn't have any restrictions on the other parcels. The house was built in 1998 and no one mentioned the 35-acre requirement at that time.

Conrad Rapp explained that within the (A-3) Urban Fringe zoning district, a variance is required to split any parcel less than 35-acres. He explained that the Board of Adjustment generally ties up the entire 35-acres.

Richard Sviggum explained that otherwise a person could have more homes in the area than what is allowed and it creates a real problem throughout the County.

Conrad Rapp explained that they are limiting the (A-3) zoning district to approximately 18 homes per section by tying up the remaining 35 acres. He asked Mr. Dohmen if he planned on building more homes on this parcel.

Ronald Dohmen stated he does not plan more homes at this time, but he does have another legal building site on this parcel. He asked why they were declared building sites in the 80's with no restrictions and now there are restrictions.

Conrad Rapp explained the zoning ordinances changed since that particular time. He stated in granting this variance, the remainder of the 35-acres will be tied up. Basically within that 35-acre area there will be no more building sites available.

Allard Moorhouse asked if he (Mr. Dohmen) was willing to tie up the 35-acres.

Ronald Dohmen said he was willing, but stated he doesn't believe that it is fair. He asked if he was required to give up the 35-

acres, could he ask for the northern acreage be tied up. He showed them on the aerial photo what he would like to tie up. He stated there is about seven acres in that little corner that another home could be built on and tying up the 35-acres it would tie up the road frontage.

Lisa Skipton said that would be a difficult legal description and a real stretch.  
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Lavon Augustine stated that the motion could limit Mr. Dohmen to one additional building site on the remaining acreage.

**Richard Sviggum made a motion to approve the variance to split the home on less than the required 35-acres with the condition that there is only one potential building site remaining on the land. Seconded by Darwin Fox. Motion carried 5:0.**

Findings: A hardship was proven. The variance is in harmony with the general purpose and intent of the ordinance and a variance will not change the character of the locality, based on Staff's Findings of Fact.

Janis & Sam Michels – E330.92-ft of SW ¼, Section 28, T110N, R15W, Zumbrota Township. The request is for a variance to the four dwellings allowed in the section in an (A-1) Agricultural Protection zoning district.

Janis & Sam Michels were present – Sam Michels handed out a memo and explained his wife owns this parcel in Section 28 of Zumbrota Township. The soil type is Seaton Silt and is highly erodeable. The slope is 19% so the CER could not be as highly rated as the soil map indicates. They currently have the property in CRP because it would be subject to erosion. Ms. Wood visited the site and made reference to having a building site there because of the slope not being conducive to farming. They purchased 1/3 of the property and made the parcel land-locked because they split off the acreage from the rest. With the whole farm intact it was a grandfathered parcel, so allowing them to build a home would not change the density of the area.

Allard Moorhouse asked if there was a vacant house.

Janis Michels explained that the former house, owned by her cousin, was her grandfathers and hasn't been lived in for 25 years. She said her grandfather willed his portion of the farm to her cousin. She purchased her mother's percentage.

Sam Michels said Janis' cousin inherited the farm and the remaining land was divided up between three children.

Allard Moorhouse stated their Township zoning permit was not dated and he asked about the dollar amount for construction. He asked if they already paid the fee to the Township.

Sam Michels said everything is complete. They were told by the county they couldn't get the permit, they needed a variance, so they kept the check and everything.

Conrad Rapp said everything depends on what happens at the Board of Adjustment.

Sam Michels said everything was approved by the Township and they were working with staff. Staff said they had a problem and told them to come to the Board of Adjustment to see if they could work this out.

Allard Moorhouse said the permit was just a worksheet then because the Township did not date it.

Sam Michels said he wasn't sure why the Township clerk didn't write down the date.

Allard Moorhouse said it appears that everything started June of 2002.

Conrad Rapp said he was out to look at this site. He said this must be one of the "58 sections" that could be rezoned from (A-1) Agricultural Protection to (A-2) Agricultural zoning districts. He said that Sam is not exaggerating on the slope. He said it is very, very steep and most of the land in the area was in CRP or very little was tilled.

Allard Moorhouse opened the meeting to the public. There was no one present to speak for against the request. Two members of the Board of Adjustment were out to the site (Moorhouse and Rapp). Stanley Klair made a motion, it was seconded, and carried to close the public hearing.

Allard Moorhouse said the section is already filled.

Richard Sviggum asked who owns the old house.

Sam Michels said they only own the 19.9 acres. David Quast owns the old house. He asked if he could table the request for 30-days to work with the staff and the Soil & Water Conservation office.

**Conrad Rapp made a motion to table the request for further information if the applicant signs a 60-day waiver.**

**Seconded by Stanley Klair. Motion carried 5:0.**

Sam Michels signed the 60-day waiver.

R&D Systems – SE ¼ of NE ¼ & E ½ of NE ¼ of SE ¼, Section 1, T111N, R17W, Leon Township. The request is for an appeal that this parcel would not qualify as a replacement site based on the definition under Article 2, Section 2, Subd 31 of the Goodhue County Zoning Ordinance.

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Brad Anderson, Leon Township Clerk, handed out a letter from the Township which stated they approved the request.

David Clausen was present and explained he represents R&D Systems. Mark Sjoquist was also present. David Clausen explained that Mark Sjoquist is the previous owner of the 649-acre property in question. He said they are appealing to build a replacement dwelling on the 60-acre parcel, which has been approved by Leon Township. The 60-acres had a farm house located where the current machine shed was placed and we would like to put the replacement dwelling closer to the existing and future buildings rather than build in the back by the woods. This site would reduce the amount of land in CRP and would be located in close proximity to the operation. He explained the aerial photos and site plan were included in the packets and shows that in 1938 there was a building site there and the record from the tax assessor indicates there was still a home there between 1962 to 1970.

Mark Sjoquist said there was a house there at one time.

Allard Moorhouse opened the meeting to the public.

Brad Anderson, Leon Township Clerk, was present and explained R&D Systems and Mark Sjoquist came to Leon Township's Planning Commission meeting about one week ago and proposed building the dwelling close to the facility. He said according to their Ordinance a dwelling is allowed as long as the parcel is over 40 acres and meets the 500-ft dwelling setback. The proposed site meets all of their requirements, including from the property line and road. He said the County's Ordinance doesn't have the same criteria, however, the Township would prefer the house being located closer to the farmyard rather than back by the woods where the CER is lower.

*Darwin Fox made a motion, it was seconded, and carried to close the public hearing.*

David Clausen stated there is a drainage area and swales area they are trying to avoid and that is why they moved the site a little farther south. They also plan on planting a windbreak. He showed them on an aerial photo.

Conrad Rapp asked about the cattle operation changing to goats and if they needed a new permit. He said he understands they are creating a new farmstead with a house.

David Clausen said the feedlot is changing ownership.

Mark Sjoquist stated the two operations have two separate permits.

Allard Moorhouse asked Brad Anderson if one of the Township's concerns with the house being located by the woods is that it would be easier to split off the home some day.

Brad Anderson said the Township requires a conditional use permit because the existing farmyard does not have a dwelling and they would not need to have a conditional use permit to operate the feedlot if there was a dwelling. He said the site by the woods would take up more tillable ground rather than keeping the dwelling closer to the farmyard, or at least that was Leon Township's consensus.

David Clausen said they would prefer the site closer to the operation.

Two members of the Board of Adjustment were out to the site (Moorhouse and Rapp).

Richard Sviggum said he believes there is enough evidence of the former building site and that it is acceptable to move the new dwelling closer to the operation. **Richard Sviggum made a motion to approve the appeal to allow the replacement site. Seconded by Conrad Rapp. Motion carried 5:0.**

Findings: There are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other properties in the same vicinity. This parcel has evidence of the former building site and also has a potential building site under the "Ten Year Parcel of Record". The proposed dwelling being sited close to the proximity of the existing farmyard does not change the character of the locality and would maintain and conserve the natural resources of the tillable land, which is consistent with the County Zoning Ordinance and Comprehensive Plan.

Patrick & Cynthia Meyers – Pt of N ½ of SW ¼, Section 4, T110N, R17W, Wanamingo Township. The request is for a variance to allow a mobile home as a second farm dwelling on less than the required 40-acres based on the definition under Article 2, Section 2, Subd 38 of the Goodhue County Zoning Ordinance.

Cynthia Meyers, Patrick Meyers, & their son Scott were present. Cynthia Meyers explained they live on less than the required 40 acres. They are requesting a variance to be allowed to put a double wide mobile home for their son on their property. She said they raise hogs and their son works for them on the farm.

Allard Moorhouse said the pictures pretty much show everything. He asked who takes care of the hogs.

Cynthia Meyers said she and Scott pretty much take care of the hog operation.

Richard Sviggum asked if they built the new house to replace the old house.

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Cynthia Meyers said they purchased the 11.5 acre parcel almost 17 years ago and built the new house to replace the old house.

Allard Moorhouse opened the meeting to the public.

George Rostad, Wanamingo Township Supervisor, was present and explained he is concerned that the section is full and doesn't want to undermine the Ordinance. He said the Meyers need to justify a hardship to put an extra home in the section. He said they don't want to set a precedent. The Township is concerned that the mobile home will turn into a permanent dwelling because it is difficult to differentiate one from another. The mobile home could be replaced with a house, making the situation permanent.

Lavon Augustine said the County Zoning Ordinances requires a mobile home as a temporary dwelling to be removed once the need no longer exists. She said Mr. Rostad is correct that they could replace the mobile home with a permanent dwelling unless a condition is placed on the variance.

Conrad Rapp asked Mrs. Meyers about the farming being 50% of the net family income for the preceding two tax years on parcels under 40 acres.

Cynthia Meyers said the word "net" makes it very difficult. She said they could meet the criteria if it were based off of "gross income". Their 1099 was for \$40,000, but when you are talking net, that number is reduced greatly with all the expenses. She also said that if they could meet that criteria, they wouldn't need to be at tonight's meeting.

Darwin Fox made a motion, it was seconded, and carried to close the public hearing.

Richard Sviggum asked if both families are in the hog operation.

Cynthia Meyers said they are because her son is 18 years old and will be having a child in June and is a full-time student. He has always worked for them.

Conrad Rapp said he is personally having a hard time seeing a hardship.

**Conrad Rapp made a motion to deny the request. Seconded by Allard Moorhouse.**

Cynthia Meyers said the Goodhue County Zoning Ordinances defines a farm and that is all that is listed. She asked if they don't go by the amount of livestock or the length of time they have farmed.

Conrad Rapp said the definition for a farm is restrictive and they need to stick close to it.

Allard Moorhouse said the operation is a bit small and doesn't require two people.

**Motion carried 4:1 with Darwin Fox dissenting.**

Findings: No hardship was proven. The variance would change the character of the locality by adding another home to the section and the variance does not keep in harmony with the general purpose and intent of the ordinance.

Jeffrey Samuelson – Pt of E ½ of SE ¼ of Section 26, T112N, R17W, Cannon Falls Township. The request is to build an attached garage 6-ft from the septic tank and not the required 10-ft setback.

Jeffrey Samuelson was present and explained he is requesting a variance to build a 24-ft attached garage and only has a little over 30-ft to work with. The attached garage would be just a little over 6-ft from the septic tank. He said the drainfield is farther

west.

Richard Sviggum asked if Jason Petersen looked at the site.

Lavon Augustine explained Jason Petersen or his staff had not looked at the site. She said Jason Petersen indicated to her that he didn't really have a problem with the request since the addition did not have a basement and was not a habitable space, but he highly recommended Mr. Samuelson hire a contractor to conduct a compliance inspection on the system. It was her understanding that Mr. Samuelson had called and made arrangements for the compliance inspection.

Jeffrey Samuelson said he called a contractor to conduct a compliance inspection, however, they have to wait until spring because of the frozen ground. He said they have been parking their two vehicles there since they built the home. The site is very limited on space and that is the only possible location for the garage.

Allard Moorhouse opened the meeting to the public. There was no one present to speak for against the request. Two members of the Board of Adjustment were out to the site (Moorhouse and Rapp). Stanley Klair made a motion, it was seconded, and carried to close the public hearing.

**Stanley Klair made a motion to approve the 4-ft variance (attached garage to be 6-ft from the septic tank). Seconded Darwin Fox. Motion carried 5:0.**

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Findings: A hardship was proven. The plight of the landowner is due to circumstances unique to his property not created by the landowner. The parcel is small and limited. The variance is in harmony with the general purpose and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. The variance will not alter the essential character of the locality. To meet the setback, the applicant would need to reduce the size of the attached garage making the garage 20' rather than 24' wide. Garages average in size from 22' to 24' wide. The variance will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant or will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant. Variance should not directly affect the neighboring properties. If any seepage from the septic tank were to happen, it would only affect the applicant's addition, which is not a habitable structure.

Edward Kodet – Pt of Govt Lots 1 & 2 of Section 24, T112N, R13W, Florence Township. The request is for a variance to build a (28 x 58) accessory building 1224 sq ft over the 800 sq ft limit and to locate that accessory building 5-ft from the property line and not the required 8-ft setback in an (R-1) Suburban Residential zoning district.

Edward Kodet was present and explained he owns .92 acres at 36121 Hwy 61 in Florence Township. The .92 acre parcel is a long thin parcel which they use as a part-time summer home. He is requesting to build a two story garage that exceeds the size limit and 3-ft closer to the property line. He is planning to have the garage one and a half feet above the road. Since they have owned the property it has flooded on two occasions and they received flood damage. They would like to be able to move some of their stuff out of the flooded house and into the garage. There are two neighbors, the Wades and Wises, that have been there for years. He described the access that he and the two neighbors use and said that is where the easement comes in from the south edge of property and then dog legs to the north. They will continue to use the road as usual, but he will raise the contours adjacent to the garage because in a flood the water does flow over the road. The reason for the five foot variance to the property line is because the traffic cuts the corner and by moving the garage closer to the property line it would allow that practice to continue. The property to the north is unused. The garage is two stories with the second level allowing a storage area between the trusses with possibly a furnace. He brought drawings if anyone wants further explanations.

Allard Moorhouse opened the meeting to the public.

Joe Wise was present and explained he owns the property to the north of Mr. Kodet. He said he is concerned about the road being awful narrow and does not want the garage going too close to the road because it is close the way it is.

Edward Kodet volunteered his drawings to explain the request. Mr. Wise and Mr. Wade looked at the drawings. Mr. Kodet said he knows the road is narrow and that is why he is asking for the 5-ft variance to the property lines setback. He said the existing tree on the corner will be removed.

Joe Wise said he does not have any objection.

Two members of the Board of Adjustment were out to the site (Moorhouse and Rapp). Conrad Rapp made a motion, it was seconded, and carried to close the public hearing.

**Conrad Rapp made a motion to approve the variance to build a (28 x 58) accessory building 1224 sq ft over the 800 sq ft limit and to locate that accessory building 5-ft from the property line and not the required 8-ft setback in an (R-1) Suburban Residential zoning district. Seconded by Richard Sviggum. Motion carried 5:0.**

Findings: A hardship exists. The variance is in harmony with the general purpose and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. The variance will not alter the essential character of the locality. The parcel consists of .92 acre. The larger building will allow owner to store inside rather than outside. The plight of the landowner is due to circumstances unique to his property not created by the landowner. The site has an easement shared by two neighbors to the north. There is limited space to maneuver automobiles and for neighbors to pass.

Comprehensive Plan Update

Other:

Lisa Skipton discussed the letter sent from Mr. May in regards to Jason Rickerts' variance to the feedlot. Mr. May is requesting the full Board of Adjustment to reconsider the variance request. The Board of Adjustment directed the Staff to draft a letter to Mr. May saying the Board had a quorum and they will not vacate their vote and to reconsider the matter.

Lavon Augustine mentioned the Board of Commissioners added some language on February 18, 2003 to the "Ten Year Parcel of Record" allowing for appeals to the CER ratings.

Meeting adjourned.

Respectfully Submitted,

Lavon Augustine  
Zoning Technician