

BOARD OF ADJUSTMENT
MINUTES OF JANUARY 27, 2003
GOODHUE COUNTY JUSTICE CENTER
454 WEST SIXTH STREET RED WING MN 55066

The Goodhue County Board of Adjustment was called to order at 7:30 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 January 27, 2003 agenda. Seconded by Conrad Rapp. Motion carried 5:0.

Stanley Klair made a motion to approve the November 25, 2002 meeting minutes. Seconded by Richard Sviggum. Motion carried 4:0 with Darwin Fox abstaining.

Conflict / Disclosure of Interest – Conrad Rapp said he would not be discussing or voting on the Johnson and Anderson requests. Richard Sviggum said he would not be discussing or voting on the Johnson request.

Charles Blastervold – Pt of W ½ of NW ¼, Sec 26, T111N, R17W, Leon Township. The request is for a variance to build a house addition 18-ft from the septic drainfield and not the required 20-ft setback.

Charles Blastervold was present and explained he was proposing to build an addition onto his house and was notified that the septic line had to be 20-ft from the drainfield. He is asking the Board to grant a variance to allow the addition to be 18-ft from the drainfield rather than the required 20-ft setback.

Richard Sviggum asked if Jason Petersen from Environmental Health Department had signed off on this issue.

Lavon Augustine said she had a discussion with Jason Petersen and he did not have a problem with the 2-ft variance and he and Doug Morem, County Building Official, had allowed Mr. Blastervold to start the footings.

Stanley Klair asked if the addition would have a basement, would there be any seepage concerns?

Charles Blastervold said there was no basement under the addition.

Lisa Skipton mentioned that Leon Township had given Mr. Blastervold approval.

Allard Moorhouse opened the meeting to the public. There was no one present to speak for or against the request. Two members of the Board of Adjustment were out to the site.

Richard Sviggum made a motion to approve the 2-ft variance (addition to be 18-ft from the drainfield). Seconded by Stanley Klair. Motion carried 5:0.

Findings: A hardship was proven. The variance won't change the character of the locality.

Dwight & Jennifer Parker / Arlene Kohn – N30ac of E ½ of NE ¼, Sec 25, T109N, R16W, Roscoe Township. The request is to build a dwelling on less than the required 35-acres in an (A-3) Urban Fringe.

Dwight Parker and Jennifer Parker were present and explained they want to purchase 29.7 acres on 180th Avenue in Pine Island from the Kohn family. They are requesting to make the 29.7 acres buildable because the building lot under the "Grandfather Clause" is very limited.

Richard Sviggum asked if this property has been a Parcel of Record.

Dwight Parker said as far as he knows it was willed to the Kohn family in 1985.

Allard Moorhouse opened the meeting to the public.

Mrs. Raymond Bye was present and explained they own property to the north of this. She asked Mr. Parker if they had picked out a building spot on the 29 acres.

Dwight Parker said they were looking at a site towards the west. He said the middle of the property is rather steep. He said the "Grandfather Clause" would require them to be 1000-ft from other dwellings and the proposed site is closer than the 1000-

ft.

Mrs. Raymond Bye said they are not opposed to the Parkers building. She wanted them to be aware that they have a dairy farm and haul manure up the hill. She said she doesn't want them to build and then be surprised, so she told them they are working with EPA and MPCA for a liquid storage pit for their operation. She said she was not sure if they were aware of the dairy operation and the daily manure hauling. She asked Mr. Parker if he would be opposed to their expansion. The liquid manure will be spread on the hill.

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Mr. Raymond Bye said they are not opposed to him building a home, they just want it to be known that they will be hauling manure on a daily basis.

Richard Sviggum made a motion to close the public hearing. Seconded by Darwin Fox. Motion carried.

Richard Sviggum said the parcel is 30-acres and the ordinance requires 35-acres. He feels this request keeps in harmony with the general purpose and intent of the ordinance. He told Mr. Parker that this is an agricultural area and there will be dust and odors.

Two members of the Board of Adjustment were out to the site.

Richard Sviggum made a motion to approve the variance to build on less than the required 35-acres. Seconded by Conrad Rapp. Motion carried 5:0.

Findings: The variance is in harmony with the general purpose and intent of the ordinance.

Kristofer Platte / Morris Platte – Pt of NE ¼ of NE ¼ of Section 36, T1112N, R13W, Florence Township. The request is for an appeal to build a second farm dwelling outside the farmyard in an (A-2) Agricultural zoning district.

Kristofer Platte and Morris Platte were present. Kristofer Platt explained he is requesting to build a dwelling outside the farmyard. He said he would like to build closer to his family to help his dad with the apple orchard and farming. He said the building site is limited and to build right next to the building site would take out some cropland. He is asking to move the building site down a cow lane and in a pasture area that hasn't been used for cattle for several years.

Allard Moorhouse opened the meeting to the public.

Perry Heitman was present and explained he owns the 106 acres near Morris Platte and supports the request.

Darwin Fox made a motion to close the public hearing. Seconded by Conrad Rapp. Motion carried.

Richard Sviggum asked what kind of farming operation.

Kristofer Platte said his dad owns an apple orchard and cash crops his land and rents some land. They do not have any cattle.

Morris Platte said the apple orchard is not at this site.

Stanley Klair asked about the township.

Kristofer Platte said he went to the Township back in November and the paper is signed by the Township.

Richard Sviggum said he didn't go to the site and asked what it was like.

Allard Moorhouse said the site is pretty small.

Darwin Fox said it is small. He said they denied this request in October because the proposed site looked like it was quite a distance from the farmyard. The proposed site is definitely outside the farmyard on the other side of the field, but is not as far as it looks.

Allard Moorhouse said the proposed area is non-tillable land rather than using the tillable around the farmyard.

Two members of the Board of Adjustment were out to the site.

Darwin Fox made a motion to deny the request. He said he believes there is enough room within the farmyard.

Seconded by Stanley Klair.

Richard Sviggum said he has to go along with Mr. Fox. He said he thinks when we get to these second farm dwellings, we should try to stick to the ordinance.

Motion carried 5:0.

Findings: No hardship was proven. There was no special circumstances affecting the land, building, or use referred to in the appeal that do not apply generally to other property in the same vicinity. The proposed site was too far from the farmyard and there was room in the farmyard.

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Conrad Rapp removed himself from the next two issues.
Richard Sviggum removed himself from the issue.

Robert Johnson – N26 rods of NW ¼ of SW ¼, Section 28, T112N, R13W, Florence Township. The request is for a variance to the four (4) dwellings allowed in the section in an (A-1) Agricultural Protection zoning district.

Allard Moorhouse explained for the record that two members are abstaining from discussion and voting.

Robert Johnson and Jim Sprout were present. Robert Johnson explained Jim Sprout would like to purchase some land from him and build a home. He explained the section is zoned (A-1) Agricultural Protection, but he has an existing tax parcel (Parcel of Record) right next to the proposed building site. He is asking to move the Parcel of Record building site from the west across the ravine to the east on a different tax parcel. He said he was informed that this Board has done this type of request before.

Allard Moorhouse asked who owns the surrounding properties.

Robert Johnson said he owns the property on all four sides of the proposed building site. He explained that the proposed building site would be about 300-ft east of the Parcel of Record. Moving the building site would save crossing the ditch/ravine.

Stanley Klair asked if there were already four dwellings in this section.

Robert Johnson said there are four dwellings, but he has a building site based on the Parcel of Record. He would like to move the Parcel of Record building site to the east about 300-ft. The Land Use Management staff said he had to apply for a variance under the current zoning ordinance.

Allard Moorhouse opened the meeting to the public.

Tom Piller was present and said this was the first time he ever received a notice. He said he lives in the valley and everything that is done above affects his property in the valley. He said he would like to know where the proposed building site is located. He viewed an aerial photo. He said his biggest concern is that it seems like he doesn't know about these things until he hears the heavy equipment for the new home. He said he doesn't want to see a new home looking over him in the valley. He said when Mr. Johnson cleared all the woods, his land was flooded out. He said he built a pond on his property and it is filled up. He said whatever happens above affects his property down in the valley.

Stanley Klair made a motion to close the public hearing. Seconded by Darwin Fox. Motion carried.

Darwin Fox said they were out to the site. He said the parcel to the west is buildable and would move the site to the east, avoiding the ravine.

Allard Moorhouse said that is why he asked who owns the surrounding property. He said Mr. Johnson owns plenty of real estate to put a road into the site.

Two members of the Board of Adjustment were out to the site.

Darwin Fox made a motion to grant the variance to transfer/reassign the Parcel of Record building site from 32-028-1000 east 300-ft to 32-028-0800. Seconded by Allard Moorhouse. Motion carried 3:0.

Darwin Fox made a motion to deny the variance for the four dwellings per section. Seconded by Allard Moorhouse. Motion carried 3:0.

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 containing the right to build under the "Ten Year Parcel of Record" is difficult to build on because of the topography, which would be a difficulty or a particular hardship in carrying out the strict letter of the official controls.

Richard Sviggum stepped back to the board.

James Anderson – NE ¼ of SE ¼ & W ½ of NW ¼ of SE ¼, Section 5, T111N, R16W, Belle Creek Township. The request is for a variance to the four (4) dwellings allowed in the section in an (A-1) Agricultural Protection zoning district.

Carol Krie and Alice Fox were present. Alice Fox explained she is the niece of James Anderson and is his Power of Attorney. She explained she is asking to transfer a building site on an existing Parcel of Record to another location on the farm. She said Mr. Anderson owns a total of 160 acres. Moving the building site would provide easier access and not disrupt any cropland.

Allard Moorhouse opened the meeting to the public. There was no one present to speak for or against the request. Two members of the Board of Adjustment were out to the site.

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Darwin Fox made a motion to close the public hearing. Seconded by Stanley Klair. Motion carried.

Richard Sviggum asked if the property indeed met the Grandfather Clause.

Lavon Augustine explained Mr. Anderson owns 160 acres, which consists of three parcels. There was potential for a building site based on the parcel of record. The southerly 80 acres is made up of two parcels which are parcels of record. Under the parcel of record/grandfather clause, there are several criteria that need to be met and one is that the house needs to be located on soils under 60 CER (Crop Equivalency Rating). The applicant is asking to save cropland by moving / reassigning the potential grandfather building site to the northern parcel, which will be closer to the road.

Richard Sviggum made a motion to deny the four dwellings per section. Seconded by Stanley Klair. Motion carried 4:0.

Richard Sviggum made a motion to transfer / reassign the building site from the SW ¼ of the NE ¼ to th at part of the S ½ of the NE 1/4 (25-005-1200 to 25-005-0400).

Findings: The application is in harmony with the general purpose and intent of the official controls in cases when there are practical difficulties or a particular hardship in the way of carrying out the strict letter of any official control. The site closer to the road would eliminate a long driveway across prime tillable soil. The "Ten Year Parcel of Record" site contains some steep slopes, so the reassignment would maintain and conserve the natural resources of the tillable land and the bluffland.

Gary & Nancy Hovel – NE ¼ of NW ¼ & E100-ft of NW ¼ of NW ¼, Section 28, T112N, R17W, Cannon Falls Township. The request is to continue the operation of a feedlot which is sited within 2000-ft of dwellings.

Gary & Nancy Hovel were present.

Lisa Skipton read the staff report dated January 13, 2003, which can be found in parcel file #28-028-0301. "Also in the packet is a buffer map. Upon discussion with the County Attorney's office what we have is the rectangle in the middle is a rough estimate of the feedlot and the circle around the edge is the 1160-ft buffer. Being the closest is Mr. Banks to the south. So if the variance was given and have the feedlot staying in the same position, where it is currently located with that same buffer it is the closest house. We have a couple of people in the audience. We have the feedlot officer, if you have any questions. Also the staff from the County Attorney, if you have any questions." She read the letter from Mr. Weibel, Mayor of the City of Cannon Falls.

Allard Moorhouse "Thank you. Gary do you want to state your issue here?"

Gary Hovel "Well I am Gary Hovel and this is my wife, Nancy Hovel. I guess we are here applying for a variance to continue to operate a feedlot in section 28 which is an extension to section 21. I guess you read the whole packet, everything was spelled out. This letter from the City is news to me as of right now I guess. I don't know how much jurisdiction the city has or how big of a jurisdiction area they encompass. Do they have jurisdiction over me? I think I lived in Goodhue County, not in the City of Cannon Falls."

Lisa Skipton "Cities do have some input into anything within 2 miles of their boundaries."

Gary Hovel "By just one person? Don't they have to have some council representation?"

Lisa Skipton "Mr. Hovel, I just read the letter we just received."

Gary Hovel "If you have any questions, you will have to ask me because I don't know what you need anymore. Everything was pretty much spelled out in the letter."

Richard Sviggum "This feedlot, is it a beef feedlot."

Gary Hovel "Yes."

Richard Sviggum "Are they in the feedlot year round or are they on pasture 6-7 months of the year?"

Gary Hovel "They are pastured. Some are hauled off the site."

Richard Sviggum "There are times when you don't even know there is a feedlot there?"

Gary Hovel "There is generally a blackened area, but is not a significant spot. There would be no odor in the summer. If you want to see we have pictures."

Nancy Hovel "We have two aerial photos here and it would explain it."

Richard Sviggum "I have beef also. I mean 6-7 months out of the year you wouldn't know there was a feedlot there. Sometimes that comes into play, where whether there was a feedlot before '93 or not. People wouldn't know there are animals there or not if it is in the summer and out in pasture."

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Gary Hovel "We do house some there in a shed. Probably not year around, but most of the year there will be some in the building. We turn the most of the cows out and the heifers are turned out at that time. Some time to time there are steers in the shed."

Nancy Hovel "We do have letters in the packets stating, from two of the neighbors, that there have always been animals on the original 20 acres."

Gary Hovel "No, we can't say always. Up until 1986 we had a lot of cattle. I sold out in 1986 and it was hit and miss after 1986 when we had cattle there. I don't have a lot of records from back then because that was a long time ago. I did find records from a cattle sale in 1993. That is what I got from that. As far as doing something that I wasn't suppose to do, I didn't know that I did it by extending this feedlot into section 28. I do feel I have two maps here in front of me. The one says that it may not be correct and the one with yellow is the second map I received. Even on that map it is pretty easy to know where the southerly boundary of the feedlot is, because the feedlot officer placed a stake there. On the east side of the feedlot, I don't know where the boundary is, there is a square on the map. I need to know and the neighbors need to know how many feet it is otherwise there will be a big argument again. I want adequate space to have these cattle there and I don't want to bunch them up into a little area where I will have a pollution problem besides. I guess my feeling is that I want to ask the Board to go with the variance that I am asking for. I wan't to have Jerome Hildebrandt, from the state to come out and determine the east boundary and Lisa or someone from the County to go out and do it. We need to know where the east boundary is if you are going to limit me on an area where to have these animals."

Stanley Klair "How many do you actually have there? 200 animals or 60?"

Gary Hovel "Registered for 200. Not requesting for 200, already registered for 200. I don't have 200 now."

Stanley Klair "Something in here about 60 animal units on this letter."

Gary Hovel "That was on the Certificate of Compliance from the State of Minnesota a few years ago. It was registered for 200, but I don't have that many now. It was registered for 200."

Allard Moorhouse "How many do you have there now?"

Gary Hovel "I didn't count them, probably 40 cows plus, and 15 heifers. I farm fulltime for a living, I don't work in town. I have two sons that are thinking about farming. To limit me to 40 cows, I don't see that. I asked for 200, but the property doesn't warrant having over 200."

Nancy Hovel "But we do have a shed that we built on that property in 1986 with the intent to have cattle at that shed someday, within the farmyard. I don't know how many other feedlots in Goodhue County are being restricted."

Lisa Skipton "The shed you are talking about is this one."

Nancy Hovel "It is in the farmyard in section 21."

Gary Hovel "The one I built was built for cattle, but never used for livestock. What I am asking for is I need enough room to house these animals without having major pollution problems there."

Nancy Hovel "We have 100 acres."

Conrad Rapp "How many acres?"

Gary Hovel "100 acres. The paper is a little misquoted. When we purchased 80 acres, not just 43."

Nancy Hovel "One of these papers shows the original fence line that was there. Gary had sheep there and there is an article in the Ag Reporter from 1998 showing he started there as a kid."

Lisa Skipton "Gary I want to get this straight. Our sentence here, in 1995, Gary's dad purchased the 43 acre parcel, and that should be 80 acres."

Gary Hovel "Two 40 acres purchased at that time."

Lisa Skipton "Your father purchased that and then you... Want to correct that."

Gary Hovel "What I am asking for is enough adequate space to have the feedlot. I am not saying that I want to have an area so big that I am going to impact the neighbors so they can't build their houses. Need adequate area to have my animals. I don't know what the intent of this is. Maybe someone can explain it because someone drew it."

Lisa Skipton "I did. The intent was to get an idea what the 1160-ft buffer was. Just to get an idea of what the impact would be. The bottom left hand corner is the approximate area where the stake was placed. The string of dots is the fence. This is just a depiction of what the 1160 would be from there."

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Gary Hovel "This map has a drawing on it and I agree that is more area than what is necessary, that goes way into the woods and that is not what I am asking for. I am sure Jerome Hildebrandt would not place a stake over the hill. He needs to be realistic with it."

Allard Moorhouse "This 200 animal units is not real, it is only a dream. It is also hard for some of us to rule on something that isn't. The numbers there today are somewhere between 50 – 60."

Gary Hovel "There are a lot of people in this room that I know that have numbers that are a lot higher animal units than what they actually have. You are suppose to register for whatever your goal is for the next how ever many years, three I think. You can ask Steve Schmidt about all this."

Allard Moorhouse "Steve, would you come up here. Could you explain this 200 animal unit thing? I mean this really isn't our issue."

Steve Schmidt "The 200, that they registered for...people were allowed to register for their capacity under the State rules. But their capacity of what the feedlot would be over the next four years. Figuring the square footage of what we have paced off, wheeled off last winter, it would roughly be about 170 animal units. That is figuring the square footage of the lot. That is using 500 sq ft per animal on the open lot and 120 sq ft on the building using University recommendations. Does that answer your questions?"

Allard Moorhouse "Well, yeah."

Steve Schmidt "They were allowed, anybody in the County was allowed to register their capacity."

Allard Moorhouse "Ok. Thank you."

Richard Sviggum "But he is still allowed to go up to 300 animal units in the (A-2), with a new permit. After three or four years."

Steve Schmidt "With a new permit he would be allowed to go to that."

Lisa Skipton "He would have to get a Conditional Use Permit from the County if he went over 300 animal units."

Richard Sviggum "Yeah, but I mean up to 300 animal units in the (A-2). You can still get up to 300 animal units."

Allard Moorhouse "But we are ruling on the here and now. Which is somewhere around 50-60."

Lisa Skipton "What is actually existing there right now?"

Nancy Hovel "I guess we have 45 cows right now. We keep the heifer, so we have 15 heifers. Every year the herd increases. We have the calves there until weaned, probably until December. So right now we do not have our steers there, they are separate. So we do have more than the 45 plus 15 most of the year."

Allard Moorhouse "Maybe I am missing something, but..."

Richard Sviggum "They have the calves there."

Allard Moorhouse "How can a person make a decision on an open ended, you know, for ever and ever."

Nancy Hovel "We have a feedlot that is registered for 200 animal units. Right?"

Allard Moorhouse "I don't know."

Gary Hovel "Well Steve has it and it is in your packet and it says 200 animal units."

Allard Moorhouse "But that is not what we see out there today."

Gary Hovel "Right. They are not right there today. There isn't that many animals there today. That is why the registered feedlots, so people could expand and move forward."

Allard Moorhouse "This registering process is really not our issue. Is it?"

Lisa Skipton "The variance request is to continue operation of a feedlot which is located within 2000-ft of dwellings in the (A-2) Agricultural zoning district. The Board of Adjustment can put conditions on the variance. The City of Cannon Falls is saying that even though they are registered for 200 animal units with MPCA, they currently have 60+ units. Their concern is this getting up to 200 animal units. So as far as the discussion about how many animal units, that could be a condition that the Board of Adjustment puts on this variance if they so wish."

Allard Moorhouse "Ok."

Conrad Rapp "I have one question and am sure that it is a mistake, but on the last page. It says that Joanne Wood signed it on 10-2-01 and construction must begin within 180 days or will terminate on 4-2-01. Way on the bottom on the right hand."
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Lisa Skipton "This was for the shed."

Conrad Rapp "I understand that, but it says construction must begin within 180 days of the permit or will terminate on 4-2-01 and the permit wasn't given until 10-2-01."

Lavon Augustine "That was a mistake, it should have been dated with a termination date of 4-2-02. The permit was for an addition onto a shed."

Lisa Skipton "It should say 4-2-02."

Conrad Rapp "That shed is, what size is it?"

Gary Hovel "The addition? It is 16 x 28."

Nancy Hovel "That is this shed (showing the aerial photo)."

Conrad Rapp "16 x 28 lean to, is that correct?"

Gary Hovel "It is an addition to the shed that is there."

Conrad Rapp "Ok."

Allard Moorhouse "At this time I will open it up for public comment. And limit your comments to two minutes and state your name using the mic over here please."

Robert Banks "I am Bob Banks, the supposedly closest landowner or dwelling. First off, I am not so sure I am. Number two, I find it interesting that Steve Schmidt was out there last winter with a wheel determining the size of this. How come it changed in July? If you had determined the size last winter, how did, for 200 animal units. If you were out there with a wheel, what is the east boundary? What is the south boundary? When I got the permit from Gary and he approved it, we went from the shed

or thereabouts in front of the shed. You would think the landowner would know at that point. My point being, you people granted me the variance last summer and I thought it was over. It wasn't. It wasn't good enough here, as you know I went to a second variance meeting. After that is when my trouble started. I spent close to \$10,000 of my own money on legal fees trying to build after my variance, after you had granted my permits. Cannon Falls Township has spent like \$5,000 fighting me to keep me from building. Which I had all my permits. They shouldn't have spent one dollar fighting me. This continued on until December. What I think your Board should take a serious look at this situation, because the implications here of a precedents you might be setting here by granting a variance. And it's for something that never followed the ordinances and was suppose to have been in here last June asking for a variance and I was forced to. Is going to send a pretty interesting message to the taxpayers of Goodhue County. That is all I have to say. My recommendation is to table this request for a month until you consult with your County Attorney for the seriousness of the implications and seriousness of this."

Ken Brown "Mr. Chairman I am Ken Brown and I have 120 acres of land, 40 of which is adjacent to the Hovel's property. We've been friends and neighbors for quite a while and hopeful that can continue. Couple of things, my land and my rights to enjoy that will be potentially, adversely impacted by your decision to grant the variance. When we talked to Gary back in March, we were looking at a way that everyone could win. And to pasture animals on that property as we are doing with ours. Having animals there isn't necessarily the issue. But your decision and the way that the County has approached this creates a terrible adversarily situation for neighbors in the community. I spoke to Gary's right to farm publicly in front of the Board of Commissioners and I still support that. I also spoke to the rights that we all have that are granted us if we follow the rules and ordinances. I respect those ordinances. And I think a lot of the Cannon Falls Township and the Goodhue County citizens try to comply with them as well. A couple real specific issues here that I want to speak to, Mr. Chairman, first of all the ability for me to build on my site, adjacent to that I don't think should be a function of the distances here. The distances was specifically relate to the Bob Banks property and where that was located. In this case, my home is on the eastern side of this. In fact, I have some aerial photos of this that might be helpful for you.

Allard Moorhouse "Mr. Brown you are running out of time."

Ken Brown "Let me make a couple of points then...the feedlot appears to be expanding dramatically and the aerial photos will show that. The Alberts home was built in 1996 and the feedlot would not have been in compliance then. It was another piece of property adjacent. I don't think that the purchase of additional land in 1995 would automatically give someone the right to expand their feedlot. It was a separate parcel. The setback regulations applied and it appears they had been ignored and continues to expand.

Allard Moorhouse "Do you want to submit that to the Board? That is it, we are out of time. Sorry about that."

Ken Brown "Yes, I do." He submitted his points and aerial photos.

David Hvistendahl "I am David Hvistendahl represent Bob Bank, Mitch Banks, and Ken Brown. First of all, you should have a complete copy of the County Attorney's letter for this hearing, I think that is just good practice. The staff comments seem to be inconsistent with the part of Betcher's letter that is quoted maybe its not, but it gives that impression. I believe that the proper action that the Board should take tonight is to table the matter to allow the City of Cannon Falls time to comment on the feedlot and to allow them to meet and confer with you. I think the State Statute requires the City and County to cooperate within two miles of the boarder. And given the rapid growth in Cannon Falls, I think that is a good plan. The other thing that you may want to do is extend the deadline of agency action under

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Minnesota Statute 15.99 for another 60-days. That gives you plenty of leeway to further review the matter. I think it is important to determine the limits and to place limits on the feedlot, both in terms of size and number of animal units. The size needs to be a defined feedlot. Right now it is not and as Ken Brown has indicated, it has been expanding to the east. I think the Board needs time for the parties to work out what the limit of the feedlot are going to be. So, I think it's going to be appropriate to table the matter for tonight and allow time to get input from Cannon Falls and input from both the Hovels and the neighbors on where the limits should be for the feedlot. Also the number of animals that should be limited. Thank you."

Ted Bailey "My name is Ted Bailey and I originally owned this property and sold it to these combatants. I wish I had retained ownership and then we wouldn't be here. This problem has been going on for a long time as you are all well aware. I was hoping that tonight we could finally come to a solution. The controversy is disturbing my neighborhood and it disturbs me. These people are all my friends and I want it to stay that way. I am very upset that the County is so slow at responding to this problem. I purchased the property in 1982 and I put the property in CRP in 1987 were the feedlot currently is. That expired in 1997 and I sold the property to Gary's parents on August 1, 1994. Prior to the sale of the property, there were no animal units confined as you would define it under the feedlot ordinances on the subject property. The shed was used for storage of hay and straw and also for machinery. As a matter of fact I think Gary, you stored some of your machinery in the shed. I would like to suggest that this Board grant a variance tonight subject to the defined boundaries and capacity limits for the feedlot. I believe that 200 head is an awful lot of animals for that property, it is very hilly. And 50-60, you pick a number. I would suggest also, however because this feedlot was established under questionable circumstances that you not require setbacks for any buildings. So that if anyone wants to build within 500-ft of that feedlot, if they own the property, that they be permitted to do that. In the second floor rotunda in the old courthouse has up on the ceiling where all the wonderful paintings are. I wonder who painted them, Devinci, Michael Angelo maybe. It says agriculture, commerce, and manufacture. I think those are

the three bases of the county and I think agriculture is one of them. I tend to support agriculture. I have worked in agriculture my whole life, not necessarily in production agriculture. So please don't table this issue tonight. Lets resolve it tonight, vote on the variance and give these people a variance. Thank you."

Mark Nelson "I'm Mark Nelson and also a neighbor. I also have a feedlot that is fairly close. I know what it is like to operate one. Cattle and livestock, I feel, should be on a farm. And Gary and Nancy have 100 acres and are full-time farmers. If we can't as farmers, can't raise livestock, what are we going to do? 200 animal units is quite a few, but also you have to remember that 60 cows will hopefully have 60 calves. So if you keep them (calves), that is what they have now, you are talking 120. So I guess I am in favor of still seeing cattle up there and it supports the farm to keep cattle on them. Thanks."

Keith Mahoney "Keith Mahoney, I am a feedlot owner in the same area. A couple different issues I think are important in this is that your setbacks are the same if under 300 animal units. So I don't think there should be a big issue if it were 60 or 200, your setbacks are the same. I think you are being pretty hard on agriculture if you are not going to allow agriculture any ability to expand. As times become tougher, we need to be able to expand our feedlots when necessary, especially when they are staying within the setbacks. Thank you."

Steve Schmidt "Steve Schmidt, I am the Feedlot Officer for Goodhue County. I guess I want to bring up a point that if Gary were to expand, he may need to move the feedlot just to stay in compliance. That is something that may need to be looked and considered while we are discussing this issue. And just doing some rough estimates, the capacity right now as of what we wheeled off last winter would be about 120 animal units.

Mitch Banks "I am Mitch Banks and I now own the property adjacent to the Hovel's feedlot. And first of all, I want to say thank you. My wife and I were building our house and in order to make her feel a little more welcomed to the community and to relate her to back home, where she lives on a farm, the Hovel's cows were out on day and came over to our area. That made her feel right at home, because her cattle get out all the time. And we could relate to it really well. And by no means do we object to the cattle there at all, that is not our point here by any means. But I think we can all see or at least I feel that I can see from these maps, what 40 or 50 or 60 head of cattle have done to this property and shown for a feedlot. If you are allowed to expand four times of what it is, you are talking about getting into rivers and streams and other hilly land. I think you need to take that into consideration, you are expanding this feedlot by four times if you go to 200 animal units. Like I said, I don't have a problem with the cows, it was a nice welcome to our neighborhood, but considering the land and where it is at. When you take all that into consideration."

Allard Moorhouse "Anyone else? I'll entertain a motion to close the public input."

Richard Sviggum made a motion to close the public hearing. Seconded by Darwin Fox. Motion carried.

Gary Hovel "Allard, could I make a comment?"

Allard Moorhouse "Yes sir."

Gary Hovel "In order for me to have more animals on that property than what is there now, I have to stay within the guidelines of MPCA's rules. I am permitted for 200 head. I know I cannot house 200 head right in that specific spot. If I would put up buildings or a shed, then I can increase my animal units. The existing shed there right now has the capacity of probably 45 head alone, because they are housed inside. But I am well aware of MPCA's rules on housing animals and what it takes. I am permitted for 200 head so I could expand. But I know that I cannot just throw 200 head of cattle out there and get by with it. That I do know. I went through a lot of stuff with MPCA. I raise hogs, I'm in compliance with that, I've dealt with this stuff a lot. But to take things away from me before I even get them, I don't know if that is right. I've got young sons that are wanting to farm too. And a handful of cattle don't make much now days. But I will not destroy the property with animals, that I do know. And as far as the feeding going farther to the east, yes every winter for the last few years I have fed cows over the hills back out of the wind. I don't maintain that's a feedlot, because that is cleaned up every spring and grass is

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growing there again. That is not a feedlot area and I don't think MPCA or anyone would determine that as being a feedlot. The feedlot is up by the buildings, but I still have to have a designated area large enough that I could build a shed on it to control this or something. I am not asking for no limits to where this is going to be. But I would also like to get a variance tonight."

Nancy Hovel "We would be willing to answer any questions that any of you would have as to our practice or anything we can offer. I would like you to hear our side. Can I say one more thing? This is also going to be setting a precedent in Goodhue County. There is no secret as to what is going on, I mean we have been in the paper every week. If you are going to start restricting farmers as to their feedlots, what they can have, how many they can have, the location of where they can have it. Where is agriculture ranking in Goodhue County? To me and my family it is pretty important. It is our livelihood. It is our lifestyle. And it is a darn good one. We live there too. We are not going to do something to the land that will contaminate the ground. We received the Minnesota Conservationist of the Year award for Goodhue County a couple of years ago. Give us credit."

Allard Moorhouse "Setting a precedent how?"

Nancy Hovel "By restricting our size. Have you restricted anyone else's size?"

Lisa Skipton "It is my understanding that each one of these are an individual case. It should be looked at with the facts that were presented with it." She asked Lavon Augustine if she was aware of any similar requests.

Lavon Augustine "None since 1995."

Conrad Rapp "Sorry, didn't hear the comments that were being made."

Lisa Skipton "The Chairman asked if this has happened before and I asked Lavon and she said that we have not had this issue come before us before. And it is our understanding that each one of these issues is an issue on its own and to be judged with the merits that are brought forth."

Richard Sviggum "When these ordinances were put in place, I think the main intent was to keep Goodhue County an agricultural county. I think we have done a pretty good job. I don't think we are at the point right now where we want to start restricting agriculture. When the Banks came before us for their permit, they were acting in good faith. They had bought the site with the intent of building there, which they were told it was buildable. The Hovels have been acting in good faith and I think we need a resolution to this neighborhood. ***I propose that we grant the variance for this feedlot.*** That is a motion."

Allard Moorhouse "Any restriction what so ever?"

Richard Sviggum "Well they have already got their permit for the 200 until 3, 4 years that is going to be in affect. Having beef cattle myself, I think that is reasonable. When you take the calves away in the fall, so there is not that many times when there are actually 200 animal units on the place. So I don't have a problem with the animal units. As far as distance, are we talking 840-ft? Since the Banks are the closest to the 1160 or maybe we don't need a requirement. Maybe we shouldn't have a requirement, because there is kind of a grey area as to whether the feedlot was actually there. There may be another building site that may come in closer than Banks' even built."

Darwin Fox "***I'll second that.***"

Allard Moorhouse "Motion has been made and seconded to grant a permit or grant the variance. Is there any further discussion?"

Conrad Rapp "Mr. Chairman, I have a question on that particular motion. In the granting of this variance, as it is stated I think it creates...I don't understand it. Are we saying that we are granting it that in some point in time, tomorrow, whenever, they can have a total of 200 animal units on this particular piece of property?"

Allard Moorhouse "That is my understanding. I don't know if it is so or not."

Conrad Rapp "Is that?"

Richard Sviggum "What the permit is for right now I guess."

Conrad Rapp "But the feedlot officer just stated that 200 animal units was in error somehow. I don't understand how that all fits together. Are you saying that under the present conditions that 120..."

Steve Schmidt "I said that given the area right now using the University's recommendation of 500 sq ft per animal on the open lot that area would support 120 animal units. Furthermore, if they were to go up to the 200 animal units, MPCA rules states that land disposal, they have to have enough acres to dispose of that manure at economic rates. So they couldn't just go in there tomorrow and drop 100 head, they would need further permitting process through MPCA."

Conrad Rapp "But those manure application would not have to be within their property, it could be the neighbors property."

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Steve Schmidt "The other thing is if they wanted to expand, they would have to meet all the new 70/20 feedlot rules as far as water quality standards. So if they were to expand beyond what they have on the ground today, they would need to meet the new rules. Whatever new they added would have to be in compliance with new rules."

Conrad Rapp "So I am confused once again. So this 200, how did they get 200? Earlier you said 120 and now you are saying they are going to have to re-comply."

Steve Schmidt "During the registration process people were allowed to register their capacity of their feedlot. The Hovels felt

that they had a capacity out there of 200 animal units.”

Conrad Rapp “But you just stated just a short time ago that their capacity was only 120.”

Steve Schmidt “That is given the current size.”

Conrad Rapp “On their current size, but you just said under their current size the only had 120. Why was the registration for 200?”

Steve Schmidt “That is what they felt they had capacity for when they registered it.”

Conrad Rapp “But you just said that they only had capacity for 120.”

Steve Schmidt “Correct. I am required to inspect every feedlot within four years and so during the inspection process we have measured out the feedlot. Those were kind of the rough estimate sizes, that is about what the capacity would be today.”

Conrad Rapp “But there is a big difference between 200 and 120.”

Steve Schmidt “I agree with you Conrad. I am not disputing that at all.”

Conrad Rapp “So this number of 200 is probably not a real scientific number. Maybe in a lot of cases that number of animal units registered is not really a realistic number. There is no real science behind it other than at that particular time that number looked like an obvious number that might be obtainable.”

Steve Schmidt “There are feedlots out there, such as dairy that are fairly well defined. Like Mr. Sviggum said here, beef cattle are a little harder when you start figuring in you have calves. Some years you keep the calves and feed them out a little longer. I am thinking of your situation Dick ... he’s got cows, he’s got calves. He also runs another feedlot where he keeps the calves. Sometimes he over winters them for all winter, I believe. Sometimes he pulls them out of there in two months. It is going to vary.”

Conrad Rapp “And if in fact a person just has been cows, then the feedlot permit is not particularly necessary if they don’t...”

Steve Schmidt “If they don’t have a confined space to confine them in.”

Conrad Rapp “So in an area where he feeds, is not considered a feedlot if it only for a very short time of the year that the vegetation is disturbed. Is that right?”

Steve Schmidt “You need to confine them for 45 days within a calendar year. It doesn’t have to be 45 contiguous days.”

Allard Moorhouse “Didn’t you also state something about if he expands beyond where he is today...I didn’t quite catch it.”

Steve Schmidt “If he would expand beyond the current feedlot or whatever was built new, he would have to be in total compliance with MCPA regulations. Anything that was built.”

Conrad Rapp “Is he saying it would need to come before the Planning Commission for an expansion?”

Lavon Augustine “Not unless he exceeds the 300 animal units. He is basically saying that it has to meet the MPCA rules which go through him (Steve Schmidt). If it goes over 300 animal units, then they would need to come before the Planning Commission for a Conditional Use Permit.”

Conrad Rapp “So the possibility exists that at some point in time that it could be 300 animal units. There is that possibility?”

Steve Schmidt “There is that possibility, I am not disputing that.”

Allard Moorhouse “He could go to 299.”

Steve Schmidt “I believe so, under your ordinance.”

Richard Sviggum “But he would have to meet the new MPCA requirements.”

Steve Schmidt “Correct.”

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Conrad Rapp “And those requirements are much different than the ones he is already complying with?”

Steve Schmidt “The feedlot, technically as it stands today, is in compliance.”

Conrad Rapp "Is in compliance and would be in compliance with 300 animal units also?"

Steve Schmidt "We would have to take another look at it."

Conrad Rapp "But your learned opinion would say?"

Steve Schmidt "I am not going to answer that without running some numbers."

Conrad Rapp "That is something that is pretty unsure. It is possible that he could, at this particular time, go up to 300 animal units."

Steve Schmidt "I would say that there would be some measures that would need to be taken to control runoff, if he was to expand much beyond..."

Conrad Rapp "So if those measures were taken, it is possible that he could go up to 300 animal units."

Steve Schmidt "That is correct. Thank you."

Allard Moorhouse "Are you saying that there are some grey areas?"

Carol Lee "Carol Lee, I just wanted to respond to a couple of things. First being the recommendations were reviewed by Mr. Betcher, Ms. Skipton, Ms. Wood and myself. A couple of times last week we've kept in contact with anybody that has asked us for information over a period of time, including Mr. Banks and Mr. Brown's attorney. I think our concern in our office was for a reasonable use of the land by all involved parties. And that is why we were concerned about the size of the feedlot and now you have had this discussion regarding the number of animal units on the feedlot. After we had the discussion, about the reasonable use of the land by all parties, Ms. Skipton drew the circumference around the area 1160-ft which was what Mr. Banks got for a variance. So that was how that recommendation came about and I just thought I would introject that at this point and time in your discussion. I think we have given this some careful thought and obviously this has been a contentious issue. The County has no control over what the Township does and we've tried to handle this in a business like fashion. By providing information and communicating with people and giving this close attention and trying to accommodate the needs of all the parties in that area. I do agree with Mr. Bailey and that I think this issue needs to be taken care of, but certainly if a short continuance would warrant some measurements and make more people feel comfortable, I don't think that would be the end of the world either. But that would be our position tonight."

Allard Moorhouse "Thank you."

Nancy Hovel "Can I say something? This is an (A-2) zoning district, which is Ag. I guess I just wanted to point that out."

Allard Moorhouse "I myself have problems with these numbers. My understanding is that he can go all the way to 299 without another permit from the Planning Commission or whatever."

Darwin Fox "But he has to follow every single MPCA rule / guidelines to get there."

Conrad Rapp "But according to what the Feedlot Officer said that he probably met those requirements at this particular time."

Darwin Fox "At this time for what is out there."

Conrad Rapp "No. To go up to 300 animal units."

Darwin Fox "No. That is not what he (Steve Schmidt) said."

Steve Schmidt "No, that is not what I said. I said currently he is in compliance for what he has there today. If he was to expand, then I would have to take another look to see if he would be in compliance or not and to see what he needs to do to make the feedlot in compliance at that time."

Conrad Rapp "And some of those things are what? Would they be a major renovation, just some dirt work, or what?"

Steve Schmidt "Could be a combination of things, such as a shed and dirt work. Every situation is different, because every farmyard is different and what fits into their management style."

Gary Hovel "I think I stated it earlier, I don't think I need over 200 animal units and the place doesn't warrant over 200 animal units. I guess I would be comfortable if you limited it to that."

Allard Moorhouse "There is a motion on the table. I will call for the vote."

Motion carried 3:2. Vote: Allard Moorhouse-no. Darwin Fox-yes. Conrad Rapp-no. Stanley Klair-yes. Richard Sviggum-yes.

Gary Hovel "We need to determine the easterly boundary or what do we measure from."

Richard Sviggum "My motion was to grant the operation of an existing feedlot within 2000-ft from dwelling. As written.

Comprehensive Plan Update – There have been three meetings and there will be another meeting on Thursday night. They are encouraging everyone to attend and comment. There has been some groups of individuals talking about their own issues and it is good for the committee to hear these comments.

Discuss holding meetings during the day – Lisa Skipton asked the Board what they thought about holding their regular scheduled Monday meetings during the day at approximately 1:30 p.m. in the County Board room. We could possibly have some more personnel resources available, such as staff from the County Attorney's office. This would cut down on overtime generated in the Land Use Management Department. Several members indicated they could not attend meetings during the day and the citizens would also find it difficult to attend the day meetings. It was discussed and decided to try starting the meetings at 7:00 p.m.

Discuss proposed changes – Lisa Skipton explained the proposed Board of Adjustment changes. She explained the County Board wants all the committees to be consistent.

Since Monday, May 26 is a holiday, the regular scheduled meeting will be held on Tuesday, May 27, 2003.

Meeting adjourned.

Respectfully Submitted,

Lavon Augustine
Zoning Technician