

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN  
MARCH 7, 2004**

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

Present: Darwin Fox Stanley Klair Brad Anderson Lisa Hanni Howard Stenerson

Absent: Bill Warmka Dennis Monroe Nancy Spooner-Mueller

*<sup>1</sup>Motion by S. Klair and seconded by B. Anderson and carried to approve the March 7, 2005 Board of Adjustment Agenda. Motion carries 4:0.*

*<sup>2</sup>Motion by H. Stenerson and seconded by S. Klair and carried to approve the January 24, 2005, Board of Adjustment Minutes. Motion carries 4:0.*

Staff Updates:

Moratorium sections will be at the March 21 Planning Advisory Commission. We've heard from 12 of the 16 Townships.

B. Anderson asks if those were townships that had a lot of sections or just a few.

L. Hanni says that they just had a couple.

K. Gross says that we have heard from 52 of the 58 moratorium sections.

L. Hanni says that they are interviewing this week and a couple of interviews next Monday for the zoning technician position. Hopefully we will have someone by your April meeting.

Conflict/Disclosure of Interest: none to be discussed.

**Eugene Betcher-**

SW ¼ of SE ¼ Section 34 T111N R14W Belvidere Township. The request is a variance to build a dwelling 60' from the East property line instead of the required 100' setback (variance is for 40') and a variance to build 75' from the North property line instead of the required 100' setback (variance is for 25') in an A-1 Agricultural Protection district.

Mr. Betcher is requesting a variance to locate a dwelling 60' from the east property line instead of the 100' required setback (variance is for 40') and a variance to locate the dwelling 75' from the north property line instead of the required 100' setback (variance is for 25').

Mr. Betcher owns 80 acres and has split off approximately 7 acres for the homestead. The dwelling he is building qualifies as a replacement site. As a replacement site he is able to move the new dwelling within the farmyard or 100' from the original dwelling. The original dwelling met the 100' setback requirements.

The neighbor to the west owns a registered feedlot. Steve Schmidt, Goodhue County feedlot official, ran the OFFSET model to see if moving the site 40' west to meet the required setbacks from the east property line would place a hardship on the feedlot to limit expansion. At 94% OFFSET distance a new home would need to be 1,278 feet from the east property line of the feedlot which is also the furthest west property line owned by Mr. Betcher. The proposed house location is closer than 1,200 feet. However, replacement dwellings are not subject to the current ordinance's requirements to meet 1,000' setback or 94% OFFSET distance. If the feedlot were to expand it would need to meet 91% OFFSET from the distance of the expansion to the nearest dwellings.

Upon a site visit it was observed that the house could be moved to meet the setback requirements. There are no topographical issues with the land that create a problem with placing the dwelling within the Zoning Ordinance requirements of 100'. The north property line was created by the owner when they split the approximate 7 acres

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN**  
**MARCH 7, 2004**

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off from the 80. They could move the house 40' west and 25' south and meet the 100' property line setbacks on all sides.

Mr. Betcher is concerned with being too close to an existing barn on the property which will hold cattle in the future. Even if the house is moved to meet the property line setback requirements the house should still be approximately 60' from the barn versus the 100' he has it sited at now.

The property owner adjacent to Mr. Betcher's property has stated they are opposed to Mr. Betcher building his house closer than the required setback from the property lines.

Based on the information presented thus far, staff would recommend denial of a variance to build a dwelling 60' from the east property line instead of the required 100' property line setback (variance for 40') and denial of the variance to locate the dwelling 75' from the north property line instead of the required 100' property line setback (variance for 25') based on no existing hardship. The plight of the landowner is not due to circumstances unique to the property and is created by the landowner. The variance is not 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 owner can meet all required setbacks without creating a hardship for him or the neighbors.

Mr. Betcher says that he wants to stay as far away from the existing cattle shed on the property as possible and there is a grove of trees that they would like to save. They would like to put the house behind the trees and as far away from the cattle shed as possible.

H. Stenerson says that there are no ditches or ravines that prevent them from building the house according to the required setbacks. There are some nice evergreens that he can see why they would like to save.

Mr. Betcher says that he is the owner of the property to the north. They did a 1031 and split this land. They have spoken to their lawyer and they cannot add any more land to the homestead for two years because of the 1031. He says he thought that 7 acres would be enough land but it seems that it is not. He says that if they meet both 100' setbacks the house would be right in the trees.

B. Anderson asks where the secondary septic system would go.

Mr. Betcher shows him on the map.

*C/D. Fox opened the public hearing.*

No one present wished to speak for or against the issue.

*With no public comment it is moved by B. Anderson seconded by S. Klair and carried to approve closure of the public hearing. Motion carried 4:0.*

K. Gross says that she went out on the site visit. She states there is not a hardship in this situation. There is nothing topographically preventing him from meeting the setbacks. She also has received a phone call and a letter from the neighbor saying that she did not want Mr. Betcher to build closer to her line than the 100' required setback.

H. Stenerson says he thought the same thing looking at the strict definition of a hardship there is not a hardship except wanting to get farther away from that cattle shed. H. Stenerson says he is concerned about the feedlot to the west of Mr. Betcher's property and would not want to infringe on them being able to expand.

K. Gross says that she spoke with Steve Schmidt about the feedlot and he did not feel it would be an issue if the feedlot wanted to expand. They would need to meet 91% OFFSET from the expanded part of the property which would have to be further west because the feedlot abuts the property line right now.

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN**  
**MARCH 7, 2004**

---

H. Stenerson says that he could see the variance to the east but not to the north since Mr. Betcher created that line himself.

Mr. Betcher says that because of the 1031 he cannot change that line for 2 years.

S. Klair asks if they were to move the house to the other side of the trees if they would still have enough room for a septic system.

Mr. Betcher says that there would be enough room. But they would take out the trees if they were denied. Then they would end up facing the cattle shed.

H. Stenerson asks about where they are entering the garage.

Mr. Betcher says they are entering the south east side.

H. Stenerson asks if they have to meet the setback would they have a hard time having the driveway meet the garage.

Mr. Betcher says that then they would have to eliminate all the trees.

S. Klair asks if they go further to the north, you would run into tillable land.

Mr. Betcher says that it is all tillable, it was just never farmed. It's grassland now.

H. Stenerson says that it is a difficult situation to see if you can grant this on a hardship. It's hard to see the harm. However, provision B allows for some flexibility with special circumstances. We could grant it under those grounds. He is wondering if this should be separate circumstances.

L. Hanni asks what provision B is?

H. Stenerson says there are two different rules. One is hardship and the other is based on...

L. Hanni says that you have to find them both.

H. Stenerson says that provision B says "That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and 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, and that the granting of the variance will not alter the essential character of the locality" it is flat land those trees create a nice wind break. It would be a shame to see them knocked down.

***<sup>3</sup>Moved by H. Stenerson and seconded by S. Klair to approve the variance to build a dwelling 60' from the East property line instead of the required 100' setback (variance is for 40') and a variance to build 75' from the North property line instead of the required 100' setback (variance is for 25') in an A-1 Agricultural Protection district based on special circumstances.***

Marcella Befort says that she does not agree with this decision, it is her property line and he should have to maintain the required 100' setback from it.

C/D. Fox says that the public hearing is closed and she should have spoke up then.

Ms. Befort says she has two writings in their that she doesn't agree with this.

C/D. Fox says that is noted. He has a hard time with this because every one we have granted before had some type of topographical hardship.

B. Anderson says that he has 2 questions. Is he moving this farther than 100' from the replacement dwelling? He has less issue with setback from the north property line because Mr. Betcher owns the other property than the property line to the east which someone else own the land on the other side. The situation has been created.

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN**  
**MARCH 7, 2004**

---

H. Stenerson asks if he should withdraw this motion and offer two separate motions.

B. Anderson says that if they granted more of a variance to the north he could meet the setback to the east he could come back two years down the road and add more land to it.

L. Hanni says that if they grant a variance he will not need to add more land to it down the road.

S. Klair says that if H. Stenerson is willing to withdraw his motion he will withdraw his second.

***<sup>4</sup>H. Stenerson withdraws prior motion and S. Klair withdraws second.***

B. Anderson asks if he would be willing to meet the east 100' setback and move it closer to the north line.

Mr. Betcher says that they would be 60' from the shed. That's the only thing.

H. Stenerson says how do we pick a number without someone going out there?

B. Anderson says that we could always table this until the next meeting so that we don't pick a number out of the air and Mr. Betcher can find where it would fit.

L. Hanni says Mr. Betcher would have to sign a waiver because we would be past the 60 days.

H. Stenerson asks how far he is from the cattle shed.

Mr. Betcher says that he is 100' now.

H. Stenerson says that if he moved this 40' he would then be 60' from the shed. He says that this is not a feedlot his plan is to just raise a few steers when they move on.

K. Gross says that it is registered he just has to switch the registration over to his name.

B. Anderson says he would like this tabled.

L. Hanni asks if Mr. Betcher would be willing to sign a waiver and to figure out what distance to the north he would.

Mr. Betcher clarifies that he can move it as close to the north as he wants?

L. Hanni says try to be within reason. If the building could fit within 50', then go with 50'.

Mr. Betcher says he hoped to be digging by the end of the month.

L. Hanni says that if he doesn't sign the waiver the Board will make a decision tonight.

Mr. Betcher says he would like a decision to be made.

***<sup>5</sup>Moved by H. Stenerson and seconded by B. Anderson to deny the request for a variance to build a dwelling 60' from the East property line instead of the required 100' setback (variance is for 40'). Motion carries 4:0.***

H. Stenerson asks how close his house is right now from the trees right now.

Mr. Betcher says about 8 or 10.

H. Stenerson asks how far north he would have to go to save his trees.

Mr. Betcher says about 30 feet more.

H. Stenerson asks if he would rather be closer to the line or closer to the trees.

Mr. Betcher says closer to the trees.

H. Stenerson says that if we are going to grant this it needs to be a big enough number so that he doesn't need to come back here.

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN**  
**MARCH 7, 2004**

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*<sup>6</sup>Moved by B. Anderson and seconded by S. Klair to grant a variance to build a dwelling 25' from the North property line instead of the 100' required setback (variance is for 75') based on there being special circumstances.*

B. Anderson wishes it to be stated for the record that Mr. Betcher owns the property to the North.

*Motion carries 4:0.*

**Robert Rutter –**

Pt of NW ¼ Section 9 T110N R16W Minneola Township. The request is a variance to build an accessory structure 3,072 square feet instead of the allotted 2,400 square feet (variance is for 672 sq ft) in an A-2 Agricultural District.

Mr. Rutter is requesting to build an accessory building 3072 instead of the allotted 2400 square feet in an A-1 Agricultural Protection District (variance for 672 feet). Mr. Rutter owns a 5.39 acre parcel in Minneola Township on which he is proposing to build a pole shed to be used as a garage and for storage and a shop.

Upon a site visit it was observed that Mr. Rutter's parcel was surrounded by land that was being tilled. The nearest residence to Mr. Rutter is approximately 1,000 feet.

The Zoning Application Form has been signed by the Minneola Township Clerk indicating the township has approved the request.

Based on the information presented thus far, staff would recommend denial of the proposed structure at 3,072 sq. ft. (672 sq. ft. variance) based on no existing hardship. The plight of the landowner is not due to circumstances unique to the property and is created by the landowner. The variance is not 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.

Mr. Rutter would like to build a pole barn 100' from his house. He does not have a garage on his property right now. So part of this building would be a garage the rest would be for cold storage and a shop. The amount over the basic square footage is about the same as a two car garage. He owns a boat, tractor, and a camper. He would like to own a larger boat, camper and maybe tractor in the future. He is trying to get everything on his property enclosed. The bigger he can have this building the better.

H. Stenerson says that it fits on the property and is well sheltered. In the summer you probably can't see anything on this property.

*C/D. Fox opened the public hearing*

No one present wished to speak for or against the issue.

*Moved by S. Klair and seconded by B. Anderson and carried to approve the closure of the public hearing.*  
*Motion carried 4:0.*

H. Stenerson says that this is another issue that it may be difficult to prove a hardship, but he can put up two buildings instead. It is probably saving cost.

B. Anderson says not only that it is saving green space and space for septic systems and other things. We see a lot of these and it is usually not people who have a garage.

*C/D. Fox says that when you get into certain rural areas where it is not visible to anybody.*

H. Stenerson says that you have a septic site you need a second septic site. If you have two buildings it makes it difficult to find that second septic site.

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN  
MARCH 7, 2004**

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S. Klair asks where his septic is located.

Mr. Rutter shows where it is on the map.

*<sup>7</sup>Moved by B. Anderson and seconded by D. Fox and carried to approve the variance to build an accessory structure 3,072 square feet instead of the allotted 2,400 square feet (variance is for 672 sq ft) in an A-2 Agricultural District based on the previous actions on these same requests. Motion carried by 4:0*

**Accessory Building Sizes:**

The Board discussed the sizes of accessory buildings in A-1 and A-2 areas. It was suggested not to have a size limitation on accessory structures in A1 and A2 districts, or to have the property line setbacks dependant on the size of the building. That may also help regulate the size of these structures.

**Replacement Sites:**

The Board discusses wording of the definition of the replacement site. Staff presented the Board with possible wording changes. The Board liked the proposed wording and would like it brought forward to the Planning Commission and County Board. Staff said they will gather more information on Accessory Building sizes and we can bring both changes to the Ordinance at the same time.

*<sup>8</sup>Moved by H. Stenerson seconded by S. Klair to adjourn the March 7, 2005 Board of Adjustment meeting. Motion carries 4:0. Meeting Adjourned 8:40 p.m.*

Respectfully Submitted,

Kristi Gross  
Zoning Technician/Recording Secretary

**BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN**  
**MARCH 7, 2004**

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**MINUTES**

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<sup>1</sup> APPROVE the March 7, 2005, Board of Adjustment Agenda (Motion carries 4:0)

<sup>2</sup> APPROVE the January 24, 2005, Board of Adjustment Minutes as amended (Motion carries 4:0)

<sup>3</sup> Motion to approve the variance to build a dwelling 60' from the East property line instead of the required 100' setback (variance is for 40') and a variance to build 75' from the North property line instead of the required 100' setback (variance is for 25') in an A-1 Agricultural Protection district based on special circumstances.

<sup>4</sup> WITHDRAW prior motion

<sup>5</sup> DENY the request for a variance build a dwelling 60' from the East property line instead of the required 100' setback (variance is for 40'). (Motion carries 4:0.)

<sup>6</sup> APPROVE the request for a variance to build a dwelling 25' from the North property line instead of the required 100' setback (variance is for 75'). (Motion carries 4:0.)

<sup>7</sup> APPROVE the variance to build an accessory structure 3,072 square feet instead of the allotted 2,400 square feet (variance is for 672 sq ft) in an A-2 Agricultural District based on the previous actions on these same requests. (Motion carries 4:0.)

<sup>8</sup> Meeting Adjourned 8:40 pm