

Houston County Board of Adjustment
May 28, 2015

Approved by Greg Myhre and Tim Orr on June 18, 2015

The Houston County Board of Adjustment met at 5:30 p.m. on Thursday, May 28, 2015. A summary of the meeting follows.

The meeting was called to order by Greg Myhre Vice Chairman of 2014. Members present were Vice Chairman Myhre, Glenn Kruse and Tim Orr. Bob Scanlan; Zoning Administrator/Feedlot Officer was present for zoning. See sign in sheet for others present.

Election of Chairperson for 2015 took place. Greg Myhre nominated Glenn Kruse for Chairperson, Tim Orr seconded. There were no other nominations. Motion carried unanimously. Glenn Kruse is the Chairperson for 2015.

Election of Vice Chairperson for 2015 took place. Glenn Kruse nominated Greg Myhre for Vice Chairperson, Tim Orr seconded. There were no other nominations. Motion carried unanimously. Greg Myhre is the Vice Chairperson for 2015.

Notice of **Public Hearing No. 412** was read. **Kim Benson of Lawrence Lake Marina**, P.O. Box 114, Brownsville, MN 55919 is seeking an after-the-fact variance of 77 feet to meet the 100 foot shoreland setback requirement to build an attached addition and deck on an existing structure in Brownsville Township. Kim Benson was not present.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Mr. Benson is looking for a variance to the Shoreland setback.
- Bob has been working with him since last year to correct the land description.
- Structure is for storage and deck.
- Structure is after-the-fact.
- MN DOT replied to the notice and there was no highway impact.

- The Brownsville Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Kim Benson had anything to add. Kim Benson was not present.

Greg Myhre clarified that there were no concerns with the DNR or MN DOT on the variance. Bob indicated there was not.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: Yes, after-the-fact**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Notice of **Public Hearing No. 413** was read. **Dennis Forsyth**, 11067 County 10, Caledonia, MN 55921 is seeking an after-the-fact variance of 7 feet to meet the 100 foot setback from County Road 10 to build a pole shed in Caledonia Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Application for a pole shed has been submitted – no permits issued.
- Size of pole shed is 45' x 72'.
- Standard setback is 100' from the centerline of County 10, poles are 93 feet away.
- Application is after-the-fact.
- Caledonia Lumber is the contractor.
- Brian Pogodzinski, County Highway Engineer, is recommending the BOA consider moving the shed 7 feet back because of future road flexibility and building stability.
- The Caledonia Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman asked if Dennis Forsyth had anything to add. Dennis said he applied for a permit application in February. *(The zoning office received the application back from Mr. Forsyth on April 16, 2015, Receipt #21034. A site check was conducted that same day and a cease and desist order issued on April 20, 2015).* He thought he was far enough away from the centerline when he measured. He didn't realize it came closer when they squeezed it over to the east to move to level ground. He isn't sure how it would affect future road expansion, if any.

Tim Orr stated he drove past the sight and the bank is in good shape. He thought the site looked ok.

Greg Myhre asked about water flow. Dennis explained how the water flows and there is really no water issues there.

Glenn Kruse explained that he sits on other boards and they have to look at setting precedence on allowing permits like this being granted. He did

think Dennis acted in good faith, however, on trying to stay far enough back from the road.

Chairman asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: Yes, after-the-fact**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Notice of **Public Hearing No. 414** was read. **Doug Heintz**, 8903 State 76, Caledonia, MN 55921 is seeking a variance of 186 feet to meet the required $\frac{1}{4}$ mile setback from an expanding feedlot to an existing dwelling to build a manure storage basin in Sheldon Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- The Heintz' are adding manure storage; existing storage is less than 3 months.
- Site is 298 animal units.
- Standard setback is 1,320 feet.
- Offset shows site is annoyance free 94% of the time.
- The Sheldon Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Doug Heintz had anything to add. Doug said he talked to his neighbors about his expansion and they were in favor of it. They will not have to haul manure as often.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Greg Myhre made the motion to grant the variance as submitted. Tim Orr seconded. Motion carried.

Notice of **Public Hearing No. 415** was read. **Doug Brand**, 25228 County Road 25 is seeking a variance of 446 feet to meet the required $\frac{1}{4}$ mile setback from an expanding feedlot to an existing dwelling and a variance of 1,416 feet to meet the required $\frac{1}{2}$ mile setback from a residential zone to build a free stall barn and parlor in Money Creek Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Brands are building a new freestall barn/parlor.
- Site will expand to 330 animal units.
- 2 variances are needed for (1) residential dwelling and (2) residential subdivision.
- Offset shows site is annoyance free 96% and 98% of the time.
- The Money Creek Township board and adjoining property owners were notified. There was 1 inquiry to the Zoning Office in regard to the application.

Chairman Kruse asked if Doug Brand had anything to add. Doug said he talked to the neighbors. Bob said there was just one call to the office.

Greg Myhre asked about the manure basin. Doug said it would be made of concrete and rebar and less than 20,000 gallons.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the

neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**

- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Erin Driscoll, neighbor, spoke. She lives close to the site and wanted to know how many cows he would be permitted for. Bob explained the number of animal units (a.u.) would be 330 a.u. which equals 270 head of cattle (200 milk cows, 40 calves and 30 dry cows). She also wondered how many acres were needed for spreading manure. Bob said the cows will have access to the pasture most of the time and they will put together a manure management plan on where the manure will be spread. Bob said they have access to 340 acres for spreading. They will have to continue to have the necessary amount of acres to spread manure.

Erin Driscoll asked how much manure could be spread at one time. Bob said just enough for agronomic needs. You don't want to over apply as it's a valuable resource.

Eric then asked if it would affect the water table and if water tests should be done. Bob said they could do a water test now and then another one a year from now; it's always good to have a base line.

With no further questions, Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Notice of **Public Hearing No. 416** was read. **Devoine Kruse**, 22220 Portland Prairie Road, Caledonia, MN 55921 is seeking a variance of 735 feet to meet the required $\frac{1}{4}$ mile setback from an expanding feedlot to an existing dwelling to build a free stall barn and parlor in Wilmington Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Kruse's are building a freestall barn/parlor/holding pen.
- Expanding to 369 animal units.
- Closest house is to south at 585 feet away.
- Site is annoyance free 94% of time.
- The Wilmington Township board and adjoining property owners were notified. There was 1 inquiry to the Zoning Office in regard to the application.

Chairman Kruse said he will abstain from voting as Devoine is a relative.

Chairman Kruse asked Devoine how many months of manure storage he had. Devoine said the storage is for 6 months but 1 inch of rain puts 3 inches of water in his pit.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Greg Myhre made the motion to grant the variance as submitted. Tim Orr seconded. Motion carried.

Notice of **Public Hearing No. 417** was read. **Jim Gander of Yucatan Valley Land Group, LLC**, is seeking an after-the-fact variance of 23 feet to meet the 40 foot setback from the top of a bluff to build a cabin in Yucatan Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Bluff setback standard is 40 feet from top of the bluff.
- Cabin is 17 feet from the edge of the bluff.
- No excavation was done prior to construction.
- Project is considered after-the-fact.
- The Yucatan Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Jim Gander had anything to add. Craig Curley was present for the Yucatan Valley Land Group. He stated that everything Bob indicated is correct and they would like to correct the issue. Getting the necessary permits was their ignorance.

Chairman Kruse asked why they didn't think they needed permits. Craig stated he sent in his application back in November. (*This application was in for a separate project of which a permit has been issued.*) The second cabin for this hearing was an after-thought.

Greg Myhre asked if they planned to have water or septic. Craig stated they will not.

Chairman Kruse asked about road access to the site. Craig said they used the Josh Dahl farm as access and used a logging trail. It is only meant to be a hunting cabin for the partnership of 4 individuals including him.

Chairman Kruse asked if Tim Orr was aware of the project as it was in his area. Tim Orr stated he didn't know it was there.

Chairman Kruse then asked how the building was situated. Craig explained how the structure was built. Bob Scanlan stated the bluff land erosion potential is low because there had not been any excavation on the site.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: Yes, after-the-fact**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Greg Myhre made the motion to approve the summary minutes of the December 18, 2014 meeting. Tim Orr seconded it. Motion carried.

Tim Orr made the motion to adjourn the meeting and Greg Myhre seconded it. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on June 1, 2015.

Houston County Board of Adjustment
June 18, 2015

Approved by Greg Myhre and Tim Orr on July 23, 2015

The Houston County Board of Adjustment met at 6:45 p.m. on Thursday, June 18, 2015. A summary of the meeting follows.

The meeting was called to order by Chairman Glenn Kruse. Members present were Chairman Kruse, Greg Myhre and Tim Orr. Bob Scanlan; Zoning Administrator/Feedlot Officer was present for zoning. See sign in sheet for others present.

Notice of **Public Hearing No. 418** was read. **Ron and Jim Holty**, 22965 Belleville Drive, Mabel, MN 55954 are seeking a variance of 150 feet to meet the required $\frac{1}{4}$ mile setback from an expanding feedlot to an existing dwelling to build a cattle confinement barn and manure storage basin in Spring Grove Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Building a slat barn for 740 head of slaughter cattle.
- Expansion will consist of 990 total head of cattle on site including buildings.
- Offset predicts odors are annoyance free 92% of time.
- Holty's have talked to the neighbors about their proposed project and received 26 signatures of support (on file).
- The Spring Grove Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Ron or Jim Holty had anything to add. Ron Holty said he and Jim have toured several barns in the last 3 years. The slat barn option is appealing since there is little to no smell. There are no fans; the building is double curtained so it's like a chimney effect.

Greg Myhre asked how much manure storage there would be. Ron said 14-16 months.

Bob Scanlan asked if there was a fan on the pump out, Ron indicated there wasn't.

Glenn Kruse asked how many cows they would be starting with. Ron said 700.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Greg Myhre made the motion to approve the summary minutes of the May 28, 2015 meeting. Tim Orr seconded it. Motion carried.

Tim Orr made the motion to adjourn the meeting and Greg Myhre seconded it. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on June 19, 2015.

Houston County Board of Adjustment
July 23, 2015

Approved by Greg Myhre and Tim Orr on August 27, 2015

The Houston County Board of Adjustment met at 6:00 p.m. on Thursday, June 23, 2015. A summary of the meeting follows.

The meeting was called to order by Chairman Glenn Kruse. Members present were Chairman Kruse, Greg Myhre and Tim Orr. Bob Scanlan; Zoning Administrator/Feedlot Officer was present for zoning. See sign in sheet for others present.

Notice of **Public Hearing No. 419** was read. **Matt Feldmeier**, 6448 Chisholm Road, Rushford, MN 55971 is seeking a variance of 340 feet to meet the required $\frac{1}{4}$ mile setback from an existing dwelling to build a cattle shed in Yucatan Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Matt is planning to expand his feedlot with the addition of new building.
- The current facility has calves that are raised to fat cattle.
- He is planning to expand from 106 a.u. to 157 a.u.
- No CUP is required because he is not expanding over 300 animal units.
- The site looks good as Matt put in a filter strip a few years ago.
- Offset model indicates the site will be odor free 97% of the time at 980 feet away.
- The Yucatan Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Matt Feldmeier had anything to add. Matt said he is pretty crowded now and would like to expand to complete confinement.

Glenn Kruse asked if Matt will have a manure pit. Matt said this will be a bedding pac shed, there will be no pit. He plans to haul and will store temporarily.

Glenn Kruse asked what Matt is raising. Matt said bull calves. He then asked if Matt needed a manure management plan. Bob said he is not large enough for a manure management plan but needs to keep records.

Steve Hartwick asked if he lived at the location. Bob said Matt lives at the neighboring site.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Notice of **Public Hearing No. 420** was read. **Mike and Mary Jetson**, 22023 Newhouse Drive, Spring Grove, MN 55974 is seeking a variance of 875 feet to meet the required $\frac{1}{4}$ mile setback for an expanding feedlot to an existing dwelling in Spring Grove Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- The Jetson's plan to expand their feedlot.
- They have a dairy facility and plan to build a free stall barn for heifers and decrease the milk herd at the same time.
- They will be expanding from 144 a.u. to 220 a.u.
- Offset model indicated the site will be odor free 91% of the time.
- Liquid manure storage on site currently.
- They have adequate acres to spread manure.
- The Spring Grove Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Mike Jetson had anything to add. Mike said Bob explained everything, he added that the free stall barn will free up the milking stalls.

Glenn Kruse asked what kind of bedding would be used. Mike said sand bedding will be used.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**

- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Greg Myhre made the motion to grant the variance as submitted. Tim Orr seconded. Motion carried.

Notice of **Public Hearing No. 421** was read. **Tim Colsch**, 14215 Gavin Road, Caledonia, MN 55921 is seeking a variance of 37½ feet to meet the required 40 foot setback from the top of a bluff to build a garage and cover an existing deck in Houston Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Tim would like to build a garage and cover an existing deck.
- There is an existing deck they would like to remove and build an attached garage.
- They are limited on where they can go on the site because of topography.
- They would like to build the deck closer to bluff. The normal setback is 40 feet and that is the reason for the variance.
- The Houston Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Tim Colsch had anything to add. Tim Colsch was not present.

Greg Myhre asked about the existing deck. Bob said he doesn't want to take it off until he was sure he could replace it.

Glenn Kruse asked about the bluff setback. Bob said he was at the site and said there are 2 retaining walls. One is 2½ feet from the proposed garage

at the top of the bluff and the other is at the toe of the bluff adjacent to the bike trail.

Steve Hartwick asked if it was on the north side or the east side of the house. Bob said the house sits at an angle but it was on the northerly side. Steve then asked if the east side would be better. Bob said Colsch's are applying for a setback from the bluff, not the property line.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Notice of **Public Hearing No. 422** was read. **Thomas Trehus**, 21721 Church Road, Spring Grove, MN 55974 is seeking a variance of 440 feet to

meet the required ¼ mile setback from an existing feedlot to build a house in Wilmington Township.

Bob Scanlan, Zoning Administrator, pointed out the site on the Arc Map Photo. Mr. Scanlan commented on the application:

- Thomas purchased some land from his parents and would like to build a house.
- The reason for the variance is the Anderson feedlot which is approximately 880 feet away.
- The property was surveyed and has approximately 4 acres.
- Soils type is ok to build on.
- Offset model from the Anderson site indicated the site will be odor free 97% of the time.
- The Wilmington Township board and adjoining property owners were notified. There was 1 inquiry to the Zoning Office in regard to the application.

Chairman Kruse asked if Thomas Trehus had anything to add. Thomas did not have anything to add.

Ken Anderson, a neighbor, questioned if he wanted to expand in the future what might happen. He doesn't have an issue with Thomas building there but if the site is sold, a future owner might have an issue with feedlot expansion. Bob said if Mr. Anderson wanted to expand he would need to apply for a variance just like Mr. Trehus did, it's reciprocal.

Glenn Kruse said he has seen several situations where feedlots have expanded or a house built; variances go both ways.

Tim Orr asked how many animal units were at the Anderson site. Ken said they have 37 to 40 milk cows right now but may go up to 50.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

1.) Is there a substantial variation in relation to the requirement?

Answer: No

- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Greg Myhre made the motion to grant the variance as submitted. Tim Orr seconded. Motion carried.

Greg Myhre made the motion to approve the summary minutes of the June 18, 2015 meeting. Tim Orr seconded it. Motion carried.

Greg Myhre made the motion to adjourn the meeting and Tim Orr seconded it. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on July 24, 2015.

Houston County Board of Adjustment
August 27, 2015

Approved by Greg Myhre and Tim Orr on September 22, 2015

The Houston County Board of Adjustment met at 6:15 p.m. on Thursday, August 27, 2015. A summary of the meeting follows.

The meeting was called to order by Chairman Glenn Kruse. Members present were Chairman Kruse, Greg Myhre and Tim Orr. Rick Frank, Environmental Services Director was present for zoning. See sign in sheet for others present.

Notice of **Public Hearing No. 423** was read. **Fred Kruckow**, 806 North Pine Street, Caledonia, MN 55921 is seeking a Zoning Appeal in regard to the determination that his quarry located in Section 35 in Crooked Creek Township is a non-conforming registered quarry.

Rick Frank, Environmental Service Director, pointed out the site on the Arc Map Photo. Mr. Frank commented on the application:

- The quarry does not show up on the County's 1972 list of non-conforming "registered" mines.
- Mr. Kruckow's position is that the quarry was used during the 1972 registered process thus it should be considered a legal non-conforming use.
- Mr. Kruckow has submitted aerial photos from 1962 (prior to mining operations) and 1976 (after mining had commenced).
- The county has been communicating with Mr. Kruckow since a November 13, 2014 Cease and Desist was issued.
- Mr. Kruckow has been cooperative and has since commenced removal of some milled black top and stockpiled concrete material. A site visit on August 5, 2015 showed removal operations being conducted.
- The Crooked Creek Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Fred Kruckow had anything to add. Tim Murphy, attorney for Fred Kruckow, was present and spoke. He explained the background of the construction sand pit. Arnold Kruckow purchased the land

from Leo Breeser on March 2, 1964 (copy of deed on file). Fred Kruckow then purchased the property from his father, Arnold Kruckow, on July 25, 2007 (copy of deed on file).

Also on file are affidavits from Reuben Schroeder and John Kohlmeier.

An affidavit has been taken from Reuben Schroeder stating:

- In 1964 he commenced employment with Arnold Kruckow DBA Bonanza Grain and Kruckow Rock Products.
- He is personally familiar with the sand pit located in Crooked Creek Township now owned by Fred Kruckow.
- He worked in the sand pit for his employer, Arnold Kruckow, beginning in 1966.
- He continued to be employed with Bonanza Grain and Kruckow Rock Products since 1964 through the present.
- He has worked in the sand pit in Crooked Creek Township at various times since 1966.

An affidavit has been taken from John Kohlmeier stating:

- He resides in rural Caledonia, MN.
- He is 62 years of age and has resided at Crooked Creek Township, Houston County, Minnesota, his entire life.
- He has served on the Crooked Creek Town Board for many years and we have never had a complaint with regard to the sand pit.
- He is personally familiar with the sand pit now owned by Fred Kruckow located in Crooked Creek Township.
- The sand pit has been active since the mid-1960's.

Tim Murphy continued saying the Kruckow's had several quarries in operation at the same time and all are on the county listing except this one, 40 some years later. They are asking that this site be considered a registered quarry as well. Reuben Schroeder began working at the site in 1966. John Kohlmeier of the Crooked Creek Township Board is aware that the quarry has been active since the 1960's. Back then there were no letters sent out as confirmation, it was just information submitted verbally to the zoning office. The earliest aerial photo was from 1962 and doesn't show any activity. The next available photo is from 1976. It is their position that it was a mistake and it should have been in the county's record book. There have been many projects where the quarry has been used over the years.

Glenn Kruse referred to the maps and asked if the site had ever been cropland or classified as agricultural. Fred said it had not. Fred remembered the Reno dam project was the one of the first projects that the site was used. The site also supplied Griffith Ready Mix with sand for concrete on various projects over the years. The sand pit was still used over the years, but was never cropland prior to Arnold Kruckow owning it.

Rick Frank continued with some background of the maps from 1962 and 1976. After researching the county records a determination was made that the site was not a registered quarry due to it not being listed in the county records and a hearing process was necessary.

Greg Myhre asked if Fred Kruckow had any receipts of sales that could back up the affidavits. Fred said when he left the company in 2007 he did not take any of that information with him.

Bruce Kuehmichel, City of Caledonia, stated he went to the site and took photos. He referred to the plat map of Crooked Creek Township. He indicated there is a public waterway on the site and this is an illegal non-conforming mine. He would like to see them go through a conditional use permit process. They have to comply with the 100-foot setback from a trout stream.

Michael Fields, Winnebago Township, said unless they prove the quarry has been used and in operation since 1967, they need to go through a conditional use process.

Glenn Kruse indicated he would like to collect more information before making a decision on this application.

Bryan Van Gorp, Yucatan Township, said he was not familiar with the site, but wondered if it had ever expanded since 1966. Fred said there has been no expansion.

Rich Schild, Planning Commission member, seated in the audience asked why they aren't going through the conditional use process. Tim Murphy, attorney, said he doesn't think it's necessary because it is a pre-existing quarry.

Greg Myhre made a motion to table the application, Tim Orr seconded. Motion carried. A site visit is to take place prior to the next meeting.

September 15, 2015 at 1:00 p.m. was tentatively set. *(After further discussion on Friday August 28, 2015 there were conflicts on meeting September 15, 2015. Rick Frank set the new site visit as September 17, 2015 at 1:00 p.m.)*

Rick Frank noted Fred could also extend the application another 60 days if needed. Fred Kruckow agreed.

Discussion in the audience took place on current movements in the mine and whether sand was being removed. Tim Murphy explained that millings were being removed from the site. There is no sand being taken out of the site. *(Noting: Zoning Administrator Scanlan previously issued a cease and desist for all work on the property on November 13, 2014. Since that time Mr. Kruckow has been cooperative and has since commenced removal of some milled black top and stockpiled concrete material. A site visit on August 5, 2015 showed removal operations being conducted.)*

Notice of **Public Hearing No. 424** was read. **Daryl Taylor**, 11488 Ridgeview Road, Hokah, MN 55941 is seeking a reconsideration of an after-the-fact variance of 18 feet to meet the required 50 foot setback requirement from the west property line in Union Township.

Rick Frank, Environmental Services Director, pointed out the site on the Arc Map Photo. Mr. Frank commented on the application:

- Mr. Taylor is applying for reconsideration of an 18 foot variance from the west property line that was earlier denied.
- Discussion between County Attorney Jandt and Taylor's attorney came to the agreement that reconsideration of the application would best suit the situation.
- Staff recommends support of a decision based on solid findings of fact with consideration of all 6 practical difficulty standards.
- The Union Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Daryl Taylor had anything to add. Tom, Kieffer, attorney for Daryl Taylor, presented some photos of the site to the board. He said the Taylor's have lived at the location for 10 years and have 10 horses on the site. In light of other recent variance requests, this variance is much less

than other variances sought. There are no negative impacts on government services. There will be no substantial change in the character of the neighborhood as this is an agricultural area and will not have a detrimental effect. He explained that the Taylor's chose the location of the building due to the natural drainage on the site. The site is steep in areas and it was the only logical place due to the topography. Dave Walter, RRSWCD indicated the building was probably in the best location possible.

Wayne Houdek spoke. He owns land adjacent to the site. His concern is the snow may buildup due to it being a tall building. Tom Kieffer replied that there is a natural drainage and the Taylor's are responsible to maintain the fence. As well, there are no cattle stored there during the winter months.

Kent Holen, Alternate for the Board of Adjustment, spoke from the audience. He stated he was on the Board of Adjustment the evening they denied the first variance. His opinion is that the ordinance needs to be enforced and the after-the-fact variance denial should stand.

Glenn Kruse said he visited the site on Tuesday, August 25, 2015. The photos are showing the building at 32 feet away from the fence instead of the required 50 feet. Dave Walter, RRSWCD is of the opinion that the building is in the best location. He doesn't think 18 feet is worth tearing the building apart.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**

- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: Yes (The fence line between Houdek's and Taylor's shall be maintained by the Taylor's.)**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions. Glenn said a condition should be added stating the fence line between Houdek's and Taylor's shall be maintained by the Taylor's.

Tim Orr made the motion to grant the variance as submitted. Glenn Kruse seconded. Motion carried.

Notice of **Public Hearing No. 425** was read. **Arlyn Frauenkron**, 15651 Catalpa Coulee Drive, Houston, MN 55943 is seeking a variance of 1,940 feet to rezone a residential, platted subdivision within ½ mile of an existing registered feedlot in Money Creek Township.

Rick Frank, Environmental Services Director, pointed out the site on the Arc Map Photo. Mr. Frank commented on the application:

- Mr. Frauenkron is planning to rezone a portion of his property from agricultural to residential.
- A variance of 1,940 feet is required as the standard 2,640 foot setback cannot be met.
- The feedlot is owned by relatives and consists of cattle and horses.
- The Money Creek Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Arlyn Frauenkron had anything to add. Delane Frauenkron, Arlyn's son spoke. He indicated they would like to build a new home and are going through the proper steps. The variance is from Jim and Michelle Quinn property, daughter to Arlyn.

Jim Quinn spoke that they have Arlyn's cattle in their feedlot and they are in favor of the variance.

Bruce Kuehmichel asked why setbacks are required if they aren't enforced. This application is 76% of a normal setback from a feedlot; he doesn't understand why such a large variance would be granted.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Greg Myhre made the motion to approve the summary minutes of the July 23, 2015 meeting. Tim Orr seconded it. Motion carried.

Greg Myhre made the motion to adjourn the meeting and Tim Orr seconded it. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on August 28, 2015.

Houston County Board of Adjustment
September 22, 2015

Approved on November 19, 2015 by Greg Myhre and Tim Orr

The Houston County Board of Adjustment met at 6:15 p.m. on Thursday, September 22, 2015. A summary of the meeting follows.

The meeting was called to order by Chairman Glenn Kruse. Members present were Chairman Kruse, Greg Myhre and Tim Orr. Rick Frank, Environmental Services Director was present for zoning. See sign in sheet for others present.

Notice of **Public Hearing No. 426** was read. **Thomas Brown and Kathleen Olson**, 7175 County 20, Caledonia, MN 55921 are seeking a variance of 22 feet to meet the required 25 foot setback from the toe of a bluff to build a deck in Section 13 in Union Township.

Rick Frank, Environmental Service Director, pointed out the site on the Arc Map Photo. Mr. Frank commented on the application:

- The Brown's propose to build a 20' x 12' wood deck, attached to their home.
- Their original zoning permit application to build the deck was denied by previous Zoning Administrator Scanlan due to the Bluff Land Protection setback from the Toe of a Bluff.
- Zoning Permit #3837 to build a single family home was issued in July of 2011. There was no deck noted on the original building permit or soil erosion control plan.
- Construction of the Brown's home was complete in 2014 and they opted to delay building a deck until the ground had a chance to settle.
- The Union Township board and adjoining property owners were notified. There were no inquiries to the Zoning Office in regard to the application.

Chairman Kruse asked if Tom Brown or Kathleen Olson had anything to add. Tom Brown spoke and said the only exit they have is through the basement. If they would ever have a fire, they would like to have another option to exit their home. Kathleen Olson spoke and said the topography of their property is pretty challenging. They worked closely with the Soil and

Water Conservation office and the Zoning office to meet the building requirements. They didn't realize that the deck would be considered part of the house structure and were unaware that a variance would be needed because of the setback requirement. The main living quarters are on the top floor so another exit would be beneficial if there were ever a fire in the lower level.

Glenn Kruse said the location was a challenging place to build a home. The topography is steep and the water flow will go under the deck and not cause any issues.

Chairman Kruse asked if anyone wanted to speak. There were no comments.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

Area Variance Standards ~ Practical Difficulties

- 1.) Is there a substantial variation in relation to the requirement?
Answer: No
- 2.) Will the variance have a negative effect on governmental services?
Answer: No
- 3.) Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties? **Answer: No**
- 4.) Can the practical difficulty be alleviated by a feasible method other than a variance? **Answer: No**
- 5.) How did the practical difficulty occur? Did the landowner create a need for the variance? **Answer: No**
- 6.) In light of all of the above factors, will allowing the variance serve the interests of justice? **Answer: Yes**

Chairman Kruse asked for a motion on the variance if there were no additional comments or questions.

Tim Orr made the motion to grant the variance as submitted. Greg Myhre seconded. Motion carried.

Greg Myhre added that the applicants have worked with the soil conversation office and have addressed water runoff issues. Tim Orr added that a second exit out of the house is important. Glenn Kruse indicated the topography of the site is challenging and this was the best solution.

Notice of Continuation of **Public Hearing No. 423** was read. **Fred Kruckow**, 806 North Pine Street, Caledonia, MN 55921 is seeking a Zoning Appeal in regard to the determination that his quarry located in Section 35 in Crooked Creek Township is a non-conforming registered quarry.

Rick Frank, Environmental Service Director, pointed out the site on the Arc Map Photo. Mr. Frank commented on the application:

- Rick Frank gave some background from the last hearing and why it was not considered a registered non-conforming quarry with the staff of the zoning office. There have been affidavits submitted that conclude that the quarry has been used as a mine over the years.
- A site visit took place on September 17, 2015 at 1:00 p.m. by the Board of Adjustment members, Rick Frank, Fred Kruckow and Tim Murphy. The layout of the land was reviewed, but no testimony was taken.
- Tom Hovey, MN DNR has also viewed the information and in an e-mail replied that they have checked into the location and have found that the trout stream designation on Crooked Creek ends approximately 1.7 miles upstream of the property in question. Since it is not a designated trout stream, the new MN State trout stream setback rules do not apply.
- Additional affidavits from Nancy Welscher and Fred Kruckow were submitted to the office by Tim Murphy.
- The Crooked Creek Township board and adjoining property owners were notified. There were 2 inquiries from local residents to the Zoning Office in regard to the application.

Chairman Kruse asked if Fred Kruckow had anything to add. Tim Murphy, attorney for Fred Kruckow, was present and spoke. Tim Murphy indicated there was no formal procedure on the mine registration back in the 1970's. There was no formal confirmation sent out that the mine was registered. The Kruckow's believed the mine was registered. There were no

aerials available for 1972 but there are aerials before and after. John Kohlmeier, Reuben Schroeder, Nancy Welscher and Fred Kruckow have submitted affidavits. It is their belief with the overwhelming evidence shown that the pit has been used in various projects for private, county and townships for many years.

Affidavits on file from Nancy Welscher and Fred Kruckow.

An affidavit has been taken from Nancy Welscher stating:

- I am a resident of the County of Houston, State of Minnesota.
- I was employed at Bonanza Grain as a secretary/bookkeeper from 1987 through 2007.
- One of my responsibilities was bookkeeping. I was responsible for payroll, payroll reports, accounts receivable, including sales journal, invoicing and mailing statements of account.
- While employed at Bonanza Grain I was aware of activity at the Crooked Creek sand pit, also known as the Reno sand pit, during my employment. I prepared and processed invoices for materials sold based on delivery tickets for sand sold from the Crooked Creek (Reno) sand pit.

An affidavit has been taken from Fred Kruckow stating:

- I am a resident of the City of Caledonia, County of Houston, State of Minnesota.
- I started working at Bonanza Grain d/b/a Kruckow Rock Products as a teenager and worked there until 2007. I held various positions with Bonanza Grain and ultimately I was President of Bonanza Grain.
- At all times we thought the sand pit in Crooked Creek Township was registered. We registered all of our quarries and sand pits at the time of original registration.
- My father acquired the sand pit February 27, 1964. Attached as *Exhibit A* is a copy of the Deed. I acquired the sand pit on July 25, 2007. Attached as *Exhibit B* is a copy of the Deed.
- There have been a number of uses for the sand from the pit. It was used on the Reno Dam project. Sand was sold to George Griffith for his concrete plant and my father, Arnold Kruckow, used sand for his concrete business. It was used for backfilling of basements and winter road sand. It has been used by the County of Houston, State of Minnesota, Crooked Creek Township. It has also been used by farmers in the area for bedding sand.

- We were never advised of any issues with regard to the sand pit until I received a notice from the County in 2014. At all times we thought the sand pit was registered.

Mike Fields, Winnebago Township, stated tax records should be checked to make sure that the pit has been in use. The tax records should indicate what has been sold from the land and that it has been in continuous use.

Bruce Kuehmicel, City of Caledonia, wanted to know what the Board of Adjustment found out after visiting the site. Chairman Kruse said it's a sand pit that appears to have been in use for many years. Bruce Kuehmicel then read from Section 9, Subd 2. Nonconforming Uses May Be Continued. *"It is the intent of this Ordinance to permit these non-conforming uses or structures to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district."* He believes Mr. Kruckow has had 43 years to get his name on the mine. They need a reclamation plan, an operations plan and meet setback requirements.

Bryan Van Gorp, Yucatan Township, stated it is unfortunate for Mr. Kruckow that this issue is coming to a head and they have to abide by the law. They should not be allowed to operate close to a stream. Why would he not be required to get a conditional use permit. He should not be allowed to mine until he gets a permit to mine. He recommends checking Google earth maps, taxes and sales receipts. The burden of proof falls on the mine owner, not the public.

Yvonne Krogstad, Caledonia Township, wonders why Mr. Kruckow is persistent on having a non-conforming mine instead going through a conditional use process.

Tim Murphy said the issue here is not what the prior individuals are attempting to address; it's whether this has been an operating mine over the years.

Sharon Beck said she lives close to the quarry site and has only seen activity once in the last 40 years. She thought it was pasture land.

Jeremy Stouvenel always thought his grandfather, Leo Breeser, owned the land since he was young. He has only seen no trespassing signs go up in the last 4-5 years when his grandfather re-fenced some land.

Gretchen Cook from La Crescent asked how it could be considered a registered mine if there is no record of it. There needs to be 7 years of tax records need to back it up.

Sam Jandt, Houston County Attorney spoke. He said the issue before the Board of Adjustment is whether the operations at this site should continue. As far as the history of mine registry process back in 1972; there was an ad in the newspaper telling individuals to register the sites but there was no follow up or confirmation given. The reason behind the registration is a moot point because there was no follow through. If they have been using the site as a quarry, it should be treated as such.

Bruce Kuehmichel asked if affidavits were obtained from those individuals that spoke about the inactivity in the mine.

Sam Jandt commented on the affidavits that have been received thus far. The decision the board makes is based on credibility of the affidavits and what has been presented to them.

Fred Kruckow stated Jeremy Stouvenel has actually gotten sand from his quarry recently and in the past. Sharon Beck who lives to the west of the quarry site may not have noticed activity that was going on if it was to the east of the site. Her driveway is on the west side and she would not be able to see. Fred said he has frequented this mine many times and after the site was viewed it would be evident to the board.

Mike Fields wondered what the affidavits say and whether they state the mine has been in use since 1972. He stated that Jay Squires has stated there is no such thing as a registered mine.

Chairman Kruse asked if anyone else wanted to speak. There were no other comments.

Chairman Kruse asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

The Board of Adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:

1. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property.
2. 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 of injurious to property or improvements in the area adjacent to the property of the applicant.

Greg Myhre made a motion to overturn the Zoning staff's decision and grant the zoning appeal based on the facts gathered and presented, the affidavits submitted and the land deeds. Tim Orr seconded. Motion carried.

Greg Myhre made the motion to approve the summary minutes of the August 27, 2015 meeting. Tim Orr seconded it. Motion carried.

Tim Orr made the motion to adjourn the meeting and Greg Myhre seconded it. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on September 23, 2015.