

Houston County Board of Adjustment  
March 23, 2017

**Approved on April 20, 2017 by Dana Kjome and Ken Visger**

The Houston County Board of Adjustment met at 6:15 p.m. on Thursday, March 23, 2017. A summary of the meeting follows.

The meeting was called to order by Aaron Lacher, Zoning Administrator/Feedlot Officer. Members present were Dana Kjome, Larry Hafner and Ken Visger. Aaron Lacher, Zoning Administrator/Feedlot Officer was present for zoning.

Election of Chairperson for 2017 took place. Dana Kjome nominated Larry Hafner for Chairperson, Ken Visger seconded. There were no other nominations. Motion carried unanimously.

Election of Vice Chairperson for 2017 took place. Ken Visger nominated Dana Kjome for Vice Chairperson, Larry Hafner seconded. There were no other nominations. Motion carried unanimously.

**Notice of Public Hearing No. 443** was read. **Robert Witt**, 531 South 4<sup>th</sup> Street, La Crescent, MN 55947, is seeking a variance of 5 feet to meet the 50 foot setback requirement from the south property line to build a dwelling and variance of 820 feet to meet the required ¼ mile setback from an existing feedlot to build a dwelling in Section 30 of Mound Prairie Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- A unique situation exists within the right-of-way at this location. At some point, the location of County 21 was changed, preventing the movement of cattle between parcel 060142000 and parcel 110341000. An agreement was reached between the two affected property owners and the County whereby a fencing corridor was allowed to be constructed in the right-of-way, among other things. The agreement was “put in writing” in a letter from then County Engineer Gary Bruggemen dated March 31, 1995. The County Attorney weighed in in 2010 encouraging the parties to follow the agreement.
- The site is located on a 39.75 acre parcel (considered 40 acres for permitting purposes) on an area that winds along the base of a bluff. Slopes are 5%-10%. Soils are Class VI, suitable for buildings when designed to conform to the natural slope of the land. The proposed site is a naturally flat area. The steep slopes to the east are considered bluffs, and the existing and proposed buildings meet the required 25’ setback from the bluff toe. The areas downslope to the west and northwest are not considered bluffs as the required 50’ of elevation change is not present. Thus, no setback is applicable; however, the petitioner wishes to keep the building setback from the edge of the slope, creating the need for the 5’ variance.
- The area is outside of the floodplain. An unmapped drainage way runs parallel the existing driveway to the north, and is directed to the south side at the driveway’s approximate mid-point. Approximately 2/3 of the driveway measures a 15% slope, exceeding the 12% maximum. Land shaping will be required to reduce the slope to acceptable levels.

- According to a survey conducted in 2016, the parcel has 70.5' of frontage on the right-of-way on County 21.
- The parcel is a lot of record. The site was first developed in 1965 when a trailer home was placed there. A shed was built in 1982; the shed was presumably considered an agricultural building, which did not require permitting at the time. No nonconformities are known on the parcel.
- A feedlot is located 500 feet west of the proposed site, creating the need for a variance. The feedlot was registered at 70 animal units in 2013. Registration is required every four years. The County began re-registering feedlots in December of last year, with registrations requested by January 17<sup>th</sup>. To date, no registration has been received from this site.
- Mound Prairie Township and the closest ten property owners were notified. Questions regarding the permitting requirements were received from one party.

Chairman Hafner asked Robert Witt if he had anything additional to add. Attorney Tim Murphy, representing the Witt's, spoke. He said the variance is straight forward and should be granted according to other recent and similar in nature variances. The Witt's bought the site in 2015 and there is one good, suitable place to build. Aerial photos show a mobile home and shed were previously on the property. There is an agreement in place for the road access. Robert Witt said he needed the variances to proceed with building a new home.

Diane Orr had a question on the offset model for odors from the feedlot. Aaron Lacher said there is no requirement to run it; this is an inverse relationship and is only run when a feedlot is building or expanding closer.

Kendra Van Gundy questioned if their current feedlot would want to expand what would happen. It was explained they would need to follow the same variance process.

Shelly Thompson questioned about building on sand and the type of soil at that location. Aaron Lacher said if you own over 40 acres the county does not dictate on the type of soils you can build on. Larry Hafner said at some locations you cannot build on, but this is not one of them.

Kendra Van Gundy asked about building closer to a well. Aaron Lacher said that it was okay for the Witt's to proceed. She was also concerned about putting a septic system there. Aaron explained setbacks for septic systems. Ken Visger indicated they would still have to go through the zoning permit process where all that would be checked.

Diane Orr asked if the Witt's were okay with the cattle pass. Robert Witt indicated he is okay with that. Kendra Van Gundy indicated there has been an access for 30 some years. The previous owner used the site for recreational purposes and now it will be residential.

Steve Van Gundy wondered about potential runoff and the driveway access. He is concerned they may want the gates out.

Larry Hafner indicated these questions are not part of this hearing process. Everyone has to do their part and be considerate of the existing agreement. It's not part of

the deliberation of this board. Larry asked if the access was dependent on the existing agreement. Tim Murphy said it was not and was irrelevant on granting the requested variance. It's simply being good neighbors on the access and the gates. The gates should be closed when no animals are going through.

Mary Witt said she is aware of some of the issues they have stated and plans to be neighborly. She has no issues with the cows.

Steve Van Gundy stated there is a fence line that needs to be straightened out.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

Subdivision 1. Area Variance Standards – Practical Difficulties

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

A 62% reduction of the feedlot setback is requested. This distance is consistent with proximity of nearby dwellings and feedlots: ½ mile to the west, Steve and Kendra Van Gundy were granted a variance of 800' from the dwelling setback from a feedlot in 2009, ¾ mile west; a house is located 970' from a feedlot.

A 10% reduction in the setback from the property line is requested.

2. Will the variance have a negative effect on governmental services?

No effect is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

The change in use of the property has the potential to affect the agreement for the use of the right-of-way for cattle crossing. As staff understands the agreement, the agreement requires consent from all parties (i.e. Houston County, Van Gundy, and Witt). Should consent be withdrawn and the agreement terminated, the potential for a detrimental effect would also cease. Thus, each party has the ability to affect the other. The County has previously encouraged the private parties to reach agreement on their own. That continues to be the most prudent option. It is the BOA's task to determine to what extent consideration of this potential affect is proper. Ken Visger said there are previous residential homes nearby. Larry Hafner said the site is a level spot.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Potential building sites are substantially limited by the topography of the site. The previous developed site was selected for good reason; the balance of the parcel is bluff lands inaccessible by vehicle.

5. How did the practical difficulty occur? Did the landowner create a need for the variance?

The proximity of the adjacent feedlot and the slopes surrounding building site create the need for a variance.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

The BOA should consider the above criteria, as well as information gathered at the hearing in making this determination.

Larry Hafner said it serves the interest of justice; there is no contention with what's being done in the area.

#### 0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Larry Hafner indicated it was the only spot to build.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

Larry Hafner said you are in the country for wanting to be in the country.

#### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

The Comprehensive Plan seeks to preserve agricultural land. The proposal does not remove land from production. The Comprehensive Plan seeks to minimize urban/rural conflicts by controlling placement of nonfarm dwellings. The proposal is for a farm dwelling. The Comprehensive Plan seeks to protect woodland areas. The proposal is to build on a previously developed site.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

Potential building sites are substantially limited by the topography of the site, thereby creating practical difficulties. The previous developed site was selected for good reason; the balance of the parcel is bluff lands inaccessible by vehicle. The proposed use is reasonable and consistent with past practices of granting permits in the area.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

A practical difficulty directly created or attributed to the applicant is considered self-imposed. The Petitioner did not establish the feedlot nor determine the placement of the bluffs.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

The granting of the variances will permit uses that are consistent with established uses in the area.

5. Economic considerations alone do not constitute practical difficulties.

Variances are sought due to topographical features and neighboring property uses.

6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.

The buildable area is very limited. As such, placement anywhere within the area would require a variance from the feedlot. The properly line setback affords a more prudent building location.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law. The variances sought are area variances.

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

Dana Kjome made the motion to grant the variance as submitted. Ken Visger seconded. Motion carried.

**Notice of Public Hearing No. 444** was read. **Peter Shimshak**, 3821 Bush Valley Road, La Crescent, MN 55947, is seeking a variance of 25 feet to meet the required 50 foot setback requirement for an existing dwelling in an agricultural district in Section 23 of Mound Prairie Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application.

- Petitioner is requesting a variance of 25' to meet the required setback from a property line for an existing dwelling in an Agricultural Protection District.
- Petitioner was granted a CUP and issued a zoning permit to build a house in October of 2016. The house was constructed on 3.79 acres the petitioner owns 3.79 acres split from a 68.95 acre parcel under the ownership of a trust to which the Petitioner is a beneficiary. When this trust is executed, the Petitioner will own more than 40 contiguous acres, including the property adjacent to his 3.79 acres. After the CUP process was initiated, the Donor to the Shimshak Trust waived his right of appointment, thereby removing any ability to modify the distribution scheme and assuring that the Petitioner will become a co-owner of the adjacent land. Additionally, the Donor and all Beneficiaries of the trust indicated support for the project in writing.
- In light of these special circumstances, the County concluded that the Petitioner could reasonably be determined to have contiguous ownership of 40 acres. Therefore, it is staff's opinion that a CUP and a variance are not absolutely necessary. However, the petitioner wishes to obtain these permits and documents as added certainty should the County's interpretation ever be challenged.
- The site is located in the SE quarter of the SE quarter of Section 23 of Mound Prairie Township. Access is from Bush Valley Rd; the parcel has approximately 600' of road frontage. Driveway slopes are approximately 4.5% and the building site is on a 12% slope. The site is located outside the floodplain. The Donor designed the property split in a manner that kept the traditional field access road on the parent parcel—ultimately to be co-owned by multiple beneficiaries. This is logical as the fields accessed by this road will also be co-owned. The property line was located approximately 40' from existing tillable ground. The house was constructed on the outer edge of a grass-way, jutting slightly into the tillable, and extending within 25' of the property line. The placement was selected with multiple considerations, one being to minimize taking ground out of production.
- Mound Prairie Township and the ten nearest property owners were notified. No comments were received.

Chairman Hafner asked Peter Shimshak if he had anything additional to add. Peter said everyone in the family agreed that it was okay building that close. He helps out on the farm and takes care of his Dad. Future assurance is what is needed here with the variance application he has requested.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

A 50% reduction of the standard is requested.

2. Will the variance have a negative effect on governmental services?

No effect is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

The use is consistent with dwellings present on nearby properties. The use is not anticipated to affect neighboring properties.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Other options include moving the house or acquiring additional land. The land is now in an irrevocable trust, with the Petitioner designated to become co-owner. Moving the house is not feasible or reasonable. A variance is the most reasonable option.

5. How did the practical difficulty occur? Did the landowner create a need for the variance?

The Donor determined the location of the property line.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

The BOA should consider the above criteria, as well as information gathered at the hearing in making this determination.

Larry Hafner said it will serve the interests of justice. Peter has the property and access to it; he is just crossing the T's and dotting the I's.

#### 0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Larry Hafner said this has been satisfied.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

The board agreed.

#### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

The Comprehensive Plan limits housing density and seeks to preserve farmland. The house complies with the density limiter, and the specific location was selected in part to preserve prime farmland.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

The location of the prime farmland and the property line create a practical difficulty. The Petitioner's use, and desire to put additional assurances in place surrounding that use, are reasonable.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

A practical difficulty directly created or attributed to the applicant is considered self-imposed. In this case, the Donor created the property boundary, and the logic supporting the Donor's actions—the need to retain access to agricultural fields for all beneficiaries—is sound and stems from the unique layout of the property including the tillable ground, grass ways, township road, and quarter quarter section lines.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

No effect is anticipated.

5. Economic considerations alone do not constitute practical difficulties.

The location of the house was not selected based on economics. The cost to build 50' from the boundary would have been equivalent.

6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.

Other options include moving the house or acquiring additional land. The land is now in an irrevocable trust, with the Petitioner designated to become co-owner. Moving the house is not feasible or reasonable. A variance is the most reasonable option.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

The request is an area variance.



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

Ken Visger made the motion to grant the variance as submitted. Dana Kjome seconded. Motion carried.

**Notice of Public Hearing No. 445** was read. **Mark and Sonia Lager**, 7912 Grinnell Way, Lakeville, MN 55044, are seeking a variance of 25 feet to meet the required 25 foot setback from the toe of a bluff to build a dwelling in Section 14 of Brownsville Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- Petitioner is requesting a 25' variance to meet the required 25' setback from the toe of a bluff.
- The location in question is Lot #4 in the Spring Hills Subdivision, platted in 1981. In 1981, there were no slope requirements within the County Ordinance or State Law for building sites or driveways. In 1982, the Ordinance was amended to include new standards for slopes: *"Subdivision design shall be consistent with the limitations presented by steep slopes. Subdivisions shall be designed so that no construction or grading will be conducted on slopes steeper than 15% in grade."*
- This language has since been amended, and only the first sentence remains. Under the current rules, the maximum allowable slope is determined during the plat approval process, with the 23% maximum slope of a buildable lot serving as the ceiling.
- In 1993, the Ordinance was amended to include Bluffland Protection language. This restricted building on bluffs (at the time 30% slopes) and required a setback from the top and toe of a bluff. This language persists to today, although the slope threshold has been reduced to 24%. The Petitioner's lot has slopes measured in the range of 21%-37%. The extent to which the Petitioner's lot is within a Bluffland Protection Area has varied from partially, under the current rules, to entirely, under the 1982 rules, to not at all, under the 1981 rules.
- The site is approximately one acre located on the upper part of foot slopes. The site is currently unimproved. Slopes were measured at 21%-37%, with the house proposed on 23% slopes. Steep side slopes are present above, starting at 37% approximately 55' from the southern property line, and becoming increasingly steep to the north. A 65' setback from the centerline of the township road results in a 25' setback from the southern property line. Considered in conjunction with the 25' setback from the toe of the bluff, the buildable area is effectively reduced to a five foot width.
- Soils are a Class VI sandy loam, acceptable for building if structures are designed to conform to the natural slope of the land. To satisfy access road slope requirements, the driveway is proposed to be installed so as to gently rise with the contours.
- The area is outside of the floodplain and there are no mapped waterways or drainages present.
- Brownsville Township and the nearest ten property owners were notified. No comments were received.

Chairman Hafner asked Mark Lager if he had anything additional to add. Mark Lager said Aaron Lacher presented it well. One thing he wanted to make clear is they have an easement from the adjacent landowner to build a driveway. They need the full 25 foot variance due to septic requirements. There are also power line issues they are working around.

Ken Visger said he believed the Lager's bought the platted site not realizing some rules had changed or that the site presented building issues.

Larry Hafner indicated there are unique requirements building into bank. Mark Lager said they have a Type 3 soil erosion plan in place and will be using retaining walls. They have modified their building plans accordingly to meet these requirements.

Larry Hafner said the driveway meets 12 percent slope requirement with the easement.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

A 100% reduction in requirement is sought. Larry Hafner added there are other existing homes already in the subdivision. This is not a substantial reduction, not a lot of fill will be added and they are building according to existing slopes.

2. Will the variance have a negative effect on governmental services?

No effect is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

The subdivision contains five platted lots, three of which now have houses. Additional subdivisions are adjacent. The proposed use is consistent with established uses in the area, and will not have any detrimental effect.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

No, without a variance, the site is not buildable.

5. How did the practical difficulty occur? Did the landowner create a need for the variance?

The plat was approved and conformed to the standards at the time. Subsequent changes in the regulation of development on slopes created the need for the variance.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

The BOA should consider the above criteria, as well as information gathered at the hearing in making this determination. Dana Kjome indicated the variance will allow them to build.

## 0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Larry Hafner indicated this is the only place to build.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

Larry Hafner indicated this is consistent with other area properties.

### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

The request would allow building on a site previously found to meet the requirements of a buildable lot by the County.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

The general steepness of the site presents a practical difficulty. The house would be situated in a similar manner to the existing houses in the Spring Hills Subdivision. For instance, the house to the east is built on similar slopes and has a steeper driveway than is being proposed.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

A practical difficulty directly created or attributed to the applicant is considered self-imposed. The plat was approved and conformed to the standards at the time. Subsequent changes in the regulation of development on slopes created the need for the variance.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

The subdivision contains five platted lots, three of which now have houses. Additional subdivisions are adjacent. The proposed use is consistent with established uses in the area, and will not have any detrimental effect.

5. Economic considerations alone do not constitute practical difficulties.

Cost of construction is not a factor; granting the variance will *allow* building, not make it more affordable compared to an alternative location.

6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.

Without a variance, the site is not buildable.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

The request is for an area variance. There are no flood plain issues present. Granting the variance is allowable under state law.

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

Dana Kjome made the motion to grant the variance as submitted. Ken Visger seconded. Motion carried.

Larry Hafner made a motion to approve minutes of October 23, 2016. Ken Visger seconded. Motion carried.

Ken Visger made a motion to adjourn. Dana Kjome seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on March 24, 2017.

Houston County Board of Adjustment  
April 20, 2017

**Approved on May 18, 2017 by Ken Visger and Dana Kjome**

The Houston County Board of Adjustment met at 6:00 p.m. on Thursday, April 20, 2017. A summary of the meeting follows.

The meeting was called to order by Chairman Larry Hafner. Members present were Dana Kjome, Larry Hafner and Ken Visger. Aaron Lacher, Zoning Administrator/Feedlot Officer was present for zoning.

**Notice of Public Hearing No. 446** was read. **Anthony and Lisa Reinhart**, 10943 State 16, Houston, MN, 55943 are seeking a variance of 45 feet to meet the 50 foot setback requirement from the east property line to build a storage shed. Petitioners also seek a variance of 19 feet to cure an encroachment of their house into the required 50 foot setback from the west property line in Section 32 of Mound Prairie Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- The dwelling, garage, and deck on site were permitted with a CUP in 1995. Subsequent permits were issued for an addition, porch, and shed.
- The primary request is for a variance for a proposed shed, however, it has been discovered that an existing structure encroaches into a required setback. The house appears to have been located nearer the western property line than was permitted, likely due to the fact that the line location on the ground was not properly marked. The result is an encroachment of 19'. Learning of this, Petitioners wish to cure this nonconformity while before the BOA.
- The site is a three acre parcel along State 16 at the foothill of a bluff. The proposed building location is a flat area approximately 150' off the highway that is currently used for unprotected storage.
- Mound Prairie Township and the ten nearest property owners were notified. There was 1 inquiry to the zoning office on the application.

Chairman Hafner asked Lisa Reinhart if she had anything additional to add. Lisa said she wasn't aware of the additional setback that was needed until they applied for the variance.

Chairman Hafner asked if anyone wanted to speak.

Linda Wheaton spoke. Her mother owns the property to the west. She learned of the variance while home visiting. They are not in favor of the variance for the following reasons: it reduces the setback from 50 to 5 feet; the shed would abut a gully on their property, impacting runoff onto their property. A 90% reduction of the 50 foot setback requirement would constitute a substantial reduction. A reduction of more than 50% would be substantial, particularly given the relatively small size of the parcel. This is not a special circumstance, as the steep slopes of the Reinhart property are not unique to the

area. The size of the shed, 150 feet from the highway, which the variance is to accommodate, will affect the character of the (state-designated) forest in which their property is located.

Dana Kjome questioned the runoff concerns. Aaron Lacher referred to the contour mapping provided and photos of the property. He stated the area they want to build on is flat, however, the Reinhart's have not applied for a zoning permit yet, and they are just planning for the future.

Ken Visger said he viewed the site and the building location is flat, however, it wouldn't be unreasonable to propose guttering on the roof. There is also no other location on the site to build and he doesn't believe it will cause additional runoff issues.

Larry Hafner clarified that the Wheaton's would not be building anything on their property, since it is very steep.

Discussion took place. The consensus was there is no alternate location to build due to the septic system drainfield.

Linda Wheaton reiterated that she doesn't think 5 feet is enough of a setback.

Larry Hafner doesn't believe there is any harm in building where they are planning to build.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: a 90% reduction from the standard is requested. Substantial is a subjective and relative concept, and it may be proper to take the property as a whole into account in making a determination. In light of the variance needed in order to build the proposed shed, the variance is not substantial.

Dana Kjome said there is no other location to build due to the septic system drainfield. Ken Visger doesn't believe anyone is being harmed. Larry Hafner stated under the circumstances it would not be substantial due to the lay of the land.

2. Will the variance have a negative effect on governmental services?

Analysis: No impact is anticipated.

- 3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: Pole sheds are commonly found in this neighborhood.

- 4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: Steep slope and gullies limit potential building sites and make the variance necessary.

- 5. How did the practical difficulty occur? Did the landowner create a need for the variance?

Analysis: Steep slope and gullies limit potential building sites and make the variance necessary.

- 6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: Yes

0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Dana Kjome stated the size of the parcel and the lay of the land.

- 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 or injurious to property or improvements in the area adjacent to the property of the applicant.

The consensus was no.

ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

- 1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

Analysis: The official controls are intended to provide for orderly development and provide for the protection of public health, safety or welfare. The proposal is compatible with these goals.

- 2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

Analysis: Steep slopes dominate the undeveloped portions of the parcel, creating a practical difficulty.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.  
Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed. Steep slopes dominate the undeveloped portions of the parcel, creating a practical difficulty.
4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.  
Analysis: Pole sheds are commonly found in this neighborhood. A shed will not substantially affect neighboring property values. No impact is anticipated on public health, safety or welfare.
5. Economic considerations alone do not constitute practical difficulties.  
Analysis: The lot size, septic location and bluff regulations prevent developing other sites at any cost.
6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.  
Analysis: Petitioners are proposing the building in the only suitable location.
7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.  
Analysis: The request is for an area variance. Floodplains are not an issue at this site.

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

Ken Visger made the motion to grant the variance as submitted with the stipulation that roof runoff shall be directed to the north and west onto the landowner's property. Dana Kjome seconded. Motion carried.

Dana Kjome made a motion to grant an additional variance of 19 feet to cure an encroachment of their house into the required 50 foot setback from the west property line. Ken Visger seconded. Motion carried.

**Notice of Public Hearing No. 447** was read. **Ann Abraham**, 8878 Valley High Drive, Houston, MN 55943, is seeking a variance of 10 feet from the west property line to meet the 15 foot setback requirement from a side property line in a residential district to build a storage shed in Section 3 of Mound Prairie Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:



- The site is half acre parcel in the Valley High Estates subdivision. The layout of the house, driveways, septic, and gas limit options for future development. The garage is proposed be 45' from the rear yard (North), permitted without a variance under 0110.2914 Subd. 3 (5), and 5' from the side yard (West), for which a variance is needed.
- The site is in a platted subdivision, and is not a through lot. Zoning is Residential. The slope is flat. There are no floodplain or water feature issues present.
- Mound Prairie Township and the ten nearest property owners were notified. No comments were received.

Chairman Hafner asked Ann Abraham if she had anything additional to add. Ann said due to the septic system and the setback requirement of the drainfield they need a variance to build closer to the lot line.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: Petitioner is seeking a 66% reduction from the standard. Under 0110.2914 Subd. 1, this is the maximum variance that can be granted, and as this degree of variance is specifically referenced in the ordinance as the maximum allowable, it follows that the BOA can grant such a variance.

2. Will the variance have a negative effect on governmental services?

Analysis: No impact is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: The parcel to the west from which the reduction is sought is a 92 acre golf course. No impact is anticipated.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: Location of shed cannot be moved east due to septic drain field.

5. How did the practically difficulty occur? Did the landowner create a need for the variance?

Analysis: Required setbacks from roads and the area occupied by the house and septic result in the remaining buildable area requiring a variance.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: yes.

0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Septic system is an issue.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

No harm.

ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

Analysis: The official controls are intended to provide for orderly development and provide for the protection of public health, safety or welfare. The proposal is compatible with these goals.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

Analysis: Required setbacks from roads and the area occupied by the house and septic result in the remaining buildable area requiring a variance.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed. Required setbacks from roads and the area occupied by the house and septic result in the remaining buildable area requiring a variance.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Analysis: The parcel to the west from which the reduction is sought is a 92 acre golf course. No impact is anticipated.

5. Economic considerations alone do not constitute practical difficulties.  
Analysis: Denying the variance will not result in increased costs, but will prevent the project.
6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.  
Analysis: Required setbacks from roads and the area occupied by the house and septic result in the remaining buildable area requiring a variance.
7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.  
Analysis: The request is for an area variance. Floodplains are not an issue at this site.

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

Ken Visger made the motion to grant the variance as submitted. Dana Kjome seconded. Motion carried.

**Notice of Public Hearing No. 448** was read. **Nicole and Jamin Ramsay**, 1293 Shellhorn Drive, Brownsville, MN, 55919 are seeking a variance of 15 feet to meet the 50 foot setback requirement from the east property line to build a dwelling, a variance of 15 feet to meet the 25 foot setback requirement from the toe of a bluff to build a dwelling, a variance of 20 feet to meet the 50 foot setback requirement from the east property line for an existing garage in Section 2 of Brownsville Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- A pole shed was built on the site in 1982. At some point after 1994, part of the shed was remodel to include living quarters, a well was installed, and an unpermitted septic was installed. In the fall of 2016, Zoning notified the property owners that the site was incompliant with the ordinance, at which point the property owners began working to obtain the correct permits for their desired use.
- The proposed site is located on three contiguous parcels totaling 24.8 acres. The property consists mainly of steep forested bluffs. The proposed site is at the foot of a bluff, on a shell elevated from the township road. Frontage is owned on Shellhorn drive. The proposed building site was selected in part because it overlooks the Mississippi River. There are no existing dwellings in the quarter section. The area is outside of the floodplain and there are no mapped water features on the property. The building site itself is flat, but is surrounded by bluffs to the south and a steep bank to the north which descends to the road. Soils are class VI and VII. Site work may be needed to reduce the existing driveway slope.
- Brownsville Township and the ten nearest property owners were notified. No comments were received.

Chairman Hafner asked the Ramsay's if they had anything additional to add. They did not have anything additional to add.

Ken Visger said he was at the site and doesn't believe the toe of a bluff variance is an issue. He also did not see encroachment issues with other neighbors.

Jamin Ramsay indicated there is an existing telephone pole that cannot be removed, so in order to get enough clearance from the phone lines, he has to be closer to the other property line.

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

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

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: Reductions of 30%, 60%, and 40% are sought.

- 2. Will the variance have a negative effect on governmental services?

Analysis: No impact is anticipated.

- 3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: Dwellings on lots less than 40 acres in size are common in this area.

- 4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: The width of the area between the bluff and the slope to the north require a variance to locate near the existing garage and driveway without. The shed is existing and cannot practically be relocated.

- 5. How did the practically difficulty occur? Did the landowner create a need for the variance?

Analysis: The narrowness of the site is created by the topography in the area. The existing shed was likely sited so as not to create a bottleneck atop the driveway.

- 6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: Yes.

0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

View of river, power line being an issue.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

There are none.

#### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).  
Analysis: The official controls are intended to provide for orderly development and provide for the protection of public health, safety or welfare. The proposal is compatible with these goals.
2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.  
Analysis: Steep slopes dominate the property, creating a practical difficulty. The proposed house is reasonable.
3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.  
Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed. The request is due to the topography of the land.
4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.  
Analysis: Similar homesteads are found throughout the area. . No impact is anticipated on public health, safety or welfare.
5. Economic considerations alone do not constitute practical difficulties.  
Analysis: Economics were not a factor in determining the site proposal. Alternative sites would have a similar cost.
6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.  
Analysis: If the Petitioner is to build near the existing garage and have a view of the river, the variances are necessary.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.  
Analysis: The request is for an area variance. Floodplains are not an issue at this site.

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

Ken Visger made the motion to grant the variance as submitted. Dana Kjome seconded. Motion carried.

**Notice of Public Hearing No. 449** was read. **Darin Meyer/De-Su Holsteins**, 1286 Oriole Drive, New Albin, IA 52160 is seeking a variance 1,115 feet to meet the 1,320 foot setback (¼ mile) requirement for a feedlot expansion from a dwelling in Section 28 of Spring Grove Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- Petitioner is seeking a variance of 1,115 feet to meet the 1,320 foot setback requirement for a feedlot expansion from an existing dwelling. The proposal includes construction of a freestall barn (113' x 393') and a concrete liquid manure storage area (200' x 260' x 12').
  - The site is an existing farmstead in Spring Grove Township recently purchased by the Petitioner consisting of the following components: 1) Existing 105' x 130' freestall barn; 2) Existing 75' x 125' concrete manure storage; 3) Existing 50' x 71' barn; 4) Existing 35' x 120' milking parlor and holding area.
  - The site is currently registered at 147.8 animal units (AU), however there are currently no animals onsite; the proposal would increase AU to 553.2 AU. The species is dairy cows and calves. The Proposer is seeking the necessary Conditional Use Permits needed for expansion and construction of manure storage concurrently. In addition, state feedlot rules will require the proposer to obtain a permit prior to construction. Specific engineering standards must be met before this permit will be issued. The proposer has elected to pursue the approvals needed from the County prior to beginning the state feedlot program permitting process.
  - A feedlot compliance inspection was conducted by SWCD staff on 3/23/2017. The site was determined to be in compliance with state feedlot rules.
  - The farm is located on 4 contiguous parcels totaling 280 acres. There are no water features mapped on the site. A grassed waterway drains storm water from the Southwest to the Northeast. Soils are a silt loam with slopes ranging from 1-6%; the soil survey estimates greater than 6' to water table. A more detailed soils analysis is required when applying for the feedlot permit for manure storage, and the applicant will begin this process should the County grant the variance and CUP. Drainage is to the northeast, and a grassed waterway is located with the southeast corner of the proposed pit.
- Neighbors:** A dwelling is located on the south end of the adjacent property to the north. A variance of 875' was granted in 2015 in conjunction with a proposed expansion, however the expansion never occurred. Currently, the milking parlor and holding area is 445' the neighboring dwelling, which is permissible under the 2015 variance. Under the proposal, the free stall barn would be located 205' from the neighboring dwelling and the manure pit would be located 563' from the neighboring dwelling.

**Wells:** The proposed lot is approximately 150' from the existing well. The area is not located in a Drinking Water Supply Management Area.

**Water Usage:** According to a University of Michigan study published in 2010, dairy cows require 29.9 gallons of water per day (consumption and wastewater). The proposal is to increase to 553.2 animal units. Assuming only dairy cows, this would equal 395 cows ( $553.2/1.4=395$ ). Using the U of M estimate, 395 cows would require 11,810.5 gallons of water daily or 4.3 million gallons annually. A water use (appropriation) permit from DNR Waters is required for all users withdrawing more than 10,000 gallons of water per day or 1 million gallons per year.

**Odor:** Minnesota ambient air quality standards establish maximums for various air pollutants emitted by an activity. The MPCA tests air quality if a complaint is registered. Samples are taken on property boundaries, or on public space such as a road. The maximum acceptable level of Hydrogen sulfide is established. Levels vary according to site management (bedding type, crust on manure pit). There are a limited number of day exemptions afforded sites that are typically used when emptying pits.

The Odor from Feedlot Setback Estimation Tool (OFFSET) estimates the current annoyance-free frequency for the nearest neighbor at 92%. The project as proposed would result in an annoyance-free frequency for the nearest neighbor of 82%. OFFSET uses average emissions of hydrogen sulfide and ammonia to compute this figure. Many factors contribute to a feedlot's effect on air quality; proper management is perhaps the most critical.

**Prevailing Winds:** Staff contacted the National Weather Service office in La Crosse regarding prevailing winds. Generally, in southeastern Minnesota, winds are out of the northwest in the winter and south in the summer. Local topography can cause variations, often channelizing winds within valleys. Specific data is not available for the City of Houston. Data collection sites are located in Preston, Winona, and Rochester. Data in the form of wind roses for these sites are included that chart historical wind data over decades.

**Karst:** Two sinkholes are mapped near the site; one located approximately 865' southwest of the manure pit and the second located approximately 260' south of the proposed free stall barn. This second sinkhole, a 4' diameter by 12' deep sinkhole, was mapped in November of 2013 by the DNR. The next nearest mapped sinkhole is approximately 3500' east. New feedlots cannot be located within 300' of a sinkhole. Manure storage is prohibited in areas where four sinkholes are present within a 1000' of the proposed site.

A full Karst review is part of the state feedlot permitting process. However, the encroachment of the free stall barn as currently proposed may prevent the issuance of a feedlot construction permit

- Spring Grove Township and the ten nearest property owners were notified. Comments were received from an adjacent township regarding concerns over manure application, nitrate levels in groundwater, and water use. Comments were received from members of the public regarding concern about potential odors and potential contamination of ground water.

Chairman Hafner asked Darin Meyer if he had anything additional to add. Darin Meyer presented a revised photo of where the manure pit would be moved, due to sinkhole concerns.

Ken Visger stated he has an understanding of how Darin wants the building and manure pit to be laid out. Darin said the freestall barn is a standard 6 row, sand bed barn.

Larry Hafner wonders what the chances are of a sink hole developing under the manure pit or what the likelihood of that happening may be. Darin said during the permitting process they are going to have to maintain enough soil over bedrock and it will be a concrete basin with 100% containment, not an earthen basin.

Ken Visger clarified that they are just dealing with the variance setbacks and not the issue of karst topography.

Larry Hafner questioned what the new setback footage is with the change in the location of the manure pit. It was determined to be 318 feet.

Darin Meyer said the proposed manure pit is actually further away from the closest residence than the existing manure pit. The variance is actually needed for the freestall barn, not the manure pit.

Darin went on to explain why they chose the location they did for the new pit. The infrastructure of the existing farmstead was taken into account as well as sinkhole concerns.

Chairman Hafner asked if anyone wanted to speak.

Geneva Tweeten stated she is concerned about the location of the manure pit. She understood that it will be located directly over a drainage area that comes down to her land. If there is seepage from the pit it will come down toward her property and into the waterway.

Richard Storlie is a neighbor to the north. He thinks the pit location is close to the township road and may put additional pressure on the natural waterways.

Larry Hafner asked if Darin wanted to address their concerns and what the negative effects may be. Darin said the manure pit would have 100% containment and no runoff to affect waterways. It was determined the other issues would be dealt with in the conditional use hearing.

Michelle Schwartzhoff, daughter of Janette Fossum, the closest affected neighbor spoke for her mother. She stated they do not have a problem with what the Meyer's are proposing to do, it's a farming/agricultural area; it is part of living in the country.

Ken Visger wanted clarification on the old variance and new variance. It was determined to be 120 additional feet closer than the previous variance.

There were no other comments.

Ken Visger made a motion to table the hearing. Dana Kjome seconded. Motion carried.

Dana Kjome made a motion to approve minutes of March 23, 2017. Ken Visger seconded. Motion carried.

Ken Visger made a motion to adjourn. Dana Kjome seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on April 21, 2017.



Houston County Board of Adjustment  
May 18, 2017

**Approved on September 28, 2017 by Dana Kjome and Ken Visger**

The Houston County Board of Adjustment met at 6:30 p.m. on Thursday, May 18, 2017. A summary of the meeting follows.

The meeting was called to order by Chairman Larry Hafner. Members present were Dana Kjome, Larry Hafner and Ken Visger. Aaron Lacher, Zoning Administrator/Feedlot Officer was present for zoning.

**Public Hearing No. 450** was cancelled. Applicants **William and Sharon Budd**, 1610 Highwood Drive, La Crescent, MN 55947 withdrew their application. They were seeking a variance of 20 feet to meet the 25 foot setback requirement from the toe of a bluff to build a detached garage in Section 2 of Hokah Township.

**Notice of Continuation of Public Hearing No. 449** was read. **Darin Meyer/De-Su Holsteins**, 1286 Oriole Drive, New Albin, IA 52160 is seeking a variance 1,115 feet to meet the 1,320 foot setback (¼ mile) requirement for a feedlot expansion from a dwelling in Section 28 of Spring Grove Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- Petitioner is seeking a variance of 1,001 feet to meet the 1,320 foot setback requirement for a feedlot expansion from an existing dwelling. The proposal includes construction of a freestall barn (113' x 393') and a concrete liquid manure storage area (144' x 260' x 12').
- **UPDATES:** The petitioner has communicated to staff that the manure storage size is being reduced. The proposed pit dimensions have been revised to 200 x 144 x 12.
- A site visit by the feedlot advisory committee was conducted; the resulting report is on file.
- Two companies offering bedrock investigation services (Seismic refraction and electronic resistance technology) were contacted. The applicant was provided contact information for each company. More information is attached.
- **Revised Plan:** A revised site map was submitted that removes the proposed project out of the 300' setback required from a sinkhole. Based on the revised plan, the variance require is reduced to 1,001 feet.
- **Public Input:** A letter expressing concern over the project signed by 11 members of the public was received.
- **Karst Review:** The feedlot application process includes a standard karst review. Staff is exploring options for a more thorough review. One option might be an Electrical Resistivity Imaging (EIR) process.
- **EAW Considerations:** The registration was updated in January 2017 to 187 AU, an increase of 39.4 AU from the prior registration. The proposal is to increase by 565 dairy heifers (395.5 AU) and 50 dairy calves (10 AU) for a total increase of 405.5 AU. This increase will bring the total AU for the site to 592.5.
- Minnesota Rule 4410.4300 establishes mandatory Environmental Review Worksheet categories, including: "...expansion of an existing animal feedlot by more than 500 animal units if the

facility is located...within 1000 feet of a known sinkhole...” At least one known sinkhole is within 1000 feet of the proposed project.

M.R. 4410.4300 provides that “The provisions of part 4410.1000, subpart 4, regarding phased actions apply to feedlots.”

4410.1000, subpart 4 provides: “Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS.”

- ““Phased action” means two or more projects to be undertaken by the same proposer that a RGU determines: A. will have environmental effects on the same geographic area; and B. are substantially certain to be undertaken sequentially over a limited period of time.”
- Spring Grove Township and the ten nearest property owners were notified. Comments were received from an adjacent township regarding concerns over manure application, nitrate levels in groundwater, and water use. Comments were received from members of the public regarding concern about potential odors and potential contamination of ground water.

Ken Visger asked if the building location was moved and if the variance requested had changed. Aaron Lacher said everything shifted to the east. There was a reduction of 114 feet from the initial request. The existing variance in 2015 was 875 feet and there is a 126 foot increase from that, so the new total is 1,001 feet.

Ken Visger asked the reason for the reduction in the size of the manure pit. Darin Mayer said it was a compliance measure. Aaron Lacher said there is a feedlot capacity limitation based on the number of animal units.

Dana Kjome asked about the drainage area and the manure pit being on top of it. Darin Meyer said his engineer has designed drainage that will go around the manure pit. Aaron Lacher said this is the first step in the feedlot permitting portion engineering process.

Larry Hafner indicated he was present at the site visit and the closest affected neighbor, Janet Fossum, has no objections with the proposed manure pit.

Dana Kjome asked about the feedlot advisory report in which it talks about the karst topography and the presence of nearby sinkholes being a concern. Aaron Lacher said he will be suggesting to the Planning Commission that testing be done. There are a couple options available for the feedlot permit portion of the permit.

Chairman Hafner asked if anyone wanted to speak.

Bruce Kuehmichel asked if the 300 foot setback rule from a sinkhole was an MPCA rule. Aaron Lacher indicated it was.

Larry Hafner indicated there was no other feasible place for the manure pit to be built after he viewed the site.

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

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

## 0110.1205 CRITERIA FOR GRANTING VARIANCES

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the land owner in those cases where the ordinance imposes undue hardship or practical difficulties to the property owner in the use of his/her land. To hear requests for variances from the requirements of the Zoning Ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance and when the variances are consistent with the "Comprehensive Plan". Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance. "Practical difficulties," as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the Ordinance. The Board of Appeals and Adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No use variances may be issued.

### Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: An 84% reduction in the standard is requested. Substantiality is a subjective and relative concept. It may be proper to consider to the property as a whole when making such a determination. This is a 126', or 14%, increase from the variance granted in 2015 of 875'.

Ken Visger did not think the request was substantial.

2. Will the variance have a negative effect on governmental services?

Analysis: No impact is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: Commercial agriculture is the primary land use in the neighborhood. According to the Offset model, the annoyance free factor at the closest neighbor is reduced to 82% from 95% under the proposal.

Ken Visger said this is an agricultural area and therefore appropriate.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: In order to grant the variance, the BOA must conclude that alternative sites are not feasible.

Larry Hafner said it is in the proximity of the other structures and preserves prime farm land.

5. How did the practical difficulty occur? Did the landowner create a need for the variance?

Analysis: The current proposal is the landowner's second choice. The first location proposed was deemed unacceptable due to the location of sinkholes.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: Yes. Ken Visger said this is not an unreasonable request.

#### 0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Larry Hafner said it is an existing farmstead and will also preserve prime farm land.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

Ken Visger indicated this is an agricultural area and it is the primary use of the land. Dana Kjome said it will not change water quality. Larry Hafner said there is a natural barrier in road.

#### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

Analysis: A primary theme of the Comprehensive Plan is support for commercial agriculture.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

Analysis: In order to grant the variance, the BOA must conclude that other sites are not suitable, and that the reduction is reasonable. The consensus was that the request was suitable and reasonable.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed. The current proposal is the landowner's second choice. The first location proposed was deemed unacceptable due to the location of sinkholes. The need to locate contiguously with existing farm infrastructure requires a variance. Note that the proposed infrastructure could be located 445' from the dwelling under the previously issued variance per zoning policy.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Analysis: In order to grant the variance, the BOA must conclude that the proposal will not impair neighboring property values. Consideration of both land and house values are appropriate.

Larry Hafner said it will not decrease, it may even increase.

5. Economic considerations alone do not constitute practical difficulties.  
Staff Analysis: Costs are not estimated to change drastically based on location.
6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.

Analysis: In order to grant the variance, the BOA must conclude that other sites are not suitable, and that the request is the minimum reduction needed.

Dana Kjome said this type of request is to be expected in an agricultural district. Ken Visger said the existing infrastructure is important and the slope of the land caused limitations for the pit.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection, as determined by the Houston County Zoning Office, than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Analysis: The request is for an area variance. The site is not located in a floodplain district.

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

Ken Visger made the motion to grant the variance application based on the following condition:

1. Screening acceptable to the County shall be installed and maintained between the manure pit and the road.

Dana Kjome seconded. Motion carried.

Ken Visger made a motion to approve minutes of April 20, 2017. Dana Kjome seconded. Motion carried.

Dana Kjome made a motion to adjourn. Ken Visger seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on May 19, 2017.

Houston County Board of Adjustment  
September 28, 2017

**Approved by Ken Visger and Dana Kjome on January 25, 2018**

The Houston County Board of Adjustment met at 6:30 p.m. on Thursday, September 28, 2017. A summary of the meeting follows.

The meeting was called to order by Chairman Larry Hafner. Members present were Dana Kjome, Larry Hafner and Ken Visger. Aaron Lacher, Zoning Administrator/Feedlot Officer was present for zoning.

**Notice of Public Hearing No. 451** was read. **Doug Heintz**, 8903 State 76, Caledonia, MN 55921 is seeking a variance of 500 feet to meet the required 1,320 foot setback ( $\frac{1}{4}$  mile) from an existing feedlot to build a dwelling in Section 16 of Sheldon Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- A dwelling is proposed on a newly created 2.48 acre parcel contiguous to approximately 260 acres. A registered feedlot is located approximately 830' south of the proposed location.
- A variance of 500' is necessary to satisfy the required 1320' setback from a Ranzenberger feedlot to the south. The Ranzenberger feedlot is currently registered at 100 animal units (125 feeder cattle). The proposed dwelling would become the residence for the petitioner; his current house is located approximately 230' from feedlots he operates and approximately 460' from manure storage he operates. The Petitioner's feedlot is currently registered at 299 animal units consisting of dairy cattle. The proposed house location is approximately 600' farther from a feedlot than the Petitioner's current house, and the Ranzenberger feedlot is  $\frac{1}{3}$  the animal units of the Petitioner's feedlot.
- The proposal is part of the Petitioners long-term succession plan. The Petitioner understands that the proposed house must be associated with 40 or more contiguously owned acres for a minimum of ten years in order to remain a permitted use.
- The Advisory Committee reviewed the variance request and recommends granting the variance.
- The site appears substantially suitable for locating a house, excepting the feedlot setback. A zoning permit is necessary and will be issued if all applicable performance standards are satisfied.
- The proposed site is in an open quarter quarter section. There is adequate area to meet setback requirements, including a 100' setback from the ordinary high water mark of Badger Creek and a 40' setback from the top of a shoreland bluff to the east. The site is outside of the floodplain. The site elevation is 748', 14.2' above the base flood elevation of 733.8'. The proposed building site has slopes <3%; the likely driveway location slope is 9% at its steepest point. The site is located on >40 contiguous acres. The newly created parcel has 480' of owned frontage on S.H. 76, and contiguous owned property has an additional 235' along S.H. 76. The Petitioner is working with MNDOT to determine an appropriate access point—options include a direct access off of S.H. 76 or branching off the existing driveway to the north.

- Sheldon Township and the ten nearest property owners were notified. No comments were received.

Chairman Hafner asked if Doug Heintz had anything to add. Doug said he's looking to bring in the next generation to run the farm. Either his son or daughter will be living in the house. He and his wife would like to build a new home and continue living close to the main farm.

Larry Hafner asked about the owner of the other feedlot that is close to Heintz's. Doug said it was Ken Ranzenberger's feedlot and he has spoken to him about their plans.

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

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

#### 0110.1205 CRITERIA FOR GRANTING VARIANCES

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the land owner in those cases where the ordinance imposes undue hardship or practical difficulties to the property owner in the use of his/her land. To hear requests for variances from the requirements of the Zoning Ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance and when the variances are consistent with the "Comprehensive Plan". Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance. "Practical difficulties," as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the Ordinance. The Board of Appeals and Adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No use variances may be issued.

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: Petitioner is seeking a 38% reduction of the requirement. Not substantial due to current proximity of applicant's feedlot to his home; larger variances have been granted in the past.

2. Will the variance have a negative effect on governmental services?



Analysis: No, no effect is anticipated.

- 3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: No, the proposal is similar to existing dwellings and sites within the Ag District of Houston County.

- 4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: No. The site was selected with consideration of the floodplain, slopes, density limitation, access, and soil productively on the combined owned acreage. In light of all these factors, no feasible alternatives are available.

- 5. How did the practically difficulty occur? Did the landowner create a need for the variance?

Analysis: No. Floodplain, slopes, density limitation, access, and soil productively are all beyond the scope of the Petitioner’s control.

- 6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: Yes, allows farm to stay in the family.

0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances:

Subdivision 1. Findings. 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.

Analysis: A combined effect of floodplain, slopes, density limitation, access, and soil productively affect the property in a unique way.

- 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 or injurious to property or improvements in the area adjacent to the property of the applicant.

Analysis: No impacts are anticipated. Locating a dwelling within the 1320’ setback will limit future expansion options at the Ranzenberger feedlot—an expansion to the north would require a variance. The BOA must focus on applications before it with limited consideration for hypothetical future request.

ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).  
Analysis: 0100.050,1 Subd. 1, Goal 1 calls for the preservation of commercial agriculture. Working with family farms on key components of their succession plans allows farm to transition from one generation to the next in a way that satisfies the intent of the farmer, and the requirements of the County.
2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.  
Analysis: Practical difficulties include floodplain, slopes, density limitation, access, and soil productivity on the combined owned acreage. The proposal is reasonable.
3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.  
Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed.
4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.  
Analysis: The proposal is similar to existing dwellings and sites within the Ag District of Houston County, and is not anticipated to negatively affect properties in the vicinity.
5. Economic considerations alone do not constitute practical difficulties.  
Analysis: The physical features of the land, not economic considerations, dictated the proposed location.
6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.  
Analysis: The site was selected with consideration of the floodplain, slopes, density limitation, access, and soil productivity on the combined owned acreage. In light of all these factors, no feasible alternatives are available.
7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.  
Analysis: The request is for an area variance. The site is above the regulatory flood protection elevation and meets all standards required by state law.

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

Dana Kjome made the motion to grant the variance application. Ken Visger seconded. Motion carried.

**Notice of Public Hearing No. 452** was read. **Leslie and Cindy Goetzinger**, 6246 County 249, Caledonia, MN 55921 are seeking a variance of 29 feet from the north property line to meet the 50 foot setback requirement to build a storage shed in Section 25 of Crooked Creek Township.

Aaron Lacher, Zoning Administrator, pointed out the site on the Arc Map Photo. He commented on the application:

- Petitioners request a variance of 29' from the required 50' setback from the north property line to build a shed. Petitioners are seeking a Conditional Use Permit for a non-farm dwelling concurrently. Both permits must be granted for the shed to be built.
- The house, garage, and porch were permitted in 2001. The property was subsequently split off from parcel 04.0282.002, and a survey was done at that time. The Goetzingers dispute the property lines as shown on Beacon. The County does not warrant the lines as shown on Beacon. However, zoning decisions are made using the beacon lines as the default property lines unless better information is provided by the applicant or otherwise available; the initial review of the legal description by zoning staff did not support the Goetzingers' claim.
- The Goetzingers first provided the County with the location of an iron marker set in 2001 when the survey was done; the marker was consistent with the Goetzingers claim of where the property line was, but was somewhat inconsistent with the legal description, and not line could be established with one marker. Because setbacks serve to ensure improvements do not extend beyond property lines, and due to the substantial variance being sought (39' at the time), the County determined that a second marker needed to be located, or a survey needed to be done, in order to establish the north line to ensure that the proposed building would sit entirely on the applicants' property. The Goetzingers located the second marker in a corn field, however the marker showed signs of disturbance and the County could not be confident that it had not been moved. The Goetzingers provided an unsigned letter from the firm that conducted the 2001 survey in support of their claim. Zoning would defer to this type of letter provided it was signed by a licensed surveyor.
- The Goetzingers then reduced the variance sought by ten feet, which reduced to likelihood that the shed would extend beyond the property line. At the request of zoning, the County Surveyor issued an opinion on the north property line. The Surveyor's report establishes the north boundary 30' +/- from the proposed structure and provides a technical explanation for the discrepancy.
- The proposed building site is located on a 5 acre parcel in the SW SE of section 25. The current house is the only dwelling located in the quarter quarter section. The site is outside of the floodplain and there are no water features on the property. Slopes are <3%. Access is off of C.R. 249.
- Crooked Creek Township and the ten nearest property owners were contacted. No comments were received.

Larry Hafner asked for clarification on where the shed would be built. Leslie Goetzinger explained where it would be located on the aerial photo on the monitor and Aaron Lacher referred the board to an aerial photo supplied by the County Surveyor in their packet.

Larry Hafner asked if any neighbors were disputing the application. Aaron Lacher said no comments were received.

Aaron Lacher said the Goetzingers were also seeking a conditional use permit for a non-farm dwelling, but need to have the variance approved first.

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

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

#### 0110.1205 CRITERIA FOR GRANTING VARIANCES

The Houston County Zoning Ordinance establishes the following criteria for granting variances:

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the land owner in those cases where the ordinance imposes undue hardship or practical difficulties to the property owner in the use of his/her land. To hear requests for variances from the requirements of the Zoning Ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance and when the variances are consistent with the "Comprehensive Plan". Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance. "Practical difficulties," as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the Ordinance. The Board of Appeals and Adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No use variances may be issued.

#### Subdivision 1. Area Variance Standards – Practical Difficulties

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

Analysis: A 58% reduction of the standard is being requested. Not substantial as there is minimal chance of infringing on the neighbor's property line.

2. Will the variance have a negative effect on governmental services?

Analysis: No impact is anticipated.

3. Will the variance effect a substantial change in the character of the neighborhood or will there be a substantial detriment to neighboring properties?

Analysis: No. Pole sheds are commonly found in this neighborhood.

4. Can the practical difficulty be alleviated by a feasible method other than a variance?

Analysis: The proposed site is the only feasible site for the following reasons: The applicants desires the shed to be near the house. Existing utilities, driveways, picture window views, and topography leave the northwest side is the only practical option.

5. How did the practical difficulty occur? Did the landowner create a need for the variance?

Analysis: The practical difficulty is the result of the limited parcel size and the slopes on site.

6. In light of all of the above factors, will allowing the variance serve the interests of justice?

Analysis: They are replacing a shed and not inconveniencing anyone; it is the most reasonable spot for the shed.

#### 0110.1207 FINDINGS REQUIRED

The Houston County Zoning Ordinance requires the following findings when granting variances: Subdivision 1. Findings. 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.

Analysis: The practical difficulty is the result of the limited parcel size and the slopes on site.

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 or injurious to property or improvements in the area adjacent to the property of the applicant.

Analysis: No impact is anticipated.

#### ADDITIONAL FINDINGS

Required by Minnesota State Statute 394.27 Subd. 7.

1. The variance request is in harmony with the intent and purpose of official controls (ordinance and comprehensive plan).

Analysis: The official controls are intended to provide for orderly development and provide for the protection of public health, safety or welfare. The proposal is compatible with these goals.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable.

Analysis: The practical difficulty is the result of the limited parcel size and the slopes on site, and is reasonable.

3. The variance request is due to special conditions or circumstances unique to the property not created by the property owner.

Analysis: A practical difficulty directly created or attributed to the applicant is considered self-imposed. The practical difficulty is the result of the limited parcel size and the slopes on site.

4. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Analysis: Pole sheds are commonly found in this neighborhood.

5. Economic considerations alone do not constitute practical difficulties.

Analysis: The practical difficulty is the result of the limited parcel size and the slopes on site.

6. The variance cannot be alleviated by a reasonable method other than a variance and in the minimum variance which would alleviate the practical difficulty.

Analysis: The proposed site is the only feasible site for the following reasons: The applicants desires the shed to be near the house. Existing utilities, driveways, picture window views, and topography leave the northwest side is the only practical option.

7. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Analysis: The request is for an area variance. Floodplains are not an issue at this site.

Ken Visger made a motion to add the stipulation on the variance application to state:

***1. Applicant required to obtain a Conditional Use Permit for a non-farm dwelling.***

Dana Kjome seconded. Motion carried.

Ken Visger made the motion to grant the variance application. Dana Kjome seconded. Motion carried.

Dana Kjome made a motion to approve minutes of May 18, 2017. Ken Visger seconded. Motion carried.

Dana Kjome made a motion to adjourn. Ken Visger seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on September 29, 2017.