

**MINUTES**  
**Blue Earth County Board of Adjustment**  
**Regular Meeting**  
**Wednesday, June 4, 2014**  
**7:00 p.m.**

**1. CALL TO ORDER**

The meeting was called to order at 7:00 P.M. by Chairman Lyle Femrite. Board of Adjustment members present were Lyle Femrite, Kurt Anderson, Chuck Grams and Perry Wood. Planning & Zoning staff members Mark Manderfeld, Mike Schulte, and George Leary were also present.

**2. APPROVAL OF MINUTES**

Mr. Anderson made a motion to approve the minutes from the April 2, 2014 meeting of the Board of Adjustment. Mr. Grams seconded the motion which carried unanimously.

**3. APPROVAL OF AGENDA**

Mr. Leary indicated there was no change to the agenda.

**4. NEW BUSINESS**

**BOA 06-14**

**Mark's Farms, Inc.** – Request for a variance to reduce the required property line setback from 50 feet to 15 feet for the purpose of constructing a new total confinement poultry barn. The site is located in the Agricultural Zoned District in the Southwest Quarter of the Southwest Quarter of Section 11 and the Northwest Quarter of the Northwest Quarter of Section 14, Mapleton

Mr. Schulte presented the staff report.

The applicant was present and had nothing to add.

There was no public comment.

Mr. Anderson questioned the need for a variance to replace an existing structure.

Mr. Leary stated that state statute allows for the replacement (without enlargement) of residential structures. However, it does not grant the same privilege to non-residential structures. He added that in this instance, the request includes an enlargement of the previous structure.

The Board moved on to the Findings-of Fact Checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? *Mr. Wood and Mr. Anderson both indicated yes*  
Why or why not? *No additional comments were provided.*

2. Has the applicant thoroughly explained the need for a variance from the official controls? *Mr. Wood and Mr. Grams both indicated yes.*  
Why or why not? *No additional comments were provided.*

3. Is the alleged practical difficulty due to circumstances unique to this property? *Mr. Wood, Mr. Grams and Mr. Anderson all indicated yes.*

Why or why not? *No additional comments were provided.*

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? *Mr. Grams, Mr. Femrite and Mr. Anderson all indicated yes.*

Why or why not? *No additional comments were provided.*

5. Does the alleged practical difficulty involve more than economic considerations? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

6. Without the variance, is the owner deprived of a reasonable use of the property? *Mr. Grams and Mr. Femrite indicated yes.*

Why or why not? *No additional comments were provided.*

7. Is the request the minimum variance necessary to afford relief? *Mr. Anderson indicated yes.*

Why or why not? *No additional comments were provided.*

8. Will the issuance of the variance maintain the essential character of the locality? *Mr. Grams, Mr. Anderson and Mr. Femrite all indicated yes.*

Why or why not? *No additional comments were provided.*

9. Will the public health, safety and environment be preserved if the variance is approved? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

There was no further discussion.

Mr. Wood made a motion to approve the requested variance.

Mr. Grams seconded the motion which carried unanimously.

**BOA 07-14**

**David & Christy Keinz** – Request for an after-the-fact variance to reduce the setback from a bluff from 30 feet to 10 feet for an already constructed detached garage. Said property is located in the Agricultural Zoned District in the Northwest Quarter of the Northeast Quarter of Section 19, Decoria Township.

Mr. Manderfeld presented the staff report.

The applicants were not present.

There was no public comment.

Mr. Femrite asked staff about drainage.

Mr. Manderfeld stated his understanding that the applicant intends to add rain gutters and direct the roof water to the ravine.

Mr. Anderson asked staff how long building permit records are retained.

Mr. Manderfeld indicated he had looked at the original construction permit and found there was no indication on the application or the site plan that included this detached garage.

Mr. Anderson asked if any other permits had been applied for.

Mr. Manderfeld stated that well and septic permits had been obtained.

Mr. Anderson indicated there were a number of other options and the applicant could have reconfigured the outlay of the lot.

The Board moved on to the Findings-of Fact Checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? *Mr. Anderson, Mr. Femrite and Mr. Grams all indicated no.*  
Why or why not? *Mr. Anderson stated that the action infringes upon the bluff setback.*

2. Has the applicant thoroughly explained the need for a variance from the official controls? *All of the Board members indicated no.*  
Why or why not? *No additional comments were provided.*

3. Is the alleged practical difficulty due to circumstances unique to this property? *Mr. Anderson and Mr. Femrite indicated no.*  
Why or why not? *No additional comments were provided.*

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? *All of the Board members indicated no.*  
Why or why not? *No additional comments were provided.*

5. Does the alleged practical difficulty involve more than economic considerations? *Mr. Anderson and Mr. Wood indicated no.*  
Why or why not? *No additional comments were provided.*

6. Without the variance, is the owner deprived of a reasonable use of the property? *All of the Board members indicated no.*  
Why or why not? *No additional comments were provided.*

7. Is the request the minimum variance necessary to afford relief? *Mr. Anderson, Mr. Femrite and Mr. Grams indicated no.*  
Why or why not? *No additional comments were provided.*

8. Will the issuance of the variance maintain the essential character of the locality? *Mr. Anderson and Mr. Wood all indicated no.*

Why or why not? *Mr. Anderson commented we do not have four-car garages built ten feet from a steep bluff line all over that neighborhood.*

9. Will the public health, safety and environment be preserved if the variance is approved? *Mr. Wood indicated no.*

Why or why not? *No additional comments were provided.*

### **Additional Findings of Fact for an After-The-Fact Request**

1. Has the construction been completed? *Mr. Femrite indicated yes. Mr. Anderson, Mr. Grams and Mr. Wood indicated that it is not entirely completed. If not, what percentage of construction has been completed? Mr. Anderson estimated that approximately 92% of the construction had been completed.*

2. Has the applicant adequately explained why they failed to obtain a variance/or comply with the applicable requirements before commencing work? *Mr. Anderson, Mr. Femrite and Mr. Wood indicated no.*

3. Does it appear the applicant has acted in good faith and tried to comply with the Ordinance? *Mr. Grams and Mr. Wood indicated no.*

4. Are there similar structures in the area? *All of the Board members indicated no.*

5. Does the applicant's burden of complying with the Ordinance outweigh the County's benefit of enforcing the Ordinance? *Mr. Anderson and Mr. Femrite indicated no.*

Following the review of the Findings of Fact checklist, there was some additional discussion regarding the extent of completion of the project. The general consensus was that the project is approximately 90% complete, give or take a few percentage points.

There was no further discussion by the Board.

Mr. Wood made a motion to deny the requested variance.

Mr. Anderson, out of consideration of the Findings of Fact checklists and the evidence provided by staff, seconded the motion.

The motion for denial passed unanimously by a vote of 4 to 0.

### **BOA 08-14**

**Jeffrey Wilking & Jennifer Dorn** – Request for a variance to reduce the setback requirement from CSAH 42 from 130 feet to 93 feet for the purpose of constructing an addition on to the home. The property is located in the Agricultural Zoned District in the Northeast Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 16, Judson Township.

Mr. Manderfeld presented the staff report.

There was a brief discussion regarding the septic system. Mr. Manderfeld advised the Board that the applicant working with staff regarding this matter.

The applicant was present and no comment.

There was no public comment.

The Board moved on to the Findings of Fact checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

2. Has the applicant thoroughly explained the need for a variance from the official controls? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

3. Is the alleged practical difficulty due to circumstances unique to this property? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? *All of the Board members indicated no.*

Why or why not? *No additional comments were provided.*

5. Does the alleged practical difficulty involve more than economic considerations? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

6. Without the variance, is the owner deprived of a reasonable use of the property? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

7. Is the request the minimum variance necessary to afford relief? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

8. Will the issuance of the variance maintain the essential character of the locality? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

9. Will the public health, safety and environment be preserved if the variance is approved? *All of the Board members indicated yes.*

Why or why not? *No additional comments were provided.*

There was no further discussion by the Board.

Mr. Grams made a motion to approve the requested variance.

Mr. Wood seconded the motion and the motion passed unanimously.

**5. ADJOURNMENT**

There was no further business and the meeting was adjourned at 7:48 p.m.

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Board of Adjustment Chair

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Board of Adjustment Secretary