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BRANDY MACUMBER, COUNTY RECORDER
MADISON COUNTY IOWA

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To and From
Office of Planning and Zoning

Ryan Hobart, Administrator

Variance

PERMIT NO: 1-25

DATE: March 6, 2025

After a properly held Public Hearing on February 4th, 2025, the Madison County Board of Adjustment hereby approves the request for a Variance to Timothy E. Owens & Danette Lynn Tracy to allow for the encroachment upon the required front-yard setback of fifty feet. The following described real estate is that of which is involved:

A tract of land located in the Northeast Quarter (1/4) of the Northeast Quarter (1/4) and in the North Half (1/2) of the South Half (1/2) of the Northeast Quarter (1/4) of Section Twenty-eight (28), in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, containing 22.2990 acres, as shown in Plat of Survey filed in Book 1, Page 131 on February 10, 1978, in the Office of the Recorder of Madison County, Iowa.

This variance was approved under the provisions specified in the Zoning Ordinance for the Unincorporated Area of Madison County, Iowa.

Ryan Hobart, Secretary
Madison County
Board of Adjustment

MADISON COUNTY BOARD OF ADJUSTMENT

Application for Variance on Setback Requirements
Timothy E. Owens & Danette Lynn Tracy
Date: 3/4/2025

DECISION

On February 4th, 2025, at 7:00 p.m., pursuant to the rules of procedure of the Madison County Board of Adjustment, a public hearing was held and conducted on the Application for Variance to Setback Requirements set forth in the Madison County Zoning Ordinance. The requested was to allow encroachment upon the required front-yard setback of fifty (50) feet to allow an unpermitted, newly constructed, pole building to remain in its non-compliant location at the residence of 2633 Carver Road Winterset, Iowa 50273. At the hearing the Board of Adjustment, reviewed the completed application form(s), relevant provisions of the Madison County Ordinances, all documents constituting the record from the Zoning Administrator, documents received from the applicant, heard the statements, remarks and comments by the Zoning Administrator, the applicants, Timothy E. Owens & Danette Lynn Tracy, as well as statements, remarks, and comments by others in attendance. After all the information was received and all interested parties were heard by the Board of Adjustment, the hearing was closed pursuant to the rules of procedure of the Board of Adjustment.

Following closure of the hearing a motion was made by **Archer** to approve deny the Variance Application with a second by **Bigelow**.

A roll call vote was conducted on the motion:


Kevin Fiene	<input type="checkbox"/> Aye	<input type="checkbox"/> Nay
Fred Howell	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Mary Kathryn Bigelow	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Dawn Archer	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
David Morford	<input type="checkbox"/> Aye	<input checked="" type="checkbox"/> Nay

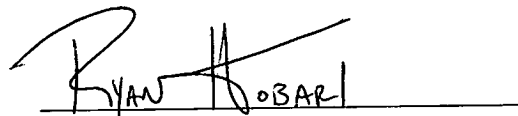
The motion was therefore Passed Denied

DECISION: By a 3 to 1 vote, the Board of Adjustment has granted a Variance to allow the newly constructed 40'X56' Metal Pole Building at 2633 Carver Road Winterset, Iowa 50273 to remain in its current location. The Southeast corner of this building is approximately 30' from the road right-of-way line.

Dated this 4th day of March 2025

Acknowledged as to Accuracy:


Vice Chair


Secretary

Original Filed with the Secretary of the Board of Adjustment on March 4, 2025.
Original Filed with the Madison County Recorder's Office on March 6, 2025.

Written Notification of Decision sent to:

Timothy E. Owens & Danette Lynn Tracy
2633 Carver Road
Winterset, IA 50273

**MADISON COUNTY, IOWA
BOARD OF ADJUSTMENT
DECISION AND FINDINGS**

IN THE MATTER OF THE APPLICATION OF:

CASE NO: 1-25

Timothy E. Owens & Danette Lynn Tracy

PUBLIC HEARING: February 4, 2025

A request to obtain a variance to the required front yard setback of 50 feet listed within the Madison County Zoning Ordinance: 2633 Carver Road Winterset, Iowa 50273 in Madison County, Iowa more particularly described below.

Decision

On February 4, 2025, the Madison County Board of Adjustment approved the request to obtain a variance in below captioned matter.

VOTE¹:	Ayes:	Archer; Bigelow; Howell
	Nayes:	Morford
	Absent:	Fiene
	Vote:	(3-1)

Written Findings of Fact

Case Summary: The request for a variance to the front yard setback of 50 feet listed within the Madison County Zoning Ordinance on the below captioned real estate, currently owned by Timothy E. Owens & Danette Lynn Tracy.

A tract of land located in the Northeast Quarter (1/4) of the Northeast Quarter (1/4) and in the North Half (1/2) of the South Half (1/2) of the Northeast Quarter (1/4) of Section Twenty-eight (28), in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, containing 22.2990 acres, as shown in Plat of Survey filed in Book 1, Page 131 on February 10, 1978, in the Office of the Recorder of Madison County, Iowa.

¹ Motion by Archer was phrased in the positive: to approve the application for Variance. For clarity, the votes listed here reflect "Ayes" as votes to approve the Variance and "Nayes" as votes to deny the Variance.

Public Hearing February 4, 2025: Notice of public hearing was published as required, posted on the county webpage, and posted at the Madison County Annex Building. Notices were mailed to surrounding property owners on January 20, 2025. Required notice was provided to County Offices.

Ryan Hobart, Zoning Administrator, presented the staff report. The Staff Report recommended denial of the application based on failure to comply with the Madison County Zoning Ordinance, more specifically, the front yard setback requirement depicted on page 7 of said Ordinance. Following the Staff Report, the Board of Adjustment asked Administrator Hobart his opinion of the primary use of this structure. Administrator Hobart stated that he didn't believe there was enough evidence presented for this building to be considered an agriculture structure and therefore wasn't exempt from the Madison County Zoning Ordinances.

Administrator Hobart had asked Mr. Owens to provide any evidence prior to the hearing to assist in making this determination. Mr. Owens had supplied 7 images of the contents within the building and an image of a check written by Brad Gibson in the amount of \$150.00 for "Hay" which was written in the memo line of the check. On January 22nd, 2025, Randy Henry, the applicant's realtor, dropped off a copy of a schedule F which showed a net loss of \$763.00 in 2024. (\$343.00 – depreciation, \$305.00 – gasoline, fuel and oil, & \$115.00 – insurance).

The following public comments were received at the February 4, 2025, meeting: Timothy Owens, property owner & applicant, stated his case. Danette Tracy, property owner & applicant stated her case. One member of the public spoke but was neither a proponent for nor against this case.

Analysis/Legal Principles: After the closure of the Public Hearing the Board discussed the definition of a "Farm" & what is to be considered as "Intent".

After discussion, the Board of Adjustment granted a variance for the building due to considering this building a part of a farming operation. Farming intent was shown by the property owners in the exhibits presented during the hearing. These exhibits include the 2024

Schedule F, the 2023 sale of hay to Brad Gibson, and the photos of the tractors and farm equipment in the building.

The Board of Adjustment also made reference to the Madison County Assessors property tax assessment listing this +/- 22-acre property as agriculture which the Board states supports their decision to deem this building as an agricultural building.

Board of Adjustment Action on Written Findings of Fact

Date: March 4, 2025

VOTE:	Ayes:	Nayes:	Abstained:	Absent:
(Roll Call)	Archer	None	Fiene	Morford
	Bigelow			
	Howell			

Vice Chair: Mary Kathryn Bigelow