

DICKINSON COUNTY BOARD OF ADJUSTMENT

Monday, February 1, 2010

7:00 P.M.

The Dickinson County Board of Adjustment met Monday, February 1, 2010, a postponement from the regular meeting date of January 25, 2010.

Members present were Don Oleson, Jeff Ashland, Dennis Jackson, Bob Duncan, and Bill Sackett.

Don Oleson, chairman, called the meeting to order at 7:00 p.m.

First on the agenda was roll call.

Oleson welcomed new member Bill Sackett.

Second on the agenda was new business.

- 1st item of new business was Mark F. Wagner, a variance for Lot 27 & 28, Village Park. The applicant was not present, so the board moved on to other business.

Third on the agenda was approval of the minutes of October 26, 2009. Duncan moved to approve the minutes as written. Jackson seconded. All were in favor.

Fourth on the agenda was communications. There was none.

Fifth on the agenda was report of officers and committees. There was none.

Sixth on the agenda was old or unknown business. Kohlhaase reported that the Freeman's appeal of the Board of Adjustment decision was dropped. Next meeting will be on February 22nd and will be ITC conditional use application for a substation.

The meeting was recessed for 10 minutes.

Mr. Wagner arrived and the meeting was reconvened at 7:10 p.m. Oleson read the description of the variance requested.

All board members had viewed the site.

Mark Wagner said his intent is to locate a brick, single story ranch home on lots 27 & 28, Village Park. The home complies in every aspect of the lakeshore residential district except the front and rear yard. This was platted before zoning was enacted as a residential lot. The 1998 zoning ordinance required setbacks would preclude any development on these lots without a variance being granted. If the setbacks were adhered to, no improvements could be made to the lots.

Oleson commented on Wagner's zoning compliance application where he listed an approximate cost of \$50,000. That seems too low.

Wagner said at the time he first applied, that was the case, but it is probably closer to \$75,000 now.

Oleson asked about the elevation drawing. It is to be a single story home, but the view from the lake and one side appears to be a two story home.

Wagner said he is doing a full basement. The basement would allow for egress on the lakeside. It is a standard 8 feet poured concrete with the home on top.

Ashland asked Wagner his plans for the well on the property.

Wagner said the well was built in 1989. There was a mobile home on the lot that utilized the well for all water needs. He wants to utilize the well for toilets, watering lawn and geo-thermal heat.

Saunders asked if they would use rural water for potable water.

Wagner said after construction, they will test the well water. If it tests okay they will use it.

Duncan asked if the home to be moved on has been inspected and if so, who inspected it.

Wagner said Dale Hoefling of DNC movers inspected it and provided a letter that the structure is suitable for moving. He feels there are no health concerns other than a few birds.

Sackett said Wagner is listed as the general contractor. He asked if Wagner had done other projects like this.

Wagner said he has not done this before. After moving here in 2004, he found it was not unusual to move in structures.

Sackett asked if he purchased the lots first and then the house.

Wagner said he bought the house first. When he found the lots, the purchase was contingent on receiving a variance to move the house on. If the front and rear lot minimum were enforced, it would leave a buildable strip 2 feet wide.

Sackett asked if Wagner looked into zoning before he bought the lots.

Wagner said yes.

Discussion followed of other construction projects Wagner has had in Orange City and Primghar.

Oleson said he is concerned with the house to be moved in. It was in a bad state of repair a year ago, citing cracks in the brickwork, a sagging roof, animals inside.

Wagner said the cracks in the brick appeared after the move and haven't changed. The sagging roof is being removed and replaced.

Duncan commented that Wagner keeps running into problems and keeping it on task. He asked if it would be to Wagner's advantage to hire a contractor to oversee the project.

Ashland asked Wagner what kind of timeline he was thinking to get project done.

Wagner said the foundation could be poured in 2 to 3 weeks. Waterproofing could be done the next week, then the house set down. The house is 41' in length. They are adding another 30'. The contractors are all on board and ready to go.

Sackett asked if Wagner had any experience building basements below water level.

Wagner said they want to do a waterproof foundation. He has had assistance from a man from Sioux City who has done a lot of this waterproofing. They are using a twofold approach using 90 mil rubber membrane and bentonite.

There was further discussion of the waterproofing plans.

Oleson asked how far the house is above the high water mark.

Wagner said the top of the basement slab is at the level of the Lower Gar dam.

Oleson asked how he is expecting to keep this basement dry and if he is planning to have sump pumps.

Wagner said during construction, but not continuously running.

Oleson told Wagner that he is prohibited from pumping into the lake or the sanitary sewer.

Jackson asked Wagner if he understands the house is to be completed within 12 months of the permit's issue.

Kohlhaase read the requirement for building completion from Zoning Ordinance 102.

Sackett asked Wagner if he would be comfortable if the permit had conditions attached to report monthly or quarterly with his construction progress.

Wagner said he would like to meet with the board before they break ground and would agree to meet every month if necessary. He said the start date would be when weather permits.

Karen Wagner said when their permit was not granted the first time, delays occurred because their contractors were busy and they got a late start. Contractors are looking for work now.

Oleson asked for comments from the public.

Brad Hermanson, 15386 250th Ave., says he is opposed because this is a large variance. He thinks this is opening a can of worms for other properties along there.

Rodd Holtkamp, from Primghar, but has property at 15379 250th Ave. He spoke about living next door to a property in Primghar owned by Wagner that has been in the construction process for 13 years and still unfinished.

Gwen Holtkamp said now they have property next to an open hole in the ground, which had a lot of water in it. It has been a nuisance and safety issue.

Correspondence was read from the following adjoining property owners:

Ed and Linda Thelen, 15362 250th Ave. – opposed.

Steve Reighard, IDNR – no effect on the IDNR.

Alfred Klein, 15290 250th Ave. – opposed.

Lighthouse Landings Condo Assoc., Matthew Marnach, 15400 250th Ave. – opposed.

Les and Rebecca Sivertson, 15446 250th Ave. – opposed.

Rodd Holtkamp, 15397 250th Ave. – opposed.

(See file for full text of letters.)

Duncan asked Saunders if there is any code on the condition or inspection of a building to be moved in.

Saunders said the county does not have a building code.

Jackson asked if the board has authority to require bonding.

Saunders said the board can't force Wagner to do any of those things proposed in the letters unless he is agreeable. A performance bond is difficult at best

Oleson said this house was originally a slab on grade home. Now it is proposed to be placed on a basement. If the waterproofing contractor can't perform, Wagner's house could be unlivable.

Wagner said if they have water problems, they will fill in the basement with pea gravel and it will not be a livable space.

Oleson asked the other board members if they have concerns with the structural integrity of the house.

After some discussion, the board agreed to require:

- 1) The proposed house be inspected by a licensed State of Iowa building inspector for structural integrity to be moved and put on a basement.
- 2) The proposed house be inspected by a licensed State of Iowa health inspector.
- 3) Letters from the subcontractors that they are ready, willing, and able to go forward with the project.

The variance hearing for Wagner will be continued to the March 22nd meeting.

Sackett and Ashland both voiced concerns with consideration for the neighbors and how to guarantee performance that the project to be completed in a year.

- 2nd item of new business was election of officers. Duncan moved to accept the present slate of officers: Don Oleson - Chairman, Dennis Jackson – Vice Chairman, Jeff Ashland - Secretary. Sackett seconded. All were in favor.

Seventh on the agenda was other. There was none.

Eighth on the agenda was adjournment. Ashland moved to adjourn. Duncan seconded. All were in favor. The meeting adjourned at 8:30 p.m.