

Dickinson County Board of Adjustment
January 23, 2017
7:00 P.M.

The Dickinson County Board of Adjustment met Monday January 23, 2017 at 7:00 P.M. in the Community room of the Dickinson County Courthouse.

Members present were, Jeff Ashland, Delmer Lee, Roxie Reekers and Neil Guess. Absent was Tim Hemphill.

Also in attendance was Lonnie Saunders, Assistant County Attorney.

Jeff Ashland, Chairman, called the meeting to order at 7:00 p.m.

First on the agenda was roll call.

Second on the agenda was new business.

1st item of new business was Election of Officers. Guess moved to keep the current slate of officers. Jeff Ashland-Chairman, Neil Guess-Vice Chairman, and Delmer Lee-Secretary, Reekers seconded the motion. All were in favor.

2nd item of new business was Brittney Vandrak-Rupp and Meghan Humphrey, Conditional Use, Lots 10, 11, 12, Block 33, Triboji Beach, Lakeville Township, Dickinson County, Iowa. Ashland read the request.

Meghan Humphrey and Brittney Vandrak-Rupp introduced themselves to the Board.

Humphrey said that she started an in-home daycare at her home on Gary avenue in Spirit Lake. However, it is just too small to accommodate their expanding needs. Last May, Humphrey met Vandrak-Rupp, they have children the same age who play well together and have the same ideas and goals for a better child care facility in Northwest Iowa. Most importantly they are wanting to create a facility with better hours for working parents. Most daycare centers, in-home or facilities are not open early or late enough, nor are they open on the weekends for parents who work second and third shifts at Polaris, Pure Fishing and other establishments. Northwest Iowa also does not have a play based childcare facility, which is the type of facility that they are proposing.

Vandrak-Rupp said she understands what it is like to be a busy parent, working fulltime and the problems one runs into with unorganized day care facilities. They're trying to develop a place that will accommodate people more closely, and to give them a clean environment, where the children can play and have a less chaotic place that is more intimate than a larger facility.

Humphrey and Vandrak-Rupp created a slide show for the Board outlining their business plan.

Humphrey began by saying the first priority is to construct a fence around the property to keep the children safe from the busy road. They plan to fence in the backyard of lots 10, 11, and 12. They also plan to fence lots 14 and 15 of Ryan McGrath's property located on the corner of 151st and War Eagle Blvd. It would be like a playpen type area for the children. They have installed the proper outlet covers and gates per DHS requirements. They have adequate parking for drop off and pick up. There is parking for staff vehicles on lot 10 and between the 2 trees directly in front of the house there is enough parking for up to 4 vehicles. There wouldn't be 4 vehicles all at the same time. They have many parents that are asking for varying times for drop off and pick up. They have installed locks on all of the cabinets, smoke detectors, and will be using safe, non-bleach cleaning supplies. They do have fire extinguishers on each floor, and they will have spindles and lower hand railing for the children to use while going down the stairs.

Vandrak-Rupp said that pending approval they have contacted Heartland Security to install security cameras for round the clock surveillance. They have a cloud drive that the data is backed up to and will stay there for 3 months. Parents would not be able to view the live feed, but the staff will have unlimited access to view the premises.

Humphrey said that they are installing motion sensor lighting on the deck and parking area.

Vandrak-Rupp said that they do have a general liability insurance policy that covers up to two million dollars. The policy covers everything from injury, kidnapping, to molestation and more.

Humphrey said that they have begun the process to be registered by DHS. Some of the requirements are CPR, first aid, blood born pathogens, mandatory reporting, and universal

precautions. Both Vandrak-Rupp and Humphrey are working on completing the requirements. Being DHS certified includes many things including but not limited to FBI background checks and finger printing for every staff member. They will take part in the Adult and Childcare food program and have a planned 6-week rotation of nutritious meals and snacks. They plan to have a garden so the children can participate in the preparation of the meals, thus teaching them life skills and creating healthy meals. They will also have financial assistance, as well as balanced rates for those families who need it.

Humphrey and Vandrak-Rupp created an additional slide show comprised of pictures of the home and explained the setup of the daycare. See file for photo slides.

Vandrak-Rupp read the approval from Ryan McGrath the property owner granting them permission to have a daycare facility on his property. She also passed out the tornado, fire and parking schematics.

Humphrey said they will be meeting with Paige Duncan from DHS. This is the third site that they have looked at for the daycare and it is by far the safest. They have been planning and putting this together for months. Their future plan is to branch out and eventually, have additional facilities in the surrounding areas. She said that because of DHS requirements, they can only have a maximum of 16 children. They can have 4 children who are 24 months and younger, and of those 4 children, 3 can be 18 months or younger, and they can have 6 pre-school aged children. They can also have 4 school age spots, but they can only have those children if they are within their ratio.

Ashland said that they have made a tremendous amount of effort, but what was the plan if the conditional use was denied.

Humphrey said that she would move in to the home with her daughter, and they would go the home occupation route, instead of the conditional use. They understand with the conditional use that no one is allowed to live in the home.

Lee said he is not sure he understands is the parking. It looks like there is not enough off street parking for both the employees and the pickup and drop off for the children. He is concerned about the congestion being created on the street. One needs to be able to safely pickup and drop off and not be in the roadway.

Humphrey used the schematic and explained where the vehicles would park. They just found out that McGrath owns lot 10 and that will be for staff parking.

Lee asked if they have measured the parking area.

Vandrak-Rupp said they have, and in that area they have had a Tahoe, Humphrey's car and two trucks.

Lee asked what if they have more staff.

Vandrak-Rupp said per state regulations they cannot have any more than 2 staff at any given time. Usually herself and Humphrey ride together, so that eliminates a vehicle in the driveway.

Reekers said that when she parked to view the site she had a safety concern about going into the street to take the children into the home. Humphrey said that there is some snow in the way right now, and if they were approved that snow would be removed to create more room without having to go out into the street.

Vandrak-Rupp said that there is a row of bricks that designates a row, for one to base their parking off of, instead of having jagged parking.

Reekers said that it seems really congested, because she did have a car coming from each direction, and they had to stop and negotiate the one lane road. She is also concerned about the early morning drop off times, this is a residential neighborhood and 4:30 and 5:30 in the morning could disturb the neighbors. Reekers asked if they have talked with any of the neighbors in the area.

Humphrey said that there was an incident when the road had not been plowed yet and so she parked on the road and the neighbor across the street backed into Humphrey's car. They talked with the lady and she is in support of the center in this area, especially those who are coming from Lake Park and the backside of 86. There is also a gentleman who walks the neighborhood that they have talked to several times and he's encouraged them.

Ashland read eight things that they are supposed to consider as a Board to the applicants.

Guess asked what the hours are of the facility.

Humphrey said that they will be 5:30 to 5:30, it will be a 24-hour facility.

Guess asked what happens when they are short staffed.

Vandrak-Rupp said that it would be hard to be in that position because of the need for two people there, and having 4 staff members. They also have 2 more as backup, so she really does not see a problem.

Guess asked what time of year did they acquire the property.

Humphrey said that they received the keys in November.

Guess said that he will guarantee that it will get a lot busier. He was very concerned about the parking, there are not any sidewalks, chances are that if you wish to use lots 14 and 15 you will be walking in the street because of the lack of sidewalks. One cannot trespass on the neighbor's property.

Vandrak-Rupp said that her children go to a facility and they only have 5 parking spots along the street, and they are a large center. It is busy at the center, but she feels that there is really only a one-hour busy time.

Guess said that right now you are parking partially in the street, the street is more than just the traveled portion of the road. You also mentioned 4 school aged spots, and now we will have the additional congestion of the school bus.

Humphrey said they have not contacted the schools yet to see if pickup and drop off is an option for the school bus. They are also unsure right now if they are going to offer the school aged spots at their facility, it is only a possibility.

Vandrak-Rupp said the focus will be children 6 years and younger. If someone has an older sibling, we might consider them, but it will depend on the situation.

Reekers said that during that period of time they could have 16 kids there.

Humphrey said that 16 is only before and after school hours, it would be a maximum of 12 during the day.

Guess said that he understands they are presenting a 24-hour facility. Do they feel the neighbors would understand a 24-hour facility? It is a quiet neighborhood.

Humphrey said that parents are much more considerate and respectful if it is a home in a neighborhood setting. She lives near the library, and has children dropped off at 4:30 am and has not had any issues.

Guess asked if there are specific requirements for parking for this type of use.

Saunders said that the home needs to have two off street parking spaces, and the parking spaces are not tied to the use of the daycare facility. Since they have four it exceeds the minimum requirement.

Guess said that they keep describing this as an in home day care, but there is no one living in the home.

Humphrey said that with the DHS regulation guidelines, they are not a center. They cannot be a center in a home. They have asked DHS many times, but the number of children is based upon the square footage of the home/center.

Guess asked what is the County's definition of an in-home daycare.

Saunders said that the County does not have a definition. We let DHS deal with setting those parameters.

Guess said the reason he asked was typically when it is an in home daycare someone is living in the home. This seems more like a commercial use.

Kardell said that a residence like this can only have one principal use. So it can either be a home or a civic daycare facility (general), which means more than 7 children. We have discussed different options. In the Zoning Ordinance we have a definition called home occupation, and ladies could have gone that route, and not have come in front of the board. This would have allowed Humphrey to live there, but if the office started to receive complaints about the activity, then the home occupation would need to cease. They have opted not to live in the home, but instead to have the primary principal use as the civic daycare center, which is allowed in the R-3 district as a conditional use.

Vandrak-Rupp said that they wanted to go through the conditional use process to better inform the neighborhood and to head off anything before it became an issue.

Guess said that they have done a great job, but he was still concerned about the neighborhood.

Reekers said that she keeps going back to the parking. It was still a major concern for her.

Humphrey said that there are different ways of parking vehicles on the property.

Vandrak-Rupp said that if the parking is the only issue, they would be willing to ride together to eliminate a car and open up a space for the parents.

Ashland read the correspondence.

Vandrak-Rupp said the they have no problem erecting a fence, it is something they are planning on doing for the safety of the children.

Humphrey said that if they do not want them crossing lot 13, then they can just fence in the backyard of the home. Lots 14 and 15 are not necessary and would have been just extra play area.

Vandrak-Rupp asked since they have a general liability policy would the possible injury on lot 13 be covered by their policy.

Saunders said that just because they would have the primary policy, in cases like this, everyone, including the property owner could be sued.

Lee said that on the fire schematics, they have arrows crossing lot 13.

Humphrey said that they can go to the far corner of the backyard or take the children briefly into the street to reach lots 14 and 15 to avoid a large fire.

Guess asked if it is absolutely necessary to have a 24-hour facility. Is there enough children to run a 12 to 14-hour facility.

Humphrey said that they are trying to accommodate those who work the second and third shifts. The ratio drops to 12 children at night, and having a 24-hour facility is their main focus because there isn't anyone around here who provides this service.

Guess asked if there were different sleeping requirements such as beds for over nights.

Humphrey said there was not, except children under 24 months need to be in a pack in play.

Vandrak-Rupp said that they have talked about putting drop off time limits for the children.

Ashland opened the meeting to the public.

Joyce Matasovsky 15117 War Eagle Blvd said the lady who was in the accident was her sister, and that when she was backing up out of the driveway, her sister hit Humphrey's car. Parking is a major concern, but they have nothing against the day care center. They have had issues in the past with the previous owner, especially when the parking was full on their property. People would come and park on the edge of her property.

Barb Benjamin, 15109 Lakeview Dr., said that she walks every day and the intersection of 151st and War Eagle is a very busy and dangerous road. She feels that one's car would have to stick out into the road when parked while dropping off and picking up the children. Her concern is the

24 hours and the lighting. She already sets off the motion detectors on her neighbor's property when she goes out on her deck. The constant round the clock activity is a concern. She does not have any issues with the daycare center.

Reekers asked if the road has any no parking signs.

Humphrey said no there are none posted.

Lee moved to have the following stipulations placed on the conditional use: to have a probationary period for 12 months, to have lots of 10, 11, and 12 fenced, and not to use the additional lots 14 and 15 owned by Mr. McGrath. Ashland seconded the motion.

Guess moved to vote. Reekers seconded the motion to vote.

Vote is recorded as 2-2. Lee-approve, Reekers-approve, Ashland-deny, Guess-deny.

Guess moved to amend the motion that in addition to the current stipulations, they would need to have dark sky lighting, and to limit the hours of operation from 6 am to 6 pm. He is also very concerned about the traffic. Lee seconded the motion.

Ashland said that we will have a roll call vote: Reekers-approve, Ashland-deny, Guess-approve, Lee-approve. Vote is 3-1 approved. The application as modified is granted.

Vandrak-Rupp asked that since it is winter, what about the fence.

Guess said that the permit will be issued when the stipulations are met and to work with the zoning office in regards to those stipulations.

Third on the agenda was old business. Guess asked about wind farms. Kardell said that she has not heard any additional information from the wind farms. Saunders said they may be waiting on legislation.

Fourth on the agenda was approval of the minutes. Lee moved to approve the minutes as written. Ashland seconded the motion. All were in favor.

Fifth on the agenda was Communications. Guess thanked Saunders for his assistance tonight.

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

Seventh on the agenda was any unknown business. Lee will not be able to attend a meeting in February should there be one. Kardell will be unable to attend a meeting until May, but Barb Woodley will be filling in if there is a meeting before then.

Eighth on the agenda was Adjournment. Guess moved to adjourn. Lee seconded the motion. All were in favor.

(For more information see BOA 01 23 17)