

DICKINSON COUNTY BOARD OF ADJUSTMENT

Monday, January 26, 2009

7:00 P.M.

The Dickinson County Board of Adjustment met Monday, January 26, 2009 at 7:00 p.m. in the Community Room, Dickinson County Courthouse.

Members present were Don Oleson, Dennis Jackson, Wendell Williams, and Jeff Ashland. Absent was Bob Duncan.

Don Oleson, 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 was Election of Officers. The members agreed to postpone until later in the meeting.
- 2nd item was Dori Boerboom, request for extension of a variance granted July 23, 2007.

Kohlhaase said the extension deadline for Dori was last Friday, January 23rd, but he okayed her request to come before the Board at their regular meeting of the 26th.

Kohlhaase gave some history on the project, which was planned for five condominium buildings with a total of 29 units. The first two buildings were permitted in July 2006 and built, but none of the units have sold. The Board of Supervisors in November 2006 approved changes to the zoning ordinance for the Resort Enterprise district, requiring a 50' rear yard instead of 30'. Dori and her project designer had planned the project to fit within the 30' rear yard. She then needed to come before the Board of Adjustment to request a variance of 20' in the rear yard in order to complete the project. This was granted on July 23, 2007, with the stipulation that it be revisited in 18 months.

Oleson read the notes of the background of Boerboom's project development. A green belt buffer was part of the stipulation of variance approval. This has been planted as required with cranberry bushes.

Oleson said there has been no correspondence and no other issues other than the 18 month re-visit of the variance.

The board members discussed their various options at length.

Does the board of adjustment want to re-visit the variance every 18 months?

Would they be setting a precedent by approving an indefinite time period?

What about when the makeup of the board or the zoning staff changes? Would a new board look at it differently?

What if ownership of the property changes? Would the new owner be restricted to the proposed plan or could they build something different?

Kohlhaase said the hardship for Dori Boerboom is the county changing the ordinance after her project had already been designed and approved. If there are any changes to this plan, the variance will be null and void.

Boerboom said when the plan was put together, she and her designer wanted to build "inside the box" with only two stories rather than the 50' and though they could have built 60 units, they preferred fewer units to allow more green space. She is asking the board to let her keep the plan in place indefinitely hoping that the economy will turn around and she can proceed.

Williams said the plan was for 29 units to be financially feasible, but can you build 27 units and not need a variance?

Boerboom said she doesn't want to go through re-design. That is too costly.

After further discussion, Jackson said he was in favor of giving an extension of another 18 months.

Oleson said he remembers a lot of discussion from interested parties at the variance hearing. This is a good plan. It addresses drainage and has green space. It was a good idea 18 months ago. He would be in favor of ratifying it again, but minus the revisitation clause.

The Board agreed that Boerboom should report to the board every couple years how the project is progressing.

Ashland moved to extend the variance as approved with the stipulations on July 23, 2007, indefinitely. The future development site is to be kept in a neat and orderly condition. If any changes are made to this plan, the variance approval is null and void. The landowner will report to the Board of Adjustment every two years with the status of the project. Williams seconded. All were in favor.

Third on the agenda was approval of the minutes of November 24, 2008. Jackson moved to accept the minutes as written. Ashland seconded. All were in favor.

Fourth on the agenda was communications. There were none.

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

The board returned to election of officers. Williams moved to retain the current slate of officers. Ashland seconded. All were in favor. Don Oleson - Chairman, Dennis Jackson – Vice Chairman, Jeff Ashland – secretary. Barb Woodley appointed to take the minutes of the meetings.

Sixth on the agenda was old or unknown business. There was none.

Seventh on the agenda was other. Kohlhaase said the WECS study committee will meet on February 2nd to recommend the final draft of regulations specific to wind energy. If they agree, this amendment to the ordinance will go to the Planning and Zoning Commission on February 25th and to the Board of Supervisors March 24th.

One of the proposed WECS requirements is for the wind energy developer to hold a public informational meeting. Horizon Wind Energy is planning an informational meeting in the near future. The Board of Adjustment members can attend and listen, but can't discuss the project among themselves or with others.

We have received no applications from North Star or Horizon Wind. Horizon Wind Energy is looking at being ready for the March 23rd meeting. There will be one conditional use application for the entire project. It may take only one public hearing, or many, depending on what issues might arise.

Discussion followed on the format of the wind energy hearings, time allowed for those wishing to speak, and other procedural questions.

Eighth on the agenda was adjournment. Jackson moved to adjourn. Ashland seconded. All were in favor. The meeting adjourned at 8:10 p.m.

Donald Oleson, Chairman

Jeff Ashland, Secretary