

DICKINSON COUNTY BOARD OF ADJUSTMENT  
Monday, April 23, 2012  
7:00 P.M.

The Dickinson County Board of Adjustment met Monday, April 23, 2012 at 7:00 p.m. in the community room, Dickinson County Courthouse.

Members present were Don Oleson, Jeff Ashland, Mary Dannatt, and Dennis Jackson. 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.

- 1<sup>st</sup> item was Mike and Julie Sexton, a variance in East Okoboji Beach, Unit 2, Blk. 2, Lot 2. Oleson read the description of the variance.

All members had viewed the site.

Mike Sexton introduced himself, his wife Julie, daughter Christa and their builder, David Dau.

Julie Sexton said the existing structure has been in the family since 1968. It is a week-end getaway that has been renovated. Their kids enjoyed the area on the week-ends. They thought as they got older they might want to retire here. Two years ago their daughter was in a motorcycle accident that left her quadriplegic. They are very limited on the cottage. They aren't set up even for a ramp. The inside is very small and not handicap accessible. There are no options to make modifications. They searched the area for dwellings, but couldn't find a floor plan with open doorways. They looked at rebuilding and at several floor plans. They already own the lot, so had to go with what they had. The size and irregular shape of the lot left us a challenge to come up with something. The design fits well with the other homes in the neighborhood.

It is a two story with a lift system that will allow their daughter to get downstairs. To replace the old wiring and plumbing costs as much as a new dwelling, and they need more room on the front and rear.

Oleson said the lot square footage is 3,905. What is the footprint of the new house?

Sexton said the main floor is 712 square feet, the garage is 831.9 square feet, and the basement under the garage is 1,544 square feet.

Oleson asked the square footage of the old cottage.

Sexton said 400+ square feet.

Oleson asked what was the structure in the front.

Sexton said it is an old well which they will properly plug.

Kohlhaase reminded the board that in this case, the lake is the rear yard and the road is the front.

Jackson asked if the storage building is going away.

Sexton said yes.

Jackson said they are building on the side of a cliff. He hopes they are doing something to support the bank.

Julie Sexton said they are working with a landscaper. They are going to replace the two tiers with landscape block.

Oleson said this board tries to keep variances to a minimum. The applicants had mentioned in their application the lot was platted before zoning and was done in a manner to accommodate seasonal dwellings. Today, everyone wants a large home on a small lot. When they admitted that these lots were laid out for seasonal cabins, it is real hard to look at three variances. The board usually looks at one or two.

Oleson asked if they have looked at other locations and at larger lots. He is looking at a three car garage here.

Julie Sexton said they have looked off and on, but lately, they stepped up the search. Lots are very expensive and they already have their land.

Kohlhaase said he worked with the Sextons on their plan and this is the last resort to keep the variance to a minimum. Recently there was a large TIF project in East Okoboji Beach with paved roads, storm sewer, rural water and sewer, so it is now far from a fishing cabin community.

Oleson said the board is concerned with safety and fire. This is a beautiful home, but too big for the lot. Looking at the plan he sees a large house and three car garage.

Julie Sexton said with no variance, they had a garage with a bathroom. That's why they put living space under the garage.

Mike Sexton said the side yards comply, so there is enough room for fire safety.

Oleson had a question on the pins he saw. There were two different ones.

Mike Sexton said the far northwest pin is the correct one. Jacobson Westergard did a survey last year.

Julie Sexton said the DNR gave them permission to relocate their wall onto their own property. They want to see the walls moved back and no encroachment issues. Oleson asked for any comments from public in attendance. There were none.

Oleson read correspondence received:  
Phone call from Richard Rabb in support.  
Letter from Jon Kruse, 3 houses south, in support.  
Letter from Jim & Beth Westphal, in support.  
Letter from William and Amy Collins in opposition.  
Phone call from Steve Reighard of the DNR. They have no concerns as long as the applicants adhere to the sovereign lands permit.

Dannatt asked if the board has approved other similar variances in East Okoboji Beach.

Jackson said just recently, the Michael Anthony variance.

Oleson said if this application is denied, they are not being restricted in their use, but the house is too large. Each application is looked at separately, but each has to stand alone on its own merit.

Mike Sexton said this is a 71' lot, so they don't have a lot of options.

Kohlhaase said they have a 71' lot, and they need a 28' front yard minimum and 20' rear yard. They couldn't build a house in compliance because they need a minimum 22' wide and 22' long structure.

Julie Sexton said they could build a two story house, but don't want to affect the view of the neighbors.

Dannatt asked if they are looking at moving here permanently.

Julie Sexton said they want to look at being able to take care of their daughter should that be needed.

Oleson said on the site plan on the northeast corner of the garage there is a dashed line.

Mike Sexton said that is the setback line.

Julie Sexton said the neighbors are going to be farther forward on the lake side than they are. There is plenty of room on the street side to back out.

Oleson said he had received a phone call regarding the garage being too close, but the voice mail cut off the person's name.

Jackson asked if they need a deck.

Mike Sexton said yes, they are losing a lot of trees and need the shade.

Jackson said he was trying to get rid of one variance.

Dannatt said the plan shows an open deck. How will that give any shade?

Sexton said the shade is for the patio down below.

Oleson informed the Sextons that there are four of the five members present tonight and they have the right to ask to table until a full board can be present.

Mike Sexton said no, they did not want to table.

Jackson moved to vote on the application. Ashland seconded. All were in favor.

The vote was recorded as Oleson – deny, Ashland – approve, Jackson – approve, Dannatt – deny. Application was denied. Oleson read the vote result form.

- 2<sup>nd</sup> item of new business was Terry Moeller and Star Energy, a division of Growmark Inc. a variance for part of Marble Place. Oleson read the description of the variance.

All members had viewed the site.

Representing the application were Terry Moeller, owner of the property, and Kevin Toillion of Star Energy. They are requesting a variance to build a self-service gas station with a canopy over it. A variance is needed only for the canopy. Everything else is in compliance. They need a 19 foot variance.

Jackson asked if there were more than one fuel tank.

Toillion said there are two types of fuel in a split tank. The tank is all above ground with a double wall fire guard containment system. When you go above ground you have to get approval from the Fire Marshall. They have met all variances and setbacks from the Fire Marshall.

Oleson said this is real close to Marble Beach and the lakeshore. If a vehicle goes out of control and hits that, do they have a containment structure.

Toillion said they have ballards every 4' around the tank to protect it from being hit. The Fire Marshall will not issue a permit until they meet all the requirements. They have 13 above ground tanks in operation and have not had a problem.

Oleson asked if all those tanks have ballards.

Toillion said yes.

Ashland said that above ground leaks are easier to detect.

Toillion said if the tanks lose pressure, alarms go off.

Oleson said he is not opposed to the plan being presented tonight, but wants to make sure Marble Beach is protected.

Ashland said the standards are much more stringent than they used to be.

Oleson asked what percentage of fuel will be contained in case of a leak.

Toillion said it is a 10,000 gallon tank and the safety tank will hold half of it, 5,000 gallons. The outside tank is bigger. It will contain any leak.

Ashland asked if this will take credit cards.

Toillion said yes.

Oleson asked if there will be a gas dock at Marble Beach.

Moeller said no, he can't get one.

Oleson said some containment under and around it would have been nice.

Oleson read correspondence:

Dan Eckert, County Engineer, in an email said the right of way is sufficient if future widening is required. There is no safety issue.

Tom Roos, IDNR, in an email said the above ground tanks are regulated by the Fire Marshall.

Steve Reighard, IDNR, in a phone call he stated the DNR has no issues unless after the Card-Trol station is built, drainage becomes a problem.

Dannatt asked why they need a canopy.

Toillion said it is more user friendly. It has lights for night use and protects patrons from the weather.

There being no further questions, Ashland moved to vote. Dannatt seconded. All were in favor.

The vote was recorded as all approve. Oleson read from the vote result form and the deadline for completion.

- 3rd item of new business was Red Rock Wind LLC and Olson Farms of Dickinson County Inc., a conditional use. Oleson read the description of the conditional use. All members had viewed the site.

Al Blum representing Red Rock Wind said they want to construct a 60 meter meteorological tower on the NW ¼ of Section 31 Lloyd Twp. owned by Stacy Olson. The tower will have all of the balls on the guy wires way up high. 60 feet up for the first set and the next set 3 times that high.

Dannatt said the balls on the existing tower don't look like they are up very high.

Blum said they got a lift bucket and placed the balls at 60 feet off the ground.

Ashland said they will be okay for aerial sprayers.

Blum said the met tower will be red and have balls similar to those just installed.

Oleson asked if this would be a temporary or permanent tower.

Blum said it will be there for four years. If they need to wait out the wind industry, it may need to come back for extension.

Oleson said in the past, our county zoning looked at met towers as being a temporary structure for gathering information.

Kohlhaase said if the application is approved, they have 6 months to start and one year to finish. After it is built it is good forever unless the board does something different.

Oleson said in the past, the board has given a two year time limit and then asked the applicant to come back for an extension. He felt it should be treated the same way that they have handled other wind energy projects.

Dannatt asked if this would turn into a permanent tower.

Blum said they are asking for a temporary tower now. After we are done with it, it will come down. We are planning two permanent towers in the North Star project. For a permanent tower, they would come back and ask for a permit for an 80 meter tower.

Dannatt asked if the problem was finding a place to buy the electricity.

Blum explained the process of finding a place for good wind, and Buffalo Ridge is one of the best. Then they buy leases from surrounding property owners. They have 20,000 acres leased for Red Rock and 20,000 acres for North Wind. Then they put up a met tower for good wind data. This data is very important to prove to investors this is a good plan. Transmission has been an issue. Recently a couple of wind farms have actually taken down some towers. The industry is going through a huge cycle right now.

The members discussed putting a stipulation on the approval of the conditional use. They agreed on wording as follows:

This conditional use for a 60 meter meteorological tower is valid for two years from April 23, 2012 as long as it is part of a functioning Wind Energy Conversion System (WECS). After two years, the applicant would need to ask for an extension of the original application. If the meteorological tower is no longer functioning as a Wind Energy Conversion System (WECS), it must be dismantled.

Ashland move to approve the stipulation. Jackson seconded. All were in favor.

Ashland moved to vote on the conditional use application with the stipulation as approved. Dannatt seconded. All were in favor. The vote was recorded as all approve.

Oleson read from the vote result form and deadline for completion.

Third on the agenda was approval of the minutes of March 26, 2012. Jackson moved to approve 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.

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

Seventh on the agenda was other. There was none.

Eighth on the agenda was adjournment. Jackson moved to adjourn. Ashland seconded. All were in favor. The meeting adjourned at 8:25 p.m.