

## DICKINSON COUNTY BOARD OF ADJUSTMENT

Monday, April 27, 2009

7:00 P.M.

The Dickinson County Board of Adjustment met Monday, April 27, 2009 at 7:00 p.m. in the community room of the county courthouse.

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

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

First on the agenda was roll call.

Oleson read the opening statement.

Second on the agenda was new business.

- 1<sup>st</sup> item of new business was Conrad and Paula De Jong, a variance for Lot 298, Francis Sites.

Oleson read the description of the variance. All members had viewed the site.

Conrad De Jong spoke. They had bought the house five years ago. They would like to make it their retirement home. The variance would allow them to have a garage. The lot tapers severely to the road, so they have room for a tuck under garage. Coming 6 feet out from under the house, they would be in line with the house to the north. The deck request measures the same as the house to the north. There are no buildings to the south for quite a ways. They looked for a different house, but this was more economical and the common ground across the road would allow for access to a boat hoist. There will be no obstruction to the neighbor's view.

Oleson asked if there is any change to the first level if they cut out for the garage.

De Jong said no.

Oleson asked about the utility locations and drainage plan.

DeJong pointed out the gas line and water line that are away from the building area. They will slope the driveway to bring the water into the current ditch and culvert.

Jackson asked about parking.

De Jong said they won't be changing the bulk of the parking. They will have a 2 ½ car garage, with a new bedroom in place of the existing deck. They will match the rooflines.

Oleson asked about trees that need to be removed.

De Jong said they will have to remove at least three.

Oleson asked for questions from the public. There were none. There was no correspondence or phone calls.

Ashland moved to vote on the application as presented. Williams seconded. All were in favor. The vote was recorded as all approve. Oleson read from the vote result form.

- 2<sup>nd</sup> item of new business was Duininck Bros./Jason Howe, a conditional use in the E. ½ of the NE ¼, Section 34 except the N. 200', Okoboji Township.

Oleson read the description of the conditional use. All members had viewed the site.

Kim Garletz with Duininck Bros.said he didn't think there would be so many concerns when he came before the board last month. They are now trying to address some of those concerns.

They will have a 200 feet buffer along the county road on the north side of the property. It will be used only for access into the property. For better safety, they propose to move the driveway to the west. Dan Eckert, County Engineer, issued a driveway entrance permit.

The soil stripped to reach the gravel will be placed in stockpiles to assist in the visual aspect and as a buffer for noise. This site will be used for job specific purposes. They are not going to move in and operate all summer. This is not an ongoing commercial site. Any gravel piles left over they will sell to someone else so they could haul out.

There have been questions of what the operation would look like. Garletz put up drawings of the topography of the ground as it is presently and if all the gravel were removed. Another topography map showed what the property would look like upon completion and reclamation. He said there is plenty of elevation to screen the operation from view.

Dave Kohlhaase gave some history of the property. It was previously farmland. There was a request for a subdivision that was denied. Jason Howe bought the property and used it for a place to apply septic pumping material. The request today is for gravel extraction.

Oleson summarized what Duinick Bros. has done to address the Board of Adjustment's concerns. There is the 200 feet buffer, moving the entrance to a safer location, and building berms.

Williams asked if Duinick Bros. had any agreements with the Horizon Wind farm.

Garletz said no, they were unable to bid on their project.

Jackson said he had a problem with the asphalt plant. He doesn't feel he can approve if that remains part of the plan.

Garletz said the asphalt plant is a big part of their project. Without one, if they got an asphalt job, they would have to truck their gravel from somewhere else. In most places, an asphalt plant is considered part of gravel production. In a competitive world, counties and the state are looking for gravel and asphalt providers.

Duncan asked where the plant would be located on the property.

Garletz said that would depend on many variables. He pointed on the map where it might be located.

Oleson asked if after stripping off the topsoil, when they are done, would the property be as farmable as before.

Garletz said yes, at the end of the permitted time period.

Oleson asked what percent of production would be asphalt.

Garletz said he would be unable to know what future projects there are.

Duncan commented that when the gravel is all out, it leaves a depression, so when the dirt is put back, there will still be a depression.

Dan Eckert said MSHA (Mine Safety and Health Administration) requires a 4 to 1 grade for reclamation. Eckert said he was asked by Garletz to move the driveway to where the site distances could be safer. With the proposed location, the only unsafe turn would be a left hand turn. Eckert said he is all for any competition the county can get in the asphalt industry because of the price going up.

Deb Powers pointed out on the map drawing a correction on the distances.

Oleson read correspondence from adjoining property owners Jack and Jan Dittman with concerns of noise, dust, traffic, heavy traffic further deteriorating the road, and devaluation of surrounding properties.

Duncan moved to attach a stipulation to any vote of approval that the gravel extraction go no lower than the water table.

Williams commented this would remain agriculturally zoned. He asked if there was any remedial action if the applicant fails to return the land to a farmable condition.

Garletz said Duininck and the landowner have a written agreement. They also have to apply to the Iowa DNR for a mining permit and they require a bond for reclamation.

Jan Dittman asked with the asphalt production, what are the hours of operation, the traffic levels, noise, and smell issues.

Garletz said they had an asphalt plant south of Rock Rapids which they operated 75' from a hog confinement, and the house less than ¼ mile away. There were no problems with it. He said with the change in elevation, the Dittman's are up from the property about 30', that will mitigate some of the noise.

Eckert said they would notice lots of truck traffic.

Deb Powers said she and her husband are still opposed to the application because of land devaluation, the smell, noise, and extra traffic.

The board members agreed to add a second stipulation that any approval would be good for four years.

Duncan moved to add the stipulation amendments. Ashland seconded. All were in favor. Williams moved to vote on the application with stipulations. Duncan seconded. All were in favor. The vote was recorded as: Duncan - aye, Oleson – aye, Ashland – aye, Williams – aye, and Jackson – deny. Oleson read from the vote result form.

- 3<sup>rd</sup> item of new business was Kenneth Wilson, Section 36, Okoboji Twp. a request to install an individual wind energy conversion system and to waive all or part of the requirements of Article #21, Section 5. D.

Wilson told the board he wants to install a personal wind turbine that would generate about 700 watts, furnishing about one-half his power needs. The height of the tower is 80 feet to get above the grove. It is a single pole with guy wires, so it can be let down for service. The blades are 5 feet long. It would be 90 feet from the house for safe fall down distance.

The Board of Adjustment is empowered by the new WECS regulations to waive any or all of the requirements for a request for an individual, personal wind turbine.

There was lengthy discussion among the board members and asking questions of Mr. Wilson. It was determined that Mr. Wilson is a manager of the family farming business, making him exempt from zoning by Iowa State Code. No permit was needed.

Third on the agenda was approval of the March 23, 2009 minutes. Ashland moved to approve the minutes as written. Williams seconded. All were in favor.

Fourth on the agenda was communications. Oleson said he was asked by Kim Garletz to look at the proposed gravel project, but he didn't feel comfortable so didn't go. Jackson said Cindy Martens called him and said they are still opposed to the gravel pit. Ashland said he also had a call from Garletz, but didn't go.

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

Sixth on the agenda was old or unknown business. Kohlhaase said Horizon Wind Energy plans to be at the May meeting.

Seventh on the agenda was other. There was a discussion of the new WECS regulations. Some of the board members felt the procedure should be changed for individual wind turbines, or have separate requirements for those. They felt the applicant should come to them with a conditional use application and then prove their point for each requirement why it is not applicable to them. Kohlhaase suggested the Board of Adjustment get a legal opinion on waiving the requirements for individual wind turbines.

Eighth on the agenda was adjournment. Jackson moved to adjourn. Ashland seconded. The meeting adjourned at 9:30 p.m.