

DICKINSON COUNTY BOARD OF ADJUSTMENT
Tuesday, May 27, 2014
7:00 P.M.

The Dickinson County Board of Adjustment met Tuesday, May 27, 2014 at 7:00 p.m. in the community room of the Dickinson County Courthouse.

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

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

First on the agenda was roll call.

Oleson announced that the Paul Hansen variance which was on the agenda for tonight has been withdrawn.

Second on the agenda was new business.

- 1st item of new business was 1713 McNaughton Way, Conditional Use in the N ½ of SE ¼, SE ¼, Section 32, Spirit Lake Township. Oleson read the conditional use description. All members had viewed the site.

Kelly Beneke of Great Lakes Communication pointed to a map of the property consisting of 52 acres which they have purchased. They propose a 190' communications tower. It will be located 200' from the south fence line and 386' from the east fence line. It is an open lattice structure to be used to provide internet service.

Discussion followed. 1713 McNaughton Way purchased the entire parcel which was for sale, but they do not plan any more towers for that location. The tower is under 200' and is not required to be marked or lighted.

Oleson said recently the board has been asking for markers on towers for the safety of crop dusters and low flying planes.

Beneke said there are no guy wires on this tower. There should be no issue with planes. The fence will be 6' chain link with two rows of barbs on top. All accessory uses will be within the gated area. The accessory box is small, about 3' x 4'. There will be a 911 sign at the property for emergencies. There will be a 26' x 26' concrete base with 4" of rock on top.

Oleson asked for questions from the public.

Gerald Hagberg, 1499 240th Ave. lives just south of the proposed tower. His concerns are aesthetics, what are the future plans for the undeveloped area and any disturbance of his T.V. signal.

Beneke said they have no plans for the remainder of the parcel at this time. In the future, if changing the use, they would come back to the county for rezoning and adjoining property owners would be notified.

Correspondence:

Oleson referred to a determination letter from FAA that this tower is no hazard to air navigation.

There being no further questions, Jackson moved to vote on the application as presented with the condition that the conditional use is in effect as long as it is being used as a functioning communications tower. At the time that use ceases, the land must be returned to its original use. Ashland seconded.

Dannatt moved to amend the wording of the condition to “upon the tower no longer being used for a communications tower, the concrete is to be removed and the land returned to its agricultural use.” Duncan seconded.

Oleson asked the applicant if that condition is acceptable to them.

Beneke agreed.

Oleson called for the vote with the stated conditions. The vote was recorded as all aye. Oleson read the vote result form and the zoning compliance deadline information.

- 2nd item of new business was Delores Jahn, variance, Lot 371 and the southwesterly 20 feet of Lot 369, Plat of Francis Sites, Dickinson County, Iowa. Oleson read the variance requested. All members had viewed the site.

Gene Krueger, contractor, was representing Delores Jahn. He passed out an updated site plan with the dimensions on it. He said the request is to build a garage closer to the house with accessibility and an entrance into the house. Right now, Delores has to walk to and from the garage uphill and downhill. The garage will have additional living quarters for her growing family when they visit. The road is about 10 feet from the property, so vision is not restricted when entering or exiting. Several improvements have been made to the existing structure over the years, so it didn't make sense to tear it down.

Krueger asked what right the applicant would lose if the variance is not granted? There have been other variances granted in this area.

The special circumstances were not caused by the applicant. The house has been in existence many years and because of the zoning requirements.

Other information – as Delores Jahn matures, this becomes a danger to health and safety. It provides extra living space for the family.

Krueger explained the plans for placing the garage so Jahn could back out and turn to drive up the steep drive. The driveway will be heated for icy days. He referred to 3D drawings of the proposed addition and explained the living and storage space.

They have talked to the sanitary district. They are off any sanitary sewer easements. Drainage will be handled by 6” underground tile lines to the lake, two for downspouts and one for the driveway.

The members asked questions about details of the drainage plan.

Krueger said they would install silt fence.

Dannatt reported that when she viewed the property, Mrs. Jahn came out, but Dannatt told her she could not discuss the application.

Members asked questions about the change in rise from the garage to the road, plans to install retaining walls and a bumper to prevent drop-offs from the driveway, and installing a fence or railing for safety of persons on the driveway.

Question on rental of the living quarters. Kohlhaase said Jahn could rent any part or all of the house.

Oleson asked for questions from the public.

Brian Radke, 16860 255th Ave. He abuts the Jahn property. His concerns were if the change in grade would affect him, the retaining wall placement and that all drainage will stay on Jahn's property. Krueger assured Radke that he will work with him to find existing lines and outlets and address whatever is needed.

No correspondence received.

There being no further questions, Ashland moved to vote with the condition that all safety issues are in place, the railing for personal safety, the bumper for vehicles, and Mr. Radke's drainage measures are intact. Duncan seconded.

Oleson asked for any discussion. There being none, he called for the vote. Vote was recorded as Jackson deny, Dannatt approve, Duncan approve, Oleson approve, and Ashland approve. Oleson read the vote result form and zoning compliance deadline information.

- 3rd item of new business was Randy and Carol Ratekin, variance for Lot 3, Lakeside Terrace, Dickinson County, Iowa.

Larry Stoller, Attorney, was representing Carol Ratekin. He gave some background on the Ratekin's purchasing this property, her husband passing in 2007, and a later decision to sell the property. The buyer had a survey done of the lot and it was discovered that the existing house encroaches on the two side yard setbacks of 5' each. It was not an intentional encroachment. It amounts to only a few inches on either side. There are no drainage or uniformity issues and no neighbors in objection. It may be an engineer error, a building error, or placement error. The question from the buyer is if clear title can be given. The house as it sits is a nonconforming structure.

Discussion of the 16' drainage easement to the east of the Ratekin property. Stoller said this is strictly a private easement and no jurisdiction of the county. Everyone in the Lakeside Terrace plat has signed off on the encroachment on the plat. The Board of Adjustment must look at just the encroachment on the 5' side yards.

It was speculated that the log siding on the home may what is taking it into the side yard setbacks.

Kohlhaase said Stoller has labeled the house as a nonconforming structure, and the buyer wants it to be in compliance. If the house is damaged more than 50% of its assessed value, it can't be rebuilt.

Oleson reminded the board members that in the case of an existing structure, they must look at it as if the structure is not there.

Duncan moved to vote on the application as presented with the board acknowledging that all lot owners of Lakeside Terrace plat have consented to the encroachment on the side yard setbacks and the 8' drainage easement and their signed statements have been properly recorded. Ashland seconded.

Oleson asked for discussion.

A reminder that correspondence had not been read. Oleson read correspondence from Brad Benit – no objection, and four letters from owners in the Lakeside Terrace Plat – no objection.

Oleson called for the vote. Vote recorded as all aye. Oleson read the vote result form.

Third on the agenda were the minutes of April 28, 2014. Jackson moved to approve the minutes as written. Duncan seconded. All aye.

Fourth on the agenda was communications. There should be a variance for the June meeting for Paul Hansen with a new application.

Fifth on the agenda was report of officers and committees. Oleson said he had driven by the Doorenbos property and it appears his retaining wall is encroaching on the right of way. Kohlhaase said he would check with the County Engineer.

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

Seventh on the agenda was other. Ashland passed out some pages he had copied from his flying magazine, regarding placement of marking balls on towers. He said the National Transportation Safety Board has taken the position that met towers pose a threat to aviation and propose that the structures be lighted. South Dakota has enacted a new law that any met tower 50' or taller should be marked, painted or flagged.

Saunders said he knows at one time discussion was held if we could mess with FAA regulations.

Oleson asked if there was information on a standard size for the colored marking balls.

Kohlhaase said they must be careful of getting too specific. Saunders said he would research to see if any information was available.

Kohlhaase told the board the Planning and Zoning Commission considered the board's request for storm shelters to be placed in RV Parks and campgrounds. After discussion it was decided that the zoning office would research for any state standards for construction. Jackson suggested calling Green Acres Homes. The mobile home park north of Milford has a storm shelter.

Eighth on the agenda was adjournment. Duncan moved to adjourn. Ashland seconded. All aye. The meeting adjourned at 9:05 p.m.

(for more detail, refer to audio recording of the meeting)