

DICKINSON COUNTY BOARD OF ADJUSTMENT

Monday, August 24, 2009

7:00 P.M.

The Dickinson County Board of Adjustment met Monday, August 24, 2009 at 7:00 p.m. in the community room, Dickinson County Courthouse.

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

Don Oleson 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 Shane Kendall, conditional use application, Part of Lot 13, Auditor's Plat of Lot C, Town of Montgomery except a tract. Oleson read the description of the conditional use.

Mr. Kendall said he was owner of Great Lakes Marine. Last year he put up a 60 x 24 building for added boat storage. He's had added growth and business, so now needs more storage. The proposed building will be similar to the last one, but larger. He has done a good job of cleaning the property up, and nothing will change out there.

Oleson said he remembers in past discussions there was a low spot on the property. It has been filled in. He asked Kendall how he handles the drainage.

Kendall said Beck Engineering did the drainage plan between the building on the east and the new building. The water runs naturally to the north. They put in river rock. There had been no soil erosion and they have not disturbed any neighbor to the north. He said there is a well on the property that is being used to hose off equipment.

Jackson asked what the building is going to look like.

Kendall said it would be a twin to the ones out there. There would not be a door on the side of the building. There would be a large door on the south, and a walk-in door on the northeast corner.

Williams said he visited the site on Saturday and didn't see any flags.

Oleson said technically the board cannot vote unless the property is flagged for their inspection.

Duncan said Kendall was there when he viewed the site and explained the placement of the building.

Oleson asked distance to the lot lines.

Kendall said the north end is 50 feet away from the lot line, 15 feet to existing west building, 68 feet to the south lot line. He is well within the regulations for lot lines.

Ashland said Dan Gano called regarding the road condition during the year. He is disappointed with the road maintenance.

Kendall said he calls Dan Eckert, the county engineer, in the spring and fall of the year and asks for the road to be graded. This is a county maintained road and dust is going to happen.

Kohlhaase said this was discussed at the last meeting with Kendall, but it is a public road and there is nothing the Board of Adjustment can stipulate for its maintenance.

He said that Dan Eckert took a request to the Board of Supervisors for this road to be in the five year plan, but it was not included. The residents need to keep bringing it up.

There were no more questions from the board. Oleson asked for comments or questions from the public.

Klara Hight said she lives next door to Kendall. She passed out packets of information to the Board of Adjustment members. She read from her letter. The changes to the Kendall property have affected her quiet lifestyle and value of her property. She voiced concerns of additional expansion which has taken the use from small business to a large commercial use. She explained photos of her property and activity on the Kendall property and a list of objections. Hight provided copies of concerns and objections from residents of Montgomery which were signed by eight persons.

Dan Gano, adjoining property owner, said Shane has done a nice job of cleaning up the property, but he has concerns of dust, chuckholes, and speed on the road. He is concerned that Kendall is not making any phone calls to keep the road maintained.

Keith Moriston, 147th Street, has a concern with road issues and speed. The road is definitely not kept maintained. He used to call Eckert, but quit calling because he thought the chuckholes might slow vehicles down.

Duncan asked what the speed limit is and can a speed limit be set.

Saunders said not by the Board of Adjustment.

Oleson gave some history of the property for those newer board members. Originally Jim Meyer came before them to use the property as a car dealer and they were concerned with this turning into a junk yard. Before that it was a livestock facility. The Board of Adjustment set the condition of approval that all activities be kept inside.

Jackson asked Kendall if he was doing any fiber glassing.

Kendall said no. The damaged boat that is sitting outside he can move inside or to the west side of the property. He has engines stored out there, but he is not dismantling. He is not running a business out there.

Oleson asked if it will be primarily indoor storage.

Kendall said all will be used exactly as before. In the spring at times he has to pull out 10 to 12 boats and stack them in a line to pull out some boats. It takes roughly 8 to 10 weeks to get all boats out of storage. The trailers are put on the west side of the west building or on the north fence row until the buildings are empty. Then all trailers are put back in the buildings. In the fall, they pull the trailers out again. With the added storage, there will be more trailers.

Oleson said as a condition of approval, he suggests trees or shrubbery on the east fence line to block the view for the neighbor.

Hight said she doesn't have a problem with the building. It acts as a fence. Her concern is with the commotion in the staging area.

Kendall said they can't do anything about dust control. It is a public road. Kendall said he knows some of his employees go too fast. They've been reprimanded. He would like to see a speed limit on that road. He will move the damaged boat tomorrow morning.

Jackson said he would like to see a condition of no boats stored that are not on trailers.

Williams said lots of properties in Montgomery have things stored outside.

Oleson would strongly suggest that Kendall call the county engineer to keep the road maintained.

Saunders said Kendall could talk to Dan Eckert about dust control.

The board members proposed the following stipulations to be attached to any conditional use approval:

1. Two rows minimum of fast growing greenery that grows to a height of 3' to 15', kept in a viable, healthy condition, planted along the Hight property line.
2. No storage of any kind east of the east building.

Duncan moved to accept the stipulations. Ashland seconded. All were in favor.

Williams moved to vote on the conditional use application with the agreed upon stipulations. Duncan seconded. All were in favor.

The vote was recorded as all approve. Oleson read the vote result form.

Third on the agenda was approval of the minutes of July 27, 2009. Williams moved to approve the minutes as written. Jackson seconded. All were in favor.

Fourth on the agenda was communications. Kohlhaase said Mark Wagner has filled the hole in his lot, graded, seeded and covered with burlap. A silt fence is up.

Saunders addressed the pending charges against Wagner. He said we can prosecute and go to trial and Wagner would get fined by the Judge; we can dismiss with court costs to us; or dismiss with court costs to Wagner.

Oleson would suggest to dismiss with some costs to cover the extra time and paperwork involved.

Kohlhaase said three charges have been filed against Wagner for simple misdemeanor. Each charge is a \$500 fine with surcharge and court costs.

Saunders said court costs are \$55.00 per case. He would suggest having Wagner pay one \$500 fine with surcharge and court costs on all three charges.

The board members were in favor of that suggestion and gave Saunders the authorization to proceed.

The Freeman's variance continuation will be on the September agenda. Kohlhaase said the Freemans asked for their application to be tabled until a full board could be present. Freemans and Wards have agreed to have Beck Engineering offer some resolution between the neighbors and come to next month's meeting. The Board of Adjustment still has to act on the variance application. All members present indicated they could be present at the September meeting.

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

Sixth on the agenda was old or unknown business. Jackson asked if the office has heard any negative comments on the wind turbine construction.

Kohlhaase mentioned we have heard nothing more from North Star or Red Rock wind farm developers, but had a meeting with Ted Weismann of FPL Energy on a proposed wind farm in the county.

Seventh on the agenda was other. There was nothing.

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