

DICKINSON COUNTY BOARD OF ADJUSTMENT  
Monday, August 27, 2012  
7:00 P.M.

The Dickinson County Board of Adjustment met Monday, August 27, 2012 at 7:00 p.m. in the community room of the Dickinson County Courthouse.

Members present were Donald Oleson, Robert Duncan, Dennis Jackson, Jeff Ashland, and Mary Dannatt.

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

First on the agenda was roll call.

Oleson read the opening statement of the Board of Adjustment.

Second on the agenda was new business.

- 1<sup>st</sup> item of new business was Great Lakes Communication Corp. and Delores and Greg Williams, conditional use application for Lot 22 exc. a tract 450' x 238', West Sioux Estates. Oleson read the description of the conditional use.

All members had viewed the site.

Josh Nelson with Great Lakes Communication said this is the same thing as the tower next to Lake Park. It is a 150 feet free standing tower; not a guyed tower. They have a lease agreement with Greg and Delores Williams. There is a set of covenants with the Plat of West Sioux Estates. They have secured 19 of the 26 property owner signatures to amend the covenants to allow the tower if approved by the Board of Adjustment.

The use of the tower is for internet and land line telephone. There is a big dead spot in that area.

Oleson said this property is being leased versus purchased. The Board of Adjustment needs to consider future development around this area. They may need to discuss stipulations for future development to protect a fall down area.

Nelson said this is a real gravelly area, not likely to be developed.

Oleson said he feels they need more than a fall down area the height of the tower. 1.1 times the height would allow extra safety area.

Dannatt asked how long the lease agreement is.

Pat Helmich, Project Manager with Great Lakes, said it will be a 20 year lease and at expiration they would apply to extend another 20 years. That wording is a part of the lease.

Helmich said there will be a 911 address at the driveway.

Duncan asked if there would be other buildings.

Nelson said no accessory buildings.

Helmich said they were very liberal in being back far enough for fall down of the tower.

Greg Williams, 1909 220<sup>th</sup> St., said his house is approximately 600 feet north of the tower location. He does have long term plans west of the house and north of the tower to develop four lots north/northwest, not straight in line with the tower.

Ashland asked Williams if he would be concerned if they put in a fall down stipulation.

Williams said no.

Jackson asked regarding the covenants, is there any rule what percentage of the owners have to approve?

Helmich said a majority, in this case, 19 out of 26.

Oleson said the covenants are a private contract and not binding on the Board of Adjustment.

Duncan asked where the future development is proposed.

Nelson pointed out on the map.

Comments were then taken from the public in attendance.

Mike Clark lives east of Milford. He has 40 acres just south of the residential development at West Sioux and 20 acres in front of the houses. He bought the ground from the Williams. He is concerned with future plans and where the tower will be. Clark also asked what a 150 foot tower would look like and where he could go to look at one.

Nelson said it is not real intrusive. There is a 100 foot tower at their office in Spencer and a 170 foot tower at the fire station in Spencer.

Clark said it seems awfully close to a residential area. Is there more room in another location?

Amy Tanner said they live in West Sioux Estates. They live in a valley and have no internet. Their son is in junior high and has a laptop but cannot get internet service. Great Lakes has been working diligently to get this for the residents here.

Oleson read letters from the three local airports that might be affected:

Milford Airport was not opposed at this location, but if the location would change, they want to review before taking a position on it.

Spirit Lake Airport has no problem with the proposed tower.

Spencer Airport said the tower will not impact the clear zone at the Spencer Airport, but a suggestion that a beacon on the tower could improve safety, even if not required by the FAA.

Oleson asked Nelson if any accessory buildings were desired in the near future.

Nelson said no.

Dannatt asked if a beacon should be required.

Nelson said for the surrounding area it would actually be more intrusive. Most pilots know that towers with a beacon must be 200 feet or more.

Ashland said it would enhance the safety, but is not required by the FAA. There are other taller structures in the area that are not marked.

Kohlhaase said in the future if Great Lakes Communication comes in with a request for an accessory structure, they do not have to come before the Board of Adjustment. He can issue the permit.

The board discussed stipulations to add to any approval of the proposed tower.

- 1) Any building or structure except for possible buildings that are accessory uses to the tower must be located 1.1 times or 165 feet from the base of the tower in all directions, creating a clear fall zone.

Jackson moved to accept this stipulation. Duncan seconded. All were in favor.

- 2) The conditional use is in effect as long as it is used for a functioning communications tower. When it ceases to be a functioning communications tower for a period of one year, the tower has to be removed to ground level including any accessory structures and including any fence.

Great Lakes Communications agreed to the stipulations.

Ashland moved to accept this stipulation. Dannatt seconded. All were in favor.

Ashland moved to vote on the application as presented with the stipulations attached. Duncan 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 Alfred Steiner, and Brian and Diana Steiner, a variance for Lot 8, 9, and 10, Block 32, Triboji Beach. Oleson read the description of the variance.

All members had viewed the site.

Monte Burrell with Green Acres Homes introduced Brian and Diana Steiner and Al Steiner. Monte had been working with the Steiners at Triboji Beach to build a modular home. In early July they were trying to determine what would fit on the lot. They were given information from the zoning office that there was a 25 foot setback from the front lot line and they proceeded to stake out the house. They found they could fit the house on the lot. After the fourth of July holiday, Barb called back and said in re-checking, the front yard setback would be in alignment with the adjacent homes on each side. The person to the north chose to set their house back 56 feet from War Eagle Blvd. If they had built closer like everyone else had, the Steiners probably wouldn't need to be here. They are asking to have a front yard of 25 feet as they were originally told.

Oleson said he thinks the front yard is a text book case of a hardship. The string line rule is a hardship for the Steiners. The second variance on the side yard is a convenience. The house could be placed differently or built smaller to fit.

Burrell showed photos of houses up and down War Eagle Blvd. that are much closer to the front yard. He pointed out that one of the questions on the variance application is what is special or unique about the property. There is an existing garage and driveway which must be accommodated.

Al Steiner said the garage has been there since the 80's.

Oleson said manufactured houses can be made any dimension. He asked if they considered eliminating the garage or remodeling so they could eliminate the side yard variance.

Brian Steiner said the garage was originally a cottage, so they would have to support the rafters to make a single door garage.

Oleson said the board's job is to keep variances to a minimum.

Burrell said if they remove the garage from the property, they would have the setbacks, but wouldn't have room to add a garage.

Oleson asked if the home could be designed with the garage under and part of the living space above.

Oleson asked about the items currently parked on the property. Are these being moved off?

Al Steiner said they will be stored in a property he has purchased.

Brian Steiner said the trailer will be sold.

Dannatt asked if they could put brick in for a driveway.

Steiner said possibly.

Discussion followed of ways to get into the garage by going in at an angle and the difficulty of backing out and in storing a boat.

Al Steiner said it is only a 2 foot variance. There will still be 14 feet between houses. That leaves plenty of room.

There was a question on what kind of foundation. Brian Steiner said it will be 2 feet in the ground with a crawl space and the house 3 feet out of the ground.

There was no public comment.

Burrell presented a letter from the neighbor to the south, Harry Oakley, who had no objection to the variance.

Kohlhaase asked if they slide the house over 2 feet, can they still maintain 6 ½ feet to the garage.

Burrell said yes.

Oleson asked Asst. County Attorney Saunders if they can deny one variance and approve the other.

Saunders said yes.

Kohlhaase asked if the Steiners are willing to work with the board.

Steiners said yes.

Ashland moved to approve a front yard setback of 25 feet and eliminate the north side yard variance of 2 feet, so maintaining an 8 feet side yard. Dannatt seconded. All were in favor.

Jackson moved to vote on the application as amended. Duncan seconded. All were in favor.

The vote was recorded as all aye. Oleson read from the vote result form and statement of completion deadline.

Third on the agenda was approval of the minutes of June 25, 2012. Ashland moved to approve the minutes as written. Duncan seconded. All were in favor.

Fourth on the agenda was communications. Kohlhaase said the trees at the substation on Highway 9 are not replanted yet.

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

Sixth on the agenda was old or unknown business. Oleson said we should consider if the WECS have special staking instructions, we should use the same criteria for communications tower staking. Also we should consider at least a 1.1 fall down distance requirement for communications towers. The staking and fall down distance could be an internal policy.

The zoning office will write up something and present it at the next meeting.

Seventh on the agenda was other. There was nothing.

Eighth on the agenda was adjournment. Jackson moved to adjourn. Duncan seconded. All were in favor.

The meeting adjourned at 8:15 p.m.