

Dickinson County Board of Adjustment
February 12, 2018
7:00 P.M.

The Dickinson County Board of Adjustment met Monday February 12, 2018 at 7:00 P.M. in the Community room of the Dickinson County Courthouse.

Members present were Delmer Lee, Roxie Reekers, Neil Guess, and Jeff Ashland. Absent was Tim Hemphill.

Also in attendance was David Kohlhaase, Zoning Administrator and Lonnie Saunders, Assistant County Attorney for Dickinson County.

Jeff Ashland-Chairman, called the meeting to order at 7:00 p.m. and read the opening statement.

First on the agenda was Roll Call.

Second on the agenda was New Business.

1st item of New Business was the Dickinson County 911, Variance, Communications tower in a HI Heavy Industrial District, 2246 220th St., Section 6, Milford Township, Dickinson County, Iowa. The variance request was read.

Michael Ehret, Emergency Management Coordinator and 911 Administrator for Dickinson County introduced himself to the board. They are proposing to build a 150 foot tower, the tower itself will be 130 feet with an antenna on top for a maximum height of 150 feet. They are wanting to construct the tower behind the new County Maintenance building on the East edge of Milford. They have identified gaps in public safety radio coverage in and around the Milford area. Therefore they are hoping to put up this tower to alleviate some of these gaps and dead spots in the Milford area.

Ashland asked if the proposed tower will be similar to what is outside the Courthouse in Spirit Lake.

Ehret said yes it will be, just shorter, but with similar design, it is a self-supporting three legged tower. They chose this location with the maintenance building being right there, they would not have to spend funds to put up an additional structure, run utilities to it, have a generator. With it being adjacent to the maintenance building, their equipment can be inside, in a climate controlled area and a generator is already onsite for backup power. It is much less expense for the County to put the tower in this location.

Guess asked if they are required to light the tower under the FAA rules.

Ehret said that they did need to get the approval from the Milford Airport and also the FAA because of the proximity to the Milford Airport. Milford did request that they put a light on it. This tower will benefit law enforcement, fire, EMS, all branches of public safety.

Ashland said there was a letter in the file from the FAA signing off on the project.

Kohlhaase said there is also information from the City of Milford, there is a Milford Airport Ordinance and a Spirit Lake Airport Ordinance, and this fell within one of the Milford Airport zones. Kohlhaase continued to say that the land near the parcel with the tower was just purchased by the County.

Ashland clarified and asked if it is the parcel to the Northwest.

Ehret and Kohlhaase confirmed.

Ashland asked about the lighting of the tower.

Ehret said that there will be a strobe in the daytime, and it will transition to red flashing light at sunset, similar to the tall tower at the edge of Milford.

Ashland wanted to make sure the strobe will not flash at night into people's houses.

Ehret confirmed that the strobe will only run during the daytime and not at night.

No correspondence. No discussion from the public.

Ashland closed the public meeting.

Reekers motioned to vote. Guess seconded the motion.

Vote recorded as 4-0 approval. Reekers, Lee, Guess, Ashland approve.

2nd item of new business Michael & Amy Marlow, Variance, 25609 162nd St., Section 10, Center Grove Township, Dickinson County, Iowa. The variance request was read.

Amy Marlow introduced herself and her husband to the Board. They both would really like to become a part of this community. Amy has been working here for two years for Okoboji Physical Therapy, it is very important for them to move to this area as she is driving an hour to work every day. They have a family who would like to move to this area as well. They have four children and four grandchildren.

Pat Mohning, Mohning Land Surveying introduced himself to the Board. The Marlow's are looking to remodel the house, and to add some additions. The current house is a little over 650 sq. ft.; it is a fairly small house that was built in 1920, prior to the current zoning requirements. They are looking to add 400' sq. ft. and an attached 2 car garage. The total footprint area would be 1500 sq. ft. One of the main issues they are asking for a variance is due this being a corner lot, the house to the south is what the setback is required to align too. With a 40' feet front yard and 20' feet rear yard, there is zero "buildable" area, due to the setback requirements. Mohning recognizes the safety concerns regarding the corner setback, he said there will be a slight hindrance to see around that corner.

Kohlhaase said that for alignment purposes when a structure faces two roads, the owner can pick and choose which direction they would like as their front yard as long the side that they choose has the principle entrance. That is why the west is considered the front yard. The alignment on that block is to the house to the South. That house has 2 lots, and is set back very deep. Which is why we have to use the maximum setback of 40' feet. Since the subject lot is a corner lot, the 40' feet transfers over to the north side as well. The rear yard setback is 20' feet instead of 25' feet due to the lot depth from east to west is less than 100' feet.

Ashland questioned the blue lines on the site plan.

Kohlhaase said that the blue lines show the over lapping area. The lot is substandard according to today's zoning. Anyone who would choose to build on this lot would need to come in front the Board of Adjustment for something.

Lee asked if the structure has two stories.

Mohning said that is correct. The current structure only has one story.

Guess asked about the south side yard.

Kohlhaase said that the proposed house would meet the 8' foot side yard setback to the south.

Guess asked if there was a reason they did not try to meet the 40' foot setback on the north, and shift the house further to the south.

Mohning said that they are trying to incorporate the existing house.

Guess asked if they planned to build the addition around the existing home.

Mohning said yes.

Lee asked how the proposed additions would affect the neighboring property's view to the east.

Mohning brought a picture to the board and they discussed the view to the lake.

Correspondence was read.

Ashland opened the meeting up to the public.

Fred Hawn 16217 256th Ave, said that if the house faces the road that he lives on, and if there are vehicles in the drive way, the back of the vehicle will be to the edge of the ditch. The vehicles in the driveway will block the view around the corner. He is very concerned about the safety of the corner lot, it is a blind intersection. People drive too fast down the road and he is concerned that someone is going to get hit.

Mike Kinney 25617 162nd St, is the owner of the house to the east, he agrees with the safety concerns that Hawn mentioned, and is also concerned about the amount feet of variance that is being requested. It is a lot of change to a code that is in place. As far as his view, if that is an issue, it would dramatically change their view, but the biggest issue is the safety factor.

Brandon Vodraska 25709 162nd St., he and his family use 162nd and 256th frequently to go to friends houses, use the boat ramp, and walk to the state park. There is a lot of traffic on those roads in the summer time. Something he did want the Board to know, was that the bus route was changed due to the obstructed views and the safety concerns regarding this corner. He would love to have a nice, pretty house in the neighborhood, but not to the expense of someone getting hurt.

Guess asked the applicant if they would consider shifting the house to the south and if they would change the driveway entrance to be at the eastern most side of the lot on the north. So they are as far away from the corner as possible.

Guess demonstrated on the site plan.

Mohning said that their main concern with that is they are trying to keep as much of the house that they can, they would only be able to use a 10 x 24 section of the existing house.

Discussion about shifting the house to the south. The applicant requested a 5 minute break to discuss the adjustments with Mohning.

Kohlhaase said the applicants had concerns about not utilizing the existing house, and they did not want to get in trouble if they removed the house. Kohlhaase informed the applicant that what is being considered tonight are yard variances and whether or not they utilize the existing house or not is up to them.

Amy Marlow said that they are grateful that the safety concerns regarding this corner have been brought to their attention. They do believe that this shift would be a good idea and have the garage doors open to the north street, and not on the west side.

Mohning said that they would shift the house as far as they can to the south to the 8' foot setback line, which is approximately 12' feet. This would require a complete removal and rebuild of the house if that would help alleviate some of the safety concerns.

Guess asked if there would still be a small variance on the north side.

Kohlhaase said that they would still need a 5' foot variance to the north. The front yard and rear yard variances would not change, but the north yard variance would be considerably less.

Ashland said that the east and west variances would stay the same, the north would lessen.

Guess said that they would need to move the driveway as far to the east, away from the corner lot.

Ashland welcomed additional comments from the public.

Fred Hawn said that they can slide the house all the way down and they are still going to have the garage facing the park entrance. They are just changing it around, it is still a blind corner from one direction to another. It is a scary corner. He doesn't know if changing the driveway will make a difference.

Kohlhaase said that the per the ordinance the applicant is required to have 2 off street parking spaces, and people can use their driveway for parking.

Brandon Vodraska asked if the site plan could be flip flopped, so the access to the garage is no anywhere near the corner and is on the south side of the house.

Hawn agrees with the site plan being flip flopped.

Guess said that he is concerned about the driveway facing west because of parking in the ROW.

Kohlhaase said that the proposed front yard setback is 13' feet and that is to the property line. It does not include the right of way.

Mohning said the right of way would be approximately 22' feet from the property pins to the edge of the street.

Discussion on the application.

Keith Whittington 25717 Carol Ln. said that the proposed changes would help with the snow removal and sight changes.

Guess motioned to have a 5' foot variance on the North, 26' feet variance to the west and a 12' foot variance to the east and to flip the garage to the south side of the lot. Lee seconded the motion.

Vote is recorded as 4-0 approved. Ashland, Lee, Reekers, Guess approve.

3rd item of New Business 1713 McNaughton Way & Great Lakes Communications and Conroy Johnson, Conditional Use. The description was read.

Patricia Helmich, Great Lakes Communications and 1713 McNaughton introduced herself, they are proposing a communications tower, adjacent to the existing water tower. The area is not in a flood plain, and there are not any County tiles running through the proposed site. The tower will be 192 feet tall, open lattice construction and enclosed with a chain-link fence with barbwire at the top. They will meet the required setback of 50' feet to the west and south and exceed those setbacks to the north and east. The tower structure and proximity to the airports do not require FAA approval. They went through the standard FAA process, and there is no need for further study. They have been cleared by the airports. They would not light the tower, because it is under the maximum height regulations from the FAA.

Kohlhaase said the application is not in conflict with the comprehensive land use plan, because the communication tower is allowed as a conditional use in the A-1 Agricultural District.

Lee asked if there was a requirement minimum setback from a residential areas.

Kohlhaase said that normally not, but fall down distance does and can come into play and can be discussed.

Guess asked if the tower is for cellular communication.

Helmich said they are an internet service provider.

Guess asked if the existing water tower will disrupt what they are doing.

Helmich said that they are currently on the water tower and they have disruption. They need to get off the water tower to help improve their frequency.

Ashland closed the public meeting.

No communications. No public comment.

Lee motioned to vote on the application. Reekers seconded the motion.

Vote is recorded as 4-0 approved. Guess, Ashland, Lee, and Reekers approve.

Third item on the agenda is old business. Saunders gave an update on the lawsuit from the "Concerned Citizens of Dickinson County"

Fourth item on the agenda was the approval of the minutes from December 27, 2017. Guess had questions regarding the minutes. The Zoning Office was directed to follow up and amend the minutes if needed. Guess moved approval with clarifications through the recording. Reekers seconded. All were in favor.

Fifth item on the agenda was Communications. Kohlhaase said there is a Planning and Zoning Workshop in March, and it is one of the best classes for our boards. If you can come, please sign up and Megan will get you registered.

Sixth item on the agenda was Report of officers and committees. There was none.

Seventh item on the agenda was Unknown Business. There was none.

Eighth item on the agenda was Adjournment. Guess motioned to adjourn, Lee seconded the motion. All were in favor.

(For more information see BOA 02 12 18)