

Dickinson County Board of Adjustment
July 27, 2020
7:00 P.M.

The Dickinson County Board of Adjustment met Monday July 27, 2020 at 7:00 P.M. in the community room of the Dickinson County Courthouse and via zoom.

Members present were Jeff Ashland, Alex Oponski, Jen Johnson, Delmer Lee, and Kirby Berhow.

Also in attendance was David Kohlhaase- Dickinson County Zoning Administrator and Megan Kardell-Dickinson County Zoning Assistant

Jeff Ashland, chairman called the meeting to order at 7:05 p.m.

First on the agenda was Roll Call.

Second on the agenda was New Business. Jeffrey Meiners, Variance, Lot 7, Replat of Chalstrom's Beach, Dickinson County, Iowa. The request was read.

Ben Groen with Beck Engineering introduced himself. He is representing Jeffrey Meiners whom is requesting a 24' foot variance on Lot 7 of Chalstrom's Beach. He is wanting to build a house along with an attached garage, the required building setbacks do not allow room to both.

Ashland said just looking at the preliminary plans, he was looking at the lot layout with the driveway right next to the road, and when you look at the elevations of the housing, the east elevation isn't really east, it is more to the south.

Groen said that is correct.

Ashland said the garage is coming out of the side.

Groen said the elevations show side loading, but Meiners wanted a street loading garage because the room on the lot doesn't really allow one to pull into the garage from the side.

Ashland said the garage would be on the west elevation drawing.

Groen said that is correct.

Jeff Meiners introduced himself via zoom. He lives in Johnston Iowa, he had work today and apologized for not being there in person.

Oponski asked if this will be a seasonal home.

Meiners said yes.

Oponski said that in your statement, letter K, you made reference to someone checked into the setbacks prior to purchasing the lot.

Meiners said he made a call to the office in regards to setbacks and quizzed them a little bit in reference to gaining a variance, they couldn't say for sure, but with my restrictions, he was just hoping a variance would be granted. There is an existing garage that he left on the lot. He does not want to use it, and it would look a lot better if he could build a new attached garage. Unfortunately if he has to live with it, he will.

Groen said part of that was in order form him to figure out how much room he had, and if he would be able to build a house and garage that he was happy with. The process kind of moved quickly and he had to make a decision whether or not to purchase the house. Which he did.

Oponski asked if Meiners considered anything smaller to have a lesser variance. He noticed when he walked the property, northwest to southeast.

Meiners said that when he looked at it, he was pretty much even with the neighbor to the east.

Berhow asked what the setback is from the lakeshore.

Groen said the lakeshore setback is 40' feet. Line of sight or 40' feet, line of sight would have been greater, which is why they went with the 40' feet. The house is set at 40' feet, it is as far towards the lake as they can place it.

Ashland stated that the home is 46' feet, did you ever consider a smaller house.

Meiners said he looked at it, but it doesn't give you a whole lot of room with the size of the house, the cost of the lot, and then to have to build a smaller house. He felt he was pretty conservative, even though he took the entire lot.

Ashland said he had a question for Kohlhaase. He asked for Kohlhaase to explain the setback differences between an attached garage and a detached garage.

Kohlhaase said when the garage is attached, it becomes part of the principal structure, the requirements are 25' feet rear yard, measurement is taken from the lot lines, not the edge of the road, and 5' feet on each side. If the garage is detached, it would need minimum of 6' feet separation between the garage and any other structures on this lot or adjoining lots, it can be a little as 5' feet on each side, and it can have a 10' feet rear yard. So if you do the math on a detached garage you have 10' feet plus 6' feet which is 16' feet versus the 25' feet but there other calculations for a detached structure it is called the 30% rule. In reference to the required yards that are not built upon, that square footage times 30% will tell you how large of an accessory building you can build. An accessory building can only be 22' feet in height where a principal structure can be 35' feet in height. On other note, he just wanted the applicant and his agents knowing and understanding, you cannot grant a greater variance due to it being a legal process, but if there is discussion on a lesser variance that would be a negotiation between the board and the applicant. You can go to equal to or less than, but not greater than if both parties agree. One thing that hasn't been discussed is safety on that road.

Groen said as far as safety goes, they've looked at the site triangles from pulling out of that garage. The site triangle for 25 mph is 115' feet for the person coming out of the garage or the person going down the road for being able to see without anything in their way. Even if the garage was smaller and that whole garage was just a driveway, Meiners would have to be out of his garage to see past the garage to the east. It doesn't matter if the garage is smaller, the risk is still there.

Oponski asked if Groen can explain how the site triangle effects Meiners's neighbor. He said that it looks like if he is backing out of the garage the site distance is obscured until he is in the street.

Groen said are you asking about Meiners or the neighbor to the west.

Oponski said the neighbor to the east, the site triangle goes to the east right.

Groen said correct. That is where the view is obstructed.

Oponski asked if someone is coming east, how the site triangle effect the neighbor who is backing out.

Groen said if you reverse the triangle and put it by the neighbors garage coming out of the garage headed west it would be a similar situation. Meiners's garage is not going to impact his neighbors garage because there so level with each other. Once the neighbor is out past his own garage, he is going to be able to see right down the street and will be able to see any cars coming east to west.

Lee said that neither garage compiles with today's setbacks.

Groen said that is correct.

Ashland said that he can see the hardship, if they could go towards the lake, it would be a different situation.

Johnson said she understands this is a one story with a loft, did you consider building a two story building so you wouldn't have to request a variance.

Meiners said they looked at it, even a two story would be very tight, one would almost have to have everything on the second level. It didn't make a whole lot of since, the garage would take up the whole main level.

Lee asked about a deck on the lake side.

Groen said that Meiners expressed that he may be interested in a patio area, and that would impact the soil quality restoration area. In that event they would relocate the soil quality restoration area.

Kohlhaase said in reference to a patio or a deck that is less than 12" inches off the ground. He could do that without a permit. If the deck is 12" inches or more off the ground than and open, unenclosed, unroofed deck may project 5' feet or less into the required yard to the 35' foot point. In most cases like this with the elevations that they have, we see is a ground level patio.

Lee asked how far that could project.

Kohlhaase said there are no requirements, but we do get into the landscaping ordinance and trying to protect that 40' feet from encroachment and trying to leave it as natural and beautiful as possible, but still allowing something that would be reasonable in size. That is usually discussions between the property owner and our office trying to protect the lakeshore as much as possible to keep it green.

No correspondence.

Ashland opened up the meeting to the public. There was none.

Ashland closed the meeting to the public.

Oponski motioned to vote. Lee seconded the motion.

Vote recorded as 3-2 approve. Johnson-deny, Berhow-deny, Lee-approve, Oponski-approve, Ashland-approve.

Third on the agenda was Old Business. Oponski asked if the Board could receive status report/update on the past approved variances. Kohlhaase said we would be happy to summarize the active variances and give the Board a status report.

Fourth on the agenda was Approval of the minutes from May 26, 2020. Lee motioned to approve. Johnson seconded the minutes. All in favor.

Fifth item on the agenda is Communications. Kohlhaase said that we've been told the wind farm might be coming soon, but we've been told this before and it hasn't become a reality, we'll take it month by month.

Ashland asked if there is a large meeting like with the wind farm, what our protocol is.

Kohlhaase said with our last P&Z meeting, what we are doing is zoom and also we're working on utilizing one of the courtrooms for people and social distancing. Our technology is such that where people can see and communicate, but just will not be present in this room. There are three parts, the community room, zoom, and a backup room, unless things change. We've been instructed that zoom will always be available, for the reason that a board member or a member of the public that has situations where it is better for them not to be here. This is probably the new way for now.

Sixth item on the agenda is Unknown Business. Kohlhaase reminded the Board that this is a quasi-judicial Board and after that vote and when you did the findings of facts, those applicants

as well as anyone have 30 days to appeal the decision. If they would ever go to court and the board is questioned, those findings of facts are important as to how one voted and the explanation. It is good to spend time and thought with those.

Seventh item on the agenda was Adjournment. Berhow motioned to Adjourn. Lee seconded the motion. All in favor.

(For more information see BOA 07 27 20)