

Dickinson County Board of Adjustment  
November 23, 2020  
7:00 P.M.

The Dickinson County Board of Adjustment met Monday November 23, 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, Delmer Lee, Kirby Berhow, and Jen Johnson.

Also in attendance was Lonnie Saunders-Assistant Dickinson County Attorney, David Kohlhaase- Dickinson County Zoning Administrator and Megan Kardell-Dickinson County Zoning Assistant

Jeff Ashland, chairman called the meeting to order at 7:00 p.m.

First on the agenda was Roll Call.

Second on the agenda was New Business. 1<sup>st</sup> item of New Business Michael & Candy Cunningham, Lot 18, Block 3, Jones Pasture 1<sup>st</sup> edition, Dickinson County Iowa. The request was read.

Michael Cunningham introduced himself to the board. The cabin was built in 1961 on pilings, over time the pilings became rotted out. He purchased the property in 1995 and at the time it was 700 square feet with no insulation, a small bedroom, bathroom and kitchen. In 2004 they put a small addition on to the cabin. The 2004 addition added a loft area with a second bedroom. As they are planning for the future, their intent is to live in Spirit Lake fulltime within the next 5 to 7 years. They are very fortunate that they both have jobs that allow them to work from home. The proposed addition would be to build a garage with three bedrooms and two bathrooms upstairs so they would have enough room for all of their children and families to stay. They are trying to get to the point where everyone can be there together. It is not a small lot, it's odd that they have 38' feet to the lot line and another 40' feet to the road.

Ashland opened the meeting to the board.

Lee said the one question about the land and how that is setup, the lot line to the road is a long ways.

Cunningham said Jerry Jones is the landlord, he said to consider that area theirs, and they have taken care of it since 1995, doing everything from mowing, cleaning it up, and tree/leave removal.

Lee asked if where the pavement ends, if that is the end of the county road.

Kohlhaase said yes.

Lee said from the edge of the road on back to the house is your access.

Cunningham said yes.

Ashland asked about the existing structure.

Cunningham said the loft area is part of the addition, the house will be L shaped.

Correspondence was read.

Ashland opened the meeting to the public.

Roger Shinkle, 25610 Pasture Rd. His letter was read. He votes to approve the variance. The Cunningham's are wonderful people and are great neighbors. This will be a welcomed addition to the neighborhood.

Charles and Pam Ahlrichs 25570 Pasture Rd. They are the neighbors to the East of the Cunningham's. The Cunningham's are wonderful neighbors and they are looking forward to the addition to their home, it will be just fine and a good addition to the neighborhood.

Ashland closed the meeting to the public.

Oponski motioned to vote. Johnson seconded the motion.

Vote 5-0. Oponski, Johnson, Ashland, Berhow, Lee approve.

2<sup>nd</sup> item of New Business. Brian Goodell (owner) Tim & Tobi Goodell (developers), Conditional Use, Campground for Profit, located in the West 151 feet of the North 1275.45 feet of the E1/2 NW1/4 lying West of the roadway, and the North 1275.45 feet of the W1/2 NW1/4 of Section 2, Township 99 North, Range 37 West of the 5<sup>th</sup> PM., Dickinson County, Iowa. The request was read.

Tobi & Tim Goodell introduced Jeff Rose their engineer from Jacobson-Westergard. The Goodells both grew up in the area and have enjoyed growing up and going camping. They noticed there is a need in the area for an additional campground. They started working on this project about two years ago, and are now ready to present their plan to the board. Tobi Goodell turned the presentation over to Jeff Rose.

Rose said as you see on the current map the area is located west of Highway 86 on the south side of Highway 9. The area is zoned agricultural. Per Article 5, Section 3 a campground is allowed as a conditional principal use. They are requesting the conditional use to be a lifetime permit as long as the property is being utilized as a campground. They will develop it in two phases. As one can see on the east side will be phase 1 and will consist of 100 camper spots and the west side will be developed once the east side is one hundred percent complete and/or occupied, phase 2 will consist of 123 units. The utilities that were contacted during the design phase were Alliant Energy for electrical service, Osceola Rural Water for water service, the Iowa DOT to improve the entrance on the north side of the property from a level C type to a level B type entrance. The sanitary district for sewer and the DNR for sewer permitting. The camper sites are 20' feet x 40' feet with a 20' x 20' foot parking area to allow for two vehicles per camp site. There is water and sewer to each site, there is roughly 20' feet between campers and 30' feet between rows to give it an open landscape. The one way roads are 12' foot wide and the two way roads are 22' feet wide. They are proposing a 30' foot entrance off of the highway. Next to the clubhouse there is additional parking for boat trailers and other vehicles. The grading site plan shows they changed the contours to make everything slope to the south/southeast corner. In the southeast corner there is a retention pond that will take all of the surface drainage from the property. That pond has been designed to hold the 100 year storm event and release that water slower than the 5 year predevelopment rate, greatly enhancing the drainage of the property. There are blue and green lines on the site plan that go to each site. The blue lines are water and the green lines are the sanitary sewer. They were first looking at guiding the sewer to a common pit and then pumping it to the sanitary sewer district line, but in working with and corresponding with the sanitary district, there is not enough capacity even for the first initial 100 sites. At this point the only other option, with DNR approval, is to construct a large onsite private sewer system, which would consist of septic tanks and leach fields. Phase 1 will have three leach fields with a total of 10 septic tanks. The second phase there will be up to 10 tanks and three additional leach fields to serve the properties. The first choice was to go with sanitary sewer, but unfortunately the district does not have capacity to go that route. If the sanitary district were to find capacity, the clients are willing to annex into the district and receive the service and make any adjustment to the property to join their system. They are going to work closely with the DNR for the permitting of the onsite sanitary sewer system and also work with the DOT and Osceola Rural water to get service for this property.

Berhow asked where the large number of septic tanks are going to be located.

Rose said on the site plan there are green rectangles that indicate the locations of the septic tanks.

Johnson asked if there was an environmental impact study being done.

Rose said no, not for this project.

Johnson said since this falls within the Iowa Great Lakes watershed, her hesitation with the septic tanks is the contamination of surface and ground water. Do they plan on getting an environmental impact study?

Rose said that if it is a requirement of the Board they will look into that. By talking with the DNR, they said we can use Chapter 69, which is the common reference for the residential sizing. They will use Chapter 69 for loading purposes but are going to be following all of the requirements of Chapter 64 which more addresses the commercial side.

Oponski asked about the size of the clubhouse and the safety of the campers, is there a shelter somewhere or is that what the clubhouse is supposed to serve as.

Tobi Goodell said the contractor said they will reinforce the walls and do everything that is necessary to make the bathroom/shower houses a storm shelter.

Oponski asked if those were located in the clubhouse.

Goodell said yes.

Oponski asked what is the capacity of the clubhouse. If you calculate an approximate of 2.5 people to the first 100 camping sites, that 250 people, is there going to be enough capacity for them.

Goodell said that she does not have the dimensions of the building.

Tim Goodell said that when they talked with the contractor, if there was another place on the property during phase 2 they would look at building another shelter. They can look into the plans for the clubhouse and let the board know what the dimensions of the building are, and what kind of capacity it could hold.

Ashland said he had the same questions about the storm shelter.

Tobi Goodell said they researched for a formula to calculate what would be needed for the shelter/clubhouse and could not find a standard. Whatever the board decides to require for the shelter they will accommodate that.

Ashland asked Rose if there are any standards they use.

Rose said they talked with an architect and he could not find anything in the building code that outlines how many square feet per person. Typically for an assembly area, his personal usage is about 5 square feet per person, but in an emergency situation one can probably go less than that.

Ashland said that an environmental impact study would be pretty important due to the location near the watershed and West Lake. Has there been any contact with the sanitary sewer district and their time table to service the project.

Rose said that his last contact with Steve Anderson was on March 11, and he just completed a modeling for the sewer system in the area and there no capacity to service the campground. Now today he did hear that there may be options. Rose contacted Anderson to discuss those options, but it came out that there is only one option. Anderson believes they could bypass some of the sewage at 151<sup>st</sup> St. east of the hotel and the intersection that would free up enough capacity to serve the campground. Anderson stated it was a possibility and not set in stone, the engineers would have to run it through a modeling to see if it was even feasible to do it. If it was feasible based on the model, then there would have to be upgrades, as well as annexation into the district.

Ashland said that was a conversation that took place today.

Rose said that is correct and I forwarded the email to the county for the record.

Kohlhaase said for the record, he is taking off his zoning title and putting on his environmental health title. In the code we use Chapter 69, it says the public sewer needs to be within 200' feet to fit the definition of available. As Rose said this has gotten beyond Chapter 69, the chapter Kohlhaase uses to design small onsite systems. This is gotten beyond what he is allowed to do, so when Rose mentioned Chapter 64 and working with the DNR, they are the ones who will permit this system. Some of the first conversations we had with the applicant was the concern for sewer. In our packet, Rose provided the correspondence back and forth with Steve Anderson with the sanitary sewer district. The summary of those conversations was they could not serve this project. Kohlhaase felt it was important for him to contact Steve Anderson to be able to say two things. First confirming that sewer is not available, and second if it is not available, when would it be available and if there is any planning for it in the future. That is when a this little bit of the curveball took place and the possibility of sanitary sewer, but then again study would have to be done. He asked Anderson if it was okay to have Rose call him, because Kohlhaase believes it was new news to everyone.

Rose said yes.

Kohlhaase said it was a surprise about what took place today at the 11<sup>th</sup> hour. So the questions we've asked Rose and the applicants is if sanitary sewer is available, would they hook on to it. The immediate answer was yes. That is the direction they would like to go, and from working with the engineers, it was determined it would be a feasible monetary comparison to the private

sewers. If sanitary sewer is not available, the next option is looking at private sewer system and that would be up to their engineer on their team to design and then get the appropriate permits from the Department of Natural Resources. One thing for clarification. Private sewers are an option for sewer and provide good treatment for those who do not have access to public sewer. Many people relate today's systems to those systems that were installed in the 1950's and 60's and earlier before the permitting process was established. Before permitting private sewers were put in poorly, wrong, and not maintained. The DNR is not going to approve a permit if is going to pollute the ground. Also, soils work in a way that they latch on to these things as they work their way from the tank in to the leach fields. The concerning thing with the situation today is the applicants did exhaust working with sanitary sewer, in reference to getting sewer and it was not an option, however now we learn that there may be an option. It would be his opinion to exhaust all options with sanitary sewer before going with a private sewer.

Kohlhaase said the things you have talked about are shelter and sewer, knowing those are the main concerns for this project. As a requirement he is to determine whether or not this project is in conflict with the comprehensive plan. This project is not in conflict with the comprehensive plan because the land is zoned agricultural and a campground for profit is allowed as a conditional principal use.

Ashland said it is obvious that we need more information in order for the board to move forward. He asked Saunders if it would be proper to still hear from the public at this time.

Saunders said it would be wise for the applicant to step back and listen to what the board is requesting. If the applicants choose, they can push for a decision tonight, but from listening to them, it seems that they are agreeable to provide additional information.

Kohlhaase asked if the public in attendance should speak their comments due to the fact that they may bring up something else that may require additional information.

Saunders said yes, it would make since for the public to speak so the applicant can hear what others have to say and give the applicant a chance to address those items.

Correspondence was read.

Ashland opened the meeting to the public.

Layton Vick, representing the family farm directly north of the project and also speaking on behalf of his dad at Vick's Corner. The sewage is going to be the issue that they have, they are not against the campground, and they think it's a great idea. Referencing Chapter 69 as an installer and a state certified inspector, he can tell you what Chapter 69 would recommend for something like this, for 223 sites, it depends on what figure you look at but they estimate between 75 to 100 gallons per day per site for maximum capacity. Which translates into 16,000 to 22,000 gallons per day, which is significant. However, they know that there are some issues with sanitary sewer not being able to address all of this, there might be another option. He spoke with Doug Westerman with Osceola Rural Water and the problem is the timing is not going to be right for this, but there is a possibility that municipal rural water systems have the available to them the ability to obtain some loans/grants for sewer treatment. As an example, Montgomery would be a nice little area for a sanitary sewer system but it is not really feasible for those people to do it themselves. After speaking to Doug, he is receptive to the idea of looking into creating a new waste treatment facility that may be able to catch properties along the west side of Hwy 86, and open some of that area up to some developments that we are unable to do now because of those restrictions. That was one thing he wanted to throw out there, the other thing is after looking at the plan that they have, Chapter 69 has a bunch of other restrictions, and he realizes that it is not commercial, 69 deals more with residential, but a general rule one is looking at about a one foot of chamber per gallon. So if there is 16,000 gallons per/day then one would need 16,000 feet of chambers, this is just an easy way to look at it. There is a second option it is possible to lease property to the south of them to open up some area. It's not so much what is going into the tanks, it is the volume that is coming out. There are different treatments that one can do with the tank. It's the sheer volume of the liquid that needs to be dealt with. If there was an issue with the system, they're not too far from the lake. Sanitary sewer, if they can hook on to it and if they have the capacity, would solve any issues they have with the proposal.

Ashland closed the meeting to the public.

Berhow asked if there is a way to table this for a while or leave it up to the applicant on whether or not they would like us to vote on it tonight.

Saunders said the things that we need more information on is the storm shelter and sewer system and having a new option today, it is an option for the applicants to explore. It is up to the applicant, they can forge ahead and ask the board to make a decision or you can take a step back and say we understand the board wants more information, and we're willing to get it to them in a month or couple months, whatever it is, that would make the most since.

Ashland agrees with Saunders and thinks there is more information needed if possible, on that note, he would like to see it tabled to obtain that information, but certainly understand if they want to go ahead with the application.

Rose said if the board would give his clients a list of information that the Board would like, the clients would like to table the application until they get that information.

Saunders said perhaps a way to do this, rather than table this to a date certain, we have told them what information is needed and when they have it call us back and we'll get them on the agenda.

Kohlhaase said probably the word to use is continued, the Board of Adjustment has a schedule of their meeting dates and we can provide that to you. The board has, in reference to shelter, looked at applicants before that have had calculations and requiring area enough to satisfy those needs. The main issue is sanitary sewer and exhausting all options to get to it. If it is not an option, whether or not you want to proceed with looking at a private sewer system, in reference to the design of that system, Rose has ran some numbers, ideas and general calculations. That gets into a different league and they would be working with the Department of Natural Resources to get a permit. Some things to think about beyond that, the board talked about wanting an environmental protection study, and to what extent. Again if they exhaust all of those options with sanitary sewer looking at a maintenance requirement, the lifespan of the system and what happens if and when they system has outlived its life and the replacement. That is one of the reasons for the call to the sanitary sewer department was to see what the future plans where to be able to service that area. It seems like the shelter, sanitary sewer, and if it is going to switch to private sewer decide whether or not you want to proceed in that direction and if so, it would probably be good to have that attached environmental impact study in reference to the location and size of the system. Maybe have the communications from Osceola Rural water and whether or not it would be an option or not.

Oponski said if the applicants are going to add an additional shelter on the property for the second phase, he would like to know where that is going to be located. When one talks about things like this distance matters.

Lee said that he thinks they need to see if there is some sort of standard for storm shelters, because to build a shelter big enough for the maximum capacity number of people is probably not realistic. There has to be something that is reasonable, either a standard or a guideline.

Ashland said they've had applications in the past where they have showed us some guidelines for a shelter.

Saunders said to his best recollection they were using 5 square feet per person in the past.

Kohlhaase said that there are different formulas out there that are similar to what Lee is saying, in Dickinson County we say the Fourth of July is going to be the highest occupancy day, and could you satisfy all of those people. However not all of those people will probably be in the park at the exact same time. Those calculations take into account those factors. Also if this campground goes with a private sewer system, those calculations will be based upon its highest use. So what Kohlhaase has heard the board is asking for more information on the shelter, sewer and environmental impact study only if a private sewer is going to be presented.

Ashland asked the applicants if they agree with what the board is looking for.

Goodell and Rose said yes.

Ashland asked the applicant if they are in agreement to table the application until the board receives more information.

Goodell said yes.

Ashland said he would entertain a motion to continue this application.

Johnson motioned to continue the application. Berhow seconded the motion.

All were in favor to continue the application.

Kohlhaase said if it is not at the next meeting date, we will keep the board informed of what the applicant is doing. When you decide when you are going to come back, let the office know two weeks ahead of time to include any additional information in the mailing that the office sends out to the board.

Third on the agenda was Old Business. There was none.

Fourth on the agenda was approval of the minutes from November 05, 2020. Oponski motioned to approve with the amendment to the date. Lee seconded the motion. All were in favor.

Fifth on the agenda was Communications. Kardell asked about scheduling over the holidays.

Seventh on the agenda was Adjournment. Berhow motioned to adjourn. Oponski seconded the motion. All were in favor.

(For more information see recording BOA 11 23 2020)