

Dickinson County Board of Adjustment
January 25, 2021
7:00 P.M.

The Dickinson County Board of Adjustment met Monday January 25, 2021 at 7:00 P.M. in the community room of the Dickinson County Courthouse and via zoom.

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

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

Alex Oponski, Vice-chairman called the meeting to order at 7:00 p.m. due to Jeff Ashland being detained.

First on the agenda was Roll Call.

Second on the agenda was New Business. 1st Item of New Business was Election of Officers, due to Jeff Ashland being detained, and the rules stating there must be a full board, Oponski said we would come back to it once Ashland arrived.

Oponski also chose to come back to the 2nd Item of New Business Review, Revise, Action on Board of Adjustment Rules and Regulations and would return to it after they addressed Old Business.

Third on the agenda was Old Business. A request for continuance from 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 5th PM., Dickinson County, Iowa., from the November 23, 2020 Board of Adjustment meeting to allow additional time for study.

Kardell read the continuation request from the Goodell's.

Johnson motioned to continue the application. Berhow seconded the motion. All were in Favor.

Fourth on the agenda was approval of the minutes from December 28, 2020. Berhow motioned to approve. Johnson seconded the motion. All were in favor.

Return to 2nd Item of New Business Review, Revise, Action on Board of Adjustment Rules and Regulations.

Kohlhaase began and requested the Board to go to rule number 17 which states, "At least once a year and at such other times as the chairman may call, there shall be an orientation of the Board members to review rules, procedures, by laws, ordinances and statues and other matters pertaining to the conduct of the affairs of the Board of Adjustment, action may be taken as appropriate to correct or modify rules, by laws and forms." He is not saying that tonight's meeting is going to fulfill that rule 100 percent but at least partially.

Kohlhaase said it would be his recommendation to start with the Board of Adjustment Code of By Laws, page 3 does anyone see anything that needs to be adjusted, corrected or is it okay? His review found it to be okay.

Oponski said he did not have anything. Neither did the rest of the Board.

Lee motioned to accept Articles 1, 2 and 3 of the By Laws as written. Berhow seconded the motion. All in favor.

Oponski said moving on to page 4, Article 4-Meetings. Section 2. the By Laws state that voting on the matters will be done via a written ballot, however we had a Board member joining the meeting via zoom, he was not sure how Johnson's vote was being recorded, is the verbal vote for her, okay? Does she give a written one later that is entered into the record?

Kohlhaase said her verbal vote was recorded. With the change to Section 2, Adding "or if a Board Member is attending the meeting via zoom, a verbal vote will be recorded" it clarifies that a Board member does not have to be present and write a written ballot as long as their vote was on record.

Kardell stated that there is ballot with Johnson's name on it, and once she votes, Kardell marks Johnson's decision on the ballot.

Oponski asked if Kardell was initialing the ballots.

Kardell said she did not, but can go back and do that.

Saunders said it would be easy enough to do.

Johnson motioned to add "or if a Board Member is attending the meeting via zoom, a verbal vote will be recorded" to Section 4. Lee seconded the motion. All were in favor.

Oponski said Section 5-Order of Business shall now be a. Roll Call b. New Business c. Old or Unknown Business, d. Report of Officers & Committees (only if applicable), e. Approval of the Minutes from previous meeting, f. Communications, g. Adjournment. He feels this new order just cleans it up and more accurately reflects our current agenda.

Kardell said the question was asked about having the Report of Officers and Committees being on the agenda/order of business and since Article number 6 addresses committees, she thought that if the Board were to ever form a committee we could put it on the agenda when it applies.

Berhow motioned to approve Article 5 as amended a. Roll Call b. New Business c. Old or Unknown Business, d. Report of Officers & Committees (only if applicable), e. Approval of the Minutes from previous meeting, f. Communications, g. Adjournment. Johnson Seconded the motion. All were in favor.

Oponski asked if anyone had any amendments for Articles 6, 7, 8, 9, or 10. No one had any amendments for those articles.

Berhow motioned to accept Article 6, 7, 8, 9, and 10 as written. Oponski seconded the motion.

Oponski moved onto the Board of Adjustment Rules. He suggested we look at these in mass.

Oponski said the first amendment was item number 3 under the rules. Oponski asked if Kohlhaase or Kardell made these suggestions.

Kohlhaase said he did. The reasoning behind number 3 is that it used to say, "Applications must be filed five days before the deadline for publication to be considered at the next meeting." What we've done in the past and what we continue to do is to make a schedule of the meeting dates and deadlines. Instead of saying the five days, what we would like it to say is "Applications must be filed by the deadline date established by the Zoning Office." When we work with people and give them the requested applications, we give them the schedule of meeting dates and deadlines for their planning.

Lee asked if there was a consistent way of determining the deadline dates.

Kardell said yes, mainly due to publication in the paper as well as working to make sure we complete our requirements of the ordinance in terms of notice to property owners.

Kohlhaase said the meeting dates and deadlines schedule is done a year in advance.

Johnson asked if the newspaper is the Dickinson County News.

Kohlhaase said yes, that is our newspaper as appointed. It is just for planning and making the rule crisper.

Kohlhaase said number 5 states "The Board will meet on the fourth Monday of each month and at such other times as the Chair or Board may call. Additional meetings will be called however when there are four application which have been on file for more than 30 days." What we are suggesting is to remove the second sentence "Additional meetings will be called however when there are four application which have been on file for more than 30 days" and replaced it with "Scheduled meetings with no agenda item(s) can be cancelled by the Chair," meaning if there is nothing on the agenda, the meeting can be cancelled, which will be run by the Chair to get the approval to cancel.

Kohlhaase said number 7 states "No applications which are incomplete or where the property has not been marked and flagged will be considered." We would like to add "as required" after the word flagged, the reason why is the guidelines specify the staking requirements for the property. Number 7 would read, "No applications which are incomplete or where the property has not been marked and flagged as required will be considered."

Kohlhaase said number 12 states, “The Board may continue a decision, however a matter so continued will be considered at the next monthly meeting. A vote on the application concludes the matter and may only be considered again upon the filing of a new application which may be filed no sooner than 90 days after the date of the vote.” The suggested change is to remove the word monthly and replace it with scheduled, and then state at the end of that sentence “or at such time the applicant is ready to proceed.” So it would read. “The Board may continue a decision, however a matter so continued will be considered at the next scheduled meeting or at such time the applicant is ready to proceed.” A good example is what you are dealing with now. It cleans it up nice.

Kohlhaase said going into the second sentence of number 12, “A vote on the application concludes the matter and may only be considered again upon the filing of a new application which may be filed no sooner than 90 days after the date of the vote.” We have been instructed that changes to an application do not necessarily make it a new application and due to previous litigation it is just safe to wait the 90 days.

Kohlhaase felt the rest of the rules were okay and did not have any suggestions for changes.

Oponski asked if anyone else had any thoughts or questions. There was none.

Berhow motioned to accept the Board of Adjustment Rules as amended. Lee seconded the motion. All were in favor.

Oponski turned the meeting over to the Chair Jeff Ashland.

Ashland apologized for being late.

Return to 1st item of New Business Election of Officers. Ashland said he would take nominations for Chair, Vice-Chair and Secretary. Ashland called for nominations for Chair.

Johnson nominated Ashland as Chair, Oponski seconded the nomination. All in favor. Johnson nominated Oponski as Vice-Chair, Berhow seconded the nomination. All in favor.

Ashland called for nominations for Secretary.

Kohlhaase stated that it is a two-part position. As stated in Code of By Laws, Article 2, Section 5 “The Secretary shall keep the minutes and record of the Board of Adjustment and attend to correspondence of the Board or to such other duties as are normally carried out by a Secretary. Actual keeping of the minutes can be delegated to the Zoning Administrator’s Secretary.”

Johnson nominated Lee as Secretary, Berhow seconded the nomination. All were in favor.

Oponski motioned for Kardell to perform the actual keeping of the minutes, Lee seconded the motion. All were in favor.

Fifth on the agenda was Communications. There was none.

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

(For more information see recording BOA 01 25 2021)