

## **Minutes - Woodbury County Board of Adjustment Meeting February 7, 2005**

The meeting convened at 7:00 PM on Monday February 7, 2005 in the Board of Supervisor's Meeting Room on the first floor of the Woodbury County Court House, Seventh and Douglas Streets, Sioux City, Iowa.

Present were members Christine Zellmer-Zant Chairman, Kenneth Gard, Brian McNaughton, Corey Meister; absent Allan Vandehaar; Absent; Staff members present were Zoning Administrator John Pylelo and Zoning Office staff member Peggy Napier. Also in attendance were Douglas Woolworth, Eldon Cleveland, Paula Cleveland and Ty Tadlock. The Chairperson announced the meeting was being audio taped.

**The first agenda item is election of Board Chairperson and Vice-Chairperson for 2005.**

**Mr. Gard made a motion to table any vote for electing a Chairman and Vice-Chairman to serve during the current year until such time as all members are present; seconded by Mr. Meister; motion carried.**

**The next agenda item was consideration of approval of minutes of the October 4, 2004 meeting.**

**Mr. McNaughton made a motion approve of minutes of the Board's October 4, 2004 meeting; seconded by Mr. Meister; motion carried.**

**The next agenda item is consideration of a variance request for Eldon and Paula Cleveland.**

Mr. and Mrs. Cleveland request your consideration of their application for a variance for the construction of a 24' by 24' accessory structure in the front yard of parcel #873213; GIS # 894603400011. The property is located at 1783 110<sup>th</sup> Street (County Rd. D-12). The parcel is also known as Lot 2 of Schroeder Country Estates Addition Subdivision which lies approximately 3 miles east of Sioux City west of the intersection of 110<sup>th</sup> St. and Charles Avenue. The property lies within the SE ¼ of the SE ¼ of Section 3 Concord Township; is zoned Agricultural (AG), irregularly shaped and approximately 6 net acres. The parcel lies north of 110<sup>th</sup> St. the County's right of way along the parcels southern property line.

In November 2004 a building permit was approved for this parcel permitting a single family dwelling (SFD) and a 24' by 24' accessory structure to the north of the SFD. The site plan was approved based upon the location of the accessory structure in the rear yard

of the parcel with the placement meeting the appropriate rear yard setback of 100' and the side yard setback of 2'.

After permit approval the property owners advised their contractor, Mr. Douglas Woolworth of Craftmaster Builders, Inc., Sioux City, of a construction change they wished to make. Mr. Woolworth was instructed to place the accessory structure to the southeast of the SFD. The effect of this change moves the accessory structure from the rear yard to the front yard of the parcel.

On or about January 13, 2005 the contractor mailed the office of Planning and Zoning a revised site plan showing the change. The revised site plan was denied as the front yard placement is not allowed under Woodbury County's general regulations, section 7(C) which in part state:

*"No accessory structure shall be erected in any yard other than rear and side yards...."*

Upon the denial Mr. Woolworth immediately advised the zoning office that construction of the accessory structure had commenced at the front yard location. He further stated that the construction to date had included ground preparation, concrete pad placement and structural framing. The Zoning Administrator has reviewed the subdivision's covenants and it appears the front yard placement of an accessory structure is allowed.

The front yard placement results in the accessory structure being 57' feet south of the front of the SFD; 244' from the County's 110<sup>th</sup> St. right of way and 40' from the east lot line and accordingly meets front and side setback requirements. The County Engineer's Office has been contacted and we await comments. The six (6) adjacent property owners have been notified of this hearing.

Mr. Woolworth was advised to cease construction upon the accessory structure immediately. The Zoning Administrator advised Mr. Woolworth the property owners options were to move the structure to the original and approved location or request consideration of a front yard variance. Mr. Woolworth agreed to stop further accessory structure construction until such time this issue is settled.

John Pylelo stated the County Engineer had no adverse comments regarding this variance issue. The office of planning and zoning had received several inquiry calls on this matter with the parties indicating they would be evaluating attending this meeting.

Mr. Doug Woolworth, the Cleveland's general contractor, addressed the Board and answered the Boards inquiries. Mr. Woolworth explained the reasons for the change in the approved site plan and the underlying decision making process. Mr. Woolworth stated the grading required to meet the property owners requirements exceeded what was anticipated with 12 feet of elevation being removed instead of the anticipated 6 feet.

This miscalculation resulted in the continuation of the slope of the earthen terrace abutting the Ty Tadlock property. This continuation of the terrace encroached up to 24

feet into the Cleveland's parcel impacting the original rear yard building area for the accessory structure.

Mr. Ty Tadlock addressed the Board presenting photographs of the site for the Board's review. Mr. Tadlock stated this terrace has and continues to present erosion challenges and he is concerned about his liability should the terrace erode or fail. Mr. Tadlock stated he has no problem with the accessory structure being placed in the front yard of the Cleveland's parcel as long as he is not held liable for any damages from terrace failure. Mr. Gard explained he is familiar with this issue as he has in the past farmed this ground. Mr. Gard confirmed the erosion problem challenges at this location.

Extensive conversation ensued between Board members Gard and Zellmer Zant with Mr. Woolworth and the Cleveland's regarding repositioning the accessory structure elsewhere upon the parcel.

Chairman Zellmer-Zant then polled the members of the Board. Board member McNaughton expressed serious concerns in supporting the variance request due to the terrace erosion issue and additionally the fact the site plan was changed without approval. Mr. McNaughton stated he would not vote in favor of variance approval.

Mr. Meister also voiced concern for the same reasons stating he could not at this point support variance approval.

Mr. Gard stated he could support approval providing an alternative location could be found further from the terrace which is agreeable to the property owners and the Board.

Chairman Zellmer-Zant voiced her concerns and added she was inclined to continue to work toward finding a resolution other than not allowing the structure to be placed anywhere in a front yard.

Chairman Zellmer-Zant then informed Mr. Woolworth he was responsible for advising the Cleveland's regarding matters including the impact of zoning ordinances and he failed to do so. She stated the Cleveland's relied upon Mr. Woolworth's expertise and he did not deliver. Chairman Zellmer-Zant went on to explain to the Cleveland's they did not appear to have the required votes for approval. The Cleveland's were advised they could request the matter be tabled until such time as the full Board could hear this variance matter. The Cleveland's then made the request this matter be tabled.

**Mr. Gard made a motion to table the Cleveland's Variance request until such time as the full board can hear the matter; seconded by Mr. McNaughton; motion carried.**

**Mr. Gard made a motion adjourn; seconded by Mr. McNaughton; carried.**

Meeting adjourned at 8:20 PM.