

Minutes - Woodbury County Board of Adjustment Meeting February 05, 2007

The meeting convened on the 5th of February, 2007 at 6:59 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Willard B. McNaughton serving as Chairperson, Corey Meister, Russell Walker, Brian Crichton and Robert Brouillette. Zoning Administrator John Pylelo and Peggy Napier were also in attendance. Present from the public was Donald Salmen. The Chairman informed those present the meeting was being audio taped.

It was necessary to make a motion for Mr. McNaughton to continue as Chairman during the election procedure.

Motion was made by Mr. Brouillette for Mr. McNaughton to serve as Chairman until a new Chairman is elected; seconded by Mr. Meister; motion carried 4-0.

The first agenda item was election of 2007 Chairman and Vice-Chairman.

Mr. McNaughton was elected 5-0 to serve for another year as Chairman for your Board.

Mr. Meister was elected by 4 votes to serve another year as Vice-Chairman. Mr. Brouillette received one vote.

The second agenda item was approval of the previous meetings.

- **Mr. Walker pointed out on the second agenda item Mr. Meister was named as giving both the motion and the second to the motion. Ms. Napier agreed to listen to the tape, check her notes and assign the motions to the correct persons.**
- **Mr. Walker also pointed out the word “rather” needed to be inserted before “than” in the verbiage for a condition for the tower.**

Minutes of the January 8th, 2007 Board of Adjustment meeting were approved on motion by Mr. Meister subject to the above conditions; seconded by Mr. Walker; motion carried 3-0.

The third agenda item is a public hearing and consideration of front yard accessory structure placement Variance for Mr. Donald Salmen.

In November of 2006 Mr. Salmen filed a building permit application for construction of a wood framed 40' by 64' accessory structure along the Charles Avenue right of way at 1704 Charles Avenue. The site plan accompanying the application showed the structure located entirely within the parcel's side and rear yards. The site plan made no reference to no other existing accessory structures on the site plan other than the parcel's single family dwelling. A Building Permit #04-11100254/4829 was issued on November 28, 2006.

In January 2007 a complaint was communicated to the Office of Planning and Zoning regarding front yard construction at 1704 Charles Avenue. The parcel's property owner was contacted, advised to cease construction and was informed of his options in this matter. On January 18, 2007 Mr. Salmen applied for a variance to construct an accessory structure on his property partially within the parcel's front yard.

During the investigation of this variance application it was discovered a 22' by 14' accessory structure was moved onto the southern portion of the parcel in the spring of 2005 and in the summer of 2006 the same structure was relocated to the north side of the parcel just north of the single family dwelling. The purpose for relocation was to make room for a new accessory structure.

No building permit application was filed for either the placement of the structure upon the parcel or for its relocation to a new site upon the parcel. The County Engineer has no record of single trip permitting for transporting the 22' by 14' oversize load along County right of way to the 1704 Charles Avenue location. .

The variances are required as the proposed placement of the structures violates in part regulation 7(C) of Woodbury County Zoning ordinances which states *...no accessory building shall be erected in any required yard other than rear and side yard.* Mr. Salmen is requesting he be allowed to place a ten foot by sixty-four foot (10'x 64') portion of an accessory structure in his parcel's front yard. And the entire 22' by 14' structure in a front yard.

Mr. Salmen was contacted. Mr. Salmen has assisted the Office of Planning and Zoning and been cooperative during the investigation. He is expected to testify to the reasoning behind both structures' placement.

Our investigation indicates the primary structure upon the 21.29 acre parcel is the single family dwelling where Mr. Salmen resides. The parcel lies at the SE corner of the intersection of Charles Ave and 170th St. Thus the parcel has dual front yard setbacks.

The dwelling is 110' from Charles Avenue's right of way. The proposed accessory structure is 100' from Charles Avenue right of way. These measurements validate the placement of a 10' portion of the structure within the front yard and not within the parcel's side or rear yards.

It is estimated the 22' by 14' accessory structure's location is 105' from the 170th roadway right of way and at an elevation significantly above the roadway elevation.

The parcel was created by subdivision in 1999 and no known covenants exist which would be violated by approval of the variance request. County records show Mr. Salmen was purchasing on contract a portion of the original parcel containing Lot 1 prior to the subdivision. The eastern 300' portion of the parcel lays within a Zone A flood hazard area created by Big Whiskey Creek. A 50' wide Kaneb pipeline easement bisects the northeast portion of the parcel. In the parcel's northeast quadrant there is also a Kaneb electrical line from a nearby utility pole and connected to the pipeline to prevent corrosion. The property is zoned AG (Agricultural).

The six (6) property owners within 500' of this parcel have been notified of the public hearing. Mr. Brian Peterson, adjacent property owner to the west, visited the zoning office and advised he has no objection to the variance's approval. The County Engineer has been asked to make comment which is anticipated to be received prior to the public hearing.

Mr. Storm makes the following recommendation:

- *Woodbury County Secondary Roads has reviewed the request for a Variance and has looked at the site. I will attempt to address the issues outlying.*

We would have no objection to the granting of approval of a 35' front yard accessory structure placement variance of the 14' by 22' metal building off of 170th St. right of way conditioned upon; if Charles Ave. is approved in the future for construction and if the construction requires relocation, it will be done at the owner's expense.

We would have no objection to the granting of approval of a 10' front yard accessory structure placement variance of the 40' by 60' structure off of Charles Ave. contingent upon the following:

- *Access to this structure be serviced by the existing drive addressed as 1704 Charles Ave.*

The following information is recapped for your analysis:

VARIANCE #1

Issue: A 10' variance for front yard accessory structure placement (partial)

Type of Structure: A 40' by 64' wood framed accessory structure

Distance from ROW 100' from Charles Avenue ROW

VARIANCE #2

Issue: A 35' variance for front yard accessory structure placement entirely within a front yard requiring a minimum 35' variance

Type of Structure: A 22' by 14' metal accessory structure

Distance from ROW 105' from 170th St. ROW

The following chronological events are recapped for your analysis.

Oct. 1996 - Building permit #3089 was issued for the parcel' s single family dwelling

In or about the Spring of 2005 – A 22' by 14' accessory structure was moved onto the parcel south of the single family dwelling. No record of the issuance of a building permit exists.

August 2005 - Building permit #4658 was issued for an addition to the single family dwelling

In or about the Summer 2006 – The 22' by 14' accessory structure was moved and relocated on the parcel 11' north of the single family dwelling. No record of the issuance of a building permit exists.

Mr. Brouillette made a motion to approve the first Variance subject to Mr. Storm's conditions. Mr. Meister seconded the motion; motion carried 4-0.

Mr. Salmen also agreed to fill out the paperwork for the missing building permits and pay the penalty fees within the next week.

Mr. Meister made a motion to approve the second Variance subject also subject to the condition Mr. Salmen use the same access road. Mr. Crichton seconded the motion; motion carried 4-0.

Mr. Meister made a motion to adjourn; seconded by Mr. Walker. Motion carried.

Meeting adjourned 7:45 PM.