

Minutes - Woodbury County Board of Adjustment Meeting November 7, 2005

The meeting convened on the 7th of November, 2005 at 7:00 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, Kenneth Gard, Christine Zellmer-Zant, Corey Meister, and Russell Walker recently appointed by the Board of Supervisors to take the place of Alan Vandehaar who resigned; Zoning Staff: John Pylelo and Peggy Napier. Mark and Peggy Pottorff from the public were also in attendance. The Chairman informed those present the meeting was being audio taped.

The first agenda item was approval of the previous meeting's minutes of May 2, 2005.

Minutes of the May 2, 2005 Board of Adjustment meeting were approved on motion by Mr. Gard; seconded by Mr. Meister; Ms. Zellmer Zant and Mr. Walker abstained; motion carried by three (3) to two (2) vote with no changes.

The next agenda item was consideration of a Conditional Use Permit Application for Mr. Mark Pottorff; parcel #754473; GIS 874620178003:

On October 5th Mr. Pottorff submitted an application for a conditional use permit for construction of an accessory structure within a zone A flood hazard area (a/k/a 100 year floodplain) per FEMA map 36 of Community 190536B. New construction must meet the regulations as specified in the FP (General Floodplain) and FF (Floodway Fringe) sections of the Floodplain Management ordinance.

The proposed building site is located within parcel 754473 located at 2525 Dallas Avenue in Luton. The parcel is part of the NW ¼, Section 20, Grange Township; consisting of 0.96 acres with dimensions approximately 230' by 180'.

Mr. Pottorff is currently in negotiations with Woodbury County to purchase 0.4 acre of property (approximate dimensions of 75' by 230') to the northeast. A significant portion of the proposed structure will be located upon property currently owned by the County. When purchased and merged with the existing parcel the new property dimensions will approximate 230' by 257'. Any approval considered in this hearing should be conditioned upon Mr. Pottorff obtaining legal title to this property he seeks to purchase from Woodbury County.

The parcel is zoned ML (Light Industrial) and the proposed use of the structure is permitted within the ML zoning district. The site currently has an office/scale building and a fertilizer containment building. Mr. Pottorff operates a business upon the site where he maintains an inventory of agricultural fertilizers along with the equipment for the sale, delivery and application of his product line.

Mr. Pottorff proposes to construct a 42' by 60' accessory structure to be used in conjunction with his business operation at this site. The proposed structure will have dirt flooring, 14' sidewalls and exterior lighting.

The proposed structure will be used for storage of assorted business vehicles, trailers and equipment including empty fertilizer storage tanks. Fertilizer or fertilizer components will not be stored within the proposed structure. Mr. Pottorff has represented there will be no state licensing required for; the proposed structure. This parcel has no well or septic system.

Pertinent elevations on the parcel in question are:

Certified Floodplain Elevation upon the parcel	1080.0'
Lowest point of surface of concrete floor within the existing fertilizer confinement structure	1081.9'
High point of confinement curb around existing fertilizer confinement structure	1082.5'
Lowest point of floor in proposed structure	1082.0'
Excess Elevation of lowest point in proposed structure in relation to certified Floodplain Elevation	+2.0'

Your Board has made the following previous decisions related to the parcel:

On September 3, 2002 in regard to the existing office/scale building:

- Passed a resolution (#BA244) granting a reduction in the right-of-way setback along Dallas Avenue to 32';
- Passed a resolution (#BA244) granting a reduction in the right-of-way setback along Luton Trail to 56';

On September 3, 2002 in regard to the existing fertilizer containment structure:

- Passed a resolution (#BA244) granting a reduction in the rear setback to 18'.
- Denied a request (#BA244) to reduce the required right-of-way setback.

On July 15, 2003 in regard to the existing office/scale building and the existing fertilizer containment structure:

- Passed a resolution granting approval of construction within a zone A flood hazard area subject to significant conditions.

Mr. Pottorff adequately completed the necessary grading and construction specifications to meet the conditions and restrictions your Board placed upon existing structures.

There has been additional and unapproved grading which has occurred to prepare the building site location for the construction request before you tonight. The unapproved grading has resulted in elevation changes on the parcel not included in the grading plan your Board took into consideration in past resolution approvals. The unapproved grading raised elevation at the proposed building site from as low as 1078.0' up to 1082.0'

Enclosed in your packets are copies of minutes from 08/05/02, 09/03/02 and 07/05/03 providing details regarding your passed decisions impacting this parcel.

The twenty-one (21) property owners within 500' of all or part of the parcel have been notified of this hearing. To date no contacts have been received by any of these property owners.

The current packet contains updated pictures that have been taken within the past week as well as Mr. Pylelo's comments regarding conditions that the Board may want to consider being placed on any approval.

Ms. Zellmer Zant asked if Mr. Pylelo had heard from any of the neighbors who had been notified about the structure. Mr. Pylelo said he had not. However, Mr. Pottorff presented Mr. Pylelo with four (4) letters he had collected from Luton property owners who abut Pottorff's property or abut the land Pottorff intends to purchase from the county. None of these letters contained negative feedback and were read into the record by Mr. Pylelo:

- *Larry, Randy, Ronnie and Barbara Hunt – adjacent property owners to the south: No problem with building being built. Believe it to be an asset to the community.*
- *Norma Cooper – not within 500' of Mr. Pottorff, but has no problem with the issue.*
- *Sandy Law – Her name was on the list. She has no problem with the building of the machine shed.*
- *David Hunt (no relation to the other Hunts) – Lives along Mr. Pottorff's road. He has no objection to the construction of the new building.*

Ms. Zellmer Zant asked if any of the letters were responses from those living within 500'. Mr. Pylelo said 3 out of the 4 letters were respondents from the mailings.

Mr. Pottorff originally considered placing a portion of his new storage shed in the strip of land he plans to purchase from the county. However, after discussion by the Board it was decided his setbacks would not be deep enough to meet setback regulations without variances. It would also place the new storage structure within approximately two (2) feet of the Hunt structure that is already extremely close to the lot line.

After examination of an aerial view Mr. Pottorff's land, Hunt's land, and the land Mr. Pottorff intends to purchase and the location of the drainage ditch on the county's land, and after considering several different scenarios and placements of the 40' X 60' metal shed, Chairman McNaughton suggested it might be convenient for Mr. Pottorff to drive his trucks completely through his new building. Mr. Gard suggested placing the shed

completely within the land purchased from the county and turned so as to be parallel to the other building on Mr. Pottorff's land. McNaughton noted this placement would allow trucks to be driven onto the lot, circle around the existing structure, through both ends of the new structure and off the lot again. Mr. Pottorff agreed this would be convenient for him and his equipment. Mr. Pylelo and the Board agreed this would also make it possible to adequately meet all of the required setbacks.

Ms. Zellmer Zant asked Mr. Pottorff if he would need another access off of Luton Trail with his new structure in the above mentioned location. Mr. Pottorff and members of the Board said that would not be necessary. The existing access could service the new building adequately. Mr. Gard reminded Ms. Zellmer Zant that was an engineering decision anyway. She agreed. Ms. Zellmer Zant asked if it mattered that the structure did not have a concrete floor but a dirt floor, no septic system or well, and no bathrooms. Mr. Pylelo said they had covered that the last time and there was no problem with that. Ms. Zellmer Zant said no mechanical or electrical below the new structure at 1082. Mr. Pylelo responded that was the containment facility and it had been changed to 1081. Pylelo further explained the dirt floors could be at 1082, so, in essence, nothing could be below ground, but it wouldn't be anyway.

Mr. Gard made a motion to approve the Conditional Use Permit on the conditions:

- **The building can not go further north than the north edge of the office building;**
- **The line can go 15 feet further south if Mr. Pottorff so chooses. With that he will need a 35 foot variance from the back property line;**
- **Mr. Pottorff will need to meet all of the other requirements that are listed in the flood plain for elevation and floor height, etc.**

Note: That by reference those requirements are as follows:

- 1. Structure shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure. Be constructed of materials and utility equipment resistant to flood damage, and be constructed by methods and practices that minimize flood damage.*
- 2. The lowest floor, including basement, will be elevated a minimum of 1.0' above the certified 100 year flood elevation of 1081.0' or at 1082.0'.*
- 3. No well or septic system may be located upon the parcel.*
- 4. Construction must take place so all electrical, heating, ventilation, plumbing, air conditioning, and other service facilities and equipment are designed and /or located so as to prevent water from*

entering or accumulating within the components during flood conditions.

- **No fertilizer will be stored in this facility or no activities will take place which would require licensing from the State of Iowa Department of Agriculture.**
- **The distance between the new structure and the licensed fertilizer containment building will be a minimum of 10 feet;**
- **The additional parcel of ground approximately 75' by 230' is required to be purchased from Woodbury County and combined into the existing parcel #754473.**

Discussion ensued: Mr. Pylelo noted the Board was indirectly indicating a building zone the Board would likely approve variances for if required. Mr. Gard stated that since the location had not been measured out the way the Board was approving it, the Board's instructions made it possible for Mr. Pottorff to reconsider the location without appearing before the Board each time.

Mr. Walker seconded the motion; motion carried.

Mr. Pylelo suggested Mr. Pottorff stake out the four (4) corners (of the building). Mr. Pylelo will then go to the site to determine the structures final location is within the zone indirectly Board determined. Mr. Pylelo indicated he did not anticipate any problems which minimum variances could not resolve.

Mr. Gard and the rest of the Board agreed they saw no potential issues with the variances as discussed. Mr. Pottorff asked if it was correct there will be no grading until he has the building permit. Mr. Pylelo agreed the regulations state there will be no grading until Mr. Pottorff has the building permit in hand, though obviously there has already been some grading done.

The next agenda item was an update on the 2005 General Development Plan.

Mr. Pylelo distributed the latest (September 26th, 2005) revision of the 2005 Woodbury County General Development Plan. The 24 page document contained a recap from the numerous town hall meetings as well as the public hearing before the Zoning Commission on September 26, 2005. Mr. Gard was at the public hearing representing the Board of Adjustment and had significant input. Pylelo asked the Board Members take the document with them and review. This copy is the latest draft proposed to be submitted to the Board of Supervisors at their meeting of Tuesday, November 22 for consideration of approval. Ms. Zellmer Zant asked if there was anything in particular Mr. Pylelo wanted them to pay special attention to. Mr. Pylelo explained these were not ordinances, but themes, policies, the mission statements the ordinances would be built on. It did contain changes from any previous drafts the Board may have reviewed and therefore

was worthy of fresh consideration. This draft would be on the county website the day after this meeting along with all the appendices that provide the demographic information that lead to the conclusions in this draft. Mr. Gard noted “the real fight starts when you get into the rules, regulations, and ordinances which is what the next step is.”

Mr. Pylelo passed around calendars marking the meeting dates for 2006. It was noted that Ms. Zellmer Zant’s term will end in 2005. Mr. Pylelo asked the Board Members for suggestions of potential replacements to consider.

Mr. Pylelo announced Planning and Zoning’s recent move from fifth floor to sixth floor and invited those Board Members who haven’t seen the facilities to visit the new offices.

Motion was made by Mr. Gard to adjourn; seconded by Ms. Zellmer Zant. Motion carried.

Meeting adjourned 8:02 PM.