

**Minutes - Woodbury County Board of Adjustment Meeting
June 5, 2006**

The meeting convened on the 5th of June, 2006 at 7:03 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members – Chairperson Willard “Brian” McNaughton, Kenneth Gard, Bob Brouillette, Corey Meister, and Russell Walker: zoning staff John Pylelo and Peggy Napier. Tracy Denney and Joe Schotz were present from the public. The Chairman informed those present the meeting was being audio taped.

1. The first agenda item was approval of available minutes of previous meetings.

There were no minutes available.

Mr. Gard made a motion the minutes be tabled until they are available. Mr. Meister seconded the motion; motion carried.

2. The second agenda item was a public hearing for the consideration of a Conditional Use Permit (CUP) application submitted by DeWayne E. and Clarissa B. Benson.

This matter was tabled at your meeting of May 1, 2006 to allow the applicants to gather additional information for their proposed project and to explore filing a letter of map amendment application (LOMA) with the Federal Emergency Management Administration (FEMA).

Mr. and Mrs. Benson are requesting your approval to place a single family dwelling upon a 10.96 acre parcel within a Zone A flood hazard area. The location is known as parcel #705315; GIS 8647 23 300 007 and lies within the W1/2 of the SE1/4 of the SW1/4, Section 12, Lake Port Township. The parcel is located at 3007 Cass Avenue approximately 2 miles SE of Salix on the west side of Cass Avenue.

In 1981 the Woodbury County Board of Supervisors by resolution No.6617 and mapping amendment #M-71 approved a rezoning application by Mr. and Mrs. Al Hubert to rezone a portion of this parcel from AG (Agricultural) to R-10 (Suburban Residential). The remainder of the parcel remained within the AG zoning district.

In September of 2005 the 26’ by 47’ single family dwelling on the parcel was destroyed by fire. The Benson family has purchased a 28’ by 45.5’ single family dwelling at another location. The family’s intention is to legally remove the burnt out dwelling, install a new foundation and move the purchased dwelling onto the parcel’s existing building site. The former dwelling had a basement but the Benson’s previously were willing to construct the new building site with no basement should your Board place that condition upon approval. Subsequent to

that time that flexibility is no longer appropriate. They wish to place a basement beneath the new structure.

As the building site lies within a Zone A flood hazard area new construction must meet the regulations as specified in the FP (General Floodplain) and FF (Floodway Fringe) sections of the Floodplain Management Ordinance.

Surveyor David L. Wilberding has certified and staked elevations at the proposed building site at the elevations of 1073.52' near the northwest corner of the existing dwelling and 1073.76' near the northeast corner. The elevation at the water's east edge in January 2006 was 1063.22'.

Mr. Wayne Wiskell of the Flood Plain Permit Section of the Iowa Department of Natural Resources has confirmed the 100 year floodplain elevation at the building site to be 1068' NGVD 1929 datum. He refers to the determination of the Corps of Engineers Missouri River flood profile study done in 1978.

Due to timing of the proposed construction the applicants wish to proceed at this time toward issuance of a conditional use permit. The applicants may concurrently or at a later date use the information gathered to apply for a letter of map amendment with the Federal Emergency Management Agency.

Woodbury County flood management ordinances require the lowest floor of any new structure within the 100 year floodplain including any electrical/mechanical work, insulation or storage of flammable materials and equipment be elevated to a minimum of one foot above the 100-year flood plain; in this applicant's case to an elevation of 1069'. An engineer or surveyor must provide certification of the elevations of the lowest floors or flood proofing upon completion of construction.

The applicants wish to place the single family dwelling over a full basement. The feasibility of basement construction will be determined by your Board's review and conditions placed upon any conditional use permit issued.

Notices were sent to six (6) property owners within 500' of the parcel. To date there have been no responses. In addition the Woodbury County Engineer and the Woodbury County Conservation Service has been advised of this hearing and asked to make comment and they have no objections.

Mr. and Mrs. Benson will be represented at the hearing by their daughter Tracy Denney to answer any questions your Board may have. Mrs. Denney has been asked to have the projects excavation and foundation contractors at the hearing. Attached for your review find the following:

- Woodbury County Floodplain map 16 for the area.
- David Wilberding elevation surveys dated January 2006.
- Aerial of Parcel GIS# 8647 12 300 007.
- Photographs of the existing structure and building site.
- Evaluation criteria checklist for conditional use permit issuance.

On May 19, 2006 a Woodbury County property owner contacted the Planning and Zoning Office by telephone and stated concern regarding salvage and junk items accumulating upon the Benson property. There was reference to recent additional items appearing upon the parcel including a recreational vehicle. Specific reference was made to drag line equipment and concern of infestation potential.

That was the end of Mr. Pylelo's comments.

Mr. Brouillette stated he noticed the burned house was still standing. He asked if there have been any efforts made to remove it.

Mrs. Denney said she had contacted Mr. Smith regarding a controlled burn but to date had received no return call.

Mr. Pylelo asked what was the latest information regarding the letter of map amendment application (LOMA) from the Federal Emergency Management Administration (FEMA).

Mrs. Denney said she had faxed Mr. Wayne Wiskell (of the Flood Plain Permit Section of the Iowa Department of Natural Resources) a copy of the deed. She knew Wiskell had communicated with Mr. Pylelo several times which Pylelo confirmed.

Mr. Pylelo asked if Mr. Wiskell would be working on this issue with Mrs. Denney. She said he told her it would take approximately six (6) weeks after he received the deed to build a response.

Mr. Pylelo noted considering the surveyor's findings, there was not a significant amount of berming she would have to do to insure the house was above floodplain.

Mrs. Denney said when her surveyor contacted FEMA regarding raising the foundation out of the flood zone and they were agreeable to this solution. Her decision was to raise the basement and the foundation up several feet. This improved resale value and negated the requirement of flood insurance. Getting LOMA would take care of any future issues.

Mr. Gard made a motion on condition the Denneys raise the basement up to the level the surveyor recommends to raise it out of the floodplain (1069 feet) and if they are out of the floodplain, there is no reason not to approve the Conditional Use Permit (CUP). Motion seconded by Mr. Brouillette; motion carried.

3. The next agenda item was a public hearing for the consideration of a right-of-way set back variance for the principal structure upon property owned by Casey Fenton Custom Homes LLC.

Mr. Pylelo began by stating he had never had a hearing where the applicant has failed to show. He asked Chairman McNaughton what procedure would dictate; should Mr. Pylelo present the item and have the board make a decision and hear testimony in his absence.

Mr. Joe Schotz was present. Mr. Schotz previously owned Thorton Plumbing before selling it to Mark Elgert and changing the name to Tri-State Plumbing; a name Schotz still owns. At the time the plumbing work was done on the property in question, the company was still owned by Mr. Schotz; Mark Elgert operated the company and did the plumbing work.

Mr. Schotz said he did not even know of the plumbing job until Mr. Pylelo called him. Upon investigation, Mr. Schotz said "Dustin" told him the job was between Mark and Mr. Fenton. He (Dustin) was told to do the work.

Mr. Elgert had been invited to the public hearing but for some reason had declined to attend. Dustin intended to be at the hearing but was called out on a job.

Mr. Pylelo explained Mr. Fenton obtained the permits upon the Planning and Zoning office asking for copies of the well and septic permits. He got them after the fact and the syptic system will be opened and inspected. Chairman McNaughton said Mr. Schotz was free to leave as the Board had no issue with him.

Mr. Gard said the plumbing was actually between Mr. Fenton and Woodbury County District Health. Mr. Pylelo replied the drain field and the building additions showed Mr. Fenton's propensity for not obtaining required permits.

Mr. McNaughton said he had an issue with Mr. Fenton and what he was doing in the county, but admitted it was difficult to resolve when Mr. Fenton didn't appear.

Mr. Pylelo listed several options;

1. Table the issue and give him the opportunity to come again.
2. Walk through the process and come up with a motion and a resolution.
3. Have the County Attorney's office research it and give us a direction to go in.
4. The Planning and Zoning Office also has a process of multiplying \$500 a day times a number of days. It is an extensive process but possible. The motion needs to determine they are not going to grant a variance at this meeting.

Mr. Pylelo said he didn't know what recourse the Planning and Zoning Office had to physically remove something if Mr. Fenton wouldn't do it voluntarily. The Board and Mr. Pylelo discussed the issues.

Mr. Gard made a motion to; reject Mr. Fenton's request for a variance 16' into the right-of-way; authorize Mr. Pylelo to follow the procedure in the regulations as to the next step to be followed; contend with further violations, if any, at a later date.

Mr. Gard made a motion to adjourn; Mr. Brouillette seconded the motion; motion carried.

Meeting adjourned 8:15 PM.