

Minutes - Woodbury County Board of Adjustment Meeting

Nov. 2th, 2009

The meeting convened on the 2nd of Nov., 2009 at 7 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: David Scholten, Robert Brouillette, Russell Walker, Corey Meister; Brian Crichton had previous commitments. Zoning Director John Pylelo and Clerk Peggy Napier were also in attendance. Present from the public were Steve McElroth, Tony Yonnone, and Charlie Harrington.

Mr. Walker called the meeting to order at 7 PM.

The first agenda item was approval of the Oct. 5th, 2009 meeting.

Mr. Scholten made a motion to approve the minutes of Oct. 5th, 2009 as written. Mr. Meister seconded the motion; motion carried 3-0.

The second agenda item was a public hearing and consideration of Conditional Use Permit application for Meteorological Tower; Developer – Horizon Wind Energy, LLC; Property Owner – Kirk Petersen.

On October 9, 2009 a conditional use permit application was received from the developer and property owner for proposed construction of a monopole and guyed meteorological tower. This conditional use permit is required as towers of any type are allowed only as a conditional permitted use.

The tower’s purpose would be to support equipment used to measure wind speeds over a 24 to 72 month period. The data obtained would be used to determine the feasibility of wind turbine tower development within Morgan Township. Upon completion of the data gathering project the tower will be dismantled, and removed from the parcel(s).

Mr. Petersen purchased the two parcels in August of 2007 and uses the property within his farming operation. The owner of the tower will be Horizon Wind Energy of Minneapolis, MN. Horizon Wind Energy is represented by project manager, Tony Yonnone. Horizon Energy would lease a 116’ by 116’ portion of the parcel(s) from Mr. Petersen for placement of the tower.

Selected data regarding the project is as follows:

Height of tower 198’
Tower base elevation 1,437’
Tower maximum height elevation 1,635’
Tower Width 10’

Tower Guy Radius 164'

Width of L12 roadway ROW at this location 80'

Tower base distance to:

- L37 roadway ROW to the east..... 305'
- parcel line to the west 933'
- parcel line to the north 86' approx.
- parcel line to the south 1,234' approx.

The tower would be located approximately 5.5 miles SE of Anthon and approximately 5/5 miles NW of Danbury. The base of the tower will lie approx. 86' south of the shared parcel line of the SE ¼ of the NE ¼ and the NE ¼ of the SE ¼ of Section 29 Morgan Township. The location is on the west side of Hwy L37 (a/k/a Safford Avenue) which is a paved and county maintained roadway. The closest intersection roadways are 260th St. ½ mile to the north and 270th St. ½ mile to the south. The property is zoned AP (Agricultural Preservation) and the location does not lie within any drainage district or a known flood hazard area.

The nature and type of this tower provides no viable collocation opportunities. There are no suitable existing collocation structures within a two mile distance of the proposed site. The proposed tower will not require illumination as it will not meet the FAA's 200' minimum height requirement requiring lighting. No FAA determination letter is required.

The tower will have no equipment shelters located at its base. The tower is self contained and under battery operation. All electrical equipment is located within or attached to the tower. As such the site plan does not provide for any utility connections or access/egress/utility easements.

Included in your reference materials are copies of the following information provided by the applicant:

- A. Application
- B. Site Plan Checklist
- C. Exhibits A through G as listed within item B, the Site plan Checklist
- D. Abstractors List of Surrounding Landowners

The twenty eight (28) property owners within 5,280 feet of the parcels have been notified of this proposed project and invited to attend the November 2, 2009 Board of Adjustment public hearing.

Existing occupied structures within 1 mile of the proposed tower site are as follows:

Daron & Holly Petersen
4431 270th St.

2850' to the Southeast

Shirley Petersen
4424 270th St.
3750' to the Southeast

Kirk Petersen
2715 Safford Ave.
4300' to the South

Merlin Petersen Testamentary Trust
4353 270th St.
3600' to the Southwest

Vera Welte
2639 Pocahontas Ave.
5250' to the West

William and Mary Jean Karhoff
4357 260th St.
3650' to the North

Ilene Hamann Testamentary Trust
4461 260th St.
5050' to the Northeast

The tower will have no equipment shelters located at its base. The tower is self-contained and under battery operation. As such the site plan does not provide for any utility connections or access/egress/utility easements.

The applicants request that any requirement for the installation of a drive from the tower's base to the roadway right of way be waived; that any required driveway installation along the west side of L37 roadway right of way be waived; and that any required address application, address assignment or installation of address signage by the Woodbury County Department of Emergency Services be waived. Comment on each of these waiver issues has been requested from the County Engineer and the Director of the Department of Emergency Services.

A response was received from Gary Brown, Woodbury County Disaster and Emergency Services on October 20, 2009;

*"Hi John I think this site still needs a temporary 911 address, I am willing to donate the costs and erect the sign at no cost in the interest of economic development in Woodbury County, but if someone gets hurt we need to be able to get to them and that requires an address. Have them fill out an address request they just don't need to send a check.
Thanks"*

*Gary Brown, Director
Woodbury County Disaster and Emergency Services*

Woodbury County Emergency Management
Climbing Hill Office 712-876-2212
Sioux City, Iowa Security Institute Office 712-222-4421

At the October 26, 2009 Board of Adjustment Meeting Mr. Tony Yonnone representing Horizon Wind Energy stated the project is willing to address the access drive to the proposed site.

On October 21, 2009 an email message was also received from County Engineer, Mark Nahra;

John:

I have no objection to the conditional use permit for the proposed tower. I am not willing however to waive driveway requirements. Unless they are using an existing driveway, any access from a paved county road (L37 in this case) will have to be reviewed for proper sight distance and culvert needs. They need to be reminded there is no cost for a permit and driveway cost would be minimal if located at the top of a hill. If there is an existing field driveway they can use, there is no problem at all. We have no internal driveway or road requirements for the company to meet for a temporary tower. I am only concerned about them just cutting a hole in a backslope to install the tower and creating a potential ditch erosion problem or having a sight distance issue on a new entrance.

We will do all we can to help with this project, and would meet with a company representative on site to quickly resolve any access issues. I doubt that this discussion should have any ill effect on their planned project.

*Mark J. Nahra, P.E.
Woodbury County Engineer
759 E. Frontage Road
Merville, IA 51039
phone: 712-279-6484 or
712-873-3215
fax: 712-873-3235
email: mnahra@sioux-city.org*

At the October 26, 2009 Board of Adjustment meeting Mr. Tony Yonnone representing Horizon Wind Energy was in attendance and informed the Commissioners Horizon is willing to install and address an access/egress drive at a location approved by the County Engineer. There are three field entrances along the L37 roadway right-of-way. It is anticipated one of those locations will be used for installation/removal and the far southern entrance will be the addressed drive.

The Zoning Commission reviewed this conditional use application. Among items of discussion were the now resolved addressing and drive installation issues discussed above.

The Commission extensively discussed safety issues of the tower which is only 2 feet below the 200' minimum requiring FAA determination letter issuance and lighting standards. The Commission felt it prudent to request Horizon Wind Energy provide information and cost documentation for lighting the tower so it can be reviewed within your Board's public hearing process. That documentation was provided by Horizon on October 29th and copies are provided to you this evening.

Ordinance research revealed in Sec. 505(8) regarding illumination of towers – if illumination is not required by FAA, in this case the tower was below minimum height requirements, applicants may volunteer illumination but ordinances cannot require it.

Other issues discussed were protecting the landowner for Horizon's removal of the tower and that the landowner has a clear understanding of any access/egress locations. Further, that the landowner is aware access to the tower may be required should maintenance or repair be required.

Mr. Brouillette made a motion to close the public hearing. Mr. Scholten seconded the motion; motion carried 3-0

Discussion:

Mr. Pylelo found no reason to not approve the meteorological tower. There is no evidence the location on Mr. Petersen's property will or will not support any wind turbines. Additionally, there are no issues related to the access/egress roads or 911 addressing. One orange ball per guy wire is adequate for visibility.

Mr. Brouillette asked if Mr. Yonnone's company was designed for research only or did it follow through with the process of providing wind turbines.

Mr. Yonnone confirmed his company provided entire wind farm process; however, final approval of wind turbine locations is made by the County Engineer.

Pending recommendation of approval by the Board of Adjustment, Mr. Yonnone's next step is obtaining a building permit from the office of Planning and Zoning.

Mr. Brouillette made a motion to approve Horizon Wind Energy, LLC's meteorological tower. Mr. Scholten seconded the motion; motion carried 3-0.

The next item was a Public Hearing and Consideration of Front Yard Right-of-way setback for Steven L. McElrath.

On October 19, 2009 a variance permit application was received from Steve L. McElrath for the construction of a garage addition to an existing single family dwelling.

Current Woodbury County Zoning ordinances require primary structures within the AP (Agricultural Preservation) zoning district be positioned no closer than 100' from roadway right-

of-way. The existing principal structure is Mr. and Mrs. McElrath's residence is currently 108' from the 180th St. ROW.

The McElraths wish to construct a 26' by 30' addition to the north side of their residence. Doing so would place the primary structure up to within 83' of 180th St. roadway ROW. Accordingly, the request is for up to a 17' (100' less 83') front yard setback variance for the parcel's primary structure.

The variance is requested along the 9.5 acre parcel's northern property line. The parcel is addressed 2760 180th St. and lies on the south side of roadway approximately 2.5 miles south of Moville. The parcel is located within the NW ¼ of the NE ¼ of Section 15 Moville Township. The property is zoned AP (Agricultural Preservation) and does not lie within a drainage district or a flood hazard area.

Planning and Zoning Department Recommendation:

The Planning and Zoning Department recommends approval of up to the requested 14' variance subject the following plus any additional conditions recommended by the Woodbury County Engineer:

No building permitting is to be approved for subsequent additions or accessory structures unless the then existing setbacks are met or variances are approved. In no case shall an accessory structure be closer than 100' to the 180th St. ROW, or the then required setback, whichever is less.

Mr. Pylelo found nothing to warrant denial of the project. Additionally, trees prohibit viewing the buildings.

Mr. Meister made a motion to close the public hearing. Mr. Scholten seconded the motion; motion carried 3-0.

Discussion:

Mr. Brouillette said the area under discussion looked more like backyard than anything and he did not see an issue with the variance.

Mr. Scholten agreed with Mr. Brouillette.

Mr. Meister made a motion to approve the variance subject to the following Planning and Zoning Condition:

No building permitting is to be approved for subsequent additions or accessory structures unless the then existing setbacks are met or variances are approved. In no case shall an accessory structure be closer than 100' to the 180th St. ROW, or the then required setback, whichever is less.

Mr. Scholten seconded the motion; motion carried 3-0.

The next item was any Citizen wishing to be heard by the Board.

There were no citizens wishing to be heard by the Board.

Mr. Brouillette made a motion to adjourn; seconded by Mr. Scholten. Motion carried 3-0.

Meeting adjourned 7:35 PM.