

Minutes - Woodbury County Board of Adjustment Meeting April 2th, 2012

The meeting convened on the 9th of January, 2012 at 6 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Brian Crichton, Corey Meister, David Scholten, Russell Walker, and JoAnn Sadler. Zoning staff John Pylelo and Peggy Napier were also in attendance. Vincent Calvin, Eldon and Vicki Nippert, Jason Meins, and Jonathan Koehn were present from the public.

The first agenda item was election of 2012 officers.

Mr. Brian Crichton unanimously won chairman with a vote of 5-0.

Mr. Corey Meister won vice-chairman with 4 votes to 1 vote for Ms. JoAnn Sadler.

Chairman Brian Crichton called the meeting to order at 6 PM.

The next agenda item was approval of the December 5, 2011 meeting minutes.

Mr. Walker made a motion to approve the minutes as written. Mr. Scholten seconded the motion; motion carried 4-0.

The next agenda item was approval of the January 9, 2012 meeting minutes.

Mr. Walker made a motion to approve the minutes as written. Ms. Sadler seconded the motion; motion carried 4-0.

The next agenda item is the election of 2012 Board of Adjustment Chairman and Vice-Chairman.

Mr. Scholten made a motion to table the election of officers until the full board was present. Ms. Sadler seconded the motion; motion carried 3-0.

The next agenda item is public hearing and consideration of a Conditional Use Permit application for Infinity Wind Power, LLC and Vicki Nippert for

Meteorological Tower within Section 35 of Rock Township; GIS Parcel #884235100003.

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 conditional use permit application is for the proposed installation and temporary operation of a 197' monopole and guyed meteorological tower for Infinity Wind Power, LLC and property owner, Vicki Nippert within Section 35 of Rock Township; GIS Parcel #884235100003.

The tower's purpose would be to support equipment used to measure wind speeds over an undetermined but temporary period of time. The data obtained would be used to determine the feasibility of wind turbine tower development within this portion of rural Woodbury County. Upon completion of the data gathering project the tower and support structures will be dismantled, and removed from the parcel.

The owner of the tower will be Infinity Wind Power, LLC of Santa Barbara, CA. On September 8, 2011 Infinity has entered into an easement agreement with the property owner for wind energy development within the NW ¼ of the Section 35 of Rock Township. The meteorological tower applied for will lie in the southwest corner of this 160 acre area and 200' + east of Taylor Ave. roadway right-of-way.

The tower would be located approximately 2.0 miles west of the Woodbury/Ida County border 5.0 miles S-SW of Cushing on a portion of a 39 acre parcel. Access to the tower will be from east side of Taylor Ave which is a graveled and county maintained roadway. The closest intersection roadways are to the north at 210th St. and Taylor Ave.

The parcel 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.

The assessor's records indicate there are seven (7) single family dwellings within 1 mile of the proposed tower site. Thos property owners, the dwelling addresses and GIS parcel numbers are as follows:

Maurine Sobieski
2132 Story Ave.
GIS Parcel #8842 34 100 003

Jason Meins
4586 210th St.
GIS Parcel #8842 34 200 002
Waveland Farm Inc.
2097 Taylor Ave.
GIS Parcel 8842 27 400 004

Delbert Shever Trust
4607 210th St.
GIS Parcel #8842 26 300 003

Vicki Nippert
2106 Taylor Ave.
GIS Parcel # 8842 35 100 001

Larry Johnson
4681 210th St.
GIS Parcel #8842 26 400 004

Doris Jepsen
2231 Union Ave.
GIS Parcel #8842 02 200 002

The closest occupied structure is owned by applicant Vicki Nippert approximately 2,100' to the north.

The applicant's site plan does not provide driveway access/egress information. Although this is a temporary structure the Department of Emergency Services has required towers, including meteorological towers, to have driveway addresses assigned to the tower's access point where it joins county roadway right-of-way. Further, the County Engineer will require the use of either an existing permitted drive or the establishment of a new permitted drive location.

Selected data regarding the project is as follows:

Height of tower.....	197'
Tower base elevation.....	1472'
Tower maximum height elevation.....	1669'
Tower Width.....	18"
Tower Guy Radius.....	131' to 164'

Width of Taylor Ave roadway ROW at this location.....66'
Tower base distance to Taylor Ave. ROW.....225'

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

- A copy of zoning ordinance subsection 2.02-9.F
- Correspondence dated March 30, 2012 from the Chair of the Zoning Commission
- The applicant's conditional use permit application
- Location information
- Aerial Photography
- Parcel Information
- Tower Photo Simulation
- Pictures of the Location
- FAA Regulations

Zoning Commission Findings and Staff Recommendation:

The Administrative Procedures subsection 2.002-9.F of Woodbury County's zoning ordinances states the Planning and Zoning Commission shall review the application for a conditional use and report its findings to the Board of Adjustment before their public hearing on the application. In the review the Commission shall consider each of the standards and other considerations for review of condition uses as specified in subsection 2.02-9.F. A copy of the subsection 2.02-9.F is attached for your reference.

The Zoning Commission's findings support conditional use permit approval with the recommendation the tower be illuminated. The recommendation is based upon the fact of the tower's height is within 3' of 200' threshold the FAA requires its illumination standards be met. The Zoning Commission voted unanimously to recommend the tower be illuminated at its highest point pursuant to the FAA standards referred to within subsection 5.05:8.

The Planning and Zoning Office's staff recommendation is subject to public hearing testimony. The Zoning Office finds the application meets each of the standards established within subsection 2.02-9.F items (a) through (f) inclusive. Staff recommends the following two condition be placed upon any conditional use permit approval"

1. The use of an existing permitted/addressed drive or, in the alternative, a new permitted drive location be established with the Woodbury County Secondary Roads Department; and
2. Should a new permitted drive be established that application for a rural address assignment be made at the time tower building permitting is filed.

Staff further wishes to make comment on the Zoning Commission illumination recommendation. The Commission is to be commended for the work done including evaluation of air safety concerns and how to best minimize this perceived risk. However Woodbury County ordinances are clearly specific within subsection 5.05.:8 *Illumination* wherein it states that lighting shall comply with requirements of the Federal Aviation Administration. The FAA's lighting requirements apply to towers 200' or higher. Thus, the tower in question does not require illumination. It is staff's position any imposition of an illumination condition would not pass judicial scrutiny under the ordinances as currently written. A suggested alternative could be asking the applicant to voluntarily agree to the illumination standard espoused by the Zoning Commission. Any decision by the applicant to not voluntarily illuminate the tower should not be a factor in your evaluation to either approve or deny the conditional use application.

Your Board is asked to review the Condition Use Application of Infinity Wind Power, LLC and Vicki Nippert. You are asked to hold the required public hearing and consider the application.

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

Comments:

The Zoning Commission had recommended illuminating the tower and asked the Board of Adjustment consider. Mr. Koehn from Infinity Wind Power, LLC said they had been asked to consider illumination other times but the company felt it is too costly and perceived to be unnecessary. However, they would be willing to determine exactly what they will use for access; a new access or a field entrance. There is a field entrance at the high point of the road.

Mr. Pylelo said Secondary Roads will determine and permit if necessary.

Mr. Koehn explained there would be one to four (1-4) sets of orange marker balls for daytime visibility.

Ms. Sadler asked how long the tower would be in place.

Mr. Koehn stated it could be one to two (1-2) to possibly five to seven (5-7) years. It depends on how quickly the information is gathered.

Mr. Pylelo stated this tower will not take agricultural land out of production.

Mr. Koehn said maintenance would be less than once a year in the winter season.

Mr. Vincent Galvin approached the Board to comment his parcel is south of the project and he supports the project and feels it is good for Woodbury County and in general this part of Iowa.

Mr. Scholten made a motion to close the public meeting. Ms. Sadler seconded the motion.

Discussion:

Mr. Meister asked if any other towers have been illuminated.

Mr. Pylelo explained only towers 200' and higher have been illuminated but not meteorological towers. It is cost prohibitive and he feels obstacles shouldn't be placed in the path of wind turbines.

Mr. Meister made a motion to approve subject to the conditions on page 5 which are:

- 1. The use of an existing permitted/addressed drive or, in the alternative, a new permitted drive location be established with the Woodbury County Secondary Roads Department; and**
- 2. Should a new permitted drive be established that application for a rural address assignment be made at the time tower building permitting is filed.**

Mr. Scholten seconded the motion; motion carried 4-0.

Ms. Sadler made a motion to adjourn. Mr. Meister seconded the motion; motion carried 4-0.

Meeting was adjourned at 6:35 PM.

Next meeting is June 4th, 2012