

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

TUESDAY, APRIL 12, 2011, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Buesing, Vroman, Nassif, Thooft, Ludeman, Ritter, Anderson, Zimmer, Biren

PLEDGE OF ALLEGIANCE TO THE FLAG

AMEND/APPROVE AGENDA – Motion by Nassif, seconded by Ludeman to approve the March 10, 2011 minutes. All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE MARCH 10, 2011 MEETING – Motion by Buesing, seconded by Thooft to approve minutes. All voted in favor. Motion carried.

BOARD OF ADJUSTMENT:

Public Hearing, Richard and Barbara Werner, variance to construct an overhang, enclosed entrance and building addition onto an existing structure. The addition will be twenty-one (21) feet from 271st Avenue which right-of-way is controlled by MNDOT. This is a seventy-nine (79) foot variance request. Part of the existing structure is closer to the right-of-way line than what the proposed additions will be constructed. The area representing the request is zoned highway commercial. The property is described as all that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Twenty-six (26), Fairview Township. Mr. and Mrs. Werner and Mr. and Mrs. Abel were present. Steve Abel represented the Werners. Biren – proposed use, proposed by Steve. Location is intersection of County Road 33 and Hwy 23, third building going north. Landscape has changed out there a lot. Access road goes all the way. Township eventually will have jurisdiction of the access road. In limbo, Titan Machinery property has not been acquired by the State of Minnesota. Variance is from access road. Titan's did snow removal all winter on road. MNDOT's road technically. Long term use isn't why we are here tonight. Here for variance. Proposed use, need a way into building. With access road no parking in front. Parking will have to occur on the side for the customers. Build an access, awning/porch so that you can get inside the building. See drawing. No closer than existing structure. Freezer space along side. Vroman – looked at, sensible proposal, road? Biren – question whose jurisdiction. Township did have comments. We sent a letter to MNDOT as well, I was informed that the policy is now not to write anything unless there is a problem or opposing it. Ludeman – any other alternative based on site? Abel – my main objective of doing this is to have it wheel chair accessible, same level, all parking on the north side of the building, cannot do that, think we will restrict handicap people from being able to get into this facility. Designed of facility now is wheelchair accessible, nice addition to that. Big purpose of how design done. Thooft – comments from the township? Oakland – township approved of request, no written comment. Vroman – audience comments? None. Nassif – how far will this proposal be from what was the center of the road? Biren – before Highway 23 reconstructed this building was set back 100' or more from the set back. Anderson – addition will be back behind existing awning. Biren – proposed addition will be further away than the closest part of the building is now. Vroman – no room to park in front of building. Nassif – parking on north side. Vroman – reviewed Findings of Fact, attached.

Discussion: Vroman – understanding it will be a butcher shop, drainage system, how does that work, part of motion? Biren – this is the first step of many, permitting needed from USDA, Dept of Ag., State of Minnesota, MPCA and the County establishing a waste water treatment system, ADA uniform building code for handicap accessibility and the plumbing code. Each hurdle happens will be more of a likelihood. Question in my mind highway commercial, this is a permitted use and CUP, fits into both categories. Something the board can discuss a little bit when it is more of a sure thing. If this variance was denied, project was not going to happen. Permit I grant, permitted use or a CUP the County Board would grant would handle those concerns at that time. Ludeman – could add: must meet all other requirements for business to exist. Board – not needed.

Ludeman moved, seconded by Vroman to grant a variance to Richard and Barbara Werner for a variance to construct an overhang, enclosed entrance and building addition onto an existing structure. The addition will be twenty-one (21) feet from 271st Avenue which right-of-way is controlled by MNDOT. This is a seventy-nine (79) foot variance request. Part of the existing structure is closer to the right-of-way line than what the proposed additions will be constructed. The area representing the request is zoned highway commercial. The property is described as all that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Twenty-six (26), Township One Hundred Twelve (112) North, Range Forty-one (41) West, Lyon County Minnesota (Fairview Township). With the following stipulations:

1. That if any of the work performed as allowed by the granting of this variance is ever impacted or required to be removed, the cost of such impact shall be borne by the landowner, including removal and/or relocation of property and facilities.
2. Must obtain a building permit prior to construction.
3. The purpose of which the variance was granted shall be undertaken by the applicant within 18 months of the granting of the variance. For good cause, the Zoning Administrator may grant an administrative extension of up to 12 months. Said extension shall be in writing. If the applicant fails to establish use of the variance within said time limits, the variance shall expire.
4. Adopt Findings of Fact as part of this Motion.
5. A copy of this Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

VOTING FOR: Buesing, Vroman, Nassif, Ludeman, Thoof

OPPOSED: None

ABSTAINED: None

ABSENT: None

Motion carried.

Public Hearing, Donald Louwagie variance to replace an existing machine shed (48' x85') that was destroyed by snow load. The proposed machine shed will be approximately 66'x104' and will be constructed sixty-eight (68) feet from the road right-of-way line of County Road 73. This is a thirty-two (32) foot variance request. The area representing the request is zoned agricultural. The property is described as the East Half (E1/2) of Section Thirteen (13), Fairview Township. Don Louwagie was present. Vroman – question for Tricia, do Debbie and I need to abstain, related? Zimmer – with the other 3 here, we have a quorum, safe for you to abstain from the discussion. Nassif – house is closer than machine shed to road. I understand Suhail's comments and concerns, house already there, going through middle of house, rebuilding machine shed. Vroman – closer to

road than existing machine shed, wider. Don Louwagie – hard for me to go in any other place because we have a natural gas line west part of grove, stay above that or below that. Site is on a hill, down the hill get a lot of water, hard for me to find another place that works. Buesing – driveway there also. Biren – when looking at this project, first thing is where else can you move it. One thing that caught my eye out there is County road 73 at some point that right-of-way became 50', look at line of trees, utility poles, old fence line and go to the north of this site, look down fence line and all of a sudden utilities are 50' back, not 100% sure if county ever bought right-of-way. Was asked did the machine shed need a variance when it was built? My speculation is that it probably didn't need one because it was a 33' right-of-way. Argument if actually paid for easement or not, cannot say. Suhail asked me if he should be here to represent them, I said it wasn't necessary. Talked with Suhail and Jim Thomasson, Highway Superintendent today. After we talked for a while and after Suhail learned how this farm yard was physically set, he backed off that. Anderson – no other place, fill needed now for structure. Louwagie – could point out that back in the early 1960's, from County Road 19 to about where that shed is, reason they quit there is because river/bridge there, then they came back about 3 years ago and redid the bridge, that part looks like at one time it may have been township road. Ritter – more than likely 33' right-of-way. Biren – ya. Highway map shows 50'. Ludeman – road probably won't be upgraded to tar, maybe give it back to township, periodically under water. Vroman – township comments? Oakland – Township approved of request. No comments. A copy of the County Engineer's comments are attached to the minutes. Ludeman – old shed smaller, just to rebuild it doesn't make sense, fit size of machinery now. Vroman – same footprint still need variance. Biren – won't meet 100' setback, still need variance. Board reviewed Findings of Fact (attached).

Discussion: Anderson – for item #1, should we be looking through deeds to find out if right-of-way was ever done? That shouldn't be Don's chore that should be Planning and Zoning to find out. Good to have variance but do we need to make sure if right-of-way was purchased then Don wouldn't be responsible for paying to have building moved. Oakland – variance would be a lesser variance. Zimmer – because of the fact that the building was destroyed by snow and has to be completely redone. Different situation if he was just doing a partial remodel and staying within the same foot print as the existing building was. Anderson – right-of-way, less variance but still needed. Biren – long period of years that deals were made with landowners and not recorded. Rely on maps, don't know how we want to attack that. Anderson – working with township, not all were recorded. Don Louwagie – started farming all of the fence lines were where the townships right-of-way would be, 7-10 years back the county got after farming to close to the road, since it was a county road had to go back. When put the bridge in north of me, they did purchase extra land so a little wider.

Nassiff moved, seconded by Buesing to grant a variance to Donald Louwagie for a variance to replace an existing machine shed (48'x85') that was destroyed by snow load. The proposed machine shed will be approximately 66'x104' and will be constructed sixty-eight (68) feet from the road right-of-way line of County Road 73. This is a thirty-two (32) foot variance request. The area representing the request is zoned agricultural. The property is described as the East Half (E1/2) of Section Thirteen (13), Township One Hundred Twelve (112) North, Range Forty-one (41) West, (Fairview Township). With the following stipulations:

- 1 That if any of the work performed as allowed by the granting of this variance is ever impacted or required to be removed, the cost of such impact shall be borne by the landowner, including removal and/or relocation of property and facilities.
- 2 Must obtain a building permit prior to construction.

3. The purpose of which the variance was granted shall be undertaken by the applicant within 18 months of the granting of the variance. For good cause, the Zoning Administrator may grant an administrative extension of up to 12 months. Said extension shall be in writing. If the applicant fails to establish use of the variance within said time limits, the variance shall expire.
4. Adopt Findings of Fact as part of this Motion.
5. A copy of this Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

VOTING FOR: Nassif, Ludeman, Buesing

OPPOSED: None

ABSTAINED: Vroman, Thooft

ABSENT: None

Motion carried.

PLANNING COMMISSION: **None**

CONDITIONAL USE PERMIT/PUBLIC HEARING – MINNESOTA SESSION LAW 2000 – MINN. STAT. §116.07, SUBD. 7(I), FEEDLOT: **None**

RENEWAL - CONDITIONAL USE PERMITS – AUGUST:

Philip Regnier – Daniel Stevens, Mobile Home, N1/2NE1/4, Section 20, Grandview Township. Issued August 1994 (3 years), renewed every 3 years. 2003 estate, extended yearly since then to have mobile home removed from property. Status – letter to property owner (Catherine Dobbins). September 14th meeting – give 30 days to work with landowner. October and November meetings – spoke with her, waiting for arrangements to be made to move the mobile home. Update. Biren – have a message saved here on cell phone that she said she would have it out of there by the end of May. Not going to renew this. Hopefully her word is good. Nassif – what if it is not? Go in and remove? Biren – getting to that point.

RENEWAL – CONDITIONAL USE PERMITS – APRIL:

James Myhre, Mobile Home, N1/2NW1/4, Section 14, Nordland Township. Issued: March 1999 (3 years). Recorded September 2009. Review 2011. (Mobile home removed, moved in a house.) Expired. Biren – they moved in a home, mobile home no longer there, expired.

Thad Lessman (Rolland and Mary Roseland), Mobile Home, NW1/4NE1/4, Section 27, Sodus Township. Issued: May 2006. Is house completed and mobile home removed? Biren – House built, mobile home still there, light has been on in both places. Built a nice house, not long term problem. Needs to go right to the landfill.

DISCUSSION: Update on Meeting held with Gravel Haulers that Utilize 210th Street. Biren – gave an update on road, haulers and history of pits in area. Having trouble with Rogge out there, bad actor. Issues in past, tells us what we want to hear, good for awhile. Township keeps track of extra maintenance they do on that road compared to other roads, then haulers give an estimate based on percentage used. Ludeman – weight restriction , sheriff's office. Biren – they get a hold of someone at MNDOT and they go out there. Last year one of the haul roads was under construction and we did not provide a detour for them. Haulers used another gravel road past Lori Grant's house,

forced all the gravel trucks one way instead of splitting up. Faced with same situation this year. Fortunate only 4 houses on this 210th street. Dust and rough road. Owner of pit responsibility for haul road. Ritter – need to abide by CUP. Anderson – township post speed limit? Biren – post speed limit and tonnage. Could be a problem for 10 years. Working with these folks, feel comfortable bills will get paid. Ritter – a lot of material hauled out of pits in that area.

Vroman – Walz density variance, property sold, will that go away? Biren – timeline on it, as long as they meet that deadline, or they are starting over, 18 months. Owner died, neighbor bought site.

Biren – discussed possible May agenda items. CUP to cluster home on Wood Lake and a request from 2 landowners in Nordland Township along the Yellow Medicine River that want to put in an ag levy. Youngsma from the DNR has been out there. Hiring engineer to design this to 10 year frequency which our ordinance will allow. Purpose is they want to be able to keep the trees and things going down the river and in the river and allow the water to flow across their land.

Meeting adjourned at 7:50 p.m.

Respectfully submitted,

Richard Vroman, Chairman
Planning & Zoning/Board of Adjustments

Carol Oakland, Secretary
Planning & Zoning/Board of Adjustments