

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

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

MEMBERS PRESENT: Nassif, Buesing, Thooft, Vroman, Ritter, Goodenow (for Anderson), Zimmer and Biren

MEMBERS ABSENT: Ludeman (excused)

PLEDGE OF ALLEGIANCE TO THE FLAG

IDENTIFY ANY CONFLICT OF INTEREST – Vroman – do business with both parties. Zimmer – monetary? Vroman – no.

AMEND/APPROVE AGENDA – Motion by Nassif seconded by Buesing to approve agenda. All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE JUNE 14, 2011 MEETING – Motion by Buesing, seconded by Nassif to approve minutes as printed. All voted in favor. Motion carried.

BOARD OF ADJUSTMENTS:

Public Hearing, Gary LaVoy for the following variances: (1) to construct a garage (28'x40') fifty-six feet (56') from the road right-of-way of US Highway 59. This is a forty-four foot (44') variance request. (2) to construct a deck onto an existing house (16'x16') eighty-eight feet (88') from the road right-of-way of US Highway 59. This is a twelve foot (12') variance request. The area representing the request is zoned agricultural. The property is described as the Northwest Quarter (NW1/4) of Section Twenty-six (26), Sodus Township. Vroman – two variances. Township comments? Oakland – have representation from township here tonight. Brad Paradis – township is fine with requests. Biren – area variances, land use permit in 2007 allowed to build no closer than existing structure, not constructed. Now adding garage in line with existing house and deck in back of house, will not meet setback requirements. Garage with porch attached to house where it has to be. MNDOT sent back no comment. Spoke with Jon Platt and Stu Peterson with MNDOT, they had no comments. Nassif – no closer than house is, not encroaching on right-of-way. Vroman – if future road improvements, have to move garage at your own expense. Board reviewed Findings of Fact. Attached is a copy.

_____ Nassif _____ moved, seconded by _____ Buesing _____ to grant the following variances to Gary LaVoy 1) to construct a garage (28'x40') fifty-six feet (56') from the road right-of-way of US Highway 59. This is a forty-four foot (44') variance. 2) to construct a deck (16'x16') onto an existing house eighty-eight feet (88') from the road right-of-way of US Highway 59. This is a twelve foot (12') variance. 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 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, Thooft, Vroman, Buesing

OPPOSED: None

ABSTAINED: None

ABSENT: Ludeman

Motion Carried.

PLANNING COMMISSION:

Public Hearing, Tolk Graveling LLC for a Conditional Use Permit to operate a gravel processing and mining operation. The property is zoned agricultural and shoreland. Owners of the tracts of land and legal descriptions are as follows: Circle S Properties, LLC, The East Half of the Northeast Quarter (E1/2NE1/4), Section 7, Island Lake Township and Gil M. Sook and Roshawn Sook, the West Half of the Northwest Quarter (W1/2NW1/4), Section 8, Island Lake Township. Bob Tolk was present. Biren – request is on two different tracts of land, same owners. Shore impact zone, 50' from ag river. Shoreland 300' from bank of river. Also in the floodplain. Showed location of pit on power point. Sections 7&8, Island Lake Township. Field approach to property. Tolk – whole flat to river has gravel. Taking stuff on top at this time. Biren – 100 year floodplain is dotted area. Vroman – 300' setback. Biren – no, conditions and setbacks, reasons 50' shoreland impact zone. Haul road, goes right onto a paved road, Highway 19. Dust not an issue. Tolk – will be used as fill gravel. Buesing – years excavating? Tolk – come to Marshall mostly, 5-10 years. Clay ridge southern part of tract. Vroman – any Board comments? Valerie Ross – read letter that was presented to board. Attached is a copy to the minutes. Nassif – issues with MNDOT? Biren – not MNDOT. Lucas Youngsma, DNR, indicated he would look at it before the state shut down, didn't happen. Vroman – dust of operation, westerly into yard. Vroman – traffic dust. Ross – blind entrance hill to west and east, oncoming traffic will not see them. Land is pasture now. Buesing – location of house? Ross – showed area on map, to the north of pit. Concern with dust, noise and habitat. Northern Con-Agg area looks like a dessert. Natural setting. Replanting land? Vroman – slope 4:1. Ross – 5-10 years, not come back to excavate piece in back? Vroman – Soil & Water and DNR permits? Tolk – may not be excavating this year, but plans are for next year. Site is closer to Marshall. Goodenow – go through questions of letter. Biren – permits needed; Soil & Water for wetlands. MNDOT look at road safety, signage if needed. DNR – not get involved until get into water itself. One million gallons Water Appropriations Permit from DNR. EAW – different

categories require this permit. Mandatory or discretionary, 40 acres disturbed. Ross- close to that? Biren – working face of pit, discretionary EAW, County Board. Public option to petition. Goodenow – Environmental Quality Board hears those petitions. Biren – not enough but may be wrong. Biren – oversee project, state and federal permits applied for before up and running. Precautions Yellow Medicine River, tool and setbacks, 50’ shoreland impact zone. Ross – berms, sand screens used in bigger operations. Use water, dust from traffic in operation, dust control? Goodenow – not close to house? Biren – pit owners, a lot of pits are close to homes. Dust problems from roads. Tolk – most material crushes heavy, material drops down, 40 mile hour wind don’t crush, material drops within 100’ of crusher. Noise – hours of operation? Tolk – 7 am to 6 pm. Vroman – common hours. Tolk – yes. Biren – South Branch Yellow Medicine River - 1&4 animals and manure. 2&3 big rain. Ross – cannot control the weather. Biren – cattle pastured? Tolk – fence out 50’ buffer grass allowed to grow up, not short. Buesing – farmland more erosion. Nassif – 50’ buffer #1. Ross – washes into river bare. Planted if pit, storm water prevention plans? Biren – gravel pits are exempt at this time. Ross – construction sites. Ritter – clarify area. Tolk – 30’ hill around pit, gravel in lower part, dust and erosion control. Vroman – other audience comments? James Rokeh – submitted a letter. Same concerns in 2002 with Northern Con Ag. New operation and follow stipulations. Want answers. Disaster, looks like a desert, nothing growing there. Feel bad being here, Tolk’s friend. Home faces gravel pit. Green pasture now. Grass and hill would have known could have bought. Erosion on Northern Con Agg site, culvert in river. Ross – bolder washed away with current. Biren – bridge is north, closed due to culvert in river. Haul gravel in Lyon/Lincoln County. Ross – 35 years nature preserve and conservation. Buesing – meeting there a few years ago. Ross – erosion and sediment. Biren – County Road 13 North, YM River changed last 100 years. 4 bridges across county road, now 1. Straightened river, shorter segment, trying find bottom last fall, rain. Moorse Sand & Gravel, Ted Anderson and Northern Con Agg, extraction visible on that property. Ross – McLaughlin & Schulz straightened river out, manipulated it. Cannot take any more, washing us out. Biren – Con Agg when I came looking good, sell for recreation. Stockpiled topsoil, need to reclaim. Vroman – DNR not let you change course of river any more, put bridge in. Biren – not negate legitimates of comments. Rokeh – site visit first, look at it. Ross – recommend site visit, impact wildlife diversity, eagles, blueherons, where else do they have to go, last piece of wilderness in area. Biren – remove trees? Tolk – no. Ross – road kill – haul it off road. MNDOT approach. Zimmer – this board makes a recommendation to the county board. County Board has final say. Take public comment, county board can have additional hearing. Zimmer – address Rokeh’s letter, address questions. Biren – 1. Northern Con Ag – County Road 13 & Hwy 19. 8-10’ tall, still there use conditions permanent and seeded. 25’-30’ deep, safety issue. Hit buffer not water, no going that deep. 2 – trips? Tolk – 4 truck, 35 loads. Biren – paved highway from pit. Don’t care where they haul from there. 3. Hours of operation, covered. 4. Rural water - limits. Nassif – not using unless washing. Biren – right of way, gopher 1 and right of way, obligated to call. Tolk – before dig. Nassif – warning signs on road? Biren – work with MNDOT with safety plan, road authority. Ross – take down both hills, help. Tolk – move. Ritter – east 19, by pass lane? Tolk – 1 lane wider. Ross – did that, almost got hit. Tolk – too short at least there. Board reviewed Findings of Fact. Attached is a copy to the minutes. 1. Buffer zone, filter. Ross – buy my place. Tolk – Sook offered to buy it. 2) access road, work with MN DOT for safe access. 4. road setback. Rokeh – site. Ross – trees to help. Biren – can place setback. Nassif – close. Tolk – 4:1 slope from right-of-way. Buesing – crusher. Tolk – further to south, backup up noise otherwise. 5. gravel needed. Biren – make recommendation allowed uses.

Health, Safety and Welfare, conditions met. Ross – with buffer zone setback? Biren – not a lot gravel left, get it all now. Vroman – 4:1 slope cannot undermine road, motion address concerns. Zimmer – gone through factors. Vroman – township? Oakland – agreed with request.

Nassif moved, seconded by Buesing to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to Tolk Graveling LLC to operate a gravel processing and mining operation. The property is zoned agricultural and shoreland. Owners of the tracts of land and legal descriptions are as follows: Circle S Properties, LLC, The East Half of the Northeast Quarter (E1/2NE1/4), Section 7, Island Lake Township; and Gil M. Sook and Roshawn Sook, The West Half of the Northwest Quarter (W1/2NW1/4), Section 8, Island Lake Township. With the following stipulations:

1. Conditional Use Permit will be reviewed annually.
2. Conditional Use Permit is granted for 40 acres or the life of the operation whichever is less.
3. Top soil will be stockpiled and used for reclaiming and leveling.
4. Reclaiming and leveling of land is to be done as work progresses.
5. Grade site after extraction is completed so as to render it usable, seeding required avoiding erosion and an unsightly mar of the landscape.
6. Must maintain a backslope of 4:1 or flatter.
7. Responsible for maintenance on roads trucks will be hauling on.
8. Responsible for dust control on haul roads and service roads within site.
9. Haul roads designated as: Highway 19.
10. Owner must notify the Lyon County Zoning Office when work is complete.
11. Must obtain permits from appropriate agencies.
12. Must comply with Soil and Water and DNR regulations.
13. Adopt Findings of Fact as part of this motion.
14. A copy of the Lyon County Board of Commissioner's 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.
15. Consult with Minnesota Department of Transportation to promote a safe access to Highway 19.

VOTING FOR: Nassif, Buesing, Thooft, Vroman

OPPOSED: None

ABSTAINED: None

ABSENT: Ludeman

Motion carried.

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

RENEWAL - CONDITIONAL USE PERMITS – AUGUST 2010:

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. May 2011 meeting asked for a month to complete removal of mobile home. Biren – didn't get out there this week. Board enforcement. Nassif moved, seconded by Vroman to start enforcement on mobile home. All voted in favor. Motion carried.

RENEWAL – CONDITIONAL USE PERMITS – APRIL 2011:

Thad Lessman (Rolland and Mary Roseland), Mobile Home, NW1/4NE1/4, Section 27, Sodus Township. Issued: May 2006. Status of mobile home removal. Biren – will go away.

RENEWAL/REVIEW – CONDITIONAL USE PERMITS – JULY:

Patti Gertner – Mobile Home, W1/2, Section 26, Lake Marshall Township. Issued: July 10, 2007, Inspect Annually. Biren – outside of Marshall, received damage in wind storm. In compliance, look at next year.

OTHER DISCUSSION: Northern Con Agg. Inherited mess, follow rules, talked with Salmon sand to get rid of. Berms go back, prairie restoration, seeding native grass. Vroman – inspected site at time of hearing. Buesing – timeframe for reclamation? Biren – sand there to get rid of. Thoof – reclaim most of it now? Biren – will give an update at the next meeting.

ORDINANCE REVISIONS – VARIANCES. Definition for contiguous -lakeshore and density building eligibility. Biren went over changes. Set a public hearing for Thursday, August 11, 2011 at 7:00 p.m. County Board to also hold a public hearing.

Meeting adjourned, 8:30 p.m.

Respectfully submitted,

Richard Vroman, Chairman
Planning and Zoning/Board of Adjustments

Carol Oakland, Secretary
Planning and Zoning/Board of Adjustments