

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

MONDAY, APRIL 15, 2013 COMMISSIONER'S ROOM, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Steen, Ludeman, Thooft, Chalmers, Sturrock, Anderson, Zimmer, Biren, and Olson

Ludeman opened meeting at 7:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Ludeman thanks both the board and the public for their cooperation in rescheduling the meeting due to inclement weather the previous week.

IDENTIFY ANY CONFLICT OF INTEREST. Steen abstains from the Variance/ Public Hearing, Matt Schreurs.

AMEND/APPROVE AGENDA. Agenda presented. No changes noted.

CORRECT/APPROVE MINUTES FROM THE JANUARY 8, 2013, MEETING. Motion by Thooft, seconded by Chalmers to approve minutes as presented. All vote in favor. Motion carries.

BOARD OF ADJUSTMENT:

VARIANCE:

1. Public Hearing, Mark Meulebroeck request for a variance to construct an addition onto existing cattle shed, 67' from the road right of way which is a 33' variance. The area representing the request is zoned agricultural. The affected property is described as the East One-Half of the Northeast Quarter, Section 25, Lyons Township and is zoned agricultural. Mark Meulebroeck is present. Biren-Variance request to build closer to the county road right-of-way. Distance to right-of-way is the reason for the variance. Existing building near 100 feet right-of-way setback. M Meulebroeck- 110 feet will be added to building on east side, existing shed and silage pile will be gone, the area between the shed and commodity building will be feed storage. Ludeman- No questions for the board at this time. Biren-Variance decision is up to the Planning Board. CUP will be recommended for action to the County Board. Sturrock- Finding of facts question 4, is that referring to undo hardship? Biren- Yes Sturrock- The applicant has to justify undue hardship? Biren- Correct, must be reasonable, process taught by the attorneys at the Minnesota Counties Insurance Trust. Ludeman opens the floor for public discussion. Biren reads letters received before the public comment begins,

as requested by Dennis Meulebroeck. Biren reads letter from D Meulebroeck whose major concerns include animal bio-security, snow drifting on road, limited vehicle access to the barn, and unpleasing view/negative effects on property from shed being constructed. Biren reads letter from Tom Staniszewski who expresses that the shed should be constructed in the large area to the west, snow problems on the road, and animal bio-security. Biren reads letter from Suhail Kanwar, Lyon County Public Works Director. Kanwar expresses that the road has low potential to being paved so the addition will not affect future expansion plans of the road, the addition is outside of the vehicle recovery zone, and the addition is no more hazardous than existing structures on the property. Biren reads letter from Lyon Township which highlights that they would not approve the variance unless a good reason was provided for not building to the west of the existing shed and that snow removal would be a concern under existing addition plans. M Meulebroeck- two different veterinarians feel that it is an issue of what animals are brought in. He states that his neighbor to the east pushed snow into his ditch. Any snow from the shed will be taken care of. In 2005, Mark had 11.28 acres and the proposed addition is for 200 head of cattle plus a large working area. Future plans include putting a shed for cattle on the back side of the existing barn as well. D Meulebroeck- No problem with expansion that stays back 135 feet. His driveway will be looking right at the shed. He has the same manure spreader as Mark and believes that there is no way he will be able to stay out of the ditch being only 67 feet away with a 45 foot spreader. Heavy snow was pushed across the ditch and has been pushed there for 43 years. Rhonda Meulebroeck- This is our livelihood. The township did not represent us in the process. M Meulebroeck- Dennis's cattle shed is 17 feet into the right-of-way setback. D Meulebroeck- My shed is a 50 year old building. Tom Meulebroeck- Mark originally only owned less land and now, due to the location of the existing shed, he is limited to where he can expand. He now owns land around there, so this situation could have been avoided if he originally had more land. Andy Meulebroeck- works for Mark and has never had a snow drift on the road from the silage pile in 20 years. No bio-security questions in 40 years of pasturing cattle. D Meulebroeck- Pasturing cattle are different from a bio-security standpoint. Different snow accumulations between a shed and a silage pile. Sturrock asks Mark where was his original property boundary. Mark describes the acquisition history of his property. Sturrock- Addressing Biren, how far to the west could he go and are how far from the waterway must he be? Biren-creek is not listed as a protected water so as long as he keeps manure in the building, he is fine. No floodplain, would have to consult with DNR on floodplain determination. Biren asks Mark how high the water gets in the spring and/or summer. M Meulebroeck- a little past the pasture fence. The existing cattle shed is 180 x 100 feet. Chalmers asks Mark if he has concerns regarding maneuvering his manure spreaders. Mark has no concerns with his manure spreader. Thoof asks Mark if he removes north shed, where will the feed/silage be moved to. M Meulebroeck- between milk house and the commodity shed. A concrete pad will

hold the feed. Biren- map in packet shows Mark's 11.28 acre original parcel. Ludeman asks Mark if there is a reason for this size shed. M Meulebroeck- Can bring in three loads of cattle and five out. 200 head barn is most economical. Thoofst asks Biren if this is a county road. Biren- 230th Avenue is a county road, the township does not have jurisdiction. This is a 30 foot right-of-way county road. Thoofst questions what the vehicle recovery zone Suhail Kanwar was referring too. Biren- the vehicle recovery zone regards, amongst many things, the line of sight, topography, speed, ditch depth . Thoofst- Suhail is saying the recovery zone would not be affected? Biren- correct. Ludeman poses the question to Mark if the board denies the variance request, would he plan on doing something different. M Meulebroeck- he would consider something different then. D Meulebroeck- No problems building outside of 135 foot right-of-way setback, manure spreader cannot maneuver with only 67 feet, and the view of the shed is unappealing.

Ludeman moves to the finding of facts. Thoofst states that the use is permitted under the agriculture district. Sturrock requests further explanation on question three regarding an official control. Biren- gets more at the use of the land, for this instance animal feedlots are allowed in the agricultural zoning district. Ludeman gathers consensus on whether or not circumstances unique to property, not created by the landowner, which affect development. Chalmers- no, is there some unique situation with the land that would prevent you from construction elsewhere. M Meulebroeck- does not feel comfortable placing the shed that close to surface water, he does not want to get involved with other environmental regulations pertaining to the distance from the stream. Ludeman reiterates that's this is only a consideration of the board and that they are not denying anything yet. Biren clarifies that if the board feels that if the board agrees that the circumstances are not unique to the property, then they are obligated to reject the request. The board agrees to come back to this issue. M Meulebroeck- cattle come outside to existing building, with the new shed, they will not be out of the building until they go to market. Ludeman asks if practical difficulty beyond economics exists here. Thoofst- stream poses a difficulty, this is something beyond economics, driving in the ditch should not be allowed. M Meulebroeck- driving in the ditch will not be a problem. Thoofst- how will the load-out be on the new shed? M Meulebroeck- four foot existing on east side of building, concrete walls, semi-trucks will back up on east side of shed. There is less difficulty to load on the east side compared to the west, no backing up to the shed. Ludeman asks Mark if there will be two drives. M Meulebroeck- No. Thoofst- will the drive be in or out? M Meulebroeck- can do either depending, but typically the drive will be in. Chalmers asks if there is practical difficulties other than financial. M Meulebroeck- 90-foot pens on both sides would work, but he does not want to get too close to the waterway. Chalmers- practical difficulty other than financial, the economic turn-around will not be considered. Thoofst questions if the existing feed shed is in the variance area? Biren- the variance request will extend a little further (nearer road). M

Meulebroeck points out on map the variance will extend to. Thoof- between silage pile and older shed is roughly where the variance boundary will be. Ludeman ensures the board focus on practical difficulty. Thoof- previous building footprint was smaller; more land gives him more room to expand. Enclosed building really doesn't have affect, other than hauling and feeding. Steen- we are not sure if we are infringing on surface water regulations with other environmental agencies. M Meulebroeck- we do not want to go towards the river. D Meulebroeck- from the corner of my shed to the river, there have been no problems with EPA/environmental considerations. If the addition was constructed on the west side of the existing barn, the working pen on front and the rest on the back, there is more than double on back. Thoof- buildings is only going to be up to roughly the silage pile, silage pile will be removed, we are taking that traffic hazard away by putting it behind the barn. Snow is not an issue based on the comments from the County Highway Department. Ludeman wants to refocus on the explanation of question four, practical difficulties. Thoof asks Mark is land to west of existing shed is sloped or flat. M Meulebroeck- sloped. Biren- fill material was provided to the west of existing shed from wind turbines. Thoof asks Mark how long is the area flat on the west side. M Meulebroeck- 120 to 130 feet. Biren questions what are the operational differences between a 110 and 180 foot addition. M Meulebroeck- one pen, to the west, would be 90 feet. Thoof- two pens plus a 25 foot working area to the east? M Meulebroeck- correct, two pens plus 25 foot working area but cattle will rarely be in there (working area). Silage piles will create a hazard. Thoof- the plight of the landowner, because of the surface water, that future expansion does not promote manure runoff in surface water. To get silage pile out of the way would be a positive, to move to the west side, gaining safer conditions near the road. This should all be fine as long as he stays out of the road ditch with his equipment. D Meulebroeck- points out on map that with his manure spreader, Mark cannot stay out of the ditch with this equipment. M Meulebroeck- has 67 feet to work with. D Meulebroeck- with more than 45 feet of equipment, the ditch will present a problem. M Meulebroeck- has that much room on the back side of the shed and it works. Chalmers- drop off on west side changes suitability of the locations for a cattle shed, and the softness of the ground also is a factor. Feels that question six, regarding practical difficulty, should be a yes. Ludeman offers that to prevent Mark from entering ditch, shrubs or vegetation could be planted preventing entry. Biren does not recommend that shrubs be planted. D Meulebroeck questions what environmental concerns with the EPA would arise. Biren- the rule is black and white on the stream, it is not a protected water and has no defined floodplain. D Meulebroeck questions the distance from the stream to the edge of the existing shed. Biren highlights the distance is 256 feet. D Meulebroeck- the bails behind the shed are on level ground, Mark could build these sheds in that location, to the west. Chalmers asks Biren to show the distance from the existing shed to the west, both 90 feet and 115 feet. Biren measures both 90 and 115 feet, near the

area where the bales are. Sturrock asks Mark where he would load on the west side. M Meulebroeck- with the slope and gaining access, it would be near impossible to gain access with a trailer and/or semi. Matt Schreurs- if 90 foot pen is built to the west, the board will have to hear the variance request a again to expand east for a second pen. D Meulebroeck- plenty of room to add a pen on the front, plus go back without going into the 135 foot right-of-way setback. Chalmers- if the board is predominantly agreeing on declaring question six as “yes,” then the board should also lean towards “yes” on question four. D Meulebroeck- if Mark wants to come back, fine, just doesn’t come to the east into the right-of-way setback. Chalmers- if there is not enough room to expand to the west, and then a variance should be granted. Ludeman- there is a second option, small pen sizes. M Meulebroeck- 125 from 200 head of cattle makes it more difficult to economically make it. Board agrees that question four is satisfied. Thooft makes a motion to grant the right-of-way variance request with the addition that all materials be removed. Sturrock seconds motion. All vote in favor, motion carries.

2. Public Hearing, Mark Meulebroeck for a variance to construct an addition onto the existing home 75’ from the right-of-way or 108’ from the center of the road or a 25’ variance for property. The affected property is described as the East One-Half of the Northeast Quarter, Section 25, Lyons Township and is zoned agricultural. Mark Meulebroeck is present. M Meulebroeck- 16 x 28 foot sowing/quilting room to the east of the house. He shows where on the map the addition is proposed. Cannot go towards the north due to the septic system. Biren- No comment received from the township board. Ludeman opens discussion to public comment. M Meulebroeck- wants to construct addition behind the evergreens hide it. Ludeman goes through finding of facts. Thooft asks Mark when the house was built. M Meulebroeck- 1977 and the septic is a mound style. Ludeman expressed that the septic is a practical difficulty. Chalmers makes a motion to approve the variance, Thooft seconds. All vote in favor, motion carries.
3. Public Hearing, Andy Hennen request for a variance to construct a commodity shed fifty (50) feet from the road right-of-way line of a township road. This is a fifty (50) foot variance request for property as described – the SE corner of NE Qtr of Section 13, Grandview Township and is zoned agricultural. Andy Hennen is present. A Hennen- plans to construct commodity shed 50 feet from a county road. Biren highlights area on map where the commodity structure will be proposed. Comments were received from the town board, they have no problems with the structure. A Hennen- more centralized storage place, trucks to pull in, back into the shed, and loop out. In the future, he plans to expand bunkers so loader never has to leave manure pad to feeder truck. Ludeman opens the discussion for public comment. Thooft asks Andy if the shed will be located west of the bales, referring to the map. A Hennen shows on map where the 50 foot

setback goes to on his property. Ludeman moves into finding of facts. Ludeman- is there another location where the shed can be located. A Hennen- centralized location, describes that commodity shed is feed storage. Steen makes a motion to approve the variance, Chalmers seconds. All vote in favor, motion carries.

4. Public Hearing, Matt Schreurs request for a variance to construct a new house less than 1320' from an existing feedlot on property described – the south 280 acres of the north half (N1/2) of Section 27, Island Lake Township and is zoned agricultural. Matt Schreurs is present. Steen will abstain from discussion and the vote. Biren- never made another applicant complete a variance for this type of construction, applicant wants to build, in the future, a new house nearer to an existing feedlot. The state recommends that the county should enforce a reciprocal setback (distance of new houses away from existing feedlots). The variance to rebuild an existing code. Biren reads a letter from Brent Reiss, Feedlot Specialist with the Minnesota Pollution Control Agency regarding the reciprocal setback standard. M Schreurs- Previous homeowner died five years ago, abandoned house greater than five years ago. He plans to buy building site and replace abandoned house within two years. The variance will ensure that a house can be placed on the property even after two years. Biren-the existing mound septic system, which is newer, will service new home when constructed. Ludeman asks what the distance from the proposed building to the existing feedlot is. Biren measures distance on map at 800 feet and the county setback is 1320 feet or one-quarter mile. Thooft- does the feedlot owner have an issue? Biren talked with both the feedlot owner and cattle operator/renter and neither had a problem with the proposed construction. Thooft asks M Schreurs if he has any concerns building that close to a feedlot. M Shreurs- no problems, was out to site on a windy day and smell no odor from lot. Chalmers- what if a hog facility went in on feedlot? Biren- a smaller hog lot may be allowable, but feedlot must still meet odor offset setbacks. Ludeman moves into finding of facts. Thooft feels that the landowner or potential future owner should be made aware and understand the negative aspects that are associated with a house located within this near of proximity to an existing feedlot. Zimmer- applicant understands that this is an agricultural district subject to agricultural odor and/or dust and this should be included as the sixth stipulation. Biren and the board discuss the life of the variance and problems that can arise over the life of the variance. M Schreurs- plans on building in 2.5 years, but unforeseen things may come up financially. Chalmers- we should change the language so the planning/zoning administrator may grant extensions. Biren agrees that this would work. Zimmer is satisfied with the language. Chalmers makes a motion to approve the variance with the addition that the Zoning Administrator shall grant administrative extension in 12 month increments, Ludeman seconds motion. Steen abstains. All vote in favor, motion carries.

PLANNING COMMISSION:
CONDITIONAL USE PERMIT/PUBLIC HEARING – MINNESOTA SESSION
LAW 2000 – MINN. STAT. §116.07, SUBD. 7(I), FEEDLOT:

1. Public Hearing, Mark Meulebroeck request for a conditional use permit to construct an 100 x 110 foot addition to the east onto an existing monoslope cattleshed. The affected property is described as the East One-Half of the Northeast Quarter, Section 25, Lyons Township and is zoned agricultural. Mark Meulebroeck is present. Ludeman opens the discussion to public comment. Biren indicates he received no comment from the township. Biren- manure is to be applied agronomically with applicable setback and rates. M Meulebroeck- existing 100 x 80 foot shed required nutrient management plan, the existing facility will be covered under the plan, completed by Centrol Crop Consulting. Thooft- is the 94 percent odor offset complied with? Biren- yes, it takes a lot of cattle to reach this level of odor annoyance. Ludeman moves to finding of facts. Thooft- removing older buildings and feed from unfit location, the conditional use should make Mark aware to stay out of the ditch with equipment. Same language as previous variance request stipulation number six (removal of old building, silage pile, and debris). Biren- should reference previous variance discussion. Zimmer- incorporate discussion, specifically in finding of facts. Ludeman makes motion to recommend conditional use permit with said conditions, seconded by Chalmers. All vote in favor, motion carries.

RENEWAL - CONDITIONAL USE PERMITS – FEBRUARY: None

RENEWAL - CONDITIONAL USE PERMITS – MARCH: None

Discussion: None

Chalmers makes motion to adjourn, seconded by Sturrock. All vote in favor.

Meeting adjourned at 9:35 p.m.

Respectfully submitted,

Sandy Ludeman, Chairman

Planning and Zoning/Board of Adjustments

Luke Olson, Planning Assistant

Planning and Zoning