

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

TUESDAY, JULY 10, 2012, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Thooft, Steen, Chalmers, Ludeman, Nassif, Ritter, Anderson, Zimmer and Biren

PLEDGE OF ALLEGIANCE TO THE FLAG

IDENTIFY ANY CONFLICT OF INTEREST - None

AMEND/APPROVE AGENDA - Motion by Ludeman, seconded by Thooft to approve Agenda as presented. All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE MAY 8, 2012 MEETING – Motion by Thooft, seconded by Chalmers to approve the May 8, 2012 minutes as presented. All voted in favor. Motion carried.

BOARD OF ADJUSTMENT:

Public Hearing for Glen Deutz - road right-of-way variance to construct a hay shed fifty (50) feet from the road right-of-way line of CSAH 20. This is a fifty (50) foot variance request. A building will be removed north of the location that the hay shed will be constructed. Hay shed will be no closer to the road than a structure that is west of the proposed hay shed. The area representing the request is zoned agricultural. The affected property is described as that part of the Southwest Quarter (SW1/4) of Section four (4), Sodus Township. Biren showed photo of building site, along County Road 20, older photo. New house on site, pasture and flood control structures (2) in area, not a lot of options to place building on property. Slopes to east, only place viable for shed. Barn to north. Nassif – no closer to road than tin building? Deutz – correct. Oakland – township signed comment form, no comment. Oakland – County Engineer signed comment form, no comment. Biren – no snow issue or government services affected. Nassif – public comment? None. Board reviewed Findings of Fact. Attached is a copy.

 Thooft moved, seconded by Ludeman to grant a variance to Glen Deutz to construct a hay shed fifty (50) feet from the road right-of-way line of CSAH 20. This is a fifty (50) foot variance request. The area representing the request is zoned agricultural. The affected property is part of the Southwest Quarter (SW1/4), Section 4, Sodus 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. Applicant must obtain a land use 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. Applicant to pay this recording fee prior to a land use permit being issued.

VOTING FOR: Thooft, Ludeman, Steen, Chalmers, Nassif

OPPOSED: None

ABSTAINED: None

ABSENT: None

Motion carried.

PLANNING COMMISSION:

Public Hearing for Jon Janssen - Conditional Use Permit to operate a salvage yard. The property is zoned agricultural. Tract of land will be purchased from Dave Lustfield who currently operates this salvage yard. The affected property is described as that portion of the Northwest Quarter (NW1/4) of Section Twenty-five (25), Rock Lake Township. (In 1973, Orlin Lustfield received a CUP for the salvage yard, not recorded. Business has expanded several times in the past years and is now being sold). Biren – self-explanatory. Orlin Lustfield applied for a CUP, never recorded, and expanded a couple of times. 26.76 acres being purchased. Will be living in home, new septic system will be put in. Shop/Office dismantling, taking out fluid, follow MPCA regulations. No complaint in file since business started in 1973. Trees north side and hill south side. Janssen worked for Lustfield from 1995-2002. Nassif – well run. Biren – expanded, not recorded, protection in future, abide by conditions valid permit Nassif - comments or questions? Janssen – none. Ludeman – restrictions on number of units allowed? Biren – staff discussion, expands site come back for new CUP, within footprint of land okay. Board reviewed Findings of Fact. 1. operating for 40 years. 2. MPCA permits, on a paved county road. 3. operating for 40 years. 4. runs it like Lustfield, no problem. Nassif – public comment? None. Oakland – Rock Lake Township agreed with request, signed comment form, no written comments.

Chalmers moved, seconded by Steen to recommend to the County Board of Commissioners to grant a Conditional Use Permit to Jon Janssen to operate a business (salvage yard). The property is zoned agricultural. Tract of land will be purchased from Dave Lustfield who currently operates this salvage yard. The affected property is described as that portion of the Northwest Quarter (NW1/4) of Section Twenty-five (25), Rock Lake Township. With the following stipulations:

1. Conditional Use Permit will be reviewed annually.
2. Site to be used as a salvage yard.
3. Site must be kept clean (weeds controlled).
4. Storage of vehicles is currently screened by trees. If altered, must maintain a visual buffer.
5. On-site premises business sign permitted according to zoning ordinance.
6. Expansion of business onto adjacent land would require a new Conditional Use Permit.
7. Must meet applicable rules and regulations from state and federal agencies.
8. If business is inactive for one year, Conditional Use Permit will be revoked.
9. Adopt Findings of Fact as part of this motion.

10. 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.

VOTING FOR: Steen, Chalmers, Thooft, Ludeman, Nassif

OPPOSED: None

ABSTAINED: None

ABSENT: None

Motion carried.

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

RENEWAL - CONDITIONAL USE PERMITS – APRIL:

Thad Lessman (Rolland and Mary Roseland), Mobile Home NW1/4NE1/4, Section 27, Sodus Township. Lessman constructed a new home on this site in 2010. Mobile home was to be removed in 2011. Tracy Fire Department was to do a burn exercise on the mobile home in May. If not gone by June 1st enforcement was to be taken. Status. Biren – challenge. Last winter Tracy Fire Department practice burn. Have visited with him several times. Told him from June 1st everyday after misdemeanor, thought that would get his attention. Was told a man from Redwood County would be dismantling mobile home. Invited Mr. Lessman to come to meeting tonight. New home constructed two years ago, old rotten trailer house, no windows in it, skirting has been removed, 15' from house. Steen – reason why not done? Biren – relaxed personality. Thooft – date man from Redwood be done with dismantling? Ludeman – Sheriff serve notice? Fine accumulating. Steen – enforce. Zimmer – documenting conversations for file? Biren – couple of letters. Zimmer – written letter, told him ordinance and compliance? In the pass I have sent letters and upped the ante, filed criminal charges. Chalmers – knows in violation of ordinance? Biren – yes, notified in writing. Todd and I out there together. Chalmers – extension to comply? Zimmer – non-compliance, each day not in compliance. Ludeman – one year ago, number of opportunities. Nassif – charges? Zimmer – do at board's direction, review of documentation first. Chalmers – adequate measures, opportunity to comply, tried to resolve. Steen – done, letter from your office, aggressive. Zimmer – letters, further conversations with John, be in compliance, criminal charges. Don't have police officer investigation, here written documentation. Nassif – want compliance with ordinance. Thooft – date given to dismantle mobile home? Chalmers – file charges, court date, done then no problem. Put teeth into it. Motion by Ludeman, seconded by Nassif to have Lyon County Attorney's Office send a letter to Mr. Lessman, non-compliance with Planning and Zoning Ordinance with a short time line for removal of trailer. All voted in favor. Motion carried.

RENEWAL – CONDITIONAL USE PERMITS – JUNE:

Darold Edwards, Mobile Home, NE1/4, Section 14, Monroe Township. Issued: June 1991 (3 years). Not recorded, renewed every 3 years. Renew. Motion by Nassif, seconded by Ludeman to renew for 3 years. All voted in favor. Motion carried.

William Carlson, Mobile Home, NE1/4, Section 1, Monroe Township. Issued: June 1994 (3 years). Not recorded, renewed every 3 years. Renew. Motion by Thooft, seconded by Nassif to renew for 3 years. All voted in favor. Motion carried.

Leo Lindquist, Equipment Vehicle Repair, NE1/4, Section 20, Rock Lake Township. Issued: June 1997 (3 years). Not recorded, renewed every 3 years. Renew. Biren – shade tree mechanic. Motion by Chalmers, seconded by Thooft to renew for 3 years. All voted in favor. Motion carried.

Laleman Construction, Construction Business, NW1/4, Section 2, Eidsvold Township. Issued: June 2002 (5 years, renewable). Recorded, renewed every 5 years. Renew. Motion by Ludeman, seconded by Nassif to renew for 5 years. All voted in favor. Motion carried.

Lyon County Demolition Landfill, SW1/4SE1/4, Section 18, Lyons Township. Issued: June 1995. Recorded 2005, Inspect Yearly. No action needed. Biren – state demo permit also.

Hilda Grieme, Mobile Home, SW1/4SE1/4, Section 29, Amiret Township. Issued: June 2008. Review Annually. No action needed.

Redwood River Sportsmen's Club, Firearm Shooting Range and Clubhouse, SE1/4, Section 32, Clifton Township. Issued: June 1995 (5 years). Recorded 2005, Inspect Annually. No action needed

RENEWAL – CONDITIONAL USE PERMITS – JULY:

Midwest Wireless 180' Lattice Tower-Cellular Phone (William and Rebecca Deutz), S1/2SE1/4, Section 16, Lake Marshall Township. Issued July 2002 (5 years). Recorded, renewed every 5 years. Renew. Biren – Deutz's property, still there. No way to track when sold as on leased property, not paying taxes directly. Motion by Nassif, seconded by Thooft to renew for 5 years. All voted in favor. Motion carried.

Patti Gertner, Mobile Home, W1/2, Section 26, Lake Marshall Township. Issued: July 2007. Recorded, Inspect Annually. No action needed.

Archer Daniels Midland Company, NE1/4NE1/4, Section 33, Fairview Township. Ground Piling Site for Agricultural Products (mainly corn and soybeans). NE1/4NE1/4, Section 4, Section 33, Fairview Township. Issued July 2007. Recorded, Review Annually. No action needed.

DISCUSSION: Ron Mann - adjacent property with a non-conforming structure. Lots 3&4, Lochland Hills, Lake Marshall Township. Biren – received a letter from Manns, why on agenda. Ron and Marge Mann are in the audience. On Lake Marshall, Natural Environmental Lake. 1992 office issued a building permit for structure in question, utility shed 20'x28', may have been built prior to permit being issued. Water Accessory structure. Joseph Anderson land owner at that time. Property was recently sold. We adopted state template of shoreland ordinance in 1992, could not be less restrictive. Went back to 1981 Ordinance, page 78, subd 4. Private dog kennel. Shop/catch all storage building. Water oriented structure much larger than allowed today. Nassif – violation of zoning ordinance, under which granted? Biren – yes. Chalmers – notes on permit. Oakland – put on permit when it was applied for. Nassif – used as a boat house? Mann – no.

Chalmers – concern? Mann - submitted letter to Board, attached is a copy of the letter. We moved to this site in 1978, 34 years, vacant property then. Pat McFarland very slowly sold sites. Joe Anderson moved in fall of 1991. Building is 50' from our house, 150' from their house. Not a good neighbor. Hunting dogs in kennel, out 30 minutes a day to run, feed them, bark, put up with for 20 years. Live on lake, never violate setback. 50% view destroyed, see dog house. Should not have been put there. Should not remain. Took him at his word, then found out permit written later. Kennel with fence. Not in compliance, never was. Last year we pleaded to have something done. REMAX seller, had listed as 21'x23' shop/kennel. Disclosed building wrong, not in compliance. Tried to be good neighbors. Biren – fence come down, water oriented structure, could stay there. Nassif – new owner intent to do with it? Biren – don't know who has purchased it. Found 1982 permit. Thooft – kennel need permit? Biren – if over 65 square feet. Nassif – disclosure. Zimmer – educate with ordinance. Marge Mann – Dog, have a son with development disabilities; awaken many nights with dog barking. Thooft – new owners, use of structure? Zimmer – John talk with them. Biren – get it resolved. Thooft – use, follow ordinance. Ron Mann – listed as kennel in ad, may be reason why bought it. Not allowed, move building at seller's expense, out of compliance, seller make it right. I notified realtor and seller prior to sale. Nassif – knew. Biren should have met with them prior to closing. Mann – variance needed to build on site? Biren – building space, setback from lake, road, and impervious surface of structure taken into consideration. No covenant for Lochland Hills, no homeowners association. No variance if meet setbacks. Reality, kennel could end up closer to your house, 15' off property line, 150' from lake. Mann – I needed a variance from lake and road in 1994 for a detached building. Better if closer to their home than our home. Chalmers – used for what permitted, stay? Nassif – not for dogs. Ron Mann – adhere to water accessory structure. Zimmer – kennel 8'x8' no permit or if attached to garage. Nassif – Biren to talk with them. Ron Mann – should follow ordinance. Marge Mann – allow water oriented structure, how it fits now, changed size on permit, why permit issued a year after built? Zimmer – educate new owners. Steen – buyer may have been misled. Chalmers – disclosure action with seller, hardship. Ron Mann – seller disclosure. Zimmer – education instead of enforcement. Biren – there for 20 years. Nassif – out of compliance. Chalmers – use of building, water use only. Zimmer – if moved, could be closer to their house.

Motion by Nassif to adjourn.

Respectfully submitted,

Mike Nassif, Chairman
Planning and Zoning/Board of Adjustments

Carol Oakland, Secretary
Planning and Zoning/Board of Adjustments