

STORY COUNTY PLANNING AND ZONING

STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087



"Commitment, Vision, Balance"

515-382-7245
515-382-7294 (FAX)

MINUTES STORY COUNTY BOARD OF ADJUSTMENT

DATE: August 3, 2011	David Miller, Chair	2011
	Steven Larsen, Vice Chair (*)	2011
CALL TO ORDER: 6:00 p.m.	Victoria Feilmeyer (*)	2014
PLACE: Public Meeting Room	Stephen McGill	2013
Administration Building	Lynn Scarlett	2013
ADJOURNMENT: 7:01 p.m.	(*) Absent	

OTHER PEOPLE PRESENT: Leanne Harter, Director; Sheena Danzer, Code Enforcement Officer; Kristin Cook, Office Support Coordinator; Steve Vince; Angelina Thomas; Howard Hammond; Weston Wunder; Jennifer Davies

APPROVAL OF AGENDA

APPROVAL OF MINUTES

June 1, 2011 - Approved

PUBLIC COMMENTS: Opened 6:01 p.m. – Closed 6:01 p.m.

None.

OLD BUSINESS:

1) **VAR04-10: Vince Variance – REQUEST TO RECONSIDER**

Nature of Request: The request is for a variance to the front setback requirement of an accessory structure per Section 4.50.E: Table 4-5 of the *Story County Land Development Regulations* for property located in the R-1, Residential Zoning District, in Section 19 of Franklin Township, on the west side of Oak Lane in the Hickory Hills Subdivision, approximately 1 1/2 miles northwest of the City of Ames.

Parcel Number: 05-19-250-190

Staff Project Manager: Sheena Danzer

MOTION: Move to removed VAR04-10: Vince Variance from the table for discussion.

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: Miller, McGill, Scarlett

Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

MOTION: Move to reconsider VAR04-10: Vince Variance.

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Mr. Steve McGill mentioned he visited the site and given the topography was open to further discussion of the request.

Ms. Lynn Scarlett voiced that she did not have additional comment beyond those of Mr. McGill.

Mr. Dave Miller reminded the Board members that given that only three members were present at the meeting on August 3, 2011, all three members must concur on all votes for an item to be approved.

Motion: Move to grant motion to reconsider VAR04-10 Vince Variance

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: Miller, McGill, Scarlett
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

STAFF PRESENTATION:

Ms. Sheena Danzer noted that additional information had been brought by the applicant for distribution at the meeting. She forwarded it to the Chair of the Board of Adjustment who summarized the items for the record.

Mr. Miller commented the only remaining item not yet met was Unnecessary Hardship Principle 1.A, and stated that was the only matter that needed to be discussed.

APPLICANT COMMENTS:

Angelina Thomas, Newborough Law Firm, representing the homeowners.

Ms. Thomas expressed gratitude to the Board for their reconsideration of the matter. Ms. Thomas summarized the materials previously submitted to the Board of Adjustment, which is a part of the official record of the Board of Adjustment and is attached to these minutes.

Ms. Thomas described the nature of the neighborhood and area and expressed that the applicants have support from members of the subdivision for the request. Ms. Thomas commented on the existing setback on the property and lack of conformance to the regulations.

Ms. Thomas requested that the Board apply a less stringent application of 1.A finding that it not be applicable in this particular case. Ms. Thomas referenced the Eichner variance request approved by the members of the Board in June.

Mr. Steve McGill asked the applicants to demonstrate where the structure would be located on the property. The applicant and legal counsel approached the Board and showed such.

Mr. Miller asked staff to comment on the nature of the use and area variances in the state of Iowa and

Story County. Ms. Leanne Harter stated that Story County and jurisdictions in Iowa do not act on use variances.

PUBLIC COMMENTS:

None.

BOARD COMMENTS:

Mr. Miller commented that he was disappointed that the applicant did not provide information in the request to show that alternative designs and/or concepts were considered. Ms. Thomas responded that other options for the site would still likely require a variance to be granted by the Board of Adjustment.

Mr. Miller stated he reviewed the minutes from the October 2010 meeting and noted the members not present at the meeting on August 3, 2011, were those expressing concern at the October meeting.

Mr. Miller asked Mr. Vince to comment as to whether there were any further site layout options for the property and structure. Mr. Vince reviewed options that had been considered for the layout of the structure. He noted the limitations on the site.

Ms. Scarlett questioned whether the Eichner property was to the north of the Vince property. Mr. Vince affirmed.

Mr. Miller reviewed the limitations on the site and the factors which would contribute to the decision of the Board of Adjustment. Mr. Miller commented the Board strives to find a common-ground with the applicant and takes each request on a case-by-case basis.

Mr. McGill noted he had visited the property and viewed the topography of the site. He commented that this would not cause problems in the subdivision and would be in favor of granting the variance because of the nature of the property.

Ms. Scarlett commented that she would agree with Mr. McGill's comments.

MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Board of Adjustment, amending Findings of Fact #6 and Finding of Fact #7 to read that the applicant is requesting a 34' variance with the structure located 6'.

VOTE: *Scarlett/McGill (3-0)*
Feilmeyer, Larsen ABSENT

Motion: Scarlett
Second: McGill
Voting Aye: McGill, Scarlett, Miller
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

MOTION: Move to adopt the Decision regarding the Legal Principles as outlined in the Staff Report, prepared for and presented to the Story County Board of Adjustment finding that item 1.A would not be applicable.

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: Scarlett, Miller, McGill
Voting Nay: None

Not Voting: None
Absent: Feilmeyer, Larsen

MOTION: Move to approve the request as proposed by the applicant in Case No. VAR04-10, as discussed by the Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all applicable Legal Principles have been satisfied.

VOTE: McGill/Scarlett (3-0)
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: Scarlett, Miller, McGill
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

NEW BUSINESS:

CUP02-11: Wunder Conditional Use Permit

Nature of Request: The request is for a Conditional Use Permit to establish a landscape/nursery.

Parcel Number: 13-19-200-430

Staff Project Manager: Sheena Danzer

STAFF PRESENTATION:

Ms. Sheena Danzer presented the vicinity map, proposed development as submitted, discussed the existing violation on the property and deadlines and necessary steps for conformance, and covered the dates of legal notification and publication requirements. Ms. Danzer also noted the existence of two single-family dwellings on the site, exceeding the requirements of the ordinance.

Ms. Danzer outlined the Conceptual and Interagency Reviews completed by the Interagency Review Team.

Ms. Danzer presented site shots of the property and reviewed the applicable standards for approval for the Commission to consider in reviewing the proposed conditional use permit.

Ms. Danzer outlined potential conditions of approval as suggested by staff:

- 1) Any future new structure used wholly or in part for the established nursery shall acquire a Conditional Use Permit modification prior to the issuance of a Zoning Permit. Such modification shall not be approved unless it is determined that the issuance of a Zoning Permit will be in accord with the intent, purpose and spirit of the *Story County Land Development Regulations*.
- 2) Any signage on the property must apply for a Sign Permit before being erected.
- 3) An Agricultural Exemption application be applied for by the property owner in order for the second dwelling to remain on the property. Or steps shall be taken by the existing property owner to bring the property into conformance in regards to the two single family dwellings within twelve (12) months of the issuance of the Conditional Use Permit.

Ms. Danzer concluded by presenting alternatives for the Board to consider.

Mr. Miller questioned what the condition meant with the "steps shall be taken by the existing property owner to bring the property into conformance in regards to the two single family dwellings within twelve (12) months of the issuance of the Conditional Use Permit". Ms. Danzer responded that this would allow the property owner a period in time to take whatever steps they identify in order to address the violation of

the two single-family homes on the property.

Mr. McGill stated that when the property was purchased in 2005, the two houses were considered to be nonconforming. Ms. Danzer affirmed.

Ms. Scarlett asked whether a nursery would be an agricultural use. Ms. Danzer responded that it is not.

Mr. McGill noted the violation was the two houses, rather than the nursery. Ms. Danzer clarified that there exists two violations on the property - one being the existence of the nursery without a conditional use permit as well as the two single-family dwellings on the site.

APPLICANT COMMENTS:

Howard Hammond, representing the applicant.

Mr. Hammond introduced Mr. Wunder and Ms. Jennifer Davies, economic development coordinator for the City of Slater. Mr. Hammond asked the Board to review the conditional use permit and the applicant would move forward to address the issue related to the two single-family dwelling.

Mr. Miller commented that the Board was of a similar opinion.

Mr. Miller asked the applicant whether they were in agreement with the limitations and conditions of the proposal and whether it represented the nature of the business. Mr. Wunders affirmed.

Ms. Scarlett asked whether the community would have to be involved as the property was within two miles. Ms. Harter commented that the two-mile jurisdiction addressed the subdivision of land.

PUBLIC COMMENTS:

None.

BOARD COMMENTS:

MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Board of Adjustment.

VOTE: *Scarlett/McGill (3-0)*
Feilmeyer, Larsen ABSENT

Motion: Scarlett
Second: McGill
Voting Aye: Miller, McGill, Scarlett
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

MOTION: Move to adopt the Decision regarding the Standards for Approval as outlined in the Staff Report, prepared for and presented to the Story County Board of Adjustment.

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: McGill, Scarlett, Miller
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

MOTION: Move to adopt the Order approving the request as proposed by the applicant in Case No. CUP02-11, as discussed by the Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all Standards for Approval have been satisfied subject to the requirements placed by the Planning and Zoning Commission.

VOTE: *McGill/Scarlett (3-0)*
Feilmeyer, Larsen ABSENT

Motion: McGill
Second: Scarlett
Voting Aye: Scarlett, Miller, McGill
Voting Nay: None
Not Voting: None
Absent: Feilmeyer, Larsen

OTHER BUSINESS:
None.

BOARD COMMENTS:
None.

STAFF COMMENTS:
None.

ADJOURNMENT: 7:01 p.m.

Approval of Minutes

Title and Date