

STORY COUNTY PLANNING AND ZONING

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



"Commitment, Vision, Balance"

515-382-7245
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MINUTES STORY COUNTY BOARD OF ADJUSTMENT

DATE: June 1, 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: 7:27 p.m.	(*) Absent	

OTHER PEOPLE PRESENT: Leanne Harter, Director; Sheena Danzer, Code Enforcement Officer; Kristin Cook, Office Support Coordinator, Susan Eichner, Dennis Eichner, Joe McGuire, John Goossen, Rich Kotite, Erin Hibma, Russ Mintle, Lowell Kingsbury, Shawn Hemsted

APPROVAL OF AGENDA

APPROVAL OF MINUTES

November 3, 2010 - Approved
March 2, 2011 - Approved

PUBLIC COMMENTS: Opened 6:02 p.m. – Closed 6:02 p.m.
None.

OLD BUSINESS:

1) **VAR05-10: Eichner Variance - TABLED**

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

Ms. Harter reminded the Board of the necessity to remove the agenda item from the table in order for discussion to occur.

MOTION: Move to remove Case Number VAR05-10: Eichner Variance from the table for discussion.

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

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

STAFF PRESENTATION:

Ms. Harter stated the staff report previously prepared for the agenda item was submitted with the packet for the meeting and offered to answer any questions from the Board of Adjustment.

APPLICANT COMMENTS:

Dennis Eichner, 5511 Oak Lane, Ames, Iowa

Mr. Eichner referenced the letter presented prior to the meeting to the members of the Board of Adjustment.

Mr. Miller commented that Mr. Eichner had previously applied for zoning permits for other structures and questioned why the application process was not followed for this particular structure.

Mr. Eichner replied that the original contractor which constructed the other improvements on the site was contracted for the accessory building, and he noted he had assumed the contractor had applied for all necessary permits. He stated that the County Assessor was present at the property the day construction was finalized. Mr. Eichner further noted that after receiving notice of the matter, he contacted the contractor, Mr. Tom Donner with Teak Construction, who indicated to Mr. Eichner he was unaware the building would require a zoning permit. Mr. Eichner noted it is a taxed building, assessed at \$3,300.

PUBLIC COMMENTS:

John Goossen 5527 Oak Lane, Ames, Iowa

Mr. Goossen commented his residence was closest to the existing building, and noted it was a beautiful structure that fits into the wooden character of the neighborhood.

Mr. Miller referenced the letter written by Mr. Eichner presented to the Story County Board of Adjustment via email on May 31, 2011, and entered it into the record.

Mr. Eichner commented the structure was approved by the architectural review committee of the homeowner's association.

BOARD COMMENTS:

Mr. Miller asked staff to review the fine amount previously paid by Mr. Eichner. Ms. Danzer replied the applicable fine was double the permit fee plus \$100. Mr. Eichner stated that he paid \$125.

Mr. Miller questioned what other cases have been acted upon by the Board of Adjustment that would set a precedence for the Board to consider. Ms. Harter noted that approximately an equal amount of cases wherein the structure was constructed without a permit while not meeting the bulk requirements were approved or denied by the Board.

McGill questioned the age of these other cases noted by Ms. Harter. Ms. Harter noted those structures had been in place to the best of her knowledge less than five years.

Mr. Miller questioned what other options for the Board to consider may be in order to not set a precedence where others would just go ahead and do the development and then pay a fine as a result. Ms. Harter replied that a fine could be applied and language added to the applicable decision and order outlining the conclusions and actions of the Board of Adjustment for a particular case.

Mr. McGill noted that he drove by the property and commented his opinion was such that limitations were present on the site dictating the placement of the structure as it currently exists.

Mr. McGill questioned whether there is a statute of limitations on the proposed structure and Board action. Ms. Harter stated the *Story County Land Development Regulations* was silent on the matter and the Code of Iowa would state simply outlines the duties and responsibilities of the Board of Adjustment.

Mr. Miller commented the proposal places the Board in a quandary and that he didn't believe the Eichner's irresponsibly developed in doing such and suggested an additional fine should be considered by the Board of Adjustment.

Mr. McGill reiterated his impression of the site and stated agreement with Mr. Miller's comments regarding the fine.

MOTION: Move to adopt the Findings of Fact 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: Scarlett, Miller, McGill
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 with the exception spelled out in the final decision outlined in the Order.

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. VAR05-10, 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 with the stipulation that the applicant pay a fine of \$500 due to the fact that construction was undertaken without approval.

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

OLD BUSINESS:

2) **VAR04-10: Vince Variance - REQUEST TO RECONSIDER-TABLED**

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: 05-19-250-180

Staff Project Manager: Sheena Danzer

MOTION: Move to table the request.

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:

1) **CUP01-11: Lee Conditional Use Permit**

Nature of Request: The request is for a conditional use permit for construction of a communications tower/facility in the A-1 Agricultural district, on property located in Section 22 of Palestine Township.

Parcel Number: 13-22-200-305

Staff Project Manager: Sheena Danzer

STAFF PRESENTATION:

Ms. Danzer presented the vicinity map, application as submitted, and covered the dates of legal notification and publication requirements.

Ms. Danzer outlined the review completed by the Interagency Review Team.

Ms. Danzer presented the alternatives for the Board to consider.

Mr. Miller confirmed that all required setbacks and regulations are satisfied. Ms. Danzer affirmed.

APPLICANT COMMENTS:

Mr. Rich Kotite 25870 Highway 2, Keosauqua, Iowa

Mr. Kotite reiterated the recommendation of the Planning and Zoning Commission regarding the application and requested that the Board do the same.

Mr. Miller commented it was the desire that Story County not experience a proliferation of communications towers in the county and questioned whether the proposed design would allow for co-location which would help achieve the goal. Mr. Kotite explained that the proposed design is such that co-location was allowable.

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: *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 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: Scarlett, Miller, McGill
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. CUP01-11, 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

NEW BUSINESS:

2) **Minor Modification to CUP01-04**

Nature of Request: The request is for a minor amendment to approved Conditional Use Permit CUP01-04 (Gravel and Sand Extraction Operation) to permit an extended timeframe for operation of the proposed use and to also revise berming and landscaping requirements.

Parcel Number: 09-13-200-445 and 09-13-400-205

Staff Project Manager: Sheena Danzer

STAFF PRESENTATION:

Ms. Danzer presented the vicinity map, application as submitted, and covered the dates of legal notification and publication requirements.

Ms. Danzer presented site shots and outlined the applicable chronology for the conditional use permit and the change in ownership.

Ms. Danzer reviewed the original decision and order regarding the proposed conditions of approval of the conditional use permit, specifically addressing the landscaping and buffering requirements.

Ms. Danzer noted that the approved Pre-Construction Phase Permits (for floodplain development) are set to expire in July 2011, and if activity would not continue on the property, new applications would be required.

Ms. Danzer presented the alternatives for the Board to consider.

Mr. Miller questioned whether the grasses would just be until work would begin, and the additional trees would be planted after the operation on the site would be undertaken. Ms. Danzer affirmed that was their intention.

Mr. McGill asked whether the original landscaping plans specified the actual types of the trees. Ms. Danzer affirmed.

APPLICANT COMMENTS:

Mr. Joe McGuire, Old Castle Materials

Mr. McGuire commented on the nature of the sand and gravel industry and necessity to have adequate reserves to continue viability of operations. He noted that it is their intention to be able to tie the operation into the existing operation on the east side of the road.

Mr. McGill clarified that the extension request to 2036 related to this desire to tie the two together. Mr. McGuire affirmed.

Mr. McGuire commented on the approved landscaping requirements and the placement of trees on the top of the berm rather behind as requested by the proposal.

Mr. Miller asked whether the both operations and conditional use permits were reviewed under similar standards. Ms. Harter affirmed.

Mr. Miller questioned whether there would be benefits into combining the two conditional use permits into one permit. Ms. Harter stated the road was a physical barrier which staff felt would serve to essentially have these two acts as two separate applications, and supported keeping the two permits as originally approved.

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

Motion: Scarlett
Second: McGill
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. CUP01-04, 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.

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

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

OTHER BUSINESS:

None.

BOARD COMMENTS:

None.

STAFF COMMENTS:

Ms. Harter introduced Ms. Kristin Cook as the new Office Support Coordinator for the Planning and Zoning Department.

ADJOURNMENT: 7:27 p.m.

Approval of Minutes

Title and Date