

WASHINGTON COUNTY BOARD OF ADJUSTMENTS MINUTES

June 11, 2015

6:00 p.m.

Supervisors Room, County Courthouse, 1555 Colfax Street, Blair, Nebraska

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“All Commission members receive staff reports approximately one week prior to the meeting”

MEMBERS PRESENT

STAFF PRESENT

Steve Neuverth, Chairman
Dan Koziol
Joe McBride
Chris Bilau
Cynthia Timmermier

Tanna Wirtz
Terri Stanford
Teresa McBride

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COMMISSION ACTION:

Chairman Neuverth called the meeting to order at 6:00 p.m.

With regard to the July 23, 2014 minutes, the following action was taken:

MOTION: Timmermier
I move the minutes be approved as presented
SECOND: Koziol
VOTE: Aye – Neuverth, Koziol, McBride, Bilau and Timmermier
Nay – none MOTION CARRIED

With regard to the agenda, the following action was taken:
Wirtz stated that it was time for the Election of officers. She requested that be added to the agenda.

MOTION: McBride
I move the agenda be approved with the addition of the Election of officers.
SECOND: Neuverth
VOTE: Aye – Koziol, McBride, Bilau, Neuverth and Timmermier
Nay – none MOTION CARRIED

Election of Officers

MOTION: Koziol
I move to nominate Steve Neuverth as Chairman of the Board of Adjustments.
SECOND: Timmermier
VOTE: Aye – Koziol, McBride, Bilau and Timmermier
Nay – none MOTION CARRIED

MOTION: Neuverth
I move to nominate Dan Koziol as Vice Chairman of the Board of Adjustments.
SECOND: McBride
VOTE: Aye – McBride, Bilau, Neuverth, and Timmermier
Nay – none MOTION CARRIED

Chairman Neuverth welcomed everyone and stated this meeting will be conducted in accordance with the Nebraska Open Meetings Act and a copy of that Act is posted in the room; and noted that copies of material the Board has is also available on the table in the hall.

PUBLIC HEARING

1. Variance Application for Board of Educational Lands and Funds & C.E.M Shaner Farms, LLC

To allow for the ability to stockpile Corn Milling Bio-Solids within 1500 ft. of an area frequented by the public. Tax Lot 12 in Section 16-Township 17 North-Range 13 East of the Sixth P.M. (general location: County Road 34 & County Road 51, Blair, NE.)

Applicant, Jeff Shaner advises the Board that he is requesting a variance to allow for the ability to stockpile Corn Milling Bio-Solids within 1500 ft. of a bike trail that runs on the west and north side of his property and is frequented by the public. Having the stockpile within this area would be more convenient for him, saving him time and costs in distributing the bio-solids. Neuverth inquires as to how close to the sign that is posted in the area is Shaner looking to stockpile. Shaner explains that it would be approximately 100' to 200' east of that and roughly 200' south. There would be stockpiles throughout the field also.

Timmermier asks Shaner approximately how many tons or cubic feet was he talking about. Shaner explains there would be approximately 36 yards per acre and there is 417 acres, which would be approx 800 truckloads of approximately 20 tons in each truck.

Wirtz explained the product and gave information the regulations on the stockpiling.

Shaner states that he rarely sees bike traffic on the trail, although he has seen some. He says the product has low odor. Neuverth states it depends on the moisture. Wirtz explains that there is an odor once the stockpile is broken open and start spreading it. Shaner and Board agree that it is a product that is beneficial to not only farming, but the community and Cargill.

Neuverth inquires as to Shaner's stockpile time frame? Shaner states that they are stockpiling now within the required setbacks. Neuverth asks "if it is at that location or another location that they are stockpiling now". Shaner informs that it is at that location. Shaner states that he would like to have the freedom to move the stockpiles, so that it is more convenient and cost effective to spread it and haul it in at the same time.

Koziol inquires of Shaner what the lines on the map indicated? Shaner states that the lines are where he would like to stockpile.

Shaner comments on the word "frequented" and the interpretation of the word. Koziol asks "if Boyer Chute is included in that area as being frequented"? Shaner states that between the trail and Boyer Chute, he is boxed in as indicated on the map.

Chairman Neuverth opened the public hearing.

Chairman Neuverth closed the public hearing.

McBride stated that he understood that it would be more convenient and cost effective, but the regulations about the public right of way were very clear.

Neuverth stated that the stockpiles could just be made larger and still stay within the boundaries required.

Koziol states that a big concern is that we do not want to negate the fact that we do have a bike trail and Boyer Chute, to compromise on an area close to these in proximity to these open air uses is going to have to take some kind of concession, which is going to be to stockpile it in a large quantity within the setbacks. To infringe on that any more than what is going on, would be extreme disappointment to the people that have put this together as a public use, to ignore that is not a good idea.

Timmermier advises that the term "frequented" by the public could be considered something that was used often. She asked how many people use the trail or whether there is any data how often the trail is frequented. Koziol stated that even if one person is using the trails it qualifies under the public use of the property and none of the Statutes are based how much it is used, the area is designated for public use and if it is public use then it has to be within 1500'. It would be a concern to make a decision saying it is okay to allow and in two or more years bike traffic increases on the trail and it makes it worse when we have put something in place that ignored the fact that it was a public use property.

Shaner asks to speak reminding the Board that the variance is for a one-time use only, if there are complaints, the Board would not have to renew it the next year. He fully understands the benefit to the community as a whole to have Boyer Chute and the bike trail. Shaner believes the bike trail is a good idea, but was not very well executed.

Wirtz read the bio-solid regulations and the state statute variance requirements. It is the County's job to uphold the regulations as written unless there is an undue hardship. The Board discusses the regulations and usage of the trail. Neuverth states that the Board is also very cautious of the precedence that is set that change the regulations that are in place.

Chairman Neuverth asked for any comments or a motion from the Commission.

MOTION: Timmermier
I make a motion to approve the request for stockpiling Corn Milling Bio-Solids within 1500' of an area frequented by the public as requested by Mr. Shaner.

SECOND: McBride

VOTE: Aye - Timmermier
Nay – Bilau, Koziol, McBride, Neuverth

MOTION FAILED

2. Variance Application for Michael and Patricia Goodman

To allow for construction of a 24' x 24' accessory building within the required front setbacks in Lazy S Ranch, Lot 7 in Section 36-Township 17 North-Range 12 East of the Sixth P.M. (location: 6640 Dutch Hall Rd., Omaha, NE)

Michael Goodman addresses the Board, explaining his request for building the accessory building within the 100' setback required. He advises that the required zoning requires that the building be 100' from the front and there are two front setbacks on his property. Would like to build a 24' x 24' x 13' high accessory building, the building would be about 80' from Abby Road, which is the second front and 150' from the Dutch Hall Road. The majority of the land is covered with mature oak trees and the land is very sloped with terrain that varies from high to low spots. Goodman explains how the building would need to be constructed and the additional costs. He has spoken with neighbors and there are no objections to the location or construction of the building.

Chairman Neuverth opened the public hearing.

Robert Denholm a neighbor to the North of Goodman's. Even though he has no objection to Goodman building the accessory building, though he is very concerned about the precedence it sets for others wanting to build within the setbacks. Ann Denholm inquires if she can apply then apply for a variance if precedence is set. Wirtz advises that anyone can apply for a variance under the County Regulations. There is discussion about the property and the surrounding property.

Chairman Neuverth closed the public hearing.

Kozioil states that as his experience as a contractor for many years, he has built on some really tough properties and it was more expensive to build, because the property required either fill or the building wall height had to be revised, but it was in the realm of construction. It is feasible to build it whether or not it is financially feasible for you, I don't know. The concern here is the precedence that would be set not only in your area, but in Washington County as a whole. The Board looks at all variances individually to make sure that they are following the regulations and that undue hardship exists.

Board continues discussion about setbacks and property.

McBride stated he understood the complications, as he viewed the land and there are difficulties involved. However, there are other places the building could be built with back fill or cutting trees, but there is not an undue hardship there as stated in the regulations and therefore does not meet the requirements to approve.

Kozioil advises that he viewed the property and it would be more difficult to build in the required setbacks, but it was possible to put the building with some fill within the required setbacks or other locations on the property. The setbacks are there for a reason and can't be overridden unless there is a total undue hardship.

Discussion about when property was bought and when house was built is had.

Chairman Neuverth asked for any comments or a motion from the Commission

MOTION: Kozioil
I make a motion to deny the request for building an accessory building within the required front setback as requested by the Goodmans.
SECOND: Bilau
VOTE: Aye – Bilau, Kozioil, McBride, Neuverth, Timmermier
Nay – none

MOTION CARRIED

ADJOURNMENT

MOTION: Kozioil
I move to adjourn
SECOND: Neuverth
VOTE: Aye – Neuverth, Kozioil, McBride, Bilau and Timmermier
Nay – none

MOTION CARRIED

Meeting was adjourned at 7:25 pm

Steve Neuverth