

**Minutes of the Dodge County  
PLANNING COMMISSION MEETING  
August 3, 2011**

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The regular meeting of the Planning Commission was called to order by John Allen at 7:00 PM on Wednesday, August 3, 2011. Present were Planning Commission members Harlan Buck, Jon Balzum, John Allen, Galen Johnson, Walter Wyttenbach, and Gene Hallaway. Also present were County Commissioner Dave Erickson, and Zoning Administrator, Melissa DeVetter.

Motion by Harlan Buck, seconded by Galen Johnson, to approve the agenda and the July 2011 minutes. Motion passed unanimously.

**Julianna Merten IUP #11-04**

The public hearing is to consider an application for an Interim Use Permit to establish a dwelling on less than 53 acres in the Agricultural District. The property is 37.58 acres located in the E 1/2 of the SE 1/4 of Section 23, Milton Township. Julianna Merten is the applicant and the property owner.

Julianna Merten was present to explain her request. The original CUP has expired and she wishes to renew the permit.

John Meilander a neighbor to the south stated that 15 years ago he came in to get a permit and was told that he could not get one. He has 26 acres and has lived there for 40 years. Now the County is changing the rules to allow someone else to build.

Galen Johnson inquired if Mr. Meilander came to the county to apply to build a house on the property.

John Meilander clarified that he had a buyer to buy it and they were told that they could not build there. He then came in to the window in the old courthouse and was also told he could not build a house.

Galen Johnson stated that Ms. Merten request was a Conditional Use Permit previously and Mr. Meilander's issue was some years ago. Mr. Johnson stated that he does not know what the ordinance said at the time and does not know the circumstance on why Mr. Meilander was told that he could not build.

Ron Durst, Milton Township had no objection to this proposal.

Motion by Harlan Buck, seconded by Walter Wyttenbach, to close the public hearing. Motion passed unanimously.

Galen Johnson inquired where the property lines are located.

Julianna Merten pointed out the property lines on the map and where the proposed driveway would be located.

Galen Johnson inquired if there's crop land adjacent to this property.

Julianna Merten stated that she does not know what is in the field south of her property this year.

John Allen inquired if someone farms Ms. Merten land.

Julianna Merten indicated yes.

Galen Johnson addressed the well and setbacks that are required for manure spreading by the 7020 rules for feedlots. The rules state that a farmer can not apply manure within 50' from a well. This may present a farmer from being able to apply manure on his crop ground if the well is place any closer than 50'. Mr. Johnson believes that it should be standard that the county requires that the well be 50' from the property line. Mr. Johnson wants this added to the conditions of this permit.

Walter Wyttenbach stated that if he understood this correctly; Ms. Merten did buy this property as a buildable site.

Julianna Merten stated that was correct. She did not buy it until they had the CUP. In fact; the sale was delayed by 3 months until the permit was approved by the county.

Motion by Walter Wyttenbach, seconded by Gene Hallaway, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. The Ag Covenant shall be signed and recorded prior to issuance of zoning permit.
2. Dodge County Zoning Permit shall be obtained before construction. If the dwelling is proposed in areas where the slopes are 12% or greater based upon Exhibit 7, the zoning permit application is required to be accompanied by an engineer's report showing that adequate footings can be construction, drainage plans address the prevention of erosion during and after the construction, and grading plans have been prepared for the site. The dwelling shall not be construction on slopes identified as areas of slope of 18% or more as identified in Exhibit 7.
3. The septic system must meet the County's septic ordinance.
4. Address shall be obtained from Dodge County Hwy Department.
5. Driveway access permits shall be obtained from Milton Township. Access shall comply with Section 1604 of the Dodge County Zoning Ordinance. If the proposed driveway will disturb one (1) acre or more, a Construction Stormwater Permit from the MPCA will be required prior to construction.

6. If any construction disturbs more than 10,000 square feet, and an Erosion Control Plan is required per Section 1617 of the Dodge County Zoning Ordinance.
7. The well shall be located no less than 50' from the property line.

The motion was passed unanimously.

**Leslie Shawback – IUP#11-05**

The second public hearing is to consider an application for an Interim Use Permit to establish a dwelling on less than 53 acres in the Agricultural District. The property is 5 acres located in the SE ¼ of the NE ¼ of the SE ¼ of Section 7, Westfield Township. Leslie Shawback is the applicant and the property owner.

Leslie Shawback was present to explain his proposal. He plans to move a house on to his property.

Motion by Galen Johnson, seconded by Harlan Buck, to close the public hearing. Motion passed unanimously.

Galen Johnson inquired if there was a fire that destroyed the home.

Leslie Shawback indicated that was correct.

Galen Johnson inquired if that was Mr. Shawback home.

Leslie Shawback indicated yes.

Galen Johnson inquired if there were any comments or concerns from the township or neighbors.

Melissa DeVetter stated there were no comments. In this situation the previous dwelling existed prior to the density standard. When the house burned down in 2009 and the applicant did not rebuild within one year it lost its nonconforming rights to simply replacement. According to the MCIT attorney, it lost the status as a "permitted" dwelling and Mr. Shawback would have to apply for an IUP.

Galen Johnson inquired if this would take the non-farm classification and close the quarter section.

Melissa DeVetter stated yes; it will close the quarter section for one new dwelling on less than 53 acres.

Motion by Harlan Buck, seconded by Galen Johnson, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. The Ag Covenant shall be signed and recorded prior to issuance of zoning permit.

2. Dodge County Zoning Permit shall be obtained before construction. The dwelling shall not exceed three bedrooms and shall not contain a garbage disposal unless the applicant obtains approval from the SSTS Coordinator.
3. The applicant shall obtain all appropriate permits and approvals from the Cedar River Watershed District.
4. The septic system must meet the County's septic ordinance.
5. The well shall be located no less than 50' from the property line.

Motion passed unanimously.

#### **Zoning Amendment – ZA# 11-04**

The third public hearing is to consider an amendment to the Dodge County Zoning Ordinance. The proposed amendment will be to Chapter 4, Definitions and Chapter 18, Administration pertaining to the variance language for "Practical Difficulties".

Melissa DeVetter explained that the State Law has changed and the County was instructed to adopt this new language for "Practical Difficulties" as soon as possible. So "Practical Difficulties" language was added and the Hardship language was removed. This proposed language was copy from what the State Statute said.

Motion by Harlan Buck, seconded by Jon Balzum, to close the public hearing.  
Motion passed unanimously.

Galen Johnson inquired who was this that was telling the County that they had to change their ordinance.

Melissa DeVetter stated that it was a State Law and we enter into an agreement with the State when we adopted zoning. The only authority we have is what the State grants us. The information on new legislation which is passed on to the counties comes from Association of Minnesota Counties and Minnesota Counties Intergovernmental Trust and they advised us and train counties on law changes.

The main other change with this new language is that it made the definition of "practical difficulties" for Township and Counties consistent.

Motion by Galen Johnson, seconded by Walter Wyttenbach, to recommend approval of the amendment as presented.

Motion passed unanimously.

#### **Other Business**

Melissa DeVetter stated that there are two items on other business. The first is a complaint on Marquardt/Stoflet quarry south of Kasson. This is actually the second complaint the county has received. The first didn't want to leave their name. On this complaint the individual wanted it brought to the Planning Commission to see if they would bring the CUP in for review.

Galen Johnson inquired on who carries the CUP.

Melissa DeVetter stated the CUP is listed under Rochester Concrete – Marquardt on the file. The County doesn't have a lot of information on this CUP.

John Allen stated to his knowledge, Mrs. Marquardt had it transferred to her name and Stoflet land abuts her property line.

Walter Wyttenbach stated that things have been done to handle the dust and doesn't know what else can be done.

John Allen stated that it's his company that he works for that has been hauling sand out of the quarry. He did contact Larry Edgar from Canisteo Township and his company hauled in 50 or 60 yd of rock for the road which Mr. Edgar bladed in. They did quit hauling sand for a while to let the road heal up. They also spread chloride on the road. They are hauling right now and have not heard of any complaints until today.

It was the consensus of the Planning Commission to refer this matter to the Canisteo Township for their input.

Melissa DeVetter stated the 2nd item under other business was about a pond/natural pool. There is a property owner who lives in Tiegen's subdivision that came to the office inquiring about excavating a pond. When you excavate past a certain amount or if you impound water you have to get a CUP. However when he talked to Mark Gamm, our supervisor, the person said it was a pool and directed him to the website shown on the top screen. The county does not regulate pools provided that you meet the setbacks. We did get a complaint from the neighbor asking what we were doing and where is the water going when we get a 5" rain fall if it over flows.

Galen Johnson inquired what we mean "it's a natural pool".

Melissa DeVetter stated it has a natural look with a liner and cement walls. The neighbor also wanted to know where the water was come from to fill it. According to the land owner who is proposing this the Hayfield Fire Department will be filling it.

It was the consensus of the Planning Commission to do nothing and that the county should not regulate this type of pool.

### **Adjourn**

Motion by Harlan Buck, seconded by Jon Balzum, to adjourn. Motion passed unanimously. The meeting was adjourned at 7:55 P.M.