

Scott County Board of Adjustment
October 26, 2005
1st Floor Board Room Administrative Center

Members Present: Dittmer, Hittle, Jenkins, Scheibe, Vollbeer
Members Absent: None
Staff Present: Huey and Kelly
Others Present: Administrator Wierson, Supervisors Adamson and Sunderbruch

1. **Call to order.** Dittmer called the meeting to order at 4:00 p.m..
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3. **Minutes.** Scheibe made a motion to approve the minutes of the August 24, 2005 meeting. Hittle seconded the motion. All Ayes (5-0).

3. **Annual Meeting with the Board of Supervisors**

Supervisor Sunderbruch thanked the Board for all their work and said the other Board members send their regards but were unable to attend due to a conflict. Supervisor Adamson said he is impressed with both the Planning Commission and the Board of Adjustment and the tough issues they deal with. Discussion took place on Zoning Ordinance amendments regarding open porches and accessory buildings in the front yard.

4. **Public Hearing-Variance** –John Wulf, Section 36, Cleona Township

Dittmer read the public notice and asked for staff's review. Huey showed the air photo of the property and explained how the eleven acre tract came into being. Huey showed photos of the property and explained that the previous owner had inquired about building a house on the property and was told only if it was rezoned or a variance was approved. The applicant recently bought the property, said Huey and is requesting the variance. Huey said the house on the one acre tract was built in 1959 on the twelve acres and in 1973 the property was sold on contract. When the contract was fulfilled in 1986 the house and one acre was split off of the twelve acres leaving the balance of eleven acres. Huey said the Health Department and County Engineer had no comment on this request. Property owners within 500 feet said Huey were notified and sign placed on the property and staff received no calls or comments on this request.

Dittmer asked if the applicant would like to speak. John Wulf said he wants to build one house on the eleven acres.

Dittmer asked if anyone from the public had any comments. Bill Richardson, who owns the one acre and house asked about access and approximate location of the proposed house.

Dittmer asked for staff's recommendation. Huey said staff recommends denial of the variance to grant a development right for a residence on an existing eleven acre parcel zoned Agricultural Preservation based on the lack of hardship or special circumstances .

Board discussion took place Scheibe made a motion to deny the variance based on the lack of hardship and that granting the variance would be contrary to the purpose and intent of the Scott County Development Plan. Jenkins seconded the motion.

Vote: All Ayes (5-0)

5. **Public Hearing-Appeal of Interpretation** – John Ven Horst, Section 14, Winfield Township

Dittmer read the public notice and asked for staff's review. Huey showed the air photo of the property and went over the definition of a farmer. The criteria said Huey does allow an ag exemption to be granted to a retired farmer in connection with the land the farmer formerly farmed. However, said Huey, Mr. Ven Horst does not meet all the criteria as he retained ownership of 29 acres, below the 40 acre minimum said Huey. Huey showed site photos of the property. The Health Department and County Engineer had no comment or concerns with this request said Huey. A sign was placed on the property and property owners within 500 feet notified and staff, said Huey, received no calls or comments on this request.

Dittmer asked if he applicant would like to respond. Ven Horst said his health does not allow him to walk stairs anymore and he needs to build a handicapped accessible home. He said until five years ago he farmed 700 acres throughout Scott County.

Dittmer asked if anyone from the public had any comments. No one spoke.

Dittmer asked for staff's recommendation. Huey said staff would recommend approval of the Appeal of Interpretation to allow a farm home to be constructed on the 19 acre tract based on the fact that the property will remain primarily adapted for agricultural purposes and the applicant is retired from farming after having been both actively involved and derived taxable income from farming.

After considerable deliberation Scheibe made a motion to approve the appeal to allow a farm house to be built on the 19 acre tract. Hittle seconded the motion.

Vote: All Ayes (5-0)

6. **Pubic Hearing-Variance-** Gerald Ketelsen, Section 18, Pleasant Valley Township

Huey showed air photos of the property and explained that the deck was constructed without a permit and does not meet the forty foot setback allowed for open porches and decks. Huey said the house already has a non conforming front yard setback. With the help of County Engineer's office the determination was made that the deck is 11'8" from the road easement, said Huey, with the house sitting 19'8" from the road easement; a conforming house on a two acre parcel has a fifty foot front yard setback said Huey. Huey showed site photos of the property both before and after construction of the deck. The County Engineer and Health Department had no comments or concerns with this request. Staff notified all adjacent property owners within 500-feet said Huey, a sign was placed on the property and staff has received no calls or comments on this request.

Dittmer asked if the applicant would like to respond. Gerald Ketelsen said he apologizes for not knowing the rules regarding the building of the deck. Ketelsen said he needs to move into a smaller one story home for health reasons. Ketelsen said all his neighbors think the deck looks nice and he hopes he can keep it.

Dittmer asked if anyone from the public had any comments. No one spoke.

Scheibe asked for staff's recommendation. Huey said staff recommends denial of the variance request based on the lack of hardship or special circumstance and that the granting would appear to be contrary to the purpose and intent of the Development Plan.

Discussion took place on the distance the other homes on Spencer Road are setback from the road easement.

Scheibe made a motion to table the request until the November 16, 2005 meeting to allow more information to be submitted to the Board regarding the setbacks of the other existing house on Spencer Road. Jenkins seconded the motion.

Vote: All Ayes (5-0)

7. **Public Hearing-Variance-** Paul Newmarch, Section 9, Hickory Grove Township

Huey showed the air photo of the property and explained the history of the mail order catalog sales home industry. Huey said the original 40-foot x 50-foot pole building was constructed in 1986. At that time, said Huey, there was no size limitation on accessory buildings used for a home industry. In 1991, the regulations were amended to limit a home industry to no more than 2400 square feet of accessory building to be used for business purposes. Huey showed site photos of the property. A previous variance said Huey was granted in Buffalo Township to allow 4700 square feet of accessory buildings to be used for business purposes. There are no residences within a quarter of a mile, said Huey, and fewer than ten residences within one half mile. Huey said a sign was placed on the property and property owners within 500 feet notified. Staff has received several calls with questions about the request.

Dittmer asked if the applicant would like to speak. Paul Newmarch said that more inventory must be ordered in larger quantities now and he needs additional room to store it. Newmarch said this is a family run business and he expects it will remain so when he is long gone.

Dittmer asked if anyone from the public would like to speak. Ken Tank, 24300 85th Avenue, said it is a nice operation with little traffic, but he is concerned what may happen down the road, if the property is sold and another not so nice operation is run from these buildings.

Discussion took place on the criteria for a home industry and the limitations that may be placed upon a variance request.

Dittmer asked for staff's recommendation. Huey said he would like to amend staff's recommendation to allow the expansion of the accessory building used for a mail order sales of an existing home industry with the condition that the decision be recorded, stating that this variance is for this specific mail order sales business only, and any change in use would have to be approved by the Board of Adjustment.

Board discussion took place. Hittle approved the variance to allow the expansion of an existing pole building used for a home industry with the condition that the decision be recorded to allow a catalog sales Saddlery and Harness business only, and any change would require the approval of the Board of Adjustment. Vollbeer seconded the motion.

Vote: All Ayes (5-0)

8. **Public Hearing- Appeal of Interpretation**-LuAnn Baetke, Section 6, Lincoln Township

Huey showed site photos of the property and gave the history of the original ag exemption and the explanation of how the plat of survey for the two acre parcel came to be and that the affidavit filed with the plat of survey stated that this two acre parcel had no development right. Huey said the Board has received a copy of the letter from Ms Baetke requesting that her request be tabled until the December 21, 2005 meeting.

Dittmer asked if anyone from the public had any comments. Martin Jensen, 18010 250th Street, said he is against any development at that corner. Jensen said he is surrounded by cornfield and would like for it to remain that way.

Vollbeer made a motion to table this request until the November 16, 2005 meeting. Jenkins seconded the motion.

Vote: All Ayes (5-0)

With no new business to come before the board the meeting was adjourned at 5:50 p.m.