

**Dubuque County Zoning Board of Adjustment
Minutes of July 5, 2016**

Chairperson Pat Hickson called the meeting to order at 7 p.m.

A. ROLL CALL: Members Present: Ron Koppes, Darlene Burds, Connie Nolan, & Pat Hickson. Staff Present: Anna O’Shea & Angela Steffens

B. APPROVAL OF MINUTES: A motion was made by Ms. Nolan, **seconded by Ms. Burds and passed unanimously to approve the Minutes of the June 7, 2016 meeting. Vote: 4-0.**

C. PUBLIC HEARINGS:

1. BA#07-23-16 JOHN & LINDA KENNICKER VARIANCES

The applicants are requesting a 19’ left side yard variance to the 50’ required to build 31’ from the left side yard and a 3’ front street line variance to the 80’ required to add a 24’ x 30’ home addition 77’ from the front street line Hwy 52 North in an R-1, Rural Residential zoning district. The property, located along Hwy 52 North approximately 1.56 west of the City of Rickardsville, is legally described as Lot 2-6 SW ¼ & Lot 12 SW ¼ Section 26, (T90N R1W) Concord Township, Dubuque County Iowa.

Ms. O’Shea stated that this property is 3.47 acres with a home and two accessory structures. The Kennicker’s would like to add a bedroom, bathroom and sitting area for their mother to the back of the home. The septic will need to be upgraded if the addition is approved. They already have the perc test for the septic complete. Four letters were sent, four were delivered and the City of Rickardsville was notified. There were no comments submitted to the Zoning Office regarding this case.

Speaking to the Board was Linda Kennicker, 22734 Rt 52 N, Holy Cross. Mr. Hickson administered the following Oath asking the participant to raise her right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Ms. Kennicker stated her father recently passed away and she would like to be able to move her mother in with them. The addition will give her mother a place of her own and provide her with a sense of security. The porch that is currently on the back of the home will be replaced with the addition.

Ms. Nolan asked if the property is zoned properly if there are two families occupying the home? Ms. O’Shea stated as long as it isn’t a separate home or separate utilities it is fine. It is just adding another bedroom to the home for residential purposes.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the variances. The motion passed unanimously by a vote of 4-0.**

2. BA#07-24-16

DORIS A GRAF TRUST ETAL

VARIANCES

CHRISTINE GRAF/CATHERINE SCHIESSL

The applicants are requesting a 25' front yard variance to the 30' required to build at 5' from the front lot line and a 3' height variance to the 12.5' required to replace an existing garage with a new 30' x 40' garage 3' higher than the primary structure in an R-3, Single Family Residential zoning district. The property, located along Shawondassee Drive approximately 3.5 miles southeast of the City of Dubuque, is legally described as Lot 9 & 10 Shawondassee Heights Section 15, (T88N R3E) Mosalem Township, Dubuque County Iowa.

Ms. O'Shea stated that this lot is .45 acres and has a home and detached garage. The home was recently replaced which received a variance in 2012 and now the detached garage needs to be replaced. Because the lot is split by the private road and the back of the lot falls off, a variance will be needed. Twelve letters were, eleven were delivered and there was no city notified. There were no comments submitted to the Zoning Office regarding this case.

Speaking to the Board was Christine Graf & Catherine Schiessl, 15279 Humke Road, Dubuque. Mr. Hickson administered the following Oath asking the participants to raise their right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" They said yes.

Ms. Graf said the existing garage is about 100 years old and has a big crack in the back wall. The new garage will not be any closer to the road than the existing one. Ms. O'Shea said the Assessor's record shows the garage was built in 1940. They are going to use the garage to store their boat and other personal storage. They want to keep their place updated and looking nice. The new garage will be on the side of the road that butts up to the railroad tracks and will not block anyone's view on river side.

Mr. Hickson asked if anyone would like to speak in favor or against this case?

Speaking to the Board was Larry Barker, 9919 Shawondassee Ln, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Barker said the property that he owns is located directly south of the proposed garage. He said variances are to be given in the event of a hardship and he feels that the shape and size of this lot is large enough to replace the garage without needing a variance. His property sits about 5' lower than the proposed garage and his property would be impacted by the water flow created by the new garage. He said the neighborhood is mostly summer cottages. He feels that if the variances are granted it would be giving the owners special privileges and cause a hardship for him and the rest of the neighborhood.

Ms. Burds asked Mr. Barker if he is against the height of the new building or the building itself? Mr. Barker said he has so much runoff going onto his property already and the new building will only cause more problems.

Ms. O’Shea mentioned to the Board that the home that was built in 2014 received one variance and that was for a front yard. The setback required was to be 30’ and they placed the home 15’ from the right of way as per the variance request.

Speaking to the Board was Rick Hammerand, 9916 Shawondassee Ln, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Hammerand said the club for Shawondassee Ln says owners are responsible for the part of the lane that goes with their property. It is a one lane road that was paved about 14 years ago. It is not a county maintained road. It is supported by club dues at the owner’s expense. He feels with the new building being so close to the road and at a higher elevation than the surrounding properties, he sees a higher collection of water runoff to his property and the others. He said they are going to have to bring many loads of fill and then once they build, will the building begin to settle? He feels the building is going to be 4’ taller than the primary structure instead of the 3’ requested according to his own calculations. He said the owner of the property is only a part time resident and he does not understand why they need so much garage space. He asked the Board if any of them know the applicants personally? The Board members all said no.

Ms. O’Shea made a comment to Mr. Barker about what he said about the height of the building. She said there is a formula that is used when calculating the height of a structure. It consists of the measuring from the first floor of the structure to the eaves which is considered the sidewall. Then the measurement from the eaves to the peak of the roof and which is divided in half. That is how it is defined in the ordinance.

Mr. Barker asked if there is a maximum allowed for the height of a structure? Ms. O’Shea stated yes, it is 35’ total.

Speaking to the Board was Pat Bingham, 9994 Shawondassee Ln, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise her right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Ms. Bingham said her concern is the effect to her property value by changing the theme of the area. It is currently a shady wooded lane, then put a large storage unit for a single family home. She feels the new structure would take away from the character of the surrounding properties.

Speaking to the Board was John Hostert, 9938 Shawondassee Ln, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Hostert said his property is to the north of the property in this case. He said he has a garage below their land and it floods. He feels if a bigger building is built it will increase the water runoff.

Speaking to the Board was Robert Bingham, 9994 Shawondassee Ln, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Bingham said he is representing the Shawondassee Club, which maintains the road from the boat launch to the mailboxes. The concern is when they bring fill in to this property it will be harmful to the road.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

Ms. Burds asked Ms. Graf if they have 5 garage spaces? Ms. Graf said the garages fit four cars. There is a 2 ½ car garage attached to the home and the two car garage across the road that they do not park in because of the condition. Ms. Graf said that many of the homes in the area have garages and they store things in the area. They want to be able to store their things inside to keep their property clean and neat.

Mr. Koppes asked why they could not build next to where the old garage is located? Ms. Graf said the new garage would be angled and will not be parallel with the road.

Ms. Schiessl said if the Board is going to turn down the request do it for the right reasons and not because some of the properties don't have the space to put in a garage or because they were able to build a new home.

Ms. Burds said there seems to be a water problem that the neighbors had expressed. Ms. Schiessl said the garage has been up since 1940 so the water must have been a problem since then. Ms. Graf said two other garages were put up recently that received variances.

Ms. Burds asked why they need the height of the building so tall? Ms. Graf said because they have a pontoon boat and they need to put in a 12' door.

Ms. Burds asked if they had talked to the neighbors about the plans for the garage before tonight? Ms. Graf said the neighbors do not like them since they put the new cottage in last year. They plan someday to live there permanently.

Ms. Bingham approached the Board again and stated in regards to the comment that the other cottages do not have garages. She said her home has a two car garage and the neighbor that is kitty corner to the Graf's property put in a garage and no one objected because it isn't as large as they are putting up.

A motion was made by Ms. Burds, **seconded by Ms. Nolan to deny the variance request. The motion passed unanimously by a vote of 4-0 to deny.**

3. BA#07-25-16 JOHN & DONNA LAMPHERE SPECIAL USE PERMIT

The applicants are requesting a Special Use Permit to build a 50' x 100' accessory building, which will expand a non-conforming residential use in the A-1, Agricultural zoning district. The property, located along Kearney Road approximately 2.76 miles north of the City of Cascade, is legally described as Lot 1-2 NE ¼ NE ¼ Section 18, (T87N R1W) White Water Township, Dubuque County Iowa.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the variance. The motion passed by a vote of 3-1. Mr. Koppes, Mr. Hickson and Ms. Nolan in favor. Ms. Burds against.**

5. BA#07-27-16 JEFF & TRICIA MAIERS SPECIAL USE PERMIT

The applicants are requesting a Special Use Permit to build a 30' x 56' accessory building, which will expand a non-conforming residential use in the A-1, Agricultural zoning district. The property, located along Black Hills Road approximately .5 miles southeast of the City of Dyersville, is legally described as Lot 2 Black Hills Farm Sub Plat 2 Section 26, (T89N R2W) New Wine Township, Dubuque County Iowa.

Ms. O'Shea stated this lot is 2.64 acres and has a home on it. The home was placed there in 2000 after receiving a Special Use Permit on BA# 02-03-00 to put a home on a scrub parcel. In 2011, a variance was granted on BA# 09-32-11 to allow a smaller frontage than the 300' required to add a ½ acre of ground to their lot. In 2015, the neighbor received a Special Use Permit on BA# 04-05-15 to place a home on a scrub parcel and they now share a driveway with the Maiers'. The Maiers' now what to add a storage building on their lot. Eight letters were sent, eight letters were delivered and the City of Dyersville was notified. There were no comments submitted to the Zoning Office regarding this case.

Speaking to the Board was Jeff Maiers, 13192 Black Hills Rd, Dyersville. Mr. Hickson administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Maiers said he would like to build a detached garage to park cars that are driven by his children and his snow plow truck.

Mr. Hickson asked if the garage was for his personal use only? Mr. Maiers said yes there will not be any business run out of it.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the Special Use Permit with the condition that the accessory building is for personal use only with no business use allowed. The motion passed unanimously by a vote of 4-0.**

6. BA#07-28-16 JEFF & TRICIA MAIERS VARIANCES

The applicants are requesting a 30' left side variance to the 50' required to build 20' from the left side and a 1' height variance to the 13.5' required to build a 30' x 56' accessory building 1' taller than the primary structure in an A-1, Agricultural zoning district. The property, located along Black Hills Road approximately .5 miles southeast of the City of Dyersville, is legally described as Lot 2 Black Hills Farm Sub Plat 2 Section 26, (T89N R2W) New Wine Township, Dubuque County Iowa.

Ms. O’Shea said because the home was built near the back of the lot and it is steep on all sides, the new accessory building will need a variance for the left side. Three letters were sent, two were delivered and the City of Dyersville was notified. There were no comments submitted to the Zoning Office regarding this case.

Mr. Hickson reminded Mr. Maier’s that he was still under oath.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the variance. The motion passed unanimously by a vote of 4-0.**

7. BA#07-29-16 JAMES & NANETTE HERBST VARIANCE

The applicants are requesting an 11’ right side variance to the 20’ required to build a 15’ x 24’ deck for their pool 9’ from the property line in an R-2, Single Family Residential zoning district. The property, located along Kruse Lane approximately 1.74 miles northwest of the City of Sageville, is legally described as Lot 10 Sleepy Hollow Estates Section 20, (T90N R2E) Peru Township, Dubuque County Iowa.

Ms. O’Shea stated that this property is 3.9 acres with a home. The property owner put in a pool and found out they needed to be 10’ away from the septic system. This will require the deck to be built on the right side of the pool instead of the left side. Ten letters were sent, ten were delivered and the City of Sageville was notified.

There were two comments submitted to the Zoning Office regarding this case. Roger Barth, 20340 Kruse Lane, Sherrill stated he is against variances and feels the lots are large enough to not need a variance. Tyler Kelsch, 20299 Kruse Lane, Sherrill stated he is against the variance and feels the proposed structure will detract from the property value and should be kept hidden in accordance with the 20’ requirement.

Mr. Hickson asked if the applicants were present? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Burds to table the variance until the August 2, 2016 meeting. The motion passed unanimously by a vote of 4-0.**

8. BA#07-30-16 MARY BETH HENKELS SPRENGELMEYER/MARGARET HENKELS-VARIANCES

The applicants are requesting an 2’ front street line variance to the 2’ required to build a fence 0’ from the front street line, Circle Ridge Road and a 2.5’ height variance to the 4’ required to build a 5’ 11” x 16’ 5.5” x 6’ 6” fence at 6.5’ feet high in an R-1, Rural Residential zoning district. The property, located along Circle Ridge Road approximately 2.4 miles northeast of the City of Sherrill, is legally described as Lot 6 Epsch Acres Section 16, (T90N R2E) Peru Township, Dubuque County Iowa.

Ms. O’Shea stated that this lot is 1.33 acres and has a home that was built in the 1850’s. The home is very close to the county road and the owner started building a structure in the right of way. After receiving a complaint, the Zoning Office went out to investigate and put a stop work order on the project. The property owner came in to apply for a variance, but will have to move the structure back about 3’. The applicant is requesting to

put up a fence on the property line that is 6 ½ high. The County Engineer and the Board of Supervisors have no issues with the fence. Six letters were sent, five were delivered and no city was notified. There were no comments submitted to the Zoning Office regarding this case.

Speaking to the Board was Mary Beth Henkels Sprengelmeyer, 1245 Hwy 35 N, East Dubuque, Fran Henkels, 890 W 3rd St, Dubuque and Margaret Henkels, 12871 Circle Ridge Road, Sherrill. Mr. Hickson administered the following Oath asking the participants to raise their right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They said yes.

Ms. Margaret Henkels stated the home was built around the 1850’s and at one time it had a fence in the area that is currently being requested. She said the main reason for the fence is a wind block. The wind has caused damage to the front of the home and this will help lessen the damage. Mr. Henkels said when he owned the home the fence was made of cinder blocks and he accidentally knocked it down with this tractor and the home does need the fence to protect the home from the high winds. Ms. Henkels-Sprengelmeyer showed the Board a picture of her as a little girl pictured in front of the fence that was original to the property that was knocked down by Mr. Henkels.

Ms. Margaret Henkels has left the right of way markers on the property and she is aware that she needs to bring the fence back about 3’. Ms. O’Shea said she went to the property and measured from the home how far the fence could be from the home. The right of way markers were placed by the County Engineers office and they did find the pins. Ms. Margaret Henkels said the surveyor they hired found the pins as well.

Mr. Koppes asked about stop work order on the property? Ms. O’Shea said the Zoning office had to place a Stop Work Order on the property because they were building without a permit. They have not done any work to the fence since that was placed on the property. Then the right of way had to be established to determine how large the structure could be.

Mr. Hickson asked if anyone would like to speak in favor or against this case?

Speaking to the Board was Kyle Johnson, 12871 Circle Ridge, Sherrill. Mr. Hickson administered the following Oath asking the participants to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Johnson said he lives in the home with his fiancé Ms. Margaret Henkels, the fence is not for vanity reasons but more as a necessity because of the wind that blows in that part of the home.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the variances. The motion passed unanimously by a vote of 4-0.**

D. PUBLIC COMMENTS:

Mr. Arnold a neighbor to the BA# 07-29-16 case in which the applicants did not show up asked why does the case get tabled? Mr. Hickson stated they give the owners a chance to come back to the next meeting. Mr. Arnold said that people would not always be able to come back for another meeting to voice their concerns when a case is tabled. He said his property is to the east of the variance request and he said the pool is a permanent structure and he would have to put up arborvitaes to that side of the property to block the pool. He feels the ordinance on pools should be looked at as a permanent structure.

E. OLD BUSINESS:

1) Discussion on Court Hearing

Ms. O’Shea stated there has not been a decision made on the court case involving the Shooting Range at this time.

F. NEW BUSINESS: None

G. ADJOURNMENT: A motion was made by Mr. Koppes, seconded by Ms. Burds and passed unanimously to adjourn. **Vote: 4-0. The meeting adjourned at 8:27 p.m.**