

**DALLAS COUNTY
BOARD OF ADJUSTMENT
MINUTES**

A meeting of the Dallas County Board of Adjustment was called to order on **April 2nd, 2012** at 4:30 P.M. at the Dallas County Board Conference Room at 902 Court Street in Adel, Iowa, by Vice-Chairman, Robert Gilmore. Members present were Marilyn Gliem, Scott Pope, Howard Geddes, and Robert Gilmore. Others present were Murray McConnell, Director of Planning and Development, and Samuel Larson, Planner II and GIS Technician.

Approve Agenda:

Motion by H. Geddes **to approve** the agenda as presented. Seconded by S. Pope. **Ayes unanimous. Motion carried.**

Approve the Minutes of the last meeting of November 17, 2011:

Motion by M. Gliem **to** dispense with the reading of the Minutes of the last meeting of November 17, 2011, and **approve** them as written. Seconded by H. Geddes. **Ayes unanimous. Motion carried.**

Old Business: (None)

New Business:

Item 1: A petition to consider a Conditional Use Permit to operate Tri-City Ag Supply on a portion of Parcel # 08-27-300-006 zoned A-1 (Agricultural District) and located in the SW1/4 of the SW1/4 of Section 27, T80N, R26W (Grant Township) **for Jonathon Mead.**

(No one present to speak.)

M. McConnell speaking: This is a business that has been operating for a number of years. He is an ag supplier, so sells mainly seed, fertilizer, and some herbicides. I think the least is the fertilizer, but different ag chemicals. On one hand, the business has operated without complaints, which is the reason we haven't known about it for a long time. It is not unlike what a lot of farmers are doing when they sell seed corn and that type of thing. To make a long story short, once we made Mr. Mead aware of the fact that he needed a Conditional Use Permit to operate the business, he complied and came in and filled out the necessary paperwork. This was reviewed at last month's Planning and Zoning Commission Meeting. We haven't had any objectors that made themselves known. I've received a number of e-mails from the closest neighbor, which would be the people directly to the east.

R. Gilmore stated: Susan & Jerry Dunning?

M. McConnell responded: Yes, and they basically just wanted to know more information, and they were satisfied with that information. That is where we are at. It is a business that has direct relationship to agricultural production. This is the type of Conditional Use Permit that we have typically approved in the past for an area zoned agricultural. I don't see any problems with it, and I would recommend it be approved.

Questions from Board Members: (None)

Motion by S. Pope **to approve the Conditional Use Permit to operate Tri-City Ag Supply** on a portion of Parcel # 08-27-300-006 zoned A-1 and located in the SW1/4 of the SW1/4 of Section 27, Grant Township **for Jonathon Mead.** Seconded by H. Geddes. **Ayes unanimous. Motion carried.**

Item 2: A petition to consider a Variance to create a parcel of less than 10 acres in an area zoned A-1 (Agricultural District) from Parcel #08-27-300-006 located in the SW1/4 of the SW1/4 of Section 27, T80N, R26W (Grant Township) **for Jonathon and Andrea Mead.**

M. McConnell speaking: Ok, this is the same area. Mr. Mead owns 30 plus acres here and the whole area is outlined in red (on aerial photo) that he owns. Most of it is in ag production. A small part of it is used for this business, and his residence is located here. This is the item that triggered everything else that we are dealing with, as he is trying to qualify for a conventional mortgage for refinancing on the house. There are now rules in place that were not in place for lenders in the past in that they can't do a conventional mortgage if it includes any land that is in ag production. We have had a number of requests very similar to this from people who are wanting to qualify to get the best financing available. Mr. Mead will continue to own the rest of the parcel, but he needs to have a parcel that does not include agricultural land. He has a proposal that would survey off just the building site. It is the area in grass that is not currently farmed, and that would be 4.23 acres in size if we were to approve it. One of the goals that we are always trying to accomplish, especially with minimum lot size in the ag zone, is we are trying to keep as much farmland in production as we can. One type of scenario that often comes is someone acquires another farm, and they don't need the farmstead that is there. It makes no sense to go out into an ag farm field and take land out of production to include with a house in the old days to meet the 5 acre minimum, and now the 10 acre minimum is in place. We typically decide these on a case by case basis. Had the house been there for a longer length of time, he would have automatically qualified for a blanket variance, which is in place anytime someone is trying to sell an old farmstead off from the rest of the farm land. The intention is to keep it all. He is not trying to create any additional lots. He is just trying to qualify for financing. I think we are trying to keep more land in agriculture, and I think this would be an acceptable variance.

S. Pope asked: So if he came back to you down the road and decided he wanted to replat out that entire area, or what is left of that 30, that would be a different story?

M. McConnell answered: That would be a different story.

S. Larson stated: Murray, we also need to address the front situation.

M. McConnell stated: We also have a second part to this, but we are looking at the minimum lot size. Then the second part is the fact of some of the setback regulations and where you place buildings. More times than not this applies to residential subdivisions where you have an established development situation where you have houses on either side of the street, and in a subdivision you don't want garages and things out into the front. Once again in the past we have many times granted variances when we have a very large parcel and we have an accessory building that is located in the front. You know it is always questionable as to which is the front yard and which is the rear yard. His house is angled on the site. The actual front of the house faces northwest, but we also typically try to say the front yard is where the access comes. So in order to make sure we don't have any future situations we need to look at granting a variance for a building that is actually in front of the house. So we have two separate variances to consider. One is the minimum lot size variance, and the other one is a building located in a front yard area.

S. Pope asked: Would he have been in violation of this when he got the permit to put the outbuilding in?

M. McConnell answered: Well, that is the other thing. This building was built without a permit. It is something that we knew about after the fact, and somehow it slipped through. I was under the impression that our inspector had tagged it, but I went back through and the only letter I could find was the letter the inspector had written to me verifying all the information and taking pictures and what not. So on one hand we let it slip through, and it has been there for a number of years now. Mr. Mead's story is that he thought the contractor applied for the permit. The building was built by a contractor who is not from this area. He is not from Polk or Dallas County, either one, and this is something that comes up quite frequently. Once again, when he was made aware of the situation he came in and paid for the building permit. We issued the permit. He has paid all the fees. All the fees together for the building permit, the variances, and the conditional use permit were a little over one thousand dollars. Once again, you are in this situation that well it is there, and is there anything to be gained by, and I mean we do have the power to have him move the building back, or what not, and so it is because of the situation that we have would he have come in, and would we have granted him a variance to put this building where it was had he done everything the way he was supposed to? I would say yes, because it fits that pattern of things that

we typically have given a variance for before. It is a 35 acre parcel. There aren't any close properties that it would interfere. It is not close to the road. It is not any of these other things, so that is why we are where we are at, and put the decision to you in the same position as I am. Is there anything to be gained by being punitive about this? I don't think so.

S. Pope stated: Well, the fact that the county took his money after the fact, leaves us without a leg to stand on even if we wanted to do it.

Murray responded: That is just it. He did understand that the variance, because you do pay the fee to petition for a variance whether you get it or not, but because of all these situations we are basically making everything official now. We have notified all the adjoining landowners, and we don't have anybody objecting to the location or operation, so that is where we are at.

H. Geddes stated: It is the cleanup crew.

M. McConnell stated: Yes. That is it exactly.

Motion by S. Pope to approve the Variance to create a parcel of less than 10 acres in an area zoned A-1 from Parcel #08-27-300-006 located in the SW1/4 of the SW1/4 of Section 27, Grant Township **for Jonathon and Andrea Mead.** Seconded by H. Geddes. **Ayes unanimous. Motion carried.**

Motion by S. Pope to approve the Variance to allow an accessory building in the front yard in an area zoned A-1 on Parcel #08-27-300-006 located in the SW1/4 of the SW1/4 of Section 27, Grant Township **for Jonathon and Andrea Mead.** Seconded by H. Geddes. **Ayes unanimous. Motion carried.**

Item 3: A petition to consider a Variance to create a parcel of less than 10 acres in an area zoned A-1 (Agricultural District) located in the SW1/4 of the NE1/4 of Section 12, T78N, R28W (Adams Township) **for Raef A. and Joie A. LaFrentz.**

Mark Gray speaking: I am an Attorney for the LaFrentz's. Raef LaFrentz is present, and we are here to answer any questions you may have. Like the previous request, this is a request to allow a 6 acre parcel instead of 10. The LaFrentz residence is right here in this white spot and you have pictures of this, as well, on the ones before you. This is the existing boundary which makes the whole thing 10 acres. You can see here that this has an ag look to it, and there is an intention to return this to an ag use. In order to do that we would like to separate off this roughly 4 acres leaving a 6 acre parcel for the residence. Just so you know, this land falls off fairly sharply. You can see it all runs down into a pond. This is actually a little silt pond within the 6 acres, so basically nothing else can happen within this 6 acres. This area is surrounded by property owned by RALII. RAL stands for Raef A. LaFrentz, so Raef basically owns the 150 acres south and west of the subject. RAL also owns Scenic View Lot 4, which is directly to the east. The picture before you shows the rest of Scenic View, which are all roughly 5 acre lots. My understanding is that when Scenic View was originally platted A-1 had a 5 acre minimum instead of a 10. That is why they were allowed 5 acres, but it is still zoned A-1, just like this. As you can see here, if this piece, and we want to kind of recoup this and put it back into production, and if the LaFrentz's ever came back and wanted to subdivide, there would be plenty of room to divide it into 10 acre lots. I will answer any questions that you have.

Questions from the Board:

H. Geddes asked: Why should we grant the variance?

M. Gray answered: Basically to allow this 4 acres to go back into agricultural production, and to make it, as you can see from the lay of the land this area matches this other area as far as topography and this area drops off pretty sharply, so it just fits to have this piece as part of the agricultural piece, and keep the residential separate. I will point out again as Mr. McConnell said, conventional financing of this house if we are not allowed to sever this piece off and it is used for ag then it would jeopardize the conventional financing is what I understand.

M. McConnell speaking: Well, the reason we went to 10 acres from 5 was an attempt to help preserve ag land and help reduce at that time when we did it in 2004 and we were experiencing a

lot of subdivisions, this was a technique to slow that down. Typically the reasons we would not grant a variance are when someone is trying to maximize the number of lots they can get in a particular parcel without rezoning it, or going to a different zoning district, which is not the case here. The fact that the ownership of everything outlined in red is what he or this other configuration owns, it does make sense that if you want to take, as you can see on the aerial photograph, you can see that this 5.7 acres and other land down here is land that would not be conducive to agriculture. There are other ways for him to do that, and he could combine it with a deed restriction to this lot that is in Scenic View. There is no way to really configure the two together, because one is in the subdivision and one is not. So, really, once again I don't see that this is any different than the first minimum lot size and maybe even more so, because there is a greater parcel that this will be added to where it can be put into ag use. I think it is consistent with other variances we have granted in the past, and I think we are still achieving the goal of the comp plan and minimum lot sizes. He is not creating any new lot. We are just reducing the part that is actually in residential use today, and they came in before they did anything. That is the other big difference.

M. Gliem asked: The other 4 acres is just going to be blended with the rest of the ag, and not going to just be another 4 acres?

M. Gray answered: Correct.

M. McConnell stated: Right it will be rolled into the rest. It is not another new lot.

M. Gray answered: To clarify, this boundary will basically disappear.

Others to Speak: (None)

Motion by M. Gliem **to approve a Variance to create a parcel of less than 10 acres** in area zoned A-1 (Agricultural District) located in the SW1/4 of the NE1/4 of Section 12, T78N, R28W (Adams Township) **for Raef A. and Joie A. LaFrentz**. Seconded by S. Pope. **Ayes unanimous.**
Motion carried.

Motion by H. Geddes **to adjourn** the meeting. Seconded by M. Gliem. **Ayes unanimous.**
Motion carried.

Meeting adjourned.

Pat Penn
Planner 1