

MINUTES
Blue Earth County Board of Adjustment
Regular Meeting
Wednesday, July 7, 2010
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:00 P.M. by Lyle Femrite. Board of Adjustment members present were Bill Anderson, Kurt Anderson, Lyle Femrite, Don Gerrish, and Chuck Grams. Land Use and Natural Resources staff present was George Leary and Sara Isebrand.

2. APPROVAL OF MINUTES

Kurt Anderson made a motion to approve the minutes from the June 2, 2010 meeting of the Board of Adjustment. Bill Anderson seconded the motion which carried unanimously.

3. APPROVAL OF AGENDA

Mr. Leary indicated there was no change to the agenda.

4. OLD BUSINESS

BOA 08-10 Martin & Shelly Leenhouts - Appeal to the County Board of Adjustment to review and rule on the County Planning Departments interpretation of "organized group camp".

Mr. Leary presented additional information from Planning & Zoning and from Environmental Health.

Mark Buck, a neighbor to the Leenhouts, expressed his support of the Leenhouts.

Shelly Leenhouts read a prepared statement of her family's experiences while living in Indonesia and from her experience in the educational field. She expressed her desire to reach a win-win situation.

Martin Leenhouts read a prepared statement. In his statement he addressed some concerns that had been previously expressed by staff.

1. Proper treatment of waste water from all sources.
2. Compatibility of proposed uses with those listed as permitted and/or conditional uses in the Agricultural and Conservation Zoned Districts.
3. Adherence to all MN Department of Health applicable rules and standards.
4. Compliance with all applicable State and Federal rules and laws.

Mr. Leenhouts continued with a question on how staff could differentiate between different types of groups allowing for some but not others to participate in activities offered by the proposed organized group camp.

Mr. Leenhouts concluded his prepared statement with a discussion of his rights protected by the 5th Amendment of the US Constitution.

Mr. Leary responded to some of the items discussed by Mr. Leenhouts. He indicated that Minnesota Statutes allow counties to enact zoning regulations. He added that it is the proposed gatherings, i.e. wedding receptions, family reunions, etc. that are at odds with the Conservation Zoned District. Mr. Leary stated that staff is not at odds with organized groups and educational activities but the proposed gathering activities are social events, not educational events.

Mr. Leary reviewed Section 24-86 (a) Uses not provided for in land used district from the code which states whenever is neither permitted or denied, the use shall be considered prohibited.

Mr. Leenhouts asked how it is possible to serve 20 people from a 4-H group but not 20 people for a family event.

Mrs. Leenhouts stated that no alcohol will be served in association with the business. She also stated that very few wedding receptions include fewer than 90 people. As a result, there will likely be few wedding receptions at the site.

Mark Buck commented on the Watonwan River stating that there is unlimited tiling and this has an effect on stream bank erosion. He added that the proposal seems like it should be something that could be worked out.

Kurt Anderson expressed his thought that because the applicants charge a fee, they run into conflict with the ordinance when providing overnight accommodations. He added that he did not believe the actions of the Board of Adjustment to be considered a taking. It is not the intent of the Board to prohibit uses already permitted, i.e. carving, quilting, etc.

Bill Anderson stated that the Leenhouts' have asked for permission to do the activities outlined. He added that when they have the support of the community the Board should probably listen to them. He also stated that they have the support of the Township Board. Mr. Anderson stated that the main items of discussion should be transportation in and out of the site and the affect on the environment which has already been addressed.

Mr. Gerrish stated that a family member recently had a positive experience in another state while attending a county wedding reception. He questioned if there would ever be a situation where this type of activity could be offered.

Mr. Grams stated he had an issue with the charging for overnight activities. Beyond that he had nothing against the activity.

Mr. Gerrish compared the charging of fees to that of a farmer selling agricultural products.

Kurt Anderson stated that it is possible that the hobbyists that may attend an activity at the site may possibly travel with a trailer or an RV camper and questioned the possibility of the site becoming a campground. He did compliment the applicants on the thoroughness of their application but expressed his concern that the use could become similar to a campground that he is familiar with, one that he stated has had problems.

Mr. Femrite also complimented the applicants on their thoroughness of their presentation and asked for a motion if there was no further discussion.

Bill Anderson made a motion to accept the proposal submitted by the Leenhouts. The motion was seconded by Mr. Gerrish.

Mr. Leary asked if he could possibly clarify what Mr. Anderson had said and asked Mr. Anderson to correct him if needed. As he understood, the use would be open to organizations formally recognized,

other family groups, unrelated individuals, etc. for woodcarving workshops, quilting workshops, etc. overnight stays and mini-gatherings up to the occupancy obtained by reverse calculation of the septic system.

Mr. Femrite asked Mr. Anderson if we would be encouraging overnight staying as well.

Mr. Anderson said yes, that is part of the proposal.

Mr. Leary asked if it included family gatherings, wedding receptions, graduation receptions, etc.

Mr. Anderson responded yes.

Mr. Femrite asked for a vote by a show of hands. The motion failed by a vote of three opposed to two in favor. BOA members Bill Anderson and Gerrish voted in favor of the motion. BOA members Kurt Anderson, Grams, and Femrite voted in opposition to the motion.

At this point Mr. Leenhouts stated that Roberts Rules of Order had not been properly followed. He stated that when the motion was made and seconded there should have been time for discussion by the Board, not from the county.

Mr. Femrite thanked Mr. Leenhouts for his comment and asked if there was another motion.

Kurt Anderson made a motion to deny the application and adopt the interpretation that county staff has put together for this individual application.

Mr. Grams seconded the motion.

Mr. Femrite stated that a motion has been made and seconded to present the county planning & zoning interpretation as written.

Mr. Femrite called for a vote by a show of hands. The motion carried by a vote of three in favor to two opposed. BOA members Kurt Anderson, Grams, and Femrite voted in favor of the motion. BOA members Bill Anderson and Gerrish voted in opposition to the motion.

Mr. Leenhouts asked the chair to address the first motion as it was addressed improperly.

Mr. Femrite stated that he did not invite any corresponding dialog on the second motion either.

Mr. Leenhouts agreed but stated that the input from the county was out of order.

Mr. Femrite asked the room if anyone was versed in the rules of order. There was no response.

Mr. Leary stated that in his role as secretary to the Board of Adjustment there was a need to clarify the motion on the table. He added that he did ask Mr. Anderson for correction if needed.

Mr. Femrite stated that it was an interpretation of clarity.

Mr. Leenhouts stated that the secretary is to restate the motion, not to add to it.

Mr. Femrite apologized that it may have been misleading. He added that the recorded minutes will likely indicate that it was for clarification. He also stated that not following the exact rules of order will not likely be of consequence.

Mr. Leenhouts stated that the process was clearly out of order according to Roberts Rules of Order.

Mr. Femrite thanked Mr. Leenhouts for his comments.

Mr. Leenhouts stated that the motion had an effect on the entire meeting.

Mr. Femrite again thanked Mr. Leenhouts for his comments.

Mr. Femrite asked staff if there was any further business to discuss. Staff responded that there was no further business.

5. ADJOURNMENT

There was no further business. Mr. Grams made a motion to adjourn the meeting which was seconded by Mr. Gerrish. The motion carried and the meeting was adjourned at 8:04 P.M.

Board of Adjustment Chair

Board of Adjustment Secretary