

Stutsman County Planning & Zoning Commission Minutes – March 21, 2024

Meeting was called to order at 8:25 AM by chairman Brian Amundson. Roll call taken. Present were Brian Amundson, Duane Andersen, Joan Morris, David Steele, and Tyler Perleberg, Zoning Administrator. Absent was Levi Taylor, Paul Bensch, and Dan Buchanan.

Others in attendance: Robert & Tena Dobbs, Debra Marsolek. Todd Langston & Jamison Veil (Otter Tail)

Mr. Steele motioned, Mr. Andersen seconded, to approve the September 27, 2023 meeting minutes. Motion approved.

Chairman Amundson introduced the variance application for Robert & Tena Dobbs. The variance request is due to the size of the lot not meeting the 5 acre minimum that the Stutsman County Zoning Ordinance requires, and also for the setback distance of building within the 100 foot setback from the right of away. The current plans for the Dobbs have the lot size at 3.75 acres and their building is planned to be encroaching in on the setback distance by 31 feet. Mr. Amundson thanked the Dobbs for having a very well put together application with lots of detail. He then opened up comments from the applicants and Tena added that they attended a township meeting not long ago and explained their project to them and they were in approval of allowing the variance. Tyler added that he contacted the township, as well, to ask for feedback and clarified that the township was indeed in favor of allowing the variance. Tyler also added that he sent out two certified mailings to the adjoining landowners that are within 660 feet of the Dobbs property and stated he received one back from Clarence & Debra Marsolek (Tena's parents) but did not get the other certified mailing back from the other landowner, who is Conrad & Kathy Jangula, the agricultural landowners to the east of the property. Debra mentioned to the board that they own most everything around the Dobbs property and that the Dobbs' will inherit the property. Mr. Steele asked about the 5 acre requirement and if there is anything the county needs to look out for. Tyler explained that many zoning jurisdictions have various size minimums and that outside of zoning and said the main thing is meeting the size minimum for a septic system which is ultimately approved by the county sanitarian. Mr. Amundson asked the Dobbs why they didn't create a 5 acre Auditor's Lot in the first place. Robert explained that when they had the property surveyed out, they were unaware of the 5 acre minimum for building. Mr. Andersen asked if there was any way the county could sign off on a survey prior to it being recorded. Tyler said he wasn't completely sure how easy that would be because his understanding is there is no minimum size requirement for recording a survey. He said where it comes an issue is when someone wants to build on a property, like this Dobbs case, where zoning comes into play and they don't have that minimum size requirement. It was brought up that the current road is a dead end road that currently ends at the Marsolek house and then the road turns into a prairie trail and continues that way for about 2 miles when it hits Hwy 9. The Dobbs said that the township is going to pay for the road extension leading to the Dobbs property. Mr. Amundson explained that his first reaction when seeing the application was tough, saying that if this variance is allowed, it could set a precedence so that if they allow one, they should allow all requests in the future, as well. Mr. Steele made a motion to approve the variance requests and then added that he also has reservations about allowing this, Mr. Andersen seconded the motion also commenting that it would only take about 121 feet added on to the west to get to 5 acres. Dobbs said it was the costs of re-surveying that they weren't excited about. Discussion took place and Tena asked about why 5 acres the minimum? Mr. Amundson gave a good explanation about keeping the integrity of agricultural and limiting urban encroachment into the agricultural districts. He expanded to say that if a rural

development was being sought, that person would apply for a zoning change from agriculture to a rural residential district that would allow that urban feel in an area. As Mr. Amundson was reminding the committee that there is a motion and second to approve the variance, Robert Dobbs said that they will plan to re-survey the land to get up to the 5 acres. A vote was taken on the motion to approve the variance, all committee members voted Nay, motioned failed. Mr. Steele made a new motion to approve the variance contingent on the Dobbs re-surveying to get up to 5 acres and approving the variance for the setback distance, Mr. Andersen seconded the motion, motion approved unanimously.

Chairman Amundson introduced the next agenda item for clarification on public utilities and electrical transmission lines in zoning districts. Tyler explained that during a county commission meeting a couple weeks ago, Todd Langston from Otter Tail, was asking the commission about any zoning issues or restrictions they should be aware of. After some research, Tyler found that our county zoning ordinance is hard to interpret and doesn't believe our ordinance includes public utilities or transmission lines at all, in any district. He stated he wasn't sure that back in 1983 when the ordinance was initially created if it was assumed to allow these or not, or there is also a line item under the agricultural district, #8, that states one of the permitted uses is "Communication towers, lines, & equipment". He wasn't sure if that was open for interpretation to include transmission lines, but ultimately, it's not clear. Tyler mentioned that he's looked up many other zoning ordinances for various townships & counties and found that all of them he's seen include them in some sort way but with different terminology. He added some were permitted uses and some were conditional uses. Todd L. explained that when they do a project they apply and get granted a route permit through the state of ND which may be a reason why it isn't in some ordinances he's seen. The committee suggested that Tyler proceed on coming up with some options to possibly update our ordinance for more clarity. Ms. Morris stated that she recalls another thing that Otter Tail had brought up that dealt with the poles and right of ways. Tyler stated that was in reference to the aerial encroachment for when the wind blows the crossbar arms of those towers into the right of way. Tyler suggested that when it comes to the setback requirements in our zoning districts, that maybe it'd be useful to add terminology in our ordinance to waive the setback requirements for the utilities and transmission lines since most landowners have a tendency to want these utilities as close to the right of ways as possible so not to encroach on their agricultural land. It was asked if our committee would have to hold a public hearing in regards to possible ordinance changes and Tyler stated confirmed that yes, we would have to hold a public hearing for the amendments. He'll put together some possible amendments and plan to hold a meeting towards the end of April, if that works for everyone.

With no further agenda items, Mr. Steele motioned and Mr. Andersen seconded to adjourn the meeting at 8:58 AM.