

Stutsman County Zoning Board Minutes

March 26, 2009

At 3:20 p.m. the meeting was called to order by Harold Bensch, Chairman. Present were Charlie Kourajian, Dale Marks, Harold Bensch, Doug Kaiser, Ryan Odenbach, Brian Amundson and Duane Andersen. Absent was Ken Schulz and Noel Johnson. Also present was Fritz Fremgen, State's Attorney.

Marks made a motion to approve the minutes from the March 19, 2009 meeting. Kaiser seconded the motion. Motion carried.

Fremgen stated that he has no new information from the state on their requirements for setback at this time.

3:25 p.m. Kourajian stated that he was in favor of having a setback between 1.5 and 2.5 RD. He had another meeting to attend and needed to leave the meeting.

Amundson asked the criteria for setting the setback at 5RD. Fremgen stated it was primarily from information obtained from Crabtree regarding wind wakes and companies being close to boundary lines.

Fremgen said he was reluctant to say how to negotiate a contract. The Board was in agreement that they needed to stay out of that.

Amundson stated that he would like to see the science behind the RD setbacks.

3:35 p.m. Johnson came into the meeting.

Fremgen stated that many contracts have implied waivers.

The Zoning Board has control of variances. Waiver provisions come into play under setback requirements.

Andersen said that he was concerned about the aerial applicators.

Marks made a motion to change to a 2.5 RD.

Marks made a motion to amend his motion to a 2 RD setback. Kaiser seconded the motion. Discussion followed. Setback from an occupied structure would remain at 5 RD.

Andersen stated that he was hesitant on the setbacks and Amundson said the he would really like to see the science or research on setbacks.

A vote on the motion for 2 RD from boundary lines was taken. Ayes: Marks, Kaiser, Odenbach, Bensch. Nays: Andersen, Amundson, Absent: Kourajian, Schulz.

Another question that was raised at the last meeting was in regard to what line the measurement is taken from. All were in agreement that the centerline was the line from which to take measurements.

Johnson recommended that the Board start going line by line on changes.

Line 242 – 2RD from Boundary.

Line 37 – Definition of occupied structure – Remove stable.

Discussion followed about “moving to the nuisance,” Fremgen stated that it was a time element. NDCC 57-02-01 states the definition of residential property for taxation purposes. Andersen was concerned with townships that have a platted residential area that is not developed.

Line 37 - also include platted property according to the NDCC.

Page 4 – line 124 – Lighted and painted towers – leave requirement in ordinance for now. Fritz will work with wording.

Page 4 – line 130 - \$1000 per turbine with cap of \$25,000. Decision was to remove the cap which creates an equal playing field between small and large projects.

Page 5 – line 178 – Timeline for deliberation and decision on issuance of conditional use permit. A change to 15 days should create no problems.

Page 6 – line 205 – Fremgen will work with language provided by Weisser.

Page 6 – line 216 - MET Tower lighting and painting – Fremgen will work with terminology. Still want requirements at 100’.

Page 7 - line 228 – Noise provision – leave as is.

Page 7 – line 229 – RD is covered.

Page 7 – line 256 – Hearing notice – remove all language from “having an occupied ... improvement” Intent is to have all persons notified.

Page 7 – line 233 – change ~~outside edge~~ of the improved surface to center line of the improved surface.

Page 8 – line 265 – “unoccupied structure, improvement,” – ok, leave in.

Page 8 – line 279 – Waiver provision – change to 2 RD. Leave in for public comment.

Grandfather leases - leases in place would be grandfathered in up to the date of the ordinance.

Page 9 – line 306 – Change in depth of footage from four to three feet.

The next meeting was set for Thursday, April 2, 2009 at 3:00 p.m. The next meeting will be a working meeting.

Additional questions for next meeting include: bond requirement – check if rules apply; abandonment – reclamation; demolition – requirement of permits; if tower is obsolete does it come down.

Noel A. Johnson
Zoning Administrator

NJ/rv