

**MINUTES OF THE MEETING  
OF THE  
ALLAMAKEE COUNTY  
BOARD OF ADJUSTMENTS**

**October 8, 2009**

**Board of Supervisors' Room, Courthouse, Waukon, Iowa**

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte. Roll call was taken, board members present were: Dr. Bernard Pratte, Arne Beneke, and John Goettel. Carlton Larsen was absent.

Others present were Bill Ziegler, Interim Zoning Administrator and Mary Jane White, County Attorney and other members from the public. (See attached list).

All Board members voting "AYE" unless noted.

Motion by Goettel and second by Beneke to **approve agenda**. Motion carried.

Motion by Beneke and second by Goettel to **approve the minutes** of September 3, 2009. Motion carried.

Chairperson Pratte gave information on how each hearing/case would be conducted. He indicated that no disruption or harassing statements would be tolerated and members who do so will be evicted from the hearing. Each public comment on the case will be given five minutes per each case, comments must relate to that case only. Each person testifying will be sworn in.

For each case, the Zoning Administrator, Bill Ziegler, will give his staff report on the case. Then the applicant will be interviewed on his/her case. The applicant may call witnesses if necessary. Then the board may call upon any witnesses or has witnesses of their own to hear from. After all interested parties have been heard from, the public hearing will be closed. Then the board will discuss any concerns or questions and make their decision.

Today's hearing involve three cases.

First case will be Leon and Regina Manning.

**MANNING variance request 07-09**

Chairperson Dr. Bernard Pratte **opened the Public Hearing** on the variance request by **Leon and Regina Manning**.

Zoning Administrator Bill Ziegler presented the written staff report (attached). The Manning's had requested a variance be granted to allow them to build a 36 x 54 feet garage. The variance request from the required front yard setback of 40 feet and be allowed to be 17 feet. There is an existing old non-conforming garage presently 17 feet front setback and the Manning's would plan to tear it down and replace it with the new building, making sure the new building was no closer than the existing garage from the front setback requirement. Ziegler's staff report had the following exhibits attached to it:

- Exhibit 07-09A (6 pages) Manning Variance Request with Beacon Website information. The aerial view shows the Manning's 1.15 acres provides little to no space for a garage to be placed near the house, except where the old garage is located.

**Ziegler recommending the granting of the requested** variance, relying upon the public's stake in this particular setback issue did not outweigh the individual hardship that the Manning's presented.

Both Regina and Leon Manning were sworn in. Leon provided four pictures (on one sheet of paper) Exhibit 007-09B. The pictures show the road and right-of-way as well as the existing garage. Note that there is a 911 communications tower and radio equipment shed at the NW portion of the property. It is actually closer to the road than the existing garage as well as a row of large pine trees.

It was discussed that replacing the existing garage with a new (longer but not wider) garage does not make the structure any more non-conforming than what is presently there. The plight of the landowner is due to unique circumstances and not to general conditions in the neighborhood.

Motion made by Beneke and second by Goettel to **approve Manning's variance request**. Motion carried with all Ayes.

Public Hearing on Manning's variance request was closed.

### **THORSON variance request 08-09**

Chairperson Dr. Bernard Pratte **opened the Public Hearing** on the variance request by **Owen and Carol Thorson**.

Zoning Administrator Bill Ziegler presented the written staff report (attached). The Thorson's had requested a variance be granted to allow them to sub-divide their agriculture land into one lot smaller than 3 acres. Parcel Id: 0130200015 is approximately 15.4 acres, with approximately 2.7 acres broken off on its own by two roads. This 2.7 acre section has a house structure and is the address of 2660 Balsam Road. The Thorson's wish to subdivide the 2.7 acres so that it may be sold. To comply and make it meet the 3 acre area requirement of agricultural zoned land, the Thorson's would have to cross the road and take tillable agriculture land out of production. Ziegler's staff report had the following exhibits attached to it:

- Exhibit 08-09A (1 page) letter from Ness Pumping Service – stating the septic system at the 2660 Balsam Road was inspected for “time of transfer” on 10 August, 2009.

- Exhibit 08-09B ( 4 pages) photo's of the triangular piece of land that the Thorson's are requesting the variance on.
- Exhibit 08-09C (4 pages) Variance request and Beacon website information as well as an aerial photo of the parcel.

County Sanitarian, Laurie Moody, advised the zoning administrator that the existing septic system is working and 2.7 acres should allow adequate room for any future growth or replacement requirements.

County Engineer thinks this is a unique situation and has no problems if the variance should be granted.

**Ziegler recommending the granting of the requested** variance, relying upon the public's stake in this particular area variance request did not outweigh the individual hardship or unique situation.

Both Owen and Carol Thorson were sworn in.

Thorson's indicated both roads are county maintained.

It was discussed that the plight of the landowner is due to unique circumstances and not to general conditions in the neighborhood. It was discussed that the only way to comply with the sub-division would be to take tillable land, across the road, out of production to meet the 3 acre requirement.

Motion made by Goettel and second by Beneke to **approve Thorson's variance request**. Motion carried with all Ayes.

Public Hearing on Thorson's variance request was closed.

### **MAHR variance request 03-09**

Chairperson Dr. Bernard Pratte **opened the Public Hearing** on the variance request by **Wally and Traci Mahr**.

Attached transcript will provide the information for the MAHR variance request. This is a continuation from the July 29<sup>th</sup>, 2009 variance request. At that time, the Board approved a continuance of the case so that the Mahr's could provide more evidence and information to support their variance request.

Based on the findings of Unnecessary Hardship, a motion made by Goettel and second by Beneke to **approve Mahr's variance request with the following posing conditions:**

- Vacate the private lane and its easements.
- Prove access for each lot sold through a recorded subdivision covenant agreement.

Motion carried with all Ayes.

Public Hearing on Mahr's variance request was closed.

**Old Business:**

Ziegler advised there was no Old Business.

**New Business**

Ziegler advised the Board of the following:

- Anticipate at the next meeting a variance request for a wind generator on private land, zoned agriculture. This would be a conditional use if approved. It is located near Bluffland Protection District. Wind generators are treated at "towers" in the ordinance.
- Anticipate the first 22 feet wide ingress/egress requirement variance request for a long driveway back into the woods to a cabin.
- No other new business.

Motion made by Beneke and second by Goettel to adjourn the meeting. Motion carried with all Ayes.

Meeting adjourned about 7:50 P.M.

The above constitutes my interpretations of these events as they happened and any decision reached. You may contact the undersigned for any errors or omissions.

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Bill Ziegler, Special Zoning Administrator