

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
February 24, 2014

A meeting of the Planning Commission was held on February 24, 2014 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Bill Even, Mike Cypher, Becky Randall, Jeff Barth, and Bonnie Duffy.

STAFF PRESENT:

Scott Anderson and David Heinold - County Planning

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

A motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – January 27, 2014

A motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** the meeting minutes from January 27, 2014. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #14-08 to exceed 1,200 square feet of accessory building area – requesting 3,816 square feet on the property legally described as S 740' W 352' W1/2 SW1/4 SE1/4 Section 2-T101N-R48W.

Petitioner: Donald Winkler

Property Owner: same

Location: 48252 263rd St. approximately 0.75 mile east of Brandon

Staff Report: David Heinold

General Information

Legal Description – S 740' W 352' W1/2 SW1/4 SE1/4 Section 2-T101N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 6.00 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioners are requesting 3,816 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 1,336 square foot accessory building for personal storage of automobiles and hay. The petitioner will be removing two existing small buildings. There is an existing 2,480 square foot metal pole building on the property. The petitioner applied for a building permit in 1999 to construct a 40'x62' metal pole building for personal storage. The proposed accessory building will be located north of the existing residence.

The petitioner's property is located approximately one mile south of Brandon at 48252 263rd St. There are five other accessory buildings in the area along 263rd St. and McHardy Rd. relatively comparable to the requested total accessory building area. The property owner at 26254 McHardy Rd. applied for a conditional use permit in 2001 and was approved to increase the total accessory building area equal to the petitioner's requested size, 3,816 square feet. The property owner at 26288 McHardy Rd. was approved by conditional use permit in 2002 to increase the total accessory building area to 2,646 square feet. The property owner at 26264 McHardy Rd. applied for a conditional use permit in 2006 and was approved to allow 2,400 square feet. Two other properties, 48244 263rd St. and 26284 McHardy Rd., have a total accessory building area of 2,000 sq. ft. and 2,400 sq. ft. respectively.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There are several properties in the immediate vicinity that have a total accessory building area up to 3,816 square feet, so there should be no impact on the property values of surrounding properties. The building will only be used for the property owner's personal storage. The property adjacent to the petitioner's property consists of agricultural land and subdivided properties that range in size from 2 to 10 acres. Thus, the proposed accessory building size should not affect the residential uses or agricultural land in the area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 3,816 sq. ft. accessory structure would be congruent with the land composition.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

The petitioner will be utilizing the existing driveway as access to the proposed accessory building and no further infrastructure will need to be provided.

4) That the off-street parking and loading requirements are met.

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of Conditional Use Permit #14-08 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,816 square feet.
- 2.) That the two (2) existing small buildings shall be removed from the property prior to construction of the proposed accessory building.
- 3.) That the accessory building shall not exceed 35 feet in height.
- 4.) That a building inspection is required to determine that the building does not exceed 1,336 square feet measured from the outside perimeter.
- 5.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6.) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8.) That a building permit is required prior to construction of the accessory building.

9.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #14-08 by Commissioner Randall and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-08 - Approved

REGULAR AGENDA

A motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** the regular agenda. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #14-06 to allow a fitness center on the property legally described as Tract 2 Hefty's Addition S1/2 SW1/4 Section 10 & N1/2 NW1/4 Section 15-T103N-R49W.

Petitioner: Brian Hefty

Property Owner: same

Location: 47520 252nd St. approximately 2 miles southeast of Baltic

Staff Report: David Heinold

General Information

Legal Description – Tract 2 Hefty's Addition S1/2 SW1/4 Section 10 & N1/2 NW1/4 Section 15-T103N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Agricultural

Parcel Size – 1.68 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting a conditional use permit application for a Class One Major Home Occupation to use an existing 180'x60' agricultural storage building on his property, 47250 252nd St., as a semi-private gym for Baltic area residents. The petitioner has provided a site plan and narrative of the plan to utilize the existing farm shop as a fitness center for local residents. The gym will give adults and children in the Baltic area an opportunity to prepare for basketball and baseball practice as well as an option for regular exercise for individuals in the rural area.

The petitioner will limit the number of people with memberships to the gym around 200 people. Mr. Hefty will provide access to the fitness center via an existing driveway that will lead to a parking area between the gym and 252nd St. The parking area can accommodate 50 cars, but the petitioner expects that only 5 to 10 cars will be there on a regular basis. There will be 5 or fewer part-time employees working at the gym.

The nearest residential home is approximately 1/4 mile away from the proposed location for the fitness center, so there should not be any public nuisances as a result of the proposed use of the site. The site plan shows that the existing agricultural accessory building, proposed gym, will be approximately 200 feet from the 252nd St. right of way. The adjacent properties are all owned by the petitioner's family. There is a pasture and a farmstead behind an existing shelter belt of trees to the south of 252nd St.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The proposed use of the existing agricultural building, fitness center, will not negatively affect property values in the immediate vicinity due to the agricultural use of the adjacent property.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Since agriculture is the predominant use in the immediate area, the use of an existing agricultural accessory building as a semi-private fitness center should not impede the normal and orderly development of adjacent properties.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

Access will be provided via an existing driveway off 252nd St. that will lead into the parking area south of the proposed fitness center. No further utilities will need to be provided.

4) That the off-street parking and loading requirements are met.

The petitioner has provided an area between 252nd St. and the proposed fitness center that will accommodate approximately 50 cars, but only expects 5 to 10 cars there on a regular basis.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The nature of the business, fitness center, should not cause any offensive nuisances during regular hours of operation. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff found that the request to allow a Class One Major Home Occupation, fitness center, will not create a nuisance for surrounding property owners. Staff recommended **approval** of Conditional Use Permit #14-06 with the following conditions:

- 1.) That CUP #14-06 shall permit the operation of a Class One Major Home Occupation, fitness center.
- 2.) That a building permit shall be required for the Class One Major Home Occupation, fitness center.
- 3.) That the property shall adhere to the submitted site plan received on 1-3-2014.
- 4.) That the occupation shall be conducted entirely within an accessory building and clearly incidental to the use of the structure for residential purposes.
- 5.) That the occupation shall be operated by a member of the family residing in the dwelling.
- 6.) That employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
- 7.) That a non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building and one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation.
- 8.) That no off-premise signs shall be used.
- 9.) That the occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- 10.) That a building inspection shall be required to determine if the structure meets the standards of the adopted building code.

PUBLIC TESTIMONY

Brian Hefty, 47526 252nd St., from Baltic identified himself as the petitioner. Commissioner Cypher asked the petitioner about how many visits to the fitness center he expects and the impact on the township road. Commissioner Cypher noted that 200 visits in one night is a big difference from a small home occupation.

Originally, the petitioner was told by the Planning Director that he should limit the amount of people that are allowed in the facility. Mr. Hefty explained that there could be anywhere from 70 to 100 visits each week. He added that he did not want to limit the amount to a set number where he would have to be required to constantly monitor how many people were at the gym.

Mr. Hefty continued to mention that the majority of the people, whom are already driving on this road, utilizing the facility will only be driving about 1/8 mile down the road from Hefty Seed Company. He added that there is a church in the area, which contributes to a fair amount of traffic already. Mr. Hefty explained that he works very closely with the township to ensure that the road always stays in good condition. He mentioned that there is not really that much traffic on the road to the point where it becomes an issue.

Mr. Hefty reiterated that the main idea for the fitness center was to provide employees and Baltic area children an opportunity to stay in shape without having to drive all the way to Sioux Falls. He pointed out that his family owns almost all of the adjacent land and that he is the only one who lives on this road for about one mile, so there should not be any nuisances caused by the fitness center. Given the amount of opportunities for regular exercise, he stated that the proposed fitness center will provide many benefits to some of the people that live in this area.

Commissioner Cypher was also concerned about the maintenance of 252nd St., which looks like it has a mix of pink rock and gravel on top. The petitioner explained that the only time pink rock has been put on the road was when he applied it to the surface of the road. He also mentioned that he takes care of snow removal on 252nd St in front of his house and business.

Commissioner Cypher noted that two years ago some of the township roads turned inside out and became nearly impassable. Mr. Hefty stated that about a mile and half east of County Highway 115 there was water seeping under the road from the agricultural fields because the culvert wasn't in the right spot. He, along with the cooperation of the township and neighbors, has expended his own resources and time to keep the road in good condition.

The petitioner installed drainage tile on the south side of 252nd St. and brought the water north of 252nd St. and ever since then the problem has been solved. He stated that he is well aware of the problems on township roads because he drives on them every day. He added that the key to ensuring proper road conditions is adequate drainage. He continued to mention that the water that drains from the proposed fitness center flows through an existing culvert under 252nd St., which would cause no damage to the roadway. Commissioner Cypher noted that if the traffic can be addressed, then it wouldn't matter how many people are at the fitness center each week.

Commissioner Even asked the petitioner about what kind of a membership to the gym there will be and if the plan for the home occupation is to be a for-profit enterprise. Mr. Hefty clarified

that the intention for the home occupation is not to make a profit; however, there will be a small fee for covering the overhead costs of the fitness center.

There were no other comments or concerns from property owners, so the floor was closed to public testimony.

DISCUSSION

Commissioner Steinhauer indicated that it is uncertain how many residences will be located nearby in the future and we should ensure that we are not setting a precedent that would otherwise be considered a commercial business when the application is for a home occupation. He suggested that condition #9 be changed to allow 40 visits per day from clients or customers.

The planning commission agreed that the following conditions should be added to Conditional Use Permit #14-06:

- 9.) That the occupation shall not generate more than 40 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- 11.) That all outdoor lighting shall be shoe-box style and directed downward to prevent light spillage off site.
- 12.) That there shall be no parking on the 252nd St. right-of-way.

ACTION

A motion was made to **approve** Conditional Use Permit #14-06 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #14-06 - Approved

Old Business

None.

New Business

Scott Anderson informed the planning commission of a recent meeting that planning staff had with Jordan Burmeister, Geronimo Energy. Geronimo Energy is developing the Aurora Solar Project in 17 Minnesota counties and Minnehaha County. The Aurora Solar Project is a 100 megawatt (MW) peaking resource proposal for Xcel Energy, with solar arrays ranging in size from 2 MW to 10 MW across Xcel's service territory. The Project will bring energy to the grid efficiently and cost-effectively while protecting the environment. Geronimo Energy has selected a 40-acre parcel located within the City of Sioux Falls and Minnehaha County Joint Jurisdiction area 2 miles west of Ellis Road on 268th St.; however, the City of Sioux Falls and Minnehaha County will need to submit an amendment to the 2002 Revised Joint Zoning Ordinance for the City of Sioux Falls and Minnehaha County to permit a solar energy conversion system of this capacity in the joint jurisdiction area.

Adjourn

A motion was made by Commissioner Randall and seconded by Commissioner Duffy to **adjourn**. The motion passed unanimously.