

**Lincoln County Board of Adjustment
Minutes of Thursday, September 24, 2009 at 8:30 a.m.
Lincoln County Service Center, Meeting room #156**

1. Open meeting and Call to Order – Meeting was called to order at 8:30 a.m. in the Zoning Office. Members present: Lamer, Jach-Richards, Steffenhagen, Hornischer, Alternates Brixius & Adams. Also present was: Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist & June Winters; Program Assistant. Board member Schmidt was excused.
2. Tour the site for the Public Hearing that would be held at 10:30 a.m. – The Board and Miller left to tour the site in Harrison. Board did not go to the Corning site because of distance and difficulty of access.

Members present for the public hearing: Lamer, Jach-Richards, Steffenhagen, Hornischer & Alternates Brixius and Adams. Alternate Brixius filled in for Board member Schmidt who was excused. Visitors: Dan Miller; Zoning Administrator, June Winters; Program Assistant, Ray Kraemer; Court reporter and 5 others.

3. Approve minutes from June 25, 2009 meeting - Motion by Steffenhagen, seconded by Jach-Richards to approve the minutes from June 25, 2009. Motion carried all ayes.
4. Public Hearing – The public hearing was opened for the request listed below.

Variance

1. A request by Greg Leiteritz to allow for a second seasonal dwelling on a 40 acre parcel in a Forestry Zoning district. The property is located in the NW¹/₄ of the SW¹/₄ of Section 14, T33N, R04E in the Town of Corning; having a tax parcel number of 06.143304.010.000.00.00.

Greg Leiteritz was present and sworn in. He gave the history of the parcel. He purchased it from his uncle 10-12 years ago, has hunted on the land since he was 12, and bought with the intention of building a hunting shack eventually. He said that the 40 lines in that area were questionable and it was surveyed last year by CWE. It was determined that the adjoining neighbor's shack is actually on Leiteritz's property. When he came into Zoning to apply for permits to build his own hunting shack he was surprised to find out that he could not build on his own forty because the dwelling density for land zoned Forestry did not allow for another structure on that 40 even though the existing one was not even his shack. Hornischer reviewed the steps had already been exhausted trying to resolve this. The MFL restrictions do not allow for "swapping" of land to remedy the situation without taking it out of MFL and paying the appropriate taxes. He has been told that his situation is not resolvable through the DNR. Leiteritz has spoken to the owner of the shack and he is not willing to move the structure onto his own land. Several options have been discussed with no resolution. Brixius asked how long it has been in MFL and Leiteritz stated since 2005. She was wondering if they couldn't take the land out, pay the penalty then enter it in MFL again. Leiteritz said it would cost him approximately \$3000 in back taxes. He could not speak for the other owner.

Eugene Borchardt was present and sworn in. He is the owner of the hunting shack. The land has been in his family since 1943 and was purchased with property lines that were indicated at that time. The shack was built in 1959 or 1960. He said that he and other land owners do not agree with the recent re-survey by CWE. He stated that there was unrecorded survey done in 1980 that is contradictory. He is worried about losing the easement to get to his property as Leiteritz is not willing to give a "permanent" easement. Brixius believes that there should be some compromise that could remedy the situation. Jach-Richards asked if Borchardt has a problem with this variance being granted. He said not really, but felt Leiteritz's shack as proposed would be too close to his existing shack. Borchardt stated that Leiteritz's is proposing selling his 40 to Borchardt as a solution.

Leiteritz returned to the podium. He said that Borchardt stated that others disagreed with the re-survey and he didn't feel that Borchardt should speak for them. CWE did the most recent survey at the request

of Lincoln County and there was a public meeting last September for the land owners to voice objections. He said that the CWE survey is the "official" survey now and those are the lines that they have to deal with. Leiteritz said he is reluctant to grant a "permanent" easement thinking if Borchardt's property changes hands he would like to see the shack moved at that time. He said that Borchardt brought up to him just this morning about Borchardt buying Leiteritz's property. Leiteritz has not given him a definite answer. Hornischer commented that this request could be laid over until October or November and maybe some other remedy could be reached.

Dan Miller, Zoning Administrator for Lincoln County, was present and sworn in. To clarify, it was Lincoln County that ordered the new survey of that area because of the known discrepancies and the lines have shifted west & north as a result. Miller agreed that there appears to be more resolutions. He agrees with Hornischer's suggestion that it be laid over to possibly find another remedy. Leiteritz asked if they did hold it over he was hoping that it be held over until the November meeting so that he has time to explore additional options. Chairman Lamer closed the public hearing for Greg Leiteritz.

Motion by Hornischer, seconded by Steffenhagen to LAYOVER the variance request until the November meeting. Motion carried all ayes.

2. A request by Michael and Larry McCracken to allow for a modification of lot lines between owners which will result in less than a 10 foot setback to an accessory building. The property is located in Section 15, T34N, R08E in the Town of Harrison; having addresses of N8585 Witte Drive and N8590 Witte Drive.

Larry McCracken was present and sworn in. He said that they do own both properties but they need to have the lot line determined so that there is no question in the future if sold and it requires a variance to establish that lot line. Jach-Richards had questions about the well and McCracken clarified that there are two separate wells. Hornischer asked if they have intentions of selling at this time and McCracken said that they just wish to get the dispute resolved so that there are no questions in the future if either property should change hands.

Dan Bowers, Zoning Specialist for Lincoln County, was present and sworn in. He took measurements today and wanted to change the "findings of fact" that they had been given to indicate the setback to both the garage and the stairs for the house is less than 10 feet. He does recommend that the variance be granted but not legitimizing the minimized setback and feels that if the buildings were ever torn down and rebuilt that those structures should meet the required setback. Jach-Richards asked for clarification on some points. Bowers does recommend that if granted that the buffer be restored to mitigate the impact of the closeness of the building to the water.

Chairman Lamer closed the public hearing for Michael & Larry McCracken. The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

Motion by Jach-Richards, seconded by Steffenhagen to APPROVE ON CONDITION the variance request with the recommended conditions as listed on the Zoning staff report. CONDITION:

1. The vegetative buffer for the lot having an address of N8590 Witte Dr. is restored to help mitigate the impacts of the garage and its proximity to the water.

Motion carried all ayes.

5. Adjourn – Motion by Hornischer, seconded by Steffenhagen to adjourn at 11:15 a.m. Motion carried all ayes.