

BOARD OF ZONING APPEALS

MARCH 18, 2008 6:30 P.M.

MEMBERS PRESENT: Jean Johanningman, Roy Middendorf, Jim Biles and Steve Moore. Lynne Wells was absent.

Fire Chief Scott Chasteen was present in Plan Director Kathy Reynolds' absence.

President Roy Middendorf opened the meeting.

The minutes were distributed in the member's packets to be reviewed. Steve made a motion to accept the minutes as written. Jean seconded. All ayes.

Item 1: Jeff Whitaker was on the agenda requesting a variance to build on two lots which are currently in the flood plain. This issue was tabled from February's meeting due to Jeff's absence. At the beginning of discussion, Jeff was not present so a motion was made by Jean to have Jeff reapply for next month. As the motion was seconded, Jeff arrived and apologized for being late due to confusion on the meeting time. Discussion began on the variance request. Jeff stated that he wants to build on lots 19 & 20 in Sunset Acres but due to the flood plain, he needs a variance before continuing with FEMA. Jeff was told by a FEMA contact that this variance is required or he cannot move forward. Jean stated that she has contacted FEMA and her contact informed her that FEMA needs more information from Jeff and that the variance is not needed. Jean would like to see Jeff contact DNR to see if he can get the site taken out of a flood plain. She is concerned about setting precedence on building houses on flood plains, which clearly goes against current ordinance. City Attorney Matt Bailey stated that if Jeff gets the building site on the property removed from the flood plain through DNR then he would not need a variance. Neighbor to the lots Bill Beard stated that he contacted DNR and was told that most likely that area would not be taken out of a flood area. Richard McClintic, neighbor, wanted to reiterate what he said last month. He does not want to see houses built on flood plain. He is worried about the run off into Gas Creek and flooding the banks. William Beard added that there is a lot more water runoff into that creek now due to Wal-Mart and would like to see it stay as is. Calvin Davis, neighboring land owner has concerns about the redirection of water runoff. Roy Middendorf clarified the issue to everyone stating that only the building site has to be removed from flood plain, not all of the lot. Mayor Gary Herbert stated that if DNR permits building on that lot that the house has to be built two feet above flood plain level. Mayor Herbert feels that there is no precedence to set because houses already exist in that area. Roy stated that the ordinances have changed since those houses were built. Motion by Jim to grant variance contingent upon FEMA approval. No second so the motion dies.

Item 2: Representatives from Napoleon State Bank is requesting a variance for signage. Architect Jerry Firestone presented a map showing placement of the new structure. Current ordinance states that the sign must have a 15 foot setback from the property line. This would cause the sign to be moved from the original location to the corner of the site. He is requesting that the board grant the variance due to aesthetics, safety and cost of moving the site of the sign. Les Kessens with Napoleon State Bank stated that he feels they have followed all regulations and are hoping to resolve this issue tonight in hopes of a June opening. Jim Biles questioned if the sign feel under the moving sign ordinance or the post sign ordinance. Roy said that after speaking with Kathy that it did not qualify as a moving sign. Shawn Green stated that the LEDs can be adjusted if needed and that the sign will only have the time, temp and a scrolling message. Scott Chasteen relayed that Kathy's main concern was that a 10 foot setback would be ok but not the zero setback that is being requested. Roy feels as the board is setting precedence in this area with all the upcoming development. Motion made by Jim to grant the sign variance. Steve seconded. Vote taken by role: Steve no, Jim yes, Roy no, Jean abstained. Variance not granted. Jean motioned to adjourn. Jim seconded.

Meeting adjourned at 7:15 p.m.

Board President

Secretary