

The Muscatine County Board of Adjustment met in the Environmental Learning Center on Friday, July 10, 2020, with Chairperson Carol Schlueter and members Emily Geertz, Janelle Spies and Charles Clark present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this hearing: William Sondermann, Dan Ketchman, Lory M. Eis, and Tom Quiram.

Eric Furnas: Okay, we are going to get started now. So obviously with the social distancing issues that we are facing, we are going to have to speak up a little bit because we did want to spread everyone out. We don't have a big crowd, so we'll get by. So Carol, would you like to open it up?

Carol Schlueter: Yes, I will open up this public hearing of the Board of Adjustment and I have an opening statement to read. The Zoning Board of Adjustment is a quasi-judicial board appointed by the Muscatine County Board of Supervisors. The Board's purpose is to interpret the Zoning Ordinance and to allow certain limited exceptions and variances where special conditions or hardships exist. We are an independent volunteer board of citizens and not part of the county administration. There are five members on the Board. State law requires three affirmative votes to approve any appeal under consideration, no matter how many members are present. If fewer than five members are present, the appellant has the opportunity to have the appeal delayed until the next meeting. This request must be made prior to Board deliberation of that case. As a Board of the County, we welcome all testimony. We make our decision based on the facts and evidence under county code, presented in open meeting. We ask that if you wish to speak, please give your name and address. Okay, so the first thing on our agenda is to elect a chairperson and a vice chairperson to serve until March 31, 2021. Right now I am chairman and Emily is vice. Do I hear any nominations for chairperson?

Emily Geertz: I will nominate Carol to be chairperson again.

Carol Schlueter: Oh thanks...

Emily Geertz: I mean, if you want...

Carol Schlueter: No, that's fine. Okay, are there any other nominations? If not, is there a motion that nominations cease?

Charles Clark: I will make a motion that nominations cease.

Emily Geertz: I'll second that.

Carol Schlueter: Okay, all in favor on having Carol being chairperson, please say Aye (4) Opposed (0). Okay, Carol is chairperson. Now I need a vice chairperson. Any nominations for vice chairperson?

Charles Clark: I nominate Emily to be vice chairperson.

Janelle Spies: I'll second that.

Carol Schlueter: Okay, is there any other nominations or is there a motion to have nominations cease?

Charles Clark: Madam Chairman I will make a motion that we close nominations for vice chairperson.

Carol Schlueter: Okay, and I'll second it. So it's been moved and seconded that Emily Geertz be the vice chairperson. All in favor please say Aye (4) Opposed (0).

Okay, we are chair and vice chair again. Okay, so everyone was sent the minutes from the last meeting. Is there any changes, additions or corrections? If not, I need a motion to approve the minutes as read and the resolutions.

Emily Geertz: I make a motion that we approve the minutes from the last meeting.

Janelle Spies: I'll second it.

Carol Schlueter: Okay, it's been moved and seconded that we approve the minutes from the last meeting and the resolutions. Any other discussion? All in favor please say Aye (4) Opposed (0). Okay, we normally are a board of five people, today we only have four here. So if we vote, it needs to be a majority because a tie vote is a no vote. You have the option of tabling this request until the next month when we may or may not have a full board. It's up to you. Okay, so Eric would you read the first request?

Eric Furnas: Case #20-07-01. An application has been filed by Central Iowa Power Cooperative, Record Owners by William Sondermann, Manager of Engineering. This property is located in Bloomington Township, in the NW¼ of Sec. 12-T77N-R2W, 2704 170th Street, East of Hwy. 38 and South of 170th Street, containing approximately 4.43 acres and is zoned A-1 Agricultural District and I-2 Heavy Industrial District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for the Record Owners to place an electrical substation and a Variance that would allow a telecommunications tower to be located less than the required distance from property lines. This request was tabled from the June 5, 2020 meeting.

Carol Schlueter: Any correspondence?

Eric Furnas: No ma'am.

Carol Schlueter: Is the spokesperson here? If so, please state your name and the request that you are asking.

William Sondermann: Yes, my name is William Sondermann, I am the manager of Central Iowa Power Cooperative. What this project entails is replacing the existing substation, due to aging. It will look similar but it will be different. Part of this request, we purchased an additional acre of land to expand the substation.

Eric Furnas: The existing property was zoned I-2 Heavy Industrial District and then they acquired this additional acre from the adjoining landowner, which is zoned A-1 Agricultural District. Instead of zoning the additional agricultural land to I-2 Heavy Industrial District, I recommended that they just get a Special Use Permit, so that we don't have more spot zoning out in the county. You don't need to have the property zoned I-2 Heavy Industrial District for this type of facility. If we rezone it to I-2 Heavy Industrial District that would allow different things to be there that we don't want in the area. But this Special Use Permit would still allow them to do this expansion under a Special Use Permit. So we are not rezoning it, and obviously you don't have the right to rezone it, that would be the Zoning Commission. So this Special Use Permit would be for an electrical substation under A-1 Agricultural District.

Carol Schlueter: So some of it would be zoned I-2 and some A-1?

Eric Furnas: Yes a portion of their property that has been operational for years has been zoned I-2 and it will remain I-2. Where they are expanding onto the additional area will remain zoned A-1 Agricultural District. But they are asking for a Special Use Permit for the whole site.

William Sondermann: So the Special Use Permit is just one piece of it, or one request and the other one is a request for a Variance for the tower. So typically the tower has to be ... or the fall zone has to be 1.1. So on this project we weren't able to put the tower in any other location. So what we have done is submitted a Variance for a fall zone and in addition to that we have attached an easement for the fall zone that the adjacent land owner will sign.

Eric Furnas: I can clarify some more on that. Normally our ordinance requires a telecommunications tower to be at least 1.1 times the tower height back from any property line. Given the minimum acreage that they wanted to acquire of the farm ground... and given the fact that they wanted to place the tower towards the rear, the fall zone would extend onto only the agricultural ground. So there is no risk of it reaching the highway if it falls.

Carol Schlueter: So you have the easement or you are working on getting that easement?

William Sondermann: We are working on getting that easement.

Carol Schlueter: Will there be a problem in getting it finalized?

Lory Ann Eis: Not at this point.

Carol Schlueter: Okay.

Eric Furnas: I would recommend that if the board chooses to approve this that the fall zone easement be signed.

Carol Schlueter: And then the easement would go with the Variance of the telecommunications tower?

Eric Furnas: The easement is one of the things that you would consider when you are allowing a Variance. And then if it's part of it is should be finalized with it.

Carol Schlueter: So the substation that is there now is completely going away, or are you going to use some of the stuff that's there and just add onto it?

William Sondermann: It would be going away entirely and a new one being built. It will be built in a couple of phases. But what it there now will be gone, it will look different.

Carol Schlueter: Is there anyone else using this equipment but you?

William Sondermann: Yeah so the City of Muscatine is already connected into the substation. The substation serves the northern part of Muscatine.

Eric Furnas: There is a lot of redundancy ... infrastructure redundancy, so this will accommodate some of that.

William Sondermann: The reason to why we are joined in with this substation project is that Muscatine Power & Water is a coal plant and obviously you want to take that energy that's being generated and coal plants aren't running as much. So the project will be bolstering the general region, even more than it already is. So we are going to be adding and increasing the reliability of it.

Carol Schlueter: Okay. Any other questions or comments from the board?

Charles Clark: Yes, I have one. Will there be any maintenance vehicles staying on the property or overnight?

William Sondermann: Typically not. So if there is maintenance going on, the trucks will come to the site and then leave. We visit the substation a couple of times a month, it is all done during the day. So they would have their trucks going to and from the site. If there were to be a need, it would be for maintenance purposes.

Carol Schlueter: Okay, Eric what are your comments and concerns please?

Eric Furnas: I would just say that this has been the existing use and it is obviously not inconsistent with the current land uses in the vicinity, so it's under a Special Use Permit under the A-1 Agricultural District, which is acceptable uses in the area. You might want to speak to the tower, that it is not a Verizon tower or something like that, it's limited to ...

William Sondermann: Yeah, sorry I didn't provide any detail on that. So this tower will be strictly for utility use.

Carol Schlueter: The telecommunications tower?

William Sondermann: Yes, and it's going to be replacing what is there today. We have a 140 foot tower there now and we are getting the fall zone easement for 150 feet. So basically we are just putting back what is there now. It would be within our fenced area.

Carol Schlueter: What is the timeframe for getting this all completed?

William Sondermann: So we expect to start construction near the end of the year, we are working through our design right now. So going over Christmas and into April, we will be removing the old and placing the new... it will start in the fall this year and likely go into summer of next year. That's a ballpark, don't quote me on that, you know, construction changes all the time. Especially with this covid stuff, getting equipment in and stuff like that might be hard.

Carol Schlueter: Okay, does anybody else here have any concerns with this or have any comments? Okay, if not, do we need two motions Eric, one for each request?

Eric Furnas: You can make it in a single motion but I would just remind you to add in that easement. I think it is just logically that they wouldn't move on until that is done. So it just should be conditionally approved pending that signed agreement.

Charles Clark: I will make a motion to allow this request for a Special Use Permit and a Variance subject to the fall zone easement being signed.

Carol Schlueter: Okay, is there a second to that motion?

Janelle Spies: I'll second the motion.

Carol Schlueter: Okay, it's been moved and seconded that we approve this Special Use Permit and Variance for this property with the stipulation that the easement be signed, is there any other discussion? If not, all those in favor please say Aye (4) Opposed (0). The motion passed.

William Sondermann: Thank you.

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No one was present for this meeting – due to the fact that they had called to withdraw the request.

Carol Schlueter: Okay, I think we are ready for the next request. Eric could you please read that?

Eric Furnas: Well I will just briefly mention Case #20-07-02. An application has been filed by the City of Muscatine, Record Owner by Greg Jenkins and Justin Winter, Applicant. This property is located in Fruitland Township, in the NW¼ & NE¼ in Sec. 21-T76N-R2W, South of 41st Street, containing approximately 30 acres and is zoned I-2 Heavy Industrial District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for the applicant to operate a salvage yard and recycling business. This request was tabled from the June 5, 2020 meeting. That case has been withdrawn. So I'm just reading this for the record. I did receive that in writing.

Carol Schlueter: Okay, so we don't have to make a motion or anything?

Eric Furnas: No, I just wanted that noted.

Carol Schlueter: Okay, thank you.

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Present for this hearing: Floyd Newcomb Jr. and Tisha L. Newcomb.

Carol Schlueter: Okay, I think we are ready for the next request. Eric could you please read that?

Eric Furnas: Case #20-07-03. An application has been filed by Floyd Newcomb Jr. or Tisha L. Newcomb, Record Owners. This property is located in Bloomington Township, in the NW¼ of Sec. 14-T77N-R2W, Goddard's Rolling Oak Hills, Lot 1, 1824 N. Isett Avenue, containing approximately 1.00 acres, and is zoned R-1 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Variance that would allow a garage addition to be located within approximately nine (9) feet of the side property line, instead of the required 15 feet.

Carol Schlueter: Any correspondence?

Eric Furnas: No ma'am.

Carol Schlueter: Okay would the applicant please state your name and tell us what you are requesting today?

Floyd Newcomb: My name is Floyd Newcomb and I bought this house just a year ago. It's got a two car garage but it's not big enough for my wife's full size car and my 4 wheel drive pick-up to be in comfortably. You can put them both in there but then you can't get out. (laughter) I wanted to add on 12 feet to the side of the garage. The way my lot is, it slopes and really there is no way of getting around back with a vehicle so that we could even have a detached garage.

Carol Schlueter: So you are wanting to extend the garage out like it is now?

Floyd Newcomb: Yeah so instead of just having a two car, we would have a three car. It would go in line of the garage, the same as it is now.

Carol Schlueter: It looks like you have some cement there already?

Floyd Newcomb: Yeah, so we'd like to do 12 foot on the end of the garage. So it would only be nine feet from the line, however, it gets wider as it goes. So nine feet would be the closest.

Carol Schlueter: Okay, so you are wanting nine feet instead of the required 15 feet?

Eric Furnas: Yes, at the closest.

Carol Schlueter: Okay, does anybody on the board have any questions? If not, Eric what are your comments on this?

Eric Furnas: I've given you a few photographs so hopefully you can see the topography that presents the challenge as far as building a detached garage in the backyard. I would point out that the structure to the north would be the one that's most affected by this, you can see ... but it's kind of cut off in this photograph. But it sits quite a ways from the south property line and so I don't believe that it would be creating a new hardship for that person, which actually is Mr. Newcomb's daughter that lives there. He has already worked through the process of vacating half of the utility easement. His lot was a little a-typical... normally we see a 15 feet utility easement split between the two property owners

and being 7½ feet on each lot, but he actually had all 15 feet on his side. I think because this subdivision was platted differently from the lot to the north. The utility company has already signed off on vacating half of that easement, so that will still leave actually nine feet. And that's just actually on the front part because the lot actually gets wider the further back it goes. So only the front portion of the garage will be nine feet and then it falls farther away as it goes. Given the location and orientation of the house, I don't think that it creates any kind of sight problem for pulling out onto the road. It's essentially just a little more than the concrete pad that is already there. I don't see any deterrent to the surrounding property owners.

Carol Schlueter: Okay, the fence that is here, is that the neighbor's fence?

Floyd Newcomb: Yes it is.

Carol Schlueter: Okay, and they have no concerns?

Eric Furnas: It's actually his daughter that lives there.

Carol Schlueter: Oh, it's your daughter, okay. But it looks like you can't extend your driveway because you have a culvert there. Or are you planning on doing more driveway?

Floyd Newcomb: Well the driveway is actually already there. Do you see my picket fence?

Carol Schlueter: Yes.

Floyd Newcomb: So the driveway is already wide enough.

Carol Schlueter: Okay. Are there any other questions or concerns from the board? If not, is there a motion?

Emily Geertz: I will make a motion to allow the Variance for the Newcomb's to build a garage addition within nine feet of the side property line, instead of the required 15 foot setback.

Carol Schlueter: Is there a second?

Janelle Spies: I'll second it.

Carol Schlueter: Okay, we have a motion and it's been seconded to allow this Variance for the Newcomb's to build a garage addition within nine feet of the side property line, instead of the required 15 feet setback. Any other discussion? If not, all those in favor of the motion please say Aye (4) Opposed (0). The motion has passed.

Floyd Newcomb: Thank you.

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