

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 1, 2015, with Chairperson Tom Harper and members, Martha Peterson, Carol Schlueter, Mike Birkinbine, and Bill Tharp present. Steve Boka, Interim Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Kathleen Eichelberger and Scott Eichelberger.

Tom Harper: Okay, this is the Muscatine County Board of Adjustment meeting and the first item of business is to approve the minutes from last month and the resolutions. We've all been furnished copies. You should have all reviewed them. Is there any questions? If not, I will entertain a motion to approve the minutes.

Bill Tharp: I will move to approve the minutes as written.

Tom Harper: Is there a second?

Carol Schlueter: I'll second it.

Tom Harper: The motion has been made to approve the minutes from the last meeting as written and it has been seconded. Any questions? Hearing none, all those in favor signify by saying Aye (5) Opposed (0). The motion carries. Okay, we have a five member board today so I don't need to read my disclaimer. Steve, do you want to read the first case?

Steve Boka: Well I am going to go ahead and read this statement just for clarity for the audience. This is just a opening statement for the Zoning Board of Adjustment. 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, however there are five here today so that is not an issue. 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 come to the podium and give your name and address. With that we will begin with the first case. Case #15-05-01. An application has been filed by Scott D. and Kathleen A. Eichelberger, Record Owners. This property is located in Seventy-Six Township, in the NE¼ Sec. 15-T76N-R3W, East of Jasper Avenue, containing approximately 2.480 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for the Eichelberger's to build a rural residence on this property after a Restrictive Covenant had been signed.

Tom Harper: Okay, are the applicants here? (Yes) Okay, if you could please state your name and tell us a little about your request?

Kathleen Eichelberger: I am Kathleen Eichelberger, and this is my husband Scott. We reside at 2352 Jasper Avenue, Muscatine. We are here again to request a Variance for us to build a home on our ground. This is a different case than what was brought to you in February. Since that time we have had opportunity to speak with the County Board of Supervisors, we were able to talk there at the meeting discussing denial of our previous request. And we have also been out to talk with Mr. Boka, who has very readily helped us with some different ideas and Dixie, we really appreciated their help.

Tom Harper: Was there any correspondence?

Steve Bokka: No.

Tom Harper: Okay, so you've changed the location of where you want to build?

Scott Eichelberger: Yes, this is a different taxing parcel with a lower CSR.

Tom Harper: Okay, so this is this little triangle?

Scott Eichelberger: Yes, it's 2.5 acres, it's less than three acres.

Steve Bokka: It is south of the prior location but the same side of Jasper. It's kind of a remnant piece that is north of the church there. It seems to suit their needs.

Tom Harper: Is there anyone here in the audience to either speak for or against this request? Are there any questions or comments from the Board?

Carol Schlueter: Okay, why was the Restrictive Covenant put on there?

Dixie Seitz: The house to the northeast there was split off when Healy's owned it and they signed the Restrictive Covenant in 1999.

Scott Eichelberger: Yeah, I have a map here. There is another house that was split off in 1906 when the railroad went through. These about that railroad right-of-way. The other house was split off in 1999, when they settled the Paul Healey will, he deeded off 4.5 acres to the hired man. That's when the Restrictive Covenant was put on. On another note, I do have a problem your Restrictive Covenant of your whole county. This is a farm, the previous parcel that we came in on in February is 80 acres and one taxing parcel, this is another piece. I bought the whole thing at once, but this is a separate taxing parcel because it is in a separate section. It's in Section 15 and the other parcels are in Section 10. You have a problem with your Restrictive Covenant.

Bill Tharp: What do you mean, we? You mean us as the Board of Adjustment?

Scott Eichelberger: This county...

Bill Tharp: Okay, we don't ...

Scott Eichelberger: Well the county has a problem under the farm exempt...

Bill Tharp: Well that is not our board, you need to take that up with the Board of Supervisors. That is not something that we can consider or change.

Scott Eichelberger: So you cannot zone a farm. This is a farm house on a farm.

Bill Tharp: We are not zoning it and that is out of our control. I just want to be helpful to not have you waste your time.

Scott Eichelberger: Now we have done this and the CSR is a lot under your 55.

Carol Schlueter: Is this tillable ground where you are putting it?

Scott Eichelberger: Yes it is.

Carol Schlueter: It is farm ground, okay.

Scott Eichelberger: It is under the 55 CSR.

Carol Schlueter: Okay, so then there will be two houses on this farm, is that correct?

Scott Eichelberger: No.

Carol Schlueter: So that is a different farm?

Scott Eichelberger: That it is a different parcel. The rest of the farmland around that has been sold to someone else different.

Carol Schlueter: Okay, I'm just asking questions so that I can understand. Yeah, so if it's under the 55 CSR and it's further than the 1,250 feet...

Bill Tharp: Okay, so the CSR is 50?

Dixie Seitz: Yes, we received that information from Randy Spies of the Assessor's Office.

Carol Schlueter: Okay.

Mike Birkinbine: Right and the other location was over 55 plus.

Carol Schlueter: Right.

Tom Harper: Is there any other questions or discussion on this or any comments?

Bill Tharp: I think the location looks correct and the CSR is correct.

Mike Birkinbine: Yes.

Carol Schlueter: And there was no other correspondence, correct?

Dixie Seitz: Right.

Mike Birkinbine: I will make a motion to approve this Special Use Permit in order for Mr. & Mrs. Eichelberger to build a rural residence on this property after the Restrictive Covenant had been signed.

Martha Peterson: I'll second it.

Tom Harper: A motion has been made and seconded to approve the request for a Special Use Permit for Mr. & Mrs. Eichelberger to build a rural residence on this property after a Restrictive Covenant had been signed. Any other discussion? Hearing none, all those in favor signify by saying Aye (5) Opposed (0). The motion carries.

Scott Eichelberger: Thank you.

Kathleen Eichelberger: Thank you.

MUSCATINE COUNTY BOARD OF ADJUSTMENT  
By Steve Bokka, Interim Zoning Administrator

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 1, 2015, with Chairperson Tom Harper and members, Martha Peterson, Carol Schlueter, Mike Birkinbine, and Bill Tharp present. Steve Boka, Interim Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Stacey Feldman.

Tom Harper: I will have Steve Boka read the next request.

Steve Boka: Case #15-05-02. An application has been filed by Robert R. or Beverly A. Feldman, Record Owners and Dusty Feldman, Proposed Buyer/Builder. This property is located in Wapsi Township, South of Hwy. 6 in parts of the NW¼ of Sec. 17 and the NE¼ of Sec. 18, all in T78N-R3W, containing approximately 96.85 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for Dusty Feldman to build a rural residence in the NE¼ of Sec. 18 on approximately six (6) acres that is being proposed to be split from the property.

Tom Harper: Is the applicant or spokesperson here?

Stacey Feldman: Yes, my name is Stacey Feldman and I am here for my husband Rusty Feldman. We are wanting to build on his parents property, back by the hill that they are not farming.

Tom Harper: Is this east of West Liberty?

Stacey Feldman: Yes.

Tom Harper: Alright so then this property extends from the railroad right-of-way to Hwy. 6.

Carol Schlueter: Well I am trying to figure out where this property is at.

Dixie Seitz: This is where Dusty's parents live off of Hwy. 6 and to the west of that along Hwy. 6 is were Price was wanting to buy that place for storage tanks.

Carol Schlueter: Oh, yes. Now I know where I am. So you can get access from Hwy. 6 to get to this property?

Stacey Feldman: Yes, right along the fence line there we can.

Carol Schlueter: Okay.

Bill Tharp: Steve, it looks like the distance is appropriate and their CSR is 42.9 and that's okay too?

Steve Boka: Yes.

Tom Harper: Was there any correspondence?

Steve Boka: No.

Tom Harper: Is there anyone in the audience to speak for or against this request? Does the board have any other questions, comments or discussion? The staff has no issues on this?

Steve Boka: No, there was some... as part of severing the real estate, it is this parcel that you see before you, it would cause a small rectangular piece to be on the other side of the right-of-way. It would leave this remnant that's ultimately

going to be attached to the other property that's owned by the family. So it would be added onto that parcel and it will make it a little cleaner than it currently is. So actually this is probably a better situation. They will have an amended plat go through the Auditor's Office and they are okay with what is being proposed.

Tom Harper: The frontage off of Hwy. 6 is large enough to meet the requirements?

Steve Boka: Yes, it meets the requirements.

Tom Harper: Okay. If there are no other questions or comments, does anyone care to make a motion on this?

Bill Tharp: I will move to approve the Special Use Permit in order for Dusty Feldman to build a rural residence in the NE $\frac{1}{4}$  of Sec. 18 on approximately six acres of land that is being proposed to be split from the property.

Tom Harper: Is there a second?

Martha Peterson: I'll second it.

Tom Harper: A motion has been made and seconded to grant this Special Use Permit for this case, is there any other discussion or questions? Hearing none, all those in favor signify by saying Aye (5) Opposed (0). The motion carries.

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By Steve Boka, Interim Zoning Administrator

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 1, 2015, with Chairperson Tom Harper and members, Martha Peterson, Carol Schlueter, Mike Birkinbine, and Bill Tharp present. Steve Boka, Interim Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Connie Bein, Vaughn Bein, and Andrew Willey.

Tom Harper: Okay, moving right along, Steve can you read the next request?

Steve Boka: Yes and I am going to read both of these together because they are for the same property. You can separate them for the motions, if you wish, but they are really together.

Case #15-05-03. An application has been filed by Theodore M. Querin, Record Owner and Proposed Lessee, Night Owl Wireless by Andrew Willey. This property is located in Montpelier Township, East of Yellow Avenue and North of 5<sup>th</sup> Street, in the NE $\frac{1}{4}$  of Sec. 23-T77N-R1E, containing approximately 10.43 acres, and is zoned R-1 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order to place a tower approximately 150' to 165' back from the front property line on this property to provide wireless internet access.

The next case, which is #15-05-04, is an application by the same folks and same location. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to place a tower that is approximately 120' to 150' in height on this property to provide wireless internet access.

Tom Harper: Okay, and the applicant is here.

Andrew Willey: Yes sir.

Tom Harper: Can you tell us a little more about this request? I think we know what you are proposing here, but go ahead and give us a little background on this.

Andrew Willey: Yes, I am been approached by the Rancho Valley subdivision and also I have been in contact with the fire captain in Montpelier Township. They are all interested in having affordable internet access. So this was kind of ... after our last meeting in November, this is just kind of the snowball effect. So I am been in communication with some of Rancho Valley, they got together and wanted an affordable tower to be able to provide internet access for both Rancho Valley, Montpelier and the surrounding area. That's why I am here today.

Tom Harper: Okay so it looks like the tower you are proposing is going to be about 120 feet tall?

Andrew Willey: Yes, the one that we purchased is 120 tall. After the last meeting that I had, I kind of asked for a little leeway to go to 150 in case we run into any problems. From the engineering standpoint, 120 feet is going to suffice.

Tom Harper: Okay, so also the request was to change the setback?

Steve Boka: No, I think the setback is okay, he showed that on the plat. We just wanted to make sure that it was back equal distance at least minimum distance to the height of the tower that is built. That's what we are trying to show on that particular plat. The height may vary, if you remember the last time that we dealt with Mr. Willey, remember his engineer came back and he had to request another five feet onto to the tower? So the idea here was that as long as it doesn't require further review by the FAA or other regulatory

agencies, then he could set it back 150 feet. So that's why he is going ahead and asking for that, so he doesn't have to come back if he needs to adjust the tower from 120 to 125, than he is still okay without having to come back. That's based on what I am hearing here. The plan just shows that if he had to go back 150 feet that it could wholly be maintained within the property.

Tom Harper: Okay, was there any correspondence?

Dixie Seitz: We did have one email response asking that you approve the requests, it was attached with your packets.

Tom Harper: Yes, that was the one from John Roberson.

Dixie Seitz: Yes.

Tom Harper: Okay, is there anyone in the audience to speak for or against these requests? Does the board have any questions?

Carol Schlueter: Okay, so who owns this property?

Andrew Willey: Theodore Querin.

Carol Schlueter: So there are no houses on this? They don't live there?

Dixie Seitz: No, he lives in Rancho Valley.

Carol Schlueter: So this is just bare ground?

Steve Boka: With the exception of that machine shed.

Carol Schlueter: So that's what's there? It's a machine shed?

Steve Boka: Yeah, it's an older machine shed.

Carol Schlueter: So there is access to get in there and everything already? And you can use that and put the tower right there?

Andrew Willey: Yes. We are not using any of the farm ground. That was kind of the intent. So it would be in the southeast corner of that shed.

Carol Schlueter: Okay. Mike, is this a good thing?

Mike Birkinbine: Yeah, I think it is. From that standpoint, the people struggle out here, they don't have a service provider down there, it's difficult. If it's going to help the life safety issues too, with the fire department down there, I think it's a good thing. I know where the place is. I know where the ground is and it is bare ground. I think as long as the setbacks are there from the tower height, so that if anything happens as we have always stated, that it doesn't fall onto the county road, I think it's a good thing.

Carol Schlueter: Connie, how far are you from this?

Connie Bein: I'm across the road from this, I'm west. We have farm ground there.

Carol Schlueter: So if she wanted to get service from you, she could?

Andrew Willey: If she's serviceable, yes.

Martha Peterson: Another thing that we addressed, in the change of technology down the road, who will be responsible for removing the tower should it no longer be necessary to have it?

Andrew Willey: That is my company's responsibility. The tower is really a tangible object and it has value to it, I actually have pretty much a sweet deal on it. So if 10 years down the road my company than does a live wire in Montpelier and we don't need the tower anymore, we will sell it off and go down three feet in the ground and you know, it's done.

Dixie Seitz: And there was a lease agreement that was attached with the packet that states that.

Mike Birkinbine: So this agreement states that in it?

Andrew Willey: What is that?

Mike Birkinbine: That you will remove the tower if you no longer use it or... I didn't read the whole thing.

Andrew Willey: Yes, it does.

Mike Birkinbine: I just want to make sure that that is in there because I think that that is an important part of it, right?

Andrew Willey: Yes.

Mike Birkinbine: Unless we can put a windmill or something on top of it, you know? (laughter)

Andrew Willey: Currently it is a ten year lease on it now, normally they are five years and this one is ten years to go back and revisit the situation. Currently, I cover about 45 square miles of the Scott County area, surrounding Walcott on the edge of Durant and Blue Grass. (change tapes)

Tom Harper: Is there any further discussion, questions or comments? The staff is okay with this?

Steve Boka: Yes.

Dixie Seitz: Are you going to take the motions separately?

Tom Harper: Yes, let's go ahead and make a motion for each case separately. Does anyone care to make a motion on the Case #15-05-03?

Mike Birkinbine: I will make a motion to allow the Special Use Permit in order to place a tower approximately 150 to 165 feet back from the front lot line.

Tom Harper: Is there a second on that motion?

Carol Schlueter: I'll second it.

Tom Harper: A motion has been made to approve the Special Use Permit in order for them to place a tower approximately 150 to 165 feet back from the front lot line and it has been seconded. Any further discussion or questions? Hearing none, all those in favor signify by saying Aye (5) Opposed (0). The motion carries. The next one is Case #15-05-04 for a Variance.

Carol Schlueter: I will make a motion to allow the Variance in order for the Night Owl Wireless to place a 120 to 150 feet tall tower on this property to provide internet wireless access.

Mike Birkinbine: I will second that.

Tom Harper: Okay, the motion has been made and seconded to grant the Variance to place a tower that is approximately 120 to 150 foot tall on this property and it's been seconded. Is there any further discussion, questions, concerns or

comments? All those in favor of the motion signify by saying Aye (5) Opposed (0). The motion carries.

MUSCATINE COUNTY BOARD OF ADJUSTMENT  
By Steve Boka, Interim Zoning Administrator