

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, January 8, 2016, with Chairperson Tom Harper and members, Carol Schlueter, Martha Peterson, and Bill Tharp present, Mike Birkinbine was absent. Eric S. Furnas, Planning & Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Andrew Morrison and Kayla Morrison.

Tom Harper: I will call this meeting of the Muscatine County Board of Adjustment to order. First thing on the agenda is to approve the minutes from the last meeting, which was November 13<sup>th</sup>. Those should have been supplied to everybody. Does anyone have any questions or concerns? If not, I will take a motion to approve.

Bill Tharp: I will make a motion to approve the minutes as written.

Tom Harper: Second?

Martha Peterson: I'll second it.

Tom Harper: The motion has been made and seconded to approve the minutes as written. All those in favor signify by saying Aye (4) Opposed (0) Absent (Birkinbine). The motion has carried. I will read the opening statement. The Muscatine County 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. Now today we only have four members here, so we have to have three yes votes in order to pass. A tie vote would be a denial. You have the right to either table this or proceed with us and I can't guarantee that we'd have all five members next month. So with that being said, would you like to read the first case Eric?

Eric Furnas: Yeah, do you want to confirm that they want to proceed with this board?

Tom Harper: Would you like to proceed today?

Andy Morrison: Yes.

Tom Harper: Okay.

Eric Furnas: Case #16-01-01. An application has been filed by Andrew W. and Kayla E. Morrison, Record Owners. This property is located in Goshen Township, in the NW<sup>1</sup>/<sub>4</sub> of Sec. 13-T78N-R3W, Parcel B, South of Hwy. 6, 2132 Hwy. 6, Atalissa, containing approximately 6.26 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance to allow the Morrison's to build a second home on this property and for Mrs. Joyce Wilson (Mr. Morrison's grandmother) to occupy the existing dwelling.

Carol Schlueter: Okay, now wait a minute, excuse me. The one that they want to build, the new one is going to be occupied by whom?

Andy Morrison: By us.

Bill Tharp: And their grandmother is going to be staying in the existing house. Their grandmother used to live in the house and they sold it because it shows

on here. Joyce Wilson is the grandmother and in 2014 she sold the property to Andy and Kayla Morrison. So now what they are saying is their grandma who has lived in that house for a while...

Andy Morrison: Forty years I think.

Bill Tharp: Yeah, a long time. Evidently they intend to have her stay in that house and then the new dwelling is something that they will live in. Isn't that right?

Andy Morrison: Yeah.

Kayla Morrison: She is still living there, she never moved out.

Carol Schlueter: But the one that was sent out said that the new house would be lived in by the grandmother.

Kayla Morrison: That's what we had originally.

Eric Furnas: That's what the original request was.

Carol Schlueter: Oh okay.

Tom Harper: Okay, so we get this on the record, can you please state your name?

Andy Morrison: Do you want me to stand up?

Tom Harper: You can sit down.

Andy Morrison: I'm Andy Morrison and I'm here to try to get a Variance to build a house.

Tom Harper: Okay, so we get this right, you own the property, you bought the property, you want to build a new house on this property that already has an existing dwelling and the existing dwelling will be occupied by your grandmother, Mrs. Joyce Wilson?

Andy Morrison: Yes. As soon as something would happen to her, I would be willing to sign a contract or however you want to do it, that six months after she passes then the house comes down. So there would only be one house on there again.

Kayla Morrison: The existing house would come down, not the new house.

Andy Morrison: Yeah, the existing house.

Tom Harper: Okay, Eric do you have any comments or clarifications?

Eric Furnas: Nothing beyond what I submitted on the Development Report. As you are probably aware our ordinance does allow for a Special Use Permit for a mobile home to have a family member to be close and for protection of property. There isn't a specific provision for building a second residence on the same lot, thus the request for a Variance. These kind of circumstances do become a little big burdensome to police down the road. You know, when the circumstance no longer exists, we have to make sure that they contact us and that the dwelling would be removed. But if this request were to be approved, the provisions for septic systems and modern building codes would be clearly defined for the residence, also that the septic system be verified on the existing residence to make sure that it is not creating a health hazard. They need to contact us from year to year to let us know that the same circumstances exist.

Tom Harper: What is the requirement now for a mobile home?

Eric Furnas: A mobile home is the same they need to contact us every year. They would have the option of renewing the permit if the same circumstance exists.

Tom Harper: I mean, once we grant the Variance on that, the burden is on them to report annual?

Eric Furnas: Well a mobile home isn't a Variance it is a Special Use Permit.

Tom Harper: Alright.

Eric Furnas: So a Special Use Permit is a little less... there's not really much of a hardship that has to be portrayed. The language for the mobile home says that the applicant has to contact our office year to year to ask for an extension if the same circumstances exist that the Special Use Permit was granted under.

Tom Harper: Now, if I read this map right... is this close to where the old scale house or weigh station is on Hwy. 6?

Eric Furnas: Yeah, it's just directly west of there.

Tom Harper: So this already has a little bit of a water problem out there?

Eric Furnas: Well this year there are a lot of water problems.

Tom Harper: Well typically that is kind of a high water table in that area?

Andy Morrison: Well the part where we will build has never ever been under water.

Carol Schlueter: So your property isn't in the flood plain?

Andy Morrison: No.

Tom Harper: Yeah there's a flood plain in that area but it's further down towards Atalissa where there is water problems.

Bill Tharp: I just want you to make sure that you know that... that if there was a building out there that once... I mean, because I look on here and it shows that the assessment as being worth \$178,000. You know... that if you put on a trailer or a mobile home to help out grandma and then grandma stays in the house and you can live in this mobile home. So they are there to help out but then as soon as that ends then that building is gone. We are talking about, you know, you are talking about getting rid of a house worth \$178,000 when your grandmother passes away. Do you know that?

Andy Morrison: Yes we are aware of that and it's outdated enough, I mean it would take a lot to change it.

Bill Tharp: Well I know that you are a builder and you have the ability to do it. But I just want to make sure before you get into this because, you know, sometimes you are sorry for what you ask for. I just wanted to make sure that that is not the case here.

Andy Morrison: No, we have been talking about it for many years.

Bill Tharp: Because at that time then the second would have to come down. As for situation where... do you keep the second house versus the first house, you know, I really don't... I've never researched that issue. Just so long as there is just one house on the property. Is that the way that it is?

Eric Furnas: Yes.

Bill Tharp: Okay, than that would be my main question then, so you are aware that you would be required to tear down a \$178,000 house when your grandmother would pass away?

Andy Morrison: Yes, that would allow us to build what we want, I guess, and then to continue to live there forever. And then yes, I know, the old house would have to come down and I am aware of what it would cost.

Bill Tharp: I guess that's just what struck me.

Carol Schlueter: Okay, so your grandmother has lived here for 20 years?

Andy Morrison: Yeah, I think she bought it in 95, somewhere around there.

Carol Schlueter: So she lived with her husband there and then he passed away?

Andy Morrison: Yeah.

Carol Schlueter: Okay, so where is your residence right now?

Andy Morrison: We actually live in a house in the City of West Liberty, it's on 16<sup>th</sup> Street.

Carol Schlueter: And you own that house?

Andy Morrison: We swapped with Grandma.

Carol Schlueter: So grandma owns that house in West Liberty where you are living?

Andy Morrison: Yeah.

Carol Schlueter: And then you bought then one and she lives in it?

Andy Morrison: Yeah.

Carol Schlueter: Now your business, you are in construction?

Andy Morrison: No, I have dump trucks and stuff like that.

Carol Schlueter: Okay, than if you build this house here, are you going to run that business off of this property here?

Andy Morrison: No.

Carol Schlueter: So where is that business located at?

Andy Morrison: It would be in town, I have an office in town.

Carol Schlueter: Okay, but you probably will have trucks out here?

Andy Morrison: Yeah, there might be a truck in the garage.

Carol Schlueter: Okay.

Andy Morrison: There won't be any traffic in and out. I mean, we don't sell anything from there.

Carol Schlueter: It's just that you haul stuff in a dump truck?

Andy Morrison: Yeah.

Carol Schlueter: Okay, you need to prove hardship to us, right, in order for us to allow a Variance?

Eric Furnas: Yes.

Carol Schlueter: So what is grandma's condition?

Kayla Morrison: Well every night she's at our house, we feed her, we see her every day, our children see her every day. So we are just at the point that we currently pay for everything at her house as well as our house, all the electricity, all of the utilities. We are just at a point that we would just like to have one place where it's easy to go to her house and she can come over to our house.

Carol Schlueter: So what is her health condition?

Kayla Morrison: She doesn't really have any health problems.

Carol Schlueter: So she can take care of herself?

Kayla Morrison: Yes.

Carol Schlueter: She just maybe doesn't want to be alone. But she doesn't need daily care?

Kayla Morrison: No.

Carol Schlueter: So you feed her and you take her back? Or can she drive?

Kayla Morrison: She drives.

Carol Schlueter: So she can still drive, get around, get her own groceries, and take care of herself?

Kayla Morrison: Yes.

Andy Morrison: Ever since my grandfather passed away a couple of years ago, everything has been just way too much for her.

Carol Schlueter: I understand, it's hard, however, I don't know if that's enough for a hardship.

Martha Peterson: What was the CSR is on that property?

Bill Tharp: It was below 55, I think it was 43.

Carol Schlueter: But there's really no land there anyway, isn't it like six acres?

Eric Furnas: Well really all of those questions wouldn't really apply, because he is not asking for a Special Use Permit. You have the ordinance that shows the legal standards of a Variance, right?

Carol Schlueter: Yes.

Martha Peterson: Yes.

Eric Furnas: You might want to take a minute to refer to those. The hardship for a Variance is awfully tight. It's for unique circumstances of the property, etc. So just take a minute to look over that ordinance.

Carol Schlueter: Because it's really... I mean if they want to build a house, there is plenty of room there where he wants to build the house, that's not a hardship, right?

Eric Furnas: No, I don't believe that he's requesting a Variance in order to place the new house. The Variance in question is to be able to place a second house on this property and leave the existing one there for the grandmother to live in. The Variance would be to allow a second dwelling on this parcel.

Bill Tharp: Yeah, I think it's a two prong test for this Variance. One is that this Variance is because of the nature of the property and then there is another situation for if somebody needs care.

Tom Harper: Yeah, generally the hardship is based on the use of the property, not so much the hardship of the owner, correct?

Bill Tharp: Yeah. (everyone talking at the same time) It says: The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood. I even saw that described further.

Carol Schlueter: And where they are putting this is far enough from any other houses or whatever?

Eric Furnas: Well for a Variance there is not a minimum separation distance that would be for a Special Use Permit.

Tom Harper: So if you used the Special Use Permit criteria than no it would not qualify. And you look at this, there is already a cluster there now anyway.

Eric Furnas: Yeah, if you approve this, he would have to meet the minimum from the front, side and rear property lines with the new structure. If he couldn't, he would have to ask for a Variance from the setbacks. I think they have the space that he could build a second dwelling without a Variance from the setbacks.

Carol Schlueter: And the new septic system?

Eric Furnas: Yeah, that's all about building a new home.

Carol Schlueter: What about water? Does he have to have a separate well?

Eric Furnas: Not necessarily. If there is a good well, they can share a well.

Andy Morrison: Yeah, the well is only two years old now.

Tom Harper: Well it looks like there is plenty of room, there's six acres.

Carol Schlueter: I just can't find where there is a hardship.

Tom Harper: Is there any other comments or questions?

Carol Schlueter: So if he were to tear this house down today he could build a new one there, right?

Eric Furnas: Absolutely. In fact he could apply for a building permit and begin construction on the new one and the existing one would have to be torn down within six months after occupancy is granted on the new home. That is under normal procedures, without any Variances granted.

Carol Schlueter: Okay.

Tom Harper: Does anybody care to make a motion on this request?

Bill Tharp: I will make a motion to approve the Variance to allow Andrew W. and Kayla E. Morrison to build a second home on this property and for Mr. Joyce Wilson to occupy the existing dwelling or vice versa, but with the stipulation that the Morrison's notify the Muscatine County Zoning Office and the Muscatine County Board of Adjustment upon their grandmother, Joyce Wilson's, passing, and remove the existing dwelling within six months of her passing. So at that time then there would only be one dwelling on the property.

Tom Harper: Is there a second?

Martha Peterson: I will second the motion.

Tom Harper: The motion has been made and seconded as stated to grant the Variance with the stipulations of reporting the continuous residence by Joyce Wilson and removal of the house upon change of classification. Is there any other discussion or questions? If not, all those in favor of the motion signify by saying Aye (3) Opposed (Schlueter) Absent (Birkinbine). The motion carried.

Eric Furnas: This will have to go before the Board of Supervisors for their review. They will vote whether or not to remand this back to the Board of Adjustment. We will let you know when that meeting will be. You do not have to attend but are welcome to.

Andy Morrison: Okay, thank you.

Kayla Morrison: Thank you.

MUSCATINE COUNTY BOARD OF ADJUSTMENT  
By Eric S. Furnas, Planning & Zoning Administrator