

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 6, 2016, with Chairperson Tom Harper and board members Carol Schlueter and Martha Peterson present, Bill Tharp and Mike Birkinbine were absent. Eric S. Furnas, Planning & Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Sheila Hahn and David Hahn.

Tom Harper: I will open the public hearing for the Muscatine County Board of Adjustment and will read the opening statement. 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. You notice that there are only three of us here today so it would take all three to vote positive to pass your request. And I will repeat this for each case as we come up to them and you will have the option of either proceeding or we can table this until the next time, but there is no guarantee that we'll have five members the next meeting. 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. First item of business is the minutes from the last meeting, which was in April. You have all been provided a copy and have had a chance to review it. Are there any changes? If not, I would entertain a motion to approve the minutes.

Carol Schlueter: So moved.

Tom Harper: Is there a second?

Martha Peterson: I'll second it.

Tom Harper: The motion has been made and seconded to approve the minutes from the April meeting. All those in favor signify by saying Aye (3) Opposed (0) Absent (Birkinbine & Tharp). The motion carried. Eric, would you read the first case?

Eric Furnas: Case #16-05-01. An application has been filed by David O. and Sheila A. Hahn, Record Owners. This property is located in Seventy Six Township, in the NE $\frac{1}{4}$ of Sec. 1-T76N-R3W, Parcel G, South of 231st Street, 2178 231st Street, Muscatine, Iowa, containing approximately 5.21 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance to allow an accessory structure (approximately 14' x 24') in front of the dwelling, but it would be at least 50 feet from the front lot line.

Tom Harper: Is the applicant here?

David Hahn: Yes.

Tom Harper: Do you wish to proceed with this request today or do you want to table it until next month?

David Hahn: We'll proceed.

Tom Harper: Okay, can you tell us a little bit about your request?

David Hahn: Yes, my wife recently retired and she wants to get a horse. So we need a building of course for that. We can't go behind our house, because the property doesn't belong to us and we can't go along side of it because it falls off. So really the only place for it is over to the right. There is a county maintainer shed on the other side of it. So really it's the only place to put it. That's all we are trying to do is to put a building on it for a horse barn.

Tom Harper: Okay. Eric do you have anything?

Eric Furnas: This is really one of the most requested Variances or applications. There are steep slopes, as Mr. Hahn indicated, the topography is kind of rough in this location. It's also hidden by a vegetative screen. The house sets clear back off the road, so any impact to the surrounding area is really minimal.

Tom Harper: Was there any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Is there anyone here that wishes to speak for or against this request? Does the board have any questions?

Carol Schlueter: It's for horses, right? Do you have horses now?

David Hahn: No, it's just for one horse.

Carol Schlueter: Okay, so if you put up the building and don't get a horse, they really can use it for anything, right?

Eric Furnas: Sure. It could be used for anything that is allowable in the A-1 Agricultural District.

Carol Schlueter: Okay.

Eric Furnas: Yeah, agricultural uses are allowed.

Carol Schlueter: Right.

Eric Furnas: No this Variance only deals with the accessory building being in front of the existing dwelling.

Tom Harper: Are there any other questions or comments? If not, is there a motion?

Carol Schlueter: I will make a motion that we allow this Variance that would allow an accessory structure in front of the dwelling, but that it would be at least 50 feet back from the front lot line.

Tom Harper: Okay, is there a second?

Martha Peterson: I'll second it.

Tom Harper: There has been a motion and it has been seconded to approve this Variance that would allow Mr. and Mrs. Hahn to build an accessory structure in front of their existing dwelling, but that it would be at least 50 feet back from the front lot line. Any other questions or comments, if not, all those in favor of the motion please say Aye (3) Opposed (0) Absent (Birkinbine & Tharp). The motion has carried. One additional item that I need to read here, and that is, any construction or use allowed by this Board must begin within two years from the date of this decision, or the permission will be void. Any person desiring to appeal this decision to District Court may do so within days 30 days after filing this decision.

Eric Furnas: Also, since this is a Variance it will also be reviewed by the Board of Supervisors in a couple of weeks. They have the opportunity to remand it back to the Board of Adjustment. You will get a notification of when that meeting will be.

Sheila Hahn: So I can't actually go ahead and have the building started?

Eric Furnas: No, because it's not officially done until the Board of Supervisors chooses not to remand their decision.

Sheila Hahn: Alright, thank you.

Tom Harper: Yes, just be sure to be in contact with the zoning office.

David Hahn: Okay, thank you.

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Others present for this hearing: Steve Stoner and Jerry Willis.

Tom Harper: Alright, next case?

Eric Furnas: Case #16-05-02. An application has been filed by Amanda A. McPherson, Record Owner. This property is located in Montpelier Township, in the NW¹/₄ of Sec. 21-T77N-R1E, Willis/Shea Subdivision, Lot 1, East of Ward Avenue, 1937 Ward Avenue, Muscatine, Iowa, containing approximately 1.01 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to build a detached garage in front of the existing dwelling and only 40 feet from the front lot line, instead of the required 50 feet.

Tom Harper: Is the applicant here?

Steve Stoner: No she isn't, but I am her fiancé.

Tom Harper: Alright, was there any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Okay, and as I stated in the opening statement, there are only three of us here, normally it's a five member board, so you can either proceed or table it until next month.

Steve Stoner: We'll proceed.

Tom Harper: Can you tell us a little about your request then?

Steve Stoner: Well the way the property was set up, the property is at a little bit of an angle, and it tapers and slopes and follows the road. The point where we want to build the garage puts us back so far on the property, that it's all washed out. It's just been filled with stuff and there is a lot of erosion back there. It's just not safe to build on. So the only logical place is where I am asking to build.

Tom Harper: Eric did you have anything you want to add?

Eric Furnas: Again, I find that this is the one that's the most appropriate for a Variance application that there is. The topography, steep slopes in the area, also studying the surrounding area the impact of this should be negatively affected. The staff recommends approval of this request.

Tom Harper: I imagine with a one acre lot, there's not a whole lot of room to beginning with.

Eric Furnas: Right, and they do have a septic system on the other side of the house that would be affected by it.

Carol Schlueter: And it's back far enough to drive out onto Ward Avenue with no sight problem?

Eric Furnas: Well there is a request for a ten foot Variance, it's normally 50 feet back and they are asking for 40 feet. But that still allows 40 feet from the parcel line, and the parcel lines are also within the right-of-way lines. So I

don't believe that there is a sight distance issue with allowing this 40 foot setback.

Carol Schlueter: Okay.

Tom Harper: Okay, so basically it's one request with two parts to it.

Eric Furnas: Yeah, two Variances technically. So it's a Variance from the accessory structure in the front yard and then a 10 foot Variance to have it 40 feet back instead of the required 50 feet.

Tom Harper: And this is a gravel road?

Eric Furnas: Yes, this section of Ward is a gravel.

Tom Harper: Is there anyone here to speak for or against this request?

Jerry Willis: I am Jerry Willis. This subdivision was named for us. But anyway I would just mention to you that for years there was a hill that was right next to the road, I mean the vision was blocked. It was like a 12 foot hill. This is where he is talking about that it was filled. The hill was basically just moved back. So the vision now is so much better than it ever was. The sight really has greatly improved.

Tom Harper: Okay, is there any other discussion or questions? Does anybody want to make a motion?

Martha Peterson: I will make a motion that we approve this Variance in order for them to build a garage in front of the existing dwelling and with a 10 foot Variance, so that would only be 40 feet back from the front lot line instead of the required 50 feet.

Tom Harper: Is there a second?

Carol Schlueter: I will second it.

Tom Harper: Any other discussion, questions, comments? Okay, a motion has been made and seconded to approve the request of #16-05-02, to build a garage in front of the existing dwelling and a Variance from the required 50 foot setback, all those in favor please say Aye (3) Opposed (0) Absent (Birkinbine & Tharp). And once again, this motion has been declared approved. Any construction or use allowed by this Board must begin within two years from the date of this decision, or the permission will be void. Any person desiring to appeal this decision to District Court may do so within days 30 days after filing this decision. Also, you were here when Eric stated that a Variance also has to go before the Board of Supervisors. He will let you know when that will be.

Steve Stoner: Okay, thank you.

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Others present for this hearing: Russell Van Acker.

Tom Harper: Okay, next case?

Eric Furnas: Case #16-05-03. An application has been filed by Russell R. Van Acker and Jesse M. Shield, Record Owners. This property is located in Pike Township, South of 180th Street in the NW¹/₄ of Sec. 17-T77N-R3W, containing approximately five 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 Record Owners to place a camper on this property for use as a Seasonal Recreational Cottage.

Tom Harper: Is the applicant or spokesperson here?

Russell Van Acker: Yes.

Tom Harper: As I said before, do you wish to continue with a three person board or do you want us to table this meeting until next month?

Russell Van Acker: I'll go ahead.

Tom Harper: Was there any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Okay, do you care to tell us a little about what you are wanting today?

Russell Van Acker: I'm Russell Van Acker. The property that we are talking about is along Pike Run, it's a water access down there. We bought the property not knowing that we needed to go before the Board of Adjustment to have a camper there. I mean, there are cabins and campers all along the other side. We just wanted to put a camper up on my property. We've done a lot of cleaning up. It's looking really great already.

Tom Harper: Eric, do you have anything to add?

Eric Furnas: Just to refresh your memory on our ordinance, our Zoning Ordinance does provide for the issuance of Special Use Permits for Seasonal Recreational Cottages in A-1 and R-1 zoning districts. The occupant is required to maintain a fulltime residence elsewhere for these types of structures. This is on an individually owned lot, it is zoned agricultural. It is also along a river, lake or stream or other areas where other recreational uses exist. It does have adequate size for the lot. Campers are one of the types of Seasonal Recreational Cottages that are listed. The obvious advantage for having a camper in the flood plain is that you are able to move it out before the flood. The Flood Plain Development Ordinance states that it cannot have anything built onto it that is permanent, such as an addition, deck, etc. The effluent must either be taken to an approved State of Iowa dumping site or they would need to install a septic system. So that being said, again these are Special Use Permits and they are recognized as already being established in the A-1 & R-1 areas, with stipulations.

Tom Harper: So are they allowed to put power in and septic systems?

Eric Furnas: Yes they are. They can be done according to code. Really we almost prefer that because holding tanks and septic systems become kind of burdensome in flooded areas. But people can use holding tanks for their campers, with permitting and inspection. Electrical services get done all the time, we permit and then inspect.

Tom Harper: And since it is a camper, do they have a time limit that they can have it on the property?

Eric Furnas: Well really we just have the provision that it can't be a permanent dwelling and they have to have a permanent residence elsewhere.

Tom Harper: So they can leave it parked there as long as they want as long as no one is occupying it?

Russell Van Aker: Well actually I will pull it out and store it on my property.

Eric Furnas: Well actually, I would have to go back and look for sure.

Tom Harper: Yeah, I know that we've done this before with people that have bought a piece of bottom land property and put some gravel in, which is fine.

Eric Furnas: Actually on the campers, it says they are only supposed to be there 180 days out of the 365.

Tom Harper: Okay, is there anyone else here to speak for or against this request?

Carol Schlueter: So are we being asked for one camper only or he can pull in more campers?

Eric Furnas: No, this is for one camper only.

Carol Schlueter: And if he doesn't put in a septic system and he leaves his camper there, are they allowed to dump their waste or what do they have to do with their waste from the camper?

Eric Furnas: No, their waste is treated just like any other residential septic waste, you would have to have an approved hauler pump from the camper, or you could take the camper waste to an approved dumping station, say at a state park, or they can install an approved septic system or a holding tank that is required to be pumped so often. But waste cannot be discharged from a camper on top of the ground.

Carol Schlueter: Okay, I understand.

Tom Harper: Any other questions by any board members?

Martha Peterson: Tell me about your camper. Is it one of these motorhome type campers or is a...

Russell Van Acker: No it's a 33 foot pull behind with a slide out.

Carol Schlueter: So it's not a 5th wheel, it's a pull behind?

Russell Van Acker: No, it's a pull behind.

Tom Harper: Okay, anyone else? If not, I will entertain a motion.

Carol Schlueter: I will make a motion that we allow this Special Use Permit in order for the Record Owners to place one camper on this property for use as a Seasonal Recreational Cottage.

Martha Peterson: I'll second it.

Tom Harper: A motion has been made and seconded to allow this Special Use Permit to be issued for this request, as stated. Any other questions? All those in favor please say Aye (3) Opposed (0) Absent (Birkbinbine & Tharp). The motion has been passed. This might not apply, but if there is any construction on this, this might apply, that it has to be done in two years or the Special Use Permit is revoked.

Eric Furnas: And this does not require any action by the Board of Supervisors. So you will receive a letter from our office and you could come in and get the electrical permit.

Russell Van Acker: Thank you.

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