

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on December 2, 2016, with Chairperson Tom Harper and members, Carol Schlueter, Martha Peterson, and Mike Birkinbine present, Bill Tharp was absent. Eric S. Furnas, Planning & Zoning Administrator and Dixie Seitz, Office Administrator were also in attendance.

Also present for this hearing: Robert Stout.

Tom Harper: Okay, I will call the public meeting of the Muscatine County Board of Adjustment to order. We need to take care of some business. It looks like we have to approve the resolution from last month's request to vote on for approval, that was the Twin City Concrete Variance request. I think everyone was provided a copy of it. Is there any questions? If not, is there a motion to approve?

Carol Schlueter: I'll make that motion.

Mike Birkinbine: I'll second.

Tom Harper: The motion has been approved and it has been seconded to approve the resolution of the case from last month for Twin City Concrete. Any discussion? Hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion passed. I 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 and State law requires three affirmative votes to approve any appeal under consideration, no matter how many members are present. Today we have only four members present, in that case if there is a tie vote the request would be denied. When it is your request, you may either wish to proceed or table it until next month when we may or may not have a full board. I will ask that at the beginning of your request. 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. With that being said, Eric, can you please read the first request?

Eric Furnas: Case #16-12-01. An application has been filed by Robert Stout, Record Owner. This property is located in Bloomington Township, Lot 1, Northwood Estates (except West 150'), 2689 Northwood Drive, in the SW¼ of Sec. 13-T77N-R2W, containing approximately 1.59 acres and is zoned R-1 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to build an attached garage 29 feet from the rear lot line, instead of the required 40 foot setback.

Tom Harper: Is the Record Owner or applicant here?

Robert Stout: Yes.

Tom Harper: Do you wish to move forward with this request today?

Robert Stout: Yes.

Tom Harper: Okay, if you would like to state your name and tell us a little about your request?

Robert Stout: Yes, my name is Robert Stout. Well if I go to the side, the septic system is there. To the west I wouldn't have an access to the house. So the only feasible place is right there on the north side of that house. It would

stand out about 6-8 feet from that existing shed. But it does not go quite to the shed that is there. So I need an 11 foot Variance to make it work there.

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

Eric Furnas: Well I provided you with a diagram which shows the approximately location of the proposed attached garage. As you can see, even though it would be encroaching on the rear property line to a point closer than what is normally allowed, there is already an existing structure there. So as far as alteration of the characteristics of the site, in my opinion, it would not alter anything for preexisting structures. It's already there. It's essentially behind the building. It's not in the front yard creating any aesthetic deterrent for people driving by. We believe that this Variance, if granted, will protect the public interest and welfare of nearby homeowners.

Tom Harper: Any correspondence?

Eric Furnas: No sir.

Tom Harper: Okay and I assume that aerial shows where the proposed garage would be located?

Eric Furnas: Yes, that is a part of your packets.

Carol Schlueter: I have a question. On this diagram, is there no garage there now?

Robert Stout: There is a shed back there in the rear, yeah.

Carol Schlueter: So how are you going to have access to this garage?

Robert Stout: Okay, there is a driveway that comes right here but the septic tank is right here in the driveway and I want to get away from that and bring it around here.

Carol Schlueter: So you would drive around this way and go in this way?

Robert Stout: Yes.

Carol Schlueter: Okay.

Martha Peterson: Okay, can you show me on this aerial?

Robert Stout: Yes.

Martha Peterson: And what's in this shed?

Robert Stout: It's just a pole shed.

Martha Peterson: Anything flammable in it?

Robert Stout: No, no not really.

Martha Peterson: Are you worried about fires?

Robert Stout: No, it's just a metal shed.

Martha Peterson: Okay.

Carol Schlueter: But those won't be attached.

Robert Stout: No, no.

Carol Schlueter: This is going to be attached to your house?

Robert Stout: Yes, so I can walk into the kitchen. Because as you get older... I've got one leg that's having problems.

Carol Schlueter: Uh huh, I understand very well.

Tom Harper: Okay, is there any further discussion, questions or comments? Is there anyone here to speak for or against this? Does anyone on the board have any more questions or are we ready for a motion?

Carol Schlueter: I will make a motion that we allow this Variance in order for Mr. Stout to build an attached garage 29 feet from the rear lot line instead of the required 40 foot setback.

Mike Birkinbine: I will second that.

Tom Harper: A motion has been made and seconded to approve the Variance as requested, any other discussion? Not hearing any, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carries.

Eric Furnas: So this will also go in front of the Board of Supervisors for their review. They have the option to remand it back to the Board of Adjustment for another consideration or not. We will let you know when that would be. You are not required to be at that meeting, but are welcome to attend.

Robert Stout: Okay, thank you.

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By Eric S. Furnas, Planning & Zoning Administrator

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Also present for this hearing: Peggy Hepton.

Tom Harper: Okay, we are ready for the second case. Eric, can you please read the next request?

Eric Furnas: Case #16-12-02. An application has been filed by Frank E. Hepton Jr., Record Owner and Peggy Hepton, Applicant. This property is located in Fulton Township, Christensen's 1st Subdivision, Lot 3, 3655 Hwy. 61, Blue Grass, in the NE¹/₄ of Sec. 33-T78N-R1E, containing approximately 3.94 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order for the Record Owner to place a 24' x 36' pole barn in front of the existing dwelling, but it would be at least 50 feet back from the front lot line.

Tom Harper: Any correspondence on this?

Eric Furnas: No sir.

Tom Harper: Is the applicant or owner here?

Peggy Hepton: Yes.

Tom Harper: Do you wish to proceed with this request?

Peggy Hepton: Yes.

Tom Harper: Okay, please state your name and give us a little information about your request?

Peggy Hepton: My name is Peggy Hepton and my address is 3655 Hwy. 61, Blue Grass, Iowa. We would like to build a pole barn at our residence to hold our tractor to clean our driveway and the equipment that we need on the property. We have a boat and a four wheeler and right now the equipment is being stored partly in our garage, partly in our neighbor's garage, and partly off site in Walcott. The site that we have selected seems to be the most reasonable. It's located between two trees, right off of our driveway. If it was between our two houses, there is electrical there and there's also a septic, and we couldn't go down the hill. There's a large hill slope that goes behind our house to a creek. So building on any of the other sites really isn't feasible. The front of our property is about three acres that is all flat. It's not really usable by the highway. We have one neighbor that is located right next to us. I do have correspondence from them saying that they do not have an issue with us building there.

Eric Furnas: I have printed off the diagram that shows the topography with the steep slopes. It starts sloping down quite rapidly on both sides. This is the proposed location, right off of their driveway. As you can see, this is flat but it's also considerably higher than the highway, so the visibility of it is next to nothing from the highway.

Carol Schlueter: So you share a driveway with your neighbors?

Peggy Hepton: It's actually our driveway but they have an easement to use it.

Carol Schlueter: Okay, and they live over here?

Peggy Hepton: Yes.

Tom Harper: And this is all north of the highway?

Carol Schlueter: Yes, this is their ground and this is the other peoples but here is the driveway that comes off of Hwy. 61 that they both use.

Peggy Hepton: I have some pictures taken from their front door to look out. I mean, I wouldn't want them to look out and just see our building. So actually when they look out their front door right now – they see a big old pine tree and this building would be between the pine tree and this tree.

Tom Harper: Was there anybody here to speak for or against this request?

Carol Schlueter: Okay, so the Variance is because it would be in front of the existing dwelling.

Peggy Hepton: Do you want to see the letter from the next door neighbors?

Eric Furnas: Yeah, we can put it as part of the case file. Would you like me to read it into the minutes?

Tom Harper: Yes.

Eric Furnas: It references Case #16-12-02. To Whom It May Concern: I have received notice of an application for variance as detailed in the above case. I am the owner of the property at 3653 Hwy. 61 next door to the Hepton's property. Please accept this letter as notice that I have no objection to the variance. Thanks – Nancy S. Leming.

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

Eric Furnas: Well you can see from my development report notes we have verified significant terrain issues and the limited potential for buildable space. Due to the distance that the house already sits back from the road right-of-way I believe that the Variance shouldn't alter any character of the locality. I believe because of the steep slope it does limit the buildable space. I don't see where granting this Variance would harm any public interest.

Tom Harper: Okay, is there any other discussion or questions? Would you like to make a motion?

Mike Birkinbine: I will make a motion to grant the Variance in order for the Record Owners to place a 24' x 36' pole barn in front of the existing dwelling but that it would be at least 50' back from the front lot line.

Martha Peterson: I'll second the motion.

Tom Harper: Okay, the motion has been made to approve the request as stated and it has been seconded. Any other discussion? Hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carried.

Peggy Hepton: Thank you, I can't wait to get my garage back!

Carol Schlueter: I bet.

Eric Furnas: The same thing applies here since this is a Variance. It will be reviewed by the Board of Supervisors and we will send you a letter saying when that will be but you do not have to attend the meeting. It will take

about two to three weeks for the meeting, and then we will let you know afterwards of the outcome.

Peggy Hepton: Okay, so then can we start doing the groundwork?

Eric Furnas: Not until the Board of Supervisors have reviewed the Variance.

Peggy Hepton: Okay.

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Also present for this hearing: Jeff Turkle, Pam Turkle, Don Schumaker, Dan Schumaker, Marilyn Schumaker, and Mark Brockway.

Tom Harper: We will move onto our third request. Eric, will you please read that request?

Eric Furnas: Case #16-12-03. An application has been filed by Jeffrey A. or Pamela R. Turkle, Record Owners. This property is located in Fulton Township, South of Iowa Interstate Railroad, West of Vine Avenue, adjacent to the City of Stockton, in the NE¼ of Sec. 5-T78N-R1E, containing approximately 0.39 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order for the Turkle's to be allowed to continue operation of a wood processing business recycling and processing wood for resale.

Tom Harper: Any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Is the applicant, owner or spokesperson here?

Mark Brockway: Yes.

Tom Harper: Okay, if you could stay your name and tell us a little about the request?

Mark Brockway: Yes, my name is Mark Brockway and my address is 1424 Berryfield Court, in Bettendorf, Iowa. I am here representing Pam and Jeff Turkle upon the request for Variance.

Tom Harper: I need to ask you, since there are only four members here today, do you want to proceed with this or table it until next month?

Mark Brockway: I think that we would like to precede sir.

Tom Harper: Okay, if you would go ahead and give us some background and some information on the request?

Mark Brockway: Sure, we started with a request to the planning commission to rezone the property from A-1 to a light industrial use to accommodate their small sawmill wood processing facility. We did receive support from the planning commission, unanimous support. We then went to the Board of Supervisors. They indicated support, however, their concern was that the conditions that we offered to insure the neighbors and to address any potential problems, I think it was your county attorney that stated, he didn't feel comfortable with a conditional rezoning. So the Board of Supervisors thought it would be most appropriate to come before you to pursue a Variance versus the rezoning. So that's why we are here, that's a little background. This is the third time we've been here, the planning commission, the Board of Supervisors and now with you as Board of Adjustment members. What we've done is that we have reviewed Eric's staff report in detail. I think that Eric has done a very clear and thoroughly job of outlining the issues. Probably most importantly is the finding that we do meet the criteria for a hardship. That in fact, there is not a reasonable return on 0.39 acres of property, this property that's been used historically as an industrial site, a lot of fill and lot

of block. The Turkle's have actually improved the property. Again, it's a unique property that really can't function agriculturally. If you go back and look at the classification through your assessor in the county, they don't assess it as agricultural, they assess it as residential. Jeff has asked that it be classified agricultural if it's zoned agricultural and they said that it was not suitable for agricultural. So that is the first issue. Secondly again the site is 0.39 acres, very limited in size. The third criteria, that it will not alter the essential character of the area. I think what is nice is Pam and Jeff's neighbors, their bordering neighbors to the south are here again. They have attended each meeting showing their support for this operation. They have indicated on record that it is not harmful, it is not disruptive. There are no other issues, other than it has made a positive impact on the property. So I think that that is pretty good. Lastly I will mention, Eric has outlined eight conditions on the second page, 1-8, to insure that this operation will not have a negative impact on the county and/or the City of Stockton. We have reviewed each of those eight conditions and we are in agreement with those. We initially proposed conditions, hours of operation, no open burning, basically controls to ... again to give assurance to you, to the county, that this is going to be a small business operated responsibly. So again with that, I guess if there are any questions... we are in support of the staff recommendation to approve it with those eight conditions. Again, Jeff and Pam are here to answer any questions. I see the neighbors, thankfully, are here again, which is always nice to have support from your immediate neighbors. So with that Mr. Chairman...

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

Dan Schumaker: Well I don't have any problems with it. (he said something else, but the recorder didn't pick it up)

Tom Harper: Okay, and please state your name?

Dan Schumaker: Dan Schumaker.

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

Eric Furnas: Well I would just actually... I have several things that Mr. Brockway already mentioned, but I do concur that there is unique property limitations with this parcel for reason previously stated. We believe that the proper safeguards and limitations that I have outlined wouldn't alter any of the essential character of the locality. There is already a very general mixed use, land use, with the adjoining city limits of Stockton. So I don't see this as setting any kind of zoning alteration issue. We did the detailed safeguards and limitations simply to help protect against harming the public welfare by limiting the hours of operation. I would just like the applicant to know that no one is immune from nuisance complaints and these limitations and some of those things would help alleviate nuisance complaints, in our opinion. This does not, and I believe that Mr. Turkle understands this, this does not give a Variance to use it for all industrial purposes. This is limited to his proposed tree business, much as he has been operating now. I believe the open burning issue, which is one that initially started the complaints, and started this whole process. I believe that has already been resolved. He has been in compliance now for several months. And he discussed that at length with the DNR. I will read through the eight limitations that I have outlined for this property.

1. Hours of operation shall be limited to the hours of 7 a.m. to 7 p.m.
2. No open burning shall be allowed.
3. All wood brought onto the property shall be processed in a timely manner and stored in a way that will not create harborage for rodents and vermin.

4. Applicant shall be required to maintain adequate surface aggregate on the entrance and storage lot areas to prevent ponding of water.
5. Applicant shall take necessary steps to remediate dust created from the sawmill operation as well as the aggregate surface. This may include wetting the ground and/or applying dust control products.
6. Applicant shall ensure that all products remain on his property and shall not cause said products to be placed onto property owned by another. All waste products shall be disposed of according to applicable laws and regulations.
7. No permanent structures of any kind may be constructed without written consent of the Muscatine County Zoning Office.
8. Operations on the site shall be limited to the processing of trees normally obtained as part of day to day operations of Turkle's Tree Service. The size and capabilities of the current sawmill may not be increased without the written consent of the Muscatine County Zoning Office.

Tom Harper: Okay, so the City of Stockton does not have any zoning?

Eric Furnas: That is my understanding.

Tom Harper: And this property is contiguous to their use within the City of Stockton?

Eric Furnas: Yes he has operations on his property that is located in the City of Stockton and to my knowledge there is not zoning or any regulations within the city limits.

Tom Harper: So if this Variance is granted, does it stay with the property or with the owner? Is it transferable?

Eric Furnas: Well this Variance could transfer, however, it's still going to be under these same limitations that are detailed.

Tom Harper: Okay, does the board have any questions or comments?

Martha Peterson: Yes, can you talk about the wood processing business. What exactly is that?

Jeff Turkle: We cut logs back there. I have a portable sawmill. There are logs that the other sawmills don't take because of the iron in them. Well I've been getting rid of these logs. I make wood saw planks out of the trees, I have pictures I can show you, that lot is 80 foot wide by 40 foot. But it's for firewood and a sawmill and storage there.

Martha Peterson: So you cut lumber?

Jeff Turkle: Yes.

Martha Peterson: Do you dry it there too?

Jeff Turkle: Yes.

Someone: But that's in Stockton not on county property

Jeff Turkle: Yes, that's in Stockton.

Eric Furnas: He has a business in Stockton.

Carol Schlueter: Like how many logs did you cut this year and put into boards?

Jeff Turkle: (He said something the recorder didn't pick up) The goal is to do more though, I just don't have the time.

Carol Schlueter: And then people come to you and buy the wood?

Jeff Turkle: Well we've been doing a lot of stuff for ourselves right now.

Carol Schlueter: Okay.

Jeff Turkle: Well we just did this last week. (showing a picture of a wood slab)
That is going to be bar tops. Those are slabs of a tree that we just did.

Carol Schlueter: So really you are trying to salvage them, you are trying not to burn them, you are trying to utilize them.

Jeff Turkle: Yeah, otherwise that is a pine log that is just going to get thrown away.

Martha Peterson: You say it has metal in it?

Jeff Turkle: Yeah, the big sawmill like the one down on the bypass, they will not touch an urban log.

Carol Schlueter: So an urban log is like on the farm and we put nails or something in them?

Jeff Turkle: Yeah, or the residential ones too, people nail stuff to them.

Tom Harper: But the sawmill operation is contained in the City of Stockton, correct?

Eric Furnas: No this sawmill is like a small trailer that he pulls with his truck.

Carol Schlueter: Yeah, it's just outside it's like 10' x 10' or something.

Jeff Turkle: Yeah, it's about 25' but I can come to your house and mill a log for you right there.

Tom Harper: Okay, anything else? I will entertain a motion.

Mike Birkinbine: I will make a motion to grant this Variance for the Turkle's to continue their operation of the wood processing plant.

Tom Harper: And with the stipulations?

Mike Birkinbine: Yes, with the stipulations 1-8 applied.

Martha Peterson: I will second the motion.

Tom Harper: A motion has been made and seconded to approve this request for a Variance as stated, with the stipulations of the eight conditions applied on the development report. Any other comments, questions, or discussion? Not hearing, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carries.

Mark Brockway: Thank you very much. We sure appreciate it.

Carol Schlueter: Now this will also go onto the Board of Supervisors, right?

Eric Furnas: Yes, same speech that I gave the other two.

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