

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on March 3, 2017 starting at 9:30 a.m. 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: Doug Green and Kari Green.

Tom Harper: I will open the public hearing of the Board of Adjustment. The first thing I would like to do is get a motion to approve the minutes from the last meeting and the resolutions. They were all sent out and you should have had a chance to review them. Are there any questions or comments? If not, I'd like to entertain a motion to approve the minutes and resolutions.

Carol Schlueter: So moved.

Tom Harper: A second?

Martha Peterson: I'll second it.

Tom Harper: A motion has been made and seconded to approve the minutes from the last meeting and the resolutions. Any discussion? Hearing none, all those in favor signify by saying Aye (4) Nay (0) Absent (Tharp). The motion is carried. 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. This is normally a five member board and today we only have four members present, the fifth one won't be here. That being said, any motion in the affirmative has to pass by at least three votes. Any action that is taken that has a tie vote, it will be considered a denial vote and it will be denied. You have the opportunity to either proceed with this or we can table this until next month and I can't guarantee that we'll have five members next month. 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. Eric, would you read the request?

Eric Furnas: You can also make that decision to table this request right up until they vote on it.

Doug Green: Okay.

Eric Furnas: Case #17-03-01. An application has been filed by Douglas M. and Kari E. Green, Record Owners. This property is located in Pike Township, in the NE¼ of Sec. 23-T77N-R4W, 1911 Elder Avenue, East of Elder Avenue, containing approximately 4.98 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to remodel the existing detached outbuilding into a second dwelling for his brother to reside in.

Tom Harper: Any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Okay would the application please state their name and give us a little background about this?

Doug Green: My name is Doug Green, 1811 Elder Avenue and this is my wife Kari Green. We started remodeling a three car garage with a second floor above it; we put a loft above it. The original intent was to use it as a hobby area for personal use. I guess I didn't realize that we needed approval for it. We said my brother could live there until he got back on his feet and find another place to live. We had the space available for him to live there.

Tom Harper: Eric, could you give us some background on this?

Eric Furnas: First for some clarification, the addition on the second level in itself isn't an issue that requires a Variance. However, the reason the Variance is requested is because it was remodeled into a dwelling unit on top of a detached accessory structure. Our codes do not allow for dwelling units to be on or in detached accessory structures. Our ordinance states you may have one residence on a parcel, you cannot have two. Usually it's a Special Use Permit being asked by a family member to have their family member close. Then when they no longer live there the mobile home is removed. If it was a hobby area or a workshop, all he would need to do is obtain a building permit from our office and we'd issue a building permit and do inspections. But because this is a dwelling, that is why it needs to go before the Board of Adjustment and ask for a Variance.

Tom Harper: Any discussion or questions by the board?

Martha Peterson: Yeah, can you tell us a little about the cause or reason for the homelessness?

Doug Green: Well he has a hard time maintaining a job. He's always straddling a job. He's never been able to support himself the way he should. I didn't want to see him homeless, so I decided to add a room above the detached garage for him to live in. We have just been trying to help him out. He has actually

tried helping other people out but they haven't paid their rent and utilities so he got so far behind on bills that he wasn't able to pay. He lived with my mom for years. But with his divorce, that kind of put him in a hole too. So I was just trying to help him out.

Tom Harper: Well this has to be proven as a hardship, right?

Eric Furnas: Correct. I've listed all the criteria that they have to show for a hardship.

Carol Schlueter: Well does it meet the septic and all of that? Is this hooked onto the other one at the house or does it have a separate septic?

Doug Green: It's the same septic.

Carol Schlueter: And that's legal?

Eric Furnas: We have not inspected for code compliance yet because we wanted to get through this first. But if this is approved then our office will continue with the building and environmental issues.

Doug Green: Yeah, the septic was run through the garage ... I did alter that. But there was water at one time but it was capped off. We had to put in a new well for the house and when we did that, I did connect it through the garage. That was done by a permit, I believe.

Kari Green: Latta dug the well.

Tom Harper: Well any Variance that we may or may not approve can come with stipulations for time and usage. It is not a permanent use.

Eric Furnas: That's correct. Under the staff comments, I would like to just go over them for your consideration. Our office has several concerns regarding the type of construction on this detached accessory structure. Accessory structures are very difficult to convert to a residential use. If approved, the applicant would need to understand that the entire structure will need to meet the requirements of the Muscatine County Construction Codes for dwellings, which is the International Residential Code. I'm thinking that we could work through this, but we would need proof that it is code compliant, and that may include having an engineer certify and prescribe alterations to the structure to satisfy applicable dwelling codes. The construction is different on detached garage versus dwellings there are different things that have to be approved. We do recommend that if the Variance is approved that if the circumstances change over time and that the hardship burden is no longer present, the applicant needs to make changes to the structure to make it compliant with the Muscatine County Code of Ordinances, which means it would need to go back to a workshop or hobby room, that it doesn't meet the

definition of a dwelling any longer. That would mean that they would need to remove the sleeping and/or eating quarters. Under no circumstances could the structure be used as a rental property, if this is approved and the hardship reason no longer applies. Those are my comments.

Martha Peterson: So are you ready to cooperate with all of these issues?

Doug Green: Yes. I mean, I don't know what would be involved structurally that you are talking about. But he has run into financial issues so if it's something major... I mean, I will do what I can. I mean, if they find something, I will cooperate with them and I will do what I can. I want it to work out the best for him, so yeah.

Eric Furnas: Well we would need to issue a permit and then look into issues such as if the structure is adequate to support a second story, things like that. I mean we are looking for safety and fire issues; those are the things that are going to have to be considered.

Doug Green: Oh yeah, I have the fire rated drywall.

Eric Furnas: I think we are looking at having them have an engineer look at it to make sure that they have adequate supports and things like that.

Carol Schlueter: Is your brother working now?

Doug Green: Yes, he is working part-time.

Carol Schlueter: Okay, so really your hardship is just saying that he was homeless. He's not on disability?

Doug Green: Well I don't know how I go about proving that, but he has had two episodes since he has been here that he has been taken to the hospital by ambulance from our home. He just got a new job, it's part-time at Hy-Vee, and it's the night shift. He is currently looking for another job.

Carol Schlueter: But he's not on any disability from the government or anything like that?

Doug Green: No.

Carol Schlueter: I just don't know if being homeless is a hardship. Most generally when I think of a hardship is when it's a parent or grandparent and then we have a trailer come in. I mean, this seems pretty permanent.

Tom Harper: Well anything that we may or may not do here it would definitely be limited to this case only and then when this situation would cease to exist,

circumstances changes, then it could not be used again as a dwelling. It would have to be converted back.

Carol Schlueter: And that would be the removal of a kitchen, is that all that would have to be removed?

Eric Furnas: He would have to... well I haven't been out there to see what the layout is. According to the definition there would have to be no separate sleeping and dining/kitchen quarters.

Doug Green: Really it's just one big open area that has a kitchen and dining area and then it has two rooms that are set up as bedrooms now. Now would all of it have to be taken down or ...

Eric Furnas: I would think that the main criteria would be the dining and kitchen area. I mean, we would have to do an inspection. I think what I would recommend is similar to what needs to be done when it's a mobile home, and that is to put the burden on the applicant to notify us once a year that the circumstances haven't changed. And that the person that was allowed to live there is still living there.

Carol Schlueter: How old is your brother?

Doug Green: Fifty-one.

Mike Birkinbine: Yeah I think it's a hardship case. I think being homeless is a hardship. I think for some family member to bring in someone and try to help them I think it would be a hardship. My question around the kitchen, even if they turn it into a game room, he can't leave a kitchen in it for a game room?

Eric Furnas: If there are separate quarters for sleeping and food preparation it is defined as a dwelling. So it gets a little gray sometimes, however, for something that is arguably a bedroom, there can't be kitchen facilities, or it is defined as a dwelling.

Doug Green: Again, I will do what I need to do. As I said, my original intent was just a work space area, a hobby area. I hunt so it was to be somewhat of a hunting room.

Kari Green: We have been planning that for years.

Doug Green: Well that was definitely the plan at the time.

Mike Birkinbine: Are your expectations that he may stay there forever?

Doug Green: You know it's hard to say. I don't know how long he'll be there. He is a heavy smoker, he has high blood pressure. He might not be around for long, I don't know.

Kari Green: Well he's only been there a couple of months and he's been taken by ambulance twice.

Doug Green: Yeah she found him passed out on the stairs the one time.

Mike Birkinbine: You sound like a good brother.

Doug Green: Thanks. Yeah he could be there for a while, I don't know.

Tom Harper: Alright, are there any more questions or comments?

Eric Furnas: I guess I would like to add one more condition and that would be that the Green's do not seek an additional 911 address for this outbuilding, that this property just has the one address.

Doug Green: Oh yeah, no problem.

Tom Harper: Okay, does anybody care to make a motion?

Martha Peterson: Well this is a hard one.

Tom Harper: Yeah, but I see this as being similar to the mobile home issue for a family member that's given a time limit and has to check in annually or reported on annually. Then when the condition that would be granted for ceases to exist, then it has to revert back. It cannot be used for a dwelling – period. You are only allowed one dwelling unit per property, per address.

Mike Birkinbine: We allowed another one for a dwelling to be issued in a pole barn for a father to live in.

Eric Furnas: Yeah, we've had cases where they have constructed a second dwelling for a period of time until the parents are gone and then the second dwelling must be removed. Yeah, it's just so we don't end up with a rental unit.

Tom Harper: Right.

Carol Schlueter: Okay, then if it ever comes to where the brother is no longer there, then you have to go out there and tell him what needs to come down or what needs to change?

Eric Furnas: Yes we would work with him to make sure that it would no longer be a secondary dwelling.

Carol Schlueter: But if this is approved today then you still have to go out there and inspect everything, right?

Eric Furnas: Right, we would have to go through the construction of it.

Carol Schlueter: So maybe he would have to make more improvements to it if it does not meet certain regulations?

Tom Harper: Right.

Doug Green: Right and we aren't completely done. I mean there is a deck off the back that hasn't been finished. I stopped when we received the letter because I didn't want to have to finish it and then turn around and change it again. I mean, yeah we will work with them.

Carol Schlueter: But it is livable now?

Doug Green: Yeah.

Carol Schlueter: So he is living there now?

Doug Green: Yeah.

Carol Schlueter: So he does his own cooking and all of that stuff, I presume?

Doug Green: Yeah.

Tom Harper: Alright, anything else? If not, is there a motion?

Mike Birkinbine: Well I will make the motion to grant this Variance in order to remodel the existing detached outbuilding into a secondary residence for Mr. Green's brother to live in with the stipulations that this secondary residence is only for Mr. Green's brother to live in; and if in fact he no longer lives in this secondary dwelling that it would need to be converted so it no longer is a secondary dwelling. I don't know what else...

Martha Peterson: That it be built to code.

Mike Birkinbine: That's going to happen anyway, no matter what through the zoning office.

Eric Furnas: Yeah, he would need to obtain a building permit and we would make sure that it is built to code.

Tom Harper: And that they report annually whether or not he is still living there.

Carol Schlueter: That means they have to come to you annually or you have to go to them?

Eric Furnas: They just need to write us a letter every year stating that his brother is still residing in the secondary dwelling.

Doug Green: Okay.

Martha Peterson: I will second that.

Tom Harper: The motion has been made and seconded to grant the Variance as requested with the stipulations that it must meet current county codes; it can only be used for the one specific person; that when that situation no longer exists, it would need to revert back to a non-dwelling unit; and that it would be reported on annually.

Carol Schlueter: I've got one other question. Was he married?

Kari Green: Yes, he's divorced now.

Carol Schlueter: Does he have children?

Doug Green: Well not living with him.

Carol Schlueter: But will that be a possibility that his children will ever be living with him?

Kari Green: No, she's an adult and she doesn't even live in the area. No, we've already told him that there wouldn't be anyone else there.

Carol Schlueter: Okay.

Tom Harper: Okay, is there any other discussion, questions or comments? Alright, hearing none we will vote. All in favor of the motion please signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carries.

Doug Green: Thank you.

Eric Furnas: We will be in touch. We need to have the Board of Supervisors vote on this too. We will let you know when that is. After that we will need to get out there and evaluate when needs to be permitted.

Doug Green: Okay, thank you.

Tom Harper: With that being said, we are adjourned.

Eric Furnas: Please stay, this is a special meeting. It is Martha Peterson's last meeting with the Board of Adjustment. She has been a member of the Board of Adjustment since April 2, 2007, she has served 10 years. We'd just like to say thank you for all the time and effort that you have given to Muscatine County by being a member of the Board of Adjustment. I have a certificate of appreciation signed by the Muscatine County Board of Supervisors and we have cupcakes. Congratulations!

Everyone: Congratulations!

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