

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 12, 2017 with Chairperson Tom Harper and members, Carol Schlueter, Emily Geertz 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: Chester Yocom.

Tom Harper: I will open this hearing of the Muscatine County Board of Adjustment. 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. Since there are fewer than five members here, there are only four members here today the appellant has the opportunity to have the appeal delayed until the next meeting. And I can't guarantee that we'd have all five members next meeting or we can proceed with the case. This request must be made prior to Board deliberation of that case. 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. All the members were emailed the minutes of the last meeting and the resolutions. If there are no changes, I will ask for a motion to approve the minutes as written.

Emily Geertz: I will make that motion.

Tom Harper: Is there a second?

Carol Schlueter: I'll second it.

Tom Harper: Is there any discussion? Hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carried. If there are no changes, I would also like a motion to approve the resolutions.

Carol Schlueter: So moved.

Tom Harper: Is there a second?

Emily Geertz: Second.

Tom Harper: Okay, the motion has been made and seconded to approve the resolutions from the last meeting. All those in favor signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carried. Eric, would you please read the first case?

Eric Furnas: Case #17-05-01. An application has been filed by Hilbert E. Hinkhouse, Record Owner by Evelyn I. Hinkhouse and Chester Yocom, Applicant. This property is located in Moscow Township, in the SW¼ of Sec. 5-T78N-R2W, North of Hinkeyville Road, containing approximately 12.77 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 Mr. Yocom to place a Seasonal Recreational Cottage (camper) at 1290 W. Hinkeyville, Lot 46W, Buildings on Leased Land.

Lady: Could I ask you to use some volume when you are speaking?

Eric Furnas: Yeah, this microphone isn't really hooked up. It's just for recording.

Lady: Oh okay, because everybody's voices are very quiet.

Eric Furnas: Okay, we will try to speak up then.

Tom Harper: Was there any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Is the applicant here?

Chester Yocom: Who are you looking for?

Eric Furnas: Are you Mr. Yocom?

Chester Yocom: Yeah.

Eric Furnas: That'd be you.

Chester Yocom: Oh. I couldn't understand what you were saying.

Tom Harper: I will tell you first, this is normally a five member board, there is only four members here today so any decision that we make has to be three to one or greater. If it's a tie vote, the request will not be approved. So you have the choice of either proceeding today or tabling it until next month and like I said, I can't guarantee that there'll be five members next month.

Chester Yocom: I'll go ahead and proceed.

Tom Harper: Okay, please state your name and little bit of background on this request.

Chester Yocom: Okay, Chester Yocom. I have a lot on West Hinkeyville. All I am after is to get a meter base, get power on it and put it back on the pole so that I can my camper in. At this point I'm having to use a generator for any kind of power.

Tom Harper: Do you have any comments Eric?

Eric Furnas: Just that the reason why it is required to have a Special Use Permit, even though the request is for a camper, is because he does desire to have utilities placed on the lot for his camper. So based on our policies that's what makes this a Seasonal Recreational Cottage, even though it's a request for a camper. I guess my comment would be that I think actually using campers in some of these flood plain areas is actually very beneficial because they can be removed, even though cottages do have to be elevated. This hopefully will lead to less destruction of property during a flooding event. The primary use of this entire area is for seasonal recreational cottages, so it is consistent with current uses of the property.

Tom Harper: Now if they park it and take the wheels off, does that change?

Eric Furnas: Not if it's granted a Special Use Permit for a seasonal cottage, it is still a seasonal recreational site. You are still not allowed to live in it fulltime and you must maintain fulltime residency someplace else, whether you build a cottage or place a camper on the property.

Tom Harper: Is there any discussion or questions?

Carol Schlueter: Okay so he could put the camper there without this Special Use Permit? But the Special Use Permit is for him to put utilities there - is that correct?

Eric Furnas: Sure, we don't regulate if someone pulls a camper out to the back of their property and goes camping. When you start to add utilities and improve the site for more of a longer term use, basically converting it into a seasonal site with improvements, that's when we require a Special Use Permit for a Seasonal Recreational Cottage.

Carol Schlueter: Okay and you do not own this property, right?

Chester Yocom: No, I rent the property from Evelyn Hinkhouse.

Carol Schlueter: Okay.

Chester Yocom: She had a hassle getting it into her name. They tried to say that she didn't own the property. She had to go through a bunch of hoops to get it corrected, somebody screwed up after the 2008 flood. Like I said, they tried to say she didn't own the property and she's own that property... Hinkhouses have owned that property since I was a kid. I mean, they go back a long ways.

Carol Schlueter: Okay.

Tom Harper: If there is nothing else, does anyone care to make a motion?

Mike Birkinbine: I will make a motion that we approve this request for a Special Use Permit in order for Mr. Yocom to place a Seasonal Recreational Cottage (camper) on this property.

Tom Harper: Is there a second?

Carol Schlueter: I'll second it.

Tom Harper: A motion has been made and seconded to approve the request as stated for a Special Use Permit to place a camper as a Seasonal Recreational Cottage on this property. Is there any other discussion? Hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carried, the request is approved.

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

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, May 12, 2017 with Chairperson Tom Harper and members, Carol Schlueter, Emily Geertz 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: Linda Henke, Tamara Willis, and Robert L. Tyler Jr.

Tom Harper: Eric, can you please read the next request?

Eric Furnas: Case #17-05-03. An application has been filed by Robert L. Tyler Jr., Record Owner. This property is located in Montpelier Township in Sec. 16-T77N-R1E, Lobdell 2nd Addition, Lot 1, South of 186th Street, containing approximately 21 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 to build a one family dwelling on this property.

Tom Harper: Any correspondence?

Eric Furnas: No sir.

Tom Harper: Is the Record Owner or applicant here?

Robert Tyler: Yes.

Tom Harper: Okay again, you have the opportunity to either proceed with this today or have us table it until next month. It's up to you.

Robert Tyler Jr.: I would like to proceed.

Tom Harper: Alright, please tell us what your request is then?

Robert Tyler: I inherited this property from Delbert Lobdell originally, me and my wife did and then she had passed away here in the last five years but we wanted to build a family home to carry on the Lobdell farm if possible. I just wanted to build a modest home, nothing extravagant. I wanted to introduce our grandkids to a little bit of farm life. That's basically all we are trying to accomplish here.

Tom Harper: Is there any staff comments?

Eric Furnas: As noted in the development report, the CSR parcel average is 39, which is well below the recommended maximum of 55. There is very little to no agricultural value or use of this property, it's rolling and fairly steep hills in some places and timber. It is near Wildcat Den State Park. There does appear to be adequate space on this parcel to maintain at least 750 feet, the minimum separation distance from the next nearest residence. So I would recommend that if the board is considering approval that it be stipulated that it would have to meet that distance of 750 feet if at all possible. It's the staff's opinion that there are sites that it would meet that. There is not currently frontage on to a county road, however, there does appear to be a private road that extends to where the county right-of-way ends that meets up to the frontage of this property. I would recommend that approval of this request be contingent upon the applicant providing proof on an access easement, because it does look like it goes across another parcel. He may already have that. So that is something that we can handle at the staff level with the stipulation. Because the county right-of-way actually ends on the parcel to the west, even though it shows 180th Street it becomes a private road at that point. We just don't want to run into the circumstances of issuing a building permit and then having a neighbor object if there is not an easement. So if we

could clarify that when the building permit is applied for, it would save a lot of trouble.

Carol Schlueter: So who owns the property where that... I call the road dead ends to the west?

Eric Furnas: I believe that is actually part of Wildcat Den State Park, isn't it?

Robert Tyler: Yeah, it goes along the backside of Wildcat Den.

Carol Schlueter: So that is Wildcat Den property when that road ends?

Mike Birkinbine: Yeah I am pretty sure it is. It's paved there. It goes back there and stops.

Carol Schlueter: It's paved? I thought that was a gravel road.

Mike Birkinbine: I thought that section was, but I could be wrong.

Carol Schlueter: So he would have to get approval from the Wildcat Den then in order to get to his property?

Robert Tyler: Well as far as I know – they have always had an easement... I mean Delbert Lobdell had a home up there originally.

Eric Furnas: There very well may be. The plat, when they subdivided this property in order for Mr. Tyler to get lot one shows an access easement going up through all of the other Lobdell property's. But he very well may be right, there may already be an access easement. We would just like to ensure that it is there so that things don't come to a grinding halt when he goes to build.

Carol Schlueter: Okay.

Tom Harper: Okay, so if you have a comment can you please state your name first? You can stay seated.

Linda Henke: Linda Henke, 1876 Ward Avenue. That was one of my questions, when we were here when Delbert had passed away and bequeath the land to his children, there was one section that was landlocked that had no access. So that must have been...

Robert Tyler: I think that was on the back side that butted up against this.

Linda Henke: So you have an easement since then?

Robert Tyler: This is in the front side here where you come up from Wildcat Den State Park and then it goes up the original driveway and...

Linda Henke: So you have an easement with the state?

Robert Tyler: As far as I know there was already an easement to that property.

Linda Henke: I just know at that time there was a block, one of these blocks it was landlocked it had no access.

Robert Tyler: That was the ...

Linda Henke: So that was my question.

Robert Tyler: That was the backside lot that butted up to Henke's, so that was pretty much landlocked at that time. I think that might have been lot 2 or something like that.

Linda Henke: Anyway if I understand the original farm was 100 acres and there is a family up there now and they do have a house up there. When we was at the previous meeting and the question was asked how many houses can they build, the answer from the board here was one, you know even though it was broken into sections, into other blocks. Now there is a Variance out. So our question, mine and some of my neighbors is how many houses can be built on all of these, because there are other blocks in contention here. Is everybody going to have a Variance that they can build a house on each of their blocks?

Eric Furnas: Would you like me to address that?

Tom Harper: Yes.

Eric Furnas: First off, the request isn't for a Variance. The request is for a Special Use Permit for what Muscatine County calls a rural residence. In our county code in the A-1 Agricultural Zoning District the code does allow the Board of Adjustment to entertain request for rural residences. The sites are looked at on an individual basis with a number of criteria that this board weighs, such as the corn suitability rating, the separation distance from existing houses, proximity to state managed livestock facilities, how far they are from paved roads, city limits, etc. They look at a number of criteria and they consider each case, on a case by case basis. So to kind of answer your question any one lot could not have more than one house on it and on these other lots, an applicant could come forward and request a Special Use Permit for that lot as well at which time the board would look at separation distances. If Mr. Tyler is granted a Special Use Permit and places a house there that is going to tie up a lot of that other space because they are not going to meet the minimum separation distance. So the assurances of having overly dense residential development are taken care of by having minimum separation distances.

Linda Henke: So it is a possibility that it could be more than just his house?

Eric Furnas: If there is adequate separation distance and the parcel has a low CSR rating, there is a possibility. It's up to the Board of Adjustment to grant these cases.

Linda Henke: What did somebody just say, it's not farmable.

Eric Furnas: And that's one of the criteria that they weigh, is the ag value. So some of the lower CSR rated properties have a higher likelihood, but again they weigh that in combination with the other criteria, including separation distances from existing structures.

Linda Henke: So I would think in 20 acres you would have that separation distance available.

Eric Furnas: Possibly, and this is all speculation because I don't know where someone is proposing a house.

Linda Henke: Okay, so it is a possibility?

Eric Furnas: Yes.

Linda Henke: My other question was from somebody in our neighborhood, somebody has 20 acres, they have a son that wants to build a house, can they divide that up to 10 acres and have the son build again on that 20 acres?

Eric Furnas: No any residential development in an agriculturally zoned distance has to go in front of the Board of Adjustment and be critic using those criteria that I just explained.

Linda Henke: But it's possible?

Eric Furnas: If that is only 20 acres, the property would have to go through a full subdivision again in order to split off any more ground and even then each case would have to be heard and considered by the Board of Adjustment.

Linda Henke: But it's possible?

Tom Harper: They would have to subdivide it first and that would still keep the zoning intact as A-1 and then at that time they could either request a rezoning, which would probably not go or they would have to ask for a Special Use Permit to build a house. It would have to meet the CSR, has to meet the separation...

Linda Henke: So it's a challenge but it's possible?

Carol Schlueter: Anything is possible.

Eric Furnas: Right, anything is possible.

Linda Henke: Now this 100 acres is sounding more and more like a subdivision.

Robert Tyler: Can I speak?

Tom Harper: Sure.

Robert Tyler: If you have to have any type of a clarification, I do not intend to subdivide my property, I have no desire to. If that has to be written into that, I have no problem with that because I have no desire to have more than one home on that property.

Mike Birkinbine: Well we are looking at the case at hand.

Carol Schlueter: Right, we are looking at this case and this request.

Mike Birkinbine: We understand your questions and your point, but we are here to discuss this request.

Linda Henke: Okay so we would have to have another visit here?

Emily Geertz: I would say go and visit with Eric at his office.

Linda Henke: Okay and then my other question is, for the septic system and the wells... does each lot have to provide their own systems, their own wells?

Eric Furnas: Each lot has to ...

Linda Henke: If more than one person wants to build on their 20 acres?

Eric Furnas: Each habitable structure has to be served by an approved and permitted private well and septic systems. Private wells can be shared up to a certain number of houses and total occupants and connection. Generally separation distances prohibit that from being feasible. There are areas where there are cluster systems for septic systems but I don't see that in this area because of the topography and the terrain. But each habitable structure has to have an approved system of some sort.

Linda Henke: And they are inspected?

Eric Furnas: Yes they have to get a permit before they begin construction, either one.

Linda Henke: Okay, that's all I have on my list.

Tom Harper: Is there anyone else here that wishes to comment on this request? Does the board have any additional questions or comments?

Emily Geertz: I would recommend approval but I would like to make sure of the access easement. (changed tapes) I will make a motion that we approve this Special Use Permit in order for Mr. Tyler to build a one family dwelling on this property, with a stipulation that Mr. Tyler provides the zoning office with the proof of an access easement to this property for residential use.

Tom Harper: Is there a second?

Mike Birkinbine: I will second that motion.

Tom Harper: The motion has been made and seconded to allow this request for a Special Use Permit in order for Mr. Tyler to build a one family dwelling on this property with the stipulation that Mr. Tyler provides proof to the zoning office of an easement. Any other questions, comments or discussion, hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion has been granted, the request is approved for Mr. Tyler to build a dwelling with the stated stipulation. 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.

Robert Tyler: Thank you.

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

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Also present for this hearing: Todd Hunter, Christopher Harvey and Brianna Harvey.

Tom Harper: Eric, can you please read the last request?

Eric Furnas: Case #17-05-04. An application has been filed by Todd J. Hunter, Record Owner and Christopher Harvey, Applicant. This property is located in Goshen Township in the SE¼ of Sec. 25-T76N-R3W, containing approximately 27.36 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 to allow the applicant to build a rural residence on this property.

Tom Harper: Was there any correspondence?

Eric Furnas: No correspondence.

Tom Harper: Is the owner or applicant here?

Todd Hunter: We both are.

Tom Harper: Do you wish to proceed?

Todd Hunter: Yes.

Tom Harper: Can you please state your name and a little background on your request?

Christopher Harvey: Sure, I am Christopher Harvey. My wife and I are currently residing with Todd at 2117 155th Street. The basic request is that we are looking to build ourselves a home near our in-law's and to have our family grow up there.

Tom Harper: Is this just north of Dougherty Bridge?

Eric Furnas: Yes.

Tom Harper: Didn't we have a request out there in the last year or two?

Eric Furnas: It was subdivided just in the last year or two following the passing of Mr. Hunter's father, who owned the property.

Todd Hunter: Yeah the farm ground was split off and I kept all the bottom ground and this part also.

Tom Harper: And please state your name?

Todd Hunter: I'm sorry – I'm Todd Hunter the owner of the property.

Tom Harper: Alright, Eric do you have any comments?

Eric Furnas: I just wanted to note a few things. The CSR average is very very low on this particular parcel. It's actually on top of a steep river bank. So it's one of the lowest that I think I've seen submitted to us at 15. So I have no concerns that there is any prime farm ground being taken out of production.

The separation distance is a little closer potentially. Mr. Hunter did stake out this proposed building site, which I did shoot with a GPS and took some measurements, which are not survey grade. But we are coming up with about 725 feet from Mr. Hunter's house, which is a family member, and about 712 from a Seasonal Recreational Cottage to the north. So it's technically not another rural residence, it's a seasonal cottage. This parcel doesn't have any frontage to a road, however, there is already an existing long driveway to get to Mr. Hunter's property. So it doesn't appear that there would need to be another access permit issued. So there is already access, and that is one of the things that we need to look at, is this going to require another entrance and another culvert? I am assuming that they would use the same drive that is already there. I don't have any concerns with the proximity to confinements. It looks like it's a little over a mile away, and the minimum separation distance is 1,250 feet. The immediate surrounding area is mixed crop field and river bottom. So all I wanted to point out is that it is a little closer to the minimum recommended separation distance of 750 feet, potentially.

Tom Harper: So basically at this time this parcel is landlocked then?

Eric Furnas: It somewhat is, yes.

Tom Harper: I mean is it split off?

Eric Furnas: Well it is already a separate parcel but it doesn't have its own frontage. But there is an existing private drive that goes almost to this parcel.

Tom Harper: So an easement would have to be granted and recorded then?

Eric Furnas: That would be up to them. This is family and whether or not they wanted to record an easement. But in order for it to transfer someday someone is certainly going to want an easement.

Tom Harper: Right.

Todd Hunter: We can certainly do that. That would be no problem.

Eric Furnas: And we have the adjacent property owner here as co-applicant. So we are not necessarily requesting an easement at this time like we did the previous case.

Tom Harper: I guess that wouldn't need to be a stipulation but it would be a recommendation.

Todd Hunter: No again if the 724 feet is too close to my residence, we could move that away and keep the 750 as long as it's not an issue with the cottage.

Eric Furnas: Yeah it puts it a little closer to the other structure, which depending upon the boards feelings, it may be less important since it's not a full time residence. That's completely up to the board. I don't have a huge concern either way.

Tom Harper: Is there anyone here that wishes to comment? Is there any questions or comments by the board members?

Emily Geertz: Is this elevated enough because it looks like it's really close to the flood plain.

Christopher Harvey: Yeah, it's a good 32 feet above the flood plain.

Todd Hunter: It's the same elevation as my residence and in 2008 we didn't have any issues.

Eric Furnas: Yeah, the maps are a little misleading because it shows the flood plain fairly close. But it has a very high bank. We would all be in trouble if water got to that level.

Emily Geertz: Okay.

Christopher Harvey: Yeah, we've had the excavator out there looking at it and they have approved of the distance to the bank and everything. We are okay there.

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

Carol Schlueter: I will make a motion that we allow this Special Use Permit in order to allow the applicant to build a rural residence on this property.

Mike Birkinbine: I will second that.

Tom Harper: Okay, the motion has been made and seconded to grant this Special Use Permit to allow the applicant to build a rural residence on this property. Is there any further discussion? Hearing none, all those in favor of the motion signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion has been granted, the request is approved for Mr. Harvey to build a dwelling on this property. 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.

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