

The Muscatine County Zoning Commission met via virtually, using GoToMeeting on Friday, June 5, 2020, with Chairperson Tom Harper and board members Carol Schlueter, Virginia Cooper, and Brad Akers present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also in attendance.

Attending for this case: Matthew Miller.

Eric Furnas: As everyone is aware – we are holding this meeting virtually due to the restrictions of the Covid 19 Pandemic. The conference will be recorded. This meeting works best if everyone could keep their microphone or their telephone muted until it is time to speak. I am going to start off with a rundown of the Zoning Commission members to make sure that they are present before we start off on the hearing. I will just do a quick roll call. Tom Harper?

Tom Harper: I'm here.

Eric Furnas: Brad Akers?

Brad Akers: Here.

Eric Furnas: Virginia Cooper?

Virginia Cooper: Here.

Eric Furnas: Carol Schlueter?

Carol Schlueter: Here.

Eric Furnas: Okay, that is our full board for today, the four members. When I read each request, at that time I'm going to ask the people that are present for that request to identify themselves by name and address. So hopefully we can get an accurate record of who is attending for which case. Any questions before we get started? Okay, Dixie did we have minutes from the last time?

Dixie Seitz: Yes, we did and if there are no changes, they need to be approved.

Eric Furnas: Okay, so Mr. Chairman do you want to verify that everyone got a chance to look at the minutes from the last meeting and to get them approved?

Tom Harper: Do you want me to read the mission statement first?

Eric Furnas: Sure, go ahead.

Tom Harper: I will call this virtual meeting of the Muscatine County Zoning Commission to order and this is being recorded. I have a mission statement to read: The Muscatine County Zoning Commission is a five member group of residents of the County who are appointed by the Muscatine County Board of Supervisors. We serve as non-professionals and without compensation. Our purpose is to advise the Muscatine County Board of Supervisors on managing the growth of the County. This involves reviewing subdivisions, rezoning requests, the use of public property, and reports related to land use policy and long range planning. Recognizing that our decisions will not satisfy everyone, we attempt to base our decisions on what is best for the long term interest of the County. We ask for your input, pro or con, on issues before us in order that we may formulate the best decisions possible. Please take this opportunity to share your thoughts and concerns with us. Our recommendations are not taken lightly by the Board of Supervisors, but the Board of Supervisors, your elected representatives, make the final decisions on all issues. Now as Eric mentioned previously, we do have minutes from the last meeting to be approved. They have

been sent to all the members and if there are no changes, I will entertain a motion to approve the minutes as written.

Virginia Cooper: I will make a motion to approve the minutes as written.

Tom Harper: All right, is there a second?

Carol Schlueter: I'll second that motion.

Tom Harper: Okay a motion has been made and seconded to approve the minutes from the last months meeting as written, and it has been seconded. Is there any other discussion? Hearing none, all those in favor of the motion please signify by saying Aye. (Aye-4) Okay, the motion carried. Eric would you like to continue?

Eric Furnas: Sure, I just want everybody to know that because there are only four members, and again we can reiterate this again for each case, but there's only four members present today so any petition would require three affirmative votes to recommend to the Board of Supervisors for approval and a tie vote is a no vote. So if you wish to have the Zoning Commission table this until the next meeting, you can ask for that right up until they take their vote. Now they may or may not have a full board next month. So moving to the first request, Zoning Agenda Item #01. Matthew E. Miller, Record Owner, requests approval to rezone his property from the present C-1 Commercial District to the proposed C-2 Commercial District in order to conduct motor vehicle sales and service on this site. This property is located in Montpelier Township, Lots 7 & 8, Blk. 2 of Montpelier, 1961 Tombstone Trail, containing approximately 0.28 acres and is currently zoned C-1 Commercial District. Now at this time I would like the people that are in attendance today to go through and identify themselves by name and address please?

Matthew Miller: This is Matthew Miller. I live at 204 Franklin Street in Buffalo, Iowa.

Eric Furnas: Okay, thank you. Is there anyone else for this case?

Kent Wichelt: Kent Wichelt, I live at 1610 Zachary Avenue, Blue Grass, Iowa.

Eric Furnas: What was your first name again sir?

Kent Wichelt: Kent, K E N T, Kent and Barbara.

Eric Furnas: Okay, thank you. Are you here for the Miller hearing?

Kent Wichelt: Oh, sorry, it's for case #2.

Eric Furnas: Oh okay, we'll come back to you for the next hearing. Just make sure to identify yourself again for the second case. Is there anyone on the line for the Miller request to rezone in the town of Montpelier? Okay, Mr. Chairman I believe that it would be appropriate for you to call upon the applicant.

Tom Harper: Okay, Mr. Miller, would you please state your request for the board?

Matthew Miller: Yes sir. Basically I'm just requesting that my property be rezoned from C-1 Commercial District to C-2 Commercial District so that I can run my mechanic shop and a used car lot out of the building and off of the property.

Tom Harper: Okay, was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Okay, Eric would you tell us your recommendations?

Eric Furnas: Yeah, just a little introduction, this property consists of two lots that have been zoned C-1 Commercial District for quite some time. As the owner and applicant stated, he seeks to rezone to C-2 Commercial District that would accommodate his plan to operate a vehicle repair shop and used vehicle sales at this location. There is one building on the property that has been vacant for an extended period of time. In the past it has been used for commercial purposes. As you are probably aware, these lots are small. So there is going to be a limited use for them. There is some good separation distances, given that it is across the highway from residential. Typically we like to see some separation between C-2 Districts and residential districts, because businesses can bring with them the opportunity for louder noises and a little more traffic. So in this case we have Highway 22 in between the proposed site and most of the residences in Montpelier. To the rear of this property we have railroad tracks and a few cottages, a Corp of Engineer campground and the Mississippi River. So I'd say from a C-2 business intensity standpoint, the impact would be minimal given the separation and the unique geography.

Tom Harper: All right, is there any questions from the board?

Virginia Cooper: I have a question about possible issues with noise, I know it is across the highway but there is obvious residential just across the street or highway. So the used car business I understand would operate under normal hours, but the repair business may not. And if he does extended hours on the repair business, do we have to worry about the noise?

Eric Furnas: Well obviously, noise can be an issue with any type of a business. I think with this the potential it is somewhat higher and also given what is allowed in C-2 Commercial District. Maybe Mr. Miller can speak to his plans for the repair portion, and I would assume... and again, that was part of a discussion that I had with him earlier that repair would be incurring within the confines of that enclosed structure, is that true?

Matthew Miller: Yes it is, I would just keep normal business hours. It would be in between the hours of 8 and 5. I wouldn't do any repairs on any vehicles anytime outside of those business hours, Monday through Friday. The structure is enclosed pretty well, it is concrete and brick all the way around the building and I am in the process of putting up where the doors are at, a backing to reduce the noise as well. But all work would be done in between Monday and Friday from 8 to 5 business hours. There's nothing that I would do in there that I don't think anyone would be able to hear at all across the highway.

Virginia Cooper: Okay, thank you. And Eric I can't remember what the regulations are on signage for C-2 Commercial District, but it is the first thing that you see coming into town coming from the west, so I am assuming that there is regulation on appearances.

Eric Furnas: We have requirements for signs as far as what can be viewed, signage would not be allowed that could interfere with sight issues at the intersection of the highway and Tombstone Trail. But because it is C-1 or C-2, they would be able to display their business name, either on a free standing sign that meets our requirements or on the side of the building. Any illumination would be potentially subject to nuisance violations, just like noise, dust, vibrations. Just because it is commercial, it doesn't make it immune. So we would need to work with the owner on those particular potential nuisance issues.

Virginia Cooper: And did you say there was no correspondence?

Eric Furnas: That's correct.

Virginia Cooper: All right, thank you.

Carol Schlueter: Mr. Miller, this is Carol Schlueter. Is this a new business venture for you or are you moving to this location from another location?

Matthew Miller: Ma'am I purchased the building in November and this is a new business adventure, I am not moving from a new location. I specifically chose this building because I purchased a house in Buffalo, Iowa about six years ago and this is the closest to my home. I have invested a lot of money, time and effort into schooling and I'm in the process of getting my used automobile dealership license through the State of Iowa. This is a new business adventure for me but I am skilled at what I do in repairing cars, I've done it... I've worked at other car lots and at other car shops throughout the course of my life, but never on my own until now ma'am.

Carol Schlueter: Okay, thank you.

Matthew Miller: Thank you.

Tom Harper: Okay, is there any other questions by the board members? Is there anyone on the line that hasn't spoken, either for or against?

Carol Schlueter: I will make a motion to recommend to the Board of Supervisors approval of this request to rezoning this request from the present C-1 Commercial District to the proposed C-2 Commercial District in order to conduct motor vehicles sales and service on site.

Tom Harper: Alright, is there a second?

Brad Akers: I will second that.

Tom Harper: Okay, a motion has been made and seconded to recommend to the Board of Supervisors to grant this request of rezoning as stated, is there any other discussion? Hearing none, we'll go ahead and vote on this and we'll do a roll call vote. Carol Schlueter?

Carol Schlueter: Aye.

Brad Akers: Aye.

Virginia Cooper: Aye.

Tom Harper: I vote Aye, so the motion has passed.

Carol Schlueter: Good luck Mr. Miller.

Matthew Miller: Thank you ladies and gentleman, I greatly appreciate this.

MUSCATINE COUNTY ZONING COMMISSION

By Eric S. Furnas, Planning, Zoning & Environmental Administrator

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Attending for this case: Mike Birkinbine, Kent Wichelt and Barbara Wichelt.

Eric Furnas: Zoning Agenda Item #02. Doyce J. Birkinbine, Record Owner and Michael J. and Dawn Birkinbine, Contract Holders, request approval to rezone their property from the present A-1 Agricultural District to the proposed R-1 Residential District. This property is located in Fulton Township, in the SE¹/₄ of Sec. 36-T78N-R1E, North of 160th Street, containing approximately 18.92 acres and is currently zoned A-1 Agricultural District. Okay anyone on the line for this Birkinbine rezoning request please identify yourself with your name and home address please?

Mike Birkinbine: Good afternoon Zoning Commission members, this is Mike Birkinbine at 3957 Hwy. 61, Blue Grass, Iowa. What I am asking for... we are requesting to rezoning from A-1 Agricultural District to R-1 Residential District, the 18 acres, so my wife and I can actually build our residence inside of our new building and sell off our current property.

Eric Furnas: Mike, can you pause just a second? I want to make sure that we have anyone else in attendance for this case accounted for. If you are on the line for the Birkbinbine request, please identify yourself so we have record on your presence, please?

Kent Wichelt: Kent Wichelt, 1610 Zachary Avenue.

Barbara Wichelt: And I'm Barbara Wichelt at the same address.

Eric Furnas: Okay, so we have Kent and Barbara. Anyone else? Okay, go ahead Tom.

Tom Harper: Okay, Mike I wanted to remind you as Eric as stated we only have four members present today. So that means any decision we make must be at least three positive votes, because a tie vote would be a no vote. So you have the option up until the time that we vote to ask us to table this request until next month, but I couldn't guarantee that we'd have five members then either. So it's your option.

Mike Birkinbine: Yeah, we'll move forward.

Tom Harper: Okay, so you have anything else that you would like to add to what you had stated earlier?

Mike Birkinbine: No, other than the fact that there is 18 acres and in order for us to build our home inside our structure, due to the zoning requirements, we need to rezone this to residential. It is for ourselves, nobody else. Yeah, you have the information up on the screen now, you can see our property. I don't know if you have the building that we are proposing to build our home in. Yep, it's that one on the screen now, that's the existing structure that we have there. So that's what we are proposing. We are wanting to sell off our home and two acres so that we can downsize and live inside this building that we built here. We do have an older farmhouse on another plot that's out front and my overall goal when I eventually retire is to actually... potentially rebuild that farmhouse structure. So in order to do that... Eric and I met a few times and we discussed it, he felt like this was the best way to go through the process instead of asking for a Variance for a period of time until we made our final decision on the farmhouse. Our neighbors next to us, last year or two years ago, rezoned approximately nine to ten acres to residential so that they could put a house

there, which was again within the 750 foot regulation on homes. So that's why we have approached it this way and have reached out to rezone these 18 acres. And again, it's for a single family, it's not for purposes of adding additional homes or anything.

Tom Harper: Okay, Eric can you please give us your recommendation on this? And then anyone in attendance, we will ask for your comments when he is done.

Eric Furnas: Sure, as Mr. Birkinbine had stated that the property to the east has recently been rezoned to residential. This property, as well as the property that was rezoned last year or the year before, is already within an expected development zone because it is within two miles of the city limits of Blue Grass and there is significant residential development in the immediate vicinity. The surrounding area consists of a mix of agricultural, a little bit commercial and a significant amount of residential. This property has frontage on three paved roads, so it has hard surfaces on three sides. There is currently already an entrance off of 160th Street. The parcel is currently zoned agricultural, however, the economic sustainability of a parcel of that size is pretty limited by itself. That's one of the factors that we look at in the Comprehensive Plan when we consider rezoning, what is the economic viability of a particular parcel, and I think everyone would agree, in today's day and age 18 acres has a pretty low potential for economic viability by itself, it's pretty well secluded. And just given the development zone, the residential in the vicinity, staff believes that this rezoning would be consistent with the Comprehensive Land Use Plan.

Tom Harper: Alright, is there anyone in attendance that wishes to speak either for or against this request? If so, please state your name and address first.

Kent Wichelt: Maybe just a question... and I can't see the pictures because I am just on the phone Mike, but so you're not talking about the property that is across the road right now from me and west of you? You are talking about your existing one, is that right?

Mike Birkinbine: That is correct.

Kent Wichelt: Okay, okay. So the one right north of me, that is ag or are you asking for that to be residential too?

Mike Birkinbine: No, that's not part of this discussion.

Kent Wichelt: Okay, got you. That's all I had.

Mike Birkinbine: Yeah, it is the parcel where my new building is. Again, this has been... this has been really tough the past two or three years to try to make decisions. Our kids are gone, we have grandkids, and we have a nice beautiful home on the corner of the property. It has been difficult enough to try to figure out what to do... we talked about trying to rebuild the farmhouse. Eric knows, I've asked him every question in the book on this and it's kind of come down to this, okay we sell and downsize from our two story home. It looked like our best solution would be for us to move into a building that we built, a beautiful building that we love and we have enough space in there to build a nice little place. And eventually we are going to lift the farmhouse and that would be our permanent home at the end or we are actually going to tear the farmhouse down. So we just don't want to make that decision at this point. My mom is still alive so there is a lot of history in that. So we are just trying to hold our own and we believe that the building is the best solution for us to go forward.

Kent Wichelt: Gotcha, good for you.

Tom Harper: Are there any other questions or comments?

Barbara Wichelt: Thank you for that clarification.

Carol Schlueter: Okay, Mike this is Carol.

Mike Birkinbine: Hi Carol.

Carol Schlueter: Hi, how are you?

Mike Birkinbine: Good.

Carol Schlueter: Okay, down the road you are going to sell the house that you are living in now, correct?

Mike Birkinbine: Yes, that house, yes.

Carol Schlueter: Okay, so if you are putting the living quarters in your new beautiful building, will there be any additions put on that building for your new house?

Mike Birkinbine: Currently, Carol... our living quarters will be inside the building. The only request that I may make is to add some on that building right there. On the Ferris side, I've talked about maybe adding about 20 feet on there to make up for the 24 foot I'm going to lose. That would be it, but that's not the first thing... the first thing we want to do is actually to get the house done so that we have a place to move into before we sell the house. There's enough room there, as you can see there Mr. Ferris's property that is east, his buildings are within five feet of the property line and ours will be a lot more than that, so there won't be any issues there.

Carol Schlueter: Okay, and also what I call the old farmhouse... you are going to live there and down the road you are going to make a decision ... and that's a good choice because your mother is still living and it's very sentimental to her. Thank you.

Mike Birkinbine: Thanks Carol. It is sentimental to all of us. It has been really difficult because I made a decision to go ahead and remodel it and rebuild it. I have pictures of that place in the 1930's with a horse and buggy out front, so I'm still struggling with it. At this point our goal is to move into this building, sell our property and me retire, and then that way I can do the work on the farmhouse once I get a foundation under it, and then eventually move into that. So anyway that's our plan.

Carol Schlueter: Yep, good idea, good plan.

Tom Harper: Okay, anybody else? I'm not hearing any other questions or comments, so is there a motion on this?

Carol Schlueter: Yes, I will make a motion to recommend to the Board of Supervisors approval to rezone this property from the property A-1 Agricultural District to the proposed R-1 Residential District.

Tom Harper: Is there a second?

Brad Akers: I'll second it.

Tom Harper: Okay, there has been a motion and it has been seconded to recommend to the Board of Supervisors approval of this rezoning from the current A-1 Agricultural District to the proposed R-1 Residential District. Any other discussion? Hearing none, I will have a roll call vote. Carol Schlueter?

Carol Schlueter: Aye.

Brad Akers: Aye.

Virginia Cooper: Aye.

Tom Harper: Aye. The motion has been approved, the request will now move onto the Board of Supervisors.

Carol Schlueter: Good luck Mike.

Mike Birkinbine: Thanks everyone, thanks board members, thanks Eric, I appreciate it. Over and out.

Tom Harper: Have fun.

MUSCATINE COUNTY ZONING COMMISSION
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Attending the virtual GoToMeeting: Robert Brus.

Tom Harper: Okay, we will move onto the next request. Eric, will you read that please?

Eric Furnas: Zoning Agenda Item #03. Robert L. Brus, Record Owner, requests approval of the proposed one lot agricultural subdivision, Wendo Addition, containing approximately 1.28 acres and is zoned A-1 Agricultural District. This property is located in Fulton Township, in the SW¹/₄ of Sec. 36-T78N-R1E, Parcel N, 3910 150th Street, containing approximately 3.85 acres and is zoned A-1 Agricultural District.

Tom Harper: Okay, is the applicant present?

Robert Brus: I am present, Robert L. Brus.

Tom Harper: Alright, is there anyone to speak for or against for this case, if so, please identify yourself for the record? Okay Mr. Brus we will ask you for a little background on this request.

Robert Brus: We own that building site there and I want to sell the house to my daughter and she doesn't want the machine shed and the grain bins and stuff. So we are proposing that we would divide that off and we would keep that for the farming operation and then separate the house with the remaining acres.

Tom Harper: Okay, Eric, do you want to give us the staff recommendation?

Eric Furnas: Sure the reason why we are here today is because a subdivision is required due to a previous split of this quarter quarter section. The house and the farm buildings had been previously split from the farm. Now you heard Mr. Brus's presentation as to why he wanted to divide the property further, which would leave the farm buildings separate from the dwelling. In reviewing the plat, the proposed lot meets the width, area, and frontage requirements in the A-1 Agricultural District. All the property still is zoned agricultural and also there is no chance of any additional development without additional zoning application and approval. Staff would recommend approval of the combined preliminary and final plat.

Virginia Cooper: Was there any correspondence?

Eric Furnas: No ma'am.

Tom Harper: Okay, is there is no one else in attendance that wishes to identify themselves on this request? Okay, does anyone on the board have any questions? I just have one question, so this lot is for the house, it's separating it from the machine shed and the grain bins, is that correct?

Robert Brus: Yes.

Tom Harper: That's all I have. Anybody else?

Carol Schlueter: Bob, this is Carol.

Robert Brus: Yeah, hi Carol.

Carol Schlueter: Hi Bob. Is the well and septic going to go with the house on that lot?

Robert Brus: Yes.

Carol Schlueter: Okay.

Virginia Cooper: I move that we recommend to the Board of Supervisors to approve the Fulton Township parcel in Blue Grass containing 3.85 acres for Robert Brus.

Tom Harper: Is there a second?

Eric Furnas: Mr. Chairman, if I could? Virginia, just so you are clear in what you are approving is Lot 1 of the Wendo Addition?

Virginia Cooper: Yeah.

Eric Furnas: Yeah, the lot is actually 1.28 acres. I think you were referring to the parent parcel. Just so there is clarification. It's approval of Lot 1 of Wendo Addition.

Virginia Cooper: Yeah, let me restate that. Strike the last motion and I move that we recommend to the Board of Supervisors the 1.28 acres for the Wendo Addition.

Tom Harper: Okay, is there a second?

Carol Schlueter: I will second it.

Tom Harper: Okay a motion has been made and seconded to recommend to the Board of Supervisors the proposed one lot agricultural subdivision, Wendo Addition, containing approximately 1.28 acres. Is there any other discussion? Hearing none, we will have a roll call vote, Carol Schlueter?

Carol Schlueter: Aye.

Virginia Cooper: Aye.

Brad Akers: Aye.

Tom Harper: I will vote Aye, the motion carried.

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