

The Muscatine County Zoning Commission met in the Environmental Learning Center Classroom on Friday, August 7, 2020, with Chairperson Tom Harper and board member Carol Schlueter, Brad Akers attended virtually, and Virginia Cooper was absent. Also in attendance was Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator.

Others present for this hearing: Kirk Latta.

Tom Harper: 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 we have a quorum here, so we can proceed. We were sent the minutes from the last meeting by email and everyone has had a chance to read them. Is there any changes or corrections? If not, is there a motion to approve the minutes as read?

Carol Schlueter: So moved.

Brad Akers: Second.

Tom Harper: All in favor please say Aye (3) Opposed (0) Absent (Cooper). The motion has passed. Eric, will you read the request?

Eric Furnas: Zoning Agenda Item #01. Kirk and Kim K. Latta, Trust, Record Owners, request approval to rezone their property located in Moscow Township, in the SE¼ of Sec. 10-T78N-R2W, West of N. Isett Avenue, 1172 N. Isett Avenue, containing approximately 36.79 acres from the present A-1 Agricultural District to the proposed R-1 Residential District.

Tom Harper: Can you please state your request?

Kirk Latta: My request is to rezone the acreage, basically for my daughter, she'd like the build a house there on the five acre field. Most of that 30 some acres is all flood ground down on the bottom. My daughter would like to build a house and since that was the old homestead and it's got water and electricity, I thought that that was the best place for her to go but my house sits on that same parcel. Right now, you know, for a young couple to move out into the country or to build a house out in the country... you know there's no housing developments in Muscatine County that would allow her to do that and be in the Wilton School District. You know, they have a nice new elementary school and there's just no place for a young couple to go, it's kind of hard. So my request is... basically I was going to put one lot, one five acre lot for my daughter to build a house on right there.

Tom Harper: Okay, Eric do you want to give us some background on this?

Eric Furnas: Is everyone familiar with the parcel that we are talking about? (yes)

Tom Harper: Yeah so what was the previous case that we had on this?

Eric Furnas: So previously, he had requested rezoning both, well more or less both 40's. He owned two 40's coming north from Hwy. 6. The board was not real

comfortable at that time, I looked at the minutes. They were particularly not comfortable with that south 40 because it had more farm ground on it and the CSR2 was just above 55, I think it was like 56. So ultimately, that was not approved by the Board of Supervisors.

Kirk Latta: Yeah it was a tie vote for the Board of Supervisors and that's why it was turned down.

Eric Furnas: This petition is just for the 36.79 acres where his current house is.

Tom Harper: So it's the north 40 then.

Eric Furnas: Yeah, so it would not include that south 40. My issues really center around the issue of spot zoning. Our Comprehensive Plan speaks pretty strongly about laying out districts when we look at rezoning. Sometimes those are districts that are built upon. And this area has some... this area in general has some ... getting out about a half to three-quarters of a mile out has some intensive agricultural uses. You can see that there's not a lot of farm ground on this particular parcel, probably a good third to a half is not really developable at all because of the flood plain issue. But from a long term standpoint, my concerns center around the fact that there's ... you always have to consider, does it open the door for additional requests in the area once you establish a residential district. It could be of any size, you know? I pointed out the existence of a hog confinement and a large commercial laying house that are approximately a half or three-quarters of a mile away. There's manure application on the fields. I know that this applicant is aware of the intensive ag use and his stated use is just one lot for a daughter, but there are implications when we rezone. It's a little different than when we issue a single use Special Use Permit for a dwelling. Those are the staff concerns that we look at from a planning standpoint.

Kirk Latta: Well this was my only option to be able to build a house there on that old farmstead there. I haven't farmed that parcel for probably close to 20 years, that five acres, I've had it in grass. I've owned the property for 30 years.

Tom Harper: And that would be these buildings here that are close to the road?

Kirk Latta: Yes, that's where the old house used to sit.

Tom Harper: I'm going to throw this out there, what's the difference between... I know that implications of rezoning it, but what about an agricultural subdivision?

Eric Furnas: Well an agricultural subdivision ... you can't build a house. He could divide the property right now into several lots and call it an agricultural subdivision but it doesn't give you the right to build a house. The only way you can build a house on an A-1 property, if you will recall, is if you are farm exempt or you get a Special Use Permit. We looked at that, but because of the two existing residences, the separation distances just aren't there for a Special Use Permit.

Carol Schlueter: Okay on your other property to the south, there's no place there that the daughter can build on?

Kirk Latta: There is, but you'd be taken out the farm ground and that's where I anticipated that I would build a house if I ever sold my house now.

Carol Schlueter: Is your house up for sale there?

Kirk Latta: Yes.

Carol Schlueter: So why don't she just buy that?

Kirk Latta: She don't want that. She couldn't afford the taxes on that.

Carol Schlueter: Oh, okay.

Kirk Latta: You know, she's just young, they are a young couple and they just don't have the opportunity you know, so they come to dad.

Carol Schlueter: Yeah, I know... I understand. But I have a problem with the spot zoning out there and the farm ground, I really do. I thought that maybe... there's no ground that's on your other property that is...

Kirk Latta: Oh there's ground over there but if I ever sold my house over there and I like the property, I would probably want to build there.

Carol Schlueter: So you would rather build there?

Kirk Latta: Yeah.

Tom Harper: And there's no stipulation that we can put on the rezoning to prevent any future dwellings? Although it is kind of landlocked because of the flood plain.

Eric Furnas: Well you can make recommendations ... because conceivably you'd be the same board that would be viewing the subdivision plat. Because even if he successfully rezoned, he's going to have to create another parcel or another lot for the daughter's house, or whoever's house. The Zoning Commission is the board that scrutinizes subdivision plats. From a planning standpoint and a precedent setting standpoint though, the damage is still done as far as spot zoning, that's my concern. I full understand and emphasis.

Kirk Latta: But it is expected to span out in the future, someday. In the country there's no subdivisions or places for... in Cedar County there are. But there's nothing in Muscatine County.

Eric Furnas: Yeah he is correct. If you look at the general two mile development zone around Wilton, even on our future land use or any incorporated town we show a two mile expected development zone. However, if you look closer at our future land use plan it doesn't show residential as being expected there. Now it's always encouraged for development to be situated without two miles of a city limit's and it does do that.

Tom Harper: And they're not close to any other residential zoning?

Eric Furnas: Moscow area is the closest residential area.

Carol Schlueter: And with the swine confinement building there, and then the chicken facility there, it's just not a good place to have residential development.

Kirk Latta: I know, but my daughter knows... if I develop this out it's only going to be a one plat, one parcel, one five acre parcel.

Carol Schlueter: I understand but I have a problem with the spot zoning, I really do. That's my concern. Because then somebody else is going to come in and want to start developing around...

Kirk Latta: Well yeah but maybe someone else will probably have a right to, you know? I mean, you're left with... what do you do? I mean you own the property for 30 years and what do you do? That is the best place to build houses, the water and electricity is there. The buildings are still there from the old homestead. And where I built and she ... she came up with the best place to build a house instead of over by the highway.

Carol Schlueter: I'd rather be on the highway.

Kirk Latta: Well you can't get a driveway off the highway.

Carol Schlueter: Oh can't you? Off of Hwy. 6?

Kirk Latta: You cannot, you have to be 600 feet from a road. So I would have to take a driveway back to the gravel.

Carol Schlueter: Really? Then how did Boorn's and ???? do it?

Kirk Latta: They must be 600 feet from the intersection.

Carol Schlueter: Oh, I see.

Tom Harper: Brad, do you have any comments?

Brad Akers: Yep, I was just listening.

Carol Schlueter: So if you get your house sold you are going to build another over on the south parcel?

Kirk Latta: Yeah I would probably build on the other parcel because I need to downsize.

Carol Schlueter: And when you were able to build here, you got a farm exemption, right?

Kirk Latta: Yeah, I got a farm exemption. And the daughter could do that too, but then that leaves the dad high and dry. I don't want to jeopardize that at this point.

Tom Harper: Do you have any comments Brad?

Brad Akers: Yeah I mean, I understand where he is coming from, you know. I mean people coming from Moscow they just have that little subdivision that somebody dropped in there off of Rally Lane. I mean it's not that far away. And the ground that he is talking about, you know, it's not like it's a high producing farm ground. I mean, I understand where he is coming from and wanting to split off for his kid. I mean, this is something that we run across a lot here, I mean with people looking for places to build in the country. If spot zoning is an issue... if it was flat good farm ground, it'd be different. But you know, it's trees and there's flood plain. I personally don't have a problem with it.

Eric Furnas: I think the struggle would be... or maybe just... if this was to go forward I think the commission would acknowledge that perhaps that a larger part of this area in general would be suitable for residential development is essentially what you would be signaling by rezoning this. And maybe it is, if it's within the two mile radius, I think that's what the Zoning Commission would have to basically consent to. That it does open the door and maybe there is other areas... I think the issue is with some of the confined animal feeding operations in the area... do we run up against them? I mean, if we have ongoing residential development, whether it is his intent or not.

Carol Schlueter: Will there be more hog confinement buildings?

Kirk Latta: Well we need to get some place in the country. You just can't confine Wilton to town. I mean, you know to be able to expand the town out like Muscatine has done and other communities have done. There's got to be more places to go besides in town. You know, not everybody likes to live in town. I sure wouldn't.

Tom Harper: Okay, one thing that I failed to mention at the start of this, this is normally a five person board. And we've got two here in person and one on the phone and we have one vacancy.

Kirk Latta: Well can I take the vacancy right now? (laughter)

Eric Furnas: Yeah but then you'd have to recuse yourself on this vote. (laughter)

Tom Harper: Anyway so whatever we do here is just a recommendation to the Board of Supervisors.

Kirk Latta: Right, I understand that.

Tom Harper: So right now with three members here it would need to be a unanimous decision, all three of us would need to vote for it in order to give a positive recommendation to the Board of Supervisors. So you can either table this vote until the next month when we may or may not have all five members here. And even then if we vote and it's denied and we don't recommend it to the Board of Supervisors, they could still approve it but they have to have four out of the five members approve it, I believe.

Kirk Latta: Well...

Carol Schlueter: I've made my comments.

Kirk Latta: Yeah, I'm going to wait for the rest of the board. Yeah that's what happened the last time on the Board of Supervisors, they were missing one person and it came to a tie. I mean, we're not going to build a house this year anyway.

Eric Furnas: So you are saying you want to table the request until next month? Yeah, you'll need to vote on the request in order to table it anyway.

Tom Harper: Okay, the applicant has requested that we table this request until next month, is there a motion?

Carol Schlueter: I will make a motion that we table this request until the next month.

Tom Harper: Do you want to second that Brad?

Brad Akers: Yeah, I'll second it.

Tom Harper: Okay a motion has been made and seconded to table this request until next month or the following month. Any other discussion? All those in favor of the motion please say Aye (3) Opposed (0) Absent (Cooper). The motion has passed, the request will be tabled.

MUSCATINE COUNTY ZONING COMMISSION
By Eric S. Furnas, Planning, Zoning & Environmental Administrator