

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on September 7, 2018, with Chairperson Carol Schlueter and board members Emily Geertz, Tom Harper, Bill Tharp, and Carl Kleppe Jr. present. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Present for this hearing: Randy Olson and Jack Tracy.

Carol Schlueter: Okay, I will open this public 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. 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. Now have all of the members received the minutes from the last meeting and checked them over? If there are no changes, I will need a motion to approve the minutes.

Tom Harper: So moved.

Carol Schlueter: Is there a second?

Carl Kleppe Jr.: Second.

Carol Schlueter: It has been moved and seconded that the minutes from the last meeting be approved. All in favor please say Aye (5) and Opposed (0). The motion is approved. We have a full board today, so Eric do you want to read the first request?

Eric Furnas: Case #18-09-01. An application has been filed by Randy L. Olson, Record Owner. This property is located in Sweetland Township, Fairport, 3365 Water Street, Lots 1-3 & 6-10, Block 1, in the NE $\frac{1}{4}$  of Sec. 36-T77N-R1W, containing approximately 1.41 acres and is zoned R-2 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to build a garage onto his existing dwelling that would only be 14 feet from the rear lot line instead of the required 40 foot setback.

Carol Schlueter: Is there any correspondence?

Eric Furnas: No ma'am.

Carol Schlueter: Thank you. Would the applicant please state your name and tell the board what you are requesting today?

Randy Olson: My name is Randy Olson. Do I need to stand up?

Carol Schlueter: No, that's fine.

Randy Olson: I am just requesting that I can add an attached garage onto my residence. The rear setback is supposed to be 40 foot but I need it reduced to 14 foot.

Jack Tracy: It would be a garage addition onto his existing home.

Carol Schlueter: Okay. And so this is because of the railroad tracks in the back, that's what we are dealing with?

Jack Tracy: That's correct. Which the current garage sits closer to the rear lot line now and it is going to be further away when it is done.

Carol Schlueter: So something is coming down now, right?

Jack Tracy: Right.

Carol Schlueter: So you are going to take the existing garage down and then attach it to this house?

Jack Tracy: Correct.

Carol Schlueter: I went down there to look at it. Does any of the other board members have any questions or comments?

Tom Harper: So this will be attach to the existing house?

Jack Tracy: Yes.

Tom Harper: And the garage that is there you are going to tear down?

Jack Tracy: Well it is actually going to be moved off to the side and back onto the house.

Eric Furnas: Yeah, if you could refer to the handout that we provided, it shows how it will be attached.

Tom Harper: Okay, so all three structures will be aligned and attached?

Jack Tracy: Yes.

Carol Schlueter: But the building that you are building, that's going to be attached to the garage?

Jack Tracy: Yes towards the front of it, so it will all be attached.

Carol Schlueter: Okay. Is there any other questions or concerns? Is there anyone here in the room that wishes to speak for or against this request?

Bill Tharp: I want to note the unique circumstances of this request and the irregular parcel and how it is sets. I noted that there is not a building close by that it would fall on. You know, one of the issues with setbacks is if there were a fire, would it spread to the next person over. That is a big part of why we have setbacks and why they are enacted. And I don't see that problem here, so I just wanted to make that was part of the record.

Carol Schlueter: Okay, thank you. If there is no one else here that has any questions or comments then can I have a motion in regards to this request?

Bill Tharp: I move to approve the Variance in order for Mr. Olson to build a garage onto the existing dwelling that would be 14 feet from the rear lot line instead of the required 40 foot setback.

Carol Schlueter: Is there a second?

Emily Geertz: I'll second it.

Carol Schlueter: It's been moved and seconded that we approve this request as stated, all in favor please say Aye (5) Opposed (0). The motion has been approved.

Randy Olson: Thank you.

Jack Tracy: Thank you.

Carol Schlueter: You're welcome.

Eric Furnas: The Board of Supervisors reviews the Variances that are granted. We will send you a letter when that will be. You do not need to be present at that meeting but we will let you know the outcome. You are certainly welcome to attend that meeting, but it is just a review.

Randy Olson: Okay, thank you.

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By Eric S. Furnas, Planning & Zoning Director

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on September 7, 2018, with Chairperson Carol Schlueter and board members Emily Geertz, Tom Harper, Bill Tharp, and Carl Kleppe Jr. present. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Present for this hearing: Marilyn Ralfs, Steven Ralfs, Larry Guyer and Diane Guyer.

Carol Schlueter: Eric, can you please read the next request?

Eric Furnas: Case #18-09-03. An application has been filed by Steven H. and Marilyn S. Ralfs, Record Owners. This property is located in Fulton Township, SW¼ of Sec. 7-T78N-R1E, 1197 Vail Avenue, Parcel A, Plat of Survey, East of Vail Avenue, containing approximately 6.51 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit to build a rural residence on a proposed one acre split from their property located at 1197 Vail Avenue.

Carol Schlueter: Okay, thanks Eric. Is there any correspondence?

Eric Furnas: Yes, a letter from Stephen Quinn was received, you have it in your packets and it will be attached to the minutes.

Carol Schlueter: Okay, so will the applicant please state your name and tell the board what you are requesting today?

Marilyn Ralfs: My name is Marilyn Ralfs and I live at 1197 Vail Avenue and we would like to split off an acre and build a new house.

Carol Schlueter: Okay. Board members – any questions or comments in regards to this request?

Emily Geertz: Does Eric have any comments?

Carol Schlueter: Eric would you like to give your comments?

Eric Furnas: Under the staff recommendations that are in your packet, I state the recommendations for the rural residence ordinance itself talks about minimum distances. This proposed rural residence would be approximately 400 feet from the next nearest residence and there are two additional residences that are less than 1,000 feet away. The CSR is not established because it does not contain any tillable acres. The property is more than 1,250 feet from the nearest feedlot, grain dryer or silo. It does have frontage along Vail Avenue, which is a paved road, and it is a little less than two miles from the City of Durant. Those are the criteria that the rural residence ordinance speak to.

Tom Harper: Now this split, it would be a one acre split off of the north end of this property?

Eric Furnas: I believe that is what they are proposing. If this is approved that is another process that would have to be approved in order to split the property.

Tom Harper: Yeah so that's the other issue I see on this. Is this to be a shared driveway with the next property owner?

Marilyn Ralfs: Well the County Engineer suggested that we make it one by putting a little wall between the two driveways.

Steven Ralfs: Yeah it won't be a shared driveway, we would each have our own.

Marilyn Ralfs: On our own property.

Carol Schlueter: And you said that that has been approved by the county?

Eric Furnas: It would have to be formally approved on the proposed subdivision plat. The County Engineer would have to sign off on the subdivision plat as well. So there would be another review to have that approved. I do know that they have checked already with the County Engineer's Office to see if that would be accepted.

Tom Harper: But the split still would have to be approved?

Eric Furnas: Right the Zoning Commission would have to approve of the subdivision.

Emily Geertz: So this would have to be approved first? That is the normal process?

Eric Furnas: Yes there is no reason for them to move forward with splitting property if they can't get permission to build a house. So this is part of the process.

Tom Harper: So with the distance not being recommended... is this a hardship then?

Eric Furnas: Well a Special Use Permit is not a Variance. The criteria for approving Special Use Permits is different than showing hardships for Variances.

Tom Harper: So since this is under the recommended distance, they are still asking to go around the rules?

Eric Furnas: Well the ordinance states that the minimum separation distance is 1,250 feet and something less than 750 feet may be denied. If you recall the criteria of the rural residences, they are the ones that I just read off. They are the minimum distances, the CSR and ...

Tom Harper: Right, right. So they are meeting all the criteria except for the minimum distances from another residence?

Eric Furnas: It appears so.

Carol Schlueter: Okay is there anyone else in the room that has any questions or concerns on this request? If so, please state your name before you speak.

Larry Guyer: My name is Larry Guyer and this is my wife Diane. We are adjacent to the Ralfs resident, not to the one acre and we don't have a problem with this.

Marilyn Ralfs: Yes, I believe that our homes are closer than 750 feet now.

Larry Guyer: We have all gone through this in our area, there are four modern houses, I guess. We were the last to come in and ask to build. I think we have approximately six acres and it was 21 years ago. It is a great area and it is not taking out or away and farmland. All the neighbors keep up their property. I mean, it is definitely... I mean, I can see what they are doing. I see no reason not to.

Carol Schlueter: Okay, thank you.

Tom Harper: So if they still have to go through subdivision procedures, I assume that any setback issues would be settled with that?

Eric Furnas: Setback issues are evaluated when they submit a building application.

Tom Harper: I just wouldn't want to approve this and have them come back and find out that they need a Variance because they aren't going to make the setbacks.

Eric Furnas: Generally at least with an acre... I mean usually there are no problems with the setbacks unless there is something that is very unique on that proposed acre.

Emily Geertz: What is this blue area?

Tom Harper: That is the flood plain.

Carol Schlueter: And they put a pond in over here.

Marilyn Ralfs: Has this 750 feet been something new? Because that wasn't before when we built.

Bill Tharp: It's been here for the past eight years at least.

Eric Furnas: Yeah, at least.

Marilyn Ralfs: Yeah, that's what I was wondering because like I said, our home is closer than that now.

Bill Tharp: I have two concerns. One is just that the board routinely looks at this not completely as hard and fast ... you know the distance... but almost, unless there is an extraordinary exception. And number two, although just in my practice that I've seen is that even though people agree now, and I trust that these structures will be built well and that they will last a long time. And although everyone may get along and they feel that they are fine being close together, they are eventually going to sell this to somebody else, and they may not be happy with having buildings that close. It may really decrease the value of everybody's property. Because if they have houses that are so close to each other, the idea of being out in the country so that you can have a lot of distances and space... it kind of goes away when you have it like a residential area. There is a procedure that... I mean it looks like there are a lot of houses close to each other now and it sounds like from the testimony that, you know, it seems like a residential area anyway. Maybe the proper avenue would be annexing it into the City of Durant, or asking for annexation from the City of Durant, as opposed to our limited ability to not make the rules but just to follow them, however hard that can be from time to time. And so we have deviated from that distance for reasons, you know, that has been shown in the ordinance and from what I can see up close and personal in my practice that it was a real mess trying to get that taken care of. These houses were very close to each other and one that was well worth \$250,000 easily but it was so close to the other house that they sold it for half of that because they didn't want to live right next to someone out in the middle of the country. So that's part of it, just not looking at it just for today and the neighbors all get along, but unfortunately it's... I mean, you know, we are looking at having the county land... you have it becoming residential, that's really beyond our purview, that's for the zoning board. I wish we were like the kings and queens sometimes and we could just grant things when we feel like it. In my opinion, they gave us the rules that we have to work with for the Board of Adjustment and it is far too close, I mean it's half the distance of the minimum.

Steven Ralfs: We are a long distance away.

Bill Tharp: Yeah I mean... if the Board of Supervisors have a different position, I might be able to give you a different answer.

Marilyn Ralfs: Yeah, I mean we understand with houses changing hands but you have that in any situation. You can never control who you have as a neighbor.

Bill Tharp: Exactly right.

Carol Schlueter: Okay, are there any other concerns or questions regarding this? To me, it is the distance. Because one is 400 and there are two houses that are less than 1,000 feet? Is that correct, Eric?

Eric Furnas: I think the closest one would be 420 feet.

Carol Schlueter: And our guidelines are to be 1,250 feet, am I correct on that?

Eric Furnas: Yes the recommended is 1,250 and the ordinance states that anything less than 750 feet...

Marilyn Ralfs: Well they are closer than that already.

Bill Tharp: I will make the motion in the positive.

Carol Schlueter: Are we ready for a motion? (Yes) Okay go ahead.

Bill Tharp: I am making this motion in the positive, I move to approve the Special Use Permit in order to permit a rural residence on the proposed one acre split on their property located at 1197 Vail Avenue, and they being Steven and Marilyn Ralfs.

Carol Schlueter: Okay, is there a second to that motion?

Tom Harper: I'll second it.

Carol Schlueter: It has been moved and seconded that this request be approved, all in favor please say Aye (1) Opposed (4). So the vote is 1 to 4, did you get that Dixie?

Dixie Seitz: Yes.

Carol Schlueter: It has been denied.

Bill Tharp: Sorry.

Marilyn Ralfs: Okay, then we wish to appeal. How do we go about that?

Bill Tharp: Well it's the Board of Supervisors, Eric would have some information on that.

Eric Furnas: Well you would have to appeal to the court. Certainly you can address the supervisors and see if they ...

Marilyn Ralfs: We do have the approval from the other people but they didn't write a letter. So we need to talk to you about what we need to do.

Eric Furnas: Okay.

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