

The Muscatine County Board of Adjustment held a virtual GoToMeeting on Friday, January 8, 2021, with Chairperson Carol Schlueter and members Emily Geertz, Janelle Spies, Charles Clark and Tom Harper present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this virtual hearing: Jonathan Demmin, Bill Markham, Alec Fowler, Richard Trader and Brenda Vivier.

Eric Furnas: Good morning everyone, this is Eric Furnas, Muscatine County's Zoning Administrator. I'm going to go through a couple of housekeeping items here before we get started. I will start eventually with a roll call of the Board members. For those of you that are joining us from the public, I think you are probably aware that we are holding these meetings virtually, due to Covid-19 restrictions. This meeting is being recorded. All other issues and methods of parliamentary procedure will still be followed. Just for everybody's awareness, this will only work if everyone keeps the microphones muted until it is time to speak. We will slow things down and give everyone time to unmute before they speak. Since we cannot see who is speaking, I would ask that each time you speak you would identify yourself by giving your name and home address. We will allow plenty of time for people to get unmuted and address the board during the different meetings. So that being said, I am going to start with a roll call of all of the board members. Chairperson Schlueter?

Carol Schlueter: I'm here.

Eric Furnas: Emily Geertz?

Emily Geertz: Here.

Eric Furnas: Tom Harper?

Tom Harper: I'm here.

Eric Furnas: Charles Clark?

Charles Clark: Here.

Eric Furnas: And Janelle Spies?

Janelle Spies: Here.

Eric Furnas: Okay, Madam Chairperson all the board members are present and accounted for. I think that you probably have some minutes to approve from last month, so I the mic is yours.

Carol Schlueter: Okay, thank you Eric. I will going to open this public hearing I'm going to read an opening statement. 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. If fewer than five members are present, the appellant has the opportunity to have the appeal delayed until the next meeting. 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. We are five members today, so like I say it has to be three affirmative vote to pass. Okay, board

members, did you all receive by email the minutes from the previous month and the resolutions? I presume everyone did and had a chance to look them over. If there are no corrections, I would like a motion to approve.

Tom Harper: Yeah, this is Tom Harper, I will make a motion to approve the minutes as published.

Carol Schlueter: Is there a second to that motion?

Emily Geertz: This is Emily Geertz and I will second it.

Carol Schlueter: Okay, there has been a motion made and seconded to approve the minutes and resolutions from the previous month. All in favor please say Aye – 5; Nay – 0. Okay, they are approved. Eric, do you want to read the first request?

Eric Furnas: Yes ma'am. Case #21-01-01. An application has been filed by Jonathan M. and Tricia Demmin, Record Owners. This property is located in Sweetland Township, Trader Meadow East Subdivision, Lot 2, in the NE¼ of Sec. 28-T77N-R1W, at 2041 Trader Road, containing approximately 1.00 acre and is zoned R-1 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to place a 64' x 40' pole barn approximately 18 feet from the front lot line, instead of the required 50 foot setback.

Carol Schlueter: Okay, thank you Eric. Was there any correspondence?

Eric Furnas: We did receive numerous correspondence, they were all supplied in your packet and given to your with your development report. I don't believe we have received anything since that time.

Carol Schlueter: Okay, did all the board members receive the correspondence in response to this request?

Janelle Spies: This is Janelle, I did.

Carol Schlueter: I presume everybody else did too. Okay, would the applicant please state your name and tell the board what you are requesting today?

Jonathan Demmin: Hello board, thank you for taking the time, hopefully everybody's been safe out there. I appreciate the time and opportunity. My name is Jon Demmin. I am proposing... it's not really a pole barn it is a pole building. It won't really resemble a barn, it will be curtailed to matching our home and existing property and it will go with it very very nicely. What I am proposing is a 40' x 64' building. The actually setback ... that nearest corner, as Eric mentioned, would be that northwest corner and that kind of has to do with the lay of the property line or around that edge of the property... I guess the cul-de-sac. But the reasoning and basically ... that's why we are going forward and I can go on from there...

Carol Schlueter: And what is the purpose of the building and the height of the building sir?

Jon Demmin: The building will have a 16 foot sidewall. So overall height, well below the county's standard. I'm going to say approximately 24 some... maybe 24 feet at the peak. I mean, I'm not the builder but that's the approximate, but it will definitely be well below. But my actually reasoning for the building is just for our personal use. I have a large ... my pickup truck and enclosed trailer, we have a smaller Winnebago. I do collect some antique engines on large carts, as well as an antique tractor, some collectible signs, gas pumps, and then just miscellaneous tools and storage. The reason being would be the fact that we

rent a storage unit ever month and we just want to have the ability on our own property, you know, we've actually wanted to do this for a sometime and get out of the storage unit and actually access and acquire everything right on our property.

Carol Schlueter: Okay, this is Carol again. And looking at your property, I see you do have some space to the south of your house, but I presume that is where your septic is and well?

Jon Demmin: Yes that is very accurate. We actually did look into different options as far as placement and the reason we picked, I'll call it the north side of our home or property, would be the fact, just like you had stated, that our septic leach field is on the south. You can kind of make it out on this map or aerial print. But we went over that with a representative of the county when they came out and did the GPS coordinate points. We just kind of talked that over, but yes, that's accurate.

Carol Schlueter: Okay, thank you. Board members, do you have any questions?

Tom Harper: Yeah this is Tom Harper. What you are stating to build there is a 40' x 64', that seems like quite a large building for a one acre lot with a... it already has a house and a two car garage on it.

Jon Demmin: This is Jon and to just respond back to that, we have basically like a one and a half attached garage, which is not very large. I obviously wanted additional parking for my other vehicle, my trailer, our motor home and so on, like I had illustrated earlier. The items and belongings that we are renting a storage to house... so realistically I think I should have every right to be able to house that stuff on my own property and allocate the cost that I'm paying for that storage unit to my own building on our property. So kind of conversely to that, just to give you a little better response, we are also the only resident in this division out here without an existing outbuilding of any sort. If you look at the neighboring properties, including even just nearby, the 2040 Trader Road, back in 2004 that property was actually granted a Variance for the brown pole building. And it's just... all that is is just a rough shell pole building, there are no windows or anything like that. But yeah basically the other thing I was going to say was due to the size and nature of the some of the items I possess and collect, I obviously need more space than what we illustrated and what existing we have.

Carol Schlueter: Okay, thank you. Is there any other questions by the board?

Janelle Spies: This is Janelle. Is it possible for you to go farther north?

Jon Demmin: Janelle this is Jon Demmin. Actually if I went farther north... if you just look at ... kind of the property, it sits somewhat I guess straight faces north the way our property line runs. We would actually rather not do that because of the simply fact that we don't want to be closer with the proposed building to a neighbor. We would rather and we specially kind of sized it and allocated where we want to propose it closer to our house, yet maintaining that existing firewall distances from our existing structure and home. And yeah the other reason we kind of just said... and we are going to get to that sometime here anyway... but the reason why we placed it where we did and plotted the corners as you see as such on the aerial, is the fact that it would coordinate with our existing home. And actually that home was issued a Variance back when it was built due to the lay of the land. And actually if you go more north... this aerial doesn't show that properly. I'm not sure if the board members if you have had the chance or have taken the opportunity to come out and see the lay of the land? I guess if you haven't in person, I've got several pictures that kind of show and illustrate that. But the biggest reason being is the steep terrain of our existing property. For me to go more north or even to the fact to go more... we'll call it more east, to

give that distance greater from that front line would cause us to do severe excavation. And I dig for a living so I mean I know exactly what that would require. Not only the excavation grade work but the retainment of said hillside falling.

Carol Schlueter: Okay, thank you. Eric do you have any comments on this request?

Eric Furnas: I would just kind of reiterate and a couple of things in the development report and Mr. Demmin had touched on a couple of those. In this neighborhood there are a couple of existing detached garages and outbuildings already. There have been Variances granted in this neighborhood for both the house and an outbuilding based on the kind of the unique shape of the lots in this general vicinity. I think I did point out, however, because it is worth noting, that the detached accessory structures in this neighborhood, I don't believe any of the current ones exceed 876 sq. ft., I believe. So this building... while I think that we can reasonably see the unique property limitation that would prohibit the 50 foot front setback, that seems to be common in that neighborhood, I think the main issue that the board would want to focus on as required when considering Variances would be ... would a building of this size alter the characteristics of the neighborhood in general or not. The style of the building, the location of the building is pretty typical, but I think there maybe something that you need to wrestle with there.

Carol Schlueter: Okay, thank you Eric. This is Carol, I was out there and drove around there yesterday and looked at it. To me it is a large building that you are putting up. I am concerned with water runoff, about drainage and that. I don't know if that would determine anything or be a hinder... I don't know, I'm just concerned with that also.

Jon Demmin: This is Jon Demmin. As I stated earlier, and to kind of address your concerns there, I do dig for a living by nature. I'm actually, obviously on vacation today. But in doing so, with my plan with doing what we are doing is ...the setback that I had mentioned here that we are requesting for a Variance, what that would mean is that we would actually have to go less into the hillside behind in terms of excavation to accommodate this build. However, if we would have had to go further, that would have required a lot more extensive excavating and cost in retainment. Now as far as the water issue that you speak of, I will also be installing tiling around the property, just basic drain tiling. I mean not to accommodate any other issues. And realistically there's not going to be any additional runoff or water due to this structure. There's no water or sewer run to the building. It's going to literally be a storage building on our property. But yeah I would address those concerns and that fact ... as well as anything behind it. If we needed to build some form of a slight retainment, we would do that also.

Carol Schlueter: Okay, thank you. Board members, any questions or concerns?

Charles Clark: Yes, this is Charles Clark and this is for Mr. Demmin. So I understand you have your own business, it sounds like, however you do not intend on running your business out of this structure, is that correct?

Jon Demmin: Sorry, I was trying to get unmuted here, my button wasn't working. But that is not actually accurate, I do not run my own business, I work for an employer. This building specifically, as stated several times prior... even the way we've applied for this, R-1 Residential storage building on our property. No business affiliation whatsoever. I will very clearly put that in written because it seems to have been a concern and just brought to our attention by neighbors in the division. It couldn't be more false though. That's not the case at all. Again, there is no water, no sewer to the property. It will be as such, a storage building for our personal belongings and collectibles. Thank you.

Charles Clark: Thank you.

Bill Markham: My name is Bill Markham, I live at 2040 Trader Road. Can you hear me?

Carol Schlueter: Yes we can.

Bill Markham: Thank you. I'm just sitting here listening to it, I live here and I have to ... we've known each other Jon and Tricia, they have lived here about eight years and he works for Allied Gas. I had to get on here and say something because they do have an antique business. They have been running it for about five years. So if he wants to put it in writing, that's fine. He goes to... up to What Cheer flea market and he goes to several other places, up to Wisconsin and so forth. They've sold stuff out of their garage. I couldn't tell you how many times... we were just over there about two and a half months ago, before all of this started, and people called and everybody had to leave because he was bringing someone over there to buy stuff. So he's misleading you people, I guarantee you. And I will put that in writing too, if that's the way he wants to play it. But the building is way way way too big. And these other existing buildings, that Eric brought up, they are 24' x 36'. And this 64' x 40' building, of course, is in my opinion and other people's opinion here on Trader Road, that it's just way way way too big. I mean, it's like an industrial size building. So I wanted to clarify that just a little bit. And Jon does...they do do digging, and I think he's a good backhoe operator. But for doing a lot of dirt work and stuff, I mean, they do do dirt work, but you know they put in gas pipe, you know. So that's all I've got to say right now. I thank you.

Carol Schlueter: Thank you for your comments. Is there anyone else that would like to ask any questions?

Jon Demmin: I would like to respond back to that, this is Jon Demmin.

Carol Schlueter: Go ahead.

Jon Demmin: Okay, I just wanted to make some clarifications. First and foremost, that was inaccurate. I live... oh excuse me, I work, I'm a gas foreman for Alliant Energy it's a gas utility in Muscatine, just to clarify that so that was accurately stated. Furthermore, this building will have no business relevance. I don't know where that came from. We do obviously collect items, so absolutely correct, we go to What Cheer and buy items I collect. Will I at times sell and trade items at a flea market? Absolutely, that is not a business nor is this building going to be designed or at all curtailed for that. Thank you very much.

Carol Schlueter: Thank you. Board members, any questions or concerns?

Tom Harper: This is Tom Harper, I don't have anything more.

Carol Schlueter: This is Carol. My concern is that it is a big building. I was out there and looked and I think too, that it's too big for the area. I would be willing to go to a smaller one. But like I said, right now I think that building is just too large for the area compared to the other ones that are there already.

Charles Clark: This is Charles Clark. I would agree with Carol. We have to maintain characterization, if you will, that the buildings there fit with the neighborhood. And indeed there are other neighbors with outbuildings, but something a little bit more in line with the size of these other buildings is what I would like to see out in that area, please. Thank you.

Carol Schlueter: Board members, any other questions? Eric, do you have anything else to add?

Eric Furnas: Madam Chairperson, you might want to see if there is any other callers that had any impute, since we have received some correspondence from more than one party. I know that Mr. Markham spoke, but since it's virtual it's a little hard to tell. I might be good to see if there is anybody else before you move further.

Jon Demmin: This is Jon Demmin too. I'd like an opportunity to talk yet.

Carol Schlueter: Okay, just a minute Jon. Is there anybody else that would have any questions or neighbors of this property? If so, just state your name and express your concern?

Alec Fowler: This is Alec Fowler and I was engaged by the Trader Meadows East Subdivision and Richard Trader and Bill Markham personally. I agree with everything that has been said today so far. The physical hardship, it's not unique to this property. The subdivision and Mr. Trader and Mr. Markham don't oppose a smaller building, which has been said. But a building that is three times the size of any other footprint in the subdivision just doesn't seem appropriate to maintain the character of the subdivision. Also with the way that the Markham's residence is laid out on their property, it is facing directly as you see this picture here. So the building would be looking... or their residence would be looking directly at this massive building every day when they walk out their front door.

Jon Demmin: Excuse me, this is Jon Demmin. Can I ask how you are affiliated with this Alec?

Alec Fowler: I was contacted by Mr. Trader and Mr. Markham to represent the subdivision to oppose the Variance.

Jon Demmin: Okay, so are you an attorney?

Alec Fowler: Yes sir.

Unidentified speaker: Okay, and where is your law firm?

Jon Demmin: And where are you affiliated with as a firm?

Alec Fowler: I work for Fowler Law.

Jon Demmin: Fowler Law?

Alec Fowler: Correct.

Unidentified speaker: Okay, out of what...

Jon Demmin: And where are you based out of?

Alec Fowler: Muscatine, Iowa.

Unidentified speaker: Okay, thank you.

Jon Demmin: Okay, thank you very much. Board, please let me know, I would like to be able to respond whenever you are ready.

Carol Schlueter: You want to respond to just his concern or do you want to wait for other people?

Jon Demmin: Well I kind of what to respond a little bit now before we get too far beyond.

Carol Schlueter: Okay, go ahead.

Jon Demmin: I guess initially I guess, what Alec had brought forward... the biggest thing I guess I'm looking at is, obviously I think I tried to explain my and my wife's personal reasoning on our property in terms of the size of the structure. That truly would be to be able to house our items, collectibles, belongings, and so on and so forth on our property. You know avoid the grievance that we are currently having with having to have a remote storage building, and obviously the lack of convenience that that presents. Not only to the monthly cost perspective of renting a remote storage, which can get costly. But then obviously we could have this right particularly on our own property. That basically handles that in my opinion. But going forward on the perspective that Alec portrayed with the 2040 property, basically their house was constructed and built to set on an angle looking slightly facing our side yard. Which realistically is no fault of our own nor should it have any bearing in my perspective on us being able to utilize our property. That would be like saying that that burden would be ours to share. Unfortunately, when that house was acquired and they bought that home, the owners, I'm not even sure who ... Basically what we are looking at, in that perspective, we shouldn't be burdened and basically not allowed to utilize our property in the fashion that we would desire, based on somebody's objecting view. We've even went as far, just so you are aware, as I spent \$1,500 plus dollars on a row of privacy trees that I put in, and just thinking that... because that was one objection I believe that Mr. Markham had given forward at one point. So basically, you know, I think we took great measures to do this and to accommodate, as well as the building structure design... This isn't going to be a rough basic pole barn, like unfortunately you see on the 2040 property. Our building will be very coordinated to our home with windows, color coordinated doors and so on, existing color and structure. Which we spent additional cost, you know, in this design process to make that coordinate very curtailed to our existing structure, and coordinate very well and harmoniously with the neighborhood. Thank you very much.

Carol Schlueter: Okay, anybody else?

Bill Markham: This is Bill Markham. Am I on here or is there somebody else talking? Can you hear me?

Carol Schlueter: Go ahead sir, go ahead.

Bill Markham: Thank you, thank you. Bill Markham at 2040 Trader Road. That all sounded really good but you know, I have to tell you and correct Jon again because they do have an antique business. Anybody wants to go to What Cheer, Iowa at that the flea market in May, August and October, the northeast corner... I've been up there and they've got stuff. I've helped them drive their Winnebago up there and bring their stuff back and forth. He doesn't just go up there and just buy. You guys need to know that what you are being told is not true. So you can find out for yourself if I'm lying or if somebody else is lying, because you can just go right up there and see. That building is too big for this residential area. The trees that he planted over here that he says, I don't ... You know, there's been some issues out here on the road since I told Jon that his building was too big. He did not like that one bit. And there's been a lot of things happen out here on Trader Road because of that. And one of those things is all the trees being planted over on the northwest corner of the property. So I kind of wanted to say that. But also Dick Trader is sitting here with me. He's the one that did the developing on this subdivision and he's sitting here with me and he would like to talk too. So if it's okay, I would like Dick Trader to talk to you guys?

Carol Schlueter: That would be fine, just state your name.

Bill Markham: State your name Dick, sit down there.

Dick Trader: This is Richard Trader at 2043 Trader Road. I set up the subdivision as a residential non-profit subdivision. Jon Demmin tried to tell me that when I got my lots sold that the subdivision would no longer exist, that's not true. The subdivision is still here. The building is big, he's crowding our road, it won't look right with to have that big of a building next to his house. He wants to go in and out with his business on a private road. My suggestion is... the reason he wants that big building is to add to his business, which is in a residential area. I think that he should be moved out of there, a residential area, over to a business area. That's why they have zoning laws. Take a look at Muscatine County or Muscatine city, they have spot zoning and in spot zoning you cannot put a business in a residential area. That's all I have to say. I hope you understand it. Thank you.

Carol Schlueter: Yes, thank you for your comments.

Jon Demmin: Members of the board, this is Jon Demmin. Basically as a rebuttal to that, first and foremost, I can't be more clearer on the fact that this is not a business. This will not be a business structure. It is very clearly R-1 Residential zone. There will be no water or sewer. If you look up a business, that's not even legal. If you are going to run a business you would have to have water and sewer facilities as well as an inner office, which it will not have. I'm pretty versed on that, my father, many years ago opened his own business in a different state. But there are regulations and requirements regarding that, that I'm sure you are aware of as a board. Going forward, all these accusations are just merely that, hearsay accusations, it's because they don't like what they are hearing. So unfortunately it appears that I have neighbors that are trying to persuade with these type things. Realistically I'm not going to go any further into this and try to slander, aside from the simple fact ... if anyone is running a business Mr. Markham unfortunately doesn't want to point out the fact that he is in and out of here steady with his skid loader and trailer. He does various odd jobs from tree pulling, so on and so forth and snow removal. So if anyone is running a business, which again, I don't want to point it out and I would not have... What I think we are truly here for is a Variance hearing. So I would like to ask that we could remove the hearsay accusations or at least try to filter through them. Thank you very much.

Carol Schlueter: Thank you. Anyone else?

Bill Markham: Yeah, this is Bill Markham. I would like to respond to that since my name was brought up. I'm not running a business out of here. I'm no different than Jon Demmin bringing his company truck home everyday, or not everyday but every three weeks now. He used to do it quite a bit, almost every week. So and he said that he don't want... that he wants to stop the accusations, well why did he just go ahead and throw a bunch of accusations out there to you people when he says he wants to stop it? So yeah, we don't know need the accusations, I agree with that. But I also said, he does have a business, he lied to you people and that's a fact. That is a fact. And you people can find out he has a business by ... if whatever you decide to do here, you go up and you see at What Cheer that he is selling, because he is. He even says, he tells us that he makes \$6,000 that week and then the next time he goes up he made \$10,000. So we know all about this. The accusations are one thing but... and I'm sorry that I'm rambling, but he brought it up when he started to talk about me. So I'm just clarifying it, thank you.

Carol Schlueter: Okay, sir thank you for your comments. We are going to move on.

Brenda Vivier: May I speak please?

Carol Schlueter: Yes you can. Please state your name and what your concerns are ma'am.

Brenda Vivier: My name is Brenda Vivier and I am also an owner at 2040 Trader Road. And you know, in November I was just home... I know that we live in Las Vegas, but that is still our home, we come home and you know... And that is way too big of a building for that area. If he's got to have any type of Variance, then his property doesn't support it. You know, you are setting precedence for that big of a building for other and future owners to build those big commercial buildings in this very quiet, small residential area. Which isn't right. That's not why we moved out here. That's all I have to say.

Carol Schlueter: Okay, thank you for your concern.

Jon Demmin: Board, may I rebuttal that with one quick point?

Carol Schlueter: Very shortly and then we are going to vote.

Jon Demmin: Thank you for your permission. Based on that most recent information there, saying that if we need a Variance... well very clearly illustrated back in 2004, prior to them buying the property, but I guess regardless... A Variance was required and requested due to the lay of the lots and the lay of grade and land for the 2004 pole building that was built at the 2040 Trader Road residence. It was the brown building. So, therefore, I think that kind of quashes that prior claim.

Brenda Vivier: Yes, but... can I? This is Brenda Vivier again. If there was a Variance for that building, which it was there before we bought the property and if you are needing a Variance for your building, then they should be within the same size of what the other buildings are in that area. Your building is three times the size of the buildings that are in that area. It is way too big. You are asking to put in a commercial building in a residential area. Do you understand the difference between a residential area Jon, and a commercial area?

Jon Demmin: Board, I would have to disagree with the simple fact that it's not a commercial building. It won't even be resembling that fact. That is just hearsay and opinion, and unfortunately they have a different opinion and they are welcome to it. To utilize it... and the reason behind this and I'll try to make it real summed up, I don't want to waste your time, I appreciate your time. The biggest thing going forward is the fact that... if we were to have designed this a different size, it truly couldn't accommodate obviously our needs on our property. If you even look at just the aerial map footprint, we have more than adequate room, with the approval of the Variance, to adequately house and size this building as designed on our property. Thank you very much for your consideration.

Carol Schlueter: Okay, thank you. If there are no other comments or concerns from anybody that's online... board members, do you have any more questions or otherwise I would entertain a motion for this request.

Eric Furnas: Madam Chairperson this is Eric, I have a couple of points I want to make that I think would help to clarify some issues.

Carol Schlueter: Okay, thank you.

Eric Furnas: There's been a lot of discussion on commercial use versus personal, whether it's a commercial building ... just from a zoning perspective, it is the use of a building or property that designates whether it's commercial or residential. That's not to say that there's not some strong deliberation that needs to be made versus the impact of a certain size building. But we have zoning that regulations the use of a property or building. When a person submits a building

application or proposes a structure of any type, we have no choice but to take it...take them at their word on their application what the use of the building will be. And there are appropriate safeguards that would prohibit them from varying outside of the allowable uses. Could Mr. Demmin run a commercial business or attempt to out of any size of structure? Certainly. We have zoning ordinances to address that. There are small home based business provisions. So, you know, I think that it is a little bit irrelevant to try to argue what is truly speculation on the use of the building. I think it's worth putting in the back of your mind that it's something that you would have to watch and if those are neighborhood concerns. But the use of the building or the approved zoning uses is really based on what the building is currently used for. The sheer size of the building does not in itself make a structure commercial or industrial. Certainly size can make something more likely to be used for certain types of businesses, but it does not immediately assign a use to it based on size alone.

Carol Schlueter: Okay, Eric, thank you. Board members are you ready to make a motion in regards to this or do you have any other comments or questions before we do that?

Charles Clark: Madam Chairman, this is Charles Clark. I believe that Eric has made clear that if folks are going to run a business out of their building there are provisions made that will be regulated. But I also am hearing that the neighbors feel this building would be out of character for the neighborhood and that is my concern. So I would make a motion that we deny this request for a Variance.

Carol Schlueter: Mr. Clark, when you make a motion, we need it in a positive motion first, correct? Eric, are we okay with this motion that he made?

Eric Furnas: It's usually more appropriate to make a motion in the positive that aligns with the request and then it can either fail for a lack of a second or just a vote of Aye or Nay on that motion.

Carol Schlueter: Mr. Clark, did you understand that?

Charles Clark: Yes. I will just step back then and wait for somebody else to make a motion then.

Carol Schlueter: Okay, yours has not been seconded so would somebody else want to make a new motion please?

Tom Harper: Yeah, this is Tom Harper. I will make a motion that we grant the Variance in order for Mr. Demmin to place a 40' x 64' detached accessory structure approximately 18 feet from the front lot line, instead of the 50 foot setback requirement.

Carol Schlueter: Is there a second to that motion?

Janelle Spies: This is Janelle. I will second the motion.

Carol Schlueter: Okay, it's been moved and seconded that we approve the Variance in order to place a 40' x 64' detached accessory structure approximately 18 feet from the front lot line, instead of the 50 foot setback requirement. Is there any other comments before we vote? Alright, I am going to do a roll call vote.
Janelle?

Janelle Spies: Nay.

Carol Schlueter: Charles?

Charles Clark: No, nay.

Carol Schlueter: Tom Harper?

Tom Harper: Nay.

Carol Schlueter: Emily Geertz?

Emily Geertz: Yes.

Carol Schlueter: Carol Schlueter, Nay. (Ayes-1; Nays-4) So that is four to one, so it did not pass. Thank you everyone for your time and concerns.

MUSCATINE COUNTY BOARD OF ADJUSTMENT

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

The Muscatine County Board of Adjustment held a virtual GoToMeeting on Friday, January 8, 2021, with Chairperson Carol Schlueter and members Emily Geertz, Janelle Spies, Charles Clark and Tom Harper present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this virtual hearing: Kory Schreiner.

Eric Furnas: Madam Chairperson are you ready for me to read the second case?

Carol Schlueter: Yes, please.

Eric Furnas: Case #21-01-02. An application has been filed by Kory L. and Jennifer L. Schreiner, Record Owners. This property is located in Seventy-Six Township, in the NE¼ of Sec. 21-T76N-R3W, 2549 Jasper Avenue, containing approximately 12.34 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to place a detached garage in front of the existing dwelling and only 10 feet from the front lot line, instead of the required 50 foot setback.

Carol Schlueter: Okay, thank you. Is there any correspondence for this request?

Eric Furnas: I don't believe so, I am double checking the file. I don't believe that I have received anything in writing. I did have a phone call from a neighbor with some questions. I sent them the information on the case but I have not heard of any official correspondence one way or the other from them.

Carol Schlueter: Okay, thank you Eric. Would the applicant please state your name and tell us what you are requesting today.

Kory Schreiner: Good morning Board. This is Kory Schreiner. I am requesting to build a building 12 feet off the front property line that will be 48' x 64'. That is a rough drawing, I do have a rough drawing that Greiner buildings have put together for me and it can show the lay of the land for this proposal if you could allow me to share my screen.

Eric Furnas: Well I am not sure if I can do that.

Kory Schreiner: Or I can just try hitting (??) and seeing if it goes through.

Eric Furnas: Hold on, I think you might be able to share your screen now.

Kory Schreiner: Yeah, thank you Eric. Okay, let me know when you can see my screen.

Eric Furnas: I can see it. Can the board see it?

Carol Schlueter: Yes, I can see it on my screen here.

Janelle Spies: Yes.

Kory Schreiner: Unfortunately when I met with Greiners to put together this proposal, the line that they drew is in black so it's a little hard to see. But what I am proposing is to put this building in the northwest corner of my property. It's similar to the last applicant. To the south of my home, the access to the rear of my property is my septic and leach field. To the north of my property, to get to the rear, I have utilities, including a transformer that was set by REC. And the lay of the land significantly falls off, probably I don't know... maybe 100 to 150 foot deep. There is a main water way that drains the agricultural land to the west of the property towards Old Burlington Road, that is east of my property.

Carol Schlueter: Okay, thank you sir. Board members, questions?

Tom Harper: This is Tom Harper, in looking at the maps and especially the topo here, I realize that you have a ravine in there to the north of this and I'm sure you'd like to get this on as flat of land as possible, but is there any reason why you can't move that more to the east? It's just so close to the road, I just don't like it.

Kory Schreiner: As you go east the property falls off more to the south. So with the size of the building, I kind of put it in there the furthest east I can go with that size. I couldn't really go any further to the east without doing some sort of retainment into that ditch and removing a number of trees, which I'd like to avoid doing.

Carol Schlueter: This is Carol. What is the exact size of this building that you are putting up?

Kory Schreiner: It's 48' x 64'.

Tom Harper: This is Tom Harper. What's the sidewall height going to be?

Kory Schreiner: It's 16 feet.

Carol Schlueter: And you cannot put it... I'm calling it to the south of your driveway? That all your septic system in there that's in front of your house?

Kory Schreiner: On the south side of my driveway would be directly in front of my house, which I think isn't desirable from the standpoint as just looks.

Carol Schlueter: So, like I said, you could put it there but yeah you don't like the looks of it there. Is that correct?

Kory Schreiner: Yeah, that's true.

Carol Schlueter: I think it's too close to the road also, I have a problem with that. I don't know how much traffic is on Jasper. I don't what it is like there.

Kory Schreiner: Yeah, the traffic is low on Jasper Avenue. It's just on top of the bluff off of... off the back it goes to Letts. I don't know, it's probably less than 50 cars per day.

Carol Schlueter: Eric, what are your concerns for this request, please?

Eric Furnas: You can see my screen, I have been trying to rapidly try to depict a building that he is describing approximately 50 foot back for you here. I think he said 48' x 64', Mr. Schreiner is that correct?

Kory Schreiner: That is correct Eric.

Eric Furnas: I'm just kind of drawing there, can you see my screen there?

Carol Schlueter: Yes.

Eric Furnas: Well on this one, unfortunately, I can't show you the topographical map. You can come 50 foot back, but you can see that tree line that represents that ravine. I drew approximately a 48' x 64' in there and it does start to fall off pretty hard in the corner. I think from a staff perspective, the size and the type of the building, I don't think would alter the characteristics of the neighborhood. This is zoned agricultural and I'm sure that you don't have to go up and down the road and find barns and pole buildings... I don't think that we have those concerns. Given the size of the property and the amount of front yard space, we

would question a hardship that would require it to be right at 10 feet from the front property line. While taking into consideration and hearing the concerns of no wanting to put a pole building right in front of the dwelling. I don't think that there is any question that ravine's, the location of the septic system to make it very difficult to put the building to the side of the house or also in the rear. So being in front of the house, that portion of the Variance, I don't think staff has a lot of concern with. But we do kind of share the concern that was voiced about how close it is to the road. That's really all I have.

Carol Schlueter: Okay, thank you. So if we go by where you have the building in there Eric, how many feet is that back from the road?

Eric Furnas: That's approximately 50. It's partly in that ravine and then it goes into the driveway, it probably would not fit back 50 feet like that.

Carol Schlueter: So if he were to go back 30 feet, instead of only the 10 feet that he is asking for...

Eric Furnas: I couldn't see definitely, you know, just sitting here looking at a screen.

Carol Schlueter: Okay.

Tom Harper: Yeah, this is Tom Harper again. Yeah, I don't have a concern over the size of the building, you know, I don't think that alters the ... you know, this is a farming area and they are in an A-1 District. I don't really see the hardship of moving it back more than the 10 feet. Now I know the desire is to put it up there, but I don't see... Yes there is a driveway there in the way, but the driveway could be reshaped to accommodate this without infringing upon the view out of the front of the house. So therefore, I don't really see... I can see a hardship on putting it in front of the house, you know. Because there is two questions on this Variance, in front of the house and then not following the 50 foot setback back from the road. So I think that they could fit that in there with a 50 foot and with minimal changes. Yes, they may have to change their driveway some, but I don't see the hardship.

Carol Schlueter: This is Carol. I agree with you too Tom. You can move that driveway and since they are saying they don't want it in front of the house because they don't like it there, then I think they are going to have to change their driveway a little bit to accommodate the 50 foot setback. Board members, are there any other comments or concerns?

Charles Clark: Yes, this is Charles Clark. So the request is to site it 12 foot from the property line, is that what they are requesting?

Eric Furnas: Well the request was 10 feet.

Kory Schreiner: This is Kory Schreiner. Well the way that I have it laid out, I believe we can go 12 feet.

Charles Clark: Okay, thank you.

Carol Schlueter: Board members, if there are no other questions or concerns, I would entertain a motion for this request.

Eric Furnas: Madam Chairman, I might recommend something... I don't know it might be worth asking the applicant if... or is the board willing to consider something, you know, is there an amount off of the front property line that they would be comfortable with and then you could go up to that amount with a Variance. I mean, I hate to have this Variance completely denied if there was accommodation room and then the applicant has to reapply then. You can apply reasonable stipulations to these types of things, where you can say Mr.

Schreiner you can fit something at 15 or 20 or 25 feet back, we'd be comfortable with that. Otherwise they would have to reapply and then come back if they found that he could do something at 15 or 25 feet. It could be dealt with now if that was something ... or if the board is just set that they don't see a hardship from varying from 50 feet at all, and that's fine too. But you do have the ability to compromise a little bit, if that's appropriate.

Carol Schlueter: Okay, thank you Eric. Mr. Schreiner, did you hear Eric's concerns? Would you be willing to compromise on a different setback?

Kory Schreiner: Yes ma'am, I would accept a compromise. I don't know if I can make it work, I'd have to go out there with the string line and try it. So if you are willing to approve a Variance for some other dimension, I would accept that and see if I can make it work.

Carol Schlueter: Also, we can table this today and make sure and then come back next month with a different setback. It's however you want to handle it, or we can change it today.

Kory Schreiner: I guess I'd like to see how the board members would like to handle it. If it's going to be denied then I probably would go back to the drawing board and try to figure out another solution. I know that it sounds like two of you are not going to approve this. So I'd like to know if the other three would be willing to approve... I mean, I feel like where I am located, there shouldn't be major objections to the building as I have it laid out.

Tom Harper: Yeah, this is Tom Harper. I would not have a problem with you requesting to table this until next month and give everybody a chance to regroup and come up with a compromise.

Carol Schlueter: Would you be willing to have us table this until next month, or otherwise... if it's voted on today and it's denied, then you cannot reapply for six months. Is that correct, Eric?

Eric Furnas: Not for the exact same Variance. If this Variance was denied today, potentially he could come back with one of say... 20 feet, since it would be an actual different request. You probably would want to separate any motions and clear up the, in front of the house, portion of the request, if you are willing to do that. So he could come back with something less, or it could be tabled. Staff could go out there with a GPS and shoot some points to see what might work. Normally I would say no that we can't table, but since we are talking about a lesser Variance than what was originally requested, I think that could be tabled and looked at. There are several different ways you could go with this.

Carol Schlueter: Okay, thank you Eric. What would you like us to do Mr. Schreiner? Would you like us to table this or do you want us to go ahead and vote on it with a different setback.

Kory Schreiner: I certainly appreciate the offer of tabling it. I don't wish to pursue that. I would rather just get an answer. And if it's no, than it's no and that's okay. I just feel like it's difficult for me to understand why the answer would be no. And again, it's up to you, I will take the answer one way or the other.

Carol Schlueter: So are you saying that we should vote on it just the way you applied for it, the 10 foot setback or do you want us to possibly change the 10 foot to a different setback?

Kory Schreiner: Just vote as it is. I'm fine with that.

Carol Schlueter: Okay, board members, you heard what he wants to do. Does someone care to make a motion on this request, please?

Tom Harper: Yeah, this is Tom Harper and I will go ahead and make a motion. I move that we approve the request for a Variance to place a detached outbuilding in front of the existing dwelling and only 10 feet from the front lot line, instead of the required 50 foot setback.

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

Janelle Spies: This is Janelle, I will second the motion.

Carol Schlueter: Okay, it's been moved and seconded that we approve the Variance in order to place a detached outbuilding in front of the existing dwelling and only 10 feet from the front lot line, instead of the 50 foot setback requirement. Any other discussion?

Eric Furnas: Madam Chairperson, I just want to be very clear that since this motion was made as one motion, if this motion is not successful it does include the motion for the Variance for being in front of the house. If this motion is not successful, the applicant would not be able to come back and reapply for another for two years, because that Variance is also shut down as part of that motion. That's why I thought if there was ever going to be a chance to reevaluate how far off... I mean, this would be a one and done truly. So I just wanted everyone to understand that. If you wanted to break it into two motions... I just want the applicant to be crystal-clear that if the whole motion, as proposed, is denied, it's denied for two years.

Tom Harper: Okay, Madam Chair, this is Tom Harper, can I amend my motion then.

Carol Schlueter: Tom, just a minute. Eric, isn't it six months.

Eric Furnas: I'm sorry, you are correct, it is six months. The Variances are good for two years once granted. Yes, it would be six months, thank you.

Carol Schlueter: Okay, so does the applicant understand that?

Kory Schreiner: Yes ma'am.

Carol Schlueter: Okay, Tom do you want to amend your motion or leave it as is?

Tom Harper: I will amend my previous motion and ... the amended motion is to grant the Variance to build a detached outbuilding in front of the existing dwelling. That's all.

Eric Furnas: You would the opportunity, Madam Chairperson, to entertain a motion to address the setback in a separate motion, if you so choose. So it probably would be appropriate in this case just to do it in two different motions because we are talking about two different Variances are being granted. So he's made an amended motion that addresses the front yard siting of the accessory building only at this time. And then you can ask if there is any other motions.

Emily Geertz: Could I say something?

Carol Schlueter: Yes.

Emily Geertz: This is Emily Geertz. I would really like to probably recommend to Kory that we table this so that it... I mean, it sounds like it's started to get a little tangled and I would hate to do something improperly here that would deter him or prolong granting him a Variance, maybe, at the next meeting. So that would be my opinion that I think it would be a clearer process to just table this and then come back with the properly worded request.

Carol Schlueter: I would agree with Emily, but it is still up to the applicant as to what he chooses to do.

Eric Furnas: That is correct.

Kory Schreiner: If I could just ask a question. What is it that I would need to provide to you to change where we are at right now? I guess, I'm not clear on that.

Carol Schlueter: I think some of the board members do not like the 10 foot setback. Some feel it needs to be back more. If we table this, you can look at your property and see if you can move it back more and come back next month with a different front line setback. Am I correct, Eric?

Eric Furnas: Yes, since it would technically be a lesser Variance from what was requested on the application, you could do that.

Tom Harper: This is Tom Harper. I have no issue really with siting this in front of the house. I'm just having a hard time and an issue with the 10 foot setback.

Kory Schreiner: Okay, thank you for the recommendations. I will agree to table this and I guess what that means is that I need to submit another document amended the front line request. Is that correct?

Eric Furnas: No, if it's tabled what we would probably do is meet with you and then we would take some measurements. We could shot some GPS points on what some possible modified distances would look like. They could be portrayed on aerial the map. You wouldn't have to reapply, because it would be tabled. I do want to remind the board, we do have a motion and I believe a second on the floor, an amended motion from Tom that would address the front yard space, so that could be cleared up. So then the front yard setback would be the tabled portion of the request. So I think it would be appropriate to act on the amended motion that Tom made and get that clarified. Then you could ask for a motion on the front lot line setback and he could have that that portion only be tabled. Does that make sense?

Carol Schlueter: I think so.

Tom Harper: Yes.

Carol Schlueter: So Tom has made a motion to allow the Variance in order to place a detached garage in front of the existing dwelling. Is there a second to that motion?

Janelle Spies: This is Janelle, I will second that motion.

Carol Schlueter: Okay, it's been moved and seconded that we approve the Variance in order for them to place a detached garage in front of the existing dwelling. All in favor of that motion please say Aye (5) Opposed (0). Okay, now I'm going to need a motion to table the setback distance of this detached garage.

Tom Harper: Okay, this is Tom Harper. I will make a motion that we table the second part of their request of allowing a Variance for a 10 foot setback instead of the required 50 foot setback.

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

Janelle Spies: This is Janelle, I will second that motion.

Carol Schlueter: Okay, it's been moved and second that we table the request for the 10 feet from the front lot line setback instead of the 50 foot requirement. All in favor please say Aye (5) Opposed (0). Okay.

Eric Furnas: Okay, I believe that that concludes the Board of Adjustment meeting for January. I appreciate everyone's participation. Mr. Schreiner, if you are still on please contact our office after you have done some measuring or if there is any other information or if you need for us to come and look at things in preparation of this moving ahead next month. So thank you everyone that has attended the Board of Adjustment meeting. Here is just a minute we will be switching to the Muscatine County Zoning Commission meeting.

MUSCATINE COUNTY BOARD OF ADJUSTMENT

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