

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, April 1, 2022, with Chairperson Janelle Spies and board members Carol Schlueter, Emily Geertz, Charles Clark, and Tom Harper present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this hearing: Heather Kahl.

Janelle Spies: Okay, I will open the Board of Adjustment meeting and we need to appoint a chair and vice chair to serve until March 31, 2023. Is there a motion for the chairperson?

Tom Harper: I will nominate Janelle Spies for the chairperson.

Charles Clark: I'll second that.

Janelle Spies: Any other nominations?

Emily Geertz: I move that nominations cease.

Carol Schlueter: Good, I'll second it.

Janelle Spies: Okay, all in favor? (All Ayes)

Eric Furnas: Okay, so now we need a nomination for vice chairperson.

Carol Schlueter: I nominate Emily Geertz for vice chair.

Charles Clark: Second.

Carol Schlueter: I move that nominations cease.

Emily Geertz: Second.

Janelle Spies: All in favor? (All Ayes).

Emily Geertz: You can't be gone ever. (laughter)

Eric Furnas: I've never seen a move to cease the nominations so fast. (laughter)

Janelle Spies: Now, I will open the public meeting by reading the 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. Minutes from the last month were sent out to everybody, does anyone have any corrections or comments? If not, I'd like a motion to approve them as read.

Tom Harper: So moved.

Emily Geertz: Second.

Janelle Spies: A motion has been made to approve the minutes as written and it has been seconded. All those in favor of the motion, please say Aye (5) Opposed (0). The motion is granted. Is the applicant or their representative present for this first request?

Heather Kahl: Yes, I am here.

Janelle Spies: Okay, Eric would you read the first request?

Eric Furnas: Case #22-04-01. An application has been filed by Heather R. Kahl, Record Owner. This property is located in Cedar Township, in the NE $\frac{1}{4}$ of Sec. 1-T76N-R4W, East of Estle Avenue, 2239 Estle Avenue, containing approximately 4.79 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for Ms. Kahl to build a one family dwelling on this property for herself to live in. This request was tabled from the last meeting.

Janelle Spies: Okay, can you please tell the board about your request?

Heather Kahl: My name is Heather Kahl. I was here last month and I was asking for you to consider a Special Use Permit in order for me to build a dwelling on my property. Eric was out at my property and he has additional information concerning the distance to the hog confinement near my property.

Carol Schlueter: Eric, can you kind of bring us up to speed please?

Eric Furnas: Yeah, if you can recall at the last months meeting the board was wrestling with the minimum separation distances because of this existing hog confinement. I reported to you that it would require 1,875 feet distance from it, and her location wasn't quite far enough away. So the issue was tabled and the board kind of directed Ms. Kahl and myself to get together to look at alternative sites and to get more exact measurements. I also reached out to the DNR and inquired what would the actual implications be should the board approve a Special Use Permit on a location that is slightly less than what was required. At that time it was brought to my attention that this is an older facility that was permitted under a whole different set of rules than the new facilities and it is still subject to the old separation distance. So it is not a separation distance of 1,875 feet and it actually is 750 feet. So allowing Ms. Kahl's Special Use Permit at this location it would be well over the 750 feet. And I believe that it would not have any negative impact on the current use or even an expansion of the existing hog facility location. It was built in 1998 and in 1999 the new rules went into place. So this was the first it's been brought to my attention that they are allowed to operate and even to expand under this separation distance.

Janelle Spies: Board members, do you have any questions?

Carol Schlueter: Yeah, so there is one house that is closer than 750 feet?

Eric Furnas: Well there is actually potentially two houses that would be, I think it would be one for sure and possible a second that would be right within that 750 feet. But when you go out to that area, and that's one thing that I noticed and I probably should have taken some photos. The site is actually very secluded because of the way the access is, you actually have to drive back into the woods. So from an aerial it does look like they are close. But it's heavily wooded and rolling ground and you can't... you can see one house to the north at this time of year. But I would say in the summer you probably couldn't see it. So from a standpoint of creating a visual that this is a concentrated housing area, I would say that that's just not there. I think it's important, however, for you ... if you should approve this, if you are of the mindset to approve this to articulate the reasons why you are in favor of it. That if you approve it, that you should say it is based on the unique topography and the heavy vegetation of the property in

your motion. So as to establish that it is different than the main 750-foot rule that normally is applied.

Emily Geertz: Well that and I think that none of that land is arable.

Eric Furnas: That's right, the ag value of the land is very very minimal. The CSR2 is extremely low, it's not a large open economically viable piece of crop ground. So I think that those are some of the things that make this property different.

Emily Geertz: Yes and I think at the last meeting that you clearly demonstrated that you are a steward of the land and your intentions are only good towards the property.

Heather Kahl: Yes, I have a conservation plan developed with the USDA for just living with the vegetation and trying to establish an area.

Carol Schlueter: So you were able to put the house where you want to?

Heather Kahl: Yes.

Carol Schlueter: And there is room for the sewer and water, or well or whatever?

Eric Furnas: Oh yeah, because even though this parcel is only 4.79 acres she owns another parcel there that's adjacent that has 21.12 acres. And the soil is quite light, so it would be fairly easy to establish a well and septic there.

Carol Schlueter: So this would be your permanent home year-round?

Heather Kahl: Yes.

Emily Geertz: Yeah, because my only concern last time was to approve something that was against the state or against the DNR and their rules. And clearly that is not an issue now.

Eric Furnas: Right and I found that out by the field office in Washington.

Tom Harper: Another thing too at this location, her proposed location versus or in relation to the CAFO... the prevailing winds are southwesterly anyway. So the winds will be blowing away from you, so that shouldn't be a problem.

Heather Kahl: We've also been a neighbor to them this past 20 years, so that's not a problem.

Charles Clark: I am a neighbor to two of those facilities and I would highly recommend a good central air system. (laughter)

Janelle Spies: Eric, do you have any other comments or was there any correspondence?

Eric Furnas: I don't believe so.

Janelle Spies: Is there anyone else in the room that has anything to add? Does the board have any further comments or questions? If there are no more questions, can I get a motion from the board?

Emily Geertz: I will make a motion that we approve the Special Use Permit in order for Ms. Kahl to build a one family dwelling on this property, noting that we are aware of the two houses that are within the 750 feet minimum distance but because of the topography and the heavy vegetation that I feel this is a good location for a house.

Janelle Spies: Can I get a second?

Carol Schlueter: Second.

Janelle Spies: Okay, a motion has been made and seconded to grant a Special Use Permit in order for Ms. Kahl to build a one family dwelling on this property for herself to live in, noting the 750-foot distance has not been met but due to topography and vegetation we feel that it should be okay. All those in favor of this motion please signify by saying Aye (5) Opposed (0). The motion is granted. Any construction or use allowed by this Board must begin within two (2) years from the date of this decision, or the permission will be void. Any person desiring to appeal this decision to District Court may do so within 30 days after filing the decision.

Carol Schlueter: Good luck.

Heather Kahl. Thank you.

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

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, April 1, 2022, with Chairperson Janelle Spies and board members Carol Schlueter, Emily Geertz, Charles Clark, and Tom Harper present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this hearing: Ashton Phillips.

Janelle Spies: Eric can you read the next request?

Eric Furnas: Case #22-04-02. An application has been filed by Ashton F. or Michael J. Phillips, Record Owners. This property is located in Seventy-Six Township, in the NE¼ of Sec. 27-T76N-R3W, 2626 Burlington Road, containing approximately 3.31 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to build a detached accessory structure in front of their dwelling, but it would be at least 50 feet back from the front lot line.

Janelle Spies: Is there any correspondence?

Eric Furnas: No ma'am.

Janelle Spies: Can the applicant or spokesperson please state their name and tell us about their request?

Ashton Phillips: I am Ashton Phillips. It's basically because of the topography and the ravines on the property. We'd want it slightly in front of our house but it will be about 130 feet from the front lot line.

Janelle Spies: Okay, board members do you have any questions concerning this request?

Carol Schlueter: Is it a garage that you are wanting to put up?

Ashton Phillips: Yes.

Carol Schlueter: For toys or an extra vehicle, or...

Ashton Phillips: We have a small agricultural tractor, blade, bucket and extra vehicles.

Carol Schlueter: So like a storage shed?

Ashton Phillips: Yes.

Tom Harper: Yeah, I don't think that this property is unique from a lot of the properties in that area. Most of these are built into the ravine with limited space for any building really.

Eric Furnas: Yeah or in between ravines. (laughter)

Tom Harper: And the distances back from the road is more than sufficient.

Carol Schlueter: So there won't be any sight problems.

Emily Geertz: Yeah, 130 feet back is quite a bit.

Tom Harper: Do you own any property on the other side of the road?

Ashton Phillips: No, no. Riggan bought that farm property.

Janelle Spies: Eric do you have any comments on this?

Eric Furnas: I was just going to concur with some of the comments. I think the topography is very challenging. This garage would still be 130 feet back from the front lot line. So I don't think that there would be any sight distance problem. I do believe with these ravines, it does create a hardship.

Janelle Spies: Does anyone else in the room have anything to add? Does the board have any further questions or comments? If there are no more questions can I get a motion from the board?

Tom Harper: I will make a motion that we grant the request for a Variance in order to build a detached accessory structure in front of their dwelling but it would be at least 50 feet back from the front lot line.

Janelle Spies: Is there a second?

Carol Schlueter: I'll second it.

Janelle Spies: A motion has been made and seconded to grant a Variance in order for the Phillips to build an accessory structure in front of the dwelling, but it would be at least 50 feet back from the front lot line. All in favor of the motion please say Aye (5) Opposed (0). The motion is granted. Any construction or use allowed by this Board must begin within two (2) years from the date of this decision, or the permission will be void. Any person desiring to appeal this decision to District Court may do so within 30 days after filing the decision.

Ashton Phillips: Thank you.

Janelle Spies: You're welcome.

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