

Dubuque County Zoning Board of Adjustment Minutes of May 4, 2021

Chairperson Ben Schroeder called the meeting to order at 7 p.m.

A. ROLL CALL: Members Present at the Dubuque County West Campus, 1225 Seippel Road: Ben Schroeder, Michelle Switzer, Lillian Kremer, Dave Klein and Loras Link. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Amy Schmerbach.

B. APPROVAL OF MINUTES: A motion was made by Ms. Kremer, seconded by Ms. Switzer and passed unanimously to approve the Minutes of the April 6, 2020 meeting. Vote: 5-0.

C. PUBLIC HEARINGS:

1. BA#05-10-21 GREG & MINDY MILBERT SPECIAL USE PERMIT

The applicants are requesting a Special Use Permit to build a 40' x 20' storage shed in a non-conforming residential use in an A-1, Agricultural zoning district. The property, located along Black Hills Road approximately .45 miles southeast of the City of Dyersville, is legally described as Lot 1 Black Hills Farm Subdivision Plat #2 Section 26, (T89N-R2W), New Wine Township, Dubuque County, Iowa.

The property is 5.45 acres with a home. The applicants would like to build the 40' x 20' storage shed so they can move all of their things they are storing outside into the new building. They plan to landscape around the shed to will give it a nice curb appeal. The property is zoned A-1, Agricultural and because of the size of the lot, it is a non-conforming use and requires a Special Use Permit to be allowed to make changes. Ten (10) letters were sent, ten (10) were delivered and the City of Dyersville was notified. There were no comments in regards to this case.

Mr. Schroeder asked if there was anyone present to represent this case. No one spoke.

The Board decided to move this case to the end of the meeting.

2. BA#05-11-21 MCDERMOTT PROPANE LLC SPECIAL USE PERMIT

The applicant is requesting a Special Use Permit to allow for the placement of (1) 30,000 gallon propane tank on the property in an M-2, Heavy Industrial zoning district. The property, located approximately .15 miles north of the City of Cascade along Farley Road, is legally described as Lot 2 RJ Farm Section 30, (T87N-R1W) White Water Township, Dubuque County, Iowa.

This property is 2.94 acres and was rezoned to M-2, Heavy Industrial in June 2015 to allow for the propane storage. The owner currently has three (3) 30,000 gallon propane tanks on the property which were obtained by a Special Use Permit in July 2015 and September 2018. The owner would like to add one (1) 30,000 gallon additional tank, which requires a Special Use Permit. Two (2) letters were sent, two (2) were delivered and the City of Cascade was notified. There were no comments in regards to this case.

Mr. Schroeder asked if the applicants had to apply for a Special Use Permit every time they added a tank. Ms. Henry said yes.

Speaking to the Board was Jason McDermott, McDermott Propane, PO Box 70, Cascade. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Ms. Kremer asked if there were any state regulations on how many tanks you can put per acre on a piece of property. Mr. McDermott said not that he is aware of but that they go through the Fire Marshall permitting process when adding tanks. He said there are setbacks from property lines and that’s the reason they are located where there are no residential areas.

Mr. McDermott said the reason they are adding a tank is consumer demand. He said the supply restraints during the winter months continue to be a challenge for their industry and they run into issues where they can’t get enough propane to meet consumer needs. He said they want to have gas on hand for their consumers, including agricultural uses.

Mr. Klein asked if the tanks are near the flood plain that runs through this parcel. Mr. McDermott said no and the tanks are on piers that are five feet above ground. He said they are very confident that the elevation of the tanks is out of the flood plain.

A motion was made by Mr. Klein, **seconded by Mr. Link to approve the Special Use Permit. The motion passed unanimously by a vote of 5-0.**

3. BA#05-12-21 MAQUOKETA VALLEY ELECTRIC COOPERATIVE VARIANCE

The applicant is requesting to build a 90’ x 100’ Electric Distribution Substation in an A-1, Agricultural zoning district. They are requesting to build 10’ from the front street line, they will need a 70’ variance to the 80’ required. The property, located along St. Joes Prairie Road approximately 1.76 miles southwest of the City of Dubuque, is legally described as Lot 2 S ½ SE NW Section 28, (T88N-R2E), Table Mound Township, Dubuque County, Iowa.

The property is 1 acre with an existing Electric Distribution Substation. The substation provides electric service to many existing and critical public facilities. The applicant would like to expand the substation footprint to improve safe operation and maintenance of high voltage electrical equipment while also limiting access to unqualified individuals. Four (4) letters were sent, four (4) were delivered and the City of Dubuque was notified.

Speaking to the Board was Nick Schulte, Engineering Manager, 109 N. Huber St. Anamosa. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Schulte said they have a safety program within the cooperative and one of the reasons for this project is safety for their lineman who typically work on these substations. He said the amount of room in the existing space is limited and adding more room would create a safer working environment.

Mr. Schroeder asked if anyone had any questions. No one spoke.

A motion was made by Ms. Switzer, **seconded by Mr. Schroeder to approve the variance. The motion passed unanimously by a vote of 5-0.**

4. BA#05-13-21 ETHAN PFEILER SPECIAL USE PERMIT

The applicant is requesting a Special Use Permit to build a 30' x 30' detached garage in a non-conforming residential use in a B-1, Business zoning district. The property, located along Key West Drive adjacent to the City of Dubuque, is legally described as Lots 41 & 41A Key West (Original Town) Section 12, Table Mound Township, Dubuque County, Iowa.

The property is .41 acres with a home. The applicant would like to build a detached garage to park his vehicles inside and out of the elements. The garage would be built to match the colors of the house and is set back from the front street line. The property is zoned B-1, Business it is a non-conforming use and requires a Special Use Permit to be allowed to make changes. Thirty-nine (39) letters were sent, twenty-eight (28) were delivered and the City of Dubuque was notified. David Herbst, Virginia Grimes, Clarence Kramer, Curtis & Theresa Gerhard, Benjamin Ginter, Ellen Pfohl, Alec Ehlinger, Kenneth & Lee Mary Bowman, Lucas Busch, Jonathan & Misty Lutz and Stephen & Candice Beam did not pick up their letters. There were no comments in regards to this case.

Speaking to the Board was Ethan Pfeiler, 10750 Key West Dr., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Schroeder asked if he wanted to add anything about his case. He said no.

Mr. Schroeder asked if this was a business at one time. Ms. Henry said there are several homes in Key West that are zoned business. She said she doesn't know why they are zoned this way and would never advise someone to take away the business zoning from their property.

Mr. Klein asked if the building was for personal use. Mr. Pfeiler said yes.

A motion was made by Ms. Switzer, **seconded by Mr. Klein to approve the Special Use Permit. The motion passed unanimously by a vote of 5-0.**

5. BA#05-14-21 KEVIN & LISA ERICKSON SPECIAL USE PERMIT

The applicants are requesting a Special Use Permit to build a 40' x 50' detached garage as a non-conforming residential use in an A-1, Agricultural zoning district. The property, located along Kennedy Road, adjacent to the City of Dubuque, is legally described as Lot 1-2-1-3 Helen & Mary Stewart Sub. Section 16, (T89N-R2E), Dubuque Township, Dubuque County, Iowa.

The property is 1.58 acres with a home. The applicants would like to build a detached garage to have additional garage and storage space. The finished building will be

aesthetically appealing and add tremendous value to the property. The property is zoned A-1, Agricultural, because it is a non-conforming use it requires a Special Use Permit to be allowed to make changes. Thirty-six (36) letters were sent, twenty-eight were delivered and the City of Dubuque was notified. Russell Weber, Patricia Sunseri, Stephen Hardie, Elizabeth Marini, James & Ann Pfaff, Laura Woerner, Amy Knapp and Cynthia Granse did not pick up their letters. There were two comments in regards to this case. Charles Westphal, 3297 Bittersweet Lane, Dubuque said the size of the building is too big and he really does not want the building at all. They want a green space of trees if it was approved. Elizabeth Marini, 3291 Bittersweet Lane, Dubuque said she has no objections with his request.

Speaking to the Board was Kevin Erickson, 12940 Kennedy Rd., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Erickson said he wants the garage for storage. He said his plan would be to put a row of trees or some kind of greenery to separate the property line from the condos east of his property. Mr. Schroeder asked if he would be alright with planting the trees if the Board put a condition on their decision. Mr. Erickson said yes.

Ms. Switzer asked what he planned on doing for the water run-off from the garage. Mr. Erickson said there is a ditch that runs through the east side of the property but said this garage will not affect that at all. He said that is more north of the building.

Mr. Schroeder asked which way the water flowed in this ditch. Mr. Erickson said it does not flow towards Steve’s Ace Hardware and that it flows to the east-northeast.

Speaking to the Board was Kathy Huber, 3292 Bittersweet Ln., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise her right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Ms. Huber said she was against the case.

Speaking to the Board was Sally Bradley, 3296 Bittersweet Ln., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise her right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Ms. Bradley said that the reason her and her husband bought their condo in this area twelve years ago is because there were already homes built behind them and they never thought anything else would be built in that area. She said there is a bad problem with water running on the side of her condo and she has spent over \$6,000 to try to fix it but it still floods when there is a lot of rain. She feels like moving the dirt and digging for this big of a building will make it worse.

Mr. Schroeder asked if the applicant had an option to go smaller and then wouldn’t need a variance. Ms. Henry said yes. Mr. Schroeder asked Ms. Bradley if the building was smaller would she still be against it. She said she is still worried about the water problem.

Ms. Huber said most of the people who lived in these condos for the piece and quiet of the area. She said the applicant cut down a lot of trees which served as a sound and visual barrier between the properties. She said she is worried about such a big building and the visual and noise it may create.

Mr. Schroeder asked if Ms. Huber if her condo is the closest one to the applicants. She said yes. Mr. Schroeder asked if she had any trees on her property to help break up the visualization. She said no but there are a couple of trees but she wasn't sure whose they are. Mr. Schroeder said the condos look like they are very close to the property line.

Speaking to the Board was Jim & Ann Pfaff, 3290 Bittersweet Ln., Dubuque. Mr. Schroeder administered the following Oath asking the participants to raise their right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" They said yes.

Mr. Pfaff said they are very much against the applicants request. He said he is concerned about the tree line not getting planted in a timely manner and the size and location of the building. He thinks the building will be too close to the property line and is concerned about the noise and visual aspect of a building that big.

Mr. Schroeder asked if Mr. Pfaff would be in favor of a different size building. Mr. Pfaff said he would prefer no building at all but understands that it is the applicants property and should be able to do things that they want to on the property. He said if the building was moved closer to the Erickson's house and further from their condos he would be good with that. He would also like some sort of tree line.

Ms. Kremer asked what noises they are concerned with. Mr. Pfaff said there are ATV's going through the property and chain saws and weed eaters are being used on the Erickson property. He said they feel like these things are going on more than need be.

Mr. Klein asked where the water flow cuts across the Erickson property onto the condos.

Speaking to the Board was Chuck Westphal, 3297 Bittersweet Ln., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Westphal said he is on the grounds committee for Arbor Village and said that the condos that are closest to the lot line sit on a little hill and the water flows towards that from the west.

Mr. Klein and Ms. Kremer asked how deep the water gets. Ms. Bradley said that sometimes the water is over her ankles. She said she can't plant flowers on that side of the property because the water comes up through the ground.

Mr. Link asked if Mr. Westphal thought the building would make this water flow any worse than it is. He said it is not going to make it any better. He said he does not understand why the building has to be so tall.

Mr. Westphal said he is also concerned with how this big building will affect the land values of the condos. He thinks it will lesson their value. He asked the Board if they were to approve this that they require the applicant to plant the tree line before he starts construction.

Mr. Schroeder said this is a unique piece of property because it is in the county but right next to the city limits and both have their own set of rules.

Ms. Switzer said this property could be absorbed by the City of Dubuque at any time.

Ms. Henry said there was conversation about Steve's Ace Hardware buying the lot right next to them but had not heard anything since.

Mr. Erickson said these residents are already having a water issue and his building isn't even up and feels that it will not make it any worse. He said the water that is running down the east side of his property is not even on his lot and water from the west side of his lot runs into timber. He said his building will have a gravel driveway to start with and be cemented later. He said he would move the building closer to his house but because of the placement of his septic he is not able to do that.

Mr. Schroeder asked if the house had a one-car garage at this time. Mr. Erickson said it is a two-car garage but has a very low ceiling and only uses that part for storage.

Speaking to the Board was Richard Lewis, President of the Home Association, 3266 Bittersweet Ln., Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Lewis said his big concern is how close the building will be and that a building this big will be towering over the condos. He feels like the tree line should have to be planted right away. He said he was told this building was going to be a shop to do woodworking and is concerned with the noise it will create.

Ms. Kremer asked Mr. Erickson why he is requesting a fourteen feet tall building. Mr. Erickson said its only twelve-foot walls and the peak of the roof would be fourteen feet. He said he would like to put a golf simulator in the building at some time and would like it to be taller. He also would like to put racks for storage so he would like the walls twelve foot.

Ms. Kremer said she thinks the applicant should plant Arborvitae trees because they get full and tall and will block the noise and make a good visual barrier.

Mr. Klein asked what the rear setback is for his building. Ms. Henry said he does not have a rear setback because it is an accessory structure.

Ms. Switzer wanted to make a point that the condos are in the city so their setbacks are different than the county and that's why they may have been build thirty two feet from the property line.

Mr. Link asked if Mr. Erickson would be able to build the tree line in twelve to eighteen months. He said yes but that he wouldn't be able to buy fifteen foot high trees. He said he would be willing to plant three to four foot trees.

Mr. Klein asked how long he has to pull the building permit. Ms. Henry said he has ninety days from this meeting to pull the permit and a year to complete the building. Mr. Erickson said he plans on starting as soon as his excavator is available.

The Board agreed that the applicant should plant Arborvitae trees or something similar 2' to 4' in height and 10' apart across the entire back of the property. They also want this completed within twelve months of completion of the garage.

A motion was made by Mr. Klein, **seconded by Mr. Schroeder to approve the Special Use Permit with the conditions that a tree line needs to be planted along the entire back of the property with Arborvitae Trees or something similar that are 2' to 4' in height and 10' apart within twelve months of completion of the garage. The garage will need to have gutters and down spouts and they will need to be directed and dispersed towards the northeast corner of the property** The motion passed **unanimously by a vote of 5-0.**

6. BA#05-15-21 KEVIN & LISA ERICKSON VARIANCE

The applicants are requesting to build a 40' x 50' detached garage in an A-1, Agricultural zoning district. They are requesting to build 4.5' taller than the 10' required, they will need a 4.5' height variance. The property, located along Kennedy Road, adjacent to the City of Dubuque, is legally described as Lot 1-2-1-3 Helen & Mary Stewart Sub. Section 16, (T89N-R2E), Dubuque Township, Dubuque County, Iowa.

The property is 1.58 acres with a home. The applicants would like to build a detached garage to have additional garage and storage space. The finished building will be aesthetically appealing and add tremendous value to the property. Because the garage will be taller than their home, they will need a height variance. Thirty-one (31) letters were sent, twenty-three (23) were delivered and the City of Dubuque was notified. James & Ann Pfaff, Amy Knapp, Russell Weber, Laura Woerner, Patricia Sunseri, Anne Roush, Cynthia Granse and Elizabeth Marini did not pick up their letters. There was one comment in regards to this case from James Pfaff, 3290 Bittersweet Lane, Dubuque. He said we are the closest to the site and it is too close to his home. He said they have already removed too many trees and the building is going to be too large for the area. If approved he would like to see them have to make a tree line or barrier to help control the noise.

Speaking to the Board was Kevin Erickson. Mr. Erickson said the roof will actually sit lower than his house.

Ms. Kremer asked if the view from the condo would be the bottom of the new building. Mr. Pfaff said yes it would be right in their view.

A motion was made by Mr. Link, **seconded by Mr. Klein to approve the variance with the conditions that a tree line needs to be planted along the entire back of the property with Arborvitae Trees or something similar that are 2' to 4' in height and 10' apart within twelve months of completion of the garage. The garage will need to**

have gutters and down spouts and they will need to be directed and dispersed towards the northeast corner of the property. The motion passed unanimously by a vote of 5-0.

7. BA#05-16-21

BRAD & AMY PAPE

VARIANCE

The applicants are requesting to build an 11' x 16' attached garage addition in an R-3, Single Family Residential zoning district. They are requesting to build 6' from the left side yard, they will need an 11' variance to the 15' required. The property, located along Humke Road approximately .11 miles west of the City of Dubuque, is legally described as Lot 1-2-1-1-1 NE Section 36, (T89N-R1E), Center Township, Dubuque County, Iowa.

The property is .52 acres with a home. The applicants would like to build the garage addition on the existing cement slab next to the garage. They also would like to be able to use the driveway to access this addition. Because of the placement of the cement slab they will need a right side variance. Seven (7) letters were sent, seven (7) were delivered and the City of Dubuque was notified. There was one comment in regards to this case from Tim Esch, 15334 Humke Rd, Dubuque. He said he is fine with the garage addition.

Speaking to the Board was Brad Pape, 15118 Humke Rd, Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his right hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Schroeder asked if he was building on the existing slab of concrete. Mr. Pape said yes. Mr. Schroeder said there wouldn't be any extra water run off because he's not adding another flat surface.

Ms. Kremer asked if he talked to Cody Egdorf the neighbor. Mr. Pape said he did and he is fine with the addition.

Mr. Schroeder asked if anyone had any questions. No one spoke.

A motion was made by Ms. Kremer, **seconded by Ms. Switzer to approve the variance. The motion passed unanimously by a vote of 5-0.**

The Board went back to Case BA#05-10-21 Greg & Mindy Milbert for a Special Use Permit but there was no one present to represent this case.

A motion was made by Ms. Kremer, **seconded by Ms. Switzer to table the Special Use Permit. The motion passed unanimously by a vote of 5-0.**

D. PUBLIC COMMENTS: None

E. OLD BUSINESS:

Dave Klein turned in his application to be part of the Board of Adjustment for his next term. Ms. Henry said she wants any Board Member that wants to stay on should have their application in early.

F. NEW BUSINESS:

Ms. Henry said that the state has passed a rule that the County can not in any way regulate Aribnb's or short term rentals. She said the County can not create an Ordinance for them and can not ask for a permit for them.

G. ADJOURNMENT: A motion was made by Mr. Klein, **seconded by Ms. Switzer and passed unanimously to adjourn. Vote: 5-0. The meeting adjourned at 8:56 p.m.**