

Dubuque County Zoning Commission

Minutes of April 20, 2021

Chairperson Sam Boyes called the meeting to order at 6 p.m.

1. ROLL CALL: Members and staff present via a Zoom teleconferencing meeting: Jerry Sigwarth, Kathleen Scherrman, Ron Breitbach and Tammy Henry. Members present at the Dubuque County West Campus, 1225 Seippel Road: Sam Boyes and Kevin Soppe. Members absent: Ken Runde and Cathy Caitlin. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Angela Steffens.

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe, and passed unanimously to approve the minutes of the March 16, 2021 meeting. Vote: 5-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Lot 1-1 and Lot 2-1 of Heritage Acres-Final Plat

Plat of Survey of Lot 1-1 and Lot 2-1 of Heritage Acres a division of Lot 1 of Heritage Acres in Sections 5 & 8, (T88N-R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by William & Dianne Ernzen and is located adjacent to the City of Dyersville along Olde Castle Road with a total of 19.29 acres surveyed. The property is zoned A-1, Agricultural and R-2, Single Family Residential that was approved on ZC#02-03-21. The purpose of the plat is to separate a lot to sell to their daughter and son in law to build a new home.

The survey creates 2 lots. Lot 1-1 has a total of 2.18 acres surveyed and will be the site of the new home. Lot 2-1 has a total of 17.11 acres surveyed and will remain in current ownership and agricultural use.

Lot 1-1 will use an approved residential entrance on permit #20-46. Lot 2-1 will use an approved field entrance on permit #20-45.

Speaking to the Board was Jeff Bergfeld, 403 1st Ave E, Farley. Mr. Bergfeld said he didn't have anything to add.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote 5-0.**

b) Plat of Survey of KSSB Acres-Final Plat

Plat of Survey of Lot 1 and Lot 2 of KSSB Acres a division of Lot 1 of Lot 1 of the SE ¼ of the SE ¼ Section 36, (T88N-R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by KSSB Revocable Trust and is located 3.96 miles southeast of the City of Peosta along Monastery Road with a total of 19.21 acres surveyed. The property is zoned R-2, Single Family Residential and was approved on ZC#03-07-21. The purpose of the survey is to separate the existing home with 5.53 acres and to create a second lot with a

total of 13.68 acres. Lot 2 will be sold with the condition that one (1) home only is allowed on the lot.

The survey creates 2 lots. Lot 1 has a total of 5.53 acres surveyed and will remain in current ownership and residential use. Lot 2 has a total of 13.68 acres surveyed and will be sold with the condition of only one single family home can be added to the lot.

Lot 1 will use an existing residential entrance off of Monastery Road. Lot 2 will use an approved residential entrance on permit #21-01 off of Monastery Road.

Speaking to the Board was Mike Weber, Weber Surveying, 26789 46th Ave., Bernard. Mr. Weber said there was a zoning case on this property earlier and this is the plat to follow that.

Mr. Breitbach asked if the skinny strip of land was for the access. Ms. Steffens said yes.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the plat. The motion passed unanimously. Vote 5-0.**

c) Plat of Survey of Dostal Subdivision-Final Plat

Ms. Henry said the owners are changing some things and asked that this plat be tabled.

A motion was made by Mr. Soppe, **seconded by Mr. Sigwarth to table the plat. The motion passed unanimously. Vote 6-0.**

d) Plat of Survey of Farnear Holsteins Subdivision-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Farnear Holsteins Subdivision a division of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8 and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8, except Lot 1 in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 8, all in (T88N-R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by Thomas & Shirley Simon and is located adjacent to the City of Farley along Cemetery Road with a total of 79.196 acres surveyed. The property is zoned A-1, Agricultural. The purpose of the plat is to separate a 16.114 acres for a new dairy building being constructed by Thomas & Shirley Simon.

The survey creates 2 lots. Lot 1 has a total of 16.114 acres surveyed and will be the site for the new dairy building. Lot 2 has a total of 63.082 acres surveyed and it will remain in current ownership and agricultural use.

Lot 1 will use an approved entrance on permit #21-12 for the dairy building off of Cemetery Road. Lot 2 will use a 30' wide access easement across Lot 1.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N, Farley. Mr. Schneider said the owners already got their building permit. He said it is foing to the City of Farley the next day and they already have an access approved. He said the

owners want to finance the dairy operation under the Farm Cooperation and the crop ground will be under their names personally.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote 5-0.**

e) Plat of Survey of Grobstick's Subdivision Plat 2-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Grobstick's Subdivision Plat 2 comprised of Lot 1 and Lot 2 of Grobstick's Subdivision Section 17, (T88N-R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Barney Grobstick and the Grobstick Family LLC and is located 1.98 miles southeast of the City of Dubuque along Olde Massey Road with a total of 39.90 acres surveyed. The property is zoned R-1, Rural Residential and A-1, Agricultural. The purpose of the plat is to increase the size of Lot 1 to include the septic, solar array and property that is currently maintained by Barney Grobstick.

The survey creates 2 lots. Lot 1 has a total of 10.27 acres surveyed with a home and it will remain in current ownership and use. Lot 2 has a total 29.63 acres surveyed and it will remain in current ownership and agricultural use.

Lot 1 and Lot 2 will both use existing residential entrances off of Olde Massey Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N, Farley. Mr. Schneider said that the owners are changing the lot to include what they are occupying.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Breitbach, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote 5-0.**

4. REZONING CASES:

ZC#03-09-21 William Lawler A-1 Agricultural to R-2 Single Family Residential

The applicant is requesting to rezone from A-1, Agricultural to R-2, Single Family Residential 2 acres to allow William, to build a new home on the farm. The property, located adjacent to the City of Centralia along Cox Springs Road & Old Highway Road and is legally described as Lot 2-1-2 Biehl's Sub Section 4, (T88N-R1E) Vernon Township, Dubuque County Iowa.

The property is owned by William Lawler. Zoning in the area includes A-1, Agricultural to the north, south and east. R-1, Rural Residential to the northeast, east and south. R-2, Single Family Residential to the east. The R-1, Rural Residential to the northeast on ZC#9000-13-72 was to rezone 7.5 acres for future residential home sites. The R-2, Single Family Residential to the east on ZC#09-27-17 was to rezone from R-1, Rural Residential to R-2, Single Family Residential 15.258 acres more or less, to divide the home & buildings from the farmland for estate purposes.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Eleven (11) rezoning notification letters were sent to the property owners and the City of Centralia was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

There was one comment from Three Rivers FS in regards to this case. Ms. Steffens read the letter:

William Lawler has been a good neighbor and Three Rivers FS is supportive of his request to rezone the identified land from A-1 to R-2 with the understanding that while Three Rivers FS is not aware of any new restrictions the Lawler rezoning would place on the Three Rivers Property or its use, the rezoning will not preclude Three Rivers from current or future use of its property as business needs arise no different that if the Lawler property remained zoned A-1. In effect, the Three Rivers property would be grandfathered under current rules and said rules would continue to apply relative to current or future use of its property.

Chris Salrin-General Manager at Three Rivers FS

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N, Farley. Mr. Schneider said that Bill Lawler owns the farm ground and Bill and his son Jeff farm it together. He said the Mr. Lawler wants to get rid of two other homes that he has and build a new one on this property. He said they are asking to have it rezoned to R-2 because there is more of that zoning in the area and it didn't make sense to rezone to A-2 and lock up the other ground because it is so close to the City limits of Centralia and Peosta.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning. The motion passed unanimously. Vote 5-0.**

f) Plat of Survey of Lawler Farm Subdivision-Final Plat

Plat of Survey Lot 1 and Lot 2 Lawler Farm Subdivision comprised of Lot 2 of Lot 1 of Lot 2 in Biehl's Subdivision in Section 4, (T88N-R1E) Vernon Township, and Section 33 (T89N-R1E) Center Township, Dubuque County, Iowa.

The property is owned by William Lawler and is located adjacent to the City of Centralia along Cox Springs Road & Old Highway Road with a total of 48.353 acres surveyed. The property is zoned A-1, Agricultural with a pending ZC#03-09-21 requesting to rezone 2 acres to R-2, Single Family Residential. The purpose of the plat is to separate 1.988 acres to be allowed to construct a single family home for William.

The plat creates 2 lots. Lot 1 has a total of 46.365 acres surveyed and it will remain in current ownership and agricultural use. Lot 2 has a total of 1.988 acres surveyed and it will be the site for the new home.

Lot 1 will use an existing field entrance off of Cox Springs Road. Lot 2 will use an approved residential entrance on permit #21-07 off of Cox Springs Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said the plat shows how much they had to include in Lot 1 to meet the platting rules and other than that he has nothing else to add.

A motion was made by Mr. Soppe, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote 5-0.**

5. OLD BUSINESS:

Ms. Henry said ZC#03-07-21 KSSB Revocable Trust/Gerald Connolly and Mike Weber, Surveyor A-1 Agricultural to R-2 Single Family Residential and ZC#03-08-21 Martin & Mary Langel and Jerome Riniker A-1 Agricultural to A-2 Agricultural Residential were both approved by the Board of Supervisors.

Ms. Scherrman asked what was going on with Jeff Pape's case. Ms. Henry said it is not settled yet and that Supervisor Pothoff is working with them to come up with a resolution. They are not trying to rezone. They are looking to do a home based business.

Mr. Pothoff said there was a contract made but he has not heard anything back yet.

6. NEW BUSINESS:

Ms. Henry said they are going to have a work session on April 27th to discuss the trailer parks and campgrounds. She said she has a meeting with Dawn Sherman, Ed Raber and CJ May on that Friday to discuss Airbnb's, and as soon as she can she will get information to the Board regarding these subjects.

Ms. Henry said the state legislation is restricting them from any kind of mandates to the Airbnb's. She said they can't ask for any kind of Permit or Special Use Permit for them and nothing they can do for enforcement. She said they will not be putting anything in the Ordinance regarding the Airbnb's.

Mr. Sigwarth said if that's what the state says then they have to follow that. Ms. Henry said that a subdivision can have something in their covenants to say they are not allowed.

Ms. Henry said that CJ May said the Board needs to put a rule in about the A-2, Agricultural Residential zoning district. She said they need to put in a recommendation to the Board of Supervisors of whether or not they feel that two homes will be allowed on one parcel. Ms. Henry said they will talk about this at the April 27th meeting also.

Mr. Sigwarth asked Ms. Henry to explain the A-2 situation. Ms. Henry said that sometimes they were approving two houses on one parcel and sometimes they were not approving it. She said they need to make a decision on how they want to handle this and stay consistent with their decisions.

Ms. Boyes asked if they need to do a formal statement that says this. Ms. Henry said yes they need to, then they need to present their recommendation to the Board of Supervisors for their final decision.

Mr. Sigwarth said he feels like it should be a case by case decision. Ms. Henry said that CJ May told her if they do this it could be setting the County up for a potential lawsuit.

Mr. Breitbach asked what the County Attorney's recommendation is. Ms. Henry said the County Attorney said that however the Board decides to handle the A-2, from now on they need to do to stay consistent from now on. She said these are the cases where someone wants to put a second house on the same 40-acre parcel.

Mr. Sigwarth said that sometimes because of the land it makes sense to put the second house next to the existing one. He said sometimes owners want them together so they don't have to build in the crop land.

Ms. Boyes asked if they could invite the County Attorney to the meeting on April 27th so he could explain this a little better. Ms. Henry said she would invite him and she feels like he just wants the Board to be consistent in their decisions.

Ms. Henry said that her and Ms. Steffens went back in all their paperwork about the A-2 zoning district and could not find anything that said they do not allow two homes on one parcel. She said they need to make it clear in the ordinance so people understand it.

Mr. Pothoff said that he thinks the County Attorney wants them to stay consistent with what ever decision they make. He said that every situation is different but the Board needs to be consistent with their decisions.

Mr. Breitbach said he wants flexibility and does not care how it is written.

Mr. Schneider said when you look at a standard tax parcel across the state of Iowa the base acreage is the 40-acre quarter-quarter section and that's where the "40" acres is coming from. He said he thinks they should allow two houses on a parcel when it makes sense to do so, then lock up some of the remaining acres so they can't be developed later on. He said this will also help with the density issue.

Mr. Sigwarth said that keeping the houses close together so maybe they can share a well makes the most sense to him. He said that most of the A-2 zoning that the Board sees are family members that want to help on the farm and thinks they should be able to do this.

Ms. Henry said that in the Comprehensive plan for the County is to limit big developments in the Agricultural areas.

Mr. Schneider said that the price of farm ground is so high that the Board will see more and more smaller pieces of Agricultural ground because people won't be able to afford it.

Ms. Henry said she will have more information for the Board at the April 27, 2021 meeting.

7. PUBLIC COMMENTS: None

8. ADJOURNMENT: A motion was made by Mr. Soppe, **seconded by Mr. Sigwarth to adjourn the meeting. The motion passed unanimously. Vote: 5-0. The meeting ended 6:57 at p.m.**