

Dubuque County Zoning Commission

Minutes of the December 19, 2023 meeting.

Chairperson Dave George called the meeting to order at 6 p.m.

1. ROLL CALL: Members present at the Dubuque County West Campus, 1225 Seippel Rd: Dave George, Kevin Soppe, Kathleen Scherrman, Ron Breitbach, Jerry Sigwarth, Lisa Flanagan and Sam Boyes. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Amy Schmerbach, Ed Raber and Lindsey Schreiber.

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe, and passed unanimously to approve the minutes with corrections of the November 21, 2023 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

Plat of Survey of Steffensmeier Place No. 4 – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Steffensmeier Place No. 4 comprised of Lot 1 of Steffensmeier Place No. 3 and Lot 1 in the NE $\frac{1}{4}$ of the NW fractional $\frac{1}{4}$ all in Section 7, T88N, R2W, Dodge Township, Dubuque County, Iowa.

The property is owned by Steffensmeier Family Revocable Trust and is located .60 miles southwest of the City of Dyersville along Nature Trail with a total of 34.612 acres surveyed. The property is zoned A-1, Agricultural. The owners have an approved Special Use Permit, BA#12-47-23, to allow them to expand the existing Quarry. The purpose of plat is to allow River City Stone to purchase the land they are currently leasing along with some additional property to expand the existing Quarry.

The survey creates 2 lots. Lot 1 has a total of 22.628 acres surveyed with a Quarry and will be sold to River City Stone. Lot 2 has a total of 11.984 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 and Lot 2 will use an existing entrance for the Quarry off of Nature Trail.

Speaking to the board was Dave Schneider, 906 1st St North, Farley. Mr. Schneider explained that the River City Stone/Mathy Construction is currently leasing a portion of the property to operate the quarry. He said they want to purchase the property they are leasing and purchase additional land to expand the quarry site. Mr. Schneider said this process has been approved by the City of Dyersville and has approval of a Special Use Permit from the Board of Adjustment to expand the existing quarry. Mr. Schneider said the existing scale at the entrance of the property was sitting in the public right of way, so the plat is also correcting the lot line issue, so the scale will now be located on the lot rather than the right of way.

Mr. George asked if anyone had a question, and no one spoke.

A motion was made by Mr. Sigwarth, **seconded by Ms. Boyes to approve the plat. The motion passed unanimously. Vote: 7-0.**

4. REZONING CASES:

ZC#12-30-23 Vicki Gartner & Wade Gartner R-1 Rural Residential to R-2 Single Family Residential

The applicants are requesting to rezone from R-1, Rural Residential to R-2, Single Family Residential 11.682 acres to allow them to create a lot for the construction of a new home for Wade. The property is located 1.75 miles southeast of the City of Rickardsville along Cedar Ridge Road and is legally described as Lot 2 of Gerald Donovan Place, Section 4, T89N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by Vicki Gartner. Zoning in the area includes R-1, Rural Residential to the north, south, east and west. R-2, Single Family Residential to the north. C-1, Conservancy to the north, west and northwest. The R-2, Single Family Residential to the north on ZC#01-02-03 was to allow for Single Family Residential development.

There are no previous zoning cases attached to this property. There are no special use permits attached to this property. Five (5) letters were sent to the property owners and the City of Rickardsville was notified.

Comprehensive Plan Policy Chapter 12 Land Use page 179 Objective 3.5 and page 180, Objective 6.4 may apply to this case.

Speaking to the board was Wade Gartner, 18458 Cedar Ridge Rd, Durango. Mr. Gartner said he wants to build a single-family home on an acre lot. Ms. Schmerbach said the plat will follow the rezoning case to show the new lot lines and the rezoning request will lessen the setback requirements.

Mr. George asked if anyone had a question, and no one spoke.

A motion was made by Ms. Boyes, **seconded by Mr. Soppe to approve the rezoning. The motion passed unanimously. Vote: 7-0.**

Plat of Survey of Gartner's Place – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Gartner's Place comprised of Lot 2 of Gerald Donovan

Place in the S ½ of Section 4, T89N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by Vicki Gartner and is located 1.75 miles southeast of the City of Rickardsville along Cedar Ridge Road with a total of 11.682 acres surveyed. The property is zoned R-1, Rural Residential with a pending ZC#12-30-23 to rezone 11.682 acres to R-2, Single Family Residential. The purpose of the plat is to allow them to create a lot for the construction of a new home for her son.

The survey creates 2 lots. Lot 1 has a total of 1.075 acres surveyed and will be sold to the son. Lot 2 has a total of 10.607 acres surveyed with a house, barn, shed and utility building and will remain in current ownership and agricultural use.

Lot 1 will use an approved residential entrance, permit #23-40 off of Cedar Ridge Road. Lot 2 will use an existing residential entrance off of Cedar Ridge Road.

Speaking to the board was Wade Gartner, 18458 Cedar Ridge Rd, Durango. Mr. Gartner had nothing to add to his case.

A motion was made by Ms. Boyes, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote: 7-0.**

5. OLD BUSINESS:

Ms. Schmerbach said ZC#11-29-23 Jeffrey & Laurie Oberfoell and Staci Frommelt A-1 Agricultural to A-2 Agricultural Residential was approved by the Board of Supervisors. Ms. Schmerbach said ZC#11-31-22 Chapter 1-Zoning Ordinance Amendments (Tabled from the December 22, 2022 Board of Supervisors Meeting) had no action taken by the Board of Supervisors. Mr. Raber said the Board of Supervisors had questions/concerns they would like to address. Mr. Raber said if nothing is changed on the recommended ordinance then the Board of Supervisors could approve the ordinance however, if changes were made to the ordinance, it would then come back to the Zoning Commission for review. Mr. Raber said it was common for the Board of Supervisors to have multiple readings of an ordinance. Mr. Raber said he would keep the Zoning Board informed.

6. NEW BUSINESS:

Discussion on Renewable Energy Ordinance. Mr. Raber said at the next zoning meeting on January 16, 2024 a work session will be held regarding the Renewable Energy Ordinance.

Mr. Sigwarth asked if the board could prohibit large scale renewable energy projects in Dubuque County. Mr. Raber said the zoning board could recommend that to the Board of Supervisors, however, it would be the supervisors decision. Mr. Breitbach asked Mr. Raber if he had a discussion with the Board of Adjustment regarding renewable energy and Mr. Raber said he has not talked to the Board of Adjustment but did talk to the Board of Supervisors. Ms. Schreiber explained that Ms. Henry did tell the Board of Adjustment members that the Zoning board was currently working on developing the ordinance and the Zoning board had discussed changing the application process from the Board of Adjustment to the Zoning Commission and Board of Supervisors. Mr. Raber said instead of the Board of Adjustment issuing a Special Use Permit it would go before the Zoning Commission and Board of Supervisors as a Conditional Use Agreement. Mr. Sigwarth said the difference between the Board of Adjustment and the Zoning board was the Board of Adjustment makes the final decision and has not oversight where the Zoning Board reviews the ordinance and makes a recommendation to the Board of Supervisors, and they will make the final decision. Mr. Breitbach and other board members agreed they would like feedback from the Board of Supervisors and Board of Adjustments regarding the process. Mr. Raber said he told the Board of Supervisors that the Zoning Commission was discussing changing the process from the Board of Adjustment to the Zoning Board and Supervisors.

Supervisor Ann McDonough addressed the board via zoom. Ms. McDonough asked if there were any other County Supervisors in the meeting. Mr. George said no. She did not want to have issues with creating a quorum. Ms. McDonough said she would like a work session with the County Supervisors and the Zoning Commission regarding the Renewable Energy Ordinance and agreed the process should be reviewed by the Zoning Commission and Board of Supervisors. She said she would not support having the applications go through the Board of Adjustment. Zoning board members agreed to review the applications and

forward the recommendations to the Board of Supervisors. Mr. Raber said he would change the working draft to require an approved Conditional Use document from the Zoning Commission and Board of Supervisors.

Speaking to the board was Dave Schneider, 906 1st North, Farley. Mr. Schneider suggested the board to rezone the property to M-1, Industrial with conditions. Mr. Raber said rather than rezoning the property a Conditional Use Permit could be removed and the property would remain under its original zoning classification. Mr. Breitbach asked Mr. Schneider what advantages would rezoning the property to industrial be. Mr. Schneider said you would force the projects into already zoned industrial property to keep the projects off agricultural land.

Speaking to the board was Jeff Schmitt, 20598 Schmitt Lane, Holy Cross. Mr. Schmitt said he is against using agricultural land for renewable energy projects. Mr. Schmitt believes it will drive the farmland prices up because it will create a shortage of available farmland.

Speaking to the board was former County Supervisor, Wayne Demmer, 9018 Lone Pine Rd, Epworth. Mr. Demmer said he was not in favor or against the Renewable Energy Ordinance. Mr. Demmer said he farms and has solar panels for his own personal use. His concern was land usage. Mr. Demmer said the more agricultural ground that is taken out of production will drive the cost of agricultural land up, which will affect young farmers. Mr. Demmer said the definition of agricultural is a science and an art of growing crops and livestock and he can't justify placing solar farms on agriculture ground. Mr. Demmer said he agrees the projects should be placed on property that is already zoned industrial.

Mr. Breitbach asked what the cost was to rent crop ground currently. Mr. Raber said ISU most recent report listed Dubuque as the highest cash rent in the State of Iowa. Mr. Raber said the average was around \$285-\$300 per acre. Mr. Sigwarth stated these projects could create an artificially high land rent rate and that is what happened when Conservation Reserve Program (CRP) began. He said when it began, he was farming at the time and the government was paying high dollar amounts for the land and when he tried to rent ground the landowners wanted him to pay what the CRP program was paying.

Speaking to the board was Mike Freiburger, 17145 Middle Rd, Dubuque. Mr. Freiburger would like to see something in the ordinance that states the agricultural land should still have some sort of agricultural production such as gardens or goat farms. Mr. Freiburger said if you look at downtown Dubuque and the amount of roof tops, the energy companies could use these roof tops for renewable energy rather than agricultural land.

Speaking to the board was Chris Brenke, 24179 Pfeiler Road, Holy Cross. Mr. Brenke said he works in the town but owns a farm and rents out most of the property. Mr. Brenke said he has been approached by a company that wanted to install solar panels on his property. Mr. Brenke said they wanted to remove 100 acres of trees. Mr. Brenke explained this solar farm could affect water tables, springs, and the ground.

Speaking to the board was Tom Ehrlich, 21100 James Road, Sherrill. Mr. Ehrlich said he was approached and was asked to convert his farm into a solar farm, and he declined. However, his neighbor is considering a 500-1000 acre solar farm. Mr. Ehrlich said he lives in a beautiful valley that would be consumed by solar panels that would potentially heat up the entire valley. He said there are 3-4 streams that run through this property that drains

into a larger stream that has major flood issues and he believes adding the solar panels would increase the water runoff to the streams.

Speaking to the board is Jeff Pape, 31406 Floyd Rd, Dyersville. Mr. Pape said he is against using productive agricultural land for renewable energy projects. He suggested using the land around the airport, the landfill and unused city and county property that is conserved for wildlife rather than agricultural ground. Mr. Pape said the topography of Dubuque County is steep so the water runoff will be an issue for these projects. He said removal of trees for these projects would increase carbon levels. Mr. Pape said the projects currently have government incentives, however the incentives eventually run out and he wonders who will then pay the operating cost. He said he recently read an article that 75% of battery storage projects have failed and are dangerous when they start on fire. Mr. Pape stated that China is smart by building coal fire plants at a rapid pace that produce energy and by the time they need to start reducing the plants because of the CO2 ratings it will not affect them because they have already produced so much power. He said China is expected to be green so they can sell their products overseas so what they started doing is purchasing solar arrays from the United States to gain points for their carbon levels. Mr. Pape said he is concerned about how these projects will affect the water quality. He said he is not against solar energy. He feels there is a better alternative than using agriculture ground that the county is running low on. Mr. Pape said he liked the suggestion made by Mr. Sigwarth to ban large-scale renewable energy projects in Dubuque County. Mr. Pape said large-scale renewable energy projects are not suitable for Dubuque County.

Speaking to the board was Dubuque County Supervisor Ann McDonough, 2461 Whitetail Dr. Dubuque. Ms. McDonough stressed the board and public to visit the renewable energy farm in Wisconsin before holding a work session on the Renewable Energy Ordinance to better understand these projects. She said it is unbelievable and you almost can't imagine the large-scale of these projects. Ms. McDonough asked the board and citizens to image standing on the top of Loras Boulevard and looked down to the Mississippi River and all you could see is black solar panels. She said that is what these solar projects look and feel like. Ms. McDonough said it is devastating that a landowner can choose to enter into a lease agreement, however she believes in the rights of a landowner, but we also have commissions such as yours which can decide where these projects belong and under what conditions for each situation. Ms. McDonough said she knows the board takes their jobs seriously and she encouraged them to get comfortable with the scale of these projects because she doesn't think you will ever see these in life in Dubuque County until you actually go see what they are proposing, and these are totally different things from what exists in Dubuque County has now. Mr. Sigwarth said to Ms. McDonough maybe this is our time to nip in the butt. Ms. McDonough said her concern is we already have a solar ordinance and the whole world knows about the changing of the solar ordinance. She said if people come in to begin a project under the current solar ordinance, what have we done. Ms. McDonough stated she participated in creating the current solar ordinance. She said we thought we had it right. Ms. McDonough said I don't think we do have it right and she honestly must confess that she didn't understand the scale herself. She doesn't think these large-scale projects are appropriate for Dubuque County. Ms. McDonough said we can explore Mr. Schneiders idea about Industrial. She said these projects are not farming.

Mr. Breitbach asked Ms. McDonough what the process would be to drastically change the current ordinance. Ms. McDonough said the board could propose an amendment to the

current solar ordinance or what the state house does is call for a strike and replace. She said she doesn't want to be an alarmist; however, she wants this to be a top priority for the Zoning Commission if this is what they plan to do. She said she would like the Zoning Commission and the Board of Supervisors to hold a work session.

Mr. Pape addressed Ms. McDonough and said a work session was promised prior to the Solar Ordinance being codified. Mr. Pape asked Ms. McDonough how the ordinance was codified without the work session? Mr. Raber said there was a work session. Mr. Pape wanted to know why the public was not notified. Ms. McDonough told Mr. Pape he misunderstood what she had told him. Ms. McDonough told him that he would be notified of a work session by the Board of Supervisors not the Zoning Commission Board. Ms. McDonough said this work being done by a volunteer board is appreciated but is far beyond what they should be doing. She said this discussion should be with paid staff (Board of Supervisors) and citizen input in a work session to develop the best strategy for the county. Ms. Boyes expressed that the Zoning Board has been in favor of this process for months.

Speaking to the board was Dave Schneider, 26462 Schneider Rd, Holy Cross. Mr. Schneider said he will speak on all the aspects of his landscape architecture, land surveying, land planning, and farming background. He owns a farm south of Holy Cross that has been in the family since the 1850's. Mr. Schneider said he was approached by a company that wanted to lease his 240-acre farm for solar panels for \$700-\$800 per acre. Mr. Schneider declined the offer. Mr. Schneider said he can't imagine using agriculturally zoned land for these large-scale projects. He said he agrees the small-scale solar arrays for personal use are a great investment.

Mr. Schneider said he agrees with Supervisor McDonough regarding the Conditional Use Permit process to go before the Zoning Commission and the Board of Supervisors rather than the Board of Adjustment. Mr. Schneider spoke and gave his opinion of a case that recently went to the Board of Adjustment, and he disagreed with their decision to deny the case. Mr. Breitbach said this was again a small instance compared to a large scaled renewable energy project. Mr. Schneider said this instance was a small 6-acre piece of rocky ground, but we are going to allow the Board of Adjustment grant 500-1000-acres of agricultural farm ground to be buried under solar panels which does not make sense. He said this should be a zoning issue rather than a Special Use Permit granted by the Board of Adjustment. He said it could be a rezoning of the land to Industrial Use with a condition that it would be reverted to agricultural zoned land.

Mr. Breitbach said after hearing from the public and Supervisor McDonough his concern is the county has a flawed ordinance and an application could be submitted tomorrow, and nothing could stop the request before the ordinance is fixed. Mr. Breitbach challenged his fellow commissioners to vote on rescinding or placing a moratorium on the current ordinance and send this recommendation to the Board of Supervisors.

After much discussion the Zoning Commission decided to send a recommendation to the Board of Supervisors to place a moratorium on the adopted solar ordinance.

A motion was made by Mr. Breitbach, **seconded by Mr. Sigwarth to approve sending a moratorium recommendation to the Dubuque County Board of Supervisors on the current solar/wind ordinances. The motion passed unanimously. Vote: 7-0.**

Mr. Breitbach asked when this would go to the Supervisors. Mr. Raber said it could go as early as January 3, 2024, which is the next scheduled Board of Supervisors meeting. Mr. Breitbach asked if there was a way to speed up the process. Ms. McDonough said Mr. Raber could relay the information to the Board of Supervisors the next business day, December 20, 2023. Ms. McDonough said she did not know the process of a moratorium, but this information would help get moratorium started legally.

Mr. Schneider asked about the decommissioning process and what the board had decided. The board said they have not finalized the process; however, a surety bond will be required upon application, and it will be a condition that it must be updated every 5 years. Mr. Schneider recommended the board to tie the surety bond to the landowner and the land because that is who is accepting the lease agreement. He said if the decommissioning plan fails then the county could then confiscate the land and let the landowner negotiate with the company. Mr. Schneider recommended having the landowner escrow the money for the surety bond from the lease payment or pay for the surety bond upfront because then the county could confiscate the land if the decommissioning process fails. Mr. Schneider said it has happened and will continue to happen that a company will abandon a project. Mr. George said the landowner would in the lease agreement fund the escrow and if the company decides to abandon the project the landowner would be liable.

Speaking to the board was Mike Freiburger, 17145 Middle Rd, Dubuque. Mr. Freiburger said he agreed with Mr. Schneider to have the landowner escrow money for the decommissioning and believes each project needs an environmental impact assessment.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Ms. Boyes., **seconded by Mr. Sigwarth to adjourn the meeting. The motion passed unanimously. Vote:7-0. The meeting ended at 7:48 p.m.**