

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, March 5, 2021, with Chairperson Carol Schlueter and members Janelle Spies, Charles Clark and Tom Harper present, Emily Geertz was absent. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this hearing: Christy Eichorn.

Carol Schlueter: Okay, it is 10 o'clock and I will open this Board of Adjustment 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 decisions 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. Okay, did all members of the board get a chance to read the minutes from the previous meeting? (yes) Are there any additions or corrections that you'd like to make to them? If not, I would entertain a motion to approve them.

Tom Harper: So moved.

Carol Schlueter: Is there a second?

Janelle Spies: Second.

Carol Schlueter: Okay, it's been moved and seconded that we approve the minutes from the previous meeting. All in favor please say Aye – 4; Opposed – 0; Absent – Geertz. Okay, so we only have four members present today. So if it's a tie vote, it's a no vote. But the applicants have a choice, if they want to, to have us table this request... we can deliberate but before we take a vote, you have to say hey I want to wait a month and come back with more information. But that's up to you. Okay, Eric would you read the first request please?

Eric Furnas: Yes ma'am. Case #21-03-01. An application has been filed by Joel R. and Susan C. McKillip, Record Owners and Tillman Infrastructure by Christy Eichorn, Applicant. This property is located in Moscow Township, in the SE $\frac{1}{4}$ of Sec. 7-T78N-R2W, at the corner of Mohawk Avenue and Hwy. 6, containing approximately 32.65 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 to place a 250 foot tall telecommunications tower approximately 315 feet North of Hwy. 6 in a 100 foot square leased area for commercial purposes.

Carol Schlueter: Okay, was there any correspondence?

Eric Furnas: I do not believe so, no ma'am.

Carol Schlueter: Okay, would the applicant or spokesperson state their name and tell us about this request?

Christy Eichorn: My name is Christy Eichorn, 7824 Sycamore Drive, Lincoln, Nebraska. We are asking for a tower here because this is an area that is particular lacking in coverage capacity. It is also part of the First Net Project, which is a partnership with AT & T to build up EMS, the Emergency Services Network across the country and in the District of Columbia, Puerto Rico, the

Hawaiian Islands, Alaska, and across the entire United States. So this is just one of the steps in that process.

Carol Schlueter: And you are with the company that wants to put the tower up?

Christy Eichorn: Yes, I am here for Tillman Infrastructure, they are the tower company that is building it. So they are building it for AT & T and First Net, so they can attach their equipment to the tower.

Carol Schlueter: So it's just going to be AT & T tower, or can other companies hook onto it or not?

Christy Eichorn: Yes there is room on the tower for two additional carriers in the future. But right now Tillman is contracted with AT & T and First Net to put their antenna towers right off the bat on the tower now.

Carol Schlueter: Okay. Does anyone on the board have any questions?

Tom Harper: Is this leased or owned?

Christy Eichorn: This is a 90 year lease. The first term is five years.

Carol Schlueter: Eric, what do you have in regards to this?

Eric Furnas: So as you are aware, we do have a telecommunications tower ordinance that details several requirements. But one of the most important things that we look at is the setback, it should be 1.1 times the tower height. So you know, there are no fall zone issues. Also with their leases, I reviewed the information that was provided, I believe that it follows all of the requirements that our ordinance states.

Carol Schlueter: And this property is owned by Joel and Susan McKillip, correct?

Eric Furnas: Correct.

Carol Schlueter: How are they going to get to the tower, off of 6 or the gravel road? How are they going to get access to this tower?

Christy Eichorn: I can answer that question. Yeah, so it's in the field and we have an application in to the Iowa Department of Transportation for access off of Hwy. 6.

Carol Schlueter: Off of Hwy. 6? So just straight in?

Christy Eichorn: Yes.

Carol Schlueter: Okay, and it is farm ground, right?

Christy Eichorn: It is, and they will continue to farm around it once the tower goes up.

Carol Schlueter: Is this a free standing or is there cables coming down?

Christy Eichorn: This is a free standing tower and it's what we call a lattice tower. So it has three legs coming down and it has a lattice structure that goes up. It's not the guided tower that has the wires that come out into the field.

Carol Schlueter: So really how much ground are you really using?

Christy Eichorn: So we are leasing 10,000 square feet, it's 100 by 100. But we are only fencing in 75 by 75.

Eric Furnas: So there would be a narrow gravel lane going up to it?

Christy Eichorn: Yes, it would be about a 12 foot lane going up to it.

Eric Furnas: Yes, so it would be a minimum area of reduction of farm ground taken.

Carol Schlueter: Okay, but on this lane than... does the farmer just give him access to that lane?

Eric Furnas: Yes that's part of their lease.

Christy Eichorn: We have a 30 foot wide easement from them, so it would be from Hwy. 6 to the leased in area. Of that we would only gravel a 20 foot wide area. But all of the utilities that we'd need for the tower, like the power, would come off of Hwy. 6 just straight up.

Carol Schlueter: Okay, but that has not been approved yet?

Christy Eichorn: I don't have the approval from the state, it's in review right now.

Eric Furnas: So if this were to be approved, I would add the stipulation of the access be approved through the DOT.

Carol Schlueter: Okay. Well I think it sure needs something out there because it sure is a dead spot. I mean, when I go through there I lose calls all the time. Alright is there any other questions from anyone here in attendance? Any questions or comments from the board members? Then I would entertain a motion in regards to this request.

Tom Harper: I will make a motion that we approve this Special Use Permit for Tillman Infrastructure to erect a telecommunications tower, providing they get all the other necessary permits from the other governmental agencies.

Janelle Spies: I'll second it.

Carol Schlueter: Okay, it's been moved and seconded that we approve this Special Use Permit in order to place a 250 foot tall telecommunications tower approximately 315 feet north of Hwy. 6 in a 100 square foot leased area for commercial purposes with getting approval of the road easement. Any other questions or concerns? All in favor please say Aye – 4; Opposed – 0; Absent – Geertz. The motion is approved, the request is approved.

Christy Eichorn: Okay, thank you.

Carol Schlueter: So AT & T ... I have US Cellular, that's not going to help me?

Christy Eichorn: It won't. (laughter)

Eric Furnas: Not yet but it's pretty common for other companies to share towers.

Carol Schlueter: Yeah, that's what I thought too! Let's go for US Cellular. (laughter)

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, March 5, 2021, with Chairperson Carol Schlueter and members Janelle Spies, Charles Clark and Tom Harper present, Emily Geertz was absent. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Present for this hearing: John Goss, Ted Romagnoli, and Steven Siefken.

Carol Schlueter: Eric, will you please read the request?

Eric Furnas: Case #21-03-02. An application has been filed by John L. and Hope L. Goss, Record Owners. This property is located in Sweetland Township, Valley View Estates, Lots 32 & 33, 2110 Skylane Drive, in the SW¼ of Sec. 25-T77N-R1W, containing approximately 2.22 acres, and is zoned R-1 Residential District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to build a 30' x 40' detached garage in front of the existing dwelling and only 15 feet from the front lot line, instead of the required 50 feet.

Carol Schlueter: Was there any correspondence in regards to this request?

Eric Furnas: Yes, we received two emails that were opposed to the request, one from Ted Romagnoli and then an email that was from Ted and Stephanie Romagnoli, Ryan and Whitney Pippert, and Bob Griffin. Yesterday we had one lady stop in and wrote a note saying "I don't have a problem with this change in the Variance" and that was signed by Shirley Allchin. That's all we have.

Carol Schlueter: Okay, is the spokesperson or owner present?

John Goss: Yes.

Carol Schlueter: So you were here before when I was telling about the tie vote is a no vote since we only have four members present and you have the option of asking us to table it before we vote. Would you please state your name and tell us about what you are wanting today?

John Goss: My name is John Goss, 2110 Skylane Drive, Muscatine, Iowa. My wife and I are asking for a Variance to build a 30' x 40' garage within the 50 foot setback area. It would be a 2 x 4 construction garage, it's not a pole building or anything like that. It would be the same height side walls as what my house is. If you have any questions, I would be glad to answer them.

Carol Schlueter: So it's going to be like a garage, like for vehicles or toys, what I call it.

John Goss: Yes.

Carol Schlueter: Okay, so I see that your septic and that is to the south of your house, right?

John Goss: Right.

Carol Schlueter: I was out there and looked at it. I drove through the whole... I didn't know that subdivision... Is it a subdivision?

John Goss: Yes.

Carol Schlueter: So you do have set rules from them then?

John Goss: Yes.

Carol Schlueter: Well like I said, I did drive through the whole subdivision, I got lost a couple of times, but I did find it. You're property to me is the flattest property out there. I mean, you've got a little slope... but some of them are like this!

John Goss: Oh yeah.

Carol Schlueter: Also what I noticed driving through there... like I said, I don't always see everything... but I did not see one other detached shed placed in front of the houses anywhere. Is that correct?

John Goss: Correct.

Carol Schlueter: Okay, so those are my two comments on this. Looking at this, to me it looks like you have room to move it to the west a little bit and to the south a little bit, so you would meet the requirements that you need. Is that a possibility?

John Goss: It is a possibility. What I am trying to avoid is the flat half of where I want to build it is essentially the flattest part. Now if I move that 90 degrees and run it essential north and south, than I would have to build a foundation. Just from the front of the house to the back of the house, I have a walkout basement, I don't know if you noticed that or not... so I would have an eight foot foundation there with a garage built on top of that. That's essentially what I am trying to avoid is to have a huge foundation sticking up out of the ground. It's not necessarily the cost of it, it's more or less... I think it would look rather gaudy. And I know the Romagnoli's next to me aren't a big fan of this garage. But I don't want to have to build it that way and have them look out their front door and see this huge foundation sticking up out of the ground. And the same reason for building it off of Vantage Point Road. Now the foundation wouldn't be nearly as tall, but it probably still would be... I haven't taken a transit and a story pole out there, but it probably would be a four or five foot foundation sticking out of the ground. I think it would look rather awkward on that side also.

Carol Schlueter: You mean to the east side, right?

John Goss: Right, off of Vantage Point Road.

Carol Schlueter: Yeah, I looked at that too. It looks like you have plenty of room to put it there.

John Goss: Yeah there is plenty of room there, but I've tried to keep the structure as low as possible just so it doesn't look gaudy sticking out of the ground.

Carol Schlueter: Okay, Eric if he were to attach it to his house, could he do that without a Variance? Or would it still be too close?

Eric Furnas: Well if it was the same dimensions coming off at the same angle, the 30' x 40' that he is requesting... it's probably going to be deeper than the garage that is there... And if you went 40 feet that way... I don't know that just might even encroach on the 50 foot setback even. So it probably would still need a Variance.

Carol Schlueter: Yeah, I looked at that and thought that too. Okay – board members, do you have any questions or comments on this?

Tom Harper: I know what he's talking about ... having to put in a bigger foundation or taller foundation but going by the elevation here, I'm not seeing that it would be eight foot. But looking at the whole aesthetics of the properties out there, I mean, like you say there are no other buildings that I could see or that I noticed

out there that are in front of the house and less than 50 feet. In fact, I seen very view properties out there that had a detached garage.

Carol Schlueter: Yeah, I noticed that too.

Tom Harper: Other than a small garden shed.

Carol Schlueter: Okay, is there anyone else here that wishes to speak on this request? If so, please state your name before you speak.

Ted Romagnoli: My name is Ted Romagnoli. My wife and I live at 2096 Skylane Drive and we are adjacent to John's home. We have lived there since 1994. Our concern was stated briefly in my letter and it includes my opinion primarily but I also have an email from three other parties that are concerned. My concern primarily is the height. I mean, there are no plans... there aren't any plans with his request. So I feel that that was answered just this morning, so that's a good thing. The Griffin's are concerned about the possibility of some hazmat drainage, if there is a drain in that garage or not – I don't know. Again, he doesn't have any details on the construction of the building. That drain, if there is one, and this is all speculation at this point, that would probably route into the water table because there is a natural canyon... well not a canyon but a large greenbelt area that resides on a lot of our properties that is a natural drainage. So that's primarily the Griffin family concern. So I don't know, you'd have to speak to Bob and Cathy. The impact of the size of the building, we spend a lot of time in our front yard, okay? So that component that was addressed by Mr. Goss. So our home, I think is a nice home, as are all the other homes in the area. So I'm concerned about that and I'm concerned about the possible property values... and I'm not a realtor so I don't know and I haven't done an analysis of it. But the aesthetics thing does concern me. And the possibility that it may set a precedent. So that setback would then... And when things are approved like that, and again you can address that better than I can, but all of a sudden other folks may want to do that same setback. And I'm only aware of one setback out there that was approved years ago for the Gott family and they were on one of those huge ravines. And that lot would have been an undesirable lot to construct on. Now the Pippert family lives there and that was a 25 foot setback, which is close but it's a \$300,000 home and is very aesthetic. So I'm thinking, geez, if we are going to come in that range or even a little closer, I would say it's an eyesore... but John and Hope have a very nice house for themselves, but I'm concerned about that space. And I mean, he's got more acreage than I do. So that's my point, thank you for listening.

Carol Schlueter: Yes, thank you. Is there anybody else here?

Steven Siefken: Yeah, Steven Siefken, 2095 Vantage Point Road. He did address two of my concerns, the color of the building and also the height. My only other concern would be if... would it adversely affect the drainage of the road? Because there is a ditch in front of it. I wouldn't want it backed up on the road and to create icy conditions in the winter. That would be my only other concern.

Carol Schlueter: Okay, thank you for your comments. Eric, your comments?

Eric Furnas: I guess that I would just reiterate the staff findings that are in the development report. I agree with the applicant, that this is probably the most convenient location. Staff feels that there is space on that lot to accommodate the detached garage, as noted by the applicant. It could entail some extra work with a taller rear stem wall. But in the eyes of the law, as far as the Variance is concerned, that would be a financial matter, which as you are aware, in itself is not grounds for a Variance. Because of the size of the lot and the other space, I don't know that staff could recommend that there is a demonstrable hardship on this lot. As noted by others and staff, there are no other lots in the vicinity that have a detached accessory structures in the front yard space. So I think an

argument could be made that this could alter the characteristics of the neighborhood. Which is something that is not to be allowed. The lot in question exhibits similar topography to other lots, and it actually as noted, it has less severe topography as other lots. And so one of the other things that we look at in issuing Variances is if this is unique to the area with topography challenges. And I am not able to find that it is unique and it seems it is even more accommodating. That's all the staff comments that I had.

Carol Schlueter: Okay, thank you Eric. Board members, do you have any other questions or comments? Or would someone like to make a motion in regards to this request?

Tom Harper: I just want to make a statement in regards to this. As we all know, a Variance is usually granted on a hardship and not on a convenience. And in looking at the property and visiting it and looking at the topography and the size of this lot, I think that there is maybe a unique accommodation here for their convenience. But I don't think that this rises to the level of a necessary hardship. So I cannot support this.

Carol Schlueter: Okay, any other comments or does someone want to make a motion in regards to this request?

Janelle Spies: I move that we approve the Variance in order to build a 30' x 40' detached garage in front of the existing dwelling and only 15 feet from the front lot line.

Carol Schlueter: Is there a second?

Tom Harper: I'll second.

Carol Schlueter: Any other discussion?

Charles Clark: So we are going to approve this as he has asked for it?

Carol Schlueter: That's what the motion was.

Eric Furnas: It's a procedural point. Any motion should be made in the positive, especially if we have less than five members present. It's just parliamentary procedure. You can still vote how you want, just nay or aye for the motion.

Charles Clark: Okay.

Carol Schlueter: Okay, there has been a motion made and seconded that we approve this Variance in order for the applicant to build a 30' x 40' detached garage in front of the existing dwelling and only 15 foot from the front lot line, instead of the required 50 foot. All in favor of approving this Variance say Aye – 0; Nay – 4; Absent – Geertz. It didn't pass sir, sorry.

John Goss: That's fine.

Carol Schlueter: Yeah that's a hard one. I feel for you.

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