

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on February 2, 2018 with Chairperson Tom Harper and members, Carol Schlueter, Emily Geertz, and Mike Birkinbine present, Bill Tharp was absent. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Also present for this hearing: Melinda Phillips.

Tom Harper: I will open the Board of Adjustment meeting and read 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, however today we have a member absent, and a tie vote would be a no vote. You have the option of going ahead with this today or asking us to table this. State law requires three affirmative votes to approve any appeal under consideration, no matter how many members are present. 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. Okay, the minutes of the last meeting were sent out for your review. If there is no discussion on that, I would entertain a motion to approve the minutes.

Carol Schlueter: So moved.

Tom Harper: Is there a second?

Emily Geertz: Second.

Tom Harper: A motion has been made and seconded to approve the minutes of the last meeting as written. Any other discussion? Hearing none, all those in favor of the motion please say Aye (4) Opposed (0) Absent (Tharp). Minutes and resolution has been approved. Okay we have one case in front of us today, Eric do you want to lead us off?

Eric Furnas: Remanded Case #18-01-01, by Richard Holmes, Record Owner, Chad Sexton, Applicant. This property is located in Moscow Township in the NE¼ of Sec. 28-T78N-R2W, 2454 140<sup>th</sup> Street, Moscow, containing approximately 4.22 acres, and is zoned A-1 Agricultural District. On January 5, 2018, the Muscatine County Board of Adjustment granted Mr. Holmes and Mr. Sexton's Variance request that would allow them to continue to operate their semi's from their home located at 2454 140<sup>th</sup> Street in Moscow. On January 15, 2018 the Board of Supervisors voted to remand this request specifically requesting that stipulations be added to the Variance. Per your discussion they were comfortable with the operation continuing for the reason that you folks had stated, because they had been there for a number of years, it is not generating complaints, it's fairly limited in scope, however, they expressed some concerns, and not just of this case but of others, that would grow and they don't want to see that happen. So while they were fine with this to continue unhindered they don't want it to grow. They suggested that you consider adding some stipulations to the Variance approval that would limit the total number of trucks to what they currently operate, that the operators allowed to run trucks from this location where Mr. Sexton and Mr. Holmes only. I have spoken to Mr. Holmes and he has said that they don't want to grow but they just want to continue with their business here. And that specifically just those drivers, no one else can be hired to operate or use that property for trucking, and that they are not able to add trucks, trailers and drivers. Mr. Holmes did contact our office, I had left him a message asking just to clarify just exactly what they had at this time and was advised that

they do have two semi-tractors and two semi-trailers and they don't expect to grow. So those were the reasons that it was remanded for further discussion in itself because they felt it was kind of vague.

Tom Harper: Is the applicant here or do they need to be here?

Eric Furnas: I told them that they didn't have to be here. But they were aware of the meeting.

Melinda Phillips: I'm here.

Tom Harper: So you are representing the applicants?

Melinda Phillips: Uh huh.

Tom Harper: Okay, do you have anything to add beyond what has been discussed?

Melinda Phillips: The only thing that I have is that they don't want to go bigger or anything but there is a possibility that they may need a backup truck so if one of their trucks break down they would have one to fall back on. So it's not just the two trucks, that's the only thing that I was thinking. Because if their semi goes out, they have no way of hauling it, they have to have something else to fall back on. If they had a backup truck to fall back on, that they could fall back on that.

Emily Geertz: Yeah, I was thinking that that was very limiting.

Carol Schlueter: I agree there too. I don't have a problem... I mean, I will vote for this again. To me we cannot just limit them to just two. To me, they have to have access to... they are both driving, so maybe we should make it four. That each one can have an extra one to fall back on, if something breaks down, that's my opinion.

Mike Birkinbine: I feel the same about the trailers too.

Carol Schlueter: Yes.

Mike Birkinbine: If they have flatbed trailers... I don't know what kind of trailers they have. I don't think that we should limit it to too, maybe four or six just because there are different trailers for different things.

Carol Schlueter: That's right, yes.

Emily Geertz: You would only be using two at a time but ...

Carol Schlueter: Right, but you may need different trailers to haul different things. But right now they only have two trailers, is that right?

Eric Furnas: Yes.

Tom Harper: Are they running flats?

Melinda Phillips: Richard is running corn and Chad is doing turkey's, he doesn't have a trailer there.

Tom Harper: So he's hauling someone else's trailer?

Melinda Phillips: Right.

Carol Schlueter: But trailers break down too and you have to have access, if you are in that business, that you can use to go when you have to go. Because let me tell you, farmers want you there when you are supposed to be there.

Emily Geertz: And so does GPC.

Carol Schlueter: Yep.

Tom Harper: Well I would say make a stipulation of two active trucks and two backup trucks, two active trailers and two backup trailers.

Carol Schlueter: So we should just say up to four?

Eric Furnas: So up to two backup semi-tractors with two additional trailers? So the other part of the concern would be ... if you would just attach that the owners, Mr. Sexton and Mr. Holmes would be the only drivers. So that the backup truck and trailer doesn't suddenly become another one and now they are hiring another driver for it.

Carol Schlueter: Yeah, do you understand what we are saying?

Melinda Phillips: Yeah.

Eric Furnas: I cannot say for certainty that that will satisfy ... you know these were directly from the Board of Supervisors. We just don't want to end up not following the guidelines of the supervisors, but that may be something that is palatable to them.

Tom Harper: Yeah and it's not saying that we are allowing them to have up to four pieces of each, but we don't want that to become... you know, that's only in an extreme backup case.

Melinda Phillips: More than likely it would be more as far as the tractors that are going to be backed up instead of the trailers. So I would say probably three at the most so that way if one of them breaks down they have another one.

Carol Schlueter: So just one more?

Eric Furnas: I guess that was my thought. I can't imagine both trucks being down at the same time. I mean, what's the probability of having two trucks down and needing two backup trucks?

Melinda Phillips: Actually it's quite good.

Carol Schlueter: Yeah that they would break at the same time? Yep – I agree.

Eric Furnas: Well that could possibly change the view of this. Two semi's is one thing, but now you are talking four semi's and four trailers parked on a property? It does start to really approach the appearance of a trucking terminal. I understand what you are willing to offer but my recommendation would be three but you people make the decision.

Mike Birkinbine: So three, their two and one backup?

Carol Schlueter: So if we approve this or vote for it today, it doesn't have to go back before the Board of Supervisors, am I correct?

Eric Furnas: They cannot do anything with it other than if they feel that it's so egregious, than they would have to do the same thing as a citizen would have to do, they could block it through the court system.

Carol Schlueter: They're not going to do that.

Eric Furnas: Like I said they were clearly sympathetic with the situation and had no hesitation allowing it but they just felt that it needed more stipulations on it. They didn't feel that the approval should go beyond what the applicant themselves were asking for at this time.

Tom Harper: So I think if we limit it to three and if something changes down the road, they can reapply.

Emily Geertz: Or relocate.

Tom Harper: Yeah, relocate. But they can contact your office and work out a deal or remand it back for another application.

Eric Furnas: And I think Emily's point about relocation... if the company grows it has to be something ... I mean a home occupancy is one thing but there comes a time that if the company grows... that's why we have those zoning districts. We just can't continue to allow growth so that it becomes a full fledged truck terminal.

Tom Harper: And what is the definition of a trucking terminal? I mean what they are doing is just parking there's on their down time when they aren't driving. They aren't storing a product, they aren't storing cargo.

Carol Schlueter: They aren't moving any product from their place. They are just parking their trucks and trailers there, right?

Eric Furnas: I understand that.

Carol Schlueter: So to me that's not what I call a trucking company. This is their business. I mean they are driving their semi's to make a living.

Eric Furnas: It's very small, admittedly. But it's the primary spot where the trucks are maintained by these people... and others in the county, this isn't the only situation. The trucks come and go from there every day that they drive. There is not a separate location. Arguably, this is a very small business compared to typically what a trucking business. But that is something that the board does want the Zoning Commission to look at.

Tom Harper: Yeah because there are how many drivers in the county that take their tractors home? I mean, they don't necessarily take the trailer to the residence.

Mike Birkinbine: Yeah it needs to be looked at. Because give them 100 acres and let them farm, then how many trailers and tractors can they have on that property?

Eric Furnas: Yeah ... we cannot regulate agricultural. Where it does become difficult is when a person runs a trucking company in addition to being a farmer and what's the tipping point for primarily agricultural? Because we have some... the large farms, a large share of their income does coming from trucking.

Tom Harper: Case in point, where does lime spreading go from farming to ...

Eric Furnas: Yeah so in the off season they are hauling lime because they have a semi that can pull it. Yeah it needs to be looked at.

Emily Geertz: Well in more certainness of not coming back from the Board of Supervisors, I would agree with three, but I like four.

Carol Schlueter: I like four too, I really do.

Emily Geertz: But the chances of it coming back and not going through... I think three is the safest.

Tom Harper: I say let's move forward and go with the three. If it has to change than we can look at it again. Okay, is there any other comments or discussion? Does somebody want to make a motion?

Mike Birkinbine: I will make a motion to allow the Variance with the stipulations that they can have two main semi's and one backup, along with three trailers and the drivers would be Mr. Holmes and Mr. Sexton only.

Emily Geertz: I have a question. What if one of them is ill? So say they are sick and they would have a different licensed driver come in and drive? You know what I mean?

Eric Furnas: On the rarest occasion of someone filling in that's not a primary use and I don't think anyone is every going to argue with you about that one. Even if that driver drives 30 days out of the year, that semi is still owned by Mr. Sexton or Mr. Holmes. But if someone begins using that property with another truck or if they hire someone else to start driving on the basis of them being an employee, that's what would not be allowed. But someone filling in a few times a year, that would be of no concern.

Emily Geertz: Yeah I was just wondering since it sounded so strict and it sounded like no one else could drive the truck.

Tom Harper: Alright the motion has been made, is there a second?

Carol Schlueter: I'll second it.

Tom Harper: Is there any further discussion or comments on this? A motion has been made and seconded to grant this request for a Variance for Mr. Richard Holmes and Chad Sexton to operate their trucks out of their property with the stipulation that they have no more than three semi-tractors and no more than three semi-trailers on the property and that they are the only ones to operate them. Is that correct?

Mike Birkinbine: Correct.

Tom Harper: Okay, any further discussion? All those in favor signify by saying Aye (4) Opposed (0) Absent (Tharp). The motion carried.

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