

Board of Adjustment Meeting Minutes
April 23, 2024
Butler County Courthouse

Present

Board of Adjustment members:

Paul Leerhoff
Habbo Fokkena
Carla Mulder

Absent

Mark Gerdes
Jeff Reints

Others:

Misty Day, Zoning Administrator
Steven Hinde
Cynthia Marx
Sheila Loveland
Lorista Ambrose

Paul Leerhoff called the meeting to order at 7:30 a.m.

A motion to approve the agenda was made by Habbo Fokkena and seconded by Carla Mulder. Motion passed.

A motion to approve the minutes of the previous meeting dated 2/27/24, was made by Carla Mulder and seconded by Habbo Fokkena. Motion passed.

Old Business:

None

Public Hearing:

Paul Leerhoff opened the public hearing on an application by Steve Hinde for a variance to CSR requirements for a buildable lot in the A-1 District on Parcel H located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, Township 90 North and Range 15 West of the 5th P.M.

Steve Hinde stated they would like to have approval for making the vacant lot to the south of them a buildable lot. Hinde stated that they have been using the lot as a hay field for when they had horses. They no longer have horses, thence no longer need this lot for hay. They would like to sell the lot and let someone else build a house there or potentially build a house themselves. Hinde stated there are already houses to the West of this empty lot so it would make sense for this lot to be utilized as a buildable lot.

Paul brought up previous variance requests in the 90s for that area. Most of those did pertain to soil. Administrator Day discussed the history of this subdivision. Hinde's lot was approved for soil CSR in 1999, the lot to the West of Hinde was approved in 2001. When parcel H was split off in 2002, Hinde intended to purchase said parcel H so they did not initiate a variance for this lot as there was no intention of building on it at that time.

Paul thought there was a variance request for the joint driveways and Administrator Day confirmed that there was an agreement recorded addressing the driveway and a survey of the parcel also includes an easement for driveway purposes. Additionally, Steve is planning to split off one acre on the North side of this parcel H for his own residence which will be tied to his parcel with a deed restriction.

No Comments were received by the Zoning office.

Lorista Ambrose was present for the hearing and questioned why or how this subdivision and residential properties affect property taxes.

Administrator Day explained how subdivisions and property use works for taxes, stating that zoning and property classification for taxes were not the same and that zoning did not play a role in how a parcel is taxed, it is the use that dictates taxes.

Habbo explained how the subdivisions are approved by the Zoning Board. Discussion was had over residential and agricultural Zoning.

Public Hearing was closed.

The Board discussed how that lot is surrounded by residential making it not prime agricultural ground.

A motion was made to approve the variance by Habbo Fokkena and was seconded by Carla Mulder. Motion was unanimously approved.

Public Hearing #2

Paul Leerhoff opened the public hearing on an application for a variance to the setbacks for an existing cell tower located at 16991 Hwy 188 in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 6, Township 92 North and Range 15 West of the 5th P.M. Cynthia Marx and Sheila Loveland were present on behalf of the applicant and mother, Mary Severs-Freese.

Mary Severs-Freese owns a 70-acre farm just North of Clarksville that has an existing cell tower that was approved in 2004. She is wanting to split off the 2 $\frac{1}{2}$ acre acreage in order to sell while keeping the cell tower with the rest of the farm. The acreage has been a rental property for 15 years and the ag buildings have not been used in 25 years or so. The cell tower was erected in 2002 at a height of 245 ft in accordance with the standards and setbacks at that time. In 2022 the setback requirements changed to at least the tower height from a residential property line, so there would need to be a variance since the tower is 250 ft from the residence so any new property line would not be able to meet current setback standards.

Habbo Fokkena questioned the action of the applicant in deciding where the property line would be. Why not include the cell tower in the purchase of the acreage making it 3 $\frac{1}{2}$ acres so a variance wouldn't be required. Administrator Day Stated that would be correct, they would have to just meet that setback on the opposite property line which would be easily met.

Paul Leerhoff stated that by moving the property line to include the cell tower with the acreage they would lose more farm ground. In addition, the renter would have to rent from two different people.

Discussion was had regarding liability if the tower should fall on the acreage, and it was determined that it would be the cell tower owner's responsibility. That may need to be addressed in the lease agreement but not really a part of this board.

Public hearing was closed.

Carla Mulder made a motion to approve the variance to setback requirements for the existing cell tower and was seconded by Habbo Fokkena. Motion passed; variance granted.

New Business:

June 4th – Special Meeting for Special exceptions for a couple quarries.

A motion to adjourn the meeting was made by Habbo Fokkena and seconded by Carla Mulder. Meeting adjourned.

Misty Day, Zoning Administrator

A handwritten signature in blue ink that reads "Misty Day - Ksp".