

Planning & Zoning Meeting Minutes

1/20/22

Butler County Courthouse

**Present**

Planning and Zoning Commission members:

Deb McWhirter

Jane Close

Roger Kregel

Rosemary Willson

John Backer

Others:

Misty Day, Zoning Administrator

Jean Jones

Melissa Knudsen

Jeff Reints

Michael Peterson (via zoom)

Deb McWhirter called the meeting to order.

A motion was made to approve the agenda as presented by Jane Close and was seconded by John Backer. Motion passed.

Election of officers was held. A motion was made by Jane Close and was seconded by John Backer to appoint Deb McWhirter as Chair. Motion passed. A motion was made by Rosemary Willson and was seconded by Deb McWhirter to appoint Jane Close as Vice Chair. Motion passed.

A motion was made to approve the previous meeting minutes dated December 17, 2021, by Roger Kregel and was seconded by Rosemary Willson. Motion passed.

**Old Business:**

None.

**Public Hearing:**

Chair McWhirter opened the public hearing on 'ten Hoeve Minor Plat' located in the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of Section 13, Township 92N, Range 15W. Administrator Day stated that this was a dairy farm located North of C-33 on Butler Ave and was initially a 19.5 acre parcel. The dairy is operated by brothers who came over from the Netherlands in 2006, one of which built a stick home and the other who moved a trailer house onto the parcel after approval from the Board of Adjustment with the condition that a zoning compliant home would be built in the future. They are in the process of moving a manufactured home to the property to replace the mobile home and they purchased additional ground from the property owner to the South last fall to accommodate the new leach field. The mortgage company is now asking that the new manufactured house be completely split off from the main parcel, which triggered the minor subdivision plat requirements. The new manufactured home will sit on 1.52 acres and the remainder of what they had purchased last fall will be combined with the original parcel to create a new 21.89 acre parcel. Administrator Day stated that an adjoining property owner had called to inquire about the meeting after receiving the notice, but she did not express any concerns with the split.

Commission Member Kregel inquired as to whether Administrator Day saw any issues with this split and Administrator Day stated that this operation is ag exempt, which allowed two dwellings on the same parcel to begin with, so if anything, this split brings them more into compliance with zoning regulations by each house being located on a separate parcel. There were also easements in place for the shared well and driveway.

A Motion to approve 'ten Hoeve Minor Plat' was made by John Backer and was seconded Roger Kregel. Motion passed.

Chair McWhirter opened the public hearing on application from Melissa Knudsen to rezone approximately 1.8 acres located at 31481 – 220th St in the SE¼ SW¼ of Section 34, Township 92N, Range 15W from A-1 to R-2. Administrator Day stated that this is a 5.63 acre parcel located near the industrial park in Shell Rock. It currently has a portion of the property zoned Commercial for storage units and the request to rezone the area around the main house to R-2 was due to the applicant renting out an apartment in the main house to a non-family member tenant. Melissa Knudsen was present on behalf of her application and stated that she had recently purchased the property from her parents who had an apartment in the basement that they resided in. Shortly after she purchased it, her parents decided that they wanted to relocate from this area. It's a 1400 sq ft apartment in the basement with a private entrance and there are two tenants in the apartment who work at the soybean processing plant. The apartment includes two bedrooms, although one does not have an egress window and while there is an entrance to the basement, it wouldn't be considered an actual bedroom for resale purposes.

Commission Member Backer inquired as to how many people reside in her portion of the house and it was determined that there were 4 people. Discussion was had concerning the septic system. Administrator Day reported that upon researching the property, she discovered that the septic system was installed in 1996 and was sized for 3 bedroom house which was grossly undersized for the now 6 bedroom house. Discussion was had regarding pumping and maintenance, as well as whether an inspection should be completed. Administrator Day clarified that while the rezoning request was about land use and that the septic did not have a huge role in that decision, at a minimum she would request that there be a maintenance agreement for regular pumping of the system. Discussion was had regarding the reasoning since it was working fine and the number of residents has not ultimately changed and Administrator Day stated that from a public health standpoint of having tenants in the home and to protect the system from being overloaded, routine maintenance is important and not just for this particular system but for all systems. Applicant Knudsen stated that she felt singled out and inquired as to whether Administrator Day would be looking at every system and Administrator Day stated that septic system regulations are enforced County wide, but going door to door was not feasible. This is a unique situation where there are tenants involved, it is an older system, and the system is grossly undersized and maintenance should be done regularly to prevent the system from failing.

A Motion to approve the request to rezone approximately 1.78 acres from A-1 to R-2 was made by John Backer and was seconded by Rosemary Willson. Motion passed.

Chair McWhirter opened the public hearing on an application by Clayton McDivitt to rezone approximately 2 acres from A-1 Agriculture to M Manufacturing, which was tabled from the December 17, 2021, meeting. Clayton McDivitt was not present for the hearing and Administrator Day stated that she could give him a call. Discussion was had regarding what notification he received and it was determined that he received a written notice in the mail and that Administrator Day had talked to him earlier in the week to get permission to inspect the premises and the Commission felt he had received adequate notice and decided to continue the hearing. *It should be noted that Clayton did show up later, but it was after the meeting had adjourned.* Administrator Day presented pictures from her inspection

that was conducted on January 18, 2021, which showed a full fledged junk yard. Administrator Day had pointed out an area in the very southeast corner of the property where the applicant had removed some vehicles, but there was a row of vehicles along the south property line that were not shown in the current aerials that were taken in 2020 and which did encroach over the property line at the time of the inspection. Administrator Day stated that there were only a few vehicles that she could identify as having been used for demolition derbies but there were significantly more cars than what had been disclosed. Administrator Day questioned whether salvage and part removal was actually taking place contrary to what the applicant had said because of piles of car parts in one area of the property. Administrator Day also noticed a pile of actual junk in addition to the junk cars.

Commission Member Kregel inquired as to what the Commission would actually be approving if they approved the rezoning request and it was determined that as it stands, this is an illegal junk yard and if the rezoning request is granted it would become a legal junk yard. Jean Jones was present for the hearing and stated that many of the vehicles along her property line had not been moved in years and did not feel that the applicant's statement that the vehicles being used solely for demolition projects was accurate and there was still the issue that the cars are right up to her property line and are a nuisance. Ms. Jones stated that while the applicant had said he would reach out after the meeting to discuss a resolution to their concerns, he had not done so as of the date of this meeting. Mike Peterson was present via zoom and stated that according to the zoning ordinance, junk yards must maintain privacy fencing and a 50' setback from property lines and that the applicant has been aware that he was in violation of the zoning regulations for several years and has continued to add more cars instead of abating the violation. He questioned whether the applicant would even abide by the fencing and setback requirements should the request be approved. He also stated that there has been an increase in vermin over the past few years and the junk yard was an eyesore. Mike and Jean also stated that their tenant may ultimately own the property someday and while it was once a beautiful location to build a new home on, his tenant would have no desire to do so next to a junk yard.

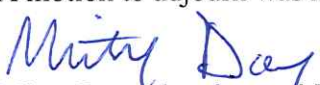
Discussion was had regarding the applicant's failure to follow through with what he said he would do and their concerns that it would be an enforcement nightmare to get him abide by the setbacks and worried about the increase of junk vehicles into other parts of the property, including the floodplain, if the request was granted. Discussion was also had regarding what would happen if approved and what would happen if denied. Administrator Day stated that the Supervisors did have the final approval, but if it were denied, the applicant would have to remove the vehicles and if approved, he would still need to go to the Board of Adjustment for a special exception permit.

Motion was made to deny the request to rezone 2 acres from A-1 to M by Roger Kregel and was seconded by Jane Close. Motion passed.

### **New Business:**

Administrator Day updated the Zoning Commission on the carbon pipeline project that is being proposed in many Iowa counties, including Butler County, and while it does not technically involve zoning, it might be something of interest for the Commission to be aware of. A meeting date of February 17<sup>th</sup> was scheduled to meet with INRCOG, which was canceled from today.

A motion to adjourn was made by Jane Close and was seconded by Roger Kregel. Motion passed.

  
Misty Day, Planning and Zoning Administrator