

Board of Adjustment Meeting Minutes
January 30, 2024
Butler County Courthouse

Present

Board of Adjustment members:

Mark Gerdes
Paul Leerhoff
Carla Mulder
Habbo Fokkena

Absent

Jeff Reints

Others:

Misty Day, Zoning Administrator
Levi Samantha Pratt
Bill & Patty Nelson

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

A motion was made to approve the Agenda and minutes of the previous meeting dated November 28, 2023. Motion passed.

A motion was made to appoint Mark Gerdes as Chair and Paul Leerhoff as Vice Chair. Motion passed. Paul Leerhoff noted that he will serve out the remainder of his term through the end of this year and then he is planning to step down from the Board.

Public Hearing:

Gerdes re-opened the public hearing on an application by Levi & Samantha Pratt for a variance to CSR requirements to build a single-family residence in the A-1 District on an existing 24-acre Parcel located in the E ½ E½ NW ¼ except tracts of section 25, Township 90 North and Range 15 West of the P.M. that was tabled from the November 28, 2023, meeting.

Levi Pratt was present on behalf of his request and referred to the site plan that he submitted which shows his proposed building site as including approximately 4 acres on the very North end of the parcel with plans to put the shouse closer to the first terrace. Levi stated that he had Brad Feckers come out to do a preliminary look at the site and thought that would be the best location. The Board inquired as to what the timeframe for construction would be and it was determined that if the variance is approved, he would like to build yet this year, but he does need to finalize his building plans first. Discussion was had regarding the driveway access from Beaver Valley and it was determined that the main driveway would be off of 320th St but the tentative plan is to have a 2nd access from Beaver Valley that would be nothing more than a grass path, which is there now, it is just overgrown. Levi stated that he would also provide access to his farm renter from 320th St in addition to the Beaver Valley access. Administrator Day stated that she had reached out to the County Engineer who acknowledged that there was an existing driveway from Beaver Valley Road and that he would not object to any improvements to the driveway to accommodate the farmer if improvements were needed.

Bill & Patty Nelson were present for the hearing and inquired as to whether he was still proposing to build anywhere on the 24 acres. It was determined that if the proposed site plan and variance is

approved, he would be limited to only being able to build on the Northern 4 acres which would be enforced through the building permit process. Discussion was had regarding how much would continue to be farmed and it was determined that roughly 17 acres will remain farm ground. The Nelsons expressed concerns with the house being located too close to their property on the East, impacting their farming activities, as well as concerns with what he could do with the property. Administrator Day stated that there is a 25 ft setback from the side property lines that would prevent them from building right up to the property line, which would also be enforced through the building permit process, and that the zoning ordinance lays out what is permitted in the A-1 district which limits Levi to the typical acreage and farming activities. Administrator Day stated that she received a call from Ashley Totte regarding junk cars that Pratt has been bringing to the parcel and reiterated that more than 3 inoperable vehicles constitute a junk yard in violation of the ordinance resulting in enforcement action, as well as the allowance of a home industry with the proper approval of the Zoning Commission. Administrator Day stated that Totte did not have any concerns with the proposed house but was curious as to where he planned to build.

The Board inquired about ownership and it was determined that the parcel was in Levi Pratt's name. Patty Nelson stated that while she was aware that the personal issues between them and the applicant were not things the Board took into consideration, she reiterated her concerns with the applicant's past behavior and harassment which are documented and inquired as to what standards the Board was considering when approving the variance. The standards for a variance found in Section XXII(G)(4) of the Butler County Zoning Ordinance were read. Board Member Leerhoff expressed concerns with potential litigation resulting from their decision and stated that he did not feel the applicant had submitted definitive building plans that the Board had requested. Applicant Pratt stated that he did not want to spend a lot of time hiring a contractor to come up with specific building plans until he knew the outcome of the variance request and he felt the 4 acres site plan was sufficient. Discussion was had regarding parceling the 4 acres off and it was determined that the applicant would rather keep the parcel intact and does not want to see it parceled off.

The public hearing was closed. The Board had discussion regarding the CSR breakdown of the parcel and it was determined that there was a wide range of soil types and the higher CSR or better soil included the 4 acres that was part of the building site plan. Administrator Day stated that the lower CSR soils tended to be toward the center of the parcel. The Board discussed reducing the building site to 2 acres, however, based on where the applicant is leaning toward building, it would eliminate that building spot completely. The Board discussed that while the higher CSR is at the North end, it would be better to keep the building site closer to the road and that forcing the building site to the lower CSR area would ultimately disturb just as much productive farm ground by extending utilities and access to the center of the parcel versus if the house was closer to the road.

Habbo Fokkena made a motion to approve a variance for the Northern 4 acres of the parcel with the following findings of fact noted:

- This is a unique parcel due to its shape and location to existing residential homes and an established subdivision which creates special conditions in that this is a densely populated area, as well as the wide array of soils and CSR values that range from 45 – 89.
- The Northern portion is the best place to build so as not to interfere with or exasperate the differences between the applicant and his neighbors. If applicant were forced to build on the lower CSR, it would cause a continued hardship between the relationship of the applicant and the neighbors.

- Other homes have been allowed to be built in this location which have similar soil types and CSRs so no special conditions or special privilege would be granted to the applicant that hasn't already been granted to the neighboring parcels.

A second was made by Carla Mulder. Motion was unanimously approved.

Old Business:

Administrator Day gave the Board parcel information for a special exception request that came through for a secondary dwelling. Administrator Day is looking at February 27th to schedule the public hearing on the special exception request.

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

Misty Day, Zoning Administrator

Misty Day