



**STORY COUNTY
PLANNING AND DEVELOPMENT
STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087**

"Commitment, Vision, Balance"

515-382-7245

**MINUTES
STORY COUNTY
BOARD OF ADJUSTMENT**

AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING WWW.STORYCOUNTYIOWA.GOV

DATE: May 16, 2018	Steve McGill	2017
	Lynn Scarlett	2018
CALL TO ORDER: 4:00 PM	*Karen Youngberg	2019
PLACE: Public Meeting Room	Randy Brekke	2019
Administration Building	*Absent	

PUBLIC PRESENT: Roger Underwood, Bob Goodwin, Peter Gillin, Connie Underwood, Ryan Haaland, Margaret Selby, Amanda Giben, Matthew Neubauer

STAFF PRESENT: Jerry Moore, Director; Amelia Schoeneman, Planner; Stephanie Jones, Recording Secretary

ROLL CALL: McGill, Scarlett, Brekke

ABSENT: Youngberg

APPROVAL OF AGENDA (MCU)

APPROVAL OF APRIL 18, 2018 MINUTES Motion Carried Unanimously (MCU)

PUBLIC COMMENTS: None

HEARINGS:

VAR05-17 HICKORY GROVE AMES LLC

Amelia Schoeneman presented the staff report and stated that Hickory Grove, a mobile home park, was established in 1957, prior to Story County's adoption of zoning. With the adoption of zoning in 1958, the subject property was zoned A-1 Agricultural and has since retained this zoning designation. The mobile home park is thus considered a legal, nonconforming use. Following Sections 91.02(1) and 91.02(4), it is the intent of the Ordinance "to permit the nonconformities to continue until they are removed, but not to encourage their survival." Further,

a legal nonconforming use may be continued if the nonconformities are not enlarged upon, expanded, reconstructed, moved, or extended. Story County Environmental Health Records indicate there were 32 mobile homes when the mobile home park was established in 1957 and two homes were approved to be added in 1958 for a total of 34 legal nonconforming mobile homes permitted. Letters regarding the legal nonconforming status of the mobile home park from the current and previous Planning and Development Directors also indicated that the expansion of the mobile home park could not occur without changes in the zoning or a variance. New mobile homes and other structures were installed without obtaining permits above the legal nonconforming number of mobile homes and not in accordance with the provisions for nonconforming uses. Schoeneman stated that the variance requests are to the Story County Land Development Regulations Chapter 91.02(1) and Chapter 91.02(4) establishing provisions for nonconforming uses and Table 86-2, establishing setbacks for the A-1 Agricultural District, to specifically: 1. Allow six additional mobile homes beyond the legal nonconforming number of mobile homes of 34 for a total of 40 mobile homes. 2. Allow the replacement of existing mobile homes with new mobile homes and the replacement of two mobile homes with mobile homes that are larger in size (these two larger mobile homes have already been installed). 3. Allow two accessory structures that encroach on the 50-foot required front setback. Schoeneman discussed the legal principles to be satisfied in order for the Board of Adjustment to grant a variance, staff's analysis of the principles as they apply to the requested variance, and the findings of fact. Staff recommended denial of the variance as all legal principles for a variance were not met.

Ryan Haaland spoke on behalf of the applicant and stated that he does not feel a variance is needed. Mr. Haaland stated that this is not an unlawful expansion of the use. Mr. Haaland stated that the use is a mobile home park as a whole and not a 34-unit mobile home park. Mr. Haaland stated that he does not feel a variance is needed, only a zoning permit, because this is not an expansion or extension of the use. McGill asked, based on Mr. Haaland's argument, if 75 or 80 homes could be put in this park, as long as the footprint is not changed. Mr. Haaland stated that the court would be the one to ultimately make that interpretation. Mr. Haaland stated that if the variance is denied it would be contested in court and the court would look at the County Ordinance, as well as common law principals. Mr. Haaland discussed how the request met the legal principles for a variance. Mr. Haaland stated that as the use has not changed, it keeps with the spirit of the Ordinance. Mr. Haaland stated that in order for the variance to be granted that if a hardship exists or not has to be determined. The loss of six mobile homes would be a very large loss of income for the applicant. Mr. Haaland stated that this has been a mobile home park for at least 60 years, and is inappropriately zoned as A-1, it is a unique circumstance. Mr. Haaland stated that public interest is valuable, but that in this situation most people would not have known before the meeting how many homes were on the property and that no one is being harmed.

Peter Gillin spoke and stated that he purchased the mobile home partly as an investment property. Mr. Gillin stated that when he purchased the park it was purchased as a 40-unit mobile home park. Mr. Gillin stated that there is a need for affordable housing in Ames that is clean and maintained. Mr. Gillin stated that if the mobile home park is decreased that it would be a significant loss of income. Brekke asked if there is a storm shelter on the property. Mr. Gillin stated that there is not and that he would be willing to install one, however storm shelters in the mobile home parks are not used appropriately. McGill asked if he owns any other mobile home parks and Mr. Gillin stated that he does own one other mobile home park. Scarlett asked who indicated that it was a 40-unit mobile home park and Mr. Gillin stated that the seller and Ardis Baldwin with the Story County Treasurer indicated that it is a 40-unit mobile home park.

Roger Underwood spoke and stated that he has lived at his property 25 years and that he researched the mobile home park when he purchased his home and found out from the County that the park could not be expanded. Mr. Underwood spoke about the park being cited by the DNR for inappropriate wastewater discharge. Mr. Underwood stated that he feels the park should be allowed to remain a mobile home park in the range of a 32 or 34 units and that any units being replaced should not be allowed to be any larger than the home being replaced.

Margaret Selby spoke and stated that she has lived in the park since 1998 and that the mobile home park has continued to improve over the years and that if any of the tenants had to move out of the park that it would be a financial hardship for people to have to move out of the park.

Bob Goodwin spoke on behalf of Roger and Connie Underwood and stated that the mobile home park is nonconforming and that the Ordinance states that it should not be expanded. Mr. Goodwin stated that the mobile home park began with 32 or 34 spaces with one being an office. Mr. Goodwin stated that the number of spaces could not be enlarged. Mr. Goodwin stated that the Underwood's are concerned about an expansion being allowed and that homes should be removed.

Amelia Schoeneman stated that the notice of violation sent to the property owner gave options if the variance were not granted, which were removal or to submit a reasonable schedule of compliance for removal. Moore stated that a schedule of compliance would be reviewed by staff and the County Attorney's Office. Schoeneman summarized the legal principles to be satisfied in order for the Board of Adjustment to grant a variance and staff's analysis. Regarding the legal principle about finding of unnecessary hardship, there are other permitted uses in the A-1 Agricultural District that would be permitted. Regarding the spirit and intent of Story County Development Plan and Land Development Regulations and distinguishing between a nonconforming use and individual structures, the Ordinance specifies that the nonconforming use may be the use of land, a structure, or the uses in combination. Thus the Ordinance does give the ability to enforce the non-conforming use provisions on individual structures, which differentiates from the Ogden v. City of Des Moines case where that park was looked at as a whole. Schoeneman stated the assessor did not know why it was stated that it is a 40-unit mobile home park. The Assessor and Treasurer do not have the responsibility of enforcing the Land Development Regulations. Schoeneman stated that the error of stating there is space for 40 homes is unfortunate, but Planning and Development has the responsibility of enforcing the Land Development Regulations and determining the number permitted under a non-conforming use provision. Moore stated that the Ordinance does not specifically discuss changes in the boundary of a use. Moore added the Ordinance is concerned about the extension of a use, and if zoning permits are issued by the Planning and Development Department at what point does a nonconforming use reach its conclusion and to change to a use that would be permitted in a district.

Ryan Haaland stated that regarding the DNR inspections and wastewater permits, the park is in compliance and/or working toward compliance and improvements are set to be done by March 2019 to serve 40 homes. Mr. Haaland again stated that the issue is considering the use as a whole. Mr. Haaland stated that he does not believe notices of violations have been sent to tenants that own the homes. Mr. Haaland referred to previous Planning and Development Directors' determinations and that they should not affect the board's decision because of a lack of/lax enforcement.

Mr. Underwood stated that he has not had any legal or interactions with the DNR since the park changed hands in 2016, but that dead catfish were recently found in his pond.

Scarlett asked if there are any county regulations that limit mobile home lot sizes. Schoeneman stated that the zoning district specifies a lot size for both single and doublewide. Moore stated that with this being nonconforming there are not separate lots within the mobile home park, its one large parcel. Scarlett asked if records of previous correspondence follow the property and if the information would be available to persons interested in the property. Schoeneman stated that records are kept on file and if someone were to request information on file on a property that the department would provide that information.

Margaret Selby stated that there are three doublewides brought in with a previous owner and asked if notice of violations were sent then. Moore stated that there has not been any zoning permits submitted for replacements. Schoeneman stated that in 2008 there was a letter that a variance would be required if homes were enlarged, but that there are no zoning permits on file.

McGill asked that if there is a pattern of ignoring the County, where would the records be for a buyer that there were outstanding issues? Moore stated that the information would be kept in a data archive and that information would be shared if an information request was received. McGill stated that it appears that previous owners did not adhere to the County Ordinance and it is unfortunate that the purchase was made as a 40-unit mobile home park. McGill stated that a decision tonight would have to be unanimous since only three members are present.

MOTION: The Story County Board of Adjustment denies the Hickory Grove Ames LLC variance request, as put forth in case VAR05-17.

Motion: Brekke

Second: Scarlett

Ayes: Brekke, McGill, Scarlett

Nays: None

Not Voting: None

Absent: None

Vote: (3-0)

Youngberg

BOARD/STAFF COMMENTS:

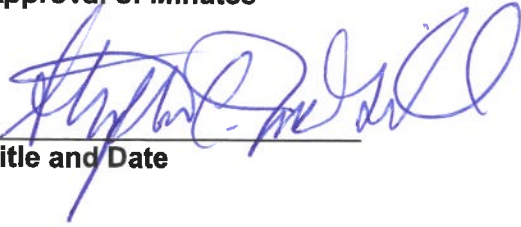
Staff: Moore stated that at the June meeting there might be a CUP for Pleasant Grove Church, Mannatts, and a Variance request on a single family dwelling project that has already taken place. Moore also stated the 3rd petition on the Perkins Campground RV Park has been issued to the County. The first appeal was supposed to be heard in May, but was delayed and will be rescheduled. The BOS office is interviewing candidates for the Board of Adjustment vacancy.

Board: Scarlett stated that she would not be able to attend the June meeting.

ADJOURNMENT: 5:52 PM

6-20-2018

Approval of Minutes

A handwritten signature in blue ink, appearing to read "Stephen J. [unclear]", written over a horizontal line.

Title and Date

