

Minutes - Woodbury County Zoning Commission Meeting September 10, 2018

The Zoning Commission (ZC) meeting convened on the 10th of September 2018 at 6:00 p.m. in the Board of Supervisors' Meeting Room Number 104 in the County Courthouse, 620 Douglas Street, Sioux City, Iowa.

ZC Members Present: Tom Bride, Bruce Garbe, Barbara Parker, Shawn Streck,
Christine Zellmer Zant
Staff Present: David Gleiser, Dan Priestley
Public Present: Bryan Berkenpas, Steve Mrla, Ryan Ross

Chairwoman Zellmer Zant called the meeting to order at 6:00 p.m.

No citizens present for non-agenda items.

The July 23rd, 2018 meeting minutes were approved. Motion by Bride, seconded by Parker. Carried 5-0.

A public hearing was opened for the consideration of the Sorta Heaven Minor Subdivision. Kenneth & Kelly Boyle proposed to subdivide parcel #884506200009 (29.31 acres) into 2 lots. This parcel is in Government Lots 1, 5, and 6 in Section 6 of the Merville Township. The property is zoned AP.

Gleiser provided an overview of the plat along with the staff recommendation to the Zoning Commission. The purpose of the subdivision is to facilitate the sale of property from the Boyle's to Mr. Brian Berkenpas. To meet Berkenpas' bank requirements, the Boyle's are splitting 8 acres (single-family dwelling, pool, and accessory structure) which will be used as the Berkenpas homestead, and the remaining 21.31 acres (livestock building and fencing) will be used for the Berkenpas farming operation. Berkenpas qualifies for the Ag Exemption as provided by the Iowa Code, and because this tract of land has already been split more than once, a minor subdivision is required.

Gleiser noted that the Zoning Commission held a public hearing on July 23rd, 2018 for the initially proposed Sorta Heaven subdivision plat and received comments from 5 of the 10 property owners within 1000' and listed within the applicant's certified abstractor's affidavit. As the Commission voted on July 23rd to table its decision until a revised plat was received, the same property owners within 1000' were notified again by letter and were informed of the revised plat. Since then, the CED office received 2 new written correspondences from property owners within 1000' of the proposed subdivision. Gleiser read the correspondences provided by Jeanenne Malmberg and Deanna Mander Bachman, and by Jessica Uhlenkamp of Heidman Law Firm on behalf of Mr. Mrs. Mrla.

Gleiser also noted that the revised plat was scheduled to be reviewed by the Zoning Commission in a public hearing on Monday, August 27th, 2018 at 6pm. However, that morning CED staff were asked by Commissioner Bride to seek clarification on Section 4.04: Lot Requirements, subsection 4. Access and Street Frontage of the Zoning Ordinance, as it related to the proposed Sorta Heaven subdivision plat and the easement access off Hwy 20. Accordingly, CED staff sought for clarification by the County Attorney's office on this section of the ordinance to determine whether the easement access off Hwy 20 must be required to be 60'

wide. The Assistant County Attorney that counsels the CED department, the Secondary Roads department, and the Board of Supervisors, was out of the office until Friday so the County Attorney advised staff to pull the Sorta Heaven minor subdivision from the agenda until his office had time review it. Therefore, the August 27th meeting was cancelled due to a lack of other agenda items.

On August 31st, 2018, CED staff met with the Assistant County Attorney and the County Engineer to review the plat and zoning ordinance. At the conclusion of that meeting, all were in consensus with the determination that the 30' access easement off Hwy 20 is sufficient for the intended use of the revised plat and a 60' wide easement shall not be required.

CED staff also contacted the IDOT and were informed the current access off Hwy 20 serving the Mrla and Boyle parcels is a Type C Entrance (the DOT's lowest rated entrance type), and by their definition serves light traffic volumes. Generally, Type C entrances carry at least 20 vehicles per hour and typically serve residential, farm or field entrances. If a Type C Entrance serves more than one property, the minimum allowable width is 20' and the maximum allowable width is 35'.

Gleiser acknowledged that Lots 1 and 2 comply with the Zoning District Dimensional Standards for the AP Zoning District. Because Mr. Berkenpas is Ag Exempt, the accessory structure located on Lot 2 may remain without a principle structure, and it will be construed as a legal nonconforming structure. If Mr. Berkenpas would ever sell Lot 2 to someone not Ag Exempt, any future building of a single-family dwelling would need to be constructed to meet the guidelines of the ordinance. The accessory structure located on Lot 1 is located about 460 ft. from the front property line and meets the requirements of an accessory structure built "two times the required front yard setback". The staff recommendation was to recommend the Sorta Heaven Addition Minor Subdivision plat to the Board of Supervisors for final approval.

Commissioner Bride explained his interpretation of Section 4.04: Lot Requirements, subsection 4. Access and Street Frontage of the Zoning Ordinance, specifically noting the language "Any lot used for residential purposes shall have a minimum frontage of 20 feet on a public road or an exclusive (i.e., not shared), unobstructed private access easement of at least 20 feet in width to a public road." He stated his lack of support for the plat due to the easement off Hwy 20 only being 30' wide. He encouraged Berkenpas to acquire an additional 10' in easement from Mrla. Commissioner Garbe expressed his concern with potential items such as snow being placed in the ROW and presenting visibility issues with traffic.

After much discussion with Berkenpas, his Attorney Ryan Ross, and Mrla, and with no success on reaching an agreement to obtain any additional easement, or an agreed upon condition prohibiting any residential development on Lot 2, Chairwoman Zellmer Zant requested the Commission vote on the plat as proposed.

Streck motioned to recommend the Sorta Heaven Addition Minor Subdivision plat as proposed to the Board of Supervisors for final approval; Parker seconded. Chairwoman Zellmer Zant issued a Roll Call Vote. Aye: Streck, Parker, Zellmer Zant. Nay: Bride, Garbe.

There were no citizens wishing to be heard, or additional Commissioner comments or inquiries. Chairwoman Zellmer Zant adjourned the meeting at 7:29 p.m.

Video Source:

Woodbury County Zoning Commission. (2018, September 10). *ZC Meeting 09 10 2018* [Video File]. Retrieved from <https://www.youtube.com/watch?v=-kmvm1pnumM>.