



Public Hearing Meeting Minutes
Nick and Mary Niebur
June 8, 2020 7:00pm

ATTENDANCE

Clerk Molly Weber
Supervisor Jim Sipe

Planning Commission Members Present

Jeremy Irrthum
Mike Tix
Casondra Schaffer
Ryan Sunquist

Planning Commission Members Absent

David Peine

The purpose of the hearing is to consider, hear from the public, and act to make a recommendation to the Township Board regarding a request for a zoning ordinance variance to build a home on property owned by Nick and Mary Niebur, 25470 Lewiston Blvd, Hampton, MN 55031 (PID# 17-02000-75-015).

The proposed location of the home is on the east side of Lewiston Blvd. in the northwest $\frac{1}{4}$ $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 20, Hampton Township.

The standard Public Hearing Process was explained at the meetings opening.

1. Introduction: outline the rules, talk about what the rules are and follow that plan
2. Establish the ground rules: public will be limited to 5 minutes
3. Applicant presentation: applicant presents what they want to build
4. Public Testimony: anyone from public can voice their opinion
5. Rebuttal Testimony: applicant can counter any questions made by the public testimony
6. Closing

Applicant Presentation:

Nick Niebur requested a buildable site in the northwest $\frac{1}{4}$ - $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 20.

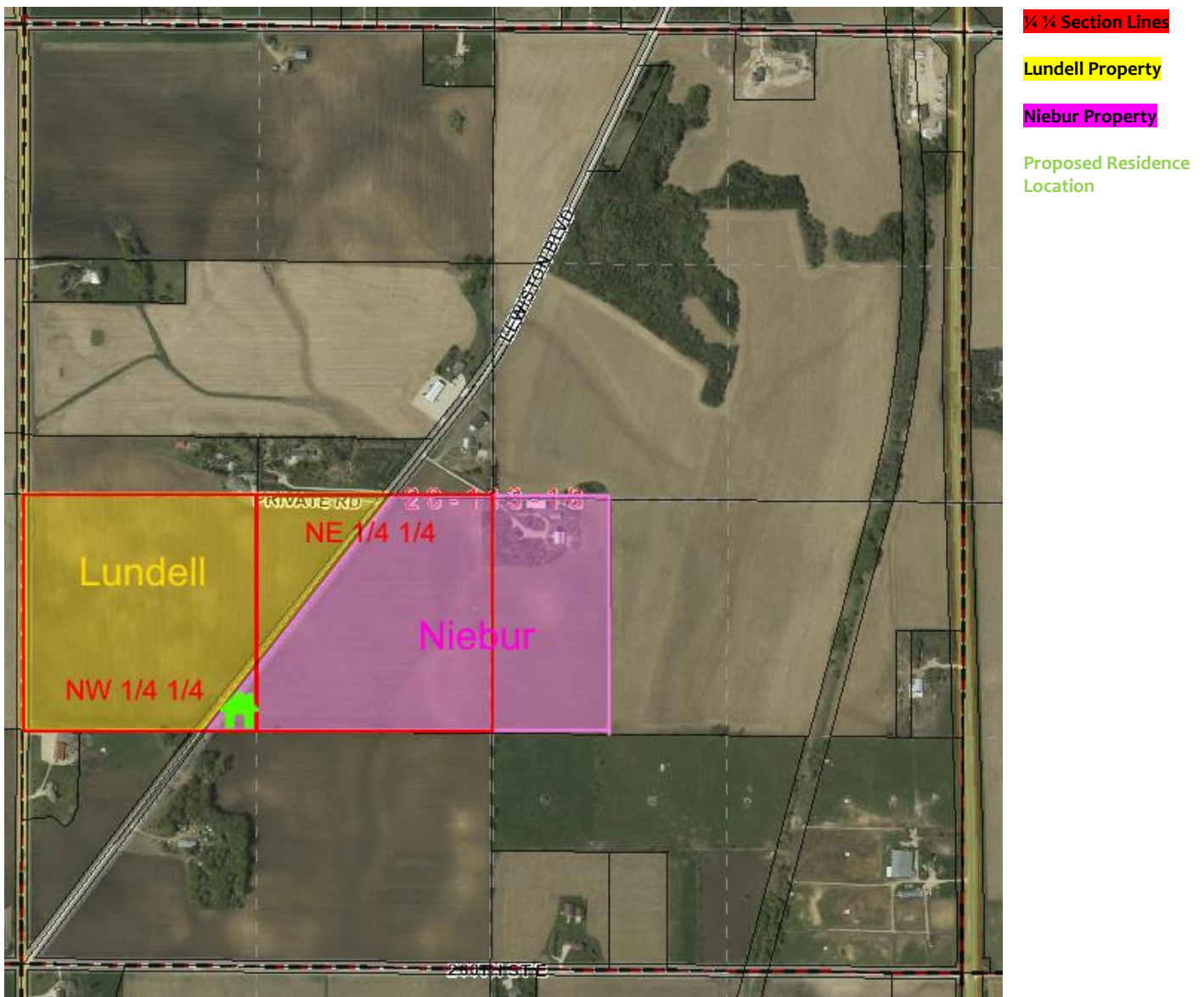
The Niebur's own very little of the northwest $\frac{1}{4}$ - $\frac{1}{4}$. They own the majority but not entirety of the northeast $\frac{1}{4}$ - $\frac{1}{4}$. Lewiston Boulevard cuts diagonally through the Niebur's property and prevents a traditional full 40 acre $\frac{1}{4}$ - $\frac{1}{4}$ section. Additionally, the proposed location is least disruptive to farm land. The northeast $\frac{1}{4}$ - $\frac{1}{4}$ is irrigated. The irrigator does not reach the Niebur's proposed residence location in the corner of the northwest $\frac{1}{4}$ - $\frac{1}{4}$.

Public Testimony:

This was limited to 5 minutes per person.

Jim Sipe stated three issues identified during the May 2020 Board of Supervisor's meeting regarding this request. Consequently, they recommended the Niebur's apply for a variance. The three issues are as follows:

1. **Residence without a complete $\frac{1}{4}$ $\frac{1}{4}$ section.** There is not a complete $\frac{1}{4}$ - $\frac{1}{4}$ section owned by the Niebur's. They have 53 acres spread across three $\frac{1}{4}$ - $\frac{1}{4}$ sections.
2. **Consider other $\frac{1}{4}$ - $\frac{1}{4}$ section property owners.** Earl (Mick) and Kathryn Lundell own the majority of the northwest $\frac{1}{4}$ - $\frac{1}{4}$ section. They also own a small triangle of the northeast $\frac{1}{4}$ - $\frac{1}{4}$ section. Similar to the Niebur's, the diagonal Lewiston Boulevard prevents full 40 acre $\frac{1}{4}$ - $\frac{1}{4}$ sections. Does this impact the Lundell property's buildable rights.
3. **Build in a different $\frac{1}{4}$ - $\frac{1}{4}$ section than the majority of their property.** The majority of the land they own is in the northeast $\frac{1}{4}$ - $\frac{1}{4}$ but they want to locate the house in a the few acres they own in the northwest $\frac{1}{4}$ - $\frac{1}{4}$ section.



First a clarification regarding nomenclature. Mr. Side indicated some confusion regarding a 1/4 - 1/4 section vs. 40 acres. Hampton Township Ordinance Section 402 allows one house per 1/4 - 1/4 section – commonly referred to as 40 acres. However, a 1/4 - 1/4 section is an established, formal geographic area. 40 acres is a measure of area – but is not restricted established 1/4 - 1/4 section boundaries.

Nick Niebur questioned if the owner must own an entire 1/4 - 1/4 section to qualify for an additional buildable if the residence was built prior to April 21, 1982. Jeremy Irrthum read Article IV, Section 402.B which allows an additional home.

Notwithstanding the limitations on density, one additional home may be allowed within a quarter-quarter section (40 acres) owned entirely by same person, persons or entity if the only home on the property is an original farm dwelling the owner can demonstrate to the satisfaction of the Township was constructed prior to April 21, 1982.

He highlighted the “1/4- 1/4 section (40 acres) owned entirely by same person, persons or entity” indicating that yes, a full 1/4 - 1/4 section is required.

Earl (Mick) and Kathryn Lundell, owners of the adjacent property, attended the meeting but asked no questions.

Rebuttal: none

Planning Commission Discussion:

Hampton Township ordinance section 712 establishes the criteria for granting variances. Variances are allowed where, “Literal provisions of this Ordinance in instances where strict enforcement would cause practical difficulties in the use of property under consideration and when it is demonstrated that such actions would be in harmony with the general purposes of this Ordinance and is consistent with the Hampton Township Comprehensive plan.”

Practical Difficulties are defined as:

1. The property in question cannot be used in a reasonable manner under certain requirements of the ordinance;
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
3. The variance, if granted, would not alter the essential character of the locality; and
4. Economic considerations alone do not constitute practical difficulties.

The planning commission addressed the board of supervisors concerned by highlighting that Lewiston Boulevard cuts diagonally through the north $\frac{1}{2}$ of the south $\frac{1}{4}$ section of section 20. Lewiston was constructed before the Nieburs or Lundells owned their properties. It was constructed by the county – and was not created by the landowner. The diagonal road creates a uniqueness beyond the owners' control and prevents the Nieburs and Lundells from owning an entire $\frac{1}{4}$ $\frac{1}{4}$ section. Lewiston Boulevard creates a “practical difficulty” preventing the strict entire $\frac{1}{4}$ - $\frac{1}{4}$ requirement. Consequently, the complete $\frac{1}{4}$ $\frac{1}{4}$ section requirement should not apply.

The Niebur's and Lundell's properties cover the entire north $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of section 20. There are two complete $\frac{1}{4}$ - $\frac{1}{4}$ sections with no homes. Neither owns an entire $\frac{1}{4}$ - $\frac{1}{4}$ section. The proposed Niebur residence and a future Lundell residence (two residences) in the north $\frac{1}{2}$ of the southwest $\frac{1}{4}$ section is consistent with Hampton Township land use and maximum density of one residence per $\frac{1}{4}$ $\frac{1}{4}$ section as defined Section 402. Two residences in this $\frac{1}{2}$ of $\frac{1}{4}$ section does not change the essence of the ordinance.

Finally, the location in the northwest $\frac{1}{4}$ $\frac{1}{4}$ section of the southwest $\frac{1}{4}$ section of section 20 maximizes the agricultural lands utility and does not disrupt the irrigation system.

Board of Supervisors Sipe offered the Lundell's an opportunity to use the meeting to establish their own buildable in the north $\frac{1}{2}$ of the southwest $\frac{1}{4}$ - $\frac{1}{4}$ of section 20. He proposed they split the special hearing's cost with the Nieburs. Planning commission member Jeremy Irrthum acknowledged the offer's practicality and agreed it was a good idea. He reminded all present that the published meeting was only for the Niebur's proposed residence and that it was irresponsible to perhaps illegal to decide or consider other, non-publicized topics. All parties agreed and the offer was dropped.

Cassandra Schaffer made a motion that the Planning Commission recommend to the Town Board that Nick and Mary Niebur have a buildable on the NW $\frac{1}{4}$ $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 20, Hampton Township. There are 2 quarters that total 80 acres but are cut up by Lewiston Boulevard. Mike Tix seconded. Motion carried. Three planning commission membered voted to approve recommendation. There were no votes to deny the request. Ryan Sunquist recused himself from the vote as he is the Niebur's son-in-law.

Jeremy advised that the Planning Commission makes recommendations but the Town Board makes the final decision at the meeting on Tuesday June 16, 2020 at 7pm so they should come back then and get on the agenda.

Cassandra Schaffer made a motion to adjourn the Public Hearing at 7:28pm. Ryan Sunquist seconded. Public Hearing was closed.