IN THE COURT OF APPEALS OF IOWA

No. 0-683 / 90-990

FILED
JUL 26 1991
CLERK SUPREME COURT

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GUTHRIE COUNTY,

Appellant,

vs.

LEON C. PIERCE and **REBECCA J. PIERCE,**

Appellees.

Appeal from the Iowa District Court for Guthrie County, Anthony M. Critelli, Judge.

Guthrie County appeals from an adverse district court ruling finding that the Pierces' use of their land does not violate its zoning status of A-1, agricultural. **AFFIRMED.**

David S. Bruner, Assistant County Attorney, for appellant.

John H. Stone and Carol A. Wendl of Neiman, Neiman, Stone & Spellman, P.C., Des Moines, for appellees.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

OXBERGER, C.J.

The Pierces own real estate abutting the Raccoon River in Guthrie County. The land is zoned A-1 agricultural. Since 1987 the Pierces have leased portions of their land to third parties. The third parties have either erected cabins on the land or placed mobile homes on the land. None of the structures have electricity, water, gas or sewer.

In 1987 the Pierces applied for rezoning of their land to C-1 commercial. The request was denied.

In 1989 Guthrie County filed this action against the Pierces for injunctive relief and removal of the structures. The county contended that the structures on the Pierces' leased land do not constitute a campground or recreation area, permitted uses under A-1 zoning. The matter was tried on stipulated facts. The district court found that the Pierces used their land as a campground and recreational area, permissible uses under the A-1 agricultural zoning.

Guthrie County appeals. It contends that the structures on the Pierces' land do not qualify as a campground or recreational area. The county also argues that the Pierces are conducting a business on their property that is inconsistent with A-1 agricultural zoning.

Our review of the decree entered in this equity action is de novo. We give weight to the fact-findings of the

trial court but are not bound by them. Iowa R. App. P. 14(f)(7). In reviewing de novo, we will affirm if there is a just basis for the decree entered by the trial court, even though our reasoning may be different than that of the trial court. Israel v. Farmers Mut. Ins. of Iowa, 339 N.W.2d 143, 146 (Iowa 1983).

The Pierces claim to use their land as a campground, as permitted by principal use number three of the Guthrie County A-1 Zoning Ordinance: Parks, playgrounds, campgrounds, wildlife preserves, recreation areas, and conservation areas. Guthrie County contends, however, that the structures erected on certain parcels of the property are not temporary enough to rightfully categorize the property as a "campground" and that the structures are not "clearly incidental and necessary" to the permitted principal uses of camping and recreation, as per the A-1 zoning ordinance.

Guthrie County also takes issue with mobile homes found on other parcels of the property. These mobile homes are not attached to foundations and do not meet the permitted A-1 principal use of "mobile homes converted to real estate." Photographs exhibited in the record show that these mobile homes are on wheels, the type transported via trailer hitch. Guthrie County, however, does not address the acceptability of these vehicles as conventional "campers."

By providing in their lease agreements that no permanent structure shall be erected on the property, the Pierces appear conscious of the ordinance and exhibit no bad faith. Furthermore, by its own argument, Guthrie County shows that a campground, or "camp," is defined as a place where "more or less temporary structures are set up," Webster's New World Dictionary 204 (2d ed. 1974), hence conceding that some type of shelter is in fact incidental and necessary to the practice of camping. The A-1 zoning ordinance does not speak to the issue of what is and is not an acceptable structure for camping and we will not extend a restriction by implication or interpretation. Helmke v. Board of Adjustment, 418 N.W.2d 346, 351 (Iowa 1988). In light of the ambiguity of this ordinance, we must resolve the issue in favor of the free use of property. Id. We find that the Pierces' property qualifies as a campground.

Guthrie County furthermore claims that in so renting parcels of land, the Pierces are in fact conducting a business inconsistent with the A-1 zoning ordinance. This ordinance, however, permits a variety of principal uses that require conducting business. Golf courses, for example, permitted by the A-1 Agricultural Zoning Ordinance, require some operation of business. So do stables, kennels, and cemeteries. As the Pierces assert, if they are conducting business on their land, then so are landowners who lease their land to be farmed. In that case

much of Guthrie County must be rezoned as C-1 Commercial Property.

We are not persuaded by Guthrie County's argument that the Pierces are operating a commercial "tourist camp." On its face the term suggests other than that for which the Pierces are using their land. In the Guthrie County zoning ordinance for C-1 commercial property, "tourist camp" is included in the same subcategory as "hotel" and "motel." This categorization of "tourist camp" suggests a business of providing temporary camping facilities for travelers. Such is simply not the case with the Pierces' property.

We find that the Pierces' present use of the property as a campground, and for recreational purposes, is permitted within the A-1 zoning ordinance.

AFFIRMED.