



## Staff Report

Zoning and Land Regulation Committee

Public Hearing: **May 26, 2015**

Zoning Amendment:  
**RH-4 Rural Homes District to RH-1 Rural Homes District**

Acres: 2.0  
Survey Req. Yes

Reason:  
**Creating two residential lots**

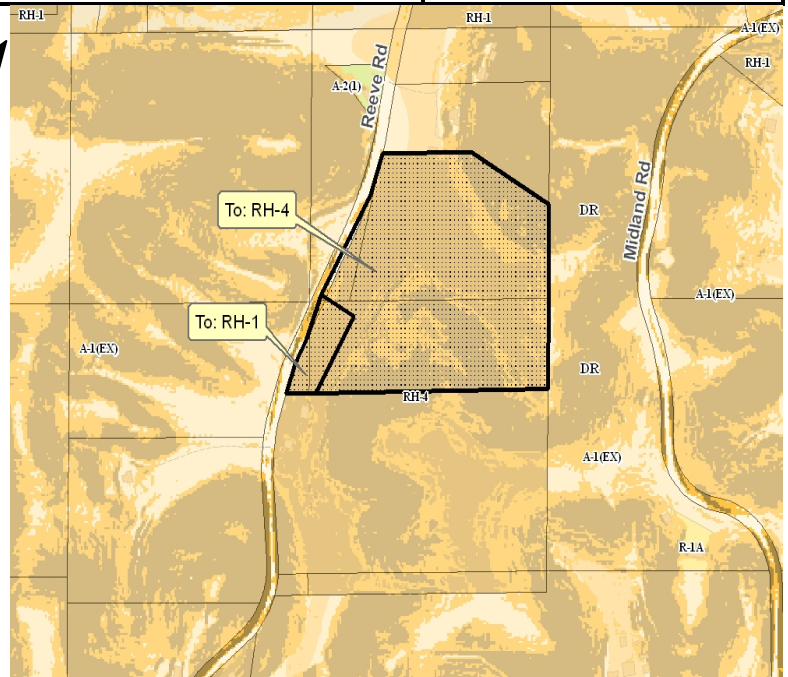
Petition: **Rezone 10839**

Town/sect:  
**Black Earth  
Section 20**

Applicant  
**Jean M Mitchell**

Location:  
**North of 5502 Reeve  
Road**

**Withdrawn by  
Applicant on  
May 20th**



**DESCRIPTION:** Applicant proposes to divide an existing RH-4 zoned parcel to create a separate, additional RH-1 zoned building site.

**OBSERVATIONS:** Portions of the property include steep slope topography. No other sensitive environmental features observed.

**RESOURCE PROTECTION:** There are areas of resource protection corridor associated with the steep slope topography on the property. Note that town plan policies prohibit residential development on slopes in excess of 10% grade.

**STAFF:** The applicant requested a parcel status determination to determine if the property consisted of more than one parcel of record. The determination found that a separate 1.4 acre parcel (tax parcel #0806-201-8260-9) was created in 1959. Property records indicate that, as of the town of Black Earth's density determination date on 6/3/1981, the 1.4 acre parcel was part of a 72.17 acre contiguous landholding owned by Milford and Bonnie Olson. The town plan does not address whether contiguously owned property should or should not include parcels that may have been acquired at different points in time prior to 6/3/81.

The town plan policy for "substandard" (A-1EX) parcels states: "Allow for a total of one split on all such parcels that are buildable and were less than 35 acres in size of as June 3, 1981 and do not contain an existing residence. Do not allow rezoning or land divisions of such substandard lots that would result in the right to construct a total of more than one dwelling unit on the 1981 parcel."

Note that, as of 6/3/81, the entire 72.17 acres owned by Milford and Bonnie Olson would have been considered a standard, or "conforming", zoning lot meeting the 35 acre minimum lot size requirement of the A-1EX zoning district. It is unclear if the town plan would acknowledge the existence of the 1.4 acre parcel as a separate substandard parcel, particularly because the property has since been consolidated into a single 31.3 acre parcel by prior deed and rezoned to RH-4 under a zoning petition submitted by the previous owner and approved by the town and county in 1990.

**STAFF (continued):**

As indicated on the attached density study report, contiguous lands owned as of 6/3/81 totaled 72.17 acres, resulting in the Olson property being eligible for 2 splits in addition to the original farm home. CSM #3716 counts as one of the eligible splits. Rezone petition #4672 was approved in 1990 establishing the current RH-4 zoning on the subject property, as well as the neighboring Schroeder property which includes the original farm home. The CSM and RH-4 zoning on the subject property appear to account for all available splits on the original 1981 landholding. This finding is consistent with the town plan's "splits available" map, which shows the subject property as having "0" splits remaining.

It is apparent that the existing 31.3 acre subject property is currently a single parcel of record with conforming RH-4 zoning that was established in 1990. It is also apparent that the latest deed of record transferring ownership to the current owner in 2013 describes the property under a single legal description, and a plat of survey done in 2013 also describes the property as a single parcel.

Nonetheless, the town of Black Earth may wish to make a determination as to whether the historic 1.4 acre 1959 parcel constituted a separate parcel of record in 1981 and remains entitled to be rezoned for use as a building site even though the property has since been consolidated with adjoining lands and sold to a subsequent owner. Note that the applicant's proposal would establish a two acre building site in an area of the property that does not correspond with the historic 1959 parcel.

**TOWN: Pending.**