

Chairperson Russell Christensen called the meeting to order at 7:55 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, John Olson and Russell Christensen. David Simington absent.

It was moved by Clinton Jones, seconded by John Olson, to approve the minutes of meeting number 92 on October 23, 2000 as submitted. Roll call vote: Jones, Flaharty, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 28-01 of Jerry Crabtree, 215 7th Street Southwest, Spencer, IA 51301 for a special exception use permit for a single family non-farm dwelling in the Northeast ¼ of the Southwest ¼, Section 13, Township Ninety-six (96) North Range Thirty-seven (37) West, of the 5th P.M., Riverton Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. The Zoning Commission met on August 27, 2001 and recommended approval of the application, subject to the on-site septic system remaining 50' from the South adjacent property. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on August 16, 2001. No written objections were received. This property is zoned A-1 Agricultural. Single-family non-farm dwellings are permitted in A-1 Agricultural as a special use. This petition meets all the bulk regulations including the soil classification. No verbal objections were spoken.

Jerry Crabtree, 215 7th Street Southwest, Spencer, IA 51301, was present to explain the application. He will be installing city water, rural electric, and an on-site septic system. This property is not in the flood plain. It was noted that the applicant, Jerry Crabtree has no objection to normal legal farming activity that will occur around his dwelling.

Following all discussion, it was moved by Clinton Jones, seconded by Larry Flaharty, to adopt the following resolution:

RESOLUTION

WHEREAS, Jerry Crabtree, 215 7th Street Southwest, Spencer, IA 51301, has filed appeal number 28-01 requesting a special exception use permit for a single family non-farm dwelling in the Northeast ¼ of the Southwest ¼, Section 13, Township Ninety-six (96) North Range Thirty-seven (37) West, of the 5th P.M., Riverton Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a single family non-farm dwelling be granted, subject to the on-site septic system remaining 50' from the South adjacent property line. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with no written objections presented. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed single family non-farm dwelling will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the single family non-farm dwelling shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm

dwelling shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Jerry Crabtree shall provide adequate and essential public facilities and services to the proposed single family non-farm dwelling and comply with all applicable regulations of the A-1 Agricultural District in which it is located. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for a single family non-farm dwelling be approved for the Northeast ¼ of the Southwest ¼, Section 13, Township Ninety-six (96) North Range Thirty-seven (37) West, of the 5th P.M., Riverton Township, Clay County, Iowa, subject to the filing of a legal description for the property by a certified surveyor to the Clay County Zoning Department and the on-site septic system remaining 50' from the South lot line.

Roll Call Vote: Flaharty, Christensen, Jones and Olson voted aye. Motion carried.

The time having arrived for the public hearing on petition number 26-01 of Robert & Robin Andrews, 108 North Harrison, Everly, IA 51338 for a special exception use permit for a single family non-farm dwelling and petition number 27-01 for a variance on the soil type in the Southeast ¼ of Section 8, Township Ninety-six (96) North Range Thirty-eight (38) West, of the 5th P.M., Lone Tree Township, Clay County, Iowa, containing approximately 21.451 acres.

The Zoning Administrator explained the application and reported procedures to date. The Zoning Commission met on August 27, 2001 and recommended approval of the application, subject to the approval of the soil variance. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on August 16, 2001. No written objections were received. There were no verbal objections. This property is zoned A-1 Agricultural. Single-family non-farm dwellings are permitted in A-1 Agricultural as a special use. The applicants are requesting a variance from the Board of Adjustment on soil types. Soil type is a combination of EcB (Everly Clay Loam) Std2 (Stordem Loam), and Ctb (Colo-terril complex). EcB and Std2 have a planting suitability rating of I. CtB has a planting suitability rating of 4. According to topographical maps this property has not been cropped in over 50 years.

Robert & Robin Andrews, 108 North Harrison, Everly, IA 51338, were present to explain the application. They will be installing rural water, rural electric, and an on-site septic system. This property is not in the flood plain. It was noted that the applicants, Robert & Robin Andrews have no objection to normal legal farming activity that will occur around their dwelling.

Following all discussion, it was moved by Larry Flaharty, seconded by Clinton Jones to adopt the following resolution:

RESOLUTION

WHEREAS, Robert & Robin Andrews, 108 North Harrison, Everly, IA 51338, have filed appeal numbers 26-01 and 27-01 requesting a special exception use permit for a single family non-farm dwelling and variance on the soil type in the Southeast ¼ of Section 8, Township Ninety-six (96) North Range Thirty-eight (38) West, of the 5th P.M., Lone Tree Township, Clay County, Iowa,

containing approximately 21.451 acres. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a single family non-farm dwelling be granted, subject to the approval of the variance. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with no written or oral objections presented. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed single family non-farm dwelling will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the single family non-farm dwelling shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Robert and Robin Andrews shall provide adequate and essential public facilities and services to the proposed single family non-farm dwelling and comply with all applicable regulations of the A-1 Agricultural District in which it is located. WHEREAS, the Board of Adjustment has determined that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land. WHEREAS, the Board of Adjustment has determined that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for a single family non-farm dwelling and a variance on soil type be approved for the Southeast 1/4 of Section 8, Township Ninety-six (96) North Range Thirty-eight (38) West, of the 5th P.M., Lone Tree Township, Clay County, Iowa, containing approximately 21.451 acres.

Roll Call Vote: Flaharty, Christensen, Jones and Olson voted aye. Resolution adopted.

There being no further business, it was moved by John Olson, seconded by Clinton Jones, to adjourn at 8:53 p.m. Roll Call Vote: Flaharty, Christensen, Olson, and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 8:25 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, John Olson and Russell Christensen. David Simington absent.

It was moved by John Olson, seconded by Clinton Jones, to approve the minutes of meeting number 93 on August 27, 2001 as submitted. Roll call vote: Jones, Flaharty, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 30-01 of Janice Donaldson & Ellen Studer, 4215 290th Avenue, Dickens, IA 51333-7518 for a special use permit for a dog kennel in the Northeast ¼, Northeast ¼, Section Nineteen (19), Township Ninety-five (95) North, Range Thirty-five (35) West, of the 5th P.M., Logan Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on September 12, 2001. No written objections were received. The Zoning Commission met on September 17, 2001 and recommended approval of the application, subject to the following conditions: 1) The petitioner's will not begin boarding dogs, but will be allowed to have their current pets (listed in the packet of information) to live out their natural lives on the acreage. 2) Once natural attrition has taken place and they have only three dogs left, the special use permit will be revoked. This property is zoned A-1 Agricultural. Dog kennels are permitted in A-1 Agricultural as a special use. This petition meets all the bulk regulations. Ms. Donaldson and Ms. Studer currently house seven (7) dogs. The use presently made of the property would fall within the zoning code definition of a dog kennel. That definition is as follows: "An establishment where small animals are boarded for compensation or any premises where four (4) or more dogs, six (6) months old or older are kept."

Janice Donaldson & Ellen Studer were present to explain their application and provided Board of Adjustment members with a packet of information. Ms. Studer and Ms. Donaldson feel they have performed dutifully as pet owners who have attempted to follow all known laws and regulations regarding responsible pet ownership. Each indicated they were not asking to begin boarding dogs, but to allow their current pets to live out their natural lives on the acreage they have lived for the last three years. Janice Donaldson presented a comparison with existing commercial kennels in Clay County. Ms. Studer and Ms. Donaldson submitted 16 hours of tape to address the issue of noise. Several adjustments have been made since a May 28th complaint from Brett Smith, renter of the home to the North. The petitioners also submitted references and letters of support to the Board of Adjustment.

Also in attendance were Brett Smith, 4185 290th Avenue, Dickens, IA 51333, Kieth Burkhart, 3060 490th Street, Webb, IA, 51366, Clay Burkhart, Sioux Rapids, IA 50585, Beverly Donaldson, 4830 300th Avenue, Webb, IA 51366, David & Anita Donaldson, 214 8th Street SE, Spencer, IA 51301.

Beverly, David & Anita Donaldson gave testimony regarding the petitioner's ability to care for seven (7) dogs, the money they have spent on the pets, and the deep affection the petitioner's have for their dogs.

Kieth Burkhart, property owner to the northeast is opposed to the petition because of his horses pastured near the petitioner's home. Mr. Burkhart has made a living from his horses and is concerned for two reasons. 1) When dogs bark, horses do not eat. 2) If the petitioner's dogs were to get loose, the dogs could run his horses through fences.

Brett Smith, renter of the home to the North, opposes the petition because of the noise. Mr. Smith did state that since his May 28th 2001 complaint to his neighbors that the noise has improved. Brett also indicated he was not opposed to the petitioners keeping their current dogs but did not want to see anymore.

Following all discussion, it was moved by Larry Flaharty, seconded by John Olson, to adopt the following resolution:

RESOLUTION

WHEREAS, Janice Donaldson and Ellen Studer, 4215 290th Avenue, Dickens, Iowa 51333-7518, have filed appeal number 30-01 requesting a special exception use permit for a dog kennel in the Northeast ¼, Northeast ¼, Section Nineteen (19), Township Ninety-five (95) North, Range Thirty-five (35) West, of the 5th P.M., Logan Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a dog kennel be granted, subject to the following conditions: 1) The petitioner's will not begin boarding dogs, but will be allowed to have their current pets (listed in the packet of information) to live out their natural lives on the acreage. 2) Once natural attrition has taken place and they have only three dogs left, the special use permit will be revoked. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with no written objections presented. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed dog kennel will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the dog kennel shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed dog kennel shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed dog kennel shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Janice Donaldson and Ellen Studer shall provide adequate and essential public facilities and services to the proposed dog kennel and comply with all applicable regulations of the A-1Agricultural District in which it is located. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for a dog kennel be approved for a tract of land in the Northeast ¼ of the Northeast ¼, Section 19, Township Ninety-five (95) North Range Thirty-five (35) West, of the 5th P.M., Logan Township, Clay County, Iowa, subject to the following conditions imposed by the Board of Adjustment. 1) The petitioner's will not begin boarding dogs, but will be allowed to have their current pets (listed in the packet of information) to live out their natural lives on the acreage. 2) Once natural attrition has taken place and they have only three dogs left, the special use permit will be revoked.

Roll Call Vote: Flaharty, Christensen, Jones and Simington voted aye. Motion carried.

There being no further business, it was moved by Larry Flaharty, seconded by John Olson, to adjourn at 8:57 p.m. Roll Call Vote: Flaharty, Christensen, Olson, and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 8:15 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, John Olson, David Simington and Russell Christensen. None absent.

It was moved by David Simington, seconded by Clinton Jones, to approve the minutes of meeting number 94 on September 17, 2001 with the correction of John Olson on roll call instead of David Simington. Roll call vote: Jones, Flaharty, Simington, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 31-01 of Paul Sieh, 101 West 18th Street, Spencer, IA 51301 for a special use permit for an expansion of existing gravel operation in the Northwest ¼, Southeast ¼, Section Twenty-four (24), Township Ninety-Six (96) North, Range Thirty-six (36) West, of the 5th P.M., Sioux Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on December 12, 2001. No written objections were received. This property is zoned A-1 Agricultural. Sand and gravel pits are permitted in A-1 Agricultural as a special use. This petition meets all the bulk regulations including the soil type of WmB (Wadena Loam), which has a planting suitability of three (3).

Paul Sieh was present to explain his application. Mr. Sieh is the option purchaser of the property. He would continue to farm the above-described property and expand as necessary. Also in attendance were owner of the property, Phyllis Krukow, 3665 280th Avenue, Dickens, IA 51333, and Phil Kohrs, her son-in-law.

Following all discussion, it was moved by Larry Flaharty, seconded by John Olson, to adopt the following resolution:

RESOLUTION

WHEREAS, Paul Sieh, 101 West 18th Street, Spencer, IA 51301, has filed appeal number 31-01 requesting a special use permit for an expansion of existing gravel operation in the Northwest ¼, Southeast ¼, Section Twenty-four (24), Township Ninety-Six (96) North, Range Thirty-six (36) West, of the 5th P.M., Sioux Township, Clay County, Iowa.

WHEREAS, the Zoning Commission has recommended that the special exception use permit for an expansion of existing gravel operation be granted,

WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with no written objections presented.

WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance.

WHEREAS, The Board of Adjustment has determined that the proposed expansion of existing gravel operation will be an appropriate use of the land.

WHEREAS, the Board of Adjustment has determined that the expansion of existing gravel operation shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations.

WHEREAS, the Board of Adjustment has determined that the proposed expansion of existing gravel operation shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity.

WHEREAS, the Board of Adjustment has determined that the proposed expansion of existing gravel operation shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that Paul Sieh shall provide adequate and essential public facilities and services to the proposed expansion of existing gravel operation and comply with all applicable regulations of the A-1Agricultural District in which it is located.

NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for an expansion of existing gravel operation be approved for a tract of land in the Northwest 1/4, Southeast 1/4, Section Twenty-four (24), Township Ninety-Six (96) North, Range Thirty-six (36) West, of the 5th P.M., Sioux Township, Clay County, Iowa.

Roll Call Vote: Flaharty, Christensen, Jones, Olson and Simington voted aye. Motion carried.

There being no further business, it was moved by Larry Flaharty, seconded by John Olson, to adjourn at 8:37 p.m. Roll Call Vote: Flaharty, Christensen, Olson, Simington and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary