

Chairperson Russell Christensen called the meeting to order at 7:03 p.m.

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

The meeting was continued to 7:00 p.m. on March 1, 2004 due to the lack of a quorum.

Tammy McKeever, Secretary – Pro Tem

Chairperson Russell Christensen called the meeting to order at 7:00 p.m.

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

It was moved by Clinton Jones, seconded by Dave Simington, to approve the minutes of meeting number 104 on October 13, 2003 and meeting number 105 on February 23, 2004. Roll call vote: Simington, Jones, Flaharty and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 1-04 of Candy Carstensen & Sarah Kunath, 2305 365th Street, Spencer, IA 51301, for a special exception use permit for a non-farm dwelling located in the Northwest Corner of the Southwest Quarter, Section Twenty (20), Township Ninety-six (96) North, Range Thirty-six (36) West of the 5th P.M., Sioux Township, Clay County, Iowa.

The property is zoned A-1 Agricultural. 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 February 18, 2004. No objections filed by mail or audience

Candy Carstensen & Sarah Kunath, 2305 365th Street, Spencer, IA were present to explain the petition. A 1974 Detroit Mobile Home will be placed on the property for a permanent residence for her daughter to reside. The petitioner provided a picture. The mobile home will be placed on a permanent foundation and rural water will be installed. The petitioner owns 4.45 acres.

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

RESOLUTION

WHEREAS, Candy Carstensen & Sarah Kunath, 2305 365th Street, Spencer, IA 51301 have filed appeal number 1-04 for a special exception use permit for a non-farm dwelling located in the Northwest Corner of the Southwest Quarter, Section Twenty (20), 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 a single-family non-farm dwelling be granted.

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

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

WHEREAS, the Board of Adjustment has determined that the use shall be an appropriate use of the land.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities and services such as rural water and on site septic system.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 exception use permit for a non-farm dwelling be approved for the Northwest Corner of the Southwest Quarter, Section Twenty (20), Township Ninety-six (96) North, Range Thirty-six (36) West of the 5th P.M., Sioux Township, Clay County, Iowa.

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

The time having arrived for the public hearing on petition number 2-04 of Wireless Network Management, Inc., P O Box 164, Milford, IA 51351 for a special use permit to construct a communication tower and a variance to Article V, Section 5 of the Zoning Ordinance on soil type for a parcel of land located in the Southwest Quarter of Section 24, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa.

The property is zoned A-1 Agricultural. 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 February 18, 2004. No objections filed by mail or audience

Dean Lonning, representative for Wireless Network Management, was present to explain the petition. The permit would be for a 160-250' self - supporting communications tower for wireless services- cellular, high-speed wireless, PCS, Data, and E-911. Mr. Lonning explained that federal regulations require the "sharing" of towers by competing companies and that only a small part of the 110' X 110 area will be fenced with the rest remaining in production.

Also in attendance were Jon Hjelm, 1622 1st Avenue Spencer; Chris Bjornstad, 401 Grand, Spencer; & Jim Tidmorp, 119 4th Avenue West, Spencer, all in support of the petition.

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

RESOLUTION

WHEREAS, Wireless Network Management, Inc., P O Box 164, Milford, IA 51351 has filed appeal number 2-04 & 3-04 for a special use permit to construct a communication tower and a variance to Article V, Section 5 of the Zoning Ordinance on soil type for a parcel of land located in the Southwest Quarter of Section 24, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa.

WHEREAS, The Zoning Commission has recommended that the special exception use permit to construct a communication tower be granted.

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

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

WHEREAS, the Board of Adjustment has determined that the use shall be an appropriate use of the land.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities and services such as highway, streets, parking spaces, drainage structures, water supply and sewage disposal; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 exception use permit to construct a communication tower and a variance to Article V, Section 5 of the Zoning Ordinance on soil type be approved for a parcel of land in the Southwest Quarter of Section 24, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa, described as follows to wit: Commencing at the northeast corner of the Southwest Quarter of Section 24, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa, and running from this point north 89 degrees 27 minutes 00 seconds west along the north line of the Southwest Quarter of said Section 24 a distance of 549.92 feet to the point of beginning and running from this point of beginning north 89 degrees 27 minutes 00 seconds west along the north line of the Southwest quarter of said section 24 a distance of 110.00 feet; thence south 0 degrees 00 minutes 00 seconds east parallel with the east lien of the Southwest Quarter of said Section 24 a distance of 110.00 feet; thence south 89 degrees 27 minutes 00 seconds east parallel with the north line of the Southwest Quarter of said Section 24 a distance of 110.00 feet; thence north 0 degrees 00 minutes 00 seconds west parallel with the east line of the Southwest Quarter of said Section 24 a distance of 110.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the east line of the Southwest Quarter of said Section 24 has a bearing of south 0 degrees 00 minutes 00 seconds east. The area of the above parcel of land is 12.099 square feet.

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

There being no further business, it was moved by Dave Simington, seconded by Larry Flaharty, to adjourn at 7:38 p.m. Roll Call Vote: Christensen, Simington, Flaharty & Jones voted aye. Meeting adjourned.

Clinton Jones, Secretary

Chairperson Russell Christensen called the meeting to order at 7:45 p.m.

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

It was moved by David Simington, seconded by Clinton Jones, to approve the minutes of meeting number 106 on March 1, 2004. Roll call vote: Simington, Jones, Flaharty and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 15-04 of Clay Regional Water, 1301 38th Avenue West, Spencer, IA 51301 for a special use permit to construct a well for a parcel of land located in the Southwest Quarter of Section 7, Township 97 North, Range 37 West of the Fifth Principal Meridian, Summit Township, Clay County, Iowa.

The property is zoned A-1 Agricultural. 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 June 16, 2004. No objections filed by mail or audience

Dale Brigham, Clay Regional Water Project Manager and Don Hemphill, Clay Regional Water Attorney, were present to address the request and field any questions. The well will be approximately 50 feet deep. There will be a 400 X 400 square feet wellhead protection area that will be fenced.

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

RESOLUTION

WHEREAS, Clay Regional Water, 1301 38th Avenue West, Spencer, IA 51301 has filed appeal number 15-04 for a special use permit to construct a well for a parcel of land located in the Southwest Quarter of Section 7, Township 97 North, Range 37 West of the Fifth Principal Meridian, Summit Township, Clay County, Iowa.

WHEREAS, The Zoning Commission has recommended that the special exception use permit for a well be granted.

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

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

WHEREAS, the Board of Adjustment has determined that the use shall be an appropriate use of the land.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 exception use permit for a well to serve Clay Regional Water Customers with a safe, reliable, water source be approved for the Southwest Quarter of Section 7, Township 97 North, Range 37 West of the Fifth Principal Meridian, Summit Township, Clay County, Iowa.

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

The time having arrived for the public hearing on petition number 11-04 of Jim & Diane Kitterman, 1612 4th Avenue Southwest, Spencer, IA 51301, for a special use permit to construct a single family non-farm dwelling and a pole barn located in the South ½ of the Southwest ¼, Section 15, Township 96 North, Range 37 West of the 5th P.M., Riverton Township, Clay County, Iowa.

The property is zoned A-1 Agricultural. 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 June 16, 2004. No objections filed by mail or audience

Jim & Diane Kitterman, 1612 4th Avenue SW, Spencer, IA 51301 were present to explain the petition. A pole barn will be built this year with a house being built in 2005.

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

RESOLUTION

WHEREAS, of Jim & Diane Kitterman, 1612 4th Avenue Southwest, Spencer, IA 51301 have filed appeal number 11-04 for a special use permit to construct a single family non-farm dwelling and a pole barn located in the South ½ of the Southwest ¼, Section 15, Township 96 North, Range 37 West of the 5th P.M., Riverton Township, Clay County, Iowa.

WHEREAS, The Zoning Commission has recommended that the special exception use permit to construct a single-family non-farm dwelling and pole barn be granted with an 18-month extension to the start date of building the house.

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

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

WHEREAS, the Board of Adjustment has determined that the use shall be an appropriate use of the land.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities and services such as highway, streets, parking spaces, drainage structures, water supply and sewage disposal; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 exception use permit to construct a single family non-farm dwelling and a pole barn located in the South ½ of the Southwest ¼, Section 15, Township 96 North, Range 37 West of the 5th P.M., Riverton Township, Clay County, Iowa, be approved with an 18-month extension to the start date of building the house.

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

There being no further business, it was moved by Dave Simington, seconded by John Olson, to adjourn at 8:41 p.m. Roll Call Vote: Christensen, Olson, Simington, Flaharty & Jones voted aye. Meeting adjourned.

Clinton Jones, Secretary

Chairperson Russell Christensen called the meeting to order at 7:30 p.m.

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

It was moved by Clinton Jones, seconded by Larry Flaharty, to approve the minutes of meeting number 107 on June 28, 2004 with Christensen indicating he would like to change his vote from abstaining to aye on petition #15-04 of Clay Regional Water. Roll Call Vote: Simington, Flaharty, Jones & Christensen voted aye. Motion carried

The time having arrived for the public hearing on petition number 18-04 of Brian & Shelly Wilson, 2142 300th Street, Spencer, IA, 51301 for a special exception use permit for a non-farm dwelling located in the Southwest Quarter (SW ¼) and the North Half of the Southeast Quarter of Section Twenty-seven (27), Township Ninety-seven (97) North, Range Thirty-seven (37), Summit Township, West of the Fifth Principal Meridian, lying South of the center of the Little Sioux River in said Quarter Sections, being the intention hereof that the North Boundary of said Tract shall be the center line of the Little Sioux River, as same presently flows through said quarter sections, EXCEPT the following described tract: Beginning at the Southeast corner of the Southwest Quarter of said Section Twenty-seven (27) and running from this point of beginning North 90 degrees 00' 00" West (north 90 degrees 00 minutes 00 seconds West) along the South line of the Southwest quarter (SW ¼) of said Section 27 a distance of 705.40 feet; thence north 5 degrees 07' 30" East parallel with the East line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet; thence South 90 degrees 00' 00" East parallel with the South line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 705.40 feet to the East line of the Southwest Quarter (SW ¼) of said Section 27; thence South 5 degrees 07' 30" West along the east line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the South line of the Southwest Quarter (SW ¼) of said Section 27 has a bearing of North 90 degrees 00' 00" West. The area of the above parcel is 10.00 acres, which includes 0.0810 acres of highway right-of-way, 50 feet in width, along the south line of the above-described parcel of land, 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 July 27, 2004. No written objections were received. The property is zoned A-1 Agricultural and a single family non-farm dwelling is allowed as a special use permit. The soil type is WmA, which has a planting suitability of 3. The Zoning Commission recommended that the Board of Adjustment approve the petition.

Brian & Shelly Wilson, 2142 300th Street, Spencer, IA, 51301 were present to explain the application. They have checked and are not in the flood plain. They will be utilizing rural water. They have 60.6 acres of hayfield. The driveway access will be from highway 18.

It was noted that the applicant, Brian Wilson, and his wife, Shelly Wilson, have no objection to normal legal farming activity that will occur around their dwelling.

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

RESOLUTION

WHEREAS, Brian & Shelly Wilson, 2142 300th Street, Spencer, IA, 51301, has filed appeal number 18-04 requesting a special use permit to construct a single family non-farm dwelling located in the Southwest Quarter (SW ¼) and the North Half of the Southeast Quarter of Section Twenty-seven (27), Township Ninety-seven (97) North, Range Thirty-seven (37), Summit Township, West of the Fifth Principal Meridian, lying South of the center of the Little Sioux River in said Quarter Sections, being the intention hereof that the North Boundary of said Tract shall be the center line of the Little Sioux River, as same presently flows through said quarter sections, EXCEPT the following described tract: Beginning at the Southeast corner of the Southwest Quarter of said Section Twenty-seven (27) and running from this point of beginning North 90 degrees 00' 00" West (north 90 degrees 00 minutes 00 seconds West) along the South line of the Southwest quarter (SW ¼) of said Section 27 a distance of 705.40 feet; thence north 5 degrees 07' 30" East parallel with the East line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet; thence South 90 degrees 00' 00" East parallel with the South line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 705.40 feet to the East line of the Southwest Quarter (SW ¼) of said Section 27; thence South 5 degrees 07' 30" West along the east line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the South line of the Southwest Quarter (SW ¼) of said Section 27 has a bearing of North 90 degrees 00' 00" West. The area of the above parcel is 10.00 acres, which includes 0.0810 acres of highway right-of-way, 50 feet in width, along the south line of the above-described parcel of land, Clay County, Iowa.

WHEREAS, the Zoning Commission has recommended that the special exception use permit for a non-farm dwelling 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 granting of the special use permit 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.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 special use permit will not adversely affect the public interest, that said request for a special use permit to construct a single family non-farm dwelling for a parcel of land located in the Southwest Quarter (SW ¼) and the North Half of the Southeast Quarter of Section Twenty-seven (27), Township Ninety-seven (97) North, Range Thirty-seven (37), Summit Township, West of the Fifth Principal Meridian, lying South of the center of the Little Sioux River in said Quarter Sections, being the intention hereof that the North Boundary of said Tract shall be the center line of the Little Sioux River, as same presently flows through said quarter sections, EXCEPT the following described tract: Beginning at the Southeast corner of the Southwest Quarter of said Section Twenty-seven (27) and running from this point of beginning North 90 degrees 00' 00" West (north 90 degrees 00 minutes 00 seconds West) along the South line of the Southwest quarter (SW ¼) of said Section 27 a distance of 705.40 feet; thence north 5 degrees 07' 30" East parallel with the East line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet; thence South 90 degrees 00' 00" East parallel with the South line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 705.40 feet to the East line of the Southwest Quarter (SW ¼) of said Section 27; thence South 5 degrees 07' 30" West along the east line of the Southwest Quarter (SW ¼) of said Section 27 a distance of 620.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the South line of the Southwest Quarter (SW ¼) of said Section 27 has a bearing of North 90 degrees 00' 00" West. The area of the above parcel is 10.00 acres, which includes 0.0810 acres of highway right-of-way, 50 feet in width, along the south line of the above-described parcel of land, Clay County, Iowa. in the SE ¼ of Section Twenty-eight (28), Township Ninety-seven (97) North, Range Thirty-seven (37) West of the 5th P.M., Summit Township, Clay County, Iowa, which will be four (4) acres, more or less be approved.

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

There being no further business, it was moved by Larry Flaharty, seconded by Clinton Jones, to adjourn at 7:45 p.m. Roll Call Vote: Jones, Christensen, Flaharty & Simington voted aye. Meeting adjourned.

Clinton Jones – Secretary

Chairperson Russell Christensen called the meeting to order at 7:36 p.m.

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

It was moved by Clinton Jones, seconded by John Olson, to approve the minutes of meeting number 108 on August 2, 2004. Roll Call Vote: Simington, Flaharty, Olson, Jones & Christensen voted aye. Motion carried

The time having arrived for the public hearing on petition number 22-04 & 23-04 of Ross and Ann Watson, 1101 Broadway, Greenville, Iowa, 51343 for a Special Exception Use Permit for non-farm dwelling and a variance to Article V, Section 5 of the Zoning Ordinance on soil type located in a parcel of land in the Northwest Quarter of Section 12, township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Commencing at the Southeast corner of the Northwest Quarter of Section 12, Township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and running from this point North 88 degrees 02.4 minutes West along the South line of the Northwest Quarter of said Section 12 a distance of 61.78 feet to the West right-of-way line of U.S. Highway No. 71; thence North 1 degree 18.9 minutes West along the West right-of-way line of U.S. Highway No. 71 a distance of 20.00 feet to the point of beginning and running from this point of beginning North 88 degrees 02.4 minutes West a distance of 276.00 feet; thence North 5 degrees 41.3 minutes East a distance of 642.23 feet to the North line of the South Half of the South Half of the Northwest Quarter of said Section 12; thence South 87 degrees 59.1 minutes East along the North line of the South Half of the South Half of the Northwest Quarter of said Section 12 a distance of 205.0 feet to the West right-of-way line of U.S. Highway No. 71; thence South 0 degrees 11.6 minutes West along the West right-of-way line of U.S Highway No. 71 a distance of 281.40 feet; thence South 1 degree 18.9 minutes East along the West right-of-way line of U.S Highway No. 71 a distance of 360.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the East line of the Northwest quarter of said section 12 has a bearing of north 0 degrees 15.8 minutes East. The area of the above parcel of land is 3.507 acres.

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 August 24, 2004. No written objections were received. The property is zoned A-1 agricultural and a single family non-farm dwelling is allowed as a special use permit. The soil type is EcB(Everly Clay Loam) with a planting suitability rating of 1. The Zoning Commission recommended that the Board of Adjustment approve the petition

Ross and Ann Watson, 1101 Broadway, Greenville, Iowa 51343, were present to explain the application. They have approximately 3.5 acres and would build a 1200' house with no basement valued at approximately \$80,000 on the south side of the bobcat dealership. They will have one driveway for both the business and the home due to the Iowa Department of Transportation. They will be utilizing rural water.

It was noted that the applicants, Ross and Ann Watson, have no objection to normal legal farming activity that will occur around their dwelling and that no trees will be planted within 20'

or shrubs within 10' of the lot line. Ross and Ann Watson also went on to explain that the State of Iowa in the 70's had utilized this location as a crushing plant and ruined the soil.

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

RESOLUTION

WHEREAS, Ross and Ann Watson, 1101 Broadway, Greenville, Iowa, 51343, has filed appeal number 22-04 & 23-04 requesting a special use permit to construct a single family non-farm dwelling and a variance to Article V, Section 5 of the Zoning Ordinance on soil type located in the Northwest Quarter of Section 12, township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Commencing at the Southeast corner of the Northwest Quarter of Section 12, Township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and running from this point North 88 degrees 02.4 minutes West along the South line of the Northwest Quarter of said Section 12 a distance of 61.78 feet to the West right-of-way line of U.S. Highway No. 71; thence North 1 degree 18.9 minutes West along the West right-of-way line of U.S. Highway No. 71 a distance of 20.00 feet to the point of beginning and running from this point of beginning North 88 degrees 02.4 minutes West a distance of 276.00 feet; thence North 5 degrees 41.3 minutes East a distance of 642.23 feet to the North line of the South Half of the South Half of the Northwest Quarter of said Section 12; thence South 87 degrees 59.1 minutes East along the North line of the South Half of the South Half of the Northwest Quarter of said Section 12 a distance of 205.0 feet to the West right-of-way line of U.S. Highway No. 71; thence South 0 degrees 11.6 minutes West along the West right-of-way line of U.S Highway No. 71 a distance of 281.40 feet; thence South 1 degree 18.9 minutes East along the West right-of-way line of U.S Highway No. 71 a distance of 360.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the East line of the Northwest quarter of said section 12 has a bearing of north 0 degrees 15.8 minutes East. The area of the above parcel of land is 3.507 acres.

WHEREAS, the Zoning Commission has recommended that the special exception use permit for a non-farm dwelling 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 granting of the special use permit 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.

WHEREAS, the Board of Adjustment has determined that the use 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 use 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 use shall not unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall be served adequately by essential public facilities.

WHEREAS, the Board of Adjustment has determined that the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.

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 special use permit and variance will not adversely affect the public interest, that said request for a special use permit to construct a single family non-farm dwelling and a variance to Article V, Section 5 of the Zoning Ordinance on soil type for a parcel of land located in the Northwest Quarter of Section 12, township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Commencing at the Southeast corner of the Northwest Quarter of Section 12, Township 95 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and running from this point North 88 degrees 02.4 minutes West along the South line of the Northwest Quarter of said Section 12 a distance of 61.78 feet to the West right-of-way line of U.S. Highway No. 71; thence North 1 degree 18.9 minutes West along the West right-of-way line of U.S. Highway No. 71 a distance of 20.00 feet to the point of beginning and running from this point of beginning North 88 degrees 02.4 minutes West a distance of 276.00 feet; thence North 5 degrees 41.3 minutes East a distance of 642.23 feet to the North line of the South Half of the South Half of the Northwest Quarter of said Section 12; thence South 87 degrees 59.1 minutes East along the North line of the South Half of the South Half of the Northwest Quarter of said Section 12 a distance of 205.0 feet to the West right-of-way line of U.S. Highway No. 71; thence South 0 degrees 11.6 minutes West along the West right-of-way line of U.S Highway No. 71 a distance of 281.40 feet; thence South 1 degree 18.9 minutes East along the West right-of-way line of U.S Highway No. 71 a distance of 360.00 feet to the point of beginning. All bearings stated in this description are based on the assumption that the East line of the Northwest quarter of said section 12 has a bearing of north 0 degrees 15.8 minutes East. The area of the above parcel of land is 3.507 acres be approved.

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

There being no further business, it was moved by Larry Flaharty, seconded by Clinton Jones, to adjourn at 7:55 p.m. Roll Call Vote: Jones, Christensen, Olson, Flaharty & Simington voted aye. Meeting adjourned.

Clinton Jones – Secretary

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

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

It was moved by Clinton Jones, seconded by Dave Simington, to approve the minutes of meeting number 109 on August 30, 2004. Roll Call Vote: Simington, Olson, Jones & Christensen voted aye. Motion carried

The time having arrived for the public hearing on petition number 26-04 of Tom Donahue, 3268 335th Avenue, Ruthven, IA 50263 for a variance to Article XI, Section 5 of the Zoning Ordinance on fences for a parcel of land located on lot 10, 11, 12, 13 of Sumner Beach, Section 36, Township 97 North, Range 35 West of the Fifth Principal Meridian, Lake 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 29, 2004. The property is zoned RL Lake Residential. The following written objections were received.

Clay County Zoning Board of Adjustment

Dear Sir,
Concerning the Appeal #26-04. This is a very friendly community around our Lost Island Lake. I don't see the need for a fence between neighbors. I would not like to see a lot of fences between our homes.
Sincerely,

Barbara Lickteig
3236-335th Ave.
Ruthven, IA 51358

Clay County Zoning Board of Adjustment

September, 30 2004

Dear Members,
I would like to urge the Board to deny Mr. Donahue's request for a zoning variance allowing the building of a chain link fence. I feel it will detract from the appearance of the properties on Sumner Beach and will set a precedent that will have to be honored if there are subsequent requests. Thank you for your consideration.

Dave Wyatt
3240-335th Ave.
Ruthven, IA 51358

Sirs,

We are hearing about an application to install a 48" high chain link fence between properties at 3266-335th Ave. Our concern is about the natural beauty of the lake being obscured by so many fences along our lake shore.

Sincerely,

Mr. & Mrs. James Opie
3232-335th Ave.
Ruthven, IA 51358

Wilbert Bielfeldt
3260-335th Ave.
Ruthven, IA 51358

9-29-04

To The Clay County Zoning Board:

In regard to Appeal No. 26-04

I am opposed to granting this variance as the need for this escapes me. The lot line appears to be well defined. Granting this variance may well set a precedent. It is contrary to the original intent of the zoning not to allow fences between properties.

Wilbert Bielfeldt

September 30, 2004

RE: Appeal#26-04 – Thomas Donahue

Clay County Zoning Board,

As the property owner on Sumner Beach, Lost Island Lake at 3254 & 3252-335th Ave. Ruthven, IA. I strongly oppose a 48" chain link fence on the Donahue property line. I think it will set a precedence for the future. Please so not approve this.

Sincerely

Mark A. Klein
Box 128
Wesley, IA 50483

September 28, 2004

RE: Appeal 26-04

Clay County Zoning Board of Adjustment
Clay County Administrative BLDG.
Spencer, IA 51301

Dear Sirs,

I feel that a variance to allow a chain link fence between properties on Sumner Beach would set a precedence for future years. We have been very happy as neighbors with no fences to be able to walk the lake shores and visit with our friends and neighbors. It seems to me that sometimes

fences make enemies. I feel it would be in best interest of all on Sumner Beach to not approve the variance.

Sincerely,
Arlan D. Van Norman
323-3rd Street N.
Swea City, IA 50590
Lake Home: 3258-335th Ave.

September 28, 2004

Clay County Zoning Board of Adjustment
Clay County Administration Building
Spencer, IA 51301

Attn: Board Members

We feel the chain link fence proposed for the boundary between 3268 and 3266-335th Ave. Ruthven, Iowa, should not be approved for the following reasons:

- 1) The aesthetic view of the lake would be destroyed
- 2) It would set a precedent for more-possibly worse-fences, etc.
- 3) There seems to be no actual need for the fence
- 4) Other more attractive means of property division could be used. IE: shrubbery.

Thank you for your concern about this matter

Jerry and Mary Neith
3238-335th Avenue
Ruthven, IA 51358

September 30, 2004

RE: Appeal #26-04 – Thomas Donahue

Clay County Zoning Board,

As a property owner on Sumner Beach, Lost Island Lake at 3254 & 3252-335th Ave. Ruthven, IA. I strongly oppose a 48” link fence on the Donahue property line. I think it will set a precedence for the future. Please do not approve this.

Sincerely,

Mark J. Miller
1809 E. McGregor St.
Algona, IA 50511

Thomas M. Donahue, 3268 335th Avenue, Ruthven was present to explain his application. Mr. Donahue introduced himself and proceeded to address each letter of objection. Mr. Donahue indicated a boundary fence is need because of the adjoining property owner considers his property theirs. Mr. Donahue bought the property in 1993 and was told by the realtor at that time he could put up a fence. Mr. Donahue sited the following reasons for needing the fence: property pins have been removed, high usage of his yard by the neighbor because of his large family, dogs defecating in his yard. Mr. Donahue proposes a 48’ high chain link fence that would set back 2’ to 3’ from the lake.

The following attendees were present to object to the petition: Ron Brockmeyer, Wilbert Bielfeldt, & Jean Petersen. Jean is the new owner of the property to the North where Mr. Donahue has requested installing a fence. Mrs. Petersen indicates she would not be interested in mowing around a fence and does not see the reason for a fence. Mr. Brockmeyer indicated there was never complaints before Mr. Donahue moved in that a fence is not necessary. Mr. Bielfeldt indicated a fence does not support a community effect that most of the Sumner Beach residents enjoy. By providing a variance for one fence a precedent is set. Mr. Bielfeldt there was no need for a fence.

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

RESOLUTION

WHEREAS, Tom Donahue, 3268 335th Avenue, Ruthven, IA 50263 has filed appeal number 26-04 for a variance to Article XI, Section 5 of the Zoning Ordinance on fences for a parcel of land located on lot 10, 11, 12, 13 of Sumner Beach, Section 36, Township 97 North, Range 35 West of the Fifth Principal Meridian, Lake Township, Clay County, Iowa

WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with eight (8) written objections presented.

WHEREAS, the Board of Adjustment has determined that the granting of the variance will not be in harmony with the general purpose and intent of this Ordinance and will be injurious to the neighborhood, or otherwise detrimental to the public welfare.

WHEREAS, the Board of Adjustment has determined that the use shall not 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 use shall 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 use shall unduly diminish or impair established property values in adjoining or surrounding properties.

WHEREAS, the Board of Adjustment has determined that the use shall not be served adequately by essential public facilities.

WHEREAS, the Board of Adjustment has determined that the use does not comply with all conditions imposed on it by the provisions of the district in which such variance may be authorized.

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 variance will adversely affect the public interest, that said request for a variance to Article XI, Section 5 of the Zoning Ordinance on fences for a parcel of land located on lot 10, 11, 12, 13 of Sumner Beach, Section 36, Township 97 North, Range 35 West of the Fifth Principal Meridian, Lake Township, Clay County, Iowa be denied.

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

There being no further business, it was moved by Dave Simington, seconded by Clinton Jones, to adjourn at 9:00 p.m. Roll Call Vote: Jones, Christensen, Olson, & Simington voted aye. Meeting adjourned.

Clinton Jones – Secretary