

Chairperson Russell Christensen called the meeting to order at 7:40 p.m.

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

It was moved by David Simington, seconded by Clinton Jones, to approve the minutes of meeting number 110 on October 4, 2004. All those present voted aye. Motion carried

The time having arrived for the public hearing on petition number 04-05 of Donald & Shayla Tibbetts, 406 Oak Street, Peterson, Iowa for a special exception use permit for a dog kennel located on the East side of the NE ¼ of Section 33, Township 94 North, Range 38 West of the 5th P.M. more particularly described as a piece of land 5 rods wide, East and West, and 16 rods long, North and South, coming out to the line of the highway, situated on the East side of the NE1/4 of Section 33, Township 94, North, Range 38 West of the 5th P.M, Peterson Township, Clay County Iowa.

Tammy McKeever, Zoning Officer, explained the application and reported procedures to date. The property is zone A-1 Agricultural and a dog kennel is allowed as a special use permit. 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 April 13, 2005 and the Peterson Patriot. The following written objection was received.

To: Clay County Zoning Commission and Clay County Board of Zoning Adjustment,

Concerning: Shayla Tibbetts' proposed dog kennel site.

I object to Shayla moving her dog kennel to this site because the close proximity of the site to city limits, the barking of the dogs, and the fact that sometimes the dogs get loose.

City Council members and the mayor have received several complaints from Shayla's neighbors about the dogs barking continuously and running loose. Three letters were sent regarding these issues and her intentions.

The site is not "in the country" it is directly on the city limit line. It is bordered on the east by woods and on the west by county road M27. Every time a deer, raccoon or other wild animal walks by the dogs will bark. Every time a loud or heavy vehicle comes down the hill the dogs will bark. Sounds echo in this location which will make it worse.

I live about 550 feet from the property. I can hear the horses on the property when they whinny. I have no problem with the horses but I would have a problem listening to several dogs barking at all hours of the day and night. An entire city block is within 1000 feet of this property. Eleven young children (nine of them under the age of 8) and eight senior citizens (three of them over 93) live within 1000 feet of this property.

Mrs. Tibbetts does not live on this property to settle the dogs down or put them back in the kennel.

In regards to the letters of support you have received:

I have no idea why the city council would send a letter of support when the property is on the city limits line. The problem is being moved from one end of town to the other.

Mr. Amly (not certain of spelling) is an **absentee** land owner.

The veterinarian did not address the barking, the large number of dogs, or the characteristics of this breed of dog.

Thank you,

Linda Eaton
308 Park Street
Peterson, IA 51047

The following written support letters were received.

To Whom It May Concern:

The City Council of Peterson supports Donnie & Shayla Tibet's in relocating their present dog kennel from the city limits to the out skirts of the city limits. Although, present kennel and dogs have always been well keep the Council agrees such relocation would be the best of the community.

Sincerely,
Peterson City Council
Denise Riley, clerk

To Clay County Zoning Office:

This is in regards to the kennel at Peterson Iowa that Shayla Tibbetts desires. I had purchased a Welsh Corgi from Shayla last year and observed her kennels first hand. The facilities were clean and all the dogs were happy and well taken care of. She is a concintious (sp) handler and breeder.

Thank you,
Connie Braunschweig
Alta Iowa

To Whom It May Concern:

Don and Shayla Tibbetts of 406 Oak St. Peterson, Ia 51047 wish to build a dog facility of their acreage North of Peterson, Ia. They are requesting a special use permit to do this.

I have worked with kennels for 35 years and have found many great people who have raised dogs (Shayla being one of the best). Kennels are a great assist for any community. They provide registered dogs for hunting, companionship, and just good pets. The quantity of wastes would be minimal. The dogs Shayla is raising are normally quite by nature.

If you have any other concerns please fell free to call me at 712-928-2151.

Sincerely,

Charlie T. Schnack DVM

To All This May Concern:

I have known Shayla Tibbets for six years. My husband and I purchased a golden retriever pup from her eighteen months ago, and have been to her home several times since then.

We have seen Shayla associate with her dogs and the condition in which she keeps her kennels. Shayla keeps her kennels and the area in which her dogs run and play very clean, with no odor of feces on the grounds. Her kennels are secure with no chance of her dogs getting out and running around town.

Shayla has a good relationship with her dogs, they are well behaved and kept in good health. She spends a lot of time playing and working with them. The times we have been over at Shaylas the barking of her dogs have been minimal. A dog is a dog and they are going to bark on occasion.

It is in my opinion that Shayla and Donald be given a permit to move the dogs to their acreage.

Sincerely,

Rhonda R. Spaulding

Dear Commissioners:

We own the adjacent property to the north from this proposed project.

I think it is important for all of the communities in Clay Co. to do what they can to create businesses for legitimate purposes, however humble said projects may be.

I want to go on record as being in favor of the proposal, & express my hopes that it will in fact be approved.

Yours very truly,
Rodney B. Amlie & Pearl Amlie Trust & Estate

p.s. Please consider this letter to be addressed to the Board of Adjustment as well
Rod Amlie

Shayla Tibbetts, 406 Oak Street, Peterson was present to explain the application. Donald and Shayla Tibbetts are presenting a petition for a Special Exception Use Permit to build an \$8,000.00 small dog kennel that will house 15-20 dogs. Also in attendance was Nicole Krager, 4994 125th Avenue, Peterson, 51047 in support of the project and Linda Eaton, 308 Park Street, Peterson opposing the project. Ms. Eaton was concerned with barking.

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

RESOLUTION

WHEREAS, Donald & Shayla Tibbetts, 406 Oak Street, Peterson, Iowa has filed appeal number 04-05 for a special exception use permit for a dog kennel located on the East side of the NE ¼ of Section 33, Township 94 North, Range 38 West of the 5th P.M. more particularly described as a piece of land 5 rods wide, East and West, and 16 rods long, North and South, coming out to the line of the highway, situated on the East side of the NE1/4 of Section 33, Township 94, North, Range 38 West of the 5th P.M, Peterson Township, Clay County Iowa.

WHEREAS, the Clay County Zoning Commission has recommended approval of the petition.

WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with one (1) written objection presented.

WHEREAS, the Board of Adjustment has determined that the granting of the special use 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 does comply with all conditions imposed on it by the provisions of the district in which such special 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 will not adversely affect the public interest, that said request for a special use for a dog kennel located on the East side of the NE ¼ of Section 33, Township 94 North, Range 38 West of the 5th P.M. more particularly described as a piece of land 5 rods wide, East and West, and 16 rods long, North and South, coming out to the line of the highway, situated on the East side of the NE1/4 of Section 33, Township 94, North, Range 38 West of the 5th P.M, Peterson Township, Clay County Iowa be approved.

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

There being no further business, it was moved by John Olson, seconded by Clinton Jones, to adjourn at 8:15 p.m. Roll Call Vote: Jones, Flaharty, Christensen, Olson, & Simington voted aye. Meeting adjourned.

Clinton Jones – Secretary

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

Roll Call: Clinton Jones, John Olson and Russell Christensen were present.

Absent: David Simington and Larry Flaharty.

It was Moved by Clinton Jones, Seconded by John Olson to approve and accept the minutes of meeting number 111, on April 18, 2005. Roll Call Vote: Olson, Jones and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 08-05 of Clay Regional Water, 1301 38th Avenue West, Spencer, Iowa 51301 for a special exception use permit under Article V, Section 3, Subsection 13 of the zoning ordinance for a constructed wetland wastewater treatment system to serve the City of Greenville to be located on a 1.621 acre tract of land in the South Half of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County Iowa, described as follows to wit: Commencing at the southeast corner of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County, Iowa and running from this point north 0° 00' east (south 0 degrees 00 minutes 00 seconds east) along the east line of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County, Iowa, a distance of 1,315.32 feet to the northeast corner of the South Half of the Southwest Quarter of said Section 30; thence north 88° 54' 29" west along the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 346.5 feet to the point of beginning and continuing north 88° 57' 29" west along the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 350.00 feet; thence south 1° 41' 22" west a distance of 200.01 feet; thence south 88° 54' 29" east parallel with the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 355.90 feet; thence north 0° 00' 00" east a distance of 200.04 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 30 has a bearing of north 0° 00' 00" east. The area of the above parcel of land is 1.621 acres.

Frank Rouse subbing for the Zoning Administrator, noted that all property owners within 500 feet of the exterior limits of the above described property were notified and a notice was published in the Spencer Daily Reporter. No written objections were received. The property is zoned A-1 Agricultural District and public and private utilities and treatment plants are allowed under a special use permit. Soil types on the parcel are Afton and Sac, which have corn suitability ratings of 75 and 71 respectively. The Zoning Commission recommended that the Board of Adjustment approve the petition.

Dale Brigham of Clay Regional Water explained the proposed project. New septic tanks would be installed for each house in Greenville. The tanks would outlet to a pump at the proposed wetland treatment site. The constructed wetland would consist of perforated pipes, pea rock, peat and wetland vegetation which would function to treat the effluent from the septic tanks. Air would shoot into the pipes periodically to aid in the breakdown of the waste and to prevent freezing in the winter. Low interest government loans and grants will finance the project so that the cost to a homeowner in Greenville is expected to be approximately \$25.00 per month.

The owner of the property, Mary Ellen Jones, and her husband, Curtis Jones, were present to object to the petition. Mary Ellen Jones stated that she had previously signed the option from Clay Regional water to purchase from her the land proposed for the wetland treatment site. She had felt compelled to sign the option when she believed it was the only site that would work for the constructed wetland and that the property would be obtained through condemnation if she were not a willing seller. She subsequently changed her mind as she realized that there may be other alternative locations for the proposed treatment wetland. Curtis Jones stated that he had initially suggested that the wetland be placed on a 3 acre tract of the farm located on the east side of the receiving stream where it would be less disruptive to his farming operations.

Among the items discussed by the Board of Adjustment were the construction, functioning and financing of the treatment system, the loss of prime agricultural land, the negative effect on the existing farming practices and the existence of alternative sites for the treatment wetland. Following all discussion, it was moved by John Olson, Seconded by Clinton Jones to adopt the following resolution:

RESOLUTION

WHEREAS, Clay Regional Water of 1301 38th Avenue West, Spencer, Iowa 51301 has files appeal number 08-05 for a special exception use permit under article V, Section 3, Subsection 13 of the Zoning ordinance for a constructed wetland wastewater treatment system to be located in the S ½ SW ¼ Section thirty (30), Township Ninety-five (95) north, Range Thirty-Six (36) west of the 5th P.M., Gillett Grove Township, Clay County, Iowa,

WHEREAS, The Board of Adjustment has held a public hearing and heard the appeal with objections voiced by two citizens.

WHEREAS, The Board of Adjustment has determined that the granting of the special use permit will not be in harmony with the general purpose and intent of the Zoning Ordinance particularly in regards to the protection of prime agricultural land and will be detrimental to the public welfare.

WHEREAS, The Board of Adjustment has determined that the granting of the special use permit and construction of the wetland would interfere with the efficient farming operations of the adjoining agricultural land and thereby would have a substantial or undue adverse affect upon the adjoining property resulting in the diminishing of its established property value.

WHEREAS, the Board of Adjustment has determined that there may exist alternate sites for the proposed treatment wetland that could be in harmony with the general purpose and intent of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the special exception use permit will adversely affect the public interest, that said request for a special use under Article V, Section 3, Subsection 13 of the Zoning Ordinance for a constructed wetland wastewater treatment system be denied for the tract of land described as follows: A parcel of land in the South Half of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County Iowa, described as follows to wit: Commencing at the southeast corner of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County, Iowa and running from this point north 0° 00' east (south 0 degrees 00

minutes 00 seconds east) along the east line of the Southwest Quarter of Section 30, Township 95 North, Range 36 West of the Fifth Principal Meridian, Clay County, Iowa, a distance of 1,315.32 feet to the northeast corner of the South Half of the Southwest Quarter of said Section 30; thence north 88° 54' 29" west along the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 346.5 feet to the point of beginning and continuing north 88° 57' 29" west along the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 350.00 feet; thence south 1° 41' 22" west a distance of 200.01 feet; thence south 88° 54' 29" east parallel with the north line of the South Half of the Southwest Quarter of said Section 30 a distance of 355.90 feet; thence north 0° 00' 00" east a distance of 200.04 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 30 has a bearing of north 0° 00' 00" east. The area of the above parcel of land is 1.621 acres.

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

There being no further business, it was moved by John Olson, Seconded by Clinton Jones to adjourn at 8:07pm. Roll Call Vote: Olson, Jones and Christensen voted aye. Flaharty and Simington were absent. Motion carried.

Frank Rouse, Acting Secretary

Chairperson Russell Christensen called the meeting to order at 9:00 pm.

Roll Call: Clinton Jones, John Olson, David Simington and Russell Christensen were present.

Absent: Larry Flaharty.

It was Moved by John Olson, Seconded by Clint Jones to approve and accept the minutes of meeting number 112, on June 6, 2005. Roll Call Vote: Olson, Jones, Simington and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 20-05 of Clay Regional Water, 1301 38th Avenue West, Spencer, Iowa 51301 for a special exception use permit under Article V, Section 3, Subsection 13 of the zoning ordinance to construct three (3) new wells on property in the West half of the Southwest Fractional Quarter AND the West half of the Northwest Fractional Quarter ALL in Section 18, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa; and the Southwest Quarter of the Northeast Quarter AND the East half of the East half of the Northwest Quarter AND the Southwest Quarter AND the North Half of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter AND West 8 rods of the Northwest Quarter of the Northeast Quarter, ALL in Section 7, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa.

Tammy McKeever, Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior of the above-described properties were notified and a notice was published in the Daily Reporter. No written objections were received. The property is zoned A-1 Agricultural and wells are permitted as a special use. The soil type is WmA, which has a planting suitability of 3. The Zoning Commission recommended that the Board of Adjustment approve the petition with the following conditions: 1) The three old wells be capped in a timely manner. 2) Clay Regional Water will not exceed their DNR water withdrawal permit of 300,000 million gallons per year.

Rod Steuben, Clay Regional Water, 1301 35th Avenue West, Spencer, Iowa was present to explain the petition. Clay Regional Water is requesting the special use permit to construct three (3) new wells to replace three (3) older wells. They have an option to purchase from Stan Snyder. Each site will be 400' X 400' because of state dictated setbacks. There is no foreseen change in the water table. The old wells would be capped in a timely manner. Clay Regional Water has a water withdrawal permit from the Iowa Department of Natural Resources to pump 350,000 gallons of water per day. This is monitored on a weekly basis. The new wells will be 35-40 feet deep with steel casings. The dirt from the new wells will then be used in the closure of the old wells. The approximate cost of the work involved for the three new wells is \$150,000.00. By placing the wells North of the Williams Pipeline they are providing additional wellhead protection.

Also in attendance was Ray Dirksen, 1585 290th, Everly; Orlin Wimmers 1645 290th Street, Spencer; Arlene Griffin, 3040 160th Avenue, Everly; & Tom W. Griffin, 3040 160th Avenue, Everly. All were opposed to the petition. Many of their concerns were the effect it may have on personal wells and water levels.

Mike Anderson, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa; Julie Sievers, Iowa Department of Natural Resources, 1900 North Grand Avenue,

Spencer; and Randy Van Dyke, Clay Regional Water, 1301 35th Avenue West, Spencer were also present to answer questions regarding water withdrawal.

Irrigation was discussed extensively. Any increase in water privileges to Clay Regional Water would be a concern for the citizens and the Board of Adjustment. They would want their irrigation and water use rights to be preserved. Currently Clay Regional Water has a water withdrawal permit for 300,000 million gallons per year. This particular aquifer would have approximately 416 million gallons per year available.

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

RESOLUTION

WHEREAS, Clay Regional Water of 1301 38th Avenue West, Spencer, Iowa 51301 has filed appeal number 20-05 for a special exception use permit under article V, Section 3, Subsection 13 of the Zoning ordinance to construct three (3) new wells on property in the West half of the Southwest Fractional Quarter AND the West half of the Northwest Fractional Quarter ALL in Section 18, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa; and the Southwest Quarter of the Northeast Quarter AND the East half of the East half of the Northwest Quarter AND the Southwest Quarter AND the North Half of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter AND West 8 rods of the Northwest Quarter of the Northeast Quarter, ALL in Section 7, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa.

WHEREAS, The Zoning Commission has recommended that the special exception use permit be approved with the following conditions: 1) The three old wells be capped in a timely manner. 2) Clay Regional Water will not exceed their DNR water withdrawal permit of 300,000 million gallons per year.

WHEREAS, The Board of Adjustment has held a public hearing and heard the appeal with objections voiced by eleven (11) citizens.

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 the Zoning 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 does comply with all conditions imposed on it by the provisions of the district in which such special 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 will not adversely affect the public interest, that said request for a special use be approved.

NOW, THEREFORE, BE IT RESOLVED since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the special exception use permit will not adversely affect the public interest, that said request for a special use under Article V, Section 3, Subsection 13 of the Zoning Ordinance to construct three (3) new wells on property in the West half of the Southwest Fractional Quarter AND the West half of the Northwest Fractional Quarter ALL in Section 18, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa; and the Southwest Quarter of the Northeast Quarter AND the East half of the East half of the Northwest Quarter AND the Southwest Quarter AND the North Half of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter AND West 8 rods of the Northwest Quarter of the Northeast Quarter, ALL in Section 7, Township 97 North, Range 37 West of the 5th P.M., Clay County, Iowa, be approved with the following conditions. 1) That two of the old wells will be properly plugged within one year of drilling the new wells and the third well will be properly plugged within two years of drilling new wells. 2) Clay Regional Water will not exceed their Iowa Department of Natural Resources water withdrawal permit of 300,000 million gallons per year.

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

There being no further business, Chairperson Russ Christensen adjourned the meeting at 10:10 p.m.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 8:00 pm.

Roll Call: Clinton Jones, Russell Christensen, and David Simington (by speaker phone) were present. Absent: Larry Flaharty & John Olson.

It was Moved by Clinton Jones, Seconded by David Simington to approve and accept the minutes of meeting number 113, on September 19, 2005. Roll Call Vote: Jones, Simington and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 25-05 of William and Kimberly McCune, 2590 310th Street, Spencer, IA 51301 for a variance to Article XVI, Section 2, subsection 5 (c) of the Zoning Ordinance that no detached accessory building be permitted within the limits of a front yard on land located in the southeast quarter of the southeast quarter, Section 22, Township 97 North, Range 36 West of the Fifth Principal Meridian, Meadow Township, Clay County, Iowa.

Tammy McKeever, Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior of the above-described properties were notified and a notice was published in the Daily Reporter. No written objections were received. The property is zoned A-1 Agricultural.

William and Kimberly McCune were present to explain the petition. The McCunes would like to build an accessory building that would extend in front of their house. There is a driveway between the house and the proposed accessory building. This was originally two acreages and has been converted to one.

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

RESOLUTION

WHEREAS, William & Kimberly McCune, 2590 310th Street, Spencer, Iowa have filed appeal number 25-05 for a variance to article XVI, Section 2, Subsection 5(c) of the Zoning ordinance that no detached accessory building be permitted within the limits of a front yard on land located in the southeast quarter of the southeast quarter, Section 22, Township 97 North, Range 36 West of the Fifth Principal Meridian, Meadow Township, Clay County, Iowa.

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 granting of the variance will be in harmony with the general purpose and intent of the Zoning 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 does comply with all conditions imposed on it by the provisions of the district in which such special 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 variance will not adversely affect the public interest, that said request for a variance be approved.

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

The time having arrived for the public hearing on petition number 26-05 of Dennis & Lana Dallman, 2920 210th Avenue, Dickens, IA 51333 for a variance to Article XVI, Section 2, subsection 5 (c) of the Zoning Ordinance that no detached accessory building be permitted within the limits of a front yard on land located in the West Half (W1/2) of the Northwest Quarter (NW ¼) of Section 15, Township Ninety-seven (97) North, Range Thirty-five (35) West of the 5th Principal Meridian, Lake Township, Clay County, Iowa.

Tammy McKeever, Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior of the above-described properties were notified and a notice was published in the Daily Reporter. No written objections were received. The property is zoned A-1 Agricultural.

Dennis & Lana Dallman were present to explain the petition. The Dallman's would like to build an accessory building that would extend in front of their house. There is a driveway between the house and the proposed accessory building. The accessory building would be replacing an existing building. Also in attendance was Shannon Dallman who was in support of the petition.

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

RESOLUTION

WHEREAS, Dennis & Lana Dallman, 2920 210th Avenue, Dickens, IA 51333 have filed appeal number 26-05 for a variance to Article XVI, Section 2, subsection 5 (c) of the Zoning Ordinance that no detached accessory building be permitted within the limits of a front yard on land located in the West Half (W1/2) of the Northwest Quarter (NW ¼) of Section 15, Township Ninety-seven (97) North, Range Thirty-five (35) West of the 5th Principal Meridian, Lake Township, Clay County, Iowa.

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 granting of the variance will be in harmony with the general purpose and intent of the Zoning 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 does comply with all conditions imposed on it by the provisions of the district in which such special 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 variance will not adversely affect the public interest, that said request for a variance be approved.

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

There being no further business, Chairperson Russ Christensen adjourned the meeting at 8:45 p.m.

Clinton Jones - Secretary

Vice Chairperson John Olson called the meeting to order at 8:00 p.m.

Roll call: Clinton Jones, David Simington, Larry Flaharty, and John Olson were present.
Absent: Russell Christensen.

It was moved by Clinton Jones, seconded by Larry Flaharty to approve and accept the minutes of meeting number 114, on October 17, 2005. Roll call vote: Jones, Simington, Flaharty and Olson voted aye. Motion carried.

The time having arrived for the public hearing on petition number 29-05 of Tim and Patricia Campbell of 584 Dam Road, Arnolds Park, IA 51331, for a special exception use permit for a non-farm dwelling located in the Northeast Quarter of Section 26, Township 97 North, Range 37 West of the Fifth Principal Meridian, Summit Township, Clay County, Iowa.

Frank Rouse, subbing for the Zoning Administrator, noted that all property owners within 500 feet of the exterior of the above-described property were notified and a notice was published in the Spencer Daily Reporter. No written objections were received. The Zoning Commission recommended approval of the request.

Tim Campbell was present to explain the request. After purchasing the property on tax sale, it was decided that the existing buildings should be buried. He would like to divide the 5-acre parcel into two tracts of land and place a house on each tract.

In discussion, the Board of Adjustment noted that one single-family non-farm dwelling is allowed on the site, but that a special exception use permit would be required for a second one. It was questioned whether a variance of the bulk regulation on density would be necessary if the second dwelling were to be located in a different ¼, ¼ section.

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

RESOLUTION

WHEREAS, Tim and Patricia Campbell, 584 Dam Road, Arnolds Park, Iowa have filed appeal number 29-05 for a special exception use permit under Article V, section 5, subsection 1, to allow the following described parcel of land to be divided into two parcels with a single-family non-farm dwelling to be allowed on each new parcel:

A parcel of land in the Northeast Quarter (NE ¼) of Section Twenty-six (26), Township Ninety-seven (97) North, Range Thirty-seven (37) West of the 5th P.M., Clay County, Iowa, described as follows: Commencing at the Northeast corner of Northeast Quarter (NE ¼) of said Section 26; thence South 00°00' 00" West along the east line of said Northeast Quarter (NE ¼) a distance of 1105.70 feet

to the point of beginning; thence North 90°00' 00" West a distance of 531.60 feet; thence South 01° 11' 00" West a distance of 417.26 feet; thence South 90°00' 00" East a distance of 540.25 feet; thence North 00°00' 00" East a distance of 417.16 feet to the point of beginning. The area of this parcel is 5.133 acres, including 0.316 acres of county highway easement. The east line of the Northeast Quarter (NE ¼) of said Section Twenty-six (26) is assumed to bear North 00°00' 00" East.

WHEREAS, the Clay County Zoning Commission has recommended approval of the petition.

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 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 does comply with all conditions imposed on it by the provisions of the district in which such special 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 variance will not adversely affect the public interest, said request for a special exception use permit for two non-farm dwellings and a variance of the density regulation be approved.

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

The time having arrived for the public hearing on petition number 30-05 of James Kitterman, 3580 190th Avenue, Spencer, IA 51301, for a special exception use permit under Article V, section 3, subsection 16 for a dog kennel to be located in the South Half of the Southwest Quarter, Section 15, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa. It was noted that all property owners within 500 feet of the exterior limits of the above-described properties were notified and a notice was published in the Spencer Daily Reporter. No written objections were received. The Zoning Commission recommended approval of the request.

Jim Kitterman explained that he would like to train hunting dogs. Each dog would stay at his kennel for approximately two months. A portion of an existing pole barn would be remodeled to house the dogs. The maximum number of dogs at any one time, including his own, would not exceed ten.

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

RESOLUTION:

WHEREAS, James Kitterman, 3580 190th Avenue, Spencer, Iowa has filed appeal number 30-05 for a special exception use permit under Article V, Section 3, subsection 16 for a dog kennel to be located in the South Half of the Southwest Quarter, Section 15, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa.

WHEREAS, the Clay County Zoning Commission has recommended approval of the petition.

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 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 does comply with all conditions imposed on it by the provisions of the district in which such special use may be authorized.

NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to testimony presented at this public hearing, that the granting of the special exception use permit will not adversely affect the public interest, that said request for a dog kennel be approved with a limit of no more than ten dogs, including the applicant's own dogs, to be present at any time in the South Half of the Southwest Quarter, Section 15, Township 96 North, Range 37 West of the Fifth Principal Meridian, Riverton Township, Clay County, Iowa.

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

There being no further business, the meeting was adjourned by Vice Chairperson John Olson at 8:24 p.m.

Clinton Jones- Secretary