

**MINUTES OF THE MEETING OF THE
ALLAMAKEE COUNTY BOARD OF ADJUSTMENTS**

January 14, 2015

Board of Supervisors Office, First Floor, Courthouse, Waukon, Iowa

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte.

Roll call of Commission Members:			Term Expires
	Gwen Brainard	Absent	12/31/2015
Chair	Bernard Pratte	Present	12/31/2016
Vice-Chair	Nancy Walleser	Present	12/31/2017
	Dennis Keatley	Present	12/31/2018
	Steve Weymiller	Present	12/31/2019

Planning and Zoning Staff present: Tom Blake, Zoning Administrator. All Board members voting “AYE” unless noted. MCU means Motion Carried Unanimously.

Walleser made a motion to approve the Agenda as presented. Weymiller seconded. MCU.

Weymiller made a motion to approve the November 5, 2014 minutes as presented. Keatley seconded. MC U.

Public Hearings

1. Dave Jacobsen, 1896 Great River Road, Lansing, IA – Application for a variance to allow a residence be built that will be located in the required side and rear yards. North ½ of Lot X in Lot 1 in Lot 4 in GL 1, Section 3, T98N, R3W. Blake presented a staff report detailing the existing conditions on the lot and any issues related to the setbacks and proposed construction. The neighbors did not voice opposition, except one was concerned if view from his property (behind Jacobsen’s) would be negatively impacted due to the location of the structure. Blake expressed concern regarding the proposed driveway slope and where storm water would be diverted to. Keatley made a motion to approve the variance request upon the conditions that the driveway grade be less than 12%, the structure be single story and that storm water from structure be diverted away from the neighbors. Weymiller seconded. Ayes: Keatley, Pratte, Walleser, Weymiller. Nays: None. Motion Carried.

New Business

None.

Old Business

None.

Walleser made a motion to adjourn. Keatley seconded. MCU.

Thomas Blake, Zoning Administrator

**MINUTES OF THE MEETING OF THE
ALLAMAKEE COUNTY BOARD OF ADJUSTMENTS**

February 19, 2015

Board of Supervisors Office, First Floor, Courthouse, Waukon, Iowa

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte.

Roll call of Commission Members:			Term Expires
	Gwen Brainard	Absent	12/31/2015
Chair	Bernard Pratte	Present	12/31/2016
Vice-Chair	Nancy Walleser	Present	12/31/2017
	Dennis Keatley	Absent	12/31/2018
	Steve Weymiller	Present	12/31/2019

Planning and Zoning Staff present: Tom Blake, Zoning Administrator. All Board members voting “AYE” unless noted. MCU means Motion Carried Unanimously. Others in attendance- Fred Delphey, Norman Delphey, Brian Benzing, Nancy Schoon, Tracy Bean, Luke Howard, Tom Gavin, Jim O’Neill, Shane Gavin, Steve Hawes, Father John Moser.

Weymiller made a motion to approve the Agenda as presented. Walleser seconded. MCU.

Walleser made a motion to approve the January 14, 2014 minutes as presented. Weymiller seconded. MC U.

Public Hearings

1. James O’Neill, Great River Road, Lansing, IA, – Application for a conditional use to allow establishment of a campground on property located SW of the interstecion of Wexford Hollow Drive and Great River Road, located in the North ½ of the SE ¼, Section 25, T98N, R3W. An copy of the application for the conditional use and a site plan were submitted to the Board members. Zoning Administrator Blake presented a staff report detailing 1) the existing conditions on the property, floodplain and bluffland issues, access, area property owners list and responses to notices sent to adjoining property owners, DNR and County staff, site plan requirements, conditional use standards and a recommendation to conditionally approve the use permit request.

Board members discussed application with property owner/applicant, Jim O’Neill. Jim advised that he would start with may 12 sites and see how it went. He did converse with fisheries about streambank stabilization, fish stocking of stream and the use generally. He met with the parish board and discussed the proposed use with them. He plans on installing electric to sites along with water. The sewage plans are to collect from RV’s when necessary and put in a holding tank for pumpout at a later time. He advised that he will have a dumpster or dumpsters for trash. The spots would likely be rented on a seasonal basis, but he may have a couple for those that want to stay for shorter periods. He will not allow ATV use in the campground or surrounding land. When questioned, he

said he would draft campground rules and set quiet hours so that it would not disturb neighbors.

Steve Hawes addressed the Board, asking them to weigh the pro's and con's of the proposal and then deny the permit. The parish board, represented by Mr. Gavin, felt that there were too many unanswered questions to be in favor of the proposal at this time. Father Moser advised that he was more comfortable with the campground due to the thoroughness of the P&Z process, Administration and the overall process.

The Board discussed the general benefit to the County of campgrounds and development of the rural tourism.

Fred Delphey advised that most of the sites were in the flood plain and that the entire area had flooded recently, with 2" over most of the area. Rural development has to end sometime or you lose what attracted people to the area.

Steve Hawes felt that it should be denied due to impact to the heritage of the area, flood plain and plan not making sense.

Norman Delphey was concerned that people coming to use the campground would be drinking and partying, disrupting the peace of the area.

Nancy Schoon questioned whether this would become a little subdivision and the neighbors would have to deal with the noise and intrusion. She was also concerned that floods would deposit debris on her property and that more people would be using her land for fishing, etc. The Board questioned O'Neill about this and he agreed that rules would need to be set and the area policed and evicting those persons that did not abide by the rules. He would printout a camping form with the rules on it and that would be given to the campers when they check in.

Weymiller addressed the group in attendance, pointing out that the Board has a list of standards that are set in the ordinance and, if the standards are met, the Board must approve the application and that standards for flood plain development exist and this use must abide by those rules. Walleser concurred that the Board needed to go by the rules set out in the ordinance.

Blake explained all of the standards that the use/application must meet in order to be granted a conditional use permit and that those standards were ongoing.

Weymiller made a motion to approve the conditional use permit application submitted by James O'Neill, finding that his application met all of the conditional use permit standards. Walleser seconded. MCU.

New Business

None.

Old Business

None.

Walleser made a motion to adjourn. Weymiller seconded. MCU.

Thomas Blake, Zoning Administrator

**MINUTES OF THE MEETING OF THE
ALLAMAKEE COUNTY BOARD OF ADJUSTMENTS**

May 6, 2015

Board of Supervisors Office, First Floor, Courthouse, Waukon, Iowa

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte.

Roll call of Commission Members:			Term Expires
	Gwen Brainard	Present	12/31/2015
Chair	Bernard Pratte	Present	12/31/2016
Vice-Chair	Nancy Wallerer	Present	12/31/2017
	Dennis Keatley	Present	12/31/2018
	Steve Weymiller	Present	12/31/2019

Planning and Zoning Staff present: Tom Blake, Zoning Administrator. All Board members voting "AYE" unless noted. MCU means Motion Carried Unanimously.

Wallerer made a motion to approve the Agenda as presented. Weymiller seconded. MCU.

Wallerer made a motion to approve the February 19, 2015 minutes as presented. Keatley seconded. MC U.

Public Hearings

1. David and Pamela Kruger, Conditional Use Application for a Home Industry, Establish wine production, tasting and event center (Empty Nest Winery) on property located at 1352 Apple Road, Waukon, Iowa – To be located in the SE ¼ of the NE ¼, Section 32, T98N, R6W. Allamakee County. A copy of the application for the conditional use and site plan were submitted to the Board members. Zoning Administrator Blake presented a staff report that evaluated the conditional use standards and a recommendation to approve the use permit request.

Board members discussed application with property owner/applicant. Parking requirements and driveway access location and size were discussed. Owners planned on creating the parking and drive just off of the existing driveway, planning for 80 parking spaces. Blake advised that should be sufficient and that the owners had overflow parking area available on-site. Each of the conditional use standards were discussed. Wallerer made a motion to approve the conditional use permit request, finding that it met all of the standards/criteria for approving the request. Brainard seconded. MCU.

New Business

None.

Old Business

None.

Wallerer made a motion to adjourn. Keatley seconded. MCU.

Thomas Blake, Zoning Administrator

**MINUTES OF THE MEETING OF THE
ALLAMAKEE COUNTY BOARD OF ADJUSTMENTS**

August 19, 2015

Board of Supervisors Office, First Floor, Courthouse, Waukon, Iowa

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte.

Roll call of Commission Members:			Term Expires
	Gwen Brainard	Present	12/31/2015
Chair	Bernard Pratte	Present	12/31/2016
Vice-Chair	Nancy Wallerer	Present	12/31/2017
	Dennis Keatley	Present	12/31/2018
	Steve Weymiller	Present	12/31/2019

Planning and Zoning Staff present: Tom Blake, Zoning Administrator. All Board members voting "AYE" unless noted. MCU means Motion Carried Unanimously.

Weymiller made a motion to approve the Agenda. Wallerer seconded. MCU.

Wallerer made a motion to approve the May 6, 2015 minutes as presented. Weymiller seconded. MCU.

Public Hearings

1. Brian Madigan, Conditional Use Application for a Home Industry, Establish wine production, tasting and retail center (Madigan Winery) on property located at 1532 Lily Road, Lansing, Iowa – To be located in Lot 2 and Lot 1 of 1, NW ¼ of the SE ¼, Section 19, T98N, R2W. Allamakee County. A copy of the application for the conditional use and site plan were submitted to the Board members. Zoning Administrator Blake presented a staff report that evaluated the conditional use standards and a recommendation to approve the use permit request upon conditions that Madigan finish the process to acquire the property that is part of this request (Lot 1 of 1) and to property permit the septic system for the residence and winery building. Board members discussed application with property owner/applicant. The questions of land ownership, septic system, parking and traffic impacts were discussed. Madigan advised that the property had been surveyed and the current owners of the property had recently changed prior to completing the land transfer. Wallerer opposed approving any use until land ownership was completed. Weymiller advised he was inclined to conditionally approve so that the permit/use could be issued upon meeting the conditions. Weymiller made a motion to approve the use permit upon the conditions that 1) Madigan demonstrates ownership of parcel via a recorded deed, 2) the septic system is approved by the County Environmental Health office and the traffic impacts are reviewed after one year. Brainard seconded. Ayes, Weymiller, Keatley, Brainard, Pratte. Nays, Wallerer. Motion Carried.
2. Lundy, Dale and Norma; Application for a variance from the minimum parcel area and width to allow a division of property for sale or transfer that is less than the minimum of one acre in an R2 zone. Lots 8, 9 and 10, Lansing Heights Subdivision, NE ¼ NE ¼, Section 19, T99N, R3W, Allamakee County, Iowa; 2176 Highway 26, Units 8 and 9,

Lansing, Iowa. The public hearing was opened. Blake presented the staff report and recommended approval of the request, finding that the variance would not lead to a more dense development than currently existed and finding that the Lundy's would lose substantial value if the property could not be sold/transferred in the same manner as acquired by the Lundy's (two separate parcels acquired at two distinct and separate times from two different previous owners.) Lundy's presented their plans, explaining that they had sold 15 feet of Lot 10 to the neighbor to the south, not knowing that the ordinance did not allow that. They also explained that they wanted to be able to sell the remainder of Lots 8, 9 and 10 as two separate parcels, noting that they were developed as two parcels with two completely separate cabins and waste systems on each. Keatley made a motion to approve the variance request, allowing the Lundy's to sell the south 15 feet of Lot 10 to the owner of Lot 11 and to allow the Lundy's to divide Lot 8, 9 and the north 35 feet (remainder) of Lot 10 into two legal parcels, provided that no setback issues were created by the division. Weymiller seconded. MCU.

New Business

An appeal of the Zoning Administrators interpretation of sections of the zoning ordinance. Ted Peck, Scott, Terry and Chris Schoh, represented by Attorney Erik Fern, have filed an appeal of the sections defining single family and roomer (section 115.4 (51)) and Single Family Dwelling (section 115.4 (43)). Blake presented a brief position paper informing the Board of how he interpreted the terms and definitions of single family and single family dwelling and how this applies in the instance of Gary Thorson's use and design of his residence at 2713 High View Lane, New Albin. Blake maintains that the residence can be designed for OR used as a single family residence and that a roomer, residing in that dwelling unit may have separate cooking and bathing facilities as long as there are no more than three unrelated persons living in the structure, since this meets the use, single family dwelling. Blake advised that not allowing more than one bathing or cooking facilities, and doors on stairwells, would narrow the definition of single family structure and would prohibit extended families from living together in the same dwelling. In fact, a structure could have multiple sections, as long as it was used by a 'single family'.

Erik Fern, of Putnam, Fern and Thompson, advised the Board that they disputed Blake's interpretation of Thorson's use as single family (as long as there were no more than three people residing there) since Thorson has reconstructed the dwelling to a multi-family structure. Fern presented definitions of roomer and single family dwelling as defined in the Landlord Tenant Law of Iowa (Iowa Code). Whether or not Thorson has no more than three unrelated persons living there is not applicable since Thorson has three dwelling units in the building with separate bathing and cooking facilities that are physically separated by a locked door. Ted Peck and Scott and Chris Schoh gave the Board some history and current activity regarding the use of the property.

Ads for the sale of a property were given to the Board, showing that the property was being advertised as a multi family dwelling. Walleser, after reviewing ads, stated that they did not have any information about the property (ownership or location).

Fern and others felt that Thorsons use of the well and road were disproportionate due to his renting to others, placing more demand on the infrastructure.

Fern stated that the building does not qualify to be classified as a single family dwelling and asked Board to enjoin Thorson from use. Thorson has separate tenants in separate dwelling units in the structure and multi family use is not allowed in this district.

Ted Peck presented photos of persons accessing property. Thorson profits from an illegal use of his property and this use places burdens on the neighbors sharing the road and well. He has provided photos to the County Attorney. People are coming and going at all hours. Thorson has not paid for road maintenance. Reihm had to get a judgement to get Thorson to pay.

Pratte advised that this is an interpretation of the ordinance and these road and well complaints were not part of the subject matter, the appeal of interpretation of the ordinance.

Scott Schoh approached the Board and stated that the laws were written to prevent this type of thing, that 7-10 people were living there and the law needs to be enforced. There are separate entries and stairwells to the separate units. If the board members had to live next to that how would you feel about it?

Weymiller asked the appellants, who is living there now? Scott Schoh, 4 people, Gary, another couple and another single person. Blake advised that if it can be proved that more than three unrelated persons were living there, Thorson is in violation and shall be cited for illegal use.

Chris Schoh advised that the constant traffic, with rain, leads to a dangerous situation because it causes the road to wash out, without regular maintenance. It is creating a dangerous situation. Also, his water use exceeds everyones. Frawley cut in own driveway because Gary would not bring the road up to standards. It is clear that Gary Thorson is violating the ordinance. Also, the Administrator and Attorney are negligent and are not performing their jobs. Blake has a conflict of interest, his family partnership rents farm ground to Gary's brother and the families have known each other for many years.

Blake advised that he did not have a conflict of interest and that he was performing his job.

Chris Schoh asked the Board to order Gary to open up his house (remove locked doors) and allow all persons free access to all areas of the house.

Fern followed up, stating that the doors, separating the units, create a physical separation and converts the single family use to a multi-family use.

The public hearing was closed. After discussion, it was decided that the County Attorney's office needed to comment on the appeal. Walleser made a motion to table the item until the next meeting and to obtain a interpretation from the County Attorney's office. Pratte seconded. MCU

Old Business

None.

Walleser made a motion to adjourn. Weymiller seconded. MCU.

Thomas Blake, Zoning Administrator

**MINUTES OF THE MEETING OF THE
ALLAMAKEE COUNTY BOARD OF ADJUSTMENTS**

September 9, 2015

Board of Supervisors Office, First Floor, Courthouse, Waukon, Iowa

Meeting was called to order at 4:30 P. M. by Chairman Dr. Bernard Pratte.

Roll call of Commission Members:			Term Expires
	Gwen Brainard	Present	12/31/2015
Chair	Bernard Pratte	Present	12/31/2016
Vice-Chair	Nancy Walleser	Present	12/31/2017
	Dennis Keatley	Present	12/31/2018
	Steve Weymiller	Absent	12/31/2019

Planning and Zoning Staff present: Tom Blake, Zoning Administrator. All Board members voting "AYE" unless noted. MCU means Motion Carried Unanimously.

Walleser made a motion to approve the Agenda. Brainard seconded. MCU.

Walleser made a motion to approve the August 19, 2015 minutes as presented. Keatley seconded. MCU.

Public Hearings

1. Wayne Dettmer, Variance application to allow a portion of a parcel to be sold or transferred to a neighboring property owner that results in remaining parcel to be less than one acre in an R-2 zone. Property is located at 1941 Lansing Harpers Road, Lansing, Iowa. Dettmer owns Lots 103, 104, 105, 106 and 107, all located in the NE ¼ SE ¼, Section 32, T99N, R3W. Dettmer recently purchased the property from Jean Rosauer. Jean had two residences on the property, but it was all held in common ownership. She had applied for a variance to allow her to sell the two residences separately, but the variance was denied because there was not provision for a septic for one of the residences (mobile home). Dettmer purchased both, and removed one of the residences and some accessory buildings from the fully developed parcel. The sale to the neighbor of the portion of the property will allow the neighbor to gain area for the future establishment of a septic system that meets code. Blake presented that staff report. Staff is recommending approval since it will improve the situation for the neighbor and will not have an apparent detrimental impact to the existing property. The end result will be two residences where there were three and both residences will have area for a septic system, where only one system currently exists that would pass a Time of Transfer inspection. Brainard made a motion to approve the variance as requested upon the finding that the property owner and the neighboring property owner have a hardship because they cannot establish a septic system on the property they currently own and this will allow them to transfer the property for establishing a septic system. Pratte seconded. Ayes: Walleser, Keatley, Brainard, Pratte. Nays: None. Motion Carried.
2. Steve Menuey, Variance Application to reduce the required front and side yard setbacks to allow a carport be placed 3 feet from the side yard and 2 feet from the front yard/county right of way. Blake presented a staff report, recommending approval of a

variance for a 4 foot side yard, upon the condition that the owner divert storm water away from the neighbors lot. The variance is being recommended because the lots are non-conforming and there is no other area to place a garage or similar structure. The front yard is not deep enough if the carport was set to meet the side yard requirement. Keatley made a motion to approve the variance request upon the condition that the owner divert storm water away from neighbors lot. Brainard seconded. MCU.

New Business

None.

Old Business

Madigan, Brian; Application for a conditional use to allow establishment of a winery on Lily Road, Lansing, Iowa. This public hearing had been held and action tabled until ownership of the parcel was completed by the applicant. Blake advised that the deed's had been prepared and recorded and Madigan now owned the property where the building was located. Since the Board action was to approve the conditional use upon the condition that Madigan is the owner of the land in question, Blake advised that no action was necessary. This was an update to advise the Board that Madigan now owned the property via deed and that the use was approved, conditionally.

Ted Peck/Chris, Scott, Jeff and Terry Schoh appeal regarding Zoning Administrator decision that a single family dwelling may be designed for OR used by a single family and that the single family may include a family plus two roomers or up to three unrelated persons. The Board had tabled action on this item after holding the hearing on August 19, 2015 to allow the Board Chairperson to discuss what the Board was ruling on and what action could be taken. Pratte advised that he had corresponded with the County Attorney and he made a motion to find the Zoning Administrator's interpretation of the ordinance was correct and to dismiss the appeal by Peck and Schoh.

Pratte made a motion to adjourn. Brainard seconded. MCU.

Thomas Blake, Zoning Administrator and Board Secretary