

STORY COUNTY PLANNING AND ZONING

STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087

515-382-7245



"Commitment, Vision, Balance"

DRAFT MINUTES STORY COUNTY BOARD OF ADJUSTMENT

DATE: July 3, 2013	David Miller, Chair	2015
	Stephen McGill, Vice Chair	2012
CALL TO ORDER: 6:01 p.m.	*Victoria Feilmeyer	2014
PLACE: Public Meeting Room, 2 nd Floor Administration Building	Lynn Scarlett	2013
	*Aaron Steele	2016
	(*) Absent	

ADJOURNMENT: 7:32 p.m.

PUBLIC PRESENT: Dan and Coleen Jones; Doug and Lynn Dodgen; Dale and Leta Althaus; Carolee Knutson; John Vandyk

STAFF PRESENT: Leanne Harter, Planning and Development Director; Charlie Dissell, Planner

APPROVAL OF AGENDA (MCU)

APPROVAL OF MINUTES (MCU)

April 3, 2013

May 1, 2013

PUBLIC COMMENTS: Opened 6:04 p.m. – Closed 6:04 p.m.

NONE

OLD BUSINESS:

Ms. Leanne Harter provided a brief overview of the Code of Ordinances project.

NEW BUSINESS:

7. I DODGEN VARIANCE

Staff Member: Charlie Dissell

Nature of Request: Variance to Section 86.04(5)(B) to allow for a 20' rear setback for a proposed additional to a single-family dwelling.

Parcel Number: 0218410010

STAFF PRESENTATION:

Mr. Dissell gave an overview of the proposed variance request and provided site shots of the property.

Mr. Dissell reviewed the applicable legal principles for the Board to consider in reviewing the proposed variance.

Mr. Dissell presented the Board with the following alternatives:

1. Approve Variance Case No. VAR02-13 as proposed and with conditions.
2. Approve Variance Case No. VAR02-13 as proposed.
3. Deny Variance Case No. VAR02-13 as proposed.
4. Table Variance Case No. VAR02-13 for further information from staff and/or the applicant.

APPLICANT COMMENTS:

Mr. Doug Dodgen reviewed the proposed variance from the required 40' to 20' to accommodate the requested addition. Mr. Dodgen commented they were of the opinion the proposal was the best alternative to meet their family needs and keeping in mind the lot layout and discussions with neighbors.

Mr. Steve McGill asked the applicant to clarify the potential garage. Mr. Dodgen described the nature of the potential improvements and clarified that would not require a variance as the setback would be two (2') feet. Mr. Dissell affirmed.

Mr. Miller commented that the case before them posed a significant quandary for the Board's deliberations in that the legal principles require exceptional circumstances for the Board to grant a variance and asked Mr. Dodgen to expand on the various alternatives considered.

Mr. Dodgen addressed the family needs and the original size and design of the structure, sharing the desire was to create new living space with a bedroom and bathroom for their son and potential caregiver. Mr. Dodgen commented they'd considered going north but were limited with mature trees in that direction and the creek and that the current alternative was the best to consider.

PUBLIC COMMENT:

None

BOARD COMMENTS:***FINDINGS OF FACT***

MOTION: Move to adopt the Findings of Fact as amended in the Staff Report prepared and presented to the Story County Board of Adjustment.

VOTE: McGill/Scarlett (3-0)

Motion: McGill

Second: Scarlett
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

DECISION

Mr. Miller questioned whether precedence has been set by past decisions with past cases in regards to the finding of unnecessary hardship. Staff outlined the Board's decisions related to past similar cases.

Mr. Miller clarified that this variance request would only apply to this requested additional and whether future additions if they were to encroach as well would require action on a variance request. Mr. Dissell affirmed. Mr. Dissell further commented that the layout of the lot in relation to the platted cul-de-sac seems to present some unique circumstances for the applicant.

Ms. Scarlett questioned whether the attached garage could potential be converted into living space. Mr. Dodgen responded that was an alternative considered.

MOTION: Move to adopt the Decision as outlined in the Staff Report prepared and presented to the Story County Board of Adjustment, finding the Legal Principles as applicable are met including the unique circumstances related to natural resources and unique layout of the lot.

VOTE: McGill/Scarlett (3-0)

Motion: McGill
Second: Scarlett
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

ORDER

MOTION: Move to approve the request as proposed by the applicant in Case No. VAR02-13, as discussed by the Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all applicable Legal Principles have been satisfied.

VOTE: Scarlett/McGill (3-0)

Motion: Scarlett
Second: McGill
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

NEW BUSINESS:

7. II VAR01-13 JONES VARIANCE

Applicant: Dan and Coleen Jones

Nature of Request: Variance to Section 86.04(2)(E) to all for a 200' setback from a residential district line (south property line) and 10' setback from the north property line for a proposed kennel.

Staff Member: Charlie Dissell

Parcel Number: 0514400415

STAFF PRESENTATION:

Mr. Dissell gave an overview of the proposed variance request and provided site shots of the property. Mr. Dissell clarified that the request as stated for the 200' setback variance from the south property line was incorrectly noted on the agenda and legal notice as that was the minimum requirement of the ordinance.

Mr. Dissell outlined the history of kennels as permitted uses and applicable setbacks in the regulations. Mr. Dissell reviewed the definition of a kennel and noted the appellant's proposal was consistent with the definition.

Mr. Dissell reviewed the applicable legal principles for the Board to consider in reviewing the proposed variance.

Mr. Dissell noted Inter-Agency Review Team comments submitted by Environmental Health Director Margaret Jaynes regarding the location of the laterals beneath the potential location.

Mr. Dissell presented the Board with the following alternatives:

1. Approve Variance Case No. VAR01-13 as proposed and with conditions.
 2. Approve Variance Case No. VAR01-13 as proposed.
 3. Deny Variance Case No. VAR01-13 as proposed.
 4. Table Variance Case No. VAR01-13 for further information from staff and/or the applicant.
-

COMMISSION COMMENTS:

Mr. Miller questioned whether the 200' setback requirement applied to the existing house on the property and what the distance was currently.

Mr. Dissell reiterated the language from the ordinance that specifies the distance requirement as applied from residential district and/or residential property line.

Mr. Miller commented that the size of the property precluded placement of a kennel anywhere on the property without a variance. Mr. Dissell affirmed.

APPLICANT COMMENTS:

Mr. and Mrs. Dan and Colleen Jones addressed the Board. Ms. Jones noted that she was familiar with the work requirements of a kennel in that she has managed a kennel for five years. Ms. Jones described the nature of the proposed kennel, commenting their intention was to create

a small, family run business with ten runs. She further described office hours and types of activities intended for the kennel.

PUBLIC COMMENT:

Mr. Dale Althaus – 6092 Arrasmith Trail

Mr. Althaus expressed concerns related to the potential noise associated with the kennel and comments out that appellant's animals were always on his property. He commented the proposed kennel would create safety and traffic concerns and further stated concerns regarding the waste generated by the use and proposed location to be built over the septic laterals. Mr. Althaus stated that the horses and animals on the appellant's property have created an insect problem that had never existed. He commented the proposed use would decrease the value of his land and would be a deterrent to anyone that may want to purchase future development lots to the east.

Mr. John Vandyk – 5932 Felber Street

Mr. Vandyk commented the neighborhood was peaceful and quiet with a low-density residential feel in the neighborhood. He further stated that there are bicycles, joggers and so forth that use existing road network for related purposes. Mr. Vandyk located his property in relation to the proposed kennel and noted they are one of 20 single-family dwellings within a quarter mile of the property. Mr. Vandyk stated that the proposed kennel would be a nuisance and would change the essential character of the neighborhood, and referenced past cases not granted by the Board of Adjustment when concerns arose regarding noise and nuisance matters. Mr. Vandyk suggested an option for the appellants to consider would be to sell the property and locate on one that has adequate land for the proposed kennel operations.

Ms. Carolee Knutson – 913 E. 190th Street

Ms. Knutson expressed that she was against the proposed kennel because of the noise, noting her experiences with boarding her own animals in the past and the level of noise in kennels. Ms. Knutson mentioned she has lived on the property for 25 years and has had dogs on her property. She further commented that she could hear the chickens on the property and questioned what the noise would be from a kennel of dogs.

Mr. Dissell entered public comment in the form of letters received prior to the Board of Adjustment meeting into the record: June 27, 2013 – Phil and Dorothy Rust (Opposition); June 28, 2013 – Kay Ann Taylor (Opposition); June 27 and June 28, 2013 – Dale and Leta Althaus (Opposition); July 2, 2013 – Darla Ewalt (Opposition); and July 2, 2013 – Narda and Mark Hall (Opposition).

Mr. and Mrs. Jones provided closing comments. Mr. Jones addressed the noise concerns, including the small nature and interior design of the kennel as well as inclusion of an outdoor play area for exercise activity to address boredom of the animals. Mr. Jones also noted that placement of a privacy fence and planting of bushes to help address noise. Mr. Jones commented on the existing system, noting that the existing laterals will be relocated and existing waste will go into a separate system for the kennel. Ms. Jones noted that they do have animals on the site, but they do live in a country and having animals goes along with living in the country.

Mr. McGill questioned what the design of the play area would include. Mr. Jones explained it would be surrounded by a solid wood privacy fences.

Mr. McGill asked whether a new system was proposed for the septic. Mr. Jones affirmed.

BOARD COMMENTS:

Mr. Miller questioned whether references to “commercial” in the letters submitted would necessitate something to be addressed in the findings of fact. Mr. Dissell commented it was not necessary in that kennels are allowed as a “use by right” in the A-1 Agricultural District. Mr. Dissell further noted the application did reference future grooming at the site, but stated that type of use would not fit the definition of a kennel but would require a home business permit.

FINDINGS OF FACT

MOTION: Move to adopt the Findings of Fact as amended in the Staff Report prepared and presented to the Story County Board of Adjustment.

VOTE: McGill/Scarlett (3-0)

Motion: McGill
Second: Scarlett
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

DECISION

MOTION: Move to adopt the Decision regarding the Legal Principles in the Staff Report, prepared for and presented to the Story County Board of Adjustment.

VOTE: McGill/Scarlett (3-0)

Motion: McGill
Second: Scarlett
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

ORDER

MOTION: Move to deny the request as proposed by the applicant in Case No. VAR01-13, as discussed by the Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all applicable Legal Principles have not been satisfied.

VOTE: Scarlett/McGill(3-0)

Motion: McGill
Second: Scarlett
Voting Aye: Miller, Scarlett, McGill
Voting Nay: None
Not Voting: None
Absent: Steele, Feilmeyer

OTHER BUSINESS:

NONE

BOARD COMMENTS:

Mr. McGill questioned what process would need to be followed to look at the issue of kennels going through a conditional use permit approval process rather than a use by right. Ms. Harter outlined that a letter from the Chair of the Board of Adjustment to the Board of Supervisors asking that staff review potential changes would be the proper process.

STAFF COMMENTS:

NONE

ADJOURNMENT: 7:32 p.m.

Approval of Minutes

Title and Date