

**STORY COUNTY  
PLANNING AND DEVELOPMENT  
STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087**



*"Commitment, Vision, Balance"*

**515-382-7245**

**MINUTES  
STORY COUNTY  
BOARD OF ADJUSTMENT**

**AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING [WWW.STORYCOUNTYIOWA.GOV](http://WWW.STORYCOUNTYIOWA.GOV)**

|                                   |                  |      |
|-----------------------------------|------------------|------|
| <b>DATE:</b> November 28, 2018    | *Steve McGill    | 2022 |
|                                   | Lynn Scarlett    | 2018 |
| <b>CALL TO ORDER:</b> 4:00 PM     | Karen Youngberg  | 2019 |
| <b>PLACE:</b> Public Meeting Room | Randy Brekke     | 2019 |
| Administration Building           | Matthew Neubauer | 2021 |
| *Absent                           |                  |      |

**PUBLIC PRESENT:** Molly Onken, Kaizaidy Tjelmeland, Jerry Nelson, Pam Wilson, Seth Tjelmeland

**STAFF PRESENT:** Jerry Moore, Planning and Development Director; Emily Zandt, Planner; Amelia Schoeneman Planner; Stephanie Jones, Recording Secretary

**ROLL CALL:** McGill, Scarlett, Youngberg, Brekke, Neubauer

**ABSENT:** McGill

**APPROVAL OF AGENDA (MCU)**

**APPROVAL OF October 17, 2018 Minutes (MCU)**

**APPROVAL OF FINDINGS OF FACTS FROM PREVIOUS MEETING Motion by Brekke, Second by Neubauer (MCU)**

Written Findings of Fact CUP07-16  
Written Findings of Fact CUP06-17.1  
Written Findings of Fact CUP04-18.1

The Board had questions about what the Written Findings of Fact means. Jerry Moore told the Board of Adjustment it had to do with a recent court case involving the McCay property and YSS and the court overturning of the Board of Adjustment's decision on the CUP because the Board of Adjustment didn't consider separate written findings of fact in their decision.

**PUBLIC COMMENTS:** None

**HEARINGS:**

**CUP10-17 Pleasant Grove Community Church Accessory Structure and Parking Area**

Emily Zandt presented the staff report and stated that the request is for Pleasant Grove Community Church to construct an accessory building to the northeast of the existing church building and to add onsite parking including ADA compliant spaces. Pleasant Grove is also proposing a parking area on the south side of 170th Street to ensure all parking can take place outside of the road right-of-way and on the church's property. Under a previous action, Pleasant Grove Community Church has provided an access easement along the east property line to the Story County Conservation Board for public access to the Story County Conservation property to the north. This request is consistent with the Future Land Use Map designation and is compatible with surrounding land use. Zandt stated that at their November 7, 2018 meeting, the Story County Planning and Zoning Commission recommended approval of the Conditional Use Permit submitted by Pleasant Grove Community Church with conditions.

Youngberg asked what determines whether the NPDES permit is applicable or not. Zandt stated that this would be determined by the total size of the impact and this is planned to be done in phases so the state would determine if the entire project would be looked at all at once. Brekke asked how people currently get to the cemetery. Jerry Nelson stated that there is not a written agreement for access to the cemetery and normally people go across the church property to the cemetery. Nelson stated that the cemetery used to be a private cemetery and the Hughes family turned it over to Milford Township. Nelson stated that the cemetery is full and the church sold them some land for the expansion and the only way to get to the new area is off the easement that has been agreed to with Story County Conservation. Brekke asked if trees will need to be cleared for the cemetery expansion and Nelson stated that has already been done and improvements have been made so that the cemetery can begin to be used. Neubauer asked if there is an easement on the south side currently to McFarland Park. Zandt stated that there is not an easement on the property.

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for Pleasant Grove Community Church as put forth in case CUP10-17, with the following conditions:**

- 1. The use of the proposed accessory structure shall be for normal church functions only.**
- 2. The applicant must follow the Conditional Use Permit completion standards identified in Chapter 90.05 of the Story County Land Development Regulations.**
- 3. The Planning and Development Department shall complete an inspection prior to use of building and parking areas.**
- 4. If applicable, a copy of a National Pollutant Discharge Elimination System (NPDES) permit shall be submitted prior to the issuance of any preliminary development permits.**

**Motion: Youngberg**

**Second: Neubauer**

**Ayes: Neubauer, Brekke, Scarlett, Youngberg**

**Nays: None**

**Not Voting: None**

**Absent: McGill**

**Vote: (4-0)**

## **CUP07-18 INROADS MINERAL EXTRACTION**

Amelia Schoeneman presented the staff report and stated that this request is for a conditional use permit to allow extraction of sand and gravel from an existing borrow pit. The subject property is located at 3034 560th Avenue and the pit is located in the southwestern 4.6 acres of the 47.24 net-acre parcel. The applicant proposes that a sand processing plant and sand and gravel stockpiles related to the extraction use be located on an existing gravel pad in the northwestern six acres of the parcel. The deposit is estimated to be able to support the first phase of extraction to a 40-foot depth using an excavator over a three-year period. The second phase of extraction using a dredge or expansion of the extraction area would require the conditional use permit to be modified. The CUP request is only for the first phase. Schoeneman stated that at their November 7, 2018, meeting the Planning and Zoning Commission recommended approval of the Conditional Use Permit with conditions.

Youngberg asked about the company that completed the hydrogeological study and if several studies from different companies could be required as a condition or if references for the company be provided. Schoeneman confirmed this could be required as a condition. Joe Mannatt stated it was a company in Minnesota that completed the study. Youngberg asked if any impacts were found and Schoeneman stated there were not. Brekke asked if the extracted materials were intended for use in road construction projects. Schoeneman stated that it is gravel and sand for their road construction company and it could be sold to other companies. Manatt confirmed that the product would be used in the InRoads, LLC asphalt paving business. As part of phase 2, commercial sales to other businesses may take place. Manatt confirmed borings and hydrogeological study for the entire site at an 80-foot depth would be submitted as part of the phase 2 CUP application.

Neubauer asked if the intention is to expand and Mannatt stated that is the intention. Brekke asked if Hallett's is a similar depth and Schoeneman stated that is closer to a stage two depth. Brekke asked what the reason is for doing this in stages. Mannatt stated they are limited to depth because of the equipment involved and stage two will take much larger equipment. The applicant also noted that the existing borrow pit was six to eight feet in depth and stated that according to test borings and based on the extraction use to the north and borings, the deposit is sufficient.

Neubauer asked if there was a dwelling that used 560<sup>th</sup> Avenue south of the proposed use. Schoeneman stated that there was not a dwelling to the south. Brekke asked if there were concerns about impacts on the City of Nevada and City of Ames' wells. Schoeneman stated that the application was routed to the cities and the hydrogeological study did not find any impacts.

Youngberg asked during stage two if a different company would be required to do the study. Schoeneman stated that the standards require only one study be completed that cover the deeper depth.

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for Mineral Extraction as put forth in case CUP 07-18 with the following conditions:**

- 1. The permit be limited to the first phase of extraction: extraction over (covering up to) three years to a depth of 40 feet and via an excavator.**
- 2. The extraction use shall cease by December 31, 2021, and the site be restored based on the restoration plan if no modifications to the conditional use permit for phase two of**

extraction are approved. Once restoration is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.

3. Landscaping shall be installed by June 1, 2020, in accordance with the submitted restoration plan. Berming and landscaping shall also be completed on the east side of the site matching the extent of extraction by June 1, 2020. Once landscaping is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.

4. Phase two shall not be approved until it is determined extraction depths over 40 feet will not have an impact on groundwater and that the deposit is determined to extend 80 feet.

5. A flood control berm one foot above the 100-year base flood elevation level shall be constructed around the pit.

6. A sufficient amount of topsoil be maintained on site to create the berms and be respread during restoration.

7. A \$30,000 restoration bond covering the cost of restoration and landscaping, plus the cost of landscaping on the eastern side of the site, shall be provided. Once landscaping is completed, the cost of the bond shall be reduced to \$10,000.

8. Secondary containment structures (double-walled containers, berms) shall be provided around fuels and other chemicals and spill response plans are maintained.

9. A floodplain development permit shall be obtained including an evacuation plan.

10. The applicant shall restore the road to its original condition and maintain the road as necessary and as determined by the Story County Engineer.

11. The applicant shall water the gravel pad and the roadway to prevent excess dust as needed.

**Motion: Youngberg**

**Second: Neubauer**

**Ayes: Brekke, Neubauer, Youngberg, Scarlett**

**Nays: None**

**Not Voting: None**

**Absent: McGill**

**Vote: (4-0)**

#### **CUP09-18 TJELMELAND DOG BREEDING**

Amelia Schoeneman presented the staff report and stated that the request is for a conditional use permit to allow dog breeding at 66902 120th Street. SZ Rolling Acres, LLC raises miniature huskies by crossing Siberian Husky females and Pomeranian males. The breed is also known as Pomskies. The business was established in 2017 on the subject property. The applicant/property owner resides on the property and would be the main caretaker. The Department of Agriculture and Land Stewardship licenses the business and it also must meet standards for Private Kennels in the Story County Code Chapter 45 Animal Control and Welfare, as enforced by Story County Animal Control. The business is proposed to occupy a new 20-foot-by-40-foot, fully insulated pole barn and an existing 12-foot-by-25-foot lean-to where the kennels and runs are located. The whelping pens for puppies are located in an existing building and are proposed to be moved to the new building if the CUP is permitted. There are six Huskies, four Pomskies, and one Pomeranian, and two litters of puppies. The litters are nine puppies total. The applicant indicated that 14 adults is the maximum number they will maintain. Schoeneman stated that at their November 7, 2018, meeting the Planning and Zoning Commission recommended approval of the Conditional Use Permit with conditions.

Scarlett asked about the frequency of County inspections. Schoeneman stated that there was no requirement on the frequency of County inspections. The State of Iowa does require annual inspections. Youngberg had several questions including if there is a running area for the dogs, what the female to male ratio is, why the applicant will not sell on-site, and if the puppies are vaccinated. The applicant, Kanzaidy Tjelmeland, stated that there is an area for a day run, the female to male ratio is 6 female to 2 males and 14 is the maximum number of adults. Tjelmeland stated that puppies are not fully vaccinated until 16 weeks of age. Applicant Seth Tjelmeland stated that the dogs are run when they are home, that they do have runs as well, and that the state has requirements for kennel sizes. Discussion took place about why the public is not allowed on site. Tjelmeland stated that there were concerns about disease and safety of the dogs and also for the safety of the applicant's family.

Brekke asked where sales take place. Tjelmeland stated sales are done via Facebook and they meet off site-at a public place.

Youngberg asked about the process of retiring dogs. Tjelmeland stated they pay for spaying and that they rehome them with families that have purchased their puppies and that they have a contract regarding rehoming puppies with buyers. Youngberg asked what would happen if a puppy were to not sell. Tjelmeland stated that puppies are kept until sold.

Neubauer asked about the plans to spread waste on the horse pasture. Schoeneman stated that Environmental Health raised no concerns with the plan.

Youngberg stated that she would like to see an annual inspection by the county added as a condition and discussion took place. Moore suggested that Planning and Development staff do annual inspections with Story County Animal Control for the first two years only to assess the situation and staff will report the findings to the Board of Adjustment to determine if additional annual inspections are needed.

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for the Tjelmeland Dog Breeding Use as put forth in case CUP09-18 with the following conditions:**

- 1. The maximum number of adult dogs permitted is 14.**
- 2. An annual inspection is completed by the County (Planning and Development and Story County Animal Control) for the first two years of operation.**

**Motion: Youngberg**

**Second: Brekke**

**Ayes: Youngberg, Scarlett, Brekke, Neubauer**

**Nays: None**

**Not Voting: None**

**Absent: McGill**

**Vote: (4-0)**

#### **CUP10-18 AND VAR 05-18 ONKEN DOG BOARDING**

Schoeneman presented the staff report and stated that this request is for a conditional use permit to allow dog boarding and daycare at 52480 Highway 210. Dog District, LLC will provide

daycare services and boarding of dogs. The maximum number of dogs is 15. The applicant/property owner resides on the property and would be the main caretaker. The Iowa Department of Agriculture and Land Stewardship and/or United States Department of Agriculture would license the business and it must meet standards for Private Kennels in the Story County Code Chapter 45 Animal Control and Welfare, as enforced by Story County Animal Control. The applicant indicates these permits will be obtained if the conditional use permit is approved. The business is proposed to occupy an existing 46-foot-by-48-foot accessory building located to the south of the dwelling and 25 feet from the west property line. The building also includes a 24-foot-by-48-foot addition that will be used as a garage with an office and sink. Fencing is also proposed to provide an outdoor area for the dogs including runs. The existing building and proposed fencing do not meet the required 50-foot setback from the west property line and a variance of 25 feet to permit a 25-foot side setback is requested for the building and fence. Schoeneman stated that at their November 7, 2018, meeting the Planning and Zoning Commission recommended approval of the Conditional Use Permit with conditions. The Commission does not make recommendations on variances. Planning and Development staff recommend approval of the variance for the existing building only.

Neubauer asked for clarification about the variance as to why staff recommends denial of the fence request. Schoeneman stated that staff feels there is a way to reconfigure the fence layout so the variance is not needed.

Molly Onken spoke about the need for the variance to allow all kennels on the south side of the building to have access to runs and preference for the fence's proposed location. Onken stated that initially, the business would be limited to the daycare, which does not require the kennels/outdoor runs. Onken stated that if she moves the fence 25' in the opposite direction there would be issues with water that stands in that area and stated that there had been a fence located closer to the property line for livestock. Schoeneman stated that livestock fences are exempt from zoning.

Pam Wilson, the applicant's mother, spoke about the need to amend the Planning and Zoning Commission's recommended condition limiting the total number of dogs to 15. Onken clarified that by law she is allowed 15 dogs in daycare and there can be 15 dogs in kennels during boarding. Onken stated that her goal is not to have that many dogs in boarding and clarified that she is just not able to mix the boarding and daycare dogs together at the same time. Schoeneman stated that was not clear at the Planning and Zoning Commission meeting and that a condition would need to be amended. The proposal is to have 15 dogs in daycare and 15 dogs boarded. Youngberg inquired of staff if the Board could change the maximum number from the Planning and Zoning Commission recommendation without taking the proposal back to the Commission. Schoeneman confirmed it wasn't necessary to take the item back to the Planning and Zoning Commission as they made a recommendation but that a limit would be required to ensure the standards of approval were met.

Wilson spoke to Onken's good character to operate this business. Neubauer asked what would be done in doggie daycare. Onken gave examples of what the dogs would be doing during the day and that people use daycare while they go to work.

Neubauer asked if a condition could be placed on the variance that if the property to the west were developed, the fence were moved to meet the 50-foot setback. Schoeneman stated that there would need to be a clear enforcement process for that. Neubauer stated that there could be financial hardship if only two runs could be built. Schoeneman stated that the standard

related to hardship is not financial but asks if the property cannot be used without the variance. Onken stated that they would still offer dog boarding and daycare without the variance for the fence but did not believe the additional 25 feet gained by meeting the setback would provide much buffering for the use. Youngberg asked the applicant for more information on the construction of the building and feasibility of redesigning the kennels. Planning and Development Director Jerry Moore commented that before the property was purchased by the applicant, the required setbacks for the proposed use were communicated.

Youngberg asked if granting the variance is a concern because it set's precedent. Schoeneman stated yes because the Board would not be making findings of fact in support of approving the variance for the fence. Schoeneman stated that if the Board of Adjustment were to approve the variance for the fence, they would need to make new findings for each legal principle.

**Neubauer motioned for the Board to discuss reexamining the findings of fact for the legal principles for the variance request for the fence. MCU.** Schoeneman restated the first legal principle, the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone. Board of Adjustment member Randy Brekke stated that the property could be used without any fence and so the principle was not met. Onken stated that she had received a quote and plans from the fencing company for a fence that met the required 50-foot setback and the price was reduced. She provided the plans to the Board. The Board of Adjustment decided to support the staff's recommendation of denial of the fence setback variance. There was further discussion and support expressed for allowing a total of 15 dogs for the daycare and 15 dogs for the boarding operation (30 total). **The Board was not able to identify a reason to find the first legal principle was met.**

**MOTION: The Story County Board of Adjustment denies the variance request for a 25-foot variance to the required 50-foot side setback for the proposed fence to be used for the Onken Dog Boarding Use as put forth in case VAR05-18, as submitted.**

**Motion: Youngberg**

**Second: Neubauer**

**Ayes: Youngberg, Brekke, Neubauer, Scarlett**

**Nays: None**

**Not Voting: None**

**Absent: McGill**

**Vote: (4-0)**

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for the Onken Dog Boarding Use as put forth in case CUP10-18 with the following conditions:**

- 1. Licensing from the Iowa Department of Agriculture and Land Stewardship, United States Department of Agriculture, and/or Story County Animal Control will be obtained prior to operation.**
- 2. The south end of the building shall be insulated prior to boarding dogs.**
- 3. The maximum number of dogs permitted is 30 (15 dogs for daycare and 15 dogs for boarding).**
- 4. A 25-foot variance to the setback requirements for the building must be approved if the required 50-foot setback is not met.**

5. The fenced areas shall meet the required 50-foot setback from the west property line.
6. Proof of compliance with the first two conditions shall be provided to the Planning and Development Department prior to operation.

**Motion: Youngberg**  
**Second: Neubauer**  
**Ayes: Brekke, Youngberg, Scarlett, Neubauer**  
**Nays: None**  
**Not Voting: None**  
**Absent: McGill**  
**Vote: (4-0)**

**MOTION: The Story County Board of Adjustment approves VAR05-18 for a 25-foot variance to the required 50-foot side setback for the existing accessory building to be used for the Onken Dog Boarding Use as put forth in case VAR05-18, as submitted.**

**Motion: Neubauer**  
**Second: Brekke**  
**Ayes: Scarlett, Neubauer, Youngberg, Brekke**  
**Nays: None**  
**Not Voting: None**  
**Absent: McGill**  
**Vote: (4-0)**

#### **VAR06-18 MANATTS VARIANCE**

Zandt presented the staff report and stated that this request is for a 32-foot variance request (from 50 feet to 18 feet) to Table 86-2 of the Story County Land Development Regulations, which requires a front yard setback for Other Permitted Uses in the A-1 Agricultural District of 50 feet, for a temporary job trailer to be located 18 feet west of the front (east) lot line. Zandt stated that the variance request meets all legal principles and is recommended for approval.

Youngberg asked if there could be a condition added to revisit the setback condition after 3 years so that the variance and CUP expire at the same time. Zandt clarified that the conditional use permit has a condition that if the site stops being used the gravel pad can be maintained for up to one year, so at that time they would need to apply for a new conditional use permit. Neubauer asked if this could expire at the same time as the CUP. Moore stated that could be worked out administratively to align with the conditions of the CUP. The Board decided to make this a condition as well.

**MOTION: The Story County Board of Adjustment approves the variance request for a 32-foot variance to the minimum front setback required for Other Uses, including Conditional Uses, in the A-1 Agricultural District by Table 86-2, as put forth in case VAR06-18, with the following condition:**

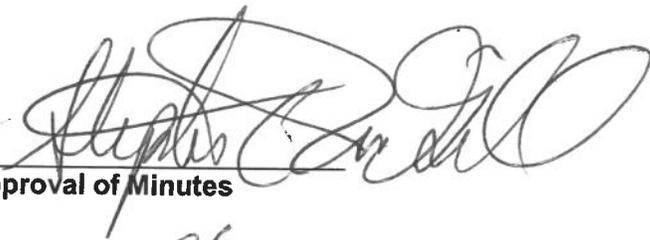
1. This variance will expire with the expiration of the existing Conditional Use Permits (CUP04-18.1 and CUP06-17.1) on December 31, 2021. If an

extension of these uses or a new Conditional Use Permit is requested, a separate variance request may be submitted at that time.

**Motion:** Neubauer  
**Second:** Brekke  
**Ayes:** Youngberg, Brekke, Neubauer, Scarlett  
**Nays:** None  
**Absent:** McGill  
**Vote:** (4-0)

**BOARD/STAFF COMMENTS:**

**Staff:** Moore stated that the audio/visual equipment is scheduled to be updated soon. Moore stated that at the next meeting officers would need to be elected and that there would be an opening on the board. Scarlett asked if she decided to stay on the board if she would have to reapply and Moore stated her application would need to be acted on by the Board of Supervisors. Moore stated that the work program joint session with Planning and Zoning Commission and Board of Supervisors is December 5, 2018.



Approval of Minutes

 Chairman 1-16-2019

Title and Date