

JACKSON COUNTY BOARD OF ADJUSTMENT

7:00 p.m.

Monday, April 28, 2025

Community Room, Jackson County Courthouse
201 W Platt Street, Maquoketa, Iowa

Board Members Present: Chair Mike Nickeson, Vice Chair Daryl DeVore, Board Members A. John Arenz, Pete Fish and David Kendell

Board Members Excused:

Board Members Absent:

Staff Member Present: Zoning Administrator Roling and Administrative Assistant Pflughaupt

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chair Nickeson at 7:00 p.m. and roll call taken. A sign-in sheet was distributed, and a Zoom meeting was launched. Those noted in attendance were:

Tyler Roth – LaMotte, IA

Tom Friederick – LaMotte, IA

David Johnson – Bernard

Mary Johnson – Bernard

Kevin Kutsch – Maquoketa

Greg Thomas – Bellevue

Mary Thomas – Bellevue

Chuck Fink – LaMotte, IA

Jennifer Fink – LaMotte, IA

Nin Flagel – Jackson County Board of Supervisors

Laura Carstens, ECIA – via Zoom

MINUTES: Motion by DeVore, seconded by Kendell, to approve the minutes of the February 24, 2025 Board of Adjustment meeting as submitted. Motion carried unanimously.

DOCKET 25-02: Special Exception – Kevin Kutsch

Chair Nickeson opened the public hearing and summarized the request of applicant, Kevin Kutsch. Chair Nickeson asked for a presentation by the applicant.

Kutsch gave the explanation as to why he's asking for the Special Exception. Roling brought up the plans for the garage addition for all to view and the aerial picture of the property. Kutsch explained that when they built the house that it is not parallel with lot lines. Chair Nickeson asked about the neighbors, Kutsch said he spoke to them and they have no objections. Kendell asked about the property line. Kutsch stated it was just surveyed to get lot lines for this build. Chair Nickeson asked regarding septic and water and Kutsch stated there is no impact.

Chair Nickeson asked for public comment; none was received.

Motion by Kendell, seconded by Fish, to close the public hearing.
Motion carried unanimously.

Kendell asked about the project timeline. Mr. Kutsch responded that the contractor (Sheets) is ready to begin immediately, with anticipated completion by mid-summer.

Motion by Arenz, seconded by Kendell, to approve the special exception with the condition that the project begin within three (3) months and be completed within six (6) months from the date of approval.
Motion carried unanimously.

DOCKET 25-03: Special Exception – David & Mary Johnson

Chair Nickeson opened the public hearing and summarized the request of applicant. Chair Nickeson asked for a presentation by the applicants, David & Mary Johnson. Roling brought up the aerial view of the Johnson property. Johnson stated the neighbor to the north helped find the property markers as he had his property surveyed 5 or 6 years before. Hoping to have it built by September to October, contractors may not be able to start until late July to early August.

All the neighbors that he's spoken to have no objection, Johnson stated they did ask him how high it was going to be and he's going to keep it a little lower than the peak of the house so he wouldn't be obstructing anyone's view other than the one neighbor and Johnson stated that he didn't seem to mind. Arenz asked which neighbors he's spoken to, Johnson said all but one and he's been in the hospital for 6 or 7 months and he owns multiple lots. Kendell asked if Johnson was clear on the fact that the overhang is part of the inclusion, Johnson said yes and that's why he asked for the 19'. Johnson spoke of the temporary gas relocation that would take place during construction.

Chair Nickeson asked if there were any other impacted utilities. Johnson said no. DeVore asked if the Leisure Lake Association had to approve of this also, Johnson said no.

Chair Nickeson asked for public comment; none was received.
Board members reviewed the findings of facts, and discussion followed.

Chair Nickeson asked Johnson when he's wanting to start the project. Johnson stated he is hoping July, but was told they may not get to him until August.

Motion by Arenz, seconded by Fish, to approve the special exception with the condition that the project begin within six (6) months and be completed within nine (9) months from the date of approval.
Motion carried unanimously.

DOCKET 25-04: Special Exception – Greg & Mary Thomas

Chair Nickeson opened the public hearing and summarized the request of applicant. Chair Nickeson asked for a presentation by the applicants, Greg & Mary Thomas. Mr.

and Mrs. Thomas explained their plan to operate an agricultural chemical sales and storage business to support their drone spraying service. The site includes an existing house and a proposed 50' x 80' shop building. Chair Nickeson asked if their primary residence was at this property, the Johnson's stated no. Arenz asked who lives there now, they stated currently nobody, but their employees will live there from May until August, and they will try to Air BnB it after that.

Chair Nickeson asked for clarification of the business. The Thomas's stated that they spray chemicals with the drones on the fields and they are storing the chemicals on site. Chair Nickeson asked how many times they expect tankers or trucks to deliver chemicals. Mr. Thomas stated twice, maybe three times a year. They typically have all their stuff on hand. Mr. Thomas stated that their trucks leave early in the morning and don't come back until night. The business is seasonal and takes place in July and August. Mrs. Thomas stated that all of the necessary licenses from the DNR and state are in place. Arenz asked Roling if she has heard from any neighbors, Roling stated she has not. Chair Nickeson asked if there was anyone present to speak on the case. Flagel asked if chemicals will be brought in with bulk tankers, the Thomas's stated they will be brought in totes. DeVore asked if there had to be containment, and the Thomas's answered yes, that they have the containment built and it's been taken care of. DeVore asked if there had to be a wash off area, Mr. Thomas stated no, they wash everything in the fields and spray it off.

Motion by Kendell, seconded by DeVore, to close the public hearing.
Motion carried unanimously.

Kendell moves to approve the special exception for the purpose of running an agricultural services business, Arenz seconds. Some discussion followed. Arenz asked if they've spoken with the neighbor Mardell Steines. They stated they have.

Roling suggested to the Board to add the condition that if the Thomas's want to expand the business, they would have to come back to the Board of Adjustment.

Motion by Kendell, seconded by Arenz, to approve the special exception for the agricultural chemical sales and storage business, with the condition that operations are limited to the current building and the proposed new building. Any expansion beyond these structures must return to the Board of Adjustment for approval.

Motion passed unanimously

Docket 0-06: Review of complaint of violation against 24222 330th Ave., LaMotte, IA

Board of Adjustment case #O-06 (February 2007) Special Exception for a home industry. Roling states it's a review of the special exception from 2007, home industry granted for farm equipment and repair. Roling brought up the Notice of Decision from 2/6/2007 and read through the conditions listed. The case has been brought back to the Board of Adjustment. Initially it was from a noise complaint from Chuck & Jennifer Fink, Roling states that after looking into it, there may be other business going on besides just farm equipment repair.

Roling played a noise video received from Chuck & Jennifer Fink. Roling reads from the Jackson County Zoning Ordinance the definition of home industry, which is as follows: Home Industry. A business which a. is conducted on residential premises, inside or adjacent to the dwelling and/or customary structures, and b. is carried on by a member of the family residing in the dwelling unit, and c. is clearly secondary to the use of the dwelling unit for residential purposes, and d. produces no offensive noises, vibration, smoke, dust, heat, or glare rendering the premises objectionable or detrimental to the character of the neighborhood. Roling reads from the Facts of Finding that was presented at the January 2007 meeting. Roling states that we do not have the option to revoke any Special Exception. That is off the table after having conversations with the County Attorney.

Arenz stated they need to look at the powers that they have. They can do three things: they can decide if the administrative staff of zoning has done something they disagree with, that can be corrected if they deem that they did something wrong, but we're not talking about that here. The second thing has to do with special exceptions, we are talking about that, and we'll come back to that. And the third thing has to do with variances, and this has nothing to do with variances. So, for special exceptions it lists what we can do, we can decide such special exceptions as are specifically authorized to pass upon or we can grant them or we can deny them. In granting them, we can prescribe appropriate conditions in conformity with the ordinance, and it can't be granted unless and until there's been an application. We have to make all kinds of finding about and it's all set forth. I'm not going to go all through it, but it doesn't allow us to go back and set new conditions. Back in January 8th, 2007, this board had a full discussion about this and it was brought to their attention by the Finks that there were concerns. After being brought to the board's attention, they decided to table it, then coming back a month later, they decided to grant the special exception with the exceptions and none of them have a thing to do with noise. Arenz states that he hopes they can resolve this but thinks they're going to have to resolve it in a court of general jurisdiction.

Kendell asked if it was just a complaint of noise. Chair Nickeson said he would like to hear the prepared statement, and he agrees that there is not much they can do as a board, but we'll listen to the statement and go from there. Chuck and Jennifer Fink, the neighbors, presented their statement.

Chair Nickeson asked if this is the first formal noise complaint. The Fink's stated they have been told since the beginning that since Jackson County doesn't have a noise ordinance there's nothing they could do. Roling stated she first talked with Jennifer Fink in November, but then Fink realizing it was November and that the noise would stop, Fink did not go through with the formal complaint.

Tom Friederick then presented. Friederick said he could not keep the doors closed as the equipment is too big. Friederick stated it's not noisy all the time, and he was not told of a noise limit. Friederick asked other neighbors if they had complaints of the noise and they do not. Chair Nickeson asked regarding employees. Friederick stated he was told he could have two employees when he first started. Roling read the ordinance. Since

there was no limit, she was told there was no limit. It doesn't say there can't be any employees, but if we go back to the decision, it's worded differently; "it's carried on by a member of the family residing in the dwelling unit."

Arenz states, for the home occupation it specifically states a business which does not employ more than one person outside the immediate family, but for home industry there is nothing like that, it's just a business that's carried on by a member of the family, and this is named a home industry, correct?

This is named home industry, restates Chair Nickeson.

Chair Nickeson asked where Friederick lives. Friederick stated Tyler Roth lives in the house. Friederick lives in the basement, Roth is upstairs.

Chair Nickeson asked regarding the tow truck that had been modified. Friederick stated nobody could tell him what was ag or not, nobody could tell him what he should or shouldn't do. Chair Nickeson stated it seems like a lot of fabrication is going on in that building. Arenz asked what his business hours were. Friederick stated it could go from 6 until 10 or 11. Chair Nickeson states it seems like there's some significant noise coming from the building. There was some discussion.

Chair Nickeson re-states we don't have the power to remove the special exception; we're just trying to help the neighbors find an acceptable solution. If they could keep the main doors closed that would be helpful to the neighbors.

Chair Nickeson asked for public comment; none was received. Chair Nickeson stated that legal counsel made it clear that we could not revoke the special exception and encouraged the parties to try and resolve it the best that they can.

Arenz moves to acknowledge the complaint but to dismiss it for lack of jurisdiction, Kendell seconds, motion carries unanimously.

ITEMS FROM PUBLIC:

WORK SESSION: Zoning Ordinance Update Project

Laura Carstens, ECIA stated that she would like to go through the chapter presented to them and let them think about it and then be back with it next month. Carstens went through the cover letter for the Revised Draft of Chapter 4. Board of Adjustment. Carstens stated that the Board of Adjustment is given a separate chapter with its rules and procedures, current regulations, and additional regulations taken from Iowa Code. Carstens states that the major updates proposed are as follows:

- *Section 4.2 is based on the Board's established rules and procedures.

- *Several sections are moved into a new section 4.4 Appeals, which has expanded procedures.

- *With passage of House File 652 on April 15, 2025, which Iowa Code now establishes new powers for the Board of Adjustment related to variances from the area, dimensional, and other numerical limitations. In response, reorganization is

recommended as shown below.

*NEW: Conditional Use Permit. Special Exception Uses and Structures are proposed to be renamed to Conditional Use Permit to reflect that these uses are allowed only after meeting required conditions in the Zoning Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.

*NEW: Special Exception Permit. These new regulations are intended to comply with House File 652 that establishes new powers for the BOA. They are not really variances, however, but more like "special exceptions." They are proposed to be renamed to Special Exception Permit.

*NEW: Variance from Non-Quantitative Requirements. This revised variance section is intended to cover any variance from non-quantitative requirements, which are not covered by the new Iowa Code. Staff is not sure what these may be, but we want to have everything covered in this update.

*NEW: Administrative Waiver. This language is proposed to be moved to Chapter 3. Administration and Enforcement to create a new process for Administrative Waivers to be granted by the Zoning Administrator with reduced property owner notification for up to 50% of the quantitative requirements. The intent is to reduce the number of such special exception requests that now come to the BOA. This new process is under development. o "Additionally, the Board of Adjustment shall have the power to modify by special exception any quantitative requirements under the same conditions and using the same procedures as set out in this section for listed special exception uses, providing the modification is less than fifty percent of the requirement" Arenz asks Carstens if there is anything in particular that she would care to draw attention to or that she thinks is either particularly startling or that causes concern. Carstens states no, she thinks what we're doing is making good progress in getting an ordinance that provides flexibility while maintaining property values and good land use practices and doesn't clog up the Board of Adjustment's agenda.

ITEMS FROM BOARD: Other Business

ITEMS FROM STAFF: Next Meeting May 27, 2025

ADJOURNMENT: Motion by Chair Nickeson, seconded by Fish, to adjourn the April 28, 2025 Board of Adjustment meeting. Motion carried unanimously.

The meeting adjourned at 8:49 p.m.

Respectfully submitted,

Lori Roling
Zoning Administrator

Adopted: 5/27/2025