

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

**August 14, 2019**

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

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

Roll call of Commission Members:			Term Expires
	Steve Weymiller	Present	12/31/2019
	Gwen Brainard	Absent	12/31/2020
Chair	Bernard Pratte	Present	12/31/2021
Vice-Chair	Nancy Walleser	Present	12/31/2022
	Dennis Keatley	Present	12/31/2023

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 meeting agenda as presented. Keatley seconded. MCU.

Walleser made a motion to approve the March 13, 2019, April 10, 2019, May 1, 2019 (as modified) and July 24, 2019 meeting minutes as presented. Keatley seconded. MCU.

Public Hearings

Brad Winters and Shelly Brustkern (and others)—Consideration of an appeal of the Board of Adjustment decision to issue a variance to Marvin and Wanda Robinson, 1911 Blue Heron Lane, Lansing IA (approved on May 1, 2019) and the Zoning Administrator decision to issue a permit to the Robinson’s for a new/replacement structure located at the same address. Blake presented a staff report and asked that the Board consider the two issues separately, recommending that the Board dismiss the Variance appeal since appeals of the Board’s decisions should be taken to the District Court. Blake further recommended the Board reject the appeal of the permit issuance upon a finding that the permit was not issued in violation of any section of the Zoning Ordinance. The appellant Brad Winters presented a presentation that highlighted sections of the ordinance that he claimed were violated by the Robinsons’ and the permit issuance. Photo’s of the property were displayed. Discussion was held regarding the impact the new structure had on views of the Mississippi by neighboring properties. Blake advised that the variance and permit as issued did not address any height restrictions placed on the Robinson’s and that the new structure did not exceed the maximum height of 35 feet (structure is approximately 25 feet tall. After discussion, the Board asked if the Robinson’s could arrive at a proposal to lower the structure. The appellant’s asked that the structure be lowered to the previous sunroom roof peak height. **Keatley made a motion to table the issue and requested additional information regarding structural modifications to provide compatibility in the neighborhood. Pratte seconded. Motion Carried Unanimously.**

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

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Thomas Blake, Zoning Administrator and Board Secretary

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

**July 24, 2019**

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

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

Roll call of Commission Members:			Term Expires
	Steve Weymiller	Present	12/31/2019
	Gwen Brainard	Absent	12/31/2020
Chair	Bernard Pratte	Present	12/31/2021
Vice-Chair	Nancy Wallerer	Present	12/31/2022
	Dennis Keatley	Present	12/31/2023

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 meeting agenda as presented. Wallerer seconded. MCU.

Wallerer made a motion to approve the May 15, 2019 meeting minutes as presented. Keatley seconded. MCU.

Public Hearings

Joseph Hochstetler—Consideration of an application for a conditional use, Home Industry. Blake presented a staff report, advising that the applicant wanted to have a metal fabrication business in a building on his property at 1197 Maud Road, Waukon, IA. No responses had been received from the neighbors notified. Applicant wants to press rolls of steel into roof and siding panels for sale to the general public. He will not be doing any processing, painting or modifying the steel in any other method. The steel will be brought in on semi and will be hauled out via straight truck or trailers. Blake recommended that the use be approved upon the condition that the use will not be changed to include any processing or painting and truck traffic will be limited to no more than 10/month on average. **Weymiller made a motion to approve the conditional use, limiting the activity to only forming and cutting steel panels and limiting the traffic to no more than 10 truck trips per month. Keatley seconded. Motion Carried Unanimously.**

Kossmann, Adam, 1161 Maud Road, Waukon, IA—Request for a front yard setback variance, reducing the front yard from 40 feet to 20 feet. Blake presented a staff report, recommending the variance be granted due to the topography of the property and the shallow soil depths forced them to keep the house close to the road and this limited the possible locations for an accessory building. Wallerer made a motion to approve the variance request. Weymiller seconded. MCU.

NEIT Properties, LLC—Consideration of an application for a conditional use, Communications Tower—1684 Iowa River Drive, New Albin, IA. Blake presented a staff report, advising that this tower was a governmental public project and was to be used for the Iowa First Net System and that the Board could not reject this application under the Iowa Cell Siting Act. Correspondence from the County Attorney, recommending that the Board approve the application due to recent changes to the Iowa Code and the individual liability of the Board if they violated Iowa law, was discussed. Phil Hammel addressed the Board regarding the presence of Indian artifacts on the Marzen property. NEIT advised that the site was investigated and nothing was found. Also, the tribes that have requested it, will be notified of the construction so that they

can monitor the work and site if desired. Pratte asked if improvements would need to be made to the road, in view of the possibility of artifacts there. The applicant advised that no improvements were planned at this time, but if there were modifications to be made, it would be under the supervision of the tribes, if they wanted to monitor. The discussion of the new law (Iowa) in regards to Allamakee County's population (just under 14,000). Pratte asked about reducing the tower height or an alternate location. NEIT advised that they needed this height to provide the service and another location was not feasible. **Keatley made a motion to approve the conditional use permit for NEIT Properties, LLC for a 300 foot tall guyed tower, to be used for the Iowa First Net system, as applied for.** Regarding the request for reducing the tower height, Hanson (NEIT) indicated that they could reduce the height to the 295 foot height. Blake asked if the application for a 295 foot tower would be withdrawn if the 300 foot tall tower was approved? NEIT responded that, yes, the 295 foot tall tower application would be withdrawn, if the 300 foot tall tower application was approved. **Weymiller seconded the motion. MCU.**

NEIT Properties, LLC—Consideration of an application for a conditional use, Communications Tower—1684 Iowa River Drive, New Albin, IA. (295' height). This application was withdrawn due to the approval of the 300 foot tall tower for the same site.

New Business: Blake advised that an appeal of his decision to issue a permit to Marvin and Wanda Robinson was filed by Brad Winters, a nearby property owner, with the possibility of other property owners joining in the appeal. Blake had met with Robinson's and neighbors on site. The issue at the time was the height of the structure. After this site visit, Blake determined that the structure did not meet the setback requirement approved under a variance and had issued a 'stop work order'. Robinson's advised that they would modify the structure to meet the setback authorized and that it was an honest mistake. They further stated that they had offered to reduce the height by 3 ½ feet, but that offer was refused by the neighbors. Blake advised that the stop work order would be lifted if the structure would meet the 2' setback authorized on May 1, 2019. Blake asked that the Board set a date for a meeting to hear the appeal. Consensus to set the hearing for August 14, 2019, at 4:30 PM. The Board recommended that the Robinsons work with the neighbors to work out a possible solution to the views problem before the hearing, if possible.

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

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Thomas Blake, Zoning Administrator and Board Secretary

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

**May 1, 2019**

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

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

Roll call of Commission Members:			Term Expires
	Steve Weymiller	Present	12/31/2019
	Gwen Brainard	Present	12/31/2020
Chair	Bernard Pratte	Present	12/31/2021
Vice-Chair	Nancy Wallerer	Present	12/31/2022
	Dennis Keatley	Present	12/31/2023

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

Board Consensus to approve the meeting agenda after removing Item IV, Meeting minutes.

Public Hearings

Weber, Joe and Jill—535 Cottage Road, Harpers Ferry, IA--Consideration of an application for a variance, reducing the rear yard from 25 feet to 10 feet to allow construction of a new cabin and attached deck on the river side. Blake presented a staff report, recommending approval of the request due to the legal non-conforming lot area/size and limited options for property owner. **Keatley made the motion to approve the variance. Brainard seconded. Pratte, Weymiller, Keatley, Brainard voted Aye; Wallerer voted Nay. Motion Carried.**

Robinson, Marvin and Wanda—1911 Blue Heron Lane, Lansing, IA--Consideration of a request for a setback variance to allow a structure addition and a detached garage to be set zero feet from the frontage on the Lane and a setback of 7 feet from the side lot line. Blake presented a staff report regarding the request and gave the Board a history of the property. Blake recommended that a variance request be approved but to require at least 2 to 4 feet setback from the Lane because of the issue of snow clearing and maintenance of structure without being located on the right of way. After discussion and review of applicant plans, **Weymiller made a motion to approve a variance approving of a 7 foot side yard setback and a 2 foot minimum setback for the front yard facing the Lane upon the condition that the garage entrance not be directly onto the Lane. Keatley seconded. MCU.**

Donovan Family Trust—1179 Iowa River Drive, New Albin, IA--Consideration of a request for a setback variance to allow a detached garage to be set zero feet from the frontage on the County Right of Way. Blake presented a staff report regarding the request and gave the Board a history of the property. Blake recommended that a variance request be approved but to require at least 2 to 4 feet setback from the ROW because of the issue of maintenance of structure without being located on the right of way and to maintain some separation for ROW maintenance. After discussion and review of applicant plans, applicant indicated that they could reduce the size of the structure and increase the setback from the ROW, Pratte **made a motion to approve a variance approving of a 4 foot minimum setback for the front yard facing the County ROW. Keatley seconded. MCU.**

Kelly Rentals—866 Volney Road, Waukon, IA--Consideration of a request for a setback variance to allow a structure addition (commercial storage facility) to be set zero feet from the side lot line. Blake gave a report on the request and the drainage issues raised regarding this structure and the crushed rock surface for the remainder of the property. Kelly owns the lot where the variance is requested, but it is zoned residential, abutting a commercial zone and use. The minimum setback from a residential lot is 10 feet and Kelly is requesting a 0 foot setback and to use part of the lot for a crushed rock driveway for the rental storage unit. Blake presented a staff report regarding the request and gave the Board a history of the property. He had visited the site and the neighbors have expressed concern regarding drainage. Blake recommended that a variance request be approved, but to require that the residential lot be kept as green space to help absorb drainage and that Kelly Rentals be required to address and resolve any drainage issues from his property. After discussion and review of applicant plans, **Weymiller made a motion to approve a variance approving of a 0 foot side yard setback and to allow the owner to use part of the residential zoned lot for a graveled driveway upon the condition that Kelly Rentals agree to address and solve any subsequent drainage issues (aggravated by his building and property use) on neighboring property. Walleser seconded. MCU.**

Old Business

Wennes Communication—Blake advised that he had communicated to the County Attorney regarding the application and the Board's application of the Conditional Use Standards in the Ordinance. The Attorney advises that the Board apply the standards as set forth in the ordinance and make a decision based on those. Board discussed the ordinance language and grounds for approval or denial. Weymiller stated that we did approve this application once, but that decision was based on incomplete information regarding the impact on neighboring property. The information was incomplete because of a faulty hearing process. Once the process was corrected, we heard a lot of opposition to the proposal from the neighbors to the site. Weymiller cited the section of the ordinance regarding the compatibility standard and that this site was only 1,500 feet from nearby residences. Weymiller stated that he was opposed to approval of the use. Walleser stated she agreed with Weymillers assessment. Walleser made a motion to deny the conditional use application citing that the use did not meet the minimum standard of compatibility, (508.4 1.a) and that it was obnoxious or offensive in appearance to abutting and nearby properties. Brainard seconded. Ayes; Pratte, Weymiller, Keatley, Walleser, Brainard. Nays; None.

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

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Thomas Blake, Zoning Administrator and Board Secretary

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

**April 10, 2019**

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

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

Roll call of Commission Members:		Term Expires
	Steve Weymiller	Present 12/31/2019
	Gwen Brainard	Present 12/31/2020
Chair	Bernard Pratte	Present 12/31/2021
Vice-Chair	Nancy Wallerer	Present 12/31/2022
	Dennis Keatley	Present 12/31/2023

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 meeting agenda as presented. Wallerer seconded. MCU.

Blake advised that the meeting minutes (draft) were not yet available. Board consensus is to table action on the March 13, 2019 minutes.

Public Hearings

Schroeder, Richard—Continuation of the hearing from March 13, 2019. Blake advised that Dixon’s had responded, approving of the variance requested for this parcel and asking that the variance be approved. Blake recommended approval of the variance for a building 24’ x 60’ on the conditions that there will be no water or sewer to the site. **Brainard made the motion to approve the variance upon the conditions that the building will not exceed 24’ x 60’ and there will be no water or sewer on site. Keatley seconded. Pratte, Weymiller, Keatley, Brainard voted Aye; Wallerer voted Nay. Motion Carried.**

Wennes Communications Stations, Inc— Blake advised that the notices to the neighboring property owners had a date error and therefore, the hearing notice did not meet the minimum time standard required by the ordinance or state code. Therefore, the decision on the Wennes Conditional Use application at the March 13, 2019 meeting was not valid and is void. Proper notice for this hearing has been accomplished. Blake presented a staff report. The access for this use was via an easement across Schuttenmeier Property. Blake presented the comments received in opposition and in favor of the conditional use request. Of those in attendance (21 in regards to Wennes) 13 were opposed and 8 were in favor. Of those in favor, two owned property in the area (Luttchens) and were party to the application (site owners). Of those in opposition, 13 owned or resided in the area. Wennes presented a typed statement and commented on the need to expand the KNEI audience and that new technology was coming that would reduce the power available to broadcast, the tower could be used for co-location opportunities, will work with Emergency Service providers and other users in Winneshiek, Allamakee, and Houson Counties, further, they have had no complaints regarding reduced property values due to proximity to any towers of theirs. Les Askelson (Wennes) commented that the current tower serving KVIK also served Minnesota Public Radio, National Weather Service, Decorah Fire, Hospital and Sherrif. The main work of that tower was the provision of public service. Schuttemeier opposed the request, commenting that the access through his parcel was immediately in front of his house and presented a danger to him and his family. Neighboring property owners Paus, Fruechte, and Schuttenmeier (along with others) had

submitted statements opposing the request. Jack Sweeney advised that the area around the proposed tower is agricultural in nature and a tower will have no impact on agricultural land values. Gaylen Fruechte stated that his land has an implied premium value due to good access and elevation for possible residential development and a tower would negatively impact that. Schuttenmeier stated that it would affect the value of his site.

Carol Stokman, lives just behind St. Luke's church. There is no need for this tower and doesn't want to look at a tower on this site. Amanda Schuttemeier stated that their driveway was the access to the tower and she is concerned about the traffic dangers from this proposal. Steve Belay (Wennes) stated that the Board can place conditions on an approved conditional use permit and indicated that the applicant would be glad to give prior notice, before accessing site.

Weymiller stated that if this could be used for emergency services, it would prove to be a benefit to the area. Belay advised that this was the exact same application that was approved at the last meeting. The tower would provide additional public safety benefits, property values would not be impacted, safety and tower appearance were addressed in the application. "Not In My Back Yard" is not a proper reason to deny request. Blake advised that the previous Board action was before a proper public hearing and the Board was now receiving pertinent data regarding the tower proposal.

The Board Chair called for discussion and decision on the individual standards. Transition—after discussion, the **Board consensus is that no transition is necessary/required.** Traffic—The Board discussed the traffic issue. Wennes advised that once the tower is constructed, very little traffic will be generated. The construction period will be around a week long. Keatley advised that he had concern about the driveway access crossing through the neighbors property, very near the house. Schuttenmeier advised that he does not want them to use driveway and a new road would destroy valuable crop ground. Wennes advised that they would restore the driveway after the construction period. Weymiller advised that he knows there will be driveway damage during the construction period, but that it can be repaired once constructed. Dave Mellick stated that no one wants another business to use their private driveway. **The Board did not decide on the traffic standard** due to these concerns. Pratte moved the Board onto Environmental Protection. Pratte addressed the visual resources component of Environmental Protection will be decided in the compatibility standard of that section and not with this vote. **Board consensus that the Environmental Protection Standard, not including visual resources, is met by the application.**

Pratte then read the compatibility standard for approving a conditional use permit. Pratte advised that he did not believe this standard is met after hearing the testimony of the neighbors. Belay asked what the finding was in the March meeting? Pratte advised that we did not have all of the needed input at that meeting. Walleser stated that the proposed development would appear to be obnoxious and offensive to neighboring and/or abutting property owners. Belay advised that if you don't look to precedent, then the Board's decision could be arbitrary and capricious. Wennes spoke briefly indicating that they would work with all concerned to alleviate any issues. Due to the arbitrary and capricious claim, Blake recommended that the County Attorney be consulted regarding the decision and process to date. Pratte stated that they could make the decision based on the ordinance. Walleser stated that she wanted to consult with legal counsel. **Walleser made a motion to close the public hearing. Keatley seconded. MCU.**

**Walleser made a motion to table action on the Wennes Conditional Use Permit application to May 1, 2019 at 4:30, after consult with legal counsel. Keatley seconded. MCU.**

Dettmer, Wayne—Consideration of a request for a setback variance to allow an existing dwelling be replaced with a new structure that will be setback the same distance from the access road, but will have a wider building frontage, thereby increasing the setback violation of the current building. Blake presented a staff report regarding the request and gave the Board a history of the property. Blake recommended the variance request

be approved because a new structure needed to meet the minimum 16 foot width and the structure could not be moved further away from the road, due to septic system location. After discussion, **Weymiller made a motion to approve the variance request. Brainard seconded. MCU.**

The Board discussed the ordinance language and grounds for approval or denial. Blake advised that he would communicate with the County Attorney regarding the application and process and would ask that he attend the meeting on May 1, 2019.

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

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Thomas Blake, Zoning Administrator and Board Secretary



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

**March 13, 2019**

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

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

Roll call of Commission Members:			Term Expires
	Steve Weymiller	Present	12/31/2019
	Gwen Brainard	Present	12/31/2020
Chair	Bernard Pratte	Present	12/31/2021
Vice-Chair	Nancy Walleser	Present	12/31/2022
	Dennis Keatley	Present	12/31/2023

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 meeting agenda as presented. Walleser seconded. MCU.

Blake advised that the meeting minutes (draft) were not yet available. Board consensus is to table action on the March 13, 2019 minutes.

#### Public Hearings

Schroeder, Richard—Blake presented a staff report detailing the proposed project and the history of the property. Schroeder had an agreement to purchase the land if the variance was approved. William and Beth Ann Dixon are the current owners and they request approval of the variance. Blake noted that the existing site had received a variance for front yard setback for a small cabin. Schroeder was requesting to replace that structure with a larger storage building. Blake advised that Environmental Health was in favor since this use would not require a well or septic/holding tank. Blake recommended approval. Weymiller made a motion to table action on the request, subject to applicant providing evidence of property ownership. Keatley seconded. MCU.

Wennes Communications Stations, Inc— Blake presented a staff report. Notices had been sent to all adjacent property owners. The access was via an easement across Schutte-meier Property. Weymiller inquired of Wennes Representative Greg Wennes about why this location? Wennes advised it was to allow them to broaden radio station coverage to the North. Blake noted that no objections had been filed in his office. Walleser made a motion to approve the request for a conditional use permit, finding that all of the standards had been met. Weymiller seconded. MCU. **(Note; this decision was later determined to be void due to a notice error, invalidating the public hearing and subsequent decision.)**

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

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Thomas Blake, Zoning Administrator and Board Secretary