

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, MAY 17, 2022
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Tim Brendemuhl, Dennis Loock, Leo Splonskowski

Members Absent: None

Others Present: Matt Jacobson, Brian Melton, Ericka Franck, Rita Rueckert, David Christensen (by phone)

The meeting was called to order at 5:30 PM by Chair Ezra Baer.

APPROVAL OF AGENDA:

On motion by Tim Brendemuhl, seconded by Leo Splonskowski, and unanimously carried, the Board approved the meeting Agenda.

APPROVAL OF MINUTES OF APRIL 19, 2022:

On motion by Dennis Loock, seconded by Tim Brendemuhl, and unanimously carried, the Board approved the Minutes from April 19, 2022.

PUBLIC HEARING(S):

DANIEL MOORE – REQUEST FOR VARIANCE

The applicant is seeking approval of an after-the-fact variance from the Clay County Development Code to the animal feedlot setback from an agricultural building in part of the SE1/4 of the SE1/4, Section 10, Township 142N, Range 044W, parcel 29.010.4400, Ulen Township.

On motion by Leo Splonskowski, seconded by Dennis Loock, and unanimously carried, the public hearing was opened.

Matt Jacobson, Planning & Zoning Director, advised that the request is for a variance from the 1,320-foot feedlot setback from all other structures. This is a small parcel with a residence onsite. There are provisions in the Ordinance to allow animals onsite. Applicant could have met the setback but would have had to reduce the animal count to six animals. The current AU (animal unit) count is 14 cattle.

The parcel is 7 acres used for agricultural purposes. If the animal units are under 49, it is allowed by right.

Policy considerations reviewed include:

General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business, and recreation, while maintaining and enhancing its livability.

- Policy #1 Promote the development and implementation of a Comprehensive Plan that effectively plans for agricultural protection, land use, transportation, housing, economic development and environmental protection for Clay County.

Land Use Goal #2: Support the long-term protection of agriculture in the County.

- Policy #1: Recognize and support the agricultural character of the County in all planning efforts.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

- Policy #8: Strengthen the county's land use ordinances related to feedlots in a manner that allows these uses in the agricultural areas, while protecting groundwater and surface water resources and mitigating potential adverse effects on surrounding properties.

The subject property is zoned Agricultural General and all immediately adjacent properties are zoned Agricultural General and Shoreland: Special Protection Rivers & Streams. A feedlot under 49 animal units (AU) is permitted in the Agricultural General (AG) district if it meets specific requirements related to setbacks from other uses.

The Applicant requests a reduction to 930-foot setback.

The Animal Feedlot Definition was reviewed: A lot or building or combination of lots or buildings used for a period of at least forty-five (45) days during any calendar year for the confined feeding, breeding, raising or holding of animals and specifically designed as confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Also included are all adjacent manure storage facilities and areas used for storage and/or disposal of dead animals. For the purposes of this Ordinance, open lots used for the feeding and rearing of poultry shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

An aerial map was reviewed showing the required setback. The County Feedlot Inspector is aware of this situation and considers this application a reasonable request. There have not been any other comments received on this matter.

Considerations for After-The-Fact Variance Requests include:

1. Was construction complete: Construction is complete
2. Are there similar structures in the area: Outbuildings are similar in form and design to other structures in the area.
3. Benefit of the municipality of enforcement, compared to the burden on the applicant if compliance was required: The burden of compliance with the Code on the Applicant far outweighs the benefit of enforcements.
4. Was violation intentional or unintentional: Applicant did not believe that an enclosed, small-scale operation would have setback requirements and overlooked the need for a building permit. Ezra Baer asked if there could be a condition applied to limit the animal units to protect the nearby residence; Director Jacobson felt that would be a reasonable condition to include in the Variance.

The Applicant was not present for the hearing. Neighbor David Christensen called in to the meeting. Mr. Christensen felt the matter was overblown, as this started as an FFA project between a young child and his grandfather. Mr. Christensen stated he has never had any odors from the cattle and stated his strong agreement with the request.

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the public hearing was closed.

The Findings of Fact and Order were addressed by the Board of Adjustment as they pertain to the requested permit. Any items of concern may be addressed through Conditions.

On motion by Tim Brendemuhl, seconded by Leo Splonskowski, and unanimously carried, the Board of Adjustment *GRANTED* the Variance with the following conditions:

1. **Setback from adjacent property's agricultural building shall be no closer than 930 feet.**
2. **A Conditional Use Permit for a feedlot will void this Variance.**

UNFINISHED BUSINESS:


- Seeking interested Applicant for immediate Board of Adjustment vacancy – The Board of Adjustment is still searching for interested applicants for a current opening.

NEW BUSINESS:

- Director Jacobson advised that the Comprehensive and Transportation Plan was approved by the Clay County Board of Commissioners at their meeting this date. There will be printed versions provided for all members. It will also be available online. The next step will be a full review of the Clay County Development Ordinance. This will require having a consultant that is well-experienced, and also have review by the County Attorney's office to prepare a well-balanced document. Funding will need to be secured for this project before it can commence.

ADJOURNMENT:

On motion by Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the meeting was adjourned at 6:01 PM.



Ezra Baer, Chair
Clay County Board of Adjustment