

The Muscatine County Board of Adjustment met in the Board of Supervisors Office on Friday, April 7, 2023, with Vice Chairperson Tom Harper, and board members Carol Schlueter, Emily Geertz, and Charles Clark present, Chairperson Janelle Spies was absent. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended.

Tom Harper: I will open this Board of Adjustment meeting and read the opening statement. The Zoning Board of Adjustment is a quasi-judicial board appointed by the Muscatine County Board of Supervisors. The Board's purpose is to interpret the Zoning Ordinance and to allow certain limited exceptions and variances where special conditions or hardships exist. We are an independent volunteer board of citizens and not part of the county administration. There are five members on the Board. State law requires three affirmative votes to approve any appeal under consideration, no matter how many members are present. If fewer than five members are present, the appellant has the opportunity to have the appeal delayed until the next meeting. This request must be made prior to Board deliberation of that case. As a Board of the County, we welcome all testimony. We make our decision based on the facts and evidence under county code, presented in open meeting. We ask that if you wish to speak, please give your name and address. So the other business that we have before starting the meeting is that we need to appoint a Chair and a Vice Chair to serve until March 31, 2023. I will make a motion to keep the same chair and vice chair that we have now. That would be Janelle Spies as Chair and Tom Harper as Vice Chair. Is there any discussion or is there a second?

Carol Schlueter: I will second that motion.

Tom Harper: Are there any additional motions? Not hearing any, all those in favor of having the same Chair and Vice Chair as we had before to serve until March 31, 2024, please say Aye (4) Opposed (0) Absent (Spies). The motion has passed. Okay, now we need to approve the minutes and resolution from the previous meeting. You have all received the minutes and resolution emailed to you. Are there any changes or corrections? Not hearing any, is there a motion to approve the minutes and resolution from March?

Emily Geertz: I will make a motion to approve the minutes and resolution from March.

Carol Schlueter: I'll second it.

Tom Harper: There has been a motion and it has been seconded to approve the minutes and resolution from March. Any further discussion? Not hearing any, all those in favor of the motion please say Aye (4) Opposed (0) Absent (Spies). The motion has passed. Also, just a reminder, we are normally a board of five members, today we have a member absent. So if we vote and it's a tie vote, it's a no vote. You will have the option to go ahead with it or you can request to have the decision tabled prior to our vote. Okay, Eric I think we are ready. Can you please read the first request?

**Case #23-04-01**

Eric Furnas: Case #23-04-01. An application has been filed by Todd J. and Lisa L. Hunter, Record Owners. This property is located in Goshen Township, the SW¼ of Sec. 26-T78N-R3W, Parcel B, 2117 155<sup>th</sup> Street, containing approximately 0.99 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance to allow a detached accessory structure (pole frame) to be built partially in the front yard space, but still approximately 55 feet back from the front lot line.

Tom Harper: Okay, is the representative or owner here for this request?

Todd Hunter: I am here.

Tom Harper: Was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Can you please tell us what you are wanting today?

Todd Hunter: Yes, my name is Todd Hunter. I would just like to put up a small pole barn on my property. It would be in the side front yard. Due to the flood plain in the rear access, I am kind of limited to where I can place. I own the property to the west of it and to the south of it. My daughter owns the house to the north and it wouldn't impede on any other dwelling. I just want to house my small tractor, a four-wheeler... I just need extra storage space.

Tom Harper: Your property does not front onto the mail road, correct?

Todd Hunter: No it doesn't. It's a farm field in front of it.

Tom Harper: Okay, is there any questions or discussion by the board?

Carol Schlueter: I'm confused. Can you please come up here and show me where the property is at? I've got a map up here. Where is your house at?

Todd Hunter: Okay, the house sits right here and I would like to put the pole barn just right over here. Directly behind is a very steep bank, so I am kind of limited to where I can put it. I own all of this and I own this back here. I don't want to place this pole-barn into the corn field, obviously, because I don't want to take that out of production. It could just go right alongside of it here.

Carol Schlueter: Okay, how do you get to your property?

Todd Hunter: There's a lane that comes down off of this road.

Carol Schlueter: Oh, off of this road?

Todd Hunter: Yes, the main highway is clear over here.

Carol Schlueter: So why would this be in front of his house then Eric?

Eric Furnas: That is considered the front yard space because of where his drive meets the other road. By the definition, this is the front yard space.

Carol Schlueter: Okay.

Todd Hunter: You can see it a little better on this one ma'am. This is my current house and garage. I'd like to put my building right here.

Carol Schlueter: Okay. It's just going to be like an enclosed building with doors and all?

Todd Hunter: Yes.

Carol Schlueter: What was the size?

Todd Hunter: No bigger than 30' x 40', I am waiting on pricing.

Tom Harper: Yeah, I was going to say that we've had similar requests and it is hard to define the front yard space. But this property really is landlocked, it isn't right up to the public road.

Eric Furnas: Yeah and I think that it's important to point out the possibility of a hardship under a Special Use Permit in 2003, it was specially sited this way to

avoid taking out the crop ground. So that's why he located it this way. Then he built on that high bank to avoid the flood plain and to preserve as much farm ground as possible. So it did create a kind of long and narrow lot to build on, but we do applaud and encourage farmland preserve.

Tom Harper: What is that just to the north of this?

Eric Furnas: So that's his daughter's property.

Todd Hunter: Yeah, my daughter lives 800 feet to the north.

Tom Harper: Alright is there any other discussion? Is there any questions or comments from anyone in the room? Does anybody care to make a motion?

Carol Schlueter: I will make a motion that we allow this Variance in order to allow a detached accessory structure (pole frame building) to be built partially in the front yard space, but still approximately 55 feet back from the front lot line.

Tom Harper: Is there a second?

Emily Geertz: I'll second it.

Tom Harper: A motion has been made and seconded to allow this Variance in order for Mr. Todd Hunter to build a detached accessory structure (pole frame building) to be built partially in the front yard space, but still approximately 55 feet back from the front lot line. Any further discussion? Not hearing any, all those in favor of the motion please say Aye (4) Opposed (0) Absent (Spies). The motion has been declared approved. Any construction or use allowed by this Board must begin within two (2) years from the date of this decision, or the permission would be void. Any person desiring to appeal this decision to District Court must do so within 30 days after filing this decision.

Todd Hunter: Thank you.

Tom Harper: Eric's office would be able to help you with any questions.

**Case #23-04-02**

Present for this hearing: Carl Adams, Sue Adams, Jason Erwin, Charity Erwin, Linda Brockert, and Lyda Broders.

Tom Harper: Okay, Eric can you read the next case?

Eric Furnas: Case #23-04-02. An application has been filed with the Board of Adjustment by Cedar View Homeowner's Assoc. Inc., Record Owners by Linda Brockert, and Carl and Susan Adams and Jason and Charity Erwin, Proposed Seasonal Recreational Cottage Owner. This property is located in Goshen Township, in the SE $\frac{1}{4}$  of Sec. 25-T78N-R3W, Part of Government Lot #1, Tract Adjacent to River, Cedarview, Lot #6, 1523 Cedarview Drive, containing approximately 35.76 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special Use Permit in order for the applicants to build a Seasonal Recreational Cottage (Buildings on Leased Land) on this property for seasonal use only.

Tom Harper: Was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Is the applicant or applicants here?

Jason Erwin: We are.

Tom Harper: Okay, please state your name and tell us about your request.

Jason Erwin: Jason Erwin, 106 Hunts Avenue, Fruitland. Basically in late 2018 we had an agreement, a verbal agreement with the previous owner to purchase a cabin that was sitting on a lot. In early 2019 we signed paperwork and took possession of it. We worked on the cabin for approximately two months fixing it up with plans to raise it. As we got deeper and deeper into the cabin project we realized that there was more structural damage there than what we felt was there previously, like with black mold and stuff like that. So then we chose to remove the cabin and when we were able to save up enough funds to start building, we wanted to start building. So in 2020, as you all know, covid hit and we were already kind of in the process of building what I would call the main structure, the concrete block structure to raise the cabin. At that point in time, covid was so crazy, we couldn't really go on any further with the price of lumber and things like that so we just put a roof on it and just pretty much just turned it into a shower house for our camper to be at. We have now saved up enough money to process further with building the cabin for my mother-in-law and father-in-law who have recently retired. She is retiring from the school district after 35 years in June. So they are just basically looking for a place to relax and enjoy their retirement. And that's why we are here. We also have our secretary and treasurer for the place, Linda Brockert is here from the Cedar View Homeowner's Assoc. Inc.

Tom Harper: Alright, Eric would you give us your take on this?

Eric Furnas: I will first start by responding to a couple of things that were stated. According to the foundation that they say was started somewhere around 2020, there is no permit issued for that. If there had been at that time, we wouldn't be having this discussion right now. That construction was unpermitted and never inspected, just to clarify that. That would have triggered the same discussion as when they came in to ask to build a cabin on top of that cement building at that time. Once that Seasonal Recreational Cottage was removed and gone for more than one year, the land uses are then... it is no longer a non-conforming use, it's not longer grandfathered. Once the non-conforming use is gone for over 12 months or more, we have to look at what that zoning district allows. So fine, there is an application for a Seasonal Recreational Cottage here. The Seasonal Recreational Cottages are listed as a Special Use Permit in the A-1 Agricultural District, that is the process that they have applied for. I think the issue is here that the Zoning Ordinance clearly states under the supplementary use portion of the code, Article XIII: Supplementary Use Regulations, that the Seasonal Recreational Cottages are permitted in the A-1 Agricultural District or the R-1 Residential District for seasonal or temporary. Such a seasonal or temporary residence may be located, upon approval by the Board of Adjustment, in accordance with Section 4.3 of Article XV, along a river, lake or stream or in another area suited for recreational use, provided that it complies with the area, lot width, yard, and height requirements of the R-2 Residential District. Each seasonal recreational cottage shall be located on an individually platted lot. There shall be no more than one cottage on each platted lot. Cedar View Homeowner's Assoc. Inc. is a 35 acre plus property that is not individually platted lots. I have no way of... we have no way to verify if the lot yard area meets the R-2 Residential District requirements, because there are not individual lots. The ordinance clearly requires that they have a plat that is very clearly in size and that the cottage be located on a lot, and no more than one cottage per lot. That's the biggest thing that I think I need to point out to you, is that there aren't individually platted lots there and the code clearly requires that. I will point out that Mr. Erwin provided us with a map from the Cedar View Homeowner's Assoc. Inc. and they maintain, it references as their lot maps or their lease area maps, it tracks who uses what lot. It is recorded with some of the agreements and leases in that area, I did find that. I had the county attorney look at that just for a legal opinion whether this constituted platted lots and his opinion was clearly no, they are not platted lots. There is nothing that

is recorded that shows lot sizes. There is really no way that I could go down there and you can send a surveyor down there based on county records and say, show me where lot two is and see the corners of it. It has not been recorded with lot boundaries and those do not constitute platted lots as describe by the ordinance.

Emily Geertz: So who owns the lot? I mean, how do you buy something that you don't have a platted lot?

Eric Furnas: I think you should speak to the secretary/treasurer.

Linda Brockert: Yeah, I am the secretary/treasurer there. Cedar View came into being in 1986. So Cedar View Homeowner's Assoc. Inc. owns the entire property. Everyone that has a lot out there essentially ... they own their home but they don't own the land. That's why none of the lots were platted in that day. They would just go around from place to place and say, okay, your line ends here and then the next line. So essentially, they are just renting from the association.

Emily Geertz: So like a trailer park?

Eric Furnas: Yeah, I suppose you can compare it to a trailer park.

Emily Geertz: Because you don't own the land but you own the house?

Eric Furnas: Yeah, the land ownership I don't think is necessary in question as far as the ownership of a lot. But it's very clear stating that they have to be on platted lots.

Linda Brockert: And we have 25 people out there that have homes.

Tom Harper: So basically the biggest issue here is that we are not following the ordinance stating they need to be on individually platted lots?

Eric Furnas: Yeah, I don't believe that granting the requests would be supported by the ordinance.

Emily Geertz: Is there a process to which they could get platted lots?

Eric Furnas: Sure. There is a subdivision process, that's how lots are platted, we have agricultural subdivisions, commercial subdivisions, and residential subdivisions. There is a process to plat lots. I can't tell you how the Zoning Commission and ultimately the Board of Supervisors would feel about platting lots and encouraging development in the flood plain. But there is a process for platting and an application.

Charles Clark: It is in the flood plain there?

Eric Furnas: Yes. And I will point out that now, you know, we are not prohibiting rented space for these informal lots for campers coming and going. We are just talking about Seasonal Recreational Cottages as defined in the ordinance under a Special Use Permit.

Tom Harper: So this is not a concrete pad out here, this is a ...

Eric Furnas: What is being proposed is an actually structure.

Jason Erwin: I don't know if they provided you with pictures with what is there right now? But basically, it's like I said, it's a concrete base. But I have pictures of it if any of you would like to see it. It has proper footings, proper measurement, proper depth, and everything else, it shows the rebar. As you can see here, the

concrete blocks were being put together. (Mr. Erwin was showing the Board of Adjustment members of the pictures that he had taken)

Eric Furnas: I'm sorry, but I would question the relevance of this existing structure, as to the requirements of the Zoning Ordinance itself.

Carol Schlueter: Okay, so when you decided to do this you did not get a building permit to do this, correct?

Jason Erwin: We tried to ma'am, but like I said we were in the middle of covid. My wife made phone calls and never got anybody to answer and nobody replied to our voicemails.

Carol Schlueter: So you called their office?

Jason Erwin: Yes ma'am.

Eric Furnas: We went back over our emails, we searched emails by their last name, this address... we did not find anything. Our office was not closed during covid, so I take issue with his assumption that we received his phone calls and did not return them.

Carol Schlueter: Okay, okay.

Tom Harper: Well the question ... what it is, is you built without a permit.

Carol Schlueter: Okay, the original cottage was torn down, am I right on that?

Jason Erwin: Yes ma'am.

Carol Schlueter: But then if they would have replaced it in a certain amount of time it would have be okay?

Eric Furnas: After the 2008 flood we allowed the rehabilitation of an existing non-conforming use, yes. But the ordinance is clear, once you remove a non-conforming use and it's been removed for over 12 months, then they have to look at what the ordinance says is now allowed under Special Use Permits in that zoning district.

Carol Schlueter: Okay.

Jason Erwin: Like I spoke with Eric about earlier, you know, I've been working at HNI for 26 years, my wife and mother-in-law work for the school districts for 35 years and for 10 years, my father-in-law is a farmer. We don't have buckets full of money laying around. We did this as we were able to save our money in order to do this, as a future project for us to be able to enjoy the last years of our lives.

Charles Clark: Could they do the same thing with purchasing a nice three-season's camper?

Eric Furnas: Yes, like I said there is nothing in this zoning ordinance that prohibits you from pulling a camper onto a recreational property and using it. Now there are flood plain restrictions that say you can't place a camper on the property for more than 180 days, you have to maintain it in a road worthy condition, you can't build anything permanent onto it, etc. But campers can be pulled in and pulled out on private property all the time. Seasonal Recreational Cottages... you can have campers qualify as Seasonal Recreational Cottages, but if you are going to install water, septic ... and basically leave them onsite, they would also need to be permitted as such. But we would not be able to allow all kinds of utility services for a camper, as far as permanently, because that makes it a Seasonal Recreational Cottage.

Tom Harper: Okay, is there any other comments by anybody? Does anybody else care to make any comments? Alright, does the board have any additional comments or do you want to make a motion?

Charles Clark: I think if you really wanted it bad enough, you should have pursued it and at least walked into Eric's office. You could have pounded on the door and say, hey – I want to do this.

Jason Erwin: I understand what you are saying Charles, but heck at that point in time, we couldn't even go in and get a license plate for the car. We couldn't go out and get a driver's license. At one time I couldn't even go to the grocery store.

Charles Clark: But he is saying that they were always open.

Eric Furnas: We were issuing permits and conducting inspections every day.

Charles Clark: Yeah, I just think that procedures should have been followed. Invest for now in a nice three-season's trailer. They make some nice ones that you can live in.

Susan Adams: Susan Adams, 1836 231<sup>st</sup> Street. We have campers now that we take down, but as we are getting old we don't want to have to keep taking our campers down all the time, you know? It's just... we just want to have a permanent place that we can go to on weekends and things like that.

Charles Clark: Well we are governed by the law, and the law is very clear. This young fellow looks like he can hook up a camper for you in no time and haul it in and out for you.

Jason Erwin: So obviously you guys are going to deny us. What's our steps from here? I mean, what do we need to do to get this through? Eric said something about you guys need to come down and, you know, check it out and make sure that it meets the qualifications and everything else, when I spoke with you in your office.

Eric Furnas: Are you talking about the existing building?

Jason Erwin: Everything.

Eric Furnas: Well number one... in order for that to remain and for a cabin to be built on top of it, the Special Use Permit would need to be approved by this board. That is their authority entirely, it's not mine.

Jason Erwin: This board here?

Eric Furnas: Yes. They are the only ones that grant Special Use Permits. But to wholly answer your question on whether if it is denied, that structure... even the beginnings of it would have to be removed?

Lyda Broders: What about the existing cabin that I built eight years ago?

Eric Furnas: Where is it?

Lyda Broders: It's down there - right up from this one.

Eric Furnas: Built new, replaced or rehabbed after the 08 flood?

Lyda Broders: Built new, it cost over \$100,000 to build it.

Dixie Seitz: Ma'am, can you please state your name?

Lyda Broders: Lyda Broders.

Eric Furnas: I'd have to look back in the records to see.

Lyda Broders: You gave me a permit.

Eric Furnas: All I can go by is the law at the time when this application was submitted.

Lyda Broders: We tore down the existing place and replaced it.

Eric Furnas: So within one year... you torn down and existing cottage and replaced it within a year?

Lyda Broders: Well it took us two years to finish it.

Eric Furnas: But you purchased your building permit to replace the existing non-conforming structure within 12 months from removing it... that is the difference.

Tom Harper: Any other discussion? Does anybody care to make a motion on this? We need to make it a positive motion, but vote however you wish.

Charles Clark: I will make a motion that we ... it's kind of hard to make it positive. But this Special Use Permit in order for the applicants to build a Seasonal Recreational Cottage (Buildings on Leased Land) on this property for seasonal use only, be denied.

Tom Harper: We need to make the motion positive since we only have four members present.

Charles Clark: Okay, yeah... I make a motion to approve the request that was stated.

Carol Schlueter: I will second that motion.

Tom Harper: Okay, a motion has been made and seconded to approve this Special Use Permit in order for the applicants to build a Seasonal Recreational Cottage on leased land for seasonal use only. Is there any further discussion? Hearing none, all those in favor of the motion signify by saying Aye ...

Charles Clark: What did you say?

Tom Harper: Vote Aye if you want to approve the motion as stated.

Charles Clark: Okay, no.

Tom Harper: All those opposed to the motion please say Aye (4) Absent (Spies). The motion is denied.

**Case #23-04-03**

Present for this hearing: Sherry Plath O'Keefe, Michael A. O'Keefe, Russell Brooks, Diane Brooks, Lisa Dellitt, and Amy Condon.

Tom Harper: Okay, Eric can you please read the next request?

Eric Furnas: Case #23-04-03. An application has been filed by Michael A. or Sherry Lynn O'Keefe, Record Owners. This property is located in Montpelier Township, in the SE¼ of Sec. 12-T77N-R1E, East of Ziegler Avenue, at 1777 Ziegler Avenue, containing approximately 9.75 acres and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to



issue a Special Use Permit in order to permit the establishment and operation of a children's day camp on this property.

Tom Harper: Okay, is the applicant here?

Sherry O'Keefe: Yes I am.

Tom Harper: Was there any correspondence, anything other than what is in this packet?

Eric Furnas: We have received nothing additional, you have what I have received to date. I believe that Mrs. O'Keefe will speak to what they have attained as far as the surrounding neighbors. But you have what I have received to date.

Tom Harper: Okay. I do want to restate that this is normally a five member board and today we have a member absent. In order for your request to be in affirmative today, we would have to have three votes to approve it. You do have the option of having this request be tabled for a month, but I can't guarantee that we will have five members next month though either.

Sherry O'Keefe: That is fine with me.

Tom Harper: Okay, and you have up until the time right before we take the vote to ask for us to table this.

Sherry O'Keefe: Thank you very much, I appreciate it.

Tom Harper: Okay, will you please state your name and tell us a little about your request?

Sherry O'Keefe: Yes, my name is Sherry O'Keefe and I came before the zoning board last June and I was denied my permit. I was given extensive information about what needed to be addressed and bring this forward. This is actually all the copies and you can just keep it. It has all the supporting information and data. This is actually the zoning request that I am asking. In here it talks about every signal specific area of the minutes. This is the key to the minutes and these are the minutes themselves. And as you go through the minutes ... I apologize for not getting this to you sooner but I have been working every day, ten hours a day for the last three weeks on this. I came back from being head down, face first down a 20 foot cliff in Montana and suffered a major fall a few weeks ago. Anyway...but if you go through you would see that the minutes are highlighted and they are all labeled as to what the concerns are. But if you go through those, you may go through here and it will tell you what Z1 is, what the concern is and what pages you can find it on and how the concerns have been addressed. I want to actually thank you all very much for allowing me to come back. Because one of the things that we had talked about earlier was that I needed to have the concerns addressed for the board to be able to go ahead and to consider my reapplication. I think I have addressed those concerns. I look forward to any questions or concerns that you have. I have spoken to many of my neighbors.

Tom Harper: Okay, Eric would you want to update us on this request?

Eric Furnas: Yeah, I think I will try to summarize some of those items of concerns that were expressed by this board at the time of the original application that was over six months ago. One of the things was that we really didn't have any knowledge of how wastewater was going to be handled at that time. There was some elevated toilets, but that plan has been replaced by bringing in a commercial toilet, like what you see in commercial events. It will be also have hand washing stations. These would meet the requirements for temporary use of sanitation and wastewater. The petitioner, Ms. O'Keefe, is suggesting a limit

of no more than 30 children on a given day. And the programming would be on an average of four hours per day never exceeding six. The programs would be mainly in the summer and not exceeding three to four weeks. Part of that, and please correct me if I am wrong, is to be in compliance with childcare licensing or not having a license if there is a limited amount of children in a limited amount of time period, limited programs.

Sherry O'Keefe: Childcare does not require that you have specific weeks that you have children on your property. Childcare is that four hour window or below that four hour window to comply with state code for not ... or for being exempt from licensing. Or you can have programs that go more than four hours a day as long as they are less than two weeks in duration during children's breaks.

Carol Schlueter: So do you have any of these licenses from the state or not?

Sherry O'Keefe: I am exempt by state code from attaining the licenses.

Carol Schlueter: So if you have less than 30 children and these children are only there for only four hours at a time, you are exempt?

Sherry O'Keefe: I am exempt because I have programming less than four hours and there is... I am also exceeding their standards where it talks about exceeding their ratios. The State of Iowa requires that ... or children age 5 to 10 to have one adult for 15 children. Ten and over they require one adult to 20 children. That state code is in and among those binders that you have in front of you. The American Camping Association requires one adult to eight children for 6 to 8, and then from 9 to 14 they require one for 10. The State of Illinois Child Care Association requires one adult for 10 children from 3-4 and one adult to 20 for children from 5-12. I have a ratio of one to six, one adult to six children at all times.

Carol Schlueter: Okay, so who is going to govern that these children are only there for four hours a day? Is that what I am hearing that they can be there only four hours a day?

Sherry O'Keefe: Yes, they can only be there four hours a day. That would have to be...

Carol Schlueter: That would be your responsibility?

Sherry O'Keefe: Yes, my responsibility.

Eric Furnas: At the risk of state licensing.

Sherry O'Keefe: Yes at the risk of state licensure requirements.

Eric Furnas: It really would be no different that any daycare that we aren't even aware of providing in their home that's not under a Special Use Permit. Any evidence of that we could defer to DHS for investigation into licenses and they could be investigated.

Carol Schlueter: Okay, do you know of any other children day camp in Muscatine County?

Eric Furnas: The most glaring one is... it's a religious affiliated camp, it's Spring Valley Bible Camp. Now that one is a non-conforming use, because it was actually established in the 50's, so it was prior to any zoning regulations. But it is, without a doubt a large children's day camp. Programming is vastly different, but today starting out new would require the same permitting that Ms. O'Keefe is requesting. But because this is a non-conforming use that has gone on uninterrupted since before the ordinance was established, they do not have to

follow the same restrictions as new camps. But it's much much larger than this proposed camp.

Tom Harper: But I also thought you said that you could have over four hours as long as you had less than two weeks.

Sherry O'Keefe: Yes, according to state code and that is in the binder as well. We are exempt except for... we are exempt if we run programs less than four hours a day period. We are exempt if we have parents there with their children constantly. We are exempt if we run programs more than six hours a day... I mean more than four hours a day if it is less than two weeks in duration and that is less than... and that is during the times when children are out of school. You can look that up in state code and that is in your binder.

Diane Brooks: Can I ask a question?

Tom Harper: Yes, go ahead and state your name first.

Diane Brooks: Diane Brooks, 1791 Ziegler Avenue, just two doors down. And my question is, one: How large is the camp that you are talking about acre wise? The camp that you brought up, the bible camp. That's my first question.

Carol Schlueter: You mean of her property?

Diane Brooks: No, of this religious day came.

Eric Furnas: Yeah, I think it's a little over 20 acres there.

Diane Brooks: So right there you have a comparative difference. They are also out on their own, I've driven past there and taken kids there before. This is different because there are neighbors where Ms. O'Keefe is. I wonder that within the four hours will there be more than one four hour camp a day, as in will she have a morning, noon and then 6 to 10 o'clock at night. I mean, if she can get by with only having four hours a day, is she going to run three camps a day? That is my question.

Sherry O'Keefe: Okay, well my answer to that is ... I have some photos of Spring Valley Camp and their proximity and location to Ripley's trailer park, which is very close. I mean, some of the cabins are within eye sight. As you look at the top of the picture you can see that there is a very edge of a house, this is taken from a mobile home park. That blue cabin in the back is part of Spring Valley Bible Camp. This picture is taken from looking directly into Ripley's and you can see that there is a house directly there. I am comparing that with the same location essentially from my house ... this is my house, this is the edge of my house and that is looking directly south of the Guy property and this is my house here and that is looking directly to the north at the Bly property. You can see that to view a house is drastically ... (the recorder didn't pick up what she said) and the Spring Valley Bible Camp is much closer to homes and a community and much more easily assessable than my property is. And the answer to whether I would run more than one four hour camp a day, is no.

Carol Schlueter: So you are just going to have one four hour came a day?

Sherry O'Keefe: Yeah, I'm 66 with a broken spine, I think one four hour camp per day is as much as I can handle.

Emily Geertz: Is it full time, like all year?

Sherry O'Keefe: Well you know, it will be very sporadic. And it is uncertain as to whether... I mean, we haven't even decided as to what programs we would be

running during the summer. There would be some opportunities throughout the school year as well.

Tom Harper: So this would be a 365 day a year?

Sherry O'Keefe: There would be opportunities off and on for 365 days a year.

Eric Furnas: I would point out and I discussed this with Ms. O'Keefe the other day, that if the campers would have potential to have any contact with the well water that she would be limited to a total number of no more than 25 individuals for more than 60 days a year, then it would require a public supply system. So the fact that it is a private well now, if they had any contact with the water it would be regulated to more than 25 individuals more than 60 days a year it would be regulated. So that is the difference with our regulations on a public water supply system and a private well.

Sherry O'Keefe: If I were to choose to run more than 60 days, I would be working on getting a community well permit.

Eric Furnas: Yeah, it would actually be a public water supply system that was permitted and tested by the Iowa DNR, or you have to have an operator. So there are some other mechanisms that can control this size and duration of the number of people on site with the contact. I will point out that the Board of Adjustment can point out some reasonable restrictions, as far as adding restrictions or stipulations on this Special Use Permit. You know, to ensure that these proposed limits are maintained.

Tom Harper: I have one question for Eric and Sherry both. Somewhere in the correspondence here, you talked about originally you had a request to subdivide the property?

Sherry O'Keefe: My original intent... because I just kept looking at zoning, because I've been working on this for almost two years now. I've been looking at zoning, looking at zoning, and looking at zoning. So I met with my lawyer and my lawyer suggested that what we do is subdivide the property into an LLC and our own personal private property. That would still be what I'd like to do. My lawyer was in touch with Eric, my lawyer then found out that I needed this Special Use Permit. That was the first time that I was able to discern from doing any of the work that I had been doing online, that it in fact I needed a Special Use Permit for this. When I was denied the last time I talked to the surveyor and I said no we're not doing anything until such time as we might get a Special Use Permit.

Eric Furnas: And just to clarify that, there wouldn't be a requirement to subdivide this property into two separate parcels. You could grant a Special Use Permit on this property in its entirety as it sits, and in addition to there being a single family dwelling home. Now there may be other legal or liability reasons where they want to pursue that, but there would be no requirement of having two separate parcels here because it is not being rezoned.

Tom Harper: So that is not part of this request?

Eric Furnas: No that request would be before the Zoning Commission if in fact they requested that. That has nothing to do with what they are requesting before the Board of Adjustment today. If this request would be allowed, it would allow them to have a Special Use Permit attached to the whole 9.75 acres. It would also be the existing site of their single family dwelling.

Tom Harper: Alright.

Charles Clark: If I may clarify that this bible camp... I think they are my neighbors. I live at 2698 Emmert Avenue.

Eric Furnas: No that is completely different. This is out close to Ripley's. You are talking about the old Cedar River Baptist Camp.

Charles Clark: Alright, I stand corrected.

Sherry O'Keefe: If I may speak to that for one minute, I know that one of the things Mr. Clark, you suggested that I do at the last meeting was to look at Cedar River Ranch and see what their use is. So I thought that that actually was a really good thing to do. So I contacted them and in fact they are running essentially a resort event space. They are not running the kind of day camp that I am proposing. I did not ask them for their Special Use Permit, in fact that got one. I know that it's been very important for you to clarify and make sure that this is an appropriate that there is a storm shelter to be used. I asked them about that and they have their storm shelter, which is a basement of their toilet bathhouse. But it is not run as any type of children day camp. It is not fenced, according to the last time I talked with the owner. And they are not running any programming for children.

Charles Clark: Which brings me to my second point, the last time we asked for a fence.

Sherry O'Keefe: And I have addressed that. I'm going to give you two things this time. One is, a picture of the fence of how it looks without a visual barrier and the other is how it looks with a visual barrier. This is on the property between my property and Jim and Catherine Guy, who are directly to the south. They have asked that I make sure and put up a fence and that I do some visual barriers for them. They have signed off and have agreed to let me go ahead and to use that property. What I am going to give you now, this is the notice to all the property owners, all the ones in yellow I have received verification that they are fine with me being able to run a day camp on that property. The one in pink is my neighbor just to the north who doesn't feel comfortable running... or doesn't feel comfortable signing a permit but I have screen shots of text message where she says that she has no intent to argue and that she remains neutral on the issue.

Carol Schlueter: Okay, this is what you have put up?

Sherry O'Keefe: This is the fence that is put up. You can't really see the lines.

Carol Schlueter: Because I drove by the property and on the front side, the fence is old and dilapidated.

Sherry O'Keefe: So this is brand new and this is down where the programming is happening.

Carol Schlueter: So where is that at? Is this from the road?

Sherry O'Keefe: No, it is not.

Carol Schlueter: So up by the road there is no fence?

Sherry O'Keefe: No, we have a fence that is still there.

Carol Schlueter: It's not very... the children will not be way up by the road?

Sherry O'Keefe: Let me address that as well. I also have some information about Spring Valley Bible Camp and their fencing.

Carol Schlueter: We are not concerned with them, that was grandfathered in before the zoning ordinance even took effect, as Eric stated. We are concerned with you and this new camp.

Sherry O'Keefe: Well that's fine but I think what is fair for one person should be fair for other groups. This is Spring Valley Bible Camp, this have no fencing. They have in front of their camp that stops children from playing. But you may see right here, this is my car right here... you can see that they have a fire circle right there and that is directly adjacent to their property. So yes, it is possible for them to go up through the front of our property and go through a dilapidated fence. But at Spring Valley Bible Camp they wouldn't even have to go through a dilapidated fence because there is direct access to the road.

Russell Brooks: I live at 1791 Ziegler Avenue. She has our name highlighted yellow. We have not signed anything... we are not okay with it.

Sherry O'Keefe: Oh I am sorry... I did not mean to highlight your name in yellow.

Russell Brooks: Well you had said that you talked to these people and they are all okay with it.

Sherry O'Keefe: I just need to look at it. Oh, I'm sorry I did. Sorry, I mean to highlight Petersen's down below. That is incorrect.

Russell Brooks: So, I mean, we have concerns on this. Like you said, we are concerned that they stay in their area. We're just the second property down, which is only a couple of hundred feet.

Carol Schlueter: Just to the south?

Russell Brooks: Yes, to the south. So it would be over to Jim & Catherine Guy's property and then our property starts and we have almost 40 acres there. So we are concerned that the kids will stay in their area. We have a large pond on our property. We have not endorsed this. That's why we are here. We actually want to hear what is going on.

Charles Clark: Well being a farmer, a retired farmer, fences are cheap ma'am. You can go down here to southend or you can go up to Menards and purchase just some snow fencing. Rolls and rolls of it are pretty cheap. Just put up some snow fence to wherever those kids are going to be.

Sherry O'Keefe: I would agree with you and I would be happy to do that on our front part of our property. It was already fenced, there is already fencing... unlike the back part of my property that already adjoins the Guy property where the fence goes down all the way. I would have to put up fence posts, metal T posts in the ground. Then I had to have brand new fencing material because the fencing there is completely dilapidated. The T posts I believe are all still intact in the front. And you know, I have a one to six adult to child ratio, which is better than any state agency requires. And I'm concerned that Spring Valley Bible Camp has 100 children there in the summer and they have no fence.

Charles Clark: We are talking about you ma'am.

Sherry O'Keefe: Okay.

Tom Harper: One question, Ziegler Avenue... that's a dead end. Is there a turn around on it?

Diane Brooks: No, you have to pull into someone's driveway.

Sherry O'Keefe: If I may pass out one more thing... you guys are very concerned about the pond and having the children wandering into the pond. This is again a camp that has no fencing or anything around their pond.

Diane Brooks: The pond is on my acreage and I would hate to have something happen to a child that wanders off. There is no closed off fence on my entire property. The fence that was fixed is on the south side between the Guy's and the O'Keefe's. The north side of the fence going between the O'Keefe's and the Bly's was not fenced in. The west property where the fence hits the road, it is not enclosed 100%. A child can get out in any moment in time, even if you have one on one. A child can get out in seconds and wander to a corn field and get lost and die and suffocate in the corn field. They can get down to my pond because they are curious about my sheep and get in my pond and drown in seconds of time. That is my property. If your property is not properly fenced off and protecting those kids in, I am at risk. That is my issue. I got your letter, I appreciated very very much. I was out of town for the last 12 days and I could not get back to you. I have issues and I know that when I speak to Mrs. O'Keefe that she loves to project that I have given my blessing. I have text from Mrs. Guy who is very very upset about this. I have it on my phone right now showing how upset she is. She is in the VA Hospital today and not able to be here, or she would be here. Mr. Bly works with Mr. Brooks, they have spoken. They are very concerned about this. So while she says that she had highlighted this and says that they have approved, I can guarantee you that they have not. So it concerns me and that's why I am here today. I want to hear from you what happened, because I know what she will tell me will not be actually what has been said.

Tom Harper: Okay, does someone have a question here?

Lisa Dellitt: Yes, my name is Lisa Dellitt. I am a resident of Moline, Illinois. I have been a teacher for 15 years. Our school that I currently am teaching at is not completely fenced and we have a supervision ratio at recess of 1 adult to 30 kids and sometimes 60. So I think the fencing concern with completely fencing in a property is not necessary. I have seen children at recess, they prefer to stay where their friends are, or they even prefer to come up and talk to me as the adult. So I don't think fencing in a property completely is necessary based on the nature of children. I know kids and you might have one kid who likes to wander off. The school that I currently teach at, is adjacent to a ravine property. We have never had children go into that ravine property without permission from an adult.

Carol Schlueter: Did you say you teach at a school?

Lisa Dellitt: I am a school teacher. I have taught for 15 years.

Carol Schlueter: Where?

Lisa Dellitt: I teach at Washington Elementary in Moline, Illinois.

Carol Schlueter: So this is where you are talking about ... these kids are out playing? Or where are you talking about?

Lisa Dellitt: Yes that's where I am talking about.

Carol Schlueter: So this is in town though? Yeah, we are talking about now out in the country where it is very desolate.

Lisa Dellitt: Yes I am saying that children don't wander off the way you are saying.

Carol Schlueter: Yeah, I've been around children too.

Diane Brooks: But if this the nature of this camp for the kids to wander through the woods and to explore and play and wander? If there is no fence and you are not preventing them from wandering... I can end up on any of the properties around me and not realize it. If I was wandering looking for a stick, a bunny, or throw a rock and go find it, blow a dandelion and see where it ends up... I can wander into anybody's property because there is no fence out there. That is the issue. We are not talking about a school playground where kids are confined. We are talking about the woods for kids.

Tom Harper: Okay, does anyone else have any comments?

Amy Condon: I am Amy Condon. I live at 2241 Bridge Street, Davenport. (I couldn't understand what she was saying) .... I understand your concerns, but I feel like that no one should be allowed to be doing anything. I mean, you guys shouldn't be issuing any permits because literally anything could happen. The 1 to 6 ratio is incredible. Even though the point of the camp is to allow the kids to explore, but there is adult supervision. They are not just letting these kids explore and having no idea where they are, it's a 1 to 6 ratio. That means that for every six kids there is one adult that is responsible for them. That's a huge ratio. My day camp where there is... she's got this kid, this kid and other kids that are under the age of two, she has a 1 to 8 ratio. Like this is an incredible ratio and I think that you are discounting how incredible that is that she has a 1 adult for every six kids. I have no concerns. I am very worried about ponds, pools... my kids take lessons every single year. I have never thought twice about this pond on a neighbor's property, because I know that they have eyes on these kids. It seems like this is stretching just a little bit. There is a really good reason why they have such a low ratio.

Dixie Seitz: Can you please spell your name please?

Amy Condon: Condon.

Dixie Seitz: And what did you say your address was?

Amy Condon: It is 2241 Bridge Street, Davenport.

Dixie Seitz: Okay, thank you.

Tom Harper: Okay, is there any more discussion?

Sherry O'Keefe: I would like to address the concerns about Bly's because... I mean, I don't mean Bly's... I mean the Brook's family. I did mismark on that letter that they had signed approval for the fence and for the property to be used. But if you look through those you will see the people that actually signed. But in addressing some of that also is that we have a 1 to 6 ratio and we have some really really really strict staffing guidelines. There is all sorts of stuff in the binder about the staff guidelines. We have walkie talkies that are earbud walkie talkies just like this, I have one in a box. Every staff member will have a walkie talkie with an earbud in it that is meant to be talked back and forth. Every 30 minutes we doublecheck to make sure that we have every child accounted for. Our ratio and our training is that we have staff to keep an eye on every six children. When those children move, we move with the children. There is never a time when a child is out of our sight. If that would be the case, they contact us directly.

Tom Harper: Okay, Eric with every concern that has been presented at the last case a year ago, has she addressed everything to your knowledge?

Eric Furnas: I believe it has been discussed, whether it has been addressed adequately... that is your decision.



Tom Harper: Okay.

Eric Furnas: I know we talked about fencing, we talked about wastewater, about size and duration of programing. Those have been discussed and noted that there has been some additional steps taken from the original proposal and that type of thing. I would like to just comment on something. These kinds of camps are listed as a special permitted use, as we know. So we don't have a list of criteria for minimum qualifications for this Special Use Permit, like we do under the rural residence. So it's just like we talked with the Zoning Commission on the meat lockers, some Special Use Permits we put very strict requirements on. So in the absence of those requirements you still have to look at what is the Special Use Permit, it is something that is generally compatible with the other uses in their district. Which in this case is the A-1 Agricultural District, but it is still reviewed on a case by case basis. You are to consider the impact of the surrounding property owners, the impact to the environment, the impact to the county infrastructure, like roads, bridges and that stuff. This is all on a case by case basis. So all of that is to be a relative discussion. So the impact on the neighbors, it would be possible for this type of proposed land use. So in the absence of specific requirements than you look at the totality of the environment, like roads, neighbors... that type of land use.

Tom Harper: Okay, is there any other discussion by the board?

Charles Clark: I just can't say it enough, having been a farmer and I'm a parent, fences are cheap. There is a cheap roll of snow fencing... 50 foot, 100 foot...

Sherry O'Keefe: I would be happy to install snow fencing around the entire property.

Tom Harper: I might add, fencing comes in other colors other than orange. (laughter)

Charles Clark: Yeah but snow fencing that is orange is very visible.

Sherry O'Keefe: If that is a concern, I would be very happy to go ahead and use snow fencing absolutely all around, all four sides.

Charles Clark: How do you feel about that folks?

Diane Brooks: I like the camp for kids, I like what you are doing. I just want to make sure that the kids know where they are in the woods, where they are supposed to be. I just need to know that the kids know that this orange barrier, that this is their limit.

Sherry O'Keefe: If I could speak to that? I agree with you. I've ran programing for a little while when I just invited people to come out to my property last summer. I had already spoken to the Guy's ... they said you have to have a fence. I said, I understand and I was in the process of putting it up. At the time I only had yellow caution tape. This was the story of a group of pre-schoolers, one particular child was four and there is very easy access from our property to the Bly's. I said to the children, you see that yellow tape? You can't go past it. And as we always do, we were observing the children and a little boy was there and he was kicking the ball, they were playing kick ball, and he kicked it down the hill. Then it went into the Bly property passed the yellow tape. The child stopped dead in his tracks and did not go on. You actually have a reference to that by Dennis Fisher, the pastor of the church and their daycare center stating that. He stopped immediately.

Charles Clark: That is one kid.

Sherry O'Keefe: I had other children out there the rest of the summer and they did not go beyond and chose not to run and get the ball. No one, not one went past the

yellow caution tape. But I will be happy to put up a snow fence on all four sides of the property, I would.

Carol Schlueter: Okay, I would like to make a motion that we close the public hearing.

Tom Harper: Okay, is there a second?

Charles Clark: Second.

Tom Harper: A motion has been made and seconded to close the public hearing. All those in favor please say Aye (4) Opposed (0) Absent (Spies). The motion carried. So that means no more comments from the audience and we are going into deliberation.

Carol Schlueter: Okay, my concern is... I am very concerned with her comments but I want her to have this camp. But I cannot vote for this today ... but she has just said that she is willing to put up a fence up. I would like to recommend that we table this for a month, she gets that fence up and I want to go see it and then I would be able to come back and vote in favor of it. That would be my recommendation.

Eric Furnas: I would just say... you could very well make that conditional part and charge me with the responsibility of documenting certain fence standards, so that we don't have to table this and have it again next month, if that's what you want to do. I am just throwing that out there.

Carol Schlueter: Oh, okay. Well that is my feeling on this, but I don't know about the rest of the board.

Eric Furnas: You could say that the fence needs to be established and approved prior to commencing program on this day camp. But that is just an option, and you do what you want to do.

Carol Schlueter: Okay.

Tom Harper: Yeah, I would be amendable to that suggestion.

Charles Clark: Yeah, I'm okay with that suggestion too.

Tom Harper: So it would just be conditional that anything that we would request in connection to this would have to be inspected and approved by the zoning administrator prior to her commencing operation of a day camp on her property.

Carol Schlueter: Okay, and the other thing that I heard was that she was going to have a portapotty's on her property. I mean, does that also need to be stated that there is so many per child, or do we make that in the stipulation too and to make sure that they are there prior to commencing the day camp?

Eric Furnas: Well there is a recommendation as to how many people that they serve on a given week. I don't know if she was planning on having a girls and a boys.

Sherry O'Keefe: I was just going to have one.

Eric Furnas: So for that variation of time and the number that she is proposing and frankly what she is limited according to licensure and well rules, I think that that is...

Emily Geertz: I wouldn't want to add that, I don't believe.

Eric Furnas: Right, I could just verify that there is one there.

Carol Schlueter: Okay, no problem.

Tom Harper: Okay, does anyone care to make a motion on this?

Carol Schlueter: I will make a motion that we approve this Special Use Permit in order to permit the establishment and operation of a children's day camp on this property with the stipulation that a fence is going to be constructed around the whole entire property, enclosed, so I guess that means with gates too in order to go through, before any day camp can be run on this property.

Tom Harper: Is there a second?

Charles Clark: I'll second it.

Tom Harper: Okay, I want to bring up one point. Are we going to permit this in order for her to run this 365 days a year, or just so many days?

Emily Geertz: I didn't know that was an issue. I thought it was just a Special Use Permit.

Tom Harper: Well the Special Use Permit as it stands would allow her to operate year-round.

Eric Furnas: Correct. The licensure would allow it within a limit to code.

Tom Harper: Okay, is that something we should do or something we shouldn't do? Should we just leave it up to the state licensure?

Emily Geertz: I don't have a problem with it being year-round.

Carol Schlueter: Yeah.

Tom Harper: Okay, let's drop it then. Any further discussion on the motion?

Charles Clark: I seconded Carol's proposal there.

Tom Harper: Okay a motion has been made and seconded to grant the Special Use Permit for the establishment and operation of a children's day camp on this property with the stipulation and condition that the property be fenced off entirely with Eric's approval, or the Zoning and Environmental Office, of the fence, before any day camp can be run on this property. Okay, anything else?

Eric Furnas: Okay, so just to make sure... what I heard was that you were satisfied with a snow fence material as long as it was erected and secured?

Tom Harper: Yes, I believe so. All those in favor please say Aye (4) Opposed (0) Absent (Spies). The motion is approved, the request is approved with the stipulation. The motion has been declared approved. Any construction or use allowed by this Board must begin within two (2) years from the date of this decision, or the permission would be void. Any person desiring to appeal this decision to District Court must do so within 30 days after filing this decision.

Sherry O'Keefe: Okay, thank you very much.

Carol Schlueter: Sure, good luck.

MUSCATINE COUNTY BOARD OF ADJUSTMENT  
By Eric S. Furnas, Planning, Zoning & Environmental Administrator