

## **Johnson County Board of Zoning Appeals**

### **January 26, 2021 Meeting Minutes**

The Johnson County Board of Zoning Appeals met on Tuesday, January 26, 2021 in the Johnson County Courthouse Annex Auditorium. The meeting was called to order at 7:00 PM by Attorney Jeremy Fisk.

#### **I. ROLL CALL:**

**Present:** Chad Bowman, Chris Campbell, Dan Cartwright, Paul Clodfelter (Alternate), Steve Powell, Attorney Jeremy Fisk (Legal Counsel - not voting), David Hittle (Director - not voting), Michele Hansard (Planner – not voting) and Angela Olson (Recording Secretary – not voting).

**Absent:** James Kaylor

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#### **II. ELECTION OF OFFICERS FOR 2021:**

**Motion:** To renew Chad Bowman as Chairman for 2021. **Moved** by Dan Cartwright.  
**Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell.  
**No:** None. **Motion approved 5-0.**

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**Motion:** To renew Chris Campbell as Vice Chairman for 2021. **Moved** by Dan Cartwright.  
**Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell.  
**No:** None. **Motion approved 5-0.**

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**Motion:** To renew Steve Powell as Secretary for 2021. **Moved** by Dan Cartwright. **Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None.  
**Motion approved 5-0.**

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**Motion:** To renew Angela Olson as Recording Secretary for 2021. **Moved** by Dan Cartwright.  
**Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell.  
**No:** None. **Motion approved 5-0.**

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#### **III. LEGAL COUNSEL CONTRACT:**

Chair Bowman advised the board members that Williams, Barrett and Wilkowski had presented their proposed legal counsel contract for the same amount for 2021 and called for a motion.

**Motion:** Approval of proposed legal counsel contract for 2021. **Moved** by Dan Cartwright.  
**Seconded** by Steve Powell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None. **Motion approved 5-0.**

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#### **IV. APPROVAL OF MEETING MINUTES:**

Chair Chad Bowman called for a motion to approve the December 29, 2020 Board of Zoning Appeals meeting minutes.

**Motion:** Approval of December 29, 2020 Board of Zoning Appeals meeting minutes. **Moved** by Chad Bowman. **Seconded** by Dan Cartwright. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None. **Motion approved 5-0.**

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#### **V. PUBLIC HEARINGS:**

##### **V-1-21; Tim Young – Variance of Use and Development Standards. 6944 S. 300 W.**

Staff presented findings and facts to the board and recommended denial.

Petitioner Tim Young (6944 S. 300 W., Trafalgar 46181) was present to speak and address concerns.

Theresa Cochran (6944 S. 300 W., Trafalgar 46181) was present to speak in support of the variance request.

Board members asked questions and expressed concerns which were addressed by the Petitioner, Remonstrators and staff as follows:

- Q. Board member Steve Powell inquired as to what the other business was in the area?  
A. Cline Doors, is down the road from this parcel.
- Q. Board member Steve Powell inquired as to whether or not the door business was operating legally in an agricultural zoned area?  
A. Yes, the business had been running for a long time and is either grandfathered in or had a variance approved at some point in time in the past.
- Q. Board member Dan Cartwright asked the Petitioner if he understood that the Highway Department was requesting that an acceleration and deceleration lanes be installed if this request was approved?  
A. Yes.
- Board member Dan Cartwright expressed his concerns regarding the visibility issue at the top of the hill and the increased traffic that would require the acceleration and deceleration lanes for the venue.
- Q. Board member Dan Cartwright inquired as to how many parking spaces there will be?

- A. Sixty-six (66) parking spots plus additional handicap parking next to the venue structure.
- Q. Board member Steve Powell asked the Remonstrator how many acres her parcel contained and what it was zoned?
- A. Twelve (12) acres and A (agricultural) – 1.
- Q. Board member Paul Clodfelter inquired as to how long the Petitioner had resided at this property?
- A. Eight (8) years.
- Q. Board member Dan Cartwright inquired as to whether or not the creek that the driveway runs across ever gets full?
- A. No, it is not a creek but rather a pond run over outlet.
- Q. Board member Dan Cartwright inquired as to how far was the parking lot to the venue?
- A. Six-hundred (600) feet.
- Q. Board member Steve Powell asked for clarification that there were no other businesses in the area other than Cline Doors?
- A. Yes, farther south is AppleWorks and to the north is Indian Creek High School.
- Q. Board member Steve Powell is AppleWorks operating with a variance?
- A. Yes.

Remonstrator Kelsey Bryant (6968 S. 300 W., Trafalgar 46181) spoke and addressed her opposed views and concerns regarding property value, nature of area, noise, safety and increased traffic.

**Motion:** To deny V-1-21 to allow for an event/wedding venue, waiver of the commercial parking requirements, for deficient perimeter landscaping around the parking lot and provide for a free standing sign not to exceed six (6) feet in height and sixty (60) square feet in area and staff's Findings of Facts. **Moved** by Steve Powell. **Seconded** by Paul Clodfelter. **Yes:** Campbell, Cartwright, Clodfelter and Powell. **No:** Bowman. **Motion approved 4-1.**

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#### **V-2-21; Michael Diehl – Variance of Development Use. 6420 Stein Rd.**

Staff presented findings and facts to the board and recommended denial.

Attorney Andrew Eggers (58 W. Jefferson St., Franklin 46131) on behalf of the Petitioner Michael Diehl was present to speak and address concerns. Attorney Eggers presented to the board members an **Exhibit** visual presentation.

Petitioner Michael Diehl (6420 Stein Rd., Greenwood 46143) was present to speak and address concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner and staff as follows:

- Q. Board member Paul Clodfelter inquired as to what would be an ideal zoning location for such a venue?

A. Commercial zoning for B (business)-1 or B (business)-2.

- Q. Board member Steve Powell asked for confirmation that this parcel was zoned A (agricultural)-1?

A. Yes.

- Q. Board member Steve Powell asked for confirmation of whether or not the owner was operating a club/kennel on this parcel?

A. Attorney Eggers stated that he participates in a club and hosts events for the club on this parcel.

- Q. Board member Steve Powell asked Attorney Eggers if it was his interpretation of the zoning laws that a variance was not needed for this matter?

A. Attorney Eggers stated that personally he doesn't think it should but that he understood the need for it so that is why they are here to do whatever needs to be done so that the owner may continue. Further, Attorney Eggers is surprised that it is not already a permitted use, since similar things already are permitted.

- Q. Board member Chris Campbell inquired as to where the location of the residence was for which the letter that was presented in support of the variance in Attorney Eggers presentation?

A. Attorney Eggers stated that the letter was from Neil Trisler located at 813 Noack Rd., Greenwood 46143.

- Q. Board member Dan Cartwright asked if the training facility was located inside the fence?

A. Yes.

- Q. Board member Dan Cartwright asked if dogs could crawl through the fence?

A. Yes.

- Q. Board member Dan Cartwright inquired as to whether or not the dogs were trained police dogs?

A. Yes and other highly trained dogs.

- Q. Board member Dan Cartwright confirmed that the two (2) events that the staff had mentioned were in violation of the agreed upon terms of the variance that was granted in 2020. At said events, approximately how many dogs were at the events?  
A. Approximately twenty (20) dogs.
- Q. Board member Chris Campbell inquired as to whether or not the operation was commercial?  
A. No.
- Q. Board member Chad Bowman asked if the original plan of operation hours were set for Saturdays from 12:00 p.m. to 6:00 p.m. and Sundays from 10:00 a.m. to 4:00 p.m.?  
A. Yes.
- Q. Board member Chad Bowman inquired as to whether or not the zone ordinance allows for three (3) or four (4) personal dogs?  
A. Four (4).

**Motion:** To approve V-2-21 to allow for the continuation of a K-9 Training Club/Kennel and Petitioner's Findings of Facts. **Moved** by Dan Cartwright. **Seconded** by Paul Clodfelter. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None. **Motion approved 5-0.**

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## **VI. NEW BUSINESS:**

Adoption of Findings of Fact for V-22-20

**Motion:** To adopt Findings of Fact for V-22-20. **Moved** by Dan Cartwright. **Seconded** by Chad Bowman. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None. **Motion approved 5-0.**

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## **VII. ADJOURNMENT:**

Chair Chad Bowman called for a motion to adjourn the meeting at 8:10 PM

**Motion:** Adjourn the meeting. **Moved** by Dan Cartwright. **Seconded** by Steve Powell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Powell. **No:** None. **Motion approved 5-0.**

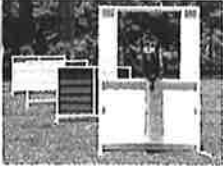
Approved on: February 23, 2021

By:

  
Chad Bowman, Chairman

Attested By:

  
Steve Powell, Secretary



**Michael Diehl**  
**V-2-21**  
 6420 Stein Road, Greenwood 46143  
 Andrew C. Eggers, Attorney for the Petitioner

**Continued V-3-20,  
 January 2020**

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**Petitioner**

- ▶ Mike Diehl
  - ▶ Purchased property in February 2019
  - ▶ 34 year police veteran
  - ▶ Head K9 trainer for Indianapolis Metropolitan Police Department
  - ▶ Owns 2 dogs currently
  - ▶ Made numerous aesthetic improvements already

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**Before**




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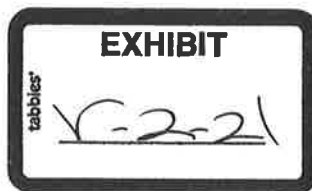
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Before



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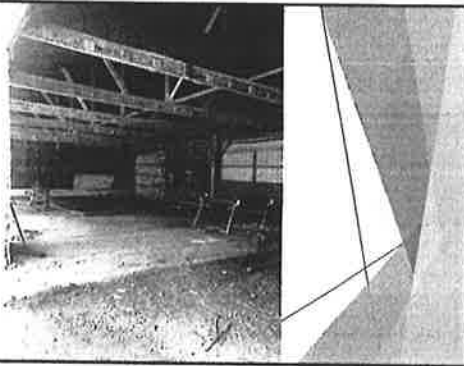
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Before



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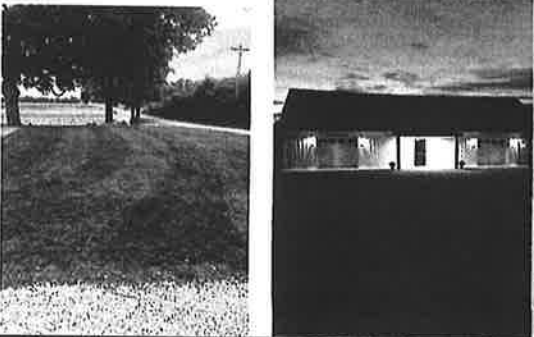
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### Request

► **Goal:**

- Ability to have friends and fellow police officers over to train and recreate with dogs on the property.
- Utilization by a non-profit K-9 training (obedience, agility and protection) club

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### Permitted Uses

- Public Parks or playgrounds (dog parks?)
- Feed mills and fertilizer sales
- Grain elevator
- Dairies
- Public and Parochial Schools
- Home Occupations

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### Special Exceptions

- ▶ Child care centers
- ▶ Public swimming pools
- ▶ Private Clubs
- ▶ Mineral Excavation
- ▶ Sanitary Landfills
- ▶ Private Air strips
- ▶ Kennels

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### Findings of Fact

- ▶ The approval will **NOT** be injurious to the public health, safety, morals, and general welfare of the community.
  - ▶ Not Inconsistent at all with the area.
    - ▶ This is an intermittent use, and the property would primarily be a private residence of the petitioner.
    - ▶ There is a stadium jumping area for horse training and agility and a private kennel business both within 3 miles of the property
    - ▶ Adjacent property is a private business
  - ▶ Noise is no worse than permitted uses or special exceptions
    - ▶ Feed mills, grain elevators, dairies, public park (dog park)
    - ▶ Public swimming pools, mineral excavation, landfill, private air strip, kennels

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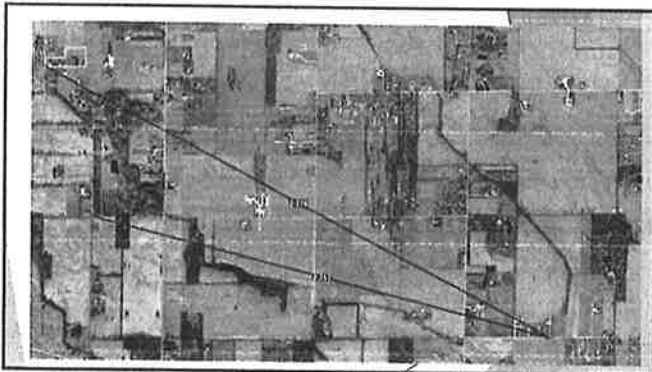
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### Noise nuisance?

- ▶ German Shepard - 80-90 decibels
- ▶ Small Airplane - 105 decibels
- ▶ Yelling children and crying babies - 110 decibels
- ▶ Grain Elevator - 100 decibels
- ▶ Heavy machinery associated with mineral excavation - 80-120 decibels
- ▶ Kennel - 95-115 decibels

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### Findings of Fact, cont.

- ▶ The use and value of the area adjacent to the property included in the variance will **NOT** be affected in a substantially adverse manner.
  - ▶ The petitioner has already made aesthetic improvements to the property increasing its value
  - ▶ This is an intermittent use and recreational in nature
  - ▶ The granting of this variance would have no impact on property value of the adjacent properties

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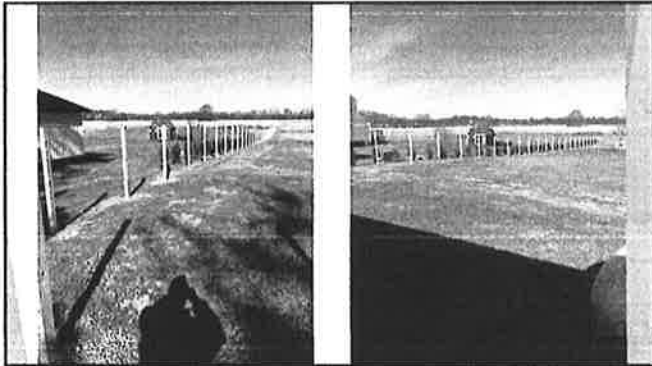
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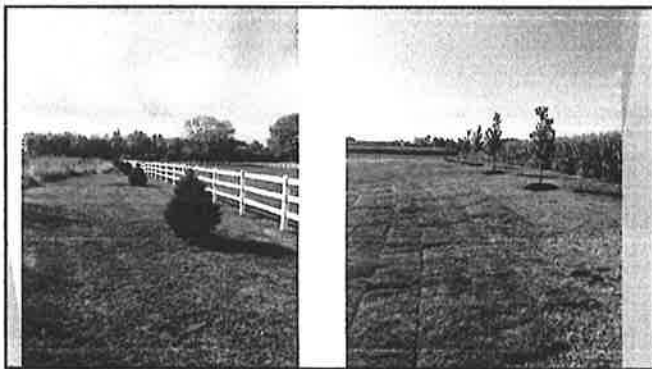
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### Findings of Fact, cont.

- ▶ The need for the variance arises from some condition peculiar to the property involved.
  - ▶ The property is zoned, planned and developed for residential and agricultural use and the granting of this variance does not change that.
  - ▶ This is a private land owner wishing to practice his hobby with his friends on his rural property.
  - ▶ There is no substantial difference and, in fact, this variance would be less intrusive than permitted uses or special exceptions.

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### Findings of Fact, cont.

- ▶ The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
  - ▶ This is a private property owner wishing to use and enjoy his recreation of choice with his friends and colleagues.
  - ▶ What if shooting sports was his recreation of choice?
  - ▶ At what point?
    - ▶ Is he not allowed to train his own dog on his own property?
    - ▶ How many friends could he have over?
    - ▶ Weekend events? Weddings? Parties?

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### Findings of Fact, cont.

- ▶ The approval does **NOT** interfere substantially with the Comprehensive Plan.
  - ▶ The permitted uses and special exceptions allow for activities and business that are incredibly more intrusive, comparably.
  - ▶ This is an intermittent use.
  - ▶ Comparable to kennel, swimming pools, parks.

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McNulty 11-11  
Petition number: V-2-21

To whom it may concern:

We are Bill & Kathy Schumaker and a neighbor of Alan Dahl. We own the property around Mr. Dahl. Our home is 1000 ft from his and we own the land adjacent to him on the North and the East sides which is used for agricultural farming.

We are writing this letter to express support for Mr. Dahl for a variance for several reasons. One is he has taken a very nice down farm and has made the house, barn and grounds aesthetically beautiful. And continues to do so by adding trees all along the fence line and more landscaping. With the improvements that he has made to his property it only increases the property values all around him. The second reason is that his occupation as a law enforcement officer helps with the neighborhood and our business security.

We know at the last meeting a complaint was of the rules of the dogs and there being dogs around all the time. This is not at all the case that we see. We don't see any dogs around Mr. Dahl's and have not observed any loud or excessive noise from any of the activities that are on Mr. Dahl's property and normal noise you get in the country.

It sure looks like we are in a good place for you to approve this variance because we are this as a nice way for the community.

Thank you for your time!

*[Signature]*

Bill & Kathy Schumaker

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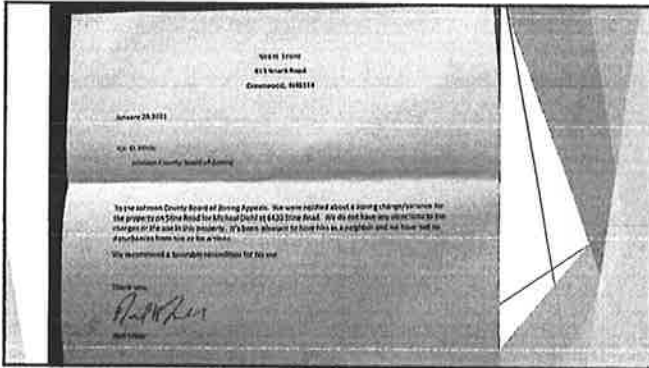
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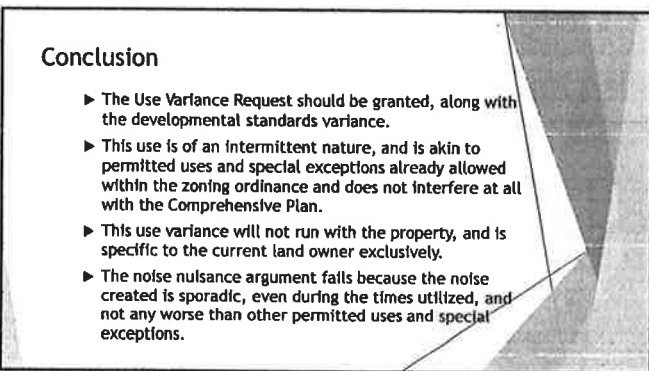
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