

**ZONING BOARD OF ADJUSTMENT
NOVEMBER 21, 2016
SPENCER, IOWA**

The Zoning Board of Adjustment of the City of Spencer, Iowa, met in Regular Session on the 21st day of November, 2016, at 8:15 o'clock A.M., in the Council Chambers, City Hall, Spencer, Iowa, pursuant to law, to adjournment and to the rules of said Zoning Board of Adjustment.

The meeting was called to order by Chairperson Don Baxter, and the roll being called, there were present:

PRESENT: Baxter, Green, Lykke, Waller, Harper, Peterson, Feldman

ABSENT: None

It was moved by Board Member Lykke, seconded by Board Member Harper, to approve the minutes of the Zoning Board of Adjustment meeting of November 7, 2016, as printed and mailed. The motion was declared carried when all Board Members present voted aye on voice call vote.

The Board reviewed two requests from **Gary Toft, 364 Lake Drive, Arnolds Park, Iowa 51331**, who was present and spoke to the Board. (Action was tabled from November 7, 2016)

The first request is for an Administrative Appeal of a determination of the Zoning Officer, Kirby Schmidt, that using the driveway at 820 25th Street SW to access the commercial land to the south of the lot for commercial vehicular traffic is an increase in a non-conforming use, located at 820 25th Street SW. Lot 5 and the N 170' of Lot 6, Auditor's Plat Number 11. There were no other comments. It was moved by Board Member Harper, seconded by Board Member Lykke to confirm Kirby Schmidt's determination that using the driveway at 820 25th Street SW to access the commercial land to the south of the lot for commercial vehicular traffic is an increase in a non-conforming use at 820 25th Street SW.

Upon roll call vote, the vote thereon was as follows:

AYES: Baxter, Green, Lykke, Waller, Harper, Peterson, Feldman

NAYS: None

The motion was declared carried.

The second request was for a Special Exception use to establish a commercial parking facility at 820 25th Street SW, located at 820 25th Street SW. Lot 5 and the N 170' of Lot 6, Auditor's Plat Number 11.

There were three oral comments as follows, Ben Hollesen, 1402 430 Street, Sioux Rapids, Iowa, who is working to purchase property from Gary Toft for new office buildings for Midwest Land Management, which is an Ag based company which will be located at 2506 11th Avenue SW. He wants to be a good neighbor. He and Gary did not discuss driveway access from highway. Gary always used the driveway on the residential street, rather than highway access. He would prefer not to give Gary Toft an easement for access. His business has always been in Spencer but could locate outside of city limits. No objections to Gary Toft request.

Tony Sholly, 906 25th Street SW, has concerns about future user's traffic use. Don't want heavy traffic load. Would like privacy fence along driveway & would want fence on East side & South side of his property.

Clarence Schweitzer, 917 25th Street SW, not in favor of residential property open to commercial use as parking facility. Not against access by driveway but doesn't want conditions to be so broad. No objection to new business being built on the highway. Would want snow removal equipment to only use driveway as access but not parking facility.

There were no other comments. It was moved by Board Member Harper, seconded by Board Member Lykke to approve the request with the following conditions:

- The use shall be permitted to serve a seasonal, commercial snow removal operation only and no other commercial operation.
- The commercial snow removing operation to be served shall not utilize or accommodate more than twenty (20) vehicles (plows, trucks, tractors, end loaders and graders).
- Within 30 days of the approval of the request, all existing trash, rubbish, junk, other equipment and material not utilized in the snow removal operation shall be removed from the site.
- The driveway shall be established over the West 20 feet of the property only. No commercial parking to be allowed on the driveway.
- A 6' privacy fence shall be established and maintained by the property owner along the east and south boundary of Sholly's property at 906 25th Street SW. Starting at the north line of the garage thence south to SE center of lot.
- No lighting of the special exception use shall be permitted.
- Dust control over the drive shall be provided by hard surfacing the permitted drive, by establishing a seal coat surface, or by the application of oil or other dust retardant chemicals.

Upon roll call vote, the vote thereon was as follows:

AYES: Baxter, Green, Lykke, Waller, Harper, Peterson, Feldman

NAYS: None

The motion was declared carried.

The Board reviewed a request from **Carsha & Patrick Toay, 1402 2nd Avenue East, Spencer, Iowa**, who were not present. Kirby Schmidt, Zoning Officer, spoke. The request was for a variance to construct 38 lineal feet of 6' high fence up to within 21' of the south property line (25' minimum in the A Residential zoning district), located at 1402 2nd Avenue East. The W 140' of the S 38' of Lot 13; and the W 140' of the N 24 ¾' of Lot 14, Griffin and Adams Second Addition. There were no other comments. It was moved by Board Member Peterson, seconded by Board Member Waller to approve the request, with the hardship being a corner lot.

Upon roll call vote, the vote thereon was as follows:

AYES: Baxter, Green, Lykke, Waller, Harper, Peterson, Feldman

NAYS: None

The motion was declared carried

Items for future agendas:

- None

It was moved by Board Member Lykke, seconded by Board Member Harper to adjourn the meeting of the Zoning Board of Adjustment at 9:29 o'clock A.M. The motion was declared carried when all Board Members present voted aye on voice call vote.

Chairperson, Don Baxter

ATTEST:

Theresa Reardon, City Clerk
Secretary