

Chairperson Russell Christensen called the meeting to order at 7:30 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, David Simington, John Olson and Russell Christensen. Absent none.

It was moved by Dave Simington, seconded by Clinton Jones, to approve the minutes of meeting number 87 on December 21, 1999, as submitted. Roll call vote: Jones, Flaharty, Simington, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 03-00 of Spencer Municipal Utilities of 712 North Grand, Spencer, Iowa and Charles Runkle of 900 1st Avenue Southwest, Spencer, Iowa for a variance from the 50 foot side and front yard setback requirements in bulk regulation for two anchor points for a communication tower to be located in the SE corner of the SE ¼, Section 20, T-96N, R-36W of the 5th P.M., Sioux Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. Curtis Dean and Neil Drefke, SMU, were present to explain the application.

There were no oral objections.

Joe Brehm of P. O. Box 160, Van Horne, Iowa 52346 – adjoining property owner and ag business owner, filed the following written objection, which was read by Chairperson Russell Christensen.

TO: CLAY COUNTY BOARD OF SUPERVISORS 4-10-00
Cc: CLAY COUNTY BOARD OF ADJUSTMENT
Cc: CLAY COUNT ZONING COMMISSION

FROM: JOE BREHM – Adjoining property owner & Ag Business Consultant

RE: APPROVAL of TV TOWER IN SECTION 20 T-96N R-36W

This letter of notification is my written objection (AGAIN) to the special use permit granted for the erection of a tower per (Clay Co.) petition #29-99 and for the additional subsequent variance of setback rules. Reason being, I feel it will negatively influence my livelihood as stated in my previous opposition in December 1999 / January 2000.

I've been on land use committees and am currently on a board of adjustment where we live. When a variance is requested and acted on --- that's it. Additional variances on the same project aren't allowed, unless the first action is totally rescinded and the whole project starts over from square one . . . including public notices and public hearings if necessary. This creates a planned sequence of events and procedures that can be acted upon. No "surprises" come up this way that create problems now or later!

Thus, I wish to go on record for consideration (AGAIN) of due compensation (now or in the future); of/if any aspect of the tower use(s) infringes on any of my individual rights, use of my property or causes complications to my business equipment or records.

Sincerely,
JOE BREHM
VAN HORNE, IOWA

Phone - #319-560-9229

Neal Drefke explained that at this time the tower would be used to receive television signals only. Receiving a signal will not interfere with GPS. If in the future SMU decides to transmit signals, they would have to get a license through the FCC. According to Mr Drefke the FCC will not assign a frequency that would disrupt another licensed frequency.

It was noted that there is a tile line that runs through this property. One of the reasons for requesting a variance is to keep the base of the tower as far away as possible from the tile line. Mr. Drefke also explained that the utility would be leasing the ground from Charles Runkle and he will continue to farm around the tower. Mr. Runkle will continue to be able to use the tile as needed and perform maintenance as necessary.

Following all discussion, it was moved by Larry Flaharty, seconded by John Olson to adopt the following resolution.

WHEREAS, Charles Runkle of 900 1st Avenue Southwest, Spencer, Iowa and Spencer Municipal Utilities of 712 North Grand Avenue, Spencer, Iowa have filed appeal number 03-00 requesting a variance from the 50 foot side and front yard setback requirements in bulk regulation for two anchor points for a communication tower in the SE corner of the SE ¼, Section 20, T-96N, R-36W of the 5th P.M., Sioux Township, Clay County, Iowa. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal. WHEREAS, the Board of Adjustment has determined that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land. WHEREAS, the Board of Adjustment has determined that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the variance will not adversely affect the public interest, that a variance of the required 50 foot side and front yard setback distance be granted for two anchor points for a communication tower for the SE Corner of the SE ¼, Section 20, T-96N, R-36W of the 5th P.M., Sioux Township, Clay County, Iowa.

Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Resolution adopted.

There being no further business, it was moved by David Simington, seconded by Clinton Jones, to adjourn at 7:55 p.m. Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Meeting adjourned.

Clinton Jones, Secretary

Chairperson Russell Christensen called the meeting to order at 7:50 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, David Simington, John Olson and Russell Christensen. Absent none.

It was moved by Clinton Jones, seconded by John Olson, to approve the minutes of meeting number 88 on April 17, 2000, as submitted. Roll call vote: Jones, Flaharty, Simington, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 10-00 of Steven W. Fear of 106 West 2nd, Everly, Iowa for a special exception use permit for a single family non-farm dwelling located in the N ½ of the SE ¼, Section 28, T-97N, R-38W of the 5th P.M., Waterford, Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. It was noted that the Zoning Commission had recommended that the special exception use permit be approved. No written objections were received and no oral objections were made.

Steven W. and Rose Fear, 106 West 2nd, Everly, Iowa and Steve Berends, 2830 140th Avenue, Everly, Iowa were present to explain the application. Steve Berends, seller of the property, explained that the land is not farmable and he felt that the dwelling would be an improvement.

It was noted that the applicant, Steven W. Fear, and his wife, Rose Fear, have no objection to normal legal farming activity that will occur around their dwelling.

Following all discussion, it was moved by David Simington, seconded by Clinton Jones to adopt the following resolution.

RESOLUTION:

WHEREAS, Steven W. Fear has filed appeal number 10-00 requesting a special use permit for a single family non-farm dwelling located in the N ½ of the SE ¼, Section 28, T-97N, R-38W of the 5th P.M., Waterford Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a single family non-farm dwelling be granted. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed single family non-farm dwelling will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the single family non-farm dwelling shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of

Adjustment has determined that Steven W. Fear shall provide adequate and essential public facilities and services to the proposed single family non-farm dwelling and comply with all applicable regulations of the A-1Agricultural District in which it is located. NOW, THEREFORE, BE IT RESOLVED, that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for a single family non-farm dwelling be approved for the N 1/2 of the SE 1/4 of Section 28, T-97N, R-38W of the 5th P.M., Waterford Township, Clay County, Iowa.

Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Resolution adopted.

The next item of business was the election of officers. It was moved by Larry Flaharty, seconded by David Simington, that the current chairperson, Russell Christensen, that the current vice - chairperson, John Olson, and that the current secretary, Clinton Jones, be re-elected by a unanimous ballot. Roll Call Vote: Olson, Simington, Jones, Flaharty, Christensen voted aye. Motion carried.

There being no further business, it was moved by John Olson, seconded by Larry Flaharty, to adjourn at 8:10 p.m. Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Meeting adjourned.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 7:35 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, David Simington, and Russell Christensen. Absent John Olson.

It was moved by David Simington, seconded by Larry Flaharty, to approve the minutes of meeting number 89 on June 26, 2000, as submitted. Roll call vote: Jones, Flaharty, Simington, and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 16-00 of Edwin Hillenga of 415 260th Street, Wesley, Iowa for a variance from the 20-foot setback requirements to a 4' setback for the front, side, and rear yards and a 10' setback from Lost Island Lake for a mobile home located in the East Half of Section (1), Township Ninety-six (96) North, Range Thirty-five (35) West of the 5th P.M., Freeman Township, Clay County, Iowa, containing approximately 5,555 square feet.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on July 14, 2000. No written objections were received and no oral objections were made.

Edwin & Vicki Hillenga, 415 260th Street, Wesley, Iowa were present to explain the application.

Also in attendance were Warren and Sylvia Hutchinson of 424 SE Marion, Des Moines, Iowa 50315, and Roger Crew, 102 East 24th Street, Spencer, IA 51031, adjoining property owners.

The right-of-way for an access road was discussed. Roger Crew, the homeowner closest to the proposed mobile home, had no objections to this type of house being placed on the property and felt it would be an improvement to the property.

Following all discussion, it was moved by David Simington, seconded by Clinton Jones to adopt the following resolution.

RESOLUTION:

WHEREAS, Edwin Hillenga of 415 260th Street, Wesley, Iowa, has filed appeal number 16-00 requesting a variance from the 20 foot side, rear and front yard setback requirements to a 4' setback for the front, side and rear yards and a 10' setback from Lost Island Lake for a mobile home located in the East Half of Section One (1), Township Ninety-six (96) North, Range Thirty-five (35) West, of the 5th P.M., Freeman Township, Clay County, Iowa, containing approximately 5,555 square feet. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal. WHEREAS, the Board of Adjustment has determined that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land. WHEREAS, the Board of Adjustment has determined that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the

granting of the variance will not adversely affect the public interest, that a variance of the required 20 foot side, rear, lake and front yard setback distance be granted as presented and subject to the approval of a change in zoning from C-2 Commercial to RL Lake Residential by the Board of Supervisors, for a mobile home in the East Half of Section One (1), Township Ninety-six (96) North, Range Thirty-five (35) West, of the 5th P.M., Freeman Township, Clay County, Iowa, containing approximately 5,555 square feet.

Roll Call Vote: Flaharty, Simington, Christensen, and Jones voted aye. Resolution adopted.

There being no further business, it was moved by David Simington, seconded by Larry Flaharty, to adjourn at 8:00 p.m. Roll Call Vote: Flaharty, Simington, Christensen, and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 8:00 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, David Simington, John Olson and Russell Christensen. Absent none.

The time having arrived for the public hearing on petition number 17-00 of Dale L. Hodges of 2530 360th Street Highway 18, Spencer, Iowa for a variance from the 50-foot setback requirements to a 30' setback for the front yard for a private garage located in Auditor's Plat #15 in Section 15, Township Ninety-six (96) North, Range Thirty-six (36) West, of the 5th P.M., Lot 5, Sioux Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on August 15, 2000. No written objections were received and no oral objections were made.

Dale L. Hodges, 2530 360th Street Highway 18, Spencer, Iowa, was present to explain the application.

Following all discussion, it was moved by Clinton Jones, seconded by Larry Flaharty to adopt the following resolution.

RESOLUTION:

WHEREAS, Dale L. Hodges, 2530 360th Street Highway 18, Spencer, Iowa, has filed appeal number 17-00 requesting a variance from the 50 foot front yard setback requirements to a 30' setback for the front setback for a private garage located in Auditor's Plat #15 in Section 15, Township Ninety-six (96) North, Range Thirty-six (36) West, of the 5th P.M., Lot 5, Sioux Township, Clay County, Iowa. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal. WHEREAS, the Board of Adjustment has determined that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land. WHEREAS, the Board of Adjustment has determined that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the variance will not adversely affect the public interest, that a variance of the required 50 foot front yard setback distance to a 30' setback for the front yard setback be granted for a private garage located in Auditor's Plat #15 in Section 15, Township Ninety-six (96) North, Range Thirty-six (36) West, of the 5th P.M., Lot5, Sioux Township, Clay County, Iowa.

Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Resolution adopted.

The time having arrived for the public hearing on petition number 18-00 of Midwest Wireless Communications of P O Box 41664, Plymouth, MN 55441 for a special exception use to construct a 250' communication tower located in the Southeast five (5) acres of the SE ¼, SE ¼,

Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on August 15, 2000. No written objections were received and no oral objections were made.

Kurt Walter, 906 21 St. SE, Rochester, MN 55904, was present to explain the application. Mr. Walter explained that sites are chosen by engineer design and the willingness of landowners to sell property.

There was lengthy discussion on the soil type of the location proposed by Midwest Wireless Communications. The soil type is Primghar Silty Clay Loam, which has a planting suitability group number of I. It is one of the better soils for farming in the county and can be used for row crops much of the time.

Chairperson, Russell Christensen, explained to Kurt Walter, representative for Midwest Wireless Communications that Iowa's topsoil is its finest and richest resource. Unfortunately, it is limited and non-renewable. Therefore, it should be preserved whenever possible. It is the responsibility of the Board of Adjustment to find that the special use shall be an appropriate use of the land.

Other sites for the communication tower were discussed by the Board, including utilizing an existing tower just north of Sioux Rapids or perhaps pasture land just north of the original site. This would prevent prime agricultural land from being taken out of production. Mr. Walter, because he did not coordinate this project, was unable to explain why other sites were not chosen.

Following all discussion, it was moved by Larry Flaharty, seconded by John Olson to adopt the following resolution.

RESOLUTION:

WHEREAS, Midwest Wireless Communications has filed appeal number 18-00 requesting a special use permit to construct a 250' communication tower located in the Southeast five (5) acres of the SE ¼, SE ¼, Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a 250' communication tower be granted, subject to an obsolete tower being removed within 12 months. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal. WHEREAS, the Board of Adjustment has determined that the use shall not be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed 250' communication tower will not be an appropriate use of the land because it is considered prime agricultural land. WHEREAS, the Board of Adjustment has determined that the 250' communication tower shall not be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed 250' communication tower shall have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of

Adjustment has determined that the proposed 250' communication tower shall unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Midwest Wireless Communications shall not provide adequate and essential public facilities and services to the proposed 250' communication tower and shall not comply with all applicable regulations of the A-1 Agricultural District in which it is located. NOW, THEREFORE, BE IT RESOLVED, that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will adversely affect the public interest, that said request for a special use permit to construct a 250' communication tower be denied for the Southeast five (5) acres of the SE ¼, SE ¼, Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa.

Mr. Walter requested the Board of Adjustment table the application until Midwest Wireless Communications could provide further information regarding the selection of the location.

Larry Flaharty made a motion to withdraw his motion to deny the appeal and moved to table the appeal until further information can be provided by Midwest Wireless Communications, seconded by John Olson.

Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Motion carried.

The time having arrived for the public hearing on petition number 21-00 and 22-00 of Kirby L. Winter of 2710 330th Street, Spencer, IA 51301 for a special exception use permit for a single family non-farm dwelling and variance on the soil type and density in the Northwest ¼ of the Southwest ¼, Section 24, Township Ninety-seven (97) North Range Thirty-six (36) West, of the 5th P.M., Meadow Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on August 15, 2000. No written objections were received and no oral objections were made.

Kirby L. Winter, 2710 330th Street, Spencer, IA 51301 was present to explain the application.

Also in attendance were Vic and Gaye Winter, 3050 270th Avenue, Spencer, IA 51301, adjoining property owners.

Following all discussion, it was moved by Clinton Jones, seconded by Larry Flaharty to adopt the following resolution.

RESOLUTION:

WHEREAS, Kirby L. Winter, 2710 330th Street, Spencer, IA 51301, has filed appeal numbers 21-00 and 22-00 requesting a special exception use permit for a single family non-farm dwelling and variance on the soil type and density in the Northwest ¼ of the Southwest ¼, Section 24, Township Ninety-seven (97) North Range Thirty-six (36) West, of the 5th P.M., Meadow Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a single family non-farm dwelling be granted. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal with no written or oral objections presented. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board

of Adjustment has determined that the proposed single family non-farm dwelling will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the single family non-farm dwelling shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed single family non-farm dwelling shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Kirby L. Winter shall provide adequate and essential public facilities and services to the proposed single family non-farm dwelling and comply with all applicable regulations of the A-1Agricultural District in which it is located. WHEREAS, the Board of Adjustment has determined that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land. WHEREAS, the Board of Adjustment has determined that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. NOW, THEREFORE, BE IT RESOLVED that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit for a single family non-farm dwelling and a variance on soil type and density be approved for the Northwest ¼ of the Southwest ¼, Section 24, Township Ninety-seven (97) North Range Thirty-six (36) West, of the 5th P.M., Meadow Township, Clay County, Iowa, subject to the filing of a legal description for the property by a certified surveyor to the Clay County Zoning Department.

Roll Call Vote: Flaharty, Simington, Christensen, Jones and Olson voted aye. Resolution adopted.

It was moved by David Simington, seconded by John Olson, to approve the minutes of meeting number 90 on July 24, 2000, with the addition of “all property owners within 500 feet of the exterior limits of the property were notified and a notice was published in the Daily Reporter on July 14, 2000”. Roll call vote: Jones, Flaharty, Simington, Olson and Christensen voted aye. Motion carried.

There being no further business, it was moved by David Simington, seconded by Clinton Jones, to adjourn at 8:55 p.m. Roll Call Vote: Flaharty, Simington, Christensen, Olson, and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary

Chairperson Russell Christensen called the meeting to order at 7:31 p.m.

On Roll Call: Larry Flaharty, Clinton Jones, John Olson and Russell Christensen. David Simington absent.

It was moved by Clinton Jones, seconded by Larry Flaharty, to approve the minutes of meeting number 91 on August 21, 2000 as submitted. Roll call vote: Jones, Flaharty, Olson and Christensen voted aye. Motion carried.

The time having arrived for the public hearing on petition number 18-00 of Midwest Wireless Communications of P O Box 41664, Plymouth, MN 55441 for a special exception use to construct a 250' communication tower located in the Southeast five (5) acres of the SE ¼, SE ¼, Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa.

The Zoning Administrator explained the application and reported procedures to date. The Zoning Commission met on August 21, 2000 and recommended approval of the application. The Board of Adjustment had previously met on this application on August 21, 2000 and tabled the matter pending further information. All property owners within 500 feet of the exterior limits of the above-described property were notified and a notice was published in the Daily Reporter on September 29, 2000.

It was moved by Clinton Jones, seconded by Larry Flaharty, to bring this application back to the table.

Jadalyn Sharp of 2280 500th Street, Sioux Rapids, IA 50585, adjoining property owner filed the following written objection, which was read by Secretary, Clinton Jones.

To: Clay Co Board of Adjustment:

September 29, 00

My name is Jadalyn Sharp & my son Grayson and I own the south West corner of the section. I object strongly to a tower being on my property or next to it. I also am aware that the ground is too good of farm ground to be used for such a thing. This tower could be put on clay or sand some place else. For any further comments on this you could contact either my neighbors Curt and Mary Ellen Jones or their brother Clinton Jones, all of Clay County.

Sincerely,

J L Sharp

P.S. We have a very beautiful neighborhood, I have a very nice backyard as well, this would really change all of that if this tower were to be right on top of us. I think it would devalue my property as well as my neighbors. There must be a thousand other places that are not prime farmland that could be considered, and should be.

Chuck Beisner, P. O. Box 41664, Plymouth, MN 55441, was present to explain the application. Midwest Wireless Communications has purchased Commnet Cellular's territory and there is no existing coverage for this area. A radio frequency engineer designs a search ring and then an attempt is made to locate a suitable site for a tower. Available constructible pastureland was limited in this particular search ring. Chuck did locate some pastureland suitable for a tower, but the property owner, Charles Mills, was not interested in selling. Mr. Beisner attempted to locate property for this tower that would be as undistruptive as possible to the farming operation. Less than 1/10th of an acre will be taken out of production. Each tower costs approximately \$250,000, so one of the steps is to look at utilizing existing towers. Mr. Beisner went on further to explain that he had looked at using the tower North of Sioux Rapids, but that particular tower was not structurally able to handle the equipment they would need to add. Midwest Wireless Communications will purchase 5 acres, pay the taxes and allow the property owner to farm around the tower.

Doug Bargloff of 4950 215th Highway 71, Sioux Rapids, Iowa, 50585, property owner, explained there is a lot of point rows and that farming is difficult in this area anyway. The rows run East and West and he farms around the Sharp property. He feels this is a win-win situation for him. He will sell the land to Midwest Wireless Communications and Midwest will give him an easement to farm the land for life. Mr. Bargloff also felt the service would be valuable to the residents of Clay County.

Chairperson, Russell Christensen, explained to Chuck Beisner, representative for Midwest Wireless Communications that Iowa's topsoil is its finest and richest resource. Unfortunately, it is limited and non-renewable. Therefore, it should be preserved whenever possible. It is the responsibility of the Board of Adjustment to find that the special use shall be an appropriate use of the land. The soil type is Primghar Silty Clay Loam, which has a planting suitability group number of I. It is the best soil for farming in the county.

There was lengthy discussion regarding the minimal amount of land to be taken out of production and the advantages of the property owner being able to continue farming around the tower.

Following all discussion, it was moved by Larry Flaharty, seconded by Clinton Jones to adopt the following resolution.

RESOLUTION:

WHEREAS, Midwest Wireless Communications has filed appeal number 18-00 requesting a special use permit to construct a 250' communication tower located in the Southeast five (5) acres of the SE ¼, SE ¼, Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa. WHEREAS, the Zoning Commission has recommended that the special exception use permit for a 250' communication tower be granted, subject to an obsolete tower being removed within 12 months. WHEREAS, the Board of Adjustment has held a public hearing and heard the appeal, and made the following findings; 1) The tract of land in question does not lend itself to convenient farming 2) Only 1/10th of an acre will be removed from agricultural production 3) The property owner will have economic benefit 4) Applicant is providing a valuable service. An objection in writing was received from Jadalyn Sharp. WHEREAS, the Board of Adjustment has determined that the use shall be in harmony with the intent, purpose and spirit of the Zoning Ordinance. WHEREAS, The Board of Adjustment has determined that the proposed 250' communication tower will be an appropriate use of the land. WHEREAS, the Board of Adjustment has determined that the 250'

communication tower shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations. WHEREAS, the Board of Adjustment has determined that the proposed 250' communication tower shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity. WHEREAS, the Board of Adjustment has determined that the proposed 250' communication tower shall not unduly diminish or impair established property values in adjoining or surrounding properties. WHEREAS, the Board of Adjustment has determined that Midwest Wireless Communications shall provide adequate and essential public facilities and services to the proposed 250' communication tower and shall comply with all applicable regulations of the A-1Agricultural District in which it is located. NOW, THEREFORE, BE IT RESOLVED, that since it has been determined, pursuant to the testimony presented at this public hearing, that the granting of the request will not adversely affect the public interest, that said request for a special use permit to construct a 250' communication tower be granted for the Southeast five (5) acres of the SE ¼, SE ¼, Section Thirty (30), Township Ninety-four (94) North, Range Thirty-six (36) West, of the 5th P.M., Herdland Township, Clay County, Iowa, with the following stipulations:

- 1) Once the tower is obsolete or ceases use it must be removed within 12 months including the footings and building.*
- 2) That said site will continue to be farmed. If at some point, agricultural production ceases said application would need to be revisited by the Board of Adjustment.*
- 3) Doug Bargloff, his heirs and successors, would have first right of refusal if the land were ever sold.*

Roll Call Vote: Flaharty, Christensen, Jones and Olson voted aye. Motion carried.

The next item of business was an update from the Zoning Administrator regarding special use permit 18-99 of the Little Sioux OHV Club. On October 26, 1999 the Board of Adjustment granted a special use permit to the Little Sioux OHV Club. The special use permit has been revoked based on Article XXII, Section 3, Part D. of the Clay County Ordinance which states: An order of the Board of Adjustment granting a special exception use permit shall be valid for a period no longer than six (6) months from the date of such an order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six (6) month period and construction is commenced.

Chairperson Russell Christensen, reiterated to the Board of Adjustment members the fact that the special use permit 18-99 of the Little Sioux OHV Club has been revoked due to noncompliance.

There being no further business, it was moved by Larry Flaharty, seconded by John Olson, to adjourn at 8:43 p.m. Roll Call Vote: Flaharty, Christensen, Olson, and Jones voted aye. Meeting adjourned.

Clinton Jones - Secretary