

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Stanly County Commons Meeting Room  
January 13, 2009

**Call to Order**

Chairman Steve Watson called the Board meeting to order at 7:30 p.m. on Tuesday, January 13, 2009, at Stanly County Commons.

**Roll Call**

***Board Members Presiding***

Steve Watson, Chairman  
Grover Stewart, Vice Chairman  
Cathy Bennett, Secretary  
Dr. John Eckman  
Todd Swaringen  
Andrew Eades  
Benton Payne

***Absent***

Courtney Hildreth, Alternate

***Alternate Board Members Present***

Richard Cosgrove

**Staff Attending**

Linda Evans, Planner II, Clerk to the Board  
Tim Swaringen, Zoning Enforcement Officer

**Others Present:** List filed with January 13, 2009 minutes.

**Approval of Minutes**

Chairman Watson asked if there were any corrections to the minutes of December 9, 2008. Hearing none, Chairman Watson asked for a motion to approve the minutes of December 9, 2008.

**Motion:** Dr. Eckman made a Motion to approve the minutes of December 9, 2008.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the minutes of December 9, 2008.

Chairman Watson announced that it is required by law that each person speaking at this public hearing be sworn in and requested that everyone who intends to speak stand and be sworn in. Rick Bean, Franklin Dixon, Melinda Dixon, Tracey Neely, Andria Lambert, Sam Lambert and Linda Evans were sworn in at different intervals during the public hearing by Chairman Watson.

Chairman Watson called the first case, SUP 09-01, and asked the Clerk, Linda Evans, to present the case.

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Ms. Evans stated that applicant is requesting a Special Use Permit to operate a Rural Based Business, specifically an automobile repair and body shop, on his property. The property is zoned RA- Residential Agricultural.

Chairman Watson called on the applicant to come forward and present his case to the Board.

Mr. Dixon came forward and stated that he has been operating an automobile body shop on his property for approximately two years. He stated that he wants to enlarge the building to contain an office for his business. He stated he wants to commercialize the business and advertise more.

Cathy Bennett asked Mr. Dixon about the boat located in open storage on the property and Mr. Dixon said that the boat has been removed. She asked him if he plans to have open storage of vehicles on the property and questioned him about security of the vehicles he is working on. He stated that he did not plan to have open storage of vehicles and that he would install a fence if necessary.

Grover Stewart asked Mr. Dixon if he fully understands the required regulations for operating the Rural Based Business and if he is going to be able to comply with each of these regulations. Mr. Dixon replied that he does understand the regulations and he will be able to comply.

Todd Swaringen asked Mr. Dixon how many vehicles the building will hold and Mr. Dixon replied four.

There was some discussion among the Board members regarding the open storage of vehicles on the property and Mr. Dixon stated that he planned to keep all the vehicles in the building. Benton Payne reminded Mr. Dixon that he had stated previously that he would install a fence if necessary and asked him to clarify that statement. Mr. Dixon stated that he had two working bays and he would have a car in each bay and a car behind each bay for a total of four cars in the building at one time. He stated that any other customers would be told they would have to come back another day. He stated that he did not want vehicles in open storage on the property because he did not want to block emergency responders if they are needed.

Chairman Watson had some concerns about the hours of operation and Mr. Dixon assured the Board that the business will only operate between the hours of 7 a.m. and 7 p.m.

Mr. Payne asked if the requirement for a buffer is going to be met and Ms. Evans stated that the requirement will be met.

Chairman Watson called on anyone else who would like to speak in favor of this case. No one came forward.

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Chairman Watson called on anyone wanting to speak against this case to come forward. Rick Bean came forward and stated that he uses the same ingress/egress from NC Hwy 138 as Mr. Dixon. Mr. Bean stated that his property is located to the north and east of Mr. Dixon's property. He stated that he is concerned that increased traffic, wreckers, and delivery trucks will cause a problem with the road. He stated that the road has previously been maintained by him and the other three people who use it and he assumes that each of the four properties that use the road contributes to the maintenance cost. Mr. Bean stated that he would like for the Board to consider the increased use of the road before rezoning the property for business.

Chairman Watson asked if Mr. Dixon contributed to the maintenance and Mr. Bean replied that he assumes that he does. He stated that the road became messy during the rainy period a week or so ago but normally they keep the road in good condition.

Cathy Bennett asked if the road is well maintained at the present time. Mr. Dixon stated that there are a few places that need repair because of the recent rain.

Benton Payne asked Mr. Dixon if the road is a soil road and Mr. Dixon replied yes, dirt and rock.

Andrew Eades stated that this request is not a request for a rezoning of the property. He stated that it is a request for a Special Use Permit that can be revoked if not complied with.

Todd Swaringen asked if there had been any traffic issues of note in the past two years that Mr. Dixon has been operating the business on his property. Mr. Bean stated that there were none that he knew of.

Chairman Watson called on anyone else wanting to speak on this matter.

Tracey Neely came forward and stated that he and Mr. Dixon, who has a tractor and grader, are planning to work on the road and keep it in good shape. He stated he wants to let Mr. Bean and the Board know that when the road dries up they will grade it and take care of the maintenance more often.

Chairman Watson stated that in order to avoid Mr. Neely's statements being construed as hearsay he would like for Mr. Dixon to come to the podium and make his own statements about the maintenance of the road.

Mr. Dixon came forward and stated that he is the only one on the road who has a tractor and a grader and he plans to use this equipment and participate more in the future to maintain the road.

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Mr. Rick Bean expressed concern over the width of the road. He stated that the road was not much wider than a vehicle and passing on the road is not possible.

Mr. Watson asked how wide the road is and after several people in the audience responded Mr. Bean stated that he thinks twelve to fifteen feet.

From the audience, Angela Dixon stated that she wanted to make a comment about the road. Chairman Watson told her she would have to be sworn in before she would be allowed to comment. Ms. Dixon came to the podium and was sworn in. She stated that there are at least two cutouts in four hundred yards of the road where vehicles can pass safely and they have not had problems in the past with cars and trucks passing on the road.

Benton Payne stated that he could see no major problem concerning the road unless people drive too fast and there is no way to really control that on a private road. He stated that he feels the road can be graded well enough to allow for vehicles to pass each other.

Grover Stewart stated that the business has been operated for two years already without any apparent major problems.

Cathy Bennett stated that she believes the extra traffic on the road will be a problem.

Chairman Watson stated that, if there were no other questions or comments, he would have the Secretary read the findings of fact. The Secretary read and the Board found each fact as follows:

That the use shall not adversely affect the health or safety of persons residing or working the neighborhood.

**Motion:** Grover Stewart made a motion to find this fact true based on the fact that applicant is able to meet the seven regulations required by the zoning ordinance to operate a Rural Based Business on his property. These regulations were designed to limit the adverse affect on adjoining property and the business has not seemed to have much effect on the adjoining properties in the last two years it has been in operation

**Second:** Andrew Eades seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That the use shall not be detrimental to public welfare or be injurious to property or public improvements in the neighborhood.

**Motion:** Benton Payne made a motion to find this fact true based on the fact that the regulations of the zoning ordinance will be met for this use and the business has been in operation for two years without apparent adverse effects.

**Second:** Grover Stewart seconded the motion.

**Action:** Six Board members voted to approve this motion; Cathy Bennett abstained. Motion passed.

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Chairman Stephen Watson called for a motion to either grant or deny the Special Use Permit for SUP 09-01.

**Motion:** Benton Payne made a motion to grant the Special Use Permit SUP 09-01 with the following condition: Mr. Dixon shall grade the road to provide at least four cutouts where cars can safely pass on the road and that one of the cutouts shall be large enough for fairly large size trucks to safely pass. This shall be done when the next regularly scheduled maintenance is due on the road and shall be maintained with the road.

**Second:** Todd Swaringen seconded the motion.

**Action:** The Board voted to unanimously approve the motion.

Chairman Watson called the second case, SUP 09-02, and asked the Clerk, Linda Evans, to present the case.

Ms. Evans stated that Andria Carpenter (Lambert) requests a Special Use Permit to allow her to have twelve (12) horses on her adjacent 5.28 acre and 0.659 acre tracts of land. Properties are zoned R-20, which allows horses with a minimum of five (5) acres of property. Section 603 of the zoning ordinance states that a Special Use Permit is required for raising of domestic animals that exceed density as specified in Section 601 of the zoning ordinance. Ms. Lambert is currently exceeding the density requirement of one horse per one acre of fenced pasture.

Chairman Watson called on the applicant to come forward.

Andria Carpenter (Lambert) came forward and stated that she came here to ask permission to keep more horses than the ordinance allows and that her family loves horses and her children have participated in shows and competitions all of their lives. She stated that she also has taken in neglected horses from time to time and she is trying to find adequate homes for these horses. She stated that her property is surrounded on three sides with agricultural land. She stated that her horses do not depend on pasture for subsistence; she buys thirty to forty bales of hay a month and sweet feed every week. She stated that she has a double fence for security of the horses.

Todd Swaringen asked Ms. Carpenter (Lambert) how many miniature horses she currently has and she replied six or seven.

Benton Payne stated that it is obvious that Ms. Carpenter (Lambert) loves horses and is in the habit of rescuing them. He stated that he is afraid that she will pull in more horses and, having had experience with horses, is skeptical that the amount of property and the condition of the property will support even the number of horses she presently has. He stated that he has real concern about the horses walking around in mud. He stated that, under the best conditions, having that many horses in such a small area is asking for trouble.

Chairman Watson called on Zoning Officer, Tim Swaringen, to testify as to what he found on his investigation of the property.

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Tim Swaringen came forward and was sworn in. Mr. Swaringen stated that during his investigation of the property he found it to be well maintained. He stated that he observed some improvements on the property and the shelters for the animals were in good condition.

Cathy Bennett asked Mr. Swaringen if there are grazing areas on the property and he stated no, the property is mostly wooded.

Chairman Watson stated to Ms. Carpenter (Lambert) that if this Special Use Permit passes she will have to stop taking in additional horses. Ms. Carpenter (Lambert) stated that she would not take in any new horses.

Grover Stewart stated that he passes by this property every day and it appears from the road to be in good condition and well maintained.

Chairman Watson asked anyone else who wants to speak on this matter to come forward.

Sam Lambert came forward and stated that he feels his wife had covered most everything. He stated that he would like to keep the number of horses on the property at ten. He stated that he did not want to get below six horses because he and his children ride and show horses and his daughter is in various horse competitions with several of the animals. He stated that the property got muddy with the rain a few weeks ago but is dry now.

Grover Stewart stated that in the pictures there appears to be gravel dust on the property. Mr. Lambert stated that this is where his daughter practices and trains.

Andrew Eades asked how many of the horses out of the ten they want to keep are miniature horses. Ms. Carpenter (Lambert) stated that one is miniature, nine are full size. Mr. Eades also asked if the horses bit each other and Ms. Carpenter (Lambert) said they did not.

Dr. Eckman asked if there is any property for grazing and Ms. Carpenter (Lambert) stated no, the animals are all stall fed.

Chairman Watson stated that, if there were no other questions, he would have the Secretary read the findings of fact. The Secretary read and the Board found each fact as follows:

That the use shall not adversely affect the health or safety of persons residing or working the neighborhood.

**Motion:** Benton Payne made a motion to find this fact true based on the fact that there was no opposition at the public hearing.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That the use shall not be detrimental to public welfare or be injurious to property or public improvements in the neighborhood.

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**Motion:** Steve Watson made a motion to find this fact true based on the fact that this appears to be a well run operation and there is no opposition to this request.

**Second:** Andrew Eades seconded the motion.

**Action:** Six Board members voted to approve the motion; Benton Payne abstained. Motion passed.

Chairman Stephen Watson called for a motion to either grant or deny the Special Use Permit for SUP 09-02.

**Motion:** Grover Stewart made a motion to approve the Special Use Permit SUP 09-02 with the condition that ten or less horses shall be kept on the property at all times and that a period of six months from today's date, January 13, 2009, shall be allowed to reduce the number of horses down to ten.

**Second:** Andrew Eades seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

Chairman Watson asked the Board to review the 2009 Board of Adjustment Meetings Schedule. He said if there were no suggestions for changes he would entertain a motion to approve.

**Motion:** Andrew Eades made a motion to approve the 2009 Board of Adjustment Meeting Schedule.

**Second:** Todd Swaringen seconded the motion.

**Action:** The Board voted unanimously to approve the 2009 Board of Adjustment Meeting Schedule.

Chairman Watson called for a motion to adjourn. Grover Stewart made a motion to adjourn. Andrew Eades seconded the motion and Chairman Watson declared the meeting adjourned at 9:00 P.M.

\_\_\_\_\_  
Date

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E. Stephen Watson, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk to the Board