

**POTTAWATTAMIE COUNTY
BOARD OF ADJUSTMENT MINUTES
WEDNESDAY, JUNE 23, 2021
SUPERVISORS' HEARING ROOM-COUNTY COURTHOUSE
227 SOUTH 6TH STREET, COUNCIL BLUFFS, IOWA**

1. CALL TO ORDER

Chairman Genereux called the meeting to order at 5:30 P.M.

2. ROLL CALL

Members Present: Genereux, Huerter, Leaders, Pierce, Anderson
Staff Present: Kalstrup, Wyant

3. MINUTES

Motion #1: to approve the Minutes of May 26, 2021.
Motion by: Genereux.
Second by: Pierce.
Vote: Unanimous. Motion carried.

4. PUBLIC HEARING

The Chairman read a statement advising the audience that the public hearings would be conducted in accordance with the Board's Rules of Procedure.

CASE #CU-2021-03

PROPERTY OWNER: Tarry Hempel – Janice M Shanahan
REQUEST: Conditional use approval to permit a restaurant with a bar attached in a A-4 Zoning District.
TOWNSHIP: Lewis
STREET: 21498 Chestnut Rd
ZONING: A-4 (Loess Hills District)
LEGAL DESCRIPTION: 15-74-43 NW NE EXC E335.87' & E16' NE NW (PARCELS E OF B & F OF D)

Motion #2: to open the public hearing on Case #CU-2021-03.
Motion by: Leaders.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #3: to close the public hearing on Case #CU-2021-03.
Motion by: Huerter.
Second by: Pierce.
Vote: Unanimous Vote. Motion Carried.

Motion #4: to approve the request of Tarry Hempel – Janice M Shanahan for conditional use approval to permit a restaurant with a bar attached in a A-4 Zoning District, as filed under Case #CU-2021-03, subject to the following conditions:

1. This Conditional Use Permit and its conditions are separate from the existing Conditional Use Permits issued on this property and that the conditions on those said conditional uses are still in effect and shall be adhered to.
2. The applicant shall continue to secure the necessary state permits associated with the restaurant and bar.
3. No on-street parking shall be allowed for the restaurant or bar.
4. Signage shall be limited to Pottawattamie County Code.

based on the following findings of fact:

1. The dining and tasting facility is currently a permitted use. Granting of this Conditional Use is allowing the owners to expand on the menu items and hours of operation.
2. The subject property is located in an area primarily utilized for agricultural purposes. The conditional use is not foreseen to have any negative impact on area properties.
3. The existing road system is adequate to accommodate the conditional use request.
4. The existing structure meets the code criteria that the tavern shall occupy no more than 25% of the total floor area of the total building dedicated to both uses.
5. The subject property is located in the Class A-4 (Loess Hills) District. The County Zoning Ordinance, which is adopted in conjunction with the Land Use Plan, stipulates that the proposal is a permitted conditional use in the A-4 District.
6. The proposed use is not the dominate use of the subject property.
7. The aforementioned conditions will minimize any potential adverse impact on adjoining properties.

Motion by: Leaders.
Second by: Anderson.
Vote: Ayes – Leaders, Huerter, Genereux, Pierce, Anderson. Motion Carried.

CASE #CU-2021-04

PROPERTY OWNER: William and Valerie Sullivan
REQUEST: Conditional use approval to permit a rural enterprise business (buying and selling of pick-up boxes) in an accessory structure.
TOWNSHIP: Norwalk
STREET: 24896 Juniper Rd
ZONING: R-1 (Ag-Urban Transitional)
LEGAL DESCRIPTION: 30-76-42 PT NE SE COMM 933.32'S 568.33'SW 95'N NE COR TH SW186.47' S25'W444.83' N315.47'NE609.57' S305.62' TO POB (PARCEL D OF C)

Motion #5: to open the public hearing on Case #CU-2021-04.
Motion by: Leaders.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #6: to close the public hearing on Case #CU-2021-04.
Motion by: Leaders.
Second by: Anderson.
Vote: Unanimous Vote. Motion Carried.

Motion #7: to approve the request of William and Valerie Sullivan for conditional use approval to permit a rural enterprise business (buying and selling of pick-up boxes) in an accessory structure, as filed under Case #CU-2021-04, subject to the following conditions:

1. The area in the subject accessory structure dedicated to the rural enterprise business shall be limited to what the code stipulates.
2. The applicant shall erect a site obscuring fence behind the building as a storage area for any pickup boxes that are brought to the property for sale. Said pick up boxes shall not be stored outside of the fenced area.
3. If generated, hazardous waste or by products will be handled in accordance with all government regulations.

4. Any signage shall be limited to Section 8.090.030.06 of the Pottawattamie County, IA Code and installed after building permit is issued.
5. The loading and unloading of the pickup boxes shall be done on site, not on Juniper Road.

based on the following findings of fact:

1. The rural enterprise business is a listed permitted conditional use in the R-1 District, which conforms to the Land Use Policy Plan.
2. The subject property is located in an area primarily utilized for agricultural and residential purposes. This rural enterprise business is not foreseen to have any negative impact on area properties.
3. The number of pick up boxes that will be received by this rural enterprise business at any given time will be monitored by the applicant to ensure that the outside storage of pick up boxes complies with the requirement of being located in an area fenced behind the building as limited by the Rural Enterprise Business Code provisions.
4. The existing road system is adequate to accommodate the rural enterprise business.
5. The aforementioned conditions will minimize any potential adverse impact on adjoining properties by limiting the size of the rural enterprise business.
6. The rural enterprise business complies with the conditions imposed for such a land use as follows:
 - A. The rural enterprise business is located on the same property where the business owner's residence is located.
 - B. The rural enterprise business is for buying and selling of pickup boxes.
 - C. There is no evidence that the rural enterprise business will create excessive noise, obnoxious odors, and electrical disturbances.
 - D. The total area devoted to the rural enterprise business is less than 1 acre.
 - E. No on-street parking will be permitted with this rural enterprise business.

Motion by: Huerter.
Second by: Leaders.
Vote: Ayes – Leaders, Huerter, Genereux, Pierce, Anderson. Motion Carried.

CASE #ZV-2021-01

PROPERTY OWNER: William and Valerie Sullivan
REQUEST: A 8'6" height variance to allow the construction of a storage building with a height of 30'6" in lieu of 22'.
TOWNSHIP: Norwalk
STREET: 24896 Juniper Rd
ZONING: R-1 (Ag-Urban Transitional)
LEGAL DESCRIPTION: 30-76-42 PT NE SE COMM 933.32'S 568.33'SW 95'N NE COR TH SW186.47' S25'W444.83' N315.47'NE609.57' S305.62' TO POB (PARCEL D OF C)

Motion #8: to open the public hearing on Case #ZV-2021-01.
Motion by: Leaders.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #9: to close the public hearing on Case #ZV-2021-01.
Motion by: Anderson.
Second by: Leaders.
Vote: Unanimous Vote. Motion Carried.

Motion #10: to approve the request of William and Valerie Sullivan for, a 8'6" height variance to allow the construction of a storage building with a height of 30'6" in lieu of 22', as filed under Case #ZV-2021-01, subject to the following conditions:

1. The proposed building shall be setback at a minimum of 25 (twenty five) feet from the side yard and 50 (fifty) feet from the rear yard.

based on the following finding of facts:

1. The applicants' lot size is sufficient to support proposed structure.
2. The property is not in a platted subdivision.
3. The aforementioned facts reduce the potential visual and aesthetic impacts on the line of sight for which the height restriction was adopted.

Motion by: Huerter.
Second by: Anderson.
Vote: Ayes –Huerter, Genereux, Pierce, Anderson. Nay – Leaders. Motion Carried.

7. ADJOURNMENT

Motion #11: to adjourn.
Motion by: Pierce.
Second by: Huerter.
Vote: Unanimous. Motion carried.

The meeting was adjourned at approximately 6:43 P.M.

APPROVED: _____
Mike Genereux, Chairman Date

ATTEST: _____
Matt Wyant, Planning Director
Planning & Development