

TO: Board of Adjustment
FROM: Pam Kalstrup
DATE: June 14, 2021

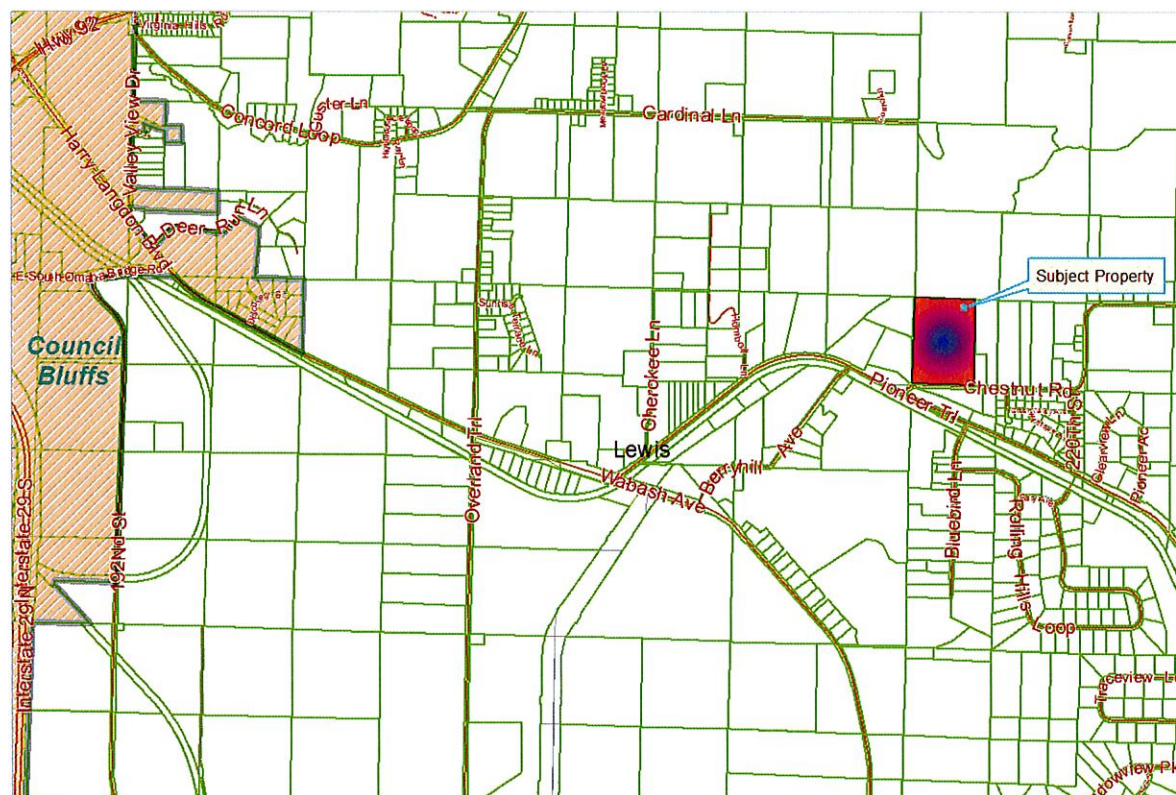
RE: Case #CU-2020-03

REQUEST: Conditional use approval to permit a restaurant with a bar attached in an A-4 Zoning District.

LOCATION: Lewis Township

15-74-43 NW NE EXC E335.87' & E16' NE NW (PARCELS E OF B & F OF D)

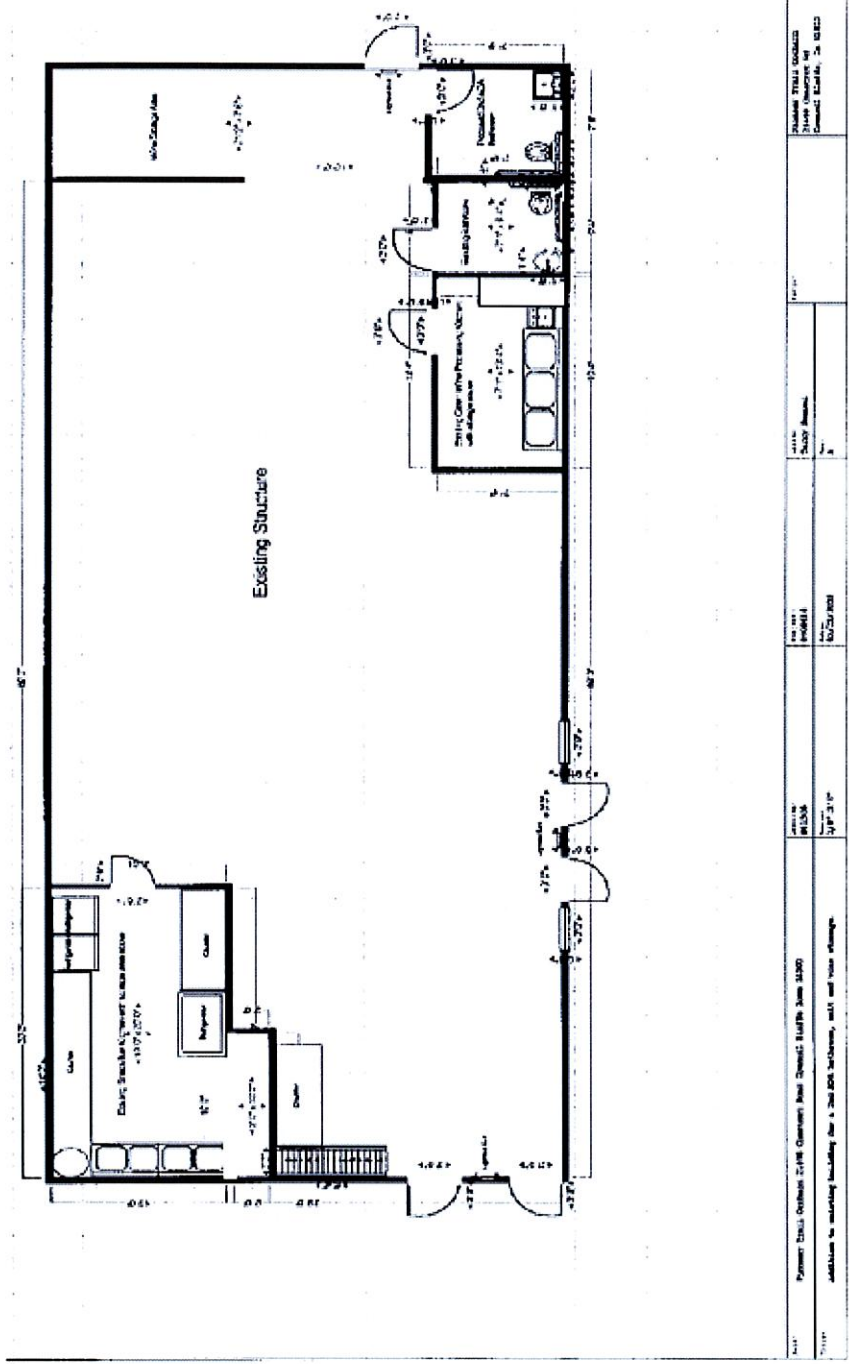
The subject property is located approximately 1 ¾ miles east of the city limits of Council Bluffs at 21498 Chestnut Road.



PROPERTY OWNER: Tarry Hempel – Janice M Shanahan

GENERAL INFORMATION:

The applicants have made this request to allow them to expand on their existing vineyard tasting and dining facility use. The applicants have an orchard building and dining facility, subordinate to the winery, which are allowed in conjunction with their orchard/winery operation. It is the intent of the applicants to sell alcohol other than their product and native wines and to continue to serve food not subordinate to the winery. The applicants' property consists of approximately 36 acres with the orchard building/dining facility being 30' x 70'. The applicants have a conditional use permit, which was granted in 1999, for temporary establishment involving large assemblages of people (haunted house) in connection with a roadside stand (pumpkin patch). The applicants also have a conditional use permit, which was granted in 2018, for temporary establishments involving larger assemblages of people and to permit special events at vineyards/wineries.



1001	Project: Shell, Outside C/IR, Queen's Road, District 11/12/13, June 14/20	Scale: 1/8" = 1'-0"	Sheet: 1001	Revision: 1	Author: J. Smith	Date: 10/20/2020	Project: Shell, Outside C/IR, Queen's Road, District 11/12/13, June 14/20
1002	Additional to existing building for a 2nd floor kitchen, bath and living change.	Scale: 1/8" = 1'-0"	Sheet: 1002	Revision: 1	Author: J. Smith	Date: 10/20/2020	Project: Shell, Outside C/IR, Queen's Road, District 11/12/13, June 14/20

The following is the applicants' narrative of their proposal:

Pioneer Trail Orchard / Winery & Pumpkin Patch L.L.C.

21534 Chestnut Road
Council Bluffs Iowa 51503
(712)366-1505

Business Plan

Request for Amended Restaurant Conditional Use to Existing Variance

Overview

In order to grow our current fruit farm & pumpkin patch and winery agritourism business, my wife and I as joint partners are requesting amending full restaurant usage to our current conditional use permit.

Pioneer Trail Orchard is located approximately 3 miles south of Council Bluffs in Pottawattamie County along the Wabash Trace bike trail. We own 36 acres where we grow pumpkins, vegetables and have approximately 430 mature apple trees consisting of 6 varieties.

Our goal is to expand our primary fall agritourism operation which currently provides apple picking, hayrack rides, a haunted house, a corn maze, greenhouse plants, camp fire rentals, live music, wine & snack bar food service from our Apple Jack's snack bar which has been a formally licensed food service for approximately 17 years.

For the past 26 years our primary operational period has been September through October where we have provided pumpkin patch and apple orchard activities for families. In 2018 we requested and received a variance to operate as a winery year round including continuation of our food snack bar. We have had great response from this addition, especially requests from our customers to serve food regularly as a local rural restaurant.

Our expanded vision is to seek the addition of appending full restaurant usage to our current winery variance complimenting our many other year round agritourism activities.

Operational Support Information

We are located 1 mile east on Pioneer Trail at the junction of Chestnut Road which is an oil topped road. We have parking for over 100 vehicles. No customer parking is allowed on the roadway.

Our orchard building serves as our winery and food service facility and has an internal Fire Marshal issued seating capacity of 90. We do have a bar counter that seats 5, the remaining 85 seats are primarily at tables.

We have 2 ADA inside bathrooms. During the fall we utilize the services of Moore's Portable Toilet Services for extra portable potties as needed.

We have paved handicap parking with paved access walkways.

Each fall we conduct a safe water test using Midwest Laboratories as well as a Fire Marshal safety visit and report the results to the Pottawattamie County Planning office.

Products & Services

As a functional fruit and vegetable farm established in 1995, we sell our produce and provide fall entertainment each summer and fall.

Throughout this time we have been required to maintain a state food license to sell snack foods, initially temporary each fall then altered to a full year license required by the state. With the change to full year licensing we have completed compliance requirements as well as passed regular inspections.

After obtaining a winery variance in 2018, we opened year round to serve wine, beer & snack bar foods as well as offer occasional live entertainment.

The demand for food services by our customers has grown significantly such that we enhanced our short order menu to meet customers requests. Such growth and demand by customers is now at a point where the Pottawattamie County Planning office as well as ourselves feel we need to seek formal approval to operate as a more formal restaurant.

(Please see our attached menu.)

Hours of Operation

Though the preceding descriptions of our operation above may seem comparative to other commercial operations, we are in fact a small rural operation. Therefore our hours of operation flex to the demands of our customers and the time of year. In general our focus is for dinner and if we have some form of entertainment on a Friday or Saturday evening. Our current hours are shown below:

Monday & Tuesday – Closed
Wednesday & Thursday – 4 PM to 7 PM
Friday & Saturday – 4 PM to 9 PM (later if entertainment)
Sunday – 4 PM to 7 PM

Demographics & Target Market

Outside of our fall agritourism activities, our customer base are the occasional folks looking to sample wines. Our food service customers are primarily our friends, neighbors, fellow farmers and small business owners. The feel of our place is that of a small town/rural friendly environment.

Summary

Pioneer Trail Orchard & Pumpkin Patch & Winery is very proud of what we have established over the years and are delighted at the reciprocating positive response from our customers. The desire of our customers to provide regular food service has gifted us this new opportunity to step-up to and meet their needs. As a result we are hopeful that Pottawattamie County Planning sees the positive opportunity for our growth and grants an amendment to our current variance to formally provide food services as a full time restaurant.

Pioneer Trail Orchard / Winery & Grill Menu

Apple Jacks at the Patch

21534 Chestnut Rd Council Bluffs (712)366-1505

Hours:

- Wednesday & Thursday → 4:00 PM to 7:00 PM
- Friday - Sunday → 4:00 PM to 8:00 PM
- Closed Monday & Tuesday

We're not only a winery, apple orchard & pumpkin patch, but also offer delicious reasonably priced short order food year-round too!

Dinner & Lunch 11:00 AM to Close		
Philly Steak w/Reg Fries	*Rustic Cut Hamburger Extra 50 cents	\$7.25
Cheeseburger w/Reg Fries	*Waffle Fries Extra 50 cents	
Chicken Strips w/Reg Fries		
Chicken Filet Sandwich w/Fries		\$6.00
Taco Beef Soft Shell		\$3.25
Taco Chicken Soft Shell		\$4.00
Burrito Beef & Bean		\$4.00
Burrito Beef & Bean		\$4.50
Quesadilla Cheese - add \$1.00 for beef		\$3.00
Nachos		\$4.00
Taco Nachos		\$5.50
Taco Salad		\$5.50
Brat		\$3.50
Hotdog - add \$1.00 for Chili		\$2.50
Large Nathan Hotdog - add \$1.00 for Chili		\$3.50
Dinner / Lunch Side Orders & Appetizers		
French Fries		\$3.00
Waffle Fries		\$3.50
Cheese Sticks		\$5.50
Cheese Curds		
Breaded Pickles		
Bag Chips		\$1.00
Large Pretzel		\$2.50
• With Cheese		\$3.50

Dinner & Lunch Drinks		Breakfast Drinks	
Pop - 12oz can	\$1.00	Coffee	\$0.75
Water	\$1.00	Orange or Apple Juice	\$1.25
Wine by the Bottle	various	Milk - add Chocolate \$0.50	\$1.50
Wine by the glass	\$6.00	Malt	\$3.50
Beer - Various Varieties by can, bottle or 12 pk		Shake	\$3.00

*All prices subject to change

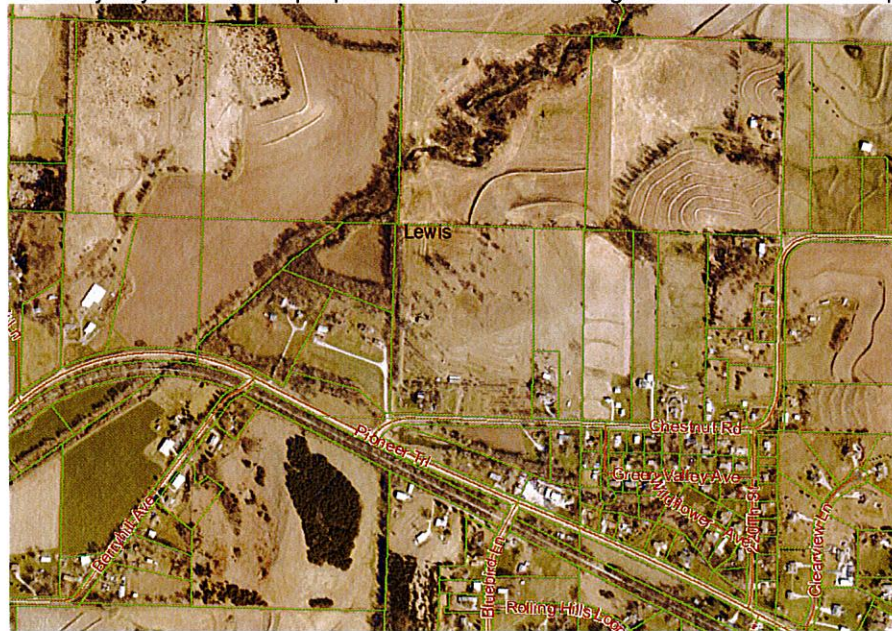
SITE REVIEW:

The subject property is consists of approximately 36 acres. It contains a single family dwelling, haunted house associated with their existing conditional use, orchards, orchard building, winery, septic system and well.



AREA REVIEW:

The majority of the area properties are utilized for agricultural & residential purposes.



ROADS & TRAFFIC:

Access to the subject property is from Chestnut Road, an official bituminous road. The Iowa Department of Transportation Traffic Flow Map indicated an average traffic flow of 330 vehicles per day.

ZONING:

The applicant's property is located in a Class A-4 (Loess Hills) District.

8.014.030 **CONDITIONAL USES:** The following conditional uses shall be permitted in a Class A-2 District, when authorized in accordance with the requirements of Chapter 8.096:

.04 **Commercial activities, similar in scope to the following, provided the property shall be located along and have direct access to hard surfaced streets or official bituminous roads. (Ordinance #2018-04/05-10-18)**

K. **Restaurants, with a bar, lounge or tavern attached thereto provided that the tavern shall occupy no more than 25% of the total floor area of the total building dedicated to both uses.**

Section 8.096.030.03 of the County Code states:

.03 *The Board shall have the power to hear and decide only such appeals for conditional uses as the Board is specifically authorized to pass on by the term of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance; or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. In reviewing an application for a conditional use permit, findings based on the following criteria shall be made and serve as the basis for approval or denial of the request:*

- A. *Does the proposed use conform to the Land Use Policy Plan?*
- B. *Is the site suitable for the proposed use? Such factors as size and shape of the property, topographic conditions, soil conditions to support water and septic systems, accessibility to transportation facilities, and soil erosion problems shall be considered.*
- C. *Is the proposed use compatible with surrounding property use? Such factors as the activities and function of the proposed use should be considered to determine if the proposed use conflicts with or reduces the usefulness or value or creates other negative impacts on adjoining property or properties in the general area, including public health, safety and welfare.*
- D. *Is the adjoining road system adequate to accommodate the proposed use in terms of the present traffic volume vs. road capacity and the general condition of the road system?*
- E. *Can adequate measures be taken to minimize any potential adverse impacts on adjoining property? If so, stipulate such measures as required by the ordinance or special conditions that would be required.*
- F. *Does the conditional use comply with all conditions imposed on it by the provisions of the district in which such conditional use may be authorized?*

FLOOD HAZARD:

The Flood Insurance Study prepared by the Federal Emergency Management Agency for the County designates the property as being in Zone X: Areas of Minimal Flooding.

TO: Zoning Board of Adjustment
FROM: Pam Kalstrup
DATE: June 14, 2021

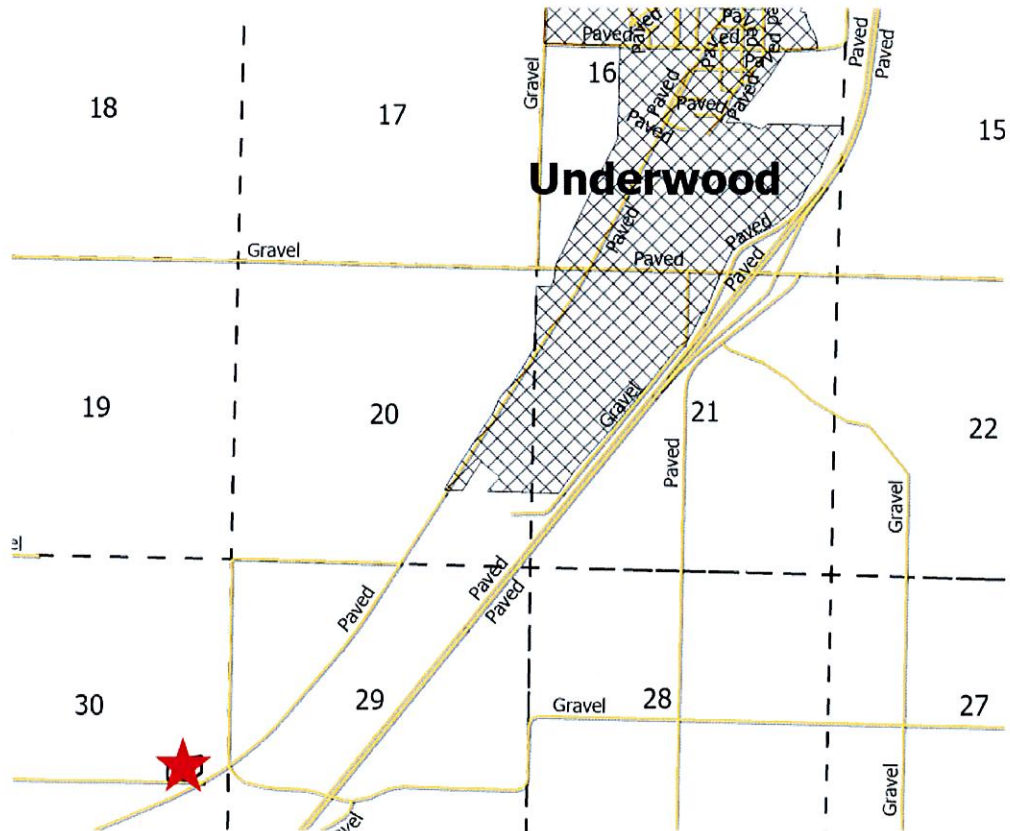
RE: Case #CU-2021-04

REQUEST: Conditional use approval to permit a rural enterprise business (buying and selling of pick-up boxes) in an accessory structure.

LOCATION: 24896 Juniper Rd
Norwalk Township

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)

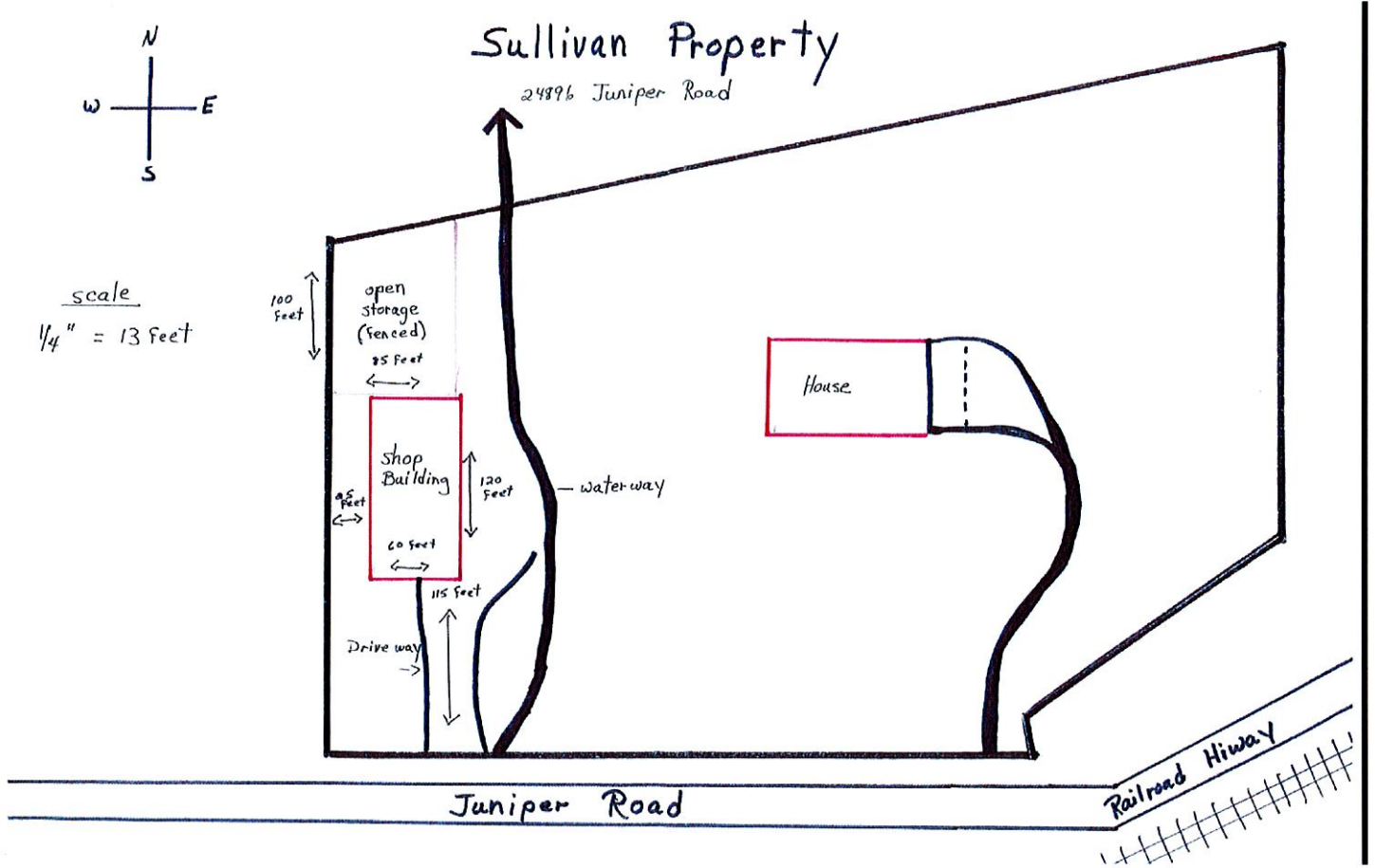
The subject property is approximately 1 ¼ miles south east of city limits of Underwood on Juniper Road.



APPLICANT: William and Valerie Sullivan

GENERAL INFORMATION: The applicant has made this request in order to allow them to utilize a proposed 60' x 120' accessory building for buying and selling pick up boxes.

The following is the applicants' site plan:



The following is the applicants' explanation of the rural enterprise business:

Sullivan Rural Enterprise Business Request

- We are applying for a Rural Enterprise Business permit (Ordinance #20004-14/07-01-04)
- We will be buying and selling pickup boxes.
- We anticipate 1 or 2 sales per week, or as few as 1 or 2 a month.
- We plan to build a shop on our property to accommodate the higher valued boxes. This building would also be used to store additional farm equipment and to service and restore our own trucks and tractors. There will also be a bathroom.
- Storage for additional pickup boxes will be behind the building.
- There will be a steel, privacy fence installed that will match the building which will block the view of boxes being stored.
- There will be no work done for hire and no employees. We will work only on our own equipment.
- We will continue to maintain this area of our property. Everything is mowed and there are no weeds. We also do dust control application on our frontage which is Juniper Road.
- Setbacks for the building would be 100 feet on the back side, which is north to allow for storage. Setbacks on the west will be 25 feet.
- Area Review:
Except for our 2 neighbors, our surroundings are farm land, Railroad Highway, Burlington Northern Railroad, and Interstate 80.

SITE REVIEW: A single family dwelling and septic system are currently on the 4.89 acre lot.

AREA REVIEW:

The use of properties in the area are a combination of primarily residential and agricultural.



ZONING:

The subject property is located in a Class R-1 (Ag-Urban Transitional) District.

8.015.030 **CONDITIONAL USES:** The following *conditional uses* shall be permitted in a Class R-1 District, when authorized in accordance with the requirements of Chapter 8.096:

.08 *Rural enterprise businesses, subject to the provisions of Chapter 8.004.165.*

Section 8.004.165 recites the following criteria for establishment of a rural enterprise business: **RURAL ENTERPRISE BUSINESS:** Rural enterprise businesses are intended to be clearly incidental and secondary to the use of the premises as a single-family dwelling. The establishment and continuance of a rural enterprise business shall be subject to the following requirements:

- .01 Any new rural enterprise business established after the effective date of this Section shall be situated on a property where there is a single-family dwelling occupied by the owner/operator of the rural enterprise business.
- .02 Rural enterprise businesses may include the following: assembly, processing, fabrication, repair of cars, light trucks, agricultural equipment and household appliances, lawn service, contractor's equipment storage, auto body shops.

- .03 There shall be no evidence that a rural enterprise business is being conducted on the premises due to outdoor displays or storage, excessive noise, obnoxious odors, electrical disturbances, or considerable increase in vehicular traffic.
- .04 The establishment of a rural enterprise business shall not have a negative impact on the public road servicing the property by causing increased dust problems or damage to the roads. The County Engineer and the Development Director shall determine this impact after analyzing the proposed business.
- .05 The total area devoted to the rural enterprise business shall not exceed one (1) acre, including the building, parking areas and any outside storage area. All work performed on the property must occur within the building situated on the property.
- .06 The total square footage of the dwelling or accessory building dedicated to the business shall be limited as follows:
- | | | |
|----|------------------|-------------------|
| A. | Up to 1.99 acres | 600 square foot |
| B. | 2 to 2.99 acres | 1,000 square foot |
| C. | 3 to 4.99 acres | 1,200 square foot |
| D. | 5 to 9.99 acres | 1,500 square foot |
| E. | 10 acres plus | 2,000 square foot |
- .07 More than one occupation is allowed per property; however, the sum of the total area, signage, parking and employee limitations of the property shall not exceed the limitations set by this Chapter for a single occupation. That portion of the business located in the dwelling is limited to twenty-five percent (25%) of the living area of the dwelling. Living area may include a finished basement.
- .08 The number of outside employees and patron parking spaces shall be limited a follows:
- | | Acres | Employees | Patron Parking |
|----|------------------|-----------|----------------|
| A. | Up to 1.99 acres | 1 | 2 |
| B. | 2 to 2.99 acres | 2 | 2 |
| C. | 3 to 4.99 acres | 3 | 3 |
| D. | 5 to 9.99 acres | 4 | 4 |
| E. | 10 acres plus | 5 | 5 |
- .09 The rural enterprise business shall provide one (1) parking space for each employee. No on-street parking shall be permitted in connection with a rural enterprise business. Patrons and employees shall park in the designated parking area.
- .10 Any items that are to be stored outside shall be stored in the rear yard of the rural enterprise business and the items shall be enclosed within a sight-obscuring fence and shall not be visible from an adjoining parcel or from the private or public road. This shall not be construed to prohibit parking spaces for employees and patron's operable vehicles.
- .11 All hazardous wastes, by-products and emissions must be stored and/or disposed of in conformance with Federal, State and local regulations.
- .12 One (1) on-site sign shall be allowed as provided in Chapter 8.090.030.06.

8.096.030.03 of the County Code recites the following criteria for the reviewing conditional use permits:

- .03 The Board shall have the power to hear and decide only such appeals for conditional uses as the Board is specifically authorized to pass on by the term of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance; or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. In reviewing an application for a conditional use permit, findings based on the following criteria shall be made and serve as the basis for approval or denial of the request:
- A. Does the proposed use conform to the Land Use Policy Plan?
 - B. Is the site suitable for the proposed use? Such factors as size and shape of the property, topographic conditions, soil conditions to support water and septic systems, accessibility to transportation facilities, and soil erosion problems shall be considered.
 - C. Is the proposed use compatible with surrounding property use? Such factors as the activities and function of the proposed use should be considered to determine if the proposed use conflicts with or reduces the usefulness or value or creates other negative impacts on adjoining property or properties in the general area, including public health, safety and welfare.
 - D. Is the adjoining road system adequate to accommodate the proposed use in terms of the present traffic volume vs. road capacity and the general condition of the road system?
 - E. Can adequate measures be taken to minimize any potential adverse impacts on adjoining property? If so, stipulate such measures as required by the ordinance or special conditions that would be required.
 - F. Does the conditional use comply with all conditions imposed on it by the provisions of the district in which such conditional use may be authorized?

ROADS & TRAFFIC: Access to the subject property is gained from Juniper Rd a gravel county road. The Iowa Department of Transportation Traffic Flow Map indicated an average traffic flow of 60 vehicles per day.

FLOOD HAZARD: The Flood Insurance Study prepared by the Federal Emergency Management Agency for the County designates in the Flood Insurance Rate Maps that the property as being in a Zone X-Areas of minimum flooding.

TO: Zoning Board of Adjustment
FROM: Pam Kalstrup
DATE: June 14, 2021

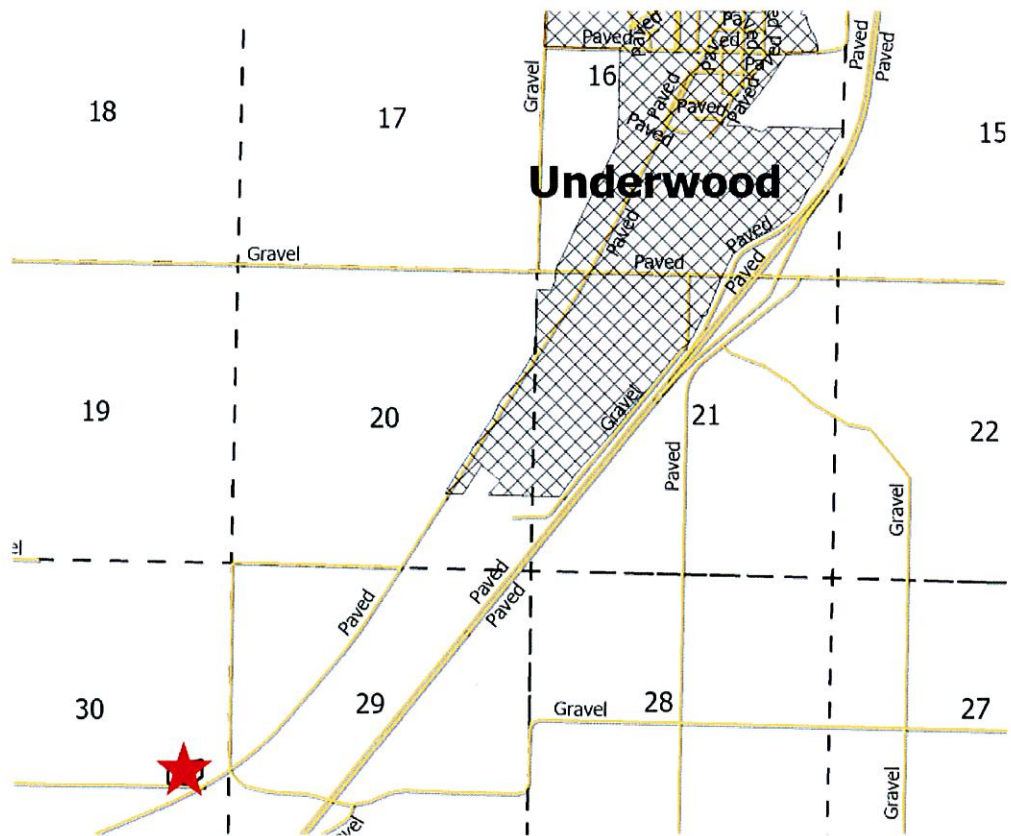
RE: Case #ZV-2021-01

REQUEST: An 8'6" height variance to allow the construction of a storage building with a height of 30'6" in lieu of 22'.

LOCATION: 24896 Juniper Rd
Norwalk Township

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)

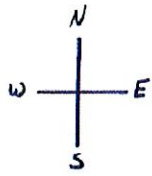
The subject property is approximately 1 ¼ miles south east of city limits of Underwood on Juniper Road.



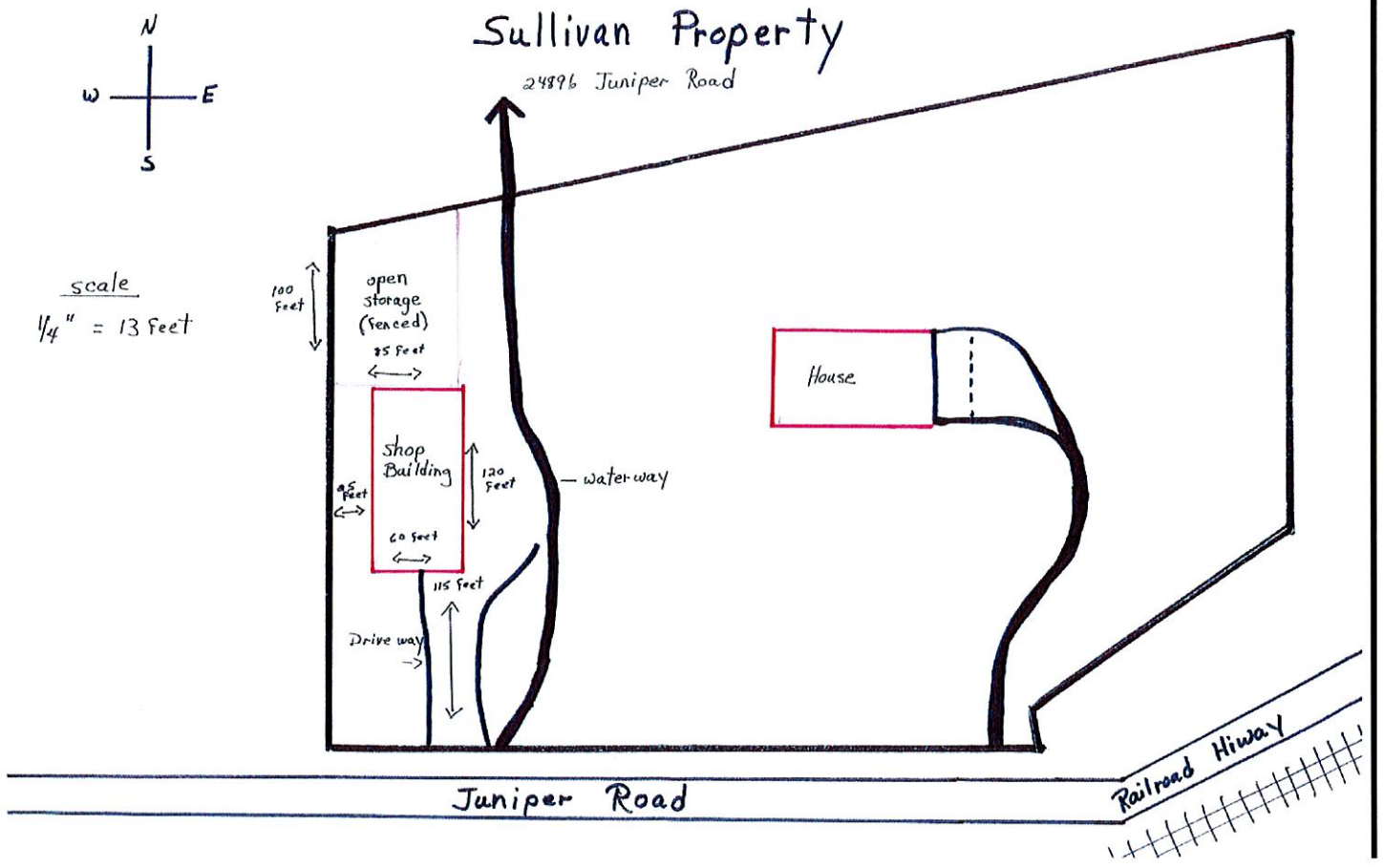
APPLICANT: William and Valerie Sullivan

GENERAL INFORMATION: The applicant has made this request in order to allow an 8' 6" height variance to allow the construction of a 60' x 120' storage building with a height of 30'6" in lieu of 22'.

The following is the applicants' site plan:



scale
 $\frac{1}{4}'' = 13 \text{ feet}$



The following is the applicants' explanation of why they are requesting a variance:

Sullivan Variance Request

- We are requesting a height variance on our shop building to accommodate a 4/12 pitch.
- The size of shop we are building is 60 x 120 to accommodate our needs and will have 16-foot side walls. With that height of walls, we would only be able to have a 1/12 pitch for a total height of 22 feet, which is the maximum height we are allowed. According to builders' guidelines, for a 4/12 pitch we would need an additional 8 feet 6 inches for a total of 30 feet 6 inches.
- All of the builders we have contacted design their buildings of this size with a 4/12 pitch minimum. These builders are Menards, Morton, Cleary, and Lester.
- The 4/12 pitch is the minimum recommended pitch requirement by these building companies to first of all, accommodate the snow load which the roof would bear.
- Secondly, the 4/12 pitch would be more aesthetically pleasing. The 1/12 pitch would make it look more like a commercial building.
- The 1/12 pitch would also be an additional cost of \$8—\$12,000 because of the structural changes such as heavier duty trusses, additional poles needed, and labor costs.
- Lastly, it would allow us to have a loft area to use for storage. Our goal is to have everything inside.

SITE REVIEW: A single family dwelling and septic system are on the 4.89 acre lot.

AREA REVIEW:

The use of properties in the area are a combination of primarily residential and agricultural.



ZONING:

The subject property is located in a Class R-1 (Ag-Urban Transitional) District.

The current maximum standards for the R-1 District are as follows:

8.015.060 HEIGHT REQUIREMENT: The maximum height of Buildings and structures in a Class R-1 District, shall be thirty-five (35) feet or two and one-half (2 1/2) stories, whichever is lower, and an accessory building shall not exceed a height of twenty-two (22) feet or two (2) stories, whichever is lower. (Ordinance #2004-14/07-01-04)

Section 8.096.030.02 of the County Code states “No variance from the terms of this Ordinance shall be granted unless the Board specifically finds”:

- .02 The Board shall have the power to hear and decide appeals for variances from the specific terms of this Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, and provided, that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

No variance from the terms of this Ordinance shall be granted unless the Board is satisfied that granting the variance:

- A. Is necessary to alleviate a demonstrable hardship or difficulty so great as to warrant the variance;
- B. Will not merely serve as a convenience to the applicant;

- C. Will not impair the general purpose and intent of the regulations and provisions contained in this Ordinance;
- D. Will not impair an adequate supply of light and air to adjacent properties;
- E. Will not increase the hazard from fire and other damages to said property;
- F. Will not diminish the value of land and buildings in the County;
- G. Will not increase the congestion and traffic hazards on public roads; and
- H. Will not otherwise impair the public health, safety and general welfare of the inhabitants of the County.
- I. Is not based on the nonconforming use of neighboring lands, structures or buildings in the same district, and the permitted or nonconforming use of lands, structures, or buildings in other districts is not grounds for the issuance of the variance.
- J. Will not, under any circumstances, allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

FLOOD HAZARD: The Flood Insurance Study prepared by the Federal Emergency Management Agency for the County designates in the Flood Insurance Rate Maps that the property as being in a Zone X-Areas of minimum flooding.