

**POTTAWATTAMIE COUNTY
BOARD OF ADJUSTMENT MINUTES
WEDNESDAY, NOVEMBER 15, 2023
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, Kay
Members Absent: Anderson
Staff Present: Wyant, Kalstrup

3. MINUTES

Motion #1: to approve the Minutes of October 25, 2023
Motion by: Kay.
Second by: Huerter.
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 #ZV-2023-02

APPLICANT: Seth and Sally Christensen
REQUEST: A five (5) foot height variance to allow the construction of a barn with a height of 27' in lieu of 22' in a Class R-1 (Ag_Urban Transitional) District.
TOWNSHIP: Hardin
STREET: 17963 290th St
ZONING: R-1 (Ag Urban Transitional)
LEGAL DESCRIPTION: 26-75-42 NE NE COMM NW COR TH S451.19' E269.11' NE408.39' NW110.29' N113.87' W481.63' TO POB (PARCEL 21275)

Motion #2: to open the public hearing on Case #ZV-2023-02
Motion by: Kay.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #3: to close the public hearing on Case #ZV-2023-02.
Motion by: Leaders.
Second by: Kay.
Vote: Unanimous Vote. Motion Carried.

Motion #4: to approve the request of Seth and Sally Christensen for a five (5) foot height variance to allow the construction of a barn with a height of 27' in lieu of 22' in a Class R-1 (Ag_Urban Transitional) District, 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 subject building is not going to be used for any commercial activities.
4. The aforementioned facts reduce the potential visual and aesthetic impacts on the line of sight for which the height restriction was adopted.

Vote: Ayes – Huerter, Genereux, Kay, Leaders. Motion Carried.

CASE #ZV-2023-03

APPLICANT: Nick Petersen
REQUEST: A twenty (20) foot side yard setback variance to allow the construction of an industrial building in a Class I-1 (Limited Industrial) District.
TOWNSHIP: Lewis
STREET: N 193rd Circle
ZONING: I-1 (Limited Industrial)
LEGAL DESCRIPTION: I-29/I-80 INDUSTRIAL PARK LT 14

Motion #5: to open the public hearing on Case #ZV-2023-03.
Motion by: Kay.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #6: to close the public hearing on Case #ZV-2023-03.
Motion by: Kay.
Second by: Huerter.
Vote: Unanimous Vote. Motion Carried.

Motion #7: to approve the request of Nick Petersen for approve a 20' side yard setback variance to allow the construction of an industrial building with a side yard setback of 30' in lieu of 50'.

Based on the following finding of facts:

1. The building at the proposed setback is not merely for convenience. It will not impair the general purpose and intent of the Zoning Ordinance, it will not impair supply of light and air to adjacent properties, it will not increase the hazards to said property, it will not diminish property values, it will not increase congestion of public roads, nor will it impair the public health, safety and general welfare of area residents.
2. The property to which the proposed setback abuts is part $\frac{1}{4}$ $\frac{1}{4}$ section that is zoned A-3 which prohibits more than one home per $\frac{1}{4}$ $\frac{1}{4}$ section. There is already a home in that $\frac{1}{4}$ $\frac{1}{4}$ section. Said property is under one ownership.
3. The future land use plan designates this entire area as Urban Transitional, lands within $\frac{1}{2}$ mile of each of the cities should be the area of concentration for non-farm dwellings, and commercial and industrial uses.
4. The variance will provide proper turn around distance for emergency vehicles.

Vote: Ayes – Huerter, Genereux, Kay, Leaders. Motion Carried.

CASE #CU-2023-05

APPLICANT: MidAmerican
REPRESENTED BY: PBM Wireless Services
REQUEST: Conditional use approval to permit construction of a communication tower in a Class R-2 (Urban Transitional) District.
TOWNSHIP: Garner
STREET: 1474 Jennings Avenue
LEGAL DESCRIPTION: AUD SUB NW SW 16-75-43 ALL LT 5 & PT LTS 4 & 7 COMM NE COR LT 3 PATTENS SUB TH NW99.13' NLY1132.5' SE278.34' SWLY909.24' SE APPROX 180' SW196.74' S84.33' SW48.13' NW134.25' TO POB & W131' N318' LT 1, ALL LT 2, TRI NW COR LT 3 & PATTENS SUB LT 1 & GLENDALE ACRES O/L A EXC S40'

Motion #8: to open the public hearing on Case #CU-2023-05.
Motion by: Huerter.

Second by: Kay.
Vote: Unanimous Vote. Motion Carried.

Motion #9: to close the public hearing on Case #CU-2023-05.
Motion by: Huerter.
Second by: Kay.
Vote: Unanimous Vote. Motion Carried.

Motion #10: to approve the request of MidAmerican for Conditional use approval to permit construction of a communication tower in a Class R-2 (Urban Transitional) District, subject to the following conditions:

1. The applicant shall decommission and remove the existing tower within one hundred eighty (180) days after cessation of use.

Based on the following findings of fact:

1. The subject property is located in the R-2 (Urban Transitional) District. The County Zoning Ordinance, which is adopted in conjunction with the Land Use Plan, stipulates that the proposed land use is a permitted conditional use in the R-2 District. The Land Use Plan recognizes the need for adequate utilities to accommodate existing and future development.
2. A commercial telecommunication tower already exists and will simply be replaced which will not create a detrimental effect on adjacent properties.
3. The subject property consists of 21.7 acres and the replacement of a commercial telecommunication tower is not foreseen to have any negative impact on area properties.
4. The only time the proposed commercial telecommunication tower will have any utilization of the road system is primarily during its initial construction. Traffic to the tower site will be minimal after construction. The existing road system is adequate to accommodate said delivery and no negative impact should be encountered.
5. The proposed tower will meet the criteria set forth by the Zoning Ordinance.
- 6.

Vote: Ayes – Huerter, Genereux, Kay, Leaders. Motion Carried.

5. ADJOURNMENT

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

The meeting was adjourned at approximately 5:52 P.M.

