

Minutes - Woodbury County Board of Adjustment Meeting August 1st, 2011

The meeting convened on the 1st of August, 2011 at 6 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Russell Walker, David Scholten, JoAnn Sadler and Corey Meister. Vice Chairman Meister chaired the meeting in the absence of Brian Chrichton. Mr. Chrichton arrived late and Mr. Meister continued to chair the meeting. Zoning staff John Pylelo and Peggy Napier were also in attendance. Doug & Fran Carlsen, Todd & Tara Shumansky, and Tom & Angela Kayo were present from the public.

Vice Chairman Corey Meister called the meeting to order at 6 PM.

The first agenda item approval of the July 5, 2011 meeting minutes.

Ms. Sadler made a motion to approve the minutes as written. Mr. Scholten seconded the motion; motion carried 4-0.

The second agenda item was consideration of Conditional Use Permit Application for Todd W. and Tara M. Shumansky.

This item was on your July 5, 2011 agenda. The public hearing was opened and closed and thereafter deliberation began on the application. The Board voted to table further deliberation on this agenda item with deliberation to resume at the Board's next regularly scheduled meeting beginning at 6:00PM on Monday August 01, 2011. As part of the motion to table the Board suggested the applicant communicate with surrounding neighbors with their concerns and be prepared to present in detail on August 1, 2011 how to resolve those issues of excessive lights, noise and other issues raised. The proposed minutes of July 5, 2011 reflect the following neighborhood, staff or Board areas of concern:

1. The placement of overflow parking within a portion of Lot 6.
2. Lighting specifications and locations; especially from parking areas.
3. Noise abatement; especially from the haunted forest.;
4. The safe use of roadway right-of way.
5. The (overall general) relocation of activities to Lot 5.

Below is provided a copy of the materials originally provided the Board for the July 5, 2011 meeting relative to this agenda item. In addition find a copy of the applicant's narrative updated to how the

applicant intends to respond to neighborhood, staff and Board concerns. The only changes made to the additional comments are that we have underlined the applicant's additional narrative and numbered the pages. The additional narrative responds to the concerns reflected within the minutes as well as provides additional information related to restrooms and signage.

As the public hearing was closed at your last meeting additional applicant or citizen comment requires your Board's approval.

Your Board is asked to continue deliberation and then take action on the applicant's conditional use permit application.

Included in the packet for the board members were:

- *The narrative history of Conditional Use Permit hearing from July 5th meeting*
- *Excerpt from Woodbury County zoning ordinances pages 22 and 23*
- *Conditional Use permit application*
- *Description of proposed activities*
- *Assessor's history of parcels, aerial maps of parcels showing proposed activities locations, and variety of photographs showing buildings on Lot 5 and parcels viewed from different directions.*

APPLICANT SHUMANSKY'S RESPONSE TO ISSUES RAISED WITHIN JULY 5, 2011
PUBLIC HEARING ARE UNDERLINED

This information is in reference to the proposed use of the property at 1590 and 1592 Charles Avenue, Lawton, Iowa.

We would like to use said property as a seasonal Halloween entertainment venue during the months of September and October. The main focus of this business will be Halloween activities and a pick your own pumpkin patch. This operation will typically be open approximately 45 days per year. Hours of operation would be from 10:00 am until 11: pm. Our main customer base will consist of families and students. We will not be serving any type of alcohol or beer on the premises.

There were questions regarding days and hours of operation. The pumpkin patch, corn maze, hayrack rides, and everything else except the haunted forest will be open Monday through Saturday from 10:00 am until 8:00 pm and Sunday from 10:00 am until 6:00 pm. The haunted forest will be open on Friday and Saturday evenings from 6:00 pm until 11:00 pm. The haunted forest would also be open from 6:00 pm until 11:00 pm on Halloween night.

The majority of the business operation will be located at 1592 Charles Avenue. This area is currently zoned commercial and is not being submitted for a change of use permit. Our retail area will be housed in one of the existing metal sheds. All retail sales and ticket sales as well as some of the activities will be conducted in this area. We will also have a gravel parking lot with approximately 100 parking spaces on the southwest corner of this property.

The DOT mentioned the potential for sightline issues because of the parking near Highway 20. We feel that there would be no blocking of sightline caused by our parking area due to the raised elevation of Highway 20 and Charles Avenue. The elevation at the south end of the parking area dips down and allows for clear views of

traffic on the highway when approaching the intersection. We have also set the south edge of the parking area that runs along Charles Avenue back an additional 20 feet from the south property line.

The parcel that we would like to apply for a conditioned use permit is #894635351001. This parcel is currently zoned agricultural estate. We would like to use this property to assist in the operation of our business. Proposed uses will include:

- Tractor drawn hay rack rides. We would provide hay rack rides along the perimeter of the property to customers. These hay racks would be pulled by a diesel powered tractor.
- Walk-thru corn maze. About 60% of the property will have corn planted on it. We would cut a maze into the corn that people would walk through. The maze will be decorated with Halloween or fall themed items and props and have background music playing. The outer edges of this maze would be at least 25' from the edge of the corn so what little noise any customers may make would have a barrier of corn stalks between them and the road.

Neighbors voiced concern at the last meeting about lighting and noise from this area. The corn maze will operate during daylight hours only and will close by 8:00 pm. Due to the close proximity to homes on Charles Avenue we have decided not to use lights or background music in the corn maze.

- Outdoor walk-thru haunted forest. There is an area that is approximately two acres that is covered in trees. We would like to place a themed Halloween walk-thru attraction in this wooded area. Customers would pay an admission to walk through this area. The haunted forest would include Halloween decorations, animated props, actors that are dressed in costume, and themed background music and lighting. All lighting and background music would be originated from within the wooded area. The closest edge of this wooded area is at least 100' from the property line.

Neighbors voiced concern about lighting and noise from this area. The haunted forest will be contained within the wooded area. This area has a considerable amount of trees and vegetation that will contain most of the noise and sound. To further help with sound, the edge of the forest is approximately 300' from the closest house. Speakers used for sound and music will be compact and will be powered with 30 watts each or less. As a test, we operated a chainsaw at full throttle in the forest and measured the sound from the east side of the north building. With the chainsaw at full throttle it was inaudible when it was at the east end of the forest. As it approached the west end of the forest it was audible but it did not exceed 80 decibels. During operation lighting will consist of low wattage colored LED bulbs for atmosphere and use will be limited to within the wooded area. We will mount 175 watt dawn to dusk metal halide light fixtures onto the east and south sides of both buildings to light the parking, sidewalks and steps that will lead to the forest. These lights will face east and south and should not have any spillage onto residences on Charles Avenue. There will also be a string of incandescent lights that will be suspended along the middle of the length of the wooded area to be used in case of emergency. The haunted forest will operate on Halloween night and Friday and Saturday nights only and will be open a maximum of 15 nights per season

- Overflow parking. In order to insure that customers do not park along the road or on any neighboring property we would like to designate an area in the northwest corner that is approximately one acre as overflow parking. This area will be planted with alfalfa and will be used for employees and customers on an as needed basis.

We will expand the main parking area in the southwest corner to approximately 50,000 square feet. The two main parking areas will be 360' by 75' and 280' by 75'. This creates approximately 130 parking spaces. There will be an additional 12 parking spaces between the buildings and 15 parking spaces on the north side of the north building. This will eliminate the need for overflow parking in the northwest corner.

- *Pick your own pumpkins. We may plant additional pumpkins on the east side of the property. Customers would be able to walk out in to the field and pick their own pumpkin for purchase.*

We may use the northwest corner that was being used for overflow parking for planting additional pumpkins or fruit trees.

- *Apple orchard. In the future we may plant fruit trees on the northeast corner of the property. When these trees bear fruit we may offer people the ability to buy and pick their own apples.*

We may use the northwest corner that was being used for overflow parking for planting additional pumpkins or fruit trees.

Other concerns that have been raised:

- ***Restrooms:** We will use “porta-potties” for restroom facilities. These will be serviced weekly by the supplier. We plan on placing them on a concrete slab between the east end of the buildings. They will be hidden by a 6’ wooden privacy fence that will run between the buildings.*
- ***Signage:** We would like to install a 5’ by 10’ sandblasted wood sign on the southwest corner of the property. This sign would be mounted on two wooden fence posts and will be about 3’ off the ground for an overall height of 8’. The sign would face southwest giving it minimal impact to traffic approaching Highway 20 on Charles Avenue from the north. It would be lit from below with two 100 watt incandescent bulbs.*

Another sign would be installed above the overhead door on the west side of the south building. This sign would be a flat painted or printed sign that is 4’ by 8’. It would be lit from above with two 100 watt incandescent bulbs.

We would also use an undetermined number of pumpkin shaped signs within the property to identify activities and areas. These painted signs will not be lit.

Deliberation Continued:

Mr. Shumansky stated he did not attempt to talk to area neighbors. He conducted his own noise test using a chain saw (the loudest item in the proposed Halloween activities) and measuring the decibels of sound produced. Mr. Walker asked if a sound reading was taken of the trucks and cars from Hwy 20 to see how it compares. Shumansky said he only tested with the chain saw.

Ms. Sadler initiated a discussion of exactly what constituted “Closing Time.” It was decided 8:00 PM was the closing time for all activities except the Haunted Forest which would close at 11:00 PM.

Mr. Shumansky related his discussion with County Engineer Mark Narha regarding his advice to use crushed concrete for parking areas. Narha approves Shumansky’s use of the county standard for parking spaces, ten (10) feet by eighteen (18) feet and Shumansky’s plan to move all parking to the southern Lot 5.

When asked if he intended to paint the buildings, Mr. Shumansky replied the buildings were galvanized steel and saw no reason to paint them.

Mr. Pylelo said Mr. Shumansky would use the ordinances for permitting signage except for holiday-shaped signs used as decoration. The County Engineer would be involved in “*No Parking*” signage.

Mr. Pylelo also thought Climbing Hill should be consulted in safety issues and interests such as walking and parking.

Mr. Crichton suggested the hayride activity be primarily on the east side of the parcel rather than the west where it is close to Charles Ave.

Mr. Crichton also asked if Mr. Shumansky had future plans to expand business into a carnival or farmer’s market. Mr. Shumansky said all his current plans were now on the table.

Mr. Crichton made a motion to approve subject to following conditions:

- **A site plan adjusted to relocate all overflow parking from Lot 6 to Lot 5**
- **Halloween entertainment venue business hours of operation from 10:00 AM to 8:00 PM; except for the Haunted Forest which is permitted to continue business operations until 11:00PM.**
- **An annual Halloween entertainment venue business operation season commencing on or after September 1st and ending no later than November 1st.**

Mr. Scholten seconded the motion; motion carried 4-0.

The next item was any Citizen wishing to be heard by the Board.

There were no citizens wishing to be heard by the Board.

Mr. Walker made a motion to adjourn; seconded by Mr. Crichton. Motion carried 4-0.

Meeting adjourned 7:25 AM.

Next meeting is Tuesday, September 6, 6 PM.