

## **Minutes - Woodbury County Board of Adjustment Meeting March 6, 2017**

The meeting convened on the 6<sup>th</sup> of March, 2017 at 6:00 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Robert Brouillette, JoAnn Sadler, Katie Colling, Tom Thiesen, and Dwight Rorholm. Staff members John Pylelo and Peggy Napier were also in attendance. Present from the public were: Brenda and Jason Waugh, Jenna Wilson, Dave and Nikki Stokes, LeRoy and Amanda McRoberts.

**The first agenda item was Any Citizen Wishing to be Heard on Non-Agenda Items.**  
No citizen made comment pertaining to this agenda item.

**The next agenda item was approval of minutes of November 7, 2016 meeting.**  
**Mr. Rorholm made a motion to approve the minutes subject to the below change.**

**Pg 6, third paragraph “...Mark Nahra puts a lot of weight in *not* following the setback ordinance” should read “...Mark Nahra puts a lot of weight in *following* the setback ordinance...”**

**Mrs. Colling seconded the motion; motion carried 5-0.**

**The next agenda item is Receiving Zoning Commission recommendation and Public Hearing Re: An Application for a Conditional Use Permit for Property Owners LeRoy and Amanda McRoberts for Home Occupation Use Truck Terminal Operations.**

LeRoy and Amanda McRoberts have submitted a Conditional Use Permit Application. The McRoberts are applying to continue operation of their trucking business as a “permitted conditional use” under recently amended portions of Woodbury County’s zoning ordinances. Current ordinance language was recently amended to allow owner operators of smaller trucking operations; who live on the same parcel as the trucking operation; the potential of having vehicles visible from outside the perimeter of the parcel. In the McRoberts’ application the request applies to tractor-trailer units.

The McRoberts parcel is zoned AE (Agricultural Estates). Per zoning ordinances (page 32 under “Residential Uses Home Occupations Truck Terminals (Home Occupation Use”) are allowed to be considered as a permitted conditional use. The ordinances allow the home occupation use vehicle visibility test to be waived if a conditional use permit is granted.

The McRoberts parcel location is known as Lot 3 of Hinkel Addition. Hinkel Addition is a 4-lot subdivision platted in 2009. Three of the lots currently have been developed with occupied single family dwellings placed thereon. The fourth lot has been sold but currently is undeveloped.

The applied for use would occur on a portion of a 2.5 gross acre lot addressed 1483 210<sup>th</sup> Street, sergeant Bluff, Iowa. The location is within a portion of the SE ¼ of the SE ¼ of Section 28 of Woodbury Township. The parcel is located on the north side of hard surfaced 210<sup>th</sup> Street approximately 0.6 miles east of Sergeant Bluff, Iowa and 0.6 miles west of the intersection of 210<sup>th</sup> St. with Elk Creek Rd.

The application is specifically requesting the following:

1. The establishment of a 40' by 75' (3000 sf; .07 acre) outdoor area adjacent to the eastern side of the existing accessory structure;
2. That within the designated 40' by 75' outdoor area permitting to park up to three (3) tractor-trailer units; and
3. That within the 40' by 75' outdoor area trailers may operate refrigeration units when necessary.

See the aerial mapping provided for a visual representation of the location of items 1-3 above.

The 40' by 75' area would be the following approximate distances the respective nearby property owner's parcel:

- To the North: 110' to adjacent property owner Wilson.
- To the East: 95' to adjacent property owners Wilson and Alexander; and 205' to nearby property owner Pry.
- To the South 350' to adjacent 210<sup>th</sup> Street right-of-way.
- To the West 65' to adjacent property owner Van Wyhe.

The 12 property owners within 500' of the McRoberts parcel have been notified in writing of the public hearing. As of March 2, 2017 the Planning and Zoning Office has not received contact from any of the notified property owners.

The conditional use permitting process includes a review and a recommendation from the Woodbury County Zoning Commission. The Zoning Commission reviews the Conditional Use Permit application and reports its findings with recommendation to the Board of Adjustment. Per the ordinances the Zoning Commission's recommendation is limited to a determination if each of the standards found within ordinance subsection 2.02.9.F will be met. The application contains the applicant's response to how the applicant believes each of the same standards will be met.

Upon receiving the Commission's recommendation, the Board of Adjustment holds a public hearing on the application.

Staff provides the following documentation and information for your Board's consideration:

1. A letter from the Chair of the Woodbury County zoning Commission dated February 27, 2017 providing the Commission's findings and Section 2.02-9.(F) conclusions.
2. The location of the requested use within Woodbury Township TAM Mapping
3. Information for GIS Parcel #884728400008
4. A copy of the Conditional Use Permit Application
5. Aerial Mapping of the McRoberts' parcel
6. Aerial Mapping of 40' by 75' site
7. Area's Zoning District Mapping
8. Area Flood Plain Mapping
9. Letter of Map Amendment dated 10/08/2013
10. Abstractors Affidavit listing the required
11. Portion of zoning ordinance's Land Use Summary Table (Page 32 of ordinances) verify the availability of CUP consideration
12. Onsite photographs of the McRoberts' parcel and 210<sup>th</sup> St. ROW

**Your board has the task of holding a public hearing in this matter, deliberating, then voting on approval of conditional use permitting. Ordinances allow your approval, with or without conditions placed on the permitting; or to deny permit issuance.**

Comments:

Mr. Rorholm asked if there were any restrictions or covenants for Hinkel Addition.

Mr. Pylelo said there were none recorded.

Mr. Rorholm also asked about a container he saw on one of McRoberts' neighbor's parcel.

Mr. Pylelo explained they were permitted storage containers from Affordable Self-Storage owned by Mr. Kelly Pry. They were not relative to the McRoberts' issue. The parcel was previously AG exempt and owned by a Mr. Foreman. It is no longer exempt and the new owner intends to build a house on it.

Mr. David Stokes Jr. addressed the board saying he lived across the highway from the McRoberts and had no issues with his neighbors or their plans for a small terminal.

Mrs. Brenda Waugh approached to say she has never had a problem with the McRoberts. She described them as “Good neighbors” and said they kept their property clean.

Mrs. Jenna Wilson said she would be the one most affected by the truck terminal because she lives closest to them. She does not have an issue with them. She said they are respectful of her children and she has no opposing issues.

Mrs. Katie Colling asked what the reference was to “noise” in the letter from the chair of the Zoning Commission.

Mr. McRoberts said the reference was to refrigerated units that sometimes need to run all night to stay cold for the product they are delivering. Their “reefers” are new and very quiet. They have reefers maybe 5% of the time he is trucking.

Mr. Brouillette asked if new neighbors moved in, how would they be made aware of the truck terminal.

Mr. Pylelo said there could be a condition the resolution for the CUP is recorded with the deed so they would be made aware. Typically, resolutions are not required to be recorded.

Mr. Brouillette said it would be more a “buyer beware” situation, or up to the buyer to research what kind of neighborhood he is moving into.

Mr. Pylelo commented the seven (7) Home Occupation rules cover other limitations and restrictions.

Mr. Rorholm suggested not even worrying about that kind of situation at this time.

**Mrs. Sadler made a motion to close the public hearing. Mr. Rorholm seconded the motion; motion carried 5-0.**

Discussion:

Mr. Brouillette said they did not need to make a special condition about carrying hazardous material. Condition number six (6) already addresses “hazardous” loads.

Mr. McRoberts commented anything that falls under the “hazardous” category is required to have a placard to notify everyone.

Mr. Brouillette said if that is what is required by the DOT, that was enough of a requirement for him.

The board discussed a time limit on the condition for the property

Mr. Pylelo said he had one condition:

- That the tractor-trailer units approved for placement under said conditional use permitting shall not contain materials listed within US DOT Hazardous Material Regulations 49 CFR (Code of Federal Regulations).

**Mr. Rorholm made a motion to grant the CUP subject to following:**

- That the tractor-trailer units approved for placement under said conditional use permitting shall not contain materials listed within US DOT Hazardous Material Regulations 49 CFR (Code of Federal Regulations).

**Mrs. Colling seconded the motion; motion carried 5-0.**

**The last agenda item was Any Citizen Wishing to be Heard on Non-Agenda Items.**  
No citizen made comment pertaining to this agenda item.

**Mrs. Sadler made a motion to adjourn. Mrs. Colling seconded the motion; motion carried 5-0. Meeting adjourned at 7:52 pm.**

Next meeting is scheduled for Monday, April 3, 2017 at 6 PM.