

Minutes - Woodbury County Board of Adjustment – May 1, 2023

The Board of Adjustment meeting convened on the 1st of May 2023 at 6:00 PM in the first-floor board room of the Woodbury County Courthouse. The meeting was also made available for public access via teleconference.

BA Members Present : Daniel Hair, Tom Thiesen, Doyle Turner, Pam Clark, Ashley Christensen
County Staff Present: Dan Priestley, Dawn Norton
Public Present: Lydia Gaunitz, Dakin Schultz, Adam Larson, Jerod Eickholt, Sid Mosher, Matt Mosher, Jason Klemme, John Daniels
Steve Linn (via telephone conference)

Call to Order

Chair Daniel Hair formally called the meeting to order at 6:00 PM.

Public Comment on Matters Not on the Agenda

None

Approval of Minutes

The April 3, 2023, minutes were approved. Motion by Christensen to approve; Second by Turner. Motion passed 5-0.

Public Hearing: Conditional Use Permit Application: Vendor Sales of Alcohol During RAGBRAI on Parcel #894407100006, 2590 110th St., Merville, IA 51039

Priestley read into the record the proposed Conditional Use summary. Backpocket Brewing (Applicant) and property owners Chad and Tara Schmitt have filed for a Conditional Use Permit application to sell alcohol during RAGBRAI's visit through Woodbury County on July 23, 2023. The proposed sales site is on Parcel #894407100006. The parcel is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The Woodbury County Board of Supervisors approved Ordinance #69, effective November 16, 2022, authorizing this request as a conditional use in the AP District. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. Staff recommends approval.

Motion to close public hearing: Christensen. Second: Clark. Motion approved 5-0.

Motion by Turner to recommend approval of the conditional use permit to allow sales of alcohol only during the Special Event of RAGBRAI on July 23, 2023, with the condition that the property owner/applicant shall obtain all necessary federal, state, and local permits including, but not limited to liquor licensing. The permit shall terminate at 11:59 PM Central Daylight Time.

Second: Thiesen. Motion carried 5-0.

Public Hearing: Variance Request to Build Accessory Pole Barn (She) Prior to Building a Principal Structure (Single-Family Dwelling), Parcel #884724300011

Priestley read into record the variance request. Jerod & Kayla Eickholt have filed a variance application with the request to build an approximately 40' x 60' accessory pole barn (shed) prior to building a principal structure (single-family dwelling). Section 4.12.2 of the Woodbury County Zoning Ordinance requires that "no accessory building shall be constructed upon a lot until the construction of the principal building has commenced..." (p. 45). The property owners have filed this variance to request relief from the requirement that the principal structure (house) must be built before the accessory structure (shed) due to a delay with the contractor. The property is located on Parcel #884724300011 on Lot 1 of the Davis Estates Subdivision in Section 24, T88N R47W (Woodbury Township). The parcel is located in the Agricultural Estates (AE) Zoning District and is not located in the floodplain. Motion to close public hearing: Thiesen. Second: Turner. Motion approved 5-0. Based on the information provided, staff recommends the approval as the requirement to build the principal structure first is a practical difficulty for the property owners in this case-by-case situation. Therefore, staff recommends approval of the variance with the condition that the property owner apply for both the house and shed building permits at the same time in anticipation of the two building projects. Motion by Clark to approve variance with the condition that the property owner receive building permits for house and shed and complete both projects within 1 year of issuance of permits. Second: Christensen. Motion carried 5-0.

PUBLIC HEARING: CONDITIONAL USE PERMIT APPLICATION: LANDSCAPING SERVICES, NURSERY BUSINESS, AND OTHER RELATED USES, ETC. ON PARCEL #894607100006

Priestly read into record the conditional use permit application. Marilyn Niemeyer, as Trustee of the Edwin O. Niemeyer Revocable Trust (Owner) and Sid Mosher (Applicant) has filed for a conditional use permit application to use the property for landscaping and a nursery on a portion of the property identified as Parcel #894607100006 in the SW ¼ of the NW ¼ of Section 7, T89N R46W (Concord Township). The parcel is located in the Agricultural Preservation (AP) Zoning District. The property is addressed at 1130 Barker Avenue, Sioux City, IA 51108. Although horticultural production (including nurseries & greenhouses) are principally allowed uses in the AP Zoning District, a conditional use permit is required for similar landscaping uses such as tree services, sand and gravel storage, and feed and seed sales, fertilizer storage/distribution/application, and other related uses to a landscaping business. This proposal has been property noticed in the Sioux City Journal Legals Section on April 15, 2023. The neighbors within 1000 FT have been duly notified via April 14, 2023 letter about the May 1, 2023 Board of Adjustment Hearing. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. This conditional use permit application is being considered concurrently with a one-lot

minor subdivision application to establish a 4.5-acre lot. Based on the information received and the requirements set forth in the Zoning Ordinance, the proposal meets the appropriate criteria for approval. Staff recommends approval. Zoning Commission approved proposal at their April 24, 2023 meeting. Motion to close public hearing: Clark. Second: Christensen. Motion approved 5-0. Motion by Hair to approve the conditional use request to allow for this property to be used as a landscaping and nursery business with associated uses including tree services, and gravel storage, feed and seed sales, fertilizer storage/distribution/application, and other uses related to a landscaping business and forward to Board of Supervisors. Second: Turner. Motion passed 5-0.

Public Hearing: Conditional Use Permit Application: Temporary Borrow Pits on Two Proposed Borrow Areas: Borrow Area #1: Parcel(s) 884704200001 & 884704200003; Borrow Area #2: Parcel 884702100006

Priestly read into record the proposed Conditional Use Permit application.

JB Holland Construction, Inc. (Applicant) and property owners Eric Hennings and Donald Hennings of the Hennings Joint Trust have filed for a Conditional Use Permit application to establish temporary borrow sites to remove earthen materials to be used in Phase 1 and 2 of the east bound Highway 20 projects (IDOT Project #17-97-020-010). The proposed temporary borrow areas are located on Parcel #884704200001, Parcel #884704200003, and Parcel #884702100006. Both parcels are located on the south side of Highway 20. Each parcel is currently used as farm ground. The proposed cut area on Parcel #884704200001 and Parcel #884704200003 is 8-10 acres. The work area is 10 acres and the total excavation for export is 100,000-150,000 yds³. The proposed cut area on Parcel #884702100006 is 8-10 acres. The work area is 10 acres, and the total excavation for export is 100,000-150,000 yds³. The parcels are located in the Agricultural Preservation (AP) Zoning District and a portion of Parcel #884702100006 is located in the floodplain. However, this area will not be a part of the borrow site. The applicants have provided the necessary documentation for storm water management, soil erosion, dust control, haul routes, traffic entrances, hours of operation, and duration of operations. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, staff recommends approval of Temporary Borrow Area #2. Bill Holland stated the area is currently farmland, after completion of the project, area will be graded and returned to farmland. Archeology studies have been completed on each site. An agreement between Magellan Midstream Partners L.P. and the applicants/landowners has not yet been reached regarding the removal of inactive pipeline located across borrow area #1. Motion to close public hearing: Christensen. Second: Turner. Motion carried 5-0. Christensen motioned approval of temporary borrow pit #2. Second: Turner. Motion carried: 5-0. Clark motioned to approve temporary borrow pit #1 with contingency that a verified written agreement be reached between Magellan Midstream and landowners/applicants and presented to the Planning and Zoning Department by June 1st, 2023. Clark rescinded motion. Motion by Turner to approve temporary borrow pit #1 with condition that the approval is contingent of a written agreement between Magellan Midstream Partners L.P. and landowners regarding the pipeline at the location be reached before activity on temporary borrow pit #1 can proceed. Second: Christensen. Motion approved: 5-0

Information/Discussion: Woodbury County Solar Energy Requirements Review for Possible Changes to Zoning Ordinance

The Woodbury County Board of Supervisors on April 4, 2023, directed zoning to evaluate solar power in the unincorporated areas of the county. Solar energy generation includes personal/or private, and utility scale systems. Currently only large-scale systems are only allowed in General Industrial (GI) zoning areas with an approved conditional use permit, land is prohibited on farmland unless the operation is using the energy generated for power and is used under agricultural exemption under Iowa Code 335.2. If the land is not agricultural exempt, the landowner currently would need to request and be approved to rezone to GI Zoning District. Spot zoning is not encouraged and much of the future land map does not allow industrial activities in agricultural areas. Other counties in Iowa use Conditional Use Permit of Special Permit processes for Utility Scale Commercial Energy Systems. For personal or private use, an option would be to establish a stand-alone ordinance, amend the existing ordinance, or keep the same policy. An addition to the land use table could include "Social Energy Generation (Private Use)" under the Utilities category, including a letter "A" to each column as an 'Accessory Use.'" This would allow property owners to add solar panels as accessory structures through the building permit process and require Dimensional Standards to be followed. An existing primary or principal structure would be required. AG Exempt parcels would an accessory to support a farm operation. Commercial Solar options would also include stand-alone ordinance, amend existing ordinance, or keep the same policy by restricting commercial solar to General Industrial areas only. A possible option would be to amend the ordinance to approved 'Conditional Use' permitting in additional zoning districts. A Planned Development Overlay Zoning District could also be explored.

Information/Discussion: Summary of Proposed Revisions to Woodbury County Ordinance #56:

The Board of Supervisors requested Zoning address amendments to modify section 6.1.A: Wind turbine set back requirements to increase certain setback requirements to the ordinance regulating commercial wind energy conversion systems in the unincorporated areas of Woodbury County. Amendment #1: On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the City Limits Protected Area from 600 feet to 2 miles. Amendment #2: On page 10, Section 6.1.A, to repeal and replace the Wind Turning Set Back Requirement for the Public Conservation Protect Area from 600 feet or 110% of total height (whichever is greater) to 2,640 feet or 4.5x tower height (whichever is greater). This is an ordinance of the Board of Supervisors and requires three public hearings.

Information/Discussion: Woodbury County Comprehensive Plan 2040 Update SIMPCO presented a draft version of the 2040 Comprehensive Plan at an Open House on Wednesday, April 26th to review the plan and receive comments on the future development of Woodbury County. Anyone with additional information or comments are welcome to email SIMPCO. When a final version is complete, the Comprehensive Plan will be presented to the Zoning Commission with public hearings for citizen comment, then forwarded to the Board of Supervisors for a resolution.

Information/Discussion: FEMA Initiated 90-Day Appeal of the Revised Flood Rate Map and Flood Insurance Study For Woodbury County and Incorporated Areas

FEMA has updated the Flood Rate map. It is currently in a draft form. An appeal period will be open until July 24, 2023. The new maps are expected to be released around summer of 2024.

Public Comment on Matters Not on the Agenda

None

Commissioner Comment or Inquiry

None

Staff Update

Board of Supervisors will have a public hearing Tuesday, May 9th, 2023, to discuss amending the Wind Turbine Ordinance to 2 miles from cities and ½ mile from Conservation area. The new Woodbury County website offers a notification option to receive email updates regarding meetings.

Adjourn

Motion by Christensen. Second: Clark Carried 5-0. The meeting adjourned at 7:30 P.M.