

POLK COUNTY BOARD OF ADJUSTMENT
DES MOINES, IOWA

The Polk County Board of Adjustment held a meeting on Tuesday, January 22, 2019, at 7:00 P.M. in Conference Room A of the Polk County Public Works Department, Planning & Development Division, 5885 N.E. 14th Street, Des Moines, Iowa.

A) Roll Call - Members Present: Paul Kruse, Mike McCoy, Bonnie Thorn and Ron Fisher. Absent: None. Present from the Polk County Public Works Department: Bret VandeLune, Planning and Development Manager, Jennifer Ellison and Brian McDonough, Planners; Kelli Munoz, Recording Secretary.

B) Election of 2019 Officers – Item was considered at the end of the meeting.

C) Acceptance of the Minutes of the Monday December 17, 2018 meeting.

It was moved by Thorn and seconded by Fisher, to **APPROVE** the minutes as presented.

Vote: Yea: Thorn, Fisher, McCoy and Kruse. Nay: None. Absent: None.

D) Opening Statement

E) Unfinished Business - None

F) New Business

Motion was made by McCoy and seconded by Thorn to table the first item until the end of the meeting, and take the items in the following order as they are referenced on the meeting Agenda: **Item 2, Item 3, Item 4**, and lastly **Item 1**.

Vote: Yea: McCoy, Thorn, Fisher and Kruse. Nay: None. Absent: None.

Item 2 18/7571 Variance Appeal Application

Request by Eric Quiner (property owner) for a Variance to the required landscaping standards for a commercial agri-tourism use. The subject property is located at 5085 Meredith Drive, Des Moines, Section 18 of Webster Township.

Let the record show that Eric Quiner, 4840 NW Piekenbrock Drive, Des Moines, IA, was present to represent the Variance Appeal application.

Let the record show that no one from the public was present in favor or in opposition to the Variance Appeal application.

Let the record show that 31 notices were mailed and three (3) were received in support and none in opposition to the Variance Appeal application.

A motion was made by McCoy and seconded by Kruse to approve the Variance Appeal application in accordance with the staff report and recommendation.

Vote: Yea: McCoy, Kruse, Thorn and Fisher. Nay: None. Absent: None.

Item 3 18/7579 Variance Appeal Application

Request by Wild Paws, LLC / Megan Rude (prospective tenant/lessee) and Halbrook Rentals, LLC (property owner), being represented by Eric Cannon with Snyder & Associates, for three (3) separate Variances in order to accommodate a proposed Animal Services use. A setback Variance to the separation requirements for an outdoor exercise area and structure sheltering animals, a Variance to the required parking standard for a personal services use, and a curbing Variance for the drive aisle. The subject property is located at 7050 NE 14th Street, Ankeny, Section 35 of Crocker Township.

The Board Chairman, Mike McCoy, asked for the staff presentation as the Appellant and property owner were waiting for their representative to arrive. Brian McDonough gave the staff presentation. He gave further clarification of each of the requested Variances. McDonough explained that staff was supportive of two (2) of the three (3) requested Variances, and made the Board aware that the use could only be permitted at this location if all three (3) requests are granted.

The first Variance is to the 200-foot setback requirement for an outdoor exercise area and structure sheltering animals from all residential zoning district boundaries, existing dwelling units, or buildings containing an office, as well as to the 15-foot setback requirement for a fenced outdoor animal exercise area from a property line. The Appellant is proposing both an outdoor exercise area and a structure sheltering animals at less than the required 200 feet from all three (3) of the land uses mentioned in the standard (residential zoning district boundary, residences and building with office space). The Appellant is also proposing an outdoor exercise area at a setback of five (5) feet, in lieu of the 15 feet required, from the northern property line. Staff recommends denial of this Variance due to the proximity of the residential zoning district/residential subdivision to the west within the City of Ankeny.

The second Variance is to the required parking standard for Personal Services uses to allow for the application of a standard of one (1) space per 400 square feet of gross floor area. This would require a minimum of eight (8) spaces be provided. Staff recommends approval of this Variance. The third Variance is to allow no curbing along the south side of the interior drive aisle. Staff recommends approval of this Variance as well.

Let the record show that Eric Cannon with Snyder & Associates, 2727 Snyder Blvd, Ankeny, IA, and Megan Rude, 3211 E. 52nd Street, Des Moines, IA, were present to represent the Variance Appeal application. Property owner Larry Halbrook was present in the audience.

Let the record show that no one from the public was present in favor or in opposition to the Variance Appeal application.

Let the record show that seventeen (17) notices were mailed with none received in support and one (1) received in opposition to the Variance Appeal application.

A motion was made by Thorn and seconded by Fisher to approve all three (3) of the requested Variances included with the Appeal application.

Vote: Yea: Thorn, Fisher, Kruse and McCoy. Nay: None. Absent: None.

Item 4 18/7582 Variance Appeal Application

Request by Timothy Casady (property owner) represented by Vic Piagentini with Associated Engineering Company of Iowa, for a side yard setback Variance to reduce the 15-foot side setback to approximately 13-feet to allow the property to be subdivided and retain the existing house. The subject property is located at 7990 NW 37th Street, Ankeny, Section 29 of Crocker Township.

Let the record show that Vic Piagentini with Associated Engineering Company of Iowa, 1830 SE Princeton Drive, Suite M, Grimes, IA was present to represent the Variance Appeal application.

Let the record show that no one from the public was present in favor or in opposition to the Variance Appeal application.

Let the record show that nine (9) notices were mailed with one (1) response received in support and no responses in opposition to the Variance Appeal application.

A motion was made by McCoy and seconded by Kruse to approve the Variance Appeal application.

Vote: Yea: McCoy, Kruse, Thorn and Fisher. Nay: None. Absent: None.

Item 1 18/7516 Appeal of the Zoning Administrator's Interpretation

Request is made by Darren K. Sleister (property owner) represented by Laura R. Luetje with Lamberti, Gocke & Luetje. The appellant is challenging the Zoning Administrator's Interpretation that the present use of the dwelling on the subject property is not a Group Home as defined in the Polk County Zoning Ordinance, and therefore the present use is illegal and in violation of the Zoning Ordinance due to its occupancy by more than three (3) unrelated persons. The subject property is located at 2507 NW 84th Avenue, Ankeny, Section 28 of Crocker Township.

Brian McDonough introduced the case and gave the staff presentation. He clarified that the issue before the Board is whether or not the current use at the property constitutes a Group Home as defined in the Polk County Zoning Ordinance. After further consideration, the County has determined the use does not constitute a Group Home and therefore is illegal and in violation of the Ordinance due to more than three (3) unrelated persons residing at the property. The Appellant and his representative contend the use does meet the definition of a Group Home.

Let the record show that Laura R. Luetje with Lamberti, Gocke & Luetje, 210 NE Delaware Avenue, Suite 200 Ankeny, IA was present to represent the Appeal of the Zoning Administrator's Interpretation. Property owner and Appellant Darren K. Sleister was present in the audience.

Let the record show that Jordan Anderson and Nathan Henderson, both current residents of the subject property at 2507 NW 84th Avenue, Ankeny, IA, were present to speak in favor of the current use of the property.

Let the record show that Jill June, 2546 NW 84th Ave, Ankeny, IA, Debbie Rose, 2322 NW 84th Ave, Ankeny, IA, and Beverly Hummel, 8419 NW 26th Street, Ankeny, IA were present in opposition of the current use of the property.

Following staff's presentation, public testimony, and discussion by the Board a motion was made by McCoy and seconded by Kruse to uphold the County's revised Interpretation that the current use of the subject property is not a Group Home under the Ordinance, and is therefore illegal and in violation of the Ordinance.

Vote: Yea: McCoy, Kruse, Thorn and Fisher. Nay: None. Absent: None.

G) Communications/Discussion Items – None.

B) Election of 2019 Officers – Item was moved from the beginning of the meeting. A motion was made by McCoy and seconded by Kruse to elect Thorn as Chairperson and Kruse as Vice Chairperson.

Vote: Yea: McCoy, Kruse, Thorn and Fisher. Nay: None. Absent: None.

H) Zoning Administrator Report – Bret VandeLune gave update on what is going on around the County.

I) Adjournment

A motion was made by Kruse and seconded by McCoy to adjourn until the next regularly scheduled Board of Adjustment Meeting on February 19, 2019.

Vote: Yea: Kruse, McCoy, Thorn and Fisher. Nay: None. Absent: None.

Respectfully Submitted,

Kelli Munoz

Kelli Munoz, Recording Secretary