

POLK COUNTY BOARD OF ADJUSTMENT

MEETING MINUTES

The Polk County Board of Adjustment held a meeting on Monday, November 15, 2021, at 7:00 P.M. in Conference Room A of the Polk County Public Works Department, Planning & Development Division, 5885 NE 14th Street, Des Moines, Iowa. A virtual attendance option was also provided per the instructions contained on the final meeting agenda.

A) Roll Call - Members Present: Paul Kruse, Ron Fisher, and Kay Frye. Absent: Mike McCoy. Present from the Polk County Public Works Department: Bret VandeLune, Planning and Development Manager; Brian McDonough, Land Use Planning Coordinator; Jennifer Ellison, Planner; Chris Meeks, Planner; and Ashley Davidson, Recording Secretary. Present from the County Attorney's office was Dominic Anania. Ron Fisher was participating electronically via telephone. Dominic Anania asked Ron Fisher if there were circumstances making it impossible or impracticable for him to attend the meeting in person. Fisher answered yes.

B) Acceptance of the Minutes of the Monday, October 18, 2021 Meeting.
It was moved by Frye and seconded by Kruse, to **APPROVE** the minutes as presented.
Vote: Yea: Kruse, Fisher, and Frye. Nay: None. Absent: McCoy

C) Opening Statement – Chairperson Kruse gave the opening statement.

D) Unfinished Business: None

E) Consent Public Hearing Items – New Business:

Item 1 21/10929 Variance Appeal Application

Request by Larry Britt (Property Owner) for a 10-foot Variance to allow an existing deck attached to the principal dwelling to remain located at 40-feet (from 50-feet to 40-feet) from the southern, front property line. The property is addressed as 10104 SE 32nd Avenue, Runnells, in Section 26 of Camp Township.

Item 2 21/10976 Variance Appeal Application

Request by Teresa Stoelk of Westside Holdings JTS, LLC. (Property Owner) for a one (1) foot side yard setback Variance to convert an existing accessory building into a principal dwelling with a side-yard setback of 24-feet, in lieu of the required 25-feet; and a 0.2 foot Variance to allow an existing accessory building to remain located in front of the new principal dwelling at less than the required front yard setback of 100 feet. The subject property is addressed as 12328 NE 29th Street, Elkhart, in Section 31, Elkhart Township.

It was moved by Frye and seconded by Kruse to **APPROVE** the Consent Agenda Public Hearing items in accordance with staff's recommendations.

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

F) Action Public Hearing Items – New Business:

Item 1 21/10965 Variance Appeal Application

Request by Howard Entler (Property Owner) for a front yard setback Variance to allow a proposed deck addition to a principal dwelling to be located approximately 25 feet from the front property line, in lieu of the required 35-foot front setback. The subject property is located at 4250 NE 34th Street, Des Moines, Section 20 of Delaware Township.

Brian McDonough gave the staff presentation and recommendation.

Let the record show that twenty-four (24) notices were mailed, with five (5) responses received in support, and zero (0) responses received in opposition, of the Variance Appeal Application.

Let the record show that Howard Entler, 4250 NE 34th Street, Des Moines, IA 50317 was present to represent the application.

A motion was made by Kruse and seconded by Frye to **APPROVE** Docket #21/10965 as recommended by staff, including the following condition:

- 1) Prior to building permit approval and construction, the appellant shall comply with all Polk County Environmental Health regulations, including adequate separation between the proposed addition and the septic system.

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

Item 2 21/10989 Variance Appeal Application

Request by Theodore & Claire Hotvet (Property Owners), represented by Neil deWit of deWit Construction (Appellant), for a front yard setback Variance of approximately 17 feet to allow a proposed addition to a principal dwelling to be located approximately 33 feet from the eastern, front property line, in lieu of the required 50-foot front setback. The subject property is located at 8965 SE 62nd Place, Runnells, Section 29 of Camp Township.

Brian McDonough gave the staff presentation and recommendation.

Let the record show that five (5) notices were mailed, with five (5) responses received in support, and zero (0) responses received in opposition, of the Variance Appeal Application.

Let the record show that Neil deWit of deWit Construction, 10500 Hickman Road, Suite C, Clive, IA 50325 was present to represent the application.

A motion was made by Kruse and seconded by Frye to **APPROVE** Docket #21/10989 as recommended by staff, including the following condition of approval:

- 1) Due to uncertainty regarding the precise location of the subject property pins and boundaries, the appellants shall hire a licensed surveyor or engineer to

prepare the site plan drawing required at time of building permit application. The site plan shall verify compliance with the setbacks approved under this request.

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

Item 3 21/10990 Variance Appeal Application

Request by Thomas Beebe (Property Owner) for a Variance to allow a proposed accessory building to be located in front of the principal dwelling at less than the required front yard setback of 100 feet. The subject property is located at 5356 NW 72nd Street, Johnston, Section 14 of Webster Township.

Brian McDonough gave the staff presentation and recommendation.

Let the record show that thirteen (13) notices were mailed, with zero (0) responses received in support, and zero (0) responses received in opposition, of the Variance Appeal Application.

Let the record show that Tom Beebe, 5356 NW 72nd Street, Johnston, IA 50131 was present to represent the application.

A motion was made by Kruse and seconded by Frye to **APPROVE** Docket #21/10990 as recommended by staff, including the following condition of approval:

- 1) Due to uncertainty regarding the precise location of the subject property pins and boundaries, the appellants shall hire a licensed surveyor or engineer to prepare the site plan drawing required at time of building permit application. The site plan shall verify compliance with the setbacks approved under this request.

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

Item 4 21/10954 Conditional Use Permit Application

Request by Zerron Horton (Prospective Lessee), on behalf of Daralee, LLC (Property Owner), for approval of a Conditional Use Permit for a Moderate Industry use of a Stone, Clay, Glass and Concrete Products (NAICS Code 3271) to be used as a glass blowing education and production studio on a property located in the "LI" Light Industrial District. The subject property is addressed as 5201 NE 14th Street, Des Moines, and is located in Section 13, Township 79 North, Range 24 West of the 5th P.M. (Saylor Township).

Chris Meeks gave the staff presentation and recommendation.

Let the record show that thirty (30) notices were mailed, with zero (0) responses received in support, and zero (0) responses received in opposition, of the Conditional Use Permit Application.

Let the record show that Zerron Horton of Unkl Ruckus's Smoking Emporium and Skate Shop, 2647 Aurora Ave, Des Moines, IA 50310, was present to represent the application.

A motion was made by Kruse and seconded by Frye to **APPROVE** Docket #21/10954 as recommended by staff, and including the following conditions of approval:

- 1) Approval of all applicable building and air quality permits.
- 2) Approval of a Change of Use Permit
- 3) This Conditional Use Permit is only valid for the property address of 5201 NE 14th Street, Suite C, for the Moderate Industry Use of Stone, Clay, Glass and Concrete Products (NAICS 3271) for use of the space as a glass blowing and lampworking production and education studio with accessory retail component.
- 4) This Conditional Use Permit is only valid for the applicant, Zerron Horton, or his business, Unkl Ruckus's Smoking Emporium and Skate Shop, to operate the proposed use as approved. Any change in ownership requires rehearing and re-approval of the Conditional Use Permit.

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

Item 5 21/10986 Conditional Use Permit Application

Request by Verizon Wireless (Prospective Lessee), represented by Rob Viera of Buell Consulting, Inc., and with consent from Moeckly Family Farm, LLC (Titleholder), for approval of a Conditional Use Permit for construction of a new 125-foot tall wireless communication tower. The Subject property is located at 2131 NW 118th Avenue, Polk City, in Section 33 of Lincoln Township.

Jennifer Ellison gave the staff presentation and recommendation.

Let the record show that seven (7) notices were mailed, with zero (0) responses received in support, and zero (0) responses received in opposition, of the Conditional Use Permit Application.

Let the record show that Rob Viera of Buell Consulting, 229 Byrondale Ave, Wayzata, MN 55391, was present to represent the application.

Let the record show that Mike Egert, 12130 NW 16th Street, Polk City, 50226, was present to ask questions regarding this application.

A motion was made by Frye and seconded by Kruse to **APPROVE** Docket #21/10986 as requested by the Appellant, and including the following conditions of approval:

- 1) The applicants shall submit a Major Site Plan drawing from an Iowa Licensed Engineer of the subject property and proposed tower design and associated improvements meeting the minimum safety requirements and use standards for communication towers as regulated by the Polk County Zoning Ordinance.

- 2) The applicant shall meet Polk County Air Quality Division construction and operation permit requirements for the generator planned within the lease area.
- 3) The applicant shall keep any dirt, mud and debris from accumulating on adjacent roads during and after construction of the drive, lease area and tower. Building and electrical permits shall also be obtained after the site plan drawing is approved.
- 4) The applicant shall submit evidence of meeting FCC and FAA requirements.
- 5) The applicant shall submit a copy of the actual signed lease agreement between the property owner and Verizon Wireless. The lease agreement shall include verbiage including the tower removal at the end of the lease agreement or when the tower is no longer used.
- 6) The Certificate of Use for the proposed communication tower project will not be provided to the applicant until all above items are addressed to the satisfaction of Polk County.
- 7) Building permits are required for the tower structure, equipment cabinets, emergency generator, including electrical permits and inspections.

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

- G) Communications/Discussion Items – None
- H) Zoning Administrator Report – Bret Vandelune reported that the Public Hearing meetings for the 2050 Comprehensive Plan corridor studies went well and staff and the consultants received quality participation and feedback. He also announced that staff has been working on finding a fifth Board of Adjustment member, and a new Board member will hopefully be joining as soon as the next meeting.
- I) Adjournment – A motion was made by Kruse and seconded by Frye to adjourn the meeting.

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