

POLK COUNTY BOARD OF ADJUSTMENT

MEETING MINUTES

The Polk County Board of Adjustment held a meeting on Monday, October 21, 2024, 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: Kay Frye, Kurt Bailey, Bindy Brown and Paul Kruse. Absent: Mike McCoy. Present from the Polk County Public Works Department: Brian McDonough, Planning and Development Manager; Tommy Howard, Land Use Planning Coordinator; Johnathon Waskow, Planner; and Kendra Glider, Recording Secretary. Present from the County Attorney's Office was Dominic Anania.

B) Acceptance of the Minutes of the Monday, September 16, 2024 Meeting.

It was moved by Kruse and seconded by Brown to **APPROVE** the minutes as presented.

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

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

D) Unfinished Business:

Item 1 24/15439 Conditional Use Permit Application

Request by John Lawson of COPART (applicant), represented by Seth Sunderman with Bishop Engineering for a Conditional Use Permit to allow for a disposal (vehicle salvage) use on a property located in the "HI" Heavy Industrial District. The subject site consists of two properties addressed as 2688 NE Broadway Ave and 4610 NE 27th Ct, Des Moines, within Section 18 of Delaware Township.

Tommy Howard gave the staff presentation and recommendation.

Let the record show that fifty-six (56) notices were mailed, with zero (0) responses received in support and sixteen (16) responses in opposition of the request.

Let the record show that Tom Henderson an attorney with Whitfield & Eddy Law, 699 Walnut Street Suite 2000, Des Moines, IA 50309 representing COPART, 2400 86th Street, Unit 12, Urbandale, Iowa, 50322 was present to represent the request. Along with Seth Sunderman with Bishop Engineering, 3501 104th St, Urbandale, Iowa, 50322. Board members asked questions to the attorney.

Let the record show that Mark Murray, 2688 NE Broadway Avenue, Des Moines, Iowa, 50317, current owner of property was present in support of the item.

Let the record show that Bykrmark Carver, 4686 NE 27th Court, Des Moines, Iowa, 50317 was present in opposition of the item citing concerns of dust, noise, traffic, stormwater and hours of operation.

Let the record show that Seth Sunderman with Bishop Engineering, 3501 104th St, Urbandale, Iowa, 50322 was allowed rebuttal time on behalf of the applicant, and answered questions and addressed concerns presented by Bykrmark Carver.

Let the record show that Kelli Gallagher with Dee Zee, Inc., 2400 NE 46th Avenue, Des Moines, Iowa, 50317 was present in opposition of the item citing impacts on the neighborhood and issues with the past use of a junkyard on the subject property.

Let the record show that Dan Manning with Lillis O'Malley Law Firm, 505 5th Avenue, Suite 1005, Des Moines, IA 50309, representing Graham Group (adjacent property owner to the north at 4900 and 4950 NE 29th Street, Des Moines, IA 50317) was present in opposition. Citing the proposed use as incompatible with surrounding properties. He also questioned how the use, if approved, would be limited to only the applicant making the request.

Let the record show that Joe Gamble with Duncan Green Law Firm, 400 Locust Street, Suite 380, Des Moines, Iowa, 50309 representing Cardinal II, LLC, Inc., property owners of 4754 NE 27th Court, Des Moines, Iowa, 50317 was present in opposition of the item. Citing approval of the proposed use would negatively impact property values and force their client to sell their property.

Let the record show that Denise Avery, daughter of Marilyn Hewitt, 4790 NE 27th Court, Des Moines, Iowa, 50317 was present in opposition of the item.

Let the record show that Darla Harryman, 4550 NE 26th Street, Des Moines, Iowa, 50317 was present in opposition of the item citing theft, stormwater and impact on the neighborhood.

Let the record show that Tyler Fortner with Dee Zee, Inc., 2400 NE 46th Avenue, Des Moines, Iowa, 50317 was present in opposition of the item. Specifically, questioning the economic impact of the use, citing low taxable value and limited number of employees.

Let the record show Chairperson, Kay Frye, clarified that the Board of Adjustment is only making a decision about the Conditional Use Permit for this item.

Let the record show that Board of Adjustment members discussed the item.

Let the record show that Denise Avery, daughter of Marilyn Hewitt, 4790 NE 27th Court, Des Moines, Iowa, 50317 spoke again in opposition and had questions regarding the proposed setback of the use from adjacent residential properties to the east.

Let the record show that Seth Sunderman with Bishop Engineering, 3501 104th St, Urbandale, Iowa, 50322 was allowed rebuttal time, answered questions and addressed concerns of the Board of Adjustment and opposition testimony.

Let the record show that Shawn Loney with Dee Zee, Inc., 2400 NE 46th Avenue, Des Moines, Iowa, 50317 was present in opposition of the item and shared concerns about future plans of this property.

A motion was made by Kruse and seconded by Frye to deny Docket #24/15439 citing within the staff report the following sections, with assistance from Dominic Anania with the Polk County Attorney's Office:

Findings: Section C: Kruse stated that the adverse impacts on the overall public health, safety, and welfare are not balanced by the public or private benefits of the proposed use. More specifically the use enables rodents to take hold in the area and presents a security threat to adjacent properties as it is a target for trespassing and theft.

Findings: Section C (1): Adjacent Property: Kruse stated that the proposed use at the proposed location will result in a substantial or undue adverse effect on the adjacent property owners.

Vote: Yea: Frye, Kruse, Brown. Nay: Bailey. Absent: McCoy

Let the record show that Tom Henderson attorney representing COPART, approached the podium to state that he did not feel he was granted adequate rebuttal time.

E) Consent Public Hearing Items: None.

F) Action Public Hearing Items – New Business:

Item 1 24/15622 Conditional Use Permit Application

Request by Casey Scheidel of Iowa Sports Turf (property owners), represented by Eric Cannon with Snyder & Associates Inc., to amend an existing Conditional Use Permit to include the Light Industry use of Lawn and Garden Services and Ornamental Shrub and Tree Services on property located in the "MU" Mixed Use District. The subject property is located at 742 NE 47th Place, Des Moines, within Section 14 of Saylor Township.

Tommy Howard gave the staff presentation and recommendation.

Let the record show that thirty-three (33) notices were mailed, with two (2) responses received in support and zero (0) responses in opposition of the request.

Let the record show that Lorena Wasion with Snyder & Associates Inc., 2727 SW Snyder Boulevard, Ankeny, Iowa, 50023 was present to represent the request on behalf of Casey Scheidel of Iowa Sports Turf.

Let the record show that no one was present in support of the item.

Let the record show that no one was present in opposition of the item.

A motion was made by Brown and seconded by Kruse to approve Docket #24/15622 in accordance with the staff report and recommendation.

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

Item 2 24/15631 Conditional Use Permit Application

Request by Mainline Construction, Inc. (contract property buyers) for approval of a Conditional Use Permit for select Light Industry and Moderate Industry uses. The subject property is located at of 773 NE 47TH PL, and is legally described as the Northern 341 Feet of Lot G & All of Lots 27 & 28 of Freehold. The subject property is 1.51 acres (65,778 square feet) in size and is zoned "MU" Mixed Use District.

John Waskow gave the staff presentation and recommendation.

Let the record show that thirty (30) notices were mailed, with one (1) response received in support and zero (0) responses in opposition of the request.

Let the record show that Korey Marsh with Snyder & Associates Inc., 2727 SW Snyder Boulevard, Ankeny, Iowa, 50023 was present to represent the request on behalf of Mainline Construction, Inc.

Let the record show that no one was present in support of the item.

Let the record show that no one was present in opposition of the item.

A motion was made by Kruse and seconded by Brown to approve Docket #24/15631 in accordance with the staff report and recommendation.

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

Item 3 24/ 15646 Variance Appeal Application

Request by Dora Gray (property owner) for a variance to allow for a proposed detached accessory structure to be constructed 57 feet closer to the street than the principal structure providing a setback of approximately 35 feet from the front (east) property line, where the existing residence is currently set back 92 feet. The subject property is located at 12142 NE 68th Street, Bondurant within Section 36 of Elkhart Township and is zoned "ER" Estate Residential District.

Tommy Howard gave the staff presentation and recommendation.

Let the record show that nine (9) notices were mailed, with two (2) responses received in support and one (1) response in opposition of the request.

Let the record show that Dora Gray, 12142 NE 68th Street, Bondurant, Iowa, 50035 was present to represent the request.

Let the record show that no one was present in support of the item.

Let the record show that no one was present in opposition of the item.

A motion was made by Kruse and seconded by Brown to approve Docket #24/15646 accordance with the staff report and recommendation.

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

- G) Communications/Discussion Items: None.
- H) Zoning Administrator Report: None.
- I) Adjournment – Chairperson Frye adjourned the meeting.