

Altoona Board of Adjustment Hearing – June 1, 2021 – 6:30 PM

Members Present: Hall, Rullman, Simon, Morris, Downs

Members Absent: None

Staff: John Shaw, Chad Quick, Sydney McCabe, Erin Wiggins, Chief Stallman

Guests: Donna Brees, Brad Skinner

Chairman Rullman called the meeting to order at 6:29 pm.

1. Minutes of the April 6, 2021 meeting.

Simon motioned to approve. Hall seconded. Yes – Hall, Rullman, Simon, Morris, Downs. No – None. Motion approved.

2. Consider a special use request from Lutheran Church of the Cross and the Altoona American Legion Post 682 to allow them to hold an outdoor car show on Labor Day, Monday, September 6, 2021 from 9:00 AM to 3:00 PM. This car show includes food and music outdoors. The address of the activity is 1701 and 1975 8th Street SW, Altoona, Iowa.

Rick Beenen, 405 1st St E, said the American Legion car show will be September 6, 2021.

Rullman asked how many people are expected to attend. Beenen said they are unsure on people attending but are hoping for at least 150 to 200 cars. The church across the street may be used for additional parking if necessary. Rullman and Beenen discussed traffic concerns and getting input from the Police Department.

Downs motioned to approve. Simon seconded. Yes – Hall, Rullman, Simon, Morris, Downs. No – None. Motion approved.

3. Consider an appeal of an administrative decision (Chapter 170.05 of the Zoning Code) from Donna Brees for the property at 300 1st Street West, Altoona, Iowa. The appeal is of a decision by the Zoning Official that Ms. Brees livestock is no longer grandfathered and must be removed from the property. Chapter 166 of the Zoning Code deals with non-conforming uses.

Brad Skinner, attorney representing Donna Brees, said they are appealing the zoning decision. Ms. Brees has resided at the property since the 1960s when the property belonged to her parents. Due to its location, most people do not know the property exists. Ms. Brees has had horses since 1985. She currently has two mini horses and two regular size horses. As long as she maintains the use for livestock, the Board cannot remove a landowner's ability to use property for this use, as long as it's been not more than 6 months without livestock.

Rullman asked about the unpermitted structures and fences. Skinner said the lean-to is new and Brees will remove it if needed.

Rullman said the City has nothing in their files that says anything on the property was “grandfathered in” and asked about other animals on the property. Skinner said Brees also has goats, which are not grandfathered in. Hall asked if they were new horses or the same horses. Skinner said Brees has photos from a long time ago with horses on the property and the use has been continuous.

Rullman asked about the vehicles parked illegally on the grass. Skinner said the vehicles are gone. Simon said there are still trailers parked on the property.

Shaw said in the referenced chapter, non-conforming uses are meant to eventually go away. Non-conforming uses are not to be enlarged or expanded upon. There have been goats and hogs added to the property and new fences installed for the livestock. The City Code predates the lives of the animals on the property. These animals are not the same animals that were on the property when the property was annexed. City Staff’s interpretation of the Ordinance is that removing an animal and replacing it with a similar or different animal is not allowed. It is not the intent of the Ordinance to continue a non-conforming use. The animals on the property are not 60+ years old.

Skinner said he disagreed with Shaw. Skinner agreed that the goats are not allowed and said Brees will get rid of the goats. Skinner said there is no time frame in the Code when a non-conforming use will end. The non-conforming use has not been removed from the property for more than 6 months at a time. It is a cessation of general use, and not tied to the animal.

Hall asked the size of the property. Skinner said the pasture is under 2 acres. Hall asked the age of the chainlink fence. Brees said I don’t know. Skinner said the fence has been there since the 1980s. Rullman said the 2002 picture did not show a fence.

Downs said he would like Staff to seek the legal opinion from the City Attorney on Staff’s interpretation of the City Ordinance. Downs made a motion to table the appeal until the next meeting so the City can seek a legal opinion from the City Attorney.

Downs motioned to table until the City can seek the opinion of the City Attorney. Hall seconded. Yes – Hall, Rullman, Simon, Morris, Downs. No – None. Motion tabled.

Meeting adjourned at 7:11 pm.

Respectfully submitted,
Sydney McCabe
Community Development Office Assistant