

## **Altoona Board of Adjustment Hearing – July 11, 2023 – 6:30 PM**

Members Present: Rullman, Simon, Downs, Forbes

Members Absent: Hall

Staff: John Shaw, Marina Smart, Natalie Jacobson

Guests: Will Anderson, Mark Ehresman, Andrea Vargus, Tyler Smith, Tracy Bain, Laura Jacobs, Renee Allen, Rachel Rolfes, Mary Hunter

Chairman Rullman called the meeting to order at 6:30 pm.

**1. Roll Call.** Roll call was taken. Four commissioners were present at roll call.

**2. Review and approve the May 2, 2023 meeting minutes.**

Motion by Downs, seconded by Simon, to approve the minutes.

Vote: Yes – Simon, Downs, Rullman, Forbes. No – None. Abstain – None. Motion approved, 4-0-0.

**3. Consider a variance request from Randy Pierce for his property located at 2621 10<sup>th</sup> Street SW, Altoona, Iowa. The applicant is seeking a variance to place a 10’x10’ swim spa in the side yard. The property is zoned R-5 (PUD).**

Randy Pierce (2621 10<sup>th</sup> Street SW) presented the application. He would like to place a 10’x10’ hot tub in his side yard. The hot tub will be placed behind the 6’ privacy fence screening his backyard from public view. His yard has a couple unique characteristics. The lot slopes back towards the house leaving the only level spots near the house. Where the most level spot is he has a patio. The shed he has in his backyard was limited to where he could put it based on the slope of the yard, the covenants of the property and the code restrictions of the City of Altoona. The shed must be placed 20’ off the side and rear yard lot lines. Pierce stated he would prefer to not have to move his shed and the only remaining spot is the one he proposed. The area is within what the city defines as the side yard.

Downs asked if there had been any input from neighbors. Marina Smart responded that there had not been.

Motion by Downs, seconded by Simon, to approve the variance as requested.

Vote: Yes – Simon, Downs, Rullman, Forbes. No – None. Abstain – None. Motion approved, 4-0-0.

**4. Consider a request for a conditional use permit from DR Horton – Iowa, LLC for the property at 206 41<sup>st</sup> Street SW, Altoona. The property is zoned R-5 (PUD). The owner is proposing to operate a model home sales center on the property. Chapter 168.06(3)(E) says**

**that model homes are permitted conditional use upon review and approval by the Board of Adjustment.**

No representative for the project was present so John Shaw introduced the topic. Shaw stated that the City does allow Model Homes in our Ordinance under the condition the Board of Adjustment reviews and approves them. The company is requesting two tonight, items 4 and 5 on the agenda. This first request is a new request at their Stonebridge development. Their second application is for a different development that previously had a model home. But they sold that home and are looking to change the location and get approved for another one in that same development. These are two different applications and will require two different actions.

Rullman asked if the city had received any input or letters from neighbors. Smart responded that they had not. Tracy Bain mentioned that the information to the zoom meeting was not easily accessible which may explain why no one was present to represent the project. Smart assured her that all members of the company and community had the necessary resources to find the zoom meeting information.

Rullman asked the Board to set the hours and discuss any specifics that may be set for the permit. Rullman suggests the hours to stay the same as in the city code. Downs would like to limit the duration of the permit to 18 months.

Motion by Forbes, seconded by Simon to approve the conditional use permit for a period of 18 months and the hours of operation cannot exceed those listed Chapter 168.06(03)(E).

Vote: Yes – Forbes, Simon, Rullman, Downs. No – None. Abstain – None. Motion approved, 4-0-0.

**5. Consider a request for a conditional use permit from DR Horton – Iowa, LLC for the property at 3513 10<sup>th</sup> Ave SW, Altoona. The property is zoned R-5 (PUD). The owner is proposing to operate a model home sales center on the property. Chapter 168.06(3)(E) says that model homes are permitted conditional use upon review and approval by the Board of Adjustment.**

No discussion was had for this item.

Motion by Downs, seconded by Simon to approve the conditional use permit for a period of 18 months and the hours of operation cannot exceed those listed Chapter 168.06(03)(E).

Vote: Yes – Downs, Simon, Rullman, Forbes. No – None. Abstain – None. Motion approved, 4-0-0.

**6. Consider a request for a conditional use permit to allow an operation of an Attended Donation Center (ADC). The property is located at 550 36<sup>th</sup> Avenue, Suites AA-BB, Altoona, Iowa, in Pine Tree Plaza.**

Rachel Rolfes (Goodwill of Central Iowa 5355 NW 86<sup>th</sup> Street, Johnston) presented the application. Stating that Goodwill of Central Iowa would like to move into Altoona and have an attended donation center located in Pine Tree Plaza for the citizens of Altoona to drop off donations that Goodwill can then distribute to their surrounding stores. They are looking to add a screened driveway to the backside of the intended location. This is to comply with the city code stating that no loading area can be located in the front yard. They have a variance application submitted already as the building, and the wall, will not meet the setback requirements. Staff informed them that they will need to apply for another variance at the August Board of Adjustment meeting.

Rullman asked the public if they had any questions. There were none.

Rullman asked Shaw about the building setback requirements for the building. Shaw responded that with the application and the exploration of introducing what the city would classify as an M-1 use. So, before they can apply for any additional variances, their intended usage of the space must be granted first. Also, during our discussions with the applicant, we discussed how they were going to use the space, more specifically the end unit. Shaw stated they have a driveway that the applicant is proposing is the size it needs to be in order to fit their loading trucks but also to meet city code requirements. One of our concerns with this is that 36<sup>th</sup> Ave is being widened out and the addition of the driveway behind these suites could impede traffic flow. Shaw also adds that the unique shape of the space is because when the property owner went through the site plan process, they wanted to maximize the space and cut the corner of the building off at an angle to still meet the 50' setback requirements. All the building permits and documentation we have state that they built the addition according to the approved site plan, but we are coming to find out that the building setback is actually closer to 45'.

Rullman asked the Board for a motion to approve or deny the application. Shaw chimes in that staff would like to mention that they would like to see the operation of the donation center sunset if Goodwill were to open a store in a different location in Altoona. Since this type of use is typically not allowed in a retail center staff would like to see the opportunity for other retail businesses to come in if Goodwill were to have another location in Altoona.

Motion by Downs, seconded by Forbes to approve the conditional use permit pending the recognition that the applicant will have to receive a front yard setback variance and that any extension be limited to what is approved here. Additionally, should any new Goodwill location open up that this Goodwill Donation Center be terminated.

Vote: Yes- Downs, Forbes, Rullman, Simon. No – None. Abstain – None. Motion approved, 4-0-0.

**7. Consider a request for a conditional use permit to open and operate a pet salon at 301 1<sup>st</sup> Avenue South, Altoona. The property is zoned C-4 (Village Commercial).**

Andrea Vargus (3920 East 32<sup>nd</sup> Street, Des Moines) presented the application stating she is looking to move her already existing grooming business from Des Moines into Altoona. She runs a small-scale grooming business that runs on a drop-off, pick-up basis so there is only ever one dog in her shop at a time. She does this to create a stress-free environment for the dogs and also less traffic coming in and out of her shop as there will just be one car parking. It is set up that the next appointment does not arrive until after the first one is finished. She is well established about a mile away at Adelhorst Kennels. That property is moving which is why I'm looking to relocate to this location.

Rullman asked if there were residents that lived above the intended location. Vargus was not sure. Tyler Smith, the property owner, stepped forward to speak on this matter. He stated there are residents that live above. Smith also stated that veterinary clinics and overnight kenneling are permitted in the C-4 zoning district which is a comparable use to what Vargus is requesting. They are here per staff recommendation get a conditional use permit. This use is a much less intensive use than the others listed. Regardless of that being said, there is a one-bedroom unit above where this applicant is proposing to operate her business from.

Rullman asked if there would be any need for the animals to have to go to the bathroom. Vargus responded that she advises her clients to take their pets out before bringing them to the salon. Additionally, they are there for such a short amount of time that the pets should not have to be let out during that time frame. She stated that the only times that she has ever had to take a dog out of the salon is if there is an emergency but that is very rare.

Rullman asked audience if there was anyone in attendance for this item. No member stepped forward. Rullman then asked staff if they had received any letters or phone calls from neighbors. Smart responded that they have not.

Motion by Downs, seconded by Simon to approve the conditional use permit as requested for a limit of 2 years to be revisited upon expiration should there be any concerns.

Vote: Yes – Downs, Simon, Rullman, Forbes. No – None. Abstain – None. Motion approved, 4-0-0.

**8. Consider a request for a conditional use permit to operate a temporary concrete plant at the property located at 2000 block of 21<sup>st</sup> Street NW, west of Contractor Solutions. The property is zoned M-1 (Light Industrial).**

Mark Ehresman (Choice Concrete 7461 US Highway 69 N) presented the application. He stated it is important to note that the location has been moved from the original location that is on the agenda. They are a concrete contractor that also operates batch plants. They try to set up batch plants as close as they can to major construction site to minimize truck traffic to and from the area. This batch plant is for the I-80 Business Park development happening out in the 2000 block of 21<sup>st</sup> Street NW. This specific type of concrete they are proposing to make is RCC (Roller Compacted Concrete) which cannot be made with a conventional wet concrete plant. So they

cannot call a plant to make and provide RCC. Ehresman is proposing to use Outlot X of I-80 Business Park Plat 3 as their site location. It is tucked in the back near the trees and the nearest neighbor is a contractor supply. He also stated that this is a temporary item, they are not going to be making concrete long term and setting up a retail shop here. The intention of using a batch plant is to limit the impact they have on traffic and roads. Ehresman asked if there are any questions from the Board.

Rullman asked about dust control. He understands that there are no immediate neighbors beyond Contractor Solutions there to the East. Ehresman stated that is in fact the case. Even though it is a temporary plant they are required to have DNR Permits. So, everything they do will have to comply with those regulations set forth to obtain the permits.

Rullman asked if they are going to be using the road up there to the north/northeast to go to Building A. Ehresman responded that RCC is utilized best for real heavy traffic. The east side of Building A has already been poured with conventional concrete as that side is not for truck traffic but also because they had not yet obtained a permit to operate the batch plant, so they outsourced their materials. For the rest of Building A and the remaining lots RCC will be used. They have no intention of using 25<sup>th</sup> Street NW all their traffic is to stay within site and using 21<sup>st</sup> Street NW as their main route through the site. The purpose of having a batch plant is to minimize the truck traffic coming from outside the site. They want to contain most of the movement to be within the construction area. They are cutting the truck traffic from around 1100 additional truck loads to finish the remaining areas to just over 500.

Rullman asked what their hours of operation would be. Ehresman responded their hours are 7-6 Monday thru Friday and the occasional Saturday if there are weather delays. Rullman then opened the agenda item to the audience.

Tracy Bain stepped up and addressed the applicant and the Board. She was there representing Renee Allen and was granted power of attorney. She started her questioning with where the location of the plant was. It does not match what is on the agenda nor what her mailing had said. She wanted to clarify its location that it was not going to be on the property right next to the Allen property. Will Anderson responded that after they were on site to survey the property, they realized the site was not suitable for their needs nor did they want to disrupt the Allen property. After further discussion with city staff, they decided to move the batch plant to the outlot.

Bain asked for clarification on the zoning of the property as the agenda listed the property as M-1 when it is A-1 since the agenda still read as 6101 NE 62<sup>nd</sup> Avenue. Shaw responded that the address was used as a reference point since the lot the batch plant is applying for does not have an address.

Bain asked if there were any rules or regulations for a batch plant. She has been unable to find any and wants to make sure that both the public and the applicant are aware of what is legal and

what is not. She also noted that at the moment the dust is terrible. Rullman stated that they have already addressed the dust issue with the applicant.

Bain asked if the contractors have a current contract with the property owner since the land was recently purchased from Opus. Ehresman responded that they are a subcontractor that works with the developer of the property. So, the developer is the one that would have the updated contract with the property owner. Bain stated that property manager stated that they do not have a hand in this batch plant. Ehresman responded that the property manager she spoke with is in charge of the building lots on the property they do not have a hand in the outlot.

Renee Allen (6131 NE 62<sup>nd</sup> Ave) addressed the Board. She did not have an issue with these men nor the development that is happening. She just wanted to have some reassurance that she will not have another incident as the one she has been dealing with for the past couple years. There was an illegal concrete batch plant running on the property to the east of her home and she did not want to have a similar negative experience as that with this new applicant. She wanted to make sure everyone is on the same page about what is happening at this spot. She appreciated the gentlemen coming before the Board to obtain permits unlike the other company. She did not want to go through that again. She wanted to live in a safe environment.

Rullman asked where the illegal plant was located at. Allen responded that Building A is located where the batch plant once stood. There was no permits or regulations guiding that batch plant. Tracy was the spokesperson for Allen during this process in working with the city to get a solution figured out. Rullman asked when the city was notified. Allen responded the city had been notified and nothing had been done for years. That somebody was complacent in this. The city worked out an agreement when the property was purchased for development that the new property owner would be required to clean p the infill and debris left from the batch plant. Allen stated that three months later it was still there. They have experienced flooding in the rear yard and their septic lines have backed up due to the issues caused by the batch plant. Allen reiterated she is not against development and capitalism she just wanted reassurance that will not happen again.

Bain asked the Board if the DNR was aware that this batch plant was going up and where it was going due to the natural wetlands that border the lot directly to the south. Smart responded they were notified, and that staff has not heard from them regrading this item.

Rullman asked the applicant where the washout pit will be. Anderson responded the wash out pit will be right next to the batch plant. He also stated that the major difference between RCC and ready-mix is that it uses roughly 70% less water. It is just enough for it to be wet and sticky versus the slurry of conventional concrete. Anderson also noted that through the DNR permits there are weekly checks/inspections.

Shaw noted the DNR handles some of these items, but the building department is aware and if anything looks to be out of order and not in alignment with what is agreed upon tonight steps can be taken to correct it.

Bain asked the Board who is in charge of doing the weekly inspections. Shaw responded that one contact is Derik Strait in the Building Department. The project superintendent out on site would also be a good point of contact. Bain responded that she had already been in contact with them, and Steve said he had no hand in this operation. Bain also mentioned Opus is using the property at 6101 as their office and the tax purposes of that need to be addressed. Shaw stated they have been notified by the city that they will need to apply for a conditional use permit to use the house as an office.

Bain stated that a lot of the confusion and distrust could have been addressed earlier if the communication between the city and the community was better. There were email exchanges that never got responses and voicemails that never received call backs. Allen asked if any of the audience or Board would want to live next to a batch plant or what they had gone through. Anderson answered that they deviated from their original plan due to wanting to create a better environment for everyone.

Rullman sympathized with Bain and Allen about what they had and are going through with the lasting effects of the illegal batch plant. Rullman brought the item back to the Board and closed discussion on the item so they could move forward with a motion to approve or deny the application. Downs thanked Bain and Allen for taking the time to come in and voice their concerns. However, the job of this Board is to approve conditional use permits as submitted and based on what is in front of them at the time. Downs is glad that staff is here to hear about these on-going concerns and that he knows the city staff has taken them seriously.

Motion by Downs, seconded by Simon to approve the conditional use permit under three conditions. 1) The hours of operation established (7am-6pm Mon. – Fri., occasional Saturdays if there are weather delays) are not to be deviated from. 2) The concrete materials produced are to remain and be use on site only. 3) The operation should not exceed 180 days from the start date and after Board of Adjustment approval.

Vote: Yes – Downs, Simon, Rullman, Forbes. No – None. Abstain – None. Motion approved, 4-0-0.

Meeting adjourned at 7:33 pm.

Respectfully submitted.  
Natalie Jacobson  
City Planner