

**STORY COUNTY
PLANNING AND ZONING**
STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087

515-382-7245

**MINUTES
STORY COUNTY
BOARD OF ADJUSTMENT**

DATE: July 2, 2014	David Miller, Chair	2015
	Stephen McGill, Vice Chair	2012
CALL TO ORDER: 6:00 p.m.	Victoria Feilmeyer	2014
PLACE: Public Meeting Room, 2 nd Floor	Lynn Scarlett	2013
Administration Building	Vacant	2016
	(* Absent	

ADJOURNMENT: 8:19 PM

PUBLIC PRESENT: Joe Coyle, Gary Anderson, Leanne Krell, Elizabeth Hansen, Shawn Ludwig, Heath Picken, Wally Pelds

STAFF PRESENT: Leanne Harter, Planning and Development Director; Charlie Dissell, Planner; Kristin Cook, Recording Secretary

APPROVAL OF AGENDA (MCU)

APPROVAL OF MINUTES (MCU)

April 28, 2014

PUBLIC COMMENTS: Opened 6:02 p.m. – Closed 6:02 p.m.

None

OLD BUSINESS:

None

TABLED BUSINESS:

CUP05-14 BLACK CONDITIONAL USE PERMIT (CHURCH)

SUBMITTAL DEADLINE; JULY 14, 2014

Applicant: Norine Black

Nature of Request: Conditional Use Permit for adaptive reuse.

Staff Member: Ryan Newstrom

Parcel Number: 0928200225

STAFF PRESENTATION:

Staff stated that no additional materials have been submitted.

TABLED BUSINESS:

VAR03-14 CASEY'S VARIANCE

Applicant: Casey's Marketing Company

Nature of Request: Variance to Section 86.10(5) to allow for a proposed commercial retail store to have a 20', 8" front yard setback (50' required) and a 5' rear yard setback (20' required).

Staff Member: Charlie Dissell

Parcel Number: 0510200238

Motion: Move to remove VAR03-14 Casey's Variance from the table. (MCU)

Motion: McGill
Second: Scarlett

STAFF PRESENTATION:

Mr. Dissell gave an update to the Findings of Fact of the proposed Variance. Mr. Dissell asked that the applicant give an overview of any additional information.

Mr. Dissell presented the Board with four (4) alternatives:

1. Approve Variance Case No. VAR03-14 as proposed and with conditions.
2. Approve Variance Case No. VAR03-14 as proposed.
3. Deny Variance Case No. VAR03-14 as proposed.
4. Delay Variance Case No. VAR03-14 for further information from staff and/or the applicant.

APPLICANT COMMENTS:

Mr. Wally Pelds

Mr. Pelds reviewed additional information obtained from Casey's legal counsel as well as Casey's design company. Mr. Pelds stated that he submitted reasons why the store cannot be modified architecturally to meet the setback requirements.

BOARD COMMENTS:

Ms. Victoria Feilmeyer asked Mr. Pelds to review the four possible building options.

Mr. Pelds stated that option one is the most ideal for the Casey's company.

Mr. Pelds went on to state that option #2 meets the required setbacks, but the store would be turned and would be narrower. Mr. Pelds stated this option does not allow for adequate parking spaces and creates serviceability and convenience issue. Ms. Feilmeyer asked for clarification regarding Mr. Pelds statement regarding parking shortage. Mr. Dissell stated that there is not a minimum parking requirement, but a maximum allowance. Mr. Dissell also stated that option #2 is within the regulated parking allowance.

Mr. Pelds gave an overview of option #3 stating that it would be a smaller Casey's prototype store. Mr. Pelds stated that this would create delivery issues as well as trash removal space issues. Mr. Pelds also stated that this option still creates a shortage of desired parking spaces.

Mr. Pelds reviewed the last option stating that the DOT would need to sell Casey's additional property also stating that the DOT is not keen on this idea.

Ms. Feilmeyer asked for clarification regarding the number of current parking spaces and such would increase with each possible building proposal. Mr. Pelds stated that there are currently six parking spaces and the desired amount is approximately 17 parking spaces.

Mr. David Miller asked for clarification regarding the stated DOT requirements. Mr. Pelds stated that the DOT has design standards that Casey's must abide by.

Ms. Leanne Krell; Casey's Legal Council

Ms. Krell stated that option #1 is the safest option in the convenience store industry. Ms. Krell also stated that adequate parking is another important area of concern in creating a profitable store.

Discussion of how to be compliant with both the DOT and County regulations was discussed by Board members and Ms. Krell.

Mr. Miller questioned whether Casey's had approached the property owner to the west to purchase land to expand the existing property area. Ms. Krell stated that there is not have enough project funding to be able to purchase additional land.

Mr. Miller stated that the Board's purview is not to make decisions regarding economic development, but of land use.

Ms. Feilmeyer stated that unnecessary hardship is still not being shown. Ms. Feilmeyer continued by stating that an update and required parking is necessary to make a reasonable return. Ms. Krell reiterated that the store needs to be updated to continue its viability.

Ms. Feilmeyer asked for clarification regarding the ADA access concerns of options #2. Mr. Pelds stated that the proposed door location would require an ADA parking space to be located at the west end, which would put the parking location in violation.

Mr. Miller asked for a review of past public comment. Mr. Dissell stated that one surrounding property owner had attended the last Board meeting in disagreement to the proposal.

Mr. Steve McGill questioned whether Casey's had sought out other sites. Ms. Krell concurred stating that the current site is most desirable for a number of reasons.

PUBLIC COMMENTS:

None

FINDINGS OF FACT

MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (McGill/Scarlett) (4-0)

Motion: McGill
Second: Scarlett
Voting Aye: McGill, Miller, Scarlett, Feilmeyer
Voting Nay: None
Not Voting: None
Absent: None

DECISION

MOTION: Move to adopt the Decision regarding the legal principles in the Staff Report, prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (Feilmeyer/McGill) (4-0)

Motion: Feilmeyer
Second: McGill
Voting Aye: Feilmeyer, McGill, Miller, Scarlett
Voting Nay: None
Not Voting: None
Absent: None

ORDER

MOTION: Move to deny the request as proposed by the applicant in Case No. VAR03-14, as discussed by the Board of Adjustment and in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment finding that all applicable Legal Principles have not been satisfied.

VOTE: (McGill/Feilmeyer) (4-0)

Motion: McGill
Second: Feilmeyer
Voting Aye: Miller, Feilmeyer, McGill, Scarlett
Voting Nay: None
Not Voting: None
Absent: None

WHEREFORE, it is ordered that the application for a Variance (Case Number VAR03-14) by Casey's Marketing Company for property described as Commencing at the Northeast Corner of Section Ten (10), Township Eighty-four (84) North, Range Twenty-four (24) West of the 5th P.M., Story County Iowa; thence South 89°58' West, 196.2 feet along the North line of the Northeast Quarter (NE ¼) of said Section 10; thence South 0°05' West 332.0 feet; thence North 89°58' East 196.7 feet to the East line of said NE ¼ of Section 10; thence North 332.0 feet along said East line to point of beginning and containing 1.55 acres, except public roads and easements of record. (Parcel ID # 05-10-200-238 & 05-10-200-245), for a variance to Section 86.10(5) to allow for a proposed commercial retail store to have a 30' front yard setback and a 5' rear yard setback is hereby denied as evidenced by the Board's findings that all Legal Principles have not been met as required by the *Code of Ordinances of Story County, Iowa*.

NEW BUSINESS:

CUP07-14 PYRAMID NETWORK SERVICES, LLC CONDITIONAL USE PERMIT

Applicant: Pyramid Network Service, LLC; Joe Coyle

Nature of Request: Conditional Use Permit for the construction of a communications tower/facility (cell tower).

Staff Member: Leanne Harter

Parcel Number: 1018200230

STAFF PRESENTATION:

Ms. Leanne Harter gave an overview of the proposed Conditional Use Permit request and provided site shots of the property.

Ms. Harter reviewed the applicable standards for approval for the Board to consider in reviewing the proposed Conditional Use Permit.

Ms. Harter also reviewed surrounding property notification dates and legal publications.

Ms. Harter reviewed the Planning and Zoning Commission Recommendation:

On Monday, May 5, 2014, the Planning and Zoning Commission forwarded the following recommendation to the Board of Adjustment.

MOTION: The Story County Planning and Zoning Commission recommend conditional approval of the Conditional Use Permit, as put forth in case CUP07-14, to the Story County Board of Adjustment. (MCU)

CONDITIONS:

- 1. If the Commission determines that the existing building and vegetation on the site provides adequate screening and meets the intention of Section 4.E (2).*
- 2. The fencing details proposed indicated strands of barbed wire extending about the proposed chain link fence. The addition of the barbed wire strands results in an enclosure that exceeds the maximum fence height of 8'.*
- 3. The equipment enclosure detail shows an exterior light with photocell. This light source, if rated at more than 1800 lumens, will need to be shielded in a manner so that the light is directed in a downward fashion.*
- 4. The FAA determination is pending at the time the staff report is being prepared. While the tower itself is under 200', which is the general height at which towers are required to be lit, the location with the Ames Municipal Airport as well as air traffic north – south along from the Twin Cities to Des Moines may factor into the FAA's decision.*

Motion: Donaldson

Second: Steele
Voting Aye: Steele, Couser, Donaldson, Smith
Voting Nay: None
Not Voting: None
Absent: Struthers, Wendt, Miller

Ms. Harter presented the Board with four (4) alternatives:

1. *The Story County Board of Adjustment may conditionally approve the Conditional Use Permit, as put forth in case CUP07-14.*
2. *The Story County Board of Adjustment may approve the Conditional Use Permit, as put forth in case CUP07-14, to the Story County Board of Adjustment.*
3. *The Story County Board of Adjustment may deny the Conditional Use Permit, as put forth in case CUP07-14.*
4. *The Story County Board of Adjustment may table the Conditional Use Permit, as put forth in case CUP07-14, back to the applicant and/or staff for further review and/or modifications.*

APPLICANT COMMENTS:

Mr. Joe Coyle

Mr. Coyle reiterated his compliance to all requirement as well as the Planning and Zoning Commission recommendations. Mr. Coyle stated that the fence height could be reduced to comply with the maximum 8' requirement.

Mr. Miller asked whether the proposed conditions could be met. Mr. Coyle stated that all conditions could be met if so imposed.

Mr. Coyle stated that a Determination of No Hazard has been submitted to staff from the FAA.

Mr. Coyle described the proposed location as well as existing tower sites within the area.

PUBLIC COMMENTS:

None

BOARD COMMENTS:

None

FINDINGS OF FACT

MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (McGill/Scarlett) (4-0)

Motion: McGill
Second: Scarlett
Voting Aye: Miller, McGill, Scarlett, Feilmeyer
Voting Nay: None
Not Voting: None
Absent: None

DECISION

MOTION: Move to adopt the Decision regarding the development criteria in the Staff Report, prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (Scarlett/Feilmeyer) (4-0)

Motion: Scarlett
Second: Feilmeyer
Voting Aye: Feilmeyer, McGill, Miller, Scarlett
Voting Nay: None
Not Voting: None
Absent: None

ORDER

MOTION: Move to approve the conditional use permit as proposed by the applicant in Case No. CUP07-14, as discussed by the Zoning Board of Adjustment and in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment finding that all standards of approval will be satisfied with the following conditions of approval:

1. The equipment enclosure detail shows an exterior light with photocell. This light source, if rated at more than 1800 lumens, will need to be shielded in a manner so that the light is directed in a downward fashion.

VOTE: (Feilmeyer/McGill) Vote: (4-0)

Motion: Feilmeyer
Second: McGill
Voting Aye: Scarlett, Feilmeyer, McGill, Miller
Voting Nay: None
Not Voting: None
Absent: None

WHEREFORE, it is ordered that the application Pyramid Network Services (on property under the ownership of Loran R. Simpson Trust) for a Conditional Use Permit an "Communications Tower and Facility" in the C-LI Commercial/Light Industrial District, located in Section 18, Grant Township (Township 83 N Range 23 West), described as Part of the Northeast Quarter of the Northeast Quarter, Commencing at the Northeast Corner of said Section 18; thence S00°18'00"E, 212.54 feet along the east line of the Northeast Quarter of said Section 18 to the point of beginning; thence continuing S00°18'00"E, 690.60 feet along said east line; thence N90°00'00"W, 484.74 feet; thence N00°18'00"W, 649.70 feet to the southerly boundary of an existing roadway easement; thence N85°10'31"E, 486.25 feet along said southerly boundary to the point of beginning containing 7.46 acres, together with a perpetual non-exclusive easement for ingress and egress across the existing frontage road north from and adjacent to Parcel 'A', Story County, Iowa. PARCEL IDENTIFICATION NUMBER:10-18-200-230 is hereby approved with condition as outlined below as evidenced by the Board's findings that all standards of approval will be met.

1. The equipment enclosure detail shows an exterior light with photocell. This light source, if rated at more than 1800 lumens, will need to be shielded in a manner so that the light is directed in a downward fashion.

NEW BUSINESS:

VAR04-14 VETTER EQUIPMENT VARIANCE

Applicant: Vetter Equipment

Nature of Request: Variance request to Section 89.02.3.D(1) to exceed the maximum cumulative area of all external signs of 300 square feet and Section 89.02.3.D(2) to exceed maximum height of 20 feet.

Staff Member: Leanne Harter

Parcel Number: 1009400400

STAFF PRESENTATION:

Ms. Harter gave an overview of the proposed variance request and provided site shots of the property.

Ms. Harter reviewed the applicable legal principles for the Board to consider in reviewing the proposed variance.

Ms. Harter presented the Board with four (4) alternatives:

1. *Approve Variance Case No. VAR04-14 as proposed and with conditions.*
2. *Approve Variance Case No. VAR04-14 as proposed.*
3. *Deny Variance Case No. VAR04-14 as proposed.*
4. *Delay Variance Case No. VAR04-14 for further information from staff and/or the applicant.*

BOARD COMMENTS:

Mr. Miller asked staff to define cumulative sign area. Ms. Harter recited the requested definition from the Story County Code.

Mr. Miller stated that he opinion that total site area should be taken into consideration when calculating total allowable area signage.

Existing and additional proposed signage was discussed. Mr. Anderson supplied company signage restrictions.

Ms. Harter questioned whether the bottom few panels could be removed from the sign to lower the signage total cumulative area. Mr. Anderson stated that he would need to conduct further research. Mr. McGill also asked for more information regarding additional signage planned for the site.

APPLICANT COMMENTS:

Mr. Gary Anderson

Mr. Anderson reviewed the company's reasoning for the variance request. Mr. Anderson stated that current directional signage is in place to control traffic through the existing lot as well as safety.

PUBLIC COMMENTS:

None

MOTION: Move to table the request as proposed by the applicant in Case No. VAR04-14, assigning a submittal deadline of August 13, 2014 to be placed on the September Board agenda or July 14, 2014 to be placed on the August Board agenda.

VOTE: (McGill/Scarlett) (4-0)

Motion: McGill

Second: Scarlett

Voting Aye: Feilmeyer, Scarlett, McGill, Miller

Voting Nay: None

Not Voting: None

Absent: None

NEW BUSINESS:

CUP03-89.2 CITY OF NEVADA CONDITIONAL USE PERMIT MINOR MODIFICATION

Applicant: City of Nevada

Nature of Request: Conditional Use Permit Minor Modification to construct a new submersible well, extension of a gravel road, installation of a new communication pole, and other miscellaneous improvements to the City of Nevada's existing alluvial well field.

Staff Member: Leanne Harter

Parcel Number: 1019200100

STAFF PRESENTATION:

Ms. Harter gave an overview of the proposed Conditional Use Permit minor modification request and provided site shots of the property.

Ms. Harter reviewed the applicable standards for approval for the Board to consider in reviewing the proposed Conditional Use Permit minor modification request.

Ms. Harter also reviewed surrounding property notification dates and legal publications.

Ms. Harter presented the Board with four (4) alternatives:

1. Approve Minor Modification Case No. CUP03-89.2 as proposed.
2. Deny Minor Modification Case No. CUP03-89.2 as proposed.
3. Remand Minor Modification Case No. CUP03-89.2 as proposed back to staff and the applicant for further review.

BOARD COMMENTS:

None

APPLICANT COMMENTS:

None

PUBLIC COMMENTS:

None

FINDINGS OF FACT

MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (McGill/Scarlett) (4-0)

Motion: McGill

Second: Scarlett

Voting Aye: McGill, Miller, Scarlett, Feilmeyer

Voting Nay: None

Not Voting: None

Absent: None

DECISION

MOTION: Move to adopt the Decision regarding the development criteria in the Staff Report, prepared for and presented to the Story County Zoning Board of Adjustment.

VOTE: (Scarlett/McGill) (4-0)

Motion: Scarlett

Second: McGill

Voting Aye: Feilmeyer, McGill, Miller, Scarlett

Voting Nay: None

Not Voting: None

Absent: None

ORDER

MOTION: Move to approve the request as proposed by the applicant in Case No. CUP03-89.2, as discussed by the Board of Adjustment in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all Standards for Approval have been satisfied.

VOTE: (Feilmeyer/McGill) (4-0)

Motion: Feilmeyer

Second: McGill

Voting Aye: Scarlett, Feilmeyer, McGill, Miller

Voting Nay: None

Not Voting: None
Absent: None

WHEREFORE, it is ordered that the application for a Conditional Use Permit Case No. CUP03-89.2 for the City of Nevada, 1209 6th Street, Nevada, Iowa 50201, for property legally described as: The West Half (W ½) of the Northeast Quarter (NE ¼) East of Drainage Ditch, all in Section 19, Township 83 North, Range 23 West of the 5th P.M., Story County, Iowa. And, Parcel "A" in the West half of the Southeast Quarter of Section 19, Township 83 North, Range 23 West of the 5th P.M., Story County, Iowa, as shown on the "Plat of Survey" filed in the Office of the Recorder of Story County, Iowa on the 24th day of May, 1995, and recorded in book 13 at page 64. (PIN: 10-19-200-100 and 10-19-200-305) for a request for a minor modification to the City of Nevada's Conditional Use Permit request (CUP03-89) to permit the following: construction of a new, submersible well, pitless unit, below-grade concrete vault; new water main; extension of gravel access road; and installation of 60-foot pole for communications equipment is hereby approved as evidenced by the Board's findings that all Standards for Approval have been met as required by the *Code of Ordinances of Story County, Iowa*.

OTHER BUSINESS:

Annual Review of Conditional Use Permits CUP04-86 and CUP02-89.1

STAFF PRESENTATION:

Ms. Harter reviewed the current Conditional Use Permit.

Ms. Harter reviewed the requested action of the Board as well as current Finding of Facts. Ms. Harter also reviewed conditions of approval.

Staff reviewed two recommendations:

1. Requirement for annual review be removed.
2. Assign both reviews to be set as the same review date with next being January 21, 2025.

Ms. Harter provided the Board with the following alternatives:

1. *Accept the annual report for CUP04-86 and CUP02-89.1 and direct staff to schedule a 2015 annual review with the applicant.*
2. *Direct staff to discontinue annual reviews for CUP04-86 and CUP02-89.1 and recommend the Conditional Use Permits be part of code enforcement periodic evaluations. Planning and Development staff will then report back to the Board of Adjustment on any reported violations of the Conditional Use Permits.*
3. *Other alternatives as proposed by the Board of Adjustment.*

Staff provided recommendations regarding the expiration date of CUP04-86

1. *Accept staff's recommendation to extend the expiration date from 2027 to 2035.*
2. *Do not make any changes to the expiration date as originally established by the Board of Adjustment.*
3. *Other alternatives as proposed by the Board of Adjustment.*

Motion: Move to accept staff's recommendation to extend the expiration date from 2027 to 2035.

VOTE: (McGill/Scarlett) (4-0)

Motion: McGill

Second: Scarlett

Voting Aye: Feilmeyer, Miller, McGill, Scarlett

Voting Nay: None

Not Voting: None

OTHER BUSINESS:

Biennial Review of Conditional Use Permit CUP05-08

STAFF PRESENTATION:

Ms. Harter reviewed the current Conditional Use Permit.

Ms. Harter reviewed the requested action of the Board as well as current Finding of Facts. Ms. Harter also reviewed conditions of approval.

Ms. Harter provided the Board with the following alternatives:

1. *Accept the annual report for CUP05-08 and direct staff to schedule a 2016 biennial review with the applicant.*
2. *Direct staff to discontinue biennial reviews for CUP05-08 and recommend this Conditional Use Permit be part of code enforcement periodic evaluations. Planning and Development staff will then report back to the Board of Adjustment on any reported violations of the Conditional Use Permit.*
3. *Other alternatives as proposed by the Board of Adjustment.*

Motion: ***Move accept the annual report for CUP05-08 and direct staff to schedule a 2016 biennial review with the applicant.***

VOTE: ***(McGill/Scarlett) (4-0)***

Motion: McGill

Second: Scarlett

Voting Aye: Scarlett, Feilmeyer, Miller, McGill

Voting Nay: None

Not Voting: None

BOARD COMMENTS:

Ms. Lynn Scarlett suggested that staff should review the cumulative sign allowance regulations. Ms. Harter stated that such regulations were reviewed and updated in 2000-2002. Ms. Scarlett questioned State regulations regarding such. Ms. Harter reviewed State regulations and DOT permitting.

STAFF COMMENTS:

None

ADJOURNMENT: 8:19 PM

Approval of Minutes

Title and Date