

# STORY COUNTY PLANNING AND ZONING

STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087



"Commitment, Vision, Balance"

515-382-7245

## MINUTES STORY COUNTY BOARD OF ADJUSTMENT

<b>DATE:</b> July 11, 2012	David Miller, Chair	2015
	Stephen McGill, Vice Chair	2012
<b>CALL TO ORDER:</b> 6:00 p.m.	Victoria Feilmeyer	2014
<b>PLACE:</b> Public Meeting Room	Lynn Scarlett	2013
Administration Building	*Aaron Steele	2016
	(*) Absent	

**ADJOURNMENT:** 7:58 p.m.

**PUBLIC PRESENT:** Ryan Heldt, Wavern DeJong, Howard Hammond, Weston Wunder, Don Rimanthe, Kenneth May

**STAFF PRESENT:**

Leanne Harter, Director; Charlie Dissell, Planner; Ryan Newstrom, Planner; Kristin Cook, Recording Secretary

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### APPROVAL OF AGENDA (MCU)

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### APPROVAL OF MINUTES

April 4, 2011 - Approved (MCU)

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**PUBLIC COMMENTS:** Opened 6:03 p.m. - Closed 6:03 p.m.

None

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### OLD BUSINESS:

None

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### NEW BUSINESS:

- 1) **CUP01-12: Cornerstone Church of Christ Conditional Use Permit**  
**Nature of Request:** The request is for a Conditional Use Permit for construction of two classrooms.  
**Parcel Number:** 04-29-400-450  
**Staff Project Manager:** Charlie Dissell
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### STAFF PRESENTATION:

Mr. Charlie Dissell presented the current land use, parcel size, zoning, vicinity map, proposed development as submitted, and covered the dates of legal notification and publication requirements.

Mr. Dissell outlined the Conceptual and Interagency Reviews completed by the Interagency Review Team.

Mr. Dissell reviewed the current available parking and traffic count of the property on Highway 65.

Mr. Dissell presented site shots of the property and reviewed the applicable standards for approval for the Commission to consider in reviewing the proposed conditional use permit.

Mr. Dissell reviewed U.S. Code Title 42 - The Public Health and Welfare Chapter 21C - Protection of Religious Exercise in Land Use and by Institutionalized Persons (RLUIPA).

Mr. Dissell reviewed current signage on said property and the conformance of such with RLUIPA.

Mr. Dissell reviewed the Planning and Zoning Commission recommendation and motion.

Mr. Dissell provided the Board with four alternatives:

- 1) The Story County Board of Adjustment accepts the recommendation of the Story County Planning and Zoning Commission and approves the Conditional Use Permit as put forth in case CUP01-12.
- 2) The Story County Board of Adjustment acknowledges the recommendation of the Story County Planning and Zoning Commission, however approves the Conditional Use Permit as put forth in case CUP01-12, with conditions.
- 3) The Story County Board of Adjustment acknowledges the recommendation of the Story County Planning and Zoning Commission, however denies the Conditional Use Permit as put forth in case CUP01-12.
- 4) The Story County Board of Adjustment tables the Conditional Use Permit as put forth in case CUP01-12, back to the applicant for further review and/or modifications.

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**APPLICANT COMMENTS:**

**Mr. Ryan Heldt**

Mr. Heldt gave an overview of the proposed development and reasons for such. Mr. Heldt also explained the church's goal is to accommodate their current congregation.

Ms. Victoria Feilmeyer asked for clarification regarding the current congregation and membership size. Mr. Heldt stated that attendance was about 150 per week in 2011. Mr. Heldt went on to explain that the church has experience slight growth in the congregation, but not exponentially.

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**PUBLIC COMMENTS:**

None

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**BOARD COMMENTS:**

None

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

**VOTE:** *Feilmeyer/McGill (4-0) (Steele Absent)*

Motion: Feilmeyer

Second: McGill

Voting Aye: Feilmeyer, McGill, Miller, Scarlett

Voting Nay: None

Not Voting: None

Absent: Steele

Mr. David Miller asked for clarification regarding the conditional use permit. Mr. Dissell stated a conditional use permit is issued for the parcel as a whole and stated any additional changes would only require a building permit and the applicant would not need to go through the conditional use permit

process again. Staff clarified stating that any future modifications to the property may require a modification to the conditional use permit depending on the significance of the modification.

Board discussed the proposed Conditional Use Permit.

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

**VOTE: Feilmeyer/Scarlett (4-0) (Steele Absent)**

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

**MOTION: The Story County Board of Adjustment accepts the recommendation of the Story County Planning and Zoning Commission and approves the Conditional Use Permit as put forth in case CUP01-12.**

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

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

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**NEW BUSINESS:**

1) **APPEAL01-12: Wunder Appeal Request**

**Nature of Request:** The request is for an appeal of the Administrator's decision denying an agricultural exemption request.

**Parcel Number:** 13-19-200-430

**Staff Project Manager:** Charlie Dissell

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**STAFF PRESENTATION:**

Mr. Charlie Dissell presented the vicinity map and proposed appeal as submitted. Mr. Dissell reviewed the property's current zoning and a history of the property.

Mr. Dissell also presented site shots of the property.

Mr. Dissell gave an overview of the Agricultural Exemption definition and process and history of such regarding said property.

Mr. Dissell also gave an overview of the appeal process.

Mr. Dissell reviewed the reasons said agricultural exemption was not granted.

Mr. Dissell provided the Board with three alternatives:

- 1) Affirm the decision of the Director and designee to deny Applications for Agricultural Exemption No. 17-12, 18-12, 19-12, 20-12, 21-12, 22-12, 23-12, 24-12, and 25-12.
- 2) Reverse the decision of the Director and designee to approve Applications for Agricultural Exemption No. 17-12, 18-12, 19-12, 20-12, 21-12, 22-12, 23-12, 24-12, and 25-12.
- 3) Partially reverse the decision of the Director and designee and approve some, but not all, of the Applications for Agricultural Exemption.

Ms. Feilmeyer asked whether staff could reasonably exempt a landscaping business. Mr. Dissell stated

that staff has not witnessed a nursery being on the property in question and stated the current business is based more on snow removal and landscaping, which are not viewed as agricultural.

Mr. Steven McGill asked for clarification as to how to get the property into conformance. Mr. Dissell stated that one home could be removed or the applicant would need to apply for a subdivision. Mr. Dissell defined agricultural use and non-conforming use.

Ms. Feilmeyer asked whether both homes are being inhabited. Mr. Dissell confirmed stating that one home is occupied by the applicant, Mr. Wunder, and the other is being rented.

Mr. Miller asked for clarification regarding the appeal process. Mr. Dissell gave an overview of the process. Mr. Miller asked for clarification regarding the appeal letter submitted by the applicant. Ms. Feilmeyer asked whether staff had knowledge as to why the applicant feels the appeal should be granted. Mr. Dissell stated that the applicant may be able clarify.

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**APPLICANT COMMENTS:**

**Mr. Weston Wunder**

Mr. Wunder gave an overview and background information regarding his business. Mr. Wunder provided Board members and staff with a map and site shots of said property.

**Mr. Howard Hammond**

Mr. Hammond reviewed the steps and processes Mr. Wunder had completed thus far. Mr. Hammond stated that Mr. Wunder has been compliant through the Planning and Development process and no County department mentioned any such possible issue with the property. Mr. Wunder gave reasons as to why Mr. Wunder feels both homes should be allowed on one parcel.

Mr. Miller questioned if Mr. Hammond or Mr. Wunder were trying to clarify the business as an agricultural business. Mr. Hammond stated that was not their intention. Mr. Hammond went on to state that a conditional use was approved and they would like the Agricultural Exemption to be approved as well.

Ms. Feilmeyer asked for a review the Conditional Use Permit conditions. Mr. Dissell complied.

Board members discussed the definition of Conditional Use Permit and Agricultural Exemption.

Ms. Leanne Harter recited the definition of Nursery as defined by the Story County Land Development Regulations.

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**PUBLIC COMMENTS:**

**Don Rimanthe**

Mr. Rimanthe stated that he was the previous owner of the property in question. Mr. Rimanthe went on to explain that Mr. Wunder granted an easement for his access to the property. Mr. Rimanthe also stated that the applicant and his family have improved the property and are an asset to the community.

**Kenneth May**

Mr. May stated what an asset Mr. Wunder is to the community and reviewed the number of jobs Mr. Wunder has brought to the area.

Mr. May explained the frustration Mr. Wunder has had with the process and issues that have arisen.

**Mr. Weston Wunder**

Mr. Wunder reviewed the amount of time and money he has invested into the company. Mr. Wunder also confirmed that his business does not have production on the property, but has plans to expand in the future to include such. Mr. Wunder continued with a review of how his business has grown over the past three years.

Ms. Feilmeyer asked for clarification regarding Mr. Wunder's business. Mr. Wunder complied stating the business is a landscaping business that designs, builds, and maintains landscapes. Mr. Wunder also

stated the company provides prairie restoration services.

**Mr. Howard Hammond**

Mr. Hammond questioned why staff didn't approach Mr. Wunder at the time of the property purchase in 2005 regarding possible non-compliance with the Land Development Regulations. Mr. Hammond stated that staff has been very good in responding to questions and issues that arise.

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**BOARD COMMENTS:**

Mr. Miller asked staff for clarification regarding the Conditional Use Permit that was granted previously. Ms. Harter stated the way the condition was worded; there are ways for the applicant to be in compliance.

Ms. Harter defined a Nursery as having retail sales on site.

Ms. Harter stated that structures are looked at on a structure by structure basis rather than by a parcel basis for Agricultural Exemption.

Mr. McGill asked what the Board's options are at this point. Ms. Harter recited the definition of Appeal to Board members.

Mr. McGill questioned whether staff was aware that some structures were being used for grain storage. Mr. Dissell explained the application for Agricultural Exemption stated that all structures are being used for the nursery business. Mr. Dissell went on to explain that the two homes are not being used for agricultural use.

Board members and staff discussed the conditional approval on August 3, 2011 and what steps should be taken by the Board and applicant from here forward.

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

**VOTE: Feilmeyer/McGill (4-0) (Steele Absent)**

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

**MOTION: Affirm the decision of the Director and designee to deny Applications for Agricultural Exemption No. 17-12, 18-12, 19-12, 20-12, 21-12, 22-12, 23-12, 24-12, and 25-12.**

**Motion withdrawn (MCU)**  
McGill/Feilmeyer

**MOTION: Move to table APPEAL01-12 until the December 2012 meeting of the Board of Adjustment.**

**VOTE: McGill/Feilmeyer (4-0) (Steele Absent)**

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

Absent: Steele

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**OTHER BUSINESS:**

None

**BOARD COMMENTS:**

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**STAFF COMMENTS:**

Ms. Harter stated that each Board member has copies of the Land Development and Floodplain Regulations as approved for FY13.

Ms. Harter stated that staff has scheduled September 10<sup>th</sup> as a training night for Board of Adjustment and Planning and Zoning Commission.

Ms. Harter asked Board members to consider changing future Board meeting start time to 5:30 pm. Board members discussed the option. No decision was made.

Ms. Harter asked members for an attendance commitment for the August 2012 meeting to provide a quorum. Mr. McGill stated he will be unable to attend the August 1, 2012 meeting. Staff will reschedule the August Board meeting and will inform Board members of the planned date.

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**ADJOURNMENT: 7:58 p.m.**

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**Approval of Minutes**

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**Title and Date**