

## **Altoona Board of Adjustment Hearing – April 1, 2014 – 6:30 PM**

Members Present – Dale Sikes, John Rullman, Doug Teuber, Lea Morris, Robert Hall

Members absent – None

Staff Present – John Shaw, Chad Quick, Susi Hoots

Others Present – Tom Lynch, Shelly Allen, Matt Rahfaldt, Kim Prowant, Vince Walsh, Jim Rahfaldt, David Powell, Robert Forbes, Kelsey Mather, Dean Mather

Chairman Rullman called hearing to order.

#1 Public hearing to consider a special use request from Lutheran Church of the Cross to allow them to hold an outdoor church event on Sunday, July 27, 2014 from 1:00 PM to 2:30 PM. This event is the Sheltered Reality National Gathering and does include live music outdoors with approximately 100-150 drummers. The address of the activity is 1975-8<sup>th</sup> Street SW, Altoona, Iowa, and it is open to the public.

Tom Lynch, 208 12<sup>th</sup> Avenue SW, Altoona, Iowa, presented the request by explaining he is a member of Lutheran Church of the Cross and a member of Sheltered Reality National Organization which is composed of approximately 250 young people. The organization works with young people on social skills, confidence building, and public speaking. They have performed at Jammin' for Jesus celebrations in the past. Traffic and restroom facilities will be handled the same as for the past Jammin' for Jesus celebrations. Mr. Lynch offered Sheltered Reality informational video and materials to the members for viewing.

No other audience members wished to address the Board. No input was received from the public.

**Morris moved to approve the special use request. Seconded by Teuber. Vote: Yes – Morris, Teuber, Sikes, Hall, Rullman. No – None. Special use request granted.**

#2 Public hearing to consider three requests from Dean and Kelsey Mather for the property at 2012 Country Cove Lane SE, Altoona, Iowa. They are seeking a variance to construct a shed in the front yard setback along 21<sup>st</sup> Street SE. The property is zoned R-5 (Planned Unit Development) and has a 25-foot front yard setback along 21<sup>st</sup> Street SE. Chapter 167.04 requires sheds to be in the rear yard. They are seeking an eight-foot variance to place the shed within 17 feet of the south property line.

Dean and Kelsey Mather, 2012 Country Cove Lane SE, Altoona, Iowa, presented the variance request by explaining they wish to have a 10 foot by 10 foot shed in, what they consider, their rear yard, but due to the way their lot sets it is not considered a rear yard for this purpose. In the proposed location the shed would be blocked from view by existing evergreen trees. In other locations the shed would be more visible. There is a several-year-old raised landscape bed blocking one location and another location would be in front of a window and obscure the view from the window. They believe a shed would look best in the location they have selected.

Sikes asked what type of fence this property has and mentioned the green utility box among the evergreen trees. Mr. Mather acknowledged there are a chain link fence and a green box, possibly for telephone, between the trees and fence.

Rullman said the property is unique in that it has three street-facing sides whereas most corner lots have only two.

Sikes asked about the hardship that would allow a variance to be granted. Sikes mentioned the raised bed could be relocated. Mr. Mather said they do not want to move the raised bed.

Hall asked if the proposed shed would have a concrete floor. Mr. Mather responded that the floor would probably be plywood.

Rullman asked if the shed could be placed in the rear yard north of the raised bed. Mr. Mather said it could be there, but they do not want it there. Rullman pointed out that in the area of the rear yard north of the raised bed a shed may be less visible from the window. Mr. Mather said they have considered all locations and believe the best location is the one they propose by the evergreen trees.

Hall mentioned that if the trees should die or something, they would no longer screen the shed. Mr. Mather acknowledged and mentioned that when they purchased the property they thought the trees belonged to the Homeowners' Association and were not theirs.

No other audience members wished to address the Board. No input was received from the public.

**Teuber moved to approve the variance request. Seconded by Sikes. Vote: Yes – Teuber, Sikes. No – Rullman, Hall, Morris. Variance request denied.**

#3 Public hearing to consider three variance requests from Jim Rahfaladt of Perkins Restaurant and Bakery for their property at 2621 Adventureland Drive, Altoona, Iowa. They are proposing to construct a flag pole that is 70 feet tall when the ordinance limits the height of a flag pole to 40 feet tall. They are also proposing to install a flag which is 20' by 30' (600 square feet) when the ordinance limits flags to 60 square feet in area. Lastly, they are proposing to construct an Interstate sign 70-feet tall when the ordinance limits the sign height to 50-feet tall.

Jim Rahfaladt, of CyHawk Hospitality, 25326-332<sup>nd</sup> Street, Sioux City, Iowa, presented the request for variance by explaining he is constructed a new Perkins Restaurant here and has experience in this metro market and that all the flags are 70 feet tall. Milford, Fort Dodge, and Ankeny, Iowa, and Independence, Missouri, all granted variances. Mr. Rahfaladt said the flag, although expensive, is a patriotic gesture and a good thing for business and the City of Altoona. While he does not have deep corporate pockets he is willing to spend money for a US made flag. He said the flag is not for Perkins; the first flag was installed during Vietnam. The seventy-foot pole is needed to support this size of flag. Traveling on I-80 from the west, the only visible signs are Flying J, the casino, and McDonalds. The Highway 34 overpass blocks everything from view.

Rullman said he is not opposed to a flag. Rullman sited the Stew Hanson Dodge dealership as an example: Everyone knows it's Stew Hanson when they see the big flag. Rullman pointed out that the McDonalds and Burger King signs pre-date the ordinance and the casino sign did not come before this Board.

Mr. Rahfaladt said that by selecting the Perkins building site, they are hidden from view and there are multiple easements crisscrossing the property that they were not aware of, resulting in extra

unanticipated costs and time. He explained that the Culvers sign is fifty-feet tall and, with the overpass, is not visible. Mr. Rahfaldt said that ideally he would not build behind another restaurant, but as it is, people need to know where Perkins is and how to get there.

Mr. Rahfaldt said they have never had a complaint about a flag being too big. As for the signage, he wants the same chance to be successful as the casino, McDonalds, and Flying J. He said the Culvers restaurant struggles and is not at corporate sales average.

Dave Powell, Community Business Lenders, LLC, 1500 NE 118<sup>th</sup>, Des Moines, Iowa, addressed the Board to express full support of the flag variance. Mr. Powell said the increased visibility benefits all business in this area and is a key ingredient for the area to pull traffic off the interstate.

Robert Forbes, 441 Pleasant View Drive, Des Moines, Iowa, 5<sup>th</sup> District Commander of Veterans of Foreign Wars USA, addressed the Board to say he deals with all Perkins around Des Moines and believes the flag will benefit Perkins and the City of Altoona by bringing visibility to Altoona. Mr. Forbes said the flag on Merle Hay road is used as a point of identification. Mr. Forbes said the Perkins organization is caring and quick to repair/replace flags when needed.

Sikes stated that State law requires a hardship be identified in order for the Board to grant any variance.

Mr. Rahfaldt said that from a business standpoint there is nothing to tell anyone where they are due to their location; looking left from Adventureland you see Jethro's dumpster. It is imperative to have a directional visible sign.

Sikes said the Supreme Court ruling doesn't consider business as a hardship.

Rullman asked Mr. Rahfaldt to explain what is unique about his particular situation; how this property is different from all the other properties in this area.

Sikes mentioned that several variance requests for sign heights have been denied in the past.

Mr. Rahfaldt said the land is flat, but due to the way the interstate highway lies, you cannot see anything in this area other than the McDonalds and casino signs. He further said their hardship is that the city supplied wrong utility locations resulting in additional costs of \$50,000 and putting construction behind schedule. A 70-foot sign is imperative so people can locate the restaurant. The restaurant will bring a lot of benefit to the community through taxes and jobs. The 34<sup>th</sup> Avenue overpass was not there when he visited here before. With the 34<sup>th</sup> Avenue overpass in place there is not enough time to exit by the time you see the sign.

Sikes pointed out that there is another exit less than a mile up the road to use and reach Perkins.

Rullman asked how tall the flag pole is at the Perkins Restaurant on Oralabor Road in Ankeny.

Mr. Rahfaldt responded: seventy feet.

Sikes noted he flew a U S flag at his place of business the last twenty years.

Hall noted he is a firm believer in flying U S flags and he does so at his home.

Dave Powell expressed that in negotiations with the city he felt this area is treated differently and not granted the same financial considerations as the area around Bass Pro. He feels the Bass Pro area has advantages that this area does not.

Mr. Rahfaldt asked that the Board look favorably upon the variance request even if other variance requests have been denied as the flag would offend no one. As to the sign, he does not

believe it is fair for McDonalds and Flying J to have the taller signs and not everyone. He expressed that cities need to work with businesses if the cities want to grow.

Morris asked if a code-compliant US Flag will be considered if the variance is not granted. Rahfaldt said the Interstate traffic and Adventureland traffic would not see it if were code compliant.

Morris asked about Mr. Rahfaldt's earlier statement that he/this restaurant is not "corporate". Rahfaldt said he is a franchisee and has other Perkins restaurants in Milford, Sioux City, and Independence Missouri.

Morris asked if a franchisee follows corporate rules and uses a standard flag.

Rahfaldt responded that yes, probably all Perkins Restaurants fly flags and pointed out that he is asking for a variance for a U S Flag, not a commercial/business flag, and the sign variance request is for a fair chance at business like McDonalds.

Rullman stated he is opposed to granting both variances and pointed out that the Perkins Restaurant on Euclid does not have a 70-foot tall sign and the restaurant in Ankeny does not have a 70-foot tall sign. Rullman suggested that if going with a bigger-than-code flag, then go with a code-compliant sign.

Rahfaldt said that if he had to choose between the two, he would request the 70-foot tall flag and a 50-foot tall sign. He would rather have the flag, if he had to choose. He reiterated that the flag code is a 40-foot pole and a 6' X 10' flag and he would take the flag variance for a 600 square foot flag on a 70-foot pole and have a 50-foot tall sign as allowed by code.

Hall mentioned he is in favor of U S flags.

Sikes said he is unable to identify a hardship of any nature. Is it a positive image for the city?

Teuber voiced his agreement that it is a positive image.

Rullman wondered if it would be considered spot zoning.

Morris stated the Board needs to follow rules and base decisions on hardship.

Sikes said a flag may be an advantage to all businesses in this area; this issue with a flag has never come up before. One avenue would be to deny the sign variance, table the other two requests and allow the applicant to go before the City Council to seek re-zoning to C-3 to allow a large flag.

Shaw indicated such a request would go to Planning and Zoning for a recommendation for City Council and take a minimum of 45 days.

Rahfaldt said after the 45 days, if approved, then there would be an additional six weeks for the flag order to be filled.

Jim Powell said Rahfaldt could consider dedicating the pole and flag and land used to the city.

Sikes responded that this Board is not going to discuss or entertain Mr. Powell's comment.

Rahfaldt said he feels blessed to have service people, it is good for the community to support veterans, and there is nothing better looking than the U S flag.

**Sikes moved to deny the variance request for an Interstate sign 70-feet tall. Seconded by Morris. Vote: Yes – Sikes, Morris, Rullman, Hall, Teuber. No – none. Variance denied.**

**Hall moved to approve the variance to allow a flag pole that is 70 feet tall and approve the variance to install a flag which is 20 feet by 30 feet (600 square feet). Seconded by Teuber. Vote: Yes – Hall, Teuber, Rullman. No – Morris, Sikes. Variance granted.**

**#4 Sikes moved to approve the minutes as presented. Seconded by Morris. Vote: Yes – Sikes, Morris, Teuber, Hall, Rullman. No – None.**

#5 Next meeting/hearing will be Tuesday, May 6, 2014, if needed.

Hearing Adjourned at 7:42 p.m.

Respectfully submitted,  
Susi Hoots  
Community Services Administrative Assistant