

**ZONING BOARD OF ADJUSTMENT
MINUTES
DECEMBER 20, 2022**

1. **CALL TO ORDER** – Olson called the meeting to order at 4:00 P.M.

2. **ROLL CALL**

Members Present: Behrens, Olson, Skudler, Tritsch, and Vargas
Members Absent: None
Staff: Gibbons, Harter, Jura, Monrroy, Siracuse, and Weber

3. **PLEDGE OF ALLEGIANCE**

4. **ADOPTION OF AGENDA**

Motion by Vargas, second by Tritsch, to adopt the agenda as presented. Motion carried by unanimous voice vote.

5. **APPROVAL OF THE NOVEMBER 15, 2022 MEETING MINUTES**

Skudler requested that the November 15, 2022 meeting minutes be amended by revising the vote on Item 8(B) as follows:

VOTE: AYE – Behrens, Skudler, and Tritsch. NAY – None. ABSTAIN – Olson. ABSENT – Vargas. Motion carried.

6. **PROOF OF PUBLICATION** – Gibbons

7. **REVIEW OF MEETING PROCEDURES** – Olson

8. **PUBLIC HEARINGS**

A. CASE #BA-22-006: Public hearing on the request of Carey M. Jensen for a variance from Section 15.08B.050, Site Development Regulations, R-1/Single-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a deck to have an 18-foot front yard setback, as opposed to the required 25 feet, on property legally described as Lot 2, Lakeview Acres, City of Council Bluffs, Pottawattamie County, Iowa. Location: 5411 Navajo Street.

Monrroy provided an overview of the request.

The following member of the public spoke in favor of the request:

Carey Jensen, 40 Lakewood Villa, Council Bluffs, IA 51501, spoke as the applicant of the request and stated that she is available to answer the Board's questions.

No one spoke in opposition to the request. Olson closed the public hearing.

Motion by Vargas, second by Skudler to approve a variance from Section 15.08B.050, Site Development Regulations, R-1/Single-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a deck to have an 18-foot front yard setback, as opposed to the required 25 feet, on property legally described as Lot 2, Lakeview Acres, City of Council Bluffs, Pottawattamie County, Iowa, as per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

B. CASE #CU-22-005: Public hearing on the request of Ryan Companies US, Inc., represented by David R. Madden, Esq., for a conditional use permit to allow 'indoor automobile sales and rental' in a P-C/Planned

Commercial District on property legally described as Lot 2, Bluffs Vision 4 Subdivision, City of Council Bluffs, Pottawattamie County, Iowa. Location: Undeveloped land lying southeast of the intersection of 24th Avenue and Mid America Drive.

Siracuse provided an overview of the request.

The following member of the public spoke in favor of the request:

David Madden, 11819 Miracle Hills Drive, Suite 104, Omaha, NE 68154, spoke as the representative of the applicant. Madden noted his appreciation for the City's cooperation and correspondence on the project and stated that he is available to answer the Board's questions.

No one spoke in opposition to the request. Olson closed the public hearing.

Behrens stated that the proposed conditions address her concerns.

Motion by Behrens, second by Skudler to recommend approval of the request for a conditional use permit to allow 'indoor automobile sales and rental' in a P-C/Planned Commercial District on property legally described as Lot 2, Bluffs Vision 4 Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

The conditions of approval are as follows:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable federal, state, and local codes.
2. The hours of operation shall be Monday through Saturday, 7:00 A.M. to 7:00 P.M., with a potential second shift until 12:00 A.M. and Sunday hours of operation when customer volumes support the need.
3. Automotive work performed on the subject property shall consist only of standard electric vehicle service, including but not limited to: software updates, tire replacement, tire balancing, alignment, topping off fluids, battery replacement, minor motor repairs, and minor bodywork (limited only to replacing of doors or the rear hatch). Major automotive repair, as defined in CBMC Section 15.03.047, shall not be permitted on the subject property.
4. Any storage of hazardous chemicals on the subject property shall occur indoors and shall meet or exceed all federal, state, and local regulations.
5. The number of demonstration vehicles parked outdoors on the subject property shall be limited to six (6) at any given time. Such vehicles shall be the latest model(s) available for sale or lease.
6. No exterior storage (other than as shown and designed on the approved site plan) shall be permitted on the property. This includes intermodal storage containers, auto parts, batteries, fluids, tires, and other vehicle or energy product components.
7. Vehicles parked outdoors on the subject property shall be limited to the following: employee vehicles, customer vehicles, vehicles awaiting service, loaner fleet vehicles, demonstration vehicles, mobile service vehicles, and vehicles that have been assigned to a customer and are awaiting pickup.
8. Parked vehicles shall be in a designated parking stall at all times.
9. Sales and/or leasing of trade-in vehicles shall not be permitted on the subject property.
10. Energy products sold or leased on the subject property shall not be stored outside on the subject property.
11. Commercial vehicles associated with the sale, transportation, and/or installation of energy products shall not be stored on the subject property.
12. Noise created on the subject property shall be subject to the sound level limits stated in CBMC Section 4.50.080.

13. The subject property shall remain in conformance with the adopted development plan (Resolution no. 22-315).

C. CASE #CU-22-006: Public hearing on the request of the MICAH House, represented by Warren Curry, for a conditional use permit to allow a 'day care service' in an A-P/Administrative-Professional District on property legally described as proposed Lot 1, Legacy Family Campus Subdivision Phase 3, City of Council Bluffs, Pottawattamie County, Iowa. Location: Undeveloped land lying southwest of N. 14th Street and Avenue I.

Siracuse and Gibbons provided an overview of the request.

The following member of the public spoke in favor of the request:

Warren Curry, 119 S. 49th Avenue, Omaha, NE 68132, spoke as the representative of the applicant and stated that he is available to answer the Board's questions.

No one spoke in opposition to the request. Olson closed the public hearing.

Tritsch stated that the proposed daycare facility would be good for the surrounding neighborhood.

Motion by Vargas, second by Behrens to recommend approval of the request for a conditional use permit to allow a 'day care service' in an A-P/Administrative-Professional District on property legally described as the proposed Lot 1, Legacy Family Campus Subdivision Phase 3, City of Council Bluffs, Pottawattamie County, Iowa, as per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

The conditions of approval are as follows:

1. The applicant shall secure all necessary permits and licenses for the proposed early education center and shall comply with all applicable federal, state, and local codes.
2. The subject property shall remain in conformance with all standards and requirements contained within the adopted development plan (Resolution no. 22-176). The site development standards contained in this development plan shall supersede those of the A-P District.
3. All 25 proposed shared parking spaces directly east of the Early Education Center shall be constructed prior to issuance of a Certificate of Occupancy. All parking shall comply with Chapter 15.23, Off-Street Parking, Loading and Unloading, of the Council Bluffs Municipal Code (Zoning Ordinance) and Chapter 66—18, Parking for Persons with Disabilities, of the Iowa Administrative Code.
4. All exterior lighting on the subject property shall conform to Section 15.24.050, Lighting Controls, of the Council Bluffs Municipal Code (Zoning Ordinance). Light poles shall not exceed 25 feet in height. Wood poles shall not be permitted.
5. No exterior storage shall be permitted on the subject property. This includes the temporary and/or permanent placement of inter-modal storage containers.
6. All utilities shall be installed underground. Any cost to remove, relocate, modify, and/or extend utilities to the subject property shall be the responsibility of the developer and not the city.
7. The regular hours of operation for the proposed Early Education Center shall be 7:00 a.m. to 6:00 p.m. Monday through Friday.
8. Trash collection for the Early Education Center shall be provided by the MICAH House Shelter, with frequency of trash collection at the shelter being adjusted to sufficiently handle the additional waste produced by the Early Education Center.
9. The conditional use permit shall not become effective until the Legacy Family Campus Subdivision Phase 3 final plat has been executed.

- D. CASE #CU-20-001(M): Public hearing on the request of McGregor Interests, LLC, represented by Geoff McGregor, to modify a conditional use permit (Case #CU-20-001) to allow for an expansion of the commercial storage operation, which includes outdoor storage area for RVs, boats, trailers, and campers, on property legally described as being the Westerly 123 feet of the Easterly 535 feet of the Northerly 660 feet of the SW1/4 SW1/4 in Section 12-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 800 Veterans Memorial Highway

Weber provided an overview of the request.

The following member of the public spoke in favor of the request:

Geoff McGregor, 11750 Stonegate Circle, Omaha, NE 68164, spoke as the applicant of the request and stated that he is available to answer the Board's questions.

No one spoke in opposition to the request. Olson closed the public hearing.

Motion by Olson, second by Behrens to recommend approval of the request to modify a conditional use permit (Case #CU-20-001) to allow for an expansion of the commercial storage operation, which includes outdoor storage area for RVs, boats, trailers, and campers, on property legally described as being the Westerly 123 feet of the Easterly 535 feet of the Northerly 660 feet of the SW1/4 SW1/4 in Section 12-74-44, City of Council Bluffs, Pottawattamie County, Iowa, per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, and Tritsch. NAY – None. ABSTAIN – Vargas. ABSENT – None. Motion carried.

The conditions of approval are as follows:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.
2. A detailed parking lot plan showing the location and dimensions of all proposed parking spaces, driveways, drive aisles, parking lot buffers and physical barriers shall be submitted to the City. All parking areas shall comply with the Chapter 15.23, Parking, Loading and Unloading, of the Council Bluffs Zoning Ordinance. The maximum number of parking spaces allowed for the proposed expansion shall be thirty-three (33), in addition to Lockbox Storage's existing ninety-six (96) parking spaces. All parking lot improvements shall be complete prior to the business operating.
3. The proposed 'storage yard' shall be limited to the exterior storage of operating vehicles, including trucks, boats, RVs, campers and trailers. Exterior storage of junk, wrecked or inoperable vehicles, equipment and other materials shall not be allowed on the subject property.
4. Exterior storage of boats, RVs and other vehicles shall only be allowed to occur within the designated parking spaces. No vehicles shall be parked and/or stored in any required green space areas, drive aisles, vehicle entry paths or other traveled areas.
5. The hours of operation shall be as presented in the application.
6. The proposed structures shall comply with I-2 district development standards, as per Chapter 15.21 of the Council Bluffs Zoning Ordinance.
7. One ornamental tree shall be planted every thirty (30) feet, on center, within the green space along the frontage road for a minimum of four (4) trees.
8. Screening shall consist of an eight-foot press point fence along the front portion of the expansion area and an eight-foot tall wooden privacy fence along the backside and rear of the expansion area. The applicant shall receive a fence permit from the City prior to installation.
9. The applicant shall work with the adjacent property owner at 802 Veterans Memorial Highway to ensure that vehicle circulation routes can still be provided. Documentation of said access shall be provided to the City prior to issuance of a building permit for the subject property.

10. All exterior lighting shall comply with the standards stated in Section 15.24.050, Lighting Controls, of the Council Bluffs Zoning Ordinance.
 11. Additional signage shall be limited to one (1) additional monument sign and directional signage and shall be subject to I-2 District signage standards. Any signage installed at a future date shall be permitted separately prior to installation and shall comply with the standards in Chapter 15.33, Signs, of the Council Bluffs Zoning Ordinance.
 12. The applicant shall receive all necessary permits from the City prior to constructing the proposed storage building.
 13. Any future cost to extend, modify or otherwise relocate any public utilities/facilities to service the subject property shall be at the cost of the owner/applicant and not the financial responsibility of the City of Council Bluffs.
 14. The Zoning Board of Adjustment shall review any modifications to the approved conditional use permit, which substantially alter the design, layout, configuration, and/or appearance of the project prior to such changes being made. The Community Development Director or their designee may administratively approve minor modifications to the approved conditional use permit, which results in a design that is considered compatible with the overall development and surrounding area.
- E. CASE #CU-93-001: Public hearing on the request of the City of Council Bluffs to revoke a conditional use permit, approved on July 22, 1993, to allow an existing nonconforming use (an automobile detail shop) to be modified into another nonconforming use (plumbing shop) in a R-3/Low-Density Multi-Family Residential District on property legally described as Lots 8 and 9, Block 6, Thompson's Addition, Council Bluffs, Pottawattamie County, Iowa. Location: 1109 North 15th Street

Gibbons provided an overview of the request.

No one spoke in favor of the request.

The following member of the public spoke in opposition to the request:

Chystopher Ayala, 1705 Avenue D, Council Bluffs, IA 51501, spoke as the owner of the subject property. Ayala apologized for the illegal use of the property and stated that he is currently working on removing vehicles from the site. Ayala stated that the towing business is his brother's and that they are currently looking for a new location.

Olson closed the public hearing.

Olson asked if both the revocation of the plumbing shop and small engine repair conditional use permits were included in the current request. Gibbons clarified that only the revocation of the plumbing shop conditional use permit is included in the current request and that staff would bring forth the revocation of the small engine repair conditional use permit at the Board's January 17, 2023 meeting.

Motion by Vargas, second by Behrens to revoke a conditional use permit, approved on July 22, 1993, to allow an existing nonconforming use (an automobile detail shop) to be modified into another nonconforming use (plumbing shop) in a R-3/Low-Density Multi-Family Residential District on property legally described as Lots 8 and 9, Block 6, Thompson's Addition, Council Bluffs, Pottawattamie County, Iowa, per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN –None. ABSENT – None. Motion carried.

- F. CASE #CU-16-001: Public hearing on the request of the City of Council Bluffs to revoke a conditional use permit, approved on January 13, 2016, to allow 'automobile sales and rental' use in a C-2/Commercial District

on property legally described as Lots 8-17, Block 1, Twin City Place, Council Bluffs, Pottawattamie County, Iowa. Location: Undeveloped land lying west of 30 South 27th Street.

Gibbons provided an overview of the request.

No one spoke in favor or opposition to the request. Olson closed the public hearing.

Motion by Olson, second by Vargas to revoke a conditional use permit, approved on January 13, 2016, to allow 'automobile sales and rental' use in a C-2/Commercial District on property legally described as Lots 8-17, Block 1, Twin City Place, Council Bluffs, Pottawattamie County, Iowa, per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN –None. ABSENT – None. Motion carried.

- G. CASE #CU-94-004: Public hearing on the request of the City of Council Bluffs to revoke a conditional use permit, approved on June 21, 1994, to allow a church building in the I-2/General Industrial District on property legally described as being part of the NE1/4 NE1/4 of Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 4220 Gifford Road

Gibbons provided an overview of the request.

No one spoke in favor or opposition to the request. Olson closed the public hearing.

Motion by Behrens, second by Skudler to revoke a conditional use permit, approved on June 21, 1994, to allow a church building in the I-2/General Industrial District on property legally described as being part of the NE1/4 NE1/4 of Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa, per staff's recommendation.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch, and Vargas. NAY – None. ABSTAIN –None. ABSENT – None. Motion carried.

9. OTHER BUSINESS

- A. Items of interest – None.

10. ADJOURNMENT – Olson adjourned the meeting at 4:49 P.M.

The recording of this proceeding, though not transcribed, is part of the record of each respective action of the Zoning Board of Adjustment. The recording of this proceeding is incorporated into these official minutes of this Board meeting as if they were transcribed herein.