

REGULAR BOARD OF ADJUSTMENT MEETING 05-13-2015

Call to order

The Regular Meeting of the Norwalk Board of Adjustment was held Wednesday, May 13, 2015 at Norwalk City Hall, 705 North Avenue, Norwalk, Iowa. Chairperson Christin Grant called the meeting to order at 6:00 pm. Members present at roll call were: Brent Hinders, Dennis Cassady , Rachel Parker and Christin Grant. Absent: Chad Stevens.

City Staff present were Luke Parris, City Planner and Shelley Stravers, Development Services Assistant.

Approval of Agenda – 15-01

Motion by Cassady and seconded by Hinders to approve the agenda. Approved 4-0.

Approval of Minutes – 15-02

Motion by Parker and seconded by Hinders to approve the minutes from the October 21, 2014 meeting. Approved 4-0.

Welcome of Guests

Chairperson Grant welcomed the guests present and asked for public comment on any topic not related to the agenda. With no one wishing to speak, the business portion of the meeting was opened.

Public Hearing for Appeal of Zoning Administrator Decision – 8384 South Orilla Road – 15-03

On April 30, 2015, the City of Norwalk's Zoning Administrator determined that a mobile food truck parked in the yard of Outskirtz, located at 8384 South Orilla Road, was in violation of Zoning Ordinance Section 17.10.080.3 regarding the permitted accessory uses in a Commercial zoning district. The Zoning Administrator submitted a cease and desist letter to the property owners of Outskirtz related to the use of the food truck on the property.

On April 30, 2015, the owner of Outskirtz, Mr. Anthony Webb, submitted an appeal and requested a hearing at the Board of Adjustment regarding the Zoning Administrator's interpretation of the Zoning Ordinance. The Board of Adjustment will hold the hearing and make final determination on the correct interpretation of the Zoning Ordinance.

Mr. Parris explained that language regulating food trucks was not specifically found upon review of the Zoning Ordinance. The operation of a food truck on private property was deemed to be a use of the land. The use then needed to be classified as a principal or accessory use. Section 17.04.260 regulates the number of principal structures allowed per lot. Section 17.04.260 reads:

17.04.260 Number of Principal Structures Allowed Per Lot. Not more than one (1) principal structure on any lot of record or legally described tract of land shall be allowed as of January 1, 1998, or for any lot which has been created by platting or replatting since such date in any district zoned RE-1, R-1, and R-2. Multiple occupancy of a lot by more than one (1) principal building in all other districts shall be permitted, only if approved as a complex, or as part of an approved site plan or planned unit development.

Outskirtz did not have an approved site plan to allow for two principal uses on the lot at 8384 South Orilla Road. Given the lack of an approved site plan, coupled with the temporary nature of the use, the Zoning Administrator determined that the food truck use would be considered an accessory use. The Zoning Ordinance defines an accessory use as "A use or structure on the

same lot with the principal use or structure, and serving a purpose customarily incidental and subordinate to the principal use or structure. An accessory use shall not encompass more floor area or use a greater part of the lot than the principal permitted use(s)."

The C-2 district is allowed following accessory uses, according to Section 17.10.080.3:

Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted uses:

A. Retail establishments and refreshment stands accessory to principal buildings; provided, however, there shall be no access to such place of retail use except from the inside of the principal building, complex, or internal courtyard, nor shall any identification signage, display of stock, goods or advertising for such be so arranged that it can be viewed from outside the principal building.

The Zoning Administrator decided that the food truck use would be considered a retail establishment and/or a refreshment stand. The Zoning Ordinance does not define retail establishment or refreshment stand. A common definition for retail is, "the sale of goods to the public in relatively small quantities for use or consumption, rather than for resale."

After determining the use type of the food truck, the Zoning Administrator determined that the food truck was accessible from outside of the principal building for Outskirtz, and that the identification signage on the food truck would have been viewable from outside the principal building. Therefore, the Zoning Administrator determined that the use of the food truck at Outskirtz on April 30, 2015, was in violation of the Zoning Ordinance and issued a letter to cease and desist the use of the food truck.

The Public Hearing was opened at 6:13 p.m.

Joyce Webb, 809 West North Ave., Norwalk and Tom Ferin, School Street in St. Marys, both appeared and spoke to the Board. Mr. Ferin is the owner of Ferinheit Wood Oven Pizza. It is a fully licensed mobile unit through the State of Iowa. Mr. Ferin carries his own insurance and licensing and works in many communities in the metro area. Mr. Ferin does not understand the no advertising on his food truck, due to the fact that he has advertising on every side of his truck and does not know how to get around that regulation of signage. Mr. Ferin submitted photos to the Board of his food truck.

The Board expressed concern with our current Zoning Ordinance and that it really does not define or address food trucks. With food trucks being a popular topic right now, the Planning and Zoning Commission should be made aware of this and address this subject as soon as possible, as they fear we will have more situations like this.

Ms. Parker raised the question as to how does this differ from produce vendors in the Dollar General parking lot or the Girl Scouts selling cookies in the grocery store parking lots.

The Public Hearing was closed at 6:28 p.m.

The Board discussed Mr. Parris' ruling and whether or not they thought it fit into the principal or accessory use portion of the Zoning Ordinance. The Board agreed they felt it was more of an unclassified use which would allow for a Special Use Permit to be applied for and come back before the Board.

Motion by Hinders and seconded by Cassady to overrule the Zoning Administrator's interpretation of the Zoning Ordinance in relation to the food truck at 8384 South Orilla Road and to find that the food truck is considered an unclassified use, and subject to the Special Use permitting process, per the Zoning Ordinance. Approved 4-0.

Adjournment – 15-04

Motion by Cassady and seconded by Hinders to adjourn meeting at 6:45 p.m. Approved 4-0.

Christin Grant, Chairperson

Luke Parris, City Planner