

**Due to the COVID-19 concerns and social distancing recommendations, a virtual meeting is being offered. Participants wishing to speak on a topic should message the meeting moderator. All participants are asked to mute their individual computers at times when they are not speaking to minimize background noise. Join: <https://us02web.zoom.us/j/86562113078>*

**NOTICE OF A REGULAR MEETING
BONDURANT BOARD OF ADJUSTMENT
SEPTEMBER 14, 2021**

NOTICE IS HEREBY GIVEN that a Regular Meeting of the City Council will be held at 5:00 PM on September 14, 2021, in the Bondurant City Center, 200 Second Street, Northeast, Bondurant, Polk County, Iowa. Said meeting is open and the public is encouraged to attend.

AGENDA

1. Call to Order
2. Roll Call
3. Perfecting and Approval of the Agenda
4. Approval of Minutes
 - a. July 13th Minutes
5. **Public Hearing - For consideration of a conditional use permit to allow for a daycare facility operating as a home business in the City's Planned Unit Development (R-5) District at 611 Spruce Drive NW (Section 177.15.2.D)**
 - a. RESOLUTION NO. BA-210914-06: A motion granting / denying a conditional use permit for the request as described in Item 5.
6. Adjournment

Bondurant Board of Adjustment
Minutes
July 13, 2021

1. Call to Order
Board Chair Jurik called the meeting to order at 5:06 p.m. and declared a quorum.
2. Roll Call

Present:	Board of Adjustment Member Kelsi Jurik, Board of Adjustment Member Greg Hanson, Board of Adjustment Member Chad Driscoll
Absent:	Board of Adjustment Member Dave McGrath
City Officials Present:	City Administrator Marketa Oliver, Planning & Community Development Director Maggie Murray
3. Perfecting and Approval of the Agenda
Motion by Board of Adjustment Member Driscoll, seconded by Board of Adjustment Member Hanson, to approve the agenda. Vote on Motion 3-0. Motion carried.
4. Approval of Minutes
Motion by Board of Adjustment Member Hanson, seconded by Board of Adjustment Member Jurik, to approve the June 1, 2021 Board of Adjustment meeting minutes. Vote on Motion 3-0. Motion carried.
 - a. June 1, 2021
5. **Public Hearing - For consideration of a conditional use permit to allow for an outdoor storage yard at 701 23rd Street Southwest (Section 178.13.4.A).**
Murray presented the staff report. The City is in receipt of a conditional use permit request to allow for an outdoor storage yard area at 701 23rd Street SW. This is part of a new industrial subdivision area south of the new Amazon area. This property is zoned Limited Industrial. The use proposed is JAS Concrete. JAS Concrete is proposing an outdoor storage yard area. Per our Zoning Code, this outdoor storage yard area is only allowed if granted a conditional use permit request through the City's Board of Adjustment. This is a conditional use permit and not a variance. Since it's not a variance, the Board does not need to go through the 5 required Finding of Fact questions. The review for a conditional use permit is to review the required conditions as noted in the code. Murray reviewed the submitted preliminary site plan. Staff has reviewed and is

recommending approval of the conditional use permit; as part of the agenda packet's draft BOA resolution, staff has included six items that can be considered by the Board for conditional approval of the permit.

1. That the outdoor storage yard areas shall be used for outdoor storage space only and shall not be used for employee/customer parking as the Zoning Code requires pavement for such parking areas (Section 177.10.2).
2. That the outdoor storage yard areas shall be used for outdoor storage space only and shall not be used for outdoor manufacturing, assembling, compounding, processing, packaging, or other comparable treatment, as such outdoor uses must be conducted within an enclosed building (Section 178.13.1)
3. That the proposed fencing shall be opaque.
4. That the landscaping plan as required as part of the detailed site plan review process shall show the landscaping requirements of SEction 179.02.4.B are met; intermittent trees between the outdoor storage yard area use at 701 23rd Street SW and the properties to the south and also intermittent trees between the outdoor storage yard area use at 701 23rd Street SW and the public right-of-way of 23rd Street SW.
5. That the proposed outdoor storage yard area shown in orange on the site layout shall not be situated further north than the south wall of the building.
6. That the area labeled as being Future Lot shall not be used as an outdoor storage yard area.

John Gade with Fox Engineering noted that Joe owns JAS Concrete currently located in Altoona. They have outgrown their Altoona location. They do concrete work, foundations, and some excavating work. Gade is requesting the following from the Board of Adjustment:

1. Want approval for outside storage.
2. Would like to discuss type of fencing.
3. Would like to discuss landscaping requirements.

Gade noted that looking at surrounding properties, most have some type of outdoor storage. Gade mentioned that the JAS Concrete site in Altoona is very clean. Gade explained that the outdoor storage yard area is behind the building. The intention is that the front of the building will be paved and have landscaping and will be for the employees and everything in the rear of the building will be for storage of materials.

Gade submitted a quick sketch drawing showing the fencing location proposed. Gade noted that JAS Concrete is proposing an 8' chain link fence for security purposes. Gade noted concerns if slats were to be required since this is about a 1/2 mile of fencing. This could add

approximately \$40,000 to the fencing budget. Gade noted that JAS Concrete is proposing to screen everything from the right-of-way with the building, fencing, trees, and no outdoor storage. The screening from the right-of-way will be screened with landscaping. On the west side, fencing is proposed and they would like ability to do some berming and landscaping and/or the option to add slats on the side that faces the right-of-way. This area will sit about 250' back off of the public right-of-way. Gade is requesting just the chain link fencing without the slats on both the east and west sides of the property. Along the south side of the property, there is already an existing 8'-tall chain link fencing, so they would request to tie onto the existing fence for security.

Gade noted that one issue they would like clarification on for landscaping is buffering between the two zones. JAS Concrete is less intense than the property to the south which is zoned M-2. Gade is assuming the intent of the Code is that the M-2 District screens from the M-1. J Petticord at 1200 Prairie Drive SW is located immediately south. As part of the Board of Adjustment agenda packet, Petticord submitted a letter of support of the JAS Concrete request.

Murray confirmed that yes, Petticord did submit a comment that they are in full support of the JAS Concrete conditional use permit request.

Board of Adjustment Member Kelsi Jurik asked if staff is aware of any other properties in town like this where this is back-to-back industrial development with differing zoning districts of M-1 and M-2? Oliver noted that all of these properties eventually will be. Oliver explained the Commerce Crossings development area. The north side of Commerce Crossings development area is bordered by residential, but this is a situation where there is more intense going in next to a less intense use. Murray noted she is surprised the Zoning Code calls for screening by the less intense use, but this JAS Concrete request is justified in that the property owner to the south is in full support of the request.

The Board discussed the following updates to staff's draft recommendations:

3. Replace "that the fencing shall be opaque" with "that the fencing as proposed as part of the Board of Adjustment meeting is required and is considered acceptable (8'-tall chain link)".
4. To remove landscaping screening requirements from the east, west, and south but to keep from the north.

Motion by Board of Adjustment Member Jurik, seconded by Board of Adjustment Member Driscoll, to approve RESOLUTION NO. BOA-210713-03 subject to the following conditions:

1. That the outdoor storage yard areas shall be used for outdoor storage space only and shall not be used for employee/customer parking as the Zoning Code requires pavement for such parking areas (Section 177.10.2).
2. That the outdoor storage yard areas shall be used for outdoor storage space only and shall not be used for outdoor manufacturing, assembling, compounding, processing, packaging, or other comparable treatment, as such outdoor uses must be conducted within an enclosed building (Section 178.13.1)
3. That the proposed as proposed during the Board of Adjustment meeting is considered acceptable and required (8'-tall chain link).
4. That the outdoor storage yard area be screened from the 23rd Street SW right-of-way but that such screening is not required from the east, west, and south.
5. That the proposed outdoor storage yard area shown in orange on the site layout shall not be situated further north than the south wall of the building.
6. That the area labeled as being Future Lot shall not be used as an outdoor storage yard area.

Roll Call: Ayes: Board of Adjustment Member Jurik, Board of Adjustment Member Driscoll, Board of Adjustment Member Hanson. Nays: None, Absent: Board of Adjustment Member McGrath. Motion carried 3-0.

- a. RESOLUTION NO BOA-210713-03 - a motion granting / denying a conditional use permit for the request as described in Agenda Item #5.
-
6. Public Hearing - For consideration of a conditional use permit to allow for reconstruction of a gas station in the General Commercial (C-2) District at 1455 Grant Street South/113-117 Brick Street Southeast (Section 178.08.3.C).

Murray presented the staff report. The Board is reviewing a conditional use permit request for the Casey's site at 1455 Grant Street South. Eventually this site will be reconstructed entirely so that it faces south out toward Highway 65. The City's C-2 District allows for gas stations but only through a conditional use permit. The original site was constructed in 1999 prior to the conditional use permit requirement that was established in 2002; because of this, it's recognized as being pre-existing, non-conforming. Pre-existing, non-conforming structures are allowed to remain and be maintained, however cannot be reconstructed (unless granted a conditional use permit in this case). The Zoning Code includes the following items to be reviewed for such gas station conditional use permit requests:

 1. Market data showing gas stations with 1 mile of the requested gas

station.

2. The purpose of such market data is to protect from oversaturation of the market place and proactively plan for vacancies, underground tank removal, and site cleanup of future store closings.

Murray noted that staff recommends approval. It is not introducing a new gas station into the market. The project is proposing improving the site.

Board of Adjustment Member Jurik asked if they will change the site's driveway entrances? Murray explained this is just a preliminary site plan at this point. The draft site plan currently shows one off of Grant Street South and three off of Brick Street SE. Oliver added that the proposed driveways appear to be in similar locations as what currently exists.

Motion by Board of Adjustment Member Driscoll, seconded by Board of Adjustment Member Jurik, to approval RESOLUTION NO BOA-210713-04, to allow for approval of the conditional use permit request at the Casey's site at 1455 Grant Street South. Roll Call: Ayes: Board of Adjustment Member Driscoll, Board of Adjustment Member Jurik, Board of Adjustment Member Hanson. Nays:None. Absent: McGrath. Motion carried 3-0.

- a. RESOLUTION NO. BA-210713-04 - a motion granting / denying a conditional use for the request as described in Agenda Item #6.

- 7. Public Hearing - For consideration of a variance to allow for a reduction in the minimum primary structure setback requirements of the General Commercial (C-2) District at 1455 Grant Street South/113-117 Brick Street Southeast (Section 178.08.4).

Murray presented the staff report. The Board of Adjustment will be reviewing a variance request for this same Casey's property at 1455 Grant Street South. Casey's is in need of a variance to reconstruct within the required front yard setbacks. The gas station and car wash are proposed within the required 30' front yard setback area of Brick Street SE. The gas station building will be located 10' off of the front property line (or 20' into the required setback) and the car wash will be located 21' off of the front property line (or 9' into the required setback). The justification here in that this site is unique in that it has three minimum front yard setback areas and also the City is in the process of designing out the Highway 65 trail underpass project.

Oliver explained the underpass project, where the City will need some easements for the continuation of the trail on the Casey's property. The underpass will come under Highway 65 near Oleson Drive SE and will

then daylight over onto the other side of Highway 65. For Casey's to say if we give you this easement, this will push Casey's up further north to stay further off of the trail easement area. Staff feels this is a valid concern.

Murray noted that as part of the trail project, a retaining wall will be constructed by the City on the Casey's property within the easement area. The City Engineer has looked at the Casey's site layout and agrees that the car wash building likely cannot be constructed any further away from the Brick Street SE property line than what is currently shown.

Murray noted that staff is recommending approval, as staff feels the required Findings of Fact questions can be answered favorably for this request.

Board of Adjustment Member Driscoll noted that this site seems to have a similar layout as the new Kum & Go gas station along Highway 65.

The Board had a discussion on area trail projects. Oliver noted that eventually that trail will connect with the planned realignment of Grant Street South.

Board of Adjustment Member Driscoll asked if any public comment was received? Murray confirmed that no public comment was received.

Board of Adjustment Member Jurik asked if the "back" side of their building will face Brick Street SE, and if so, what will this look like? Murray noted that this elevation information has not yet been submitted but will be reviewed in detail as part of the actual site plan review process. Murray added that City Engineering confirmed that there are no planned street widening projects along Brick Street SE.

Board of Adjustment Member asked if there is a sidewalk along this side of Brick Street SE? Board of Adjustment Member Driscoll noted that no, there is not. Murray explained this can be required as part of the site plan review and approval process.

Motion by Board of Adjustment Jurik, seconded by Board of Adjustment Member Hanson, to approval RESOLUTION BOA-210713-05 to approve the variance to allow for a reduction in the minimum primary structure setback requirements of the General Commercial (C-2) District as the Casey's property. Roll Call: Ayes: Board of Adjustment Member Jurik, Board of Adjustment Member Driscoll, Board of Adjustment Member Hanson. Nays: None. Absent: McGrath. Motion carried 3-0.

**Due to the COVID-19 concerns and social distancing recommendations, a virtual meeting was offered.*

- a. RESOLUTION NO. BA-210713-05 - a motion granting/denying a variance for the request as described in Agenda Item #7

8. Adjournment

Motion by Board of Adjustment Member Jurik, seconded by Board of Adjustment Member Hanson, to adjourn at 5:41 p.m. Vote on Motion 3-0. Motion carried.



**BUSINESS OF THE BOARD OF ADJUSTMENT
BONDURANT, IOWA
AGENDA STATEMENT**

Item No. 5.a.
For Meeting of 9/14/2021
Resolution

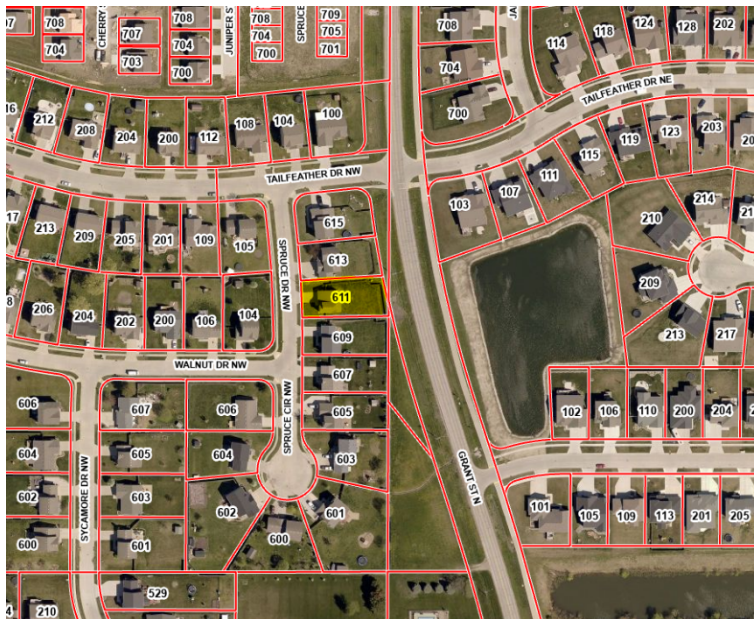
TITLE: RESOLUTION NO. BA-210914-06: A motion granting / denying a conditional use permit for the request as described in Item 5.

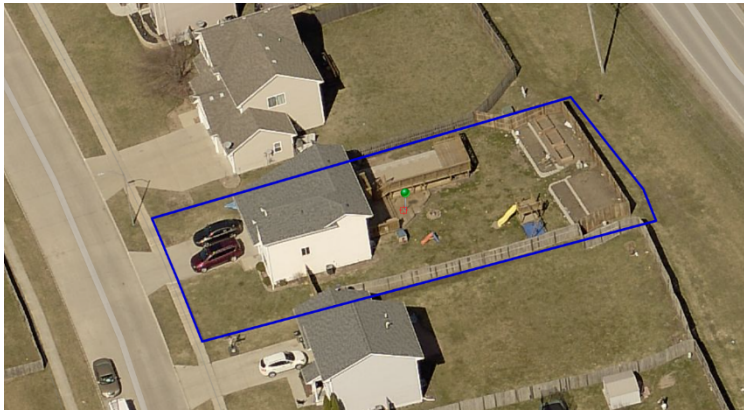
CONTACT PERSON:

Maggie Murray, Planning & Community Development Director

BRIEF HISTORY & ANALYSIS: Brief History

The City of Bondurant is in receipt of a conditional use permit request by Seth Karl to allow for a daycare facility to operate as a home business at his residence at 611 Spruce Drive NW.





This single-family detached property is zoned as being within the City's Planned Unit Development (R-5) District. Per Section 178.06.2.D of the Zoning Code, home occupations are permitted as an accessory use of the R-5 District as long as they meet all requirements of Section 177.15 of the Zoning Code, titled Home Occupations. Per Section 177.15.2.D of the Zoning Code, any daycare facility, operating as a home business and accepting compensation for providing child care regardless of being registered with the State of Iowa must obtain a conditional use permit from the City's Board of Adjustment.

The Zoning Code defines **Child Daycare Facility** as, "a child care center, group daycare home, or registered family daycare home". These three sub-categories of Child Daycare Facility are defined as:

- **Child Care Center** = "a facility providing child daycare for seven or more children except when the facility is registered as a group daycare home".

- **Group Daycare Home** = "a facility providing child daycare for more than six but less than twelve children, with no more than six children at one time being less than six years of age".
- **Family Daycare Home** = "a facility which provides child daycare to less than seven children".

The applicant has indicated he will be opening a family daycare home which will provide daycare for less than seven children.

Analysis

While a variance request requires strict review of the 5 Findings of Fact questions by the Board of Adjustment, a conditional use permit differs in that it does not; reasoning - a conditional use is a use built into the Zoning Code as being considered permitted but only if the specific conditional use permit review criteria are considered satisfied as part of the Board of Adjustment's review. Below is the list of review criteria provided for in the home occupation section of the Zoning Code:

1. **No persons other than a member of the immediate family occupying such dwelling shall be employed.** Applicant's response: *the only employee will be the homeowner and his wife.*
2. **The home occupation shall be conducted only within the enclosed living area of the dwelling unit provided that not more than 1/4 of the area of one floor shall be used for such purposes.** Applicant's response: *utilizing two floors in the residence. Basement floor is 144 SF used for playtime. Main floor used for naptime, meals, and drop-off/pick-up.*
3. **In no way shall the appearance of the structure be altered or the occupations within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noise, or vibrations.** Applicant's response: *there will be no advertising for the business, signs, banners, etc., on the outside of the home.*
4. **No stock in trade shall be displayed or sold on the premises.** Applicant's response: *there is no stock or trade involved with this daycare business.*
5. **There shall be no outdoor storage of equipment or materials used in the home occupation.** Applicant's response: *all play items will be stored inside.*
6. **No more than one vehicle shall be used in the conduct of the home occupation.** Applicant's response: *one vehicle has been designated for occupation.*
7. **Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.** Applicant's response: *our driveway will be used for drop off and pick up.*
8. **There shall be no use of utilities or community facilities beyond the normal to the use of the property for residential purposes.** Applicant's response: *there are no community facilities or utilities in this area.*
9. **No home occupation shall be permitted which is noxious, offensive, hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke,**

dust, or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions. Applicant's response: *this occupation is a daycare. It will not have any of these conditions.*

Additional notes for consideration by the Board of Adjustment:

- Per Chapter 27 of the City Code, property owners within 200' of the conditional use permit property were notified. A total of 12 letters were mailed. No public input has been received to date.
- If the conditional use permit is approved by the Board, the applicant will also be responsible for complying with all requirements of the Iowa Department of Human Services.
- This home occupation request does not require an inspection by the City Building Official prior to operating.

FUNDING SOURCE: N/A

STAFF RECOMMENDATION: Staff recommends approval of the attached Board of Adjustment permit, which includes the following conditions:

1. That the home occupation shall not occupy more than 25% of the dwelling's living area (370 SF for this location) as required by Section 177.15.3.B of the Zoning Code.
2. That the applicant shall leave at least one parking space area free of obstruction in their driveway during drop-off and pick-up times for use by their customers.
3. That this conditional use permit approval is for operating a family daycare home only, as defined in the Zoning Code. If in the future the applicant would like to change daycare classification, this will require re-review by the Board of Adjustment.
4. That the applicant is responsible for following all Iowa Department of Human Services requirements.

APPROVED FOR SUBMITTAL:

ATTACHMENTS:

1. DRAFT BOA Permit - Case #93

Prepared by Maggie Murray, City of Bondurant, 200 2nd Street NE, Bondurant, IA 50035. (515) 630-6985
Return to Maggie Murray, City of Bondurant, 200 2nd Street NE PO Box 37, Bondurant, IA 50035. (515) 630-6985

**BOARD OF ADJUSTMENT PERMIT
CONDITIONL USE PERMIT**

Date: September 14, 2021 **Case Number:** 93

Name: Seth Karl

Address: 611 Spruce Drive NW

Legal Description: LEGAL HERE

IS HEREBY GRANTED A CONDTIONAL USE PERMIT to allow for a daycare facility operating as a home business in the City’s Planned Unit Development (R-5) District at 611 Spruce Drive NW subject to the following Board of Adjustment conditions:

- 1. That the home occupation shall not occupy more than 25% of the dwelling's living area (370 SF for this location) as required by Section 177.15.3.B of the Zoning Code.
- 2. That the applicant shall leave at least one parking space area free of obstruction in their driveway during drop-off and pick-up times for use by their customers.
- 3. That this conditional use permit approval is for operating a family daycare home only, as defined in the Zoning Code. If in the future the applicant would like to change daycare classification, this will require re-review by the Board of Adjustment.
- 4. That the applicant is responsible for following all Iowa Department of Human Services requirements.

Kelsi Jurik, Chairperson

Individual Form of Acknowledgment

STATE OF IOWA
COUNTY OF POLK

On this ____ day of _____ in the year 2021 before me, a Notary Public within and for said County and State, personally appeared Kelsi Jurik, Chairperson, Board of Adjustment; that said instrument was signed on behalf of the Board of Adjustment by authority of the Board; and that Kelsi Jurik acknowledged the execution of said instrument to be the voluntary act and deed of said Board, by it and by them voluntarily executed.

Notary

My term expires: