

Board of Adjustment Minutes

November 6, 2024

Time of Meeting: 6:00pm

1. Call to Order/Roll Call

The Van Meter Board of Adjustment meeting was called to order at 6:00pm on Wednesday, November 6, 2024 by City Administrator Faust. Board Members Present: Dennis Carter, Brian Anderson, Jarin Young, and Tony Doremus. Staff Present: City Administrator Liz Faust, City Clerk Jess Drake and City Attorney John Fatino. Board Member David Lyons was absent.

2. Approval of Agenda

Carter moved, supported by Anderson to approve the agenda.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
Motion carried.

3. Closed Session Pursuant to Iowa Code Chapter 21.5(1)(c)

Anderson moved, supported by Carter to enter into closed session.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
City Clerk Drake noted that closed session began at 6:02p.m.

Young moved, supported by Doremus to exit from closed session.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
City Clerk Drake noted that closed session ended at 6:36p.m.

4. Adjournment

Carter moved, supported by Young to adjourn the meeting.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
Meeting adjourned at 6:37p.m.

PUBLIC MEETING

Governmental Body: Van Meter Board of Adjustment

Date of Meeting: Wednesday, November 6, 2024

Time/Location of Meeting: 7:00pm – 310 Mill Street (City Hall)

1. Call to Order/Roll Call

The Van Meter Board of Adjustment Public Meeting was called to order at 7:00pm on Wednesday, November 6, 2024 by City Administrator Faust. Board Members Present: Dennis Carter, Brian Anderson, Jarin Young, and Tony Doremus. Staff Present: City Administrator Liz Faust, City Clerk Jess Drake, Chief of Police Mike Brown and City Attorney John Fatino. Board Member David Lyons was absent. Public present: Owen Stump, Kim Shiner, Meghan Newton, Bart Jones, Kate Jones, Jeri Hudnut, Autumn Grolmus, Nancy Gruss, Nick Keifer and Joe Herman.

2. Approval of Agenda

Anderson moved, supported by Doremus to approve the agenda.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
Motion carried.

3. Approval of the Minutes from January 3, 2024

Carter moved, supported by Doremus to approve the minutes from January 3, 2024 as presented.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
Motion carried.

4. Public Hearing

Chief Brown read the City's Civility Statement. City Clerk Drake read the order of events for the public hearing as posted on the agenda. Anderson moved, supported by Carter to open the public hearing.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
The public hearing was open as of 7:02pm.

A. Variance Request

A variance request has been received from Paul & Chelsi Cunningham, owners of 2522 Brookview Court, Van Meter, IA 50261.

The property owners wish to keep 2 goats, defined as livestock in Iowa Code §717.1, on their property as their pets and support animals. The property is zoned "R-1" Single Family Residence District. Zoning districts are defined in the Van Meter Code of Ordinances, Chapter 165 Zoning Regulations. The only zoning district within the city limits of the City of Van Meter that permits livestock is the "A" Agricultural District which allows farming, dairying, poultry husbandry, and other allied agricultural operations as listed in §165.07.

FOR THE RECORD

Notice of Public Hearing was published in the Des Moines Register on Tuesday, October 29, 2024. The Notice was also posted at the Van Meter City Hall, Van Meter Public Library, Van Meter Post Office and electronically at www.vanmeteria.gov.

CITY REPORT

City Administrator Faust reviewed the variance request as well as provided a summary of the code sections regarding livestock in the City's Code of Ordinances.

APPLICANT REPRESENTATIVES

Paul Cunningham provided the original copy of a statement in support of keeping their pet goats to help with depression & anxiety. He also provided a copy of an article titled "Service and Emotional Support Animals under the Fair Housing Act and the Americans with Disabilities Act" from Equal Housing Opportunities dated June 2010. He also provided a copy of a screenshot from Facebook regarding the BoA Public Hearing that he understood to have had comments in support of the goats prior to being taken down. He reiterated that they consider the goats pets not livestock. He also stated that the Jones have a salt block on their property to attract deer despite having said to have an allergy to hooved animals.

WRITTEN COMMENTS RECEIVED BY CITY PRIOR TO HEARING

The City received a written recommendation from the City's Zoning Administrator that recommended not approving the variance. The City received a petition in September against allowing the goats with 20 signatures. The City received written communication with a medical note from the Jones'. The City received no additional comments after publication and posting the hearing notice.

Board Member Anderson stated that he had received several calls regarding the issue and he believes that support from animals is real.

Board Member Doremus stated that he received 1 call prior to the hearing from a resident who lives near 2522 Brookview and has no issues with the goats.

Board Members Young and Carter stated that they had received no comments regarding the issue.

PUBLIC INPUT

In Support:

Resident Kim Shiner of 115 – 2nd Avenue, Van Meter, IA spoke in support of the goats being allowed and that there are many kinds of allergies that people have to deal with.

Resident Owen Stump of 2518 Brookview Court, Van Meter, IA stated that he believes Cunningham's did their due diligence in checking city code as it relates to pets since they (and he) wouldn't classify the goats as livestock. He lives the closest and doesn't have an issue with the variance. They don't use the goats for cheese or milk. They are quieter than barking dogs. They don't smell bad; he knows that she cleans their pen. He also asked if any of the complainants had taken the time to introduce themselves to the Cunninghams.

Non-Resident Nick Keifer of 3030 Cumming Road, Van Meter, IA stated that he is the former owner of 2522 Brookview Court. He thinks that bees would be considered livestock and lots of people are allergic to bees but no one complained when a different neighbor had bees a few years ago. He thinks they should be able to keep the goats.

In Opposition:

Resident Kate Jones of 2677 Brookview Lane, Van Meter, IA stated that she does have an allergy to horses, did not say hooved animals & they do have a salt block on the far side of their property to keep the deer down there instead of coming up to the house to destroy plants & siding. She asked the board to uphold the code. She supports livestock but not in residential zoning. Their family has livestock 6 miles from their house and they would love to have them closer but they know they can't due to the zoning. She also stated that this is not a personal issue, it's about setting a precedent and what comes next.

Resident Autumn Grolmus of 2675 Jerry Circle, Van Meter, IA stated concerns with setting a precedence by granting permission after instead of proactively addressing the issue. She also stated that she feels bad that regardless of the decision at least one party is going to leave feeling hurt when the situation could have been avoided.

Resident Bart Jones of 2677 Brookview Lane, Van Meter, IA stated that he is in attendance in support of his wife but he also has concerns about what precedence this sets and what happens when the next neighbor or new homeowner wants to have an animal that is covered under the livestock definition?

Resident Jeri Hudnut of 213 Wilson Street, Van Meter, IA commented on the duty of a real estate agent is to check rules pertaining to this prior to sale of property. In addition, the general feeling of the realtors she talked to is that non-compliance to zoning codes creates decreases in property values.

Resident Meghan Newton of 5335 Katelyn Avenue, Van Meter, IA stated that she grew up in the country and does love animals but also understands the definition of livestock under the State of Iowa Code. Many other animals are considered pets not livestock. She also stated that the Fair Housing Act relates to rentals. She also stated that she checked Earlham & De Soto and neither town would allow this.

APPLICANT CLOSING SUMMARY

Chelsi Cunningham stated that if she had a closer option or family near that could take the goats she would move them but she doesn't. She takes care of them, they are clean, they aren't loud. Paul Cunningham stated that if they aren't allowed to keep them, they would need to be allowed time to relocate them.

CITY CLOSING SUMMARY

City staff provided no additional comment.

Carter moved, supported by Anderson to close the public hearing. Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
The public hearing was closed as of 7:36pm.

5. Discussion & Action by Board of Adjustment regarding the Variance Request as described in Agenda Item 3A

DISCUSSION

Board Members, Applicant Representatives, and City Staff discussed the variance request. Board Member Carter asked how long they have had the goats and how long they live. The applicant responded 5 years and up to 20 years. Board Member Doremus stated that he fosters dogs and understands the mental health benefits of animals.

Carter moved, supported by Young, to deny the request for variance based on the fact that goats are considered livestock and prohibited by the City Zoning Code and there are alternative animals that are allowed & could provide support.

On roll call, the votes were as follows: Carter – YES; Anderson – NO; Lyons – ABSENT; Young – YES; Doremus – NO.

The request for variance failed due to lack of support. City Staff will provide written documentation to the applicants including a time frame for relocation.

6. Adjournment

Carter moved, supported by Young to adjourn the meeting.

Carter – YES; Anderson – YES; Lyons - ABSENT; Young – YES; Doremus – YES.
Meeting was adjourned at 7:45pm.

Jessica Drake
City Clerk, City of Van Meter