

City of West Branch

~A Heritage for Success~

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ZONING BOARD OF ADJUSTMENT MEETING
Tuesday, December 2, 2014 • 6:30 p.m.
West Branch City Council Chambers, 110 N. Poplar St.
Council Quorum May Be Present

1. Call to Order
2. Introduction of new member – Kami Poppen
3. Roll Call
4. Approve special exception request from Mr. Joel Seiberling./Move to action.
5. Approve special exception request from Ms. Kathryn Cox./Move to action.
6. Discussion of draft Special Exception Form.
7. Discussion regarding specific conditions that the Board of Adjustment may include for special exception requests (Ordinance 725).
8. Adjourn

Board of Adjustment Members: Chair Craig Walker, Wilburn Bass, Jennie Embree, Wayne Frauenholtz, and Kami Poppen
Mayor: Mark Worrell • **Council Members:** Jordan Ellyson, Colton Miller, Brian Pierce, Tim Shields & Mary Beth Stevenson
City Administrator/Clerk: Matt Muckler • **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin
Parks & Rec Director: Melissa Russell • **Police Chief:** Mike Horihan • **Public Works Director:** Matt Goodale

Attachment A - Request for Special Exception - Seiberling (Home Occupation)

Dear Mr. Muckler,

I am requesting a special exception for home occupation per Section 165.26.2(B) of the City Code on my property at 211 N. 5th Street. The property is zoned R-1.

I wish to operate a digital textile printer for garment decoration. This is a small operation that fits in its entirety within the space defined below.

For competitive reason, I wish for as much business operation information as possible to be kept confidential, but am still happy to provide as many answers as you might need should I be granted a meeting with the Board of Adjustments. I also understand there is public dissemination of some of this information that is required by law.

The details of my request are as follows:

- 1) I currently reside at 211 N. 5th Street and this home occupation would be an accessory use to my residence in the property.
- 2) The home occupation would be carried on wholly within a completely enclosed building, my detached garage (24' x 48').
- 3) Not more than one-half of the floor area of any one floor or basement shall be used. I would utilize half of the garage space for my home occupation (24'x24').
- 4) I would have no additional employees other than myself.
- 5) To the point that the home occupation must be in keeping with the character of the neighborhood and must not materially depreciate property values, I add the following comments:
 - a. There will be no retail or store front customer traffic to the address.
 - b. There would be no signage or promotional displays of any kind on the property.
 - c. There would be semi-regular UPS or FedEx deliveries to the address, but would remain daytime delivery only and in quantities typical of a single trip with a hand cart or dolly.
 - d. The home occupation would have no environmental impact on the property.

Thank you in advance for your consideration.

Joel Seiberling

Attachment B - Request for Special Exception – Cox (Home Occupation)

Dear Mr. Muckler,

We are requesting a special exception for home occupation per Section 165.26.2(B) of the City Code on the property located at 136 W. Main St. The property is zoned R-2.

We wish to operate a virtual office of a law firm. This is a small operation that fits in its entirety within the space defined below.

The details of my request are as follows:

- 1) My brother would reside in the property at issue and this home occupation would be an accessory use to the property being used as residential property.
- 2) The home occupation would be carried on wholly within the residence.
- 3) Not more than one-half of the floor area of any one floor or basement would be used. As the office is virtual, i.e. no clients visit, all work would be done through a couple of desks and a few filing cabinets.
- 4) The employees in Iowa include myself (I reside at 478 280th St, WB, my brother, who would be living in the space, and my other brother who lives in IC. There will be no members outside the family working in the business in Iowa.
- 5) To the point that the home occupation must be in keeping with the character of the neighborhood and must not materially depreciate property values, I add the following comments:
 - a. There will be no retail or store front customer traffic to the address.
 - b. There would be no signage or promotional displays of any kind on the property.
 - c. There would be intermittent UPS or FedEx deliveries to the address, but would remain daytime delivery only and in quantities typical of a single trip with a hand cart or dolly, i.e. less traffic from UPS or FedEx than I receive at my own residence.
 - d. The home occupation would have no environmental impact on the property.
 - e. We plan on making improvements to the property which we have been told has had a history of questionable renters (thus, we would likely improve property values of the properties in the immediate vicinity).

Thank you in advance for your consideration.

Kathryn Cox
Bates & Bates LLC

Attachment C - DRAFT — Special Exceptions Form

The Board of Adjustment's (BOA) responsibilities are outlined in City Code 165.22 Powers of the Board. Specially, the BOA under 165.22 (3) Special Exceptions shall hear and decide applications for special exception as specified in this chapter and for decisions on any special exception questions upon which the Board of Adjustment is specifically authorized to pass.

To facilitate future requests for Special Exception — a Special Exceptions Form (Draft) is presented below for BOA discussion.

City of West Branch
Request for Special Exception to City Zoning Regulations

Requests for Special Exception to the City of West Branch Zoning Regulations may be made to the Zoning Board of Adjustment. Individuals requesting a special exception should familiarize themselves with the requirements as outlined under 165.26 - 165.29 - District Requirements (as applicable) and 165.04 - Definitions (as applicable)

Name _____
Address _____
E-mail _____
Phone _____
Zoning District _____

Describe in detail the special exception you are requesting.

Requests must be compatible within the area or character of the neighborhood — explain how your request meets this requirement.

Signature _____
Date _____

Board of Adjustment Action:
Date _____

Attachment D – City Code Section 165.22

165.22 POWERS OF THE BOARD. The Board of Adjustment shall have the following powers:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellants that there is error in any order, requirement, permit, decision, determination or refusal made by the zoning officer or other administrative official in the carrying out or enforcement of any provision of this chapter, and for interpretation of the Zoning Map.
2. Vote Required. The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order or decision of an administrative official.
3. Special Exceptions. To hear and decide applications for special exceptions as specified in this chapter and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
4. Variance. To hear and decide applications for variance from the terms of this chapter because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present.
 - A. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.
 - B. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this chapter.
 - C. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.
5. Financial disadvantage to the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
6. The Board does not possess the power to permit a use not generally or by special exception, permitted in the district involved.
7. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this chapter. Violation of any of these conditions or safeguards shall be deemed violation of this chapter.

Attachment E – City Code Subsections 165.04(25) & 165.26(2)B

165.04(25). “Home occupation” means an occupation or a profession which:

- A. Is customarily carried on in a dwelling unit or a building or other structure accessory to a dwelling unit or in a building or other structure accessory to a dwelling unit, and
- B. Is carried on by a member of the family residing in the dwelling unit for residential purposes, and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- D. Which conforms to the following additional conditions:
 - (1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto – and shall not occupy more than fifty percent (50%) of the floor area of one story.
 - (2) Not more than one person outside the family shall be employed in the home occupation;
 - (3) There shall be no display or indication visible from the exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building except as permitted by Section 165.38.
 - (4) No noise, vibration, smoke, dust, odors, heat or glare shall be produced which is detrimental to the residential character of the zoning district in which it is located.

165.26(2)B: Uses Allowed by Special Exceptions of the Board of Adjustment:

- B. Customary incidental home occupation which is carried on as an accessory use by one or more members of the family residing on the premises, and
 - (i) which shall be carried on wholly within a completely enclosed building;
 - (ii) in the activity not more than one-half of the floor area of any one floor or basement shall be used;
 - (iii) in the conduct of said activity not more than one person outside the family shall be employed; and
 - (iv) such customary home occupation must be in keeping with the character of the neighborhood in which located and must not materially depreciate property values in the immediate area. Such use must also satisfy the other regulations prescribed herein.

Attachment F – Ordinance 725

ORDINANCE NO. 725

AN ORDINANCE AMENDING CHAPTER 165 “ZONING REGULATIONS”

WHEREAS, the City Council of the City of West Branch, Iowa, has heretofore deemed it necessary and desirable to provide a process whereby the Zoning Board of Adjustment could allow uses by special exception under certain conditions.

NOW, THEREFORE, BE IT ORDAINED:

1. BE IT ENACTED by the City Council of West Branch, Iowa, that Chapter 165 “ZONING REGULATIONS” of the Code of West Branch, Iowa is hereby amended by adding the following subsection to Chapter 165:

165.26 A-1 District Requirements. Section 2. Uses Allowed by Special Exceptions of the Board of Adjustment.

165.26.2(I) Special requests not specifically covered in the City Code which are consistent with the Comprehensive Plan and not specifically prohibited in the Code may be approved upon request to the Board of Adjustment under the following conditions:

1. The request must be compatible within the area or character of the neighborhood.
2. The Board of Adjustment reserves the right to attach specific conditions to Special Requests it may approve.
3. Special requests may be granted for a specific period of time not to exceed three years.

2. This amendment to the ordinance shall be in full effect from and after its publication as by law provided.
3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
4. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any part, section, or provision thereof not adjudged invalid or unconstitutional.

Passed and approved this 2nd day of June, 2014.

First Reading: June 2, 2014
Second Reading:
Third Reading:

Colton Miller, Mayor Pro Tem

Attest:

Matt Muckler, City Administrator/Clerk