

# BOARD OF ADJUSTMENTS – Meeting Minutes

Meeting Date: April 20, 2026

Location: Audubon County Courthouse – Law Library

Board Members Present:      Todd Nelsen – Chairperson  
   Linda Kerkhoff – Vice-Chair  
   Abby Rasmussen  
   Mike Blum  
   Joseph Nelson

Others Present:                      Chad & Stacie Heuss, Property Owners  
   Greg Drake, Adjacent Landowner  
   Tiffany Henkle, Planning & Zoning Director

The meeting was called to order at 11:00 A.M. by Todd Nelsen, Chairperson.

Mike Blum made a motion to approve the agenda, and Joseph Nelson seconded the motion. All in favor.

It was determined that all five Board of Adjustment members were in attendance, therefore a quorum was present.

The meeting minutes from February 20<sup>th</sup>, 2026, were reviewed. Blum made a motion to approve the minutes, and Abby Rasmussen seconded. All in favor.

The group introduced themselves.

Henkle explained Chad & Stacie Heuss' situation and the variance request on front yard setback. Heuss' would like to add a 12' x 16' enclosed shed to be used to sell her baked items from. She explained this shed would be considered an accessory shed and per the ordinance not allowed in the front yard. She explained the original request was to have the shed placed in the State's ROW and State ROW Division was contacted and they confirmed it could not be placed in the ROW or they would remove it. She also explained how it was suggested that the shed be placed 50' from the ROW to be out of the front yard but that would place the shed very close to the garage of their house. Henkle stated the current

request is for the shed to be placed 10' from the front yard ROW line and 10' from the east side yard line.

Chad & Stacie Heuss explained to the group the shed would be used for Stacie to sell her baked goods from her baking business out of. She intends to have it be similar to a farmstand but with her baked goods. The shed will be hooked to electricity. They explained the location they are requesting is ideal to avoid people going into their back yard or across their yard to get to a side yard to pick items up and it would be right next to the driveway that people would be coming up.

The group discussed the large ROW, the angle at which the house sits, this being part of a small business and the length of the front yard line. Greg Drake, the adjacent landowner, was present and expressed several times he doesn't have a problem with the proposed location of the shed but requested nothing closer than 5' from the side yard line. He asked clarifying questions about front yard, side yard and accessory buildings. Henkle explained the difference, referred to the ordinance, and gave the definitions per the ordinance.

Joseph Nelson made a motion and Linda Kerkhoff seconded that granting this front yard and side yard setback variance would not adversely affect the public as stated in Article 25. All in favor.

Nelson motioned to grant the variances with the following conditions. The front yard setback can be less than 50' but not less than 10' and the side yard setback can be less than 10' but not less than 5'. Rasmussen seconded. All in favor.

The group discussed the process of this moving forward to be reviewed by the Board of Supervisors who can't change the ruling but can send them back to the Board of Adjustment to be reviewed again.

Nelson motioned to post the decision to the Audubon County website and on the bulletin board in the Courthouse. Kerkhoff seconded the motion. All in favor.

Meeting was adjourned at 11:34 A.M.

  
Todd Nelsen (May 1, 2020 09:41:23 PDT)

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BOA Chairperson – Todd Nelsen

Attest by:   
Tiffany L. Henkle (May 1, 2020 09:50:18 CDT)

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Tiffany L. Henkle – Planning & Zoning Director

**BELOW INFORMATION IS FOR USE BY THE BOARD OF ADJUSTMENT AND ZONING ADMINISTRATOR:**

Questions to Consider When Testing the Legality of an Application for Variance:

- ✓ **Has unnecessary hardship been proven by the applicant:**
  - Mere inconvenience to the applicant is not sufficient grounds for "unnecessary hardship".
  - Inability to put the property to its most profitable use does not constitute "unnecessary hardship".
  - The problem must be a very real hardship and not just a perceived one.
  - A strict application of the provisions of the Zoning Ordinance will preclude its use for any purpose to which the land is reasonably adapted.
  - The premises cannot be used in a manner permitted by the Zoning Ordinance unless the adjustment is granted.
  - Value alone is not the proper criteria in determining "unnecessary hardship".

The burden of proof of "unnecessary hardship" rests upon the applicant and, without such proof, an adjustment must be denied. Also, the hardship must be created by the ordinance, not by the applicant themselves. If the applicant has made improvements to the property in violation of the Zoning Ordinance, either willfully or innocently, the hardship was created by the applicant and an adjustment may not be granted.

- ✓ **Has the public interest been served?**
  - There is not an explicit definition of a "public interest", but the Board of Adjustment may not grant a variance if the action will injure or endanger other property or persons. Will the variance devalue nearby property?
- ✓ **Is the purpose and intent of the Ordinance and Comprehensive Plan upheld?**
  - The Board of Adjustment must assure that granting the adjustment will not be contrary to the general land use plan or other elements of the Comprehensive Plan. The Board's actions should never knowingly destroy the provisions of the Ordinance but take steps to assure itself that its action is compatible with the Ordinance.
- ✓ **Has substantial justice been done?**
  - In its decision on appeal or variance, it is the duty of the Board of Adjustment to see that decisions are comprehensive and adequate enough to fulfill a fairness standard.

**APPROVED**

**The above application has been:**

Approved  Denied



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Signature of Board of Adjustment Chairperson

4-20-26

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Date