

STAFF REPORT

Application:	Request for conditional use permit for the construction of a commercial storage building in a A-1 zoning district.
Applicants/Property Owners:	Mark and Susan Schuler
Agenda Item:	5(a)

Background Information:

Proposal: The Schulers are proposing to build a new 36' x 40' storage structure on their 19.4 acre property. There were previously two other structures built on the property in accordance with conditional use permits issued for commercial and manufacturing usage in 2018 and 2020 by Pope County. A CUP to allow a third building was approved in 2021. These facilities are all part of manufacturing furniture and cabinetry, distributed to veterans as part of a nonprofit enterprise.

The property is partly in the Shoreland-Natural Environment District due to its proximity to a pond and partly in the Non-Intensive Agricultural (A-1) zoning district. In the A-1 district, usage for manufacturing and related purposes is only allowed as a conditional use in Glenwood Township. There is no record of prior approvals from Glenwood Township for a conditional use permit.

The storage structure meets setbacks and other Township ordinance requirements. The only decision needed is regarding the conditional use permit request.

While a building permit that would allow the construction of the new storage structure in the new location proposed has been issued by Pope County, the project has been deferred until a decision is made concerning a conditional use permit from Glenwood Township.

Location:

- Property address: 17673 State Hwy 55
- Sec/Twp/Range: 35-125-37
- Parcel number(s): 09-0451-600

- **Zoning:** Shoreland-Recreational Development, Non-Intensive Agricultural (A-1)
- **Lot size:** Approx. 19.38 acres.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain.
 - Bluff/Steep Slopes: The lot does not contain a bluff or steep slopes.
 - Wetlands: There does not appear to be any wetlands that would impact this proposal.

Planning Commission Direction: The Planning Commission may recommend to approve the conditional use request(s), deny the request(s), or table the request(s) if the Commission should need additional information from the applicant. If the Commission should approve or deny the request, the Commission should state the findings which support either of these actions.

Staff Comments:

- 1) In order to grant a conditional use, the Township needs to find that a property owner has met the criteria established in the Township Ordinance (state law does not identify any required criteria for conditional use permits and leaves that up to local governments). In making its decision, the Township will need to state its "findings of fact" indicating why those criteria have been met or not met and as such, why the conditional use request should be approved or denied. If approved, the Township may attach conditions to the approval as may be necessary to protect the best interest of the surrounding area or the community as a whole.

Staff Recommendation: Based on the relevant findings of fact noted below, Staff recommends Township approval of the requested conditional use permit to allow for the manufacturing usage and the storage structure as proposed. Conditions may be considered.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact (Conditional/Interim Use): The following findings of fact that would support either approval or denial of the use permit are presented by Staff for consideration:

- 1) **The proposed use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area.**

Findings Supporting Approval

The proposed usage would not have a significant added impact on public facilities and utilities.

Findings Supporting Denial

None.

- 2) **The proposed use shall be compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.**

Findings Supporting Approval

This usage is not anticipated to depreciate or deter from the value and usage of adjacent properties and nearby areas.

Findings Supporting Denial

None.

- 3) **The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.**

Findings Supporting Approval

The proposed use of the site as a shop area with added living space will not have an adverse impact on nearby properties.

Findings Supporting Denial

None.

4) The proposed use is reasonably related to the existing land use.

Findings Supporting Approval

The usage proposed is consistent with the existing nearby usage.

Findings Supporting Denial

None.

5) The proposed use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

Findings Supporting Approval

The purpose of the Agricultural District is to establish uses compatible with agricultural production. The usage proposed is not incompatible with nearby A-1 usage.

Findings Supporting Denial

None

6) The proposed use is not in conflict with the Land Use Plan of the Town.

Findings Supporting Approval

The proposed usage is not in conflict with the policies and goals of the Township's 2021 land use plan.

Findings Supporting Denial

None

7) The proposed use will not cause traffic hazards or congestion.

Findings Supporting Approval

The usage will post any traffic hazards.

Findings Supporting Denial

None.

Appendix A

Applicable Statutes and Ordinances

Glenwood Township Zoning Regulations

ARTICLE V: NON-INTENSIVE AGRICULTURE DISTRICT (A-1)

1. Non-Intensive Agriculture District.

The purpose of the Non-Intensive Agriculture District (A-1) is to provide a buffer to separate more intensive agricultural production practices from incompatible recreational, residential, commercial or industrial uses. Residential development within this area is discouraged. In the Non-Intensive Agriculture District (A-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

2. Permitted Uses.

The following uses are allowed within the Non-Intensive Agriculture District (A-1) as a matter of right:

- (A) Accessory On-Farm Enterprise (AOFE).
- (B) Accessory Solar Energy Systems: Agricultural/Farm Use.
- (C) Accessory structures.
- (D) Agricultural buildings.
- (E) Single-Family Dwelling (frame or manufactured homes) and their accessory buildings located on one agricultural farm. A conditional use permit shall be required when the number of single-family dwellings per farm exceeds two (2).
- (F) Agricultural, horticultural, aquacultural and silvicultural activities including the pasturing of domestic livestock and exotic animals and birds, and existing animal feedlots. A conditional use permit shall be required for all new and expanding feedlots.
- (G) Farm drainage systems, flood control and watershed/erosion control devices meeting all County, state and federal minimum regulations.
- (H) Temporary or seasonal roadside stands with adequate off-street parking, not to exceed one stand per farm.
- (I) Forest and game management areas.
- (J) Existing golf courses and other similar commercial recreational facilities characterized by significant open or green space.
- (K) Antennae when mounted on a rooftop or along a building or other structure.
- (L) Home occupations.
- (M) *Guest cottage or guest quarter.*

- (N) *Vacation rental use.*
- (O) *Parks and playgrounds.*
- (P) *Recreational camping vehicles used for seasonal, intermittent recreational or guest use.*
- (Q) *Special events with a capacity of less than two hundred (200) people.*
- (R) *Non-commercial storage of uninhabited recreational camping vehicles, which are owned by the property owner or immediate family members of the property owner.*

3. Conditional Uses.

The following uses may be allowed in the Non-Intensive Agriculture District (A-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Accessory On-Farm Enterprise (AOFE)
- (B) Manufacturing/Processing-light.
- (C) Single family dwelling. More than two (2) single family dwelling units, provided a six (6) acre minimum lot size, located on an agricultural farm
- (D) Educational institutions and incidental uses when situated on the same site or unit of property.
- (E) Game farms, shooting ranges and commercial hunting establishments.
- (F) Home occupations.
- (G) Motor vehicle salvage facility.
- (H) Cemeteries.
- (I) Restaurants, convenience stores, gas stations, on/off sale liquor sales.
- (J) Solid waste processing facilities and sanitary landfills provided they meet all applicable County and state laws.
- (K) Non-farm single-family residential dwelling units to be placed or constructed on land which is woodland, is fallow, or is otherwise untilled or unsuitable for raising crops and which is located as near as practical to existing non-farm residential development, provided, however, that the construction of non-farm single-family residential structures is prohibited if the proposed structure will result in more than two residential structures (farm or non-farm) being located within any division, subdivision, or other "split" of any quarter quarter section (40 acres plus or minus fractional amounts to account for survey anomalies, loss to public roadway use, etc.). Prior to the issuance of a conditional use permit for a non-farm dwelling, the owner of the property shall be required to sign a statement of acknowledgement containing an "Acknowledgement of Agriculture Protection Zone Designation" disclosure. The acknowledgement shall be on a form provided by the Zoning Administrator and made available to the public. The disclosure forms shall be on file in the Town Hall.

- (L) Residential Planned Unit Developments provided that they are partially within or adjacent to a shoreland or residential district and are so laid out as to keep the depth of extension from the boundary of that district into the A-1 district to a minimum. A person who applies for a residential planned unit development shall, not later than ten business days after the application is submitted, provide notice to each owner of agricultural real property within 5,000 feet of the perimeter of the proposed development. The notice may be delivered by first class mail, in person, or by publication in a newspaper of general circulation within the affected area and must include information on the number of residential units. This notice shall not be required if Minnesota Statutes, section 394.305 is repealed subsequent to the effective date hereof.
- (M) New or expanded golf courses and other similar commercial recreational facilities characterized by significant open or green space provided that they are partially within or adjacent to a shoreland or residential district and are so laid out as to keep the depth of extension from the boundary of that district into the A-1 district to a minimum.
- (N) Seasonal structures used for “hunting shacks” and not used for extended occupancy.
- (O) Other uses of the same general character as those listed above, provided that their uses are not more concentrated or intensive than the uses listed above, produce no greater impact on the neighborhood than those listed above, and are not incompatible with existing adjacent uses.
- (P) Towers.
- (Q) Motor vehicle salvage facility.
- (R) Municipal wastewater treatment facilities.
- (S) A temporary single-family dwelling unit that is to be located within 300 feet of the existing residence for the purpose of home healthcare of immediate family member or seasonal worker housing. An annual inspection is required to validate applicable status.
- (T) Solar Energy Systems: Solar Garden equal to or less than one (1) MW, subject to ordinance standards.
- (U) Solid waste processing facilities and sanitary landfills provided they meet all applicable County and State laws.
- (V) New or expanded feedlots requiring a permit or agreement under Minnesota Pollution Control Agency rules or a Verification of Compliance from Pope County with a capacity of up to 200 animal units.
- (W) Commercial storage units.

4. Interim Uses.

- (A) A temporary single family dwelling unit that is to be located within 300 feet of the existing residence for the purpose of home healthcare of immediate family member.
- (B) Accessory On-Farm Enterprise (AOFE)
- (C) Mining and extraction
- (D) Non-confinement feeding areas
- (E) Seasonal worker housing.
- (F) Energy Systems: Solar Garden or Farm.
- (G) Special events with a capacity of more than two hundred (200) people
- (H) Vacation rental properties

5. Minimum Lot Area for Lots/Structures.

Farm Residence	3 acres
Preserved Farm Homestead	3 acres
New Residence	3 acres

6. Setbacks.

Side Yard Setback:	10 feet
Unplatted cemetery:	50 feet
From Centerline of Public Roadways classified as:	
Arterials	225 feet
Major Collectors	150 feet
Minor Collectors	125 feet
From Centerline of Town Roads and all other legal roads or streets not classified as an arterial or collector:	100 feet
Reciprocal Feedlot Setbacks: These setbacks apply to new structures or uses and do not apply to modifications or additions to established uses. Residential structures which serve farm property upon which feedlots are located are exempt from these requirements. Setbacks which apply across district boundaries shall be governed by the requirements of the district which provide for the largest setback. In all instances involving the setback of a residential use from a feedlot or a feedlot from a residential use, the setbacks shall be consistently applied in a manner which produces a reciprocal setback between the two uses. This section shall not limit the authority of the county to require separation between a planned agricultural development and a residential use	

greater than the provisions governing setbacks in the general districts as set forth below.

<u>Structure or Use</u>	<u>Setback From</u>	<u>Setback</u>
Non-Farm Residence	Feedlot	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Farm Residence	Feedlot	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Feedlot	Residence	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Feedlot	Hospitality Business	1000 foot minimum setback increasing at the rate of four feet for each animal unit in excess of 50
Hospitality Business	Feedlot	1000 foot minimum setback increasing at the rate of four feet for each animal unit in excess of 50

In the case of an unpermitted feedlot, the setback shall be estimated based upon the size and number of animals reported by the feedlot operator or observed by others, whichever is larger.

New feedlots in this district are also subject to 500 foot minimum setback, increasing at the rate of an additional two feet for each animal unit in excess of fifty, from any boundary which separates the district from a general shoreland district, general residential district, or municipality.

Notwithstanding the foregoing, the Town may grant a conditional use permit for the construction of a residence or establishment of a feedlot which does not meet the setback requirements provided that the permit is conditioned upon the applicant obtaining a covenant from the owner of record of each existing use from which the proposed use must be set back, which waives the protection of the setback and consents to the applicant's proposed use. The covenant must be in recordable form and binding on the grantor's heirs and assigns, and must be recorded by the applicant before the conditional use permit is effective.

The reciprocal setbacks established by this subpart shall not apply to feedlots which have been unused or abandoned for five years or more and also shall not apply to residential structures which have not been used as dwellings or otherwise used for human habitation for five or more years.

- 7. **Lots of Record.** Lots located in the County Recorder's office prior to December 31, 1999, which are located in an A-1 district and which do not meet the requirements of this section may be allowed as building sites provided:
 - (A) Such use is permitted in the zoning district;

- (B) The lot is in separate ownership from abutting lots or lands prior to December 31, 1999; and
- (C) All sanitary and setback requirements of this ordinance are complied with.

8. Existing Building Sites.

Existing building sites which are split from properties and converted to non-farm residential uses after the date hereof shall be nonetheless be deemed a lot of record provided the minimum lot size established for the district is met.

ARTICLE XII. ZONING REQUESTS

1. Conditional and Interim Use Permits.

(A) Description:

- i. A Conditional Use Permit (CUP) or Interim Use Permit (IUP) shall be required for the establishment of each use permitted by ordinance as a CUP or IUP. An IUP may be granted in lieu of a CUP to regulate land use activities that the Glenwood Township Board, at its sole discretion, determines should be permitted for a limited duration.
- ii. Expansion of a permitted CUP/IUP shall require an amendment to the CUP/IUP, except that minor development activities determined by the Administrator to not increase the scale or intensity of the CUP/IUP may be allowed with the issuance of a Land Use Permit.
- iii. An interim use is granted to a particular individual or other applicant and does not accrue to the subject property.
- iv. Structures and other improvements allowed by interim use shall be of a size and nature such that they can be easily removed from the property or will conform to zoning regulations for permitted or conditional uses should the Interim Use Permit expire.

(B) Criteria for Granting Permits. In determining whether to grant a conditional or interim use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall consider the following criteria in determining whether to approve a permit request:

- i. The use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area;
- ii. The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that

existing property will not be depreciated in value and there will be no deterrence to development of vacant land;

- iii. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties;
- iv. The use, in the opinion of the Planning Commission and Town Board, is reasonably related to the existing land use;
- v. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
- vi. The use is not in conflict with the Land Use Plan of the Town; and
- vii. The use will not cause traffic hazards or congestion.

(C) **Conditions of Approval.** In permitting a new conditional or interim use or the alteration of an existing conditional use, the Planning Commission may recommend, and the Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interest of the surrounding area or the community as a whole. These conditions include, but are not limited to, the following:

- i. Increasing the required lot size or yard dimension;
- ii. Limiting the height, size or location of buildings;
- iii. Controlling the location and number of vehicle access points;
- iv. Increasing the road width;
- v. Increasing the number, size, location or lighting of signs;
- vi. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- vii. Designation of open space;
- viii. Annual review if deemed appropriate by the Town Board; and
- ix. Such other conditions as deemed necessary to eliminate or reduce the negative impacts of the use.

(D) **Procedure.**

The following requirements are for Conditional or Interim Use Permit applications where applicable:

- i. Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- ii. The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and application fee.

- iii. The Zoning Administrator shall refer the application to the Planning Commission for review.
- iv. The Planning Commission shall hold a public hearing on the application. At least ten (10) days' published notice shall be provided of the public hearing. The Planning Commission shall forward its recommendation to either deny or approve the conditional use permit to the Town Board together with any recommended conditions. The Town Board will take final action on the request. A written record of conditions of approval shall be made at the time of the decision by the Town Board.
- v. The applicant or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use;
- vi. If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- vii. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- viii. No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of denial.
- ix. Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, where applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.
- x. If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution of the Town Board to that effect.
- xi. All conditional use permits that are granted by the Town Board must be recorded at the office of the Pope County recorder at the applicant's expense.
- xii. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.
- xiii. A certified copy of any Conditional or Interim Use Permit shall be filed with the County Recorder for record. The Conditional or Interim Use Permit shall include the legal description of the property involved.
- xiv. Any conditional or interim use shall comply with all reasonable conditions deemed necessary to protect the public health safety, and general welfare. In connection with ordering the issuance of a conditional or interim use permit

the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. Interim use permits will be limited to a specific timeframe or event, may be terminated by a change in zoning regulations and may require an annual inspection fee if deemed necessary by the Board.

- xv. Should there be any cause for revocation of a Conditional or Interim Use Permit, as in the case of violation of a conditional requirement, the Administrator shall require a hearing on revocation of said Conditional or Interim Use Permit. The hearing shall be conducted under the same procedures specified above. If the matters of concern are not resolved at the hearing or subsequent thereto, a Conditional or Interim Use Permit may be revoked and the use for which the permit was originally issued shall cease. Each Order of the Board which revokes a Conditional or Interim Use Permit shall be effective upon adoption or such other date as the Board may specify and shall be promptly recorded in the office of the Pope County Recorder upon it taking effect.
- xvi. A Conditional or Interim Use Permit shall take effect upon recording and shall be in effect perpetually or for a shorter period as fixed by the Board unless revoked by the Order of the Board for failure to observe conditions or other violations of law provided that nothing in this section shall prevent the Board from enacting or amending official controls to change the status of conditional or interim uses.
- xvii. In the event that there is a need to renew a Conditional or Interim Use Permit, the Planning Commission shall review the request for renewal under old business and may decide to: either renew or extend the validity of said permit, or schedule a public hearing on the question of whether the permit shall be renewed.
- xviii. No application for a Conditional or Interim Use Permit shall be resubmitted for a period of 1 year from the date of said order of denial.
- xix. An Interim Use Permit shall terminate on the happening of any of the following events, whichever comes first:
 - (a). The date or event stated in the permit.
 - (b). Upon violation of conditions under which the permit was issued.
 - (c). Upon change in the County's zoning regulations where the use is no longer permitted.
 - (d). The Interim Use Permit shall expire if the approved use is inactive for one year or longer as determined by the Administrator and/or tax records indicating the use was inactive.
- xx. Granted Interim Use Permits shall become void if the applicant does not proceed substantially on the work within one year of the date the permit is granted. To proceed substantially means to make visible improvement to the

property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Town Board may at their discretion grant an extension of not more than one year in order to establish the use.

- (E) **Amended Conditional or Interim Use Permit.** Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.