

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, DECEMBER 20, 2022
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Leo Splonskowski, Tim Brendemuhl, Travis Bouton

Members Absent: Dennis Loock

Others Present: Matthew Jacobson, Katie Stock, Erika Franck, Rita Rueckert,

The meeting was called to order at 5:30 PM by Chair Ezra Baer

APPROVAL OF AGENDA:

On motion by Tim Brendemuhl, seconded by Leo Splonskowski, and unanimously carried, the Board approved the meeting Agenda.

APPROVAL OF MINUTES OF SEPTEMBER 20, 2022:

On motion by Leo Splonskowski, seconded by Travis Bouton, and unanimously carried, the Board approved the Minutes from September 20, 2022.

PUBLIC HEARING(S):

STRATA CORPORATION – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance from the Clay County Development Code to the property line setback standards for aggregate mining on parcel 17.015.2000, part of the SE1/4 of the SE1/4 of Section 16, Township 141N, Range 45W, Keene Township.

On motion by Tim Brendemuhl, seconded by Travis Bouton, and unanimously carried, the public hearing was opened.

Matt Jacobson, Planning & Zoning Director, advised that this Variance request is to the extraction standards of 8-6 16B-3L-1 pertaining to property line setbacks for an aggregate extraction use. The parcel is in Keene Township on the east side of CSAH 27, north of Highway 26. Zoning is Agricultural General (AG), General Floodplain, Resource Protection-Aggregate (RP-Agg), Resource Protection-Biological (RP-Bio) and Shoreland: Special Protection. The Floodplain, RP-Bio and Shoreland: Special Protection are associated to the presence of Felton Creek.

Policy Considerations from the Comprehensive Plan include:

- **Natural Resources-Aggregate Resources**
Goal 2: Foster a balanced approach to aggregate resource extraction that is compatible with the natural resources and the rural character of Clay County.
 - Objective A: Require adequate buffering and landscaping for new mining operations when adjacent to existing residential areas as well as when an existing operation expands or is substantially modified and would negatively impact existing land uses in the surrounding area.

The request is to request permission to mine to the north property line which is within 100 feet of the property line setback of the adjacent parcel 17.015.1000 owned by Brady and Leslie Braseth, and this request is a 100% reduction from 100 feet to 0-foot setback.

The Clay County Standards state:

- Clay County Code Section 8-6-16B-3L-1: One hundred feet (100') from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a Variance is granted from the Board of Adjustment.

Applicant did get written consent from the landowner from the north and they also received consent from the landowner on the land they are mining on.

Applicant has identified Practical Difficulty/Hardship as: Strict interpretation of the existing setback requirement at the project area results in valuable reserves being left behind.

Haul road is a private road and is completely contained on the landowners property.

Jesse Johanson of Strata Corporation states that valuable materials would be lost within the 100-foot setback. Mr. Johanson clarified that there are 2 Rodewald pits, and the pit for the hearing in question is the most recent pit opened and was permitted in 2019.

On motion by Tim Brendemuhl, seconded by Travis Bouton, and unanimously carried, the public hearing was closed.

The Findings of Fact and Order were addressed by the Board of Adjustment as they pertain to the requested permit. Any items of concern may be addressed through Conditions.

On motion by Leo Splonskowski, seconded by Travis Bouton, and unanimously carried, the Board of Adjustment *GRANTED* the Variance with the following condition:

- Applicant must operate within the provisions of the Clay County Land Development Ordinance and within the determinations of the 7 items reviewed within the Findings of Fact and Order.

STRATA CORPORATION – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance from the Clay County Development Code to the road right of way and property line setback standards for aggregate mining on parcel 17.016.4500, the SE1/4 of the SE1/4 of Section 15, Township 141N, Range 45W, Keene Township.

On motion by Tim Brendemuhl, seconded by Leo Splonskowski, and unanimously carried, the public hearing was opened.

Matt Jacobson, Planning & Zoning Director, advised this request is on the other side of CSAH 27 than the previous hearing. The parcel is 112 acres and is zoned Agricultural General (AG), Resource Protection-Biological (RP-Bio), and Shoreland: Special Protection.

Policy Considerations from the Clay County Development Code are the same as the previous hearing:

- **Natural Resources-Aggregate Resources**

Goal 2: Foster a balanced approach to aggregate resource extraction that is compatible with the natural resources and the rural character of Clay County.

- Objective A: Require adequate buffering and landscaping for new mining operations when adjacent to existing residential areas as well as when an existing operation expands or is substantially modified and would negatively impact existing land uses in the surrounding area.

The request being made is for permission to stage equipment and stockpile material; to mine into the road right-of-way setback which is 100 feet. Clay County Code Section 8-6-16B-3L-2 states:

- Two hundred feet (200') from the right-of-way of existing roads and highways.

Applicant is requesting a 50% reduction of the right-of-way setback from 200-feet to 100-feet. reduce request of 50%. They would like to be able to utilize approximately four acres that remains unreclaimed and to avoid disturbing or re-opening any reclaimed areas. This would assist the landowner with having greater area available for agricultural production. Keene Township has identified 120th Ave as a minimum maintenance road; this road is not a through road and does not get much traffic from the general public. Keene Township has not offered any opinion on this hearing.

Jesse Johanson of Strata Corporation advised the road is maintained by Strata, and the landowner and Strata are the only people using this Township road. He states it has been approximately a year since they last used that road. Director Jacobson pulled up an area map and the roads in that area were discussed. It does not appear that 120th Avenue would ever be upgraded.

On motion by Travis Bouton, seconded by Tim Brendemuhl, and unanimously carried, the public hearing was closed.

Staff recommended minimum conditions include:

1. Operate within provisions of the Clay County Land Development Ordinance.

The Findings of Fact and Order were addressed by the Board of Adjustment as they pertain to the requested permit. Any items of concern may be addressed through Conditions.

On motion by Tim Brendemuhl, seconded by Travis Bouton, and unanimously carried, the Board of Adjustment *GRANTED* the Variance with the following conditions:

- Applicant must operate within the provisions of the Clay County Land Development Ordinance and within the determinations of the 7 items reviewed within the Findings of Fact and Order.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Meetings calendar for 2023 was reviewed and copies provided to the Board of Adjustment members.

ADJOURNMENT:

On motion by Tim Brendemuhl, seconded by Travis Bouton, and unanimously carried, the meeting was adjourned at 5:59 PM.

A handwritten signature in black ink, appearing to read 'Ezra Baer', is written over a horizontal line.

Ezra Baer, Chair
Clay County Board of Adjustment