

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, APRIL 18, 2023
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Leo Splonskowski, Dennis Loock, Travis Bouton

Members Absent: Tim Brendemuhl

Others Present: Matt Jacobson, Michael Leeser, Erika Franck, Justin Sorum, Rita Rueckert, Steff Basgaard, Joel Baer, Jadee Baer

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

APPROVAL OF AGENDA:

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

APPROVAL OF MINUTES OF DECEMBER 21, 2022:

On motion by Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the Board approved the Minutes from December 21, 2022.

At this time, Chair Ezra Baer recused himself from the hearing due to conflict of interest. Leo Splonskowski took over as interim Chair for the hearing portion of the meeting.

PUBLIC HEARING(S):

KNIFE RIVER MATERIALS – REQUEST FOR VARIANCE

The applicant is seeking approval of variance to the property line setback shared with Parcel 17.014.4000 on Parcel 17.014.3000 in part of the SW1/4 of Section 14, Township 141N, Range 45W, Keene Township.

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

Matt Jacobson, Planning & Zoning Director, advised the request includes a variance to mine and stockpile within the setback between the two parcels, as well as a hot asphalt plant within the property line setbacks.

Policy Considerations from the 2045 Comprehensive and Transportation Plan: Natural Resources and the Environment – Aggregate Resources Goals and Objectives were reviewed:

Land Use: Agricultural

- #1 Recognize and Protect the agricultural character of Clay County.
- b. Protect prime agricultural soils from commercial, industrial and residential development.

Transportation: Freight

- #1 Support the movement of freight across Clay County roadways.
 - a. Coordinate with local jurisdictions and use proper planning and zoning methods to locate industrial and commercial developments on or near roadways that can handle heavy commercial truck traffic.
 - b. Monitor seasonal freight traffic, commodity movement, FM Diversion construction traffic, and associated transportation infrastructure to ensure safe and efficient operation of the system. Prepare for increased maintenance along roadways with heavy commercial truck traffic.

Natural Resources and the Environment: Aggregate Resources

- #1 Recognize the importance of aggregate resources to Clay County and the region.
 - a. Continue to protect quality aggregate resources from the encroachment of incompatible residential, commercial, and industrial development.
 - b. Implement policies and standards to ensure sound stewardship of aggregate resources and natural biotic resources.
- #2. Foster a balanced approach to aggregate resource extraction that is compatible with the natural resources and the rural character of Clay County.
 - 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.
 - d. Consider the cumulative impacts of existing nearby mining operations for new and expanding operations on the environment, agricultural lands, residential areas, and transportation infrastructure.

The property is located in Keene Township in northeast Clay County. There are several zoning districts located within this parcel with the main one being Resource Protection – Aggregate Overlay District. All other zoning districts border the north property line and include General Floodplain, Shoreland, Resource Protection-Biological; and they lay outside of the proposed area.

Policy Considerations reviewed from the 2012 Development Code Standards for Aggregate Mines and Asphalt Batch Plants include:

Clay County Code Section 8-6-16B-3I-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.

Clay County Code Section 8-6-18A: Setbacks: Redi-mix cement plants, asphalt batch plants and Associated processing facilities and structures shall be setback the following distances:

- 1. Three hundred feet (300') from the boundary of adjoining property lines.

The batch plant property line setback is 300 feet but will likely be within 50 feet from the property line for the batch plant. Mining setback request is for 100% reduction. Adjacent property owners have given their approval of this request. The application states that the location was chosen for its access to future projects within the County.

Allowing this request will move the activity farther from the Resource Protection-Biological and Shoreland Special Protection Rivers and Streams Zoning Districts.

Access was discussed and determined it would be a field approach in the southeast corner of the property onto 120th Avenue North.

Applicant has identified the Practical Difficulty as follows:

- The applicant states that strict interpretation of the existing setback requirement at the project area would result in a considerable amount of quality aggregate being left. The failure to optimize the aggregate reserves equates to higher production costs, which ultimately results in higher costs for local consumers.

The Applicant was asked if he wished to speak on this matter and he stated he felt Director Jacobson had done a good job in presenting the case.

On motion by Dennis Loock, 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.

Staff proposes the following Recommended Minimum Conditions:

1. Mining and mining activities can occur within the 100' setback of the eastern property line up to zero feet (0') from the property line.
2. The Asphalt Batch Plant and associated activities can be placed within the 300' setback of the eastern property line.

On motion by Travis Bouton, seconded by Dennis Loock, and unanimously carried, the Board of Adjustment *GRANTED* the Variance(s) as requested and with no conditions.

Chair Ezra Baer returned to the meeting.

UNFINISHED BUSINESS:

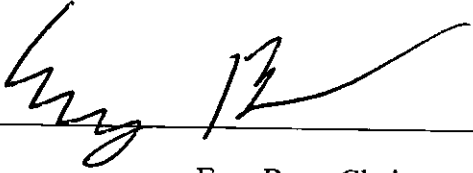
None

NEW BUSINESS:

- Director Jacobson indicated he will keep seeking out training opportunities for the members of the Board of Adjustment.
- Director Jacobson advised that the Planning Commission Agenda later this evening includes looking at updating the Development Code. The current code is over 10 years old and there have been many changes within the County within that time. It is felt that the Development Code should be easier to understand, conflicts should be addressed, and other areas also require more information included. There was discussion regarding some of the topics that should be included for review. The State allows a local entity to be more restrictive than the State statutes, but it is not allowed to be less restrictive. Director Jacobson indicated that the Planning Commission will most likely be asking for a representative from the Board of Adjustment to be part of this future process and planning.

ADJOURNMENT:

On motion by Dennis Looch, seconded by Travis Bouton, and unanimously carried, the meeting was adjourned at 5:51 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