

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, MAY 16, 2023
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Ezra Baer, Leo Splonskowski, Dennis Loock

Members Absent: Tim Brendemuhl, Travis Bouton

Others Present: Matt Jacobson, Rita Rueckert, Erika Franck, Jesse Johanson, William Briss

The meeting was called to order at 5:32 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 APRIL 18, 2023:

On motion by Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the Board approved the Minutes from April 18, 2023.

PUBLIC HEARING(S):

STRATA CORPORATION – REQUEST FOR VARIANCE

The applicant is seeking approval of variance to the property line setback shared with Parcel 14.007.1600 on Parcel 14.007.0200 in part of the W1/2 of Section 7, Township 140N, Range 44W, Highland Grove Township.

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

Matt Jacobson, Planning & Zoning Director, advised this is an after-the-fact request for a variance to the property line setback, specifically for stockpiling, for the east property line and up to 30 feet from that property line. The property is zoned Ag General and does have Shoreland-Special Protection and Shoreland: Special Protection-Low Development.

2045 Comprehensive Plan Goals considerations reviewed were:

Land Use: Agricultural

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

Natural Resources and the Environment: Aggregate Resources

- #1 Recognize the importance of aggregate resources to Clay County and the region.
 - a. 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. Consider the cumulative impacts of existing nearby mining operations for new or expanding operations on the environment, agricultural lands, residential areas and transportation infrastructure.

The Development Code Section 8-6-16B-3I-1 stipulates 100 feet 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. The Applicant is requesting permission to stockpile topsoil and overburden up to 30 feet from the eastern property line. This would be a 70% reduction of the setbacks and permission has been secured from the adjacent property owner.

Applicant states practical difficulty as: Strict interpretation of the existing setback requirement at the project area would result in a considerable amount of quality aggregate would be unavailable to mine if the topsoil and overburden stockpiles were placed on the top of the aggregate reserve instead of outside the aggregate reserve and within the 100-foot setback requirement. Applicant also has constraints by the Shoreland-Special Protection zoning.

Applicant Jesse Johansen of Strata Corporation advised that the location of their current piles is 30 feet and states that allows them access to get through the berm area to spray. He states that the pit was opened in approximately 2020 and only a small portion of the product has been removed.

Staff recommendations include working through the Findings of Fact and Order with no recommended conditions.

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

BRIAN & CATRINA GULLICKSON – REQUEST FOR VARIANCE

The applicant is seeking approval of variance to the road setback on Parcel 13.008.3301 in part of the SW1/2 of the SE1/4 of Section 8, Township 139N, Range 45W, Hawley Township.

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

Matt Jacobson, Planning & Zoning Director, advised this is a setback for a structure from the centerline of 12th Avenue which is a township road. The parcel is 1.39 acres in size. Distance reduction requested is to be reduced from 125 feet to 65 feet from the centerline, which is a 48% reduction. There is currently a manufactured/mobile home on the property. The setback Variance being requested is the same distance as the current mobile home location. The Applicant is looking to remove the mobile home and build a 6-bedroom slab-on-grade residence approximately 45'x55' with attached garage. The home will have 3 bedrooms for the caretakers' family which is the landowner's daughter, and an additional 3 bedrooms for

supervised adult foster residents. Most residents are wheelchair bound and require single level living for accessibility. The applicant plans to install a new septic system by a licensed septic installer.

Goals from the 2045 Comprehensive and Transportation Plan reviewed include:

Housing –

1. Support additional options that give people all life stages and of all economic means viable choices for safe, stable, and affordable homes.
2. Promote a diverse housing supply to provide residents with a range of housing options for those in need.

Land Use: Residential –

- 2 Provide opportunities for quality rural residential development in Clay County.

Zoning –

The subject property is zoned Agricultural General and Floodplain Fringe. All immediately Adjacent properties are zoned Agricultural General and Resource Protection: Aggregate.

A discussion with the County Environment Health Director Kent Severson advises that Buffalo River Excavating will be doing the septic and both Mr. Severson and Buffalo River Excavating feel an adequate septic system will be challenging but workable on this site. Hawley Township also had the same concerns. Applicants will also need to meet with Hawley Township for Variances.

Applicant contends that strict interpretation of the code would make their lot basically unbuildable as their lot is only approximately 160' x 360' with two road setbacks to work within. Aerial images showing the property and surrounding area were reviewed. The lot is really wide and shallow. There is drainage along the north side of the property and there have been discussions with the Buffalo Red River Watershed to re-route this drainage and this will allow more space for the septic.

Chair Baer advised that this area of 12th Avenue is a minimum maintenance road and is self-maintained. The current mobile home was grandfathered in as a legal non-conforming structure as it does not meet the current road centerline setbacks.

Applicant was not present for the hearing and they were given notice of the hearing date and time.

On motion by Dennis Loock, seconded by Leo Splonskowski, 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 Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the Board of Adjustment *GRANTED* the Variance as requested and with the following condition:

1. Structure may not be any closer than 65 feet from roadway centerline.

UNFINISHED BUSINESS:

Project management and tasks were discussed for the implementation of the Development Code update. The committee would be approximately a 3-meeting commitment. There is a request for a member of the Board of Adjustment to have representation on this committee. Since Chair

Ezra Baer will be involved in this committee as representative of the Planning Commission, it is requested another Board of Adjustment member be considered. It was recommended that Leo Splonskowski be appointed to this committee for August and November, and Dennis Loock would be an alternate for the February meeting.

NEW BUSINESS:

None

ADJOURNMENT:

On motion by Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the meeting was adjourned at 6:05 PM.



Ezra Baer, Chair
Clay County Board of Adjustment