

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, DECEMBER 19, 2023
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Travis Bouton, Ezra Baer, Dennis Loock

Members Absent: Leo Splonskowski, Tim Brendemuhl

Others Present: Matt Jacobson, Erika Franck, Luke Lippert

Call to Order:

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

APPROVAL OF AGENDA:

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

APPROVAL OF MINUTES OF NOVEMBER 21, 2023:

On motion by Dennis Loock, seconded by Travis Bouton, and unanimously carried, the Board approved the Minutes from November 21, 2023.

PUBLIC HEARING(S):

CENTRAL SPECIALTIES INC. – REQUEST FOR VARIANCE

The applicant is seeking approval of an after-the-fact variance for existing gravel mining activities within the 100-foot property line setback shared by three parcels: the SE1/4 SW1/4 & W1/2 SE1/4, Parcel ID: 24.025.3400, the NE1/4 SE1/4, Parcel ID: 24.025.4100, and the SE1/4 SE1/4, Parcel ID: 24.025.4400 of Section 25, Township 138N, Range 44W, Parke Township.

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

Matt Jacobson, Planning & Zoning Director, stated that the request is to continue to mine within the 100-foot property line setbacks. The following policy considerations from the 2045 Clay County Comprehensive Plan were reviewed:

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.

These parcels are predominantly agricultural, commercial (wind energy) and industrial (gravel mining/batch plant). A Conditional Use Permit was granted in 1995. An Interim use permit for a 39-acre mine and a use permit for an asphalt batch plant were granted in 2021. The property is currently used for agriculture and aggregate mining. There is an asphalt batch plant operating temporarily on the SE-most parcel. Zoning on the three parcels is Agricultural General (AG), Resource Protection-Aggregate (RP-Agg) and Resource Protection-Biological (RP-Bio).

This request is for an after-the-fact Variance from the Clay County Standards for Extractive Use setbacks for storage of excavated materials:

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

The applicant is requesting an after the fact variance to allow for mining operations to continue among property lines shared by these three parcels, which are all owned and mined by the same people. The owner and operator do have a business relationship.

The mining has encroached upon the interior property lines. This was discussed at the October 21, 2021 Planning Commission public hearing and the parties were told they would need to either combine the parcels or request a Variance. They have now chosen to request a Variance.

There is currently a new area of encroachment on the property line on the north south property line between parcel 24.025.3400 and 24.025.3500. There is no mining currently permitted for parcel 24.025.3500. The current mine size is less than 30 acres. It was clarified that the Variance is only for the interior property lines of the 3 parcels which have shared common ownership and operator.

Luke Lippert of Central Specialties clarified that the request is for the interior property lines and up to the property line of the fourth parcel that is currently being encroached, and that if they determine in the future that they desire to mine on the 4th parcel (24.025.3500), they know they need to request an Interim Use Permit for that.

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

Staff recommends the following minimum conditions:

- Property line setback encroachments apply on

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 Travis Bouton, seconded by Dennis Loock, and unanimously carried, the Board of Adjustment *GRANTED* the Variance with the following condition(s):

1. Property line setback encroachments apply only to the following parcels:
24.025.3400 (The W1/2SE1/4 and the SE1/4SW1/4 of Section 25, Township 138, Range 44, Clay County), 24.025.4400 (The SE1/4 of the SE1/4, Section 25, Township 138 N, Range 44 W, Clay County), and 24.025.4100 (NE1/4 of the SE1/4, Section 25, Township 138 N, Range 44 W, Clay County), between property lines shared under common ownership.
2. Mining activity occurring on Parcel 24.025.3400 within the NW1/4 of the SE1/4 of S25, T138N, R44W, can occur up to but not through the property line shared with Parcel 24.025.3500, the N1/2 of the SW1/4, unless an Interim Use Permit for gravel mining is granted for Parcel 24.025.3500.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

There was a meeting last week with the Study Review Committee. The majority of the discussions were regarding feedlots and animal husbandry on residential parcels. Future discussions will include the Renewable Energy and what uses are permitted in each of the zoning districts.

ADJOURNMENT:

On motion by Travis Bouton, seconded by Dennis Loock, and unanimously carried, the meeting was adjourned at 5:47 PM.



Ezra Baer, Chair
Clay County Board of Adjustment