

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, JANUARY 23, 2024
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Ezra Baer, Tim Brendemuhl, Dennis Loock

Members Absent: Leo Splonskowski, Travis Bouton

Others Present: Matt Jacobson, Michael Leeser, Erika Franck, Rita Rueckert, Jim Rentz, Brandie Doll, Joel Paur

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

APPROVAL OF AGENDA:

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the Board approved the meeting Agenda. The Fillbrandt hearing has been postponed to February 20, 2024.

APPROVAL OF MINUTES OF DECEMBER 19, 2023:

On motion by Dennis Loock, seconded by Tim Brendemuhl, and unanimously carried, the Board approved the Minutes from December 19, 2023.

PUBLIC HEARING(S):

MARK & PAMELA FILLBRANDT – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the access setback for an Agricultural Service Establishment from a nearby residential access at 12150 70th ST. N., Felton, MN on Parcel ID: 22.016.3001 in part of the W1/2 SW1/4 SW ¼, Section 16, Township 141N, Range 47W, Morken Township. **Postponed to February 20, 2024**

BORDER STATES PAVING, INC – REQUEST FOR VARIANCE

The applicant is seeking approval of variance to the road right-of-way setback of 290th St. S. and 112th Ave S. and to the property line setbacks for gravel mining and a batch plant on Parcels 24.035.4500 and 24.035.1800 in the N1/2 SE1/4 and the E1/2 NE1/4, Section 35, Township 138N, Range 44W, Parke Township.

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

Matt Jacobson, Planning & Zoning Director, stated this Variance request is a bit complex as the two setbacks involving the 100-foot property line and the 200-foot road right-of-way are both after-the-fact requests; and the asphalt batch plant placement within 300-feet from the property line is a new request.

Policy considerations from the 2045 Comprehensive Plan include:

Natural Resources and the Environment: Aggregate 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 first request is an after-the-fact Variance to the property line and road right of ways, asking to allow mining at the property line shared by these two parcels, and also for a right-of-way setback from 290th Street and also 112th Avenue. Both parcels have the same owner.

The parcels are both zoned Agricultural General (AG), Resource Protection - Aggregate (RP-Agg), and Resource Protection – Biological (RP-Bio). All adjacent parcels are zoned AG and RP-Agg. The current use on these two parcels is agricultural, commercial (wind energy), industrial (gravel mining) and native prairie. There have been multiple Use Permits issued for mining on the two parcels:

Parcel 24.035.1800

2005 CUP for a 15-acre gravel mine

2010 CUP to re-establish a 15-acre gravel mine

2013 IUP for a 63-acre gravel mine (Environmental Assessment Worksheet completed)

2017 IUP for temporary placement of an Asphalt Batch Plant

Parcel 24.035.4500

2013 IUP for a 63-acre gravel mine (Environmental Worksheet completed)

2017 IUP for temporary placement of an Asphalt Batch Plant

The first request is to mine through the property line shared between parcels 24.035.1800 and 24.035.4500 and to reduce the right of way (ROW) setback to 50-feet from 112th Avenue South and 290th Street South.

The second request is to reduce the 300-foot property line setback to 0 for the asphalt batch plant.

An aerial map of the property showed practical difficulty would be a narrow 200-foot buffer running east to west between the gravel mine on each parcel, leaving valuable gravel material inaccessible. For the road right-of-way (ROW) setback the practical difficulty would be that mining operations would have to shift and there would be a significant loss of material. Strict interpretation of the existing setback requirements for property lines would disrupt operations.

The After-The-Fact Variance Criteria were reviewed:

1. Whether the construction was complete.
2. Whether there are similar structures in the area.
3. The benefit to the municipality of enforcement, compared to the burden on the appliance if the compliance was required.
4. Whether the violation was intentional or unintentional.

Ezra Baer clarified that they are not asking for a variance for the road setback for the batch plant; Director Jacobson stated it appears they will be able to meet that setback. Chair Baer stated

Jim Rentz stated that they have had a good working relationship with the neighbor Marvin Spillum and they wish to continue that relationship. Chair Baer advised that there will be a condition on the Permit

stating that there needs to be a signed letter from the owner Spillum agreeing to the requested variances to the property lines. Jim Rentz stated they would get that letter.

There has been no input from the Township regarding these requests.

On motion by Dennis Loock, seconded by Tim Brendemuhl, 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.

Minimum Staff recommended conditions:

1. Mining activities can occur no closer than 50-feet from the road right of ways of 290th Street and 112th Avenue.

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the Board of Adjustment *GRANTED* the Permit with the following conditions:

1. Mining activities can occur no closer than 50-feet from the road right of ways of 290th Street and 112th Avenue.
2. The 50-foot setback is from the ROAD RIGHT OF WAY and not from the road centerline.

UNFINISHED BUSINESS:

- Director Jacobson advised that there is an update to the 2024 Meeting Calendar and that the June 2024 meeting will be held on the 4th Tuesday due to conflict with the Board of Equalization meeting on the 3rd Tuesday.

NEW BUSINESS:

- Mileage reimbursement increased to \$.67 on January 1, 2024.
- Tim Brendemuhl's first term will be expiring in February 2024.

ADJOURNMENT:

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the meeting was adjourned at 5:48 PM.



Ezra Baer, Chair
Clay County Board of Adjustment