

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
6:30 PM, TUESDAY, MARCH 22, 2016
MEETING ROOM B, CLAY COUNTY COURTHOUSE

Members Present: Pamela Harper, Paul Krabbenhoft, Amos Baer, Perry Bushaw, Greg Anderson

Members Absent: none

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, David Sogn, Jeff Rehder, Josh West

On motion by Greg Anderson, seconded by Perry Bushaw, and unanimously carried, the Board approved the agenda as written.

On motion by Paul Krabbenhoft, seconded by Greg Anderson, and unanimously carried, the Board approved the minutes from February 23, 2016 as written.

SUMMIT SAND AND GRAVEL (ROBT FLATEN) – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to allow operation of a gravel mine as close as zero (0) feet from an adjoining property line. The Clay County Land Development Code requires a setback of at least one hundred (100) feet from mining operations to an adjoining lot line. The affected property is located in the SE¼ of the E½ of the NE¼, Section 25, T138N, R45W (Skree Twp.) in the Agricultural General (AG) zoning district.

On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board opened the public hearing.

Tim Magnusson, Planning Director, provided an aerial view of the property where the applicant intends to mine. Last year the applicant received a variance on the adjacent property to the east and a condition that mining into that setback could not be started until a variance on this adjacent property was also approved. Mining on the property to the west (Swenson) was set for a maximum of 30 acres. This site would be to mine 17 acres. The sites are under separate ownership, but would be connected. The intent of requiring a 100-foot setback from an adjacent property is to allow the appropriate grading and sloping of a mined area during reclamation. In this case, the adjacent property will also have a gravel mine. If both operations met the required setback there would be a 200- foot wide strip between the pits that could not be mined. The variance would allow for the most efficient use of such mines, as long as both land owners agree to it and that a joint mining reclamation plan is established. The same haul road that does not pass any residences would be used.

The variance would allow the applicant to recover as much resource as possible and not leave an un-farmable 200-foot strip between two gravel mines. If no variance is granted the applicant would not be allowed to mine a substantial deposit of the gravel reserves located on the property resulting in a loss not only to the company, but also to the surrounding communities where the aggregate products will be used. Magnusson stated that variances may be granted when the applicant establishes that there are practical difficulties in complying with the official control.

Greg Anderson asked about the total size of the project and if there were any negative comments. Magnusson noted that no comments came into the Planning office. Krabbenhoft confirmed that they would still meet the standard setback on the south side of the property. Magnusson noted that he usually uses the same end date that is on the company's lease with the landowner, and two years beyond for reclamation. It's generally been ten years. The older permits were issued as Conditional Use Permits and some of them did not have end dates. By ordinance, if there is inactivity for 12 consecutive months or more, they should be coming in for a new permit. A reclamation bond is now one of the regular conditions on the Interim Use Permits.

The applicant, Dave Sogn (Operations Manager for Summit Sand & Gravel), stated that he has had a reclamation clause written into every lease agreement. Mining on the site would not affect the areas with vegetation. They intend to mine as deep as 25 feet. The landowners want their land back in workable condition. The gravel at this site tends to be spotty. They would not have over 40 acres open at one time. They have leases in place for both properties. One of the trees out there died, but the ones that are still living will remain untouched. There is clay before you get to the trees anyway. They plan to "reclaim as they go" in a cost saving effort.

On motion by Greg Anderson, seconded by Paul Krabbenhoft, and unanimously carried, the Board closed the public hearing.

Anderson commented that this is actually the second part of what was approved last year and he didn't see any reason for holding it up.

On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board approved the request from Summit Sand and Gravel for a variance to allow the mining of gravel up to the western property line, on property located in the SE¹/₄ NE¹/₄ Section 25 Skree Twp, due to practical difficulties and with the following condition(s):

- 1) Both property owners (Flaten and Swenson) must present a signed and notarized agreement stating that they approve of the proposal, to allow mining up to the property line. Provide copies to the Planning Office;**
- 2) No mining in the 100-foot setback area shall take place until an IUP for mining is issued on the Flaten property (SE¹/₄NE¹/₄).**
- 3) No mining in the 100 foot setback area shall take place until a joint reclamation plan (intended to cover both the Swenson and Flaten pits) is developed, submitted, and approved by the Planning Office.**

After some discussion on changing the time for future Board of Adjustment meetings, there was a decision made to start future meetings at 5:30 p.m.

On motion by Perry Bushaw, and seconded by Paul Krabbenhoft, the meeting was adjourned at 5:50 p.m.