

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, JUNE 22, 2021
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Bill Davis, Ezra Baer, Perry Bushaw, Paul Krabbenhoft

Members Absent: Tim Brendemuhl

Others Present: Matt Jacobson, Mark Sage (by telephone), Erika Davis, Rita Rueckert, Caitlyn Hurlock, Frank Schindler, Cheryl Schindler, Ashley Kimm, Benjamin Kimm, Barbara Kimm, Brian Kimm, Dan Moore

The meeting was called to order at 5:30 PM by Chair William Davis. Roll call was taken for this meeting.

APPROVAL OF AGENDA:

On motion by Ezra Baer, seconded by Perry Bushaw, and unanimously carried, the Board approved the meeting Agenda.

APPROVAL OF MINUTES MAY 18, 2021:

On motion by Paul Krabbenhoft, seconded by Ezra Baer, and unanimously carried, the Board approved the Minutes from May 18, 2021.

PUBLIC HEARING(S):

FRANK AND CHERYL SCHINDLER – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the residential density standard of Clay County Development Code to allow the construction of a third residential dwelling in the NE1/4 of the SE1/4 of Section 36, Township 137N, Range 46W, parcel: 02.036.4101 in Barnesville Township.

On motion by Ezra Baer, seconded by Perry Bushaw, and unanimously carried, the Board opened the public hearing.

Matt Jacobson, Planning & Zoning Director, stated this is south of Barnesville and is currently hay land. It is zoned Agriculture General with surrounding property Ag General and Resource Protection – Aggregate. Criteria for granting a Variance were reviewed.

Policy considerations from the Comprehensive Plan include:

Land Use Goal #2: Support the long-term protection of agriculture in the County.

- Policy #1 Recognize and support the agricultural character of the County in all planning efforts.

Land Use Goal #3: Plan for the orderly and efficient growth of residential development in the County.

- Policy #1: Encourage residential growth to occur in an orderly and compact manner in and around cities within the Planned Urban Growth Areas so that new developments can be

effectively served by public utilities and the character and quality of the county's agricultural areas can be maintained and enhanced.

Development Code Considerations were reviewed for density. This request is to allow for the establishment of a third dwelling in the quarter-quarter. There is currently one residence in the quarter-quarter. The Applicant is proposing to split the 14-acre lot into two (2) seven-acre lots to be developed for residential.

The property is currently used for agriculture, and there is a storage shed located on the property. There are mature trees going through the middle of this parcel and also two other rows of younger trees. The quality of soils would make this difficult to farm as they are not prime farmland.

A map was reviewed showing all current residences along 180th Street in the area.

Staff recommendation is to approve the Variance to allow placement of the third residential dwelling in a quarter-quarter section for the following reasons: size of parcel, placement of trees and quality of soils are not suitable for agriculture, placement of additional residential dwellings would match the essential character of the surrounding locality, and the property is near the City of Barnesville. There have not been any opinions received from the City of Barnesville or the Township of Barnesville.

Ezra Baer clarified that the Applicant could place a second residence, but they need the Variance to allow the parcel to be split for development of each half. Perry Bushaw asked about the split occurring north/south or east/west. The split would occur east/west, so each parcel has adequate access to 180th Street.

Applicant Frank Schindler stated they have owned the property for about 10 years, and they put a shed on it to hold some of their items as the property around their residence is wet in the spring. He states that the parcels will be 900 feet deep and would have 330 feet of road frontage. He states there are currently no services on the property. Electricity is available along the roadway but has not been brought into the property. Mr. Schindler advises he is on the Township board, and he has shared his plans with them. He also has discussed approaches from the roadway with the Township board and states nobody has brought any concerns to him. Matt Jacobson advises there currently is one approach and there is adequate space to place another approach there.

Paul Krabbenhoft asked what the practical difficulty would be for addressing this situation. Director Jacobson advises that the size of the parcel would make farming it difficult, placement of trees and the quality of soils are not suitable for agricultural use on this parcel.

On motion by Ezra Baer, seconded by Perry Bushaw, 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. There are no identified Conditions.

Practical difficulties were identified as: Size of parcel is not of adequate size for agricultural use; Soils are not of agricultural quality; and the placement of trees would make farming a parcel this size difficult.

On motion by Paul Krabbenhoft, seconded by Ezra Baer, and unanimously carried, the

Board of Adjustment *GRANTED* a Variance to allow a third residence within a quarter-quarter.

BEN AND ASHLEY KIMM – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the residential density standard of Clay County Development Code to allow the construction of a second residential dwelling in the Resource Protection – Aggregate Zoning District and to the feedlot setback for a residential dwelling in the NW1/4 of the Section 24, Township 137N, Range 44W, parcel: 28.024.2000 in Tansem Township.

On motion by Ezra Baer, seconded by Perry Bushaw, and unanimously carried, the Board opened the public hearing.

Matt Jacobson, Planning & Zoning Director, showed this property is located in the southeast corner of Clay County in Tansem Township. Zoning for the property includes Agricultural General (AG), Resource Protection-Aggregate (RP-Agg) and Resource Protection-Biological (RP-Bio) on the western half of the parcel. There are no other residences within 2400 feet around this feedlot, which is for the most part unconfined. Each criteria for granting a Variance was reviewed.

Policy Considerations from the Comprehensive Plan are:

General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business and recreation, while maintaining and enhancing its livability.

- Policy #1 Promote the development and implementation of a Comprehensive Plan that effectively plans for agricultural protection, land use, transportation, housing, economic development and environment protection for Clay County.

Land Use Goal #2: Support the long-term protection of agriculture in the County.

- Policy #1 Recognize and support the agricultural character of the County in all planning efforts.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

- Policy #8 Strengthen the county's land use ordinances related to feedlots in a manner that allows these uses in the agricultural areas, while protecting groundwater and surface water resources and mitigating potential adverse effects on surrounding properties.

Development Code Considerations discussed were reducing the required setback from an animal feedlot to a residence. In the RP-Agg zoning district there is a density standard of one (1) residence per quarter-quarter.

The Applicant would like to build a second residential dwelling in a quarter-quarter and within the 1000-foot confined feedlot setback and the 1,320 (1/4 mile) unconfined feedlot setback. They would then split the parcel to allow a new parcel for the new residence. This is a 5th generation dairy farm and Applicants will eventually take over the operation from the parents. The closest neighboring residence is over 2,400 feet from the feedlot, and feedlot is registered and in compliance with state and local controls.

Practical difficulties identified:

- Applicant needs to be close to the feedlot operation due to calving, feeding, etc.
- Building sites within the parcel are limited due to trees, terrains, soils, existing feedlot/farming operations

Parcel is located within the RP-Agg Zoning District; however, aggregate potential on this parcel is very limited.

Staff recommendation is to allow placement of the second residential dwelling within the quarter-quarter in RP-Agg, and within the 1320-foot feedlot setback. Any future dairy operator would also want to reside near their livestock.

Perry Bushaw asked if any future buyers of the newly created parcel would be aware of the feedlot Variance situation and Director Jacobson advised that the Variance would go on in perpetuity. Mr. Jacobson stated that financial lenders are wanting to split residential lending from agriculture business lending.

Ben Kimm stated that he and his wife will be taking over the farm from his parents. The distance to the barn would be a hardship for the dozen or more trips between the barn and residence if the house would be placed at the required setback. They have 72 head in the milk herd and others young in the dry.

There were no comments received from neighbors or others in the audience.

On motion by Paul Krabbenhoft, seconded by Ezra Baer, 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. All the items can be addressed without Conditions.

Practical difficulties were identified as: limited suitable building sites on the property due to trees, terrain, soils and existing farming operations; Applicant states moving the house further away from the barn and farming operation would create a hardship by causing extra distance for the multiple daily trips between the barn and residence; lenders are asking for residential lending be separated from agriculture business lending.

On motion by Ezra Baer, seconded by Paul Krabbenhoft, and unanimously carried, the Board of Adjustment *GRANTED* a Variance to build a second residence in the quarter-quarter within the setback of the feedlot.

STRATA CORPORATION – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the sign setback standard of Clay County Development Code to allow the placement of a sign within the sign setback in Block 1 Lot 2 of the M.I.G South Subdivision in Section 17, Township 138N, Range 48W, parcel: 19.055.0020 in Kurtz Township.

On motion by Ezra Baer, seconded by Perry Bushaw, and unanimously carried, the Board opened the public hearing.

Matt Jacobson, Planning & Zoning Director, states that this is a ready-mix industrial operation south of Moorhead in a Highway Commercial Zoning District. Surrounding properties are also Highway Commercial (HC) and Agricultural General (AG).

Policy Considerations from the Comprehensive Plan:

General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business, and recreation, while maintaining and enhancing its livability.

- Policy #1 Promote the development and implementation of a Comprehensive Plan that effectively plans for agricultural protection, land use, transportation, housing, economic development and environmental protection for Clay County.

The Applicant requests to place a sign for their redi-mix concrete plant approximately 8-10 feet from the wet's die yard property line and 30 feet from the centerline of 82nd Avenue South. Eighty-second Avenue South virtually ends at their property. The request is to reduce

Development Code Considerations were reviewed pertaining to signs.

8-3-13L. Limits on Location: The following limits on location shall apply to all signs, permitted and temporary:

1. Setbacks: All signs shall conform to the yard setbacks for structures for the zoning district within which the sign is located.
2. Road Right of Way: No sign except as erected by an official unit of government for the direction of traffic or necessary public information shall be permitted within the right-of-way of any public road.

The dimensional standards for Highway Commercial are outlined in 8-5G-3 of the Clay County Land Development Code.

B. Yard Requirements:

1. Minimum Lot Width: Every lot shall have a width of not less than one hundred feet (100') abutting a public right of way.
2. Front Yard Regulations: There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.
3. Rear Yard Depth: There shall be a rear yard having a depth of not less than forty feet (40')
4. Side Yard Width: There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG or UED District.

An aerial of the property was reviewed showing the property and the location of the Applicant's proposed sign placement.

Identified practical difficulty is that the 24-foot side yard property line setback and the 50-foot road centerline setback would create a narrower turning radius for trucks entering or existing the property. There is also an electrical transformer that serves the property which interferes with the sign placement.

Staff recommendation is to approve the Variance to allow placement of a sign within the side yard and road centerline property setbacks to allow for traffic to safely enter and exit the property so long as the sign conforms to the 8-3-13 of the Clay County Development Code pertaining to sign size conformity.

A picture of the proposed sign was reviewed which was provided by the applicant.

Mark Sage from Strata was present on the phone. He has approached Paradigm regarding placing the sign on their property for putting a co-op sign there, but the setbacks would not work for that location. He also has talked to MN DOT regarding sign placement off the right-of-way of Highway 75 South. Large semis would have difficulty with turning radius if the sign were placed at the setback. Perry Bushaw asked Applicant if there were plans to illuminate the sign and Applicant stated they do not plan to illuminate the sign. The sign would be 5 feet wide by 18-foot-tall frame, 6 feet in the ground and could

be moved if needed. There is also a transformer on an adjacent property with a power line running through the property along the side yard setback line.

Dan Moore is a neighbor residing at 8046 14th Str S, Moorhead, and had questions about future use of this property now that it is being used by Strata and not Knife River. Mark Sage advised that the current use as a concrete batch plant is the only plans they have for this property at this time.

On motion by Ezra Baer, seconded by Perry Bushaw, 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. There were no items requiring conditions.

On motion by Ezra Baer, seconded by Paul Krabbenhoft, and unanimously carried, the Board of Adjustment *GRANTED* a Variance to allow sign placement at 6-10 feet of the west property line and an 8-10 feet setback from center line and 30 feet from the centerline of 82nd Avenue South.

Practical difficulties were identified as: Safety of truck traffic; Power/utility line at the 40-foot mark making sign placement difficult.

UNFINISHED BUSINESS:

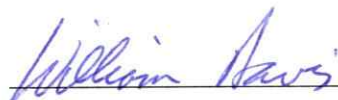
- **Matt Jacobson – Clay County Comprehensive Plan Update:** The next Study Review Committee will be held July 12th. Metro COG has been gathering information from the meeting processes and putting together a plan to proceed forward.

NEW BUSINESS:

- **Matt Jacobson: Reversion to Pre-Covid Minnesota Public Meeting Law**
All meetings will be reverting to pre-Covid rules. The rules of notification were reviewed. Any member wanting to attend a future meeting virtually, they must provide the address of the location they will be attending from, and that address must be included in the public hearing notice placed in the newspapers and that location must be open to anyone wanting to attend the meeting.

ADJOURNMENT:

On motion by Paul Krabbenhoft, and seconded by Ezra Baer, and unanimously approved, the meeting was adjourned at 6:25 PM.



William Davis, Chair
Clay County Board of Adjustment