

**MANITOWOC COUNTY BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES**

March 21, 2016

A meeting of the Manitowoc County Board of Adjustment was called to order by Chairperson Bonde at 7:00 P.M. on Monday, March 21, 2016 in the Manitowoc County Office Complex, 4319 Expo Drive, Manitowoc, WI 54220.

The roll was called by the secretary. Members present: Earl Glaeser, Ralph Schuh, Charlie Nate, Laurel Vondrachek and Orville Bonde. Staff present: Reed Gaedtke.

A motion was made by, Mr. Glaeser, seconded by Ms. Vondrachek to approve the January 18, 2016 meeting minutes. Upon vote, the motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.

A motion was made by, Mr. Schuh, seconded by Mr. Nate to approve the March 14, 2016 onsite meeting minutes. Upon vote, the motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.

A motion was made by, Ms. Vondrachek, seconded by Mr. Glaeser to approve the agenda for the March 21, 2016 meeting. Upon vote, the motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.

Mr. Gaedtke explained the procedure that would follow. He also stated that within 10 days of the closure of this meeting, copies of the decisions will be delivered to the applicants.

Chairman Bonde informed the audience during public input each person would be limited to five minutes.

New Business

Manitowoc County – Owner of property located at 3500 STH 310, in the NE¼, SW¼, Section 36, T20N-R23E, Town of Kossuth, Manitowoc, County, Wisconsin, tax parcel number (007-036-009-001.00); wherein a variance is being requested to excavate sand, gravel and rock at 25 feet from the adjacent north property lines located in an ID, Industrial, S1, Shoreland zoned district.

Chairperson Bonde opened the public hearing for Manitowoc County.

Mr. Gaedtke read the reason for the appeal (copy on file).

Mr. Nate read the application (copy on file).

The Board asked Mark Holsen, County Highway Commissioner, if there was anything to add to the appeal and he stated there was not.

Ms. Vondrachek questioned how much deeper they would consider going.

Mr. Holsen stated he would not go deeper and they have 140 feet of material to the north.

Mr. Schuh had questions about the current depth and the distance between the County and Holschbach pit.

Mr. Holsen stated the current depth is 63 feet and the distance between County and Holschbach pit is 25 feet off the county property line.

The Board asked how far off the Carmeuse Lime and Stone property line.

Mr. Holsen stated 140 feet.

The Board asked if there will be blasting.

Mr. Holsen responded yes.

James Froelich, Supervisor #1, for the Town of Kossuth, spoke stating the Town is not taking a position on the request.

People in attendance in support of the request: none.

Mr. Steve Holschbach, property owner to the east stated he was unaware of the east property line location and wanted to know where it was.

Mr. Holsen provided Mr. Holschbach with the GIS map of the location.

People in attendance opposed to the request: none.

Mr. Gaedtke read an email from DNR representative, Dale Rezabek stating the DNR had no comments regarding the request (copy on file).

Mr. Gaedtke read a letter from Carmeuse Lime and Stone, property owners to the north opposing the request due to safety concerns for their employees and equipment on their property.

There being no further comments, Chairperson Bonde closed the public hearing for Manitowoc County.

Deliberation

Motion by: Mr. Schuh to postpone so the Highway Department can obtain more input from Carmeuse Lime and Stone regarding their safety concerns.

Second by: Ms. Vondrachek

Upon vote: The motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Melnik Presbyterian Church – Owner of property located at 12320 Melnik Rd., in the NE¼, SE¼, Section 31, T21N-R23E, Town of Gibson, Manitowoc, County, Wisconsin, tax parcel number (006-031-013-001.00); wherein a variance is being requested to construct a 16' x 28' entrance addition at 48 feet from the centerline of Melnik Rd. in a RR, Rural Residential zoned district.

Chairperson Bonde opened the public hearing for Melnik Presbyterian Church.

Mr. Gaedtke read the reason for the appeal (copy on file).

Mr. Nate read the application (copy on file).

The Board asked if there was anything to add to the appeal.

Mr. Glen Christel, representative of the church spoke to the Board and stated the church needs easier accessibility.

Mr. Phil Kenzel, pastor of the church spoke in support of the request. He stated the entrance is critical to allow for handicap accessibility for their aging congregation and the community.

Mr. Harold Just stated he is in favor of the request and needs to have an easier access into the church.

Mr. Ricahrd Wegner, Town of Gibson Chairperson spoke stating the Town is in favor of the request.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Gibson in favor of the variance request.

There being no further comments, Chairperson Bonde closed the public hearing for Melnik Presbyterian Church.

Deliberation

Motion by: Mr. Glaeser to approve the variance request.

Reasons for approval:

1. The church has existed for years without any problems and the addition will not be any closer to the road than the existing church.
2. The ordinance setback creates a burden for the church and would prevent them from constructing the needed entry addition for their aging congregation and handicapped members.
3. The church, which is currently located within the road setback, along with the small lot size, create a hardship for the applicant by limiting their construction area.

Second by: Ms. Vondrachek

Upon vote: The motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.

Badgerland Aggregates LLC – Owner of property located off of CTH X, known as “X Pit”, in the NW¼, SW¼, Section 9, T17N-R22E, Town of Meeme, Manitowoc County, Wisconsin, tax parcel number (012-009-010-000.00) wherein a conditional use permit and variances are being requested to expand an existing sand and gravel mining operation into the western half of the parcel and to excavate at 25 feet from property lines, and within 1000 feet of a residence. This parcel is located in an EA, Exclusive Agricultural zoned district.

Chairperson Bonde opened the public hearing for Badgerland Aggregates LLC.

Josh Radant, Jeff Maples and Bill Vachon spoke for Badgerland Aggregates LLC.

Mr. Gaedtke read the reason for the appeal (copy on file).

Mr. Nate read the application (copy on file).

The Board asked if there was anything to add to the appeal.

Mr. Vachon stated the old setbacks were 25 feet from the property line but wanted to continue along the past approved conditional use permit that had 25 foot setbacks.

Mr. Radant stated Mr. Duveneck, neighboring property owner to the north, liked the idea of having a berm along the north property line between his property and the pit.

The Board discussed requiring another well test for Mr. Duveneck's well.

Mr. Vachon stated if that was a request from the Board they would have it done.

Mr. Vachon stated the reclamation plan including new construction was submitted to Planning and Zoning.

The Board questioned if there was unlimited supply of material west of the current proposal.

Mr. Vachon explained there is adequate material on-site for the reclamation but have not explored west of the property line yet.

The Board questioned the current pit depth.

Mr. Radant stated the current depth of the pit is 40-50 feet.

Richard Salm spoke for the Town of Meeme Plan Commission in favor of the conditional use permit and stated conditions they agreed with. Mr. Salm also stated the Board does not follow up on the pit permits and then gave the Board a short lesson on how to approve a variance.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Meeme in favor of the conditional use permit with conditions (copy on file).

Mr. Gaedtke read a letter from the Town of Meeme approving the variance request to the house and opposing the property line variance request (copy on file).

Mr. Glaeser stated the Board did go back and look at the site a few years ago and the Board does keep track of sand and gravel operations.

There being no further comments, Chairperson Bonde closed the public hearing for Badgerland Aggregates LLC.

Deliberation

Motion by: Mr. Nate to approve the Conditional Use permit with conditions and variance to the house, but to deny the property line variance request.

Reasons for Conditional Use Permit Approval:

1. The applicant had asked to operate in this area back in 2010 and it was understood by the Board that this area would be approved if things went well with the front part of the property. At the time, the Board wanted to see how things went with the front half of the parcel before this back area was approved.
2. Things have been good with the front part of the property and there haven't been any complaints on that area.
3. This area is rich in sand and gravel and you can only extract it from areas where it's located.
4. Sand and gravel extraction is allowed in this zoning district. This is a pit and there are other pits located in the general area. Therefore this addition to the existing pit is an appropriate use of this area and in harmony with the orderly development of this zoning district.
5. The use does not hurt the general welfare of the public because there are other gravel pits operating in the area and there haven't been any problems or complaints.
6. Sand and gravel extraction is allowed in this zoning district with a conditional use permit.
7. It will not hurt property value because this pit has been there for years and the use isn't changing.
8. The use would not be more objectionable to nearby properties because the use already exists and conditions are in place to control them.

Conditions of Approval:

1. Days and hours of operation will be 6:00 a.m. to 6:00 p.m. Monday thru Friday and 6:00 a.m. to 12:00 p.m. (noon) on Saturday.
2. The number of employees will be three.
3. The conditional use permit is approved for sand and gravel extraction only. No rock extraction allowed.
4. Berms shall be erected along the property lines to screen the operation from view and to help create a noise buffer. The berms shall be a minimum of six feet high and have a minimum 3 to 1 slope.
5. The excavation shall stay 15 feet above the ground water level. The ground water level needs to be determined by an independent engineering firm. Also, the bench mark elevation and location needs to be defined. All elevation references (wellhead height, groundwater level, excavation depth, etc.) need to refer to the benchmark elevation.
6. A new water level and turbidity test shall be done for the Duveneck property to the north located at 14727 Point Creek Rd.
7. A valid and updated reclamation plan along with updated financial assurance shall be filed with the Manitowoc County Planning and Zoning Department within three months from the date of this approval.
8. There will be a three year review of this permit.

Reasons for approving the variance request to excavate within 1000 feet from the residence to the north: (Even though this approval allows excavating within 1000 feet of the north residence the applicant must abide by the 100' property line setback. Therefore the distance of excavation from the residence may be greater than what was listed in the application.)

1. A 1000 foot setback seems extreme for only sand and gravel extraction because it prevents excavation of a lot of needed material which creates a hardship. This area is 20 acres in size and the 1000 foot setback would significantly reduce the applicant's area for getting material.
2. Since there is no rock extraction there would be no blasting and therefore no need to stay that far away from the residence. Because there is no blasting, there would be no flying debris to endanger anyone.

3. The applicant is burdened because the increased setback would mean there would be much less material that could be moved which would restrict the use of the property. At 1000 feet the area would be reduced by about 5 acres.
4. The existing pit is already located closer to the house.
5. There is no negative effect to the public because the pit has been there for years and there hasn't been any problems reported. No blasting will occur at this site for rock extraction so it will be safe.
6. There was no opposition.

Reasons for denying the variance request to excavate at 25 feet from property lines:

1. The rules have changed in the ordinance and the applicant hasn't shown any hardship to warrant a reduced setback.
2. Enough material can be extracted from the site. Even though it may not be maximized, the use would not be restricted.

Second by: Mr. Schuh

Upon vote: The motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Other Business

William Neumann Review

The Board had questions regarding expanding his operation by purchasing the neighboring property to the east, which also has a conditional use permit to allow semi-trucks to be stored on it.

Mr. Neumann stated he will be expanding. He stated he will be purchasing the adjacent property to the east this June, which also has a conditional use for 5 trucks and 5 trailers and expanding some.

The Board questioned if that expansion will meet his needs.

Mr. Neumann explained it would for a while.

The Board stated they have noticed more than the allowed vehicles on the property.

Mr. Gaedtke stated Mr. Neumann is over by three trailers and two trucks putting him in violation of his conditions and to remove the extra items immediately.

One of the Board members stated everything else looked good.

Motion by: Mr. Glaeser to approve the review and revisit in two years.

Second by: Ms. Vondrachek

Upon vote: The motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Schedule Next Meeting: The Board scheduled their next regular meeting for April 18, 2016 and the onsite for April 11, 2016 (Dates and times are subject to change.)

Adjournment

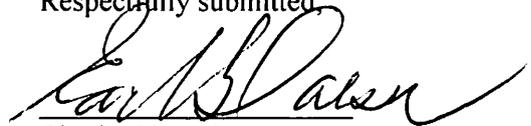
Motion by: Mr. Schuh to adjourn.

Seconded by: Mr. Nate

Upon vote: The motion was unanimously approved.

Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Respectfully submitted,



Charles Nate, Secretary

5.19.16
Date