

Minutes - Woodbury County Board of Adjustment Meeting October 2, 2017

The meeting convened on the 2nd of September, 2017 at 6:00 pm in the Board of Supervisor's Office Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: JoAnn Sadler, Tom Thiesen, Dwight Rorholm and Katie Colling. Bob Brouillette was absent. Staff members John Pylelo and Dawn Norton in attendance. Present from the public were Mark Gorton, Dale & Holly Lansink, Jaime Thomas and David Gleiser.

The 1st agenda item is any citizen wishing to be heard on a non-agenda item.

No citizen made comment pertaining to this agenda item.

The 2nd agenda item is the approval of minutes from the Board's September 11, 2017 meeting.

Dwight Rorholm requested a revision on page 1, referring to the correction of the August 7, 2017 minutes. The statement on page 7 of the August 7, 2017 should be stated as follows: "... according to FEMA" changed to "*according to Iowa drainage law*". Also on page 7, "... can't do grading to change" added, "*per Iowa DNR*". Corrected to "...can't do any grading with respect to channel of the stream on that property. Iowa DNR is responsible for those drainage issues and the changes come from the Corp. of Engineers."

JoAnn Sadler made a motion to approve the minutes with the above correction; Tom Thiesen seconded the motion; motion carried 4-0.

The 3rd agenda item is a Public Hearing and approval variance application for property owner – Dale G. and Holly L. Lansink Re: Front yard setback variance at 1957 Elk Creek Road; GIS parcel #8847 211 76 005.

The Board is specifically tasked with holding a public hearing on this agenda item. Then to vote on the approval of the variance application.

BACKGROUND

In 1999 Mr. and Mrs. Lansink purchased 2.27-acre parcel in rural Woodbury County addressed 1957 Elk Creek Road. Since that time, they have resided on the parcel. The Lansink's propose to place a 40' by 60' accessory structure within their front yard and are requesting a front yard setback variance for the structure's placement.

The topography along the east side of Elk Creek Road at this location has resulted in dwellings be placed toward the middle to rear of the lots. Accordingly, significant portions of those lots, including 340' in depth in the Lansink case, meet the definition of a front yard.

Within the AP (Agricultural Preservation) zoning district zoning ordinances restrict accessory structures from being placed within front yards unless the structures are 150' or more from County roadway right-of-way. The proposed structure is proposed to be placed up to within 60' of Elk Creek Road ROW. Thus a 90' front set back variance is being requested.

The parcel is known as portions of Lots 4 and 5 of Winkels Elk Creek Addition. The location is within the S ½ of the SE ¼ of the NE ¼ of Section 21, Woodbury Township. The site is serviced by the drive addressed 1957 Elk Creek Road, Sergeant Bluff, Iowa. The Parcel is located on the east side of Elk Creek Road approximately 0.4 mile north of the intersection of Elk Creek and Glen Ellen Roads. The location is not impacted by special flood hazard area designation.

Below is provided a recap of distance information related to the variance request confirming the request of up to an ninety foot (90') variance so the accessory structure can be placed up to within 60' of Elk Creek Road right-of-way.

Recap of Variance Distance Information

Front Set Back Requirement:	150' from ROW
Requested Distance from ROW:	Up to within 60' of ROW
Front setback variance requested:	Up to 90' (150'-60')

Elevation Information

Building Site	1170'
Elk Creek Road ROW	1150'

Dwelling Distance Information

Dwelling Distance from ROW	340'
Minimum Required Dwelling Distance from ROW	75'

Notices of the public hearing were mailed to the five (5) adjacent/nearby property owners. To date we have received the following citizen comments:

On 9/9/17 5:08 PM Dale Christianson telephoned the Zoning Office and left a voicemail message that he has no problem with the placement of the Lansink structure.

On 9/14/2017 8:30 AM the Zoning Director had a phone conversation with Dan Hiserote who resides at 1969 Elk Creek Road (the adjacent parcel to the south). Mr. Hiserote has no objection to the Lansink variance request. He referenced an easement which was at or near the requested building site but further stated he signed a document a couple of months ago releasing the easement. The applicant provided the attached recorded document extinguishing the easement.

Attached find:

- A. Woodbury Township Mapping showing Site location
- B. A copy of the application including Ord. Section 8.F standards; applicants' written statement relative to Ord Section 8.F and applicant aerial site plans.
- C. Pictometry Imagery (2 aerials)
- D. An aerial with notation of adjacent parcel ownership
- E. Beacon Parcel Information
- F. Easement Extinguishment Document Re: Lansink/Hiserote
- G. On site photography

Also, written comment from the Woodbury County Engineer, which follows:



Woodbury County Secondary Roads Department

759 E. Frontage Road • Merville, Iowa 51039
Telephone (712) 279-6484 • (712) 873-3215 • Fax (712) 873-3235

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To: John Pylelo, Woodbury County Planning and Zoning Administrator
From: Mark J. Nahra, County Engineer *Mark J. Nahra*
Date: September 29, 2017
Subject: Lansink Variance Request

The Secondary Road Department has reviewed the information provided for the above referenced setback variance application forwarded with your memo dated September 11, 2017.

I am offering the following comments for your consideration.

- Elk Creek Road is a relatively high traffic, gravel surfaced road. It had been part of the five-year county construction program for grading and paving up until about 2010, when it was apparent that under funding then available that the project, while arguably needed, was not achievable. The improvement of Elk Creek Road is still beyond the road department's ability to fund at this time, but should the pattern of development continue along Elk Creek Road, I anticipate that traffic will continue to grow and eventually improvement will be needed on this road.

The proposed building site on the subject property lies approximately 12-15 feet higher than the road based on the contours shown on the site plan. Should the road be improved, the right of way will need to be widened and the roadside slope for this property will need to be flattened and the right of way line moved east. A widened road surface with a proper shoulder and ditch plus a 4:1 backslope will require between 48 and 60 feet of additional right of way, placing the proposed accessory building right on the edge of the widened right of way.

- I recommend that the normal 150-foot setback for an accessory building is required in this case. I recommend that if a variance is allowed, that the distance be not less than 75 feet, the same setback as the minimum residence setback, to allow adequate space for eventual road improvements that Elk Creek Road is likely to require. This will not place the county at risk for having to mitigate a building in the future should additional right of way for road improvements be needed.
- I have no other concerns or issues with this conditional use application.

If there are any more questions or issues that arise later, please contact this office.

Cc: File

Staff Recommendation

Following the recommendations of the County Engineer, the Office of Planning and Zoning recommends approval of any portion of the variance request for the following reason:

Staff has assessed this application additionally taking into consideration the allowed building zone for the primary structure (the dwelling). As the Lansink's dwelling could have been placed up to within 75' of the right-of-way the actual net effect of the amount of setback impact to Woodbury County right-of-way would be 15' (75'-60'). Staff would ask your Board to consider this fact in your deliberations. Staff would concur with Secondary Roads recommendation of up to 75' from ROW as opposed to 90'.

Your Board is asked to hold a public hearing on this matter then consider approval of the variance application for an accessory structure front yard setback variance of up to 90' in order the accessory structure may be placed up to within 60' of Elk Creek road right-of-way.

Comments

Dwight Rorholm asked if the right of way was marked off. Mr. Pylelo stated this area is hard to measure. He feels either a surveyor should be hired, or contact Mark Nahra to see if he would send someone out determine where the roadway pins are located. Mr. Pylelo doesn't know if Secondary Roads would go out to find the roadway pins, it's a suggestion.

Dwight asked the size of the proposed structure. Mr. Lansink stated he would like it to be 40' by 60'. Dwight suggested the size of the structure may need to be adjusted once the pins are located.

Dale Lansink stated the proposed 75' would work if they knew where the pins where, and the project would be better gauged after that happens. He also added that the slope starts on the side where the pine trees are located, which creates drainage problems.

Tom Thiesen asked about the driveway to access the structure. Mr. Lansink stated the existing driveway would be used with an entrance parallel to the road.

Dwight stated soil erosion could be a problem, and suggested a conversation with Mark Nahra to talk about options.

Mr. Pylelo stated after the pins are located he realizes Mr. Lansink would want to use as much land as possible. Mr. Lansink stated when they moved there in '99 there was talk about moving the road to the west, now he hears it may be moved to the east. The grade from the road up to where the building is higher than 20'.

John Pylelo stated that if the elevation estimated wrong, it could affect the proposed placement.

Mr. Pylelo explained to Mr. Lansink he may have additional expenses in order to determine the right of way, and they may have to be flexible with the placement of the structure once the ROW pins are located.

Mr. Pylelo and Mr. Lansink agreed the pins need to be located before any work begins. Until they are located it is not possible to determine where the structure should be placed.

Mr. Lansink would like 60' but understands that may not happen. Mr. Lansink asked if the 75' set back would be horizontal. John stated the 75' set back will run parallel to the right of way. Mr. Lansink asked if the ROW would be 33'. John Pylelo stated yes it would be, also possibly 75' for the setback. It's hard to get an exact measure the road. A surveyor could locate the exact center of the ROW, and a photo of the report could be used for the site plan.

JoAnn Sadler made a motion to close the public hearing; Tom Theisen seconded. Motion passed 4-0.

Discussion:

Dwight Rorholm stated he would be in favor of approval of the variance with a 75' setback, but the ROW line pins would need to be determined and measurement taken from there.

Mr. Pylelo stated he didn't know if Mark Narha would be able to come out to measure the area.

Katie Colling asked if a confirmation would be needed on the measurement. John Pylelo stated that would be covered when the building permit application was received, and when the surveyor's report is available, it could be used for the site plan.

Dwight Rorholm made a motion to approve the variance up to 75' from the existing driveway line, which is to be determined through a survey; Katie Colling seconded; motion carried 4-0.

The 4th agenda item is a Public Hearing and approval of Conditional Use Permit for property owners Teddy J. Mammen, Karen J. Mammen, and Agene B. Meyer; and applicant Peterson Contractors, Inc.

The Board is specifically tasked with holding a public hearing on this agenda item. Then to vote on the approval of the Conditional Use application.

BACKGROUND

The Conditional Use Permit application is for the staging and operation of temporary resource extraction – borrow pit within a 10-acre portion of two congruent rural Woodbury County, Iowa parcels. The application requests the extraction of up to 23,000 cubic yards of earthen material from the site for transport to a nearby eastbound lane segment of the Hwy 20 Reconstruction Project. The impacted area will be returned to its previous use of farmland. Decommissioning of the site is anticipated to be in 2018.

The applicant attempts to find borrow material at locations meeting approved soil specifications; in required quantities and in proximity to the borrow delivery locations. Haul road availability, road specifications and route distances between the borrow area and delivery location are also criteria for selecting any suitable borrow location.

The proposed site is located within a portion of the NE ¼ of Section 05 of Kedron Township. The location is on the south side of hard surfaced 160th St. approximately 4 miles west of Correctionville and consists of portions of GIS parcels #884305200002 and #884305200005. The project will be serviced by an existing driveway addressed 3752 160th Street, Correctionville, Iowa.

The use as a borrow area is described on page 37 of the zoning ordinance's *Land Use*

Summary Table within the category and sub-categories of - Resource Extraction: Borrow Pits for earth materials

This use is approved as a conditionally permitted use in selected zoning districts. The use as a borrow pit for earth materials is only allowed as a conditionally permitted use (CUP) within the AP and GI (General Industrial) zoning districts. The table further prohibits the requested conditional use in all the county's other zoning districts. As the applicant's parcels are zoned AP the requested use can be conditionally approved.

Attached find the following documentation for your review:

- 5) Letter from Jamie Thomas Dated August 31, 2017
- 6) Each of the Attachments outlined in the Thomas Letter
- 7) 2- Pictometry Aerials of the proposed site
- 8) Beacon Parcel information
- 9) Beacon Parcel Aerial w/ parcel number layer
- 10) Beacon Parcel Aerial w/ zoning layer
- 11) Beacon Parcel Aerial w/ soil type layer
- 12) Beacon Soil Type information verifying an Average Unadjusted CRS2 of 66.49
- 13) On site photographs will be provided at the public hearing
- 14) A letter from the Chairperson of the Woodbury County Zoning Commission related to Ordinance 2.02:9.F compliance.

Also, written comment from the Woodbury County Engineer, which follows:



Woodbury County Secondary Roads Department

759 E. Frontage Road • Merville, Iowa 51039
Telephone (712) 279-6484 • (712) 873-3215 • Fax (712) 873-3235

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ASSISTANT TO THE COUNTY ENGINEER
Benjamin T. Kusler, E.I.T.
bkusler@sioux-city.org

SECRETARY
Tish Brice
tbrice@sioux-city.org

To: John Pylelo, Woodbury County Planning and Zoning Administrator
From: Mark J. Nabra, County Engineer *Mark J. Nabra*
Date: September 29, 2017
Subject: Mammen Conditional Use Permit Request

The Secondary Road Department has reviewed the information provided for the above referenced conditional use permit application forwarded with your memo dated September 21, 2017.

I am offering the following comments for your consideration.

- The proposed borrow area is located adjacent to a paved county road. Haul roads proposed are also paved. I anticipate little problem with the use of the proposed haul roads for the project. The roads are in good condition, dust from the haul will not be generated, traffic interference should be minimal. I have not checked the driveway for sight distance as based on the application, an existing driveway is being used.
- Signs should be placed on either side of the entrance to the borrow warning of "Road Work Ahead" and "Trucks Entering Highway". All signage should be taken down at the end of each day once hauling for the day is completed.
- If dust generated by the borrow operation beyond the road right of way line begins to blow out across the roadway, the contractor should be prepared to control fugitive dust by watering affected areas. A water truck may need to be kept on site during operations to assure that dust from the borrow does not obstruct visibility on the road.
- Since the operation of the borrow may result in dirt and mud being drug onto the road, the contractor should have a power broom or motor grader with straight edges to clean the pavement as needed. A contact phone number for the contractor should be provided to the road department so that we can contact someone to clean the road if complaints are received.
- I have no other concerns or issues with this conditional use application.

If there are any more questions or issues that arise later, please contact this office.

Cc: File

Staff Recommendation

Staff recommends approval, with the 4 recommendations by the County Engineer applied as conditions.

Comments

John Pylelo explained Teddy & Karen are the property owners. Agene Meyer is deceased but is still listed on the property records, which will be updated.

Mr. Pylelo asked for a clarification on the cubic yards to be used. Jamie Thomas with Petersen Contractors stated it will be 23,000 cubic yards.

Dwight Rorholm asked about a pond of water on the property. Jamie Thomas said they have a storm water permit already in place. He also mentioned that all the issues the County Engineer mentioned as already in place.

Dwight questioned the possibility of a stream being dammed on the property. Care should be taken to not pollute the water. He said there is a pond located on the property and Conservation should be made aware of it.

Dwight asked the location where the soil area is located. Jamie identified the area as the southeast portion.

JoAnn Sadler asked about the entrance. Jamie stated they will be using the main drive already there. It will be built up and rock added if necessary. There will be one entrance used for entry and another used for exit.

Jamie stated some top soil will be moved aside and replaced when the project is complete. It is a nice flat field and they won't be changing the topography.

John Pylelo asked if Jamie has had any conversation with Correctionville regarding the project. Jamie stated he has not; John recommend they talk with them just to be good stewards.

Dwight Rorholm made a motion to close the public comment section of the meeting; JoAnn Sadler seconded; motion carried 4-0.

Discussion

John Pylelo stated there are 7 houses along the route, on concrete, so there shouldn't be much problem with dust.

John asked about covering loads, Jamie said they don't normally covering them. John stated it could be added as a condition. Jamie stated their first concern is safety but they don't want any problems with dust control, they will be addressed if there is a problem.

Mr. Pylelo asked the time frame for the project. Jamie stated depending on the rain, they plan on starting on the 20th and be done in 4 – 6 weeks, possibly sooner.

Dwight Rorholm made a motion to approve the conditional use permit, adding 4 conditions listed below; JoAnn Sadler seconded; motion passed 4-0.

- 1) *The applicant contractor is to place signs on either side of the entrance to the borrow warning of "Road Work Ahead" and Trucks Entering Highway". All signage should be taken down at the end of work day once hauling for the day is completed.*

- 2) *The applicant contractor should be prepared to control fugitive dust by watering affected areas. A water truck may need to be kept on side during operations to assure that dust from the borrow does not obstruct visibility on the road.*
- 3) *The applicant contractor should use a power broom, or a motor grader with straight edges, to clean the pavement as needed.*
- 4) *The applicant contractor is to provide a contact phone number to the Woodbury County Secondary Roads Department so the applicant contractor can be contacted if “clean the road” complaints are received.*

The 5th agenda item is a public hearing and approval of Conditional Use Permit for property owner Herman Rock, Jr. and applicant Flynn Company, Inc. Re: The staging and operation of heavy construction services – concrete mixing (temporary); on GIS parcel #894333200006.

The Conditional Use Permit application is for the staging and operation of temporary heavy construction services - concrete mixing temporary (a concrete batch plant) within a 4-acre portion of a 29-acre parcel. The project is intended to produce concrete for the nearby eastbound lane segment of the Hwy 20 Reconstruction Project. The impacted area will be returned to agricultural production. It is anticipated the batch plant will be active for 2 months with decommissioning of the site anticipated to be within 6 months of permit issuance.

The parcel is located within a portion of the SE ¼ of the NE ¼ of Section 33, Rutland Township. The parcel abuts the west side of Lee Avenue approximately 330 feet north of the intersection of Lee Avenue and Hwy 20. The parcel is 7 miles east of Merville and is known as GIS parcel #894333200006.

The use for temporary concrete mixing is described on page 37 of the zoning ordinance's *Land Use Summary Table* within the category and sub-categories of – Manufacturing and Processing–Temporary Heavy Construction Services–Concrete Mixing (temporary).

This use is approved as a conditionally permitted use in selected zoning districts. The use temporary concrete mixing is allowed as a conditionally permitted use (CUP) within the AP zoning district. As the parcel is zoned AP the requested use is allowed to be conditionally approved.

In 2016 your Commission approved a similar CUP application on this same parcel for this applicant's paving of the west bound lanes of Hwy 20.

Attached find the following documentation for your review:

- A. Letter from Mark Gorton Dated August 28, 2017
- B. Each of the Attachments outlined in the Gorton Letter
- C. Pictometry Aerials of the proposed site
- D. Beacon Parcel information - 2 parcels
- E. Beacon Parcel Aerial w/ parcel number layer
- F. Beacon Parcel Aerial w/ zoning layer
- G. Beacon Parcel Aerial w/ soil type layer
- H. Beacon Soil Type Information verifying an Average Unadjusted CRS2 of 85.37
- I. On site photographs will be provided at the public hearing
- J. A letter from the Chairperson of the Woodbury County Zoning Commission related to Ordinance 2.02:9.F compliance.

Also, written comment from the Woodbury County Engineer, which follows:



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SECRETARY
Tish Brice
tbrice@sioux-city.org

To: John Pylelo, Woodbury County Planning and Zoning Administrator
From: Mark J. Nahra, County Engineer *Mark J. Nahra*
Date: September 29, 2017
Subject: Flynn Batch Plant CUP Request

The Secondary Road Department has reviewed the information provided for the above referenced conditional use permit application.

I am offering the following comments for your consideration.

- The proposed site has already been used as a concrete batch plant site under a past conditional use permit. It is located adjacent to a paved county road. We experienced no problems with the prior conditional use of this parcel. Driveways serving the site have been checked for sight distance and are adequate for the proposed use.
- Signs should be placed on either side of the entrance to the plant site warning of "Road Work Ahead" and "Trucks Entering Highway". All signage should be taken down at the end of each day once hauling for the day is completed.
- If dust generated by the borrow operation beyond the road right of way line begins to blow out across the roadway, the contractor should be prepared to control fugitive dust by watering affected areas. A water truck may need to be kept on site during operations to assure that dust from the borrow does not obstruct visibility on the road.
- Since the operation of the plant may result in dirt and mud being drug onto the road, the contractor should have a power broom or motor grader with straight edges to clean the pavement as needed. A contact phone number for the contractor should be provided to the road department so that we can contact someone to clean the road if complaints are received.
- I have no other concerns or issues with this conditional use application.

If there are any more questions or issues that arise later, please contact this office.

Cc: File

Comments

Mark Gorton from Flynn Co. spoke, saying the batch plant will be operational for about 1 ½ to 2 months. Set up of plant will be done in April, paving wouldn't be done till early to mid-May, they will be there 6-8 weeks, then gone while shoulder work is done, then return to clean up and reseed.

John Pylelo informed the Board at the Zoning Commission meeting of September 25th the permit date would be set to begin in 2018 so it would be valid for a year.

Mr. Pylelo stated the narrative would be changed to reflect the plant would be active during calendar year 2018.

John reminded the Board of a similar project 2016 on same parcel for this applicant. He then read into record a letter dated September 29, 2017 from County Engineer Mark Nahra. (Letter attached.) There were no problems with the previous project.

Mr. Gorton stated one minor issue they had last project was trucks stacking up in the beginning, but that was resolved.

John asked that total cubic yards of concrete involved; Mr. Gorton stated it will be approximately 42,000 cubic yards.

JoAnn Sadler asked the location of the project. Mr. Gorton stated it will be eastbound 3 miles west of Correctionville, and 3 miles east of Hornick.

Dwight Rorholm made a motion to close the public hearing; JoAnn Sadler seconded; motion carried 4-0.

Discussion

None heard.

Dwight Rorholm made a motion to approve the Conditional Use Permit application with the conditions listed below; JoAnn Sadler seconded; motion carried 4-0.

- 1) *Signs should be placed on either side of the entrance to the plant site warning of "Road Work Ahead" and "Trucks Entering Highway". All signage should be taken down at the end of each day once hauling for the day is completed.*
- 2) *If dust generated by the borrow operation beyond the road right of way line begins to blow out across the roadway, the contractor should be prepared to control fugitive dust by watering affected areas. A water truck may need to be kept on site during operations to assure that dust from the borrow does not obstruct visibility of on roads.*
- 3) *Since the operation of the plant may result in dirt and mud being drug onto the road, the contractor should have a power broom or motor grader with straight edges to clean the pavement as needed.*
- 4) *A contact phone number for the contractor should be provided to the road department so that we can contact someone to clean the road if complaints are received.*

The 6th agenda item is any citizen not on the agenda wishing to be heard.

David Gleiser introduced himself to the Board, and spoke regarding his new position as director of County Community and Economic Development, and the duties of the Coordinator position that will be hired. Mr. Gleiser will be looking for insight from John Pylelo on setting up the new department.

The 7th agenda item is any citizen not on the agenda wishing to be heard.

None heard.

JoAnn Sadler made a motion to adjourn; Dwight Rorholm seconded; motion carried 4-0. Meeting adjourned at 7:25.

Next meeting is scheduled for November 6th, 2017.