

## Minutes - Woodbury County Board of Adjustment – June 5, 2023

The Board of Adjustment meeting convened on the 5th of June 2023 at 6:00 PM in the first-floor board room of the Woodbury County Courthouse. The meeting was also made available for public access via teleconference.

BA Members Present : Daniel Hair, Tom Thiesen, Doyle Turner, Pam Clark, Ashley Christensen  
County Staff Present: Dan Priestley, Dawn Norton  
Public Present: Leo Jochum, Adam Larson, John Baric

### Call to Order

Chair Daniel Hair formally called the meeting to order at 6:00 PM.

### Public Comment on Matters Not on the Agenda

None

### Approval of Minutes

The May 1, 2023 minutes were approved. Motion by Christensen to approve; Second by Thiesen. Motion passed 5-0.

### Public Hearing: Conditional Use Permit Application: Conditional Use Permit Application: Temporary Borrow Pit on Parcel #884702100002

Priestley read the staff report summary into the record. JB Holland Construction, Inc. (Applicant) and property owner Donald Hennings of the Hennings Joint Trust have filed a conditional use permit application to establish a temporary borrow site to remove earthen materials to be used in Phase 1 and 2 of the east bound Highway 20 project (IDOT Project #17-97-020-010). The proposed temporary borrow area is located on Parcel #884702100002. The parcel is located on the south side of Highway 20 and is currently used as farm ground. The proposed cut area is 8-10 acres. The work area is 10 acres and the total excavation for export is 100,000-15,000 yds<sup>3</sup>. The parcel is located in the Agricultural Preservation (AP) Zoning District and not in the floodplain. The applicants(s) have provided the necessary documentation for storm water management, soil erosion, dust control, haul routes, traffic entrances, hours of operation, and duration of operations. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. The Woodbury County Zoning Commission voted to recommend approval (5-0) of this conditional use permit request at their May 22, 2023 meeting. Adam Larson from JB Holland stated this is a backup area for borrow and may not be needed. Motion by Clark to close public hearing. Second: Turner. Carried 5-0. Motion to approve of the temporary borrow pit as proposed by Christensen; Second: Turner. Motion carried: 5-0.

### Review of Conditional Use Permit Application: Operation of Data Processing Business to Place a Demand Response Load Resource Next to the Substation in conjunction with Local Electric utility to Support Grid Resiliency on Parcel #864723300010.

Priestley read the staff report summary into the record. WIFI LLC (Applicant) and property owners Brenden Patricia A. Revocable Trust have filed a condition use permit application “to place a demand response load resource next to the substation in conjunction with local electric utility to support grid resiliency” for the proposed use to operate a data processing business. The proposed site is on Parcel #864723300010. The parcel is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The Land Use Summary Table (Section 3.03.4) of the Woodbury County Zoning Ordinance does not reference data processing or this specific request by the applicant. However, this can be interpreted under Section 3.03.3 of the Woodbury County Zoning Ordinance as a comparable utility use or comparable to the industrial use of research and development laboratories in the sense of data analysis. Therefore, for the purposes of this request, data processing can be interpreted as a conditional use under section 3.03.3 in the Agricultural Preservation (AP) Zoning District. Hence, based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. The Woodbury County Zoning Commission voted to recommend approval (5-0) of this conditional use permit request at their May 22, 2023 meeting. John Baric provided information sheets and an overview of the project for the Board. Motion to receive: Turner; Second: Christensen. Carried: 5-0. REC has provided a letter of support. The center would even out the supply and demand of power and be located next to the Lakeport Substation. Motion by Clark to close public hearing. Second: Turner. Carried 5-0. Motion by Clark: “to place a demand response load resource next to the substation in conjunction with local electric utility to support grid resiliency” for the proposed use to operate a data processing business. Second: Christensen. Motion carried: 5-0.

### Information/Discussion: Woodbury County Comprehensive Plan 2040 Presentation by SIMPCO

Representatives from SIMPCO gave an overview of the progress and status of the 2040 Comprehensive Plan. The new plan is not rigid or set in stone, incorporates the existing plan. A draft plan is complete; however, comments

and suggestions can still be submitted to SIMPCO's website or Facebook site. Comment section will end June 16<sup>th</sup>, 2023 then it will be presented to stakeholders.

**Information/Discussion: Meeting Time and Location for the Woodbury County Zoning Commission as Referenced in the Rules of Procedure**

Staff has been approached to consider a change in meeting time/location of meetings. Zoning Commission voted to possibly move meetings to 4:30 or 5:00. The majority of the Board of Adjustment commissioners would not want a change to the meeting time. There was a discussion of potential alternative locations. The Board of Adjustment and the Board of Supervisors must approve any changes.

**Information/Discussion: Update on Woodbury County Solar Energy Requirements Proposal for Possible Changes to the Zoning Ordinance**

At their May 22, 2023 meeting, the Zoning Commission held a public hearing regarding text amendments to the Woodbury County Zoning Ordinance to amend portions of the table of contents; section of the land use summary table of allowed uses in each zoning district; portions of entitled definitions and renumbering of definitions and page numbers. The proposal would add solar energy systems (private use) as an accessory use in each zoning district and add solar energy systems (utility scale) as a conditional use in the AP and GI zoning districts. Private use solar arrays would be considered accessory structures and could be permitted with the issuance of building permits. Uses for commercial or utility scale arrays would require a conditional use application. A consideration to include wording regarding 'net metering' has been forwarded to the County Attorney's office. Hair and Turner would like restrictions placed on installing panels on slopes.

**Public Comment on Matters Not on the Agenda**

None

**Commissioner Comment or Inquiry**

None

**Staff Update**

The Board of Supervisors directed Zoning Commission to consider an amendment to the ordinance for temporary construction. To be allowed GC district. This is affecting the Hwy 20 project as they need the ability for concrete crushing on site. Priestley will approach the Zoning Commission for the consideration of a recommended change to the ordinance to possibly make it a conditional use application in the future.

**Adjourn**

Motion by Thiesen. Second: Clark. Carried 5-0. The meeting adjourned at 7:24 P.M.