

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – May 1, 2019
Minutes

Members Present: Scott Hoese, Richard Kvitek, Virgil Stender, Mark Willems, Robin Bielefeldt

Members Absent: Doug Weber

Members Late: None

Staff Present: Steve Just

Pursuant to due call and published notice thereof, the May 1, 2019, meeting of the Carver County Board of Adjustment was called to order by Chairman Hoese at 7:00 p.m.

Minutes – A correction to the minutes was noted and a change made in correctly identifying who made the second to a motion. A motion was made by Stender and seconded by Kvitek to approve the minutes of the April 3, 2019, meeting as corrected. All voted aye. Motion carried.

Public Hearing - File # 20190017 – Shane Touhey –Chairman Hoese called the public hearing to order at 7:01 p.m. to consider the application of Shane Touhey pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback to a residence for a proposed contractor’s yard pursuant to Chapter 152 of the County Code. The property is located in Section 16 of Benton Township.

The following were present: Shane Touhey, Charles D Dietzel, Charles L Dietzel, Brandon Zabel, Kent Fabel, Andy Steinhagen

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant

Exhibit F – Letter to the Board of Adjustment and Benton Township dated April 23, 2019, and all attachments.

Just explained the applicant’s intent to purchase an approximate 22-acre parcel to establish a new contractor’s yard operational area which is approximately 450 feet from a neighboring residence. The County Code requires a minimum of 500 feet between a new contractor’s yard and a neighboring residence not on the same parcel. The existing accessory structure would be increased in size by approximately 28 feet on both the east and west sides to be used for the contractor’s yard. The increased size of the building would result in approximately 6,624 square feet of space for the contractor’s yard. If the variance is approved, the applicant would be

allowed to apply for a Conditional Use Permit (CUP) for a contractor's yard. The applicant expressed a practical difficulty in that the eastern corner of the building meets the 500-foot setback from the neighboring residence, but not the western corner. The building will be used for both business and personal storage. Benton Township heard the request but has not made a recommendation at this time. Just read the conditions for consideration of the request is approved.

Andy Steinhagen, representing Benton Township, stated there was no recommendation made on the variance. They wanted more information about the potential conditional use permit concerning screening, items and volume to be stockpiled, outside storage and no use of the field access on the site. He stated that they have discussed the issues with the applicant, and if the Board of Adjustment would grant the variance, the Township would concur with that decision.

Hoese asked if the Township would like the Board to limit the amount of stockpiled items to the 250 yards that they had discussed.

Mr. Steinhagen stated the Township had discussed this with the applicant and everyone was in agreement with that figure. The Township was uncertain if that would be a condition of the CUP or could be incorporated into the variance.

Just stated that the approved conditions of the variance would be carried into the conditions of the CUP so it is not confusing between the two documents and other conditions could also be added.

Mrs. Touhey asked asked about regulations on personal storage because they have a camper and a fish house that could be stored outside on the south side of the shed.

Just stated that the Board may want to address the conditions if the term 'personal' should remain or be removed. A camper is clearly personal storage, but trailers would be difficult to identify if they are personal or business.

Kvitek asked if there was another location on the property outside of the 500-foot setback where these items could be stored.

Mr. Touhey replied that there is no other place on the property for parking.

Mrs. Touhey stated that the area will be screened as they intend to plant trees on the south side of the property that will grow 3 – 5 feet in a year. She stated in a few years the area should be fully screened so nothing would be visible.

Hoese stated that condition #2 specifically mentions 'personal' items and asked if specific things should be listed or if that term should be removed. He asked if the Township had any preference on the storage of personal items.

Mr. Steinhagen replied that the Township concern was more about large construction equipment and contractor's yard storage than personal items.

Willems stated that if some of the trees from the northeast corner are going to be moved to the south side of the property, this might create some storage space. He stated that outside storage of personal items could be acceptable as long as things are kept neatly.

Brandon Zabel, 12525 134th St, asked who would be responsible for road maintenance with additional use of contractor's yard equipment. He stated the responsibility issue was not clear after discussion at the Township meeting. He also expressed concern about increased noise generated by big trucks and large equipment.

Mr. Steinhagen stated the applicant is aware of a frost boil east of the property and offered to haul a load of gravel to repair it and to work with the Township to fix the condition. He stated that this business does not generate a high volume of traffic and stated the road is a public road used more vehicles than just the residents along the road. The Township Board discussed the road use and concluded that it will not affect their decision to support the request.

Kent Fabel, 12350 134th St, asked how many contractor's yards on gravel roads are permitted within the County. He also stated the applicant currently rents storage space for his equipment and asked why he wouldn't ask for the conditional use permit at his current location. He asked how many vehicles are associated with the business and expressed concern for the maintenance of the gravel road.

Just stated that a maximum of 9 vehicles would be permitted for a contractor's yard conditional use permit. He would have to research how many contractor's yards are permitted on gravel roads within the County.

Chuck Dietzel, 12355 134th St, stated the road is currently soft in places just with the use of smaller vehicles and questioned if the Township would be able to maintain it properly with increased traffic from heavier vehicles.

Hoese stated many of the township roads have experienced issues with frost boils and other maintenance problems due to severe winter weather conditions. He stated the Township might want to consider dust coating as a requirement or condition of the permit, which is very common with other conditional use permits. This could also be addressed at the Planning Commission meeting.

Mr. Steinhagen stated the Township has discussed the dust coating requirement and felt that would be addressed as a part of the conditional use permit process. He stated the issue for the variance is the reduced setback to a residence. The dust coating requirement will be discussed further with the applicant in the future. He also recognized the wear on the gravel roads because of the frost depth and winter weather. He confirmed the board members have discussed the road use and maintenance.

Just asked if the applicant will return to the Township for a more formal recommendation for the Planning Commission if this request is approved.

Mr. Steinhagen stated the Township was not aware of the timing of the County meetings with the Township meeting dates.

Just stated if the variance is approved, the applicant is prepared to appear before the Planning Commission on May 21st. They should attend another Township meeting prior to that date for the conditional use permit.

Mr. Steinhagen stated the township meets again on May 13th, which will give them an opportunity to further discuss the issues that were mentioned at this meeting.

Bielefeldt asked if the applicant's purchase agreement for the property is contingent upon the variance and conditional use permit. He noted the neighbors' concerns about this request and asked if the applicant could offer anything to assuage their concerns.

Mr. Touhey stated that Mr. Zabel runs his business from the property which is not 500 feet from the residence on this property. He also noted that Mr. Dietzel is a semi driver and uses the road.

Mr. Zabel stated that he researched the County Code for the business use of this property and he has a home occupation which is a permitted use. Mr. Zabel asked about the history in granting or denying variance requests of this type.

Hoese stated they are often granted if the applicant shows some effort for the concerns.

Mr. Fabel commented on the dust coating and stated his preference that it not be required, because he stated the vehicle traffic by his house should not be at a speed to generate a lot of dust and the dust coating causes rust on vehicles.

Hoese commented that Watertown township has experienced the benefit of dust coating to save on the cost of gravel for the roads.

A motion was made by Willems and seconded by Stender to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:26 p.m.

A motion was made by Willems to **approve and issue Order PZ20190017** allowing for reduced setback to an existing residence for a proposed contractor's yard, removing the restriction on personal storage on the south side, and the business storage be kept at a minimum and requiring the applicant to return to the Township to finalize the conditions pertaining to the conditional use permit before the Planning Commission meeting. Hoese seconded the motion.

Bielefeldt stated he was not comfortable with the Township decision to approve the request without the support of the neighbors.

Hoese called for a vote on the motion. Hoese, Stender, Willems, and Kvitek voted aye. Bielefeldt voted nay. Motion carried. The variance was approved with the following conditions:

1. A Conditional Use Permit application shall be submitted and approved prior to the use of the contractor's yard. The contractor's yard shall meet the County Zoning Code requirements.
2. Contractor's yard items shall not be stored between the south edge of the accessory building and 134th Street.
3. All other contractor's yard operations will meet the 500-foot setback to neighboring residences.

Adjournment

Having completed the agenda items and seeing no other business, Chairman Hoese deemed the meeting adjourned at 7:27 p.m.