

Dubuque County Zoning Board of Adjustment Minutes of June 6, 2022

Chairperson Ben Schroeder called the meeting to order at 7 p.m.

A. ROLL CALL: Members present at the Dubuque County West Campus, 1225 Seippel Road: Loras Link, Dave Klein, Ben Schroeder and Michelle Switzer. Lillian Kremer was absent. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Lindsey Schreiber.

B. APPROVAL OF MINUTES: A motion was made by Ms. Switzer, **seconded by Mr. Klein and passed unanimously to approve the Minutes of the May 3, 2022 meeting. Vote: 4-0.**

C. PUBLIC HEARINGS:

BA#06-18-22 PFABCO LLC/CORY PFAB MODIFICATION AND/OR EXTENSION OF A SPECIAL USE PERMIT

The Board of Adjustment is holding a Public Hearing to discuss the modification and/or extension of the Special Use Permit granted on August 3, 2021 to place a 30,000-gallon anhydrous tank for Pfabco LLC, Cory Pfab and Pfab Family Farms only and not for resale in an M-1, Industrial zoning district. The property, located along Bernard Road approximately 1.88 miles northeast of the City of Bernard is legally described as Lot 2 Lynch Industrial Subdivision, Section 14, (T87N-R1E), Prairie Creek Township, Dubuque County, Iowa. The conditions of the Special use permit are:

1. The applicants must install an 8ft. high chain linked fence around the baffle and pump areas. The fence must be locked when not in use and follow the regulations of the Iowa Department of Agriculture. The fence must be professionally installed and needs to be at least 3 feet or more in the ground. This must be completed by April 1, 2022.
2. The applicants must install cement pilasters that are 10 inch H Beams with ½ inch flanged or 10 inch Steel Case Concrete Pilasters that are 5 feet above ground, 5 feet below ground and 5 feet from the tank spaced in 5 feet intervals around the tank for crash protection and follow the regulations of the Iowa Department of Agriculture. This must be completed by April 1, 2022.
3. The applicants needs to have a minimum of (2) two operational lights around the tank, (1) one at the front of the tank, and (1) one at the rear of the tank that are facing the tank and they must be on from Sunset to Sunrise. This must be completed by April 1, 2022.
4. The applicants need to have an operational security camera over the pumping area. This must be completed by April 1, 2022.
5. Emergency contacts which includes names, phone numbers and addresses must be clearly visible and posted by the road side at the site entrance located on Bernard Road. A second sign with the same information must be clearly visible and posted at the pump area. This must be completed by April 1, 2022.

6. The applicants needs to have a lock box to cover up the valves, plumbing and hoses so they cannot be accessed at night. All manual valves must be locked and or chained when not in use. This must be completed by April 1, 2022.
7. No nurse tanks are to be stored at the site during the off-season which is defined as July 1st thru September 30th and December 1st thru March 31st of each calendar year.
8. No filling of the 30,000-gallon tank will be permitted from July 1st thru September 30th and from December 1st thru February 28th of each year. The 30,000 gallon tank shall not contain more than 15% of Anhydrous from July 1st thru September 30th and December 1st thru February 28th of each year.
9. The applicants must follow and comply with the Iowa Department of Agricultural & Land Stewardship Anhydrous Ammonia Facility Inspection Checklist and it must be completed by their required Deadline date of August 1, 2022.
10. The applicants must contact the list of property owners who have requested to be notified when the tank is scheduled to be filled. The contact must be 24 hours prior to filling the 30,000-gallon Anhydrous tank.
11. All of the above conditions must be met by the deadline dates or subject to Immediate revocation of the Special Use Permit.

The property is 5 acres of Industrial zoned ground. Four (4) letters were sent, (4) were delivered and the City of Bernard was notified. There were no comments in regards to this case.

Speaking to the board was Cory Pfab, 6333 Olde Davenport Rd., LaMotte. Mr. Schroeder administered the following Oath asking the participant to raise his hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Schroeder asked if he wanted to add anything to his case and he said no.

Mr. Schroeder asked Mr. Pfab if the 15% of Anhydrous ammonia that could be left in the tank during the off-season was a reasonable amount or should it be 20% or 25%. Mr. Pfab said it worked out this year because of the weather but may not work for the other years to come. The board discussed that the current condition #8 and they decided because it was set too low at 15% and agreed that 25% would be an acceptable modification. The board was in favor of changing the date range due to Iowa weather conditions from December 1st thru February 28th to December 25th thru February 28th.

Mr. Klein suggested raising the emergency contact sign by the road side 4 feet and maintaining the vegetation around the sign to make it visible from the roadway.

Mr. Link asked if it was still necessary to have Mr. Pfab to call the surrounding neighbors upon filling the tank. Ms. Henry stated that it is beneficial and lessens the calls to the Zoning Department.

Ms. Switzer suggested since this case will be coming back to the board for review in a year that we maintain the call list for now and bring it back for discussion once the year is up to see if it's still necessary.

Mr. Schroeder asked if anyone from the public would like to speak in favor or against the case. No one spoke.

The board wants the case brought back before them in July 2023 for review.

Mr. Pfab stated that the Iowa Department of Agriculture and his insurance company had concerns about the two entry doors in the fence surrounding the tank. He stated they along with himself believe there is a chance of entrapment if a person were to enter the fence. Mr. Pfab stated he was not a fan of the entry doors and wanted it to be brought to the boards attention that he is following the condition that the board of adjustment set if some incident were to happen. Mr. Schroeder something could be engineered for safety to prevent that from happening. Mr. Klein suggested using bungee cords.

Ms. Henry re-read the changes to the Special Use Permit. The board agreed to remove the must be completed by April 1, 2022 dates on the original Special Use Permit and change them to read this must stay in place and maintained.

A motion was made by Mr. Link, **seconded by Ms. Switzer, and passed unanimously to approve the Special Use Permit with the following conditions. . Vote: 4-0.**

- 1. The applicants must install an 8ft. high chain linked fence around the baffle and pump areas. The fence must be locked when not in use and follow the regulations of the Iowa Department of Agriculture. The fence must be professionally installed and needs to be at least 3 feet or more in the ground. This must stay in place and maintained.**
- 2. The applicants must install cement pilasters that are 10 inch H Beams with ½ inch flanged or 10 inch Steel Case Concrete Pilasters that are 5 feet above ground, 5 feet below ground and 5 feet from the tank spaced in 5 feet intervals around the tank for crash protection and follow the regulations of the Iowa Department of Agriculture. This must stay in place and maintained.**
- 3. The applicants needs to have a minimum of (2) two operational lights around the tank, (1) one at the front of the tank, and (1) one at the rear of the tank that are facing the tank and they must be on from Sunset to Sunrise. This must stay in place and maintained.**
- 4. The applicants need to have an operational security camera over the pumping area. This must stay in place and maintained.**

5. **Emergency contacts which includes names, phone numbers and addresses must be clearly visible and posted by the road side at the site entrance located on Bernard Road. The bottom of the sign must be posted 4 feet above the ground and the vegetation must be maintained around the sign. A second sign with the same information must be clearly visible and posted at the pump area. This must stay in place and maintained.**
6. **The applicants needs to have a lock box to cover up the valves, plumbing and hoses so they cannot be accessed at night. All manual valves must be locked and or chained when not in use. This must stay in place and maintained.**
7. **No nurse tanks are to be stored at the site during the off-season which is defined as July 1st thru September 30th and December 1st thru March 31st of each calendar year.**
8. **No filling of the 30,000-gallon tank will be permitted from July 1st thru September 30th and from December 25th thru February 28th of each year. The 30,000 gallon tank shall not contain more than 25% of Anhydrous from July 1st thru September 30th and December 25th thru February 28th of each year.**
9. **The applicants must follow and comply with the Iowa Department of Agricultural & Land Stewardship Anhydrous Ammonia Facility Inspection Checklist and it must be completed by their required Deadline date of August 1, 2022.**
10. **The applicants must contact the list of property owners who have requested to be notified when the tank is scheduled to be filled. The contact must be 24 hours prior to filling the 30,000-gallon Anhydrous tank.**
11. **All of the above conditions must be met by the deadline dates or subject to immediate revocation of the Special Use Permit.**

A second motion was made by Ms. Switzer, second by Mr. Klein to approve the **Special Use Permit until July 2023. The case will come back to the board at that time for review. Vote: 4-0.**

BA#06-19-22 DONALD HOWES & LISA HOFFMANN

VARIANCE

The applicants are requesting to build a 10'x10' shed attached to the existing 24'x10' carport in an R-3, Single Family Residential zoning district. They are requesting to convert 4' of the existing carport into the shed making it a 10' x 10' shed and leaving a 20'x 10' carport. They are requesting to build 10' from the front street line along Jolene Street; they will need a 20' variance to the 30' required. The property, located along South John Deere Rd approximately .3 miles northwest of the City of Dubuque, is legally described as Lot 1-2-1-29 Section 2, (T89N-R2E), Dubuque Township, Dubuque County, Iowa.

The property is .23 acres with a Single Family Home. The home was constructed in 1955 and was built too close to the front street line along Jolene Street. Fifteen (15) letters were sent, Nine (9) were delivered and the City of Dubuque was notified. Dawn Bernhard, Hawk Development Limited, Thomas McDermott Jr and Marilyn Michels did not pick up their letters. There were no comments in regards to this case.

Speaking to the board was Lisa Howes, 17343 John Deere Rd, Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise her hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Mr. Schroeder asked if there was anything, she wanted to add to her case and she said yes. Ms. Howes asked if she could change the original request by 2 feet. They originally requested a 10’ x 10’ shed and a 20’ x 10’ carport. The applicants would like to change the request to a 10’x 12’ shed and a 22’ x 10’ carport. The 2 feet difference would help extend the carport to fit a full size truck. Ms. Howes stated it will have a cement slab under the addition.

Mr. Schroeder asked if anyone wanted to speak in favor or against the case. No one spoke.

A second motion was made by Ms. Switzer, **second by Mr. Klein to approve the variance with the requested changes. The motion passed unanimously. Vote: 4-0.**

**BA#06-20-22 DAVID & DIANE CORBIN/ USCOC OF GREATER IOWA LLC
SPECIAL USE PERMIT**

The applicants are requesting a Special Use Permit to construct a 335’ Guyed Telecommunication Tower, in an A-1, Agricultural zoning district. The property, located along Hill Valley Lane approximately .50 miles east of the City of Farley, is legally described as part of the NW NE Section 17, (T88N-R1W), Taylor Township, Dubuque County, Iowa.

The property is 4.1 acres with a house and farm buildings. The applicants would like to put a cellular tower on the property. They were approved for the Special Use Permit in case number BA#02-06-2021 to allow for the tower. The applicants then applied for the building permit on 04/15/2021 and due to a pending court case with the existing tower, construction of the new tower has been delayed. The applicants building permit expired on 04/15/2022. This tower is designed to cover citizens of Dubuque County and the City of Farley with cellular service. There is a tower in the area that currently has provided this service for the past 20 years. The existing tower will be removed from its current location and be replaced in this new location. US Cellular has provided a letter confirming their plan to remove the existing tower once the new tower is operational. Four (4) letters were sent, (3) were delivered and the City of Farley was notified. Joseph & Kathryn Jasper did not pick up their letter. There were no comments in regards to this case.

Speaking to the board was Chad Skinner, USCOC of Greater Iowa LLC, 12106 Ridgeview Drive, Urbandale. Mr. Schroeder administered the following Oath asking the participant to raise his hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Skinner stated he did not know that status of the legal case but was asked by the property owner to extend the Special Use Permit so they could move forward immediately when case is settled.

Mr. Schroeder asked if anyone would like to speak in favor or against the case and no one spoke.

A motion was made by Ms. Switzer, **second by Mr. Schroeder to approve the Special Use Permit with the condition that all requirements of Part 8, Telecommunication Towers of the Zoning Ordinance, as well as any federal and state regulations are met except for Section 1-87.8 regarding the tree screening. The motion passed unanimously. Vote: 4-0.**

BA#06-21-22 JOSEPH HESSELMAN VARIANCE

The applicant is requesting to build a 30' x 50' personal storage shed, in an A-1, Agricultural zoning district. He is requesting to build 60' from the front street line, he will need a 20' variance to the 80' required. The property, located along Rupp Hollow Rd approximately .25 miles south of the City of Sageville, is legally described as Lot 1-3 & Lot 2-4 sub Lot 2 SW SW & Lot 1 S 1/2 NW SW Section 3, (T89N-R2E), Dubuque Township, Dubuque County, Iowa.

The property is 5.6 acres with a Single Family Home. The variance is needed because of the topography of the land. Eleven (11) letters were sent, (10) were delivered and the City of Sageville was notified. Logan Dalbkermeyer did not pick up his letter. There were no comments in regards to this case.

Speaking to the board was Joseph Hesselman, 11903 Rupp Hollow Rd, Dubuque. Mr. Schroeder administered the following Oath asking the participant to raise his hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Hesselman said he had nothing to add to the case.

Mr. Klein asked Mr. Hesselman where the water drainage ran. Mr. Hesselman said it all runs down the the roadway ditch.

Mr. Schroeder asked if anyone would like to speak in favor or against the case and no one spoke.

A motion was made by Ms. Switzer, **second by Mr. Link to approve the variance. The motion passed unanimously. Vote: 4-0.**

BA#06-22-22 JESSE & MEGAN SCHMITT/EAGLE POINT SOLAR VARIANCE

The applicants are requesting to build a 24' x 13'9" Solar Array, in an R-2, Single Family Residential zoning district. They are requesting to build 5' from the left lot line, they will need a 15' variance to the 20' required. The property, located along Brimeyer Lane approximately .45 miles southeast of the City of Sherrill, is legally described as Lot 3 Brimeyer Acres 1st Addition Section 19, (T90N-R2E), Peru Township, Dubuque County, Iowa.

The property is 1.03 acres with a Single Family Home. The applicants believe this is the best location for the solar array to maximize the remaining yard space. The property has two front property lot lines which restricts the location of the solar array. The northeast side of the property has the septic drain field that creates another restriction with the location. Seven (7) letters were sent, (6) were delivered and the City of Sherrill was notified. Randall Brimeyer did not pick up his letter. There was one comment from Jeff Maus, 14560 Brimeyer Lane, Sherrill. He said he has no problem with the variance request.

Speaking to the board was Jesse Schmitt, 14563 Brimeyer Lane, Sherrill. Mr. Schroeder administered the following Oath asking the participant to raise his hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Schroeder asked Mr. Schmitt if he had anything to add to his case. He said no.

Ms. Henry said that another neighbor had a solar array on their property.

Mr. Schroeder asked if anyone would like to speak in favor or against the case and no one spoke.

A motion was made by Mr. Link, **second by Mr. Schroeder to approve the variance. The motion passed unanimously. Vote: 4-0.**

Mr. Schroeder said the next case BA#06-23-22 James & Catherine McAuliffe has been withdrawn.

D. PUBLIC COMMENTS: None

E. OLD BUSINESS:

Ms. Henry discussed our meeting minute process. She stated that she recently attended COZO training and stated that our minutes are not required to be a word for word document. She said we would continue our current process however; we will not pick them apart unless the information was incorrect.

F. NEW BUSINESS:

Ms. Henry stated that she did not see the Board of Adjustment cases slowing down. Ms. Henry stated that she is checking when the new applications for board members will be going before the Board of Supervisors.

G. ADJOURNMENT: A motion was made by Mr. Link, **seconded by Mr. Schroeder and passed unanimously to adjourn. Vote: 4-0. The meeting adjourned at 8:00 p.m.**