

Dubuque County Zoning Board of Adjustment Minutes of the June 6, 2023 meeting

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: Ben Schroeder, Michelle Switzer, Dave Klein, Loras Link and Penny Wulfekuhle
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 2, 2023 meeting. Vote: 5-0.**

C. PUBLIC HEARINGS:

1. BA#06-17-23 MICHAEL & JOANN BESLER VARIANCE

The applicants are requesting to build a 72' x 120' storage shed in a R-2, Single Family Residential zoning district. They are requesting to build 2.3' taller than the 13.9' required, they will need a 2.3' height variance. The property, located along Old Highway Road approximately .62 miles East of the City of Farley, is legally described as Lot 2 Joseph O'Neills 4th Sub Section 08, (T88N-R1W), Taylor Township, Dubuque County, Iowa.

The property is 4.22 acres with a Single-Family Home. The applicants would like to build the detached storage shed for additional storage space. The new shed will not look taller than the existing home because of its location to the rear of the property. They do need the variance because the building will be 2.3' taller than the home. Four (4) letters were sent, (4) were delivered and the City of Farley was notified. There were no comments regarding this case.

Speaking to the board was Michael & Joanne Besler, 25348 Old Highway Rd, Farley. Mr. Schroeder administered the following Oath asking the participant to raise their hands. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" They said yes.

Mr. Schroeder asked if they had anything to add to their case. Mr. Besler said they need the shed to store antique tractors and vehicles. Ms. Wulfekuhle asked why they needed the building to be tall. Mr. Besler said they were adding a loft in the shed.

Mr. Schroeder asked if anyone had questions, and no one spoke.

A motion was made by Ms. Switzer, **seconded by Mr. Link to approve the variance request with the condition that there must be gutters and down spouts that direct the water onto the owner's property. The motion passed unanimously. Vote: 5-0.**

2. BA#06-18-23 TRI-STATE COMMUNITY CHURCH INC VARIANCES

The applicant is requesting to build a 42 square foot sign in an A-1, Agricultural zoning district. They are requesting to build 10' from the front lot line, they will need a 70' variance to the 80' required and they are requesting to build 35' from the right-side lot line, they will need a 15' variance to the 50' required. The property, located along Derby Grange Road approximately .066 miles West of the City of Dubuque, is legally described as Lot 1-2 Tscharnier Place Section 09, (T89N-R2E), Dubuque Township, Dubuque County, Iowa.

The property is 3.11 acres with a community church, parking lot and storage shed. The applicants are replacing an older existing sign. The new sign will be larger than the existing sign and will be a little closer to the road than the existing sign. They need the variance to be allowed to use the location they are currently occupying. Five (5) letters were sent, (4) were delivered and the City of Dubuque was notified. Derby Grange Golf Real Estates LLC did not pick up their letter. There were no comments regarding this case.

Speaking to the board was John Wandsnider, 7611 North Indian Ridge Road, East 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. Schroeder asked if he had anything to add to his case. Mr. Wandsnider said he was a member of the board for Tri-State Community Church, and he said the sign will be larger than the existing sign but will remain in the same location of the existing sign. Mr. Klein asked if the sign would obstruct the view and Ms. Henry said no.

Mr. Schroeder asked if anyone had addition questions, and no one spoke.

A motion was made by Mr. Link, **seconded by Mr. Schroeder to approve the variance request. The motion passed unanimously. Vote: 5-0.**

3. BA#06-19-23 MEGAN INGALSBE TRUST VARIANCES

The applicants are requesting to build a 70' x 75' detached garage in a R-1, Single Family Residential zoning district. They are requesting to build 32' from the front lot line off of Estate Lane, they will need a 48' variance to the 80' required and they are requesting to build 40' from the left side lot line, they will need a 10' variance to the 50' required. They are requesting to build 1.6' taller than the 25' required, they will need a 1.6' height variance. The property, located along Estate Lane approximately .13 miles West of the City of Dubuque, is legally described as Lot 7 Walnut Ridge Estates Section 01, (T88N-R1E), Vernon Township, Dubuque County, Iowa.

The property is 4.11 acres with a Single-Family Home. The applicants plan to match the appearance of the detached garage to the existing home. The applicants want to build the detached garage in the requested location because of the location of their well, septic and geothermal system. The location is to the rear of the property and will be less noticeable in this location. Eight (8) letters were sent, (8) were delivered and the City of Dubuque was notified. There were no comments regarding this case.

Speaking to the board was Steve Ingalsbe, 15680 Estate Lane Peosta. 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. Ingalsbe said the reason he was building on the east side of property is because it has more open area that has a natural slope to make the garage less visible from Cottingham Road. Mr. Ingalsbe said he could not build on the east side of the property because of the utilities and tree line.

Speaking to the board was Lester Jennings, 11044 Cottingham Road, Peosta. 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. Jennings said he lives next to the Ingalsbe’s, and he said he was in favor of the variance request.

Mr. Schroeder asked if anyone had addition questions, and no one spoke.

A motion was made by Ms. Switzer, **seconded by Ms. Wulfekuhle to approve the variance request with the condition that there must be gutters and down spouts that direct the water onto the owner’s property. The motion passed unanimously. Vote: 5-0.**

4. BA#06-20-23 LOREN & AMY KAMMERUDE VARIANCE

The applicants are requesting to build a 10’ x 16’ storage shed in a R-1, Single Family Residential zoning district. They are requesting to build 43’ from the left side lot line, they will need a 7’ variance to the 50’ required. The property, located along Duve Lane approximately 3.29 miles Northeast of the City of Sageville, is legally described as Lot 2-2-1-1-1-1 SW SE Section 10, (T90N-R2E), Peru Township, Dubuque County, Iowa.

The property is .53 acres with a Single-Family home with a detached garage. The applicants are requesting to replace an existing utility shed with a new larger utility shed. The existing shed sits too close to the property line already. They are requesting the shed to go in the same area because of the access, well & septic. Seven (7) letters were sent, (2) were delivered. Daniel & Stacey Barton, Jeffry Fruchtenicht, Garrett Kane, Christopher Rupp and Anthony Seeberger did not pick up their letters. There were no comments regarding this case.

Speaking to the board was Loren & Amy Kammerude, 11331 Duve Lane, Dubuque. Mr. Schroeder administered the following Oath asking the participants to raise their hands. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They said yes.

Mr. Schroeder asked if they had anything to add to their case and they said no.

Ms. Henry said the Kammerude’s weren’t sure of the exact location of the property line, so they were moving the shed further away from the property line than the existing shed.

She said the existing shed would be removed. Mr. Klein stated that he thought it was a good idea to move it further away from the property line.

Mr. Schroeder asked if anyone had addition questions, and no one spoke.

A motion was made by Mr. Klein, **seconded by Mr. Schroeder to approve the variance request. The motion passed unanimously. Vote: 5-0.**

5. BA#06-21-23 RUSSELL & MARLEE KRAMER VARIANCES

The applicants are requesting to build a 46' x 28' attached garage in a R-1, Rural Residential zoning district. They are requesting to build 24' from the front lot line, they will need a 56' variance to the 80' required and they are requesting to build 35' from the right-side lot line, they will need a 15' variance to the 50' required. The property, located along Gun Club Road approximately 1.63 miles Southeast of the City of Bankston, is legally described as Lot 2-1-1 SE NE & Lot 2-2-1 SE NE Section 34, (T89N-R1W), Iowa Township, Dubuque County, Iowa.

The property is .84 acres with a Single-Family Home, one car detached garage and small storage shed. The applicants are removing the existing detached garage. The applicants will attach the new garage to the Single-Family home, and they will match the siding of the garage to the existing home. Three (3) letters were sent, (3) were delivered and the City of Bankston was notified. There were three (3) comments regarding this case. Steven Hefel Trust, 12701 Gun Club Rd, Epworth, Mark Hefel, 8065 Dutch Lane Rd, Epworth & Epworth Sportsmens Gun Club, 18127 Cedar Ridge Rd, Durango. All three (3) comments have no issues with the variance requests.

Speaking to the board was Russell & Marlee Kramer, 12691 Gun Club Rd, Epworth. Mr. Schroeder administered the following Oath asking the participant to raise their hands. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" They said yes.

Mr. Schroeder asked if they had anything to add to their case. They said no. Ms. Henry said they will remove the existing garage to build the attached garage.

A motion was made by Mr. Klein, **seconded by Mr. Link to approve the variance request with the condition that there must be gutters and down spouts that direct the water onto the owner's property. The motion passed unanimously. Vote: 5-0.**

6. BA#06-22-23 TODD & LISA FRASHER SPECIAL USE PERMIT

The applicants are requesting to build a 60' x 100' machine shed in an A-1, Agricultural zoning district and a R-1, Rural Residential zoning district. The property, located along North Cascade Road approximately 2.75 miles Northeast of Cascade, is legally described as Lot 1 Frasher Addition Section 15, (T87N-R1W), White Water Township, Dubuque County, Iowa.

The property is 2.31 acres with a Single-Family Home with a machine shed. The applicants would like to build the machine shed for storage of their farm equipment and equipment for their custom baling business. The property is a non-conforming A-1, Agricultural property, The applicants do file a Schedule F and own over 80 acres about 4 miles from this property. They are requesting the building on this property so they can

work on the farm equipment close to home. Four (4) letters were sent, (4) were delivered & The Dubuque County Conservation Society Inc was notified. There was one comment regarding this case. Joyce McMullen, 23887 North Cascade Rd, Cascade. She has no issues regarding the request.

Speaking to the board was Todd & Lisa Frasher, 23947 North Cascade Road, Cascade. Mr. Schroeder administered the following Oath asking the participants to raise their hands. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They said yes.

Ms. Henry said the Frasher’s could have built the machine shed for Agricultural use without permission from the Board of Adjustment because they file a Schedule F however, she talked with them about requesting the Special Use Permit because their main farm was 4 miles away and if they decided to sell the farm in the future, they would be legally permitted to keep the machine shed for their custom baling business. Ms. Henry said requesting the Special Use Permit would protect them in the future.

Mr. Link asked if there were setbacks in A-1, Agricultural zoning districts and Ms. Henry said no however, she said that requesting the variance would again protect the Frasher’s in the future. Mr. Klein said the requests were a good idea.

Mr. Schroeder asked if anyone had questions, and no one spoke.

A motion was made by Ms. Switzer, **seconded by Mr. Klein to approve the Special Use Permit. The motion passed unanimously. Vote: 5-0.**

7. BA#06-23-23

TODD & LISA FRASHER

VARIANCES

The applicants are requesting to build a 60’ x 100’ machine shed in an A-1, Agricultural zoning district and a R-1, Rural Residential zoning district. They are requesting to build 20’ from the left side lot line, they will need a 30’ variance to the 50’ required. They are requesting to build 13’ taller than the 10’ required, they will need a 13’ height variance. The property, located along North Cascade Road approximately 2.75 miles Northeast of Cascade, is legally described as Lot 1 Frasher Addition Section 15, (T87N-R1W), White Water Township, Dubuque County, Iowa.

The property is 2.31 acres with a Single-Family Home with a machine shed. The applicants would like to build the machine shed for storage of their farm equipment and equipment for their custom baling business. The applicants would like to place the shed closer to the left side lot line to improve the water drainage due to the topography of the land. Three (3) letters were sent, (3) were delivered & The Dubuque County Conservation Society Inc was notified. There was one comment regarding this case. Joyce McMullen, 23887 North Cascade Rd, Cascade. She has no issues regarding the request.

Speaking to the board was Todd & Lisa Frasher, 23947 North Cascade Road, Cascade. Mr. Schroeder administered the following Oath asking the participants to raise their hands. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They said yes.

Ms. Henry said the owners did not have to request the variance since it was in an A-1, Agricultural zoning district however, this would protect them in the future if they decided to sell their main farm land about 4 miles down the road.

Mr. Schroeder asked if the 20' left side setback would be enough room to fix the roof if needed. Mr. Frasher said yes. He said the closer to the property line he gets with the building is better for the water runoff.

Mr. Klein asked if he intends on placing gutters and down spouts on the building and Mr. Frasher said he did not place them on the adjacent building. The board decided not to require the condition of having gutters and down spouts on the machine shed.

A motion was made by Mr. Klein, **seconded by Ms. Switzer to approve the variance request. The motion passed unanimously. Vote: 5-0.**

8. BA#06-24-23

JAG PROPERTIES LLC

VARIANCE

The applicants are requesting to build a 290' x 100' warehouse in an M-1, Industrial zoning district. They are requesting to build 15' from the side lot line off of Wood Gate Drive, they will need 15' variance to the 30' required. The property, located along Wood Gate Drive approximately .09 miles North of the City of Dubuque, is legally described as Lot 2 Miller Place No 3 Section 23, (T88N-R2E), Table Mound Township, Dubuque County, Iowa.

The property is 2.39 acres with a black topped area used for outdoor storage. The applicants would like to build an additional warehouse building for future business. The applicants are requesting the variance to have less impact for runoff issues as well as visual impacts to the adjacent residential property to the north. Three (3) letters were sent, (3) were delivered and the City of Dubuque was notified. There were no comments regarding this case.

Speaking to the board was Jason Germaine, 9216 Route 52 South, Dubuque & Andrew Belken, 3349 Kaiser Blvd, Cuba City, Wisconsin. Mr. Schroeder administered the following Oath asking the participants to raise their hands. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" They said yes.

Ms. Henry said they are requesting the variance to lessen the disturbance of the hillside at the back of the new building. Mr. Klein asked if they planned on expanding the parking lot. Mr. Germaine said they would just extend the existing parking lot. Mr. Klein asked if they had a detention basin and Mr. Germain said they had two detention basins.

Ms. Henry said the owners had been in contact with the Water & Soil Department to obtain the proper permits.

Speaking to the board was Linda Southwood, Southwood Properties, 1220 Valentine Dr, 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. Mrs. Southwood said she was in favor of the variance request.

Mr. Schroeder asked if anyone had additional questions, no one spoke.

A motion was made by Mr. Link, **seconded by Ms. Wulfekuhle to approve the variance request with the condition that there must be gutters and down spouts that direct the water onto the owner's property. The motion passed unanimously.**
Vote: 5-0.

9. BA#06-25-23 PFABCO LLC/CORY & SUSAN PFAB SPECIAL USE PERMIT

The applicants are requesting the continued use of a 30,000-gallon anhydrous tank in a M-1, Industrial zoning district. The property, located along Bernard Road approximately 1.88 Northeast of the City of Bernard, is legally described as Lot 2 Lynch Industrial Sub Section 14, (T87N-R1E), Prairie Creek Township, Dubuque County, Iowa.

The property is 5 acres with a 30,000-gallon anhydrous tank. The applicants were granted a Special Use Permit on August 3, 2021 on BA#08-32-21 to place a 30,000-gallon anhydrous tank for the Pfab Family Farms use only. The applicants were in violation of the Special Use Permit and after review they were given a 90-day extension to get the property into compliance on March 1, 2022. After review again on June 6, 2022, the applicants were granted a modification/or extension of the original applicant with the new conditions as they were being met. The applicants have met and continued to meet those conditions at this time. Four (4) letters were sent, (4) were delivered and the City of Bernard was notified.

Speaking to the board was Cory Pfab, 6333 Old 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 would like to add anything to his case. Mr. Pfab said no, and business has been operating smoothly for the past year. Mr. Schroeder said there has been no complaints and he recently drove past the property and the property is being well maintained. Mr. Schroeder said Mr. Pfab has complied with the conditions of the Special Use Permit.

Mr. Schroeder stated that he did feel it was not necessary to add more conditions however, he would like to see a specific time limit on the Special Use Permit.

Mr. Pfab asked if he sold the property if the Special Use Permit would transfer to the new buyer. Ms. Henry said no the Special Use Permit was only for Pfabco LLC. She said the anhydrous tank was to be used by Pfabco LLC, Cory Pfab and Pfabco Family Farms.

Ms. Henry said she adjusted the previous Special Use Permit to read the conditions must be maintained. Ms. Henry read the existing conditions to the board.

The board discussed with Mr. Pfab about removal of the condition that "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." The agreed to remove this condition.

The board also decided to remove "No filling of the 30,000-gallon tank will be permitted from July 1st thru September 30th and from December 25th through 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 through February 28th of each year.

Ms. Henry reminded the board that if Mr. Pfab would violate any of the conditions Mr. Pfab would have to appear in front of the Board of Adjustment for a possible revocation of the Special Use Permit.1:10

The board discussed and modified the condition that the applicants must contact the list of notified property owners located within the 500' of the property when the tank is scheduled to be filled. The contact must be no less than 24 hours prior to filling the 30,000-gallon Anhydrous tank.

The board granted the applicants a Special Use Permit for a 5-year term expiring June 6, 2028. The applicants must then reapply through the Board of Adjustment if they wish to continue the Special Use Permit. If the applicants request a modification of the Special Use Permit prior to the expiration date, they will need to request a hearing with the Board of Adjustment.

The board listed on the decision that all the above conditions must be met or will be subject to immediate revocation of the Special Use Permit.

A motion was made by Ms. Switzer, **seconded by Mr. Klein to approve the Special Use Permit with following conditions:**

BA#06-25-23 PFABCO LLC/CORY & SUSAN PFAB SPECIAL USE PERMIT

The Board of Adjustment held a Public Hearing to discuss the modification and/or extension of the Special Use Permit that had been granted June 6, 2022 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 applicants were granted a Special Use Permit to continue using the 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 maintain and keep in place the 8ft. high chain linked fence around the baffle and pump areas. The fence must continue to be locked when not in use and follow the regulations of the Iowa Department of Agriculture.
2. The applicants must maintain and keep in place the 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.
3. The applicants must maintain and keep in place 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.

4. The applicants maintain and keep in place an operational security camera over the pumping area.
5. The applicants must maintain and keep in place Emergency contacts which includes names, phone numbers and addresses must be clearly visible and posted by the roadside 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.
6. The applicants must maintain and keep in place the 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.
7. The applicants must continue to comply with the Iowa Department of Agricultural & Land Stewardship Anhydrous Ammonia Facility Inspection.
8. The applicants must contact the list of notified property owners located within the 500' of the property when the tank is scheduled to be filled. The contact must be no less than 24 hours prior to filling the 30,000-gallon Anhydrous tank.
9. The applicants are granted a Special Use Permit for a 5-year term expiring June 6, 2028. The applicants must then reapply through the Board of Adjustment if they wish to continue the Special Use Permit. If the applicants request a modification of the Special Use Permit prior to the expiration date, they will need to request a hearing with the Board of Adjustment.
10. All the above conditions must be met or will be subject to immediate revocation of the Special Use Permit.

The motion passed unanimously. Vote: 5-0.

D. PUBLIC COMMENTS:

E. OLD BUSINESS:

BA#04-11-22 JOSEPH & TAMMY HENRY VARIANCE EXTENSION

Ms. Henry said they were unable to complete their front porch project and requested an extension of their variance request. A motion was made by Mr. Schroeder, **seconded by Ms. Switzer to grant the variance extension until July 2024. The motion passed unanimously. Vote 5-0.**

Mr. Schroeder said he attended the COZO Conference and said it was a great educational tool. He said there was an abundance of information regarding Solar Ordinance, Battery and Wind Energy. Mr. Schroeder thought if we did not make the ordinances feasible for the public then the State of Iowa would just step in and take complete control and the County would then not have any input regarding the State of Iowa codes.

Ms. Henry said that the Dubuque County Board of Supervisors had approved the position for the Dubuque County Planning and Zoning Department. She thinks this position will be filled in July.

F. NEW BUSINESS:

G. ADJOURNMENT: A motion was made by Mr. Link, **seconded by Ms. Switzer** and passed unanimously to adjourn. **Vote: 5-0. The meeting adjourned at 8:52 p.m.**