

February 22, 2024  
9:00 a.m.

500 Forest St, Wausau WI

## MINUTES

### MARATHON COUNTY BOARD OF ADJUSTMENT

Members present in person: Pat Schreiner, Richard Lawson, Carolyn Opitz, Kerry Brimmer, Tom Seubert

Members present via WebEx / phone: **None**

Members not present: Jim Servi

Also present remotely via phone / WEBEX or in person: Shad Harvey, Garrett Pagel, Teal Fyksen, Nicole Delonay, Brittanie Schulz, Conservation, Planning & Zoning;

**Called to order** at 9:00 a.m., 210 River Drive, Wausau by Chair Pat Schreiner, who explained the **rules of the hearing** and the reason for the establishment of the Board of Adjustment.

1. **Approve November 16, 2023, minutes** – **Motion** / second by Brimmer/Seubert to approve the November 16, 2023, minutes as distributed. Motion **carried** by voice vote, no dissent.
2. **The application** of Dan Schallock for a conditional use permit per section 17.401 of the General Zoning Code of Ordinances under Marathon County Chapter 17-Zoning Code to construct an accessory building prior to a principal structure (for personal/private use and or accessory to the principal use of the lot) in the Rural Residential zoning district, located in part of the Southeast ¼ of the Southeast ¼, Section 26, Township 28 North, Range 3 East, Town of Frankfort; Pin # 026.2803.264.0990.

Harvey was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Harvey reviewed the staff report and discussed Ordinance Section 17.401.01 for the purpose of constructing an accessory building prior to a principal structure (For personal/private use and/or accessory to the principal use of the lot) in the Rural Residential District. Harvey reviewed the sections of Chapter 17 that apply to this request and the information shared by the applicant to address the questions that apply. Harvey stated the Town of Frankfort gave their approval to the petition at their January 15<sup>th</sup>, 2024, meeting.

Dan Schallock – 241410 Staadt Ave - was sworn in and indicated he plans to build the garage to store his personal belonging prior to constructing a single-family home. Schallock hopes to have both structures built within two years.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 9:14 am.

**Motion/second** by Lawson/ Seubert to **grant** the conditional use permit with conditions for Dan Schallock as requested. The conditions are as follows:

Project The Board deliberated and completed the *Conclusion of Law and Decision Sheet*.

Motion **carried** 5 yes, 0 no, 0 abstain. Roll call vote.

3. **The application** of Earth Inc on behalf of Dennis & Krisan Stroetz for a conditional use permit per section 17.204.54 of the General Zoning Code of Ordinances under Marathon County Chapter 17 Zoning Code to operate a for the purpose of continuing an existing nonmetallic mine site (the previous conditional use permit will be expiring). The nonmetallic mine is located on property currently owned by Dennis W Stroetz & Krisan M Stroetz Joint Revocable Trust located in the F-P Farmland Preservation Zoning district on properties described as part of the S ½ of the NW ¼ (PIN # 056.2603.102.0993) and part of the N ½ of the SW 1/4 (PIN # 056.2603.103.0981), Section 10, T26N, R3E, Town of McMillan with a property address of 207601 Galvin Ave, Marshfield, WI 54449.

Teal Fyksen was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Fyksen reviewed the staff report and discussed Ordinance Section 17.204.54 for the continuing an existing nonmetallic mine site (the previous conditional use permit will be expiring). The nonmetallic mine is located on property currently owned by Dennis W Stroetz & Krisan M Stroetz Joint Revocable Trust located in the F-P Farmland Preservation Zoning district. Fyksen reviewed the sections of Chapter 17 that apply to this request and the information shared by the applicant to address the questions that apply. Fyksen stated the Town of McMillan gave their approval to the petition at their February 12, 2024, meeting. Fyksen read a letter of support submitted by James Griesbach the Marathon County Highway commissioner (Exhibit 1) and noted the Town of McMillan minutes that were provided by the town. (Exhibit 2)

Brimmer questioned where the closest pit to this location is. Fyksen stated the closest pit, with similar material, is believed to be in the town of Brighton, roughly 20 miles away.

Lawson asked for clarification on the hour change proposed by the Town of McMillan.

Opitz asked for clarification regarding exhibit 1, and questioned why the County Commissioners mentioned placing an asphalt plant within the quarry boundaries when the original permit did not allow for that. Fyksen shared that a conditional use permit was approved in 2015 for an asphalt batch plant. Harvey noted it was a separate conditional use that was approved.

The following people were sworn in and gave testimony in favor to the Earth Inc. Conditional Use Permit request:

Dan De Boer – Provided the history of the Stroetz Mine which was started in 1999 and indicated that Earth Inc has been operating the mine since 2010. De Boer explained that this mine was brought forth to the Board of Adjustments in 2019. De Boer explained their compliance with the 2019 standards that were set by the BOA. De Boer explained that in 2019 the hours of operation got changed to 7am to 530pm Monday through Friday, and the operation had to be closed January 1- April 15th. De Boer also gave a summary of what the mix of asphalt contains and why the town of McMillan proposed a change in hours. He stated that it is not feasible to operate an asphalt plant with the 7am-5:30pm M-F hours. De Boer explained why the hours recommended by the town of McMillan are necessary and explained why this pit is an important staple to the surrounding community.

Opitz questioned the approximate 60ft depth of the current pit and which De Boer stated it is possible that the pit be at that depth in one corner. De Boer confirmed the total acreage of the mine.

Opitz questioned the water quality concerns, and De Boer provides a summary of how granite is extracted.

De Boer stated that well water test have been completed on neighbors properties as required since 2019 and the results have come back in compliance.

Opitz also questioned why tankers are running the roads.

De Boer stated that the company used the north driveway and the tankers at questions may be used for other agricultural purposes.

Dan Stroetz – was sworn in and noted that Mullins Farms has been using the farm road to spread sludge on his farmland.

Opitz questioned the agreement between Earth Inc and Stroetz's.

Schreiner questioned how Earth Inc gets notified of complaints and how they handle the situations that arise.

De Boer explained how the company handles all the situations that have arose.

Damon Stichert – Representing Dennis & Kris Stroetz: Stichert explained the family history of the farm and the goal of the aquaculture pond for trout that would be 21 acres in size. Stichert noted they are not looking to change the original requested depth or size of the pond. Stichert presented the following exhibits for the record in favor:

Exhibit 3 - Adjacent Properties

Exhibit 4 - Quarry to County Highway C

Exhibit 5 - Berms & Trees

Exhibit 6 - Berms & Trees 2

Stichert explained that the Stroetz have taken great strides to make this property harmonious with neighbors and indicated there have been 0 complaints from the town of McMillan against the quarry. He indicated that the quarry has not affected property values within the area and the blasting is not affecting the surrounding area as they do blasts that are smaller than the state law standard and significantly less blasting than most quarries. (blasting reports provided in the petition packet) Stichert noted that the Niehaus's received paid for construction work from Earth Inc due to allegations that the blasting had caused the Niehaus's well to crack and drywall to crack within their home. Earth Inc paid for testing to verify if the blasting could have caused the possible cracking, and it came back that the vibration levels caused by blasting could not have caused the cracking. Stichert also gave a summary of the well report over the course of a few years and the costs that the Niehaus's received. Stichert noted that the deposits are getting more dense and closer to the surface. Stichert indicated that the Stroetz support the 10-year extension of the mine.

Seubert questioned who controls the reclamation fee.

Heidi Peskie owns property near the mine and are long term residence of the area. Her concerns include: The proposed hour changes, including Saturday operations; dust control; berm height and being driven on; water quality,

back up sensors and gate entrance safety. Peskie noted that the Town of McMillan did not allow public comment. It was reported that the Town of McMillan did not host a public hearing, but this application went through the Planning Commission and then was forwarded to the Town Board.

Exhibit 7 -Peskie also read a letter written by Kimberly Niehaus pertaining to her concerns with the mine.

Robert Peskie was sworn in and shared his concern for the proposed longer hours, Saturday operation hours and berm travel.

Russel L Kollmansberger was sworn in and indicated he is a neutral party. Kollmansberger asked that the hours recommended by the town of McMillan be reconsidered and consider the original permit hours requested.

Stichert presented the well reports that were provided in the staff packet.

De Boer gave a summary of how trucks move about the property and explained the alarms on the trucks are code. De Boer also clarified that the town wanted the extended out and it would benefit Earth Inc and benefit the community. Harvey clarified that alarms on machinery are required per MSHA but there are white noise alarms available that are MSHA compliant.

Robert Peskie shared photos of the trees and berm to the committee. (Exhibit 8-12)

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 11:30 am.

The board discussed what conditions should be considered for the permit. Items discussed were back up beepers used, berm vegetation, dust control, hours of operation and length of permit.

**Motion/second** by Brimmer/Seubert to **grant** the conditional use permit with conditions for Earth Inc as requested.

**Amended Motion/** Brimmer/ Seubert to **grant** the conditional use permit with conditions for Earth Inc as requested and the conditions are as follows:

1. Haul route - All haul trucks, loaded or empty, exiting or entering the Stroetz Quarry shall use the north driveway onto Galvin Avenue to/from the north connecting to County Road C.
2. Safety – In the event the quarry excavation (pit) is within 100ft. of a residential property line, a berm, fencing and signage will be installed.
3. Expiration of permit - Conditional Use Permit is valid for 10-years beginning February 22nd, 2024.
4. All other required Federal, state, and local permits and approvals shall be obtained and followed.
5. Alternative back up beeper equipment shall be installed on all equipment that's primary function is to be used and support operations within the boundaries of the approved non-metallic mine.
6. On the western berm, beginning from the forested area extending along the length of the berm going south shall be graveled to prevent dust.
7. Hours of operation shall be from 7:00 AM to 6:30 PM, Monday through Friday, with no operations on Saturdays or Federal Holidays.

The Board deliberated and completed the *Conclusion of Law and Decision Sheet*.

Motion **carried** 5 yes, 0 no, no abstain. Roll call vote.

4. **Board Reappointments** – None

5. **Board education and training as needed** – -Administrative Appeals

6. **Announcements and Requests** - None

7. **Next meeting date** – March 28, 2024, at 9:00 a.m., 500 Forest Street, Wausau, WI 54403

8. **Meeting adjourned** – **Motion/second** by Seubert/ Brimmer to adjourn the meeting at 12:28 a.m.

Motion **carried**.

by voice vote, no dissent.

Respectfully submitted,

Carolyn Opitz, Secretary

Marathon County Board of Adjustment

cc: Board of Adjustment (6), County Clerk, Town Clerk

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