

**MINUTES
MARATHON COUNTY BOARD OF ADJUSTMENT**

.Members present remotely: Richard Lawson, Roger Zimmerman, Arnold Schlei, Karen Piel, Carolyn Opitz

Members not present: Jim Servi

Also present remotely via phone: Raymond Lloyd, Teresa Ellefsen, Jeff Krukowski, Randy Palmer, Keith Langenhahn, and Don Southworth Jr.

Also present via WEBEX: Teal Fyksen, Cindy Kraeger, Dominique Swangstu, Lane Loveland, Becky Frisch, Diane Hanson Nathan Wincentsen, Dustin Vreeland, Jessica Bahr, and Jordan Weaver

Present in person: Mark Kolbe

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

1. Approve November 21, 2019 minutes – **Motion** / second by Piel / Schlei to approve November 21, 2019 minutes as distributed. Motion **carried** by voice vote, no dissent.

2. The application of Dairyland Power Cooperative for a conditional use permit per Table 3 (Uses Permitted by District), Community, Civic and Institutional Uses, Essential Services and Utilities of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for the purpose of constructing and operating an electrical distribution substation in the R-E Rural Estate district, on property owned by David Endries described as Outlot 1 on Certified Survey Map #18523 located in part of the SE ¼ SE ¼ of Section 8 and part of the SW ¼ SW ¼ of Section 9, Township 26N, Range 02 E, Town of Spencer, further described as PIN # 074.2602.084.0986 with a property address of 206771 State Highway 13, Spencer, WI 54479.

Teal Fyksen was sworn in for case and all additional cases, asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Exhibit 1 – Staff report: Town of Spencer has adopted county zoning. The property is not located in shoreland zoning or a mapped floodplain. There are no mapped wetlands on the property. There are no known violations on the site. Exhibit 2 – Petition for Conditional Use Permit application. Exhibit 3 – Narrative. Exhibit 4 – Certified Survey Map. Exhibit 5 – Location within township. Exhibit 6 – Future land use map. Exhibit 7 – Surrounding zoning. Exhibit 8 – Aerial Photo (wide angle). Exhibit 9 – Substation Plan Section A-A photo. Exhibit 10 – Proposed Site Layout plan. Exhibit 11 – Substation photo (example). Exhibit 12 – Yagi Antenna photo (example). Exhibit 13 – Common Shack photo (example). Exhibit 14 – Basis of Determination. Exhibit 15 - Town of Spencer resolution.

Fyksen discussed Ordinance Section 17.301.09 related to Conditional Utilities Use permitted by District, related to the construction and operation of an electrical distribution substation. Applicant will meet any other required applicable regulations.

Bahr was sworn in and discussed the need to provide a more reliable source of energy to the general public and a sawmill located on the end of the Clark Electric line that is experiencing power outages.

Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear. Testimony portion of the hearing closed at 9:30 a.m.

Motion / second by Piel / Zimmerman to **grant** the conditional use request, without any additional conditions.

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

Motion **carried** 5 yes, 0 no, roll call vote.

3. The application of Jordan Weaver, J&E Diesel and Auto Repair, for a conditional use permit per Section 17.204.46 “Vehicle Sales, Service or Rental (New and/or Used)” of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for the purpose of operating a light duty diesel and auto repair shop located in the G-A General Agriculture district, on property described as part of Lot 1 located in the NE 1/4, SE ¼ Section 8, T28N, R2E, Town of Hull, further described as PIN# 044.2802.084.0989 with a property address of 226390 Silver Maple Lane, Colby, WI 54421.

Teal Fyksen asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Exhibit 1 – Staff report: Town of Hull has adopted county zoning. The property is located in shoreland zoning. The property is not located in a mapped floodplain. There are mapped wetlands located on the property. There is one known violation on this site. Exhibit 2 – Petition for Conditional Use Permit application. Exhibit 3 – Narrative. Exhibit 4 – Site Plan. Exhibit 5 – Location within township. Exhibit 6 – Future land use map. Exhibit 7 – Surrounding zoning. Exhibit 8 – Aerial Photo. Exhibit 9 – Town of Hull resolution.

MINUTES MARATHON COUNTY BOARD OF ADJUSTMENT

Fykse discussed there had been several violations on Mr. Weaver's parcel that have since been resolve and that only one violation remains. Specifically, the existence and use of the Auto Body Repair Shop. This use is only allowed within the General Agricultural zoning district by Conditional Use Permit. The final step toward compliance is obtaining a CUP for the auto repair shop. This is an "after the fact" Conditional Use Request and there is no request to further expand the shop. Weaver was sworn in and is the owner of the parcel and Auto Body Repair Shop. He had no additional details regarding the CUP request.

Lawson questioned the timeframe of operating the repair service. Weaver has been operating the repair service for two years.

Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear. Testimony portion of the hearing closed at 9:45 a.m.

Motion / second by Zimmerman / Piel to **grant** the conditional use request, without any additional conditions.

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

Motion **carried** 5 yes, 0 no, roll call vote.

4. The application of Raymond Lloyd, for a conditional use permit per section permit per 17.204.54 "Nonmetallic Mining" of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of operating a nonmetallic mining operation on property currently owned by Raymond Lloyd. The property is located R-E Rural Estate district, on property described as part of the SW ¼ SW ¼, Section 18, T29N, 10E, Town of Plover, further described as PIN# 062.2910.183.0996.

Teal Fykse asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Exhibit 1 – Staff report: Town of Plover has adopted county zoning. The property is not located in shoreland zoning. The property is not located in a mapped floodplain. There are no mapped wetlands on the property. There are no known violations on the site. Exhibit 2 – Petition for Conditional Use Permit application. Exhibit 3 – Narrative. Exhibit 4 – Basis of Determination. Exhibit 5 – Location within township. Exhibit 6 – Future land use map. Exhibit 7 – Surrounding zoning. Exhibit 8 – Aerial Photo (wide angle). Exhibit 9 – Proposed Mine Site Map. Exhibit 10 – Mining Map. Exhibit 11 – Topographic Boundary Survey. Exhibit 12 – Proposed Reclamation Site Plan. Exhibit 13 – Proposed Reclamation Site Plan Cross Section A. Exhibit 14 – Proposed Reclamation Site Plan Cross Section B. Exhibit 15 – Town of Plover resolution.

Fykse discussed Ordinance Section 17.204.54 related to the requirements of nonmetallic mining within the Code. There will be no blasting since this site will be mining for clay. The mining map shows the driveway and site layout. The proposed final land use identified in the reclamation plan will be a farm field. There are other permitted nonmetallic mining sites in the area. The CUP is to run in concurrence with the mine site reclamation permit and remain valid for the duration of the reclamation permit, to the extent, both permits are in compliance.

The Applicant will meet any other required regulations.

Schlei questioned if this mine site will adjoin with Marathon County nonmetallic mine site #R9-5015. Fykse stated it is not part of site in discussion.

Lawson questioned the setbacks and all setbacks will be met. Seasonal weight and road limits will be abided by throughout the duration of the project.

Lloyd was sworn in and is the owner of the parcel. The clay will be used at Marathon County Solid Waste Landfill. The hours of operation are 6:30 a.m. to 6:30 p.m. Monday – Friday and 6:30a.m. to 12:00 p.m. on Saturdays.

Loveland was sworn in and explained that through the permitting process it has been practice to allow reclamation of mine sites only over the last 3 years of the CUP. Lloyd verbally amended the application from a 10 year to a 15 year CUP.

Lawson questioned the number of trucks hauling the clay out of the mine. Lloyd anticipates ten axle trucks running 10-15 loads per hour.

Wincentsen was sworn in and had no additional details regarding the CUP request.

Ellefsen was sworn in and is a neighbor to the parcel. She is concerned about the dust control. Lloyd stated this mine site is located along two County black top roads and that haul roads within the mine's permitted boundary will be watered down to control dust.

Frisch was sworn in and stated the Zoning Code provides no jurisdiction where the materials are transported to.

Chair Lawson asked for any additional testimony.

**MINUTES
MARATHON COUNTY BOARD OF ADJUSTMENT**

There was no additional testimony in favor, opposed, or as interest may appear. Testimony portion of the hearing closed at 10:25 a.m.

Zimmerman recused himself from voting due to being a member on the Solid Waste Management Board.

Motion / second by Schlei / Piel to **grant** the conditional use request for 15 years with the last 3 years for reclamation purposes only. The applicant agrees to all provisions as outlined in the applicants permit application.

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

Motion **carried** 4 yes, 0 no, 1 abstained, roll call vote.

5. The application of Jeffrey Krukowski for a conditional use permit per 17.204.54 “Nonmetallic Mining” of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of mine boundary expansion and continued operation of an existing permitted nonmetallic mining operation (Reclamation Permit #99-001) on properties currently owned by Krukowski Limited Partnership. The properties are located in the G-A General Agricultural district, on parcels described as NW ¼ NW ¼ and SW ¼ NW ¼ Section 23, T26N, 8E Town of Guenther, further described as PIN# 032.2608.232.0998, 032.2608.232.0997 and 032.2608.233.0998.

Teal Fyksen asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Exhibit 1 – Staff report: Town of Guenther has adopted county zoning. The property is located in shoreland zoning. The property is not located in a mapped floodplain. There are mapped wetlands on the property. There are no known violations on the site. Exhibit 2 – Petition for Conditional Use Permit application. Exhibit 3 – Narrative. Exhibit 4 – Description of work. Exhibit 5 – Location within township. Exhibit 6 – Future Land Use Map. Exhibit 7 – Surrounding zoning. Exhibit 8 – Aerial Photo (wide angle). Exhibit 9 – Aerial Photo. Exhibit 10 – Currently Permitted Mine Site (North). Exhibit 11 – Existing Contours Map (area to be permitted). Exhibit 12 – Proposed Erosion Control Plan. Exhibit 13 – Proposed Reclamation Site Plan Cross Section A. Exhibit 14 – Town of Guenther resolution.

Fyksen discussed Ordinance Section 17.204.54 related to the requirements of nonmetallic mining within the Code. The purpose of this application is to expand the existing boundary in the G-A General Agriculture district by 39 acres and to continue operation of an existing permitted nonmetallic mining. The hours of operation proposed are 7 a.m. to 7 p.m. Monday – Friday. Fyksen stated a well is located on the adjacent property, also owned by Mr. Krukowski. The well would not meet the setback to a quarry and described several options for compliance, specifically identified within NR812. Fyksen explained that a CUP is for the land use of mining, which Mr. Krukowski is securing for the future. The immediate plan is to use this location for processing.

All other applicable setbacks will be met.

Piel questioned the expiration date on the existing CUP and if an expiration date can be applied to the existing CUP. Fyksen stated there is no sunset/expiration date. The CUP is to run in concurrence with the mine site reclamation permit. Loveland discussed is it not common to have end dates on expanding mine sites because of the mining and market resources. Loveland stated that conditions could be placed on the new CUP but leave the existing permit stand.

Krukowski was sworn in, and had no additional details regarding the CUP request.

Vreeland was sworn in and part of this CUP request is to develop the site and add a trammel on approximately 2 acres in the Northwest corner of the 30 acres.

Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear. Testimony portion of the hearing closed at 10:52 a.m.

Motion / second by Piel / Schlei to **grant** the conditional use request for 15 years with the last 3 years for reclamation purposes only. The applicant agrees to all provisions as outlined in the applicants permit application.

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

Motion **carried** 5 yes, 0 no, roll call vote.

Chair Lawson called for a 10 minute recess.

Hearing resumed at 11:05 a.m.

6. The application of James Peterson Sons, Inc. for a conditional use permit per 17.204.54 “Nonmetallic Mining” of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of a vertical expansion (deeper depth) and continued operation of an existing permitted nonmetallic mining operation (Reclamation Permit #04-003) on properties currently owned by Andrew and Thomas Altenhofen and Joan Altenhofen. The properties are located in the F-P Farmland Preservation district, on parcels described as NE ¼ SW ¼ and SE ¼ SW ¼ Section 1, T28N, 6E Town of Marathon, further described as PIN# 054.2806.013.0998 and 054.2806.013.0993.

**MINUTES
MARATHON COUNTY BOARD OF ADJUSTMENT**

Teal Fyksen stated a letter was received by the Town of Marathon Board Chairman, Keith Langenhahn, requesting that the hearing for this case be recessed to a future meeting date due to the extension of the Safer at Home Rule; which resulted in the Town Board not being able to hold their regular Town Board meeting to render a decision on the James Peterson Sons, Inc. application. This is entered into the record as Exhibit 12. Discussion occurred amongst committee members whether to allow input/testimony from anyone that is unable to attend the Board of Adjustment meeting at a later date, as described, such testimony was taken.

Motion / second by Schlei / Zimmerman to recess the James Peterson Conditional Use Permit application to a future Board of Adjustment hearing subject to taking input/testimony from anyone in attendance today that may not be available to appear at a later date.

Motion **carried** 5 yes, 0 no, roll call vote.

Mark Kolbe was sworn in and Exhibit 14 was entered into the record. He is not opposed to nonmetallic mining but opposes the pond that could impact the field. The field currently follows a Nutrient Management Plan that identifies a Surface Water Quality Management Area (SWQMA) which encompasses approximately 26 acres along the eastern side of the field. His concern is if the pond is constructed the remainder of the field would be included in the SWQMA. This would eliminate the remainder of the field from “winter” manure applications. Kolbe is opposed to added restrictions on his property due to the pond. Possible solutions to the impact of the pond would be to construct a berm or ditch along the west side of the field. One drawback to creating a berm would be the potential for ponding along the west side, impacting crop production.

Don Southworth Jr was in attendance and will speak at a later date.

Randy Palmer was in attendance and will speak at a later date.

7. Board education and trainings as needed – None.

8. Announcements and Requests

Frisch mentioned the Board of Adjustment appointments may occur at County Board tonight.

Next meeting date – May 28, 2020 at 9:00 a.m., 212 River Drive, Wausau Room 5 / remotely

9. Meeting adjourned – **Motion** / second by Piel / Opitz to adjourn at 11:40 a.m. Motion **carried** by voice vote, no dissent.

Respectfully submitted,
Arnold Schlei, Secretary
Marathon County Board of Adjustment

AS/cek

cc: Board of Adjustment (7), County Clerk, Town Clerk

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