

**DES MOINES COUNTY, IOWA
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TUESDAY, APRIL 4, 2023**

The Des Moines County Board of Adjustment met in regular session on April 4, 2023 at 5:00 P.M. at the offices of the Southeast Iowa Regional Planning Commission, 211 N. Gear Avenue, West Burlington, Iowa 52655. In addition, an option for attending the meeting remotely was offered through Zoom.

1. Call to Order

Chairman Sam Warner called the meeting to order at approximately 5:00 P.M.

2. Roll Call

Board members present: Randy Burgus, Mitch Taeger, Sam Warner, John Wiberg, Sherry Zeller
Board members absent: None
Staff Present: Zach James, Jarred Lassiter
Public Present: Adam Parrott, Variance applicant (ZVP-23-05)

Ms. Zeller attended the meeting remotely via Zoom. All other attendees were present in person at the meeting.

3. Tentative Agenda Approval / Amendment

Motion #1: To approve the agenda as presented.
Motion by: Wiberg
Seconded by: Zeller
Vote: Unanimous vote. Motion carried.

4. Meeting Minutes

No comments or corrections were provided regarding the minutes prepared for the previous meeting.

Motion #2: To approve the Minutes of July 27, 2022, meeting as presented.
Motion by: Zeller
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

5. New Business

A. Request for Special Use Permit from Odessa Wood Products LLC for the expansion of an existing legal non-conforming industrial use at 11903 107th Street

Motion #3: To open the public hearing.
Motion by: Zeller
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

Chairman Warner opened the public hearing at 5:04 P.M.

Mr. Lassiter began to read the staff report, noting that the current request was the result of a zoning violation discovered by staff in early 2023, as the 45,000 SF building included in the request had already been completed at that time, but there was no record of any permit applications on file for this property. Furthermore, he noted that, in addition to being a violation due to the lack of obtaining a permit beforehand, this development involved a

type of use that is not permitted in the R-1 Single and Two-Family Residential District. Further research revealed that the existing pallet business on the property was a legal non-conforming use, as it was present on the property prior to the establishment of the County Zoning Ordinance in 1998. However, the construction of new buildings and additions would not be covered by this legal non-conforming status.

Lassiter stated that when Mr. Parrott was notified of the violation, he worked diligently to remedy the situation, by providing specific details and documentation about the new development. He then described the three initial components of the Special Use Permit request – a 45,000 warehouse building for storage, sorting and repair of pallets, an attached 1,792 SF building with office space, and a 7,020 SF loading dock, built as an addition onto an existing building on the north half of the property. He also noted that during a visit to the site the previous week, Mr. Parrott indicated that he had future plans for an additional building in between the existing buildings, which would serve as an enclosure for an existing pallet grinder that is currently situated outdoors.

Mr. Parrott noted that this proposed addition was still tentative at this point, as staff had informed him of a potential complication, wherein a portion of the County right-of-way for 107th Street had likely not been officially vacated yet. Lassiter acknowledged that further research was necessary to clarify this. Mr. James indicated that the County Engineer had been made aware of this potential issue, and said that he had no initial objections to vacating the right-of-way if a formal request were to be made.

Mr. Taeger cautioned that a developer should always take the time to ensure that such an issue is resolved before proceeding to construction, as they have a tendency to become awkward, protracted conflicts for private landowners. He noted that a potential westward extension of 107th Street would help create a beneficial outer loop between the north side of Burlington and Washington Road by Beaverdale. Therefore, it would be essential to confirm whether the County is in full agreement on having the right-of-way vacated.

Mr. Wiberg asked whether the adjoining owner to the west (Laveine) might ever have an interest in subdividing. Parrott indicated that he had consulted with Laveine prior to the current project, and he had expressed no concerns about it. Parrott also said that this property has been in the Laveine family for several generations, and it seemed extremely unlikely that they would ever want to split it up and sell portions.

Mr. James resumed with the staff report, indicating that staff had informed Mr. Parrott of two possible options to address the development, as allowed by the Zoning Ordinance. The first option – rezoning the property from “R-1” Single and Two-Family Residential to “I-1” Industrial had a number of prospective drawbacks, including the fact that this property, as developed, would not comply with the “I-1” district requirements for fencing and screening from nearby homes. The second option – a Special Use Permit request – also had several drawbacks, but they seemed comparatively minimal.

Mr. Lassiter noted that Dan Buck, the adjoining property owner to the east/northeast, had been present on the Odessa property when staff visited the site to obtain photos the previous week. He said that Mr. Buck was fully supportive of the proposed development on the Odessa property. Mr. Wiberg asked whether any of the neighbors had complained about the noise generated by the grinder. Lassiter indicated that no other neighboring property owners had responded to the public hearing notice, and Parrott said he was aware of no such ongoing issues or concerns among neighbors.

Lassiter said that staff had spoken with Burlington Fire Chief Matt Trexel the previous week, as Fire Marshal Mark Crooks was on a 2-week vacation. While Chief Trexel deferred to Crooks for any technical guidance or determinations, he indicated that he was personally concerned about the development as proposed, due to its isolated location at the end of a dead-end gravel road, the narrow width of that road (which would prohibit large fire trucks from passing each other as they cycle in and out), and the general nature of the use involving large quantities of wood products. He had also referenced a major fire that occurred on the property in 2015. Finally, he strongly advised that the owner invest in active fire prevention measures, such as a fire alarm system, sprinklers, and an emergency key box (‘Knox Box’), for ensuring access to the Fire Department during an emergency.

Mr. Parrott noted that this fire occurred very soon after Odessa first acquired the property from its previous owner,

and they had just begun the process of clearing out a large quantity of pallets that had been left stored outside by that previous owner when business operations had slowed down. He said that the fire had started in an open grass area where the grinder is now located, and due to exceptionally windy conditions that day, it spread quickly toward the other side of the property where the pallets were stored. He stated that there is no longer a large amount of wood waste stored outside on the property, and therefore, the risk of a similar fire occurring has been substantially reduced. He also said that the availability of water from the pond on the adjoining BNSF property was a big help in fighting the 2015 fire, and could be utilized again in the future, if need be.

Regarding the narrow width of the County road, Parrott indicated that there are at least 3 locations along this 0.3-mile road segment where it is wide enough to allow large trucks to pass one another. He also said that he is working with the neighboring owner to the north (Buck), to establish a secondary access point through that property, primarily utilizing an existing driveway used by Buck to haul in scrap concrete and similar materials. This would effectively create a full 'loop' to cycle trucks through the facility, without having to go back the same way they came in.

Regarding the use of an alarm system, Parrott said that all the doors on the office are coded for access, and inside the warehouse building, the LED lighting system is triggered by a motion sensor, which would alert him through his cell phone. He said this sensor could be triggered by the presence of blowing smoke, or even small animals such as mice. He noted that these same components are already in place at Odessa's main facility in Wapello.

Motion #4: To close the public hearing.
Motion by: Wiberg
Seconded by: Taeger
Vote: Unanimous vote. Motion carried.

Chairman Warner closed the public hearing at 5:37 P.M.

Mr. Taeger stated that in his opinion, this area of the County should have initially been zoned Industrial rather than Single-Family Residential, given the presence of 3 sizable non-conforming industrial properties. He also felt that the four existing dwellings along 107th are largely incidental to the surrounding industrial uses, given their age, common ownership, and occupation by members of the same extended family. He also indicated it would be extremely unlikely that any of these properties would ever be subdivided for new single-family development as zoned, considering their historic pattern of use. The other members expressed agreement on its future development prospects.

Taeger stated that, regardless of how the property is zoned going forward, the Special Use Permit request seemed entirely consistent with the existing pattern of land use in this specific area of the County.

When Mr. Taeger began to make a motion to approve the Special Use Permit request, Mr. Lassiter asked whether this approval should include only the previously constructed buildings, or if the proposed 100' by 100' of the enclosure of the grinder should be included as well.

Mr. Taeger asked Parrott whether the proposed grinder enclosure could still be feasible if the County ended up rejecting his request to vacate the 107th Street right-of-way. Parrott indicated that if needed, they could relocate it to another part of the property – likely at the south end which is currently undeveloped.

Motion #5: To approve the request for Special Use Permit, with the condition that approval for the construction of a 100' by 100' foot building to enclose the grinder shall be contingent on confirmation that the County road right-of-way for 107th Street has been vacated beforehand.
Motion By: Taeger
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

6. **Old Business**

None presented.

7. **Communications**

None presented.

8. **Future Agenda Items**

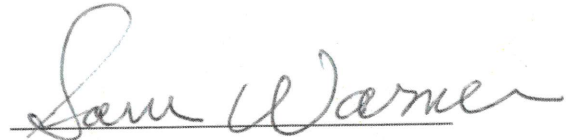
None presented.

9. **Adjournment**

Motion #6: To adjourn
Motion by: Taeger
Seconded by: Burgus
Vote: Unanimous vote. Motion carried.

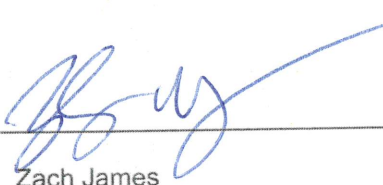
The meeting adjourned at approximately 5:47 P.M.

APPROVED:



Sam Warner
Board of Adjustment, Chair

Attest:



Zach James
Land Use Administrator