

## **Minutes of the Todd County Board of Adjustment Meeting**

**December 28th, 2023**

Completed by: Sue Bertrand P&Z Staff

Site Visits conducted by Adam Ossefoort and Russ Vandenhuevel on December 19th, 2023.

Meeting attended by board members: Chair Rick Johnson, Mike Soukup, Danny Payton, Russ Vandenhuevel, and Planning Commission Liaison Ken Hovet.

Staff members: Adam Ossefoort and Sue Bertrand

Other members of the public: Sign-in Sheet is available for viewing upon request.

Rick called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Each board member introduced themselves and Rick explained the process for those attending.

A motion to approve the agenda as presented by Ken with a second by Dan Peyton. Voice vote, no dissent heard, motion carried.

Russ motioned to have the November 16th, 2023 meeting minutes approved. Ken seconded the motion. Voice vote, no dissent heard. Motion carried.

Introduction of the meeting process and etiquette by Rick.

### **AGENDA ITEM 1: JCP Farms LLC – PID 18-008301 – Long Prairie Township**

Request(s):

1. Request for road right-of-way setback of twenty-one feet for proposed new addition.

John Petron was present as the applicant. John stated he was the owner of the LLC.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. None.

John confirmed the staff report was accurate.

Russ reviewed his onsite notes for the property. This report may be viewed, in full, at the Planning and Zoning office upon request.

Correspondence received: None.

Public comment:

Wally Zastrow, Long Prairie Township, asked if this would be a township road, he would have to go through the township for approval, and stated he was just asking a question, as a County road, is it an appropriate request?

Adam stated this was noticed as a public hearing and the Public Works Department had no response. They are the road authority for County 5.

Board discussion:

Dan asked about the truck drivers and where they drive, and stated he was trying to grasp the traffic flow.

John, explained how the truck drivers, employees and retail customers, a threefold thing, are all a part of this. He explained the traffic patterns, the employee parking and walking routes as employees live across the road, and the public mixing in with business operating traffic, all becoming a safety hazard. The proposed addition will help keep the retail customers in one area, and out of operating traffic. He explained the new addition and it will contain the potatoes for the retail customers, provide a place to park and keep them separate from the operational traffic.

Dan asked if there will be vehicle parking to the far North?

John stated that vehicle parking will not change, as the area to the north of the driveway is employee parking only.

Rick stated his concern was with the reduced ROW setback, and making sure that area remains free of parked vehicles and pedestrians.

Ken stated he has been there and it's busy. He is familiar with the set-up, and stated if John feels this will help with vehicle and pedestrian traffic, he stated he would support it.

Russ stated he agrees with the proposed addition and that it will help with the safety issues.

John stated the "L" shaped design is mostly for aesthetics, but it will help get customers in and out more quickly and improve safety.

Dan asked to see the photo where it is looking South.

More discussion on customer and traffic flow and entrances to structures.

Ken stated he was inclined to agree with John. If he only wanted the building for extra storage, that would be one thing but if it helps improve safety, he supports it.

Rick asked if the board could make a condition that there be no door on the East side of the proposed building?

John agreed with the condition, and so did the board members, so Adam added the first condition.

Rick called for Criteria Questions individually by request.

<b>Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes, it provides for public safety.
Dan Peyton	Yes.
Mike Soukup	Yes.
Russ Vandenhuevel	Yes.
Rick Johnson	Yes.

Majority response- Yes

<b>Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	Yes, trying to eliminate safety issues.
Mike Soukup	Yes.
Russ Vandenhuevel	Yes.
Rick Johnson	Yes, this is an orderly development and growth.

Majority response- yes

<b>Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	Yes, used for storage, a very reasonable manner.
Mike Soukup	Yes.
Russ Vandenhuevel	Yes, very reasonable.
Rick Johnson	Yes.

Majority response- Yes

<b>Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	No. Tough question, here we have flat space, did the landowner create this issue? Somewhere, this was created by the land owner.
Mike Soukup	Yes, however he agreed with Dan and struggled with this also, because somewhere this was created by a landowner.
Russ Vandenhuevel	Yes.
Rick Johnson	Yes.

Majority response- Yes

<b>Criteria Question #5: Will the variance maintain the essential character of the locality?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	Yes.
Mike Soukup	Yes.
Russ Vandenhuevel	Definitely, yes.
Rick Johnson	Yes.

Majority response- Yes

<b>Criteria Question #6: Does the need for the variance involve more than just economic considerations?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	Yes.
Mike Soukup	Yes.
Russ Vandenhuevel	Yes.
Rick Johnson	Yes, it also involves safety.

Majority response- Yes

<b>Criteria Question #7: Have safety and environmental concerns been adequately addressed?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Ken Hovet	Yes.
Dan Peyton	Yes.
Mike Soukup	Yes.
Russ Vandenhuevel	Yes.
Rick Johnson	Yes.

Majority response- Yes

Summary of criteria question majority responses as follows:

#1	Yes
#2	Yes
#3	Yes
#4	Yes
#5	Yes
#6	Yes
#7	Yes

Russ motioned to approve, Ken seconded with one added condition:

1. Entrance door for retail customer traffic shall not be located on the east side of the proposed structure.

Roll call vote commenced as follows:

<b>Board member</b>	<b>Vote (yes or no)</b>
Ken Hovet	yes
Dan Peyton	yes
Russ Vandenhuevel	yes
Mike Soukup	yes
Rick Johnson	yes

Motion carried to approve the variance.

## **AGENDA ITEM 2: Ryan & Angela Rengstorf – 22-0052500 – Staples Township**

Request(s):

1. Request for road right-of-way setback of twenty-two feet for the placement of mini-storage containers in Commercial Zoning.
2. Request for side yard property line setback of thirty-four feet for the placement of mini-storage containers in Commercial Zoning.

Ryan was present as the applicant. Ryan stated his lawyer was supposed to be here tonight.

Adam offered the option to table the application, if he would rather have his lawyer present.

Ryan took him up on that and will sign the extended time form.

Motion from Russ to table until the next meeting, seconded by Mike, voice vote, no dissent heard, motioned carried to table until the next meeting.

**AGENDA ITEM 3: Randall & Beth Behling – 15-0056400 – Leslie Township**

Request(s):

1. Request for an after-the-fact variance to reduce the setback to 58' instead of 75' from the OHWL in General Development Shoreland Zoning for a deck that is approximately 420 sq. ft. in size.

Randall and Beth were present as the applicants.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Applicant shall maintain a minimum of 50% vegetative screening as viewed from the lake during leaf on conditions.
2. Land use permit fees shall be paid at 2x the normal payment rate.

Randall confirmed the staff report was accurate.

The on-site report was reviewed by Russ. This report may be viewed in full, upon request, at the Planning and Zoning office.

Correspondence received: None.

Public comment: None.

Board discussion:

Randall stated he had removed quite a bit of concrete to reduce impervious already, in the back yard, trying to come into compliance. He stated he called the County offices and talked to an older gentleman, but didn't get his name. Randall stated he was aging and his goal was to have easy, reasonable access, so he could enjoy the lake. All he wanted to do was raise the patio up, and was told as long as you don't go any bigger than the existing patio, he should be fine.

Mike, asked about the ADA requirements and why there were no railings.

Randall stated they were not complete with the project, and at this point they did not have a permit, they just did the fence on the two sides, so far. He added, his father had originally built the house, and Randall has e-

mails from everyone in support of what they have done so far. They will maintain the same size deck as the existing patio underneath.

Adam, read the definition of a patio from the ordinance as an impervious surface adjoining a structure located at ground level and the definition of a deck includes a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than one foot above ground-level. He added there is a patio underneath there located at ground level, and the deck is directly above it. Showed photos to support that.

Ken asked if there are any issues with the side yard property lines?

Adam, no.

Dan stated a variance goes with the house, not the residence.

More discussion about it being not quite exact for exact and the ADA standard.

Adam, stated this is related to the property and you have to look at the homeowner's need and have to make reasonable accommodations. The variance is there for that reason, and added the patio underneath was absolutely a legal non-conformity.

Rick said to keep in perspective this is an after the fact.

Dan stated to him it is not exact for exact.

Adam reviewed the ADA standards with the board that reasonable accommodations need to be made under ADA. In this case, the granting of a variance would be a reasonable accommodation. The conditions of the variance are up for discussion to address any adverse effects or safety concerns.

Russ stated totally fine with the deck the way it is and is ready to make a motion. He thinks it's simple.

Rick agreed and made a point that the criteria and after the fact criteria questions will not apply in this case, with the other board members in agreement.

Mike is comfortable with an added condition of safety rails in a timely manner. Something there so you can't go down the stairs, just looking out for your safety.

Adam, so we are we looking for safety rails within a reasonable time-frame as an added condition.

Rick suggested ... to be completed by the end of 2024.

Randall stated, technically they are called guardrails.

Adam's added condition: The addition of guard rails shall be added to the deck no later than July 31<sup>st</sup>, 2024.

Russ motioned to approve, Mike seconded with the three conditions as presented.

Conditions:

1. Applicant shall maintain a minimum of 50% vegetative screening as viewed from the lake during leaf on conditions.
2. The addition of guard rails shall be added to the deck no later than July 31<sup>st</sup>, 2024.
3. Land use permit fees shall be paid at 2x the normal payment rate.

Roll call vote commenced as follows:

<b>Board member</b>	<b>Vote (yes or no)</b>
Ken Hovet	yes
Dan Peyton	yes
Russ Vandenhuevel	yes
Mike Soukup	yes
Rick Johnson	yes

Motion carried to grant the variance.

Mike asked if there were any educational training sessions scheduled.

Adam stated he will contact Jason for times and dates of upcoming educational training.

Rick stated he really enjoyed the sessions.

Adam asked if they may be combined with the PC training again?

Rick stated yes.

Adam also mentioned the upcoming agenda will have the Reorganization of the Board and review Business Rules:

Rick asked if there were any re-appointments in 2024?

Adam stated there are no reappointments going into 2024 but there will be at the end of 2024 for the start of 2025.

Ken motioned to adjourn and Russ seconded. Voice vote to adjourn. No dissent heard. Motion carried and the meeting adjourned at 7:20 PM.