

**Dubuque County Zoning Board of Adjustment
Minutes of September 6, 2016**

Chairperson Pat Hickson called the meeting to order at 7 p.m.

A. ROLL CALL: Members Present: Ron Koppes, Darlene Burds, Connie Nolan, & Pat Hickson. Staff Present: Anna O’Shea & Angela Steffens.

B. APPROVAL OF MINUTES: A motion was made by Ms. Nolan, **seconded by Ms. Burds and passed unanimously to approve the Minutes of the August 2, 2016 meeting. Vote: 4-0**

C. PUBLIC HEARINGS:

**1. BA#09-36-16 MATHY CONSTRUCTION CO (D/B/A) RIVER CITY PAVING
SPECIAL USE PERMIT**

The applicants are requesting a Special Use Permit to place a temporary Portable Asphalt Plant for the paving of Farley Road to Cascade in an A-1, Agricultural zoning district. The property, located along Hwy 151 S approximately 2.5 miles east of the City of Cascade, is legally described as NE ¼ SW ¼ & That PT SE ¼ NW ¼ Lying S of Hwy 151 Section 26, (T87N R1W) White Water Township, Dubuque County Iowa.

Ms. O’Shea stated that Mathy Construction owns approximately 240 acres all zoned A-1, Agricultural. They are operating a sand pit and quarry at this location. They would like to place a temporary batch plant at this site from now until June 1, 2017 to pave the Farley Road to Cascade. Four letters were sent, three were delivered and there was no city notified. There were no comments submitted in regards to this case.

Speaking to the Board was Kevin Kueter, Area Manager for River City Paving, 1098 Clara Ct, Dubuque. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Kueter stated they want to place the temporary plant in the quarry. They plan to have the project done this year depending on weather. They are requesting a June 1, 2017 end date in case they get a late start. The temporary plant has sat in the quarry for prior projects.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Nolan to approve the Special Use Permit. The motion passed unanimously by a vote of 4-0.**

2. BA#09-37-16 STEVEN & DEBORAH ALLEN VARIANCE

The applicants are requesting a 23’ left side yard variance to the 50’ required to build a 30’ x 40’ home addition 27’ from the left side yard in an R-1, Rural Residential zoning district. The property, located along Cottingham Road approximately .60 miles west of the City of Dubuque, is legally described as Lot 2 Alice Place Plat 2 Section 12, (T88N R1E) Vernon Township, Dubuque County Iowa.

Ms. O’Shea stated that this property is 1.49 acres with a home and a 30’ x 48’ accessory structure. The property owner’s would like to put a 1200 square foot addition onto the home for a dining, living and storage area. In 1998, the property owner’s received a front & side yard variance for a garage. Also in 2006, they received a 10’ side yard variance for a garage. Ten letters were sent, nine were delivered and the City of Dubuque was notified. There were no comments submitted in regards to this case.

Speaking to the Board was Steven & Deborah Allen, 10551 Cottingham Rd, Peosta. Mr. Hickson administered the following Oath asking the participants to raise their right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They both said yes.

Mr. Allen stated the home is small and they would like the addition for a living room, dining room and for personal storage. He also stated the property was surveyed and that is where the variance for the garage was needed. They have been trying to improve the property.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Ms. Burds, **seconded by Ms. Nolan to approve the variance. The motion passed unanimously by a vote of 4-0.**

3. BA#09-38-16 DOUGLAS HOLM VARIANCE

The applicant is requesting a 7’ front street line variance to the 80’ required to build a 14’8” x 24’ home addition 73’ from the front street line in an R-1, Rural Residential zoning district. The property, located along St. Catherine Road approximately 5.49 miles southeast of the City of Dubuque, is legally described as Lot 2-1-1-1 SW ¼ NW ¼ Section 26, (T88N R3E) Mosalem Township, Dubuque County Iowa.

Ms. O’Shea stated that this lot is 2.8 acres with a home and accessory structure. The owner would like build an addition to the home for storage and an additional bathroom. The addition will meet all the setbacks except for the front yard. The existing home is setback 73’ and the new addition will not go any closer to the road. Seven letters were sent, seven were delivered and there was no city was notified. There were no comments submitted in regards to this case.

Speaking to the Board was Douglas Holm, 4854 St. Catherine Rd, Bellevue. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Holm stated they are expecting a baby and the addition would allow them to make a master bath, larger bedrooms and storage.

Mr. Hickson asked Ms. O’Shea if the addition would affect the septic system? Ms. O’Shea said as long as they are not adding any bedrooms the septic will be fine.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Ms. Nolan, **seconded by Ms. Burds to approve the variance. The motion passed unanimously by a vote of 4-0.**

4. BA#09-39-16 KELAN & LORI MANNING/ROB DONOVAN VARIANCE

The applicants are requesting a 5’ left side yard variance to the 20’ required to build a 24’ x 30’ detached garage 15’ from the left side yard in an R-2, Single Family Residential zoning district. The property located along Forest Gate Road approximately .14 miles north of the City of Dubuque, is legally described as Lot 2-1-4 The Barony Section 9, (T89N R2E) Dubuque Township, Dubuque County Iowa.

Ms. O’Shea stated that this lot is 1.06 acres and has a home on it. The owner’s would like to place a 24’ x 30’ detached garage on the left side of the home. The detached garage can meet the front yard setback but not the side yard setback. Twelve letters were sent, eleven were delivered and the City of Dubuque was notified. There were no comments submitted in regards to this case.

Speaking the Board was Kelan Manning, 16384 Forest Gate Rd, Dubuque and Rob Donovan, 17159 Chicory St, Dubuque. Mr. Hickson administered the following Oath asking the participants to raise their right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They both said yes.

Mr. Manning stated he would like to build a detached garage on his property. The previous owner had the section fenced off for dogs and it would make a perfect spot for the new garage because the driveway runs right to the building site.

Mr. Hickson asked if there would be water, sewer and electric run to the garage? Mr. Manning stated only electric and gas for a heater. He stated the garage would be for his personal use only.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Ms. Burds, **seconded by Ms. Nolan to approve the variance. The motion passed unanimously by a vote of 4-0.**

5. BA#09-40-16 DAVID & KRISTINE AHMANN VARIANCE

The applicants are requesting a 30’ front street line variance to the 80’ required to build a 90’ x 40’ single family home 50’ from the front street line in a PC, Planned Complex zoning district. The property located along Treeco Lane approximately 6.8 miles southeast of the City of Dubuque, is legally described as Lot 10 Treeco Sub Section 30, (T88N R4E) Mosalem Township, Dubuque County Iowa.

Ms. O’Shea stated that this lot is 7.97 acres and has a lot of trees. The owner wants to put up a new home but cannot meet the front setback because of the slope of the lot in the back. The road right of way is 66’ but the road was never built to county standards. There is about 10’-15’ of road top in this subdivision. Five letters were sent, five were delivered and no city was notified. There were no comments submitted in regards to this case. This property was rezoned to PC, Planned Complex in 1979.

There was one comment submitted in regards to this case. It was from Mark Chmeler, 12208 Circle Ridge Rd, Dubuque. He is the neighbor to the left of this property and he stated he is in favor of the variance for the new shed.

Speaking to the Board was Allison & Troy Kass, 12256 Circle Ridge Road, Dubuque. Mr. Hickson administered the following Oath asking the participants to raise their right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” They both said yes.

Ms. Kass stated they would like the building to be able to store their antique tractors in and someday have a camper. That is also why they need the height of the building.

Mr. Hickson said the new building will sit out a little further than the home. Ms. Kass agreed. She stated they tried to go back further but the power lines run in that area.

Ms. Burds asked if the building was going to be for personal use? Ms. Kass said yes.

Ms. Nolan asked what the trailer that is pictured on the property is used for? Mr. Kass said the trailer is used to transport the antique tractors.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Ms. Burds, **seconded by Mr. Koppes to approve the variances with the condition that the accessory building is for personal use only. The motion passed unanimously by a vote of 4-0.**

7. BA#09-42-16 FREDERICK HOGAN SPECIAL USE PERMIT

The applicant is requesting a Special Use Permit to build a 32’ x 86’ single family home on a site of heavy vegetation or steep slope unsuitable for agriculture by reason of nature in an A-1, Agricultural zoning district. The property located along Holy Cross Road approximately .42 miles north of the City of Farley, is legally described as Lot 2 SW ¼ SE ¼ Section 6, (T88N R1W) Taylor Township, Dubuque County Iowa.

Ms. O’Shea stated that this property is 1.25 acres and had a home on it over 25 years ago. The home burnt down and now the property owner wants to build a new home on the site. He will need a variance for the entrance permit from the Board of Supervisors because it does not meet spacing. The property owner was cited in 2009 and came into compliance in 2013 for junk that was stored on the property. Eight letters were sent, six were delivered and the City of Farley was notified.

There was one comment submitted from Brian Preston on behalf of Dubuque County Conservation, and they have no problem with the request.

Speaking to the Board was Frederick Hogan, 107 5th Ave NE, Farley. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Hogan stated that his wife had cancer and has trouble climbing stairs and their current home is a two-story. They also have one daughter that still lives in the home with them and one that was murdered a little over a year ago and living in their current home is difficult. Now they would like to build a ranch home on the property. He said the original home that was on the property burnt down. They did not build out there sooner because there used to be an anhydrous ammonia plant across the road from the property.

Mr. Hickson asked about the current garage on the property? Mr. Hogan said that garage will be moved to the back of the property.

Mr. Hickson asked if the old septic would be able to be used? Ms. O’Shea said a home has not been on this property for nearly 30 years. They would have to install a new system.

Mr. Koppes asked if he was going to get rid of the old cars on the property? Mr. Hogan said yes everything has to go. He wants to clean the property up.

Mr. Koppes asked about the prior violation? Ms. O’Shea said it used to have a lot of cars and car parts on the property. She said the property came into compliance in 2013, so the vehicles pictured are new to the property.

Ms. Nolan asked about the entrance that has to be approved by the Board of Supervisors? Ms. O’Shea said they have to upgrade the current field entrance to a residential entrance. Currently it does not meet spacing so it has to go to the Board of Supervisors for approval.

Mr. Hickson asked if anyone would like to speak in favor or against this case?

Speaking to the Board Tom Thompson, 11168 Holy Cross Road, Farley. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Thompson stated he is here to speak against this case. He handed a packet out to the Board members. He provided a topography map and pictures of the ground from 2000-2016. He feels that this property is suitable for agriculture because the land he farms is much steeper than Mr. Hogan’s property. He said even though the property is 54,000 square feet it could still be considered a farm. He provided the Board with a list of farming options that Mr. Hogan could do with the property. He would like to preserve the agriculture ground.

Ms. Burds said there was a home on the property at one time. Mr. Thompson yes but that was before he moved to the area.

Ms. O’Shea showed the Board a map of the original zoning in the area. She said there were a couple rezoning cases in the area since 1969 when zoning was adopted. This property is, and most of the surrounding properties are still agricultural.

Mr. Hickson asked Mr. Hogan since he purchased the property has it ever been farmed? Mr. Hogan said he was told by the county not to plant anything on the property while the

anhydrous ammonia facility was across the road. At one time, they tried to plant pumpkins and nothing grew.

Mr. Hogan stated that Mr. Thompson approached him a couple months prior trying to purchase the property to build a home on it for his son. In exchange, Mr. Thompson would sell him a couple acres of his crop ground which is also zoned A-1, Agricultural. Mr. Hogan stated that he would not be able to get a permit to build a home on that ground either because of the farm exemption.

Mr. Hickson asked Mr. Thompson if he has approached Mr. Hogan to purchase the property to build a home for his son? Mr. Thompson said yes they have over the years tried to purchase the property. He said he cleaned up his property and wants to clean up the rest of the area. He does not think what Mr. Hogan has requested looks like a residence by putting up so many out buildings.

Mr. Koppes asked Ms. O’Shea what was her opinion of the request? Ms. O’Shea stated the property used to have a home on it. The property is only 1.25 acres. In the past, the Board has allowed homes on ground unsuitable for agriculture in different areas of the county with similar conditions. She said this property would not be able to meet the ag exemption because you need at least an acre for a home. Ms. O’Shea said Mr. Hogan is not restricted from putting agriculture on this property but if he wanted to add any new buildings, he would have to meet the requirements for the Ag Exemption.

Mr. Koppes asked about the buildings that Mr. Hogan currently has on the property? Ms. O’Shea said the current two car garage will be moving to the back south corner of the lot. The home would be built where the garage was. Mr. Hogan said the well is located on the county conservation’s property and he is grandfathered in to use that well for the new home.

Mr. Hogan said that he is sure there are other properties in the county that have junk on them, but he is just the one who was turned in.

Speaking to the Board was Pearl Scherrman, 11285 Holy Cross Road, Farley. Mr. Hickson administered the following Oath asking the participant to raise her right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” She said yes.

Ms. Sherrman asked why a Special Use Permit is given for a permanent structure? Ms. O’Shea said a Special Use Permit is different from rezoning. Rezoning is a permanent change to the use of the property, which sets a precedence for future rezoning’s. A Special Use Permit is permitted on a case-by-case basis if the property meets the requirements. Ms. Sherrman is also concerned about the variances that are being requested for this property.

Mr. Koppes asked if Ms. Sherrman is against the new home for Mr. Hogan? Ms. Sherrman said no she is not against the new home but she is against some of the variances requested.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Ms. Burds, **seconded by Ms. Nolan to approve the variance. The motion passed unanimously by a vote of 4-0.**

10. BA#09-45-16 THREE RIVERS FS CO SPECIAL USE PERMIT

The applicant is requesting a Special Use Permit to replace two existing tanks with a 30,000 gallon anhydrous ammonia tank in an M-1, Industrial zoning district. The property located along Holy Cross Road approximately .28 miles southeast of the City of Holy Cross, is legally described as Lot 2-1-1-1 NW ¼ SE ¼ Section 20, (T90N R1W) Concord Township, Dubuque County Iowa.

Ms. O’Shea stated that this property has 3.4 acres and there are two buildings and three tanks located on the property. Three Rivers FS will be replacing two smaller gas tanks with one 30,000 gallon tank for anhydrous ammonia. The property is zoned M-1, Industrial. Six letters were sent, six were delivered and the City of Holy Cross was notified. There were no comments submitted in regards to this case.

Speaking to the Board was Dale Hefel, Representative for Three Rivers FS, 1200 Field of Dreams Way, Dyersville. Mr. Hickson administered the following Oath asking the participant to raise his right hand. “Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?” He said yes.

Mr. Hefel stated they are looking to replace two tanks that are dated in the 1950’s with a new 30,000 gallon tank. This would eliminate extra connections and piping. The tank would also be brought up to date with all current safety standards. He stated that they have had anhydrous ammonia at this site for the last 30 years and have never had a problem.

Mr. Hickson asked if anyone would like to speak in favor or against this case? No one spoke.

A motion was made by Mr. Koppes, **seconded by Ms. Burds to approve the Special Use Permit. The motion passed unanimously by a vote of 4-0.**

D. PUBLIC COMMENTS: None

E. OLD BUSINESS:

1) Discussion on Court Hearing

Ms. O’Shea stated that the Shooting Range case was appealed. It could take up to a year to go through the appeal process.

F. NEW BUSINESS:

1) Discussion on Home Business/Home Industry Amendment

Ms. O’Shea said the county is looking at allowing a home business or home industry in the A-1, Agricultural zoning district following an amendment to the ordinance. If an individual cannot meet the requirements of the ordinance they would have the option to apply for a Special Use Permit. Types of businesses that could be allowed were assembly, processing, fabrication; sale or repair of cars, light trucks, agricultural equipment,

household appliances; warehousing & distribution; lawn care service; contractor equipment & storage; sales of products prepared on site and any other similar home industry determined by the administrator. She said they would be allowed 2400 square feet, up to four employees and there has to be a home with the property that is occupied by someone running the business. Signage would be 6 square feet. No outside storage would be allowed other than 1,000 square feet that is in the rear yard with a solid fence.

Mr. Koppes said he thinks this is a big mistake to start in the county. He does not see where manufacturing fits in an agriculture district. Ms. O’Shea said there are already people operating these types of businesses on their property. Mr. Koppes thinks that a business belongs in a business district and ag is for farming. Mr. Hickson said this could cause properties to become junky looking. Ms. Burds feels four employees could be too many. Ms. O’Shea said they are basing most of the criteria on what Scott County does. They said it works well in their county. She said the Board of Supervisors are in favor of a change. The Board of Adjustment all agree that they think this is a big mistake for the county.

G. ADJOURNMENT: A motion was made by Ms. Burds, **seconded by Ms. Nolan and passed unanimously to adjourn. Vote: 4-0. The meeting adjourned at 8:28 p.m.**