

Board of Adjustment Meeting Minutes
6/11/2024
Butler County Courthouse

Present

Board of Adjustment members:

Paul Leerhoff

Mark Gerdes

Carla Mulder

Absent

Habbo Fokkena

Jeff Reints

Others:

Misty Kofron, Zoning Administrator

Sherman Lundy, BMC

Kristin Clay, POET

Mark Gerdes called the meeting to order at 7:30 a.m.

A motion to approve the agenda and the minutes of the previous meeting dated 4/23/24, was made by Paul Leerhoff and seconded by Carla Mulder. Motion passed.

Old Business:

None

Public Hearing:

Mark Gerdes opened the public hearing on an application for a special exception permit by BMC Aggregates for a sandpit dredging operation on a parcel located in the W 1/2 S & W of RR of Section 34, Township 92 North, Range 15 West of the 5th PM.

Administrator Kofron presented her staff report and stated that the request for a special exception was for a parcel adjacent to Butler Logistics Park that has an average CSR of 56. Administrator Kofron stated that the entire parcel was in the 100-year floodplain and would require permits from the DNR and the County, which also includes a review by the Corps of Engineers for wildlife and habitat interference. Administrator Kofron spoke to the County Engineer as well as with Butler Grundy Economic Development and neither expressed any concerns with the compatibility and traffic load and the dredging lake would eventually become a recreational area at the end of the operation. During the public hearing to rezone this parcel, a representative from POET was present and expressed some concerns with the floodplain and how this would impact their facility as well as a discharge pipe that may run through this parcel. Administrator Kofron confirmed that the discharge pipe had been identified and it does not run through this parcel and Kristin Clay with POET confirmed that it runs just adjacent to it. Administrator Day stated that the rezone to A-2 was approved and referenced the special exception requirements in the Ordinance relating to this special exception request.

Sherman Lundy, with BMC Aggregates had concerns about the setback requirements and where they come from. The setbacks for this operation are set to be 50ft setback to the outer berm and 125ft from the ROW. Sherman said they could live with those requirements at this location but

felt they were a bit excessive. Reference was made to the 100-year floodplain, the Corps of Engineers did not see any soils that would be characterized as wetlands when it was augured. There was also a field study in '88 by NRCS and a consultant hired to re-review the study upon request by the Corps of Engineers. Sherman also stated that the majority of the sand will go to Menards and some will be for road projects which may increase road traffic on occasion. They will use a portable dredge once a year and will come back with a clarifier to wash and sift sand.

Paul Leeroff wanted to discuss flooding a bit more. He questioned the 8-10ft berm and whether the purpose was to protect the pit from surface water entering and Sherman confirmed that it was an EPA requirement to prevent contamination to the pond and shallow aquifers. Discussion was had regarding the impact that this berm would have on water flows in the event of a flood. Kristin Clay with POET presented pictures of the last flooding event and expressed concerns that a berm surrounding this entire parcel is bound to impact their facility, specifically, their corn pile worth millions of dollars. She requested that a more in-depth study be done to determine the true impact the berm would have. Discussion was then had regarding the berm itself and whether it was going to be the entire parcel as submitted in their application or just around the dredging lake. Sherman referenced County requirements for a visual berm and Administrator Kofron confirmed that there were no requirements for a visual berm by the County. It was determined that they would reduce their berm to just the dredging pond itself per Federal requirements. Discussion was also had regarding emissions and how it would affect POET's stormwater pond for discharge purposes.

Public Hearing was closed.

Paul Leerhoff feels that there is a need for sand. Mark Gerdes feels water does what it wants and there has already been significant changes to the flow in this area over the years, which makes it hard to predict the impact. Administrator Kofron stated she would like BMC to be required to submit copies of all state and federal licenses and permits. Mark Gerdes feels the board is not in a position to put conditions on the berm other than the minimum required by the State.

A motion was made to Approve the special exception by Carla Mulder and was seconded by Paul Leeroff. Motion was unanimously approved.

New Business:

Upcoming Hearings, next hearing date scheduled.

A motion to adjourn the meeting was made by Paul Leeroff and seconded by Carla Mulder. Meeting adjourned.

Misty Kofron, Zoning Administrator

