

Board of Adjustment Meeting Minutes  
8/27/2019  
Butler County Courthouse

**Present**

Board of Adjustment members:

Mark Gerdes  
Paul Leerhoff  
Jim Siebrands  
Fern Feldman  
Jeff Reints

Others:

Misty Kroeze, Zoning Administrator  
Larry Rogers, RFW Construction Group  
TL Ilenier  
Jeff Jacobs  
Elmer Reints  
Darrell Kelm  
Eva Mooty-DePriest  
Dennis & Jean Ann Wedeking  
Conservation Director Mike Miner  
Jeff Kolb

Joseph Fulwood, RFW Construction Group  
Jeff Fletcher, TrinityRail  
Shawn Niemann, TrinityRail  
Mike & Amy Kramer  
Fred Backer  
Bob Kelm  
Mike Ruby  
Ryan Wedeking  
Sherriff Jason Johnson

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 June 25, 2019, was made by Paul Leerhoff and seconded by Jeff Reints. Motion passed.

**Old Business:**

Zoning Administrator Kroeze updated the Board on the Zoning Ordinance update. The Board of Supervisors signed the INRCOG agreement and the process will start after the 1<sup>st</sup> of the year.

**Public Hearing:**

Chair Gerdes opened the public hearing to consider an application by Mike & Amy Kramer for a special exception permit to open a seasonal business at 23758 Camp Comfort Rd located in the SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> Section 29, Township 93 North, Range 16 West of the 5<sup>th</sup> P.M. Administrator Kroeze stated that the applicants were proposing a seasonal business, which would include the sale of liquor and beer and while the applicants were familiar with how the Iowa Liquor License worked, she did want the Board to know that the Board of Supervisors review all liquor license applications annually which would add some oversight to the applicants' proposal. Mike Kramer spoke on behalf of his application and stated that they would like to operate this business from May through October and would like to sell pop, beer, liquor, bait and ice, as well as rent out kayaks and intertubes and provide a shuttle service to transport tubers and kayakers. Mike presented the Board with a picture of a grain bin and shelter house that they would plan to utilize and a map identifying the location to be right across from the Eastern most corner of Camp Comfort campground/park.

The hearing was opened to public comment. Jeff Jacobs spoke about his concerns with beer cans floating down the river and who would enforce the cleanup of cans as well as garbage. The applicants were asked what their hours of operation would be and it was determined that they would be open on Saturday-Sunday from 11 a.m. to 8 p.m. The applicants were asked about their plans for parking and it was determined that they would have space for some parking on their property but they felt the most interest would be generated from the campground, which is where people would be parked already. Conservation Director Mike Miner asked the applicants if the people utilizing this business would be responsible for their own garbage and make sure it was picked up and Applicant Mike Kramer thought that the people utilizing this area are already conscientious about this and does not see any concerns with people picking up after themselves. Miner also pointed out that this is a public access landing and he does have concerns with tubes and kayaks being left behind and causing congestion for this access. Applicant Kramer stated that his renters would be responsible for returning the kayaks and tubes to his property. Chair Gerdes posed a question to Sherriff Johnson regarding any litter ordinances and Sheriff Johnson confirmed that the Conservation staff is generally responsible for maintaining the parks, including litter cleanup, but if they were asked to assist they could address individual complaints. They also have a reserve officer that also works for Conservation that could help monitor the situation.

There were public concerns raised regarding excessive traffic and dust in close vicinity to the playground. Chair Gerdes stated that they do have the option of having the applicant look into dust control measures. Board Member Reints asked Administrator Kroeze who would have received notices and Administrator Kroeze confirmed that all property owners within 500 feet of the applicants' property were sent notices. Board Member Reints asked whether the Board should consider tabling their decision as it was brought to his attention that the notice sent to the property owners did not include information about the sale of beer & liquor. Administrator Kroeze confirmed that she did just include seasonal business in her notice rather than listing out what all the business would consist of and in looking back, she agrees that she probably should have been more specific and would be willing to resend notices if they decide to table it. Mike Ruby asked what the definition of special exception was and whether that would impact what he does with his ground next to it and it was determined that a special exception is asking for special permission for a specific property and that it would not dictate what an adjoining property owner did with their property. Board Member Leerhoff asked why the Zoning Administrator thought a special exception vs. home industry permit was the best route and Administrator Kroeze read the requirements for home industry permits, which specifically requires that no evidence of the business be observed outside of an enclosed building which would not be very feasible with this business plan.

There was a public question regarding whether there would be more police patrolling this area, which was deferred to Sheriff Johnson. Sheriff Johnson stated that most campgrounds have a camp host that help resolve many issues within the campgrounds or who can call in for assistance if they cannot. Conservation Director Miner confirmed that there was no intention of having a camp host at this campground. Sheriff Johnson said the extra patrol would depend on staff, complaints and what issues arose. Board Member Leerhoff inquired as to whether there would be a lot of demand for this type of business and Applicant Kramer stated that he thought there would be as it would save a long trip to town for campers needing ice, beer and bait along with the addition of kayak and tube rental and a shuttle service. Conservation Director Miner inquired as to whether it would be a bar on the premises or selling beer to go and it was determined that it would be both. The applicants were asked if there were intentions of having any bands and it was

determined that they would not. Conservation Director Miner stated that he does agree that there is a need for tube and kayak rental, but he does have concerns with the sale of liquor across from the park. Board Member Feldman stated that she had talked to a few campers at the campground and 3 of the 5 were not in favor of this. The applicants were asked how many rentals they foresaw and it was determined that they were hoping to get at least 30-40 in a weekend. Jeff Kolb added that he also receives an enormous amount of requests from out of county campers looking for a tubing/kayaking rental so he also agrees there is a need for that. Chair Gerdes asked whether any other campgrounds offered beer for sale and Conservation Director Miner confirmed that there were none in Butler County and while he knows people would just be bringing in beer anyway, he is not so concerned with the sale of beer to people taking it to go but he is concerned with people walking back and forth across the road to a more bar like situation.

Public hearing was closed at 8:05 a.m.

Discussion was had regarding whether they could prohibit the sale of liquor and restrict the beer sales to carry-out only, as well as what other restrictions they can place on this type of operation. Administrator Kroeze read Section XXII(E)(7) from the Butler County Zoning Ordinance which states: Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being complied with.

A motion to approve the application with the conditions that no liquor be sold, all beer sold is to be carried off premises only, and that the business is to be reviewed by the Zoning Administrator in one year with the potential of the special use permit being revoked by the Board if complaints were received was made by Paul Leerhoff and seconded by Jim Siebrands. Roll call vote: Feldman, Aye; Reints, Aye; Siebrands, Aye; Leerhoff, Aye; Gerdes, Aye. Motion carried.

Chair Gerdes opened the public hearing on an application by Eva Mooty-DePriest for a variance to allow a mobile home at 24162 – 310<sup>th</sup> St located in the W½ NW¼ Section 21, Township 90 North, Range 16 West of the 5<sup>th</sup> P.M. Administrator Kroeze stated that Eva's application involved moving a mobile home to her property to care for her daughter who suffers from a number of illnesses and added that there is a code compliant septic system serving this property and that prior to hooking the mobile home up to said system, she would also need to obtain a variance from the Board of Health and have the system inspected. Board Member Leerhoff inquired as to how old her daughter was and it was determined that she was 25 years old. Eva listed her daughter's medical conditions and stated that one of her conditions causes her extremities to move past people's normal locked position, causing her constant pain. Eva also listed the medications her daughter is taking and stated that her symptoms began when she was 19 and they have been through numerous hospital visits and a number of tests. Her daughter has a dog that fights with Eva's dog and the existing house has 13 stairs to the upstairs bedroom, which her daughter cannot maneuver. She originally bought and lived in the mobile home with her daughter but moved out in an attempt to give her daughter more independence, but her daughter is not taking care of herself and has lost a lot of weight. She is wanting to also put up a privacy fence to separate the dogs. Chair Gerdes inquired as to whether the mobile home would be placed on a fixed foundation with

the wheels removed and electricity buried under ground and it was determined that Eva would do whatever the Board required her to do. Board Member Leerhoff inquired as to where the daughter was living now and it was determined that she lived in the trailer in a trailer court in Grundy County.

Discussion was had regarding whether Eva had looked into a possible addition to the house to accommodate her daughter's needs and whether financial help could be available to assist with the addition. Jeff Kolb stated that INRCOG may be a resource and gave the applicant a phone number to call. The Board asked the applicant if she would be willing to table her application until she looks into these other options and it was determined that she was.

A motion to table the public hearing to September 24<sup>th</sup> at 7:30 a.m. was made by Jim Siebrands and seconded Fern Feldman. Motion was unanimously approved.

Chair Gerdes opened the public hearing on an application by Michael Brannon for a variance to the CSR requirements for a buildable lot for Parcel P located in the NW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> of Section 29, Township 90 North, Range 16 West of the 5<sup>th</sup> P.M. The applicant was not able to be present for the hearing. Zoning Administrator Kroeze reported that this parcel was part of a minor plat recently approved by the Planning & Zoning Commission, but due the CSRs being above 70, the variance was needed in order for the applicant to build a new house. This is in a unique location and is situated in a small strip of land between the city limits of Parkersburg that is still considered County, with a subdivision next to it on the East. Board Member Reints inquired as to whether the new house would be hooked up city sewer and water and Administrator Kroeze stated that if the city sewer connection is within 200 ft, they would. The acreage to the North has a private septic system so if the connection is not within 200 ft, it would be private septic as well. She is not sure about water but will address that with the applicant. Discussion was had as to whether this would ever be annexed into the City of Parkersburg and Administrator Kroeze stated that it has to be voluntary annexation or there is a huge process to go through and because the property taxes for County is a lower rate than the City, she does not think they will volunteer to be annexed.

Public Hearing was closed.

A motion to approve the variance to the CSR requirements for a buildable lot was made by Jeff Reints and seconded by Jim Siebrands. Motion was unanimously approved.

Chair Gerdes opened the public hearing on an application by TrinityRail Maintenance Services for a special exception permit for railcar repair and maintenance and a variance to maximum height requirements for property located in the SW<sup>1</sup>/<sub>4</sub> and the S<sup>1</sup>/<sub>2</sub> NW<sup>1</sup>/<sub>4</sub> Section 33, Township 92 North, Range 15 West of the 5<sup>th</sup> P.M. Discussion was had regarding the height variance and it was determined that the maximum height in the "M" District is 48' and Building 2 is proposed to be 59'5" at the ridge and Building 4 is proposed to be 50'7". Administrator Kroeze stated that the Board should consider a variance for not only the proposed buildings but any future buildings, as well. The Board inquired as to why the buildings needed to be so tall and it was determined that they need the height in order to lift the railcars off of the tracks. Discussion was had regarding FAA restrictions and it was determined that studies have already been done for the ethanol plant and other buildings in the industrial park, which are much higher, so there are no concerns there. TrinityRail representatives presented 3D renderings for the proposed buildings and it was

determined that they plan to begin production by next June. Discussion was also had regarding Union Ave to the West and it was determined that road would be paved next year.

A motion was made to approve the variance for maximum height restrictions for proposed and future buildings by Fern Feldman and seconded by Jim Siebrands. Motion was unanimously approved.

A motion was made to approve the special exception permit for railcar repair and maintenance by Paul Leerhoff and was seconded by Fern Feldman. Motion was unanimously approved.

**New Business:**

The Zoning Administrator presented the Board with mileage logs and informed the Board they can claim mileage for traveling to the meeting as well as traveling to the various sites subject to public hearing.

The Zoning Administrator also talked about Ex Parte contact with the Board and that communication with applicants outside of the public hearing should not be engaged. If they receive calls they can simply refer the applicant and those with questions to contact the Zoning Administrator directly.

Meeting adjourned.

  
Misty Kroeze, Zoning Administrator