
BZA-2040
PURDY O'NEALL FARM, LLC
Variances

Staff Report
July 16, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by attorney Daniel Teder and Engineer Tim Balensiefer of TBird, are requesting the following ~~six~~ four variances:

1. ~~To allow no bufferyard and no setback on the tract A site along its eastern boundary;~~
2. ~~To allow no bufferyard on the tract B site along its eastern property line;~~
3. To allow no bufferyard, no fence, and no setback on the tract C site along its northern property line;
4. To allow no bufferyard and no fence on tract C along its eastern property line (next to property owned by Loren Schroeder);
5. To allow no bufferyard and no fence on tract C along a different portion of its eastern property line (next to property owned by William Brunton) and
6. To allow no bufferyard and no fence on tract D along its northern property line.

A mining operation is proposed (BZA-2039) for these 140.09 acres. The site is located about 1 mile south of CR 510 between CR 100 E and CR 200 E, in Wea 28-22-4.

Variances #1 and #2 have been withdrawn at staff's recommendation because these variances for tract A and B were already granted on October 22, 2014 (BZA-1919).
--

AREA ZONING PATTERNS:

The property is mostly zoned A (Agricultural). The FP (Flood Plain) area in the middle portion of the property has been certified above the Regulatory Flood Elevation. Farther to the north, a small area of I3 is located near the CR 510 and CR 150 intersection for the operation's batch plant. All surrounding land is zoned A or FP, except for a small area of R1 northwest of the site at the intersection of CR 510 and CR 150.

AREA LAND USE PATTERNS:

Land directly north (and owned by petitioner) contains an active mining operation. The subject site is a combination of woods and farmland. A scattering of single-family homes surrounds the site, mostly to the east and north.

TRAFFIC AND TRANSPORTATION:

The only access point for the mining operation is located at the intersection of CR 510 S

and CR 150 E through petitioner's adjoining site. No trucks will enter or leave the subject site because all mined aggregate will be transported to the north by way of a conveyor belt located on the 4-acre Revised tract B, leaving 136 acres for active mining. Additionally, the truck traffic entering and leaving the adjacent site will not increase, as required in the approval of BZA-1920.

The extension of CR 600 S from Wea School Road to US 231 is a planned project in the 2045 Metropolitan Transportation Plan. The proposed road would border the north portion of the subject site. There is no date for the project and its priority is classified as low.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Bufferyards, setbacks, fencing and a reclamation plan are required of mining operations. Petitioner has requested variances from some of the bufferyard, setback and fencing requirements. The petition states that no water will be needed on this land because processing will continue on the existing operation due north.

A small (.08 acre) wetland is shown on site and petitioner is working with IDNR to obtain a permit to allow its removal.

The submitted reclamation plan shows a resulting pond about 30 feet deep with the required slopes not to exceed 3:1.

STAFF COMMENTS:

Petitioner is expanding their mining operation on 136 acres immediately south of their existing operation. These 136 acres will have aggregate transported to the original site by a conveyor belt for processing. The variances in this petition apply to surrounding land not owned by petitioner (no buffering is required where the owner is the same on either side of the special exception boundary).

Regarding the ballot items:

1. The Area Plan Commission at its July 15, 2020 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Granting variances #3, #4, #5, and #6 **WILL NOT** be injurious to the public health, safety, and general welfare of the community because these areas abut either an existing mining operation or agricultural fields.
3. Use and value of the area adjacent to the property included in variances #3, #4, #5 and #6 **WILL NOT** be affected in a substantially adverse manner. As stated above, no nearby uses would be negatively affected by not having a buffer, setback or fence because of adjacent mining or agricultural fields. According the petitioner, those adjacent properties owned have no expressed concern about having no bufferyard or fence.

4. Regarding # 3, the terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district because this area abuts an existing mine that was granted variances for no bufferyard or fencing. Having a setback next to an active mine serves little purpose. Regarding #4, #5 and #6, the terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the A zone. Although adjacent property owners may not be concerned, there is nothing unusual about this site, located near a creek (where many mining operations can be found) in terms of its size or relatively flat topography that would prevent petitioner from installing the buffers and fences.
5. Regarding variance #3, strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance because the ordinance does not recognize a situation where two mining operations share a lot line. However, regarding variances #4, #5 and #6, strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved in variance #3 **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain because this area abuts another mining site. No hardship is involved in variances #4, #5 and #6 because each variance **IS** solely based on a perceived reduction of or restriction on economic gain. The cost of fencing, buffering and reduced mining areas due to buffering requirements are only financial.

5b. Variance #3 **DOES** provide only the minimum relief needed to alleviate the hardship. However, variances #4, #5 and #6 **DO NOT** provide only the minimum relief because no hardship is present.

STAFF RECOMMENDATION:

Variance #3: Approval

Variance #4: Denial

Variance #5: Denial

Variance #6: Denial

