

**STORY COUNTY  
PLANNING AND DEVELOPMENT  
STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087**



*"Commitment, Vision, Balance"*

**515-382-7245**

**MINUTES  
STORY COUNTY  
BOARD OF ADJUSTMENT**

**AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING [WWW.STORYCOUNTYIOWA.GOV](http://WWW.STORYCOUNTYIOWA.GOV)**

<b>DATE:</b> June 20, 2018	Steve McGill	2022
	*Lynn Scarlett	2018
<b>CALL TO ORDER:</b> 4:00 PM	Karen Youngberg	2019
<b>PLACE:</b> Public Meeting Room	Randy Brekke	2019
Administration Building	*Absent	

**PUBLIC PRESENT:** Steve and Anne Quick, Quentin Thorson, Patricia Foley, Leonard Foley, Mark Gannon

**STAFF PRESENT:** Jerry Moore, Director; Amelia Schoeneman, Planner; Ryan Schweitzer, Intern, Stephanie Jones, Recording Secretary

**ROLL CALL:** McGill, Scarlett, Brekke, Youngberg

**ABSENT:** Scarlett

**APPROVAL OF AGENDA (MCU)**

**APPROVAL OF MAY 16, 2018 MINUTES with addition of Youngberg being marked absent in motion. Motion Carried Unanimously (MCU)**

**PUBLIC COMMENTS:** None

**HEARINGS:**

**CUP07-16 MINOWA BORROW PITS**

Jerry Moore introduced the Planning and Development Intern Ryan Schweitzer.

Jerry Moore presented the staff report and stated that Minowa Construction requests an extension of CUP07-16. The extension is needed to extract approximately 200 yards of sand from the borrow pit. That sand will be used to build pads for the 200 - 300-ton cranes which are



placing horizontal beams on the flyover bridge, prevent damage to roadways of I-35 and HWY 30, and level the crane for large hoisting operations. Moore provided background information from the initial CUP and reviewed the conditions.

Brekke asked for clarification of the ponds. Moore stated that initially it was going to be two ponds, but now will be one large pond and moved further east of the I-35 right of way at the request of the DOT. Brekke asked if there is a stockpile of dirt. Moore stated that he did not see a stockpile, but that he could refer that question to the general manager.

Quintin Thorson is the General Manager for Minowa Construction and stated that a majority of the dirt has been pushed to the south side of the pond and there is more black dirt coming to complete the pond. Brekke asked how the banks are reconstructed and Thorson stated they would be graded and stabilized. Brekke asked about the concrete that is there and Thorson stated it would be removed and crushed for re-use. McGill asked if the \$10,000 bond is sufficient with the increased pond size. Moore stated that since the center area is now going to be a pond that it should be sufficient.

Mark Gannon stated that the area will be cleaned up and look nice. Gannon asked for Moore to clarify the 50 feet setback rule and Moore stated the setback is measured from the right of way line to where the slope of the pond bank starts not to where the water starts. Brekke asked what would happen if the \$10,000 is not enough. Moore stated now would be the time to address that question. Moore stated that this was routed to the other county departments and there were no concerns about the bond. Gannon stated that one of the reasons that this project was held up is because he thought he could work with Peterson's on the other pit. Brekke stated that he feels the restoration bond should be increased by \$30,000. Moore stated that the bond is based on how much work is needed to be done to finish the restoration of the borrow pits and site. Brekke stated he would like to see the bond increased to \$40,000. Moore stated it was scheduled to be done in December 2017, and it was administratively extended until the end of May 2018 and now being brought back to the BOA. Thorson addressed the delays and the restoration that is left to be completed and that he does not see any issues with the \$10,000 bond. Amelia Schoeneman gave a comparison to a 5-acre pit and stated that the bond was \$5,000. McGill stated that he agrees with raising the bond and with the violations that have taken place it would be unfortunate if it ended up being drawn out further. Youngberg asked about the acres of the lake and Moore stated that it would be between seven and eight acres. Youngberg asked where Brekke is coming up with the number he is suggesting for the bond to be increased. Brekke stated there is a lot of work that needs to still take place and doubling the bond would work as well. McGill stated that a new bond would have to be requested.

**MOTION: The Story County Board of Adjustment recommends approval of the Conditional Use Permit for the extension request as put forth in case CUP07-16 with the following condition:**

1. The restoration bond shall be increased to \$20,000.

**Motion: Brekke**

**Second: Youngberg**

**Ayes: Brekke, Youngberg, McGill**

**Nays: None**

**Not Voting: None**

**Absent: Scarlett**

**Vote: (3-0)**



## **VAR02-18 FOLEY VARIANCE REQUEST**

Amelia Schoeneman presented the staff report and stated that the request is for a variance to table 86-2 of the Story County Land Development Regulations establishing front setbacks of 50 feet for dwellings in the A-1, Agricultural District for a 21-foot-by-12-foot portico (carport) and for a 20-foot-by-24-foot addition to the west side of the existing dwelling. The portico is setback approximately 27 feet from the front property line, which would require a variance of 23 feet. The addition is setback approximately 41.5 feet from the front property line, which would require a variance of 8.5 feet. The addition and portico were constructed in 2001 by the property owner without zoning permits. The intent was to build an addition at the same orientation as the existing dwelling. The existing dwelling has a legal nonconforming setback of approximately 45 feet from the front property line and was constructed at an angled orientation to the road. This made the addition's setback unintentionally encroach further on the front property line. The portico was constructed to extend approximately 17 feet from the south wall of the existing dwelling and over the driveway. It is staff's opinion that not all legal principles are met for the variance request for the portico and is recommended for denial. The variance request for the addition meets all legal principles and is recommended for approval.

Youngberg asked who built the portico. The property owner, Patricia Foley, spoke and gave an overview of the portico and clarified discrepancies in the staff report. Her husband, Leonard Foley, provided photos of other similar scenarios in the neighborhood that do not meet setbacks. Mrs. Foley stated that they request the portico be allowed to remain.

Schoeneman stated that the non-conformities were noted in the review. Schoeneman stated that when permits are requested, a review on the property is completed and otherwise operate on a complaint basis. Schoeneman stated that in the review, the additions were looked at and some of the additions were done prior to zoning. Schoeneman stated the decision will set precedent for future development of the neighborhood and future annexation may take place. Ornamental features are exceptions to the setback requirements. Moore stated that when zoning permits for other proposed improvements are submitted for review, the entire property is reviewed for compliance. Moore stated that staff understands the additions were done several years ago, but there is no record of permits.

Steve and Ann Quick spoke and stated that this edition looks nice and they support the request for the variance. Ann Quick asked why the setback is so far from the road and stated that the setback is at an odd angle in regards to the road. Schoeneman stated that the aerial image is not overlaid properly and that is the reason the property owner was asked to verify the property lines.

Youngberg stated that she does not feel the Foley's would have come forth for the garage permit if they had an idea they were non-compliant. Youngberg stated that she would prefer a grandfathering rule, if possible, since there are no major issues of concern. Moore stated that this is a case where the standards have not changed. If the area is annexed in the future and someone wants to build something at the same set back distance, this will set precedent. McGill stated that the Foley's applied for the permit in good faith.

Moore stated that the house was built prior to zoning. McGill asked Mr. Quick what the setbacks are in the City of Huxley and he indicated 30'. Youngberg asked if this sets precedent what would be wrong with changing the setback line. Schoeneman stated that it is for safety reasons. Youngberg stated that she feels it is a burden to make the Foley's make changes at this time after 17 years.

Youngberg asked what the condition of the carport is in since it is 17 years old and Mr. Foley stated that it is in good condition. Youngberg asked if the carport has to be removed or made smaller if the driveway size would have to be changed as well. Moore stated that staff would not require the driveway to be made smaller.

**MOTION: The Story County Board of Adjustment approves the Foley variance request, as requested by the applicant and put forth in case VAR02-18, for a variance of 8.5 feet from the required front setback for a 20-foot-by-24-foot addition to the dwelling.**

**Motion: Brekke  
Second: Youngberg  
Ayes: McGill, Brekke, Youngberg  
Nays: None  
Not Voting: None  
Absent: Scarlett  
Vote: (3-0)**

Additional discussion took place about options for the portico. As a compromise, Moore asked the Board of Adjustment to consider a sunset condition whereby the applicants would be required to remove the carport if they sell their property.

**MOTION: The Story County Board of Adjustment approves the Foley variance request, as requested by the applicant and put forth in case VAR02-18, for a variance of 23-foot to the required front setback for a 21-foot-by-12-foot portico, with the following condition:  
1. Portico shall be allowed to remain as is until the sale of the property.**

**Motion: Youngberg  
Second: Brekke  
Ayes: Brekke, McGill, Youngberg  
Nays: None  
Not Voting: None  
Absent: Scarlett  
Vote: (3-0)**

#### **CUP06-18 MANATTS, INC CONSTRUCTION AND DEMOLITION LANDFILL SITE**

Amelia Schoeneman presented the staff report and stated that this request is for a conditional use permit to allow a construction and demolition landfill site for existing stockpiles, including recycled asphalt pavement and concrete, of local road projects. Crushing of materials is proposed to occur. The stockpile area is approximately 4.6 acres in size and located north of the existing access to the Hallett Materials Ames South Pit from South Dayton Place. The stockpiling activity will be intermittent, depending on future construction projects. The use is proposed to cease when the Hallett Materials Ames South Pit extraction use on the site is discontinued in 2035. The Planning and Zoning Commission recommend approval of the conditional use permit with conditions at their June 6, 2018, meeting.

Brekke asked for clarification of the end date. Schoeneman stated that 2035 is the anticipated end date. Youngberg stated that she would like to see trees that are removed replaced with

evergreen trees. Moore stated that a specification could be made as to type of trees to provide a year round buffer.

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for the Manatts, Inc., Construction and Demolition Landfill Site as put forth in case CUP06-18 with the following conditions:**

1. Only recycled asphalt and concrete materials shall be permitted to be stockpiled on the site.
2. Trees shall be replaced as necessary to maintain screening of use and meet transition standards.
3. A floodplain development permit shall be approved. The applicant shall submit a flood evacuation plan to be reviewed by the County's Floodplain Manager and Emergency Management Director as part of the floodplain development permit.
4. Appropriate on-site dust control measures shall be provided as needed to meet compatibility and environmental protection standards.
5. The use shall cease with the discontinuation of the adjacent extraction use and the site shall be reclaimed as part of the extraction use's reclamation plan.
6. Contact landscape company or horticulturalist to identify dying or beginning to die trees and gaps in existing planting.

**Motion: Youngberg**

**Second: Brekke**

**Ayes: Brekke, McGill, Youngberg**

**Nays: None**

**Not Voting: None**

**Absent: Scarlett**

**Vote: (3-0)**

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**BOARD/STAFF COMMENTS:**

**Staff:** Moore stated that there would be an extraction use in July and provided an update on court hearing dates for the McCay property.

**Board:** McGill asked if there are any candidates to fill the boards open seat. Moore stated that there is a candidate and that the opening will remain open for 90 days before an appointment is made by the Board of Supervisors.

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**ADJOURNMENT: 6:02 PM**

  
**Approval of Minutes**

  
**Title and Date**

