

**BOARD OF ADJUSTMENT
TENNESON, OTTAWA SAND COMPANY, LLC
JULY 27th, 2011 1:30 PM
PACKER ROOM**

Call to Order - Acting Chairman Lundberg called the meeting to order at 1:30PM.

Certification of Open Meeting Law - Lien verified that the Open Meeting Law requirements have been met.

Members present: Gerald Hawkenson, Nancy Horton, Obert Lundberg, Robert Lunde and Robert Tenneson

Staff present: Kevin Lien

Others present: Lorna Tenneson, Bill Vachon-Foth Engineering and Infrastructure, Scott Napiecek and Doug Sokup.

Adoption of Agenda - Lunde made a motion to approve the agenda, Hawkenson seconded, motion carried unopposed.

Adoption of Minutes - Hawkenson made a motion to adopt the June 29th meeting minutes, Lunde seconded, motion carried unopposed.

Robert Tenneson public hearing – Acting Chairman Lundberg called the public hearing to order at 1:31 PM. Horton read the public hearing notice aloud. Section 3.07 of the Comprehensive Zoning Ordinance requires a structural setback of 75 feet from the ordinary high water mark which is also synonymous with Shoreland/Floodplain and other issues relating to that. There is no floodplain in this area. Lien understood that there was a shed there at one time that Tenneson is replacing. Lien referred the Board to a site map that was available. Tenneson wants to reduce the setback from 75 to 40 feet. Lien stated this hearing had been published in the newspaper for two consecutive weeks and letters were sent to adjoining property owners. Lien received no response from the public.

Testimony in Favor – Tenneson stated there was a shed there and the storm in 1998 took that down. Tenneson had added more concrete and used it as a pad for silage for the cows. Tenneson is no longer in the dairy business. He also lost 80 feet of one of his other sheds in the yard last winter. Tenneson thought, rather than rebuild that shed, which has a dirt floor, he would use up all the concrete he had on this site. The building is 38 X 116. When Tenneson applied for his building permit only then did he realize that it is too close to the creek. Hawkenson inquired how close the concrete was to the creek. Tenneson replied it was 50 feet, but when Tenneson called the office, Gamroth told him to perhaps go 40 feet to give him some extra room. Lien added it is usually measured from the ordinary high water mark, which is at “scour” line where there is no vegetation. Lunde inquired if the area had ever flooded when the other shed was there. Tenneson responded no, as the water goes over the culvert that is there and where the shed

is located, the land is quite a bit higher than the culvert. Tenneson noted even last fall it never flooded. Lien understood that Tenneson wouldn't have to do a lot of site preparation. Tenneson stated there is 36 feet of concrete so all he is going to do is put the posts outside the concrete and just build the shed.

Lien read a letter from the town which stated the Town of Preston board had met on July 18th, 2011. Gary Everson and Vernon Back passed a motion to support a variance being granted to Robert Tenneson by the Board of Adjustment.

Lorna Tenneson stated there was a building there for 50 years and water never got within 20 feet of it.

Testimony in Opposition – No testimony was given in opposition.

Action taken - Lunde made a motion to approve the variance as presented, Hawkenson seconded, and motion carried on a 4-0 voice vote. Tenneson abstained from any action.

Ottawa Sand Company, LLC public hearing – Acting Chairman Lundberg called the public hearing to order at 1:37PM. Horton read the public hearing notice aloud. Lien stated Section 3.08 has a building height limitation of a maximum 35 feet on all agricultural zoned land unless the facility is for agricultural use. The applicant is requesting to go to 95 feet for the purpose of building a sand mining facility which would include conveyers and other structures. Lien reminded the Board that a few months ago, Winn Bay Sand came in for the same type of variance. Lien stated letters were sent to all adjoining landowners and the hearing was publicized in the newspaper for two consecutive weeks. Lien did not receive any responses from the public on this matter. Discussion followed on the differences in the notices regarding the township. Lien stated that what was published and posted listed the Town of Arcadia so the public notices were correct.

Testimony in Favor – Bill Vachon - Foth Infrastructure and Environment, introduced himself. Vachon stated he has been assisting Ottawa Sand in the permitting process. Vachon stated back in June they presented information to the Environment and Land Use Committee for the Conditional Use Permit for this operation. At that time, Vachon had indicated that there would be a need to come before this Board because of equipment requirements that were above the 35 foot height limitation that is allowed in an agricultural zone. Vachon stated the figure that is attached onto the document that Vachon has prepared is basically the legal criteria required for this application. Vachon added they are looking for a variance for certain pieces of equipment which are required in the mining process. The crushing facility will be below 35 feet so there is no requirement for that. The wet processing structure, identified at a 75 foot height, is really the requirements of the current engineering design. Vachon stated if there was a way to go with a smaller, lesser height piece of equipment, that would be done, but because of the physical engineering requirements of using the water and basically gravity to assist in the separating and cleaning, they are pretty much limited to that height – it is engineering standards right now. Vachon identified the stacking conveyors which have the ability to reach a height of 60 feet – they can be anywhere from 10 to 60 feet depending on how high the pile is. Vachon added these are not a permanent structure, they do move around. Vachon included the conveyors because

they will exceed the 35 foot height. Vachon stated that the dry process structure is going to hold the dryer and a bucket elevator. In the application, the bucket elevator is listed at a height of 95 feet, however, it has been identified in the plan at 90 feet, but the 95 feet will give Ottawa Sand more room to work with. There is one bucket elevator which basically goes from the dryer and takes the sand up the bucket elevator into the cyclone separators. Vachon related this machine to the coin separating machine at the bank. It basically sizes the particles into the appropriate gradations that are required. Vachon continued that with the silo elevators there are three eight foot bucket elevators that bring those materials up to the silos/bins. Those silos/bins are to be no higher than 75 feet. Vachon reiterated they are above that 35 foot height limitation and requesting today the variance from that height limitation for those specific pieces of equipment at the locations that they have been identified at. Lunde inquired if the bins were steel or concrete, etc. Vachon responded they are metal bins and one of the requirements of this process, once the sand is processed and dried, it has to stay dry, it needs to be out of the weather, so they are airtight. There are also bin vents, so when the material is being deposited into the bins or being loaded into the trucks, there is a tier collection system that any dust that might be generated is collected and brought back into the dust collection system which is also housed in the dryer building. Vachon added the silos are very similar in height to the ones the co-op has on Highway 53 near Pigeon Falls. Because this is not solely an agricultural operation, that is the reason that Ottawa Sand has to come before the Board. Vachon referred the Board to a drawing, which identifies a "line of sight" on Thompson Valley Road, looking to the west. With the proposed berms and the vegetation, as outlined in the Conditional Use Permit, this equipment will be seen, but very possibly only the tip of it and that view would be similar for the residents North of the site. Vachon added, currently taking into effect the 300 foot setback from the creek as required by the Shoreland/Zoning Ordinance, a good portion of the ridge will be staying in place so that will add to the buffer for the individuals to the south and southwest and southeast. Napiecek offered information on each of these processes, if the Board had questions. Lunde questioned what kind of capacity rate this system had – such as loads per day, etc. Napiecek responded that at the early production rate, they would probably be looking at just under 2000 tons per day. It will come out in three different products and seven trucks will haul approximately 12 -14 loads (as long as the mining hours allow). Lunde stated he noticed on the original application it was 75 feet and then it changed to 90 feet. Vachon stated in this application they were first going strictly with the bins and then transferring it to rail load out. However, in this case there is no rail load out onsite, so the bins are higher up to allow for the trucks going underneath. Lien clarified that the variance application was applied for on June 16th and the DLM was contacted on June 28th to modify that, but because the language was stated in the paper in the manner that it was – no nominal height restriction was mentioned , it just states to exceed 35 feet, we are ok with that. Horton inquired if the berm itself was twenty feet and then trees. Vachon responded the berm was twenty feet and then there are trees on top of that. Lunde asked if the trees were going to be conifers as indicated on the plan. Vachon replied they would be conifers. Vachon personally likes conifers as they are green all year long and are typically faster growing and provide an excellent visual and noise buffer.

Raymond A. Kamrowski - Registered to testify in favor. Kamrowski questioned when the topsoil is taken off and piled up, is there going to be something for weed control. Vachon has proposed a standard Dept of Transportation (DOT) seed mix and it will be cut and maintained. Vachon stated his goal is to minimize any type of erosion because topsoil is a required

commodity for the reclamation of this site. Kamrowski inquired if there is going to be some type of chemical spray used to control the weeds. Vachon responded no, that they would be mowing it. Vachon stated the berms will be maintained, they are not going to be left to go to seed. Whether it will be hydro seeding or mulching, it will be imperative to get seed growth on those stock piles. Kamrowski inquired, when Ottawa Sand is checking the wells, will each well be checked now. Vachon responded that part of the well evaluation will be on the structural integrity of the well and there will be a letter sent out to each homeowner, based on the 2500 foot setback. Kamrowski asked if Ottawa Sand checks the wells now are they also going to check them one year from now to see what the water level is. Vachon responded if Kamrowski had a concern and called Ottawa Sand, they would come out and check the well depth. That would be prudent on behalf of the operator, to make sure this is what one has right now is a code compliant well and then if there is a problem/concern, it is pretty much spelled out in the conditions that the operator would be responsible to have someone come out and evaluate that well again. Kamrowski inquired how many acres of topsoil Ottawa Sand intended to have opened up at a time and if there going to be some type of creek buffer to keep the ground from going into the creek. Vachon stated originally the proposal came in with a 75 foot setback from the stream. In looking at DNR's regulation of no grading within a 75 setback from the stream. Ottawa Sand will be going back before the County to identify the 300 foot setback under the County Shoreland/Floodplain Ordinance and very possibly coming back to this Committee to ask for a variance from that 300 foot setback and encroach on that. Typically there is silt fence and berms from the open area to that 75 foot or the current 300 foot. Then there will be that current established zone. Sokup explained to Kamrowski where the berm will be on the property. Tenneson inquired what slope the berm would be at. Vachon stated they are looking at a 2 to 1 slope – it is a steeper berm. Some discussion took place on the width of the berm. Tenneson shared with the Board some pictures of a berm in Chippewa. Vachon stated there is concern with keeping those topsoil stockpiles reserved because that is what is needed for reclamation. If that material is lost, new material has to be trucked in and it gets to be expensive. Discussion followed again on the slope of the berm.

Robert and LaRayne Kupietz – Registered to testify for information only. R. Kupietz inquired why Lunde was concerned about the height difference of the equipment. R. Kupietz inquired, of Lien, if it was correct that the Town of Arcadia wanted to put up wind generators and it was turned down. Lien stated that was incorrect, the generators were not turned down but there was severe limitations put on the wind generators. Lien stated one can still put up wind turbines in Trempealeau County but they have to be a mile away from a residential structure unless the resident signs off a waiver. Aesthetics as well as a lot of other things were taken into account. Discussion followed on the wind turbines. Lien stated to R. Kupietz, that the Board here is limited today, to deal with the 30 foot height limitation for non-ag structures and Ottawa Sand is asking the Board for a 95 foot variance. Lien stated this Board cannot place conditions, but it can approve it based on the site plan that has been presented or it can be denied. The site plan that is presented shows a berm at a 2 to 1 slope, Ottawa Sand has verbally stated 3 to 1 to maintain it and they will be planting trees on it. If the site plan is followed, all this Board can do it say “approve” or “deny” the variance.

Lien stated he has not received a letter from the Town of Arcadia regarding this variance.

Lundberg called for any other testimony in favor.

Testimony in Opposition – No one appeared to testify in opposition.

Hawkenson inquired how high a silo can be built. Lien replied there are no limitations on agricultural uses. Lien added, that historically the County has been agricultural and the Ordinances reflect that agricultural side so that is why the restriction applies to anything outside of agricultural use. Horton inquired how long this mine is projected to be in operation. Sokup responded 20 years.

Action taken – Hawkenson made a motion to grant Ottawa Sand Company permission for a 95 foot bucket elevator and 75 foot storage silos based upon the site plan that was presented and contingent upon a letter of approval from the Town of Arcadia. Hawkenson stated one can build a silo with no limitations. Lien stated nonmetallic mining is considered an industrial use, but it requires a conditional use permit in an agricultural district as required by the Comprehensive Zoning Ordinance. Tenneson seconded the motion. Motion to approve the variance passed on a 5-0 voice vote.

The next meeting of the Board of Adjustment was set for August 31st, 2011 at 1:30 PM.

Adjournment – Lunde made a motion to adjourn, Tenneson seconded, motion carried