

A meeting of the Jasper County Board of Zoning Appeals was held Monday, May 20, 2024 at 7:00pm. at the Annex Meeting Room at 910S. Sparling Avenue, Rensselaer, Indiana. Members present: Kent Korniak, Scott Walstra, Dave Webb, Mark Jordan and Matt Sheafer. Also present: William T. Sammons, Law Offices of William T. Sammons P.C.; Mary Scheurich, Director and Kelli Standish, Secretary. Absent was: None.

Meeting was called to order by Chairman Scott Walstra. The Pledge of Allegiance was recited. The first order of business was the call for approval of the April 2024 minutes.

Matt Sheafer made the motion to approve the April 2024 minutes. Motion was seconded by Kent Korniak and carried unanimously.

Special Exception	Cause#BZA-3-24
Variance	Cause#BZA-4-24

Applicant: Rose Acre Farms, Inc
Location: Sec.18-28-6 – Marion Twp. – St.Rd. 16 & Hwy 231 NE corner
Use: Confined Feeding Level 3 & Variance for the set-backs from adjoining landowners and shelterbelt

Public hearing held pursuant to notice published May 2, 2024 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Janet Echlin, Clerk of the Rensselaer Republican.

Wes Spray was present and stated that he is representing the applicant. This is an existing Rose Acre Facility. He stated that he is asking for Special Exception approval for a Level 3 Confined Feeding Operation and Variances for the Set-backs to the residences that are adjoining the property and the Shelterbelt. They are proposing 2 cage free pullet houses to meet the new cage free requirements. Since they have removed 3 of the existing buildings and are adding 2 larger buildings they need Special Exception Approval. The remaining building will most likely be used for storage, there will be no birds in this building. There will be 404,340 birds on site.

Mark Jordan asked how many birds were on site?

Wes Spray replied that there were 540,000 birds on site in the past.

Matt Sheafer asked what the zoning was for the property.

Kent Korniak replied that the applicant came before the Plan Commission in March to rezone the property from A1 to A3 and obtained approval.

Scott Walstra asked if anyone present had any opposition to the application. There was none.

Dave Webb asked if the maximum number of birds onsite will be between 400,000 to 500,000, it will never exceed that number?

Wes Spray replied that he can not say that for a fact that they will not go over the 500,000 number of birds.

Kent Korniak asked if the amount of birds is contingent upon the level that they are approved for. Is that correct?

Attorney Todd Sammons replied affirmatively. That is why they are asking for a level 3.

Dave Webb asked what is the maximum amount of birds they can have onsite for a level 3 Confined Feeding Operation?

Mary Scheurich replied that the minimum is 400,000 birds but it does not state what the maximum they can have onsite is.

Dave Webb stated that since they have been in operation he has never heard anyone complain about the operation, but he doesn't want to approve something that could double or triple in size so then we start getting complaints. If the applicant wants to add a 3rd building they would have to come back before the board to obtain approval for that, is that correct?

Mary Scheurich replied affirmatively. They would be changing the development plan that is being presented tonight, so yes, they would have to come before the Board to obtain approval for that.

Kent Korniak made the motion to approve the Special Exception application with the development plan that has been presented tonight. Motion was seconded by Matt Sheaffer carried unanimously.

Wes Spray then read the Findings of Facts.

- (i) The proposed Special Exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan:

Response: Zoning District A-3 intent is for High Intensity Agricultural Operations and confined feeding (level 3) is allowed with a special exception. According to the Comprehensive Plan, Agriculture is Jasper County's heritage and is a dominant factor in its rural landscape and community character. 87% of the land use in the County is for Agriculture. Agricultural land use is land primarily used for the business of crops, pasturage, confined feeding, farm buildings, farmhouses and the like. Corn and soybeans (221,510 acres) dominate the croplands, but other cereal grains as well as Christmas trees, asparagus, blueberries, grain sorghum (milo), mint, and popcorn can be found in the County's diverse farmlands. The County also recognizes that intensive agricultural facilities are an asset to the community.

- (ii) The proposed Special Exception will not be injurious to the public health, safety, morals and general welfare of the community (consider whether the special exception will hurt or potentially cause harm to the county).

Response: Rose Acre Farms, Inc. has operated the Jasper County Pullet facility since 1988. To our knowledge, there has been no injury to public health, safety, morals or general welfare of the community. The Comprehensive Plan provides land use management implementation measures that should be used when making decisions related to the placement of intensive agricultural uses (i.e., CAFOs and CFOs) and their proximity to potentially sensitive land uses (residential, schools, hospitals) or other less intensive uses.

- (iii) The proposed Special Exception is in harmony with all adjacent land uses.

Response: Adjacent zoning to the special exception is A-1. According to the ordinance, 2-10, appropriate adjacent districts to A-3 include A-1. The special exception for confined feeding level 3 is in harmony with adjacent land uses of A-1 that include but not limited to agriculture tourism, agricultural crop production, agricultural products storage, confined feeding level 1, and raising of farm animals.

- (iv) The proposed Special Exception will not alter the character of the district.

Response: The proposed special exception will not alter the character of the district. The proposed special exception is to update the status of existing operation due to the nature of the remodel and it being the first change since the updates to the unified development ordinance have been in place. As stated previously, according to the Comprehensive Plan, Agriculture is Jasper County's heritage and is a dominant factor in its rural landscape and community character. 87% of the land use in the County is for Agriculture. Agricultural land use is land primarily used for the business of crops, pasturage, confined feeding, farm buildings, farmhouses and the liked. The proposed special exception will remain in line with the character of district.

- (v) The proposed Special Exception will not substantially impact property value in an adverse manner (consider whether neighboring property will suffer any major negative impacts).

Response: Property value will not be impacted in an adverse manner. Neighboring property values should not be affected in an adverse manner considering the facility has been existing since 1988. Valuation by the Jasper County Assessor's office show neighboring property value assessments have been trending upward.

- (vi) No appreciable environmental harm will result from the use allowed by the special exception or if such harms could result, such resulting harms are eliminated or reasonable mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

Response: All local, state, and federal environmental rules will be followed.

All permits will be obtained prior to construction. Manure handling from the facility will belted dry manure. Manure application activities shall be in accordance with 327 IAC 19-14-4. In addition, any manure to be applied shall be incorporated into the soil within forty-eight (48) hours. [Ord. 6-6-16B & 1; Ord. 12-27-11 & 5.18].

Scott Walstra stated that there is a motion to approve the application, and the board must consider the findings in Chapter 20.90.140, Special Exception (e)(7)(i) through (vi). Scott Walstra then read the Findings of Facts.

- i. The proposed special exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan;

The board unanimously voted that the applicant met the requirements of (i).

- ii. The proposed special exception will not be injurious to the public health, safety, morals and general welfare of the community;

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The proposed special exception is in harmony with all adjacent land uses;

The board unanimously voted that the applicant me the requirements of (iii).

- iv. The proposed special exception will not alter the character of the district;

The board unanimously voted that the applicant met the requirements of (iv).

- v. The proposed special exception will not substantially impact property value in and adverse manner; and

The board unanimously voted that the applicant met the requirements of (v).

- vi. No appreciable environmental harm will result from the use allowed by the special exception, or, if such harms could result, such resulting harms are eliminated or reasonably mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

The board unanimously voted that the applicant met the requirements of (vi).

Kent Korniak made the motion to adopt the proposed Findings of Facts as presented by the Applicant. Motion was seconded by Dave Webb and carried unanimously.

Wes Spray then stated that he is asking for 2 variances. The set-back requirement for an A3 zoning district is 1320ft. to a residence. They will not be able to meet that requirement since the new buildings will be longer in size, therefore they are requesting a variance on the set-backs. There are 3 residences in the proposed area, one home is approximately 1200ft., the second home is 1312ft. and the third one is 1307ft. The other variance is for a Shelterbelt that is required in an

A3 zoning. They are requesting a variance to not be required to put the shelterbelt in. By not putting the Shelterbelt in this will help eliminate the risk of the wild birds being around the facilities that can carry the Avian Flu.

Matt Sheafer stated that he did find a USDA publication that does confirm what Mr. Spray was saying about the Shelterbelt creating an area for the Avian Flu.

Scott Walstra asked if anyone present had any opposition to the application.

Jane Duttlinger was present and stated that she lives at 718 11th Place SW, DeMotte. She wanted to know if the neighbors that are going to be encroached upon have been notified.

Wes Spray replied that he has not personally talked with the adjoining landowners, but they were notified by certified mail with the Public Notice that is required to be sent to them.

Kent Korniak stated that he feels this is an example of what we are going to be seeing in the future is the modern operations that will have to adapt to the rules and regulations. He wonders if the Shelterbelt in our Ordinance may need to be looked at.

Kent Korniak made the motion to grant approval of the variances for the set-backs to the adjoining residences and the Shelterbelt. Motion was seconded by Dave Webb and carried unanimously.

Wes Spray then read the Findings of Facts.

- (i) The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

Response: Rose Acre Farms, Inc. has operated the Jasper County Pullet facility since 1988. To our knowledge, there has been no injury to public health, safety, morals or general welfare of the community. The Comprehensive Plan provides land use management implementation measures that should be used when making decisions related to the placement of indecisive agricultural uses (i.e., CAFOs and CFOs) and their proximity to potentially sensitive land uses (residential, schools, hospitals) or other less intensive uses. The proposed variances minimum buffer variance will not be injurious to the public health, safety, morals, and general welfare of the community. The minimum setback would still be around 1,200 feet from the Griffin residence. This is 120 feet less than the current standard of 1,320 feet.

Jasper County Code 20.50.170 requires installation of a shelterbelt. Rose Acre farms requests a variance to not require a shelterbelt in the interest of safeguarding the pullets from Highly Pathogenic Avian Influenza (HPAI). RAF is seeking to limit any risk of HPAI from coming into contact with any of its flocks. One of the biggest contributors to HPAI transmission is the presence of wild birds around any live production poultry facility. The shelterbelt will attract birds to roost and nest near the pullet houses.

- (ii) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Response: Property value will not be impacted in an adverse manner. Neighboring property values should not be affected in an adverse manner considering the facility has been existing since 1988. Valuation by the Jasper County Assessor's office show neighboring property value assessments have been trending upward.

- (iii) The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

Response: The strict application of the terms of the ordinance will result in practical difficulties in the use of the property in the following ways:

Buffer distances – The existing parcel would not allow the placement of the proposed pullet houses to meet the minimum buffer distance of 1320 feet. The proposed pullet houses would have to be shortened allowing for less birds in each house. This would conflict with flock rotations to layer facilities and would most likely require another pullet house to be built.

Shelterbelt and Biosecurity – as stated above, in the interest of safeguarding the pullets from Highly Pathogenic Avian Influenza (HPAI), RAF is seeking to limit any risk of HPAI from coming into contact with any of its flocks. One of the biggest contributors to HPAI transmission is the presence of wild birds around any live production poultry facility. The shelterbelt will attract birds to roost and nest near the pullet houses increasing the risk of transmission if the wild fowl are infected.

Scott Walstra stated that there is a motion to approve the application, and the board must consider the findings in Article 9, Variance 20.90.190 (7)(a)(i) through (iii). He then read the Findings of Facts.

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

The board unanimously voted that the applicant met the requirements of (iii).

Kent Korniak made the motion to adopt the proposed Findings of Facts as presented by the Applicant. Motion was seconded by Dave Webb and carried unanimously.

Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

Scott Walstra, Chairman