

**BOARD OF ADJUSTMENT MINUTES**  
**February 9, 2015**  
**City of Waverly, Council Chambers, Waverly, Iowa**

A. Call to Order: 7:00 p.m.

1. Members Present: Pete Lampe, Chair; Linda Brandt; Al Charlson

Members Absent: Vern Gidley; Karla Shea, Vice-Chair

Staff Present: Ben Kohout, Zoning Specialist, Secretary; Tim Kangas, Council Liaison

2. Motion By: Charlson Seconded By: Brandt

Move that the agenda be approved as printed.

Yes: 3 No: 0 Absent: 2

B. Approval of Previous Minutes:

Motion By: Brandt Seconded By: Charlson

Mr. Kohout stated during a previous discussion with Mr. Lampe regarding the minutes, the recording was listened to again and Mr. Lampe's comments in E.2. were adjusted to read what was accurately said. Mr. Lampe agreed.

Move that the minutes of the November 10, 2014, Board of Adjustment meeting be approved as amended.

Yes: 3 No: 0 Absent: 2

C. Communications:

Planning and Zoning Commission – February 5, 2015 Agenda

D. Regular Business:

1. Case # 20150101, Construction of above ground flammable liquid storage tank to be within required side yard setback.

*a. The Applicant's Requested Zoning Variance:*

Croell Redi-Mix, New Hampton, Iowa, property owner at 407 7<sup>th</sup> Ave. NW, Waverly, Iowa, is requesting a variance to the zoning regulations governing the setback requirements for a proposed replacement above ground fuel storage tank. A tank structure is being proposed at 100 feet from the south "R" district property lines and 145 feet from the north "R" district property lines.

*b. The Zoning Regulations State:*

Per City Code, the requirements call for this structure to meet a setback of 200 feet from any "R" district property line and have the fuel tank below ground. See Code of Ordinances Section 100.15.02(14), Permitted Uses.

*c. Interested Property Owners:*

Mr. Kohout confirmed for the Board there were no comments received from the public on this request.

Ms. Olga (Lee) Iverson, of 805 4<sup>th</sup> St. NW, addressed the Board. Ms. Iverson stated she has concerns over the above ground tank being larger than the existing tank and would support an underground tank for safety reasons.

Ms. Rosemary Fitzpatrick, of 314 6<sup>th</sup> Ave. NW, addressed the Board. Ms. Fitzpatrick stated she has safety concerns with the above ground tank and would support a below ground tank.

*d. Discussion:*

Mr. Lampe opened the public hearing.

Mr. Bob Hansen, of Croell Redi-Mix, Inc., addressed the Board. Mr. Hansen stated the request for the above ground tank at this location is the result of the existing tank, a single wall, becoming older and needs to be replaced. Mr. Hansen stated the proposed above ground tank is a double-wall design, which is safer than a single wall tank and that he desires the above ground so as to better monitor the condition of the tank to inspect for leaks. Mr. Hansen explained should a tank be underground, it would be hard to determine if leaks have formed. Mr. Hansen stated Croell Redi-Mix has been located at this location for a long time and may pre-date a lot of the housing to the north of their location and they are surrounded by "R" districts and they have no choice but to ask for a variance to replace older structures such as the fuel tank. Mr. Hansen stated an advantage of having the proposed larger fuel tank is there would be less trucks travelling to fill up their tanks and the roads could be safer because of the trucks making less trips to an off-site location to fill up.

Mr. Hansen stated his company has other locations in cities such as Marion and Bettendorf where houses are in relative close proximity to outside fueling stations on-site, such as this one proposed and there have been no reported issues with these locations.

Mr. Lampe stated he thinks the current Code requirement of 200 foot setback may have been created at a time when safety of above ground tanks were more of an issue than now with double wall tanks being offered and proposed by the applicant. Mr. Lampe does not see a substantial change to the functionality of the operation resulting from the granting of this request as the tank will be in approximately the same location. Mr. Lampe stated he thinks that with the larger tank, fewer trips by the trucks to an off-site fueling station would mean less truck traffic generated from this site, which could lessen the congestion in the streets to and from this site. Mr. Lampe stated support of the issue of fuel tank storage considerations with respect to the way the Zoning Code reads to see if changes are warranted. Mr. Lampe stated support of this request.

Mr. Charlson stated he has a concern over the board members, as non-experts in fuel tank safety, in ascertaining whether a particular style of tank is safer than another and generally supports the 200 foot setback rule as a standard. Mr. Charlson confirmed with Mr. Hansen Croell Redi-Mix looked at placing a tank underground and the advantage of placing above ground renders it easier to check for leaks and to monitor the condition of the tank. Mr. Charlson confirmed with Mr. Hansen the State Fire Marshall's office has reviewed their request and Mr. Hansen is now filing with the City for approval. Mr. Charlson stated he understands the nature of the location of this request, that the proposed diesel fuel storage is less volatile than other fuels and that there is no substantial impact to the layout of the location of the tank as they layout is not changing. Mr. Charlson stated support of the request.

Ms. Brandt stated she understands Mr. Hansen's information and stated she thinks that with current truck trip demand, the proposed 10,000 gallon tank would be refilled approximately six times per year, which is less than currently happens. Ms. Brandt stated a concern with the proposed size increase of the tank and a concern with the existing use of cement plant in such close proximity to the "R" districts to the north and to the south and recognizes the year it was established may pre-date the homes to the north. Ms. Brandt acknowledged she supports the above ground double wall tank, as proposed, over a below ground model that would be more difficult to monitor for leaks.

Mr. Kohout stated conversations with the building inspection office on this request confirmed a minimum building setback for this fuel storage tank is to be 25 feet away from any buildable lot line.

There was discussion from the Board about the permit review process involving fuel tank storage and City staff speaking with the Waverly Fire Department and Building Inspection office as part of the review process. Mr. Kohout confirmed with Mr. Hansen the fire department can make recommendations on public safety considerations and that with fuel tanks larger than 10,000 gallons, a State board reviews the request and monitors any reported hazards and the local fire department may be notified on this.

There was discussion about the rail line and close proximity to the fuel storage tank location being a potential hazard.

There being no one else to speak on this request, Mr. Lampe closed the public hearing.

*e. Motion by the Board:*

Motion By: Charlson

Seconded By: Brandt

Move to allow for the fuel tank to be above ground at a setback of 100 feet from the south "R" district property line and at a setback of 145 feet from the north "R" district property line.

Yes: 3

No: 0

Absent: 2

E. Old Business:

None

F. New Business:

1. The Board discussed a desire for Staff to pursue research with the Planning Commission and the City Council into how to address safety with fuel tank storage and proposing amendments to the Code as necessary to reflect today's fuel tank technology and to avoid any adverse impacts to neighboring properties. Discussion included staff receiving feedback from the State Fire Marshall's office as part of the fuel tank storage application process prior to submitting a building permit for review and final consideration by the City.
2. The Board discussed election of officers and noted no election occurred in the even year, 2014, of new chair and vice-chair. Following discussion, it was decided the members would bring this up in 2016.
3. Mr. Kohout covered the recent Planning Commission discussion from the February 5 meeting.

G. Adjournment:

Motion By: Charlson

Seconded By: Brandt

That the Board of Adjustment meeting be adjourned.

Yes: 3

No: 0

Absent: 2

Meeting Adjourned at 8:00 p.m.

Respectfully Submitted,

Ben Kohout, Secretary