

MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS
June 20, 2023 MINUTES

The Morgan County Board of Adjustments met on Monday, June 20, 2023, 5:30 p.m. in the Assembly Room of the Morgan County Administration Building. The meeting was called to order by Chairman Allyn Wind.

Board of Adjustment Members Chairman Allyn Wind, Charles Ruyle, Jason Enfante, Paula Keefe and Julie Padilla attended in person. Also present were Nicole Hay, Planning Administrator, Cheryl Brindisi, Administrative Assistant and Jenafer Santos, Planning Technician. Morgan County IT Administrator, Karol Kopetzky and Morgan County Attorney, Dan Harvey attended via Zoom.

It is noted that this Board of Adjustments meeting for June 20, 2023 was held in person with an option to attend remotely through the Zoom platform.

APPROVAL OF MINUTES: September 19, 2022

It was moved by Charles Ruyle and seconded by Jason Enfante to approve the September 19, 2022 minutes as presented. Motion carried 4-0 to approve the minutes. Paula Keefe abstained.

Chairman Allyn Wind read the procedural for tonight's meeting.

APPROVAL OF AGENDA:

It was moved by Charles Ruyle and seconded by Jason Enfante to approve the agenda. Motion carried 5-0.

OLD BUSINESS: NONE

NEW BUSINESS:

Applicant: AGPROfessionals, Tim Naylor

Landowner: Bos Farms, LLC

A Variance to allow a Livestock Confinement Operation within 1,320 feet of an existing residence located on a separate parcel of land.

APPLICATION OVERVIEW:

Nicole Hay, Planning Administrator, read her file summary as follows:

OWNER: BOS Farms, LLC
APPLICANT: Tim Naylor - AGPROfessionals

BOS Farms, LLC, represented by Tim Naylor of AGPROfessionals has submitted this application for a variance to Section 3-650 Table 1, Note (d) of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations regarding minimum setback for a residential structure to a confined animal feeding operation (CAFO) in the Agricultural Production zone district. The minimum setback from an animal confinement facility to an occupied structure is 1,320 feet. There is an existing home that

is approximately 770 feet from the proposed footprint for the feeding operation. The variance request is to reduce the setback to approximately 550 feet from the regulation requirement.

The parcel of land is located in a part of the SE $\frac{1}{4}$ of Section 20, the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, the NW $\frac{1}{4}$ of Section 28 and the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29, all in Township 3 North, Range 58 West of the 6th P.M., Morgan County, Colorado.

A Use by Special Review is also in the planning process to permit a new CAFO livestock facility.

In reviewing this application, the Board of Adjustment is required to make a finding that the criteria for granting a variance in Section 5-220(B) of the Morgan County Zoning Regulations have been satisfied:

- (1) The strict application of the applicable regulation results in peculiar and exceptional practice difficulties or exception and undue hardship on the owner due to:
 - (a) Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation; or
 - (b) Exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property; and

The variance is requested for a residence owned by Lee and Michelle Parreria who have submitted a letter requesting approval of the variance. The owner of the residence will be the manager of the proposed facility. Due to the sites existing topography and the natural flow paths, the site design has resulted in a few large pens being placed within the 1320 foot setback.

- (2) The hardship is not self-imposed;
- (3) The variance, if granted, will not adversely affect the use of adjacent property as permitted under these Regulations;

The variance will not adversely affect the use of adjacent property. All adjacent property is currently being used for agricultural purposes.

- (4) That the variance, if granted, is in keeping with the intent of these Zoning Regulations and the Morgan County's Comprehensive Plan; and

The zoning regulations provide for variance requests to the required 1,320 foot setback for feeding operations.

The Comprehensive Plan encourages the growth of the agriculture industry in the county.

Goals of the Morgan County Comprehensive Plan:

a. Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth.

If approved, this variance will support the continuance of agriculture business in the county.

b. The county will encourage the preservation of agriculture production lands in balance with pressures for land use changes to higher intensity development.

If approved, this variance will encourage the preservation of the agriculture industry in the county.

- (5) That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Morgan County.

The variance to permit a variation from setback for a proposed feeding operation, if granted, will not adversely affect the health, safety and welfare of the citizens of Morgan County.

Approval of this variance request would be subject to the Use by Special Review approval by the Board of County Commissioners.

Nicole Hay
Morgan County Planning Administrator

Applicant AGPROfessionals, Tim Naylor, presented this application to the Board of Adjustments.

BOARD DISCUSSION: NONE

PUBLIC COMMENT IN FAVOR: NONE

PUBLIC COMMENT OPPOSED:

Michael Walter, 14718 CR 13, Fort Morgan, neighboring landowner to the west of Lee's house, expressed concern that the proposed setbacks from the new facility would cause issues to him if he wanted to build a house in the future on his neighboring property.

Chairman Allyn Wind wanted to clarify that what he was asking was not for a house that is currently in existence but for a potential new house.

Michael Walter noted that there was not currently a house at the location that he is referring to but he may want to build a new home there in the future.

Tim Naylor explained his interpretation of the Variance to setbacks in the Morgan County Regulations.

Nicole Hay, Planning Administrator, explained that the Bulk Setbacks in the Regulations are to be from the permitted area and not the pens.

Chairman Allyn Wind wanted to point out that this Variance tonight is only for the existing house listed in this application.

Chairman Allyn Wind asked for any final comments. Their were none.

PUBLIC COMMENT CLOSED

BOARD DISCUSSION:

Julie Padilla asked how many animal units were proposed and also what the actual property boundary on the map would be?

Tim Naylor explained that their were multiple parcels within that boundary line.

Charles Ruyle asked if the the north property line was bound by a county road?

Tim Naylor said, "No. The closest county road is County Road P."

Nicole Hay explained that County Road P is the nearest county maintained road. Road 14 going north of County Road P is county maintained. Going south of County Road P, Road 14 is a private road that is not county maintained. It was vacated several years ago.

Julie Padilla asked who owns the property just north of the boundary line?

Tim Naylor explained that it was Lee's property.

DISCUSSION CLOSED

Charles Ruyle motioned to approve the Variance as requested by Bos Farms that has been presented to the Board of Adjustments.

Jason Enfante seconded the motion. Motion passed 5-0.

ADJOURN:

It was moved by Charles Ruyle and seconded by Jason Enfante to adjourn the meeting. Motion passed 5-0. Meeting adjourned at 6:05 P.M.

Respectfully Submitted,

Cheryl Brindisi, Planning and Zoning Administrative Assistant