



Owensboro Metropolitan Board of Adjustment

Address: 6188 AULL RD

Agenda: August 13, 2015, Item 4

Zone/Ref: EX-1, Zoning Ordinance, Article 12, Section 12a.52

Applicant: Western Kentucky Minerals, Inc.; Joseph B. Coomes Estate c/o William E. Coomes

DESCRIPTION of requested Variance

Consider a request for a **Variance** in order to eliminate the required 100 foot buffer from the public right-of-way along a portion of Aull Road.

CONSIDERATIONS - Refer to applicant's reasons, attached

NO

A. SPECIAL CIRCUMSTANCES? Are there special circumstances that do not generally apply to land in the general vicinity, or in the same zone?

The subject property is proposed to be rezoned from A-R Rural Agriculture to EX-1 Coal Mining. Mining activities are not allowed within 100 feet of the public right-of-way per the zoning ordinance unless a variance is granted. In this case the activity occurring within the 100 foot buffer are the safety earth berms serving as a buffer from the road to the open coal pits. Using the 100 foot buffer area for the earth berms will maximize the area for surface mining. The County Engineer has reviewed the applicants plan and asked that they abide by the following conditions:

- The top of the highwall of the berm shall be no closer than 60 feet from the near edge of the pavement of Aull Road.
- The bottom of the highwall of the berm shall be no closer than 80 feet from the near edge of the pavement of Aull Road.

Granting this Variance with the conditions set forth by the county will not adversely affect the public health, safety or welfare because the berm located within 100 foot buffer will serve to protect the vehicles traveling along Aull Road from the open coal pits. It will not cause a hazard or a nuisance to the public because the actual roadway will not be disturbed. It will not be an unreasonable circumvention of the requirements of the zoning regulations because there will still be a buffer between the road and the open coal pits serving the intent of the ordinance.

NO

B. HARDSHIP? Would strict application of the regulations deprive the applicant of the reasonable use of the land, or create an unnecessary hardship on the applicant?

The applicant would still be able to mine the area.

NO

C. APPLICANT'S ACTIONS? Are the circumstances from which relief is sought a result of the applicant's actions taken after adoption of the zoning regulation?

NO

IF YES: WILLFUL ACTIONS? Did the applicant take WILLFUL actions in violation of the zoning regulation? IF SO, the board SHALL DENY the variance.

FINDINGS: Granting this Variance...

WILL NOT

1. Adversely affect the public health, safety or welfare because the berm located within the 100 buffer will serve to protect the vehicles traveling along Aull Road from the open coal pits.

WILL NOT

2. Alter the essential character of the general vicinity because coal mining activities are taking place all around the subject property.

WILL NOT

3. Cause a hazard or a nuisance to the public because the actual roadway will not be disturbed.

WILL NOT

4. Allow an unreasonable circumvention of the requirements of the zoning regulations because there will still be a buffer between the road and the open coal pits serving the intent of the ordinance.

STAFF RECOMMENDATION

APPROVAL

Conditions:

1. The top of the highwall of the berm shall be no closer than 60 feet from the near edge of the pavement of Aull Road.
2. The bottom of the highwall of the berm shall be no closer than 80 feet from the near edge of the pavement of Aull Road.