

SAUK COUNTY BOARD OF ADJUSTMENT
Thursday, April 28, 2022

PRESENT: Linda White, Chair
Brian Peper Vice Chair
David Allen
Robin Meier
Jamie Phephles

ABSENT: None

OTHERS PRESENT: L. Wilson, L. Digmann, G. Templin-Steward, T. Hillmann. B. Desmond, N. Brey, L. Konopacki, M. Fleming. For others in attendance for the public hearing, see registration slips.

At 9:00 a.m., Chair White called to order the session of the Sauk County Board of Adjustment and introduced the members of the Board, explained the procedures and order of business for the day. Staff certified that the legally required notices were posted for the scheduled public hearings. Motion by White, second by Meier to accept the certification for the public hearings. Motion passed 5-0.

Motion by Phephles, second by Allen to adopt the agenda. Motion carried, 5-0.

Motion by Phephles, second by Peper to adopt the minutes from the March 24, 2022 meeting. Motion carried, 5-0.

Communications: None.

APPEALS:

Petition 05-2022. A petition to consider a renewal of a special exception permit request pursuant to s. 7.036(5) of the Sauk County Zoning Ordinance, for approval of operating a lodging house located at S5721 Devils Lake Parkway. The special exception permit request is associated with land described as Lot 17, Tranquility Subdivision, in part of the NE ¼ of the NE ¼ of Section 14, Township 11 North, Range 6 East, Lot 17, Town of Baraboo, tax parcel 002-1307-11700, owned by Vladimir Skurla.

Hillmann appeared and provided the staff report and analysis of the request. Phephles asked if the property had any violations. Hillmann stated no. Peper questioned the 16 guests in a 4-bedroom lodging house.

Dmitri Kostyuk, appearing in favor, stated that the home is rented about 45 weekends out of the year.

Puttkamer, Town Board Supervisor and Baraboo Plan Commissioner member, appearing in favor, stated the applicant sets the bar high and had no complaints. Puttkamer stated the number of people per rental depends on the square footage of the home. Town recommended approval.

Seeing that no one else wished to speak, Chair White closed the public portion for this appeal and the Board went into deliberation at 9:12 a.m.

Motion by Phephles, second by Meier to approve the renewal of a special exception permit authorizing the operation of a lodging house based upon the findings of fact and conclusion of law subject to the LRE staff analysis and conditions. Motion carried, 5-0.

Petition 06-2022. A petition to consider a variance request pursuant to s. 7.059(c) of the Sauk County Zoning Ordinance, for approval of a temporary secondary dwelling for farm use that exceed the maximum square footage allowed. The variance request is associated with land described as part of the SW ¼ of the NW ¼ of Section 27, Township 10 North, Range 05 East, tax parcel 020-0951-00000, Town of Honey Creek, Sauk County, WI, owned by William and Alma Gasser.

Templin-Steward appeared and provided the staff report and analysis of the request.

White asked if you can do a second dwelling for farm help. Templin-Steward explained the ordinance requirements. White questioned if a variance stayed with the land? Templin-Steward explained the deed restrictions. White questioned if they were putting in a separate septic. Templin-Steward stated that the applicant is looking to replace the existing septic at the farm, and they will connect to the septic at the main house. Phephles questioned what was meant by temporary? Templin-Steward explained based on zoning definitions.

Alma Gasser, applicant appearing in favor of the request, explained their request.

William Gasser, applicant appearing in favor of the request, provided further information regarding the request.

Seeing that no one else wished to speak, Chair White closed the public portion of this appeal and the Board went into deliberation at 9:35 a.m.

Motion by Peper, second by Allen to approve a variance of 480 square feet to s. 7.059 © to allow the placement of a temporary secondary dwelling for farm use, with approval of a conditional use permit, that exceeds the maximum square footage allowed based upon the findings of fact and conclusion of law subject to the LRE staff analysis and conditions. Motion carried, 5-0.

Petition 08-2022. A petition to consider a special exception permit request pursuant to s. 7.036(5)(i) of the Sauk County Zoning Ordinance, to authorize the operation of a lodging house. The property is located on real estate described as: S3925 County Rd BD, located on Lot 1 CSM 2650 in part of the NE ¼ of the NE ¼ of Section 21, Township 12 North, Range 6 East, Town of Baraboo. Tax parcel 002-0662-00000, owned by Greg Pikel.

Hillmann appeared and provided the staff report and analysis of the request.

White stated that item H, notification letter, should have contact information for the Township, County, and representative for the property. Phephles asked why this property was rezoned to agriculture and not residential. Hillmann explained the history and surrounding zoning designations.

Puttkamer, Town Board Supervisor and Baraboo Plan Commissioner member, appearing in favor of the request stated that the reason this was commercial zoning was because it was a model home and built for model home sales purposes. Puttkamer stated they have met the criteria required by the town.

Cyndi Benisch, Patriot Properties agent for the applicant, appearing in favor of the request stated that she could answer questions. White asked when this property would be ready. Bensich stated they were hoping June 1, 2022. White asked if there has been any advertising for this property. Benisch stated there has not been.

Seeing that no one else wished to speak, Chair White closed the public portion of this appeal and the Board went into deliberation at 10:02 a.m.

Motion by Phephles, second by Allen to approve the special exception permit for operating a lodging house based upon findings of fact and conclusion of law subject to the LRE staff analysis and conditions. Motion carried, 5-0.

Petition 09-2022. A petition to consider a special exception permit pursuant to s. 7.036(5)(a) to authorize the operation of a lodging house. This property is located on real estate described as: S2025 Park Lane, located in part of the SE ¼, SE ¼, Section 25, T13N, R05E, Town of Dellona, tax parcel 006-1093-11600, as further described in Petition 09-2022, owned by Andrii Repela and Anastasiia Gorodnia, agent Patriot Properties.

Hillmann appeared and provided the staff report and analysis of the request.

Peper asked since the Town has denied it, does the board have to agree. Brian Desmond, Corporation Counsel for Sauk County, informed the board that their decision cannot be based on the private restrictive covenants that are in place. Desmond explained the County's authority under the zoning ordinances and their limitation of authority for restrictive covenants.

Allen asked if the septic would support 8 people. Hillmann stated it was sized for 8 people, as a single-family residence. Phephles questioned if the current septic system was compliant for this current use. Hillmann stated that it is not.

Cyndi Benisch, Patriot Properties, agent for the applicant, appearing in favor of the request provided some background. Phephles asked if they were actively advertising or renting. Benisch stated they are not. Phephles asked if they were currently booking stays. Benisch stated they were not. Phephles asked if there were any stays on the books after today's date. Benisch stated there were. White asked if Patriot Properties was responsible for those bookings. Benisch stated they were not. White asked how many stays were booked. Benisch stated she believed there are 3 or 4 stays booked for summer and is not aware if they are collecting payment on them or if it is friends and family. Benisch stated that master plumber Joe Seep has contacted the County and is working on getting the septic inspection and commercial status up to date.

Lynn Eberl, Dellona Town Clerk and Plan Commission member, appearing in opposition provided testimony focusing on changes to the characteristics and safety of the neighborhood.

Peper asked who issued the citations. Eberl stated that LRE issued them. Allen asked about placing weight limits on town roads. Eberl explained enforcement issues. White asked what the use was prior to them buying the property. Eberl stated it was a single-family residence.

Jeanne Desantis, Vice President of HOA, appearing in opposition stated Mr. Eberl has covered most of the concerns in the subdivision. Desantis spoke of several violation reported to the HOA on the subject property and verified for Phephles the HOA is an official association. Phephles stated that with the HOA you could set rules and regulations against short term rentals.

Paul Frank, appearing in opposition spoke of fire safety concerns based on previous activities.

Brittany Pfaff, appearing in opposition stated they worry about neighborhood safety, the influx of strangers and the change to the characteristics of the entire neighborhood.

Mike Green, appearing in opposition stated he has witnessed the party bus that was out of hand.

Nancy Scott, appearing in opposition, stated she has concerns about neighborhood safety and the negative effect on her family and pets.

Terry Bidwell, appearing in opposition, stated concerns with several vehicles coming and going from the property as well as aesthetics of the property due to trash

Arlene Hunley, appearing in opposition, concerns with the amount of trash and lack of trash pick-up.

Mike Bidwell, appearing in opposition, stated the new owners or agent, had no intentions of complying with the county and its directives. Bidwell stated that they had no regard for the rules, and no respect for the authority.

Lynn Festge, appearing in opposition, stated she agrees with what everyone has said. Festge stated she is concerned for the safety of her grandchildren and the rest of the neighborhood due to safety and security issues.

Peter Malicki, appearing in opposition stated he owns a lot. White asked if they were planning on building. Malicki stated they have talked about not building if this is what they would deal with.

Karl Gebhard, representing the Dellona Hills Subdivision stated that the property owner violated and will continue to violate the board standards. Gebhard stated that the board has heard the issues the property owners are having and request that the special exception permit be denied.

Lynn Eberl reappeared and stated that he has documents that he would like to submit. Eberl read the minutes from the January 30, 2014 board of adjustment meeting.

Seeing that no one else wished to speak, Chair White closed the public portion of this appeal and the Board went into deliberation at 11:10 a.m.

Meier asked if Corp Counsel could come back up. Meier asked about one of the conditions stating they obtain the town permits. If the Town is having these issues, are they allowed to create an ordinance that is more restrictive than Sauk County's so that they can have some control over these issues. Desmond stated he believed they could have their own ordinance. Peper asked Desmond about the \$44,000.00 in citations. Desmond explained citations versus a long form complaint; where we could seek an injunction to have the use stopped by court order. Phephles asked if the Board could place a stipulation on any potential approval that those citations be paid. Desmond explained the Board could not. Peper asked what was going to stop them from renting this property out if it not approved. Desmond stated there could be multiple legal actions that could be presented if they continue to rent.

Motion by White, second by Peper to deny a special exception permit to authorize the operation of a lodging house based upon the testimony given and following finding made by the Board of Adjustment that the previous history of failure to enforce house rules which will result in a change of the essential character of the property and enjoyment of future users or residents of the area will be impacted in a negative way; and having impaired strangers come and go may be detrimental to public health and safety . Motion carried, 5-0.

Chair White called for a recess of the Board of Adjustment at 11:10 a.m. Chair White called to order the BOA meeting from recess at 11:20 a.m.

Petition 10-2022. A petition to consider renewal of a special exception permit pursuant to s. 7.036(5)(a) to authorize the operation of a lodging house. This property is located on real estate described as: S3685 State Road 136, located in part of the SW ¼, SW ¼, Section 18, T12N, R5E, Town of Excelsior, as further described in Petition 10-2022. Tax parcel 010-0770-00000, owned by Dennis and Sally Ann Fitzgerald.

Hillmann appeared and provided the staff report and analysis of the request.

Phephles asked if this property was self-managed. Hillmann stated it was. White asked if the property had a designated representative. Hillman stated that would be a question for the applicant. Peper asked if it went in front of the town board. Hillman stated the town recommended approval.

Sally Fitzgerald, applicant, appearing in favor of the request stated she takes care of the property herself. Fitzgerald stated she did all bookings on Airbnb. White asked how many weekends a year was it rented. Fitzgerald stated the summer is booked and the winter months were a hit and miss.

Seeing that no one else wished to speak, Chair White closed the public portion of this appeal and the Board went into deliberation at 11:41 a.m.

Motion by Peper, second by Phephles to approve the renewal of a special exception permit to authorize the operation of a lodging house based upon the findings of fact and conclusion of law subject to the LRE staff analysis and conditions. Motion carried, 5-0.

Petition 07-2022. To hear and decide an appeal pursuant to s.8.018(4)3 of the Sauk County Shoreland Ordinance where it is alleged that there is an error in any interpretation, order, requirement, decision, or determination made by the zoning administrator or any administrative official in the enforcement, administration, or interpretation of this chapter or of Wis. Stat. § 59.69. This appeal pertains to the interpretation of Sauk County Code s.8.006(2) and s.8.006(4)(c)3. The appeal is associated with land described as Lot 20, Plat of Beau Riverain North, including tax parcel 032-1045-00000, Town of Spring Green, Sauk County, WI, and owned by Andy Knutson.

Templin-Steward appeared and provided the staff report and analysis of the request.

Allen asked if Templin-Steward had a definition of Private Recreation. Larry Knopacki, attorney representing the Board of Adjustments read the definition of Private Recreation. White asked if the project was completed. Templin-Steward explained. White questioned the width of the path. Templin-Steward noted her measurements from her visit. Peper asked if these wetlands go to the Wisconsin River. Templin-Steward stated it did. White asked if they were using this as a boat path and why it is so large. Templin-Steward stated that would be a question for the applicant.

Matthew Fleming, attorney representing Andy Knutson. Fleming stated that Knutson was absent today due to some continuing education that he was attending in Arizona. Fleming stated that they asked for this to be adjourned to another date. White asked if there was anyone else here as interest may appear. Fleming stated Mr. Brey, the applicant's surveyor was present. White stated since there was someone here to testify, the Board would proceed. Fleming outlined the arguments contained within this analysis.

Nick Brey, Westbrook Associated Engineers, appearing in favor, provided testimony on wetland delineation. Brey spoke to the three maps that were provided by him to the LRE office as part of the permitting process.

White questioned the path. Brey provided what information he was aware of in regard to the path. Allen asked if you could build right up to the wetland. Brey stated they do it all the time for bridge projects, but

not sure if it pertains to residents, or retaining walls. Phephles asked if the DNR was out to the property yet. Brey stated he did not know if the DNR has been on site yet. Peper asked how long and wide the path is. Brey just measured on the map and it looked to be about 300 feet and maybe about 12 feet wide. Peper asked how long the wall is. Brey thought maybe 30 feet.

Brian Desmond, Sauk County Corp Counsel stated that Mr. Knutson attorney summarized where we were at quite well. Desmond presented the arguments contained within his legal analysis.

Templin-Steward reappeared and provided the third map as exhibit T. Templin-Steward provided information regarding the DNR maps, wetland delineations and the DNR's options.

Larry Knopacki, attorney for the Board of Adjustment stated that there is a DNR wetland permit that was required for the trail or the landowner must show an exemption from that permitting requirement. Knopacki stated that the Board's decision was to be done based on the county ordinance. Knopacki outlined the questions or determinations that the Board of Adjustment must make for this case. Knopacki stated that there would be a written decision and it had to be specific to the 3 questions discussed.

Motion by Meier, second by White for the Board of Adjustment to adjourn in closed session to deliberate concerning a case which was the subject of a judicial or quasi-judicial trial or hearing before this body at 1:10 p.m. Roll call: White – yes, Allen – yes, Meier – yes, Phephles – yes, and Peper - yes Motion carried, 5-0.

Motion by Peper, seconded Allen to adjourn in closed session at 1:52p.m. Motion passed, 5-0

Next meeting date – Thursday, May 26, 2022

Respectfully submitted,

David Allen Secretary