

SAUK COUNTY BOARD OF ADJUSTMENT
April 27, 2017 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
David Allen
Henry Netzinger
Dave Wernecke, Alternate

ABSENT: None.

STAFF PRESENT: Dave Lorenz
Gina Templin
Lisa Wilson

OTHERS PRESENT: See Registration slips

Chair White called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:00 A.M. The Chair introduced the members of the Board, explained the procedures and the order of business for the day. The staff certified that the legally required notices had been provided for the scheduled public hearing. The certification of notice was accepted on a motion by Allen, seconded by Netzinger. **Motion carried, 5-0.**

The Board adopted the agenda for the April 27, 2017 session of the Board on a motion by Kettner, seconded by Allen. **Motion carried, 5-0.**

The Board adopted the minutes from the March 30, 2017 Board of Adjustment meeting on a motion by White, seconded by Kettner. **Motion carried 4-0, with Wernecke abstaining.**

COMMUNICATIONS:

White stated she received a couple calls on the process on an appeal that may come before the board.

APPEALS:

A. Steve Blakeslee (SP-06-17) requesting a special exception permit to authorize the continued operation of a mineral extraction site.

Dave Lorenz, Conservation, Planning and Zoning provided a history and background of the request, verified the Town of Excelsior has stated the Town met regarding the appeal, but the Department has received no comment. Lorenz reviewed photos and a video of the project and property and concluded with conditions to be placed on the appeal if it is to be granted.

Steve Blakeslee, applicant, appearing in favor of the request, stated he is requesting a renewal on this site and has operated the site since 1995. He explained that lots 1, 2, and 3 are approved for a contractor storage yard as well and is completely surrounded by a berm and fully grown pines. He also explained the stockpiles on lot 3 are not part of the mine, but used for his septic business.

He also explained previous uses of the property, as well as retaining all stormwater onsite. He mentioned that the Excelsior long-term plan is to have the property zoned commercial.

Wernecke asked about a 50 foot undeveloped buffer zone. Blakeslee stated he would have to measure, but spoke of the rows of pines and the stormwater basin. He also stated he will not be taking any material from the mine and storing it on the property with the contractor storage yard, as he doesn't want to mingle the two uses.

Wernecke asked about the quantity of material to be pulled out in the next 5 years. Blakeslee stated it will be on an as needed basis.

Mary Clay, appearing in opposition to the request, stated she is directly south of the proposed mine. She stated there is already a mine located right next door to Mr. Blakeslee's mine, which is continuing to operate without a permit, no inspections being done on the property and spoke of other issues. Her biggest issue is the drinking water and the environment.

White asked how long she has lived there. Clay stated they built their house in 1999, the same year the mine was developed.

White asked if she has had any issues with what has happened on the proposed site. Clay stated that the applicant hadn't started actively mining on his site, but is using it for other uses. She stated she has no issues with the storage of materials and such, but has an issue with digging and taking away the aquifer.

Wernecke asked what the distance is to her well. Clay stated it is around 100 feet or so.

Kettner asked if she talked to anyone in the Conservation Department about her concerns. Clay stated she has often complained to the County and they refer her to the City and the City doesn't do anything about it. She has an issue with no one taking responsibility for the issues.

James Clay, appearing in opposition, asked why there are not any complaints on file because they have protested to this request.

White explained what complaints are and how to file them. Clay asked what "out of hours" means. White explained.

Clay spoke of the history of the property, which the subdivision/neighborhood was purchased from Mr. Blakeslee, and they have the right to peace and tranquility. He also spoke of the noise and interruption from the contractor storage yard at night and on weekends. He explained they are a residential area and there are problems with the existing mining activities taking place at the adjacent site. He spoke of the children in the area and the commercial activity in the area causes a hazard.

White asked about the noise on the weekends. Clay stated the primary issue has been the lumber and heavy trucking.

White asked about being in operation since 1995. Clay stated he purchased the property the same time Steve Blakeslee did, so he questions that date. He explained the purchasing of the

property, the access to the highway, which didn't exist at that time and the only thing that had taken place was the planting of trees.

White asked about the Town of Excelsior's comprehensive plan and asked if he was involved in that planning process where they identified the long-term plans for this property. Clay stated he was not involved and he stated they had no idea the Town had a meeting on April 12th or they would have been there to state their opposition.

Wernecke spoke of the ordinance, the comprehensive plan and the issues that can be addressed in terms of what kind of developments are compatible with each other.

Blakeslee, reappearing.

White asked about the hours of activity and what is going on at the site. Blakeslee spoke of a copy of a letter in 1994 allowing a contractor storage yard and the noise generated does not have anything to do with the mining site. He stated there are no operating hours on the BOA decision for the contractor storage yard. He spoke of the road access and groundwater. He stated he has mined the site and completely reclaimed it once already and the neighbors have issues with the neighboring mine and not his.

White suggested to keep an eye on what is going on in the storage yard and enforce some time limits and rules to help keep the neighbors happy. Just because a requirement wasn't imposed, doesn't mean he can't be a good neighbor and make some requirements as the property owner.

Wernecke asked about the special exception permit for the contractor storage yard and if there was a time limit or conditions on it. Blakeslee stated there was no time limit nor were there conditions imposed by the Board.

Seeing as no one else wished to appear, Chair White closed the public portion of the hearing at 9:45 a.m. and the board went into deliberation.

Allen stated he knows Blakeslee and the operation he runs and people don't really have a problem with him.

Netzinger stated he is hearing two different stories and the Board needs to keep their focus on the mineral extraction site. However, as good neighbors, I think that can be worked out amongst themselves.

Wernecke stated there is specific information, with the county inspecting the site. There is enough information to confirm that he is meeting the requirements for the special exception permit.

Kettner spoke of the special exception permit given for the contractor storage yard and the lack of requirements back then, and the need for hours of operation.

White spoke of the difficulties between the jurisdictions and enforcement on the other mining activity, however, the applicant has had no issues.

Motion by White, seconded by Allen, to approve the special exception permit to authorize the continued mining site, with the conditions requested by Conservation, Planning and Zoning.
Motion carried, 5-0.

B. K. Robert Batchelor (SP-07-17) requesting three variances to authorize a boathouse, as built, not meeting the required standards of the Shoreland Protection Ordinance.

Dave Lorenz, Conservation, Planning and Zoning, provided a history and background of the request, reviewed photos and a video of the project and property.

White asked about the dimensions of the boathouse. Lorenz stated it is 10x16.

White asked if the structure was nestled back into the hill if they would meet the minimum requirements. Lorenz stated it could possibly fit.

Kettner asked the purpose of the door facing the lake and other minimum requirements. Lorenz explained the requirement for the county to update their shoreland ordinance to meet the DNR requirements.

White explained the past practices related to boathouses and the reasons why some requirements were made.

Netzinger explained that the State makes certain requirements that the county needs to follow.

Kettner asked if an applicant was to come to the department and wanted to build a structure and the requirements are now met, would any other permits be necessary, other than what the Board would grant. Lorenz stated if it meets the ordinances, the department can grant a permit in house.

White asked if the amount of disturbance may require special permits. Lorenz explained.

Kettner confirmed, in this case, there were no permits granted for this structure at all.

White confirmed it is noncompliant with the size, positioning, the location from the OHWM, and whether or not it is permanent or temporary. Lorenz stated it does meet the distance from the OHWM.

Wernecke asked if this is considered a substandard lot. Lorenz stated the lot is not considered substandard. Wernecke asked if there are other lots that are similar. Lorenz stated there are several.

K. Robert Batchelor, applicant, appearing in favor of the request, that Exhibit II,2 summarizes his request very well. He blames his contractor for building on site and his own ignorance for getting permits. He spoke of meeting some of the requirements and pointed out other structures in his neighborhood that are located in the setback.

White spoke of the requirements to get a variance; which include hardship, unique property limitations, and public interest. White asked how he meets hardship.

Batchelor stated he believes his hardship is that by complying, the structure would change the character of the land that the property sits on and the area in general.

White asked about the unique property limitations. Batchelor stated the size of the lot, the slope and the requirements of the size of the boathouse.

Wernecke asked what the boathouse is used for. Batchelor stated he stores equipment and supplies in it.

Allen confirmed he is not storing a boat in it. Batchelor stated that is correct.

Allen stated that the structure is actually a storage shed and not an actual boathouse then.

Batchelor stated he is using it as a storage shed, but stated he doesn't believe in reading the definition of a boathouse that it necessarily has to store a boat.

Steve Sorenson, appearing as interest may appear, stated that he received a complaint last fall that a structure was being built at Lake Redstone. He went to the property and met with the contractor and informed him they needed a permit and also stated that where it was being located it could not be permitted in that location. He confirmed correspondence and requested moving the structure.

Wernecke asked if there are other structures that have been permitted. Sorenson stated as part of this process, the applicant complained about 62 other properties that had storage buildings. He explained that several were permitted and the others he is working with them to work on compliance.

White asked if this is a boathouse or a storage building. Sorenson stated it is a hybrid. He needs to decide what he wants, but either way he needs to follow the ordinance.

Wernecke talked about not dealing with this today, but that the purpose of the ordinance is to protect water quality. Sorenson stated the site is difficult and the question is do you remove the rock outcrop to put a building in there or remove the building.

White stated in this case the building is undersized and asked if there is enough space to put a building that meets the requirements. Sorenson stated it is possible, but he has not seen any plans. Sorenson stated that he would not want to see the rock outcrop blown up.

White asked if it is a hardship not to have a boathouse and spoke of the ordinance and the need for consistency.

Allen asked if it was made larger more trees would also have to be disturbed and wondered if there is any way to move it when the lake is froze.

Batchelor, reappearing in favor, provided Exhibit VIII, which are other structures that are located in the neighborhood.

Sorenson, reappearing, spoke of the option of moving it off when there is ice, and stated he is ok with the shed coming then, as it would be a nightmare taking it apart, but it should be kept in a dormant state.

Wernecke confirmed by dormant state, you mean not used. Sorenson confirmed.

Kettner asked about the photographs in Exhibit VIII. Sorenson stated everything on Swallow Bay is permitted except one and that one is 35 years old.

Seeing as no one else wished to appear, Chair White closed the public portion of the hearing at 10:22 a.m. and the board went into deliberation.

White stated she is not convinced they can't put an appropriately sized boathouse on this property, but this is an after-the-fact thought. A boathouse is also not a hardship, nor has the applicant proven a hardship. While it isn't a problem as far as the public is concerned, there are limitations on this property. However, are they unique, I can't agree with that.

Kettner stated given the parameters that the Board has to work within, he cannot find his way to grant a variance. However, he would be willing to give a suspension of when it has to be removed to allow for removal via the ice, but the weather is uncertain.

Allen stated he agrees with the comments said by White and Kettner. If the building is removed, then the applicant can come back and ask for a variance for a building to come as close to compliance as possible.

Netzinger stated there is no site plan to go by and believes he could have until the end of March 2018 to have the building removed. He also believes the contractor should have known better and always believes people need to check with permits.

Wernecke stated he sees no unnecessary hardship. The property still has full use with the residence and lift. There are other properties in the area, which are similar and have complied or received permits. He also questions the harm to public interest due to the applicant and the builder didn't bother to research a permit, especially on shoreland property. He does feel that giving them until next winter to be able to move via the ice is appropriate.

Kettner also stated that he is disturbed if they were all permitted by this Board by one time or another, that they are not any more appealing or meeting size constraints, and need to review these kinds of structures better.

White deemed the variances an area variance.

Motion by Kettner, seconded by Allen to deny the three variance requested, with the addition of allowing the applicant a deadline of March 31, 2018 to remove the structure and allow for use of the structure until it is removed. **Motion carried, 5-0.**

C. Emily Benz & Jeffrey Wright (SP-08-17) requesting a special exception permit to authorize the location and operation of a proposed lodging house.

Dave Lorenz, Conservation, Planning and Zoning, provided a history and background of the request, reviewed photos and a video of the project and property and concluded with conditions to be placed on the appeal if it is to be granted.

Kettner asked about the previous permit for a Bed and Breakfast in the main house. Lorenz explained.

Wernecke asked what the minimum size of a dwelling is for Sauk County. Lorenz stated it is now 500 sq. ft.

Kettner asked about the septic system for the property. Lorenz explained they are using the one septic.

Kettner asked about the number of bedrooms in the main house. Lorenz stated he hasn't confirmed if anyone has looked at the number of bedrooms of the main house and explained the ability to size a septic system.

Kettner stated he is asking if the cabin is occupied by tenants and if that would overload the septic system because it is also connected to the main house. Lorenz stated that is possible.

Wernecke asked what the square footage of the lodging house is. Lorenz stated we don't know.

Kettner asked how far the cabin is from the home. Lorenz stated the distance is unknown, maybe about 75 feet.

Netzinger asked if there are a number of consecutive days that the lodging house can be rented – can a person be permitted to live there year around. Lorenz said they can.

Wernecke asked then if two residences are they allowed on the same parcel. Lorenz stated two residences are only allowed on the same parcel for farm help or children/parents of the farm operator.

Wernecke asked about size minimums, square footage requirements. Lorenz stated there could be requirements from the State.

White asked about in an Ag District, you can have two residences on the same site for farm help.

Lorenz stated that is correct.

White asked about this being two residences on one lot, which this is. White asked if there are more than 2 acres on this parcel. Lorenz stated they do.

Wernecke stated they would still have to have it platted as such. White stated she is struggling with the fact that there are two residences on one parcel and whether that is allowed.

White asked if they should plat this separately. Lorenz stated they could record a certified survey map to record a separate parcel.

White asked if they could still share a septic. Lorenz stated you could do that with an easement and agreement.

Kettner asked if a lodging house could allow a full time resident to live there. Lorenz gave the definition of a lodging house. He stated if it is more than 30 days, it is considered a residence.

Jeff Wright, applicant, appearing in favor of the request, stated that they took over the property in 2012, which was operated as a bed and breakfast and then a rug hooking/quilt operation. They have no intention of operating the original home as a bed and breakfast, but operate the lodging house behind the residence. He stated the only issue that would cause the structure to be used fulltime is if their mother or father-in-law needed to live there full time. He spoke of the 750 sq. ft. issue and did work with staff on the ordinance revisions on the size of the structure.

White asked about having two residences on the same parcel and spoke of the requirement of needing a CSM to make a separate lot. Wright stated that Brian Simmert did notify them of that need and they will do that if the request is approved.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at 10:50 a.m.

White stated the need for the CSM should be a part of the conditions so it is in writing that two residences are not allowed on one parcel.

Netzinger stated he has no issue with this use.

Wernecke stated that the 500 sq. ft. structure needs to be verified and it sounds like the applicant is going through the proper process and make a good faith effort to meet county ordinances.

Allen feels the request should be granted and the CSM should be done, but that CSM should also be large enough to show the ability to have a separate septic system down the road if necessary.

Motion by Netzinger, seconded by Allen, to approve the special exception permit to authorize the location and operation of a lodging house with the conditions recommended by Conservation Planning and Zoning, a Certified Survey Map be recorded to create a separate lot for the lodging house, and documentation proving that lodging house dwelling is 500 sq. ft. **Motion carried 5-0.**

D. Vladimir Skurla (SP-09-17) requesting a special exception permit to authorize the continued operation of a lodging house.

Dave Lorenz, Conservation, Planning and Zoning, provided a history and background of the request, reviewed photos and a video of the project and property and concluded with conditions to be placed on the appeal if it is to be granted.

Kettner asked about the approval from the Town of Baraboo in 2015, but nothing on this one. Lorenz confirmed.

Kettner asked about the length of time given on the previous request. Lorenz confirmed it was 2 years.

Wernecke asked about other houses in the subdivision being rented out. Lorenz stated there were.

Wernecke asked if the department ever received any complaints. Lorenz stated they have not.

Vladimir Skurla, applicant, appearing as interest may appear, spoke of the history of the property, screening renters – don't want bachelor parties, etc. He spoke of a camera security system around the house and an agreement with a cleaning service, garbage service, which is kept in the garage, and lawn mowing.

Kettner asked if there is a property manager or contact person. Skurla stated Tom Kuester is their contact person.

White asked if the cabin rules are the ones that the guest get now. Skurla stated they were. White stated he was required, as part of his permit to add certain requirements which are not there.

White asked how many nights the house is rented out versus when they are here. Skurla stated they rent it out about 20 days of the month and they are here about 10 days a month.

Skurla provided Exhibit VIII, which include photos from the camera system around the property.

Tom Kuester, appearing favor of the request, stated he lives in the neighborhood and he is the go to guy for everything and maintains the lawn and properties for several of the lodging homes and recommends that the Board gives him his 5 year permit.

White explained that they will have to provide notification to all the neighbors again and assume his name will be on the list. Kuester stated it would be.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at 11:17 a.m.

Kettner stated since it has not been taken care of, it should be necessary that those other requirements are made to the cabin rules.

Motion by Netzinger, seconded by Wernecke, to approve the special exception permit to renew a lodging house operation, with the conditions recommended by the Conservation, Planning and Zoning Department, as well as the addition of conditions F & G from the previous approval in 2015 and that notification be sent to surrounding property owners with emergency contact information.

Motion by Netzinger, seconded by Allen, to adjourn at 11:20 a.m. **Motion carried, 5-0.**

Respectfully submitted,

Henry Netzinger, Secretary