

SAUK COUNTY BOARD OF ADJUSTMENT
August 30, 2018 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
David Allen, Secretary
Jim Mercier
Valerie McAuliffe

ABSENT: None

STAFF PRESENT: Lisa Wilson
Dave Lorenz
Gina Templin
Brian Simmert
Will Christensen

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 Mercier. **Motion carried, 5-0.**

The Board adopted the agenda for the August 30, 2018 session of the Board on a motion by Mercier, seconded by Allen. **Motion carried, 5-0.**

The Board adopted the minutes from the July 26, 2018 Board of Adjustment meeting on a motion by McAuliffe, seconded by Kettner. **Motion carried 5-0.**

COMMUNICATIONS:

None.

APPEALS:

A. Shelly Anders (Patsy McCluskey, agent) SP-14-18, requesting a special exception permit to authorize the renewal and change of ownership of an operating lodging house.

Lorenz, Conservation, Planning and Zoning, appeared and provided a background and history of the request. He reviewed the video and photos of the property, confirmed he has not heard from the Town of Bear Creek, and concluded with recommendations if the appeal is to be approved.

White asked about an auxiliary structure. Lorenz explained there is no additional structures used for a lodging house.

Kettner asked about the blueprints that were included. Lorenz explained that was for the previous owner and for an addition that was already completed.

Kettner asked about the transfer. Lorenz explained.

Patsy McClusky, agent for the applicant, appearing in favor, stated that she is the previous owner of the lodging house and she is selling the property to Anders and Anders would like to continue to use the property as a lodging house.

White asked when the sale is scheduled to take place and who would be operating. McCluskey stated they are waiting for the Anders divorce to be finalized, but she would be operating the property after this approval.

Allen asked if she went to the Town meeting. McCluskey stated she went to the Town and they signed the approval papers and she had that as part of her packet.

White asked how close the nearest neighbors are. McCluskey explained.

Kettner asked if she is selling the entire property or just the business. McCluskey stated she is selling the entire property.

Kettner stated that the applicant is stating under oath that there is an approval from the township.

Shelly Anders, applicant, appearing in favor.

White asked if she has owned a business like this before. Anders stated not like this, but has owned other businesses and will maintain the property as a quilting retreat.

Seeing as no one else wished to speak, Chair White, closed the public hearing at 9:21 a.m., and the Board went into deliberation.

Mercier said he has no issue with the request but the County needs answer how they can operate the business without owning the property.

White asked is this going to operate under the old permit/license until she takes over and if McCluskey doesn't have a permit and the sale doesn't take place for 6 months, then what. Lorenz stated the Board could grant the sale to Anders and allow her to operate the business upon the sale.

Kettner stated one of the major rules and it is mentioned in every single application, this permit shall not be transferrable and this has the appearance of being a transfer.

Motion by White, seconded by McAuliffe to approve the special exception permit to authorize the location of a lodging house, as well as with the recommended conditions from the Conservation, Planning and Zoning Department. **Motion carried 5-0.**

B. Martin Liebert (Michael F. Simon Builders, agent) SP-15-18, requesting a variance to authorize the proposed construction of anew residence exceeding the maximum permitted height.

Lorenz, Conservation, Planning and Zoning, appeared and provided a background and history of the request. He reviewed the video and photos of the property, verification that the Town of Merrimac does not object to the variance, as it complies with the Town requirements, and concluded with recommendations if the appeal is to be approved.

Kettner asked if the building location is on higher ground than the neighbors. Lorenz stated he feels it is the same.

Mercer asked about the adoption of the shoreland ordinance. Lorenz explained.

Martin Liebert, applicant, appearing in favor of the request, stated that he purchased 2 lots to build a vacation home. He noted that in 2004, the boathouse and retaining walls were constructed without permits, but feels the violations are not on him but the developer/builder. He noted his current builder to which he is under contract and gave a background on the request. He also noted the large boards provided displaying the home layout and vegetation layout.

White questioned if the high roof line is a design choice on the applicant's part. Liebert stated that is correct, a 3-story home, fully exposed walk out was intended for the property.

Phil Simon, Michael F. Simon Builders, appearing in favor of the request, stated he is the builder. Mr. Simon spoke of the combination of the two lots and the desire of the size and appearance of the home. He referred to Exhibit 8, site plan – explaining neighbor's structures.

Kettner asked what the neighbor's structures height was. Simon stated he did not know.

Simon provided exhibit 9 which are photos of homes built in the area that are similar. He continued to speak of the design of the home and the request of the owner not to have a traditional 2-story home.

White asked what the pitch on the roof was. Simon stated 4/12, 12/12 and 6/12. White verified if the pitch on the roof wasn't there, would the height be decreased by 10 feet. Simon stated that was correct, but then the rooms would be smaller.

Simon spoke of his view of the shoreland ordinance and how he feels that Sauk County's Shoreland ordinance was merely a copy and paste of the DNR ordinance. He stated he feels the height restrictions in the DNR's ordinance only applies to boathouses within the 75 feet from the shoreland, as that is the only jurisdiction that the DNR has. He spoke of remaining trees and the fact that they have removed trees in the homes footprint and feels if they cannot build the house that they intend, they would end up killing additional trees. He stated creating a flat lot would be harmful to public interest.

He then referred to the board showing existing slope and proposed fill, along with the location of a retaining wall.

White reviewed the hardship requirements. She stated the choice of the style of the house is what is causing the hardship with house. Simon stated if they had a two-story house they wouldn't comply.

Mercier asked what the height of the house is on the street side. Simon stated the street side is 35'. Simon stated if they filled the back yard, they would comply.

White stated the variance must observe the spirit of the ordinance. Simon stated when they bought the lot, this house was permitted. He believes this wasn't the "intent" of the change.

White explained. Simon stated the hardship is if they do not build the house the way they have explained, additional trees will be removed and additional fill would be necessary.

McAuliffe asked where the homes are located from Exhibit 9 are from. Martin Liebert, reappearing, stated, the home are located in the Lake View Estates Subdivision and Waters Edge Subdivision.

Tim McCumber, Town of Merrimac, appearing in favor, stated the Town did review Chapter 8 when it was being amended, but didn't catch that change. McCumber stated that he felt what was adopted by the County is not what was suggested by DNR.

Frank Olah, appearing as opposed, stated he has been a permanent year around resident of Lake Wisconsin and spoke of maintaining the natural beauty of lake. He spoke of unnecessary hardship and the rule becoming unenforceable.

White asked if there are other houses that have been permitted at a greater height. Lorenz stated he is not aware of any.

Seeing as no one else wished to speak, Chair White, closed the public hearing at 10:35 a.m., and the Board went into deliberation.

Allen stated he has no problem with the home, but he does not feel it meets the hardship or the other components of meeting the variance request.

McAuliffe stated that she doesn't feel it meets the necessary requirements of hardship or meeting the spirit of the ordinance to grant a variance.

Mercier spoke of the height at the front of the house and the ordinance provisions when the house was purchased, the standards could be met. He feels the hardship is met because the ordinance changed and now the design has to change.

Kettner stated he has purchased property and sat on it several years before he has built, maybe you grandfather it because it was purchased and the design phase had begun, but the regulation was put in place to maintain a particular character to a community, for a reason and if you didn't build before that regulation went into effect, then you need to change your design. Based on the rules in which the board has to operate, they do not meet the conditions of a variance.

White stated she understands the frustration, however, ordinances change because there have been issues and unfortunately this house can be altered to be under 35 feet. It doesn't meet hardship, they still have the right to put a house here, they still have the right to use their property and they still have the right to change the design of the house.

Motion by White, seconded by Kettner to deny the request for a variance, due to not being able to meet the hardship portion of the request. **Motion carried 4-1, with Mercier in opposition.**

C. Dale Clark, SP-16-18, requesting a special exception permit to authorize the continued operation of a non-metallic mining site pursuant to s.7.060 of the Sauk County Zoning Ordinance, on acre or greater and a non-metallic mining reclamation permit pursuant to s.24.05 of the Sauk County Non-Metallic Mining Reclamation Ordinance.

Brian Simmert, Conservation, Planning and Zoning, appeared and provided a background and history of the request. He reviewed photos of the property and concluded with recommendations if the appeal is to be approved.

Kettner asked about reclamation. Simmert stated all 3 sites are an ag field. The applicant will strip the top soil, stockpile it, seed it down, remove the sand, bring it back and reclaim as ag land.

White asked where the access is to parcel 2. Simmert explained.

Kettner asked when land has been reclaimed and top soil returned; are there any statistics to show the productivity of the land. Simmert stated we cannot provide that, but the plan needs to verify that it returns to an acceptable level of productivity.

White asked if any of the sand operations have been completed. Simmert stated Spreckers have been completed.

He provided Exhibit E and Exhibit F, an email from the engineer and a Map showing the changed site layouts between the engineer and the DNR.

Kettner asked if this property was part of the flooded territory from 2008 and would the mining have made a difference anyway. Simmert stated the drainage ditch was part of parcel 2.

McAuliffe asked what the silt fence is. Simmert stated it is just in the ground.

Dale Clark, applicant, appearing in favor, stated that he tries to be a good neighbor, and the entire purpose of this is to field level and take out the sandy knolls on the field. Site #1 they took 12 feet of sand off and they have completed all of the reclamation activities on site 1. Only the stockpile is still there. He explained the flood issues.

White asked how long the stockpiles will remain. Clark explained.

White asked how much sand is hauled out in a typical week. Clark was not sure, some days 1 load a day, some days 4 or 5.

Jim Sprecher, appearing in favor of the application, spoke of common operations and stated he was in favor of the project.

Seeing as no one else wished to speak, Chair White, closed the public hearing at 11:30 a.m., and the Board went into deliberation.

Motion by White, seconded by Allen to postpone the special exception permit to authorize the location and continued operation of a non-metallic mining site to the September 27th meeting, so as to provide the Town the opportunity to review the request and provide comments. **Motion carried 5-0.**

Motion by Mercier, seconded by Allen, to adjourn at 11:35 a.m. **Motion carried, 5-0.**

Respectfully submitted,

David Allen, Secretary