

SAUK COUNTY BOARD OF ADJUSTMENT

May 24, 2012 Session of the Board

PRESENT: Linda White, Chair
David Allen
Dan Kettner
Nick Ladas
Henry Netzing

STAFF PRESENT: Penny Pohle
Steve Sorenson

OTHERS PRESENT: See individual appeal files for registration appearance slips.

Chair White called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:03 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 have been provided for the scheduled public hearing. Certification accepted on a motion by Netzing, seconded by Kettner.

Motion carried 5-0.

Motion by Kettner, seconded by Allen to adopt the agenda. **Motion carried 5-0.**

Motion by White, seconded by Netzing to adopt the minutes from the April meeting. **Motion carried 5-0.**

COMMUNICATIONS:

White accepted a new air photo exhibit from Donna Meise reflecting the stream location and camping location as part of her request.

PUBLIC HEARING:

- A. Daniel & Faye Patzner (SP-12-12), a special exception permit to authorize filing and grading of more than 2000 square feet during the construction of a new residence. The property is described as: E12085 Grubers Grove Rd., part of the SE ¼ , SE ¼ , section 24, T10N, Town of Sumpter.

Steve Sorenson, Assistant Zoning Administrator, provided the history and background of the request and reviewed the staff report provided to the Board and Applicant, as well as photos and video of the site. He then concluded with the recommendations of conditions to be attached to the special exemption permit if it is approved.

Dan Patzner, applicant, appearing in favor of the request, provided a brief history of the occupation on the property. The applicant would like to convert an existing one bedroom home to a permanent three bedroom home. Patzner stated that the Town of Sumpter approved the special exemption permit request. A floor plan building envelope plot plan, Exhibit VII-4, was submitted.

Kettner expressed concern about runoff on the lot with the increased building footprint.

Patzner noted that most of the runoff goes down the driveway and the fines settle out or are dumped into the lake.

Sorenson stated that runoff issues will be reviewed at the time the building permits are submitted.

White expressed concerns about cutting and damage of existing trees on the property and replacing the trees.

Patzner's response was that they were evaluating the planting and landscaping plans.

The Board questioned the existing square footage versus the square footage of the new home.

Nadas questioned if the new house will be elevated, and Patzner replied that it would be raised several feet.

Patzner stated that a culvert was planned to better control runoff.

White asked about erosion control and buffers.

Patzner responded that an erosion control fence will be placed below the construction activity and a vegetative buffer will remain in place between the silt fence and the lake.

Seeing no one else wished to speak, Chair White closed the public hearing at 9:31 a.m.

Kettner expressed runoff concerns on the west side of the house. Pleased to see that the house is going to be around 20' further from the lake.

Netzinger noted the proposed runoff plan is better than what currently exists on the property.

Motion by Kettner, seconded Ladas to grant the special exception request with the conditions by Conservation, Planning, and Zoning. **Motion carried 5-0**

- B. Larry Landrum (SP-13-12), a variance to authorize a proposed addition to a residence within the minimum rear yard setback. The property is described as: S3926 Old Hwy 33, part of the NE ¼, SW ¼, section 21, T12N, R6E, Town of Baraboo.

Steve Sorenson, Assistant Zoning Administrator, provided the history and background of the request and reviewed the staff report provided to the Board and Applicant, as well as photos and video of the site. He then concluded with the recommendations of conditions to be attached to the variance if it is approved.

Kettner asked where the property line is.

Sorenson said it is basically at the tree line.

Sorenson stated the county is redoing the Comprehensive Zoning Ordinance and hopes to have it in place within the next year. The new ordinance, if adopted, will recognize a 25' setback within RC-35 zoning district.

Ladas questioned the status and location of the existing garage.

Sorenson stated that it was built prior the zoning ordinance, built approximately in the 1930s, and the structure would be recognized as legal non-conforming.

Landrum submitted two air photos as new exhibits (Exhibit VII-3 and VII-4).

Landrum wants a larger bedroom and the new addition would only encroach 13' in the rear yard setback. Met with the Town of Baraboo, and they did not object.

White posed the three variance questions to Landrum.

Landrum responded it is a small lot, somewhat steep in the back yard. House was built 21 years ago and remodeled in 2003. The air photo shows no neighbors nearby that would be affected by the new addition. The side yards are not buildable because of setback issues.

White questioned why bringing this forward now instead of waiting for when the new ordinance is adopted.

Landrum responded his home has sold and need the space now.

Seeing no one else wished to speak, Chair White closed the public hearing at 9:50 a.m.

White noted they can live in the house now; the property is not unique. Does not meet unnecessary hardship or physical imitations of the property. Public interest is not a problem.

Kettner stated there is a unique setting with this lot, non-conforming garage is already there, considering where the new addition will be, no problem with public interest. Kettner reasoned there could be a hardship because the applicant needs more living space and that this space was more suitable than a side yard addition. The proposed addition is what they determined they needed for acceptable living conditions.

Netzinger stated that the new ordinance should have been addressed a year ago, but there are no guarantees it will be adopted. Does not think it meets the hardship requirement. It is in the best interest of the public to put the addition in the back yard.

Allen noted the Town Board has no problem with this. I cannot find the hardship in it. I feel the proposed addition will fit the location well. Could make it into a two story.

Ladas cannot see as meeting the unnecessary hardship standard.

White stated it doesn't meet hardship and cannot be a convenience.

Allen questioned if we can table this until the ordinance is adopted.

White stated that if the ordinance is adopted, this addition will be allowed.

Motion by White, seconded by Allen to deny variance. **Motion carried 4-1 with Kettner opposed.**

- C. Dean Blum (SP-14-12) a special exemption permit to authorize the location and operation of a private landfill. The property is described as: part of the NW ¼, SE ¼, section 22, T12N, R6E, Town of Baraboo.

Steve Sorenson, Assistant Zoning Administrator, provided the history and background of the request and reviewed the staff report provided to the Board and Applicant, as well as photos and video of the site. He then concluded with the recommendations of conditions to be attached to the special exemption permit if it is approved.

Kettner asked for clarification on clean fill.

Sorenson responded that clean fill consists of sand, topsoil, stumps, clean concrete; not clean fill is shingles, painted wood, not natural material.

White asked if burning is allowed for burning of stumps and brush on the site.

Sorenson responded that it is allowed with a local burning permit.

White commented that the operator needs to be aware of placing non-clean materials in the landfill which would be a problem for the operator. She referenced a previous special exemption permit that had PVC pieces in the landfill which closed the landfill.

Blum spoke that he plans on filling the pit with clean materials. He has plans on salvaging some of the topsoil for future reclamation. The final use will be a farmland. He estimated a ten-year landfill life.

The Board questioned where the material comes from.

Blum responded that it will come from the surrounding area from road excavations, basements, and waterlines. Very little concrete in this waste material because Milestone recycles most of his concrete.

Seeing no one else wished to speak, Chair White closed the public hearing at 10:23 a.m.

White questioned who is responsible for the bond.

Sorenson stated that Blum will be posting bond on the new property with the CPZ Department.

Motion by Netzinger, seconded by Allen to grant the special exception request with the conditions by Conservation, Planning, and Zoning. **Motion carried 5-0.**

- D. Gregory Anderson & Sandra Snow (SP-15-12), a variance to authorize the location of a garage built within the minimum setback of the road. The property is described as: S4352 Fox Hill Circle, lot 26 Fox Hill Estates, part of the NE ¼, SE ¼, section 27, T12N, R6E, Town of Baraboo.

Steve Sorenson, Assistant Zoning Administrator, provided the history and background of the request and reviewed the staff report provided to the Board and Applicant, as well as photos and video of the site. He then concluded with the recommendations of conditions to be attached to the variance if it is approved.

White stated that this request was heard on November 18, 2010, and the BOA postponed to allow the applicant to bring the structure into compliance.

Sorenson informed that the owner did not build this structure, and he purchased it in the current condition and found out through a survey it was not in compliance.

White questioned when the survey was completed.

Anderson stated they purchased the property in May 2010 and received the survey two days before the closing. My wife and I decided to go ahead with the closing anyway. In November of the same year we went to BOA for the request to keep the garage within the setbacks. After I retired and moved up here in June, we tried to come to an agreement to purchase property from the neighbor. There were extenuating circumstances that a purchase could not be completed. I made the decision to cut the northeast corner of the garage to meet the setback. However, I have come back to the BOA to see if I can save the front corner of the garage through a variance approval.

Hardship is it would be very difficult to move the structure because of encroachments on the lot setbacks.

It is unique because it was there since 1996 and has been there for 16 years without no ill effects.

Allen asked if this lot was in a subdivision and surveyed.

Anderson stated that the seller could not provide a survey and so I had a survey completed.

Allen questioned if there was a building permit issued.

Anderson informed there was a Town of Baraboo building permit but not a county permit.

Netzinger confirmed that Anderson had the survey prior to signing the contract to purchase and aware of the setback violation.

Kettner noted Anderson is making steps by removing the corner and asking us for the road setback.

Netzinger did you measure the setback from the center of the road?

Anderson did measure the centerline setback with Sorenson, and it was in compliance.

Sorenson, as interest may appear, confirmed the centerline setback was in compliance. Have been working with Anderson since November 2010 trying to resolve the setback dispute with the neighbor. An agreement could not be reached between Anderson and the neighbor.

Sorenson stated this is a platted subdivision, and the road is not laid out to plans.

Netzinger expressed survey work is not an exact science. Asked if the two surveys have been compared to see if they are different.

White suggested to act on this at next month's meeting in order to compare the two surveys. Directed Anderson and Sorenson to work together on the survey comparison.

Seeing no one else wished to speak, Chair White closed the public hearing at 10:49 a.m.

Motion by Netzinger, seconded by White to postpone until June 28. **Motion carried 5-0.**

- E. Daniel & Donna Meise (SP-16-12), special exception permits to authorize the location and operation of a campground with more than one residence and filling and grading within 300 feet of a body of water during the construction of a driveway. The property is described as: S5927 U.S. Highway 12, part of the NW ¼, SW 1/4, section 15, T11N, R6E, town of Baraboo.

Steve Sorenson, Assistant Zoning Administrator, provided the history and background of the request and reviewed the staff report provided to the Board and Applicant, as well as photos and video of the site. He then concluded with the recommendations of conditions to be attached to the special exemption permit if it is approved.

The BOA questioned if this was one or three requests.

Sorenson stated we have three special exemption requests to take action on today.

Kettner questioned where the current stream was located.

Sorenson identified the stream location and a proposed diversion around the pond. There is a dam associated with the pond and the dam does not meet DNR specifications. The stream is proposed to be diverted around the dam so the dam does not need to be reconstructed.

Ladas questioned the zoning on the property.

Sorenson informed that the County Board changed the zoning at their last meeting to commercial.

Ladas questioned if the road was going to be expanded to the second structure.

Sorenson stated the road is going to be widened but not encroach on the wetlands. No wetlands will be filled.

Meise stated we bought the property and DOT informed us six months later that our house was in the way of the new highway and had to be removed. The DOT is proposing changing driveway access which

will affect tent camping on the property. Because of the new highway expansion, the DNR will allow us to divert the stream around the existing pond. We prefer this method instead of rebuilding the dam at a cost of approximately \$50,000. We want our children to have the ability to stay on the property in a second home to assist with the farm and campground. The campground is by referral only. People with life challenges stay with us through a barter system. Noted it will take time to complete all of the projects and requested the ability to have adequate time.

White informed Meise that the normal special exemption timeframe for completion is five years, but you can come back if necessary in the future.

Kettner noted that the current dam is not in compliance and is in need of repair or maintenance.

Meise stated that DNR will allow us to divert the water around the dam, taking it off line, and then we are not required to rebuild the dam or have it inspected. The pond is fed primarily with groundwater, and the diversion will not have a major effect on the pond level.

Meise stated we are not asking for any additional camping sites. The sites will be in a different location due to the highway bypass and the need for emergency vehicle access.

Lilla, appeared in favor, presented an enlarged air photo of the waterway crossing that was in the BOA packets. He identified several different problems on the property. The driveway through the wetlands will be improved for better emergency access. No wetlands will be filled. The stream diversion is necessary to avoid the dam being inspected or reconstructed.

Scoles, appeared as interest may appear, has property that adjoins Meise to the south. Have property on both sides of the highway and will be losing my home. I obtained a Certified Survey Map creating four lots for possible future sale. My concern is the second residence on the property. Scoles presented a letter from Mesie which was entered as Exhibit VIII-1. Discussions on selling property to the Meise's has ended. Due to the lack of farmland owned by the Meise's, she questioned the need for the second house. There are different types of commercial zoning. Like the idea for the commercial zoning for the campground. They are operating a business on a barter system. Questioned if there is a possible loophole.

White questioned if the main concern is expansion.

Scoles noted she would like to sell her land as commercial.

Sorenson, appeared as interest may appear, explaining the special exemption request. The application 7.08(2)(b) 17 and 20 is for a campground and for a second residence.

White said the second residence is not for customers it is for family.

Sorenson stated that foster care is allowed. She is asking for the campground, the second dwelling, and the ability to fill and grade in the shoreland zone.

Ladas questioned clarification on what is the two bed certification.

Meise explained the certification process.

Puttkamer, Baraboo Town Board and Baraboo Plan Commission, the rezone was looked at in 2007 and we actually thought it was done. The town recommended rezoning the entire property because unaware what the DOT will take.

Meise responded to Exhibit VIII-1, letter through Sauk County Human Services and Managed Care, we can do adult foster care. If you have adults that need to be supervised, they take their own medications, they live with you and they are your foster kids that are adults. You have licensing through the state. We have a license for 1-2 bed facility and plan to be certified for 3-4 beds. The current home is not handicapped accessible and plan to make it handicapped accessible and have it large enough for 3-4 beds. The son will live in the other house that is not for foster care. We take care of foster adults and have a lot of volunteers; there are not retail sales now. We will build an area where artists can set up their art. It's not about money, it is about sharing their gifts, their talents.

Puttkamer confirmed that the letter is the same as what the town was presented. Town has no problem with this. On a personal note, she needs to be commended. Ten years ago our lives changed. There needs to be a place out there like this.

Seeing no one else wished to speak, Chair White closed the public hearing at 12:01 p.m.

White suggested taking the three issues one at a time and starting with grading.

Netzinger agreed that getting the dam off line is helpful or the pond will be taken away.

Motion by Netzinger, seconded by Kettner to approve the grading with the conditions by Conservation, Planning, and Zoning. **Motion carried 5-0.**

Kettner stated that the campground hardship placed on Meise is not a problem of their making. In order to continue on with their business/activities, the move is perfectly acceptable.

Ladas said this just makes sense.

Netzinger stated the highway relocation placed a hardship on the Meise's.

White commented the location is not a concern.

Netzinger said to limit the number of sites per their request.

Motion by White, seconded by Netzinger to approve the request to move the campground and the specified number of sites and not put a special location on those sites within the property location. **Motion carried 5-0.**

Ladas stated this is a reasonable request.

Allen stated they will need to get permits from the town and county.

Motion by Allen, seconded by Ladas to approve the second dwelling with the Conservation, Planning, and Zoning conditions. **Motion carried 5-0.**

Motion by Netzinger, seconded by Kettner to adjourn at 12:10 p.m. **Motion carried 5-0.**

Respectfully submitted,

DRAFT