

SAUK COUNTY BOARD OF ADJUSTMENT
July 26, 2012 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
David Allen
Nicholas Ladas
Henry Netzinger

ABSENT: None

STAFF PRESENT: Dave Lorenz
Gina Templin

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. At this time, Chair White turned the meeting over to Vice Chair Kettner to Chair the meeting due to an illness with her voice. 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 White. **Motion carried, 5-0.**

The Board adopted the agenda for the July 26, 2012 session of the Board on a motion by White, seconded by Ladas. **Motion carried, 5-0.**

Motion by Allen, seconded by Netzinger, to adopt the minutes for the May 2012 meeting. **Motion carried 5-0.**

Motion by Ladas, seconded by Netzinger, to adopt the minutes for the June 2012 meeting. **Motion carried 4-0 with White abstaining.**

COMMUNICATIONS: None.

APPEALS:

A. SBA Network Services (Verizon) (SP-18-12) requesting a special exception permit to authorize the location and operation of a new wireless telecommunication facility.

Dave Lorenz, Environmental Zoning Technician, appeared and gave a brief history and background of the property, as well as reviewing photos and a video of the site. He then recommended conditions to be placed on the appeal if the request were approved.

White asked about the discrepancy in the information provided by the applicant from the information provided by staff. Lorenz explained the height of the Tower may be a typographical error.

Kettner asked about the tower being located outside of the 100 year flood plain and asked if this site was under water during the 2008 flood. Lorenz stated there was flooding associated with the Baraboo River, but he is unaware if the water rose to level of this area.

Ladas asked about the ownership. Lorenz explained. Ladas asked about the guide wires and the distance from the property line. Lorenz explained.

White asked about the future and splitting land which would make the setback distance nonconforming. Lorenz explained.

Jeffrey Risfray, SBA Network, applicant, appearing in favor, reviewed the coverage map, Exhibit II,5, showing that they have zero coverage in the area. He also stated that the tower was originally was intended to build as one to co-locate, but it failed the structural analysis so they came back with the 190' self supporting tower.

Kettner asked how far off the road the tower will be located. Risfray stated the tower is approximately 150' off of County Road X.

Kettner asked about the lighting. Risfray stated the FAA application has not been completed yet, so they will be following whatever recommendations come out of the FAA.

Ladas asked if they are looking at an additional tower. Risfray stated this request is for the tower on County Rd X, but they do have another site they are looking at in Columbia County, which will work in conjunction with this proposed tower.

Kettner asked about an ice-bridge. Risfray explained what an ice-bridge is.

Allen stated the Town of Greenfield has not responded. White spoke of history and stated she is surprised the Town has not addressed the issue. Risfray stated the facility will be very well shielded from sight.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 9:25 a.m.

White feels the applicant did a good job and the FAA has always monitored the lighting on towers and this particular tower does not have guide wires, which is where much of the problems lie.

Motion by White, seconded by Allen, to approve the special exception permit to authorize the location and operation of a new wireless telecommunication facility, with the conditions recommended by Conservation, Planning & Zoning. **Motion carried 5-0.**

B. Leroy & Connie Schell (SP-19-12) requesting a variance to authorize a porch and deck addition to a bar and grill within the minimum road setback.

Dave Lorenz, Environmental Zoning Technician, appeared and gave a brief history and background of the property, reviewed variance criteria, as well as reviewing photos and a video of the site. He then recommended conditions to be placed on the appeal if the request were approved.

White asked about the plat of survey showing the bump out, which shows the current state of the bar. Lorenz stated that is correct.

White asked if the structure was located within the setback prior to the addition. Lorenz stated it is possible and it would have been considered legal nonconforming due to the age of the structure being older than the ordinance.

White asked Lorenz to review the provisions of a legal nonconforming structure. Lorenz explained.

White asked about the concrete that was in place and if that would be ok if it was located in the setback. Lorenz stated he does not know the exact details and referred to the applicant.

White asked if a permit was needed to have the foundation structurally repaired. Lorenz stated they should have secured a permit.

Kettner asked about an additional deck and where is that going to be located. Lorenz stated the Department has not received plans for the addition and referred to the applicant.

Ladas stated they were going to put on the NE corner, which would put the building further into the setback. Lorenz stated those plans need to be seen.

Ladas asked if they put the deck where proposed, would that affect the neighboring house. Lorenz explained that both the bar and the residence are on the same parcel.

Leroy Schell, applicant, appearing in favor of the request, stated that previous to them purchasing the property, there was contamination to the property, tanks were removed, the State removed all the contaminated dirt and in that process they hit the foundation of the building and knocked out the corner of the building, the stoop is what was placed to reinforce the foundation after being damaged. He stated they did not know they needed a permit to put the addition onto the building and the Town stated they did not need a permit and Steve Sorenson told them they did not need a permit for the work being done. A neighbor contacted the Town Chair regarding building onto the bar without a permit and then Steve Sorenson red-tagged the building and put a stop work order on it. He also stated they went to the Town Board to get approval for their variance. He then provided Exhibit VIII, 1, a petition from neighbors and customers of the bar in support of the addition.

Kettner asked about the handicap ramp. Schell stated the ramp was there, as well as a railing, but due to the condition of the structure and the roof, they removed what was existing and then added onto it.

Kettner asked about the new porch. Schell stated it will be a 3 season porch with cedar siding and woodshake to match the rest of the building.

White asked about the deck addition being proposed. Schell stated that the deck will run from the corner of the building at the road and will go away from the road.

Kettner verified the deck will not be a rectangular structure, and will not get any closer to the road and the larger part of the deck will be at the rear of the property. Schell confirmed.

Schell then presented Exhibit IX, 1 and 2, letters of support from the neighbors. He stated that the only opposition they have is the business across the street.

Kettner asked what the speed limit is through that area. Schell stated it is 35 mph, but it is not enforced.

White asked about an estimated cost of the project thus far. Schell stated the siding was a left over from a Kalahari job, and cost about \$300. The structural work was about \$700.

White asked about finishing off the inside of the addition. Schell stated they intend to finish it, but does not know the total value or cost to finish the addition.

Ladas confirmed that the foundation was put in by the previous owner. Schell stated the previous owner is the one that had it installed due to the damage done by the state.

White asked about the additional porch structure and if that was an after-thought after the application was made. Schell stated he provided all information to Steve, but Steve did not pass the information along to Dave, but the entire expansion is part of the request.

White stated if the entry to the building was put into a different spot they could stay outside of the highway setback line. Schell confirmed that was correct.

White spoke of the pollution issue and property damage and addressing those issues are one thing, but the further addition of the deck is separate. She reviewed the new deck still within the highway setback. She explained the rules of a variance.

Ladas asked where the handicap ramp is located.

Allen stated he is disappointed that the Township did not provide any information, as well as telling the applicant that he did not need a permit.

Schell stated they are trying to do something good for the community and they are an active part of the community.

Kettner asked if the new deck can be built so that it does not encroach into the road setback. Schell stated he could, however, the existing proposal is for convenience and safety, but it could be setback out of the road setback. He then provided a letter of support, Exhibit X, from Brian Peper.

Netzinger asked for proof of unnecessary hardship. Schell stated the hardship lies within the current concrete and if they remove the concrete structure it makes the building unsafe. The variance request for the porch built onto the foundation/structure the hardship is

White asked about the neighbor in opposition. Schell stated he managed the bar prior to purchasing it and has increased business and customer base and feels the neighboring business is in opposition.

Robert Wesley McEachrow, appearing in favor of the request, stated that he has lived in the area for over 21 years and the property had been rundown and dilapidated and the improvements made have been a benefit to the community.

Brian Peper, Sauk County Board Representative, appearing in favor of the request, and read the letter that was presented by the applicant, Exhibit X. He also stated he doesn't believe that the DOT authorized the digging, but it was the DNR. He stated if the county had more people that took pride in their business the community would be a better place. He also asked if the decision by the BOA is final or if it has to come to the full County Board. White explained the process.

Peper stated that the bar across the road is closer and you can't even park snowmobiles next to each other out front of that bar.

Connie Schell, appearing in favor of the request, stated that she co-owns the bar.

White asked if she owns the house and the bar. Schell stated they own the house, the bar and the garage with an apartment on the site and she owns a residence off site on Dale Rd.

Kettner confirmed they do not live onsite. Schell stated they currently do not, but will be moving into the home onsite by the end of August.

White asked for Lorenz.

White asked how far away they would have to be from the existing structure they could build the deck. Lorenz stated they could be a few inches away and if it was not physically connected to the existing bar it would be considered a completely separate structure.

White confirmed if the deck/roof structure was not connected they could build it outside of the setback. Lorenz confirmed.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 10:20 a.m.

White spoke of the 3 conditions of a variance, hardship, unique property limitations and public interest. She stated public interest would be well served by having this permit, the hardship is the fact that the property was damaged due to addressing contamination, and does not see a difference between putting a roof on or not, and feels the unique property limitations are the age of the property and the road being put in. She also stated she doesn't feel comfortable granting permission for the new structure to come into the setback, due to them being able to create the structure and not be within the setback.

Kettner reopened the public hearing for Schell to provide further testimony.

Schell reappearing, stated it would be a safety issue more than anything, but he could remove it, but it would be more flowing if his customers could walk from the same level from the bar to the deck and feels the corner of the deck will not create more of an issue. He confirmed that he could change the deck, but feels it is a safety issue.

White stated that there is another option for entry onto the deck which will eliminate and confirmed that adding the other entrance/exit is financial. White asked about ramping up and ramping down. Schell stated you are creating railing on both sides which would be more structural confusion and is looking for easy on/easy off.

White asked in connecting the new deck together would be done at the doorway point or the full width. Schell stated he would do it at the doorway point.

Kettner asked if the new structure/new deck a roof would be put on. Schell stated at this time he is not.

Allen stated if it is out of the road right away it doesn't matter if it has a roof or not, it is a simple deck. He stated if people are drinking it can be a safety issue to go up or down steps.

White stated if the deck is outside of the setback, would the owner accept a walkway to go from one to the other, then the Board doesn't need to address a variance. Schell stated that is a possibility and he would be able to do that.

Allen asked about when the Township was talked to about a building permit and if the cost of the materials were going to be under \$1,000. Schell wasn't sure and confirmed that he spoke to both the Town and Steve Sorenson from the County and was told by both that he did not need a permit.

White asked the applicant, if a walkway is allowed up to the edge of the road right of way, and leaving a couple inches between the walkway and the deck, keep it detached and out of the road setback and get a permit for the new structure. Schell asked about putting a roof on as long as it is out of the setback.

Schell asked if a catwalk is allowed, how far off of the stoop corner does the catwalk have to be. Allen stated for a handicap accessible.

Kettner confirmed that the only part is for access to the deck from the existing building.

Netzinger suggested that the applicant pay attention to codes and this is not an ok to do anything.

Kettner closed the public hearing again at 10:35 a.m.

Ladas stated he feels the foundation and work being done by a prior owner and by tearing down the foundation would be the unnecessary hardship and feels to keep the foundation structure the way it is and allow them to build the porch on top of the foundation structure is ok. He also feels that the public interest is there as it is a major improvement and seems to be a responsible individual and unique property limitation exists due to the way the foundation has been repairs, it doesn't cause further problems. The deck expansion should be kept out of the setback and can be done, as discussed previously, with a permit.

Netzinger stated that the building has been in existence prior to county ordinances and is a legal nonconforming building which is a unique property limitation and feels that public interest is served and used by the community and is an asset to the community. He stated the unnecessary hardship is that it is under the county ordinance and feels it should be a village. He also spoke of the buried tanks and pollution and trying to repair those issues damaged the building and the repair should be allowed. He also disagreed with the County not using structures on the other side of the road for averaging and feels that is a hardship for the applicant.

Allen stated Ladas and Netzinger addressed the issues the way he feels about it. He also is disappointed in the building permitting issues that the applicant had with the town and the county and feels completing the project is a benefit for the community. He also has no issue with allowing everything to be connected and be within the setback and is in full support of the variance.

Kettner feels the hardship has been well addressed, as well as the uniqueness of the property and feels the public interest is best served by connecting the existing building and front porch with a new deck, as long as the new deck is out of the setback. He also stated that the area has a unique quality to it and recommends a reduced speed limit in the area and would be in favor of granting.

Motion by White, seconded by Kettner, to approve the variance request to allow the location of the foundation repair and the porch as constructed now, with no other expansion to the existing structure and to allow a new catwalk deck structure that is sized to minimal ADA compliance to provide access to but to be connected to, a proposed deck to be built outside of the minimum road setback, with the conditions outlined by Conservation, Planning & Zoning. **Motion carried 5-0.**

C. Norbert Moy (SP-20-12) requesting a special exception permit to authorize the location and operation of a proposed mini-warehouse facility.

This appeal to be stayed until August 23, 2012 pending the outcome of SP-25-12, an appeal by the City of Baraboo.

Motion by , seconded by to adjourn. Motion carried.

Meeting adjourned at 11:00 a.m.

Respectfully submitted,

Henry Netzing, Secretary