

SAUK COUNTY BOARD OF ADJUSTMENT
November 15, 2012 Session of the Board

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

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

The Board adopted the agenda for the November 15, 2012 session of the Board on a motion by Netzing, seconded by Netzing. **Motion carried, 5-0.**

Motion by Kettner, seconded by Netzing to approve the minutes from the September hearing. **Motion carried, 4-0 with White abstaining.**

COMMUNICATIONS: None.

APPEALS:

A. Walchs Bay LLC (SP-29-12) requesting a change in Zoning Administrators decision to deny a permit for a holding tank as a replacement septic system.

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 verified that the “units” refers to additional housing units. Lorenz confirmed.

White asked about the additional septic systems for the property that were referred to. Lorenz reviewed Exhibit III, a permit issued for a mobile home, and the other site plan is located in Exhibit III-8.

White clarified that the applicant does not own the property, they are only the renter and there has been no testing to verify if there is a suitable place for a septic done by the owner. Lorenz explained the

Department has not received as soil test to prove that a different type of system could not be located on the site.

Allen asked about the owner owning 21+ acres. Lorenz confirmed and explained the rental process.

Kettner asked how many units are located on the site. Lorenz stated approximately 2 dozen.

Ladas asked about the existing system that is there and if it has to be replaced. Lorenz referred to Exhibit II,4, indicating where borings were done for a soil test, as well an existing tank and sewer system, but no information was provided to show what it is was most likely installed in the 40's or 50's.

White verified setbacks. She also verified that the permit cannot be issued to the renters, but will be issued to the owner. Lorenz explained.

White asked if the owner applied for the appeal or if it was the renters. Lorenz explained that all information and contact has been with the renters and their hired soil tester. He also stated they have had no communications with the owner.

White confirmed the test data that is required to approve a permit for an alternate system. Lorenz verified that was correct.

Barbara Wheeler, applicant, appearing in favor of the request, stated she lives onsite as a summer home and stated that they need their plumbing fixed.

White asked if the existing system has failed. Wheeler stated that is correct.

White asked why the rental units area applying for this permit, and not the owner of the property. Wheeler was unable to explain other than a contract that was signed makes them liable for the system.

Joyce Frey, appearing in favor of the request, stated that she is the manager of the property, and each tenant has ownership in the septic system and is responsible for all maintenance and the owner does not provide anything to them other than the land.

White confirmed that they don't own the land, they rent the land. Frey stated they have a 1 year lease.

White asked if they are not living on the property do they have the ability to sell the rights to the lot. Frey stated they do, however, they have to give notice to the owner, as they have the first right of refusal.

White asked what the justification is for not looking somewhere else on the owner's property not to look somewhere else on the property. Frey stated it is financial and they are not interested in putting in a sanitary system for the entire property.

White confirmed there is additional property. Frey stated that is correct, however, the land is being farmed and would be cost prohibited to run septic lines.

White asked of the newer septic out there now, had locations turned down and needed holding tanks. Frey stated that the county should have those records and she does not know.

Allen asked about the maintenance cards and said he thought they should be sent to the owner. Frey stated the renters are responsible for the maintenance of the septic system.

White asked about the septic tanks that are located out there. Frey stated she doesn't know what is located out there.

Jim Ramaker, appearing in favor of the request, stated that there is a home on the end of the road, which had suitable soils, but could not get well setbacks, and was advised to use the additional land available. He explained he did a soil test on the parcel and the soil is not suitable and filed with the county. He then explained the layout of the pipes if they put the septic system on another property and spoke of the discussions for a community system. He feels that a holding tank being installed out there would be much better for the environment.

White verified that no soil test has been done across the road on the land owner's property to verify that there is no other place for a septic system. Ramaker verified that he has not done a soil test on the remaining property to make that determination.

White asked about the difference of the small area where the septic is being currently proposed if that is much different than the rest of the property. Ramaker said it is somewhat different due to all the wells being located on the property.

Kettner asked about the existing system. Ramaker explained the system.

White asked if there is proof that the drain field is failing. Ramaker stated the tank is collapsing, but do not know about the drain field, other than it being in unsuitable soils so they assume it is failing.

Kettner asked about the tank, the maintenance and pumping of a holding tank. Ramaker explained the alarm on a holding tank.

Netzinger asked about the cost of a holding tank. Ramaker thought approximately \$2,500.

Kettner asked about the alternative to a holding tank.

Craig Kittleson, appearing in favor of the request, stated he is one of the neighbors and has a similar system, has no problems with his and has a steel tank as well, but is trying to be proactive and would like to look into this alternative as well.

White asked how long he has been renting. Kittleson stated he has been there 6 years.

White asked what would cause a lease to be canceled since it is year to year. Kittleson stated he does not know.

Kettner verified purchasing the structure and the septic system and the rights to continue the lease. Kittleson stated that is correct.

Kettner asked who pays the property taxes. Kittleson stated the owner pays property taxes and pay personal property taxes.

Jason Wheeler, appearing in favor of the request, stated that he is the son of the applicant, and stated the home has been in the family for several years and trying to keep it going. He stated the only cost effective option is the holding tank. He also doesn't feel it's the burden of the land owner to put in a community septic system.

White asked what is in the lease that could cause the owner to stop renting. Wheeler stated they could stop at the end of the lease, but they are very reasonable people and have been renting for 40-50 years. He also referred that question to the manager of the property.

Ladas asked if the owners decided to sell the property and not renew the lease, they could do that and then the renters would be required to move their structures. Wheeler stated that is correct.

Edna Hart, appearing in favor of the request, gave a history and background of the property.

White asked how long she has owned the property. Hart stated her father purchased the property when she was in highschool.

White asked in the future what would be done with the property. Hart stated right now her daughter and her niece are involved in it and is hoping they will keep it up.

White asked if a renter chose not to do what they needed to do with a septic, could their lease come to an end. Hart stated they could end the lease.

Joyce Frey, reappearing, stated that when the grandfather passed away, the property went into a trust and the property went into the LLC. She then reviewed the leases.

White verified that all the places are grandfathered (legal non-conforming). Frey stated that is correct.

White asked if the \$2,000/year is an approximate rental. Frey stated that is approximate.

Kettner asked about a fire and a camper. Frey stated due to the existing ordinance, they cannot rebuild. She also spoke of the requirement to put a system in for the entire area, would limit what could be done with the property in the future as far as their development abilities.

Brenda Murphy, appearing as interest may appear, stated she is the managing member of the LLC and the property is in the family.

White asked how many current LLC owners are there. Murphy stated there are 9 owners in the LLC.

White asked if they all have voting rights. Murphy stated her and her siblings have 1 vote, so there are 6 total votes.

Lorenz, reappearing.

White asked what is exactly on file. Lorenz stated there is a soil test on file for the small area, but not the entire property. He also spoke of permits for 4 other septic systems that have been installed on this site to service other units and those permits were issued to the owners and not the renters.

White asked about the long term and the existing structures. Lorenz stated that the county only has shoreland zoning and sanitary issues and whether a building is considered grandfathered and allowed to be rebuilt it is up to Merrimac.

White asked if this property is to be subdivided what is the lot size requirement. Lorenz explained.

White stated they could potentially put 10 lots on here if they chose to split it. Lorenz explained Eagle Point, Lake View Estates, and Waters Edge which all have small lots and serviced by a large system.

White asked if this was split into other lots and permanent houses were built, would they be able to use the existing systems. Lorenz stated most likely not, and the ordinance would require that those existing system met code and would be functional, but the newer ones would be able to be reconnected to.

Kettner asked about any negatives associated with a holding tank. Lorenz stated that if they are abused, some people will not call a pumper and will throw a pump into it and discharge onto the ground or into the lake. He confirmed that the State and the County consider a holding tank one of last resort.

Allen requested to hear from Ramaker.

Ramaker, reappearing.

Allen asked about the problem with the existing system and the tank failing and there is no history on where the bed is discharging and if the tank can be replaced and the system could continue. Ramaker stated that if the system is there is in unsuitable soil they cannot just replace the tank and continue to use the drain field.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 10:05 a.m.

White stated the county ordinance is very clear and the owner has to seek all options, which has not been done and feels for the people involved, but doesn't see how the ordinance allows this.

Ladas stated that the owner has property available, and doesn't matter what the lessor has available and the ordinance stated that if other property is available they have to look into it. He also stated the Board can do something if there is an error in the judgment of the county, but does feel the judgment of the county is not wrong.

Netzinger stated he feels it should be delayed to hear from the Township.

Allen spoke of granting a variance and you cannot use a hardship of finance and that is what he is hearing most today, that they don't want to do it because it is cost prohibited.

Kettner stated if he is one of the tenants on the property and his septic is failing, he may be hesitant to do anything about it because as a result of that he may lose his home and/or incur a financial burden that he can't cover and with a holding tank, it is beneficial to the environment and the lake water if that is an alternative that can be explored.

Ladas stated at the same time you could end up with 15-20 holding tanks.

White explained to the other members, that they are only deciding if the Department made an appropriate decision based on the ordinance, not approval for a special exception or variance request. Motion by White, seconded by Ladas, to deny the appeal and uphold the Zoning Administrators decision to deny a permit for a holding tank as a replacement septic system, due to the applicant not searching out all alternative options. **Motion carried 4-1 with Kettner in opposition.**

B. Mark Lankey (SP-30-12) requesting a special exception permit to authorize the location and operation of an agricultural related business.

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.

Ladas stated the town acknowledgement form shows they had a meeting, but nothing was provided on a recommendation. Lorenz stated that was correct.

White asked why this doesn't come under a cottage industry. Lorenz stated a cottage industry is limited to someone who has a residence on the parcel and the business takes place in an accessory building on the same parcel. He also stated an ag related business is not restricted to the limits of a cottage industry.

Ladas verified this request meets the definition of the ordinance. Lorenz stated this is correct.

Allen stated farmers all sell seed and should they be required to get a permit. Allen stated they have a seed company use his farm as a distribution center and would that require a permit? Lorenz stated the Director would need to make a determination on that.

Mark Lankey, applicant, appearing in favor of the request, stated he has been in business for about 28 years and it is seed being sold and do custom bagging for about 15 years and does not live on the site and there is no residency on the location. The residence in the video is his father's house. He stated that when he built the office 10 years ago, Woodland never told him he needed a permit from the County.

White asked about the construction of the building. Lankey stated he constructed the building and explained in further detail the business.

Kettner asked about the original building. Lankey stated he raised hogs and it was used for livestock and farming, then turned it into a warehouse.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 10:25 a.m.

White stated she would like to see 10 years instead of 5. Allen agreed.

Motion by Allen, seconded by Kettner to approve the special exception permit for the location and operation of an ag related business. **Motion carried 5-0.**

C. EC3 Environmental Consulting Group, Inc. (SP-31-12) requesting special exception permits to authorize the location and operation of a contractor's storage yard and an agricultural related business.

Motion by White, seconded by Allen to postpone this case until the next meeting due to not applicant in attendance and no notice being provided to staff on reason for no one being present. **Motion carried 5-0.**

Motion by White, seconded by Ladas , to approve the schedule for 2013 as proposed. **Motion carried 5-0.**

Motion by Allen, seconded by Netzingner to adjourn. **Motion carried 5-0.**

Meeting adjourned at 10:35 a.m.

Respectfully submitted,

Henry Netzingner, Secretary