

WINNEBAGO COUNTY BOARD OF ADJUSTMENT

Wednesday, February 23, 2011 - 5:30 p.m.

Lounge Room, Courthouse, Oshkosh, Wisconsin

PUBLIC HEARING

Present: Board Members: Arden Schroeder, Chairman; Mary Mathwig; Greg Kargus; Tom Verstegen; and Dan Mingus. Also present: Eric Rasmussen, zoning department; Attorney Paul Rosenfeldt; and Karen Frederick, court reporter.

Meeting was called to order at 5:30 p.m. Committee members and staff introduced themselves. Chairman Schroeder explained the hearing process and E. Rasmussen read the appeal process. It was announced that the Deliberative Session would be on Thursday, March 3, 2011 at 4:30 pm.

D. Mingus read the legal description and the requested variances:

1. John Blossom, Town of Vinland – Parcel No. 026-0688

Applicant appeared and is requesting a variance to Section 17.05(3)(b)(1), "Setback," to be allowed to build a new home with attached garage 20 ft from the road right-of-way.

Jim Strobel was sworn in as applicant and representative of the property owner. He explained that the property owners would like to build a new home on the property. A variance would be required to allow a side loading garage. The side load garage will allow for more off street parking and backing onto the road. The setback will increase from what is existing and will be greater than both of the neighboring property's detached garages. All other setbacks will be met. The garage will be 34 x 24. It will be a 2 story home approximately 2, 400 sq ft. The home will be on a crawl space only.

G. Kargus made a motion to allow the Town's recommendations to be read into record at the deliberative. T. Verstegen seconded. The motion carried 5-0.

2. Michael Poole & Duane Howard, Town of Winchester – Parcel No. 028-0137, 028-0137-02, & 028-0138

Appellant is appealing the denial of a Conditional Use Permit for Zillges Materials for the purpose of extracting sand and gravel.

Attorney Charles Sweeney appeared representing the appellants. He explained that the appellant would like to develop a 9.7 acre pond. The sand being removed for the pond will be processed and sold. The applicant had completed a road repair plan and installed monitoring wells to address the concerns of the plan commission but the Town still denied the Conditional Use.

Attorney Sweeney explained that they felt the record did not provide enough evidence to deny the Conditional Use. The state statutes state that permit denial can not be based on the Land Use Plan.

Attorney Sweeney stated that Zoning Department Staff had recommended approval of the Conditional Use with conditions of the road agreement, monitoring wells, and additional conditions from the County.

Tim Zillges was sworn in as the applicant. He estimated the project would take 8-10 years to complete and he would agree to a 10 year limit. The road agreement required them to meet with the Town annually and repair the roads as necessary. The Town Plan Commission determined the route the truck will follow.

Paul Timm, hydrogeologist for AECOM, was sworn in to explain the sentinel wells. There are three wells surrounding the proposed site. The wells extend 15'- 26' into the water table. They will show contamination from a spill prior to contamination reaching a neighboring well. A spill protection plan has been developed. If a spill were to occur the applicant must notify the DNR and neighbors. The neighboring wells are several hundred feet from the site and approximately 70' deeper than the extraction will be. They will be testing the neighboring wells prior to the start of the excavation to establish base levels for the wells.

Attorney Sweeney explained there would be no blasting onsite. Mr. Zillges stated that only sand will be processed on site, there will be no blasting or crushing for gravel. The trucks will enter and exit using the existing driveway on the west side on the property. They did not plan to install a berm as there was a tree line that bordered the property already.

The board took a short recess.

Attorney Robert Sorenson was sworn in representing the Town of Winchester. He explained that the Town has submitted findings for the denial of the Conditional Use, the applicant just does not agree with the findings or denial. Mr. Sorenson stated that Conditional Uses are no permitted uses and that not all Conditional Uses should be granted. He stated that the Town felt the pond was a byproduct of the mining and was not the initial goal.

The Town's denial was based on concerns from the neighbors such as dust, noise, and traffic. There were also concerns with declining property values, the repair of Manu Rd, and environmental concerns with the pond.

The town had not reviewed the appellant's appraisal for accuracy of setbacks, etc.

Cary Rowe, Zoning Administrator, was sworn in. He stated that the staff recommended approval of the Conditional Use with Conditions because the proposed use was compliant with the Zoning District. State Statute 66.1001 was amended last summer and states the Land Use Plan can not be used to approve or deny permits, include Conditional Use Permits. The Land Use Plan can only be used to review Zoning Changes and Ordinance Amendments.

Attorney Sorenson stated that the Town had reviewed the appraisal and did not disagree with the distances used.

Paul Timm explained the layout of the sentinel wells. They are in a triangle Northeast, Northwest, and South of the proposed extraction site.

Patti Schroeder, neighbor at 9442 Manu Rd, was sworn in. She had testified at a previous hearing for the Planning and Zoning Committee. She was concerned that the traffic from the trucks would damage the foundation of her home. Her home is approximately 250' from the driveway the trucks will use.

Tim Zillges stated that there will be approximately 16,000 truck loads of sand removed from the site.

There being no other business, this meeting was adjourned at 6:27 p.m.

Respectfully submitted,

Eric Rasmussen

Recording Secretary for the Board of Adjustment

