

## **WINNEBAGO COUNTY BOARD OF ADJUSTMENT**

Thursday December 1, 2016 – 4:00 p.m.

County Administrative Building 3<sup>rd</sup> Floor Conference Room, Oshkosh, Wisconsin

### **ADJOURNED PUBLIC HEARING**

**Present:** Board Members: Arden Schroeder, Greg Kargus, Tom Verstegen, Susan Drexler, and Thomas Tuschl

**Excused:** None

**Also present:** Candace Bauer, Zoning Department; Laura Rogers, court reporter; and guests.

After the Board members had a few minutes to review the additional materials provided, the meeting was called to order at 4:08 p.m.

#### **Westin Land Holdings LLC – Town of Clayton - Variance**

Applicant is requesting variances to the shoreyard setback for several structures associated with the bar and outdoor recreation / entertainment uses on the property.

C. Bauer introduced the 6 items that were added as testimony since the initial public hearing. There were emails between staff, DNR employees, the applicant, and Duane Fox, who noted that he would supply additional information.

S. Drexler noted that she was concerned for the conflicting information in Sarah Adkins' email regarding her role in the request and the applicant's email regarding her statements that were made onsite.

Ben Hamblin, applicant, approached the Board and was sworn in. Ben explained that Mrs. Adkins' comments were with regard to needing a Chapter 30 permit from the DNR for grading and related activities. It was clarified that Sarah Adkins' position does not cover items such as the fences, light posts, etc. that are above the ordinary high water mark.

Board members inquired about Mr. Hamblin's email which noted comments from his conversation with Dale Rezabek (WI DNR) regarding fences not always having been considered structures that need to meet a shore yard setback. C. Bauer noted that they have been considered structures by our code since at least 2005. Mr. Hamblin interjected that the first ball diamond was installed in 2005.

There was also discussion regarding if the structures were present for more than 10 years that enforcement action could not be taken against them. C. Bauer confirmed this but noted that the request included all structures because they needed to apply for the variance for other structures anyways as well as it had not yet been proven when all structures were installed. The applicant/property owner would need to provide proof as to when the items were installed if staff was not to take enforcement action against them. If the variance is approved, the items would be considered conforming. If the variance is denied, then the items that have been there for more than 10 years would be considered illegal nonconforming structures, but enforcement action could not require their removal.

Board members inquired if the lights were considered utilities if they would be required to meet the setback. Staff could not confirm at the time. Board members also asked if the Planning and Zoning Committee had met yet on the concurrent conditional use permit request. Staff noted that they had not made a decision yet but that the result of that application has no bearing on this request.

There was discussion regarding the source of water for the navigable ditch and where it led to. The navigable ditch eventually drains to Little Lake Butte Des Morts.

There being no other business, Chairman Schroeder adjourned the meeting at 4:22 p.m.

Respectfully submitted,

***Candace M. Bauer***

Recording Secretary