

**MANITOWOC COUNTY BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES**

January 18, 2016

A meeting of the Manitowoc County Board of Adjustment was called to order by Chairperson Bonde at 7:00 P.M. on Monday, January 18, 2016 in the Manitowoc County Office Complex, 4319 Expo Drive, Manitowoc, WI 54220.

The roll was called by the secretary. Members present: Earl Glaeser, Ralph Schuh, Charlie Nate, Laurel Vondrachek and Orville Bonde. Staff present: Reed Gaedtke.

A motion was made by, Ms. Vondrachek, seconded by Mr. Schuh to approve the December 21, 2015 meeting minutes. Upon vote, the motion was unanimously approved.

*Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.*

A motion was made by, Mr. Nate, seconded by Ms. Vondrachek to approve the January 11, 2016 onsite meeting minutes. Upon vote, the motion was unanimously approved.

*Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.*

A motion was made by, Mr. Schuh, seconded by Mr. Nate to approve the agenda for the January 18, 2016 meeting. Upon vote, the motion was unanimously approved.

*Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.*

Mr. Gaedtke explained the procedure that would follow. He also stated that within 10 days of the closure of this meeting, copies of the decisions will be delivered to the applicants.

Chairman Bonde informed the audience during public input each person would be limited to five minutes.

**New Business**

**Bryan and Dana Grunewald** – Owners of property located at 18712 Twin Bay Lane, in Govt. Lot 2, Section 23, T17N-R21E, Town of Schleswig, Manitowoc, County, Wisconsin, tax parcel number (016-023-015-021.00); wherein variances are being requested to construct 5 retaining walls ranging in size from 20 to 40 feet long and between 4 to 8 feet high at 0 feet from the neighboring property lines and at distances ranging from 8 to 21½ feet from the ordinary high water mark of Cedar Lake and to also replace dilapidated stairs with side walls excavated into the side of the hill with new 48” wide stairs and side walls at 13½ feet from the ordinary high water mark of Cedar Lake in a LR, Lake Residential, S1, Shoreland zoned district.

Chairperson Bonde opened the public hearing for Bryan & Dana Grunewald.

Mr. Gaedtke read the reason for the appeal (copy on file).

Mr. Nate read the application (copy on file).

The Board asked if there was anything to add to the appeal.

Mr. Grunewald confirmed that the walls are in bad shape currently and something needs to be done.

The Board had questions regarding the removal of the old walls.

Mr. Grunewald stated in two sections the retaining walls will remain due to severe sloping of the hill in hopes it helps provide more support and it would be safer to work on the new ones.

People in attendance in support to the request: none.

People in attendance opposed to the request: none.

Mr. Gaedtke read an email from neighbor, Dick and Carol Jens approving the request (copy on file).

Mr. Gaedtke read an email from DNR representative, Dale Rezabek with no objection to the request (copy on file).

Mr. Gaedtke explained DNR vs. County stair requirements.

There being no further comments, Chairperson Bonde closed the public hearing for Bryan & Dana Grunewald.

### **Deliberation**

*Motion by:* Ms. Vondrachek to approve variances as requested.

Reasons for approval:

1. The steep slope, erodible soils and short lot create a physical hardship preventing the owner from safely accessing the shoreline.
2. The new retaining walls and stairs are needed due to the existing erosion problems and to provide safe access to the lake. The existing retaining walls are falling over and unable to support the erodible soils.
3. The dilapidated stairs and collapsing walls which could end up in the lake will be replaced.
4. The owner would be burdened by not having the retaining walls or stairs because the hill would erode and fall down into the lake. Also the steep hill requires stairs to provide safe access.
5. This request will not affect the public because it will enhance the property, protect the lake from erosion and provide safe access to the lakeshore.

*Second by:* Mr. Schuh

*Upon vote:* The motion was unanimously approved.

*Aye:* Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

### **Old Business**

**Peter Schad** – Owner of property located at 16108 County Road X, in tract 6 CSM V11 P229, Section 8, T17N-R23E, Town of Meeme, Manitowoc County, Wisconsin, tax parcel number (012-008-011-001.05); wherein a conditional use permit is being requested by, applicant and future property owner, Derenz Transport LLC to operate a small trucking business in a RR, Rural Residential zoned district.

*Motion by:* Mr. Schuh to remove the variance request from the table.

*Second by:* Mr. Nate

*Upon vote:* The motion was unanimously approved.

*Aye: Bonde, Vondrachek, Nate, Schuh and Glaeser; No: none.*

Chairperson Bonde opened the hearing for Peter Schad.

Mr. Gaedtke read the reason for appeal (copy on file).

Mr. Nate read the appeal and application (copy on file).

The Board asked if there was anything to add to the appeal and there was not.

The Board had questions about campers on the site.

Kyle Wallander, owner of Derenz Transport stated there will not be campers or camper sales on that site and he plans on buying it from Mr. Schad.

The Board had questions about how many tractors and trailers he has currently as well as what he was looking for at max.

Mr. Wallander stated he owns 6 tractors and 10 trailers and he'd like to have 30 total, which is the limit the Town of Meeme had told him.

Mr. Gaedtke informed the Board if 30 is the amount they'd like to have, a conditional use will no longer apply. That amount is way more than what is considered for a small business. Small business is 5 maybe 6 or 7 if the area permits. A rezone would need to be done if they'd like 30.

Mr. Gaedtke had questions regarding the current sign and if that one would be used.

Mr. Wallander confirmed the current sign would be used and he'd change the face of it.

There were questions regarding parking and a garage.

Mr. Wallander stated they do not do any repairs there but might park inside the garage if it is cold out. All repairs are contracted out. He also confirmed the building is for storage and office only.

The Board had questions about days of operation.

Mr. Wallander informed the Board office work is 5 days a week, Monday thru Friday and trucks would go 6 days a week, Sunday thru Friday.

Richard Salm, Town of Meeme explained the Town's standards on this request.

Mr. Schad, current owner of the property, spoke and stated the noise doesn't bother him and he doesn't see a noise issue.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Meeme approving the request with conditions (copy on file).

Mr. Gaedtke stated the Town of Meeme Chairman contacted Planning and Zoning saying he saw no problem with the request.

There being no further comments, Chairperson Bonde closed the public hearing for Peter Schad.

### **Deliberation**

*Motion by:* Mr. Glaeser to approve the Conditional Use permit with conditions.

Reasons for approval:

1. The use does not impede the orderly development of the district because it's a trucking business and the surrounding property is zoned business and agriculture.
2. The use is compatible with the surrounding area because it is located on the outskirts of School Hill and adjacent to a farm owned home.
3. The intensity of the operation will not affect the surrounding properties because the business is located on the outskirts of School Hill and adjacent to a home.
4. The use fits on the existing parcel size because it is a 1.45 acre parcel and it was the location of a previous RV sales business.
5. There is proper road access for the business.
6. The nature, location and height of the structure are acceptable to the area and surrounding community because there was a business there before and the area will not change.
7. The business does not discourage the appropriate development of land and use of the surrounding area.
8. The use does not impair the value of surrounding properties.
9. The business would not produce any noises, fumes, flashing lights, vibrations, traffic or other unsafe factors that would be more objectionable than any other allowable principal use for that zoning district.
10. The business will not endanger the public health, safety or welfare.
11. There's plenty of room for employee and customer parking.

Conditions of Approval:

1. Days of operation for the trucks will be 7 days a week.
2. Hours of operation for the trucks will be 24 hours per day.
3. Days of operation for the office will be Monday thru Friday.
4. Hours of operation for the office will be 6:00 a.m. to 6:00 p.m.
5. Number of employees for the office will be three.
6. Type of equipment allowed will be semi tractors and trailers.
7. Truck departures and arrivals are expected to operate quietly. If there is any noise complaints the Board will address the problem.
8. No fencing is needed.
9. There will be 25 foot parking setback from the west property line.
10. No parking for non-road worthy tractors or trailers.
11. No storage of junk or outside storage of materials.
12. They are allowed to have 2 deliveries per week.
13. The maximum amount of tractors or trailers allowed on the property shall be 20 of any combination.
14. The on premise sign allowed will be located on the existing sign.
15. There shall be a one year review of the conditional use permit for the first two years. After the second review the Board could decide to change the review time depending on activity.
16. If the owner does not comply with one of these conditions or if he cannot meet those conditions the owner must address the Town Board and Board of Adjustment of the issues.

*Second by:* Mr. Schuh

*Upon vote:* The motion was unanimously approved.

*Aye:* Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

**Carmeuse Lime and Stone** – Owner of property located next to 4110 Rockwood Rd. and east of the rail road tracks in the NW¼, NW¼, and the NE¼, NW¼, and the SW¼, NW¼, and the SE¼, NW¼, all in Section 36, T20N-R23E, Town of Kossuth, Manitowoc County, Wisconsin; wherein variances are being requested to excavate sand, gravel and rock on their property east of the railroad tracks within 1000 feet of residences located on Rockwood Rd. at distances ranging between 320 to 986 feet; and to also excavate at 125 feet from the railroad track right-of-way; and at 253 feet from the centerline of Rockwood Rd. in an ID, Industrial zoned district.

*Motion by:* Ms. Vondrachek to remove the item from the table.

*Second by:* Mr. Glaeser

*Upon vote:* The motion was unanimously approved.

*Aye:* Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Chairperson Bonde opened the hearing for Carmeuse Lime and Stone.

Mr. Gaedtke gave a brief description of the request and some history of this request.

Mr. Gaedtke read a letter agreement from Carmeuse and Town agreement.

Ralph Schuh to allow Town and Carmeuse input.

Chairperson Bonde opened the hearing for Town input on Carmeuse.

Jim Froelich spoke for the Town of Kossuth, stating they had signed agreements with Carmeuse and they have met the regulations, well monitoring is in place and had no objections to the requests.

John Johnson stated there are 14 units in place, 11 are being monitored and Carmeuse is working to get the other 3 working.

Mr. Johnson informed the Board there is a bond for reclamation set up and would include financial assurance for well replacement in a 1 mile radius.

Mr. Schuh was concerned about house distances of the elevation to the 4 closest houses.

There being no further comments, Chairperson Bonde closed the Town input for Carmeuse.

### **Deliberation**

*Motion by:* Mr. Schuh to approve variance request with conditions.

Findings of Facts and Reasons for Approval:

1. A unique physical limitation does exist on the property. While the overburden layer on the subject property is thin and the depth of quality rock in the upper layer of dolomite is economical to extract, the appellant will be unable to extract a suitable volume of marketable rock over a long

period of time due to approximate 35 to 40 foot thick interburden layer that exists between shelves of dolomite. The interburden is located at approximately 100 feet of depth.

2. Strict compliance with the setback ordinance would be unnecessarily burdensome on the owners as it would result in a substantial reduction in the extraction of marketable material. The subject property has been owned by the appellant for several decades with the intended purpose of extracting dolomite. The property is also adjacent to an existing operation which exists for that purpose.
3. By accepting the amended "Well Monitoring Program" and the "Damage Response Plan" along with establishing criteria to ensure continuance and financial support to maintain the program the public interest is being served. Additionally, maintaining berms with a suitable slope and distance from the Town road right-of-way is mindful of highway safety.

#### Conditions of Approval:

1. The depth of excavation is limited to 100 feet below existing grade.
2. According to the Town the structure located at 3700 Rockwood Road is not a residence and therefore no variance needed to excavate within 1000 feet of it.
3. To allow the excavation of sand, gravel, and rock within 1000 feet of the residences located at 3905, 3911, 3915, 3315, and 3208 Rockwood Rd. However, the actual distance shall be a minimum of 400 feet from the residences.
4. The 400 foot setback from residences may be reduced on any of these properties that may be acquired by Carmeuse and the residence removed. All other setback and variance criteria to remain in force with regard to the remaining residences and roadway. If an existing well or residence on an acquired property is abandoned, it must be done by a qualified professional using DNR approved methods.
5. A baseline depth and turbidity test is to be conducted on each of those wells within 90 days and the result furnished to the Manitowoc County Planning and Zoning Department. Manitowoc County Planning and Zoning shall be notified of any property owner that declines the testing.
6. Allow excavation at 253 feet from the centerline of Rockwood Road in order to facilitate installation of berms from the roadway to limit snow accumulation within the roadway.
7. Berms to be sloped not steeper than a ratio of 3:1 and must be seeded and maintained to prevent the growth of woody or nuisance vegetation and noxious weeds.
8. Allow excavation at 125 feet from the railroad right-of-way.
9. Acceptance of the amended "Well Monitoring Program" and "Damage Response Plan" for water supply wells, as outlined in the amended variance application dated January 12, 2016 with three stipulations:
  - a. The "Well Monitoring Program" to consist of a minimum of 10 interspersed wells at ten various locations within one mile of the quarry location otherwise known as the "Protection Area".

- b. An annual report to be furnished to Manitowoc County Planning and Zoning that outlines the status and condition of the program and the wells being monitored.
  - c. A financial assurance guarantee to be furnished to the Manitowoc County Planning and Zoning Department for the "Well Monitoring Program" and "Damage Response Plan" to ensure its continuance by Carmeuse and its successors.
10. All other aspects of quarry and site operation with regard to blasting, dewatering, fugitive dust, erosion control, etc., to be performed in accordance with the applicable local, State, and Federal standards and guidelines.

*Second by:* Ms. Vondrachek

*Upon vote:* The motion was unanimously approved.

*Aye:* Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

**Schedule Next Meeting:** The Board scheduled their next regular meeting for February 15, 2016 and the onsite for February 8, 2016 (Dates and times are subject to change.)

**Adjournment**

*Motion by:* Mr. Glaeser to adjourn.

*Seconded by:* Mr. Nate

*Upon vote:* The motion was unanimously approved.

*Aye:* Bonde, Vondrachek, Nate, Schuh and Glaeser; *No:* none.

Respectfully submitted,

Charles E. Nate  
Charles Nate, Secretary

3-21-2016  
Date