

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

September 19, 2016

A meeting of the Manitowoc County Board of Adjustment was called to order by Chairperson Bonde at 7:00 P.M. on Monday, September 19, 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, Mr. Schuh, seconded by Ms. Vondrachek to approve the agenda for the September 19, 2016 meeting. Upon vote, the motion was unanimously approved.

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

A motion was made by, Ms. Vondrachek, seconded by Mr. Schuh to approve the August 15, 2016 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 September 13, 2016 onsite meeting minutes. 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 each person would be limited to three minutes during public input.

Old Business

Daniel Messman – Owner of property located on Hillview Rd., in the SE¼, NW¼, Section 24, T21N-R23E, Town of Gibson, Manitowoc County Wisconsin, tax parcel number (006-024-008-000.00); wherein a conditional use permit is being requested by the applicant, Lakeside Mennonite Church, to construct and operate a church, school, and cemetery in a proposed RR, Rural Residential zoned district.

Motion by: Ms. Vondrachek to remove the request from the table for deliberation.

Second by: Mr. Schuh

Upon vote: The motion was unanimously approved.

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

Mr. Gaedtke read a letter from the Town of Gibson approving of the church and school but asked for the cemetery portion of the application to remain postponed (copy on file).

Deliberation

Motion by: Ms. Vondrachek to approve the conditional use request for the school and church but to postpone the cemetery request until the Board of Adjustment receives further notice from the Town of Gibson.

Reasons for Approval:

1. The use does not impede the orderly development of the district.
2. The church and school fit on the parcel.
3. The use is compatible with the surrounding area.
4. The use will not discourage the appropriate development or use of the adjacent agricultural land or resident next door.
5. There will be no flashing lights, fumes, noise or vibrations that would be objectionable.
6. The church and school will not endanger the public's health, safety or welfare.

Conditions of Approval:

1. Dusk to dawn lighting will be located on the buildings according to the application.
2. They are allowed an on premise sign that meets ordinance requirements.
3. Number of teachers will be 2 according to the application.
4. Days for school will be Monday thru Friday.
5. Days for church will be Sunday, as requested in the application.

Second by: Mr. Glaeser

Upon vote: The motion was unanimously approved.

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

Sportcomp Inc. – Owner of property located at 11224 Zander Rd., in the SE¼, SW¼, Section 3, T21N-R22E, Town of Cooperstown, Manitowoc County, Wisconsin, tax parcel number (003-003-012-001.00); wherein a conditional use permit is being requested to operate a recreational vehicle park, a campsite and to operate a small business consisting of bicycle and running related events and obstacle courses in a GA, General Agricultural zoned district.

Motion by: Mr. Glaeser to remove the request from the table for deliberation.

Second by: Mr. Schuh

Upon vote: The motion was unanimously approved.

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

Mr. Gaedtke stated public input was taken at the August meeting and the Board stated they would make their decision at tonight's meeting.

The Board discussed what constitutes an event.

They Board wanted clarification on some issues and requested Mr. Rick Anschutz answer some questions.

Motion by: Mr. Glaeser to open the hearing and have Mr. Anschutz come forward and answer some questions.

Second by: Mr. Schuh

Upon vote: The motion was unanimously approved.

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

The Board asked Mr. Anschutz questions regarding the number of events, hours, employees and the PA system.

Mr. Anshutz stated he didn't know what the Board of Adjustment considered an event. He stated if an event is considered 2 days then he would need 6 events total but if an event is considered 1 day; then he would need 12 event days.

The Board wanted to know who was allowed to use the property during non-event times and Mr. Anschutz stated only members could use the property during non-event times.

The Board excused Mr. Anschutz and Chairperson Bonde closed the public hearing.

Deliberation

Motion by: Mr. Schuh to approve the conditional use request.

Findings of Facts and Reasons for Approval:

1. The use of the motocross track on Zander Rd. had been initiated in 1971 for the purpose of operating motorcycles and ATV's. While there is conflicting information and testimony regarding whether or not it was continuous and thereby non-conforming but grandfathered by virtue of the request to expand the use to snowmobile events, bicycles, running, sledding and overnight camping; a conditional use permit is required.
2. The proposed use fits on the parcel size as proposed.
3. The town board of Cooperstown has approved the use of the property for motorsports as applied for with the exception of snowmobiles. While they have allowed the current use in the past, no rationale or reasoning has been provided for the snowmobile exclusion. Additionally, there was conflicting testimony given by town board members that limits the value of the town board's input in this case.
4. Some local residents testified there is a fear that their property values will be negatively impacted by the activity on this property. However there was no substantiation of that claim. Furthermore, there was testimony of other local residents that they actually moved there because of the existence of the track. Therefore a significant impairment of real estate values or further development is not evident.
5. The main issues with regard to the motorsports use at the property are fugitive dust, noise, traffic, and hours of operation. These issues are addressed by the conditions being imposed upon the activity.

Conditions of Approval:

1. Motorcycles, ATV's and UTV's may only be used on the property during normal membership times.
2. Motorcycles, ATV's, UTV's, snowmobiles, bicycles, sledding, running and camping may only be used for scheduled events relating to those activities.
3. No other motorized vehicle activity is authorized except for track maintenance.
4. The use of the property is restricted to the owner, employees, and members with the exclusion of events.
5. Membership is capped at 100 members. A membership is defined as a single person or a family. A family is defined as: "an immediate family in whole or part, consisting of father, mother, sons and daughters under the age of 18 years".
6. Events shall be limited to 12 per year. Each day of activity by non-members shall constitute an event.
7. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. or dusk, whichever is earlier; all year. Except for events which shall be allowed from 7:00 a.m. to 8:00 p.m. or dusk, whichever is earlier. With the exception of a single July 4th event which is extended to 11:00 p.m.
8. Days of operation for members will be 7 days per week.
9. Fireworks are not permitted without a Town permit.

10. Dust control measures shall be employed regularly in an effort to minimize fugitive dust. Especially during events or dry weather.
11. Engine noise shall not exceed 96 dB, and shall be measured at the source using proper instruments in a prescribed manner by the manufacturer and by using commonly accepted practices.
12. Use of a public address system is acceptable for announcements and safety purposes; however the volume must not be excessive. The hours for using the PA system is the same hours as listed for events.
13. Safety fencing must be maintained to separate spectators from participant activity.
14. A maximum of ten employees are allowed.
15. The normal 60 foot setback from Zander Rd. must be maintained for the track or any motorized activity; excluding maintenance.
16. There will not be any additional lighting allowed for night events or after hours operations, parking, or camping areas. Lighting will be restricted to normal building perimeter lighting.
17. Camping is restricted to members, employees and participants and cannot be continuous. A camper cannot be left on the premise for more than 5 consecutive days without being removed from the property for at least 7 days.
18. No alcoholic beverages will be sold.
19. Camping, food, and beverage service shall comply with Health Department regulations.
20. Signage will be limited to a single code conforming sign at the property entrance.
21. There will be no parking on any town roads by employees, participants, or attendees.
22. Trash and garbage shall be picked up and removed routinely to ensure a sanitary and clean environment and not accumulate on the property or become windblown.
23. This conditional use permit will be subject to a one year performance review by the Board of Adjustment. Subsequent timing of additional reviews will be at the discretion of the Board of Adjustment based upon the findings at the time.
24. The owner shall keep records regarding memberships, events, watering and frequency of property use, and any other pertinent information to be used for review purposes.

Second by: Mr. Glaeser

Upon vote: The motion was unanimously approved.

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

New Business

Fredrick Beachy – Owner of property located at 3613 East Assman Rd., in the NW¼, SE¼, Section 28, T21N-R24E, Town of Mishicot, Manitowoc County, Wisconsin, tax parcel number (013-128-014-003.00); wherein a conditional use permit is being requested to operate a small wood working business with a showroom in a RR, Rural Residential zoned district.

Chairperson Bonde opened the public hearing for Fredrick Beachy.

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

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

The Board asked Mr. Beachy questions regarding his conditional use permit request.

People in attendance in favor of request: none.

People in attendance opposed to the request: none.

There being no further comments, Chairperson Bonde closed the public hearing for Frederick Beachy.

Deliberation

Motion by: Mr. Glaeser to approve the conditional use request to operate a wood finishing business with a showroom.

Reasons for approval:

1. The use does not impede the orderly development of the district.
2. The use is compatible with the surrounding area.
3. The use will not have a negative effect on surrounding properties.
4. The use fits on the existing parcel size.
5. The location has proper access that would be sufficient for the use.
6. The structure is acceptable to the surrounding community.
7. The use does not discourage appropriate development of the surrounding properties or buildings.
8. It will not impair the value of surrounding areas.
9. There are no proposed flashing lights, fumes, noises, vibrations, traffic or other factors that would be objectionable.
10. The use will not endanger the public's health, safety or welfare.

Conditions of approval:

1. Days of operation will be Monday thru Saturday.
2. Hours of operation will be 7:30 a.m. to 5:00 p.m.
3. Number of employees will be 5.
4. No fencing is needed.
5. Lighting will be a pole light on the building.
6. An on premise 32 sq./ft. sign is allowed.
7. Must have at least two customer parking spaces provided by the shop.
8. Five employee parking spaces.
9. Outside deliveries can occur one time per week.
10. Owner must check with the Township regarding any requirements for unloading on the road.
11. No outside storage of junk or materials.
12. A dumpster is allowed.
13. Approval is subject to rezone approval by the County Board.

Second by: Ms. Vondrachek

Upon vote: The motion was unanimously approved.

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

Paul & Vickie Hurda – Owners of property located at 7310 Stone Rd., in the NE¼, SE¼, Section 21, T20N-R23E, Town of Kossuth, Manitowoc County, Wisconsin, tax parcel number (007-021-013-001.00); wherein a variance is being requested to construct a 60' x 96' agricultural building at 0 feet from the west property line in an SE, Small Estate Residential zoned district.

Chairperson Bonde opened the public hearing for Paul & Vickie Hurda.

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

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

The Board asked Paul & Vickie Hurda questions regarding their variance request.

The Board was concerned about trying to repair the building in the future if the property to the west was ever sold and the building was located right on the property line.

Mr. Hurda mentioned the well which currently limits his ability to get some items in the building, may be changed to a cased well in the future.

People in attendance in favor of request: none.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Kossuth opposed to the 0' setback but approving of a 5' setback if the Board's findings allowed for it (copy on file).

There being no further comments, Chairperson Bonde closed the public hearing for Paul & Vickie Hurda.

Deliberation

Motion by: Mr. Glaeser modified the original request and then approved the modified variance request to construct a 60' x 96' agricultural and storage building at 5 feet from the west property line.

Reasons for Approval:

1. The narrow lot, location of the pit well and the layout of the existing buildings create a hardship and unreasonable burden on the home owner preventing him from meeting the required setback for the size of the structure needed to store equipment and trailers.
2. The structure does not harm or negatively affect the public's interest. He owns the property to the west.
3. This building will help organize the property.
4. Items should not be lying around the property and should be stored in the new building.

Second by: Mr. Schuh

Upon vote: The motion was unanimously approved.

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

North Rock Hill LLC – Owner of property located on the southwest corner of the intersection of CTH VV and Riverview Dr. in the SE¼, NW¼, Section 25, T20N-R24E, Town of Two Rivers, Manitowoc County, Wisconsin, tax parcel number (018-125-008-010.02); wherein variances are being requested by the applicant, Jeff Check, to construct a 60' 6" x 61' 2" home with an attached deck and an attached 20' x 30' carport at 73 feet from the center line of CTH VV and at 40 feet from the ordinary high water mark of the East Twin River and within the road site triangle; and to construct a 28' x 49' detached garage with a carport at 63 feet from the centerline of CTH VV and at 35 feet from the ordinary high water mark of the East Twin River; and to construct an approximate 6' high x 170' long retaining wall at 5 feet from the east property line and at 35 feet from the ordinary high water mark of the East Twin River; and to construct a driveway with a 30' wide boat ramp access at 0 feet from the ordinary high water mark of the East Twin River located in a RR, Rural Residential, S1, Shoreland zoned district.

Chairperson Bonde opened the public hearing for North Rock Hill LLC.

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

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

The Board asked Jeff Check, owner of North Rock Hill LLC, and Allen Bergseth, the proposed buyer, questions regarding the appeal.

Mr. Bergseth stated the structures will be located outside of the site triangle and that the County Highway Department wanted the driveway located greater than 200' from Riverview Drive.

People in attendance who spoke in support of the request: Phil and Julia Clenny stated they were in favor of the request because it won't impede their view of the river.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Two Rivers in favor of the request (copy on file).

Mr. Gaedtke read a letter from the Wisconsin Department of Natural Resources representative; Dale Rezabek opposed to the variance requests (copy on file).

Mr. Bergseth stated he would be willing to put a drain in the driveway to collect water runoff and divert it to some type of retention pond.

There being no further comments, Chairperson Bonde closed the public hearing for North Rock Hill LLC.

Deliberation

Motion by: Ms. Vondrachek to approve the variance request as proposed with conditions.

Reasons for Approval:

1. The very steep slope and erodible soils along with the very unique lot shape creates an unnecessary hardship for the owner.
2. The steep slope and unique lot shape also reduce the buildable area and create a burden on the owner that prevents him from reasonably using the property.
3. The request does not have a negative effect on the public interest because the approved structures will improve the area and the retaining wall and retention pond will reduce sediment going into the river.
4. The retaining wall will help reduce runoff and erosion by holding back soils and water runoff.

Conditions of Approval:

1. Owner must install a centrally located drain in the driveway to catch most of the driveway's water runoff and carry it to a retention pond or rain garden.
2. The front 35 feet from the ordinary high water mark along the width of the lot shall remain natural vegetation and undisturbed.
3. No sheds, boathouses or any other structure is allowed in the front 35 feet of the ordinary high water mark with the exception of the approved boat ramp.

Second by: Mr. Glaeser

Upon vote: The motion was unanimously approved.

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

Luke Koenigs – Owner of property located at 22008 Townline Rd., in the NW¼, SW¼, and the SW¼, SW¼, Section 33, T18N-R21E, Town of Eaton, Manitowoc County, Wisconsin, tax parcel number (004-033-010-005.00); wherein a variance is being requested to construct a 12' x 22' home addition at 47 feet from the center line of the road in a RR, Rural Residential zoned district.

Chairperson Bonde opened the public hearing for Luke Koenigs.

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

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

The Board asked Luke Koenigs questions regarding his variance request.

People in attendance in favor of the request: none.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Eaton in favor of the variance request (copy on file).

There being no further comments, Chairperson Bonde closed the public hearing for Luke Koenigs.

Deliberation

Motion by: Ms. Vondrachek to approve the variance request to construct a 12' x 22' home addition at 47 feet from the center line of the road.

Reasons for Approval:

1. The steep slope at the front of the property and the unique lot size creates an unnecessary hardship and burden for the owner to construct the needed addition.
2. The owner is burdened because the house and deck are located close to the road already.
3. The request will not have a negative effect on the public because the addition will be up on a hill and there is a steep slope and trees that would prevent any vehicle from hitting the addition.

Second by: Mr. Nate

Upon vote: The motion was unanimously approved.

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

Michael and Lou Ann Herzog - Owners of property located off of Point Creek Rd., in the SE¼, SE¼, Section 5, T17N-R22E, Town of Meeme, Manitowoc County, Wisconsin, tax parcel number (012-005-016-000.00); wherein a conditional use permit is being requested to construct a single family residence and a detached garage in a NA, Natural Area zoned district.

Chairperson Bonde opened the public hearing for Michael and Lou Ann Herzog.

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

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

The Board asked Michael and Lou Ann Herzog questions regarding their conditional use permit request.

People in attendance in favor of the request: none.

People in attendance opposed to the request: none.

Mr. Gaedtke read an email from DNR Wetland Regulator, Carrie Webb, regarding the existing driveway through a wetland area stating if the driveway is widened the owners would need a permit from the DNR (copy on file).

There being no further comments, Chairperson Bonde closed the public hearing for Michael and Lou Ann Herzog.

Deliberation

Motion by: Mr. Glaeser to approve the conditional use request for a home and detached garage in an NA zoned district.

Reasons:

1. The proposed use does not endanger the public's health, safety or welfare.
2. The use is in harmony with the orderly development of the district.
3. The use fits on the existing parcel; it is a large parcel with a field area.
4. The parcel has a proper access for the proposed use.
5. The area is one of the best sites in the county for constructing a home.
6. The use does not impede the orderly development of the district.
7. The use will not impair the value of the surrounding properties because it is a home.
8. There will be no proposed flashing lights, fumes, noises, vibrations or other factors that would be objectionable.
9. Even though there is an existing driveway; it must meet ordinance requirements.

Second by: Ms. Vondrachek

Upon vote: The motion was unanimously approved.

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

Richard and Mary Haupt Trust– Owner of property located on Homestead Rd., in the SW¼, NW¼, Section 11, T19N-R23E, Town of Manitowoc Rapids, Manitowoc County, Wisconsin, tax parcel number (010-011-007-003.00); wherein a conditional use permit is being requested by the applicants, JSL Real Estate LLC and Mitch Wallin, to operate a small auto repair and sales business in a RR, Rural Residential zoned district.

Chairperson Bonde opened the public hearing for Richard and Mary Haupt Trust.

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

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

The Board asked John Lukas, from JSL Real Estate LLC, and Mitch Wallin, the proposed business operator, questions regarding the conditional use permit request.

People in attendance in favor of the request: John Jost, Supervisor for the Town of Manitowoc Rapids, stated the town was in favor of the request.

People in attendance opposed to the request: none.

Mr. Gaedtke read a letter from the Town of Manitowoc Rapids in favor of the variance request with a request that a condition be added that no junk cars are allowed to be placed on the property (copy on file).

There being no further comments, Chairperson Bonde closed the public hearing for Richard and Mary Haupt Trust.

Deliberation

Motion by: Mr. Nate to approve the conditional use request.

Reasons for approval:

1. No one spoke out against the request.
2. The Town of Manitowoc Rapids was in favor of the request.
3. The use does not impede the orderly development of the district.

Conditions of approval:

1. There will be no outside storage of materials.
2. A sign is allowed on the property.
3. Hours of operation will be 9:00 a.m. to 5:00 p.m.
4. Days of operation will be Monday thru Saturday.
5. Number of employees will be 2.
6. No more than 8 cars can be displayed for sale at any time and no more than 10 vehicles can be sitting on the property waiting to be repaired. Therefore, the total number of vehicles allowed on the property would be 18.
7. The 10 vehicles waiting to be repaired must be parked behind the garage on the north side of the building.
8. There will be a 2 year review of the property.
9. No junked vehicles allowed on the property.

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 Monday October 17, 2016 and the onsite for Wednesday October 12, 2016 (Dates and times are subject to change.)

Adjournment

Motion by: Mr. Glaeser to adjourn.

Seconded by: Mr. Schuh

Upon vote: The motion was unanimously approved.

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

Respectfully submitted,


Ralph Schuh, Secretary Pro Tempore

10/17/16
Date