

**Oneida County Board of Adjustment
Tuesday, October 11, 2011
8:15 am – Committee Room 1, Second Floor
Oneida County Courthouse, Rhinelander WI 54501**

Chairman Harland Lee called the meeting to order at 8:15 a.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Members

Robert Rossi “here”, Elmer Goetsch, “here”, Robert Fries, “here”, Harland Lee “here”, Alternate Guy Hansen “here”, Alternate Phil Albert: “here.” John Bloom is excused.

County Zoning Staff members present: Karl Jennrich, Zoning Director; Peter S. Wegner, Assistant Zoning Director; Hans Hare, P&Z Intern; and Lila Dumar, Secretary III.

Other County Staff present: Brian Desmond, Corporation Counsel

Approve the agenda

Motion by Guy Hansen, second by Elmer Goetsch, to approve the amended agenda. With all members voting “aye”, the motion carried.

Meet With Corporation Counsel regarding enforcement/amendment of CUP decisions.

Brian Desmond, Corporation Counsel, is in attendance to discuss the events involving the Scott’s Northwoods Diesel Conditional Use Permit and Appeal #10-005 with the Board of Adjustment.

Following the Board of Adjustment’s decision in Appeal #10-005, amending the Conditions of Approval for the CUP, numerous complaints were filed by the neighbors that the Department had difficulty in enforcing because they were border line violations; the intent of the condition was unclear or the condition violated the zoning ordinance. In addition, Negri’s had difficulty in complying with some if the conditions that had been set. As a result, the Planning and Zoning Committee conducted a public hearing pursuant to Section 9.82 D of the Oneida County Zoning and Shoreland Protection Ordinance in order to clarify the conditions of approval for all parties concerned.

The Board of Adjustment is asking where the authority for the Planning and Zoning Committee to do so came from; and why did they not appeal the Board’s decision to the Circuit Court, as is the usual course. Mr. Desmond stated that in this case, the 30-day time period to appeal the Board’s decision to Circuit Court had expired before the County received many of the complaints and was made aware that some of the conditions were unenforceable. Mr. Desmond explained that it is different than a setback variance in that the CUP is on-going and violations could occur years down the road. Therefore, the Planning and Zoning Committee has jurisdiction for enforcement of a CUP; and that Section 9.82 D authorizes the zoning committee to amend, suspend, or revoke. The public hearing was their only recourse to resolve the issues that had arisen.

The Board discussed how this can be prevented in the future. Mr. Desmond noted that when this decision was passed, the Board was in deliberation and the County did not have an opportunity to review the conditions until after they had been approved. It may be just a matter of allowing the County to review the conditions for enforceability and compliance with the ordinances; and to allow the appellant to review the conditions for their ability to comply with the conditions being approved.

Chairman Lee asked for the status of the Scott's Northwoods Diesel since the public hearing. Mr. Jennrich noted that it has been quiet. The complaints have stopped. The Negri's have tried to work with the neighbors and not to create any problems.

Discussion only. No action was taken.

Approve meeting minutes as available.

Motion by Robert Fries, second by Robert Rossi, to approve the 9:00 am meeting minutes of August 9, 2011; and the 1:00 pm public hearing minutes of August 9, 2011 as presented. With all members voting "aye" the motion carried.

Old Business.

Consider status of previous cases.

Appeal #11-004 - Nussbaum – Mr. Wegner advised the Board that the stairs have been removed and the area re-vegetated. Some of the rock has been removed also. They have now applied for a permit to put the stairs at grade.

Eagle Cove Camp and Conference Center – No new information.

Current Business:

Approve any available bills.

There were no bills.

Consider current and pending appeals to BOA.

Appeal #11-007 of Robert Brautigam, appealing the approval of a Conditional Use Permit issued to James Kroeger in the Town of Enterprise for a fire wood business. This appeal will be heard on November 8, 2011. The meeting will be at 8:00 am, with the public hearing at 1:00 pm.

Review/revise meeting/hearing calendar.

No changes to the calendar were made.

8:50 am – The Board adjourned to conduct the onsite inspection for today's appeal.

Harland Lee, Chairperson

Elmer Goetsch, Secretary