

Oneida County Board of Adjustment
Tuesday, January 8, 2013
1:00 pm – Committee Room 2, Second Floor
Oneida County Courthouse, Rhinelander WI 54501

Chairman Harland Lee called the meeting to order at 1:00 p.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: John Bloom, “here”, Norris Ross: “here”, Guy Hansen, “here”, Harland Lee, “here”, Phil Albert, “here”, Bob Rossi: “here” and Alternate John Young, “here.”

County staff members present: Karl Jennrich, Zoning Director; Lila Dumar, Secretary III; Brian Desmond, Corp Counsel: Corporation Counsel and Peter Wegner, Assistant Zoning Director.

Other individuals present: See Sign in Sheet.

Chairman Harland Lee stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and two alternates, one of which is present today, who will take part in the hearing until the public hearing is closed, at which time alternates will not take part in the deliberation. Anyone wishing to testify must identify themselves by name, address and interest in the appeal and shall be placed under oath.

Chairman Harland Lee swore in Karl Jennrich, Zoning Director; Peter S Wegner, Assistant Zoning Director, Jay Schuette,

Secretary Phil Albert read the notice of public hearing for Appeal No. 12-010 of Sunflower Properties LLC, c/o Mrs. Marvin Schuette, 1015 Hillcrest Avenue, Wausau WI 54401, requesting a rescission of an enforcement letter dated 10/5/12, as amended 10/25/12 from the Oneida County Zoning Department. The letter requires the landowner to close and discontinue use of a “shooting range” on a 40 acre parcel, thereby requiring the landowner to remove all items related to the “shooting range.” The landowner now appeals this enforcement order. The property is located on Bird Lake Road, and is further described as Government Lot 3, Section 5, T38N, R7E, PIN LT 56, Town of Lake Tomahawk.

The Notice of Public Hearing was published in the Northwoods River News, on December 24 & 31, 2012; and was posted on the Oneida County Courthouse bulletin board on December 6, 2012. Mr. Albert provided the proof of publication; and noted that the media was properly notified.

Secretary Phil Albert noted that prior to the public hearing on January 8, 2013; the Board visited the site on Bird Lake Road, Town of Lake Tomahawk. Present were all members of the Board of Adjustment; Karl Jennrich, Zoning Director; Jay Schuette; Attorney Greg

Strasser; Attorney John Schiek; Attorney Greg Harrold; Marcus Guthrie; Ruth Schuette; Kay Sonneland and Art Sonneland. There were 14 photos taken by zoning staff that will be made part of the record of the public hearing. Measurements were not required as the appeal is a request for a use variance. The Board noted the area in question is set back from Bird Lake Road approximately 400 feet and 1,000 feet from the shoreline of Lake Tomahawk. Situated on the property are 3 shooting stands, a gazebo and several tables. The terrain is rolling and timbered. There are berms located at the end of the shooting ranges and a large berm at the entrance to the shooting range.

Secretary Phil Albert noted that all correspondence received in this matter has been made available to the Board members and are a part of the record of this appeal.

Chairman Harland Lee stated that the Board will hear testimony from the appellant/agent first and then the opposition. Following that, the appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. You may stay for the disposition of the appeal. Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

SWORN TESTIMONY-APPELLANT.

Atty Greg Strasser: My name is Greg Strasser. This is Jay Schuette who will be testifying on behalf of the landowner today. Please tell us your full name.

Jay Schuette: Jay Schuette.

Atty Greg Strasser: For the record, give us your date of birth.

Jay Schuette: I was born in Wausau Wisconsin on March 13, 1962.

Atty Greg Strasser: What do you do for a living?

Jay Schuette: I am President of Wausau Homes.

Atty Greg Strasser: What is your affiliation that brings you here today?

Jay Schuette: I am one of the members of the LLC that owns the parcel.

Atty Greg Strasser: Explain your relationship with this property beginning when it was purchased by your family.

Jay Schuette: I was born and raised in Wausau Wisconsin. In 1972 my father purchased the property and we just went up on weekends and summers...until I moved away after college in Madison. I moved down to Illinois and then I would come up basically one week a year at my mother's place.

Atty Greg Strasser: The property owned by Sunflower Properties II LLC, how did that come to own the 40 acres parcel that we are talking about today?

Jay Schuette: My mother, it was her desire to continue to have that in the family. So she set up the LLC that my sister and I purchased into. The children are the majority owners. My mother had the small percentage of the property. Hopefully to continue on for generations.

Atty Greg Strasser: Do you own any other property personally in that area?

Jay Schuette: Yes. In 2007 I asked my father to purchase a lake lot, which he allowed me to do. And I built a house on there for my family.

Atty Greg Strasser: And your father is deceased?

Jay Schuette: Yes. He passed away in September of 2007.

Atty Greg Strasser: But your mother is still alive and was at the onsite inspection. Correct?

Jay Schuette: Yes.

Atty Greg Strasser: Describe to the board how firearms were traditionally used on this parcel up to the time the range that we saw was built.

Jay Schuette: When I built my own place in 2008, we started shooting activities on the back 40 property. With handguns, rifles, shotguns. Doing target practicing and skeet shooting. Beyond that road that we walked into, that's where we were doing it all.

Atty Greg Strasser: That open area before you get to where the stone berms are? That's where you started shooting before the range was constructed?

Jay Schuette: Correct.

Atty Greg Strasser: Then in 2008 you built your house, what happened with respect to shooting on the 40 acre parcel.

Jay Schuette: It was inconvenient. It was safe, but not as safe as I thought it could be. So we had to do some remediation in the back there. This historically was a resort and lodge from the turn of the century back to 1905. We cleaned that up and there was 3 ½ tons of

fill that was in there. A bunch of concrete slabs. So we cleaned it up. We had a vision for creating more activity area on that property. And we worked with some consultants, 3 different consultants, to figure out how to enhance the property. And how to be as safe as we could possibly be. And how to purchase certain equipment and targets to enhance the safety and make it fun and exciting.

Atty Greg Strasser: You said you do other things out in that area. Give the Board an idea what else is done on that 40 acre parcel.

Jay Schuette: A 10 ft wide path all the way around. Planted clover on it to enhance some birds. Potential opportunities to shoot. We use that path for running and cross country skiing, snowshoeing, bow hunting and we hunt on the property. We have a side by side we drive around on it. We just enjoy it. With the gazebo and fire pit.

Atty Greg Strasser: I understand that a lot of the border of that land is State forest. Is that correct?

Jay Schuette: Yes.

Atty Greg Strasser: Do other people in that area discharge firearms that you hear in that area?

Jay Schuette: Yes. As we all know there is a tradition of this property being used to do that. And that has not only been done on this particular property, not by me, but by neighbors. I didn't post it until 2008.

Atty Greg Strasser: When you were shooting before you set up the berms and the range and you were shooting did anyone come and ask you to stop at that time? Confront you?

Jay Schuette: No.

Atty Greg Strasser: Now the property as it exists now, is it posted for private use only?

Jay Schuette: Yes.

Atty Greg Strasser: Do you have someone monitor the area to make sure it is secure?

Jay Schuette: Yes.

Atty Greg Strasser: Is the public ever allowed to use that shooting range we saw during the inspection?

Jay Schuette: No.

Atty Greg Strasser: What sort of frequency...my understanding is that this shooting area has been in existence since last season. Is that correct?

Jay Schuette: Correct. May.

Atty Greg Strasser: How many times was it used from May until today?

Jay Schuette: Six times.

Atty Greg Strasser: You keep a record of how many times it is used?

Jay Schuette: Yes.

Atty Greg Strasser: In future what is your estimation for this area if the Board allows it?

Jay Schuette: Well, my vision for my family is to engage at any opportunity that I can. We try to do that with activities. First we engage in what the lake offers you. Since I built the house, I put a lot of activities that we can....shuffle board, pool table, ping pong. Just the basic game stuff. I intentionally kept electronic games away from it because it takes away from engaging with the kids and hopefully the grandkids. On the back property I wanted to continue to offer activities like shooting of guns. It's just one activity. It's not our main focus that we do every day every week. But I would expect us to continue to use it with the kind of frequency that we did this year.

Atty Greg Strasser: Is the use always monitored by you?

Jay Schuette: It's never been used by anyone without a family member who is present.

Atty Greg Strasser: What is the longest of these six times that you have used it in terms of time?

Jay Schuette: Two hours.

Atty Greg Strasser: Was it during night hours? Early morning hours?

Jay Schuette: No. Would you anticipate that kind of use?

Jay Schuette: No.

Atty Greg Strasser: You talked about your children using it. Are there rules for when kids are out there?

Jay Schuette: I wouldn't let just any kids go out there and shoot. It would have to be properly supervised. But in the case of the primary users, my initial family, teenage sons

and myself have all been through hunter safety and do a safety meeting. There are 10 points you should be aware of when you begin to shoot. And when there are friends out there with us, I always make sure that they understand those 10 points. And they have some level of experience, not just anybody can go out there and shoot.

Atty Greg Strasser: And you shoot clay pigeons or trap out there? Is that right?

Jay Schuette: Yes.

Atty Greg Strasser: And you did that before you had this area. Now you have designed it for safer use.

Jay Schuette: Yes. We just had a little sitting skeet thrower that we would sit on and throw it and shoot the skeet.

Atty Greg Strasser: Same with firearms? You shot firearms before and now with the ranges, made it safer. Is that correct?

Jay Schuette: Yes.

Atty Greg Strasser: Do you believe it is as safe as you can make it out there?

Jay Schuette: Absolutely.

Atty Greg Strasser: You stated that you talked to consultants about the design and targets and all of that?

Jay Schuette: The targets are specific. They are temporary, but when they are set and leveled, they have an angle where the bullets hit it and go straight down. Some of the structure was made with a flare going back so it dissipates out. The berms, if you look, are at least twice as high as any one of the targets. The berms were sifted. There are no fragments in there to cause stuff to come back at you. The structures were built to stand...we stand on flat surfaces. Our guns aren't just leaned up against a tree. They are laid down on tables. The skeet has the poles between each station, so you can't cross over.

Atty Greg Strasser: And you have a place for a rifle citing and how is that?

Jay Schuette: 100 yards.

Atty Greg Strasser: And you have a place for gun discharge?

Jay Schuette: Yes. 50 yards.

Atty Greg Strasser: Are they all....any guns used out there, are they legal?

Jay Schuette: Yes.

Atty Greg Strasser: Did any of your neighbors approach you and complain about your use of the range?

Jay Schuette: Yes.

Atty Greg Strasser: Tell me about that.

Jay Schuette: I have the date...we were shooting for the first time, my three kids and her fiancé at the time; and we were doing every single station. Using a full two hours. And Janet Alesauskas, was honking her horn at the gate. And I sent my son back there to see what was going on and he brought her back in. She said it's been going on for a long time and we are trying to have some quiet here in the afternoon and can you please stop. And we didn't shoot any more.

Atty Greg Strasser: You told me about another instance where someone else in the area was discharging a firearm later at night. 8 PM approximately? Was that on your property?

Jay Schuette: No.

Atty Greg Strasser: Did you try to alert your neighbors that wasn't you?

Jay Schuette: It was late at night and it was a loud type of rifle. And when I was in the boat the next day and saw the neighbors, I told them that it wasn't me. I just wanted to let them know that. There is a certain level of respect you have to have. I'm not shooting a gun that late.

Atty Greg Strasser: Are the targets that we saw permanently installed?

Jay Schuette: No.

Atty Greg Strasser: And how hard it is to remove them?

Jay Schuette: I have a side by side. I can pick them up and put them in there and take them off. The skeet throwers are battery operated and have wheels on it. It would be better to leave those steel targets in place because the level...to keep the frequency of the discharged bullet going into dirt. But...

Atty Greg Strasser: Is the range designed for rifle shooting, does that shoot towards anybody...a cabin or a house or anything out there?

Jay Schuette: The rifle range shoots directly west, which is State forest for a long way. And the handgun shoots northwest. There are no structures. It's the State forest and then the

lake, which is a long ways away. The skeet shoots southwest which there are cottages a way, but at a minimum 400 yards away. And that's shotguns only.

Atty Greg Strasser: Relative to the trail that you described goes behind these berms. This recreational trail. Do you consider it safe for your family to use the trail while you are shooting in this area?

Jay Schuette: Yes.

Atty Greg Strasser: You designed it that way?

Jay Schuette: Yes.

Atty Greg Strasser: Is it fully insured? As far as the operation?

Jay Schuette: Yes.

Atty Greg Strasser: At this point I would just ask if you have any testimony that you would like to give to the Board as the person who owns the property?

Jay Schuette: Well, just to clarify the type of activity that is being done out there and the way I intend to use it. When I grew up my Dad was very busy building the business and I didn't necessarily have the kind or strength of relationship that I would like to have with my sons. At one point I was working very hard as well and down that same path and I was home one day and my wife asked me to go and pick up the kids from school and I didn't even know where it was. And at time, I thought we would have that same kind of weak relationship with my children as I did with my father. And in 2002 I resigned from the family business and I began to engage in every activity I possibly could with my children. Down in Illinois, with whatever school activity was going on and coaching and helping out. It was a private school. And then I continued to do that. We bought an RV and went and saw the country with them. And then in 2008 we ended up moving into the beautiful lake place that is a legacy house. Meaning that it is large enough for every one of those kids to be married with their children in it. And it is intentional to keep us together. And as I said, we started water activities, house activities; and all the activities that we created with the back property. And the good news is that it is working. My daughter recently got engaged up there. And even wanted to get married...because she loves being up there as well as my two boys. We even took that platform that we used to get her married and put it back on that trail to continue to allow them to be engaged with the property up there. As they move and get scattered about, who knows, they come back for that week in the summer and just enjoy it. This is not a gun range, it is not a shooting range. It is an opportunity to be able to engage with my family in one of many activities that we enjoy doing.

Atty Greg Strasser: So you are going to continue shooting on this property whether this is allowed to exist or not. Part of it is training your boys on how to use firearms.

Jay Schuette: Yes. And you have to understand how exciting it is to doing hunting, not just in northern Wisconsin, but in other parts of the country.

Harland Lee: Do you know what district your property is zoned?

Jay Schuette: Rural Residential.

Harland Lee: Are you aware that zoning does not allow for a shooting range?

Jay Schuette: Correct.

Harland Lee: Were you made aware of that by the Department at any time?

Jay Schuette: Yes

Harland Lee: And how did you respond to that

Jay Schuette: Mr. Jennrich said on a telephone call that I can appeal if I want. So I said, what do I have to do to come into compliance. I don't necessarily know if I have to appeal. And he said he didn't know what I needed to do. And then I just asked him, can I do all these things. Can I do landscaping? Can I have berms? And Karl can testify that he actually said yes to all of those. So then I asked what I am supposed to do. And he said I should appeal.

Harland Lee: In your opinion this is not a shooting range. Is that correct? Then what do you call it?

Jay Schuette: It's a recreational area. It's an activity. That we shoot firearms and do it in the safest possible manner.

Harland Lee: And that doesn't meet the definition of a shooting range?

Jay Schuette: I don't believe so. No.

SWORN TESTIMONY- COUNTY

Brian Desmond, Corp Counsel: State your name for the record.

Peter S Wegner: Pete Wegner

Brian Desmond, Corp Counsel: By whom are you employed?

Peter S Wegner: Oneida County.

Brian Desmond, Corp Counsel: In what capacity?

Peter S Wegner: Assistant Zoning Director

Brian Desmond, Corp Counsel: Can you describe your job duties as Assistant Zoning

Peter S Wegner: I deal with administration and enforcement of the ordinance.

Brian Desmond, Corp Counsel: You are aware of the Schuette property that is in question here today?

Peter S Wegner: Yes.

Brian Desmond, Corp Counsel: You generally work with the ordinance day in and day out?

Peter S Wegner: Correct.

Brian Desmond, Corp Counsel: I am going to provide a copy of the purpose underlying the ordinance. There is some language in there that is applicable to our situation here today. Would you explain that to the Board?

Peter S Wegner: Under Section 9.11 of our ordinance, it is purpose of the ordinance to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to insure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability.

Brian Desmond, Corp Counsel: You heard Mr. Schuette speak here today on the property being zoning Rural Residential District? Can you go over that for the Board?

Peter S Wegner: 9.29 Rural Residential states: The Rural Residential District is to establish and preserve residential characteristics in outlying areas of Oneida County. This is a low density residential area, requiring large open spaces, while at the same time preserving, protecting and enhancing woodlands, wildlife habitat areas, and other related scenic and natural areas.

Brian Desmond, Corp Counsel: And in the Oneida County Zoning and Shoreland Protection Ordinance I guess there are three uses that fall under each zoning district. Permitted Uses. Administrative Review Uses and Conditional Uses. Can you explain the differences between all three for the Board and for the other people?

Peter S Wegner: Yes. A permitted use is something we can allow with the issuance of a permit. Like the construction of a home or a use such as horticulture; an administrative use is a step above that where it is reviewed, it's a different permit. An example of that would be a public park or a play ground. The one that is scrutinized the most is a conditional use, like a tennis court, golf grounds.

Brian Desmond, Corp Counsel: Nowhere here in the zoning for Rural Residential does it allow for a shooting range.

Peter S Wegner: That is correct.

Brian Desmond, Corp Counsel: In the eyes of the zoning department and the committee that made the decision in this matter, did they view what Mr. Schuette has constructed as a shooting range?

Peter S Wegner: Yes. Definitely.

Brian Desmond, Corp Counsel: Is there a definition of a shooting range in the ordinance?

Peter S Wegner: Not at this time.

Brian Desmond, Corp Counsel: When it comes to a shooting range, where are those allowed in Oneida County Zoning?

Peter S Wegner: I believe it is District 4 & District 14, which are.....

Brian Desmond, Corp Counsel: Residential and Farming, and General Use?

Peter S Wegner: Yes. That is correct.

Brian Desmond, Corp Counsel: I don't know if the Board wants this now but I have case law regarding conditional use permits. Do you want this case now, or....? What is easiest for you?

Harland Lee: How detailed and lengthy is this?

Brian Desmond, Corp Counsel: 5-6 page case.

Harland Lee: What is your intention to do with this?

Brian Desmond, Corp Counsel: Cite one line in here.

Harland Lee: One line you can have.

Brian Desmond, Corp Counsel: This is Foresight, Incorporated v. Daniel Babel. I have copies you can pass it around. Wisconsin case from the year 1997. And it does state here on page 3, "We conclude that because the ordinance explicitly enumerates uses permitted within each district, all other uses are necessarily prohibited." The fact that the shooting range is not called for in this zoning district. We may go over this, but there is no distinction between a public or private shooting range in the ordinance. And whether something is private or public does not have any bearing on your decision. I believe that in that packet that we provided you, there is also a copy of Wisconsin Statutes 895.527. Sport shooting range activities. "An area designed and operated for the use and discharge of firearms." Mr. Schuette's current arrangement on that property currently meets that definition. Have you had the opportunity to review other licensed shooting ranges, not only in Oneida County, but in surrounding counties?

Peter S Wegner: Yes. I included some ranges that are local. Lincoln County Gun Club. Somo Fish and Game. Wausau Skeet. Hodag Sports Club on Hwy C. And Hodag Sports Club on River Road. One is for skeet shooting and one is a rifle range.

Brian Desmond, Corp Counsel: Does Mr. Schuette's arrangement compare with the other local permitted type?

Peter S Wegner: Based on the aerial photos and past knowledge, I come up with the number of traps and I compared that to the number of rifle targets within each shooting range. For example, Lincoln County Gun Club has 3 traps with 15 stations. They don't have any pistol or rifle targets. Somo Fish and Game has 2 traps with 10 stations; and also 2 ranges for citing a rifle or pistol. Wausau Skeet & Trap has 3 traps and 15 stations. Hodag Sports Club (HWY C) has just clay pigeons and they have 5 traps and 25 stations; Hodag Sports Club (River Road) has 3 ranges with 12 different targets. If you compare that to Sunflower, with 7 traps and 5 stations; and as far as the number of ranges, there is a minimum of 4. But when we were there earlier in the year there were numerous targets along the path that goes to the facility. The total number of targets that we observed at that time was 24 that were actually set up. And there were 10-20 targets on the side that were not set up. In addition, outdoor action range; outdoor silhouettes; bull's eye pistol range, informal training; moving target; hunting simulation and law enforcement. These are all different outdoor shooting ranges that they are able to take advantage of.

Harland Lee: Is there also a shooting range in Minocqua? Minocqua Gun Club.

Peter S Wegner: I believe so.

Harland Lee: There is also a shooting range in Arbor Vitae. Is that correct?

Brian Desmond, Corp Counsel: That I don't know.

Harland Lee: There is.

Harland Lee: Is there a private gun club in Boulder? And there are others in Vilas County.

Brian Desmond, Corp Counsel: Based on your onsite of the facility, there are no safety concerns did you have of the property?

Peter S Wegner: Correct.

Brian Desmond, Corp Counsel: Is there anything to add or to present at this time?

Peter S Wegner: Just to relate that we do not distinguish between private and public shooting range. Being there is no definition in our ordinance, we had to look at different ones, and they were equal to or less than what is being provided at this particular property.

Harland Lee: The defendant indicated that he had some communication with Karl or something in the Department and that conversation, according to him, had led him to believe that what he was doing was appropriate. Was that conversation with Karl?

Karl Jennrich: When I sent out the letter, basically in talking with Mr. Schuette. Did you disagree with the letter I sent out or not. And if you agree with the letter, we can go forward and possibly discuss what can stay and what can go. But if you disagree with the interpretation by the Committee, then yes, I highly recommend that you appeal. Because again, Mr. Schuette discussed this as personal use only. Not public.

Phil Albert: What you provided to us as far as statutes, ordinances and definitions, what I understand is that you are drawing a line between recreational shooting on the property, versus shooting range, being dependent on the physical layout and structures of the site.

Peter S Wegner: And the amount of opportunity for shooting and shooting at various targets. If you look at these ranges and what the major issue is—hours of operation and that kind of thing. There is the same amount of opportunity at this property as the examples I gave you, plus. Because this property provides for additional things that we don't see in some of the others.

SWORN TESTIMONY OF OTHER INTERESTED PERSONS.

Greg Harrold: My name is Greg Harrold. I represent Mr. & Mrs. Sonneland and Mrs. Morrisey. I think Mr. & Mrs. Morrisey both wrote letters to you and you have read those and I will not repeat that. There are a couple points I want to underscore. One is that their testimony in those letters indicates that the usage of the shooting that occurred here was with some of the canister.

THE RECORDER MALFUNCTIONED AT THIS POINT.

Harland Lee: We are back in session. Mr. Harrold, you may continue.

Greg Harrold: I think that machine probably stopped recording a little while before I stopped talking. I'll reiterate that. The sole focus of the search here is whether or not the action by the Planning and Zoning staff comports with the zoning ordinance. The question that you are asked is, is their letter to the property owner, which informs a property owner that he must remove the improvements and discontinue the use, is that appropriate. And it is out position clearly that it is. And it is not only appropriate, but it is required. Because the zoning office has a duty and an obligation to enforce the ordinance as written and it is very clear that what we have here is a shooting range. And the reason why it is limited to two zoning districts is because in the discretion of the whole County Board, when they got the ordinance, they concluded that there were two types of districts that permit an organized shooting activity such as found on a shooting range. And they did not find that was a permissible use in this type of a zoning classification. So consequently, that is the reason it was imposed and it should be enforced. The neighbors have expressed their concern because of impact on property values, apprehension and fear. All those are significant factors that the County Zoning Ordinance, in its purpose clause spells out what it is attempting to address. The situation could have been easily alleviated if the applicant had simply gone and applied for a zoning permit, which he should have done. That isn't the issue today, but I'll just point out that it could have been discovered without the applicant spending the amount of money they spent. The ordinance requires you to apply for a zoning permit if you are going to spend \$2500.00 or more in a structural cost. Had he done that he would have been informed that this was not a permitted use in this particular district. It is interesting to me that the applicant hired professional consultants to help design and building the shooting range, but didn't consult with the free services that are available from the County Zoning Office to find out if it is permitted or not. I also take issue with the fact of the ongoing continuous use of guns prior to this date. If you look at the Morrisey letter, if you look at the Alesauskas letter...they are the people that live in the house directly across from the driveway going into the shooting range. They are the ones that have their house for sale. Both of them say clearly and definitively that the use was very nominal and minimal all the years that they have owned it. Dr. and Mrs. Sonneland have owned it for 10 years. The use again, totally sporadic. Very, very seldom. So to imply that what has happened over the past 10 years is simply been slightly escalated by the shooting range is not true. Furthermore, if they were shooting to that degree and they were doing it without building a shooting range, they were out shooting clay pigeons with a throwing cage. That would not protect such an activity from enforcement. At that point it would become a nuisance. And it would be subject to enforcement either by the County Zoning Administrator or by private action of property owners. So I believe that the case really gets somewhat simple and we don't have to go to great lengths to justify if it is safe or not or if it is better than it was or not. Unfortunately, I'm sorry that Mr. Schuette expended the funds that he did to build it. But it is not permitted there and it's about a 15 minute drive on Hwy D down the road and...Minocqua Gun Club, which is a private beautiful gun club. Outstanding facilities. Very safe and a great place to take your kids.

John Schiek: My name is John Schiek. I am an attorney here in Rhineland. I represent Sarah Schuette Friedle. She is a co-owner of the real estate involved here. I want her to be in a position to make a few remarks regarding her permission given and so forth relative to this operation. Before I do that, and I would like to do that just through her testimony, I would indicate that I agree with Mr. Harrold, that the issue is whether it is a permitted use. It's not a permitted use. So, the way they use it and how they do it and so forth, isn't really the key. It's whether or not it is a permitted use. And it is not a permitted use. It is clear by a review of the statutes that that is the fact of the matter. It seems to me to be a pretty easy decision for the Board to make in that respect. For Mr. Schuette to say that it is not a shooting range seems a little ingenuous to me. With that, would you state your name.

Sarah Friedle-Schuette: Sarah Schuette Friedle. You have already been sworn in.

Atty John Schiek: What is your relationship to the Schuette Family?

Sarah Friedle-Schuette: I am the daughter of Marvin and Ruth Schuette. And Jay Schuette is my younger brother.

Atty John Schiek: What is your ownership interest as it relates to this particular property?

Sarah Friedle-Schuette: I am an equal owner to Sunflower LLC, which is the back lot where the gun range is located. I also own the two lots next door to Jay along the waterfront property along with my other brother, Tom Schuette. That is a separate LLC.

Atty John Schiek: What, if any, notification and so forth did you have as far as the shooting range itself, and building it.

Sarah Friedle-Schuette: I was not notified.

Atty John Schiek: What did you do once you were notified?

Sarah Friedle-Schuette: I was pretty mad. I informed my mother that I thought it was irresponsible of her as manager of the LLC to allow a shooting range to be constructed on property that I own, without my permission.

Atty John Schiek: Were you here when your brother testified about the amount of shooting that has been done?

Sarah Friedle-Schuette: I was.

Atty John Schiek: And what is your testimony in that regard?

Sarah Friedle-Schuetz: I noticed that he did not mention about rapid fire. When I was present on the property, August of 2012, I was down on the dock...throwing a ball in the lake with my dog, and I heard consistent gun fire. I was appalled at the noise and the violation of the essence of being up north. I immediately went into the cabin and told my mom that my blood pressure was elevated and that this was not how I intend to use the land. I do not drive from Chicago, 6 hours one way, in order to be treated to this kind of atmosphere. She promptly got on the phone and left a message at Jay's cabin, to please not fire any guns while I am at Sunflower. I noticed he did not mention that protest in his testimony.

Atty John Schiek: Has he abided by that, as far as you know, now that he has been told to do that?

Sarah Friedle-Schuetz: I have no idea.

Atty John Schiek: How about permission to go on to the property? Do you have the ability to give people to go on the property?

Sarah Friedle-Schuetz: Yes, of course.

Atty John Schiek: And were you aware of people, other than family members that have used the property for shooting?

Sarah Friedle-Schuetz: Yes, I am.

Atty John Schiek: And what is your testimony in that regard.

Sarah Friedle-Schuetz: I know of 9 family members who have been shooting guns on the range. And I know of minors who have been shooting guns on the range. Although Jay has stated that a member of his family is always present, some of those members are minors.

Atty John Schiek: You were also at the hearing before the Planning and Zoning submitted a couple letters through me. You were not here at that time. But in those letters that were submitted at the prior hearing you expressed your opinion on why you objected to this and how strenuously you felt a shooting range was not appropriate for that property. Is that correct?

Sarah Friedle-Schuetz: Correct. It is not the historical use of the land.

Atty John Schiek: And you did not have anything to do with not providing a permit for the shooting range before it was put up.

Sarah Friedle-Schuetz: Correct. We are involved in the building and ... We have been all our lives. We understand the process. The process is violated. I am embarrassed.

Atty John Schiek: But you had nothing to do with it.

Sarah Friedle-Schuetz: No. If I had been aware, I would have asked questions. And I think that's why I was omitted from this process. But had a conversation taken place between my brothers, my mother and myself, we probably would have talked about some of the issues that are in front of us. That discussion would have encouraged discussion, opinions of our neighbors and we wouldn't be in the pickle that we are in today.

Atty John Schiek: Mr. Chairman, I believe those two letters are part of the file.

Harland Lee: Yes they are.

Robert Rossi: This rapid fire. These are large magazines?

Sarah Friedle-Schuetz: I don't know the size of the magazines. I do know that my son, who is 13, was visiting his nephews. My kids love their cousins. And they are boys. They bragged about the guns that they had there. From what I understand from my son, who was in the gun locker with my nephews, there are semi-automatic guns. And I believe that is what I heard fired in August 2012.

Robert Rossi: You also mentioned that there are family members present, they are firing on range. But you also referred to the fact that some of the family members were juveniles with their friends probably.

Sarah Friedle-Schuetz: Probably. I have not been present on the range during the guns. And I believe Jay when he says there is always a family member present. My point is that these are minors.

Guy Hansen: I would like to ask one question of Dr. Sonneland.

Guy Hansen: State your name.

Dr. Sonneland: Art Sonneland.

Guy Hansen: Where do you live in relationship to the shooting range under discussion?

Dr. Sonneland: Just to the north of the shooting range on Bird Lake.

Guy Hansen: Doctor, did you personally observe or hear the use of fire arms coming from the shooting range last summer?

Dr. Sonneland: Yes. I heard on several occasions, but specifically on September 15, 2012, Saturday morning. I had taken my dogs for a walk over in the State Forest Land and shooting began on the property. Just to make it clear, as far as what we are calling rapid fire, continuous shooting. I am a hunter. I am a shooter. This was rapid fire continuous bang, bang; bang, bang, without a paused. Hardly a pause to re-load. I can only imagine...it has to be a high capacity magazine that they are using. And, so I was walking...I was actually hunting partridge. It was opening of partridge that morning. And I was on the State property. But it was continuous. It was incredible. Really. I've shot all my life. This is the type of shooting that we have experienced. It's not somebody just going out and shooting for 30 minutes. This is continuous non-stop shooting.

Robert Rossi: What time was that in the morning? Do you recall?

Dr. Sonneland: It had to be about 9:00 am when it started.

Robert Rossi: I'd call that early in the morning.

Dr. Sonneland: Some people would, some people wouldn't. I used to call that late. I'm retired now so....

Guy Hansen: You said it started then and it continued until...when would you say?

Dr. Sonneland: 11:00 am

Dr. Sonneland: It's in my letter. I was out in the woods with my dog and my wife heard the shooting start up and she got all worried about me and tried calling me and either I didn't have my cell phone or....when I got back home she was all in a tizzy.

Gerry Inman: My name is Gerald Inman. I live at 311 Park Avenue, Minocqua, Wisconsin. And why am I here? I have an extreme interest in zoning because I have been working with Planning and Zoning for over 30 years in Oneida County. Trying to get permits and trying to keep my permits if they came to the Board of Appeals. When I heard about this, I thought, how silly it is to have a shooting range in what is basically a residential area. I have surveyed those lots where the lake frontage abuts the shooting range that we are talking about. And it is a residential area. So that was my initial thought. Although the appellant professes that this is a noble and safe use of this property, the point is that zoning simply does not allow it. The appellant states that it is simply a recreational activity. I think you could argue that a race track in this area would be a recreational activity. Possibly, a house of prostitution could be a recreational activity, depending on who is defining it. The point is that it is not permitted. Exactly. There is no hardship, I agree with Mr. Harrold and Mr. Schiek. There is no hardship. There is no need for a shooting range as there is to breathe air or eat food. There is no need for a shooting range. If the appellant wants a family activity, to include shooting activities, there are options very nearby.

Clark Schuette: My name is Clark Schuette. Jay and I are first cousins. My wife and our family have a cottage right next to Art by the shooting range and I give Jay a lot of credit for trying to create an activity for his family that he can do that maybe he didn't have with his father. But I also think it is also a very inappropriate to have it at that location.

Paul Hein: I live at 8525 Stonegate, Minocqua WI. I don't know if I should be saying this. Hopefully you won't shut me down, I want to know if I am in violation now because I have two children who are minors and have been since conception and we often time have paper targets on our own property, whether we are shooting an air soft gun, BB gun, rifle, shotgun. They've done it all. I do it at my own home. I am unaware of any ordinance that we are not allowed to fire. The bottom line is that if they were to take the targets down, are they allowed to go out in the back yard and shoot their guns? I was unaware of any ordinance.

Harland Lee: We are not here to make that determination. That would something that you would have to discuss with the Planning and Zoning Department. But I understand your question. Just as a personal thing I think putting a coke bottle on a fence post and a few targets around your back yard, if you live in a rural area, is not what I would consider a shooting range

Paul Hein: But I have seen some of the stuff over at Jay's and if I could afford it, I'd have it.

Harland Lee: That's a question for another time.

Gerry Inman: Do you need a permit for a target sir? Am I allowed to ask that?

Harland Lee: No. Not here. This is not the place for that. But I understand your question; it just needs to be asked in the proper place. Which is not us.

Atty Greg Strasser: I would like to ask some questions of one of the zoning fellows.

Atty Greg Strasser: On that parcel, is it allowed to shoot a rifle?

Karl Jennrich: Yes.

Peter S Wegner: Yes.

Atty Greg Strasser: Is it allowed to shoot a rifle for purposes of citing it in?

Karl Jennrich: Yes

Peter S Wegner: Yes.

Atty Greg Strasser: Is it allowed to shoot and launch clay pigeons?

Karl Jennrich: Yes.

Atty Greg Strasser: Is it allowed to use a mechanical launcher?

Karl Jennrich: It would depend on what frequency, but yes.

Atty Greg Strasser: How about shooting a handgun?

Karl Jennrich: Yes.

Atty Greg Strasser: Semi-automatic rifles?

Karl Jennrich: Yes.

Atty Greg Strasser: And in fact this parcel is surrounded by places where people hunt.

Karl Jennrich: Yes.

Atty Greg Strasser: And can go and do those activities as well.

Karl Jennrich: Yes.

Atty Greg Strasser: The area that they have set up on this property to shoot actually makes those activities safer. Correct?

Karl Jennrich: Yes.

Atty Greg Strasser: So the extent those activities are allowed, all they've done is make them safer by creating what is called a range, correct?

Karl Jennrich: I would say yes, that it is. But I still believe you could define it as an area that is set up at one specific location to do that on a continual basis.

Atty Greg Strasser: That's the point. There is no definition of a shooting range in Oneida County. Correct?

Karl Jennrich: Yes.

Atty Greg Strasser: There is nothing that says private versus public creates a shooting range, for example. Correct.

Karl Jennrich: No there is nothing in the definitions.

Atty Greg Strasser: There is nothing that says this weapon versus that weapon or the frequency even, to define a shooting range?

Karl Jennrich: Well, if the use is continuous, I think the use by itself defines that it is a shooting range.

Atty Greg Strasser: What do you mean by continuous?

Karl Jennrich: That's up to the discretion of myself or the Board of elected officials.

Atty Greg Strasser: For example, Mr. Schuette said from May until today, he's used it 6 times. Is that continuous?

Peter S Wegner: It's not just the continuances; it's the intensity while it is being used.

Atty Greg Strasser: I am trying to understand what it is he can and cannot do there. For example, is the creation of the berms, does that, is that a violation? If you just create the berms without any targets. Is that a violation? And then go set up paper targets and shoot at them?

Peter S Wegner: No.

Atty Greg Strasser: Are the temporary targets that he has put out there, does that make it a shooting range? If he takes them down each time before he shoots, does that make it into a shooting range?

Peter S Wegner: here's my analogy. Does a chicken make chicken soup? All the ingredients together, you have chicken soup out there. You've got a shooting range. Compared to all these other ranges local here and it has all those pieces and more.

Atty Greg Strasser: Understood, but what I am trying to see is for him to come into compliance in your mind, if he has the stands set up for clay pigeon or skeet shooting, those stands in and of themselves is just the carrots in the soup its not the chicken or the broth or whatever, correct?

Peter S Wegner: Correct.

Atty Greg Strasser: You can have those. You are not going to cite him. So now lets say he goes out and they stand on those and throw by hand clay pigeons when they desire to do it and shoot them, is that a shooting range?

Peter S Wegner: that's not what is happening.

Atty Greg Strasser: But at what point do we cross over to shooting range.

Peter S Wegner: You have an ingredient that is not part of the soup.

Karl Jennrich: it's hard for the zoning administrator or assistant to act on theoretical. Again, what we typically look at is what is on the ground. Or what is happening as of today.

Atty Greg Strasser: Ok. I understand and I'm not trying to put you guys in a poor spot. I'm just....it's not the type of weapons that are being used that...if he just walked on to that parcel and shot weapons as everyone's testified to here today, let's assume he did that, that is not a violation of a shooting range, if he is just shooting in the woods.

Peter S Wegner: Correct. But I think you would have a problem with a nuisance of some sort.

Atty Greg Strasser: But that's not why we are here today, we are here because it is a shooting range, right? I guess what I am saying is no one has brought that up. That's not a citation that was made, correct? No one said what he did was a nuisance. They said it was a shooting range.

Peter S Wegner: Correct.

Atty Greg Strasser: So whatever he did before wasn't determined to be a nuisance, it was determined to be a shooting range.

Atty Greg Strasser: And as far as him taking his family to another place to shoot, I think what you basically said is there is not one place that he can go for free to do the activities that he has set up there, correct?

Karl Jennrich: I don't know as far as testimony. If you lived in Vilas County, south of us, in Conover, there is a free range. I don't know what it is in arbor vitae. I think it's a free range.

Harland Lee It's a free range.

Atty Greg Strasser: Is that pistol and rifle and clay pigeons?

Karl Jennrich: Conover is, yes. But Arbor Vitae, I don't know.

Many: it is.

Harland Lee the one off 51 is, I've used it myself.

Atty Greg Strasser: Relative to other people who are shooting on their property, does this mean that anybody that Oneida county has a policy of--anybody clears an area and leaves a target up to shoot has a shooting range? Is that chicken soup?

PSW No. Nope. That's just a dumpling.

Atty Greg Strasser: Okay. Alright. But when you go to figure out what chicken soup is, it's based on your discretion. Not on anything that has been described in any of the code of this county? Correct?

Karl Jennrich: I don't say that it is discretion. You have to take a look at each situation individually and try to weigh it out the best you can. Again, if worse comes to worse, discuss it with your committee of jurisdiction. We discussed this issue, showed them the pictures....we didn't have to argue, they looked at it and said this is a shooting range.

Atty Greg Strasser: Was the landowner given the opportunity to revise it, so it is not considered a shooting range? Was he told, if you do this or this, then you can go out there with your boys and shoot? And it is not considered a shooting range.

Karl Jennrich: No. We didn't cross that bridge. No.

Atty Greg Strasser: Is there somebody who would go out there and tell him this is what you can do and can't do. Is there someone to do that for him?

Karl Jennrich: That would be the department. Me.

Atty Greg Strasser: Any you've seen it out there, a couple of times. Correct?

Karl Jennrich: Yes. Twice.

Atty Greg Strasser: What would you tell him to do so he could use it to shoot fire arms and it would not be considered a shooting range?

Atty Greg Harrold: Mr. Chairman....

Harland Lee: The issue is if this is a shooting range, is it allowed within the present ordinance. If we should determine that it is a shooting range, at that point, he can go back to the department and decide what or what cannot be done. I'd rather not have that discussion here, Mr. Strasser.

Atty Greg Strasser: I understand. And I respect that. I think that the frustration from my stand point is that it has been established that shooting at targets on the property; and all the people are talking about the noise. That's not why we are here. They can go out and shoot at targets on this property and do those things. They can have the structures they have there. But there is no definition from this county stating if you are a private residence and you want to shoot targets, and you want to make it as safe as possible....what we are saying through the law I guess in Oneida County, is you can go out; you can shoot; and it

was said one of the purposes of the zoning, was to make things safe. So we have an allowed for activities in terms in shooting; it is made as safe as possible; and then it is cited and it is called a shooting range, but there is no definition of shooting range. We are simply saying if it walks like a duck, quacks like a duck, then it is a duck. But what does that say to the people? It says shoot, but don't make it safe because then you will get to the point where it is a shooting range. Even though you are allowed to shoot all kinds of firearms.

Harland Lee: I think that is your opinion and your definition. The board will make its own decision.

Atty Greg Strasser: Understood and I wanted it understood why I am going down the road I am. I don't think this is just about Mr. Schuette. I think it is about the general intent of what you do with your code, but understood.

Robert Rossi: Mr. Strasser, it appears to me what you are trying to do is make a differentiation between the recreational; the guy that puts a bottle on a post and fires at it. And make a distinct line between the two. Actually what i saw there looked like something in a penny arcade? This target, that target, that target...to me that would not be an occasional recreational use of discharging of firearms; nor would it be rapid fire. It was a little confusing to me as to why we are considering something that could be occasional and trying to confuse it with something that is done with many targets. It would appear to me like it is something like a penny arcade where there is a series of targets, not occasional.

Atty Greg Strasser: Is that a question? I don't know how to answer that. All I can say is this....let's say all those targets weren't there when you saw it today, and he put them out and shot and then took them away when he was done, now is it occasional?

Robert Rossi: No. He testified himself that he can take these targets down. He also said in doing so, he has to go back and level everything, which would tell me that he's not going to be taking them down very often, if he has to go through all this for an occasional firing. It wouldn't make any sense.

Atty Greg Strasser: My point is...I understand your scenario where people are plucking at bottles, but i don't think it happens that way up north. People do put up targets. I think they put up stands to hold targets that they leave there and they come back. I think that happens all the time and what you are saying to those people, is whatever you do, don't make a berm behind it. Don't add these features because now you will be stopped from doing that because there is no definition. And there is no bright line here. And yes, you can look at this and say; well any idiot can tell this is a shooting range. But then the question is what he has done is take an allowed for activity and make it absolutely safe. There is no question of safety here. And now you are saying that you can't do that. You can only plunk at bottles or shoot at targets strapped to trees or however. And what he has really done is make it so it is safe for everybody. And that seems to be counter productive to a county ordinance that says the number 1 goal is safety.

Greg Harrold: it doesn't say that.

Atty Greg Strasser: Has anybody else to your knowledge been told to stop shooting at targets or been cited for shooting at targets on their property?

Karl Jennrich: Not that I am aware of. We may have had some issues with some in unzoned areas and now are zoned and i have gone through with some expansions, but no.

Jay Schuette: i have some questions of these gentlemen that i did not go over with my attorney.

Harland Lee Confine this just to the use.

Jay Schuette: Yes. Peter, how did you come up with your two criteria to define the range?

Peter S Wegner: Those are the common denominators with ranges. The ones that I used as examples. That there were a number of traps and a number of stations or opportunities for people to shoot all at one time.

Jay Schuette: You came up with that on your own?

Peter S Wegner: Yes.

Jay Schuette: How many private properties where people discharge firearms have you been on to compare it to mine?

Peter S Wegner: One other for sure. Lincoln County Sports Club. That's a private property.

Jay Schuette: A sports club? I am talking about a private citizen, where just family and friends are using it.

Peter S Wegner: None.

Jay Schuette: Why don't you distinguish between private and public?

Peter S Wegner: I can't answer that. I have no idea. The same reason we do not have a definition for a shooting range.

Jay Schuette: That's all i have for these guys, but i do have an opportunity to speak later.

Harland Lee: There is an appellant closing statement which you have an opportunity either yourself or through your attorney. And when you make that statement, i want you to confine it to the issues

Atty Greg Strasser: Are you going to let other people go before we close?

Harland Lee: Next is the County for rebuttal, and after that will be the appellants closing statement which i hope will be brief.

Brian Desmond, Corp Counsel: i don't have a real rebuttal. Do the other attorneys have any rebuttals or questions

Greg Harrold: I would like to reiterate that it is the consideration which was a consideration not made by this body but by the entire county board when they wrote the zoning ordinance was what their purpose was. The purpose didn't say the ordinance protects safety only. It said public health, (people getting shot by bullets), safety, convenience and general welfare. To encourage planned orderly land use development. To protect property values and property tax base. To permit careful planning and efficient maintenance of highway systems. To me, the county board set up zoning classifications. They said we believe it is better for the general benefit of all the people in the county not to permit shooting ranges in this zoned district. The county zoning committee found that without a permit, an individual who is part of an LLC, not a family ownership, but an LLC, violated the ordinance. They are seeking to enforce it. Its pretty straight forward. Public versus private doesn't matter. When you are 150 feet from a gun being fired continuously, you don't say, is that a public shooter or a private shooter? It's the shooting that is the use. The shooting is the violation. That's what we have. A violation of the ordinance. I think it is important to note also the applicant's argument that this a family use, remember the property is owned by an LLC. There are four families involved right now. An LLC is a form of ownership of businesses. An interest in the LLC could be conveyed to 20 different people. It's not limited to one family or one father and his two sons. That's not how it's created. That's not what exists right now. Focus what exists right now. We ask you to support the ordinance. Support the decision of the zoning office.

Harland Lee was there someone else that wanted to speak?

Carolyn Schuette-Peterson: I am a cousin to all the Schuette's here. One of the points that the lawyer over here was making was that he was trying to figure out when it is considered a shooting range or not. And i think that is a mute point. If you have having a party at your house, as long as it's not disrupting the rest of the family or people around you, it's allowed. Now this has gone beyond just normal shooting out there. The property has been owned by my family forever. There have been neighbors there for 10 years. There has been recreational shooting. Why is it now that it is an issue? It's the type of shooting that is happening out there. It's the structures that are built out there that all of a sudden has caused it to be that type of shooting that has gone above and beyond just recreational.

Atty John Schiek: Mr. Chairman? I would just back up what Greg Harrold said as to the structure as to why these laws are in place. There is a case which i wanted to put on the

record. It is the Town of Avon vs. Oliver. And in that, it was a similar situation where a farmer was trying to get a shooting range and it was not allowed. In that particular case they used the definition found in the statutes as to a shooting range. "An area designed and operated for the use and discharge of firearms." This meets that definition. That's what it is. It is not a permitted use, and shouldn't be allowed.

Harland Lee: At this point the appellant is allowed a closing statement. I guess before that happens, I want to not only remind the appellant, but remind the board, that what we have before us is a use variance. We don't get into this very often. Usually someone is looking for an area variance or something of that nature. It isn't often that we have a use variance. But that is what we have here today. If there is an opportunity for changing a use within a zoning district and to remind the appellant as well as the public, our requirement, as a board, is to consider three statutory variance criteria that have to be met. All three have to be met before a use variance can be granted. 1. Unique physical property limitations; 2. No harm to the public interest; 3. Unnecessary hardship. All three of those criteria must be met and there is a definition of those three. And I am not going to belabor those except the last one. Unnecessary hardship exists when without a variance; no reasonable use can be made of the property. That is one of the three that must be met. I would suggest that in your appellant rebuttal, since this is what our criteria is going to be based on in making this determination, that you confine your rebuttal arguments to those issues. Why you think you meet those three criteria with a yes.

Jay Schuette: I'm not an attorney and not a member of a committee so it is hard for me to keep all these things straight that you engage in on a consistent basis. I certainly want to thank you guys for hearing the appeal. I want to thank you for going out there and taking the time out of your busy schedules to be there. I want to thank Karl for all the phone calls and trying to communicate and help us try to understand what is going on out there. And I want to thank my family and friends and my neighbors. They certainly have a right to be here and conduct themselves in the way that they have. It certainly isn't anything that they have done that was wrong. Yes. This is something that over the top. No question about it. Just like someone who has a bass boat with a 100, 200, 225 horse power motor. Just like someone who has four jet skis. Just like someone that has a 14,000 square foot summer home. There are some things that people do that are private and personal and they have their reasons for doing it and they have a right to do it. And I had a right to do this. The manager of the LLC, if you look at the agreement, said that I can do what I wanted to do, and she gave me the permission to do it. And it didn't need to be anybody else's say so in that. Also, this is for the family. It can't go to anybody else according to the operating Agreements. I would have the opportunity to do that. I did look at these other ranges to try to do something differently. The two ranges in question, the Minocqua Gun Club, open Sunday's noon-4:00 pm, Thursdays 5:00 pm – 8:00 pm. How am I going to get all my family together when they are in and out to be able to do that? The gun club in Arbor Vitae, I call it. I get someone's personal home answering machine. I'm not from here, I'm from down in Illinois. I don't have a lot of time to be trying to coordinate my family and try to do these things that might be more convenient for people who actually live up here and are more

engaged in the community than I am. I do respect my neighbors. Nobody came to me and tried to work anything out. It immediately went to this resort. Which is fine. Janet came up to me, the one example I gave you, and I stopped. I didn't shoot at 9:00 am; it was 10:30 am, on September 15, 2012, the day my daughter got married up at Coon's Franklin Lodge. I shot until noon. Why did I shoot until noon and know that? Because I had to be there by 12:30 pm from that property in order not to miss lunch and I got there at 12:40 pm and they were kind enough to continue to serve me. I do shoot a weapon that is semi-automatic that does have a lot of rounds in it. And so does one of my neighbors who shot it as well. So there are other opportunities where this is going on. Not just with me. And like I said, I have never allowed anybody to shoot on that range for the six times that I shot it, unless I was present. None of my sons who only one is a juvenile, shot out there by themselves. That isn't anything you need to hear, but I want to have some credibility with the fact that safety is extremely important and the last thing I want to do is put anybody in harms way. I recognize that there is some noise going on with this private property. There are things that I don't like that people do too. My mother sleeps with her patio door open, 5 am a fishing boat goes by, does that irritate her? Probably. Does he have a right to go by? Absolutely. And I have a right to use the property in a way that fits my family and the way we want to do it. And if a neighbor has an issue with that, all they have to do is call me. Knock on the door. I had every one of these neighbors personally invited over to my house two labor days ago, so if something like this ever came up, we could have an honest conversation where they say, hey Jay, can you cool it on shooting the 30 rapids, can you cool it on the semi-automatics. Most of these people have used that same private property for hunting and shooting as well. And now I am being told how I can use it, when it is my right to be able to do that. All I want you guys to hear is that I appeal to you to let me continue to work out any issues that I need to work out with my neighbors, with my family in order to continue to have an activity that is very important to me. You heard about my up-bringing, you heard about what I was potentially engaged in with my family. And to have people come between that, gets me very upset. But I recognize they have a right and that they have some issues; and I recognize that I can sit down and work that out with them. I don't want to make it less safe to be able to continue to do what I am going to continue to do out there and that is some of these activities with my children and friends.

2:40 PM – The Public Hearing was closed to any other testimony.

The Board of Adjustment deliberated the case in open session.

Motion by Phil Albert, second by Guy Hansen to deny appeal #12-010 of Sunflower Properties, LLC, Mrs. Marvin Schuette, 1015 Hillcrest Avenue, Wausau WI 54401, requesting a rescission of an enforcement letter dated 10/5/12, as amended 10/25/12 from the Oneida County Zoning Department. The motion carried unanimously on a roll call vote.

Motion by Phil Albert, second by Guy Hansen, to extend the decision filing date to Friday, January 11, 2013. The motion carried unanimously.

Harland Lee, Chair

Phil Albert, Secretary
