

Oneida County Board of Adjustment
January 14, 2014
8:30 am – County Board Room, Second Floor
Oneida County Courthouse, Rhinelander WI 54501

Chairman Harland Lee called the meeting to order at 9:00 a.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Members: Guy Hansen “here”; Norris Ross, “here”; John Bloom, “here”; Harland Lee, “here”; Phil Albert, “here”; Bob Rossi, “here”; Bernie Dart, “here”.

County Staff members present: Peter S Wegner, Assistant Zoning Director; Julie Petraitis, Secretary II.

Guests present: See Sign In Sheet

Approve agenda.

Motion by John Bloom, second by Robert Rossi, to approve the agenda as posted. With all members voting “aye”, the motion carried.

Consider revocation of variance granted for Appeal 313-003 of Joseph and Margaret Massarelli, Dennis Ragan, Agent pursuant to Chapter 17.07 (5) Decisions of the Board:

“Permits issued or variances approved under a conditional approval by the Board shall be valid only so long as the conditions are observed. Any violation of conditions specified may result in revocation of a permit or other privilege granted by the Board after notice and an opportunity to be heard.”

Property is located at 8339 Dr. Pink Drive, being part of Government Lot 5, Section 15, T39N, R6E, PIN MI 2215-3A, Town of Minocqua.

Chairman Lee stated that Mr. Wegner sent a letter to parties involved on November 4, 2013. The letter indicated there were 8 violations of the current Zoning Ordinance and 5 violations of the terms and conditions of the variance granted under appeal #13-003. There have since been subsequent e-mails and conversations that the whole Board has not seen. Chairman Lee stated that he requested that the whole Board review this. Chairman Lee feels the Board was quite concerned that there may be such violations. He feels the entire Board should hear the answers to the questions.

Mr. Wegner gave some background of the appeal. There was a variance that was granted for a paver patio and a deck. The conditions of that variance were that they were to reduce

their 30' view corridor down to an 8' view corridor and they were going to create a 45' vegetated buffer zone.

Mr. Wegner cannot remember exactly why Staff went to the property in October and noticed there was a considerable amount of excavation and it did not appear that the work being done was in compliance with the conditions of the variance.

As a result, a letter was sent citing different issues with the current Zoning Ordinance and conditions of the variance.

After some e-mail correspondence with Mr. Ragan it was determined that the areas that were to be vegetated were open. There previously may have been pines 6-12 inches high. The reason for the disturbance was to prep these areas for mitigation.

Mr. Wegner believes his concerns with the viewing corridors and 45' buffer will be brought into compliance with the mitigation plan. The other concerns he had were a fire pit and some posts for a hammock, which were removed. The walkway was greater than 4' and that has been reduced to 4'. The retaining walls will be changed to create living earthen walls. The vegetation will be added in the spring and by the end of the project the retaining walls will be earthen walls. This will meet the conditions set by the Board of Adjustment. There was a set of stairs placed on the property that will also be changed into an earthen wall. The wall that was placed between the patio and ordinary high water mark will be removed as well. This will bring them into compliance.

Mr. Rossi asked if the removal that Mr. Wegner was initially concerned about was removed with the idea that new plants would be done? Mr. Wegner stated that those were open areas and the excavation that occurred was to create the rain gardens and top soil was brought in to prep the site for all the plants on the mitigation plan.

Mr. Hansen asked if there was a question about the width of the walkway. Mr. Wegner stated that has been resolved.

Mr. Lee asked why the viewing corridors were wider than they were supposed to be. Mr. Ragan stated that they were existing prior to the current owner purchasing the property. They were open and void of vegetation. Those areas were part of the planned restoration of the project. The lot was cleared prior to the current owners purchasing the property. The restoration project had not been completed at the time Mr. Wegner was at the site.

Attorney Greg Harrold, representative of the Massarelli's, was present. Attorney Harrold stated that the problem created by the expansive viewing corridor was created by one of the previous owners by clear cutting the lot without permits. (Interrupted by phone call)

Discussion was held on whether or not there was vegetation within the buffer zone during the on-site inspection in May and if it is still there.

Mr. Harrold continued. He stated that the Massarelli's went to great lengths because they knew this was a difficult lot. They had County Zoning staff out there to measure the setbacks and locate the precise boundaries of where they could build. He stated that the property was very deficient in terms of vegetation and that their plan, which was presented to the Board in March of 2013, is still in the implementation process.

Mr. Harrold reminded the Board that Mr. Wegner did not participate with the Board of Adjustment at the time of the appeal and he did not know what the site looked like at that time. When Mr. Wegner did see the site in October something did not seem right to him and that is how this transpired. This all occurred before Mr. Ragan could communicate with Mr. Wegner. Mr. Harrold asked that the Board keep an open mind to understand that the way things were presented in the letter of November 4, 2013 is not truly reflective of the intent and follow through of the landowners. All the planting still has to be done and the project is not complete. They are requesting that the Board let them finish the project before they conduct another on-site for compliance.

Mr. Lee reminded Mr. Harrold that the concessions were offered by the landowners. The Board did not request that they make the concessions. But they were made and need to be complied with.

Mr. Ragan thanked Mr. Wegner for setting the record straight on the issues at hand. He feels the original zoning letter cast a negative light on the entire project. He does not believe it is a fair portrayal of the overall success of the project. He stated that the mitigation that they said they were going to do they did do. He did say they made some mistakes along the way and they are working with Mr. Wegner to correct them. He does have a report stating how the project currently stands today.

Mr. Lee stated the Board is mainly concerned with the four conditions placed on the project. The Board went through each condition.

1. Reduce the two allowable viewing corridors from 30' to 8' wide.

Mr. Ragan: The areas that were open prior to starting the project are being (will be in Spring) restored when the restoration project is complete. They have seeded the area, which is the first stage. The next step is to plant the trees, shrubs and vegetation in the spring.

Mr. Lee: So when it's all done there will be 2 - 8' wide viewing corridors.

Mr. Ragan: That's correct. Mr. Ragan showed the Board where the viewing corridors will be on the map he provided.

Mr. Rossi asked when they could do an on-site again.

Mr. Regan said he anticipated the project being complete sometime after May or June.

2. Increase the required buffer zone parallel to the Ordinary High Water Mark from 35' to 45'.

Mr. Ragan showed that area to the Board on the map. It is also part of the restoration project and will be done in the spring.

3 and 4 concern the Boathouse. Mr. Harrold is working on that. It will be recorded when the Board does their final inspection.

Mr. Lee stated that he personally feels the conditions of the variance will be met. He recommends to the Board that the variance approved be left as is and do an inspection in the spring/summer when the project is complete.

Mr. Bloom feels that the correction would not have been made if Mr. Wegner had not gone out to the property in October.

Mr. Lee stated he feels there was a misunderstanding as to what the landscape project entailed.

Mr. Rossi asked when Mr. Wegner was at the property last. Mr. Wegner stated that this is the first Board of Adjustment hearing that he has dealt with that he has not gone to the site prior to the hearing. He feels some of the problems he noticed in October would have been noticed had he gone in May. The site also looks different when there is excavation being done. He feels the project is in compliance and will continue to be in compliance.

The violations separate from the conditions the Board placed on the variance are being taken care of in the Zoning Office.

Motion by Phil Albert, second by Guy Hansen to take no further action at this point but that the issue is continued until the final inspection. The motion carried unanimously on roll call vote.

Approve meeting minutes and public hearing minutes of September 10, 2013, September 17, 2013, November 12, 2013 and December 10, 2013.

Motion by Guy Hansen, second by Phil Albert to approve the meeting minutes of September 10, September 17, November 12 and December 10, 2013 as presented. With all members voting aye the motion carried.

Motion by Phil Albert to approve the public hearing minutes of September 10, September 17, November 12 and December 10 with a typo correction to the September 10 minutes on page 14 paragraph 2. With all members voting aye the motion carried.

Old Business:

a. Consider status of previous cases.

Mr. Lee asked about the status of the Asik appeal. Mr. Wegner stated he was waiting for more information from Wisconsin Valley Improvement.

Mr. Albert asked about the Fugle/Skye/ appeal. Mr. Wegner stated that they asked that it not be scheduled due to some health issues with one of the appellants.

b. Update on zoning statutes and ordinance amendments.

Mr. Lee asked what the status is on the Boathouse amendment (flat roofs).

Mr. Wegner stated that the County Board sent it back to the Planning and Development Committee.

Mr. Wegner told the Committee that he is going to be talking to the Committee tomorrow about the NR 115 changes approved by the Wisconsin DNR.

Mr. Lee asked about Real Estate Signs. Mr. Wegner stated that it is still pending.

Current Business:

a. Approve any available bills. **None**

b. Consider current and pending appeals to BOA. **None**

c. Review/revise meeting/hearing calendar. **Tentative date 3-4-14.**

Adjourn.

9:55 Motion by Harland Lee, second by Bob Rossi to adjourn. With all members voting aye the motion carried.