

SAUK COUNTY BOARD OF ADJUSTMENT  
July 25, 2019 Session of the Board

PRESENT: Dan Kettner, Vice Chair  
David Allen, Secretary  
Jim Mercier  
Valerie McAuliffe  
David Wernecke, Alternate

ABSENT: Linda White, Chair

STAFF PRESENT: Gina Templin  
Cassandra Fowler  
Brian Simmert

Vice Chair Kettner called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:00 A.M. The Vice Chair introduced the members of the Board, explained the procedures and the order of business for the day. The staff certified that the legally required notices had been provided for the scheduled public hearing. The certification of notice was accepted on a motion by Allen, seconded by Kettner. **Motion carried, 5-0.**

The Board adopted the agenda for the July 25, 2019 session of the Board on a motion by Allen, seconded by McAuliffe. **Motion carried, 5-0.**

The Board adopted the minutes from the June 27, 2019, Board of Adjustment meeting on a motion by McAuliffe, seconded by Mercier. **Motion carried 5-0.**

COMMUNICATIONS:

None.

APPEALS:

A. SP-06-2019. Requesting a variance pursuant to s. 7.064(4) to waive the requirement for a vegetated buffer on a kennel operation proposed by Jill and Clinton Kane. This property is located in the Resource Conservancy District, described as; part of the SE ¼ of the SE ¼ , of section 3, T8N, R3E, Town of Spring Green, and as further described in Petition 06-2019. Tax Parcel identification number 032-0115-00000, owned by Dennis and Lisa Hackl.

Cassandra Fowler, Land Resources and Environment appeared and provided a background and history of the request, referred to exhibits in located in the packets, reviewed the photos and video of the site and concluded with the recommended conditions should the board chose to approve the request.

Kettner asked about the rental to a local farmer and asked if the farmer is to the original land owner or to someone else. Fowler explained. Kettner asked if the applicant has the use of the buildings or use of the land. Fowler stated she believes the applicant has only use of the buildings and no use of the land.

Kettner asked about the articles includes in the packet and if they were included by the applicants. Fowler explained they were provided by the applicants and not by the staff.

Kettner asked how far from the building does the buffer need to be. Fowler stated that the plan needs to be a minimum of 30 feet from the building.

Allen asked what the building was used for prior. Fowler explained.

Allen asked the requirement for screening. Fowler explained that it is a condition of the Condition Use permit that was granted.

Kettner asked about the applicant's requests and the use of the western most building and if they are required to plant trees now, are they only required to plant trees in this location. Fowler explained they would only be required to plant trees for the location where they are utilizing for the use of the kennel.

Kettner asked how many trees would be required to be planted. Fowler stated about 12 trees.

Allen asked if this was not an Ag enterprise use. Fowler stated dogs are not considered livestock.

Wernecke asked who is asking for the variance the owners or the lease. Fowler explained.

Wernecke asked about the purpose of the vegetative buffer. Fowler explained.

Wernecke asked what the conditions of the approval for the entire Conditional Use permit. Fowler reviewed some of the stipulation.

Mercier asked about the rows of corn that will be lost due to the installation of the buffer. Fowler stated it would be up to the planting plan.

Wernecke asked about the buffer and modifying the sound. Fowler explained.

Wernecke asked about the non-compliant manure storage pond. Fowler stated that is not part of her area.

Mike Curran, Attorney for the applicant, appearing in favor of the request, spoke about the nature of the business, no public coming to the building, suggested the buffer may be to prevent the noise from the dogs, but it is not being required on the south or north side and feel is it not going to accomplish anything on the west side. He feels it is unique in how long the building is there and no impact on the public. He stated if the applicants are required to do it they would take financial responsibility for it. He presented Exhibit L, a hand out from NorthWestern Energy regarding planting trees near gas lines.

Kettner asked how far out from the building is the existing gas line. Curran referred to Dr. Kane.

Curran stated that there are bio-security issues that fall under the unnecessary hardship and feel that evergreen trees will invite animals to the area that wouldn't necessarily be there that could introduce diseases to the dogs that wouldn't be there. He also spoke of a security issue.

Wernecke referred to the buildings in the application which talked about the dog waste and indicate a plan for that and then testimony states no plan. Curran stated the plan has changed since then and will be using dumpsters.

Wernecke stated the biosecurity argument is pretty weak as there is no difference between a vegetative barrier and what is there now.

Allen asked about the costs for the barrier. Curran stated whatever the cost is, is what will be assumed.

Allen asked if there are dogs there now Curran stated there are.

Wernecke asked if the applicant installed the high-pressure gas line. Curran stated it has been there previously.

Clinton Kane, applicant, appearing in favor of the request, stated that the building design is a "room within a room" rather than having the animals up against the exterior walls, a 30' wide room with 6" insulated rooms with a 6'

wide walkway and noise would exit the room to the west and would utilize the fans to pull air out to the north. He feels this will address all noise issues.

Wernecke asked if they are insulating the ceilings as well. Kane stated they are. He also stated they are installing evaporative coolers.

Kettner asked Kane to address the 3 criteria that must be met for a variance to be met. Kane stated there is no harm to the public interest because they are not changing the outside of the building, addressing the noise with the building design. He stated the unique land design is due to the current cornfield, the gas line is about 15-20 feet away from the building, and spoke of other vegetation already planted along Highway 14. He stated the unique hardship to have to put a buffer there to not serve the intended use of a buffer.

Jill Kane, applicant, appearing in favor of the request, presented Exhibit M, which is a listing of security issues, which she feels is a hardship and suggest that they minimize vegetation for security reason. She stated the unique property limitation is a gas line that runs through the property, which is located approximately 10-15 feet from the building. She stated that she feels the purpose of the buffer is a visual barrier for noise, and they are not changing anything visual from the exterior and no one will hear dogs.

Wernecke asked about the current vegetation and corn planted now.

McAuliffe spoke about the existing buildings and property included in the staff report and the current lease. Kane explained the lease.

Mercier asked about the rest of the property in the Town of Spring Green. Kane stated it is all in the Town of Spring Green.

Allen spoke of cutting some of the corn down and having more security and security camera. Kane stated they will look into that.

Dennis Hackl, appearing favor of the application, stated that he owns the property, and they will lose land and the corn will need stay away from the land around the trees. He also said that when it was veal, it was originally gravel, but has turned in the grass now.

Glen Johnson, appearing in favor, stated he is on the Land Resources and Environment Committee meeting and stated that he visited the site and spoke as it relates to the noise, he feels the building design is efficient and the house is far enough away and doesn't feel there is a good reason for needing to plant vegetation.

Wernecke mentioned that county board needs to figure out a way to amend the ordinance to take into consideration these kinds of issues.

Barb Ouimet, appearing in opposition, provided a statement from Dennis Polivka and ethic issues by the committee members and asked the board to send the decision back to the committee to rehear.

Dan Ouimet, appearing in opposition, stated he would have like to seen the violation letter and information provided in the list of exhibits for the board, as no work is supposed to be done, but yet it is continuing to be done. He also stated that even though Mr. Hackl will lose a couple rows of corn is going to make income on the leasing of the buildings. He also spoke of the fact that trees in cornfields are common and they are called windbreaks. He stated that the vegetation is would be a public interest and spoke of windborne pathogens from feces. He spoke of high-pressure gas line and planted over 200 trees on his property near that gas line. He stated there are rules, but it can be done. He spoke of the hardship, and planting the trees would be good to their bottom line towards their cooling costs and heating costs. He addressed the bio-security issues and establishing a level prior to considering it and suggests it is a weak argument.

Mercier agrees with the pine rows, however doesn't feel what they will need to plant and whether it will be good for 50 years and feels the corn rows will be better than the vegetation buffer. Ouimet stated he has highbred

poplars on his property that were mature in 5 years and it is possible if they are cared for.

Brian Simmert, appearing as interest may appear, reviewed the conditions of the Conditional Use permit that was granted on July 23<sup>rd</sup>, however he explained they have no bearing on the role or decision that the Board must make today. He also explained the planting requirement.

Wernecke asked about the requirement for the dogs to inside at all times. Simmert stated the applicants applied that way, however if they wanted to be outside, the applicants would have to come back to modify the conditional use permit.

Wernecke asked about the intent of the vegetative buffer standard. Simmert explained the intent is to mitigate the conflict between adjacent land uses.

Wernecke asked if there are any other cases where a gas line has been moved. Simmert stated he is not aware.

Mercier asked about the difference between a high density and low density. Simmert explained.

Mercier asked how far the Hackl home is from the facility. Simmert stated he is not aware.

McAuliffe asked about the expansion and need to come back for additional variances. Simmert stated the variance is for the entire property.

Seeing as no one else wishes to speak, Vice Chair Kettner closed the public portion of the hearing at approximately 10:25 a.m. and the Board went into deliberation.

Kettner stated they have addressed kennel operations and vegetative barriers have been an issue mostly for the dogs seeing the public.

Allen stated he is struggling with the unnecessary hardship issue. He doesn't think it is necessary and fields the cornfield to the west doesn't care what it is in the building and feels it is unique as the dogs are kept inside at all times. He is not sure if the vegetation is not planted there would be any harm to the public.

Mercier stated he feels the cornfield should be moved back and a berm should be put in and could act as a deterrent versus a vegetative buffer and you are only shielding a portion of the building.

McAuliffe stated that the request to not give this variance based on the violations of operating without permits is not in their prevue.

Mercier feels there is no hardship to the applicants.

Kettner stated he feels there is a hardship due to the fact he doesn't feel it is necessary in this particular case. Unique land is the gas line placement and public interest is not an issue weather the trees are planted or not.

Wernecke felt that approving the variance is consistent with the spirit of the ordinance. He feels the hardship is met; however, the unique property limitation is where he struggles and doesn't feel it is contrary to public interest.

McAuliffe stated she agrees with Wernecke. She believes that the hardship would be created by not granting the variances because it would not be in the spirit of the ordinance. The unique property limitation is the gas line and that the property itself takes care of the need for the buffer. She feels it would create no harm to public interest.

Allen feels it does not meet unnecessary hardship, but the unique property limitation would include the gas line and the removal of active cropland and does not see any harm to public interest.

Mercier feels there is no harm to public interest and if the variance is granted, that if a future home is built a vegetation buffer needs to be built. He is concerned about the definition of a kennel and whether or not this is actually considered a kennel. He stated he struggles with whether or not there is a hardship.

Kettner stated he sees this board as a way to address the things and “flex” or “soften” things. He feels he does not want to create a hardship for someone that he does not feel is necessary. He feels the gas line causes a unique situation. He also does not feel there is any harm to public interest, as he has driving by the building several times and has not noticed anything going on.

Motion by McAuliffe, seconded by Allen to approve the variance request pursuant to 7.064(4) to waive the requirement for a vegetated buffer on a kennel operation. **Motion carried, 5-0.**

Motion by Allen, seconded by Mercier to adjourn at 10:42 a.m. **Motion carried, 5-0.**

Respectfully submitted,

David Allen, Secretary