

ONEIDA COUNTY BOARD OF ADJUSTMENT
PUBLIC HEARING SUMMARY
JULY 13, 2023 11:00 AM
MINOCQUA CENTER, 3RD FLOOR CONFERENCE ROOM
415 MENOMINEE ST., MINOCQUA WI 54548

Chair Lee called the meeting to order at 11:00 AM in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Mr. Hansen, “here”; Mr. Ross, “here”; Mr. Pazdernik, “here”; Mr. Viegut, “here”; Mr. Lee, “here”. Mr. Albert arrived late.

Members absent: None

County staff members present: Todd Troskey, Assistant Zoning Director and Julie Petraitis, Program Assistant.

Other individuals present: See Sign in Sheet.

Chair 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 consists of five regular members and two alternates. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Chair Lee swore in Todd Troskey, Assistant Zoning Director and Peter Nomm, owner. Mr. Lee stated the procedure for the hearing would be testimony from the Appellant(s), then the County, any public comment; back to the Appellant (s), County and then close the meeting from any further testimony. The Board will then deliberate. If they have any questions they will ask them and ask that only address that question. The Appellant(s) may stay for the deliberation.

The Board of Adjustment will conduct an onsite inspection of the property involved in this appeal beginning at approximately 10:00 am prior to the hearing. Pertinent property boundaries and locations of existing and proposed structures shall be clearly identified. A representative or the appellant must be present. The inspection shall be open to the public. Following the adjournment of the public hearing, the Board will vote in open session for a decision on this appeal. Information on the decision can be had by calling or visiting the Planning and Zoning Office during normal business hours on or after the next or a later day set by the Board at the hearing. The appellant will be notified of the decision via certified mail.

Copies of appeals and related documents are available for public inspection during normal business hours at the Planning and Zoning Office, Oneida County Courthouse,

Rhineland, WI 54501. The Oneida County Zoning & Shoreland Protection Ordinance is available on the internet at www.co.oneida.wi.us. All appropriate media outlets were notified and the inspection was conducted between 10:00 a.m. and 10:20 this morning, July 13, 2023, at property located at 8136 Highway 51, further described as part NW NE, SW NE, Section 23, T39N, R6E, PIN MI 2328-1, Town of Minocqua, Oneida County, Wisconsin. Board members were present at the onsite along with Todd Troskey of the Planning and Zoning Department, and owner, Peter Nomm. Observations by the Board: The property boundaries were somewhat marked. The highway right-of-way was obvious. The property is serviced by municipal water and sewer. The proposed construction is existing. The distance to the ordinary high water mark was approximately 49' from the patio. The building is 59' from the ordinary high water mark. There was no side lot line boundary marked. There are two existing patios on the property. The property is flat.

Chair Lee informed the Appellant (s) how the hearing will be handled. He stated that the Board has to consider the three criteria, in which all three need to be met in order to grant a variance and the Appellant should be sure to address those in their testimony.

Mr. Nomm began his testimony by stating that when he started this process he had an idea of what he wanted to do. They have that nice area out there and wanted to take advantage of the lake seating and visuals for that, so they brought in a patio. In addition to that they had talked about what they wanted to do within the 75', because they knew it was a possibility to do 200 square foot patio somewhere, besides the sitting area. They put that in the plan. He put the 10' x 10' area in a couple years ago under the understanding that it was already permitted and possible to do. The reason it came up is because they asked about expand and enclosed area behind the bar. Somebody from zoning went to the property and looked at it and said it was not part of the approved permit. Mr. Nomm did not know that the project page of the approved permit did not have the original sitting area listed.

Mr. Troskey began his testimony by stating prior to the County adopting the latest version of NR 115, which was adopted April 1, 2018. Prior to that NR 115 would have allowed both the sitting area and patio, which is why the 2018 permit for this property was approved. Technically the 10' x 10' area was done without a permit and at this point is considered "after-the-fact". The new NR 115 would not permit that structure. Basically, as indicated on the staff report, the County's position would be like any other situation that encountered. The County has to comply with NR 115 and hence the denial of the zoning permit application. The new NR 115 rules would not permit that structure. As indicated on the staff report, the County's position would be like any other situation encountered previously, which would be that the County has to comply with NR 115 and that is the denial of the Zoning Permit Application. He did include additional information regarding other reasons why NR 115 exists for structures like this and why they are not allowed under the new NR 115. That has to deal with things like impervious surface area and runoff and nutrient flows that may not be taken up by enough of a buffer zone between the existing sitting area that we are talking about and Klausen Lake.

Chair Lee asked Mr. Nomm to address the three criteria.

As far as No Harm to the Public Interest, he would not think it would affect any runoff rain water. The soil is very sandy there and he does not believe it would do any additional harm than not being there.

Unnecessary Hardship, nobody wants to pull anything out or reconfigure what is there because it has been effective for them. They request that what they have done in there, which they understood they could, would be allowed to remain.

Chair Lee asked the Board if they had any questions.

Mr. Ross asked if the original building was allowed due to averaging. He stated there was no mention of averaging. He was told the building was averaged.

Mr. Hasen asked if the patio was built, not exactly where it was on the plan and they added they added the sitting area afterward.

Mr. Nomm answered that the sitting area was on the original site plan, and that is why he said it was not on the project list. He thought that was what was approved, plus the 10' x 20', which the approval said it could be anywhere within the 75'. That it was missed on the project list is where the issue stems.

Mr. Hansen stated he is curious about the time lapse between when the permit was applied for in 2019 and issued 2023.

Mr. Nomm stated that the 2019 permit was after the discussion he had with Jimmy Rein regarding enclosing an area behind the bar. He did not know that had been submitted to the Zoning office. That is how he became aware that the 10' x10' patio was not supposed to be there.

Chair Lee closed the public portion of the public hearing.

Mr. Ross stated that the letter the County sent states to either remove the patio or request a variance.

Motion by Norris Ross, second by Guy Hansen to grant the variance to allow the patio to be there.

Discussion was held on the motion.

On roll call vote, "aye" – Unanimous.

11:25 a.m. Chair Lee adjourned the meeting.