

ONEIDA COUNTY BOARD OF ADJUSTMENT  
PUBLIC HEARING SUMMARY  
AUGUST 3, 2023  
COMMITTEE ROOM #2, 2NDS FLOOR  
ONEIDA COUNTY COURTHOUSE

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Chair Lee called the meeting to order at 1:00 PM in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Mr. Albert, Mr. Hansen, Mr. Ross, Mr. Pazdernik, Mr. Viegut, Mr. Chronister and Mr. Lee

Members absent: None

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

Other individuals present: See Sign in Sheet.

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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, Michelle Thedens and Tim Kinatader. 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, Rhinelander, WI 54501. The Oneida County Zoning & Shoreland Protection Ordinance

is available on the internet at [www.co.oneida.wi.us](http://www.co.oneida.wi.us). All appropriate media outlets were notified and the inspection was conducted between 10:00 and 10:15 this morning, August 3, 2023. The property is located at 10223 Prairie Rapids Road, further described as part Government Lot 5 and part Government Lot 8, Section 21, T36N, R6E, PIN NO 322-1, Town of Nokomis, Oneida County, Wisconsin. Along with the Board of Adjustment, Todd Troskey, Assistant Zoning Director; Michelle Thedens and Tim Kinateder were present at the site. Observations by the Board: The property boundaries were apparent and some were marked; the road and right-of-way was not applicable; well and sanitary facilities were not applicable; outline of proposed construction was existing. The seating areas were within 75' of the ordinary high water mark (OHWM). The side boundary was not measured. The map is attached showing what is within the 75' setback. There are eight seating areas and stairs and a walkway down to the Tomahawk River. The topography was hilly and a drop off to the river. There was no erosion apparent.

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.

Chair Lee began by asking if there is an entrance from the building to the yard area besides the outside stairs.

Ms. Thedens stated there is a walkout on the ground level of the building.

Ms. Thedens began her testimony by stating that when she bought the property it was a mess. It was built in 1958. When she bought the property the roof leaked and the windows were boarded shut. She started cleaning it up and doing what she could afford when she could afford it. She decided she wanted to put some decks and picnic tables in the yard so people could take a drink and go sit by the river. It was just gravel and dirt and grass here and there and junk everywhere. She wanted to make it nice so everyone could enjoy the area. It started with just a few picnic tables and she improved it with gardens, because she loves gardening. She did not do anything to the shoreline. She did not cut any trees down. The walkway and stairs to the river were there. They want to improve the stairs because they were falling apart and did not want anyone to get hurt. The only thing she did was put decks on top of the ground after pulling out the weeds and nasty stuff. Then people started asking to hold events there. It is a beautiful area and she wants to share it. She does not feel like there is any public harm.

If she has to remove the sitting areas she will lose part of her livelihood. This is an attraction that people come to sit by the river. There isn't a lot of boat traffic, there is not a bunch of noise. It is more of a soft water spot where people kayak and canoe. They allow people to put their kayaks and canoes in there and they sometimes come and have a drink afterwards.

She did not mean to do anything inappropriate or wrong she just wanted to utilize and share the space. It has been there for nine years. The neighborhood loves it.

Mr. Albert asked if there was seating there when she bought the property.

Ms. Thedens stated there was not. There was parts of an old deck out there where probably years ago they had some seating out there.

Mr. Kinatader stated they did not do any excavating. They just cleaned up what was there and leveled it off. They did not change anything. The sitting areas are not anchored down and they do not create run off or erosion.

Mr. Troskey began his testimony by stating that this was a complaint that was existing when he took this position. In talking with Tim and Michelle, they had discussions about why this was an issue in regards to NR 115 only allowing certain types of structures to be exempt within 75' of the water.

Chair Lee asked if this was started with the previous Assistant Zoning Director.

Mr. Troskey stated it was. He continued that he had "inherited" approximately 490 complaints and this was one of them that needed to be addressed. The Planning and Development Committee told him they could not make the complaints disappear.

Mr. Lee asked if this was a complaint that was called in or if staff saw it on routine inspections. Mr. Troskey stated he believes staff noticed these on routine inspections. There had been correspondence between two former employees but there was no indication a complaint was called in by a neighbor. He believes it was noticed on regular, routine on-sites.

Mr. Troskey stated that when he initially started talking with Michelle and Tim, they talked about how any other type situation like this the County would be requiring removal or anything can be appealed. Those were the choices and that is where we are at. This is what we would normally be requiring in any of these types of situations for any property, would be removal of those decks because they are within 75' of the OHWM. The only other option would have been if there was not already 200 square feet of existing structure, i.e. the bar, within 75' they could have used the Guard Bill or special zoning permission for up to 200 square feet of open deck/patio/gazebo/etc., but that 200 square feet is already taken up by the existing building so that was not an option at that point.

Discussion was held on impervious surface calculations.

Mr. Kinatader stated that they could get a permit to build a boathouse with seating on the rooftop and that would be a lot more disruptive to the shoreline than what they have done within the 75' setback.

Mr. Albert stated that this area is probably significant to the business viability.

Ms. Thedens said it is. It is busy every weekend and even during the week, even when they are not open people come to enjoy the garden and look at the river. This is a drawing spot for her business.

Chair Lee closed the public portion of the public hearing.

Mr. Albert stated he feels all three criteria can be met.

Motion by Mr. Albert, second by Mike Pazdernik to grant the variance. On roll call vote: Aye, Unanimous. Motion carried.

**1:40 p.m. Chair Lee adjourned the meeting.**

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Harland Lee, Chairperson

Phil Albert, Secretary