

ONEIDA COUNTY PLANNING and DEVELOPMENT COMMITTEE
August 2, 2023
WOODRUFF TOWN HALL
1418 1ST AVENUE
WOODRUFF, WI 54568

Members present: Scott Holewinski, Bob Almekinder, Mike Timmons

Members absent: Mike Roach, Tommy Ryden

Department staff present: Karl Jennrich, Director; Todd Troskey, Assistant Director; Scott Ridderbusch, Land Use Specialist; Carla Blankenship, Land Use Specialist; Emily Decker, Zoning Technician; Monique Taylor, Administrative Support

Other county staff present: Michael Fugle, Corporation Counsel; Outside Counsel, Andrew Jones; Billy Fried; Diana Harris; Linnaea Newman; Robb Jensen; Terri Hook; Grady Hartman; Tyler Young

Guests present: See sign in sheet.

Call to order.

Chair Holewinski called the meeting to order at 12:30 p.m. in accordance with the Wisconsin Open Meeting Law.

Approve the agenda. Motion by Mike Timmons, second by Bob Almekinder to approve the agenda. With all members present voting “aye”, the motion carried.

It is anticipated that the committee may meet in closed session pursuant to Wisconsin Statutes, Section 19.85(1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

- a. Approved closed session minutes of June 28, 2023.
- b. Administrative Review Permit #2200112 and proposed Conditional Use Permit for MI 3239 and MI 3240.

Motion by Bob Almekinder, second by Mike Timmons to go into closed session. Aye: Unanimous.

A roll call vote will be taken to return to open session.

Motion by Bob Almekinder, second by Mike Timmons to return to open session. Aye: Unanimous.

Recess 12:58 p.m.

Return 1:00 p.m.

Announcement of any action taken in closed session.

- a. Motion by Mike Timmons, second by Bob Almekinder to approve the closed session minutes of June 28, 2023. With all members present voting “aye”, the motion carried.
- b. Discussion only, no action taken.

Approve meeting minutes of June 28, 2023. Tabled, no action taken.

CONDUCT PUBLIC HEARING ON THE FOLLOWING:

Administrative Review Permit #2201108 authored by the Planning and Development Committee to consider amending, suspending, or revoking Administrative Review Permit #2201108 for property described as: Lot 3 of CSM V7 P1810 and Part of the SE ¼ of the SE ¼, Section 5, T39N, R6E, 8982 Sandy Court, PIN MI 2096-3, Town of Minocqua.

Pursuant to Section 9.82(D) of the Oneida County Zoning and Shoreland Protection Ordinance: The Committee shall retain continuing jurisdiction over all activities authorized by the permit for the purpose of assuring compliance with this ordinance and other ordinances and the terms of the permit. Such authority shall be in addition to the enforcement authority of the Zoning Administrator. Upon notice to the Committee of an alleged violation of any permit, in its sole discretion, the Committee may hold a public hearing to consider amending, suspending or revoking the permit. Notice of the hearing and alleged violation shall be served upon the property owner and permit holder either in person or via certified mail to the address provided on the permit application form or otherwise provided to the Department a minimum of 72 hours prior to conducting the public hearing. The notice shall contain the date, time and place of the hearing, a description of the property, a description of the activity authorized by the permit, and a statement of the alleged violation(s). Notice shall also be published as a class 2 notice. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Committee at its sole discretion may hold additional public hearings. If the Committee finds after the hearing that the permit holder is not in compliance with the terms of the permit, it may amend, suspend or revoke the permit. The decision of the Committee shall be furnished to the permit holder in writing, stating the reasons therefore.

- a. Staff will be giving a presentation that will include describing Administrative Review Permit (ARP) #2201108 and the Conditions attached to the Permit, correspondence between the applicant and Oneida County Staff and Representatives, and a timeline of staff observed violations of ARP #2201108.**
- b. The applicant may be requested to provide answers to committee questions.**
- c. Public comments on the above topic (limited to 3 minutes per person).**

Mr. Jennrich read the details into the record. The Notice of Public Hearing was posted in the Northwoods River News on July 18 and 25, 2023 and a Proof of Publication is contained within the file. The Notice was also posted on the Oneida County Courthouse Bulletin Board on July 13, 2023. An Affidavit of Mailing and mailing list is contained in the file as well. Mr. Jennrich read the enforcement letters into the record concerning not following conditions of the ARP and complaints received by the Department. Mr. Jennrich also stated on the record the current status of the advertisements for bookings for the TRH not in compliance.

Chair Holewinski gave Mr. Venus fifteen (15) minutes to discuss the matter. Mr. Venus stated that he did not understand some of his requirements of the conditions of his ARP. Mr. Venus also spoke on the number of extra beds, advertised listings in question, complaints and police reports, his

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availability to address issues at the property, and the neighborhood communication and issues.

Chair Holewinski opened the public portion of the public hearing.

Tanya Borst spoke.

Sherri Otto spoke.

Jared Conover spoke.

Kristine Rank spoke.

Tom Irwin spoke.

Michael Mason spoke.

Tom Bella spoke.

Barb Suozzi spoke.

Chair Holewinski closed the public portion of the public hearing.

Committee questioned the applicant on his misunderstandings of the requirements of the conditions of his ARP, trespassing, and owners' responsibilities of their property. Mr. Jennrich clarified the advertising requirements for nightly stay and occupancy. Chair Holewinski questioned Mr. Venus on what he planned to do differently to ensure compliance and also questioned his bookings and documentation of guests staying at the property. Mr. Venus spoke about his calendar being booked for less days than required in the ARP and then being blocked for the remaining days up to seven (7) days. Mr. Jennrich read into the record Section 9.58(D)(m) of the Oneida County Zoning and Shoreland Protection Ordinance to clarify allowable people on the premise pursuant to the Ordinance. Committee wants the applicant to be in compliance and an agent to be readily available with a phone number to be provided to neighboring property owners to call upon when issues arise, but stated that the applicant is the sole responsible party for the property and all matters with the business.

Motion by Chair Holewinski, second by Mike Timmons to suspend Administrative Review Permit (ARP) #2201108 for sixty (60) days. Staff is to work with applicant/owner to come up with a reasonable plan to come into compliance that will not affect the adjoining landowners in the area and to also address the problems brought forth in the public hearing. The committee will relook at the matter at a later date. With all members present voting "aye", the motion carried.

Committee stated on the record that if the applicant/owner comes up with a plan, it can be placed on an agenda to be heard before the committee again. If nothing happens in sixty (60) days and it is not on an agenda and not completed, then committee will look at a continuation to review the ARP for revocation.

Continued from July 26, 2023 – Administrative Review Permit #2200112 authored by the Planning and Development Committee to consider amending, suspending, or revoking Administrative Review Permit #2200112 for property described as: Village of Minocqua, Lot 2, Block 3, Section 14, T39N, R6E, PIN's MI 3239 and MI 3240, 329 E. Front Street, Town of Minocqua.

Pursuant to Section 9.82(D) of the Oneida County Zoning and Shoreland Protection Ordinance: The Committee shall retain continuing jurisdiction over all activities authorized by the permit for the purpose of assuring compliance with this ordinance and other ordinances and the terms of the permit. Such authority shall be in addition to the enforcement authority of the Zoning Administrator. Upon notice to the Committee of an alleged violation of any permit, in its sole discretion, the Committee may hold a public

hearing to consider amending, suspending or revoking the permit. Notice of the hearing and alleged violation shall be served upon the property owner and permit holder either in person or via certified mail to the address provided on the permit application form or otherwise provided to the Department a minimum of 72 hours prior to conducting the public hearing. The notice shall contain the date, time and place of the hearing, a description of the property, a description of the activity authorized by the permit, and a statement of the alleged violation(s). Notice shall also be published as a class 2 notice. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Committee at its sole discretion may hold additional public hearings. If the Committee finds after the hearing that the permit holder is not in compliance with the terms of the permit, it may amend, suspend or revoke the permit. The decision of the Committee shall be furnished to the permit holder in writing, stating the reasons therefore.

- a. **Staff will be giving a presentation that will include describing Administrative Review Permit (ARP) #2200112 and the Conditions attached to the Permit, correspondence between the applicant and Oneida County Staff and Representatives, and a timeline of staff observed violations of ARP #2200112.**
- b. **The applicant may be requested to provide answers to committee questions.**
- c. **Public comments on the above topic (limited to 3 minutes per person).**

Mr. Jennrich read the details of the matter into the record. The Notice of Public Hearing was posted in the Northwoods River News on July 18 and 25, 2023 and a Proof of Publication is contained within the file. The Notice was also posted on the Oneida County Courthouse Bulletin Board on July 13, 2023. An Affidavit of Mailing and mailing list is contained in the file as well. Chair Holewinski read into the record an acknowledgement of receipt and review of the Transcript received from the public hearing of July 26, 2023. Mr. Jennrich stated on the record that staff conducted onsite inspections on dates from July 26, 2023 through August 1, 2023 with documentation of outdoor activities taking place on the property.

Chair Holewinski addressed the concerns of the applicant with the committee being “politically motivated”. Mr. Jennrich read into the record a letter dated September 29, 2020 sent to Bangstad Properties, LLC for a different parcel of property owned by Mr. Bangstad, identified on the record as PIN MI 3424 located at 238 Lakeshore Drive. Complaints were received regarding signs located on the described property and a letter was sent September 29, 2020, no different than any other enforcement letter sent by Mr. Jennrich for Oneida County Zoning and Shoreland Protection Ordinance regulation and enforcement. Mr. Jennrich read into the record the letter dated September 29, 2020 that was sent to Mr. Bangstad that included the specific Oneida County Code reference and, at that time, signs were not allowed greater than thirty-two (32) square feet in size. The department believed that the sign was great than thirty-two (32) square feet and Mr. Bangstad was ordered to remove the sign. The enforcement letters sent from the Planning and Zoning Department are sent to the Towns and Oneida County Board Supervisors. Mr. Jennrich stated that there were no additional complaints or references received from the carbon copied parties in receipt of the enforcement letter dated September 29, 2020 that was sent to Mr. Bangstad concerning his sign located at 238 Lakeshore Drive. It was further stated on the record that there was no involvement of the Committee of jurisdiction or the Planning and Development Committee directing Mr. Jennrich during enforcement of the Ordinance.

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Chair Holewinski next addressed the concerns of the applicant regarding dumpsters and outdoor seating complaints. Mr. Jennrich received the complaints and sent enforcement letters if they were enforceable. It was stated on the record that one property owner responded and ensured plans to come into compliance and it was believed that one property owner has not responded yet. It was further stated on the record that some of the complaints received did not have permits to generate a need to enforce the screening of their dumpsters or that they had preexisting uses of their property. Additional complaints were received for properties located in the City of Rhinelander, which Oneida County does not have jurisdiction for enforcement. Complaints for properties in unzoned districts were also received and it was stated on the record as well that these districts are not enforced in Oneida County. Mr. Bangstad was provided with this information.

Chair Holewinski gave Mr. Bangstad fifteen (15) minutes to speak on the topic of his Administrative Review Permit #2200112. Mr. Bangstad spoke on his beliefs and understanding of the process of the hearings. Mr. Bangstad asked to call up speakers on his behalf during his fifteen (15) minutes of speaking time. Chair Holewinski stated that it was not the public comment portion of the public hearing and the public would not be speaking yet. Attorney Frederick Melms was given time to speak on Mr. Bangstad's behalf. Attorney Melms read a letter from Christopher Naumann into the record. Attorney Melms also requested that the committee amend the ARP and gave reasons for the request.

Chair Holewinski conferred with Corporation Counsel to clarify on the record the concerns of the applicant with ARP and CUP processes. It is stated on the record that an ARP is not contingent on a CUP and a CUP is not contingent on an ARP. Mr. Fugle stated on the record that it is an incorrect statement to say that if an ARP is revoked, a CUP would then not be heard at a public hearing before the committee. They are separate applications. It was further stated that there was not a known Statute or place in the Ordinance that states that if an ARP is revoked that proceedings for another application do not take place, even if they are relevant. It was also clarified on the record, due to the applicant's concern, that a quorum for the meeting is a minimum of three (3) members and that the other two (2) members of the committee were excused.

Mr. Jennrich read into the record an email response to Mr. Naumann's statement from the Town of Minocqua Chairman, Mark Hartzheim, received by Mr. Jennrich on August 2, 2023. The letter was forwarded to the committee.

Chair Holewinski opened the public portion of the public hearing.

Charlie Barber spoke.

Unknown male spoke.

Randy Sincoular spoke.

Alanza Gravier spoke.

Steve Hechel spoke.

Lynn Urquhart spoke.

Jeannie Gustafson spoke.

Randy Bryce spoke.

Kirk Bangstad spoke.

Chelsea Sims spoke.

Catherine Parker spoke.

Terry Taylor spoke.

Donald Cupp spoke.

Wayne Trapp spoke.

Colonel George Mason spoke.

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Jack Sorenson spoke.

Nancy Moore spoke.

Lynn Trapp spoke.

Chair Holewinski closed the public portion of the public hearing.

Chair Holewinski stated on the record that few people commented on the violations during the public comment portion of the public hearing. Chair Holewinski addressed the conditions of Mr. Bangstad's ARP and questioned Mr. Bangstad of the conditions, specifically the alleged violated conditions. Mr. Jennrich read the ARP approval letter that was sent to Christopher Naumann and carbon copied to the Town of Minocqua and Mr. Bangstad, which stated the thirteen (13) conditions as well as the following:

“Failure to comply with all of these conditions will invalidate this approval.

If you feel you have been aggrieved by the above conditions of approval, you may appeal this to the Oneida County Board of Adjustment. The deadline to appeal is 30 days from the date of this letter. Please contact this Department for the necessary paperwork. The fee to appeal is \$750.00.”

Mr. Jennrich clarified that Mr. Bangstad, or anyone, that disagrees with conditions of an approval have the ability to appeal that to the Oneida County Board of Adjustment. Mr. Jennrich stated that Mr. Bangstad referred to wanting “to amend the Administrative Review Permit”, but the Ordinance requires a Conditional Use Permit for property that is zoned District #6 Business (B-1) to have any outdoor activities and, therefore, “to amend the ARP” a property owner would need to apply for a Conditional Use Permit. Chair Holewinski further questioned Mr. Bangstad on being informed of the need to apply for a Conditional Use Permit as early as August 2021 if he wanted outdoor seating. Mr. Bangstad stated that he believed that “outdoor seating” is a grey area and when tables were on the concrete stoop and not putting a tent out, he thought he was complying. Mr. Bangstad further stated that his solution while waiting for his CUP was to put tables out on the stoop with a State and Federal Brewery Licenses to stay on premise, even though the ARP says “no outdoor activity”. He state that he believes that the violations should be overlooked by the department because there is a CUP application in process. Chair Holewinski questioned Mr. Bangstad if his Licenses state that he is exempt from local Ordinances and land use plans. Mr. Bangstad stated that he believes that the local Ordinance is selectively enforced and that he is doing things “fine” and “not to the letter of the law”, but “not breaking the law”.

Chair Holewinski tried to redirect Mr. Bangstad to questions asked of him multiple times, but the questions were not answered directly. Mr. Bangstad felt that the questions were not what should be talked about.

Chair Holewinski read into the record correspondence dated August 15, 2022 from Mr. Jennrich to Attorneys Goode, Leitner, and Schaefer regarding Mr. Bangstad being believed to be fully aware of the requirements of the ARP that was issued, the need for obtaining a CUP for outdoor seating, no contact being had from Mr. Bangstad or his attorneys after a citation was issued, and the department taking enforcement actions through the Planning and Development Committee pursuant to Chapter 9 for them to “amend, suspend or revoke the permit”.

Chair Holewinski read into the record correspondence dated August 29, 2022 from Mr. Jennrich to Mr. Bangstad, which stated Mr. Bangstad was to come into compliance with ARP #2200112 or it would be recommended to the Planning and Development Committee to amend, suspend or revoke

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the ARP because of non-compliance with the provisions of the permit. Furthermore, Mr. Bangstad was ordered to bring ARP #2200112 into compliance, including discontinuing providing outdoor seating to customers.

Chair Holewinski read into the record correspondence dated May 15, 2023 from Kirk Bangstad to Mr. Jennrich, which stated Mr. Bangstad was informing Mr. Jennrich and staff that he would be having a “beer release party” with about 100 people, not applying for a special event permit, and having a food truck, but not asking the Town for permission because he knew they would say no.

Chair Holewinski read into the record correspondence dated June 29, 2023 from Corporation Counsel to Attorney Lester Pines, which identified and informed him that the violations by Mr. Bangstad had not been remedied and had continued daily as well as none of the ARP conditions being complied with.

Chair Holewinski read into the record correspondence dated July 20, 2023 from Attorney Pines to Corporation Counsel requesting the public hearing be removed from the calendar with a basis that Attorney Pines ensured that the Minocqua Brewing Company had now complied with the requirements of the ARP and eliminated the claimed violations of outdoor seating and fencing the dumpsters. Chair Holewinski questioned Mr. Bangstad on violations following the correspondence of July 20, 2023. Mr. Bangstad responded that he needed to make money before the vote to be shut down.

Chair Holewinski stated that when asked questions, Mr. Bangstad continued to go around and did not answer the questions asked of him.

Mike Timmons made statements to Mr. Bangstad on the committee’s attempts to work with him, his history of violations, and his spoken plans to comply, but continually not doing so. Mike Timmons questions Mr. Bangstad on how he planned to ensure the committee of his compliance going forward. Mr. Bangstad made statements such as, “You simply give me a beer garden”, “I will be the best citizen you have ever seen”, and “I believe it will probably have to go to court....or you can give me a beer garden”.

Chair Holewinski confers with committee and Corporation Counsel about the information presented.

Motion by Scott Holewinski, second by Bob Almekinder, to suspend Administrative Review Permit #2200112. With all members present voting as follows:

Chair Holewinski, “no”.

Bob Almekinder, “no”.

Mike Timmons, “no”.

Motion failed.

Motion by Scott Holewinski, second by Bob Almekinder, to revoke Administrative Review Permit #2200112. With all members present voting “aye”, the motion carried.

Recess 3:40 p.m.

Return from recess 3:50 p.m.

Conditional Use Permit application by Kirk Bangstad, applicant and owner, to add an outdoor beer garden and rotating food truck to the existing use of the property, a craft brewery retail

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outlet, on the following described properties: Village of Minocqua, Lots 1 and 2, Block 3, Section 14, T39N, R6E, 329 E. Front Street, PIN's MI 3239 and MI 3240, Town of Minocqua.

- a. **Staff will be presenting information from a Conditional Use Permit Report.**
- b. **The applicant may be requested to provide answers to committee questions.**
- c. **Public comments on the above topic (limited to 3 minutes per person).**

Chair Holewinski read the details into the record. Mr. Jennrich continued the details of the file on the record. The Notice of Public Hearing was posted in the Northwoods River News on July 18 and 25, 2023 and a Proof of Publication is contained within the file. The Notice was also posted on the Oneida County Courthouse Bulletin Board on July 13, 2023. An Affidavit of Mailing and mailing list is contained in the file as well. The Town letter was received and read into the record, which was also sent to the committee. Public comments were also received and provided to the committee. Ms. Blankenship read the Report into the record.

If the applicant has met or agrees to meet all of the requirements and conditions of permit issuance, staff would suggest the following conditions be placed on the CUP:

1. The project to be substantially commenced within three (3) years of issuance date.
2. The nature and extent of the use shall not change from that described and approved in this Conditional Use Permit.
3. Proper permits to be obtained prior to construction (Town/County/State).
4. Signage to comply with 9.78 Sign Regulations of the Oneida County Zoning and Shoreland Protection Ordinance.
5. ADD Stormwater condition? Application states stormwater has been installed. Town feels it is not.
6. Parking to comply with 9.77 Off Street Parking and Loading Space of the Oneida County Zoning and Shoreland Protection Ordinance.
7. Exterior lighting to be downcast and shielded from above.
8. Certified Survey Map combining the parcels MI 3240 and MI 3239 be recorded prior to the start of construction.

Committee conferred with the applicant and Mr. Jennrich regarding the details of the proposals within the CUP Application.

Mr. Bangstad was given fifteen (15) minutes to speak.

Chair Holewinski opened the public portion of the public hearing.

Billy Fried spoke.

David S. spoke.

Wayne Trapp spoke.

Alanza Gravier spoke.

Kirk Bangstad spoke.

Chair Holewinski closed the public portion of the public hearing.

Mr. Jennrich referenced Chapter 9, Section 9.42(B) of the Oneida County Zoning and Shoreland Protection Ordinance concerning the CUP Application review process as it relates to Town recommendations.

Committee conferred with Mr. Bangstad, Mr. Jennrich, Town of Minocqua Chairman, Mark Hartzheim, and Corporation Counsel to address concerns brought forth during the public comment

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portion of the public hearing.

Bob Almekinder questioned Mr. Bangstad of his plans if there were an issued CUP and if customers would be served while construction would be taking place. Mr. Bangstad stated that construction would start immediately at the end of the summer and that he thinks that he would be serving customers. When Mr. Bangstad was asked for clarification, because serving customers would be in violation, he stated that he would probably stop serving customers until construction was done.

Chair Holewinski recommended to Mr. Bangstad to bring a plan back to the committee and for a recess without a motion made on the CUP to be able to provide an opportunity to compromise the CUP proposal. Mr. Bangstad declined the recommendation and asked for a motion to be made.

Motion by Chair Holewinski, second by Bob Almekinder to deny the Conditional Use Permit as presented.

The motion was not voted on to allow for the committee to set forth reasons for the approval or denial of the motion. Due to time restrictions because of another meeting scheduled at the Woodruff Town Hall on August 2, 2023 at 5:00 p.m., the motion was held over to the continued meeting of August 9, 2023.

Approve meeting minutes of June 28, 2023. Tabled, no action taken.

Preliminary Minocqua Commercial Properties Condominium Plat, a two (2) unit business condominium, Minocqua Commercial Properties, owner, and submitted by Wilderness Surveying, Jim Rein, surveyor for the following property described as: Lot 1, CSM 4226, being part of Government Lot 6, Section 11, T39N, R6E, PIN MI 2179-50, 8516 Highway 51, Town of Minocqua. Tabled, no action taken.

Public comments. None.

Refunds. Tabled, no action taken.

Line item transfers, purchase orders, and bills. Tabled, no action taken.

Approve future meeting dates. August 9, 2023.

Future agenda items. As discussed.

Adjourn.

5:02 p.m. There being no further matters to lawfully come before the committee, Chair Holewinski adjourned the meeting.

Scott Holewinski, Chair

Karl Jennrich, Planning & Zoning Director