

**TOWN OF BELGIUM
ZONING BOARD OF APPEALS MINUTES
July10, 2024**

Hubing Appeal: 6564 County Road KW (Tax ID 01-010-11-200.00) Variance Request. April 10, 2024 variance request by Steven and Susan Hubing for a 35' side yard setback variance of the zoning ordinance under the provisions of section 3.4(E2) "Modifications: Yards/Setbacks" of the Town of Belgium Zoning Code.

Call to Order: Chairperson Jim Hubing called the Board of Appeals Hearing to order at 6:01 pm.

Present: Also present were Board of Appeals members Al Weyker, Ralph Weber, Janice Poss, Louise Hillegass, Zoning Administrator Charlie Parks, Clerk Anne Nord, Matt Fuller, Bill Jaeger, Tracy Trevorrow, and 18 interested persons, as well as Attorney Paul Alexy, and 18 interested persons.

**Minutes prepared for each speaker, not in order of remarks.

Hearing:

- A. Announcement of Proceedings.
- B. Administration of Oath to All Persons Desiring to Be Heard.
- C. Presentation by Zoning Administrator
 - i. According to zoning ordinance 3.4: set backs in A2 are 75 ft. The Town has made adjustments to smaller properties in the past, for example in Dec 2023, Swartwouts on HWY B. Considering he is bordered by the Village of Belgium on the south side of his property, and his drainage issue, it is a reasonable request.
- D. Board Member questions
 - i. He is bordered by trees, so there will not be any impact on surrounding properties
 - ii. He has a septic permit
- E. Presentation by Applicant
 - i. Is requesting to have a set back farther to the south due to drainage issues: Requesting a 35-foot set back
- F. Board member questions
- G. Comments from the Public
 - i. Don Feyeresen: He supports the request of the project
- H. Board member questions
- I. Legal Arguments of the Parties
- J. Consideration of Any Other Issues Related to the Appeal
- K. Close Public Hearing
- L. Deliberation
 - i. In light of the testimony of applicant and ZA the request seems reasonable
 - ii. R. Weber motioned to approve the request of set back variance of 35 feet due to the fact that drainage is an issue and it is a small property.
 - iii. A. Weyker Seconded. Motion unanimously carried.
- M. Adjourn to a Date and Time Certain for a Decision or Announce Decision
- N. Direct Staff to Prepare Written Decision and take any necessary action

2. **231 Cedar Beach Appeal:** 231 Cedar Beach Road (Tax ID 02-030-06-022.00) Appeal of Zoning Administrator Determination. April 15, 2024 appeal by real estate agent Tray Trevorrow, Owner Bill Jaeger, of the January 20, 2024 decision of the Zoning Administrator concerning termination of legal nonconforming use status for use as “Cedar Beach Inn” due to discontinuation of the use.

A. Announcement of Proceedings.

B. Administration of Oath to All Persons Desiring to Be Heard.

C. Presentation by Zoning Administrator

- i. 7.1C discontinuance of nonconforming use: citizens has approached the board concerned about the building being sold commercially. Spoke with the real estate agent confirms it was being sold and advertised as a commercial building. Most recent review of the restaurant available online was from 2019. Use has been reverted back to residential and the owner has been notified after the property was listed as a commercial building.

D. Board Member questions

- i. J. Hubing Property is surrounded by R1, and Harrington Beach is P1
- ii. P. Alexy: please describe the uses of the property while it was actively being utilized: restaurant at the far west portion of the building, events such as receptions, as well as residential use of the property: there is an apartment that was allowed by the town for the operator of the venue.
- iii. R. Weber: describe the problem with a commercial building in residential: commercial uses can be permitted within residential area if appropriate and modified to fit the surroundings. This situation was in place prior to the current ordinance, but the Town honored that legal nonconforming use in the R1. It would not currently be appropriate in the R1 district, if they were to reapply for nonconforming use.
- iv. A. Weyker stated that parking used to be a problem- going far beyond the west side of Sauk Trail. ZA Parks did confirm that parking is one of the reasons that commercial in R1 is usually discouraged.
- v. J. Poss: when he purchased it was zoned R1 and the town recognized the legal nonconforming use and he was able to continue use, but after 2020 and the halt of the use of event hall or restaurant for over 3 years

E. Presentation by Applicant: Patrick Madden representing Bill Jaeger

- i. He stated that the commercial use has not been discontinued. There have been events taking place, commercial equipment has been cleaned, he's been maintaining it as a commercial building (he has receipts), taxed as a commercial parcel since 2019, liquor license is not up to date.
- ii. W. Jaeger purchased the property as a commercial property in 2004- used it primarily for weddings and events. During the pandemic, the property manager agreed to work event to event versus month to month. He states that he would have continued to run it as an event hall, if COVID hadn't shut things down. The first time he heard it was nonconforming was in the January 20th letter from ZA Parks.

- iii. W. Jaeger confirmed that the receipts were all from lower-level work. There is a 3-bedroom apartment on the second level. An additional apartment is in the back. There is also a small room with a kitchen and a bathroom and a bed. There are 3 living centers on the upper level- they are all currently occupied by 3 different individuals who all play rent. The septic is a 10,000-gallon tank that is rated for up to 250 people. He spent \$38,000 on renovations and \$40,000 on tree removal. He never wanted to stop running it as an event hall, he just needed someone good to help him.
- iv. P. Madden stated he has a client in Fond Du Lac has expressed interested in purchasing the building for a sex offender rehabilitation center.

F. Board member questions

- i. R. Weber: conversations are being relayed from a former client and a tenant? Yes. Evidence: 2023 receipts for work done on the property. Comments from tenant to be considered here say.
- ii. R. Weber: Clarified Liquor license expired in 2021. Food License is unclear, as issued by county. P. Madden: Confirmed no public events had taken place at the Cedar Beach Inn since 2021. R. Weber reminded his of the ordinance Nonconforming use of the property expires was discontinued or terminated for greater than 12 continuous months.
- iii. Use was a venue space, and it has not been used as a venue space for more than 3 years. P. Madden is calling it an event venue as there has been no conversion to a different use and it has been maintained as an event space.
- iv. P. Alexy: receipts indicate people who did work of tile repair, scrap removal, electrical and building materials, garden supplies, drywall, grout (dated 8/17/23, 8/1/23)
- v. A. Weyer: Question regarding a license: the last time the health department did a health inspection is not clear. There is not an active in place. Was the work done that the receipts indicates done upstairs or downstairs? He is unclear on where the work was done. (Downstairs is the event space, upstairs are the tenants) How long has he owned the building? Since June 2004. Does anyone live downstairs? P. Madden is unclear.
- vi. R. Weber: reviewing materials: dump trips (x8) by the people hired by the client, allied resource recovery (\$73 were paid for scrap picked up). 174 pots and pans were picked up and scrap money was collected for those things.
- vii. A. Weyker: indicated that he is not in compliance with renting to 3 different people in the same building in an R1. Does the real estate agent check the ordinance code for the town prior to listing?
- viii. R. Weber: took pots and pans and sold the for scrap clarification (Jaeger stated they were stored in the floor and dirty and that's why they were sold for scrap)
- ix. R. Weber: email communication with Christine Johnson: Jaeger wants to sell as is, but she indicated flooding roof will lead to the collapse of the building. (he replied that he repaired the roof)
- x. R. Weber: Patrice managed the building but did not live there: no events there for over 3 years, wanted to sell building, as is.

G. Comments from the Public

- i. Bill Pluetz, adjoining neighbor. Wants to know for regular yard maintenance who is responsible and why it's not done regularly.
 - (1) Response: Tyler Bishop has a lawncare business and will complete it on a regular basis.
- ii. Herb Fisher: clarify that state has to come in and recertify if he wants to sell as a restaurant, and the owner has not had the state come in to and recertify yet.
- iii. Don Feyeresen: stated he suspects they didn't maintain during covid and he only started maintaining it when he wanted to put it up for sale.
- iv. Mel Fuller: owns 5696 Cedar Beach Lane, at first he thought weddings were fun, then they had issues with drunk guests roaming around their property, use their bushes as a toilet, become combative. No control or recourse over what the venue brings to the area. Since the venue has not been running as a venue, they have not had any issues with guest roaming onto their property.
- v. Dan Brandon 279 Cedar Beach Rd: Based his decision on moving to the neighborhood that the building was zoned residential.

H. Board member questions

I. Legal Arguments of the Parties

J. Consideration of Any Other Issues Related to the Appeal

K. Close Public Hearing.

- i. R. Weber motioned to move to a closed session, J. Poss seconded. Motion carried unanimously.
- ii. R. Weber motioned to reconvene, J. Poss seconded. Motion unanimously

L. Deliberation

i. Upon motion duly made, seconded and approved by a roll call vote of the members present at the meeting, the Board reserves the right to adjourn into "Closed Session," pursuant to Section 19.85(1)(a), Wisconsin State Statutes, to deliberate concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

ii. The Board will return to open session to take action on those matters discussed in closed session, and/or deliberate and act on the matter subject to the hearing.

M. Announce Decision or Adjourn to a Date and Time Certain for a Decision.

- i. Motion to Adjourn for council to review proposed finding of fact for review and editing of approval at the hearing next Wednesday, July 17th at 6:00 pm.

N. Direct Staff to Prepare Written proposed finding of facts for board review and take any necessary action

- i. Motion to recess for 10 minutes at 7:39 while minutes are prepared and reviewed by J. Hubing, second by R. Weber: Motioned carried unanimously.

Motioned to come out of recess by R. Weber, L. Hillegass Seconded. Motioned unanimously carried.

- i. R. Weber motioned to approve the minutes of the July 10th meeting, A. Weyker seconded, motion carried unanimously.

6. ADJOURN Zoning Board of Appeals Meeting

A. Weyker motioned to adjourn, L. Hillegass seconded, motion carried unanimously
Meeting adjourned at 7:57

Respectfully Submitted,
Anne Nord, Town Clerk