

Zoning Board of Appeals Minutes
June 1, 2021

- 1) Site Inspections at 5:00pm: Viewed the following properties:
 - a. Smithouse LLC, W6123 Shagbark Hickory Ln
 - b. We Energies, N8900 County N
 - c. Scheurer, N6775 Hwy 55
- 2) Return to Village Hall: Returned to Village Hall from site inspections at 5:39pm.
- 3) Call to Order: Meeting was called to order at 5:44pm.
- 4) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, Scott Chicoine, Dan Garber.
Staff present: Mark Mommaerts, AICP (Planner).
- 5) Pledge of Allegiance: Pledge was recited.
- 6) Election of Vice-Chair: Motion (Jung/Capper) to nominate Dan Garber as Vice-Chair.
Motion carried unanimously.
- 7) Election of Secretary: Motion (Capper/Jung) to nominate Craig Majewski as Secretary.
Motion carried unanimously.
- 8) Approve Minutes: Motion (Majewski/Jung) to approve the February 2, 2021 minutes.
Motion carried 3-0-2 (Chicoine & Garber abstain).
- 9) Public participation: There was no public comment.
- 10) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:47pm. The following petitions were heard:
 - a. Appeal – Smithouse LLC – W6123 Shagbark Hickory Ln. Testimony was taken from Gary Smith (Petitioner) spoke in favor of the appeal. Mr. Smith stated that he received the ordinance and asked if there was grandfathering and told there would not be so he applied for a permit, was denied, and is not appealing the denial. He stated that he does have a license from the state. He stated that the current family in the home are not renters, but friends. He stated that he lists the property on VRBO. ZBA Capper asked what the long term intent of the property is...to live at in the future or rent out. Mr. Smith responded that it is the intent to rent out the property.

Bud Rusch spoke to maintain the denial, stating that the property is not the primary residence, it is near a school with lots of kids which could be a safety issue. He also stated that 3rd party management is not allowed in the ordinance. David Frahm, spoke in opposition, stating he is against it in the area and questioned who is vetting the renters implying that there could be a safety issue with young children in the area. Mark Biesack of Powerhouse Properties 920, spoke in favor of the appeal, stating that maintenance of the property is key for a short term rental and they short term rentals serve a need for employees in the area as they transition, and that short term rentals are taxable. Michelle Martin, Attorney for Smithouse LLC, spoke in favor of granting the appeal, stating that they appealed the denial because the ordinance requires it to be a primary residence but that does not align with state statute 66.1014. She requests reversal of the denial because the ordinance violates statutes. She also requests that the permit [short term rental permit] be approved. She stated that the permit denial is not because of transposed address numbers, but because it is not a primary residence. Staff memo to the Zoning Board of Appeals dated June 1, 2021 was included.

- b. Variance – We Energies – N8900 County N. The hearing notice was read into the record. Testimony was taken from Adam Ley (agent for We Energies, Petitioner) who spoke in favor of the variance request. Mr. Ley stated that they plan to rebuild the natural gas regulator and add a building to protect the equipment. He stated the site is old highway ROW and there are constraints with the DOT park & ride. The building will provide safety for the operators. The building is proposed to be 12'x16' x 12' tall and will be approximately 8-feet from the property line. The building will be within the easement within the property. New fencing will cover the entire easement area. No testimony was given in opposition. Staff memo to the Zoning Board of Appeals dated June 1, 2021 was included.

11) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 6:24pm.

12) Items for Discussion and Possible Action: The following items were discussed:

- a. Appeal – Smithouse LLC – W6123 Shagbark Hickory Ln. The Zoning Board of Appeals had general discussion regarding the permit denial appeal. There was discussion to uphold the short term rental application denial because of material defects of the original application because of incorrect address, boxes not checked that needed to be checked, and that the property is not properly insured. The Zoning Board also encouraged the applicant to apply under the new Village ordinance and to waive the application fee for the initial application. Motion (Jung/Garber) to uphold denial and waive fee for new application. Motion carried 4-1.
- b. Variance – We Energies – N8900 County N. The Zoning Board of Appeals found the following:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of the Zoning Ordinance because safety of the regulation equipment is in the best public interest to protect the gas distribution system.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district because the proposed use of the property will not change.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district because the property is old road ROW and is only 62-feet in width and that the easement location restricts the location of the proposed building.
4. The literal interpretation of the provisions of the zoning ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same zoning district because buildings and structures are allowed within the AG zoning district.
5. The hardship is not shared generally by other land or buildings in the area because the property is unique due to the former use as ROW and overall width of the property. In addition, the need to protect the regulation equipment is unique to other properties in the area.
6. The hardship results from the strict application of the zoning ordinance and is not the result of self-created or self-imposed circumstances because the variance is not self-created.

Motion (Majewski/Capper) to approve variance as submitted. Motion carried unanimously.


- c. Revisit Variance – Scheurer – N6775 Hwy 55. The Zoning Board of Appeals had general discussion on the original conditions of variance approval from October 2019.

Motion (Jung/Majewski) to accept that the conditions of October 2019 variance approval have been met.. Motion carried unanimously.

13) Adjourn: Motion (Capper/Jung) to adjourn at 6:39pm. Motion carried unanimously.

Dated: June 3, 2021

Prepared by: Mark Mommaerts, AICP, Planner

 7/6/21
Craig Majewski, Secretary Date
Zoning Board of Appeals