

ZONING BOARD OF APPEALS AGENDA

**Tuesday, December 1, 2020
5:00PM**

- 1) Call to Order
- 2) Site Inspections – 5:00pm
 - a. Variance – Beach – N9215 N. Harwood Road
- 3) Return to Municipal Building – Approximately 5:25pm
- 4) Pledge of Allegiance
- 5) Roll Call
- 6) Approve Minutes
 - a. June 16, 2020
- 7) Public Participation (Non-Agenda Harrison Related Items)
Please be advised per State Statute Section 19.84(2), information will be received from the public; be further advised that there may be limited discussion on the information received; however, no action will be taken under public comments.
- 8) Convene Meeting and Enter Public Hearing– Approximately 5:30pm
 - a. Variance - Beach – N9215 N. Harwood Road
- 9) Close Public Hearing and Reconvene Regular Meeting
- 10) Items for Discussion and Possible Action
 - a. Variance - Beach – N9215 N. Harwood Road
- 11) Items for Discussion
 - a. None
- 12) Announcements / Correspondence / Meeting Attendance
- 13) Adjourn

Any person with hearing disabilities or requiring special accommodations to participate in the meeting should contact the Clerk's Office (920-989-1062) at least 24-hours prior to the meeting. This is a public meeting. As such, a quorum of the Village Board, Plan Commission, or Committees may be in attendance. However, the only business to be conducted is for the Zoning Board of Appeals.

Posted: November 12, 2020

Zoning Board of Appeals Minutes
June 16, 2020

- 1) Call to Order: Meeting was called to order at 5:01pm.
- 2) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, Scott Chicoine, 1 seat vacant.
Staff present: Mark Mommaerts, AICP (Planner).
- 3) Pledge of Allegiance: Pledge was recited.
- 4) Approve Minutes: Motion (Cappe/Jung) to approve the May 13, 2020 minutes. Motion carried unanimously.
- 5) Public participation: There was no public comment.
- 6) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:04pm. The following petitions were heard:
 - a. Variance – BelGioioso Cheese – N8495 Hwy 55. The hearing notice was read into the record. Testimony was taken from Chris Renier, Renier Architects (Petitioner), Dave Schmidt, BelGioioso Cheese, and Jay McKeefry, Schuh Construction who spoke in favor of the variance request. Renier stated that new drying equipment will be housed in the building. McKeefry stated this request is a reduction in height from the previous request due to finding a different manufacturer and new drying process. He stated that the addition is located as proposed due to the adjacency to the evaporator building and that the evaporator feeds directly into the dryer. Renier stated that the dryer will replace a portion of the existing building. ZBA Jung asked about the exterior materials. Renier stated that the exterior materials will be the same as the existing evaporator tower. ZBA Capper asked when the existing building was built and about water usage. Schmidt stated that the original building is nearly 100 years old. Planner Mommaerts stated that the variance is for the building height and that questions should relate to the building height. Wayne Fischer, W4927 Hwy 114, spoke in opposition. He asked where the wetness comes from and how can the smell be improved. Schmidt responded that the water comes from the whey and that no extra water is used during this process. He also stated the smell is from the wastewater ponds and that a new wastewater treatment plant is under construction. Dave VanElzen, W5223 Schaefer Road, spoke in opposition. He stated the same concerns as Mr. Fischer.

Don Mielke, W5484 Mielke Road, spoke in opposition. He asked how the existing tower was constructed and how additional water will not be used.

Planner Mommaerts explained the existing tower was granted a permit under the zoning ordinance.

Schmidt explained that water will not be added to the material or whey drying process. Water will be used to wash the trucks in accordance with regulatory requirements. Since additional trucks may be coming to the site, additional water may be used.

Molly Mueller, N8260 Pigeon Road, spoke in opposition. She asked when or how the issues of water and smell can be addressed.

Planner Mommaerts replied that those issues can be addressed with the Village Board. They have a meeting on the last Tuesday of June.

Randy Theimer, W4255 Schaefer Road, spoke in opposition. He asked about industrial zoning because the tax records indicate commercial zoning. He also asked about the shading documents and why they are not to scale.

Planner Mommaerts stated that the zoning map indicates industrial zoning for the properties.

McKeefry responded that the shading drawings are not to an engineering scale but they are to a relative scale to the drawing itself.

Wendy Yingling, passed on opportunity to speak.

ZBA Capper asked about groundwater effects.

Schmidt responded that BelGioioso was issued a new DNR permit in January 2020 and they are working on compliance.

ZBA Majewski asked about the shadowing chart and why noon was chosen and not morning or evening times.

McKeefry explained the shadowing chart last month showed the morning, noon, evening conditions at winter and summer. It was asked to show shadowing throughout the year so mid-month was provided at midday, know that the evening and morning was already provided earlier.

Planner Mommaerts read an email letter from John & Kay Zornow. The letter was in opposition.

Staff memo to the Zoning Board of Appeals dated June 16, 2020 was included.

- 7) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 5:42pm.
- 8) Items for Discussion and Possible Action: The following items were discussed:
 - a. Variance – BelGioioso Cheese – N8495 Hwy 55. The Zoning Board of Appeals had general discussion regarding the variance requests.

The Zoning Board of Appeals found the following in regards to the height variance from Section 117-90(m)(1):

1. That reduction of the tower height from 120-feet to 91-feet does not substantially increase the harm to the public interest or further harm the public interest.
2. That the proposed use of the property will not change.
3. That the process used to transform whey into other marketable forms is unique to this building and property.
4. That there are exemptions for height limitations for bell towers, cooling towers, antennas, and other similar structures. The refining process for the whey product necessitates a larger building footprint than the exemptions typically allow. The building currently has several towers that exceed the height limitation. The proposed height will match the height of an existing portion of the building, a right already enjoyed by the property.
5. That due to the nature of the building use, as a whey processing plant, it is unique to the area.
6. That the variance request is not self-created.

Motion (Jung/Majewski) to approve the height variance from Section 117-90(m)(1) submitted by BelGioioso Cheese with the condition that the maximum height of 91-feet, to match the existing height of the building be used. Motion carried 4-0.

9) Adjourn: Motion (Jung/Majweski) to adjourn at 5:50pm. Motion carried 4-0.

Dated: June 17, 2020

Prepared by: Mark Mommaerts, AICP, Planner

Craig Majewski, Secretary Date
Zoning Board of Appeals

ZONING BOARD OF APPEALS MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

December 1, 2020

Title:

Variance - Beach

Issue:

Should the Zoning Board of Appeals approve a variance to allow livestock on a property less than 3-acres?

Background and Additional Information:

The applicant, Patrick Beach, is requesting a variance from Section 117-81(g)(2) in order to have livestock on the property. The property is located at N9215 N. Harwood Road and is currently zoned Rural Residential [RR]. The RR zoning district requires a minimum of three (3) acres in order to keep livestock, except poultry. The property is 2.739-acres, which includes the right-of-way for N. Harwood Road.

The applicant is requesting the variance in order to raise jersey cows and steers at the property. The purpose is to try to earn additional income in order to provide for his family. The applicant provided a sketch map indicating the areas where the livestock will be kept. It appears the pasture areas will be on the west side of the property and on the south side of the building. It is unknown how many cows or steers will be at the property.

Staff has some concerns that there is not a lot of room for pasture between the driveway and west property line. Staff is also concerned not knowing the number of livestock being sought. Potentially limiting the number of livestock may address these concerns. The following are questions that should be answered:

1. How will access to food and water be provided?
 2. How will shelter be provided?
 3. How will shade be provided?
-

Zoning Ordinance:

117-81. Rural Residential | RR

(g) Lot area.

- (1) Lots shall be a minimum of 1 acre in area, except lots within 300 feet of Lake Winnebago shall be a minimum of 12,000 square feet in area.
- (2) Lots where livestock, except poultry, are kept on the premises shall be a minimum of three (3) acres in area.

Conclusions of Law/Requirements for a Variance [Section 117-360.]:

Variations shall only be granted when the Zoning Board finds that:

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 this [Zoning] ordinance.
Staff finds that raising livestock in the Rural Residential zoning district is allowed provided that there is ample room for the livestock and it does not negatively affect adjacent properties. The pasture is proposed to be located on the west and south sides, which do not adjoin other residential properties.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
Staff finds that raising livestock in the Rural Residential zoning district is allowed.
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.
Staff finds that the structure on the property, pole shed, is generally considered agricultural. It is unknown if this property was split from another property. At the time this property was created, the 3-acre rule for livestock was not in place.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
Staff finds is unaware of any other properties in the Rural Residential zoning district that have livestock and are less than 3-acres. Properties zoned Rural Residential that are over 3-acres are allowed to raise livestock while properties under 3-acres are not. The intent of the 3-acre provision is to ensure that there is enough room on the property for livestock to be raised without crowding. A limit to the number of livestock may satisfy the intent of the ordinance.
5. The hardship is not shared generally by other land or buildings in the area.
Staff finds that all properties in the Rural Residential, and General Agricultural, zoning district must have a minimum of 3-acres. However, not all properties zoned Rural Residential are less than 3-acres. Many properties were created prior to the 3-acre requirement for livestock.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
Staff finds that the variance is not self-created.

Recommended Action:

Based on the information provided, if a reasonable limit to the number of livestock can be determined and if the pasture location and area is reasonable, staff recommends approval of the Variance request with conditions to the exact number of livestock allowed at any given time and pasture area location determined.

If limits to the livestock cannot be determined, staff recommends denial of the Variance.

Attachments:

- Aerial Maps
- Applicant narrative
- Site Plan

Calumet County, WI

Legend

- Address Point
- County Boundary
- Wisconsin Water
- Unincorporated Community
- Town Boundary
- Point of Interest
- Parcel Boundary
- Property Hook
- PLSS Section
- State Parks
- County Parks
- Lake
- River and Stream
- Major Roads
- Local Roads
- Local Roads
- Municipal Streets
- Trail
- Railroad

Color 2018

- Red: Band_1
- Green: Band_2
- Blue: Band_3



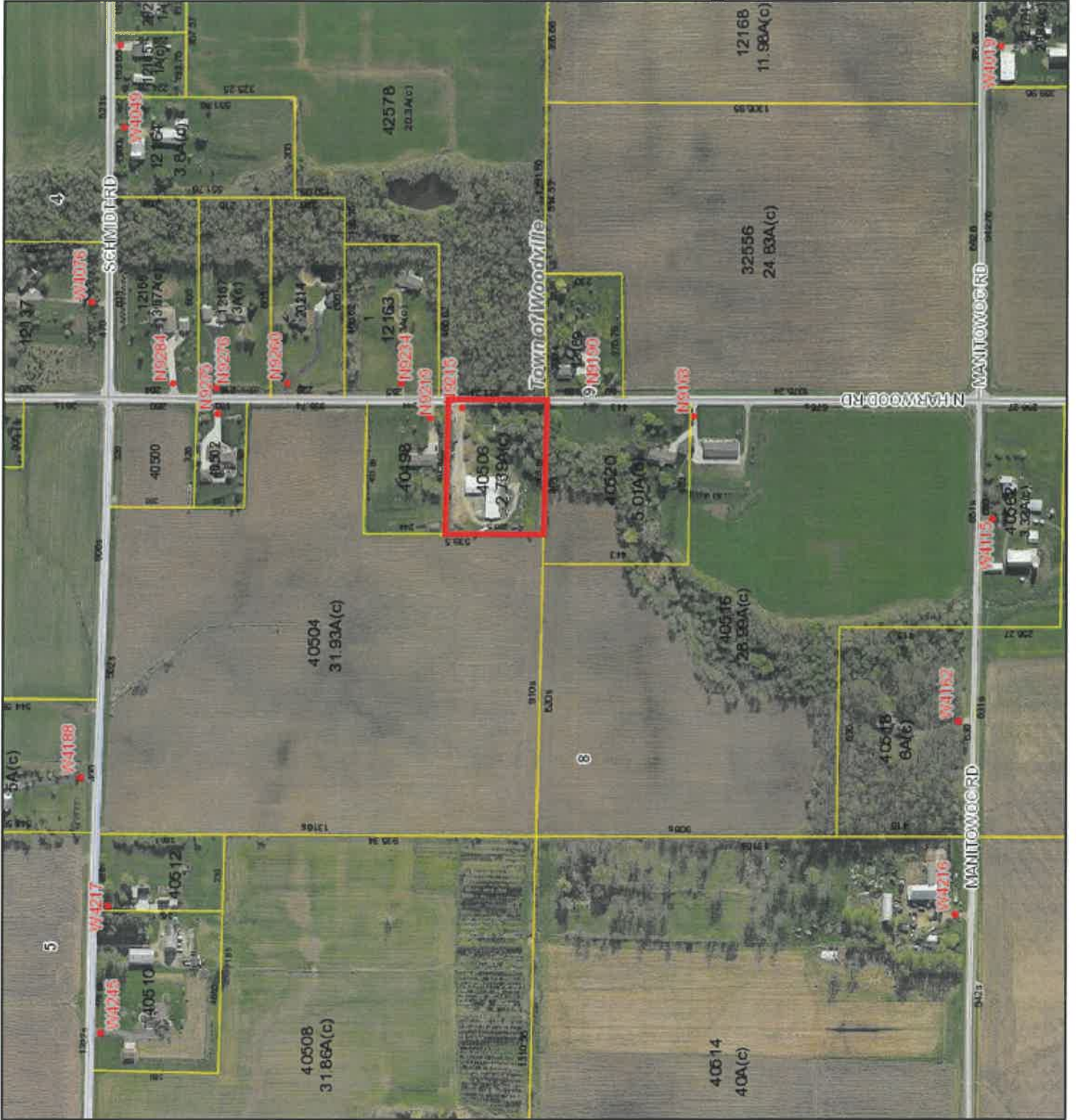
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Author:

Date Printed:
10/20/20 8:37 AM

Source:



Calumet County, WI

Legend

- Address Point
- County Boundary
- Wisconsin Water
- Unincorporated Community
- Town Boundary
- Point of Interest
- Parcel Boundary
- Property Hook
- PLSS Section
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- Major Roads
- Local Roads
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- Municipal Streets
- Trail
- Railroad

Color 2018

- Red: Band_1
- Green: Band_2
- Blue: Band_3



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Source:	

To Whom it May Concern:

I am writing this letter regarding the property located at N9215 Harwood Rd. Kaukauna, WI 54130.

I would like to receive a variance to raise livestock at this property.

This will help our family to cope with the covid-19 pandemic and loss of income. This variance would help me provide for my family.

I would like to raise jersey cows & Steers at this property.

Enclosed is the \$350.00 variance fee.

Thank you for your time and consideration,

Patrick H. Beach
N9215 Harwood Rd
Kaukauna, WI 54130
PH: 920-716-2467

Pat Beach

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Driveway



Pasture

