

**Oneida County Board of Adjustment
Meeting Summary
July 29, 2021
9:00 a.m.
Committee Room #2, Second Floor
Oneida County Courthouse, Rhinelander WI 54501**

Chair, Harland Lee, called the meeting to order at 9:00 a.m. in accordance with the Wisconsin Open Meeting Law.

Wisconsin open meeting law statement.

Roll call of Members: Mr. Hansen, "here"; Mr. Albert, "here"; Mr. Ross, "here"; Mr. Pazdernik, "here"; Mr. Viegut, "here"; and Mr. Lee, "here".

County Staff members present: Karl Jennrich, Zoning Director; Mike Fugle, Corporation Counsel; and Julie Petraitis, Program Assistant

Guests present: See Sign in sheet

Approve the agenda.

Motion by Guy Hansen, second by Phil Albert to approve the agenda. With all members present voting "aye", the motion carried.

Approve meeting summary of June 24, 2021.

Motion by Phil Albert, second by Mike Pazdernik to approve the meeting summary of as submitted. With all members present voting "aye", the motion carried.

Approve public hearing meeting summary of June 24, 2021.

Motion by Guy Hansen, second by Mike Pazdernik to approve the public hearing meeting summary with suggested changes. With all members present voting "aye", the motion carried.

- a. Status of previous cases. **Mr. Jennrich stated that the Air Pro permit has been issued; the Collins permit is in process and Eagle Cove and Conference Center is at Circuit Court level.**
- b. Consider current and pending appeals to BOA. **The Board scheduled the next appeal for August 26, 2021.**
- c. Approve any available bills. **None.**

Discussion of BOA powers and flexibility in arriving at decisions, with particular emphasis on criteria for variances.

Mr. Lee asked Mr. Fugle what the Board's responsibility is and how much flexibility does the Board have in arriving at decisions.

Mr. Fugle stated that there is a Court case, Ziervogel, that summarizes area variances very well and how the

Board of Adjustment is supposed to make its decision. Mr. Fugle provided the Board with some language to review regarding State Statutes pertaining to Board of Adjustment Authority and Latitude.

Mr. Fugle stated that the Statute states that Boards of Adjustments have the discretion to make variance decisions. The Court says they have the discretion to make variance decisions. The Court does not define the bounds of discretion. There are no hard and fast rules. Courts are differential to Boards of Adjustment.

The best thing the Board can do is be explicit and make a record as to why the decision fits within the boundaries. When the record is poor, is when decisions get overturned.

In many ways, the Boards of Adjustments exist to give some fairness to a Zoning Ordinance that otherwise, generally applied, and would not be given. The Board is kind of a safety valve for what otherwise would not be allowed.

Mr. Fugle stated that the Ziervogel case really corrected a case from a few years before that made the 'Unnecessary Hardship' standard into a 'No Reasonable Use' standard, which was not the correct criteria. In the Ziervogel case, they said that Boards of Adjustment must have some very real flexibility in granting variances. That is what makes the Boards of Adjustment important.

Discussion was held on different situations that come before the Board of Adjustment and how the Board handles them.

Chair Lee thanked Mr. Fugle for his information and for attending the meeting. The Board will review the information and determine if they need to meet again.

9:55 a.m. Chair Lee adjourned the meeting.

Harland Lee, Chairperson

Phil Albert, Secretary