

TOWN OF ST. GERMAIN
P. O. BOX 7
ST. GERMAIN, WI 54558
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Minutes, Zoning Committee
March 06, 2019

1. **Call to order:** Chairman Ritter called meeting to order at 5:30pm
2. **Roll call, establish a quorum:**
Committee members present: Cooper, Hensen, Strom, Ritter
Committee members absent: Janssen, Ebert
3. **Public Comments:** None
4. **Approve minutes of 02/13/2019:** Motion Strom, second Cooper to approve as presented. Motion passed by unanimous voice vote.
5. **Zoning Administrator report:** None
6. **Update on Vilas County Zoning Ordinance proposed revisions to recreational vehicle restriction:** Ritter to meet again with Vilas County Zoning Committee on 03/07/2019. Nothing further to report at this time.
7. **Consider amending Chapter 1 to include a definition of “Rental Self-storage Units” and determine in which zoning districts they should be allowed:** Revisions to Ritter’s draft were discussed. Motion by Strom, second Hensen to forward the revised draft to the Town Board for consideration. Motion passed by unanimous voice vote. Approved draft is attached to these minutes.
8. **Consider amending Chapter 1, sections 1.604 – 1.608 to clarify the Zoning Board of Appeals:** Revisions to Ritter’s draft were discussed. Motion by Hensen, second Cooper to forward the revised draft to the Town Board for consideration. Motion passed by unanimous voice vote. Approved draft is attached to these minutes.
9. **Review draft duties/responsibilities/compensation of Zoning Administrator and Deputy:** Tabled by Ritter until the topic can be discussed by the Committee with the Zoning Administrator.

10. **Committee concerns:**

- a. Ritter shared Jessen's decision to not accept reassignment to the Committee when her three year term expires next month. Committee members suggested Bob Schell as a possible candidate. Ritter will discuss with Schell to determine if he would accept an appointment.
- b. Hensen shared a post card he had received from an area realtor on which the St. Germain property for sale was described as being in the St, Germain Timbergate subdivision and zone as "general business". This is another example of realtors referencing County zoning and ignoring St. Germain zoning in their advertising materials, although the correct town zoning is referenced on the actual MLS listing for this property. Ritter will follow up again with the Northwoods Association of Realtors.

11. **Adjourn:** Meeting was adjourned by Ritter at 7:20pm.

Minutes prepared by Chairman Ritter

PENDING APPROVAL

Proposed Chapter 1 revisions pertaining to the definition and allowable zoning district uses for self-storage rental units:

The following was approved by the Zoning Committee on 03/06/2019 for forwarding to the Town Board for consideration.

1.111 DEFINITIONS:

Self-storage Rental Units means a privately-owned building designed to provide two or more storage spaces which are available for rent/lease by tenants.

1.310 COMMUNITY AND HIGHWAY BUSINESS DISTRICT:

(C) CONDITIONAL USES:

(7) ~~Mini storage buildings~~ Self-storage rental units

Self-storage rental units would not be permitted in any zoning district other than Community and Highway Business and only conditionally in that district.

The following changes were approved by the Zoning Committee on 03/07/2019 for advance to the Town Board for consideration

1.604 ZONING BOARD OF APPEALS:

(A) INTRODUCTION AND EXPLANATION:

This section describes the **Zoning** Board of Appeals. This 5-member board has powers directly granted to it by the State Legislature. The statutory duties of the Board are to hear and decide appeals from decisions of the Zoning Administrator or **Zoning Committee**, and to consider variances from the strict requirements of this chapter where a unique hardship exists and where a waiver of this chapter can be granted without destroying the purpose and intent of this chapter.

(B) CREATION OF THE **ZONING** BOARD OF APPEALS.

(1) Appointment:

The ~~Saint Germain~~ **Zoning** Board of Appeals is hereby created as authorized by §62.33(7)(e) Wis. Stats. which is applicable to towns with village powers. The **Zoning** Board of Appeals shall consist of five (5) members appointed by the Town Board Chairman subject to confirmation of the Town Board of Supervisors for terms of three (3) years, except that of those first appointed one (1) shall serve for one (1) year, two (2) for two (2) years and two (2) for three (3) years. The Town Board Chairman shall designate one (1) of the members as chairperson. The Town Chairman shall appoint for staggered terms of three (3) years, two (2) alternate members of such board, in addition to the five (5) members above provided for. Annually, the Town Board Chair shall designate one (1) of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or when more than one (1) member of the board so refuses or is absent.

(2) Qualifications:

Each member of the **Zoning** Board of Appeals shall be a resident elector of the Town and no member of the **Zoning** Board of Appeals may serve as a member of the Zoning Committee created under Section 1.602.

(C) JURISDICTION AND AUTHORITY:

The **Zoning** Board of Appeals shall have the following powers:

- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Committee or Zoning Administrator in the enforcement of this chapter.
- (2) Hear and decide appeals of conditional use and non-conforming use decisions by the Zoning Committee.
- (3) Authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done.
- (4) Elect a secretary and vice-chair of the **Zoning** Board of Appeals, both of whom shall be members of the **Zoning** Board of Appeals.

(D) MEETINGS AND RULES:

Meetings of the ~~Town~~ Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in the chairman's absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. The Board's secretary shall keep a written record of the outcome of the vote of each member on each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Board of Appeals and shall be a public record. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney. The Zoning Board of Appeals shall adopt further rules as necessary to carry into effect the regulations of the Town Board which are not in conflict with the Wisconsin Statutes.

1.605 RULES AND PROCEDURES FOR ISSUANCE OF A ZONING PERMIT:

(A) APPLICATION:

- (1) An application for a zoning permit shall contain the following:
 - (a) Name and address of the owner of the property.
 - (b) Legal description of the parcel **or the Vilas County parcel number.**
 - (c) Size and location of the structure to be erected on or moved onto the property.
 - (d) Proposed use of the structure or premises.
 - (e) Type of construction.
 - (f) Where applicable, a detailed landscaping buffer plan (See §1.307, §1.311 and §1.312 of this chapter.)
 - (g) In the case of planned residential unit development, evidence of the approval of a general development plan and recording of a specific implementation plan with the Vilas County Register of Deeds pursuant to §1.408 of this chapter.
 - (h) Any other applicable information, including sanitary permit number.
- (2) The application shall include a site plan accurately showing the dimensions of the lot or parcel, the dimensions of the proposed buildings, parking areas and vehicle capacity (for commercial uses), tree removal plans (for trees greater than 6 inches in diameter measured at a height 4 feet from the base of the tree), proposed landscaping plan, the distance in feet from the abutting street or highway centerline and from the side and rear lot line, the size and location of any existing buildings and such other information as deemed necessary. The Zoning Administrator may require a copy of a plat of survey prepared by licensed surveyor, evidence of compliance with the Ch. 5, Land Division, the Vilas County Sanitary Code, the Vilas County Land Division and Subdivision Ordinance, Vilas County Trunk Highway Access Control Regulations or any other federal, State, county or Town laws, ordinances and regulations and/or any additional information required as a condition precedent to the issuance of a zoning permit, including proof of State approval for public buildings.
- (3) The application shall be signed by the applicant and the property owner or their respective representatives, provided however, that if a prospective owner desires a prior finding on a proposed construction or use before consummation of purchase, such a person may apply for a permit and, if a permit is denied, may appeal to the Zoning Board of Appeals.
- (4) In the case of an application for structural alterations, additions or major repairs to a backlot non-conforming structure, issuance of a zoning permit requires review and approval of the application by the Zoning Committee. The Zoning Administrator shall forward the application to the Zoning Committee immediately upon receipt and the Zoning Committee shall consider the

application at a regularly scheduled meeting within 21 days of receipt of the application.

(B) ISSUANCE:

- (1) Coincident with the issuing of a zoning permit, the Zoning Administrator shall prepare a card, certifying that a permit has been issued. This card shall bear the same number as the permit and identify the construction and premises covered by the permit. The card shall be posted in a conspicuous place on the premises during the construction and construction shall be deemed to begin when any earth disturbing activity takes place that will lead to the installation of footings, piers, posts, pilings, or foundations. Earth disturbing activity for soil evaluation testing shall not be considered the start of construction.
- (2) Any permit obtained through material misrepresentation shall be null and void.
- (3) A permit issued pursuant to the provisions of this subsection shall expire one year from the date of issuance if substantial construction is not started within that time. Such a permit will expire if construction, once started, does not diligently proceed to completion within one year of starting time. An applicant is entitled to a one-time renewal upon payment of the zoning permit renewal fee. Such renewal will expire if construction does not diligently proceed within 6 months of the date of the renewal permit. Upon the expiration of the renewal permit, if construction has not diligently proceeded, a new application for a zoning permit must be filed.

(C) AUTOMATIC APPROVAL:

Notwithstanding any other provision of this section, a completed application for a zoning permit, accompanied by the necessary fee, and in compliance with any other requirements set by the Town, shall be automatically approved if more than 45 days pass from the day the application is submitted to the Town and the Town has failed to take any action to consider, approve or deny the application.

(D) TEMPORARY PERMIT:

- (1) A temporary permit may be issued owing to unforeseen circumstances arising or under special conditions whereby a regular zoning permit cannot be secured and/or is not applicable, such as the following, but not limited to:
 - (a) For the storage of chattel on a county or Town highway right-of-way.
 - (b) For any temporary structures or uses inadvertently omitted from this chapter.
 - (c) For the parking of a mobile home or other form of habitation structure during the construction of a dwelling, provided the temporary structure is located on the same lot where a zoning permit has been issued for the dwelling under construction and the structure's wastewater and sewage enters the septic system that will service the dwelling.
 - (d) In order to accommodate individuals in emergency situations.
- (2) A temporary permit under this subsection shall be valid for six months from the date of issuance.

1.606 RULES AND PROCEDURES FOR ISSUANCE OF CONDITIONAL USE PERMITS:

(A) INITIATION OF CONDITIONAL USE PERMIT APPLICATION:

Any person having a freehold interest, a possessory interest entitled to exclusive possession or a contractual interest which is specifically enforceable in the land for which a conditional use permit is sought may file an application, signed by the owner, to use such land for one or more of the conditional uses provided for this

chapter, provided the use is one which is conditionally permitted by this chapter in the zoning district where the parcel is located.

(B) APPLICATION FOR CONDITIONAL USE PERMIT:

An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and other information as may be prescribed by the Zoning Administrator or the Zoning Committee. The Zoning Committee or Zoning Administrator shall notify all property owners within a **minimum** 300-foot radius of the property in question that a conditional use permit has been applied for. Notice shall be by regular mail and the last known names and addresses of the property owners shall be those names and addresses as shown on the Township tax records.

(C) HEARING ON APPLICATION:

Upon receipt of **a properly prepared** application, **unless the Zoning Committee determines issuance of a conditional use permit would result in non-compliance with ordinance provisions of the applicable zoning district, in which case the application will be rejected**, the Zoning Committee shall hold a public hearing on each application for a conditional use permit at such time and place as shall be established by the Zoning Committee. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Zoning Committee shall prescribe by rules from time to time. Notice of public hearing shall be given by publication as a Class 2 notice as provided for in §985, Wis. Stats.

(D) STANDARDS:

A conditional use permit shall not be granted by the Zoning Committee, unless the Committee shall find that all the following conditions are present:

- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
- (2) The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
- (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) Adequate utilities, access roads, drainage, buffer areas and landscaping and other necessary site improvements have been or will be provided.
- (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) The conditional use shall conform to all applicable regulations of the district in which it is located.

(E) CONDITIONS AND GUARANTEES:

Prior to the granting of a conditional use permit, the Zoning Committee may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in sub. (4) above. In all cases in which conditional uses are granted, the Zoning Committee

shall require evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

(F) AUTOMATIC APPROVAL:

Notwithstanding any other provision of this section, a completed application for a conditional use permit, accompanied by the necessary fee and in compliance with any other requirements set by the Town, shall be automatically approved if more than 45 days pass from the day the application is submitted to the Town and the Town has failed to take any action to consider, approve or deny the application. An application for a conditional use permit for a planned residential unit development pursuant to §1.408 of this chapter shall be automatically approved if more than 90 days pass from the day the completed general development plan is submitted to the Town and the Town has failed to take any action to consider, approve or deny the application.

(G) APPEAL FROM ACTIONS BY THE ZONING COMMITTEE:

An appeal from the decision of the Zoning Committee may be taken to the **Zoning** Board of Appeals by the applicant for the conditional use permit or by an aggrieved party. Such appeal must specify the grounds thereof in respect to the finding of the Zoning Committee and must be filed with the **Zoning** Board of Appeals within 30 days of the final action of the Zoning Committee. The **Zoning** Board of Appeals shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the parties in interest and decide the same within a reasonable time. The action of the Zoning Committee shall be affirmed, unless the **Zoning** Board of Appeals reverses or modifies the action of the Zoning Committee.

(H) EFFECT OF DENIAL OF APPLICATION:

No application for a conditional use which has been denied wholly or in part by the Zoning Committee shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Committee. In any case, where a conditional use permit issued under this section has not been instituted or construction begun within one year of the date of approval, it shall be null and void without further action by the Zoning Committee.

(I) REVOCAION OF CONDITIONAL USE PERMIT:

If the Zoning Committee finds that the standards and the conditions stipulated in a conditional use permit are not being complied with, the Zoning Committee may revoke the conditional use permit. Appeals from the actions of the Zoning Committee may be as provided ~~above in sub. (7)~~ **in section (G) of this section.**

(J) CEASED CONDITIONAL USES:

A conditional use permit for any use which has been ceased for a period of one year, except because of probate, litigation or offering for sale, will be deemed to have been terminated and any future use must be in conformity with this chapter.

1.607 APPEALS:

(A) FILING APPEALS:

Appeals to the ~~Town~~ **Zoning** Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the office of the Zoning Administrator or of the Zoning Committee. Such appeal shall be taken within 30 days as provided by the rules of the **Zoning** Board of Appeals by filing with the Town Clerk a notice of appeal specifying the

grounds thereof. Upon filing of an appeal, the Zoning Administrator shall transmit to the Board all the paper constituting the record upon which the action appealed from was taken.

(B) STAY OF PROCEEDINGS:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or the Zoning Committee certifies to the Zoning Board of Appeals that such a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order which may be granted by the Zoning Board of Appeals or by the court of law.

(C) NOTICE OF HEARING:

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 notice as provided for in §985, Wis. Stats. Notice of time, place and purpose of such hearing shall also be mailed via first class mail to the applicant or appellant, Zoning Administrator and each property owner within a 300' radius of the affected property. If the appeal involves area subject to the Vilas County Shoreland Ordinance or within a 100 year floodplain a copy of the Board's decision shall be provided to Vilas County.

(D) FINDINGS OF THE BOARD:

The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, with the concurring vote of 4 members, may reverse or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have the powers of the officer from whom the appeal is taken. Decisions of the Zoning Board of Appeals shall thereafter be subject to review by a court of law upon the filing of a writ of certiorari within 30 days of the Board's decision. The grounds for any decision reversing or modifying shall be stated.

1.608 VARIANCES:

(A) INTRODUCTION AND APPLICABILITY:

A variance is an exemption from the application of a setback, dimensional or density standard required by this chapter or a use which varies from that otherwise permitted under this chapter. In the case of a request for a deviation which is 5% or less of a required setback, dimensional or density standard under the following paragraphs, this section shall not apply and the procedures under §1.606 shall be used:

- (1) Setback standards contained in §1.201(2), (3), (4) and (5) of this chapter.
- (2) Dimensional and minimum dwelling area standards contained in §1.202 of this chapter.
- (3) Side and rear setback and lot densities contained in §1.305 through §1.316 of this chapter and waterfront lot densities incorporated by reference from the Vilas County Shoreland Zoning Ordinance.
- (4) Dimensional and density requirements for campgrounds contained in §1.403(2) of this chapter.

(B) APPLICATION FOR VARIANCE:

An application for a variance may be filed by a property owner or owner's agent with the Zoning Board of Appeals on forms provided by the Town, together with a nonrefundable fee for the administration of this chapter.

(C) NOTICE OF HEARING:

The **Zoning** Board of Appeals shall fix a reasonable time for hearing variance requests. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 notice as provided in Ch. 985, Wis. Stats. Notice of time, place and purpose of such hearing shall also be mailed via first class mail to the applicant or appellant, Zoning Administrator and each property owner within a 300 feet radius of the affected property. If the variance request involves area subject to the Vilas County Shoreland Ordinance or within a 100-year floodplain, notice of the public hearing and of the Board's decision shall be provided to the Wisconsin Department of Natural Resources district office.

(D) STANDARDS FOR VARIANCES:

(1) The **Zoning** Board of Appeals may authorize such variances from the terms of this chapter to dimensional standards which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. The **Zoning** Board of Appeals shall use the following guidelines in interpreting this standard.

- (a) The physical surroundings, shape or topographic conditions of the specific property involved could result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
- (b) The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
- (c) The purpose of the variance is not based exclusively on a desire for economic or material gain by the applicant or owner.
- (d) The alleged difficulty or hardship is caused by this chapter and has not been created by any person presently having an interest in the property.
- (e) The granting of a variance will not be detrimental to the welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- (f) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire or otherwise endanger the public health, safety and welfare or substantially diminish or impair property value in the neighborhood.

(2) The **Zoning** Board of Appeals may impose such conditions and restrictions upon the premises benefited by the variance as may be necessary to comply with the above standards and to better carry out the general intent of this chapter.

(E) FINDINGS OF THE BOARD:

The **Zoning** Board of Appeals, upon its findings, shall render a decision on the variance request within a reasonable time. Re-hearings, reconsiderations and new applications seeking the same relief concerning the same property after a previous application has been denied will not be heard by the **Zoning** Board of Appeals unless a substantial change of conditions or circumstances has intervened between the time the matter was first decided by the **Zoning** Board of Appeals and the subsequent application. A change of ownership or the passage of time without additional conditions or circumstances will not justify another hearing before the Board. All decisions and findings of the **Zoning** Board of Appeals shall in all

instances be final administrative determinations and shall thereafter be only subject to review by a court of law.

(F) LENGTH OF VALIDITY:

No order of the **Zoning** Board of Appeals granting such variance shall be valid for longer than one year from the date of such order, unless a zoning permit is obtained within such period and the erection or alteration of the building is started or the use commenced.