

**TOWN OF BELGIUM
BOARD OF APPEALS MINUTES
May 23, 2016**

This hearing was properly posted, and a Class 2 notice required by Chapter 985 of the WI State Statutes was published in the Ozaukee Press on May 12 and 19, 2016. The Clerk mailed 6 notices to neighboring property owners, and no written comments were received by the Clerk.

Call to Order: Chairperson Al Weyker called the Board of Appeals Hearing to order at 7:00 pm.

Present: Also present were Board of Appeals members John Riordan, John Bowers, Jeff Coeur, and Keith Schueller, Zoning Administrator Charlie Parks, Secretary Ginger Murphy, Steve and Diana Jacoby, Joshua Posthuma, Francis Kleckner, Don Feyereisen, Tom Peterson, Mitch Maersch from the *Ozaukee Press*.

Posthuma/Jacoby Land Division Variance: Joshua Posthuma and Steven Jacoby after-the-fact variance for land division at 7054 Cty Rd LL (01-001-10-003.00/19.25 acres and 01-002-13-001.00/2 acres with residence).

Charlie Parks explained that this substandard, A-1, 21.25-acre property was purchased by Joshua Posthuma and the 2-acre property with the residence was sold to Steven & Diana Jacoby. The Zoning Ordinance prohibits substandard (<35 acres) parcels in same ownership to be divided. The Plan Commission recommended appearing before the Zoning Board of Appeals for possible land division variance to help develop a favorable solution to a problem that could have easily been avoided with proper communication with the Town.

John Riordan's first concern is setting a precedent. Situations such as this always present a predicament, but this variance is to be determined on a case-by-case basis with assurance that the Town will not be unfavorably impacted. Charlie Parks cannot think of another building in the agricultural district that could follow precedence due to the unique nature of the property that was platted long ago for commercial/residential use and agricultural use. The property was originally, and recently, in separate ownership. The property was also in separate zoning districts until the previous owners requested rezone to board horses. John's second concern is how to cease illegal land divisions, and that issue will be addressed by the Plan Commission.

Jeff Coeur asked for clarification of what type of variance the Zoning Board of Appeals is considering and that is a variance to Section 7.5 of the Zoning Ordinance due to area.

Joshua Posthuma stated the sale was done in good faith - at least he thought it was. His interpretation of the Zoning Ordinance was that the property was titled before 1985 and therefore, a legal sale. Charlie Parks replied that the Zoning Ordinance has a single interpretation that has not varied for many years. The Ordinance drives conditions toward more conforming. What has happened here is the opposite.

Al Weyker asked the Jacobys why they didn't question this sale as they are lifelong residents and property owners in the Town of Belgium and aware the Town has a Zoning Ordinance. Steve Jacoby replied that the parcel was preexisting and assumed it was allowable.

Jeff Coeur asked what the residence would be used for. Steve Jacoby said it's a beautiful, well-built building with a lot of space. There is a list of conditional uses that would be allowed for the building, but currently they want to get the building permit back to continue remodeling for a residential rental. Charlie Parks made it clear that the building cannot be used for a multi-family residence.

Discussion turned to the Farmland Preservation Program (FPP) after questions from Tom Peterson and quickly returned to the matter at hand.

Keith Schueller established that Joshua Posthuma intends to retain the 19.25 acres farmland and the Jacoby's will own the 2-acres with residence. Both properties will be rezoned from A-1 to A-2. The properties cannot be rezoned back to A-1 because both will be substandard for FPP regulations.

John Riordan began a motion for an after-the-fact variance for this illegal land division, and that under the circumstances, it be approved by the Zoning Board of Appeals

Motion was stopped by Keith Schueller when he asked what would happen if the ZBA didn't allow the variance, and the answer was the issue would go back to the Plan Commission for consideration of an alternate resolution. Steve Jacoby wants to get the building permit for remodeling reinstated as soon as possible and perhaps a conditional use permit in the future to make use of the size building.

Jeff Coeur stated anyone in the Town could make an argument to want to use their farm parcels for conditional uses. Charlie Parks reiterated that he cannot find another situation similar to this one. Jeff reminded the Board of a case from many years ago when a resident on Jay Rd. couldn't separate an old schoolhouse from the farmhouse. There was recognition of the case and a brief discussion.

Motion by John Riordan for an after-the-fact variance of this illegal land division be approved by the Zoning Board of Appeals. In addition, the motion will include the following conditions:

- remodel plan for single-family residence must be submitted to reinstate the building permit
- follow-up inspection by the Town
- inspection by Ozaukee County to ensure septic compliance
- inspection by Grota Appraisals after remodeling is complete for reassessment
- both properties are in the agricultural district and must be used for allowable agricultural uses
- the farmland parcel of 19.25 acres is not buildable

Second by Bowers. Roll call vote resulted in

Approved: Riordan, Bowers, Schueller Denied: Weyker, Couer. Motion carried.

Joshua Posthuma announced that a Senior VP of the WI Realtors Assn is initiating State review the Town's Zoning Ordinance. He started reading a letter and stopped as the meeting was concluding. The Clerk will obtain a copy of that letter and file with these minutes. The State of WI DaTCP completed review of both the Zoning and Land Division Ordinances in June of 2015.

Adjourn: The meeting adjourned at 7:53 p.m.

Respectfully Submitted,
Ginger Murphy
Clerk