

**BOARD OF ADJUSTMENT PROCEEDINGS
CITY OF MADISON
April 14, 2020**

The following members were physically present for roll call: Commissioners Donna Fawbush and Chairman John Groce. Also present was Administrative Official Chad Comes.

To comply with the COVID 2019 CDC guidelines, Mayor Dennert stepped out to his office.

The following members were present as go to meeting participants: Commissioners Karin Mathison, Roger Olson, Jim Iverson, Robert Maxwell, and Jennifer Wolff. Also present was Mayor Marshall Dennert and City Commission liaison to the Planning Commission Jeremiah Corbin.

This being the time and place set for the hearing on Conditional Use Appeal Request No. 624 by Don Amert, on behalf of John Tokheim. The following people were in attendance in addition to the Board and the aforementioned individuals: Cynthia Tokheim, John Tokheim, Don Amert, Shellie Schlamb Eich, Jason Havlik, Shawn Callies, Eric Fosheim and Jeryl Lingle.

City Engineer Chad Comes spoke to the items that were included in the agenda packet for Appeal No. 624 which included the preliminary Findings of Fact, appeal application, the aerial Lake County Beacon map, the letter of explanation, JT Mechanics Proposed Addition site plan layout and the notice of hearing along with two written correspondences from Terry and Beverley Timmer and Eric Fosheim.

The applicant, Don Amert on behalf of John Tokheim, is requesting a conditional use permit to attach a 40' by 60' addition to an existing structure to expand an automobile service station. This proposed use - Automobile service stations with automobile parking lot and storage - are not currently listed explicitly in the Light Manufacturing District. The parcel is proximate to the downtown where the MU-E Mixed Use - Egan Avenue Overlay District is also applied and is also along the railroad tracks where the lots are generally smaller, and it is harder to meet the setback requirements. Engineer Comes specifically discussed Sec. 17.116.05 Conditional Uses and that this proposed use is not explicitly listed but instead falls under "...other industrial and commercial uses...that can meet performance standards" and Sec. 17.116.06 Performance Standards.

Don Amert spoke of the highpoint of the proposed addition being slightly higher than the existing building with a ridge line running east and west. A gutter will be run along the south end of the building. When the applicant completed the appeal, he intended to use chain link fence with vinyl privacy slats to conceal vehicles in rear yard. The proposed addition will meet all other appearance standards. The applicant will have parked cars waiting for parts after diagnosis and some of them might be located behind fencing for a considerable amount of time. If they are holding a car due to nonpayment, they will have to sit for legality purposes and could easily stretch into 90 days. The applicant also tows cars in as part of his business so the fence area will be used to occasionally store those vehicles as well.

Commissioner Maxwell asked about cars backing over the existing sidewalk. The applicant will continue to back over the sidewalk since the north entrance will not allow enough room for turning around. Commissioner Iverson asked about the location of underground fuel tanks of which there is one 1,000 gallon on site which is epoxy lined and in serviceable condition. Commissioner Fawbush questioned the present existing structure and the current use of it. Mr. Tokheim has a contract for deed for the building and currently vehicles are stored in the building without being diagnosed or repaired. Commissioner Mathison commented on the eyesore of trash being stuck in chain link fence.

Mr. Comes also spoke to the parking site plan and ordinance requirements being met and the applicant is in compliance with the MU-E overlay district.

Mayor Dennert questioned the present towing service. It is used for accidents, violations and impoundment as per Mr. Tokheim.

John Tokheim spoke regarding the number of days for parked vehicles and that fencing in storage area is vital to his operation. He commented that damaged vehicles don't normally sit for more than 30 days with insurance claims. The day to day operation involves parking for 2 to 3 days under normal conditions. Mr. Tokheim aims to move vehicles to his property out of town if they are sitting for a considerable time.

Ms. Mathison asked about the property with a previous Conditional Use from June. The asking price and the price the bank would allow were not synonymous so that property was no longer an option.

Mr. Comes spoke of the Findings of Fact and the recommended condition that a 7' wood or vinyl fence be installed and maintained for enclosing all stored vehicles. Mr. Tokheim requested a 6' fence and Mr. Amert added that a 7' fence is an oddity.

Commissioner Fawbush asked about other public comments/concerns brought to staff's attention regarding Appeal 624. City Engineer Chad Comes said he has heard of no other concerns other than those included in the agenda packet.

Commissioner Iverson questioned towing of vehicles and the route used along with the normal congestion on Egan Avenue. Mr. Tokheim said he jogs around and avoids Egan Avenue if possible. SW 3rd Street is used for access from the West.

Shellie Schlamb Eich spoke as a neutral neighbor. She mentioned the high volume of traffic in the area and the possibility of accidents. There is also a concern of oil, gas, or other fluids leaking. Mr. Tokheim will be using drainage pans along with floor dry. Appropriate steps are now taken before motor removal to avoid spillage.

Jason Havlik spoke as a neighboring opponent. He is concerned about the property looking similar to a junk or salvage yard. He agreed that a slatted fence doesn't look nice as time goes on.

Mr. Comes advised that neither a junk or salvage yard is being approved and if that use would start to take shape, then in that event, enforcement action(s) by the zoning ordinance Administrative Official and/or the City Attorney would commence. Similarly, action would be taken if proposed condition, included in the Finding of Facts sheet, would be enforced.

Commissioner Mathison is in support of a 6' solid fence. Commissioner Iverson questioned use of vinyl material to which Mr. Comes spoke of it as being reviewed and approved as part of the building permit application process.

Motion by Commissioner Fawbush, second by Commissioner Olson to move into Board Discussion.

City Engineer Chad Comes reminded the Commission of that 5 out of 7 are required for approval per ordinance and state law.

Commissioner Olson questioned about property line regarding the railroad and a potential derailment. City Engineer Chad Comes mentioned the property line for the railroad is coincident with the property

line for Mr. Tokheim and there are no setbacks on the property by the railroad. Mr. Comes is not aware of any additional setbacks that the railroad can put on the property.

Commissioner Mathison would like to add the condition that the fence be a solid fence as opposed to chain link with slats. Mr. Comes said that condition is currently included in the preliminary Findings of Fact. Mr. Comes has also reviewed aforementioned proposed condition with the City Attorney regarding enforcement options.

Commissioner Iverson requested that no vehicles be stored in the East area. The Finding of Facts presently includes all vehicles be stored in the fenced area. Commissioner Iverson commented that all vehicle storage be in the fenced area. The conditions will be amended to at “vehicles” in addition to automobiles already included.

Chairman Groce reviewed the Findings of Fact sheet with input from the Board.

A verbal roll call vote was taken with 5 responding aye and 2 responding nay. Motion carried.

This being the time and place set for the hearing on Variance Appeal Request No. 625 by Shawn Callies on behalf of Adam Foland. The following people were in attendance in addition to the Board and the aforementioned individuals: Shawn Callies and Jeryl Lingle.

Mayor Dennert physically joined the meeting following Appeal No. 624.

City Engineer Chad Comes spoke to the items that were included in the agenda packet for Appeal No. 625 which included the preliminary Findings of Fact, appeal application, the letter of explanation, the aerial Lake County Beacon map, two site plan layouts, two floor plans and the notice of hearing.

Mr. Comes spoke that the conditional use is necessary because there is a residence being put in a Neighborhood Business District by virtue of the Mixed Use – Commercial Emphasis Overlay (MU-C) district applied to this parcel.

The applicant, Shawn Callies on behalf of Adam Foland, is requesting a conditional use permit to permit the applicant to build a two-family dwelling/twin home.

Mr. Shawn Callies spoke that twin homes will utilize the affordable lots in town for affordable housing and provide less maintenance for those wanting to downsize.

Public hearing has now been closed and Board discussion can begin.

Commissioner Olson asked if the homes will be built on site. The home will be built on site.

Commissioner Fawbush wondered about the current status of the existing home. It is currently vacant.

Commissioner Iverson asked about the land sloping. There will be a drop in the garage to accommodate the slope as a revision to the final project. City Engineer Chad Comes commented about the slope, the roof line and potential retaining wall.

Motion by Commission Mathison, second by Commissioner Iverson to begin Board Discussion.

Commissioner Iverson asked about the 15-foot setback to the west of the structure. Mr. Comes commented that there are larger setbacks in the Neighborhood Business District; however, the conditional

use applications allows for setbacks to be set at the discretion of the board. In this case, the proposed setbacks meet those required for the adjacent residential district.

Chairman Groce asked about any comments from the neighbors. Mr. Comes had one call inquiring about the conditional use. There were no concerns following the phone conversation.

Mayor Dennert questioned the side yard. The parcel is 50' so it will be 10' to 15' proportionally and at least 15' to 20' from the other houses.

Chairman Groce read the Findings of Facts with input from the Board.

A verbal roll call vote was taken with all responding aye. Motion carried unanimously.

Motion by Commissioner Fawbush to move out of the Board of Adjustment and into Planning Commission, second by Commissioner Olson. Motion carried unanimously.

Jeryl Lingle
Board of Adjustment