

CITY OF ELKHORN
Joint Extraterritorial Zoning Committee Meeting
City of Elkhorn and Town of Delavan
Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin
December 14, 2023

Meeting of the Joint Extraterritorial Zoning Committee was called to order at 5:00 p.m. followed by Roll Call.

ROLL CALL AND ESTABLISH A QUORUM

Present: City of Elkhorn: Tom Stotko, Duane Wuttke, James Boardman
Town of Delavan: Mary Knipper Robert Nieuwenhuis
City of Elkhorn Zoning Administrator: Allison Schwark
Also Present: City of Elkhorn: Ken Meinel, Tim Shiroda, Adam Swann, Matt Lindstrom
Town of Delavan: Kim Jedlicka
Visitors: Steve Smith-Applicant, Jay Anderson, Dennis Karbowski, Mark Kawczynski, Clarence Cammers, Gneelder Gallegos, Joeleen Gallegos

NAME CHAIRPERSON

Motion (Wuttke/Stotko) nominated Member Boardman as Chairperson. Motion carried by the majority of those members present.

PUBLIC HEARING

Motion (Wuttke/Stotko) to adjourn at 5:05 p.m. into the Public Hearing for the Conditional Use Permit request submitted by Steve Smith, Northshore Development LLC, applicant, to allow the existing Marine Service and boat storage business with off-season storage to continue in operation at 5384 State Road "11" (Tax Key FD200002 and FD200004C), Town of Delavan. Motion carried by the majority present. Chairman Boardman asked if anyone wished to be heard.

Dennis Karbowski, adjacent property owner on Amos Road, reported that he brought this matter to the Town of Delavan requesting that the property be cleaned up and restored to its original state prior to being used for boat/equipment storage. He did report that the property has always been zoned commercial.

Mark Kawczynski, adjacent property owner on Amos Road, noted that the Town of Delavan has been discussing the issue of cleaning up the property for over two years. There is an issue with there being no Environmental Impact Study completed for this parcel and the project requires WDNR approval as well as State approved plans for maintenance of the property. He does not want to listen to boat motors starting up at night after hours or on weekends. He also felt that the boat storage business will decrease property values of his property and adjacent properties.

Joeleen Gallegos, adjacent property owner on Amos Road, said she has just purchased the property behind the Smith property and has no issues with the storage boat business being located there. Her only concern is the amount of dirt that has been transported to the property and that the drainage of water onto her lot could eventually flood her house. She expressed concern that Mr. Smith is working on the project without proper permits. There is also an issue with access to her property via Mr. Smith's property which right-of-way was grandfathered to allow her access to the highway via easements.

Clarence Cammers, not an adjacent property but resides on Amos Road, said although he is not adjacent to the Smith property, he is not opposed to the business location for the storage of boats but is opposed to hearing noise from starting up boats on weekends. He noticed loads of dirt dumped onto the site which the WDNR was not aware of nor were they aware of this project. He has not seen a paper permit posted onsite and that no plans have been submitted to the WDNR for approval.

Kim Jedlicka, Town of Delavan, read aloud a letter stating that the applicant has followed all rules and met all requirements for cleanup of the property as stipulated by the Town and City. She requests that the board approve the request by Steve Smith.

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Jay Anderson, adjacent property owner on Amos Road, stated that the neighboring house just purchased was built on wetland/swamp and is not affected by the dirt dumped on the Smith property. He stated that the Smith property has always been commercial. Chairman Boardman asked three times if anyone wished to be heard. No one else wished to be heard. Motion (Nieuwenhuis/Knipper) to close the public hearing. Motion carried by the majority present. The public hearing was closed at 5:22 pm.

DISCUSSION & RECOMMENDATION/CUP/SMITH CONDITIONAL USE PERMIT APPROVAL

The Zoning Administrator reported that there has been no changes in the Staff Report of October 27, 2023. The applicant is requesting a Conditional Use Permit for boat service and off-season storage. They are requesting to continue the on-going business established in 2001 that has been providing marine service and boat storage for the past 22 years. For all buildings and land under the B-2 zoning to allow with the following conditions: Off-season storage of boats, accessories and powersport equipment for the duration of equipment not being used. Parking of equipment to be staged outside for pick-up, repair and those that are for sale. Work to be performed on the following items: boats; outboard motors; trailers; boat lifts and piers; watercrafts; boat cover making, repairs and alterations to seats and interiors; restorations of items including detailing; the sale of boats, motors, trailers, lifts, personal watercrafts, and powersport units both new and used. Additionally, the applicant is requesting approval of a Concept Review for a site plan to improve the property, by adding several indoor storage buildings, adequate pavement and parking, and stormwater. **Staff Recommendations:** Staff recommends that the Joint ETZ Committee **APPROVE** the Conditional Use Permit and Concept Review for Boat Service and off-season storage with the following conditions: 1) The project shall be developed in accordance with the plan of operations. Any deviation from the approved plans shall require zoning administrator and/or Committee approval. 2) All additional permits be applied for and approved. 3) No more than 5 buildings shall be constructed on site. 4) The sale of boats, motors, trailers, lifts, and new and used parts are permitted under this Conditional Use. 5) The outdoor storage of boats is limited to 70 and shall be reduced by 15 after each building is constructed. 6) There shall be no burning of waste material, or marine equipment. All Removal must be properly completed with a licensed waste hauler. 7) Ingress and egress shall be property graveled and maintained at all times, and shall not become overgrown with weeds or vegetation. 8) All signage must comply with the Walworth County Sign Ordinance. 9) Site plan and all business operations shall meet all applicable Federal, State, County, City, and Town regulations. 10) The designated "future parking area" may be used for no more than 5 boats displayed for sale. 11) On-site hours of operation shall be from 8AM-6PM seven days a week. 12) Boats shall only be stored indoors and outside west of building 2 and north of building. 13) Outside lighting shall comply with the Town Lighting Ordinance. 14) Project site must be kept in a neat and orderly fashion and shall be mowed, and landscaping maintained at all times. 15) Only one building shall be constructed at a time. 16) The Amos Road entrance shall be gated and locked shut outside hours of operation. 17) Garbage bins and collection site shall be shielded by proper fencing or landscaping buffer. 18) Failure to actively exercise this Conditional Use Permit within 3 years of the approval date shall result in automatic dismissal without prejudice. The property owner may request a time extension for actively exercising the original 3-year period. Any extension requested during the 3-year active exercise period greater than 1 year beyond the original 3-year period shall require additional Town of Delavan and City of Elkhorn committee approvals. Discussion regarding the conditions of the Conditional Use Permit such as the clarification of the maximum number of buildings allowed on the site, off-season being defined as how many months of the year (April-October), and short term vs long term boat storage, limitation of the number of boats allowed to be stored on the site, inside and outside, (70 maximum) and the inside storage of trailers (30 maximum).

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The Zoning Administrator also mentioned that it is the property owner's responsibility to obtain all necessary permits from the State as well as the Town of Delavan. The Town will request copies of all State permits prior to issuing their permit. The business hours previously approved have not changed from 8 am – 6 pm, seven days a week. The Zoning Administrator said she had received a complaint from an adjacent property owner regarding the dumping of the dirt and is fully aware of this occurrence and has no issues. The dirt was removed from the applicants other commercial property located in the Town of Delavan. She also contacted the WDNR, who is also fully aware of the project and with the dumping of dirt, which they did not feel was an issue because it was not dumped onto any wetlands, has remained in a pile, has not moved and no other work is being done at this site location. When the applicant receives all approval/permits from the State and Town of Delavan, then the work would be allowed to begin. The Zoning Administrator is not aware of the right-of-way and easement issues with the neighboring property owner but has been advised by legal counsel that the Town/City should not be involved with the applicant and neighboring property owners easement issues.

Steve Smith, applicant, explained that in recently researching the right-of-way easements that there are 27 easements on his property and found out that there is an easement for the recently purchased property in back of his property, so the new neighbor can use these easements to access her property. Some further discussion

The Zoning Administrator pointed out that the applicant must comply with all City of Elkhorn and Town of Delavan ordinances. Chairman Boardman also stated that the permits would be issued by the State and the Town and it is not up to this ETZ Board to issue any permits.

Motion (Nieuwenhuis/Knipper) to table the matter so that the matter may come back before The Town of Delavan board due to the addition information presented by adjacent property owners during this public hearing. Member Nieuwenhuis requested that additional condition that the applicant post all conditions in a conspicuous place for employees to read and same condition be added to the Conditional Use Permit (CUP) requested by Steve Smith.

Motion (Wuttke/Stotko) to recommend to the Elkhorn City Council to approve the application by Northshore Development LLC, Steve Smith, applicant, to allow the existing Marine Service and boat storage business with off-season storage to continue in operation at 5384 State Road "11" (Tax Key FD200002 and FD200004C), for a Conditional Use Permit to allow the existing Marine Service and Boat Storage business to continue in operation and to approve a site improvement plan phasing in storm water improvements with several storage buildings and a new shop subject to the approved Town of Delavan's 16 conditions: 1) Construction of 5 buildings per Site Plan. 2) Sales of boats, motors, trailers, lifts, and new & used parts allowed. 3) Outside storage of boats is limited to 70 and reduced by 15 after each building is constructed. 4) There shall be no burning of waste material. Removal must be properly contracted with a licensed waste hauler. 5) Ingress and egress to the building shall be properly graveled and weeds kept down. 6) Signage must comply with the Walworth County Sign Ordinance. 7) Must meet all applicable Federal, State, County, and local regulations. 8) The designated "future parking area" may be used for no more than 5 boats displayed for sale. 9) On site hours of operation shall be from 8:00am – 6:00pm seven days a week. No outside boat motor operation after 9/15/2025 and final City of Elkhorn Council approval. 10) Boats to be stored indoors and outside only West of Building 2 and North of Building 1. 11) Outside lighting shall comply with the Town Lighting Ordinance. 12) The applicant must obtain all required Zoning Permit approvals. 13) The project site must be kept neat, clean, and mowed in all areas. 14) Failure to actively exercise this conditional use within 3 years of the approval date shall result in automatic dismissal without prejudice. The property owner may request a time extension for actively exercising the conditional use. A time extension for actively exercising the conditional use must be requested in writing during the original 3-year period. Any extension requested during the 3-year active exercise period greater than 1 year beyond the original 3-year period shall require additional Joint Town of Delavan and City of Elkhorn

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Committee approvals. 15) Only 1 building to be constructed at a time. 16) Amos Road entrance will be locked shut outside the hours of operation to be added the 18 conditions outlined in the City of Elkhorn Zoning Administrator's Staff Report dated October 27, 2023 in any recommendation to the City Council. It was also requested by the Town of Delavan board member that all conditions be posted in a public location for employees to view. Discussion. Roll Call Vote. Nieuwenhuis-Yes; Knipper-Yes; Wuttke-Yes; Stotko-Yes. Motion carried unanimously 4-0.

Motion (Wuttke/Stotko) moved to adjourn. The City Attorney pointed out that there was still the second part of the discussion and recommendation regarding the Smith Project Concept Review as listed on the agenda. Motion (Wuttke/Stotko) to withdraw motion to adjourn and second.

DISCUSSION & RECOMMENDATION/SMITH PROJECT CONCEPT REVIEW

The Zoning Administrator explained that the concept review goes with the Conditional Use Permit (CUP) and there are no changes since the ETZ meeting held on November 2, 2023.

Motion (Wuttke/Stotko) moved to adjourn. The City Attorney pointed out that there was still the second part of the discussion and recommendation regarding the Smith Project Concept Review as listed on the agenda. Motion (Wuttke/Stotko) to withdraw motion to adjourn and second.

Motion (Nieuwenhuis/Wuttke) to recommend to the Elkhorn City Council to approve the Project Plan Concept requested by Northshore Development LLC (Steve Smith), applicant, to allow the existing Marine Service and boat storage business with off-season storage to continue in operation at 5384 State Road "11" (Tax Key FD200002 and FD200004C), Town of Delavan subject to the conditions of the City of Elkhorn Zoning Administrator's Staff Report dated October 27, 2023 and the additional conditions recommended at the September 19, 2023 Town of Delavan Board Meeting all of which are to be posted in a public location. Roll Call Vote. Nieuwenhuis-Yes; Knipper-Yes; Wuttke-Yes; Stotko-Yes. Motion carried unanimously 4-0.

ADJOURNMENT

Motion (Wuttke/Stotko) to adjourn at 5:40 p.m. Motion carried by the majority present.

Shari McKinney
City of Elkhorn
Plan Commission Secretary