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Office of the City Clerk

BOARD OF APPEALS
Thursday, January 2, 2025
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Present:

Chair Kathleen Massey
Vice Chair Thomas Flanagan
Board Member Steve Helfer
Board Member Ramona Larson
Board Member Robert Stern
Board Member Kirsten Hildebrand - **Excused**
Board Member James Wawrzyn - **Non-Voting Attendee**

Also present: City Attorney Sajdak, City Clerk Fochs, interested public.

2) Approve meeting minutes of December 5, 2024

Motion to approve the Board of Appeals meeting minutes of December 5, 2024, with the correction of the spelling of Milwaukee Police K-9 officer's name from Knox to Nox.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Massey
SECONDED BY: Board Member Larson

| | |
|-----------------|---------------------------------|
| AYES: | Massey, Flanagan, Larson, Stern |
| ABSTAIN: | Helfer |

3) Hear evidence concerning; debate, deliberate and decide the request of:

a. Applicant: Jeffrey & Susan Konkel

Owner: Jeffrey & Susan Konkel

Appeal: Opportunity will be given to all interested in being heard concerning the petition by Jeffrey and Susan Konkel to request a variance to Mequon Code Sec 58-419(a) regarding the placement of their existing generator at 10808 N Lake View Road.

The hearing for Jeffrey & Susan Konkel was rescheduled for February 6, 2025.

4) Ordinance

- a. **ORDINANCE 2024-1672** - An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals.

Packet pages 66-67 were distributed by Chair Massey and included comments that were numbered and highlighted. The comments below summarize those proposed changes to the ordinance as was presented at the meeting on December 5, 2024:

1. There is potential liability to the Board and the City of Mequon if a hearing proceeds without legal counsel due to the City Attorney being unable to attend. Substitute legal representation should be available for each hearing as the Board of Appeals is a quasi-judicial body and requires proper legal counsel.
2. The City Attorney's workload cannot fall under the duties of the Chair of the Board of Appeals. Not every Chair would be qualified to draft a written legal decision if legal counsel is absent from a hearing therefore the Attorney representing the Board should render the decision.
3. The importance of timely Board decisions should be considered. Delays could incur costs to the applicants.

The ordinance included in the packet was in its original form, as had been discussed at the December 5, 2024, meeting. An email was provided to the Board dated Friday, December 20, 2024, from City Attorney Sajdak which reflected the changes requested by the Board. It is this version included in the email of December 20 that should be considered for approval.

The revised ordinance states the City Attorney would get an additional five (5) days after the Board of Appeals for a total of 15 working days to draft the decision. The Board would then have five (5) days to comment and then the decision would be finalized. If more time is required to complete a decision, the Mayor would need to approve additional time up to 60 days. An extension of time beyond 60 days (total days after the hearing date) would need Common Council approval.

Chair Massey requested that each board member speak on record regarding the revised ordinance as shared in the email dated December 20, 2024.

- Member Flanagan agrees with the proposed amendments. The Chair should not be responsible for managing the time of the City Attorney. Should time extensions be needed beyond 60 days, the Mayor and Common Council should be involved in the decision.
- Member Helfer was not at last month's meeting and abstained from voting on the ordinance.
- Member Stern agrees with the revised ordinance.
- Member Larson agrees with the revised ordinance.

City Attorney Sajdak explained that after the Board recommended the Ordinance, it will go to the Planning Commission, then to the Public Welfare Committee and finally to the Common Council for approval.

Motion to approve the Ordinance version provided in the December 20, 2024, email.

RESULT: Approved by Roll Call Vote [Unanimous]
MOVED BY: Board Member Massey
SECONDED BY: Board Member Flanagan

AYES: Massey, Flanagan, Larson, Stern
ABSTAIN: Helfer

Announcement: Alternate Member Hildebrand submitted her resignation from the Board as of January 13, 2025, because she is moving out of Mequon.

Chair Massey asked to discuss potential guidelines at a future meeting regarding when an applicant can submit arguments or evidence. There have been recent instances of applicants submitting an argument last minute or bringing forward new arguments at the meeting. When information is submitted late, it does not allow the Board or City Staff to review it in a timely manner. The Board should look at the current stated timelines regarding making an argument verbally or in writing and determine if there should be a final deadline as to when such arguments or exhibits can be accepted.

City Attorney Sajdak verified that the basis for their appeal should be spelled out on the application. However, the level of specificity provided in an appeal can vary greatly based on the applicant. The Chair does have the power to adjourn a meeting if it is deemed that the Board needs additional information or time to review last-minute arguments.

Member Wawrzyn said he feels there is a need for more clarity regarding the definition of “hardship” and what that means for the applicant. Perhaps the application itself can be revised to clarify what the Board can review or decisions it can overturn.

5) Adjourn

Motion to adjourn at 6:27 PM

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Massey
SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Helfer, Larson, Stern

Respectfully Submitted,

Beth Kong
Deputy Clerk