

Buffalo County Minutes

<u>Committee:</u>	Zoning Board of Adjustments
<u>Date of Meeting:</u>	May 17, 2022
<u>Electronic and Hard Copy Filing Date:</u>	Draft

The Board of Adjustment public hearing was called to order at 9:30 a.m. by Chairman, Dale Klopp. Barry Drazkowski, Ron Kazmierczak, and Dale Klopp were present. No members were absent.

Others present for all or part of the public hearing include Briar Golden- Zoning Specialist, Ryan VanDeWalle- Administrative Coordinator, Melissa Schoeder, Ben Borsheim, Carla Borsheim, Tammy Hager, Jeff Binfet, Dean Hestiken, Annette Delong, Samantha Delong, Darlene Brunner, and Vicki Hellenbrand- via cell phone.

Applicant Presentation and Testimony

Melissa Schoeder explained that she believed the business activities listed on her conditional use permit application were already approved with her 2014 Conditional Use permit (CUP# 2014-3), as they were listed in addition to the pizza business on her 2014 application.

Ms. Schoeder realized that these activities were not approved with CUP# 2014-3 when three neighbors submitted a complaint and the Town of Dover stated that they would revoke her beer and wine license because of issues relating to the town road accessing the property- Lovely Road. Ms. Schoeder said that she is currently making efforts to create a private driveway onto County Road H in an effort to resolve the issues relating to Lovely Road.

Ms. Schoeder explained that the minutes from the 2014 hearing indicate that her business is currently approved for Wednesday pizza nights and small occasional weddings. She stated that the reason she applied for an amendment to CUP# 2014-3 was to make sure that all the events her business currently hosts are permitted. She explained how many of her events are community oriented and a letter of support, from the Mondovi Fire Department, was read.

Barn Again Lodge's operating season usually runs from May 1st to November 1st. Ms. Schoeder referenced a similar business, Suncrest Gardens, and cited the proximity of its neighboring residences to the town road that accesses this business. Ms. Schoeder concluded her presentation and testimony by explaining that she is appearing before the Board because she thought the CUP# 2014 included her current business activities but after learning that it did not, she wanted to have the 2014 conditional use permit corrected.

Public Comments

Tammy Hager- Ms. Hager, a resident on Lovely Road, expressed concerns relating to road safety. She stated that she witnessed a vehicle run off Lovely Road and nearly collide with a Barn Again Lodge sign. The sign is located on her property at the corner of Lovely Road and County Road H. She also had concerns that sign was too close to the road. It was her feeling that a new private drive should be installed accessing the business.

Ben Borsheim- Mr. Borsheim, a resident on Lovely Road, stated that he never received a notice regarding the hearing for Ms. Schoeder's 2014 conditional use permit. He believes that the business has grown. He expressed concerns that the road is a safety issue and that an ambulance could not effectively reach the property because Lovely Road is not wide enough.

Mr. Borsheim said that he believes the business has become a safety factor and nuisance. He expressed frustration about living on a dead-end gravel road with increased traffic as the business grows, also mentioning helicopter landings during Wednesday pizza nights. Other traffic, consequential to the business activities on the property (supply deliveries, rehearsals, etc.), is also commuting to the property when events aren't taking place.

Mr. Borsheim asked the board if Ms. Schoeder has applied for concerts to allowed as part of her conditional use permit. Mr. Klopp said that concerts would not be permitted, but that isn't to prevent a band from performing for the events listed on the application.

Mr. Drazkowski asked if Mr. Borsheim was aware that a business was located on Lovely Road when he purchased his property. Mr. Borsheim said that he was aware of the business, but it was much smaller and restricted to weddings when he purchased his property.

Randy Risler- Mr. Risler, a neighboring landowner, bought property on Lovely Road prior to Ms. Schoeder's ownership of Barn Again Lodge. He has 182 acres surrounding Ms. Schoeder's property. Mr. Risler said that he believed that fundraiser events were a minority of the business activities that take place at Ms. Schoeder's property.

Mr. Risler's main concern was with noise from the property, but he also mentioned that patrons of Barn Again Lodge had littered, trespassed, and destroyed some of his property in the past. Mr. Risler said that there were conflicting interests between the activities at Ms. Schoeder's business and the land use on his property, stating that there are certain parts of his property that he cannot use for hunting because of the business. However, Mr. Risler said there would be certain times throughout the year that he and his family would be less sensitive to events. Mr. Risler used target practice as an example of how noise could impact Ms. Schoeder's business as the noise from the business affects his use of the land.

Mr. Klopp asked how Mr. Risler's property encompasses Ms. Schoeder's land. After comprehending the "horseshoe" shape of Mr. Risler's property, Mr. Klopp inquired about the trespassing that was mentioned earlier in Mr. Risler's statements. Mr. Risler said that the occurrence of all trespassing via all terrain vehicles ceased after the installation of a fence around his property.

Mr. Risler said that the business could affect his income from the property by making it less desirable for other hunters to lease.

Mr. Risler asked if the events listed on the Conditional Use Permit Application are an “all-or-nothing” proposition. Mr. Kazmierczk responded by saying that it is not “all-or-nothing”.

Mr. Klopp asked if any of the property is rented out to farmers. Mr. Risler responded by saying that it is all recreational land and taxed as such.

Mr. Kazmierczk asked Mr. Risler if he had any other questions. Mr. Risler said, “no” and concluded by saying that he supports Ms. Schoeder but wishes that the impact of her business would be lessened.

Jeff Binfet- Mr. Binfet, a Town of Dover Supervisor, gave background on town meeting that took place under the intention of creating dialogue between the residents on Lovely Road and Ms. Schoeder. Mr. Binfet explained that most concerns coming from residents were related to the amount of traffic coming from the road and that Ms. Schoeder had proposed a new private drive. Mr. Binfet suggested the use of a natural barrier between Ms. Schoeder’s property and the neighboring landowner. He asked that the board consider civil liability and impacts to property values on surrounding properties, especially if the neighboring landowners can prove damages.

Mr. Kazmierczk asked for more information regarding the private road. Mr. Binfelt felt that those at the Town Board meeting were satisfied by Ms. Schoeder’s proposal of a new driveway and that it would eliminate many concerns.

Dean Hestekin- Mr. Hestekin, Chairman of the Town of Dover, agreed with what had been already said and stated that his main concerns were related to safety. He explained the limitations of Lovely Road and questioned whether or not emergency responders would be able to access the site during large gatherings. He said that the surrounding swamp limits emergency access as well as future development of the road.

Mr. Klopp asked if Lovely Road was a two or a three-rod road. Mr. Hestekin responded by saying that is likely a three-rod road. Mr. Klopp stated that the fence constructed to prevent littering and trespassing is within the road right of way. Mr. Klopp asked if Mr. Hestekin was concerned about vehicles being parked on Lovely Road. Mr. Hestekin said, “yes” and that an emergency vehicle should be able to enter the site if it had full access to the road.

Mr. Klopp asked if there had been reports of drivers being a nuisance on Lovely Road. Mr. Hestekin said that he had not received any. He had only received reports of heavy traffic.

Annette Delong- Annette Delong, who assists Ms. Schoeder at Barn Again Lodge, wanted to note that the issue of garbage at the site has improved since the placement of a larger dumpster in a different location and the reduction of garbage being deposited into the dumpster by neighbors. She shared thoughts on the situation of dust from Lovely Road and noise coming from the site. Annette Delong did not feel that Ms. Schoeder’s business unjustly affected its neighbors.

Mr. Klopp asked Annette Delong to specify which individuals are driving ‘UTVs’ on Lovely Road. She responded by saying, “they would be Ben and Tammy’s boys.”

Samantha Delong- Samantha Delong, daughter of the applicant, acknowledged concerns related to the road. She expressed excitement in the growth of the business over her family's 10-year (approximate) ownership, and that it would be unfair to limit its success. Samantha Delong did not see that compromise would be an option.

Darlene Brunner- Ms. Brunner, a friend of the applicant, expressed that the installation of a private drive would not solve all of the concerns of neighbors and that, in her opinion, the concerns related to Lovely Road would be an issue for the Town Board of Dover.

Vicki Hellenbrand- Ms. Hellenbrand, who resides at S679 County Road H, participated in the hearing via cell phone. She explained that, despite her home's close proximity to the property, she does not believe that there is an issue with noise produced from the business. She also said that she believes Lovely Road should be paved.

Ms. Hellenbrand responded to Mr. Borsheim and Mr. Risler's earlier comments. Mr. Klopp informed Ms. Hellenbrand that she shall not address others in attendance. Ms. Hellenbrand expressed her belief that concerns raised at a prior Town of Dover meeting were being surfaced by the complainants for personal reasons against Ms. Schoeder. She said that she believes Ms. Hellenbrand then addressed an individual in attendance and was told by Mr. Klopp to end the phone call.

Additional Correspondence

Prior to the hearing the Dover Town Board submitted a signed copy of the Town's Acknowledgment Form stating that additional information was needed.

A letter of support from the Mondovi Fire Department was presented to the board at the hearing.

Questions to Applicant by BOA Members and Zoning Staff

Briar Golden displayed photographs and aerial images of the site and answered questions from Board members.

Mr. Klopp asked Ms. Schoeder where the proposed private drive would be located. Ms. Schoeder referred to the aerial images. Ms. Schoeder said that there is only one individual that would sell the land necessary to access her property from County Road H. Some of this property contains wetlands.

Mr. Drazkowski said that building a road through a wetland is not a trivial task and asked if from the Town of Dover's standpoint if widening the road and paving it would be an option.

Mr. Binfet approached and answered for the Town of Dover stating that sealing the road would take care of the dust but would not resolve the issue of heavy traffic. Mr. Drazkowski said he was considering the town's role in ensuring safety on the road.

Mr. Klopp asked Mr. Golden what the current capacity for wedding events was. It was Mr. Golden's understanding that the previous owner of Barn Again Lodge had received a conditional use permit for small weddings of up to 100 people.

Mr. Klopp asked Ms. Schoeder if she would mind sharing how much she pays in taxes for the property. Ms. Schoeder believed that the amount was \$8,500.

Mr. Drazkowski asked if the conditional use permit application being considered had a time frame listed as it wasn't addressed in the public notice. Ms. Schoeder said that it was not and that she didn't want to tie herself to a timeframe but is setting a limit to the number of guests at each event. She explained when certain events typically take place and how long they last, mentioning that she intends set a 12:00 a.m. time limit to events.

Addressing Mr. Klopp, Mr. Kazmierczk stated that he was confused when he read the public notice because he believed that the approval of Ms. Schoeder's CUP# 2014-1 had already permitted her to hold the events listed on the public notice. However, after reading the Minutes for the June 3, 2014 hearing Mr. Kazmierczk said it seemed that approval was only granted for Wednesday Pizza Nights.

Mr. Klopp, in reference to Mr. Binfelt's comments about reduced property values, asked Mr. Risler if he had considered selling his property. Mr. Risler said that he had not.

Mr. Drazkowski said that there were comments made about difficulty that first responders may face when attempting to reach the property. He asked that someone clarify if visitors to Barn Again Lodge park their vehicles on Lovely Road. Ms. Schoeder responded by stating that her guests do park on the road during large events, but in the past the fire department has been able to drive fire trucks down Lovely Road in response to emergencies.

Mr. Kazmierczk asked Ms. Schoeder to clarify her answer to Mr. Drazkowski's questions. Ms. Schoeder said that her customers do park in the road ditch. Mr. Kazmierczk said that the Town of Dover could restrict parking on Lovely Road.

Mr. Kazmierczk went on to say that he would be considering the times of operation, dust treatment, sign location, the issue of the new driveway, and parking issues. He also acknowledged the positive comments that he had heard about the business and its operations in the past.

No Site Visit Needed

Motion made by Barry Drazkowski to approve the CUP #2022-1 application for a farm-based business, subject to the conditions discussed, seconded by Dale Klopp. The conditions are as follows:

1. Attendance of special events listed on the application shall be limited to a maximum of 250 people.
2. The operating season shall be May 1st to October 1st. Events already booked at the time of the hearing are not subject to the newly established operating season.
3. Hours of Operation shall be as follows: Wednesday Pizza Nights 5:00 p.m. to 9:00 p.m. The bonfire and other activities that follow the Wednesday Pizza Night must end by 11:00 p.m. All other special events noted in the application must end by 12:00 a.m.
4. Signage for the business must comply to all requirements of the Buffalo County Zoning Ordinance
5. Parking shall be limited to the confines of the property. Parking on Lovely Road is prohibited.
6. The farm-based business must comply with all state and county regulations regarding sanitation.
7. Dust control is required. The owner of the farm-based business shall collaborate with the Town of Dover to take measures to limit dust and ensure safety on Lovely Road.

Minutes from the October 05, 2021 Meeting

Ron Kazmierczak made a motion to approve the minutes from the previous meeting, seconded by Dale Klopp.

The Board of Adjustment meeting was adjourned at 2:12 p.m.

Respectfully submitted,

Briar Golden, Zoning Specialist