

**MINUTES OF THE BLACK HAWK COUNTY BOARD OF ADJUSTMENT MEETING
HELD ON JANUARY 25, 2022, HAROLD E. GETTY COUNCIL CHAMBERS
WATERLOO CITY HALL AND VIA ZOOM**

Dr. Laval Peloquin called the regular monthly meeting of the Black Hawk County Board of Adjustment to order at 6:00 pm, Tuesday, January 25, 2022.

I. Call to order and roll call

Members present: Peter Beck, Dr. Laval Peloquin, and Gail Mueller (in attendance)

Members absent: None, there are currently two vacancies.

Also present: Black Hawk County Planning Staff –John Dornoff, and 2 members of the public.

II. Approval of the Amended Agenda

It was moved by Mueller and seconded by Beck to approve the amended agenda. Motion carried unanimously.

III. Approval of Minutes of the September 28, 2021 meeting.

It was moved by Beck and seconded by Dr. Peloquin to approve the minutes of the September 28, 2021 meeting. Motion carried unanimously.

VI. New Business

1. 6848 E Washburn Road Cory Tharp Special Permit

Request for a special permit to allow for an auto and recreational vehicle dealership at 6848 E Washburn Road in the “C-M” Commercial-Manufacturing District.

Hyberger gave the staff report. Dr. Peloquin asked the applicant if he had anything additional to say about the request. Cory Tharp, 6426 Gilbertville Road, La Porte, noted that his site in Washburn was a junk yard, but he was able to get the site cleaned up. Dr. Peloquin asked if his new location will be similar to his old location for RV sales. Tharp indicated it will be the same type of wholesale RV business. Tharp indicated that the current mill site west of Gilbertville is still open. Dr. Peloquin asked Tharp if he will have an office at the new site. Tharp indicated that he will have an office there. Mueller noted that the property is already zoned “C-M” Commercial Manufacturing District and he is here for a special permit. Dornoff indicated that the site is properly zoned and the applicant simply needs a special permit for the RV sales. Mueller asked if this includes the land behind the mill. Tharp stated yes. Dr. Peloquin asked if vehicles will be placed there as well? Tharp noted yes.

Beck asked what will be the use of the other buildings on the site? Tharp indicated he has nothing planned for the mill itself, but he may recondition some of the buildings behind it. He wants to paint the buildings and make them look nice. Beck asked what the surfacing will be for the vehicles out back? Tharp noted that he will place down gravel where the vehicles are parked. Beck was concerned about how many vehicles will be parked there because it is in the floodway and asked Tharp how many RVs and autos does he plan on having at the site? Tharp indicated that he does not plan on having too many vehicles there. Most of his vehicles will be placed at his Washburn site.

Beck asked if there will be lighting or security there at the site. Tharp noted there are levees on two sides of the property and there is only one way in. He has no additional plans for lights or other changes.

Tim Youngblut, 6849 Washburn Road, Gilbertville, indicated his biggest concern is that previous owner remodeled the office space and the upstairs of the mill, and turned it into an apartment. Youngblut stated all these improvements were done without any permits. Mr. Youngblut was under the impression that an RV and auto dealership cannot be placed in the floodway without a special permit. Youngblut noted he is not against the RV Dealership, but he is not for it. Dr. Peloquin asked Tharp if he plans on renting out the apartment? Tharp noted the apartment is empty, but he would like to rent it out as an apartment. Dr. Peloquin asked if not having the apartment rented out addresses Youngblut's concerns, unless it has the proper permits in place.

Youngblut indicated no, and asked if he would be given the same treatment if he requested to have a business there or requested a special permit and rezone. Dr. Peloquin noted that he can submit an application, but he cannot guarantee how he would vote when nothing has been presented. Mueller noted that Youngblut would not be able to build there anyway because the property is in the floodway. Youngblut noted the office addition and apartment got built anyway. Dr. Peloquin noted that as a board, they cannot be held accountable for something they know nothing about. Mueller asked when the owner added onto that building. Youngblut noted they added a lean-to on one of the buildings a year after they purchased it. Dr. Peloquin noted that Tharp will have to work with the County to get permits for the work completed without permits. Youngblut also noted that there is a section of the property that is not protected by the levees. Tharp indicated he is aware that the property is in the floodway and he is not concerned about it.

Youngblut noted the property is part of Black Hawk County and not Gilbertville. In addition his family has owned land near the mill for over 100 years. Dr. Peloquin asked Youngblut if he would be ok with an RV dealership being there if Tharp was a good neighbor. Youngblut noted that if Tharp follows through with what he says he will do, that he would support it. Beck noted that he drives by the site everyday and it is not in good shape right now and indicated not much is going to change with the existing owner. Muller noted that due to their being no building permits for the improvements, the current owner may have to remove those additions due to not being in compliance with the building code and this incident should be looked into. Muller in addition noted that the site only has one entrance into and out of the property and this could be a potential fire hazard for anyone that resides in that non-permitted apartment. Dr. Peloquin noted their decision tonight regarding the special permit could come with a condition that the apartment cannot be occupied.

Beck asked what happened at the Planning and Zoning meeting when they unanimously approved the special permit. Youngblut noted that when he was at the Planning and Zoning meeting he did not raise concerns regarding the unsanctioned apartment and other issues were not brought up until he had the opportunity to review the zoning ordinance before this meeting. Muller asked Tharp if he would still purchase the property if the apartment and lean-to were removed. Tharp noted that not having the apartment there or removing the lean-to would not impact him purchasing the property. Tharp noted that it will impact his asking price. Muller asked him if this would impact his purchase of the facility. Tharp indicated this will not change what he intends to do with the property as a RV/auto dealership. Mueller indicated that they should table this special permit and ask the County if they would like to take action on the non-sanctioned improvements before they approve this request. Tharp indicated he would like to have a decision made now because he plans on closing on the property within the week.

Beck asked Tharp if his purchase agreement for the property include a provision that made it conditional upon the approval of a special permit. Tharp indicated the purchase agreement was not conditional based on approval of the special permit. Beck recommended that conditional purchase agreements are a good thing especially if there is a rezone or special permit are required for the intended use for the property. Beck also noted the closing date can always be pushed back. Beck noted none of the improvements may end up being removed. Dr. Peloquin noted the apartment should be gutted because it did not have the proper permits in place and noted that if a special permit was granted that it be conditional based on the removal of the lean-to and that the apartment can not be rented out. Mueller noted it would be difficult to police or monitor the use of the apartment and this could impact his vote regarding the special permit.

Beck noted that there are good neighbors out there that monitor these things. Tharp noted the apartment is not in an elevator. The apartment is in the office and it is more of a loft. Dornoff noted the apartment conversation of the building is still illegal even if a stairway was added. Dr. Peloquin made it known to Tharp that the apartment was not useable. Tharp indicated he is supportive of the condition that the apartment is not useable and he only wants the special permit for a dealership to be approved. Beck questioned if there needs to be a discussion with the County Attorney regarding the legality of the apartment that was constructed without permits. Tharp noted no one is living in the apartment now. Dornoff stated that they could approve the special permit with the condition that the apartment cannot be used because it is an illegal addition. Muller noted placing gravel on the site cannot increase the grade due to the ground being in a floodway and that is same for road projects in the County that are located in the floodplain. Mueller indicated that policing the property to make sure the apartment is not rented out could pose a problem for code enforcement in the future. Beck asked if there was a site plan. Dornoff indicated no.

Tharp asked the Board of Adjustment if he could get everything in writing regarding the conditions. Dr. Peloquin responded by saying yes. Dornoff noted that they can place conditions that the apartment cannot be used as a residence and the lean-to will need to be removed. Dr. Peloquin noted that he cannot make a motion. But if the special permit is approved for a RV and auto dealership he would place a condition on the property that the illegal residence or apartment cannot be used as a legal residence or rented out and the illegal lean-to must be removed.

It was moved by Mueller and seconded by Beck to approve the request for a special permit to allow for an auto and recreational vehicle dealership at 6848 E Washburn Road in the "C-M" Commercial-Manufacturing District with conditions, that there cannot be a residence on the property, the illegal lean-to must be removed, and the ground cannot be raised because it is in the floodway. Motion to approve carried unanimously.

2. Selection of Chair and Vice Chair for 2022

Muller motioned to have Peter Beck as Chair and Dr. Peloquin seconded. Motion to approve carried unanimously. Muller motioned to have Dr. Peloquin as Vice Chair and Beck seconded. Motion to approve carried unanimously.

V. Discussion Items

No Discussion Items

VI. Adjournment

It was moved by Mueller and seconded by Beck to adjourn the meeting at 6:50 P.M. Motion carried unanimously.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Seth Hyberger", with a large, sweeping flourish at the end.

Seth Hyberger,
Black Hawk County Zoning Administrator