

**Town of Burke Meeting Minutes**  
**Wednesday, August 16, 2017**  
**6:00 p.m.**

Board members in attendance: Chairman Viney, Supervisor Berg, Supervisor Nimmow, Supervisor Stieren and Supervisor Truitt. Also in attendance: Brenda Ayers, Administrator Clerk/Treasurer, Teri Saxon, Deputy Clerk/Treasurer and Ron Kurt, Public Works Lead Patrolman. See attached list for other interested parties in attendance.

1) ADMINISTRATIVE

- a) It was determined that a quorum was present and the meeting was properly posted.
- b) The meeting was called to order at 6:00 p.m. by Chairman Viney.
- c) The Pledge of Allegiance was recited.
- d) Public Hearing regarding a rezone petition from RH-2 to A-2 and Conditional Use Permit (CUP) for a limited family business submitted by Mark Bursaw A-1 Landscaping for the purpose of operating a landscaping business at the residence located at 5009 Thorson Road, Sun Prairie (parcel number 0810-361-8190-2). Elina Walsh introduced herself and husband, Ryan Walsh, and stated they have lived at 5011 Thorson Road for four years. They have a few concerns with A-1 Landscaping's application for a rezone and CUP. One concern is the gross vehicle weight of the vehicles and asks they be listed and substantiated. Another concern is the number of A-1 Landscaping employees. The application lists one full time employee. They have personally witnessed three or four other employees driving trucks and working on property. A-1 landscaping's website lists crews of workers. Their final concern is winter snow removal and the storage of salt. Additionally, they asked a local realtor to look at the proximity of a landscaping business next door and whether property values would be affected. In the realtor's letter it was expressed that this would impact their property value.

Kerry O'Brien, 4949 Thorson Road. He raised concern that allowing the rezone and CUP would set a precedent for the whole road. There is a quarry down the road and what else would this allow.

Mark Bursaw introduced himself as resident at 5009 Thorson Road and owner of A-1 Landscaping. He stated he just met some of his neighbors at tonight's meeting. Bursaw first addressed the concern of storage of salt. He stated that storage of salt would be bags you purchase for residential use and they would be stored in the shed on a pallet. Bursaw further indicated that his one-ton dump truck that is used for plowing has a bulk salter. He purchases salt as needed from Madison Block and Stone. Bursaw indicated that he has one full time employee "Jimmy". He stated he has a couple of friends that help out from time-to-time. He also stated his 15 year old and her friends help out. He further indicated that when it freezes he shuts down until it snows and then he is the only one who plows. Further, in regards to the gross vehicle weights of the trucks, the weights are listed on the doors offered to go and get the weights of the trucks. He further stated that his trucks have been going in and out while they have been moving. Someone from Craig's list came by and took apart the shed other than that they have been working in the shed removing horse stalls. There has been no business just family or friends helping with the move. Bursaw indicated that his business is not comparable to a quarry.

Ryan Walsh raised further concern about the amount of trucks and traffic up and down the driveway. The Bursaw's driveway is the main corridor and 15 feet from their property line. The lots on Thorson are five acres that are long and skinny. This makes one more apprehensive to traffic. Walsh indicated that he has friends that help him out but it is the business trucks that are coming and going.

Aleacia Bursaw stated that she drives the trucks. She has been in and out all week. They allow their old neighbors and people from the Town of Sun Prairie to drive their trucks. She stated that just because someone drives the trucks does not mean they are employees. She further stated that the website has not been updated in years.

Elina Walsh thanked the Board for the opportunity to speak. She indicated that they are a young couple who bought a foreclosed home who appreciate the surrounding nature to raise their young family.

- e) Public Concerns: Public's opportunity to speak to the Town Board about any subject that is not a specific agenda item. Berg stated that his neighbors asked him about the possibility of a street light at Old Fox Run and County Road C. Ayers stated that the Town has the right-of-way on County Road C. The neighbors would have to agree and support the street light. The neighbors could come to the Town and request to be put on the agenda. They can also call the Town Hall with questions.
- 2) Consent agenda (*all items listed under the consent agenda will be approved in one motion without discussion unless any Board member requests that the item be removed for individual discussion and possible action. Any item so removed shall be considered after the approval of the remainder of the consent agenda*)
- a) Approval of minutes from the July 19, 2017 Board meeting
  - b) Approval of bills (payroll related disbursements #4226-4254 and bills #28951-#28990) and June & July Cash on Hand reports
  - c) Operator's Licenses. None.

Motion: Berg/Nimmow to approve the consent agenda as presented. Motion carried.

### 3) NEW BUSINESS

- a) Resolution 08162017A regarding a rezone and conditional use permit requested by Mark Bursaw, A-1 Landscaping for the purpose of operating a landscaping business at the residence located at 5009 Thorson Rd. Viney questioned the gross weight of the trucks. Bursaw responded he could go and look at the truck doors. Stieren stated that the license plates would indicate the classification of the weight of the trucks. The weight of the trucks will put wear on the roads. Bursaw indicated that he does not receive deliveries or store bulk materials. He stated that he brings the materials needed to the job site. Berg questioned if he compensates the people he refers to as helping out. Bursaw indicated they are compensated. Berg indicated that if they are paid they are employees. Berg further inquired if when they drive his vehicles are they insured. Bursaw responded that anyone who drives his vehicles is insured. His employee is listed as a driver and he has provided his name and driver's license information to his insurance agent. Berg asked how many times the friends work for him. Bursaw stated maybe three guys total not on a regular basis. Nimmow inquired as to the storage of vehicles, equipment and materials. Bursaw indicated that all equipment and vehicles will be stored inside the shed.

Stieren stated that in the application it was indicated there would be materials stored outside. Bursaw stated that there would be some storage outside of materials as indicated on the drawing submitted by Birrenkott Surveying. Berg stated that at the Plan Commission meeting the Bursaws were encouraged to reach out and meet the neighbors but tonight is the first time they have met some of them. Aleacia Bursaw commented that it is hard to reach out to your neighbors when they are calling your home and threatening you. Mark Bursaw indicated that he has met a neighbor who was a nice guy but does not remember his name. Bursaw indicated his daughters have gone to the neighbors. Bursaw stated he has knocked on another neighbor's door but no one was home. Viney asked Ayers if it is possible to put a time frame on a CUP. Ayers responded it is possible with some CUPs based on the nature of the business for example a mineral extraction operation has a limited life but not on this type of CUP. However, you can set conditions upon the CUP and when there is a violation Dane County can enforce the conditions and revoke the CUP if they are not met. Viney instructed the members of the Six Standards of a Conditional Use Permit (Section 10.255(2)(h) of Dane County Zoning Ordinance). Viney further instructed that all conditions must be met to grant the CUP.

“Standard 1: That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.” **IS MET**. Motion carried. Berg raised concern with trucks going in and out when driveway is 15 feet from property line and with young children next door. Nimmow inquired if there were neighbors present at the Plan Commission meeting. Berg indicated the Plan Commission had a copy of the petition but no neighbors were present. Ayers stated that at the Plan Commission meeting there is no place for public comment. Nimmow inquired as to where the equipment will be parked. Bursaw responded that he has removed the stalls from the shed and all of the equipment will be parked inside. Nimmow inquired if there is a driveway to the shed. Bursaw responded that there is a gravel driveway to the shed.

“Standard 2: That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.” **IS NOT MET** for the following reasons: would decrease property values of neighboring homes. Motion carried. Berg commented that another person commented that a similar business in the neighborhood has not affected property value negatively but a realtor is a more reliable witness than the other individual.

“Standard 3: That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.” **IS NOT MET** for the following reasons: limited amount of future interest in neighboring properties as referenced in realtor's email. Motion carried.

“Standard 4: That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.” **IS NOT MET** for the following reasons: concerns about adequate access, drainage and weight of vehicles and equipment (Thorson Road has a 5T weight limit). Motion carried. Stieren – nay. Nimmow inquired as to when the road to the shed would be completed. Bursaw responded that there is a gravel road to the shed. Bursaw added that unless the Town would require it he has no intention to asphalt or cement the drive to the shed. Truitt indicated that the gravel pathway would not be adequate for a one-ton truck pulling a trailer with a bobcat. Viney inquired whether drainage would be an issue when pulling

equipment and traffic on the gravel drive. Bursaw indicated they are currently working on drainage issues and when completed he does not foresee drainage to be an issue. If there are any drainage issues they will be corrected.

“Standard 5: That adequate measures have been or will be being taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.” **IS MET**. Motion carried. Viney – nay. Stieren indicated that one cannot control increased traffic during congestion hours or when plowing snow. Viney felt the standard was not met because the ongoing traffic of the business would be at the same time everyone else is coming and going for work and it would increase traffic congestion.

“Standard 6: That the conditional use shall conform to all applicable regulations of the district in which it is located.” **IS NOT MET** for the following reasons: Berg noted that the proposed zoning and use is not compatible with the other properties in the area and felt that based on discussion the applicant is already violating the regulations of the current zoning. The applicant has more than one employee and the zoning and limited family business CUP he is applying for allows only one non-family full time employee. Based on that alone this condition is not met.

Motion: Truitt/Berg to adopt Resolution 08162017A **DENYING** the rezone and conditional use permit requested by Mark Bursaw, A-1 Landscaping for the purpose of operating a landscaping business at the residence located at 5009 Thorson Road because all six standards specified in section 10.255(2) of the Dane County Zoning Code **HAVE NOT BEEN MET** and the requested zoning (A-2) is not consistent with the other properties in the area. Motion carried.

- b) Temporary Class B License application to consume fermented beverages in an outdoor area submitted by The Paddle Inn for a Smokin and Grillin Fest on September 3 & 4, 2017. Harvey Krause introduced himself as the owner of The Paddle Inn since 1984. Krause indicated that in the past they have held a pig roast for the neighbors and has never been a problem. Krause further indicated he was unaware of the Town Ordinance regarding fencing. They would like to hold a grilling festival and attached to the application are two drawings to give examples of possible locations for the temporary fenced area. The fencing would be attached to the building to the east (front) or west (back). Krause asked for the Town’s recommendation as to the location of fencing. Krause further indicated that all liquor sales will be inside with tables outside to eat, drink and watch the grilling. The food will be donated with any proceeds to the Parkinson’s Foundation. Nimmow inquired as to the height and the type of fencing. Ayers stated that Town Ordinance requires permanent fencing to be 6 foot and attached to the building. Krause indicated they would propose to use 3 foot orange mesh fencing to enclose the grills and tables. He stated the enclosed area will be monitored by staff. Viney indicated that he would prefer them to use the orange mesh fencing and be located at the back of The Paddle and to make sure there is no alcohol outside of the fencing.

Motion: Stieren/Truitt to approve Temporary Class B License Application to consume fermented beverages in an outdoor area located to the back of The Paddle Inn for the Smokin and Grillin Fest on September 3 & 4, 2017. Motion carried.

- c) Adaptive Management participation. Carla Fischer, AECOM, stated that AECOM performs the stormwater modeling and other administrative items for the Town as part of the Madison Area Municipal Stormwater Permit (Mamswap). Initial modeling showed that through the existing

stormwater swales the Town met the total minimum daily load (TMDL) and phosphorus levels (P) required by the DNR. However, the DNR asked for some further modeling and the results showed that while the Town meets the P level requirements, it does not meet the TMDL. One option to lower the TMDL requirements is through the construction of new facilities. Fischer explained that the cost for AECOM to design the facility alone would exceed the cost to participate in adaptive management. She further explained that if the Town participates in adaptive management, as parts of the Town attach to Sun Prairie and De Forest that area's modeling would go to that city or village and the cost to the Town would decrease. . She also explained that the Town can remodel and reanalyze after five years. Ayers noted that modeling changes will have to come before the Board. Nimmow inquired if the Town is locked into the price for five years. Fischer responded the Town would be locked in and only modeling or analysis can change the pricing. She also explained that a change in DNR requirements could also result in a change in the cost. Fischer indicated that the \$2,000 the Town paid to the adaptive management group as a partner in kind when it appeared they meet all requirements will be credited towards the first year payment. Since the additional cost was not included in the 2017 budget the balance remaining for this year and the next year's payment in the amount of \$14,762 will be paid in 2018 and the payment will be \$8,381 in the following years. Fischer indicated that participation in adaptive management would be most cost effective for everyone. Berg noted it would be cheaper to be in it than to go it alone.

Motion: Berg/Stieren to participate in the full scale adaptive management project. Motion carried.

- d) Petition for attachment to the City of Sun Prairie submitted by Mark Barnes on behalf of Barlie Fam 4 LLC for properties located off Reiner Rd and right-of-way at Reiner Rd and US Hwy 151 (parcel numbers 0810-144-9691-7, 0810-144-9800-4 and 0810-144-9191-2). Ayers indicated this is located between Wolf Paving and the Stern property. Attachment would be the full width of the right-of-way (exhibit b) then across to the Stern property and the right-of-way across the road north of the Barlie family farms. The City wants to attach the right-of-way. In discussion with Tim Semman, City of Sun Prairie, the plan for these parcels is a business park.

Motion: Nimmow/Berg to approve Petition for attachment to the City of Sun Prairie submitted by Mark Barnes on behalf of Barlie Fam 4 LLC for properties located off Reiner Rd and right-of-way at Reiner Rd and US HWY 151 (parcel numbers 0810-144-9691-7, 0810-144-9800-4 and 0810-144-9191-2). Motion carried.

- e) Consideration of a Deed Restriction form allowing property owners who split their parcel in to pieces for residential purposes the alternative to restrict the property to residential uses in lieu of rezoning. Ayers reminded the Board of a recent request to split a parcel for residential purposes and the City of Madison required a rezone. The Town Attorney drafted a deed restriction that would allow a parcel split for residential uses and not require a rezone. The deed restriction would restrict the property to residential use. The use of the deed restriction document would save Town property owners expense and time of the rezone process.

Motion: Nimmow/Stieren to authorize the use of the deed restriction form allowing property owners who split their parcel for residential purposes the alternative to restrict the property to residential uses in lieu of rezoning. Motion carried.

- f) Resolution 08162017B writing off unclaimed driveway deposits.

Motion: Nimmow/Truitt to approve Resolution 08162017B. Motion carried.

4) OLD/UNFINISHED BUSINESS

- a) Haase and Anderson Roads project. Kurt reported they have finished the final lift and are near project completion.
- b) 2017 Chip Sealing project. Kurt reported the project is near completion with touch up work remaining.

5) COMMITTEE REPORTS (AS APPLICABLE)

- a) Plan Commission. Berg reported that Plan Commission met on August 9 and discussed possible items that will come before the Board at the next meeting. Ayers noted that Christy Legler has resigned.
- b) ETZ Committee. No meeting.
- c) Parks Commission. No meeting.
- d) NECC. No meeting.

- 6) NEXT MEETING DATE. Board of Review: Tuesday, August 29, 2017. Regular meeting: September 20, 2017.

- 7) ADJOURNMENT Motion: Stieren to adjourn. Meeting adjourned at 7:19 p.m.

Teri Saxon  
Deputy Clerk/Treasurer  
Town of Burke  
9/14/17