

Village of Birchwood
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"The Bluegill Capitol of Wisconsin"

The Village of Birchwood
Plan Commission Meeting was held on
July 10th, 2023, at 6:00 pm at the Village Hall
101 N Main Street, Birchwood, WI 54817

MINUTES

Chairperson call meeting to order - Meeting will be recorded.

Pledge of Allegiance-Recited

Roll call: Present: R. VanGilder, B. Boatman, S. Milligan, B. Hayes, and C. Gargulak. Absent: M. Manning(late)

Public Notice: Posted at the Birchwood Post Office, Village Hall, Gary's Grocery and Village Website.

Correspondence – Public Comments (limit 3 minutes) VanGilder stated that the only comments allowed are on agenda items-strictly the fuel tank. Questions will be addressed during the agenda item below. Nick Devries inquired about the venting of the tanks and if it could cause any health issues. Devries asked if there were any other unmanned pumps in the state. Gary Schumacher voiced concern over the smell and jet ski rentals on the lake. VanGilder repeated that the only item to be discussed is the fuel tank. VanGilder stated that the Village has no control over the lake. Robert Lewis voiced concern over what the fuel tanks will do to BP or Synergy's business. Lewis asked if the gas was turned down on Big Chetac. VanGilder stated he thought Big Chetac has a gas pump. Greg Nielsen is concerned about the smell from the tank. He also asked if Airtec is going to put a fence around the pump. Nielsen also has a fire pit near this site. He has concerns about his family lighting off fireworks with the fuel pump so close by. David Prohaska contacted the DNR and was told that the council has the final say regarding the pump. He asked where the 70,000 gallons of spilled fuel number came from-this had been discussed at the previous meeting. He is concerned that they will eventually want to sell to the public - which will add more traffic and problems on the lake. Jim DelMedico asked if the Lake Association has hours of use for jet skis and who enforces this. He is not a fan of jet skis, but thinks the pontoon rental is wonderful. Boatman said the state does have laws regarding this. DelMedico asked that Airtec post these rules at their rental site. Linda Zillmer stated that this meeting is noticed as a clarification of the determination of whether the proposed rental (which is more like a marina) and docking of watercraft -along with fuel storage, dispensing or sale-even though it is unlisted- is a permitted or conditional use. Zillmer stated that per Village ordinances, this is prohibited. She went on to say that in the Central Business District this lot doesn't fit the downtown business or center of the Village plan. The property has no actual street access or parking. VanGilder asked that Zillmer only speak on the fuel tank issue. VanGilder informed Zillmer that Airtec is allowed to build on the lot. Zillmer stated that she can speak about the building because this is on the Unlisted Use application. LZ stated it doesn't

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fit a retail sales establishment-they already have 2 other locations. She went on to list the other permitted uses that she feels it does not fit. Zillmer then went on to list what facilities would fall under conditional use-automotive sales, rest home or nursing home, etc. LZ reiterated that nothing fits, so the Board should not approve. It is prohibited.

Chip Lewis-Airtec applied to put in a gas pump and tank on their lake property that is zoned CBD. The gas pump will be for business use and marine rental. Lewis stated that the legal definition for a gas station is a place where gas is sold along with retail goods. They plan to sell snacks, beverages, oil, and life jackets. Lewis stated that due to this, it qualifies as a permitted use per the Village ordinance. The gasoline tank will be a 1000-gallon tank, a 125 ft retractable hose and a non-locking pump handle. There needs to be pressure applied to the handle for the gas to disperse- which means someone will need to be present to disperse fuel. Airtec will have an attendant onsite to disperse the gas. There will be a breakaway hose and the tank has 100% containment. The tank and pump will sit on a concrete base with pillars around it. They don't think this will increase the traffic on the lake because they are already renting the watercrafts. Airtec has had several people request to have gas on the lake. A Facebook poll showed that the majority of voters were in favor of having gas on the lake. Lewis went on to say that they are already renting 2 jet skis on the lake.

There were many comments made at this time. VanGilder asked that comments be kept to the fuel pump and limited to 3 minutes per person.

Comments were made regarding Airtec now having an attendant to pump gas.

LZ said before it was a 3000-gallon tank and now it's a 1000-gallon tank. Zillmer asked how it would be filled. Chip stated that they would park on the road to fill. Discussion on what type of truck.

Boatman asked about the smell and venting system. Chip stated that it will be on a 16-18-foot pole coming out of a conduit pipe and will vent upwards.

Continued discussion. An unidentified speaker stated that he would like to buy gas from them if it's approved.

Discussion/Action Items

1. Current agenda
 - a. Approve current Planning Commission Committee agenda.
2. Determination

Discussion and possible action to clarify the determination of the unlisted use application for a fuel tank submitted by Airtec that followed the public hearing having been taken on June 13, 2023.

VanGilder stated that the committee's job is to determine if this is a permitted use, conditional use, or prohibited use. If it is a Conditional Use, it means that it must follow certain rules. The items on the conditional use follow the fire chiefs' recommendations: Follow all state and local laws; no public sale of fuel; use is specific to marine vessels and nature of the business; and a building for some type of retail that complies with Village ordinance 28.238. If it's conditional the Board sets the conditions and time limit if desired. VanGilder asked for Committee member's input.

Hayes commented that he was not on the committee during the last meeting. The Village should have rezoned this many years ago. Hayes said he thinks most gas stations have had gas spills and he doesn't feel this is the place for a gas tank. Hayes stated his vote will be prohibited.

Boatman said the rentals are going to continue-with or without the fuel tank. He understands the concern over jet skis. Boatman said the DNR should be dealing with that issue. He voiced concern over the smell. He felt putting a time frame on this would be valuable.

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Milligan said he felt that some of Zillmer's comments made sense-but they would have to be verified. He would like Atwood's input. He would like to see the good neighbor policy follow through. Milligan said he understands the public's concerns. This is a tough decision, and he wants to do what's right. A trial period might be a good option.

Clint Gargulak-he is not for the gas tank, but if it is approved, he would like to see a time limit set for a year and then review it again.

Mark Manning joined the meeting-Manning stated he is ok with them doing business there- just no fuel at all. Manning doesn't believe there is anything in the conditional use that allows a marina. His vote is prohibited.

Joe Atwood-Zoning Administrator-clarified that the building will have some type of retail business in it-which is a permitted use for the Central Business District. The building will have to meet the setbacks from the neighbors and the street. Atwood confirmed that there is access to the lot, they have an easement. A gas station is allowed in the CBD. Atwood stated that he didn't consider a pump for personal use to be a gas station, so he referred it back to the Plan Commission for determination. The unlisted, permitted, and conditional use mentions fuel in the Central Business District. Atwood stated that gives the Board the right to rule on this. The Board can put rules/ conditions on this and if they are violated, they can pull it at any time.

Manning asked who will police the conditional use if complaints start coming in. He also said it isn't as easy to take it away once it is given.

VanGilder is fine with the rentals and feels it will be a nice place. He said that almost everyone spills when they fill their boat from a can. VanGilder said he thinks there would be less spillage with a nozzle and tank. If approved, the Conditional use rules would need to be followed or otherwise it would be taken away. VanGilder thinks this is good for the community. He also thinks filling from a can is more harmful than using a tank.

Hayes voiced concern over spillage in the event they have problems with the tank.

Motion by Manning 2nd by Hayes to make it prohibited. In favor-Manning, Boatman, Milligan, Hayes, and Gargulak- Opposed-VanGilder -Motion carried.

3. Motion by Boatman 2nd by Gargulak to adjourn. Carried 6-0

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