

Village of Birchwood  
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## *"The Bluegill Capitol of Wisconsin"*

The Village of Birchwood  
Public Hearing and Plan Commission Meeting was held on  
June 13th, 2023, at 5:30 pm at the Village Hall  
101 N Main Street, Birchwood, WI 54817

Remote Meeting Option: <https://teams.live.com/meet/9310436325669>

### MINUTES

Chairperson call meeting to order - Meeting will be recorded.

Pledge of Allegiance-Recited

Roll call: Present: R. VanGilder, B. Boatman, S. Milligan, M. Manning, and C. Gargulak-P. Parkos (stepped down)

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

Correspondence – Public Comments (limit 3 minutes) see below.

#### **Discussion/Action Items**

1. Current agenda
  - a. Motion by Boatman 2<sup>nd</sup> by Milligan to approve current Planning Commission Committee agenda. Carried 5-0.
2. Open Public Hearing : Citizens Comments on the following Classification of Unlisted Use Application for Lewis LLC to build a structure for marine rental along with installing a gas pump on PID 65-106-2-37-10-25-5 15-576-750500, RESUBD LOT 15 BLOCK 36 LOT 10 L 10 CSM #2735 V 12 P 78 DOC # 404579  
David Prohaska is opposed to reclassification. Prohaska is concerned about the proximity to the boat landing which could cause extra congestion. He also isn't a fan of more personal watercraft being added to the lake.  
Patrick Langosch is opposed to changes. Pat voiced concern over the lot and the lake being too small. The area has a no wake zone. He is concerned about extra personal watercrafts on the lake. Langosch stated that when there is a bass tournament-there is already congested parking and traffic near the dam. Linda Sturtevant-How many slips/docks? VG-not in application. Type of rentals? VG-pontoons and jet skis. Gas containment-enclosed area with contained area of 90% of tank. Hose or pump on dock?

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Unknown. Sturtevant has general concerns over the extra traffic on Little Birch and renters being responsible.

Greg Nielsen spoke in opposition to the application. He owns the property next door. Nielsen stated that when the property was purchased, he was told that it was for the applicant's family use only. He voiced concerns over what this will do to the lake. Greg is concerned with the building in relationship to the lot size. He asked what the setbacks for the lake and his property are. The foot traffic and parking are a concern as well. Atwood stated that the setbacks on the residential side (left) are 10 feet. There are no setbacks on the CBD side (right). These are per the Village ordinances.

Georgian Van Drunen said her family has been coming here for over 40 years. They have a large family that enjoys coming here and enjoys the lake. This area has provided wonderful experiences for their family, and she wants to see Birchwood left as it is.

Elmer Van Drunen and Georgian have been married for 68 years. They have property near this lot. He stated that his daughter also has property nearby and he believes she sent an email regarding this hearing. Beffa stated that this was received and is in with correspondence. Elmer voiced concern over what this will do to property values. He is concerned the lake will become busy and noisy. His family feels they will lose their sense of security if this is approved. Van Drunen stated they do business locally and try to contribute to the community. Elmer has incredible family memories of the Birchwood area and feels things won't be the same for them if this is approved.

Linda Zillmer voiced concern over the boat traffic on Little Birch and damage to the shoreline. LZ stated there needs to be a determination whether this is a permitted or conditional use under the ordinance. She believes this is not a listed use and is a prohibited use under the Village ordinance. Zillmer stated there is no listing for a marina. She doesn't feel it makes sense that the CBD was extended down to the lake. She believes the size of the lot makes it not developable. She feels this is a substandard lot. LZ would like to see this reviewed during the updating of the Comprehensive Plan.

Craig Sherman has property nearby. He feels the lot is landlocked. He asked how the boats were going to get gas with a 75 ft. setback? Are they going to have a 150 ft hose? Sherman is concerned about parking. Lake Street and Lake Avenue are already congested. There is no access to the vacant alley. This may cause an issue for boats at the boat dock. He voiced concern over the effect on Little and Big Birch with additional traffic. He feels these lakes will become more for recreational than fishing. This lot is way too small for this.

Mark Robinson-Lake Association reiterated the concerns over traffic and congestion on the lake. He inquired how many boats would be using the pumps per day. He feels this is too much activity for the space.

Chip Lewis(applicant) addressed concerns of public. They are not trying to cause issues and don't want to disturb the neighborhood. Most pontoons and boats nowadays have inboard tanks. The EPA estimates that approximately 70,000 gallons of gas are dumped in the lakes per year. Installing a pump would be more convenient and ultimately beneficial to the lake by reducing spillage. The original plan was to have gas available for their rentals only, but they have had several requests to make it available to the public. Airtec currently rents snowmobiles, UTV's, jet skis, and pontoons. They currently have 1 pontoon and 2 jet skis for rent. By putting the gas pump on the lake, this would eliminate the loading and unloading of rentals at the boat landing. People renting pontoons or personal watercraft would now be parking in Airtec's large corner lot instead of at the boat landing. Waivers are required for all renters. There would be a self-serve retractable 200 ft hose with an auto shut off. Lewis stated that with the cost

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of things, people can't afford to buy expensive watercrafts or pontoons that only get used a couple of weeks a year. A lot of people want to rent a pontoon or watercraft along with their Airbnb or campsite. Without the option of renting, they can't afford to experience these things. This is becoming a trend in vacationing.

VanGilder asked for confirmation that the tank would be 75 ft off the lake and there would be a hose going to the boat. He agreed there is more spillage when using a can. Lewis confirmed and agreed. Mr. McKowen said he was concerned about shoreline erosion because of personal watercraft on the lake. He also stated he hasn't seen any water patrol on the lake since he moved here and wondered why. The personal watercrafts operate very close to his dock. He asked how many pontoons and personal watercrafts will be rented in the future.

Lewis was asked why they want to change things if they are already renting. Lewis stated they are trying to get cluster out of the boat landing and make things simpler when checking in renters. They don't want to upset anyone; they are just here to offer a service to the community.

L Zillmer suggested that since they are already providing rentals and using staff to gas up the watercraft, etc. why not leave it as is. By offering gas, you will have more overhead with the taxes on the lot, building maintenance, utilities, and staff. Why not leave the rental and not offer gas? You have happy neighbors right now.

Lewis stated they have done a lot of research on this lot and what they can legally do with it as a Commercial lot. There is an easement for the lot, it is not landlocked. It will just be a small business. They will not have truckloads of people coming in to disturb the neighborhood.

Discussion and public input: Concern regarding gas smell and the addition of a building there. LZ inquired about a fence installation on the corner lot. Concerns were voiced about people parking their boat at this dock and going uptown for a beer. VanGilder asked that the discussion remain on the topic at hand.

Chris Manning stated she isn't as concerned about the rentals as she is about the gas. There is already a lot of traffic with the fishing tournaments. She is concerned about the shoreline. Her concern is that the gas pump will bring more people to Little Birch from Big Chetac.

Roxanne Aide is opposed to this application. She is concerned about erosion. She stated no one obeys the 100 ft rule. There is no discussion of PWC enforcement to laws. Pontoons have radios and are very loud. She would like to see more patrolling of the lake.

Discussion regarding the number of piers that will be put in and what length they will be. Lewis replied that they will not be used as slips.

LZ inquired how fuel will be delivered from the truck to the tank. She asked about the fire department recommendation for a self-contained tank. She thought it was something under the tank, not a tank within a tank. Zillmer stated that a marina is not a permitted conditional or accessory use and it just doesn't fit.

Discussion regarding spillage is possible from a hose as well as cans. Lewis asked if it would be a problem if they did not allow public usage and only used for their business. Comment was made that they originally said it was going to be used as a recreational lot-what will stop them from requesting public usage in the future.

Lewis stated he is only trying to provide services to the general public. He wants the community to continue to support Airtec. They would like to be able to leave the pontoon in the water instead of having to pull it out or use gas cans to refuel.

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Shelly Dietrek voiced concern over the self-serve aspect. She is worried about spillage from the people that don't know what they are doing.

Clint Rammer voiced concern over gas spills and jet skis so close to the dam. Lewis stated they will rip rap the shoreline. He asked what will be done to protect the shoreline of neighboring personal properties. Beffa interjected that this property is zoned Central Business District and that they are permitted to have docks and use the property as CBD. This hearing is strictly for discussion on the gas pumps.

Linda Sturtevant commented that they have a gas pump for their personal use, and it is safer with less chance of spillage when using the pump vs. a gas can.

VanGilder asked if there were any more public comments. No reply. Motion by Boatman, 2<sup>nd</sup> by Milligan to close the public hearing. Carried 5-0

3. Determination -Determine if the classification of the unlisted use is a permitted use, conditional use, or prohibited use in CBD – Central Business District Lewis LLC request to build a structure for marine rental along with installing a gas pump on PID 65-106-2-37-10-25-5 15-576-750500, RESUBD LOT 15 BLOCK 36 LOT 10 L 10 CSM #2735 V 12 P 78 DOC # 404579.

VanGilder asked each committee member to voice their opinions.

Steve Milligan agreed that there is more chance of spillage when using a can vs. the controlled nozzle on the pump. He is also concerned about erosion of the shoreline. The lot is zoned CBD, and he feels it's important for the Village to encourage business. More people are renting pontoons due to the high cost of purchasing them which allows them to have family time on the lake. This is a good vision. No one wants to disrupt the Village and he hopes there is some resolve in taking a man's word. Airtec doesn't want to make enemies of potential customers. Milligan ultimately wants to encourage business while protecting the community. He feels if they use the pump for business only, there is less chance of spillage and less use of the Village boat docking area.

Mark Manning-Mark stated he lives on the lake and has seen an increase in pontoon and personal watercrafts on the lake over the years. He understands that people can't afford to buy them, so renting has become another option for them. There is already a lot of traffic and noise on the lake. Mark doesn't care for the PWC due to the fact they go too fast and tend not to follow the boating rules. Manning believes this happens more with rentals because they just don't care. Mark doesn't think there is a problem with how Airtec currently is doing their rental business. He thinks the bass tournaments are more disruptive. Birch Lake Resort had gas at one time, and it was a huge hassle. Manning voiced concern over the self-serve aspect. He is worried about spillage due to inattentive renters.

Brett Boatman-Boatman voiced concern over unattended fuel dispensing by the public. He inquired about hours of operation. Lewis stated that it is undefined right now and they can adjust if the community would like. Boatman doesn't think it will increase boat traffic that much.

Boatman wondered if it's correctly managed -if the rules of the lake might be better enforced. Brett suggested going over boating rules and regulations prior to renting.

Clint Gargulak- is also concerned about self-service gas on the lake. Gargulak asked if it would be for business only-and not open to the public. Lewis stated that they are open to both, but they will do business only if it is going to cause a problem. Clint voiced concern about alcohol use while fueling, especially late at night. Lewis commented that intoxicated people can also fill gas cans and then drive to the landing to refuel.

VanGilder stated that himself, Brett, and Mark all live on Big Birch. Rocky stated that they know what everyone is talking about. He is also supportive of businesses in town. Airtec is working with the

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Village. VanGilder would rather not see them use self-service. Airtec is already renting pontoons and jet skis. The only difference would be is that they are on the lake vs using the landing. He doesn't think the boat traffic will increase that much because they are already doing it. He is in favor of it. He doesn't want to see it be self-service either. The committee's job is to make a decision tonight. Airtec is following the rules.

VanGilder asked Atwood (zoning administrator) for his input. Atwood stated that he doesn't live in the Village and was hired in Jan 2023 to help with ordinance administration and building inspections. Atwood stated that through public comment, one needs to be very careful when interpreting the codes. Atwood said it is ultimately his decision when interpreting the codes. By definition- this lot is not a substandard or non-conforming lot. It is a legal conforming lot that was established in the CBD back when they did their Comprehensive Planning and Future Land Use map. It is a legal lot to build on. The issue tonight is that this particular use is not listed under a permitted or conditional use in the CBD. The task tonight is to decide if this is going to fit in the Central Business District. They need to say whether it is permitted, not permitted, or conditioned. Back when these zones were established, they probably didn't put a lot of thought into how this would impact the future community. Joe encourages Plan commissions to review these districts and uses, to see what may need to be changed. Communities change. He also recommends the commission look at these areas when reviewing the Comprehensive Planning and Future land use maps to consider how this could impact the future of the community. Peter Brown inquired if they were going to operate in the winter months for snowmobiles. He also voiced concern over snow removal. Lewis confirmed that there would be no usage in the winter months.

VanGilder asked the Committee for comments. Manning stated- no fuel at all. He is ok if they follow all setbacks for the building and dock for the rental- since they are already operating that part of the business. VanGilder thinks it is a good business. Gargulak stated no fuel at all. VanGilder asked if they read the suggestions from the fire chief. He asked if Airtec followed these recommendations and only used the pump for their own use -what everyone's thoughts were. Manning again stated no-no fuel. Milligan asked for clarification of no fuel. Manning clarified-no pump. Boatman supports the use of a pump if they follow the rules from the fire department-Rental-business use only and not open to the general public. Milligan and Gargulak stated no tanks. VanGilder agreed with Boatman that if they follow the rules and only use it themselves, he is fine with it. Motion by Manning 2<sup>nd</sup> by Gargulak that they can build their building and have their dock space for rental business as long as there is no fuel tank on site. VanGilder asked if there were any further questions or comments.

Milligan asked for clarification about the fire department putting stipulations that allow it if the conditions were met? VanGilder stated that the fire department sent a letter that Airtec had to follow the fire codes in order for it to be legal. VanGilder said that by doing that -the fire department gave approval, and they would have to follow the laws- so yes it can be there legally as long as they follow the law. VanGilder stated there is a motion and 2<sup>nd</sup>-we can take a vote. All in favor-2 Opposed-3.

VanGilder confirmed 3-2- motion did not carry with taking the fuel out.

Motion by Vangilder, 2<sup>nd</sup> by Milligan to approve the building, renting of the pontoons from docks and the fuel- following the fire department rules- and only being used for Airtec and not sold to the public.

VanGilder asked if there were any further comments. No further comments made. All in favor 4- opposed-1. VanGilder stated the motion carried 4-1.

4. Adjourn -Motion by Boatman, 2<sup>nd</sup> by Milligan to adjourn. Carried 5-0

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