

MINUTES

VILLAGE OF CALEDONIA ZONING BOARD OF APPEALS PUBLIC HEARING
East Side Community Center – 6156 Douglas Avenue, Racine, Wisconsin
Tuesday, Oct. 25, 2011 – 9:00 A.M.

1. Roll Call

Chairman Fitch called the meeting to order at 9:00 a.m. and explained the meeting process.

Board Members in attendance were: Judy Tomachek, Everett Fitch, Lisa Bell, Roseanne Kuemmel, Steve Rubinson. Tom Spieker, Alternate, was present in the audience.

Present: Village Administrator Tom Lebak.

Staff present: David Mundigler of Racine County Code Administration to assist the Board on regulations and requirements.

2. Review and Possible Approval of Minutes from September 27, 2010.

Fitch asked for a motion to approve the minutes. Tomachek made a motion to approve the minutes from the Sept. 27, 2011 meeting. Seconded by Kuemmel. Voice vote. **Motion carried unanimously.**

3. Public Hearing.

**A. Fritz's of Racine, LLC
4234 Douglas Avenue
Racine, WI 53402
104-04-23-29-599-000**

Cost of past and proposed tavern additions will exceed 50% of the fair market value of the existing nonconforming structure/use, the entryway has an insufficient and nonaverage street yard setback (no permit), and the detached garage has insufficient rear and side yard setbacks (not constructed per permit).

Dave Mundigler read the public hearing notice.

Present and sworn in was John Vernon, 6110 Middle Road, Racine, WI 53402, Owner of 4234 Douglas Avenue, Racine, WI 53402. Vernon stated he is trying to build a room on the back of the business to conform to the Wisconsin nonsmoking law for the convenience of customers who smoke so they do not have to congregate outside the front door or parking lot. When he purchased the property in January of 1999, the garage was already there, and he was not informed by the Seller the garage was nonconforming. Regarding the front entrance, he does not know when that was built, but assumes it was part of the original structure from the 1920s or 1930s because the structure was built 4 feet off the ground and assumed it would have had steps when built.

When he purchase the property, Douglas Avenue was only 2 lanes and he was informed when he purchased the property that the State was going to widen the road, but he was not informed where the property started and ended. He assumed he was legal because he was there before the road was changed.

Vernon spoke to Jean Schneider at Racine County Zoning about the 50% rule. She said in 1970 the building was appraised at \$40,000. Vernon said today his fair market value is \$210,000.

Bell asked if he is experiencing any loss of business because of the smoking law. Vernon said it was hard to tell with the economy and the law has only been in effect for just over a year, but it was possible.

Bell asked about the garage encroaching on the alley. Vernon said he spoke to the Village Engineer and he said it would be possible to vacate the alley, but Vernon would have to pay the legal fees to do so, but Caledonia was not interested in the property any more. He was waiting to see what happened at BOA and then he would work with his Architect regarding the parking lot.

Kuettel asked about the insufficient yard setback. Vernon said he had an environmental study done before he purchased the property in 1998 and has pictures from 1998 showing the entryway, but did not have pictures before that date. The side entrance is to an upstairs apartment.

Fitch asked if anyone was present in favor of the petition.

Theodore J. Demetriou was present and sworn in. Demetriou owns the property directly north of 4234 Douglas Avenue. He stated what Vernon was going to do would not affect him and he hoped it would stop people from going outside to smoke. He has a 12 year old daughter and it would give him more comfort not having people standing around outside in the parking lot. He has lived there for 15 years, and his family owned the property before him, and he does not remember the front entry not being covered. He came in to give his support to the project.

Fitch asked if anyone was present in opposition of the petition. There was no one present in opposition.

Mundigler read communications from the Caledonia Village Engineer, Racine County Zoning and WisDOT.

The Caledonia Village Engineer, Michael Hayek, sent a memo dated 10/25/2011 stating he was in favor of the project.

Materials were sent to WisDOT. Monica Wauck sent a letter dated 10/14/2011 saying WisDOT does not have any to say, but appreciates the opportunity to comment.

A memorandum from Julie Anderson, Caledonia Zoning Administrator, dated 10/20/2011. In sum it was recommended to adjourn the matter for up to 6 meetings to allow the applicant time to pursue rezoning of the property, or to see if openings can be added to the existing structure to allow smoking to take place; and time to pursue vacation of the alley or relocation of the garage.

Mundigler had the garage permit from 1995 that clearly shows the garage being placed in the correct area. For some reason the garage was built in an area not to code, and crosses a lot line. As regards the front entry, Zoning did not know when the entry was placed on that building, but some plans from the 1980s did not show the entry way. If the entryway existed before 9/17/1970 it would have been legal at that time, and allowed to remain.

Discussion followed on the nonconforming use, nonconforming structure, nonconforming setback and 50% rule, and different scenarios possible for Vernon to get his variance.

Mundigler reminded the Board they cannot approve the garage as is because it crosses property lines, it is in violation whether Vernon does the addition or not and will have to be rectified. If it can be established the entryway existed prior to 1970, it will be a nonissue. Vernon pointed out his survey from 9/27/2011 does not

show the steps for the apartment and he had to ask the surveyor to show the steps on the front. He will try and find out when the entryway was put on.

Fitch called for a motion to close the public portion of the meeting. Bell moved to close the public hearing portion of the meeting, seconded by Kuemmel. Voice vote. **Motion carried unanimously.**

Public hearing closed at 9:58 a.m. Board did not take a break.

4. Board Meeting.

A. Decision on preceding petition.

Fitch presented. It seems the best thing would be for the applicant to apply for a zoning change. The Board's hands are tied at this point in time. Fitch did not remember any construction at that location and he has been living in Caledonia since 1978. Tomachek stated she has lived in Caledonia her whole life and cannot remember construction at that location.

Tomachek wanted to know if the addition could be built if the zoning was changed and deal with the garage at another time. Mundiger stated the garage still crosses the property line and would have to be corrected if he builds the addition or not, if he moved the garage, there is still enough room for the addition. He explained the three violation were combined so Vernon would not have to pay each separately. Discussion followed on what Vernon needs to accomplish to satisfy all three violations.

Bell made a motion to give the Applicant 6 months to explore other options. Rubinson seconded. Voice vote. **Motion carried unanimously.**

B. Other business as authorized by law.

No other business

C. Adjourn

Bell made a motion to adjourn the meeting. Kuemmel second. Voice Vote. **Motion carried unanimously.** The meeting was adjourned at 10:28 a.m.

Respectfully submitted,
Mary Jo Schmidt
Eng./Bldg. Adm. Asst. II
Village of Caledonia