

**TOWN OF RHINE BOARD OF APPEALS
PUBLIC HEARING AND GENERAL MEETING
Wednesday, February 23, 2011**

1. CALL TO ORDER

The Town of Rhine Board of Appeals Public Hearing was called to order by Chairman Rost at 7:00 PM on Wednesday, February 23, 2011 in the Rhine Town Hall, W5250 CTH FF, Elkhart Lake, WI. A quorum was present which consisted of the following:

Chairman: Jon Rost

Members: Paul Boochee, Ron Book, Mark Pfaller, Darrel Abston

Legal Counsel: Paul Dirkse

Clerk/Treasurer: Bonnie Stoelting. Office Assistant: Faye Konen

2. **Determination of compliance with Open Meeting Law.** Published on Tuesday, February 8 and February 15, 2011. Posted Tuesday, February 8, 2011. Agenda posted on February 16, 2011.
3. **Minutes of October 27, 2010.** A motion to approve the minutes as written was made by **Boochee**, second by **Abston**. Discussion: None. Motion carried with no nay votes.
4. **To hear public comment and consider the request** of an appeal by Tory Vollrath and Steve Schumacher, 4129 Council Crest, Madison, WI of the Town of Rhine Building Inspector's denial of their Building Permit Application to construct a new tennis court. The Building Inspector denied the application as the expansion of a legal non-conforming lot/use, per Section 4.04(3)(a) of the Town of Rhine Municipal Code. The property is located at N7391 CTH CJ, Plymouth, WI.

Chairman Rost indicated that there were two issues (1) whether a Building Permit is necessary and (2) if a permit is necessary then the Board of Appeals will go through the Appeals process.

- (1) **Public Hearing on Building Permit required. Attorney Elizabeth Rich** (representing Vollrath/Schumacher) cited Chapter 13.03(1) of the Town Rhine Ordinance which indicates a building permit is required for a building (structure) and didn't feel a tennis court fits the description of a structure. Resident, **Dave Otte**, W4698 CTH MM indicated that Chapter 4.02(30) of the Town Rhine Ordinances indicates that a structure is defined as "anything constructed or erected the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground". **Tim Kleiber**, 3514 Blueberry Lane, Plymouth, Builder indicated that that the materials to be used would be an asphalt product or concrete and a fence. **Tory Vollrath** indicated that the fence would be cyclone and 10 feet high.

With no further Public Comments, the Public hearing regarding the need for a Building Permit was closed at 7:14 PM.

Action on Building Permit being required. BOA member, Book, referred to Chapter 4.04(7) and Chapter 13.03 Permit Required. **Pfaller** felt that the tennis court would be within 1,000 ft. of the high water mark according to the Sheboygan County Ordinance. **Boochee, Abston, Rost** agreed that a tennis court is a structure. Call for the vote regarding if a permit is required. Ayes: Pfaller, Abston, Boochee, Book, Rost. Motion carried with no nay votes. A Building Permit is required.

- (2) **Public Hearing for the Variance Request.** Chairman Rost indicated that the Building Inspector denied the request for a Building Permit as a non-conforming structure. **Book** asked for clarification on if the BOA will be assessing a variance under Section C or under Section A. **Rost** indicated this would be an appeal of permit denial. **Steve Schumacher**, N7391 CTH CH, indicated that the tennis court would be 60 x 120 ft. with a fence around it. Neighbor **Carol Rost** spoke in favor of the request. An e-mail from Eric Rost supporting the variance was read into the record. With no further public comments, this Public Hearing was closed at 7:29 PM.

5. **Action on Vollrath/Schumacher request.** **Pfaller** clarified that Sheboygan County had been contacted and given approval. **Book** asked if 4.04(3)(a) was being addressed. **Booher** commented on set-back from the center line and height of the fence. **Attorney Dirkse** commented that if the BOA felt that the Building Inspector made an error, they could direct the Inspector to issue a permit with some conditions. After discussion regarding definition of a structure, set-back and fence height, the BOA agreed that the Building Inspector made an error and direct the Inspection to issue a Building Permit for a tennis court with a 10 ft. brown fence. Call for vote: Ayes, Pfaller, Booher, Book, Rost. Nays, Abston.
6. **Discuss and possibly act on revisions to Guide for Applicants.** Under Application Procedures, Changes to Item 7 (300 ft), with the help of the Town Clerk and addition of Items 9 and 10. Public Interest Factors Item (M) Town of Rhine Comprehensive Plan and the addition of Item 3 under Practical Advice to Applicants were suggest. These changes and/or additions will be made and available at the next meeting.
7. **Old Business.** None.
8. **Correspondence.** None.
9. **Next Meeting** – March 23, 2011 if required.
10. **Adjournment.** At 8:45 PM, a motion to adjourn was made by **Abston**, second by **Book**. Discussion: None. Motion carried with no nay votes.

Respectfully submitted,

Bonnie Stoelting, Clerk/Treasurer
Town of Rhine