

BEFORE THE DANE COUNTY BOARD OF ADJUSTMENT

Appeal by Robert Bentz regarding a notice that was recorded on the property at 1962 Quam Point Road, Town of Dunn, Dane County, Wisconsin by the Dane County Zoning Administrator

Appeal No. 3670

BRIEF OF DANE COUNTY ZONING ADMINISTRATOR

Dane County Zoning Division recorded a notice with the Dane County Register of Deeds on the property located at 1962 Quam Point Road in the Town of Dunn, Dane County, Wisconsin on May 12, 2015. The notice is intended to identify the status of the property pursuant to Dane County Code of Ordinance Section, 11.11(1), for any and all parties interested in the property. The notice informs the general public that the non-conforming residential structure has been deemed abandoned by the Dane County Zoning Division. It also informs the general public that the building will need to comply with County ordinances if any construction is done to the building.

Mr. Bentz claims that the structure is not abandoned as it is being used by a neighbor. To the contrary, the building does not have electricity nor has a functioning sanitary system to support the building being habitable. The electrical service has been disconnected as of September 2011 and the grinder pump for the sanitary system has been removed since November 2013 making the system inoperable.

Argument of the appeal

The requirement found Under Dane County Code of Ordinance Section 11.11(1) is very clear and is not ambiguous. If an existing structure remains unused for a period of 12 months or more, the structure shall be considered abandoned. The intent of this requirement ensures all structures within the shoreland area are required to be used for their functional purpose. If they fail to function for their intended purpose for more than a year, the structure will need to comply to current ordinances to foster the purposes of the Shoreland District.

There are certain amenities that a residential structure needs to have in order for the structure to be deemed habitable or have the ability to be used. Structural integrity, water service, sanitary service, and electrical service are all essential components for a structure to have the ability to be used for eating, sleeping, bathing, and cooking purposes.

The structure in question is, and has been, absent in three of these essential items for a period of 12 months or more. The electrical service was disconnected since 2011. The grinder pump of the sanitary system was removed in 2013 making the system non-functioning. See exhibit A and B. In addition, the lack of electricity renders the water system (well) inoperable.

Since 2008, Dane County Zoning Division has been receiving inquires on this property. Potential owners would call the Division to find out what specific types of redevelopment could occur on the property. Each time, it has been explained that the existing structure was very limited in reconstruction due to Shoreland Regulations.

In 2012, the Shoreland Regulations were amended to be in compliance with Wisconsin Administrative Code NR 115. Dane County Code of Ordinances Section 11.11(1) was added to Shoreland Regulations, setting further limits for existing structures.

11.11 (1) Abandonment of existing structures. Existing structures that remain unused for a period of twelve (12) months or more shall be considered abandoned. Any construction, replacement or repair associated with abandoned existing structures must comply with all provisions of this ordinance.

During 2014 and the early part of 2015, additional inquires were made to the Dane County Zoning Division regarding the sales of this property. Due to the inquiries and site visits, the Zoning Division discovered that the building was in ill repair, the electrical service was disconnected, and the sanitary system was not functioning.

Dane County Zoning Division felt that it would be prudent to place a notice on the property. The notice would clearly inform the public of the status of the property and inform the public of the properties limitations.

The structure has been deemed abandoned due to the structure being incapable of functioning as a residence. Electricity has not been present for almost 4 years and the sanitary system has not been functioning for almost two years. Based on these facts, the notice was recorded on the property.

Summary

I respectfully request that the Dane County Board of Adjustment make the following Findings of Fact:

1. The property located at 1962 Quam Point Road is within the Shoreland District of Lake Kegonsa.
2. The electrical service located at 1962 Quam Point Road has been disconnected since September 2011.

3. The grinder pump which provides sanitary service to the residence located at 1962 Quam Point Road was removed on November 28, 2013 and has not been replaced.
4. Electricity and a functioning sanitary service are essential components of a habitable residence.
5. Dane County Code of Ordinance Section 11.11(1) *Abandonment of Existing Structures*, states that existing structures that remain unused for a period of twelve months or more shall be considered abandoned.
6. Dane County Zoning Administrator Lane recorded a notice document on Lot 4 of Ole J Quams Park Addition Subdivision under Register of Deeds document #5150853 which identifies that the residence on the property has been found to be abandoned due to the residence being absent of electricity and a functioning sanitary service for more than a year.

Conclusion

With the aforementioned evidence, I respectfully request that the Dane County Board of Adjustment make the following conclusion:

1. The Dane County Zoning Administrator was correct in his assessment of the residence at 1962 Quam Point Road being an abandoned structure.
2. The Register of Deeds notice document #5150853 is a reasonable method to inform the general public of the development limitations found on the property located at 1962 Quam Point Road, Town of Dunn, Dane County, Wisconsin.

Exhibit A



Stoughton Utilities

600 South Fourth Street
P.O. Box 383
Stoughton, WI 53589-0383

Serving Electric, Water & Wastewater Needs Since 1886

Dear Rodger Lane,

According to our records, the meter at 1962 Quam Point Dr. was removed due to equipment damage in September of 2011. The property was reconnected with a new meter on July 22, 2015 after new service was installed and inspected by the township of Dunn.

If you have any further questions, please direct them to our office at (608)873-3379.

Sincerely,

Stoughton Utilities Customer Service

RECEIVED

AUG - 3 2015

DANE COUNTY PLANNING & DEVELOPMENT



Office 608-873-3379
Fax 608-873-4878
stoughtonutilities.com



KEGONSA SANITARY DISTRICT

2240 US HWY 51, P.O. Box 486

Stoughton, WI 53589

(608) 873-0230

(800) 474-0230

Facsimile (608) 873-5672

E-mail info@KegonsaSanitaryDistrict.com

July 31, 2015

Roger Lane
Dane County Zoning
210 Martin Luther King Jr. Blvd Rm 116
Madison, WI 53703

Re: 1962 Quam Point Road

Dear Mr. Lane:

I received a request from Hans Hilbert for information on 1962 Quam Point Road. The property at 1962 Quam Point Road was connected to the Kegonsa Sanitary District on August 14, 1989. The District has served this property from that date and currently does.

The District has recently updated the grinder pumps that serve our customers, replacing all 357 grinder pumps. Mr. Bentz, the current owner at 1962 Quam Point Road, requested for an extension to update the electrical to serve this new pump until the property is sold. The District granted his request. The District has been in contact with Bob Jensen who is in the process of purchasing the property from Mr. Bentz. In fact, we are aware that the electrical upgrades are in the process of being made.

It was also requested that the District provide the date we removed the old style grinder pump while waiting for the wiring to be upgraded. The old grinder pump was removed on 11/28/2013. Again, the District considers this property a current customer. It is not abated and Mr. Bentz has paid user charges since that date and continues to do so.

If you have further questions, please contact me.

Sincerely,

Cindy Lehr

Cindy L. Lehr
KSD Clerk

Revised 7/31/15

Commissioners

Michael Sherry, Pres.

Dan Hillery, Sec.

Michael Petersen, Tres.