

**Green Lake County  
BOARD OF ADJUSTMENT**

**Meeting Minutes - Thursday, December 22, 2022**

The meeting of the Green Lake County Board of Adjustment was called to order by Vice Chair Rick Dornfeld on Thursday, December 22, 2022 at 09:32AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI.

**ROLL CALL**

Present:

Brian Zimmermann (Alternate)  
Rick Dornfeld  
Andy Phillips, BOA counsel

Absent:

Ron Triemstra  
BJ Zirger

Other County employees present:

Karen Werlein, BOA Secretary  
Caleb Edwards, Land Use Specialist

Matt Kirkman, P&Z Director

**PLEDGE OF ALLEGIANCE**

Recited

**CERTIFICATION OF OPEN MEETING LAW**

The requirements of the class two open meeting law were certified as being met. Posted on the County's bulletin board, county website, and posted in the Berlin Journal Newspaper two consecutive weeks.

**APPROVAL OF MINUTES**

***Motion/second (Zimmerman/Dornfeld)*** to approve the minutes of the 9/16/22 and 11/02/22 meeting. Motion carried with no negative vote.

**PUBLIC HEARING**

Vice Chair Dornfeld read the rules for the Public Hearing

**Appellants:** Green Lake Association, Inc. Green Lake Conservancy, Inc. Green Lake Sanitary District, Ernie Neuenfeldt **Owner/applicant:** Donald Kinas, Michael McConnell **General legal description:** 004-00787-0000, \*004-00786-0000 (\*identified due to Stormwater Plans), part of the SW1/4 S36 T16N, R13E, Town of Brooklyn **Administrative Appeal:** The Board of Adjustment will conduct a de novo (new) hearing to determine whether to approve (with or without conditions) an application for a conditional use permit filed by Donald Kinas for a non-metallic mining operation at the subject property.

- a. Public Testimony/Comment: Vice Chair Dornfeld called for public input.  
Public comments held  
Vice Chair Dornfeld closed the public hearing.
- b. BOA Discussion & Deliberation:

Deliberation and discussion were made from BOA members

- a. BOA Decision: ***Motion/second (Zimmerman/Dornfeld)*** to Uphold/Sustain the Appeal (effect is to deny permit application)

**Findings:**

**Following deliberation and consideration of the factors identified in Wis. Stat. § 91.46, Ordinance 350-27(2)(e) and Ordinance 350-56(B)(2), all of which must be met for a conditional use permit to issue, the Board makes the following Findings based upon the evidence contained in the record of the public hearing:**

1. The Applicant failed to provide the Board with substantial evidence that the operation and location of the mine in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district. The Applicant provided no evidence of an effort to locate suitable property for the proposed mine outside the farmland preservation district. (Wis. Stat. § 91.46(6)(c); Ordinance 350-27(2)(e)3)
2. As established through the testimony of the Appellants' witnesses, the operation will or may have a negative effect upon the health, safety, and general welfare of occupants of surrounding lands. In addition to the testimony provided by Appellants, the testimony of the DNR official regarding the work done to preserve the area surrounding the proposed mine, the fragile nature of the area surrounding the mine and the potential for the mine to disrupt the area was afforded weight. (Ordinance 350-56(B)(2)1)
3. As established through the testimony of the Appellants' witnesses, the operation is not designed, constructed, operated, and maintained so as to be harmonious and be appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area. The Board does not fault the design of the proposed mine and recognizes the Applicants' efforts to minimize the proposed mine's impact on the surrounding area, but the proposed mine would not be harmonious with the surrounding area and would change the essential character of the area as being preserved for farmland and related activities. (Ordinance 350-56(B)(2)2)
4. As established through the testimony of the Appellants' witnesses and public testimony, the proposed mine's operation would, or there is a significant risk it may, be hazardous or disturbing to existing or future neighboring uses. Specifically, the Appellants established the proposed mine would create a significant risk to the water quality and quantity of the nearby springs and the Applicant's testimony did not clearly establish that such risk would be eliminated. (Ordinance 350-56(B)(2)3)
5. As established through the testimony of the Appellants' witness on property valuation, the proposed mine's operation will likely be detrimental to property in the immediate vicinity or to the community as a whole. There is a significant risk that neighboring properties would suffer a decrease in value as a result of mining operations in the vicinity of the properties. (Ordinance 350-56(B)(2)4)
6. The Board finds that there is substantial evidence indicating the Applicant met or agreed to meet the additional factors and standards contained in Wis. Stat. § 91.46(6), Ordinance 350-27(2)(e) and Ordinance 350-56(B)(2) not identified above and relevant to the application for a conditional use permit application. However, given the substantial evidence showing that not all of the required factors in Wis. Stat. § 91.46, Ordinance 350-27(2)(e) and Ordinance 350-56(B)(2) are capable of being met (with or without conditions), the Board cannot issue the requested conditional use permit.

**Based upon the Findings herein, the appeal is sustained and the application for a conditional use permit is DENIED.**

**ADJOURNMENT**

Vice Chair Dornfeld adjourned the Board of Adjustment meeting at 4:22PM

Submitted by, [Karen Werlein, BOA Secretary](#)