



VILLAGE OF WINNEBAGO

ZONING BOARD MEETING MINUTES

Tuesday, May 06, 2025 at 6:00 PM

108 West Main Street and Virtually

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1. CALL TO ORDER

The meeting was called to order at 6:25PM

2. ROLL CALL

PRESENT: Chairman Bill Emmert, Michael Booker, Irv Koning

GUESTS: Village Administrator Joey Dienberg, Village Attorney Mary Gaziano, Assistant Deputy Clerk Rachel Windgassen, Chandra Cearns, Brooke Starry, Lisa Smith, Ross Thompson, Janice Thompson, Hope Rynders, Siri Drogsvold

ABSENT: Brian Martin, Riley Pitney

3. DISCLOSURE OF ANY CONFLICT OF INTEREST-

There was no conflict of interest noted.

4. PUBLIC COMMENT-

No request for Public Comment was received. There was a sign in sheet for the members of the public in attendance.

5. APPROVAL OF MINUTES

a. Minutes from March 4, 2025 Public Hearing- Body Art

Motion made by Chairman Emmert to approve the minutes, seconded by Mr.

Koning. Voting Yea: Chairman Emmert, Koning. Motion carried by unanimous voice vote of those present, with Mr. Booker abstaining as he was not present at the March 4, 2025 public hearing.

b. Minutes from March 4, 2025 Public Hearing- Park Hills Church

Motion made by Chairman Emmert to approve the minutes, seconded by Mr.

Koning. Voting Yea: Chairman Emmert, Koning. Motion carried by unanimous voice vote of those present, with Mr. Booker abstaining as he was not present at the March 4, 2025 public hearing.

c. Minutes from March 4, 2025

Motion made by Chairman Emmert to approve the minutes with the discussed grammatical change, seconded by Mr. Koning. Voting Yea: Chairman Emmert, Koning. Motion carried by unanimous voice vote of those present, with Mr. Booker abstaining as he was not present at the March 4, 2025 meeting.

d. Minutes from March 18, 2025

Motion made by Chairman Emmert to approve the minutes with the discussed changes, seconded by Mr. Koning. Voting Yea: Chairman Emmert, Koning. Motion carried by unanimous voice vote of those present.

e. Minutes from April 1, 2025

Motion made by Chairman Emmert to approve the minutes with the discussed changes, seconded by Mr. Booker. Voting Yea: Booker, Chairman Emmert, Koning. Motion carried by unanimous voice vote of those present.

6. DISCUSSION

a. Special Use Permit for Body Art Establishment

Chairman Emmert stated that he believes a special use permit is appropriate at 126 S. Benton Street. He requested that a restriction be placed on the special use permit so that the act of tattooing or piercing from within the business would not be visible from the sidewalk outside, providing the rationale that there are a preschool, a park, and an elementary school all within the immediate vicinity, in which families and children could walk past the window.

Mr. Koning questioned whether the window clings were black out clings to block the view into the business. Mr. Koning stated that he is hesitant to insist on restricting people from being able to see in the business at all but understands and supports the need for discretion. Ms. Cearns noted that she has half walls already purchased to block any accidental viewing of the act of piercing or tattooing. Chairman Emmert stated that his concern lies with people being able to see the “actual act of” tattooing or piercing from the street, rather than from inside of the business.

Attorney Gaziano questioned the window clings noted by Ms. Cearns, what was on the clings, and whether they may obscure the view into the business. Ms. Cearns stated that they would not obscure the view but state the name and phone number of the business on them.

Chairman Emmert questioned if the Zoning Board believed any other restrictions would be appropriate. Mr. Koning stated that he was initially concerned about the

hours of operation, but that Ms. Cearns had already addressed his concerns during the public hearing. Chairman Emmert questioned if the UDO had any restrictions on hours of operation for a business, to which Attorney Gaziano said there were none. Chairman Emmert then asked Mr. Koning if he would recommend any restrictions on the hours of operation because the hours given by Ms. Cearns would not be enforceable unless specifically noted in the special permitted use.

Mr. Koning questioned if normal business operations would cause any disturbances for the tenants upstairs.

Mr. Booker expressed concern about imposing limitations on the business, noting that the bar located across the street likely generates comparable noise without being subject to similar restrictions. Mr. Booker also raised the issue of potentially setting a precedent by applying such limitations.

Occupancy limits were briefly discussed with Mr. Koning questioning if restricting the number of people allowed at one time was something that the Zoning Board was comfortable with. Chairman Emmert stated that limits are determined by the fire marshal and that determining another occupancy limit based on fact, and not just arbitrary numbers, would prove difficult.

Attorney Gaziano questioned if any of the other establishments in the downtown area, that serve alcohol, have tenants residing above the business, at which point, it was noted that there are residents above Cimino's.

Chairman Emmert questioned if the Zoning Board was content with just the two restrictions on the special permitted use of restricting hours from 8am until midnight and restricting visibility of the act tattooing and piercing from outside the business.

Attorney Gaziano clarified the rules and protocols for a public hearing versus during the meeting.

Chairman Emmert addressed the possibility of regulating the signage and possible depictions of drawings by stating that due to protections provided by the 1st Amendment, there is not a good way to regulate signs and pictures in the business's windows. He noted that there are state obscenity laws in place that may pose fines, but that he could not think of any "legally sustainable" restrictions to apply at this time. Attorney Gaziano noted that she believed it was beneficial to specifically notate that while there are no written restrictions on signs or drawings are being applied to the

special use permit, that the state obscenity laws can still regulate what is being placed on display.

Chairman Emmert mentioned that no objections were raised at the public hearing, and that this indicated general community acceptance. He stated that with the two restrictions mentioned, he would approve the special permitted use.

Chairman Emmert moved to recommend approval of the Special Use Permit for the body art establishment at 126 Benton St. with the following restrictions:

1. Tattooing or piercing shall not be visible from the sidewalk or street.
2. Hours of operation shall be limited to 8:00 AM to 12:00 AM.

Attorney Gaziano requested that the motion be amended to specify that this would be a recommendation to the Village Board to approve, seconded by Mr. Booker. Motion passed by unanimous vote of all those present.

Ms. Cearns thanked the board and stated that they should not be concerned with her business being a nuisance to the children in the area, since she focuses her business to be as “family-oriented” as possible.

Attorney Gaziano stated that she would update the draft ordinance with the restrictions approved by the Zoning Board to be approved by the Village Board at the following night’s meeting. She noted that if the Village Board wanted to override the Zoning Board’s recommendation to approve, under the UDO, they would need a supermajority (2/3) vote.

b. Text Amendment Application: UDO Fence Requirements

Mr. Dienberg provided an overview of the text amendment application and that in discussion with the building inspector, it was recommended that this should be a text amendment to the UDO Section 6.01.03. Chairman Emmert clarified that this request came from a resident, not the building inspector.

Chairman Emmert stated that he did not want to move forward with this request as is, since the application turned in was incomplete, and with the possibility of formal zoning application fees being added soon, he felt this was unfair. He further voiced concern that individual residents should not be driving amendment changes without going through proper channels, especially in the absence of a formal application fee. He suggested residents should approach the building inspector, Village staff, or the Village Board to initiate changes so that changes are made comprehensively.

Mr. Dienberg stated that fees do not currently exist, so there are no fees being waived. Attorney Gaziano clarified that the building inspector would not submit an application but would rather just make a recommendation to change the UDO.

Chairman Emmert stressed that while he did not believe this request was frivolous, he would like to avoid frivolous requests in the future. He emphasized that applications should be comprehensive and well organized, rather than piecemeal and that by adding a fee, it should reduce the number of requests received.

Mr. Dienberg questioned if the public hearing could continue as tentatively planned if the building inspector submitted the recommendation and the current application was rescinded. Chairman Emmert questioned if there was a reason the topic could not be held over until the following month. Mr. Dienberg replied that as this was a staff oversight, of no fault of the resident, that he didn't believe this should hold up the resident's project.

Chairman Emmert stated that he would like to officially start implementing the protocol that public hearings are not scheduled without finalized language in place prior. Mr. Booker noted that while not an ideal situation, he is fine with proceeding at this time. Chairman Emmert remained firm that public hearings should not be scheduled without finalized language, stating his concern that there will not be adequate time spent on this recommendation to make it a comprehensive change, while still falling within the tight timeline to have it published in the required amount of time, since it would need to be to the papers within the next 3 days.

Mr. Koning questioned whether the Zoning Board could initiate changes directly and asked for clarification on the process, which was provided by Attorney Gaziano. Mr. Koning then stated his agreeance that there is a bigger issue in the UDO to consider, but holding up a resident's project until the issue is corrected is a Village issue, not a resident issue. Mr. Koning questioned if the written changes, including a comprehensive examination of the UDO section in question, could reasonably be completed before the next Zoning Board meeting, and whether in turn, the resident could reasonably assume his project request would be done by the following month. Mr. Dienberg cautioned that the optics on holding off could be viewed as waiting until the fee schedule is in place, rather than wanting to verify that a comprehensive look at the UDO was occurring. Chairman Emmert noted that if the change recommendation

was coming from the Board of Trustees or staff, there would be no fees. Attorney Gaziano clarified that the Village does not take action on behalf of residents, but rather acts for the betterment of the Village.

Mr. Koning questioned if a motion was needed to end this discussion, which Chairman Emmert denied the need for.

Mr. Dienberg noted the building official will be attending the next meeting.

7. NEW BUSINESS

Mr. Booker cautioned that in his 40+ years of public service; he has noticed that treating people/situations differently can cause issues. He voiced his concern about the school development project that appeared to proceed without going before the Zoning Board, despite similarities to a previous church project that required extensive review. He stated that such inconsistencies, where staff may give perceived permission to a project, without formal Zoning Board input, places the board in a difficult position. Mr. Booker continued to note that staff and officials hired by the Village giving advice without consulting the board can leave staff isolated in their decision without board support. Chairman Emmert echoed the sentiment, stating that the absence of a designated zoning officer complicates compliance verification. Mr. Dienberg clarified the timeline of events; stating that the school received conditional approval last fall, while the church applied afterward. He also verified that the Village Engineers had reviewed the proposed work at the school and there was no concerns over the zoning, due to the school parking lot being on a separate parcel from the school. Attorney Gaziano stated that the Village has historically relied on expert recommendations to advance the Village.

8. EXECUTIVE SESSION- Not needed

9. ADJOURNMENT

Motion to adjourn was made by Mr. Koning, seconded by Mr. Booker. Motion carried.

Meeting adjourned at 7:45pm

UNAPPROVED

Rachel Windgassen, Assistant Deputy Clerk