

**FILED**  
**07-28-2022**  
**Washburn County**  
**Clerk of Circuit Court**  
**2022CV000064**

STATE OF WISCONSIN    CIRCUIT COURT    WASHBURN COUNTY

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SPOONER LAKE PROTECTION AND  
REHABILITATION DISTRICT  
P.O. Box 73  
Spooner, WI 54801,

JOSEPH and POLLY BANICK  
W5581 Miramar Road  
Spooner, WI 54801, and

Case No.  
Case Code: 30955

NANCY HANSON  
W5739 Bayside Road  
Spooner, WI 54801,

Plaintiffs,

v.

WASHBURN COUNTY BOARD OF  
ADJUSTMENT  
10 4<sup>th</sup> Ave  
Shell Lake, WI 54871,

Defendant.

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**SUMMONS**

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**THE STATE OF WISCONSIN TO THE WASHBURN COUNTY BOARD OF  
ADJUSTMENT:**

You are hereby notified that the Plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the

statutes. The answer must be sent or delivered to the court, whose address is Washburn County Clerk of Courts, P.O. Box 339, 10 4<sup>th</sup> Avenue, Shell Lake, Wisconsin 54871 and to Plaintiffs' attorney, whose address is Pines Bach LLP, 122 West Washington, Suite 900, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real property you own now in the future, and may also be enforced by garnishment or seizure of property.

Dated this 28<sup>th</sup> day of July, 2022.

PINES BACH LLP

*Electronically signed by: Christa O. Westerberg*

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**COMPLAINT**

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Plaintiffs Spooner Lake Protection and Rehabilitation District, Joseph and Polly Banick, and Nancy Hanson (“Plaintiffs”), by their attorneys, Pines Bach LLP, hereby submit this Complaint for the remedy available by certiorari under Wis. Stat. § 59.694(10). Plaintiffs seek review of Defendant Washburn County Board of Adjustment’s (the “Board’s”) June 29, 2022, decision to affirm the Washburn County Zoning and Planning Committee’s (the “Committee”) approval of a conditional use permit for a 200-site RV campground on October 26, 2021 (“Decision,” attached as **Exhibit A**).

In support hereof, Plaintiffs allege as follows:

### **PARTIES**

1. Plaintiff Spooner Lake Protection and Rehabilitation District (“Spooner Lake District”) is a public inland lake protection and rehabilitation district created under Wis. Stat ch. 33, subch. IV, whose address is P.O. Box 73, Spooner, Wisconsin 54801. It is dedicated to protecting and enhancing Spooner Lake, including protecting water quality and enhancing recreational uses on the lake, and its members and leaders engage in activities to protect and study the lake and make plans for its management.

2. Plaintiffs Joseph and Polly Banick are adult residents of the State of Wisconsin whose address is W5581 Miramar Road, Spooner, Wisconsin 54801. They are members of Spooner Lake District.

3. Plaintiff Nancy Hanson is an adult resident of the State of Minnesota whose part-time address is W5739 Bayside Road, Spooner, Wisconsin 54801. She is a member and board member of Spooner Lake District.

4. The Washburn County Board of Adjustment is a county board of adjustment created pursuant to Wis. Stat. § 59.694, and is authorized by Washburn County Ordinance ch. 38, Article II, Div. 30, to hear and decide appeals where it is alleged there is an error in a decision made by an administrative official and variances from the requirements of the Washburn County ordinances. Its address is 10 4<sup>th</sup> Avenue, PO Box 639, Shell Lake, Wisconsin 54871.

### **JURISDICTION, VENUE, AND RELATED ACTIONS**

5. Venue is proper in the Circuit Court for Washburn County under Wis. Stat. § 801.50(2)(a)-(c).

6. The Court has jurisdiction to review certiorari actions commenced by persons aggrieved by any decision of the board of adjustment pursuant to Wis. Stat. § 59.694(10).

7. This complaint is timely filed within the 30 days after the filing of the Decision in the office of the Board on June 29, 2022. *Id.*

8. Plaintiffs directly challenged the decision of the Washburn County Planning & Zoning Committee in Washburn County Case No. 21-CV-118, but stayed that matter pending the proceedings before the Board. It remains stayed but the Court has recently requested an update in that matter on or before August 15, 2022.

## FACTS

### **Spooner Lake and the Proposed Campground**

9. Spooner Lake is a 1,132 acre navigable lake in Washburn County. Its maximum depth is 17 feet, but its average depth is 6-8 feet. As a shallow lake, it is very vulnerable to contamination and nutrient inputs like nitrogen and phosphorus.

10. According to the Lake Watershed Management Plan for Spooner Lake, development practices adversely affect the quality of water entering the lake through activities like runoff, which increases soil erosion and contributes nutrients through manure spreading, septic systems, fertilization, and other activities. Development in the subwatershed area of Spooner Lake has already increased the speed of eutrophication of the lake.

11. On September 8, 2021, North Camp Properties II LLC applied to the Washburn County Zoning department for a conditional use permit (“CUP”) to build a 200-site seasonal campground, designed for recreational vehicle use.

12. The campground property borders Spooner Lake and much of the campground would be in the shoreland area of Evergreen Lake, a 16-acre navigable lake with a maximum depth of 8 feet.

13. The campground property is dense with wetlands, many of which surround or are adjacent to Spooner Lake and Evergreen Lake.

14. The campground site is currently undeveloped and hosts high-quality, native wetland vegetation with few invasive species. This vegetation is sensitive to disturbance from development activities and intrusion by non-native species.

15. The campground would more than double residential density around the lake, which currently stands at about 150-160 homes, and would be the largest campground in Washburn County.

16. The proposed campground relies on conventional and mound septic systems to treat wastewater. However, soils in the area are rated as “very limited” for septic according to U.S. Department of Agriculture maps. While the applicant contended that the campground would meet state standards for privately owned wastewater treatment systems, that contention relied on state standards that assumed discharge would be 30 gallons per day per camping unit, when modern park models of campers such as those planned for the campground are estimated to generate much more.

#### **Previous Rejections of CUP Applications for the Proposed Site**

17. Prior to September 8, 2021, the Board and Committee had previously rejected conditional use permits to build the proposed campground. An initial application was rejected out-of-hand by the Committee in December 2020 as incomplete.

18. The Committee approved a second CUP application on February 23, 2021, by a 4-0 vote with one abstention, but the Spooner Lake District appealed the CUP decision to the Board. The Board disapproved the CUP in a July 30, 2021, meeting because, *inter alia*, the application was still missing necessary information such as the ordinary high water mark (“OHWM”) for Spooner Lake and Evergreen Lake. No party requested reconsideration or rehearing of the July 30, 2021, vote, and no party appealed it.

19. The September 8, 2021, application contained some of the same errors as the previous applications. It was still incomplete, missing information such as dimensions for all proposed structures such as shower houses, property lines, locations for septic drainfields, accessory structure information, complete wetland locations, and information to determine compliance with shoreland zoning standards, which are applicable to all CUPs and campgrounds in shoreland areas under the County’s ordinances.

#### **The October 26 Committee Hearing and Erroneous Approval of the CUP Application**

20. The campground has generated substantial opposition because of the risk the development poses to the lakes and surrounding wetlands, concerns that it will lower property values, and because the significantly increased density will change the character of the area and cause noise, traffic, light, and similar impacts, among other reasons. Several written comments submitted ahead of the meeting noted the application did not contain a wetland delineation report.

21. Pursuant to County ordinance and Wis. Stat. § 59.69(5e)(c), the Committee noticed the CUP application for a public hearing to be held on October 26, 2021. The Committee accepted written comments prior to the hearing.

22. Anticipating that the applicant would make an extensive presentation in favor of their application at the hearing, as it did in February, Spooner Lake District asked the Committee Chair for equal time to make a presentation, or at least twenty minutes. That request was denied. The Chair did not respond to a separate request to provide copies of any conditions the Committee was considering in advance of the meeting, so the public could comment on them.

23. At the October 26, 2021, hearing, the applicant gave an over 90-minute presentation with a 67-slide powerpoint presentation. No time limits were imposed on its presentation. The presentation reiterated much of the written application, though new information was also submitted, including the applicants' wetland delineation report.

24. This wetland delineation report was over 200 pages and was only submitted to the Committee a day before the October 26, 2021, hearing. The report contained extensive, detailed information that implicated the compatibility of the campsite with the surrounding area and zoning requirements. Despite this 11<sup>th</sup> hour filing, the Committee accepted the report.

25. At the statutorily required public hearing, the Committee Chair requested that people who had submitted written comments not speak during the public hearing because the written comments were "on record." She invited those who had not submitted written comment to come to the microphone, though speakers were strictly limited to three minutes per person and were cut off at precisely three minutes. Written comments were not read and there was little indication Committee members considered them.

26. All verbal commenters and approximately 48 of 49 written commentors were opposed to the campground CUP, so the Chair's directions were disproportionately imposed on project opponents.

27. After the hearing, the applicant's attorney was permitted to interrupt and, at times, guide the Committee's deliberations. The Plaintiffs were not afforded any opportunity to respond or rebut the applicant's attorney or provide similar input.

28. The Committee approved the CUP application, 4-0, with one abstention. It found the application was complete and reviewed the Ordinance's standards but did not make findings or explain its findings on all of the standards. Comments during deliberations indicate members misapplied the standards, such as by stating the campground was ¼ mile from Spooner Lake and the wetlands would filter any contaminants before they reached the lake, without considering impact to the wetlands themselves or Evergreen Lake.

29. The applicant did not provide substantial evidence that all requirements of the County's ordinance were or would be met, and the Committee's decision was not supported by substantial evidence to this effect. Other substantial evidence in the record indicates the requirements will not be met, including on matters affecting groundwater, wetlands, and surface water quality.

#### **Appeal to the Board, the Hearing, and the Board's Decision**

30. On November 24, 2021, the Plaintiffs filed an appeal of the CUP approval with the Board. The Board held a public hearing on May 20, 2022. (the "Hearing").

31. At the outset, the Board determined it had jurisdiction to hear the appeal despite the language of its Bylaws. These Bylaws expressly state that the Board cannot act upon an appeal or issue pertaining to the "the same or part of the same property" within one

year. The Board had previously rejected a CUP application regarding the same development and property within one (1) year of the hearing, but Board's Decision concluded that the CUP at issue was a "new application by a new applicant and as such did not violate any time frame related to reapplication for denied variances or permits." (Decision at 4.)

32. The Plaintiffs, Committee, and campsite applicant all made presentations to the Board regarding their respective positions. The Decision states that "[t]he Parties were allowed time to make their arguments without limitation" and faced only "occasional questioning" from the Board and its counsel. (Decision at 2.) However, the Plaintiffs' attorney was repeatedly cut off and interrupted by questions from the Board's counsel.

33. The parties' presentations were followed by verbal public comment. The public comment was unanimously opposed to the CUP. Written comments were also submitted to the Board in advance of the meeting, which the Decision erroneously states were "read aloud" at the hearing. (Decision at 2.)

34. On appeal to the Board, the Plaintiffs presented five issues for review: 1) whether the Committee followed the proper process, 2) whether the applicant had offered a complete application, 3) whether the Committee could properly evaluate the wetland delineation report submitted by the applicant the day before the CUP hearing, 4) whether the Committee's decision was supported by substantive evidence, and 5) whether the Committee adequately explained its reasoning.

35. At the May 20, 2022, hearing, the Board only considered four (4) out of these five (5) issues. Specifically, it omitted the fifth issue: whether the Committee adequately explained its findings. This was a notable omission, because Board members repeatedly noted in their deliberations that only one or two Committee members spoke on an issue,

making it difficult to understand the basis for the Committee's reasoning. The subsequent written Decision concluded that the "Committee did articulate their findings, and that those findings were sufficient to support their decision," but the Board did not make this finding during the meeting.

36. As to the remaining issues, the Board determined the Committee followed the proper process despite its lack of formal, written procedures, the one-sided approach to the hearing, and the Committee chair's request that people—who were all likely to be project opponents—not speak if they had submitted a written comment. At least one Board member acknowledged that "maybe this is something the [Committee] chair should not have done."

37. The Board also affirmed the Committee's conclusion that the application was complete and handling of the wetland delineation report was correct, even though the report was of significant interest to the public and the Committee did not itself have sufficient time to review and understand it. The report also directly addressed the County's CUP standards, such as those relating to the campground's "compatibility with the immediate and surrounding environment and the possibility for reclamation, if needed," its "impact upon and harmony with the future environment and the future development of the district," and "existing topographic and drainage features and vegetative cover." Ord. § 38-537.

38. The Board determined that the Committee had substantial evidence to support its decision, despite some members' misgivings. For example, the Board acknowledged that the development would use septic to treat wastewater, despite soils having a limited rating for this purpose. Yet the applicant never revealed how much

wastewater it would actually discharge, which is relevant to the CUP standards and the requirement that soils be suitable for the proposed use. Ord. § 38-370.

39. Rather, the applicant relied on the default assumption that each of its 200 campsites would only discharge 30 gallons/day, but substantial evidence in the record showed that this was a drastic underestimate for the modern park model RVs that the site would attract, and that other states assume the discharge is as much as 175 gallons/day. Excess wastewater and septic discharge will harm groundwater, wetland, and lake water quality.

40. One Board member suggested metering to show compliance with the 30 gallon/day standard, and another acknowledged that there is a “big difference between 30 and 100 gallons” a day and that the Committee did not “wrestle” with this problem. Yet the Board ultimately concluded there was substantial evidence to support CUP approval by the Committee and did not impose a metering condition.

41. Further, the Board concluded that the Committee correctly decided that substantial evidence supported the conclusion that the campsite was a “low-density development” conducive with the RR-2 zoning district. The campsite called for 200-campsites. There are only 160 residences surrounding Spooner Lake and 700 in the entire Town of Spooner. There was no evidence to support this conclusion.

42. In an apparent oversight, the Board entirely failed to determine whether the Committee had sufficient evidence for one of the required CUP standards: “[e]xisting topographic and drainage features and vegetative cover.” Ord. § 38-537. This is significant given the sensitive wetland vegetation in the area, other stormwater impacts, and nearby lakes.

43. Numerous speakers raised the issue of whether the proposed 200-site, RV campground was actually a “campground” compliant with the Washburn County’s zoning ordinance. The ordinance allows “[c]ampgrounds, public and private parks and other recreational camps and parks” in the RR-2 zoning district as conditional uses. Ord. § 38-372(1). “Campgrounds” are a collection of “camping units,” which are defined as “a **portable** device or enclosure, no more than 400 square feet in area, including but not limited to a tent, camping trailer, bus, van, pick-up truck, park model or other mobile recreational vehicle used for human habitation.” Ord. § 38-562 (emphasis added).

44. The undisputed evidence at hearing was that residents at the proposed North Camp Properties II LLC development would be permitted to leave their campers and homes at the site year-round—in fact, residents would be required to sign a one (1) year lease—with just water shut off during the winter months. The camper homes would thus not be portable, mobile, or temporary as required by the ordinance. Nonetheless, the Decision concluded that “the development as proposed does meet the definition of a campground as set forth in the ordinance and as permitted in this zoning district.” (Decision at 4.)

45. Ultimately, at the conclusion of the hearing, the Board voted 5-0 to affirm the Committee’s approval of the CUP.

46. The Board subsequently issued a written decision on June 29, 2022. The full Board did not vote on or approve the written decision, and the Decision was not served on the Plaintiffs.

### **The Harm to the Plaintiffs**

47. Plaintiffs are harmed by the Defendant’s actions. The Spooner Lake District has invested substantial volunteer effort and funding to protect and study the lake and make

plans for its management. Its members own property on Spooner Lake, including members who live in close proximity to the proposed campsite. Spooner Lake District will be harmed by the CUP and campground, which is likely to reduce water quality in the lake, its adjoining wetlands, delineated sensitive areas along the lake shoreline, and groundwater, undermining the District's efforts to improve water quality. The District and its members will also be harmed by increased noise, traffic, development, light, and visual impacts caused by the campground, along with lower property values. Additionally, several members of the District did not speak at the Zoning Committee's public hearing due to the Chair's direction that people who submitted written comments should not provide verbal comment

48. Joe and Polly Banick are aggrieved by the Board's decision because it will lead to increased noise, vehicle traffic, and boat traffic in the immediate area of their home, along with lower property values. The Banicks reside very close to the proposed campground and have 300 feet of lake frontage, and would be harmed by lower water quality in the lake, sedimentation, and other effects.

49. Nancy Hanson is aggrieved because she will be affected by increased boat traffic and the density the campground will bring to the Spooner Lake area. She also was deterred from speaking at the Committee hearing due to the chair's comments.

#### **CAUSE OF ACTION: STATUTORY CERTIORARI**

50. Plaintiffs reallege all the preceding paragraphs as if specifically set forth herein.

51. Pursuant to Wis. Stat. § 59.694, a circuit court may review any decision of a county board of adjustment through certiorari review. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

52. On certiorari review, a court considers whether a board of adjustment kept within its jurisdiction, acted according to law, exercised its will and not its judgment, and based its decision on evidence that reasonably supported that decision.

53. The Board's Decision to affirm the decision to award the CUP should be reversed on certiorari review for at least the following reasons:

- a. The Board lacked jurisdiction to hear the CUP application within a year of the Board's prior decision rejecting the campground;
- b. The Board erred and erroneously exercised its discretion in failing to consider whether the Committee sufficiently explained its findings as required by *Lamar Cent. Outdoor, Inc. v. Bd. of Zoning Appeals*, 2005 WI 117, 284 Wis. 2d 1.
- c. The Board misapplied the certiorari standards in finding that the Committee committed no procedural violations in its hearing of the CUP, that the Committee correctly determined that the CUP was a complete application, that the Committee properly handled the wetland delineation report, and that there was substantial evidence that to support its decision to approve the CUP.
- d. The Board failed to follow the law when it found that proposed development meets the definition of "campground" in the ordinance and is a conditional use in the RR-2 District.

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Grant the Plaintiffs' petition for certiorari;

- B. Reverse the Board's decision to affirm the Zoning Committee's decision to grant the CUP; and
- C. Grant such other relief as the Court determines is just and equitable.

Dated this 28<sup>th</sup> day of July, 2022.

PINES BACH LLP

*Electronically signed by: Christa O. Westerberg*

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**STATE OF WISCONSIN****WASHBURN COUNTY****BOARD OF ADJUSTMENT**

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In re Appeal of:

North Camp Properties II LLC Conditional Use Permit (Washburn County Board of Adjustment review of a conditional use permit approved by the Washburn County Zoning Committee) requested by the Spooner Lake Protection and Rehabilitation District et. al.

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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The Washburn Board of Adjustment (“Board”) made and recited its oral decision denying the Appeal and upholding the grant of the Conditional Use Permit by the Washburn County Zoning Committee via unanimous vote of the Board on May 20, 2022 which was entered on the record and transcribed.

Now comes the Board for the purpose of ascribing those findings and conclusions that were made by the Board at the end of its deliberations following a properly notified and extensive Public Hearing on the Appeal held on said 20<sup>th</sup> day of May, 2022.

**I. BACKGROUND AND FACTS**

This matter came before the Board on appeal by the Spooner Lake Protection and Rehabilitation District (the “District” or “Appellant”). Appellant sought review of a decision made by the Washburn County Zoning Committee (the “Zoning Committee”) on October 26, 2021 to issue a conditional use permit (the “CUP”) to North Camp Properties II LLC (the “Applicant”) for a seasonal campground (“Proposed Use”) on property located in the Town of Spooner and as more fully described in the Application for Conditional Use Permit dated September 10, 2021 (“CUP Application”). The parcels of real property described in the CUP Application (collectively, the “Property”) abut Spooner Lake and Evergreen Lake. The Zoning Committee held a public hearing on October 26, 2021 and also rendered its decision to approve the CUP Application and the issuance of the CUP on October 26, 2021.

The Appellants filed this appeal on November 24, 2021 seeking reversal of the Zoning Committee’s approval of the CUP and issuance of the CUP. The Appellant cited the following reasons for appeal: (1) the Committee’s process for hearing the Conditional Use Permit Application was improper; (2) the Zoning Committee erred by approving an application because the application was not complete (3) the Zoning Committee erred by accepting a wetland delineation report at the last minute without sufficient time for public comment, (4) the North Camp Properties CUP Application did not demonstrate that all requirements and conditions established are or would be

satisfied by substantial evidence, (5) the Zoning Committee failed to make adequate findings that the requirements of the County's ordinance were satisfied.

## II. HEARING

The Board held a public hearing on May 20, 2022 ("May 20<sup>th</sup> Hearing") at which time the Board considered its options under the ordinance and appropriate state statutes as to whether to take additional evidence or simply rely on the record and the submitted statements of the interested persons. A lengthy discussion occurred and the Board determined that it would proceed based on the existing record but that it would allow the parties and the public through public comment to make additional arguments and submit additional materials for Board consideration.

Initially it was noted that the Public Hearing was properly noticed and that all interested parties were present and represented by counsel. The meeting (including the Public Hearing) was convened on May 20<sup>th</sup>, 2022, at which time the Board heard presentations from the Appellant (by counsel and witnesses offered), the Zoning Committee (by counsel) and the Applicant (by counsel). The May 20<sup>th</sup>, 2022 hearing was transcribed by a court reporter. These Findings of Fact and Conclusions of Law shall include that portion of the transcript as to the deliberations on determinations of the Board following the closing of the Public Hearing.

The following documents in addition to the actual record from the Zoning Committee hearing and other exhibits admitted during the hearing were submitted by counsel for Appellant, counsel for the County Zoning Committee and counsel for the Applicants:

1. Appellant's Position Statement
2. Zoning Committee's Position Statement
3. Applicant's Position Statement

Many members of the public spoke at the May 20<sup>th</sup> hearing to voice opinions on the CUP Application and correspondence from members of the public was read aloud at the May 20<sup>th</sup> hearing. The Board was able to ask questions of the parties at the May 20<sup>th</sup> hearing, and did indeed do so. The May 20<sup>th</sup> hearing and the Board's deliberations lasted over seven (7) hours.

After preliminary discussions on process and procedure, the Board proceeded with the public hearing. The Board heard from all parties present and afforded everyone present the opportunity to speak or present evidence. The Parties were allowed time to make their arguments without limitation and with occasional questioning from the Board and its legal Counsel.

After the public hearing, the Board allowed the Applicant and the other interested parties an opportunity to summarize their positions. Questions were asked by the Board and each party was afforded an opportunity to respond to any new or unique inquiry that may have arisen.

After closing of the presentation of the evidence, the Board commenced its deliberations.

The Board must render its decision pursuant to Wis. Stat. § 59.694 and *Osterhues v. Board of Adjustment for Washburn County*, 2005 WI 92, 282 Wis. 2d 228. More specifically, the Board may “reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make the order, requirement, decision or determination as ought to be made,” and to that end the Board has all powers of the Zoning Committee. The legal questions before the Zoning Committee, and hence before the Board as it stepped into the shoes of the Zoning Committee, are: (1) whether the CUP Application complied with the County Ordinances; and (2) whether such decision is consistent with the terms of Wis. Stat. § 59.69(5e). In setting forth its arguments, the Applicant’s legal counsel, the Appellant’s legal counsel and the County’s legal counsel utilized the standards of certiorari review in answering the legal questions. Those certiorari standards are: (1) whether the Zoning Committee kept within its jurisdiction when it approved the CUP Application and issuance of the CUP; (2) whether the Zoning Committee proceeded on a correct theory of law; (3) whether the Zoning Committee’s decision to approve the CUP Application and issue the CUP was arbitrary, oppressive, or unreasonable, and represented its will and not its judgment; and (4) whether the Zoning Committee might reasonably make the decision to approve the CUP Application and issue the CUP based on the evidence.

After evaluation and discussion of the evidence, the Board determined that the CUP Application did comply with the requirements set forth in the County Ordinances and that the Zoning Committee’s decision was consistent with Wis. Stat. § 59.69(5e). As such, pursuant to Wis. Stat. § 59.694(8), the Board did affirm the Zoning Committee’s decision.

#### **FINDINGS OF FACT**

Having heard the testimony and considered the evidence presented, the Board determined the facts of this case to be:

1. That the Board did abide by its rules and that the Board did review the entire records and all of the properly submitted materials. Each Board member affirmatively voiced his or her affirmance on the record.
2. That the Proposed Use was a conditional use under the RR-2 zoning district and therefore required a conditional use permit pursuant to Sec. 38-372, County Ordinances.
3. That the Applicant was required to submit a complete application pursuant to Secs. 38-520 and 38-521 and 38-522, County Ordinances.
4. That the Applicant did full its duty by filing an Application pursuant to Secs. 38-520 and 38-521 and 38-522, County Ordinances which was complete and did include all of the required elements as set forth in the County Ordinances.
5. That the Application was submitted on the proper standard form conditional use application, along with a complete and accurate Plot Plan as required.

6. That the requirements as to wetland delineation/location were complete as required by the ordinance.
7. That the Board believes that the development as proposed does meet the definition of a campground as set forth in the ordinance and as permitted in this zoning district
8. That the application made by North Camp Properties II, LLC was a new application by a new applicant and that as such it did not violate any time frame related to reapplication for denied variances or permits.
9. That the Zoning Committee followed proper procedure in making its decision in the manner it took testimony, reviewed the application, and made its decision. That no inequity existed in the manner the Committee chose to allow the testimony and comments to be presented.
10. That the Zoning Committee did consider the relevant factors expressed by the public comments and did determine that opinions may vary as to the effect the applicant has addressed the concerns set forth in the ordinance noting that there are many more steps that the Applicant must take before the final occupancy or use of the area as the campground becomes a reality.
11. That the evidence related to the wetland delineation report would not have affected the decision because its detail was not required and that testimony has now been taken that does not change the decision that the required materials were presented and properly considered.
12. That the Zoning Committee did fully and completely analyze the materials presented, that the Committee did articulate their findings, and that those findings were sufficient to support their decision.

### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concluded the following:

1. The CUP Application did comply with the County Ordinances because the CUP Application was complete meeting all of the requirements of the ordinance.
2. The Zoning Committee's decision did comply with the County Ordinances.
3. The Board's conclusions set forth herein are based on the entire record as it existed at the time of the May 20<sup>th</sup> Hearing.
3. The Zoning Committee's decision was consistent with the terms of Wis. Stat. § 59.69(5e) because the CUP Application was complete and the decision to approve the CUP Application and issue the CUP was supported by substantial evidence.

4. The Zoning Committee did proceed on a correct theory of law when it granted the CUP.
5. The Zoning Committee's decision to issue the CUP was not arbitrary and unreasonable
6. The Zoning Committee provided sufficient analysis in reliance on the testimony and evidence as supported by their discussion on the record to support the Committee's decision to grant the Conditional Use Permit.

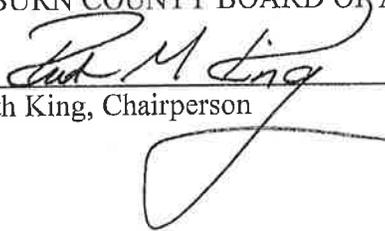
Based on the foregoing Findings of Fact and Conclusions of Law, the Board affirms the Zoning Committee's decision to approve the CUP Application and issue the CUP.

### III. APPEAL/REVIEW OF BOARD'S DECISION:

*The Washburn County Board of Adjustment's decision may be appealed by filing an action in certiorari in the circuit court for Washburn County within 30 days after the date of filing of the decision. The decision was filed on June 29, 2022. These Findings of Fact and Conclusions of Law are hereby issued to further illustrate the reasoning for the Washburn County Board of Adjustment's decision rendered on May 20, 2022 and filed on June 29, 2022. The Washburn County Board of Adjustment assumes no liability for and makes no warranty as to reliance on the decision or the issuance of these Findings of Fact and Conclusions of Law.*

Dated this 29<sup>th</sup> day of June, 2022.

WASHBURN COUNTY BOARD OF ADJUSTMENT

  
By: Ruth King, Chairperson