



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Meeting Minutes - Approved ZONING BOARD OF APPEALS

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Thursday, March 28, 2013

5:00 PM

210 Martin Luther King, Jr. Blvd.  
Room GR-22 (City-County Building)

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### CALL TO ORDER / ROLL CALL

Basford, chair, called the meeting to order at 5:08 pm and explained the appeals process.

**Staff Present:** Matt Tucker, Asst. City Attorney Maureen O'Brien, and Chrissy Thiele

**Present:** 5 -

John W. Schlaefler; Susan M. Bulgrin; Dina M. Corigliano; Michael A. Basford and Frederick E. Zimmermann

**Excused:** 1 -

Diane L. Milligan

### DISCLOSURES AND RECUSALS

Basford disclosed he knows Koua Vang as a landlord who rents property to a client of his in a program he administers for his day job. He also disclosed he knows many of the occupants currently living on Vang's property located at 3600 Portage Road, having heard testimony from them at the Dane County Homeless Issues Committee which he chairs. He stated that he does not have an interest in Vang's property, nor any adjacent properties, and his impartiality is not compromised.

### PETITION FOR VARIANCE OR APPEALS

1. [29520](#) Koua Vang, owner of 3600 Portage Road, requests an appeal to the Zoning Administrator's interpretation of the Zoning Code Ordinance 28.091(1).  
Ald. District #17 Clausius

**Attachments:** [3600 Portage Rd.pdf](#)

Corigliano motioned to accept the official notice, submitted late by the applicant, as part of the appeal, seconded by Bulgrin. Motion passed by voice vote/other.

Tucker pointed out to board members the memorandum from Assistant City Attorney Maureen O'Brien, and brought to their attention the email he sent to Vang, stating it was not as a decision or determination, but an advisement of potential violation, and therefore not appealable. He also pointed out from the memorandum that the Zoning Board of Appeals does not have the authority to determine the constitutionality of the Madison zoning code. Tucker identified the appeal regarding placement of materials in the right-of-way should go before the Board of Public Works, not the ZBA, and then went on to explain the process of official notices. He noted what could be appealed and explained to

board members that the zoning ordinance is a permissive ordinance and camping is not listed as a permitted or conditional use.

Vang read from one of the last documents he submitted to the board members and explained his reasons for allowing the homeless to camp on his property located at 3600 Portage Road. He argued that there is no mention in the zoning code, as well as the Madison General Ordinance, that indicates camping is a prohibited use. He also argued the idea that anything not permitted and therefore prohibited is unconstitutional. Vang explained to the board members that he chose to file an appeal with the ZBA as the homeless only needed a place to stay until April 16 and any other process of making camping legal in Madison would take too long and might not even succeed.

Brenda Konkel informed board members of statistics regarding the homeless and housing in the City of Madison. She also informed board members that there is no place for homeless to go once they exhaust their stay at the shelters and it is currently illegal to sleep outside at night.

Edward Kuharski informed board members how homelessness and poverty was taken care of in the past by Dane County and Madison.

Allen Barkoff handed out a sheet illustrating the income distribution over the last few years. He stressed that many of the people camping on 3600 Portage Road aren't camping there because they want to, but because they have no other place to go and that they are not lazy, but hard working people that just need help.

Callen Harty reiterated that the ordinance is unclear when it comes to camping and it does not state that it is prohibited.

Bruce Wallbaum handed out a sheet regarding the history of Occupy Madison and their compliance with the County and the City.

Laurel Fletcher also argued how the zoning code is very ambiguous and asked board members to use that vagueness to allow the homeless to camp on Vang's property.

Dave Peters described his experiences being homeless and agreed with Vang that not allowing people to camp on his property is against the U.S. Constitution.

Tamera Miller provided more statistics regarding the homeless and explained the benefits of allowing the homeless to camp with each other.

Keith Valiquette described his experiences while camping with the homeless and Occupy Madison, and believes everyone has the right to camp in the City of Madison.

Carl Sack expressed his view of how Madison treats the homeless and his disappointment of how Officials and residents of Madison have done nothing to remedy this issue.

Berta Armacanqui asked for everyone to start thinking of alternative ways to help the homeless instead of sticking with what has been done in the past, as

it has not worked and in ways gotten worse.

Ald. Marsha Rummel expressed her support for Occupy Madison and announced that she and other alders are working to amend the ordinance to allow camping in the City of Madison.

Basford identified individuals who signed the Registration Statement form who did not wish to speak, but supported Vang's appeal.

Delores Robillard pointed out that Vang's residence is not on 3600 Portage Road, and therefore not affected by it; however, it does affect the property values of residences surrounding Vang's property.

Renee Bukovich reiterated that the camping arrangement will affect property values, and argued how the homeless issue needs to be separated from the zoning issue.

Ald. Joe Clausius stated he fully supports a permanent shelter for homeless people in Dane County, but does not support allowing homeless to camp in a residential area. He also stated that he and the Mayor's Office have received numerous complaints regarding this issue.

Basford identified individuals who signed the Registration Statement form who did not wish to speak, but opposed Vang's appeal.

Vang stated he was glad to hear some were working to create a more permanent place for the homeless to live, and believes the homeless issue is everyone's problem.

Staff informed board members that after the outcome of the appeal, they will start the enforcement process. Staff does not have the authority to force the homeless off Vang's property, just fine Vang for the number of days he remains non-compliant. Vang would, however, have the opportunity to appeal the citations he receives at the Municipal Court. Staff also explained to board members the purpose of general permitted uses and ways people can have the code amended.

Vang informed board members that his property is zoned Agriculture District, which permits parks and playgrounds, and hoped that he would not have to appeal this issue to higher courts.

Corigliano motioned to approve appeal, seconded by Schlaefer.

Board members stated Vang presented an excellent case and has demonstrated a large heartedness that is not demonstrated enough in the community. The people who came before the board in support for the homeless also made excellent arguments; however, a lot of the issues brought up are not relevant with what ZBA has to decide. They agree that Tucker's interpretation of the Madison zoning code is correct and his implementation was appropriate.

The motion to approve the appeal failed (0-5) by voice vote/other.

**DISCUSSION ITEMS**

2. [08598](#) Communications and Announcements

**There were no communications or announcements.**

**ADJOURNMENT**

**Meeting adjourned at 7:23 pm.**

**Matt Tucker  
City of Madison  
Zoning Board of Appeals, (608) 266-4569  
Wisconsin State Journal, March 21, 2013**