



State of Wisconsin
Livestock Facility Siting Review Board

November 27, 2013

Randall Gavin
3311 S. Severson Road
Brodhead, WI 53520

Judith Albright, Clerk
Town of Spring Valley
15742 Lang Road
Orfordville, WI 53576

Ralph E. Johnson
Attorney for Randall Gavin
1795 Lafayette Street
Janesville, WI 53546

Doug Nifong
J & B Dairy LLC
3516 S. Dickey Road
Orfordville, WI 53576

RE: Request for Review of a Decision Regarding an Application for Local Approval,
Docket No. 13-L-01

Please take Notice that the Wisconsin Livestock Facility Siting Review Board ("LFSRB") held a meeting on Friday, November 22, 2013 to discuss the above matter, which is also an attachment to this notice. At that meeting, the LFSRB voted to hold this appeal in abeyance pending notification by the Town of Spring Valley as to the outcome of a Special Town Board meeting to be held on Monday, November 25, 2013 concerning the underlying approval of a Conditional Use Permit (CUP) forming the basis for the appeal. A copy of the draft LFSRB November 22, 2013 meeting minutes are attached.

Also attached to this Notice is an e-mail, with the attachment of the November 25, 2013 special meeting minutes of the Town of Spring Valley Board. At that meeting, the Board voted to rescind the conditional use permit granted to Doug Nifong on October 14, 2013.

Therefore, based upon the approved motion of the LFSRB on November 22, 2013 and the subsequent action by the Town of Spring Valley Board on November 25, 2013, the Livestock Facility Siting Review Board finds that it does not have jurisdiction to hear the appeal in Docket No. 13-L-01. Please take notice that the decision of the LFSRB at this time has no effect in foreclosing any possible future appeals by any party, based upon any actions taken by a local political subdivision under Wis. Stats. §93.90 Livestock facility siting and expansion.

On behalf of the Wisconsin Livestock Facility Siting Review Board:

Cheryl Furstace Daniels, LFSRB Attorney
2811 Agriculture Drive, PO Box 8911
Madison, WI 53708-8911
(608) 224-5026

LIVESTOCK FACILITY SITING REVIEW BOARD
c/o Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive, PO Box 8911
Madison, WI 53708-8911

<u>Randall Gavin</u> Aggrieved Person(s) v. <u>Town of Spring Valley, Rock County,</u> City, Village, Town, or County	REQUEST FOR REVIEW OF A DECISION REGARDING AN APPLICATION FOR LOCAL APPROVAL Docket No. <u>13-L-D1</u>
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Notice is hereby given that Randall Gavin ("Aggrieved Person") hereby requests review of the decision of the following political subdivision:

NAME: Town of Spring Valley

CITY, TOWN, VILLAGE or COUNTY (please circle)

COUNTY WHERE POLITICAL SUBDIVISION IS LOCATED: Rock

ADDRESS: 15742 Lang Road, Orfordville, WI 53576

regarding the application of local approval submitted by the following applicant:

NAME: Doug Nifong, V+B LLC

ADDRESS: 3516 S. Mickey Rd, Orfordville, WI 53576
(Provide information from Lines 1, 4 and 5 of Application of Local Approval).

The request for review is requested by a person who (check all that apply):

- Applied to a political subdivision for approval of a livestock facility siting or expansion.
- Lives within 2 miles of a livestock facility that is proposed to be sited or expanded.
- Who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.

An aggrieved person may challenge the decision of a political subdivision on the grounds that the political subdivision incorrectly applied the state standards that are applicable to new and expanded livestock facilities, or violated s. 93.90(3), Wis. Stats.

ATTACHED IS A CONCISE STATEMENT OF THE ISSUE OR ISSUES YOU ARE CHALLENGING, PROVIDING THE GROUNDS AND ARGUMENTS IN SUPPORT OF YOUR CHALLENGE. DO NOT EXCEED TEN (8 1/2" x 11") PAGES WITH A FONT NO SMALLER THAN 12 POINT.

Name(s) of Aggrieved Person(s): Randall Garity

Signature(s) of Aggrieved Person(s): Randall Garity

Address: 3311 S. Severson Rd., Brookfield, WI 53020

Telephone: 608-295-7930

Representative (if any): Ralph E. Johnson, Attorney

Address: 1795 Lafayette St., Janesville, WI 53546

Telephone: 608-755-1566

All communications, documents and papers submitted to the board by any attorney, and preferably by any aggrieved person, shall be one copy by an electronically transmitted .pdf file which can be read and copied easily with current technology. The e-mail address is: SitingBoard@wisconsin.gov

The proposed expansion of the Difong dairy operation is adjacent to my property. That actual site of the expansion is closer to my residence than it is to the Difong residence. It also appears that construction will be in a flood plain, and certainly within a lowland conservancy area not well suited for a dairy operation.

The conditional use application process was not done by the Town of Spring Valley according to the Town ordinances. We neighbors were not notified of the Town Planning and Zoning Committee meeting on August 26th where this was first discussed. The Town Board meeting minutes from the October 14th meeting that approved the permit do not accurately reflect the concerns raised at that meeting regarding lack of notice and questions about where the site construction would take place.



State of Wisconsin
Livestock Facility Siting Review Board

Lisa Notes
November 22, 2013 Teleconference Meeting

I. Call to Order

Johnson, Topel, Selk, Byerly, Diederich, Engelbrecht, & Gaska attended the meeting via teleconference. Daniels & Trumble were present at POSOB. Sandstadt of *Agri-View* was also present.

Johnson called the meeting to order at 12:01 pm.

Engelbrecht moved to approve the agenda, Byerly seconded. The motion carried.

Topel moved to approve the July 20, 2012 meeting minutes, Selk seconded. The motion carried.

All members have been approved by Secretary Ben Brancel, Wisconsin Department of Agriculture, Trade & Consumer Protection.

New member, Diederich, clarified that he is from Brown County.

II. Election of Officers

Selk made a motion to nominate Johnson for Chair. Topel seconded. Johnson made a motion to nominate Topel for Vice Chair. Byerly seconded. Engelbrecht made a motion to nominate Selk for Secretary. Gaska seconded.

Johnson moved to elect the slate of Livestock Facility Siting Review Board Officers. Engelbrecht seconded. The motion carried.

III. Gavin Appeal

Daniels explained the situation in Rock County. Board discussion followed.

The Spring Valley Town Board will meet on Monday, November 25, 2013 with the anticipated purpose of rescinding their CUP for Doug Nifong.

The Livestock Facility Siting Review Board is well within its authorized timeline to review the Gavin appeal. The Board would like to keep Mr. Gavin informed of the status of their decision.

Topel moved to hold in abeyance the request of review of what has been issued by Spring Valley Town Board until December 2nd, 2013 to see if the town rescinds the Conditional Use Permit. If the Town Board rescinds the permit, then the Board instructs Daniels to send a notice to all parties that the Board does not have jurisdiction to hear the appeal at this time. The Board also instructs Daniels to inform the appellant that this action will have no effect to foreclose any

future appeal that may be heard by the Board after any future action in this matter by the Town. If the Town does not rescind the permit, then the Board instructs Daniels to begin the Board's process for an appeal. Diederich seconded. The motion carried.

IV. Tentative Board Schedule for Approval

The Board will continue to meet on the third Friday of every month. Engelbrecht moved to approve the tentative schedule. Byerly seconded. The motion carried.

The Board requests a review of its processes & update on Livestock Siting issues. Johnson requested that this be an agenda item at the January 17, 2014 meeting.

VI. Adjourn

Byerly moved to adjourn the meeting at 12:45 pm. Diederich seconded the motion. The motion carried.

Respectfully Submitted,

Bob Selk, Secretary

Recorder: LT

Daniels, Cheryl F - DATCP

From: Judy <svclerk@ckhweb.com>
Sent: Tuesday, November 26, 2013 4:55 PM
To: Daniels, Cheryl F - DATCP
Subject: Rescinded conditional use permit -Doug Nifong
Attachments: Minutes-Special Board meeting.docx

Dear Ms Daniels, Attached are the minutes from the Spring Valley Special Town Board meeting which was held on November 25, 2013. Mr. Richard Castelnovo explained in an email that I should send these minutes to you. You are looking into an appeal by Mr. Randy Gavin on the Doug Nifong conditional use permit to increase his herd to 400 cows. Please reply after receiving this email. Thank you. Judith Albright, Clerk, Town of Spring Valley, 15742 Lang Road, Orfordville, WI, 608-879-2424

Present: Brethauer, Hazeltine, Meyer, Hillison, Albright

MINUTES-SPECIAL TOWN BOARD MEETING
NOVEMBER 25, 2013

The meeting was called to order at 5:35 p.m. by Chairperson Hazeltine. There were no changes to the agenda and the clerk verified that the agenda was published in the Independent Register on 11/20/13.

The first item on the agenda was to review the Doug Nifong conditional use permit which had been approved on Oct. 14, 2013. Chairperson Hazeltine explained that the application had been incomplete because it did not contain the ATCP application papers and that we needed to rescind the approved conditional use permit so that a new complete application could be submitted by Mr. Nifong. After some discussion a motion was made by Meyer and seconded by Brethauer to rescind the approved conditional use permit. Motion passed 3-0. Tom Sweeney from the Rock County Land Conservation Office was present to speak to the board about some aspects of the ATCP application form.

The second item on the agenda was a review of the Tim Kline Conditional Use permit to divide his house and up to 5 acres off from the rest of the property. The permit had been approved but one of the conditions put on it was that it complied with all town ordinances. At the time it was approved, Mr. Klein was told that the town would be checking to make sure the house was built before May 30, 1974 as our ordinance requires. After checking on permits with the Rock County Health Department, it was discovered that the house had not been completed by the above date and thus did not qualify to be divided off from the rest of the property to be sold as a separate parcel. The motion to rescind the permit was made by Brethauer and seconded by Meyer. Motion passed 3-0. The meeting was then adjourned at 5:45 p.m.