

BOARD OF ADJUSTMENT MINUTES

Administration Building
508 New York Avenue
Sheboygan, WI

Wednesday, April 15, 2026

Called to Order: 1:00 P.M.

Adjourned: 2:29 P.M.

MEMBERS PRESENT Ed Harvey, Pete Scheuerman, Sarah DeZwarte, Kenneth Sonntag, Charles Born

MEMBERS ABSENT Marjean Pountain, BJ Reenders

ALSO PRESENT Attorney Kelly Del Ponte, Attorney Douglas Rose, Kathryn Fabian (Planning & Conservation), Nick Tasche (Planning & Conservation), Aaron Brault (Planning & Conservation), Tyler Betry (Planning & Conservation) Megan Nasgovitz (Planning & Conservation), Sharon Harvey (BOA Recording Secretary), Howie Mitchell (Schwartz Septic)

Chairperson Harvey called the meeting to order, called the roll, and seated alternates.

Ms. Harvey reported the meeting notice was posted on April 8th, 2026 at 10:00 A.M. in compliance with the open meeting law.

There were no public comments regarding non-agenda items.

Mr. Scheuerman made a motion to approve the minutes of the September 17, 2025 hearing. Motion was seconded by Mr. Sonntag and was approved.

Mr. Harvey opened the hearing for the variance request to the Sheboygan County Sanitary Ordinance for Rockland Dairy LLC (Case No. V-26-01-S) to allow the installation of a holding tank as a replacement private sewage system on an existing residence located on parcel #59028426500 in the Town of Sherman.

Mr. Harvey asked for comments from the board on the site inspection.

Mr. Born stated that he observed a large farmhouse, and it was explained to them that it had two failed septic systems and that they were informed that the soil conditions would be adequate for a mound system.

Mr. Sonntag stated that he observed the same thing as Mr. Born, and that there was a well adjacent to the back of the house and a dug well inside that both appeared to not be an issue.

Ms. DeZwarte stated she had the same observations and nothing further to add.

Mr. Scheuerman stated he also had the same observations and was told it was site ready for a mound installation.

Mr. Harvey concurred and referenced the map which showed the borings for the proposed septic system.

Mr. Harvey then asked Mr. Howard Mitchell to come forward and make his statement.

Mr. Mitchell introduced himself as here on behalf of the project, asking for a variance from the ordinance due to the wastewater strength on site, for which he noted they all had paperwork showing. He stated that they did testing of the wastewater last year and found that it was a high strength of waste that is being produced from the household and that if they put a septic system in, the longevity of a mound system would be affected by the volume and strength of waste produced. He noted that the waste produced is not the same as if you lived on a farm as there are many tenants living there and they have tried to change the process, but the waste keeps coming back as high strength with high oils and grease. He explained that this type of waste strains the system so it doesn't accept the wastewater the way that it should which has become a continual issue. This, he noted, is why they are looking at a holding tank for a long-term solution, adding that if the household usage changes, the septic area would be preserved, and the property could have a mound in the future if water usage ever changed.

Mr. Harvey asked if it was the system itself or the life of the filter bed that was seeing problems due to the high strength waste treatment. Mr. Mitchell clarified that from the start you would be adding high-strength treatment to the system, and it would not have a very long lifespan.

Mr. Scheuerman questioned that if this high strength waste is due to the way the people who live there eat and live, has there been any conversations about a grease interceptor. Mr. Mitchell responded no, and added that if they did have a grease interceptor they just wouldn't have as much grease in the tank, but in the effluent it is connected to water particles, so it continues into the wastewater stream and into the system. He clarified that the grease and oil still remain after the food is digested, not just from washing the dishes and dumping oil down the drain. Upon further questioning from Mr. Scheuerman, Mr. Mitchell clarified that if down the road this became a septic, it would have to be cleaned out, the real problem is if the drainage field gets plugged and doesn't function. Mr. Scheuerman asked if the current tank vault put in during the 70's is failing. Mr. Mitchell stated that it is not watertight because of the age which is why we are looking at replacing that with a larger size. He noted that the way tanks are built now is very different now from how they were in the 1970's. He also confirmed that he has been in the current tank, and there is a lot of grease. Mr. Scheuerman asked if the tank was fine, and if it was too small to accommodate five-bedroom home the way it is now. Mr. Mitchell confirmed that it is too small no matter what for the size of the house and capacity.

Mr. Born asked if this is a common thing across the state, or the county. And if it was common to take a water sample first. Mr. Mitchell explained that the reason why the water sample was completed was that when they did the analysis work for a replacement system it was obvious that there was a high amount of oil and grease so he could tell it would not meet the requirements for a standard wastewater system. He stated that he was sure that there were similar situations in the state. He reiterated that they would be setting up the system so that it could be transferred over to a mound system if the use of the home changed.

Mr. Harvey asked Mr. Mitchell if this was a mound system would this wastewater cause issues, but if not, if it was a holding tank, how would the waste be disposed of. Mr. Mitchell replied that there would be an alarm system installed, and the pumper would have to take the waste to a facility that could handle it. Where the wastewater will be disposed of will be documented, and the pumping must be documented online. If the homeowner changes pumpers that must be documented.

Mr. Harvey asked if the waste would have to go to a specific wastewater treatment plant that could handle that type of wastewater. Mr. Mitchell confirmed that yes, the pumper would test prior to unloading the material, and they would make sure that it meets the standards that their facility can treat.

Mr. Sonntag commented that in his work experience he has encountered a restaurant that had issues with grease and they were made to install grease traps, and that most of their issues then went away. He stated that he believes a grease trap would eliminate this issue and the need to install holding tanks, thus not needing a variance.

Mr. Mitchell commented that if a grease trap was installed and the system would fail in a short amount of time, then what would they do. He questioned if the mound is installed and 6 years down the road would they then install holding tanks?

Mr. Scheuerman asked if there were supper clubs and restaurants on septic systems. Mr. Mitchell answered that there are a lot of them that are on systems, and there are a lot of them with a lot of issues, and the industry is trying to solve their problems. He stated that they would be commercial, so they could be put on a holding tank system. He stated that there are several that have been on septic systems and have been switched over to holding tanks now.

Attorney Del Ponte then asked Mr. Mitchell what his experience was working with septic systems. Mr. Mitchell replied that he has been designing systems for 22 years, and in the plumbing business for 31 years. He added that he installs septic systems in 5 counties and they do large scale waste to small scale waste.

Mr. Harvey then asked staff to report their findings.

Ms. Fabian started by addressing Mr. Born's question regarding the other counties and state ordinances. She stated that every county has a sanitary ordinance that is based on state code. She added that for the most part it has to mimic what is in state code; counties cannot be more restrictive except for the holding tank installation area. This is the only area where someone can request a variance from the county board of adjustment. She stated that our code may be and is different from other certain counties in that we do not allow holding tanks for residences. She added that state-wide, some counties will allow holding tanks, and some will not. Sheboygan County is one that does not allow them for residences because they are a hassle, most people don't realize how much water they create, and how much they need to be pumped out. She added that this has been an issue in the county with farm residences for a while. This also started becoming an issue 2 years ago when the state revoked a pre-treatment product that was used to treat this type of issue. They are no longer allowed to be installed. There were a lot of farm residences in the past that used this pre-treatment method with mound systems. She added that there is another farm residence in the county that has had three new mound systems in less than 20 years.

Mr. Scheuerman commented that Mr. Mitchell made the comment that the waste was not just your kitchen waste, that the digested waste is also a problem. He said that currently the county requires people to have their tanks pumped every three years. He questioned if a more frequent pumping would mitigate this problem. Ms. Fabian responded that more frequent pumping would help pro-long it, but she was not sure that would be the ultimate solution. She added that with the high usage the tanks would fill up within a few days, so pumping every other year instead of every 3 years you will still have waste entering the system.

Mr. Scheuerman asked what the approximate life of a properly installed, properly maintained mound system is. Mr. Mitchell responded that there are several factors going into how long they will last. Water usage, how it is maintained, and what they put in the system besides water, all play a factor. He added that 25-30 years is the average life span of a septic system.

Mr. Scheuerman asked when they do an assessment if it is based off the number of bedrooms, or do they look at individual plumbing fixtures. Ms. Fabian confirmed that is based off the number of bedrooms.

Mr. Harvey asked if there were any other questions or comments.

Ms. Fabian read off the conditions listed on the staff report that could be in place if the variance was to be granted. The conditions are: A Holding Tank Agreement must be recorded with the Sheboygan County Register of Deeds in which the property owner acknowledges the need to pump the tank(s) as necessary. A Holding Tank Servicing Contract must be signed by the property owner and the pumper who will be responsible for pumping the tank(s). An Agreement for Reservation Allowing Holding Tank Installation be recorded with the Sheboygan County Register of Deeds which would protect the area shown on the Soil Evaluation Report so that a mound system could be installed in the future. Any future reports of the holding tank being overfull and discharging to the ground surface, any unauthorized pumping of the tank, or any plumbing fixtures being rerouted from the holding tank would be considered grounds for voiding the granting of the variance and would require the installation of the mound system.

Mr. Scheuerman asked if there was a seal placed on the holding tanks to maintain the integrity of the pumping process. Ms. Fabian replied that the tanks must be locked at all times, and usually the pumper is the one that has the key. She stated that often the plumber will install a suction port to suction out of that directly.

Mr. Born asked if there would be a caveat added to the variance that if something were to change with the water samples in the future they would have to switch to a mound system. Ms. Fabian stated that they could add that.

Mr. Born asked if they take samples every time they take a load to the treatment plant. Mr. Mitchell replied that they don't take a sample, but they do a dip test.

Mr. Harvey then read the email received from the Town of Sherman. He then asked if there were any comments from the members of the public that were in attendance. No members of the public came forward.

Mr. Harvey asked if the petitioner had anything else to add.

Mr. Mitchell thanked the board for hearing his request and stated that he is fine with adding any caveats that were requested. He stated that he was not trying to start a precedence, that he was just trying to find a solution with what is available for the treatment of this type of water. He added that every county is different, that in surrounding counties he can install holding tanks at any house, but every county has their own ordinance.

Mr. Harvey asked if the board members had any more questions for the staff or petitioner.

Mr. Scheuerman asked if the installation of a holding tank is a burden on the department staff. Ms. Fabian replied that if they are properly maintained it is not an issue at all. She added that it is only an issue when people find other ways to pump out their systems.

Mr. Harvey asked if there were any other questions. There were no other questions.

Mr. Sonntag motioned to close the public hearing and Mr. Born seconded the motion. Motion carried with no opposition.

Mr. Harvey opened deliberations.

Mr. Born noted that he was trying to decide what the hardship was in this case. He said he learned a lot from the testimony, but that they needed to prove a hardship, so that's where he would start the case. He questioned if the board denies the variance and makes them put in a mound, is that an unnecessary hardship.

Attorney Del Ponte read Sanitary Ordinance section 70.08(6) of which the variance is requested for the board to consider in their deliberation. She then reviewed the criteria for voting for each question. The board began the discussion on unnecessary hardship. Mr. Born still questioned if the mound system would work if they installed a grease trap. He stated, with the caveat that he does not like to tell anybody what to eat, that if it's the lifestyle in the house causing the problem, then that's a self-inflicted problem.

Mr. Harvey questioned if an effective pretreatment system could be installed, what sense does it make to install a holding tank. Ms. Fabian clarified that the effective pretreatment system mentioned in the ordinance really referred to those aerobic systems that had previously helped with allowing a mound system to be installed but that the state no longer allows. Mr. Harvey asked if there were any other options, to which Ms. Fabian responded that there were not at this time.

Mr. Scheuerman stated that he agreed that if the way you are living affects your septic system, then that is a choice, but there is an area where they can put a mound and because of that, then they shouldn't have a holding tank. He noted that it feels like an economic burden due to their lifestyle, so if it fails within two years, that is an economic hardship, but the board should not be considering that. He also wonders if, because the other local counties allow it, maybe our ordinance is a little dated concluding that the issue seems to be solely about economics, so a variance shouldn't be granted.

Mr. Harvey replied that what Mr. Scheuerman said would be true, in his mind, if the section of code they were asking to have a variance to was intending that, but it wasn't. He noted that previously there was an option available to them, but since that is not available anymore there are several systems that are going to be problematic. He noted that perhaps this code should be changed, but it might be wiser to wait for the state to do what they are going to do. He added that it is a hardship above and beyond what the code was intending, almost being a nuclear economic hardship to the point where the building isn't usable.

Mr. Scheuerman acknowledged this and questioned if it is the function of the board to look at the ordinance and say that it needs to be changed. He believed it was not up to this board to judge if the ordinance is dated.

Mr. Sonntag questioned what the difference between installing the aerobic system vs a grease trap is, if that was not a pre-treatment unit itself.

Ms. Fabian clarified that they are different due to the pretreatment unit actually filtering the waste and an air blower to add air bubbles and bacteria to help break down the waste, versus a grease trap being just another tank up-stream of the treatment system.

Mr. Sonntag stated that a grease trap is essentially an extended warranty on a system and that it would extend the life of the system if they put one in. He also agreed with Mr. Scheuerman that it is not the board's place to judge the ordinance, stating it is their job to judge the situation based on the current ordinance.

Mr. Scheuerman questioned how long the process is to get an ordinance changed.

Mr. Brault responded that the Planning and Conservation office would not be interested in making an ordinance change to allow holding tanks, but that it would likely take about half a year to go through all the boards and legal requirements to make a change. He added that in the eyes of the department, that ordinance is not outdated and it is maybe more beneficial to the county than others that allow holding tanks without restriction.

Mr. Scheuerman reiterated that he believed it was not up to the board to judge the ordinance, but that they should make their decision based on what the ordinance says.

Mr. Born noted that if the board granted a variance that he would support it with the caveat that it gets checked to see if it becomes plausible to install a mound.

Attorney Del Ponte asked the board if they would like to vote on each criteria individually or all at the end. The board decided to vote on the questions one by one. She opened the voting by asking the first question:

Does an unnecessary hardship exist?

ROLL CALL VOTE:

Mr. Sonntag – N

Mr. Harvey – Y

Ms. DeZwarte – N

Mr. Scheuerman – N

Mr. Born - N

Attorney Del Ponte concluded that based on the votes, the board believes that no unnecessary hardship exists, so the variance cannot be granted. She then asked the board if they would like to still discuss the next two criteria.

Mr. Born replied that they should look at all three criteria in case this is taken to a higher level.

Attorney Del Ponte introduced the next voting criteria, special conditions of property and read from the ordinance what is to be considered in this vote.

Mr. Born stated that there are special conditions of the residents of the property but not of the property itself.

Mr. Harvey stated that the point was made earlier that a person's lifestyle isn't a special condition. He questioned if that meant that farmers shouldn't live together or that they should live in places that have municipal waste treatment.

Attorney Del Ponte stated that would maybe be an existing condition, but that it is up to the board to decide if the circumstance of the applicant is a special condition.

Mr. Scheuerman stated that, on this question he thinks it's not the property but the use, because it was stated that the property could have a mound.

Ms. DeZwarte agreed with Mr. Scheuerman stating that there is not a limitation of the physical land itself but rather the use of the property.

Mr. Sonntag agreed with Ms. DeZwarte and Mr. Scheuerman.

Are there unique conditions specific to the property?

ROLL CALL VOTE:

Mr. Sonntag – N

Mr. Harvey – N
Ms. DeZwarte – N
Mr. Scheuerman – N
Mr. Born – N

Attorney Del Ponte introduced the next voting criteria, harm to public interest, and read from the ordinance what is to be considered in this vote.

Mr. Scheuerman stated that from what Ms. Fabian and Mr. Brault shared on why holding tanks can be problematic, having people run it out to their property or to the ditch, he feels like it could harm the public.

Ms. DeZwarte agrees there is a higher risk to the public in terms of overflow or illegal dumping with a holding tank than a mound.

Mr. Sonntag also agreed.

Granting variance will not harm the public interest?

ROLL CALL VOTE:

Mr. Sonntag – N
Mr. Harvey – Y
Ms. DeZwarte – N
Mr. Scheuerman – N
Mr. Born - N

Mr. Scheuerman motioned to move onto the next agenda item and Mr. Sonntag seconded the motion. Motion carried with no opposition.

Attorney Del Ponte affirmed that the board had been provided with a letter from Attorney Schlavinsky on behalf of Korry Ardell. She stated that the board previously heard this case in August 2024 regarding Mr. Ardell, where the board determined that the department was correct in deciding that Mr. Ardell needed an after-the-fact permit for erosion control on his property. Mr. Ardell appealed that decision to the circuit court, who reversed the decision, but remanded the case to this board for consideration of the issue pursuant to Sheboygan County Code 75.07(1)(c) and 75.17(1)(c). She stated that Attorney Schlavinsky is asking for the board not to make any decisions today, but for this case to be a new public hearing. Attorney Rose introduced himself and explained that Attorney Schlavinsky was ill, so he was here in his place.

Attorney Del Ponte asked the board if they wished to take no action on this item today and allow it to be a hearing in May.

Mr. Born asked why the court is giving the case back if they overturned the decision. Attorney Del Ponte clarified that the court is asking the board to look at the additional sections of the code when deciding.

Mr. Born stated that he thought they would have to have another hearing.

Mr. Sonntag noted that it is hard to know what to decide based on not knowing what the additional input would be, so he thinks another hearing might be best.

Mr. Scheuerman stated that it bothers him that the decision was reversed because he thought it was straightforward that there was a problem.

Attorney Del Ponte encouraged the board to focus on the fact that the court is asking them to consider the issue based on the specific parts of the code noted.

Attorney Rose stated for the record that their position is that they do not believe the remand from the circuit court said that it should now be considered under 75.07(1)(c). He stated that the court did mention that provision, but it did not remand it under that provision. He stated that he did not believe procedurally that it is now under sub-C, he said they still believe this is a remand under 75.07(1)(a) of the Sheboygan County Code. He stated that he wanted to make sure it is on the record, but he understands that the board wishes to proceed in the fashion they are proceeding today. Attorney Del Ponte replied that if there was a public hearing, perhaps they could make that argument

Mr. Scheuerman stated that if the judge and the law firm think that there should be something else discussed, then it is important that they are heard at a hearing in the future.

Ms. DeZwarte agreed and added that she would like that information ahead of time so the board can review.

Attorney Del Ponte concluded that it sounded like there is a consensus to not take an action today.

Mr. Sonntag motioned to table the decision on Case No. R-24-01-E, and to instead hold a public hearing on May 20th. Ms. De Zwarte seconded the motion. Motion carried with no opposition

Attorney Del Ponte requested that Attorney Rose submit all additional information submitted to Ms. Harvey by May 11th so that information can be included in the packets that are mailed to the BOA Members for the public hearing.

Mr. Sonntag motioned to adjourn the hearing, Mr. Scheuerman seconded the motion. Motion carried with no opposition.

Kenneth Sonntag, Secretary

Sharon Harvey, Recording Secretary