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March 29, 2011

3/26/2011 7:30:00 AM

## Motion to dismiss Bible Camp lawsuit denied

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A federal judge has rejected the town of Woodboro's motion to dismiss a lawsuit involving Oneida County, the town of Woodboro and three brothers who want to build a Bible Camp on Squash Lake.

In a 20-page decision filed March 24, U.S. District Judge William Conley ruled the case will go forward in federal court.

Last April, the town filed a motion to dismiss the case on the grounds the appropriate venue for the lawsuit is the circuit court, the judicial body that ordinarily reviews decisions of county boards of adjustment, not the federal court.

Conley soundly rejected the argument.

"A final decision has been made by the appropriate governmental entity concerning the plaintiffs' conditional use permit application and, therefore, plaintiffs' claims are ripe (for determination by the federal court)," he wrote. "Here, the Jaros brothers obtained a final decision from the County BOA (Board of Adjustment) denying their application for a conditional use permit on Jan. 12, 2010. The BOA is the government entity charged with implementing the regulations and its January 2010 denial (adopted in written form on Feb. 11, 2010) was a final decision regarding the application of the regulations to the property at issue. This case is, therefore, readily distinguishable from other cases cited by the town where the landowner challenging a zoning decision failed to obtain a final decision, by, for example, failing to appeal a decision to the zoning board of appeals."

In a related ruling, Conley also struck down some of the affirmative defenses put forth by the county and the town defendants including the following contentions:

- Plaintiffs may have failed to mitigate their damages.
- One or more of the plaintiffs may lack standing to pursue this action.
- Plaintiffs' claims may be barred, in part, by the applicable statute of limitations.
- Exhaustion of state remedies.

Art, Randy and Wes Jaros filed the lawsuit last March in the United States District Court for the Western District of Wisconsin claiming Oneida County, the town of Woodboro and the Oneida County Board of Adjustment have unconstitutionally prevented the use and operation of their proposed Bible camp "through their discriminatory laws and a four-year pattern of hostile, capricious and irrational actions."

The Jaros brothers have been fighting to build the camp since 2004 but Oneida County has refused to issue a Conditional Use Permit on the grounds a recreational camp is not a permitted use in the single family residential zoning district in which the property is located.

The Jaroses are claiming the county's refusal to allow the camp to exist in the planned location violates their right to freely practice their religion. They also say the county's decision violates the federal Americans with Disabilities Act since the camp intends to serve, among others, youth with medical disabilities.

The brothers are asking the federal court to order a permit be granted and are seeking unspecified compensatory and punitive damages.

The project includes plans for a chapel, classrooms, a dining hall, lodging facilities, and a multi-purpose room/gymnasium. Outdoor recreational facilities are also planned.

The county and town have repeatedly claimed they acted in the best interest of county residents and have not discriminated against the Jaros brothers.

A status conference in this case is set for April 1. A two-week trial is scheduled to begin Sept. 8.

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