

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, October 7, 2010 - 7:00 a.m.

Planning & Zoning Conference Room, Orrin King Administration Building,
Oshkosh, Wisconsin

Members Present: Arden Schroeder, Greg Kargus, Dan Mingus, Mary Mathwig and Carla Koller.

Member Absent: Tom Verstegen, excused

Also Present: Kathryn Larson, zoning staff, Karen Fredrick, court reporter, John Bodnar, Corporation Counsel, and Jerry Frey and Jim Erdman from the Town of Oshkosh.

The meeting was called to order at 7:02 a.m. First on the agenda was the approval of minutes for August 31 & September 9, 24, and 28, 2010. Motion to approve by G. Kargus and seconded by C. Koller. Carried by voice vote.

The Board acted on the following variance requests

Richard Ehlke – Town of Oshkosh

The Board requested the presence of John Bodnar to address legal issues. Questions were raised regarding the impact of previous variances granted, the subject property being a legal lot of record, and that no variance can be granted for just a boathouse because the ordinance doesn't have provisions for that. Mr. Bodnar responded to these questions and, in part, stated that people need to be treated equally if parcels are identical; that "no reasonable use" is no longer the standard to apply to variances but that "unnecessary hardship" is the new test. In response to another question, he stated that adjourning the decision until the new NR 115 regulations are in place would only be suitable if the adoption of NR 115 was already before the County Board. The over use of a property was discussed as well as the safety issue with the substandard street yard setback.

After approximately 45 minutes of discussion, G. Kargus made a motion to deny the variance as requested. C. Koller seconded the motion, and the vote was as follows:

M. Mathwig – nay; C. Koller – aye, A. Schroeder – aye, D. Mingus – aye, G. Kargus – aye. Motion carried. Variance denied.

Jerry Lutz – Town of Poygan (continued from 9/09/10 Deliberative)

Discussion centered around the need for access to the two lots beyond the Lutz property and the narrow space between the proposed garage and the road and water. G. Kargus made a motion to approve with findings, the variance for a 27.5 ft. setback from the water and a 5 ft. setback from the house, resulting in a 16' wide garage. Conditions were that the garage have a one-hour fire wall on the north side and that the structure be a single-story garage. Vote on the motion was as follows:

C. Koller – aye, A. Schroeder – aye, D. Mingus – aye, G Kargus – aye, M. Mathwig – aye. Motion carried. Variance granted with two conditions.

Omro Dairy LLC – Town of Omro

There was little discussion about this variance after clarification at the public hearing. D. Mingus made a motion to approve with findings the variance for a certified survey map that would create a substandard 18.5 rear yard setback for an existing farmhouse and attached garage with two conditions: 1. No fences, buildings, or structures may be located between the house and the shop, and 2. If the farmhouse structure is damaged beyond 50% of the Equalized Assessed Value, it must be rebuilt in compliance with zoning setback requirements. The motion was seconded by C. Koller.

Vote on the motion was as follows: A. Schroeder, aye; D. Mingus – aye, Greg Kargus, aye, M. Mathwig, aye; Carla Koller, aye... Motion carried 5 – 0.

Mike Haak – Town of Wolf River

After some discussion about the width of the road right-of-way and the fact that the replacement garage would not come as close to the right-of-way as the existing house, G. Kargus made a motion to approve with findings the variance for the garage as requested. His motion also included approval of an at-grade patio 10' by 25' with a 57 ft. shore yard setback. Motion was seconded by D. Mingus.

Vote on the motion: D. Mingus – aye, G. Kargus – aye, M. Mathwig – aye, C. Koller – aye, A. Schroeder – aye. Variance granted with condition..

There being no other business, the meeting was adjourned at 8:10 a.m.

Respectfully submitted,

Kathryn M. Larson

Kathryn M. Larson, Recording Secretary