

**WINNEBAGO COUNTY
BOARD OF ADJUSTMENT**

Thursday, December 2, 2010 - 7:30 a.m.

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

DELIBERATIVE SESSION

Members Present: Arden Schroeder, Dan Mingus, Tom Verstegen, Mary Mathwig, and Carla Koller.

Also Present: Eric Rasmussen, zoning department; and Karen Fredrick, court reporter.

Meeting was called to order at 7:32 a.m. D. Mingus made a motion to approve the minutes of November 12, 2010 and two sets of minutes from November 16, 2010. Motion seconded by T. Verstegen and carried by unanimous voice vote.

The following variances were acted on:

I. Michael Ertl – Town of Wolf River

The variance requested was for placement of a new single family dwelling with substandard street and shore yard setbacks.

A motion was made by D. Mingus to approve a variance, not as requested, to construct the home 50' from the ordinary high water mark and 25' from the road right-of-way. The original request was for a 48' shore yard setback and a 27' street yard setback. Seconded by C. Koller.

Findings:

1. **Exceptional Circumstances:** Due to the extremely small lot size there is not enough room on the property to construct a single family dwelling while complying with the required setbacks.
2. **Preservation of Property Rights:** Without a variance there is no location on the property to construct a single family dwelling.
3. **Absence of Detriment:** The setbacks requested are very similar to the setbacks granted, through variance, to the neighbor. Without a variance the property owners would not enjoy the same property rights as their neighbors.

Based upon the above findings, it is the opinion of the Board that all criteria of Section 17.32(7)(a), (b), and (c) have been met.

Vote on the Motion: T. Verstegen, aye; M. Mathwig, aye; C. Koller, aye; A. Schroeder, aye; D. Mingus, aye.

Motion carried by a 5-0 vote. **Variance granted not as requested.**

II. Michael Schumann – Town of Menasha

This variance request is to rebuild an attached garage with second story living space with a substandard 5.5' side yard setback.

All other reduced setbacks are allowed by setback averaging.

Motion by T. Verstegen to approve the variance as requested with a condition that the proposed construction has a one hour fire wall on the outside wall between the neighbor and the home requested. Second by C. Koller.

Findings:

1. **Exceptional Circumstances:** Because of the placement of the existing home there is very limited space for a reasonable garage on the property while complying with the required setbacks.
2. **Preservation of Property Rights:** The existing garage is very narrow and can not be used for its intended purpose as it exists. Without a variance the property owners would not be allowed a garage of reasonable size.
3. **Absence of Detriment:** The proposed setback to the side yard is less than the 5' side yard setback allowed by variance to the neighbor. Without a variance the property owners will not have use of a functional garage. All other setback requirements for the construction will be met.

Based upon the above findings, it is the opinion of the Board that all criteria of Section 17.32(7)(a), (b), and (c) have been met.

Vote on the Motion: M. Mathwig, aye; C. Koller, aye; A. Schroeder, aye; D. Mingus, aye; T. Verstegen, aye. Motion carried by a 5-0 vote. **Variance granted with conditions.**

There being no other business, the meeting was adjourned at 7:45 a.m.

Respectfully submitted,

Eric Rasmussen

Eric Rasmussen, Recording Secretary