

WINNEBAGO COUNTY BOARD OF ADJUSTMENT

Tuesday, September 28, 2010 - 5:00 p.m.

Lounge Room, Courthouse, Oshkosh, Wisconsin

PUBLIC HEARING

Present: Board Members: Chairman Arden Schroeder, Greg Kargus, Dan Mingus, Mary Mathwig, and Carla Koller (alternate).

Also present: Kathryn Larson, zoning department; and Laurie Rodgers, court reporter; and interested citizens.

Meeting was called to order at 5:00 p.m. Committee members and staff introduced themselves and Chairman Schroeder explained the hearing process & announced that the Deliberative Session would be held Thursday, October 9, 2010, at 7:00 a.m. Chairman Schroeder asked staff to have John Bodnar, Corporation Counsel, attend the deliberative session and move the time of the meeting later in the day if Mr. Bodnar could not make the 7:00 meeting.

K. Larson read the appeal process and G. Kargus read the legal description and requested variances for the following agenda items:

Omro Dairy – Town of Omro

Bob Reider from Carow Land Surveying Co. appeared for Omro Dairy. He expressed apologies on behalf of Deric DuQuaine of Omro Dairy for not attending the public hearing. Mr. DuQuaine was on vacation.

Mr. Reider explained that it was necessary to cut out the residence from the rest of the farm operation for insurance purposes. He also stated that upon the Town's request, a note was added to the Certified Survey Map that no fence or structures may be placed in the two setback areas. He provided the Board with a copy of the revised CSM with that note.

K. Larson stated that Cary Rowe, zoning administrator, wanted the Board to know that it was his recommendation that the "shop" building meet the required 15 ft. setback and have a lesser setback for the older residential structure. She also stated that there was no response from the Town.

Mike Haak – Town of Wolf River

Mike Haak appeared and stated that he wants to replace his old attached garage with a new, 28' x 30' garage with a 15 ft. setback from the right-of-way and a 61 ft. setback from the water and pour a 12' x 25' patio that would have a 55 ft. shore yard setback. He said his garage is in very poor condition. When asked if he could live with a smaller patio, he said he could. He also confirmed that staff had been to his property and had established the setbacks for him. K. Larson pointed out that the house appeared to be very close to the mapped road right-of-way

Mike Haak – Town of Wolf River - continued

The Town of Wolf River submitted a letter recommending approval of the variance with the following findings:

1. This is a unique property at the end of a channel, does not correlate to neighbor's properties, thus does not match up with neighbor's setbacks.
2. New addition does not bring structure any closer to the road right-of-way.

Richard Ehlike – Town of Oshkosh

This variance was laid over from the August public hearing to allow more time for public input. Picking up from where the meeting was adjourned last month, Chairman Schroeder asked if anyone wanted to speak on the variance request and he also asked that, because of the number of people waiting to speak, that each person limit their time to five minutes. The following people were sworn in and stated their opinions on this subject. (Each one's opinion is being stated as summarized by staff when taking minutes.)

1. **Shelly Davies**, 5117 Island View Dr. – feels that this is an extreme variance and is an example of greed. Owners do not care about future of neighborhood.
2. **Don Davies**, 5117 Island View Dr. – Very dangerous precedence. There is a difference between a variance and an extreme variance.
3. **Jeff Breier**, 5080 Island View plus owns channel lot – Believed these lots were unbuildable. In the case of a previous variance granted, there is no green space and the other variance granted resulted in a house being built up too high. Owns three channel lots and wants to sell if this is granted.
4. **Mark Sellers**, 5050 Island View Dr., directly across from subject lot – We need to re-address the rules. This should be unbuildable. Doesn't want another Cozy Lane. Wants County to grant relief for boathouses and detached garages to be allowed on these small lots. Houses will not be an asset to the neighborhood.
5. **Susan Breier**, 5080 Island View Dr. – One of the reasons they bought their property was the beautiful view of the channel. Doesn't want to live in a congested area. The log cabin house doesn't even have a driveway.
6. **Lois Hammerseng**, 5076 Island View Dr. – Has a boathouse across from her house [on the channel]. Should be allowed a boatslip—then he would have some use of the property. A two-story home on this small lot would degrade her property.
7. **Darlene Boese**, 5086 Island View Dr. – Believes this is an example of overcrowding the land. Should keep it green for the future.
8. **Tom Rothe**, 5116 Island View Dr., plus channel lot – The two existing houses are way too high and are an eyesore. Subject lot is even smaller than the Zander lot. This would be violating every variance rule. Owner doesn't plan on living there. Just wants to maximize sale price. They should be allowed to replace what's there.

Richard Ehlike – Town of Oshkosh – continued

9. **Jim Erdman**, 2492 Hickory Ln., Town Supervisor – Not going to speak for or against. He understands that the neighbors have spoken against it and that the owners want to do something with their property. The State didn't create this problem, the County did. County is afraid that [denial] is a taking. The Town's lawyer said that a "use variance" could be granted—per recent case law. Should allow just a 600 sq. ft. house. This is floodplain and, if granted, Board should limit the height of the first floor. The Town asked for that on the Sunset Point variance but it was not part of the decision. House could be built at grade without a crawl space which would limit the impact. Every variance should stand on its own. If not garages, at least allow boathouses without principal structures. Thirteen feet is too close to the right-of-way for parking.
10. **Jerry Frey**, 4804 Island View Dr., Town Chairman – Regarding hardship, the Town's attorney said the lot is not valueless without a variance. Concerned with 13 ft. street yard setback. At least the log cabin lot was 130 ft. wide. The Board denied Galow a two-foot variance. The new NR 115 makes sense: impervious surface. If that was in place now, we wouldn't be here.
11. **Dick Ehlike**, Has covenants. Restricts lots to private residential dwellings.

Upon call, no one else wished to speak, and there being no other business, Chairman Schroeder adjourned the meeting at 5:44 p.m.

Respectfully submitted,

Kathryn M. Larson

Recording Secretary for the Board of Adjustment