

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, September 6, 2012 – 7:30 a.m.
3rd Floor Conference Room, County Administration Building
112 Otter Ave, Oshkosh, Wisconsin

Members Present: Arden Schroeder, Dan Mingus, Greg Kargus, and Tom Verstegen

Excused: None

Absent: James Forbes

Also Present: Candace Zeinert, zoning and Karen Fredrick, court reporter

The meeting was called to order at approximately 7:30 a.m.

Approval of Minutes

Motion by G. Kargus, second by T. Verstegen, to approve meeting minutes for June 27 and 31 and August 9th, 24th, and 28st of 2012. It was noted that on the August 24th Viewing minutes that A. Schroeder should be listed as excused instead of absent as he had emailed in. It was also noted that in the August 28th minutes that “proposed” should be changed to “requested” in the first paragraph. Motion to approve carried by unanimous voice vote.

A decision was made on the following request:

Brian Hacker – Town of Winneconne – Variances

C. Zeinert explained the drawing that was placed on the marker board. It was a visual representation of the property and requests for both setbacks and reduced fill.

D. Mingus stated that he felt the 9ft street yard and 40ft shore yard setbacks granted with the original request last year was sufficient. He thought the further reduced setback was a want, not a need and that the owner would need to fit the house to the lot. Board member’s agreed and thought that a 32ft deep house was sufficient.

C. Zeinert followed up with the Board on an inquiry that the builder and applicant had made at the public hearing regarding bay windows and cantilevered portions of a home. She specified that a bay window would be allowed to project into a setback by 24inches but that a cantilevered section of the home would need to meet all applicable setbacks.

Board members inquired about setback averaging. C. Zeinert explained that it was applicable, but the minimum setback available through setback averaging is a 15ft street yard setback and a 50ft shore yard setback.

G. Kargus mentioned that he would like to see sufficient space between the road and the garage for parking a vehicle if necessary. G. Kargus asked if that could be a part of the variance to be granted and C. Zeinert specified that it could be a condition of approval.

A. Schroeder stated that the staff recommendation sounded good, but how far back should the garage be? The Board discussed the amount of room needed to park a vehicle in the driveway. The site plan indicated that the attached garage would be setback 6ft from the front of the house, giving it a 15ft setback to the roadway, which sounded reasonable.

G. Kargus made a motion to approve a variance for a 40ft shore yard setback, a 9ft street yard setback, and a 31ft shore yard setback for the retaining wall for floodplain fill. Also, approve 8ft of fill on the shore side, 6ft of fill on the east side, 9ft of fill on the west side, and 9ft of fill towards the road with the condition that the attached garage be 15ft from the road right-of-way (easement). Motion seconded by D. Mingus.

C. Zeinert questioned if the Board would like to limit the fill on the side yards to specific sides or just specify one side is 6ft and the other is 9ft. G. Kargus agreed to change the motion. C. Zeinert also questioned if the Board would like to keep the exception to meet the fill requirement for the attached garage approach. G. Kargus agreed to the change.

The new motion reads: Motion to approve a variance for a 40ft shore yard setback, a 9ft street yard setback, and a 31ft shore yard setback for the retaining wall for floodplain fill; 8ft of fill on the shore side, 6ft of fill on one side, 9ft of fill on the other side, 9ft of fill on the street side, except the garage approach may be graded as desired, with the condition that the attached garage be 15ft from the road right-of-way (easement).

Vote on the motion: G. Kargus, aye; A. Schroeder, aye; T. Verstegen, aye; D. Mingus, aye. Motion passed by a 4-0-1 vote (Forbes). **Variance granted, not as requested with a condition.**

Findings for granting:

- 1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created. Without the granting of a variance, the property owner could not construct a home of reasonable size.
- 2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question. This is a very small waterfront property with additional floodplain regulations needing to be met.
- 3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question. Many of the existing homes on Shoreline Dr. have substandard shore yard setbacks. The street yard setback will be an improvement from previous conditions.

Condition: The attached garage must be at least 15ft from the road right-of-way/easement.

Based upon the above findings, it is the opinion of the Board that all criteria of Article 7, Division 12, Section 23.7-234, Town/County Zoning Code and Section 27.6-8 of the Shoreland Zoning Code have been met.

Upon conclusion of the agenda items, the meeting was adjourned at 7:52 a.m.

Respectfully submitted,

Candace M. Zeinert

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Recording Secretary