

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, October 25, 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 (late)

Excused: None

Absent: James Forbes

Also Present: Candace Zeinert, zoning and Lynn Egan, court reporter

The meeting was called to order at approximately 7:35 a.m.

Approval of Minutes

Motion by G. Kargus, second by D. Mingus, to approve meeting minutes for October 4, 2012. Motion to approve carried by unanimous voice vote.

A decision was made on the following request:

Michael Voss – Town of Wolf River – Variances

Building plans that were submitted at the public hearing were brought in front of the Board. A. Schroeder mentioned that they never looked at the building proposed to be built – was the proposed too big for the lot? G. Kargus verified the 7ft and 10ft side yard setbacks for the home with C. Zeinert. A. Schroeder reiterated that the floodplain fill request was for the side yards and that the main concern is the neighbor's structure to the south being so close to the property line. Board members discussed that for this reason they feel comfortable with cutting the fill requirement down by 3 more feet but that they do not wish to cut it down further. Board members inquired about the other setbacks (mostly regarding patio). C. Zeinert explained that the reduced setbacks are allowed via setback averaging.

A. Schroeder stated that putting drain tile in the side yards should be a condition. G. Kargus inquired if the County has any standards for the retaining walls. C. Zeinert replied that there are none. G. Kargus said that having a frost wall for the retaining wall might be "overkill" but it will keep it stable; should it be put as a condition? G. Kargus asked if drainage is looked at from the County level. C. Zeinert said that it is addressed with an erosion control permit that would be required to construct the home.

The Board reviewed the recommendation and discussed requiring the south retaining wall to have a frost wall and that the drain tile was already an advisory condition. A. Schroeder mentioned that the DNR and the Town of Wolf River both submitted information after the public hearing.

The Board inquired about the requested setbacks for the retaining walls. C. Zeinert explained that they were not arbitrary, that staff marked the ordinary high water mark which was taken in by a surveyor and shown on the survey that was submitted.

The Board discussed angling the retaining wall on the south side – would it provide more relief to the neighbor, how would it affect drainage, would the shore yard setback be affected, what kind of angle to require, etc.

G. Kargus made the motion, seconded by D. Mingus, to approve a 47ft [shore yard] setback on the north retaining wall and a 55ft [shore yard] setback for the south retaining wall, with the home having a side yard setback of 7ft on the north side and 10ft on the south side, and the retaining walls to be 7ft from the home. Also, grant the variance for reduced fill – 7ft on both sides of the home.

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 conditions.**

Conditions:

1. Drain tile to be installed on both sides
2. Frost wall to be installed on the south retaining wall
3. Frost wall to be angled a minimum of 30 degrees west (shore side – into property) beginning 15ft after the southwest corner of the structure.

Findings for granting:

1. Without the granting of a variance the owner could not construct a home of reasonable size on the property.
2. The parcel is a narrow waterfront property with additional floodplain regulations needing to be met.
3. The reduction in fill will not affect the neighboring properties and the reduced setback of the retaining walls will not harm the public interest. The retaining wall will ensure that the floodplain fill stays on the subject property. Drainage will be maintained.
4. The reduced floodplain fill will still serve its purpose, making the variance request consistent with the purpose of the Floodplain Zoning Code.
5. The reduced setback of retaining walls for the purpose of meeting floodplain fill requirements is consistent with the purpose of the Shoreland Zoning Code.

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, Section 26.6-7 of the Floodplain 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 8:07 a.m.

Respectfully submitted,

Candace M. Zeinert

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Recording Secretary