

## **WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION**

Monday, March 17, 2014 – 7:30 a.m. \*\*Special Meeting  
3rd Floor Conference Room, County Administration Building  
112 Otter Ave, Oshkosh, Wisconsin

\*\*Special Deliberative session held; notice for the March 6, 2014 deliberative meeting was not properly posted prior to the meeting. Meeting held again March 17, 2014 with proper notice given.

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

**Absent:** James Forbes

**Also Present:** Candace Zeinert, zoning, 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 February 25, 2014.  
Motion to approve carried by unanimous voice vote.

A decision was made on the following request:

### **Michael Voss – Town of Wolf River – Variance**

Applicant is requesting a variance to construct a retaining wall with a substandard 32ft shore yard setback.

Board members discussed any possible drainage concerns that may be a factor in this variance but it was agreed upon that drainage matters were taken care of with the last variance granted. Waters were to be diverted properly away from neighboring properties, directly to the lake.

D. Weiss added that there would be a small amount going to the neighbors from side sloping, but it was negligible.

D. Mingus inquired with the other members what the hardship would be. It was determined that the hardship was self created and did not meet the criteria for a variance.

C. Zeinert specified that the full 15ft of fill would be required on this side of the home for floodplain construction purposes, regardless of the decision. The Board had no other floodplain fill concerns.

There was discussion regarding the type of materials used to create the wall. It was said that the rock retaining wall does look aesthetically nice; however, it still meets the definition of a retaining wall and will be required to meet setbacks.

C. Zeinert explained that although the post staff report indicates a positive finding regarding the request not being contrary to the ordinance and not harming the public interest, all criteria need to be met in order for the variance to be granted.

Motion by T. Verstegen, seconded by G. Kargus to deny the variance request.

Vote on the motion: A. Schroeder, aye; T. Verstegen, aye; D. Mingus, aye; G. Kargus, aye D. Weiss, aye. Motion passed by a 5-0-1 (Forbes) vote. **Motion approved; variance denied.**

Findings for denial:

1. The retaining wall is not necessary for the property to be used for a permitted purpose and conforming to the required shore yard setback is not unnecessarily burdensome.
2. A retaining wall is not necessary to hold back fill required for floodplain compliance on this portion of the property as there is sufficient room to grade the fill down to natural elevations.
3. The request is not contrary to and would not harm the public interest.
4. The variance would not be consistent with the purposes of the Shoreland Zoning Code because it does not preserve or restore the shoreland areas and it would encourage the encroachment of structures to the shoreline.

**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 Article 6, Section 27.6-8 of the Shoreland Zoning Code have not been met.

Upon conclusion of the agenda items, the meeting was adjourned at 7:43 a.m.

Respectfully submitted,

*Candace M. Zeinert*

Candace M. Zeinert  
Recording Secretary