

WINNEBAGO COUNTY BOARD OF ADJUSTMENT

Wednesday, December 17, 2014 – 5:30 p.m.

Lounge Room, Courthouse, Oshkosh, Wisconsin

PUBLIC HEARING

Present: Board Members: Arden Schroeder, Greg Kargus, Tom Verstegen, Susan Drexler, and David Weiss

Absent: James Forbes

Also present: Candace Zeinert, Zoning Department; Karen Fredrick, court reporter; and guests.

Meeting was called to order at 5:30 p.m. Board members and staff introduced themselves and C. Zeinert read the appeal process.

Susan Rubick – Town of Oshkosh

Applicant is requesting a variance to construct a detached garage with a substandard street yard setback as well as a substandard separation between structures.

Susan Rubick was sworn in and explained that she wished to build a garage at her property of 2210 Westwind Rd. Ms. Rubick presented the Board with a new CSM which shows the exact setbacks of the slab currently made for the detached garage. It was noted that based on an initial incorrect measurement, the proposed garage will now only be 12.6ft from the closest point of the road right-of-way (ROW) instead of the initial proposal of 13ft.

Ms. Rubick noted that since Winnebago County moved the ditch it was hard to see the markers. It was also noted that the shed and a tree behind it was removed from the property to make way for the garage.

Ms. Rubick explained that the location for the garage was chosen because if you look at a certain plane, the neighbor's view will not be obstructed and it will not project out any further than the neighbor's home.

T. Verstegen inquired if the garage would be entered from the road to which Ms. Rubick answered "yes". Ms. Rubick and Board members discussed how the road seems very wide at the point of her property – pavement is over 50ft wide. Ms. Rubick explained that the road was not properly vacated in the 1960s and left "no man's land".

A. Schroeder asked if the applicant would be ok with installing a firewall with the garage as it will only be 8.5ft from the home. Ms. Rubick answered that she would be ok with that condition of the variance as she did not want to take away more of the neighbor's view for driving. T. Verstegen inquired if she had considered going closer to the home to which Ms. Rubick explained that she had not because of frost and footing issues.

A. Schroeder inquired if the property was located within the floodplain. Ms. Rubick stated that the property was not as she had a LOMA (Letter of Map Amendment) from FEMA (Federal

Emergency Management Agency). C. Zeinert added that a LOMA only has to deal with flood insurance requirements through FEMA and does not remove the floodplain from the property. C. Zeinert stated that floodplain compliance would be taken into consideration at the time of permitting, if the Board granted the variance.

G. Kargus stated that he was concerned about potential parking in front of the garage, which may block the ROW. Ms. Rubick stated that a compact car will fit between the garage and ROW but that larger vehicles could park alongside the garage on the existing driveway. A. Schroeder inquired with Ms. Rubick on how she felt about a condition that only compact cars may be parked on the south side of the detached garage. Ms. Rubick stated that she did not have a problem with that condition.

Jim Erdman, Town Chairman, was sworn in. A. Schroeder inquired about the location of pavement compared to the ROW. Mr. Erdman answered that there was a ROW change and that there was 70ft of asphalt at this point in the road. He explained that the Town vacated a part of the road ROW but only did the minimal amount necessary to allow for the garage. Mr. Erdman said that if a vehicle were parked in front of the garage that it may be within the ROW on the pavement but that there was still plenty of pavement for traffic.

Mr. Erdman mentioned that the project improved drainage and the ditches of the area. Mr. Erdman then added that there was 50ft from the centerline of the road to the front of the proposed garage, whereas a chip seal was done on the road at 23ft wide.

G. Kargus inquired if someone parked in the ROW and it was damaged by road traffic, whom would be liable? No answer could be given. Mr. Erdman stated that the Town could consider allowing the property owner to put a white fog line to guide traffic.

Mr. Erdman said that the vacation was now complete and that they were just waiting on the CSM, which needs to clean up the "no man's land" on the neighbor's property before it can be approved. Mr. Erdman presented to the Board some recent case law regarding allowing a garage in Wisconsin. The case law states that it is an unnecessary hardship to deny a garage.

Jerry Frey of the Town of Oshkosh was sworn in. He stated that the Town's Board of Appeals did approve the request and that nobody had a problem with the request.

C. Zeinert read the comments section of a letter from Dale Rezabek, Regional Shoreland Specialist, of the WI DNR. It stated that the 3 criteria must be met in order for the BOA to grant the variance. It also stated that if the variance is granted, the BOA should consider requiring some mitigation for the added impervious surface.

Mr. Erdman submitted to the Board a copy of a document showing the vacation of the road.

There being no other business, Arden Schroeder adjourned the meeting at 6:03 p.m.

Respectfully submitted,

Candace M. Zeinert

Recording Secretary