

**WINNEBAGO COUNTY
BOARD OF ADJUSTMENT**

Thursday, May 7, 2009 - 7:30 a.m.

Planning & Zoning Conference Room, Orrin King Administration Building,
Oshkosh, Wisconsin

DELIBERATIVE SESSION

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

Also Present: Tracy Johnston and Eric Rasmussen, zoning department; and Karen Fredrick, court reporter.

Meeting was called to order at 7:32 a.m. G. Kargus made a motion to approve the minutes of April 9, 24, and 28, 2009. Motion seconded by T. Verstegen and carried by unanimous voice vote.

The following variances were acted on:

1. Gary Hoffmann – Town of Winneconne

This variance request was for a proposed single family dwelling with a substandard street yard setback.

Discussion included where the water well was located, the fire lane, and how the width of the single-family had been changed from twenty-eight (28) feet to thirty-two (32) feet.

A motion was made by G. Kargus to approve the variance with a seventeen (17) foot street yard setback to the east. Motion seconded by T. Verstegen.

Findings:

- 1. Exceptional Circumstances:** Because narrowness of the lot and the road right-of-way to the east there is limited space for placement of a new single family dwelling while complying with the required setbacks. The right-of-way to the east is a fire lane with no public access to the lake.
- 2. Preservation of Property Rights:** The existing single family dwelling is non-conforming due to a substandard side yard setback to the west and a substandard street yard setback to the east. Without a variance the property owners will be restricted by the water well and could build the single family dwelling as close as five (5) feet off of the west side property line and 26.5 feet off of the road right-of-way to the east, which is allowed by setback averaging. A 28.5 feet wide single family dwelling could be constructed in the buildable area while meeting all of the setbacks.
- 3. Absence of Detriment:** The setback to the road right-of-way will be one foot closer than what currently exists. All other setbacks will be met. Without the variance the distance between the two single family dwellings would be approximately eight (8) feet.

Based upon the above findings, it is the opinion of the Board that all criteria of Section 17.32(7)(a), (b), and (c) have been met.

T. Verstegen amended the Absence of Detriment to read “The setback to the road right-of-way will be what currently exists...”

Gary Hoffmann – continued

Vote on the Motion: A. Schroeder, aye; G. Kargus, aye; T. Versteegen, aye; M. Mathwig, aye; D. Mingus, aye. **Motion approved by a 5-0 vote. Variance granted with a seventeen (17) foot setback from the road right-of-way to the east.**

2. Clarence Smith – Town of Oshkosh

This variance request was for a proposed single-family dwelling with a substandard shore yard setback.

Discussion included that other properties in the area have been granted a substandard shore yard setback and the setback from the road right-of-way.

Motion by D. Mingus to approve the variance with a fifty-four (54) foot setback from the ordinary high water mark. Second by T. Versteegen.

Findings:

- 1. Exceptional Circumstances:** Because of the limited depth of the parcel there is limited space for placement of a new single family dwelling while complying with the required shore yard setback.
- 2. Preservation of Property Rights:** Without a variance the property owners would have to build a single family dwelling that is no deeper than 25 feet. With the variance granted the property owners would construct a single family dwelling fifty-two (52) feet from the ordinary high water mark. Without a variance a single family dwelling could be constructed in the buildable area while meeting all of the setbacks.
- 3. Absence of Detriment:** Many of the single family dwellings along this channel have been granted variances to allow a fifty (50) foot substandard shore yard setback. Because the adjacent parcels to the north and south of this property are vacant setback averaging does not apply. All other setbacks will be met.

Based upon the above findings, it is the opinion of the Board that all criteria of Section 17.32(7)(a), (b), and (c) have been met.

D. Mingus amended the Absence of Detriment to read “With the variance granted the property owners would construct a single family dwelling fifty-four (54) feet from the ordinary high water mark...”

Vote on the Motion: A. Schroeder, aye; G. Kargus, aye; T. Versteegen, aye; M. Mathwig, aye; D. Mingus, aye. **Motion approved by a 5-0 vote. Variance granted with a fifty-four (54) foot setback from the ordinary high water mark.**

There being no other business, the meeting was adjourned at 7:56 a.m.

Respectfully submitted,

Tracy Johnston

Tracy Johnston, Recording Secretary