

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, November 3, 2016 – 7:30 a.m.
3rd Floor Conference Room, County Administration Building
112 Otter Ave, Oshkosh, Wisconsin

Members Present: Arden Schroeder, Greg Kargus, Susan Drexler, Tom Verstegen, and Tom Tuschl
Also Present: Candace Bauer, Zoning; Karen Fredrick, Court Reporter
Excused: None

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

Approval of Minutes

Motion by G. Kargus, seconded by T. Verstegen, to approve the meeting minutes of October 6, 2016. Vote on motion: T. Tuschl, Aye; A. Schroeder, Aye; G. Kargus, Aye; T. Verstegen, Aye. Motion carried 4-0-1 (S. Drexler)

Michael Van Rooy – Town of Poygan – Variance

Applicant is requesting a variance for a reduced side yard setback for a pergola addition.

G. Kargus asked for clarification on what the actual variance was for (pergola structure versus concrete patio). C. Bauer explained that the reduced setback was for the pergola structure as patios, driveways, etc. no longer have side yard setback requirements. There was then discussion regarding where the setback is measured from. With a pergola, the setback is measured from the support post, as long as the overhang does not extend more than 2ft into the setback.

T. Tuschl raised the question if the variance would be looked at differently if it was requested before construction. The Board members discussed how there was no hardship present. Granting the variance could set a precedence.

S. Drexler pointed out that the neighbors were all in favor of the pergola and that it looked nice. The Board agreed that the pergola looked nice.

A. Schroeder noted that there is already a seating area on the lake side of the home, but that the only issue with using that was because of the dislike of the neighbors.

Board members and staff discussed side yard setback requirements. A 50ft wide lot is not required to meet the same 7ft and 10ft side yard setbacks that a standard sized lot (65ft wide) is required to meet. Side yard setbacks on a substandard lot must total 26% of the lot width, with no one side less than 5ft. Because the opposite side of the home already had a 5ft setback, which meant that the side in question must have an 8ft setback.

The Board inquired about how the issue came up. C. Bauer replied that she did not know if it was complaint driven or if the property owner came in on their own accord. A permit was applied for and that was when it was discovered that they could not meet setbacks and the variance was applied for.

Motion by T. Tuschl, seconded by T. Verstegen to deny the variance

Findings for denial:

1. The property owners have reasonable use of the property. There is already an area for outdoor living on the water-side of the structure with a patio and covered porch. Some circumstances are self-created as construction started on the pergola prior to permits and approvals being issued.
2. Reduced side yard setbacks are already offered for this lot compared to lots that meet minimum width requirements. Side yard setbacks for a 50 ft wide lot must only equal 13 ft, with no one side being less than 5 ft. The 5 ft side setback is already being utilized on the west side of the structure.
3. Approving the variance will encourage further reductions in side yard setbacks, beyond what is already reduced by the Zoning Code. The pergola will add to the crowdedness already present in this area.

Question on the findings was raised by A. Schroeder. He inquired why hardship was not specifically addressed in the findings. C. Bauer explained that the term hardship is the same as the terms in the first finding regarding unreasonably preventing the property owner from using the property and that it is unnecessarily burdensome to not grant the variance.

Vote on motion: T. Tuschl, Aye; A. Schroeder, Aye; G. Kargus, Aye; T. Verstegen, Aye; S. Drexler, Nay. Motion carried 4-1; variance denied.

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 have not been met.

Approval of 2017 Committee Dates

Some of the Board Members pointed out dates that may conflict with their individual schedules, but that an alternate may be requested in their place.

Motion by T. Verstegen, seconded by G. Kargus, to approve the schedule. All Ayes, motion carried.

Upon conclusion of the agenda items, the meeting was adjourned at 7:46a.m.

Respectfully submitted,
Candace M. Bauer
Recording Secretary