

## WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, January 6, 2011 – 7:30 a.m.

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

**Members Present:** Arden Schroeder, Greg Kargus, Dan Mingus, Tom Verstegen, and Mary Mathwig  
**Also Present:** Candace Zeinert and Eric Rasmussen, zoning, and Holly Ford, court reporter

The meeting was called to order at 7:31 a.m. First was the approval of minutes for December 2, 17, and 22, 2010. Motion to approve carried by unanimous voice vote.

A decision was made on the following request:

### **William Frank – Town of Oshkosh – Variance**

Mr. Frank had requested a variance to build a new single family dwelling with a 22 ft. street yard setback and side yard setbacks of 5 ft. and 7 ft. A 26 ft. street yard setback and a total of 15.6 ft. in side yard setbacks are required without a variance.

C. Zeinert read 2 letters signed by Brian Koplitz, property owner at 4720 Island View Drive and one other neighbor stating they had no objections to the variance being requested.

After discussion a motion was made by T. Verstegen, and seconded by G. Kargus to deny the side yard setback yet approve the 22 ft. street yard setback with the condition that the elevation of the first floor be the average of the two neighboring properties.

### **Findings:**

- 1. Exceptional Circumstances:** The lot presents reasonable building space without the side yard setback variance.
- 2. Preservation of Property Rights:** The applicant's rights are reasonably upheld.
- 3. Absence of Detriment:** Without the side yard variance, the applicant could still have reasonable use of the property.

During the discussion of the findings, board members questioned what exceptional circumstances exist which would cause for the need of a street yard variance.

Vote on the findings: G. Kargus, nay; M. Mathwig, nay; A. Schroeder, nay; T. Verstegen, nay; D. Mingus, nay.

Vote on the motion: G. Kargus, nay; M. Mathwig, nay; A. Schroeder, nay; T. Verstegen, aye; D. Mingus, nay. Motion failed by a 1-5 vote.

After further discussion regarding the exceptional circumstances a second motion was made by G. Kargus, and seconded by A. Schroeder to deny as requested the variance.

### **Findings:**

- 1. Exceptional Circumstances:** The request for a master main level retirement home is a personal preference, as a reasonably sized home could be built on the property.
- 2. Preservation of Property Rights:** The applicant would be able to build a reasonably sized home on the property without the granting of a variance.
- 3. Absence of Detriment:** The granting of a variance will reduce an established setback in the Zoning Ordinance and because of the size of this lot, the applicant can maintain reasonable use of the property while meeting the required setbacks.

**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 not been met.

Vote on the motion: G. Kargus, aye; M. Mathwig, aye; A. Schroeder, aye; T. Verstegen, aye; D. Mingus, aye. Motion carried by a 5-0 vote. **Variance denied.**

Upon conclusion of the agenda items, the meeting was adjourned at 7:49 a.m.

Respectfully submitted,

*Candace M. Zeinert*

Candace M. Zeinert, Recording Secretary