

**WINNEBAGO COUNTY
BOARD OF ADJUSTMENT**

Thursday, June 4, 2009 - 7:30 a.m.

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

DELIBERATIVE SESSION

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

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

Meeting was called to order at 7:33 a.m. G. Kargus made a motion to approve the minutes of May 22 and May 26, 2009. Motion seconded by M. Mathwig and carried by unanimous voice vote.

The following variances were acted on:

I. Gonzales/Neill – Town of Winneconne

The variance requested was to construct a new home and detached garage with a substandard setback to the exterior boundary of an R-5 development.

The board discussed the lack of hardship for the house, the available area on the garage lot, and the discrepancy between the Martenson and Eisele plat of survey and the original plat of Grignon Shores.

A motion was made by D. Mingus to deny any variance for the new home on Unit 1 and to approve a variance with a 3' setback from the property line established by the Martenson & Eisele Plat of Survey East property line for the garage on Unit 1-2. There was no second and the motion was lost

After further discussion, D. Mingus made a motion to deny the variance for the new home on Unit 1 and to grant a variance with a 25' setback to the exterior boundary of the R-5 for a garage to be constructed on Unit 1-2. Seconded by G. Kargus.

Findings:

1. Exceptional Circumstances: None.

While there is a 30' setback required from the exterior boundary of the development, this lot is 83.87' wide to accommodate the 30' setback required and maintain a 46' buildable width. The buildable width is larger than the width of most of the other lots in the development.

The proposed garage will require a reduced setback because of the narrow width of the lot and the 30' setback required from the exterior boundary of the development. The other garage lots in the development are similar widths and are only required 3' sideyard setbacks.

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.

In order to allow for a reasonably sized garage on the property a reduced setback from the exterior boundary of the development will be required.

- 3. Absence of Detriment:** The granting of a variance will reduce an established setback in the Zoning Ordinance. Because of the size of this lot the applicant can maintain reasonable use of the property while meeting the required setbacks.

The granting of a variance for the garage lot will allow the applicants to use their property in a similar manner as their neighbors in the development.

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.

Vote on the Motion: Motion carried by a 5-0 vote. **Variance denied for a home on Unit 1 and approved not as proposed for Unit 1-2.**

II. Rusch / Gabert – Town of Oshkosh

This variance request was for a substandard setback to the road right-of-way for an extraction site.

Discussion included future development of the sites, the DOT's position on the proposal, and possible complications if the applicant was not awarded the project.

Motion by G. Kargus to approve a 50' variance to the right-of-ways of Snell Rd and Highway 41.
Second by A. Schroeder.

Motion was amended to include a 150' setback from the right-of-way of Green Valley Rd.
Motion amended to include a 50' setback from the right-of-way of Green Valley Rd.

Motion was restated by G. Kargus. The motion is to approve a 50' setback to the right-of-way of Snell Rd. and Highway 41 for the south site (018-0462-01) and a 50' setback from the right-of-way of Green Valley Rd for the north site (018-0450). Seconded by D. Mingus.

The committee discussed the possible necessity of a variance to Highway 41 for the north site.

Findings:

1. Exceptional Circumstances:

018-0462-01: There will be no access to the property from Highway 41 or from the west portion of Snell Rd. Allowing the extraction closer to these right-of-ways will allow for a larger developable area in the future.

018-0450: There is a mapped wetland on this property that limits the amount of area available for extraction while meeting the required setbacks.

2. Preservation of Property Rights: The granting of a variance for a reduced setback will allow for more usable area on these properties for future development.

3. Absence of Detriment:

018-0462-01: Because of the access restrictions on this property there will be no impact on the adjacent properties.

018-0450: The granting of a variance will allow the more desirable parts of this property to be used for future development and will allow a greater buffer from the wetland and navigable stream to any future development.

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.

Vote on the Motion: Motion carried by a 5-0 vote. **Variance granted.**

III. Temporary Use Permits

A. Barthels Enterprises Inc – Town of Nekimi

The committee asked if there had been any complaints, staff was not aware of any.

Motion by D. Mingus to approve the Temporary Use. Seconded by T. Verstegen.

Vote on the Motion: Motion carried by a 5-0 vote. **Temporary Use granted.**

There being no other business, the meeting was adjourned at 8:21 a.m.

Respectfully submitted,

Eric Rasmussen

Eric Rasmussen, Recording Secretary