

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, September 8, 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
Excused: None

The meeting was called to order at approximately 7:30 a.m.

Approval of Minutes

Motion by G. Kargus, seconded by S. Drexler, to approve the meeting minutes of July 7, 2016. All ayes; motion carried.

Steven Grunwald – Town of Winneconne – Variance

Applicant is requesting a variance of a reduced street yard setback of 17ft and a reduced separation between detached buildings of 6ft in order to build a 24ft x 26ft detached garage.

T. Tuschl inquired if there was a minimum width or setbacks for driveways (to access the back of the property). C. Bauer answered that there were none applicable.

There was a point of clarification that the variance request between buildings was measured from the home, not from the deck. Board members discussed the possibility of conditioning the variance regarding the deck removal and the installation of a 1-hour firewall on the garage.

There was discussion regarding the applicant's willingness to change the size of the building and rotating it so that less of a variance could be requested. With side yard setback requirements, it was determined that a 35ft wide garage could be built.

S. Drexler inquired about setback averaging. C. Bauer explained that current setback averaging would allow a 22ft street yard setback; however, staff was hesitant to consider setback averaging because the neighboring property exceeds their accessory structure square footage and the shed utilized for setback averaging may be removed as a requirement to bring the property into compliance. It was further explained that setback averaging was not conducted prior to application because the variance requested was more than setback averaging would allow anyways.

T. Tuschl pointed out that the applicant could build a garage behind the home (on the water-side) and inquired why staff notes indicate that a garage "may" be allowed on that side. C. Bauer explained that although there appears to be sufficient room, the shore yard setback was not formally measured to determine if there was room.

There was discussion regarding the floodplain status on the property. Floodplain was a reason that the garage was not proposed to be attached to the home.

Motion by S. Drexler, seconded by G. Kargus to grant a variance for a detached garage with 6ft between the home and garage and a street yard setback of 19ft with the following conditions:

1. A one-hour firewall be installed on the home-side of the garage.
2. The deck must be removed and cannot be replaced with anything structural (deck-like).
3. The garage is a maximum of 24ft deep.

Vote on motion: T. Tuschl, Nay; A. Schroeder, Aye; G. Kargus, Aye; T. Verstegen, Aye; S. Drexler, Aye. Motion carried 4-1; variance granted, not as requested and with conditions.

Findings for approval:

1. It is supported by case law that a garage can be an option for property owners in Wisconsin. Without a variance, a garage could not be built on the property between the home and the road.
2. Original development in the area often involved the residence being very close to the road, restricting the construction of a garage between the home and the road. Due to floodplain restrictions, a garage cannot be attached to the existing home in its current condition.
3. Allowing the garage between the road and home allows it to be built outside of the floodplain limits. When possible, developing outside of the floodplain is encouraged. The variance would be in keeping with the existing development pattern along Rivermoor Drive where buildings are located within the street yard setback.

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 been met.

Mark Raatz – Town of Poygan – Variance Extension

Applicant is requesting an extension of variance #2015-VA-3090 which granted a variance for a reduced amount of floodplain fill on the east side of the home and reduced shore yard setbacks for 2 retaining walls used in conjunction with floodplain fill.

Board members inquired about and discussed the timeframe of the extension. Board members considered limiting the extension to 6 months and requiring construction to start within a certain time. C. Bauer explained that the application for construction was already submitted to the Zoning Department and that obtaining a zoning permit was a means of acting upon a variance. As long as construction starts on the home within the year that the zoning permit is good for, then the variance does not expire. After that year, construction on the home must be diligently pursued until completion in order to keep the permit valid. C. Bauer further explained that it is to the property owner's benefit to start within the year because otherwise a new set of shoreland regulations will be very limiting for the property. If the permit expires, then the property owners would have to reapply for the variance and meet the more restrictive shoreland regulations.

Motion by T. Verstegen, seconded by G. Kargus, to extend the variance by 6 months. All ayes; motion approved; variance extension granted.

Upon conclusion of the agenda items, the meeting was adjourned at 7:52 a.m.

Respectfully submitted,
Candace M. Bauer
Recording Secretary