

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, January 3, 2013 – 7:30 a.m.
3rd Floor Conference Room, County Administration Building
112 Otter Ave, Oshkosh, Wisconsin

Members Present: Arden Schroeder, Dan Mingus, Greg Kargus, Tom Verstegen, and David Weiss

Excused: None

Absent: James Forbes

Also Present: Candace Zeinert, zoning and Lynn Egan, court reporter

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

Approval of Minutes

Motion by G. Kargus, second by T. Verstegen, to approve meeting minutes for November 14th and December 6 of 2012. Motion to approve carried by unanimous voice vote.

A decision was made on the following request:

Susan Harger – Town of Oshkosh – Variance

It was clarified that a variance would be required for both patios and the walkways as well. G. Kargus mentioned that he did not have a problem with granting the variance for the 2nd story addition.

C. Zeinert explained what could happen with NR115 rules regarding vertical expansion beyond 35ft of the ordinary high water mark. The proposed and requested setback is only 34ft.

Board members inquired if the original deck was a part of the initial variance for the home. At the time the deck was constructed, it was not considered a structure that needed to meet the shore yard setback. The definition of a structure has since changed.

A. Schroeder offered that he was not opposed to the 16'x16' deck on the west side because it does not extend further than the existing house towards the water.

C. Zeinert explained the role that Wisconsin Act 170 and NR 115 may play with the replacement of the existing deck. It was decided that its replacement would be left up to zoning interpretation, especially since it does not meet all criteria for granting a variance.

The Board inquired if there was already a walkway – yes, there is a walkway closer to the garage than proposed, between the driveway and the existing south deck, but there is no walkway to the west.

T. Verstegen motioned, seconded by D. Weiss to approve the variance for the second story addition [34ft shore yard setback], the first floor entryway porch, and the west patio [40ft shore yard setback] but to deny the variance for the south patio and walkways.

Vote on the motion: G. Kargus, aye; A. Schroeder, aye; T. Verstegen, aye; D. Mingus, aye. D. Weiss, aye. Motion passed by a 5-0-1 vote (Forbes). **Variance granted, not as requested.**

Findings for granting:

1. A variance was initially granted for the current home. A second story addition and small entry way addition within the existing building footprint will not be contrary to or harm the public interest as it will not be closer to the ordinary high water mark than the existing home.
2. Because the second story addition will be located within the existing structure's building envelope the granting of the variance is consistent with the purpose of the Shoreland Zoning Code.
3. The west patio will not extend or encroach to the south any further than the existing house.
4. A variance is required for the upward expansion of the home within the existing footprint. The proposed home additions will not extend closer to the ordinary high water mark than currently exists.
5. The property was an existing lot of record prior to the adoption of the 75ft shore yard setback requirement. It is a very narrow lot with shore yard setbacks from both the south and west.

Findings for denial:

1. Patios and walkways are not a necessity to a residential use.
2. The requested patio and walkway variance is not consistent with the purpose of the Shoreland Zoning Code as it will encourage shoreline encroachment by structures and will not help to preserve and restore shoreland vegetation.

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 and Section 27.6-8 of the Shoreland Zoning Code have been met for the second story addition, first floor entry way porch, and west patio but have not been met for the south patio and walkways.

Upon conclusion of the agenda items, the meeting was adjourned at 7:55 a.m.

Respectfully submitted,

Candace M. Zeinert

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Recording Secretary