

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Friday, November 4, 2011 – 7:30 a.m.

1st Floor Conference Room, County Administration Building

112 Otter Ave, Oshkosh, Wisconsin

Members Present: Greg Kargus, Carla Koller, and Tom Verstegen

Excused: Arden Schroeder

Absent: Mary Mathwig and Dan Mingus

Also Present: Candace Zeinert, zoning, and Karen Fredercik, court reporter

The meeting was called to order at 7:34 a.m.

Approval of Minutes

Motion by T. Verstegan, second by C. Koller to approve meeting minutes for October 6, 21, and 25, 2011. Motion to approve carried by unanimous voice vote.

Decisions were made on the following requests:

Joseph Peeters – Town of Wolf River – Variance

Mr. Peeters had requested a variance to build a 22 ft wide and 28 ft long detached garage having an 18 ft setback from the road and a 42 ft setback from the ordinary high water mark of the channel. During the public hearing, Mr. and Mrs. Peeters stated that a 19 ft setback from the road and a 43 ft setback from the ordinary high water mark of the channel would be sufficient.

The Board discussed the following: is 18 ft enough room to store a vehicle between the building and the road; direction of garage unable to be different due to placement of holding and propane tanks; and possible conditions of variance request.

After discussion a motion was made by C. Koller, and seconded by T. Verstegen, to grant variance for a 22 ft x 28 ft garage 19 ft from the road and 43 ft from the ordinary high water mark of the channel with the condition that both sheds along the channel are to be removed.

Findings:

- 1. Exceptional Circumstances:** The property has two shore yard setbacks because of its frontage on Lake Winneconne and the adjoining channel. The frontages, placement of the home, and placement of the sanitary system leaves limited space for any size garage while complying with required setbacks. The home's nonconforming status eliminates the ability to attach the garage to the residence.
- 2. Preservation of Property Rights:** Without a variance the property owners would not be allowed a garage of any size.

- 3. Absence of Detriment:** The setback to the road will still allow room for a car to be stored between the garage and road without interfering with traffic. A nonconforming shed at the channel's edge will be removed if the variance is granted.

Vote on the motion: G. Kargus, aye; T. Verstegen, aye; C. Koller, aye. Motion passed by a 3-0 vote. **Variance granted with condition.**

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.

Eric Swanlund – Town of Winneconne – Variance

The Board discussed what hardship(s) exists that requires the granting of the variance. Having more children is a self imposed hardship, wanting to live on a water front property is an economical hardship, not a unique hardship of the property itself. C. Zeinert clarified onsite notes regarding the existing setbacks of the home, deck, and landing with stairs of the deck. T. Verstegen added that the DNR recommends denial of the variance request due to lack of hardship. G. Kargus inquired about the variance that was granted to Mr. Swanlund's neighbor two doors down. C. Zeinert read the findings for granting that variance request. Additional discussion included that the residential addition would not be impeding on anyone's view as the deck already exists.

Motion by C. Koller, seconded by T. Verstegen to approve the residential addition with a 60 ft setback and a garage addition with a 72 ft setback from the ordinary high water mark with the condition that no new deck or patio would be allowed within the shore yard setback (including variance requests).

Findings:

1. Exceptional Circumstances: Having 2 street yard and a shore yard setback is an exceptional circumstance of the property.
2. Preservation of Property Rights: Reasonable use of the property is restricted.
3. Absence of Detriment: The additions would have no negative impacts on the neighboring properties.

Further discussion included what variance request would be a reasonable request and what the hardship(s) are that allow the granting of the variance.

Vote on the motion: G. Kargus, nay; T. Verstegen, nay; C. Koller, nay. Motion failed by a 0-3 vote.

Motion by C. Koller, seconded by T. Verstegen, to approve a 60 ft shore yard setback for the proposed home expansion and deny the garage variance request. T. Verstegen withdrew second. Motion failed for lack of second.

Motion by C. Koller, seconded by T. Verstegen, to approve a 65 ft shore yard setback for the proposed home expansion but deny the garage variance request within the shore yard setback.

Findings:

1. **Exceptional Circumstances:** The property has 2 street yard setbacks and a shore yard setback.
2. **Preservation of Property Rights:** Applicant's addition will stay within the existing footprint of the current structure.
3. **Absence of Detriment:** The proposed addition will not be any closer to the ordinary high water mark than the current structure.

Vote on the motion: G. Kargus, aye; T. Verstegen, aye; C. Koller, aye. Motion passed by a 3-0 vote. **Variance granted not as requested.**

Approval of 2012 Board of Adjustment schedule:

Motion by T. Verstegen, seconded by C. Koller, to approve dates of 2012 meetings. Motion to approve carried by unanimous voice vote.

Upon conclusion of the agenda items, the meeting was adjourned at 8:21a.m.

Respectfully submitted,

Candace M. Zeinert

Candace M. Zeinert, Recording Secretary