

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, July 9, 2015 – 7:30 a.m.

3rd Floor Conference Room, County Administration Building
112 Otter Ave, Oshkosh, Wisconsin

Members Present: Arden Schroeder, Tom Verstegen, and David Weiss

Excused: Greg Kargus and Susan Drexler

Also Present: Candace Bauer, zoning, Karen Fredrick, court reporter

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

Approval of Minutes

T Verstegen made a motion, seconded by D. Weiss, to approve the meeting minutes from May 22, 2015. Motion to approve carried by unanimous voice vote.

Decisions were made on the following requests:

Paul Block – Town of Black Wolf – Variance

Applicant is requesting a variance to construct an attached garage addition. Applicant is also requesting a reduced shore yard setback for a retaining wall to be used in conjunction with floodplain fill. Applicant is requesting a reduced amount of floodplain fill for a residential addition.

A. Schroeder mentioned that at the public hearing, the only hardship that the applicant could point out was that of the neighbors. A. Schroeder mentioned that the lot was sizable. T. Verstegen added that the applicant was placing weight on the uniqueness of the location of the home rather than the size of the lot.

T. Verstegen pointed out that the decision would depend on how necessary an attached garage was to have, even though they already have one. There was discussion regarding the maximum garage space allowed, which is about 1,850 sq ft.

D. Weiss added that if the neighbors' view of the water is the problem, then the garage can be moved towards the road. The existing attached garage could be used for the every day vehicles and the detached garage could be used for boats and other storage.

There was discussion as to where a detached garage would have to be located. In order to meet the shore yard setback, it would need to be 40ft from the existing home (if along the north lot line). A. Schroeder inquired if the property owners would have to remove the existing structures with a detached garage. C. Bauer answer that they would if they wanted the same size as proposed.

T. Verstegen inquired if we had received any input from the Town of Black Wolf. C. Bauer answered no.

Motion by D. Weiss, seconded by T. Verstegen to deny the variance.

Vote on the motion: A. Schroeder, aye; D. Weiss, aye; and T. Verstegen, aye. Motion passed by a 3-0-2 (Drexler, Kargus) vote. **Motion approved; variance denied.**

Findings for denial:

1. There is already a reasonably sized home of about 2,000 sq ft on the property. There is already a 24' x 24' attached garage within the structure. The desire to have an attached garage is a preference of the property owner.
2. A garage can be built on the property while meeting all zoning, shoreland, and floodplain regulations.
3. The property is already exceedingly close to the ordinary high water mark of the channel and allowing the addition perpetuates this nonconformity.
4. The variance would generally be consistent with the purposes of the Floodplain Zoning Code; however, all variance criteria must be met in order for the variance to be granted.
5. The additional structures added within the shore yard setback would add to the cumulative effects on the waterway in the form of decreased water quality and reduced fish and aquatic habitat.

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; Article 6, Section 26.6-7 of the Floodplain Zoning Code; and Article 6, Section 27.6-8 of the Shoreland Zoning Code have not been met.

Mona Gresenz – Town of Winneconne – Variance

Applicant is requesting a variance for a reduced amount of floodplain fill around a residential addition.

Board members discussed what was being requested – that the proposal was to extend the existing pattern for an addition. D. Weiss inquired if a variance had been granted for the remaining portion of the home. C. Bauer said that the property records were not clear but added that it is irrelevant to the current request.

T. Verstegen pointed out that the request was taking care of drainage concerns, which is usually an issue with these types of requests.

A. Schroeder inquired if the retaining wall was considered a structure and would therefore have to be 10ft from the garage. C. Bauer explained that a retaining wall is only considered a structure in terms of needing to meet setbacks when within the shore yard.

Motion by T. Verstegen, seconded by D. Weiss to approve the variance as written for reduced floodplain fill to 6ft on all 3 sides of the addition.

Vote on the motion: A. Schroeder, aye; D. Weiss, aye; and T. Verstegen, aye. Motion passed by a 3-0-2 (Drexler, Kargus) vote. **Motion approved; variance granted.**

Findings for approval:

1. The substandard lot was created prior to the subdivision ordinance and is only 60 ft wide. The location and size of development on the lot is greatly restricted due to zoning , shoreland, and floodplain regulations.
2. The narrowness of the lot makes it difficult to meet the floodplain fill requirement while maintaining drainage. Requiring the full 15 ft of floodplain fill would compromise the existing detached garage.
3. The granting of the variance would allow the property owners to construct an addition and follow the existing fill pattern on the property. The variance would also allow the drainageway on the property to be maintained.
4. With the granting of the variance, there will still be 6 horizontal feet of fill around the structure to protect it from flood water effects. The addition will be required to meet all other floodproofing regulations.

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 Article 6, Section 26.6-7 of the Floodplain Zoning Code have been met.

Hilda Bos-Hantzsch – Town of Wolf River – Variance

Applicant is requesting a variance for a reduced amount of floodplain fill and for a retaining wall with substandard shore yard setbacks to a channel and lake.

C. Bauer explained that the staff notes specifies a recommendation of “grant not as requested” due to an error on the application.

Board members inquired if by doing the addition if the whole home had to become compliant with floodplain regulations. C. Bauer explained that a permit was issued recently to make the existing home compliant with floodplain regulations.

A. Schroeder voiced his opinion that he felt the fill from the addition would block drainage. C. Bauer added that the fill should not be any higher than the exiting fill on the property and that there was a recommended condition that a swale be installed along the lot line. A. Schroeder asked about what method would be better for verifying drainage compliance – a permit or a condition on the variance. C. Bauer answered that they would have the same result and authority.

There was discussion regarding drainage and the retaining wall on the south side and whether a swale should be required on that side as well.

Motion by D. Weiss, seconded by T. Verstegen to approve the variance not as requested, changing the floodplain fill to 10ft instead of 5ft and to allow a retaining wall with a 50ft shore yard setback to the lake and a 65ft shore yard setback to the channel with the conditions that the outhouse structure be removed and that there be swales on the northwest and southeast sides of the home on the inside (home side) of the retaining walls.

Vote on the motion: A. Schroeder, aye; D. Weiss, aye; and T. Verstegen, aye. Motion passed by a 3-0-2 (Drexler, Kargus) vote. **Motion approved; variance granted not as requested with conditions.**

Findings for approval:

1. The substandard lot was created prior to the subdivision ordinance and is only 50 ft wide. The location and size of development on the lot is greatly restricted due to zoning, shoreland, and floodplain regulations.
2. The existing location of the home does not allow the full floodplain fill requirement to be met while building in-line with the existing structure. The retaining wall would allow the full 15 ft of floodplain fill to be met on the south side of the building and would remove the need for a steep slope to grade down on the property.
3. The granting of the variance would allow an addition to be constructed, which would bring the residence into compliance with minimum size standards (1,000 sq ft of living space is required for single family dwellings).
4. The granting of the variance would still allow 10 ft of floodplain fill on the north side and the full 15 ft of fill on the east and south sides of the addition. The addition would be required to meet all other floodplain regulations including elevations.
5. The proximity of the retaining wall should not have any adverse impacts on the nearby water bodies. Granting of the variance would initiate the removal of the existing outhouse building, which is within the shore 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, Article 6, Section 26.6-7 of the Floodplain Zoning Code, and Article 6, Section 27.6-8 of the Shoreland Zoning Code have been met.

Upon conclusion of the agenda items, the meeting was adjourned at 8:09 a.m.

Respectfully submitted,
Candace M. Bauer
Recording Secretary