

WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION

Thursday, October 29, 2015 – 7:30 a.m.
3rd Floor Conference Room, County Administration Building
112 Otter Ave, Oshkosh, Wisconsin

Members Present: Arden Schroeder, Greg Kargus, Susan Drexler, and David Weiss

Also Present: Candace Bauer, Zoning

Excused: Tom Verstegen and Tom Tuschl

The meeting was called to order at approximately 7:35 a.m. Items were taken out of order on the agenda to leave time for the Court Reporter to arrive.

Approval of 2016 Board of Adjustment Schedule

Motion by G. Kargus, seconded by D. Weiss, to approve the 2016 meeting calendar. All ayes; motion carried.

Decker Rusch Dev Inc – Town of Menasha – Variance Extension

Applicant is requesting an extension to variance 14-VA-2760 that granted a reduced shore yard setback for two lots in a development.

A. Schroeder asked staff to explain the circumstances for the extension request. C. Bauer explained that when the plat was originally developed, a stream at the south end of these 2 lots was non-navigable. Upon an attempt to develop one of the lots, it was determined that the stream was in-fact navigable and a shore yard setback was required. The owner of the property, who had bought the lot under the circumstances of no shore yard setback, sold the lot back to the developer. It has taken time for a new buyer/developer to acquire the property and decide to start building on the property.

The Board discussed how there would be no change to the variance granted or the findings; only a 6 month extension on the variance was being approved.

Motion by D. Weiss, seconded by G. Kargus to approve the extension. All ayes; motion carried.

Approval of Minutes

There were no minutes to approve.

A decision was made on the following request:

Ginger Michael Seaman – Town of Winneconne – Variance

Applicant is requesting a reduced side yard setback of 2ft to remodel and expand a single family dwelling.

A. Schroeder noted that he felt drainage was a concern and that the proposal had to be viewed as new construction, even though it was to be on top of an existing home.

S. Drexler inquired if the need for the variance was to just go out and not up. C. Bauer explained that even on a second story, the new construction would have to meet the side yard setback requirement. S. Drexler offered that the neighbor to the north, who is built up considerably, could be a hardship.

A. Schroeder inquired about to work being limited to 50% of the equalized assessed value. C. Bauer explained that the 50% limitation only applies to those structures that are nonconforming due to floodplain regulations.

D. Weiss inquired if there was any advantage to drainage if the variance is granted or denied. Board members discussed how it was an unfortunate situation that the neighbor to the north was built up but that granting or denying the request will have no bearing on it.

C. Bauer read the Town of Winneconne's recommendation of approval of the variance.

G. Kargus pointed out that there was no hardship and that there was reasonable use of the property. S. Drexler noted that granted the variance would not be detrimental to anyone; however, it was explained that all 3 criteria must be met in order for the variance to be granted.

Board members discussed how the variance was primarily in order to save money on a foundation, but that financial hardships cannot be taken into account. The Board then discussed possible hardships that would be applicable, such as the existing home's location and that the property was passed down to the property owner as nonconforming.

D. Weiss mentioned that the property owner had room to expand to the south and that newer homes in the area were relocating to the center of their lots as well. A. Schroeder added that the property owner has the option to comply if they wanted to.

There was discussion on the home being seasonal versus year-round occupancy.

Motion by G. Kargus, seconded by A. Schroeder, to deny as requested.

Vote on the motion: A. Schroeder, aye; G. Kargus, aye; S. Drexler, Aye; and D. Weiss, aye. Motion passed by a 4-0-1 (Tuschl – excused) vote. **Motion approved; variance denied.**

Findings for denial:

1. A reasonably size home currently exists on the property and additions could be made to the existing structure without requiring a variance. Preference on using and expanding upon the existing foundation is a self-created financial hardship.
2. A home the same size as that being proposed could be located on the property while meeting all setback requirements. Additionally, the current home could be reconstructed, in whole or in part if kept to the same size and location per Zoning Code allowances.
3. The proposed construction would increase the amount of structure that encroaches into the side yard setback. The structure would be enlarged on both the first and second floors.

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 not been met.

Upon conclusion of the agenda items, the meeting was adjourned at 8:00 a.m.

Respectfully submitted,
Candace M. Bauer
Recording Secretary