

**BOARD OF ADJUSTMENT MINUTES**  
**January 12, 2022**

PRESENT: Al Kaltenberg, Emmett O'Neill, Ralph Hemling, Pat Beghin

EXCUSED ABSENT: Craig Robson

STAFF: Kurt Calkins – Director of Planning & Zoning, Andy O'Brion – Zoning & Sanitary Specialist, Lauren Ramirez – Office Administrator, Kenneth Thiele – Senior Zoning & Sanitary Specialist, Vern Gove – Columbia County Board of Supervisors, Chair

**1:00 PM**

1. Al Kaltenberg calls the meeting to order
2. Certification of Open Meeting Law
3. A roll call was taken and a quorum was declared present
4. View Site(s)
5. Recess

**3:00 PM**

6. Al Kaltenberg reconvened the meeting at 3:00
7. A roll call was taken and a quorum was declared present
8. Confirmation of Certification of Open Meeting Law
9. Approval of Agenda

**Motion by Ralph Hemling to approve Agenda of January 12, 2022 Board of Adjustment Regular Meeting & Public Hearing.**  
**Seconded by Pat Beghin.**  
**Motion carried unanimously.**

10. Minutes

**Motion by Pat Beghin to approve Minutes of November 10, 2021 Board of Adjustment Regular Meeting with typo correction.**  
**Seconded by Emmett O'Neill.**  
**Motion carried unanimously.**

11. Public Hearing

Pat Beghin reads in the Public Hearing Notice.

**Item I Variance Consideration – Parcel and Building Standards in Residential Districts, and Minimum Required Setback for Front and Street Yards; Petitioners: Charles W Stampfli & Jeanette K Stampfli – Town of West Point**

Kenneth Thiele reviews the Staff Report. In reviewing the background, he states the subject property has been owned by Charles and Jeanette Stampfli since May, 2007, and reviews the property's location, size, and zoning information.

Kenneth Thiele states that currently there is a single family residence with an attached deck, two sheds, and a detached garage on the property. The detached garage is 22 ft. x 24 ft. or 528 sq. ft. with setbacks of 50 ft. to the centerline of State Highway 188, 20 ft. to the right of way, 87 ft. to the rear property line, 7 ft. to the northern side property line, 97 ft. to the southern side property line, 87 ft. to the OHWM of Lake Wisconsin, and 171 ft. to the nearest wetland. The existing building lot coverage for the property is 2,740 sq. ft. or 14.28%. The existing impervious surfaces for the property are 4,158 sq. ft. or 21.70%.

In reviewing the request, he adds that the property owners would like to place an addition on the west side of the detached garage. The proposal is to place a 12 ft. x 22 ft. addition on the west side of the garage making the garage 36 ft. x 22 ft. or 792 sq. ft. The garage addition would then have the following setbacks: 50 ft. from the centerline of State Highway 188, 20 ft. to the right of way, 75 ft. to the rear property line, 7 ft. to the north side property line, 97 ft. to the south side property line, 75 ft. to the OHWM of Lake Wisconsin, 171 ft. from the nearest wetland. The proposed building lot coverage is 3,004 sq. ft. or 15.66% of the property. The proposed impervious surfaces are 4,422 sq. ft. or 23.05%. A variance to Section 12.110.03(1) and Section 12.110.03(2) is required for the construction of the detached garage addition.

Kenneth Thiele states that the Town of West Point voted approval of the variance, with a 3-1 vote.

Kenneth Thiele explains the property is zoned R-1, Single Family Residential. The property will be under the 20% maximum building lot coverage, as total building lot coverage will be 15.66%. Two point of mitigation will be required for the increase of impervious surfaces. The impervious surfaces will still be under the maximum allowed 30%, as impervious surfaces proposed are 23.05%. The existing detached garage is considered to be a legal non-conforming structure, as it does not currently meet the setback to the centerline of State Highway 188, the setback to the right of way, nor the setback to the northern side property line. The detached garage addition will start 74 ft. from the centerline of State Highway 188 and 44 ft. from the right of way. This does not meet the setback requirements of 110 ft. from the centerline of State Highway 188 or 50 ft. from the right of way. The detached garage addition will meet the setback to the OHWM of Lake Wisconsin. The proposal is to maintain the current setback of 7 ft. to the northern property line. The setbacks from the State Highway and from the OHWM overlap leaving no place for an addition to be constructed.

The general purpose of the Zoning Ordinance is briefly stated In Sec. 12.101.03(1) as: “to promote the public health, safety and general welfare.” The purpose of the highway setback requirement is principally one of safety. The addition to the detached garage will be on the west side of the garage away from the State Highway. A detached garage is an accessory structure. Human habitation is not permitted in accessory structures. The addition is proposing to maintain the same building line on the north side of the building to keep it square. The detached garage will be no closer to the northern property line than it currently is. Additionally, there is already a fence along that property line to provide a sense of separation.

In reviewing the 3 Standards for Review, he states for Unnecessary Hardship, the Board of Adjustment must determine if determine if an unnecessary hardship exists due to the overlap in setback requirements. For Unique Property Limitation, he states that the property fronts on a state highway and on Lake Wisconsin. The setbacks cause a unique property limitation as they leave no place for an addition or a new structure. Lastly, for Protection of the Public Interest. Approval of the variance would not have an increased impact on public safety.

Chuck Stampfli, property owner, is present and sworn in.  
N2143 STH 188  
Lodi, WI

Chuck Stampfli states he is retiring and moving there full time, but he needs more garage space for truck.

Kenneth Thiele states that the Stampflis reached out to the Planning & Zoning Department before construction to come up with solution.

Alan Kaltenberg asks if there are any other questions.

Alan Kaltenberg asks if anyone is in favor of the petition. (no comments)

Alan Kaltenberg asks if anyone is against the petition. (no comments)

Alan Kaltenberg asks if there is anyone else wishing to speak.

Al Kaltenberg closes the public hearing and opens Discussion and Deliberation for the Board of Adjustment members.

Pat Beghin states that it looks like the property owners put a lot of work into it, and fits within neighborhood with what they are proposing. He states that there's a unique property limitation because of the garage's current location.

Emmett O'Neill states he doesn't believe there's a danger to the public if this were to get approved, and it's appreciated being very upfront with staff and seeking a solution.

Ralph Hemling states he agrees with Emmett O'Neill, and coming forth with the Board of Adjustments instead of going ahead with project and no permits was the right thing to do.

Al Kaltenberg adds that he believes there's a hardship with the overlapping setback requirements.

**Motion by Emmett O'Neill to approve variance for "Parcel and Building Standards in Residential Districts", and "Minimum Required Setback for Front and Street Yards" as presented, including the findings of fact, conclusions, decisions and conditions of the Staff Report.**

**Seconded by Ralph Hemling.**

**Motion carried unanimously.**

**Emmett O'Neill – Yes, Pat Beghin – Yes, Al Kaltenberg – Yes, Ralph Hemling – Yes**

**Item II Variance Consideration – Parcel and Building Standards in Residential Districts, and Minimum Required Setback for Front and Street Yards; Petitioners: Brett T McFall & Karin L McFall – Town of Dekorra**

Andy O'Brion reviews the Staff Report. He states that the subject property has been owned by Brett and Karin McFall since June, 2018. The property is 0.165 acres or 7,200 sq. ft. in size. The zoning for the property is R-1, Single Family Residential. There is flood fringe at the shoreline of the property. The property is served by a holding tank that was installed in in 2011 in conjunction with Sanitary Permit #11-066. There is currently a single-family residence and a shed on the property. The residence is 1,092 sq. ft. in size and has the following setbacks: 66 ft. from the centerline of Tipperary Point Rd., 46 ft. from the right of way, 46 ft from the rear property line, 9.5 ft. from one side property line, 12.7 ft. from the other side property line, 46 ft. from the Ordinary High-Water Mark of Lake Wisconsin, and 487 ft. to the nearest wetland. The shed is 77.5 sq. ft. and sits partially within the Right-of Way of Tipperary Point Road. The existing building lot coverage is 1,160.9 sq. ft or 16.12%. The existing impervious surfaces are 1,529.9 sq. ft. or 21.76%.

He states the property owners would now like to remove the existing residence and shed. The plan would then be to build a new residence on the property. The new residence would be 1,645 sq. ft. in size and have the following setbacks: 35.33 ft. from the centerline of Tipperary Point Rd., 20.33 ft. to the right of way, 59.91 ft. to the rear property line, 10.33 ft. to one side property lines, 10.5 ft. to the other side property line, 59.91 ft. to the OHWM of Lake Wisconsin, and 500 ft. from the nearest wetland. The proposed building lot coverage is 1,648 sq. ft. or 22.88% of the property. The proposed impervious surfaces are 2,057 sq. ft. or 28.6% of the property. Variances to

Section 12.110.03(1) and Table 12.110.03(2), are required to allow for the construction of the new residence.

Andy O’Brion states that the Town of Dekorra voted to be neither for, nor against the variance for the construction of the proposed new residence.

In reviewing the Analysis portion of the Staff Report, he states that this property is zoned R-1, Single Family Residential, a shoreland property and has flood plain at the shoreline. The proposed residence will meet the required side yard setbacks. Section 12.545.05 of the Columbia County Shoreland Wetland Protection ordinance allows for the relocation of Nonconforming Principal Structures that meet certain criteria. This allows the relocation of the house to a location that is a greater distance from the OHWM, but that is not 75’. Using this Section requires 3 Points of mitigation. The proposed impervious surfaces will increase from 21.76% to 28.6%. The increase in Impervious Surfaces require 4 points of mitigation. So, a total of 7 points of mitigation will be required for the issuance of this permit. The applicants are proposing to install a rain garden to cover the required mitigation. A shoreland mitigation affidavit will be required to be recorded at the Register of Deeds prior to the issuance of any zoning permit. The floodplain does not affect the construction of a new residence. The proposed building lot coverage is increasing from 16.12% to 22.88%. In 2012, Columbia County adopted a Building Coverage Standard that states that the maximum building coverage (the percentage of lot covered by all buildings) cannot exceed 20% or 8,712 sq. ft., whichever is less. The purpose of setting a building lot coverage within the zoning ordinance was to allow for adequate storm water infiltration, groundwater recharge and to minimize potential flooding in areas. Currently, any increase above that number within the Single-Family District could be seen as a potential risk to those purposes and requires a variance. On September 21, 2016 the County adopted the new NR 115 Shoreland Standards, which now has established limits on the number of impervious surfaces permitted. The maximum impervious surface percentage for a riparian lot or parcel or a non-riparian lot or parcel located entirely within 300 feet of the ordinary high-water mark of any navigable waterway shall be 15%. A property may exceed the impervious surface standard under Section 12.535.03 up to 30% impervious surface, provided a permit is issued for development with a mitigation plan that meets the standards of Section 12.555. Because this project is also within the Shoreland Zoning District, it can allow up to 30% impervious surfaces on the lot when proper mitigation techniques are implemented. The 30% could be entirely in buildings, or a combination of other impervious surfaces which conflicts with the County Zoning Ordinance that sets the limit to 20% building coverage, with no options for mitigation. The intent of the building lot coverage requirements can be maintained if approved mitigation measures are followed, as allowed under the Shoreland Wetland Protection Ordinance. Even with the reduced OHWM setback that is allowed in the Relocation Language, the owners are not able to meet the centerline and Right-of-Way setbacks all while building a house that fits their needs. The building envelope would be even more

reduced if the reduced setback was not allowed. The owners are proposing removing the shed that currently sits partially in the Right-of-Way of Tipperary Point Road. The Right-of-Way of Tipperary Point Road is 33 ft. wide. The Typical Right-of-Way of a Town road is 66'. The Right-of-Way setback is based on that 66' Right-of-Way. The reduced Right-of-Way width makes it harder to achieve that setback. There are a number of other houses nearby that have similar or smaller setbacks than the ones proposed by the owners. The proposed home will fit into the character of the neighborhood.

He adds that the speed limit on Tipperary Point Road is 25 miles per hour. The low speed makes safety less of a concern with this request. Tipperary Point Road essentially serves only the people that live on or are visiting properties on that road. There is very little "through" traffic. A County Sanitary Permit is required for the new Holding Tank that is shown on the proposed site plan.

In reviewing the Standards for Review, for Unnecessary Hardship, he states the Board of Adjustment must determine if the conflicts between the Zoning Code and the Shoreland Wetland Protection Ordinance constitutes an unnecessary hardship. For Unique Property Limitation, shoreland properties are unique in the fact that they are permitted up to 30% impervious surfaces provided that they meet the standards of Section 12.535.04. It does not matter if the impervious surface is building or some other form of impervious surface. This allowance is not permitted under the Zoning Code. Tipperary Point Road has a 33' Right-of-Way width, while typical Town roads have a 66' Right-of-Way widths. As for Protection of the Public Interest, approval of the variance would not have an impact on public safety. Approval of the variance could be seen as a benefit as mitigation will be required. The new residence is proposed to farther away from the OHWM than the current residence.

Brett & Karin McFall, property owners, are present and sworn in.  
N3247 Tipperary Point Road  
Poynette, WI

Brett McFall states he wishes to move there full time, as their kids are almost all out of high school.

Alan Kaltenberg asks if there are any other questions.

Alan Kaltenberg asks if anyone is in favor of the petition. (no comments)

Alan Kaltenberg asks if anyone is against the petition. (no comments)

Alan Kaltenberg asks if there is anyone else wishing to speak.

Al Kaltenberg closes the public hearing and opens Discussion and Deliberation for the Board of Adjustment members.

Pat Beghin states that he thinks it'd be good that this would be correcting some of the nonconforming issues the property has currently, and it'd be in the same area as some other homes in the area- there wouldn't be much of a difference.

Ralph Hemling states that doing this project would increase the distance between the structure and the house, so it would be not a safety issue, but actually help and increase the safety.

Emmett O'Neill adds that he agrees with Pat Beghin and Ralph Hemling.

A citizen from Zoom conference call requests reiteration of the current and proposed setbacks.

Andy O'Brion gives that information.

**Motion by Pat Beghin to approve variance for "Parcel and Building Standards in Residential Districts", and "Minimum Required Setback for Front and Street Yards" as presented, including the findings of fact, conclusions, decisions and conditions of the Staff Report.**

**Seconded by Ralph Hemling.**

**Motion carried unanimously.**

**Emmett O'Neill – Yes, Pat Beghin – Yes, Al Kaltenberg – Yes, Ralph Hemling – Yes**

12. Adjourn

**Motion by Ralph Hemling to adjourn meeting.**

**Seconded by Emmett O'Neill.**

**Motion carried unanimously.**

Meeting adjourned at 3:32 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary

Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members  
County Clerk  
Vern Gove, County Board Chair

