

**BOARD OF ADJUSTMENT MINUTES  
FEBRUARY 14, 2024**

PRESENT: Al Kaltenberg, Craig Robson, Ralph Hemling, Charlie Kirk

STAFF: Kurt Calkins – Director of Planning & Zoning, Lauren Ramirez – Office Administrator, Kenneth Thiele – Senior Zoning & Sanitary Specialist, Bryce Johnson – Zoning & Sanitary Specialist

OTHERS PRESENT:

**12:00 PM**

1. Call to Order

Al Kaltenberg calls the meeting to order.

2. Certification of Open Meeting Law

3. Roll Call

A roll call is taken and a quorum is declared present.

4. View Site(s)

5. Recess

**3:00 PM**

6. Reconvene Meeting

Al Kaltenberg reconvenes the meeting at 3:00.

7. Confirmation of Certification of Open Meeting Law

Craig Robson reads the Public Hearing Notice into the record.

8. Roll Call

A roll call is taken and a quorum is declared present.

9. Approval of Agenda

**Motion by Charlie Kirk to approve Agenda of February 14, 2024 Board of Adjustment  
Regular Meeting & Public Hearing.  
Seconded by Ralph Hemling.  
Motion carried unanimously.**

10. Approval of Previous Meeting Minutes

**Motion by Ralph Hemling to approve Minutes of December 13, 2023 Board of Adjustment  
Regular Meeting & Public Hearing.  
Seconded by Charlie Kirk.**

**Motion carried unanimously.**

## 11. Public Hearings

**Item I Variance Consideration – Parcel and Building Standards in Residential Zoning Districts, Minimum Required Setback for Front and Street Side Yards, and Expansions and Repairs of Nonconforming Structures; Applicant: Deep Blue Properties LLC c/o Ronda and Walter Jankowski – Town of Lodi**

Al Kaltenberg opens the public hearing.

Bryce Johnson reviews the Background, Town Recommendation, Analysis, Standards for Review, and Recommendation portion of the Staff Report on record.

Walter Jankowski, applicant, is present and sworn in.  
101 8<sup>th</sup> Street  
Waunakee, WI

Walter Jankowski explains his proposed project.

Al Kaltenberg asks is anyone is in favor of the request. (no comments)

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

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

Steve Neander, Town of Lodi Chair, is present and sworn in. He explains that the town wishes for property owner to center the house on the lot. He states that the house is very close to the property line on one side, and not close on the other. The property owner is ripping almost all of the house down, so they didn't think it should be a problem to center it.

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

Charlie Kirk states he does not see a hardship. The property owner can move it over and reduce the size and not need a variance.

Craig Robson states he agrees and states that he doesn't have concern about public safety, and no issue with road setback, as it is in character with area and the 25 MPH speed zone. He states his issue is with the side setback.

Al Kaltenberg states he does have problem with impervious surfaces being way too high for that area and shouldn't have been put in without permits and exceed it. He states he also has problem with going over lot coverage.

Craig Robson states that if they were to break this into 3 pieces, side road setback, side lot setback, and building lot coverage, he doesn't have a problem with expanding the building lot coverage or front road setback. He states he generally agrees with town recommendation.

Ralph Hemling states he agrees with Craig and height isn't a problem, but the side lot is an issue.

Al Kaltenberg asks if that constructs an unnecessary hardship.

Charlie Kirk states that if they're ripping out almost the entire house, he doesn't think not moving over is an unnecessary hardship. He states he doesn't see hardship.

**Motion by Craig Robson to approve the variance for "Parcel and Building Standards in Residential Zoning Districts" "Minimum Required Setback for Front and Street Side Yards", and "Expansions and Repairs of Nonconforming Structures", and deny "Parcel and Building Standards in Residential Zoning Districts (#23 in Findings of Fact), as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report, and deny "Minimum Required Setback for Front and Street Side Yards" for side yard setback.**

**Seconded by Ralph Hemling.**

**Craig Robson – Yes, Al Kaltenberg – No, Ralph Hemling – Yes, Charlie Kirk – Yes.**

**Motion carried non-unanimously.**

Craig Robson states motion is based on protection of public interest not being a concern, unique property limitation existing, and fact that unnecessary hardship can be remedied for side property setback but does not exist for front property setback.

**Item II Variance Consideration – Nonconforming Uses Floodfringe District; Applicants: Curtis Lawrence & Laurel Lawrence, and RPS Professional Solutions – Town of Lewiston**

Al Kaltenberg opens the public hearing.

Ken Thiele reviews the Background, Town Recommendation, Analysis, Standards for Review, and Recommendation portion of the Staff Report on record.

Ken Thiele reads in letter from DNR not in favor of request, that states reasons including that it does not qualify for a variance consideration because of human habitation.

Rob Roth, Applicant, is present and sworn in.  
315 DeWitt Street  
Portage, WI

Rob Roth states that this is a unique situation in the County. He states the base flood elevation number given from state, he interprets different. He states they do not exceed flood depths and can't recognize this as a flood structure, and elevations in report are correct, they are significantly above elevations. He states that if the levy fails, this would be a situation, but the nature of floodway in this case isn't roaring water due to the levy. He states there's no safety issue, and this is matched by other properties in area. He states they will not be storing materials, and human lives are not in danger, no public facilities will be used, and this is a legal nonconforming use. They are not proposing a new residential use, and they meet main criteria in NR 115. Human habitation is present, and he feels this is a variance due to a special situation based on base elevation, protection, flood heights less than 2 feet, and having an engineering analysis. With these factors, he believes the BOA have met the criteria of it's own ordinance.

Al Kaltenberg asks if anyone has any questions.

Al Kaltenberg asks is anyone else is in favor of the request. (no comments)

Al Kaltenberg asks if anyone is against the petition.

Matt Bremer states he is Town of Lewiston Plan Commission Chair, but not speaking as that title.

He states this matter came before the town as a part of a request for a Tourist Rooming House, and snowballed into what is before the Board right now. He states the challenge as the Board, is with what the ordinances says. He lists how this does not qualify for a variance under FEMA. He states this property isn't unique, as many around the area are in the same situation, and he has concerns if approved, this would make variances more appealable to others.

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

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

Charlie Kirk asks who did the house renovation, as it looks like a brand-new structure.

Curtis Lawrence, property owner, is present and sworn in.  
562 Golden Court  
Wisconsin Dells, WI

Curtis Lawrence states he purchased house because he owned house next door, and purchased this one as a guest house, not knowing the extent of what work would all need to be done, as no inspections were done. He says it turned into more than expected, and there was confusion when first started working on the house what permits would all need to be done.

Charlie Kirk asks if since he lived next door, if he knew this one too was in floodplain.

Curtis Lawrence states the house next door that he resided in, when he bought it, that one wasn't in floodplain; however, in 2016 they became aware things were re-mapped, but it was confusing.

Craig Robson reviews the 7 points outlined in the Staff Report as the review of standards listed in Section 12.425.03(2). He states if he does that, he gets to #1 and it's already a problem as it lists not to be used for human habitation. He reviews the rest and agrees they are valid reviews and concerns, and in this review, that would result in the property owners not qualifying for a variance. He also points out #7 "not to be used for storage and materials", and clarifies that they don't mean just hazardous materials, but also household items that would be in a house.

Charlie Kirk states he agrees with Craig, and these standards are put in place for a reason. He states they didn't make them, but they have to adhere to them.

Ralph Hemling states with DNR recommendation to not grant variance due to no unnecessary hardship, public interest, and it comes back to the human habitation point.

Al Kaltenberg states that he has a comment, as the property owner said they didn't know it was floodplain, but they signed a document knowing it was in floodplain.

**Motion by Al Kaltenberg to deny the variance to "Nonconforming Uses Floodfringe District".**

**Seconded by Charlie Kirk.**

**Craig Robson – Yes, Al Kaltenberg – Yes, Ralph Hemling – Yes, Charlie Kirk – Yes.**

**Motion carried unanimously to deny variance request.**

Al Kaltenberg states motion is based on 7 points outlined in Staff Report as the review of standards listed in Section 12.425.03(2), there's no unnecessary hardship as it's a man-made hardship, what's in there can be used as property, and he does not see unique property limitation as there are many properties along river in floodplain, and he doesn't see public safety with that.

**Item III Variance Consideration –Minimum Required Setback for Front and Street Side Yards:  
Applicant: Jean M Peters and Don Ertmer – Town of Caledonia**

Al Kaltenberg opens the public hearing.

Ken Thiele reviews the Background, Town Recommendation, Analysis, Standards for Review, and Recommendation portion of the Staff Report on record.

Jean Peters, property owner, is present and sworn in.  
N2151 Lake Drive  
Lodi, WI

Don Ertmer, applicant, is present and sworn in.  
N215 Lake Drive  
Lodi, WI

Jean Peters and Don Ertmer speak on why they are requesting this variance. They state that they are trying to build a reasonably sized home on property Jean inherited.

Al Kaltenberg asks is anyone is in favor of the request. (no comments)

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

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

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

Charlie Kirk comments on the fact that he does believe small lot size does create hardship in regard to ability to build anything.

Ralph Hemling states he agrees with Charlie.

Al Kaltenberg stressed hardship of lot, and that being a unique property limitation.

**Motion by Craig Robson to approve the variance for “Minimum Required Setback for Front and Street Side Yards” as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.**

**Seconded by Al Kaltenberg.**

**Craig Robson – Yes, Al Kaltenberg – Yes, Ralph Hemling – Yes, Charlie Kirk – Yes.**

**Motion carried unanimously.**

Craig Robson states motion is based on layout of the road and size of lot that creates a hardship, there's a unique property limitation that would allow for nothing to be constructed, and there's no public safety issues.

12. Adjourn

**Motion by Al Kaltenberg to adjourn meeting.  
Seconded by Ralph Hemling.  
Motion carried unanimously.**

Meeting adjourned at 4:45 PM.

Respectfully submitted,



Craig Robson, Board of Adjustment Secretary



Recording Secretary  
Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members  
County Clerk  
County Board Chair