

**BOARD OF ADJUSTMENT MINUTES**  
**April 14, 2021**

PRESENT: Al Kaltenberg, Craig Robson, Pat Beghin, Emmett O’Neill

EXCUSED NOT PRESENT: Ralph Hemling

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

**1:30 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

**3:07 PM**

6. Al Kaltenberg reconvened the meeting at 3:07
7. Confirmation of Certification of Open Meeting Law

Pat Beghin reads in the Public Hearing Notice.

8. Approval of Agenda

**Motion by Pat Beghin to approve Agenda of April 14, 2021 Board of Adjustment Regular Meeting & Public Hearing.**

**Seconded by Emmett O’Neill.**

**Motion carried unanimously.**

9. Minutes

**Motion by Craig Robson to approve Minutes of February 10, 2021 Board of Adjustment Regular Meeting & Public Hearing.**

**Seconded by Pat Beghin.**

**Motion carried unanimously.**

10. Public Hearing

**Item I Variance Consideration – Parcel & Building Standards in Residential Zoning Districts; Petitioners: Kirby H Roen & Rhonda L Roen – Town of Wyocena**

Kenneth Thiele reviews Staff Report. He explains in 2017 the property owners obtained zoning permit 17-157 to construct a 3,752 sq. ft. new residence and an attached deck with the following proposed setbacks: 70 ft. to the centerline of Ptarmigan Drive., 44 ft. to the right of way, 280 ft. to the rear property line,

10.5 ft. to the north side property line, 10.5 ft. to the south side property line, 323 ft. to the Ordinary High Water Mark (OHWM) of Park Lake, 1,035 ft. to the nearest wetland, 10 ft. to the septic tank, and 20 ft. to the septic dispersal cell. The proposed setbacks to the north and south side property lines were within five (5) ft. of the required minimum setback. Zoning permit 17-157 was issued with the condition that a foundation survey be completed to ensure setbacks were met.

Kenneth Thiele further explains the foundation survey was submitted to the Planning and Zoning Department on August 6, 2019, and the residence was already constructed by the time the foundation survey was received. He explains the residence that was constructed is 3,752 sq. ft. in size and included an attached deck that is 79.8 ft. from the center line of Ptarmigan Dr., 46.8 ft. from the right of way, 190 ft. from the rear property line, 8 ft. from the north side property line, 11.2 ft. from the south side property line, 328 ft. from the OHWM of Park Lake, 1,029 ft. from the nearest wetland boundary, 30 ft. from the septic tank, and 49 ft. to the septic dispersal cell. The building lot coverage for the property is 3,752 sq. ft. or 7.5%. He states due to this, it is in violation of Zoning Permit 17-157, and requires a variance of 2 ft. to the north side property line setback requirement. A variance would make the existing residence compliant and resolve the violation.

Kenneth Thiele states that on August 20, 2019 the property owners were notified that, upon review of the foundation survey it was determined that the new residence did not comply with the required 10 ft. side property line setback along the northern property line. The property owners were given an opportunity to try to resolve the violation by obtaining additional land from the neighbor to the north. The Planning and Zoning Department even tried to reach out to the neighbor to explain what was required to bring the property into compliance. Attempts to purchase additional land have not been successful.

The subject property has a building envelope of 30,204 sq. ft. This area allowed for the construction of a residence meeting all required zoning setbacks. Zoning permit 17-157 was approved and issued to the property owner based on a submitted plan that met all zoning requirements and setbacks. The residence that was constructed does not meet minimum required setbacks, nor the proposed setbacks that were approved. Submittal of the foundation survey is the responsibility of the permit holder. This variance request is after the fact, hence self-created in nature.

Al Kaltenberg asked if petitioners were present.

Lucas Berg (contractor) is present and sworn in.  
W5861 E Bush Road  
Pardeeville, WI

Lucas Berg states he was hired by the Roens to build this residence, and had a CSM done by Grothman and Associates at time of construction. He states he didn't cut corners, he's never does things cheap, and he states he believes there was vandalism after the property was staked out. He says he believes kids moved all the stakes before concrete was poured. He adds that after he heard of the non-compliance, he tried to purchase neighboring property, land swap, and tried to buy entire lot; however, was unsuccessful.

Kirby Roen (property owner) is present and sworn in.  
N7309 Ptarmigan Drive  
Pardeeville, WI

Kirby Roen states he hired Lucas to do home, and also was not trying to cut corners. At this point he states he tried to do the right thing- something happened, and now he has been dealing with this for 3 years.

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

Al Kaltenberg asks if anyone is against the request.

Adam Czeskleba (neighbor) is present via Zoom and sworn in.  
3826 Cosgrove Drive  
Madison, WI

Adam states that due to this issue, he has lost out on a property right, and lost land. He states he lost his mom and she gave this land to him for him to build a home. He states he now can't do that. He adds that Lucas Berg spoke to him, and he wasn't happy with what he was told and how it went down, and how now he is in a situation where he doesn't have acreage to build on the land.

Al Kaltenberg asked if Lucas Berg took his land.

Adam Czeskleba states he didn't take it, but he's too close to setback, so he's unable to build 2 feet at property line to allow 10 feet in-between.

Kurt Calkins states that he can still build on his property, no building right has been taken from him. He explains this proposal is only to allow Roens to have home closer to property line, but the property line doesn't move, and he doesn't have to change his requirements or setbacks to build a home, due to this variance request.

Adam Czeskleba states he was told otherwise and was confused then when he got Public Hearing Notice.

Kurt Calkins reassures he is still allowed to build.

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

Al 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.

Al Kaltenberg asks when surveys are typically done.

Kenneth Thiele explains process of getting permit, and with permit, a letter stating a foundation survey is required to be submitted prior to construction.

Pat Beghin states he doesn't think there was any intentional act of doing this. He states it sounds more of like a clerical error, that doesn't affect neighbors. He adds he believes we should grant variance with conditions listed.

**Motion by Craig Robson to approve variance for “Parcel and Building Standards in Residential Zoning Districts” as presented, including the findings of fact, conclusions, decisions and conditions of the Staff Report.**

**Seconded by Emmett O’Neill.**

**Motion carried, non-unanimously.**

**Pat Beghin – Yes, Craig Robson – Yes, Al Kaltenberg – No, Emmett O’Neill – Yes.**

**Item II Variance Consideration – Parcel & Building Standards in Agricultural and Open Space Zoning Districts; Petitioner: Northern Natural Gas Co. – Town of Caledonia**

Kenneth Thiele reviews Staff Report. In 2020 the property owners obtained zoning permits 20-224 and 20-225 to construct a new meter building on the property. The zoning permit 20-224 was issued to allow for the construction of the building in the floodplain zoning district. Zoning permit 20-225 was issued to construct a 280 sq. ft. new meter building with the following proposed setbacks: 110 ft. to the centerline of County Highway U., 80 ft. to the right of way, 10 ft. to the rear property line, 10 ft. to the north side property line, 80 ft. to the south side property line, 1,376 ft. to the Ordinary High Water Mark (OHWM) of the Baraboo River, 64 ft. to the nearest wetland. The proposed setbacks to the rear property line and the north side property line were within five (5) ft. of the required minimum setback. Zoning permit 20-225 was issued with the condition that a foundation survey be completed per Chapter 12.140.03(7) to ensure setbacks were met.

The new meter building was constructed 280 sq. ft. in size, 118 ft. from the center line of County Highway U, 72 ft. from the right of way, 7.5 ft. from the rear property line, 9.7 ft. from the north side property line, 50 ft. from the south side property line, 1,376 ft. from the OHWM of the Baraboo River, and 42 ft. from the nearest wetland boundary. There is no building lot coverage requirement for A-1 zoned lands. The new building does not currently meet the required 10 ft. setback to the rear property line or the north side property line. The new building is in violation of Zoning Permit 20-225 and requires a

variance of 2.5 ft. to the rear property line and a variance of 0.3 ft to the north side property line setback requirement. A variance would make the new building compliant and resolve the violation.

Kenneth Thiele adds that the foundation survey was submitted to the Planning and Zoning Department on January 6, 2021. The new building was already constructed by the time the foundation survey was received, and the property owners were already aware of the new building not meeting setback requirements when the foundation survey was submitted. The property owners did seek other means of resolving the property line discrepancy. They could have purchased additional land or moved the building so that it complied with the required setbacks. Moving the building was not deemed possible due to the fact that the building is constructed around the gas line. Moving the building would require relocation of the gas line. It was deemed by the property owners that the best solution would be to request a variance. He states this variance request is after the fact, hence self-created in nature.

Kim Krouse (3<sup>rd</sup> party representative for property owner) is present and sworn in.  
10311 Butternut Drive  
Crystal Lake, IL

Kim Krouse states this was a 2020 project to provide gas to the local communities, she states there was a marketing increase and demand, so they got the zoning permit. She states that there was an error for the final site survey, and the line was measured off a fence that was not directly on the property line as they thought. She states and agrees it was an oversight and error on their part, and now wants to resolve this issue.

Sergio Gonzalez (3<sup>rd</sup> party representative for property owner) is present and sworn in.  
5405 North West 93<sup>rd</sup> Street  
Johnston, IA 50131

Sergio Gonzalez states that the building at this point can't be moved, due to piping. He states if that were an option, they'd go that route.

Al Kaltenberg asked if this building replaced an old one there.

Kim Krouse confirms it did.

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

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

Al 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 and Emmett O’Neill both state that since there was a building there prior, and it will still be all within the fenced in area, there’s not much change from what was.

**Motion by Emmett O’Neill to approve variance for “Parcel and Building Standards in Agricultural Zoning Districts” as presented, including the findings of fact, conclusions, decisions and conditions of the Staff Report.**

**Seconded by Patrick Beghin.**

**Motion carried, unanimously.**

**Pat Beghin – Yes, Craig Robson – Yes, Al Kaltenberg – Yes, Emmett O’Neill – Yes.**

11. Adjourn Meeting

**Motion by Pat Beghin to adjourn meeting.**

**Seconded by Emmett O’Neill.**

**Motion carried unanimously.**

Meeting adjourned at 3:44 PM.

Respectfully submitted,



Patrick Beghin  
Board of Adjustment



Recording Secretary  
Lauren Ramirez, Office Administrator

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