

**BOARD OF ADJUSTMENT MINUTES
JULY 12, 2023**

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

EXCUSED ABSENT:

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

OTHERS PRESENT:

1:30 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 Ralph Hemling to approve Revised Agenda of July 12, 2023 Board of Adjustment
Regular Meeting & Public Hearing.
Seconded by Charlie Kirk.
Motion carried unanimously.**

10. Approval of Previous Meeting Minutes

**Motion by Craig Robson to approve Minutes of February 8, 2023 Board of Adjustment
Regular Meeting & Public Hearing.**

**Seconded by Ralph Hemling.
Motion carried.**

11. Public Hearings

**Item I Variance Consideration – Minimum Required Setback for Front and Street Side Yards;
Applicants: Kirby K Frank & Danette L Frank – Town of Lodi**

Al Kaltenberg opens the public hearing.

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

Kirby Frank (applicant) is present and sworn in.
W11408 Red Cedar Drive
Lodi, WI

Kirby Frank explains his current situation, pointing out that he and his wife plan on retiring here, and explains there's no front doorway, and the current door has a step down platform.

Al Kaltenberg asks if 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.

Ralph Hemling asks if they've already started the project.

Kirby Frank states that he is in the process of remodeling the interior, siding, and replacing the windows.

Kenneth Thiele clarifies that Kirby Frank talked with him prior to starting any project, they've turned in an application (fee not paid yet), and they've gone through the correct process.

Ralph Hemling asks if insurance is an issue with how the house is currently, noting safety issues with it.

Kirby Frank states that he doesn't believe insurance is aware of current layout of home, and a stretcher would not be able to fit through door right now.

Kenneth Thiele adds that the construction of this house was made by averaging road setbacks, which explains why house is where it is now.

Al Kaltenberg asks if there are any other questions.

Al Kaltenberg closes public hearing.

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

Charlie Kirk states that looking at the definition of unnecessary hardship, he's not convinced if this would qualify. He adds that the house was purchased after talking to Planning & Zoning about issues, so property owner was aware.

Craig Robson states that in the question of unnecessary hardship, you could back up and say that there's no impact of public safety, and if unnecessary hardship could be related to unique property limitation being the setback front of house as it already exists. He states it's already legal nonconforming and wonders if one could make a case that unnecessary hardship is related to the placement of the house on the lot right now.

Al Kaltenberg states that over time, the changing of setbacks would bring that unique property limitation into effect. He adds that as for unnecessary hardship, that yes they knew that when it was purchased, but looking at the safety they don't have a real safe access if there was a fire, it could be unsafe. He adds that that could be a unique hardship.

Ralph Hemling states that a unique property limitation could be with the discrepancy with setbacks.

Charlie Kirk states that a hardship doesn't exist if it's already being used as is.

Ralph Hemling states that he believes that with the safety issue, he thinks that is a responsibility to provide a safe outlet.

Motion by Al Kaltenberg 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 Craig Robson.

**Ralph Hemling – Yes, Charlie Kirk – No, Craig Robson – Yes, Al Kaltenberg - Yes.
Motion carried non-unanimously.**

Al Kaltenberg adds that the motion to approve is made due to hardship with the way things and road were constructed, the discrepancy of setbacks, and unique property limitation being the size and shape, and that there's no public safety concerns.

Item II Variance Consideration – Parcel and Building Standards in Residential Zoning Districts, and Minimum Required Setback for Front and Street Side Yards; Applicant: Marcus Bentley – Town of West Point

Al Kaltenberg opens the public hearing.

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

Marcus Bentley (applicant) is present and sworn in.
N2391 Pleasant View Circle
Lodi, WI

Marcus Bentley explains the process he's been through starting when he bought the property in 2000 and thought he owned the promenade area. He reviews the plan he originally went to the town with that included a round driveway. He explained the discrepancies between the building lot coverages,

NR 115, he reviewed his hardships and his building plans and ideas he's proposing. He goes over his adverse possession lawsuit he's going through currently.

Kenneth Thiele reviews plan for mitigation that Marcus Bentley will have to do if this gets approved.

Kurt Calkins reviews history with promenade discussion from the County's standpoint.

Al Kaltenberg asks if anyone has questions.

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

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

Al Kaltenberg asks if the Town is present.

Kevin Kessler (Town of West Point Plan Commission Chair and Town of West Point Supervisor) is present and sworn in.

W13509 Four Season Ln.

Lodi, WI

Mr. Kessler reviews the town's history with the projects. The town is sympathetic to the problem and is in favor of the road setback variance request. The promenade in question is not yet his land, so they can't configure building lot coverage with that in the equation. He discusses lack of hardship, and possibility of multi-level home that would not require this variance.

Al Kaltenberg asks if Mr. Bentley has a rebuttal.

Mr. Bentley explains that the promenade is a hardship that was not self-imposed. He states he is going to build this year, and if this doesn't get approved, will have to wait until adverse possession that he filed gets done with, or wait for assessor's plat.

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

Craig Robson discusses how he believes this should be taken in 2 pieces. He states that in regards to setbacks, it's agreed that a hardship exists due to the width of the road and he believes that there's no safety issue here due to location.

Al Kaltenberg states that he doesn't see hardship and cannot go by what might happen in the future. We have to look at the lot as it is there now. No hardship also because he can get a house with that square feet he wishes, just with more stories.

Craig Robson believes there's a hardship due to conflict with ordinances and building lot coverage. So now with mitigation with shoreland, this would be okay.

Ralph Hemling states that he sees a hardship exists with the issue of staff error in regards to the promenade not recorded (not P&Z staff).

Kurt Calkins discusses the differences with the technology from then to now. Now we are more accurate, and this wouldn't be an issue now if they had the technology back then.

Ralph Hemling states that there's a unique property limitation, and this isn't an issue with public safety.

Charlie Kirk states that he doesn't believe there's a hardship. He explains that there's promenades around the state, not sure if those will ever get cleared up, but it's an existing issue that's not uncommon.

Craig Robson states that without thinking about the promenade, this project will have impervious surfaces, and shoreland says that's okay, but the county says not okay. So given that conflict, he believes that's a hardship. Without thinking about what size house he's putting in, does it meet guidelines? One ordinance says yes, one says no. Due to conditions unique to this property- not every property has shoreland and this issue.

Al Kaltenberg states he agrees- promenade doesn't have anything to do with this. There are 2 conflicts in the ordinance, with state saying one thing and county saying another. He states with mitigation, he can go up to that.

Motion by Al Kaltenberg to approve the variance for "Parcel and Building Standards in Residential Zoning Districts" as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.

Seconded by Craig Robson.

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

Motion carried unanimously.

Al Kaltenberg states that his motion is due to unique situation with roads and maintaining setbacks, along with no public safety issue present.

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 Charlie Kirk.

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

Motion carried not unanimously.

Craig Robson states that the motion is based on unnecessary hardship based on conflict of ordinances between county and state, and no harm in public safety, as the impervious surfaces issue will get taken care of with legal remedy that 6 points will be added.

12. Election of Officials

Al Kaltenberg opens nominations.

Motion by Ralph Hemling to nominate Al Kaltenberg as Board of Adjustment Chair.

Seconded by Craig Robson.

Al Kaltenberg asks if there are any other nominations.

**Motion by Craig Robson to close nominations.
Seconded by Ralph Hemling.
Motion carried unanimously.**

Motion to elect Al Kaltenberg as Board of Adjustment Chair carried unanimously.

Al Kaltenberg opens nominations.

**Motion by Ralph Hemling to nominate Craig Robson for Vice Chair and Secretary.
Seconded by Al Kaltenberg.**

Al Kaltenberg asks if there are any other nominations.

**Motion by Craig Robson to close nominations.
Seconded by Al Kaltenberg.
Motion carried unanimously.**

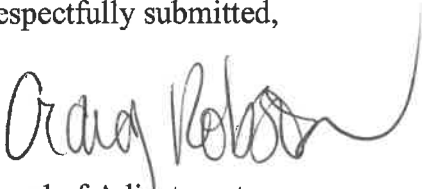
Motion to elect Craig Robson as Board of Adjustment Vice Chair and Secretary carried unanimously.

13. Adjourn

**Motion by Ralph Hemling to adjourn meeting.
Seconded by Charlie Kirk.
Motion carried unanimously.**

Meeting adjourned at 4:22 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary

Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members
County Clerk
County Board Chair