

BOARD OF ADJUSTMENT MINUTES
August 11, 2021

PRESENT: Al Kaltenberg, Craig Robson, Emmett O'Neill, Ralph Hemling

ABSENT: Pat Beghin

STAFF: Kurt Calkins – Director of Planning & Zoning, Andy O'Brien – Zoning & Sanitary Specialist, Lauren Ramirez – Office Administrator

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

3:00 PM

6. Al Kaltenberg reconvened the meeting at 3:00
7. Confirmation of Certification of Open Meeting Law

Alan Kaltenberg appoints Craig Robson as Acting Secretary for signature of Minutes and other secretarial duties, due to Secretary Pat Beghin's absence.

Craig Robson reads in the Public Hearing Notice.

8. Approval of Agenda

Motion by Ralph Hemling to approve Agenda of August 11, 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 March 19, 2021 Board of Adjustment Special Meeting.

Seconded by Ralph Hemling.

Motion carried unanimously.

Motion by Al Kaltenberg to approve Minutes of April 28, 2021 Board of Adjustment Special Meeting and Public Hearing.

Seconded by Craig Robson.

Motion carried unanimously.

**Motion by Ralph Hemling to approve Minutes of May 12, 2021 Board of
Adjustment Regular Meeting and Public Hearing.
Seconded by Emmett O'Neill.
Motion carried unanimously.**

Mr. Calkins stated that there was another variance that was posted in the paper on the public hearing notice, for TCRW Properties; however, they formally withdrew their application prior to the notice being published on the County website, and the Agenda.

10. Public Hearing

Craig Robson reads in the Public Hearing Notice.

Item I Variance Consideration – Parcel and Building Standards in Residential Zoning Districts and Minimum Required Setback for Front and Street Side Yards; Petitioners: John K Good, Amy N Good, et al. – Town of Dekorra

Andy O’Brion reviews the Staff Report. He explains the subject property is 8,895 sq. ft. in size and zoned R-1 Single Family Residential. He states the property owners were issued a permit in 2021 for a single-family residence with 258 sq. ft. porch and steps to the main entry door, while meeting all required setbacks. The reduced side yard setbacks used to allow this structure are found in Section 12.140.03(12). With an average width of 40.68’, this lot is allowed an aggregate side yard setback of 13.56’ with no single side yard being less than 5.42’. He states that the owners are now proposing building a deck and a detached garage. The proposed side yard setback for the deck near the Northeast property line is 2.76’. The proposed side yard setbacks for the garage are 3.5’ and 2.9’. The proposed center line and right-of-way setbacks are 47.5’ and 19.5, respectively. The required center line setback to a Town road is 63’. The required right-of-way setback for a Town road is 30’. The proposed building lot coverage is 20.57%. The allowed building lot coverage for an R-1 zoned lot is 20%. He explains that in 1996, the previous owners, Arz and Vivian Beckwith, applied for a variance to side yard setbacks for a proposed attached garage. The variance was denied on the grounds that there was no evidence to support an unnecessary hardship and that feasible use of the property existed.

He states that the Town of Dekorra recommend approval for the side yard variance for the deck, but recommended denial of the side yard, Center line and right-of-way setbacks for the garage. The Town recommendation does not mention the building coverage variance, but it becomes moot if the garage is denied.

With the permit issued this year, 13.8% building lot coverage was approved and built. Proposed Building Lot coverage is 20.57%. Maximum Building Lot coverage is 20% for a lot zoned R-1.

Proposed Impervious surfaces with this permit were 23.76%. A mitigation plan was approved that included 9 points of mitigation. 4 points of mitigation was required for the permit, so 5 points were banked. The new proposed Impervious surface area is 28.0% which is acceptable and would be covered by the banked mitigation points.

Andy O’Brion then reviews the 3 standards for review. He states for unnecessary hardship, the permit was built with no variance required, and all setbacks met, and the Board of Adjustment is to determine if this fits the definition of an unnecessary hardship. He states for unique property limitation; the size and pie shaped nature of the lot greatly reduces the building area available on this lot creating a unique property limitation. As for protection of the public interest, the variance would only have a minor impact on public safety.

Andy O’Brion states that the Town of Dekorra Plan Commission met, on behalf of the Town Board, and recommended approval of the variance for the deck and side yard at 2.76, but recommended denial of the garage.

John Good is present and sworn in.
7224 Flyhawk Lane
Sauk City, WI 53583

Al Kaltenberg asks if the petitioner has anything to add.

John Good states he wanted to add deck on side to have side access to house, and this will become his primary residence in the future. He goes over the thought process in this, due to abbreviated setbacks, the lot size was smaller after CSM conducted, and the low centerblock foundation with the door height issue. He adds that at the town, their neighbors wrote a letter of recommendation that he has with him today. He states that Exhibit G in Staff Report is not accurate.

Al Kaltenberg asks if there are any additional questions.

Ralph Hemling asks if the retaining wall is part of approval, and how far it is from property line.

John Good states there is a retaining wall, and that’s the reason why the deck needs to go out, and it is 6 inches. He adds that there are drain tiles there.

Al Kaltenberg asks what size garage he is proposing.

John Good responds with 2 car garage.

John Good states that in part of the process, he had Arlington Hardware replace the holding tank, that had to be parallel with house.

Andy O’Brion reviews alternative to that.

John Good passes out a letter from their neighbor stating they are in support.

This letter was at no point given to the Columbia County Planning & Zoning Office to be part of the record.

Andy O’Brion states that the alternative option of moving the garage 2 feet, would not change mitigation, and would still need DSPP approval.

John Good passes out another set of plans, showing an updated holding tank location.

Al Kaltenberg states that the site plan now shows the garage bigger, and with a bigger garage, comes bigger impervious surfaces.

Emmett O’Neill asks if the town approved this bigger garage, with moving it 2 feet back?

John Good states no.

Al Kaltenberg asks if there are any further questions.

Al Kaltenberg asks if anyone else is in favor of request.

Al Kaltenberg reads in the letter John Good gave him from neighbor Katie O’Neill, in support of request.

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

Al Kaltenberg asks if anyone is against the request.

Roger Palmer is present and sworn in.
W11014 Olson Road
Poynette, WI

Roger Palmer states that he is on the Town of Dekorra Plan Commission. He states that they had concerns when the house was first built, and disappointed they had a 1 foot setback for the house. He states this concerns them because the garage now will be 1 foot from park property, and the overhang will be there too. He states they didn’t see a need for a variance, due to no seen hardships. He adds that sometimes he doesn’t feel their voice is heard, and that’s why he is here today. He states the park has a small area, and adds that parking and other factors like that aren’t always shown on reports. He thanks the Board of Adjustments for hearing what he has to say.

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 states that he doesn't see a problem with the deck proposal, as that would help a safety issue.

Craig Robson agrees and adds that it makes sense what they have to do for the deck, but there's no seen hardship for the garage.

Emmett O'Neill agrees with improvements around house, but no hardship with garage.

Ralph Hemling states he agrees with that as well.

Motion by Craig Robson to approve variance for "Minimum Required Setback for Front and Street Side Yards" for the deck on the Northeast property line as presented, including findings of fact, conclusions, decisions and conditions of the Staff Report.

Seconded by Emmett O'Neill.

Motion carried, unanimously.

Craig Robson – Yes, Al Kaltenberg – Yes, Emmett O'Neill – Yes, Ralph Hemling – Yes

Motion by Al Kaltenberg to deny variance for "Minimum Required Setback for Front and Street Side Yards" for the garage due to township doesn't agree, setbacks would make impervious surfaces too close to tolerances, lot coverage would be too great, setbacks of 3.5 and 2.9 are too close, the centerline setback would be too close, and there's no unnecessary hardship.

Seconded by Craig Robson.

Motion carried, unanimously.

Craig Robson – Yes, Al Kaltenberg – Yes, Emmett O'Neill – Yes, Ralph Hemling – Yes

No motion for "Parcel and Building Standards in Residential Zoning Districts" is necessary, as the denial of garage variance nullifies need for this motion.

Item II Variance Consideration – Minimum Required Setback for Front and Street Side Yards, Parcel and Building Standards in Residential Zoning Districts, and Shoreland Setbacks; Petitioners: Selick Living Trust – Town of Dekorra

Andy O'Brion reviews the Staff Report. He states the subject property is 0.40 acres or 9,000 sq. ft. in size lying between Perry Street and Lake Wisconsin. The zoning for the property is R-1 Single-Family Residential. The property currently contains a single-family residence with attached decks, a small shed

and a larger shed. The current home and decks do not meet setbacks to the lake, side property lines, the right-of-way and centerline setbacks to Perry Street. The smaller shed does not meet the right-of-way and centerline setbacks to Perry Street. The larger shed does not meet the side property line setback and extends into the Perry Street right-of-way.

He explains the owners are proposing to replace the existing home and sheds with a new house and attached garage. The proposed house will have a very similar footprint to the existing one. The side yard setbacks that are proposed are the same as the existing ones. The setback to the Ordinary High-Water Mark (OHWM) is slightly greater to the proposed structure than it is to the existing structure. The existing concrete and stairs are considered structures under the Shoreland Wetland Protection Ordinance. The front of the house is slightly closer to the right-of-way and centerline of Perry Street. The proposed attached garage does not meet side yard, right-of-way and centerline setbacks, however the relocation of the existing shed to the new garage location increases the side yard setback and removes the shed from the right-of-way.

He states the Town of Dekorra recommends approval of all the requested variances.

Under both the Zoning Ordinance and the Shoreland Wetland Protection Ordinance the house could be replaced in its current size, shape and location, which is almost exactly what the owners are requesting. The addition of the attached garage makes that part of the overall structure more nonconforming. However, the elimination of the existing sheds and replacing them with the attached garage is a net gain in conformity.

The maximum building lot coverage allowed is 20% of the lot square footage. The existing building lot coverage is 21.1% or 1,896 square feet. The property owners' proposal reduces the building lot coverage to 20.3% or 1,828 square feet. The maximum Impervious surface coverage allowed is 30% unless the lot had been previously developed. In the case of previously developed lots that are over the 30% threshold, they are allowed to return to that level of Impervious surface if they are redeveloped. The current level of Impervious surfaces are 3,362 square feet or 37.4%. The proposed Impervious surfaces are 2,639 square feet or 29.3%, a decrease of 723 square feet or 8.1%.

He then reviews the 3 standards for review. For unnecessary hardship, the size of the lot and its associated setbacks are the basis on what the Board will use to make their decision on whether an unnecessary hardship exists. For unique property limitation, the size of the lot and the OHWM setback are the main unique property limitations. The 60' wide lot does not qualify for reduced side yard setbacks. A lot has to be 55' wide or narrower to qualify. He states for protection of the public interest, the approval of the variance would have a positive impact on public safety by removing the shed from the right-of-way.

Al Kaltenberg asks if the petitioner has anything to add.

Tomas Toro is present and sworn in.
625 E Slifer Street
Portage, WI

Tomas Toro states he is here on behalf of the petitioners, as their surveyor with Grothman & Associates, and representative.

Tomas Toro explains his client plans to demolish the existing home that is currently in rough shape, and rebuild where existing foundation is, and adding an attached garage. He states this will improve conditions of property. He adds that they will be demolishing the existing garage that is in poor shape and close to the road right-of-way to Perry Street. He states they are not going closer to OHWM, as they are currently 63 feet from OHWM. He adds that they will be adding in a rain garden as well.

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 request.

Craig Robson reads in a letter submitted by Mary Kowalski (1883 Elm Avenue, South Milwaukee, WI). Mary Kowalski is requesting the second floor soffits be kept to a maximum of 18" to reduce the negative aesthetic impact on her home and neighborhood, the gutters be a maximum of 5" in width, to avoid oversized gutters closer to her, the gutters be required to drain towards Perry Street, not her house or the lake, to reduce flooding, the final lawn grade along the entire lot line separating her property to be less than her current existing grade at N3055, to minimize flooding and protect her home. She also requests the rain garden location be moved to the north side of the lot at N3059 Perry Street, to move it further from her home.

Al Kaltenberg asks if anyone else 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 and Emmett O'Neill bring up rain garden location suggestion.

Tomas Toro explains it would require additional grading, the current location is the natural low point. He states if runoff is coming from the north, then turns south to the lake, would go right through the rain garden. He states the proposed location is based on the natural low location of the property, and intercepts the most water. He states putting it at the current spot, would be the best design for the neighbors as well.

Ralph Hemling asks about draining the runoff to the north.

Tomas Toro states Perry Street is the highest point, and it would be physically impossible to have it on that side, unless there was a pump, where it would then flow downhill on the ground to the south

Ralph Hemling asks if it would be possible to put in drain tile.

Tomas Toro explains that since the groundwater is high in that area, sending it underground would not work. He states the best thing to do is to allow the plants to soak it up and grow, letting infiltration happen, with water from the surface. He adds that we are not pushing it closer to the water table, we are giving it the most infiltration, and then letting it go to the lake if overflows, which is what is supposed to happen.

Al Kaltenberg asks what direction all of this would be going.

Tomas Toro states that it will be going to the south and straight to the rain garden, where it would be going naturally.

Al Kaltenberg asks if the runoff could be split and divided, letting half go one direction, and half go another.

Tomas Toro explains all sides will drain south to raingarden naturally. He states there will be overflow at some times, but it will remain within property. He states if they split where it runs off, it will be going to the neighbor's property. He explains that a rain garden is not a retention system, and this will be beneficial to neighbors as well. He adds that they are taking an old home, and rebuilding a nice one, and that alone will improve aesthetic.

Al Kaltenberg asks about neighbor's gutter request.

Andy O'Brion explains that they are allowed a 3 foot overhang, and the neighbors are doing a 2 foot overhang, so that's already less than maximum.

Ralph Hemling states that the Planning & Zoning Department doesn't regulate that.

Al Kaltenberg states he would like the rain garden off of the lot line, if possible. He states it is a lot closer to property line than it is to the house.

Ralph Hemling asks if there is a raingarden setback.

Andy O'Brion answers stating that we do not regulate that, and asked Tomas Toro if there is anything they can do about it.

Tomas Toro states he can move it a few feet.

Al Kaltenberg states he would like to see setback for raingarden around 7.2-7.9 range, to draw it in closer, same as the house.

Craig Robson adds that he thinks this is an improvement, and that he could go either way with the rain garden location, but feels it should be at the lowest point to be the most useful.

Al Kaltenberg states he just doesn't want it on neighbor's property.

Craig Robson agrees.

Emmett O'Neill adds that this request appears to have also a positive impact on safety and impervious surfaces.

Motion by Al Kaltenberg to approve variance for "Minimum Required Setback for Front and Street Side Yards", "Parcel and Building Standards in Residential Zoning Districts", and "Shoreland Setbacks" as presented, including findings of fact, conclusions, decisions and conditions of the Staff Report, with additional requirement to have rain garden maintain same setback as house.

Seconded by Emmett O'Neill.

Motion carried, unanimously.

Craig Robson – Yes, Al Kaltenberg – Yes, Emmett O'Neill – Yes, Ralph Hemling – Yes

Item III Variance Consideration – Minimum Required Setback for Front and Street Side Yards, Parcel and Building Standards in Residential Zoning Districts, and Shoreland Setbacks; Petitioners: Selick Living Trust – Town of Dekorra

Andy O'Brion reviews the Staff Report. He states the subject property contains a single-family residence with an attached garage and a deck. The owner is seeking a variance to add a covered deck and a two-tiered deck to the lake side of the house. The existing single-family residence is 8.7' from the front property line. The minimum setback for the front property line for a Town road is 30'. The existing center-line setback is 33.7', while the minimum centerline setback for a Town road is 63'. In addition, the minimum side yard setback for a lot that is zoned R-1 Single Family Residence is 10'. The existing side yard setbacks are 13' on the South side and 7' on the North side. He explains that it's the fact that the existing structure does not meet current setbacks, makes it a nonconforming structure. Nonconforming structures are limited in what can be done to them. The language in 12.135.04 allows expansions to nonconforming structures if they are one-half or more of any required setback. This is not the case with this structure and its front yard and centerline setbacks. With those setbacks being less than half of the required setback, to construct any addition to the home variances are required. Granting a variance to the side yard setback at this time will make the entire house a conforming structure. With a conforming structure, additions in the

future will be easier to obtain. The setbacks for the proposed additions would meet all current required setbacks.

The current building lot coverage is 16.03%. The proposed building lot coverage is 18.64%. The maximum allowed building lot coverage is 20%. The current Impervious surface coverage is 20.48%. The proposed Impervious surface coverage is 24.02%. The maximum Impervious surface coverage is 30%, however any Impervious surface coverage over 15% requires Mitigation. The proposed additions require 2 points of mitigation per 12.555.03(c).

He states the Lodi Town Board unanimously recommended approval of all requested variances.

He says in the immediate area, the house maintains setbacks similar to others in the neighborhood, and the speed limit in front of this property is 25 mph. The additions to this structure are proposed to meet all setbacks and other requirements.

He then reviews the 3 standards for review. He states for unnecessary hardship, the location that the house was built at made it nonconforming when current standards were adopted. No additions can be made to the current structure without variances. The Board of Adjustment is to determine if constitutes a unnecessary hardship. For unique property limitation, the section of the Ordinance that limits expansions to nonconforming structures and the location of the structure creates a unique property limitation. He adds that as far as the protection of the public interest goes, approval of the variance would result in no change in the protection of the public interest. The additions are on the Lake side of the house and meet all setbacks.

Al Kaltenberg asks if the property owner has anything to add.

Kathy Kearney is present and sworn in.
804 N Fairbrook Drive
Waunakee, WI

Kathy Kearney states the cottage is over 50 years old and needs repair. She states the deck is the only access to the lake, and it is not compliant and up to code the way it is right now, deteriorating. She states she would like to replace the existing deck to make it code- compliant. She states that on the sides of the house the slope is very steep and a safety concern. She adds that she talked to neighbors who both offered support.

Al Kaltenberg asks if anyone has questions.

Al Kaltenberg asks if the deck meets setbacks as is.

Andy O’Brion adds that the garage does not currently meet setbacks, but deck does.

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.

Craig Robson states that not having the ability to repair the deck and make it safe is an unnecessary hardship, and he believes this should be granted.

Emmett O’Neill states that he agrees.

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

Seconded by Ralph Hemling.

Motion carried, unanimously.

Craig Robson – Yes, Al Kaltenberg – Yes, Emmett O’Neill – Yes, Ralph Hemling – Yes

11. Adjourn Meeting

Motion by Ralph Hemling to adjourn meeting.

Seconded by Craig Robson.

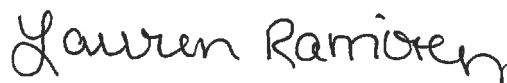
Motion carried unanimously.

Meeting adjourned at 4:27 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary

Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members

County Clerk
Vern Gove, County Board Chair