

**BOARD OF ADJUSTMENT MINUTES
SEPTEMBER 14, 2022**

PRESENT: Al Kaltenberg, Pat Beghin, Ralph Hemling, Craig Robson

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

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 Pat Beghin to approve Agenda of September 14, 2022 Board of Adjustment Regular Meeting & Public Hearing.

**Seconded by Craig Robson.
Motion carried unanimously.**

10. Approval of Previous Meeting Minutes

Motion by Ralph Hemling to approve Minutes of June 8, 2022 Board of Adjustment Regular Meeting & Public Hearing.

**Seconded by Craig Robson.
Motion carried unanimously.**

11. Public Hearings

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

Item I Variance Consideration – Parcel and Building Standards in Residential Zoning Districts, Shoreland Setbacks, and Maximum Impervious Surface Standard; Applicants: Susan Ferreri & Dawn Ferreri – Town of Wyocena

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

Kenneth Thiele then reads in the input letter from the DNR. This states the DNR has reviewed the after-the-fact variance request, ADA qualifications that could have been met to allow for this deck if those requirements were met, and the 3 variance statutory requirements.

Dawn Ferreri (applicant) is present and sworn in.
W5823 Lintner Road
Pardeeville, WI

Sue Ferreri (applicant) is present and sworn in.
W5823 Lintner Road
Pardeeville, WI

Dawn Ferreri states that she is here for her son who is handicapped. She states he can only sit for so long due to health, so they needed a place they could put a mattress, and a lift on for him. They wanted to build a smaller deck 12x10, however, their builder (Berg Builders), suggested larger.

Sue Ferreri states that they enjoy their days out on the deck, and there's no stairs because it wasn't built for convenience, it was put up to enjoy with family. She says he has a difficult time getting around outside without his wheelchair. She says they can't take him to restaurants, so they spend a lot of time at home. She had no idea about the restrictions building on the water. She adds that the contractor, (Berg Builders), told her she could. She said they are now finding out about the contractor, and how he doesn't follow rules, and it's been a nightmare now. The minute she got the violation letter from Planning & Zoning, she wasn't sure what they did wrong, she didn't try to hide or get away from it, she called Planning & Zoning. She states that they are asking for a variance to provide for their son to give him a happy life they need to enjoy too. She adds that the neighbor has a similar deck, and the contractor wanted to put a deck under the patio as well. Moving forward, she states that they won't even be moving a rock without asking- and this was not intentional. She states that the neighbor is fine with this, and even the ramp is partially on his land, he helped build that too. They can't get him into a boat without 4 people having to help.

Kenneth Thiele adds that they did come in right away and were very cooperative. He states that the contractor in question has been in trouble with the county before, and has had to ask for a variance one other time as well, building a house too close to the line.

Al Kaltenberg asks if there are any other questions.

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

Al Kaltenberg states that the Planning & Zoning office received an email from a neighbor in favor of the request, McMahan at W5827 Lintner Road, Pardeeville.

Al Kaltenberg asks if anyone else 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.

Kenneth Thiele adds there's one thing not addressed, along the eastern side of the property line you see wooden planks coming down. Those are for drainage, put in by the town. Some impervious surfaces called out in report are related to area. He states this lends us a unique prospective – that the impervious surfaces are already dedicated and not in their control.

Al Kaltenberg closes the public hearing.

Al Kaltenberg states that there are unique property limitations – and there's no issue with public safety.

Pat Beghin states that there's a concern with ADA that does impact property with their son and his limitations.

Craig Robson states that it's not an issue of accessibility because it's a deck with no access to water, no steps. He states that he believes it's a unique property limitation based on the dedicated drainage and the size of existing lot in relation to existing house, which gives impervious surfaces.

Kenneth Thiele states that if you look at the recommendation, we are asking for 6 points of mitigation if approved, and they are exceeding impervious surface limits, so mitigation would help with that, and they will be working with them to obtain this.

Dawn Ferreri states that the gutters go underground for runoff.

Pat Beghin asks if the town has an easement for that.

Kenneth Thiele states he believes yes, generally there is one for that.

Craig Robson states that the unnecessary hardship case has been made due to drainage, the public safety is questionable, but moving past that, he could see variance to exceed impervious surface, but a deck being built without a permit?

Al Kaltenberg adds that this is a man-made hardship. He states there's a lot going on between unique hardships and personal hardships. He asks if a unique hardship could have warranted a variance prior to building. He states that the question is, with ADA experience, he could say yes. He states that they could have gotten a deck under ADA and not have had any problem. He does agree a permit should have been obtained prior to building.

He states though, that he would have an easier time granting a variance prior to building, rather than post. He states that the ADA issues could over-set that unnecessary hardship. He states it's a unique and created unnecessary hardship. He adds that his motion will be due to unique limitation of property, it's size, unnecessary hardship due to unique features of the property, ADA requirement, and there's no public safety issue.

Motion by Al Kaltenberg for "Parcel and Building Standards in Residential Zoning Districts", "Shoreland Setbacks", and "Maximum Impervious Surface Standard" as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.

Seconded by Pat Beghin.

Motion carried unanimously.

Craig Robson – No, Ralph Hemling – Yes, Al Kaltenberg – Yes, Pat Beghin – Yes.

Motion carried, not unanimously.

Item II Variance Consideration – Minimum Required Setback for Front and Street Side Yards, and Shoreland Setbacks; Applicants: Columbia County Old Sauk Children's Trust c/o Mike Zaucha – Town of West Point

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

Kenneth Thiele then reads in the input letter from the DNR. This states the DNR has reviewed the variance request, and the 3 variance statutory requirements. Kenneth Thiele adds that though it wasn't written in the letter, DNR staff agreed with Staff Report. He states that the request is to move the house away from the water, but it's then going to be built to the exact same footprint, but closer to that road.

Michael Zaucha (applicant) is present and sworn in.
1440 S Burn
Mt Prospect, IL

Michael Zaucha states that strict compliance is burdensome with the overlapping setback requirements. He said there's a lot of road right of way, and surrounded by water. He states the road is not often used, and does not currently meet setbacks. He adds that with proposed structure, it would be 35', and would allow them to build the season room, with no impervious surface needed. When asked for variance for boathouse many years ago, Mike Stapleton helped plan how layout is now.

Kenneth Thiele adds that Mr. Zaucha has been in contact with office. He adds that if this request was being looked at today, he'd be able to tear down

structure and build again. If he were on Tipperary Road, he'd be able to use legalized averaging; however, he has no neighbors to do so.
Al Kaltenberg asks if there are any other questions.

Ralph Hemling asks about recommendations for mitigation.

Kenneth Thiele states that they are recommendations, not requirements.

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.

Kenneth Thiele adds more info of the relocation in relation to the mitigation.

Al Kaltenberg closes public hearing.

Al Kaltenberg asks if board has anything to add.

Ralph Hemling states that it's a unique property as far as the shape goes, there's no straight lines, the peninsula part of it is unique.

Craig Robson states he believes that all 3 standards are met. There's an unnecessary hardship due to competing requirements between zoning and shoreland, the unique property limitation is based on shape and location to road, and moving this would not affect public safety.

Pat Beghin states that from what he heard from the letter from the DNR, they are suggesting that moving it and approving it would be the better option.

Ralph Hemling agrees.

Al Kaltenberg states he believes there's benefits both ways, approving or not. He states that there was a unique hardship created when the road was re-done and the railroad.

Motion by Craig Robson for "Minimum Required Setback for Front and Street Side Yards", and "Shoreland Setbacks" as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.

Seconded by Ralph Hemling.

Motion carried unanimously.

Craig Robson – Yes, Ralph Hemling – Yes, Al Kaltenberg – Yes, Pat Beghin – Yes.

Motion carried unanimously.

Motion carried unanimously.

12. Adjourn

**Motion by Pat Beghin to adjourn meeting.
Seconded by Ralph Hemling.
Motion carried unanimously.**

Meeting adjourned at 3:04 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary
Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members
County Clerk
County Board Chair