

**BOARD OF ADJUSTMENT MINUTES
OCTOBER 12, 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, Bryce Johnson – 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 Ralph Hemling to approve Agenda of October 12, 2022 Board of Adjustment Regular Meeting & Public Hearing.

Seconded by Craig Robson.

Motion carried unanimously.

10. Approval of Previous Meeting Minutes

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

Seconded by Craig Robson.

Motion carried unanimously.

11. Public Hearings

Item I Variance Consideration – Parcel and Building Standards in Residential Zoning Districts, and Minimum Required Setback for Front and Street Side Yards; Applicants: Jeffrey & Cora Jean Eastlick – Town of Caledonia

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.

Jeffrey Eastlick (applicant) is present and sworn in.
N3149 Cedar Park Road
Merrimac, WI 53561

Jeffrey Eastlick states the hardship is the odd size of the lot, and the limits on what he can do with a garage. He states that the neighboring lot is vacant. He brought a list for the record of Neighborhood Support with names and signatures of those around him in favor of his request. Those names include:

Deb Harman – N3157 Cedar Park Road
Marsha England – N3151 Cedar Park Road
Marci Maier – N3155 Cedar Park Road
Mike Gallagher – N3133 Cedar Park Road
Aaron Kenealy – N3151A Cedar Park Road
Rick Donkle – N3116 Cedar Point Road
Sue Neperud – N3153 Cedar Park Road
Paul Buechner – N3131 Cedar Park Road
Deb Buechner – N3131 Cedar Park Road
Lisa & Joel Reed – N3139 Cedar Park Road

Al Kaltenberg asks if there are any other questions.

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

Paul Buechner (neighbor) is present and sworn in.
N3131 Cedar Park Road
Merrimac, WI

Paul Buechner states that all streets in his neighborhood are not maintained by town or county, but plowed and maintained by the people that live there. As far as he knows, even school busses won't come up that road. He believes that it should get approved, as all neighbors from private street signed that sheet are in favor.

Deb Harman (neighbor) is present and sworn in.
N3157 Cedar Park Road
Merrimac, WI

Deb Harman states that everyone in neighborhood is in favor of this request, and that is not a monumental ask. She states that this will make things easier for property owners, and she believes that no one would do anything that's bad for the environment or lake area. She states that taking that into consideration, she believes they should be able to build a garage, which is something most of them enjoy themselves.

Bruce England (neighbor) is present and sworn in.
N3151 Cedar Park Road
Merrimac, WI

Bruce England states he lives on opposite side of Jeff's home and he's good friends with the people that live on the side of Jeff's home that would be next to the variance, and knows they wouldn't have an issue with this proposal. He states that he is unsure why they call this a town road when it's taken care of by the members that live on that road.

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.

Al Kaltenberg closes the public hearing.

Craig Robson states he sees the unnecessary hardship as it relates to the setback from the roadside. He states there's a unique property limitation because of the platted situation and way the roads were installed. He doesn't believe this would be a public safety issue. He states he believes there would be a hardship because lots are small and he'd be willing to consider as a hardship, given there'd be mitigation to help runoff with neighbor's property.

Ralph Hemling asks if the neighbors that are affected signed the petition (yes). He states that property owners could go with smaller garage, but that would be difficult to drive into or have any storage in. He states he agrees with Craig Robson.

Pat Beghin states he agrees as well.

Al Kaltenberg adds that if they granted variance, they'd have to have condition for mitigation for runoff.

Kenneth Thiele confirms that it is in conditions they'd be adopting as part of the motion to approve.

**Motion by Ralph Hemling for "Parcel and Building Standards in Residential Zoning Districts", and "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 Pat Beghin.
Motion carried unanimously.**

Item II Variance Consideration – Minimum Required Setback for Front and Street Side Yards, and Rebuilding of Nonconforming Structures: Applicants: Annette Johnson & Kurt Johnson– Town of Dekorra

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.

Thomas Toro (representative for applicant) is present and sworn in.
625 E Slifer Street
Portage, WI

Tomas Toro states he is here to answer any questions anyone might have.

Al Kaltenberg asks if there are any other questions.

Ralph Hemling asks if they are planning on tearing down the old garage.

Tomas Toro states that they are, and they may use a portion of the structure if it's usable.

Al Kaltenberg asks if they needed a variance to build current garage.

Kenneth Thiele explains that it's the unfortunate way things were done. He states in the 90s, you were allowed to build garages on vacant land across your home, and that garage there now is probably older than the house. He adds that there are no sanitary concerns, as it is a holding tank.

Tomas Toro adds that this is all one lot now, so garage is not separate from home parcel.

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

Al Kaltenberg asks if anyone is against the petition.

Paul Masschoot (neighbor) is present and sworn in.
N3223 Tipperary Point Road
Poynette, WI

Paul Masschoot states he is east of property and he's trying to understand what's going on. He states that he's been involved with his property since the 80's and he's seen this garage being built. He adds that the person who built the garage is no longer there, it started out as a 1 car, then 2, and there's no footings there, so using any part of it to build a new one is a bad idea. He adds that he's wondering why they need a 35 feet high garage.

Kenneth Thiele explains that 35 feet is the max building height in that zoning district for accessory structures. He states that with a nonconforming structure they need a variance to go up in height. He states the property owners can't move the structure, so they are requesting to increase height; however, that

doesn't mean they will be building it that high. So they are allowed to rebuild in exact same footprint, but they can't go higher without variance.

Paul Masschoot asks if they are having living space.

Tomas Toro states that the property owners are planning to expand to the house to connect, and it's very unlikely that they will go to the max height on the project.

Paul Masschoot states that he was present when they put the holding tank in and the contractor removed a survey stake that he paid to put in.

Kenneth Thiele states that he will let the surveyor know.

Paul Masschoot states that he'll just gain a little shade from this project, but this will be for a couple more bedrooms for their parties. He states that they have a lot of kids.

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

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

Al Kaltenberg closes public hearing.

Al Kaltenberg asks if board has anything to add.

Craig Robson states that they are dealing with the same situations with right-of-way and setbacks, that this is a unique property limitation and no public safety issue. He states that with 34-foot setback to the right-of-way, this would be allowed.

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

Seconded by Pat Beghin.

Motion carried unanimously.

Item III Variance Consideration – Shoreland Setbacks; Applicant: Dwayne A Schultz Rev Trust– Town of Dekorra

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.

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.

Dwayne Schultz (applicant) is present and sworn in.
N3449 Tipperary Point Road
Poynette, WI

Dwayne Schultz states that he got a permit from the DNR for erosion that was happening prior to building the house. He states that they started the project years ago, and the riprap in 2018. He states at that time he didn't know that a variance for a retaining wall would be needed, as he's had a retaining wall prior. He states he has a priority of taking care of the land and water- he's put in runoff and other mitigation. He states that the property is too steep there and he wants to prevent erosion from flood and sand.

Al Kaltenberg asks if anyone is in favor of the petition. (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 public hearing.

Al Kaltenberg asks if board has anything to add.

Pat Beghin states that this property has a unique property limitation and he agrees that with 80% slopes, you have to do something significant to prevent erosion, and a retaining wall does that. He doesn't see this being a public safety issue.

Al Kaltenberg asks if there's a unique hardship.

Pat Beghin states he sees that just by having a slope that steep, that creates a hardship. He states he doesn't believe they can leave it the way it was, as that would create a larger issue.

Craig Robson states that for unnecessary hardship, the owner made an effort to do this right, he went to the DNR to do rip rap, and turns out it wasn't completed enough. He states he tried to do the right thing.

Al Kaltenberg asks if they would have issue with granting this if he had asked prior to starting the project.

Pat Beghin states that in his opinion, with circumstances of land – they would have granted it with how steep the land is, as not doing so, he believes that soon this land would be in the lake and this steep of land cannot hold up as-is.

Ralph Hemling states that he used to work for the state, and everything they did was permitted and designed to make the property right- with slopes and back-fill. He states in his old job they would have an issue with this.

Dwayne Schultz states that the material behind stone is all sand. He brought in 10-12 of black dirt and sodded it right away to save the established surface. When they put in septic, all the land was sand. He states that in the last 12 years, he's dealt with run-off, and that created all sorts of erosion.

Motion by Pat Beghin for "Shoreland Setbacks" as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.

Seconded by Craig Robson.

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

Motion carried, not unanimously.

Item IV Variance Consideration – Minimum Required Setback for Front and Street Side Yards, and Parcel and Building Standards in Residential Zoning; Applicants: David J Wolff & Karen K Wolff– Town of Dekorra

Al Kaltenberg opens the public hearing.

Thomas Toro (representative for applicant) is present and sworn in.
625 E Slifer Street
Portage, WI Item IV-

Tomas Toro states that to give some background, the property owners are doing some improvements to the inside of the small cabin. He states that they didn't have system of HVACs, and the well was also failing. They needed an area to put new mechanical stuff, such as the furnace, and the cabin had no room for this. What they want to do is extend roofline back 6 feet and a portion of the porch they are enclosing to put mechanical stuff in. They replaced the well, and now they have new pressure tanks and pump installed and all the equipment is housed inside small mechanical room. They are just doing addition to extend roof, and the reason they did the roof was to have it look in 1 piece. The reason why they are proceeding is they don't have room to put mechanical stuff. Other than that, no changes to the property whatsoever.

Kenneth Thiele explains that they came to us after-the-fact. They did some work, then came to us when they found out they needed permit.

Tomas Toro adds that they stopped work right away when they found out, and the siding is even half-done.

Al Kaltenberg asks if anyone is in favor of the petition. (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 public hearing.

Al Kaltenberg asks if board has anything to add.

Al Kaltenberg states that this is a situation with the road, and can see how this is an issue.

Kenneth Thiele adds that this is a plat from 1918.

Ralph Hemling states that this is a narrow lot that then has narrow setbacks.

Craig Robson states that this is a 650 square foot house, and it's an unnecessary hardship if you need to modernize the water tank, and you can't even do that.

Al Kaltenberg states that this is not a public safety issue, as it is not getting closer to the road, and it's a unique property limitation with the narrow property.

Motion by Al Kaltenberg for "Minimum Required Setback for Front and Street Side Yards", and "Parcel and Building Standards in Residential Zoning" as presented, including the Findings of Fact, Conclusions of Law, Decision, and Conditions of the Staff Report.

Seconded by Pat Beghin.

Motion carried unanimously.

12. Adjourn


Motion by Ralph Hemling to adjourn meeting.

Seconded by Pat Beghin.

Motion carried unanimously.

Meeting adjourned at 4:17 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary

Board of Adjustment Minutes

October 12, 2022

Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members
County Clerk
County Board Chair

