

BOARD OF ADJUSTMENT MINUTES
October 13, 2021

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

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

3:00 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 October 13, 2021 Board of Adjustment Regular Meeting & Public Hearing.
Seconded by Craig Robson.
Motion carried unanimously.

10. Minutes

Motion by Ralph Hemling to approve Minutes of September 8, 2021 Board of Adjustment Regular Meeting with typo correction.
Seconded by Pat Beghin.
Motion carried unanimously.

11. Public Hearing

Pat Beghin reads in the Public Hearing Notice.

Item I Variance Consideration – Parcel and Building Standards in Residential Zoning Districts; Petitioners: Mark A Cefalu & Kathryn E Cefalu – Town of Lodi

Kenneth Thiele reviews the Staff Report. In reviewing the background, he states the subject property is 0.47 acres or 20,322 sq. ft. in size and zoned R-1 Single Family Residential. There is flood fringe at the shoreline of the property as annotated on FIRM panel 55021C0506F, and the property is

connected to the Harmony Grove/Okee Sanitary District. There is currently a single-family residence and a shed on the property. The residence is 2,124 sq. ft. in size and has the following setbacks: 132 ft. from the centerline of North Lake Point Dr., 97 ft. from the right of way, 78.6 ft from the rear property line, 7.8 ft. from the southern side property line, 15.9 ft. from the northern side property line, 78.6 ft. from the Ordinary High-Water Mark of Lake Wisconsin, and 2,630 ft. to the nearest wetland. The shed is 101 sq. ft. with setbacks of 72 ft. from the centerline of North Lake Point Dr., 50 ft. from the right of way, 164 ft. to the rear property line, 0 ft. from the southern side property line, 70 ft. from the northern side property line, 164 ft. to the OHWM of Lake Wisconsin, and 2,584 ft. to the nearest wetland. The existing building lot coverage is 2,225 sq. ft. or 10.95%. The existing impervious surfaces are 5,179 sq. ft. or 25.48%.

He states the property owners would now like to remove the existing residence and shed, and build a new residence on the property. The new residence would be 4,378 sq. ft. in size and have the following setbacks: 72.5 ft. from the centerline of North Lake Point Dr., 32.2 ft. to the right of way, 89 ft. to the rear property line, 11 ft. to the side property lines, 89 ft. to the OHWM of Lake Wisconsin, and 2,570 ft. from the nearest wetland. The proposed building lot coverage is 4,378 sq. ft. or 21.54% of the property. The proposed impervious surfaces are 5,716 sq. ft. or 28.12% of the property. Variances to the Section 12.110.03(1), is required to allow for the construction of the new residence.

He adds that the Town of Lodi recommended approval of the Variance request.

Then reviewing the Analysis portion of the Staff Report, he states the property is zoned R-1, Single Family Residential, a shoreland property and has flood plain at the shoreline. The proposed residence will meet all required zoning setbacks. The proposed impervious surfaces will increase from 25.48% to 28.12%. Two points of mitigation will be required for the issuance of this permit. The applicants are proposing to install a rain garden to cover the required mitigation. A shoreland mitigation affidavit will be required to be recorded at the Register of Deeds prior to the issuance of any zoning permit. The floodplain does not affect the construction of a new residence. The proposed building lot coverage is increasing from 10.45% to 21.54%. He says in 2012, Columbia County adopted a Building Coverage Standard that states that the maximum building coverage (the percentage of lot covered by all buildings) cannot exceed 20% or 8,712 sq. ft., whichever is less. The purpose of setting a building lot coverage within the zoning ordinance was to allow for adequate storm water infiltration, groundwater recharge and to minimize potential flooding in areas. Currently, any increase above that number within the Single-Family District could be seen as a potential risk to those purposes and requires a variance. On September 21, 2016 the County adopted the new NR 115 Shoreland Standards, which now has established limits on the number of impervious surfaces permitted. The maximum impervious surface

percentage for a riparian lot or parcel or a non-riparian lot or parcel located entirely within 300 feet of the ordinary high-water mark of any navigable waterway shall be 15%. A property may exceed the impervious surface standard under Section 12.535.03 up to 30% impervious surface, provided a permit is issued for development with a mitigation plan that meets the standards of Section 12.555.

He states that because this project is also within the Shoreland Zoning District, it can allow up to 30% impervious surfaces on the lot when proper mitigation techniques are implemented. The 30% could be entirely in buildings, or a combination of other impervious surfaces which conflicts with the County Zoning Ordinance that sets the limit to 20% building coverage, with no options for mitigation. The intent of the building lot coverage requirements can be maintained if approved mitigation measures are followed, as allowed under the Shoreland Wetland Protection Ordinance.

Kenneth Thiele then reads in the three standards for review are then read in. For unnecessary hardship, he states the Board of Adjustment must determine if the conflicts between the Zoning Code and the Shoreland Wetland Protection Ordinance constitutes an unnecessary hardship. He states for unique property limitation, shoreland properties are unique in the fact that they are permitted up to 30% impervious surfaces provided that they meet the standards of Section 12.535.04. It does not matter if the impervious surface is building or some other form of impervious surface. This allowance is not permitted under the Zoning Code. Lastly, he states for protection of the public interest, approval of the variance would not have an impact on public safety. Approval of the variance could be seen as a benefit as mitigation will be required. The new residence is proposed to meet all setback requirements.

Property owner Mark Cefalu is present and sworn in.
1701 Alexandria Court
Waunakee, WI

Mark Cefalu explains he went through lots of research to be sure he wasn't asking for more than he needed. He says if you look on the existing site plan there's an area where there's a large concrete patio, and that will be removed. He states that he and his wife will be making this their home, and his wife has a lot of stuff. He states that they cannot have a basement, and they need more space. He states his plan is to have the basement above the garage. He's asking for 300 feet to accommodate that.

Al Kaltenberg asks if there are any additional questions.

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 states the issue of the situation it puts us in with the state statutes that says 30%, and the county 20%. He is wondering which one wins.

Kenneth Thiele states that in Shoreland, it's 30% impervious surfaces, regardless of surface, and our R-1 Zoning District is capped at 20% residential. He states his is unique because they have 30% building coverage.

Pat Beghin states that it comes down to which takes precedent- state or county.

Kurt Calkins adds that it's between building lot coverage vs. impervious surfaces.

Craig Robson states that an unnecessary hardship is present with zoning code vs. state code. He states that the intent of building lot coverage as allowed under shoreland protection ordinance all have been met with unnecessary hardship.

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

Seconded by Pat Beghin.

Motion carried, not unanimously.

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

Item II Variance Consideration – Parcel and Building Standards in Residential Zoning Districts; Petitioners: Three Hands– Town of Lodi

Andy O'Brion reviews the Staff Report. He states the property owner owns parcels 266 and 268.2. He states parcel 266 contains a sing-family residence and had previously contained a small garage, 21' x 12' in size. He states the owner would like to develop parcel 268.2, and is denied access directly from County High V. The Highway Department will grant access through parcel 266 with the aid of an easement to access parcel 268.2. In an effort to gain driveway access for Parcel 268.2, the owner decided to remove the existing garage to allow an easement. The owner would like to build a new garage on parcel 266 and gain access for that off of Summerville Park Road. The proposed location does not meet setbacks to the Right-of-Way, the centerline, as well as the side property line setback. The required setbacks for a Town road are 30' from the Right-of-Way line, or 63' from the center line, whichever is greater. The proposed setbacks are 15.6' from the Right-of-Way line and 48.6' from the centerline. The required side yard setback for a R-1 zoned lot is 10'. The proposed side yard setback is 7.2'.

Andy O'Brion states the Town of Lodi has not given official recommendation on the proposed request.

He then reviews the Analysis portion of the Staff Report. He states that the proposed garage would have setbacks similar to others in the neighborhood. He states that some structures nearby are much closer to the road than the proposed garage on the property. He states the speed limit in front of the property is 25 MPH and it's proximity to a stop sign also controls the speed of traffic. The proposed garage is 12' x 24', or 288 square feet. The previously existing garage was 12' x 21' in size. The proposed building lot coverage would be 16.7%. The maximum lot coverage allowed for an R-1 zoned lot is 20%.

Andy O'Brion then reviews the 3 legal standards for review. For unnecessary hardship, the required setbacks from the Right-of-Way and center line, the size of the lot and the granted access easement for parcel 268.2 leaves no area on the lot where a garage could be built without the granting of the requested variances. The Board of Adjustment will use this information to determine if this constitutes an unnecessary hardship. For unique property limitation, he states the same reasons that may create a hardship for this lot equals unique property limitations as well. These unique property limitations can only be overcome with the variances. Lastly, as for the protection of the public interest, an approval of the variances would result in no change in the protection of the public interest. The access and proposed garage will not restrict any views regarding the nearby intersection.

Rod Ripley is present and sworn in.

W11579 County Highway V

Lodi, WI

Rod Ripley states that as it was mentioned, this is a small lot with not a lot of options. He states that if there is going to be a garage, this is the only suitable spot, and that the patio was removed as well. He adds that the town plan commission and board did approve this in June/July.

Pat Beghin states that this is a tough one to deal with, that if he didn't have to put access to the other lot- he'd have room.

Al Kaltenberg asks if there are any additional questions.

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

Al Kaltenberg asks if anyone is against the request.

Timothy Escher
N2378 Summerville Park Road
Lodi, WI

Pat Beghin reads in an email from Tim Escher stating concerns regarding the busy intersection, the value of their property after this, and other options they feel they should have used.

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

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

Rod Ripley states that the cottage was remodeled 4 years ago, Tim owns the lot behind his and most likely doesn't want his view to the water blocked. He states that this property was offered to Tim to purchase, but the offer was too low.

Al Kaltenberg closes the public hearing and opens discussion and deliberation for the board of adjustment members.

Ralph Hemling states he doesn't believe the driveway will increase traffic.

Rod Ripley adds that he does believe that should be a 4 way stop.

Emmett O'Neill clarifies that this is just for garage.

Al Kaltenberg confirms.

Pat Beghin states that this wouldn't go out further than the house, and this proposal fits in with the area. He says it's not popped out, it's in line with the house and everyone else's in the area. He also adds that he does believe there's a unique property limitation in that they have a shared driveway.

Emmett O'Neill agrees that there's an unnecessary hardship.

Motion by Pat Beghin to approve variance for "Parcel and Building Standards in Residential Zoning Districts" as presented, including findings of fact, conclusions, decisions and conditions of the Staff Report.

Seconded by Emmett O'Neill.

Motion carried, not unanimously.

**Pat Beghin – Yes, Craig Robson – Yes, Al Kaltenberg – No, Emmett O'Neill – Yes,
Ralph Hemling – Yes**

12. Adjourn Meeting

Motion by Pat Beghin to adjourn meeting.

Seconded by Craig Robson.

Motion carried unanimously.

Meeting adjourned at 3:41 PM.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Patrick Byrnes".

Board of Adjustment

A handwritten signature in cursive script, appearing to read "Lauren Ramirez".

Recording Secretary

Lauren Ramirez, Office Administrator

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

