

**BOARD OF ADJUSTMENT MINUTES
NOVEMBER 9, 2022**

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

STAFF: 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 November 9, 2022 Board of
Adjustment Regular Meeting & Public Hearing.
Seconded by Ralph Hemling.
Motion carried unanimously.**

10. Approval of Previous Meeting Minutes

**Motion by Ralph Hemling to approve Minutes of October 12, 2022 Board of
Adjustment Regular Meeting & Public Hearing.
Seconded by Pat Beghin.
Motion carried unanimously.**

11. Public Hearings

**Item I Variance Consideration – Minimum Required Setback for Front and
Street Side Yards; Applicants: Jerel Ewings & Kathleen Ewings – Town
of Fountain Prairie**

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.

Jerel Ewings (applicant) is present and sworn in.
N3140 Sleepy Hollow Road
Fall River, WI

Jerel Ewings states he has a small business and they take in hundreds of thousands of dollars in products and need space. He states the products will be on-site for anywhere to a week to months and they need to be in a climate-controlled area. He adds that the previous owners told him they can build there and spoke with Planning & Zoning already. He found out after that, the previous owners did not contact Planning & Zoning. He states the site they are choosing would require the least number of trees to come down. He adds that the price is a concern, as they vary depending on what they all need to do. He states they want the building to look like the house, take down unnecessary trees, and keep the beauty of the property. He states that public safety is not an issue. As far as unique property limitation, he says that the property is sloped. He adds that hardship is difficult; unnecessary hardship is the pad that's there, and would need to take down if not granted. He states that unnecessary hardship is also having to store products off-site due to having to then rent an area, and having issues with getting insurance for product.

Kenneth Thiele adds that his business – a minor home occupation – is permitted in the zoning district as long as everything stays inside a building.

Al Kaltenberg asks if there are any other questions.

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

Al Kaltenberg asks if anyone is against the petition.

Kenneth Thiele reads into the record, an email from neighbor Joseph Monfire (N3133 Sleepy Hollow Road, Fall River, WI).

Joseph Monfire states he doesn't believe it's in the best interest of the community due to a similar structure can meet setbacks, property values, site lines, the home occupation, and accessory structures he states are limited to 800 sq. ft.

Kenneth Thiele explains that the 800 sq. ft. maximum is applicable for garage lots, and not applicable to this property, the structure with permits is allowed according to his interpretation of the zoning ordinance, and his occupation is permitted at this property.

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 the public hearing.

Al Kaltenberg states that he agrees there's a property limitation, no public safety issue, but unnecessary hardship is issue.

Craig Robson states he agrees, and adds that there's a unique property limitation creates hardship with the way the water flows off the hill. He states that if you start reverting that – an issue can start with water flow and could go to driveway/road.

Al Kaltenberg states that having to store things off-premise cannot be considered an unnecessary hardship.

Kenneth Thiele states that they may want to look at properties surrounding site is all within the village jurisdiction.

Al Kaltenberg states that rules are different in village and cities.

Pat Beghin asks what the setbacks are in town.

Kenneth Thiele states that they are different, closer to the road. He adds that he's only one on the south side that is in Fountain Prairie – including person across street that spoke on it in the email, he's in a different set of rules.

Ralph Hemling states that a hardship cannot be defined as a monetary thing such as prices for renting a different space, etc.

Al Kaltenberg states that placing the structure further back could create a safety hazard and liability if you change where the water flows, making it come through driveway and onto the road. There's an issue where it can create, where moving it creates a problem. Where requesting now wouldn't change flow of water. He adds that he is unsure if that would create an unnecessary hardship.

Ralph Hemling states it could possibly create an unnecessary hardship.

Craig Robson states what qualifies for a hardship when reviewing the 3 legal standards for variances. He reiterates the location of the property- how it is in the notch of Fountain Prairie, surrounded by village. If his property were to be in the village, he'd be able to do this without a variance.

Al Kaltenberg he makes motion to approve, with reference to the fact that there's an unnecessary hardship due to the fact that if you moved this structure in compliance, further back, it would create a safety hazard with runoff, the unique property limitation being on a slope of a hill, and there's no safety issue where the structure is being requested in variance.

Motion by Al Kaltenberg 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 Ralph Hemling.

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

Motion carried unanimously.

Motion by Craig Robson to amend motion to also include unnecessary hardship being the property is in a notice of land where on either side of him, this setback the property owners are requesting a variance for, is allowed.

Seconded by Ralph Hemling.

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

Motion carried unanimously.

12. Adjourn

Motion by Pat Beghin to adjourn meeting.

Seconded by Craig Robson.

Motion carried unanimously.

Meeting adjourned at 3:30 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary

Lauren Ramirez, Office Administrator

cc: Board of Adjustment Members
County Clerk
County Board Chair