

BOARD OF ADJUSTMENT MINUTES
November 10, 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 November 10, 2021 Board of Adjustment Regular Meeting & Public Hearing.
Seconded by Ralph Hemling.
Motion carried unanimously.**

10. Minutes

**Motion by Ralph Hemling to approve Minutes of October 13, 2021 Board of Adjustment Regular Meeting with typo correction.
Seconded by Emmett O’Neill.
Motion carried unanimously.**

11. Public Hearing

Pat Beghin reads in the Public Hearing Notice.

Item I Variance Consideration – Minimum Required Setback for Front and Street Side Yards; Petitioners: Scott A Mueller & Ruth G Mueller – Town of Caledonia

Kenneth Thiele reviews the Staff Report. In reviewing the background, he states the subject property has been owned by Scott and Ruth Mueller since September 2011. The property is part of the Cedar Park Plat and is 0.24 acres or 10,424 sq. ft. in size . The zoning for the property is R-1 Single Family

Residential. The property is not riparian, nor is it entirely within 300 ft. of the Ordinary High Water Mark (OHWM) of Lake Wisconsin. He states currently there is a single family residence, a shed, and a lean-to on the property. The residence is 1,057 sq. ft. in size and has the following setbacks: 45 ft. from the centerline of Oak St., 30 ft. from the right of way, 125 ft. from the rear property line, 7 ft. from the northern side property line, 10 ft. from the southern side property line, 172 ft. from the Ordinary High Water Mark of Lake Wisconsin, and 905 ft. to the nearest wetland. The current residence is connected sanitary permit 77-174. The shed is 18 ft. x 20 ft. or 360 sq. ft. with setbacks of 133 ft. from the centerline of Oak St., 148 ft. from the right of way, ft. to the rear property line, 13 ft. from the northern side property line, 10 ft. from the southern side property line, 227 ft. to the OHWM of Lake Wisconsin, and 844 ft. to the nearest wetland. The lean-to is 5 ft. x 9 ft. or 45 sq. ft. with setbacks of 68 ft. to the centerline of Oak St., 53 ft. to the right of way, 125 ft. to the rear property line, 40 ft. to the northern side property line, 11 ft. to the southern side property line, 195 ft. to the OHWM of Lake Wisconsin, ft. to the nearest wetland. The existing building lot coverage for the property is 1,462 sq. ft. or 14.02%. As the property is not riparian nor entirely within 300 ft. of the OHWM of Lake Wisconsin, impervious surfaces do not apply to this property. He adds the sanitary permit 21-128 has been issued for the replacement of the existing Private On-Site Waste Treatment System (POWTS).

Kenneth Thiele states the property owners would now like to remove the existing residence and lean-to. The proposal is to then build a new residence on the property. The new residence would be 1,692 sq. ft. in size and have the following setbacks: 45 ft. from the centerline of Oak St., 30 ft. to the right of way, 114 ft. to the rear property line, 10 ft. to the side property lines, 174 ft. to the OHWM of Lake Wisconsin, and 899 ft. from the nearest wetland. The proposed building lot coverage is 2,052 sq. ft. or 19.68% of the property. A variance to the Section 12.110.03(2) is required for the construction of the new residence. The Town of Caledonia does not review variance applications prior to presentation to the Board of Adjustment.

In reviewing the Analysis portion of the Staff Report, Kenneth Thiele states that this property is zoned R-1 Single Family Residential and a part of the Cedar Park Plat. The property will be under the 20% maximum building lot coverage, as total building lot coverage will be 19.68%. The property does have a moderate slope of 15%, sloping towards Lake Wisconsin.

He adds that the existing residence is considered to be a legal non-conforming structure, as it does not currently meet the setback to the platted centerline of Oak St. nor the setback to the northern side property line. Section 12.135.04(1)(b) allows a nonconforming structure to be replaced provided that it is restored to the size, location and use it had prior to the replacement. The proposed residence will be will be the same distance to the platted centerline and right of way to Oak St.; However, the proposal is to meet the side property setback requirements of 10 ft. and increase the depth of the

residence. For these reasons a variance is required to the setback to the centerline of Oak St.

He add that the purpose of the highway setback requirement is principally one of safety. The property in question is located on a Town road that is subject to a 25 mph speed limit. Traffic volume is relatively low, being mostly local traffic generated by residences on this road. A variance to the highway setback requirement would still permit off-street parking sufficient for normal residential use, and is not likely to result in anything that could be viewed as a traffic hazard. Additionally, Oak St. does not have the standard 66 ft. of right of way that most Town roads have and the actual road was not installed. The right of way for Oak St. is 30 ft. wide. This is demonstrated by the fact that the new residence is able to meet the 30 ft. setback to the right of way, but not meet the 63 ft. centerline setback. Furthermore, Oak St. was not constructed. The surface that is travelled to gain access to the property is actually an easement.

In reviewing the Standards for Review, he states for Unnecessary Hardship, the Board of Adjustment must determine if an unnecessary hardship exists due to Oak St. not being installed, and the platted right of way being less than the typical 66 ft. wide right of way. For Unique Property Limitation, he states this property fronts on the platted right of way of Oak St. The right of way of Oak St. is not the normal width. The width of the right of way is 30 ft. rather than the standard 66 ft. This means that the setback to the centerline of the road is the controlling setback. Given the size, slope and area required for the replacement POWTS it would be very difficult to construct a new residence, while meeting all setback requirements. Lastly, for Protection of the Public Interest, he states approval of the variance would not have an impact on public safety.

Property owner Scott Mueller is present and sworn in.
8504 Arbor Trace Drive
Verona, WI

Neighbor James Appell is present and sworn in.
W11844 Oak Street
Merrimac, WI

Scott Mueller elaborates on the history of cabin, stating the origin of the structure was a chicken coop built by a liquor store owner. He reviews the issues he has with it such as height of structure, humidity, insulation, floor, doors, electrical work, and staircase.

Scott Mueller and James Appell both review how the county doesn't plow road, how it's an unnecessary hardship with the 63 foot setback, and how lot is narrow. Scott Mueller states a unique property limitation is the slope. He adds there is no public safety issue, as road is 25 MPH.

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.

Emmett O'Neill states he believes they meet the unnecessary hardship and unique property limitation requirement.

Craig Robson states he agrees they meet all 3 requirements.

Motion by Emmett O'Neill to approve variance for "Minimum Required Setback for Front and Street Side Yards" as presented, including findings of fact, conclusions, decisions and conditions of the Staff Report.

Seconded by Pat Beghin.

Motion carried, unanimously.

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

Item II Variance Consideration –Minimum Required Setback for Front and Street Side Yards; Petitioner: Yevgeniya Rudnytsky – Town of Lodi

Andy O'Brion reviews the Staff Report. He states the subject property was bought in 2014 by the current owner. The property is 16,067 sq. ft. in size and the zoning for the property is R-1 Single Family Residential. He states in May 2021 the property owner obtained zoning permit 21-123. The zoning permit was issued to construct an 864 sq. ft. attached garage with a 262 sq. ft. foyer while meeting all setbacks and other requirements. The owners are now proposing to enclose a portion of the existing deck. The proposed side yard setback for the proposed addition near the Northeast property line is 21', with the minimum being 10'. The proposed Center Line and Right-of-Way setbacks are 54' and 29', 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 18.11%. The allowed building lot coverage for an R-1 zoned lot is 20%. Lake Point Drive has a Right-of-Way width of 50'. Typical Town road Right-of-Ways are 66' in width.

Andy O'Brion adds that the Town of Lodi recommended approval for all requested variances.

In reviewing the Analysis portion of the Staff Report, he states the property owners received a zoning permit to construct a new attached garage and foyer on the property on May 6, 2021. Proposed setbacks at that time met or

exceeded the minimum required setbacks. With that permit, 16.67% building lot coverage was approved. Proposed Building Lot coverage with the proposed addition is 18.11%. Maximum Building Lot coverage is 20% for a lot zoned R-1. North Lake Point Drive is a 50' wide Right-of-Way. The typical Right-of-Way width is 66'. The Right-of-Way setback is based on that 66' Right-of-Way. The reduced Right-of-Way width makes it harder to achieve that setback. The speed limit on North Lake Point Drive is 25 miles per hour. The property lies on the inside of a curve in the road, more than likely making the actual traveled speed less than the posted speed limit. The low speed makes safety less of a concern with this request. He states many properties on North Lake Point Drive currently have setbacks that are similar or less than what the applicant is asking for. The proposed addition will fit into the character of the neighborhood. The applicant wishes to add additional "common area" in the home. The layout and location of the bedrooms make the proposed location the most desirable location to do so. While the lot is in close proximity to Lake Wisconsin, it does not fall under the Shoreland Wetland Protection Ordinance, therefore, Impervious Surfaces are not regulated.

In reviewing the Standards for Review, Andy O'Brion states for Unnecessary Hardship, the reduced Right-of-Way width, the location of the existing home and the interior layout when combined together may constitutes an unnecessary hardship. The Board of Adjustment is to determine if this fits the definition of an unnecessary hardship. For Unique Property Limitation, he states the reduced Right-of-Way width and the location of the existing home creates a unique property limitation. Lastly, for Protection of the Public Interest, he states approval of the variance would only have a very minor negative impact on public safety.

Husband of owner, Oleg Rudnytsky is present and sworn in.
N2856 N Lake Point Drive
Lodi, WI

Oleg Rudnytsky states he moved 10 years ago from Paltine, IL, and is now living full time in Lodi. This used to be used as a vacation home. He states garage wasn't an issue- but it's a small area and the house has no dining room. He states they need a foyer, but it's taking up space too. As for the safety portion, he states that there's 2 enforced traffic lights on street, and road is curved, so you can barely go the 25MPH as it is. He adds that since he moved, his dream has been to have a big family house, and would like more room for his mom to come as well. He states that his neighbors support him in this, his church as well.

Craig Robson asks for clarification on setback requirements.

Andy O'Brion explains the specific setbacks to this proposal.

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.

Ralph Hemling asks if this proposal is consistent with the other houses in the area.

Andy O’Brion confirms it is, and some are even closer than this.

Al Kaltenberg asks if this nonconforming.

Andy O’Brion states that if they were just asking to replace the deck as is, it wouldn’t need a variance, but since they are enclosing it and making it a little bigger, they do need this variance.

Pat Beghin states he doesn’t believe there are safety issues- especially since this has always been there, and limited people traveling on that road as they stated it is a private drive. He states there’s a unique property limitation, as this “town” road is less than the standard town road, the setbacks are harder to meet.

Al Kaltenberg states there’s a hardship, as the deck is not changing the footprint, and they could replace it as is without a variance.

Motion by Pat Beghin to approve variance for “Minimum Required Setback for Front and Street Side Yards” as presented, including findings of fact, conclusions, decisions and conditions of the Staff Report.

Seconded by Craig Robson.

Motion carried, unanimously.

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

12. Adjourn Meeting


Motion by Ralph Hemling to adjourn meeting.

Seconded by Emmett O’Neill.

Motion carried unanimously.

Meeting adjourned at 3:46 PM.

Respectfully submitted,



Board of Adjustment



Recording Secretary
Lauren Ramirez, Office Administrator

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

