

ROCK COUNTY BOARD OF ADJUSTMENT
May 25, 2016
COURTHOUSE CONFERENCE CENTER
SECOND FLOOR, ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN

MINUTES

Chair Jones called the May 25, 2016 meeting of the Rock County Board of Adjustment to order at 6:03 p.m. at Courthouse Conference Center.

Board of Adjustment members in attendance at roll call: Henry Stockwell, Francette Hamilton, Jo Miller, JP Lengjak (alternate), Harry O'Leary, Chairman Don Jones.

Development staff in attendance: Colin Byrnes (Director Rock County Planning), Andrew Baker (Senior Planner/Zoning Administrator), and Kurt Wheeler (Planner III /Acting Secretary).

Others in attendance: Phillip Monk, Janice Lack, Jonathan Lack, Lori Richardson, Jim Henning, Randy McClure.

Adoption of Agenda: Motion by Henry Stockwell to adopt the agenda, **Seconded** by Francette Hamilton. Motion approved 5-0

Reading and Approval of the Minutes – March 23, 2016: **Motion** by Francette Hamilton to approve the minutes, **Seconded** by Jo Miller. Minutes approved 5-0.

Reading and Findings of Fact from previous meeting: Keith Kapa

Chair Jones read the decision and findings of fact from the last meeting (Keith Kapa, with conditions) to all in attendance. Motion to approve by Henry Stockwell, Seconded by Francette Hamilton. Approved (5-0).

Communications: None

Reports of Committees: There were no reports of committees at this time.

Deliberation of Cases: Phillip Monk

Description of Request: The applicant is requesting a variance of the setback requirement from a County Highway, which would result in a front yard setback of thirty feet rather than the required seventy-five. Approval of the variance would allow the agency to permit the construction of an attached garage in this location. This setback standard is found in Section 4.116(g) of the Rock County Land Use, Zoning and Environmental Management Ordinance.

Chair Jones read the application information, correspondence, and portions of the staff report concerning the case. Mr. Phillip Monk was sworn in and provided an overview of the project. Discussion followed.

Mr. Baker made reference to the staff report and recommendation included in the agenda packet and highlighted the main points of consideration.

Consideration of three standards for granting a variance:

1. Unnecessary Hardship

The committee felt after discussion that strict conformity to the ordinance would not prohibit the building of the garage on this parcel, though doing so would require it to be located in the Regional Floodplain and also create access issues to the rear of the property based on the configuration and the adjacent land use (County Park). This is also a unique situation where a County Hwy is reduced to 25 mph through a small urban area. The setback requirement found in the ordinance is based on the more typical situation of vehicles traveling greater than 45-55 mph through a rural area. The applicant provided additional information as to why denial of the variance would be unnecessarily burdensome in this case.

2. Unique Property Limitation

The committee felt that a garage could be built south of the house on this property, but doing so would require it to be located in the Regional Floodplain. This would require additional fill and all other restrictions and requirements associated with Floodplain Development. Furthermore, the deeded access to the property is via an ingress and egress easement through what is now a County Park (the easement was granted in the 1930s when the property was still owned by WP&L). Constructing the garage on the south end of the lot would create additional conflicts with the public accessing and using the County Park Land.

3. Protection of the Public Interest

It is the committee's opinion that the purpose and intent of the Ordinance can be met and public welfare will generally not be effected with the less than standard setback from the Highway. As noted above, the speed limit in this area is 25 mph. The character of the neighborhood will not be changed as long as the other Ordinance standards are maintained because there are many properties developed closer to the Highway. Considering the application is requesting a single car garage, this request can be considered the minimum relief necessary to permit a garage on the property outside of the Floodplain.

Motion to approve the variance with conditions made by Henry Stockwell, **Seconded** by Francette Hamilton. Approved (5-0).

Conditions of Approval:

1. The applicant obtains any and all necessary approval and/or permits from other entities with jurisdiction including the Town of Fulton within ninety days and substantially completes the project within six months of the date of the decision.

Deliberation of Cases: Jonathan and Janice Lack

Description of Request: The applicant is requesting a variance of the setback requirements from a local road on a lot without access to a public sewer system, which is fifty feet from the property line/road right of way. This standard is found in Section 4.205 of the Rock County Shoreland Zoning Ordinance. The applicant is proposing to build an addition to attach the existing house to the existing detached garage which is approximately five to ten feet from the property line based on air photos.

Chair Jones read the application information, correspondence, and portions of the staff report concerning the case. Jonathan and Janice Lack were sworn in and provided an overview of the project. Discussion followed.

The Lack's neighbor Jim Henning spoke in favor of the project, as did neighbor Randy McClure, and neighbor Lori Richardson.

Andrew Baker summarized the staff report provided to the Board, which concluded with a recommendation to deny the application. Baker also submitted photo exhibits A-E of the current property configuration, as well as cited, as exhibit F, the current 2010 Lidar Topographic information within the Rock County GIS System for consideration.

Consideration of three standards for granting a variance:

1. **Unnecessary Hardship**

The Board considered whether or not the limitations created by the setback requirements are unnecessarily burdensome to the applicant based on the plan to attach the house to the garage, and neighborhood characteristics of similar parcels. It was felt by the committee that these lots were configured in the 1940's and in the absence of the shoreland ordinance, at that time, this garage could have been attached. The committee also felt that the structure was not obtrusive, and the request was not an over-reach by the applicants.

2. **Hardship due to Unique Property Limitation**

The committee felt that there are limitations to this property because the house and garage were likely built prior to the Shoreland Ordinance and that several other residences have garages that are similarly placed with a less than required setback.

3. **Protection of the Public Interest**

It is the committee's opinion that the purpose and intent of the Shoreland Zoning Ordinance will not be undermined based on the proposal. In addition, it was felt that the speed limit, type of road (25 mph, dead end) provided no threat to the protection of public interest.

Motion to approve with conditions made by Harry O'Leary, **Seconded** by Henry Stockwell. Approved (5-0)

Conditions of Approval:

1. The applicant obtains any and all necessary approval and/or permits (based on the plans submitted at this hearing) within ninety days. In addition, the applicant must obtain the approvals and permits from other entities with jurisdiction including the Town of Fulton building inspector and substantially completes the project within six months of the date of the decision.

Unfinished Business: None

New Business: Mr. Byrnes informed the committee that we have a potential for 4 Board of Adjustment cases in the month of June. Discussion followed concerning the committee's preference for number of cases per meeting.

Motion to Adjourn made by Henry Stockwell, **Seconded** by Jo Miller
All in Favor. **Time: 7:30 pm.**

Respectfully Submitted, by Kurt Wheeler, Acting Secretary

These Minutes are not official until approved by The Rock County Board of Adjustment