

ROCK COUNTY BOARD OF ADJUSTMENT
October 26, 2016
COURTHOUSE CONFERENCE CENTER
SECOND FLOOR, ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN

MINUTES

Chair Jones called the October 26th, 2016 meeting of the Rock County Board of Adjustment to order at 6:00 p.m. at Courthouse Conference Center.

Board of Adjustment members in attendance at roll call: Mike Saunders, Jo Miller, Harry O'Leary, J.P. Lengjak and Chairman Don Jones. Richard Plywacz was excused.

Development staff in attendance: Andrew Baker (Senior Planner/Zoning Administrator), and Kurt Wheeler (Planner III /Acting Secretary).

Others in attendance: Jim Lucke, Don Lucke, Craig Hendricks, Tom Bach, Ronald Anderson, Janet Lack, Jonathan Lack, Heidi Pichotta, Terry Downing, Supervisor Wes Davis, and Supervisor Al Sweeney.

Adoption of Agenda: **Motion** by Jo Miller, **Seconded** by Mike Saunders to adopt the agenda. Adopted (5-0)

Reading and Approval of the Minutes – August 31st 2016:

Motion was made by Harry O'Leary to adopt minutes with a correction of the date to August 31st, **Seconded** by J.P. Lengjak. Minutes approved. (5-0).

Reading and Findings of Fact from previous meeting:

None.

Announcement of Decision from Last Meeting

None

Communications:

Chair Jones read a thank you card from ECHO for the donation to the group in Henry Stockwell's name.

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

Deliberation of Cases:

A. Donald Lucke, et.al. (Continuance from August 31st.)

Chair Jones read the Legal Notice and project scope from the application to all in attendance.

Donald and Jim Lucke were sworn in and presented the project update to the committee. Mr. Lucke stated that the rip-rap project had been completed and that as a result, the proposed deck would still be within the 75 ft. shoreland setback area. Mr. Lucke offered two photos as exhibit A and B showing wildflowers that were planted on each side of the rip-rap project, and cited previous exhibits A, B, C, and D presented at last month's meeting to refresh the committee as to the project extent. Discussion followed on several acceptable revised dimensions to minimize the encroachment into the 75 ft setback. The applicants state that their primary purpose for the deck was as a safety measure to prevent access to the slope in the area that is held in place by flat flag stones.

Harry O'Leary made a motion to approve with a change to a 10 x 20' deck configuration with a connection for ingress and egress to the existing deck. That motion failed due to the absence of a second to the motion.

Findings of Fact were discussed at this point and it was determined by the board that staff's revised recommendation would create a situation where a majority of a new deck along the house would not require a variance if the dimensions were smaller. The only portion of the project that would require a variance would be the area between the patio door and the existing deck. The three criteria were discussed and the board felt this revised plan would meet all criteria.

Mike Saunders made a Motion to follow the staff's revised recommendation to approve a smaller deck, 5 ft. in depth from the outer edge of the chimney, running 20 feet along the house, with additional area approved within the setback only to connect the existing deck to the patio door area. J.P. Lengjak Seconded the Motion. Passed unanimously (5-0).

B. Alida Anderson Revocable Trust c/o Ronald Anderson

The public notice was read by chair Jones to all in attendance. Mr. Anderson was sworn in, and explained the proposed project by referring to the photo on page 21 of the agenda packet. He also provided a handout of a document (exhibit A) outlining the rationale of the project as it related to the 3 criteria for approval. Discussion followed.

Mr. Baker elaborated on the needs of the request meeting the minimum amount of relief necessary as stated in the Shoreland Zoning code. As outlined in the staff report, staff is not recommending approval as designed.

Mr. Anderson then provided a photo (exhibit B) showing the proposed orientation of the garage. Discussion followed on septic system requirements and siting, orientation options, and two additional lots across the street that were under ownership of Mr. Anderson. The property is currently served by a holding tank. There is concern that permitting the garage would eliminate a potential area for a septic system on the property.

Findings of Fact were discussed by the Board and it was felt that all 3 criteria would be met by revising the dimensions and adding conditions of approval. Harry O'Leary noted that these were existing lots prior to adoption of the ordinance, which create unique characteristics, and the fact that it is a short distance to the end of the road. J.P. Lengjak added that the intersecting zoning setback lines created a hardship.

Harry O'Leary made a motion to approve with the following conditions:

- 1). Depth of the garage changed from 32 ft. to 25 ft.
- 2). Lots to be combined by Certified Survey Map.
- 3). Lots across the street to be combined by Certified Survey Map with a deed restriction to prevent the sale separate from the subject property or development in the future to insure there is a potential area for a septic system in the future.

Seconded by Jo Miller. Variance Approved (4-1).

C. Terry Downing and Heidi Pichotta

The public notice and variance request were read by Chairman Jones. Mr. Downing and Ms. Pichotta were sworn in and Mr. Downing explained the project.

Mr. Downing started by stating that between the time of application and tonight's hearing, the size of the structure and front yard variance request had been reduced. The new configuration reduced the size of the proposed garage to 28'x30' with a 40' front yard setback. Mr. Downing presented three architectural renderings of the new design. They were labeled exhibits A, B and C. Discussion Followed. Mr. Baker clarified that the new design would result in a setback from the right of way of 25' rather than the 20' as originally requested, based on plan dimensions, a 16' separation distance between the house and the garage and measuring on the air photo and GIS parcel information. The required setback is 50'. The applicants were referring to approximately 40' from the road pavement.

Mr. Downing and Ms. Pichotta submitted 2 additional photos showing the front of the home and the impervious surface of the driveway as it exists currently.

Questions and discussions on septic system location and configuration continued. The applicants are unable to build the garage on the southern of their two lots because that is where the septic system is located.

Neighbors Jonathan and Janice Lack were sworn in by Chairman Jones and spoke in favor of the project.

Findings of Fact were discussed by the board as they related to the new design and dimensional changes. It was decided that by placing the garage over a part of the existing impervious surface, with the new dimensions, the 3 criteria would be sufficiently met.

Jo Miller made a motion to approve with the following conditions:

- 1). Certified Survey Map needed to combine lots.
- 2). Structure to occupy existing impervious surface (part of driveway) as much a feasibly possible.

Seconded by Harry O'Leary. Variance approved unanimously (5-0).

D. Wisconsin Power and Light (easement owner) on behalf of DLS Land LLC (landowner).

The public notice and variance request were read by Chairman Jones.

Mr. Hendricks and Mr. Bach explained the project and request for variance. Questions and discussion followed. The utility facility is on a permanent easement and the existing driveways have been utilized since the 1980s, but never properly permitted and/or documented as required by the Access Control Ordinance. Mr. Baker elaborated on the history of the Ordinance, which was adopted in 1974 and all existing driveways were documented on maps. New driveways after 1974 require a permit and must meet the ordinance standards for spacing, etc. The applicant is essentially requesting a variance to the spacing requirements of access points in order to get an after-the-fact permit for the driveway. The lack of an approved access to the site was discovered as part of expansion project at the site.

Board member Michael Saunders offered historic details of permitted driveways along this section of CTH J.

The Board confirmed with Staff the recommendation was to approve the variance based on the fact that this facility is existing and necessary at the current location due to the location of the underground pipeline infrastructure it is intended to serve.

Harry O'Leary made a Motion to approve as requested with the following condition:

- 1). That the applicants secure all needed and appropriate permits from Rock County Department of Public Works.

Seconded by J.P. Lengjak. Variance approved unanimously (5-0).

Unfinished Business:

Mr. Baker communicated to the board that the revised Rock County Shoreland Zoning Ordinance was on the agenda for Thursday's Rock County Board. It would be the second reading and adoption

New Business:

None

Motion to Adjourn made by Harry O'Leary, **Seconded** by Don Jones.
All in Favor. **Time: 8:37 pm.**

Respectfully Submitted, by Kurt Wheeler, Acting Secretary

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