

## Walworth County Board of Adjustment

### MINUTES

April 14, 2021 - Hearing – 9:00 AM

April 15, 2021 – Meeting – 9:00 AM

County Board Room 114

Government Center – Elkhorn, Wisconsin

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A hearing and decision meeting of the Walworth County Board of Adjustment was held on April 14, 2021, and April 15, 2021, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on April 14, 2021, were Vice-Chair Elizabeth Sukala, Secretary Ann Seaver and Board Member Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer, Josie Hanrahan, Conservation Technician and Wendy Boettcher, recording secretary were in attendance. Those present on April 15, 2021, were Vice-Chair Elizabeth Sukala, Secretary Ann Seaver and Board Member Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on April 14, 2021, and April 15, 2021, are kept on file as a matter of record.

The April 14, 2021, hearing was called to order by Vice-Chair Elizabeth Sukala at 9:00 A.M. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Ann Seaver motioned to approve the agenda as presented. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose. Ann Seaver motioned to approve the March 10 & 11, 2021, Minutes and dispense with the reading. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose. After testimony of all cases, Barbara Fischer motioned to recess until 9:00 A.M. on Thursday, April 15, 2021. Seconded by Ann Seaver. Motion carried. 3-favor, 0-oppose.** The April 14, 2021, hearing went into recess at approximately 11:04 A.M.

On April 15, 2021, at 9:00 A.M., Vice-Chair Elizabeth Sukala called the decision meeting to order. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Ann Seaver motioned to approve the agenda as presented. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Barbara Fischer motioned to adjourn until the May 12, 2021, hearing at 9:00 A.M. Seconded by Ann Seaver. Motion carried. 3-favor, 0-oppose.** The April 15, 2021, decision meeting adjourned at approximately 9:21 A.M.

Four variance hearings were scheduled and details of the April 14, 2021, hearings and the April 15, 2021, decisions are digitally recorded and available to the public upon request / video to view on our website:.

**Old Business – None**

**New Business – Variance Petitions**

Hearing – Count #9:02:23 – 9:44:46 / Decision – Count #9:00:50 – 9:03:55

**The First Hearing** was Adam J. & Jennifer L. Friemoth, owners / Johnson Sand & Gravel Inc., applicant – Section(s) 2 – Lafayette Township

Applicants are requesting a variance from Section(s) 74-56 of Walworth County's Code of Ordinances – Zoning to mine sand and gravel.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 200 foot setback for excavations.

**VARIANCE REQUEST:** The applicants are requesting a 50 foot setback from portions of the road right-of-way and east property line. The request is a variance from Section(s) 74-56 of Walworth County's Code of Ordinances – Zoning to mine sand and gravel.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 14 & 15, 2021, for the petition of Adam J. & Jennifer L. Friemoth, owners / Johnson Sand & Gravel Inc., applicant, voted to POSTPONE the request for a 50 foot setback from portions of the road right-of-way and east property line.

**Ann Seaver made a motion to postpone until after the applicants go in front of the Town of Lafayette. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found to postpone would give the applicants an opportunity to go before the Town of Lafayette for input from the Town. The Board found that Town input is important to them and the Walworth County Zoning Variance application form directs the applicant to seek a Town recommendation prior to appearing before the Board of Adjustment. There was an e-mail from the WI D.O.T., an e-mail of support from a neighboring property owner and a petition of support from neighboring property owners. A member of the Town Plan Commission spoke to request to postpone.

Hearing – Count #9:44:53 – 10:01:18 / Decision – Count #9:04:05 – 9:07:40

The Second Hearing was Kevin J. & Susan M. Armbruster, owners / Kevin Armbruster, applicant – Section(s) 10 – East Troy Township

Applicants are requesting a variance from Section(s) 74-181 / 74-219 / 74/221 / 74/236 of Walworth County's Code of Ordinances – Shoreland Zoning to replace the existing residence.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 5 foot side yard setback.

**VARIANCE REQUEST:** The applicants are requesting an addition outside of the existing building envelope 4.04 feet from the side lot line. The request is a variance from Section(s) 74-181 / 74-219 / 74-221 / 74-221 / 74-236 of Walworth County's Code of Ordinances – Shoreland Zoning to replace the existing residence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 14 & 15, 2021, for the petition of Kevin J. & Susan M. Armbruster, owners / Kevin Armbruster, applicant, voted to APPROVE the request for an addition outside of the existing building envelope 4.04 feet from the side lot line.

**A motion was made by Ann Seaver to approve the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found unique property limitations in the narrow lot and the way the channel cuts across the corner of the property. The Board found the property is the second house from the end of the road. The Board found the work is being done in the existing footprint. The Board found that having to move the wall over would be an unnecessary hardship and may result in land disturbance activities near the lake. The Board found to approve the request would cause no harm to public interests. The Board found the request to be a small increment of relief. The Board found to approve the variance request would cause less land disturbance. The Board found the neighboring property owner had no objection. The Board found the view of the property owner to the west will not be impaired. The Board found the owner had received approval from the Town. There were letters in support from the Town of East Troy and a neighboring property owner. There was no opposition.

Hearing – Count #10:01:24 – 10:31:36 / Decision – Count #9:07:52 – 9:13:55

The Third Hearing was Jamie & Jennifer L. Rubin, owners / Jamie & Jennifer Rubin, applicants – Section(s) 18 – Linn Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 6.7 foot side yard setback, a 21.8 foot rear yard setback and a maximum total impervious surface of 59.77% (existing).

**VARIANCE REQUEST:** The applicants are requesting a 5.2 foot side yard, a 19.8 foot rear yard and a total impervious surface area of 61.29%. The request is a variance from Section(s) 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 14 & 15, 2021, for the petition of Jamie & Jennifer L. Rubin, owners / Jamie & Jennifer Rubin, applicants, voted to APPROVE the request for a 5.2 foot side yard and a 19.8 foot rear yard and voted to DENY a total impervious surface area of 61.29%.

**A motion was made by Ann Seaver to approve the setbacks but not the impervious surface amount. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** For APPROVAL of the setback variances, the Board found unique property limitations in the small size of the lot and the design of the old subdivision. The Board found the applicant was making an effort to keep the footprint size close to the same as the existing footprint. The Board found that it would create an unnecessary hardship to not allow the modest room size increases involved with the upgraded living space in the home. The Board found to approve the request would cause no harm to public interests. The Board found the owner intends to build on a slab to help alleviate water issues. The Board found the owner will replace the existing cesspool with a holding tank. The Board found the owner had gotten support from neighboring property owners and the Town of Linn. For DENIAL of the impervious surface area variance, the Board found the owner could likely find ways to reduce the impervious surface total in order to comply with the ordinance. The Board found that a large amount of impervious surface already exists. The Board found additional impervious surfaces would be detrimental to the lake.

There was an e-mail of support from the Town of Linn and a letter in support from a neighboring property owner. There was a letter of opposition from the Walworth County Land Conservation Division.

Hearing – Count #10:31:44 – 11:03:54 / Decision – Count #9:14:00 – 9:19:11

**The Fourth Hearing was Gerald W. Niegelsen Trust, owner / Gerald W. Niegelsen, applicant – Section(s) 17 – East Troy Township**

Applicants are requesting a variance from Section(s) 74-174 of Walworth County’s Code of Ordinances – Shoreland Zoning to allow a stairway and a tram within 75 feet of Lake Beulah.

**REQUIRED BY ORDINANCE:** The Ordinance allows a stairway or a tram for access to the shoreline.

**VARIANCE REQUEST:** The applicants are requesting to have both a stairway and a tram. The request is a variance from Section(s) 74-174 of Walworth County’s Code of Ordinances – Shoreland Zoning to allow a stairway and a tram within 75 feet of Lake Beulah.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 14 & 15, 2021, for the petition of Gerald W. Niegelsen Trust, owner / Gerald W. Niegelsen, applicant, voted to DENY the request for both a stairway and a tram.

**A motion was made by Ann Seaver to deny the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found a hill down to a lake to be a common situation. The Board found to deny the request would not cause an unnecessary hardship. The Board found the owner is allowed access to the lake by a stair or a tram and is allowed one or the other. The Board found the current existence of both to be a self-imposed hardship. The Board found the owner agreed to remove the stairs when obtaining the zoning permit for the tram in 2015. The Board found the request to be a want and not a need. The Board found to deny the request will still allow the owner one ingress / egress to the lake. The Board found to allow more than one access from the house to the shoreline would be inconsistent with the intent of the ordinance and cause harm to public interests. The Board found the request did not meet the criteria for approval. There were letters in support from the Town of East Troy. There was no opposition.

### **Other**

- A. Discussion / possible action on Township correspondence – none

### **Staff Reports**

- A. Court cases update – none
- B. Distribution of reports, handouts and correspondence

### **Proposed discussion for next agenda**

The following items were requested to be put on the May 2021 agenda, if applicable:

- A. Discussion / possible action on Township correspondence
- B. Court cases update
- C. Distribution of reports, handouts and correspondence

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ANN SEAVER  
WALWORTH COUNTY BOARD OF ADJUSTMENT

These minutes are not final until approved by the Board of Adjustment at the next scheduled hearing date.