

Walworth County Board of Adjustment

MINUTES

July 10, 2019 - Hearing – 9:00 AM

July 11, 2019 – Meeting – 9:00 AM

County Board Room

Government Center – Elkhorn, Wisconsin

A hearing and decision meeting of the Walworth County Board of Adjustment was held on July 10 & 11, 2019, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on July 10, 2019, were Chair John Roth, Vice-Chair Elizabeth Sukala, and Secretary Ann Seaver. Nicholas Sigmund, Senior Zoning Officer, Fay Amerson, Senior Urban Conservation Technician, Josie Hanrahan, Conservation Technician and Wendy Boettcher, recording secretary were in attendance. Those present on July 11, 2019, were Chair John Roth, Vice-Chair Elizabeth Sukala and Secretary Ann Seaver. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on July 10, 2019, and July 11, 2019, are kept on file as a matter of record.

The July 10, 2019, hearing was called to order by Chair John Roth 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 Elizabeth Sukala. Motion carried. 3-favor, 0-oppose. Elizabeth Sukala motioned to approve the June 12 & 13, 2019, Minutes and dispense with the reading. Seconded by Ann Seaver. Motion carried. 3-favor, 0-oppose. After testimony of all cases, Ann Seaver motioned to recess until 9:00 A.M. on Thursday, July 11, 2019. Seconded by Elizabeth Sukala. Motion carried. 3-favor, 0-oppose.** The July 10, 2019, hearing went into recess at approximately 11:28 A.M.

On July 11, 2019, at 9:00 A.M., Chair John Roth 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 Elizabeth Sukala. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Elizabeth Sukala motioned to adjourn until the August 14, 2019, hearing at 9:00 A.M. Seconded by Ann Seaver. Motion carried. 3-favor, 0-oppose.** The July 11, 2019, decision meeting adjourned at approximately 9:58 A.M.

Four variance hearings were scheduled and details of the July 10, 2019, hearing and the July 11, 2019, decisions are digitally recorded and available to the public upon request / video to view on our website: www.co.walworth.wi.us.

Old Business – None

New Business – Variance Petitions

Hearing – Count #9:05:47 – 9:25:44/ Decision – Count #9:04:48 – 9:10:43

The First Hearing was Sean J. & Jennifer J. O’Scannlain, owners / Sean & Jennifer O’Scannlain, applicants – Section(s) 10 – Linn Township

Applicants are requesting a variance from Section(s) 74-165 of Walworth County’s Code of

Ordinances – (Shoreland) Zoning to construct an accessory structure.

REQUIRED BY ORDINANCE: The Ordinance allows a maximum of 1650 square feet of accessory structures on the parcel.

VARIANCE REQUEST: The applicants are requesting a total of 1910 square feet. The request is a variance from Section(s) 74-165 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct an accessory structure.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 10 & 11, 2019, for the petition of Sean J. & Jennifer J. O’Scannlain, owners / Sean & Jennifer O’Scannlain, applicants, voted to **APPROVE** the request for a total of 1910 square feet to construct an accessory structure.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found a unique property limitation in that a current survey identified a “gap” resulting in a discrepancy in parcel size. The Board found the variance request is necessary to construct the proposed accessory structure in light of the “gap”. The Board found the previous parcel size information and paid tax records showed the parcel to be larger and sufficient size to support the proposed structure. This situation creates an unnecessary hardship. The Board found to approve the variance request would cause no harm to public interests as the parcel is bounded by the country club maintenance buildings and an open field and has no close neighbors. The Board found the proposed structure will have a “green roof” which will allow environmentally friendly cover and reduce runoff. The Board found the structure to be a good distance from the lake. The Board found the Town of Linn Plan Commission and the Town Board approved the request. There were letters in support from a neighboring property owner and the Town of Linn. There was no opposition.

Hearing – Count #9:26:05 – 10:14:33 / Decision – Count #9:10:44 – 9:28:58

The Second Hearing was Gregory N. & Melissa Martens Drake and Matthew Lee & Neetha Ghejji Martens, owners / Gregory N. Drake, applicant – Section(s) 35 & 36 – La Grange Township

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

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot shoreyard setback.

VARIANCE REQUEST: The applicants are requesting a 0.4 foot shoreyard setback. The request is a variance from Section(s) 74-174 / 74-181 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a deck.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 10 & 11, 2019, for the petition of Gregory N. & Melissa Martens Drake and Matthew Lee & Neetha Ghejji Martens, owners / Gregory N. Drake, applicant, voted

to **APPROVE WITH CONDITIONS** the request for a 0.4 shoreyard setback. The approval is conditioned that all of the structures proposed to be removed on the exhibits must be removed and in addition, all creosote ties must be removed from the property.

A motion was made by Elizabeth Sukala to approve the variance request. Seconded by Ann Seaver.

Elizabeth Sukala withdrew her motion and revised the motion to say the variance would be approved with the condition that all creosote lumber be removed from property and also the swing set and shed. Seconded by Ann Seaver. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitation in the irregular shape of the lot that is surrounded on three sides by water. The Board found the septic system and easement existing on the property also limit options for placement of structures on the parcel. The Board found it would be an unnecessary hardship to keep or replace the existing structures when a less intrusive single structure could replace all the others. The Board found the owner stated they will replace creosote timbers on the site with a more eco-friendly material. The Board found the owner will remove all structures as per the “Deductions” shown on file Exhibit 3. The Board found the structures to be removed will reduce the number of structures in the shore yard. The Board found the proposed deck would be less intrusive than what exists. The Board found the Town recommended approval of the request. A contractor spoke in support and there were letters in support from two neighboring property owners and the Town of La Grange. There were letters in opposition from the Wisconsin Department of Natural Resources and the Walworth County Land Conservation Division.

Hearing – Count #10:15:03 – 10:33:09 / Decision – Count #9:29:38 – 9:36:56

The Third Hearing was Constance M. Bogacki Trust, owner / John Norton, applicant – Section(s) 33 – Geneva Township

Applicants are requesting a variance from Section(s) 74-165 / 74-178 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a garage.

REQUIRED BY ORDINANCE: The Ordinance requires a 25 foot street yard setback and 25 foot rear yard setback.

VARIANCE REQUEST: The applicants are requesting a 4.5 foot street yard and 4.5 foot rear yard. The request is a variance from Section(s) 74-165 / 74-178 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a garage.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 10 & 11, 2019, for the petition of Constance M. Bogacki, owner / John Norton, applicant, voted to **DENY** the request for a 4.5 foot street yard and 4.5 foot rear yard.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in the

irregular lot as well as the road running through the parcel. The Board found to deny the variance request would not cause unnecessary hardship. The Board found the existing accessory structure garage to be a reasonable size and found the existing structure can be removed and reconstructed in the same size and location without a variance. The Board found the owner has other options for storage. The Board found the variance request to be a want rather than a need. The Board found the variance request to be a large increment of relief. The Board found the variance request did not meet the criteria for approval. There was a letter in support from the Town of Geneva. There was no opposition.

Hearing – Count #10:33:40 – 11:27:50 / Decision – Count #9:37:06 – 9:46:59

The Fourth Hearing was Salvation Army, owner / Damon Lodge, applicant – Section(s) 8 / 9 / 16 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 / 74-180 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a walkway parallel to the shore, a retaining wall, grade changes, and a second access to the shoreline.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot setback for retaining walls, grade changes, and walkways parallel to the shore. The portion of the walkway parallel to the shore that is existing could be replaced in the same footprint. A second access to the shoreline is not allowed.

VARIANCE REQUEST: The applicants are requesting a walkway parallel to the shoreline and as close as zero feet from the ordinary high water mark. Some of the walkway is replacing an existing gravel walkway, but portions are outside of the current walkway footprint. Grade changes are proposed as close as approximately 2 feet from the ordinary high water mark. A retaining wall is proposed approximately 48 feet from the ordinary high water mark. A second access point to the shoreline is also being requested. The request is a variance from Section(s) 74-174 / 74-180 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a walkway parallel to the shore, a retaining wall, grade changes, and a second access to the shoreline.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 10 & 11, 2019, for the petition of Salvation Army, owner / Damon Lodge, applicant, voted to **APPROVE** the request to construct a walkway parallel to the shore, a retaining wall, grade changes, and a second access to the shoreline.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in that the property is a Salvation Army Camp that has existed since 1922. The Board also found there to be a steep slope on the property. The Board found the request to be motivated by handicap accessibility to lakefront areas. The Board found the applicant did due diligence to explore all options and is working with engineers on the project. The Board found the proposal as requested is more logical than other possible scenarios. The Board found denial of the request or implementation of other options discussed would cause unnecessary hardship. The Board

found much of the walkway is existing gravel and found the additional requested impervious surface to be a modest amount. The Board found no harm to the public interests. The Board found the request would benefit many people and the public interests. There was a letter in support from the Town of East Troy. There was a letter in opposition from the Walworth County Land Conservation Division.

Other

- A. Discussion re: signage for BOA properties
Discussion was held regarding the pros and cons of posting signs on BOA properties.
- B. Discussion / possible action on Township correspondence – none

Staff Reports

- A. Court cases update – Casto
Board members were informed the court upheld the Board of Adjustment denial of the Casto variance request.
- B. Distribution of reports, handouts and correspondence

Proposed discussion for next agenda

The following items were requested to be put on the August 2019 agenda, if applicable:

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

ELIZABETH SUKALA
WALWORTH COUNTY BOARD OF ADJUSTMENT

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