

Walworth County Board of Adjustment

MINUTES

July 14, 2021 - Hearing – 9:00 AM

July 15, 2021 – Meeting – 9:00 AM

County Board Room 114

Government Center – Elkhorn, Wisconsin

A hearing and decision meeting of the Walworth County Board of Adjustment was held on July 14, 2021, and July 15, 2021, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on July 14, 2021, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala, Secretary Barbara A. Fischer and 2nd Alternate Rose Miller. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on July 15, 2021, were Chair Ann Seaver, Secretary Barbara A. Fischer, 1st Alternate Franklin B. Jones and 2nd Alternate Rose Miller. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on July 14, 2021, and July 15, 2021, are kept on file as a matter of record.

The July 14, 2021, hearing was called to order by Chair Ann Seaver at 9:00 A.M. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Elizabeth Sukala motioned to approve the agenda as presented. Seconded by Barbara A. Fischer. Motion carried. 3-favor, 0-oppose. Barbara A. Fischer motioned to approve the June 9 & 10, 2021, Minutes and dispense with the reading. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose.** Barbara A. Fischer took the Oath of Office. The term will begin on County Board confirmation and will end on June 30, 2024. Rose Miller took the Oath of Office. The remainder of the three year term will begin on County Board confirmation and will end June 30, 2022. **After testimony of all cases, Elizabeth Sukala motioned to recess until 9:00 A.M. on Thursday, July 15, 2021. Seconded by Barbara A. Fischer. Motion carried. 3-favor, 0-oppose.** The July 14, 2021, hearing went into recess at approximately 10:50 A.M.

On July 15, 2021, at 9:00 A.M., Chair Ann Seaver 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. **Barbara A. Fischer motioned to approve the agenda as presented. Seconded by Franklin B. Jones. Motion carried. 3-favor, 0-oppose. Barb Fischer recused herself for the decision on Adam J. & Jenifer L. Friemoth, owners / Lafayette Township. Franklin B. Jones sat for the Friemoth decision in Barb’s place. After the Friemoth decision, Frank Jones stepped down and Barb Fischer participated for the remainder of the meeting. After the decisions were completed, Barbara A. Fischer motioned to adjourn until the August 11, 2021, hearing at 9:00 A.M. Seconded by Rose Miller. Motion carried. 3-favor, 0-oppose.** The July 15, 2021, decision meeting adjourned at approximately 10:02 A.M.

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

Old Business

Hearing – Count #N/A / Decision – Count #9:03: 00 – 9:27:25

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 July 15, 2021, for the petition of Adam J. & Jennifer L. Friemoth, owners / Johnson Sand & Gravel Inc., applicant, voted to DENY the request for a 50 foot setback from portions of the road right-of-way and east property line.

A motion was made by Ann Seaver to deny the variance request for discussion. Seconded by Rose Miller. Motion carried. 2-favor 1-oppose (Franklin B. Jones)

BOARD OF ADJUSTMENT FINDINGS:

April 15, 2021 Decision: 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 W.I.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.

July 15, 2021 Decision: The Board found the owner had appeared before the Town Plan Commission on June 2, 2021, and the Town Board on June 9, 2021.

The Board found no unnecessary hardship that is not financial in nature. The Board found the applicant can meet the 200 foot required setback. The Board found that the request would harm the public interests. The Board found the request to be a large increment of relief. The Board found that an increment of relief of this nature would be more appropriately considered through an ordinance amendment. The Board found the proposed 3:1 slopes could cause erosion near the lot lines. The Board found that a 50 foot setback may not allow enough room to perform restoration.

There was a letter of comment from the Town of Lafayette.

New Business – Variance Petitions

Hearing – Count #9:07:46 – 9:41:48 / Decision – Count #9:28:00 – 9:44:43

The First Hearing was Coachman’s Terrace Community, owner / Coachman’s Terrace Community, applicant – Section(s) 34 – Geneva Township

Applicants are requesting a variance from Section(s) 74-54 / 74-59 / 74-63 of Walworth County's Code of Ordinances – Zoning to allow the location of a mobile home.

REQUIRED BY ORDINANCE: The Ordinance requires a 15 foot separation between mobile homes.

VARIANCE REQUEST: The applicants are requesting a 12.69 foot separation. The request is a variance from Section(s) 74-54 / 74-59 / 74-63 of Walworth County's Code of Ordinances – Zoning to allow the location of a mobile home.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 14 & 15, 2021, for the petition of Coachman's Terrace Community, owner / Coachman's Terrace Community, applicant, voted to DENY the request for a 12.69 foot separation.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found no unique property limitations. The Board found other units in the mobile home community are similarly situated. The Board found no unnecessary hardship. The Board found many smaller mobile homes exist in the community and a smaller mobile home could be placed on this site. The Board found the previous mobile home that existed on this site had been replaced without first applying for County review and approval. The Board found that they were not provided with any documentation substantiating the previous mobile home's size and location. The Board found the large size of the mobile home being requested was a personal preference and based on financial considerations. There was a letter of support from the Town of Geneva. There was no opposition.

Hearing – Count #9:42:00 – 9:59:40 / Decision – Count #9:45:08 – 9:49:51

The Second Hearing was Wayne R. & Susan J. Anderson, owners / Wayne Roger Anderson, applicant – Section(s) 31 – Delavan Township

Applicants are requesting a variance from Section(s) 74-44 / 74-52 of Walworth County's Code of Ordinances – Zoning to house animals in an existing structure.

REQUIRED BY ORDINANCE: The Ordinance requires a 100 foot setback from side and rear property lines for a structure used to house animals.

VARIANCE REQUEST: The applicants are requesting a 95.3 foot setback. The request is a variance from Section(s) 74-44 / 74-52 of Walworth County's Code of Ordinances – Zoning to house animals in an existing structure.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 14 & 15, 2021, for the petition of Wayne R. & Susan J. Anderson, owners / Wayne Roger Anderson, applicant, voted to APPROVE the request for a 95.3 foot setback.

A motion was made by Rose Miller 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 topography of the land and the wooded nature of the property. The Board found the property is currently zoned to allow animals. The Board found to deny the request and require a new structure to be built would be an unnecessary hardship. The Board found the existing barn has existed for some time, was originally constructed to house animals, has historical agricultural value and has been well maintained. The Board found to approve the request would cause no harm to public interests and would preserve a part of Wisconsin heritage. The Board found to approve the request would benefit public interests by having less buildings on the landscape and encourage the continued existence and maintenance of the historic barn. The Board found the request to be a small increment of relief. There was a letter of support from the Town of Delavan. There was no opposition.

Hearing – Count #9:59:50 – 10:33:35 / Decision – Count #9:49:56 – 9:57:18

The Third Hearing was Michael & Debra Nowicki Trust, owner / Michael Scott & Debra Nowicki, applicants – Section(s) 12 – Richmond Township

Applicants are requesting a variance from Section(s) 74-165 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct retaining walls for a parking area.

REQUIRED BY ORDINANCE: The Ordinance requires a retaining wall to be 2 feet from the road right-of-way.

VARIANCE REQUEST: The applicants are requesting a 0 foot setback. The request is a variance from Section(s) 74-165 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct retaining walls for a parking area.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 14 & 15, 2021, for the petition of Michael & Debra Nowicki Trust, owner / Michael Scott & Debra Nowicki, applicants, voted to APPROVE the request for a 0 foot setback.

A motion was made by Rose Miller 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 slope of the property and the narrow road. The Board found there was unnecessary hardship. The Board found the property needs to have parking and there were no other alternatives. The Board found the existing parking area was failing structurally. The Board found that two walls are required perpendicular to the road regardless of the width of the parking area. The Board found no harm to the public interests. The Board found this request to be consistent with how parking problems have been solved on other properties in the neighborhood. The Board found approval would help get vehicles off the road and improve safety and snow plowing. The Board found the Town supported the application. There was a letter of approval from the Town of Richmond and a letter of comment from a Town official. There was no opposition.

Hearing – Count #10:33:45 – 10:49:58 / Decision – Count #9:57:24 – 10:01:22

The Fourth Hearing was Rosemary F. Crandall Trust, owner / Charles W. Pollard, Clair Law / Clair, Thompson & Pollard S.C., applicant – Section(s) 27 – Linn Township

Page 4 of 6

Applicants are requesting a variance from Section(s) 74-38 / 74-52 of Walworth County's Code of Ordinances – Zoning to allow a silo and barn in the C-2 zone district.

REQUIRED BY ORDINANCE: The Ordinance allows an accessory structure the size of the silo to be 17 feet high and an accessory structure the size of the barn to be 25 feet high.

VARIANCE REQUEST: The applicants are requesting a 37 foot high silo and 42 foot high barn. The request is a variance from Section(s) 74-38 / 74-52 of Walworth County's Code of Ordinances – Zoning to allow a silo and barn in the C-2 zone district. At the hearing the request was revised to a 33 foot high silo.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of July 14 & 15, 2021, for the petition of Rosemary F. Crandall Trust, owner / Charles W. Pollard, Clair Law / Clair, Thompson & Pollard S.C., applicant, voted to APPROVE the request for a 37 foot high silo and 42 foot high barn.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found the heavily wooded and hilly land to be unique property limitations. The Board found the rezone of the property from A-1, Prime Agricultural Land District to C-2, Upland Resource Conservation District necessitated the variance request. The Board found the zoning is not affecting the use of the land. The Board found the barn and the silo have been existing since 1902, prior to height restrictions. The Board found the structures to be well maintained and historical in nature. The Board found the structures are part of the working farm agricultural history of Wisconsin. The Board found to deny the variance request and require the removal of the structures would cause unnecessary hardship. The Board found to approve the request would cause no harm to public interests as the structures sit approximately 400 feet into the property. There was a letter of comment from the Walworth County Planning Department. There was an e-mail of support from the Town of Linn. 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

Page 5 of 6

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

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

BARBARA A. FISCHER
WALWORTH COUNTY BOARD OF ADJUSTMENT

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