

## Walworth County Board of Adjustment

### MINUTES

October 11, 2023 - Hearing – 9:00 AM

October 12, 2023 – 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 October 11, 2023, and October 12, 2023, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on October 11, 2023, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala and Secretary Rose Smith-Miller. Nick Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on October 12, 2023, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala and Secretary Rose Smith-Miller. Nick Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on October 11, 2023, and October 12, 2023, are kept on file as a matter of record.

The October 11, 2023, 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 Rose Smith-Miller. Motion carried. 3-favor, 0-oppose. Rose Smith-Miller motioned to approve the September 13 & 14, 2023, Minutes and dispense with the reading. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose. After testimony of all cases, Elizabeth Sukala motioned to recess until 9:00 A.M. on Thursday, October 12, 2023. Seconded by Rose Smith-Miller. Motion carried. 3-favor, 0-oppose.** The October 11, 2023, hearing went into recess at approximately 11:27 A.M.

On October 12, 2023, 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. **Elizabeth Sukala motioned to approve the agenda as presented. Seconded by Rose Smith-Miller. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Rose Smith-Miller motioned to adjourn until the November 8, 2023, hearing at 9:00 A.M. Seconded by Elizabeth Sukala. Motion carried. 3-favor, 0-oppose.** The October 12, 2023, decision meeting adjourned at approximately 9:43 A.M.

Five variance hearings were scheduled and details of the October 11, 2023, hearings and the October 12, 2023, decisions are digitally recorded and available to the public upon request / video to view on our website: / Agendas & Minutes / Board of Adjustment / Media.

**Old Business - none**

**New Business – Variance Petitions**

Hearing – FTR Count #9:03:14 – 9:32:02 / Decision – FTR Count #9:01:49 – 9:11:25

**The First Hearing** was Gustavo & Mayra Ferrer, owners / Samantha M. McCoy of Godfrey, Leibsle, Blackburn & Howarth, S.C., applicant – Section(s) 28 – Geneva Township

Applicants are requesting a variance from Section(s) 74-54 / 74-72 / 74-92 of Walworth County's Code of Ordinances – Zoning to permit the location of a residence.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 25 foot street yard setback and a 25 foot rear yard setback. The Ordinance prohibits obstructions more than 2.5 feet above the mean centerline roadway grades within the vision triangle at the intersection.

**VARIANCE REQUEST:** The applicants are requesting a residence in the vision triangle with an 18.3 foot street yard setback and a 22.4 foot rear yard setback. The request is a variance from Section(s) 74-54 / 74-72 / 74-92 of Walworth County's Code of Ordinances – Zoning to permit the location of a residence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of October 11 & 12, 2023, for the petition of Gustavo & Mayra Ferrer, owners / Samantha M. McCoy of Godfrey, Leibsle, Blackburn & Howarth, S.C., applicant, voted to APPROVE (2 – 1) the request for a residence in the vision triangle with an 18.3 foot street yard setback and a 22.4 foot rear yard setback.

**A motion was made by Elizabeth Sukala to approve the variance. Seconded by Ann Seaver. Motion carried. 2-favor 1-oppose (Rose Smith-Miller)**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the lot to be a substandard sized parcel. The Board found the parcel to be located on a corner and found the parcel had a steep slope. The Board found limited ability to build on the substandard corner lot. The Board found the construction fits within the existing development patterns in the subdivision. The Board found the house to be a good fit in the neighborhood. The Board found to deny the variance request would not serve nor benefit the public. The Board found traffic in the area is low speed. The Board found the existing situation improved traffic visibility in the vision triangle compared to the prior condition. The Board found the request for the vision triangle to be a small increment of relief. The Board found to approve the variance request would not adversely affect maintenance of the roads. The Board found the owners did receive approval from the Town of Geneva. There was a letter in support from the Town of Geneva. There was no opposition.

Hearing – FTR Count #9:32:03 – 9:54:00 / Decision – FTR Count #9:11:35 – 9:15:39

The Second Hearing was Daniel K. & Patricia J. Regan, owners / Dan Regan, applicant- – Section(s) 21 – Delavan Township

Applicants are requesting a variance from Section(s) 74-181 / 74-203 / 74-219 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence with exterior steps to the basement.

**REQUIRED BY ORDINANCE:** The Ordinance requires the residence to have a 5 foot side yard setback on the west and an 8.4 foot side yard setback on the east. The stairs are required a 3 foot side setback. Three parking stalls are required.

**VARIANCE REQUEST:** The applicants are requesting a .74 foot west side setback and a 7.22 foot east side setback for the residence, and a .74 foot setback for the stairs. Two parking stalls are requested. The request is a variance from Section(s) 74-181 / 74-203 / 74-219 / 74-232 of

Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence with exterior steps to the basement.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of October 11 & 12, 2023, for the petition of Daniel K. & Patricia J. Regan, owners / Dan Regan, applicant, voted to APPROVE the request for a .74 foot west side setback and a 7.22 foot east side setback for the residence, and a .74 foot setback for the stairs; and two parking stalls.

**A motion was made by Rose Smith-Miller to approve the variance. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found unique property limitations with a six foot utility easement on the small and narrow lot. The Board found limited ability to build in the subdivision where many parcels are substandard and small in area. The Board found the hardship was not self-created. The Board found to approve the request would cause no harm to public interests. The Board found the proposed project to be typical of the neighborhood. There was no objection from neighboring property owners. The Board found the owner received approval from the Assembly Park Architectural Committee and from the Town of Delavan. A neighboring property owner spoke in support. There were letters in support from the Assembly Park Board of Directors / Construction & Architectural Committee, and from the Town of Delavan. There was no opposition.

Hearing – FTR Count #9:54:26 – 10:21:46 / Decision – FTR Count #9:15:49 – 9:20:09

**The Third Hearing was Lori Neubauer & John T. Carroll, owners / Lori Neubauer, applicant – Section(s) 34 – La Grange Township**

Applicants are requesting a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct retaining walls and grade changes.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 75 foot shore yard setback.

**VARIANCE REQUEST:** The applicants are requesting retaining walls and grade changes with a shore yard setback of 57.6 feet. The request is a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct retaining walls and grade changes.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of October 11 & 12, 2023, for the petition of Lori Neubauer & John T. Carroll, owners / Lori Neubauer, applicant, voted to APPROVE the request for retaining walls and grade changes with a shore yard setback of 57.6 feet.

**A motion was made by Elizabeth Sukala to approve the variance. Seconded by Rose Smith-Miller. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found this to be a unique circumstance in an environmentally sensitive area. The Board found the property is located in Bubbling Springs on Lauderdale Lakes and that part of the lake is where springs that feed the lake are

located. The Board found unique property limitations in the steep slope of the property and the hill behind the property that has been cleared. The Board found to approve the request will benefit the property, the neighborhood, the entire community and the general public. The Board found to deny the variance request will allow runoff from this property to continue. The Board found to approve the variance allows the most viable solution to the runoff issues and will help prevent further damage. The Board found to approve the request will protect the public's interest in navigable waters.

There were letters in support from One Design Engineering, a neighboring property owner and from the Town of La Grange. There was a letter of opposition from the Wisconsin Department of Natural Resources.

Hearing – FTR Count #10:21:57 – 10:50:49 / Decision – FTR Count #9:20:17 – 9:26:11  
**The Fourth Hearing** was Scott & Jennifer Weidner, owners / Hippenmeyer, Reilly, Blum, Schmitzer & Fabian, S.C., applicant – Section(s) 7 – East Troy Township

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

**REQUIRED BY ORDINANCE:** The Ordinance requires a 75 foot shore yard setback.

**VARIANCE REQUEST:** The applicants are requesting an approximate 67.2 shore yard setback for the residence and a 60.5 foot setback for the deck. The request is a variance from Section(s) 74-174 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence and deck.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of October 11 & 12, 2023, for the petition of Scott & Jennifer Weidner, owners / Hippenmeyer, Reilly, Blum, Schmitzer & Fabian, S.C., applicant, voted to DENY the request for an approximate 67.2 shore yard setback for the residence and a 60.5 foot setback for the deck.

**A motion was made by Rose Smith-Miller to deny the variance. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found no unique property limitations that would prevent the construction of a code compliant residence. The Board found no unnecessary hardship as the owner bought the property knowing he wanted to build on it. The property is buildable. The house the owner is proposing was not designed to comply with the setbacks. The Board found to deny the variance request would not make the property unbuildable and the owner has other options. The Town Plan Commission recommended denial of the variance. The Town Board voted to reject the Plan Commission's recommendation. There was a letter of opposition from the Wisconsin Department of Natural Resources.

Hearing – FTR Count #10:51:11 – 11:27:13 / Decision – FTR Count #9:26:22 – 9:35:09  
**The Fifth Hearing** was Amy & Joel Brodsky Trust, owner / Thelen Total Construction, applicant – Section(s) 4 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 of Walworth County's Code of

Ordinances – Shoreland Zoning to construct a patio, retaining walls and a deck.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 75 foot shore yard setback.

**VARIANCE REQUEST:** The applicants are requesting a 13.83 foot shore yard setback for a patio with retaining walls and a 40.86 foot shore yard setback for a deck. The request is a variance from Section(s) 74-174 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a patio, retaining walls and a deck.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of October 11 & 12, 2023, for the petition of Amy & Joel Brodsky Trust, owner / Thelen Total Construction, applicant, voted to APPROVE the request for a 13.83 foot shore yard setback for a patio with retaining wall and a 40.86 foot shore yard setback for a deck.

**A motion was made by Rose Smith-Miller to approve the variance for discussion.**

**Seconded by Ann Seaver for discussion. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the parcel is allowed to have replaced house area near the lake rather than the deck, patio and retaining wall. The Board found to deny the variance request would add more impervious surface to the property. The Board found the applicant demonstrated the advantage to approve the variance request. The Board found approval would allow permeable pavers and grass rather than added impervious surface. The Board found unnecessary hardship was caused in county staff’s misinterpretation of the zoning code during the zoning permit application process. The Board found the deck and paver patio is a better alternative for the lake rather than a structure that would be more intrusive into the shore yard. The Board found the owner received Town approval. The Board found to grant the variance request will protect the public’s interest in navigable waters. There was an e-mail in support from a neighboring property owner and a letter of support from the Town of East Troy. There was a letter of opposition from the Wisconsin Department of Natural Resources.

### **Other**

- A. Discussion / possible action on Township correspondence – none
- B. Discussion re: upcoming election for chair / vice-chair / secretary
  - 1. Board members received a copy of the “Election Timing Procedure – 2020”. Anytime the chair’s 3 year term expires an election is held. Pending confirmation of Chair Ann Seavers re-appointment by the County Board of Supervisors, at the November Board of Adjustment, Ann Seaver will be sworn in, nominations will be made and a paper ballot election will be held.

### **Staff Reports**

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

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

The following items were requested to be put on the November 2023 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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ROSE SMITH-MILLER, SECRETARY  
WALWORTH COUNTY BOARD OF ADJUSTMENT

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