

Walworth County Board of Adjustment

MINUTES

January 12, 2022 - Hearing – 9:00 AM

January 13, 2022 – 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 January 12, 2022, and January 13, 2022, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on January 12, 2022, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala and Alternate Rose Miller. Alternate David J. Held, Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on January 13, 2022, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala, and Alternate Rose Miller. Alternate David J. Held, Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on January 12, 2022, and January 13, 2022, are kept on file as a matter of record.

The January 12, 2022, 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 Ann Seaver. Motion carried. 3-favor, 0-oppose. Elizabeth Sukala motioned to approve the December 8 & 9, 2021, Minutes and dispense with the reading. Seconded by Ann Seaver. Motion carried. 2-favor 1-abstain (Rose Miller) 0-oppose.** David J. Held took the Oath of Office. The term will begin on County Board confirmation and will end on June 30, 2023, or until a successor is named. **After testimony of all cases, Elizabeth Sukala motioned to recess until 9:00 A.M. on Thursday, January 13, 2022. Seconded by Rose Miller. Motion carried. 3-favor, 0-oppose.** The January 12, 2022, hearing went into recess at approximately 11:22 A.M.

On January 13, 2022, 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 Miller. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Elizabeth Sukala motioned to adjourn until the February 9, 2022, hearing at 9:00 A.M. Seconded by Rose Miller. Motion carried. 3-favor, 0-oppose.** The January 13, 2022, decision meeting adjourned at approximately 9:44 A.M.

Six variance hearings were scheduled and details of the January 12, 2022, hearings and the January 13, 2022, decisions are digitally recorded and available to the public upon request / video to view on our website: www.co.walworth.wi.us / Agendas & Minutes / Board of Adjustment / Media.

Old Business - none

New Business – Variance Petitions

Hearing – Count #9:07:31 – 9:19:37 / Decision – Count #9:02:43 – 9:06:01

The First Hearing was AC Meisner Investments LLC, owner / AC Meisner Investments LLC, Chris Meisner, applicant – Section(s) 26 – Lafayette Township Page

Applicants are requesting a variance from Section(s) 74-56 / 74-74 of Walworth County’s Code of Ordinances – Zoning to permit the existing location of a structure and add parking stalls while changing the property zone district and the use of the property.

REQUIRED BY ORDINANCE: The Ordinance requires the structure in the M-1 zone district to be at least 30 feet from the side and rear lot lines and 85 feet from the state highway. Parking stalls are required to be at least 25 feet from the state highway.

VARIANCE REQUEST: The applicants are requesting side lot line setbacks of 4.5 feet and 15.8 feet, a rear setback of 5 feet and a state highway setback of 38.8 feet. Parking is proposed 11.8 feet from the highway. The request is a variance from Section(s) 74-56 / 74-74 of Walworth County’s Code of Ordinances – Zoning to permit the location of a structure and add parking stalls while changing the property zone district and the use of the property.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of January 12 & 13, 2022, for the petition of AC Meisner Investments LLC, owner / AC Meisner Investments LLC, Chris Meisner, applicant, voted to APPROVE the request for side lot line setbacks of 4.5 feet and 15.8 feet, a rear setback of 5 feet and a state highway setback of 38.8 feet; and parking proposed 11.8 feet from the highway.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in that the building has existed for a long time. The Board also found the property is currently zoned for municipal use and had most recently been used as the Town of Lafayette garage. The Board found the property had previously been used for industrial use prior to the municipal use. The Board found the property as proposed is consistent with surrounding structures and uses. The Board found that there would not be a large increase in traffic/parking demand. The Board found the owner received Town Plan Commission and Town Board approval. There was a letter of support from the Town of Lafayette. There was no opposition.

Hearing – Count #9:19:45 – 10:03:28 / Decision – Count #9:06:05 – 9:12:37

The Second Hearing was Zachary R. Thomas, owner / William Briggs, applicant – Section(s) 29 – Geneva Township

Applicants are requesting a variance from Section(s) 74-174 / 74-203 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence, deck, walkway and driveway.

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

VARIANCE REQUEST: The applicants are requesting a residence 44.75 feet from a stream, a deck 63 feet from a stream, a walkway 38 feet from a stream and a driveway 9.3 feet from a stream. The request is a variance from Section(s) 74-174 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence, deck, walkway and driveway.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of January 12 & 13, 2022, for the petition of Zachary R. Thomas, owner / William Briggs, applicant, voted to APPROVE the request for a residence 44.75 feet from a stream, a deck 63 feet from a stream, a walkway 38 feet from a stream and a driveway 9.3 feet from a stream.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found a unique property limitation in the creek bordering the property. The Board found the stream touches only a small portion of the lot in the northeast corner of the property. The remainder of the affected stream is in the roadway. The Board found denial of the variance would prevent the owner from using the property for a permitted purpose. Without the variance, the residentially zoned lot would be unusable for its intended purpose as a residential lot. The Board found the house is being proposed on the portion of the property furthest from the stream. There was a letter of support from the Town of Geneva. A neighboring property owner spoke in opposition. There was a letter of opposition from a neighboring property owner.

Hearing – Count #10:03:35 – 10:19:33 / Decision – Count #9:12:54 – 9:15:53

The Third Hearing was Lester Ballarin, owner / Magdalena & Lester Ballarin, applicants – Section(s) 33 – Geneva Township

Applicants are requesting a variance from Section(s) 74-165 / 74-181 / 74-221 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 a 25 foot rear yard setback.

VARIANCE REQUEST: The applicants are requesting a 1.46 foot street yard setback and a 13.88 foot rear yard setback. The request is a variance from Section(s) 74-165 / 74-181 / 74-221 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 January 12 & 13, 2022, for the petition of Lester Ballarin, owner / Magdalena & Lester Ballarin, applicants, voted to APPROVE the request for a 1.46 foot street yard setback and a 13.88 foot rear yard setback.

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 the vacated railroad right-of-way being across the roadway from the house. The Board found the vacated right-of-way land would have little other use. The Board also found that much of the lot is in the floodplain. The Board found the placement of a garage is limited by the floodplain and the septic location. The Board found variance approval would allow indoor storage of property. The Board found this situation to be a common pattern of development in that area. The Board found approval of the variance request would be consistent with past approvals for accessory structures across the road in that neighborhood. There was a letter of support from the Town of Geneva. There was no opposition.

Hearing – Count #10:19:38 – 10:23:41 / Decision – Count #9:15:54 – 9:16:04

The Fourth Hearing was Benjamin D. Currie & Karli Bertocchi, owners / Benjamin D. Currie & Karli Bertocchi, applicants – Section(s) 33 – Geneva Township

Applicants are requesting a variance from Section(s) 74-54 / 74-103 of Walworth County’s Code of Ordinances – Zoning to construct a deck.

REQUIRED BY ORDINANCE: The Ordinance requires a 19’ rear yard setback for a deck.

VARIANCE REQUEST: The applicants are requesting to construct a deck that is approximately 11 feet from the rear lot line. The request is a variance from Section(s) 74-54 / 74-103 of Walworth County’s Code of Ordinances – Zoning to construct a deck.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of January 12 & 13, 2022, for the petition of Benjamin D. Currie & Karli Bertocchi, owners / Benjamin D. Currie & Karli Bertocchi, applicants, did not hold a hearing on the request to construct a deck that is approximately 11 feet from the rear lot line. The Board voted to dismiss the variance request due to lack of representation.

On Wednesday, January 12, 2022, a motion was made by Elizabeth Sukala to dismiss the hearing due to lack of representation. Seconded by Rose Miller. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found that no owner or representative appeared to present the request and therefor the variance request is dismissed due to lack of representation.

Hearing – Count #10:23:49 – 10:41:09 / Decision – Count #9:16:06 – 9:19:07

The Fifth Hearing was Wilson Aggregate LLC & Scott H. Wilson Trust & Scott N. Wilson Trust & Ruth B. Wilson Trust, owners / Johnson Sand & Gravel Inc., applicant – Section(s) 25 – Spring Prairie Township

Applicants are requesting a variance from Section(s) 74-56 of Walworth County’s Code of Ordinances – Zoning to excavate for the purpose of extraction of sand and gravel.

REQUIRED BY ORDINANCE: The Ordinance requires a 200 foot setback from property lines.

VARIANCE REQUEST: The applicants are requesting a 0 foot setback from lot lines shared by participating land owners within the proposed area of excavation. The request is a variance from Section(s) 74-56 of Walworth County's Code of Ordinances – Zoning to excavate for the purpose of extraction of sand and gravel.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of January 12 & 13, 2022, for the petition of Wilson Aggregate LLC & Scott H. Wilson Trust & Scott N. Wilson Trust & Ruth B. Wilson Trust, owners / Johnson Sand & Gravel Inc., applicant, voted to APPROVE the request for a 0 foot setback from lot lines shared by participating land owners within the proposed area of excavation

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

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in that the pit straddles multiple properties owned by related property owners. The Board found it would be unnecessarily burdensome to leave an unmined strip of land between the different parcels. The Board found an unmined strip would complicate restoration and future agricultural use of the properties. The Board found that to approve the variance request would cause no harm to public interests as the parcels involved are contiguous cooperating owners. The Board found the intent of the 200 foot setback is being met as it is intended to protect land owners surrounding the operation. The Board found one neighboring property owner spoke at the hearing and stated that the gravel operator does a good job. The Board found approval of the variance request would allow continued excavation of the needed gravel resource. A neighboring property owner spoke in support with the condition the expansion does not encroach the setback toward his property. There was a letter of support from the Town of Spring Prairie. There was no opposition.

Hearing – Count #10:41:20 – 11:22:10 / Decision – Count #9:19:08 – 9:30:39

The Sixth Hearing was Gary D. & Kathleen S. Froehlich, owners / Gary & Kathleen Froehlich, applicants – Section(s) 10 / 15 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of a patio, a shuffleboard court and a second shore yard walkway.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot shore yard setback for a patio and a shuffleboard court. Only one walkway is allowed within the 75 foot shore yard setback.

VARIANCE REQUEST: The applicants are requesting a 21.2 foot setback for a patio and a 9.7 foot setback for a shuffleboard court. A walkway is also proposed that is forked in such a fashion that more than one walkway exists within the 75 foot shore yard. The request is a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of a patio, a shuffleboard court and a second shore yard walkway.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of January 12 & 13, 2022, for the petition of Gary D. & Kathleen S. Froehlich, owners / Gary & Kathleen Froehlich, applicants, voted to DENY the request for a 21.2 foot setback for a patio and a 9.7 foot setback for a shuffleboard court; and more than one walkway within the 75 foot shore yard.

A motion was made by Elizabeth Sukala to deny the variance request for the patio and the shuffleboard court and to approve the horseshoe walk. Seconded by Rose Miller. Motion failed. 0-favor 3-oppose

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

BOARD OF ADJUSTMENT FINDINGS: The Board found no unique property limitations. The Board found the hardship to be self-created and financial in nature as the work was done incorrectly without permit approval. The board found no need for additional accesses to the shoreline as the property is fairly flat. The Board found that one access to the shore is allowed by ordinance and granting additional accesses to the shore could be precedent setting. The Board found the requested structures are desired by the property owners, but are not necessary structures. The Board found the Town denied the request. There were three letters in support from neighboring property owners. There were letters in opposition from the Town of East Troy and from the Walworth County Land Conservation Division.

Other

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

Staff Reports

- A. Court cases update – Delavan Lake Sanitary District / View Crest
Board members received a copy of the Delavan Lake Sanitary District appeal to the Board of Adjustment decision and the circuit court decision for that appeal.
- B. Distribution of reports, handouts and correspondence
 - 1. Two Board members received Christmas cards.
 - 2. Board members received copies of the 2021 Board of Adjustment Follow-up Request Annual Report / 2021 Board of Adjustment Annual Report

Proposed discussion for next agenda

The following items were requested to be put on the February 2022 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.