

## Walworth County Board of Adjustment

### MINUTES

May 12, 2021 - Hearing – 9:00 AM

May 13, 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 May 12, 2021, and May 13, 2021, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on May 12, 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. Those present on May 13, 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 May 12, 2021, and May 13, 2021, are kept on file as a matter of record.

The May 12, 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 April 14 & 15, 2021, Minutes and dispense with the reading. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose. After testimony of all cases, Ann Seaver motioned to recess until 9:00 A.M. on Thursday, May 13, 2021. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The May 12, 2021, hearing went into recess at approximately 10:28 A.M.

On May 13, 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 amended to remove Old Business Adam J. & Jennifer L. Friemoth / Lafayette Township. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Barbara Fischer motioned to adjourn until the June 9, 2021, hearing at 9:00 A.M. Seconded by Ann Seaver. Motion carried. 3-favor, 0-oppose.** The May 13, 2021, decision meeting adjourned at approximately 9:31 A.M.

Four variance hearings were scheduled and details of the May 12, 2021, hearings and the May 13, 2021, decisions are digitally recorded and available to the public upon request / video to view on our website:.

### Old Business - None

Decision – Count # N/A

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

Removed from the agenda at this time and until further notice.

**New Business – Variance Petitions**

Hearing – Count #9:02:33 – 9:15:49 / Decision – Count #9:01:32 – 9:06:19

The First Hearing was Derald W. Pontel, owner / Derald Pontel, applicant – Section(s) 14 – Sugar Creek Township

Applicant is requesting a variance from Section(s) 74-38 / 74-51 / 74-92 of Walworth County’s Code of Ordinances – Zoning to permit the size and location of an accessory structure.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 20 foot side yard setback and a maximum size of 1,650 square feet.

**VARIANCE REQUEST:** The applicant is requesting an 18.6 foot side yard setback and a total of 2,363.2 square feet in size. The request is a variance from Section(s) 74-38 / 74-51 / 74-92 of Walworth County’s Code of Ordinances – Zoning to permit the size and location of an accessory structure.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of May 12 & 13, 2021, for the petition of Derald W. Pontel, owner / Derald Pontel, applicant, voted to APPROVE the request for an 18.6 foot side yard setback and a total of 2,363.2 square feet in size.

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

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the lot to be unique because it is a small lot zoned agriculturally rather than residentially. The agricultural zoning requires larger setbacks. The Board found that the structure would meet typical residential setbacks. The Board found that a permit had been issued for the original portion of the structure in the 1990’s. The Board found the additional portion of the building had been added by a previous owner. The Board found the property to be very well maintained. The Board found that most of this is not visible from the road. The Board found to deny the variance request and require the structure to be removed would cause unnecessary hardship. The Board found to approve the request would cause no harm to public interests as the structure cannot be seen from the road. The Board found there was no objection from neighboring property owners. The Board found the owner is working with the Town to receive Town permits. There was a letter of conditional support from the Town of Sugar Creek. There was no opposition.

Hearing – Count #9:16:00 – 9:39:56 / Decision – Count #9:06:20 – 9:11:51

The Second Hearing was Raymond F. Jr. & Mary Therese Carlson, owners / Lynch and Associates, applicant – Section(s) 8 – Linn Township

Applicants are requesting a variance from Section(s) 74-201 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence.

**REQUIRED BY ORDINANCE:** The Ordinance prohibits obstructions over 2.5 feet above the mean centerline roadway grades within the 50 foot by 50 foot triangular space formed by the road intersection.

**VARIANCE REQUEST:** The applicants are requesting the residence within the vision triangle. The request is a variance from Section(s) 74-201 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 May 12 & 13, 2021, for the petition of Raymond F. Jr. & Mary Therese Carlson, owners / Lynch and Associates, applicant, voted to APPROVE the request for a residence within the vision triangle.

**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 this corner lot is unique because it is not a typical intersection. The Board found that Beach Road is a path used mostly for golf carts and walking. The Board found buildable area on the property is limited due to steep slopes. The Board found to deny the variance request would cause unnecessary hardship. The Board found the home size requested to be appropriate to the lot size. The Board found to approve the variance request would cause no harm to public interests. The Board found to approve the request would not harm the public's interest in navigable waters as the association property exists between the home and the lake. The Board found the owners are taking landscaping measures to improve the visibility situation on the property and to protect the lake. The Board found the owners have support from neighboring property owners. There were six letters in support and a letter of support from the Town of Linn. There was no opposition.

Hearing – Count #9:40:06 – 10:10:31 / Decision – Count #9:12:02 – 9:22:30

The Third Hearing was Timothy J. & Margaret M. Kumbier Trust, owner / Bret Achtenhagen's Seasonal Services Ltd., Kyle Kohlmann PLA, applicant – Section(s) 9 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to make grade changes, construct retaining walls, construct a patio, construct a sidewalk and construct a driveway.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 75 foot setback from the ordinary high water mark.

**VARIANCE REQUEST:** The applicants are requesting grade changes and retaining walls approximately 59 feet from Lake Beulah, a patio 64.12 feet from Lake Beulah, a sidewalk approximately 64 feet from Lake Beulah and a driveway approximately 34 feet from Lake Beulah. The request is a variance from Section(s) 74-174 / 74-181 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to make grade changes, construct retaining walls, construct a patio, construct a sidewalk and construct a driveway.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of May 12 & 13, 2021, for the petition of Timothy J. & Margaret M. Kumbier Trust, owner / Bret Achtenhagen's Seasonal Services Ltd., Kyle Kohlmann PLA, applicant, voted to APPROVE the request for grade changes and retaining walls approximately 59 feet from Lake Beulah, a patio 64.12 feet from Lake Beulah, a sidewalk approximately 64 feet from

Lake Beulah and a driveway approximately 34 feet from Lake Beulah.

**A motion was made by Barbara Fischer 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 the unusual lot configuration, complex slopes, a public road curves through the property, and lake frontage exists on two sides of the property. The Board found the two shore yard setbacks limit the buildable space on the property. The Board found public access to the property is small, difficult to navigate and the shape of the lot makes it difficult to create a usable driveway. The Board found to approve the variance request would improve the visibility issues with ingress / egress to the property and help address a safety concern. The Board found the owner plans to use modest height retaining walls to help control erosion on the steep slopes and protect the lake. The Board found to approve the variance request would cause no harm to public interests. The Board found to approve the variance request would protect the public's interest in navigable waters. There was a letter of support from the Town of East Troy. There was no opposition.

Hearing – Count #10:10:48 – 10:28:26 / Decision – Count #9:22:45 – 9:30:56

The Fourth Hearing was Karen E. Larson Trust and Margie C. Harris Trust, owners / Karen E. Larson and Margie C. Harris, applicants – Section(s) 25 – Whitewater Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-221 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a deck.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 47.25 foot shore yard setback.

**VARIANCE REQUEST:** The applicants are requesting a 43.1 foot shore yard setback. The request is a variance from Section(s) 74-174 / 74-181 / 74-232 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 May 12 & 13, 2021, for the petition of Karen E. Larson Trust and Margie C. Harris Trust, owners / Karen E. Larson and Margie C. Harris, applicants, voted to APPROVE the request for a 43.1 foot shore yard setback.

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

**BOARD OF ADJUSTMENT FINDINGS:** The Board found unique property limitations in the shallow depth of the lot and the steep slope down to the water. The Board found water levels fluctuate and affect setback measurements over time. The Board found the shoreline has eroded and deviates. The Board found the area of the variance request is where the shoreline cuts into the property. The Board found to approve the variance request will provide egress out of the main part of the home and improve safety. The Board found to approve the variance request would cause no harm to public interests. The Board found to approve the request will not cause view obstruction. The Board found the variance request to be a small increment of relief. The Board found no objection from neighboring property owners. The Board found the owner got approval from the Town. The Board found to approve the request would cause no harm to the

public's interest in navigable waters as the proposed deck extension will be placed over an existing concrete slab. There were letters in support from a neighboring property owner and the Town of Whitewater, and an e-mail in support from a neighboring property owner. There was an email from the Town Building Inspector confirming the project could be done meeting code. 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 June 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.