

Walworth County Board of Adjustment

MINUTES

September 14, 2022 - Hearing – 9:00 AM

September 15, 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 September 14, 2022, and September 15, 2022, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on September 14, 2022, were Vice-Chair Elizabeth Sukala, Secretary Barbara A. Fischer and 1st Alternate David J. Held. Nick Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on September 15, 2022, were Vice-Chair Elizabeth Sukala, Secretary Barbara A. Fischer and 1st Alternate David J. Held. Nick Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on September 14, 2022, and September 15, 2022, are kept on file as a matter of record.

The September 14, 2022, 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. **Barbara A. Fischer motioned to approve the agenda as presented. Seconded by David J. Held. Motion carried. 3-favor, 0-oppose. Barbara A. Fischer motioned to approve the August 10 & 11, 2022, Minutes and dispense with the reading. Seconded by David J. Held. Motion carried. 3-favor 0-oppose. After testimony of all cases, Barbara A. Fischer motioned to recess until 9:00 A.M. on Thursday, September 15, 2022. Seconded by David J. Held. Motion carried. 3-favor, 0-oppose.** The September 14, 2022, hearing went into recess at approximately 10:30 A.M.

On September 15, 2022, 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. **David J. Held motioned to approve the agenda as presented. Seconded by Barbara A. Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Barbara A. Fischer motioned to adjourn until the October 12, 2022, hearing at 9:00 A.M. Seconded by David J. Held. Motion carried. 3-favor, 0-oppose.** The September 15, 2022, decision meeting adjourned at approximately 9:26 A.M.

Four variance hearings were scheduled and details of the September 14, 2022, hearings and the September 15, 2022, 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 – Count #9:03:05 – 9:22:14 / Decision – Count #9:00:12 – 9:14:29

The First Hearing was Thomas Edward & Heather Lynn Kenney, owners / Tom & Heather Kenney, applicants – Section(s) 36 – La Grange Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a screen porch and 2nd floor addition with a cantilever.

REQUIRED BY ORDINANCE: The Ordinance requires a 5 foot side yard setback and a 44.05 foot shore yard setback

VARIANCE REQUEST: The applicants are requesting a 3 foot side yard setback and a 40.3 foot shore yard setback. The request is a variance from Section(s) 74-174 / 74-181 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a screen porch and 2nd floor addition.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of September 14 & 15, 2022, for the petition of Thomas Edward & Heather Lynn Kenney, owners / Tom & Heather Kenney, applicants, voted to APPROVE the request for second story three foot setback, voted to APPROVE the cantilever setback and voted to DENY the screen porch setback.

A motion was made by David J. Held to approve the variance. Seconded by Elizabeth Sukala for discussion.

David J. Held withdrew his motion. Elizabeth Sukala was agreeable to the withdrawing of the motion.

David J. Held made a motion to approve the second story three foot setback, approve the cantilever setback and deny the screen porch setback. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS:

APPROVAL of the second story three foot setback and the cantilever setback: The Board found unique property limitations in the small lot size and irregular shoreline that appears to be manmade. The Board found the shoreline immediately juts out on the corner rather than having a gradual contour. The Board found the existing house is at the 3 foot setback and the 2nd story stays in that existing footprint. The Board found the cantilever comes out from the corner of the house. The Board found it would be an unnecessary hardship to alter that existing footprint or to have to make alternative designs for the small increment of relief needed. The Board found the cantilever would only encroach approximately 4 tenths of a foot. The Board found to approve these variance requests would cause no harm to public interests as there is no increase in impervious surface area and the proposed changes will stay in the existing footprint or above existing concrete. The Board found the request to be a small increment of relief.

DENIAL of the screen porch:

The Board found the owner did not meet the criteria for unnecessary hardship. The Board found the owner has existing decks and other seating area available.

The Board found the owner could potentially redesign the house to include a screen porch in the existing footprint.

There were letters of support from the Town of La Grange and a neighboring property owner. There was an e-mail of opposition from the Wisconsin Department of Natural Resources.

Hearing – Count #9:22:30 – 9:40:43 / Decision – Count #9:14:32 – 9:17:54

The Second Hearing was Eyecon LLC, owner / Tim Torkelson, applicant – Section(s) 22 - Delavan Township

Applicants are requesting a variance from Section(s) 74-201 of Walworth County’s Code of Ordinances – Shoreland Zoning to permit the location of a parking lot.

REQUIRED BY ORDINANCE: The Ordinance prohibits parking within the triangular space formed by two intersecting street right of way lines and a line joining points on such lines located 50 feet from their intersection.

VARIANCE REQUEST: The applicants are requesting to park vehicles within the vision triangle. The request is a variance from Section(s) 74-201 of Walworth County’s Code of Ordinances – Shoreland Zoning to permit the location of a parking lot.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of September 14 & 15, 2022, for the petition of Eyecon LLC, owner / Tim Torkelson, applicant, voted to DENY the request to park vehicles within the vision triangle.

A motion was made by David J. Held to disapprove the variance. Seconded by Barbara A. Fischer. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found no unique property limitations. The Board found the application did not meet the criteria for unnecessary hardship. The Board found the conditional use placed on the property in 2002 required the vision triangle to be planted in lawn and or plantings and it was never done. The Board found the owner had sufficient area to display cars without variance approval. The Board found the applicant’s stated hardships were financial in nature. The Board found that visibility at the intersection is good, but that alone is not enough to satisfy the criteria for granting the variance. There was a letter of support from the Town of Delavan. There was no opposition.

Hearing – Count #9:40:50 – 10:14:55 / Decision – Count #9:17:55 – 9:22:06

The Third Hearing was Lance & Co LLC, owner / Nicholas Mather, Deep River Partners Ltd, applicant – Section(s) 9 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence, fire pit and planters.

REQUIRED BY ORDINANCE: The Ordinance requires a 25 foot street yard setback for the residence and a 75 foot shore yard setback for the fire pit and planters.

VARIANCE REQUEST: The applicants are requesting a 7.92 foot street yard setback for the residence and an approximate 20 foot shore yard setback for the fire pit and the planters. The request is a variance from Section(s) 74-174 / 74-181 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence. Before the hearing the applicants

withdrew the request for the fire pit and planters.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of September 14 & 15, 2022, for the petition of Lance & Co LLC, owner / Nicholas Mather, Deep River Partners Ltd, applicant, voted to APPROVE the request for a 7.92 foot street yard setback for the residence.

A motion was made by Barbara A. Fischer to approve the variance for discussion. Seconded by Elizabeth Sukala for discussion. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found a unique property limitation in the extremely steep slope of the property. The Board also found the private road access on the lot to be a unique property limitation. The Board found the property does need retainment to address the slopes and drainage issues on the property. The Board found hardship in that the lot cannot, reasonably, use the shared road/driveway due to the slopes. The Board found to approve the variance request would cause no harm to public interest. The Board found the roadway encroached upon is basically a shared driveway and all but one of the other homes have branched off the road before the area in question. The Board also found the proposed construction is working to address water runoff and erosion by constructing it in this manner. There was an e-mail of support from the Town of East Troy and a letter of support from neighboring property owners. There was no opposition.

Hearing – Count #10:15:08 – 10:30:01 / Decision – Count #9:22:16 – 9:25:48

The Fourth Hearing was Frank J. & Karen Gentile, owners / Tim Lynch, applicant – Section(s) 18 – Linn 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 drive and walkway.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot setback from the ordinary high water mark for the proposed driveway, parking / turn-around areas, walkway and grade changes.

VARIANCE REQUEST: The applicants are requesting a driveway that crosses a stream. The driveway and grade changes would be 0 feet from the ordinary high water mark. Parking / turn-around areas are proposed approximately 73 feet from the ordinary high water mark. A walkway is proposed 67 feet from the ordinary high water mark. The request is a variance from Section(s) 74-174 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a driveway and walkway.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of September 14 & 15, 2022, for the petition of Frank J. & Karen Gentile, owners / Tim Lynch, applicant, voted to APPROVE the request for a driveway that crosses a stream; driveway and grade changes 0 feet from the ordinary high water mark; parking / turn-around areas proposed approximately 73 feet from the ordinary high water mark and a walkway proposed 67 feet from the ordinary high water mark.

A motion was made by Barbara A. Fischer to approve the variance. Seconded by David J. Held. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found a unique property limitation in the creek that runs along the road frontage making accessibility to the property difficult. The Board found a hardship in that without being able to cross the creek there would be no use of the residential property for the permitted purpose. The Board found to approve the variance request would cause no harm to public interests as the applicants have proposed a minimally invasive driveway and sidewalk design. The Board found the owner greatly reduced the amount of impervious surface in the shore yard from the previous design submitted. The Board found the associated grade changes were being kept to the minimum amount necessary to accommodate the project. There were five e-mails / letters in support from the Town of Linn and neighboring property owners. 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 - none

Proposed discussion for next agenda

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