

Walworth County Board of Adjustment
MINUTES

October 12, 2022 - Hearing – 9:00 AM

October 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 October 12, 2022, and October 13, 2022, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on October 12, 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 October 13, 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 October 12, 2022, and October 13, 2022, are kept on file as a matter of record.

The October 12, 2022, hearing was called to order by Acting-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. **Dave Held motioned to approve the agenda as amended to remove hearing #1 Bernardi & Cook / East Troy Township. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose. Barb Fischer motioned to approve the September 14 & 15, 2022, Minutes and dispense with the reading. Seconded by Dave Held. Motion carried. 3-favor 0-oppose. After testimony of all cases, Dave Held motioned to recess until 9:00 A.M. on Thursday, October 13, 2022. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The October 12, 2022, hearing went into recess at approximately 10:58 A.M.

On October 13, 2022, at 9:00 A.M., Acting-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. **Barb Fischer motioned to approve the agenda as amended to postpone hearing #1 Bernardi & Cook / East Troy Township. Seconded by Dave Held. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Dave Held motioned to adjourn until the November 9, 2022, hearing at 9:00 A.M. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose.** The October 13, 2022, decision meeting adjourned at approximately 9:26 A.M.

Six variance hearings were scheduled and details of the October 12, 2022, hearings and the October 13, 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 #N/A – N/A / Decision – Count #N/A – N/A

The First Hearing was Andrew & Alex Bernardi and Craig & Mary Cook, owners / Hackbarth Builders, applicant – Section(s) 18 – East Troy Township

Applicants are requesting a variance from Section(s) 74-165 / 74-181 / 74-221 / 74-236 of Walworth County's Code of Ordinances – Shoreland Zoning to construct an accessory structure.

REQUIRED BY ORDINANCE: The Ordinance requires a 25 foot street yard, 25 foot rear yard, 10.48 foot side yards and a maximum size of 341.8 square feet. A principal structure is also required prior to an accessory structure.

VARIANCE REQUEST: The applicants are requesting an 896 square foot garage on a parcel with no principal structure. Also requested is a 17.96 foot street yard, 5 foot rear yard, 9 foot side yard and 10.14 foot side yard. The request is a variance from Section(s) 74-165 / 74-181 / 74-221 / 74-236 of Walworth County's Code of Ordinances – Shoreland Zoning to construct an accessory structure.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 & 13, 2022, did not vote on the petition of Andrew & Alex Bernardi and Craig & Mary Cook, owners / Hackbarth Builders, applicant.

BOARD OF ADJUSTMENT FINDINGS: The hearing was postponed at the applicant's request.

Hearing – Count #9:03:11 – 9:36:20 / Decision – Count #9:00:25 – 9:03:35

The Second Hearing was Debra D. Hall Trust, owner / Debra & Christopher Hall, applicants – Section(s) 25 – La Grange Township

Applicants are requesting a variance from Section(s) 74-174 / 74-182 / 74-189 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to place a park model with an addition and patio.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot shore yard setback and 5 foot street yard setback.

VARIANCE REQUEST: The applicants are requesting shore yard setbacks of 73.88 feet for the park model, 66.7 feet for the addition and approximately 58 feet for a patio. Street yard setbacks are requested of 1.7 feet and 2 feet for the park model and 4.04 feet for the addition. The request is a variance from Section(s) 74-174 / 74-182 / 74-189 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to place a park model with an addition and patio.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 & 13, 2022, for the petition of Debra D. Hall Trust, owner / Debra & Christopher Hall, applicants, voted to DENY the request for shore yard setbacks of 73.88 feet for the park model, 66.7 feet for the addition and approximately 58 feet for a patio, street yard setbacks at 1.7 feet and 2 feet for the park model and 4.04 feet for the addition.

A motion was made by Barb Fischer to deny the variance. Seconded by Dave Held. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found the owner did not provide any unique property limitations. The Board found there was no unnecessary hardship provided. The Board found there is already an existing home with an addition on the property. The Board felt the structures may be allowed to be replaced in the existing locations. The Board found the owner provided nothing different that showed she cannot build in the same location. The Board found the owner's request was denied twice by the Town of LaGrange. The Board found the variance request did not meet the criteria for approval. There were five letters in support from neighboring property owners. There was no opposition.

Hearing – Count #9:36:38 – 10:10:25 / Decision – Count #9:03:40 – 9:09:11

The Third Hearing was Kenneth & Kelsi Wisniewski Trust, owner / Jacob Addis, Architect, applicant – Section(s) 32 – Delavan Township

Applicants are requesting a variance from Section(s) 74-168 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a three story residence with a height of 33 feet 6 inches.

REQUIRED BY ORDINANCE: The Ordinance requires the residence to have a 25 foot street yard setback and 5 foot side yard setbacks. The residence requires a 60.65 foot shore yard setback from the ordinary high water mark of the shoreline to the west and a 75 foot setback from the ordinary high water mark of the shoreline to the east. The residence is required to be at least 22 feet wide.

VARIANCE REQUEST: The applicants are requesting a residence with a 20.5 foot street yard, a 3.2 foot side yard setback on one side and a 4.7 foot side yard on the other side. A shore yard setback of 47.9 feet is requested from the west ordinary high water mark and a 49.5 foot shore yard setback is requested from the east ordinary high water mark. The residence is proposed to be 20.5 foot wide. Variance approval was granted for these requested dimensions in June 2022 for a 2 story house with a height of 28 feet 2 inches. The request is a variance from Section(s) 74-168 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a three story residence with a height of 33 feet 6 inches.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 & 13, 2022, for the petition of Kenneth & Kelsi Wisniewski Trust, owner / Jacob Addis, Architect, applicant, voted to DENY the request for a residence with a 20.5 foot street yard, a 3.2 foot side yard setback on one side and a 4.7 foot side yard on the other side, a shore yard setback of 47.9 feet from the west ordinary high water mark and a 49.5 foot shore yard setback from the east ordinary high water mark and a residence 20.5 feet wide.

A motion was made by Barb Fischer to deny the variance. Seconded by Dave Held. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found the owner received Walworth County variance request approval in June 2022 for a residence and modified approval for a smaller patio. The Board found there was no recommendation provided from the Town for this revised variance request. The Board found the modified approval for a smaller patio in June 2022 was a reason stated for why a third story was being requested. The Board found there is no unnecessary hardship that justifies the need for a third story on the house. The Board found the request for the third story to be a want rather than a need. There was no support. One person spoke in opposition.

Hearing – Count #10:10:35 – 10:21:25 / Decision – Count #9:09:20 – 9:14:45

The Fourth Hearing was P J F LLC, owner / P J F LLC, Linda Johnson, applicant – Section(s) 35 – Troy Township

Applicants are requesting a variance from Section(s) 74-51 / 74-92 of Walworth County’s Code of Ordinances – Zoning to construct an attached garage.

REQUIRED BY ORDINANCE: The Ordinance requires a 20 foot side yard setback.

VARIANCE REQUEST: The applicants are requesting a 10.7 foot side yard setback. The request is a variance from Section(s) 74-51 / 74-92 of Walworth County’s Code of Ordinances – Zoning to construct an attached garage.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 &13, 2022, for the petition of P J F LLC, owner / P J F LLC, Linda Johnson, applicant, voted to APPROVE the request for a 10.7 foot side yard setback.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found the parcel to be unique in that it is a wooded, substandard sized A-1 zoned property. The Board found the parcel size limits the available locations for a garage on the property. The Board found the location of the existing septic system further limits options. The Board found the parcel does not have a garage. The Board found to approve the variance request would cause no harm to public interests. The Board found the lot to be heavily wooded on one side and in a rural location surrounded by farm fields. The Board found approval of the variance request will allow property to be stored indoors. The Board found the owner did receive approval from the Town. There was no support. One person spoke in opposition.

Hearing – Count #10:21:45 – 10:42:07 / Decision – Count #9:14:50 – 9:22:48

The Fifth Hearing was 1998 Kennedy Trust, owner / Rob Miller Homes & Bret Achtenhagen Seasonal Services, applicant – Section(s) 9 – East Troy Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-203 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a patio, retaining wall, walkway, stepping stone walkway and 22 foot wide driveway. Grade changes are also proposed.

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

VARIANCE REQUEST: The applicants are requesting shore yard setbacks of 58.72 feet for the patio, 36.11 feet for the retaining wall, 53.23 feet for the walkway, 38.13 feet for the stepping stone walkway, approximately 32 feet for the driveway and approximately 37 feet and 40.02 feet for the grade changes. The request is a variance from Section(s) 74-174 / 74-181 / 74-203 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a patio, retaining wall, walkway, stepping stone walkway and 22 foot wide driveway. Grade changes are also proposed.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 & 13, 2022, for the petition of 1998 Kennedy Trust, owner / Rob Miller Homes & Bret Achtenhagen Seasonal Services, applicant, voted to APPROVE the request for shore yard setbacks of 58.72 feet for the patio, 36.11 feet for the retaining wall, 53.23 feet for the walkway, 38.13 feet for the stepping stone walkway, approximately 32 feet for the driveway and approximately 37 feet and 40.02 feet for the grade changes.

A motion was made by Barb Fischer to approve the variance for discussion. Seconded by Dave Held. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in the steep slope of the parcel located on a peninsula. The Board found the property being bordered on two sides by water created two 75 foot setbacks which is also a unique property limitation. The Board found the two 75 foot setbacks also created a hardship. The Board found the patio is replacing an existing patio in the same general location. The Board found the existing garage is very near the road and acts as a retaining wall and is in poor condition. The Board found to approve the retaining wall will allow the garage to be relocated further from the street. The new retaining wall in that location is then needed to support the soil and help prevent erosion into the lake. The Board found the retaining wall is being kept fairly short and the proposed grade changes on the property are being kept fairly minor. The Board found the proposed driveway is replacing the existing garage and driveway. The Board found to put the garage back to the house allows for parking off the street. The Board found the current garage does not meet setback requirements and approval of the variance request will allow the proposed garage to meet setback requirements. The Board found the stepping stone walkway is very minor. The Board found the walkway will allow sidewalk safety getting people from the front door to the driveway location. The Board found the owner kept requests minimal. There was an e-mail in support from the Town. There was no opposition.

Hearing – Count #10:42:18 – 10:57:41 / Decision – Count #9:23:01 – 9:26:04

The Sixth Hearing was John & Sandra Chitjian, owners / Sweet & Maier SC, Christina M. Green, applicant – Section(s) 25 – Whitewater Township

Applicants are requesting a variance from Section(s) 74-165 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a garage and retaining walls.

REQUIRED BY ORDINANCE: The Ordinance requires a 10 foot street yard setback for the garage and a 2 foot street yard setback for the retaining walls. The residence is required to have three off-street parking stalls.

VARIANCE REQUEST: The applicants are requesting a 3.8 foot street yard for the garage, a 0 foot setback for the retaining walls and two off-street parking stalls. The request is a variance from Section(s) 74-165 / 74-203 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a garage and retaining walls.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 12 & 13, 2022, for the petition of John & Sandra Chitjian, owners / Sweet & Maier SC, Christina M. Green, applicant, voted to APPROVE the request for a 3.8 foot street yard for the garage, a 0 foot setback for the retaining walls and two off-street parking stalls.

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

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in the very steep slope. The Board found the existing driveway poses a safety concern due to the slope. The Board found to approve the variance requests will improve safety on the property. The Board found to approve the variance request will cause no harm to public interests. The Board found there will be adequate space for parking inside the garage and in front of the garage. The Board found an encroachment agreement with the Town of Whitewater is being recorded to address the road encroachments. There were letters of approval from the Town and two 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 November 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.