BOARD OF ADJUSTMENT PUBLIC HEARING

Monday, May 18th, 2015
Administrative Center – Basement – County Board Room
6:00 p.m. – 7:52 p.m.

MEMBERS PRESENT: Howard Raymer, Dave Eilertson, Tom Thompson
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Nathan Sampson (reader), Scott Custer (minutes)

CALL TO ORDER
Howard Raymer, Jr., Chair, called the meeting to order at 6:00 p.m. Let the record show that this meeting is called in full compliance with the requirements of Wisconsin Open Meetings Law.


Motion by Thompson/Raymer to reconsider the appeal.

Correspondence: An E-mail from the Town of Shelby containing the Town Board’s meeting minutes from a meeting that took place March 23rd, 2015. Under item 5, the Board recommended approval to the Board of Adjustment to allow Michele and Terry Robertson to retain a 12-ft X 12-ft detached building, in addition to a new garage.

Question Raymer: Do we have to act on this again?
Answer Sampson: Yes.

Discussion: Raymer indicated the e-mail was the only additional piece of information they had that they didn’t have at the initial appeal. The Board agreed with their original decision. The zoning permit for the new garage had the condition that the existing shed be razed.

Motion by Raymer/Eilertson to remove the 12-ft x 12-ft building as initially required and Deny this appeal.
3 Aye, 0 No, and 0 excused. Motion carried unanimously.

APPEAL NO. 2015-07 Stacy A Mitby, 2718 Oak Dr, La Crosse, WI, 54601. Permit denied for change in use of an existing detached accessory building to a single family residence where the residence partially lies within the required 75-ft setback from the Ordinary High Water Mark (OHWM) of backwaters of the Mississippi River, will not meet the required 10-ft side yard for a two-story residence, and would lie on a substandard lot under common ownership with an adjacent lot after September 4, 1970. Property described as Lot 7 of Block 1, Zielke Addition. Tax parcel 11-1693-0. Property address 2718 Oak Dr. Town of Shelby.

Appearing in favor: Stacy A Mitby, 2718 Oak Dr, La Crosse, WI, 54601. Ms. Mitby explained there is an existing garage and that she would like to build an apartment above the garage. She indicated that at the Town board meeting one member approved and one denied her proposal. She stated the majority of the lots in the area are 60-ft wide.

Question Eilertson: Is this a situation where the lot is not dividable?
Answer Sampson: It’s actually two lots that are contiguous, but are substandard lots under the shoreland ordinance. If those contiguous lots were under common ownership after 1970, you have to meet the minimum lot area. The two lots together only have enough square footage for one single family home.
Appearing in opposition: Patrick Nealis, 4526 Oak Drive, La Crosse WI, 54601. He stated, neither he nor his wife received a notice regarding the appeal in the mail. He provided the board with documents containing research he had done including: a FEMA map, a map showing where the ordinary high water mark was, property photos, dimensions he had collected, and a comparative value analysis from Keller Williams, a real estate agent. His letter indicated that the proposed project will de-value the surrounding properties. He was concerned that there was no place for parking, since there is no street parking. Patrick mentioned there were some junk and salvage issues on the property currently. There was concern about boat docking as well, and several boats had been pulled on shore. There is truck, trailer, and boat repair occurring on the property.

Appearing in opposition: Richard Amundsen, 2723 Oak Drive, La Crosse WI, 54601. He indicated he lived to the south of the proposed appeal. He was opposed because they were asking for relief from three different dimensional standards. There are zoning restrictions for a reason, and hardships were needed to grant a variance. The proposed second story addition would further block his view of the river. Richard had a letter from a real estate agent indicating the proposed project would lower the value of his property. He also felt that since the house would sit further back than other houses in the neighborhood, it would not fit in as well.

Appearing in opposition: Douglas Zuege, 2736 Oak Drive, La Crosse WI, 54601. He believed the number of variances being requested were too many, and should not be approved. He feels that anything built should be within the parameters of the ordinance.

Appearing in opposition: Kirk Friedline, 2742 Oak Drive, La Crosse WI, 54601. He stated he is six houses down from the Mitby property and was concerned for the stewardship of the water. He thought that having two residences and a driveway would add to runoff.

Appearing in opposition: David Loeffler, 2717 Oak Drive, La Crosse WI, 54601. He stated that this would decrease his property value and he was against it.

Appearing in opposition: Diane Janecheck, 2725 Oak Drive, La Crosse WI, 54601. She said she is concerned with how it would fit in the neighborhood, and that it would de-value the surrounding properties.

Correspondence: 1.) An e-mail from the Town of Shelby, dated and received May 15th, 2015. The e-mail contained their May 11th Town Board meeting minutes. The Board had one vote for approval, one for denial, and one member abstained. A motion was made to abstain from making a recommendation. 2.) An e-mail dated and received May 15th, 2015, from Mike Wehholz, Regional Shoreland Specialist for the Wisconsin Department of Natural Resources. A recommendation was made that the applicant build outside of the required setbacks. The applicant needs to demonstrate a hardship in order to be granted a variance. The DNR recommend that the request be denied.

Discussion: The Board agreed that there were no hardships demonstrated, and the appeal should be denied.

Motion by Eilertson/Thompson to Deny this variance because no hardship had been proven that is unique to the property, and is not self-created. 3 Aye, 0 No, and 0 excused. Motion carried unanimously.

APPEAL NO. 2015-08 Timothy G and Cheryl J Collins, 1650 Bainbridge St, La Crosse, WI, 54603. Permit denied to replace an existing 50-ft long, 5-ft tall retaining wall constructed of railroad ties within a landscape block retaining wall of the same dimensions and same location that would lie 30-ft from the Ordinary High Water Mark (OHWM) of Richmond Bay. Property described as Part of Gov't Lot 7 in Section 19, T16N, R7W. Tax parcel 4-782-0. Property address 1650 Bainbridge St. Town of Campbell.

Appearing in favor: Timothy Collins, 1650 Bainbridge St, La Crosse, WI, 54603. There currently is a railroad tie retaining wall that is starting to deteriorate. I am concerned that the area is starting to sag down towards the water. If the high water comes, I am afraid it will take my yard out. I would like to replace it with a nice looking wall, made with landscape blocks.
Appearing in opposition: None.

Correspondence: And e-mail dated and received May 15th, 2015, from Mike Wehholz, Regional Shoreland Specialist for the Wisconsin Department of Natural Resources. Mike questioned if the retaining wall was necessary for erosion control purposes. If it is necessary, could it be put somewhere outside the 35-ft vegetative buffer setback. The department recommended that the applicant meet the hardship criteria standards for the granting of a variance if approved.

Question Collins: What is the ordinary high water mark?
Answer Sampson: It is an elevation determined by the DNR.

Discussion: The board clarified what the 35-ft vegetative buffer consisted of and what the viewing corridor consisted of. The 35-ft vegetative buffer is a portion 35-ft landward of the ordinary high water mark that must remain vegetated, with the exception of a viewing/access corridor that may be cleared. The viewing/access corridor may be up to 30-ft in width on this parcel. The retaining wall was necessary, but must stay outside the viewing corridor.

Motion by Thompson/Eilertson to Approve the appeal with the following three conditions: 1.) An erosion control permit or plan from the La Crosse County Land Conservation Department and erosion control measures implemented. 2.) The retaining wall shall be reconstructed to a minimum of 35-ft from the ordinary high water mark (OHWM). 3.) This variance expires 12 months (1 year) from approval date. 3 Aye, 0 No, and 0 excused. Motion carried unanimously.

Appeal No. 2015-09 Michael Weibel, acting o/b/o William Becker and McKinley Farms, LLC, N6098 McKinley Valley Rd, West Salem, WI, 54669. Appeal for change in use of a structure from a detached accessory building to a single family residence where the residence will not meet the required minimum 8-ft side yard. Property described as Part of the NW/NW and NE/NW of Section 24, T17N, R6W. Tax parcel 7-865-1. Property address N6098 McKinley Valley Rd. Town of Hamilton.

Appearing in favor: Michael Weibel, acting o/b/o William Becker and McKinley Farms, LLC, N6098 McKinley Valley Rd, West Salem, WI, 54669. He clarified the map the zoning department prepared was incorrect, the house and garage portion should be switched. A packet was provided to the Board with a timeline of permits obtained so far, and documentation with zoning staff regarding the site. The subject pole building was constructed between 1990 and 1993. It was an agricultural building when it was built, and no permit was required. The parcel was split after 1999. An addition was constructed on the subject agricultural building, and that included a septic being put in. There was an existing well on the site. In 2005 a letter was sent to Mr. Becker, stating he needed a change in use Zoning/Occupancy Permit (for the conversion of the accessory agricultural building to a single family home) and he needed to amend an existing conditional use permit. In 2014, the Zoning Department sent another letter saying proper permits needed to be obtained for the change in use. Minimum lot size would need to be met along with a rezone to allow for the single family home use. The rezone was approved. He stated the hardships present for this proposed variance. The parcels were not intended to be split, and the use of the building was originally meant to be for recreational/agricultural uses. The current rural zoning authorizes the residential use. Mr. Becker offered to buy additional acreage to meet setbacks, but the owner refused to sell to him. The granting of the variance would not be contrary to the interest of the public. By granting this variance, it reduces the demand for future residential development and therefore preserves existing agricultural lands.

Question Eilertson: Does he intend to rent this place?
Answer Weibel: No. He is currently occupying the place by himself. He has no intent to rent.

Appearing in opposition: None.

Correspondence: None.

Discussion: The building meets the majority of the other setbacks.
Motion by Eilertson/Thompson to Approve the appeal and that the applicant obtain an after-the-fact Zoning/Occupancy Permit for a change in use of the structure. 3 Aye, 0 No, and 0 excused. Motion carried unanimously.

APPEAL NO. 2015-10 Ryan J and Kristen M Mickschl, N6939 Sunrise Ln, Holmen, WI, 54636. Permit denied to construct a 40-ft x 50-ft detached accessory building on a 1.03 acre lot and retaining on existing 460 sq. ft. shed, exceeding the area limit for such buildings on said lot. Property described as Lots 14 & 15 of Block 6, 2nd Addition to Country Estates. Tax parcel 8-1362-0.Property address N6939 Sunrise Ln. Town of Holland.

Appearing in favor: Ryan Mickschl, N6939 Sunrise Ln, Holmen, WI, 54636. He had met with the Town Plan Commission and had changed the size of the proposed building. They were ok with it, if it remained under 1,500 square feet and if he got rid of the existing detached accessory building.

Appearing in opposition: None.

Correspondence: Two pieces of correspondence: 1.) A form letter from the seven neighbors in support of the proposed detached accessory building. 2.) E-mail from Town of Holland Clerk Marilyn Pedretti. The Town Board approved the proposed detached accessory building provided that it be under 1,500 square feet or 30-ft X 50-ft, and the siding and roof be similar to the existing house.

Discussion: The reduction in proposed size was significant.

Motion by Thompson/Eilertson to Approve the appeal with the following three conditions: 1.) The proposed detached accessory building shall not exceed 1,500 square feet in area. 2.) The existing 20-ft X 24-ft detached accessory building shall be removed from this lot. 3.) Construction shall be completed within 12 months of approval of this variance, after which the variance shall expire if the construction has not commenced or is incomplete. 3 Aye, 0 No, and 0 excused. Motion carried unanimously.

APPEAL NO. 2015-11 Todd Kendhammer, N6617 Scotch Coulee Rd E, West Salem, WI, 54669. Permit denied to construct a 14-ft x 18-ft addition to an existing single family residence where the addition will lie within the required 50-ft setback from the right of way of State Rd 108. Property described as Part of the NE/SE of Section 9, T17N, R6W. Tax parcel 7-541-0. Property address W3702 Scotch Coulee Rd W. Town of Hamilton.

Appearing in favor: Todd Kendhammer, N6617 Scotch Coulee Rd E, West Salem, WI, 54669. He stated that he bought the property across the road from this and that’s where they built their residence. It’s a small property and small building. I want to add some curb appeal and make it more functional. I am renting it now, but looking to sell it. I would like to do a two story addition, bathroom on top and garage on the bottom.

Question Eilertson: Is there an area out of the setback you could put it?
Answer Kendhammer: I would have to re-design my entire plan.

Appearing in opposition: None.

Correspondence: Three pieces of correspondence: 1.) From Ron Chamberlain, County Highway Commissioner, dated May 15th, 2015, indicating that the Highway Department objects to the variance request due to increase in traffic and likelihood of work needing to be done in the future on the road. There is potential that the Highway Department would need to purchase additional right of way, which would cost La Crosse County tax payers. 2.) Letter from Town of Hamilton Clerk, Sara Schultz, dated and received May 15th, 2015. Todd Kendhammer appeared at the Town Board meeting on May 12th, 2015. The Town made a motion to approve the proposed addition. 3.) Phone call on May 7th, 2015 from Dale Ostrick with the DOT stating he agreed with Ron Chamberlain.
**Discussion:** They agreed that they typically do not go against the Highway Department’s recommendation.

**Motion by Eilertson/Thompson to Deny** the appeal for the following reasons: 1.) It is the Board's opinion that in the absence of a variance no hardship has been proven that is unique to the property and not self-created. The addition can be constructed outside of required setbacks. 2.) It is not in the public interest if a future highway project requires the purchase of additional improvements within the highway setback or newly acquired road right of way.

*3 Aye, 0 No, and 0 excused. Motion carried unanimously.*

**APPEAL NO. 2015-12** Jolene L and Frederick R Schwingle, W8163 County Rd ZB, Onalaska, WI, 54650. Permit denied to construct a 10-ft x 23-ft addition to an existing attached garage that will lie within the required 80-ft setback from the centerline of County Road ZB. Property described as Part of Gov’t Lot 1 in Section 22, T17N, R8W. Tax parcel 10-1658-0. Property address W8163 County Rd ZB. Town of Onalaska.

**Appearing in favor:** Jolene Schwingle, W8163 County Rd ZB, Onalaska, WI, 54650. She had a letter from her neighbor in support of the appeal. She is unable to get her car into the garage as it is now. She explained that she has lots of doctor appointments to go to.

**Question Eilertson:** Is the hardship that you can’t get the car in the existing garage?

**Answer Schwingle:** Correct.

**Appearing in opposition:** None.

**Correspondence:** Five pieces of correspondence: 1.) Letter from Town of Onalaska Clerk, Melissa Erdman dated and received May 12th, 2015. They did not come before the Town Board. 2.) Letter dated April 16th, 2015 and received on April 24th, 2015 from her primary care provider Kathryn Wilson. It stated she suffers from a lung disorder. Intense activity such as snow removal and high humidity cause health problems with her lung condition. She recommended the board approve the appeal for medical reasons. 3.) E-mail from David Lange of La Crosse County’s Corporation Council. The e-mail was dated and received Monday May 18th, 2015. The e-mail stated that certain federal and state statutes recommend that health issues be considered when granting an appeal of this nature. 4.) From Ron Chamberlain, County Highway Commissioner, dated May 15th, 2015. The document indicates that the Highway Department objects to the variance request due to the potential that the highway department would need to purchase additional right of way, which would cost La Crosse County Tax Payers. 5.) Letter dated May 18th, 2015 from Signe Johnson a neighbor of Mrs. Schwingle in support of the request.

**Discussion:** The applicant needs the garage for health reasons.

**Motion by Eilertson/Thompson to Approve** the appeal with the condition that construction be completed within 12 months of the date of approval.

*3 Aye, 0 No, and 0 excused. Motion carried unanimously.*

**APPEAL NO. 2015-13** Michael F Betz and Mari S Clausen-Betz, 2408 Ristow Ct, La Crosse, WI, 54601. Permit denied to construct a 780 sq. ft. (per floor) two story addition with a second story open deck that will partially lie within the required 25-ft setback from the Ristow Ct right of way. Property described as Lot 1 of Certified Survey Map No. 102 in Volume 15. Tax parcel 11-1346-1. Property address 2406 Ristow Ct. Town of Shelby.

**Appearing in favor:** Michael Betz, 2408 Ristow Ct, La Crosse, WI, 54601. He said the proposed addition would make things safer in regards to access. There have been two accidents due to the way the house, driveway, and garage sit on the parcel. The deck depicted on the proposed appeal will be free standing. I want to put an apartment above the garage, in the proposed addition. The hardship is the danger of accidents.

**Question Eilertson:** Is it currently a rental now?
**Answer Betz:** Yes it is.

**Comment Eilertson:** There needs to be a hardship present in order to grant a variance. There is such little traffic on this road, safety doesn’t seem like enough of an issue.

**Comment Thompson:** It looks like there are other places to build that could meet setbacks.

**Appearing in opposition:** None.

**Correspondence:** Minutes from the May 11th, 2015 Town Board meeting sent by Town Clerk Michelle Kind. The Town recommends approval to the Board of Adjustment.

**Discussion:** If there is an alternative location where he can meet setbacks, he needs to do build there. There is no hardship present.

**Motion by Eilertson/Thompson** to **Deny** this appeal because it is the Board’s opinion that in the absence of a variance no hardship has been proven that is unique to the property and not self-created. An addition can be constructed outside of required setbacks without the granting of a variance.

*3 Aye, 0 No, and 0 excused. Motion carried unanimously.*

**Motion by Eilertson/Thompson** to **Adjourn** (7:52pm).

*3 Aye, 0 No, and 0 excused. Motion carried unanimously.*