BOARD OF ADJUSTMENT PUBLIC HEARING

Monday, August 19, 2019
La Crosse County Administrative Center – Basement Auditorium – Room 0430
6:00 p.m. – 7:30 p.m.

MEMBERS PRESENT: Howard Raymer, David Eilertson, Barbara Frank
MEMBERS EXCUSED: Larry Warzynski
MEMBERS ABSENT: None
OTHERS PRESENT: Nathan Sampson (Reader), Dale Hewitt (Minutes)

CALL TO ORDER

Howard Raymer, 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 the Wisconsin Open Meetings Law.

DEFERRED APPEAL NO. 2019-20 Jim Webb, 1224 King St, La Crosse, WI, 54601, o/b/o Dan Nelson of Star of the Sea, LLC, 136 Clinton St, La Crosse, WI, 54603, permit denied to construct an 82-ft x 150-ft apartment/condominium multi-family residence with a 121.5-ft height that lies 47-ft from the Ordinary High Water Mark (OHWM) of Richmond Bay and exceeds the 35-ft height limit for all structures within the required 75-ft setback from the OHWM of navigable waterways. Property described as Lot 3 of Certified Survey Map No. 120 in Volume 16 and part of Gov't Lot 5 in Section 19, T16N, R7W. Tax parcel 4-859-5 and 4-859-1. Property address 129 Clinton St. Town of Campbell.

Appearing in Favor: Jim Webb, 1224 King Street, La Crosse, WI 54601. We have been here before with a similar project last winter that was met with strong resistance by the WI DNR. The biggest problem is the basin that is part of Mr. Nelson’s property. It has been construed by the WI DNR to be part of Richmond Bay. The OHWM in that basin is applicable. We have down-sized the project so we are back with the somewhat the same, but more complaint with what we consider to be applicable rules. In regards to the unnecessary hardship; we were able to locate several municipalities that allow a reduced setback to the OHWM to 50-ft in lieu of 75-ft. One happens to be the City of La Crosse which allows buildings to be closer than 50-ft if there are existing buildings closer on adjoining properties that are less than 50-ft., but no less than 35-ft. This property is more applicable to the 50-ft setback, which is more of a standard for the urban areas, as opposed to rural areas. The Town of Campbell has a comprehensive plan. The project applies to the plan. The adjacent Kwik Trip store is less than 45-ft from the OHWM. This is zoned Commercial and commercial buildings are typically taller than 35-ft. There are only about 40 properties within the Shoreland District in Campbell that are zoned Commercial, so that makes this property unique.

Question Eilertson: What is the time frame for this to be constructed?
Answer Webb: We are at the very early stage of this. Construction would start maybe late next year.

Appearing in Favor: John McSweeny, 1360 Nakomis Avenue, La Crosse, WI 54603. This would be a good project for the area and will add a good tax base for the Town of Campbell that will benefit everyone.

Appearing in Favor: Terry Schaller, 2312 Bainbridge Street, La Crosse, WI 54603. I am the Town Board Chairman for the Town of Campbell. I am in favor of this project.

Question Raymer: Your board adopted a resolution in favor of this?
Answer Schaller: Yes.

Question Eilertson: Was it 100% for the board?
Answer Schaller: I can’t speak for everybody.
Question Frank: What was the count on the vote?
Answer Schaller: There was one gentleman who was not there, but it was unanimous with the four of us.

Appearing in Favor: Troy Littlejohn, 2710 Marion Street, La Crosse, WI 54603. I am the Parks and Rec Supervisor for the Town of Campbell. I am in favor of this project. There are many people that want to come to French Island. This is an opportunity for people to come to the island. Many people I have talked to are in favor of this project.

Appearing in Favor: Neil Tomczak, 2125 Park Avenue, La Crosse, WI 54601. I am in favor of this project. I am a boat person and this would be nice to have access to the water.

Raymer called (three (3) times) for anybody else to speak in favor. No one else appeared in favor.

Appearing in Opposition: Dennis Dorman, 1344 Nakomis Avenue, La Crosse, WI 54603. I object to the scale of this project. I also object to the height. There are unintended consequences. This project will add more traffic to Clinton Street, which is extremely busy already. This building does not keep with the architecture of French Island. This project will also bring additional boat traffic to the river, which is very busy on the weekends. I don’t boat on the weekends because of this. I have worked with setbacks and they exist for a good reason. They should have to work with them too.

Appearing in Opposition: William Druliner, W6853 Hidden Valley Road, Holmen, WI 54636. I have owned the property at 1316 and 1320 Bainbridge Street for 42 years. If it doesn’t meet the setback and height restriction, it shouldn’t be allowed.

Appearing in Opposition: Steve Diamond, 1409 Richmond Bay Court, La Crosse, WI 54603. Read a prepared statement into the public record on behalf of the Richmond Bay Court Condominium Association.

Raymer called (three (3) times) for anybody else to speak in opposition. No one else appeared in opposition and the public hearing portion was close.

Correspondence: Three pieces of correspondence.

1. Resolution passed by the Town of Campbell on February 12, 2019 in favor of the variance appeal.

2. Email dated/received August 12, 2019, received from the La Crosse County Highway Commissioner Ron Chamberlain. The La Crosse County Highway Department recommends denial to the Variance appeal as it could cost the County if additional right of way ever needed to be purchased.

3. E-mail dated/received June 17, 2019 from Kathi Kramasz, Wisconsin Department of Natural Resources, Water Management Specialist. The Wisconsin Department of Natural Resources is not in favor of variance appeal 2019-20.

Appearing in Favor: Kara Burgos, 2303 Johnson Street, La Crosse, WI 54601. I am the Attorney for Star of the Sea, LLC. I feel that we have adequality responded the concerns of the WI DNR. All of the projects Mr. Nelson has previously engaged in, has been done in compliance. This is the first step of the process, one of those could be a traffic analysis. The facility may not exist as it does now. The restaurant on-site may go by the way side. We have spoken with County personal about the well. There are other buildings of height on the island. There are mature trees that will remain to help block the view. This will be an improvement to the island, like Mr. Nelson’s other projects. The DNR has said how many marina slips can exist and this will not change. You can rent a slip. A new building will not increase the number of boaters. It is in line with what has been granted by the WI DNR. Setbacks and rules are made for a reason. There is also a reason for this board.

Comments Webb: The time for a traffic impact assessment is after this. We are asking for a variance from the 75-ft setback and the 35-ft height restriction. The WI DNR says the tallest building we submitted
in the application is a five story structure. We submitted a picture of a grain silo on the island, very close to this project that is 135-ft tall. Our project will be shorter than that.

Comments Raymer: Everyone should know that the plan you submitted shows that the existing bar and grill will be converted to an accessory structure for this building.

Comments Webb: That’s the intent now.

Question Raymer: That bar and restaurant traffic will be eliminated then?
Answer Webb: Yes. Keep in mind that this road is designed for a heavier traffic count than its being used for. It was a four lane road that is now being used as a two lane road with a turn lane in the middle, which has made access better than it used to be.

Comments Dorman: We have heard that a traffic study has yet to be done. Traffic is heavy now and will only get worse during rush hour, restaurants and the bass tournaments. There is a considerable wait. They can use city water and sewer. Why do they need a well? The scale of this is outrageous and does not keep with the architecture nature of the area. The project could be scaled back and still be feasible for Mr. Nelson.

Appearing in Opposition: Tami Diamond, 1409 Richmond Bay Court, La Crosse, WI 54603. We recently bought our property on Richmond Bay Court. We like French Island. This is a large project and trees in front if it won’t be there forever. This projects takes away our privacy. They can scale it back. I want to keep this a nice little community.

Comments Tomczak: This traffic pattern system is mind boggling to me. They talked about a bigger airport to promote more business for La Crosse. Didn’t they do a study for that? Don’t the tournaments bring in money for the area?

Discussion: The Board discussed the appeal. Eilertson quoted traffic counts taken from the WI DOT website and what he observes on Clinton Street when he drives it. Eilertson stated he lives on the island and travels it regularly and does not feel the traffic is bad. Raymer commented that Mr. Nelson has no control over traffic due to the Bass Tournaments that the city allows.

Comments Sampson: I would like to discuss process and two things. The standard for unnecessary hardship required in area variance cases is whether compliance with the strict letter of the restrictions governing area, setbacks, frontage height, bulk or density would unreasonably prevent the owner from using the property for a permitted use or would render conformity with those restrictions unnecessarily burdensome. That was a case law, Ziervogel versus Washington County Board of Adjustment. When the board acts on this, you may not simply grant or deny an application with your conclusion that satisfies the statutory criteria, but express on the record your reasoning why the application does or does not meet the statutory criteria. If it’s to grant or deny, explain why.

Question Frank: Hardship does not guarantee approval. Am I correct on that?
Answer Sampson: Correct.

Comments Frank: It needs to be factored in to the consideration, but it does not guarantee approval.

Question Frank: You did not come in with a lower building or smaller. It was the Shoreland Zoning that was addressed, correct?
Answer Webb: It is much smaller in scope than the original project that we came in with before, both square footage wise and height, 1 story.

Comment Raymer: You had to change the foot print because you got a better setback from the OHWM than what you did have, so the building has to be smaller to have done that.
**Discussion:** Eilertson discussed that the project was consistent with the town plan and the town approved it. Raymer noted that the town chairman was here in favor of the appeal. Frank commented that the Highway Department, WI DNR and a lot of the neighbors are not in favor of the appeal. Raymer commented that the WI DNR is not in favor of any appeals and provide the same letter. Raymer and Eilertson discussed that there are other developments like this along the river in Lake City and Wabasha. Frank commented that five stories is different than eight stories.

**MOTION by Eilertson/Raymer to Approve** the appeal to construct an 82-ft x 150-ft apartment/condominium multi-family residence with a 121.5-ft height that lies 47-ft from the Ordinary High Water Mark (OHWM) of Richmond Bay and exceeds the 35-ft height limit for all structures within the required 75-ft setback from the OHWM of navigable waterways because the strict letter of the law cannot be followed on this site and be in compliance with the master plan of the Town of Campbell.

2 Aye, 1 No (Frank). Motion carried

**APPEAL NO. 2019-26** Steven P and Gloria L Doyle, N5525 Hauser Rd, Onalaska, WI, 54650, permit denied to construct a 4-ft x 31-ft addition to an existing detached accessory building that will further exceed the area limit for such buildings and appeals to retain four detached accessory buildings, exceeding the number limit. Property described as the SE/NE and NE/SE of Section 28, T17N, R7W, and, Lot 1 of Certified Survey Map No. 12 in Vol. 10. Property address N5531 Hauser Rd. Tax parcels 10-741-0, 10-741-2, and 10-741-5. Town of Onalaska.

**Appearing in Favor:** Katelyn Doyle, N5525 Hauser Road, Onalaska, WI 54650. We will be removing an 8-ft x 31-ft area and replacing it with a 12-ft x 31-ft area. This will be to raise the height of a doorway to allow our horse to access the main building. We have a 22 year old horse who is blind in one eye and keeps hitting her head when she accesses the building. My parents have recently purchased additional land that was owned by my grandparents with existing out buildings.

**Question Eilertson:** What is your time frame for constructing this?
**Answer Doyle:** We have removed the 8-ft x 31-ft area and would like to start as soon as possible.

**Question Raymer:** Can you complete this in 12 months?
**Answer Doyle:** Yes.

**Question Raymer:** Did you meet with the Town of Onalaska?
**Answer Doyle:** We did and it was approved.

Raymer called (three (3) times) for anybody else to speak in favor. No one else appeared in favor.

**Appearing in Opposition:** None

Raymer called (three (3) times) for anybody else to speak in opposition. No one else appeared in opposition and the public hearing portion was close.

**Correspondence:** No correspondence.

**Discussion:** The Board discussed that they saw no issue with the appeal.

**MOTION by Frank/Eilertson to Approve** the appeal to construct a 4-ft x 31-ft addition to an existing detached accessory building that will further exceed the area limit for such buildings and appeals to retain four detached accessory buildings, exceeding the number limit, with the condition that construction be completed within 12 months of the approval of this appeal.

3 Aye, 0 No. Motion carried unanimously.

**APPEAL NO. 2019-27** Marc and Susan Anderson, 631 Mill St N, West Salem, WI, 54669, o/b/o Clarence R and Rita H Newberry, 1631 Sand Lake Rd, Apt 109, Onalaska, WI, 54650, permit denied to construct three 4-ft tall retaining walls, reconstruct an existing concrete pad, and relocate an existing detached
accessory building that will all lie within the required 75-ft setback of the Ordinary High Water Mark (OHWM) of Lake Neshonoc, and the detached accessory building will lie within the required 50-ft setback from the State Rd 16 right of way. Property described as Lot 1 of Certified Survey Map No. 10 in Vol. 17. Property address W3191 State Rd 16. Tax parcel 7-940-6. Town of Hamilton.

**Appearing in Favor:** Marc and Susan Anderson, 631 Mill St N, West Salem, WI, 54669. I would like to add retaining walls. There is also a large 6-ft x 6-ft concrete pad that I would like to remove and replace with something a little bit smaller. There is a building by the waterfront that we would like to towards the back of the property. We have received our Special Exception Permit to do the work seen here.

*Raymer called (three (3) times) for anybody else to speak in favor. No one else appeared in favor.*

**Appearing in Opposition:** None

*Raymer called (three (3) times) for anybody else to speak in favor. No one else appeared in favor.*

**Correspondence:** One piece of correspondence.

1. E-mail dated and received July 11, 2019 from Sara Schultz, Town of Hamilton Town Clerk. The Town of Hamilton is in favor of variance appeal 2019-25.

**Question Eilertson:** Can you get this done in 12 months?

**Answer Anderson:** You gave us 18 months the last time.

**Discussion:** The Board discussed that they saw no issue with the appeal.

**MOTION by Eilertson/Frank to Approve** the appeal to construct three 4-ft tall retaining walls, reconstruct an existing concrete pad, and relocate an existing detached accessory building that will all lie within the required 75-ft setback of the Ordinary High Water Mark (OHWM) of Lake Neshonoc, and the detached accessory building will lie within the required 50-ft setback from the State Rd 16 right of way, with the condition that construction be completed within 18 months of the approval of this appeal.

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

**APPEAL NO. 2019-28** Paula J Knutson, W7259 Northshore Ln, Onalaska, WI, 54650, permit denied to construct a 12-ft x 29-ft addition and a 23-ft x 35-ft attached garage addition that will lie within the required setback from the Northshore Ln centerline and will exceed 50% of the fair market value for additions not defined as repair, maintenance, renovation, or remodeling, and; a 16-ft x 16-ft concrete patio that will lie within the required 75-ft setback from the OHWM of Lake Onalaska. Property described as Lots 11, 10 and the west half of Lot 9 of Duckland Subdivision, and part of the SW/SW of Section 30, T17N, R7W. Property address W7259 Northshore Ln. Tax parcel 10-1078-0. Town of Onalaska.

**Appearing in Favor:** Chad Knudson, N5996 Prairievew Drive, Onalaska, WI 54650. The patio was an existing patio with concrete blocks and we are replacing it with poured concrete. We are keeping the setbacks when compared to our neighbors.

**Question Eilertson:** What is your time frame for construction?

**Answer Knudson:** We are partnering with Mike Bluske and will start as soon as possible.

**Question Eilertson:** Can you get this done in 12 months?

**Answer Knudson:** Yes.

*Raymer called (three (3) times) for anybody else to speak in favor. No one else appeared in favor.*

**Appearing in Opposition:** None
Raymor called (three (3) times) for anybody else to speak in opposition. No one else appeared in opposition and the public hearing portion was close.

**Correspondence:** No correspondence.

**Comment Knudson:** It was approved by the Town Board.

**Question Sampson:** What was the vote by the Town Board?

**Answer Knudson:** It was unanimous.

**Discussion:** The Board discussed that they saw no issue with the appeal.

**MOTION by Frank/Eilertson to Approve** the appeal to construct a 12-ft x 29-ft addition and a 23-ft x 35-ft attached garage addition that will lie within the required setback from the Northshore Ln centerline and will exceed 50% of the fair market value for additions not defined as repair, maintenance, renovation, or remodeling, and; a 16-ft x 16-ft concrete patio that will lie within the required 75-ft setback from the OHWM of Lake Onalaska, with the condition that construction be completed within 12 months of the approval of this appeal.

3 Aye, 0 No. Motion carried unanimously.

**MOTION by Raymer/Eilertson to Adjourn** (7:30pm).

3 Aye, 0 No. Motion carried unanimously.

Accepted 09/03/19