

**ROCK COUNTY BOARD OF ADJUSTMENT MINUTES
WEDNESDAY – MARCH 31, 2010
COURTHOUSE CONFERENCE CENTER, SECOND FLOOR
ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN**

Chair Jones called the March 31, 2010 meeting of the Rock County Board of Adjustment to order at 6:00 p.m. in the Courthouse Conference Center, Second Floor of the Rock County Courthouse. Board of Adjustment members in attendance at roll call: Chair Don Jones, Henry Stockwell, Francette Hamilton, and Jo Miller. Not in attendance: Larry Clift and Harry O'Leary.

Planning and Development Agency Staff in attendance: Colin Byrnes, Zoning Administrator, and Steve Schraufnagel, Acting Secretary.

Citizens in attendance: Ken Lemke, Debbie Lee, Heather Rasmussen, Elmer Zamecnik, Wayne Udulutch, Ron Combs, and Ben Coopman.

Adoption of Agenda: Francette Hamilton made a motion to adopt the agenda as presented. Henry Stockwell seconded the motion. Motion approved 4-0.

Reading and Approval of the Minutes – January 27, 2010: Chair Jones mentioned that the meeting date on the staff report is incorrectly listed as March 24, 2010 instead of March 31, 2010. With that change Henry Stockwell made a motion to approve the minutes. Francette Hamilton seconded the motion. Motion approved 4-0.

Reading and Approval of the Findings of Fact – January 27, 2010: Henry Stockwell made a motion to approve the Findings for the Bernard and June Partoll case. Jo Miller seconded the motion. Motion approved 4-0.

At this time Steve Schraufnagel introduced Paul Benjamin, the recently hired Planning and Development Director and Jo Miller introduced Wayne Udulutch, the Town of Center Chair.

Announcements of Decisions – January 27, 2010: Chair Jones announced that the Bernard and June Partoll variance was approved 5-0.

Communications: Chair Jones stated that he and Henry Stockwell attended the Board of Adjustment workshop held in Madison last month. It was well attended and a very interesting session. Henry Stockwell commended staff for the high level of efficiency this Board operates.

Reports of Committees: There were no reports of committees at this time.

Ken Lemke Variance Request: Chair Jones read into the minutes the public hearing notice and application concerning the request of Mr. Lemke. He also mentioned that an

applicant for a variance must clearly show the board the three statutory standards that govern granting a variance. These are unnecessary hardship, unique property limitations, and protection of the public interest.

Mr. Lemke is seeking a variance from section 17.21(2) of the Rock County Access Control Regulations that states that all new driveways must be located at least 600 feet from the next nearest existing drive on the same side of the highway. Mr. Lemke stated he had applied for and received a driveway permit from the Rock County Public Works Department for a field entrance on E. County Road N, an access controlled highway.

Mr. Lemke stated that he is looking to downsize and is selling off his buildings and property and planning to build a home on the parcel in question that has the field entrance driveway permit. He has received the necessary zoning change from the Town of Milton.

A 1"=100' scaled aerial was passed to the Board from planning staff depicting the driveway site in question. This aerial will be referred to as Exhibit A.

Surveyor Ron Combs, whom the applicant hired to parcel off the lot, submitted another aerial detailing the entire farm. The scale of this aerial is 1"=200' and will be referred to as Exhibit B. Mr. Combs proceeded to explain the aerial photo and how Mr. Lemke got to the point we are at currently.

Several options were briefly touched upon concerning removing an existing driveway to lessen the distance of the variance being required. Discussion ensued concerning the location of the lots that have been parceled off.

Public Works Director Ben Coopman stated that he signed the permit in question and also mentioned that the original permit was for a Field Entrance. The applicant disputed that and stated that the Public Works Department knew he was planning to construct a house on the lot in question.

Staff reported that an unidentified resident called in to complain about the installation of the driveway and that Planning department personnel investigated the report and determined that it was illegally constructed.

The permit was issued by the Public Works Department on July 8, 2009.

Mr. Byrnes proceeded to review the planning staff report. He referred the Board to the access control map in the agenda and explained that more access points not only lessen the functionality of the highway but also increase the potential for accidents.

More discussion ensued concerning the elimination of some of the existing driveways. The applicant offered to remove the middle driveway as it is not improved to the same extent of the others and is less safe.

Elmer Zamecnik, who lives at 10832 N. Vickerman Road, stated that several years ago he spent \$10,000 to build his driveway to his new home off of Vickerman Road because of his inability to get a shorter drive off of County Road N because of access control limitations. He feels everyone should be treated the same.

Ben Coopman read the purpose and intent section of the access control regulations into the minutes:

The purpose of these regulations is: to promote the safe and efficient ingress and egress to certain county trunk highways in the interest of public safety, convenience and general welfare; to protect the public investment in highways by preventing premature functional obsolescence; to reduce highway accidents caused by frequent and poorly designed points of access; to promote the balanced use of land for the mutual protection of land owners, motorists, and Rock County, to enhance the highway appearance for making highway travel more pleasant.

Mr. Coopman also expressed concern about the potential safety as more access points are added to access control highways.

Mr. Combs stated that it is possible that a shared access could still be an option. Jo Miller asked if this illegal drive could be moved and shared with another existing drive on Mr. Lemke's property. Mr. Byrnes stated that the Planning and Transportation committees make decisions as to a change of use of an existing access and that it is not a decision of the Board of Adjustment as stated in Section 17.18 of the Access Control Regulations.

Chair Jones stated that the three drives serving the existing buildings are grandfathered and do not need to meet the 600 foot separation.

Mr. Byrnes stated that if this variance request were denied the applicant's options would be to remove the driveway or appeal the decision to Rock County circuit court. The staff report was again reviewed and Mr. Byrnes stated that staff recommends denial because it does not meet the 600-foot separation in both directions.

At this time Jo Miller made a motion to deny the variance request. Francette Hamilton seconded the motion. Motion to deny approved 3-1 with Henry Stockwell voting in the negative.

The findings of fact to support the variance denial:

1. The Rock County Access Control Ordinance does not allow a driveway nearer than 600-feet apart. In this case the variance requested is 45% and is considered extreme.
2. An error in administration of the ordinance does not allow a driveway to exist at less than the required 600-feet. The Public Works Committee, at a later date, denied the request for a driveway.

3. Safety of the traveling public is an issue, as an increase in access points will increase the potential for accidents.

Unfinished Business: The Board inquired about some recent cases. There has been no recent action on the Anchor Inn and the Buckhorn Supper Club.

New Business: Mr. Byrnes informed the Board that staff was about to begin on the update of the Rock County Shoreland Ordinance to reflect the recent changes to NR-115.

Adjournment: Henry Stockwell made a motion to adjourn the meeting. Jo Miller seconded the motion. Motion to adjourn the meeting approved 5-0. Meeting adjourned at 7:33 p.m.

Respectfully Submitted,

Steve Schraufnagel
Acting Secretary

**THESE MINUTES ARE NOT OFFICIAL UNTIL APPROVED BY THE ROCK
COUNTY BOARD OF ADJUSTMENT**

FINDINGS OF FACT

Applicant: Ken Lemke
6936 E. County Road N
Milton, WI 53563

Nature of Case: Mr. Lemke is seeking a variance to Section 17.21 (2) of the Rock County Access Control Regulations. This ordinance regulates distance between new driveways along certain County Trunk Highways. All new driveways must be at least 600-feet apart. Mr. Lemke applied to the Rock County Public Works Department for a driveway permit on his property at 6936 E. County Road N. The driveway location is 530-feet from the next adjoining access to the west and 330-feet from the next adjoining access to the east. The applicant received his permit from the Public Works Department, however it was not approved by the Rock County Planning and Development Agency. It was discovered after installation was complete. The Transportation Committee later denied the permit.

Motion by Jo Miller to deny the variance request. Francette Hamilton seconded the motion. Motion to deny the variance approved 3-1 with Henry Stockwell voting in the negative.

Findings of Fact:

- 1) The Rock County Access Control Ordinance does not allow a driveway nearer than 600-feet a part. In this case the variance requested is 45% and is considered extreme
- 2) An error in administration of the ordinance does not allow a driveway to exist at less than the required 600-feet. The Transportation Committee, at a later date denied the request for a driveway.
- 3) Safety of the traveling public is an issue, as an increase in access points will increase the potential for accidents.