



ROCK COUNTY BOARD OF ADJUSTMENT
Wednesday – October 30, 2019 - 6:00 PM
COURTHOUSE CONFERENCE CENTER, SECOND FLOOR
ROCK COUNTY COURT HOUSE
JANESVILLE, WI

AGENDA

1. Roll Call
2. Adoption of the Agenda
3. Reading and Approval of Minutes of Board of Adjustment meeting held June 25th, 2019.
4. Reading and Approval of Findings of Fact from Last Meeting
 - a. David Mastos
5. Announcement of Decision from Last Meeting
 - a. David Mastos
6. Communications
7. Reports of Committees
8. Deliberation of Cases
 - a. Tim Gensler
9. Unfinished Business
10. New Business
11. Adjournment



ROCK COUNTY BOARD OF ADJUSTMENT
Wednesday – October 30, 2019 – 6:00 PM

ORDER OF PRESENTATION FOR GENERAL HEARING

1. State nature of the case by the Chair.
2. Applicant presents case.
3. Questions by Board Members to applicant.
4. Zoning Administrator/Corporation Counsel rebuttal.
5. Questions by Board Members to Zoning Administrator/Corporation Counsel.
6. Statements verbal or written by interested parties.
7. Questions by Board Members to interested parties in attendance.
8. Applicants rebuttal to Zoning Administrator/Corporation Counsel and/or interested parties in attendance.
9. Zoning Administrator/Corporation Counsel rebuttal to applicant and/or interested parties in attendance.

Attention BOA Members: *If you are unable to attend this meeting, please inform the Planning and Development Agency as soon as possible. Please also inform the Agency if a particular case or cases on the agenda may constitute a conflict of interest for you.*

Section 4.1208(3) of the Rock County Code of Ordinances (The Board of Adjustment Rules and Procedures) states, in part, that a member having a personal interest in the subject of the hearing which may affect his/her ability to act impartially shall not participate. Furthermore, any member or other person who believes a conflict exists shall bring the question to the attention of the Chair prior to commencement of the hearing. The Chair shall make the final ruling on whether a conflict exists.

BOA Members are encouraged to visit and view the site subject to an application at his/her discretion. However, as per the Rules of Evidence (4.1208(4)(F)), members shall base any decision in a matter coming before the Board solely on those facts established in the record during the public hearing and shall refrain from communications of any sort with any interested party regarding a pending case. If a site visit results in information not presented in the application or at the hearing or if communication is had prior to the hearing, members are encouraged to inform the Board so that a determination can be made as to whether the information should be considered formal evidence in the case.

ROCK COUNTY BOARD OF ADJUSTMENT
June 25th, 2019
COURTHOUSE CONFERENCE ROOM 2nd Floor
ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN

MINUTES

Vice Chair Lengjak called the June 25th, 2019 meeting of the Rock County Board of Adjustment to order at 6:00 p.m. at Courthouse Conference Center Second Floor.

Board of Adjustment members in attendance at roll call: JP Lengjak, Rich Plywacz, and Michael Saunders. David Diestler absent. Quorum Present.

Development staff in attendance: Andrew Baker (Rock County Zoning Administrator),

Others in attendance: David Mastos, applicant.

Adoption of Agenda:

Motion by Mike Saunders to adopt the agenda, **Seconded** by Rich Plywacz. Adopted (3-0)

Reading and Approval of the Minutes – March 26th, 2019:

Motion was made by Rich Plywacz to approve the minutes, **Seconded** by Mike Saunders. Minutes approved. (3-0).

Reading and Approval of Findings of Fact from previous meeting:

Vice Chair Lengjak read the findings of fact from the March 26th, 2019. The members voted unanimously to approve. (3-0)

Announcement of Decision from Last Meeting

Vice Chair Lengjak read the decision from the last meeting.

Communications: None

Reports of Committees: None

Deliberation of Cases: David Mastos

Chair Lengjak read the Legal Notice.

Applicant David Mastos was sworn in and described his request for a variance. Mr. Mastos intends to build a detached garage on the property, but in order to do so he must combine the existing 2.5 lots from the original subdivision into one new lot. Doing so is required otherwise the garage would be a lot(s) separate from the principle structure. The area of the combined lots is less than what is required for a new lot served by private sanitary sewer, which is 20,000 square feet. The total area of the property is 19,665 square feet based on preliminary Certified Survey Map (CSM) provided, therefore the variance requested is 335 square feet.

The Board asked questions regarding the plans for new garage. Mr. Saunders asked specific questions related to the area of the lot being covered by buildings or other surfaces and what the plan is for management of runoff. Mr. Baker explained that both the Town and the County have lot coverage/impervious surface limits in this area. Mr. Mastos is not requesting a variance from those limits at this time. There was further discussion related to runoff direction, steep slopes in the area and access to the garage.

Public hearing was open and closed considering there were no members of the public in attendance.

After extensive discussion, Mr. Plywacz made a **Motion** to approve the variance with the conditions:

1. The owner develop a plan to mitigate storm water runoff, such as a rain garden, as part of the permit process for any new construction.
2. The maximum allowable lot coverage be reduced relative to the amount of lot size reduction approved with the variance.

Chair Lengjak **Seconded** the motion with conditions.

Findings of Fact:

1. Unnecessary Hardship/Unnecessarily Burdensome (Affirmed 2-1)

The limitations created by the minimum lot size requirements are unnecessarily burdensome to the applicant in light of the purpose and intent of the Ordinance. In this case, strict conformity to the ordinance would prohibit the building of a garage one of the existing lots individually due to the property characteristics. Additionally, it is common practice in a residential area to not permit an accessory structure on a lot without a primary residence on the same lot. If the property existed as a single lot prior to adoption of the ordinance it could be built on as is. Also, lot coverage standards will prevent the less than standard sized lot from being over-built.

2. Hardship due to Unique Property Limitation (Affirmed 2-1)

There are limitations to this property because the lots were platted prior to the Ordinance and generally intended for seasonal cottage usage. The existing lots have been in common ownership for many years and are individually too narrow to be built on. The owner has made reasonable efforts to purchase additional land to make the property conforming to lot size requirements but has been unable to do so.

3. Protection of the Public Interest (Affirmed 2-1)

The purpose and intent of the Ordinance can be met and public welfare will generally not be affected considering the variance is minimal. The character of the neighborhood will not be changed as long as the other Ordinance standards are maintained.

As a result of the vote on the motion the **variance was approved (2-1)**.

Unfinished Business:

None

New Business:

None

Motion to Adjourn made by Rich Plywacz, **Seconded** by JP Lengjak.
All in Favor. **Time: 7:25 pm.**

Respectfully Submitted,
Andrew Baker, Acting Secretary Rock County Board of Adjustment

These Minutes are not official until approved by The Rock County Board of Adjustment

Rock County Board of Adjustment

Standards for Evaluating Variances

The variance procedure allows the dimensional standards in an ordinance to be varied in response to unusual circumstances, which constitute unnecessary hardship. Variances are not to be granted routinely. **The applicant for a variance must clearly show the Board of Adjustment/Appeals that three statutory standards that govern the granting of a variance will be met.** These three standards require the existence of unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest.

1. Unnecessary Hardship

Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome. Board members must judge what is feasible use for a particular parcel as a whole. A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with the zoning ordinance.

- (A) The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of the other parcels, not one that affects all parcels similarly. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the zoning ordinance. If either circumstance renders the parcel unsuitable for any use permitted under the existing ordinance – if all area, yard and setback requirements are observed – the parcel may qualify for a hardship.
- (B) Loss of profit or pecuniary (financial) hardship is not and of itself grounds for a variance.
- (C) Self imposed hardship is not grounds for a variance. Reductions resulting from a sale of portions of a property that reduce the remainder below buildable size or cut off existing access to a public highway, deed restrictions imposed by the owner's predecessor in title, and improvements that were made in violation of the ordinance are generally considered to be self-imposed hardships.
- (D) The hardship cannot be one that would have existed in absence of a zoning ordinance. Sometimes, a legitimate hardship results from the interaction of the provision of the zoning ordinance with other actions or regulations adopted by public authorities.

Notes:

2. Unique Property Limitation

Unique Property Limitations where unique physical characteristics of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. These features may be wetland, soil type, parcel shape, or a steep slope that limits the reasonable use of the property.

Notes:

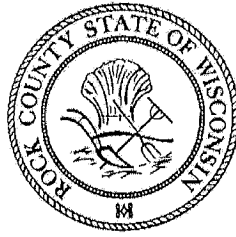
3. Protection of the Public Interest

Protection of the Public Interest is where granting a variance must neither harm the public interest nor undermine the purpose of the ordinance. The Board actions should be consistent with the “Purpose” and “Intent” sections stated in this Ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Lack of opposition does not in itself mean that a variance will not harm the public interest.

Notes:

General considerations

- (A) In granting variances the Board may impose special conditions to ensure that the public welfare is not damaged. The conditions must relate reasonably to the purpose and intent established in this ordinance.
- (B) A variance should include only the minimum relief necessary to relieve zoning regulations deemed to be unnecessarily burdensome on the property.
- (C) Violations by or variances granted to neighboring owners do not justify variance.
- (D) Variances are attached to the property as a permanent right. Once a variance has been granted, it is permanently attached to the property. A new owner of the property may make use of the variance that was granted to the previous owner if all the conditions that are attached to the variance are met.



October 14, 2019

LEGAL NOTICE

Notice is hereby given that the Rock County Board of Adjustment will hear a request for a variance of the Rock County Shoreland Overlay Zoning Ordinance Sections 4.205 and 4.206 related to the front yard setback and the shoreland setback on an unsewered lot to allow for the construction of a new detached garage.

The property owner/applicant (Tim Gensler) is requesting a variance from the standard fifty-foot front yard setback to allow the garage to be placed effectively at the property line (which is approximately thirty-three feet from the centerline of the road). A variance of approximately fifteen feet is also required from the standard seventy-five foot setback from the Rock River (to allow the closest point of the garage to be approximately sixty feet from the River).

The property is located in part of Section 10, Janesville Township, Lot 16 of La Fleur's Subdivision, Parcel 6-8-417. The address for the project (also the owner's primary address) is 4363 N River Rd, Janesville.

The Public Hearing will take place in Courthouse Conference Center, Room 250, Second Floor, the Rock County Courthouse, 51 S. Main Street, Janesville, WI at 6:00 PM on Wednesday, October 30, 2019. Interested parties are encouraged to attend.

Please contact the Rock County Planning & Development Agency with any questions or comments at 608-757-5587.

Andrew Baker
Senior Planner – Rock County Planning, Economic & Community Development