



**ROCK COUNTY BOARD OF ADJUSTMENT**  
**Tuesday – March 26, 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 July 24th, 2018.
4. Reading and Approval of Findings of Fact from Last Meeting
  - a. Joe and Patricia Janowiak
5. Announcement of Decision from Last Meeting
  - a. Joe and Patricia Janowiak
6. Communications
7. Reports of Committees
8. Deliberation of Cases
  - a. John and Carol Brey
9. Unfinished Business
10. New Business
11. Adjournment



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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 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:

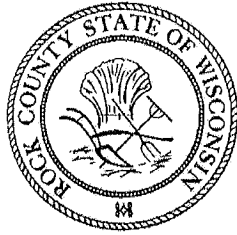
## **3. Protection of the Public Interest**

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.



March 11, 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 Section 4.206 related to setback requirements from navigable waters. The property owners/applicants (John and Carol Brey) are requesting a variance from the standard seventy-five foot shore yard setback to allow a new deck on the property to be within approximately fifty-five feet from the Rock River.

The property is located in part of Section 11, Fulton Township, Parcel 6-6-843. The address for the project is 10427 N Ellendale Rd, Edgerton.

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 Tuesday, March 26, 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