

**ROCK COUNTY BOARD OF ADJUSTMENT MINUTES
WEDNESDAY – JANUARY 29, 2014
COURTHOUSE CONFERENCE CENTER
SECOND FLOOR, ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN**

Chair Jones called the January 29, 2014 meeting of the Rock County Board of Adjustment to order at 6:00 p.m. in the Courthouse Conference Center (CCC), 2ND Floor, Rock County Courthouse. Board of Adjustment members in attendance at roll call: Chair Don Jones, Henry Stockwell, J.P.Lengjak (Alternate) Harry O’Leary, Francette Hamilton and Jo Miller.

Development staff in attendance: Colin Byrnes (Acting Planning Director/Zoning Administrator), and Steve Schraufnagel, Acting Secretary.

Citizens in attendance: Donald Giese, Sue Sager, Linda & Wayne Schuette, Kevin Pieterrek, Janice Foreman, Bob Kumlien, Tracy Johnson, Terry Johnson, Gail Berg, Bruce Schumacher, Richard Haines, Todd Carter, Susan Barry Banker, Diane & John Schmidt.

Adoption of Agenda: Motion by Francette Hamilton to adopt the agenda as presented. Henry Stockwell seconded the motion. Motion approved 5-0

Reading and Approval of the Minutes – October 30, 2013: Motion by Hank Stockwell to approve the minutes as presented. Jo Miller seconded the motion to approve the minutes. Minutes approved 5-0.

Reading and Approval of the Findings of Fact – October 30, 2013: Motion by Henry Stockwell to approve the Findings of Fact as presented. Francette Hamilton seconded the motion. Findings of Fact approved 5-0.

Announcements of Decisions – October 30, 2013: Chair Jones announced that the Steve Shrider variance request was denied; John Vanko variance request was approved with conditions; Michael Rudd variance case was approved with conditions; and the John Plambeck case was denied.

Communications: None at this time.

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

Bette Pickens Family Trust Variance Request:

Chair Jones read into the minutes the public hearing notice and application. The applicant is proposing to erect an unattached garage on his property located at 9768 N. East Badger Heights in the Edgerton area. Sections 4.205(4) and 4.209(4) of the Rock County Shoreland Ordinance need to be varied to allow a structure in the road right-of-

way setback and to have more than 30% impervious surface on a lot. Ms. Banker (representing the applicant) stated that the applicant is 84 years old and handicapped. He has difficulty scraping his car in the winter. The garage will be placed in an area that already is impervious.

Mr. Byrnes passed around a plat of the property depicting the footprint of the existing impervious surfaces and where the garage will be built.

Mr. Giese who lives immediately down river of the applicant testified that the previous owner had added on a kitchen to the north side of the existing house. Persons using the lot currently need to park on the roadway. The garage will only be 1-foot off the edge of the road thereby blocking his view when he pulls out of his driveway. He also mentioned that a previous owner had been denied by the Town of Fulton to build a garage on the lot.

Mr. Schutte who lives on the other side testified that the garage will limit as where people may park.

Mr. Byrnes shared his report with the Board. The lot currently has more than the 30% maximum impervious surface allowed on shoreland lots. Also, the setback of only 1-foot off the right-of-way makes this a potential safety hazard along East Badger Heights Road. There are no other structures in the immediate neighborhood that encroach upon the road right-of-way.

At this time Harry O'Leary made a motion to deny the variance. Henry Stockwell seconded the motion. Motion to deny approved 5-0.

Findings of Fact to support the denial of the variance:

1. Unnecessary hardship does not exist because the lot can still be utilized without the convenience of the garage. Also, the lot has reached the maximum limit for impervious surface allowed in the shoreland area.
2. This is not a unique property limitation as there are other properties in the neighborhood that are also lacking garages and current impervious surface can be maintained but no increase square footage is allowed.
3. The protection of the public interest is jeopardized because with the construction of the structure so close to the edge of the pavement would become a safety hazard with the driving public utilizing Badger Heights Road.

Todd Carter Variance Request

Chair Jones read into the minutes the public hearing notice and application for this case. Mr. Carter is seeking a variance of Section 4.205(3)(A) of the Rock County Shoreland Overlay Zoning Ordinance that requires new lots need to be 40,000 sq. ft. The applicant purchased this lot after sitting vacant for more than 1-year and the lots now need to be

combined. He also wants to erect a deck in the southeast corner that does not meet the 15-foot setback.

The applicant testified that he purchased this property from the Treasurer's office due to unpaid taxes. He passed around pictures (Exhibit A) of the interior remodeling and also the exterior. He has so far installed a new furnace and water heater. He submitted Exhibit B&C depicting the floor plan and the site map of the lot. He stated that there is a basement that covers about 40% and a crawlspace covers the remainder. Exhibit D was submitted as the Quit Claim Deed transferring the property to Mr. Carter.

Richard Haines testified that there is an association but it is not mandatory to participate and the dues are voluntary. He is concerned about the lack of parking in the vicinity of the Carter property but is happy the structure is being repaired. Tracy Johnson is also concerned about the parking issue.

Mr. Byrnes explained the staff's review. The lots need to be combined via Certified Survey and that the deck needs to be reduced to meet the sideyard setback. The structure currently sits across lot lines and the house has been vacant for more than 1-year (neighbors claim it is in the area of 7-8 years). Mr. Byrnes also submitted Exhibit E which entails photos of the exterior of the house. Staff is recommending approval of the variance with conditions.

At this time Harry O'Leary made a motion to approve the variance with conditions submitted by staff. Francette Hamilton seconded the motion. Motion approved 5-0 with the following conditions.

1. The septic system needs to be tested to prove its viability. If a new system is needed the permit shall be received by the Rock County Public Health Department.
2. Lots shall be combined via Certified Survey Map.
3. The variance shall expire if the applicant fails to apply for all necessary permits (Septic if needed) (Land Division) within 6 months and to substantially complete any work authorized by the Board within 1 year (Recording of the CSM), of the date of this decision.

Findings of Fact to support the approval of the variances:

1. Unnecessary hardship exists without granting the variance because the applicant could not continue to remodel the proposed project. The lots in this area were platted before the Shoreland Zoning Ordinance was adopted and do not meet minimum standards. However, the sideyard setback for the deck is not a hardship. A smaller deck could be utilized within the 15' setback.
2. There is a hardship due to unique property limitations because the applicant is unable to acquire any adjacent land to bring the lot up to the minimum of 40,000 sq. ft.

3. The variance is not contrary to the public interest as the general appearance will not be altered with the remodeling of this structure. The deck construction as proposed by the applicant would sacrifice two large, apparently healthy trees and is not in keeping with preserving shoreland vegetation.

Unfinished Business: None at this time

New Business: Mr. Byrnes mentioned that the Charley Bluff property Land Division has been approved and it is anticipated that work will begin once the weather breaks.

Adjournment: Henry Stockwell made a motion to adjourn the January 29, 2014 meeting of the BOA. Harry O'Leary seconded the motion. Meeting adjourned at 7:22 p.m.

Respectively Submitted,

Steve Schraufnagel
Acting Secretary

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