

ROCK COUNTY BOARD OF ADJUSTMENT
April 24th 2018
COURTHOUSE CONFERENCE ROOM N-2
FIFTH FLOOR, ROCK COUNTY COURTHOUSE
JANESVILLE, WISCONSIN

MINUTES

Vice Chair Lengjak called the April 24th 2018 meeting of the Rock County Board of Adjustment to order at 6:00 p.m. at Courthouse Conference Room N-2

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

Development staff in attendance: Andrew Baker (Rock County Zoning Administrator) Kurt Wheeler (Planner III /Acting Secretary).

Others in attendance: Ryan Combs, Steve Holmes, Rancee Holmes, Dennis Pauli, Tim Zick.

Adoption of Agenda:

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

Reading and Approval of the Minutes –November 29th, 2017:

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 previous November meeting.
Motion by Lengjak to approve the findings of fact from last meeting, **Seconded** by Rich Plywacz. The members voted unanimously to approve.

Announcement of Decision from Last Meeting

Vice Chair Lengjak read the decision from the last meeting to all in attendance.

Communications:

None

Reports of Committees: None

Deliberation of Cases:

a. Lillian Wilson and Candice Werner Case

Vice Chair Lengjak read the legal notice and application information to all in attendance.

Ryan Combs was sworn in by Mr. Lengjak. Mr. Combs explained the variance request and lot combination to the Committee.

Discussion and questions followed.

This property consists of one tax parcel that is made of up two land lots platted in the subdivision. Each individual lot is generally considered not "buildable" due to setback and private onsite wastewater system requirements. In all situations where multiple lots are under common ownership, lot lines must be observed when applying setback requirements. Therefore, in order to build one new residence on the property the lots must first be combined via a Certified Survey Map (CSM), thereby eliminating the common lot line from the original subdivision.

As noted in the report provided by Staff, in order to be approved the total combined square footage must meet the minimum lot size for a new lot, which in this case is 20,000 square feet because it is a lot not served by public sewer. As evidenced on the preliminary CSM is included in the packet, the two existing lots total 19,285 square feet. This reduction from the standard lots size is a 715 square feet (or 3.6%) variance from the standard. This is generally a minimal variance request based on the current standard. However, it is important to mention that this minimum lot size standard was reduced from 40,000 to 20,000 square feet in the last number of years based on changes required in State Law. In general, Staff has heard concerns from the Health Department regarding the fact that this smaller lot size will make septic system approval more difficult. Depending on the characteristics of each respective property, landowners may find themselves constrained in terms of locating an initial and inevitable replacement area for a system.

Discussion and additional questions followed regarding slope, septic area, and development of the lot.

Mike Saunders made a **Motion** to approve with the stipulation that any development on this lot in the future meet all ordinance requirements. **Seconded** by Rich Plywacz. The members voted unanimously to approve.

FINDINGS OF FACT

1. Unnecessary Hardship

The Board determined that this standard was met based on evidence presented in the application and at the meeting. Without a variance to combine the lots, the

property could not be developed with a residence of any size based on side yard set back requirements.

2. Hardship due to Unique Property Limitation

The Board's opinion was that this standard was met based upon the fact that the two existing lots were plat prior to current zoning ordinance standards for lot size.

3. Protection of the Public Interest

It was the Board's finding that the purpose and intent of the Ordinance would be met and public welfare would not be affected with the less than standard lot size. The Board agreed that the character of the neighborhood will not be changed as long as the other Ordinance standards are maintained because there are many properties developed with similar lot sizes. Also, the variance requested is considered minimal.

***Conditions:**

1. A note shall be included on the Final CSM: "No buildings which produce wastewater are allowed on Lot 1 until acceptable means of wastewater disposal is approved by the necessary governmental agencies."
2. All future development meets all ordinance standards without request for a variance(s).
3. The applicant completes the Certified Survey Map approval process.
4. The applicant obtains any and all necessary approval and/or permits from other entities with jurisdiction including the Town of Fulton within ninety days and substantially completes the project within six months of the date of the decision unless the Board approves otherwise. This condition applies only to the survey process, not future residential construction.

b. Dennis and Mary Pauli Case

Vice Chair Lengjak read the legal notice and application information to all in attendance.

The speakers were sworn in by Mr. Lengjak. Applicant Dennis Paulit explained the variance request. Builder Tim Zick explained other details of the project to the Committee. The current owners also spoke regarding the history of the lot.

Discussion and additional questions followed.

As outlined in the staff report to the Committee, the applicant is proposing to purchase the property to build a new residence. In order to build the desired structure and meet other setback requirements, a variance is required from the front yard setback. The applicant also intends to combine the two existing lots via a Certified Survey Map, but that approval does not require a variance from minimum lot size or dimensional standards. It appeared, based on the proposal, that all other County Ordinance standards can be met. The property

is approximately 550 feet from the Rock River. Therefore, though it is within the Shoreland Zoning District (all properties within 1,000 of the River), the impervious surface standards do not apply. These standards only apply to properties within 300 feet. The property is served by public water, but not public sewer. The property is not within the Floodplain.

Section 4.205 requires that all structures shall be setback fifty feet from the front property line/road right of way in areas that are not served by public sewer. Greater setbacks on all sides are typically required for unsewered lots because said lots are usually larger in size and in rural areas. Larger setbacks are important to limit density of development and also, in the case of the front yard setback, to have a separation distance between structures and automobiles on the road. When travelling at higher speeds a larger setback is appropriate. In this particular case, even though it is considered a rural type lot because of no public sewer in the area, the speed limit in the area is more consistent with an urban area. Based on staff observations, the posted limit is 25 mph. Therefore, a lesser setback may be appropriate from a safety standpoint.

Based on the plan, the new residence would be approximately thirty three feet from the right-of-way, a variance of seventeen feet, or 34%.

House plans and photo submitted by applicant as Exhibit B

An Email submitted by neighbors entered as Exhibit A in opposition to the project for various reasons. The email was reviewed by Committee prior to the hearing.

Discussion and additional questions followed regarding slope, septic area, overhead utility placement and the overall plan to development the lot.

Mike Saunders made a **Motion** to approve with conditions noting that if the septic area is to be moved, it not become any closer to any of the neighboring lot lines. **Seconded** by Rich Plywacz. The members voted unanimously to approve.

FINDINGS OF FACT

Unnecessary Hardship

The Board determined that this standard was met based on evidence presented in the application and at the meeting. It was determined that the setback standard of fifty feet is unnecessarily burdensome for residential development in this area.

Hardship due to Unique Property Limitation

The Board's opinion was that this standard was met based upon the fact that the existing topography and lot size and configuration limits the use of the area from a practical aspect in terms of building area. Also of consideration is the fact the lots were platted well before the current setback standards and the configuration would allow only a small building window in absence of a setback variance.

Protection of the Public Interest

It was the Board's finding that the purpose and intent of the Ordinance would be met and public welfare would not be affected with the lesser setback. The Board agreed that the character of the neighborhood will not be changed as long as the other Ordinance standards are maintained because there are many properties developed closer to setback lines than the current standards. Also of note was the fact that the speed limit is 25 mph in this area and that the layout of the new house will be such that garage/driveway will be on the far northern side of the lot where the site distance is best.

Conditions:

1. The approval is based on the conceptual site plan submitted by the applicant as part of the application process and/or presented at the meeting. Furthermore, the approval is not transferable to another potential buyer if the purchase of the property does not go through.
2. The applicant obtains any and all necessary approval and/or permits from Rock County and other entities with jurisdiction, including the Town of Fulton, within ninety days and substantially completes the project within nine months of the date of the decision. These deadlines may be extend based on discussion and decision by the Board of Adjustment at the meeting.

Unfinished Business:

None.

New Business:

Mr. Baker announced that we are still in need of additional members to serve on the Rock County Board of Adjustment although a new member has been recruited and should be available to join the board in May of this year.

Mr. Baker also updated the board on the status of the Brey case.

Motion to Adjourn made by Rich Plywacz, **Seconded** by Mike Saunders.
All in Favor. **Time: 7:06 pm.**

Respectfully Submitted,
Kurt Wheeler, Acting Secretary Rock County Board of Adjustment

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