

November 21, 2014

Minutes of the Board of Adjustment meeting and Public Hearing conducted on October 29, 2014 in the courthouse, at 501 Lake Street in the Town of Florence, Florence County, WI.

A site visit was conducted at 4:30 p.m. at 4832 Tall Pines Road in the Town of Florence and reconvened with the public hearing in the courthouse, Florence County, WI.

Chairperson Dzekute called the meeting to order and took roll call.

Members present: Mike Bednarski, Larry Dzekute, Dennis Christian

Members absent: None

Others present: Doug Drexler, Tim Bomberg, Pete DeCraene, Sandra Stolarski, John Stolarski, Rich Wolosyn, Trish Kelly

Chairperson Dzekute asked for a motion to approve the agenda, **motion made by Mike Bednarski to approve the agenda, second by Dennis Christian, vote three (3) ayes, zero (0) nays, motion carried.**

Motion by Larry Dzekute to adjourn site inspection and reconvene in the courthouse at 501 Lake Street, Town of Florence, second by Mike Bednarski, vote three (3) ayes, zero (0) nays, motion carried.

Chairperson Dzekute asked for a motion to approve the minutes of the meeting and public hearing conducted on June 25, 2014. **Motion by Mike Bednarski to approve the minutes of the meeting and public hearing conducted on June 25, 2014, second by Larry Dzekute, vote three (3) ayes, zero (0) nays, motion carried.**

There was no one in attendance that wished to address the committee on zoning concerns.

Chairperson Dzekute announced *Public Hearing VAR-20140006*, request a variance to exceed the 1,500 square feet of a nonconforming structure located greater than 35 feet, but less than 75 feet from the Ordinary High Water Mark and provide handicap accessibility under the Florence County Shoreland and Wetland Zoning Ordinance, Chapter 10, Subchapter 2, Section 14.3 and Section 5.10. Property is Lot 6 of Bjorkman's Plat of Spread Eagle, Section 32, Township 40 North, Range 19 East, Town of Florence, Florence County, WI. Property address is 4832 Tall Pines Road. Request submitted by John Stolarski.

Correspondence was read from Christian Michael Frank, Diane Frank, Helen M. Estes, Michael P. Frank, Eric Estes, Julia Elizabeth Frank, Linda Beck Estes and Richard Scott, who all voiced opposition to the proposed request. One letter expressed concern that the Stolarski project expands their home in a way that does not gel with the vision laid out in the Town of Florence 20-Year Comprehensive Plan for lakefront properties. (Letters on file in zoning office).

The applicant, Sandy Stolarski presented an e-mail from Richard Scott which was read into the record, stating that not being able to see the lot lines was important and the cause of his previous objections. Wolosyn noted, Mr. Scott talked about the lot lines, however he did not state he was rescinding his previous letter opposing the variance.

Wolosyn also mentioned that one of the letters referenced the 20-year Comprehensive Plan for the Town of Florence and the land use recommendations for shoreland residential. He read that area of the Comprehensive Plan into the record which states; additional growth in shoreland residential areas is placing greater development pressure on the natural environment leading to deteriorating water quality, loss of wildlife habitat, and diminished quality of life. Any additional development in the shoreland zone must be in compliance with the Florence County Shoreland Zoning Ordinance and any adopted local ordinances in order to provide a layer of protection from future development along the shoreland.

There was discussion regarding a variance issued back in 1989 for a reduction to the shoreland setback of 45 feet to the ordinary high water mark. The measurement for that same deck measured at the site visit was determined to be 31 feet from the ordinary high water mark. This variance request now takes on a little different scope, in that the deck is 31 feet from the water and the variance request is to exceed 1,500 square feet of a non-conforming structure, greater than 35 feet from the water. The board will need to consider that the structure is less than 35 feet from the water's edge at this time and could propose that the deck be modified to a minimum of 35 feet or greater from the ordinary high water mark to consider this proposed variance request. An existing structure located within 35 feet of the ordinary high water mark that does not comply with the setbacks as required in Section 5.1 may not be expanded, but may be maintained and repaired within the existing building envelope. The variance would need to be restructured and heard again if the deck is not modified to meet the 35 foot setback.

Wolosyn also noted part of this request is to provide handicap accessibility. There are provisions that provide for that accessibility, and this board must provide what is reasonable. There is also an easement to the neighboring property that may be disturbed with the variance request.

Attorney Doug Drexler was present to represent the Estes family, neighbors who share an easement with the Stolarski property. One of his clients concern is the addition of a mudroom extending toward the property line, and how that mudroom increases their health or handicap accessibility. The proposed garage to the rear of the home obviously identifies a potential concern with the easement and the parking and congestion that has been there for years, without a garage. These properties were built to be used a cottages. The use of the cottage is being changed to a year round residence. This increases the density of the area and a real hardship for the Estes family, as that easement is their only access to their property.

Wolosyn commented that the project is going to be a major overhaul of the structure and questioned if the garage is necessary to meet the handicap accessibility. Board members felt a new plan should be submitted that addresses the issue of the easement, water shed from increased roof size, property setbacks, the existing deck needs to be modified to 35 feet from the ordinary high water mark, the mudroom on the east side would not be considered, and is the garage truly necessary for handicap accessibility. Total consideration needs to be given on the garage, as to what is really needed, so that the garage does not interfere in any way at all with the easement. The unnecessary hardship has to do with handicap accessibility, unique property limitations has not been addressed, and there has been more addressed about harm to public interest, than not.

The board discussed the request and plan with the applicant in an attempt to make modifications that would be acceptable to the criteria for granting a variance. The plan and request as submitted does not meet the three criteria which are unnecessary hardship, unique property limitations and no harm to public interest. The applicants and contractor were not in agreement to make modifications to the plan. The contractor stated he anticipated a denial and had a modified plan in his vehicle which he wanted to submit at that time. He stated the new plan was 1,496 square feet and according to the ordinance, if the total footprint of the existing structure and any new additions does not exceed 1,500 square feet, and the addition is not any closer to the ordinary high water mark than the existing structure, a variance is not required. However, explained Wolosyn, the deck needs to be modified to the 35 foot or greater setback before an addition can be considered. He will review the modified plan for compliance and issue a permit under Section 14.3 of the Shoreland Zoning Ordinance. The board ultimately denied the variance request VAR-20140006.

Motion by Dennis Christian to deny variance request VAR-20140006, as the criteria for a variance unnecessary hardship, unique property limitations and no harm to public interest has not been addressed, second by Mike Bednarski, vote three (3) ayes, zero (0) nays, motion carried.

Motion by Dennis Christian to adjourn, second by Mike Bednarski, vote three (3) ayes, zero (0) nays, motion carried.

Respectfully submitted,

Rich Wolosyn,
Zoning Administrator