

SAUK COUNTY BOARD OF ADJUSTMENT
July 23, 2009 Session of the Board

PRESENT: Richard Vogt, Vice Chair
Robert Roloff, Secretary
Linda White
Fred Halfen
David Allen

ABSENT: **None.**

STAFF PRESENT: Gina Templin
Dave Lorenz
Mark Steward

OTHERS PRESENT: See individual appeal files for registration appearance slips.

Vice Chair Vogt called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:05 A.M. The Chair introduced the members of the Board, explained the procedures and the order of business for the day. The staff certified that the legally required notices had been provided for the scheduled public hearing. The certification of notice was accepted on a motion by Allen, seconded by Roloff. **Motion carried 4-0 with White absent at this time.**

Vogt requested to amend the agenda by moving item number 6 to follow item number 7. The Board adopted the amended agenda on a Motion by Roloff, seconded by White. **Motion carried 5-0.**

Motion by White, seconded by Allen to adopt the June 2009 minutes. **Motion carried 3-0 with Roloff and Halfen abstaining.**

COMMUNICATIONS:

None to report.

APPEALS:

- A. Kevin and Michelle Statz (SP-26-09) requesting a special exception permit to authorize filling and grading within 300 feet of Lake Wisconsin.

Dave Lorenz, Environmental Zoning Technician, appeared and gave the history and background of the request as well as photos and a video of site. He then recommended conditions to be placed on the appeal if the request were approved.

Roloff asked about the Town Board meeting on July 1 and if any communication has been received. Lorenz stated nothing has been received.

White asked if the lot is similar to other lots in the area. Lorenz stated it is.

Vogt asked about the slope and the layout of the lot. Lorenz explained.

Rich Carlson, Bruce Company, Agent for the Applicant, appearing in favor of the request, stated that the property is a weekend home and there is an existing slope that average about 23% and the reason for the project is to allow more efficient and aesthetic access to the lake and to improve the quality of the site as far as maintaining the long term care of the site itself. He then explained the materials to be used in the project as well as any filling and cutting to be done around the proposed stairs and retaining walls. He also addressed other landscaping the property owner would be doing, however, those items will be done as finances allow.

Vogt confirmed that all work to be done will be on the lake side of the house. Carlson stated that is correct.

Vogt asked if any other work would be taking place that is not located on the plan. Carlson stated he is not aware of anything planned at this time.

Vogt asked about the existing grades and any proposed cutting and filling. Carlson explained.

Vogt questioned the erosion control and does not see any listed on the plan. Carlson explained that the fiber filled erosion controlled socks will be used in two different locations.

White asked about the total square footage exposed at once time. Carlson said around 5800 square feet.

Halfen asked about using the County's 2ft contours. Carlson explained what he used and that he did reference them, but did not use them on the plans submitted.

Vogt asked if the spot elevations are existing and if they will change. Carlson stated they are existing and does not see them changing.

Halfen asked if the property is currently in compliance with the DNR standards on the exposure at the shoreline. Carlson stated he was not aware of anything being nonconforming with DNR standards.

Vogt asked if he plans on doing anything along the shoreline. Carlson stated the only work will be the small staircase that will go to the dock. He also spoke of an existing tree where some erosion has occurred and that the stairs would go in that location, as it would fit well there.

Roloff asked about the Town. Carlson stated that he did meet with the Township and a letter was provided to Steve Sorenson stating the request has been approved.

Seeing as no one else wished to speak, Vice Chair Vogt closed this portion of hearing at 9:32 a.m.

The Board discussed the request.

Roloff stated the plans were done well and wishes others would come to them with plans done this well.

White stated she doesn't feel the work to be done will affect the view from/to the lake.

Vogt was concerned about the erosion control not being shown on the plan, but feels Planning and Zoning will monitor that to verify it is done correctly.

Halfen stated he would have liked to have seen what the Town of Merrimac thought of the project.

Motion by Roloff, seconded by White, to approve the request with the conditions provided by Planning & Zoning.
Motion carried 5-0.

B. Guy Wells (SP-27-09), requesting a variance to authorize the location of a proposed garage addition to an existing residence within the minimum road setback of State Highway 12.

Dave Lorenz, Environmental Zoning Technician, appeared and gave the history and background of the request as well as photos and a video of site. He then recommended conditions to be considered on the request if the appeal is approved.

Vogt asked about information from the Town of Sumpter. Lorenz stated nothing has been received by the Town, not even the Acknowledgement Form.

White asked if the entire addition would be in the road setback. Lorenz explained.

Vogt reviewed the plans. White confirmed that the entire thing would be in the setback.

Vogt ruled that the variance request would be considered an area variance.

Guy Wells, applicant, appearing in favor of the request.

Vogt explained the three requirements for a variance to be granted.

Wells stated that he needs the garage addition for storage of his vehicles, boat and tools so that everything isn't sitting outside and feels that it will improve the view of the lot.

Vogt asked if these are trucks for work. Wells stated not necessarily, but one he drives in the winter, but another vehicle for enjoyment and then he also has a daughter that has a vehicle there. He also explained that there is a holding tank behind the house so he can't go back. He also felt that because the garage would be inside the treeline you would never see it from Highway 12.

Vogt asked if he has considered putting the garage behind the house or on the other side of the house. Wells stated there is no room on the other side of the house.

Vogt confirmed that the existing house and garage are in compliance. Wells stated that is correct. Vogt confirmed that it is the limitations along Highway 12 why he is requesting a variance.

Roloff explained the court rulings and how they affect the granting of variances. He mentioned how not granting the variance would impact him on using the property. He stated that would be difficult as it looks as if there are alternatives to building the garage, but if the don't grant the variance, the applicant would still have use of the property.

White asked why not being able to park 1 or more vehicles in a garage is a hardship. She explained that the Board needs to determine that he can not use his property without getting a variance to building the garage addition, preventing him from using his property. She also asked if the addition was considered to be put on the front of the garage instead of going to the side.

Vogt spoke of unnecessarily burdensome and getting full use of the property.

Wells stated it is a ranch style house and it's hard to come out the front.

Vogt spoke of the fence and a dog house and asked if the fence goes all the way around the house. Wells stated it surrounds the back yard.

Halfen asked about the setback distance from the west property line. Wells stated he believes it is 15 feet or so.

Vogt asked what the hardship is. Wells stated he has a boat and he stores it inside and in the winter he needs to put his two cars in the garage and with the boat, it doesn't all fit. He also stated he has tools and while he could store in the shed in the back, he'd rather have them closer.

Vogt asked about the unique limitations of the property. Wells stated the septic is in the back and the treeline around the property. He stated he may be able to come off the front, he never looked at that, but felt just putting on the side would be easier.

Vogt asked about being contrary to public interest. Wells stated no one will even know its there.

Vogt stated the concern for a setback from a highway is typically an issue of safety of the traveling public. Wells stated he would have to go through about 4 trees before they get to the house.

White asked if they have looked into moving the septic tank. Wells stated he would not think of moving the septic tank.

Seeing as no one else wished to speak, Vice Chair Vogt closed the public portion of the hearing at 9:54 a.m.

Roloff stated that all three of the requirements have to be met and if one of them is not met, they can not grant the variance. He stated he doesn't feel there are any unique property limitation, and feels that if they do not grant the variance, the owner still has reasonable use of the property, as well as having alternatives to building within the setback.

Vogt mentioned that it is somewhat unique as half of the lot is restricted as it sits in the setback and he is prevented from building on that without a variance, however the existing house and garage are compliant and it is difficult to grant a variance when there is some room if you alter the plans a bit.

White stated she doesn't feel the lot is unique and feels there are properties that are on a corner that have the two highway setbacks. If the highway was moved after he was there, that would be unique.

Motion by White, seconded by Roloff, to deny the variance for a garage addition, as the property is not unique being the garage can be built elsewhere on the property, there is no hardship, as more storage for vehicles is not a hardship and while it is not contrary to public interest, as it will not harm the safety of the public, the applicant fails to meet all 3 requirements for the approval of a variance. **Motion passes 5-0.**

C. Allen & Shawn Foster (SP-28-09) requesting a special exception permit to authorize filling and grading on slopes of more than 20% within 300 feet of Lake Redstone to landscape an existing residence.

Dave Lorenz, Environmental Zoning Technician, appeared and gave the history and background of the request as well as photos and a video of site. He then recommended conditions to be considered on the request if the appeal is approved.

White asked how many trees would be removed in the course of the project and asked about the swale. Lorenz stated he doesn't believe any plans to re-vegetate that have been submitted, but the area to be most affected by the grading will be near the existing shed.

Vogt spoke of the swale and it will be to keep the water away from the wall they are proposing.

White asked about the existing stairway and if it will remain. Lorenz stated he believes that is the case.

Halfen asked if there is any modification to the steep slope and no disturbance to that by the construction. Lorenz stated that according to the plans submitted there will be no disturbance to that slope by the landscaping or through the construction of the landscaping.

Allen Foster, appearing in favor of the request, stated that they are looking to do minor things like shoring up the existing swale and not disturb any trees that are located there. He stated that the plans will be to flatten out two areas that are already flat to begin with, one near the house and one near the shoreline. He also spoke of pitching the slope for the water flow and also nature steps to go into the waterway. He then addressed the natural vegetation located at the shoreline and will not disturb that.

Roloff asked what the surface will be on the leveled off areas. Foster stated it will be grass.

Vogt asked about the removal of the deck and then the retaining walls, fill, and then some type of stone or natural surface. Foster stated that is correct.

Halfen asked how high the retaining wall. Foster deferred the question to the landscaper.

Jason Sammons, appearing in favor of the request, stated he is the landscaper, stated that it will be a boulder wall and visible from the water.

Halfen asked about the upper seeding area and the swale and the realignment of the contours. Sammons stated double net straw matting will be run and stapled and every 10 feet will have steak seed and straw.

Halfen asked about below the silt fence when the new drainage course come to the silt fence and how they will address the water after that. Sammons stated there is natural riprap and vegetation there already, as that will not be disturbed at all.

Roloff asked about the wood retaining wall with stone and if there will be more water now than what has been. Sammons stated there will be no more water there and there is a deep root vegetation system to address the water runoff. He also addressed the lower deck and stated they would not be outside of the original footprint of the wooden deck.

Vogt asked about the lower deck that is being removed and the upper deck will remain. Sammons stated that is correct.

White asked about the illegal materials to be removed. Sammons stated there were pallets laid through the area that are being removed and clean up the lake front between the boulder wall and the riprap, will be sodded and stapled so that there is vegetation there right away.

Vogt asked about Exhibit V,2, in photo 4, if that is something that belongs to the neighbor. Sammons stated the wooden platform was built to hold the canoes and paddleboat at one time.

Vogt asked if the red flag is the property line. Sammons stated it was.

Vogt stated they are looking up the hill in this photo and everything to the right is where the swale will be placed. Sammons stated that is correct.

Roloff asked if there will be no disturbance between the red flag and the water's edge. Sammons stated that is correct. He also spoke of the existing road from when the septic was put in, it was reseeded, and they are going to reuse that same access so that they can get down there doing less damage to the property and no tree removal. He

addressed the silt fence along the riprap, near the fire pit area and every night before they leave, silt fence will be placed along the temporary access and then taken down when they come back in the morning.

Halfen asked for clarification on where the temporary access (road) is located.

Vogt referred to Exhibit II,7.

Halfen asked about the replanting plan. Sammons explained.

Vogt spoke of the Town Board supporting the project. Sammons stated that was correct.

Seeing as no one else wished to speak, Vice Chair Vogt closed the public portion of the hearing at 10:33 am.

White stated she feels it is a good project and well thought out, as well as using natural materials.

Halfen stated he has an issue with the lower area and retaining walls and referring to the Shoreland Protection ordinance, and feels that a rock wall that you can see from the water does not do that.

Vogt asked about the shed and retaining wall being structures within the setback. Lorenz stated that the shed was considered a violation, but it did get a permit, as it was placed in the 1990's.

Vogt asked about the retaining walls. Lorenz explained that they have to be natural materials to be permitted within the setback.

Motion by Roloff, seconded by White, to approve the request for filling and grading on this property with the conditions listed by Planning and Zoning. **Motion carried 5-0.**

The Board then discussed the August 2009 hearing. Lorenz explained that the request is made by Mr. Schlough as he would have an event scheduled prior to the hearing date.

White asked what the opinion is from the other people requesting hearings. Lorenz stated contact has not been made.

White stated she doesn't feel it is fair to do to everyone else scheduled, but people clear their schedules weeks ahead and does not feel it is right to change the schedule for 1 person.

Roloff stated he agrees with White and to have one person change the agenda for everyone, he would be opposed.

The Board continued to discuss and felt that because of the number of applicants to be heard in August, a possible split day meeting would benefit everyone.

Motion by Vogt, seconded by White to split the August agenda to have a minimum of 3, maximum of 5 cases on the 20th and the remaining cases on the 27th. If there is not a minimum of 3 cases, all hearings will be held on the 27th. **Motion carried 5-0.**

Halfen requested the staff to verify with Corporation Counsel if a limitation of cases per hearing is legally possible, as the Board could then make it a policy to not accept more than a certain number of cases each month, to avoid having to make this type of decision again.

The Board moved to the election of officers.

Motion by White to nominate Rich Vogt as Chair, seconded by Roloff. Vogt accepted nomination. No other nominations made. **Motion carried 5-0.**

Motion by Vogt to nominate Linda White as Vice Chair, seconded by Allen. White accepted nomination. No other nominations made. **Motion carried 5-0.**

Motion by White to nominate Robert Roloff as Secretary, seconded by Halfen. Roloff accepted nomination. No other nominations made. **Motion carried 5-0.**

Halfen asked for the schedule of the remaining 2009 meetings.

Meeting adjourned.

Respectfully submitted,

Robert Roloff,
Secretary