

SAUK COUNTY BOARD OF ADJUSTMENT
December 15, 2011 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
David Allen
Henry Netzing
Ron Lestikow, Alternate

ABSENT: None

STAFF PRESENT: Dave Lorenz
Gina Templin

OTHERS PRESENT: See Registration slips

Chair White called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:00 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 Kettner. **Motion carried, 5-0.**

The Board adopted the agenda for the December 15, 2011 session of the Board on a motion by Netzing, seconded by Kettner. **Motion carried, 5-0.**

Motion by Allen, seconded by Kettner, to adopt the November, 2011 minutes. **Motion carried, 5-0.**

COMMUNICATIONS:

Marty Krueger, County Board Chair, appeared and introduced Nick Ladas, La Valle, who's recommendation will be in front of the County Board at the December 20th meeting, to be appointed to the Board of Adjustment, effective January 1, 2012. He also requested that the Board schedule a meeting for 8:00 a.m. before the next regular meeting to have training for the Ladas, but also a refresher for the existing members.

APPEALS:

A. Classic Custom Homes, Agent, Todd and Linda Taylor/Jim Abbey Trust, Owners (SP-29-11), a special exception permit to authorize filling and grading on two lots within 300 feet of Lake Wisconsin and a variance for a proposed deck within the shoreland setback.

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

White asked about the status of construction and whether work that has been done is why they are here making the request. Lorenz confirmed.

Kettner asked about the septic system. Lorenz explained.

Kettner asked if this also involves the building of a deck. Lorenz explained that there was a proposal for a deck to project into the setback.

White confirmed they are dealing with a special exception permit for the filling and grading and a variance to build the deck.

Kettner, referring to Exhibit II,6, asked about the deck and the location on the plans. Lorenz suggested asking the contractor.

Todd Taylor, applicant, appearing in favor of the request, stated that they were working with Heffron Homes earlier to get approvals on the lot and since that point, changed contractors and feels the earlier approval is for the work that has been done to date, which is the boathouse and retaining walls. He spoke of the home being large and a lot of fill was either hauled away or stockpiled to be used for grading between his property and the neighbors to change the grade on both properties.

White asked about the square foot print of the home. Taylor stated the total square feet of the house is around 5,000 and the footprint is around 2,500 sq. ft.

White asked if the stockpile material will be used on his lot or both. Taylor explained both lots.

White then reviewed the 3 criteria to be met for a variance and reviewed them with the applicant and asked him to address each one.

Taylor stated that he feels the that where the deck is located is on the back side of the house and not visible for either neighbor and is a small deck (8x20) and once the house was built they found that there was only room for 6 feet. They feel that they are spending a lot of money to build the house on Lake Wisconsin and feel it will infringe on their ability to use the deck and feels that because it is only 2 feet, it's not a significant variance.

White asked about hardship. Taylor stated that a 6 foot deck will limit their ability to make it a useable space and will not be able to enjoy the beauty of the Lake.

White spoke of the self imposed hardship and asked why the deck was not built into the plans. Taylor stated that it was designed with a deck and was a surprise that due to the placement of the home it was discovered that the deck would not fit, the house was designed, footings were in and this is where they are.

White asked about unique property limitations. Taylor stated there is nowhere else he could redesign to put the deck somewhere else and have maximized the envelope of the lot with the size of the house.

Kettner asked about Exhibit II,6 and which deck is requesting a variance. Taylor spoke of a rectangle with a full walk out basement and at the basement level there will be a patio and the proposed deck will come off the main level connecting the screen porch to the other side of the house. He stated that a foot to a foot and a half of the proposed deck is what is located in the setback.

Kettner asked if the house had been better sited, they wouldn't be here at all. Taylor stated that is correct.

Netzinger spoke of Exhibit II,8 and a difference in where the 75 foot setback line is located and how and who determined the two setbacks shown on the exhibits. Taylor stated that the architect drew up II,8 which is part of the house plan and is an approximation of where the setbacks would be, rather than where they are actually located. He stated he isn't positive.

Lestikow asked about Heffron Homes and the history. Taylor explained how they acquired the property through Dalene Heffron and with Heffron Homes being involved, acting as an agent came to the Board of Adjustment to build a boathouse.

Lestikow asked if the information he received from Heffron was incorrect. Taylor explained the difficulties and complications.

Bryan Sipple, Agent, appearing in favor, stated that they started the process where Heffron Homes left off and with a unique building envelope surrounded by the lake and the road and designed the home within that envelope and with the size of the house its very tight to all the setbacks and everything fits other than the deck. He also stated the elevations are all different since the work on the boathouse. He feels the applicant should be allowed to have the deck since they assumed they were getting it.

White asked if Classic Homes is doing the earth work. Sipple stated he has a subcontractor for the work to be done. White asked if it will be done according to plans. Sipple stated that they hired a landscape architect to do the work, he spoke of a citation he paid due to the stockpile and damage done. He spoke of redirecting the water from the road, manage the water from the Taylors lot and keep it from going onto the neighboring properties.

White asked about the deck being a self imposed hardship. Sipple asked who does it impose a hardship to and feels it hurts no one.

White asked why having a deck is a hardship for the applicant. Sipple asked if the road sits where it supposed to sits and feels that it is a foot off.

White asked how having or not having a foot on this deck is a hardship for the applicant. Sipple stated it becomes useable or non-useable.

White asked what the unique property limitations are. Sipple stated that the road and the possibility of it not being where it is suppose to be is a property limitation and feels that being able to fit this house on this lot.

Kettner asked about the building envelope and the area that the house can fit within the setbacks, how much in front of the building was worked with before encroachment would have been there. Sipple stated they hit the road setback on one corner of the house. He also stated that he feels the road is possibly in the wrong location. He feels that a foot is not that much.

Kettner asked if the house could have been built with a smaller footprint and asked if the limits were pushed front and back as far as the house is concerned. Sipple stated he doesn't feel it could be built smaller and they hit all the setbacks on the corners.

Netzinger asked again about Exhibit II,6 and II,8 and both are dated the same and on one the deck is shown as encroaching and on the other it's not. He also stated that the drawings don't match the testimony. Sipple stated that the exhibits are done by a landscape architect and they should ignore the 75 foot setback and he also stated he doesn't even know if the scale on the plans are correct. He stated the surveyor told them they only had 6 feet on the deck.

Allen asked if some of the deck qualifies for them to have the deck as planned. Sipple stated that due to the orientation, it seems that way. The plans are not to scale so he is merely testifying based on what the surveyor told him. They originally proposed a 7 foot, were told they could only have a 6 foot deck, but now want an 8 foot deck.

Netzinger asked how long the deck was. Sipple stated that the deck is 35 feet long.

Allen asked if he can't build the deck to setbacks where needed. Sipple stated he isn't sure and due to the layout of the lot and the home, he doesn't know.

Jim Abbey, appearing in favor of the special exception permit, stated that the one foot deck won't make a difference to him as a neighbor, but he wanted to address the filling and grading and referred to Exhibit II,6, and that the road is a higher elevation on both the right and left of the lot and you get full drainage from the road. He spoke of the grading done on his lot to address the water and feels the request for filling and grading makes sense to continue to address water run-off.

White asked how far onto the lot the grading will go. Abbey spoke of approximately the size of the board room.

Netzinger asked what kind of grass is intended. Abbey stated they are planning on no-mow fescue, low fertilizer, low water, low maintenance.

Kettner asked about Exhibit V,2, picture #4, and verified where the Abbey property is located. Abbey explained where the property line is, identified the green/red property line stake and the majority of the trees are on his property. Kettner asked about the location of the berm. Abbey explained using Exhibit V,2 #4.

White asked how many trees will be removed. Abbey stated 2-4 trees will be removed, and they intend to plant 1.

Kettner asked about the trees that remain if the dirt is dumped on the top. Abbey stated they will not be dumping dirt onto the top of the trees, as they will be removed.

Dennis Jesse, appearing as interest may appear, stated he is the neighbor to the southeast of the projects. He also stated that Abbey received BOA approval for the rain garden and spoke of the added water and his concern is that if the water garden is filled in where the water will go.

Kettner asked where the water garden is located. Jesse explained and presented Exhibit VIII,1 and 2 which are photos of the location and rain garden. He also stated the proposed deck doesn't make any difference to them as it is simply a pleasure item.

Bryan Sipple, reappearing, viewed the two exhibits presented, stated he met with officials from the Town and County to address some of the issues with the water and feels the lot Abbey owns is getting all the water and will create a swale which stops at the berm, and direct the water down towards the lake, the rain garden that is located on the Abbey lot will stay and will not get disturbed. He spoke of Exhibit VIII,2, suggested staying about 6 feet above the rain garden and towards the Jesse property they will not be filling in at all.

Jesse reappearing, verified that they won't fill towards the Jesse property.

Sipple reappearing, stated they are trying to prevent any water damage to any property and focusing on moving it to the lake.

Kettner asked about Exhibit II,6 and the berm that is to be created, where the water will be directed in relation to the berm. Sipple stated that the road water will be on the high side of the berm, the existing Taylor water will on the low side of the berm and should reduce water runoff on the Abbey's and Jesse's and the water from the Taylors lot will remain on their property.

Seeing as not one else wished to appear, Chair White closed the public portion of the hearing at 10:15 a.m.

White determined to discuss the special exception permit and variance separately.

White asked Lorenz if they are giving a permit to do filling and grading on two lots. Lorenz stated it is ok, as the applicant is acting as agent for both land owners.

Lestikow asked if the Town has submitted anything. Lorenz stated they did not.

Motion by White, seconded by Allen, to grant the special exception permit to authorize filling and grading on two lots within 300 feet of Lake Wisconsin, with the conditions listed by Planning and Zoning. **Motion carried 5-0.**

White determined the variance request to be an area variance. She asked each board member to speak to the 3 qualifications.

Kettner spoke of the hardship and feels it is a self imposed hardship due to the wanting a large building within narrow confines and pushed it too far both ways and knowing where lines are, all involved should be well aware of where they are. He addressed property limitations and feels there are none and that the building footprint is too large for the lot. He spoke of public interest and setbacks from roads and the shoreline are there for a reason and feels. He feels that it is new construction and simply built the house too big or in the wrong place.

Allen stated he feels it is an inconvenience and not a hardship and feels it is self-imposed. He feels that with the lot and the surveying they should have known what they had to work with and feels the uniqueness should have been known before they began and does not feel public interest is an issue.

Netzinger stated he doesn't feel there is a hardship and his questions on the setback and plans provided are inconsistent, feels the deck can be cut down and still be useable. He feels that all lots on Lake Wisconsin is unique and you have to build within what you have. The size of the structure could have been made smaller to fit within the setbacks. He does not feel public interest is harmed.

Lestikow feels that with the hardship and the guidance they have, the owner has reasonable use of the property without the variance and does not feel they meet the hardship requirements. He spoke of the surveyed lands, the footprint of the house drawn up and they decided to make the house as big as they could go and push the setback limits. He feels there is no unique property limitations as all lots on the lake are unique. He feels public interest is not affected.

White feels the hardship is self imposed and the choice made on the size of the house does not constitute hardship, nor does the contractor not putting the house where it needs to be to get a deck a hardship. She stated the property is not unique because all lots have setbacks and this lot has a somewhat larger building site than others in the area. She addressed public interest and the immediate neighbors being a concern and doesn't feel there is concern there, but the rules for the setbacks are set up for a reason and to protect public interest and to approve something built as a mistake is not in the public interest.

Motion by Kettner, seconded by Netzinger, to deny the variance for a proposed deck within the shoreland setback due to the request not meeting the 3 criteria for a variance.

Motion by Netzinger, seconded by Kettner to adjourn.

Respectfully submitted,

Linda White, Chair
in place of Secretary

