

SAUK COUNTY BOARD OF ADJUSTMENT
June 26, 2014 Session of the Board

PRESENT: Dan Kettner, Acting Chair
David Allen
Henry Netzinger
David Wernecke, Alternate

ABSENT: Linda White, Chair
Nick Ladas

STAFF PRESENT: Dave Lorenz
Gina Templin

OTHERS PRESENT: See Registration slips

Acting Chair Kettner called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:15 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 Netzinger. **Motion carried, 4-0.**

The Board adopted the agenda for the June 26, 2014 session of the Board on a motion by Allen, seconded by Wernecke. **Motion carried, 4-0.**

The Board adopted the minutes from the April 2014 session of the Board on a motion by Netzinger, seconded by Allen. **Motion carried 4-0 with Wernecke abstaining.**

COMMUNICATIONS: None.

APPEALS:

A. Robert and Mercedes Priebe (SP-08-14) requesting multiple variances to create two substandard buildable lots by CSM on Lake Wisconsin.

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

Kettner asked about the construction of the existing home and the age. Lorenz stated he is unsure of the age.

Wernecke asked about the purchases of the properties in the description. He also asked if the variance request is on two parcels or just one. Lorenz explained that they are looking for variances on the parcel with the existing home as well as the vacant home. Lorenz referred to Exhibit II and III, a letter from Mr. Priebe.

Wernecke asked if a septic field is regarded as a structure. Lorenz stated it is not, but it does have to meet setbacks. Wernecke asked which code the septic setbacks are in, the state or the county. Lorenz stated he has no plans or a soils test as to where a septic is going, so he can't address that, but the State would give a variance to the setbacks for a septic system.

Wernecke asked about the high water mark. Lorenz stated in this case the Department is going by the survey prepared.

Wernecke asked what the width of the property is, as it is not listed on the survey. Lorenz stated minimum lot width is 100 feet, lot #2 is 86.21 feet.

Wernecke, referring to the site plan, asked about the width of the property at the building setback line and if the property meets that minimum. Lorenz stated it does not.

Wernecke asked if based on his knowledge, would a septic system fit or if a variance was approved, a septic field may not even fit in this location. Lorenz stated that is correct.

Kettner asked with the proposed area of the septic field on the map does it also need a variance. Lorenz stated that does meet the setbacks, however, whether or not a field can go in there is unknown.

Wernecke asked about the combined side yard setbacks for existing house or vacant lot. Lorenz stated that would be for both.

Wernecke stated the proposed house meets the side yard setbacks. Lorenz stated that is correct.

Vice Chair Kettner reminded the applicant of the requirements of the variance.

Lorenz explained that the variances need to be determined whether or not the variances are an area variance or a use variance. Each variance needs to be addressed individually.

Carrie Priebe Podehl, applicant, appearing in favor of the request, spoke of the history of the property.

Kettner asked about two sets of stairs located on lot 2. Podehl stated she is unsure which lot the stairs fall on.

Allen asked about the realtor sign. Podehl stated the house is listed for sale and the listing specifies that there is a pending zoning issue and the house and lot 1 will be for sale.

Kettner stated that the future is the intent to sell the properties. Podehl stated it was a requirement that they needed to show on the lot how they could get an approximate house, garage and septic to fit. That is a basic footprint, but is only for this meeting.

Wernecke verified this is just a sample and not their intent. Podehl stated that is correct – the property doesn't work for any of them to live there.

Wernecke asked when they became aware of the nonconformity of the property. Podehl stated when they listed the house.

Netzinger asked if lot 2 is a separate parcel which gets a separate tax bill and asked how much the taxes are. Podehl stated she is unaware.

James Grothman, appearing in favor of the request, stated he is the surveyor on the property representing the applicants, spoke of the reference of lot 2 and explained the parcel number issue and why it has one which is for tax purposes only. He explained that there is a lot of unrecorded subdivisions during this period of time and happened all over the county, not just in Lake Wisconsin. He stated the septic field proposed is ample room for a conventional system and its replacement field. If for some reason they hit bedrock, a mound system could be placed there and would only take up half of that space and you don't require a replacement area for a mound system.

Allen asked why not just combined the two lots into one and sell as one parcel, and then all setbacks would be met. Grothman stated there are multiple solutions this, but he cannot make this call. Allen spoke of requirements in variances. Grothman mentioned legal non-conforming.

Kettner questions building a house on lot 2 and wouldn't be here today. Because the property is vacant, no matter what the intentions were, the restrictions did change, and now that lot is unbuildable.

Netzinger asked if someone can opt to use put a mound system on their parcel if they wanted to rather than use the system the soil test says to use. Grothman said they can.

Wernecke asked about the slope to the water and how that would be brought into compliance. Grothman stated the 50 foot setback is the State's requirement which is met. Wernecke asked if that takes into account the slope.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 10:15 a.m.

The Board discussed the variances requested and whether they are use or area. The Board requested the presence of the Corporation Counsel and recessed until she can be present.

The Board reconvened.

Alene Klezek Bolin, Assistant Corporation Counsel appearing. Kettner referred to the site plan and gave a brief history of the case before the Board today and asked about the difference between an area and use variance.

Wernecke also mentioned that lot 2 is only a tax parcel for tax purposes and is not a separate lot. Bolin verified the lots are not split per the csm shown in the exhibit.

Bolin explained an area variance versus use variance and suggested it is an area variance. She also suggested the Board take the two properties separately.

Motion by Netzinger, seconded by Allen, that the variances heard on the lot of record are considered to be area variances. **Motion carried 4-0.**

Kettner then asked to discuss the property with the house located on it.

Wernecke spoke of granting the variance for the setbacks and the revision of chapter 7 and it is clear in the purpose of the ordinance and not expand nonconforming structures, but continue using them and maintain them.

Netzinger asked about Act 81 that has to do with nonconforming structures and how much you can improve them by assessed value. Netzinger feels the house meets the hardship because the zoning code changed and made it a legal nonconforming structure and the lot is a hardship. He feels that it is a unique property limitation because all the properties are the same and it's already a nonconforming lot. He also feels it is in the public interest because they are improving the property and doesn't harm the public because most of the properties in the area are hurting because of the new codes.

Allen doesn't feel they need the variance to sell this property and feels it can stay a legal nonconforming property.

Netzinger stated the variance makes the property more saleable.

Wernecke stated he plans to vote to turn to the variance on lot one because he doesn't see an unnecessary hardship. The lot is there, the house is useable and there is room in the ordinance to make changes and they can sell the property. There is no unique property limitations shown or testified to. As far as no harm to public interests, by expanding in this densely developed area there is harm to public interest.

Kettner stated he agrees with Wernecke. The house exists for decades and can be continued to be maintained and used and sold. The requirement to add to the value is not grounds for a hardship and he doesn't feel it meets the variance requirements.

Motion by Wernecke, seconded by Allen, to deny the variances requested for lot 1 where the structure is located. **Motion carried 3-1 with Netzinger in opposition.**

The Board then discussed the variances requested on the vacant lot, referred to in the testimony in lot 2.

Allen stated he doesn't feel it meets the requirements for a variance, but delayed his comments.

Netzinger asked if it is sold can they build on it and he stated he doesn't feel so, but it was taxed as a buildable lot, he thought, but was unsure.

Wernecke referred to the county ordinance and some gray area in Section 8.05(3)(b) – substandard lots, not served by public sewers must meet certain requirements and he spoke of those.

The Board continued to discuss the number of variance required for the second lot.

Wernecke spoke of the size of the lot 2, the location of it being along a water body, increasing development, increasing impervious surfaces and runoff to the water, and is concerned about the public interest end. As far as unique property limitations, it can be joined to the other lot, as required in Section 8.05(3)(b) and as far as a hardship, there was not hardship testified to and they need to make sure that the financial aspect of selling as a second lot is not something they can consider as a hardship.

Kettner reiterated that the two lots can be adjoined yet. Wernecke agreed.

Netzinger asked about how it was taxed. He talked about the lake setback needing to be maintained and as far as the setback from the road, just take it as close as other building and he has no problem not meeting the front and side yard setbacks. He feels if it is taxed as a buildable lot, they should be allowed to build on it.

Allen stated he feels there is no unnecessary hardship shown and there is no unique property limitations and feels there is public harm as they would set precedence if they approved it.

Kettner stated he feels it does not meet the 3 criteria for a variance and there are options for the property.

Kettner opened the hearing to allow Grothman to reappear.

Grothman stated that the front setback for both lots is 30 feet from ROW or 63 feet from centerline whichever is greater and because of the shoreland.

The Board suggested he submit as a new request.

Kettner closed the hearing at 11:15 a.m.

Motion by Allen, seconded by Wernecke, to deny the area variances requested on the property testified to and described as lot 2. **Motion carried 4-0.**

Motion by Allen, seconded by Netzinger to adjourn. Motion carried.

Meeting adjourned at 11:13 a.m.

Respectfully submitted,

Henry Netzinger, Secretary

