

# ***SAUK COUNTY BOARD OF ADJUSTMENT***

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*SAUK COUNTY WEST SQUARE BUILDING  
505 BROADWAY  
BARABOO, WI 53913  
Telephone: (608) 355-3285*

October 27, 2011

DECISION  
SAUK COUNTY BOARD OF ADJUSTMENT  
Appeal Application No. SP-27-11

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

James & Shelly Cronin  
1719 Emerson St.  
Beloit, WI. 53511

Dear Mr. & Ms. Cronin,

On October 27, 2011, the Sauk County Board of Adjustment considered your application for a variance pursuant to Sauk Co. Code § 8.06(2) of the Sauk County Code of Ordinances. Based upon the applicable records, evidence and testimony presented at the hearing the Board of Adjustment makes the following:

## **FINDINGS OF FACT**

James & Shelly Cronin, hereinafter referred to as "Applicant" applied for a variance pursuant to Sauk Co. Code § 8.06(2) to authorize the repair and expansion of a residence within the minimum shoreland setback of Lake Redstone. It was ruled by the chair that this request was for an area variance.

Sauk Co. Code § 8.06(2) provides that all buildings and structures, except piers, wharves, boathouses, boat hoists, boat shelters, stairways, walkways, lifts, landings and open fences shall be setback at least 75 feet from the ordinary high water mark and shall meet the building requirements of this ordinance.

The existing house was built in 1969 prior to the adoption of the Shoreland Protection Ordinance.

This property is located in the Town of La Valle in the Shoreland Protection District and is owned by James & Shelly Cronin. The property is subject to Chapter 8 of the Sauk County Code of Ordinances.

### CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a variance unless all of the following three elements are found: 1) requiring the property owner to comply with the strict letter of the ordinance would cause unnecessary hardship, 2) the conditions creating the unnecessary hardship are unique to the owner's land and not self created, and 3) the issuance of the variance would not be contrary to the public interest. It is the burden of the Applicant to prove the unnecessary hardship. State ex rel. Ziervogel v. Wash. County Bd. of Adjustment, 2004 WI 23, P7, 269 Wis. 2d 549, 676 N.W.2d 401, State v. Waushara County Bd. Of Adjustment, 2004 WI 56, P2, 271 Wis. 2d 547, 679 N.W.2d 514. The burden is on the applicant to show that all three required elements of a variance are met. Edward Kramer & Sons, Inc. v. Sauk County Board of Adjustment, 183 Wis.2d 1, 16-17, 515 N.W. 2d 256, 262 (1994).

Upon reviewing the testimony and information provided at the public hearing, the Board found that the Applicant did demonstrate that the necessary requirements under Sauk Co. Code s. 8.14(4)(a)5 for the Board approval of a variance. The Board addresses each of the factors for consideration for an area variance as follows:

1) Whether strict compliance with the ordinance would create an unnecessary hardship for applicants?

The Board determined that to deny the repair of the existing residence would create an unnecessary hardship for the applicants.

2) Whether the property had unique characteristics which prevented the applicant from complying with the ordinance?

Based upon a review of the information provided, the Board felt that the property was unique due to the improper methods of the original construction and the rocky terrain of the lot.

3) Whether granting the area variance would be contrary to the public interest?

The Board determined that the public's interest would be protected by repairing this structure to prevent it from failing and possibly falling into the lake.

### DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of five to zero, grants your request for a variance to repair and for a proposed addition to this residence.

In issuing the variance the Board set forth the following conditions the Applicant shall comply with:

- A. All work on and use of the premises shall proceed with the plans and supplemental evidence presented at the hearing. It is the responsibility of the applicant to secure all required Town, State, Federal and County permits within one year of the hearing date. County permits required for this approval include a land use permit.
- B. The total living area of the residence shall not exceed 1650 square feet.
- C. Erosion control shall be installed and maintained until the site is stabilized and revegetated.
- D. Sauk County Conservation, Planning and Zoning shall be granted permission to view the site to ensure compliance with these conditions and other relevant provisions of Sauk County Ordinances. The power to ensure compliance with these conditions is given to Sauk County Planning and Zoning. If the department finds that any of these conditions have been violated, they are hereby authorized to take corrective action, either through suspension of the permit, citations or by any means of enforcement that is within their power.
- D. Failure by the Applicant to follow all of the conditions set forth by the Sauk County Board of Adjustment is grounds for revocation of the variance and possible enforcement action. In order to have the variance reinstated after revocation the applicant must appear in front of the Board of Adjustment for a new hearing and comply with all requirements as outlined in this letter.

#### APPEAL RIGHTS

A complete record of the entire hearing and the decision of the Board is available for inspection at the Sauk County West Square Building. Please note that advance arrangements may be necessary to inspect such records. This decision will become final unless a written appeal is filed with the Sauk County Circuit Court within 30 days of the decision being filed in the Sauk County Planning and Zoning Office. Copies of the record may be secured upon written request and upon payment of the transcription fees.

Very truly yours,  
SAUK COUNTY BOARD OF ADJUSTMENT

  
Linda White, Chair

  
Robert Roloff, Secretary

Filed on this date 11-2-11

COPY TO:

Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959  
Mr. Robert Roloff S1661 Fox Court, La Valle, WI. 53941  
Mr. Henry Netzinger, E11085 Sauk Prairie Road, Prairie Du Sac, WI. 53578  
Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959  
Mr. Daniel Kettner, E4717 Rolling Ridge Road, Spring Green, WI. 53588  
Mr. Ron Lestikow, S6463 Devils Delight Road, Merrimac, WI. 53561  
Mr. David Wernecke E13119 State Road 33, Baraboo, WI. 53913  
Sauk County Planning and Zoning Office  
Town Clerk  
District Supervisor