

SAUK COUNTY BOARD OF ADJUSTMENT

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

April 27, 2012

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-10-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph Seep
E3761 Old Hwy K
Reedsburg, WI. 53959

Dear Mr. Seep,

On April 26, 2012, the Sauk County Board of Adjustment considered your application for a variance from the setback requirements pursuant to Sauk Co. Code § 7.18(3)(b) 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

Joseph Seep, hereinafter referred to as "Applicant" applied for a variance from Sauk Co. Code § 7.18(3)(b) to authorize the construction of a workshop/warehouse within the minimum road setback to replace a building destroyed by fire. It was ruled by the chair that this request was for an area variance.

Sauk Co. Code § 7.18(3)(b) provides that for all class C highways setback lines are hereby established, parallel to and a distance of 63 feet from the centerline of such highway or 30 feet from the right-of-way line, whichever is greater.

The workshop/ warehouse destroyed by fire was built prior to Sauk County adopting the highway setback ordinance.

This property is located in the Town of Ironton in the Commercial District and is owned by Joseph Seep. The property is subject to Chapter 7 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 not demonstrate that the necessary requirements under Sauk Co. Code s. 7.17(4)(c) 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 require the applicant to adhere to the minimum setback ordinance did not create an unnecessary hardship for the applicant. The Board found that there were other options available to the applicant, such as bringing in fill to expand the parking area to the south.

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 determined that the property was unique due to the topography of the property which drops off toward the south.

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

The Board determined that the variance would not be contrary to the public interest due to the fact that there is no history of accidents or complaints of the building being too close to the road.

DECISION

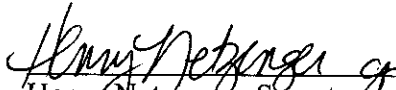
Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment by a vote of five to zero, denies your request for a variance to rebuild within the minimum road setback.

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


Henry Netzinger, Secretary

Filed on this date May 2, 2012

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