

June 27, 2011

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-10-11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Orrin Carr
E13609 Idlewild Rd.
Merrimac, WI. 53561

Dear Mr. Carr,

On June 23, 2011, the Sauk County Board of Adjustment considered your application for a variance pursuant to Sauk Co. Code § 8.05(3)(c) 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

Orrin Carr, hereinafter referred to as “Applicant” applied for variances pursuant to Sauk Co. Code § 8.05(3)(c) to authorize the construction of a garage on a substandard sized lot. It was ruled by the chair that this request was for area variances.

Sauk Co. Code § 8.05(3)(c) provides that: a land use permit for the improvement of a lot having dimensions less than 10,000 square feet and 65 feet in width at the building setback line shall be issued only after the granting of a variance by the Sauk County Board of Adjustment.

The existing lot was platted in 1925 prior to the adoption of the Shoreland Protection Ordinance.

This property is located in the Town of Merrimac in the Shoreland Protection District and is owned by Orrin Carr. 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).

The Board of Adjustment denied a variance request for a garage at this location in 2006 because not having a garage was not determined to be a hardship. This request was focused on the substandard lot and whether it would be a hardship to not be able to improve this lot. The Board determined that the substandard lot was similar to the lots in the area and since all building setbacks can be met, the applicant should have the right to improve the lot.

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 any improvement on this substandard lot would require the owner to secure a variance. To deny the variance would unreasonably prevent the owner from using the property for a permitted use.

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 could be considered unique due to its age and the fact that a lot of this size could not be created since the adoption of the Shoreland Protection Ordinance.

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

The Board was of the opinion that public interest would not be compromised by granting the requested area variances. The proposed location of the garage does not present any safety issues to the public.

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 authorize the location of a proposed detached garage.

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 prior to commencing any building or change of use.
- B. The variance is granted to have a setback of 22 feet from the right of way of Elm St. or the average of the structures on the south side of Elm Street whichever distance is greater, as determined by Sauk County Conservation, Planning and Zoning.
- C. 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 suspension or revocation of the variance and possible enforcement action. In order to have the variance reinstated after suspension, the applicant must comply with all conditions established by the Board of Adjustment, as determined by the Sauk County Conservation, Planning & Zoning Director, or appear in front of the Board of Adjustment. 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, Vice Chair

Robert Roloff, Secretary

Filed on this date _____

COPY TO:

Mr. Robert Roloff, S1661 Fox Court, LaValle, WI. 53941
Mr. Richard Vogt, S10284, Dead End Road, Plain, WI. 53577
Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959
Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959
Mr. Fred Hafen, S10051 Loyster Road, Prairie Du Sac, WI. 53578
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