

MINUTES
MONDAY, APRIL 4, 2016 – 11:00 AM
BOARD OF ADJUSTMENT COMMITTEE
ROOM #1004 - 1ST FLR COURTHOUSE BUILDING "A"
301 WASHINGTON STREET, OCONTO, WI 54153-1699
www.co.oconto.wi.us

(Draft minutes until approved by Committee)

COMMITTEE PRESENT: Ballestad, Ragen, Sleeter, Stranz, and Wellens

OTHERS PRESENT: Gabe Moody

1. Moved by Stranz, seconded by Ragen, to approve the agenda. Motion voted on and carried.
2. Approval of Minutes
 - a. Business Meeting
Motion by Stranz, seconded by Ballestad, to approve minutes of February 29, 2016.
Motion voted and carried.
 - b. Public Hearings
Moved by Ragen, seconded by Stranz to approve the minutes of
 - i. April 4, 2016
 1. David Westenberg
 2. Danny Baeten
 3. Oconto County
3. Public Comments/Miscellaneous
Moody informed BOA of a violation in Pensaukee
4. Hearing Dates
 - a. The Board selected April 27, 2016 and April 28, 2016 as the public hearing date.
 - b. The Board selected May 2, 2016 as the business meeting date.
6. Adjournment
Moved by Ballestad, seconded by Stranz to adjourn. Motion voted on and carried.

Melissa Wellens – Secretary

Alan Sleeter – Chair

MW/mls Date posted: 04/7/16

MINUTES OF HEARING
OCONTO COUNTY BOARD OF ADJUSTMENT
April 04, 2016

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES
DATE 4/9/16 BY MS

1. Hearing called to order at 9:48 AM
2. Roll Call: Present: Mr. Alan Sleeter
 Mr. Allan Stranz, Vice-Chairman
 Mrs. Melissa Wellens, Secretary
 Mr. Karl Ballestad
 Mr. Elmer Ragen

Others Present: Mr. Gabe Moody, Assistant Zoning Administrator
 Mr. David Westenberg
 Ms. Cindy Westenberg
 Ms. Sonja Wood
3. Mr. Moody read the Notice of Public Hearing pertaining to David Westenberg's application for a conditional use permit to operate a transportation business. Location of the property is in Section 23, T28N, R21E, Town of Oconto.
4. Mr. Moody stated that the notice was mailed to the petitioner, DZA for posting, adjacent landowners within approximately 300 feet of the affected parcel, and others on the distribution list. He also made a statement in regard to the Open Meeting Law.
5. Mr. Moody stated that the petition was filed on January 4, 2016. He provided the required notices, application, plot plan and maps.
6. Appearances:
 - A. Mr. David Westenberg appeared and was sworn in. He stated the he is requesting a conditional use permit to operate a transportation business. They have 9 trucks at present and do routine maintenance on all of the trucks in the shed. Halron Oil picks up the used oil. They haul to all 48 states. Only the employees use the office building. There are no customers that come to the business/property. There are no plans for expansion – other than parking.
 - B. Ms. Sonja Wood appeared and was sworn in. She stated that she shares a driveway. They are good people and she does not have any problems. Is in favor of the permit.
 - C. Mr. Gabe Moody appeared and was sworn in. He read the staff report
 - D. Mr. Westenberg re-appeared and stated no trucks are on the property at night to be idling. They are usually on the property from 7:00 to 5:00. Has dusk to dawn lights on the property. Does not know if there is a driveway permit.
7. Correspondence
 - A. Letter from Jerry & Delores Bickel – no objections
 - B. Letter from Keith & Sonja wood – no issues

- C. Letter from David & Shari Ermis – problem with trucks idling for hours
- D. E-mail from the DOT regarding a driveway permit.

8. Testimony closed at 10:08 AM

9. Deliberation/Discussion: Discussed the conditions. It is a reasonable use of the property. Discussed the limit of trucks.

10. Decision: Moved by Ballestad, seconded by Stranz to grant a conditional use permit to operate a transportation business with the following conditions:

1. Hours of Operation – 24 hours a day, 7 days a week;
2. Adequate parking;
3. Adequate lighting;
4. Hazardous waste materials must be disposed of properly;
5. Must obtain a commercial driveway access permit from the Wisconsin Dept. of Transportation.

Roll Call Vote: Ballestad, Ragen, Sleeter, Stranz and Wellens all voting aye, no nays, motion carried.

11. Hearing adjourned at 10:11 AM


Melissa Wellens
Secretary


Alan Sleeter
Vice-Chairman

Gabe Moody
Assistant Zoning Administrator

**NOTICE OF DECISION AND ORDER
OCONTO COUNTY ZONING BOARD OF ADJUSTMENT**

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES
DATE 4/5/16 BY ms

CASE NO: CU-20160001

FINDINGS OF FACT: Having heard all the testimony and considered the entire record herein, the Board finds the following facts:

1. The applicant is David Westenberg, 2538 Fisher Ln, Oconto, WI, 54153.
2. The applicant is the owner of record of parcel number 030-222300311B1 located in the NE¼, NE¼, Section 23, T28N, R21E, Town of Oconto.
3. The conditional use permit application was filed with the Board Secretary on January 4, 2016, noticed, as provided for by law, on March 16, 2016 and March 23, 2016, and a public hearing was held by the Oconto County Board of Adjustment on April 04, 2016.
4. The property is zoned General Commercial District under the Oconto County Zoning Ordinance which was enacted November 9, 1989.
5. The applicant is requesting a conditional use permit to operate a transportation business.
6. The applicant is requesting a conditional use permit under the provisions of the Oconto County Zoning Ordinance.

CONCLUSIONS OF LAW: Based upon the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction of this matter under the provisions of the Oconto County Zoning Ordinance.
2. Violations of the Oconto County Zoning Ordinance will not exist as a result of this action.

DETERMINATION AND ORDER: On the basis of the above Findings of Fact, Conclusions of Law and the record herein, the Board determines and orders as follows:

GRANT OF CONDITIONAL USE PERMIT

The requested conditional use permit to operate a transportation business is hereby granted subject to the following conditions:

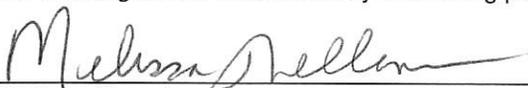
1. Hours of Operation – 24 hours a day, 7 days a week;
2. Adequate parking;
3. Adequate lighting;
4. Hazardous waste materials must be disposed of properly;
5. Must obtain a commercial driveway access permit from the Wisconsin Dept. of Transportation.

GENERAL CONDITIONS

Any privileges granted by this decision and order are subject to the conditions herein stated. Any period of time during which this decision and order is stayed by order of and court or operation of law shall not be counted in determining the time for exercise of the privileges granted.

This order may be revoked by the Board, after notice and opportunity to be heard, for violation of any of the conditions or limitations imposed.

A review of this decision and order may be obtained by filing an action of certiorari with the Circuit Court for Oconto County within 30 days of the filing date of this decision and order. The County assumes no liability and makes no warranty as to the legality of any construction commenced prior to the expiration of this 30 day period. The granting of the conditional use permit does not relieve the applicant of the obligation to obtain sanitary and zoning permits.



Melissa Wellens, Secretary
Oconto County Board of Adjustment

4-4-16

Date

MINUTES OF HEARING
OCONTO COUNTY BOARD OF ADJUSTMENT
April 04, 2016

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES
DATE 4/5/16 BY MS

1. Hearing called to order at 10:14 AM
2. Roll Call: Present: Mr. Alan Sleeter
 Mr. Allan Stranz, Vice-Chairman
 Mrs. Melissa Wellens, Secretary
 Mr. Karl Ballestad
 Mr. Elmer Ragen

Others Present: Mr. Gabe Moody, Assistant Zoning Administrator
 Mr. Danny Baeten
 Ms. Demetria Baeten
 Ms. Lana Ard
3. Mr. Moody read the Notice of Public Hearing pertaining to Danny Baeten's application for a variance to build closer to the water. Location of the property is in Section 32, T28N, R21E, Town of Oconto.
4. Mr. Moody stated that the notice was mailed to the petitioner, DZA for posting, adjacent landowners within approximately 300 feet of the affected parcel, and others on the distribution list. He also made a statement in regard to the Open Meeting Law.
5. Mr. Moody stated that the petition was filed on February 25, 2016. He provided the required notices, application, plot plan and maps.
6. Appearances:
 - A. Mr. Danny Baeten appeared and was sworn in. He stated that he is requesting a variance to build closer to the water. Would like to build a 24' x 36' garage. There is a navigable ditch running by his property. The septic is on the south side of the proposed garage. At the closest point, the garage will be 25' from the ordinary high water mark of the ditch. The run-off will be diverted with gutters.
 - B. Mr. Gabe Moody appeared and was sworn in. He read the staff report.
7. Correspondence
8. Testimony closed at 10:22 AM
9. Deliberation/Discussion: The BOA discussed the Findings of Fact and agrees this application meets the 3 steps to grant a variance.
 1. Unique Property Limitation – The lot is small. The location of the septic and it's in a floodplain.
 2. No harm to public interest – Runoff will be controlled and erosion control will be used.
 3. Unnecessary Hardship – No other garage for storage and winter protection. This is the only buildable area.

10. Decision: Moved by Wellens, seconded by Ragen to reduce the required 75' ordinary high water mark setback to 25' from the ordinary high water mark of a navigable ditch with the following conditions:

1. Erosion control must be used during construction;
2. Runoff must be diverted away from the ditch to retention areas.

Roll Call Vote: Ballestad, Ragen, Sleeter, Stranz and Wellens all voting aye, no nays, motion carried.

11. Hearing adjourned at 10:28 AM


Melissa Wellens
Secretary


Alan Sleeter
Chairman

Gabe Moody
Assistant Zoning Administrator

**NOTICE OF DECISION AND ORDER
OCONTO COUNTY BOARD OF ADJUSTMENT**

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES

DATE _____ BY _____

CASE NO: VA-20160006

FINDINGS OF FACT: Having heard all the testimony and considered the entire record herein, the Committee finds the following facts:

1. The petitioner is Danny Baeten, 5336 County Road J, Oconto, WI 54153
2. The petitioner is the owner of record of parcel number 030-30320062E located in Section 32, T28N, R21E, Town of Oconto.
3. The petition for variance was filed with the Board Secretary on February 25, 2016, noticed, as provided for by law, on March 16, 2016 and March 23, 2016, and a public hearing was held by the Oconto County Board of Adjustment on April 04, 2016.
4. The property is zoned Rural Residential District under the Oconto County Zoning Ordinance which was enacted November 9, 1989.
5. The proposed relief sought by the petitioner is a variance from the requirement that a structure be setback 75' from the ordinary high watermark. Specifically, the petitioner is requesting to build a garage 25' from the ordinary high water mark of the Oconto River.
6. The hardship claimed in this matter is need a garage for storage.
7. The applicant is requesting a variance under the provisions of Section 14.3100 of the Oconto County Zoning Ordinance.

CONCLUSIONS OF LAW: Based upon the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction of this matter under the provisions of Section 14.3100 of the Oconto County Zoning Ordinance.
2. Violations of the Oconto County Zoning Ordinance will not exist as a result of this action.
3. A literal enforcement of the terms of the Oconto County Zoning Ordinance will result in practical difficulty or unnecessary hardship to the applicant because there is no other buildable area.
4. The unique physical limitation of the property is the lot is small and the location of the septic and floodplain.
5. The variance will not be contrary to the public interest and spirit of the Oconto County Zoning Ordinance.

DETERMINATION & ORDER: On the basis of the above Findings of Fact, Conclusions of Law and the record herein, the Committee determines & orders as follows:

GRANT OF VARIANCE

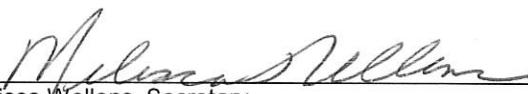
1. The requested variance to reduce the required 75' ordinary high water mark setback to 25' from the ordinary high water mark of a navigable ditch is hereby granted with the following conditions:
 1. Erosion control must be used during construction;
 2. Runoff must be diverted away from the ditch to retention areas.

GENERAL CONDITIONS

Any privileges granted by this decision and order are subject to the conditions herein stated. Any period of time during which this decision and order is stayed by order of and court or operation of law shall not be counted in determining the time for exercise of the privileges granted.

This order may be revoked by the Committee, after notice and opportunity to be heard, for violation of any of the conditions or limitations imposed.

A review of this decision and order may be obtained by filing an action of certiorari with the Circuit Court for Oconto County within 30 days of the filing date of this decision and order. The County assumes no liability and makes no warranty as to the legality of any construction commenced prior to the expiration of this 30 day period. The granting of this variance does not relieve the applicant of the obligation to obtain sanitary and zoning permits.



Melissa Wellens, Secretary
Oconto County Board of Adjustment

4-4-16

Date

MINUTES OF HEARING
OCONTO COUNTY BOARD OF ADJUSTMENT
April 04, 2016

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES
DATE 4/5/16 BY WDS

1. Hearing called to order at 10:32 AM
2. Roll Call: Present: Mr. Alan Sleeter
 Mr. Allan Stranz, Vice-Chairman
 Mrs. Melissa Wellens, Secretary
 Mr. Karl Ballestad
 Mr. Elmer Ragen

Others Present: Mr. Gabe Moody, Assistant Zoning Administrator
 Mr. Patrick Virtues
 Mr. Gary Hanson
 Mr. Kevin Birr
3. Mr. Moody read the Notice of Public Hearing pertaining to Oconto County's application for a variance to build closer to the water. Location of the property is in Section 23, T27N, R21E, Town of Pensaukee.
4. Mr. Moody stated that the notice was mailed to the petitioner, DZA for posting, adjacent landowners within approximately 300 feet of the affected parcel, and others on the distribution list. He also made a statement in regard to the Open Meeting Law.
5. Mr. Moody stated that the petition was filed on February 29, 2016. He provided the required notices, application, plot plan and maps.
6. Appearances:
 - A. Mr. Patrick Virtues appeared and was sworn in. He stated that he represents Oconto County and they are requesting a variance to build closer to the water. This property was taken on tax deed by the county. A permit was issued in 1990 stated the building would be 100' from the ordinary high water mark. The survey done by the potential buyer determined the building was built 59' from the ordinary high water mark. This makes the building not non-conforming and a violation, but the county cannot enforce action against the property after 10 years according to statute 59.692(1t). The County cannot sell the property until a variance is granted. A concession could be made for restoration of the shoreline. The 1.12 acre property is in the sanitary district.
 - B. Mr. Kevin Birr appeared and was sworn in. He stated that he is the potential buyer and is waiting for title to clear. He is requesting that the deck be part of the variance, which is 48' from the ordinary high water mark. The home has been vacant for 8-9 years. Plans to remodel the home. Indicated that he has quite a bit of money already invested in getting this property.
 - C. Mr. Gary Hudson appeared and was sworn in. He stated that he owns a home 3 lots to the south of this property. Believes the deck is part of the property and should be allowed.

D. Mr. Patrick Virtues reappeared and explained that the variance is for the house and the deck would still be considered a violation. Would like to resolve all violations before the sale.

E. Mr. Gabe Moody appeared and was sworn in. He read the staff report.

7. Correspondence

8. Testimony closed at 11:03 AM

9. Deliberation/Discussion: The BOA discussed the Findings of Fact and agrees this property meets the 3 steps to grant a variance.

1. Property Limitation – the existing circumstances are over 10 years old;
2. No Harm to Public Interest – No changes to the building. Adding conditions for runoff;
3. Unnecessary Hardship – Unique to the property. In place for more than 10 years. Must clear illegal structure status before the county can sell the property.

10. Decision: Moved by Ragen, seconded by Ballestad to reduce the 75' ordinary high water mark setback to 59' from the ordinary high water mark of the Bay of Green Bay for the house and to reduce the 75' ordinary high water mark setback to 53' from the ordinary high water mark of the Bay of Green Bay for a deck 6' wide and not to exceed 28' in length with the following conditions:

1. Maintain the buffer zone;
2. Divert runoff from the water;

Roll Call Vote: Ballestad, Ragen, Sleeter, Stranz and Wellens all voting aye, no nays, motion carried.

11. Hearing adjourned at 11:20 AM


Melissa Wellens
Secretary


Alan Sleeter
Vice-Chairman

Gabe Moody
Assistant Zoning Administrator

NOTICE OF DECISION AND ORDER
OCONTO COUNTY BOARD OF ADJUSTMENT

OCONTO COUNTY, WISCONSIN
FILING DATE FOR SECTION
59.694(10) STATUTORY PURPOSES
DATE 4/5/16 BY ms
CASE NO: VA-20160007

FINDINGS OF FACT: Having heard all the testimony and considered the entire record herein, the Committee finds the following facts:

1. The petitioner is Oconto County, 301 Washington St, Oconto, WI 54154
2. The petitioner is the owner of record of parcel number 034-33230083E located in Section 23, T27N, R21E, Town of Pensaukee.
3. The petition for variance was filed with the Board Secretary on February 29, 2016, noticed, as provided for by law, on March 16, 2016 and March 23, 2016, and a public hearing was held by the Oconto County Board of Adjustment on April 04, 2016.
4. The property is zoned Residential Single Family District under the Oconto County Zoning Ordinance which was enacted November 9, 1989.
5. The proposed relief sought by the petitioner is a variance from the requirement that a structure be setback 75' from the ordinary high watermark. Specifically, the petitioner is requesting to build an existing home is 48' from the ordinary high water mark from the Bay of Green Bay.
6. The hardship claimed in this matter is the structure is illegal and over 10 years old.
7. The applicant is requesting a variance under the provisions of Section 14.3100 of the Oconto County Zoning Ordinance.

CONCLUSIONS OF LAW: Based upon the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction of this matter under the provisions of Section 14.3100 of the Oconto County Zoning Ordinance.
2. Violations of the Oconto County Zoning Ordinance will not exist as a result of this action.
3. A literal enforcement of the terms of the Oconto County Zoning Ordinance will result in practical difficulty or unnecessary hardship to the applicant because they cannot clear the illegal status until a variance is obtained.
4. The unique physical limitation of the property is the existing circumstances.
5. The variance will not be contrary to the public interest and spirit of the Oconto County Zoning Ordinance.

DETERMINATION & ORDER: On the basis of the above Findings of Fact, Conclusions of Law and the record herein, the Committee determines & orders as follows:

GRANT OF VARIANCE

The requested variance to reduce the 75' ordinary high water mark setback to 59' from the ordinary high water mark of the Bay of Green Bay for the house and to reduce the 75' ordinary high water mark setback to 53' from the ordinary high water mark of the Bay of Green Bay for a deck 6' wide and not to exceed 28' in length is hereby granted with the following conditions:

1. Maintain the buffer zone;
2. Divert runoff from the water;

GENERAL CONDITIONS

Any privileges granted by this decision and order are subject to the conditions herein stated. Any period of time during which this decision and order is stayed by order of and court or operation of law shall not be counted in determining the time for exercise of the privileges granted.

This order may be revoked by the Committee, after notice and opportunity to be heard, for violation of any of the conditions or limitations imposed.

A review of this decision and order may be obtained by filing an action of certiorari with the Circuit Court for Oconto County within 30 days of the filing date of this decision and order. The County assumes no liability and makes no warranty as to the legality of any construction commenced prior to the expiration of this 30 day period. The granting of this variance does not relieve the applicant of the obligation to obtain sanitary and zoning permits.



Melissa Wellens, Secretary
Oconto County Board of Adjustment

4-4-16

Date