

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – Friday, March 21, 2014**

CALL TO ORDER

The meeting of the Board of Adjustment was called to order by Chair Janice Hardesty at 9:00 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende, Nancy Hill, Janice Hardesty, Ron Triemstra
Absent: Kathleen Moore
Also present: Matt Kirkman, Code Enforcement Officer
Missy Sorenson, Code Enforcement Officer
Dan Sondalle, Corporation Counsel
Carole DeCramer, Board Secretary

APPROVAL OF AGENDA

Motion by Hill/Gende, unanimously carried, to approve the agenda. Motion carried.

APPROVAL OF MINUTES

Motion by Hill/Gende to approve the June 21, 2013 and July 19, 2013 minutes. Hill questioned whether the minutes could be approved since she was the only board member present at the July 19th meeting. It was decided that the minutes will be approved at a future meeting when Kathleen Moore is present. Hill and Gende withdrew their motion.

RECESS FOR FIELD INSPECTION

Time: 9: 02 a.m.

Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.

PUBLIC HEARING MATTERS

Board reconvened at 10:00 a.m.

Chair Hardesty read the Rules of Order.

Item I: Owner/Applicant: Dennis & Susan Jackowski **Agent:** Attorney Steven R Sorenson, Davis & Kuelthau, SC **Site Description:** W2896 Wick Rd, Parcel #006-00820-0000, Lot 1 Certified Survey Map 338, located in the NW¼, Section 12, T15N, R12E, Town of Green Lake **Request:** The owners/applicants are requesting a variance from Section 338-21.A.(4)(c) of the Shoreland Zoning Ordinance to relocate and modify a 10ft X 20ft deck within the 75' shoreland setback.

- a. Public hearing.

Attorney Steven R. Sorenson, 479 Golf Hill Court, Green Lake, representing Dennis and Susan Jackowski, and their contractor, Ben Moderow – Explained what his clients are proposing and spoke in favor of the request.

Attorney Sorenson stated that the Jackowskis as well as Ben Moderow are present to answer questions.

Matt Kirkman – Stated that the staff report speaks for itself; it appears, from staff review, that the criteria could be seen as having been met.

Public hearing closed at 10:09 a.m.

b. Board discussion and deliberation.

Motion by Hill/Gende that the request by the owners be approved as written.

Hill – One thing that has been discussed is the cumulative effect of granting this request. If approved, it could spur others to request the same thing. However, the board takes each individual request and looks at it separately. I don't feel this is an issue for this property. Each request will be looked at individually. Matt (Kirkman), there was mitigation included in the previous request that included mitigation along the shoreline?

Kirkman – The land use permit that was applied for included the necessity for a mitigation plan. They needed three points of mitigation because they were doing a vertical expansion as well as a replacement of a non-conforming structure so they needed three points of mitigation. With that permit application, they submitted an infiltration plan that has since been scrapped. They're now working on a vegetation plan along the shoreline. That contractor will get that plan to us as soon as possible.

Sorenson interjected that they acknowledge and understand that requirement. It's being worked on right now.

Hill – We discussed, at the site, possibly redesigning the deck to clear the window well. By doing so, it would maintain the 50' setback. One possibility for the steps is having the steps included in the 200 square foot deck.

Sorenson – We would hope that you wouldn't decrease the vertical platform. With a wheelchair, you need the room to traverse. A nice, square platform is necessary for safety.

Hill – A railing could be constructed in order to prevent an accidental movement into steps. It could be included in the 200 square feet.

Kirkman – Review the staff report; it addresses these issues.

Hardesty – Addressed the unnecessary hardship criteria. Mr. Jackowski has a handicap. The deck would make the front of the house enjoyable to him. I do not see an unnecessary hardship. The statute that created this fiasco of making property owners come for two variances is excessive, in my opinion, and is not of their making. The only way to control that is through the ballot box. I do not see unnecessary hardship present.

Kirkman – To clarify, you don't see their explanation for an unnecessary hardship, but you do see a different hardship as you just explained.

Hardesty – Yes, that’s correct. It’s visually there. Asked if there were questions regarding unique property limitations.

Hill – Under additional information in the staff report, I would like to note that physical limitations is a component of the hardship, but ADA and FHA allow Land Use Planning and Zoning to administratively issue a land use permit for a reasonable structure with a required setback to accommodate a person with a qualified disability. That is important in our decision because I agree with that.

Kirkman – The point of that is that there are provisions in the ADA and FHA that allow us to administratively permit a deck without a variance. The problem is when that qualifying individual moves from the building, the deck would have to be removed. That’s why they’re here. They’re going after a variance so that they can keep the deck. It’s something anybody who lives in the house would have a need for.

Hardesty – Unique property limitations have been well sited by Mr. Sorenson. They’re actually moving the house back from where it was, which was inside the ordinary high water mark (OHWM) and this, aesthetically, will complete the property. I don’t see any unique limitations. It’s moved back from where it was.

Kirkman – You’re addressing the harm to public interest right now, right?

Hardesty – Right.

Hill – I would like to add a condition to the motion.

Motion by Hill/Gende to amend the previous motion to add the condition that the total square footage of the deck area is 200 square feet and that the stairs do not have to be included in those 200 square feet. Gende added that the stairs would have to be a normal, threaded rise for a three-foot height.

Kirkman – If you’d like to use the staff report condition as a template and then modify it accordingly. There is more criteria I’d like to see. The condition has the 50’ setback; I wouldn’t want the deck to be any closer than 50’.

Hill – Wasn’t that part of the original request for the variance?

Hardesty – Yes.

Kirkman – No, the original request was for a 10’ X 20’ deck on the front of the building. It worked out to be about 45’ from the water. If you move it over, we’ll get it compliant to the 50’ from the OHWM and no bigger than 200 square feet and not to include the stairs as part of that area. That’s the condition from the staff report if you want to use that.

Hill – Yes.

Hardesty – That would be satisfactory.

The committee voted on the motion to amend: 3-ayes, 0-nays. Motion carried.

c. Board decision.

Motion by Hill/Gende to approve the variance request from Section 338-21.A.(4)(c) of the Shoreland Zoning Ordinance to relocate and modify a 10ft X 20ft deck within the 75' shoreland setback. The approval would include the following conditions as stated in the staff report:

- 1. The deck shall be no greater than 200sqft in total floor area, not including stairs to grade.
The deck, excluding stairs, must not be closer than 50ft to the OHWM of Green Lake.
The stairs would have to be a normal, threaded rise for a three-foot height.
Roll call: Hill - aye, Gende – aye, Hardesty - aye. Motion carried.**

Hardesty - Requested that staff take the necessary steps to prepare something for the Board of Adjustment to review at the next meeting with regard to amending the zoning ordinance so that residents no longer have to request variances for something like this.

Kirkman – This would be something for the Land Use Planning & Zoning Committee to review.

Attorney Sondalle – Advised that this can be an ordinance amendment recommendation from this board to the Land Use Planning & Zoning Committee or the County Board saying that the Board of Adjustment feels that it would be in the best interest of the constituents to address this issue and maybe modify the ordinance so that we don't have duplication like this. The Land Use Planning & Zoning Committee will look at it and then make a recommendation to the County Board.

Hardesty – Directed Kirkman to proceed as Attorney Sondalle suggested.

CORRESPONDENCE

a. Approve the 2014 Calendar

The committee reviewed the 2014 Calendar.

Hardesty asked that the format of future agendas be changed to include “correspondence” in the public hearing portion of the agenda.

ADJOURN

On a motion by Hill/Gende, unanimously carried, to adjourn.

Time: 10:35 a.m.

Recorded by,
Carole DeCramer
Board of Adjustment Secretary

APPROVED ON:

August 15, 2014