

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – Friday, February 18, 2011**

CALL TO ORDER

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

Present: Janice Hardesty, Nancy Hill, Roger Ladwig,
Absent: Kathleen Moore (Alternate 2)
Also present: Assistant Corporation Counsel Jeff Haase
Al Shute, County Surveyor/Land Development Director
Matt Kirkman, Code Enforcement Officer
Carole DeCramer, Board Secretary

APPROVAL OF AGENDA

Motion by Ladwig/Hardesty, unanimously carried, to approve the agenda.

APPROVAL OF MINUTES

Motion by Hardesty/Ladwig, unanimously carried, to approve the October 22, 2010, and December 14, 2010, minutes. Hill abstained since she was not at the meetings.

RECESS FOR FIELD INSPECTION

Time: 9:04 a.m.

PUBLIC HEARING MATTERS

Board reconvened at 10:07 a.m.

Chair Hill read the Rules of Order.

Audio tape is available for verbatim discussion.

Item I: Owner/Applicant: Dr. Thomas B & Linda J Kloosterboer **Address:** W2684 Oakwood Beach Rd, Parcel #006-01483-0000, Oakwood Beach Plat Lot 27, Section 12, T15N R12E, Town of Green Lake **Explanation:** The owners are requesting a variance from Sections 338-14.B. of the Shoreland Protection Ordinance to allow for the construction of a new residence within the required 40' front yard setback.

- a. Public hearing.

Attorney Steven Sorenson, Sorenson Law Office, 749 Golf Hill Court, Green Lake, Wi, representing the applicants - Spoke in favor of the request.

Joann LaMire, W1955 S. Lawson Drive, Green Lake, WI – Spoke in favor of the request.

Dr. Thomas Kloosterboer, W2684 Oakwood Beach Road, Markesan, WI – Spoke in favor of the request.

Linda Kloosterboer, W2684 Oakwood Beach Road, Markesan, WI – Spoke in favor of the request.

Stan Arnetveit, Design Specialty Builders, 519 South Street, Green Lake – Spoke in favor of the request.

Public hearing closed.

Motion by Hill/Ladwig, unanimously carried, to suspend the rules to allow the Board of Adjustment the opportunity to ask questions of the applicants, attorney, and builder.

Public hearing closed.

Motion by Hardesty/Hill, to approve the variance request to allow a 15' setback from the front-yard setback.

Ladwig questioned whether or not the motion included the staff-recommended conditions.

Hardesty withdrew the prior motion.

Motion by Hardesty/Hill to approve the variance request to allow for the construction of a new residence within the required 40' front-yard setback, with the following conditions:

- 1) That a shoreland restoration plan be designed by a qualified professional (in accordance with NRCS Interim Standard #643A, Shoreland Habitat and Wisconsin Biology Technical Note 1: Shoreland Habitat), be evaluated and approved by the Land Use Planning & Zoning Office prior to Land Use Permit issuance, and be installed within one year of land use permit issuance.**
- 2) The shoreland restoration project shall be maintained via the shoreland vegetative buffer agreement that shall be recorded in the County's Register of Deeds office.**
- 3) That the owner consult with the Land Conservation Department to Determine, through the scope of the proposed project, the need for a storm water management plan and, if it is determined that a plan is needed, condition 4 shall be met.**
- 4) That prior to land use permit approval, the Land Conservation Department approve a storm water management plan, in accordance with Chapter 284 of the Code of Green Lake County, utilizing WDNR storm water management practice standards, and designed by a professional engineer, landscape architect or other qualified professional to infiltrate or evapotranspire 55% of the 2-year rainfall event (over impervious surfaces) on the subject site, for water quality purposes.**

In further discussion, Ladwig commented that the Board of Adjustment is at a disadvantage in regard to the testimony from Attorney Sorenson because the Board does not have an attorney to rebuke or confirm what he stated.

Sorenson presented copies of the case law that he talked about earlier. He stated that the Board can only consider the testimony that was given during the public hearing.

Haase – Stated that the Board should make a decision on the evidence that was presented. You give the evidence whatever weight you want to give it.

Ladwig – Do you see a hardship? I don't know. I maintain that we are deciding on this variance of five feet and anything that previously happened, can be taken into consideration, we're just considering this five feet. This is the variance that we have to consider.

Hill – Let me refer to the request that the Kloosterboers made which was that the current situation does not meet their needs. In Snyder vs. Waukesha Board of Adjustment said that the circumstances of the applicants do not constitute unnecessary hardship and, thereby, do not justify a variance. In addition, the applicants' person conveniences and circumstances that are conflicting with the ordinance standards do create a self-imposed hardship. At this time, I would also like to mention that, even though much money has been spent providing for the current plans for the house, those house plans could be altered because there are alternatives available. Thirdly, and most importantly, I would like to say that there are harmful effects to the public and that includes accumulative effects that will happen the more that we grant variances, which allow setbacks shorter than what the ordinance requires. And I know that most of the people, who vote in support of this, are not understanding of the three criteria which we must meet, especially of the accumulative affects that this would have on the interest of the public. So, therefore, I feel that further harm could be realized by placing a dwelling so closely to Oakwood Beach Road. In this, I agree with the staff.

Ladwig – As far as the unique property limitations, all the property along there is the same. It isn't unique.

Hardesty – I agree with you. It is what it is. They knew that the property that they were purchasing, granted it was family property, they knew the limitations of the lot size at the time that they purchased it. The fact that the variances have been forth coming to this point, past practice, past done, I would agree with Nancy (Hill), our future is at stake here. And, even though there are non-conforming structures, so to speak, by one person's definition in the area, that doesn't mean we have to continue the process, and the continuation of that would do irreparable harm to the area and to Oakwood beach Subdivision.

Ladwig – I'm also concerned about parking.

Hardesty – As am I.

Hill – I would like to also say that garages can be built without storage space. It isn't preferable, but it is possible. I would like to remind everyone that it is our duty to enforce the ordinances as they are written. It is not our duty to change the ordinances. We are here to grant a variance if it does not impinge on the ordinance.

Hill called for a roll call.

Hill – nay, Ladwig – nay, Hardesty – nay.

Findings:

Hill – We have a summation of the three criteria that we feel have not met the requirement for a variance. *Has the landowner proven unnecessary hardship based on the criteria?* In part, our decision was no because the applicants’ person conveniences and circumstances are conflicting with the ordinance standards and, thus, the unnecessary hardship was self-imposed and other alternatives do exist that do not require a variance. *Unique property limitations* means that the property is not real unique. The other properties in the area are very similar to the property that is under consideration today. The applicants have expressed in their request that the current building does not meet their needs; that is not justification for granting a variance. Most importantly, however, the harm to the public interest would occur because of the accumulative interest which would be occurring if the variance is granted.

CORRESPONDENCE

Shute – Lynn Markham, UW-Extension–Stevens Point, is interested in providing training for the Planning and Zoning Committee, and the Board of Adjustment. Possible dates were shared with the Board with instructions to get to Shute with dates that work for them.

BOARD DISCUSSION/ACTION - None

NEXT MEETING DATE

May 20, 2011

ADJOURN

Motion by Hardesty/Ladwig, unanimously carried, to adjourn.

Time: 11:23 a.m.

Recorded by,
Carole DeCramer
Board of Adjustment Secretary

APPROVED ON:

May 20, 2011