

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – August 20, 2010**

CALL TO ORDER

The meeting of the Board of Adjustment was called to order by Chair Ahonen 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: Don Ahonen, Janice Hardesty, Roger Ladwig, Charles Lepinski (Alternate 1)

Absent:

Also present: Matt Kirkman, Code Enforcement Officer
Al Shute, County Surveyor/Land Development Director
Carole DeCramer, Board Secretary
Holly Ford, Court Reporter
Jeff Haase, Assistant Corporation Counsel

APPROVAL OF AGENDA

Motion by Ladwig/Hardesty, unanimously carried, to postpone the approve of the agenda until after the Board has discussed a procedural issue with Corporation Counsel (approximately 10:00 a.m.).

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

APPROVAL OF MINUTES

Motion by Ladwig/Ahonen, unanimously carried, to approve the Jun 18, 2010, minutes.

Audio tape is available for verbatim discussion.

RECESS FOR FIELD INSPECTION

Time: 9:08 a.m.

PUBLIC HEARING MATTERS

Board reconvened at 10:03 a.m.

Board Chair Ahonen read the Rules of Order.

See Transcript of Proceedings for verbatim testimony:

Item I: Owner/Applicant: Craig Moldenhauer **Address:** N4409 Lakeshore Dr, Parcel #016-01148-0000, Swanson's Plat Lot 17 (also a R/W), Section 9, T15N R12E, Town of Princeton

Explanation: The owners are requesting a variance to allow for a 26' front yard setback, whereas Section 338-14.B(2)(a) of the Green Lake County Shoreland Protection Ordinance requires a 40' front yard setback.

a. Public hearing.

Craig Moldenhauer, N4409 Lakshore Drive, Princeton – Spoke in favor of the request.

Exhibits entered in:

Exhibit 1 – Pictures of the site.

Exhibit 2 – Signatures of neighbors that are not opposed to the request/

Attorney John Wilsnack, representing the applicant – Spoke in favor of the request.

Peter Blum, N4404 Lakeshore Drive – Spoke in favor of the request.

Public hearing closed.

b. Board discussion and deliberation.

Assistant Corporation Counsel Jeff Haase – Advised the committee to apply the criteria, one by one, when discussing the request.

Hardesty – We are going to look at the unnecessary hardship that it would provide to the landowner if we deny this variance. In my estimation, the landowner and/or his construction team, including the building contractor and the landscaper, did not do due diligence as to the permitting process. There were permits granted to build a building, but once there were alterations to the exterior of the building, there wasn't any follow up on it, at least discernable follow up unless there is a permit we didn't get. It was for the convenience of the owner that they put in the patio door. In my estimation, that was a self-created hardship that they created. They could have simply put a small doorway out there or a picture window. It would have achieved the same purpose. It would balance up the look on both sides. It would have been the same thing without creating another egress and, ultimately, the patio.

Ahonen – What we're zeroed in on is just the patio structure and the retaining walls.

Hardesty – No, not the retaining walls, it's the round portion of the patio that's attached to the house. Not the ones that are further up. It's within the setback of the lot from the road. It didn't have a permit attached to it so they created the hardship by creating their own hardship, not our hardship, and the property is certainly big enough. If they would have sited the house a bit differently, they could have put it on.

Ahonen – They two retaining walls that they put up are structures?

Ladwig – One thing I think we have to decide or think about is that it's a blank space and that we're going to give them a variance to build it. We can't take into consideration what they have to tear down. That's the way I understand it. Right?

Ahonen – Right. You have to look at it as though it wasn't there and they are applying for a variance to construct what is there.

Hardesty – That’s correct and I am saying it’s within the setback to the road so why are we giving them a variance?

Ladwig – We’re talking about the hardship. They could have changed it. This isn’t an unnecessary hardship because they could have conformed to the lot and I don’t think there is a hardship. Even if we do consider that that door is there, they can still use that door.

Hardesty – That’s correct and it would fall within the correct setback?

Ladwig – According to Al (Shute), you are allowed to come out that door. But we have to think about even if that door isn’t there, they could have designed the house differently to conform.

Hardesty – They could still use it without creating a need to change that door.

Ladwig – I don’t think it is a hardship.

Hardesty – I agree.

Ahonen – Up until a few years ago, this is something to think about, in-ground patios and walks were not considered structures. This was just within 2006 when it was changed.

Hardesty – That’s correct.

Ahonen – Up until this was implemented in Shoreland Zoning, it wouldn’t have been an issue.

Hardesty – That’s right. So all of those other places, and we use the generic term other places, may or may not be in compliance with the current zoning, however, this house was built in 2008 when everything was in place.

Ahonen – Number two, unique property limitations. Do we have limitations, steep slope, wetlands, shape or size of the lot, or are other properties that doesn’t seem to be an issue? Circumstances of the applicant, such as a growing family, larger garage, are not a factor. Limitations common to a number of properties is not a justification. We’re looking at only this property and alternative designs and locations on the property have been investigated. They did not submit any other alternate designs.

Ahonen – Number three, no harm to the public interest. Either one of you have a view that it’s harming the public if this was granted?

Hardesty – I think, and this is a personal observation, the shoreland ordinances were adopted for very specific purpose, to create conformity among structures and properties within a specific area. It’s not just a terrace area or Oakwood Beach, it’s conformity around the lake. If we were to grant this variance, we would be, again, promoting that lack of conformity that we are seeking by passing these ordinances. It doesn’t do a great deal of harm visually, but it does do a great deal of harm by undermining the shoreland ordinances. If we’re going to have a law, enforce it. I would vote that he has not proven.

Ahonen – Even though all of these subdivisions have different size lots? One size fits all?

Hardesty – This is this property we’re considering.

Ahonen – What was the harm to the public interest?

Hardesty – If we allow additional changes or we don’t regard the setbacks as established by the shoreland ordinance, we’re going to be kind of creating a precedent to allow future ones. In a civil case, they can come back and say, “But you allowed this one,” or, “You allowed that one.” There is law, it needs to have conformity.

Ladwig – I don’t believe that there would be a harm to public interest other than, like she (Hardesty) stated, that you would be setting a precedent for other people to come in for variances. If we grant it, we would be establishing a precedent for other people to say that we did this for this one or that one. That’s about it for harm to the public interest.

Motion by Ladwig/Hardesty, on roll call (2-nays, 1- withheld vote) to approve the variance request to allow for a 26’ front-yard setback, with the following condition:

- 1). That a registered land surveyor create a COS (certificate of survey) of the lot depicting the “as built” conditions of the subject site, showing the location of all lot lines, buildings, structures, and driveways. The site must be checked before and after anything is put in.**

CORRESPONDENCE – None

BOARD DISCUSSION – None

NEXT MEETING DATE

September 17, 2010

ADJOURN

On a motion by Ladwig/Hardesty, unanimously carried, the meeting was adjourned.

Time: 10:36 a.m.

Recorded by,
Carole DeCramer
Board of Adjustment Secretary

**APPROVED ON:
September 17, 2010**