

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – Friday, June 15, 2012**

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: Janice Hardesty, Nancy Hill, Roger Ladwig, Kathleen Moore (Alternate 2)

Absent:

Also present: Matt Kirkman, Code Enforcement Officer
Al Shute, County Surveyor/Land Development Director
Carole DeCramer, Board Secretary
Jack Meyers, County Board Chair

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Motion by Hill/Ladwig, unanimously carried, to approve the May 18, 2012, minutes.

CORRESPONDENCE

Hardesty noted the letters that were received regarding the two variance requests. Hill also noted the copy of the south elevation map that was submitted for the first request. Shute advised that the correspondence be noted during the public hearing in order to become part of the record.

RECESS FOR FIELD INSPECTION

Time: 9:06 a.m.

PUBLIC HEARING MATTERS

Board reconvened at 10:53 a.m.

Chair Hardesty read the Rules of Order.

Nancy Hill recused herself from the first request; Alternate Kathleen Moore was seated for consideration of this variance request.

Item I: Owner/Applicant: Sisterhood of the Holy Nativity **Agent:** James A Davis, Davis Custom Builders Inc **Legal Description:** W1494 Spring Grove Rd, Parcel #006-01040-0000, Lot 1 CSM 2522, Section 33, T16N, R13E, Town of Green Lake **Request:** The owners are requesting a variance to Section 350-50.B. of the County Zoning Ordinance to allow for the construction of an attached garage within the vision clearance triangle setback.

- a. Public hearing.

Sister Abigail, Sisterhood of the Holy Nativity, W1494 Spring Grove Road – Spoke in favor of the request.

Kelly Hilke, Davis Custom Builders, LLC - Spoke in favor of the request.

Hardesty noted the email/letter from George Hollowell, N5050 Horner Road – Against the request.

Michael Wenholz, Water Management Specialist, WI-DNR – Stated in an email that he did not have an opinion on this request.

Public hearing closed.

b. Board discussion and deliberation.

Moore – (Directed to Kirkman) Section 350-50.B. seems to talk about highway intersections. It doesn't say "town roads." In the two previous sections, it talks about highways and town roads. In the definition section of the ordinance I looked at what "highway" meant, is it a public road or private road? When you look at the definition of "road," it says "see street," but there's no definition for street. Does this section pertain to a town road?

Kirkman – It is the department's opinion that it does based on how that article of the ordinance is structured. The vision clearance triangle applies to all public roads other than those that are in platted subdivisions.

Moore – It seems strange that the vision clearance is measured from the setback areas. Typically, in ordinances I have seen, it's measured from the center lines or the right-of-way, which would make more sense. What is the thinking with putting it way back there?

Kirkman – I don't think there is so much an interpretation on this one as much as it's just how the ordinance reads. Sixty feet back from the setbacks is where the triangle should be placed. It's not so much a thinking thing as it is reading the standard and applying it. In the end, it may be a standard that you feel is overly burdensome and your opinion could be sent to the Land Use Planning and Zoning Committee for review.

Moore – It seems pretty excessive. When you look at the ordinance, it is mixing terms like "sectors," "vision obstruction," and "vision clearance triangle." The other thing that is confusing, and I want to point this out to staff, is 3.05, Appendix 4, in the example it shows it being measured from the right-of-way. It contradicts what is written. We need to get that straightened out.

Kirkman – Staff is aware of this. It should be noted and looked into.

Moore – My other question is whether or not this is a deed restriction on the certified survey map. Does the board have a right to grant a variance where it's restricted on the certified survey map?

Kirkman – It's the department's opinion that the setbacks drawn on certified survey maps or certificates of survey don't create a deed restriction so that the Board of Adjustment would be able to approve variances.

Moore – It doesn't have to go back to the Land Use Planning and Zoning Committee because the ordinance says they have to approve the certified survey maps?

Kirkman – It's the department's policy to not bring them in on this.

Ladwig – Do you think there is unnecessary hardship if they put it somewhere else?

Hardesty – One of the concerns is the future use for handicapped sisters. There are three sisters living in proximity to this property. They want to make it ADA compliant. It's a two-story house, so I'm confused by that. This is a self-created hardship.

Ladwig – What about the property limitations? Does it actually block the site line? I don't think so. I see other things that are obstructions from sight lines. And harm to the public interest would be the site line. I think that could be remedied.

Hardesty – I agree with you in some places, but I don't agree with the others. The sisterhood has created a self-created hardship on themselves. They chose to build an ADA-compliant garage, but it's going to be for short-term use. The sisters are elderly. There is, under ADA rules, no requirement to have an enclosed breezeway or porch to accommodate a handicapped person. It's just at-grade level. You could eliminate some of that by placing the garage in a different spot on the property. Where are the other spots? One would be toward the rear of the property. There is a slope that is out there. There is a reasonably good spot 60' northwest of the dwelling. The door for the ingress is a long way away. Northwest would be beyond the septic field. Is that appropriate if looking at the area of a variance for granting or not? The property allows another siting of a garage.

Ladwig – They'd have to put in another driveway.

Hardesty - It would mean additional monies to create a new walkway from the garage to the house. There is currently a garage on the piece of property. It is not noted on the survey map?

Ladwig – That will be removed.

Hardesty – Is it possible for that existing garage to be rehabilitated?

Hilke – It's very tiny and I think it's falling apart. It's passed its time.

Ladwig – If they tore it down, they'd need another variance.

Kirkman – It's also too close to the front-yard setback.

Hardesty – So it's a nonconforming structure.

Moore – There's lighting or a window issue on the east side of the house. Where are the windows?

Sister Abigail – The front window is the bathroom and it's a fairly narrow window. There is another narrow window towards the front of the bedroom on the first floor.

Hilke – The first bathroom window is about three feet from the corner of the house. The second window is about four feet from that window. There is one entry door that is in the northeast corner of the house.

Hardesty – If you don't get the variance, what happens if you tear down your garage and you don't have a garage? What are the implications? I don't have a garage so the car is outside and life goes on.

Sister Abigail – I have someone in a walker who needs to come and go. There are things that are being stored in it.

Hilke – For ease and access into the house, there shouldn't be steps. If we were able to have a garage there, they could pull a vehicle in and it's much easier than snow on a ramp and someone slips on snow.

Meyers – Madame Chairman, is it appropriate for me to speak?

Ladwig – We're past the public hearing. We could open it up again or we wouldn't have to.

Hardesty – I would prefer that we not do that.

Moore – Typically this isn't a situation of addressing that lot line.

Sister Abigail – A ramp could go up to the sun porch.

Kirkman – One of the criteria is unreasonably burdensome. I'm thinking that when you look at a detached garage situation, you have to not only determine whether or not it will work on a location, but whether or not it is unreasonably burdensome.

Motion by Ladwig/Moore, to approve the variance request for the construction of an attached garage within the vision clearance triangle setback with the following conditions:

- 1. That the existing nonconforming detached garage, located in the side yard setback as well as the street yard setback, be removed from the subject property prior to land use permit expiration.**
- 2. Create and install storm water management practices that will infiltrate all of the storm water runoff from the proposed project (garage and breezeway) for a 2 year rainfall event into appropriately sized rain gardens (in accordance with WDNR PUB-WT-776 (2003)) or any other infiltration method may be used as approved by the Land Use Planning and Zoning Department.**
- 3. That a tree/shrub removal, trimming, and pruning plan be provided by the owners/applicants and approved by the Land Use Planning and Zoning Department prior to land use permit issuance. The plan shall be designed to provide a reasonable and safe line**

Roll call: Ladwig-yes, Hardesty-no, Moore-yes. Motion carried.

Hardesty – The variance has been granted with a vote of 2:1. The findings are written on the review form (attached).

Reseated Nancy Hill for the second request.

Item II: Owner/Applicant: Jeffrey Kimber **Legal Description:** W6896 Jolin Rd, Parcel #014-00396-0000, Lot 3 Gerald Jolin Plat (unrecorded), Section 32, T15N, R11E, Town of Marquette

Request: The owner is requesting a variance to Sections 350-50.A. and 350-20.B. of the County Zoning Ordinance to allow for the construction of a detached garage within the 42-foot front yard and 25-foot rear yard setbacks. The owner is also requesting a variance to Section 338-14.B. of the County Shoreland Protection Ordinance to allow for an accessory structure to be constructed within the 40-foot front yard setback.

c. Public hearing.

Jeffrey Kimber, W6896 Jolin Road – Spoke in favor of the request.

Moore – The board should verify that none of the deeds on properties to the east conflict with where Jolin Road is and how wide it is. We don't want to get into a situation where a variance is granted and he puts a garage in someone else's easement. There has been discussion in that neighborhood where some want the town to take over that road. The board should verify the width of easement. We need to know where the easement is.

Hardesty – Are there maps showing where the easement is?

Kirkman – The research that I was able to do does not show that there is an exact location for an easement nor does it show a width for adjoining property owners. A full-on title search might reveal this information. There is nothing I could find.

Kimber – I did look at other deeds, and the surveyors show it on theirs. They placed it where the road is placed currently. There is nothing recorded showing where that should be. This has been in my wife's family since it was farmland. They allowed each other access onto each other's properties.

There is a letter from the Town of Marquette Clerk Kathleen Anastasi. It indicates that the town board has reviewed, discussed, and voted in favor of the request.

Michael Wenholz, Water Management Specialist, WI-DNR – Stated in an email that he did not have an opinion on this request.

Public hearing closed.

d. Board discussion and deliberation.

Ladwig – Unnecessary hardship may apply because he has no other place to put it. He could make it smaller. That's the hardship due to unique property limitations. The harm to public interest, I was wondering about the site problem but I don't think there's a site problem there. It's not a heavily traveled road. They'll have plenty of room and it's not a busy road. I don't think the building will interfere with the site.

Hardesty – You indicated you’ll need a lot of fill to bring this up to grade. Where is the water going to go? We’re talking about that impermeable surface again and this will take up the bulk of that piece of property.

Kimber – I’m going to run gutters along the side and bring them down into underground tubes. I’m going to put drain tiles down to disperse some of that. If you look away from the lake toward the big garage in the lower right hand corner (referring to the overhead picture); he’s built in a low corner. It all runs to that area no matter what. My direct neighbors have no objection to this.

Ladwig – Is it possible to put rain gardens in there? You’re not supposed to run your water on to someone else’s property. If that could be run into a rain garden to soak into the soil, that would be a good idea.

Kimber – I intended to because I have to build up the lot for grade. If you look at the rest of my property, I have flower beds all around. I had intended to use field stone along the edge to hold the fill in place and then I want to plant gardens around there. I’ll use the drain tiles to water those areas.

Ladwig - There will be some runoff from the approach.

Kimber – The approach will be pitched back to the road. I would bring the approach up 2%; that will be run back onto the road.

Hill – If the garage was smaller without the area for the pontoon, would that help any in that we could grant a variance that creates a smaller area?

Kirkman – The garage width is the thing that is getting us in the variance world; not so much the depth. An average or normal garage is usually 24’ wide. It doesn’t appear that this request is more than what is normally done. You have to consider what is reasonable.

Hardesty – My biggest concern is the road. The road is a big obstacle in the decision making process. It’s technically not a road; it’s a path. It can be altered at any time. It’s generally agreed to ingress and egress for various pieces of property. I noted a “For Sale” sign on one of the pieces of property. What happens if a group of people petition the town for a town road? That’s going to change the width of that path from whatever it is now to much wider. It will cause the garage to be much closer to the road and probably other garages, too. That is a supposition. I’m concerned about the lack of documentation for that road. Granting a variance to build something that could be right out there is possible conflict down the road with public interest. I view it as a real issue before we make our decision on the variance.

Hill – We look at what’s now and what’s not in the future, right?

Kirkman – Yes, you look at what we have now, not what is in the future. You could put a condition on the approval of the variance that the necessary research is done to make that determination.

Hardesty – There is no road there on any map I could find; it’s just a path.

Kirkman – It’s my feeling that it’s not a concern.

Hill – What about ingress and egress onto the paved road?

Kirkman – Staff considered whether he'd have another access. That is one of the conditions in the staff report.

Hardesty - Has the applicant met the unnecessary hardship criteria?

Hill - It's not self-created. He's asking for a standard size garage for that area.

Hardesty – He's not going into this for profit. How about hardship due to unique property limitations? Again, it's too small. Nobody else in the neighborhood shares this limitation that we know of.

Ladwig – He could build smaller.

Motion by Ladwig/Hill, to approve the variance request to allow for an accessory structure to be constructed with the 40-foot front yard setback with the following conditions:

- 1. Ingress and egress to the subject site shall be by Jolin Road (private road). Access along Puckaway Road shall be restricted for this property**
- 2. Create and install stormwater management practices that will infiltrate all stormwater runoff from impervious surfaces of the accessory structure a two-year rainfall event into appropriately sized rain gardens (in accordance with WDNR PUB-WT-776 (2003)) or any other infiltration methods may be used as approved by the Land Use Planning and Zoning Department.**

Roll call: Hardesty–no, Hill-yes, Ladwig-yes. Motion carried.

Hardesty – The variance, with conditions, has been approved with a vote of 2:1. The findings are written on the review form (attached).

NEXT MEETING DATE

July 20, 2012

ADJOURN

Moved by Hill to adjourn.

Time: 11:46 a.m.

Recorded by,
Carole DeCramer
Board of Adjustment Secretary

APPROVED ON:

July 20, 2012