

**WAUPACA COUNTY BOARD OF ADJUSTMENT MEETING
MINUTES – JULY 24, 2015**

ON-SITE INSPECTIONS: The Board made on-site inspections starting at 8:00 a.m. on the KBLZ LLC property, Town of Royalton; the Patrick J. & Sarah J. Voss property, Town of Royalton; and the James P. Phillips property, Town of Dayton.

Chair Craig called the meeting to order at 9:45 a.m. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and D. Johnson, all present.

J. Beyer moved and A. Richardson seconded the motion to approve the agenda as presented. The motion was carried.

D. Johnson moved and J. Beyer seconded the motion to approve the minutes from the August 14, 2014 meeting. The motion was carried.

ELECTION OF SECRETARY

J. Beyer moved and D. Johnson seconded the motion to nominate J. Fulcher for Secretary for the Board of Adjustment. J. Beyer moved and D. Johnson seconded to close the nominations. The motion was carried.

PUBLIC HEARINGS:

The first public hearing was called to order at 10:00 a.m. by Chr. Craig to hear the Petition for Grant of Variance for **KBLZ LLC**: Located in part of Government Lot 1 in Sec. 4, Town of Royalton, lying in between EZ Road and Highway 22, Fire Number N4818, Waupaca County, Wisconsin; for a Petition for Grant of Variance for the construction of a second story addition onto an existing nonconforming structure with less than the required road setback an RR (Rural Residential) District on approximately .17 acres. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and D. Johnson, all present. Jean Gliniecki read the names of persons notified of the hearing. Chr. Craig declared the hearing legal and gave the general procedure.

Kay and Louis Bellile were sworn in to testify. Ms. Bellile said both her husband and herself have lived in the area for several years. Ms. Bellile said that several other cottages in the area have been expanded and thought they would also be able to.

Louis Bellile said they purchased the cottage about six (6) months ago thinking that they would be able to expand within the current footprint with a Variance.

Three criteria: **1) Unique physical limitations:** The cottage is sandwiched between two (2) roadways, Highway 22 and E-Z road. **2) No harm to the public interests:** We are not impacting any surfaces. This is a vertical expansion within the current foot print. There will not be any blockage of view for the neighbors. **3) Unnecessary hardship:** The current structure cannot accommodate visits from our immediate family members who live out of the area. Vertical expansion would allow this. We did not create this situation and cannot do anything about it. Our current dwelling is 672 sq. feet. The building is between two (2) roads Highway 22 and E-Z road. We ask the Board to consider relevant hardship circumstances applicable. A second story will not increase the setback nonconformity.

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Kay Bellile read a letter from Attorney Charles Koehler of Herrling Clark Law Firm LTD regarding the Variance request. Ms. Bellile said two (2) letters were sent from neighbors in favor of the Variance.

Chr. Craig called three times for any testimony in favor of the application.

Dorothy Pletzer was sworn in to testify. Ms. Pletzer said she is in favor of the variance request and that they had done an addition and had no problems. Ms. Pletzer said she feels that the Bellile's have followed all the rules and regulations.

Robert Conroy was sworn in to testify. Mr. Conroy said he represents himself as a neighbor and friend, and has no problems with the Variance. Mr. Conroy requested that the Board of Adjustment grant the Variance.

Tim Sullivan was sworn in to testify. Mr. Sullivan said he represents himself and a neighbor and is in favor of the Variance. Mr. Sullivan said that the addition would give the family the opportunity to grow together.

Chr. Craig called three times for any testimony in opposition to the application. There was none.

Jason Snyder, Deputy Zoning Administrator, gave a staff report of the Variance Permit application request regarding the vertical expansion of a nonconforming structure within the required roadway setbacks. Mr. Snyder said the Planning and Zoning Office recommends denial of the application.

Kay and Louis Bellile came back for rebuttal. Ms. Bellile said she feels that the interpretation of the law has changed but the law did not change and asked the Board to consider that when making their decision.

J. Beyer moved and A. Richardson seconded the motion to **DENY** the Petition for Grant of Variance due to the following: While there are unique physical limitations on the property, the hardship is due to the circumstances of the applicant. It is not abiding by the Waupaca County Shoreland Zoning Ordinance and this request would increase the nonconformity. The applicants already have reasonable use of the property. Roll call vote was taken: P. Craig—yes; J. Fulcher —yes; A. Richardson—yes; J. Beyer —yes and D. Johnson —yes, unanimous vote to **DENY** the Variance request. D. Johnson moved and A. Richardson seconded the motion to close the hearing at 10:27 a.m. The motion was carried.

The second public hearing was called to order at 10:28 a.m. by Chr. Craig to hear the Petition for Grant of Variance for **Patrick J. & Sarah J. Voss:** Located in part of Government Lot 3 in Sec. 21, Town of Royalton, lying along North Shore Road, Fire Number E5829, Waupaca County, Wisconsin; for an after the fact Petition for Grant of Variance for the reconstruction of a deck with less than the required water and side yard setbacks in an RR (Rural Residential) District on approximately .611 acres. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and

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D. Johnson, all present. Jean Gliniecki read the names of persons notified of the hearing. Chr. Craig declared the hearing legal and gave the general procedure.

Sarah and Patrick Voss were sworn in to testify. Mr. Voss said the deck was being repaired for safe access.

Sarah Voss said the deck was rotting so it was repaired for safety. Ms. Voss said the property was handicap accessible.

Three criteria: **1) Unique physical limitations:** The property has a partial exposure which lends to two fall points on exiting the South and West entrances. Both drops being over five (5) feet. Structure was built based on former setbacks, six (6) feet from the West property line and forty-one (41) feet from high water mark. Existing structure connected the two doors for safe exit. The property was constructed in the 1960's; any structure would not meet new setback restrictions. Having two (2) drop off points immediately out the two (2) lakeside doors, leaves no other option. Connection between the two (2) doors is critical for safe exit for handicap and/or child in case of fire due to severe grade change. **2) No harm to the public interests:** No impact as the structure would reside on a similar footprint as it has for the past fifty (50) years not extending past eight (8) feet from the house. No soil movement or shore cover change. **3) Unnecessary hardship:** Based on the location of the house and slope of the property safety is at risk if the exits do not contain a porch with railing structure. Having two (2) fall points and safe exit for a handicap and /or child to contend with I cannot see another more reasonable approach. The structure mimics what was built over fifty (50) years ago and is being repaired similar.

Chr. Craig called three times for any testimony in favor of the application. There was none.

Chr. Craig called three times for any testimony in opposition to the application. There was none.

Jason Snyder, Deputy Zoning Administrator, gave a staff report of the Variance Permit application request to retain a reconstructed deck closer than the required shoreline setback. Mr. Snyder said the Planning and Zoning Office recommends denial of the application.

Sarah and Patrick Voss came back for rebuttal. Mr. Voss said to maintain the rotted deck the boards had to be replaced.

Sarah Voss said she is concerned with the safety of the access.

D. Johnson moved and J. Beyer seconded the motion to **DENY** the Petition for Grant of Variance due to the following: The hardship would exist for access only. The applicant was granted minimal relief for access to both entrances. The unnecessary hardship exists only for the entrances to the structure. With the following conditions: The deck **MUST** be removed by November 1, 2015. The Board granted the applicant two 5' X 5' access platforms at each entrance with ramping going off to each side yard. The applicant **MUST** obtain a Shoreland Permit from the Planning & Zoning Office prior to the construction of the 5' X 5' access platforms and ramping. Roll call vote was taken: P. Craig—yes; J. Fulcher —yes; A. Richardson—yes; J. Beyer —yes and D. Johnson —yes, unanimous vote to **DENY** the Variance request. J. Beyer moved and A. Richardson seconded the motion to close the hearing at 11:02. The motion was carried.

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The third public hearing was called to order at 11:03 a.m. by Chr. Craig to hear the Petition for Grant of Variance for **James P. Phillips**: Located in part of Government Lot 4 in Sec. 16, Town of Dayton, lying along Highway 22, Fire Number N1339, Waupaca County, Wisconsin; for a Petition for Grant of Variance for the construction of a deck to an existing nonconforming structure with less than the required water and road setbacks in an RR (Rural Residential) District on approximately .24 acres. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and D. Johnson, all present. Jean Gliniecki read the names of persons notified of the hearing. Chr. Craig declared the hearing legal and gave the general procedure.

James Phillips and William Williams were sworn in to testify. Mr. Williams said he would like to purchase the property and is requesting a deck addition for safety and reasonable use. Mr. Williams said he is willing to do mitigation. He said the neighbors are in support of the Variance request.

James Phillips said he is in favor of the deck for safety reasons and fire access.

Three criteria: **1) Unique physical limitations:** The property falls under a nonconforming lot. The property does not meet specifications for the shoreline or roadway setback. In addition, it does not meet the side yard property line setback or impervious surface standard. **2) No harm to the public interests:** The primary request for an addition of a deck over an existing patio does not create any negative impacts. The secondary request of a 4 foot landward expansion would increase the impervious surface by 144 sq ft. The property is currently at 21.8% impervious coverage. Addition would take it to 23.2%. If allocation is made for capturing 260 sq ft of deck runoff, then the percentage with deck and expansion would be 20.7%. **3) Unnecessary hardship:** The existing property does not meet any of the shoreline, roadway or property line setbacks. It also does not meet the 15% maximum impervious percentage. The primary and secondary variance application include mitigation plans to return this property to compliance with the shoreline vegetative requirements. The prior owner violated just about every ordinance. Thus, it is our desire to return the property into compliance via mitigation and beautification processes including the shoreline area within 35 ft of the high water mark where possible (currently clear cut). Restoration of side yards, multiple rain gardens for building and property runoff. Other mitigation suggestions from the planning committee that will facilitate approval of the primary and secondary variance applications. We will also be converting the house to natural gas in order to reduce the carbon footprint of the property. Currently utilizes oil heat and electric as primary energy sources.

Chr. Craig called three times for any testimony in favor of the application.

Tim Kramer was sworn in to testify. Mr. Kramer said he owns property on Stratton Lake and is in favor of the Variance application. Mr. Kramer said that the recommended modifications will improve the property.

Chr. Craig called three times for any testimony in opposition to the application. There was none.

Jason Snyder, Deputy Zoning Administrator, gave a staff report of the Variance Permit application request for a deck to be constructed closer than the 75 foot structural setback. Mr. Snyder said the Planning and Zoning Office recommends denial of the application.

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William Williams came back for rebuttal. Mr. Williams said the Variance request is that there is a need for access from the house and the deck does not meet the setbacks.

J. Beyer moved and D. Johnson seconded the motion to **CONTINUE** the Petition for Grant of Variance due to the following: The Board is requesting that the Planning & Zoning Office verify with the local Building Inspector as to what the Building Codes are concerning proper ingress and egress for fire safety. This public hearing will be continued in front of the Board at **9:00 a.m., Thursday, August 13, 2015**, in which the Board may be making their decision. Roll call vote was taken: P. Craig—yes; J. Fulcher —yes; A. Richardson—yes; J. Beyer —yes and D. Johnson —yes, unanimous vote to CONTINUE the Variance request. The motion was carried at 11:58 a.m.

DISCUSSION & POSSIBLE ACTION:

- Diane Meulemans, Corporation Counsel discussed the Potential Code Changes Relating to Accepting Service
- Board of Adjustment Policies will be looked at and updated.

A. Richardson moved and D. Johnson seconded the motion to adjourn the meeting at 12:16 p.m. The motion was carried. The Board adjourned.

Debra Giuffre
Recording Secretary

cc: County Clerk