

**WAUPACA COUNTY BOARD OF ADJUSTMENT MEETING
MINUTES –NOVEMBER 10, 2016**

ON-SITE INSPECTIONS: The Board made on-site inspections starting at 8:30 a.m. on the Zion Evangelical Lutheran Church property, Town of Caledonia and the Good Templers Training School-Camp Cleghorn (Donavon & Randi Niedfeldt, Leasee) property, Town of Dayton.

Chair Craig called the meeting to order at 10:00 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 A. Richardson seconded the motion to approve the minutes from the June 15 and July 27, 2016 meetings. P. Craig and J. Beyer recused themselves from the vote. Three (3) votes to approve the minutes as presented. The motion was carried.

PUBLIC HEARINGS:

The first public hearing was called to order at 10:03 a.m. by Chair Craig to hear the Petition for Grant of Variance for **Zion Evangelical Lutheran Church**: Located in part of the SE ¼ of the SW ¼ of Sec. 23, Town of Caledonia, lying along County Highway W, Fire Number N985, Waupaca County, Wisconsin; for a Petition for Grant of Variance for the placement of a sign with less than the required road setback in an RR (Rural Residential) District on approximately 3.5 acres. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and D. Johnson, all present. Deb Giuffre read the names of persons notified of the hearing. Chair Craig declared the hearing legal and gave the general procedure.

Charles Dimler was sworn in to testify. Mr. Dimler said he is a member of the church and was on the building committee. Mr. Dimler said they would like to place a sign that would be visible from both directions and would not go beyond the existing foundation.

Three criteria: **1) Unique physical limitations;** if sign complied with setback ordinance it would not be visible. **2) No harm to the public interests;** none. **3) Unnecessary hardship;** the 75 foot setback in this “municipal” setting is unnecessarily burdensome and serves no public interest. Putting the sign at any other location to the church is not feasible without severely compromising the purpose of this sign, which is to identify the church and communicate church information from both directions.

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

Peter Kesting was sworn in to testify. Mr. Kesting said the proposed location of the sign is the best location for its purpose.

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

Deb Giuffre read one (1) letter from the Waupaca County Highway Department with recommendations.

Jason Snyder, Deputy Zoning Administrator, gave a staff report of the Petition for Grant of Variance for the placement of a sign with less than the required road setback. Mr. Snyder said the Planning and Zoning Office recommends denial of the application because the hardship is not based on unique physical

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limitations of the property. Harm to public interest exists. Options exist to place the sign in a compliant location.

Charles Dimler came back for rebuttal. Mr. Dimler said he feels the sign would be best utilized at the proposed site and putting the sign in the parking lot would take away from parking.

The Board of Adjustment deliberated.

J. Fulcher moved and J. Beyer seconded the motion to **DENY** the Petition for Grant of Variance due to the following: The applicant does not meet the three criteria necessary for granting a variance. There are other places on the property to place the sign that would meet the setback. The road right-of-way needs to be kept clear for public safety. 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 10:24 a.m. The motion was carried.

The second public hearing was called to order at 10:25 a.m. by Chair Craig to hear the Petition for Grant of Variance for **Good Templers Training School-Camp Cleghorn (Donavon & Randi Niedfeldt, Leasee):** Located in part of Government Lot 4 of Sec. 4, Town of Dayton, lying along Camp Road, Fire Number E1132, Waupaca County, Wisconsin; for a Petition for Grant of Variance for the construction of a dwelling with less than the required water and road setback in an SR (Sewered Residential Single-Family) District. Roll call was taken with the following members present: P. Craig, A. Richardson, J. Fulcher, J. Beyer and D. Johnson, all present. Deb Giuffre read the names of persons notified of the hearing. Chair Craig declared the hearing legal and gave the general procedure.

Attorney John Thiel was sworn in to testify. Attorney Thiel said he is here representing Donavon and Randi Niedfeldt and went through and explained the three criteria: **1) Unique physical limitations;** Camp Road is not a public way, but the County Zoning Department applies road setbacks. Proposed structure moves further away from current distance to center point and improves the situation. The express provisions of Shoreland Code Section 5.41, Roadway Setback reduction, are met by this project and therefore actually an authorized use, but applicant is willing to have the Board of Adjustment issue a variance, if needed. Lake side of building moves the structure further away from the OHWM. Also, denial on basis of 75' setback is an undue hardship as the new building the express average setback of the Shoreland Code Section 5.22 as the new structure will be in proper alignment to all structures to the east and west of this parcel and is actually authorized. **2) No harm to the public interests;** there is no harm to public interest. In fact the granting of a variance improves the public interest. **3) Unnecessary hardship;** County Zoning is applying a setback to a private road. By applying this setback to a private road an unnecessary hardship is created as the structure would otherwise be in full compliance with front yard setback to the south property line of Camp Cleghorn. As to the request to continue the existing setback to the OHWM of Columbia Lake it would be an unnecessary hardship to deny the variance because to do so would violate the spirit and intent of 2015 Wisc. Act 55 which provides additional property rights to waterfront property owners. Applicant's project is actually in compliance with the Shoreland Zoning code road setback reduction rules and the average setbacks for structures to the east and west of the property. Applicant does not waive any rights or arguments concerning the fact Camp Road is a private road or the fact that the project complies with the OHWM average setback rules by the filing of this variance application.

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

Mark Ilten was sworn in to testify. Mr. Ilten said he is the President of Camp Cleghorn; Good Templers Training School. Mr. Ilten gave a history of Camp Cleghorn and the proposed construction for the dwelling is in compliance with Camp Cleghorn's setback restrictions for the building envelope.

Chair Craig called three times for any testimony in opposition to the application.

Deb Giuffre read one (1) letter from Graham Werner opposed to the proposed variance request.

Jeff Henneman, Land Use/Code Enforcement Specialist, gave a staff report of the Petition for Grant of Variance for construction of a dwelling with less than the required water and road setback. Mr. Henneman said the Planning and Zoning Office recommends denial of the application because the applicant does not establish an unnecessary burden, physical imitations do not exist, and harm to public interest exists.

Attorney John Thiel came back for rebuttal. Attorney Thiel discussed the proposed structure as it relates to the setbacks and asked that the variance be granted.

The Board of Adjustment deliberated.

J. Beyer moved to DENY the Petition for Grant of Variance.

J. Beyer rescinded her motion due to her motion being based on the fact that they could build within the same footprint and they can't without a variance.

A. Richardson moved and J. Fulcher seconded the motion to **GRANT** the Petition for Grant of Variance due to the following: The placement of the private road in relation to the water makes the building site difficult to meet the setbacks to the water and to the road. The proposed construction of the new dwelling is similar to the development pattern as the existing dwellings currently located within Camp Cleghorn. If the applicant met the required setbacks from the road and the water, they would not be able to build the dwelling. With the following conditions: The construction of the dwelling must be according to the proposed site plan. The applicant must obtain a Shoreland Permit for the construction of the dwelling from the Planning & Zoning Office. The applicant must obtain a Building Permit from the Building Inspector for the Town of Dayton. Roll call vote was taken: P. Craig—yes; J. Fulcher —yes; A. Richardson—yes; J. Beyer —yes and D. Johnson —yes, unanimous vote to GRANT the Variance request. D. Johnson moved and A. Richardson seconded the motion to close the hearing at 11:45 a.m. The motion was carried.

A. Richardson moved and J. Fulcher seconded the motion to adjourn the meeting at 11:54 a.m. The motion was carried. The Board adjourned.

Debra Giuffre
Recording Secretary

cc: County Clerk