

**TOWN OF RHINE
BOARD OF APPEALS MINUTES**

Wednesday August 22, 2018

Present: Mark Pfaller (chair), Ron Book, Brad Roberts, Christa Johanson, Paul Boocher, Darrel Abston,
Paul Dirkse (legal)

1. **Call to Order:** The meeting was called to order at 7:04 p.m. by Mark Pfaller.
2. **Determination of compliance with Open Meeting Law:** Published August 8 and 15, 2018.
3. **Minutes of Nov. 21, 2017 to be approved:** Motion to approve by Boocher. 2nd by Abston. All in favor. No nay votes.

Pfaller explained that in the absence of Rost, he is chairing the meeting. However, he is not voting on the requests tonight.

4. **To hear public comment and consider the request of Richard and Evelyn Schaeffer of 655 Ledgewood Drive, Fond du Lac, WI 54937 for a variance to tear down and rebuild a home on their property located at N7372 Abler Lane, Plymouth, WI 53073.**

Town Zoning Code section 4.04 (2) (g) states that the finished grade within 12 feet of neighboring properties in R-1 and R-2 zoning cannot be changed without a variance. The proposed grade change is within 12 feet of lot side line.

Also Town Zoning Code section 4.06 (1) (e) 2 regarding yard depths state the on a side the sum of the widths shall be 30 feet and a single side yard a minimum of 12 feet. The proposed building does not meet these requirements.

5. Public comments on Schaeffer request:

Steve Peschke gave background on the request and explained some of the drainage and slope issues. Steve is the designer of the project.

Scott Peschke: He recently built in the area and realizes how difficult it is to build a house that fits the size of the lot. He is in favor of approving the plans.

Richard Schaeffer: Expressed thanks to the board for considering their request. Their goal is to build a nice home which they can spend their empty nest years in. He would like their home to be compatible with other homes that have gone up around the lake over the last few years.

Mrs. Schaeffer addressed the retaining walls and expressed that her intention is to terrace it so that there will not be a big vertical drop when done. In developing the plans they have tried to be sensitive to the needs of the neighbors and the lake. The existing cottage which is there now is too structurally unsound to be preserved.

Elizabeth Abler stated a concern regarding the grade and construction equipment.

Pfaller would like to vote on each variance request separately.

Questions from the board regarding the 1st portion of the request:

Booher inquired about the need for the change in the grade and retaining walls. It was explained that there is a retaining wall on each side of the building. The applicants are working with landscapers to design natural retaining walls. There was a brief discussion on the height of the walls and terracing as well.

Darrel Abston mentioned that he does not have an issue with the request and feels there is no way to do this without the retaining wall.

Motion by Johanson to accept the request for a **variance to section 4.04 (2) (g)** to include a condition that the finished grade/slope will be greater than a 1 to 3 slope, *but not to be greater than the existing slope as indicated in the provided survey*, with no single retaining wall to exceed 9 feet. 2nd by Booher. Johanson asked if a maximum slope should be added to the condition, in order to make the slope not worse than it currently is. Pfaller expressed that in his professional opinion it is difficult to define this completely. Ultimately, the building inspector will determine that things are built correctly.

Roll call vote: Booher – yes. Book – yes. Johanson . yes. Roberts- yes. Abston – yes.

Section 4.06 (1) (e) (2) regarding yard depth:

Public comments: Steve (contractor) explained the needs for the variance.

Lamke on Abler Lane: Everyone lives on these little lots and everyone has to do the best they can to fit the houses in. He is in support of the Schaefer's request and would like to see the variance approved.

Elizabeth Abler: Who is considering the impervious surface? Who is concerned about the natural value of the property, such as trees? Steve explained the proposed amounts of impervious surface and that landscapers are being consulted on the matter. Mrs. Schaeffer explained about the lot lines. Her intention is to create a family compound. They intend to keep both structures (this one and the neighboring one that they own.) Their intention was to make any shorted lot lines on the side of their adjoining property as to not affect other neighbors. It would be their own property which would be affected.

Consideration by the Board of section 4.06 (1) (e) (2) regarding yard depths:

Christa Johanson: Christa had a concern regarding the hardship and asked why the plans had to be wider than 20 feet. She questions the hardship. She thinks it is smart to move it back from the length.

Booher questions if the applicants have considered how close the buildings are in case of a fire and if uniform dwelling codes regarding fires have been considered.

Christa Johanson: Christa had a concern regarding the hardship and asked why the plans had to be wider than 20 feet. She has some question concerning the hardship issue of granting a variance as per town ordinance. She is not certain that an unnecessary hardship would be created if the variance for the home's width is not issued. She understands the slope is a hardship, but not necessarily the request for a larger width and shorter side lot setbacks. The board is charged to only grant a variance when there is a hardship.

Darrel Abston: Even the existing house would not meet those requirements. The old house was nonconforming to begin with. Even though the hardship is weak, he is in favor of the request.

Ron Book agrees with Christa on this. He doesn't see a hardship. He does agree there are unique property issues.

Booher: In the past, in similar areas, the board has granted variances similar to this. He agrees with Ron and Christa's points, but he feels an exception could be made. He sees it as an improvement to the area.

Vote regarding yard depths section 4.06 (1) (e) (2) regarding yard depths:

Abston - yes. Book – no. Johanson - no. Booher - yes. Roberts – yes. Approved.

- 6. To hear public comment and consider the request of Darren and Theresa Lindstrom of N8403 Glacial Court, Elkhart Lake, WI 53020 for a variance to build a new detached garage at the same location.**

Town Zoning Code section 4.04 (2) (d) 3 states that accessory buildings are to be in the required rear yard. Proposed garage would be located on the side yard.

- 7. Discuss and possibly act on Lindstrom request:**

Public comments:

Doug Down: D and D Carpentry explained the Lindstoms would like to build the garage on the side of the property, not the rear yard, due to the steep slope on the back.

Darren Lindstrom: Thanks to the board for their consideration.

Pfaller read into the record an email which expressed support for the request.

No other public comments.

Consideration from the Board:

Pfaller reviewed a form from Sheboygan County Planning and Conservation.
Booher: He feels the only practical place for the building is where the applicant has requested it to be built.

Book clarified that the zoning is residential.

Johanson commented that the size and location are perfect.

Roberts: He thinks the suggested location is fine.

Abston: The request will not interfere with anyone.

Vote on request as presented:

Booher – yes, Book – yes. Johanson – yes, Roberts – yes. Abston – yes.

8. Old Business:

Old business: Paul and Christa had questions about the application for variances. Pfaller feels something is missing on the application. Pfaller feels that hand drawn site maps and plot plans are not acceptable. The building inspector does not require a survey.

Booher expressed the need to update the guide for applicants and the application. He feels a certified survey should be required, no more than 5 years old. Booher and Pfaller will review the BOA guidelines. The Building Inspector explained that it is a struggle for himself and the clerk to get all of this information from the applicant. Doc expressed that the head of the BoA should approve the application before a hearing date is set and it is published. Pfaller will review the application and guideline.

9. Correspondence:

10. Next Meeting: TBD

11. Adjournment: Motion to adjourn at 9:10 by Booher. 2nd by Abston. All in favor.

Lexann Hoogstra, Clerk/Treasurer
Town of Rhine
Dated: August 22, 2018

APPROVED