

**TOWN OF RHINE**  
**BOARD OF APPEALS MINUTES**  
**Wednesday, September 23, 2020 7:00 pm**  
W5250 CTH FF, Elkhart Lake, WI 53020

Present: Jon Rost, Mark Pfaller, Paul Booher, Darrell Abston, Christa Johanson (by phone)

1. **Call to Order:** Called to order at 7:4 pm by Jon Rost.
2. **Determination of compliance with Open Meeting Law:** Published and posted as required. Media was notified.
3. **Minutes of June 24, 2020 to be approved:** Darrell Abston noted that the spelling of his name needs to be corrected; there are 2 "l's" in his name, not one. Abston made a motion to approve the minutes with that correction. 2<sup>nd</sup> by Booher. All in favor.
4. **Discuss and possibly act on the following requests:**

*Herman-Wenzel Family Cottage, LLC, of 1564 Golf View Drive West, Sheboygan, WI 53083 for a variance to build a deck/accessory building on their property located at N7438 County Rd. J (on Crystal Lake), Plymouth, WI:*

*Application was denied through sections 4.04 (2) (d) 3 and 4.06 (1) (e) 2 of town ordinance. Violation is in reference to side yard widths and distance from house. The proposed deck would be in violation of 4.04 (2) (d) 3. A second floor deck 8 ft. wide reduces the necessary 10 ft. distance to 5 ft. which violates 4.06 (1) e 2, requiring 30 feet sum of side yard widths.*

**Public Comments:** Rost read an email of support from Adam and Becky Schroeder into the record. There were no other public comments.

**Deliberation by board:**

Paul Dirkse, legal counsel, informed the board that he has represented the applicant's family in the past on a personal matter. He does not feel it is a conflict of interest, and he is not representing the family in any matters at the present time.

Booher asked the applicant for clarification of their hardship. Jan Herman explained that there is a very limited area where they can safely perform lawn maintenance, and the hill is very steep. The main hardship is about their safety while trying to do yard work and for their grandchildren. If someone were to fall now, they could end up at the bottom of the hill in a rock pile. They are requesting the deck to be the same size as the existing one. There are also erosion issues due to the steepness.

Pfaller noted that he has looked at the property, and he agrees that it is steep and difficult to navigate. Applicant has discussed the possibility of building a retaining wall with Kathy Fabian at the county, but was told the county would not approve it.

The deck is pervious and has a cable railing.

Discrepancies in the size of the deck were clarified.

Booher inquired of counsel if safety issues alone are enough of a hardship to grant the variance. Dirkse replied that it can be. He feels that the erosion problem could possibly also be considered a hardship.

Pfaller is curious why the building inspector classified this as an accessory building. Tony Leonard, the building inspector, answered this. His reasoning is based on definitions within the town's ordinances. The type of structural support for the deck was reviewed. Booher would like the ordinance committee to work on these definitions for future clarification.

Pfaller has a concern with the county's requirements. He wants to be sure that the applicant understands their responsibilities to the town and the county in order to ensure these requirements are adhered to, and they indicated that they are.

Roll call vote to approve the application: Pfaller - yes. Booher - yes. Abston - yes. Johanson - yes. Rost - yes. Application has been approved.

5. **Old Business:** Booher noted that the meeting should be at 6:30 not 7:00 in the future.
7. **Next Meeting:** TBD
8. **Adjournment:** Motion to adjourn by Abston at 7:38 pm. 2<sup>nd</sup> by Booher. All in favor.