

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – Friday, September 16, 2011**

CALL TO ORDER

The meeting of the Board of Adjustment was called to order by Chair Nancy Hill at 9:05 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, Kathleen Moore (Alternate 2), Roger Ladwig,

Absent:

Also present: Assistant Corporation Counsel Jeff Haase
Matt Kirkman, Code Enforcement Officer
Carole DeCramer, Board Secretary

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Motion by Hardesty/Ladwig, unanimously carried, to approve the corrected May 20, 2011, minutes.

RECESS FOR FIELD INSPECTION

Time: 9:06 a.m.

PUBLIC HEARING MATTERS

Board reconvened at 10:15 a.m.

Chair Hill read the Rules of Order.

The committee was given letters that were received in regard to the following requests:

1. Dennis and Elizabeth Durik, Lakewood Estates – opposed to the Saecker request; in favor of the Kornreich request.
2. Michael Wenholz, WI-DNR – opposed to the Kornreich request.
3. Steven R. Schowalter, Lakewood Estates – in favor of the Kornreich request.

Item II: Owner/Applicant: David & Karen Kornreich **Address:** W2688 Oakwood Beach Rd, Oakwood Beach Plat Lot 28, Section 12, T15N R12E, Town of Green Lake **Explanation:** The owners are requesting a variance from Section 338-32.3C(3) of the Shoreland Protection Ordinance in order to construct two dormer additions within the 75-foot shore yard setback.

- a. Public hearing.

David Kornreich, 10609 N. Woodcrest Court, Mequon (applicant) – Spoke in favor of the request.

Karen Kornreich, 10609 N. Woodcrest Court, Mequon (applicant) – Spoke in favor of the request.

Mike Jankowski, W731 Silver Creek Road, Green Lake – Spoke in favor of the request.

Public hearing closed.

b. Board discussion and deliberation.

Motion by Hardesty/Ladwig, to approve the variance request to construct two dormer additions within the 75' shoreyard setback with the following conditions:

- 1) Create and install stormwater management practices that will infiltrate all stormwater runoff from impervious surfaces of the principal structure for a 2 year rainfall even 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.**
- 2) That a shoreland restoration plan be designed by a qualified professional (in accordance with NRCS Interim Standard #643A, Shoreland Habitat and Wisconsin Biology Technical Note 1: Shoreland Habitat), be evaluated and approved by the Land Use Planning & Zoning Office prior to Land Use Permit issuance, and be installed within one year of land use permit issuance.**
- 3) The shoreland restoration project shall be maintained via the shoreland vegetative buffer agreement that shall be recorded in the County's Register of Deeds office.**

Hardesty – This is a valid application in lieu of the fact that they're not increasing the size of the building on the site. It's strictly a vertical expansion not a horizontal or lateral expansion. It doesn't create any type of harm to the environment or as a hardship for anyone in the surrounding area. They are, in essence, keeping an existing building and going up.

Ladwig – I think that the only question that might be in there is the unnecessary hardship where they created their own hardship because they want more bedrooms and they have a buildable lot. As far as unique property limitations, it is a desire to add bedrooms and there's no harm to public interest. The only thing is that the hardship is self-created.

Hardesty – I agree with you that it's self-created, but I think we have to look in the interest of safety. If this building is going to be used and, obviously it is going to need additional egress and, short of tearing it down, we're allowing the creation of the egress through the dormer setup. Again, it's not increasing the footprint of the house, it's simply going up.

Ladwig – Any hardship is self-created, that's the only thing we've got.

Hardesty – But the alternative is to tear it down and I don't like that.

Hill – I have a question for Mr. Jankowski. You are requesting a variance from 338-32.3C(3) which regards the Shoreland Protection Ordinance. Subsection b refers to the fact that the impervious surface is not to exceed 40%. Can you tell me what kind of pavers you would be putting in on the south side of the house?

Jankowski – They would be pervious pavers that would allow water to run through.

Hill – That answers that question. Thank you. Under unnecessary hardship, I feel that there is an alternative available in which the dormers could be placed on the other side of the house. Egress could be achieved by appropriate use of windows on the other side of the house. I don't believe that there is harm to public interest and the hardship has not been proven except that it's self-created by the request.

Ladwig – As far as harm to public interest, as long as they follow the conditions to take care of the runoff, it could be better than it is now with the rain gardens.

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

Findings:

Hill – The motion is passed. The request is approved. The landowner has proven unnecessary hardship based on the criteria. The landowner has proven unique property limit. There's no harm to the public interest.

Item I: Owner/Applicant: John & Jan Saecker **Address:** Lakewood Estates Plat Lot 13, Section 12, T15N R12E, Town of Green Lake **Explanation:** The owner is appealing the decision by the Land Use Planning & Zoning Department to deny a Land Use Permit for a ground-mount solar panel array.

a. Public hearing.

Assistant Corporation Counsel Jeff Haase – Advised the Board of Adjustment that the State Statutes that apply to this request are vague at best.

John Saecker, W2771 Circle Drive, (applicant) – Spoke in favor of the request.

Chris Collins, H & H Solar Energy Systems, 818 Post Road, Madison – Spoke in favor of the request.

Public hearing closed.

b. Board discussion and deliberation.

The committee discussed with Mr. Saecker whether or not the array will be visible from the street. He replied that plantings will cover the array and it won't be visible to Lot 14. Also discussed was the fact that the lot where the array would be placed is not contiguous to their residential lot. The underground wiring would be buried 18 inches deep in the greenway that is owned by all of the people in the subdivision.

Motion by Hill/Ladwig to reverse the decision of the Land Use Planning and Zoning Department to allow the applicants to construct a ground mount solar array in order to comply with the Board's understanding of Section 66.0401 1m.

Hardesty – I have a problem in that it's not contiguous to his current lot. He has to go across a publically owned or a subdivision-owned piece of property to connect that solar array to his home. I'm not comfortable reversing the decision until I've seen all of the details; all of the i's

dotted and the t's crossed. I don't know what kind of covenants there are. Granted, they're not supposed to be part of it, but we don't know that. We're just shooting blind here and I don't feel good about that.

Hill – I'm disappointed that the Wisconsin State Statutes are not clearer on this issue that they refer primarily to wind energy. They don't give us much guidance. There is no case law.

Ladwig – I have a problem with being it's a residential area and they're putting this on a lot that really was intended to have a house built on it. That's where I have a problem with it. If it was on the same lot, it wouldn't be a problem.

Hill – I agree with Roger (Ladwig) and his comments primarily because the Town of Green Lake has also created a plan which would require this area to be residential. It wouldn't require it, but that is their hope that it would remain residential. It would not apply to that as far as the request goes.

Roll call: Hill - no, Ladwig – no, Hardesty - no.

Findings:

Hill – The application is denied. The issue that we considered is that the property is not contiguous to the property that belongs to the owner. We don't know what the covenants are regarding this piece of property. The greenway space opens that up to the covenants and what would apply to that. There is no case law to support the request. There are statutes that haven't been supported by case law at this time. It's zoned R-1 where a house could be built. If there is no house there now, we don't like to see a structure without the main building.

CORRESPONDENCE - None

BOARD DISCUSSION/ACTION - NONE

NEXT MEETING DATE

November 18, 2011

ADJOURN

Motion by Ladwig/Hardesty, unanimously carried, to adjourn.

Time: 11:16 a.m.

Recorded by,
Carole DeCramer
Board of Adjustment Secretary

APPROVED ON:

May 18, 2012