

BOARD OF ADJUSTMENT PUBLIC HEARING

Monday, August 15, 2011

Administrative Center – County Board Room

6:00 p.m. – 7:15 p.m.

MEMBERS PRESENT: Howard Raymer, Jr., Dave Eilertson, Barb Frank
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Nathan Sampson, Jonathan Kaatz (minutes)

CALL TO ORDER

Howard Raymer, Jr., Committee Chair, called the meeting to order at 6:00 p.m. Let the record show that this meeting is called in full compliance with the requirements of Wisconsin Open Meetings Law.

APPEAL NO. 2011-29 Kyle L & Amy L Thesing, W8090 Country Ave, Holmen, WI 54636-9571. Permit denied to construct an 855 sq. ft. detached accessory building that will exceed the 750 sq. ft. area limit for such buildings on this 0.74 acre lot. Property described as Lot 6, Block 4 of August Prairie Addn. Tax Parcel 8-2008-0. Property address: W8090 Country Ave. Town of Holland.

Appearing in favor: Kyle L Thesing, W8090 Country Ave, Holmen, WI 54636-9571.

QUESTION Raymer: Would you tell us what you want to do here?

REMARK Thesing: I am proposing to build an 855 square foot building. So I can store our lawn mower, boat, that sort of thing inside so it's not within site of the neighbors. I like to do maintenance, change my oil and stuff on my own vehicle and the garage we have attached to the house doesn't allow that. There's not enough room. Gets pretty congested with toys and stuff in there. I applied with the Architectural Review Committee quite a while back. I actually have some drawings if you'd like to see. It's a stick built building so it matches the aesthetics of the house. They did approve it. And I also went to the Town Board last week and they also approved the construction.

REMARK Raymer: Okay, you went to your Architectural Committee because these buildings aren't allowed in that subdivision.

REMARK Thesing: Yes sir. There's a covenant against a detached outbuilding. I submitted the drawings. Had our architect, builder submit drawings to them. And they approved.

REMARK Raymer: And the committee consists of...

REMARK Thesing: The owner of the subdivision and as well as 'X' number of owners.

QUESTION Raymer: Who is the owner?

ANSWER Thesing: I believe it's George Park the third.

QUESTION Raymer: And you have documentation of that?

ANSWER Thesing: I do. Would you like to see it?

REMARK Raymer: Submit that over to Nate there.

REMARK Thesing: All correspondence was through the Realtor when we purchased the property. I tried to push everything through, get their approval, right away so we knew whether or not we could do it before we started working on the house.

QUESTION Raymer: Did you just recently purchase this?

ANSWER Thesing: We built the house.

REMARK Raymer: Oh, you built the house.

REMARK Thesing: We built the house two years ago.

QUESTION Raymer: So what do you mean you went through a Realtor?

ANSWER Thesing: When we went through the Realtor, she was the point of contact with George Park. I didn't physically have connection to him.

QUESTION Raymer: This was back when you bought the place you mean?

ANSWER Thesing: Correct. I wanted to make sure that we could potentially do this down the road. It was my understanding that the reason why the covenant was in place is that they just didn't want somebody to come in and build a pole shed or whatever that detracted it from the aesthetics from the house. Also, one other thing, at the Town Board last week I heard that there had been some vandalism in the neighborhood with stuff that had been left outside. We have not been a part of that yet but that's just another reason why I'd like to get everything under roof and contained within locked doors just so we don't have to worry about that.

QUESTION Eilertson: I have a question. Why does it have to be 855 square feet instead of 750?

ANSWER Thesing: That allows for the three vehicles wide plus that gives me room in the back side for a workbench. Currently the garage that we have built I have a workbench and if I put my trailer hitch in the truck and back it tight up to the workbench that leaves me about eight inches to walk between the front bumper of my truck and the garage door. That distance was taken into consideration when doing this drawing. That gives me adequate room so I don't have to move things in and out, say in the winter time or whatever when it's cold outside I can leave things right where they are and still do work on, do maintenance on them.

Appearing in opposition: None.

Correspondence: 1) Email correspondence between the appellant and Peggy Lovejoy submitted by the appellant at the public hearing on August 15, 2011. The first email is dated March 2, 2010 and the final email is dated April 27, 2010. Within the emails the appellant states his plans for the detached garage and submits plans for review. Proceeding emails from Peggy Lovejoy state that the plans for the detached garage have been submitted to the owner of the subdivision and that the plans submitted have been approved.

2) Town of Holland Board Action received by the La Crosse County Zoning, Planning & Land Information Department on August 15, 2011. On August 10, 2011 the Town of Holland Board recommended to approve Appeal No. 2011-29 to allow an 850 square foot detached accessory building.

Discussion: QUESTION Raymer: What are you feelings?

REMARK Frank: Is this a heated garage? I'm thinking because he's working back there and he'll always have a car in the driveway.

REMARK Raymer: I'm just wondering about that size limit. Why do we have to grant a variance for the oversize? Seven fifty is 750. There's no other hardship. He's already got a three car attached garage. If the Architectural Committee, which is the owner of the subdivision, approved this, we don't enforce their covenants anyways, but that doesn't mean we should give him a bigger garage that what he's allowed by County Ordinance.

REMARK Frank: There's always the precedence we set.

REMARK Raymer: I don't think there is such a thing. But anyway I don't think we should go over what's allowed.

QUESTION Frank: Where was the 750 arrived at? That's the county...

ANSWER Raymer: That's what the County Ordinance allows on a lot that size. It's less than an acre, .74 acres.

QUESTION Frank: Is that how you feel? Is 750?

ANSWER Eilertson: Yeah. I think that's reasonable. Especially when you already have a three car garage.

Motion Frank/Eilertson to approve Appeal No. 2011-29 with the condition that the detached accessory garage is limited to 750 square feet.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2011-30 Jason J & Tracy L Gray, 2530 Bank Dr W, La Crosse, WI 54601. Permit denied to construct a 15-ft X 26.5-ft addition to an attached garage that will lie within the required 60-ft setback from the centerlines of Bank Dr W and Oak Dr and within the vision clearance triangle at the intersection of Bank Dr W and Oak Dr. Property described as Part of the NW-NE, Section 21, T15N, R7W. Tax Parcel 11-1568-0. Property address: 2530 Bank Drive W. Town of Shelby.

Appearing in favor: Tracy L Gray, 2530 Bank Dr W, La Crosse, WI 54601.

REMARK Gray: The reason we applied for the variance is because at the current moment we have a one car attached garage. We have two vehicles and a boat sitting in our driveway and we can't pull any of them into our one car garage. Our vehicle has that much clearance on the sides and it's just not worth the risk. We're asking for the 15 foot addition so that we can turn it into a two car garage which would then allow us to pull the garage, getting them off of our driveway. I know part of the concern is the vision, turning the corner. Right now our truck is as close to the curb as you can get, our boat is pulled in front of it, and my vehicle next to it. You can't anything past our vehicles in the driveway at the moment. So if we can pull them into a garage that would clear the vision to turn the corner. Another thing, we've had vandalism. Our truck, our vehicle was gone through. Things were stolen out of it. We've had hail damage. We've had a vehicle totaled and we can't do anything about it because we don't have a garage

we can pull any vehicles into. We'll be about 22 feet off of the curb. Which we feel, when you pull up, is a good distance to be able to see around the corner. I went to the Town of Shelby Board and they approved the drawing. And I talked with six of our neighbors just to see how they felt about it. And they all didn't have any problems with it.

QUESTION Raymer: Did they give you anything in writing?

ANSWER Gray: No. Our neighbors behind us said that they were going to call the Zoning Office. I don't know if they did.

REMARK Raymer: Maybe they did.

ANSWER Gray: It was all just phone calls or conversations.

QUESTION Frank: What did you say; one of your vehicles was totaled because it was on the street?

ANSWER Gray: No it was totaled due to the hail damage. Our camper was totaled. Our car was totaled. Our truck has lots of damage due to the hail storm that hit our area earlier in the summer. And all we could do is sit and watch it bang off.

REMARK Eilertson: I don't have any questions.

QUESTION Raymer: Barb, any questions?

ANSWER Frank: No, just some reservations about the safety.

Appearing in opposition: None.

Correspondence: None.

REMARK Sampson: We did not receive any call or email or letter from the Town of Shelby. I did check their website and I noticed this was an agenda item at their August 8th Town Board meeting. We did receive a phone call from a neighbor in favor but we don't provide testimony on behalf of the caller.

QUESTION Raymer: Did you contact your Town Board?

ANSWER Gray: I went to the Town Board meeting. I went July 25th and because they didn't put me on the agenda, their mistake, they were going to approve it August 8th at their meeting. And I called today and they said that it was approved.

REMARK Raymer: It was approved.

REMARK Gray: Yes.

QUESTION Raymer: But you didn't hear anything?

ANSWER Sampson: No, we didn't receive anything.

Discussion: REMARK Eilertson: A week ago Sunday, I drove out there in the morning. And what she's talking about is that she's got vehicles parked over here and boats and stuff. This will actually help if they continue to leave them there.

REMARK Raymer: Well with the vision triangle, the house already is in the way any way.

REMARK Eilertson: I couldn't get a traffic count on this street. It's quite low.

REMARK Frank: The side one really is low.

REMARK Eilertson: This will be an improvement like she said because they have stuff sitting here. You come up and have to look around that. This will move it in.

REMARK Raymer: The traffic is on Bank Drive and this is a dead end street.

REMARK Frank: I thought it was the other way around. Bank Drive West is the dead end.

REMARK Eilertson: This is the dead end. This is Bank Drive and this is Oak Drive. It changes.

REMARK Raymer: Bank Drive goes way down and Oak Street just stops right there.

REMARK Frank: No I think it's the other way. No it's Bank Drive West. The little short one and there's hardly anything here.

REMARK Eilertson: It's minimal traffic. None the less, it's not a good corner.

REMARK Frank: And they can't use the garage because it's too tight.

REMARK Raymer: And you wouldn't want a garage on both ends of your house.

REMARK Eilertson: This is where their one car garage is.

REMARK Raymer: It's on that end now.

REMARK Eilertson: Again, the situation, I think would be improved.

REMARK Raymer: I agree.

Motion Eilertson/Raymer to approve Appeal No. 2011-30.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2011-31 Thomas G & Mary Paisley, W2732 Schams Ave, La Crosse, WI 54601. Permit denied to retain a previously constructed residence that lies within the required 60-ft setback from the centerline of a town road, to retain a previously constructed 12-ft X 14-ft rear porch and after-the-fact 8-ft X 10-ft attached deck that lie within the required 25-ft rear yard, and to construct a proposed 16-ft X 26-ft addition to an attached garage that will lie within the required 60-ft setback from the centerline of Schams Ave. Property described as Lot 12, Block 1 of St. Joseph Heights Addn. Tax Parcel 6-301-0. Property address: W2732 Schams Ave. Town of Greenfield.

Appearing in favor: Thomas G Paisley, W2732 Schams Ave, La Crosse, WI 54601.

REMARK Paisley: I'm proposing this garage just for storage. We went before the Town Board of Greenfield on the 10th, or the wife did, and they approved it.

QUESTION Eilertson: Mr. Paisley how did all these non-conforming issues happen? Did you buy the house?

ANSWER Paisley: We had it built.

QUESTION Eilertson: When was that?

ANSWER Paisley: In '78.

REMARK Eilertson: 1978.

REMARK Paisley: Yes. We've been up there 30 some years. I did build the deck.

QUESTION Eilertson: The one that's encroaching on the back?

ANSWER Paisley: Right.

REMARK Frank: And the storage shed.

REMARK Paisley: Yeah. That was my fault. I was under the assumption as long as...if it had a foundation... I see these utility barns all over. I thought you could just have an outbuilding as a utility barn. In '99 when we put the addition on, the porch in the back, I don't know why it was overlooked by Zoning at that time but it was approved then.

REMARK Eilertson: Without a variance.

REMARK Paisley: Without a variance.

QUESTION Frank: In '99?

ANSWER Paisley: Yeah.

Appearing in opposition: None.

Correspondence: 1) Phone call from Lois Meinking, Town Clerk, received on August 11, 2011, stating that the Town of Greenfield has no objections to Appeal No. 2011-31.

2) Memorandum from Chad VandenLangenberg, Code Enforcement Officer, dated July 13, 2011.

Memorandum states history of Zoning/Occupancy Permits and explains construction activity for W2732 Schams Ave.

Discussion: REMARK Raymer: Unbelievable amount of goof ups in my opinion.

REMARK Eilertson: I don't ever remember having one like this.

REMARK Frank: Are any of them serious though? Do we have any objections?

REMARK Raymer: Well this garage addition is not going to contribute any more to the situation any more than it already is.

REMARK Frank: That's my thought.

QUESTION Raymer: I would assume, how do you do that Nate? Are you going to issue after-the-fact for the rest of these?

ANSWER Sampson: That will all be under one permit.

QUESTION Raymer: But will both be permitted when they apply for this if we approve it?

ANSWER Sampson: That's correct.

Motion Frank/Eilertson to approve Appeal No. 2011-31.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2011-32 Dennis G Fishbaugher, W8035 County Road ZB, Onalaska, WI 54650. Appeal to retain a second residence on one existing parcel as shown on a pending condominium plat, consisting of two (2) one-unit condominiums on a parcel that does not meet the required 40,000 sq. ft. and with one unit not meeting the required minimum 10-ft side yard in the Shoreland District of Lake Onalaska. Property described as Lot 10, Block 1 of Bellevue Addn. Tax Parcel 10-1795-0. Property address: W8035 County Road ZB. Town of Onalaska.

Appearing in favor: Richard Berg, W7463 Sylvester Rd, Holmen, WI 54636.

REMARK Berg: Mr. Fishbaugher is also here with some additional information. I'm a licensed engineer and land surveyor.

QUESTION Raymer: So you're speaking in favor of this on behalf of the owner?

ANSWER Berg: Correct. I surveyed the property. I just had a couple of observations and comments here. As was stated the longer building there is existing garage slash efficiency apartment and has been for a considerable length of time. The other is the main house on the property. It was deed to William Weinmann in '94 I believe. To a James Hamilton in '98. And then to the current owner in 2004 if I have the dates correct here. The previous owner had already received a variance from La Crosse County to construct the addition on the garage. It was originally a smaller garage and then the apartment part was built on.

QUESTION Raymer: When was that done? Do you know?

ANSWER Berg: I believe '96 or '98. I think that was the one in '96 to my knowledge. Just a couple other comments on that. Zoning Ordinance 17.30(1)(f) allows up to 3 boarders or lodgers that are not members of the family in any single family residential situation. So it doesn't seem like it would be much difference whether he has an efficiency apartment with one person in it and it's a two bedroom house. The main house is. So it doesn't seem like there's much difference between that one person being in one efficiency bedroom in that garage building as opposed to the same person and two others could live in the main house. That are not members of the family. It's Section 20.232 of the Shoreland Zoning Ordinance, allows an existing substandard lot to be used as a residential building lot if it has at least 10,000 square feet which this has considerably more than that. In Section 17.31 of the regular Zoning Code, a building altered for two families only needs a lot area of 3,600 square feet per family. You know there's a lot of conflicting, different area requirements here where they're already allowing a residential building to be on 10,000 square feet and if you add another 3,600 square feet according to your normal zoning ordinance, you'd have a lot of 13,000...you know approximately what we have here. And you've added one more family, so to speak. Like I say this is just a room there. It's not like it's going to be a family there anyhow. He has one boarder there. Those are the comments I have.

QUESTION Eilertson: So the intent of this is to create a duplex type living condition?

ANSWER Berg: Yes.

REMARK Eilertson: Two tenants could be occupying this.

REMARK Berg: Yeah. One mechanism that we propose is you could do that as a Condominium Plat. Where by each one of those buildings is a unit and that way you still aren't make the lot into two lots because everything would be common area there and it's just a building. Unless the County would allow him to just continue to have that one boarder in that room like I say. It's not a lot of difference between or I don't see where it's any difference between that boarder being in a room in that building as opposed to three boarders being in rooms in the main house.

QUESTION Frank: Do we know this is going to be for one person?

ANSWER Berg: Well I know it's just a little efficiency apartment. That's what's there now. There's been one boarder there. Who's to say 40 people aren't going to move into one single family home? I guess I can't answer that. But it's not set up for more people really.

Appearing in favor: Dennis G Fishbaugher, W8035 County Road ZB, Onalaska, WI 54650.

REMARK Fishbaugher: Well, where do I start? I purchased the property in '04. The existing structure was there. Had some water damage the first winter and sheet rock come down. So in the process of repairing that and everything, put down some flooring. I'm not home a lot. I work for Mathy and I'm on the road. So I fixed it up so somebody could be there, live there, because I live alone. It's worked out really well to have a person living in that unit. It's turned out beautiful. Whoever is in there really enjoys it. I did meet with the Town Board of Onalaska last weekend or a week ago today. It was a real short notice for them. I think they asked for a 30 day extension. Did you get an email? Somebody get an email?

REMARK Sampson: I did.

REMARK Fishbaugher: From them. They kind of suggested doing a Special Use Permit. I don't know what all that entails and if it's any easier or fits the criteria better or not. Anyway they brought that up. Mr. Hamilton, which I met one time, was the previous owner. They were the people that added it on. I'm not sure. I'm saying '96 or '98. I've read both. But I knew it was permitted. I don't know what that 30 day extension, what they requested. What that affects you guys. Anyway, we'd sure like to get a variance or be able to use it, continue using it.

Appearing in favor: Bill Yahnke, W6816 Village View Ln, Holmen, WI 54636.

REMARK Yahnke: Friend of Dennis. He asked me to come down here. Just a little moral support more than anything else. I just want to make it clear that he bought this piece of property. When he moved there the facility was there. It was an apartment already. It was livable at that time. But when he had water damage, he remodeled it and upgraded it more than anything. So it wasn't like he just built this whole thing. It was existing when he got there and he thought he was doing everything correctly. Got the notice from the County. I guess...make that clear.

Appearing in opposition: None.

REMARK Sampson: If I could Mr. Chair give some clarifications on some of the dates and ordinance sections that were listed tonight. The original application for the 24 by 22 foot detached garage was issued August 13, 1996. And that was the result of a variance granted for a second detached accessory building. That variance was Appeal No. 96-55. The 22 foot by 24 foot addition to the existing detached accessory garage, in affect doubling its area, was issued August 11, 1998, and that was for an addition to an existing garage. That variance number that authorized the issuance of that permit was Appeal No. 98-46. Mr. Berg was correct. The Warranty Deed, or the Trustees Deed, was recorded, conveyed to Mr. Fishbauger on August 24, 2004. The ordinance sections to consider on this... Mr. Berg had cited the 10,000 square foot in area lot size for a substandard lot not served by public sewer under the Shoreland Ordinance and it states, 'A substandard lot not served by public sanitary sewer which is at least 10,000 square feet in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the ordinary high-water mark may be used as a building site for a single family dwelling upon issuance of a Zoning/Occupancy Permit if it meets all the requirements of Sections 20.231(1)-(3) of this ordinance.' Which this does but his lot size is roughly 13,500 square feet. Was platted right around 1947. So by today's standard if that was an unimproved lot they'd be allowed one single family dwelling. Section 20.075 of the Shoreland Ordinance states we shall be in full compliance with the terms. 'The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations,' including the La Crosse County Zoning Ordinance. Section .10(2) states that 'No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner, except in conformity with the area regulations hereby established for the district in which a building or premises is located.' Those are the appropriate sections that apply to this case.

Correspondence: Email from Melissa Erdman, Town Clerk/Secretary, sent and received on August 11, 2011. Email states the Town of Onalaska Plan Commission and Town Board deferred the Dennis Fishbauger appeal for 30 days to allow for more time to look into the request.

Discussion: QUESTION Raymer: Nate, I just want to make sure for the record that everybody and myself understands exactly why are they appealing this. Did they apply for this Condominium Plat and that's why you investigated this? Or why was this even brought up?

ANSWER Sampson: This was the response to an enforcement action that was initiated by Chad VandenLangenberg in our office. It was generated by a complaint, that there was a second habitable structure on the property. And to clarify in the Town's correspondence, they're not seeking a zoning change. The proposal was a preliminary Condominium Plat that was submitted for two one unit condominium units. A minimum per family is 20,000 square feet.

QUESTION Raymer: My other question is when you said there were permits issued for that existing garage in '96 and then an addition to it, was that only for a garage?

ANSWER Sampson: That is correct.

QUESTION Raymer: Alright, so where is the sewer and plumbing and everything? Does anybody have any record of where that's going from this building?

ANSWER Sampson: As part of Chad's discovery in this there was correspondence received from the Environmental Health Department and it was from Pat Danielson. Bear with me a moment here and I'll try and find that.

REMARK Frank: While he's looking for that Mr. Chairman, I would also like to hear what a Special Use or a Conditional Use Permit is and how it would apply here.

REMARK Eilertson: I trust it's got one septic system.

REMARK Frank: We don't know that, do we?

REMARK Raymer: The situation is we're almost looking at an after-the-fact permit to make that into a dwelling. I understand this person didn't do that, they have a garage and a garage addition. Somebody made it into a house without a permit and somehow hooked it up to a septic system, which we don't know whether they put it on a new one or if they added to the existing one. The Town should have been made aware of that.

REMARK Frank: I didn't actually go look at the garage, did you walk around it?

REMARK Raymer: Well, no I didn't walk around it, I just went and drove on by it.

REMARK Frank: So where is the apartment in that garage? Is it just part of it? The backend or something?

REMARK Eilertson: I don't know. I turned around in the driveway and backed out.

REMARK Frank: Yeah, that's what I did.

REMARK Eilertson: I couldn't tell from the outside.

REMARK Sampson: Chad had requested information on this and this was received from Pat Danielson, Registered Sanitarian with the La Crosse County Environmental Health Division, dated Friday, November 12, 2010, 'Our file shows a replacement septic system was installed in 1994 as a three bedroom system. It was sized for a two bedroom house and a garage with future guest quarters. There was no septic hook up to the garage per the site plan. That must have been done at a later date.'

QUESTION Raymer: So the replacement system was done before this building was even built, correct?

ANSWER Sampson: Correct.

REMARK Raymer: In 1994. But there were not permits issued by the Health Department to even hook this thing up to it.

REMARK Sampson: It was sized accordingly. I can't answer that question whether or not they would require a separate permit to hook that up.

REMARK Raymer: So the complaint that generated this whole thing was about the fact that somebody was living in that building which was thought to be a garage.

REMARK Sampson: Correct.

REMARK Raymer: Now the owner is trying to come up with a way to be able to keep that there by doing this condominium thing.

REMARK Sampson: Correct.

QUESTION Raymer: Barb's question was, the Town Board proposed possibly a conditional use, how could you incorporate a Conditional Use Permit into something like this?

ANSWER Sampson: That would not be a use that would be allowed by the Zoning Ordinance as a conditional use in that district.

REMARK Eilertson: The other thing that concerns me is any type of precedent that we might be approving this with every garage.

REMARK Raymer: I think the garage can stay but that living space has never been approved. It's too close to the lot line. There's too many things wrong with it.

QUESTION Frank: What are our options though?

ANSWER Eilertson: Our option is to approve or deny.

REMARK Raymer: He'd have to remove that part and put it back into being a garage.

REMARK Eilertson: Well this committee here is acting on the issue of the appeal if that stays.

REMARK Raymer: Well the appeal is to retain a second residence. We either say, 'Yes, he can keep that second residence,' or 'No, the residence part has to be taken out and put back into being a garage.' Is that right? Am I reading that right?

REMARK Sampson: The appeal is actually the dimensional requirement of 40,000 square feet for a two unit condominium lot or Condominium Plat. We would require 20,000 square feet per unit for a total of 40,000.

REMARK Raymer: And there's only thirteen five for the whole thing now.

QUESTION Frank: Did we ask for objections? Have we asked for objections?

QUESTION Raymer: You don't have any other correspondence from the neighbors?

ANSWER Sampson: No. I did receive one phone call, and again like the prior appeal, it was one phone call in opposition but we don't provide testimony.

REMARK Raymer: What they're asking for is to approve this condominium and allow them two buildings to stay there on 13,500 square feet when they are required to have 40,000 square feet.

REMARK Frank: I don't see how we can.

Motion Eilertson/Frank to deny Appeal No. 2011-32.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2011-34 River Architects, 740 7th St N, La Crosse, WI 54601-3308, acting on behalf of J.F. Brennan Company, Inc, 820 Bainbridge St, La Crosse, WI 54603. Permit denied to construct a proposed two-story commercial building with 16,600 sq. ft first floor footprint that will lie within the required 75-ft setback of the Ordinary High-Water Mark (OHWM) and within the 300-ft shoreland buffer zone of the Black River, and will also lie within the required 60-ft setback from the centerline of a town road. Property described as Part of Government Lot 6 in Section 30, T16N, R7W. Tax Parcel 4-1265-0. Property address: 816 Bainbridge St. Town of Campbell in Document No. 1573105.

Appearing in favor: Michael Swinghamer, 740 7th St N, La Crosse, WI 54601.

REMARK Swinghamer: I work with River Architects and we're designing and hopefully soon constructing a new office building for JF Brennan. They just purchased the land there. Wieser Brothers is building a new building for the current owner of that existing property across the street. And the plan is to tear down that existing small structure on the site to make room for a new office building. One thing that we quickly found out is with the two setbacks, one off the main street and the other off Black River, the harbor, is there very little room in between those two setbacks to build a building that's large enough for their needs. They're currently in a relatively small building. They have some trailers, a double wide and two quads I believe, that they're currently housed in. So there's a great need for a large corporate building that they want to build. So we're here today to ask for a variance for those setbacks. One of the things I want to point out on the site plan that you see there. The property to the south of where we're proposing, it looks like JF Brennan Company owns all that. They do not. I have a site plan that we drew up I can give you copies of that indicates where the property line is. It's very tight and we can't build down to the south. We're very limited in area that we can build on. The other thing that we're proposing, we have the paper work in right now, is for a fill permit for the site. There's a little bit of a dip on the property and we'd like to level it out. We have met with Carrie Olson from the DNR. She was out at the site and took a look at it. I believe there's some correspondence that she sent or somebody from the Eau Claire office sent out. And we have met with the Town of Campbell and we got approval from them.

REMARK Eilertson: The proposed building Mike is going to go exactly where the flags indicated, the survey flags that are out there, and in place of the small two story office that is sitting there now.

REMARK Swinghamer: The flags that are out there right now are confusing. They're for some borings that we took. And they're also for the original setbacks. So no they're not.

REMARK Eilertson: The two story building that's sitting there now is going to come down.

REMARK Swinghamer: Correct.

REMARK Eilertson: And it's going to be over the top of that, part of it is.

REMARK Swinghamer: Correct. The other thing I want to note is there's some power lines that run along Bainbridge Street. We've contacted the utility companies and they're going to be removed along that property line so we can build closer to the road. The DNR was happy that we were making effort that we could to get as far as way as we could from the Black River frontage. So they were happy with that. The building is still early on in the design stage. The final footprint will change from this. In order to keep moving on the project we wanted a buildable area that we knew we could work within.

QUESTION Raymer: Now to the south of that building, how close to that is the lot line that you had up here before?

QUESTION Swinghamer: Can I introduce another site plan?

ANSWER Raymer: Okay.

(Referring to site plan)

REMARK Raymer: Okay, so you want parking on that south end.

REMARK Swinghamer: Right.

REMARK Raymer: That was my question is why you couldn't make the building longer and narrower but that's where you want to have parking.

REMARK Swinghamer: Correct. We'd like to put two entrances on the building, one for employees and one for visitors. The other need for the site is that there's a current road that connects the two properties and they have large crane equipment that they move from one side to the other and they can't bring that out into the road because of the steel tracks on the wheels. That existing road is going to be maintained.

Appearing in favor: Ken Peterson, 2511 13TH Place S, La Crosse, WI 54601.

REMARK Peterson: I have worked for JF Brennan for 22 years. I am the shop and equipment manager for that facility. And I'm just here to ask if you have any technical questions about the site or what we're doing or what you're seeing in front of you that I can probably answer. I just didn't want anything to go by without you having complete clarification.

REMARK Frank: As I understood it, this is kind of an approximation.

REMARK Peterson: Yes. The final length and width has not been determined. We're looking at the entrances on both sides. That's the approximate area that we'd like to build on.

REMARK Raymer: You have to understand if we approve that building that will be the dimensions. If we approve this, that will be the dimensions unless you come back in here and apply for another variance. You can't change that footprint of it. If we approve that footprint, that's what it's got to be.

REMARK Peterson: Yes, that's correct.

Appearing in opposition: None.

Correspondence: 1) Fax from the Town of Campbell dated and received on August 11, 2011. Fax states that at the regular Town Board meeting held on August 10, 2011, the Town Board had no objections to the request to change the east and west setback requirements.

2) Letter from Michael Wenholz, Regional Shoreland Specialist, dated and received on August 11, 2011. Letter states the Wisconsin DNR does not support the appeal request, unless some mitigation-based conditions are included as part of an approval. Letter states the Wisconsin DNR is willing to support an alternative to the proposal if the following conditions are met:

1. The proposed building cannot be any closer to the OHWM than 65 feet.
2. The applicant agrees to improve existing shoreline by removing weedy shrubs and replacing them with a native shoreland buffer designed by a landscape architect.
3. The applicant agrees to include on the site rain garden infiltration areas designed to capture stormwater runoff from impervious roof and parking lot areas.
4. The department recommends following the Natural Resources Conservation Service (NRCS) Shoreland Habitat Code (643A) and *Wisconsin Biology Technical Note 1: Shoreland Habitat* as much as possible. The department also recommends a mitigation plan be submitted to the La Crosse County Zoning Department and/or Department of Land Conservation for review and approval, and that some maintenance requirements be established.

Discussion: REMARK Raymer: I think they've done everything they can do and if we approve it based on those DNR recommendations.

REMARK Frank: Yeah, I was going to say, subject to this. I would like those four.

REMARK Eilertson: Mike it was my understanding you have to cut this back to 65 feet or do something. That's the major issue as I see it.

REMARK Swinghamer: They're asking to be 65 feet from here instead of the 59.

QUESTION Frank: Instead of what?

(Referring to site plan)

ANSWER Swinghamer: Instead of 59. This is the OHWM. We have it as 59. So they're asking for six feet. I could live with that.

REMARK Eilertson: It's been this Board's position to not approve something when we go against the DNR. Cause we learned the hard way.

REMARK Raymer: What normally happens is they appeal our decision. Then we're in a fight and could tie the project up anyway.

REMARK Eilertson: So if we approve it, it would be conditioned on following the DNR.

REMARK Frank: To me these are sound recommendations.

Motion Frank/ to approve Appeal No. 2011-34 with the condition the 4 conditions recommended by the Wisconsin DNR are met.

3 Aye, 0 No. Motion carried unanimously.

Motion Raymer/Eilertson to adjourn at 7:15.

3 Aye, 0 No. Motion carried unanimously.