



ZONING BOARD OF APPEALS AGENDA
Thursday, February 25, 2016,
5:30 p.m. **Community Room**
Town Hall - 1900 W. Grand Chute Blvd

1. Call to Order and Roll Call.
2. Approval of Minutes – January 14, 2016 meeting.
3. **Public Hearing #1** – Variance (V-02-16) requested by City of Appleton, 1850 W. Northland Avenue, for a variance from Ch. 535-43 of the Town of Grand Chute Municipal Code, to allow construction of a pumping station structure within the required 55 foot setback from a County highway. **Action:** Hear testimony/close public hearing.
4. **Variance (V-02-16)** – Request by City of Appleton, 1850 W. Northland Avenue, for a variance from Ch. 535-43 of the Town of Grand Chute Municipal Code, to allow construction of a pumping station structure within the required 55 foot setback from a County highway. **Action:** Approve/deny V-02-16.
5. Adjournment.

A quorum of the Town Board, Park Commission, Police and Fire Commission, Board of Appeals, and Licensing Committee may be present at this meeting. No official action of these bodies will be taken. **Accommodation Notice**-Any person requiring special accommodation who wishes to attend this meeting should contact (**Administration at 832-1573**) at least 48 hours in advance.

TOWN OF GRAND CHUTE
ZONING BOARD OF APPEALS MINUTES
January 14, 2016

Members Present: Karen Petersen, Aaron Janssen, Cheryl Ulrich, Kiersten Gustafson

Members Absent: none

Also Present: Robert Buckingham, Community Development Director, and other interested parties (audience attendance = 6).

1. **CALL MEETING TO ORDER AND ROLL CALL**

Meeting was opened at 5:30 p.m. and roll call was taken.

2. **APPROVAL OF MINUTES** – REGULAR MEETING OF OCTOBER 15, 2015.

Motion (Ulrich/Gustafson) to approve the minutes. Motion carried, all voting aye.

3. **PUBLIC HEARING #1:** VARIANCE (V-01-16) REQUESTED BY J. DOLORES MENDOZA AND ANITA MENDOZA, 2792-2794 W. HIAWATHA DRIVE, FOR A VARIANCE FROM CH. 535-43 OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A DETACHED ACCESSORY STRUCTURE WITHIN THE REQUIRED 55 FOOT SETBACK FROM A FEDERAL HIGHWAY.

Board Chair Petersen opened Public Hearing #1 at 5:32 p.m.

Dolly Mendoza spoke on behalf of her father, J. Dolores Mendoza. She stated that when someone from the Town first came out to the property, Mr. Mendoza was not told that the shed could not stay where it was placed. He has invested a lot of time and money on this building.

Reme Bashi introduced herself as a friend and interpreter for Mr. Mendoza. Interpreting for Mr. Mendoza, Ms. Bashi stated that the shed was built 10 years ago and was put on blocks to make it movable. Mr. Mendoza thinks because of a language barrier, there may have been some misunderstanding of the regulations when he pulled the building permit. Now that the shed has been added onto, it would be difficult to move. Mr. Mendoza has spotted other properties along the highway in the Ballard Road area that have storage sheds in the same location as his, so he does not understand why it is not ok for his shed to remain where he placed it.

Board Chair Petersen stated that the Ballard Road area is in the City of Appleton and may have different regulations than Grand Chute.

Ms. Bashi continued interpreting for Mr. Mendoza. With it being winter now, he thinks it is almost impossible to move the shed until it is warmer. Mr. Mendoza would rather pay a fine to the Town if he would be allowed to keep the shed in its current location.

Board member Janssen noted that if the shed is on blocks with no slab, the owner should reasonably be able to move it.

Interpreting for Mr. Mendoza, Ms. Bashi stated that it would not be easy to move due to its size. Mr. Mendoza again emphasized that he may have misunderstood the rules when he took out a permit, and that he did not realize he had to meet the setback. He said that two years ago an inspector was at the property to check some storm damage repair to the house. Mr. Mendoza wishes something would have been said then about the setback. It would have been easier to move the shed at that time.

Karen Redlin, 2773 W. Hiawatha Drive, stated that she and her husband support granting of the variance. She said that in her opinion, the shed looks nice and she would not mind owning it herself.

Motion (Janssen/Ulrich) to close Public Hearing #1 at 5:52 p.m. Motion carried, all voting aye.

4. **VARIANCE (V-01-16)** - REQUEST BY J. DOLORES MENDOZA AND ANITA MENDOZA, 2792-2794 W. HIAWATHA DRIVE, FOR A VARIANCE FROM CH. 535-43 OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A DETACHED ACCESSORY STRUCTURE WITHIN THE REQUIRED 55 FOOT SETBACK FROM A FEDERAL HIGHWAY.

Director Buckingham stated that any reference to other structures that may be in similar spots to the applicant's shed is not relevant to the specific purpose for considering the variance. He also noted that while Mr. Mendoza's hard work to improve and maintain his property is to be admired, the building permit for the shed specified that it had to meet the highway setback. He stated that arguably the Board of Appeals may have no legal standing with which to reduce a required setback established by federal and state agencies. He referred the Board to his written report and findings of fact, which support denial of the variance request.

Motion (Janssen/Ulrich) to deny the Variance (V-01-16) requested by J. Dolores Mendoza and Anita Mendoza, 2792-2794 W. Hiawatha Drive, to allow a detached accessory structure within the required 55 foot setback from a federal highway. Motion carried, all voting aye.

5. **ADJOURNMENT**

Motion (Ulrich/Gustafson) to adjourn the meeting at 5:56 p.m. Motion carried, all voting aye.

Respectively submitted,

Tracy Olejniczak
Community Development Secretary

Town of Grand Chute

Variance Request

City of Appleton

TO: Zoning Board of Appeals

FROM: Robert Buckingham, Community Development Director

DATE: February 16, 2015

ADDRESS: 1850 W. Northland Avenue

App. #: V-02-16

REQUEST

The City of Appleton has purchased this 3.6 acre vacant parcel for the purpose of constructing and maintaining a stormwater pond as part of a solution to flooding issues in its W. Wisconsin Avenue drainage basin. To accommodate the required basin size, the pond safety embankment and maintenance access needs, it is necessary to construct the outlet pumping station structure with approximately a 26' setback from the Northland Avenue (CTH OO) right-of-way. The Zoning Code requires a 55' front yard setback from a County Trunk Highway. A variance is requested to reduce the required highway setback from 55' to 26'.

ANALYSIS

In contrast to another recent variance request for a highway setback along I-41, this variance request by the City of Appleton is supportable because Outagamie County has confirmed that it has no enforceable setback line on the property in question (letter attached). This means that the Town is not bound by any requirement to enforce a setback requirement of another governmental unit. From a practical standpoint, the notion of setback along Northland Avenue is somewhat irrelevant since the highway grade is significantly higher than the ground elevation of the property and there is no direct access from the property to the highway. As noted in the County letter, if there should ever be need to expand the width of the highway, the City would be responsible for the additional costs of a retaining wall or other required modifications due to the location of the pumping station.

FINDINGS OF FACT IN GRANTING OF A VARIANCE

1. **The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of the Zoning Ordinance.** *Found.* Acknowledgement that the highway setback requirement is not enforceable at this property.
2. **The variance will not permit the establishment of a use, which is not permitted or permissible in the district.** *Found.* Stormwater management facilities are a permitted use in this zoning district.
3. **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.** *Found.* The special setback provision designed to protect Outagamie County's interests is nullified since the County does not have an enforceable setback line on the subject property.
4. **The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.** *Found.* The Zoning Code's highway setback requirement is applicable only to properties along Federal, State, and County highways. To deny this variance request with knowledge that the County is not enforcing a setback line on the subject property would deny the applicant of rights to use of the property.
5. **The hardship is not shared generally by other land or buildings in the area.** *Found.* See #3 above.
6. **The hardship results from the strict interpretation of this ordinance and is not the result of self-created or self-imposed circumstances.** *Found.* The highway setback requirement is applied uniformly to all properties that front on Federal, State and County highways. The only form of relief is to seek a variance in those instances when the affected governmental unit confirms no enforceable setback exists.

RECOMMENDATION

Staff finds in favor of granting this variance and recommends Board approval of the request by the City of Appleton, 1850 W. Northland Avenue, to allow construction of a pumping station structure within the required 55' front yard setback from a County highway. In granting this variance, the Town of Grand Chute Zoning Board of Appeals has relied upon confirmation of the fact that Outagamie County does not have an enforceable setback line on the property at 1850 W. Northland Avenue.

NOTE: As a courtesy reminder, the Board is reminded that approval of a variance requires a super-majority of 4 members voting in the affirmative. If fewer than 4 members vote affirmatively for approval of a variance, said variance is denied.

**TOWN OF GRAND CHUTE VARIANCE APPLICATION
STATEMENT OF HARDSHIP**

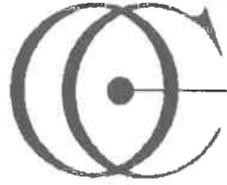
**NORTHLAND AVENUE STORMWATER POND
City of Appleton – Petitioner**

The Northland Avenue stormwater pond is proposed to be constructed immediately north of Northland Avenue and east of Canadian National Railroad, within the Town of Grand Chute. The proposed project will be located on an existing vacant lot. Immediately east and northeast of the project area are existing mini-warehouse storage units. Northwest of the proposed pond location are existing wetlands, a navigable stream, and open space. The parcel is 3.57 acres. Approximately 0.17 acres of the site will remain undisturbed wetlands.

Within this site is a 2.7 acre stormwater pond. This pond was sized to maximize flood control and water quality for the 113 acre drainage area. Based on the hydraulics of the contributing and receiving storm sewer system, and the configuration of inlet and outlet structures needed for water quality, the pump station was located in the southwest corner of the parcel. The lift station concrete pad is approximately 26-feet from the Northland Avenue (CTH OO) ROW at its closest point, and the electrical enclosure housing the pump controls is approximately 40-feet from the Northland Avenue (CTH OO) ROW at its closest point. Based on the pond size and lift station access needs, and maintenance access needs around the pond, this is the furthest from the ROW line that the lift station can be located.

Attached is a letter from the Outagamie County Highway Engineer supporting this variance request.

COPY
"OO" permit
file



OUTAGAMIE COUNTY

HIGHWAY DEPARTMENT

1313 HOLLAND ROAD APPLETON, WISCONSIN 54911-8947
PHONE: (920) 832-5673 FAX: (920) 832-2032
Visit our website at www.outagamie.org

November 20, 2015

Mr. Robert Buckingham,
Community Development Director
Town of Grand Chute
1900 Grand Chute Boulevard
Grand Chute, WI 54913-9613

RE: Letter of Support for Northland Pond Setback Variance
(North Side of CTH OO East of CN Railroad)

Dear Mr. Buckingham,

This letter is in support of the City of Appleton's request for a setback variance for the Northland Pond as shown on the attach plan documents. Outagamie County does not have an enforceable setback line on the property in question, and does not object to the Town of Grand Chute granting a variance to allow a reduction in the 55-foot highway setback that is required by local zoning code.

If at any time in the future CTH OO is widened to 6 lanes, the City of Appleton has agreed that all additional costs for a retaining wall, or any other modifications necessary due to the location of the structures, will be at the sole expense of the City.

Sincerely,

Andrew Rowell, P.E.
Highway Engineer

Attachments

C: Paula Vandehey, City of Appleton

