

TOWN OF GRAND CHUTE
1900 W. Grand Chute Blvd.
BOARD OF APPEALS
Regular Meeting Minutes

Thursday, July 14, 2011
5:30 p.m.

MEMBERS PRESENT: Karen Petersen-Chair, Van Callies, Aaron Janssen, Pamela Crosby, Cheryl Ulrich, John Weber

MEMBERS ABSENT: Tom Manley

ALSO PRESENT: Robert Buckingham, Community Development Director, and other interested parties. (Audience attendance = approx. 4)

1. CALL THE MEETING TO ORDER.

The Chair opened the meeting at 5:30 p.m.

2. APPROVAL OF MINUTES – REGULAR MEETING AND PUBLIC HEARINGS OF JUNE 9, 2011.

Motion (Callies/Ulrich) to approve the minutes of the regular meeting and public hearings of June 9, 2011. Motion carried, all voting aye.

3. **PUBLIC HEARING #1** – VARIANCE V-07-11 REQUESTED BY FOX VALLEY TECHNICAL COLLEGE, 1825 N. BLUEMOUND DRIVE, FOR A VARIANCE FROM CHAPTER 27.07 (10)(c)(1) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A SOLID FUEL-FIRED OUTDOOR HEATING DEVICE TO BE LOCATED CLOSER THAN 300 FEET FROM EXTERIOR PROPERTY LINES. **ISSUE:** HEAR TESTIMONY AND CLOSE PUBLIC HEARING.

The Chair opened Public Hearing #1 for V-07-11 at 5:31 p.m.

Jim Beard, Horticulture Instructor at Fox Valley Technical College, explained the plan to install a wood-fire boiler to heat the under floor brick in one of the greenhouses, which would allow for growing cold weather crops. He said the boiler was made possible through a grant provided by the Lowe's Foundation. He explained the need for the setback variance.

Motion (Janssen/Callies) to close Public Hearing #1, V-07-11 at 5:34 p.m. Motion carried, all voting aye.

4. VARIANCE V-07-11 REQUESTED BY FOX VALLEY TECHNICAL COLLEGE, 1825 N. BLUEMOUND DRIVE, FOR A VARIANCE FROM CHAPTER 27.07 (10)(c)(1) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A SOLID FUEL-FIRED OUTDOOR HEATING DEVICE TO BE LOCATED CLOSER THAN 300 FEET FROM EXTERIOR PROPERTY LINES. **ISSUE:** SHALL THE BOARD APPROVE/DENY VARIANCE V-07-11.

Motion (Ulrich/Weber) to approve Variance V-07-11 by Fox Valley Technical College, 1825 N. Bluemound Drive, for a variance from Chapter 27.07 (10)(c)(1) of the Town of Grand Chute Municipal Code, to allow a solid fuel-fired outdoor heating device to be located closer than 300 feet from exterior property lines. Motion carried, all voting aye.

5. **PUBLIC HEARING #2** – V-08-11 REQUESTED BY ROBIN GRIESBACH AND STEVE NELSON, 501 S. RIDGE LANE, FROM A VARIANCE FROM CHAPTER 27.06 (A)(4)(b) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW AN ADDITION TO A DETACHED GARAGE THAT IS LOCATED IN THE FRONT YARD. **ISSUE:** HEAR TESTIMONY AND CLOSE PUBLIC HEARING.

The Chair opened Public Hearing #2 at 5:34p.m.

Steve Nelson said that he would like to put an addition onto his garage for storage and a woodshop use. This added space is needed since the home has no basement and very limited attic access. He explained the unique circumstances at this large corner lot in which the home is located at the far northwest corner fronting on W. Spencer Street, leaving an excessive front yard setback along S. Ridge Lane, where the existing garage is located.

Janssen asked if the addition would be limited to the area of the cement slab that is already in place.

Nelson said yes.

Callies asked if the woodshop use is intended to be a commercial business.

Nelson said no, he would use the shop for maintenance of the hardwood floors and wood paneling in the home.

Motion (Callies/Janssen) to close Public Hearing #2 for V-08-11 at 5:36 p.m.
Motion carried, all voting aye.

6. V-08-11 REQUESTED BY ROBIN GRIESBACH AND STEVE NELSON, 501 S. RIDGE LANE, FOR A VARIANCE FROM CHAPTER 27.06 (A)(4)(b) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW AN ADDITION TO

A DETACHED GARAGE THAT IS LOCATED IN THE FRONT YARD. **ISSUE:**
SHALL THE BOARD APPROVE/DENY V-08-11.

Motion (Callies/Ulrich) to approve Variance V-08-11 by Robin Griesbach and Steve Nelson, 501 S. Ridge Lane, for a variance from Chapter 27.06(A)(4)(b) of the Town of Grand Chute Municipal Code to allow an addition to a detached garage that is located in the front yard. Motion carried, all voting aye.

7. **PUBLIC HEARING #3** – V-10-11 REQUESTED BY DWAYNE HIPKE, 3418 WOODHAVEN COURT, FOR A VARIANCE FROM CHAPTER 27.06 (A)(4)(b) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW CONSTRUCTION OF A DETACHED GARAGE IN THE FRONT YARD. **ISSUE:**
HEAR TESTIMONY AND CLOSE PUBLIC HEARING.

The Chair opened Public Hearing #3 at 5:38p.m.

Dwayne Hipke explained that he would like construct a detached garage forward of the house. He said the lot is unique in that the adjoining creek overflows the bank in the springtime, which causes flooding on his lot. With spring flooding and a drop in elevation of the lot toward the creek, there is very limited space where the garage could be placed.

Upon questioning from the Board, Hipke advised that the garage would be placed 20' in front of the setback line of the house.

Janssen asked Hipke if he had received any feedback from any of the neighbors.

Hipke said several of the neighbors told him they did not have a problem with the garage location.

Callies asked what side of the garage would be seen from the street.

Hipke said the street view would be of the front of the garage.

Janssen asked if County approval would be required to build the garage. Director Buckingham said at a minimum, the project requires a shoreland zoning permit, and may also need a conditional use permit.

Callies stated that he would abstain from the vote, as he is a member of the Outagamie County Zoning Board.

Motion (Callies/Janssen) to close Public Hearing #3 for V-10-11 at 5:46p.m.
Motion carried, all voting aye.

8. V-10-11 REQUESTED BY DWAYNE HIPKE, 3418 WOODHAVEN COURT, FOR A VARIANCE FROM CHAPTER 27.06 (A)(4)(b) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW CONSTRUCTION OF A DETACHED GARAGE IN THE FRONT YARD. **ISSUE:** SHALL THE BOARD APPROVE/DENY V-10-11.

Director Buckingham noted that since the applicant had presented two different alternates for placement of the garage, the Board needs to vote on each proposal separately.

Motion (Janssen/Weber) to deny Variance V-10-11 by Duane Hipke, 3418 Woodhaven Court, for a variance from Chapter 27.06(A)(4)(b) of the Town of Grand Chute Municipal Code to allow construction of a detached garage that is located in the front yard, with a front setback of 15 feet. Motion carried. (Callies abstained)

Motion (Weber/Ulrich) to approve Variance V-10-11 by Duane Hipke, 3418 Woodhaven Court, for a variance from Chapter 27.06(A)(4)(b) of the Town of Grand Chute Municipal Code to allow construction of a detached garage that is located in the front yard, with a front setback of 30 feet.

Director Buckingham advised that based on staff findings and a recommendation for denial of this variance, the Board must use testimony and evidence presented at the hearing in finding special conditions or circumstances in support of approval. He suggested the Board focus on whether the requested 30' setback is the minimum required to enable the construction of the garage. Additionally, he reminded the Board that there is no statutory authority that allows the Board to reach a compromise setback other than that requested by the applicant.

Callies asked Director Buckingham if it would still need approval from Outagamie County.

Director Buckingham advised that some form of County approval would be required.

Chairman Peterson asked Director Buckingham to go review each of the six (6) tests applied to the variance request.

Director Buckingham said Items 1 and 2, regarding harm to the public interest and not granting a use that is otherwise not allowed in this zoning district, were both found in favor of the applicant. Item 3 is a test whether special conditions or circumstances exist that are unique to this lot, and that prevent construction in conformance with setback rules. The applicant provided some evidence that the Board would need to consider in regards to the flood risk on the property which was not available prior to the hearing. Item 4 states "Literal interpretation of the

provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district". Staff finding is that this condition was not found, unless the Board finds that evidence in the testimony proves that the only place to put the garage on the property would be with the requested 30' setback. Item 5 states "The hardship is not shared generally by other land or buildings in the area". The Board would have to apply the same test as for Item 3. Item 6 states "The hardship results from strict interpretation of this ordinance and is not the result of self-created or self-imposed circumstances. He noted that the fact a greater setback would require a longer driveway is not a valid consideration. Also, economic hardship cannot be considered by the Board.

Regarding the proposed garage floor elevation, Director Buckingham asked the applicant if it would be at a comparable grade as the floor of the attached garage

Hipke said yes.

Director Buckingham asked if the applicant had considered any option of raising the floor elevation to provide flood protection for a garage built with the required setback.

Hipke said the issue would be because of the distance from the house, if he raises the floor it too much, runoff will run back toward the house.

Director Buckingham asked the applicant if there would be sufficient space between the proposed garage and the house to direct the drainage away from the home through use of a swale or drain tile.

Hikpe said he has not investigated those options, but in his opinion the answer would be no, since there is only 10' between the buildings.

Director Buckingham summarized that the Board must determine if it believes there are special conditions and circumstances that are unique to this property that would require the variance requested by the applicant.

Janssen said that in his opinion, it looks like circumstances do exist with regard to the stream flooding and wetland issues.

Chairman Petersen said that technically, if the Board determined this was a case of a navigable stream buffer zone due to possible flooding, which would be evidence of a special condition.

Director Buckingham said the special condition would have to be the evidence of flooding at this property, since there are many properties in the Town that have their structures in the same buffer zone. The applicant has documented the

localized conditions at this property, which may be sufficient evidence to demonstrate a hardship.

Upon questioning of the Board, Director Buckingham advised that a navigable stream requires a 300' bufferyard, which is meant to avoid localized flooding of the type being discussed in this case.

Janssen added the fact that the applicant's neighbors have stated their approval directly to him, that they were duly noticed of the hearing, and that none of them appeared today in opposition to the variance request.

Motion to approve Variance V-10-11 by Duane Hipke, 3418 Woodhaven Court, for a variance from Chapter 27.06(A)(4)(b) of the Town of Grand Chute Municipal Code to allow construction of a detached garage that is located in the front yard, with a front setback of 30 feet carried on a 5-0 vote, with Callies abstaining.

Callies recommended that Mr. Hipke contact Tim Roach at Outagamie County concerning additional permitting requirements.

9. ADJOURNMENT.

Motion (Callies/Ulrich) to adjourn the meeting at 6:01 p.m. Motion carried, all voting aye.

Respectively submitted,

Tracy Olejniczak