

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
NOVEMBER 29, 2022

Call to Order

Chairman Jazdzewski called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Roll Call

Stewart called the roll. Members present included John Jazdzewski, Dennis Meis, James Garbe, James Hopp, Rick Duerr, and Jason Pingel (Alternate). Member excused was Mike Pagel (Alternate).

Staff present included Chris Mrdutt, Dan Bowers, Emmett Simkowski (online) and Gayle Stewart, Planning and Zoning Department.

Pledge Allegiance to the Flag

Garbe led the Pledge.

Board of Adjustment Procedures

Jazdzewski explained the meeting was properly advertised by a class 2 notice in the local newspaper and explained the functions of the BOA by reading the Portage County BOA Function Introduction. Jazdzewski stated testimony and questions should be addressed during the public hearing portion of the meeting and anyone wanting to speak should sign in at this time.

Public Hearings

Petition No. PET-2022-012, Brice & Brenda Nelson, Owners

The Brice & Brenda Nelson, owners, Special Exception request from the provisions of Portage County Zoning Ordinance section 7.1.3.1(C)(2) & (18) to operate a Contractor Storage Yard and to have more than one commercial vehicle in the A4, General Agricultural Zoning District, Town of Hull, parcel #02092E0502, was opened by Jazdzewski.

Mrdutt said the request is for a contractor storage yard, however, the majority of the use is for private storage. Jazdzewski swore in Brice Nelson and asked him to explain the request. Nelson said he originally built the large building for private storage. He occasionally ends up with extra cabinets from his business that they cannot return so they need somewhere to store these until they can be sold or donated. Additionally, they would like to have the ability to store a small scissor-lift and skid-steer indoors to keep them out of the elements. Nelson added they will not be working on-site except to load or unload cabinets. The only parking on-site will be for employees carpooling. There will be no supplies or equipment stored outside; the point of the building was to get things out of the elements. No vehicle maintenance will be done on-site, no hazardous materials will be used/stored, and no fabrication will be done on-site.

Nelson was excused. Jazdzewski asked if any members of the public wanted to speak on this matter; it was noted there were none. Jazdzewski closed testimony and opened deliberations. Garbe read the Special Exception Standards:

The Board is Required to Evaluate the Effect of the Proposed Use Under 7.1.6.5(D)(2)(b)(1) in Order to Approve the Petition

- (a) The maintenance of safe and healthful conditions;
- (b) The prevention and control of water pollution including sedimentation;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The amount of liquid waste to be generated and the adequacy of the proposed disposal system;
- (k) The importance of the services provided by the proposed facility to the community;
- (l) The availability of alternative locations;
- (n) Such other factors as are relevant to the purposes of this Ordinance.

The Board is Required to Find All of the Following Conditions under 7.1.6.5(D)(2)(c) in Order to Approve the Petition

- (1) The use would not substantially harm the public health, safety, and general welfare, and would not be contrary to State Law or Administrative Code;

- (2) The use would be consistent with surrounding uses and the neighborhood would not be injured thereby;
- (3) The use is consistent with this Ordinance and any County or municipal plan which is based on historic, geographic, and socio-economic facts.

The Board May Attach Any of the Following Conditions Under 7.1.6.5(E)(2) in Order to Further the Purposes of this Ordinance

- (b) Increased setbacks and yards.
- (c) Specified sewage disposal and water supply facilities.
- (d) Landscaping and planning screens.
- (e) Period of operation.
- (f) Operation control.
- (g) Sureties.
- (h) Deed restrictions.
- (i) Location of piers, docks, parking and signs.

Noting additional noted at this time. Jazdzewski closed deliberations and asked for a motion to approve, deny, or postpone the request. Discussion regarding not having more than two non-family member employees working on-site. Mrdutt clarified in this case, work would be unloading/loading materials. Mrdutt also said the Ordinance is specific regarding no more than two non-family members working at a home occupation and this is why he suggested that condition be in the approval. Nelson said usually it is his son-in-law and himself loading. Mrdutt said family members do not count in this allocation.

Motion by Garbe to approve the request for a special exception as submitted, with the following conditions:

- 1. Obtain a Portage County Zoning Permit.
- 2. The existing 30-foot natural vegetation surrounding the shed must remain.
- 3. Hazardous Materials present must be stored in containment devices equal to 150% of the volume stored.
- 4. No more than three commercial vehicles can be stored onsite.
- 5. No more than two non-family members can work onsite.

Motion to approve seconded by Hopp. Garbe observed there will be no signage, no additional traffic, no fabrication on-site, and no anticipated issues with dust and noise. Jazdzewski noted no more than three commercial vehicles does not include any personal vehicles. Motion to approve passed 5-0 by voice vote.

Petition No. PET-2022-020, Lark Self Storage LLC/Johnny Hastings, Owner

The Lark Self Storage LLC/Johnny Hastings, owner, Variance request from provisions of Portage County Zoning Ordinance section 7.1.6.6(3)(b) to construct a storage building within 7 feet to the Stevens Point right-of-way of North Second Street, where 30 feet is required, in the C3, Commercial Zoning District, Town of Hull, parcel #020240820-06.22, was opened by Jazdzewski.

Simkowski explained the property is surrounded on all three sides by Johnson Drive, Second Street North, and I-39. The required setback from Johnson Drive and Second Street North is 30', and 50' from I-39. The request is for a 7' setback, where 30' would be required, from the right-of-way to Second Street North, which is owned by the City of Stevens Point. Simkowski explained how setbacks are measured to the centerline of the street because sometimes the right-of-way goes over property lines. Simkowski said in this case, the setback would be measured from the right-of-way because Second Street North and Johnson Drive are about 300' from where Hastings wants to build. Simkowski noted there are public utilities that run where the setback would go through, which would require a building to be cut in half or utilities relocated. Ryan Kernosky, City of Stevens Point Community Development Director, and Adam Kuhn, City of Stevens Point Planner, have both provided feedback stating they have no issues with the setback from the right-of-way. It was noted the right-of-way is City property so there would be no anticipated development in the future.

Jazdzewski swore in Johnny Hastings and asked him to explain the request. Hastings recently took ownership of the property and is looking to expand the operation. He explained the challenges due to the property being surrounded by rights-of-way as well as a utility easement. Jazdzewski excused Hastings and asked if any members of the public wanted to speak on this matter; it was noted there were none. Jazdzewski closed testimony and opened deliberations. Garbe read the Variance Standards:

The Board is Required to Evaluate the Effect of the Proposed Use Under 7.1.6.5(D)(2)(b)(1) in Order to Grant the Variance. The pertinent subsections are as follows:

- (a) The maintenance of safe and healthful conditions;

- (b) The prevention and control of water pollution including sedimentation;
- (c) Existing topographic and drainage features and vegetative cover on the site;
- (d) The location of the site with respect to floodplains and floodways of rivers or streams;
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
- (g) The need of the proposed use for a shoreland location;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal system;
- (l) The availability of alternative locations;
- (m) The heights, velocity, duration, rate of rise and sedimentation transport of the flood waters at the site;
- (n) Such other factors as are relevant to the purposes of this Ordinance.

The Board is Required to Find All of the Following Conditions under 7.1.6.5(D)(3)(c) in Order to Grant the Variance

- (1) Granting the variance would not be contrary to the public interest, State Law or Administrative Code, the spirit of the Ordinance would be observed, and substantial justice done;
- (2) The use is permitted in the District;
- (3) The hardship is due to special conditions unique to the property, rather than considerations personal to the property owner;
Garbe noted there are a lot of situations governing the surrounding land dealing with the right-of-way and how that right-of-way transgressed over many years with the interstate.
- (4) Granting the variance would not be detrimental to surrounding landowners;
- (5) Hardship is not created by any person having interest in the property;
Garbe said part of the hardship is the surrounding rights-of-way are not caused by the property owner.
- (6) A property owner bears the burden of proving unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome;
- (7) The request represents the minimum relief necessary to relieve unnecessary burdens.

The Board May Attach Any of the Following Conditions Under 7.1.6.5(E)(2) in Order to Further the Purposes of this Ordinance

- (a) Type of shore cover.
- (b) Increased setbacks and yards.
- (c) Specified sewage disposal and water supply facilities.
- (d) Landscaping and planting screens.
- (e) Period of operation.
- (f) Operation control.
- (g) Sureties.
- (h) Deed restrictions.
- (i) Location of piers, docks, parking and signs.

Additional discussion, the following was noted:

- Jazdzewski noted this is a very clean site and the owner is expanding on his own property.
- Garbe noted representatives for the City of Stevens Point have expressed no objections to this request.

There being no further discussion, Jazdzewski closed deliberation and asked for a motion to approve, deny, or postpone the request.

Motion by Hopp to approve the request for a variance as submitted. Hopp also noted Hastings is not changing the operation. Garbe suggested adding the following conditions:

- 1. A Portage County Zoning Permit must be obtained.
- 2. Any lighting must be downcast, so no light is shined on road or adjacent properties.
- 3. A Portage County Stormwater Management Plan should take into account the southern building impact to stormwater retention as well as the northern building impact.

Hastings said he has already worked with Dan O'Connell on the Stormwater Management Plan, and they have accounted for the southern building as well as the northern building.

Hopp agreed to the conditions being added to his motion; motion to approve seconded by Garbe. Motion to approve passed 5-0 by voice vote.

Petition No. Pet-2022-014, Raymond Oksuita, Owner

The Raymond Oksuita, owner, Variance request from the provisions of Portage County Zoning Ordinance section 7.1.3.3(D)(5) to reconstruct a cabin and increase residential and attached garage space within the 10' minimum side-yard setback, in the Recreational Zoning District, Town of Alban, parcel #0022728, was opened by Jazdzewski.

Mrdutt explained the request and added there are provisions in the Ordinance that allow one-time additions and the ability in shoreland to rebuild in an existing footprint/envelope. The owner is looking to build a residential addition with an attached garage. The variance is needed because of the side-yard setback. Mrdutt explained how the property is laid out and how the western property line goes down at an angle and gets closer to the building. Mrdutt said the Town of Alban met and supported approval with no recommended conditions. Mrdutt showed which plans are the most accurate for this project; the garage is being added to the bedroom addition.

Oksuita was sworn in by Jazdzewski and explained his request. The property was built in 1966 and he has always adhered to all conditions set forth by the Board. He believes the hardship is created by the terrain. Garbe agreed the topography is challenging and Jazdzewski concurred.

Oksuita was excused and Jazdzewski asked if any members of the public wanted to speak on this matter; it was noted there were none. Jazdzewski closed testimony and opened deliberations. Garbe read the Variance Standards:

The Board is Required to Evaluate the Effect of the Proposed Use Under 7.1.6.5(D)(2)(b)(1) in Order to Grant the Variance. The pertinent subsections are as follows:

- (a) The maintenance of safe and healthful conditions;
- (b) The prevention and control of water pollution including sedimentation;
- (c) Existing topographic and drainage features and vegetative cover on the site;
- (d) The location of the site with respect to floodplains and floodways of rivers or streams;
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
- (g) The need of the proposed use for a shoreland location;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal system;
- (l) The availability of alternative locations;
- (m) The heights, velocity, duration, rate of rise and sedimentation transport of the flood waters at the site;
- (n) Such other factors as are relevant to the purposes of this Ordinance.

The Board is Required to Find All of the Following Conditions under 7.1.6.5(D)(3)(c) in Order to Grant the Variance

- (1) Granting the variance would not be contrary to the public interest, State Law or Administrative Code, the spirit of the Ordinance would be observed, and substantial justice done;
- (2) The use is permitted in the District;
- (3) The hardship is due to special conditions unique to the property, rather than considerations personal to the property owner;
- (4) Granting the variance would not be detrimental to surrounding landowners;
- (5) Hardship is not created by any person having interest in the property;
- (6) A property owner bears the burden of proving unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome;
- (7) The request represents the minimum relief necessary to relieve unnecessary burdens.

The Board May Attach Any of the Following Conditions Under 7.1.6.5(E)(2) in Order to Further the Purposes of this Ordinance

- (a) Type of shore cover.
- (b) Increased setbacks and yards.

- (c) Specified sewage disposal and water supply facilities.
- (d) Landscaping and planting screens.
- (h) Deed restrictions.
- (i) Location of piers, docks, parking and signs.

Additional discussion; the following was noted:

- Jazdzewski said the improvements being requested are beneficial not only to the property owner but also to the environment and surrounding property owners.
- Garbe noted the variance request deals with side property line setbacks and is not a road or water variance.
- Jazdzewski noted the stormwater and path plans referenced in the packet will be beneficial for the site.
- Duerr asked if there will be measures put in place during construction to prevent any additional runoff to the neighboring property. Oksuita stated a silt fence will be utilized.
- Oksuita noted any water that flows from the road usually is absorbed near his deck area; it does not run to the neighboring property.

Jazdzewski closed deliberations and asked for a motion to approve, deny, or postpone the request.

Motion by Meis to approve the request for a variance as submitted, with the following conditions:

1. A Portage County Zoning Permit must be obtained.
2. A Portage County Stormwater permit must be obtained prior to the issuance of a Zoning Permit. A detailed Stormwater management plan with side yard buffer details must accompany the stormwater permit. The management plan will need to include details on the long-term maintenance and will be recorded on the property deed.
3. The proposed home and attached garage addition cannot be closer than 5' to the west property line.
4. The natural vegetative buffer between the patio and the lake must be maintained in natural vegetation except for a 5' designated path to access the dock along the east property line.

Motion to approve seconded by Hopp. Garbe asked for clarification on condition #2 and asked if there is something unique about this lot that the long-term management plan must be recorded on a property deed. Mrdutt said the uniqueness of the property is what works so well. The existing patio was installed with stormwater in mind, and it works as long as there is a maintenance agreement that makes sure they keep leaves and sediment out and clean from the top of the deck. If leaves or pine needles routinely drop in, it would not take long for that area to seal up and lose the capability as a stormwater management device. This is why they want to make sure, not just for the current owner but also future property owners, that the maintenance plan is followed. Mrdutt said this situation is unique in that the Ordinance provisions that allow this residential addition also require mitigation, which requires this to be recorded on a deed. This would be required by the Ordinance, even if the Board was not requiring it as a condition.

Motion to approve passed 5-0 by voice vote.

Petition No. PET-2022-015, Christopher and Christina Knitter, Owners, Chris Leary (Modern Image), Agent
The Christopher and Christina Knitter, owners, Chris Leary (Modern Image), agent, Variance request from the provisions of Portage County Zoning Ordinance section 7.1.6.6(3)(b) to construct a residential and attached garage addition within the road setback, and variance request from the provisions of the Portage County Shoreland Ordinance section 7.7.4.1(A)(1) to add onto a raised deck within the 75' shoreland setback, in the Recreational Zoning District, Town of Alban, parcel #002600301, was opened by Jazdzewski.

Mrdutt explained the request as follows:

- Owner wants to redo the cabin utilizing the existing footprint envelope.
- The north wall of the existing structure is failing. There are provisions in the Ordinance that allow, when utilizing more modern building techniques, to enlarge a little bit to replace the existing footprint.
- The proposed residential and garage additions encroach into the road setback, as shown on the most recent diagram. Portions on the eastern side toward the shoreline do not quite meet the 75' setback. Proposed setbacks and proposed projects were discussed.
- Correspondence from the Town of Alban recommends approval of the request with no attached conditions.

Jazdzewski swore in Chris Leary, Agent for petitioners, and asked him to explain the request. Discussion amongst Leary, Mrdutt, and the Committee; the following was noted:

- Discussion on how allowable detached accessory building space was calculated. The brick utility building that serves the pump house is considered a structure, even though it is used as a public utility. Even with the uniqueness of the structure, it is included when determining accessory square footage within the 75' setback.
- The landowner was able to purchase land to allow more space for building.
- Leary has been working with Dan O'Connell in the Land and Water Conservation Division on a Stormwater Management Plan.
- Garbe said there is a lot going on with this property.

Leary was excused. Jazdzewski asked if any members of the public wanted to speak on this matter. Ray Oksuita, Town of Alban Chairman, said Knitter has installed a new septic system, new well, created a berm/buffer which has already prevented water from going into the lake, and purchased extra property to be able to do this project. Oksuita added Knitter has worked very well with the Town and he feels very confident in Leary's work and ability to complete this project, if approved.

Jazdzewski asked if any other members of the public wanted to speak on this matter. There being none, he closed testimony and opened deliberations. Garbe read the Variance Standards; the following was noted:

The Board is Required to Evaluate the Effect of the Proposed Use Under 7.1.6.5(D)(2)(b)(1) and 7.7.12.3(D)(2)(a) in Order to Grant the Variance. The pertinent subsections are as follows:

- (a) The maintenance of safe and healthful conditions;
- (b) The prevention and control of water pollution including sedimentation;
- (c) Existing topographic and drainage features and vegetative cover on the site;
- (d) The location of the site with respect to floodplains and floodways of rivers or streams;
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
- (g) The need of the proposed use for a shoreland location;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal system;
- (l) The availability of alternative locations;
- (m) The heights, velocity, duration, rate of rise and sedimentation transport of the flood waters at the site;
- (n) Such other factors as are relevant to the purposes of this Ordinance.

The Board is Required to Find All of the Following Conditions under 7.1.6.5(D)(3)(c) and 7.7.123(D)(3)(c) in Order to Grant the Variance

- (1) Granting the variance would not be contrary to the public interest, State Law or Administrative Code, the spirit of the Ordinance would be observed, and substantial justice done;
- (2) The use is permitted in the District;
- (3) The hardship is due to special conditions unique to the property, rather than considerations personal to the property owner;
- (4) Granting the variance would not be detrimental to surrounding landowners;
- (5) Hardship is not created by any person having interest in the property;
- (6) A property owner bears the burden of proving unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome;
- (7) The request represents the minimum relief necessary to relieve unnecessary burdens.

The Board May Attach Any of the Following Conditions Under 7.1.6.5(E)(2) and 7.7.12(E)(2) in Order to Further the Purposes of this Ordinance

- (a) Type of shore cover.
- (b) Increased setbacks and yards.
- (c) Specified sewage disposal and water supply facilities.
- (d) Landscaping and planting screens.
- (g) Sureties.
- (h) Deed restrictions.
- (i) Location of piers, docks, parking and signs.

Additional discussion; the following was noted:

- Mrdutt read an email he received from Dale Rezabek, Shoreland Specialist with the DNR, in which he commented he does not see any justification by the property owner for meeting the three variance criteria for the increased deck. He added this seems to be a personal preference to enlarge the deck to have a larger deck, and personal circumstances should not be considered by the Board.
- Jazdzewski said this would be the southernmost portion of the deck that brings it to the corner of the house. Mrdutt confirmed this would be the wraparound corner on the south side. Mrdutt again explained the request is to attach a proposed wraparound deck addition to the existing deck. This would be a 48 sq ft new portion that would fall within the 75' shoreland setback.
- Jazdzewski said Rezabek has a legitimate reason for his statement. It's not that the deck is needed for access, it's just a larger deck. Mrdutt said any addition to the deck on this corner would require a variance because the corner of the house is 73' from the OHWM.
- Oksuita said the deck being attached on the front to wrap around is to allow access into the upper level of the house.
- Discussion on the recommendation from the DNR. Duerr said even though they have that recommendation, it is still up to the Board to grant the variance.
- Jazdzewski discussed acting on the two requests separately or as one. This would give the opportunity to deny one while granting the other.
- Duerr said this would give the DNR opportunity to oppose both later on; he agrees with acting on them separately.
- Garbe asked if they could put a gazebo on this lot and Mrdutt answered no. He explained how the 200 sq ft allocation works and said the brick utility building is included in the 200 sq ft allocation, along with the existing deck and small portions of the existing home.
- Leary said he was not aware they would be burdened by the small utility building.
- Duerr said the owner has no control over that utility building and he believes this building constitutes a hardship to the landowner.
- Jazdzewski said this is a public utility building, owned by someone other than the owner of the property, and just happens to be located where it is on this property.
- Jazdzewski said they will break this request into two variances; staff agreed with this as they follow the same standards.

Jazdzewski closed deliberations and asked first for a motion to approve, deny, or postpone the request for a variance to construct a residential and attached garage addition within the road setback.

Motion by Garbe to approve part one of the request, a 22' variance from the right-of-way provisions, with the following conditions:

1. A Portage County Zoning Permit must be obtained.
2. Proposed attached garage and/or home addition cannot be closer than 8' to the road right-of-way.
3. A Portage County Stormwater permit must be obtained prior to the issuance of a Zoning Permit. A detailed stormwater management plan along with a detailed shoreland revegetation buffer plan must accompany the stormwater permit. The stormwater management plan will need to include details on the long-term maintenance of the revegetated buffer and stormwater management areas.

Motion to approve seconded by Meis. Motion to approve passed 5-0 by voice vote.

Jazdzewski asked for a motion to approve, deny, or postpone the second part of the request to add on to the 9'x32' existing raised deck; this would allow a 48 square foot portion that would fall within the 75' shoreland setback.

Motion by Garbe to approve part two of the request, to add a 48 square foot addition to the raised deck to fall within the 75' shoreland setback, with the following condition:

1. Only 48 square feet of new raised deck is allowed within 75' setback from Lake Helen.

Motion to approve seconded by Meis. Motion to approve passed 5-0 by voice vote.

Petition No. PET-2022-018, Fred & Erica Stoeger, Owners

The Fred & Erica Stoeger, owners, variance request from the provisions of Portage County Zoning Ordinance section 7.1.6.6(3)(b) to reconstruct and enlarge a detached garage within the 63' building setback from the center of Lake Helen Drive West, in the Recreational Zoning District, Town of Alban, Parcel #002251026:01.09, was opened by Jazdzewski.

Mrdutt explained the request; this is a small lot and petitioners want to rebuild and enlarge the garage and possibly attach it to the house via breezeway or walkway which would require a 27' variance from the road. Mrdutt noted the DNR did not submit any comments on this request as this is not a shoreland setback variance.

Jazdzewski swore in Fred Stoeger and asked him to explain his request. They need additional storage area as this cabin only has a crawl space, as well as additional parking space to accommodate an adult son that will be living with them. They would like to make improvements to the older garage as they have a problem with water getting in during the spring. There being no questions at this time, Stoeger was excused.

Jazdzewski asked if any members of the public wanted to speak on this matter. Oksuita, speaking as Town Chairman, said the Town of Alban supports and approves the request, adding it would be a positive improvement. Oksuita added Stoeger has worked very well with the Lake Association and established natural vegetation on the shoreline.

Jazdzewski read the following into the record:

- Email from Arthur James and Bonnie Haen expressing support for the request.

Mrdutt said letters were sent to neighbors within 300' of each of the properties; Jazdzewski said it appears there is no opposition to any of these requests. Jazdzewski noted there were no other members of the public wanting to speak on this matter. Jazdzewski closed testimony and opened deliberations. Garbe read the Variance Standards:

The Board is Required to Evaluate the Effect of the Proposed Use Under 7.1.6.5(D)(2)(b)(1) in Order to Grant the Variance. The pertinent subsections are as follows:

- (a) The maintenance of safe and healthful conditions;
- (b) The prevention and control of water pollution including sedimentation;
- (c) Existing topographic and drainage features and vegetative cover on the site;
- (d) The location of the site with respect to floodplains and floodways of rivers or streams;
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
- (g) The need of the proposed use for a shoreland location;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal system;
- (l) The availability of alternative locations;
- (m) The heights, velocity, duration, rate of rise and sedimentation transport of the flood waters at the site;
- (n) Such other factors as are relevant to the purposes of this Ordinance.

The Board is Required to Find All of the Following Conditions under 7.1.6.5(D)(3)(c) in Order to Grant the Variance

- (1) Granting the variance would not be contrary to the public interest, State Law or Administrative Code, the spirit of the Ordinance would be observed, and substantial justice done;
- (2) The use is permitted in the District;
- (3) The hardship is due to special conditions unique to the property, rather than considerations personal to the property owner;
- (4) Granting the variance would not be detrimental to surrounding landowners;
- (5) Hardship is not created by any person having interest in the property;
- (6) A property owner bears the burden of proving unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome;
- (7) The request represents the minimum relief necessary to relieve unnecessary burdens.

The Board May Attach Any of the Following Conditions Under 7.1.6.5(E)(2) in Order to Further the Purposes of this Ordinance

- (a) Type of shore cover.
- (b) Increased setbacks and yards.

- (c) Specified sewage disposal and water supply facilities.
- (d) Landscaping and planting screens.
- (h) Deed restrictions.

Garbe referenced the site plan and noted the septic tank is between the garage and water. If the septic system had to be replaced, it appears they would not be able to replace it on the same location. Stoeger had an inspection completed recently and while they had a pipe replaced, they were informed the system is in good condition. If they needed to move the system, they have a double lot which would provide a possible location for a new system. Hopp explained they would be able to get around the house if need be.

There being no additional discussion, Jazdzewski closed deliberations and asked for a motion to approve, deny, or postpone the request.

Motion by Hopp to approve the request for a variance as submitted, with the following conditions:

1. A Portage County Zoning Permit must be obtained.
2. The proposed garage addition cannot be any closer than 36' to the center of Lake Helen Drive West.
3. A Portage County Stormwater Permit must be obtained prior to the issuance of a Zoning Permit. A detailed stormwater management plan along with a detailed shoreland revegetation buffer plan must accompany the stormwater permit. The stormwater management plan will need to include details on the long-term maintenance of the revegetated buffer and stormwater management areas.

Motion to approve seconded by Meis. Jazdzewski asked for clarification on the 36' to centerline measurement and what part of the structure this refers to. Mrdutt said this is the closest the outside of the wall can be from the centerline of the road, and up to 30" of eave is permitted to extend into a setback.

Motion to approve passed 5-0 by voice vote.

Approval of Minutes from September 19, 2022 meeting.

Garbe moved to approve the minutes of September 19, 2022 as provided; Hopp seconded. There being no discussion, motion to approve passed 5-0 by voice vote.

Discussion/Possible Action Regarding Special Meetings (Portage County Ordinance 3.1.47 & 3.1.48)

- Request for Special Meeting Attendance - None
- Approval of Attendance of Special Meetings - None
- Special Meeting Attendance Reports - None

Correspondence/Updates from Staff

Nothing additional to report.

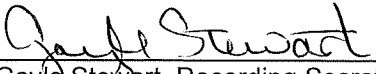
Next Meeting Date

Tentative, January 16, 2023.

Adjournment

Motion to adjourn by Hopp, second by Duerr. Motion to adjourn passed by voice vote. Meeting adjourned at 5:41 pm.

Respectfully submitted,


Gayle Stewart, Recording Secretary


James Garbe, BOA Secretary

20 mar 2023
Date of Approval