

ONEIDA COUNTY BOARD OF ADJUSTMENT
PUBLIC HEARING SUMMARY
MARCH 6, 2023
11:00 AM
3rd FLOOR CONFERENCE ROOM
MINOCQUA CENTER, 415 MENOMINEE ST
MINOCQUA WI 54548

Vice-Chair Hansen called the meeting to order at 11:00 AM in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Mr. Albert, “here”; Mr. Ross, “here”; Mr. Pazdernik, “here”; Mr. Viegut, “here”; and Mr. Hansen, “here”.

Members excused: Chair Lee

County staff members present: Todd Troskey, Assistant Director and Julie Petraitis, Program Assistant

Other individuals present: See Sign in Sheet.

Vice-Chair Hansen stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment consists of five regular members and two alternates. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Vice-Chair Hansen swore in Dan Biere, Appellant and Todd Troskey, Assistant Director. Mr. Hansen stated the procedure for the hearing would be testimony from the Appellant(s), then the County, any public comment; back to the Appellant (s), County and then close the meeting from any further testimony. The Board will then deliberate. If they have any questions they will ask them and ask that only address that question. The Appellant(s) may stay for the deliberation.

The Board of Adjustment will conduct an onsite inspection of the property involved in this appeal beginning at approximately 10:00 am prior to the hearing. Pertinent property boundaries and locations of existing and proposed structures shall be clearly identified. A representative or the appellant must be present. The inspection shall be open to the public. Following the adjournment of the public hearing, the Board will vote in open session for a decision on this appeal. Information on the decision can be had by calling or visiting the Planning and Zoning Office during normal business hours on or after the next or a later day set by the Board at the hearing. The appellant will be notified of the decision via certified mail.

Copies of appeals and related documents are available for public inspection during normal business hours at the Planning and Zoning Office, Oneida County Courthouse, Rhinelander, WI 54501. The Oneida County Zoning & Shoreland Protection Ordinance is available on the internet at www.co.oneida.wi.us. All appropriate media outlets were notified and the inspection was conducted between 10:00 a.m. and 10:40 am this morning, March 6, 2023, at 7830 Woods Hole Ln., further described as Section 30, T39N, R7E, Point Clear Div. 2, Lot 25 (26) Town of Woodruff, Oneida County, Wisconsin. Board members were present at the onsite along with Dan Biere, owner and Todd Troskey, Assistant Director of the Planning and Zoning Department. Observations by the Board: no measurements or boundaries were observed due to the snow coverage. Orange paint marked the difference between the setbacks. There is an existing garage with living quarters, 2 story structure. Other observations are the road right-of-way is curved at that point of the lane. The front left corner of the building is within the 20' setback of the road right-of-way.

Vice-chair Hansen informed the Appellant (s) how the hearing will be handled. He stated that the Board has to consider the three criteria, in which all three need to be met in order to grant a variance and the Appellant should be sure to address those in their testimony.

Mr. Biere began his testimony by stating that the history of this appeal began in September 2022 when his contractor applied for a permit to change his deck into a screen porch with an outdoor kitchen. The permit was denied because the cabin was in non-conformance with current zoning rules. The cabin had been constructed over a property line on two lots which Mr. Biere owns both. That resulted in them doing a Certified Survey to combine those lots into one. During the course of the survey it was discovered that the permit that was taken out to build the subject structure, 7830 Woods Hole Lane, was issued with a ten (10) foot setback and that caused concern because it was not found that the road had been vacated, therefore a 20' setback was required. That finding resulted in the notice Mr. Biere received from the Zoning Department for compliance to be met, options were given to come into compliance, or a variance to be applied for and approved.

Mr. Hansen asked if vacating the road was one of the options the County proposed and the Department of Natural Resources (DNR) would not allow that. Mr. Biere said it was and that when he looked into vacating the road Zoning provided him with a 58 page file with a 48 year history of the road. The most recent information came from 2008, where there was an affidavit registered that both the city attorney's representing Minocqua and Woodruff did not consider the road a Town road. They must have thought that was the end of the matter, but apparently approval from the Cities is needed and that process was not completed. Mr. Biere spoke with Sonja Margitan, from the DNR, who was not in a position to say yes or no that the DNR would like the road vacated but he thought she was of the mindset that since it is public property the public should have access to it and some type of easement would need to be provided so the DNR could have access. The vacation process is expensive and he does not know how that would end so he feels the variance is the best path for him.

Mr. Biere stated that he felt applying for a variance was the best path for him.

Mr. Biere stated he believes the three criteria for the appeal are met.

Unique Physical Property Limitations – the topography of Lot 25 has an eight (8) foot increase in the slope at the back of the building. The building is actually trenched into the embankment. Running down the top of the embankment is a utility corridor. There really is not opportunity to build any further to the south because of the step up in the elevation and it would be impossible to get a driveway into it.

No Harm to Public Interest – He is at the dead end. There are no other properties, other than the DNR, beyond his property. He and some of his neighbors do snow shoe out on the bog to the Islands that are out there. There is no impact, from the garage, to Woods Hole Lane. It is not visually impairing anyone from making a crossing or turning a corner. By seeking a setback variance in lieu of vacating the road it will allow access to public use of the lands.

Unnecessary Hardship – When the permit was issued in 2017, a ten (10) foot setback is what was required and the rules kind of changed when they figured out the road had not been vacated. That assumption through things off. Mr. Biere stated that the issues with vacating the road and the money involved in doing that and the topography of the land with the utility easements make it impractical to build on other than in the location it is.

Mr. Troskey began his testimony by stating that the County cannot require a survey, but can ask for one. This is a situation that when the permit was issued it was thought that Woods Hole Lane was a private road. If we started over right now, things would be a little different in terms of the Unique Property Limitations. The County would not necessarily care that there would have needed to be additional excavating for a hill and utility easements can always be moved. It is the department's stance that, other than presenting the four (4) different possibilities of correction and that is really where it ended. The Department does not have anything additional to say in terms of requiring Mr. Biere move all or part of the building. The County is not going to say that. It is just a matter of going back in time, if it would have been known that it was a Town Road then the County would have required additional research at that time to try to get it to be conforming.

Mr. Hansen repeated that the County would not require Mr. Biere to move the building. Mr. Troskey replied that moving the building was one of the four (4) options given to Mr. Biere but from the standpoint now the Department is not going to require him to move it.

Mr. Ross asked if the Town is maintaining the road or if Mr. Biere maintains the road. Mr. Biere stated that he does the road maintenance, the Town does not do anything. The assumption has been, for 48 years that it had been vacated but it had never formally been done.

Motion by Mike Pazdernik, second by Phil Albert to grant the variance of 14.62 feet from the garage to the right-of-way of Woods Hole Lane. With all members voting “aye” on roll call vote, the motion carried.

11:35 a.m. Chair Lee adjourned the meeting.

Guy Hansen, Vice-Chair

Phil Albert, Secretary

DRAFT