

ONEIDA COUNTY BOARD OF ADJUSTMENT  
PUBLIC HEARING SUMMARY  
MINOCQUA CENTER 3<sup>RD</sup> FLOOR CONFERENCE ROOM  
415 MENOMINEE ST.  
JUNE 24, 2021  
1:00 PM

Chairman Harland Lee called the meeting to order at 1:00 PM in accordance with the Wisconsin Open Meeting Law.

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

Members absent: Mr. Ross

County staff members present: Karl Jennrich, Zoning Director; Keith Cohrs, Zoning Technician; and Julie Petraitis, Program Assistant

Other individuals present: See Sign in Sheet.

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Chairman Harland Lee 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.

Chair Lee swore in Mr. Jennrich, Mr. Cohrs, Mrs. Collins, and Mr. Nelson. Mr. Lee 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.

Secretary Phil Albert read the notice of public hearing for Appeal No. 21-002 of Theresa Collins, appealing the denial of a Zoning Permit Application for the placement of a 28’x 16’ boathouse. The property is located at 8255 Glencoe Drive further described as Government Lot 2, Section 33, T39N, R7E, PIN WR 765, Town of Woodruff, Oneida County, Wisconsin.

The Oneida County Board of Adjustment Rules of Procedure, Section 178.05(12), Chapter 17, Oneida County Code of Ordinance, provide that a timely appeal shall stay all proceedings and furtherance of the action appealed from, unless such stay would cause imminent peril to life or property.

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](http://www.co.oneida.wi.us). All appropriate media outlets were notified and the inspection was conducted between 10:00 and 10:25 a.m. this morning, June 24, 2021 at property located at 8255 Glencoe Drive, Woodruff, WI. Theresa Collins and Sons were present. The Board of Appeals, except Norris Ross, and Alternate Jeff Viegut were present. Karl Jennrich, Zoning Director, and Keith Cohrs, Zoning Technician were also at the onsite visit. No other members of the public were present. In terms of observations: the property boundaries were marked with pink paint on the grass. The approximate location of the boathouse was also marked with pink paint. The highway right-of-way was not a consideration. The well and sanitary facilities were identified by the Appellant. The proposed boathouse is 28' x 16'. The side boundaries (L) 15' and the (R) is 32'. The distance to the ordinary high water mark is approximately five (5) feet, 324 feet to the right-of-way, and 333 feet to the center of the road. The topography observation was that the upper portion of the property is landscaped. There was some erosion visible. There is a fire pit and steep drop off to the ordinary high water mark. There is an old stone foundation of the past residence. Other observations are that three or four trees need to be removed for excavation to make room for the floor and sidewalls for the proposed boathouse. There are photos, A-G, as exhibit 1. That is the extent of the onsite visit.

Chair Lee 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. Nelson asked Chair Lee if when addressing the Hardship criteria if that pertains to problems with neighbors. Mr. Lee read the criteria for Mr. Nelson.

Mrs. Collins began her testimony by stating that she wants to have a nice looking property. She is getting complaints from the neighbors, calling her property an eyesore, which she agrees it is. The neighbors on both sides want her to do the proposed project. They have properties that look nice and neat and her property takes away from that. With the physical limitations, there is no way to have a boatlift at the shore; the bank is too steep. With the hardship, Mrs. Collins said that would be included and the fact that she is getting a little on the older side could make that a factor. It would be much easier to have a boathouse to put the boat into and it would stay there in the wintertime. The main reason for the proposed

project is to get rid of the old basement that has been there for one hundred years. It is crumbling in. It is going to get worse, not better. For any of the trees she would remove, she would plant decent sized trees along with landscaping.

Mr. Nelson began his testimony by stating that by removing the existing foundation and building the new structure is going to decrease the impervious surface.

Mr. Lee asked why they had not done that before now.

Mr. Nelson responded that it was due to money.

Mrs. Collins said they were required to leave the old foundation when they built the new home.

Mr. Nelson said they were using it store canoes, tubes, and that type of thing. It is completely falling apart. They would be decreasing the impervious surface by at least half and they would like to landscape it nicely by bringing in some boulders to place in front of the existing foundation. They would cut the wall down, push it in and fill it in with the dirt they would excavate for the new structure.

Mr. Pazdernik asked how high out of the ground the proposed boathouse be.

Mr. Nelson said it approximately four (4) feet above ground level.

The biggest reason Mrs. Collins wants to do this project is to get rid of the eyesore and to have a boathouse.

Mr. Viegut asked if the proposed structure would be concrete to the edge of the roof.

Mr. Nelson said yes, the structure is going to be six (6) feet down with eight (8) foot walls. It will have footings down 8 inches.

Mr. Hansen asked if there would be a large door on the lakeside and the service door on the side. The service door will be on the side where there are existing stairs to the water.

Mr. Nelson confirmed that. The service door side is going to be exposed. The bank will slope back and they will decrease the angle of the slope. There is a landing there now. That is where they will access the boathouse.

Mr. Hansen asked if they are going to replace the existing stairs.

Mr. Nelson said they intend to leave them, but they could replace them. They will dig next to the set of stairs and the foundation will go next to it.

Mr. Jennrich began his testimony by giving the Board some background information regarding the ordinance and what is allowed for boathouses. Mr. Jennrich stated that a boathouse is allowed in the 75' setback. Mr. Jennrich stated that a boathouse must be

contained to the viewing area on a property. The issue with this property is that there really is not a defined viewing area. There are only about six (6) trees and not a lot of ground vegetation; it is grass. The other provision would be the vegetation factor, which prohibits the removal of trees or shrubs except for a viewing corridor. Properties are allowed a 35' viewing corridor per 100' of frontage. This property has 62.7' of frontage, therefore it is allowed a 22' viewing corridor. The position of the County is that because there is such a lack of vegetation it is a non-compliant buffer, any more removal of vegetation is frowned upon by the County. The department does not believe it can authorize, though the permitting process, the removal of more vegetation for the construction of a boathouse. Mr. Jennrich stated that what the appellant may have going for them is if they build the boathouse adjacent to the existing stairs both of those features would be within the same viewing area/corridor. The ordinance does allow a 720 square foot boathouse. The appellant is proposing a 448 square foot boathouse. Mr. Jennrich stated that his belief is that the owner is going to remove the old home foundation except for the front wall, take the spoils from what they will excavate for the new boathouse and place it behind the wall.

Mr. Cohrs, Zoning Technician, began his testimony by stating that he denied the permit based on the vegetation. He informed Mr. Nelson that was what he intended to do and Mr. Nelson was going to pursue the Board of Adjustment, so no other shoreland alteration aspects were discussed.

Mr. Jennrich stated that if the Board approves the appeal the department would require a Shoreyard Alteration Permit (SAP).

Mr. Albert asked for clarification on Section 9.95 which states: *"Filling, grading and excavating within the vegetative buffer zone is prohibited with the exception of construction of a boathouse, walkway or planting vegetation."*

Mr. Hansen asked about the Shoreyard Alteration Permit regarding the slope of the property. Discussion was held on the percentage of slope and

Mr. Cohrs stated that the applicant said it was 19% but he calculated it at approximately 23% therefore Engineered plans are not required for the project. The department's position has been to require them at 25% and greater.

Mr. Pazdernik stated that he does not see the existing trees as vegetation as they are partially dead or close to it.

Mr. Lee stated there is more vegetation closer to the house than the portion of property closer to the water. There is not much of a viewing corridor.

Mr. Nelson stated that they are going to do minimal excavating, taking the spoils to fill the old foundation in and less water will flow toward the Lake by filling in that existing foundation. That will also make that more of a level area. Around the boathouse, Mrs. Collins will plant trees and landscape.

Mr. Albert asked if there were an opportunity to move the proposed boathouse to the left, as you are facing the lake to get away from taking up the vegetation.

Mr. Nelson said they talked about that, but there are trees on the lower part and they felt it made more sense to leave those and take the red pine and the balsam trees out.

Mrs. Collins added that the trees on the left are healthier.

Mr. Nelson stated that was their original plan but it makes more sense to place it next to the existing stairway.

Mr. Jennrich agrees that this is a better location for the proposed boathouse.

Mr. Lee asked about “upgrading” the existing stairs.

Mr. Jennrich said if they wanted to it could be part of the Shoreyard Alteration Permit and Zoning Permit.

Mrs. Collins asked about putting pavers in where the ground has sunken in. Mr. Jennrich stated she could add that to the permit as well.

Mr. Hansen asked for clarification if they are planning to take the old foundation out. Mr. Nelson stated they planned to cut it down and put boulders in front of it and landscape around it. Erosion control measures will be taken.

Chair Lee closed the public portion of the public hearing.

Mr. Albert reiterated that the three criteria need to be met in order to grant a variance. He stated that he was a little unsure about the Unnecessary Hardship, if it has been self-created. In compliance with standards with it being unnecessarily burdensome, he does not see that as the case other than not being able to have the boathouse. Limitations such as a steep slope, wetland, or shape and size of lot are not shared with other properties. The other properties around there have some degree of modification over the years, whether they were permitted or not permitted. He said he is somewhat unconvinced that all three of the criteria are met. He stated he does not see harm to public interest although removal of vegetation may be considered harm to the public because of the way the ordinance is written. Short term and long term cumulative effects on the public interest.

Mr. Hansen stated that he has mixed feelings because he does not think they can meet the three requirements that the Board is expected to evaluate the case on and yet Oneida County will allow a boathouse within the viewing corridor and wherever they put it, there will be some trees removed. He cannot see denying the permit for a boathouse just because they cannot meet these conditions.

Mr. Pazdernik stated that he looks at it a little differently. He says it does have unique physical property limitations, just by the way the lot is shaped. There is definitely no harm to public interest, unless someone were to walk in there now, walk on the top of that building and fall through. He is surprised there is no fence around it. As for unnecessary

hardship, the hardship is leaving it the way it is. The purpose should be to improve someone's property not leave a harmful situation exist the way it is. In his mind, the hardship would be leaving it the way it is.

Mr. Lee stated that one of the Lawyers once said that the Board of Adjustment has a certain degree of latitude to make decisions. He thinks they need to meet the criteria to make decisions.

Mr. Viegut stated he understands the County's point of view. However, those trees could come down with the wind at any time.

**Motion by Mr. Albert, second by Mr. Pazdernik to approve the variance as requested with the understanding that the three (3) criteria can be met as related to the granting of the variance. With all members present voting "aye", the motion carried.**

**1:50 p.m. Chair Lee adjourned the meeting.**

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Harland Lee, Chairman

Phil Albert, Secretary