

ONEIDA COUNTY BOARD OF ADJUSTMENT
PUBLIC HEARING SUMMARY
AUGUST 26, 2021 1:00 PM
COMMITTEE ROOM #1, 2ND FLOOR
ONEIDA COUNTY COURTHOUSE

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. Ross, “here”; Mr. Pazdernik, “here”; Mr. Viegut, “here”; and Mr. Lee, “here”.

Members absent: None

County staff members present: Karl Jennrich, Zoning Director; Todd Troskey, Assistant Director; and Julie Petraitis, Program Assistant

Other individuals present: See Sign in Sheet.

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 (5) 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 and Mr. Ehmann. 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. 21-003 of Harry and Joanne Ehmann, appealing the denial of a Zoning Permit Application for the placement of a 24'x 24' garage. The property is located at 4927 Isle View Drive further described as Government Lot 8, Section 37, T37N, R9E, PIN PL 599-10, Town of Pine Lake, 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.

All appropriate media outlets were notified and the inspection was conducted between 10:00 and 10:20 a.m. this morning, August 26, 2021 at property located at 4927 Isle View Drive, Rhinelander, WI. Harry Ehmann, Attorney Tim Melms, Jim Van Strydonk (builder), Mel Davidson and Lesley Byrne (neighbors) were present. The Board of Adjustment members, and Alternate Jeff Viegut were present. Karl Jennrich, Zoning Director, and Todd Troskey, Assistant Director were also at the onsite visit. No other members of the public were present.

In terms of observations: the property boundaries were adequately marked. The highway right-of-way was adequately marked. The well and sanitary facilities were located. The outline of the proposed structure was adequately marked. The proposed garage was 75' on the left and 75+' on the right from the high water mark. To the side boundary was approximately six (6) feet. To the right-of-way was 20+' and to the center of the road was 32+'. The topography conditions and land surface varied in terms of depths of soil. In terms of erosion, there were spotty areas around the proposed site of the garage. Existing structures include the home and a rock landscape between the house and the road. Other observations were a gravel driveway leading to the home and the proposed garage area. That is the extent of the onsite visit.

Chair Lee informed the Appellant (s) that he will have an opportunity to present his case. There are three criteria that the Board needs to consider in granting a variance. Chair Lee explained those to Mr. Ehmann. After Mr. Ehmann is done with his presentation the County will present their case. Each side will have another chance to speak and Mr. Ehmann will have a final chance to present his case. The Board will then close the public portion of the hearing and the Board will deliberate and reach a conclusion. That portion of the meeting is open to the public, but there will be no participation from the public unless there is a question from the Board.

Mr. Ehmann began his testimony by stating that they are appealing the denial of their Zoning Permit Application to build the garage specifically because they want to make this home a year around residence and a 24' x 24' garage, they believe would give them enough room for one car and some storage space through the harsh Wisconsin winters. They do not feel like the garage would be an impediment to snow flying on Isle View Drive. They do not feel that it would be objectionable to their neighbors. With the unusual layout of

the lot, it is about the only place a garage could be built if they were allowed the encroachment of the 20' setback to the right-of-way. There is no other place on the lot to put such a structure.

Mr. Lee asked if they had discussed this with the Town of Pine Lake.

Mr. Ehmann stated that he went before the Town on two occasions. They sent a letter to Mr. Jennrich stating they have no objections to the placement of a 24' x 24' garage. They had been out to inspect the site and had conversations with the neighbors as well. Their neighbor's concerns, at the time, were that they Ehmann's might cut down all the trees or somehow detract from the natural state of the roadway. They were most concerned about losing their privacy if they were to take the trees down. The Ehmann's assured them that was not going to happen. Their builder explained to the neighbor's that he was going to build into the bank and then put the hill/bank back. The trees along the roadside would not be touched.

Mr. Lee stated that the Board has the letter from the Town and the letter from one of the neighbors indicating they have no objections.

Attorney Melms added that he believes the Board has already decided, at least once, that this property has some unique limitations. It is very steep on the one side and it is kind of a narrow lot. Really, the only spot they have, in an effort to stay outside of the ordinary high water mark setback is the spot they have chosen. So, they do need to go into the setback of the right-of-way to get that done. Attorney Melms stated that Mr. Ehmann touched on everything about the no harm to public interest. All the neighbors are supportive. Mr. Davidson is the only neighbor beyond the Ehmann's and he is supportive. The Town of Pine Lake is supportive. Attorney Melms stated that there are a couple of structures on the way into the Ehmann property that are within the setback of the right-of-way. The garage that they are proposing is consistent with that pattern of development. The Ehmann's also have, in terms of unnecessary hardship, they are trying to comply with what the DNR had mentioned last time. This is kind of the spot the DNR had mentioned to get it out of the 75' setback. It is really the only spot they have. They are going to move up here permanently some day and they would really like a garage throughout the winter. They could store one car and some other personal property. So, for those reasons they are hoping the Board would grant the Ehmann's a variance to allow them to build within the 20' setback of the right-of-way. Attorney Melms stated that they talked about a 24' x 26' garage, which would be their preference, however if you look at the letter from the Town of Pine Lake, they were assuming a 24' x 24' garage so the Ehmann's feel they have to go with that. They do not want to do something Pine Lake did not agree to.

Mr. Hansen asked about the infiltration basin for runoff. He did not see where it was.

Mr. Ehmann stated that it is the hole across the driveway. He said they looked into the impervious surface descriptions, which states they are allowed 15%. The DNR said if they have an infiltration basin that would mitigate the impervious surface and they are allowed up to 30%.

Mr. Albert asked if they intend to leave the driveway as gravel or if they intend to blacktop or put surface on it.

Mr. Ehmann said at this time they do not.

Mr. Ehmann mentioned that the DNR also stated they are allowed a 30' window of the shoreline. They have never used their window, it is natural shoreline. The DNR said if they only have a 20' window, they are allowed up to 30%.

Mr. Hansen asked if they were not going to have a viewing corridor. Mr. Ehmann said they are not going to have one. Their shoreline is a Fisherman's shoreline. It is all muck so what is the point.

Mr. Jennrich started his testimony by stating that the County denied the permit based on Section 9.70 A, which talks about setbacks to highways. This property has been surveyed, so the County would require a 20' setback to the right-of-way of Isle View Drive. In this instance, Mr. Jennrich was talking with Mr. Ehmann when he started this process because he did receive a letter from the Town of Pine Lake. The letter said they were going to approve them to encroach upon the 20' right-of-way. When he received the letter, he stated to Mr. Ehmann and the Town of Pine Lake that was good, but they still would need to get a variance from the Oneida County Board of Adjustment due to the fact that the Town of Pine did not want to have a reduced setback to the right-of-way for the entire road of Isle View Drive.

Mr. Jennrich stated that as far as the County's position, a 20' setback to the right-of-way is required. Mr. Ehmann will have to comply with impervious surface calculations and probably will have to do some kind of stormwater mitigation. He believes the Ehmann's are up to about 13% of impervious surface. They may be diverting the runoff from the new garage toward the natural swale on the property across the driveway, which would be perfect for stormwater. Mr. Jennrich explained that the reason there is a 20' setback to right-of-way is that some roads do not sit in the middle of the right-of-way. Typically an extra buffer is given for snowplowing or sometimes utilities coming through. Mr. Jennrich does not believe this garage, located closer to the right-of-way, will be an impediment to any kind of sight lines. If the variance is granted, the department will have to work with the owner to modify the permit for exactly what is wanted and address any other issues regarding the impervious surface calculations and stormwater runoff.

Mr. Albert asked if there is a culvert of any kind from the proposed garage to the swale in front of the house or if it is just a natural drain.

Mr. Ehmann stated that it is natural drainage.

Mr. Ross asked if a variance was approved if a contingency of the impervious surfaces would be worked out with the owner.

Mr. Jennrich stated that it would be similar to the previous variance that was granted. The Board grants the variance and the Planning and Zoning Department works out the details, as they still have to comply with the provisions of the ordinance.

Mr. Hansen asked about the impervious surface limit. Mr. Jennrich quoted Section 9.94 F, Impervious Surface Standards, which states in part:

“...a property may exceed the impervious surface standard under section 9.94 (F) (3 and 4) provided the following standards are met:

- a. For properties where the general impervious surface standard applies under section 9.94 (F) (3), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark...”*

Mr. Jennrich explained how the impervious surface is calculated and what can be done to defer it.

Mr. Ross confirmed that the builder told him the garage was going to be concrete. Mr. Melms said it was.

Mr. Jennrich stated that if there was to be something needed to hold back soil on the Lake side of the property, the County could not allow retaining walls. It would have to be something like an earthen wall.

Mr. Ehmann had nothing further to add.

Mr. Jennrich had nothing further to add.

Mr. Albert asked if there were going to be eaves or gutters on the proposed garage that will drain onto the driveway, which will then drain into the swale in front of the house.

Mr. Ehmann said he believed they will have gutters on the garage.

Mr. Albert said they question is where will the rainwater drain? Mr. Ehmann said it would drain in the swale in front of the house.

Mr. Hansen asked what they meant about taking the hill out and then putting the hill back when building the garage.

Mr. Ehmann said the elevation toward the road would be replaced after they build the building.

Mr. Albert stated that it was interesting that the Town of Pine Lake does not have any objections to this and when this was reviewed the last time there were other issues but the Town of Pine Lake did object at that time. Now they have voted not to object. That is different than the last time.

Mr. Ehmann stated that last time he did not know he was supposed to include Pine Lake.

Mr. Pazdernik stated that the owners moved the garage location from the last time and eliminated a lot of the issues.

Chair Lee closed the public portion of the public hearing.

Mr. Lee stated some of the things are the same and some are not. Things have improved since the last time. He thinks that if it were not for the little hill and the fact that the cement block will be on that side, the issue of snowplowing and safety would be concerns. Those setbacks are really two things in his mind; the snowplowing and the safety of somebody plowing into the building that is within that setback. The fact that there is the berm and vegetation those issues are addressed. The third issue is that there probably is not a lot of traffic on that road. Those are his initial concerns and they have been addressed.

Mr. Ross stated that the fact that the Town has supported it and has no objection carries a lot of weight.

Mr. Albert stated that he believes this location was one of the suggestions made at the previous appeal of the Ehmann's. He does not have a problem with the variance being granted.

Mr. Hansen stated that he believes the property owners have made a significant effort to comply with the setback from the lake and he likes the idea of the sedimentation facing where it is and the drainage going to it. That is a positive. He has no problem with the variance being granted.

Motion by Norris Ross, second by Phil Albert to approve the variance, pending impervious surface compliance and storm water diversion mitigation, if required. On roll call vote: "aye": Unanimous. Motion carried.

1:35 pm Chair Lee adjourned the meeting.

Harland Lee, Chairman

Phil Albert, Secretary