

ONEIDA COUNTY BOARD OF ADJUSTMENT  
PUBLIC HEARING SUMMARY  
OCTOBER 21, 2021  
1:00 PM  
COMMITTEE ROOM #1, 2<sup>ND</sup> FLOOR  
ONEIDA COUNTY COURTHOUSE  
RHINELANDER, WI

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: Todd Troskey, Assistant Director 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. Manola and Mr. Brzoznowski. 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. Mr. Otte arrived and Chair Lee swore in Mr. Otte and Mr. Troskey.

Secretary, Phil Albert, read the notice of public hearing for Appeal No. 21-004 of Vito Manola appealing the denial of a zoning permit to replace a cottage and deck with placement of a new cottage in the same footprint and extend a new portion of the new cottage over the existing deck footprint.

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 10:20 a.m. this morning, October 21, 2021 at property located at 9157 Rorabeck Lane further described as Government Lot 1, Section 23, T39N, R6E, PIN MI 7276, Town of Minocqua, Oneida County, Wisconsin. All Board members; Todd Troskey, Assistant Director; Vito Manola and spouse were present at the onsite. Observations by the Board: Property boundaries were not adequately marked but it is a condominium development and maps were provided prior to the onsite visit. Highway road right-of-way was not adequately marked. Again, it is a condominium development and maps were provided prior to the onsite visit. Outline of proposed construction was not adequately marked, but explained by the contractor at the time of the visit. In terms of dimensions, the existing structure was viewed and is 32' from the ordinary high water mark and the proposed structure is to be on the footprint of the existing structure. The plan is to replace the existing structure with an additional story and basement. Topography/condition of the land: gravel, crushed granite driveway and parking area. Erosion: yes there is. Crushed granite showed drainage pattern of the condominium development. Existing structures: All structures in the condominium development were close to the ordinary high water mark, provided by the map attached to the appeal. Other observations by the Board: Poor drainage pattern on driveway slopes to base of existing structure. They plan to use French drains to deal with the drainage pattern.

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. Manola began his testimony by stating that they are looking to take the small, seasonal cottage and turn it into a year round property to be able to enjoy the Northwoods all year and not just the summer season. They have been here all summer and have really enjoyed it. They were able to enjoy some of the fall last year but they do have to close the cabin in early October every year. There is no insulation in the property. There is some rotting of some of the cabin at the bottom. Some of the ground around it has been washed away. They are looking to rebuild, add a basement, and add a second story for bedroom space. In doing that they need to add a staircase to be up to code to move throughout the cabin. They are looking to add a little bit of space onto the existing deck. They are not going to

take up any additional land around the cabin, just use the existing deck space for the staircase. They really love coming here and want to be able to come up all year around.

Mr. Hansen asked about the water supply for the cabin. Mr. Manola stated that they are on City water and sewer.

Mr. Albert asked that Mr. Manola address the three criteria.

Mr. Manola stated that trying to do this project without adding the staircase on the deck they are having a hard time, not able to fit the staircase up to proper code within the existing footprint.

Mr. Brzoznowski added that the way it is draining, it is difficult to address the drainage issue because typically you have to have elevations so if they were to put dirt up against the building, and it would add more to the rot problem. The building is rotting out. This is simply not a healthy building envelope. That is a large portion of the hardship. The other thing about it is that structurally it is not good. There is no way it can be winterized as it is.

Mr. Manola addressed the Public Interest criteria. He said he does not believe this is harming public interest. He has a signed letter from the head of the Condominium Association that has looked at it and has agreed to what they are proposing to do. It is not going to be out of place within the existing condominium area. The property next to him has already been knocked down and rebuilt, so it will still fit in. One of the neighbors is also present to inform the Board that he has no issue with the rebuild of his cabin. As far as harming public interest, he is not trying to take over any land space; they are not trying to build anything that does not fit in with the other cabins. They are just trying to make it a year round property. Two of the six cabins that are there, are already turned into year around properties.

Mr. Brzoznowski added that they are going to improve, overall, the looks of it. One of the other things is that they are going to control the drainage around the cabin. They will certainly reduce the water drainage to the lake. He thinks they would also protect the neighbors a little more because while they are under construction they could install another French drain to make it better for the public interest.

Mr. Lee reminded Mr. Manola and Mr. Brzoznowski that what the neighbors say and how it looks etc., may be part of the public interest but this section of the ordinance has a purpose and statement that basically refers to protecting the lake and the things that are in the lake. That is considered as part of the public interest, as well. Those are other things the Board needs to take into consideration.

Mr. Brzoznowski said that he feels his points he brought up are good because now there is uncontrolled drainage. It drains under the cottage, over the deck and flows through. With installing the foundation, it is going to give them the opportunity to get control of that.

Mr. Manola state that the Unique Property Limitations is the small size of the structure and not having the ability to put in the staircase to make it to proper code. That is the issue they have.

Mr. Brzoznowski added, again, the safety is a concern.

Mr. Lee asked if Mr. Otte wanted to comment.

Mr. Otte owns unit #6, which is a three-season cabin. He knows that the other owners are in support of what Mr. Manola is proposing to do. He stated that as far as usability of the property the way it is, because of the size, is hard for them to enjoy it. He stated that the Manolas would be running natural gas to their property, which will eliminate the propane tank, which is considered impervious surface.

Todd Troskey, Assistant Director, began his testimony by stating that, basically, there was a change in the ordinance around 2018. Prior to 2018, this type of situation was dealt with differently. Section 9.99 C (2) is the applicable section of the ordinance that states that the principle structure needs to be at least 35' from the ordinary high water mark in order for there to be lateral expansion. Before that, the property next to this was under a previous code. That code allowed for up to 50% lateral expansion, as long as it was landward of the ordinary high water mark.

Mr. Lee asked if they had to be a certain number of feet from the ordinary high water mark (with the 50% rule). Mr. Troskey said they did not.

Mr. Ross stated that he does not understand why, if everyone is in total agreement, why they (the condominium association) do not let him move the structure back three feet and it would be 35' from the ordinary high water mark.

Mr. Troskey said that he believes that has something to do with the space that has been reserved by the condominium association.

Discussion was held on whether the condominium association would allow the building to be moved back three feet and what it would take to do that.

Mr. Manola stated they were trying to stay within the existing footprint as not to disrupt any of the land around the property.

Mr. Albert stated that he believes the code also refers to the existing footprint of the structure and if they can build within that footprint. In changing the footprint there may have to be a modification to the condominium documents.

Mr. Hansen asked Mr. Troskey if there is wording that requires them to use the same footprint.

Mr. Troskey said there is. They are allowed vertical expansion within the existing footprint.

Mr. Hansen asked Mr. Troskey what restrictions would be put on the building if they were 35' from the ordinary high water mark.

Mr. Troskey stated that they would be allowed to rebuild and use the 200 square foot guard bill in addition to rebuilding within whatever the revised condominium document stated.

Mr. Brzoznowski added that moving it back is sketchy because how does that affect the rest of the condominium property. There would not be room for expansion because it would be going into common element property or out more into the parking lot.

Mr. Brzoznowski added that their expansion onto the existing footprint is beyond 35'.

Mr. Albert reiterated what the project is. They are rebuilding in the footprint and adding a portion onto the open deck area.

Mr. Manola and Mr. Brzoznowski both stated that the expansion is beyond 35' of the ordinary high water mark.

Mr. Ross asked if the deck is part of the footprint.

Mr. Troskey said it is. He stated that the difference is that the expansion is horizontal rather than vertical. That is where the difference lies, in this case. Since part of the existing structure is within 35' then we are talking about vertical expansion not horizontal expansion outside of the existing footprint.

Mr. Albert ...so the fact that the expansion is beyond the 35' really does not make a difference because the existing structure is within 35'.

Mr. Troskey said that is right.

Mr. Brzoznowski said they are not encroaching more on the lake. They are taking up space more toward the road within the footprint of the deck on the structure.

Mr. Albert stated that with that justification, if they moved it back three (3) feet to get beyond the 35' they are doing the same thing.

Mr. Brzoznowski agreed. Moving it back impedes the use of the rest of the people in that common area.

Mr. Albert stated that they have a designated parking stall behind the structure, which may be reduced or eliminated but if it were moved back three (3) feet, it would only go into what is now the allocated parking space. He does not see how it would affect the others in terms of parking or egress or entry.

Mr. Manola stated that if he moved back a little bit it would make it a little tighter and during the summer those two cabins each have two designated parking spaces and to get four cars plus his could create hardship in that area.

Mr. Viegut stated that there is a two (2) foot stump there, where they are talking about moving it back three feet

Mr. Pazdernik stated that in looking at the big picture the objection is really the fact that it is within the parameters of the 35' from the lake. The variance is getting them to stay within that footprint, put the stairs in and add the second story. He thinks to have a basement with a solid foundation is probably a plus. Removing the trees, one should be removed anyway because it is an accident waiting to happen. The stump is of no value. It would enhance the whole area. The people would benefit. There is more hardship involved than anything because leaving it the way it is, is not a good situation.

Mr. Manola stated that they really want to be able to enjoy the Northwoods year round. They are three feet from where they would like to be and they are trying to compromise a little bit and not take up any additional footage toward the lake. They are doing it toward the back of the deck. They are not asking for a lot of additional space.

Mr. Brzoznowski added that his biggest thought he has to relay is that this project, as proposed, is an improvement to reducing the risk of sedimentation into the lake, erosion, runoff and safety of the family.

Chair Lee closed the public portion of the public hearing.

Mr. Lee began the discussion by stating that if this were a situation of ten (10) feet or something like that he would be concerned about it. He is not concerned about three (3) feet.

Mr. Ross stated that the strongest arguments, he heard was health and safety. He feels it is unhealthy and unsafe.

Mr. Hansen stated that there is no question in his mind that as places like this are made into condominiums it is hard on the environment. You take a cabin that was used, maybe, eight weeks a year and make it a four-season home it is hard on the environment. However, if he is required to stay within his footprint, within thirty-two feet, if he moved it, from an environmental standpoint, he could make it bigger. He likes the idea of the French drain and if the variance were approved, he would like to see French drains or catch basins to stop runoff from that area. It might be better for the body of water. He feels a three bathroom home is excessive, but it is allowed and they are on City water.

Mr. Pazdernik asked where the water from the drains would run.

Mr. Brzoznowski said that right now everything drains into the lake. When they install a French drain, it will keep the natural sediments and debris from going into the lake.

Mr. Albert said that in looking at the variance criteria he questions whether they can meet all three of the criteria. The fact that the condominium documents show Mr. Manola is allocated a parking space at the rear of his structure; that is part of his property and

wondered if the condominium documents would have to be modified if he were to move the structure back.

Mr. Manola informed the Board that the parking space is considered limited common area. He actually does not own that property.

Mr. Albert asked if the condominium documents have to be changed or modified if he changed his structure.

Mr. Manola said they would have to be modified.

Mr. Albert asked why he would not move the structure back into that area, since the documents have to be modified, and encroach that way instead of toward the water.

Mr. Manola stated that would entail moving into more than just the parking area.

Mr. Otte said he did not think Vito understood what Mr. Albert said about modifying the condominium documents. If the Board approves the variance, the condominium documents do not have to be modified.

Mr. Hansen asked Mr. Manola what he does own.

Mr. Manola said he owns the existing footprint, the cabin and deck.

Chair Lee closed the public portion of the public hearing, again.

Mr. Ross mentioned self-imposed hardships.

Mr. Albert said you could go back to the purchase of the property and say it is self-imposed.

Mr. Albert stated that part of the criteria is use of the property, the hardship. You have use of the property but you have limits on the use of the property based on drainage and mold and other issues.

Mr. Pazdernik stated that the one thing that is different about this case, compared to others, is the fact that this is a condominium and he is stuck to the footprint, no matter what. Part of the Board's responsibility is to improve the community with their decision and out of technicality, you can say no, but does that improve the association / community. Absolutely not. For health and safety; it is definitely going to be for the better and he feels that is the Board's responsibility in the end; improving the community, improving the safety and it does not affect anybody else.

Mr. Albert disagreed because of 'no harm to public interest'.

Mr. Pazdernik said it does not harm public interest.

Mr. Lee stated that he feels if there is a French drain installed it would address the lake.

Mr. Pazdernik stated that the part that usually affects the public interest is the surrounding land, which he does not own. That stays the same no matter what.

Mr. Albert stated that the drainage would continue.

Mr. Pazdernik said that this would improve the drainage.

**Motion by Mr. Hansen, second by Mr. Ross that the variance be approved with the condition that two (2) sizeable French drains, or something similar, be installed to address the drainage. On roll call vote: Aye: Unanimous. The motion carried.**

**1:55 p.m. Chair Lee adjourned the meeting.**

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Harland Lee, Chairman

Phil Albert, Secretary