

TOWN OF RHINE
BOARD OF APPEALS MINUTES
Tuesday, November 21, 2017 7:00 PM

- 1. Call to Order:** The Town of Rhine Board of Appeals Public Hearing was called to order by Chairman Jon Rost at 7:01 PM on Tuesday, November 21, 2017, in the Rhine Town Hall, W5250 CTH FF, Elkhart Lake, WI. Members present are listed below:

Chairman: Jon Rost

Members: Mark Pfaller, Christa Johanson, Darrell Abston and Paul Booher

Legal Counsel: Paul Dirkse

Clerk/Treasurer: Lexann Hoogstra

- 2. Compliance with Open Meeting Law:** Published November 3, 8, and 15, 2017. Notice was posted in 3 places including the town's website on November 15, 2017.
- 3. Minutes of May 4, 2017:** Motion to approve by Paul Booher. Second by Darrell Abston. All in favor. Approved as distributed.
- 4. To hear public comment and consider the request of** Shannon and Marie Barrett of 1515 E. Bywater, Fox Point, WI for a variance to build a garage on their property at N7425 Highway CJ, Plymouth, WI 53073.

Town Zoning Code section 4.04 (2) (d) 3 states accessory buildings must not be more than 17 1/2 feet high. Proposed building would be 25.2 feet high.

- 5. Public Comments on Barrett Request:**

Shannon Barret: Thanked the committee for meeting with him to consider his request. He explained that his request for a higher height is only due to the topography and slope of the land. He has no alternative unless they give up their circular driveway.

He provided a letter of support from his neighbors (included in packets). He needs a new garage because of extensive deterioration on the old one.

Shannon also explained briefly his correspondence with Kathryn Fabian of Sheboygan County Planning.

There were no other public comments.

6. Deliberation and Action on Barrett Request:

Jon Rost raised a question regarding the plans, as it appears there are 2 plans with 2 different covered walkways. Barrett explained which one is being presented. (It is the walkway which comes down to the front of the property.)

Rost also asked referenced an additional letter of support of the project from Paul Clancy.

Booher asked about the covered walkway. It is not part of the variance request. Booher asked if he has registered where his front and rear yard will be. The building inspector said he could build up to 1000 sq feet, but his is 800. Booher explained that as a lakeshore property owner, he has the right to determine which yard will be his front or back.

Pfaller mentioned that the rear yard is defined as the lake side. This homeowner must be sure that he is considering his front yard as the lake side, and it needs to be recorded with the register of deeds. In his case, the roadside would be the rear yard.

Booher asked him to explain his hardship again. It is the slope and topography of the land. Pfaller explained that the new garage is one floor with a basement. He explained that a one story garage could be put there. Shannon replied that it is very expensive to build the garage as currently designed. Pfaller offered some alternative possibilities of how the garage could be built. The applicant is open to his suggestions. Pfaller said the basement is what is causing him the variance problems. Shannon and the committee members reviewed this portion of his plans together. Pfaller also suggested that the yard could be filled easier than it could be excavated.

There was a review of the site plan and the county shoreland approval with the applicant and the committee members. Pfaller introduced the requirements of percent of impervious surface requirements.

Chairman Rost asked Shannon if he would investigate turning the garage into a one story structure by filling in land instead of excavating. He might not need a variance if he would choose to modify the plan and do a one story garage instead of one with a basement. Shannon does not have a problem with that suggestion. He expressed that it would also save him a substantial amount of money. Pfaller also explained the situation with the retaining walls as well. Rost asked if Shannon wants to keep his existing plans and try to obtain the variance (as presented) or rework the plans for a one level basement. Originally he felt that he should try to obtain the variance because of the work and effort he has put into it. However, he appreciates the suggestions made by the Board to pursue a one story garage instead of his current plans of a garage with a basement.

Booher made a suggestion of saving the circular driveway. He explained that the ordinance committee just made a change which would allow him to move the garage closer to the driveway as well, which would make access to the garage easier as well.

Paul Dirkse explained that the applicant could ask for the matter to be tabled while he decides which direction he wants to pursue. He would not have to pay for another BOA.

Shannon would like to discuss this with his builder and designer before making his final decision.

Rost explained the applicant's options. He could table the request, make changes to the plans which would not require a variance, or go ahead as presented. If tabled, it could be reheard at a later date (up to 90 days to six months) without the need to republish, etc. The case would just be re-opened and the Board would reconvene for further deliberation.

Motion to table the project for 120 days by Darrel Abston. 2nd by Christa Johanson.
Roll call vote: Jon Rost - no, Mark Pfaller - no, Christa Johanson - no, Darrell Abston - no, Paul Booher - no.

First motion defeated. A new motion to table the project/application to be heard again no later than March 31, 2018 was made by Darrel Abston. 2nd by Christa Johanson.
Roll call vote: Jon Rost - yes, Mark Pfaller - yes, Christa Johanson - yes, Darrell Abston - yes, Paul Booher - yes. Application was tabled until March 31, 2018.

There was no further discussion on this.

8. Discuss and act on recommendation to amend BOA application form and guidelines (As submitted by Christa and Paul Booher)

Rost said a contour survey is required.

Christa explained that the description is used in 2 different ways in the current application and guide and the app for the original permit. What is the difference between a plot plan and a plat survey.

A site plan is different than a survey. Pfaller said the certified needs to be certified.

There was discussion on the guidelines and application as presented. Johanson suggested that these requirements should be clear and understood by everyone. Pfaller suggested a change to 5 and 6 by combining them. Pfaller gave professional reasons for needing a CSM, and he feels that it should be required.

Dirkse does not feel a certified survey map is needed. Discussion between the board and legal counsel as to whether a CSM should be required or not. Dirkse feels a plat of survey might be enough.

Johanson reviewed items that are on the town's website for building permits. On the website a plot plan is required, not a plat of survey.

Rost agreed that there needs to be consistency between the original building permit submitted to the building inspector, the website, and the BOA Variance application and guidelines. Dirkse suggested that there might be instances where the building inspector might not need a plat of survey, etc. Every building permit applicant may not need all of the items required for a variance. Pfaller will provide some information from the county ordinances as a reference source.

Booher, Pfaller and Johanson will continue to work on these forms and guidelines.

9. **Old Business:** None
10. **New Business:** None
11. **Correspondence:** None
12. **Next meeting:** As needed.
12. **Adjournment:** A motion to adjourn was made at 8:12 by Booher. 2nd by Abston. All in favor, with no nay votes.

Respectfully submitted,
Lexann Hoogstra, Clerk/Treasurer
Board of Appeals, November 21, 2017

APPROVED