

Town of La Pointe
Zoning Board of Appeals Public Hearing Minutes
Wednesday, February 17, 2010

Board of Appeals Members Present: Mike Starck; Chair, Warren Anderson, Paul Brummer, Thomas Nelson, William Tibble (5)

Board of Appeals Members Absent: none

Public Present: Joe Crawford, Charles Brummer, Ted Pallas, Jen Croonborg, Chip Pattermann, Larry Whalen (6). Sign-up sheet attached to these minutes.

Town Staff Members Present: Margaretta Kusch; ZBOA Secretary (1)

I. Call to Order/Roll Call

Chair, Mike Starck, called the meeting to order at 4:35 pm at the Town Hall. Roll call reflected members present or absent as recorded above. M. Starck stated that since all of the Board of Appeals members are present, Board of Appeals alternate Joe Crawford could leave. J. Crawford then left the Public Hearing.

M. Starck begins by stating that this Public Hearing has been properly posted. Notice for the Public Hearing was published in the *Ashland Daily Press* on Wednesday, February 3, 2010 and Wednesday, February 10, 2010. Notice has also been posted at the designated posting sites in La Pointe on Monday, February 1, 2010, and has been mailed to adjacent property owners on Friday, February 5, 2010.

P. Brummer states that two letters have been received regarding the second appeal (Greg Nelson variance) and asks if they should be reviewed when the second appeal is addressed. M. Starck answers yes.

Letters Received:

- Dick Hoffmann, 2/16/2010
- Tom Kromroy, 2/16/2010
- Jen Croonborg, 2/17/2010

II The first applicant, Tom Woods, is appealing the Town Plan Commission decision to deny a Land Use Permit Application for Addition/Alteration due to the additions/alterations not meeting 10 ft sideyard setback requirements for the R-2 Zoning District.

This property is identified as:

Parcel #014-00408-0100

908 Nebraska Row

La Pointe, WI, 54850

PART OF LOTS 4, 8, & 9 BLK 17 VILLAGE OF LA POINTE

Property Owner: Thomas and Marcy Woods

M. Starck opens the floor to public comment.

Chip Pattermann, agent for the Woods: I originally stopped in to ask about what I was doing there. I was putting on a fireplace. Was I removing any bearing walls or taking down walls. I wasn't. I was told no, I don't need a permit.

T. Nelson: Who did you ask?

Mr. Pattermann: I don't remember, a couple of gals. Did the same thing with the Campbell place I'm working on-nope, don't need any permits. As long as you're not knocking down any bearing walls. And I looked at your Ordinance, what I could find on the computer, and it says the setback is measured from the overhang, and that it has to pass the original line of the structure to be an addition. Under what I read, if I go past that line I need a permit because I'm increasing the size of the structure. The fireplace is 20 inches out from the wall, the original overhang is 24 inches, same as the front of the house has. Now I've got the overhang back to make the fireplace look more pronounced. But it's still only 20 inches off from the original house wall.

Mr. Pattermann: The deck is on top of the existing deck. Around it is a large railing, it's enclosed. We were just trying to give the owner a little more privacy because it's right by the road. There's a telephone pole right by the side of the deck and it's safer for the children and a safety measure for keeping things on the deck. I don't see why we're being put down for something when we didn't go over the original footprint of the home. He was hoping to put a matching railing on the other side of the deck. Any questions, please ask. We've been there over six, eight months, and we didn't try to hide what we're doing. We're in view of the Town Hall, anyone could've come over and said, hey, what are you doing. I would have been glad to do anything I can to make you guys happy.

W. Tibble: The original overhang on the side of the house where the fireplace was added was 24 inches, and then the fireplace came out 20 inches, and then you cut back the overhang so it wouldn't be past the fireplace?

Mr. Pattermann: Yes. If you look at the original front overhang it was 2 feet on the screen porch. If we only had four inches of roof past the fireplace, it wouldn't look good so it was more of a statement.

T. Nelson: How far was it cut back?

Mr. Pattermann: We cut it back from 24 inches to approximately 18 inches. And I don't know the setback. I think it was 3 ½ feet from the sideyard.

T. Nelson: That's the first I've heard that: I haven't seen that information anywhere else yet.

M. Starck: You're talking about the overhang that faces Whitefish St.

Jen Croonborg, Zoning Administrator: The information that the overhang was cut back wasn't presented to the Town Plan Commission, the Zoning Administrator, or included on any application.

J. Croonborg reads into the record her letter (attached to these minutes). Ms. Croonborg makes the following points:

- The project was begun without permits from the Town or the County. Had the proper permits been applied for prior to construction, they would have known the project didn't meet setbacks.
- The Zoning Administrator contacted the owner and general contractor, and was told that they would come in to get permits, but instead completed project without permits.
- Prior to construction, the property was a legal non-conforming lot that does not meet setbacks. The additions/alterations aren't considered maintenance or repair because they didn't exist before 2009. Specifically, the fireplace chimney and a portion of the 8 ft privacy wall with doorway entry don't meet the 10 ft sideyard setback in the R-2 District.
- Building without required permits in the required yard is a self-imposed hardship: literal enforcement of the Ordinance doesn't result in unnecessary hardship or practical difficulty for the property owner.

Mr. Pattermann: Again, back to your Ordinance, it says that all setbacks are from the furthest extension of the structure.

T. Nelson: Do you have any photos of the eaves before construction?

Mr. Pattermann: I don't. All I can say is that an addition is an increase in the square footage of the structure. I did not increase the square footage because I did not go past the original setback, so how could I increase the original structure. I'd have to go past the original footprint to have it considered an extension or addition of the structure.

J. Croonborg: To clarify, what we're talking about is the east of the building, facing whitefish. Measuring from the north to the sideyard. There was nothing to measure there prior to the fireplace being added. It was a flush wall.

M. Starck: With an eave.

J. Croonborg: But the eave on that side of the house was 2.75 feet from the side of the house. It was non-conforming and it was existing. The fireplace protrudes from the east side of the house and it's an addition. That's what we're measuring from.

M. Starck suggests that the Board examine the boundary map of the property included in the appeal for clarity. The map is examined.

T. Nelson: The eave was cut down for aesthetic purposes?

Mr. Pattermann: Yes.

M. Starck: I inspected the structure today; I could see that the roof was cut back.

J. Croonborg: What bearing does the eave have when you're measuring the setback from the side of the chimney to the sideyard setback?

M. Starck: To me, the bearing is that if it's a non-conforming structure, you can't expand a non-conforming structure. And if the eave ended at one spot and you don't go outside that eave, you haven't expanded to that side. That is what I think Mr. Patterson is claiming: that he didn't expand past where the eave had been for the past 30 years. That's the only reason for bringing it up—he stayed within the same footprint.

T. Nelson: If you look at Section 4.2.1 B regarding yards, it says that all yards shall be open to the sky. If it's not open to the sky, it's not the sideyard. So if it was within the eaves, then it's a little different than going outside the footprint. I think that's the point Chip's trying to make. The definitions for front, rear, and side yards also all say this, that a yard must be open to the sky.

P. Brummer: You are stating now, apparently for the first time, that you didn't extend past the 2-foot overhang. Why didn't you bring this up before tonight?

Mr. Pattermann: I was working for Tom, and he said he'd take care of it. I wasn't aware of it till it got to the point where I heard it was to be torn down.

M. Starck: Did they pay double fees?

J. Croonborg: They paid quadruple fees.

Mr. Pattermann: Again, I wasn't trying to hide anything. Someone could have walked over and said something.

J. Croonborg: I did.

Mr. Pattermann: That was six months into the project. And I immediately called Tom. He's the owner.

T. Nelson: This was when the building was already halfway up.

W. Tibble: So, the fireplace would not meet setbacks according to the Zoning Administrator. Does the deck?

Mr. Pattermann: The deck itself is just a repair of the old one. So it's not an addition and still meets setbacks. The walls are additions and are on top of the deck, except a small portion of the overhang. Only the portions on either side of the door. Probably 3 inches over.

W. Anderson: What permits from the Town of La Pointe did you have when you started?

Mr. Pattermann: Nothing.

W. Anderson: I frankly can't see how you proceeded without ever speaking to the Zoning Administrator first.

J. Croonborg: I hope that you review state statutes when considering.

T. Nelson: What about the Sections of the Ordinance under moratorium? How does the moratorium affect this appeal?

Ted Pallas: It is a whole different issue; the moratorium has nothing to do with this situation.

M. Starck: We are to judge the decision of the Town Plan Commission to deny the permit, but also to take into account additional information that has come to us at this Public Hearing. We need to base our decision on all of this information. That's why we have a Public Hearing.

W. Tibble: I would like to ask a timeline question. When did you start work on the property?

Mr. Pattermann: A year ago October.

W. Tibble: Then the Zoning Administrator spoke to you in June?

J. Croonborg: yes.

W. Tibble: Then it's not until September 1st that he sent in his application.

M. Starck: With the quadruple fees.

W. Tibble: Yes. I'm just trying to get the timeline straight.

T. Nelson still believes that the property and appeal is affected by the moratorium, because it is a non-conforming lot.

T. Nelson brings up two old alteration permits that were granted after-the-fact as well as a La Pointe business that has added large air conditioner storage units in the sideyard, apparently without a permit. He asks what precedent these historical permits might set and if a fireplace requires a permit but not an air conditioning unit.

W. Anderson: Just because errors have been made in the past doesn't mean they should be made again.

M. Starck: Any other comment?

T. Nelson: I want to make sure that any information that we take into account has to be brought up

L. Whalen: This is a difficult situation that could have been solved by contacting the zoning department.

III. The second applicant, Greg Nelson, is seeking a variance for a relaxation of the frontage requirement to create two 8 acre lots in the W-2 Zone out of one 16 acre parcel.

This property is identified as:

Parcel #014-00195-0300

1517 Middle Rd.

La Pointe, WI 54850

LOCATED IN NW ¼ OF THE SE ¼ AND THE SW ¼ OF THE SE ¼ ALL IN SECT 29, T.50 N., R. 3 W

Property Owner: C. A. Nelson Estate, Greg Nelson, Personal Representative

M. Starck reads into the record the two letters that have been submitted (attached to these minutes).

The first letter is from Tom Kromroy, writing as president of the Madeline Island Wilderness Preserve. The following points are made:

- The Madeline Island Wilderness Preserve does not agree with the division of a 528-foot lot into two 264-foot lots even if there is more than 10 acres. The two lots would both be substandard since neither will have the minimum frontage that is required for a lot in this zoning district.
- The current zoning Ordinance should be enforced.

The second letter is from Dick Hoffman. The following points are made:

- Area variances (including frontage or width) are meant to be infrequent and are not intended as an accommodation for a property owner's convenience.
- The Section of the zoning Ordinance dealing with authorized variances does not allow creation of a non-conforming lot when subdividing a conforming lot.
- Mr. Hoffman suggests the Board of Appeals refuse the variance request due to the above points.

No further comments or discussion is made on this variance.

The Board discusses making decisions on these two appeals. It is agreed that too much new information and comments were presented at the Public Hearing to make an informed decision at the meeting immediately following. It is agreed that a second meeting will be scheduled at the meeting immediately following the Public Hearing.

IV. Adjourn.

Chair states that the Public Hearing is adjourned at 5:45 pm.

Zoning Board of Appeals Public Hearing Minutes respectfully submitted by ZBOA Secretary, Margaretta Kusch, on Thursday, February 18, 2010.

Zoning Board of Appeals Public Hearing Minutes are approved as amended by ZBOA Secretary, Margaretta Kusch, on Thursday, March 11, 2010.