

## SHEBOYGAN COUNTY BOARD OF ADJUSTMENTS MINUTES

Administration Building  
508 New York Avenue  
Sheboygan WI

**April 15, 2015**

**Called to Order: 1:00 PM**

**Adjourned: 2:41 PM**

MEMBERS PRESENT: Mark Pfaller, David Gartman, Ken Moehring, Eugene Blindauer

ABSENT: Joseph Stodolka, First Alternate Jerry Rosche

ALSO PRESENT: Board Second Alternate Scott Miller, Kay Lorenz, Zoning Administrator Kathryn Fabian, Code Administrator Matt Mrochinski, Attorney Crystal Fieber, David Quasius, Architect Erik Jensen, Planning & Conservation Director Aaron Brault

Chairperson Pfaller called the meeting to order and called the roll. Second Alternate Scott Miller was seated due to the absence of Joseph Stodolka. First Alternate Jerry Rosche attended the site visit but is absent today.

Kay Lorenz verified the agenda was posted on April 7, 2015 at 9:45 AM in compliance with the open meeting law.

Mr. Blindauer made a motion to approve the minutes of the December 17, 2014 Board of Adjustments meeting. Motion seconded by Mr. Miller. Motion carried.

There were no public comments regarding agenda or non-agenda items.

Mr. Pfaller opened the hearing for the variance request to the Sheboygan County Shoreland Ordinance from David Quasius, Case #V-15-01-F, for the property located at W6631 County Road MM, Section 18, in the Town of Rhine.

Mr. Pfaller called David Quasius and Architect Erik Jensen forward to provide testimony. Mr. Pfaller provided an overview of the procedures for the hearing and asked the applicants if they understood the procedures.

Mr. Pfaller acknowledged the items of correspondence received for the record to confirm David Quasius had received and read them: December 22, 2014 letter from Matt Mrochinski and David Quasius' response to the letter; April 7, 2015 Staff Report from Matt Mrochinski; and April 14, 2015 letter from Dale Rezabek, Wisconsin Department of Natural Resources. Mr. Quasius acknowledged he had received and read each of the items of correspondence that are part of the record.

Mr. Pfaller asked for comments from Board members regarding the site visit on Saturday, April 11, 2015 at 9:00 A.M.:

- Mr. Blindauer – He is familiar with the property, has been there before.
- Mr. Gartman – Thought it was well-marked and self-explanatory.
- Mr. Miller – Very unique property, well-marked.
- Mr. Moehring – Well-maintained property for not having full-time residents.
- Mr. Pfaller – Well taken care of, beautiful piece of property, it's a jewel to go back there and see the quarry and buildings. Congratulated Mr. Quasius on his endeavors for preserving it. It's well-maintained. Appreciates it as a Town of Rhine resident.

Chairman Pfaller asked Mr. Quasius to provide an overview of how he came about developing this project. Mr. Quasius thanked the board members for coming out to the quarry and visiting with him. He indicated he learned a couple of things from that visit. First, Board members had questions not so much about the concept, but whether he had thought about locating it in different areas around that Cotter's Cottage to avoid the need for a variance. Second, when talking to a board member, he thought again about the response he provided with his application regarding the unique conditions of the quarry and how that relates to hardship. He indicated he has enhanced his thinking on that and will add some additional information to make a stronger argument. He prepared what he referred to as the "Applicant's Summary and Final Remarks" document and distributed it to the Board and Staff. The document will be entered into the record. Mr. Quasius read the document out loud and provided some history about the property, including that the river adjacent to the project site was the result of a late 1800's man-made channel dug to help drain the Sheboygan Marsh. The river channel and its setback created restrictions relating to where the project can be placed. Even though the property size is 15 acres, the topography, combined with the river and highway setbacks, historical buildings and the water-filled quarry, offer little or limited new buildable space. The majority of the property is within the Shoreland district associated with the Sheboygan River. Also limiting the project site location are the 100-year-old lime kilns, foundry and original office building the Quasius family is trying to preserve. The original office building to which the addition is to be added was constructed in 1911 before the Shoreland setback regulations were established. Relating to spirit of the ordinance, he referred to wording in Matt Mrochinski's Staff Report dated April 7, 2015 stating granting the variance does observe the spirit or intent of the ordinance. With regards to substantial justice to the property, Mr. Quasius and his wife would like to enjoy and use the property in the same way as their two neighbors. Both neighbors live in houses with two or more bedrooms and have an attached garage. They have both indicated they have no problem with the proposed addition. Mr. Quasius believes they have faithfully tried to propose a design that is a minimal relaxation of the dimensional standard, trying to keep the encroachment as minimal as possible. Most of the addition is outside the setback—it's only the garage that encroaches on the setback. In summary, he stated the property has two special conditions not created by him—the dredged river canal and the location, alignment and historical significance of the original building. He feels granting this variance would not set a precedence based on the uniqueness of the property.

Architect Erik Jensen indicated that from the beginning of the planning process it was determined that the only logical location for the addition was the south side of the current building. There was no other reasonable or logical location for the addition. He showed and explained various design scenarios that were considered in the process and why each was eliminated from consideration.

Code Administrator Matt Mrochinski commented about the "Applicant's Summary and Final Remarks" document. He indicated he was left with the impression that Mr. Quasius is contending the Sheboygan River was dug. Mr. Quasius explained it was relocated. The 1870 plat plan shows two parts to the river and an island that ran close to where the kilns are. Mr. Mrochinski also wanted to clarify that the statement read from the Applicant's Summary and final Remarks referencing the Staff Report is not verbatim. The Staff Report did not specifically state that granting a variance would observe the spirit and intent of the ordinance.

Mr. Moehring noted it will be a single story structure and the ridgeline will be taller than the current building. One of the concerns was people seeing it from the river. Mr. Quasius explained there isn't much river traffic. Mr. Moehring said all drawings show everything being added on the river side and was there anything that was considered on the quarry side of the building? Mr. Jensen explained that they did not want to compromise the views from the residence by

constructing on the quarry side. Matt Mrochinski indicated the quarry itself it is not mapped as a public navigable waterway; therefore, there is no 75-foot setback form the quarry.

Mr. Miller asked where the septic tank was located and whether that interfered with building on the quarry side. Mr. Jensen indicated that wasn't considered. Mr. Miller asked about the information on the application where Mr. Quasius indicated that without the variance a valuable part of the lime works story in Sheboygan County history would probably be lost. Mr. Quasius expounded on that comment. Mr. Miller asked if the DNR also receives a copy of the application. It was clarified the DNR receives the application, hearing notice and Staff Report.

Dave Gartman talked about the historic significance and whether there was any significance to the teepee room. He asked if the location of the septic is a hardship. Mr. Mrochinski said there are two holding tanks on the property that could be moved. Regarding set back around the quarry, Mr. Mrochinski stated that roughly half of the quarry is within 300 feet of the Sheboygan River.

Mr. Blindauer complemented Mr. Jensen and Mr. Quasius for looking at other options and stated that having worked in construction for 40 years, he understands the addition could be put somewhere else, but it is best to put it where it fits the best. Mr. Blindauer indicated history has a long-term effect with this property. He understands why they proposed putting the addition where they did.

Mr. Pfaller commended Mr. Quasius for doing something that is honorable from a preservation standpoint. The basis of this variance request hinges upon an east wall that is about 16 feet long. Mr. Pfaller applauds Mr. Quasius for wanting to be able to preserve it. Mr. Pfaller stated that if there was a certificate from the National Register of Historic Places, the State Historical Society, County or Town instead of three letters from historic preservations groups, the outcome might be different. Mr. Pfaller's point was that even if the wall was covered, it would always be there. There is no intention to get rid of it. Mr. Pfaller stated the significance of having a certificate could well override the significance of seven or eight feet of interference in the river setback because preservation of the building would be more important, in his opinion. Mr. Pfaller also stated, in his opinion, the more significant building is the kilns. Mr. Pfaller stated that Mr. Quasius' intent is noble and his effort to limit the encroachment is noble. Although it may be the best solution, the question is how does the Board put this on the table with respect to the 75-foot setback? From a precedence standpoint, Mr. Pfaller said he'd feel more comfortable with a certificate in hand. Mr. Quasius stated that the property was given Sheboygan County Landmark status in 1976 and he did include that in the application. Mr. Pfaller indicated this is a significant site. However, in his estimation, there is an opportunity to build in another location that may be even less encroaching on the aesthetics of the east wall, such as being closer to the quarry. Mr. Pfaller defined hardship. Economics are not part of hardship. Mr. Pfaller stated the positive is that this property is in the hands of someone who cares about the piece of property and the history and the buildings are going to be preserved whether there's a variance granted or not. The office building is not going to go away. Mr. Jensen reiterated they worked hard to try to preserve the property. There's always another way to design something that will be an improvement, but they have put together a lot of different scenarios and feel the proposed design is the best. They need extra footage beyond the set-back line to accomplish it.

Mr. Gartman said he's here today to discuss the portion of the addition in the setback area. What happens in the other areas is not important. There are other options.

Mr. Moehring asked Mr. Mrochinski and Ms. Fabian whether there is anything written about having up to 200 square feet of encroachment without there being an issue. Mr. Mrochinski stated there is a provision in Wisconsin Act 170 that allows up to 200 square feet of lateral expansion for a non-conforming structure. Granting this variance would not create a non-

conforming structure. The 200 square feet of lateral expansion applies to a non-conforming structure and does not allow further encroachment toward the waterway. It would not apply in this instance.

Mr. Quasius thanked the Board for their consideration.

There being no further comments and no desire by the Board to go into closed session, Mr. Pfaller closed the Public Hearing relating to the variance request at 2:22 p.m.

**Deliberation:**

***Unnecessary Hardship:***

**Mr. Blindauer made a motion that denying the variance would cause an unnecessary hardship.** Motion seconded by Mr. Moehring. Discussion ensued.

Mr. Blindauer – They did their homework, they showed how this could possibly be done. They're working with an existing building. Putting a second building up where there is room for it on the land is defeating the purpose of what they are trying to accomplish. They limited the encroachment as much as they could. The proposed addition gets the best use of the expansion and the existing building.

Mr. Moehring – Economics has been mentioned twice and it can't be used as a reason to deny or accept any addition. There is a possibility for other options.

Mr. Miller – This is what it all comes down to—is there unnecessary hardship. He sees why they don't want it on the north side, but there is a possibility to put it elsewhere.

Mr. Gartman – The hardship is on the property, not on the building.

Mr. Pfaller – Stated he made it clear earlier how he stands.

Mr. Blindauer – Referred to page 3 of the Staff Report--each variance request must be judged on its own merit.

Attorney Fieber Crystal read and explained the definition of hardship from the variance application form and referred to the letter from the DNR dated April 14, 2015.

ROLL CALL VOTE: Mr. Blindauer – yes, Mr. Gartman – no, Mr. Miller – no, Mr. Moehring – no, Mr. Pfaller – no. Motion failed.

***Spirit of the Ordinance:***

Attorney Fieber provided the definition.

**Mr. Miller made a motion that a variance would be within the spirit and intent of the ordinance.** Motion seconded by Mr. Blindauer. Discussion ensued.

Mr. Miller – Based on the information provided by Matt Mrochinski and our site visit, I believe this falls within the spirit of the ordinance.

Mr. Blindauer – agree

Mr. Moehring – agree

Mr. Gartman – agree

Mr. Pfaller - agree

ROLL CALL VOTE: Mr. Moehring – yes, Mr. Miller – yes, Mr. Gartman – yes, Mr. Blindauer – yes, Mr. Pfaller – yes. Motion carried.

***Substantial Justice:***

Attorney Fieber provided the definition.

**Mr. Blindauer made a motion that granting the variance would give the property substantial justice.** Motion seconded by Mr. Miller. There was no discussion.

ROLL CALL VOTE: Mr. Blindauer – yes, Mr. Gartman – yes, Mr. Miller – yes, Mr. Moehring – yes, Mr. Pfaller – yes. Motion carried.

***Contrary to public interest:***

Attorney Fieber provided the definition.

**Mr. Blindauer made a motion that granting the variance will not harm the general public interest.** Motion seconded by Mr. Moehring. There was no discussion.

ROLL CALL VOTE: Mr. Moehring – yes, Mr. Miller – yes, Mr. Gartman – yes, Mr. Blindauer – yes, Mr. Pfaller – yes. Motion carried.

**The variance request is denied.**

**Mr. Gartman made a motion to adjourn.** Motion seconded by Mr. Blindauer. Motion carried.

Kay Lorenz  
Recording Secretary

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Eugene Blindauer  
Board Secretary