



VILLAGE OF WILLIAMS BAY

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OFFICIAL MINUTES ZONING BOARD OF APPEALS 3/21/2023 MEETING TUESDAY, MARCH 21, 2023 AT 6:30 PM

I. Call to Order

Trustee George Vlach called the meeting to order at 06:35 pm.

II. Roll Call

Present: Trustee, George Vlach, Trustee, Robert Umans, Commissioner, Matt Robbins

Also Present: Zoning Administrator, Bonnie Schaeffer, Administrator, David Lothspeich

Excused: Commissioner, Dennis Costello, Commissioner, Tom Lothian

III. Pledge of Allegiance

The Pledge of Allegiance was recited by all.

IV. Minutes

A. Zoning Board of Appeals Meeting Minutes of 1/17/2023

The motion to Approve the Zoning Board of Appeals Meeting Minutes of 1/17/2023 was initiated by Trustee Robert Umans and seconded by Commissioner Matt Robbins. Unanimously carried.

V. Variance Application

A. Motion to Open Public Hearing - All interested in this matter are invited to attend

Trustee George Vlach explained the procedure for the public hearing.

Trustee Vlach opened the public hearing at 06:38 PM.

B. APPLICANT(S): Patricia Purcell Trust (Owner), Atty. Philip Steigerwald (Agent)

TAX KEY NUMBER: WWUP 00018

STREET ADDRESS: 249 Constance Blvd, Williams Bay, WI 53191

Applicant requests a variance to zoning code section 390.0209, SF-1 *Low Density Residential District and Section 390-0505.I(3) Permitted Intrusion into Required Shore Yards to allow a shore yard setback of 53 feet 2 inches* (125 feet required) to install a stone patio

Attorney Thomas Gardner explained that he was representing Patti Purcell on this variance request. Attorney Gardner described the location of the property as being just west of Dartmouth. Attorney Gardner explained that the property was improved by John Engerman approximately two years ago and there was a variance granted at that time to allow construction of the current home within the 150 foot setback. Attorney Gardner further explained the current home was constructed at a 75 foot setback as approved. Attorney Gardner explained that the proposed structure they are requesting this variance for is a flat patio with a built-in bench consistent with the patio that is immediately next door which was also recently built. Attorney Gardner explained that when reading the Ordinance on variances, the landscape architect, Brian Culliton, thought that the 25 foot section that is allowed for a flat patio would come from the 75 feet that had already been approved. Attorney Gardner explained that they feel the proposed patio will not affect the sight lines of the neighbors nor will it impact the neighboring properties. Attorney Gardner explained that the

materials which will be used are bluestone pavers. Attorney Gardner introduced Brian Culliton from Culliton Quinn Landscape Architecture, Chicago, IL.

Brian Culliton explained each slide in the slideshow. Culliton explained that the first slide shows the 150 foot setback and where the house lies relative to that setback. Culliton went on to explain that the first slide also shows the 75 foot setback which basically is where the existing staircase abuts to. Culliton explained that the lower patio is 20 feet from the 75 foot point on the lower staircase. Culliton explained that the slide also shows a 25 foot, which they perceive as the allowable terrace line based on that 75 foot shoreline setback. Culliton explained that slide number two shows when they were working on this project. Culliton explained that slide number three shows the proposed rear terrace plan showing the setbacks. Culliton explained that slide number four shows that the majority of the neighboring properties fall outside of that 150 foot setback with houses as close as 47 or 48 feet. Culliton explained that a number of the houses have terraces within the 75-foot zone. Culliton explained that slide number five shows some existing conditions, such as the neighbor's completed terrace which extends within a few feet of the proposed terrace. Culliton explained that the property on the hillside has a raised terrace and spa that extends well past the proposed terrace that is shown on the slide. Culliton pointed out several properties on the slide that were all within the 75 to 100 foot mark.

Commissioner Matt Robbins asked if all the properties being pointed out were in line with the proposed patio.

Culliton explained that yes, you could see on the slide they were all in line.

Trustee Vlach questioned if Culliton knew when those homes were built or if he knew if a variance was requested at the time they were built.

Culliton explained that he did not know.

Trustee Vlach explained that the Zoning Board of Appeals didn't know then when those houses were built. Therefore, they don't know if they were built before the ordinance passed.

Culliton agreed that was correct for most of the properties but pointed out that one of the properties was built at the same time as Patti's house.

Trustee Vlach verified that Culliton was speaking about the house at 251 Constance Blvd.

Trustee Umans, Culliton and Purcell discussed that the retaining wall is necessary due to water entering the property from the slope down from the neighbor's house.

Trustee Umans gave a brief description of the history of the properties in that area.

Trustee Vlach explained that the retaining wall was approved.

Zoning Administrator Schaeffer explained that anything that was not included in the application will need to be provided to be included with the request. Zoning Administrator Schaeffer explained that they could be emailed to her.

Patti Purcell explained that her family had been coming to Wisconsin for a long time, since she was a child. Purcell explained that her and her late husband rented property on Buena Vista. Purcell explained that when the house across the street from the one they rented was listed for sale, her and her late husband purchased the house. Purcell explained that her husband passed away a few years ago from cancer after 50 years of marriage. Purcell explained that the house they owned had stairs which were dangerous for her at her age, living alone. Purcell explained that is why she sold and purchased the land where her current home is. Purcell explained that at the time the home was built she had no idea that there had been a variance request on it. Purcell explained that her children and grandchildren visit in the summer and she would like to have a place to put a table and chairs so that her family can have a place to eat when they are visiting. Purcell explained that when her family visits in the summer it is her happy time because she is not all alone. Purcell explained that when the house was built she was told by the builder that she would be able to add a

patio. Purcell explained that she didn't feel that her patio would obstruct anyone's view and that, as far as she was aware, none of her neighbors were opposed.

Trustee Vlach discussed a letter that was written by Philip Steigerwald from Attorney Gardner's office. Trustee Vlach explained that the letter stated that a patio is essential for the ordinary and customary enjoyment of properties like this one. Trustee Vlach also explained that the letter further stated under the hardship heading that without the benefit of the patio the applicant will be deprived of one of the essential aspects of lake living. Trustee Vlach questioned Purcell whether or not the home had a front deck.

Purcell explained that there was a small deck in the front.

Trustee Vlach asked Purcell to explain how not having a paved area is going to deprive her of the essential aspects of lake living.

Purcell explained that her porch is teeny. Purcell explained that due to the lot size she was only able to have a master bedroom, a little powder room, a laundry space, a kitchen and a little screen porch. Purcell explained that you can't fit very many chairs on the screen porch and there is no way you could fit a table on the screen porch to feed her family. Purcell explained that she loves the property but really has no space to place a table to feed her family.

Trustee Vlach questioned why Purcell needed to feed her family on the lake side and why the patio needed to be paved. Trustee Vlach further questioned Purcell why she couldn't just put a table back there.

Purcell explained that she would like the patio paved to keep the table level. Purcell explained that she still has problems on her property with water and if the patio were not paved she wouldn't be able to use it after it rained because it would get muddy and the chairs would sink into the grass. Purcell again explained that if they were able to pave the patio, she could use it as a place to feed her children and grandchildren. Purcell explained again that she didn't feel that the patio would obstruct anyone's view. Purcell explained that both the property to her left and the property to the right have a patio.

Baird Allis, Purcell's son-in-law, explained that Purcell's mobility could be an issue and it would not be safe for her to be walking on wet, soggy grass. Allis explained that it would be safer for Purcell to have a flat, grated, hard-surfaced patio.

Purcell explained that she was in a bad car accident two years ago and has had trouble walking ever since. Purcell explained that she has injuries that have not gone away, so she wants a comfortable, safe space to live in. Purcell explained again that in the summer her family visits and that time of year is so wonderful for her.

Trustee Vlach mentioned the letter written by Philip Steigerwald stating that were the applicant not constrained by a set back requirement, there would be nothing to prevent the patio from being built. Trustee Vlach questioned the attorneys' offices' beliefs in zoning set backs, or if they believed it should be okay.

Attorney Gardner explained that he believes there should be set backs. Attorney Gardner explained that set backs prevent the piggy move up type situation from happening. Attorney Gardner explained that set backs prevent obstructed views and things of that sort. Attorney Gardner explained that they understand that this could be a concern around the lake. Attorney Gardner explained that in this case the purpose of the setback isn't harmed by having the patio. Attorney Gardner explained that the water situation on this property makes the situation unique and the pavers could help in that regard.

Trustee Robert Umans explained that he visited the property and took some pictures which he had printed up and would like to have be part of the application.

Trustee Vlach gave permission to have them added.

Trustee Umans handed out the pictures. Trustee Umans explained that the pictures are similar to the pictures on the

slideshow. Trustee Umans explained that he went through the letter written by Philip Steigerwald and wanted to point out a section which stated that many neighbors have similarly situated fixtures. Trustee Umans explained that the house to the east does not have a patio. Trustee Umans explained that he did not check to see if the neighbor at 251 Constance Blvd had gotten a permit for the patio but, many of the houses in Dartmouth Club are older and the houses with patios could have been built before the setback was in place.

Purcell explained that the neighbor did not get a permit because they were also told by the builder that it would be fine to put a patio in there.

Trustee Umans explained that anything that was built more than 12 years ago would have fallen under the old setback rules. Trustee Umans explained that in the letter written by Philip Steigerwald it stated that all neighboring land owners affirmatively support or have stated no objection. Trustee Umans questioned Zoning Administrator Schaeffer how she knew a patio was being built?

Zoning Administrator Schaeffer explained that she had received either a phone call or an email. She couldn't recall which from a neighbor.

Trustee Umans questioned if the neighbor was complaining.

Zoning Administrator Schaeffer explained that was correct.

Trustee Umans explained that the document written by Philip Steigerwald was then false.

Attorney Gardner explained that at the time the letter was written they didn't know who had made the complaint.

Purcell explained that she was told that somebody complained about a dead tree being removed. Purcell explained that someone a few houses down complained about the tree, stating that the tree didn't look dead.

Zoning Administrator Schaeffer explained that she had written opposition that would be discussed later in the meeting.

Purcell explained that the tree complaint was the only complaint she was aware of.

Attorney Gardner explained that they did state to the applicants' knowledge and Purcell wasn't aware of any other complaints.

Trustee Umans discussed further the letter written by Philip Steigerwald. Trustee Umans discussed the brief history of the builder, John Engerman, and the fact that John had a reputation for being well respected and conscientious about the environment. Trustee Umans explained that several lots in the area started out as tent cities. Trustee Umans explained that these lots were small, narrow lots that were affordable. Trustee Umans explained that the tents were replaced with small cabins which were then replaced by bigger cabins that have since been replaced by houses. Trustee Umans explained that the point of the 150 foot setback is not to ensure people have the proper view, the setbacks are to create a buffer between the lake and any development. Trustee Umans explained that the further back the development is the less chance for pollution to get to the lake. Trustee Umans explained that there are organizations in the area that care about the health of the lake. Trustee Umans explained that when Purcell's house was built, John Engerman was very conscientious of the natural water flow so he built the new house, on the same footprint as the previous house.

Purcell explained that she was not aware of all the technicalities, she explained that she bought a drawing of a house to be built. Purcell explained that John Engerman told her she could build a patio.

Trustee Umans explained that chairs sinking into the grass and even mobility issues are not considered a hardship.

Trustee Umans explained that the hardship only applies to the land. Trustee Umans explained that, in his opinion, the lake is part of the environment and that being only 53 feet away from the lake would be considered an impact on the environment.

Zoning Administrator Schaeffer read aloud the Wisconsin State Statute about variances. Zoning Administrator Schaeffer explained that when she writes her report she takes things directly from the state statutes. Zoning Administrator Schaeffer explained that in this case she found that most of the information in the application was unique to the property owner and that was unique to the way the home was placed. Zoning Administrator Schaeffer explained that when they requested the variance two years ago they created their own hardship because if the property owner wanted a patio it should have been included with the original variance request. Zoning Administrator Schaeffer explained that she looked at the neighboring properties' patios but couldn't tell when they were built. Zoning Administrator Schaeffer went on to explain that upon looking, she felt the proposed patio encroached further than most of the patios in that line. Zoning Administrator Schaeffer explained in her report she stated that in her opinion, there was not much basis for a hardship or unique circumstance.

Trustee Vlach asked if there was anyone present who would like to speak in favor or in opposition. There was none present. Trustee Vlach asked Zoning Administrator Schaeffer if there was any correspondence speaking in favor.

Zoning Administrator Schaeffer stated there were not.

Trustee Vlach explained that there was one correspondence in opposition.

Zoning Administrator Schaeffer explained that she received the correspondence the day before.

Purcell questioned if there was any correspondence received from Mike, who said he would be sending something in favor.

Zoning Administrator Schaeffer explained they had not but agreed that it would make sense that he would not be in opposition.

Trustee Vlach read aloud a letter in opposition from Robert and Melissa Herrman, 257 Constance Blvd. Trustee Vlach questioned if the applicant had anything to say in rebuttal.

Attorney Gardner explained that he felt everything had been covered. Attorney Gardner explained that they understood the points that were made but still felt that the request was consistent with the purpose of the ordinance.

C. Motion to Close Public Hearing

Trustee George Vlach closed the public hearing at 07:38 PM.

D. Consideration and possible action on recommendation of Variance

Trustee George Vlach explained that everything in the presentation was very detailed, which makes it simpler for the Zoning Board of Appeals. Trustee Vlach explained that he asked very specific questions about how not having a patio would affect the lake life and found that the response was to talk about other homes. Trustee Vlach explained that other than 251 Constance we don't know if those were built before the last master plan, which would make those properties legal. Trustee Vlach explained that when he asked about how it would affect the lake life or enjoyment of the lake, he didn't feel an adequate hardship was met. Trustee Vlach explained that when he visited the property he was in agreement with Zoning Administrator Schaeffer that, without taking specific measurements, that it appeared closer to the lake, and encroaching on that setback. Trustee Vlach explained that he would be voting no.

Trustee Umans explained that he did not see that there was a hardship. Trustee Umans explained that while mobility was an issue, it didn't count as a hardship. Trustee Umans explained that with previous variance plus this request, it would leave only 53 feet, which he felt was too close to the lake. Trustee Umans explained that the lake takes priority. Trustee Umans explained that he would vote no.

Commissioner Matt Robbins explained that he was in agreement with what Trustee Vlach and Trustee Umans had spoken about. Commissioner Robbins explained that this is an area where cottages were built 100 years ago before there was even electricity and they are a foot off of lot lines, which requires the Zoning Board of Appeals to deal with

these types of requests often. Commissioner Robbins explained that the Zoning Board of Appeals needs to be consistent. Commissioner Robbins explained that he appreciated why Purcell would want this variance. However, he felt that this variance comes down to wants versus hardship. Commissioner Robbins explained that he would vote no.

Trustee Vlach asked Zoning Administrator Schaeffer if a denial of this variance request would affect the needed retaining wall.

Zoning Administrator Schaeffer explained that the retaining wall is for stability of the slope, so it would be a necessity, so there would be no need to worry.

Trustee Vlach, Zoning Administrator Schaeffer and Purcell discussed the retaining wall and the hopes that it will help keep the area drier.

The motion to deny the variance was initiated by Trustee Robert Umans and seconded by Commissioner Matt Robbins. Unanimously carried.

VI. Adjournment

The motion to adjourn was initiated by Robert Umans and seconded by Matt Robbins at 07:48pm. Unanimously carried.

These are not official Minutes until approved by the Governing Body.