

**Lincoln County Board of Adjustment
Minutes of Friday, April 27, 2007 at 8:30 a.m.
Land Resource Center Meeting Room**

1. Open meeting and Call to Order - Meeting was called to order at 8:30 a.m. in the Zoning Office. Members present: Lamer, Wendt, Steffenhagen, Jach-Richards, Priebe, Hornischer (alternate), Dan Miller; Zoning Administrator and Dan Bowers; Zoning Specialist.
2. The Board, Miller & Bowers left to tour the sites for the Public Hearings that would be held later in the day.

Meeting was called to order by Chairman Lamer at 11:10 a.m. in the Land Resource Center Meeting Room at 1106 E. Eighth Street, Merrill, WI.

Members present for the public hearings: Lamer, Wendt, Jach-Richards, Steffenhagen, Priebe and Hornischer (alternate). Visitors: Dan Miller, Dan Bowers, June Winters; Program Assistant, Ray Kraemer; Court Reporter and 4 others.

3. Approve minutes from March 22, 2007 meeting – Motion by Jach-Richards, seconded by Wendt to approve the minutes from March 22, 2007. Motion carried all ayes.
4. Public Hearing – The public hearing was opened for the requests listed below.

Variance

1. Gary Madison for a variance from Section 21.07(1) of Lincoln County Ordinances to allow for a setback of less than 75' to Squaw Lake for an addition to the home. The property is located in part of Section 10, T35N, R08E in the Town of Harrison; having a tax parcel number of 10.103508.014.009.00.00 and an address of N11431 Squaw Lake Road.

Gary Madison was present and sworn in. He explained his request for the committee. Priebe asked for clarification of the existing means of waste disposal. The holding tank was installed last fall. Priebe asked if they had planned for the holding tank to be connected to the home when it was installed why it was not placed so that the bathroom addition could have been built in a compliant location. Madison said that they did put it in a location that would afford a couple of options for the addition with the preferred location requiring a variance. Jach-Richards asked Madison if he had an alternative plan if the variance was not granted. Madison stated he did but it would be a lot more costly and smaller.

Dan Bowers was present and sworn in. He reviewed the staff report. He stated that he thinks that the applicant does have a legal alternative location for the bathroom addition. Priebe asked Bowers why the location of the holding tank was not questioned last fall. Bowers stated that this application was a result of the onsite last fall.

Chairman Lamer read a letter of opposition into record from Tom Blake at the DNR. Bowers stated that he had a phone call from an adjoining neighbor that had no problem with the Madison's request. Chairman Lamer closed the public hearing for Gary Madison

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

Motion by Wendt, seconded by Jach-Richards, to DENY the request. Motion carried all ayes.

2. Joe Henrichs and Concrete Investments LLC for a variance from Section 21.07(4)(b)(4) of Lincoln County Ordinances to allow for a boathouse less than 35 feet to a side lot line and for a variance from Section 21.13(2)(b)(4) of Lincoln County Ordinances to expand a nonconforming home to Lake Nokomis beyond 1,500 sq. ft. up to 2,556 sq. ft. of livable area. The property is located in part of Section 2, T35N, R06E in the Town of Bradley; having a tax parcel number of 04.023506.016.007.01.00 and an address of W5622 Honeymoon Bay Road.

Joe Henrichs was present and sworn in. He explained his request. He is willing to combine his two lots so that they may not be sold separately in order to get this request granted. He stated that the non-conforming cabin already existed when he bought the property and that he had just remodeled and put new siding on what was already there. Priebe asked about a previous permit or variance that was issued that had required him to eliminate a corner of the cabin. Henrichs stated that it was just a permit to add on 2nd story on the back of the cottage. Wendt and Jach-Richards clarified that the part of the structure that was encroaching in the setback already existed and was not added by Henrichs. Jach-Richards asked for the number of existing bedrooms. Henrichs stated there were 3. Priebe and Steffenhagen both reviewed the conditions on the 2001 Land Use Permit that was issued that required cutting off the corner and asked for clarification of when all of the remodeling on the old cabin took place. Henrichs stated that he was aware of the condition and may be in violation but did not think it was practical to cut the corner of the cabin off. Wendt and Lamer agreed. Henrichs returned to the boathouse question and the hardship that exists for relocating it anywhere else on either of the two lots. He discussed the addition portion of the variance and stated that he was just asking for a garage on the back of the home with living quarters above it and basement underneath. Wendt asked if there was a basement under the structure. Henrichs stated that there is a basement under the proposed addition, a small basement with a walkout existing and a crawl space under the rest of the existing cabin. Jach asked what the livable area is now. Henrichs stated that he is at the max allowed now of 1500 sq. ft. It was figured that he wants to add another 1000 sq. ft. of livable area. Henrichs again stated that he would be giving up the 2nd lot in hopes of this request being granted and that would prevent a home ever being built on the 2nd lot so he feels he is improving the situation.

Dan Miller was present and sworn in. He reviewed the staff report and the zoning history of the property. He clarified the reason for the condition of the 2001 permit and for a compromise at the time. Miller explained several conversations at the time. Miller stated that because of a line by agreement that had been done earlier, in order to build the boat house even at a compliant location he would be required to combine the lots anyway. Miller stated that when identifying hardships there are legal alternatives in this case albeit expensive but there are alternatives. He reviewed conditions that staff would like imposed if the board was so inclined to grant the variance. Those conditions being: 1) Full restoration of the vegetative buffer to a depth of 35 feet with an allowance of a 15 foot envelope around the buildings, 2) Combine the 2 lots by deed and restricted by covenant from ever being split and make the County the enforceable agent of the covenant, and 3) The 6 foot corner of the cabin shall be removed, as originally ordered by the Zoning Department, to create a 40 foot setback of the structure to Lake Nokomis. Priebe questioned why the conditions of the 2001 permit were not enforced and questioned how we could consider granting the request without that issue resolved. Miller stated that we fell short on enforcement of this compliance issue and that he considers this still an outstanding compliance issue and said a separate variance could be applied for to address that part of the structure. Priebe said that he didn't see how they could grant this variance with the outstanding issue. Miller stated that this is why he would like that condition of removal of that part of the structure again to be a condition if this variance is granted

Henrichs again stated that he did not follow through with the condition because it was not practical. Jach-Richards questioned that he would follow through with any conditions if they were imposed on this request. Lamer stated that he thought he would be giving up a lot by having to combine the parcels. Henrichs doubted that anyone would benefit from him removing the corner of the cabin. Priebe stated that in 2001 it was just a cabin located there not a remodeled sturdy home that sits there today. If he would have been held to the conditions at the time it would not be nearly the hardship financially as it is today and this was solely created by the land owner by not following the conditions of the 2001 permit.

Chairman Lamer closed the public hearing for Joe Henrichs and Concrete Investments LLC.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination. Bowers was called to the podium and acknowledged that he was previously sworn in. He clarified the wording for the increase of livable area on the request. Chairman Lamer also read a letter of opposition into record that was submitted by Tom Blake at the DNR.

Motion by Jach-Richards, seconded by Priebe, to DENY the request. Motion carried 3-2 to DENY the request.

3. Joe Henrichs and Concrete Investments LLC for a variance from Section 21.07(1) of Lincoln County Ordinances to allow for greater than 20% impervious surfaces on a lot within the shorelands of Lake Nokomis for purposes of constructing a mini-storage facility. The property is located in part of Section 03, T35N, R06E in the Town of Bradley; having a tax parcel number of 04.033506.015.002.00.00 and an address of W5885 Derleth Road

Joe Henrichs was present and acknowledged being previously sworn in. He stated that he was just asking to finish up the request from his original Conditional Use. He is just asking to build the 4th of four buildings on the original request. But because of the change in the ordinance since then he has run into this problem with the impervious surface limitation. He said that this was a very lengthy process to begin with and he thought everything was taken care of with the Conditional Use. Wendt asked if the 4th structure was going to be smaller than the other units. Henrichs stated it was a little smaller. Priebe asked if the size of the buildings had changed since the original request and asked how the permits were taken out to actually construct the buildings. Henrichs stated that he has done one per year since the CUP was granted. Jach-Richards stated that the storage buildings were set up nicely.

Dan Miller was present and acknowledged previously being sworn in. He stated that the original stormwater approval was obtained in 2004. There was some confusion regarding a fax received today from William Jaeger at the DNR as far as the duration of the approval. Miller clarified that the property is in shoreland because of a backwater of Lake Nokomis. He stated that Henrichs met all of the requirements of the stormwater plan at the time. He stated that zoning has the right to require an update to the original stormwater plan. He is suggesting moving the 4th structure closer to the 3rd structure and submitting a revision to Land Conservation and the DNR for the stormwater plan. He also noted that there was a correction in the lot area that was stated on the Findings of Fact.

Chairman Lamer read a letter of opposition into the record from Tom Blake at the DNR. Henrichs stated that he has opposition to one of the suggested conditions as he really did not like the idea of putting the buildings closer together because of emergency access, the setbacks and a buffer of trees that are required. Priebe asked Miller questions about relocating the structure because of the contours. Miller stated that he wanted minimal filling without a revised stormwater plan because of the contours. Priebe asked why he could not move it a little just to stay away from the contours. Henrichs again stated that it was an eight month to a year process to make these plans and get

determinations for the Conditional Use Permit and that all of this was addressed with that permit. Wendt asked for clarification that if he had built this 2 years ago there would be no problem. Miller said that was the case. Miller stated that they need to correct his calculations on the Findings of Fact.

A letter of opposition from Lake Front Properties LLC, an adjoining property owner, was read into record. Priebe said that it should be noted that the parcel number on the letter is incorrect. It was noted by staff that even though the letter had the parcel number of the first variance request of Mr. Henrich's (on Honeymoon Bay Rd) that it actually was pertaining to this request on Derleth Rd. as that was the property that Mr. Hoepfner was discussing when he was in the office. It must have just been copied wrong off of the notice.

Chairman Lamer closed the public hearing for Joe Henrichs and Concrete Investments LLC.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination. Bowers asked to come back to the podium clarify on some issues.

Motion by Jach-Richards, seconded by Steffenhagen to APPROVE ON CONDITION.

CONDITIONS:

- 1) The building must be built east and north of the 1480' contour to stay off of the steep slopes near the southwest corner of the property.
- 2) The erosion and stormwater control plan approved by the DNR in 2003, or an updated plan, must be submitted to the Land Conservation Department for review and approval to ensure compliance with our new standards.

Motion carried all ayes.

5. Adjourn - Motion by Jach-Richards, seconded by Wendt to adjourn at 12:41 p.m. Motion carried all ayes.