

**Lincoln County Board of Adjustment  
Minutes of Thursday August 23, 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, Jach-Richards, Steffenhagen, Priebe, Hornischer, Schmidt, Brixius & Dan Miller Zoning Administrator.
2. The Board and Miller left to tour the sites for the Public Hearing that would be held at 10:30 a.m.

Meeting was called to order by Chairman Lamer at 10:30 a.m. in the Land Resource Center meeting room at 1106 E. Eighth St, Merrill, WI 54452.

Members present for the public hearing: Lamer, Jach-Richards, Steffenhagen, Priebe, Hornischer, Schmidt (Alternate) and Brixius (Alternate) (Alternates will be present for discussion but will not be voting). Visitors: Dan Miller; Zoning Administrator, June Winters; Program Assistant, Mary Heedrick; Court reporter and 7 others.

3. Approve minutes from July 26, 2007 meeting - Motion by Steffenhagen, seconded by Hornischer to approve the minutes from July 26, 2007. Motion carried 5-0.
4. Public Hearing – The public hearing was opened for the request listed below.

**Variance**

1. Russell and Linda Sineni for a variance from Section 21.13(2)(b) of Lincoln County Ordinances to allow for an addition that will raise the total livable area above 1,500 square feet on a home that is less than 75 feet to the water . The property is located in part of Section 09, T35N, R06E in the Town of Bradley; having a tax parcel number of 04.093506.005.007.00.00 and an address of N11676 Nokomis Drive.

Russell Sineni was present and sworn in. He explained their request for the committee. Hornischer commented on the letter that the Sinenis had included from their insurance company. Priebe had several questions on the current layout and dimensions compared to their proposed expansion that he asked Sineni to clarify. Lamer questioned an existing shed on the property. Sineni said that would be removed. Lamer questioned the location of the existing well being located in the garage and Sineni was not sure what they were going to do with the well. Brixius asked for clarification on the overhangs that would be over the decks. Sineni said that the roof without walls would just be over one deck.

Dan Miller was present and sworn in. Miller explained that the drawing that Priebe was referring to was a sketch that he had done himself at the staff onsite. Miller said that the garage should not be considered in this request as that part of the structure meets all setbacks. Miller reviewed the staff report and focused on the increase in livable area and stated that impervious surface limitations were not the issue. Miller suggested mitigation strategies of a rain garden and increasing and enhancing the buffer if the request is granted to make the slope more stable, removal of an existing “gazebo” that was not authorized with permits and removal of one of the access points to the water. They currently have two stairways and two docks. Miller suggested that staff recommends not including a second story over the entire first floor just a portion of it. Jach-Richards asked Miller for clarification on what part of the second story he was recommending. Miller showed the Board on the drawing what he was recommending. Hornischer asked what response he has had from the

applicant. Miller stated that even though he had not spoken to the Sinenis since they were sent the staff report they previously were willing to work with Zoning on a compromise. Priebe had a question on the roofline tying all of the structure together and wondered if it would be a problem with leaving the well in the same location. Sineni asked the Board for a recommendation on the roofline issue. Hornischer stated that it is not up to them to tell the applicant how to build the structure but they are just pointing out possible problems he may have to deal with. Miller stated that part the structure would be allowed by ordinance and not an element of the variance. Chairman Lamer closed the public hearing for Russell and Linda Sineni. Sineni thanked the Board for considering their proposal.

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

Motion by Hornischer, seconded by Jach-Richard to DENY the original request but to APPROVE ON CONDITION the alternate solution and staff recommendation from the staff report.

CONDITIONS:

- 1) Decrease the footprint by tearing off the existing laundry and storage area (approximately 13'x15')
- 2) Allow a second story addition over the remaining 30'x20' portion of the home (bringing the TOTAL livable area of the home to 1,720 sq.ft.)
- 3) If the deck is not repairable that it be scaled down to a 40 sq. ft. landing and that it be uncovered.
- 4) The gazebo be removed.
- 5) All other aspects of the ordinance would need to be met. (including restoration of the vegetative buffer zone)

Motion carried 5-0.

2. William Eastwood and Billy Bob's of Tomahawk LLC for a variance from Section 21.07(1) of Lincoln County Ordinances to allow for a deck addition onto their bar/restaurant which already exceeds 20% impervious surfaces for the lot. The property is located in part of Section 03, T35N, R06E in the Town of Bradley; having a tax parcel number of 04.033506.001.007.00.00 and an address of N12025 County Road L.

William Eastwood was present and sworn in. He explained his request for the committee. He stated the deck would basically be for overflow for customers who are waiting for a table as he does not have enough seating room inside to accommodate that. Priebe asked what type of construction it would be. Eastwood stated that it would be an open wood or resin composite deck. Hornischer asked if he was going to put anything below the deck to prevent the water from being absorbed. Eastwood said he was not. Jach-Richards referred to the two letters that the Board had received regarding fear of loud noise on the deck from having large speakers on the deck. Eastwood said that they would not have large speakers and excessive noise. Eastwood said that the Best Western down the road has a humongous deck and a certain amount of noise and that they would not be any noisier than that. Eastwood stated that this is a deck that would not be used in the winter and when weather allowed would be used for overflow seating for his patrons. He knows from experience that if people have to stand when they are in an establishment they are more likely to leave.

Chairman Lamer read a letter of opposition into record from adjoining landowners Ronald and Charlene Shelton referencing water runoff problems, request of others to exceed impervious surface limitations that have been denied, patron parking and excessive noise issues. Eastwood said that he did not know if these people were full-time residents or not but he has noted that the complaints have not come from any year round residents only from the Outback Condominium. Eastwood stated that he has had a surveyor determine the actual lot line in regards to the parking/easement issue and it

was determined that it actually was his property with others having easement rights and he has told them that the easement would not be blocked.

Dan Miller was present and sworn in. He reviewed the staff report and explained to the Board that they should only focus on the issues that we may regulate. Although the parcel is not directly on Lake Nokomis but within 1000 feet of the water, impervious surface limitations still apply. The parcel is already grossly exceeding the impervious surface limitations and his main concern is the runoff from stormwater and where it will go. Miller stated that most of the stormwater will runoff towards County Rd L and not towards the lake but there still may be drainage problems that rain gardens by the building for drainage may alleviate. Miller also stated he did not want to see anything under the deck that would prevent water from being absorbed. Miller agreed that parking is also an issue. He has 32 parking spots on blacktop now and will have 6 additional parking spots that would just be on grass as they may not cover anymore area with blacktop. Miller stated that he did not see any legal alternatives. He stated that the staff recommends approval with conditions that the area below the deck be left uncovered so it will let the runoff infiltrate into the ground and that he may not do anything in the future to increase the impervious surface (No additional pavement, sidewalks, roofs, structures or anything that would increase impervious surface). Hornischer asked if the fact that they currently exceed the limitation by so much is because of a previous exemption or a change in the standards. Miller stated that it was caused by a change in the standards. Priebe asked if paving stones or any other impervious material can be permitted and Miller stated that it could not. Priebe questioned the additional "grass" parking spaces and what problems that may create and Miller briefly discussed that issue.

Tom and Lisa Herriges were present in opposition to the request. They own two of the units in Outback directly behind Billy Bob's. Lisa Herriges stated that they already have a problem with the runoff from Eastwood's property to theirs. Tom Herriges stated that the trees that have recently been removed total approximately 3000 sq. ft. and they are very worried about the erosion control. He stated that he has \$22,000 invested in the shoreline already and doesn't want to see that in jeopardy of being washed out. Tom Herriges stated that Eastwood has already added on to his structure by enclosing an existing covered deck that was part of the structure. The Herriges referred to a request that they had submitted before and they were restricted to the impervious surface limitations and they don't think that the Board should make a situation worse by granting Eastwood's request. Lamer argued that it sounds like the runoff that the Herriges' are complaining about is coming from their own driveway not Eastwood's. Tom Herriges stated that the bar patrons are already parking on his property and he doesn't want to have to put up a fence. He also stated that he had heard that the area that was being cleared was for a volleyball court not parking. Lisa Herriges said that they had heard that Labor Day Weekend Billy Bob's was going to have a large tent, bands playing outside and fireworks. She feels that this is a residential area and it was not fair to the neighbors. Hornischer said that while the Board may have sympathy for their situation on those issues they are not relative to the request that is before the Board today. Hornischer said that they can base their decision only on what relates to the impervious surface limitations. Hornischer did state the he himself is unclear why something that is somewhat impervious (such as a slotted deck) figures into impervious surface limitations. Tom Herriges stated that he feels that if you are holding them (Herriges) accountable they just wanted to make sure that Eastwood is held accountable also. Priebe asked Miller if the surveyor shot elevations or if he could tell which way the runoff from Eastwood's property flows and Miller stated his observation is that the runoff would flow towards County L. Priebe also asked about the ground under the deck and some type of rock rain garden around the deck to hold the runoff and allow it to soak into the ground instead of running across the pavement.

Chairman Lamer closed the public hearing for William Eastwood and Billy Bob's of Tomahawk LLC.

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

Motion by Hornischer, to APPROVE ON CONDITION based on the recommendations of the staff report. Priebe asked about requiring an added barrier around the deck to help hold runoff back from the blacktop and Hornisher amended his motion to include that. Motion was seconded by Steffenhagen.

CONDITIONS:

- 1) The deck shall be constructed in such a way as to allow precipitation to infiltrate into the soil below the deck.
- 2) Additional infiltration barrier be constructed around the deck in such a manner that it holds runoff so that the water has time to be absorbed before it gets to the blacktop.
- 3) No additional pavement or net increases to impervious surfaces will be authorized for the property.

Motion carried 4-1 with Jach-Richards voting no.

5. Reschedule September BOA meeting to September 20, 2007 to avoid conflict with a training workshop – Dan Miller reported that he had been in contact with Bill at Sawyer County and that the training workshop that was proposed for September 27<sup>th</sup> would not be taking place at on that date. He will keep the Board apprised of any training sessions that may be scheduled. The September Board of Adjustment meeting will still be held on September 27<sup>th</sup> as originally scheduled.
6. Discuss training workshop being held in Hayward, WI on September 27, 2007 - N/A.
7. Adjourn – Motion by Steffenhagen, seconded by Jach-Richards to adjourn at 11:40 a.m. Motion carried all ayes.