

**Lincoln County Board of Adjustment  
Minutes of Thursday, November 18, 2010 at 8:30a.m.  
Lincoln County Service Center, Meeting room #107**

1. Open meeting and Call to Order – Meeting was called to order at 8:30 a.m. in the Zoning Office. Members present: Lamer, Steffenhagen, Hornischer, Brixius, Adams & Alternate Prain. Also present was Dan Miller; Zoning Administrator.
2. Tour the site for the Public Hearing to be held at 10:00 a.m. – The Board and Miller left to tour the site.  
  
Members present for the public hearing: Lamer, Steffenhagen, Hornischer, Brixius, Adams & Alternate Prain. Visitors: Dan Miller; Zoning Administrator and 4 others.
3. Approve minutes from October 28, 2010 meeting - Motion by Steffenhagen, seconded by Adams to approve the minutes from October 28, 2010. Motion carried all ayes.
4. Public Hearing – The public hearing was opened for the request listed below.

**Variance**

1. A request for variance by William and Judy Schroeder from sections 21.13(2)(a) of Lincoln County Ordinances to allow for the rebuilding and expansion of a portion of a home which is less than 40 feet to Clear Lake. The property is located in Section 10, T35N, R06E, in the Town of Bradley and has an address of W5694 Clear Lake Rd.

Chairman Lamer swore in Judy Schroeder to testify. She explained that they live in the Nekoosa area now but the cabin has been in Bill's family for 75 years. They added a bedroom and bathroom onto the cabin in 2007 with a permit issued by Dan Miller under provisions of the Americans with Disabilities Act. Bill now wishes to retire to the cabin so they want to sell their Nekoosa home and move to Clear Lake. Because of Bill's disabilities, Judy needs a bedroom near his and additional space and the rest of the home needs to be revamped to accommodate a wheel chair. They also have a large family and she needs laundry space and more room for them.

When asked about the small guest cabin and why it wasn't removed from the property as conditioned in the 2007 permit, she replied that they have 16 grandchildren and it was turned into a "hobby hut" for them and is not used for sleeping accommodations.

Brixius asked since a substantial amount of the home is proposed to be razed, why the remaining cabin couldn't be moved back into compliance, added onto at that point and therefore a variance wouldn't be necessary. She explained that the budget would not support that expense. Also the water table is high in that vicinity.

In response to a question as to why the second story is being planned she replied that with the need for a 24/7 caregiver for Bill and her large family, they need the space.

Lamer swore in John Ottoson from Everest Builders to testify. He explained that he is the Schroeder's builder and they planned the second story both for space needs and to balance the home. The structure will not increase the footprint or the runoff potential of the existing cabin by going upwards. He felt moving the whole thing back is not a feasible option due to the close proximity of the garage and the cost to move vs. rebuild would be more. The upstairs would increase the livable area by 788 square feet. The plan is to keep about 1/3 of the home as is and rebuild or add 2/3 of the final home space.

Miller was sworn in and went through the staff report with the Board. He identified that there was a legal alternative and therefore the request does not meet the standards for a variance under the hardship test. He discussed conversations that he had with the Schroeders in 2007 encouraging them at that time to rebuild at 75 feet but was told it was too expensive. He had to allow the addition to accommodate Bill's handicap at the time but he conditioned the permit upon removing the guest house and enforced that no other additions would be considered in the future.

He also explained the exceptions built into the state statutes for nonconforming structures for repair and maintenance and that given that the rules on nonconforming structures have become so eroded by the legislature that it was unlikely that nonconforming structures would ever really "go away". He suggested denial of the variance as requested but consideration be given to the Schroeders to raze the old portions of the cabin that fail to meet the building code and to allow them to rebuild that portion of the home in the same footprint to the same size in conformance to the building code. It could be authorized piecemeal anyway under zoning provisions over a period of time.

Thomas Blake from the Wisconsin DNR was sworn in and testified that nothing he heard today by way of argument convinced him that the request meets the standards by which a variance may be issued. ADA arguments are not to be considered by the Board and neither are concerns over expense. That leaves physical limitations of the property to create the hardship. Miller testified that there is room to build elsewhere and he agrees so no hardship exists. To grant the variance sends the wrong message to the public to not worry about the code but just come on in and ask for a variance and it will be granted.

Hornischer asked if consideration of Miller's suggested alternative doesn't have merit and wouldn't that be supportable as a variance. Blake felt that it doesn't meet the standards for a variance either but if the ordinance allows for it though it could occur.

Lamer brought up the wet area behind the home as being wetland and it cannot be filled.

Judy Schroeder redressed the Board and stated that the lot across the lake by the outlet has been developed in the last 3 or 4 years and considerable fill has been placed in what used to be swamp. She has old pictures of Native Americans harvesting rice on that property. She feels the dynamic of the lake has been altered and their lot now is wetter than it used to be. The wet area behind the cabin is not a suitable location to which their cabin should be relocated.

Lamer closed the public hearing for the Schroeder request. The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

Motion by Hornischer, seconded by Brixius to deny the original request but authorize the razing and rebuilding of the old cabin within the current footprint and to the same livable area, subject to meeting all mitigation requirements of the Zoning Ordinance.

Motion carried all ayes.

5. Approval of 2011 Board of Adjustment hearing schedule – Motion by Hornischer, seconded by Steffenhagen to approve the proposed schedule for 2011. Motion carried all ayes.
6. Discuss and set date for February 2011 for annual Training / Audit meeting – February 17<sup>th</sup> was set for the date.
7. Adjourn – Motion by Steffenhagen, seconded by Adams to adjourn at 10:49 a.m. Motion carried all ayes.