

**Lincoln County Board of Adjustment
Minutes of Thursday, March 28, 2013 at 8:30a.m.
Lincoln County Service Center, Meeting room #156**

1. Open meeting and Call to Order – Meeting was called to order at 8:30 a.m. in the Zoning Office. Members present: Lamer, Hornischer, Steffenhagen & Alternate Prain. Also present were Diane Hanson; Land Services Administrator and June Winters; Program Assistant. Board Member Brixius & Alternate Rausch will meet the rest of the Board at the tour site. Board member Adams was excused.
2. Tour the Kaprelian site in the Town of Wilson for the Public Hearing to be held at 10:00 a.m. – The Board members that were present & Hanson left to tour the site.

Members present for the public hearing: Lamer, Hornischer, Steffenhagen, Brixius, Alternates Prain & Rausch. Visitors: Diane Hanson; Land Services Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant and 2 others. Board member Adams was excused.

3. Approve minutes from the November 15, 2012 meeting - Motion by Hornischer, seconded by Brixius to approve the minutes from November 15, 2012 meeting. Motion carried all ayes.
4. Public Hearing – The public hearing was opened for the request listed below. Before Chairman Lamer proceeded with the public hearing, Hornischer asked to be recused from item #1 on the public hearing. Alternate Board Member Rausch took his place.

Variance

1. A request for a variance Margaret Schulz Family Trust and Daniel Schulz from sections 21.07(1) of Lincoln County Ordinances to allow for a patio less than 75' to Lake Alexander. The property is located in Section 31, T32N, R06E, in the Town of Harding and has an address of N2688 Alexander Lake Road.

Steve Schulz was present and was sworn in. He said that after the original variance was concluded he contacted contractors and was told that if the concrete patio were to be removed there may be safety issues for the large rock wall surrounding the patio/fire pit. He contacted another contractor and was told the same thing; that removing the patio would compromise the integrity of that rock wall. He stated that the patio/fire pit area is a pervious surface because of "saw cracks" in the patio and no liner in the fire pit and that if sod was placed over the patio the concrete under it would deteriorate. Schulz stated that he had originally replaced the 40 year old railroad ties with the boulders for erosion control. The patio and deck have actually acted as erosion control measures also.

Schulz commented on a letter that was submitted by Thomas Blake requesting the variance be denied and Schulz stated that when this issue first started, there was DNR personnel on the site that approved of the erosion control measures. He doesn't think that Mr. Blake has seen the site and feels he could not comment accurately on the request. It may be, as Mr. Blake says, a "self-imposed" hardship but it comes down to a safety and liability issue. Schulz commented that they have guests that are in wheel chairs and the concrete patio & walkway work better for them than grass would. He also mentioned a ravine on the property that may be affected (chance of erosion) by changes to patio and/or rock retaining wall that result in changing the slope of the driveway.

Brixius commented that she was glad that Schulz got a professional opinion and wondered if removing the patio or rock wall may create a problem with the foundation of the home. Schulz said that he had not considered it but it could potentially be an issue.

Schulz also stated that he is the first driveway on Lake Alexander Rd and when there is run-off from the town road it creates a problem for the first driveway and he is considering blacktopping the driveways but unless the slope of the town road is altered to resolve that problem there may be washout from the run-off.

Dan Bowers, Zoning Specialist, was present and sworn in. He reviewed the staff report for the re-hearing and some of the original variance request. After the first decision was made there were discussions with Mr. Schulz and he referenced a photo that had been marked up indicating what needed to be removed and what could remain. Schulz in that conversation indicated concerns about the integrity of the rock wall and Bowers said that they had agreed on allowing an "apron" of the concrete to be left in place to help strengthen the wall. Bowers also stated that there was more screening of the retaining wall that needs to be done to satisfy the conditions of the original variance.

Bowers discussed the original onsite that he had been at Schulz's site with the DNR but what was said at that onsite was in no way a formal approval of the work that had been done. He also stated that Tom Blake at the DNR had recommended denial of the original variance due to lack of hardship. Bowers referenced a variance request that had been made up on Crystal Lake. It was very similar to this request and the Board had granted that variance and the Board was sued by the DNR. Lamer had comments on that request. The land owner was ultimately required to remove part of what was granted under that variance. Brixius said that she appreciates both sides of the argument. She is wondering if our solutions are sometimes more damaging than the existing problems. Bowers stated that he doesn't believe that this new information is enough to justify granting the variance. There were several comments from Lamer on the requirements placed on lake property owners by the regulations that are in place. Bowers agreed that we do ask lake property owners to take additional steps to protect the public interest of the waterways.

Brixius had questions about the buffer requirement on the Schulz property. Bowers said that removing the patio was the condition for leaving the retaining in addition to the screening & buffer requirements. Brixius and Bowers discussed the need for an engineer's professional opinion to help make a determination on this request. Bowers stated that with this being an after-the-fact request it makes a resolution complicated.

Rausch asked how long the patio has been in place. Bowers did not have that answer. Prain stated that he was familiar with the original railroad tie retaining wall. He feels that manmade erosion control definitely helped as opposed to leaving it natural. Brixius has concerns that a precedent is set by continually letting people get variances granted when it is done after the fact but she doesn't want to make a situation worse by not considering a solution that is presented. She is hesitant to act on this request not knowing all the facts.

Bowers is asking that the variance be denied however, if the Board feels that it should grant this request, he is recommending that the large deck around the boat house be removed to mitigate the impervious surface that will be left if the patio remains.

Lamer asked Schulz to return to the podium. He answered a question that had previously been asked about the front of the retaining wall and said there is a space where there is vegetation planted. He explained the changes from the original wall to this rock one. Brixius asked Schulz if he would be willing to get an engineer's professional opinion and Schulz said that he thought he had enough new information for this request but if it would help he would be willing to get a professional

opinion from a professional engineer. Schulz commented on some of the issues that he has had with this request and also in building his new home on the adjoining lot.

Chairman Lamer read into the record a letter received from Thomas Blake at the Wis. DNR dated March 27, 2013 asking for denial of the request. June Winters said that a letter had been received from the Town of Harding indicating no objection to the Schulz variance request when discussed at their March 12, 2013 meeting.

Chairman Lamer closed the public hearing for the Schulz request.

There was discussion by the Board and they did not start deliberation. There was a motion by Brixius, seconded by Steffenhagen to LAYOVER the request until the applicant provides more definitive information from an engineer. Motion carried all ayes.

Board member Hornischer returned to the table for the next request and Alternate Rausch joined the audience.

2. A request for a variance by Kenneth and Maggie Kaprelian from section 17.7.03 (3)(a) of Lincoln County Ordinances to allow for the construction of a dwelling on a substandard lot. The property is located in Section 21, T35N, R05E, in the Town of Wilson and has an address of W8579 Point Dr.

Bert Marvin, an employee of Tomahawk Log Homes, was present and was sworn in. He is the contractor for the Kaprelians and will be representing them today. He stated that the existing structures will be removed. Marvin explained that the existing structure is deteriorating. Hornischer asked what all they were proposing and Marvin said it will be a seasonal dwelling with a conventional septic. Brixius asked the dimension of the existing and proposed. Marvin said the existing was 471 sq. ft. & the proposed dwelling is 936sq.ft.

Dan Bowers was present and acknowledged being sworn in. He explained the need for the variance being that the lot, even though existing, is sub-standard in size and requires the variance. He reviewed the staff report with the conditions that zoning staff feel would mitigate the issues.

Hornischer asked if Kaprelian would be allowed any accessory structures and Bowers stated that until he reached the impervious surface maximum he would be afforded other structures.

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

Motion by Steffenhagen, seconded by Prain to APPROVE ON CONDITON the variance request with the recommendations on the staff report.

Conditions:

- 1) The lot shall not be occupied by more than 20% impervious surfaces as defined by Lincoln County. (Lot size = 8,100 x 20% = 1,620 square feet of impervious surfaces maximum)
- 2) A certified survey map be created by a licensed surveyor and recorded with the register of deeds.
- 3) All other applicable regulations are adhered to.

Motion carried all ayes.

6. Adjourn – Motion by Steffenhagen, seconded by Hornischer to adjourn at 11:19 a.m. Motion carried all ayes.