

**MINUTES  
MARATHON COUNTY BOARD OF ADJUSTMENT**

Members present in person: Richard Lawson

Members present remotely: Karen Piel, Arnold Schlei, Roger Zimmerman, and Carolyn Opitz

Members not present: Jim Servi, Kerry Brimmer

Also present remotely via phone / WEBEX or in person: Teal Fyksen, Diane Hanson, Dominique Swangstu, Lane Loveland, Cindy Kraeger, Morgan Tollard, Andy Lynch, Paul Daigle, Jean Kopplin, Cory Lang, Edward and Annmarie Wolf, Matt Eslinger, Dustin Albert, Michael Vaughn, Don Genrich, Dan Higginbotham, Seth Hornung and Mark Kolbe.

**Called to order** at 9:00 a.m., 210 River Drive, Wausau by Vice Chair Lawson, who explained the **rules of the hearing** and the reason for the establishment of the Board of Adjustment.

**1. Approve November 19, 2020 minutes – Motion** / second by Piel /Zimmerman to approve the November 19, 2020 minutes as distributed. Motion **carried** by voice vote, no dissent.

**2. The application** The application of American Asphalt of WI for a conditional use permit per 17.203.05 (table 3) and 17.204.62 of the Marathon County General Code of Ordinances Chapter 17 for the purpose of placing a temporary asphalt plant in an existing, permitted, nonmetallic mine located within the F-P Farmland Preservation district. The parcel is described as part of the NE ¼, NW FRL ¼, Section 3, T27N, R3E, Town of Eau Pleine further described as PIN# 020.2703.032.0999

Teal Fyksen was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Fyksen explained the staff report Exhibit 1 which was included in the meeting packet. Fyksen discussed the proposed hours of operation are Monday through Saturday 6 am to 7 pm. Fyksen mentioned the applicant is requesting a two year timeframe. There are no active or past violations on the property.

Opitz questioned the hours of operation. Fyksen explained the code allows hours of operation from 7 am to 7 am Monday through Friday. Fyksen stated a Conditional Use Permit was granted in 2018 with the extended hours of operation.

Matt Eslinger was sworn in and is staying consistent with the past Conditional Use Permit that was issued in 2018. The work is anticipated to start in mid-May and to be completed by November 1, 2021.

Vice Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 9:21 a.m.

**Motion** / second by Piel / Schlei to **grant** the conditional use request to allow a temporary asphalt plant in an existing nonmetallic mine is valid for 2 years from today; with operating hours of 6 am to 7 pm Monday – Saturday.

The Board deliberated and completed the Conclusion of Law and Decision Sheet

Motion **carried** 5 yes, 0 no, roll call vote.

**3. The application** of Edward and Annmarie Wolf for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential district, described as NW ¼ SW ¼ Section 4, Township 26N, R2E, Town of Spencer, described as PIN# 074.2602.043.0005 with a property address of: 208825 Andrews Rd. Spencer, WI 54479

Teal Fyksen was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Fyksen explained the staff report Exhibit 1 which was included in the meeting packet. Fyksen discussed Ordinance Section 17.401.02 related to the construction of the detached accessory structures outside of the building standards. The code allows for 1200 square feet of floor area, 14' side walls, 24' overall height, 12' overhead garage doors. This application is for 1800 square foot detached accessory structure with 16 side wall height, 14' garage door height and a maximum height 25'. The detached accessory structure would be used for storage of personal items. There are no active or past violations on the property. All other applicable regulations will be met.

Lawson discussed if the size is substantial or unusual in the general area. The town did not have any concerns listed on the resolution.

Edward Wolf was sworn in and is the owner of the parcel. The detached accessory structure will be used for storage of his personal items.

Vice Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 9:35 am.

**MINUTES  
MARATHON COUNTY BOARD OF ADJUSTMENT**

**Motion** / second by Piel / Zimmerman to **grant** the conditional use request, without any additional conditions.

The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion **carried** 5 yes, 0 no, roll call vote.

**4. The application** of Edward and Annmarie Wolf for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure prior to a principle structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential district, described as NW ¼ SW ¼ Section 4, Township 26N, R2E, Town of Spencer, described as PIN# 074.2602.043.0006

Teal Fyksen was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Fyksen explained the staff report Exhibit 1 which was included in the meeting packet. Fyksen discussed Ordinance Section 17.401.02 related to the construction of the detached accessory structures prior to the principle structure for personal use. The code allows for 1200 square feet of floor area, 14' side walls, 24' overall height, 12' overhead garage doors. This application is for 1800 square foot detached accessory structure with 16 side wall height, 14' garage door height and a maximum height 25'. The detached accessory structure would be used for storage of personal items. There are no active or past violations on the property. All other applicable regulations will be met.

Edward Wolf was sworn in and is the owner of the parcel. The detached accessory structure will be used for storage of his personal items. Wolf is not planning on building a principle structure on the parcel.

Piel questioned if there was discussion at the Town Board meeting regarding a principle structure being built on the parcel. Wolf did not attend the meeting. Fyksen stated there were no conditions included on the Town Resolution.

Vice Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 9:47 am.

**Motion** / second by Zimmerman / Opitz to **grant** the conditional use request, without any additional conditions.

The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion **carried** 5 yes, 0 no, roll call vote.

**5. The application** of Cory Lang for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential zoning district, described as part of the NE ¼ SE ¼ Section 13, Township 28N, R06E, Town of Marathon, described as PIN# 054.2806.134.0971 with a property address: 146101 Crocus Road, Wausau WI 54401

Dominique Swangstu was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Swangstu explained and reviewed the staff report Exhibit 1 which was included in the meeting packet. Swangstu discussed Ordinance Section 17.401.02 related to the construction of a detached accessory structure exceeding the dimensional limitations within the L-D-R zoning district standards. The zoning code allows for maximum 1,200 square feet of floor area, 14' side walls, 24' overall height, 12' overhead garage doors. This application is for 1728 square foot detached accessory structure while meeting all other applicable dimensional and setback standards. The detached accessory structure would be used for personal use. Additionally, the structure has not started and there are no active or past violations on the property. All other applicable regulations will be met.

Lawson asked staff if there were any active violations onsite and Mr. Swangstu stated there are not active or past zoning violations onsite.

Cory Lang was sworn in and is the owner of the parcel in question. He reiterated that the detached accessory structure would be used to store his personal items including vehicles and recreational vehicles. Additionally, he had noted that the proposed location of the building will be screened from the road and adjacent residentially zoned parcels.

Lawson discussed that the proposed size is smaller and/or very similar in size to those other detached accessory structures in the area. Lang agreed.

Vice Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 10:04 am.

**Motion** / second by Schlei / Zimmerman to **grant** the conditional use request, without any additional conditions.

The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion **carried** 5 yes, 0 no, roll call vote.

**MINUTES  
MARATHON COUNTY BOARD OF ADJUSTMENT**

**6. The application** of Michael Vaughn for a variance from the terms of Section 17.202.03(F) of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for a variance to the setback requirement to the town road to construct a single family home, described as part of Govt Lot 1- Lot 2 Town of Elderon Section 18, T27N, R10E, PIN # 022.2710.185.0986 with a property address: 215250 Lakefront Drive, Hatley WI 54440

Dominique Swangstu was sworn in and noted that the Town of Elderon had supplied a town resolution and recommendation regarding this variance, yet it was received by the department after the creation of the staff report. Swangstu explained and reviewed the staff report Exhibit 1 which was included in the meeting packet. Swangstu explained the slight discrepancy in the towns future land use map. A composite of several site plans were merged into one document which was included in the packet. The proposed development location on this parcel is not located in a mapped floodplain or DNR mapped wetlands. The parcel and proposed development is located with the shoreland overlay district given the parcel is directly adjacent to Pike Lake, therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply. The standard minimum setback to the Road Right of Way (ROW) is 30'. The standard minimum setback to the centerline is 63'. The proposed setback to the ROW is 16.5' and the setback to the Centerline is 43.2'. Swangstu stated a vast majority of the structures are non-conforming due to the ROW or centerline. The town road – Lakefront Drive is a 3 rod road (48 feet wide) whereas, the standard for town roads is 4 roads wide (66 feet). The Town resolution was received by the department with the recommendation of approval for the variance, with no recommended additional conditions. All other applicable regulations will be met.

Schlei asked staff that it appears the lots to the west are also close to the road, is that correct. Swangstu responded and agreed that adjacent lots in the area are also close to the road. Swangstu also stated the majority of the properties on Pike Lake are either non-conforming as it relates to the road setback and/or the Ordinary High Water Mark setback.

Piel questioned the prior use of the lot. Swangstu stated it was and is vacant but the owner is in attendance and can provide more information regarding the existing and past uses onsite.

Michael Vaughn was sworn in and is the owner of the parcel. Vaughn stated nothing is on the lot and they have used it for camping. He stated that when he purchased the lot in 2001 and was planning to build in 2007 the lot conformed to the standards yet currently does not meet the standards given it is substandard. Vaughn also stated that the Sanitary Permit has been issued. Vaughn provided and explained Exhibit 6, which had some additional information regarding the sub-standard status of the lot. He also stated a Certified Survey Map (CSM) was completed by Dan Higgenbotham of the property and adjacent properties. The CSM clearly displays how this new construction will “fit” the neighborhood because of it is a similar distance to the road as the neighbors. Vaughn referenced code section 17.805.13 non-conforming lots of record which was also referenced in Exhibit 6. Vaughn was ready to build and was notified the setback to the road has changed.

Lawson asked and verified with the applicant that the request for a variance was not related to a self-created hardship given the parcel was created prior to the current zoning standards.

Piel asked the applicant when he purchased the property and he responded in 2001. It was also explained that at the time and in 2007 Vaughn obtained permits for the new home construction onsite and was unable to start or complete the project. Vaughn had stated since 2007 the standards have changed which is why he is requesting the variance to the road.

Don Genrich was sworn in and is in opposition to the variance request. He noted that the homes to the east of the parcel in question are setback much farther than others, nearly 75 feet. Genrich is concerned with the setbacks; parking on the street which may cause a traffic hazard, as well as agrees it would be impossible for Vaughn to build onsite while meeting the minimum road setback. Genrich is also concerned that it is listed as a cabin on the application and may be used for a seasonal rental in the future.

Schlei asked staff what the setback to the road was for the parcel to the east of the parcel in question, as well as asked if the lot was non-conforming. Staff addressed the questions and clarified the differentiation between the minimum road setback and the Ordinary High Water Mark (OHWM) setback. Swangstu also noted the home to the east of parcel in question is closer to the OHWM than what is being proposed on the Vaughn property.

Discussion occurred by the committee members regarding the setback from the Ordinary High Water Mark (OHWM) of 75'. Swangstu stated most properties on Pike Lake are non-conforming to the OHWM or setbacks.

Piel questioned the parking on the street and what is typical for the lots in the area. Vaughn indicated people to the east all have onsite parking and some of the existing parcels have parking on the roadway. Vaughn stated there will be enough space for at least one car onsite and also stated people can park across the street on his other parcel.

Lawson asked the applicant if there would be any issue with the possible condition being placed on the conditional use permit addressing no on street parking. Vaughn agreed that would be no issue if the board were to do so.

Dominique Swangstu read into the record the emails received in opposition to the Michael Vaughn variance:

Exhibit 2 - Jeff Adams – 214580 Lakefront Drive Hatley – in opposition of the variance.

## MINUTES MARATHON COUNTY BOARD OF ADJUSTMENT

Exhibit 3 - Ron Retzke – 215396 N Shore Drive Hatley - Stated he built on the lake following all zoning ordinances.

Exhibit 4 - Bruce and Lynn Voss – 215270 Lakefront Drive Hatley - Concerns include: Traffic / blind spot on road; parking, septic tank location; well location; block/rock wall planned; additional fill; proper drainage.

Exhibit 5 – Mark and Diane Goltz – Concerned with lot has been vacant was not to be developed; concerned about road setbacks; vehicle traffic; mitigation; POWTS under a private road; decrease in property value.

Loveland, provided some additional information and insight regarding the changes in the shoreland and general zoning standards and requirements, specifically regarding sub standards parcels.

Swangstu replied to the emails that pertained to the Chapter 17 Zoning Code inquires as well as discussed ACT 67 which was passed in 2017 which addresses sub-standards parcels.

Piel stated her concern with the written testimony regarding the curve and steep incline. Loveland stated Lakefront Drive is busy and does have a steep slope but stated it is not substantially different from any other houses or properties on the road. Loveland also addressed that the applicant stated that individuals could park across the street on the other property owned by Vaughn, yet Loveland stated ownership could change and that option may not be available in the future.

Lawson, asked Loveland if there were any slow or other cautionary signs on the town road. Loveland responded that he was not aware of any town signs but did remember seeing a slow children at play sign that would have been placed by a resident on private property. The town has the ability to post signs on Lakefront Drive

Schlei questioned the POWTS system under the road if the property was ever sold as well as asked about future parking. Swangstu discussed the property owner could pursue getting easements (for parking or POWTS). Yet, Vaughn would be required to establish an easement for the sanitary components if and when property ownership changes on either lot.

Vice Chair Lawson asked for any additional testimony.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 10:54 a.m.

**Motion** / second by Zimmerman / Schlei to **grant** the variance request.

The Board deliberated and completed the Conclusion of Law and Decision Sheet, as well as verified there would be no additional conditions on the variance given the town has the ability to post signs on the town road to prevent on street parking.

Motion **carried** 4 yes, 0 no, roll call vote. Opitz recused herself from the voting process due to technology problems.

*Chair Lawson called for a 15 minute recess.*

*Hearing resumed at 11:15 a.m.*

**7. The application** of Seth Hornung for a variance from the terms of Section 17.202.03(F) of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for a variance to the setback requirement to the town road to construct an addition onto an existing home, described as part of NW ¼, SE ¼, Section 34, T26N, R07E, Town of Knowlton, PIN # 048.2607.344.0026 with a property address: 152179 Greenview Drive, Mosinee WI 54455

Dominique Swangstu was sworn in and explained the staff report Exhibit 1 which was included in the meeting packet. The proposed development location on this parcel is not located in a regulatory floodplain or DNR mapped wetlands. Yet, as shown in the staff report there is mapped floodplain onsite, but a Letter of Map Amendment (LOMA) was approved by FEMA removing the vast majority of the parcel from the regulatory floodplain. The parcel and proposed development is located with the shoreland overlay district given the parcel is directly adjacent to Lake Dubay (Wisconsin River), therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply. Swangstu stated the existing home is non-conforming. The standard minimum setback to the Road Right of Way (ROW) is 30'. The standard minimum setback to the centerline is 63'. The proposed setback to the ROW is 20.2' and the setback to the Centerline is 35.4'. Swangstu stated a few other structures along Greenview Drive are non-conforming as it relates to the ROW and/or centerline setback. It was also noted that the town road – Greenview Drive is a 2 rod road (33 feet wide) whereas, the standard for town roads is 4 roads wide (66 feet). The Town resolution was received recommending approval of the variance with no recommended additional conditions. All other applicable regulations will be met.

Lawson asked if there were any questions for staff by the board.

Zimmerman asked staff if there were any discussions about expanding the 2 rod road to make it standard in width which is 4 rods wide. Swangstu stated it was discussed at the town level and also explained that if the town were to expand the road, (given there are existing homes and parcels to the south) the road would need to be expanded to the north. If the road was expanded to the south the homes on Greenview Drive would become more non-conforming as it relates to the road setback.

**MINUTES  
MARATHON COUNTY BOARD OF ADJUSTMENT**

Seth Hornung was sworn in and is the owner of the parcel along with Sage Brooks. The parcel was purchased on July 1, 2020. Hornung stated this would be a permanent residence. There would be very little public impact based on the parcel location. The road turns into a gravel road near the parcel. Hornung also explained other existing factors onsite which is guiding the request and need for a variance. The proposed home addition would allow for the cars to be parked inside instead of being parked outside and on the road. Additionally the home addition would allow the home to become a full time residence.

Lawson questioned the current use of the garage. Hornung replied it is used to park cars.

Piel questioned if the proposed addition would be closer to the road than the existing home, and the applicant stated it would be closer to the road than the existing non-conforming home. Swangstu provided clarity regarding the question regarding if the addition would be no closer to the road or not by explaining that the statement was made that home would be no closer to the OHWM than the current structure.

Lawson asked for any additional testimony.

Dominique Swangstu read into the record an email received in opposition to the Seth Hornung variance.

Exhibit 2 – Rolf & Joan Reitz – 200985 Waterview Drive Knowlton Concerns include: rain and snow melt are not increased on their property; landscape contouring to avoid water backing; fertilized water into Lake DuBay.

Vice Chair Lawson asked for any additional testimony or follow up questions regarding the public comment.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 11:34 a.m.

**Motion** / second by Piel / Schlei to **grant** the variance request.

The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion **carried** 5 yes, 0 no, roll call vote.

**8. Board education and training as needed** – None.

**9. Announcements and Requests** – Loveland mentioned Dominique Swangstu will be the lead on the BOA applications involving Zoning changes and Teal Fyksen will take the lead on nonmetallic mining site applications.

**Next meeting date** – April 22 at 9:00 am, 212 River Drive, Wausau Room 5 / remotely

**10. Meeting adjourned** – **Motion** / second by Piel /Opitz to adjourn at 11:40 am. Motion **carried** by voice vote, no dissent.

Respectfully submitted,  
Arnold Schlei, Secretary  
Marathon County Board of Adjustment

RL/cek

cc: Board of Adjustment (7), County Clerk, Town Clerk

O:\ZONING\BOARD\_OF\_ADJUSTMENT\MEETINGS\2021\2\_25\Minutes\BOAD\_20210225\_Minutes.docx