# Kenosha 

Zoning Board of Adjustment Agenda
Kenosha County Center, Conference Room A
December 17, 2020
Notice is hereby given that a meeting will be held by the Zoning Board of Adjustment Committee on Thursday, December 17, 2020 at 6:00 p.m. at the Kenosha County Center Conference Room A, 19600 75th Street, Bristol, Wisconsin on the following requests:

## 1. TIMOTHY \& PATRICIA SAEWERT - VARIANCE APPLICATION - TOWN OF RANDALL

TIMOTHY \& PATRICIA SAEWERT 1525 W. Talcott Rd., Park Ridge, IL 60068-4452 (Owner), Jeff Auberger, Stebnitz Builders, 204 Commerce Ct., Elkhorn WI 53121 (Agent), requesting a variance (Section IV. C. 12.21-3(g)1: which states that structures shall be located not less than 30 feet from the right-of-way of all other roads) to construct a residential addition to be located 26.5 feet from the right-of-way of 406th Avenue on Tax Key Parcel \#60-4-119-182-0480 Town of Randall.
Documents:

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SUBMITTED APPLICATION.PDF EXHIBIT MAP.PDF
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## 2. CITIZEN COMMENTS

3. APPROVAL OF MINUTES
4. OTHER BUSINESS ALLOWED BY LAW
5. ADJOURNMENT

## NOTICE TO PETITIONERS

The petitioners: Timothy \& Patricia Saewert shall be present at the hearing on Thursday, December 17, 2020 at 6:00 p.m. at the Kenosha County Center, Conference Room A, 19600 75th Street, Bristol, Wisconsin. You should also meet with your Town Planning Commission and/or Town Board before the date of this hearing. Petitioners in the Town of Somers will meet with the Town Board of Appeals.

## NOTICE TO TOWNS

The Town of Randall is requested to be represented at the hearing on Thursday, December 17, 2020 at 6:00 p.m. at the Kenosha County Center, Conference Room A, 19600 75th Street, Bristol, Wisconsin. You are requested to either attend or send in your recommendation to the Board.

## Department of Planning and Development

## VARIANCE APPLICATION

## owner: Timothy Saewert

Mailing Address: 1525 W. Tallcott Rd
Park Ridge, IL 60068
Phone Number(s): 847-544-9222

## RECEIVED

## NOV 172020

Kenosha County
Planning and Development

To the Kenosha County Board of Adjustment:
Please take notice that the undersigned was refused a Zoning Permit by the Kenosha County Department of Planning and Development for lands described below for the reason that the application failed to comply with the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance. The owner or assigned agent herewith appeals said refusal and seeks a variance.
Parcel Number: 60-4-119-182-0480 Zoning District: R-3 $\quad \square$
Property Address: 8847 406th Ave Powers Lake WI 53159
Subdivision: $\qquad$ Lot(s): $\qquad$ Block: $\qquad$
Current Use: Residential Home and detached garage
Proposal: Residential Home with an Addition (the detached garage will not be affected) The current challenge \& reason for the variance request is based on the distance from an oddly placed

ROW. to the proposed addition location, dimension to proposed is about $26.5^{\prime}$ ordiance requires $30^{\prime}$.


An Area Variance is authorization by the Kenosha County Board of Adjustments to vary one or more of the dimensional or physical requirements of the applicable zoning law, code or ordinance in connection with some proposed construction.
The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.
(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:
(A) Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

1) Alternatives would require complete removal of the building and foundation and to construct all new in compliance with the $30^{\prime}$ ROW setback (the space that could be gained on the west side of the building cannot function logically as a typical space (about 8.5 ' would be the width of the room)
A) Due to the existing footprint and structural design of the existing building (pre addition), the only compliant options would cause virtually all work to occur on the lake-side of the home and unneccessarily make the existing rooms and current use illogical. As mentioned in (\#1) the small amount of expansion to the west (8.5') could not accomodate normal useage We've considered razing the complete existing residence and foundation, constructing all new, but this seems unnecessary and wasteful, especially considering the integrity of the existing structure
(B) Alternatives you considered that require a lesser variance. If you reject such alternatives, provide the reasons you rejected them.
B) Conversations with County and Town officials offered this alternative: Vacate the R.O.W. in question (approximately $6.5^{\prime}$ in width (east-west) and $16.5^{\prime}$ in length (north-south)). It seems generally agreed the ROW serves no purpose and its creation pre-dates County-wide Zoning.
The reason this Alternative is rejected is that it will require significantly more: 1) people to be involved, 2) attorney involvement by all parties), 3) time to complete 4) cost to achieve, and, generally the Town would rather not give-up ROW's as they are very difficult to regain.
(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

## VARIANCE APPLICATION

2) We (based on conversations with Town and County officials) believe the ROW should not exist, that it serves no purpose, and that the hardship is one inflicted unintentionally and unknowlingly and without purpose during the original platting process. The creation of this water-front property (along with so many in our area platted in similiar time-frames) did not consider what life and needs would look like in 2020....most of these were created as small weekend summer cottage lots and many don't meet current standards. The planned addition is pushed-back as far as it can be to work logically with the existing foundation and floor plan and simple hardship is that it cannot function as a year round home in its current format.
(3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain.
Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.
3) The unique physical characteristic of the property which prevent compliance are two fold:
4) The first is the very small platted ROW (coupled with the zoning laws implemented after the cottage was constructed)
5) The second, there is not enough space to construct a private septic field on the remaining property if the home was pushed back to comply (without the loss of all trees on the lake-side of the property)
(4) What would be the effect on this property, the community or neighborhood and the public interest if the variance was granted? How can these impacts be mitigated.
These interests are listed as objectives in the purpose statement of an ordinance and may include: drainage, visual impact, and fire safety and building code requirements.
6) We believe there is no negative affect to the property, the neighbors or the community in granting this variance. The subject property is at the end of rarely traveled road (except to serve this and one other residence). The addition is set-back from the road five feet further than the existing structure. If the oddly placed ROW did not exist, the zoning permit would be issued and the addition would be deemed compliant. The degree of relief is about $3.5^{\prime}$

The undersigned hereby attests that the above stated information is true and accurate and further gives permission to Planning \& Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Owners Signature:
Agent: Jeff Auberger - SBI Signature:
Agents Address: 204 Commerce Ct. Elkhorn, WI 53121
Phone Number(s): 262-723-7232 (o) 262-379-4299 (c)

| From: | Jeff Auberger [jeff@stebnitzbuilders.com](mailto:jeff@stebnitzbuilders.com) |
| :--- | :--- |
| Sent: | Tuesday, November 17, 2020 11:24 AM |
| To: | Benjamin Fiebelkorn |
| Subject: | FW: E-mail Authorization |

Please see below.
Thanks, Jeff

Sent from my U.S.Cellular® Smartphone
-------- Original message --------
From: Patricia Saewert [cruzfr2@aol.com](mailto:cruzfr2@aol.com)
Date: 11/16/20 10:07 PM (GMT-06:00)
To: Jeff Auberger [jeff@stebnitzbuilders.com](mailto:jeff@stebnitzbuilders.com)
Subject: E-mail Authorization

To whom it may concern,
Our names are Timothy and Patricia Saewert, owners of the subject property known as 8847406 th Ave., Powers Lake, Wisconsin
53159, also identified as tax key 60-4-119-182-0480.

This e-mail shall serve as notice that we authorize Jeff Auberger of Stebnitz Builders Inc., to act as our representing agent for activities related to the Variance Application at both the Town and County.

If you have any questions, Tim can be reached by phone at 847-544-9222.

Thank you for your consideration,

Sincerely,
Timothy Saewert
Patricia Saewert

Jeff Auberger

From:
Sent:
To:
Subject:
Attachments:

Kate DeLazzer [kate@slpandh.com](mailto:kate@slpandh.com)
Thursday, September 17, 2020 12:37 PM
Jeff Auberger
RE: Saewert Septic System
noreply@slpandh.com_20200917_123612.pdf

Jason drew on this for you-
Kate De Lazzer
Plumbing Sales
Southern Lakes Plumbing \& Heating, INc.
N5860 US HWY 12
Elkhorn, WI 53121
Direct Line 262-723-9161
Office Hours: Monday-Thursday 8:30-4:30


From: Jeff Auberger [jeff@stebnitzbuilders.com](mailto:jeff@stebnitzbuilders.com)
Sent: Wednesday, September 16, 2020 2:42 PM
To: Jeff Flitcroft [jeff@slpandh.com](mailto:jeff@slpandh.com); Kate DeLazzer [kate@slpandh.com](mailto:kate@slpandh.com)
Subject: Saewert Septic System

Hi Jeff,

Attached is a survey of the Saewert project on Powers Lake. Jason did the soil test for us. The client hopes to not lose the two trees (which are shown generally correctly here) I suspect Jason will know if he felt the system could fit (as I've shown it) or not....again, can we do the system without impacting the two trees.

We are VERY close to signing (we presented today and expect to sign early next week) but we would like an answer to this question. Please review and advise at your earliest opportunity.

THANKS!

Best,

Jeff Auberger
Construction Consultant - Designer

## Mr STEBNITZ BUILDERS

p: 262.723.7232
ff: 800.410.8027
w: Stebnitz Builders, Inc
c: 262.379 .4299
a: 204 Commerce Court, \#3, Elkhorn, WI 53121

 Were moveo to soutk sioe of home (To be compliant) a prinate SEPTIL CANNOT/WILL NOT FIT ON THE SITE WITHITS REDURREO SETBACK - THE TANK PLALEMENT. AND FIELD WERE DESICNEO DY SOUTIENN LAKES PLUMBINA \#'HEATINC (SEE ATHHIHED E.MAIL)




ORIGINAL
NORTH ELEVATION


ORIGINAL
WEST ELEVATION $\qquad$


ORIGINAL
SOUTH ELEVATION $\qquad$


ORIGINAL
EAST ELEVATION Sale ine $=1$


ORIGINAL
FOUNDATION $\qquad$


ORIGINAL
MAIN FLOOR
448 SQ. FT. HEATED
244 SQ. FT. PORCH



REVISED
SOUTH ELEVATION $\qquad$
EXTERIOR MATERIALS:
SIDING: ${ }^{\text {" }}$ LOG SIDING
TRIM: 2 X6 CORNERS
FASCIA: 1 X6 EVES \& 2 X10 GABLES W/ 1 X6 RAKE BRD. GABLES WITH SHAPED TAIL SOFFIT: 3/8" PLY VENTED
STONE: PER ELEV. W/ STONE SILL


REVISED



REVISED
WEST ELEVATION $\qquad$


REVISED
EAST ELEVATION

EXTERIOR MATERIALS:
SIDING: ${ }^{\text {" }}$ LOG SIDING
TRIM: 2X6 CORNERS
FASCIA: 2X4 EVES \& $2 \times 8$ W/ 1X3 RAKE BRD. GABLES WITH SHAPED TAIL SOFFIT: 38" PLY VENTED STONE: PER ELEV. W/ STONE SILL




