

Rock County Board of Adjustment
51 South Main Street
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ROCK COUNTY, WISCONSIN

**ROCK COUNTY BOARD OF ADJUSTMENT
WEDNESDAY – September 28, 2011 6:00 P.M.
COURTHOUSE CONFERENCE CENTER, SECOND FLOOR
ROCK COUNTY COURT HOUSE
JANESVILLE, WI**

ORDER OF PRESENTATION FOR GENERAL HEARING

1. State nature of the case by the Chair.
2. Applicant presents case.
3. Questions by Board Members to applicant.
4. Zoning Administrator/Corporation Counsel rebuttal.
5. Questions by Board Members to Zoning Administrator/Corporation Counsel.
6. Statements verbal or written by interested parties.
7. Questions by Board Members to interested parties in attendance.
8. Applicants rebuttal to Zoning Administrator/Corporation Counsel and/or interested parties in attendance.
9. Zoning Administrator/Corporation Counsel rebuttal to applicant and/or interested parties in attendance.



AGENDA

- 1. Roll Call**
- 2. Adoption of the Agenda**
- 3. Reading and Approval of Minutes of Board of Adjustment meeting held April 27, 2011.**
- 4. Reading and Approval of Findings of Fact**
 - A. James Nevel**
 - B. John Kinnett / Anchor Inn**
- 5. Announcement of Decision from Last Meeting**
 - A. James Nevel**
 - B. John Kinnett / Anchor Inn**
- 6. Communications**
- 7. Reports of Committees**
- 8. Call of Cases on Agenda and Hearing of Requests for Continuance**
 - A. Kenneth & Diane Campton**
- 9. Hearing of Cases**
 - A. Kenneth & Diane Campton**
- 10. Unfinished Business**
- 11. New Business**
- 12. Adjournment**

**IF YOU DO NOT PLAN TO ATTEND THIS MEETING, PLEASE CONTACT THE
PLANNING AND DEVELOPMENT AGENCY OFFICE AT 757-5587.**



September 7, 2011

LEGAL NOTICE

Notice is hereby given that the Rock County Board of Adjustment will hear a request for a variance of the County Shoreland and Floodplain Zoning Ordinance Sections 16.34(D)(1) requiring a minimum 75-foot setback for structures and 32.06 3(A) modification of a nonconforming structure within the Floodfringe respectively. The request is being made by Kenneth & Diane Campton.

The property is located in the NW1/4 of the NE1/4 of Section 14, Beloit Township, Lot 1, CSM Vol. 4 Pgs. 257-258. More commonly known as 2908 S. Riverside Dr., Beloit, WI. The proposed variance would allow an addition to an existing single-family residence located at 2908 S. Riverside DR.

The Public Hearing will take place in the Courthouse Conference Center, second floor, east wing of the Rock County Courthouse, 51 S. Main Street, Janesville, WI at 6:00 PM on Wednesday, September 28, 2011.

Please contact the Rock County Planning & Development Agency with any questions at 608-757-5587.

Paul Benjamin
Director of Planning, Economic & Community Development

BOARD OF ADJUSTMENT APPLICATION

FOR OFFICE USE ONLY	
Appeal No. _____	Date Hearing Advertised _____
Date _____	Fee _____

Name or Owner/Agent Kenneth + Diane Campton
 Address 2908 Riverside Beloit, WI 53511

Hereby appeal to the Board of Adjustment for:

Appeal relating to: _____

A variance relating to: Shoreline 75-foot setback from the Ordinary Highwater Mark and modification to a nonconforming structure
 The description of the property involved in this application is as follows: in the Floodfringe.
 Location/Subdivision: _____

at 1 CSM vol 4 pgs. 257-258
 Lot: _____ Lot Size: 26,460 sq. ft. Present Use: Residential

Present improvements upon land: new two-car garage in front space of house

Proposed Use: private single dwelling

Note: Those property owners within 500 feet of the subject property (when located within an urban or rural development area as shown on the County Development Plan) or within 1,000 feet of said property (when located in an agricultural area as shown on the County Development Plan) shall be notified by mail by the County.

This appeal to the Board of Adjustment from the decision of the _____

whereby they denied application to: _____

VARIANCE of the following section of the Shoreland and Floodplain

Ordinance is requested: 16.34(D) 75' setback and 32.06 3(A) Floodfringe modification

(a) Strict application of the regulations would produce UNDUE HARDSHIP because _____

(b) The hardship created is UNIQUE and not shared by all properties alike in the neighborhood because the house was built before houses north and south of our property

(c) The variance would not change the CHARACTER OF THE NEIGHBORHOOD because the house 2 lots south would remain closer to the water and continue to have a higher roofline.

DATE FILED 9-7-2011 SIGNED Diane Campton
 (Applicant or Agent)

Members of the Board of Adjustment shall base any decision in a matter coming before the Board solely on those facts established in the record during the public hearing(s) held by the Board of Adjustment, and members shall refrain from communications of any sort with any interested party regarding a matter then pending before the Board.

Board of Adjustment/Appeals Findings Form

_____ Case

Case # _____

Hearing Date _____

Standards for Evaluating Variances

The variance procedure allows the dimensional standards in an ordinance to be varied in response to unusual circumstances, which constitute unnecessary hardship. Variances are not to be granted routinely. The applicant for a variance must clearly show the Board of Adjustment/Appeals that three statutory standards that govern the granting of a variance will be met. These three standards require the existence of unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest.

Unnecessary Hardship

Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome. Board members must judge what is feasible use for a particular parcel as a whole. A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with the zoning ordinance.

(A) The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of the other parcels, not one that affects all parcels similarly. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the zoning ordinance. If either circumstance renders the parcel unsuitable for any use permitted under the existing ordinance -- if all area, yard and setback requirements are observed -- the parcel may qualify for a hardship.

(B) Loss of profit or pecuniary (financial) hardship is not and of itself grounds for a variance.

(C) Self imposed hardship is not grounds for a variance. Reductions resulting from a sale of portions of a property that reduce the remainder below buildable size cuts off existing access to a public highway, deed restrictions imposed by the owner's predecessor in title, and improvements that were made in violation of the ordinance are generally considered to be self-imposed hardships.

(D) The hardship cannot be one that would have existed in absence of a zoning ordinance. Sometimes, a legitimate hardship results from the interaction of the provision of the zoning ordinance with other actions or regulations adopted by public authorities.

Test 1. Does this case meet the test of existence of unnecessary hardship? Yes No

Findings of Fact: Our home is a R-1 single family residential structure which was built many many years ago. The outside walls form an irregular shape. Part of the home (facing the highway) was built in a 1/2 story format covering 35% of the first floor.

continued

Test 1. Continued

This 35% is 384 square feet and was listed as an unfinished bedroom in 2005 when we purchased the house. It remains unfinished.

Additionally, the front south corner of the house was originally a brick/cement open porch measuring approx. 8' by 11'. About 25 years ago, the owners enclosed this area to add space to the living room - 1st floor.

Our request is to raise the external walls of the 2nd floor to a normal height resulting in 2 narrow bedrooms, narrow in that they would be longer than their width. The cement walls on the 1/2 story are 49" high for most of the current outer walls.

Drawings of the current structure and the proposed structure will be shared at meeting.

Unique Property Limitation

Unique Property Limitations where unique physical characteristics of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. These features may be wetland, soil type, parcel shape, or a steep slope that limits the reasonable use of the property.

Test 2. Does this case meet the test of a unique property limitation? Yes ___ No ___

Findings of Fact: No change in current first floor structure
no change in outer walls of lower level or first
floor walls.

Protection of the Public Interest

Protection of the Public Interest is where granting a variance must neither harm the public interest nor undermine the purpose of the ordinance. The Board actions should be consistent with the "Purpose" and "Intent" sections stated in this Ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Lack of opposition does not in itself mean that a variance will not harm the public interest.

- (A) In granting variances the Board may impose special conditions to ensure that the public welfare is not damaged. The conditions must relate reasonably to the purpose and intent established in this ordinance.
- (B) A variance should include only the minimum relief necessary to allow reasonable use of a property.
- (C) Violations by or variances granted to neighboring owners do not justify variance.
- (D) Variances are attached to the property as a permanent right. Once a variance has been granted, it is permanently attached to the property. A new owner of the property may make use of the variance that was granted to the previous owner if all the conditions that are attached to the variance are met.

Test 3. Does granting this variance harm the public interest or undermine the purpose and intent of the ordinance? Yes ___ No X

Findings of Fact: The increased height to part of the front of
the house does not interfere with visibility of the view
from any direction, whether it be neighbors or highway
traffic or boat traffic.