

Rock County Board of Adjustment
51 South Main Street
Janesville, WI 53545
Tel: (608) 757-5587
Fax: (608) 757-5586



ROCK COUNTY, WISCONSIN

**ROCK COUNTY BOARD OF ADJUSTMENT
WEDNESDAY – MARCH 31, 2010 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 Wednesday, January 27, 2010.**
- 4. Reading and Approval of Findings of Fact**
 - A. Bernard & June Partoll**
- 5. Announcement of Decision from Last Meeting**
 - A. Bernard & June Partoll**
- 6. Communications**
- 7. Reports of Committees**
- 8. Call of Cases on Agenda and Hearing of Requests for Continuance**
 - A. Ken Lemke**
- 9. Hearing of Cases**
 - A. Ken Lemke**
- 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.**



March 2, 2010

LEGAL NOTICE

Notice is hereby given that the Rock County Board of Adjustment will hear a request for a variance of the County Trunk Highway Access Control Regulations Section 17.21(2) requiring 600 feet between access points. The request is being made by Ken Lemke to construct an access for a lot.

The property is located in the SE1/4 of the NW1/4 of Section 12, Milton Township. More commonly known as 6936 E. CTH N.

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, March 31, 2010.

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

Steve Schraufnagel
Acting Director of Planning, Economic & Community Development

LG2010006

BOARD OF ADJUSTMENT APPLICATION

FOR OFFICE USE ONLY

Appeal No. _____ Date Hearing Advertised _____

Date _____

Fee _____

Name or Owner/Agent Ken Lemke

Address 6936 East Cty Rd N Milton WI 53563

Hereby appeal to the Board of Adjustment for:

Appeal relating to: _____

A variance relating to: driveway permit for access less than

The description of the property involved in this application is as follows:
Location/Subdivision:

600 feet from adjoining access point on County Highway.

Lot: _____ Lot Size: 35 acres Present Use: agricultural

Present improvements upon land: none

Proposed Use: single family home

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 _____

Ordinance is requested: sec. 17.21(2)

(a) Strict application of the regulations would produce UNDUE HARDSHIP because owner applied for and received permit in good faith, and paid for survey and installed driveway

(b) The hardship created is UNIQUE and not shared by all properties alike in the neighborhood because owner is willing to give up existing driveway

(c) The variance would not change the CHARACTER OF THE NEIGHBORHOOD because no

additional driveway would be created. The situation proposed will improve the character in relation to the present situation

DATE FILED 11-17-09 SIGNED Ken Lemke
(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.

TO: Rock County Board of Adjustment

FROM: Rock County Planning & Development Agency Staff

MEETING DATE: March 24, 2010

GENERAL DESCRIPTION

Description of Request: Approve a Variance from Section 17.21 Spacing and Frequency of accesses in the County Trunk Highway Access Control Regulations.

Location: SE1/4, NW1/4 of Section 12, Town of Milton, 6936 E. CTH N.

Applicant: Ken Lemke, 6936 E. E CTH N., Milton, WI 53563, Tax Parcel 6-13-98B

Current Zoning/Land Use: A-2 General Ag/Agricultural use

STAFF REVIEW COMMENTS

Planning staff has reviewed the petition for issues in accordance with the County Trunk Highway Access Control Regulations and has the following comments:

- The applicant requests approval of variances for the creation of an access point for a 15.4-acre lot (Plat of Survey on file in the Rock County Surveyor's Office). The Town of Milton's A-2 zoning district would allow as a permitted use, "One residential dwelling for those resident owners and workers actually engaged in the principle permitted use." If the Town of Milton determines that the owners are indeed engaged in General Farming the landowner would be allowed a house. Residential uses typically generate 10 vehicles movements per day and therefore impact the functionality of the County Trunk Highway System. The Access Control Regulations were adopted to manage these impacts by keeping access points 600 feet apart.
- The requested access point is 530 feet from the next adjoining access to the west and 330 feet from the next adjoining access to the east. That would be 2 variances of 70 feet (11.7%) and 270 feet (45%) respectively.
- The applicant asserts that an Access Permit has been issued for the 15.4-acre lot. Section 17.31(4) Permits, of the Access Control Regulations states, "Prior to the Rock County Transportation Committee (Highway Committee) action on an access application, the staff of the Rock County Planning Division shall be consulted regarding the proposed access." This did not occur prior to the Access Permit being issued by Public Works Staff. Additionally, Section 17.13(1) Right of Access allows parcels of land existing at the time of adoption of the ordinance to be entitled to an access. Since the access is needed for a new lot the applicant is not entitled to one.
- On March 10th, 2010 the Public Works Committee denied the request for the Access Permit the 15.4-acre lot.

- Potential financial hardship is not considered as a reason for granting a variance. Certainly, the Applicant had investment-backed expectations while contemplating selling his property. But, without meeting design standards the land does not have the accrued value as a property to be served by a private entrance suitable for a residence.

STAFF RECOMMENDATION

Staff recommends denial of the variances for the access along E. CTH N for Ken Lemke for the following reasons:

1. The proposed access does not meet design standards (600-feet between access points) and would compromise the safety and operations of County Trunk Highway N. Particularly in this case as E.CTH N is a vital east west corridor. The Rock County Comprehensive Plan classifies E. CTH N as a Rural Major Collector. Typically, they provide service between moderate sized communities, other inter-area traffic generators and link those generators to nearby population centers or higher classified roadways. The 2007 Average Annualized Daily Traffic Count from WISDOT is 3,300 vehicles per day. Because CTH N will have an upgraded interchange with STH 26 CTH N will take on additional importance.
2. A variance of 45% from the required 600-foot access separation is extreme.
3. The Public Works Committee has denied the Access Permit request.
4. Perceived or Potential Financial Hardship is not criteria for granting a variance.

ROCK COUNTY, WISCONSIN



Planning, Economic & Community
Development Agency
51 South Main Street
Janesville, Wisconsin 53545
Phone: 608-757-5587
Fax: 608-757-5586
Website: www.rockcounty.org

November 3, 2009

COPY

Kenneth Lemke
6936 E. County Road N
Milton, WI 53563

CERTIFIED MAIL
#7005 1820 0007 2034 6003

RE: NOTICE OF VIOLATION

Construction of driveway in violation of Rock County Access Control Regulations along E. County Road N (Parcel # 6-13-98B) Part of Section 12, Milton Township, Rock County.

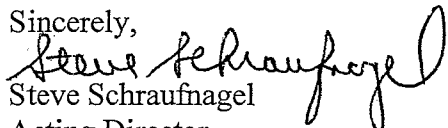
Dear Mr. Lemke,

It was recently confirmed by the Rock County Planning and Development Agency that an illegal driveway has been constructed on your property at 6936 E. County Road N which is an access control highway. Our records indicate that you are the current owner of the property. I was originally notified by a nearby concerned landowner about the driveway and visited the site to verify. I then contacted the Rock County Public Works Department to determine if a permit was issued. Highway Superintendent Hal Mayer stated that he did issue a permit. Unfortunately, the driveway does not meet Section 17.21 (2) of the Rock County Access Control Regulations that states that all new driveway locations must be a minimum of 600 feet apart from any other existing driveways on the same side of the road.

You have two options. To remove the driveway and replace the ditch line to pre-driveway construction. Second, is to apply for an after the fact variance from the appropriate section of the Access Control Regulations. The next regularly scheduled meeting of the Board of Adjustment is January 27, 2010. The deadline to get your application in to meet that meeting schedule is January 8, 2010.

Please respond back to this agency no later than November 18, 2009. Failure to address this violation in a timely fashion may result in additional penalty for this violation as per Section 17.44. The Access Control Regulations are available at the Rock County Planning Agency for your reference. I may be reached at (608) 757-5587.

Sincerely,


Steve Schraufnagel
Acting Director

CC: Ben Coopman, Public Works Director

CTH "N"

301.89'

S88°26'42"E
214.76'

2294.72'

NE CORNER OF
DOC. NO. 1675194

N1°17'20"E
985.0'

15.4 ACRES ±

1425.0'

S1°17'20"W

(REC. AS S0°57'58"E)

N1°17'20"E
57' ±
MEANDER
CORNER NO. 2

707.58'
N45°32'05"W

1070' ±

CENTERLINE OF CREEK
OTTER CREEK

MEANDER
CORNER NO. 1

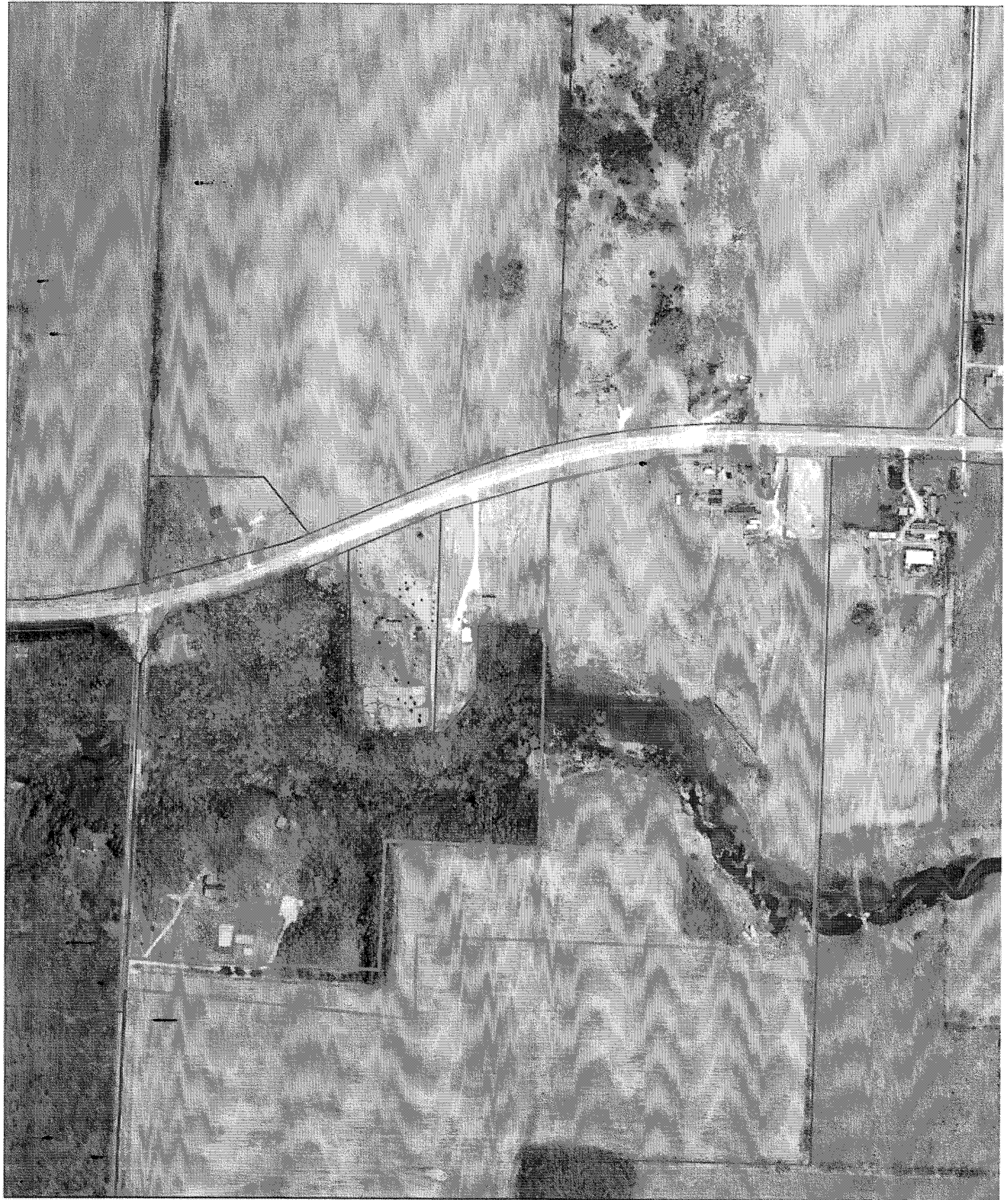
110' ±

S1°17'20"W

(REC. AS
S0°57'58"E)

S1°17'20"W 302.88'

AS S0°57'58"E



Lemke Property
6936 E CTH N
Parcel 6-13-98B
Milton Township

Legend

 TAX PARCELS

1 inch = 400 feet

Airphoto: March, 2008



HORKAN -BOSS -RAUDWER

KILBANE

FISHER

MAXWELL

LEMKE

QUADE TRAYNOR REV TR

MILTON TTH DAY BAPTIST



Lemke Property
6936 E CTH N
Parcel6-13-98B
Milton Touchin

Legend

 TAX PARCELS

1 inch = 200 feet

Airphoto: March, 2008