

**POLK COUNTY BOARD OF ADJUSTMENT
NOTICE OF HEARING AND MEETING
Tuesday, August 25, 2009, 8:30am
Polk County Government Center
100 Polk County Plaza; Balsam Lake, WI 54810
(County Board Room)**

Notice is hereby given to the press and public that a meeting of the Polk County Board of Adjustment will be held at the above listed date, time, and location to transact business indicated on the agenda below. A quorum of the Board of Adjustment will be present.
(Agenda not necessarily presented in this order)

AGENDA

Call to order and roll call
Approve Agenda
Recess at 8:45am to view sites
Reconvene at 10:30am
Approve minutes from August 4th, 2009 meeting
Public Hearings:

The Board may go into closed session under Wisconsin State Statutes, s.19.85(1)(a)(g), deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body and may reconvene in open session to consider or act upon any matter identified on this notice, including those matters noticed for consideration or action in closed session.

- KEITH THOMAS requests a variance from Article 11E3 of the Polk County Shoreland Protection Zoning Ordinance to build a storage shed which will be closer than 63' from centerline of a town road. Property affected is: 1825 45th Av, Pt of NW ¼, SE ¼, Sec 12/T32N/R18W, town of Alden, Church Pine Lake (class 1).
 - Findings of Facts
 - Deliberation & Decision
- CAROLYN J. TERRANOVA requests a variance from Article 11C, Table 1 of the Polk County Shoreland Protection Zoning Ordinance to build a retaining wall closer than 75' from the ordinary high water mark. Property affected is: 1266 Marina Dr, Lot 16+17, Florence's Park Add, Sec 24/T33N/R17W, town of Lincoln, Lake Wapogasset (class 1).
 - Findings of Facts
 - Deliberation & Decision

Board of Adjustment Public Hearing Requirements
Relevance of Public Comment
Adjourn

This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made. Requests are confidential.

Polk County Board of Adjustment Minutes
Government Center; Balsam Lake, WI 54810

Date: August 25th, 2009

Present: Gene Sollman, Chair; Curtis Schmidt, Vice-Chair; Jeff Peterson, Secretary; Art Gillitzer; Marilyn Nehring

Also Present: Roxann Moltzer, Assistant Zoning Administrator (for site visits); Gary Spanel, Zoning Administrator (for Board of Adjustment requirements discussion); Lori Bodenner, zoning secretary & others sworn in.

Vice-Chair Sollman called the meeting to order at 8:35 a.m. and declared that a quorum was present.

Motion (Peterson/Schmidt) to approve agenda as presented – motion carried. The board recessed at 8:45 a.m. to view sites and reconvened at 10:30 a.m. **Motion (Nehring/Gillitzer)** to approve minutes from August 4th, 2009 – motion carried. The following applications were considered:

- KEITH THOMAS requests a variance from Article 11E3 of the Polk County Shoreland Protection Zoning Ordinance to build a storage shed which will be closer than 63' from centerline of a town road. Property affected is: 1825 45th Ave., Pt of NW ¼, SE ¼, Sec 12/T32N/R18W, Town of Alden, Church Pine Lake (class 1).
 - Site visit: 9:12 a.m.
 - Testimony / those sworn in: Patricia Thomas
 - Committee's questions / discussion
 - Ms. Bodenner informed committee of a voice mail message in support of application; Chair ruled as inadmissible
 - **Motion (Gillitzer/Peterson)** to grant on condition: 1) shed to be moved four feet north toward rear lot line; 2) applicant to secure building permit; 3) applicant to forfeit \$500 penalty for after-the-fact variance request. Motion carried on voice vote with Sollman voting "nay"
- CAROLYN J. TERRANOVA requests a variance from Article 11C, Table 1 of the Polk County Shoreland Protection Zoning Ordinance to build a retaining wall closer than 75' from the ordinary high water mark. Property affected is: 1266 Marina Dr., Lots 16+17, Florence's Park Add., Sec 24/T33N/R17W, Town of Lincoln, Lake Wapogasset (class 1).
 - Site visit: 9:40 a.m.
 - Chair questioned Ms. Terranova regarding her signature on the variance application form
 - Testimony / those sworn in: Carolyn Terranova, Darrin Ellefson
 - Committee's questions / discussion
 - **Motion (Gillitzer/Schmidt)** to grant variance as presented
 - **Motion (Peterson/Schmidt)** to amend by adding condition that all but 60 feet of shoreline be allowed to revegetate. Carried on voice vote with Gillitzer voting "nay"
 - Main motion carried on voice vote with Nehring voting "nay"

Public hearing requirements – Mr. Spanel will share the committee's concerns with the Land Information Committee.

Relevance of public comment – Chair Sollman ruled that the committee will not add public comment portion to meetings unless ordered to do so, citing 8/04/09 email correspondence from UW-Extension Land Use Specialist Lynn Markham (attached).

Motion (Gillitzer/Schmidt) to adjourn – Meeting adjourned at 11:55 a.m.

Respectfully Submitted,

Jeff Peterson, Secretary

Rox Moltzer

From: Markham, Lynn [Lynn.Markham@uwsp.edu]
Sent: Tuesday, August 04, 2009 3:59 PM
To: Rox Moltzer
Subject: RE: BOA question

Hi Rox,

BOAs must give the public the right to testify about the decisions they are making during the public hearing sections of their meetings. However, like the zoning committee and county board, the BOA has the right to choose whether to have a public comment item on their agenda. Under open meeting law in WI the public has a right to attend all local government meetings to hear and observe what is happening, but they do not automatically have a right to speak at the meetings. That said, state statutes requires public hearings for many local government actions like variance hearings, ordinance adoption/amendment, etc. If a public hearing is not required for a certain action, public comment is also not required. If the BOA (or any other local government body) decides to include a public comment as an agenda item, it is important that they do not violate the open meeting law by discussing or making decisions on topics not on the agenda. For instance, if a person talked about amending the BOA bylaws under a public comment item at a BOA meeting, the legally correct response would be for the BOA chair after the person said what they wanted to is to either say "thank you very much" (not committing to further action on this topic by the BOA) or to let the person know that they will place this item on a future BOA agenda where the BOA members can then discuss and possibly decide on it.

Hope this helps.

Lynn

Lynn Markham
Land Use Specialist
UW-Extension Center for Land Use Education
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Stevens Point, WI 54481
715-346-3879
715-346-4038 (fax)

From: Rox Moltzer [mailto:RoxM@co.polk.wi.us]
Sent: Tuesday, August 04, 2009 3:46 PM
To: Markham, Lynn
Subject: BOA question

We held a hearing today and the question was brought forward to the Board and they were asked why there wasn't a place on the Agenda for Public Comment/Input. I know that is listed for the Zoning Committee hearings but is it required for the BOA? I am also going to ask our Corp. Council.

Thanks,
Rox

8/5/2009