

**BOARD OF APPEALS
VILLAGE OF TWIN LAKES
JUST, Paul and Julie
December 5, 2007 - 6:30 P.M. - 6:46 P.M.**

tape available indefinitely
minutes transcribed from tape by Cynthia Skrypt

Meeting called to order by Chairman Tom Porps. Roll call: Boone, Kuhlmeier, Myers, Nathan, Porps. Tim Popanda also present. Porps announced that the purpose of the meeting was to hear the variance request of Paul and Julie Just, 563 Storms Drive, Twin Lakes, WI 53181. Porps gave the following instructions: This board meeting and public hearing to be considered today are open to the public. Anyone wishing to speak may do so providing they stand up, identify themselves and be sworn in. A tape recording is being made of these proceedings, therefore it is important that you state your name and address before addressing the Board. The purpose of this public hearing is to take evidence in this case. This Board is interested in hearing all of the evidence and will make a decision based on the evidence. Variances are not granted routinely. The applicant for a variance must clearly show the Board the three statutory standards that govern granting a variance will be met. The three standards are unnecessary hardship, unique property limitation, and protection of the public interest. For a dimensional variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Whether this standard is met depends upon a consideration of the purpose of the zoning restrictions in question, its effect on the property, and the effect of a variance on the neighborhood and the larger public interest. Unique property limitation - unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance. Protection of the public interest - granting of a variance must neither harm the public interest nor undermine the purpose of the ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Conditions may be attached to a variance to protect adjoining properties and to preserve the essential character of the neighborhood. A variance should include only the minimum relief necessary to allow reasonable use of a property. In granting a variance, this Board has the power to and will impose special conditions to insure that the public welfare will not be damaged.

PAUL AND JULIE JUST VARIANCE REQUEST- 563 STORMS DRIVE - 86-4-119-291-1260

Board of Appeals Clerk advised the news media, general public, applicant and property owners had been notified of this public hearing. Board members stated they reviewed the variance request and inspected the property in person. On site inspections, when conducted are in accordance with the Wisconsin Open Meeting Law. During the inspection process, no additional evidence was uncovered. Porps stated when Paul and Julie Just purchased the property about 18 months ago; he rekeyed the home for them. He has not had any contact with Paul or Julie Just since that day and he is not involved in this project whatsoever.

Joe Anselmo, 1122 Lucille Avenue, Twin Lakes, WI 53181 appeared on behalf of Paul and Julie Just and was sworn in.

Porps explained to Anselmo that he was familiar with how Porps wrote up the variance request. He has done this one a little differently. The reason he did that is he did not put the numbers in there. It was his opinion if this variance was granted; it should be granted for the three season room addition the Justs were asking for but to grant a variance on the entire structure would be too much. If the Justs or future owners should decide to tear the building down so be it but build it into conformity. They would like to add this addition. We can talk about it but let's not bring the entire building into conformity. Porps asked the Board if they were agreeable with that. The Board agreed.

Porps read into the record Just's request for a variance: "You are requesting a variance to allow the addition of a three season room to your existing non-conforming home." Anselmo asked if Porps stated to add a three season room. Porps stated to allow the addition of a three season room to your existing non-conforming home. Anselmo stated the three season room is already existing. The only addition is a roof top over that. Porps stated he knew that. In the public notice, Popanda stated it was a three season room addition and he has to go with what the public notice says. Anselmo stated that accurately described the relief they were requesting. Porps told Anselmo he could modify the statement. Anselmo stated it was fine the way it was. While they were investigating they found there was no foundation so they will be putting a foundation in to support the porch. That will also make the three season room stable for future use.

Anselmo believed this variance was one of the most straight forward variances they have had in a long time. Granted the side yards are small but they are existing and they are not doing anything even near them. This is really a matter of allowing the roof to just go over an existing portion in the middle of the site. To meet the statutory requirements, the biggest hardship would be to realize that they would have to tear sides off both sides of the building which would wipe out all the most functional parts of the house. That certainly is an unreasonable hardship. The unique property limitations are really just that. They are only trying to cover the deck. There really is not another limitation outside of the fact that given an existing construction that was presumed to have been done legally, there is no provision in our codes to either grandfather it in or have reduced side yards or something to allow it. As far as the public interest goes, this would not be visible really above a roof line or blocking a view from any side because it is no higher than the existing part that you see on the front south elevation. It has a taller gable on the east end of the house. This roof addition is lower than that. You certainly cannot see it from the street side. You can see it from the lake but it is not higher than the existing roof line. There really is no impact on the public interest or views of the

neighbors. Unless there are any questions, there really isn't much more to say about it.

Porps asked if the board members had any questions. Boone asked if the shore yard was relevant at all. Anselmo stated he usually shows the setbacks but he did not do it for this variance because they were just working above the room that shows on here where it says deck. It looks like it is going closer to the lake and then around the side which does pick up the area of the spiral stair. There is an existing spiral stair there now. It is slightly smaller than what it shows on here. Porps stated he was not following what Anselmo was saying. Anselmo stated the blue area where it says Exhibit A area variance is blue; they are really not going beyond where it says deck. Porps stated he saw that now. Anselmo stated it was a minor point. Porps stated it would kind of be the edge of the roof because the roof does overhang the railing a little bit. Anselmo stated it probably did overhang a little bit. He did not show it like he usually does on the site because it was just right on. Porps stated that was fine. He filled them in – he put the 10 feet on the larger side and the 15 on the smaller side. Even that way, they are not anywhere near it. Boone asked what the setbacks were for shore yards. Porps stated it is 60 feet or average of the adjoining buildings. Nathan believed he was well within the 60 feet. There are 82 feet on one side and 47 to that survey point but there is plenty more. Anselmo said he gets 93 feet. It is a long way.

Porps asked if there was anyone in the audience wishing to speak in favor of granting this appeal. There were none.

Porps asked if there were any letters to be read into the record in support of the variance. There were none.

Porps asked if there was anyone in the audience wishing to express an opposing view to this appeal. There were none.

Porps asked if there were any letters of opposition. There were none.

Lack of opposition is not a reason for granting a variance.

Porps continued, the Board's action cannot be based upon its attitude toward the applicant or the proposed use. The Board's decision must be based upon the Zoning Ordinance and the facts presented at this hearing.

Public Interest – Porps stated there is not any sort of major change to the structure. It will not impact any of the neighbors as far as he can see. It certainly fits within the existing building and the character of the existing neighborhood. The Board agreed.

Unique Property Limitation – Porps stated most of the properties in and around Twin Lakes are pre-existing, odd shaped lots and sometimes difficult terrain to deal with. The property is as unique as any of the others we have had. The Board agreed.

Unnecessary Hardship – Porps believed that tearing down the majority of the building would serve no purpose in this case but it is simply a roof addition. The applicant has agreed to not include the existing non-conforming parts of the building basically just to allow the construction of this roof. The Board agreed.

Variances are not precedent setting. Each case is judged on its own merit. Likewise, similar existing cases or past practices are not reasons for granting a variance.

In granting a variance, the Board of Appeals overrules one or more Village Ordinances. If a variance is granted today, any aggrieved party will have 30 days to appeal the decision to the circuit court.

In addition to meeting the statutory requirements, the following conditions are required. The motion to grant or deny the variance is based on the survey presented at this time, the plans presented and the actual statement of the variance requested. The survey is to be marked as Exhibit A. The plans are to be marked as Exhibit B. Paul and Julie Just: “You are requesting a variance to allow the addition of a three season room to your existing non-conforming home. This variance, if granted, is for the addition of the three season room only and does not remove the non-conforming status of your home.” Paul Just circled yes and initialed that the conditions described the relief he was requesting. After the motion to grant or deny the variance has been made, seconded, discussion held, if any, and voted upon, the matter is closed. If you are not satisfied with the results, and you can present substantial new evidence, you may reapply and pay the associated fees. You may also appeal the Boards' decision to the circuit court. The variance is based on the survey that will be presented, and the actual placement must substantially conform to the survey as presented. This variance, if granted, is conditional upon the owner having the title amended to include the variance. The variance is for the existing structure only not for the addition. (Variances “run with the land”, this will protect you or any future owner should any question ever arise over the encroachment in the setback area.) Any and all fees, legal, recording etc. are the applicant's responsibility. The Building Inspector or the Board of Appeals will verify the amendment prior to issuing a building permit.

The contemplated completion date of the project is 9/01/08.

MOTION BY BOONE, MYERS, TO GRANT THE VARIANCE AS AMENDED. ROLL CALL: BOONE-YES; KUHLMEY-YES; MYERS-YES; NATHAN-YES; PORPS-YES. MOTION CARRIED (5-0). VARIANCE GRANTED.

Motion by Boone, Kuhlme, carried, to adjourn @ 6:46 p.m.

SIGNED COPY AVAILABLE AT THE VILLAGE HALL

Cynthia Skrypt
Board of Appeals Clerk

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