

ONEIDA COUNTY BOARD OF ADJUSTMENT – PUBLIC HEARING

Tuesday, February 12, 2013

1:00 P.M. – Committee Room 2, Second Floor

Oneida County Courthouse, Rhinelander WI 54501

Chairman Harland Lee called the meeting to order at 1:00 p.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Bob Rossi, “here”, Harland Lee, “here”, Guy Hansen, “here”, Alternate Norris Ross, “here”, Alternate John Young, “here”. Regular members Phil Albert and John Bloom are excused.

County staff members present: Peter S. Wegner, Assistant Zoning Director and Lila Dumar, Secretary III.

Other individuals present: Roger Fisher, Tom Blake, WDNR

Chairman Harland Lee stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and two alternates. Two regular members, John Bloom and Phil Albert, are excused today. Therefore, both alternates will take part in the public hearing as regular members. Anyone wishing to testify must identify themselves by name, address and interest in the appeal and shall be placed under oath.

Chairman Harland Lee swore in the Roger Fisher, agent and Peter Wegner, Assistant Zoning Director.

Chairman Harland Lee read the Notice of Public Hearing for Appeal No 13-001 of James O’Neill, owner and Roger Fisher, agent to allow excavation for a 6-ft wide gravel path to gain access to the peninsula; and construction of a 19’ X 22’ boathouse with an attached screen porch contrary to Section 9.94 A (2)(d)(7), Section 9.94 A (2) (d) (11), Section 9.94 A (3) (i), Section 9.95 A (1) & (2) and Section 9.95 A (5) of the Oneida County Zoning and Shoreland Protection Ordinance as amended September 28, 2012. The property is located on Thoroughfare Road, being part of the NE SE, Section 24, T39N, R6E, PIN MI 2353-3, Town of Minocqua, Oneida County, Wisconsin.

The Notice of Public Hearing was published in the Northwoods River News on January 29 and February 5, 2013; and was posted on the Oneida County Courthouse bulletin

board on January 22, 2013. Mr. Lee provided the proof of publication; and noted that the media was properly notified.

Board member Guy Hansen stated that an onsite inspection was conducted on this date at approximately 10:00 a.m. for appeal #13-001. The location for the inspection was on Thoroughfare Road, property being owned by James O'Neill. Roger Fisher, agent for the appellant, was present. Other persons present at the inspection were the Board members and Diann Koshuta of the Zoning Staff. Observations: The property is a point with wetlands on either side. The property boundaries were properly marked. The property was snow covered. There are no existing structures. The proposed path was within 35 feet of the OHWM to each side of the point where the path would be.

Chairman Harland Lee stated that the Board will hear testimony from the appellant/agent first and then the opposition. Following that, the appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. The public may stay for the disposition of the appeal. Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

Roger Fisher Testimony.

Mr. Fisher: I guess I'll just go to the justification for the variance. This is a unique & unusual property. The actual tip of the peninsula was added to the property. I don't know the exact time. I think it was five or six years ago. But a 200 ft section that was actually a neighbor's land. And it was purchased by a prior owner from the neighbor to complete the property.

Mr. Lee: So this piece right here, the very tip?

Mr. Fisher: Yes. The measurements in the survey, it shows the measurements there. It's like two separate parcels. And it was added to it. Before then, that was basically the property. It was somewhat land locked without going across the wetlands. And that tip was basically, it was the neighbor's property. But the only way you could get to it was via boat on the Thoroughfare. From the building site which would be in the far corner of the property to the tip of the peninsula is about 900 feet. And there is a natural trail across the entire peninsula. The peninsula is about 600 feet long. And another 300 feet to the building site. So with that much distance, a gravel path that we could drive an ATV or golf cart on to access or for walking would be a necessity. The path would be about 750 feet long and would start off the gravel driveway and go to the tip of the peninsula. And the dock, I think is a mute point. When I first met with Peter on the property, Pete told me that there are two ways of figuring out where that dock could be. He didn't feel it could be on the peninsula, but doing two different methods....

the straight line and the conterminous method, which would require a boardwalk across about 400-500 feet across the wetlands to the Thoroughfare and the straight line method would go about 300 feet across the wetland then cross the peninsula and then go about 100 feet on the other side of the peninsula and another boardwalk out to the water. But I think the dock is basically a mute point....there is no contesting of the dock being at the tip of that peninsula. We are proposing the boathouse/screen porch of approximately 347 feet. I had a miscommunication with Peter on that. I had drawn up the boathouse and I thought Peter had told me, but apparently not. Our initial drawing was 19 feet wide with 2 ft overhangs. And I thought Peter had told me that the 20 ft wide maximum included the roof line. So we had drawn up the boathouse screen porch, we had down sized it to accommodate that. And we would like to have a foot print of 19 feet wide and 23 feet deep.

Mr. Lee: I thought it was 16 X 9. Oh, that's the boathouse part of it.

Mr. Fisher: What I had drawn up here and I down sized it to 16 X 12 feet for the screen porch and the footprint of the structure itself would be 17 X 22 and I would like to go 19 feet wide with a one or two foot overhang on each side.

Mr. Wegner: Basically, what was on the permit and was denied, right?

Mr. Fisher: What did I have on the permit?

Mr. Wegner: 19 X 22.

Mr. Fisher: That was the original. We had to change the permit and re-draw the boathouse. So 19 X 22 is the original. So that was a miscommunication.

Mr. Hansen: So the desired size of the building is going to be 19 X 22? There are all kinds of numbers in these different documents.

Mr. Fisher: 19 X 22 would be the desired size.

Mr. Lee: What are the dimensions of the boathouse within that?

Mr. Fisher: The boathouse would be 19 X 10. And the screen porch would be 19 X 12.

Mr. Lee: Where did I get the 16 X 9?

Mr. Fisher: That was a miscommunication I had with Peter. I thought that he had told me that....I knew about the 20 feet wide. And I thought Peter told me that the roofline was included in that 20 feet. But that is not the case. We had originally applied

on our permit for a 19 X 22. And then I thought we had to down size it because the drip line was included in the 20 ft.

Mr. Lee: And the 19 is the one facing towards the Thoroughfare?

Mr. Fisher: Yes. So our amended proposal would be 19 X22 with it to be determined. I understand there is a maximum of a 2 ft overhang. We either have one or two feet of 1 ½ ft overhangs.

Mr. Fisher: But we feel that boathouse especially...we are talking about the 900 ft from the house to the tip of the peninsula. The boathouse and screen porch will give us full access to water, where the vast majority of the property is on the water has setbacks from their houses and patios and porches are 75 to 100 feet setback, we have 900 feet. That is why we are requesting the boathouse screen porch. Because of the uniqueness of the property, and the gravel road, gravel path will be pretty much almost invisible to any passer-by or neighbors. 70 feet from the road, 100 feet from the property lines. If I go down the center of the peninsula and I think you saw that we setback the screen porch back from the tip of the peninsula. It will be pretty well hidden back there. Of course it will be constructed rustic, cedar painted a dark brown probably.

Mr. Lee: And it is 66 feet from the OHWM.

Mr. Fisher: 66 feet from the OHWM at the tip of the point. So it is set back quite a ways.

Mr. Lee: How close to the water on either side of the property?

Mr. Fisher: 24 feet and 19 feet, I think.

Mr. Ross: 27 feet and 19 feet.

Mr. Fisher: The entire peninsula is ranging between 65 and maybe 85 feet wide, it's just a narrow peninsula. It does create problems as far as the 35 ft setbacks. The boathouse will be setback a ways, it's for kayaks, canoes and boating accessories. We are not going to be storing boats in there. I think that covers our proposal.

County Testimony.

Mr. Wegner: The County's point of view is....the boathouse would not be a requirement in order for him to gain reasonable use of the property. There are other options as far as gaining access to the water. I know you mentioned the piers. I put together this map using the conterminous method. I think you have a copy in your packet. And the straight line method. If you look at that, if the County had to pick one

method to use, we would look at the conterminous method, yet it encloses itself right at the waters edge. I did research and I found a case--Manlick vs Loppnow. I'm not an attorney and I'm not practicing as an attorney. 2011, Wisconsin Appeal 132. It said that Wisconsin Law does not mandate the use of any particular method in any particular circumstance. It goes further to state that case law indicates that determining which method to apply is a discretionary decision to be determined based upon the principle of fairness. I have had some enforcement cases where I had to look at similar situations and I think if he were to place a pier to gain access out to the open water...I drew in pencil where I feel he could place a boardwalk/pier similar to one that have been placed in the neighborhood so to speak. And even though it might, at the last point, be closer to the riparian setback line as extended out from the lot line out into the ordinary water mark, the fairness issue really doesn't become an issue, because looking at that map, on the left hand side, it is the peninsula itself; and on the right hand side he is quite a distance from another pier that has been placed at the neighboring property. Here are some examples of those. I've got two examples that show 3 piers that are directly across from this area, so what this shows is that under example A, there is a pier roughly 776 feet long, 701 feet long & 583 feet long, and then B is another example.

Mr. Lee: Are these existing?

Mr. Wegner: Yes. We would consider them piers because they meet the pier requirements. And the other one is the neighbor...and that is 642 feet long. My point of showing this to you is that we always look at alternatives that would comply with the ordinance. There are various sections that the walkway would not comply as far as the width of it being greater than four feet; a large portion of that walkway is within 35 feet of the OHWM. I am just showing that there are other properties that are gaining access to that same body of water. The other thing, as far as the boathouse, like I mentioned before, we wouldn't look at that as necessary to get reasonable use of the property. Not all people can have boathouses. If the Board of Adjustment were to grant a variance for the boathouse in that location, the County would hope that it would not include the screen porch. A screen porch is not necessary for the berthing of boats. And that if you agree to the path to get to this boathouse, that it would be maintained, kept similar to the way it is today, just a walking path versus having a gravel path. I know there are concerns raised about construction materials and such down there. But there are ways around that. You could come from the water, or the boat landing or I guess we were told not....the ice is not thick enough. So I guess those are the other alternatives and it is still two parcels there right now and if you grant a variance make sure that they combine those two parcels so we don't have an issue with a lot line, the path going over the lot line. Other than that, I understand that it's a matter of having one more walkway out there or the walking path or something that is fairly hidden so it's....it could go either way.

Mr. Fisher: I've been on a few of those boardwalks across the lake and my two next door neighbors. But I just feel with the geography of the property, where the natural

peninsula actually does go to open water. That's the only reasonable spot for a dock to be. Once you establish that a dock can be put there, now we are talking about a gravel paths, boathouses and porches.

Mr. Wegner: We discussed that and the other comment was that the pier could be six feet wide versus his proposed path of only 5 feet wide.

Mr. Lee: If I am looking at this....map here, you are talking about this boardwalk going out this way Pete?

Mr. Wegner: Yes.

Mr. Lee: Now this area here, this is all wetland, right?

Mr. Wegner: Yes.

Mr. Lee: So does it really show on here?

Mr. Wegner: No.

Mr. Lee: Actually the Thoroughfare comes through here.

Mr. Wegner: Yes.

Mr. Lee: And there is this sort of light line; is it someone else's boardwalk out here already?

Mr. Wegner: Yes.

Mr. Lee: Yours or Giers or whatever. And there are other examples of this on the Thoroughfare?

Mr. Wegner: Yes. Directly across and that was Exhibit #2. There are three others.

Mr. Lee: And then there are accesses right at the end of that.

Mr. Wegner: Correct.

Mr. Ross: I want to make sure that I understand...we have multiple things here, but we have only one...we are going to make one decision not a whole bunch of new ones in terms of denying or accepting it. In other words, we are not here to work out what can work for him. And the second thing is, what's the difference between, since he's not going to drive a boat in it, what's the difference between a permit for a garage and a

storage shed versus a boathouse? He said he's only going to put kayaks and life jackets in it, why is that a boathouse?

Mr. Wegner: Because it is being used for the placement of boating related materials. The difference is that a garage has to be 75 ft back and a boathouse can be less than 75 feet within your view corridor and is limited to size. 20 X 36 actually. That's the issue with this particular property, because he is technically....he's on a peninsula, so the view corridor is coming from three different directions.

Mr. Lee: There is no view corridor.

Mr. Wegner: No. It would be established once he puts in....

Mr. Ross: It's where the residence is placed.

Mr. Wegner: You can have a boathouse without a residence.

Mr. Ross: Okay. That's why I am asking the question.

Mr. Wegner: Oh, geez.

Mr. Hansen: Related to that, you are allowed a view corridor for every 100 feet of frontage, right?

Mr. Wegner: Correct.

Mr. Hansen: So there could be a view corridor for the house and another view corridor by the boathouse?

Mr. Wegner: I don't know how you create a view corridor where the boathouse is without exceeding the 30 feet because of the dimensional standards of the peninsula.

Mr. Ross: You clear the peninsula for the view corridor.

Mr. Hansen: I have a question about the dock.

Mr. Ross: Is it a working assumption that a view corridor is to look at water and not to look back at your house?

Mr. Wegner: It's both. It is defined as an unobstructed view from the principle building to the water, so there is not a principle building there.

Mr. Fisher: The view corridor...you have me a little confused as far as the peninsula goes. I mean everything on the peninsula is confusing. And of course, we are not going

to be establishing a view corridor on that peninsula. We are not cutting trees down for that.

Mr. Wegner: The definition of view corridor. And then there is the language that establishes a view corridor that says it can't be greater than 30 feet.

Mr. Hansen: If it is established that they can have a dock at the end of the peninsula, is there a reason to discuss having the dock go 600 and some feet across the wetland? Why are we even contemplating that?

Mr. Ross: That's my question. Are we trying to work out a problem or are we just voting on this...

Mr. Wegner: The County always looks at alternatives. And if I can find an alternative, my argument is always that then the variance should not be granted. He could legally, with a permit, put out this pier like the other properties have to gain access to the water without the Board granting a variance to allow them to do something contrary to the ordinance that the permit was denied under. As far as the view corridor, the walkway being too close to the ordinary high water mark (OHWM), being wider than 4 feet and that type of thing.

Mr. Hansen: If the only thing that was done there was to put out a dock at the end of that point, would that be allowed?

Mr. Wegner: Yes.

Mr. Hansen: Is the issue then, the path going down to it? There is a walking path there.

Mr. Wegner: That's the issue. The two issues are the boathouse and the walking path.

Mr. Hansen: So the walking path, even if it is not widened, is not allowed, because it is too close?

Mr. Wegner: No. It's allowed. It's not developed, so it's called a walking path instead of a gravel path.

Mr. Hansen: So there is the walking path there, it's perfectly allowed to have a walking path, and the dock. So I still don't understand why we would entertain the concept of having it go 600 feet across a wetland.

Mr. Wegner: I was entertaining you with that when we were talking about a boathouse and gravel path. That's why I brought that up. You are correct with your...

Mr. Fisher: And I would consider a 500-600 ft boardwalk, which the neighbors had to put in just to get access to the water. We have the natural trail out on the peninsula, I don't consider it a hardship, I consider putting a dock at the end of the peninsula to be a necessary or a hardship to do it any other way. I consider that if the County would require us to put a 500-600 ft boardwalk across the wetlands, instead of traversing the peninsula on a natural trail. We are requesting to improve that and to put a dock at the end of the trail, I would consider that a hardship. That's why we are requesting the variance for that. And I also would consider an unnecessary blight on the neighborhood; boardwalks are ugly. But a little dock at the end of the peninsula versus a 500 ft boardwalk.

Mr. Ross: You can put in a dock in and you can get to the water. The question for us is very simple. Can you put a boathouse and screened porch and a path to get to that dock? That's the question.

Mr. Wegner: My analogy was with the assumption that it was going to be a five foot gravel path down there. But if you just use the normal walking path, to access the dock, that is definitely in compliance.

Mr. Lee: Tom Blake wanted to weigh in...

Mr. Blake: I was not at the property this morning with the Board. However, I came over yesterday and I looked at the file. So I have seen everything. I guess it is not clear from the hearing notice to me and I don't know if it really needs to be, but Pete used the term "no reasonable use" so is this an area variance or a use variance? Because I think there are five variances being requested. I think at least two of them are use variances. A use variance has a higher standard on Roger to show that there is no reasonable use as opposed to it being an unnecessary and burdensome. So if you take a look at the first page, according to the notice, it said that this appeal is to gain access to the peninsula. Then if you go over to the second sheet, at the very bottom, the very last word, it says to provide riparian access to the shoreline. So those are different and I think it's important to note that one is a path to the peninsula, which I heard it said earlier, it's to the boathouse; and the second page....the improvements are authorized through a shoreland alteration permit access to the shoreline. And that is a big difference. I think the shoreline means down to water, because it goes on to say, "which are a necessary extension of the pier." I think what the second page is referring to is that distance from the ordinary high water mark (OHWM) where the pier is up on to the land, whereas the notice says access to the peninsula. So therefore, I believe that this is asking for a use variance. They want to put a path to the peninsula which is different than to the pier. Because again, I assume it is not proposed to go from the ordinary high water mark (OHWM) up to the boathouse. So this is, I believe, a use variance. And then the term riparian, it says riparian access. And that means a person as opposed to the other term which means an area near the shoreline such as a thing,

which is the land next to the water. So I think it is clear in the ordinance that to provide riparian access, which means a person. But as soon as you throw in a golf cart or ATV, you are using that path differently than what is intended on the shoreland alteration permit. I believe that supports the idea that he is asking for a use variance. So I think if you buy into that, you should be looking at no reasonable use of the property. And in that case, I believe that there can be reasonable use. It is plain on the application that he intends to build a home. So for that reason alone, I would think the Board would not want to grant a variance because he has not met his burden to show that there is no use on this property without a variance.

Mr. Rossi: The reasonable use, you are saying, is to build a home.

Mr. Blake: Yes, this has been identified.

Mr. Rossi: Even though he builds a home, he would be able to build a boathouse.

Mr. Blake: Yes. I am talking about the path right now.

Mr. Rossi: But the path already exists.

Mr. Blake: A path to me means as authorized on the second page, through a shoreland alteration permit, and so on. That's what he wants to do; he wants to exceed the shoreland alteration.

Mr. Rossi: A gravel path, and widened. There is a path already existing.

Mr. Fisher: A natural path. Right. A foot path basically. I think it's more of a deer path than anything.

Mr. Blake: Again, he can drive his ATV and a golf cart anywhere on that property. And that's not illegal. He can drive it down to the boathouse, but the County requires a permit when you want to put gravel down, as it should be. So, again, I believe it is a use variance, but for the path to exceed what I believe would be a prohibited use which is not to access a shoreline, but rather, to access the boathouse.

Mr. Blake: The second reason that I think it would be a reason to deny the variance, whether you think this is a use variance or a area variance, would be that the pathway over that distance....again, I don't know how far that 750 ft path is, over the distance of the shoreland vegetation protection area.

Mr. Fisher: Are you talking about within 35 feet?

Mr. Blake: Yes. Of the 750 I guess I don't know....but assume its pretty close.

Mr. Fisher: Right now, 650 feet would be about right, would be within the...yes.

Mr. Blake: Looking at this...it goes to say that as part of that permit that the...is to maintain and improve the natural beauty and environmental stability of the setback area and the adjacent waterway. So about a 650 foot graveled path is contrary to the needs of what this section is playing out. On the second page, just the word alone, vegetation protection area, meaning to protect that vegetation. There is a bunch of purposes for what that vegetation protection area is doing. To preserve these desired features of the shoreline. So again, I think that it would not be in the public interest to have a 650 foot path going that distance. 5 X 650, that's a pretty big area of gravel very close to the water; running up and down that waterway. I think that is a reason to also deny this because it would be contrary to the public interest. So moving on to the boathouse/screen porch, I'm a little bit confused there because if this is a boathouse with a screened porch, the whole thing is a boathouse. That's the way I read the public notice. And if that's the case, I believe this also to be a use variance because the ordinance defines a boathouse as an structure used for the storage of boats and boating related materials; one story; cannot exceed 12 feet. He may be asking to exceed some of those dimensions so that would be an area variance. But he wants to use it for something other than the storage of boats. So again, that would not be, in my opinion, where you would be using the unnecessary burdensome definition of a hardship; but you would be using no reasonable use of the property without that porch. So again, just on that premise I would say that it would not be unreasonable to say that screen porch is really not part of having the property be reasonable. Again, if the home is built there it is reasonable use. So the boathouse also I don't think is in the public interest, if you consider the screen porch part of the boathouse, because it is not in the public interest to stay in that boathouse for a larger degree than what is necessary.

Mr. Lee: If the screen porch were not part of this, if it were simply a personal little boathouse. What would you say to that?

Mr. Blake: Well, as far as I understand, the boathouse would be permitted if it was just a boathouse.

Mr. Wegner: There would be an issue in that particular location because of the view corridor concept and it would be greater than 30 feet because it is on the peninsula.

Mr. Blake: There is not a State standard for boathouses and view corridors and that kind of thing. So that's a local ordinance.

Mr. Lee: From the DNR's standpoint, that is not an issue. But it is as far as the County is concerned.

Mr. Blake: Yes. They require boathouses to be in the view corridor.

Mr. Wegner: Doesn't NR 115 require all structures to be in the view corridor?

Mr. Blake: Well again, you are under the old ordinance. So, no.

Mr. Wegner: Ok.

Mr. Ross: But again, we are trying to solve, I appreciate the question, but we are not here to figure out what is possible. We are here to ask whether this is going to be allowed as requested,

Mr. Lee: That is correct.

Mr. Blake: If you view this as a boathouse and a screen porch, as in....I know they are contiguous or touching, so you want to think of it as a boathouse and a screen porch. I think that is the logical thing, but then on the other hand, if it's just a boathouse, Pete raised the point about the view corridor, which is what it is. But the screen porch, if you think of it as just a screen porch, then it would be an area variance, not a use variance. Follow me here? Because screen porches are allowed through the special zoning permission, which I believe this screen porch would meet because it is 35 feet from the OHWM. There is no buffer to restore. However, one of the walls is not screened. Correct?

Mr. Wegner: It is closer than 35 feet on two sides.

Mr. Blake: Okay. Then I take that back. Then he would be asking for an area variance from the special zoning permission to be closer than 35 feet. And also have three of the walls open sided rather than four. That would be an area variance request. But that would be if you treat the screen porch as a stand alone structure. So now that I have totally confused everyone. I'm just telling you where my head is going. I'm not trying to work it out for them. I'm just telling you what my head is thinking. Use variance? Area variance? Treat as one? View corridor? Boathouse? Boathouse being used for something other than boats and related materials? How is it that there is not reasonable use of the property? It will have reasonable use with a home there. He can walk out there to use the property.

Mr. Fisher: And I would respond with the gravel path. Again, we are talking about the 900 feet and that is a long distance to get access to our boats. If we were using just the walking path instead of making it gravel, I believe there would be more erosion potential for that. A few small trees will come down, but basically there will be very little work to be done to establish that gravel path. That would give us reasonable access to the property with that 900 ft. We would use it for walking the majority of the time. But there will be times when we need to get provisions to the boat, and we would want an ATV or whatever the case may be. And with the special provisions there, we

aren't in total compliance with that as far as the screen porch. I understand that. We are going to be within 35 feet of the water just because of the narrowness of the peninsula. We can't conform to the 35 ft setbacks to that. We are conforming to the...we have set the proposed boathouse/screen porch back from the tip of the peninsula 66 feet. We want to keep it there anyway, for privacy. It's going to be very well hidden away there. You can see it from the water, but you'd have to be looking for it. It's not right out there on the tip.

Mr. Rossi: You referred to privacy and a boathouse. If you are referring to privacy, then you are talking about inhabiting that thing for a little while. Maybe just lunches and stuff on the screened in porch?

Mr. Fisher: Yes. But it is set back. It's not out on the tip of the peninsula. We want it back there. For our privacy. A dry boathouse could go right on shoreline there. I wouldn't ever want it there to begin with. We are not going to be storing boats there. We will be storing kayaks and canoes and accessories and stuff like that. We will have a boat, but we have the landing across the way and once or twice a year, in and out. No. We are not looking to...we wouldn't put a boathouse out on the tip of the peninsula. It doesn't bother me to see boathouses out there, but we really enjoy that peninsula. It is a very nice, beautiful spot. To put a boathouse out there would ruin it. It is tucked away. It is going to be visible, but we are surrounded by hemlocks, pine trees.

Mr. Hansen: I have some friends that have almost an identical situation. They have a path, a bench and a screened tent. What are the rules on something like that?

Mr. Wegner: Both of those would be considered structures. Whether it is permanent or temporary.

Mr. Hansen: So it would strictly not be allowed. The bench too?

Mr. Wegner: I have not acted on complaints specifically on a bench or lawn chair or hammock.

Mr. Hansen: But you could?

Mr. Wegner: If somebody pushed the issue. I could.

Mr. Hansen: And that's because of the width of the peninsula.

Mr. Wegner: It's because it is a structure. And the peninsula doesn't have any area to meet the 75 ft setback.

1:54 pm - Chairman Lee closed the public hearing. No further testimony will be accepted.

Motion by Jack Young, second by Guy Hansen to deny Appeal #13-001 because although the property does meet the unique physical property standard, the proposal as presented does not meet Standard #2, no harm to public interest standard; and Standard #3, unnecessary hardship standard, because there is reasonable use of the property without the construction of a boathouse/screen porch and gravel walkway. The motion carried unanimously on a roll call vote.

Motion by Harland Lee, second by Guy Hansen, to extend the decision filing date to February 15, 2013. The motion carried unanimously.

2:02 pm. The meeting was adjourned following a motion by Guy Hansen, second by Norris Ross and with all members present voting "aye."

Harland Lee, Chair

Phil Albert, Secretary