

ONEIDA COUNTY BOARD OF ADJUSTMENT  
PUBLIC HEARING SUMMARY  
DECEMBER 21, 2023 AT 1:00 P.M.  
COMMITTEE ROOM #2, 2<sup>ND</sup> FLOOR  
ONEIDA COUNTY COURTHOUSE

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Chair 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: Mr. Hansen, “here”; Mr. Ross, “here”; Mr. Pazdernik, “here”; Mr. Viegut, “here”; Mr. Chronister, “here”; Mr. Petersen, “here”; and Mr. Lee, “here”.

Members absent: None

County staff members present: Todd Troskey, Assistant Director; and Monique Taylor, Administrative Support

Other individuals present: See Sign in Sheet

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Chair 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 consists of five regular members and two alternates. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Chair Lee swore in John and Angela Wyss.

Mr. Lee stated the procedure for the hearing would be testimony from the Appellant(s), then the County, any public comment, back to the Appellant (s), County and then close the meeting from any further testimony. The Board will then deliberate. If they have any questions, they will ask them and ask that only address that question. The Appellant(s) may stay for the deliberation.

An onsite inspection was conducted at 10:00 a.m. this morning, December 21, 2023, at property located at 5271 Loop Heights, further described as, Lot 2, CSM 4174, Section 31, T37N, R9E, PIN PL 754, Town of Pine Lake, Oneida County, Wisconsin. Board members were present onsite along with Todd Troskey of the Planning and Zoning Department, John and Angela Wyss, owners, and Don Schindhelm, neighbor.

Observations by the Board: The property boundaries were not adequately marked; the road and right-of-way were not adequately marked; well and sanitary facilities were located and visible; the outline of the proposed construction was not adequately marked and has already been completed. The measurements from the front of the retaining wall is 54 feet to the ordinary high water mark. The measurements from the top of the retaining wall is 75 feet to the ordinary high water mark. There did not appear to be any erosion problems present.

Existing structures on the property were a house and a garage 75 feet from the ordinary high water mark. Other structures on the property were a patio and a fire pit, both permitted.

Chair Lee informed the Appellant(s) how the hearing would be handled. He stated that the Board has to consider the three criteria that need to be met to grant a variance, and the Appellant should be sure to address those in their testimony.

Mr. Wyss began his testimony by stating there was no intent to subvert to permit rules. There were troubles with the builder, and when the issues were resolved with him, he was out of the picture. Mr. and Ms. Wyss wanted to pursue a landscaping project and keep an outside space as large and comfortable as possible because they did not have much space in the front and side yards due to the size of the lot. They thought the retaining walls were a good option to hold back the soil and maintain a spot to plant flowers, shrubs, and a tree or two. They did not feel, in the public view, it was a problem.

Ms. Wyss began her testimony by stating that the intent was to have the space and limit the space so that they were not doing anything along the shoreline not to interrupt it and keep the natural beauty. One of the reasons to include the stairs and a flat surface is because of several medical surgeries causing stability issues. It took over a year for the construction to be completed because of difficulties with the builder. With the building permit, the assumption of the Wyss' was that they were not building when they were installing the retaining wall. They had erosion problems prior to getting them up and did not want the sand washed into the lake. The home is intended to become a full-time home within the next year or two. In her opinion, the retaining walls with the block versus the stone, as long as they are maintained and constructed nicely, look good from the lake.

Mr. Wyss requested that the three criteria be read as a refresher.

Chair Lee stated that they are unique physical property limitations, no harm to the public interest, and unnecessary hardship and that each has a definition on what each can or cannot be.

Mr. Wyss stated that he did not realize that a retaining wall was considered a structure or a nuisance to the public in any way.

Mr. Ross asked Mr. and Ms. Wyss about their situation's hardship. Ms. Wyss stated that with her surgeries she has had, as well as upcoming surgeries, access is limited and anticipated to be even more limited in the future. Mr. Wyss stated that if they had sloped the hill and covered it with rock, they would have lost space, and he felt that it was pretty valuable to have that extra space with the limited yard, making that a hardship.

Mr. Chronister asked if Mr. and Ms. Wyss installed the retaining walls or if a landscaper installed them. Mr. Wyss stated that the landscaper installed them. Mr. Chronister further questioned them on if permits were discussed. Mr. Wyss stated that permits were not discussed and that they felt it was acceptable to do and did not realize it was a project that needed to be permitted.

Mr. Troskey began his testimony by stating that when a building permit is applied for on a house or other similar structures, staff does a really good job of asking the appropriate questions based on the projects presented. He further stated that NR 115 and the Oneida

County Ordinance do not allow for the type of structure within 75 feet of the water and are not considered exempt structures.

Mr. Padzernik asked where Mr. and Ms. Wyss found their landscaper.

Mr. Wyss responded that it was a word-of-mouth referral and believed that it was not the landscaper's full-time job.

Mr. Padzernik stated that they should know about permitting even as a part-time job.

Mr. Wyss responded, stating that where they currently reside in a different county, their zoning ordinances are different, and it has been a learning experience for them.

Mr. Padzernik stated that the work is very good, and that was not in question, but that it is believed that it was known that a permit should have been obtained.

Mr. Norris stated that the costs to put it in probably were "a fortune," and to take it out would probably cost the same.

Mr. Peterson apologized from his absence for the morning portion of the meeting. He stated that he was still able to take a look at the site before the hearing to familiarize himself with the situation presented today. He asked why the intermediate retaining wall was not addressed when the permit was drawn for the fire pit.

Mr. Troskey stated that the permit was issued after the initial site inspection.

Don Schindhelm said he wondered how Mr. and Ms. Wyss would build but that the neighborhood was pleased with the project's aesthetics.

Chair Lee read a portion of the Appeal Form concerning an unnecessary hardship.

**1:28 p.m. Chair Lee closed the public portion of the public hearing.**

The Board discussed removal of the structure, allowing the structure to stay, imposing fines and after-the-fact fees, and an outcome that would not create more disturbance to the shoreland.

Motion by Guy Hansen, second by Mike Padzernik, determining that the request does not meet the three criteria requirements and for the owners to remove the structures. The votes were made as follows:

Guy Hansen: Aye.

Norris Ross: Aye.

Mike Padzernik: Nay.

Jeff Viegut: Nay.

Chair Lee: Nay.

The motion failed.

Motion by Norris Ross, second by Chair Lee, to grant the variance, allow the retaining wall structures within 75 feet of the ordinary high water mark of Boom Lake to stay, and to implement after-the-fact permit fees. The Board requests citations be made to obtain the

ability to impose citations and fines on constituents and contractors for violations. The Board will additionally ask that the Planning and Zoning Department ensure proper questions are asked during the permitting process and project intentions and landscaping. The votes were made as follows:

Guy Hansen: Nay.

Norris Ross: Nay.

Mike Padzernik: Aye.

Jeff Viegut: Aye.

Chair Lee: Aye.

The motion passed.

Motion by Jeff Viegut, second by Mike Padzernik, to adjourn the meeting. With all members present voting, "Aye," the motion carried.

**2:01 p.m. Chair Lee adjourned the meeting.**

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Harland Lee, Chairperson

Jeff Viegut, Secretary