

**BOARD OF ADJUSTMENT
RONALD WONG
JUNE 29, 2011 1:30 PM
PACKER ROOM**

Call to Order - Acting Chairman Lundberg called the meeting to order at 1:30PM.

Certification of Open Meeting Law - Lien verified that the Open Meeting Law requirements have been met.

Members present: Randy Severson, Gerald Hawkenson, Nancy Horton, Obert Lundberg, Robert Lunde

Staff present: Kevin Lien, Emery Palmer

Others present: Robert Tenneson, Town of Preston, Chairman, Ronald & Letha Wong

Adoption of Agenda - Lunde made a motion to approve the agenda, Hawkenson seconded, motion carried unopposed.

Adoption of Minutes - Hawkenson made a motion to adopt the June 15th meeting minutes, Lunde seconded, motion carried unopposed.

Lundberg opened the public hearing at 1:31PM. Horton read the public hearing notice aloud. Lien stated Section 3.07 of the Comprehensive Zoning Ordinance requires a 75 foot setback from all navigable waters and navigability of a body of water means that at one time during the calendar year one can float a small skiff in it. So if the stream has a defined bed and bank and there is any kind of channelized flow, perhaps during a rain event, that one could float that skiff it is considered a stream. Lien stated he knew at times, a grassed waterway could look that way but the vegetation in the bottom is sometimes the difference. There are a lot of intermittent streams in the County; one will be discussed at the next variance hearing as well. The County has a 75 foot setback requirement from all of those streams which is a Department of Natural Resources (DNR) requirement. Lien explained the Wong's have asked for a variance to be as close as 24 feet from the ordinary high water mark and the ordinary high water mark is usually measured where the vegetation starts or stops down on the bottom of the stream. Typically, people are told if they measure from the top of the bank it is fine, but legally it is the ordinary high water mark which those setbacks are measured from, so on vertical banks they can be within inches of each other or some banks can be several feet apart. Lien stated this hearing was posted in the paper for two consecutive weeks' prior and letters were sent to adjoining property owners. Lien did have an adjoining landowner that had left messages, but no phone number and Lien felt he just wanted to talk about the issue, so Lien couldn't say he was for or against the proposal. Lien did receive a letter from the Town of Preston.

Testimony in Favor – Wong stated that Emery Palmer had given them the permit and when his wife came home she informed Ronald Wong that the building criteria is that the shed must be 110 feet from the centerline of a state road, so they went 115, just to be sure, so Wong's decided

rather than put the shed where they had originally proposed, it would be more advantageous for Wong's and the township to move it because there were actually more wetlands further down, however they never thought about the ditch. Wong stated the building is basically done except for a few trusses that have to go up, so they are in a bad spot. Wong commented they really didn't realize that the ditch was a navigable creek/ditch.

Lien read a letter which stated the Town of Preston met on June 13th, 2011 to discuss the variance for Ron Wong. A motion was made by Gary Everson and seconded by Vernon Back; Robert Tenneson abstained, to approve a variance being issued to Ronald Wong.

Robert Tenneson, Chairman stated there were no problems as far as the town is concerned.

Testimony in Opposition – No testimony in opposition was given.

Lunde questioned if the water has ever gotten up to where that building is. Wong responded that as many years as they have been there, they have never seen the water very high there other than in the spring when the winter thaw occurs, then the water goes through the ditch for about two or three weeks. Currently, there is no water in it, so that is why Wong's thought it was ok. Hawkenson commented that there is a deeper ditch on the lower side of the road than the upper side. Tenneson inquired if Wong's dug the ditch. Wong's responded they did not. Palmer stated above the culvert there is really not much of a defined bank, but as you come down Palmer guessed the ditch was approximately 6 feet deep. Lien inquired if Palmer had checked the floodplain and wetland maps. Palmer responded there is no floodplain or wetlands mapped in that area. Lien stated just to the east is Reynolds Coulee Creek which comes down through there. Horton verified that the measurement was 24 feet from the top of the bank. Horton inquired if there were any DNR problems. Lien responded there was not. Severson inquired if the land sloped away or was level. Lien replied it is pretty level. Hawkenson voiced his opinion, that if they moved the shed down it would be lower. Lien commented if one goes north and east it is lower elevation. Tenneson stated when he lived there, on the other side of the road the cattle used to go to night pasture and they never walked through water, it is dry above. Discussion followed.

Action taken - Hawkenson made a motion to approve the variance as presented, Horton seconded, and motion carried on a 5-0 voice vote.

Adjournment – Lunde made a motion to adjourn, Hawkenson seconded, motion carried