

**WAUKESHA COUNTY BOARD OF ADJUSTMENT
SUMMARY OF MEETING**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, November 9, at 6:00 p.m. in Room 255/259 of the Waukesha County Administration Center, 515 W. Moreland Blvd., Waukesha County Wisconsin, 53188.

BOARD MEMBERS PRESENT: Tom Day, Chairman
Richard Nawrocki
Richard Bayer
Nancy M. Bonniwell
Stephen Schmidt

BOARD MEMBERS ABSENT: None

SECRETARY TO THE BOARD: Stephen Schmidt

TOWN OF MERTON BOARD

OF ADJUSTMENT MEMBERS PRESENT: Curt Podd
Jim Schneider
Lloyd Crom

PLANNING STAFF MEMBER: Ben Greenberg

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, an audio recording of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use, and an audio recording is available, at cost, upon request.

SUMMARY OF PREVIOUS MEETING:

Mr. Nawrocki *I make a motion to approve the Summary of the Meeting of October 12, 2022, as amended.*

The motion was seconded by Mr. Schmidt and carried unanimously.

NEW BUSINESS:

BA148 SCOTT AND XUAN THY SCHULENBURG (OWNERS), DAN GROSKOPF (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of the request for variances from the offset and maximum accessory building footprint provisions but **denial** of the request for a variance from the accessory building height provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to permit a new detached garage to replace an existing detached garage on the subject property.

Discussion between the petitioner (Dan Groskopf), Board and Staff followed.

Public Reaction:

- A letter from the DNR was read into the record, indicating that the DNR concurred with the staff recommendations.

Decision and Action:

The Town of Merton Board of Adjustment recommended approval of the petitioner's request for variances from the accessory building height and maximum accessory building footprint requirements but denial of a variance from the offset requirements.

Ms. Bonniwell

*I make a motion to **approve** the request for variances from the accessory building height and maximum accessory building footprint requirements and **deny** the request for a variance from the offset requirements with the following conditions and for the following reasons.*

Conditions:

1. *The proposed detached garage shall be a minimum of 2.7 ft. to the southern lot line.*
2. *To ensure the construction of a new residence does not result in adverse drainage onto adjacent properties, a detailed Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer, and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. The following information must also be submitted along with the Grading and Drainage Plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage. This Grading and Drainage Plan may be combined with the Plat of Survey required in Condition No. 7.*
3. *No relief from the grading and drainage standards of the Ordinance are proposed or permitted with this approval.*
4. *Prior to the issuance of a zoning permit, a roof drainage and downspout plan shall be submitted to the Waukesha County Planning and Zoning Division for review and approval. The downspout plan may be combined with the Grading and Drainage Plan required in Condition No. 2.*
5. *The new detached garage shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code.*
6. *Overhangs on the proposed garage shall not exceed 12" in depth.*

7. *Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out locations of the proposed detached garage, in conformance with the above conditions and in accordance with the proposed site plan (Exhibit B), must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.*
8. *A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said buildings (the proposed garage and nearby detached garage on the adjacent lot to the south), requiring the maintenance of a firewall and permitting maintenance of said buildings from adjacent properties.*

Reasons

Ordinance provisions would allow the property owners to entirely rebuild the legal non-conforming structure. It should also be noted that the size of the footprint that could be rebuilt exceeds what is being proposed. However, since small adjustments to the dimensions and location of the replacement structure are proposed, those legal non-conforming provisions are not available and strict compliance would limit the maximum building footprint to 340 sq. ft. Therefore, it is appropriate to grant some relief to allow the owners to preserve some of the accessory building footprint the property has historically contained to continue to utilize the property for a permitted residential purpose. The proposed garage is slightly more conforming with respect to maximum accessory building footprint than the existing garage which could be entirely rebuilt via the legal non-conforming provisions of the Ordinance. The garage will be modest in size and there is a need for a comfortable 2-car garage. The existing topography warrants height relief. An area of apparent artificial fill is being removed to restore the area to a more natural state. Since the clustering provision only requires a 2.7' offset, strict compliance with that requirement is not unnecessarily burdensome.

The motion was seconded by Mr. Bayer and carried unanimously.

BA141 H COLEMAN NORRIS (OWNER), DAN GROSKOPF (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of variances from the shore setback and Delafield Shoreland Overlay District shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to allow a second story deck and an external stair access to the existing residence.

Discussion between the petitioner (Dan Groskopf), Board and Staff followed.

Public Reaction:

- A letter from the DNR was read into the record, indicating that the DNR concurred with the staff recommendations.

Decision and Action:

Mr. Bayer

*I make a motion to **deny** the request for variances from the shore setback and Delafield Shoreland Overlay District shore setback requirements for the proposed external stairs on the east side of the home for the following reasons but **approve** the request for variances from the shore setback and Delafield Shoreland Overlay District shore setback requirements for the proposed 2nd floor deck on the southside of the home for the following reasons .*

Reasons for denial of variance for stairs:

With over 3,000 sq. ft. of living space, a 528 sq. ft. garage, a boathouse and patio space, the owner already utilizes the property for a permitted residential purpose. In addition, the Ordinance allows the home to be vertically expanded within its footprint which could more than double the living space available to the owner. Furthermore, a roughly 5,000 sq. ft. conforming building envelope is available if the owner were to redevelop the lot. Therefore, the Ordinance does not unreasonably prevent the property owner from using the property for a permitted purpose even if setback relief for a secondary set of external stairs is denied. The above-garage storage area is proposed to be accessed by both internal and external stairs. The desire for a second set of external stairs is a personal request for convenience and not based upon special conditions unique to the property. The home is currently less than 35 feet from the lake, which is the minimum State standard for shore setback requirements. State shoreland zoning rules identify the area within 35' of lakes as the vegetative buffer zone. The state's rules aim to protect the near shore zone from encroachment of structures and impervious surface to protect shoreline aesthetics, preserve water quality and protect wildlife habitat. This proposed project within the sensitive 35' zone would contribute a minor but unnecessary encroachment into the most sensitive part of the shoreland zone which undermines the natural environment near the lake.

Reasons for approval of variance for deck:

The unique shape of the lot and extensive shoreline are unique limitations of the property when shore setback requirements are applied. The deck is reasonably sized and will not be visible to lake goers.

The motion was seconded by Mr. Schmidt and carried unanimously.

BA142 BRIAN DUGAN (OWNER)Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of the request for a variance from the accessory building height, shore setback, road setback and offset requirements but **denial** of the request for a variance from the maximum building footprint provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to raze the existing detached garage and construct a new detached garage.

Discussion between the owner (Brian Dugan), Board and Staff followed.

Mr. Dugan noted that he was hoping to exceed the allowable building footprint since the project would be expensive and he want to get the most value for the expense. He also noted that he was hoping to eliminate any requirement to mitigate due to the additional costs.

Public Reaction:

- A letter from the DNR was read into the record, indicating that the DNR concurred with the staff recommendations.

Decision and Action:

Mr. Bayer: *I make a motion to **approve** the request for a variance from the accessory building height, shore setback, road setback and offset requirements and **denial** of the request for a variance from the maximum building footprint requirements in accordance with the staff report with the conditions and reasons stated in the staff report.*

The motion was seconded by Mr. Nawrocki and carried unanimously.

BA143 KAAREN SCHROEDER (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of a variance from the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the replacement and expansion of an existing deck with wheelchair ramp.

Discussion between the owner (Kaaren Schroeder), Board and Staff followed.

Public Reaction:

- A letter from the DNR was read into the record, indicating that the DNR concurred with the staff recommendations.

Decision and Action:

Mr. Bayer: *I make a motion to **approve** the request for variance from the shore setback requirements in accordance with the staff report with the reasons stated in the staff report.*

The motion was seconded by Mr. Nawrocki and carried unanimously.

OTHER ITEMS REQUIRING BOARD ACTION:

Election of Officers:

Mr. Nawrocki: *I make a motion to nominate Tom Day as chairperson and Richard Bayer as vice-chairperson.*

The motion was seconded by Ms. Bonniwell and carried unanimously.

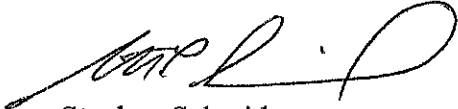
ADJOURNMENT:

Mr. Bayer

*I make a motion to adjourn this meeting at
7:41 p.m.*

The motion was seconded by Mr. Nawrocki and carried unanimously.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stephen Schmidt', written in a cursive style.

Stephen Schmidt
Secretary, Board of Adjustment