

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, April 13, 2022, 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: Richard Nawrocki

TOWN OF MERTON BOARD OF

ADJUSTMENT MEMBERS PRESENT: Jim Olson
Kathy Haberman
Jim Schneider

PLANNING STAFF MEMBER: Rebekah Leto

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:

Ms. Bonniwell *I make a motion to approve the Summary of the Meeting of March 9, 2022.*

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

NEW BUSINESS:

BA119: LISA PETERSEN/NORTH LAKE COUNTRY PROPERTIES, LLC (OWNER):

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of a use variance from the EFD Existing Floodplain Development Overlay District requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the relocation of an interior staircase in an existing building located in the regulatory floodway.

Mr. Schmidt recused himself from discussion and action due to a conflict of interest. Discussion between Mike Mueller (representative of the owner), Board and Staff followed. Ms. Bonniwell noted how the use of the property does not change or expand in any way with the proposal and

from a historical perspective, it is good to maintain the building. Ms. Bonniwell also noted that the proposal is not detrimental to the floodplain any more than what it is today.

Public Reaction: No public comment.

Decision and Action:

The Town of Merton Board of Adjustment recommended approval of the petitioner's request as proposed.

Ms. Bonniwell: *I make a motion to approve the request in accordance with the staff report with the reasons stated in the staff report.*

The motion was seconded by Mr. Nawrocki and carried 4-0 (Mr. Schmidt recused himself from voting).

BA117: DON SMILEY (OWNER), BARTELT INC. (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for approval of a variance from the maximum building footprint requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit a garage addition to the principal structure.

Discussion between a representative from Bartelt Remodeling (petitioner), Don Smiley (owner), Board and Staff followed. Mr. Smiley commented that the changes will be dramatic and that they have contacted their neighbors. The petitioner commented the impervious surface will be further reduced with modifications made to the existing driveway.

Public Reaction: No public comment.

Decision and Action:

Mr. Bayer: *I make a motion to approve the request subject to the following condition and for the reasons stated in the staff report.*

- 1. Impervious surfaces shall not exceed a maximum of 30% of the lot size, without mitigation and/or installation of treated of impervious surfaces.*

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

BA118: ERIC AND DIANE FLEISCHMANN (OWNERS)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of the request for a variance from the offset provisions to construct a deck and **conditional approval** of the request for variances from the shore setback requirements and the

nonconformance to offset provisions and an after-the-fact variance from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit a vertical expansion of the second floor within the existing first floor footprint, a deck and to legalize an existing sidewalk.

Discussion between the Eric and Diane Fleischmann (owners), Board and Staff followed. The owner noted that they were told an easement existed for the joint walkway. However, they have not been able to find any record of such easement and do not think it exists.

Public Reaction: Jim Opgenorth, Road G, noted he supports the plan and it will be visually pleasing to the neighborhood.

Decision and Action:

Ms. Bonniwell *I make a motion to approve the request 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.

BA115: JAMES AND KELLY OPGENORTH (OWNERS):

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** of the request for after-the-fact variances from the shore setback, floodplain setback and nonconformance to the floodplain provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to legalize existing improvements which include additions to the principal residence, decks, patios, walkways and retaining walls.

Discussion between James Opgenorth (owner), Board and Staff followed. The owner's attorney, Kathy Sawyer-Gutenkunst was also present. The Board inquired about the proposed treated impervious surface system with irrigation that the owner was proposing. Mr. Opgenorth explained how it would function using three 150-gallon tanks stored under the deck near his residence. Mr. Opgenorth expressed concern meeting the deadlines set by staff in the recommended conditions due to supply chain issues.

Public Reaction: No public comment.

Decision and Action:

Mr. Bayer: *I make a motion to approve the request in accordance with the staff report subject to the amended conditions and for the reasons stated in the staff report.*

Conditions:

1. *A Certified Survey Map shall be completed by a Professional Land Surveyor that eliminates the internal lot line on the property. The*

Certified Survey Map shall be submitted to the Town, County and any applicable extra-territorial review entity no later than June 1, 2022 and shall be recorded in the Waukesha County Register of Deeds by November 1, 2022.

2. *In order to offset the impacts of the retaining walls, patio and staircases that were constructed within the Vegetative Buffer Zone, a Mitigation and Landscaping Plan shall be prepared by a qualified professional, such as a landscape architect, and submitted to the Planning and Zoning Division for review and approval, prior to July 1, 2022. The Plan shall include only vegetation native to Wisconsin and shall incorporate the following elements: a minimum of 50% of the retaining wall system shall be screened with vegetation as viewed from the lake; the paver area in the northeastern most corner of the property adjacent to the residence shall be removed and replaced with a vegetative buffer area, and the yellow and red patio near the existing lawn area at the shore shall be removed and replaced with either grass or vegetation. The Plan shall also include an inventory of the species and size of the existing trees. Short and long term maintenance requirements shall also be provided in the Plan. The final approved Mitigation and Landscaping Plan shall be filed in the Waukesha County Register of Deeds office and referenced in a Declaration of Restrictions that shall be recorded in the Waukesha County Register of Deeds office prior to September 1, 2022. Said restriction will stipulate that the mitigation areas and retaining wall screening shall be maintained in perpetuity. Said landscaping shall be completed no later than October 15, 2022, unless extended for just cause.*

Please note: The required Declaration of Restrictions may be prepared either by the Waukesha County Department of Parks and Land Use – Planning and Zoning Division staff or your attorney. Please contact the Planning and Zoning Division staff if you would like them to draft the Declaration of Restrictions. There is a fee of \$100.00 for this service. If you choose not to have the Declaration of Restrictions prepared by the Planning and Zoning Division staff, please submit a copy of the Declaration of Restrictions to the Planning and Division staff for review and approval, prior to recording it in the Waukesha County Register of Deed's office.

3. *The existing amount of impervious surface shall be reduced on the property in conformance with the plans submitted by the petitioner, shown on a plat of survey submitted January 12, 2022 (pavers) and described via email from your attorney on 2/13/2022 and at the public hearing (TIS/infiltration system) to the extent practicable by July 15, 2023. This includes the removal of portions of the gravel driveway to be replaced with permeable pavers and the installment of the stormwater collection and irrigation system around the*

- residence. A Stormwater Permit shall be obtained from the Land Resources Division for the installation and use of Treated Impervious Surface, which ensures the permeable pavers and the stormwater runoff collection and irrigation system will function properly as a form of Treated Impervious Surface.*
4. *An After-the-fact Zoning Permit for all work conducted on the property and contained within this approval shall be issued following completion of the conditions herein.*
 5. *The gazebo shall be removed by June 1, 2022. Documentation shall be submitted in the form of photographs to the Planning and Zoning Division that the structure has been removed.*
 6. *Documentation shall be submitted to the Planning and Zoning Division that the Town Building inspector or another qualified professional, such as a structural engineer, has evaluated the elevated walkway for any structural concerns prior to July 15, 2022. If there are items that the qualified professional recommends installing (such as proper footings near the residence or a safety rail) in order to make the elevated walkway safe and/or to adhere to any applicable Building Code, it shall be done within six months of receiving said documentation. Note the Town Building Inspector may evaluate the walkway and require a Building Permits per the Town Building Code (see condition 7).*
 7. *Any construction of the work noted herein that is determined by the Town of Oconomowoc Building Inspector not to be in conformance with the Building Code must be brought into conformance with the Building Code, prior to the expiration date of the Zoning Permit.*
 8. *Prior to the issuance of a Zoning Permit, the Environmental Health Division must approve a Preliminary Site Evaluation certifying they have no objection to any of the previous improvements made on the property, including to the interior or exterior of the residence or landscaping features, and must also ensure that the proposed irrigation system to treat stormwater runoff will not have adverse impacts to the existing septic system. If that cannot be done, a Sanitary Permit for a new waste disposal system must be issued, and a copy furnished to the Planning and Zoning Division staff, prior to the issuance of a Zoning Permit.*

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

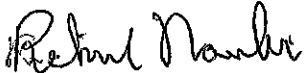
OTHER ITEMS REQUIRING BOARD ACTION: None

ADJOURNMENT:

Mr. Bayer *I make a motion to adjourn this meeting at 7:17 p.m.*

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

Respectfully submitted,

Handwritten signature of Richard Nawrocki in cursive.

Richard Nawrocki
Secretary, Board of Adjustment