

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 11, 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
Stephen Schmidt

BOARD MEMBERS ABSENT: Nancy M. Bonniwell

SECRETARY TO THE BOARD: Richard Nawrocki

TOWN OF MERTON BOARD OF

ADJUSTMENT MEMBERS PRESENT: Curtis Podd
Lloyd Crom
Jim Olson
Jim Schneider

PLANNING STAFF MEMBER: Jacob Heermans

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 April 13, 2022.*

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

NEW BUSINESS:

BA120: STEPHEN AND REBECCA VERHAGEN (OWNERS), DAN GROSKOPF (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for conditional approval from the nonconformance to road setback and offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a second story addition.

Minimal discussion between the petitioner Dan Groskopf, Board and Staff followed.

Public Reaction: None

Decision and Action:

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

Mr. Schmidt *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.

BA113: ERIK MULLETT (OWNER)

Mr. Schmidt recused himself from the Board's discussion and vote on this case.

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for denial of variances from the offset and shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a new, single-family residence with attached garage, retaining walls, deck, pool, and hot tub.

Discussion between the owners (Erik Mullett and Jen Smith), Board and Staff followed. The owner explained that the site presents unique physical limitations due to the dynamic and extensive shoreline. While a variance was obtained in 2021 for an addition to the existing residence, it is not financially feasible, given the scope of work. The owner stated that they would be decreasing the net impervious surface with this project and removing a nonconforming boathouse. The owner also stated that he was agreeable to mitigation to offset impacts.

Correspondence was received from the DNR relative to the appeal and was read into the record. It was also noted that a neighbor had expressed concerns relative to expanding the structure closer to the shore on the east side of the property.

Public Reaction: None

Decision and Action:

Mr. Bayer *I make a motion to deny the request in accordance with the staff report and the reasons stated in the staff report.*

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

BA123: BOB AND KATHY KOBZA (OWNERS), JON SCHOENHEIDER (APPLICANT)

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 maximum building footprint requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to construct a new single-family residence with attached garage and exposed basement and denial of the request for

variances from the shore setback, offset and impervious surface provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to legalize an existing lakeside deck.

Discussion between the owner (Bob Kobza), architect (Steve Wollersheim), Board and Staff followed. The owner and architect relayed that it is not feasible to remove the owners portion of the boathouse, as there are no footings, and the structure would be compromised by such an action. The neighbors are also not interested in removing the boathouse completely. The proposed residence was designed to meet Ordinance requirements, and the footprint was meant to meet the 1,100 square foot footprint.

Public Reaction:

- Carol Wilson, Chairperson of the Okauchee Lake Management District, relayed that the deck at the shore should be removed, as it could set a bad precedent. She also inquired about the parking situation, and the number of cars that could be parked on site, as Forest Bay Road is narrow and there are concerns about ingress/egress of emergency vehicles.

Decision and Action:

Mr. Bayer

I make a motion to approve the request for a variance from the maximum building footprint provisions for a new residence and deny the request for variances from shore, offset and impervious surface regulations to legalize the existing lakeside deck with the following conditions and for the following reasons:

Conditions:

1. *The existing deck at the shore shall be removed prior to September 1, 2022.*
2. *In order to ensure the construction of the new residence does not result in adverse drainage onto adjacent properties, the proposed Grading Plan, shall be reviewed and approved by Planning and Zoning staff prior to the issuance of a Zoning Permit.*
3. *Construction shall comply with the building plans, as submitted.*

Regarding the deck at the shore, the Board of Adjustment previously denied a request from a prior owner to retain the detached deck that was constructed without permits. The Board found that no hardship existed on the property that would warrant the severe encroachment of the side yard offset and shore setback. The existing residence has a lakeside deck which provides a reasonably sized outdoor recreation space. There are also available conforming locations to construct additional deck and/or patio space adjacent to the residence.

The excess impervious surface can be addressed by reducing the amount of proposed impervious surface or using treated impervious surfaces or mitigation. The removal of the deck, a smaller residence footprint, elimination of the boathouse, removal of other hard surface or mitigative measures are all available options to comply with the impervious surface standards on this site. Therefore, strict compliance is not unnecessarily burdensome, and no hardship exists to justify a variance from the impervious surface standards.

The Ordinance requires that owners must locate all improvements within 35' of the shore in a designated Access and Viewing Corridor which can occupy up to 35% of the shore frontage. The

access and viewing corridor provisions are meant to allow for limited improvements within the shore setback, while minimizing disturbance and impacts to vegetation. The access and viewing corridor provision and County shore setback standards exist in part to protect the nearby natural resources and environmentally sensitive shoreland areas from runoff and other impacts of development while also buffering views of structures from the water. If relief is granted for the stand alone deck, the deck walkway and existing boathouse would span nearly the entire shoreline which runs contrary to the purpose and intent of the Ordinance.

Furthermore, the offset provisions exist in part to ensure that there is adequate space between structures and property boundaries to ensure adequate drainage can be provided and to allow reasonable repair and maintenance of structures.

The boathouse is unusual and adds to the building square footage on the lot. The boathouse cannot be altered and it would be overly burdensome to remove it. The attached garage will alleviate parking concerns, and the new residence will be more conforming than the existing residence.

The motion was seconded by Mr. Nawrocki and carried 3 to 1, with Mr. Day voting against the motion.

OTHER ITEMS REQUIRING BOARD ACTION:

ADJOURNMENT:

Mr. Nawrocki *I make a motion to adjourn this meeting at 7:55 p.m.*

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

Respectfully submitted,



Richard Nawrocki
Secretary, Board of Adjustment