

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, December 12, 2007, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 1320 Pewaukee Road, Waukesha County, Wisconsin, 53188.

BOARD MEMBERS PRESENT: James Ward, Chairman
Robert Bartholomew
Walter Schmidt
Ray Dwyer
Tom Day

BOARD MEMBERS ABSENT: None

SECRETARY TO THE BOARD: Mary E. Finet

OTHERS PRESENT: Duane and Teresa Benz, BA07:082, petitioners
Paul Schultz, BA07:083, architect/petitioner
Jonathan Rigano, BA07:084, petitioner
Robert and Lanette Kudis, BA07:085, petitioners
Harry and Victoria Mazurkiewicz, BA07:086, petitioners
Diane Parish, BA07:087, petitioner
Doug and Lori Larson, BA07:088, petitioners
Jim Engler, Jeffree Nelson Custom Homes, BA07:088, builder
Kent and Laura Albrecht, BA07:072, owners
Attorney Victor Buerosse, BA07:072, representing Kent and
Laura Albrecht
Rob Millen, BA07:072, architect/petitioner

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, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use and a taped copy is available, at cost, upon request.

SUMMARIES OF PREVIOUS MEETINGS:

Mr. Schmidt *I move to **approve** the Summary of the Meeting of November 14, 2007.*

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

NEW BUSINESS:

BA07:082 DUANE AND TERESA BENZ

Mr. Schmidt *I move to **approve** the request for a floor area ratio variance, subject to the conditions set forth in the Memorandum from Sheri Mount, which are as follows:*

1. *All existing structures must be removed within 6 months of issuance of the Zoning Permit for the new residence and attached garage*
2. *A Certified Survey Map must be prepared by a registered land surveyor and submitted to the Town of Oconomowoc and the Waukesha County Planning and Zoning Division staff for review and approval. The Certified Survey Map must indicate that the two lots shall remain together and shall not be sold separately. The Certified Survey Map must be recorded in the Waukesha County Register of Deed's office, prior to the issuance of a Zoning Permit for the new residence.*
3. *The proposed residence, including the first and second floors and attached garage and covered porches, decks, patios, etc. shall not exceed 4,196 sq. ft., as proposed.*
4. *No detached structures are permitted*
5. *No retaining walls are permitted.*
6. *There shall be no living area or storage space above the garage (i.e. areas that have a floor to ceiling height of 6 ft. or greater).*
7. *There shall be no direct connection to any "attic-type" area (i.e. areas that have a floor to ceiling height of less than 6 ft.) above the garage and the second floor of the residence.*
8. *Prior to the issuance of a Zoning Permit, two (2) copies of the complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.*
9. *Prior to the issuance of a Zoning Permit, a Stake-Out Survey showing the location of the proposed residence, attached garage, any proposed decks or patios, as well as any proposed sidewalks, stairs and walkways, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.*
10. *If any changes to the existing grade are proposed, in order to ensure the construction of the new residence and attached garage does not result in adverse drainage onto adjacent properties or the road, 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 intent is that the property be graded according to the approved plan, and also to*

provide that the drainage not be directed to the neighboring properties or the road. This Grading Plan may be combined with the Plat of Survey required in Condition No. 9.

The reasons for this motion are as follows:

A hardship exists because the property has the unique characteristic of being 4 ft. lower than the road. The proposed residence exceeds the maximum permitted floor area ratio only because of the covered porch, which will mask the exposed foundation and result in a more aesthetically pleasing residence. Construction of the proposed porch is preferable to backfilling around the exposed foundation, which could result in adverse drainage onto the adjacent lots.

The motion was seconded by Mr. Ward. Mr. Schmidt and Mr. Ward voted yes. Mr. Bartholomew, Mr. Dwyer and Mr. Day voted no. The motion was defeated.

Mr. Dwyer *I move to **deny** the request, in accordance with the staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report.*

The motion was seconded by Mr. Day. Mr. Bartholomew, Mr. Dwyer and Mr. Day voted yes. Mr. Schmidt and Mr. Ward voted no. The motion was approved.

The Planning and Zoning Division staff's recommendation was for **denial** of the request for a variance from the floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the existing residence, detached garage and shed to be replaced with a new single-family residence and attached garage.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The lot is significantly larger and wider than the district requires for a sewered lot and therefore there is no justifiable reason for granting a floor area ratio variance. The district requires lots to be a minimum of 14,000 sq. ft. in size and have 84 ft. of average width. This property is 20,495 sq. ft. in size and 129 ft. wide. A residence can be constructed on this lot that is 3,714 sq. ft. in size without the need for a variance, which provides reasonable use of this property. Therefore, it has not been demonstrated, as required for a variance, that denial of the requested variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Furthermore, there are no unique characteristics of this property which justify deviation from the Ordinance standards. Therefore, the approval of this request would not be within the purpose and intent of the Ordinance.

BA07:083 DAVE AND KAREN MEISTER - Owners, PAUL SCHULTZ - Architect/Petitioner

Mr. Day *I move to **approve** the request, in accordance with the staff's recommendation, with the conditions set forth in the Staff Report and for the reasons stated in the Staff Report.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the shore and floodplain setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the existing residence, attached garage and patio to be replaced with a new residence, attached garage and patio, subject to the following conditions:

1. The shore and floodplain setbacks of the new residence and attached garage shall not be less than the shore and floodplain setbacks of the existing residence and attached garage.
2. The existing concrete patio can remain in its present location, but if it becomes necessary to replace the patio, the new patio shall extend no closer to the shore or the 100-year floodplain than the residence.
3. The new residence and attached garage must conform with all other Ordinance requirements, including the maximum permitted floor area ratio of 19.5%.
4. Prior to the issuance of a Zoning Permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
5. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the existing residence, attached garage and patio and the staked-out location of the proposed extensions to the footprint of the residence and attached garage, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
6. In order to ensure the construction of a new residence does not result in adverse drainage onto the adjacent property, 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 intent is that the property be graded according to the approved plan and also to provide that the drainage remain on the property or drain to the lake and not to the neighboring property or the road. 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 Plan may be combined with the Plat of Survey required in Condition No. 5.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where

compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. A hardship exists because the shallow lot depth and the lot configuration, with lake frontage on both the east and west sides of the property, are physical conditions that make conformance with the shore and floodplain setback requirements unnecessarily burdensome. The new residence has been designed to utilize the footprint of the existing residence, which will minimize the amount of disturbance on the lot. The proposed areas of expansion to the north and south will extend no closer to the lake or the 100-year floodplain than the existing residence, will not adversely affect the lake or the adjacent property, and are not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA07:084 JOHNATHAN AND URSULA RIGANO

Mr. Dwyer

*I move to **approve** the request, in accordance with the Staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for a special exception from the minimum floor area requirement and for a variance from the minimum first floor area requirement of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit construction of the proposed residence, subject to the following conditions:

1. The residence must conform to all setback, offset and height requirements of the Ordinance.
2. The residence shall be used as a seasonal vacation home and shall not be occupied as a year-round home.
3. Prior to the issuance of a Zoning Permit, a detailed tree-removal plan shall be submitted to Planning and Zoning Division staff for review and approval. This plan shall comply with all shoreland cutting provisions in the Waukesha County Shoreland and Floodland Protection Ordinance.
4. A walkway and stairs to the lake shall be permitted, but that portion of the walkway and stairs within the 75 ft. shore setback area may not exceed three (3) ft. in width.
5. Prior to the issuance of a Zoning Permit, a Stake-Out Survey showing the location of the proposed residence, in conformance with all setback and offset requirements of the Ordinance and any walkway and stairs leading to the lake, in conformance with the above condition, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.

6. If any changes to the existing grade are proposed, 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. This is to ensure the construction of the proposed residence does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property. This Grading Plan may be combined with the Plat of Survey required in Condition No. 5.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request, with the recommended conditions, will permit a reasonable use of the property. Given the restrictions for building on an island and the fact that the Town of Summit cannot issue a Building Permit for a year-round residence because there is no hard surface access to the property, the proposed 600 sq. ft. residence is appropriate for the lot. The approval of this request, with the recommended conditions, will permit the construction of a seasonal cottage that will not be detrimental to the surrounding area or contrary to the public interest. Therefore, the approval of this request, with the recommended condition, is in conformance with the purpose and intent of the Ordinance.

BA07:085 ROBERT AND LANETTE KUDIS

Mr. Day

*I move to **approve** the request, in accordance with the staff's recommendation, with the conditions set forth in the Staff Report and for the reasons stated in the Staff Report.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the offset requirement and from the remodeling non-conforming structure in excess of 50% of its fair market value provision of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of an attached garage and bedroom addition, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a Sanitary Permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
2. The proposed attached garage must be located at least 10 ft. from the east lot line, as measured to the outer edges of the wall, with an overhang not to exceed two (2) ft. in width.
3. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out locations of the proposed attached garage and bedroom addition, in conformance with the above condition, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.

4. If any changes to the existing grade are proposed, 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. This is to ensure the construction of the proposed attached garage and bedroom addition does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. 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. 3.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variances require a demonstration that denial of the variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The residence is a substantial structure that has been permitted to be extensively remodeled in the past. It would be unnecessarily burdensome not to permit further remodeling and expansion because the cost of past remodeling and expansion has exceeded the 50% limit. The proposed attached garage would replace a deteriorating detached garage and would be more useful and aesthetically appealing. The proposed attached garage would be no closer to the east lot line than the existing detached garage. Finally, the proposed additions will not adversely affect the neighboring properties or the lake and are not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA07:086 HARRY AND VICTORIA MAZURKIEWICZ

Mr. Bartholomew

*I make a motion to **adjourn the hearing until January 23, 2008**, to allow time for the staff to review the revised plans presented tonight, as agreed to by the petitioners.*

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

BA07:087 STEVE AND DIANE PARISH

Mr. Schmidt

*I move to **approve** the request, in accordance with the staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report, with the following changes:*

Condition No. 2 shall be revised to read "Unless evidence is presented to the Planning and Zoning Division staff that the non-conforming shed near the lake has existed for more than ten (10) years or that the structure is not a shed, as regulated by the Ordinance, the shed must be removed from the property or relocated to a conforming location, no later than nine (9) months after the issuance of a Zoning Permit for the proposed remodeling. A conforming location would be at least 75 ft. from the lake, at least 5 ft. from the side lot lines, at least 10 ft. from the residence and at least 83 ft. from the centerline of the road right-of-way.

The motion was seconded by Mr. Bartholomew. Following a discussion, Mr. Bartholomew withdrew his second and Mr. Schmidt withdrew his motion. Mr. Schmidt then made the following motion:

Mr. Schmidt *I move to **approve** the request, in accordance with the staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report, but with the elimination of recommended Condition No. 2.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for a variance from the remodeling a non-conforming structure in excess of 50% of its fair market value provision of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the proposed remodeling of the master bathroom and the lower level of their residence and the addition of an egress window to the lower level, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit for the proposed remodeling, an updated Plat of Survey showing all existing structures must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
2. Unless evidence is presented to the Planning and Zoning Division staff that the non-conforming shed near the lake has existed for more than ten (10) years, the shed must be removed from the property or relocated to a conforming location, prior to the issuance of a Zoning Permit for the proposed remodeling. A conforming location would be at least 75 ft. from the lake, at least 5 ft. from the side lot lines, at least 10 ft. from the residence and at least 83 ft. from the centerline of the road right-of-way.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The residence is a substantial structure that was permitted to be remodeled and expanded several times in the past. It would be unnecessarily burdensome not to permit further interior remodeling

and updating of the residence because the cost of past remodeling and expansions has exceeded the 50% limit. Further, the proposed remodeling will not increase the footprint of the residence, nor the degree of non-conformity. The proposed remodeling will not adversely affect the lake or the neighboring properties and is not contrary to the public interest. We have been advised by the Waukesha County Corporation Counsel's office that violations of the Waukesha County Shoreland and Floodland Protection Ordinance cannot be pursued if they have existed for more than ten years. Therefore, the recommended condition to remove the non-conforming shed near the lake or, if it cannot be determined that the shed has existed for more than ten years, to relocate it to a conforming location, is appropriate because it will either establish that the shed was constructed more than ten years ago and cannot be pursued as a violation or the non-conforming shed will be eliminated. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA07:088 DOUG AND LORI LARSON

Mr. Dwyer

*I move to **approve** the request, in accordance with the staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the private road setback, floodplain setback, floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit replacement of the existing single-family residence, multiple decks and retaining walls with a new single-family residence, attached garage, deck, patio and one retaining wall, subject to the following conditions:

1. The new residence must conform with the shore and floodplain setback requirements. On this lot, the minimum required shore setback for a residence is 52 ft. and the minimum required floodplain setback for a residence is 50 ft., provided the overhang on the lake side of the building, as measured to the outer edge of the wall, does not exceed two (2) ft. in width. If the overhang exceeds two (2) ft. in width, the residence must be located so that the outer edge of the overhang conforms with the shore and floodplain setback requirements noted above.
2. Any decks or patio on the lake side of the new residence must also conform with the shore setback requirement. On this lot, the minimum required shore setback for a deck or patio adjacent to a residence, utilizing the shore setback averaging provision of the Ordinance, is 45.5 ft.
3. The residence must be at least 15 ft. from the edge of the private road right-of-way, as measured to the outer edge of the overhang.
4. A replacement retaining wall may be permitted on the lake side of the new residence, but that retaining wall must be at least five (5) ft. from the side lot lines. Prior to the issuance of a Zoning Permit for the new residence, detailed plans for the proposed retaining wall must be

submitted to the Planning and Zoning Division staff for review and approval. If the new retaining wall will be more than 4 ft. in height, certification from a structural engineer must be submitted to the Planning and Zoning Division staff, prior to the issuance of a Zoning Permit for the new residence.

5. Any new sidewalks, walkways or stairs along the sides of the residence must be at least three (3) ft. from the side lot lines. New sidewalks, walkways or stairs within 75 ft. of the lake may be no wider than three (3) ft.
6. The total floor area of the new residence, the covered porch on the road side of the new residence and attached garage shall be no larger than indicated on the plans submitted with the Zoning Permit and variance applications.
7. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out locations of the proposed residence, attached garage, deck, patio, retaining wall and any sidewalks, walkways or stairs, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
8. In order to ensure the construction of the 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 intent is that the property be graded according to the approved plan and also to provide that the drainage remain on the property or drain to the lake and not to the neighboring properties or the road. 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 and Landscape 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 Plan may be combined with the Plat of Survey required in Condition No. 7.
9. The temporary shed must be removed from the property or relocated to a conforming location, prior to the expiration date of the Zoning Permit issued for the construction of a new house on the property. A conforming location would be at least 75 ft. from the lake, at least 5 ft. from the side lot lines, at least 10 ft. from the residence, and at least 20 ft. from the edge of the private road right-of-way.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Since the lot area is only 6,074 sq. ft., it is impossible to conform with the open space requirement of 10,500 sq. ft. Conformance with the maximum permitted floor area ratio of 19.5% would allow a total floor area of only 1,184 sq. ft., which would not be in keeping with other development in the area and would preclude the addition of a garage. Granting a variance from the private road setback requirement will allow the addition of a small covered porch on the road side of the new

residence, which will make the new residence more aesthetically appealing, but will not result in a safety hazard. Finally, granting a slight variance from the floodplain setback requirement will permit a more usable deck and patio area and because the house site is elevated significantly above the lake and the 100-year floodplain, it will not adversely affect the lake or the floodplain and is not contrary to the public interest. Therefore, the approval of the requested variances, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

OTHER ITEMS REQUIRING BOARD ACTION:

BA07:072 KENT ALBRECHT - Owner, ROB MILLEN - Architect/Petitioner

Mr. Bartholomew *I move to reconsider our decision of November 14, 2007.*

The motion was seconded by Mr. Ward and approved with three yes votes. Mr. Ward, Mr. Bartholomew and Mr. Day voted yes. Mr. Schmidt and Mr. Dwyer voted no.

Mr. Day *I move to amend Condition No. 7 of our approval of November 14, 2007, as recommended by the Planning and Zoning Division staff in the Staff Memorandum.*

The motion was seconded by Mr. Bartholomew and approved with three yes votes. Mr. Ward, Mr. Bartholomew and Mr. Day voted yes. Mr. Schmidt and Mr. Dwyer voted no.

The Planning and Zoning Division staff's recommendation was to amend Condition No. 7 of the approval of November 14, 2007, to read as follows:

“The detached garage may remain and non-structural updates may be made to the garage. Any structural modifications will require a Zoning Permit from the Waukesha County Planning & Zoning Division and if the structural work exceeds 50% of the value of the building, application for a variance will be required before the work can proceed. The owner must submit a plan for all work (structural and non-structural) to the Planning & Zoning Division prior to any work on the garage commencing. Furthermore, if the Town of Delafield requires the garage to be removed, the County will also require its removal within 6 months of issuance of the Zoning Permit.”

The reasons for the recommendation, as stated in the Memorandum, are as follows:

The staff did not recommend removal of the garage as part of the conditional approval in the first place. This is because there is not an open space or floor area ratio variance necessary for the proposed construction. Furthermore, it appears the Board only added that condition because the owner's architect suggested that they planned to remove the garage anyway. However, that was not the owner's plan. The approval of the request to amend Condition No. 7 of the Board's November 14, 2007 decision, as recommended, does not appear to alter the spirit and intent of the Board's original decision. Therefore, the approval of this request, as recommended, is in conformance with the purpose and intent of the Ordinance.

ADJOURNMENT:

Mr. Bartholomew

I make a motion to adjourn this meeting at 9:44 p.m.

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

Respectfully submitted,

Mary E. Finet
Secretary, Board of Adjustment