

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 14, 2008, at 6:30 p.m. in Room AC 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: Michael Keener and Jonathan Walter, BA08:016, petitioners
Paul and Brenda Pillard, BA08:017, petitioners
Janice Bartel, Bartel Builders, BA08:017, builder
Chris Egner, Four Seasons Sunrooms, BA08:018, agent

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. Dwyer *I move to approve the Summary of the Meeting of April 23, 2008.*

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

NEW BUSINESS:

BA08:016 MICHAEL KEENER AND JONATHAN WALTER

Mr. Schmidt *I move to approve the request, in accordance with the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report and with the conditions set forth in the Staff Report with emphasis on Condition No. 7.*

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

The Planning and Zoning Division staff's recommendation was for **approval** of a variance from the private road setback requirement and a special exception from the accessory building floor area ratio requirement of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a detached garage, subject to the following conditions:

1. The garage must be at least 10 ft. from the edge of the private road platted as "2nd Alley" in the Map of Johnson Park and at least 10 ft. from the residence, as measured to the outer edges of the walls, with overhangs not to exceed 2 ft. in width.
2. The floor area of the garage may not exceed 768 sq. ft., as proposed.
3. The garage must contain only one story and it must conform with the height requirement of the Ordinance, i.e. the height of the garage, as measured from the lowest exposed point to the peak of the roof, must not exceed 18 ft.
4. The garage may contain an upper-level storage area only if the garage conforms with the height requirement noted above and only if that upper level is not accessible via a permanent staircase. The upper level of the garage may be accessed via pull-down stairs.
5. Elevation views of the proposed garage, showing the proposed grades around the garage, must be submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit.
6. Any new retaining walls must be located at least 5 ft. from the side lot lines and must not exceed 4 ft. in height.
7. In order to ensure the construction of a detached garage and the installation of a new driveway on this lot does not result in adverse drainage onto surrounding properties, a more detailed Grading and Drainage Plan, showing additional detail in the area of the proposed retaining wall, the location of the proposed driveway, and addressing how the increased runoff from the proposed driveway will be retained on the property and not directed towards the lot to the south, 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 for the detached garage.
8. If after reviewing the above-required detailed Grading and Drainage Plan, the Planning and Zoning Division staff determines that the proposed grading requires either a Minor Grading Permit or a Conditional Use Permit, the Minor Grading or Conditional Use Permit must be issued prior to the issuance of a Zoning Permit for the detached garage.

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. Locating the proposed garage in conformance with the required 20 ft. setback from the end of the private road would require additional excavation into the hillside, which would be unnecessarily burdensome and contrary to the public interest. Further, granting a variance from the private road setback requirement to permit the garage to be located less than the required 20 ft. from the end of the private road right-of-way will not adversely affect any adjacent lots, since the private road terminates south of the proposed garage site and serves no additional residences beyond the subject property.

Although slightly over the maximum permitted 3% accessory building floor area ratio, the proposed 24 ft. x 32 ft. garage is only as wide as the average two-car garage and it conforms with the open space and overall floor area ratio requirements. Provided a detailed Grading and Drainage Plan is approved, as recommended, and implemented, the proposed garage will not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood and will provide storage for vehicles and other items that is badly needed because the petitioners' residence is small and has limited storage in the basement, since a portion of exposed basement is used as living area. Therefore, the approval of a variance from the private road setback requirement and a special exception from the accessory building floor area ratio requirement, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA08:017 PAUL AND BRENDA PILLARD (Owners) JANICE BARTEL, BARTEL BUILDERS (Contractor)

Mr. Bartholomew

*I make a motion 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 to remodel a non-conforming structure in excess of 50% of its fair market value and from the floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the proposed kitchen addition and to permit a storage shed, which was constructed without permits, to remain on the property, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, an updated Plat of Survey, showing all existing structures and the proposed kitchen addition, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
2. If the Plat of Survey required above indicates the shed is located less than the required five (5) ft. from any lot line, the shed must be relocated to conform with the minimum offset requirement of 5 ft., prior to the issuance of a Zoning Permit.

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 proposed kitchen addition and the shed that was constructed without permits conform with all locational requirements of the Ordinance and will result in a very minor decrease of the open space and increase of the floor area ratio. The residence is a substantial structure that was permitted to be expanded in the past and it would be unnecessarily burdensome not to permit the

proposed kitchen addition that will increase the size of the residence by only approximately 21 sq. ft. or the continued existence of the 132 sq. ft. shed, provided it can be verified that the shed is in a conforming location. The proposed kitchen addition and the continued existence of the shed will not adversely affect the neighboring properties and are 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.

BA08:018 BOB AND KATHY KARIUS (Owners) CHRIS EGNER, FOUR SEASONS SUNROOMS (Agent)

Mr. Bartholomew

*I make a motion 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 a variance from the offset requirement of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit a shed that was not located in accordance with the Zoning Permit authorizing its construction, to be retained in its current location, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit for the shed, an updated Plat of Survey, showing the location of the shed and proposed location of the recently permitted family room addition, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
2. If the Plat of Survey required above indicates the shed is located less than five (5) ft. from any lot line, this approval shall be brought back to the Waukesha County Board of Adjustment for reconsideration as a matter of "old business".

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

A variance requires a demonstration that denial of the variance 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 owners from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. It is felt that the construction of the shed in a non-conforming location was unintentional and it would be unnecessarily burdensome to require the shed, which is located on a concrete slab and has been in place for more than a year, to be removed or relocated to a conforming location.

The requested offset variance is from an outlot, which provides common open space for all the lots in the subdivision and which will never be developed for residential use. Therefore, the location of the shed less than the required 20 ft. from the west lot line does not adversely affect any individual lot owners. The location of the shed less than 20 ft. from the west lot line is also not contrary to the public interest. Further, the Ordinance provides that a shed less than 200 sq.

ft. could be located as close as 5 ft. from a side or rear lot line. Therefore, a shed only slightly smaller than the existing 252 sq. ft. shed could be permitted in the same location, provided that location is verified to be at least 5 ft. from the west lot line. Therefore, the approval of an offset variance to permit the shed to remain in its current location, subject to the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

OTHER ITEMS REQUIRING BOARD ACTION:

None.

ADJOURNMENT:

Mr. Dwyer *I move to adjourn this meeting at 7:28 p.m.*

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

Respectfully submitted,

Mary E. Finet
Secretary, Board of Adjustment