

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 12, 2021, at 6:30 p.m. Due to COVID-19, the meeting was conducted virtually via the Microsoft Teams application and phone access was also available. The meeting was open to the public and individuals were invited to participate via telephone or Microsoft Teams.

**BOARD MEMBERS PRESENT:** Tom Day, Chairman (via Microsoft Teams)  
Richard Nawrocki (via Microsoft Teams)  
Richard Bayer, Vice-Chairman (via Microsoft Teams)  
Stephen Schmidt (via Microsoft Teams)

Mr. Bayer, Vice Chairman served as Chairman for this meeting.  
Mr. Schmidt recused himself from BA73 Mullett.

**BOARD MEMBERS ABSENT:** Nancy M. Bonniwell

**SECRETARY TO THE BOARD:** Richard Nawrocki

**PLANNING STAFF MEMBERS:** Ben Greenberg, Senior Planner

The following is a record of the motions and decisions made by the Board of Adjustment.

**SUMMARY OF PREVIOUS MEETING:**

Mr. Day *I make a motion to approve the Summary of the Meeting of March 10, 2021.*

The motion was seconded by Mr. Nawrocki and carried unanimously (Mr. Schmidt abstained).

**NEW BUSINESS:**

**BA79: KIM FERRARO (OWNER), DAVID J. KOSCIELNIAK (APPLICANT)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** of the request for a variance from the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the reconstruction and modification of existing retaining walls.

Discussion between the petitioner (David Koscielniak), Board and Staff followed. The agent noted that the wall would be constructed with interlocking blocks and gravel backfill and geogrid system to drain and stabilize it. A concrete cap and curb would be installed on the parking surface.

*Public Reaction:*

- ***Robert Timm (N53 W34945 Road B) lives adjacent to the east. He expressed concern that the extended wall would block his living room window, which sits lower than road grade. He said he would be ok with the request if they reduced the depth and didn't block his window.***

- **Erik Mullett (N56 W34526 Road F) also noted that the wall would completely block Mr. Timm’s living room window.**

Decision and Action:

Mr. Day *I make a motion to **approve** the request for a variance from the shore setback requirements of the Ordinance for the construction of new retaining walls with the following conditions and for the reasons stated in the staff report:*

*Conditions:*

- 1. The proposed retaining walls cannot be located any closer to the lake than the existing retaining wall located closest to the northwest corner of the adjacent residence to the east and shown on Exhibit A of the Staff Report.*
- 2. A Wall Screening Plan including species and sizes of plants and/or other vegetation shall be submitted to Waukesha County Planning and Zoning staff for review and approval prior to the issuance of any permits. The proposed vegetation shall provide appropriate and effective year round screening of the new retaining wall. At the time of initial planting, the proposed vegetation shall effectively cover at least 50% of the face of the walls, as viewed from the lake. The proposed vegetation shall also be maintained as to not obstruct views from the residence adjacent to the east. The plan must include a timetable for completion.*
- 3. A Declaration of Restrictions must be prepared noting that the Wall Screening Plan required in the above condition be permanently maintained unless modified by the Waukesha County Planning and Zoning Division. Prior to the issuance of any permits, the Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed’s office, and a copy furnished to the Planning and Zoning Division staff.*
- 4. A wall drain plan must be submitted to the Waukesha County Planning and Zoning Division for review and approval. This is to ensure the improvements do not result in adverse drainage onto adjacent lots.*
- 5. All Ordinance requirements for a retaining wall within five feet of a lot line and construction of a structure in a right-of-way shall be met, prior to the issuance of a Zoning Permit.*
- 6. No net increase in impervious surface is permitted.*

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

**BA73: ERIK MULLETT (OWNER)**

Public Hearing:

Staff’s recommendation was for **denial** of the request for variances from the offset and shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a two story addition with basement to the existing single family residence.

Discussion between the petitioner (Ben Otten), owner (Erik Mullett), Board and Staff followed. Both petitioner and owner explained that the site presents unique physical limitations due to the dynamic and extensive shoreline. They noted that the house is missing a lot of common amenities found in homes today, like a mudroom and that the home also has very limited storage. They also noted that it would require a complete remodel to achieve the floor plan required. Lastly the petitioner stated that they would be decreasing the net impervious surface with this project.

The Wisconsin Department of Natural Resources submitted a letter to the Board dated May 7, 2021. The Department indicated concurrence with the staff recommendation for denial.

*Public Reaction:*

- Bill Michaels (W346 N5610 Lake Drive) noted that he, Mr. Mullet's home and one other residence have driveways that converge at the end of Road F, which is narrow. He is very concerned about the impacts to accessibility to his residence from a large construction project that could impede travel on the road.

Decision and Action:

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

The motion was seconded by Mr. Nawrocki and carried unanimously 3-0 (Mr. Schmidt recused himself from this case).

**BA80: MATT AND SANDY VOGEN (OWNERS)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of the request for variances from the road setback, offset, shore setback and maximum building footprint requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of an attached garage addition, patio as well as modification to an existing retaining wall.

Discussion between the agent (Ben Otten), owner (Matt Vogen), Board and Staff followed. The owner discussed the need for more storage. They discussed the difficulties of locating conforming garage space due the lot size and fact that the home is not constructed parallel to the lot lines, making it hard to avoid further offset encroachment with any type of garage addition. They also mentioned that retaining wall failures have are jeopardizing the integrity of the homes foundation due to drainage concerns. Attaching the garage space would address the drainage problem according to the petitioner. After additional discussion with the Board and staff, the petitioners agreed that they would modify the patio and retaining wall portions of their request to avoid the need for variances with respect to those structures.

The Wisconsin Department of Natural Resources submitted a letter to the Board dated May 7, 2021. The Department indicated concurrence with the staff recommendation for denial.

Letters of support were received from Glen Quarrie (W351 N5321 Road C) and Paul Soltwedel (W351 N5329 Road C)

*Public Reaction: None*

Decision and Action:

Mr.Schmidt

*I make a motion to **deny** the request for a variance from the offset requirements of the Ordinance for the construction of a patio, to **deny** the request for a variance from the shore setback requirements of the Ordinance to construct a retaining wall, and to **approve** the request for variances from the offset, road setback and maximum building footprint requirements of the Ordinance for the construction of a garage addition with the following conditions and for the following reasons.*

*Conditions:*

- 1. The proposed addition shall not exceed a width of 22 feet and a depth of 19 feet (418 sq. ft.).*
- 2. The proposed addition shall be located a minimum of four (4) feet from the west lot line and shall not encroach the established right-of-way.*

*Reasons*

*With respect to the garage addition, the irregular lot shape and nonconforming size create a unique limitation of the property. The owners are simply seeking to achieve a reasonable amount of enclosed parking/storage. The new garage would not be located any closer to the lot line than the existing one, and the new garage would be located outside of the right-of-way, whereas the current one is in the right-of-way.*

*With respect to the patio and retaining walls, the Ordinance would allow for the non-conforming retaining walls to be rebuilt in-kind, and a slightly smaller patio could be constructed in a conforming location, five feet from the lot line, as long as impervious surface requirements can be met. Therefore, no demonstration of hardship has been demonstrated with respect to the patio or retaining wall requests.*

The motion was seconded by Mr. Nawrocki and carried unanimously 3-0 (Mr. Day abstained) .

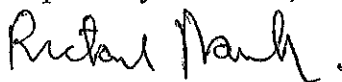
**OTHER ITEMS REQUIRING BOARD ACTION:**           None.

**ADJOURNMENT:**

Mr. Day       *I make a motion to adjourn this meeting at 8:23 p.m.*

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

Respectfully submitted,



Richard Nawrocki  
Secretary, Board of Adjustment