

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, March 13, 2024, 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: Richard Bayer, Chairman
Nancy M. Bonniwell
Joseph Kershek
Curtis Podd

BOARD MEMBERS ABSENT: Stephen Schmidt

SECRETARY TO THE BOARD: Acting Secretary – Nancy Bonniwell

TOWN OF MERTON BOARD OF ADJUSTMENT MEMBERS PRESENT:
Kathy Haberman
Lloyd Crom
Walter Lautner

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:

Mr. Podd *I make a motion to approve the Summary of the Meeting of January 10, 2024.*

The motion was seconded by Mr. Kershek and carried unanimously, with Ms. Bonniwell abstaining from the motion due to absence.

NEW BUSINESS:

BA184: RANDY AND SUSAN VEENHUIS (OWNERS), DAVID F. MOORE (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of variances from the shore setback provisions of the Waukesha County Shoreland Protection Ordinance, to permit the reconstruction and reconfiguration of retaining walls on the subject property.

Discussion between the petitioner (Dave Moore), Board and Staff followed. The petitioner described how the kame would need to be shored up to ensure the integrity of the wall was kept intact. The shoring would stay in place and act as an underground retaining wall.

Public Reaction: Staff reviewed the public hearing comments submitted by neighbors in opposition of the request. The Merton BOA and Waukesha County BOA confirmed their receipt of the comments prior to the meeting. No additional public comment was heard.

Decision and Action:

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

Mr. Kershek *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. Podd and carried unanimously.

BA183: TIM KNEPPRATH (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff’s recommendation was for denial of variances from the nonconformance to the offset provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a roofed structure (covered porch) over an existing deck.

Discussion between the owner (Tim Knepprath), Board and Staff followed. The owner relayed how the different options presented by staff in the staff report would have adverse impacts on the adjacent neighbors and themselves and reiterated how the proposed project would not impact the public.

Public Reaction: None.

Decision and Action:

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

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

BA172: RYAN LEWIS (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff’s recommendation was for denial of the request for a use variance from the EC Environmental Corridor Overlay District green space preservation requirements and conditional approval of the request for a

variance from the offset and wetland setback requirements of the Waukesha County Shoreland Protection Ordinance to permit the construction of an accessory building, subject to conditions.

Discussion between the owner (Ryan Lewis), his attorney (Matt Gralinski), Board and Staff followed.

Public Reaction: None.

Decision and Action:

Mr. Kershek

*I make a motion to **approve** the request for variances from the Environmental Corridor Overlay District provisions and the offset and wetland setback requirements to construct an accessory building, subject to the following conditions and for the following reasons.*

Conditions:

- 1. The accessory building footprint is limited to a maximum of 1,000 sq. ft. with overhangs no greater than 2 ft. maximum width.*
- 2. Prior to the issuance of a Zoning Permit, a Vegetation Removal Permit shall be submitted, reviewed and approved by the Planning and Zoning Division for any tree removal within the Primary Environmental Corridor necessitated by the proposed building. As part of the Vegetation Removal Permit, a Primary Environmental Corridor (PEC) Restoration Plan shall be submitted to the Planning and Zoning Division staff for review and approval that identifies the location, type and number of trees that are to be removed and the location, type and number of trees that are to be replanted. The replacement trees shall be of similar species as the existing trees to be removed and shall be of native origin to Wisconsin. Trees shall be replaced on a 1:1 ratio with trees that are a minimum of 2” in diameter at breast height in an area generally located along the PEC where the upper level driveway is to be removed (see condition 3). The approved plan that identifies the newly configured PEC disturbance envelope shall be filed with the Waukesha County Register of Deeds (by Waukesha County) and a deed restriction recorded by the property owner that identifies the BOA action, in addition to the maintenance responsibilities and preservation restrictions of the newly created PEC in perpetuity. This deed restriction may be combined with the deed restriction required in condition no. 4.*
- 3. As proposed, the existing upper-level driveway shall be removed and the area replanted with trees in accordance with Condition 2 above, prior to the occupancy of the accessory building or by October 1, 2024, whichever is sooner. The gravel removal shall be substantially compliant with the area shown on Exhibit D.*
- 4. In order to further mitigate impacts to the high-quality wetland, prior to a Zoning Permit being issued, a Declaration of Restrictions shall be recorded that states no additional impervious surfaces are permitted on the property unless the impervious surfaces can be treated by a Stormwater Best Management Practice approved via a Stormwater Permit from the Waukesha County Land Resources Division.*

5. *The offset of the proposed accessory building shall be no less than 10 ft. to the northern property lines.*
6. *Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.*
7. *Prior to the issuance of a Zoning Permit, a revised Plat of Survey showing the staked-out location of the accessory building and the final impervious surfaces to remain on the property shall be prepared by a professional land surveyor and submitted to the Planning and Zoning Division staff for review and approval.*
8. *A revised Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Waukesha County Department of Parks and Land Use - Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. The following information must also be submitted 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. The Grading and Drainage Plan may be combined with the Plat of Survey required in Condition No. 6.*
9. *If land disturbance exceeds 3,000 sq. ft. to construct the accessory building and remove and restore the driveway, a Stormwater Permit for Erosion Control from the Land Resources Division is required prior to the issuance of a Zoning Permit.*
10. *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.*

Reasons:

Though wetlands conditions are not uncommon on many lots in the area, the subject lot is unique with respect to the size and extent of onsite wetlands, which encompass approximately two acres of the three-acre property. When the seventy-five (75) foot wetland setback is applied, only 10,000+/- sq. ft. of the three-acre lot is located outside of a wetland or wetland setback area and a significant portion of that lands is within the required thirty-five (35) foot side yard offset and/or is within the PEC. In addition, the Ordinance would not provide an opportunity for the property owner to add a garage addition to the principal residence, as the existing residence is nonconforming to the wetland setback requirements. If the property were to be redeveloped, an oddly shaped building envelope of approximately 975 sq. ft. would be available to construct a residence that conforms to all Ordinance requirements (see green building envelope on Exhibit D). While a conforming building envelope exists for an accessory structure (see orange building envelope on Exhibit D), it is oddly shaped, sits on top of the existing well and could practically fit no more than a 200 sq. ft. shed located directly in front of the existing residence. Strict conformance with the Ordinance requirements would not allow this property to be reasonably redeveloped without variances or administrative relief as the wetland setback and more restrictive PEC Overlay District

offset often overlap within the disturbance envelope. Therefore, a hardship is present from the wetland setback and offset provisions. Without constructing the building partially within the environmental corridor, the building would be located almost in front of the residence, which is also nonconforming to the offset requirement, and would make entering the garage more practically difficult. Therefore, as conditioned, the required tree removal is being mitigated on a 1:1 replanting ratio to expand the corridor in an area of the property that is not identified as PEC.

The property contains a high quality wetland with a known Critical Species Habitat. The petitioner stated that the upper-level gravel driveway would be removed and restored. This is a reduction of approximately 1,500 sq. ft. of impervious surface where the runoff goes directly into the wetland (see Exhibit D). As conditioned, a deed restriction restricting additional impervious surfaces from being added to the property without being treated for stormwater management offsets any potential impacts to the wetland.

A 2,400 sq. ft. accessory building is beyond the minimal relief necessary for the granting of a variance. However, the petitioner does not have enclosed storage space in the attached garage for cars and other gas-powered equipment to maintain the property due to an open flame furnace located within the attached garage. Therefore, we feel that a 1,000 sq. ft. accessory building would provide a reasonable space to store vehicles and other gas powered equipment.

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

OTHER ITEMS REQUIRING BOARD ACTION: None

ADJOURNMENT:

Mr. Kershek *I make a motion to adjourn this meeting at 7:42 p.m.*

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

Respectfully submitted,


Nancy Bonniwell
Vice Chairperson, Board of Adjustment