

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, August 14, at 6:30 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  
Nancy M. Bonniwell  
Stephen Schmidt

**BOARD MEMBERS ABSENT:** None.

**SECRETARY TO THE BOARD:** Nancy Bonniwell

**TOWN OF MERTON**

**BOARD OF ADJUSTMENT MEMBERS PRESENT:** Rick Ray  
Jim Olson  
Jim Schneider  
Marge Hager

**PLANNING STAFF MEMBER:** Ben Greenberg, Senior Land Use Specialist

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 July 10, 2019.*

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

**NEW BUSINESS:**

**BA30: CANDACE DINGMANN (OWNER)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of the variance from the shore setback provisions of the Waukesha County Shoreland and Floodland Protection Ordinance for the construction of retaining walls in conjunction with a new single-family residence with attached garage, decks and patios and **denial** of the variance from the road setback provisions of the Waukesha County Shoreland and Floodland Protection Ordinance for the construction of a new boathouse.

Discussion between Ms. Dingmann, Brian Zimmerman (Landworks Landscape Services), Board and Staff followed.

Mr. Zimmerman noted that the need for road setback relief for the boathouse was to avoid the need for an additional retaining wall and grading, because the boathouse could be built into the topography.

*Public Reaction: None.*

Decision and Action:

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

Ms. Bonniwell : *I make a motion to approve the request for variance from the shore setback and road setback provisions of the Ordinance to allow the construction of a new residence, attached garage, decks, patios, retaining walls and boathouse, for the following reasons and subject to the following conditions.*

Reasons: *The Waukesha County Comprehensive Development Plan (“WCDP”) and Waukesha County Shoreland and Floodland Protection Ordinance call for preservation of topography. The WCDP and Ordinance do recognize that site grading and backfill is often necessary for the construction of a new residence, as is the case on the subject property due to the extreme slopes within the regulatory building envelope.*

*The owner has presented multiple alternative designs and site plans, have addressed County and Town concerns, and ultimately brought forward a plan with outcropping retaining walls that require what staff believes is the minimum relief necessary from the shore setback requirements to allow single-family construction with some garage space on the subject lot.*

*Road setback for the relief for the boathouse can be justified, because it is necessary to minimize the need for additional retaining walls and land disturbance. Given the location of the boathouse, it will not be a detriment to road traffic and will not adversely affect the roadside pattern of development.*

Conditions:

1. If any trees or vegetation within thirty-five (35) feet of the lake will be disturbed or Priority Trees removed, a Vegetative Removal Permit must be obtained prior to the issuance of any permits.
2. Documentation shall be submitted to the Waukesha County Planning and Zoning Division staff that a Stormwater Permit has been reviewed and approved by the Waukesha County Department of Parks and Land Use and Land Resources Division (LRD), prior to the issuance of any permits. The LRD review may necessitate further design changes.

3. A complete and detailed Vegetation 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 retaining walls from adjoining properties and the lake. The Vegetation Plan shall include native, no-mow, vegetation on the slide slopes between the road and the lakeside of the residence. The Vegetation Plan must include a timetable for completion and long-term maintenance plan.
4. A Declaration of Restrictions must be prepared noting that the Vegetation Plan required in Condition No. 3 above 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.

*Please note: The required Declaration of Restrictions may be prepared either by the Waukesha County Department of Parks and Land Use – Planning and Zoning Division staff or by you or your attorney. Please contact the Planning and Zoning Division staff if you would like them to draft the Declaration of Restrictions. There is a fee of \$80.00 for this service. If you choose not to have the Declaration of Restrictions prepared by the Planning and Zoning Division staff, please submit a copy of the Declaration of Restrictions to the Planning and Division staff for review and approval, prior to recording it in the Waukesha County Register of Deed's office.*

5. A revised Plat of Survey shall be submitted by a qualified professional land surveyor, and submitted to the Planning and Zoning Division staff for review and approval. The Plat of Survey shall reflect all revisions to the home and site plan including, decks, patios, driveways, walkways and retaining walls. The plan shall also reflect a boathouse that complies with this approval.
6. The land altering activities and retaining wall construction shall substantially comply with the grading plan prepared by Landworks Landscape Services with a revision date of July 22, 2019, as well as any conditions of Conditional Use approval (CU27).

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

**BA33: RANDY WALTERS (OWNER)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of variances from the road setback, and wetland setback provisions of the Waukesha County Shoreland and Floodland Protection Ordinance as well as **approval** from the required one (1) ft. of vertical separation distance from the highest seasonal groundwater level requirements, as set forth in the Site Regulations – Adequate Drainage Required section of the Waukesha County Shoreland and Floodland Protection Ordinance to allow for the construction of a single family residence, deck and attached garage, which will be attached to an existing accessory building.

Discussion between Mr. Walters, former Ottawa Town Board Chairman Dick Arrowood (who was assisting Mr. Walters) and Staff followed.

*Public Reaction: None.*

Decision and Action:

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

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

**BA34: MICHAEL AND KIMBERL SCHULZE (OWNERS) AND JIM ZIELINSKI (AGENT)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **Denial** of variances from the road setback and the non-conformance to road setback provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to construct an addition to their existing residence.

Discussion between Mr. and Mrs. Schulze, Board and Staff followed. Mrs. Schulze explained that they want to expand the existing home vs. tear down and rebuild, due to the unique architecture of the home. The owners submitted photos of the home and surrounding area into the record. Jim Zielinski (builder) noted that the home has a steel frame which makes it nearly impossible to remove the most non-conforming portions of the home. He also indicated that they are concerned about any new construction and the destabilizing effects it might have on the large lake side retaining wall.

*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 deny the request in accordance with the staff report.*

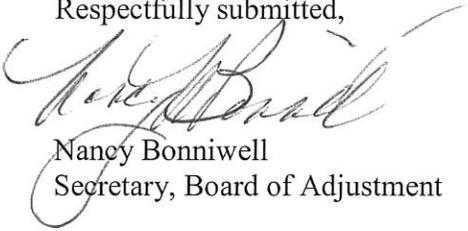
The motion was seconded by Ms. Bonniwell and carried 3-2 (*Mr. Bayer and Mr. Nawrocki voted no*).

**ADJOURNMENT:**

Mr. Nawrocki: *I make a motion to adjourn this meeting at 8:20 p.m.*

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

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Nancy Bonniwell".

Nancy Bonniwell  
Secretary, Board of Adjustment