

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, July 10, 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  
Stephen Schmidt  
Joseph Kershek  
Curtis Podd

**BOARD MEMBERS ABSENT:** None

**SECRETARY TO THE BOARD:** Stephen Schmidt

**PLANNING STAFF MEMBER:** Jacob Heermans

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 June 12, 2024.*

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

**NEW BUSINESS:**

**BA190: GERALD AND JEAN NIEBLER (OWNERS)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of your request for variances from the offset, shore setback and impervious surface limitations and a **modified approval** of the request for variances from the offset, shore setback and impervious surface limitations of the Waukesha County Shoreland Protection Ordinance to retain after-the-fact lakeside improvements, including multiple walkways to the lake, patios, retaining walls, and a hot tub.

Discussion between the owners (Gerald and Jean Niebler), Board and Staff followed.

*Public Reaction:*

- A letter of support was submitted by Joe Jasper at W386N5977 Blackhawk Dr.
- A letter of support was submitted by Jean McFadden at W386N6007 Blackhawk Dr.
- A letter of support was submitted by Ron Stark at W386N5967 Blackhawk Dr.

- A letter of support was submitted by Dawn and Steve Tschurwald at W386N5995 Blackhawk Dr.
- Staff relayed that the Lac La Belle Management District had concerns about granting approval of the after-the-fact improvements as it would have adverse effects on the lake and water quality.

Decision and Action:

Due to the amount of relief sought by the petitioner, a motion was made relative to each violation, rather than the entire proposal. A separate motion was also made to incorporate general conditions which were not covered under each specific violation.

**Violation A:**

Mr. Podd *I make a motion to approve the request for variances from the shore setback with the following conditions and for the following reasons.*

1. *Two (2) courses of block shall be removed from atop the large retaining wall, as well as one (1) course of stepped blocks.*
2. *As proposed, the creek/creek bed feature and the stairway south of the boathouse shall be removed and restored with vegetation by October 15, 2024 unless extended due to just cause as determined by Waukesha County Parks and Land Use – Planning and Zoning Division.*
3. *The proposed landscaping of the large wall shall be reviewed and approved by Waukesha County Planning and Zoning staff.*
4. *One (1) course of block shall be removed from the bottom tier of the planting beds on the west side of the stairs.*

*Reasons: The walkway/stairs (violation A) are a safety feature to provide access from the deck to the lakeside of the residence and are less than 5' in width. By reducing the height of the wall and planting beds the scale is reduced and the proposed landscaping will help screen the wall, as viewed from the lake.*

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

**Violation B:**

Mr. Kershek *I make a motion to approve the request for a variance from the shore setback requirements to retain the tiered walls and deny the request for a variance from the shore setback requirements to retain the patio at the top of the tiered walls in accordance with the staff report with the modified conditions and reasons stated in the staff report.*

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

**Violation C:**

Ms. Bonniwell *I make a motion to deny the request for variances from the shore setback requirements to retain the southern walkway in accordance with the staff report with the modified conditions and reasons stated in the staff report.*

*Conditions: The south walkway, starting at the southeast corner of the home and extending to the lake access stairs shall be removed and restored with lawn or vegetation.*

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

**Violation D:**

Mr. Podd *I make a motion to deny the request for variances from the offset, requirements to retain the patio on the south side of the residence in accordance with the staff report with the modified conditions and reasons stated in the staff report.*

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

**Violation E:**

Mr. Schmidt *I make a motion to approve the request for variances from the offset and shore setback requirements to retain the retaining walls, patio, hot tub, and tiered planting beds with the following conditions and for the following reasons.*

- 1. A fence/safety barrier shall be constructed on top of the southern retaining wall, parallel to the lot line, due to the height of the wall. The safety barrier shall be installed prior to October 15, 2024. The southern retaining wall shall be screened with creeping vegetation, as proposed by October 15, 2024, unless extended due to just cause as determined by Waukesha County Parks and Land Use – Planning and Zoning Division.*
- 2. The landscaping of the tiered planting beds shall be reviewed and approved by the Waukesha County Parks and Land Use – Planning and Zoning Division.*

*Reasons:*

*The retaining wall along the south lot line (violation E) is built in a similar location as the foundation wall of the former residence and stabilizes the slope while also protecting the mature trees on the neighboring property. If the wall on the south lot line is retained, the tiered planting beds should also be retained as they are an integral part of the landscaping and help to stabilize the slope. If the hot tub is relocated, it could create additional impervious surface on the lot. The patio and hot tub are largely hidden by the slope and the boathouse. It would be unnecessarily burdensome to require the petitioner to remove the south retaining wall (part of violation E) and tiered planting beds.*

The motion was seconded by Mr. Kershek and carried 3-2 with Mr. Podd and Ms. Bonniwell voting against the motion.

**Impervious Surface Violation:**

Mr. Podd *I make a motion to **deny** the request for variances from the impervious surface limitations in accordance with the staff report with modified the conditions and reasons stated in the staff report.*

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

Mr. Schmidt *I make a motion to **approve** the modified conditions relative to the after-the-fact improvements.*

*Modified Conditions:*

5. *A Stormwater Permit shall be obtained from Waukesha County Land Resources Division prior to any land disturbance. If the final plan results in more than 40.4% impervious surface coverage, the Land Resources Division shall ensure that the existing dry well is sufficient to offset the impervious surface impacts and/or other treatment methods shall be sought so that there is no net increase over the previously approved amount.*
6. *A plan for the restoration of any areas disturbed as part of the removal of surfaces or structures must be provided prior to removal of surfaces and structures. Restoration activities must be complete by October 15, 2024 unless extended due to just cause as determined by Waukesha County Parks and Land Use – Planning and Zoning Division.*
7. *Any improvements that are not permitted to remain must be removed by October 1, 2024.*

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

**BA191: DAVID MOLK (OWNER), JOHN DESALVO (APPLICANT)**

**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 offset requirements and **approval** of the variances from the shore setback and road setback provisions and **approval** of the Special Exception from the minimum floor area requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to construct a single-family residence, attached garage, deck and retaining wall(s) on the property.

Discussion between the owner (David Molk), Board and Staff followed.

Mr. Molk provided a PowerPoint Presentation and stated that the basement level breezeway was included to provide views of the lake. Mr. Molk is not opposed to landscaping the roadside of the residence.

Mr. Schmidt noted that the request for offset relief was minimal, and he did not object to the request, but did acknowledge that other options were available to petitioner.

*Public Reaction:*

- A letter of support was submitted by John Butler at N53W34278 Road Q. The letter stressed that only variances that are absolutely necessary for new home construction should be granted.
- Mary Tellier and Nicholas Jensen at N53W34297 Road Q inquired about the required offset and about the distance of the exterior lakeside stairs from the water.
- Doug Grant at N53W34359 Road Q asked why the building could not be reduced to meet the required offsets but relayed that he is not opposed to the request. Mr. Grant also suggested that windows be added to the roadside of the residence.

Decision and Action:

Mr. Kershek

*I make a motion to deny the request for variances from the offset requirements and approve of the variances from the shore setback and road setback provisions and approve the Special Exception from the minimum floor area requirements in accordance with the staff report with the conditions and reasons stated in the staff report.*

The motion was seconded by Ms. Bonniwell and carried 4-1 with Mr. Schmidt voting against the motion.

**OTHER ITEMS REQUIRING BOARD ACTION:**                      None

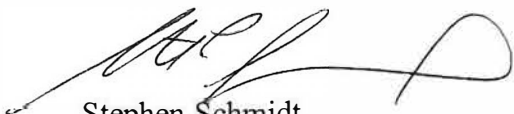
**ADJOURNMENT:**

Mr. Schmidt

*I make a motion to adjourn this meeting at 9:18 p.m.*

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

Respectfully submitted,



Stephen Schmidt  
Secretary, Board of Adjustment