

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, January 12, 2022, 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
Stephen Schmidt
Kathryn McNelly Bell

BOARD MEMBERS ABSENT: Nancy M. Bonniwell

SECRETARY TO THE BOARD: Richard Nawrocki

PLANNING STAFF MEMBER: Rebekah Leto, Senior Planner

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 December 8, 2021.*

The motion was seconded by Mr. Schmidt and carried 4-0, with Ms. McNelly Bell abstaining.

NEW BUSINESS:

BA103: BRIAN CASS (OWNER), BILL WINTERS (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** of a variance from the nonconforming to offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a two-story addition, including an attached garage and bonus space to the principal residence.

Discussion between the owner (Mr. Cass), Board and Staff followed. Ms. McNelly Bell asked if there was a drainage easement on the property to the west, to which staff was not sure. Mr. Day asked if the drainage plan recommended by staff would include the outlet location of the gutters. Staff replied yes.

Public Reaction:

- Jonathan Long, N53 W34400 Road Q. Mr. Long pointed out there is a catch basin in between the subject property and the property immediately to the east and wondered how this project would impact that catch basin and the overall drainage.

Decision and Action:

Mr. Schmidt: *I make a motion to **approve** the request for variance from the nonconformance to offset requirements in accordance with the staff report with the conditions and reasons stated in the staff report.*

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

BA104: BARRY AND PAMELLE BIELAWSKI (OWNERS), DAN GROSKOPF (APPLICANT)

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 road setback and nonconformance to the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of two-story addition with a balcony to the principal residence.

Discussion between the petitioner (Groskopf Construction), owner (Mr. Bielawski), Board and Staff followed.

The petitioner submitted a packet of pictures of the property to the Board. The petitioner and owner disputed that there were retaining walls on the property, per the staff report. Staff explained that the water feature, surrounded by boulders, still acted as a retaining wall and it was not relevant to this request. The owner explained that in 2008, a tornado struck their property and tore down almost all the trees from the property. The large pine and arborvitae to the west of the residence belonged to the owner. The petitioner indicated that the basement was not constructed the way it was approved in 1993 and the house was still only two bedrooms, even though he acknowledged the plans and application stated the house had three bedrooms. The owner discussed how this request was necessary to accommodate his growing family who lives all over the country. The Board discussed how the open space on the property was unique to the area and offered a public benefit.

Public Reaction:

- None.

Decision and Action:

Mr. Bayer: *I make a motion to **approve** the request for variance from the nonconforming to road setback and nonconforming to offset requirements subject to the following conditions and for the following reasons:*

Conditions:

1. *A Drainage Plan shall be submitted for review and approval to the Waukesha County Planning and Zoning Division that shows the existing and proposed drainage pattern and identifies the outlet location of the downspouts. If any changes to the grades are proposed, a detailed Grading Plan shall also be submitted to the Waukesha County Planning and Zoning Division that shows the existing and proposed grades. This is to ensure that the construction does not result in adverse drainage onto the adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road.*
2. *The west side of the structure shall be enhanced with architecturally appropriate details, such as windows, as deemed appropriate by the Planning and Zoning Division.*
3. *The addition and balcony shall be no closer to the west lot line and no closer to the Ordinary High Water Mark of Okauchee Lake than the existing residence and deck.*

Reasons

The house was built under a different zoning code and had a septic system. This forced the house more toward the west lot line. The proposal allows the floor plan to be more achievable without increasing the footprint of the residence, which is a positive. Drainage should not be impacted. Open Space on the east side of the lot is an advantage to the whole area. Road setback is consistent with many homes in this area. It will not be located any closer to the lake or the west lot line than the existing residence.

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

BA106: CURT AND JULIE SELBY (OWNERS), DAN GROSKOPF (APPLICANT)Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** for variances from the nonconformance to the shore setback, shore setback, and offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a two-story addition and reconstruction of the existing deck and **denial** of the request for a variance from the road setback and shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to construct an elevated walkway with covered entrance.

Discussion between the petitioner (Groskopf Construction), Board and Staff followed. Ms. McNelly Bell commented that the elevated walkway could provide better accessibility for the disabled or emergency services. Mr. Schmidt commented that almost all the residences on this portion of Lake Drive access their residences via a steep staircase and it is not unique.

Public Reaction:

- None.

Decision and Action:

Mr. Bayer:

*I make a motion to **approve** the request for variances from the nonconformance to the shore setback, shore setback, offset and road setback to construct a two-story addition with an elevated walkway with covered deck and to reconstruct the deck, subject to the following conditions and for the following reasons.*

Conditions:

- 1. The replacement deck shall be of the same configuration and the same location as the existing deck, less the addition, as shown on Exhibit A. The closest point of the deck shall maintain an offset of 3.2 ft. to the east lot line and shall not encroach closer to the shore than the existing deck.*
- 2. The proposed addition shall be located no closer than the existing residence and deck to the Ordinary High Water Mark of Okauchee Lake.*
- 3. Prior to the issuance of a Zoning Permit, all impervious surface regulations as stated in the Waukesha County Shoreland and Floodland Protection Ordinance shall be complied with.*
- 4. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed addition and deck, in conformance with the above conditions, must be prepared by a professional land surveyor and submitted to the Planning and Zoning Division staff for review and approval.*
- 5. If any changes to the existing grades are proposed, a detailed Grading and Drainage Plan, showing existing and proposed grades, and the outlet location of the downspouts, 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. This is to ensure that the construction does not result in adverse drainage onto the adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along 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. 4.

- 6. No new or replacement retaining walls are proposed or permitted herein, unless the replacement wall meets all Ordinance requirements. Any replacement wall within 5 ft. of a side lot line requires Town and County Plan Commission approval.*
- 7. In order to offset the impacts of the additional structures within the required setback areas, one of the two existing nonconforming sheds must be removed from the property, prior to the expiration date of a Zoning Permit authorizing the construction of the addition and deck.*
- 8. Prior to the issuance of a Zoning Permit, Preliminary Site Evaluation (PSE) approval of the existing septic system and the proposed construction must be obtained from the Waukesha County Department of Parks and Land Use - Environmental Health Division and a copy furnished to the Planning and Zoning Division staff. If that cannot be accomplished, a Sanitary Permit for a new waste disposal system must be obtained from the Waukesha County Department of Parks and Land Use - Environmental Health Division and a copy furnished to the Planning and Zoning Division staff.*

Reasons

The proposed addition allows the petitioners to achieve the required minimum floor area on the first floor and overall required floor area, which will allow the petitioners to continue to utilize the property for a permitted residential purpose. Due to the severity of the slope, it does not appear that the addition could practically be moved back 6 ft. to meet the shore setback requirement. Strict compliance would be unnecessarily burdensome as it would push the addition into the hillside, would likely require additional slope disturbance and possibly additional retaining walls to achieve reasonable access from the road to the home.

The house and deck are slightly angled to parallel the angle of the shoreline. As such, the deck stairs encroach into the offset area. Requiring that the staircase be relocated an additional two feet to the west would result in an unusable deck area (approximately 2 ft. wide) and would serve no useful purpose. A minimum amount of relief from the shore setback and offset provisions will provide safe access both into and within the residence. Given the steep slopes on the property, the elevated walkway will provide a second safe entrance into the home.

The approval of the request for relief to construct the addition, as conditioned, does not appear to have adverse impacts to the general public interest or welfare, or to nearby properties or improvements. There are minimal changes to the overall impervious surface on the property.

The steep slopes are not proposed to be altered and it is unlikely there will be impacts to the existing drainage pattern. Though additional structure is being built within the shore setback, one nonconforming shed will be removed.

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

BA107: JBC 2021 PROPERTIES (OWNER), DAN GROSKOPF (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of a variance from the maximum accessory building footprint requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit an addition to an existing accessory building.

Discussion between the petitioner (Groskopf Construction), owner (Shane and Kelly Vaughn), Board and Staff followed. The Board indicated that no hardship existed pursuant to their request. The amount of accessory building square footage greatly exceed that of what is permitted by right. Discussion occurred relative to what may be permitted by right and "in-kind" replacements.

Public Reaction:

➤ None.

Decision and Action:

Mr. Bayer: *I make a motion to **deny** the request for variance from the maximum accessory building footprint requirements in accordance with the staff report and reasons stated in the staff report.*

The motion was seconded by Ms. McNelly Bell and carried unanimously.

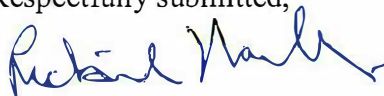
OTHER ITEMS REQUIRING BOARD ACTION: None.

ADJOURNMENT:

Mr. Nawrocki: *I make a motion to adjourn this meeting at 8:54 p.m.*

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

Respectfully submitted,



Richard Nawrocki
Secretary, Board of Adjustment