

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, October 9, 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 Schneider
Jim Olson
Llyod Crom
Marge Hager

PLANNING STAFF MEMBER: Rebekah Leto, 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 September 11, 2019.*

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

NEW BUSINESS:

BA37: SCHULENBURG LIVING TRUST (OWNER) AND GROSKOPF CONSTRUCTION, INC. (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of variances from the non-conformance to the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a vertical expansion and a second story balcony on the existing principal residence.

Discussion between the Mr. Groskopf (agent), Mr. Schulenburg (owner), the Board and Staff

followed. The owner discussed their family's desire for a master bathroom in the second story of the home and how the proposed construction would better utilize the existing space. The agent discussed how the current lakeside bedrooms have no headroom in the closets and how they are essentially unusable as is. The agent showed building plans that highlighted the areas of change based on the change in roof type and discussed how the overall cubic volume of the structure was actually decreasing (8,831 cubic feet in volume for the existing home versus 8,596 cubic feet in volume with the proposed improvements). The agent noted that the improvements would be an enhancement to the neighborhood and the overall bulk would be decreasing on the encroaching side of the residence (to the lot line). The agent also discussed how the county and Board should be encouraging smaller homes to stay small on these types of lots and how it was better to have a modest residence three feet from the lot line on this parcel than a 5,000 sq. ft. new residence. The Board and agent discussed how the survey was old and the chimney was not shown on the survey, which further encroached into the setback. Staff noted that it did not change the request for variances. The Town of Merton Board noted that the previous denials on the property were under a previous version of the Code that regulated Floor Area Ratio and not building footprint and impervious surfaces.

Public Reaction: Two letters of support from the adjacent property owners were read into the record. No other public comment was heard.

Decision and Action:

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

Mr. Bayer: *I make a motion to approve the request as proposed by the petitioner, with the following conditions and for the following reasons:*

CONDITIONS:

1. Subject to the construction complying with the building plans prepared by Groskopf Construction dated August 5, 2019 and submitted to Waukesha County on September 4, 2019.
2. 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.
3. No additional impervious surfaces are permitted with this project, as proposed.

REASONS:

Based upon the petitioner's application, comments made at the public hearing, and the Board's decision, all of which are incorporated herein by reference, the Board renders the above decision for the following reasons:

A hardship exists due to the design of the home. The improvements create more useable space without an expansion the footprint of the home and additional impervious surfaces. The

improvements better the use of the existing space by changing the roofline. Given that the overall cubic feet of the structure is decreasing, as presented by the agent, the improvements are less of an expansion than the existing home.

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

BA38: NATHANAEL AND ANDREA SKRZYPCHAK (OWNERS)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of the request for after-the-fact use variances from the C-1 Conservancy District requirements, accessory building without a principal building and the construction of a building on a private road and an area variance from the road setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance for the construction of an accessory building.

Discussion between the owner (Nate Skrzypchak), the Board and Staff followed. The owner described how storage is necessary when you have an island property for items such as life jackets, a lawn mower and snow blower. He described that the structure itself allows water to pass through and it is anchored down with 5 ft. stakes. The building would have shelving so items are kept off the ground. The owner stated this is better than having open uncovered storage, which in the event of a flood, the stored items would be carried away.

Public Reaction: Frank Eckstein, the neighbor directly south at W345 S1034 Wambold Road, commented that the current owner keeps the property very neat and much improved over the last owner who stored open junk on the property. The structure is hardly visible from the road. If it were to ever flood, no water would actually stay there as they are 6-7 ft. above the river. He does not understand who it is bothering to have the structure there as he has never seen any sitting water.

Decision and Action:

Ms. Bonniwell:

I make a motion to approve the request for variance from all provisions to allow the current structure to remain on the property in its current location so long as it remains open and allows water to flow through as indicated by the owner, with the option for shelving installed for storage but not additional portion of the structure can be on the ground, subject to the following conditions and for reasons as stated below.

CONDITIONS:

1. A Deed Restriction shall be required that states the subject property shall not be sold separately from the island property so long as the proposed accessory structure is present on the property. Be it further that the accessory structure shall not be altered, modified, enlarged, replaced, restored or otherwise modified in any way without approval from the Waukesha County Board of Adjustment.

2. Subject to the owner obtaining an after-the-fact Zoning Permit from the Waukesha County Planning and Zoning Division for the accessory structure.
3. The accessory structure must be located outside of the Floodway.
4. Grading/Land-altering activities within the floodplain are prohibited.
5. The accessory structure shall be designed to allow the entry of floodwaters. Plans or a written description shall be submitted to Waukesha County demonstrating compliance with the following elements:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
6. The applicant shall submit a plan or written description certified by a registered professional engineer or architect that the following floodproofing measures have been met, in addition to completing and certifying an as-built Floodplain Compliance Certification to the Waukesha County Department of Parks and Land Use:
 - a. The accessory structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to Flood damage.
7. The storage of all equipment, including materials which are buoyant, flammable or explosive, or which in times of flooding could be injurious to property, water quality or human, animal, plant, fish, or aquatic life, shall be located at or above the flood protection elevation (822.3 ft. amsl NAVD88) or shall be anchored to the garage in order to resist flotation and lateral movement. This is a requirement of NR116 Wisconsin Administrative Code.

REASONS:

There is a hardship on this property in regards to any construction due to the topography, as it is impossible to build upon outside of the floodplain. Due to this structure being open on at least one side, has no foundation, is secured by stakes and water can pass through the bottom, it should have some relief. However, this does not apply to the replacement of said structure in future years. The neighbor's testimony stated no flooding has occurred here in the 60 years he has lived there, so there is not a lot of danger in keeping the structure. The owner is adding shelving for storage of items within the structure. The structure remains at its own peril and this approval is only for the existing structure as-is. Compliance with the Ordinance regarding the standards for a lot not abutting a public road is not possible. The lot is legal nonconforming and is slightly less than the R-3 district requirements for lot size. In addition, the parcel has not ever and will likely never contain a single-family residence given that it is located within the floodplain and contains steep topography. A residence is located on an island property deeded with the subject property and could therefore be tied together via deed restriction. These circumstances are unique and justify a

hardship.

The motion was seconded by Mr. Bayer and carried 3-2, with Mr. Nawrocki and Mr. Day voting against the motion.

BA39: EUGENE L. AND ANNE M. SARAGNESE RESIDUARY TRUST (OWNERS) AND GROSKOF CONSTRUCTION, INC. (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 non-conformance to the offset provision and the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a vertical expansion and second story balcony on the existing principal residence.

Discussion between the petitioner (Bill Groskopf), the Board and Staff followed.

Public Reaction: Two letters of support from the adjacent property owners were read into the record. No other public comment was heard.

Decision and Action:

Mr. Schmidt: *I make a motion to approve the request, as proposed, with the following condition and for reasons as stated below.*

1. Subject to the construction complying with the building plans prepared by Groskopf Construction dated August 26, 2019 and submitted to Waukesha County on September 4, 2019.

REASONS:

Based upon the petitioner's application, comments made at the public hearing, and the Board's decision, all of which are incorporated herein by reference, the Board renders the above decision for the following reasons:

It is a benefit to the neighborhood and the public at large to slightly modify the existing structure over rather than tear down and rebuild a new, larger structure on this parcel. The balcony does not encroach any closer to the lake than the current residential structure. The width of this lot is only 50 ft. wide, whereas the Code is written for a 120 ft. lot, creating a hardship on the property. By preserving this house with these minor changes, it is preserving more open space and therefore benefits the neighborhood and public at large. This is consistent with the purpose of the Ordinance.

The motion was seconded by Ms. Bonniwell and carried 3-2, with Mr. Nawrocki and Mr. Bayer voting against the motion.

OTHER ITEMS REQUIRING BOARD ACTION:

- Discuss schedule for election of officers for the Board of Adjustment

ADJOURNMENT:

Ms. Bonniwell: *I make a motion to adjourn this meeting at 9:14 p.m.*

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Nancy Bonniwell", written in a cursive style.

Nancy Bonniwell
Secretary, Board of Adjustment