

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, September 12, 2018, 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

BOARD MEMBERS ABSENT: Nancy Bonniwell

SECRETARY TO THE BOARD: Richard Bayer

OTHERS PRESENT: Ben Greenberg, Senior Land Use Specialist
Mike Larsen, BA10
Robert Schmitt, BA13
Cynthia Schmitt, BA13
Diane Clark, BA13
Rich Clark, BA13
Steve Schmidt
Peter Koudcich, BA13

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 11, 2018, as corrected.*

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

NEW BUSINESS:

BA13: RICHARD CLARK (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of the request for variances from the Non-Conforming Structure to the Offset provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the petitioner to raze and rebuild the northern part of the existing residence with a second floor addition.

Discussion between the petitioner, Board and Staff followed.

The petitioner indicated that the staff report was factually correct. He indicated that he was working with a surveyor to develop a grading plan for the proposed construction. He concurred that the fence would make practical sense due to the height and location of the existing retaining walls.

Public Reaction: Robert and Cynthia Schmidt (N28 W29782 Oakwood Grove Road) have been 42 year residents of the neighborhood. They indicated that the previous owner did not properly maintain the property and used it to store junk type items. They are happy to see Mr. Clark improving the property and are supportive of his request.

Decision and Action:

Mr. Bayer: *I make a motion to **approve** the request for a special exception from the Non-Conforming Structure to the Offset provisions of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the petitioner to raze and rebuild the northern part of the existing residence with a second floor addition, for the reasons as stated in the Staff Report and subject to the following conditions:*

1. Prior to the issuance of a Zoning Permit for the residence and detached garage, a detailed Grading and Drainage Plan, showing existing and proposed grades must be prepared by a landscape architect or engineer, licensed in the State of Wisconsin and submitted to the Planning and Zoning Division staff for review and approval. The Grading and Drainage Plan should also include a timetable for completion, the source and type of fill, an Erosion and Sediment Control Plan, and the impact of any grading on stormwater and drainage. This is to ensure the construction of the proposed garage and associated driveway does not result in adverse drainage onto adjacent properties.
2. No lateral expansion of the existing building footprint is permitted.
3. Due to the significant height of the existing front yard retaining wall, a fence plan shall be submitted to the Waukesha County Planning and Zoning Division and Town of Delafield for review and approval. The plan shall include a minimum 4 foot tall fence at the top of the existing front yard retaining wall to ensure a safe environment. The petitioner shall provide documentation that the Town has reviewed and approved the fence plan and that it complies with all Town fencing requirements, if applicable. Implementation of the approved fencing shall occur prior to the issuance of an occupancy permit for the remodeled residence or by June 1, 2019, whichever occurs sooner.
4. The existing shed shall be removed prior to the issuance of an occupancy permit for the new detached garage, or June 1, 2019, whichever occurs sooner.

The reasons for the decision are as follows:

Special Exception: The Ordinance defines Special Exception as a request for a minor adjustment to the requirements of this Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners. A special exception differs from a variance in that a special exception does not necessarily require the

demonstration of an unnecessary hardship or practical difficulty. In the granting of a special exception, the approving body must still consider whether the proposed special exception would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects and may impose such restrictions or conditions they deem necessary for the protection of adjacent properties and the public interest and welfare.

The residence constructed prior to the adoption of the Waukesha County Shoreland and Floodland Protection Ordinance and subsequently modified through a 1979 variance, is a legal nonconforming structure. The two areas of nonconformance are the southern lot line offset (the residence is located 1.74 ft. closer than is permitted) as well as the required road setback (residence is 4 ft. closer than is permitted). The proposed improvements fit in aesthetically with the existing residence and surrounding neighborhood and will be significantly less impactful than a complete redevelopment of the property. It would be unreasonable to require that the petitioner relocate the residence in order to make these improvements as the irregular lot shape, sloped topography along with the full application of Ordinance requirements make siting a new conforming residence practicably difficult. Furthermore, the location of the second level improvements themselves comply with all locational requirements of the Ordinance.

Granting of the special exception to allow the second floor addition to the residence will allow the owner to renovate and improve a property that was in a state of disrepair. The special exception will not result in negative impacts to the surrounding neighborhood or the public interest and welfare and complies with the purpose and intent of the Ordinance.

The motion was seconded by Mr. Nawrocki and carried unanimously

BA10: MICHAEL LARSEN (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Memorandum. The Staff's recommendation was to **not reconsider** their previous decision on this matter. The petitioner has not met the Board's provisions for reconsideration, in that, the petitioner has not provided new or material evidence that could not have been submitted at the original hearing.

Discussion between petitioner, Board and Staff followed.

The petitioner indicated that he wasn't prepared to address the qualitative issues at the time of the public hearing. He specially mentioned that he was unaware of County Staff concerns over excessive bulk and would have been prepared to address those issues more effectively had he been aware. Staff noted that concerns over bulk were clearly stated in the Staff Report, which the petitioner acknowledged receipt of the report prior to the public hearing.

Public Reaction: None.

Decision and Action:

Mr. Nawrocki: *I make a motion to **deny** the reconsideration request for the previous decision of denial from the July 11, 2018 meeting. The petitioner has not met the Board's provisions for reconsideration, in that, the petitioner has not provided new or material evidence that could not have been reasonable presented at the original hearing.*

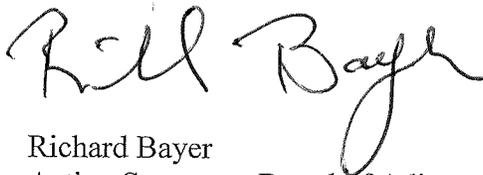
The motion was seconded by Mr. Bayer and carried unanimously.

ADJOURNMENT:

Mr. Nawrocki: *I make a motion to adjourn this meeting at 7:20 p.m..*

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

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Bayer". The signature is written in a cursive, flowing style.

Richard Bayer
Acting Secretary, Board of Adjustment

