

AGENDA – FINAL
WAUKESHA COUNTY BOARD OF ADJUSTMENT

January 14, 2026, 6:00 p.m.
Waukesha County Administration Center, Room AC 255/259
515 W. Moreland Blvd., Waukesha, WI 53188

CALL TO ORDER

ROLL CALL

NOTE: THE AGENDA ITEMS MAY NOT NECESSARILY BE TAKEN UP IN THE ORDER LISTED BELOW.

REQUESTS: **BA220: JEFFREY AND HEATHER SORENSEN (OWNERS)**
Town of Eagle
(Shore setback)
(Adjourned from October 8, 2025 meeting)

SUMMARY OF MEETING: October 8, 2025

OTHER ITEMS REQUIRING BOARD ACTION: None

Following each public hearing portion of the meeting, the WAUKESHA COUNTY BOARD OF ADJUSTMENT will deliberate and make recommendations or decisions on the variances/special exceptions presented.

The Staff Reports and meeting materials will be located on the Waukesha County Planning and Zoning Division webpage at <https://www.waukeshacounty.gov/landandparks/planning-and-zoning/meeting-information> no later than January 12, 2026. See Board of Adjustment Meeting Documents heading for January 14, 2026. For questions regarding this agenda, please call (262) 896-8300 or email Evan Hoier at ehoier@waukeshacounty.gov.



Waukesha County
Department of Parks and Land Use

MEMORANDUM

To: Waukesha County Board of Adjustment

From: Evan Hoier, Senior Land Use Specialist

Date: January 14, 2026

Subject: BA220, Jeffrey and Heather Sorensen, Lot 1, Certified Survey Map No. 11645 and an undivided interest of Outlot 1, Certified Survey Map No. 11645, being a redivision of Lot 2, Certified Survey Map No. 9891 and a redivision of area common to Block 1, Island View, part the NE ¼, SE ¼, NW, ¼ of Section 36, T5N, R17E, Town of Eagle. More specifically, the property is located at W345 S10503 County Road E.

On October 8, 2025, the Waukesha County Board of Adjustment heard a request from the petitioners for a variance from Section 3(h)2 shore setback to construct a fence within the shore setback of Eagle Spring Lake. The applicants were not in attendance, and a neighbor voiced concerns over the need for the requested improvements. Because the applicant was not present to answer questions from the Board or to provide more clarification on the concerns of the neighbor, the Board chose to table the item until the next meeting.

Staff contacted the petitioners to inform them of the Board's decision to table the request and that additional information be provided. The petitioners provided a letter from the case worker assigned to the family for the child's needs. The letter documents the child's medical needs and the necessity of a fence for that purpose.

Due to the information presented within the letter, staff are confident that the variance being requested is necessary to provide the owners with reasonable use of their property. Staff recommends conditional **approval** of the requested variance. See the original staff report for conditions of this approval.

Exhibit A: BA220, Staff Report and Recommendation with exhibits dated 10/8/25

Planning and Zoning

515 W Moreland Blvd., AC 230 • Waukesha, Wisconsin 53188-3878

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**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
APPEAL FOR VARIANCE
STAFF REPORT**

DATE: October 8, 2025

EXHIBIT A

FILE NO.: BA220

OWNERS:
Jeffrey and Heather Sorensen
W345 S10503 County Road E
Mukwonago, WI 53149

TAX KEY NO.: EGLT 1870.030.002

LOCATION:

The subject property is described as Lot 1, Certified Survey Map No. 11645 and an undivided interest of Outlot 1, Certified Survey Map No. 11645, being a redivision of Lot 2, Certified Survey Map No. 9891 and a redivision of area common to Block 1, Island View, part the NE ¼, SE ¼, NW, ¼ of Section 36, T5N, R17E, Town of Eagle. More specifically, the property is located at the County Road E address cited above with frontage on Eagle Spring Lake.

REQUEST:

Variance from **Section 3(h)2 Shore Setback** provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a fence within 75 ft. of the Ordinary High-Water Mark of Eagle Spring Lake.

ZONING CLASSIFICATION: R-3 Residential District

LOT CONFIGURATION: The existing and required average lot width, average lot depth and lot size, riparian frontage and road frontage are shown in the following table.

	Average Lot Width	Average Lot Depth	Lot Size* (sq. ft.)	Road Frontage	Riparian Frontage (Eagle Spring Lake)
Existing	184 ft. +/-	130 ft. +/-	26,877	n/a (easement)	163 ft.
Required	120 ft. min.	n/a	20,000 (unsewered)	30 ft. min	100 ft. min.

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:

BA04:052: On July 14, 2004, the previous owners were granted variances from the lot size and lot width requirements to permit a land transfer of approximately 24 ft. to the north property. The lot line adjustment was completed via Certified Survey Map (CSM) No. 9891.

BA05:026: On May 11, 2005, the previous owners were granted variances to the shore and floodplain setback to add a concrete block basement beneath the existing residence to provide structural support for the residence. The improvements were constructed as proposed.

BA17:013 On August 9, 2017, the previous owners were granted a variance from the offset provisions to allow lot line adjustments to incorporate the existing detached garage into the subject parcel area. Previously, the detached garage was located within the commonly owned Outlot but owned by the subject property. The CSM was executed as proposed.

BA66 On November 11, 2020, the owners were denied a variance from the shore setback and height requirements to permit an addition to the principal structure which included retaining walls, a driveway and sidewalk(s). The owners were able to revise the proposal to comply with the Ordinance standards and a Zoning Permit was issued for an addition to the principal structure.

PENDING ACTIONS:

VL569 On October 28, 2024, staff received a complaint about the construction of a fence within 75' of the OHWM of Eagle Spring Lake. A site visit was conducted which revealed a white fence along the southern lot line as well as a black metal fence near the large retaining wall at the southeast corner of the property. Portions of the fence were removed at the request of staff; however, the owner would like to replace and expand the fence which requires a variance due to its proximity to the shore of Eagle Spring Lake.

PROPOSAL AND STAFF ANALYSIS:

The rectangular shaped property is located on a peninsula in Eagle Spring Lake, with access via a private ingress and egress easement on the east side of the property, abutting the lake. There is a ridge running along the centerline of the peninsula, with the land sloping steeply to the lake from both the east and west sides. The easement on the east side serves two additional properties at the end of the peninsula. The property contains a single-family residence with an attached garage, screened-in porch, patio, and detached garage. A private on-site sewage system is located on the north side of the property.

The petitioners are proposing an aluminum fence which will surround the property almost entirely, however, the fence is not proposed to run parallel to the lake on the west side of the property. Most of the fencing would be four feet tall and would be made of black aluminum panels. However, a small section of fencing in the southeast corner of the property would be six feet in height to safeguard an existing retaining wall which runs adjacent to the private ingress-egress easement. The petitioner has expressed that the proposed fencing is for safety purposes, due to the neighboring dogs and to safeguard the petitioner's son who has special needs.

The table below summarizes the existing and proposed improvements. A site plan showing existing and proposed improvements is attached as Exhibit A.

	1 st Floor (sq. ft.)	2 nd Floor (sq. ft.)	Att. Garage (sq. ft.)	Accessory Bldgs. (sq. ft.)	Beds	Baths
Existing	3,683	2,517	530	490	4	4.5
Proposed	No change	No change	No change	No change	No change	No change

The proposed installation of fencing requires variances from the Shore Setback provisions of the Waukesha County Shoreland Protection Ordinance as summarized in the following table.

PROVISION	SPO	EXISTING	NON-CONFORMING? 3(o)	PROPOSED	REQUIRED	VARIANCE/ SPECIAL EXCEPTION?
SHORE SETBACK	3 (h) (2)	n/a	N/A	Varies (< 75')	75' min	Y (fence)

PETITIONERS' COMMENTS:

The petitioners' comments are attached as Exhibit B.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends modified approval of the request for a variance from the shore setback provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a fence within 75 ft. of the Ordinary High-Water Mark of Eagle Spring Lake. This recommendation is based upon the analysis of the below tests for a variance, as described below. We recommend that this approval be subject to the following conditions:

CONDITIONS:

1. The fence must be located outside of the regulated floodplain boundary and shall be no closer than 35' to the shore of Eagle Spring Lake.
2. The fence shall be constructed of black aluminum panels, wrought iron, or a similar material. Solid fence panels are not allowed.
3. A deed restriction must be filed with the intention that the fence will be removed upon sale of the property prior to zoning permit issuance.

AREA VARIANCE TEST CRITERIA ANALYSIS

State law, case law, and County ordinances require that the petitioner demonstrate that their request meet the following tests for a variance. The Staff analysis below assesses the merits of the subject application relative to the tests:

1. **Compliance with the ordinance would cause the owner to experience an unnecessary hardship.** Unnecessary hardship is proven by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. A property owner bears the burden of proving that the unnecessary hardship is based on special conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner. Hardships should not be financial or economic in nature. Variances are intended to provide only the minimum amount of relief necessary, and the purposes of the Ordinance shall be observed.

The Ordinance defines fences as a structure within 75 feet of the OHWM, as regulated by the DNR. Because the property is situated on a peninsula and has a required shore setback from both the east and west side of the property, there is a limited area in which a fence can be constructed which does not fall within the shore setback. The only conforming location for fencing would be north of the existing residence, which would make the fencing unusable in this scenario. In addition to the double shore frontage, the southeast side of the property has large retaining walls which creates a potential safety hazard. The requested fencing for the

petitioners' special needs child addresses some of the potential safety hazards on the property, but stops short of providing an enclosed area for the child to recreate. While the zoning administrator has the ability to offer administrative relief for special needs cases under the Americans with Disabilities Act (ADA), the location and extent of this fence to provide enclosure may go further than this relief is able to provide.

Staff communicated with the applicant to create a site plan that shows the potential full extent of the fencing plan for the property. The applicant responded to staff with a plan showing the entirety of the perimeter of the property fenced in except for the shoreline to the west. When asked why the petitioner did not enclose the shoreline when the main concern was water safety for their child, the petitioner noted that the water depth on that side was less of a concern than the eastern shoreline. However, the petitioner was open to fencing to enclose the western yard fully to provide more safety for the child.

Staff has drawn up several options (A, B, C) for the Board to consider with the goal of fully enclosing a meaningful area on the western side of the property for the child to recreate in while providing fencing in areas for the maximum degree of safety possible. These options keep the fencing out of the shoreline and floodplain areas and preserve viewsheds for neighboring properties as well.

- 2. The granting of the variance will not adversely affect the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources in the area. Lack of local opposition does not mean a variance will not harm the public interest.**

Fences in shore setback areas can cause harm to wildlife by creating physical barriers that block movement. They can also negatively impact neighboring property owners by blocking lake views and in some cases impeding lake access. As conditioned, the proposed fencing will be located outside of the vegetative buffer zone and outside of the regulated floodplain boundary, allowing for the unimpeded movement of wildlife. Additionally, as conditioned, the aluminum fence panels would primarily be open and do not create a barrier that would entirely block neighboring property owners' views of the lake. This combination of a larger setback from the shoreline and creating some permeability in the fence's structure allows for the free movement of light, air, and views that the ordinance intends to provide.

Respectfully submitted,



Evan G. Hoier
Senior Land Use Specialist
Phone: 262-896-8300

Reviewed and approved by:



Jason Fruth
Planning and Zoning Manager

Exhibits: Exhibits A and B, Option A, Option B, Option C,

EXHIBIT A



1. 4 ft. Fence - White picket
2. 6 ft Aluminum fence / 12 ft drop to roadway below
3. 4 ft Aluminum fence / 8 ft drop to roadway below
4. 4 ft Aluminum fence / 4-5 ft drop to roadway below

EXHIBIT B

RECEIVED 08/07/2025 BY
WAUKESHA COUNTY PLANNING
AND ZONING DIVISION

Jeffrey and Heather Sorensen
W345 S10503 CTH E
Mukwonago, WI 53149

Waukesha Dept. of Parks and Land Use
Planning and Zoning Division
515 W. Moreland Blvd. Room AC203
Waukesha, WI 53188

July 25, 2025

RE: Variance Application for Property Located at W345 S10503 CTH E, Mukwonago, WI 53149

We are in receipt of two letters dated April 10 and July 10, 2025, from Waukesha County subject: Zoning Violation Complaint (VL569) Section 36, Town of Eagle (Enclosures 1 and 2). The letters state we are required to either remove the fencing we erected on our property to protect our children, grandchildren and pets from the hazards on and near the property; or to apply for a variance to correct the zoning violation.

We respect there is no guarantee of approval as stated in your letters, however, in the interest of the safety and wellbeing of our family members, we are submitting this variance application. We also were advised that the Fair Housing Act (FHA) and Americans with Disabilities Act (ADA) require local governments to consider modifications or exceptions to zoning rules and land use regulations to accommodate individuals with disabilities and hope you will consider this request as reasonable accommodation for our special needs child.

Enclosed you will find our property details (Enclosure 3) as well as several pictures (Enclosures 4, 5, 6) showing the hazards on or in proximity of the property, the majority of which existed prior to our purchase of the property. These pictures also show the black iron fence we erected to serve as protection from the stone walls and adjacent drop-offs to the active roadway and stone patio below and the lake beyond the road. The drop offs beyond the black fences ranges from two- and one-half feet to as high as eleven feet and the lake on that side has a depth of eight feet. In enclosures 7 and 8, you will see the property line surrounding our home with the locations of the fences marked.

The white fence was erected to keep our special needs child from accessing the neighbors' piers, which are largely out of our line-of-sight. This fence also serves to keep the neighbors' dogs, which, prior to the erection of this fence, crossed the property line and bit one of our dogs and one of our children, and chased our son on more than one occasion. To be effective at mitigating these hazards, this fence, like the black fences, had to be erected within 75 feet of the navigable waterway (Eagle Spring Lake).

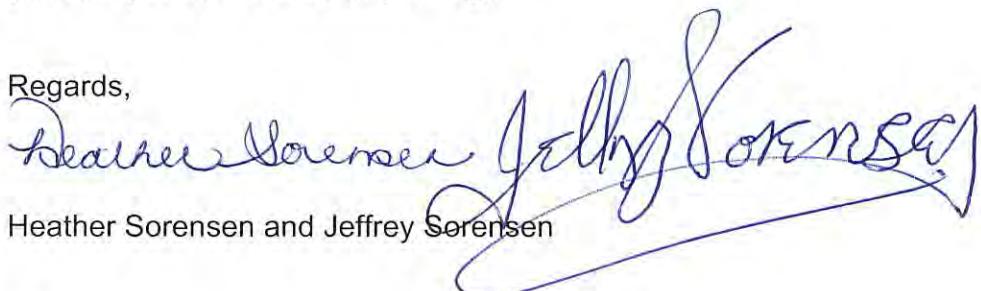
To ensure you understand the significance of this request, we are providing specific details regarding our special needs son to underscore the importance of establishing physical boundaries on our property to protect his safety and wellbeing. He has autism, severe impulse control and other processing challenges. His difficulty with impulse control prompts him to leave the house and wander without telling anyone where he is going. These episodes have increased since we

moved to the property. We had a near-drowning incident with our son at our last home so this experience, coupled with the hazards on our current property and the evolving nature of his condition, necessitate extra precautions. Erecting fencing was one of those precautions and now we are being asked to remove all of it. We believe doing so represents an undue hardship because it subjects our child and our grandchildren to increased and unnecessary risk. If anything happened to any of them, it would be a burden we should not have to bear. If you require verification of our son's special needs and the steps their unit takes to protect children under their oversight, you may contact his case manager at Waukesha County Health and Human Services, Special Needs Unit, Attivo Padilla. Mr. Padilla is aware of this matter and will await your call.

Enclosed you will find the paperwork including the forms required for the variance (Enclosure 9). We were unsure if this constitutes an area, use or special exception variance. We can certainly state that these fences do not adversely affect the general public interest or welfare and are not detrimental to nearby property/improvements or the natural resources in the area. In fact, we have observed animals going over, through or around these fences. They are aesthetically appealing, were erected within our property lines, and we have not received any objections from the neighbors immediately adjacent to our property. We have substantiated that removing these fences to comply with the ordinances would cause an unnecessary hardship because these fences are necessary to protect our family members, particularly our son. Without them, our son will not have the opportunity be outside and fully enjoy the property due to the risks he could face in the absence of these safety barriers. In fact, it is our intent is to fence all the property to maximize the safety of our son, and when we inquired about this matter with the Wakesha County Special Needs Unit, we were advised that the state will assist us with this given the medical condition of our son.

Thank you for taking the time to review our application and for considering our request. If there is anything else you need or if you have any questions, please contact us at either 262-210-6080 (Heather) or 262-945-2822 (Jeffrey).

Regards,


Heather Sorensen and Jeffrey Sorensen

9 Enclosures

