

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, August 26, 2015, 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
Walter Schmidt
Richard Nawrocki
Nancy M. Bonniwell
Richard Bayer

BOARD MEMBERS ABSENT: None

SECRETARY TO THE BOARD: Nancy M. Bonniwell

OTHERS PRESENT: Town of Merton Board of Adjustment
Amy Barrows, Staff
Rebekah Baum, Staff
Robert Anderson, BA15: 025, agent
Lisa Pellegrini, BA15:028, agent
Colleen Martin, BA15:027, owner
Josh Holland, BA15:027, agent
John Quast, BA15:031, owner
Tim Koester, BA15:031, agent
Linda Quast, BA15:031, owner
Kyle & Jennifer Stoehr, BA15:028, owners
Greg & Roxanne Platz, BA15:028, neighbors
Bob & Jay Mikulec, BA15:025, owners
Art Foss, BA15:027, neighbor
Dan Schindhelm, BA15:031, agent
Scott Kindness, BA15:031, agent
Greg & Amy Olsen, BA15:029, owners

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.

SUMMARIES OF PREVIOUS MEETINGS:

Mr. Nawrocki *I make a motion to approve the Summary of the Meeting of August 12, 2015.*

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

NEW BUSINESS:

BA15:025 ROBERT AND JAY MIKULEC (OWNERS) BOB ANDERSON (APPLICANT)

Mr. Schmidt

I make a motion to approve the request in accordance with the staff report, with the conditions listed in the staff report, except that Condition no. 8 shall be modified to read, "No retaining walls are proposed nor permitted within 75 ft. of the ordinary high water mark of Moose Lake or within the Conservancy District, if applicable." I approve the request with the modified conditions for the reasons stated in the staff report.

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request from the open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a new single family residence with an attached garage and deck, subject to the following conditions:

1. The footprint of the proposed residence, covered porches, and pump house (if to remain), shall not exceed 2,204 sq. ft. with overhangs not to exceed 2 ft. in width. Uncovered decks, patios or pergolas are not included in the footprint. The garage shall be located on the lower level as proposed by the petitioner. A 2nd story may be added if the overall floor area ratio requirement is met.
2. The overall floor area ratio on the property shall not exceed 15%, or 2,497 sq. ft.
3. If a 2nd story attic space is proposed and would otherwise exceed the floor area ratio provisions, it must be less than six ft. in height or be accessible by a pull-down staircase only.
4. If documentation can't be provided that the pump house is covering a pump system, the pump house shall be removed, prior to the issuance of a Zoning Permit for the proposed residence, attached garage, and deck.
5. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing the staked-out location of the proposed residence, attached garage, and deck, in conformance with the above conditions and in compliance with all other requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, must be prepared by a professional land surveyor and be submitted to the Planning and Zoning Division staff for review and approval.
6. Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.

7. A soil test and Form A must be completed within the vicinity of the proposed residence and be reviewed and approved by the Land Resources Division Staff to ensure that the basement elevation will be at least one ft. above the seasonal high groundwater table.
8. No retaining walls are proposed nor permitted herein.
9. A detailed Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. This is to ensure the construction of the proposed residence and attached garage do not result in adverse drainage onto 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 and not be directed 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 storm water and drainage. The grading plan may be combined with the Plat of Survey required in Condition No. 5.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variances require a demonstration that denial of the variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The petitioners are also required to demonstrate that unique physical conditions exist and that the proposal will not negatively impact the general interest or welfare of the public or the surrounding environment.

The property is nonconforming in size and the construction of a reasonably sized residence and garage warrants a variance from the open space provisions. Staff feels that the proposed footprint of 2,204 sq. ft. is reasonable, but not excessive for the size of the lot. Staff feels that requiring the removal of the pump house, if it is not functioning as a pump house, is a reasonable condition in order to compensate for the open space variance request. Additionally, the pump house is nonconforming because it is located below the ordinary high water mark of Moose Lake. Therefore, the approval of variances from the open space requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:031 JOHN AND LINDA QUAST (OWNERS) TOM KOESTER (APPLICANT)

Mr. Schmidt

I make a motion to approve the request in accordance with the staff report, with the conditions listed in the staff report and for the reasons stated in the staff report, with the following modifications to the conditions and reasons.

Condition No. 1: "The footprint of the proposed residence, attached garage, and any appurtenance, except uncovered decks, patios or pergolas, shall not exceed 1,850 sq. ft. with overhangs not to exceed 2 ft. in width."

Condition No. 2: "The overall floor area ratio on the property shall not exceed 19.7%, or 3,000 sq. ft."

Condition No. 3 shall be removed.

The reasons shall be revised to read:

"Variances require a demonstration that denial of the variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The petitioners are also required to demonstrate that unique physical conditions exist and that the proposal will not negatively impact the general interest or welfare of the public or the surrounding environment.

The property is nonconforming in size and the construction of any structures would require a variance from the open space provisions. The proposed footprint of 2,224 sq. ft. exceeds the minimum amount of relief necessary to prevent an unnecessary hardship. A lesser variance providing a footprint of 1,850 sq. ft. will allow for a reasonably sized first floor and attached garage. Granting a total floor area ratio of 19.7% (3,000 sq. ft.) allows for some relief from the ordinance in order for the petitioner to construct a reasonably sized residence on the subject property. The petitioner is proposing a lower level, which is not included in the floor area ratio calculation. If the petitioner utilizes the entire recommended footprint, including the area below the proposed attached garage, as lower level living space, an additional 1,850 sq. ft. is added to the overall square footage. Therefore, a total of 4,850 sq. ft. of living space, including the garage, is permitted on the property with the recommended variance. The Board does not feel that the petitioner's request of 3,462.2 sq. ft. (22.8%), not including the lower level, is reasonable, considering a property owner is limited to 3,000 sq. ft. in floor area on a conforming 20,000 sq. ft. lot.

Therefore, denial of the petitioner's request, but approval of modified variances from the floor area ratio and open space provisions, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

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

The Planning and Zoning Division staff's recommendation was for **denial** of the petitioner's request, but **approval** for some relief and variances from the floor ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a single family residence with an attached garage and decks, subject to the following conditions:

1. The footprint of the proposed residence, attached garage, and any appurtenance, except uncovered decks, patios or pergolas, shall not exceed 1,750 sq. ft. with overhangs not to exceed 2 ft. in width.
2. The overall floor area ratio on the property shall not exceed 16.5%, or 2,500 sq. ft.
3. The existing shed and deck adjacent to the lake shall be removed and restored with seed mix and mulch or sod, or other vegetation prior to the issuance of a Zoning Permit for the residence and attached garage.
4. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing the staked-out location of the proposed residence, attached garage, and decks, patios, or pergolas, in conformance with the above conditions and in compliance with all other requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, must be prepared by a professional land surveyor and be submitted to the Planning and Zoning Division staff for review and approval.
5. Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
6. A soil test and Form A must be completed within the vicinity of the proposed residence and be reviewed and approved by the Land Resources Division Staff to ensure that the basement elevation will be at least one ft. above the seasonal high groundwater table.
7. No retaining walls are proposed nor permitted herein.
8. A detailed Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. This is to ensure the construction of the proposed residence and attached garage do not result in adverse drainage onto 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 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 storm water and drainage. The grading plan may be combined with the Plat of Survey required in Condition No. 4.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variances require a demonstration that denial of the variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The

petitioners are also required to demonstrate that unique physical conditions exist and that the proposal will not negatively impact the general interest or welfare of the public or the surrounding environment.

The property is nonconforming in size and the construction of any structures would require a variance from the open space provisions. However, staff feels that the proposed footprint of 2,224 sq. ft. exceeds the minimum amount of relief necessary to prevent an unnecessary hardship. A lesser variance providing a footprint of 1,750 sq. ft. will allow for a reasonably sized first floor and attached garage. Additionally, staff feels that granting a total floor area ratio of 16.5% (2,500 sq. ft.) allows for some relief from the ordinance in order for the petitioner to construct a reasonably sized residence on the subject property. The petitioner is proposing a lower level, which is not included in the floor area ratio calculation. If the petitioner utilizes the entire recommended footprint, including the area below the proposed attached garage, as lower level living space, an additional 1,750 sq. ft. is added to the overall square footage. Therefore, a total of 4,250 sq. ft. of living space is permitted on the property with the recommended variance. Staff does not feel that the petitioner's request of 3,462.2 sq. ft. (22.8%), not including the lower level, is reasonable, considering a property owner is limited to 3,000 sq. ft. in floor area on a conforming 20,000 sq. ft. lot.

Staff feels that requiring the removal of the shed and deck adjacent to the lake is a reasonable condition in order to reduce the severity of the floor area ratio and open space variance requests. Additionally, the accessory structures are severely nonconforming to offset, shore setback and the floodplain setback provisions of the ordinance. The petitioner would not be able to convert the shed into a boathouse, because the structure does not meet the minimum size requirements for a boathouse and the property does not meet the minimum lot width to allow a boathouse.

Therefore, denial of the petitioner's request, but approval of modified variances from the floor area ratio and open space provisions, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:KIMBALL AND COLLEEN MARTIN (OWNERS) HOLLAND BUILDERS (APPLICANT)

Mr. Nawrocki

I make a motion to approve the request in accordance with the staff report, with the conditions listed in the staff report and for the reasons stated in the staff report.

The motion was seconded by Mr. Bayer and carried with a 4-1 vote. Ms. Bonniwell voted against the motion stating that the property is severely nonconforming and the floor area ratio proposed is too significant for the size of the lot. No additional floor area ratio should be granted.

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the road setback, floor area ratio and a special exception from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the repair and reconstruction of portions of the roof on the existing residence, which will include a vertical expansion of the residence, subject to the following conditions

1. A complete set of building plans shall be submitted clearly illustrating the proposed roof repair and reconstruction activities. The plans shall indicate that no overhangs or portions of the roof extend beyond the west property line. All structural repair to the existing structure shall be indicated in the plans.
2. A licensed structural engineer shall review the existing structure and determine what, if any, structural improvements are required to the existing structure in order to accommodate the new roof structure, prior to the issuance of a Zoning Permit. If the structural improvements require that more than 50% of the exterior structural members be replaced, a new variance is required from the Waukesha County Board of Adjustment.
3. The footprint of the existing structure shall not be increased.
4. The floor area ratio may be increased by a maximum of 100 sq. ft. on the second floor as proposed by the petitioner.
5. No portion of the roofline shall be increased in height within the established road right-of-way of Road "B". If any improvements are proposed to the portion of the roof structure that is located within the established road right-of-way of Road "B", the Town Board must approve the improvements and the owner must file a deed restriction with Register of Deeds stating that the owner agrees to remove the portion of the structure within the established road right-of-way at the owners expense, when said right-of-way is necessary for the improvement of the highway.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

The subject property is severely nonconforming to lot size and width. Due to the small lot size, any structure proposed on the property would need variances from the open space and floor area ratio provisions of the ordinance. The existing structure is also severely nonconforming to road setback and offset and does not meet the minimum floor area ratio provisions of the ordinance. There is not a more conforming location to place a new structure or make additional improvements to the existing structure because of the location of the existing residence to the east, the lake, and the physical road. A vertical expansion of the roofline is the only practical improvement that can be made to the existing structure that is currently very small in size.

At the meeting, staff added that the request for a floor area ratio variance is reasonable because the increased height would be proposed regardless in order to provide the roof pitch that is proposed and the petitioners would otherwise be allowed to provide the floor area with a pull-down staircase. The total height of the proposed 2nd floor is still below 8 ft.

Therefore, the approval of variances from the road setback, floor area ratio, and a special exception from the offset requirements of the Waukesha County Shoreland and Floodplain Protection Ordinance requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:029 GREGORY AND AMY OLSEN

Ms. Bonniwell

I make a motion to approve the request in accordance with the staff report, with the conditions listed in the staff report and for the reasons stated in the staff report.

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

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the private road setback, floor area ratio, and open space requirements and **denial** of the request for variances from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a new single-family residence with an attached garage, and decks, subject to the following conditions:

1. The proposed footprint of the residence, attached garage, and any appurtenances shall not exceed 1,351 sq. ft. The attached garage shall be a minimum of 400 sq. ft. in size. Overhangs shall not exceed 2 ft. in width, except for the overhang over the east side deck, which may be a maximum of 5 ft. x 15 ft. The overhang is not included in the footprint calculation.
2. The overall floor area ratio on the property shall not exceed 20.6 %.
3. The deck located on the west side of the residence shall be a minimum of 12 ft. from the west lot line and the deck on the east side of the residence shall be a minimum of 16 ft. from the private road.
4. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing the staked-out location of the proposed residence, attached garage and decks, in conformance with the above conditions and in compliance with all other requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, must be prepared by a professional land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
5. Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
6. A detailed Grading and Drainage Plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. This is to ensure the construction of the proposed residence and attached garage do not result in adverse drainage onto 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 and not be directed 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 storm water and drainage. The grading plan may be combined with the Plat of Survey required in Condition No. 4.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The petitioners are also required to demonstrate that unique physical conditions exist and that the proposal will not negatively impact the general interest or welfare of the public or the surrounding environment.

The property is nonconforming in size and the construction of any structures would require a variance from the open space provisions. The petitioner has proposed a reasonably sized residence and attached garage that will fit within the general desirability of the neighborhood. The variance from the private road setback provisions to allow the deck on the east side of the residence is also reasonable in that the proposed overhang is not significant in size, will not be at the ground level, and there will be an impervious surface driveway beneath it. Therefore, the deck will not have any further negative impact on footprint or impervious surface.

The variance from the offset provisions to allow the 12 ft. x 32 ft. deck on the west side of the residence is not reasonable because the deck can easily be reduced in size by 4 ft. to comply with the provisions and still be 8 ft. x 32 ft. in area. Alternatively, the petitioners could reduce the depth of the residence slightly to increase the allowable area for the proposed deck.

Therefore, the approval of variations from the private road setback, floor area ratio, and open space requirements, with the recommended conditions, and denial of the offset requirements is in conformance with the purpose and intent of the Ordinance.

BA15:028 CRAIG A. STOEHR 2012 IRREVOCABLE TRUST (OWNER) MILLER MARRIOTT CONSTRUCTION (APPLICANT)

Mr. Bayer

I make a motion to approve the request in accordance with the staff report, with the exception that we also approve a floor area ratio variance, with the conditions listed in the staff report and for the reasons stated in the staff report, with the following modifications to the conditions and reasons.

Condition No. 1 "The footprint of the proposed residence, attached garage, and roofed appurtenances shall not exceed 1,426 sq. ft., which must include a minimum 400 sq. ft. garage, with overhangs not to exceed 2 ft. in width."

Condition No. 2 "The overall floor area ratio on the property shall not exceed 28%, or 2,381 sq. ft."

The reasons shall be revised to read:

“Variances require a demonstration that denial of the variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

The property is nonconforming in size and the construction of any structures would require a variance from the open space provisions. However, the proposed footprint of 2,255 sq. ft. exceeds minimal relief in order to eliminate an unnecessary hardship on the severely nonconforming lot. A lesser variance providing a footprint of 1,426 sq. ft. will allow for a 1st floor that is reasonable with consideration given to the topography. The proposed total floor area ratio of 39.4 % (3,355 sq. ft.) far exceeds reasonable use. The allowable square footage (2,381 sq. ft.) provides for a reasonably sized home and garage, especially when consideration is given to the lower level which provides additional space. If a lower level is proposed that equals the size of the recommended footprint, the total allowable square footage on the property with the lower level is 3,807 sq. ft.

*The height could be reduced by 1.5 ft. in order to comply with the ordinance requirements as the permitted 46 ft. provides reasonable use. The road setback can also be met with a reduced footprint. Providing a greater road setback may reduce the amount of required grading necessary to accommodate the proposed construction. Therefore, denial of the request for variances from the road setback, floor area ratio, open space and building height provisions, but **approval** of a modified variance from the open space provisions for the construction of a residence and attached garage, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.*

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

The Planning and Zoning Division staff's recommendation was for **denial** of the request for variances from the road setback, floor area ratio, open space and building height requirements, but **approval** of a modified variance from the open space provisions of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a new single family residence, attached garage and deck, subject to the following conditions:

1. The footprint of the proposed residence, attached garage, and roofed appurtenances shall not exceed 1,250 sq. ft. with overhangs not to exceed 2 ft. in width.
2. The overall floor area ratio on the property shall not exceed 19.5%, or 1,658.8 sq. ft.
3. The height of the residence and attached garage shall comply with the ordinance requirements.
4. The residence and attached garage shall be a minimum of 17.5 ft. from the established road right-of-way unless the petitioner can prove that the averaging provisions of the ordinance provide for a closer setback.

5. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing the staked-out location of the proposed residence, attached garage, and decks, patios, or other appurtenances, in conformance with the above conditions and in compliance with all other requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, must be prepared by a professional land surveyor and be submitted to the Planning and Zoning Division staff for review and approval.
6. Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
7. If retaining walls are proposed, they must comply with the ordinance requirements.
8. A detailed Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. This is to ensure the construction of the proposed residence and attached garage do not result in adverse drainage onto 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 and not be directed 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 storm water and drainage. The grading plan may be combined with the Plat of Survey required in Condition No. 5. It should be noted that a Conditional Use Permit may be required for the proposed grading activities and this variance should not in any affect the decision related to the Conditional Use Permit.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Variations require a demonstration that denial of the variations would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

The property is nonconforming in size and the construction of any structures would require a variance from the open space provisions. However, staff feels that the proposed footprint of 2,255 sq. ft. exceeds minimal relief in order to eliminate an unnecessary hardship on the severely nonconforming lot. A lesser variance providing a footprint of 1,250 sq. ft. will allow for a 1st floor that complies with the minimum floor area provisions and a two-car garage. Additionally, staff feels that the proposed total floor area ratio of 39.4 % (3,355 sq. ft.) far exceeds reasonable use. The allowable square footage (1658.8 sq. ft.) provides for a reasonably sized home and garage, especially when consideration is given to the lower level which provides additional space. If a lower level is proposed that equals the size of the recommended footprint, the total allowable square footage on the property with the lower level is 2,908.8 sq. ft.

The height could be reduced by 1.5 ft. in order to comply with the ordinance requirements as the permitted 46 ft. provides reasonable use. The road setback can also be met with a reduced footprint. Providing a greater road setback may reduce the amount of required grading necessary to accommodate the proposed construction.

Therefore, denial of the request for variances from the road setback, floor area ratio, open space and building height provisions, but **approval** of a modified variance from the open space provisions for the construction of a residence and attached garage, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

ADJOURNMENT:

Mr. Bayer

I make a motion to adjourn this meeting at 9:12 p.m.

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

Respectfully submitted,



Nancy M. Bonniwell
Secretary, Board of Adjustment

(PLEASE FILL OUT COMPLETELY AND PLEASE PRINT. THANK YOU.)

NAME	ADDRESS	PHONE NUMBER	IN ATTENDANCE FOR THE VARIANCE OF:	RELATIONSHIP TO PETITIONER
ROBERT ANDERSON	PO BOX 386 HARTLAND WI 53029	262 367 3671	MIKULEC	APPLICANT
LEA Pellegrini	301 Pawling Ave Hartland	262-369-0531	Stoehr	Builder
Allen Martin	162 W 37538 Parkview Dr Oconomowoc	262-567-0989	Martin	Applicant
Josh Holland	2627 Gopher Hill Rd Waukegan WI	414 254 6339	Martin	Holland
John Quast	1156 Four Winds Way Hartland	262-352-1429	QUAST	Applicant
TIM KOESTER	W290 N9100 HIDEAWAY DR HARTLAND	262 844 9900	QUAST	APPLICANT
Linda Quast	1156 Four Winds Way Hartland	262 309 2222	QUAST	Applicant
Kyle & Jennifer Stoehr	N53W34234 Road Q, Okauchee, WI 53069	262 442 3919	Stoehr	Applicant
Greg & Roxanne Platz	N53 W34258 RR Q Okauchee		Stoehr	Neighbor
Bob & Jaymi Kulec	W330 N6371 Hasslinger Dr Nashotah	(262) 719-6786	Mikulec	Applicant
Art Foss	N53 W34645 ROAD B	262 560-0038	MARTIN	NEIGHBOR
^{Schindhelm} DAN SCHINDHELM	2400 E BELLEVUE PL MILWAUKEE	414 792 9705	QUAST	CLIENT
Scott Knudsen	517 E MENOMONEE ST MILWAUKEE	414-792-9700	QUAST	CLIENT
Greg & Amy Olsen	W258 S7995 Prairieside Dr. Mukwonago WI 53149	262-662-2615	OLSEN	APPLICANT