

NEW BUSINESS:

BA15:005 MARK K. AND KAREN M. ERDMANN REVOCABLE TRUST DATED OCTOBER 13, 2014 (OWNERS) BERT BUTTERFIELD (AGENT)

Ms. Bonniwell recused herself from this public hearing.

Mr. Bayer *I make a motion to **approve** 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:*

Condition No. 2 shall be modified to read as follows: The new residence must be located no closer than 19 feet from the wetlands along the west property line, and no closer than 13 feet from the wetlands along the east property line.

The motion was seconded by Mr. Nawrocki and failed with two yes votes and two no votes. Mr. Day and Mr. Schmidt voted no.

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.*

The motion was seconded by Mr. Day and passed with three yes votes. Mr. Bayer voted no.

The Planning and Zoning Division staff's recommendation was for **denial** of the request for variances from the Conservancy Setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance as proposed, but **approval** of slightly less relief from the Conservancy Setback requirements to allow the construction of a new home, attached garage, deck, and patio, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, a Sanitary Permit for a new waste disposal system must be issued by the Waukesha County Environmental Health Division and a copy furnished to the Planning and Zoning Division Staff.
2. The new residence must be located no closer than 25 feet from the wetlands along the west property line, and no closer than 13 feet from the wetlands along the east property line.
3. In order to offset the impact of the conservancy setback encroachments, a mitigation plan must be prepared to provide for a 15 foot deep "no-mow" wetland buffer adjacent to the wetlands along the west property boundary starting at a point 5 feet south of the detached garage and extending 50 feet southward and parallel to the wetland. The vegetative buffer shall include, at a minimum, a mix of perennial plants and grasses native to Wisconsin. If there are any existing trees located within the required mitigation area, the location, size and species of all such trees shall be identified on the Landscape/Mitigation Plan and must remain as part of the Landscape/Mitigation Plan. The Landscape/Mitigation Plan must include a timetable for completion. The mitigation plan must be implemented and the site stabilized by June 1, 2016 unless extended by the Waukesha County Planning and Zoning Division upon just cause.

4. A Declaration of Restrictions shall be prepared noting that the Landscape/Mitigation Plan as required in Condition No. 3 above be permanently maintained unless modified by the Waukesha County Planning and Zoning Division. The Declaration of Restrictions shall also state that staff members of the Waukesha County Department of Parks and Land Use, or its successor, shall with ample notice be permitted to conduct periodic inspections of the property for the purpose of verifying that the required vegetative buffer is maintained. The Declaration of Restrictions shall also include long-term maintenance provisions. Prior to the issuance of a Zoning Permit, the Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed's office, and a copy furnished to the Planning and Zoning Division staff.
5. Prior to the issuance of a Zoning Permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
6. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out locations of the proposed residence, attached garage, deck, and patio, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division Staff for review and approval.
7. In order to ensure the construction of a new residence does not result in adverse drainage onto adjacent properties, 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. 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 private 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. This Grading Plan may be combined with the Plat of Survey required in Condition No. 6.

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

Variations require a demonstration that denial of the variance 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. Variations also require that there are unique physical conditions existing on the property, which are not self-created, and which prevent compliance with the Ordinance thereby causing a hardship/no reasonable use.

Unique physical conditions exist because the subject and adjacent properties contain vast areas of wetlands in close proximity to Beaver Lake. The petitioner would be limited to virtually no building envelope, if the shore and wetland setback requirements were met. These setbacks would prohibit the construction of a residential structure, which results in an unnecessary hardship. It should also be noted that the new home location, as recommended, would bring the property into conformance with respect to required shore setbacks from Beaver Lake, as well as offsets from adjacent properties.

Variations also require that 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. As recommended, a modest reduction of requested relief from Conservancy Setbacks as well as the provision of a wetland buffer will serve to better protect sensitive natural resources.

Therefore, the approval of variations from the Conservancy Setback requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:006 WILLIAM J. SCHIMMELS AND BARBARA J. THEKAN

Mr. Schmidt recused himself from this public hearing.

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. Bayer and carried unanimously with four yes votes.

The Planning and Zoning Division staff’s recommendation was for **approval** of the request for variations from the floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and **approval** of a special exception from the accessory building floor area ratio requirements of the Ordinance to allow the construction of a detached garage on the property subject to the following conditions:

1. The existing fish house/shed must be removed from the property within 6 months of the issuance of a Zoning Permit for the proposed detached garage.
2. The proposed detached garage must be located at least 20 ft. from the side lot line and from the private road right-of-way as measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located so that the outer edges of the overhangs conform to the offset and setback requirements.
3. The proposed detached garage must be located a minimum 10 ft. from the residence as measured to the closest points of the structures including the overhangs.
4. The proposed garage must contain only one story and it must conform with the height requirement of the Ordinance, i.e. the height of the garage, as measured from the lowest exposed point to the peak of the roof, must not exceed 18 ft.
5. The proposed garage may contain an upper-level storage area only if the garage conforms with the height requirement noted above and only if that upper level is not accessible via a permanent staircase. The upper level of the garage may be accessed via pull-down stairs.
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. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing all existing structures and the staked-out location of the proposed garage, in conformance with the above condition, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
8. If any changes to the existing grade are proposed, 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 garage does 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 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 plan may be combined with the Plat of Survey required in Condition No. 7.

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.

A hardship exists relative to the open space requirement because the size of the lot is less than the required open space; therefore, no structure could be constructed on the property without the need for an open space variance. Since the property is a legal nonconforming lot, it is also reasonable to grant some relief from the floor area ratio and accessory building floor area ratio requirements of the Ordinance to allow additional storage space. The residence only contains a partial basement and the existing detached garage is rendered unusable several months of the year due to frozen conditions. The petitioner is proposing to construct the proposed garage and keep the existing garage to maintain the existing topography on site as well as to preserve as many of the existing trees on site as possible. In addition, the approval of this request, as conditioned, will result in the removal of the nonconforming fish house/shed from the property. The approval of this request should not have an adverse impact on the neighboring properties.

Therefore, the approval of this request, with the recommended conditions would be in conformance with the purpose and intent of the Ordinance.

BA15:007 GARY AND TONI O'BRIEN

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 a variance 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 associated decks on the property, subject to the following conditions:

1. The proposed construction shall be substantially in compliance with the plans provided herein.
2. The footprint of the residence with attached garage and covered porches, excluding overhangs of 2 ft. or less, shall not exceed 1,813 sq. ft. as proposed.
3. Prior to the issuance of a Zoning Permit for the new residence with attached garage, documentation shall be provided to the Planning and Zoning Division Staff that a recorded access easement or private right-of-way exists to provide access to the property. If no such easement or right-of-way exists, an easement shall be obtained and documentation of such easement shall be provided to the Planning and Zoning Division Staff prior to the issuance of a Zoning Permit. Alternatively, access to the property shall be from Shady Lane.
4. The existing shed/ice shanty shall be removed from the property prior to the issuance of a Zoning Permit for the proposed residence.
5. The proposed basement floor shall be a minimum of 1 ft. above seasonal high groundwater. Prior to the issuance of a Zoning Permit, a Form A Seasonal High Groundwater Determination Report must be submitted to the Waukesha County Planning and Zoning Division Staff for review and approval.
6. In order to ensure the construction of a new residence does not result in adverse drainage onto adjacent properties, 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. 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, 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 drainage.
7. Prior to the issuance of a Zoning Permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.

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. Due to the size of the lot, no structure

could be constructed on the property without the need for a variance from the open space requirements. Although the detached garage has been removed, the footprint of the structures that previously existed on site was 2,407 sq. ft.; whereas, the proposed footprint is 1,813 sq. ft. Therefore, although a variance is needed, the property will have more open space than previously existed with the residence and detached garage. Therefore, the approval of this request should not have an adverse impact on neighboring properties and would be within the purpose and intent of the Ordinance.

OTHER ITEMS REQUIRING BOARD ACTION: None

ADJOURNMENT:

Mr. Bayer

I make a motion to adjourn this meeting at 8:02 p.m.

The motion was seconded by Ms. Bonniwell 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
BERT Butterfield	W295 N1765 Prairiewood Ct Pewaukee 53072	414 378-4440	Erdmann	Builder
MARK EDMANN	145 PINNACLE DRIVE, LAKE MILLS 53551	920 988-4666	Erdmanns	OWNER
Karen Erdmann	145 Pinnacle Drive, Lake Mills 53551	920-988-8891	Erdmann's	owner
BARBARA THEKAW	N55W34484 Tweeden Ln, Oconomowoc 53066	262-567-1692	Chimmels/Theraw	owner
Jill Skinner	" " " "	414-333-9292	"	"
TERENCE WEBER	N68W33710 Hwy K, Oconomowoc	262-490-6839	EDMAN	Town of meadow 501.
Curt Denevan	W218 N2777 Shady Lane Pewaukee 53072	414-305-5610	Cary Dineen	Neighbor
BARRY O'BRIEN	W279 N2795 SHADY LN	262 367-7637	CAPT O'BRIEN	
Erica Rumer	N61W30735 Beaver View	262 361-4158	Erdmann	neighbor
B. Kelly	Shady Lane	262-366-7067		
A. Denevan	W218 N2777 Shady Lane			