

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 13, 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, Senior Land Use Specialist
Benjamin Greenburg, Senior Land Use Specialist
Carol Wilson, BA15:008, relative
Randy Luck, BA15:008, owner
Nancy and Wayne Lehman, BA15:009, owners
Fred Manske, BA15:010, owner
Paul Schultz, BA15:010, architect and petitioner
Robert Pyles, BA15:012, owner
Steven Payne, BA15:011, owner
Joan Sweet, BA15:011, architect
Heidi and Steve Jankowski, BA15:011, neighbors
Patrick and Lynn Doyle, BA15:011, neighbors
Carol Apuli, BA15:011, neighbor
John Herrick, BA15:011, neighbor

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. Schmidt *I make a motion to approve the Summary of the Meeting of April 8, 2015.*

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

NEW BUSINESS:

BA15:011 STEVEN AND JACLYN PAYNE

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 additional conditions.

In order to provide additional storage, the proposed residence may contain a 3rd story only if the 3rd story is not accessible via a permanent staircase. The 3rd story of the residence may be accessed via pull-down stairs. The 3rd story may not be used for the purpose of human habitation at any time.

A deed restriction shall be prepared noting required compliance with Condition No. 6 unless modified by the Waukesha County Board of Adjustment or unless the Waukesha County Shoreland and Floodland Protection Ordinance is modified to allow the additional Floor Area Ratio. 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.

Prior to the issuance of a Zoning Permit, a Sanitary Permit for a new waste disposal system or a Preliminary Site Evaluation approving the existing waste disposal system must be issued by the Waukesha County Environmental Health Division and a copy furnished to the Planning and Zoning Division Staff.

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

The Planning and Zoning Division staff's recommendation was for **denial** of the request for a variance from the floor area ratio requirements and **approval** of the request for a variance from the open space requirements and a special exception from the accessory building floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to remove the existing structures on the property and permit a new single family residence, deck and detached garage, subject to the following conditions:

1. The proposed footprint of the residence and covered entry stoop shall not exceed 1,400 sq. ft. and the detached garage shall not exceed 552 sq. ft. in size with overhangs not to exceed 2 ft. in width.
2. The overall floor area ratio on the property shall not exceed 15%.

3. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing the staked-out location of the proposed residence, deck, and detached garage, 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 registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
4. The 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. In order to provide additional storage, 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. The lowest level of the proposed residence, including mechanicals, and any new septic and well openings and the floor of the detached garage shall be no lower than 900.3' NAVD88 (approximately 1 ft. higher than floods of record). Upon completion of the foundation or slab of the residence and garage and upon completion of the openings for the holding tank and well, certification shall be submitted to the Waukesha County Planning and Zoning Division Staff that the foundation or slab and openings are no lower than the required 900.3' elevation.
8. The lowest living level or any crawl space shall not extend below natural grade.
9. A detailed Grading and Drainage Plan, which must be revised due to the required minimum elevation of the detached garage, 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 detached 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 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. 3.

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. Denial of the requested floor area ratio variance would not result in an unnecessary hardship or prevent the property from being used for the permitted purpose of single-family residential use, since it already contains a reasonably sized residence and a new residence could be constructed on the property in conformance with the floor area ratio requirements, which would allow for a total of 2,451 sq. ft. Further, there are no unique property characteristics to justify granting the requested floor area ratio variations.

However, conformance with the open space and accessory building floor area ratio requirements would permit a limiting building footprint of approximately 1,345 sq. ft. Due to high ground water and known flooding conditions of the lot, fill is necessary to access the first floor, which makes a detached garage more desirable than an attached garage. When considered as two separate structures, the allowable footprint for a stand-alone residence would be minimized so that its size would not fit within the character of the neighborhood. The proposed overall footprint of the first floor of the residence and detached garage (1,949 sq. ft.) are reasonably sized for the property. It should be noted the property was considered floodplain at the time of the 2008 variance when staff recommended denial from the open space provisions. Generally, when a property is located within the floodplain, staff recommends a smaller footprint to reduce the negative impacts to the floodplain.

Therefore, approval of the requested variations from the open space provisions and a special exception from the accessory building floor area ratio requirements and denial of the floor area ratio requirements would be in conformance with the purpose and intent of the Ordinance.

BA15:012 ROBERT PYLES

Mr. Schmidt

I make a motion to approve the petitioner's request in accordance with the following conditions and for the following reasons.

1. *The depth of the deck and staircase shall not exceed the plans submitted to the Waukesha County Planning and Zoning Division Staff as part of the variance application.*
2. *The deck and staircase shall be located no closer than 1.2 ft. from the north lot line.*
3. *Prior to the issuance of a Zoning Permit, a Stake-Out Survey showing the location of the proposed deck and staircase, 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.*

The proposed deck is not adverse to the public interest. The deck meets the intent of the ordinance for using a lake property and is a reasonable use of the property.

The motion was seconded by Mr. Nawrocki and carried with three yes votes. Ms. Bonniwell and Mr. Day voted no.

The Planning and Zoning Division staff's recommendation was **denial** of the request for variances from the shore and floodplain setback and offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of an elevated deck on the lakeside of the residence for the following reasons:

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 petitioner currently has a narrow deck on the lakeside of the residence that provides ingress/egress to the residence. There is also the ability to gain access to the ground level in two locations. The deck constitutes a narrow walkway in a portion of the area, but extends to approximately 5 ft. in front of the second level door on the lakeside of the residence. There is also an approximate 5 ft. x 7 ft. deck area on the southeast corner of the residence. Therefore, it has not been demonstrated that denial of the requested variances, as proposed by the applicant, would result in an unnecessary hardship.

Variances 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. The petitioner has reasonable use with the existing residence and deck that are already in place. There are no unique physical conditions that exist that would require a greater setback or offset variance than what currently exists on the property.

Finally, variances 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. Although the addition of a single deck within the shore and floodplain setback area may not seem to negatively affect the natural resources of the lake, the cumulative impacts of granting such variances over time will have a negative impact on the resource. Additionally, the proposed deck will be located closer to the lake and floodplain than the existing decks on the adjacent properties and therefore would establish a closer setback that could be utilized for future setback averaging purposes, bringing structures closer and to the lake, which may result in negatively impacting natural resources and natural scenic beauty. The proposed deck is located approximately 1 ft. from the north lot line, which will make the area between the subject residence and adjacent residence to the north more congested and make access to the north side of the home even more challenging for maintenance and emergency purposes.

Since the petitioner has not demonstrated compliance with the tests for a variance, the approval of the request for the variance would not be within the purpose and intent of the Ordinance.

BA15:008 WILSON RESIDENCE TRUST (OWNER) RANDALL J LUCK (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.

The motion was seconded by Mr. Nawrocki and carried 4-1 Ms. Bonniwell voted no.

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the Floor Area Ratio requirements as well as **approval** of the request for a special exception from the Accessory Floor Area Ratio of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the construction of a new garage subject to the following conditions:

1. The east parcel must be connected to municipal sanitary sewer prior to an occupancy permit being granted for the proposed garage.
2. The new garage must be one story, no larger than 28' x 30', located no closer than 20 feet from the rear (south) property line, and no closer than 10 feet from the side lot lines.
3. 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.
4. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out locations of the proposed garage, in conformance with the above conditions, must be prepared and submitted to the Planning and Zoning Division Staff for review and approval.
5. 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 detached garage does not result in adverse drainage onto adjacent properties.

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 vacant parcel is non-conforming because it doesn't meet the minimum lot size of its district (4,551 sq. ft. vs 20,000 sq. ft. required). The petitioner would be limited to virtually no building envelope if all the zoning requirements of the district were met. Without any relief from the ordinance the petitioner would not have reasonable use of the vacant parcel.

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 conditioned, the marginal increase in impervious surface on the lot will not have any adverse effects on nearby properties. Additionally, the new garage will be an aesthetic improvement over the vacant lot, existing concrete slab, and parked vehicles.

This lot previously contained a single garage with no primary residence, and many similar sized lots in the neighborhood contain garages without any primary residence, therefore, the approval of variations from the Floor Area Ratio and Accessory Building Floor Area Ratio requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:009 WAYNE AND NANCY LEHMAN

(Mr. Bayer 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, with the following modifications to the conditions and reasons.

Condition No. 1 shall be modified to read as follows: Prior to the issuance of a Zoning Permit, an updated stake-out Plat of Survey identifying the overhang on the south side a maximum of 20 sq. ft. in area to cover the entrance on the roadside; the overhang on the west side a maximum of 80 sq. ft. in area to cover the entrance on the west side of the residence; the detached garage a minimum of 20 ft. from the ordinary high water mark of Okauchee Lake and in conformance with the offset provisions of the Waukesha County Shoreland and Floodland Protection Ordinance; the deck additions no closer to the lake than the existing main level deck; and the lower level deck in compliance with Condition No. 3, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval. If Zoning Permits are to be obtained at different times for the proposed improvements, the survey may include the portion of improvements proposed at the time of construction.

Condition No. 3 shall read as follows: The lower level deck shall not extend beyond 12 ft. from the residence on the lakeside, shall not extend closer to the east lot line than the existing residence, and shall not extend closer west than the west end of the proposed staircase. The existing lower level deck or portions of the deck that extend

beyond the approved area shall be removed prior to the issuance of a Zoning Permit for any of the proposed activities approved herein. A new lower level deck or patio may be constructed within the footprint approved.

The reasons shall be modified to read 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 property is severely nonconforming in size. The existing residence also consists of a small footprint with no garage. The existing detached garage is in poor shape and encroaches on the west lot line. There are no other structures on the property that provide vehicular or personal storage. Therefore, replacing the existing garage with a reasonably sized one car detached garage would provide minimal relief necessary in order to provide the petitioner with vehicular and personal storage on the property. The height is reasonable because of the topography.

The addition of the main level deck, lower level deck, and stairway will provide safe access from the roadside of the residence to the lakeside of the residence and the minimal overhangs provide cover from the elements to the main entrances into the residence. The reduction in size of the lower level deck will reduce its nonconformity and will provide the owners with reasonable use on the lake. However, the overhang on the lakeside is not necessary in order to provide the owner with the ability to use the property for a permitted purpose and denial of the request is not unnecessarily burdensome on the owner.

The motion was seconded by Mr. Nawrocki and carried with four yes votes.

The Planning and Zoning Division staff's recommendation was for **approval** of the variances from the shore and floodplain setback, road setback, floor area ratio, open space and accessory building height requirements and a special exception from the accessory building floor area ratio requirements to permit the **detached garage**, and **approval** of the variances from the shore and floodplain setback provisions to permit **additions to the existing main level deck**, and **denial** of the variances from the shore and floodplain setback, road setback, and open space requirements, and a special exception from the offset provisions to permit the **overhangs**, but **approval** to allow **modified overhangs on the west side and road side of the residence**, and **denial** of the variances from the shore and floodplain setback and offset provisions to permit the **illegal lower level deck**, but **approval** to allow a modified deck, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, an updated stake-out Plat of Survey identifying the overhangs a maximum of 20 sq. ft. to cover the entrances on the roadside and the west side of the residence; the detached garage a minimum of 20 ft. from the ordinary high water mark of Okauchee Lake and in conformance with the offset provisions of the Waukesha County Shoreland and Floodland Protection Ordinance; and the deck additions and the lower level deck no closer to the lake than the existing main level deck, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval. If Zoning Permits are to be obtained at different times for the proposed improvements, the survey may include the portion of improvements proposed at the time of construction.
2. Prior to the issuance of a Zoning Permit, a complete set of building plans that identify the height of the proposed detached garage a maximum of 23 ft. in height and 384 sq. ft. in size must be submitted to the Planning and Zoning Division staff for review and approval.
3. The portion of the existing illegal lower level deck that extends beyond the footprint of the existing main level deck shall be removed prior to the issuance of a Zoning Permit for any of the proposed activities approved herein. A new lower level deck or patio may be constructed within the footprint of the existing main level deck or approved additions to the main level deck.
4. The Waukesha County Planning and Zoning Division Staff shall review a revised retaining wall and grading plan that incorporates the removal of a portion of the lower level deck as required herein. The retaining wall shall be set back as far as practical while protecting the slope on the lakeside of the residence. The plan required herein shall be included in the Grading and Drainage Plan required in Condition No. 5.
5. 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 detached garage and modified walls 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 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 and drainage.
6. The petitioner shall stabilize the shoreline and remove the wood boards at the shoreline within one year from the date of Zoning Permit issuance for either the detached garage or deck additions. The overhangs may be permitted without compliance with this condition.

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 severely nonconforming in size. The existing residence also consists of a small footprint with no garage. The existing detached garage is in poor shape and encroaches on the west lot line. There are no other structures on the property that provide vehicular or personal storage. Therefore, replacing the existing garage with a reasonably sized one car detached garage would provide minimal relief necessary in order to provide the petitioner with vehicular and personal storage on the property.

The addition of the main level deck and stairway will provide safe access from the roadside of the residence to the lakeside of the residence and the minimal overhangs provide cover from the elements to the main entrances into the residence. However, the overhang on the lakeside is not necessary in order to provide the owner with the ability to use the property for a permitted purpose and denial of the request is not unnecessarily burdensome on the owner.

The large illegal lower level deck is located very close to the shore and is unnecessary for the property owner to use the property for a permitted purpose. Although the subject property and adjacent properties are severely nonconforming in size, the lower level deck is located more than twice as close to the lake than the existing structures on the adjacent properties. Therefore, there is no justification to allow the petitioner to maintain the structure and over time the deck may have an adverse effect on the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources in the area.

Therefore, for the reasons stated above, staff feels that the recommendation made in this report is in conformance with the purpose and intent of the Ordinance.

BA15:010 FREDERICK P. MANSKE (OWNER) PAUL SCHULTZ (APPLICANT)

Mr. Schmidt

I make a motion to approve the request in accordance with the following conditions.

The motion was seconded by Mr. Bayer and carried 4-1. Ms. Bonniwell voted no.

The Planning and Zoning Division staff's recommendation was for **approval** of variations from the road setback, offset, floor area ratio and open space requirements, as well as **approval** of a special exception from the minimum first floor area, with the following conditions:

1. No detached garage is permitted and all existing structures must be removed from the property prior to the issuance of a Zoning Permit for the new residence.

2. No retaining walls will be permitted within five (5) ft. of the side lot lines, without approval from the Town of Oconomowoc Plan Commission and the Waukesha County Park and Planning Commission.
3. The proposed residence must be designed so that the total floor area, including the first and second floors (not including the basement level), attached garage, any covered decks, covered patios, and/or covered porches and the attached garage do not exceed 1,900 sq. ft. This will result in a floor area ratio of approximately 31.3%.
4. With the exception of a 4' wide path and stairway to access the shore from the proposed home, all brick pavers and patio stone within 30' of the 100-year floodplain elevation or the Ordinary High Water Mark of Okauchee Lake (whichever is more restrictive), shall be removed prior to September 15, 2015 unless extended for just cause by the Waukesha County Parks and Land Use Staff.
5. The total building footprint shall not exceed 1,000 sq. ft. which shall encompass both garage and first floor living space. The garage shall be no less than 200 sq. ft.
6. Any proposed storage area over the attached garage must be included in the floor area calculations, unless it is accessible **only** via pull-down stairs from the garage and cannot be accessed from the upper level of the residence either now or in the future. If the house plans indicate that any storage area over the attached garage could be easily converted to living area with a direct connection to the upper level of the residence, a Declaration of Restrictions, stating that area cannot be converted to living area without the approval of the Waukesha County Board of Adjustment or its successor, must be recorded in the Waukesha County Register of Deed's office, prior to the issuance of a Zoning Permit.
7. The proposed residence must not exceed three stories (including any exposed basement level), as viewed from the lake. The proposed residence and attached garage must conform to the height requirements of the Ordinance.
8. The residence, attached garage and all other appurtenances must be at least five (5) ft. from the west and east lot lines, as measured to the outer edges of the walls and any windows/bump outs that extend further out from the structure than the walls, with overhangs not to exceed two (2) ft. in width. Any sidewalks, stairs, or walkways along the sides of the residence must be located at least three (3) ft. from the side lot lines.
9. The residence and attached garage must be a minimum of 30 ft. from the 100-year floodplain elevation or the Ordinary High Water Mark of Okauchee Lake, whichever is more restrictive, with overhangs not to exceed two (2) ft. in width.
10. The proposed decks and patio must be a minimum of 30 ft. from the 100-year floodplain elevation or the Ordinary High Water Mark of Okauchee Lake, whichever is more restrictive.
11. The residence and attached garage must be at least nine (9) ft. from the right-of-way of Gietzen Drive, with an overhang not to exceed two (2) ft. in width.

12. 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.
13. Prior to the issuance of a Zoning Permit, a Stake-Out Survey showing the location of the proposed residence, attached garage, any proposed decks or patios, as well as any proposed sidewalks, stairs, walkways, and/or retaining walls that are proposed to remain, 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. This survey must also show the location of the 100-year floodplain elevation on the property and the location of the Ordinary High Water Mark elevation of Okauchee Lake (874.5' amsl).
14. In order to ensure the construction of a new residence and attached garage 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. This Grading Plan may be combined with the Plat of Survey required in Condition No. 13.
15. The new residence must be connected to municipal sanitary sewer prior to occupancy.

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

The approval of this request, with the recommended conditions, will allow a reasonable use of the property that is not unnecessarily burdensome and is in scale with the lot size. While there are steep slopes on the property, this is not a unique situation to this property. All of the properties in the immediate area of Gietzen Drive contain the same type of topography as this lot. This property is bisected by Gietzen Drive, but this is also not unique to this property. Granting of the road setback variance allows further flexibility in attaining the shore and floodplain setback requirements. A road setback variance, as recommended, will not interfere with the public's use of the road or be a safety hazard. The recommended location of the residence and attached garage is further back from the road than the existing structure. It will result in a residence with an attached garage located 9 ft. from the edge of the right-of-way, and 10 ft. from the actual road, which should provide enough area for safe ingress and egress from the garage.

The recommended floor area ratio of 31.3% would permit a total floor area (not including the fully exposed basement level or storage area over the garage) of 1,900 sq. ft. With the basement level, it is possible to achieve over 2,900 sq. ft. of floor area, which provides a reasonable use of this property. Variances, however, should be granted only to provide the minimum relief necessary for a reasonable use of the property. Further, a total floor area of 1,900 sq. ft. (not including the basement square footage or storage over the garage) provides a reasonable use of

the property, is not unnecessarily burdensome, and will permit the construction of a residence and attached garage that will be appropriately sized for the lot, and not detrimental to the surrounding neighborhood or contrary to the public interest. Additionally, the conditioned removal of impervious materials near the shore will help mitigate increased runoff into the lake due to the reduction in existing open space.

Lastly, some relief from the minimum first floor requirement is appropriate, as the proposed two story construction will provide more open space than a one store structure. Therefore, the approval of this request, 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 9:32 p.m.

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

Respectfully submitted,



~~Nancy M. Bonniwell~~

Secretary, Board of Adjustment

RICHARD BAYER
ACTING SECRETARY BOA

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

NAME	ADDRESS	PHONE NUMBER	IN ATTENDANCE FOR THE VARIANCE OF:	RELATIONSHIP TO PETITIONER
✓ CAROL WILSON	N60 W34643 Forest Bay Coven	262 367 7363	WILSON TRUST	Mother-in-law
Nancy + Wayne Lehman	N57 W34412 Nickels Pt Rd	262-366-3300		
✓ Randy Luch	330 Oak Wood Ave 53066	262-490-482	Wilson Trust	Part.
✓ RICK MANNING	N52 W34269 SIETZEN	414-543-8800		
✓ Robert Pucc	BA15 1/2			
✓ Heidi Jankowski	W325 N6550 Northlake Dr	262-727-7257	PRIVATE	
✓ STEVE JANKOWSKI	W325 N6880 NORTH LAKE DR	262-727-7257	PRIVATE	NEIGHBOR
Randy Luch				
✓ PATRICK + LYNN DOYLE	W326 N6968 Northlake Dr.	262-966-0898		
✓ CAROL HILL	W325 N6520 N. LAKE	262-367-5261	PRIVATE	NEIGHBOR
✓ PAUL SCHULTZ	133A E. WISCONSIN OCONOMOC	262-567-5755	MANUSKE	ARCHITECT
✓ Steve Ray	1910 Iron Street Mke 53207	414 587 4882		