

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, July 8, 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
Gloria Lehrer, BA15:018, Architect
Karen Erdmann, BA15:018, Owner
Mark Erdmann, BA15:018, Owner
Atty. Don Murn, BA15:018, Attorney
Rod Colburn, BA15:019, Applicant
Alan Zocher, BA15:020, Applicant
Phil and Karen Sonderman, BA15:018, 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. Nawrocki *I make a motion to approve the Summary of the Meeting of June 10, 2015.*

The motion was seconded by Mr. Schmidt and carried unanimously. Ms. Bonniwell abstained because she was not in attendance at the June 10, 2015 meeting.

NEW BUSINESS:

BA15:018 MARK K. AND KAREN M. ERDMANN REVOCABLE TRUST DATED OCTOBER 13, 2014

Mr. Bayer *I make a motion to approve the request in accordance with the staff report, with the conditions listed in the staff report, except that 25 ft. shall be replaced with 21.7 ft. in Condition No. 2, and for the reasons stated in the staff report, except that the 3rd paragraph shall read as follows:*

“Variances 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. The site will have better conditions than with the existing home, the lot is narrow with wetlands on both sides of the property, and the design is reasonable for the lot.”

The motion was seconded by Mr. Nawrocki and carried unanimously. Ms. Bonniwell recused herself.

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, 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 and any appurtenances, including the patio, 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, 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 both 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. The footprint of the proposed residence and attached garage are significant (3,196 sq. ft.) and could be reduced in size to comply with the recommended wetland setbacks. 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.

BA15:020 HSA COMMERCIAL (OWNER) PREMIER DESIGN AND BUILD (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 additional condition as recommended by staff at the meeting.

“The project manager or property owner must maintain coordination with the Airport and Control Tower Manager while the cranes are onsite.”

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

The Planning and Zoning Division staff’s recommendation was for **approval** of the request for a variance from the required height limitation, as set forth in the Waukesha County Airport Height Limitation Zoning Ordinance, to permit the use of two temporary construction cranes to facilitate construction of a new manufacturing building, subject to the following condition:

1. All conditions contained in the FAA “Determination of No Hazard to Air Navigation for Temporary Structure” letters for the site, dated June 2, 2015, must be complied with.

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

Although the purpose of the Airport Height Limitation Zoning Ordinance is to keep structures below certain elevations in the vicinity of the airport, temporary intrusion into that space is sometimes necessary for construction projects. As a result, the FAA has provisions in place to regulate and accommodate temporary structures or construction equipment. There is no reasonable alternative for constructing a large manufacturing building without the use of cranes. The approval of this request, with the recommended condition, will allow limited temporary use of the cranes in a manner that will not be a hazard to the safe operation of aircraft and will allow the construction of the new manufacturing building to proceed in the most efficient manner. Although the crane will exceed the height limitation, its temporary presence and use, with the limitations set forth in the FAA’s “Determination of No Hazard to Air Navigation for Temporary Structure” letters, will not compromise the safety of pilots and their passengers, people living in the vicinity of the Waukesha County Airport, or the general public. Therefore, the approval of this request, with the recommended condition, is not contrary to the public interest and is in conformance with the purpose and intent of the Waukesha County Airport Height Limitation Ordinance.

BA15:019 SOCIETY OF ST. VINCENT DePAUL

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 modification: “The word future shall be inserted between the 1st and 2nd words of Condition No. 3.”

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

The Planning and Zoning Division staff’s recommendation was for **approval** of the request for a variance from the sign size requirements of the Waukesha County Zoning Code, to permit new signage attached to the west side of the building, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit for the sign, a Site Plan/Plan of Operation must be approved by both the Town of Oconomowoc Plan Commission and the Waukesha County Department of Parks and Land Use-Planning and Zoning Division.
2. The signage shall not be illuminated and shall not exceed the dimensions as proposed as part of this application.

3. No additional signage, temporary or permanent, free-standing or wall-mounted, are allowed on the property unless specifically authorized by the Town of Oconomowoc Plan Commission, the Waukesha County Department of Parks and Land Use and, if necessary, the Waukesha County Board of Adjustment.

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

The signage, as proposed, will allow the petitioner to construct signs that fit within the general desirability of the neighborhood, especially when considering the existing signage west of Brown Street in the City of Oconomowoc. The previous owner of the property was granted a variance for a larger sign that was illuminated on the same side of the building many years ago. The sign is setback approximately 250 ft. from the established road right-of-way of Brown Street and will be safely visible from the highway, while not infringing on surrounding properties or uses or be distracting to ongoing traffic. Therefore, the approval of a variance from the sign size requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

ADJOURNMENT:

Mr. Schmidt

I make a motion to adjourn this meeting at 7:49 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
Gloria Lehrer	2199 N. Waterstone Cir	262-351-0310	Erdmann	Architect
Karen Erdmann	145 Pinnacle Dr. Lake Mills, WI	920-988-8891	Erdmann	-
Mark Erdmann	145 Pinnacle Dr. Lake Mills WI	920-988-4646	Erdmann	-
Don Moran	Axley Byrdson	262-409-2277	Feldman	Atty
Rod Colburn	4156 S Regal Manor Ct New Berlin	262-751-9720	St. Vincent de Paul	Work for it
Alan Zocher	1000 W. Irving Park Rd Itasca IL	847-297-4200	HSA	General Contractor
Phil & Karen Sunderman	W308 N6194 Shore Acres Ln Holland	262-719-5009	Erdmann	Friend/Neighbor