

NEW BUSINESS:

BA15:033 PHILIP L. SONDERMAN & KAREN SONDERMAN REVOCABLE TRUST OF 2000 DATED DECEMBER 29, 2000 (OWNER) KEITH KINDRED (APPLICANT)

Ms. Bonniwell

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

The motion was seconded by Mr. Nawrocki and carried unanimously 4-0 (Mr. Schmidt recused himself from the case).

The Planning and Zoning Division staff's recommendation was for **approval** of the request for a variance from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, for a lot line adjustment via a Certified Survey Map to allow the existing garage to remain in the side yard setback.

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. We believe a hardship exists due to the fact that the petitioner and Waukesha County Parks and Land Use Staff believed the garage to be conforming at the time it was proposed. Additionally, because the parcel is entirely zoned EC - Environmental Corridor, the petitioner is constrained by the Ordinance to rebuild the garage in a more conforming location do to the additional disturbance that would be the result of a new garage. Therefore, the approval of a variance from the offset requirements is in conformance with the purpose and intent of the Ordinance.

BA15:021 TIM AND MARY DONOVAN (OWNER) TERRACE CUSTOM HOMES (APPLICANT) (Tabled from the August 12, 2015 meeting)

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. 2 shall be removed.

Condition No. 3 shall be removed

The reasons shall be revised to read:

Hardships exist on the subject property due to its size. Since the lot is only 14,593 sq. ft. in area, it is impossible to meet the open space requirement of 15,000 sq. ft. and difficult to conform with the maximum permitted floor area ratio of 15%, especially since the new home cannot have a basement. The configuration of the 100-year floodplain is a physical feature that also creates hardships.

Therefore, the approval of shore setback, floodplain setback, floor area ratio, and open space variances to permit the construction of the proposed residence and attached garage, with the recommended conditions, is not contrary to the public interest and is in conformance with the purpose and intent of the Ordinance.

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

The Planning and Zoning staff's recommendation was for **approval** of the request for variances from the floodplain setback, shore setback, floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a new residence and attached garage on the subject property, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit for a new residence and attached garage, a Certified Survey Map combining the two adjacent parcels into one lot must be prepared by a registered Land Surveyor, reviewed and approved by the Town of Eagle and by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division staff, and recorded in the Waukesha County Register of Deed's office.
2. Prior to the issuance of a Zoning Permit for a new residence and attached garage, the existing non-conforming boathouse shall be removed from the property.
3. Prior to the issuance of a Zoning Permit for a new residence and attached garage, a Landscaping Plan for the restoration of the disturbed area resulting from the removal of the boathouse shall be submitted to the Planning and Zoning Division staff for review and approval. The Landscaping Plan shall not include the placement of any fill in the floodplain. The Landscaping Plan shall include a complete vegetative plan specifying seeding mixtures or sod and any other plantings, as well as a time table for completion. It is recommended that the Landscaping Plan be prepared by a Landscape Architect or other natural resources professional.
4. The new residence and attached garage shall be no larger than indicated on the preliminary house plans submitted with the application.
5. The new residence and attached garage must conform with the reduced floodplain setback of 18 ft., the reduced shore setback requirement of 74.78 ft., the minimum road setback requirement of 50 ft. from the base setback line (58 ft. from the edge of the 50 ft. wide road right-of-way), and the minimum sideyard offset requirement of 12 ft., as measured to the outer edges of the wall, 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 with the shore setback, road setback, and sideyard offset requirements. Any decks or patios adjacent to

the new residence must also conform with the shore setback and road setback requirements noted above and must be at least 7.2 ft. from the side lot lines.

6. Since the elevation at the house site is only slightly above the lake elevation, the lot is not conducive to the construction of a residence with a full basement that would meet the minimum 1 ft. of vertical separation distance from the seasonal high groundwater table, as required in the Waukesha County Shoreland and Floodland Protection Ordinance and in the Waukesha County Basement Wetness and Flooding Prevention Standards. Therefore, the new residence may not have a full basement. The new residence may have a crawlspace, provided the crawlspace is less than 5 ft. in height and provided the crawl space meets the requirements of Waukesha County's Basement Wetness and Flooding Prevention Standards (i.e., there must be a vertical separation distance of at least one (1) ft. between the seasonal high groundwater table and the floor of the crawlspace) and must be at or above the base flood elevation (822 ft. amsl referenced to the NGVD29 datum), whichever is greater. In order to ensure compliance with this condition, if a crawlspace is proposed, soil borings down to the lowest proposed level of the crawlspace must be done by a Certified Soil Tester and the results provided to the Planning and Zoning Division staff for review and approval on a "Form A-Seasonal High Groundwater Interpretation Report", prior to the issuance of a Zoning Permit.
7. The elevation of the lowest floor of the residence and attached garage, excluding any crawlspace, shall be at or above the flood protection elevation (824 ft. amsl referenced to the NGVD29 datum).
8. 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.
9. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed residence and attached garage and any proposed decks or patios, 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.
10. Prior to the issuance of a Zoning Permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a Sanitary Permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
11. If the existing well and/or septic system are to be retained, documentation must be submitted to the Waukesha County Department of Parks and Land Use - Planning and Zoning Division that they are located above the 100-year floodplain, prior to the issuance of a Zoning Permit. If either the well or the private sewage system is within the 100-year floodplain, they must be floodproofed to the flood protection elevation (824 ft. amsl), pursuant to Section 8 (c) of the Waukesha County Shoreland and Floodland Protection Ordinance and shall conform with the provisions of the Waukesha County Code of Ordinances and Wisconsin Administrative Code. If floodproofing of either the well or the septic system is necessary, documentation of that floodproofing shall be submitted to the Waukesha County Department of Parks and Land Use - Planning and Zoning Division staff, prior to the issuance of a Zoning Permit. If new well and/or septic systems are proposed, they must be located outside of the 100-year floodplain.

12. No change in the existing topography or drainage courses that will adversely alter the drainage or increase any portion of the existing slope through fill and/or grading to a ratio greater than three (3) horizontal to one (1) vertical will be allowed. Further, no fill or alterations that will alter the drainage or topography in a way that will adversely affect the surrounding lands will be permitted.
13. Prior to the issuance of a Zoning Permit, a detailed Grading and Drainage Plan, showing existing and proposed grades and incorporating the requirements set forth above, must be prepared by a Professional licensed in the State of Wisconsin and submitted to the Planning and Zoning Division staff for review and approval. The Grading and Drainage Plan should also include 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. No grading is permitted within the 100-year floodplain. Construction fencing shall be installed on the upland side of the 100-year floodplain prior to commencing construction, to ensure fill and construction activities do not extend into the floodplain.
14. 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.

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

Hardships exist on the subject property due to its size. Since the lot is only 14,593 sq. ft. in area, it is impossible to meet the open space requirement of 15,000 sq. ft. and difficult to conform with the maximum permitted floor area ratio of 15%, especially since the new home cannot have a basement. The configuration of the 100-year floodplain is a physical feature that also creates hardships.

The removal of the existing boathouse, as recommended, will reduce the total floor area on the property to a level that is in keeping with the neighborhood and eliminate a non-conforming structure. Therefore, the approval of shore setback, floodplain setback, floor area ratio, and open space variances to permit the construction of the proposed residence and attached garage, with the recommended conditions, is not contrary to the public interest and is in conformance with the purpose and intent of the Ordinance.

BA15:035 STEVE FOTI (OWNER) OWEN LAVIN (APPLICANT)

Mr. Bayer

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 Condition No. 1 and the reasons.

Condition No. 1: "The size of the garage addition cannot exceed 630 sq. ft., as measured from the outside walls, with total Floor Area Ratio on the property not to exceed 30.8%."

The reasons shall be revised to read:

Hardships exist on the subject property due to its size. Since the lot is only 9,614 sq. ft. in area, it is impossible to meet the open space requirement of 10,500 sq. ft. and difficult to conform with the maximum permitted floor area ratio of 19.5%. Additionally, without any relief, the applicants would not be able to construct any enclosed parking on their property, making full compliance with the ordinance unnecessarily burdensome. With that said, a 24' x 33.92' attached garage exceeds the minimal relief necessary to provide reasonable use. Thus we feel that a 630 sq. ft. garage addition is appropriate in this case, as it would provide adequate parking for two vehicles.

Therefore, the approval of variances from the Open Space and Floor Area Ratio requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

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 **denial** of the request for variances from the floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of an attached garage, but **approval** of variances from the floor area ratio and open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of an attached garage smaller than proposed on the subject property, subject to the following conditions:

1. The size of the garage addition cannot exceed 400 sq. ft., as measured from the outside walls.
2. Prior to the issuance of a Zoning Permit for the attached garage, a detailed Grading and Drainage Plan, showing existing and proposed grades must be prepared by a Professional licensed in the State of Wisconsin and submitted to the Planning and Zoning Division staff for review and approval. The Grading and Drainage Plan should also include a timetable for completion, the source and type of fill, an Erosion and Sediment Control Plan, and the impact of any grading on stormwater and drainage. This is to ensure the construction of the proposed attached garage does not result in adverse drainage onto adjacent properties.

3. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed attached garage, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.

The reasons for the recommendation 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.

Hardships exist on the subject property due to its size. Since the lot is only 9,614 sq. ft. in area, it is impossible to meet the open space requirement of 10,500 sq. ft. and difficult to conform with the maximum permitted floor area ratio of 19.5%. Additionally, without any relief, the applicants would not be able to construct any enclosed parking on their property, making full compliance with the ordinance unnecessarily burdensome. With that said, a 24' x 33.92' attached garage exceeds the minimal relief necessary to provide reasonable use. On smaller lots such as this, Staff typically recommends 20' x 20' garages. Thus we feel that a 400 sq. ft. garage addition is appropriate in this case, as it would provide adequate parking for two vehicles.

Therefore, the approval of variations from the Open Space and Floor Area Ratio requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA15:032 ALAN AND VICKI HAZLE (OWNERS) BROWNSTONE SERVICES LLC (APPLICANT)

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. 2: "The new residence must be located a minimum of 10 feet from the 100-year floodplain."

Condition No. 11 shall be added to read: "In order to ensure that the 100-year floodplain remains undisturbed by equipment or land-altering activity, orange construction fencing shall be installed along the landward edge of the 100-year floodplain. Prior to the installation of the orange construction fencing, the location of the 100-year floodplain shall be staked on the property by a Registered Land Surveyor. Prior to the issuance of a Zoning Permit, written documentation from the Registered Land Surveyor that the orange construction fencing has been installed along the 100-year floodplain

must be submitted to the Waukesha County Department of Parks and Land Use – Planning and Zoning Division staff, along with photographs of the orange construction fencing. The orange construction fencing shall remain in place until the construction and landscaping is completed.”

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.

It is undeniable that the petitioner faces many constraints to finding a suitable location for a new home site. There is a vast area of floodplain on the property, restricting development on a significant portion of the parcel. With that said, the property is deep enough and wide enough to site the proposed detached garage footprint in a conforming location with respect to side lot offsets. Therefore, it has not been demonstrated that denial of the requested variances for offset, as proposed by the applicant, would result in an unnecessary hardship. Additionally, the petitioner has not demonstrated that denial of a floor area ratio of 15.3% would result in an unnecessary hardship. On a parcel of this size, the net difference between floor area ratios of 15.3% vs 15.0% is approximately 82 sq. ft. Requiring an 82 sq. ft. reduction in the petitioners 4,000+ sq. ft. proposal will not deny them reasonable use. Therefore, the approval of less relief from variances from floodplain and conservancy setback requirements, with the recommended conditions, and denial of variances from floor area ratio and offset requirements 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 floor area ratio, offset, as well as floodplain and conservancy setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a single family residence with attached garage as well as a detached garage, but **approval** of less relief from the floodplain and conservancy setback requirements, to permit the construction of a single family residence with attached garage as well as a detached garage, subject to the following conditions:

1. If the existing septic system cannot be used for the new home, 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, prior to the issuance of a Zoning Permit.
2. The new residence must be located a minimum of 30 feet from the 100-year floodplain.

3. 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.
4. 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.
5. 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.
6. Prior to the issuance of a Zoning Permit for a new residence, attached garage, and detached garage, the existing outhouse shall be removed from the property.
7. The new residence may have a crawlspace, provided the crawlspace is less than 5 ft. in height and provided the crawl space meets the requirements of Waukesha County's Basement Wetness and Flooding Prevention Standards (i.e., there must be a vertical separation distance of at least one (1) ft. between the seasonal high groundwater table and the floor of the crawlspace).
8. The elevation of the lowest floor of the residence and attached garage, excluding any crawlspace, shall be at or above the flood protection elevation (871.8 ft. amsl referencing the NGVD 29 Datum).
9. If the new residence has a crawl space, the surface of the floor of the crawlspace shall be at or above the base flood elevation (869.8 ft. amsl referencing the NGVD 29 Datum), or 1 foot above seasonal high groundwater, whichever is greater.
10. No grading activity within the 100-year floodplain is allowed without additional permits.

The reasons for the recommendation 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.

It is undeniable that the petitioner faces many constraints to finding a suitable location for a new home site. There is a vast area of floodplain on the property, restricting development on a significant portion of the parcel. With that said, the property is deep enough and wide enough to site the proposed home footprint in a conforming location with respect to both side lot offsets and floodplain setback if available averaging is taken into consideration. Therefore, it has not been demonstrated that denial of the requested variances for offset and floodplain/conservancy setback, as proposed by the applicant, would result in an unnecessary hardship. It should be noted that we are recommending a 30' setback from the floodplain, even though the petitioner could use available averaging to get to a 30' floodplain setback without a variance. This is to provide the petitioner some flexibility if a neighboring structure used for averaging were to be removed before issuance of zoning permits. Additionally, the petitioner has not demonstrated that denial of a floor area ratio of 15.3% would result in an unnecessary hardship. On a parcel of this size, the net difference between floor area ratios of 15.3% vs 15.0% is approximately 82 sq. ft. Requiring an 82 sq. ft. reduction in the petitioners 4,000+ sq. ft. proposal will not deny them reasonable use.

Therefore, the approval of less relief from variances from floodplain and conservancy setback requirements, with the recommended conditions, and denial of variances from floor area ratio and offset requirements is in conformance with the purpose and intent of the Ordinance.

MISCELLANEOUS:

Mr. Nawrocki

I make a motion to allow the Waukesha County Board of Adjustment members to attend the upcoming Southeast Wisconsin Board of Adjustment Training Workshop if they so desire, with fees paid for by The County.

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

ADJOURNMENT:

Mr. Nawrocki

I make a motion to adjourn this meeting at 8:16 p.m.

The motion was seconded by Mr. Bayer 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
Tim Donovan	510781 W 345 S Shore Drive	414-526-8926	Home	
SHARON HAUSE	21825 W. AMOR DR. NEW BERLIN	262-547-5219	TOWN OF OTTAWA	NEIGHBOR
ED HAUSE	4050 S. Racine Ave, NEW BERLIN	262-547-9412	Home - OTTAWA	NEIGHBOR
RICHARD HAUSE	21825 W. AMOR DR. NEW BERLIN	262-547-5219	TOWN OF OTTAWA	NEIGHBOR
Mike Hertz	W 358 S 2828 Hwy 67 Downman	262-853-7067	Home	Self
Steve Foti	N 418 W 34886 Sparks Dr Oconomowoc		Home	Self
Keith Kinoreo	501 Maple Ave Pelgfield WI	262-370-0165	Sondeman	CONSULTANT
Phil Sondeman	W 308 N 6194 Shore Acres Rd	414-333-0908	SONDEMAN	OWNER
Steve Foti	N 48 W 34076 Jacobs Dr	414-333-2417	Neighbor	Neighbor
DEBBI TRIPLETT	N 48 W 34076 JACOBES DR	414-333-2413	FOTI	NEIGHBOR
Kandi Klein	W-358 S 2828 Hwy 67 Downman	262-617-0593	Home	Neighbor
NATE BROWN	W 376 N 6736 PRIMEVIEW CT, OCONOMOWOC WI 53061	2.470.3781	Home	BUILDER