

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 11, 2016, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 516 W. Moreland Blvd., Waukesha County Wisconsin, 53188.

**BOARD MEMBERS PRESENT:** Tom Day, Chairman  
Walter Schmidt  
Richard Nawrocki  
Richard Bayer

**BOARD MEMBERS ABSENT:** Nancy Bonniwell  
Rob Schuett  
Nick Jordan

**SECRETARY TO THE BOARD:** Richard Bayer (Acting Secretary)

**OTHERS PRESENT:** Town of Merton Board of Adjustment  
Benjamin Greenberg, Sr. Land Use Specialist  
Ann and Steven Belter – petitioners  
Carrie Smith – petitioner  
Gary Etter – BA16:017 (neighbor)  
Don Tyler – BA16:017 (associate)

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 April 13, 2016 as amended.*

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

**NEW BUSINESS:**

**BA16:015 ROBERT W. AND RUTH STRIETER REV. TRUST (OWNERS) - ECO-SITE, INC. (APPLICANT)**

Mr. Nawrocki            *I make a motion to hold this hearing open until the June 8 , 2016 meeting of the Board of Adjustment.*

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

**BA16:017 STEVEN AND ANN BELTER**

Mr. Schmidt

*I make a motion to approve the request in accordance with the staff report, with the following modifications to the staff's conditions and reasons:*

*Condition No. 1 shall be modified to read, "The proposed detached garage cannot exceed a total size of 1,120 sq. ft. If a permanent set of stairs is proposed, any second floor space with a floor to ceiling face clearance of at least six (6) feet, must be included in maximum square footage calculations."*

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

*A special exception is a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners.*

*The subject property, does not conform to the size requirements of the R-3 district (17,899 sf vs. 20,000 sf), nor does it conform to the average lot width requirements (55' vs. 120' required). Additionally, the large access easement granted to the Town sits in the center of the property and makes siting a detached garage, or alternatively constructing a similar sized attached garage, in a conforming location practically impossible. The substandard lot configuration as well as the unique turn around easement on the subject property are legitimate grounds for hardship, making the granting of some relief from the Ordinance appropriate.*

*With that said, though the criteria for variance and special exception have been established, the additional 588 sq. ft. being requested, would result in a 1248 sq. ft. garage, which goes beyond the minimum relief necessary to overcome this hardship. The resulting garage as proposed, would be disproportionate in size, as it would be nearly the same size as the principle structure on the property, and would be out of character for the neighborhood. As recommended, a 1,120 sq. ft. garage would provide storage for three vehicles or a combination of vehicles and other items.*

*Therefore, the approval of variances from the road setback, remodeling or expanding a non-conforming structure over 50%, as well as the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and a special exception from the accessory building floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance requirements for a detached garage smaller than proposed and with the recommended conditions, 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 Division staff’s recommendation was for **denial** of the request for variances from the road setback, remodeling or expanding a non-conforming structure over 50%, as well as the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and a special exception from the accessory building floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the petitioners to update and expand their existing detached garage, but **approval** of variances from the road setback, remodeling or expanding a non-conforming structure over 50%, as well as the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and a special exception from the accessory building floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the petitioners to update and expand their existing detached garage smaller than proposed, subject to the following conditions:

1. The proposed detached garage cannot exceed a total size of 750 sq. ft. (90 sq. ft. max. addition). If a permanent set of stairs is proposed, any second floor space with a floor to ceiling face clearance of at least six (6) feet, must be included in maximum square footage calculations.
2. The garage addition must be a minimum of 12’ from the platted right of way of Flynn Rd.
3. The garage addition must be a minimum of 4.7’ from the eastern lot line.
4. 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 Engineer 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 storm water and drainage. This is to ensure the construction of the proposed detached garage does not result in adverse drainage onto adjacent properties.
5. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed detached 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, 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 special exception is a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners.

The subject property, does not conform to the size requirements of the R-3 district (17,899 sf vs. 20,000 sf), nor does it conform to the average lot width requirements (55' vs. 120' required). Additionally, the large access easement granted to the Town sits in the center of the property and makes siting a detached garage, or alternatively constructing a similar sized attached garage, in a conforming location practically impossible. The substandard lot configuration as well as the unique turn around easement on the subject property are legitimate grounds for hardship, making the granting of some relief from the Ordinance appropriate.

With that said, though the criteria for variance and special exception have been established, the additional 588 sq. ft. being requested, would result in a 1248 sq. ft. garage, which goes beyond the minimum relief necessary to overcome this hardship. The resulting garage as proposed, would be disproportionate in size, as it would be nearly the same size as the principle structure on the property, and would be out of character for the neighborhood. As recommended, a 750 sq. ft. garage would provide storage for three vehicles or a combination of vehicles and other items.

Therefore, the approval of variations from the road setback, remodeling or expanding a non-conforming structure over 50%, as well as the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and a special exception from the accessory building floor area ratio requirements of the Waukesha County Shoreland and Floodland Protection Ordinance requirements for a detached garage smaller than proposed and with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

#### **BA16:016 CHRISTOPHER AND CARRIE SMITH**

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 unanimously.

The Planning and Zoning Division staff's recommendation was for **approval** of a request for special exception from the from the accessory floor area ratio requirement of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of an addition to a detached garage, on the subject property, subject to the following conditions.

1. The proposed detached garage cannot exceed a total size of 704 sq. ft. (242 sq. ft. max. addition).
2. The garage addition must be a minimum of 8' from the platted right of way of Glen Cove Rd.
3. 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 Engineer 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 storm water and drainage. This is to ensure the construction of the proposed detached garage does not result in adverse drainage onto adjacent properties.
4. Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed detached 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, as stated in the Staff Report, are as follows:

A special exception is a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners.

The subject property, though conforming to the size requirements of the R-3 district, is quite non-conforming to the average lot width requirements (50' vs. 84' required). Though a fifty (50) foot wide lot is rather common for lake lots in this neighborhood, it is still non-conforming to the zoning district making it a special condition of the property. The petitioner has the available floor area ratio to construct an additional 1,626 sq. ft. of improvements. However, lots this narrow make retrofitting an attached garage to an existing home very challenging, and would result in more impervious surfaces with the extension of the driveway to service any attached garage space.

Therefore, the approval of a special exception from the accessory building floor area ratio requirements, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

**ADJOURNMENT:**

Mr. Nawrocki

*I make a motion to adjourn this meeting at 7:15 p.m.*

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

Respectfully submitted,



Richard Bayer  
Acting Secretary, Board of Adjustment