

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, August 10, 2016, 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
Richard Bayer
Nancy M. Bonniwell

BOARD MEMBERS ABSENT: Nick Jordan
Rob Schuett

SECRETARY TO THE BOARD: Nancy Bonniwell

OTHERS PRESENT: Benjamin Greenberg, Sr. Land Use Specialist
Amy Barrows, Senior Planner
Casey Ketterhagen, BA16:021, Owner
Kathy Sheedy and Guest, BA16:021, Neighbor
Scott Reimer, BA16:025, Contractor
Susan Bennett, BA16:025, Owner
Jane Bruner, BA15:025

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.

SUMMARY OF PREVIOUS MEETING:

Mr. Nawrocki *I make a motion to approve the Summary of the Meeting of July 13, 2016.*

The motion was seconded Mr. Bayer and carried 4-0 (Ms. Bonniwell abstained).

NEW BUSINESS:

BA16:021 CASEY KETTERHAGEN (Tabled from the July 13, 2016 meeting)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of variances from the offset-separation between buildings and road setback-from a private right-of-way for the construction of a detached garage. Discussion between the petitioner, Board and Staff followed.

Public Reaction:

- A representative of the neighboring property and beneficiary of the easement (Kathy Sheedy) did not object to the proposed construction located within the road setback, but stated that the owners of the adjacent property are not in a position to vacate the easement without further understanding the impacts of vacation.

Decision and Action:

The Town of Merton Board of Adjustment recommended approval of the petitioner's request as proposed at the July 13, 2016 meeting.

Mr. Bayer

*I make a motion to **approve** the petitioner's request for a variance from the road setback requirements (from a private right-of-way easement) and **deny** the petitioner's request for a variance from the offset-separation between buildings requirements of the Waukesha County Shoreland and Floodland Protection Ordinance subject to the following condition and for the following reasons:*

Condition No. 1: The new attached or detached garage must be a minimum of 10 feet from the existing right-of-way easement.

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. Variances also require demonstration 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. A variance shall not adversely affect the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources of the area.

The property contains unique physical conditions, such as the road right-of-way easement and variable topography. On a parcel of this size, the Ordinance allows for a garage significantly larger, more than double the size, than what is being proposed by the petitioner. However, the unique physical conditions of the property make siting a garage practicably difficult without some relief from the road setback requirements, thus a unique physical hardship of the property can be demonstrated. Currently, the easement is not being utilized by anyone other than the subject property owner and even if it was, the modest encroachment into the setback area of the easement will not impair access for property owners that have legal rights to the easement. With that said, no hardship was demonstrated to justify relief from the offset (between buildings)

