

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, September 14, 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:** Rebekah Baum, Senior Land Use Specialist  
J. and Bev Peterson, neighbor, BA16:024  
Josh Holland, builder, BA16:027  
Martha Eckstaedt, neighbor, BA16:024  
Don Murn, owner, BA16:029  
Steve Yokosh, neighbor, BA16:028  
R.A. Smith, neighbor, BA16:028  
Mike and Sharon Pilgrim, owners, BA16:028  
Brad Haasch, neighbor, BA16:027

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 August 10, 2016.*

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

**NEW BUSINESS:**

**BA16:024 ROBERT AND LEAH DAMRON (OWNERS) W. KENT JOHNSON (PETITIONER)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of the request for a road setback variance, a **modified approval** of the request for floor area ratio and open space variances and the C-1 (EFD) district requirements and **approval**

of the request for variances from the shore and Conservancy setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, for the construction of a new single family residence with attached garage, covered entry and covered deck with associated staircases. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:*

- Gerald Peterson, who owns a property three parcels to the east, expressed his concern for increased drainage and standing water on his property from a new development and that no drainage plan had been submitted. He also expressed concern for a 3-story home and the external staircases that were a part of the proposal, as it may not be characteristic to the neighborhood.
- Martha Eckstaedt, an adjacent neighbor to the west, indicated she had no issues with the petitioners building a new home; however, Waukesha County must be very sensitive to the water issues in the area as it is very flat and does flood.
- Staff representative read two emails from neighboring property owners who were unable to attend the hearing. Both emails expressed concern for increased drainage to the area.

Decision and Action:

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.

**BA16:027 KIMBALL B. MARTEN (OWNER) JOSH HOLLAND (PETITIONER)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval of a special exception** from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the petitioner to construct a deck and associated staircase on the subject property. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:*

- A neighbor immediately adjacent to the property, Brad Haasch, spoke against the project, indicating that the new landing was now raised higher than the original landing and their homes are so close together that he can now see the deck from his bedroom window. Mr. Haasch stated this approval would impact his property values and should not be permitted as it was not a part of the original request in 2015.

Decision and Action:

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.*

The motion was seconded by Mr. Nawrocki and passed 3-2, with Ms. Bonniwell and Mr. Schmidt voting against the motion, as the request for variances the previous year did not include the current request.

**BA16:028 MICHAEL AND SHARON PILGRIM**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval of a special exception** from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the petitioner to raise the roofline and remodel an existing boathouse on the property. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:*

- Richard Smith, an adjacent neighbor to the east, indicated that the boathouse needed the requested repairs and asked how high the walls were going to be raised.

Decision and Action:

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, with Ms. Bonniwell voting against the motion, as she found the parcel to not be unique.

**BA16:029 DONALD AND LISA MURN REVOCABLE TRUST (DONALD MURN – Trustee)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** of the request for variances from the floor area ratio, offset, open space, height, and shore setback requirements and the construction of retaining walls within the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, but a **modified approval** of variances from the floor area ratio, offset, and open space requirements and **approval** of a variance from the road setback requirements, to permit the construction of a new single-family residence, attached garage, deck and patio. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:*

- No public comment was received.

Decision and Action:

Ms. Bonniwell

*I make a motion to adopt the staff recommendation of **denial** of the request for variances from the floor area ratio, offset, open space, height, and shore setback requirements and the construction of retaining walls within the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, but a **modified approval** of variances from the floor area ratio, offset, and open space requirements and **approval** of a variance from the road setback requirements to permit the construction of a new single-family residence, attached garage, deck and patio. Staff's conditions shall be incorporated, except that Conditions No. 4, 7, 8, and 14 shall be modified to read:*

*Condition No. 4: "Floor Area Ratio shall be no greater than 23% (3,074 sq. ft.) as measured from outside wall to outside wall, unless the overhang extends greater than 24 inches."*

*Condition 7: "Open Space on the property shall be no less than 10,915 sq. ft. This includes all covered structures, but does not include uncovered decks and entrance ways, patios, walkways, driveways, etc."*

*Condition 8: The proposed residence and attached garage must be located at least 12 ft. from the side lot lines, as measured to the outer edges of the walls, 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 offset requirements.*

*Condition No. 14: "The two (2) proposed rain gardens shall be designed and installed in a location to catch stormwater runoff created by the proposed residence, attached garage, decks and patios, no later than **May 1, 2018**. The location of the rain gardens shall be substantially consistent with that depicted on the proposed site plan and the size and depth shall be determined by a landscape architect or other natural resource professional and shall include native, deep-rooted vegetation, as proposed. A plan prepared by a Landscape Architect or natural resource professional shall be submitted to Waukesha County Planning and Zoning Division for review and approval to verify the size, depth, specific plantings and location of the rain gardens are appropriate for catching stormwater created on this parcel. A Declaration of Restrictions shall be prepared noting that the required rain gardens, and any other vegetative buffer the petitioner proposes on the property, 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 rain gardens and vegetative buffer are maintained. The Declaration of Restrictions shall also include long-term maintenance provisions. Prior to **May 1, 2018**, 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."*

*My motion is based on the following reasons: The steep slopes on the property create a physical limitation, necessitating the need for a road setback variance in order to avoid the need for extensive filling and to permit a reasonably sized footprint on the property while maintaining shore and floodplain setback. Due to the steep slopes, many of the homes along this stretch of S. Shore Drive have homes located near the road right of way.*

*The parcels, even combined, are substandard to the lot size and lot width requirements. Therefore, some relief to the floor area ratio requirements may be appropriate. The proposed FAR of 27.7% (3,707 sq. ft.) is excessive. By slightly scaling down the project to meet the suggested offset and the required setbacks and height regulations, the petitioner could construct a residence with a recommended FAR of 3,074 sq. ft. (23%) providing the petitioner with reasonable use of the property. In addition, the granting of some relief from the floor area ratio requirements will be partially offset by the implementation of two (2) rain gardens, as proposed by the petitioner. With the recommended conditions, the rain gardens will be designed and installed to work as intended (i.e. catch the first ½ inch of runoff). In addition, some relief is required from the open space requirements, as the property is not large enough to meet the required 15,000 sq. ft. With the recommended FAR, the open space relief is minimal.*

*There is no proven hardship to allow the petitioner to construct a residence 47.5 ft. in height (1.5 ft. over the maximum height regulation as measured from lowest exposed point to the peak). The structure also exceeds the height regulation of 36 ft. from the lowest point to any eave by almost 1.5 ft. While the slope of the lot lends itself to taller structures, it has not been demonstrated that compliance with the 46 ft. height limit prevents reasonable use of the property. In addition, no residence on a riparian parcel may be greater than three (3) stories when viewed from the lake. With a peak height of 46 ft., that permits each floor to be a at least 15.3 ft. in height.*

*It is a balancing issue with two nonconforming lots and combining them will be an asset to the neighborhood and for the lake quality. The modifications to the recommended conditions by staff provide the applicant with reasonable use and provides latitude to still have enough space between the lot lines and residences, while still providing for enough open space on the property.*

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

**OTHER ITEMS REQUIRING BOARD ACTION:**

None.

**ADJOURNMENT:**

Mr. Nawrocki                      *I make a motion to adjourn this meeting at 9:03 p.m.*

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

Respectfully submitted,



Nancy Bonniwell  
Secretary, Board of Adjustment