

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, March 8, 2017 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  
Richard Nawrocki  
Richard Bayer  
Nick Jordan  
Nancy M. Bonniwell

**BOARD MEMBERS ABSENT:** Rob Schuett

**SECRETARY TO THE BOARD:** Nancy Bonniwell

**OTHERS PRESENT:** Town of Merton Board of Adjustment  
Benjamin Greenberg, Senior Land Use Specialist  
Dennis Kukla - S107 W34880 South Shore Drive  
Heather Williams  
Michael Schmaltz  
Curt Podd, 13595 W. Sunbury Rd, New Berlin  
Paul Schultz, 133A E. Wisconsin Ave.

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 February 8, 2017.*

The motion was seconded by Nick Jordan and carried 4-0 (Richard Bayer abstained).

**NEW BUSINESS:**

**BA17:002 CURT AND LISA PODD**

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 minimum floor area provisions of the Waukesha County Shoreland and Protection Ordinance to permit the construction of a new one-story single family residence. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:* None

- There was some discussion regarding the trees that were recently removed. Staff explained the process of getting permits for Priority Tree removal.

Decision and Action:

The Town of Merton Board of Adjustment recommended approval of the petitioner's request as proposed and subject to the conditions as stated in the staff report.

Ms. Bonniwell *I make a motion to approve the request for a special exception in accordance with the staff report and for the reasons stated in the staff report.*

The motion was seconded by Mr. Jordan and carried unanimously (5-0).

**BA17:003 MICHAEL J. AND EILEEN K. SCHMALZ JOINT REVOCABLE TRUST (OWNER) PAUL SCHULTZ (AGENT)**

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 road setback, shore setback, floodplain setback, and wetland setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance.

Discussion between the petitioner, Board and Staff followed. The petitioner explained that conditions of a recent Board authorization for a new detached garage (BA16:019) on the subject property, required a location for the garage in an area the owner believes is unsuitable due to low topography and also prevents him from properly designing the rain gardens required as another condition of that approval (BA16:019).

*Public Reaction:* None

Decision and Action:

Ms. Bonniwell *I make a motion to approve the request for variances from the shore setback, road setback, floodplain setback, and wetland setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to authorize the construction of a detached garage, subject to the following conditions:*

- 1. The size of the garage shall not exceed 22.5 ft. wide x 24 ft. deep, and shall not exceed 18 ft. in height.*
- 2. The setback from the drainage easement (navigable stream) shall be a minimum of 19.5 ft.*
- 3. The location of the proposed detached garage shall substantially comply with the submitted site plan (Exhibit "D") prepared by Stantec with a revision date of November 17, 2016.*

4. *The proposed garage shall be a minimum of 14.5 ft. from the established right-of-way of N. South Shore Drive (approximately 9.5 feet from the physical road).*
5. *The proposed garage shall be a minimum of 7 ft. from the field-delineated wetlands.*
6. *Prior to the issuance of a Zoning Permit, a complete set of building plans for the detached garage, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.*
7. *Prior to the issuance of a Zoning Permit, a Plat of Survey showing the staked-out location of the proposed detached garage, 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. In addition, the floodplain and wetland boundaries shall be shown on the Plat of Survey.*
8. *In order to ensure the construction of a new detached garage does not result in adverse drainage onto adjacent properties, a detailed Grading and Drainage Plan, showing existing and proposed grades and relationship to the proposed rain gardens, 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. **Please note that no fill may be placed within the 100-year floodplain or wetland. Orange construction fencing must be installed and maintained marking the closest extent of the wetland and floodplain until construction is complete. A Zoning Permit for the detached garage will not be issued until a site inspection verifying the installation of the orange fencing had occurred.** 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 wetland or drainage easement, and not to the neighboring properties or the 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. 7.*
9. *The lowest floor of the garage shall be a minimum of 1. ft. above the regional floodplain elevation of 871.63' above mean sea level (NAVD88 Datum).*

10. *With the exception of the proposed 18.5 ft. wide gravel or paved approach to the new garage, the remaining graveled areas east of North Shore Drive shall be removed prior to the issuance of an Occupancy Permit for the garage. The area shall be restored with native vegetation as part of the proposed wetland buffer restoration plan prepared by Stantec Consulting Services with a revision date of November 17, 2016.*

11. *The owners must obtain a Preliminary Site Evaluation from the Environmental Health Department, prior to the issuance of a Zoning Permit, if applicable.*

12. *The proposed rain gardens on the east and west side of North Shore Drive shall be a minimum of 300 sq. ft. in size respectively, and shall be located entirely outside of the 100-year floodplain. The owners must demonstrate that the eastern rain garden will adequately capture all runoff from the proposed garage and will infiltrate the first half-inch runoff from the proposed garage or will alternatively direct the runoff into the drain inlets. The rain garden plan shall be reviewed and approved by the Waukesha County Planning and Zoning Division prior the issuance of Zoning Permits.*

13. *The Wetland and Wetland Buffer Enhancement Area (WWBEA) shall extend the entire width of the property and 40 feet in depth starting on the east side of the garage and extending into the wetlands.*

14. *As proposed, invasive species within the WWBEA must be removed, re-sprouts treated with herbicide, and re-seeded with a native prairie species. A Shoreland Cutting Permit shall be obtained prior to the removal of any invasive species or trees within the WWBEA or wetlands. As submitted in the report prepared by Stantec Consulting Services. Said activity must be completed and photographed and a report from the petitioners' environmental consultant verifying said removal and re-seeding activities shall be submitted to the Waukesha County Planning and Zoning Division prior to July 1, 2017.*

15. *The detailed planting and seeding plans for the proposed rain gardens and WWBEA must be submitted to the Waukesha County Planning and Zoning Division for review and approval. The detailed planting and seeding plans and associated yearly performance schedule, shall be reviewed and approved by the Waukesha County Planning and Zoning Division. The schedule identifying performance standards shall extend a minimum of three (3) years and said plans shall specify the long term maintenance obligations. Said plan must be implemented prior to July 1, 2017.*

16. *A Declaration of Restrictions must be prepared noting that the required rain garden plan and the required WWBEA plans noted 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 reasonable notice, be permitted to conduct periodic inspections of the property for the purpose of verifying that the required WWBEA 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.*

17. *A Declaration of Restrictions must be prepared noting that beyond the construction of the garage and approach, no additional impervious surfaces (including graveled areas) can be installed on any portion of the subject property east of North Shore Drive.*

The motion was seconded by Mr. Bayer and carried 4-1 (Mr. Nawrocki voted No).

**BA17:004 HEATHER WILLIAMS (OWNER) KEVIN KLEINERT (AGENT)**

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **approval** of the request for a variance from the road setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance, to permit the construction of a single-family home with attached garage, decks and a retaining wall. Discussion between the petitioner, Board and Staff followed.

*Public Reaction:*

Dave and Belle Anschuetz, S107W34882 South Shore Drive, submitted a letter to the Board stating that they had no objection to proposed residence.

Dennis Kukla, S107W34880 South Shore Drive, opposes the project and has concerns that the homes are getting to big and will block light to his residence. He said the home should be closer to the road like the neighbor to the south. He went on to say that people parking on the road has never been a problem for the neighborhood.

Decision and Action:

Mr. Bayer

*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 (5-0).

**OTHER ITEMS REQUIRING BOARD ACTION:**

**ADJOURNMENT:**

Mr. Nawrocki

*I make a motion to adjourn this meeting at 8:05 p.m.*

The motion was seconded by Ms. Bonniwell and carried unanimously (5-0).

Respectfully submitted,

*Nancy Bonniwell*

Nancy Bonniwell

Secretary, Board of Adjustment