

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

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, December 8, 2021, 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 Bayer
Nancy M. Bonniwell
Stephen Schmidt

BOARD MEMBERS ABSENT: Richard Nawrocki

SECRETARY TO THE BOARD: Richard Bayer (Acting Secretary for Richard Nawrocki)

TOWN OF MERTON BOARD OF

ADJUSTMENT MEMBERS PRESENT: Kathy Haberman
Lloyd Crom
Jim Schneider
Rick Ray

PLANNING STAFF MEMBER: Ben Greenberg

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:

Ms. Bonniwell: *I make a motion to approve the Summary of the Meeting of October 13, 2021.*

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

NEW BUSINESS:

BA99: CURTIS PODD (OWNER)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** for a variance from the shore setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the replacement and modification of existing retaining walls and stairs.

Discussion between the owner (Curt Podd), Board and Staff followed.

Public Reaction: **None**

Decision and Action:

The Town of Merton Board of Adjustment recommended approval of the petitioner's request as proposed.

Ms. Bonniwell: *I make a motion to **approve** the request for variance from the shore setback requirements of the Ordinance, in accordance with the staff report, with the conditions stated in the staff report and for the following reasons.*

Reasons: *Due to the extreme slope conditions, there is an apparent need to maintain retaining walls on the subject lot in order to provide both reasonable access to the shore and to assist with slope stabilization. The Land Resources Division concurred with this evaluation based on an office review of the existing site conditions. The existing walls are considered legal non-conforming and could be replaced in-kind, however, the modified plan is designed to accommodate a future boathouse, improve shore access and limit the slope disturbance caused by future boathouse construction. Therefore, requiring strict compliance without relief would be unnecessarily burdensome to the petitioner. Having said that, the proposed width of the lower terraced area and lower wall exceed the minimum width and area needed to accommodate a boathouse and provide reasonable access to the lake. Therefore, the relief sought goes beyond the minimum relief necessary to address the hardship.*

As conditioned, the granting of this variance request will not adversely affect the public interest and welfare or be detrimental to nearby properties or natural resources. Use of retaining walls is generally common in this area due to the severe slope conditions. The existing walls have failed which has resulted in slope instability and has created an adverse visual aesthetic for lake users and nearby property owners. Lastly, the Land Resources Division will require appropriate erosion control and slope vegetation/stabilization measures for the project through a County Stormwater Permit.

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

BA100: DAVID AND STACEY VECCELLIO (OWNERS)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **denial** for a variance from the offset requirements of the Waukesha County Zoning Code to permit the after-the-fact construction of a paver walkway and patio for the Cupola Barn event venue.

Discussion between the owners (David and Stacey Vecellio), Board and Staff followed.

Staff noted an error in the staff report. The required offset for a patio is 15 feet and not 30 feet as originally noted in the report.

The owners noted that they have been using this area for ceremonies for 4 years but improved the area this year. They noted the substantial drainage way on the parcel and submitted photographs showing the drainage area full of water after rain events. They made the case that there was no practical alternative location for the patio.

Planner: The owners/petitioners submitted a packet of additional documentation and photographs at the hearing.

Public Reaction:

- Mary and Robert Swedberg (W359N9054 Brown St) own the vacant 70-acre lot to the west and are opposed to the request. They don't like being able to see the structure so close to their lot and have concerns that the patio might discourage a future buyer of that land. Their preference is to see the subject property remain more rural in nature. They are also concerned about that permanent of a type of improvement.

Decision and Action:

Mr. Bayer: *I make a motion to deny the request for variance from the offset requirements of the Ordinance, in accordance with the staff report, and for the reasons stated in the staff report.*

The motion was seconded by Ms. Bonniwell and carried unanimously.

BA101: JOHN AND MARIA TRIGGS (OWNERS) ATTORNEY TROY GILES (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff's recommendation was for **conditional approval** of variances from the wetland setback requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit an in-ground swimming pool, retaining wall and a stone paver patio.

Discussion between the petitioner (Troy Giles), owner (John Triggs), Board and Staff followed.

Public Reaction: None

Decision and Action:

Ms. Bonniwell: *I make a motion to **approve** the request for variance from the wetland setback requirements of the Ordinance, in accordance with the staff report, for the reasons stated in the staff report and with the following conditions:*

Conditions:

- 1. A wetland-upland restoration plan shall be reviewed and approved by the Waukesha County Planning and Zoning Division and the Lake Pewaukee Sanitary District and implemented during the growing season of 2022. The plan shall be maintained in perpetuity as “no-mow” areas on the subject property. The wetland-upland restoration plan shall include the removal of the wetland fill area as shown on the Hartland Ecological Group’s “Enhancement Map.” The wetland fill area shall be restored with native plants. A list of plants to be used that includes the size and species shall be identified as part of the plan. The plan shall also include invasive species removal, as proposed, in an area agreed to by the petitioner, Waukesha County Planning and Zoning Division and the Lake Pewaukee Sanitary District. The wetland-upland restoration area shall be actively managed by the petitioner for a period of ten years from the date of plan implementation. Any changes to the plan and/or timetable must be reviewed and approved by Waukesha County Planning and Zoning Division staff and may require an amendment to the Declaration of Restrictions required below.*
- 2. A Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed’s office, that describes the approved wetland-upland restoration plan, timeline for implementation and the maintenance responsibilities as required in Condition 1.*
- 3. Any additional structures, such as a future pavilion and hot tub, shall be located a minimum of 75 ft. from the wetland setback.*
- 4. The area of the fence that encroaches onto the Lake Pewaukee Sanitary District’s property shall be relocated onto the owners’ property, if desired by the Lake Pewaukee Sanitary District Board of Directors.*

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

BA102: CAROL EURINGER (OWNER) AND DAN GROSKOPF (APPLICANT)

Public Hearing:

Staff provided a brief summary of the Staff Report and Recommendation. Staff’s recommendation was for **approval** for a variance from the offset requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit the construction of a deck and access stairs.

Discussion between the petitioner (Dan Grosskopf), Board and Staff followed.

Public Reaction: None

Decision and Action:

Mr. Bayer *I make a motion to approve the request for variance from the offset requirements of the Ordinance, in accordance with the staff report, for the reasons stated in the staff report and with the following conditions:*

Conditions:

- 1. A plat of survey showing the existing and proposed improvements, prepared by a registered land surveyor, shall be submitted to the Planning and Zoning Division, prior to the issuance of a Zoning Permit.*
- 2. The deck and stairs shall not exceed a depth of six (6) feet and shall not encroach common lot lines.*

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

OTHER ITEMS REQUIRING BOARD ACTION:

• **ELECTION OF OFFICERS FOR THE BOARD OF ADJUSTMENT**

Ms. Bonniwell: *I make a motion to nominate Tom Day as Chairman, Richard Bayer as Vice-Chairman, and Richard Nawrocki as Secretary.*

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

ADJOURNMENT:

Mr. Bayer: *I make a motion to adjourn this meeting at 8:53 p.m.*

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

Respectfully submitted,



Richard Bayer
Acting Secretary, Board of Adjustment (on behalf of Richard Nawrocki)