

**GREEN LAKE COUNTY  
BOARD OF ADJUSTMENT  
Meeting Minutes – August 15, 2008**

**CALL TO ORDER**

The meeting of the Board of Adjustment was called to order by Board Chair Don Ahonen at 9:06 a.m., in the County Board Room, Courthouse, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: Donald Ahonen, Jill Ladwig, Shirley Parker  
Roger Ladwig (Alternate 1), Charles Lepinski (Alternate 2)

Absent:

Also present: Matt Kirkman, Code Enforcement Officer  
Cory Zibung, Code Enforcement Officer  
Carole DeCramer, Board Secretary  
Kate Worth, Court Reporter  
Jeff Haase, Assistant Corporation Counsel

**APPROVAL OF AGENDA**

**Motion by Parker/ J. Ladwig, unanimously carried, to modify the agenda moving #8 *Public Comment* to just before the Board recesses for field inspection. Motion carried.**

**Motion by Parker/J. Ladwig, unanimously carried, to approve the amended agenda. Motion carried.**

**APPROVAL OF MINUTES**

**Motion by Ahonen/J. Ladwig, unanimously carried, to approve the June 20, 2008, minutes. Motion carried.**

**PUBLIC COMMENT**

**Stephen and Jean Allen – Related to Land Use Planning & Zoning Department interpretation of their decision on May 16, 2008.**

Mr. and Mrs. Allen appeared before the Board and a statement was read by Mr. Allen regarding the Board's decision on May 16, 2008. Mr. Allen asked that the Board clarify their decision since the Code Enforcement Department has now denied their land use permit application. Mr. Allen stated that he talked to his attorney, Steve Sorenson, and Attorney Sorenson advised the Allens that there is no valid reason for the department to deny the land use permit. He said that the Allens should go ahead and build the boathouse the way they want. A neighbor of Allens re-built their boathouse without a land use permit, it went to court, and they received a \$300 fine. Attorney Sorenson disagrees with the way the department is interpreting the Board's decision.

Since Assistant Corporation Counsel Haase was not present during this portion of the meeting, the Board agreed to discuss this again after the public hearing when Attorney Haase Sorenson was present. (See page 6 of 7 for continuation of public comment.)

*Audio tape is available for verbatim discussion.*

**RECESS FOR FIELD INSPECTION**

Time: 9:18 a.m.

**PUBLIC HEARING MATTERS**

Board reconvened at 10:57 a.m.

Chairman Don Ahonen read the Rules of Order.

*See Transcript of Proceedings for verbatim testimony:*

**Item I: Owner/Applicant:** William & Kathleen Sheldon **Site Address:** N5751 Spaulding Hill Rd, Parcel #004-00568-0700, Located in Section 23, T16N R13E, Town of Brooklyn **Explanation:** The property owner is requesting a variance for the horizontal expansion of a nonconforming principal structure to extend closer to and on the side adjacent to the ordinary high water mark, whereas Section 338-32.3(C)(2)(c) of the County Shoreland Protection Ordinance does not allow for the horizontal expansion of a nonconforming principal structure to extend closer to the ordinary high water mark.

a. Public Hearing

William & Kathleen Sheldon, N5751 Spaulding Hill Road, Ripon WI – Spoke in favor of the request. Distributed to the Board a written statement outlining their request and reasons why they feel the variance should be approved (Exhibit 1).

Kirkman answered questions from the Board regarding the gazebo rule. Kirkman also read into the record the DNR letter from Michael Russo, Water Management Specialist, stating that the Board should deny the variance request (Exhibit 2).

Public hearing closed.

b. Board Discussion & Deliberation

The Board discussed how this wouldn't be an issue had the builder not torn it down to the footings. There are unique features to the property; however, there are other options for putting up a screened structure. The hardship is self-created by the builder who tore down the porch without checking into permits.

c. Board Decision

**Motion by Parker/J. Ladwig, denied on a 2-1 vote (Ahonen – nay, J. Ladwig – nay, Parker – aye), to approve the variance request. Motion failed.**

**Findings:**

**Ahonen – The hardship was created by the builder who removed a substantial portion of the house. The property has alternative configurations that are available to it that would**

**accommodate the applicants. There would be harm to the public interest by encroaching further into the 75-foot setback and making it nonconforming. Any relief we would have given to the applicable ordinance standard would not serve the public interest.**

Janet Wilke (audience) asked the Board for clarification. Attorney Haase advised that the Board had made their decision. The applicants have the option of appealing that decision.

**Item II: Owner:** The Thomas J Nowicki Trust **Applicant:** Thomas Nowicki **Site Address:** N4808 N Lakeshore Dr, Parcel #016-01573-0000, Beyers Cove Assessor Plat Lot 11, Located in Section 3, T15N R12E, Town of Princeton **Explanation:** The property owner is requesting a variance to construct a 22-ft by 22-ft detached garage with a 5-ft front yard setback, whereas Section 338-14.B(2)(A) of the County Shoreland Protection Ordinance requires a 40-ft front yard setback.

a. Public Hearing

Thomas J. and Dale Nowicki, N4808 N. Lakeshore Drive – Distributed to the Board a written statement outlining their variance request (Exhibit 3). Spoke in favor of the request. Public hearing closed.

b. Board Discussion & Deliberation

The Board discussed the alternative options. The applicants don't want an attached garage because of the grading. It seems like a better situation if they build it the way they propose. If approved, an engineer should be consulted for storm water runoff.

c. Board Decision

**Motion by J. Ladwig/Parker, unanimously carried on roll call (3-eyes, 0-nays), to approve the variance request with the following conditions:**

- 1) That a registered land surveyor stake out the location of the new garage prior to forms being set.
- 2) That a registered land surveyor create a COS (certificate of survey) of the lot depicting the “as built” conditions for the proposed project, showing the location of all lot lines, buildings, structures, and driveways.
- 3) Confirm the landowner's future intentions of the parcel. Plans to tear down the existing house and build a new single-family dwelling have surfaced during discussion. If this is the case, a garage attached to the new home would be able to meet all setback requirements. If the proposed garage variance was granted, it would allow for more buildable area in the code compliant location for a new dwelling since the garage has been built entirely within a non-code compliant location.
- 4) A restriction on the existing dwelling footprint may mitigate the negative impact of an approved variance.
- 5) That the owner/applicant consults with the Land Conservation Department to
  - a. Determine, through the scope of the proposed project, if any negative impact will occur to adjoining properties from stormwater produced on the subject site.
  - b. Create, if deemed necessary by the Land Conservation Department, a stormwater drainage plan that will address any stormwater issues on the subject site that will negatively impact an adjoining property.

- c. **Execute the stormwater drainage plan pursuant to standards developed with the Land Conservation Department.**

**Motion carried.**

**Findings:**

**Ahonen** – It is unnecessarily burdensome to not have a garage. The applicants have examined and submitted evidence that was substantial as to the minimum affect of drainage. The property is unique with the steep slope. Alternative configurations were presented but all of those seemed to be not as buildable as the one they want to use, especially in regard to the winter conditions with egress and ingress. The area is sewered and the applicants will be working with Land Conservation on the watershed. There is no harm to the public interest.

**Item III: Owner:** The Lori Sue Weiler 2003 Revocable Trust **Applicant:** Mark Pettack **Site Address:** N4736 N Lakeshore Dr, Parcel #016-01922-0000, Lot 2 Nancy R Yentz Plat, Located in Section 4, T15N R12E, Town of Princeton **Explanation:** The property owner is requesting a special exception permit for the filling and grading of approximately 750 sq ft on slopes exceeding 40%, whereas Section 338-42A(1) of the County Shoreland Protection Ordinance requires that a special exception permit be obtained to fill or grade an area within 300 ft landward of the ordinary high water mark of navigable water, that has surface drainage towards the water, and the slope is more than 20%.

- a. Public Hearing

Kirkman read into the record the DNR letter from Michael Russo, Water Management Specialist, advising the Board to deny the request (Exhibit 4).

Mark Pettack, President of Lakeway Management Property, Green Lake – Presented the special exception request and spoke in favor of the request.

Dennis Green, President of Ripon Land Surveying, Proessional Engineer – Spoke in favor of the request.

Public hearing closed.

- b. Board Discussion & Deliberation
- c. Board Decision

**Motion by Parker/J. Ladwig, unanimously carried on roll call (0-eyes, 3-nays), to approve the variance request. Motion failed.**

**Findings:**

**Ahonen** – Denial of the item will not unreasonably prevent the owner from using the property. The uniqueness is only at the waterfront and that can easily be used for egress and ingress with stairways and a tram. It seemed to be such a massive undercutting and disturbance of the 75-foot setback with the sandy soils in that area. This would not be in the public's best interest.

**Item IV: Owner:** The Lori Sue Weiler 2003 Revocable Trust **Applicant:** Mark Pettack **Site Address:** N4736 N Lakeshore Dr, Parcel #016-01922-0000, Lot 2 Nancy R Yentz Plat, Located in Section 4, T15N R12E, Town of Princeton **Explanation:** The property owner is requesting a variance to allow retaining walls within the 75-ft shoreyard setback, whereas Section 338-14 of the County Shoreland Protection Ordinance requires all structures, including retaining walls, to be setback 75 ft from the ordinary high water mark of navigable waters.

Pettack – Since the special exception was denied, I will withdraw this variance request; there is no reason to proceed with this.

**Item V: Owners:** Daniel G & Catherine M Aiello **Applicant:** Mark Pettack **Site Address:** W2640 Oakwood Beach Rd, Oakwood Beach Plat Lot 15 and the NWLY ½ of Lot 14, Section 12, T15N R12E, Town of Green Lake **Explanation:** The owner is requesting a variance to construct retaining walls within the 75 ft setback, whereas Section 338-14 of the Shoreland Protection Ordinance requires all structures, including retaining walls, to be set back at least 75 feet from the ordinary high water mark of navigable waters.

Parker recused herself from this item because of a conflict of interest. Alternate 1 R. Ladwig was seated in her place.

a. Public Hearing

Kirkman read into the record the DNR letter from Michael Russo, Water Management Specialist, requesting that the Board only grant the variance to construct the retaining wall if the applicant can prove the nonstructural erosion controls will not adequately protect the property from erosion (Exhibit 4).

Mark Pettack, President of Lakeway Property Management – Spoke in favor of the request.

Dan Aiello, owner of property – Spoke in favor of the request.

b. Board Discussion & Deliberation

c. Board Decision

**Motion by J. Ladwig/R. Ladwig, unanimously carried on roll call (3-ayes, 0-nays), to approve the variance with the following conditions:**

- 1) **That the property owners apply for a land use permit which shall include a detailed site plan having a 1” to 10’ scale showing, but not limited to, the dimensions of the property, the locations and dimensions of the existing structures, the location and dimensions of the proposed project, the location and names of abutting roads, lakes and streams, and a north arrow.**
- 2) **Pursuant to the plan submitted with the variance application, the retaining wall’s height shall be no greater than 42” in height and be concealed via native plantings.**
- 3) **That a shoreland restoration plan be designed by an RSVP certified professional (in accordance with NRCS Interim Standard #643A, Shoreland Habitat and Wisconsin**

**Biology Technical Note 1: Shoreland Habitat), be evaluated and approved by the Land Use Planning & Zoning Office prior to Land Use Permit issuance, and be installed within one year of land use permit issuance.**

- 4) The shoreland restoration project shall be maintained via the Shoreland Vegetative Buffer Agreement that shall be recorded in the County's Register of Deeds Office.**
- 5) That prior to issuance of a land use permit, the Land Use Planning and Zoning Department receive written certification by a qualified professional verifying the structural integrity of the retaining walls their ability to withstand the forces exerted upon them.**
- 6) That the property owners submit, prior to land use permit issuance a completed Shoreland Filling and/or Grading form to the Land Use Planning & Zoning Department designating the Land Conservation Department to administer and enforce the soil conservation technical standards for this proposed project.**

**Findings – The hardship is the slope of the lot and the water flooding that occurred in 2008 which destroyed the whole house and washed out the lot surrounding it making the ground unstable. The uniqueness is the slope of the lot. This area is sewerred. The land owner is removing a major unsafe concrete boat house and replacing it with natural vegetation and native stones so it's in the public's interest to permit this.**

#### **CONTINUATION OF PUBLIC COMMENT – STEPHEN AND JEAN ALLEN**

The Board discussed with Attorney Haase whether or not the Allen decision would be appropriate for further discussion. Ahonen stated that the Board would like to discuss in open session what they thought they had voted on for the Allen appeal. Attorney Haase advised that it would not be appropriate for further discussion. He suggested that the Board place it on the next agenda to discuss the results of their findings. Attorney Sorenson adamantly disagreed stating that he had written a letter in July requesting that this be placed on the agenda for further discussion. He feels it's unfair to the property owner to make them go through this process, the decision is made, and then the planning office suddenly takes a different position. Attorney Sorenson stated that they would make it easy for the Board of Adjustment by just going ahead and start construction without the permit, then there will be a lawsuit, and the Board won't be part of it. Ahonen stated that there is a public innuendo now and practically everyone located in the lakeshore is aware of what happened to the property to the west of the Allens. They didn't get permits and were just fined. The Board wonders what is going on. Again, Attorney Haase advised that it was not appropriate to discuss at this time; it should be placed on the next agenda.

**PUBLIC APPEARANCES – None**

**CORRESPONDENCE – None**

**BOARD DISCUSSION – None**

**NEXT MEETING DATE**

**September 19, 2008**

**ADJOURN**

**On a motion by Parker/J. Ladwig, unanimously carried, the meeting was adjourned. Motion carried.**

Time: 1:34 p.m.

Recorded by,  
Carole DeCramer  
Board of Adjustment Secretary

**APPROVED ON:**

October 17, 2008