

**Walworth County Board of Adjustment**  
MINUTES  
April 13, 2022 - Hearing – 9:00 AM  
April 14, 2022 – Meeting – 9:00 AM  
County Board Room 114  
Government Center – Elkhorn, Wisconsin

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A hearing and decision meeting of the Walworth County Board of Adjustment was held on April 13, 2022, and April 14, 2022, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on April 13, 2022, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala and Secretary Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on April 14, 2022, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala, and Secretary Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on April 13, 2022, and April 14, 2022, are kept on file as a matter of record.

The April 13, 2022, hearing was called to order by Chair Ann Seaver at 9:00 A.M. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Elizabeth Sukala motioned to approve the agenda as presented. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose. Barb Fischer motioned to approve the March 9 & 10, 2022, Minutes and dispense with the reading. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose. After testimony of all cases, Elizabeth Sukala motioned to recess until 9:00 A.M. on Thursday, April 14, 2022. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose.** The April 13, 2022, hearing went into recess at approximately 11:31 A.M.

On April 14, 2022, at 9:00 A.M., Chair Ann Seaver called the decision meeting to order. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Elizabeth Sukala motioned to approve the agenda as presented. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Elizabeth Sukala motioned to adjourn until the May 11, 2022, hearing at 9:00 A.M. Seconded by Barb Fischer. Motion carried. 3-favor, 0-oppose.** The April 14, 2022, decision meeting adjourned at approximately 9:53 A.M.

Six variance hearings were scheduled and details of the April 13, 2022, hearings and the April 14, 2022, decisions are digitally recorded and available to the public upon request / video to view on our website: [www.co.walworth.wi.us](http://www.co.walworth.wi.us) / Agendas & Minutes / Board of Adjustment / Media.

**Old Business - none**

**New Business – Variance Petitions**

Hearing – Count #9:00:25 – 9:14:40 / Decision – Count #9:00:19 – 9:04:42

**The First Hearing was Randall & Lana Pollard, owners / Randall & Lana Pollard, applicants – Section(s) 35 – Whitewater Township**

Applicants are requesting a variance from Section(s) 74-165 / 74-174 / 74-181 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of an accessory structure (shed) and a retaining wall.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 15 foot side yard setback for the shed and a 75 foot shore yard setback for the shed and retaining wall.

**VARIANCE REQUEST:** The applicants are requesting a 4.7 foot side yard and 52.2 foot shore yard for the shed and a 48.5 foot shore yard for the retaining wall. The request is a variance from Section(s) 74-165 / 74-174 / 74-181 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of an accessory structure (shed) and a retaining wall.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Randall & Dana Pollard, owners / Randall & Dana Pollard, applicants, voted to APPROVE the request for a 4.7 foot side yard and 52.2 foot shore yard for the shed and a 48.5 foot shore yard for the retaining wall.

**A motion was made by Barb Fischer to approve the variance request. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found there are unique property limitations. The Board found there is an extreme slope on the property and the property takes runoff from the road causing erosion issues. The Board found a shed and retaining wall had previously existed in the same general location. The Board found the previous retaining wall consisted of rotting railroad ties. The Board found to approve the variance would slow runoff from the street that is eroding the soil. The Board found the owner is not increasing impervious surface but is replacing a shed and a railroad-tie retaining wall with approximately the same setbacks. The Board found removal of the railroad ties near the lake would also be beneficial. The Board found there is insufficient suitable area for similar structures elsewhere on the lot. The Board found to approve the variance request would cause no harm to the public interest. The Board found the total impervious surface is slightly decreased. The Board found the structures replaced similar previous structures. The Board found the applicant has support from neighbors and the Town of Whitewater. The Board found the nearest neighbor indicated the proposal has improved the runoff/erosion situation. The Board found to approve the variance request would stabilize the slope of the shoreline and help protect the lake. A neighboring property owner spoke in support. There was an e-mail of support from the Town of Whitewater. There were two letters of support from neighboring property owners. There was no opposition.

Hearing – Count #9:14:48 – 9:41:53 / Decision – Count #9:04:43 – 9:25:27

The Second Hearing was Benjamin D. Currie & Karli Bertocchi, owners / Benjamin D. Currie & Karli Bertocchi, applicants – Section(s) 33 – Geneva Township

Applicants are requesting a variance from Section(s) 74-54 / 74-103 of Walworth County's Code of Ordinances – Zoning to construct a deck.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 19' rear yard setback for a deck.

**VARIANCE REQUEST:** The applicants are requesting to construct a deck that is approximately 11 feet from the rear lot line. The request is a variance from Section(s) 74-54 / 74-103 of Walworth County's Code of Ordinances – Zoning to construct a deck.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Benjamin D. Currie & Karli Bertocchi, owners / Benjamin D. Currie & Karli Bertocchi, applicants, voted to DENY the request for a deck that is approximately 11 feet from the rear lot line.

**A motion was made by Elizabeth Sukala to approve for discussion. Seconded by Barbara Fischer.**

**Elizabeth Sukala stated she could amend. Elizabeth Sukala was thinking about amending the motion to include that they explore all options because she's not sure this is going to solve their problem.**

**A motion was made by Elizabeth Sukala to withdraw her motion to approve. Barb Fischer asks if she should second that.**

**Nicholas Sigmund recaps. We had a motion and a second to approve. Then we had a revised motion to approve with that they explore other options that had no second. So died for lack of a second? We have a motion with a second. Do you want to vote on that?**

**Ann Seaver called for a vote on motion to approve variance request for deck at 11 feet. Motion failed. 0-favor 3-oppose**

**A motion was made by Elizabeth Sukala to deny the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the irregular lot line configuration to be a circumstance someone chose to create. The Board found there are likely alternative options to build a deck in a compliant location while still accessing the doorway in question. The Board felt other options could be pursued to abate water issues. The Board found the variance request to be a large increment of relief. There were letters of support from the Town of Geneva and from a neighboring property owner. There was no opposition.

Hearing – Count #9:42:05 – 10:02:33 / Decision – Count #9:25:28 – 9:32:42

**The Third Hearing was Harry Warnaar Trust, owner / Harry & Diane Warnaar, applicants – Section(s) 21 – Delavan Township**

Applicants are requesting a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to exceed the allowable impervious surface on the parcel.

**REQUIRED BY ORDINANCE:** The Ordinance allows a maximum of 42.2% of impervious surface coverage.

**VARIANCE REQUEST:** The applicants are requesting 42.6% impervious surface coverage. The request is a variance from Section(s) 74-174 of Walworth County’s Code of Ordinances – Shoreland Zoning to exceed the allowable impervious surface on the parcel.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Harry Warnaar Trust, owner / Harry & Diane Warnaar, applicants, voted to APPROVE the request for 42.6% impervious surface coverage.

**A motion was made by Barbara Fischer to approve the variance request for discussion. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found to approve the variance request would allow the additional ingress / egress required for safety. The Board found the stairway would be too steep without allowing the additional stairs requested. The Board found the request to be a small increment of relief. The Board found the owner did receive approval for a 2.2 foot side yard setback at the January 14, 2021, Board of Adjustment meeting. The Board found the owner did adjust the design to lessen the impervious surface request. The Board found to approve the variance request would cause no harm to public interests. The Board found to approve the request would allow the building codes to be met. The Board found to approve the variance request would not harm the public’s interest in navigable waters. The Board found to deny the variance request would cause unnecessary hardship. There was no support. There was no opposition.

Hearing – Count #10:02:43 – 10:21:51 / Decision – Count #9:32:43 – 9:36:29

The Fourth Hearing was Linda Cochran Trust, owner / R. H. Batterman & Co., Inc., applicant – Section(s) 35 – Whitewater Township

Applicants are requesting a variance from Section(s) 74-181 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 150 foot lot width.

**VARIANCE REQUEST:** The applicants are requesting a lot width of approximately 90.8 feet. The request is a variance from Section(s) 74-181 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Linda Cochran Trust, owner / R. H. Batterman & Co., Inc., applicant, voted to APPROVE the request for a lot width of approximately 90.8 feet.

**A motion was made by Elizabeth Sukala to approve the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found approval for an approximate 90.8 foot lot width had been given at the February 11, 2021, Board of Adjustment meeting and the approval had expired. The Board found that the variance request remained at an approximate 90.8 foot lot width to construct a residence. The Board found the variance request to be the same as what was requested in February 2021 and only ownership of the property has changed. The Board found unique property limitations in the narrow and steep lot. The Board found sufficient property width at the back of the parcel but to build in that location would require the removal of trees and to cut into the grade would ruin the natural look at the back of the parcel. The Board found approval would cause no harm to public interests as the house would not be easily seen from the road. The Board found the neighbors to the north and the south of the property and the Town of Whitewater supported variance approval. The Board found approval of the variance request would allow construction near the existing well and allow the existing driveway to remain. The Board found to deny the variance request and require to remove the corridor of trees on the back of the parcel would affect drainage on the property and create a large amount of land disturbance that would affect the lake. The Board found to approve the variance request would not harm the public's interest in navigable waters. There were letters / e-mails of support from the Town of Whitewater and from two neighboring property owners. There was an e-mail of opposition from a neighboring property owner.

Hearing – Count #10:22:11 – 10:46:12 / Decision – Count #9:36:37 – 9:43:21

**The Fifth Hearing** was Richard L. & Maria L. Licata, owners / Golden Tree & Landscape Inc..., applicant – Section(s) 26 – La Grange Township

Applicants are requesting a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a boathouse.

**REQUIRED BY ORDINANCE:** The Ordinance requires a view / access corridor of approximately 17 feet wide and requires the boathouse to be located in the view / access corridor.

**VARIANCE REQUEST:** The applicants are requesting a boathouse location that would result in a view / access corridor approximately 35.5 feet wide. The request is a variance from Section(s) 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a boathouse.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Richard L. & Maria L. Licata, owners / Golden Tree & Landscape Inc., applicant, voted to DENY the request for a boathouse location that would result in a view / access corridor approximately 35.5 feet wide.

**A motion was made by Elizabeth Sukala to deny the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the owner did not prove circumstances unique to the property not generally found on other neighboring properties. The Board found the owner has other compliant options for the location of the boathouse. The Board found the variance request to be a large increment of relief. The Board found to approve the variance request would compound the view corridor issue on the property. The Board found to deny the variance request would cause no unnecessary hardship. The Board found the variance request to be a want rather than a need. The Board found the Town did not approve the variance request. There was a letter of support from a neighboring property owner. There was a letter of opposition from the Town of La Grange.

Hearing – Count #10:46:36 – 11:50:20 / Decision – Count #9:43:28 – 9:52:18

The Sixth Hearing was Todd F. Meier, owner / Andrew Hockberger, applicant – Section(s) 21 – Delavan Township

Applicants are requesting a variance from Section(s) 74-168 / 74-181 / 74-201 / 74-219 / 74-232 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence and decks / steps.

**REQUIRED BY ORDINANCE:** The Ordinance requires the residence to be set back at least 5 feet from the north lot line and 7.2 feet from Lincoln Ave. The residence must have a minimum of 22 feet by 22 feet of core living area. The uncovered deck / steps must be at least 3 feet from Lincoln Ave. The Ordinance prohibits obstructions more than 2.5 feet above the mean centerline roadway grades within the vision triangle at an intersection.

**VARIANCE REQUEST:** The applicants are requesting a residence with a 4 foot setback from the north lot line and a 5.1 foot setback from Lincoln Ave. The proposed residence does not have 22 feet by 22 feet of core living area. Decks / steps are proposed 2.45 feet and 2.9 feet from Lincoln Ave. Structures are proposed within the vision triangle of two different intersections. The request is a variance from Section(s) 74-168 / 74-181 / 74-201 / 74-219 / 74-232 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence and decks / steps.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of April 13 & 14, 2022, for the petition of Todd F. Meier, owner / Andrew Hockberger, applicant, voted to APPROVE the request for a residence with a 4 foot setback from the north lot line and a 5.1 foot setback from Lincoln Ave., a residence with less than 22 feet by 22 feet of core living area, decks / steps proposed 2.45 feet and 2.9 feet from Lincoln Ave., and structures proposed within the vision triangle of two different intersections.

**A motion was made by Barbara Fischer to approve the variance request. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the Board of Adjustment had approved a variance request for this project on October 14, 2021. The Board found the current variance requests a location substantially similar to the previous approval. The Board found the location of the proposed residence is moved slightly due to valid concerns encountered during construction. The Board found to deny the variance request would cause unnecessary hardship. The Board found without variance approval, the removal of the existing foundation wall may cause a neighboring driveway to collapse. The Board found to deny the variance request may cause neighboring homes and driveways to be unusable until the proposed residence is constructed. The Board found stairs near the street are common in the subdivision. The Board found to approve the variance request would not create new safety issues to traffic on Lincoln Avenue. The Board found the vision triangle had received approval at the October 14, 2021, meeting of the Board of Adjustment. The Board found the request to be a small increment of relief. The Board found that a house existed on this lot previously. The Board found to approve the variance request would not harm the public's interest in navigable waters. There were two letters / e-mails of support from neighboring property owners. There were four letters / e-mails of opposition from neighboring property owners.

**Other**

- A. Discussion / possible action on Township correspondence – none

**Staff Reports**

- A. Court cases update – none
- B. Distribution of reports, handouts and correspondence

**Proposed discussion for next agenda**

The following items were requested to be put on the May 2022 agenda, if applicable:

- A. Discussion / possible action on Township correspondence
- B. Court cases update
- C. Distribution of reports, handouts and correspondence

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BARBARA A. FISCHER  
WALWORTH COUNTY BOARD OF ADJUSTMENT

These minutes are not final until approved by the Board of Adjustment at the next scheduled hearing date.