

**Walworth County Board of Adjustment**  
**MINUTES**  
June 8, 2022 - Hearing – 9:00 AM  
June 9, 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 June 8, 2022, and June 9, 2022, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on June 8, 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 June 9, 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 June 8, 2022, and June 9, 2022, are kept on file as a matter of record.

The June 8, 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 Barbara Fischer. Motion carried. 3-favor, 0-oppose. Barbara Fischer motioned to approve the May 11 & 12, 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, June 9, 2022. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The June 8, 2022, hearing went into recess at approximately 1:18 P.M.

On June 9, 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 Barbara Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Elizabeth Sukala motioned to adjourn until the July 13, 2022, hearing at 9:00 A.M. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The June 9, 2022, decision meeting adjourned at approximately 11:46 A.M.

Six variance hearings were scheduled and details of the June 8, 2022, hearings and the June 9, 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 #9:03:51 – 10:05:36 / Decision – Count #9:02:10 – 9:17:01

**The First Hearing was Timothy J. & Barbara A. Behrens, owners / Timothy J. & Barbara A. Behrens, applicants – Section(s) 18 – East Troy Township**

Applicants are requesting a variance from Section(s) 74-38 of Walworth County's Code of Ordinances – Zoning to allow a fence.

**REQUIRED BY ORDINANCE:** The Ordinance allows a maximum height of 6 feet.

**VARIANCE REQUEST:** The applicants are requesting an allowance of the existing fence which has a maximum height of approximately 7 feet and one half inch. The request is a variance from Section(s) 74-38 of Walworth County's Code of Ordinances - Zoning to allow a fence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Timothy J. & Barbara A. Behrens, owners / Timothy J. & Barbara A. Behrens, applicants, voted to APPROVE the request to allow an existing fence which has a maximum height of approximately 7 feet and one half inch.

**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 unique property circumstances in that the neighboring property is kept in a state of disarray. The Board found the property is not level which would affect consistency of height along the length of the fence. The Board found to deny the variance request would cause unnecessary hardship. The Board found the owners did have a survey done of their property. The Board found a qualified contractor installed the fence. The Board found it to be typical for this style of fencing to have posts with caps that are higher than the fence panel itself. The Board found it to be typical for this style of fencing to not be installed with panels tight to the ground. The Board found to approve the variance request would cause no harm to public interests. The Board found the fence meets the purpose and intent of the ordinance. The Board found the fence is not seen by the public other than the neighboring property. The Board found the placement of the fence does not interfere with the road right-of-way. There was a letter in support from the Town of East Troy. Two people spoke in opposition.

Hearing – Count #10:05:51 – 10:35:58 / Decision – Count #9:17:13 – 9:25:39

**The Second Hearing was Genevieve V. Zook & James W. Busch, owners / Genevieve Zook & James Busch, applicants – Section(s) 31 – Delavan Township**

Applicants are requesting a variance from Section(s) 74-181 / 74-219 / 74-221 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a screen porch and deck.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 24.4 foot setback from the access easement for the screen porch and an 18.4 foot access easement setback for the deck.

**VARIANCE REQUEST:** The applicants are requesting a 14.4 foot setback for the screen porch and a 14.2 foot setback for the deck. The request is a variance from Section(s) 74-181 / 74-219 / 74-221 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a screen porch and deck.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Genevieve V. Zook & James W. Busch, owners / Genevieve Zook & James Busch, applicants, voted to DENY the request for a 14.4 foot setback for the screen porch and a 14.2 foot setback for the deck.

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

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

**BOARD OF ADJUSTMENT FINDINGS:** The Board found the owner did not prove exceptional or unique circumstances to the property rather than considerations personal to the owner. The Board found to deny the variance request would cause no unnecessary hardship as the owners would be allowed a six foot deck and would allow ingress / egress for the upper doors. The Board found the access easement to be 10 feet in width and to approve the variance request would cause harm to public interests in allowing encroachment on that easement. There was a letter in support from a neighboring property owner. There was no opposition.

Hearing – Count #10:36:03 – 11:07:17 / Decision – Count #9:25:40 – 9:37:24

The Third Hearing was Patrick McGrath Trust, owner / Patrick & Jane McGrath, applicants – Section(s) 21 – Delavan Township

Applicants are requesting a variance from Section(s) 74-181 / 74-201 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to replace a residence with a new residence.

**REQUIRED BY ORDINANCE:** The Ordinance requires a 10.7 foot rear yard setback and prohibits any expansion of the existing residence’s footprint and envelope within the vision triangle at the intersection.

**VARIANCE REQUEST:** The applicants are requesting an 8 foot rear yard setback and an expansion of the footprint and envelope within the vision triangle. The request is a variance from Section(s) 74-181 / 74-201 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to replace a residence with a new residence.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Patrick McGrath Trust, owner / Patrick & Jane McGrath, applicants, voted to DENY the request for an 8 foot rear yard setback and voted to APPROVE the expansion of the footprint and envelope within the vision triangle.

**A motion was made by Barbara Fischer to deny the rear yard setback and approve the expansion of the footprint and the envelope within the vision triangle. Seconded by Elizabeth Sukala for discussion. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:**

**DENIAL** of the 8 foot rear yard setback: The Board found the owner did not prove exceptional

or unique circumstances to the property rather than considerations personal to the property owner. The Board found to deny the variance request would not cause unnecessary hardship. The Board found the request to be a want for a bigger house rather than a need. The Board found to approve the request would consume more of the limited existing green space in the rear yard. The Board found the variance request did not meet the criteria for approval.

**APPROVAL** of expansion of the footprint and envelope within the vision triangle: The Board found exceptional circumstances with the existing residence currently encroaching into the vision triangle. The Board found that requiring the project to stay in the footprint and envelope when no purpose is served is an unnecessary hardship. The Board found no harm to the public interests. The Board found the request would not worsen any line of sight issues. The Board found the request to be a small increment of relief.

One person spoke in support. There was no opposition.

Hearing – Count #11:07:22 – 11:50:57 / Decision – Count #9:37:34 – 10:14:31

**The Fourth Hearing** was **Kenneth & Kelsi Wisniewski Trust, owner / Jacob Addis, Architect, applicant – Section(s) 32 – Delavan Township**

Applicants are requesting a variance from Section(s) 74-168 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence and to keep an existing brick patio.

**REQUIRED BY ORDINANCE:** The Ordinance requires the residence to have a 25 foot street yard setback and 5 foot side yard setbacks. The residence and patio require a 60.65 foot setback from the ordinary high water mark of the shoreline to the west and a 75 foot setback from the ordinary high water mark of the shoreline to the east. The residence is required to be at least 22 feet wide.

**VARIANCE REQUEST:** The applicants are requesting a residence with a 20.5 foot street yard, a 3.2 foot side yard setback on one side and a 4.7 foot side yard on the other side. Setbacks of 47.9 feet for the residence and 35.3 feet for the patio are requested from the west ordinary high water mark. Setbacks of 49.5 feet for the residence and 65.6 feet for the patio are requested from the east ordinary high water mark. The residence is proposed to be 20.5 feet wide. The request is a variance from Section(s) 74-168 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence and to keep an existing brick patio.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Kenneth & Kelsi Wisniewski Trust, owner / Jacob Addis, Architect, applicant, voted to **APPROVE** a residence with a 20.5 foot street yard setback, a 3.2 foot side yard setback on one side and a 4.7 foot side yard on the other side and setbacks of 47.9 feet from the west ordinary high water mark and setbacks of 49.5 feet from the east ordinary high water mark and the residence proposed to be 20.5 feet wide. The Board voted to **MODIFY AND APPROVE** a patio to be no more than 4 feet out from the house toward the lake.

**A motion was made by Ann Seaver to deny for discussion. Seconded by Barbara Fischer for discussion. Motion failed. 0-favor 3-oppose**

**A motion was made by Elizabeth Sukala to modify the patio down to no more than four feet out from the house towards the lake and approve everything else. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:**

**APPROVAL OF ALL WITH EXCEPTION OF THE PATIO:** The Board found unique property limitations in the location of the small and narrow property located next to a park on a dead end road and on a peninsula with shore yard setbacks affecting the property from both sides. The Board found to deny the variance request would cause unnecessary hardship. The Board found to approve the house width as proposed will allow room on the sides of the residence for maintenance. The Board found to approve the variance request would cause no harm to public interests. The Board found the proposed residence and setbacks were similar to others in the neighborhood.

**MODIFY AND APPROVE PATIO:** The Board found the shore yard area of the home to be relatively flat and found the proposed patio was not needed as large as proposed and as close to the lake as proposed. The Board found that because of the small size of the lot and the location of the home, some patio setback relief is needed. The Board found a minimal allowance would provide for safe ingress/egress and for purposes of not having vegetation right up to the home and not tracking mud into the home. The Board found to allow the patio at no more than 4 feet out from the house lakeside was a minimal approval that would meet the intent of the ordinance and cause no harm to the public interests.

There was an e-mail in support from the Town of Delavan. There was a letter of opposition from a neighboring property owner.

Hearing – Count #11:51:03 – 12:37:35 / Decision – Count #10:14:47 – 10:54:10

**The Fifth Hearing was Karl J. & Heather A. Klamm, owners / Heather & Karl Klamm, applicants – Section(s) 10 – East Troy Township**

Applicants are requesting a variance from Section(s) 74-165 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to allow additions, a walkway, a deck, a landing / steps, and an accessory structure.

**REQUIRED BY ORDINANCE:** The Ordinance requires the accessory structure to have a 25 foot street yard and 10 foot side yard. The walkway, deck and landing / steps are required to have a 75 foot shore yard from Potters Lake. The additions are required to have a 7 foot side yard and a 75 foot shore yard setback

**VARIANCE REQUEST:** The applicants are requesting an accessory structure with an 11 foot street yard and 5.9 foot side yard, a walkway with a 34 foot shore yard, a deck with a 63 foot shore yard, and a landing / steps with a 62.9 foot shore yard. One addition is being requested with a 45.7 foot shore yard, a second addition is being requested with a 6.8 foot side yard, and a third addition is already existing with a 6.7 foot side yard. The request is a variance from Section(s) 74-165 / 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of

Ordinances – Shoreland Zoning to allow additions, a walkway, a deck, a landing / steps, and an accessory structure. The requests for the accessory structure and for the 6.8 foot addition setback were withdrawn before the hearing.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Karl J. & Heather A. Klamm, owners / Heather & Karl Klamm, applicants, voted to APPROVE the request for a stoop and stairs on the east side of the house and MODIFY AND APPROVE the walkway to allow only the portion extending from the stoop toward the driveway and not the part extending from the stoop to the deck in the shore yard. The Board voted to APPROVE the request for the existing addition with a 6.7 foot side yard setback. The Board voted to DENY the request for a deck with a 63 foot shore yard setback. The Board voted to DENY the request for the proposed roof over the existing deck with a 45.7 foot shore yard setback.

**A motion was made by Barbara Fischer to deny the variance request. Motion fails for lack of a second.**

**A motion was made by Ann Seaver to deny the variance request for the walkway. Seconded by Elizabeth Sukala. Motion fails. 0-favor 3-oppose**

**A motion was made by Elizabeth Sukala to approve by modification the pink stoop with the little stairs on the east side of the house and the sidewalk leading from there up to the driveway and out of the shore yard area and to deny the rest of the sidewalk leading to the shore yard side of the deck. Seconded by Ann Seaver. Motion carried. 3-favor 0-oppose**

**A motion was made by Barbara Fischer to approve the 1990's addition area at a side yard setback of 6.7 feet. Seconded by Ann Seaver. Motion carried. 3-favor 0-oppose**

**A motion was made by Elizabeth Sukala to approve the deck over the existing patio. Seconded by Barbara Fischer. Motion fails. 0-favor 3-oppose**

**A motion was made by Barbara Fischer to deny the deck on the west side of the property that was proposed over the patio at 63 feet. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**A motion was made by Barbara Fischer to deny the proposed roof over the existing deck. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:**

APPROVAL of existing addition with 6.7 foot side yard setback: The Board found the addition had been approved and constructed in the 1990's. The addition is part of the house and has existed for some time.

APPROVE stoop and stairs and MODIFY AND APPROVE the walkway coming from the stoop and stairs and extending to the driveway: The Board found this would provide ingress/egress and allow the walkway connection between the access point and the driveway. The Board found the additional sidewalk into the shore yard was not necessary.

DENIAL of request for deck with 63 foot shore yard setback

DENIAL of request for proposed roof over existing deck with 45.7 foot shore yard setback:  
The Board found the owners did not prove exceptional circumstances to the property. The Board found the requests were a want rather than a need. The Board found there were no safety issues. The Board found the property has a good amount of deck space already. The Board found the existing deck is usable space without the roof addition. The Board found no unnecessary hardship. The Board found the requests do not meet the criteria necessary for approval.

There was an e-mail in support / opposition from the Town of East Troy.

Hearing – Count #12:37:47 – 1:17:29 / Decision – Count #10:54:21 – 11:43:56

**The Sixth Hearing** was **Toni L. Hochhalter Trust, owner / Toni & Keith Hochhalter, applicants**  
**– Section(s) 34 – Whitewater Township**

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence with a deck and patio.

**REQUIRED BY ORDINANCE:** The Ordinance requires the residence to have a 25 foot subdivision road setback and a 50 foot town road setback. The deck requires a 44 foot town road setback. The residence, deck and patio require a 72.5 foot shore yard setback. Only minimal grade changes are allowed within a 75 foot setback from the ordinary high water mark. Lot width is required to be at least 150 feet.

**VARIANCE REQUEST:** The applicants are requesting a residence 12 feet from a subdivision road and 30.4 feet from a town road. The deck is proposed 29.1 feet from a town road. Shore yards are proposed at 60.5 feet to the residence, 60.5 feet to the patio, and 63 feet to the deck. Grade changes of approximately 4 - 5 feet are proposed within 75 feet of the ordinary high water mark. The residence is being proposed at a lot width of 111.9 feet. The request is a variance from Section(s) 74-174 / 74-181 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence with a deck and patio.

**BOARD OF ADJUSTMENT DECISION:** The Walworth County Board of Adjustment, during the meeting of June 8 & 9, 2022, for the petition of Toni L. Hochhalter Trust, owner / Toni & Keith Hochhalter, applicants, voted to APPROVE the request for a residence 12 feet from a subdivision road and 30.4 feet from a town road, a deck proposed 29.1 feet from a town road and voted to DENY a shore yard proposed at 60.5 feet to the residence, 60.5 feet to the patio, and 63 feet to the deck, and grade changes of approximately 4 - 5 feet proposed within 75 feet of the ordinary high water mark and a residence proposed at a lot width of 111.9 feet.

**A motion was made by Elizabeth Sukala to approve the variance request for the street yard setback requested from Chapel Drive or Circle Drive at 12.0 feet and 30.4 feet from Townline Road to the residence and 29.1 feet from Townline Road to the uncovered deck. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**A motion was made by Ann Seaver to approve the lot width of 111.9 feet and make it a buildable lot instead of 150 feet. Seconded by Barbara Fischer for discussion. Ann Seaver rescinded her motion to approve the lot width of 111.9 feet. Barbara Fischer rescinded her second.**

**A motion was made by Elizabeth Sukala to deny all earth movement activities to change the grade. Motion fails to get a second.**

**A motion was made by Ann Seaver to deny the shoreyard setbacks for the deck and the house and for the lower patio and the grade changes 4 – 5 feet within the 75 foot ordinary high water mark and use of the lot of 111.9 feet lot width. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose**

**BOARD OF ADJUSTMENT FINDINGS:**

APPROVAL of the request for a residence 12 feet from a subdivision road and 30.4 feet from a town road, and a deck proposed 29.1 feet from a town road:

The Board found unique circumstances to the property in being bordered by roadways on several sides. The Board found that it would create an unnecessary hardship to not be able to use any of the portion of the property that is significantly impacted by those two roadway setbacks. The Board found no harm to the public interests in that this portion of Chapel/Circle Drive is a private road that is more like a driveway and dead ends, unlikely to be further developed. The Board found R & W Townline Road dead ends at the lake and here is not heavily traveled.

DENIAL of a shore yard proposed at 60.5 feet to the residence, 60.5 feet to the patio, 63 feet to the deck, and grade changes of approximately 4 - 5 feet proposed within 75 feet of the ordinary high water mark and a residence proposed at a lot width of 111.9 feet.

The Board found the owner did not prove there were unique property limitations in regards to these requests. The Board found the property offered sufficient size and opportunity to build in a compliant location with less disturbance toward the lake while still having a clear view of the lake. The Board found no unnecessary hardship in regards to these requests. The Board found the proposed proximity nearer the lake and the associated grading was a want rather than a need. The Board found the residence could be moved east to meet the lot width requirement and at the same time, get further from the lake shore. The Board found the owner could redesign the home or make it larger to extend further east to meet the lot width requirement. The Board found additional costs associated with a larger home or redesigned home do not create an unnecessary hardship. The Board found the requests did not meet the criteria for approval.

There was an e-mail of support from the Town of Whitewater. Two neighboring property owners spoke in support. There was no opposition.

**Other**

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

**Staff Reports**

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

**Proposed discussion for next agenda**



The following items were requested to be put on the July 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.