

STATE OF WISCONSIN
OZAUKEE COUNTY
LAND & WATER MANAGEMENT DEPARTMENT
BOARD OF ADJUSTMENT

March 10, 2021 - 9:00 a.m.
Ozaukee County Administration Center
Port Washington, Wisconsin
Reported by: Liane M. Baranek, RMR

Board Members Present:

Philip E. Steinke, Chairman
William Koeppen
Stephen L. Castner, appearing via videoconferencing
Robert Hubing, appearing via videoconferencing
Absent: Marjie Tomter

Also Present:

Andy Holschbach, Land & Water Management Department
Ed Pfister, Land and Water Management Department
Jason Dzwinel, County Administrator

Agenda:

Variance request for 4236 High Point Beach Road,
Port Washington, Wisconsin. Appearing: James Rhodes,
owner, and Rory Palubiski, Fein Design, LLC. (Page 3).

Variance request for 7494 Devonshire Drive,
Cedarburg, Wisconsin. Appearing: Matthew and Shelly
Mabee, owners. (Page 18).

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P R O C E E D I N G S

1
2 MR. STEINKE: We'll call the meeting to
3 order for the Board of Adjustment, Wednesday,
4 March 10th at three minutes after 9:00.

5 This is a public hearing. Anyone can
6 address the Board providing they are recognized by
7 me, the Chairman. My name is Phil Steinke. They
8 have to identify themselves. Everybody's signed
9 in. Sorry if we forgot that.

10 We have a court reporter recording all
11 this, so please don't interrupt each other, and
12 speak clearly. State your name when you're going
13 to speak so that she can get everything into the
14 minutes.

15 All right. Everybody that's here that
16 wants to be heard we'll give adequate time for, and
17 then we will make our decisions.

18 Andy, has everybody been notified in the
19 press and everything?

20 MR. HOLSCHBACH: Yes, they have.

21 MR. STEINKE: Okay. We'll start in the
22 agenda then. The hearing will be for the first
23 request. Do you want to read it, Andy?

24 MR. HOLSCHBACH: Okay. First of all, I
25 do want to mention that we have two variance

1 requests this morning, and the first variance
2 request pertains to an item that the county has
3 included in the Shoreland and Floodplain Zoning
4 Ordinance, and that's the bluff setback.

5 The second variance request is also in
6 the ordinance and it's also an NR 115 Wisconsin
7 statute, so there's a little difference there.

8 Our first request is for a variance to
9 Section 7.0310 of the Ozaukee County Shoreland and
10 Floodplain Ordinance by James Rhodes, owner, and
11 Rory Palubiski with Fein Design, LLC as designer/
12 agent to construct three small 12 by 48 Sonotube
13 posts and associated lake-facing open-air covered
14 porch overhang addition. It's approximately
15 143 square feet of area within the 53 feet setback
16 of Lake Michigan bluff, closer than the current 86
17 feet calculated setback from the Lake Michigan
18 bluff affecting the following described real
19 estate:

20 It's in the Town of Port Washington.
21 It's part of the NW 1/4 of the SE 1/4 of Section
22 11. Tax Key number is 07-011-14-005.00. The site
23 address is 4236 High Point Beach Road, Port
24 Washington.

25 MR. STEINKE: This is one that we looked

1 at before--

2 MR. HOLSCHBACH: Right.

3 MR. STEINKE: --with the previous owner.

4 In fact, I think we granted the variance last time
5 and it was going to be more work than what is
6 required now, if I remember right, that they wanted
7 to make multiple additions to the house.

8 Okay. Who would like to present for the
9 owners?

10 MR. RHODES: I can start. James Rhodes,
11 owner of the house. So when we purchased the
12 house, as you mentioned, the former owners did go
13 through the process of getting the variance and
14 they were planning to put an addition of a dining
15 room off the back, as well as a covered porch
16 around the back and the side of the house.

17 Kind of the root cause of all of it is
18 the steps in the house. The house was built
19 sometime in between the '20s and the '40s, so the
20 access to the upstairs second floor is not safe,
21 but we have small children, obviously we want to be
22 able to use the upstairs portion of the house.

23 However, we did not want to add as much
24 on to the back of the house, so we came up with the
25 design with Rory to move the steps elsewhere, build

1 more up the front of the house, but we did want to
2 keep the back of the house for access to the lake
3 and keep the covered porch.

4 We essentially have to move the current
5 entrance to the back of the property from the house
6 based on where we're moving the steps to center the
7 door along the back wall, so we want to carry --
8 there's like an existing overhang but it's kind of
9 in the corner of where the two come together, so we
10 want to carry that across so that the new door out
11 to the back still has the overhang protection from
12 the roof.

13 MR. STEINKE: So you're saying the new
14 entrance is going to be to the back which is to the
15 road?

16 MR. MABEE: No, no, no. The entrance,
17 the -- call it lake access entrance from the back
18 of the house where we have to shift the steps, the
19 current door to get out from the back of the house
20 will now be wall, so we need to put a new door on
21 the back of the house which we want to center in
22 the wall, which means if we want to keep the
23 overhang we have to carry that further from where
24 the roofs are today, which means we need supports,
25 apparently, to do that.

1 MR. PALUBISKI: I'm Rory Palubiski with
2 Fein Design. I'm working with James and the
3 co-owners, and basically what James just said is
4 exactly on point, that the door has to get
5 relocated, and in order to create balance
6 architecturally on that rear elevation we centered
7 the door so we have a nice aesthetic there, and
8 then the existing overhang that they have now, I
9 can't just carry that all the way across without
10 some support, and then to be fair, it is facing the
11 lake so a little extra shelter, you know, to the
12 home would be a warranted design aspect anyway, so
13 we, in doing the design, we met with Ed Pfister
14 from the county to just get his feedback on what we
15 can or can't do, and he just said avoid the setback
16 wherever you can, or stay, you know, beyond the
17 setback, so the bulk of the addition that we're
18 doing is all within the setback. It's just these
19 three Sonotubes help carry that roof load is what
20 we're asking for.

21 MR. STEINKE: All right. Any discussion?
22 Any questions? The staff report, Andy?

23 MR. HOLSCHBACH: Do you want me to read
24 the staff report?

25 MR. STEINKE: Yes, please.

1 MR. HOLSCHBACH: Okay. I'll get right
2 into the Department findings:

3 * * *

4 STAFF REPORT:

5 Department Findings:

6 1. On May 8, 2019, this Board approved a
7 previous variance request to construct additions to
8 a legally-existing nonconforming structure located
9 53 feet from the top of the Lake Michigan bluff.

10 2. The subject property is a
11 legally-existing conforming lot, and the project as
12 proposed can only be constructed upon the issuance
13 of a variance by this Board.

14 3. The submitted bluff survey indicates a
15 minimum required bluff setback of 86 feet.

16 4. The submitted survey indicates that
17 the existing structure is located 53 feet from the
18 top of the Lake Michigan bluff.

19 5. The submitted report from Giles
20 Engineering Associates, Inc. indicates that the
21 previously-proposed building additions are not
22 considered to have an impact on the stability of
23 the Lake Michigan bluff at the site.

24 6. A comparison of the previous proposal
25 and today's application indicate less

1 excavation/grading impacts to the property, with
2 the current proposal placing the east-facing
3 addition (covered porch) on Sonotubes in lieu of a
4 full foundation. All other previously-approved
5 additions are no longer planned. All other related
6 structural expansion will be in compliance with the
7 required 86-foot Lake Michigan bluff setback.

8 7. Although this property has associated
9 regulatory floodplain of Lake Michigan, the project
10 area is outside the 100-year floodplain.

11 8. The proposed structure is not
12 concurrent to any mapped wetlands. The proposed
13 structural locations should cause no negligible
14 impact to wetland areas.

15 9. A properly-managed construction site
16 will pose no adverse impacts to wildlife habitat.

17 10. Historically, the footprint of the
18 current structure has remained unchanged since it
19 was constructed in 1941.

20 11. Prior to the construction of the
21 proposed structure, a shoreland permit will be
22 required.

23 12. The direction of this department is
24 to regulate impervious surface standards to protect
25 water quality and prevent pollution of navigable

1 waterways. The current and proposed
2 post-development impervious surface coverage will
3 be under 15%. No mitigation will be required under
4 Section 7.0600 of the County Shoreland and
5 Floodplain Zoning Ordinance. All future surveys
6 associated with this proposed project will indicate
7 post-construction impervious surface area.

8 13. Since this lot was created prior to
9 the effective date of any county ordinance, and the
10 bluff setback requirement was enacted at a later
11 date, it would appear that strict application of
12 this ordinance is limiting any eastward expansion
13 of the existing structure.

14 14. Because the proposed land use is
15 permitted within the zoning district, it would
16 appear that the development of this site is
17 consistent with neighboring properties.

18 15. Per Statute 59.692(4)(b), the
19 department (DNR) may not appeal a decision of the
20 county to grant or deny a variance under this
21 section, but may, upon the request of a county
22 board of adjustment, issue an opinion on whether a
23 variance should be granted or denied.

24 The department holds no opinion regarding
25 the issuance of a variance, provided that the Board

1 of Adjustment can validate the variance test.
2 Please see the attached handout, "Variances",
3 Chapter 15 of the Zoning Board Handbook, 2nd
4 Edition 2006, of which a copy is provided.

5 To qualify for a variance the applicant
6 must demonstrate:

- 7 1. Unnecessary hardship
- 8 2. Hardship due to unique property
9 limitations, and
- 10 3. No harm to public interests.

11 Should the Board decide to grant the
12 variance request to construct three small 12-foot
13 diameter by 48 Sonotube posts and associated
14 lake-facing open-air covered porch overhang
15 addition (143 square feet) to a legally-existing
16 nonconforming structure 53 feet from the Lake
17 Michigan bluff, the department requests the
18 following recommendations.

19 Staff Recommendations:

- 20 1. Follow the Proposed Residence
21 Additions section relating to site grades and
22 stormwater in the conclusions and recommendations
23 from the submitted Giles Engineering Associates,
24 Inc. report.
- 25 2. If applicable, erosion control

1 provisions at least as effective as those in
2 technical standards developed by the Wisconsin DNR
3 under subchapter V of Chapter NR 151, Wisconsin
4 Administrative Code, shall be installed immediately
5 downgrade from the project site to prevent sediment
6 delivery to the navigable waterways and keep soil
7 onsite. These controls must be maintained until
8 the soil is adequately revegetated or otherwise
9 protected to prevent erosion. Once the vegetation
10 is adequate to prevent erosion, the barriers shall
11 be removed.

12 3. Any variance or permit granted by the
13 Board of Adjustment shall expire within 180 days
14 after issuance unless substantial work has
15 commenced pursuant to such grant. The permit may
16 be extended for a maximum of 180 additional days
17 for good and sufficient cause. Variances and
18 permits granted by the Board shall run with the
19 life of the structure or use, provided the
20 construction authorized by the Board is completed
21 while the variance or permit is still valid.

22 4. Upon completion of the project, the
23 variance shall be recorded by the zoning
24 administrator with the register of deeds, with the
25 recording fee to be paid by the applicant.

1 5. All required state, federal and local
2 permits must be acquired before the start of the
3 project.

4 6. Any significant changes and/or
5 revisions to the proposed project must be
6 resubmitted to the Board of Adjustment for review
7 and approval before being implemented.

8 Both the Board and the applicant must be
9 aware that if the variance is approved, an appeal
10 period extends for 30 days from the date of this
11 hearing. During that period, any interested party
12 can appeal the decision, either approved or denied,
13 to the circuit court. No permit or authorization
14 of work will be issued by this department until the
15 appeal period has expired. End of report.

16 * * *

17 MR. STEINKE: Thank you. Any discussion?
18 If we approve this, it will be subject to the staff
19 recommendations. Any problem with any of that?

20 MR. PALUBISKI: I don't see any problem.

21 MR. STEINKE: Anybody--

22 MR. CASTNER: Phil--

23 MR. STEINKE: Yes, Stephen?

24 MR. CASTNER: The sole basis here is the
25 bluff setback; is that correct?

1 MR. HOLSCHBACH: Yes.

2 MR. STEINKE: Yes.

3 MR. CASTNER: And is there any basis to
4 believe that construction of the Sonotubes would
5 impair the stability of the bluff?

6 MR. HOLSCHBACH: The Giles report stated
7 they felt that any -- that the construction that
8 they're proposing will not have a negative impact
9 on the bluff.

10 MR. CASTNER: Thank you.

11 MR. HOLSCHBACH: Mr. Chairman, one item
12 is the three hardship -- those three variance items
13 that we have to--

14 MR. STEINKE: Address and put that into
15 the record?

16 MR. HOLSCHBACH: Yeah.

17 MR. STEINKE: We have to, if we grant a
18 variance, we have to go with the hardship and we
19 have to decide 1, 2 or 3.

20 3 is no harm to public interests, which
21 is pretty easy to say that this doesn't -- it's not
22 going to affect any other landowners.

23 No. 1 or No. 2, hardship -- unnecessary
24 hardship or, No. 2, hardship due to unique property
25 limitations. By the looks of it, No. 2, because it

1 was built in 1941 before we established a setback,
2 it was built originally too close to the lake to
3 start with, so there's no way to correct that
4 situation.

5 Stephen, what's your thought on that?

6 MR. CASTNER: Well, that's correct. It's
7 an existing condition. It's nonconforming in
8 essence. I don't believe that addition of the
9 Sonotubes would materially change the vulnerability
10 of the structure to bluff collapse. If the bluff
11 is going to continue to erode east to west, the
12 Sonotubes are not going to make any difference.

13 MR. STEINKE: We just have to have a
14 basis based on one of the three hardship
15 qualifications to justify our granting of the
16 variance. I would think No. 2 applies, hardship
17 due to unique property limitations.

18 MR. CASTNER: I think so.

19 MR. STEINKE: Is there anybody that would
20 disagree on the board? All right. That can be
21 entered into the record that we think it's No. 2.

22 MR. HOLSCHBACH: Well, you have to have
23 all three.

24 MR. STEINKE: All three? Okay. Well,
25 unnecessary hardship. Is that the zoning issue?

1 MR. HOLSCHBACH: Unnecessary hardship is
2 usually the most difficult item.

3 MR. STEINKE: Because you don't need the
4 Sonotubes, but for them to move the steps, though,
5 inside and get the door in the correct place, I
6 guess that is an unnecessary hardship if they want
7 to correct the steps.

8 MR. RHODES: The previous variance, the
9 hardship claimed was that moving the steps was the
10 hardship and figuring out what construction could
11 be done to appropriately move the steps.

12 I think we took the approach of we still
13 want to do that, but we also wanted to limit the
14 construction towards the lake, and so our approach
15 is a little different with how we're moving the
16 steps, but it does require us to move the door and
17 the problem is how we carry the roof, so the
18 genesis is still the same hardship. We need the
19 steps to be accessible.

20 MR. STEINKE: And then they will meet
21 code then?

22 MR. RHODES: Yes.

23 MR. STEINKE: And now they don't meet
24 code?

25 MR. PALUBISKI: Not even close. They're

1 a danger actually.

2 MR. CASTNER: Mr. Chairman, I think that
3 it's a close call in the sense that this is simply
4 a request for enlargement of the structure, so it's
5 a matter -- to a great extent a matter of
6 convenience, and that's really the -- seems to me
7 to be the tipping point on this, but it's a
8 minor -- it's a minor matter in terms of impact, so
9 I think that helps balance out the consideration
10 there.

11 MR. STEINKE: Thanks, Steve. All right.
12 Do you think that qualifies?

13 MR. HOLSCHBACH: Well, it's really your
14 interpretation.

15 MR. STEINKE: I would say -- I mean if
16 it -- it's very minor what they're asking to do
17 compared to the last go-around, which was a more
18 major addition to the front of the house.

19 The problem is we do have to satisfy
20 those three claims in the -- to give the variance.
21 No public harm's not a problem. Hardship due to
22 unique limitations, which is setback, is no problem
23 because it was established before that.
24 Unnecessary hardship, because it's so minor, I
25 would think that the stairs would qualify.

1 If you were coming in with a larger
2 addition and you claim the stairs and you needed a
3 20-foot addition to the front, I would see where
4 that would be a problem because the stairs don't
5 take up that much space.

6 Any members of the Board disagree?

7 MR. CASTNER: I agree.

8 MR. STEINKE: So we agree that the
9 hardship will be that they need to move the steps
10 and make them code compliant for the unnecessary
11 hardship.

12 If there's no other discussion or
13 questions, I'll entertain a motion to approve
14 subject to the staff recommendations.

15 Do you want anything else added in there,
16 Andy?

17 MR. HOLSCHBACH: No.

18 MR. STEINKE: Does anybody want to make a
19 motion to approve, or any kind of motion at all?
20 Or is there any further discussion you'd like to
21 have?

22 MR. CASTNER: I'll move for approval
23 subject to the conditions in the staff report.

24 MR. STEINKE: I have a motion. Do I have
25 a second?

1 MR. KOEPPEN: I'll second.

2 MR. STEINKE: I have a motion and a
3 second. Any further discussion? All in favor
4 signify by saying aye.

5 (Vote taken.)

6 MR. STEINKE: Opposed? Motion carried.

7 MR. PALUBISKI: Beautiful. Thank you
8 very much.

9 MR. STEINKE: You're welcome.

10 Next is Item 2 on the agenda. Andy,
11 would you like to read the request for that?

12 MR. HOLSCHBACH: Yes. The applicants, I
13 think it would be best if they--

14 MR. STEINKE: Come up here?

15 MR. HOLSCHBACH: Sure. So the request is
16 for a variance to Section 7.0306 of the Ozaukee
17 County Shoreland and Floodplain Zoning Ordinance by
18 Matthew and Shelly Mabee, owners, to construct an
19 attached garage, wood deck, screened porch,
20 residential addition, and an above-ground pool
21 closer than 75 feet from the ordinary high water
22 mark of a navigable stream.

23 It's affecting the following described
24 real estate: It's in the Town of Cedarburg. It's
25 in the NW 1/4 of the NW 1/4 of Section 15. Tax Key

1 number is 03-015-06-012.00. The address is 7494
2 Devonshire Drive, Cedarburg, and we have Shelly and
3 Matthew Mabee here this morning.

4 MR. STEINKE: Thank you. This is also
5 one we looked at last time. Remember? They wanted
6 to put I believe a freestanding garage off to the
7 side of the existing garage. If I remember right,
8 there was a big tree there, and now they've come
9 back with a different plan which has an addition on
10 the house off to the other side of the garage
11 where -- and a deck, a screened porch and a deck,
12 and then they have an above-ground pool. Looks
13 like also -- is that going to be a new concrete
14 patio?

15 MR. MABEE: Yeah, there is an existing
16 concrete patio in that area.

17 MR. STEINKE: So they'll just modify the
18 patio report to fit whatever they put in there.

19 MR. MABEE: Right.

20 MR. STEINKE: Why don't you -- I suppose
21 we should start with the staff report.

22 MR. HOLSCHBACH: Okay. I can read the
23 report. I'll start with the department findings.

24 * * *

25 STAFF REPORT:

1 On May 8, 2019, this Board denied a
2 previous variance request to allow the construction
3 of a detached garage 32 feet by 36 feet, 25 feet
4 from the ordinary high water mark of an unnamed
5 navigable tributary to Cedar Creek.

6 1. The subject property is a
7 legally-existing conforming lot, and the project as
8 proposed can only be constructed upon the issuance
9 of a variance by this Board.

10 2. The navigability of the unnamed
11 tributary to Cedar Creek was confirmed by Kathi
12 Kramasz, Wisconsin Department of Natural Resources
13 Water Management Specialist, on April 23, 2014.

14 3. There is a floodplain associated with
15 both Cedar Creek and this unnamed tributary
16 affecting the property.

17 4. Although most of the proposed
18 structures will be outside the 100-year floodplain,
19 the proposed above-ground pool will be partially
20 located within the regulatory floodplain area of
21 Cedar Creek.

22 5. Prior to the construction of the
23 proposed above-ground pool, a shoreland permit
24 would be required to create a fill pad partially
25 within the regulatory floodplain area of Cedar

1 Creek.

2 6. The existing septic system serving the
3 property is located within the 100-year floodplain
4 of Cedar Creek.

5 And I just want to make a note here. We
6 have a survey that was submitted to our department,
7 and the surveyor actually took the delineation line
8 that's on our zoning map. However, the floodplain
9 is actually subject to an elevation, so we would
10 want to verify the floodplain location by a survey.

11 MR. STEINKE: So you're saying that may
12 or may not be all in or all out.

13 MR. HOLSCHBACH: Right.

14 MR. STEINKE: Okay.

15 MR. HOLSCHBACH: So I'll just start with
16 that one again.

17 6. The existing septic system serving the
18 property is located possibly within the 100-year
19 floodplain of Cedar Creek and, if it is, it's a
20 violation of Chapter 9, Ozaukee County Sanitation &
21 Health Ordinance, and SPS 383, Wisconsin
22 Administrative Code. The continued use of this
23 system shall be abated by action of this
24 department.

25 7. The proposed structure is not

1 concurrent to any mapped wetlands. The proposed
2 structural location should cause no negligible
3 impact to wetland areas.

4 8. A properly managed construction site
5 will pose no adverse impacts to wildlife habitat.

6 9. The direction of this department is to
7 regulate impervious surface standards to protect
8 water quality and prevent pollution of navigable
9 waterways. The current and proposed
10 post-development impervious surface coverage will
11 be at under 15%. No mitigation action will be
12 required under Section 7.0600 of the County
13 Shoreland and Floodplain Zoning Ordinance. All
14 future surveys associated with this proposed
15 project will indicate post-construction impervious
16 surface area.

17 10. Per Section 7.0306B.4.(d) of the
18 Ozaukee County Shoreland and Floodplain Zoning
19 Ordinance, the approval of this variance will allow
20 an exceedance in the total floor area of all
21 structures permissible in the shoreland setback
22 area of the lot. The property currently has or
23 exceeds the maximum of 200 square feet of total
24 floor area allowed within the shoreland setback
25 area.

1 So I just want to stop there and just
2 mention that the variance request today is for the
3 setback to the navigable stream as well as to
4 exceed the 200 square feet within that 75-foot
5 setback area being closer to the stream.

6 11. A staff observation of the property
7 indicates that an unpermitted structure -- it's an
8 elevated tree house 12 feet by 12 feet with access
9 stairs -- has been constructed within the floodway
10 of Cedar Creek. This is a violation of Chapter 7,
11 Ozaukee County Shoreland and Floodplain Ordinance,
12 and NR 116, Wisconsin Floodplain Management
13 Program. The continued existence of this structure
14 shall be abated by action of this department.

15 12. Accessory structures do not appear to
16 be necessary to provide a reasonable use for this
17 property. An after-the-fact zoning permit for an
18 accessory structure, detached shed 10.2 by 14.1,
19 was issued by this department on December 2, 2014.
20 An attached garage already serves the property.

21 13. Historically, the residence and
22 attached garage have served this property since it
23 was constructed in 1977.

24 14. Since this lot was created prior to
25 the effective date of any county ordinance and the

1 navigability to the unnamed tributary to Cedar
2 Creek was determined at a later date, it would
3 appear that strict application of the ordinance is
4 limiting on the additional development of the
5 property. Although the lot was created as a
6 residential building site, the initial structural
7 placement impedes additional improvement. The lot
8 cannot be further developed in accordance with town
9 and county standards due to restrictive building
10 setbacks and developable area remaining on the
11 property.

12 15. Because the proposed land use is
13 permitted within the zoning district, it would
14 appear that the development of this site is
15 consistent with neighboring properties.

16 16. Per Statute 59.692(4)(b), the
17 department (DNR) may not appeal a decision of the
18 county to grant or deny a variance under this
19 section, but may, upon the request of a county
20 board of adjustment, issue an opinion on whether a
21 variance should be granted or denied.

22 And I do have a letter from the Wisconsin
23 DNR which they asked me to read into the record.

24 MR. STEINKE: Okay.

25 MR. HOLSCHBACH: The department holds no

1 opinion regarding the issuance of a variance
2 provided that the Board of Adjustment can validate
3 the variance test. Please see the attached
4 handout, "Variances", Chapter 15 of the Zoning
5 Board Handbook, 2nd Edition 2006, of which a copy
6 is provided.

7 To qualify for a variance the applicant
8 must demonstrate:

- 9 1. Unnecessary hardship
- 10 2. Hardship due to unique property
11 limitations, and
- 12 3. No harm to public interests.

13 Should the Board decide to grant the
14 variance request to construct a residential
15 addition, attached garage, screened porch, and wood
16 deck 53 feet from the ordinary high water mark of
17 an unnamed navigable tributary to Cedar Creek and
18 to construct an above-ground pool 42 feet from the
19 ordinary high water mark of the same unnamed
20 navigable tributary to Cedar Creek, the department
21 recommends the following:

22 Staff Recommendations:

- 23 1. The open-sided and screened structures
24 associated with this project, screened porch and
25 wood deck, shall meet the following requirements of

1 Section 7.0306B.4 of the Ozaukee County Shoreland
2 and Floodplain Zoning Ordinance:

3 a) The open-sided and screened structures
4 shall be located so as to minimize earth-disturbing
5 activities and shoreland vegetation removal during
6 construction.

7 b) The open-sided and screened structures
8 shall be visually inconspicuous and screened by
9 vegetation as viewed from adjacent navigable waters
10 and public thoroughfares.

11 c) The part of the open-sided and
12 screened structure that is nearest to the water
13 shall be located at least 35 feet landward from the
14 ordinary high water mark.

15 d) The total floor area of all structures
16 in the shoreland setback area of the lot, including
17 the open-sided and screened structures, shall not
18 exceed 200 square feet. Boathouses shall be
19 excluded from this calculation (not applicable upon
20 issuance of the variance request.)

21 e) The patio or deck shall have no sides
22 or shall have open or screened sides.

23 f) The landowner shall submit a plan to
24 the zoning administrator to preserve or establish a
25 vegetative buffer area that covers at least 70% of

1 the half of the shoreland setback area that is
2 nearest to the water.

3 g) The top surface of the floor of the
4 patio or deck shall not exceed a height of six
5 inches above the lowest adjacent grade.

6 h) A shoreland permit and approval of the
7 vegetative buffer plan required under paragraph f)
8 above is required prior to construction.

9 2. If applicable, erosion control
10 provisions at least as effective as those in
11 technical standards developed by the Wisconsin DNR
12 under subchapter V of NR 151, Wisconsin
13 Administrative Code, shall be installed immediately
14 downgrade from the project site to prevent sediment
15 delivery to the navigable waterways and keep soil
16 onsite. These controls must be maintained until
17 the soil is adequately revegetated or otherwise
18 protected to prevent erosion. Once the vegetation
19 is adequate to prevent erosion, the barriers shall
20 be removed.

21 3. Any variance or permit granted by the
22 Board of Adjustment shall expire within 180 days
23 after issuance unless substantial work has
24 commenced pursuant to such grant. The permit may
25 be extended for a maximum of 180 additional days

1 for good and sufficient cause. Variances and
2 permits granted by the Board shall run with the
3 life of the structure or use, provided the
4 construction authorized by the Board is completed
5 while the variance or permit is still valid.

6 4. Upon completion of the project, the
7 variance shall be recorded by the zoning
8 administrator with the register of deeds, with the
9 recording fee to be paid by the applicant.

10 5. All required state, federal and local
11 permits must be acquired before the start of the
12 project.

13 6. Any significant changes and/or
14 revisions to the proposed project must be
15 resubmitted to the Board of Adjustment for review
16 and approval before being implemented.

17 Both the Board and the applicant must be
18 aware that if the variance is approved, an appeal
19 period extends for 30 days from the date of this
20 hearing. During that period, any interested party
21 can appeal the decision, either approved or denied,
22 to the circuit court. No permit or authorization
23 of work will be issued by this department until the
24 appeal period has expired.

25 * * *

1 MR. HOLSCHBACH: And I think it would be
2 appropriate for me to read--

3 MR. STEINKE: DNR letter?

4 MR. HOLSCHBACH: Yeah. So I have a
5 letter from Kathi Kramasz, Wisconsin DNR. She's
6 the Water Management Specialist.

7 "Dear Board Members:

8 The Department of Natural Resources has
9 received the notice for the March 10, 2021 public
10 hearing concerning the variance request submitted
11 for the property owned by Matthew and Shelly Mabee.
12 The variance request is to construct an attached
13 garage and addition that will be 53 feet from the
14 ordinary high water mark, and a new screen porch,
15 hot tub, deck and pool that will be less than 43
16 feet from the ordinary high water mark of a
17 navigable Cedar Creek tributary.

18 As the Board reviews these variance
19 requests, please keep in mind that the applicant
20 has the burden of proving that their application
21 meets all of the statutory requirements for the
22 granting of a variance for each variance request.
23 That is, the applicant must prove that they will
24 suffer unnecessary hardship if the provisions in
25 the county's shoreland zoning ordinance are

1 literally enforced. The Wisconsin Supreme Court
2 has made it clear that proof of unnecessary
3 hardship by itself does not entitle an applicant to
4 a variance.

5 All of the statutory variance criteria
6 must be satisfied in order to grant a variance.

7 They are:

8 Unique physical limitations: The
9 applicant must demonstrate that unique physical
10 limitations (wetlands, steep slopes, streams, rock
11 outcroppings) or special conditions of the property
12 exist that prevent compliance with ordinance
13 regulations. The physical limitations must be
14 unique to the property in question and not
15 generally shared by other properties in the area.
16 When determining if compliance is prevented, the
17 whole parcel must be considered. There is adequate
18 space on the lot to add a garage and additional
19 living area, and even a pool, in a complaint
20 location. Although the presence of the tributary
21 stream is not shared by all the other nearby lots,
22 it is shared by the easterly lot so is not
23 necessarily "unique". The presence of the
24 floodplain adjacent to Cedar Creek is shared by all
25 the neighboring lots. During the discussion on the

1 previous variance request for a detached garage at
2 this same site, there was discussion that the Board
3 had difficulty identifying a unique feature of the
4 property. The presence of the waterway and the
5 location of the existing structure meeting the
6 75-foot setback was specifically discussed, and the
7 BOA found that was not a physical property
8 limitation. Here is a quote from those meeting
9 minutes:

10 'Ms. Tomter: Should that house have been
11 built so close to the lake? No, probably not, but
12 it was and it's done, and that's the same thing
13 with your house so, you know, the garage thing is
14 an issue on variances and that's just in the
15 rulings and I don't know how we get past that.'

16 No harm to public interests: The
17 applicant must demonstrate that variance will not
18 result in harm or be contrary to public interests.
19 The Board must consider the impacts of the proposed
20 project as well as the cumulative impacts of
21 similar projects on the interests of the neighbors,
22 the community, and the general public. These
23 interests are listed in the purpose statement of
24 the ordinance and, for shoreland zoning, include
25 protection of public health, safety and welfare,

1 maintenance of clean water, protection of fish and
2 wildlife habitat, and preservation of natural
3 scenic beauty. There is a significant amount of
4 science that a 75-foot setback is needed to
5 maintain a healthy waterway. Allowing a new
6 structure to be built in the 75-foot setback area
7 can be detrimental to the public natural resources
8 of the river. Cumulative impacts of new structures
9 closer and closer to the waterway can have a
10 detrimental impact on fisheries, water quality,
11 natural scenic beauty, etc. Studies have shown
12 that adding impervious surfaces within the 75-foot
13 setback can impact the type of fish that are found
14 in the waterway by increasing the input of warmer
15 water and also nutrients in suspended sediment in
16 stormwater runoff. The impacts to the tributary
17 stream can also impact Cedar Creek itself.

18 Unnecessary hardship: The applicant must
19 demonstrate that if the variance is not granted, an
20 unnecessary hardship exists. The applicant may not
21 claim unnecessary hardship because of conditions
22 which are self-imposed or created by a prior owner
23 (for example, building a home in compliance and
24 then subsequently constructing a deck without a
25 permit.) When determining whether unnecessary

1 hardship exists, the Board must consider the
2 property as a whole rather than just a portion of
3 the parcel. The existing structure meets the
4 75-foot setback and the applicant is proposing to
5 more than double the size of the existing structure
6 with the entire proposed addition falling into the
7 75-foot setback. There is room on this lot to
8 build the proposed addition and garage in a
9 compliant location. The deck and pool and other
10 non-living areas can be placed in the flood fringe
11 area and still meet the 75-foot setback to the
12 creek and to Cedar Creek. It appears that most, if
13 not all, of what is being proposed can be done by
14 modifying the location of the proposed work.

15 In addition, a variance should be for the
16 minimal relief necessary. There are very few cases
17 where it is unnecessarily burdensome to require a
18 swimming pool, hot tub, covered deck and screened
19 porch to be located outside of the 75-foot setback
20 area. There was also a discussion at the previous
21 hearing about the fact that the proposed garage is
22 a second garage and workshop:

23 'Mr. Steinke: Since the house already
24 has a garage, they're having a hard time -- we're
25 having a hard time. If the house didn't have any

1 garage to start with it would be easier for a
2 hardship, but because you're using it for an
3 auxiliary structure and you're storing a boat in
4 it, it doesn't make it -- you storing your boat is
5 not a hardship to the situation.'

6 It is the responsibility of the Board of
7 Adjustment to assure that the statutory standards
8 for the granting of a variance are met. It may be
9 possible that the applicant will provide additional
10 evidence at the hearing which may change the
11 conclusions listed above. The standards help to
12 ensure protection of the public interest, including
13 the preservation of water quality and fish and
14 wildlife habitat along lakes and rivers.
15 Wisconsin's navigable waterways are held in trust
16 for all people to enjoy. The shoreland setback is
17 important to protect the water quality, natural
18 scenic beauty and the fish and wildlife habitat of
19 Wisconsin's waterways. The Department appreciates
20 your commitment to Ozaukee County's water resources
21 and protection of public interests for future
22 generations.

23 Sincerely, Kathi Kramasz, Water
24 Management Specialist, with the Wisconsin DNR."

25 MR. STEINKE: Thank you, Andy. All

1 right. Has everybody had a chance to look at the
2 plans too? We'll open it up for discussion. Or
3 rather, would you like to add anything to the
4 letters, and they're pretty self-explanatory.

5 I'm asking the homeowners if they'd like
6 to add to it, or who's representing -- you're both
7 the homeowners?

8 MR. MABEE: Yes.

9 MR. STEINKE: Okay.

10 MR. MABEE: Yes, I'd like to. My name is
11 Matthew Mabee. I'm the owner. There is a line
12 that is on the plans that was mentioned in the DNR
13 that the house is outside of the 75-foot setback
14 line, and it is -- there is a portion of the
15 structure that is already within the 75-foot--

16 MR. STEINKE: Back corner of the garage.

17 MR. MABEE: Yes, correct.

18 MR. STEINKE: So it's already--

19 MR. MABEE: Noncompliant. The -- The --
20 I talked to Andy on Monday about we got the letter
21 from the county about the septic system and that it
22 is a nonconforming or it needs to be abated, and
23 once the elevational survey, and we can determine
24 the exact location of the floodplain, that we
25 were -- the proposed above-ground pool is at a

1 location with concern about the setback of the
2 existing septic system that is already there, but
3 if that has to be abated, I can move the
4 above-ground pool into a location that would be
5 outside of the floodplain so then the whole
6 structure would be outside of the floodplain.

7 That's the only thing that I can add to
8 what was already discussed.

9 MR. STEINKE: Go ahead.

10 MRS. MABEE: My name is Shelly Mabee. I
11 would add that the majority of the proposed
12 structure would be constructed in a place where
13 there's already impervious surface.

14 We have a pretty large blacktop driveway,
15 and the largest part of the structure would be on
16 top of that surface. There's going to be a limited
17 amount of fill with this project.

18 Part of the argument for declining our
19 previous request was the large amount of fill that
20 would be required to put a garage in place where we
21 were proposing it. That's not the case with this.
22 We plan to utilize as much as we can, the pad that
23 the house is constructed on and the driveway, and
24 while there is an existing garage with the house,
25 planning long-term for us to be able to occupy this

1 property, we want to ensure we have a first-floor
2 laundry, first floor office space due to working
3 from home with a changing world with the pandemic,
4 so really we'd be converting an existing garage
5 space and living space and then adding on the
6 garage.

7 MR. STEINKE: Thank you. Did you look at
8 any alternatives on the site itself, like adding to
9 the front of the house where it would not require
10 this? It would be outside of the 75-foot.

11 MR. MABEE: So we have a well location
12 that is just to the south of -- from the front of
13 the house it's -- there's a small little circle.
14 If you're looking at drawing A-102, it's right by
15 where--

16 MR. STEINKE: It's really light on this
17 one. I think that says well.

18 MR. MABEE: So it's -- there's
19 requirements about setback issues about the well,
20 so we did draw some drawings in that location, but
21 there is a slope in that location so the amount of
22 excavation that was going to occur in that location
23 would be far greater than the amount of excavation
24 for it. It would just be replacing the existing
25 asphalt with a concrete pad and foundation so that

1 we can build the structure on top of that, so we
2 would be adding impervious surface to the site when
3 we would think it would be located in a different
4 location.

5 MR. STEINKE: Any comments from the
6 Board? Any questions?

7 MR. HUBING: All right. I'm looking at
8 the floor -- first floor plan, A-102 page, and on
9 the -- I'm looking at the cross-section, No. 1, and
10 then it's got a line A-103, so if I go to that
11 A-103, No. 1, I see what's going on there.

12 That's not problem, but why wasn't there
13 a cross-section taken -- I want to say farther
14 towards the pool to show me the elevation of the
15 proposed wood deck and the pool and how it affects
16 the land, the curvature of the land, I guess. I
17 don't see any cross-section that shows me the pool
18 and the wood deck, so to speak.

19 Did I make myself clear a little bit, or
20 anybody got a question on what I'm asking?

21 MR. STEINKE: Andy kind of addressed some
22 of that; the deck can't be more than a certain
23 height above the existing elevation in his staff
24 report. It's got to be -- I think you said six
25 inches?

1 MR. HOLSCHBACH: Six inches.

2 MR. MABEE: So the -- you can see in the
3 Section 1 that you were describing, the deck is --
4 you can see the deck line right in front of the
5 screened porch?

6 MR. HOLSCHBACH: Which one?

7 MR. MABEE: On Drawing A-103, the lower
8 section, Section 1. You can't see the pool. The
9 pool, I didn't cut the section in that location
10 because I wanted to show the deck because the pool
11 actually is a little bit lower than the deck, and
12 then the -- so that deck is almost right with grade
13 there, so there would be little to no disturbance
14 of that soil to maintain the waterway so water can
15 drain at that location, and to the -- on -- if you
16 look at the first drawing, A-101, you can see where
17 the pool location is, and then straight to the
18 north of it, that that is very, very, very flat
19 right there with very little slope, and all these
20 lines, I did a scan of the property, a complete 3-D
21 scan of the property, so those elevational lines
22 are correct, but I don't have the elevational
23 information from the surveyor to lock in my scanned
24 data with that elevation, so -- but those grade
25 lines are correct, so you can see that there's very

1 little slope, so I didn't feel that it was
2 necessary to show you that the pool was just
3 sitting on a flat plane, to answer your question,
4 Bob.

5 MR. STEINKE: And just so you understand,
6 to prove hardship for a swimming pool is going to
7 be -- I mean really hard to do. There's no
8 hardship that says you have to have a swimming
9 pool.

10 MRS. MABEE: And as he said, though, the
11 location of that, now knowing that, is very
12 flexible and it's likely that we can move that
13 outside of the 75-foot setback.

14 MR. MABEE: Correct. And we just found
15 that -- like I would have designed it differently
16 knowing that information that Andy shared with me
17 on Monday. Or I got the letter on Friday this last
18 week, so I would have adjusted the pool so you guys
19 could have seen a new drawing of that.

20 MR. HOLSCHBACH: Certainly the pool can
21 be moved outside. If you are in a floodplain it
22 can be moved outside, and you mentioned that
23 there's another location that would work.

24 I think it's important that, you know, we
25 go through the three items; what is the hardship,

1 what are the unique property limitations, and what
2 is the, you know, no harm to public interest.
3 Those are the three items that I think we really
4 have to focus in on.

5 MR. STEINKE: Yeah.

6 MR. HOLSCHBACH: Can I just mention that
7 Ed Pfister from our department is also here, and if
8 Ed has any comments or anything, questions or
9 anything.

10 MR. PFISTER: Just getting back to the
11 pool, if it's not located outside of the
12 floodplain, the floor of the pool has to be at or
13 above the floodplain elevation, so I don't know how
14 that would impact your cross-section.

15 MR. STEINKE: And there's adequate site
16 because of the septic to put a -- I would assume a
17 mound system someplace else on the property.

18 MR. HOLSCHBACH: Well, in my opinion, I
19 think that's maybe a little debatable too with a
20 siting amount on that property. It may potentially
21 be a holding tank. We had talked about that as
22 well.

23 MR. STEINKE: But what I'm saying is
24 we're not going to cause any negative impacting by
25 looking at this location for a septic system.

1 MR. HOLSCHBACH: No, I don't believe so,
2 not where this is.

3 MR. STEINKE: Not where this is located.

4 MR. HOLSCHBACH: And the slopes and
5 everything don't work.

6 MR. STEINKE: Okay. All right. Let's go
7 to the three points that we have to justify for the
8 variance.

9 The easiest one is no public harm, so it
10 doesn't interfere with a navigable waterway and you
11 got shielding for anybody in the back, vegetation
12 requirements and stuff.

13 MR. HOLSCHBACH: Right.

14 MR. STEINKE: So that doesn't seem to be
15 too difficult.

16 Hardship due to property limitations.
17 I'd be interested in some feedback on that. I mean
18 the lot is huge. There's a lot of front yard. The
19 setback, I don't know what's required from the
20 town, but you got a hundred -- over 175 feet of
21 front yard.

22 Any board members have anything --
23 comments on the -- that we're going to encroach on
24 the 75-foot setback area and there's a huge front
25 yard on this?

1 MR. KOEPPEN: I guess I'd like to make a
2 comment on that. The people that owned this
3 property previously, their son worked for me, and
4 there was a flood situation. Covered Bridge Park
5 was flooded. The picnic tables from Covered Bridge
6 Park ended up on their property, so I think it's
7 important that we really look at this floodplain
8 thing, because I've seen what's going on here.

9 It has flooded. I don't know if you
10 bought this from those people or not, but their
11 last name was Cameron.

12 MR. HOLSCHBACH: Yes.

13 MR. KOEPPEN: Okay. And I know it was
14 probably because their son that worked for me had
15 to call the county to haul the picnic tables away,
16 so I think we've got to be really cautious of
17 what's going on here around this property.

18 MRS. MABEE: Sure.

19 MR. KOEPPEN: That would be I guess it.

20 MR. CASTNER: I'm getting a lot of reverb
21 so it's a little hard to understand, so if I'm
22 repetitious here, I apologize.

23 I think that the letter from Kathi
24 Kramasz effectively makes the case against the
25 application. There's a lot of material in there.

1 She's done her homework, and I don't take any
2 exception to anything that she says.

3 Additionally, I don't believe that
4 there's a situation of unique property limitations
5 here, because the application itself states need
6 for more living space for parents and additional
7 living space, larger garage and so forth.

8 Those are all contrary to the
9 requirements for meeting the unique property
10 limitations, so it's circumstances of the applicant
11 rather than unique to the property, and for those
12 reasons also, you know, I don't see a hardship
13 here, so what I don't understand really is the
14 Board previously denied the application of the
15 garage and now we have an application for, you
16 know, a mega project compared to the previous one.
17 It just doesn't -- just doesn't meet the
18 requirement, so that's my summary.

19 MR. STEINKE: Thank you. Any other
20 comments?

21 MR. HUBING: I think I really agree with
22 what you just said. I find this a little -- I can
23 remember when we did this site survey out there and
24 we actually walked around and we couldn't
25 understand why -- or what he was doing there, and

1 now we've got this again, and I have to agree with
2 him. I don't think we should approve it at all.

3 MR. STEINKE: I think the DNR made that
4 quite clear that this isn't a minor infringement;
5 this is a major encroachment on the 75-foot setback
6 area from the floodplain, and it's really hard to
7 make -- if your lot was smaller to the front, you
8 have plenty buildable space on this property. It's
9 just that you want to do it in that area and,
10 unfortunately, people, when they built the house,
11 put it that close to the 75-foot setback point, so
12 we can't make a hardship case when you have all
13 this land, even though it's not where you want it
14 to be.

15 MR. CASTNER: Mr. Chairman? Just one
16 other point. Keep in mind that every decision that
17 this Board makes sets a precedent, and I think all
18 we have to do is look at what kind of precedent
19 this would set if we approved the application in
20 terms of what would somebody wanting to build a
21 mega house on Lake Michigan say.

22 I think it would be the kind of precedent
23 that would be -- perhaps by a well-researched
24 applicant would be cited in the future to allow all
25 kinds of impermissible construction, so I think for

1 that reason it should also be denied.

2 MR. STEINKE: Point well taken. Thank
3 you, Stephen. Any further discussion? Or any
4 comments from the county on anything else?

5 MR. HOLSCHBACH: No.

6 MR. STEINKE: Okay. Then I'll call for a
7 motion either to approve or deny. Would someone
8 like to make a motion?

9 MR. CASTNER: I'll move that the
10 application be denied.

11 MR. STEINKE: Is there a second on the
12 motion?

13 MR. HUBING: I'll second it.

14 MR. STEINKE: It's been moved and
15 seconded. Any further discussion? All in favor
16 signify by saying aye.

17 (Vote taken.)

18 MR. STEINKE: Opposed? Motion denied.
19 Thank you for your time.

20 We'll go back to our agenda. Item C on
21 the agenda, approval of May 8, 2019 minutes.

22 MR. HOLSCHBACH: It's a while ago.

23 MR. STEINKE: Yeah. I read them. I
24 can't even remember them any more. I did read
25 them. I didn't have any problems. Does anybody

1 have any problems with the minutes?

2 MR. KOEPPEN: I never got them.

3 MR. STEINKE: Well, you wouldn't have
4 been here.

5 MR. HOLSCHBACH: It's actually a
6 document that -- I should have scanned them for
7 you.

8 MR. STEINKE: Okay. Any discussion? Any
9 motion to approve minutes? Somebody want to make a
10 motion?

11 MR. CASTNER: So move.

12 MR. STEINKE: Is there a second?

13 MR. HUBING: Second.

14 MR. STEINKE: Moved and seconded. All in
15 favor signify by saying aye.

16 (Vote taken.)

17 MR. STEINKE: Opposed? Motion carried.

18 Item D, Board of Adjustment member term
19 expirations and continued service. Andy?

20 MR. HOLSCHBACH: Yeah. I wanted to
21 mention that Phil's term expires, and Steve, your
22 term is also expiring, and I'm hoping -- It's a
23 two-year term. I'm hoping you're willing to take
24 another term. You're a valuable Board of
25 Adjustment member. I did talk with Phil already

1 and he stated he would continue on for another two
2 years, so not to put any pressure on you, but we're
3 hoping you stay on for another two years.

4 MR. STEINKE: And you're on TV.

5 MR. HOLSCHBACH: And if you need to think
6 about it, you certainly can.

7 MR. CASTNER: Let's do that, think about
8 it.

9 MR. STEINKE: And you'll be in touch with
10 Andy and take care of that then, Stephen?

11 MR. CASTNER: Correct.

12 MR. STEINKE: Okay. Thank you.

13 MR. CASTNER: I'm holding out for the
14 pension.

15 MR. STEINKE: Item E, Communications and
16 miscellaneous. Andy, do you have anything?

17 MR. HOLSCHBACH: I do not have any
18 additional information. I don't know, Ed, if you
19 have any updates on anything?

20 MR. PFISTER: No.

21 MR. HOLSCHBACH: So no, nothing further.

22 MR. STEINKE: And you will follow up now
23 with these people we just talked to about the
24 septic and the tree house and all this?

25 MR. HOLSCHBACH: Right. Your point is

1 well taken regarding the floodplain as well. Thank
2 you.

3 MR. STEINKE: Plus, I don't know, I
4 should have introduced you at the beginning of this
5 meeting, our new board member. Why don't you
6 introduce yourself.

7 MR. KOEPPEN: My name is Bill Koeppen. I
8 live in the Town of Fredonia. Most of my life was
9 in Cedarburg. My wife was a 30-year employee here,
10 Jan, public health department. We moved to the
11 Town of Fredonia about 15 years ago.

12 Part of the Waubeka Fire Department, I do
13 the fire inspections for the Town of Fredonia and
14 also Cedarburg, and happy to help out. Rich Miller
15 asked me to do it so I said okay.

16 MR. HOLSCHBACH: Are you on the plan
17 commission also?

18 MR. KOEPPEN: Oh, yeah. I'm on the Plan
19 Commission for the Town of Fredonia. I've been on
20 for about ten years.

21 MR. HOLSCHBACH: So we're fortunate to
22 have you then as a board member.

23 MR. KOEPPEN: Thank you. This property,
24 these people had it -- it just so happened in our
25 business their son was a small engine mechanic and

1 I knew a little bit about the property.

2 MR. STEINKE: Well, that was timely.

3 Okay. Any Item F, any other matters we
4 have to take care of by law, Andy?

5 MR. HOLSCHBACH: No.

6 MR. STEINKE: Okay. So I will have a
7 motion to adjourn then.

8 MR. CASTNER: So move.

9 MR. STEINKE: Is there a second?

10 MR. KOEPPEN: I'll second.

11 MR. STEINKE: There's a second. There's
12 no discussion on motion to adjourn. All members
13 signify by saying aye.

14 (Vote taken.)

15 MR. STEINKE: Opposed? Motion carried.

16 MR. HOLSCHBACH: Thank you, everybody.
17 Thank you, Steve. Bob, have a safe trip back.

18 (Proceedings concluded at 10:05 a.m.)

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1 STATE OF WISCONSIN)
) ss.
2 OZAUKEE COUNTY)

3 I, LIANE M. BARANEK, Notary Public in and
4 for the State of Wisconsin, do hereby certify that the
5 foregoing proceedings were taken before me at the time
6 and place set forth in the caption thereof; that the
7 foregoing proceedings were reported by me
8 stenographically in shorthand; and that the foregoing
9 proceedings constitute a true and accurate transcription
10 of my original machine shorthand notes taken upon the
11 hearing to the best of my ability.

12 I FURTHER CERTIFY that I am not a relative
13 or employee or counsel to any of the parties hereto, nor
14 a relative or employee of their counsel, and have no
15 interest in the outcome or events of said action.

16 IN WITNESS WHEREOF, I have hereunto
17 affixed my official signature and seal of office, this
18 18th day of March, 2021 at Port Washington, Wisconsin.

19
20
21 LIANE M. BARANEK
22 Notary Public
23 State of Wisconsin

24 My Commission Expires:
25 October 7, 2021.

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