

**RACINE COUNTY BOARD OF ADJUSTMENT**  
**PUBLIC HEARING AND BOARD MEETING SUMMARY MINUTES**  
**December 7, 2021, 9:00 A.M.**

(NOTE: Audio recording from Racine County is available upon request. These minutes are intended as a summary of actions taken by the Committee and do not include verbatim or detailed accounts of all comments made by staff, the Committee, and members of the general public present at the meeting.)

---

Board members present by roll call: George Bieneman, B. Jean Schaal, Fred Chart  
Board members excused: Dave Hendrix  
Staff present Jarmen Czuta, Shaun Maiter, Kim Parsons

Chairman Bieneman called the December 7, 2021, Racine County Zoning Board of Adjustment public hearing to order at 9:00 a.m. Board members were introduced by roll call and Chairman Bieneman explained meeting procedures.

**SCHAAL MOVED, seconded by Chart,** to approve the November 2, 2021, Racine County Board of Adjustment public hearing and board meeting summary minutes as presented. **Motion carried unanimously. VOTE: 3/0**

Jarmen Czuta announced that Board members may have visited the sites prior to this meeting, and pertinent information obtained during the visits may be discussed at this meeting and used to assist them in their decision-making.

**PUBLIC HEARING**

A. Mary Goldbeck, Owner -Dover- The proposed retaining walls will have  
9:04 Mark Hanson, Applicant insufficient shore yard setback.  
10:49

Czuta presented the petition. The Board heard public testimony and communications were read into the record. Mark Hanson was present to answer any questions of the board members.

At the Board portion of the hearing, **SCHAAL MOVED, seconded by Chart,** to approve the petition as presented. **Motion carried. VOTE: 3/0**

The Board approved this variance request as the Racine County Public Works and Development Services Director had no objection pursuant to her correspondence dated November 30, 2021. Submitted documentation and public hearing testimony established a need for retaining walls associated with the construction of a boathouse and the need to preserve the substantial property rights of the owner that are also enjoyed by others in this area. The variance does not appear to be contrary to the purpose and spirit of the ordinance, as the proposed retaining walls associated with the construction of a boathouse are necessary, the proposed boathouse is in a code compliant location and the Zoning Ordinance creates a hardship as the retaining walls are held to a different shore yard setback than the boathouse.

Severe topography, as well as other obstructions, create a hardship and limit the location for proper placement of a boathouse without the associated retaining walls.

The request does not appear to create substantial detriment to adjacent property as there was no significant opposition shown at the public hearing and the public interest does not appear to be negatively impacted by this request. The waters of the state will be protected by implementing required erosion control measures and shoreland conditions through the shoreland conditional use process. To comply with the ordinance would render conformity with such restrictions as unnecessarily burdensome.

The Board granted approval subject to the following conditions:

1. Before beginning this project, the applicant must obtain a shoreland conditional use contract after paying the required fee of \$250.00. In addition, the applicant must obtain a zoning permit card from this office after paying the required fee of \$150.00 (retaining walls and a boathouse). This card must be displayed in a prominent location at the project site. Also, a copy of these conditions must be kept at the project site at all times until the project has been completed.
2. This variance approval will expire on September 7, 2022, unless substantial work has commenced pursuant to such grant, or an application for extension is submitted to this office before the expiration date and said extension request shall be placed upon the next available agenda. No construction may begin after such time unless the Racine County Board of Adjustment grants an extension in writing.
3. The proposed retaining walls associated with the construction of a boathouse shall be located and sized as shown on the submitted plan received by the Racine County Development Services office on November 5, 2021.
4. Racine County Shoreland Conditional Use approval must be obtained before a zoning permit can be issued.
5. There must be no unapproved excavation, filling, construction or other land disturbances within the designated 100-year floodplain.
6. It is recommended that this project be reviewed or designed by a registered engineer who can certify that the retaining walls are functionally and structurally adequate for this project. Racine County does not warrant these walls against design or structural failure and will accept no liability through the issuance of a zoning permit. If the retaining walls become damaged or destroyed, it is the responsibility of the property owner to repair or replace these walls.
7. The applicant must allow full and unlimited access to the project site at a reasonable time to any Public Works and Development Services Department employee who is investigating the project's construction, operation, or maintenance.
8. The applicant is responsible for obtaining all necessary federal, state, and local permits, approvals, and licenses and for abiding by all applicable codes and regulations.
9. Minor changes may be approved by Development Services staff through a revised zoning permit if said changes are the same as or more in conformance with this approval. No other additions, deletions, or changes may be made to these conditions without the prior approval of the Zoning Board of Adjustment.

10. Failure to comply with the terms and conditions stated herein may result in the issuance of citation(s) and/or revocation of this approval/permit.

B.	Larry Kempken and Sons	-Burlington-	The proposed two-family residence
9:28	Builders, LLC		will have insufficient street yard
10:57	Nicholas Kempken, Applicant		setback.

Czuta presented the petition. The Board heard public testimony and communications were read into the record. Nicholas Kempken was present to answer questions.

At the Board portion of the hearing, **SCHAAL MOVED, seconded by Chart**, to approve the petition as presented. **Motion carried. VOTE: 3/0**

The Board approved this variance request as the Racine County Public Works and Development Services Director recommended approval pursuant to her correspondence dated November 30, 2021. Submitted documentation and public hearing testimony established a need for a two-family residence of the proposed size and orientation to be located on this site to preserve the substantial property rights of the owner that are also enjoyed by others in this area. The variance does not appear to be contrary to the purpose and spirit of the ordinance as the proposed two-family residence is consistent with the existing development in this area, the location should not impair visibility for traffic and it should not compromise aesthetics. The unique angled right-of-way created by the intersection of two private roads, the need to continue consistent and harmonious development within this planned unit development, as well as other obstructions, create a hardship and limit the location for proper placement of a two-family residence on this property. The request does not appear to create substantial detriment to adjacent property as there was no opposition shown at the public hearing, The Homeowners Association for the development in which the project will be located submitted written support for this proposal and the public interest does not appear to be negatively impacted by this request. To comply with the ordinance would render conformity with such restrictions as unnecessarily burdensome.

The Board granted approval subject to the following conditions:

1. **Before beginning this project, the applicant must obtain a zoning permit card from this office after paying the required fee of \$600.00 (two-family residence with attached garages, full basement and attached uncovered decks).** This card must be displayed in a prominent location at the project site. Also, a copy of these conditions must be kept at the project site at all times until the project has been completed.
2. This variance approval will expire on September 7, 2022, unless substantial work has commenced pursuant to such grant, or an application for extension is submitted to this office before the expiration date and said extension request shall be placed upon the next available agenda. No construction may begin after such time unless the Racine County Board of Adjustment grants an extension in writing.
3. The proposed two-family residence with attached garages, full basement and attached uncovered decks shall be located and sized as shown on the submitted survey received by the Racine County Development Services office on November 11, 2021.

4. The applicant must allow full and unlimited access to the project site at a reasonable time to any Public Works and Development Services Department employee who is investigating the project's construction, operation, or maintenance.
5. The applicant is responsible for obtaining all necessary federal, state, and local permits, approvals, and licenses and for abiding by all applicable codes and regulations.
6. Minor changes may be approved by Development Services staff through a revised zoning permit if said changes are the same as or more in conformance with this approval. No other additions, deletions, or changes may be made to these conditions without the prior approval of the Zoning Board of Adjustment.
7. Failure to comply with the terms and conditions stated herein may result in the issuance of citation(s) and/or revocation of this approval/permit.

C. 9:37 10:58	Centurion LLC, Owner DeMark, Kolbe & Brodek, S.C., Agent	-Burlington- A portion of the single-family residence and associated open sided structures have insufficient shore yard setbacks.
---------------------	--	--

Czuta presented the petition. The Board heard public testimony and communications were read into the record.

Christopher Conrad, representing DeMark, Kolbe & Brodek, S.C., spoke of the process both he and his clients worked with Development Services staff and Racine County's legal representatives to get to the point of applying for a variance and answered any questions of the board.

Three residents were present and spoke against the petition: Eric Weiss of 2815 Knollcrest Drive spoke of the building footprint versus the building envelope. Bill Schalk of 4700 Lighthouse Drive indicated these were clear violations and the board should carryout the laws, and Barbara Ernest of 30515 Forest Drive voiced concern of the precedent this may have for the future and the about the environment is fragile.

At the Board portion of the hearing, **SCHAAL MOVED, seconded by Chart**, to deny the petition as presented. **Motion carried. VOTE: 3/0**

The Board denied this variance request as the Wisconsin Department of Natural Resources did not support the request pursuant to the correspondence dated December 3, 2021. The Board may not grant a variance that is inconsistent with the purpose and intent of the regulations for the district in which the project is located and a portion of the single-family residence and associated open sided structures are inconsistent with such as they will have insufficient shore yard setbacks, which is contrary to zoning objectives. There were no exceptional, extraordinary, or unusual circumstances or conditions that apply to this parcel to allow for the granting of a variance. No variance shall be granted for a self-imposed hardship and in this case the Board finds that the hardship was self-imposed because the construction exceeded the scope of the zoning permit that was initially issued to the property owner. No

unnecessary hardship was demonstrated that would unreasonably prevent the owner from using the property for the permitted purpose allowed by code. The requested variance approval is not necessary to provide reasonable use of the property. The applicant has other options available that will comply with the zoning ordinance including building a code-complying structure, constructing a structure of a lesser size that could be placed in a code compliant location on this parcel or reducing the size of the existing structures to be within the footprint of the previously existing structures. No variance shall be granted that would create substantial detriment to the adjacent property, and neighbors indicated an objection to, this variance request.

(10:43) **SCHAAL MOVED, seconded by Chart, to close the public hearing. Motion carried unanimously. VOTE: 3/0**

### **BOARD MEETING**

A. Decisions on preceding petitions  
9:

B. John Podziemski -Waterford- Request to extend the variance  
11:05 approval granted on February 2,  
2021.

Czuta presented the petition. **SCHAAL MOVED, seconded by Chart to approve the extension of the variance granted on February 2, 2021. Motion carried. VOTE: 3/0**

C. Other business as authorized law

D. Adjourn  
11:09

There being no further business, **SCHAAL MOVED, seconded by Chart, to adjourn at 11:09 a.m. Motion carried unanimously. VOTE: 3/0**