



GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting/public hearing that is scheduled for **Friday, March 18, 2022**. The business meeting begins at 9:00 a.m. The public hearing will not begin before 9:45 a.m.

Packet Pages:

- 2 Agenda
- 3-4 Draft Meeting Minutes from February 18, 2022
- 5 Public Hearing Notice
- 6-12 Public Hearing Items

Owner: Michael Shervey & Sharon Kryger Shervey **Applicant:** Mitch Nordahl **Site location:** Pheasant Run **General legal description:** 004-00929-0100, part of the SE¼ S35 T16N, R12E, Town of Brooklyn **Request:** Variance from Section 338-32C of the County Shoreland Zoning Ordinance to construct a walkway within the side yard setback.

If you have questions or need additional information,
please contact the Land Use Planning & Zoning Department at (920) 294-4156.



GREEN LAKE COUNTY
Board of Adjustment
571 County Road A, Green Lake, WI 54941

Office: (920) 294-4156 FAX: (920) 294-4198

Email: zoning@greenlakecountywi.us

Board of Adjustment Meeting Notice

Date: March 18, 2022 Time: 9:00 AM

Green Lake County Government Center, Room #0902
571 County Road A, Green Lake, WI 54941

AGENDA

***Board of
Adjustment
Members:***

Janice Hardesty
Board Chair

Ron Triemstra
Board Vice Chair

Ed Roepsch
Member

Rick Dornfeld
Alternate

Brian
Zimmerman
Alternate

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Approval of Minutes: 2/18/2022
6. Recess for field inspection
7. Public Hearing (Not to begin before 9:45AM)

Owner: Michael Shervey & Sharon Kryger Shervey **Applicant:** Mitch Nordahl
Site location: Pheasant Run **General legal description:** 004-00929-0100, part of the SE¼ S35 T16N, R12E, Town of Brooklyn **Request:** Variance from Section 338-32C of the County Shoreland Zoning Ordinance to construct a walkway within the side yard setback.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

8. Adjourn

This meeting will be conducted through in person attendance or audio/visual communication. Remote access can be obtained through the following link:

Topic: Board of Adjustment Meeting

Time: March 18, 2022 09:00 AM Central Time (US and Canada)

<https://us06web.zoom.us/j/5022456162?pwd=V2lvUTFFb2o3MWNqUUFFDcFRtMlBJQT09>

Meeting ID: 502 245 6162 Passcode: 345536

Dial by your location

- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)
- +1 929 436 2866 US (New York)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 900 6833 US (San Jose)

Find your local number: <https://us06web.zoom.us/j/5022456162?pwd=V2lvUTFFb2o3MWNqUUFFDcFRtMlBJQT09>

Green Lake County
BOARD OF ADJUSTMENT
Meeting Minutes - Friday, February 18, 2022

The meeting of the Green Lake County Board of Adjustment was called to order by Chair Janice Hardesty on Friday, February 18, 2022 at 9:00 AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI. The requirements of the open meeting law were certified as being met. The pledge of allegiance was recited.

Present: Janice Hardesty
Ron Triemstra
Rick Dornfeld (Alternate)

Absent: Ed Roepsch
Brian Zimmermann (Alternate)

Other County employees present:
Karen Werlein, BOA Secretary
Aaron Ogle, P&Z Land Use Specialist

Matt Kirkman, P&Z Director

MINUTES

Motion/second (Triemstra/Dornfeld) to approve minutes of January 21st with no additions or corrections. Motion carried with no negative vote.

ADJOURN FOR FIELD INSPECTION

Chair Hardesty called recess for field inspection at 9:01AM.

PUBLIC HEARING – 9:47AM

Board of Adjustment reconvened at 9:47AM for the Public Hearing.

- **Owner: Green Lake County**
- **Applicant: Land Conservation Department**
- **Site Description: W3306 Cty. Rd. K, parcel #006-00732-0000**
- **Request: Variance from Section 350-32A of the County Shoreland Zoning Ordinance to construct a boat wash station within the 75ft shoreland setback.**

Chair Hardesty read the rules for the Public Hearing. BOA Secretary, Karen Werlein, read the request for a variance to construct a boat washing station within the 75ft shoreland setback.

Public Comments/Discussion:

Jordan Dornfeld, Land Conservation Department, explained the request and spoke in favor it, adding that the station will help keep out invasive species from Green Lake.

Dick Martin, W2965 Hillside Rd, spoke about how the site is restrictive in its size and shape. Also adding that the proposed location of the wash station would be the least disruptive and that it is in the public's interest to keep out aquatic invasive species from Green Lake. Questions were asked by the Board and

discussion was followed by information and explanations from: Jennifer Fjelstad and Stephanie Prellwitz, of Green Lake Association, and Chris Hamerla, of Golden Sands.

Chair Hardesty called the public hearing portion of the meeting to close at 10:23AM.

Motion/second (Triemstra/Hardesty) to approve the request for a variance with the following conditions:

- 1). The coffin inlet shall be cleaned daily or earlier as necessary to keep larger matter from restricting flow into the filter diaphragm.
- 2.) The infiltration system shall be serviced and maintained in order to effectively reduce invasive species from making it past the filter diaphragm and into the ditch running along the north side of County Road K.
- 3). Any traffic control, information, or directional notice signs, that are necessary for the boat wash station to be used efficiently and safely are allowed on the subject site without a land use permit.

The board deliberated the variance criteria including unnecessary hardship, unique property limitations, and harm to public.

Roll call vote – Triemstra–Yay, Dornfeld–Yay, Hardesty – Nay.

Motion passed; variance granted.

NEXT MEETING DATE

March 18, 2022

ADJOURNMENT

Chair Hardesty adjourned the Board of Adjustment meeting at 10:34AM.

Submitted by,
Karen Werlein
BOA Secretary

NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on **Friday, March 18, 2022, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

Owner: Michael Shervey & Sharon Kryger Shervey **Applicant:** Mitch Nordahl **Site location:** Pheasant Run **General legal description:** 004-00929-0100, part of the SE¼ S35 T16N, R12E, Town of Brooklyn **Request:** Variance from Section 338-32C of the County Shoreland Zoning Ordinance to construct a walkway within the side yard setback.

The Board of Adjustment will reconvene at approximately **9:45 a.m.** to consider the item above.

All interested persons wishing to be heard at the public hearing are invited to attend. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute*. For further detailed information concerning this notice contact **Land Use Planning and Zoning** at (920) 294-4156.

Publish: March 3, 2022

BOARD OF ADJUSTMENT

Public Hearing

March 18, 2022

Item I: Variance

Owners:

Michael A. Shervey

Applicant:

Mitch Nordahl (Wildflower Landscapers)

Request: The owner/applicant is requesting a variance to locate a 5ft wide walkway inside the side yard setback within the 75ft shoreland setback.

Parcel Number/ Location: The request affects parcel 004-00929-0100 (±0.11 acres) located in the SW¼ of the SE¼ of Section 35, T16N, R12E, Town of Brooklyn. There is no site address for this parcel.

Existing Zoning and Uses of Adjacent Area: The subject site is currently zoned as R-1, Single-Family Residence District. Neighboring properties are all zoned R-1 as well.

Floodplain and Shoreland zoning apply to the subject site.

Additional Information/ Analysis: The subject site is a riparian lot that is on the south side of Norwegian Bay on Green Lake. Since the site is a riparian property and in a zoned township, it has a 75ft shoreland setback, 10ft side-yard setback, and no allowance for a walkway of any size inside the side-yard setback. The width of the parcel within the 75ft shoreland setback is 10ft to 20ft wide. The average lot width for the parcel is under 85ft wide which would impose 10ft side-yard setbacks. Shoreland zoning allows for a walkway inside of the 75ft shoreland setback but also must be outside of the side-yard setbacks. The owner/applicant are requesting a variance as they are unable to meet the side-yard setback requirements for a walkway inside the 75ft shoreland setback. The proposed walkway would be 100% in the side-yard setback no matter the location inside the 75ft shoreland setback.

VARIANCE CRITERIA: To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) Unnecessary Hardship
 - ☐ hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
 - ☐ circumstances of the applicant, such as a growing family or the need for a larger garage, are not the sole factor in considering variances (Snyder)
 - ☐ property, as a whole, must be considered, not just a portion (State v. Winnebago County)
 - ☐ economic or financial hardship is not a sole justification (State v. Winnebago County)
- 2) Unique Property Limitations
 - ☐ limitations such as steep slope, wetland, shape, or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)

- ❑ limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
 - ❑ alternative designs / locations on the property have been investigated (State v. Winnebago County)
- 3) No Harm to Public Interest
- ❑ ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
 - ❑ short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
 - ❑ only allow minimal relief for use of property, may include conditions (Robert M. Anderson, *American Law of Zoning*)

Staff Comments:

1) Unnecessary Hardship

- The hardship derived from the property owner's want, need, or desire to construct a walkway on private property is self-created as walkways on lots are not integral to the residential use of the property. Within the 75ft shoreland setback there is approximately an 8% grade change which equivalates to about one foot of elevation gain for every 12-1/2ft you move away from the lake.
- The need for a walkway is linked to the owner and thus is a circumstance of the applicant. The property has been used to access the water without a walkway for over 25 years.
- The owner has identified that the building setbacks limit virtually any walkway development within the 75ft shoreland setback without relief from the side-yard setback.
- Economic or financial hardships have not been presented.

2) Unique Property Limitations

- The owner has identified that the property is very narrow. It is as narrow as 10ft within the 75ft shoreland setback. After including the side yard setbacks, the remaining space to build is almost nonexistent.
- The adjacent property to the east shares almost identical lot dimensions and setbacks. These setbacks are not unique to the applicant's property.
- Alternative designs for a walkway of any width within the 75ft shoreland setback are not possible due to setbacks. Greater than 75ft from the shoreland setback driveways are exempt from the side yard setbacks. There are no dimensional standards for a driveway.

3) Harm to Public Interest

- Relaxing a required structure setback that has been applied to so many other property owners in conflict with the hardship and uniqueness criteria would subvert the authority of the Shoreland Zoning Ordinance.
- There does not appear to be a short-term, long-term, or cumulative effect on public interest in the neighborhood, community, or the state.

- Minimal relief would make sense if there was an unnecessary hardship, but not being able to construct a walkway on a property is not an unnecessary hardship. Walkways on gently sloping lots are complementary but not integral for lake access.

VARIANCE CONDITIONS: In the event that the Board finds that the variance application meets the required criteria, the Land Use Planning & Zoning Staff suggests the following conditions:

- 1.) The entire impervious surface runoff from the walkway should be treated (sized to treat first $\frac{3}{4}$ " of a rain event).
- 2.) Install a vegetative buffer, excluding the walkway area, from the ordinary high-water mark landward 35ft and designed in accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat.
- 3.) Walkway should be restricted to 36" wide inside the 75ft shoreland setback instead of the proposed 60".

VARIANCE APPLICATION - GREEN LAKE COUNTY

Provide the following information and any other detailed information related to the variance.

Date Received: 2/4/2022

Fee Received: 375.00

Michael A Shervey
Owner Name

Michel Nordahl - Wildflower Landscapers

Applicant Name

Mitchel Nordahl

Owner Signature

Date

Applicant Signature

Date

N4921 Peacock Lane
Mailing Address

8701 CTY ROAD M

Mailing Address

Larsen, WI 54947

Green Lake, WI 54941
City State Zip

City State Zip

920-383-1560 OFFICE 763-360-2907 CELL

414-520-0296
Home Phone Work/Cell Phone

Home Phone Work/Cell Phone

shervey1@yahoo.com
Email address

Contact@wildflowerlandscapers.com

Email address

Site Address Pheasant Run

Tax Parcel ID # 004 - 00929 - 0100

1/4, 1/4, Section 35, T 16 N, R 12 E

Lot 1 Block 1 Subdivision/Plat 1

Lot 00401 CSM # 2461 Town of Brooklyn

A variance is not a convenience to the property owner and should not be granted routinely. For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected. The burden of proof rests upon the property owner to show all 3 criteria are being met.

1. Explain your proposed plans and how they vary from the required dimensional standards: My plan is to have an inconspicuous paved trail run the length of my property to provide safe access to an existing pier. My property is mostly only 10 feet wide and it triangulates to approximately 26 feet wide right at the shoreline. Because my property is only 10 feet wide, the 5 foot wide path would violate the 10 foot setback requirement within the 75 foot length along the lakeshore. The total length of the trail will be 466 feet long, and 391 feet of the trail that is not within 75 feet of the lakeshore is legal to construct. I am only asking for the trail to extend to an existing pier, as is a very common sight along the lakeshore.

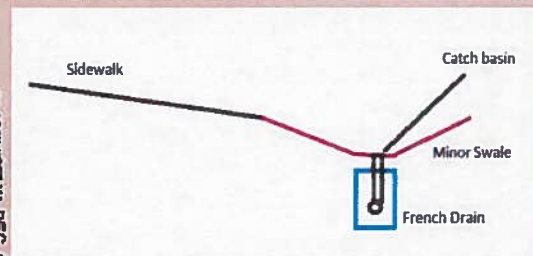
2. Explain the hardship imposed by the Ordinance: I really believe the ordinance is a good ordinance for normal lakefront properties. However, it is designed for normal lakefront properties that are more than 40 feet wide. With a normal lakefront property, it is easy to maintain the proper setback. My property is a long 10 foot wide property that serves as an “access-only” property for another property that is approximately 500 feet from the lakeshore. This is a sub-standard lot dimension which is not allowed to be created per current codes. The 2 properties are joined together in a exclusivity deed restriction where the properties must be sold together. The mostly 10 foot wide lakefront property is obviously a very strange dimensional configuration. I believe the current ordinance was not created to limit an “access-only” property of this type. I am only looking to create a pathway to a pier on a lot that has a very unique property limitation, the pathway is not intended to exceed width dimensions of standard lot requirements, only placement withing the setback.

3. Describe unique property feature(s) that create the hardship: The “access-only” property is only 10 foot wide. The substandard lot size width is as wide as the side yard setback, which is the key issue in the code restricting this.

5. Explain why the proposed variance will not harm the public interest: It allows a long trail to be extended to the pier. No harm to public interest by an inconspicuous trail. I am not asking to install a fence or boathouse. I am asking to install a trail that is at ground level on a lot that was specifically designed to provide lake access. Within WI DNR standards, additionally for the whole of green lake, other jurisdictions such as Princeton allow walkways in the side yard setbacks.

Rain Garden 35x6'
wide approx 210
sqft

All concrete shall be pitched to the west



Cross concrete
drain to catch any
run off & deposited
into french drain

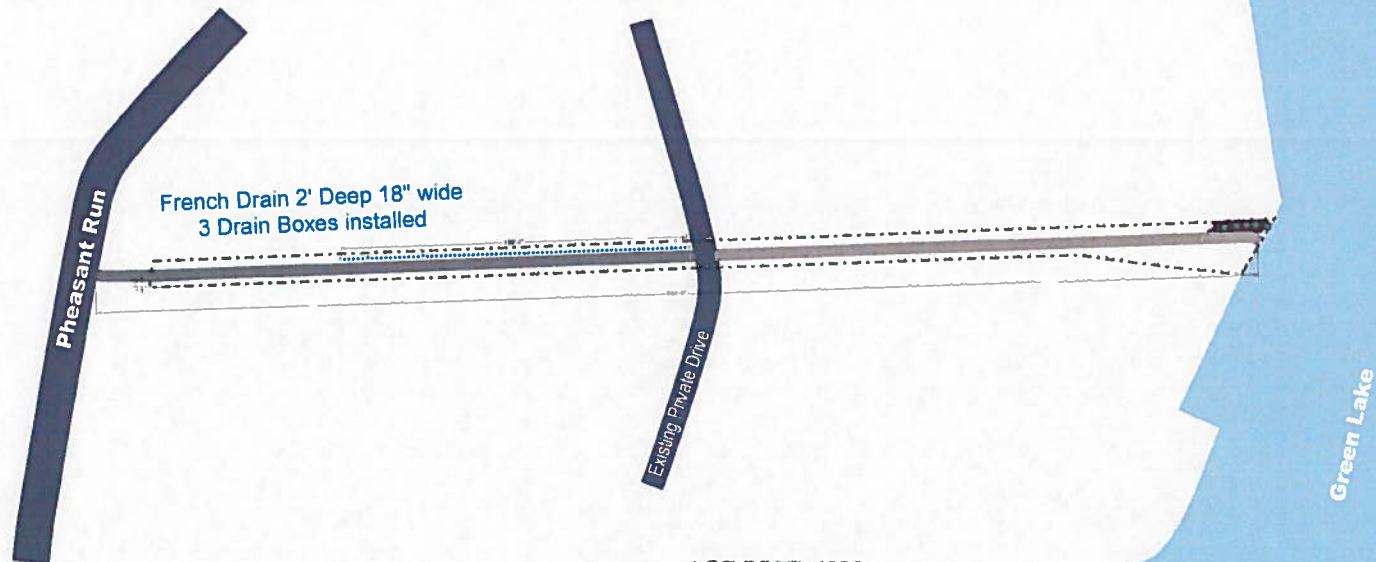
5' wide concrete
placed 2' off
property line as
driveway

Underground
French drain to
capture run off from
concrete Length of
concrete 2' deep
18" wide trench

Drain box(s) to
direct water into
french drain

LOT SQFT: 4826
15% Exempt: 726sqft impervious
allowed
Total proposed impervious surface:
2330 sqft
Total sqft to be treated: 1606 sqft
French drain calcs:
 $1606 \times 0.06 \text{ ft} = 96 \text{ cubic feet}$
320 cubic feet required to be treated
150ft french drain 1.5' stone x 1.5'
wide = 337 cubic feet of proposed
treatment
Additional Lake side rain garden
installed for extra precautions of the
lake water quality 210 sqft approx.

Mitchel Nordahl



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 installed for extra precautions of the
 lake water quality 210 sqft approx.



Wildflower Landscapers LLC
 8701 County Road M
 Larson, WI 54947

920-383-1580
 Contact@wildflowerlandscapers.com

DESIGN RIGHTS, INTELLECTUAL PROPERTY AND COPYRIGHTS ARE
 SOLE OWNERSHIP OF WILDFLOWER LANDSCAPERS
 DO NOT QUOTE OR USE THIS DESIGN UNLESS SPECIFICALLY AUTHORIZED
 BY DESIGNER LISTED ON THIS SHEET. PENALTY TO NOT FOLLOW THIS
 WILL BE PROCECUTED BY FULL EXTENT OF THE LAW

11/20/2021
 Date

Job Number
 Job Number

1
 Sheet #

Shervey Lake Access Trail

Mike Shervey - 414-520-0296
 Shervey1@yahoo.com
 Pheasant Run
 Green Lake WI

SITE PLAN SHEET

Designed by
 Michael Nordahl

Checked by
 Michael Nordahl



(IN FEET)
 1/8" = 10 ft
 Must be Printed on 8 1/2" x 11" for plan scale

