

**Minutes  
Town of Oshkosh  
Board of Appeals Meeting –Mar 11, 2021**

**BOA Meeting at Town Hall**

**Chairman Gabert called the Public Hearing to order at 6:05 pm at the Town of Oshkosh Town Hall. This meeting was duly posted as class 2 Public Notice by the Town of Oshkosh Clerk. The last notice was more than 7 days ago. Summary of the Happenings is Enclosure 1.**

PRESENT at the BOA Public Hearing, Town of Oshkosh Town Hall:  
BOA Chair Tom Gabert, Members Jim Merten, Jr, Stan Kellenberger, John Thiel and Recording Secretary, MaryAnn Monteith. There was an audience of five.

Motion to accept agenda: Jim Merten Jr, Second Tom Gabert. Carried unanimously.

Approval of minutes from 8 December 2020. Motion to approve: Jim Merten, Jr; Second, Tom Gabert; Approved. (John Thiel abstained.)

**Agenda item: Variance request from Applicant Beth A. and Gary J. Goldberg.**

**Applicant requests a variance for a substandard fill requirement. 3693 Shangri-La Point Plat located in part of the fractional NE ¼ of Section 5, Township 18 North, Range 16 East, Town of Oshkosh, Winnebago County, Wisconsin** (hereafter referred to as “the parcel”).  
Represented by Todd Smith, Builder, Fond du Lac.

1. All BOA members previously received a copy of the variance request including coversheet and notification list (**Enclosure 1**).
2. **Chairman Gabert** opened the hearing for questions, comments and discussion.

John Thiel opened with questions regarding the flood plain setback, and what is unique about this? What is the nature of the foundation?

Todd Smith responded there is a need to fill to get above the flood zone. The variance is required by the state. The foundation will be pilaster's.

Jim Erdman added the history of the state requirements under NR 115, that these requests must come forward as variance requests.

John Thiel asked about the drainage plan.

Todd Smith responded that the drainage plan was similar to another they did “a couple of years ago,” that made it through and had no problems since, and was working well.

Neighbor Tom Langkammer, 3681 Shangri-La Point Plat spoke on behalf of the variance. He stated he had “no concern at all” about the drainage. He noted there is a retaining wall

and swale on his property, and the drainage is better on the south side. He stated his neighbors were both engineers, and long term investors in the property. Todd Smith called Gary Goldberg who responded to questions about the retaining wall. The retaining wall height is set to be 1 ½ to 2 feet above the existing grade. They are confident that the drainage plan will manage the drainage on the property.

There being no further questions or discussion, Chair Tom Gabert closed the public hearing at 6:30 pm.

**Chairman Gabert opened the BOA Deliberation at 6:30 pm.**

Chairman Gabert reminded the attendees that the BOA is advisory and makes a recommendation to the Town Board.

Motion to recommend approval of the variance, Jim Merten Jr.

Second, John Thiel who addressed the following:

Hardship is created as the literal enforcement of this code would reduce the development space of the property, presenting a regulatory taking. This constitutes an unnecessary hardship.

Hardship is created by the unique pie shape of the property.

Granting variance is not contrary to public interest as evidenced by the testimony of the builder and support of the immediate neighbor.

Variance is consistent with the purpose of this chapter in s. 26.1-5.

Jim Merten Jr noted that the proposed retaining wall also makes yard maintenance safer, avoiding unnecessary hardship due to slope, and better management of drainage on the property.

**There was no further discussion. A roll call vote on the motion passed unanimously, 4/0.**

**Motion to adjourn, John Thiel, Second, Jim Merten.**

**Chairman Gabert adjourned the meeting at 6:39 pm.**

---

MaryAnn Monteith  
Secretary for Board of Appeals