

## CITY OF SHEBOYGAN

### REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION

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**ITEM DESCRIPTION:** Application for zoning variance by Rachel Kohler to construct shoreline revetment, stairways, hardscape, and buried storage shed at 120 Vollrath Boulevard. SR-5 Zone, Steep Slope Overlay District, Lakeshore Overlay District.

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**REPORT PREPARED BY:** Ellise Rose, Program Assistant, Interim Zoning Administrator

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**REPORT DATE:** September 14, 2023

**MEETING DATE:** September 20, 2023

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#### FISCAL SUMMARY:

Budget Line Item: N/A  
Budget Summary: N/A  
Budgeted Expenditure: N/A  
Budgeted Revenue: N/A

#### STATUTORY REFERENCE:

Wisconsin Statutes: § 62.23(7)(e)(7)  
Municipal Code: § 105-1002

#### STAFF COMMENTS:

- A variance may be granted when, “owing to special factors, a literal enforcement of the provisions of [the zoning ordinance] would result in practical difficulty or unnecessary hardship, so that the spirit of [the zoning ordinance] shall be observed, public safety and welfare secured, and substantial justice done, as provided for by Wis. Stat. s. 62.23(7)(e)(7).” SMC 105-1002. “*Unnecessary hardship* means the circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.”
- Within the City, most lakeshore properties do not include riparian rights because the City owns the lakeshore land. Of the eight properties that do, three are zoned for residential use; the subject property, the property adjacent to the north of the subject property, and a property located between King Park and Southside Municipal Beach Kite Beach).
- The subject property differs from the southside property in that it not only falls within the lakeshore overlay but also the steep slope overlay.
- The subject property is currently utilized consistent with its zoning in that it has a single-family home and garage/ accessory structure thereon.
- SMC 105-1002(d)(3) Analysis:
  - Hardship or difficulty peculiar to the subject property and different from other similar properties:
    - Applicant has provided justification for the Board’s consideration relating to this factor.
    - Staff takes no position on this factor.

- In what manner do the factors of (d)(3) prohibit the development of the subject property in a manner similar to that of other properties in the same zoning district?
  - Staff can identify only one other similar property within the same zoning district, the property adjacent to the north of the subject property. That property is developed consistently with the subject property (single family home and accessory building), except that it lacks shoreline revetment to guard against erosion control. This application seeks to install revetment to the subject property and the adjacent one. Doing so will make the shoreline similarly protected as the City-owned shoreline, which contains revetment. No other properties have been identified that are otherwise developed similarly to Applicant's proposal.
  - Staff supports the installation of revetment to prevent erosion.
  - Staff believes a variance would also be necessary for the adjacent property as it is contemplated within this project for revetment installation.
  - Staff takes no position on the other components of this proposal with respect to this factor.
- Would the granting of the proposed variance be of substantial detriment to adjacent properties.
  - The City Engineer has reviewed the plan and determined that it would not be of substantial detriment to Vollrath Park, located south of the subject property. The northerly adjacent property owner supports the project.
- Would the granting of the proposed variance result in a substantial or undue adverse impact on:
  - The character of the neighborhood: No adverse or substantial impact.
  - Environmental factors: If the project is completed consistently with the engineer's site plan, the stability of the slope will not be undermined, and erosion will be better controlled.
  - Traffic factors: No adverse or substantial impact.
  - Parking: No adverse or substantial impact.
  - Public improvements, Public property or rights-of-way: No adverse or substantial impact if access to project site is through subject property. If access through City-owned property is necessary, a limited, temporary easement should be sought from the City and the City-owned property should be restored to its pre-easement condition.
  - Or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this chapter, the comprehensive master plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city or other governmental agency having jurisdiction to guide growth and development:
    - No adverse or substantial impact expected. The impact of this project is limited to the subject property. Public does not have access to the lakeshore at this parcel. Should someone view the project from the waters of Lake Michigan, they may observe the stone stairs but nothing more.
- The City of Sheboygan Comprehensive Plan designates this area as single family residential. This variance would not affect adjacent properties or cause a detriment to the character or intended use as a single-family residential neighborhood.

- The factors that prevent such a project by zoning ordinance were not created by action of the applicant, previous property owner, or their agent.

### **ACTION REQUESTED:**

Staff supports installation of revetment stone to the shoreline to aid in erosion control. Staff takes no position on the request with respect to other components of the project because it is within the Board's purview to make policy decisions and apply the law to those decisions. Staff encourages the Board to consider potential future requests of similar scope for properties with riparian right. If approved, staff recommends the following conditions:

1. Prior to building permit issuance, the applicant shall obtain all licenses and permits as well as meet all required codes including but not limited to building, plumbing, electrical, HVAC, fire, water, sewer, storm drainage, health, State (DNR) Federal (Army Corp), etc. Applicant shall be in contact with building inspection, fire, police, etc.
2. Submittal/approval of a proposed storm drainage plan prior to building permit issuance.
3. If proposing to install a fence/gate and/or retaining wall, the structure shall be installed per Section 15.720(3)(c) of the City of Sheboygan Zoning Ordinance.
4. All new lighting shall be installed per Section 15.707 of the City of Sheboygan Zoning Ordinance. There shall be no spillover light onto adjacent properties or the streets.
5. Absolutely no portion of the new building and/or site improvements shall cross the property lines including but not limited to buildings, balconies, decks, foundations, walls, gutters, eaves, roof, parking, fencing/retaining walls, signs, landscaping, etc.
6. Applicant will provide adequate public access along all streets and sidewalks and will take all appropriate actions to minimize the time period that adjacent properties and streets/sidewalks are impacted by the development (utilities, streets, etc.). If access to the project site through City-owned parkland is necessary or desired, Applicant shall seek a limited, temporary easement from the City to be approved by the Board of Marina, Parks, and Forestry Commissioners and Common Council.
7. Applicant shall immediately clean any and all sediments, materials, tracking, etc. that may be spilled off-site on private or public lands and streets.
8. Streets and infrastructure damaged and/or disturbed during construction of all private and/or public improvements shall be promptly repaired by the Applicant.
9. If there are any amendments to the approved variance (including but not limited to site plan, design, use, etc.), the applicant will be required to submit a new variance request reflecting those amendments.
10. The viewing corridor, and improvements shall comply with Wis. Admin. Ch. NR 115.
11. The construction ramp shall be vegetated at the end of construction with a diverse mixture of native species, which may include grasses, grass-like species, forbs, shrubs, and trees.
12. Permissions shall be obtained from property owners if access is required to complete the project.

### **ATTACHMENTS:**

Variance request and required attachments.