

Date: October 15, 2025

To: Town of West Bend Plan Commission From:

Kristen Hoss, Asst. Zoning Administrator

Subject: Conditional Use Permit to allow the reconstruction of a non-conforming residence at the property located at 5615 Peters Drive (T13_1890500); John and Donna Lobaito, applicant

Application: 2025-10

Meeting: October 23, 2025, Plan Commission meeting

General description John and Donna Lobaito own the 0.15-acre subject property located at 5615 Peters Drive. The property contains a single-family residence and a detached garage. The applicants have submitted a Conditional Use Permit (CUP) application to allow the reconstruction of a non-conforming residence on the property with a reduction in the required separation distance between the proposed new home and the existing detached garage.

The lot is relatively small and short, leaving a limited buildable area between the road and the shore setback. As a result, the existing development pattern on the property is compact, with structures positioned close together and near the front property line. The current residence does not meet the required street yard setback, and the applicants are also pursuing a variance to address that nonconformity.



The applicants are proposing to raze and replace the existing house with a new single-family dwelling that generally matches the footprint and orientation of the current home. The site plan shown in Exhibit

A shows the new home situated in the same location. Though the applicants are not rebuilding the new residence any closer to the garage (5.5 ft.); the CUP is required because the proposed new residence will not meet the minimum required ten (10) foot separation between a principal and accessory building. As noted above, the reduced separation is necessary to allow the new residence to be reconstructed within the same general footprint as the previous home, thereby maintaining the site's established layout and orientation.

Zoning requirements The property is in the R-1S Shoreland Residential District. Below is a table showing the dimensional standards of a principal structure in the R-1S District.

Standards	Requirement	Proposed
Height, Maximum (ft.)	35	35
Street Setback, Minimum (ft.)	25	15
Side Setback, Minimum (ft.)	7	12.4
Shore Setback, Minimum (ft.)	75	77
Separation Between Principal and Accessory Buildings, Minimum (ft.)	10*	5.5

*With approval of the requested CUP, the minimum required separation between the principal and accessory structure would be reduced from 10 feet to 5.5 feet, as proposed.

Jurisdiction The subject property is located in Washington County's shoreland jurisdiction.

Development standards Section 325-42 (E)(1)(d) of the zoning ordinance reads as follows:

(C) New or existing principal or accessory structures that do not meet permitted street, rear, or side yard setbacks must not encroach beyond the existing street, rear, or side yard footprints. In no case shall the side setback be less than three feet (absolute minimum side setback)

Notice requirements A notice of public hearing was published in the Washington County Daily News on October 8 and 15, 2025. In addition, the public hearing notice was mailed to all property owners within 200 feet of the subject property.

Review procedures The Plan Commission plays an advisory role to the Town Board who makes the final decision. Following the closure of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial. If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare.

Possible motion for Plan Commission: Recommend to the Town Board approval of the Conditional Use Permit for John and Donna Lobiato at 5615 Peters Drive, subject to the following conditions and based on the following findings:

Conditions:

1. **Building Separation and Footprint.** The new principal structure shall maintain a minimum

separation of 5.5 feet from the existing detached garage and cannot extend past the previous footprint.

2. **Site Plan Approval.** Final approval of the Conditional Use Permit is contingent upon issuance of a Site Plan Permit.
3. **Compliance with Regulations.** The new construction must comply fully with the approved Site Plan and all applicable zoning and shoreland regulations.
4. **Variance Requirement.** The applicant shall obtain approval of a street yard setback variance from the Board of Appeals prior to issuance of any building or site plan permits. Documentation of the approved variance shall be provided to the Town.
5. **Fire Rating Requirements.**
The Building Inspector shall review the proposed structure placement to ensure compliance with applicable fire separation and fire rating requirements under the Wisconsin Uniform Dwelling Code. Any additional fire wall or fire-resistive construction required by the Building Inspector shall be installed to the satisfaction of the Building Inspector prior to occupancy.
6. **Conditional Use Order.** A Conditional Use Order, in a form acceptable to the Town Attorney, shall be prepared by the applicant and submitted for review and approval by the Town. The approved Conditional Use Order shall memorialize the terms and conditions of this approval and shall be recorded with the Washington County Register of Deeds prior to the issuance of any building permit or commencement of the authorized use, whichever occurs first. Proof of recording shall be provided to the Town.
7. **Professional Fees.** Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of consulting fees, for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
8. **Payment of Charges.** Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for license, permit fees, or any other fees owed to the Town shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible caused for the termination of the conditional approval.

Findings The separation requirement between principal and accessory structures is intended to address concerns including fire safety and to support the overall character of neighborhoods. The proposed 5.5-foot spacing between the proposed new home and the detached garage should not impact maintenance of the buildings, overall character of the lot, or drainage.

The layout of the lot and surrounding development patterns along Peters Drive are already compact, with many nearby lakefront properties featuring similar or smaller building separations due to lot size constraints. Approving the CUP would maintain the established development pattern and visual

consistency of the neighborhood. The placement of the new home also allows the applicants to retain their existing garage space, which is an important consideration for their property since they lack other large storage areas, including basement space.

The reduced separation will not affect neighboring properties, visibility, or views towards the lake. Adequate space will remain for exterior maintenance and drainage, and the proposed layout does not create any new encroachments or worsen existing nonconformities. Fire separation was identified as a potential concern, but the condition requiring review and approval by the Building Inspector ensures that construction will meet all applicable fire-resistance and safety standards.

Overall, the application maintains the intent of the zoning ordinance by allowing reasonable development of a lake lot while ensuring that safety, maintenance, and neighborhood compatibility are preserved. Therefore, the approval of the CUP with the recommended conditions is consistent with the purpose and intent of the ordinance.

Attachments:

1. Application materials
2. Site plan
3. Building plans
4. Photos of property