

**WINNEBAGO COUNTY
BOARD OF ADJUSTMENT**

Thursday, July 7, 2016 – 7:30 a.m.

Planning & Zoning Conference Room, County Administration Building,
Oshkosh, Wisconsin

DELIBERATIVE SESSION

Members Present: Arden Schroeder, David Weiss, Greg Kargus, Sue Drexler, and Tom Tuschl.

Excused: Tom Verstegen

Also Present: Eric Rasmussen, Zoning Office and Lynn Egan, court reporter.

Meeting was called to order at 7:30 a.m.

The following items were acted on:

I. Approval of Minutes

G. Kargus made a motion to approve the minutes of June 9, 2016. S. Drexler seconded. Motion carried by unanimous voice vote.

II. Wally Juedes – Town of Oshkosh

A variance was requested to be establish a buildable area for a new home with substandard shore yard setbacks for retaining walls and the home as well as for reduced floodplain fill.

The committee discussed the requested setbacks, the impacts of the retaining wall being placed on the property line, and the ability to regulate development on the adjacent lot.

A motion was made by T. Tuschl to APPROVE the request WITH CONDITIONS.

Motion seconded by D. Weiss.

The findings used to approve the variance have been made in accordance with section 23.7-234, 26.6-7(a), and 27.6-8(a).

CRITERIA AND FINDINGS

The findings used to grant the variance have been made in accordance with Section 23.7-234 and are as follows:

- 1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.**

Approval: The shoreyard setback required from the navigable stream does not allow for any buildable location on the lot. The requirements for floodplain fill leave a very narrow buildable width due to the lots 50' width.

- 2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.**

Approval: The property has a navigable stream along the south property line. The 75' shore yard setback does not leave any compliant building location on the lot. The floodplain construction requirements leave a very narrow buildable width due to the lots 50' width.

3) **The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.**

Approval: The proposed structure will be in compliance with the required street yard setback and the shoreyard setback from the lake as well as the side yard setbacks from the zoning code. Direction of downspouts to the lake will prevent surface water from impacting neighboring properties.

26.6-7(a) "Review criteria" (required for all Ch. 26 Floodplain Zoning Code variances)

1. The variance is consistent with the purpose of the Floodplain Zoning Code in s. 26.1-5.

- a. Finding(s): This is a 50' wide lot. There is very little buildable area on the property while complying with floodplain fill standards.

27.6-8(a) "Generally" (required for all Ch. 27 Shoreland Zoning Code variances)

1. Criteria: The variance is consistent with the purpose of the Shoreland Zoning Code.

- a. Finding(s): The required setback from the navigable stream covers the entire property. There is no compliant location on the property based on this shoreyard setback. The shoreyard setback from the lake will be met.

Based upon the above findings, it is the opinion of the Board that all criteria of Article 7, Division 12, Section 23.7-234, Town/County Zoning Code, have been met.

Conditions:

County:

1. Downspouts shall be directed to the lake.
2. Driveway shall not extend closer to the navigable stream than the setback allowed for the home.
3. Retaining wall shall be engineered to withstand stormwater and flooding forces.
4. Variance approval is limited to this lot only.

Town: None

The Board further discussed drainage and the appropriate size home for the lot.

Vote on the Motion: D. Weiss, aye; S. Drexler, aye; T. Tuschl, aye; A. Schroeder, nay; G. Kargus, nay.

Motion carried by a 3-2 vote. **Variance granted with conditions as requested.**

There being no other business, the meeting was adjourned at 7:45 a.m.

Respectfully submitted,

Eric Rasmussen

Eric Rasmussen, Recording Secretary