

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
DATE 10/31/2019

Town and/or agency's comments:  
Approval 3-0

**CRITERIA AND ADVISORY FINDINGS**

23.7-234 "Basis of decision" (required for all Ch. 23 Town/County Zoning Code, Ch. 26 Floodplain Zoning Code, and Ch. 27 Shoreland Zoning Code variances)

1. **Criteria: 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.**
  - a. **Findings for approval:**

The requirement in question would unreasonably prevent the property owner from using the property for a permitted use that is currently established.
  - b. **Findings for denial:**

The requirement in question would not unreasonably prevent the property owner from using the property for a permitted purpose since the use is already established.
  
2. **Criteria: The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in questions.**
  - a. **Findings for approval:**

The subject property has a strip of wetlands within the parcel restricting the placement of a structure. The placement of the structure is limited by the neighboring zoning districts and the entirety of the parcel is within six hundred feet of a residential or commercial zoning district.
  - b. **Findings for denial:**

No findings for denial found. The entirety of the parcel is within 600 feet of a residential zoning district.
  
3. **Criteria: 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.**
  - a. **Findings for Approval:**

The granting of the variance will not be contrary to or harm the public interest given the general purpose of the zoning regulations since the use is currently established and not meeting the requirements. The proposed structure will place activities that are generally outdoors, indoors.
  - b. **Findings for denial:**

The granting of the variance may increase the use of an overall intensive land use and may be contrary to the public interest given the general purpose of the 600-foot setback.

**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 (have not) been met.

**STAFF RECOMMENDATION**

Approval with conditions      X

**ADVISORY CONDITIONS:**

1. Any future expansion of the use shall require a conditional use permit.
2. All erosion control and stormwater requirements shall be met.
3. All zoning requirements shall be met with the issuance of a zoning permit.

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Clear water runoff must be directed such that it does not affect neighboring properties.

**CRITERIA AND ADVISORY FINDINGS**

23.7-234 "Basis of decision" (required for all Ch. 23 Town/County Zoning Code, Ch. 26 Floodplain Zoning Code, and Ch. 27 Shoreland Zoning Code variances)

1. **Criteria: 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.**
  - a. **Findings for approval:** Floodplain fill requirements of 12-ft on all sides would leave maximum buildable width of 30-ft, which is unreasonably narrow for a stick built single-family dwelling.
  - b. **Findings for denial:**  
A single-family dwelling could be designed to accommodate the floodplain fill requirements of 15-ft of fill around the perimeter of the structure.
  
2. **Criteria: The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in questions.**
  - a. **Findings for approval:** The lot is part of an older plat, is subsequently substandard in width and was not created with floodplain regulations in mind.
  - b. **Findings for denial:**  
The lot is large in area providing room to accommodate an alternative narrower design.
  
3. **Criteria: 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.**
  - a. **Findings for approval:**  
Drainage concerns are addressed through the required erosion control permit. Having less fill will still keep the structure protected from floodwaters and will not have an adverse effect on adjacent properties or harm the public interest.
  - b. **Findings for denial:**  
Meeting the 15-ft floodplain fill requirement will not harm the public interest.

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

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

**Findings for approval:**

The request still allows for 8.5 feet and 7.5 feet of floodplain fill on the sides of the structure. The full 15-ft of fill will be met on the street and shore sides of the structure.

**Findings for denial:**

The reductions in floodplain fill will not offer as much protection as the full 15-ft would and the risk of potential uplift of the foundation may be greater.

**Based upon the above findings**, it is the opinion of the Board that all criteria of, Article 6, Section 26.6-7 of the Floodplain Zoning Code have (have not) been met.

**STAFF RECOMMENDATION**

Approval with conditions

X

**ADVISORY CONDITIONS:**

1. The proposed project shall meet all zoning requirements with the issuance of a zoning permit.
2. All drainage and erosion control requirements shall be met with the issuance of an erosion control permit.