

**WINNEBAGO COUNTY
BOARD OF ADJUSTMENT**

Thursday, December 3, 2015 – 7:30 a.m.
Planning & Zoning Conference Room, County Administration Building,
Oshkosh, Wisconsin

DELIBERATIVE SESSION

Members Present: Arden Schroeder, Tom Verstegen, Sue Drexler, and Tom Tuschl.

Excused: Greg Kargus

Also Present: Eric Rasmussen, Zoning Office and Karen Fredrick, court reporter.

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

The following items were acted on:

I. Approval of Minutes

T. Verstegen made a motion to approve the minutes of September 25, 2015, September 29, 2015, October 8, 2015, October 16, 2015, October 21, 2015, October 29, 2015, and November 13, 2015. S. Drexler seconded. T. Tuschl abstained Motion carried by voice vote (3-0-1-1, excused Kargus, abstained Tuschl).

II. Austin Doehling – Town of Poygan

A variance was requested to be allowed to keep a detached garage with a substandard shore yard setback.

The committee discussed calling the structure a boathouse, alternate locations that could require different variance requests, and possible conditions for approval such as a shoreland buffer.

A motion was made by T. Tuschl to deny the variance request based on potential alternate locations for the construction of a garage on the property.

Motion seconded by A. Schroeder.

The findings used to approve the variance have been made in accordance with section 23.7-234,

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.**

Denial: A garage could be constructed on the property in an alternate location or in a location that would require less of a variance.

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

Denial: A garage could be constructed on the property in an alternate location or in a location that would require less of a variance.

- 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.**

Denial: Continued development along a navigable stream will impact the waters of the State. There are alternate locations on the property for the construction of a garage.

27.8-8(a) "Generally" (required for all Ch. 27 Shoreland Zoning Code variances)

1) **The variance is consistent with the purpose of the Shoreland Zoning Code.**

Continued development along a navigable stream will impact the waters of the State. A garage could be constructed on the property in an alternate location or in a location that would require less of a variance.

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 not been met.

Vote on the Motion: A. Schroeder, aye; S. Drexler, nay; T. Tuschl, aye; T. Verstegen, nay.

Motion failed by a 2-2-1 (excused Kargus) vote.

The court reporter was excused from the session. Staff obtained a voice recorder.

There was discussion regarding the outcome or implication of the tie vote. The committee also discussed the location of the drainfield and the potential for a street yard variance for alternate locations. The board also discussed the size of the garage being requested.

A motion was made by S. Drexler to approve the variance as requested and with an advisory condition. The condition would require the property owner to install a vegetative buffer between the garage and the navigable stream. The property owner would also need to have a deed restriction recorded requiring that the buffer be maintained in perpetuity.

Motion seconded by T. Verstegen.

The findings used to approve the variance have been made in accordance with section 23.7-234,

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: With the location of the existing home and drainfield, strict compliance with the 75' shore yard setback would prohibit the construction of a garage of the size requested.

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: This is a narrow lot with 2 street frontages, a navigable stream, and existing home and drainfield. Strict compliance with all setback requirements would prohibit the construction of a garage of the size being requested. The existing home is on a slab and very small, storage space is limited.

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: There are many neighboring properties with structures within the shore yard setback. Strict compliance with the shore yard setback does not allow the construction of a garage of the size requested.

27.8-8(a) "Generally" (required for all Ch. 27 Shoreland Zoning Code variances)

1) **The variance is consistent with the purpose of the Shoreland Zoning Code.**

Approval: There are many neighboring properties with structures within the shore yard setback. Strict compliance with the shore yard setback does not allow the construction of a garage of the size requested.

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.

Vote on the Motion: A. Schroeder, nay; S. Drexler, aye; T. Tuschl, nay; T. Versteegen, aye.

Motion failed by a 2-2-1 (excused Kargus) vote.

There was additional discussion regarding the size of the garage allowed on the property or what would be reasonable as a request and where it could be placed on the property.

T. Tuschl made a motion to adjourn the item until a 5th member could be present on December 10 or 11, 2015. T. Versteegen seconded. Motion carried 4-0-1 (excused Kargus) and the item was adjourned.

III. Approval of formal request to DNR for guidance on variance requests

S. Drexler made a motion for staff to draft a letter requesting the DNR provide guidance and opinion on all applicable variances. T. Versteegen seconded. Motion carried 4-0-1 (excused Kargus).

IV. Distribution of notices and other information to Board of Adjustment

S. Drexler made a motion that notices and packets shall be emailed to the Board of Adjustment. At the viewing staff will have paper copies of the packets for the committee. A. Schroeder seconded. Motion carried 4-0-1 (excused Kargus).

There being no other business, the meeting was adjourned at 8:40 a.m.

Respectfully submitted,

Eric Rasmussen

Eric Rasmussen, Recording Secretary