

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 7/31/2018 8:24:00 AM

Town and/or agency's comments:

1. No objections from neighbors.
2. Road dead ends in front of their property.
3. Building doesn't come any closer to the road.

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. Finding(s): Findings for approval: The owners bought the property with the existing structures on the property including the one stall garage. It is common in Wisconsin to have a two stall garage especially for shelter and storage during the winter months. The proposed garage addition would not be any closer to the road than the existing one car garage.
 - b. Findings for denial: The owners do currently have reasonable use of the property and could add an addition to the garage and/or house that would meet the required minimum setback of 22.5' without the need for a variance.
- 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. Finding(s): Findings for approval: The lot is an existing non-conforming lot since it does not meeting the minimum lot width of 85' as required in the R-1 zoning district. The owners are proposing to work with the existing non-conforming detached garage by adding on at its existing location.
 - b. Findings for denial: The existing non-conforming detached garage is non-conforming due to the setback from the road but does meet side setback requirements even though the lot is not the minimum width of 85'. Alternative plans could be proposed that would make the non-conforming structure compliant and/or less non-conforming. An addition to the non-conforming existing garage could also be permitted in a compliant location without the submittal of a variance application.
- 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. Finding(s): Findings for approval: The proposed garage addition would not be any closer to the road than the existing one stall non-conforming garage and the nearby property owners are aware of the close proximity of the existing garage to the road.
 - b. Findings for denial: An addition to the garage at its current location 4' from the front property line would enlarge a non-conforming structure which could have a negative impact on public interest since a larger structure would be within a protection buffer area meant to protect structures and pedestrians from vehicular traffic and/or improvements. Vehicles parking on the existing and proposed driveway would also be partially within the road right of way.

Based upon the above findings, it is the opinion of the Board that all criteria of have (have not) been met.

STAFF RECOMMENDATION

- Approval
- Approval with conditions
- Approval not as requested
- Approved not as requested with conditions
- Denial

ADVISORY CONDITIONS:

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 7/31/2018 8:24:00 AM

Town and/or agency's comments: Town Board recommends approval.

1. This is not an uncommon request on Paulson Rd.
2. Other variances have been granted.

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. Finding(s): Findings for approval: Without the issuance of a variance the proposed new home would need to be smaller even though the proposed home would meet the minimum yard and shoreland zoning setback requirements. A smaller sized home might not be enough room for the family that owns the property.
 - b. Findings for denial: There is already reasonable use of the property. Vertical expansion is a possibility or a smaller home that is at least 20' to satisfy the single family dwelling standards could be proposed and 15' of fill could be placed around the home if the new proposed home was centered on the lot without the need for a variance.
- 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. Finding(s): Findings for approval: The lot is approximately 58 ft. wide at the proposed house location. The minimum lot width is 85' for this R-1 zoned parcel which makes the lot a legal non-conforming lot. The substandard width then requires a smaller house width in order to to meet floodplain fill requirements. Retaining wall needed for retention of fill and to maintain slope and/or drainage on the south side and within 75' shoreland setback.
 - b. Findings for denial: A proposed home that is at least 20' wide and less than 35' in height could be proposed and made possible without the need to reduce the 15' floodplain fill requirement.
- 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. Finding(s): Findings for approval: A reduction in the amount of the required 15' of floodplain fill may or may not have a negative impact on surrounding properties or road drainage since all surface water from the impervious roof and driveway surfaces will be directed to the lake and/or road ditch.
 - b. Findings for denial: It is yet to be determined if the reduction in the required 15' of fill may adequately handle surface water generated during ordinary rain or flooding events.

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.**
 - a. Finding(s): Findings for approval: The proposed home will have 6.2' of fill on the north side to match the northern neighbor's recent floodplain filling requirement and 9.2' of fill is proposed on the south side of the structure. The proposed fill is less than the required 15' but if surface water from the impervious surface is collected and directed away from the neighboring properties the proposed amount of fill may be sufficient.

- b. Findings for denial: The size of the home is a personal preference of the applicant and any reduction of less than 15' of fill would be inconsistent with the intent of the floodplain code.

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): Findings for approval: In order to comply with the floodplain requirements when constructing a new home or additions to an existing home, the home and property must be raised to floodplain standards which often do require retaining walls of various length and height to keep the fill in place. The shoreland zoning code considers retaining walls an accessory structure which require a 75' setback from the water, but due to the need to retain the fill placed on the property they are often necessary within the 75' setback area.
- b. Findings for denial: The shoreland zoning code considers retaining walls an accessory structure which require a 75' setback from the water.

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, Article 6, Section 27.6-8 of the Shoreland Zoning Code **have** **have not** been met.

STAFF RECOMMENDATION

- Approval
- Approval with conditions
- Approval not as requested
- Approval not as requested with conditions
- Denial

ADVISORY CONDITIONS:

1. All impervious surface water on the proposed site shall be collected and directed to the lake or road if the road has adequate drainage ditch/channel.
2. The proposed fill shall gradually be sloped away from the house on each side. The north side shall create a swale with neighbor's new fill and the south side shall be a gradual slope to the retaining wall.
3. Retaining wall needed for retention of fill and to maintain slope and/or drainage on the south side and within 75' shoreland setback.