

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 01/26/2021

Town and/or agency's comments:

1. The WDNR sent an email with no comments from a floodplain perspective.
2. The Town of Poygan recommended approval for the variance with the assumption that the proposed patio is not required to meet the Shore-yard setback.

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: There is no compliant location to locate a single family dwelling that will meet the shore-yard setback average, as well as all other applicable setbacks and requirements on the property. Findings for denial: The proposed patio and retaining wall are self created hardships within the proposed shore-yard setback and do not create unreasonable use of the property.
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 applicants property is bordered by a lake creating setback requirements that cover almost the entire total lot depth in some places, as well as stringent floodplain fill requirements. Findings for denial: The proposed patio and retaining wall within the proposed shore-yard setback are unnecessary for development on the property.
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 single family dwelling is similar to the existing pattern of development in the surrounding area so public interest will not be harmed. Findings for denial: The shoreland zoning code provides relief to property owners who own properties in existing development patterns without causing harm to public interest.

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; The request still allows for the required floodplain fill and all other road/side lotline setbacks to be met. Findings for denial: The proposed patio and retaining wall located between the single family dwelling and ordinary high water mark are unnecessary for development on the property.

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, 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

X

Approval not as requested with conditions

Denial

ADVISORY CONDITIONS:

1. Proposed patio and retaining wall shall meet the 52.0 ft shore-yard setback.