

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 12/16/2020

Town and/or agency's comments:

1. The Town of Oshkosh approved the variance request with the following finding:
a) Consistent with other homes - neighboring.

2. The DNR submitted a letter summarizing the Boards statutory review criteria along with comments and concluding that there is a clear option to build the new residence at the averaged setback with a reduced road setback variance or a modified structure.

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 six lot plat was approved in 1998 with a 50-ft shoreyard setback granted by variance. Impervious surface standards will be imposed on the property owners of the lot that did not exist when the variance was granted. Strict enforcement of the allowed shoreyard setback and additional shoreland regulations will be unnecessarily burdensome to the property owners. Findings for denial: Setback averaging allows for a 63.5-ft setback. There is 26.5-ft of lot depth to construct a reasonably sized home on the lot.
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: Approximately 25.8% of the lot depth is below the ordinary high water mark of a man-made channel. It would be impractical for the property owners to design a reasonably sized home that would meet the allowed shoreyard setback. Findings for denial: The area above the ordinary high water mark of the man-made channel does not have any unique physical characteristics that would prevent the property owners from developing the lot in compliance with the shoreland zoning code.
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 so public interest will not be harmed. Findings for denial: The shoreland zoning code provides relief to property owners who own property in existing development patterns. Granting a variance would be contrary to or harm 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: Nearly all of the structures along this channel have substandard setbacks and the shoreland zoning code recognizes existing patterns of development allowing variances when needed. Findings for denial: The structure is being proposed at 52.2-ft from the ordinary high water mark from the man-made channel which disregards the purpose and intent of the shoreland zoning code.

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

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

ADVISORY CONDITIONS:

- 1.

2021 Board of Adjustment Meeting Schedule

Application Deadline	Viewing	Public Hearing	Deliberative
4:00 p.m.	8:00 a.m.	5:30 p.m.	7:30 a.m.
Dec-01-20	Jan 21-2021	Jan-26-21	Feb 04
Jan-04-21	Feb 18	Feb 24 *	Mar 04
Feb 01	Mar 25	Mar 30	Apr 08
Mar 01	Apr 22	Apr 27	May 06
Apr 01	May 20	May 25	Jun 03
Apr 30	Jun 24	Jun 29	Jul 08
Jun 01	Jul 22	Jul 27	Aug 05
Jul 01	Aug 26	Aug 31	Sep 09
Jul 30	Sep 23	Sep 28	Oct 07
Sep 01	Oct 14	Oct 20 *	Oct 28
Oct 01	Nov 11	Nov 17 *	Dec 02
Nov 01	Dec 16	Dec 22 *	Jan 06-2022
Dec 01	Jan 21-2022	Jan 25-2022	Feb 03-2022

2020 DATES
2021 DATES
2022 DATES

NOTE: Change from standard scheduling pattern
* Date changed to Wednesday

1. All applications, including fees, maps, and other required information, MUST be received by 4:00 p.m. on the application deadline.
2. All times are as listed unless otherwise changed by the committee.

Adopted by Board of Adjustments on: _____