

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 08/31/2021

Town and/or agency's comments:

1. No objections from neighboring properties.
2. This request complies with the Town of Wolf River Comprehensive Plan.
3. This request is compatible with variances granted to surrounding 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. Finding(s): Findings for approval: Due to the structure separation, shore yard and street yard setbacks a reasonably sized garage cannot be placed on this property.
 - b. Findings for denial: The property has an existing storage structure near the channel.
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: Due to the multiple setbacks the applicant has minimal space to build a reasonable sized garage.
 - b. Findings for denial: Proposed garage size could be decreased to meet most of the setbacks.
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 is similar to the existing pattern of development in the surrounding area so public interest will not be harmed.
 - b. Findings for denial: The location of the proposed garage may have adverse effects on neighboring properties drainage.

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: Many of the structures along this channel have substandard setbacks and the shoreland zoning code recognizes existing patterns of development allowing variances when needed.
 - b. Findings for denial: The proposed garage is unnecessary for reasonable use 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
 Approval not as requested with conditions
 Denial

ADVISORY CONDITIONS:

Town Conditions:

1. A firewall shall be built between this new structure and other existing structures.

County Conditions:

1. Any part of the proposed structure located less than 5 ft to a separate structure must not have openings (doors/windows).
2. The proposed structure must have a firewall(s) due to the decreased structure separation setback.
3. The proposed structure must have eaves installed for appropriate drainage.
4. All floodplain requirements must be met.

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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 Floodplain fill requirements of 15 ft on all sides reduces the developmental space of the lot. Basements are not allowed in floodplain areas therefore reducing the allowable square footage of a 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. Finding(s): Findings for approval: The property has a unique shape that is not accommodating to floodplain fill requirements.
 - b. Findings for denial: The property could provide room to accommodate the 15 ft of 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: Having less fill will still keep the structure protected from floodwater and will not have an adverse effect on adjacent properties or harm to the public interest. Removal of non- conforming structures on the lot is desirable.
 - 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.**
 - a. Finding(s): Findings for approval: The request still allows for 8.5 ft and 13.5 ft 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.
 - b. Findings for denial: The reductions in floodplain fill will not offer as much protection as the full 15 ft of fill, and the risk of potential uplift of the foundation may be greater as well as less space for emergency services.

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 26.6-7 of the Floodplain Zoning Code have (have not) been met.

STAFF RECOMMENDATION

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

ADVISORY CONDITIONS:

Town Conditions:

1. A drainage plan shall be included to prevent water from flooding adjacent properties.

County 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.