

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
October 6, 2016

**TOWN AND/OR AGENCY'S COMMENTS**

The Town of Wolf River has recommended approval with the following findings:

1. Allows for reasonable and practical use of property
2. Allows for handicapped access
3. Improves and enhances existing structure
4. No adverse impacts to neighboring properties
5. No objection from neighbors - they support this project

No response from the DNR - they have been unable to comment on requests as their time is being utilized to review ordinances for County shoreland code updates, which have a State mandated deadline of October 1, 2016.

**REQUEST:**

Applicant is requesting a variance for a reduced shore yard setback of 27' 7" for a bar/restaurant addition.

**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): Approval:** The footprint of the existing structure could not be expanded without the granting of a variance.
  - b. **Finding(s): Denial:** The property owner has reasonable use of the property as a bar and restaurant without the granting of 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): Approval:** This is a very narrow lot with a 75' shore yard setback and a 30' street yard setback required. Compliance with these setback requirements leaves no compliant location for an addition to the bar/restaurant.
  - b. **Finding(s): Denial:** The property contains a bar, patio, tiki bar, and cooler that can continue to be used on the property without the granting of this variance.
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): Approval:** The addition will encourage improvements for ADA compliance with regard to bathrooms.
  - b. **Finding(s): Denial:** The addition will increase the intensity of the use, including traffic and parking. This is an extremely small commercial lot that is already heavily developed.
4. Criteria: The variance is consistent with the purpose of the Shoreland Zoning Code.
  - a. **Finding(s): Approval:** The addition will not encroach any closer to the ordinary high water mark than the existing patio.
  - b. **Finding(s): Denial:** Continued development within the shore yard setback through the approval on variances is contrary to the intent of the shoreland zoning code. This property is already very heavily developed for its size and proximity to the water. The addition will require the removal of a well-established tree within the vegetative buffer zone.

**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.

**ADVISORY CONDITIONS:**

1. A zoning permit shall be obtained for the work approved.
2. Cooler must be moved per variance 2016-VA-3440 granted on 2/11/16.
3. Bar addition granted per variance 2016-VA-3440 granted on 2/11/16 shall not be utilized.
4. Approval does not include any additional concrete or patio area.
5. Additional parking must be installed to meet the requirements of Article 11 of the Zoning Code. If off-site parking is necessary, a parking agreement shall be recorded.
6. The property shall be reviewed in two (2) years to address any concerns regarding traffic or parking. If this board deems necessary, off-site parking shall be established which will accommodate any existing parking that does not meet the current service drive standards.
7. For every tree removed from the property, two trees must be planted within 35ft of the shoreline.
8. Handicap access must be provided to both genders' bathrooms or to a dual-gender bathroom.