

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 03/07/2019

Town and/or agency's comments: Town Board recommended denial because the proposed setback is too small.

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): Reasons For Approval:
 - b. The 30 foot road right of way setback, with no averaging available, would unreasonably prevent the property owner from using the property for a permitted purpose because the majority of the structure lies within the setback.
 - c. Reasons For Denial:
 - d. The existing entrances do not comply with the setback from the road right of way and serve a similar purpose as the proposed entrance and deck.

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): Reasons For Approval:
 - b. The minimum lot width is 85 feet and area is 15,000 square feet for the B-2 (Community Business) District. The subject lot is 60 feet wide and has an area 7,560 square feet, making it a nonconforming lot.
 - c. Reasons For Denial:
 - d. An entrance could be located on a portion of the structure not within the 30 foot setback.

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): Reasons For Approval:
 - b. The proposed deck and stairway will not be contrary to, or harm the public interest because the entrance to the building will be further from the road right of way and will be no closer to the right of way than the existing structure.
 - c. Reasons For Denial:
 - d. The proposed setback from the stairway and deck does not comply with the 30 foot setback from the road right of way required for ingress/egress and safety.

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 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:

1.