

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
Thursday, July 6th, 2017

Town and/or agency's comments: None

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 owner is unable to access approximately half his property without a driveway that would either cross or run parallel to a navigable stream. The setback requirement would be unnecessarily burdensome since there is no compliant location for a driveway to access approximately half the property.
 - b. Findings for denial: There are other buildable sites on the property where a driveway could be located in a compliant location. The selected building site is a personal preference.

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: A navigable stream dissects the property in half making it impossible to extend a driveway to half the property without crossing or encroaching on the navigable stream.
 - b. Findings for denial: The owner already has reasonable use of the property and a compliant location for a home and driveway.

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: Allowing a driveway within the setback area minimizing the encroachment on the navigable stream will not harm the public interest.
 - b. Findings for denial: Allowing the driveway in a non-compliant location may set a precedent for similar variance requests for properties with similar circumstances.

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 proposed location of the driveway will meet the purpose and intent of the Winnebago County 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

Approval

Approval with conditions

X

Approval not as requested

Approval not as requested with conditions

Denial

ADVISORY CONDITIONS:

1. An erosion control shall be obtained prior to driveway construction and erosion control measures shall be maintained before, during and after driveway construction until the site disturbance is stabilized.

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1. Less non-conforming than previous.
2. No additional impervious surfaces.

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: Overall impervious surfaces on the property would be reduced and the street yard setback would be substantially increased.
 - b. Findings for denial: There is already reasonable use of the property. A deck addition with a substandard shoreyard setback and a single family dwelling with an attached garage with a substandard street yard setback is a personal preference.
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: There is very limited compliant location on the property to relocate the impervious surface to meet the shoreyard setback and meet the street yard setback given the lot is substandard in width and area.
 - b. Findings for denial: There is already reasonable use of the property, and relocating and creating new impervious surfaces is a personal preference of the applicant.
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. Findings for approval: Reconstructing the single family dwelling with attached garage in a more compliant location and relocating a portion of the existing impervious surfaces will not harm the public interest.
 - b. Findings for denial: There is already reasonable use of the property, and allowing a deck addition and reconstruction of a single family dwelling with substandard setbacks would be contrary to the requirements of other properties of similar circumstances.

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 proposed location of the single family dwelling with attached garage will meet the purpose and intent of the Winnebago County Town/County Zoning Code. However, the deck addition would not be consistent with 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.

DAVE PRITZL
17-VA-4130

STAFF RECOMMENDATION

Approval

Approval with conditions

Approval not as requested

Approval not as requested with conditions

Denial

X

ADVISORY CONDITIONS:

1.