

Property Owner: Wally Juedes
Parcel: 018-2227
Application: 2016-VA-3630

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE July 7, 2016

Town and/or agency's comments: The Town of Oshkosh has recommended approval.

The Wisconsin DNR has no objection to the variance request for reduced floodplain fill.

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.**

Finding(s):

- a. Approval: The shoreyard setback required from the navigable stream does not allow for any buildable location on the lot. The requirements for floodplain fill leave a very narrow buildable width due to the lots 50' width.
- b. Denial: NA

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:**

Finding(s):

- a. Approval: The property has a navigable stream along the south property line. The 75' shore yard setback does not leave any compliant building location on the lot. The floodplain construction requirements leave a very narrow buildable width due to the lots 50' width.
- b. Denial: NA

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.**

Finding(s):

- a. Approval: The proposed structure will be in compliance with the required street yard setback and the shoreyard setback from the lake as well as the side yard setbacks from the zoning code. Direction of downspouts to the lake will prevent surface water from impacting neighboring properties.
- b. Denial: The variance requests are very extreme. The request will provide very little relief from the navigable stream and provide much less flood protection than specified by the code.

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.**

Finding(s):

- a. Approval: This is a 50' wide lot. There is very little buildable area on the property while complying with the floodplain fill standards.
- b. Denial: The variances requested will provide less protection than the standards required by the floodplain construction standards.

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.**

Finding(s):

- a. Approval: The required setback from the navigable stream covers the entire property. There is no compliant location on the property based on this shore yard setback. The shoreyard setback from the lake will be met.

Property Owner: Wally Juedes

Parcel: 018-2227

Application: 2016-VA-3630

- b. Denial: This is a very extreme variance. The setback requested will provide very little buffer to the navigable stream 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 26.6-7 of the Floodplain Zoning Code, Article 6, Section 27.6-8 of the Shoreland Zoning Code have (have not) been met.

STAFF RECOMMENDATION

Approval with conditions

ADVISORY CONDITIONS:

1. Downspouts shall be directed to the lake.
2. Driveway shall not extend closer to the navigable stream than the setback allowed for the home.
3. Retaining wall shall be engineered to withstand stormwater and flooding forces.
4. Variance approval is limited to this lot only.