

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
DATE 10/23/2018

Town and/or agency's comments: Town Board recommends approval.

1. The variance is reasonable
2. Two neighbors spoke in favor of the variance.

**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. Findings for approval: The street yard setback requirement would unreasonably restrict the size of an attached garage to be usable to store a vehicle for the winter months for shelter, by meeting the required shore-yard setback and street setbacks the size of the usable garage area to store a vehicle is limited.
  - b. Findings for denial: There is an existing home and garage that can be rebuilt as they stand in the current footprint with the current setbacks.
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. Findings for approval: The lot is approximately 33 ft. wide at the proposed house location. The minimum lot width is 65 ft. for this R-2 zoned parcel, which makes this a legal non-conforming lot.
  - b. Findings for denial: A smaller dwelling may be constructed to accommodate room for a garage of sufficient size to meet the street yard 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. Findings for approval: The granting of the variance will not be contrary to or harm the public interest because the proposed street setback is set further back from the road right of way than the existing garage on the property. The proposed structure meets shoreline averaging setbacks, side setbacks and does not increase the impervious surfaces on the lot.
  - b. Findings for denial: The proposed structure does not meet the minimum requirements for street yard setbacks.

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.

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
DATE 10/23/2018

Town and/or agency's comments:

1. Lot width presents a hardship which is not self-imposed.
2. No neighbors disapproved.
3. Tearing down the building and rebuilding will improve the site and neighborhood.

**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: Without the issuance of a variance the proposed new home would need to be smaller even though the proposed home would meet the minimum yard and shoreland zoning setback requirements. A smaller sized home might not be enough room for the family that owns the property.
  - b. Findings for denial: A home that is 20' wide that could satisfy the single family dwelling standards could be proposed and 15' of fill could be placed around the home if the new proposed home was centered on the lot without the need for 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): Findings for approval: The lot is approximately 50 ft. wide at the proposed house location. The minimum lot width is 65' for this R-2 zoned parcel which makes the lot a legal non-conforming lot. The substandard width then requires a smaller house width in order to to meet floodplain fill requirements. Retaining wall needed for retention of fill and to maintain slope and/or drainage on the west side and within 68.5' shoreland setback.
  - b. Findings for denial: A proposed home that is at least 20' wide and less than 35' in height could be proposed and made possible without the need to reduce the 15' 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: A reduction in the amount of the required 15' of floodplain fill may or may not have a negative impact on surrounding properties or road drainage since all surface water from the impervious roof and driveway surfaces will be directed to the lake and/or road ditch.
  - b. Findings for denial: It is yet to be determined if the reduction in the required 15' of fill may adequately handle surface water generated during ordinary rain or flooding events.

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. Findings for approval: The proposed fill is less than the required 15' but if surface water from the impervious surface is collected and directed away from the neighboring properties the proposed amount of fill may be sufficient.
  - b. Findings for denial: The size of the home is a personal preference of the applicant and any reduction of less than 15' of fill would be inconsistent with the intent of the floodplain code.

**Based upon the above findings**, it is the opinion of the Board that all criteria of, 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:**

1. The drainage plan submitted must be approved by County Zoning.
2. Drainage off the roof should be directed to the lake