

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
DATE 11/02/17

Town and/or agency's comments:

1. The Town Board of Wolf River denied the variance request with the following findings:
  - a) Boathouse structure would be placed in such a way as to deny access to neighboring property owners as the structure would be directly over the easement to the neighbor's property , thus creating a land-locked property.
  - b) A public road exists in the aforementioned area at the end of this private road that was purposefully never vacated, nor abandoned by the town.

**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: There is no compliant location to locate a single family dwelling that will meet both of the 75-ft shoreyard setbacks. However, a boathouse could be located to meet 30-ft setback requirement from the private road.
  - b. Findings for denial: Contradictory evidence presented at the hearing confirmed the subject property may still be a public road that was never legally vacated in which case, the structures would be located within a public road right-of-way.
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 subject property is bordered by a lake and a channel creating setback requirements that exceed the total lot depth in some places.
  - b. Findings for denial: Contradictory evidence presented at the hearing confirmed the claim that the subject property may still be a section of public road in which case, a variance should not have been applied for.
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: The proposed single family dwelling location is similar to the existing pattern of development in the area so public interest will not be harmed.
  - b. Findings for denial: Contradictory evidence presented at the hearing by the applicant, adjoining property owner and the Town of Wolf River, strongly suggests approval of the variance could greatly harm public interest. The legal issues must be resolved before a sound decision can be made on a variance request for the subject property.

26.6-7(a) "Review criteria" (required for all Ch. 26 Floodplain Zoning Code variances)

4. **Criteria: The variance is consistent with the purpose of the Floodplain Zoning Code s. 26.1-5.**
  - a. Finding(s) for Approval: The request still allows for some floodplain fill on two sides of the structure. The full 15-ft of fill will be met on the other sides of the structure.
  - b. Findings for Denial: The reductions in floodplain fill will not offer as much protection as the full 15-ft and would be contrary to the floodplain protection measures in the Floodplain Zoning Code.

27.6-8(a) "Generally" (required for all Ch. 27 Shoreland Zoning Code variances)

**5. Criteria: The variance is consistent with the purpose of the Shoreland Zoning Code.**

- a. Finding(s) for Approval: Nearly all of the structures along this road have substandard shoreyard setbacks and the Shoreland Zoning Code recognizes existing patterns of development allowing for variances when needed.
- b. Findings for Denial: The structure is being proposed only 12.8-ft from the ordinary high water mark which disregards 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 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

Approval with conditions

Approval not as requested

Approval not as requested with conditions

Denial

X

**ADVISORY CONDITIONS:**

1.

## 2018 Board of Adjustment Meeting Schedule

Application Deadline	Viewing	Public Hearing	Deliberative
<b>4:00 p.m.</b>	<b>8:00 a.m.</b>	<b>5:30 p.m.</b>	<b>7:30 a.m.</b>
Dec-01-17	Jan 25	Jan 30	Feb 08
Jan-02-18	Feb 22	Feb 27	Mar 08
Feb 01	Mar 22	Mar 27	Apr 05
Mar 01	Apr 19	Apr 25	May 03
Apr 02	May 24	May 29	Jun 07
May 01	Jun 21	Jun 26	Jul 05
Jun 01	Jul 26	Jul 31	Aug 09
Jul 02	Aug 23	Aug 28	Sep 06
Aug 01	Sep 20	Sep 25	Oct 04
Aug 31	Oct 18	Oct 23	Nov 01
Oct 01	Nov 08	Nov 13	Nov 29
Nov 01	Dec 13	Dec 19	Jan-03-19
Nov 30	Jan-24-19	Jan-29-19	Feb-07-19

**2017 DATES**

**2018 DATES**

**2019 DATES**

**NOTE: Change from standard scheduling pattern  
\* Date changed to Wednesday**

1. All applications, including fees, maps, and other required information, MUST be received by 4:00 p.m. on the application deadline.
2. All times are as listed unless otherwise changed by the committee.

**Adopted by Board of Adjustments on:**