

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
DELIBERATIVE SESSION  
POST STAFF REPORT

Town and/or agency's comments:

1. No objection from neighboring property owner.
2. The proposed level of the lot will make it consistent with the neighboring property.
3. Proper improvements to the property.

**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.**

**Findings for approval:** The Floodplain fill requirements of 15 ft on all sides reduces the developmental space of the lot. Basements are not allowed in floodplain areas therefor reducing the allowable square footage of a single- family dwelling.

**Findings for denial:** A single family dwelling could be designed to accommodate the floodplain fill requirements of 15 ft of fill around the perimeter of the structure.

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.**

**Findings for approval:** The property has a unique shape that is not accommodating to floodplain fill requirements.

**Findings for denial:** The property could provide room to accommodate the 15 ft of 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.**

**Findings for approval:** Having less fill will still keep the structure protected from floodwater and will not have an adverse effect on adjacent properties or harm to the public interest. Removal of non- conforming structures on the lot is desirable.

**Findings for denial:** Meeting the 15- ft floodplain fill requirement will not harm the public interest. 26.6-7(a) "Review criteria" (required for all Ch. 26 Floodplain Zoning Code variances).

**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**

**Findings for approval:** The request still allows for practical floodplain fill on the sides of the structure. The full 15 ft of fill will be met on the north, east, and west sides of the structure.

**Findings for denial:** The reductions in floodplain fill will not offer as much protection as the full 15 ft of fill, and the risk of potential uplift of the foundation may be greater as well as less space for emergency services.

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 With Conditions

Town Conditions:

None

County Conditions:

1. The proposed project shall meet all zoning requirements with the issuance of a zoning permit.
2. All drainage and erosion control requirements shall be met with the issuance of an erosion control permit.
3. All construction shall meet the floodplain requirements stated in Chapter 26: Floodplain Zoning Code.

VOTE: \_\_\_\_\_ to \_\_\_\_\_

WINNEBAGO COUNTY BOARD OF ADJUSTMENT  
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Town and/or agency's comments:

1. The WDNR recommended the Board consider all variance criteria when making a decision, and recommended any proposed structure within the floodplain be floodproofed as much as practical, including fill around the structure.

Town of Oshkosh:

1. Approve reduced floodplain fill setback as proposed.
2. Approve reduced retaining wall setback as originally requested.
3. Reduced house setback by averaging (67.2ft) needs to be kept because of overhead power line easement which neighbors won't move, undue hardship, plus unnecessary burden.
4. Intent of ordinance is kept, protect water quality, and natural scenic beauty.

**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.**

**Findings for approval:** The Floodplain fill requirements of 15 ft on all sides reduces the developmental space of the lot. Basements are not allowed in floodplain areas therefor reducing the allowable square footage of a single- family dwelling.

**Findings for denial:** A single family dwelling could be designed to accommodate the floodplain fill requirements of 15 ft of fill around the perimeter of the structure.

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.**

**Findings for approval:** The property has a unique shape that is not accommodating to floodplain fill requirements.

**Findings for denial:** The property could provide room to accommodate the 15 ft of 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.**

**Findings for approval:** Having less fill will still keep the structure protected from floodwater and will not have an adverse effect on adjacent properties or harm to the public interest. Removal of non- conforming structures on the lot is desirable.

**Findings for denial:** Meeting the 15- ft floodplain fill requirement will not harm the public interest. 26.6-7(a) "Review criteria" (required for all Ch. 26 Floodplain Zoning Code variances).

**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**

**Findings for approval:** The request still allows for practical floodplain fill on the sides of the structure. The full 15 ft of fill will be met on the street and shore sides of the structure.

**Findings for denial:** The reductions in floodplain fill will not offer as much protection as the full 15 ft of fill, and the risk of potential uplift of the foundation may be greater as well as less space for emergency services.

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 With Conditions

Town Conditions:

None

County Conditions:

1. Retaining wall(s), meeting all county setback requirements, shall be placed to contain the proposed fill on both side lot lines.
2. The proposed project shall meet all zoning requirements with the issuance of a zoning permit.
3. All drainage and erosion control requirements shall be met with the issuance of an erosion control permit.
4. All construction shall meet the floodplain requirements stated in Chapter 26: Floodplain Zoning Code.

VOTE: \_\_\_\_\_ to \_\_\_\_\_

## 2023 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 1-2022	Jan 19-2023	Jan 24	Feb 02
Jan 2-2023	Feb 23	Mar 1*	Mar 09
Feb 01	Mar 23	Mar 28	Apr 06
Mar 01	Apr 20	Apr 25	May 04
Mar 31	May 25	May 30	Jun 08
May 01	Jun 22	Jun 27	Jul 06
Jun 01	Jul 20	Jul 25	Aug 03
Jun 30	Aug 24	Aug 29	Sep 07
Aug 01	Sep 21	Sep 26	Oct 05
Sep 01	Oct 26	Oct 31	Nov 09
Oct 02	Nov 17 *	Nov 28	Dec 07
Nov 01	Dec 15 *	Dec 20 *	Jan 04-2024
Dec 01	Jan 25-2024	Jan 30-2024	Feb 08-2024

**2022 DATES**

**2023 DATES**

**2024 DATES**

**NOTE: Change from standard scheduling pattern  
\* date changed**

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: \_\_\_\_\_