

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
DATE 07/30/2019

Town and/or agency's comments: It was unanimously approved by the Town of Oshkosh Board of Appeals and the Town Board supports their decision on Thursday, July 18, 2019. The applicants plan is found to be a reasonable request for this particular land and situation.

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:
 - b. Findings for Denial:
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:
 - b. Findings for Denial:
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:
 - b. Findings for Denial:

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. Finding(s): Yes

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 have (have not) been met.

STAFF RECOMMENDATION

- X **Approval**
Approval with conditions
Approval not as requested
Approval not as requested with conditions
Denial

ADVISORY CONDITIONS:

1. Must maintain the existing 35' vegetative buffer along both shorelines.

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Town and/or agency's comments: Town of Oshkosh Board of Appeals held a hearing and recommended denial and the Town Board supports their decision on Thursday, July 18, 2019. There was no proven hardship.

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 property owner needs extra space for storage of residential accessory items and feels the proposed location would be the best place to build the new detached garage on the lot after considering the layout of the lot.
 - b. Findings for Denial: The property owner has reasonable use of the property since the house has an attached garage with other areas on the lot to build a compliant attached or detached garage.
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 house was placed on the parcel closer to the road than the lake and building a garage in a compliant location would present access restrictions to use the garage or would encroach on the well.
 - b. Findings for Denial: The subject property does not have any unique physical limitations other than a well in the front yard of the home which the property owners wish to maintain a setback to if the well needs to be worked on. However, the 30' minimum setback could be maintained without the granting of the variance and the well would still be accessible.
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: Granting approval of proposed garage location would not be a harm to the public interest since a detached garage is allowed in this residential zoning district.
 - b. Findings for Denial: Granting the variance would allow this structure to be placed within the minimum 30' setback requirement which is intended to create a buffer to vehicular traffic and overall aesthetics of 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 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. A 25' setback to the front property line would allow at least 5' setback to the well for access.
2. An accurate site plan and field verification of property lines would need to confirm location of proposed garage at the reduced setback of 25'