

Notice of Public Meeting  
**Tuesday, August 9, 2022**  
**4:30 p.m.**

**DOOR COUNTY  
 BOARD OF ADJUSTMENT**

Door County Government Center  
 Peninsula Room  
 (C121, 1st floor)  
 421 Nebraska Street, Sturgeon Bay, WI

**USE THE 4<sup>TH</sup> STREET ENTRANCE, ACROSS FROM THE LIBRARY.**

**AGENDA**

- 1.0 Call to order and declaration of quorum.
- 2.0 Read and act on minutes of July 26, 2022 meeting.
- 3.0 Final disposition of the following cases considered by the Board of Adjustment at July 26, 2022 meeting.
  - 3.1 Joseph and Judith Richardt; water and side-yard setback; Liberty Grove.
  - 3.2 Robert Hammacher and Staci Meister; extent of floodplain fill; Gardner.
  - 3.3 Attorney Tyler Pluff on behalf of Mark R. Dixon and Ruth Anne Rehfeldt; appeal Zoning Administrator decision related to regulations that apply to redevelopment of existing nonconforming structures and nonconforming use; Liberty Grove.
- 4.0 Future meeting schedule:
  - September 13: 1-2 variances possible; start time 4:30 p.m.
- 5.0 Vouchers.
- 6.0 Adjournment.

*Deviation from order shown may occur.*

Fred Frey, Chair  
 Door County Board of Adjustment  
 c/o Door County Land Use Services Dept.  
 Door County Government Center  
 421 Nebraska St.  
 Sturgeon Bay, WI 54235

SKV  
 8/2/2022

**Applicants and others who wish to speak must attend in person.**

Members of the public who wish to simply monitor/observe the hearings and meeting may attend in person or do so remotely by using the link below, or via the Zoom smartphone app, or by calling (312) 626-6799.

**Link:**

<https://us02web.zoom.us/j/89400893898?pwd=SHpVZFpVTm90THZrM0FhTEVjSis3dz09>

**Zoom Webinar ID:** 894 0089 3898

**Passcode:** 508550

*Notice in compliance with the Americans with Disabilities Act: 1) Any person needing assistance to participate in this meeting should contact the Office of the County Clerk at (920) 746-2200. Notification 72 hours prior to a meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. 2) Door County is committed to making its electronic and information technology (e.g., website and contents) accessible for all persons. If you encounter difficulty accessing the posted materials for this meeting, located on-line at <https://www.co.door.wi.gov/AgendaCenter> under the committee name, or have trouble accessing the virtual meeting, please call (920) 746-2323, or send a FAX to (920) 746-2387, or send an e-mail to [Lriemer@co.door.wi.us](mailto:Lriemer@co.door.wi.us) so that we may determine how to best assist you.*

**MINUTES OF MEETING  
DOOR COUNTY BOARD OF ADJUSTMENT**

**July 26, 2022**

**1.0 Call to order and declaration of quorum.**

The meeting was called to order by Vice-Chair Weber at 4:31 p.m. on Tuesday, July 26, 2022, in the Peninsula Room (C-121) of the Door County Government Center, Sturgeon Bay, Wisconsin.

**Present:**    **BOA Members**

Aric Weber  
Bob Ryan  
Monica Nelson  
Chris Anderson

**Staff**

Sue Vanden Langenberg  
Kristin Rankin  
Sean Donohue, Corp. Counsel  
Catie McDonald, Intern

**Others**

Rick Toyne  
Joseph Richardt  
Judith Richardt  
Virge Temme  
Staci Meister  
Mark Dixon  
Attorney Tyler Pluff

**Excused:**    Fred Frey  
                  Arps Horvath

**2.0 Discuss and arrive at a decision on Petitions for Grant of Variance and an Appeal.**

**2.1 Joseph and Judith Richardt; water and side-yard setback; Liberty Grove.**

Motion by Ryan, seconded by Anderson, to approve the portion of the variance petition related to the addition to the residence, but not to include the proposed deck. Motion carried unanimously (4–0).

Motion by Nelson, seconded by Ryan, to deny the portion of the variance petition related to the deck. Motion carried unanimously (4–0).

The basis for the decision is set forth on the attached Board of Adjustment decision document.

**2.2 Robert Hammacher and Staci Meister; extent of floodplain fill; Gardner.**

Motion by Nelson, seconded by Anderson, to approve the variance petition as requested. Motion carried unanimously (4–0).

The basis for the decision is set forth on the attached Board of Adjustment decision document.

**2.3 Attorney Tyler Pluff on behalf of Mark R. Dixon and Ruth Anne Rehfeldt; appeal Zoning Administrator decision related to regulations that apply to redevelopment of existing nonconforming structures and nonconforming use; Liberty Grove.**

Motion by Ryan, seconded by Anderson, to deny the appeal, having found that:

- The officer kept within his jurisdiction.
- The officer acted according to applicable laws and common law concepts of due process and fair play.
- The officer's action was not arbitrary, oppressive, or unreasonable, and represented the officer's judgment not will.
- The evidence was such that the officer might reasonably have made the determination in question.

Motion carried unanimously (4-0).

**3.0 Read and act on minutes of June 14, 2022 meeting.**

Motion by Ryan, seconded by Nelson, to approve the minutes as presented. Motion carried unanimously (4–0).

**4.0 Final disposition of the following case considered by the Board of Adjustment at June 14, 2022 meeting.****4.1 FAE Revocable Trust; extent of floodplain fill and wetland setback; Baileys Harbor.**

Motion by Nelson, seconded by Ryan, to approve the final disposition of the case. Motion carried unanimously (4-0).

**5.0 Future meeting schedule:**

- **August 23: 1-2 variances; start time 4:30 p.m.**

Decision documents for tonight's cases will be signed at the August 9<sup>th</sup> meeting at 4:30 p.m; Weber, Ryan & Anderson will attend.

There will be no hearing on August 23<sup>rd</sup>; but there are several cases in the queue.

Meeting schedule as discussed noted.

**6.0 Vouchers.**

All BOA members present submitted vouchers reflecting a 2.5-hour meeting.

**7.0 Adjournment.**

Motion by Ryan, seconded by Nelson, to adjourn. Motion carried unanimously (4-0). Vice-Chair Weber declared the meeting adjourned at 6:52 p.m.

Respectfully submitted by Sue Vanden Langenberg, Zoning Administrator

**DOOR COUNTY BOARD OF ADJUSTMENT  
Decision – Area Variance**

**APPLICANT(S) NAME(S):** Joseph and Judith Richardt  
**PROPERTY ADDRESSES / PIN:** 12532 Northern Door Rd. / 018-03-04322924H  
**HEARING DATE:** July 26, 2022  
**DECISION DATE:** July 26, 2022

**DESCRIPTION OF VARIANCE REQUESTED:**

Joseph and Judith Richardt petition for variances from Section IV.B.2.b of the Shoreland Zoning Ordinance, which requires all additions to the residence be at least 56 feet from the ordinary high water mark (OHWM) of Lake Michigan, and Section 3.02(3)(a) of the Comprehensive Zoning Ordinance which requires all additions to the principal structure be located at least 20 feet from side lot lines in SF30 zoning district. The applicants propose a 30' x 58' addition and an 8' x 20' deck addition to the existing residence located as close as 48.5' and 40.9', respectively, from the OHWM and as close as 19.7' and 19.6', respectively, from the northern side lot line. The property is at 12532 Northern Door Rd.

**DECISION:**

On the basis of the Decision-Making Worksheet (attached hereto and incorporated herein by reference as if set forth in full) and the record in this matter the Board of Adjustment finds and determines that:

- A. The requested variance does meet the criteria set forth in Section 59.694(7), Wisconsin Statutes.

The Board of Adjustment voted to grant the portion of the petition for grant of variance related to the addition to the residence, but not to include the proposed deck by the following vote:

Aric Weber:                   Aye  
Bob Ryan:                    Aye  
Monica Nelson:             Aye  
Chris Anderson:            Aye

The Board of Adjustment voted to deny the portion of the petition for grant of variance related to the deck by the following vote:

Aric Weber:                   Aye  
Bob Ryan:                    Aye  
Monica Nelson:             Aye  
Chris Anderson:            Aye

Signed \_\_\_\_\_  
                  Chairperson

Signed \_\_\_\_\_  
  Recording Clerk

Dated: August 9, 2022  
Filed: August 10, 2022

**Appeal:** *This decision may be appealed by a person aggrieved by this decision by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The County of Door assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30 day period.*

**The privileges granted by this decision shall become void after one year unless the zoning permits for the authorized project have been obtained within such time.**

**DOOR COUNTY BOARD OF ADJUSTMENT  
DECISION-MAKING WORKSHEET**

**APPLICANT(S) NAME(S):** Joseph and Judith Richardt  
**PROPERTY ADDRESSES / PIN:** 12532 Northern Door Rd. / 018-03-04322924H  
**HEARING DATE:** July 26, 2022  
**DECISION DATE:** July 26, 2022

**DESCRIPTION OF VARIANCE REQUESTED:**

Joseph and Judith Richardt petition for variances from Section IV.B.2.b of the Shoreland Zoning Ordinance, which requires all additions to the residence be at least 56 feet from the ordinary high water mark (OHWM) of Lake Michigan, and Section 3.02(3)(a) of the Comprehensive Zoning Ordinance which requires all additions to the principal structure be located at least 20 feet from side lot lines in SF30 zoning district. The applicants propose a 30' x 58' addition and an 8' x 20' deck addition to the existing residence located as close as 48.5' and 40.9', respectively, from the OHWM and as close as 19.7' and 19.6', respectively, from the northern side lot line. The property is at 12532 Northern Door Rd.

**To grant an area variance, all three of the standards enumerated below must be met. In addressing each standard, express the reasons for the decision, i.e., why the facts did or did not satisfy the standards, the weight and credibility of the evidence presented (or lack thereof), and any other relevant considerations.**

**1. UNIQUE PHYSICAL PROPERTY LIMITATIONS.**

Are there unique physical property limitations such as steep slopes, wetlands, or parcel shape that prevent compliance with the ordinance? The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. The variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.

*In order for a variance to satisfy the unique physical property limitation test, the question below must be answered affirmatively.*

**Does this property contain unique physical property limitations (e.g., wetland presence, parcel shape, steep slope, etc.) that would prevent compliance with the ordinance?**

YES   X   NO           

EXPLAIN: The ordinary high water mark on the adjacent neighbor's property has eroded making the applicants' existing residence nonconforming related to the water setback. The applicants have installed shoreline protection on their property but do not own the property where the erosion has taken place.

**2. UNNECESSARY HARDSHIP.**

Unnecessary hardship exists when a literal enforcement of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or when conformity with ordinance standards would be unnecessarily burdensome.

Considerations:

- Unnecessary hardship should be determined in light of the purpose and intent of the zoning ordinance in question, as well as any statute or administrative rule upon which the ordinance is based. (See page 4.) The facts of the case should be analyzed in light of these purposes. Only after considering the purpose(s) of the statute and/or ordinance, and the nature of the specific restriction(s) at issue, may a decision be made as to whether or not failure to grant a variance will cause an unnecessary hardship.
- Unnecessary hardship may arise due to a unique property limitation of a parcel (see #1, above). A variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.
- Unnecessary hardship does not include considerations personal to the property owner (e.g., personal preference, desire to maximizing the economic value of the property, or financial hardship caused by ordinance compliance).
- Any self-created hardship, and/or any hardship that existed irrespective of the zoning ordinance in question are not proper grounds upon which to grant a variance.
- Alternatives to a variance (e.g., conditional use permit or restrictive covenant) may, as neither runs with the land, be preferable to accommodate a disability of the owner or owner's dependent.

***In order for a variance to satisfy the unnecessary hardship test, one of the questions below (A or B) must be answered affirmatively.***

**A. Does denial of the variance -- i.e., requiring compliance with the strict letter of the ordinance provision(s) in question (e.g., setbacks, height limitations, etc.) -- unreasonably prevent the owner from using the property for a permitted purpose?**

YES \_\_\_\_\_ NO \_\_\_\_\_

EXPLAIN:

**OR**

**B. Is conformity with the regulation(s) unnecessarily burdensome?**

YES   X   NO \_\_\_\_\_

EXPLAIN: The applicants can not fix and could not prevent the loss of shoreline on the neighbor's property. The applicants have tried to design an addition to best meet the setbacks and are asking for minimal relief; therefore, conformity with the regulations would be unnecessarily burdensome.

The deck is being denied because it is not necessary since there is already a deck which provides safe entry to and from the residence. The portion of the request for the deck is for convenience.

**3. PUBLIC INTEREST/SPIRIT AND INTENT OF THE ORDINANCE.**

A variance may not be granted which results in harm to public interests, nor thwarts the spirit and intent of the ordinance. In applying this test, the board should review the purpose statements of the ordinance (and any statute or administrative rule upon which the ordinance is based) in order to identify public interests. (See page 4.) The short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state, should be considered. Review should focus on the general public interest, rather than just the narrow interests or impacts on neighbors, patrons, or residents in the vicinity of the project.

Cumulative effects are a proper consideration. For instance, in the context of shoreland zoning, the general availability of variances permitting the horizontal expansion of structures so close to the water's edge may have the cumulative effect of enclosing our lakes within a wall of impermeable surfaces to the exclusion of vegetation and impairing the ecological functions of the shoreland buffer.

A variance is not a popularity contest. The mere fact of public support or opposition is not, in and of itself, determinative of whether or not a variance is contrary to the public interest.

The board may grant only the minimum variance needed, i.e., the minimum variance necessary to relieve the unnecessary hardship. For instance, if the request is for a variance of 30 feet from the minimum setback, and a finding is made that a 10-foot setback reduction would allow the petitioner to use the property for a permitted purpose, then only a 10-foot setback reduction may be authorized.

Distinguish between hardships that are unnecessary in light of the unique conditions of the property and the purpose of the zoning ordinance from hardships that are inconsequential or not unique or because a variance would unduly undermine the purpose of the ordinance or the public interest.

***In order for a variance to satisfy the public interest test, the question below must be answered negatively.***

**Does the granting of the variance result in harm to the public interest?**

YES \_\_\_\_\_ NO  X

EXPLAIN: The addition to the residence will be of modest size and the portion of the addition that doesn't meet setbacks is very small such that it will not result in any harm to the public. The town did not express any concerns. The opposition letters were considered; however, the magnitude of concern would most likely have been reduced if they had seen the site plan which showed that only a 45 square foot, triangular-shaped portion of the addition required the variance due to lateral expansion allowed within the Shoreland Ordinance.

**Has the applicant seeking a variance demonstrated that each of the three standards has been satisfied in this case? YES  X  NO \_\_\_\_\_.** If yes, then substantial justice will be done by granting the variance.

**The privileges granted by this decision shall become void after one year unless the property owner obtains the appropriate zoning permits within such time.**

Dated this: August 2, 2022

## Door County Zoning Ordinance Purpose Statements

**"1.04 Purpose.** The purpose of this Ordinance is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare. Further purposes of this Ordinance are to:

- (1) Aid in implementing the county development plan.
- (2) Promote planned and orderly land use development.
- (3) Protect property values and the property tax base.
- (4) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
- (5) Prevent overcrowding of the land.
- (6) Advance uses of land in accordance with its character and suitability.
- (7) Provide property with access to adequate sunlight and clean air.
- (8) Aid in protection of groundwater and surface water.
- (9) Preserve wetlands.
- (10) Protect the beauty of landscapes.
- (11) Conserve flora and fauna habitats.
- (12) Preserve and enhance the county's rural characteristics.
- (13) Protect vegetative shore cover.
- (14) Promote safety and efficiency in the county's road transportation system.
- (15) Define the duties and powers of administrative bodies in administering this Ordinance.
- (16) Prescribe penalties for violation of this Ordinance."

## Wisconsin Statutes Purpose Statement

### **281.31. Navigable waters protection law**

"(1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." *(Emphasis added.)*

### ***Examples as to how to use the above in conjunction with analysis of a variance request***

When considering a variance request to relax the required ordinary high water mark setback, county zoning ordinance purposes (8), (10), (11), and (13) are likely relevant to consider. Purposes (2), (3), (4), and (5) may also be relevant. Depending upon the nature of the variance request, any of the components of the statutory purposes behind shoreland zoning (above) may be relevant to consider.

When considering a variance request to relax a required yard (setback), county zoning ordinance purposes (2), (3), (4), and (5) are likely relevant to consider.

**DOOR COUNTY BOARD OF ADJUSTMENT  
Decision – Area Variance**

**APPLICANT(S) NAME(S):** Robert Hammacher and Staci Meister  
**PROPERTY ADDRESSES / PIN:** 3264 Squaw Island Trail / 012-02-10272441H  
**HEARING DATE:** July 26, 2022  
**DECISION DATE:** July 26, 2022

**DESCRIPTION OF VARIANCE REQUESTED:**

Robert Hammacher and Staci Meister petition for a variance from Section 4.3(1)(a) of the Floodplain Zoning Ordinance which requires fill be placed one foot or more above the regional flood elevation and extend at least 15 feet beyond the limits of the residence. The applicants constructed a new residence in 2020 and are requesting that the fill located on the southwest corner of the residence only extend 10'. The property is at 3264 Squaw Island Trail.

**DECISION:**

On the basis of the Decision-Making Worksheet (attached hereto and incorporated herein by reference as if set forth in full) and the record in this matter the Board of Adjustment finds and determines that:

- A. The requested variance does meet the criteria set forth in Section 59.694(7), Wisconsin Statutes.

The Board of Adjustment voted to grant the petition for grant of variance by the following vote:

Aric Weber:                   Aye  
Bob Ryan:                    Aye  
Monica Nelson:             Aye  
Chris Anderson:            Aye

Signed \_\_\_\_\_  
          Chairperson

Signed \_\_\_\_\_  
          Recording Clerk

Dated: August 9, 2022  
Filed: August 10, 2022

***Appeal:*** *This decision may be appealed by a person aggrieved by this decision by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The County of Door assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30 day period.*

**The privileges granted by this decision shall become void after one year unless the zoning permits for the authorized project have been obtained within such time.**

**DOOR COUNTY BOARD OF ADJUSTMENT  
DECISION-MAKING WORKSHEET**

**APPLICANT(S) NAME(S):** Robert Hammacher and Staci Meister  
**PROPERTY ADDRESSES / PIN:** 3264 Squaw Island Trail / 012-02-10272441H  
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**To grant an area variance, all three of the standards enumerated below must be met. In addressing each standard, express the reasons for the decision, i.e., why the facts did or did not satisfy the standards, the weight and credibility of the evidence presented (or lack thereof), and any other relevant considerations.**

**1. UNIQUE PHYSICAL PROPERTY LIMITATIONS.**

Are there unique physical property limitations such as steep slopes, wetlands, or parcel shape that prevent compliance with the ordinance? The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. The variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.

***In order for a variance to satisfy the unique physical property limitation test, the question below must be answered affirmatively.***

**Does this property contain unique physical property limitations (e.g., wetland presence, parcel shape, steep slope, etc.) that would prevent compliance with the ordinance?**

YES   X   NO           

**EXPLAIN:** The parcel is small and the combination of water setback and floodplain fill requirements taken into consideration with the location of the neighbor's shed along the mutual lot line create unique property limitations.

**2. UNNECESSARY HARDSHIP.**

Unnecessary hardship exists when a literal enforcement of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or when conformity with ordinance standards would be unnecessarily burdensome.

Considerations:

- Unnecessary hardship should be determined in light of the purpose and intent of the zoning ordinance in question, as well as any statute or administrative rule upon which the ordinance is based. (See page 4.) The facts of the case should be analyzed in light of these purposes. Only after considering the purpose(s) of the statute and/or ordinance, and the nature of the specific restriction(s) at issue, may a decision be made as to whether or not failure to grant a variance will cause an unnecessary hardship.
- Unnecessary hardship may arise due to a unique property limitation of a parcel (see #1, above). A variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.
- Unnecessary hardship does not include considerations personal to the property owner (e.g., personal preference, desire to maximizing the economic value of the property, or financial hardship caused by ordinance compliance).
- Any self-created hardship, and/or any hardship that existed irrespective of the zoning ordinance in question are not proper grounds upon which to grant a variance.
- Alternatives to a variance (e.g., conditional use permit or restrictive covenant) may, as neither runs with the land, be preferable to accommodate a disability of the owner or owner's dependent.

***In order for a variance to satisfy the unnecessary hardship test, one of the questions below (A or B) must be answered affirmatively.***

- A. Does denial of the variance -- i.e., requiring compliance with the strict letter of the ordinance provision(s) in question (e.g., setbacks, height limitations, etc.) -- unreasonably prevent the owner from using the property for a permitted purpose?**  
 YES \_\_\_\_\_ NO \_\_\_\_\_

EXPLAIN:

**OR**

- B. Is conformity with the regulation(s) unnecessarily burdensome?**  
 YES   X   NO \_\_\_\_\_

EXPLAIN: The denial of a variance would require that fill be placed closer to the neighbors shed causing potentially more damage to the neighbors shed from stormwater runoff. The stormwater from the adjacent property(s) to the west would flow through a narrower opening between the floodplain fill and the shed. The applicants are trying to improve the situation and meet the intent of the floodplain fill requirement; therefore, conformity with the regulations would be unnecessarily burdensome.

**3. PUBLIC INTEREST/SPIRIT AND INTENT OF THE ORDINANCE.**

A variance may not be granted which results in harm to public interests, nor thwarts the spirit and intent of the ordinance. In applying this test, the board should review the purpose statements of the ordinance (and any statute or administrative rule upon which the ordinance is based) in order to identify public interests. (See page 4.) The short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state, should be considered. Review should focus on the general public interest, rather than just the narrow interests or impacts on neighbors, patrons, or residents in the vicinity of the project.

Cumulative effects are a proper consideration. For instance, in the context of shoreland zoning, the general availability of variances permitting the horizontal expansion of structures so close to the water's edge may have the cumulative effect of enclosing our lakes within a wall of impermeable surfaces to the exclusion of vegetation and impairing the ecological functions of the shoreland buffer.

A variance is not a popularity contest. The mere fact of public support or opposition is not, in and of itself, determinative of whether or not a variance is contrary to the public interest.

The board may grant only the minimum variance needed, i.e., the minimum variance necessary to relieve the unnecessary hardship. For instance, if the request is for a variance of 30 feet from the minimum setback, and a finding is made that a 10-foot setback reduction would allow the petitioner to use the property for a permitted purpose, then only a 10-foot setback reduction may be authorized.

Distinguish between hardships that are unnecessary in light of the unique conditions of the property and the purpose of the zoning ordinance from hardships that are inconsequential or not unique or because a variance would unduly undermine the purpose of the ordinance or the public interest.

***In order for a variance to satisfy the public interest test, the question below must be answered negatively.***

**Does the granting of the variance result in harm to the public interest?**

YES \_\_\_\_\_ NO  X

EXPLAIN: The applicants are trying to comply with the floodplain regulations while also trying to reduce potential harm to the neighbor's property. The town supported the granting of the variance in an effort to reduce impacts to the neighbor from stormwater runoff from the road-side of the properties.

**Has the applicant seeking a variance demonstrated that each of the three standards has been satisfied in this case? YES  X  NO \_\_\_\_\_.** If yes, then substantial justice will be done by granting the variance.

**The privileges granted by this decision shall become void after one year unless the property owner obtains the appropriate zoning permits within such time.**

Dated this: August 2, 2022

## Door County Zoning Ordinance Purpose Statements

**"1.04 Purpose.** The purpose of this Ordinance is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare. Further purposes of this Ordinance are to:

- (1) Aid in implementing the county development plan.
- (2) Promote planned and orderly land use development.
- (3) Protect property values and the property tax base.
- (4) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
- (5) Prevent overcrowding of the land.
- (6) Advance uses of land in accordance with its character and suitability.
- (7) Provide property with access to adequate sunlight and clean air.
- (8) Aid in protection of groundwater and surface water.
- (9) Preserve wetlands.
- (10) Protect the beauty of landscapes.
- (11) Conserve flora and fauna habitats.
- (12) Preserve and enhance the county's rural characteristics.
- (13) Protect vegetative shore cover.
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## Wisconsin Statutes Purpose Statement

### **281.31. Navigable waters protection law**

"(1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." (*Emphasis added.*)

### ***Examples as to how to use the above in conjunction with analysis of a variance request***

When considering a variance request to relax the required ordinary high water mark setback, county zoning ordinance purposes (8), (10), (11), and (13) are likely relevant to consider. Purposes (2), (3), (4), and (5) may also be relevant. Depending upon the nature of the variance request, any of the components of the statutory purposes behind shoreland zoning (above) may be relevant to consider.

When considering a variance request to relax a required yard (setback), county zoning ordinance purposes (2), (3), (4), and (5) are likely relevant to consider.

**DOOR COUNTY BOARD OF ADJUSTMENT  
DECISION**

**Appeal of a Zoning Administrator decision: redevelopment of existing nonconforming structures and nonconforming use.**

**APPEAL:** Attorney Tyler Pluff, on behalf of Mark R. Dixon and Ruth Anne Rehfeldt, appeals the decision of the Door County Zoning Administrator related to the regulations that apply to the redevelopment of the existing nonconforming structures and nonconforming use. The property is located at 11725 Mossy Cliff Trail in a SF30 zoning district.

**HEARING:** After due notice a public hearing was held by the Door County Board of Adjustment on July 26, 2022, at 4:30 p.m. in the Door County Government Center Peninsula Room (C121, 1<sup>st</sup> Floor) Sturgeon Bay, WI, to consider this appeal. At a subsequent meeting, the Board of Adjustment discussed this matter and then called for a vote. Testimony by all involved has been carefully considered.

**DECISION:** The Door County Board of Adjustment (“BOA”) denied the appeal submitted by Attorney Tyler Pluff, on behalf of Mark R. Dixon and Ruth Anne Rehfeldt, by the following vote:

|                 |     |
|-----------------|-----|
| Aric Weber:     | Aye |
| Bob Ryan        | Aye |
| Monica Nelson:  | Aye |
| Chris Anderson: | Aye |

Motion carried unanimously (4-0).

**REASONS:** The BOA members determined that:

1. The officer kept within his jurisdiction.
2. The officer acted according to applicable laws and common law concepts of due process and fair play.
3. The officer's action was not arbitrary, oppressive, or unreasonable, and represented the officer's judgment not will.
4. The evidence was such that the officer might reasonably have made the determination in question.

DOOR COUNTY BOARD OF ADJUSTMENT

Signed:

\_\_\_\_\_  
Chairperson

Attest:

\_\_\_\_\_  
Recording Secretary

Dated: August 9, 2022  
Filed: August 10, 2022

A party aggrieved by the decision of the Board of Adjustment may appeal to the Circuit Court under Wisconsin Statutes 801.02(5) and 59.694(10) within thirty (30) days after filing of the decision.