

STAFF REPORT BOARD OF ADJUSTMENT

Board of Adjustment Meeting,

March 23, 2023

Agenda Item 4

Applicant: Charles Keith

Request: Conditional Use Permit for a Lift in the St. Croix Riverway District

Background:

The applicant owns a 1-acre parcel in the St. Croix Riverway and would like to construct a Lift for access to the river. The entire property is located in a slope preservation zone (slopes greater than 12%) and is mostly wooded. The dwelling is the only structure on the property and there are currently no access points to the river on the property.

Issues Pertaining to the Request:

- The property is part of Government Lot 2, Section 11, T27N, R20W in the Town of Clifton. This parcel is located in the Rural Residential-12 base zoning district and is within the St. Croix Riverway overlay district. The address is W12575 835th Avenue.
- The purpose of the St. Croix Riverway Code is described in Pierce County Code (PCC) § 239-1C as, "Purpose. The purpose of this chapter is to promote the public health, safety, and general welfare by:
 - (1) Reducing the adverse effects of overcrowding and poorly planned shoreline and bluff area development.
 - (2) Preventing soil erosion and pollution and contamination of surface water and groundwater.
 - (3) Providing sufficient space on lots for sanitary facilities.
 - (4) Minimizing flood damage.
 - (5) Maintaining property values.
 - (6) Preserving and maintaining the exceptional scenic, cultural, and natural characteristics of the water and related land of the Lower St. Croix Riverway in a manner consistent with the National Wild and Scenic River Act of 1972 (P.L. 92-560) and the Wisconsin Lower St. Croix River Act (§30.27, Wis. Stats.)."
- PCC § 239-8C(4) allows stairways and lifts in the Riverway District with a Conditional Use Permit subject to the standards of § 239-9 and § 239-10.
- Relevant code sections of PCC Chapter 239-9 include:
 - § 239-9E(3) which exempts stairways and lifts from the Ordinary High Water Mark (OHWM) and bluffline setbacks.
 - § 239-9E(4) which requires a side yard setback of 25 feet from all exterior lot lines.
- Relevant code sections of PCC Chapter 239-10 include:
 - PCC § 239-10A(1) states, "All new, expanded, or reconstructed structures shall be earthtone in color."
 - PCC § 239-10C(1) states, "No structures, except piers, wharves, structural erosion control measures, stairways, and lifts may be placed in slope preservation zones." The entire parcel has a slope of greater than 12%, which constitutes a Slope Preservation Zone.

- PCC § 239-10M states, "Lifts. Lifts are allowed by conditional use permit if all of the following standards are met:

- (1) The lift is required to provide pedestrian access to the river because of steep, rocky, unstable or wet site conditions.
- (2) No lift shall be designed for the transport of boats or machinery up or down the bluff face.
- (3) The car of the lift may not exceed four feet by six feet. Cars may have handrails, but no canopies or roofs shall be allowed.
- (4) Lifts shall be located in the most visually inconspicuous portion of the lot. The location of the transporting device or power source shall be visually inconspicuous.
- (5) All visible parts of the lift shall be painted or finished in earthtone, nonreflective colors and shall be visually inconspicuous.
- (6) Native vegetation plantings shall be used to form a vegetative canopy to screen the lift from the river.
- (7) Vegetation shall effectively screen lifts from the river within five years.
- (8) Existing vegetation may be removed within one foot on either side of the lift route and up to eight feet above the lift floor.
- (9) Only one lift may be permitted on a lot that abuts the river.
- (10) A plan shall be submitted to the Zoning Administrator and certified by a registered professional engineer or architect showing that the lift components are securely anchored to prevent them from shifting and from causing accelerated erosion."

- PCC Chapter 239 does not place a limit to the amount of area that a landing for a lift may have.
- Lift details:
 - A general Hill Hiker plan showing the typical Hill Hiker construction standards was submitted, stamped, and signed by a WI Professional Engineer. This plan is not specific to the site.
 - The owner submitted an actual design of the lift with upper and lower landings that is specific to the site.
 - A topographic survey map was submitted, stamped, and signed by a WI Land Surveyor. The map illustrates existing structures, vegetation, and the proposed lift track/tram. However, it does not display the upper and lower landings.
 - The upper landing is proposed to be connected to the house in a U-shape that will wrap around the house. The size is proposed to be 16'x8' north of the dwelling, 36.25'x8' west/river side of the dwelling, and 8'x10' south of the dwelling.
 - The dwelling is a nonconforming structure.
 - The proposed lift carriage will be 46 7/8" W x 67 5/8" L x 42" H, and it will have no roof or canopy.
 - The proposed lift will be 45 feet long starting at the northwest corner of the house and go downhill ending above the OHWM.
 - The lift will be used to transport the property owners and guests safely to the river.
 - The bluff face towards the river is too steep for safe foot travel down the slope.
 - The lift's proposed location was chosen because it presented gentler slopes relative to other slopes on the property. Also, the proposed location also has less impact on vegetation than other locations.
 - Three trees (6" in diameter or larger) are proposed to be removed in order for the lift to be constructed. These trees are indicated on the signed topographic survey map.
 - The proposed lift area will have a five to six feet wide corridor going down the line of travel. Vegetation over 1 foot high will need to be removed in this corridor (i.e. brush, low hanging tree limbs, etc.). All grass and low growing weeds, etc. can remain.

- A 6' x 6' concrete pad will be located beneath the upper end of the lift to support the lift motor. The motor would be concealed from view by its placement beneath the lift. This concrete pad will also serve as a footing and have a 2' stem wall to retain uphill dirt.
 - There will be 4 additional concrete footings (4'x2'x2') supporting the lift track downhill from the top concrete pad/footing.
 - The lift will be colored "metallic medium bronze" which is a dark earthen color.
 - There will be no exposed soil which should eliminate the need for erosion control measures.
 - Remaining vegetation after construction of the lift will likely screen the view of the lift.
 - The proposed lower landing will be 6 feet wide and 12 feet long.
 - Both landings will be made of cedar decking and treated pine with concrete footings.
- Relevant definitions per PCC § 239-7B:
 - Bluffline – A line along the top of the slope preservation zone. There can be more than one bluffline.
 - Lift – A mechanical device, either temporary or permanent, containing a mobile open-top car including hand or guardrails, a track upon which the open-top car moves, and a mechanical device to provide power to the open-top car.
 - Nonconforming Structure - A building or other structure whose location, dimensions or other physical characteristics do not conform to the standards of this chapter but which was legally constructed or placed in its current location prior to the enactment of this chapter or its amendment that made it nonconforming.
 - Ordinary High-Water Mark (OHWM) - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.
 - Slope Preservation Zone – The area riverward from the bluffline where the slope toward the river is 12% or more, as measured horizontally for a distance of not more than 50 feet or less than 25 feet.
 - Use Permitted as a Conditional Use – A use whose nature, character or circumstance is so unique or so dependent upon specific conditions that predetermination of permissibility by right is not practical but which may be permitted on a case-by-case basis subject to the conditional use permit procedure.
 - Visually Inconspicuous – Difficult to see, or not readily noticeable, in summer months as viewed from at or near the midline of the Lower St. Croix River.
 - Lund Builders will be hand-digging to excavate for each footing/pad. Commercial-grade silt fence will be staked below every digging point. It is anticipated that each row of silt fence will be at least 2' high by 20' wide.
 - After concrete forms are removed, displaced soil will be packed against the new pad and footings. Owners will plant native, shade loving plants against the pad, footings, and track.
 - If the CUP is approved, it is recommended that the applicant obtain all necessary permits and approvals from all other applicable agencies (e.g. Town Building Inspector) prior to construction/installation of the lift.

- The Town of Clifton recommended approval of this request on June 7, 2022 with no concerns or suggested conditions.
- ***Board of Adjustment members should not have conversations or receive correspondence regarding the merits of an application outside of the noticed meeting or hearing without all parties present. If visiting the site please be aware of the need to avoid Ex Parte Communication (communication with only one-party present).***

Recommendation:

Staff recommends the Board of Adjustment determine whether the requested Lift is contrary or consistent with the standards found under the purpose statement and various St. Croix Riverway Zoning Code sections referenced in this report.

If determined to be consistent with the code, staff recommends the BOA approve the conditional use permit for the Lift with the following conditions, and any others deemed appropriate by the Board:

1. Activities shall be conducted consistent with the application unless modified by another condition of this approval.
2. All visible parts of the lift shall be painted or finished in earthtone, nonreflective colors and shall be visually inconspicuous.
3. Landings and handrails shall be constructed of unfinished wood or stone, or shall be painted or stained with a uniform earthtone color.
4. Best erosion control practices shall be implemented during construction. Any unforeseen erosion issues shall be addressed to the satisfaction of the county.
5. Clearing of vegetation shall be limited to the minimum necessary for construction and operation of the lift, and it shall not exceed the 5 to 6-foot-wide lift travel corridor. No trees greater than 6” diameter at breast height (DBH) may be cut, aside from the three that are indicated for removal in the signed survey map.

If found to be contrary to the standards contained in, and the purpose of the St. Croix Riverway Code, staff recommends the Board of Adjustment deny the request for a conditional use permit for the Lift.

Any decision shall state the specific facts and reasons that are the basis of the Board of Adjustment’s determination.

Submitted By: Jesse Stenske
 Zoning Specialist








Board of Adjustment





CHARLES KEITH
(March 23rd, 2023)

CUP: Hill Hiker Lift

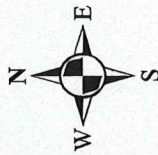
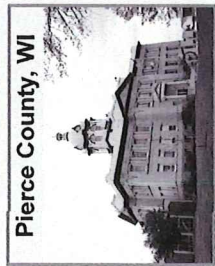
Legend

-  Dwellings
-  CUP Parcel
-  Parcels
-  Proposed Lift
-  10 Ft Elevation

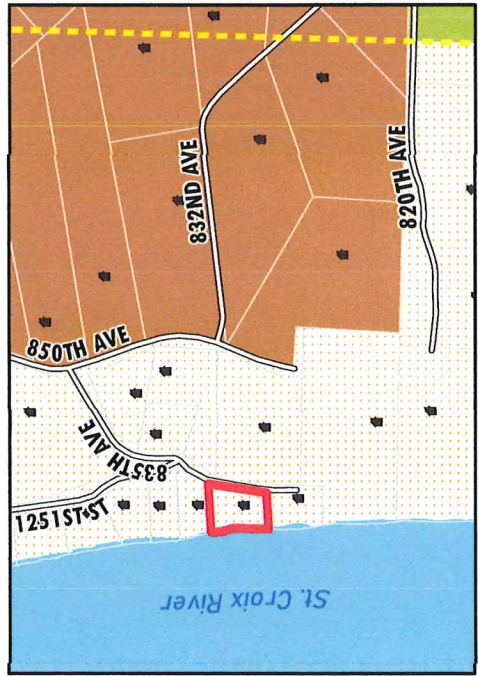
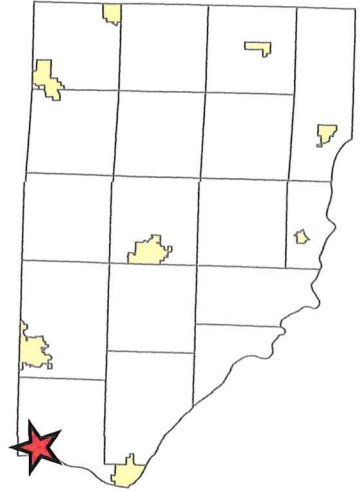
Zoning

-  St. Croix Riverway Bndy
-  General Rural
-  Primary Agriculture
-  Rural Residential - 12

Orthophotography - 2020 Pierce County



Site Location
W12575 835TH AVE
TOWN OF CLIFTON



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Board of Adjustment Meeting,

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Agenda Item 5

Applicant: Joseph & Della Boles

Request: Variances for a detached garage from the following Pierce County Code Sections:

- § 239-9E(3)(a) - 200 ft setback from the Ordinary High Water Mark of the Lower St. Croix River;
- § 239-9E(3)(b) - 100 ft setback from the bluffline; and,
- § 239-9E(4) - 25 ft side yard setback from all exterior lot lines.

Background: The subject property is located at N8397 1251st Street in the Town of Clifton. A Land Use Permit was issued for the original dwelling/cabin in 1971. The applicants purchased the property in 1991. They received a Conditional Use Permit in 2003 to expand their nonconforming cabin into the existing four-season home. In 2003, the applicants obtained a septic system easement from the adjoining north neighbor allowing them to install and maintain their septic system on the neighbor's property. The septic system was replaced in 2004. In 2012 the applicants purchased .084 acres of adjoining land from the neighbor to the north where the septic system is located. The drain field was replaced again in 2019. A variance for a similar structure was applied for by the applicant and denied by the BOA in 2019. The applicant has, since the last consideration, acquired a detailed survey of the site thus addressing the prior confusion regarding lot lines.

The applicants are requesting to construct a 24'x24' two level detached garage, that will enable them to park inside during harsh winter months and also to use for personal storage.

Due to the layout of the lot, topographical challenges, and the placement of existing buildings and utilities, the applicants are seeking an area variance from three separate setbacks to construct a new garage. The proposed garage location would be:

- 72 ft from the Ordinary High Water Mark,
- 0 ft feet to the bluff line,
- 2.5 ft from the South side yard (lot line).

Issues Pertaining to the Request:

- The legal description is being part of Government Lot 1 of Section 11, T27N, R20W, Town of Clifton. This parcel is zoned Rural Residential-12. The street address is N8397 1251st Street.
- The request pertains to Pierce County Code Chapter 239 St. Croix Riverway Zoning.
- Much of the north open area of the lot is occupied by the existing building, well, septic system and slope preservation zone.
- The area west of the house has steep slopes down to the river and floodplain extending up to 691' in elevation.
- The area east of the house is located within the 1251st Street private road setback area and is also slope preservation zone.

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- On the south side of the house is an existing blacktopped driveway and parking area. The existing parking area is where the applicants propose to build a 24'x24' detached garage. This area is flat and not a slope preservation zone.
- The top level of the garage would be level with the existing blacktop driveway with an 11' interior ceiling on the west side, tapering down to an 8' interior ceiling on the east side. The lower level will have an 8' interior ceiling throughout. The overall height of the garage is approximately 21.5 ft tall.
- The topographic survey and site plan for the proposed detached garage was completed by Dan Kugel, Ogden Engineering Co. The map shows the proposed garage location, the existing house, erosion control (silt fence), driveway, and the river access stairway.
- The property is located in the Rural Residential management zone.
- Wisconsin Department of Natural Resources staff was, as required, provided the application for this variance request in late November of 2022. The DNR, in January of 2023, requested that the County postpone the public hearing to enable further DNR staff discussion regarding a recommendation. Notice of this meeting was provided in early March. A response/recommendation regarding this request has not yet been received.

Ordinance Requirements:

- PCC §239-E(3) states, All structures except piers, wharves, structural erosion control measures, stairways, and lifts shall meet the following:
 - (a) OHWM setback: at least 200 feet from the OHWM of the Lower St. Croix River.
 - (b) Bluffline setback: at least 100 feet from the bluffline in the rural residential management zone, and 200 feet from the bluffline in the conservation management zone.
 - [1] Structures that do not meet the setback may be permitted within the bluffline setback area if they are set back at least 40 feet from the bluffline and meet all of the following standards:
 - [a] The structure does not protrude above the bluffline as viewed from at or near the midline of the river or from 250 feet riverward from the OHWM, whichever is less.
 - [b] The structure is not located in a slope preservation zone.
 - [c] The structure utilizes building materials that are earthtone in color and of a nonreflective nature, except that windows may be made of ordinary window glass or nonreflective glass but may not be made of glass designed to reflect more light than ordinary window glass.
 - [d] The structure is visually inconspicuous.
- PCC §239-E(4) states, "Side yard setback: at least 25 feet from all exterior lot lines."
- Pierce County Shoreland Zoning Ordinance § 242-24 requires a 75' structure setback to the OHWM. Setback averaging provided the necessary relief for the 75' OHWM structure setback.
- Pierce County Zoning Ordinance § 240-27D requires a structure setback of 75' to the centerline of a town/private road. Setback averaging also provided the necessary relief for the 75' structure setback to the centerline of 1251st St.

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- PCC §239-9E(2) states, “On new structures constructed after the effective date of this chapter, all setbacks shall be measured on a horizontal plane from the roof overhang and any cantilevered portions of the structure at the point of the structure that is nearest the OHWM, bluffline, or property line.”
- Other relevant ordinance information and definitions from Chapters 239 and 240 are listed in Appendix A. Relevant case law is also contained in the appendix.

Variance Standards:

240-78 (C) establishes standards for a variance in Pierce County and is consistent with §59.694(7)(c). The Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the proposed variance meets the following standards:

- (1) Unnecessary hardship. That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this chapter, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations is required.
- (2) Unique condition. That the conditions described in Subsection C(1) are unique, exceptional, extraordinary or unusual circumstances applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for ordinance changes or amendments or of having that effect if relied upon as the basis for granting a variance.
- (3) Conditions not self-created. That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.
- (4) Public interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this chapter and the public interest.
- (5) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.

Applicant Rationale:

- The property is unique because of the presence of steep slopes and the size and shape of the lot.
- A garage is a permitted use. There is no location on the property where a structure could be permitted. Conformity with the zoning ordinance is unnecessarily burdensome by preventing the construction of a garage.
- Conditions are not self-created.
- The variance is in the public interest and will not be detrimental to neighboring properties. The construction of the garage will remove the eyesore from having personal items outdoors.

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Staff Analysis:

There are three main criteria that a variance applicant must satisfy: unnecessary hardship, a unique property condition and no harm to the public interest. The Pierce County Zoning Code (shown above) identifies 5 criteria for consideration, but standard three (3) “not self-created” ties into standard number two (2) in that the unique property condition cannot be self-created by the applicant and standard five (5) establishes that the BOA cannot grant a “use variance”.

The Wisconsin Supreme Court recognizes two types of zoning variances that may be granted by a zoning board: area variances and use variances. *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis.2d 549, 676 N.W.2d 401. However, these terms are not defined by state law. Consequently, this is a critical area for local action to define the terms in the local zoning code because case law establishes separate unnecessary hardship tests for use and area variances.

A use variance applicant must show that they will have no reasonable use of the subject property without the requested variance. *Ziervogel*, 269 Wis.2d at para. 31. This is an extremely difficult burden to satisfy and rightly so. A use variance is effectively a rezoning of property to allow a land use that the governing body of a municipality already determined is incompatible with other uses in the zoning district and risks great changes in neighborhood character.

- *This request is not for a use variance. Pierce County Zoning Code Chapter 240 does not allow use variances.*

An area variance applicant must show “**unnecessary hardship**” by demonstrating that “compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.” *Snyder v. Waukesha County Bd. of Adjustment*, 74 Wis.2d 468, 247 N.W.2d 98 (1976). Thus, it is not enough that an area variance applicant show that a zoning regulation prevents or burdens their planned activity. They must show by competent evidence that the regulation unreasonably prevents or unnecessarily burdens the activity.

- *A garage (accessory structure) is an allowable use in the St. Croix Riverway District and in the Rural Residential-12 Zoning District.*
- *The applicant bought the property with an existing structure in 1991. The hardship is not self-created.*
- *When the 200 ft setback from the Ordinary High Water Mark, the 100 ft setback from the bluffline, and the 25 ft side yard setback from all exterior lot lines are applied – there is no compliant building location anywhere on the entire parcel.*
- *Staff suggests that compliance with the strict letter of the St. Croix Riverway Zoning restrictions governing setbacks unreasonably prevents the owner from using the property for a permitted purpose; thus, creating an “unnecessary hardship.”*

All zoning variance applicants must also show that the alleged unnecessary hardship is due to a **unique property condition**. *Snyder*, 74 Wis. 2d at 479. This phrase is not defined by statute but court decisions establish that it means a special physical feature of the property (soil conditions, steep slope, wetland, etc.) that is not shared by nearby land. *See Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis.2d 246, 258, 469 N.W.2d 831 (1991). More importantly, if a variance applicant fails to prove the existence of a

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unique property condition and a connection between the condition and the hardship, even if the hardship is great, a zoning board has no power to grant the requested variance.

- *Nearly the entire property is located in a slope preservation zone (slopes greater than 12%) except for a small area as depicted on the survey map. The proposed location of the garage is flat and not in the slope preservation zone, but is still not a compliant location due to other required setbacks.*
- *The location of this small lot in the St. Croix Riverway District, on a steep hillside, with no compliant building envelope location is a condition unique to this property. This is not to say that there are no other similarly situated properties, but this condition is not typical of lots located in the Riverway District.*
- *The location of the existing residence, well, septic, and steep slopes, also limit the ability to build a structure on the north, west, and east sides of the residence. The only available buildable area on the property, albeit non-compliant by virtue of setbacks, is located south of residence on the existing blacktopped parking pad where the applicant proposes to build.*
- *Staff suggests that the applicant's lot size, location in the Shoreland and St. Croix Riverway Districts is a unique property condition, thus qualifying it for a variance.*

Finally, all variance applicants must show that the requested variance will not be contrary to **the public interest**. Arndorfer, 162 Wis. 2d at 256. This criteria requires the zoning board to consider the purposes of the ordinance at issue and determine “whether the relief requested is consistent with the public interest such that the variance should be granted, or whether a variance would subvert the purpose of the zoning restriction to such an extent that it must be denied.” Ziervogel, 269 Wis.2d at para. 34.

- PCC §240-78C(4) states, “Public Interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this chapter and the public interest.
- The purpose of the St. Croix Riverway Code is stated in Pierce County Code Chapter 239-1 C. as: Purpose. The purpose of this chapter is to promote the public health, safety, and general welfare by:
 - (1) Reducing the adverse effects of overcrowding and poorly planned shoreline and bluff area development.
 - (2) Preventing soil erosion and pollution and contamination of surface water and groundwater.
 - (3) Providing sufficient space on lots for sanitary facilities.
 - (4) Minimizing flood damage.
 - (5) Maintaining property values.
 - (6) Preserving and maintaining the exceptional scenic, cultural, and natural characteristics of the water and related land of the Lower St. Croix Riverway in a manner consistent with the National Wild and Scenic River Act of 1972 (P.L. 92-560) and the Wisconsin Lower St. Croix River Act (§30.27, Wis. Stats.).
- *The applicant plans to install silt fence downhill from the proposed construction.*
- *The applicant plans to match the siding color of the proposed garage to the color of the siding on the existing home (earth tone). The applicant is also looking into the possibility of putting stonework around the lower portion of the proposed garage.*
- *No existing vegetation will be removed as part of the proposed project.*
- *The proposed location of the building is not in a floodplain or wetland area.*

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- *The proposed structure has been planned to minimize both physical and aesthetic impacts.*
- *Staff suggests that the structure proposed by the applicant would not be a “substantial detriment” to neighboring properties and, when considering building materials, building location, and erosion control and screening plans, would not subvert or undermine the purpose and intent of the Riverway ordinance. Given this, it would appear that the granting of a variance in this instance would be consistent with the public interest as it relates to the St. Croix Riverway District.*

240-78(B)(2)(a) states that a variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment.

- *The relief granted, if approved, should be only the minimum necessary. Staff suggests the BOA consider whether the proposed structure could be designed in such a way to minimize the need for mitigation to alleviate visual concerns. It may be that best building practices require the construction of a structure that lends itself to having two levels. The BOA should consider whether a limitation on usable levels would have an appreciable impact on limiting the visual or aesthetic impact of the structure.*

Applicant Contact Information:

- Board Members wishing to visit the site should contact Joseph or Della Boles at (715) 222-0543 prior to visiting the site.

Board members should not have conversations or receive correspondence regarding the merits of an application outside of the noticed meeting or hearing without all parties present. If visiting the site, please be aware of the need to avoid Ex Parte Communication (communication with only one party present).

Recommendation:

Staff recommends the Board of Adjustment review the proposal and approve or deny the variance request. The Board should state the specific facts and reasons that are the basis of the Board of Adjustment’s determination.

If a variance is granted, the decision must be determined to be consistent with the established variance standards regarding unnecessary hardship, protection of the public interest, and presence of unique property limitations.

If a variance is denied, the decision to deny shall state the Board’s determination as to how the application does not meet the variance standards regarding unnecessary hardship, protection of the public interest, and/or the presence of unique property limitations.

Submitted By: Adam Adank
Zoning Administrator

Appendix A

Relevant Code from Wisconsin Statutes:

- Wisconsin Statutes § 59.694(7)(c) regarding the Powers of the Board states, “To authorize upon appeal in specific cases variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.”
- Wisconsin Statutes § 62.23(7)(e)7 states:
 - a. In this subdivision, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.
 - b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - c. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - d. A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.
 - e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.
 - f. A variance granted under this subdivision runs with the land.

- Relevant definitions per Chapter §239-7B:
 - Accessory Structure – A subordinate structure, the use of which is incidental to, customarily found in connection with, and located on the same lot as the principal structure or use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, swimming pools, hot tubs, fences, retaining walls and detached stairways and lifts; and impervious, pervious or porous driveways, parking lots, sidewalks, decks (both detached and attached) and patios.
 - Base Zoning District – The underlying zoning district as outlined in Chapter 240 of the Pierce County Code.
 - Bluffline - A line along the top of the slope preservation zone. There can be more than one bluffline.
 - Setback - The minimum horizontal distance between a structure and the OHWM, bluffline, side or rear lot lines, or roads.
 - Slope Preservation Zone – The area riverward from the bluffline where the slope towards the river is 12% or more, as measured horizontally for a distance of not more than 50 feet or less than 25 feet.

- PCC §239-F states, “Dimensional standards summarized.






Dimension	Rural Residential
OHWM setback	200 feet
Bluffline setback	100 feet, 40 feet with performance standards
Side yard setback	25 feet

Board of Adjustment




JOSEPH & DELLA BOLES
(March 23rd, 2023)

Variiances

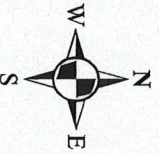
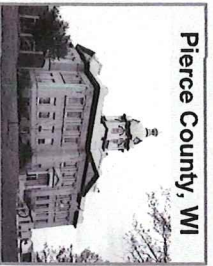
Legend

-  Dwellings
-  CUP Parcel
-  Parcels
-  Proposed Garage
-  10 Ft Elevation

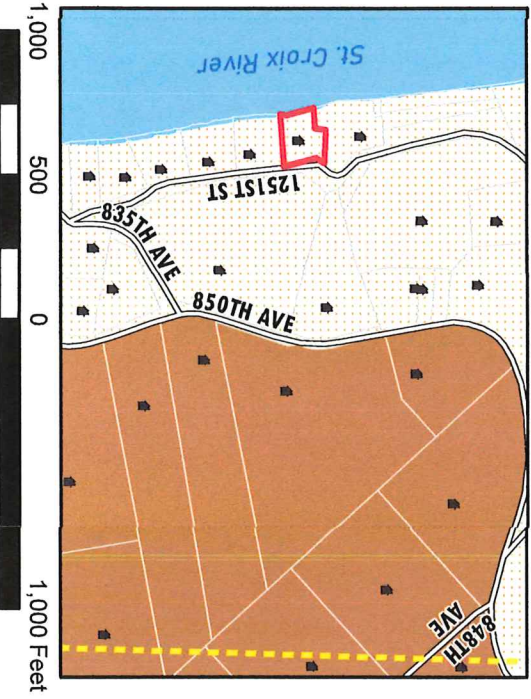
Zoning

-  St. Croix Riverway Bndy
-  General Rural
-  Rural Residential - 12

Orthophotography - 2020 Pierce County



Prepared by the Department of Land Management



Site Location
N8397 1251ST ST
TOWN OF CLIFTON

