

RESOLUTION NO. 12-2021

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF CEDAR FALLS, IOWA, in regular meeting assembled on the 21st day of December, 20 21, that:

The variance(s) being sought (case # VAR-21-002) by Jason Krosch and DesiRae Donlan, upon property at 1722 Cottage Row Road legally described as:

AUDITOR BARNES PLAT NO 6 PART LOT 33 BEG AT NW COR SAID LOT TH S ALONG W LINE SAID LOT 144.5 FT THELY 90 FT TO PT ON E LINE SAID LOT THAT IS 84.3 FT S OF NE COR LOT 33 TH N 84.3 FT TO NE COR SAID LOT TH NWLY 104.2 FT TO PT OF BEG & EASE

is/are hereby not approved.

The Board concludes the variance request to Section 26-176(a) & (b) to allow a residential use in the F-W Floodway District is not consistent with the purpose of the floodplain regulations and does not satisfy the approval criteria for a variance and therefore the motion to approve the variance failed based on the following findings:

The intent of the floodplain regulations is to promote the public health, safety and general welfare of the community and minimize public and private damages due to flooding. The property with an existing structure was knowingly purchased in 2009 by the applicant with a sale condition listing the structure as "unusable." The applicant did not provide evidence the existing structure had been used for residential purposes after the purchase, and therefore, there are no unique conditions and no unreasonable hardship caused by the ordinance requirements and therefore the request does not satisfy the approval criteria for granting a variance to allow the establishment of a new residential use in the F-W Floodway Overlay District.

The Board concludes the variance request to Section 26-176(c)(5) to allow a new building to be constructed in the F-W Floodway District is not consistent with the purpose of the floodplain regulations and does not satisfy the approval criteria for a variance and therefore the motion to approve the variance failed based on the following findings:

The intent of the floodplain regulations is to promote the public health, safety and general welfare of the community and minimize public and private damages due to flooding. The existing structure has been used for storage in its current state since it was purchased in 2009. The applicant did not provide evidence that the ordinance causes an unreasonable hardship, since it was purchased knowingly as a structure that was unusable at a price for the property (\$5,000) that reflected the unusable state of the building. The applicant also provided no evidence that the property could not be used for other purposes allowed by ordinance.

The Board concludes the variance request to Section 26-176(c)(8) to allow a new building to be used as a habitable structure in the F-W Floodway District is not consistent with the purpose of the floodplain regulations and therefore the motion to approve the variance failed based on the following findings:

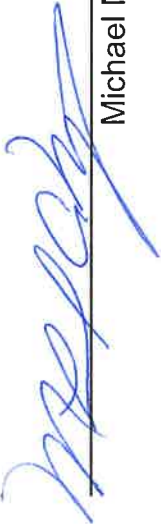
Again, the intent of the floodplain regulations is to promote the public health, safety and general welfare of the community and minimize public and private damages due to flooding. The property was purchased by the applicants as "unusable" in 2009. The applicants purchased the adjacent property at 1718 Cottage Row Road at the same time for their residential use and chose to use the structure at 1722 Cottage Row Road for storage purposes, and thereby, the "grandfathered" status of the residential use expired. The re-establishment of a residential use in the F-W Floodway Overlay District increases the potential for harm to persons and property due to flooding, and therefore, is not consistent with the purpose and intent of the floodplain regulations.

The Board concludes the variance request to Section 26-165(4) to allow a reduction in the rear yard from 30 feet to 10 feet is not consistent with the purpose of the R-1 Residence District regulations and therefore the motion to approve the variance failed based on the following findings:


The request to allow a new residential structure in F-W Floodway Overlay District failed, and therefore, the variance request to allow the reduction to a rear yard for the requested new building is moot.

DECISION RENDERED the 21st day of December, 2021.

CEDAR FALLS BOARD OF ADJUSTMENT



Michael Mangin, Chair

ATTEST: 

Thomas Weintraut, Secretary

11/7/2022

Date