

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

NOVEMBER 12, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0334

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**LORENZ CADUFF,
and CAROL CADUFF,**

Plaintiffs-Respondents,

v.

**ZONING BOARD OF APPEALS
FOR RUSK COUNTY,**

Defendant-Appellant,

TOWN OF WILLARD,

Defendant.

APPEAL from a judgment of the circuit court for Rusk County:
FREDERICK A. HENDERSON, Judge. *Reversed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. The Zoning Board of Appeals for Rusk County appeals a judgment reversing its decision partially denying Lorenz and Carol Caduff a zoning variance. The Caduffs applied for a variance allowing them to retain an already constructed deck, stairway and landings within seventy-five feet of the ordinary high water mark of a navigable waterway. The Zoning Board granted the Caduffs a variance allowing only 132 square feet to remain within the setback area. The trial court reversed the board's decision, concluding that the zoning ordinance was ambiguous. Because we conclude that the ordinance is not ambiguous, we reverse the judgment.

An ordinance is ambiguous when it is capable of two or more reasonable interpretations. *Wagner Mobil, Inc. v. City of Madison*, 190 Wis.2d 585, 595, 527 N.W.2d 301, 303 (1995). The rules for construction of statutes and ordinances are the same. *Sauk County v. Trager*, 113 Wis.2d 48, 55, 334 N.W.2d 272, 275 (Ct. App. 1983). When the words are clearly defined by the ordinance, we apply only the definition contained in the ordinance. *Republic Airlines, Inc. v. DOR*, 159 Wis.2d 247, 253, 464 N.W.2d 62, 64 (Ct. App. 1990).

The seventy-five foot setback ordinance is not ambiguous. The Rusk County Comprehensive Zoning Ordinance defines setback as "the minimum horizontal distance." This language is not susceptible to more than one interpretation. A horizontal distance is one that has no vertical dimension. A measurement up the slope is not a horizontal measurement. The fact that it is difficult to measure the correct distance or that the ordinance does not specify a method for calculating the distance does not make the ordinance ambiguous. *State v. Ambrose*, 196 Wis.2d 768, 776, 540 N.W.2d 208, 211 (Ct. App. 1995).

By the Court. — Judgment reversed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.