

Date Mailed: _____

JULIE A. BARTHELS
Winnebago County Clerk
112 Otter Ave, PO Box 2806
Oshkosh, WI 54903-2806
(920) 232-3430

NOTICE OF COMMISSION, BOARD OR COMMITTEE MEETING

**NAME OF COMMISSION,
BOARD OR COMMITTEE:** BOARD OF ADJUSTMENT
**see below

TIME OF MEETING: 7:30 A.M.

DATE OF MEETING: Thursday, January 4, 2024

PLACE OF MEETING: **DAVID ALBRECHT ADMINISTRATION BUILDING**
112 Otter Ave, 3rd Floor Conference Room
Oshkosh, WI

* All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda calendar on the above indicated date.

ZOOM MEETING INFORMATION LINK: <https://www.co.winnebago.wi.us/planning-and-zoning/boa-meeting-links>

Additional instructions can be found at: <https://www.co.winnebago.wi.us/planning-and-zoning>.

For further detailed information concerning this notice, contact the Town Clerk or the Winnebago County Zoning office, where the application is available for viewing.

SUBJECT MATTER OF THE MEETING

DELIBERATIVE AGENDA

(Deliberative meetings are open to the public for viewing only – public participation is not allowed.)

1. Approval of minutes from November 9, (Deliberative), November 28, (Public Hearing), December 14 (Viewing), December 20, (Public Hearing)
2. Amcor North America – 2450 Badger Ave – City of Oshkosh, Variance
3. JEL LLC – 4532 Bellhaven Ln – Town of Algoma - Appeal

**** This meeting is also being posted as a Committee meeting for: Facilities & Property Management**

The Committee reserves the right to take up any item on the agenda at any time after the meeting commences.

Upon request, provisions will be made for people with disabilities upon 24 hours prior notice to the Office of the County Clerk. Phone Number: (920) 232-3430.

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE MEETING

November 9th, 2023

7:30 A.M.

Third Floor Conference Room – David W. Albrecht Administration
Building

DELIBERATIVE MEETING HELD VIA ZOOM

PRESENT

Greg Kargus, Tom Tuschl, Sue Drexler, Tom Verstegen

Daniel Lefebvre -Assistant Zoning Administrator, Caleb Edwards -Code Enforcement
Officer, Karen Fredrick -Court Reporter

The meeting was called to order by Greg Kargus at 7:30 A.M.

GENERAL

MOTION made by T. Tuschl to approve the September 26th (Public Hearing) and
October 12th (Deliberative) meeting minutes. Seconded by T. Verstegen. MOTION
carried 3-0-1, S. Drexler Abstained.

MOTION made by T. Tuschl to approve the October 26th (Viewing) meeting minutes.
Seconded by T. Verstegen. MOTION carried 4-0.

The Board reviewed findings and criteria in order to act on the variance.

**AMES, RICHARD & PAMELA – 3270 SHOREWOOD DR, TOWN OF
OSHKOSH – VARIANCE**

The Board discussed the variance request. Discussion included the required setbacks,
potential ADA (Americans with Disabilities Act) requirements, use of the proposed
addition, buildable area(s), building dimensions, existing property conditions, and
reasonable use of the property.

MOTION by T. Tuschl to deny the variance. Seconded by S. Drexler. S. Drexler read
the findings for denial as discussed by the Board. The Board determined the variance
has not met the required variance criteria based on the findings.

MOTION carried 3-0-1, G. Kargus Abstained.

REVIEW AND ACTION ON 2024 MEETING SCHEDULE

MOTION by T. Verstegen to approve the 2024 Board of Adjustment Meeting Schedule as proposed. Seconded by T. Tuschl.
MOTION carried 4-0.

ADJOURNMENT

MOTION made by S. Drexler to adjourn the meeting. Seconded by T. Verstegen.
MOTION carried 4-0. Meeting adjourned at 8:03 A.M.

Respectfully submitted,

Daniel R. Lefebvre
Assistant Zoning Administrator

WINNEBAGO COUNTY BOARD OF ADJUSTMENT

PUBLIC HEARING

November 28th, 2023

5:30 P.M

First Floor Conference Room (120)- County Administration Building

PUBLIC HEARING HELD VIA ZOOM

PRESENT

Greg Kargus, Tom Tuschl, and Tom Verstegen

Mary Anne Mueller- Corporation Counsel, Cary Rowe- Zoning Administrator, Daniel Lefebvre- Assistant Zoning Administrator, Caleb Edwards- Code Enforcement Officer, and Karen Fredrick- Court Reporter.

Jane Landretti- Appellants Attorney, Ben Ganther- Appellants Contractor, Mark Neubauer- Appellants Contractor

This meeting was called to order by Greg Kargus at 5:31 P.M. Board members introduced themselves and Caleb Edwards, Code Enforcement Officer explained the appeals process.

JEL LLC- 4532 BELLHAVEN LN, TOWN OF ALGOMA- APPEAL

Applicant is appealing a decision made by Winnebago County Planning & Zoning Staff to deny a permit for a retaining wall located in the shore yard setback area.

Mark Neubauer answered questions from Jane Landretti, Mary Anne Mueller, and the Board.

Daniel Lefebvre answered questions from Jane Landretti, Mary Anne Mueller, and the Board.

Daniel Lefebvre stated Winnebago County received a letter from the WDNR and read the letter.

The board was given exhibits from Jane Landretti and Mary Anne Mueller.

Cary Rowe answered questions from Jane Landretti and Mary Anne Mueller.

The Board discussed the exhibits, project, ordinances, and retaining walls with Jane Landretti, Mary Anne Mueller, Daniel Lefebvre, and Mark Neubauer.

Mary Anne Mueller and Jane Landretti gave final arguments, request to provide legal arguments, and request deliberative date to be moved to later date.

MOTION made by Tom Tuschl to move deliberative date to January 4th, 2023. Seconded by Tom Verstegen. Motion carried 3-0.

ADJOURNMENT

MOTION made by Tom Verstegen to adjourn the meeting. Seconded by Tom Tuschl. Motion carried 3-0.
Meeting adjourned at 6:41 P.M.

Respectfully submitted,

Caleb Edwards

Code Enforcement Officer

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
VIEWING

December 14th, 2023
8:00 A.M.
County Administration Building

PRESENT

Tom Tuschl, Greg Kargus, Tom Verstegen, Sue Drexler

Caleb Edwards- Code Enforcement Officer

ITEMS

The Board met at 8:00 A.M. at the County Administration Building, then departed to view the following properties:

1. Amcor Flexibles North America- 2450 Badger Ave, City of Oshkosh- Variance

ADJOURNMENT

Meeting adjourned at 8:30 A.M

Respectfully submitted,

Caleb Edwards

Code Enforcement Officer

WINNEBAGO COUNTY BOARD OF ADJUSTMENT

PUBLIC HEARING

December 20th, 2023

5:30 P.M

First Floor Conference Room (120)- County Administration Building

PUBLIC HEARING HELD VIA ZOOM

PRESENT

Greg Kargus, Tom Tuschl, Sue Drexler, and Tom Verstegen

Daniel Lefebvre- Assistant Zoning Administrator, Caleb Edwards- Code Enforcement Officer.

This meeting was called to order by Greg Kargus at 5:30 P.M. Board members introduced themselves and Caleb Edwards, Code Enforcement Officer explained the appeals process.

AMCOR- 2450 BADGER AVE, CITY OF OSHKOSH- VARIANCE

Applicant is requesting a variance to construct two silos that will exceed the maximum height allowed in AIR-2 zoning.

The board discussed the application and reviewed letters from the FAA and Wittman Regional airport with county staff.

ADJOURNMENT

MOTION made by Sue Drexler to adjourn the meeting. Seconded by Tom Verstegen. Motion carried 4-0. Meeting adjourned at 5:37 P.M.

Respectfully submitted,

Caleb Edwards

Code Enforcement Officer

WINNEBAGO COUNTY BOARD OF ADJUSTMENT
DELIBERATIVE SESSION
POST STAFF REPORT

Town and/or agency's comments:

Wittman Regional Airport does not have any concerns with the project.

The FAA has confirmed the structures do not exceed obstruction standards and would not be hazardous to air navigation.

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.**

Findings for approval: The proposed silos will be the same height of the existing silos on the property.

Findings for denial: The applicant already has reasonable use of the property.

- 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.**

Findings for approval: The proposed silos are needed for manufacturing purposes in the proposed location as much of the available area has already been developed.

Findings for denial: The property has no unique characteristics; the proposed silos could be built to the allowed maximum height.

- 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.**

Findings for approval: The increase in silo size has no adverse effect to public interest.

Findings for denial: The variance does not meet the Chapter 24 height requirements.

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 With Conditions

Advisory Conditions:

Town Conditions:

NONE

County Conditions:

Construction must meet all FAA regulations.

VOTE: _____ to _____

JASON LINDEMANN

A/K/A JEL, LLC

4532 Bellhaven Lane

Oshkosh, WI 54904

Applicant,

Application No. 23-AP-01

and

WINNEBAGO COUNTY ZONING DEPARTMENT

112 Otter Avenue, 3rd Floor

Oshkosh, WI 54901

Respondent.

**WINNEBAGO COUNTY'S BRIEF IN SUPPORT OF ITS DENIAL OF
SPECIAL ZONING PERMISSION FOR A RETAINING WALL IN
THE SHORELAND SETBACK AREA AT 4532 BELLHAVEN LANE
IN OSHKOSH, WISCONSIN**

STATEMENT OF THE CASE

On July 27, 2022, Ganther Construction applied to Winnebago County for a Zoning Permit on behalf of Jason Lindemann for the construction of a residential home and attached garage at 4532 Bellhaven Lane in Oshkosh WI. The request was granted and the permit was issued on August 25, 2022. (Exhibit 1). In June 2023, while inspecting an unrelated property, Winnebago County Zoning staff noticed a large retaining wall on the Lindemann property within 75 feet of the shoreland setback area of a navigable waterway. (Exhibit 2). This wall was not shown on the plans accompanying the original permit. Assistant Zoning Administrator Daniel

Lefebvre contacted Ganther Construction and notified the contractor there were two violations of state statute and the Winnebago County General Code: the retaining wall was within the 75-foot shoreland setback and there was no evidence of zoning or erosion control permits, which by code are required to be placed in a conspicuous location on the affected property. Ganther Construction was notified that the retaining wall had to be completely removed and the property seeded and matted to be returned to the original slope by August 1, 2023. Failure to do so would result in a municipal citation of \$389.50 with an additional penalty of \$200.00 per day until the wall was removed. (Exhibit 3). A meeting was held with Ganther Construction on June 21, 2023 to discuss a resolution and Ganther representatives advised they would need to contact Mr. Lindemann for direction. On July 10, 2023, Winnebago County Zoning staff was contacted by attorneys for Mr. Lindemann, acknowledging the structure was placed within the zoning setback area but adding that the County was "required" to grant special zoning permission for a structure to be placed within the zoning setback area since certain standards were met. A new site plan in support of the request for a retaining wall was attached. (Exhibit 4). On July 18, 2023, Mr. Lefebvre notified attorneys for Mr. Lindemann that a retaining wall did not fall within the exceptions referenced by the firm. (Exhibit 5). On July 24, 2023, the Lindemann firm requested an appeal of Mr. Lefebvre's July 18, 2023 decision. (Exhibit 6). On July 25, 2023, Mr. Lefebvre advised Attorney Landretti, Mr.

Lindemann's legal representative, of the process for an appeal and provided her with accompanying paperwork. (Exhibit 7). On August 25, 2023, Winnebago County received an Administrative Appeal Application of Mr. Lefebvre's decision. (Exhibit 8). On November 28, 2023, the Zoning Board of Adjustment held a public hearing on the appeal. (Exhibit 9). Mark Neubauer, a Construction Project Manager for Ganther Construction, testified on behalf of Mr. Lindemann. Mr. Neubauer's role as project manager for the Lindemann project was to hire the design consultant, purchase materials and hire the landscape contractor. Mr. Neubauer admitted the original project was planned without a retaining wall but Mr. Lindemann decided it would be "nice" to keep the area flat (Winnebago County Zoom recording of 11/28/2023 Public Hearing 26:33, [Board of Adjustment 11-28-2023 \(youtube.com\)](#)). He estimated the retaining wall was 80 feet in length. Mr. Lefebvre and Zoning Administrator Cary Rowe testified on behalf of the Winnebago County Zoning Department. Both Messieurs. Lefebvre and Rowe testified that Mr. Lindemann's retaining wall was not an exempt structure under state statute and county code because there was one solid side. (Winnebago County Zoom recording of 11/28/2023 Public Hearing 52:26, [Board of Adjustment 11-28-2023 \(youtube.com\)](#)). Received and admitted into evidence was a November 27, 2023 letter from Wisconsin Department of Natural Resources Shoreland Specialist Dale Rezabek. (Exhibit 10). Mr. Rezabek stated that the Winnebago County's ordinance was

compliant with Wis. Stat. §59. 692 and Wisconsin Administrative Code NR 115. It was not more restrictive than the statewide shoreland zoning standard.

"In this current JEL, LLC Property case the department concurs with the application of the county shoreland zoning ordinance regarding retaining walls, which are not listed as exempt from the 75 foot setback from the ordinary high water mark (OHWM) in NR 115. Section 59.692 (1v), Stat, states that special zoning permission is allowed for structures that meet the conditions listed under (1v)(a) thru (d). Condition (1v)(c) states that the structure has "...no sides or has open or screened sides." A retaining wall is defined in s. 59.692(1), Stat, as an accessory structure, that has a side. The county has applied the rules correctly according to Statute and their ordinance (Ch. 27, Sec. 6.1)."

(Exhibit 10).

ARGUMENT

Winnebago County is not Required to Grant Special Zoning Permission for a Structure in a Shoreland Setback Area if it Fails to Comply with the Conditions Set Forth in Wis. Stat. §59.692 (1v).

There is no question that Mr. Lindemann's retaining wall under state statute and county code does not qualify as a structure eligible for the shoreland setback area exemption.

Wis. Stat. §59.692 (1v) states:

(1v) A county shall grant special zoning permission for the construction or placement of a structure on property in a shoreland setback area if all of the following apply:

- (a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
- (b) The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.
- (c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
- (d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.

Wisconsin Administrative Code 115.05 (1)(b) provides in pertinent part:

- 1m. 'Exempt structures.' All of the following structures are exempt from the shoreland setback standards in subd. 1: ...
- b. Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692 (1v), Stats.

Chapter 27, Article 6.1 (1)(b) of the Winnebago County General Code mirrors state statute and administrative code.

- (1) EXEMPT STRUCTURES. (NR 115.05(1)(b)(1m) and § 59.692(1k)(a)(6). All of the following structures are exempt from the shoreland setback standards in section 6.1: ...
- (b) Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in § 59.692(1v), Stats:
 - (1) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - (3) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

(4) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The design of the vegetative buffer zone shall follow the standards for the establishment of a primary buffer, as described in section 13 of this ordinance.

Statutory interpretation "begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry." State ex rel. Kalal v. Circuit Court for Dane County, 2004 WI 58, para. 45, 271 Wis. 2d 633, 663. Mr. Lindemann's retaining wall in the shoreland setback area does not comply with all the statutory requirements per Wis. Stat. § 59.692(1v) and Chapter 27, Article 6.1(1)(b) of the Winnebago County General Code. The language in statute and code is clear and unambiguous. An exempt structure is a structure that has no sides or has open or screened sides. According to Webster's New Collegiate Dictionary, a side is defined as "a surface forming a border or face of an object, an outer portion of something considered as facing in a particular direction." A retaining wall is a three-dimensional object, having sides or faces, each of which is a 2-dimensional object. Accordingly, a retaining wall has 6 sides. The retaining wall in question has a solid side that can be viewed from the lake as well as the neighboring property so it does not qualify as either having no sides or having open sides. In addition to the direct testimony of Winnebago County's witnesses to this fact (Winnebago County Zoom recording of 11/28/2023 Public Hearing 41:13, Board of Adjustment 11-28-2023

([youtube.com](https://www.youtube.com))), this was acknowledged on cross examination by Mark Neubauer, the Ganther Construction Project Manager assigned to the Lindemann construction (Winnebago County Zoom recording of 11/28/2023 Public Hearing 13:29, [Board of Adjustment 11-28-2023 \(youtube.com\)](https://www.youtube.com)). Moreover, Attorney Landretti stated on the record "Obviously, a retaining wall has a side." (Winnebago County Zoom recording of 11/28/2023 Public Hearing 10:08, [Board of Adjustment 11-28-2023 \(youtube.com\)](https://www.youtube.com)).

In his argument, Mr. Lindemann references the guiding principle of the free use of private property when interpreting shoreland zoning ordinances to resolve an ambiguity in the meaning of a word or phrase. There are no ambiguities in Chapter 27, Article 6.1 (1)(b) of the Winnebago County Code. Moreover, Mr. Lindemann has failed to show that the absence of a retaining wall prevents him from enjoying any reasonable use of the property. The brief filed on Mr. Lindemann's behalf states that the retaining wall is the most appealing way to deal with a steeply sloped site and is far superior to the dramatically sloped grade that would be present if the wall had to be removed (Page 2 of Lindemann Brief). Mr. Neubauer admitted the original project was planned without a retaining wall but Mr. Lindemann decided it would be nice to keep the area flat (Winnebago County Zoom recording of 11/28/2023 Public Hearing 26:33, [Board of Adjustment 11-28-2023 \(youtube.com\)](https://www.youtube.com)). This retaining wall was built for aesthetics but it isn't for Mr. Lindemann to make an

aesthetic judgment concerning the shoreline. Beauty is in the eye of the beholder. What may be hideous to one person may be beautiful to another. One of the overriding purposes of the shoreland protection setback zone is to "preserve and restore shoreland vegetation and natural scenic beauty through:

- (a) Restricting the removal of natural shoreland cover.
- (b) Preventing shoreline encroachment by structures.
- (c) Controlling shoreland excavation and other earth moving activities.
- (d) Regulating the use and placement of boathouses and other structures."

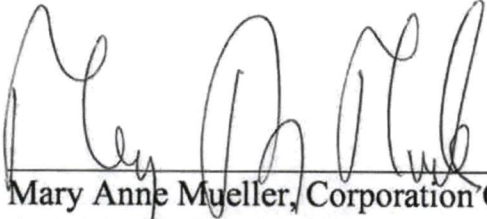
Chapter 27, Article 1.3(4) of the Winnebago County General Code.

Aesthetics is irrelevant to this matter. What is relevant is that Mr. Lindemann built a retaining wall without obtaining the required permits, sought to remedy the situation by obtaining special zoning permission and was denied special zoning permission by the Winnebago County Planning and Zoning Department because Mr. Lindemann's retaining wall fails to comply with the conditions set forth in Wis. Stat. §59.692 (1v).

CONCLUSION

For the reasons stated above, the Zoning Board of Adjustment should affirm Winnebago County Planning and Zoning Department's 7/18/23 denial of special zoning permission for a retaining wall at 4532 Bellhaven Lane, Oshkosh, WI.

Dated: December 21, 2023.

A handwritten signature in black ink, appearing to read 'Mary Anne Mueller', written over a horizontal line.

Mary Anne Mueller, Corporation Counsel for Winnebago County
Attorney for Respondent, Winnebago County Zoning Department
State Bar No: 1068088
112 Otter Avenue, 3rd Floor
Oshkosh, WI 54901
mmueller@winnebagocountywi.gov
920-236-4753

11
*** THIS IS NOT A BUILDING PERMIT - CONTACT YOUR LOCAL TOWNSHIP TO DETERMINE IF OTHER PERMITS ARE REQUIRED ***



IT IS UNLAWFUL TO COMMENCE WORK BEFORE THIS PERMIT IS
PLACED IN A CONSPICUOUS PLACE ON THE PREMISES



WINNEBAGO COUNTY ZONING PERMIT

IN COMPLIANCE WITH THE WINNEBAGO COUNTY ZONING ORDINANCE

CONDITIONS

HAS BEEN ISSUED TO:

JEL LLC

FOR THE FOLLOWING WORK:

**CONSTRUCTION OF A HOUSE AND ATTACHED
GARAGE**

PROPERTY LOCATED AT:

4532 BELLHAVEN LN OSHKOSH, WI 54904

SEC. 07 T. 18 N. R. 16 E. LOT: 1 BLK:

PLAT: CSM-7621

TOWN OF ALGOMA

NOTE: PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE
UNLESS SUBSTANTIAL WORK HAS STARTED. REVISION
REQUIRES REVIEW / FEE / APPROVAL. NO FEE FOR LOCATION
CHANGES ONLY FOR 6 MO'S FROM ORIGINAL DATE.

PERMIT NO: 213439 DATE ISSUED: 08/25/2022

PARCEL ID: 002-00100301

ZONING OFFICER:

Daniel Lefebvre
LEFEBVRE, DANIEL

SANITARY PERMIT: MUNICIPAL SEWER

Exhibit 1

Review fee: \$165.00
Complete & sign only this side of application

**WINNEBAGO COUNTY
ZONING PERMIT APPLICATION**

112 Otter Ave, 3rd Floor
Oshkosh, WI 54901
920-232-3344

Town of: Algoma Tax Parcel No.: 002-00-1003-01 Estimated Cost: \$ 2,250,000.00
(S.O. - if this property does not have an address, as issued by DNR office, submit a private Address Request Application. Prior to submitting this permit application.)

Address of affected property: 4532 Bellhaven Lane Type of Construction: New Addition Alteration
Postal City: Oshkosh Other:
Property Owner of Record: JEL LLC Existing Use: Vacant Single Family Dwelling Other:
Applicant/Builder: Mark Neubauer, Ganther Construction | Architecture Existing Structures: Vacant House Attached Garage Detached Garage
(We can fill in the information below if you're not sure) Other/Additional Structures:
Plat name/CSM: CSM # 7621 Block: Lot # 1
Contact information below is for: Owner Applicant/Builder Describe your building/project (structure type, size, material, etc.):
Contact Name: Mark Neubauer, Ganther Construction | Architecture 5,073 S.F. Residential Home, and a 1,073 S.F. Attached Garage
Mailing Address: 4825 County Road "A"

City: Oshkosh ST WI Zip 54901
Contact Phone: (920) 426-4774 Cell Phone: (920) 376-0227
E-mail Address: mneubauer@ganther.com

I would like to receive my permit by: E-Mail Mail Other
Peak Height: 34'-8" Mid-Peak Height:

Applicant must read and sign:

- In accordance with Wisconsin State Statute 59.691, the information provided herein is to give you notice regarding potential wetlands. You are responsible for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams. Wetlands that are not associated with open waters can be difficult to identify. Failure to comply may result in removal or modification of construction that violates the law or other penalties or costs. For more information, visit the Department of Natural Resources Wetland Identification web page <http://dnr.wi.gov/topic/surfacewater/swdv> or contact your local DNR office.
- As the applicant, I hereby acknowledge notice of this wetland information.
- As the applicant I hereby grant permission for County Zoning Staff to enter the property for inspection purposes.
- As the applicant I hereby acknowledge that this permit is null & void if issued in error or if any facts are misrepresented.

Signature: Mark Neubauer Date: 7/27/2022

Submit application to our office with the ORIGINAL INK signature along with a complete site plan and the fee by mail or in person. DO NOT E-MAIL

**PERMIT FOR SEWER CONNECTION
ALGOMA SANITARY DISTRICT NO. 1, TOWN OF ALGOMA
WINNEBAGO COUNTY, WISCONSIN**

Nº 2807
PERMIT NO.

JEL, LLC
(Owner) _____ has made application to connect to the sanitary sewer at

Parcel No. 002-0010-03-01 Street 4532 Bellhaven Ln Subdivision Lot 1 of CSM-7621, 0.54A.

The permit to connect to the sanitary sewer is granted in accordance with the Sewer Use Ordinance and other requirements of the Algoma Sanitary District No. 1.

Excavator: DeGroot Inc.
Insurance Expires: 2/15/2023
Bond Expires: _____
Plumber: Watters Plumbing
Water Calculations: Rec'd 8/3/2022
Please allow 24-hour notice for inspections.

Approved: _____
Aara Gonzalez
Algoma Sanitary District No. 1

APPLICANT COPY - WHITE

INSPECTORS COPY - PINK

APPLICATION FOR SEWER CONNECTION August 23, 2022

JEL, LLC P.O. Box 9006 Oshkosh, WI 54903 hereby makes application to connect
Name (Owner) _____ Mailing Address _____

to the sanitary sewer system of the Algoma Sanitary District No. 1.

Parcel No. 002-0010-03-01 Street 4532 Bellhaven Ln Subdivision Lot 1 of CSM-7621, 0.54A.

<u>Building Description</u>	<u>Private Lateral</u>
<input checked="" type="checkbox"/> Residential	Pipe Material <u>PVC</u>
_____ Commercial	Size <u>4"</u>
_____ Class A	
_____ Class B	<u>Type</u>
_____ Class C	Gravity <u>X</u>
_____ Industrial	Pressure _____

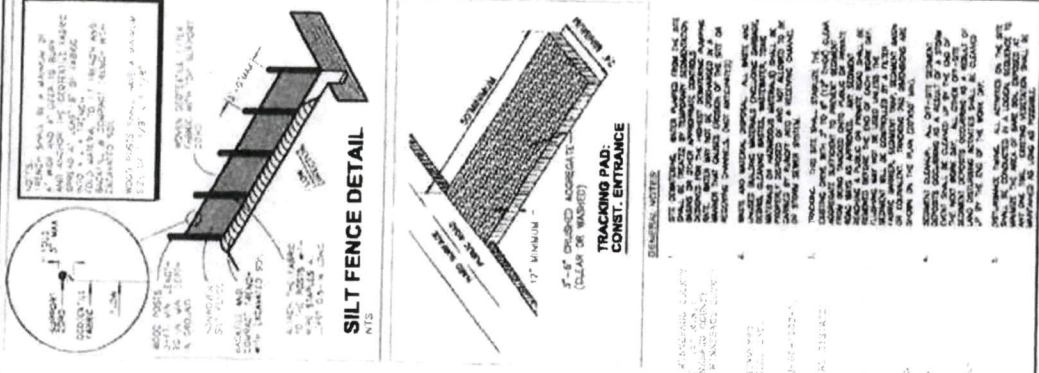
Contribution in Aid of Construction	\$ 2,579.00
Road Deposit (if applicable) Sewermain Cost	\$ 12,500
Permit Fee	\$ 150.00
TOTAL CHARGE	\$ 15,229.00

Check #: <u>2080</u>	Date: <u>8/23/2022</u>
Received From: <u>JEL, LLC</u>	

THE UNDERSIGNED APPLICANT, WHETHER PROPERTY OWNER OR CONTRACTOR SIGNING ON BEHALF OF THE PROPERTY OWNER, AGREES TO COMPLY WITH THE SEWER USE ORDINANCE OF THE ALGOMA SANITARY DISTRICT NO. 1 AND OTHER REQUIREMENTS. NO CONNECTION TO THE SEWER SHALL BE MADE UNTIL AN EXECUTED "PERMIT FOR SEWER CONNECTION" IS ISSUED BY THE SANITARY DISTRICT.

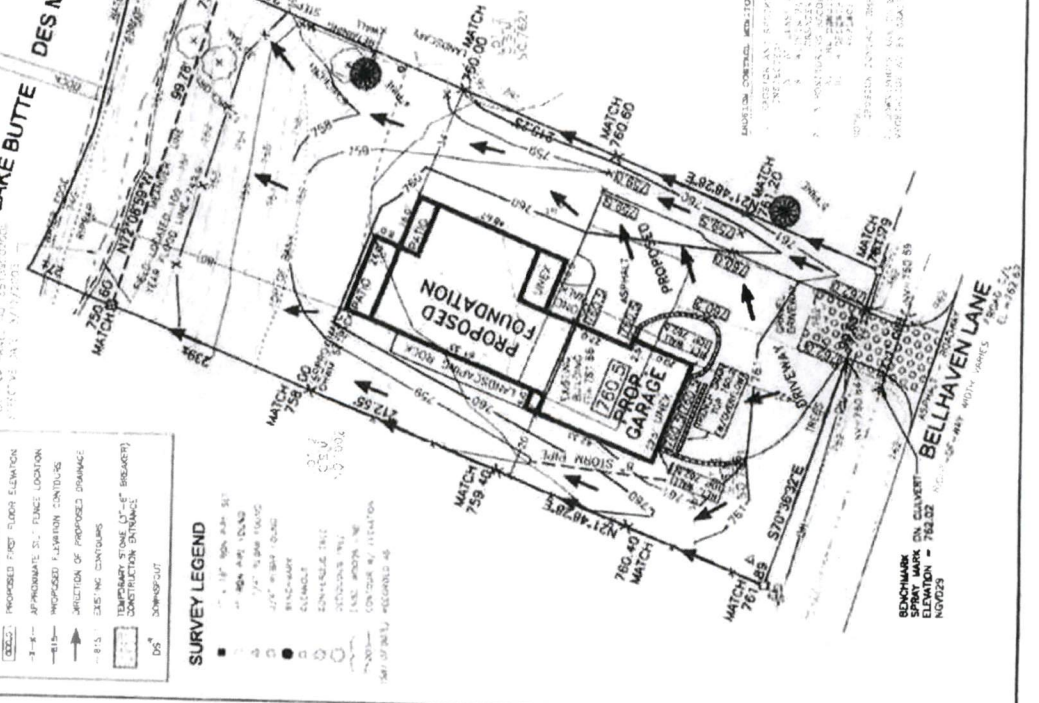
Applicant Signature Mark Neubauer Print Name Mark Neubauer
Company Name (if applicable) Ganther Construction Phone Number 920-376-0227

SANITARY DISTRICT COPY



GENERAL NOTES:
 1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE WISCONSIN CONSTRUCTION CODE AND THE WISCONSIN EROSION CONTROL CODE.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.
 3. ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
 4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 5. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REMOVING ALL EROSION CONTROL MEASURES AND RESTORING THE SITE TO ORIGINAL OR BETTER CONDITION UPON COMPLETION OF CONSTRUCTION.
 7. ALL MATERIALS AND METHODS SHALL BE APPROVED BY THE LOCAL AND STATE AUTHORITIES.
 8. THE CONTRACTOR SHALL MAINTAIN RECORDS OF ALL CONSTRUCTION ACTIVITIES AND EROSION CONTROL MEASURES.
 9. ALL CONSTRUCTION SHALL BE COMPLETED BY THE SPECIFIED DATE.
 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

PROPERTY OWNER: [Name]
DESIGNER: [Name]
DATE: [Date]



SCALE: 1" = 20' (VERTICAL)
 1" = 40' (HORIZONTAL)

DATE: [Date]

PROJECT: [Project Name]

LOCATION: [Location]

OWNER: [Owner Name]

DESIGNER: [Designer Name]

CONTRACTOR: [Contractor Name]



G
Architects, Inc.

4532 BELLEVUE LANE, TOWN OF ALBANY, NH
ARCHITECTS, INC.
1000 WASHINGTON STREET, SUITE 200
ALBANY, NH 05717
TEL: 603-535-1100
WWW.GARCHITECTS.COM

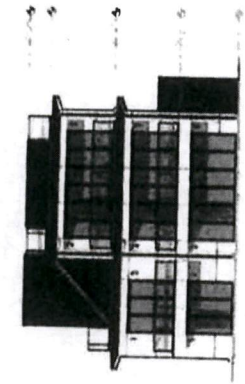
LAKE SIDE RESIDENCE

4532 BELLEVUE LANE, TOWN OF ALBANY, NH

NO.	DATE	DESCRIPTION
1	10/15/10	PRELIMINARY
2	11/15/10	REVISED
3	12/15/10	REVISED
4	01/15/11	REVISED
5	02/15/11	REVISED
6	03/15/11	REVISED
7	04/15/11	REVISED
8	05/15/11	REVISED
9	06/15/11	REVISED
10	07/15/11	REVISED
11	08/15/11	REVISED
12	09/15/11	REVISED
13	10/15/11	REVISED
14	11/15/11	REVISED
15	12/15/11	REVISED
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18	03/15/12	REVISED
19	04/15/12	REVISED
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96	09/15/18	REVISED
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99	12/15/18	REVISED
100	01/15/19	REVISED

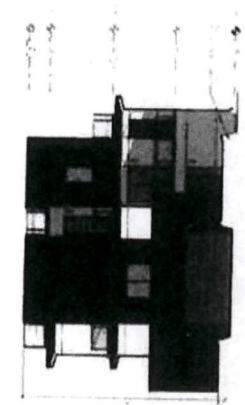
Z-A201

NOT FOR CONSTRUCTION



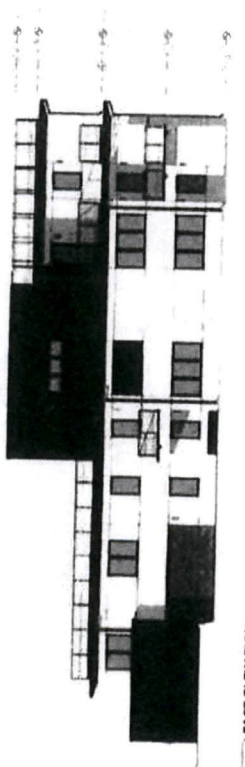
2 NORTH ELEVATION

Z-A201



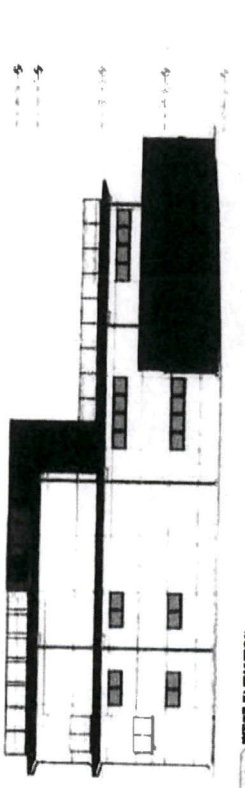
4 SOUTH ELEVATION (STREET SIDE)

Z-A201



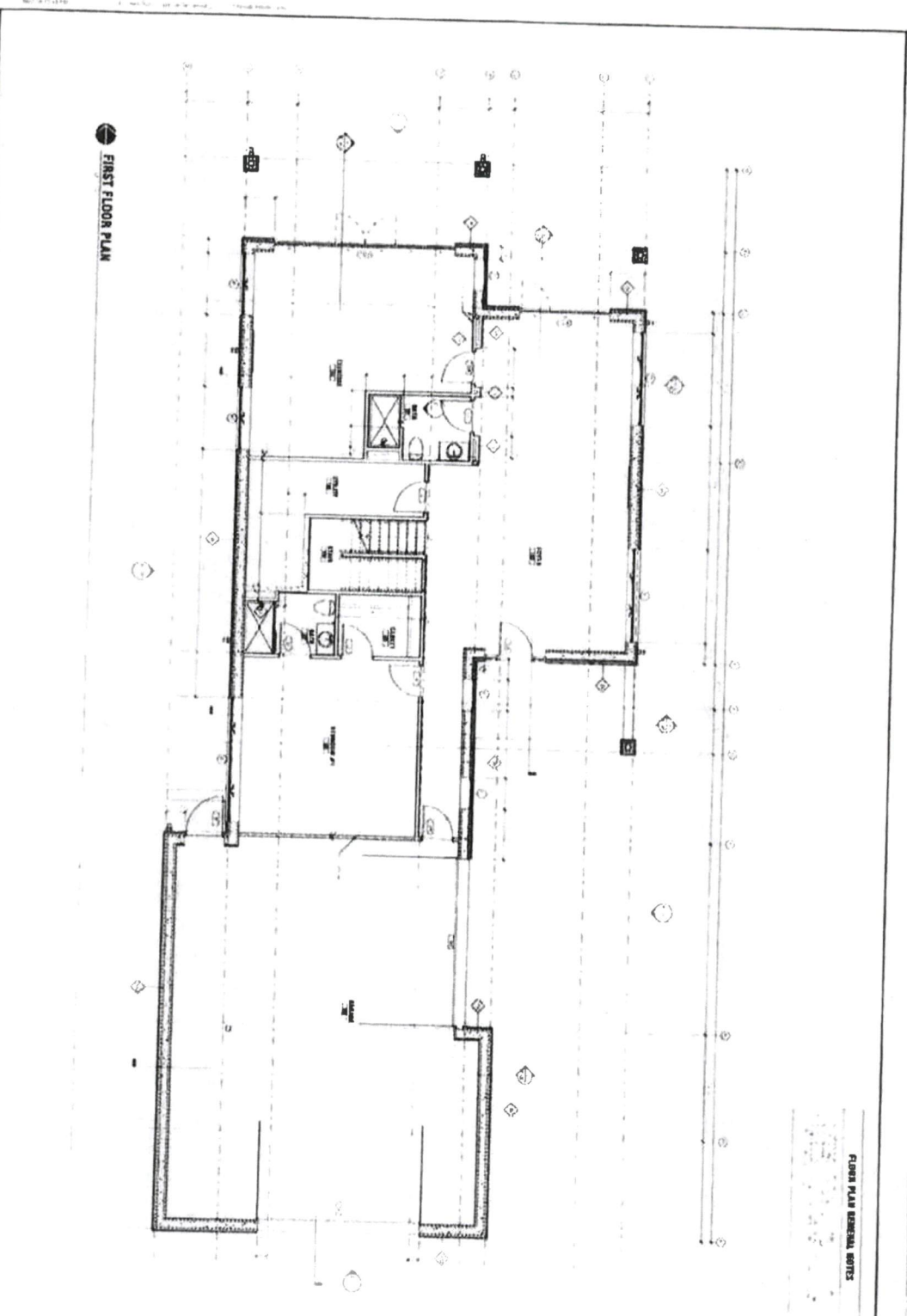
1 EAST ELEVATION

Z-A201



3 WEST ELEVATION

Z-A201



FIRST FLOOR PLAN

NOT FOR CONSTRUCTION

FLOOR PLAN GENERAL NOTES

NO.	REVISION
1	ISSUED FOR PERMIT
2	REVISED PER COMMENTS
3	REVISED PER COMMENTS
4	REVISED PER COMMENTS
5	REVISED PER COMMENTS
6	REVISED PER COMMENTS
7	REVISED PER COMMENTS
8	REVISED PER COMMENTS
9	REVISED PER COMMENTS
10	REVISED PER COMMENTS

LAKESIDE RESIDENCE

45.92 BFLI HAVAN I AVE. IDWIN OF ALBOMA WI

GALTHER CONSTRUCTION
 ARCHITECTS, INC.
 1000 W. WISCONSIN ST.
 MILWAUKEE, WI 53233
 TEL: 414.333.8888
 FAX: 414.333.8889
 WWW.GALTHERCON.COM



STAFF REVIEW ONLY

Zoning and Overlays:

Current Zoning R-1 SL URS WL N/A
Pot. WL URS FP URS AIR N/A
SWDD N/A

Special Standards Section: 23.8-256
Access Controlled? No
Site Plan? URS Plan of Operation? N/A
Parking? N/A Landscaping/Buffer Yards? N/A

Sanitary Facilities:

N/A
 Sewer: Sanitary District: Algonia Sanitary District No. 1
Private Permit No.: 1 Date: _____

Erosion Control/Storm Water:

N/A
 Y Permit No.: 505314 Date Issued: 8/4/2022

Setbacks:

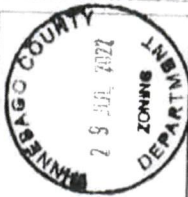
Principal
Street 30' / 42' Rear 1 Shore 75' / >80'
Side 4' / 20' Side 10' / 34' Other 1

Accessory

Street 1 Rear 1 Shore 1
Side 1 Side 1 Other 1

Issued by: David J. [Signature] Date: 8/26/2022
Permit #: 213439 Census #: 101

Fee Received: 165.00
Received By: RR
Assigned CEO: DA
Log No.: 213439
Receipt # _____



Notes/Conditions:

Highly Developed Shoreline
Proposed I.S. 29.89%
Total Allowed Accessory Area
1666 - 1043 = 543sf

Exhibit 2



Exhibit 3

Lefebvre, Daniel

From: Lefebvre, Daniel
Sent: Thursday, June 15, 2023 2:18 PM
To: Mark Neubauer
Cc: Rowe, Cary; Rappl, Lydia; Edwards, Caleb; Goldthwaite, Matthew
Subject: Notice of Violation

Importance: High

Good Afternoon Mark,

Upon our phone conversation and site visit, the property located at 4532 Belhaven Lane is in violation of placing a retaining wall (structure) within the 75ft shore yard setback. Furthermore, we did not see the zoning or erosion control permits placed in a conspicuous place. please take the following steps to remedy the violation(s):

1. Both the erosion control and zoning permits shall be placed in a conspicuous location on the affected property.
2. The retaining wall must be completely removed and seeded/matted (returned to the original slope) by **August 1st 2023**. Failure to do so will result in a municipal citation amounting \$389.50 with an additional penalty of \$200.00 a day until the violation is removed (each day constitutes a separate offense).

Applicable ordinances:

Winnebago County Shoreland Zoning Code Chapter 27 - Article 15(27)
Winnebago County Shoreland Zoning Code Chapter 27- Article 6.1
Winnebago County Shoreland Zoning Code Chapter 27- Article 14.12

Please pass this along to the property owners as well.

Respectfully,

Daniel R. Lefebvre

Assistant Zoning Administrator
Winnebago County Planning and Zoning Dept.
112 Otter Ave. P.O. Box 2808
Oshkosh, WI 54901
(920)-232-3344
dlefebvre@winnebagocountywi.gov



Winnebago County

Exhibit 4



Jane R. Landreth
222 West Washington Avenue, Suite 900
P.O. Box 1784
Madison, WI 53701-1784
J.Landreth@staffordlaw.com
(608) 210-6302

July 10, 2023

BY EMAIL: DLeFebvre@winnebagocountywi.gov

Daniel R. Lefebvre
Winnebago County Planning and Zoning Department
Assistant Zoning Administrator
112 Otter Ave.
P.O. Box 2808
Oshkosh, WI 54901

Re: 4532 Bellhaven Lane, Oshkosh, Wisconsin
Winnebago County Shoreland Special Zoning Permission Request

Dear Mr. Lefebvre:

Our firm represents Jason Lindemann, who is the owner of the above-referenced property. Please find the attached site plan in support of our special zoning permission request for a retaining wall pursuant to Wis. Stat. § 59.692(1v). That statute requires a county to grant special zoning permission for a structure to be placed within the zoning setback area as long as certain standards are met.

The retaining wall is a structure placed within a shoreland setback area. Wis. Stat. § 59.692(1)(e). As indicated on the attached site plan, the retaining wall meets the statutory requirements for special zoning permission because:

- (1) It is located at least 35 feet landward from the ordinary high water mark, including where it is nearest the water; and
- (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet; and
- (3) The retaining wall is not enclosed and has open sides; and
- (4) The owner is submitting a plan to establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code NR 115.05(1)(c)2.a. through e. Wis. Stat. § 59.692(1v).

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LAM
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Madison Office

222 West Washington Avenue
P.O. Box 1784
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888.655.4752
Fax 608.259.2600
www.staffordlaw.com

Milwaukee Office

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Milwaukee, Wisconsin
53226-3282
414.952.2570
888.655.4752
Fax 414.952.2899
www.staffordlaw.com

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888.655.4752
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Page 2

Thank you for work on this project and we look forward to hearing from you once this special zoning permission has been granted. Please don't hesitate to contact me in the meantime.

Sincerely,

STAFFORD ROSENBAUM LLP



Jane R. Landretti

JRL:pcl

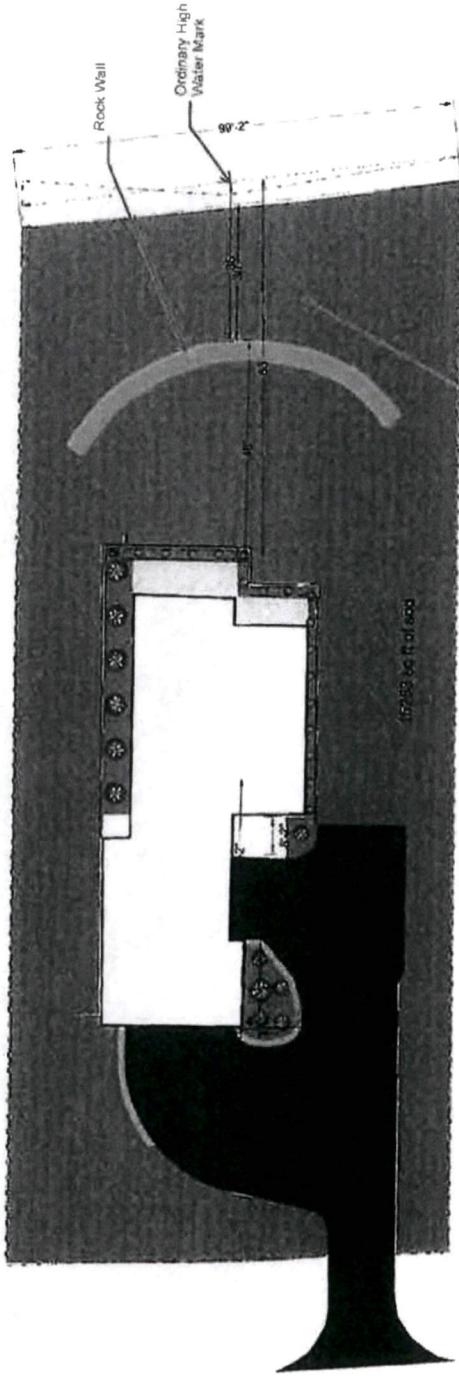
cc: (Via Email): Mark Neubauer, Ganther Construction, mneubauer@ganther.com
Ben Ganther, Ganther Construction, bganther@ganther.com

Enclosures: Site Plan with Vegetative Buffer Zone Plan.

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Pursuant to Wis. Stat. § 55.69(2)(v), this vegetative buffer zone plan covers at least 70 percent of the half of the shoreline setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code NR 115.05(1)(c)2. a. through e. The owner intends to refrain from the removal of trees and shrubs within 35 feet landward of the ordinary high water mark except to perform routine maintenance of the vegetation or to manage exotic or invasive species, damaged vegetation, or vegetation that must be removed to control disease or vegetation creating an imminent safety hazard. Any vegetation removed will be replaced by replanting in the same area as soon as practicable.

Zillges Materials Inc.	Ganther Construction Lakeside Residence	Scale 1"=20'
------------------------	--	-----------------

222 West Washington Avenue
P.O. Box 1784
Madison, Wisconsin
53701 1784

608.256.0226
888.655.4752
Fax 608.289.2600
www.staffordlaw.com

1200 North Mainfair Road
Suite 430
Milwaukee, Wisconsin
53226-3282

414.982.2850
888.655.4752
Fax 414.982.2889
www.staffordlaw.com

Exhibit 5

From: Lefebvre, Daniel
To: [Jane Landretti](mailto:Jane.Landretti)
Cc: [Mark NeuBauer; Ben Ganther \(bganther@ganther.com\); Rowe, Cary; Raoul, Lydia; Edwards, Caleb](mailto:Mark.NeuBauer; Ben.Ganther (bganther@ganther.com); Rowe, Cary; Raoul, Lydia; Edwards, Caleb)
Subject: [External] - RE: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh
Date: Tuesday, July 18, 2023 9:30:44 AM
Attachments: [image001.png](#)

Good morning Jane,

Per the Winnebago County Shoreland Zoning Code -Chapter 27 6.1(1)(b), a retaining wall does not qualify as an open sided or screen structure. The Chapter 27 allowance, as stated in the ordinance, is for gazebos, decks, patios, and screenhouses. Winnebago County will not grant special zoning permission for the structure(s) in violation. Please follow the steps below to achieve compliance:

1. The retaining wall must be completely removed and seeded/matted (returned to the original slope) by **August 1, 2023** (original deadline sent on 6/15/2023). Failure to do so will result in a municipal citation amounting \$389.50 with an additional penalty of \$200.00 a day until the violation is removed (each day constitutes a separate offense).

Respectfully,

Daniel R. Lefebvre

Assistant Zoning Administrator
Winnebago County Planning and Zoning Dept.
112 Otter Ave. P.O. Box 2808
Oshkosh, WI 54901
(920)-232-3344
dlefebvre@winnebagocountywi.gov



From: Jane Landretti <jlandretti@staffordlaw.com>
Sent: Monday, July 10, 2023 3:14 PM
To: Lefebvre, Daniel <DLefebvre@winnebagocountywi.gov>
Cc: Mark Neubauer <mneubauer@ganther.com>; Ben Ganther (bganther@ganther.com) <bganther@ganther.com>
Subject: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh

Dear Mr. Lefebvre:

Please find the attached request for Special Zoning Permission and accompanying Site Plan for the above-referenced address. Our firm represents Jason Lindemann and makes this request pursuant to Wis. Stat. s. 59.692(1v).

LAD
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STAFFORD LAW GROUP
P.O. Box 1784
Madison, Wisconsin
53701-1784

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888.655.4752
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www.staffordlaw.com

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Milwaukee, Wisconsin
53226-3282

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888.655.4752
Fax 414.982.2859
www.staffordlaw.com

Of course, please don't hesitate to reach out with any questions.

Regards,
Jane

STAFFORD
ROSENBAUM

Celebrating
140
Years
of
Excellence

Jane Landretti
JLandretti@staffordlaw.com | 608.210.6302 | cell 608.516.1927
272 West Washington Avenue, Suite 900
P.O. Box 1784 | Madison, Wisconsin 53701 1784
www.staffordlaw.com | [LinkedIn](#)
*Wisconsin member firm of ALFA International,
the premiere global network of independent law firms.*

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Exhibit 6



Jane R. Landretti

222 West Washington Avenue, Suite 900
P.O. Box 1784
Madison, WI 53701-1784
JLandretti@staffordlaw.com
(608) 210-6302

July 24, 2023

Via electronic and U.S. mail delivery

Ms. Julie Barthels
Winnebago County Clerk
112 Otter Avenue
Oshkosh, WI 54901
JABarthels@winnebagoountywi.gov

Re: 4532 Bellhaven Lane, Oshkosh, Wisconsin
Administrative Appeal of Special Zoning Permission Request

Dear Ms. Barthels:

Our firm represents Jason Lindemann, who is the owner of the above-referenced property. I am writing to appeal the July 18, 2023, decision (“Denial”) by Assistant Zoning Administrator Daniel R. Lefebvre, denying Mr. Lindemann’s special zoning permission request for a retaining wall.

On July 10, 2023, we requested a special zoning permission for a retaining wall pursuant to Wis. Stat. § 59.692(1v). The County denied that request, stating that “a retaining wall does not qualify as an open sided or screen structure. The Winnebago County Chapter 27 allowance, as stated in the ordinance, is for gazebos, decks, patios, and screenhouses.” July 18, 2023, Denial.

The County erred with its Denial. A “county shall grant special zoning permission for the construction or placement of a structure on property in a shoreland setback area if” it satisfies conditions specified in statute. Wis. Stat. § 59.692(1v). The term “structure” under this section means “a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, **retaining wall**, porch, or fire pit. Wis. Stat. § 59.692(1)(e) (emphasis added). Winnebago County must grant special zoning permission for a structure, including a retaining wall, to be placed in a shoreland setback area if it complies with the conditions set forth in Wis. Stat. § 59.692(1v).

L:\DOCS\035934\000001\APPEAL\BYR\01003.DOCX
0724231607

Madison Office

222 West Washington Avenue 608.256.0226
P.O. Box 1784 888.655.4752
Madison, Wisconsin Fax 608.259.2693
53701-1784 www.staffordlaw.com

Milwaukee Office

1200 North Mayfair Road 414.982.2850
Suite 430 888.655.4752
Milwaukee, Wisconsin Fax 414.982.2889
53226-3282 www.staffordlaw.com

July 24, 2023

Page 2

As we indicated on our attached site plan, Mr. Lindemann's retaining wall meets the statutory requirements for a special zoning permission because:

- (1) It is located at least 35 feet landward from the ordinary high water mark, including where it is nearest the water; and
- (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet; and
- (3) The structure is not enclosed and has open sides; and
- (4) Mr. Lindemann's plan included a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code § NR 115.05(1)(c)2. a. through e.

The Denial does not dispute that the retaining wall meets any of the applicable statutory criteria. The Denial asserts that the County Ordinance exempts "structures" such as gazebos, decks, patios, and screenhouses, from setback requirements, but not retaining walls. Winnebago County Ordinances, Chapter 27, § 6.1(1). This is in contrast to the statute's **express** provision that a "structure" includes a retaining wall and must be granted special zoning permission if it meets the applicable criteria. *Id.*

A county shoreland zoning ordinance may not regulate a matter more restrictively than a matter that is regulated by a statutory shoreland zoning standard. Wis. Stat. 59.692(1d)(a). While a local government may enact ordinances in the same field and on the same subject covered by state legislation, it may only do so "where such ordinances do not conflict with ... state legislation." *Fox v. Racine*, 225 Wis. 542, 546, 275 N.W. 513 (1937). Therefore, where "the state has entered the field of regulation, municipalities may not make regulation inconsistent therewith" because "a municipality cannot lawfully forbid what the legislature has expressly licensed, authorized or required, or authorize what the legislature has expressly forbidden." *Fox*, 225 Wis. at 545, 275 N.W. 513. Here, the legislature has expressly determined that retaining walls are exempt from setback requirements in the shoreland zoning area so long as they satisfy certain criteria. By eliminating "retaining walls" from the list of exempted structures, the County's shoreland zoning ordinance is more restrictive than state law. The ordinance cannot be more restrictive than state statutes. Therefore, the County erred by applying impermissible requirements for the Denial.

Alternatively, the Denial was improper because the County misinterpreted its own ordinance. As an initial matter, when interpreting ordinances, the Board of Adjustment "shall resolve an ambiguity in the meaning of a word or phrase in a zoning ordinance or shoreland zoning ordinance in favor of the free use of private property." Wis. Stat. § 895.463. With this guiding

July 24, 2023

Page 3

principle in mind, the County Ordinances include retaining walls as structures exempt from setback requirements in the shoreland area.

The County exempts "Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland" area from setback requirements. Winnebago County Ordinances, Chapter 27, § 6.1(1). The County interpreted that provision to only exempt "gazebos, decks, patios and screen houses." However, that restrictive interpretation is not consistent with the actual ordinance. The term "such as" means "to introduce an example or series of examples." <https://www.merriam-webster.com/dictionary/such%20as>. A list of examples is a non-exhaustive list. Indeed, courts find that using the similar phrase "include" "denominates a nonexclusive list." *Voters with Facts v. City of Eau Claire*, 2018 WI 63, ¶64, 382 Wis. 2d 1, 913 N.W.2d 131. Consequently, the list of examples for exempted open-sided structures is non-exhaustive.

Further, even the County's own ordinances adopt the state definition of "structure" to mean "a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, **retaining wall**, porch or firepit." Winnebago County Ordinances, Chapter 27, § 15.0(27). Thus, reading this together with the exempt structure ordinance, County ordinances would exempt an open sided retaining wall that complies with the statutory conditions. This is especially true since any ambiguity in the ordinance must be interpreted in favor of the free use of property. Thus, County ordinances must include retaining walls as an exempt structure from setback requirements in the shoreland area, and the Denial was incorrect.

By filing this appeal, the timelines in the Denial are stayed pursuant to Winnebago County Shoreland Zoning Code 23.4-255, and Wis. Stat. § 59.694(5). Accordingly, we do not intend to remove the retaining wall, return the area to its previous elevation, nor to seed and mat it by August 1, 2023 as indicated in the Denial.

We look forward to the opportunity to appear before the Winnebago County Board of Adjustment regarding this appeal. Please don't hesitate to reach out with questions.

Very Truly Yours,

STAFFORD ROSENBAUM LLP



Jane R. Landretti

JRL:pcl

Attachments: Request for Special Zoning Approval and Vegetative Restoration plan, 7.10.2023
Denial, 7.18.2023

Exhibit 7

From: Lefebvre, Daniel <DLefebvre@winnebagoountywi.gov>
Sent: Wednesday, July 26, 2023 3:04 PM
To: Jane Landretti <jlandretti@staffordlaw.com>
Cc: Rowe, Cary <CRowe@winnebagoountywi.gov>; Rappl, Lydia <LRappl@winnebagoountywi.gov>; Edwards, Caleb <CEdwards@winnebagoountywi.gov>; Heise, Peggy <PHeise@winnebagoountywi.gov>; Rosenau, Julie <JRosenau@winnebagoountywi.gov>
Subject: [External] - RE: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Good Afternoon Jane,

The Winnebago County Clerk received your letter dated 7/24/2023 and forwarded the document to us. The proper channel to set an appeal before the Winnebago County Board of Adjustment is to have the owner, or owner's agent, of 4532 Bellhaven Ln. submit a zoning permit application (attached) to the Winnebago County Planning & Zoning Department for review. Upon review we will give our official approval or denial with findings which may be appealed to the Winnebago County Board of Adjustment. Please submit all required information stated in the zoning permit application, as well as a doubled fee as this is an after-the-fact permit (\$390.00 total permit fee).

Respectfully,

Daniel R. Lefebvre

Assistant Zoning Administrator
Winnebago County Planning and Zoning Dept.
112 Otter Ave. P.O. Box 2808
Oshkosh, WI 54901
(920)-232-3344
dlefebvre@winnebagoountywi.gov



Winnebago County

From: Lefebvre, Daniel
Sent: Tuesday, July 18, 2023 9:31 AM
To: Jane Landretti <jlandretti@staffordlaw.com>
Cc: Mark Neubauer <mneubauer@ganther.com>; Ben Ganther (bganther@ganther.com) <bganther@ganther.com>; Rowe, Cary <CRowe@winnebagoountywi.gov>; Rappl, Lydia <LRappl@winnebagoountywi.gov>; Edwards, Caleb <CEdwards@winnebagoountywi.gov>
Subject: RE: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh

Good morning Jane,

Per the Winnebago County Shoreland Zoning Code -Chapter 27 6.1(1)(b), a retaining wall does not qualify as an open sided or screen structure. The Chapter 27 allowance, as stated in the ordinance, is for gazebos, decks, patios, and screenhouses. Winnebago County will not grant special zoning permission for the structure(s) in violation. Please follow the steps below to achieve compliance:

1. The retaining wall must be completely removed and seeded/matted (returned to the original slope) by August 1, 2023 (original deadline sent on 6/15/2023). Failure to do so will result in a municipal citation amounting \$389.50

Exhibit 8



Winnebago County Zoning Department
P.O. Box 2808
112 Otter Ave, 3rd Floor
Oshkosh, WI 54903-2808
(920) 232-3344
(920) 232-3347 (fax)



Receipt # 31963
Application #: 23-AP-01

ADMINISTRATIVE APPEAL APPLICATION

(Please print or type. Please use black ink for duplicating purposes.)

Fee: \$765.00
Payable to: Winnebago County

A. PROPERTY OWNER / APPELLANT:

A-1 NAME: JEL LLC

Mailing Address: P.O. Box 3006
Oshkosh, WI 54903

Phone: 920-808-0064

E-mail: j.lindemann@cpalct.com

Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Property Owner's Signature

Date

8/21/2023

I HEREBY APPOINT THE FOLLOWING AS MY AGENT FOR PURPOSES OF THIS APPLICATION:

A-2 AGENT (NAME): Jane Landretti

Mailing Address: Stafford Rosenbaum LLP, 222 West Wash, Suite 900
Madison, WI 53701

Phone: 608.210.6302

E-mail: jlandretti@staffordlaw.com

Agent's Signature:

Date:

8/23/2023

B. PROPERTY INFORMATION:

B-1 Tax Key/Parcel #: 002-0010-03-01

B-2 Location of affected property: 4532 Bellhaven Lane, Town of Algoma, WI 54904

C. APPEAL REQUEST:

C-1 Ordinance & Section Affected: The County implemented its Shoreland Zoning code 27.6.1(1)(b) inconsistently with Wis Stat § 59.692(1v).

C-2 Describe the reason(s) why you believe the decision is not appropriate. Be as specific as possible:

Please see attachment.

Exhibit 9

Date Mailed:

JULIE A. BARTHELS
Winnebago County Clerk
112 Otter Ave, PO Box 2806
Oshkosh, WI 54903-2806
(920) 232-3430

NOTICE OF COMMISSION, BOARD OR COMMITTEE MEETING

**NAME OF COMMISSION,
BOARD OR COMMITTEE:** BOARD OF ADJUSTMENT
** see below

TIME OF MEETING: 5:30 P.M.

DATE OF MEETING: TUESDAY, NOVEMBER 28, 2023

PLACE OF MEETING: **DAVID ALBRECHT ADMINISTRATION BUILDING**
112 Otter Ave Room 120, Oshkosh WI
In Person or Virtual *

* All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. [A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda calendar on the above indicated date.](#)

ZOOM MEETING INFORMATION LINK: <https://www.co.winnebago.wi.us/planning-and-zoning/boa-meeting-links>

Additional instructions can be found at: <https://www.co.winnebago.wi.us/planning-and-zoning>.

For further detailed information concerning this notice, contact the Town Clerk or the Winnebago County Zoning office, where the application is available for viewing.

SUBJECT MATTER OF THE MEETING

PUBLIC HEARING AGENDA

1. JEL LLC – 4532 Bellhaven Ln – Town of Algoma - Appeal

*** This meeting is also being posted as a Committee meeting for: Facilities & Property Management*

The Committee reserves the right to take up any item on the agenda at any time after the meeting commences.

Upon request, provisions will be made for people with disabilities upon 24 hours prior notice to the Office of the County Clerk. Phone Number: (920) 232-3430.

Exhibit 10

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
625 E. County Road Y, Suite 700
Oshkosh WI 54901-9731

Tony Evers, Governor
Adam Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



November 27, 2023

Winnebago County Board of Adjustment
Winnebago County Courthouse
Lounge Room (Rm 60)
415 Jackson Street
Oshkosh, WI

Subject: JEL, LLC Property Decision Appeal in the Town of Algoma, Winnebago County

Dear Board Members,

The Department of Natural Resources (department) has received the notice for a public hearing concerning the appeal of a decision made by Winnebago County Planning and Zoning Staff denying a permit for a retaining wall located within the 75 foot shoreland setback area of a navigable waterway. The property is located at 4532 Bellhaven Lane, Town of Algoma, Tax Parcel Number 002-0010-03-01.

Winnebago County has a compliant ordinance according to s. 59.692, Stat, and ch. NR 115, Wisconsin Administrative Code. In this current JEL, LLC Property case the department concurs with the application of the county shoreland zoning ordinance regarding retaining walls, which are not listed as exempt from the 75 foot setback from the ordinary high water mark (OHWM) in NR 115. Section 59.692 (1v), Stat, states that special zoning permission is allowed for structures that meet the conditions listed under (1v)(a) thru (d). Condition (1v)(c) states that the structure has "...no sides or has open or screened sides." A retaining wall is defined in s. 59.692(1), Stat, as an accessory structure, that has a side. The county has applied the rules correctly according to Statute and their ordinance (Ch. 27, Sec. 6.1).

The department therefore supports the permit denial decision and the determination and interpretation of ordinance Chapter 27 Section 6.1 and 6.1(1)(b) made by the county zoning office. Please note that these comments are in regard to shoreland zoning only.

Sincerely,

Dale Rezabek, PG
Shoreland Specialist

cc: File

JASON LINDEMANN
A/K/A JEL, LLC
4532 Bellhaven Lane
Oshkosh, WI 54904

Applicant,

Application No. 23-AP-01
Code Ref. § 23.7-251

and

WINNEBAGO COUNTY ZONING DEPARTMENT
By: Daniel R. Lefebvre, Assistant Zoning Administrator
112 Otter Avenue, 3rd Floor
Oshkosh, WI 54901

Respondent.

APPLICANT’S BRIEF IN SUPPORT OF
SPECIAL ZONING PERMISSION
FOR A RETAINING WALL IN THE SHORELAND SETBACK AREA
AT 4532 BELLHAVEN LANE

The Applicant, Jason Lindemann (“Applicant” or “Lindemann”), by his attorneys, Stafford Rosenbaum, LLP, submits this brief in support of his Administrative Appeal, pursuant to § 23.7-251 of the Winnebago County “Town/County Zoning Codes,” to review a July 18, 2023, decision of the Winnebago County Planning & Zoning Staff to deny special zoning permission for a retaining wall located in the shoreland setback area. A copy of that application and site plan is included as Exhibit A and the County decision is included as Exhibit B.

INTRODUCTION

Mr. Lindemann sought approval of a retaining wall in the shoreland area. His retaining wall complies with all statutory requirements for a retaining wall. It is constructed of natural stone. This is the most appealing way to deal with a steeply sloped site and is far superior to the dramatically sloped grade that would be present if the wall had to be removed. Without the wall, a steep sloped grade would have more erosion than the constructed wall, as storm water would run down the grade instead of soaking into the ground as it does now. Compared to sloped ground, the wall helps prevent and control runoff into the lake.

The retaining wall has a front and no sides that block the view of the shoreland area from any angle. The natural stone materials in the wall also present a more visually appealing view from the water than would a steep grade. Besides its compliance with statute, the retaining wall enhances the site environmentally and visually.

Nonetheless, when he applied for a special zoning permit, the County erroneously denied Mr. Lindemann a special zoning permit for a retaining wall, claiming that a retaining wall was not an exempt structure under County ordinances. The County's decision contradicts both mandatory statutory requirements and County ordinances.

State statutes mandate that if an applicant for a retaining wall in the shoreland area satisfies certain criteria, then the County must approve the special zoning permit. The County ignored this legislative mandate. The County may not be more restrictive than state statute, and that is what it has done here.

Moreover, the County misapplied its own ordinances. County ordinances expressly include retaining walls as structures exempt from typical shoreland zoning requirements. Since Mr. Lindemann's retaining wall complied with all state and County requirements, the County had no discretion to deny the permit. Therefore, Mr. Lindemann requests that the Board of Adjustment reverse the decision of the County and issue Mr. Lindemann a special zoning permit for a retaining wall.

STANDARD OF REVIEW

Because this case asks whether a special zoning permission must be granted, the County Board of Adjustment should review the decision de novo, using its own judgment rather than the staff judgement in the underlying decision.¹ See *Osterhues v. Board of Adjustment for Washburn County* (2005) 698 N.W.2d 701, 282 Wis.2d 228. Applicability of a zoning ordinance is a question of law, and no special agency expertise is necessary to resolve this question. See *Sauk County v. Trager* (App. 1983) 334 N.W.2d 272, 113 Wis.2d 48, affirmed 346 N.W.2d 756, 118 Wis.2d 204.

FACTS

On July 10, 2023, Mr. Lindemann requested special zoning permission for a retaining wall pursuant to Wis. Stat. § 59.692(1v). Mr. Lindemann's retaining wall site plan established that:

¹ A special zoning permission falls within the definition of "conditional use" in Wis. Stat. § 59.69(5e)(a)1.

- (1) It will be located at least 35 feet landward from the ordinary high water mark, including where it is nearest the water (*See* site plan, Exhibit A); and
- (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet (*See* site plan, Exhibit A); and
- (3) The retaining wall is not enclosed and has only an open side² (*See* site plan, Exhibit A); and
- (4) Included a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code § NR 115.05(1)(c)2. a. through e (*See* site plan, Exhibit A).

The County denied Mr. Lindemann’s request, stating that “a retaining wall does not qualify as an open sided or screen structure. The Winnebago County Chapter 27 allowance, as stated in the ordinance, is for gazebos, decks, patios, and screenhouses.” July 18, 2023, Denial.³

ARGUMENT

I. The County Lacks Discretion to Deny Special Zoning Permission.

² Despite the County’s attempts to make this seem confusing, a front-facing retaining wall built below grade obviously has only open sides, if it has sides at all. It is completely different than the kind of above-grade structures with closed sides that block shoreland views, which the ordinance is intended to prevent.

³ During the public hearing, the Assistant County Zoning Administrator admitted that his decision “paraphrased” the ordinance. In fact, his “paraphrase” precisely mischaracterized the ordinance as necessary to support his interpretation.

The Wisconsin Legislature created the only requirements necessary for constructing a retaining wall in a shoreland setback area. The County does not have discretion to circumvent those requirements.

Wis. Stat. § 59.692(1v) mandates that a

county shall grant special zoning permission for the construction or placement of a structure on property in a shoreland setback area if

(a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.

(b) The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.

(c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

(d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.

The County Decision categorically denies any retaining wall from qualifying as a structure eligible for the exemption. This blatantly misapplies the statute. The term “structure” under this section means “a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, **retaining wall**, porch, or fire pit. Wis. Stat. § 59.692(1)(e) (emphasis added).⁴ Accordingly, Winnebago County must grant special zoning permission for a structure, including a retaining wall, to be placed in a shoreland setback area if it complies with the conditions set forth in Wis. Stat. § 59.692(1v).⁵

⁴ During the public hearing, the Assistant County Zoning Administrator testified that he would not consider a retaining wall to ever be a structure eligible for a shoreland zoning setback exemption. That testimony shows a blatant disregard of the operative statute, which expressly includes a retaining wall in its definition of structure for which an exemption is available.

⁵ During the public hearing, the County produced a letter to the BOA from a Wisconsin DNR technical staff member. Despite that this technical DNR staff member is not an attorney, he wrote to the BOA with what appeared to be his “legal opinion” supporting the County’s decision. He did so by misquoting and changing the meaning of the statute he purported to interpret.

Mr. Lindemann's retaining wall unquestionably satisfies these statutory requirements. His retaining wall is at least 35 feet from the ordinary high water mark. Exhibit A. The total floor area of structures within the shoreland setback area is less than 200 square feet. *Id.* The retaining wall, by its very status as a single wall, is not an enclosed structure and is open. It has no sides that block any views from the water or from neighboring properties. Mr. Lindemann's vegetative buffer also satisfies the 70 percent requirement. *Id.*

Because the retaining wall meets the statutory requirements for special zoning permission, the County lacks authority to deny it.

Further, the County does not have authority to adopt requirements stricter than state law. A county shoreland zoning ordinance adopted under Wis. Stat. § 59.692 "may not regulate a matter more restrictively than the matter is regulated by a [state] shoreland zoning standard." Wis. Stat. § 59.692(1d)(a). Thus, County ordinances cannot be more restrictive than Wis. Stat. § 59.692(1v).

While a local government may enact ordinances in the same field and on the same subject covered by state legislation, it may only do so "where such ordinances do not conflict with ... state legislation." *Fox v. Racine*, 225 Wis. 542, 546, 275 N.W. 513 (1937). Therefore, where "the state has entered the field of regulation, municipalities may not make regulation inconsistent therewith" because "a municipality cannot lawfully

That letter relied on a blatant misquotation of the statutory definition of structure to suggest a retaining wall is not a structure because it has a side. The letter wrote "[a] retaining wall is defined in s. 59.692(1), Stat, as an accessory structure, that has a side" [*sic*]. This is peculiar; the DNR staffer's purported statutory definition is quite unlike the actual statutory definition. *See* Wis. Stat. § 59.692(1)(e).

forbid what the legislature has expressly licensed, authorized or required, or authorize what the legislature has expressly forbidden.” *Fox*, 225 Wis. at 545, 275 N.W. 513.

Here, the legislature has expressly determined that retaining walls are exempt from setback requirements in the shoreland zoning area so long as they satisfy certain criteria.⁶ Therefore, the County erred when it denied Mr. Lindemann a permit. His retaining wall complied with all statutory requirements and the County had no discretion but to approve it. Therefore, the BOA must reverse the County denial and issue Mr. Lindemann a special zoning permit for his retaining wall in accordance with his site plan.

II. Even If the County Had Authority to Adopt an Ordinance Denying the Structure, the Winnebago County Ordinances Fail to Accomplish That.

Alternatively, even if the County had authority to adopt an ordinance more restrictive than state law (it does not), the Denial was improper because the County inappropriately applied its own ordinance.

As an initial matter, when interpreting ordinances, the Board of Adjustment “shall resolve an ambiguity in the meaning of a word or phrase in a zoning ordinance or shoreland zoning ordinance in favor of the free use of private property.” Wis. Stat. §

⁶ The County and Mr. Lindemann’s counsel agreed during the public hearing that a retaining wall is a structure under Wis. Stat. § 59.692(1)(e). It was therefore peculiar that the County later introduced an exhibit from a DNR staff member misquoting the statute to suggest a retaining wall is not a structure because it has a side. A retaining wall is explicitly listed under the statutory definition of “structure”.

895.463. With this guiding principle in mind, the County Ordinances include retaining walls as structures exempt from setback requirements in the shoreland area.

The County exempts “[o]pen-sided and screened structures **such as** gazebos, decks, patios and screen houses in the shoreland” area from setback requirements. Winnebago County Ordinances, Chapter 27, § 6.1(1)(b). [Emphasis added.] The County interpreted that provision to only exempt “gazebos, decks, patios and screen houses.” However, that restrictive interpretation is inconsistent with the actual ordinance. The term “such as” means “to introduce an example or series of examples.” <https://www.merriam-webster.com/dictionary/such%20as>. A list of examples is a non-exhaustive list. Indeed, courts find that “use of ‘include’ denominates a nonexclusive list.” *Voters with Facts v. City of Eau Claire*, 2018 WI 63, ¶64, 382 Wis. 2d 1, 913 N.W.2d 131. Consequently, the list of examples for exempted open-sided structures is non-exhaustive. If the County had intended to only exempt “gazebos, decks, patios and screen houses” it would not have included the phrase “such as.” It would simply have exempted those structures and not included the broader phrase “open sided and screened structures.” However, since the ordinance included the phrase “such as,” the only reasonable interpretation is that those are merely examples of structures that could be exempted from shoreland setback requirements, but do not include the sole exemptions.⁷

⁷ During the public hearing, County counsel and staff admonished the BOA with cautionary “slippery slope” warnings that if the BOA allows this retaining wall, it will have to allow other retaining walls. There could not be a clearer signal that the County counsel and staff disregard that statutory standards must govern such decisions.

Those statutory standards require a factual analysis of an individual structure. This stands in stark contrast to County staff and counsel’s statements that retaining walls should be categorically denied.

Further, even the County's own ordinances adopt the state definition of "structure" to mean "a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, **retaining wall**, porch or firepit." Winnebago County Ordinances, Chapter 27, § 15.0(27). Thus, reading this definition together with the exempt structure ordinance, County ordinances would exempt an open sided retaining wall that complies with the statutory conditions. This is especially true since any ambiguity in the ordinance must be interpreted in favor of the free use of property. Thus, County ordinances must include retaining walls as an exempt structure from setback requirements in the shoreland area, and the Denial was incorrect.

CONCLUSION

This issue is straightforward. The retaining wall is a structure authorized by the statute to be placed in a shoreland setback area. The County may not be more restrictive than the statute. And if there is any ambiguity in the statute, it must be resolved in favor of the free use of property. For the above-stated reasons, Applicant respectfully requests that the Board overturn the County Zoning & Planning's July 18, 2023, denial and award a special zoning permit for a retaining wall at 4532 Bellhaven Lane, Oshkosh, Wisconsin.

Dated: December 5, 2023.

STAFFORD ROSENBAUM LLP

By Electronically signed by
Jane R. Landretti
State Bar Number 1073314
Attorneys for Applicant JEL, LLC

222 West Washington Avenue, Suite 900
Post Office Box 1784
Madison, Wisconsin 53701-1784
Email: jlandretti@staffordlaw.com
608.256.0226

EXHIBIT A



Jane R. Landretti
222 West Washington Avenue, Suite 900
P.O. Box 1784
Madison, WI 53701-1784
JLandretti@staffordlaw.com
(608) 210-6302

July 10, 2023

BY EMAIL: DLefebvre@winnebagoctywi.gov

Daniel R. Lefebvre
Winnebago County Planning and Zoning Department
Assistant Zoning Administrator
112 Otter Ave.
P.O. Box 2808
Oshkosh, WI 54901

Re: 4532 Bellhaven Lane, Oshkosh, Wisconsin
Winnebago County Shoreland Special Zoning Permission Request

Dear Mr. Lefebvre:

Our firm represents Jason Lindemann, who is the owner of the above-referenced property. Please find the attached site plan in support of our special zoning permission request for a retaining wall pursuant to Wis. Stat. § 59.692(1v). That statute requires a county to grant special zoning permission for a structure to be placed within the zoning setback area as long as certain standards are met.

The retaining wall is a structure placed within a shoreland setback area. Wis. Stat. § 59.692(1)(e). As indicated on the attached site plan, the retaining wall meets the statutory requirements for special zoning permission because:

- (1) It is located at least 35 feet landward from the ordinary high water mark, including where it is nearest the water; and
- (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet; and
- (3) The retaining wall is not enclosed and has open sides; and
- (4) The owner is submitting a plan to establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code NR 115.05(1)(c)2.a. through e. Wis. Stat. § 59.692(1v).

L:\DOCS\035934\000001\CORR\3YI304602.DOCX
0710231507

Madison Office

222 West Washington Avenue 608.256.0226
P.O. Box 1784 888.655.4752
Madison, Wisconsin Fax 608.259.2600
53701-1784 www.staffordlaw.com

Milwaukee Office

1200 North Mayfair Road 414.982.2850
Suite 430 888.655.4752
Milwaukee, Wisconsin Fax 414.982.2889
53226-3282 www.staffordlaw.com

Page 2

Thank you for work on this project and we look forward to hearing from you once this special zoning permission has been granted. Please don't hesitate to contact me in the meantime.

Sincerely,

STAFFORD ROSENBAUM LLP

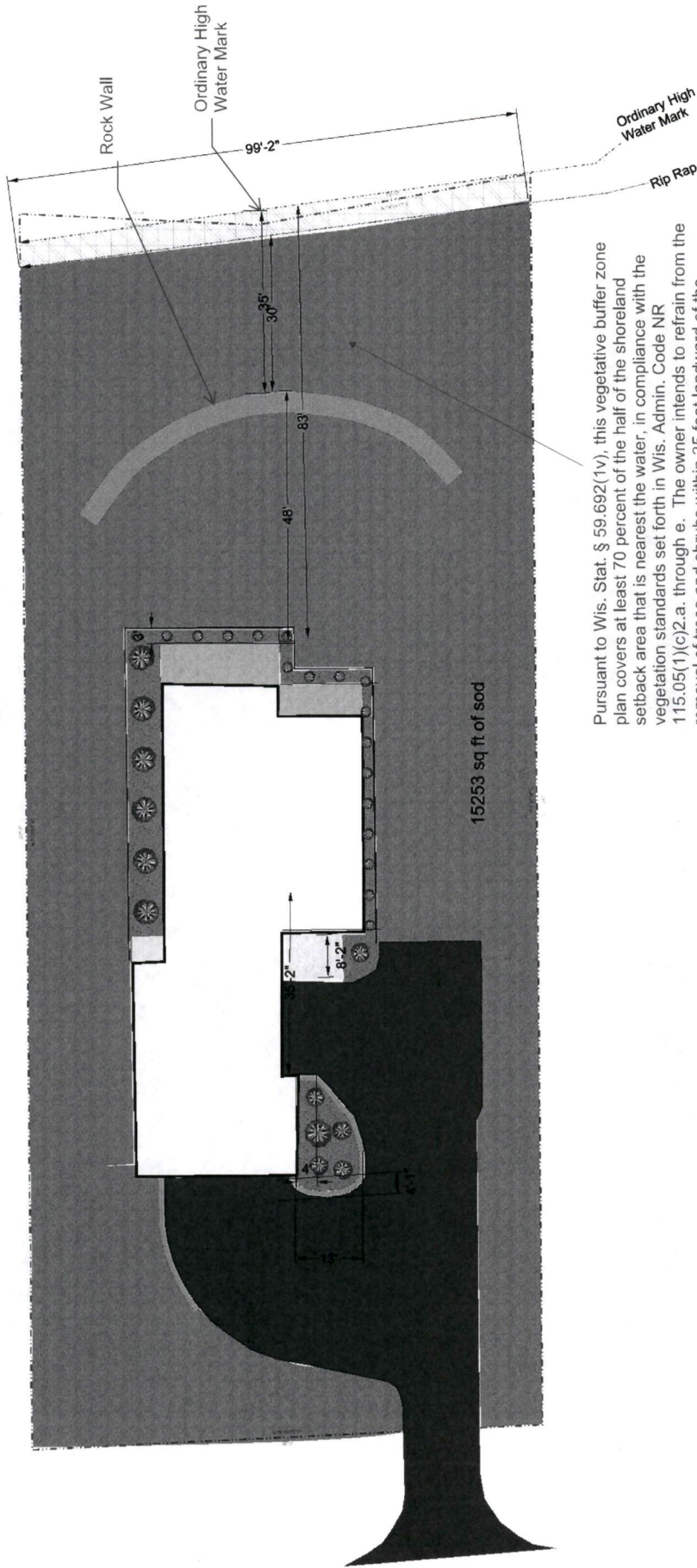
A handwritten signature in cursive script that reads "Jane Landretti".

Jane R. Landretti

JRL:pcl

cc: (Via Email): Mark Neubauer, Ganther Construction, mneubauer@ganther.com
Ben Ganther, Ganther Construction, bganther@ganther.com

Enclosures: Site Plan with Vegetative Buffer Zone Plan.



Pursuant to Wis. Stat. § 59.692(1v), this vegetative buffer zone plan covers at least 70 percent of the half of the shoreland setback area that is nearest the water, in compliance with the vegetation standards set forth in Wis. Admin. Code NR 115.05(1)(c)2.a. through e. The owner intends to refrain from the removal of trees and shrubs within 35 feet landward of the ordinary high water mark except to perform routine maintenance of the vegetation, or to manage exotic or invasive species, damaged vegetation, or vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard. Any vegetation removed will be replaced by replanting in the same area as soon as practicable.

Zillges Materials Inc.	Ganther Construction Lakeside Residence	Scale 1"=20'
------------------------	--	-----------------

EXHIBIT B

From: [Lefebvre, Daniel](#)
To: [Jane Landretti](#)
Cc: [Mark Neubauer](#); [Ben Ganther \(bganther@ganther.com\)](#); [Rowe, Cary](#); [Rappl, Lydia](#); [Edwards, Caleb](#)
Subject: [External] - RE: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh
Date: Tuesday, July 18, 2023 9:30:44 AM
Attachments: [image001.png](#)

Good morning Jane,

Per the Winnebago County Shoreland Zoning Code -Chapter 27 6.1(1)(b), a retaining wall does not qualify as an open sided or screen structure. The Chapter 27 allowance, as stated in the ordinance, is for gazebos, decks, patios, and screenhouses. Winnebago County will not grant special zoning permission for the structure(s) in violation. Please follow the steps below to achieve compliance:

1. The retaining wall must be completely removed and seeded/matted (returned to the original slope) by **August 1, 2023** (original deadline sent on 6/15/2023). Failure to do so will result in a municipal citation amounting \$389.50 with an additional penalty of \$200.00 a day until the violation is removed (each day constitutes a separate offense).

Respectfully,

Daniel R. Lefebvre

Assistant Zoning Administrator
Winnebago County Planning and Zoning Dept.
112 Otter Ave. P.O. Box 2808
Oshkosh, WI 54901
(920)-232-3344
dlefebvre@winnebagocountywi.gov



From: Jane Landretti <[jlandretti@staffordlaw.com](mailto:mlandretti@staffordlaw.com)>
Sent: Monday, July 10, 2023 3:14 PM
To: Lefebvre, Daniel <DLefebvre@winnebagocountywi.gov>
Cc: Mark Neubauer <mneubauer@ganther.com>; Ben Ganther (bganther@ganther.com) <bganther@ganther.com>
Subject: Special Zoning Permission Request re 4532 Bellhaven Lane, Oshkosh

Dear Mr. Lefebvre:

Please find the attached request for Special Zoning Permission and accompanying Site Plan for the above-referenced address. Our firm represents Jason Lindemann and makes this request pursuant to Wis. Stat. s. 59.692(1v).

Of course, please don't hesitate to reach out with any questions.

Regards,
Jane

**STAFFORD
ROSENBAUM**

Celebrating
140
Years
of
Excellence

Jane Landretti

JLandretti@staffordlaw.com | 608.210.6302 | cell 608.516.1927

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www.staffordlaw.com | [LinkedIn](#)

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