Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT April 25, 2023

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the <u>Town/County Zoning Code</u>, Chapter 26, the <u>Floodplain Zoning Code</u>, and Chapter 27, <u>the Shoreland Zoning Code</u>. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on April 25, 2023 at 5:30 PM in Conference Room 120 of the County Administration Building located at 112 Otter Ave, 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.

INFORMATION ON VARIANCE REQUEST

Application No.: 2023-VA-6310 **Applicant:** LAEMMRICH, MICHAEL

Agent: SEHLOFF, JAMES DAVEL ENGINEERING & ENVIRONMENTAL

Location of Premises: 6702 SUNSET TRAIL

Tax Parcel No.: 030-1068

Legal Description: Being part of Indian Shores Plat, Lot 1, Block 2, located in the SW 1/4 of the NW 1/4 of Section 10,

Township 19 North, Range 15 East, Town of Winneconne, Winnebago County, Wisconsin.

Explanation: Applicant is requesting a variance for a sub standard shore yard and road setback requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The shore yard setback from the nearest	27-6.1	Shore Yard:75 ft	Shore Yard: 35 ft
point of a structure shall be at least 75 ft	Exhibit 8-2	Road: 30 ft	Street Yard: 10 ft
from the OHWM unless exempt under 6.1(1)			
or reduced under 6.2.			
The road setback from the nearest point of			
any structure shall be at least 30 ft.			

INITIAL STAFF REPORT

Sanitation: Existing; ; Municipal

Overlays: Shoreland

Current Zoning: R-2 Suburban Low Density Residential

Surrounding Zoning: North: Lake Winneconne; South: R-2; East: R-2; West: R-2;

Code Reference: 27-6.1 Exhibit 8-2

Description of Proposed Use: Applicant is requesting a variance for a sub standard shore yard and road setback requirement.

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

Describe your project, include the proposed dimensions and setbacks: SEE ATTACHED.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: SEE ATTACHED.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: SEE ATTACHED.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: SEE ATTACHED.

SECTION REFERENCE AND BASIS OF DECISION

Basis of Decision: Town/County Zoning Code: 23.7-234

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) 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.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) 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.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Shoreland Zoning Code

27.14.8 Variances

(a) **Generally**. The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

VARIANCE APPLICATION

Responses may be typed on a separate sheet and attached to this form.

Applicant, please fill out all of the questions in your own words.

C-1 Describe your project, include the dimensions and proposed setbacks:

The proposed project is to replace the existing non conforming structure located on the parcel. My Client is requesting a reduced setback of 10 feet from Indian Shores Road, and a reduced shoreland setback of 35 feet from the Man-made Channel. The proposed build able area is all above the 100 year flood plain. The new house will be connected to municipal sewer.

C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

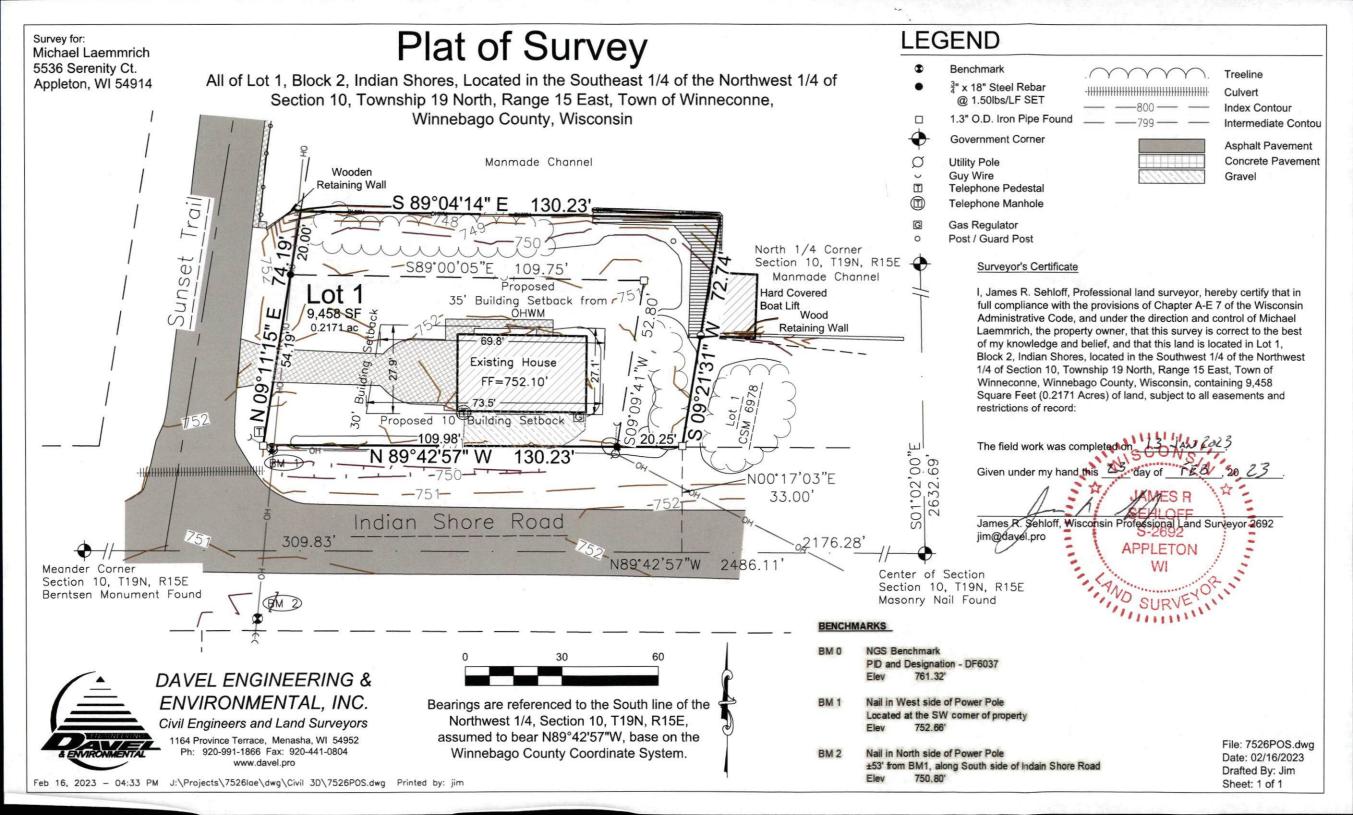
The lot was created prior to the current zoning code leaving several areas non complaint with the current zoning code. The setback of 75 feet from Ordinary High Watermark and the Road Setback of 30 feet overlap and leave no build able area on the parcel. If the structure is torn down and rebuilt on the current foot print the home still would not meet the counties minimum size of 1000 SF of living space for the structure. With the above stated restriction the land owner could not building a livable home on this parcel without the requested variances.

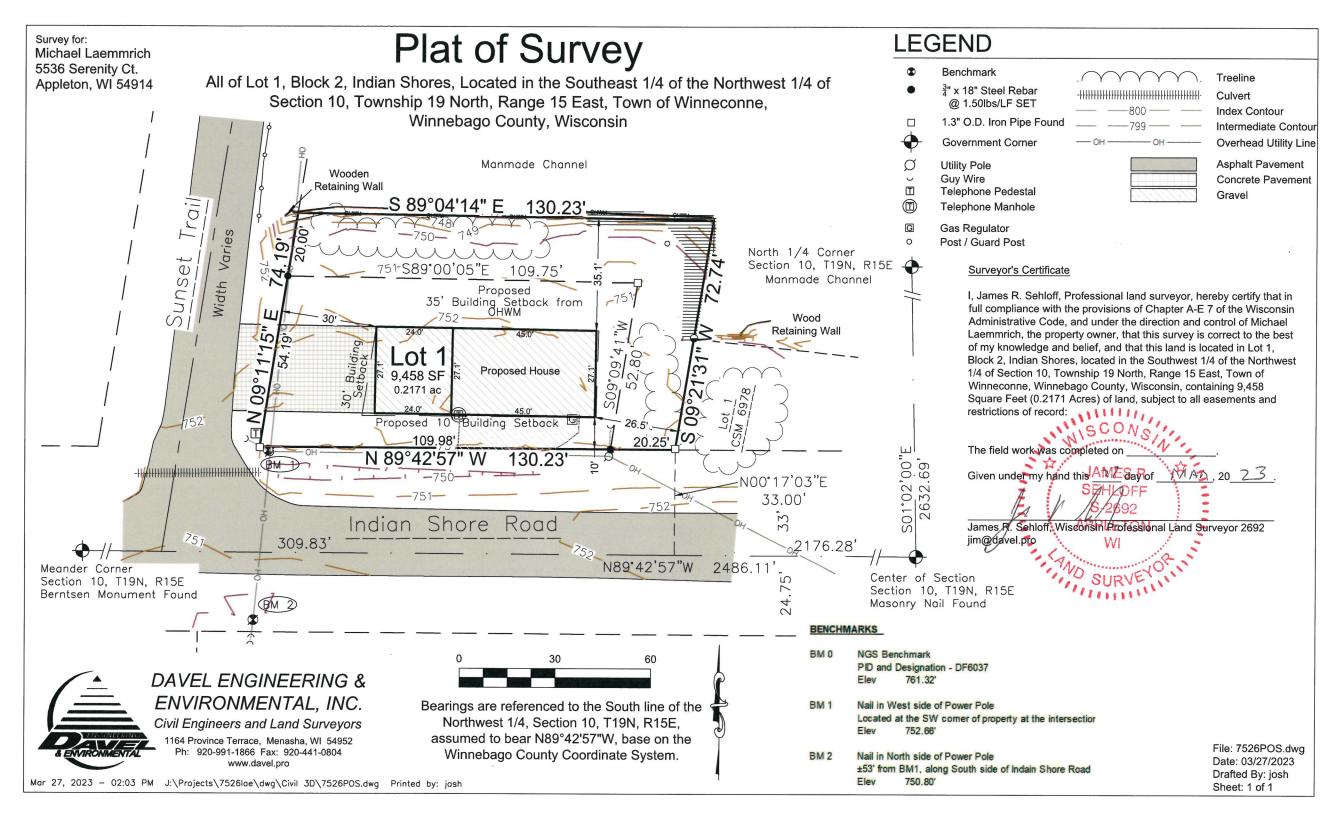
C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

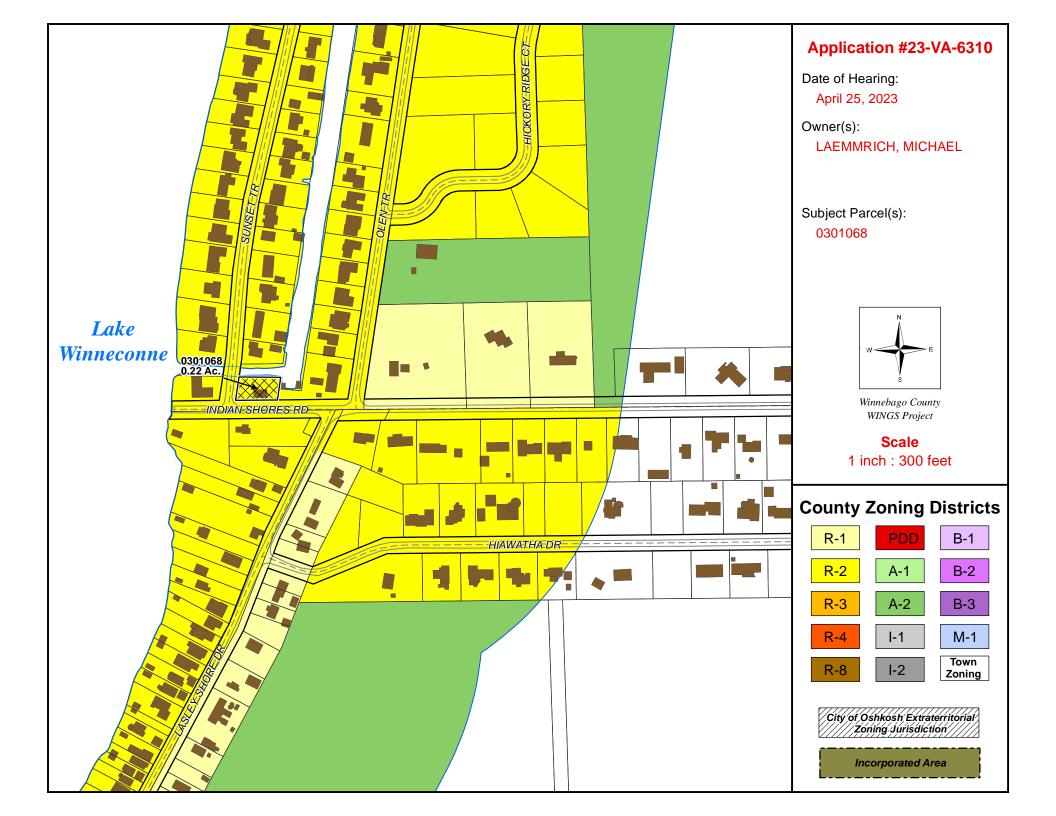
The lot is bounded on 2 sides by a public road, on the North and part of the East side of the lot by a man made channel, all these items eliminate the opportunity to buy additional lands to make the lot a conforming parcel as current code requires. The setback reduction is the only way my client can have any buildable area on this parcel.

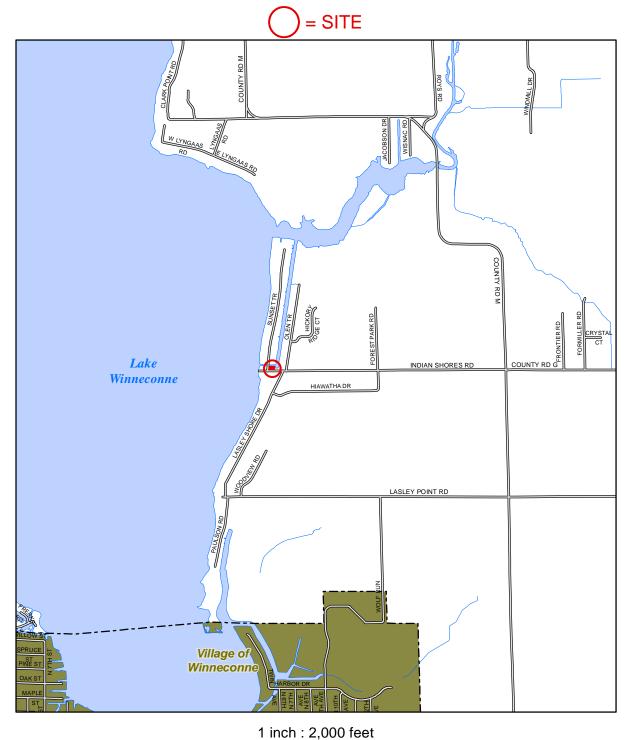
C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :

There is no adverse affects on the neighboring properties. The proposed setback matches with the current structure and is 12 feet from the power lines and further away from the road setback then the house to the West. With the removal of the existing walk the impervious surface will be further from the Shore line, improving the impervious distance. The proposed setback on Sunset Trail meets the current code and is more restrictive then the structure to the West.









Application #23-VA-6310

Date of Hearing:

April 25, 2023

Owner(s):

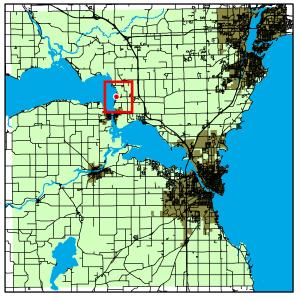
LAEMMRICH, MICHAEL

Subject Parcel(s): 0301068



Winnebago County WINGS Project





WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT April 25, 2023

TO WHOM IT MAY CONCERN:

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The Winnebago County Board of Adjustment will be holding a public hearing on March 28, 2023 at 5:30 PM in Conference Room 120 of the County Administration Building located at 112 Otter Ave, 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.

INFORMATION ON VARIANCE REQUEST

Application No.: 2023-VA-6290

Applicant: MARSH, STEPHEN & CHRISTINA

Agent: KALKOFEN, COREY MCMAHON ASSOCIATES

Location of Premises: 7579 MALLARD LN

Tax Parcel No.: 032-0726-01-07

Legal Description: Being all of Units 7 and 7-2 of Poygan Shores Condominium Plat, located in Government Lot 2 of

Section 36, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin.

Explanation: Applicant is requesting a variance for a sub standard side yard and floodplain fill requirement.

	CODE		
DESCRIPTION:	REFERENCE:	REQUIRED:	PROPOSED:
The elevation of the lowest floor shall be at or	26.5-	Floodplain Fill: 15 ft	Floodplain Fill: 1 ft
above the flood protection elevation on fill unless	23(b)(1)	Side Yard 5 ft	Side Yard: 3.95 ft
the requirement in subsection (b)(2) can be met.	Exhibit 8-2		
The fill shall be one foot or more above the			
regional flood elevation extending at least 15 ft			
beyond the limits of the structure.			
The side yard setback from the nearest point of a principle structure shall be at least 7 ft on one side & 10 ft on the other.			

INITIAL STAFF REPORT

Sanitation: Existing; Private System

Overlays: Shoreland, floodplain

Current Zoning: PDD Planned Development District

Surrounding Zoning: North: PDD; South: PDD; East: PDD; West: Lake Poygan;

Code Reference: 26.5-23(b)(1)

Exhibit 8-2

Description of Proposed Use: Applicant is requesting a variance for a sub standard side yard and floodplain fill

requirement.

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

Describe your project, include the proposed dimensions and setbacks: See attached.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: See attached.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: See attached.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: See attached.

SECTION REFERENCE AND BASIS OF DECISION

Basis of Decision: Town/County Zoning Code: 23.7-234

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) 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.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) 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.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

- (a) **Review criteria**. The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.
- (b) **Additional criteria**. In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met: (1) The variance shall not cause any increase in the regional flood elevation; (2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures

constructed below the regional flood elevation; (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations**. A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.14.8 Variances

(a) **Generally**. The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

VARIANCE APPLICATION

Responses may be typed on a separate sheet and attached to this form.

Applicant, please fill out all of the questions in your own words. C-1 Describe your project, include the dimensions and proposed setbacks: C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :

C-1

The proposed setbacks for the proposed retaining wall around the structure are: Private Street = 42.7 feet, North side = 3.95 feet, South side = 5.35 feet

The setbacks per the Winnebago County Zoning Code are: road right-of-way (street yard) = 30 feet min., shore = 75 feet min. (25.5 feet per setback averaging), side = 5 feet due to lot width. A variance for the side yard setback and the floodplain fill within 15 feet around the foundation is requested.

C-3

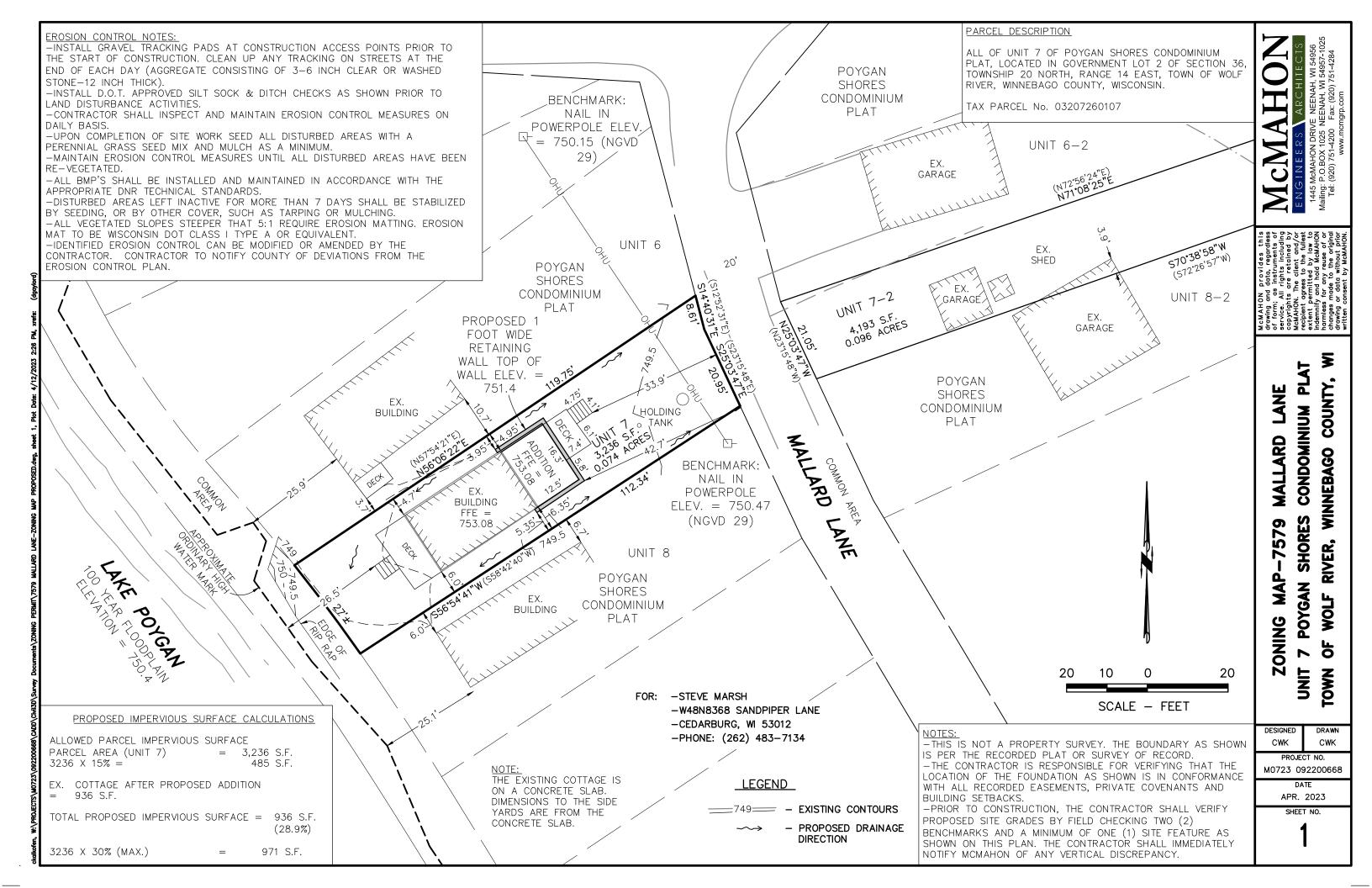
The 30 foot setback from the private street was not part of the planning for this condominium plat.

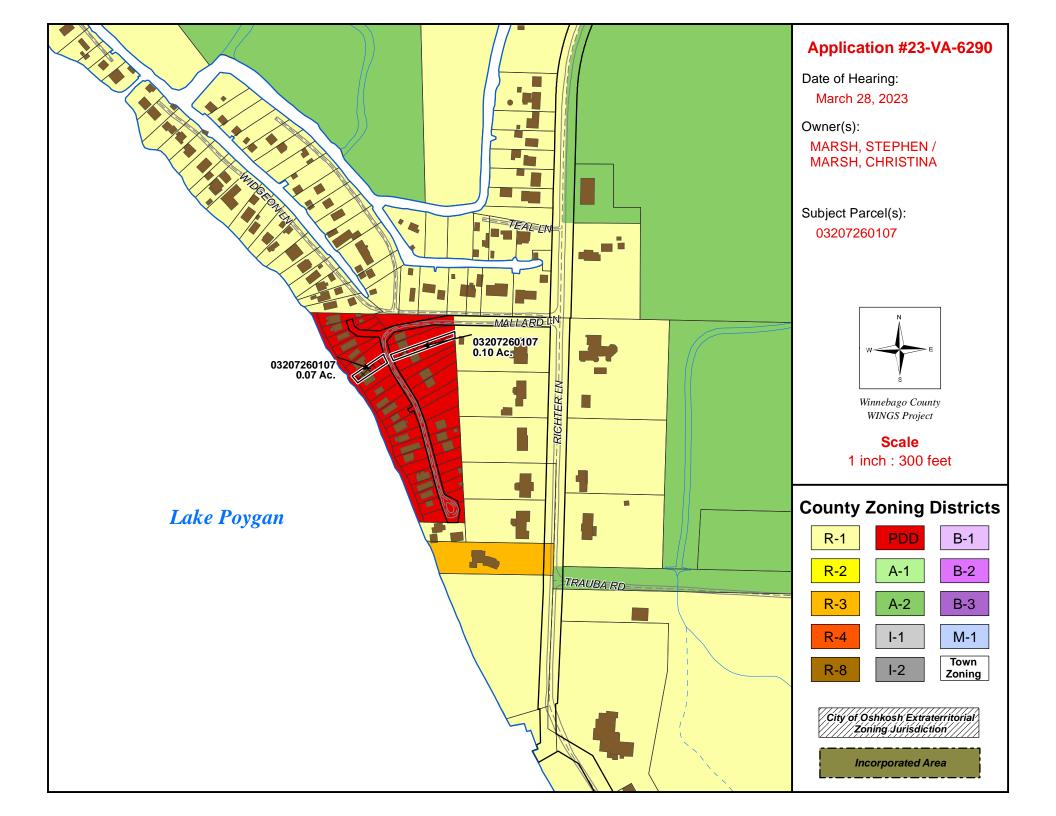
Per Poygan Shores Condominium Plat, "No improvements other than parking area or expanded paving area is allowed within 5 feet of Mallard Lane without approval of the Board of Directories of Poygan Shores Inc."

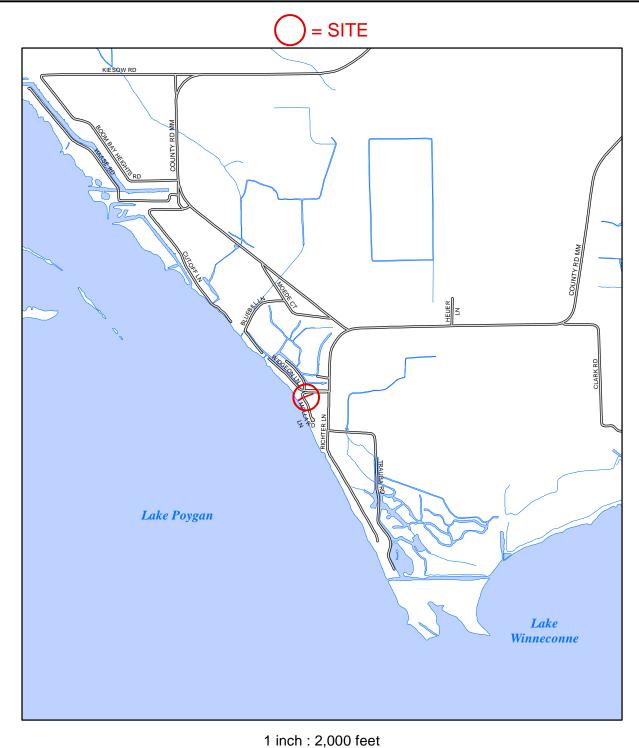
The parcel is entirely within the floodplain district, the proposed house will be elevated to 2 feet above the floodplain elevation to comply with the floodplain zoning requirement. However, due to how narrow the parcel is, the requirement of the floodplain zoning code, "fill must be placed around the foundation 15 feet in all directions at an elevation of 1 foot above the 100 year flood elevation" will not be met. A retaining wall is proposed around the proposed cottage, 1 foot around in all directions with a height from ground grade of approximately 1.5 feet.

C-4

Granting of the request variance will not have an adverse impact on the public health, safety and welfare. Existing drainage along the common lot lines will be maintained.







Application #23-VA-6290

Date of Hearing:

March 28, 2023

Owner(s):

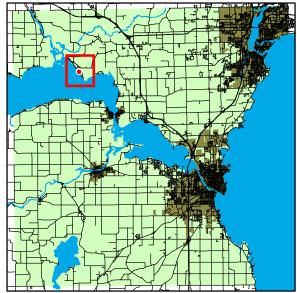
MARSH, STEPHEN / MARSH, CHRISTINA

Subject Parcel(s): 03207260107



Winnebago County WINGS Project





WINNEBAGO COUNTY