

# Winnebago County Planning and Zoning Department

## NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT March 01, 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 Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. 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 March 01, 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-6260

**Applicant:** SSALIX LLC

**Agent:** SEHLOFF, JAMES DAVEL ENGINEERING & ENVIRONMENTAL

**Location of Premises:** 8641 RIVER LN

**Tax Parcel No.:** 032-0351-01

**Legal Description:** Being part of Government Lot 3 of Section 16, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin.

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

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The shore yard setback from the nearest point of a structure shall be at least 75 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. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirement in subsection (b)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 ft beyond the limits of the structure.	27-6.1 Exhibit 8-2 26.5- 23(b)(1)	Shore Yard:75 ft Road: 30 ft Floodplain Fill: 15 ft	Shore Yard: 31.04 ft Street Yard: 12 ft Floodplain Fill: 12 ft

## INITIAL STAFF REPORT

**Sanitation:** Existing; Municipal

**Overlays:** Shoreland, floodplain, wetlands

**Current Zoning:** R-1 Rural Residential

**Surrounding Zoning:** North: R-1; South: A-2; East: A-2; West: R-1;

27-6.1

Exhibit 8-2

26.5-23(b)(1)

### Code Reference:

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

### THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

**Describe your project, include the proposed dimensions and setbacks:** The proposed project is to replace the existing home with a new house on the parcel. We are requesting a reduced front yard setback from 30 feet to 12 feet and a reduced setback from Ordinary High Water Mark from 75 feet to 31.0 feet to accommodate a proposed new house with a maximum width of 30 feet, this width would include all patios and or porches attached to the house. Additionally we request relief from 26.5(b)(10) to allow for the 15 front yard grading requirement to be reduced to 12 feet to prevent the grading from encroaching into the road right of way and affecting drainage. All other grading requirements will be met.

**Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:** Utilizing the current zoning setback requirement, of 75' from OHWM and 30' Front Yard setback, the Lot is entirely unbuild-able. The Current House on the site does not meet the current county minimum size or setback standards. The current setbacks cause an undo hardship for my client. Also my clients own 2 parcels North of River Lane. Both parcels are also not build-able lands due to county requirements of not building in a regulated floodway. With these facts the only way to improve the property, and eliminate hardship, is to request this variance. With the proposed 12' setback to the road right of way and 15' grading requirement are in conflict and would require my client to change road grades possibly affecting drainage in this area.

**Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:** Currently the lot has about 75 feet from the road right of way to the Ordinary High Water Mark (OHWM) of an intermittent stream. Based on the current zoning setbacks the OHWM setback covers the entire lot leaving no build-able area. The front yard setback overlaps the OHWM setback adding additional burden to the property. The current structure does not meet minimum size requirements of 1000 SF or setback requirements there for can not be improved due to the non conformity of the structure. Existing creek and overhead utilities limit to where the proposed house can be placed.

**Describe how the granting of the requested variance will not harm the public interest or have adverse effects on surrounding properties:** The variance will not cause any harm to the public interest, the proposed structure would be replacing an older dilapidated home, the new structure would be constructed to the current building codes. Where as the proposed home is 10 feet wider then the existing structure the proposed setbacks would not interfere with the utilities as currently installed. The proposed structure is at least 12 feet from the existing overhead lines located on the right of way. The home would be constructed to meet flood plain standards as enforced by the county. By allowing the variance the Town and County get more tax base due to the improvement to the property and the community benefits form a well maintained structure on the property. Finally the reduction of the front yard grading from 15' to 12' allows for a balance of impacts reducing the required grading in the front yard while helping preserve the creek setback in the rear yard.

## 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**

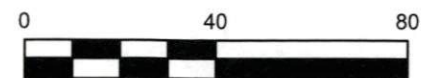
#### **27.14.8 Variances**

(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.



# Plat of Survey

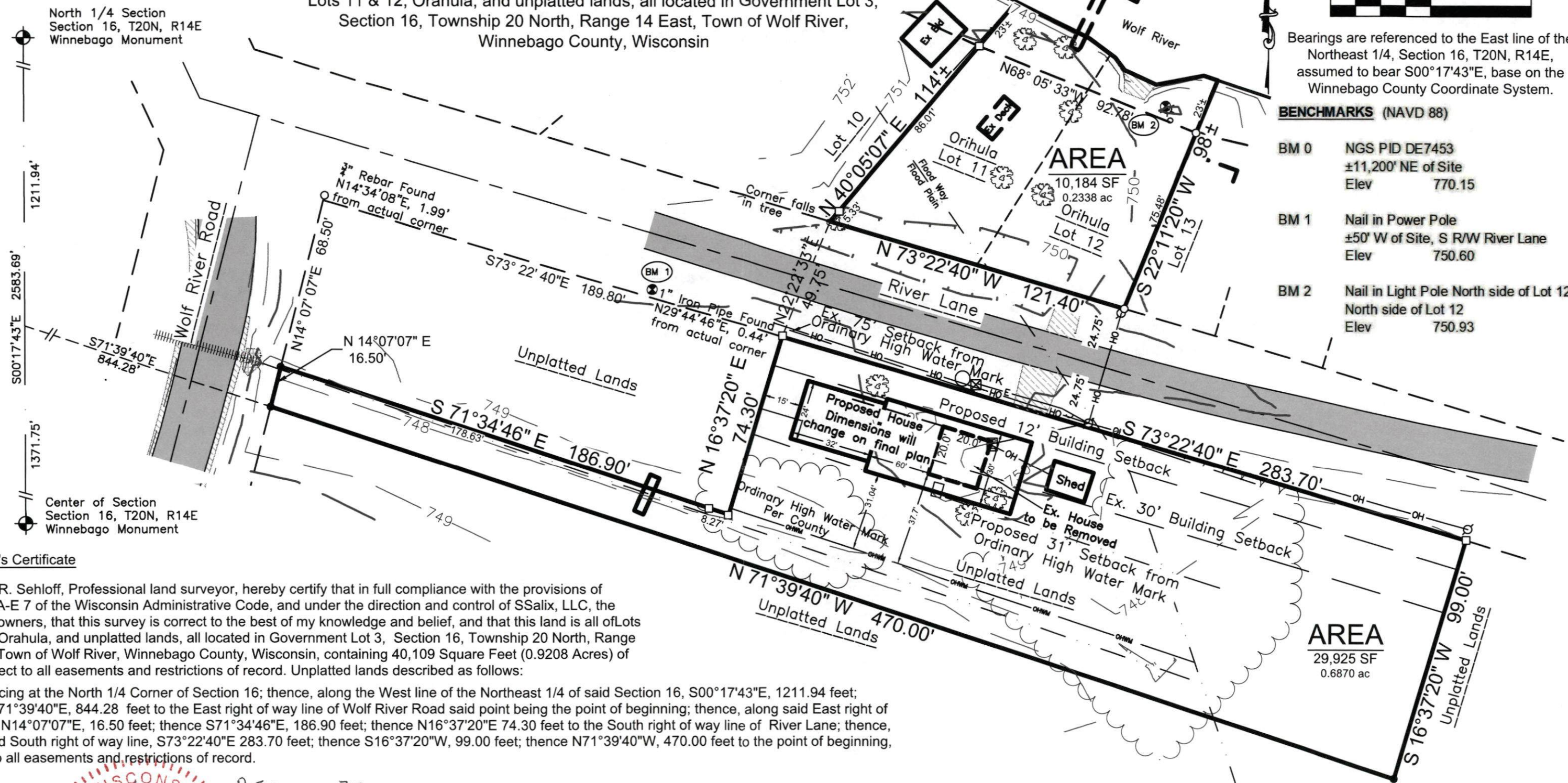
Lots 11 & 12, Orahula, and unplatted lands, all located in Government Lot 3, Section 16, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin



Bearings are referenced to the East line of the Northeast 1/4, Section 16, T20N, R14E, assumed to bear S00°17'43"E, base on the Winnebago County Coordinate System.

**BENCHMARKS (NAVD 88)**

BM 0	NGS PID DE7453 ±11,200' NE of Site Elev 770.15
BM 1	Nail in Power Pole ±50' W of Site, S R/W River Lane Elev 750.60
BM 2	Nail in Light Pole North side of Lot 12 North side of Lot 12 Elev 750.93



**Surveyor's Certificate**

I, James R. Sehloff, Professional land surveyor, hereby certify that in full compliance with the provisions of Chapter A-E 7 of the Wisconsin Administrative Code, and under the direction and control of SSalix, LLC, the property owners, that this survey is correct to the best of my knowledge and belief, and that this land is all of Lots 11 & 12, Orahula, and unplatted lands, all located in Government Lot 3, Section 16, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin, containing 40,109 Square Feet (0.9208 Acres) of land subject to all easements and restrictions of record. Unplatted lands described as follows:

Commencing at the North 1/4 Corner of Section 16; thence, along the West line of the Northeast 1/4 of said Section 16, S00°17'43"E, 1211.94 feet; thence S71°39'40"E, 844.28 feet to the East right of way line of Wolf River Road said point being the point of beginning; thence, along said East right of way line, N14°07'07"E, 16.50 feet; thence S71°34'46"E, 186.90 feet; thence N16°37'20"E 74.30 feet to the South right of way line of River Lane; thence, along said South right of way line, S73°22'40"E 283.70 feet; thence S16°37'20"W, 99.00 feet; thence N71°39'40"W, 470.00 feet to the point of beginning, subject to all easements and restrictions of record.

Given under my hand this 27 day of Dec, 20 22.

The field work was completed on \_\_\_\_\_



James R. Sehloff, Wisconsin Professional Land Surveyor No. S-2692  
jim@davel.pro

**LEGEND**

	Treeline		Lift Station Structure		Benchmark
	Culvert		Utility Meter		3/4" x 18" Steel Rebar @ 1.50lbs/LF SET
	Index Contour		Utility Pole		3/4" Rebar Found
	Intermediate Contour		Light Pole / Signal		1.3" O.D. Iron Pipe Found
	Asphalt Pavement		Deciduous Tree		Government Corner
	Gravel Pavement				

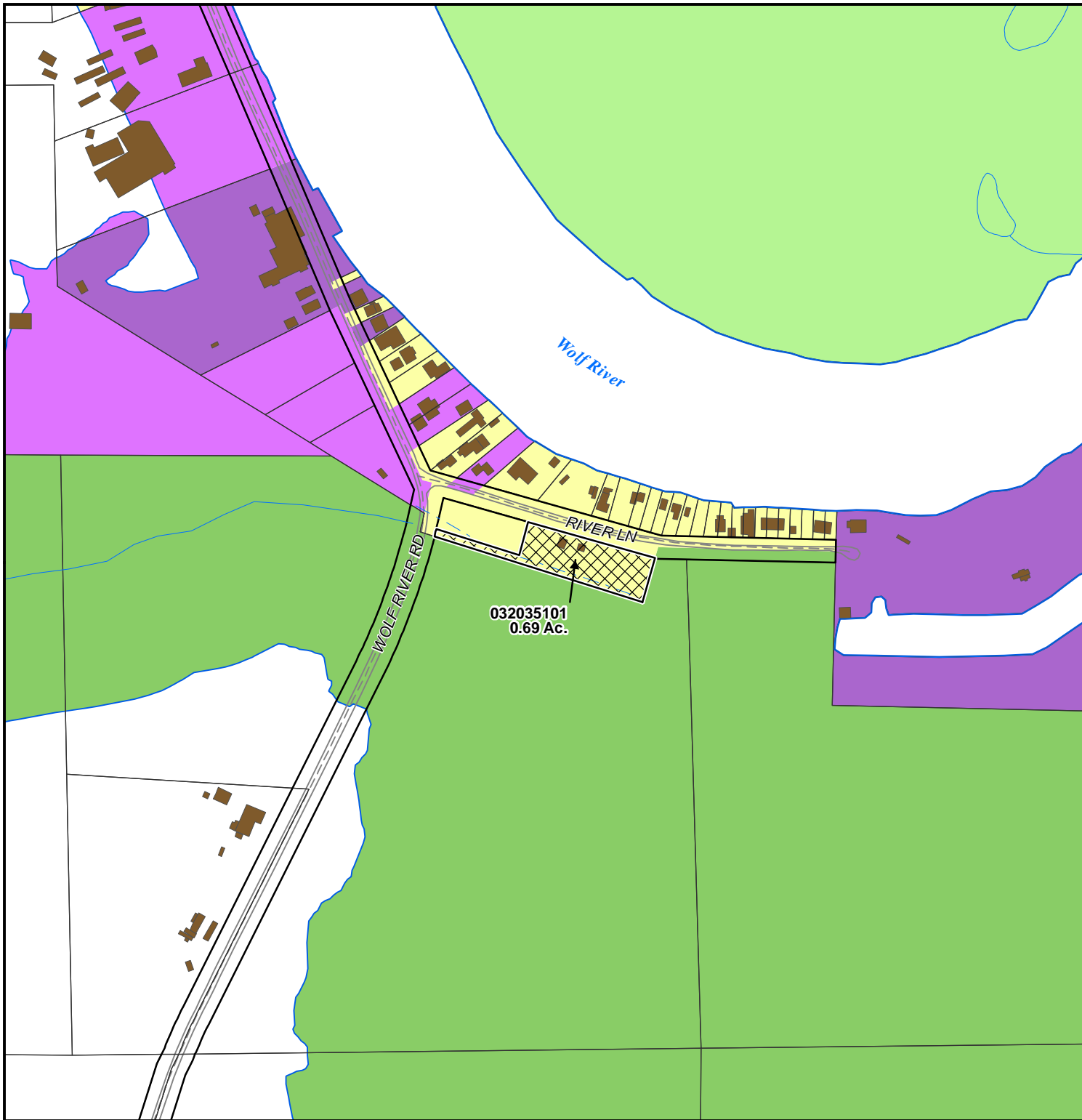


**DAVEL ENGINEERING & ENVIRONMENTAL, INC.**  
Civil Engineers and Land Surveyors  
1164 Province Terrace, Menasha, WI 54952  
Ph: 920-991-1866 Fax: 920-441-0804  
www.davel.pro

Survey for:  
S Salix LLC  
1025 N Emerson St.  
Denver, CO 80218

File: 7356TOPO.dwg  
Date: 11/30/2022  
Drafted By: Jim  
Sheet: 1 of 1



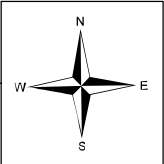


**Application #23-VA-6260**

Date of Hearing:  
**January 24, 2023**

Owner(s):  
**SSALIX LLC  
 (STEVEN ALIX)**

Subject Parcel(s):  
**032035101**



Winnebago County  
 WINGS Project

**Scale**  
 1 inch : 300 feet

**County Zoning Districts**

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

*City of Oshkosh Extraterritorial Zoning Jurisdiction*

*Incorporated Area*

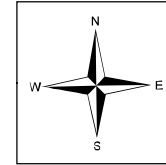
○ = SITE

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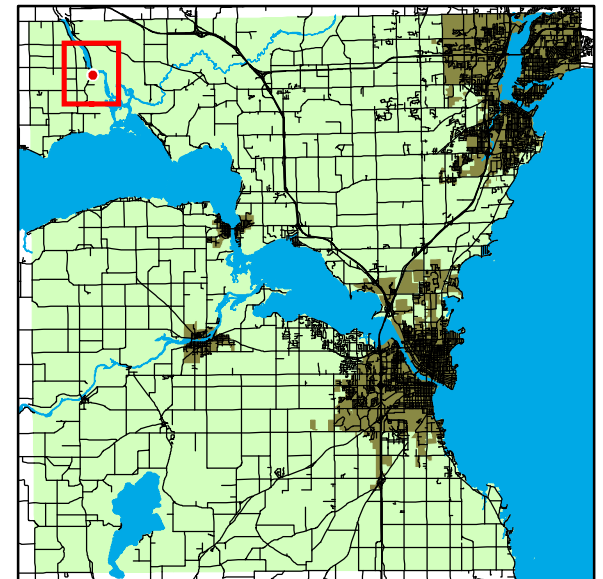


*Winnebago County  
WINGS Project*



1 inch : 2,000 feet

● = SITE



**WINNEBAGO COUNTY**