

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING
BOARD OF ADJUSTMENT
January 24, 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 January 24, 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-6250

Applicant: HEMP, DAVID et al

Agent: NONE

Location of Premises: 8514 HERBST RD

Tax Parcel No.: 020-0090-07

Legal Description: Being part of the NE 1/4 of the NE 1/4 of Section 16, Township 19 North, Range 14 East, Town of Poygan, Winnebago County, Wisconsin.

Explanation: Applicant is requesting a variance for a sub-standard floodplain fill requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
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.	26.5-23(b)(1)	Floodplain Fill: 15 ft	Floodplain Fill: 8.1 ft & 10.1 ft

INITIAL STAFF REPORT

Sanitation: Existing; Municipal

Overlays: Shoreland, floodplain

Current Zoning: R-1 Rural Residential

Surrounding Zoning: North: Lake Poygan; South: R-1; East: R-1; West: R-1;

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

Description of Proposed Use: Applicant is requesting a variance for a sub-standard floodplain fill requirement.

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

Describe your project, include the proposed dimensions and setbacks: The project is to build a single family home with an attached garage. See attached site plan for project dimensions and proposed setbacks.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: With the high water mark being moved back (to the south) because of erosion on neighboring property, the 75' setback drastically reduces the buildable area on the lot. See site plan.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: The lot is not a typical rectangular lot bordered instead by the lake on the front side and also the east side of the lot. With the erosion that has taken place, as seen by historical survey photos, the high water mark has moved significantly south and west adversely compromising the buildable area of our lot.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: Per our drainage plan, the current storm water runoff plan will be maintained as it currently exists. Our lot only has one neighboring home to the west and the owner is ok with our plans.

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

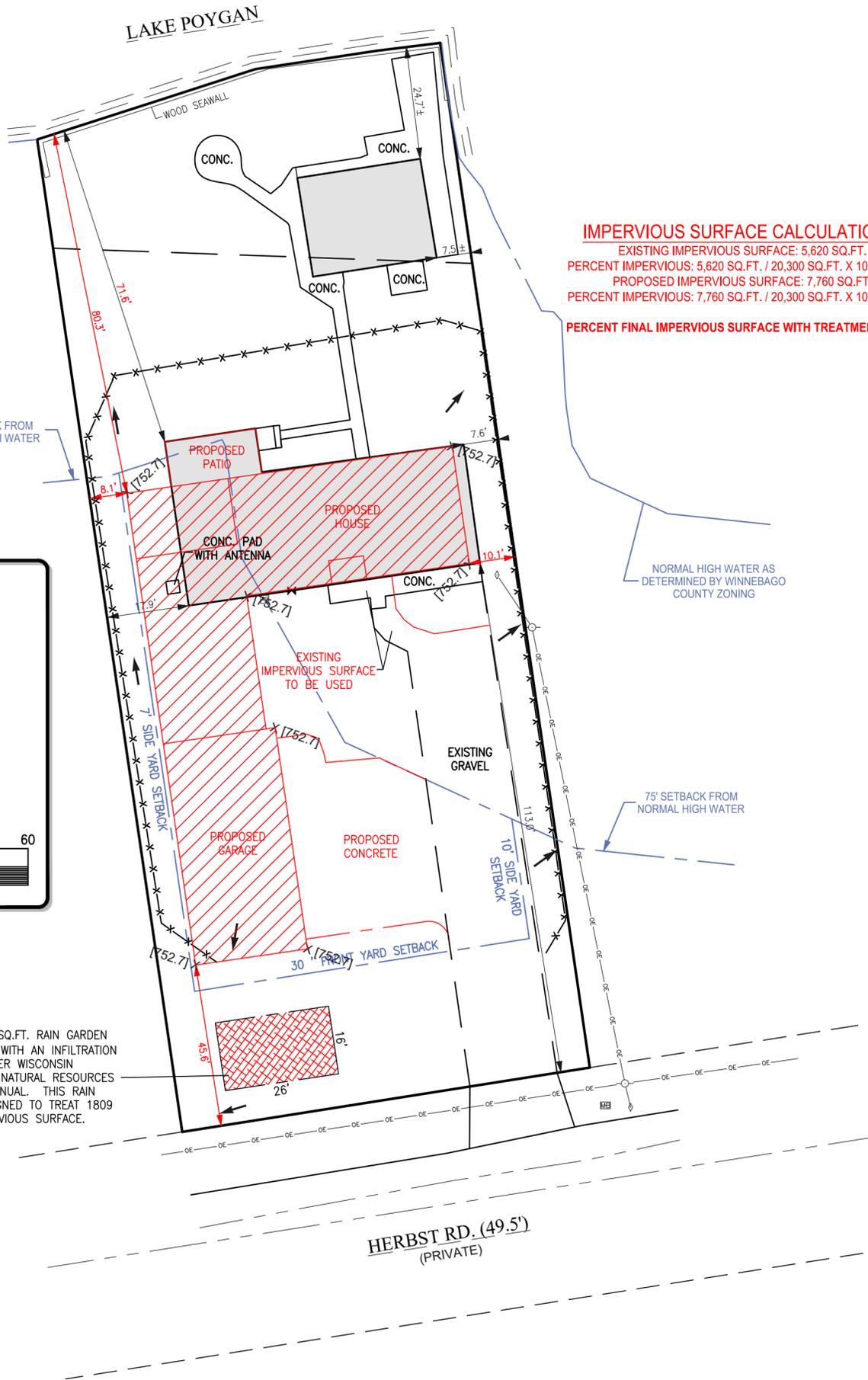
(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter 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.

"EROSION CONTROL/STORM WATER MANAGEMENT PLAN"

THAT PART OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 19 NORTH, RANGE 14 EAST, TOWN OF POYGAN, WINNEBAGO COUNTY, WISCONSIN.
 PARCEL NUMBER: 020009007



IMPERVIOUS SURFACE CALCULATIONS:
 EXISTING IMPERVIOUS SURFACE: 5,620 SQ.FT.
 PERCENT IMPERVIOUS: 5,620 SQ.FT. / 20,300 SQ.FT. X 100 = 27.7%
 PROPOSED IMPERVIOUS SURFACE: 7,760 SQ.FT.
 PERCENT IMPERVIOUS: 7,760 SQ.FT. / 20,300 SQ.FT. X 100 = 38.2%
PERCENT FINAL IMPERVIOUS SURFACE WITH TREATMENT: 29.3%

RESTORATION TIMING: (SEQUENCE OF CONSTRUCTION)

- 1) NOTIFY WINNEBAGO COUNTY ZONING DEPARTMENT 3 DAYS PRIOR TO EXCAVATION.
- 2) INSTALL EROSION CONTROL BEST MANAGEMENT PRACTICES. (OCTOBER, 2022)
- 3) BEGIN SITE WORK. (OCTOBER, 2022)
- 4) TEMPORARILY STABILIZE STOCKPILES. (NOVEMBER, 2022)
- 5) TEMPORARILY STABILIZE GRADED AREAS. (NOVEMBER, 2022)
- 6) FINAL SITE WORK. (JUNE, 2023)
- 7) STABILIZE ENTIRE SITE WITH APPROPRIATE COVER NO LATER THAN ONE WEEK AFTER FINAL GRADE IS ESTABLISHED. (JUNE, 2023)
- 8) REMOVE EROSION CONTROL BEST MANAGEMENT PRACTICES AFTER 70% VEGETATION. (JULY, 2023)

NOTE:
 - THE DATES PROVIDED ARE APPROXIMATE AND SUBJECT TO WEATHER CONDITIONS AND OVERALL PROJECT SCHEDULE. SEVERAL WORK ITEMS AS LISTED ABOVE MAY OCCUR SIMULTANEOUSLY WITH OTHERS.
 - PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL VERIFY PROPOSED SITE GRADES BY FIELD CHECKING BENCHMARKS AND A MINIMUM OF ONE (1) SITE FEATURE AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY CAROW LAND SURVEYING CO., INC. OF ANY DISCREPANCIES.
 - ENTIRE PARCEL IS LOCATED IN THE FLOODPLAIN (ZONE AE) PER FIRM MAP NO. 55139C0050E

NOTES:

- 1) EXISTING UTILITIES SHOWN ARE INDICATED IN ACCORDANCE WITH AVAILABLE RECORDS AND FIELD MEASUREMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING EXACT LOCATIONS & ELEVATIONS OF ALL UTILITIES FROM THE OWNERS OF THE RESPECTIVE UTILITIES. ALL UTILITY OWNERS SHALL BE NOTIFIED BY THE CONTRACTOR 72 HOURS PRIOR TO EXCAVATION. CONTACT DIGGER'S HOTLINE (1-800-242-8511) FOR EXACT UTILITY LOCATIONS.
- 2) WDOT APPROVED SILT FENCE OR COMPOST FILTER SOCKS (AVAILABLE AT REINDERS, INC., ZOLLBROCK WHITE, DAVIES WATER, ERO-TEX OR TRENCH-IT) SHALL BE INSTALLED PER TECHNICAL STANDARD 1056 PRIOR TO SITE GRADING AND MAINTAINED UNTIL VEGETATION IS ESTABLISHED. REMOVE SILT FENCING BY CUTTING MATERIAL AT GROUND LEVEL & PULLING UP STAKES AFTER SITE HAS BEEN VEGETATED.
- 3) THE CONTRACTOR OR PROPERTY OWNER SHALL MAKE WEEKLY INSPECTIONS AND INSPECTIONS, WITHIN 1 DAY OF ANY RAINFALL EXCEEDING 0.5 INCHES, OF THE SEDIMENT AND EROSION CONTROL DEVICES THROUGHOUT CONSTRUCTION. THE RESPONSIBLE PARTY SHALL REPAIR OR MAINTAIN EROSION CONTROL DEVICES AS NECESSARY. THE INSPECTION REPORTS SHALL BE MADE AVAILABLE TO THE OWNER AT THE END OF THE CONSTRUCTION OR UPON DEMAND DURING CONSTRUCTION.
- 4) INLET PROTECTION, IF REQUIRED, SHALL BE INSTALLED AROUND UPSTREAM END OF NEW CULVERT PIPES, IN ACCORDANCE WITH WISCONSIN DOT STANDARD DETAIL DRAWING 8E10-2.
- 5) STONE TRACKING PAD ACCESS SHALL BE PROVIDED TO HOUSE UNDER CONSTRUCTION PER TECHNICAL STANDARD 1057.
- 6) TRACKING PAD SHALL BE INSTALLED PRIOR TO ANY TRAFFIC LEAVING SITE.
- 7) TRACKING OF MUD ON EXISTING STREETS SHALL BE CLEANED UP DAILY.
- 8) VEGETATION BEYOND SLOPES SHALL REMAIN.
- 9) TOTAL AREA TO BE DISTURBED SHALL BE LESS THAN 1 ACRE. THE CONTRACTOR SHALL MINIMIZE THE AREA DISTURBED BY CONSTRUCTION AS THE PROJECT IS CONSTRUCTED. DISTURBED AREA SHALL BE SEEDED AS SOON AS FINAL GRADE IS ESTABLISHED. CONTRACTOR SHALL REPLACE TOPSOIL AND THEN SEED, FERTILIZE AND MULCH ALL LAWN AREAS WITHIN 1 WEEK OF FINAL GRADING.
- 10) FUTURE PERMITS MAY BE REQUIRED FOR ANY FUTURE DISTURBANCE.
- 11) NO ADDITIONAL BUILDING PLANS AT THIS TIME.
- 12) FOLLOW BEST MANAGEMENT PRACTICES THROUGHOUT CONSTRUCTION PROCESS.
- 13) TOTAL IMPERVIOUS AREA 7,760 SQUARE FEET MORE OR LESS.
- 14) TOTAL DISTURBED AREA 12,660 SQUARE FEET MORE OR LESS.
- 15) IMMEDIATE MULCHING OF THE SITE AFTER LAWN INSTALLATION IS REQUIRED.
- 16) BUILDING A SINGLE FAMILY HOUSE WITH ATTACHED GARAGE MINIMAL GRADING.
- 17) ENTIRE SITE IS GREEN AT THIS TIME INCLUDING FRONT YARD.
- 18) GREEN AREA BUFFER ON ALL SIDES EXCEPT WHERE SILT FENCE IS SHOWN.
- 19) FILL WILL BE REQUIRED TO EXTEND 15 FEET BEYOND THE STRUCTURE 1' ABOVE THE REGIONAL FLOOD ELEVATION PER WINNEBAGO COUNTY ZONING.
- 20) THE FILL TO BE PLACE MUST BE CLASSIFIED AS CH, CL, SC, OR ML ACCORDING TO ASTM STANDARD D-2487.
- 21) THE FILL PLACE MUST BE COMPACTED TO AT LEAST 95 PERCENT OF STANDARD LABORATORY MAXIMUM DRY DENSITY (STANDARD PROCTOR), ACCORDING TO ASTM STANDARD D-698.
- 22) A LETTER OF MAP REVISION BASED ON FILL WILL BE REQUIRED TO REMOVE THE NEED TO CARRY FLOOD INSURANCE FOR FEDERALLY INSURED MORTGAGES.

LEGEND:

- ⊙ = 1" I.D. ROUND IRON PIPE FOUND
- ⊕ = POWER POLE
- ◇ = DOWN GUY
- ⊠ = AIR CONDITIONING UNIT
- ⊞ = GAS METER
- [800.00] = PROPOSED GRADE
- = DRAINAGE ARROW
- ***** = PROPOSED SILT FENCING/SOCK
- ▲ = DOWNSPOUT
- OE = OVERHEAD ELECTRICAL

NORTH IS REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM (WINNEBAGO COUNTY)

PROPOSED 416 SQ.FT. RAIN GARDEN TO BE 8" DEEP WITH AN INFILTRATION RATE OF 0.23 PER WISCONSIN DEPARTMENT OF NATURAL RESOURCES RAIN GARDEN MANUAL. THIS RAIN GARDEN IS DESIGNED TO TREAT 1809 SQ.FT. OF IMPERVIOUS SURFACE.



Know what's below.
 Call before you dig.

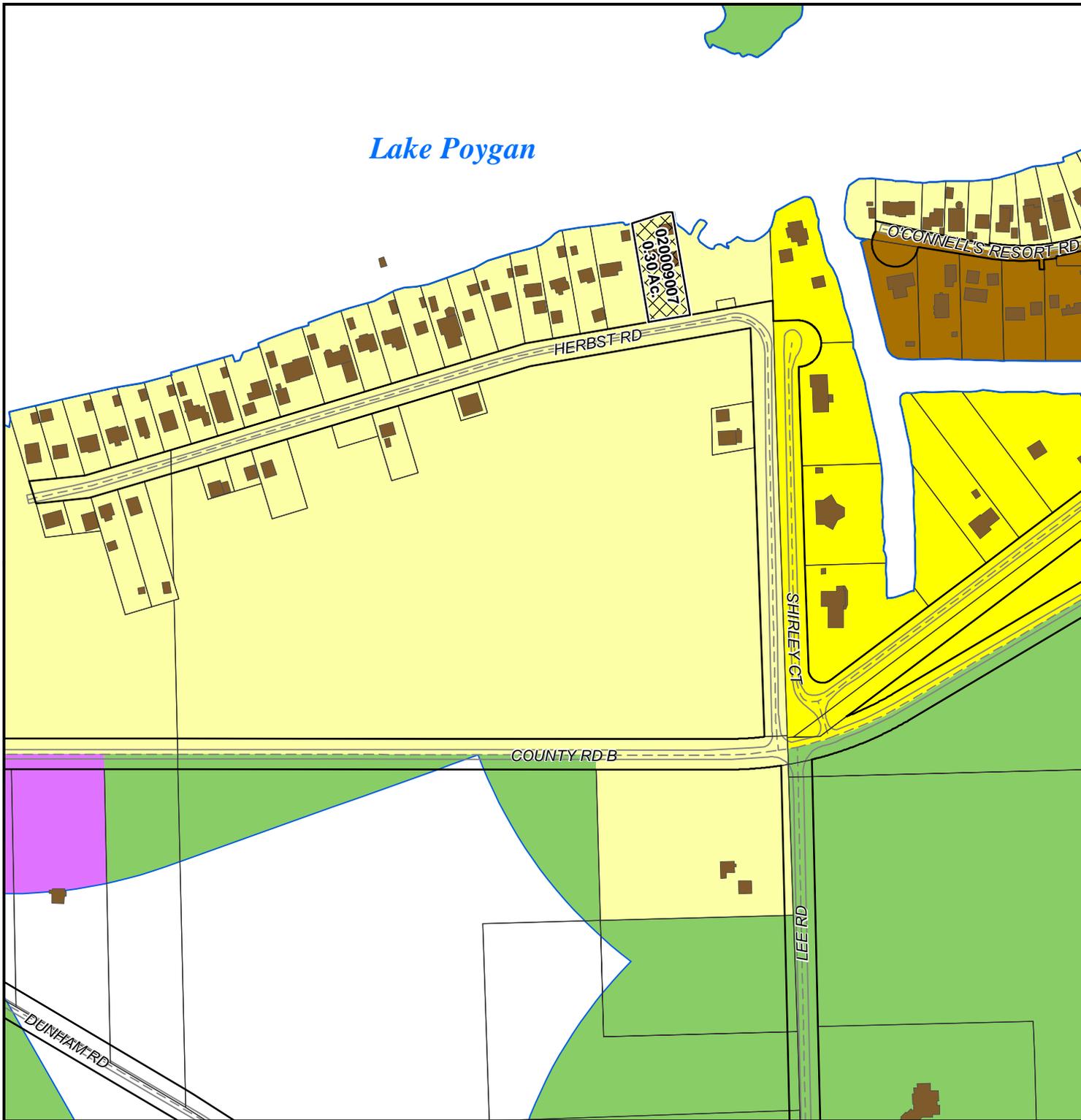
SCALE	1" = 20'
DATE	7-11-2022
PROJECT NO.	B2007.21
SHEET NO.	

DESIGNED	DRAWN	CHECKED
MCR	MCR	MCR

DAVID & JOLENE HEMP
 N2348 WEATHERHILL CT.
 GREENVILLE, WI 54942
 8514 HERBST RD. WINNEBAGO, WI 54986

CAROW LAND SURVEYING CO., INC.
 615 N. LYNNDALE DRIVE
 APPLETON, WISCONSIN 54912-1297
 PHONE: (920)731-4168 FAX: (920)731-5673

REV.	DATE	REVISIONS
1	11/9/2022	UPDATE PROPOSED HOUSE
2	11/28/2022	UPDATE IMPERVIOUS NOTE

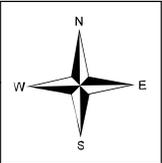


Application #23-VA-6250

Date of Hearing:
January 24, 2023

Owner(s):
**HEMP, DAVID A /
HEMP, JOLENE A**

Subject Parcel(s):
020009007



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

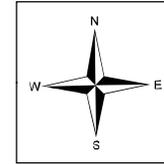
○ = SITE

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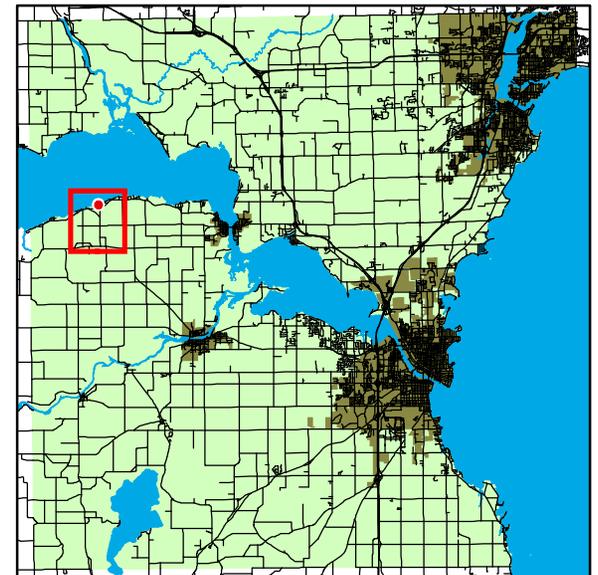
Owner(s):
HEMP, DAVID A /
HEMP, JOLENE A

Subject Parcel(s):
020009007



Winnebago County
WINGS Project

● = SITE



1 inch : 2,000 feet

WINNEBAGO COUNTY