

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT October 25, 2022

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 October 25, 2022 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.: 2022-VA-6160

Applicant: RATHSACK, GARY

Agent: NONE

Location of Premises: 164 RICKERS BAY RD

Tax Parcel No.: 010-0716

Legal Description: Being part of the Plat of Ricker's Bay, Lot 16, located in Government Lot 4 of Section 9, Township 19 North, Range 17 East, Town of Neenah, 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: 15ft	Floodplain Fill: 7 ft

INITIAL STAFF REPORT

Sanitation: Existing; Municipal

Overlays: Shoreland, floodplain

Current Zoning: R-2 Suburban Low Density Residential

Surrounding Zoning: North: R-2; South: R-2; East: Lake Winnebago; 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: Replacing existing residence on property with new structure. New structure to maintain the current footprint and placement of existing. In order to place structure above the FEMA base flood elevation, grading up to the lot line will be necessary.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: New structure to be built approximately 1.5 higher than existing to remove from flood plain. Grading necessary to shed water away from foundation and protect structure from flood waters.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: Existing structure already sits within the grading limitations. Any improvements could not be possibly be made without a variance.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: Surrounding properties are already graded to lot line and are situated at the same elevation as proposed.

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.

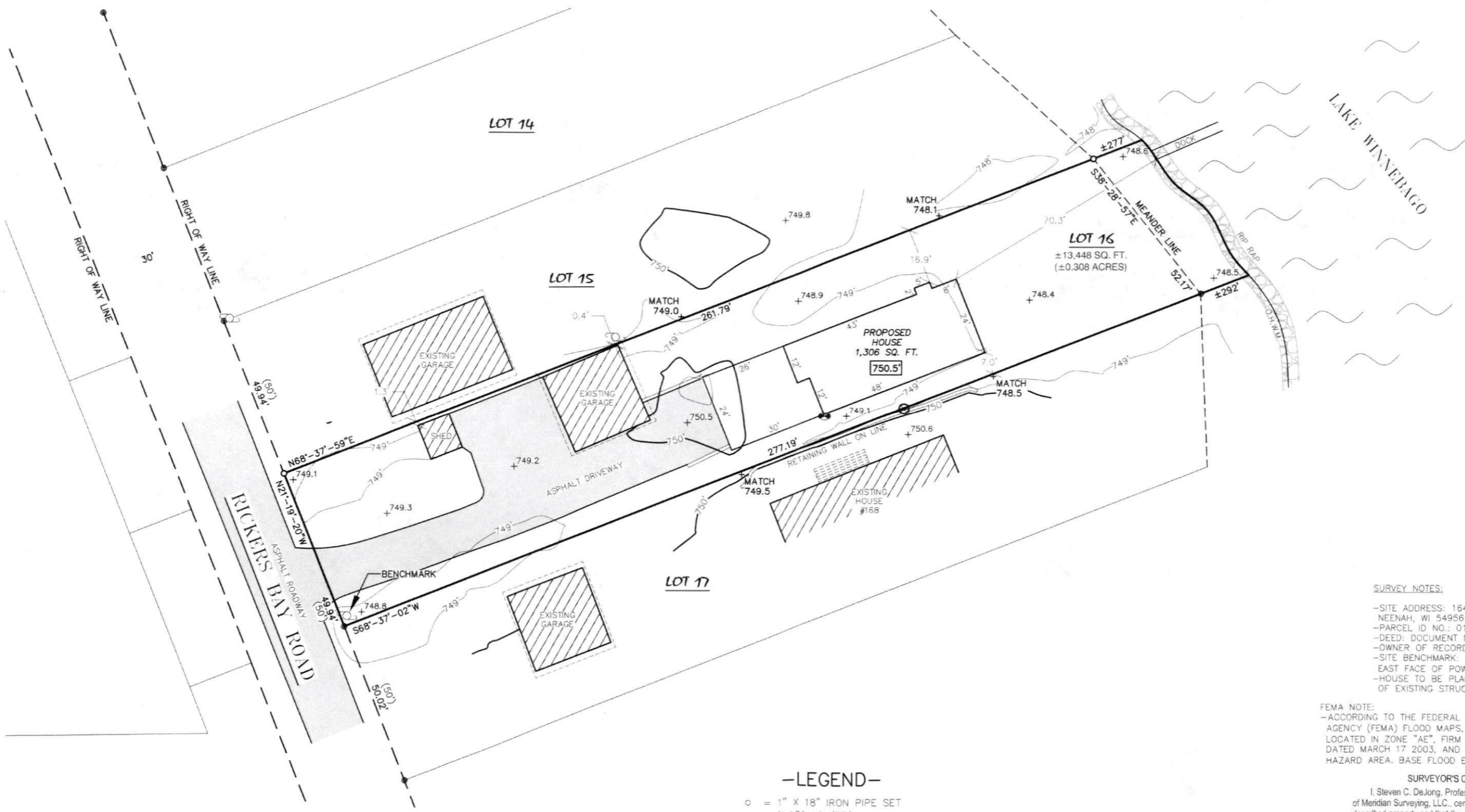
Shoreland Zoning Code

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.

SITE PLAN

LOT 16, PLAT OF RICKERS BAY, LOCATED IN GOVERNMENT LOT 4 OF SECTION 9,
T.19N., R.17E., TOWN OF NEENAH, WINNEBAGO COUNTY, WISCONSIN



BEARINGS REFERENCED TO THE
WINNEBAGO COUNTY COORDINATE SYSTEM

SURVEY NOTES:

- SITE ADDRESS: 164 RICKERS BAY RD. NEENAH, WI 54956
- PARCEL ID NO.: 0100716
- DEED: DOCUMENT NO. 1863621
- OWNER OF RECORD: GARY RATHSACK
- SITE BENCHMARK: SET RAILROAD SPIKE IN EAST FACE OF POWER POLE. ELEV.: 749.80'
- HOUSE TO BE PLACED ON EXACT FOOTPRINT OF EXISTING STRUCTURE

FEMA NOTE:

-ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD MAPS, THE EXISTING SITE IS LOCATED IN ZONE "AE", FIRM PANEL NO. 55139C0113E, DATED MARCH 17 2003, AND IS IN A SPECIAL FLOOD HAZARDOUS AREA. BASE FLOOD ELEVATION: 794.4'

SURVEYOR'S CERTIFICATE

I, Steven C. DeJong, Professional Land Surveyor of Meridian Surveying, LLC, certify that I have surveyed the described property and that the map shown is a true and accurate representation thereof to the best of my knowledge and belief.

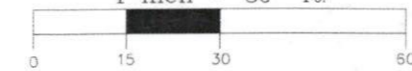
Dated this _____ day of _____, 2022.

WISCONSIN PROFESSIONAL LAND SURVEYOR
Steven C. DeJong, S-2791

-LEGEND-

- = 1" X 18" IRON PIPE SET (1.130 LB./FT.)
- = 1" IRON PIPE FOUND
- () = RECORDED INFORMATION
- ⊕ = EXISTING POWER POLE
- ⊗ = GAS METER
- ⊙ = WELL HEAD
- O.H.W.M. = ORDINARY HIGH WATER MARK
- 750.5' = GROUND AT FOUNDATION ELEVATION

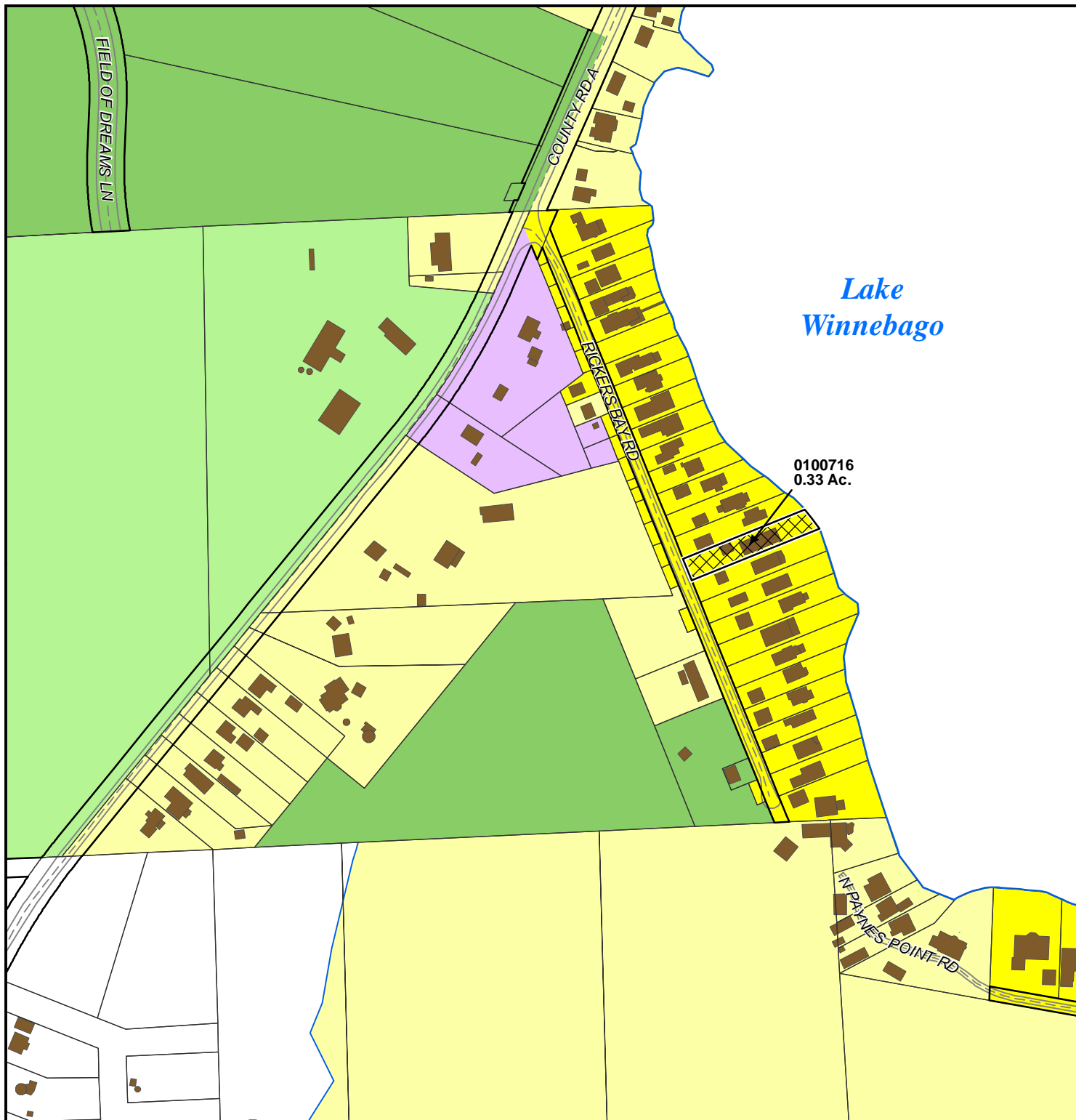
GRAPHIC SCALE
1 inch = 30 ft.



MERIDIAN SURVEYING, LLC
 N9637 Friendship Drive Kaukauna, WI 54130
 Office: 920-993-0881 Fax: 920-273-6037

DRAWN BY: J.B.	FIELD WORK DATE: 7-25-22
CHECKED BY: S.C.D.	FIELD BOOK: X
JOB NO.: 13894	SHEET 1 OF 1

SURVEYED FOR:
GARY RATHSACK
778 DARTMOUTH DR.
NEENAH, WI 54956



Application #22-VA-6160

Date of Hearing:

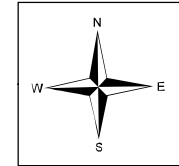
October 25, 2022

Owner(s):

RATHSACK, GARY L

Subject Parcel(s):

0100716



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

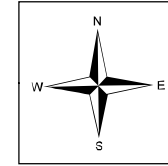
○ = SITE

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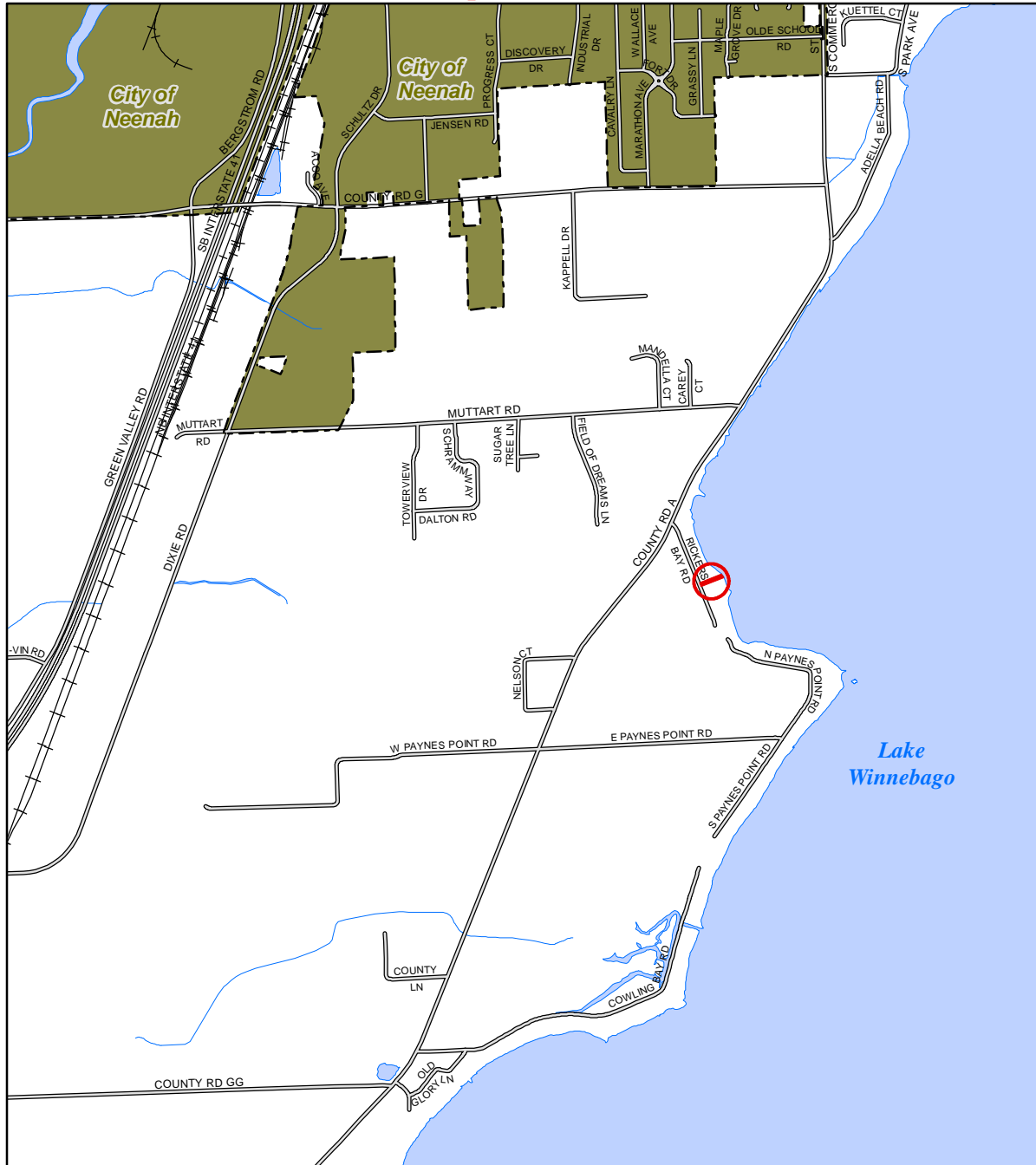
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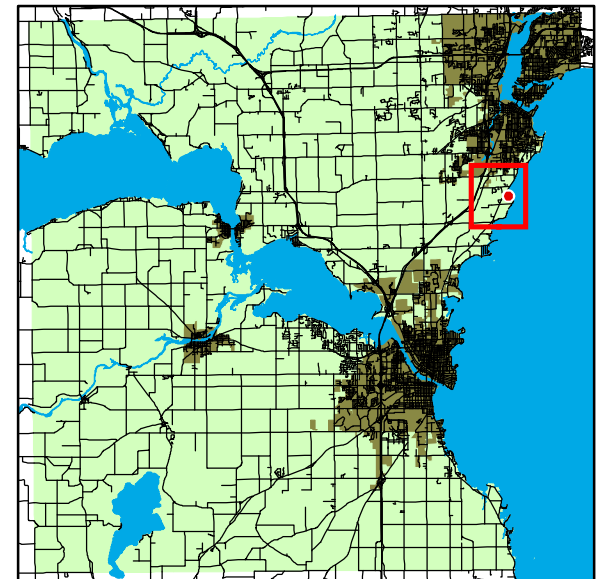


Winnebago County
WINGS Project



1 inch : 2,000 feet

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING
BOARD OF ADJUSTMENT
October 25, 2022

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.

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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.

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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.: 2022-VA-6190

Applicant: GIACOMINI, DEAN & JODENE

Agent: NONE

Location of Premises: 3061 BELLAIRE LN

Tax Parcel No.: 018-009912

Legal Description: Being part of the NW 1/4 of the SW 1/4 of Section 3, Township 18 North, Range 16 East, Town of Oshkosh, 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: 15ft	Floodplain Fill: 6.17 ft & 7 ft

INITIAL STAFF REPORT

Sanitation: Existing; Municipal

Overlays: Shoreland, floodplain

Current Zoning: R-1 Rural Residential

Surrounding Zoning: North: R-1; South: R-1; East: R-1; West: Lake Butte des Morts;

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: New home construction asking for variance of floodplain fill since there is not 15' in all directions. Request for minimum of 6.17' on south side and 7' on the north side. Retaining walls to be built as shown on plat of survey NOT to extend into the 67.2' average shore yard setback.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property: N/A Use is residential

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: Size of current existing building does not allow adequate room for living space nor adequate mechanicals to be built in. Necessity is for a home to be constructed with master bedroom that will require 1st flr main level design.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: Mitigation efforts will be adhered to as per plat survey provided. Appropriate setbacks to be held as per C-1 (question number one) above. Long term effects of typical and similar variances with neighborhood and public interest have previously been done with other properties in the neighborhood.

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.
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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

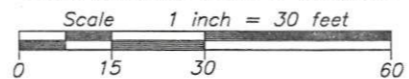
(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to 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.

Existing

SURVEY FOR:
CATHEDRAL BUILDERS
N169W21170 TOWER DRIVE
JACKSON, WI 53037
DEAN GIACOMINI



BEARINGS ARE REFERENCED TO THE WINNEBAGO COUNTY COORDINATE SYSTEM OF 1983(1997)



PLAT OF SURVEY

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 16 EAST, TOWN OF OSHKOSH, WINNEBAGO COUNTY, WISCONSIN.

SITE ADDRESS:
3061 BELLAIRE LANE

TAX PARCEL NUMBER:
018009912

DOCUMENT NUMBER
1886316

TOTAL AREA:
11,276 SQ.FT.±/0.259 AC.±

30% OF TOTAL AREA = 3,383 SQ.FT.

EXISTING IMPERVIOUS AREA:
DRIVEWAY = 885 SQ.FT.
GARAGE = 734 SQ.FT.
WITH OVERHANG
COTTAGE = 860 SQ.FT.
WITH OVERHANG
STOOP = 19 SQ.FT.
WALKWAY = 360 SQ.FT.

TOTAL AREA = 2,858 SQ.FT.
= 25.35% IMPERVIOUS

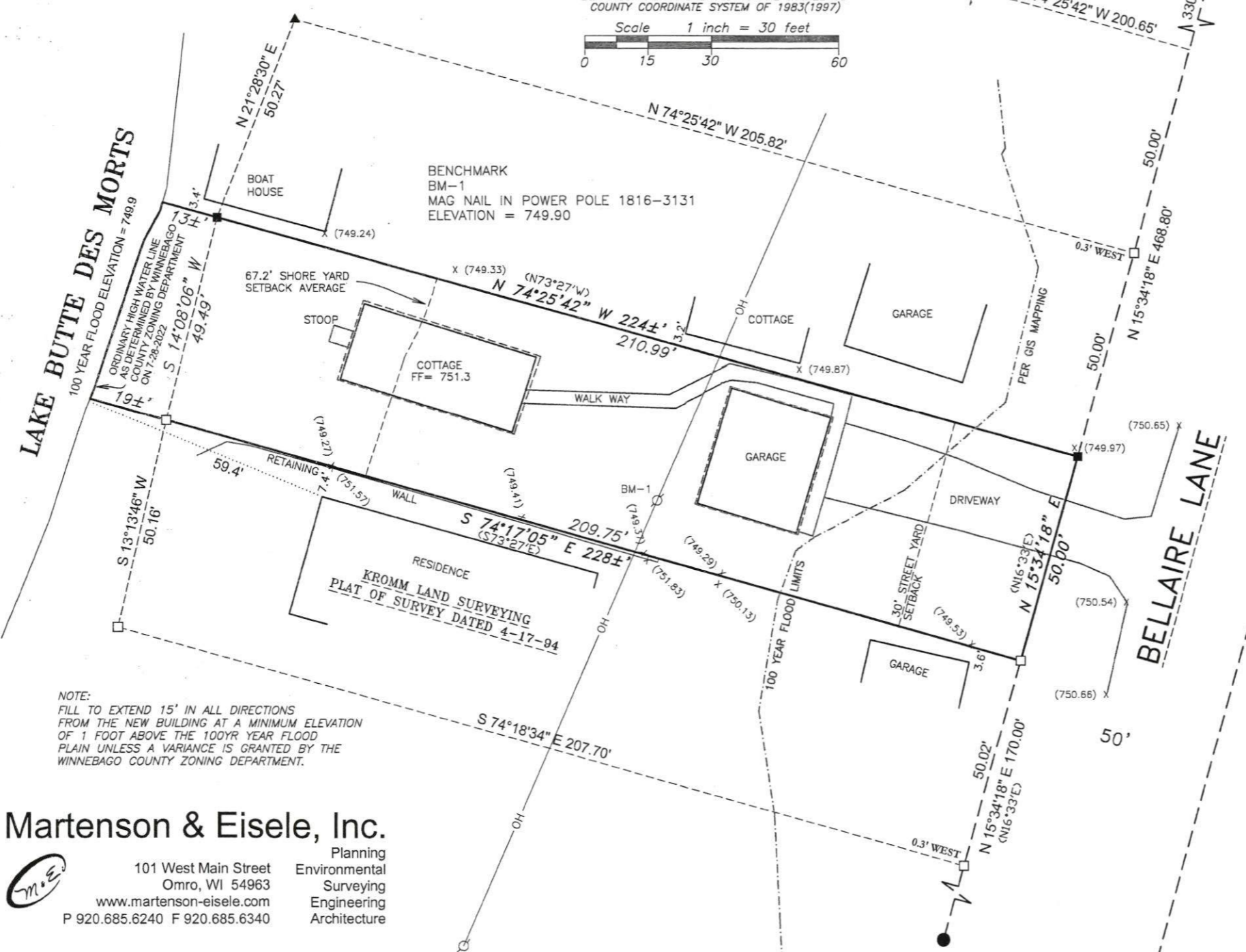
LEGEND

- 1-1/4" O.D. IRON PIPE SET, 18" LONG, WEIGHING 1.130 LBS. PER LIN. FOOT
- ▲ ANGLE IRON FOUND
- 3/4" REBAR FOUND
- 1-1/4" O.D. IRON PIPE FOUND
- △ 1" BAR FOUND
- "MAG" NAIL FOUND
- () RECORDED AS

SURVEYOR'S CERTIFICATE

I hereby certify that I have surveyed the property as shown, according to official records and that the plat above drawn is an accurate and correct representation of said survey.

Wisconsin Professional Land Surveyor _____ Date _____



NOTE:
FILL TO EXTEND 15' IN ALL DIRECTIONS FROM THE NEW BUILDING AT A MINIMUM ELEVATION OF 1 FOOT ABOVE THE 100YR YEAR FLOOD PLAIN UNLESS A VARIANCE IS GRANTED BY THE WINNEBAGO COUNTY ZONING DEPARTMENT.

Martenson & Eisele, Inc.

101 West Main Street
Omro, WI 54963
www.martenson-eisele.com
P 920.685.6240 F 920.685.6340

Planning
Environmental
Surveying
Engineering
Architecture

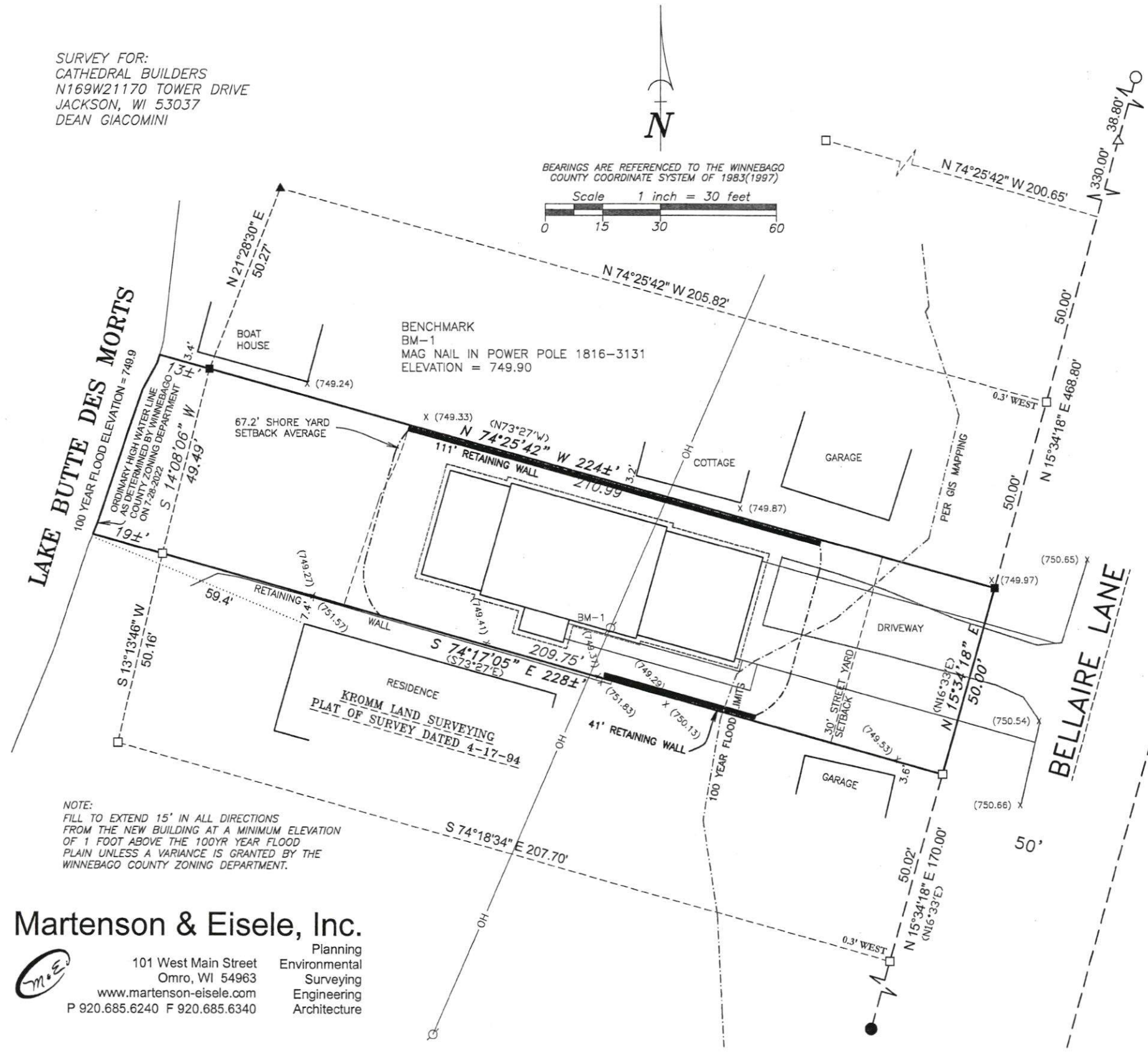
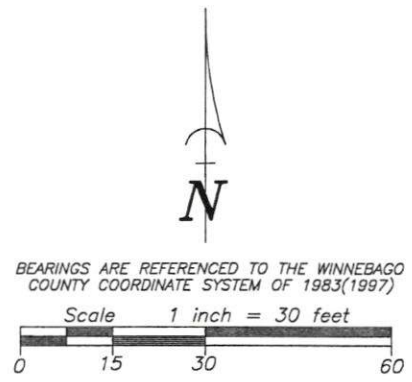
PROJECT NO. 0-2726-001
FILE 2726001BOUNDARY.DWG
THIS INSTRUMENT WAS DRAFTED BY: DSL

Proposed.

PRELIMINARY SITE PLAN

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 16 EAST, TOWN OF OSHKOSH, WINNEBAGO COUNTY, WISCONSIN.

SURVEY FOR:
CATHEDRAL BUILDERS
N169W21170 TOWER DRIVE
JACKSON, WI 53037
DEAN GIACOMINI



SITE ADDRESS:
3061 BELLAIRE LANE

TAX PARCEL NUMBER:
018009912

DOCUMENT NUMBER
1886316

TOTAL AREA:
11,276 SQ.FT. ± / 0.259 AC. ±

30% OF TOTAL AREA = 3,383 SQ.FT.

EXISTING IMPERVIOUS AREA:
DRIVEWAY = 885 SQ.FT.
GARAGE = 734 SQ.FT.
WITH OVERHANG
COTTAGE = 860 SQ.FT.
WITH OVERHANG
STOOP = 19 SQ.FT.
WALKWAY = 360 SQ.FT.

TOTAL AREA = 2,858 SQ.FT.
= 25.35% IMPERVIOUS

30% OF TOTAL AREA = 3,383 SQ.FT.

40% OF TOTAL AREA = 4510 SQ.FT. IF MITIGATION IS USED

PROPOSED IMPERVIOUS AREA:
DRIVEWAY = 1520 SQ.FT.
NEW RESIDENCE
WITH 16" OVERHANG = 2835 SQ.FT.
WALKWAY = 201 SQ.FT.

TOTAL AREA = 4556 SQ.FT.
= 40.40% IMPERVIOUS

NOTE:
THIS WOULD REQUIRE THE COUNTY TO GRANT A VARIANCE FOR 6.17' OF FILL ON THE SOUTH SIDE AND 7' OF FILL ON THE NORTH SIDE.

NOTE:
FILL TO EXTEND 15' IN ALL DIRECTIONS FROM THE NEW BUILDING AT A MINIMUM ELEVATION OF 1 FOOT ABOVE THE 100YR YEAR FLOOD PLAIN UNLESS A VARIANCE IS GRANTED BY THE WINNEBAGO COUNTY ZONING DEPARTMENT.

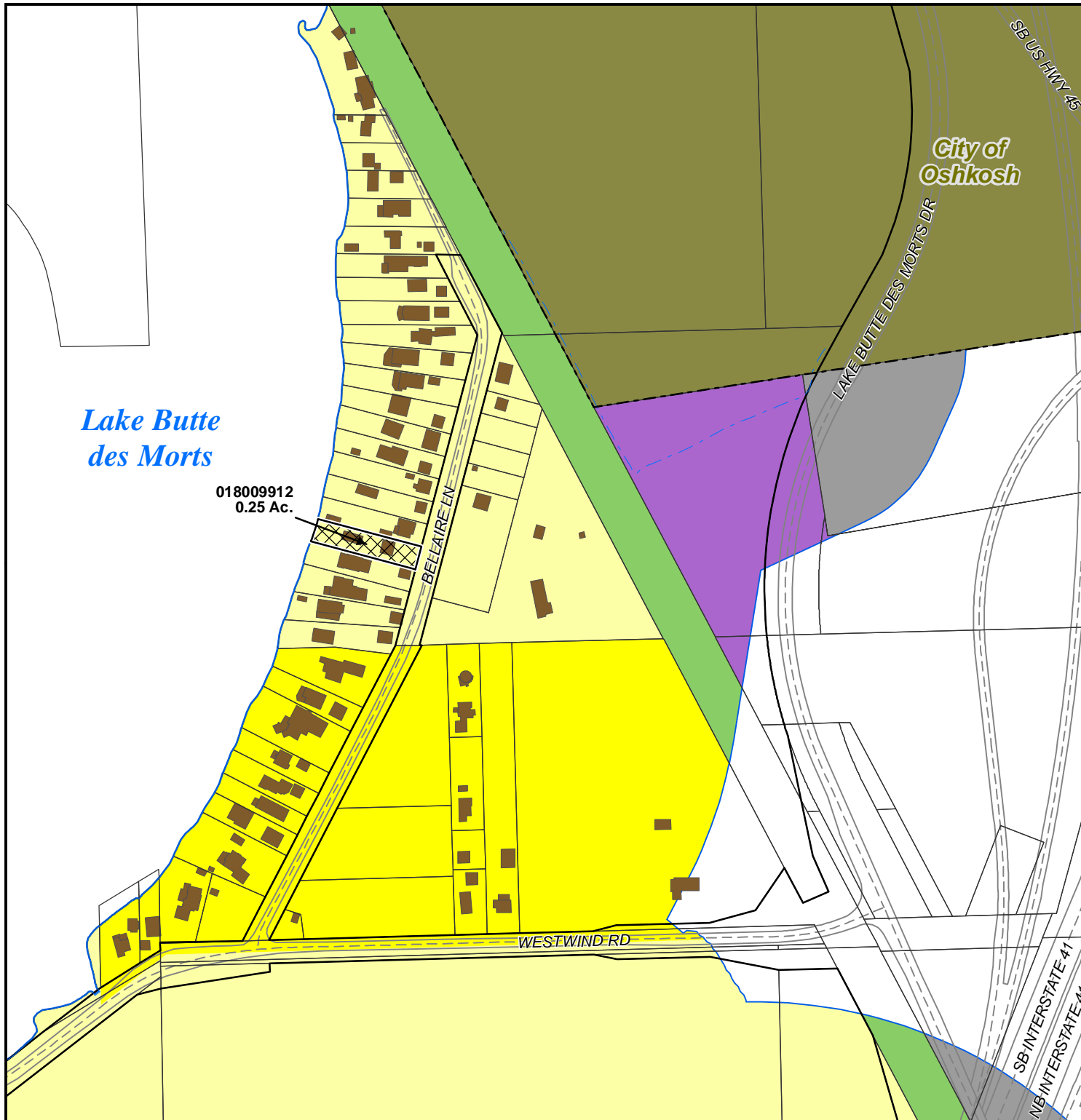
Martenson & Eisele, Inc.



101 West Main Street
Omro, WI 54963
www.martenson-eisele.com
P 920.685.6240 F 920.685.6340

Planning
Environmental
Surveying
Engineering
Architecture

PROJECT NO. 0-2726-001
FILE 2726001SITEPLAN.DWG
THIS INSTRUMENT WAS DRAFTED BY: DSL



Application #22-VA-6190

Date of Hearing:

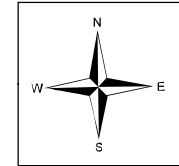
October 25, 2022

Owner(s):

**GIACOMINI JT REV TST,
DEAN A AND JODENE L**

Subject Parcel(s):

018009912



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

Application #22-VA-6190

Date of Hearing:

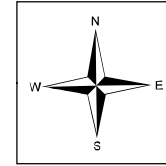
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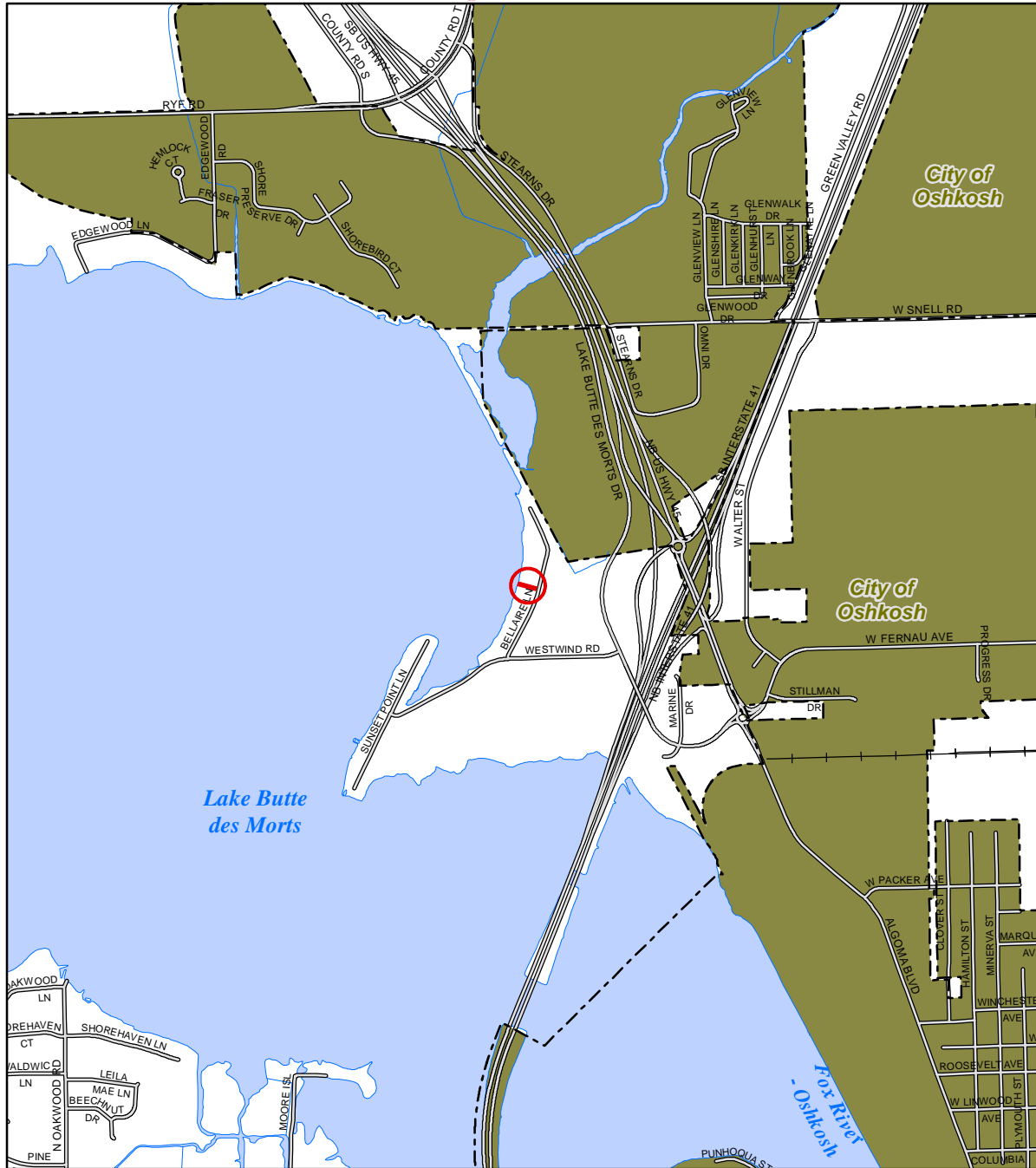
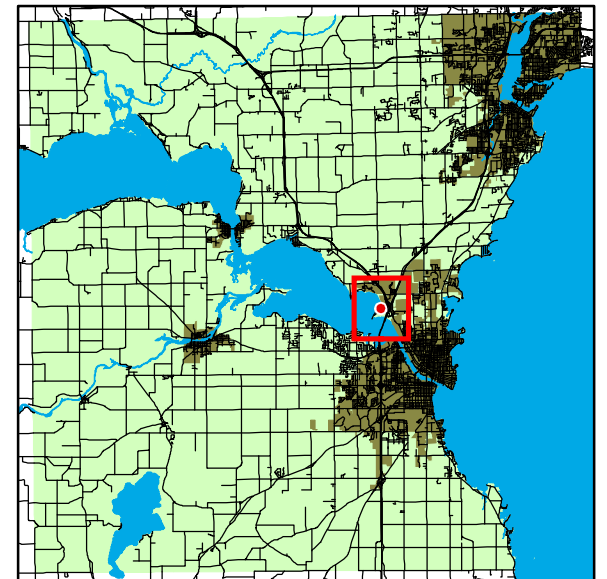
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Winnebago County
WINGS Project

● = SITE



1 inch : 2,000 feet

WINNEBAGO COUNTY