

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 8/27/2019

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 8/27/2019 at 5:30 p.m. 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 are invited to be present. 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

Applicant:
CLARKS BAY CORP

Agent:
SARINGER, DON

File Number:
2019-VA-5040

Location of Premises:
6559 CLARK RD
LARSEN, WI 54947

Tax Parcel No.:
028-086301

Legal Description:
Being a part of the S 1/2 of the NE 1/4 and S 1/2 of the NW 1/4, and also part of Government Lots 1 and 2, all in Section 32, Township 20 North, Range 15 East, Town of Winchester, Winnebago County, Wisconsin.

Description of Proposed Project:
Applicant is requesting a 31 foot setback from the ordinary-high water mark of a navigable body of water, where a 75 foot setback is required.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
Applicant is requesting a shore yard setback variance in the A-2 (General Agriculture) Zoning District.	Chapter 27 6.1, Shoreland Setbacks.	75 feet	31 feet

INITIAL STAFF REPORT

Sanitation:

Existing System
Private System

Overlays:

Floodplain
Shoreland
Wetlands

Current or Proposed Zoning:

A-2 General Agriculture

Code Reference:

Chapter 27 6.1, Shoreland Setbacks.

Description of Proposed Use:

Applicant is requesting a 31 foot setback from the ordinary-high water mark of a navigable body of water, where a 75 foot setback is required.

Surrounding Zoning:

North: A-2
South: Lake Winneconne
East: A-2
West: A-2

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

The proposed involves placing a new deck onto our non-conforming structure that was rebuilt to all codes and provisions applying to non-conforming structures. The WI legislature passed legislation to allow such projects to non-conforming structures seeing how there are many "special circumstances" that apply to structures like ours. However, the legislature did not convene or address the laws to allow expansion of accessory structures in Wisconsin Statute 59.692 leaving variance applications open for debate by property owners and the Winnebago Board of Adjustment. Substantial time, effort and investment occurred bringing the primary non-conforming structure into non-conforming regulation compliance. We now want to continue with those investments and place a 16' x 20' deck to this structure so the already approved investment and patio door can be utilized as intended. The non-conforming dwelling located at 6583 is set back 47' from the shoreline. The proposed deck we are applying for a variance would be set back 31' from the shoreline.

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

None

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

This shoreline location is unique to Winnebago County and we understand the statues intended purpose. However, not having the ability to add a deck to the legally permitted rebuilt non-conforming structure creates unnecessary hardship to us by not allowing use of the patio door that was ok'd by the county when rebuilding the structure. This patio door was a substantial investment along with the engineered wall that the designed to handle this patio door. The hardship also involves safety with entering and leaving the building. The unique physical property limitations creates hardship to owners seeing how ALL the buildings on this shoreline were built prior to having any regulation. The entire shoreline on Clark Rd consists of non-conforming dwellings. These dwellings were built in the 1950's and 60's when regulations

didn't exist or were lax at best. All of the cottages on this shoreline don't meet existing shoreline regulation and the current regulations are impossible to meet given the unique setting. This area is in the flood plain and there can be NO more new building in this area unless building are brought into compliancy. Doing so is impossible due to the buildings location and how close the cottages are to each other and the lake itself. Cottage owners can invest in their non-conforming dwellings according to Winnebago County regulations. We as the owners of 6583 did so in 2017/18 according to Winnebago County regulation.

Describe how the granting of the requested variance will not harm the public interest or have adverse effects on surrounding properties:

If the board would review the included presentation you will see how the requested variance will not harm public interest or have adverse effects on the surrounding properties. I've included photos for your review of the decks on neighboring cottages and included the setbacks of both the neighboring decks and cottages. I also included photos from the lake for your review in hopes you would agree the existing decks and my proposed deck will not harm public interests, degrade the shoreline or effect wildlife. Many of these decks were built in the last 8 years. Specifically the deck and COMPLETE building at 6591 Clark Rd (2 cottages to the West of proposed deck) was built without permits. Winnebago County got involved with these properties in 2012 and the owner of 6591 had to apply for a variance for the entire building/deck which was granted. With that, I can't fathom how granting a 16' x 20' deck would harm public interest seeing how it will be further back than the building and deck at 6591 which was granted a variance. The deck being applied for also would have no adverse effects on the surrounding properties and has no impact on their buildings or view and my neighbors are ok with me building the proposed deck.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

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

27.6 -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.

Proposed Saringer deck at 6583 Clark Road

Proposed location for 16x20 deck: NOTE tall wood stakes are front of deck

- Proposed deck will not be past neighboring cottages or closer to lake than any of the 3 neighboring cottages.



View of immediate neighboring cottages at 6587, 6591 and 6597 Clark Road: ALL cottages and decks are closer to shoreline and don't meet shoreline zoning regulations.



Cottage and proposed deck location at 6583 Clark Road



- South side (lake side) of cottage is 47' off the shoreline.
- The proposed 16'x20' front of deck is 31' off the shoreline.
- The proposed front of deck is not in front of any of the cottages or their decks included in this proposal.
- Not allowing the deck creates hardship to the owners by not allowing full use of the approved/permitted patio door.
- This also creates a safety concern when entering and exiting the dwelling. Especially in case of fire.

Cottage and proposed deck location at 6583 Clark Road



- 3 properties with decks that are all closer to the water than the location applying for the variance.
- These decks do not comply with shoreline zoning and do not harm or impact public interest.
- Would this not help justify the variance request by owners at 6583 Clark Road?
- Due to physical property limitations where these properties are located these building and specifically decks can only be built according to what is seen here.

Cottage and deck location of shoreline at 6587 Clark Road



- South side (lake side) of cottage is 35' off shoreline
- Front of deck is 23' off shoreline

Cottage and deck location off shoreline at 6591 Clark Road



- South side (lake side) of cottage is 38' off shoreline
- Front of deck is 26' off shore line
- This entire structure and deck were built without any permits and did not comply with any non-conforming dwelling regulations. When brought to Winnebago county's attention the County and Board of Adjustment DID grant a variance.
- If Winnebago County and the Board of Adjustment are to be consistent and not discriminatory with their rulings a variance for 6583 Clark Rd should be granted based on the same hardships that applied to 6591's location.

Cottage and deck location off shoreline at 6597 Clark Road

- South side (lake side) of cottage is 42' off the shoreline
- Front of deck is 26' off shoreline

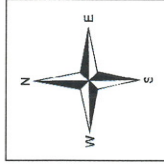


Application #19-VA-5040

Date of Hearing:
August 27, 2019

Owner(s):
Clarks Bay Corp

Subject Parcel(s):
028086301



Winnebago County
WINGS Project

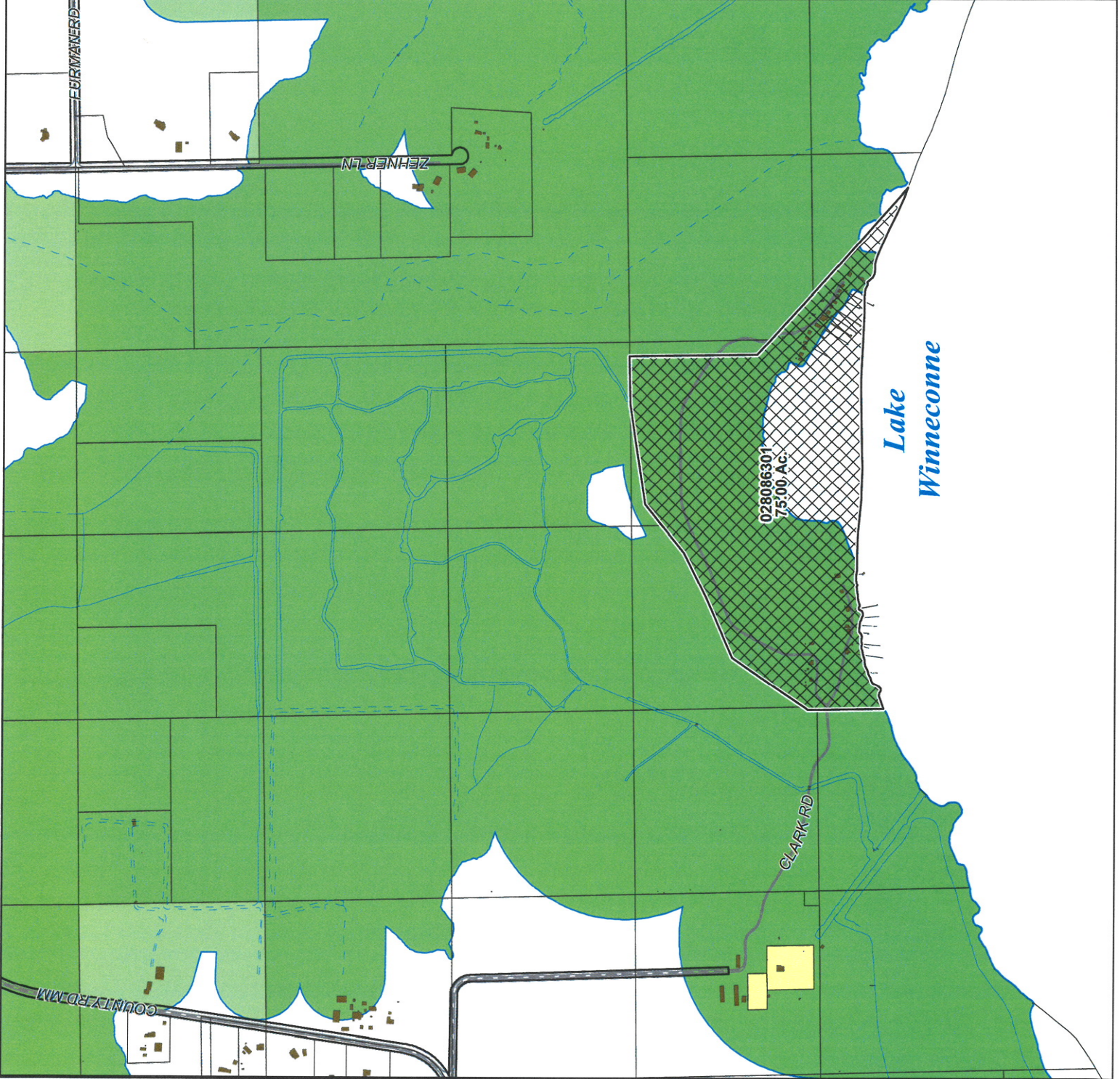
Scale
1 inch : 1,000 feet

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



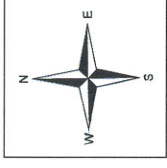
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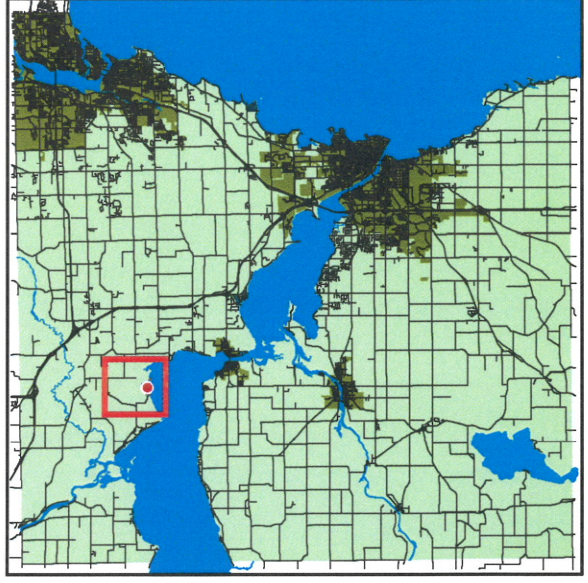
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*Winnebago County
WINGS Project*

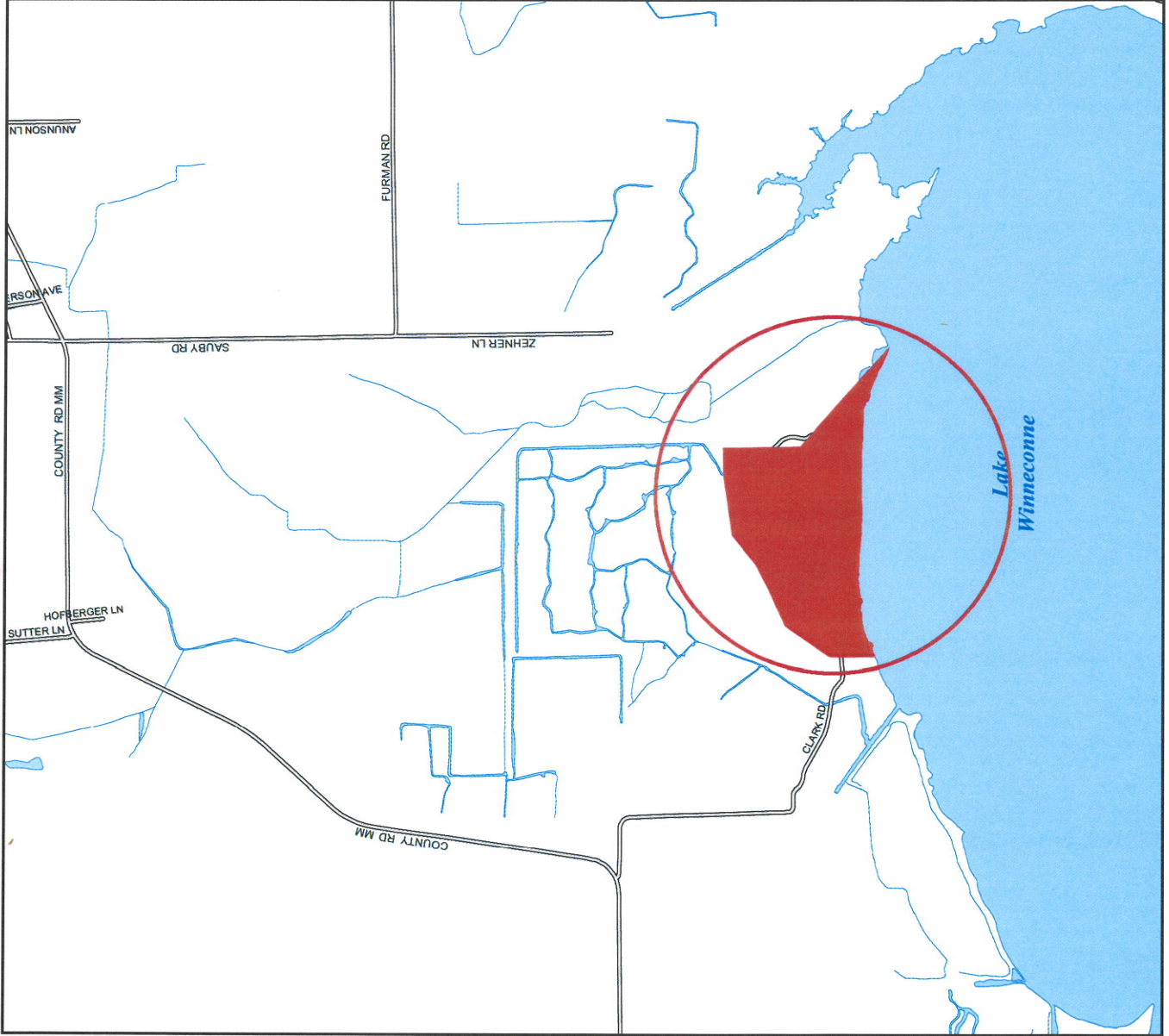


● = SITE



WINNEBAGO COUNTY

○ = SITE



1 inch : 2,000 feet