

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 7/30/2019

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 7/30/2019 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:

KOWALSKE REV TST, KRISTIN A
KOWALSKE REV TST, MICHAEL A

Agent:

BORCHARDT, TIMOTHY R

File Number:

2019-VA-4870

Location of Premises:

2717 EDGEWOOD LN
OSHKOSH, WI 54904

Tax Parcel No.:

018-2572

Legal Description:

Being a part of Hickory Shores Replat, Lots 22 and 23, located in the SW 1/4 of the SW 1/4, Section 33, Township 19 North, Range 16 East, Town of Oshkosh, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a reduced street yard setback for an accessory structure within the R-2 Residential zoning District

| DESCRIPTION: | CODE REFERENCE: | REQUIRED: | PROPOSED: |
|---|---|-----------|-----------|
| Applicant is requesting a 15' setback to the front street yard property line where 30' is required. | Chapter 23 Article 8, Exhibit 8-2 R-2 Suburban Residential District (subdivided) of the Winnebago County Zoning Ordinance | 30 | 15 |

INITIAL STAFF REPORT

Sanitation:

Existing System
Municipal System

Overlays:

Floodplain
Shoreland

Current or Proposed Zoning:

R-2 Suburban Low Density Residential

Code Reference:

Chapter 23 Article 8, Exhibit 8-2 R-2 Suburban Residential District (subdivided) of the Winnebago County Zoning Ordinance

Description of Proposed Use:

Applicant is requesting a reduced street yard setback for an accessory structure within the R-2 Residential zoning District

Surrounding Zoning:

North: R-1

South: Lake Butte des Morts

East: R-2

West: R-2

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

20 X 24 detached two-car garage. Will meet 3 feet from side lot lines, 10 feet from house guideline, and meet allowed impervious surfaces. Asking for 15 foot setback from road right of way.

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

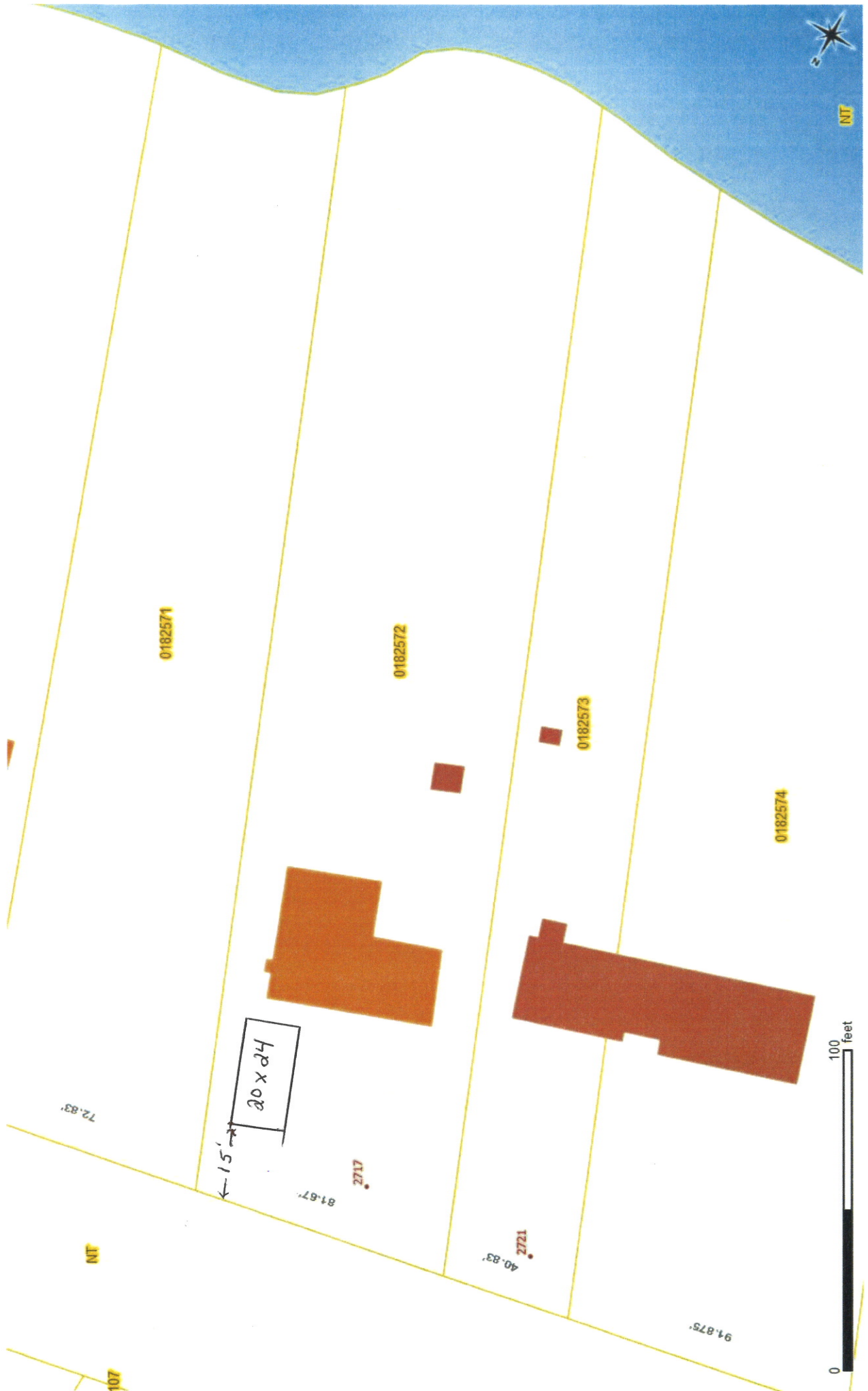
Allowed garage with two detached structures. Cannot put garage in backyard or on the side. House is far away from water which decreases street yard. Would build over and/or restrict access to well.

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

Lot width doesn't allow expansion on sides or current garage. Well would be built over and/or restrict access to well. Garage would be less than 10 feet from house if compliance is met.

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

Meet all setbacks. Exterior of garage will match house.



Application #19-VA-4870

Date of Hearing:

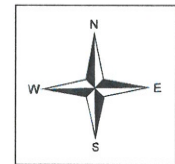
July 30, 2019

Owner(s):

Michael A Kowalske &
Kristin A Kowalske Rev. Trust

Subject Parcel(s):

0182572



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

Lake Butte
des Morts

EDGEWOOD LN

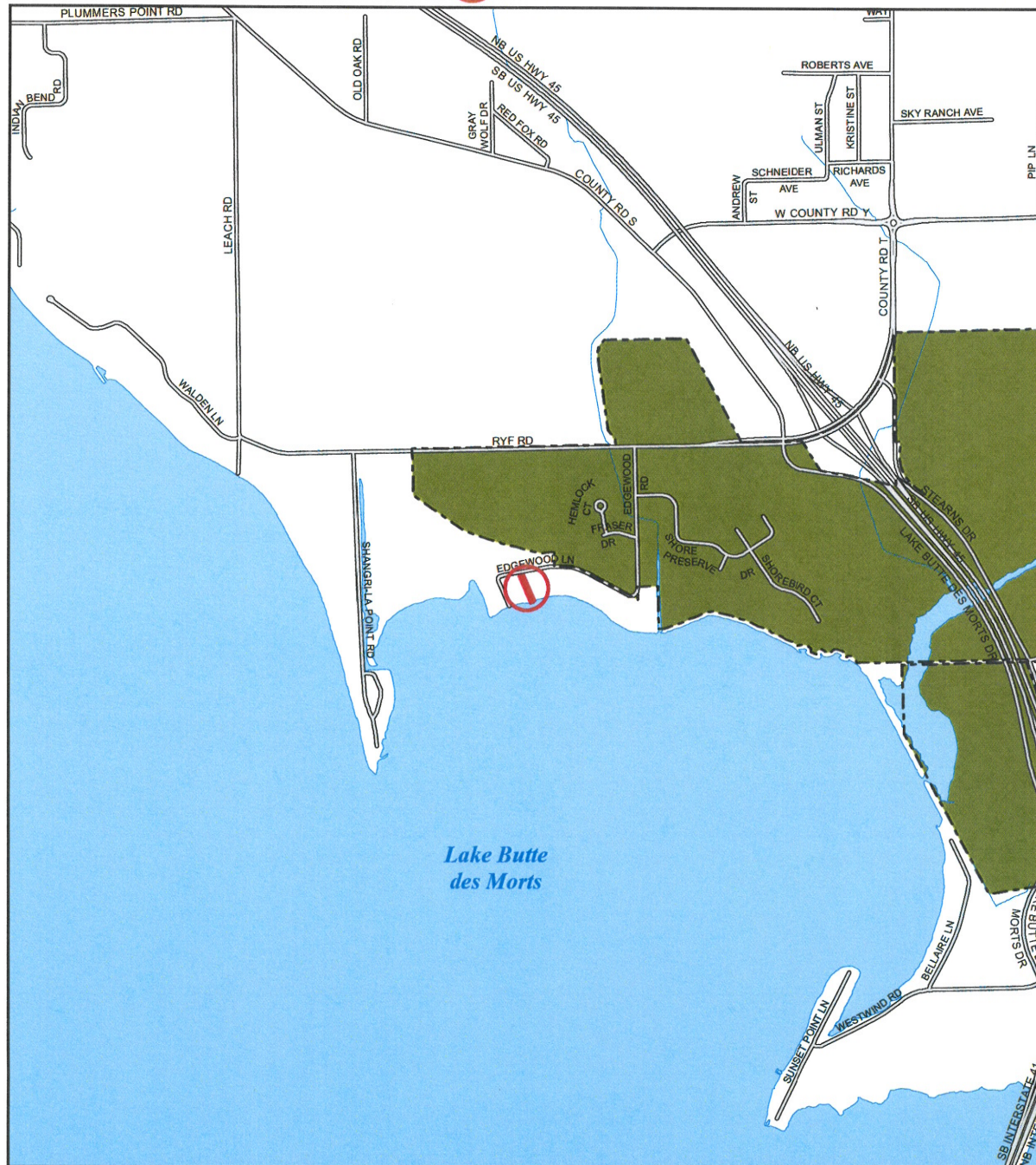
FRASER DR

EDGEWOOD RD

HEMLOCK CT

0182572
0.67AC

○ = SITE



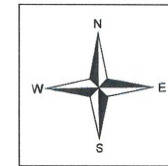
1 inch : 2,000 feet

Application #19-VA-4870

Date of Hearing:
July 30, 2019

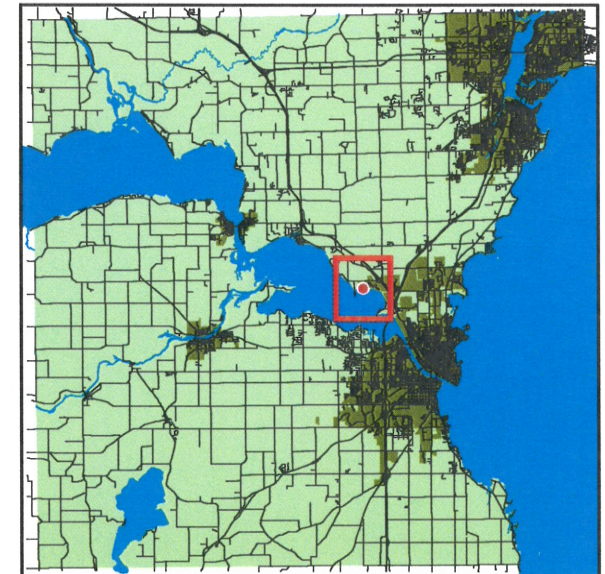
Owner(s):
Michael A Kowalske & Kristin A Kowalske
Revocable Trust

Subject Parcel(s):
0182572



Winnebago County
WINGS Project

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

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INFORMATION ON VARIANCE REQUEST

Applicant:

JUEDES TST, WALTER J
LAST TST, SUSANNA K

Agent:

YATES, WILLIAM S

File Number:

2019-VA-4900

Location of Premises:

4606 ISLAND VIEW DR
OSHKOSH, WI 54901

Tax Parcel No.:

018-2228
018-2227

Legal Description:

Being a part of the plat of Fairview Beach, Lots 24 and 25, located in Government Lot 2, Section 30, Township 19 North, Range 17 East, Town of Oshkosh, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a variance for a reduced setback to navigable water and reduction in the amount of fill to floodproof a new home proposed for construction within the 100 year floodplain.

| DESCRIPTION: | CODE REFERENCE: | REQUIRED: | PROPOSED: |
|--|--|------------|-----------|
| Applicant is seeking a 35' setback to a navigable waterway where 75' is required (to the navigable ditch south of the proposed house) Applicant is also seeking 7' of fill for floodproofing on the north side of a new home construction proposal where 15' is required. (Along with a small retaining wall) | Chapter 27, Article 6.1 of the Shoreland Zoning Code Chapter 26, Section 26 5-23(b) | 75' 15' | 35' 7' |

INITIAL STAFF REPORT

Sanitation:

Existing System
Private System

Overlays:

Floodplain
Shoreland

Current or Proposed Zoning:

R-1 Rural Residential

Code Reference:

Chapter 27, Article 6.1 of the Shoreland Zoning Code
Chapter 26, Section 26.5-23(b)

Description of Proposed Use:

Applicant is requesting a variance for a reduced setback to navigable water and reduction in the amount of fill to floodproof a new home proposed for construction within the 100 year floodplain.

Surrounding Zoning:

North: R-2

South: R-2

East: Lake Winnebago

West: City of Oshkosh

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

To sell lot for a residential single family house. Setback of 75' from the lake, 30' setback from the road, 15' side setback from southern lot line, and 15' setback from the northern lot line for building site. I also need a variance for retaining wall on north and southern borders. The proposed building drawings are attached. Please see attached proposed home footprint.

To sell lots for residential, single family house. The minimum required 15 feet Flood Plane fill cannot be maintained for proposed structure. Infringement will only take place on the north side of the lot.

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

There is a small man-made swale to south that is now a navigable stream. That was the original location of a house that was torn down by the county for use as a drainage swale. Without a variance, the property will have little or no value and the property owner will not be able to sell it. If the current setback of 75 feet is in place, no buyer will be able to build a suitable residence.

Compliance with requirements will impede on size and design of proposed home on north side. All other flood plane requirements will be maintained on the remaining three sides.

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

DNR had determined Lot 23 is now navigable stream, and FEMA has determined that Lots 24 and 25 are in flood plane. The current setback would leave no area to build a residence.

Due to an additional navigable waterway setback variance, the proposed home is placed northward on the lots which creates the flood plane infringement.

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

This is the only lot that is buildable left on the beach. All other properties have been developed. This was a private lot for over 75 years and in our family for 50 years. It is not close to any neighbors, and the town owns the lot to the south with the ditch on it. In, 1934, it was platted, and we have owned it since 1967. The proposed residence will be similar in style and setback locations to other properties to the north and south of it, and it will not look out of place pursuant to the attached drawings.

Granting of the Flood plane fill variance will not impede on adjoining properties. Proper drainage practices will be adhered to as to not infringe additional drainage from proposed house or land onto adjoining private, public or county properties. Ref. Ch. 26 S. 23(1) Provided

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.

campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;

- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

26.5-15 to 26.5-20 Reserved

DIVISION 3 FLOODFRINGE DISTRICT

Sections

| | |
|---------------------------|----------------------------------|
| 26.5-21 Applicability | 26.5-23 Development standards |
| 26.5-22 Permitted uses | 26.5-24 Solid waste disposal |

26.5-21 Applicability

This division applies to all floodfringe areas shown on the floodplain zoning maps and those delineated pursuant to s. 26.5-34.

26.5-22 Permitted uses

Any structure, land use, or development is allowed in the floodfringe district if (1) the standards in s. 26.5-23 are met, (2) the use is not prohibited by this or any other ordinance or regulation, and (3) all permits or certificates specified in ss. 26.6-8 and 26.6-9 have been issued.

26.5-23 Development standards

(a) **General standards.** Development shall not cause an obstruction or raise the flood elevations upstream or downstream as more fully described in s. 26.5-1.

(b) **Residential structures.** Any habitable structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards:

- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements in subsection (b)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is flood proofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
- (3) Contiguous dryland access shall be provided from the structure to land outside of the floodplain, except that in developments where existing street or sewer line elevations

Revised Site Plan Received
6-5-19



SITE PLAN

1" = 30'

HOUSE ELEV 1ST FL
751.86

FDTN FLOOR ELEV
749.86

LOT 244 25
4606 ISLAND VIEW
IMPERVIOUS SURFACE
HOUSE GAR PATIOS
DRIVEWAY & 0. HANDED
7474 SF 30%

TAX PARCEL

018-2228-018-2227

ISLAND VIEW ROAD

DRAWN BY EIGGAR BY DESK
4-24-19 Mark

A hand-drawn site plan of a property. The plan shows a large rectangular lot with a total width of 240' 0" and a total depth of 100' 0". The property is divided into several areas: a "PATIO" at the top, a "HOUSE" in the center, a "PORCH" below the house, and a "GAR" (garage) at the bottom left. A "STREET" is located to the right of the property. Dimensions are marked along the boundaries: 7' on the left, 15' on the top right, 240' 0" on the right, 35' on the bottom right, 65' on the bottom right, and 12' on the bottom right. A north arrow is located in the upper left corner of the lot.

SITE PLAN
1" = 30'

HOUSE ELEV 15' FL
751.86

FD TN FLOOR ELEV
749.86

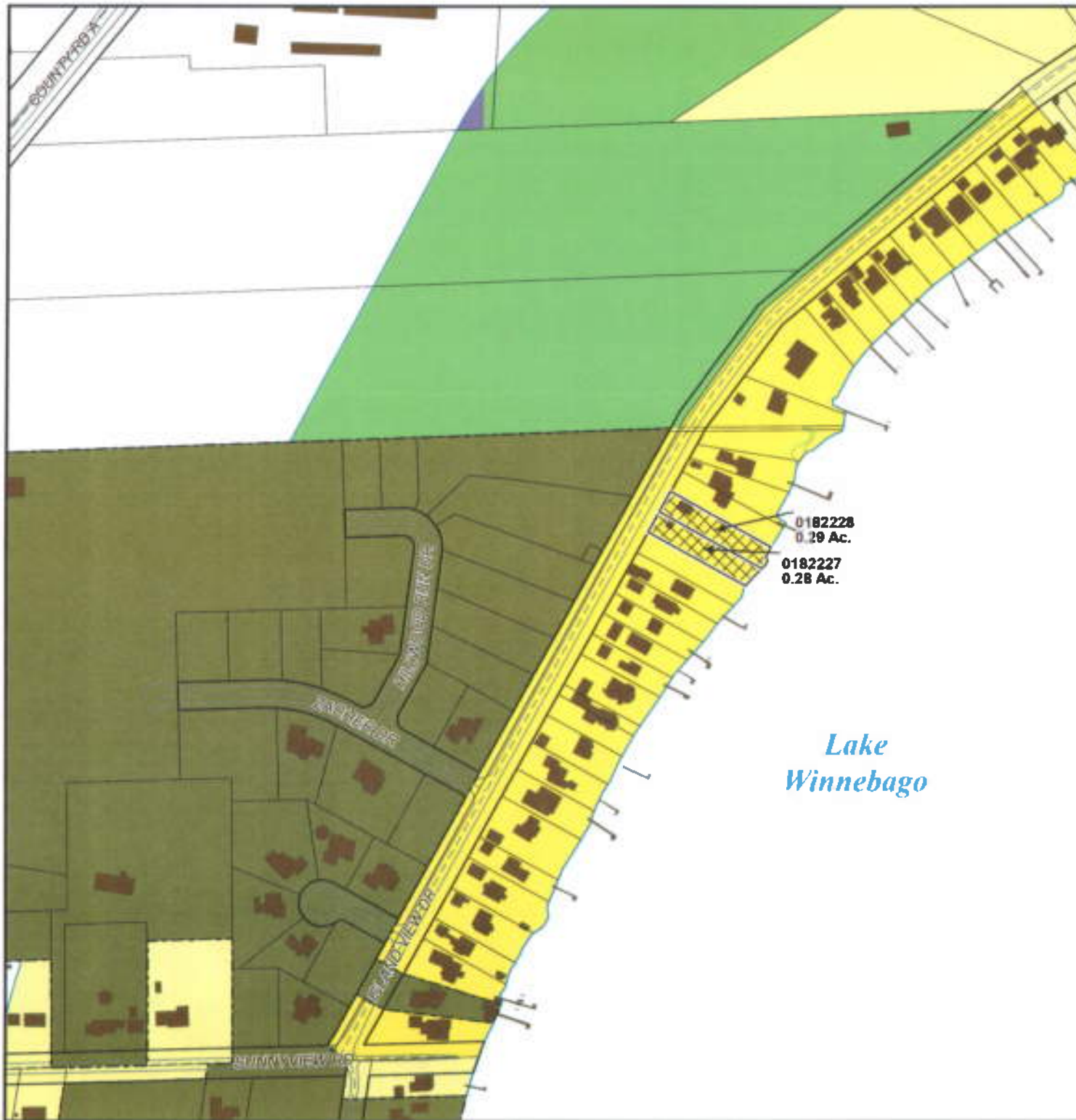
LOT# 24 & 25
4606 ISLAND VIEW
IMPERVIOUS SURFACE
HOUSE GAR PATIOS
DRIVEWAY & CHANGES
7177 SF 30%

TAX PARCEL

018-2228. 018-2227

ISLAND VIEW ROAD

DRAWN BY BIGGAR BY DESIGN
4-24-19 Mark [Signature]



Application #19-VA-4900

Date of Hearing:
July 30, 2019

Owner(s):
Walter J Juedes Trust /
Susanna K Last Trust

Subject Parcel(s):
0182227 & 0182228



Winnebago County
WINGS Project

Scale
1 inch : 300 feet

County Zoning Districts

| | | |
|-----|-----|-------------|
| R-1 | | |
| R-2 | | |
| R-3 | | |
| | I-1 | M-1 |
| | | Town Zoning |

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE

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WINNEBAGO COUNTY