

# Winnebago County Planning and Zoning Department

## NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 12/21/2016

### 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 12/21/2016 at 5:00 p.m. in Conference Room 408 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:**

MCNULTY, TED

**Agent:**

None

**File Number:**

2016-VA-3930

**Location of Premises:**

5674 W REIGHMOOR RD  
OMRO, WI 54963

**Tax Parcel No.:**

016-0944

**Legal Description:**

Being a part of the Plat of Reighmoor, Lots 83 and 84, located in the SW 1/4 of the SW 1/4, Section 2, Township 18 North, Range 15 East, Town of Omro, Winnebago County, Wisconsin.

**Description of Proposed Project:**

Applicant is requesting a variance to be allowed to construct an addition with substandard floodplain fill. The applicant is also requesting a variance to make an existing home compliant with floodplain fill standards.

<b>DESCRIPTION:</b>	<b>CODE REFERENCE:</b>	<b>REQUIRED:</b>	<b>PROPOSED:</b>
A variance is necessary to construct the proposed addition in the floodplain and to make the existing structure compliant with floodplain construction standards.	Section 26.5-23(b)(1) of the Floodplain Zoning Code.	15'	4'

## INITIAL STAFF REPORT

**Sanitation:**

Existing System  
Private System

**Overlays:**

Floodplain  
Shoreland

**Current or Proposed Zoning:**

R-2 Suburban Low Density Residential

**Code Reference:**

Section 26.5-23(b)(1) of the Floodplain Zoning Code.

**Description of Proposed Use:**

Applicant is requesting a variance to be allowed to construct an addition with substandard floodplain fill. The applicant is also requesting a variance to make an existing home compliant with floodplain fill standards.

**Surrounding Zoning:**

North: Lake  
South: R-1  
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:**

Remove 10 foot x 17 foot area on north side of existing home and build 20 foot x 28.67 foot addition on north side of home. Flood plain fill extending ft from the addition and existing on the East & NE sides. This will allow the existing home to be brought into compliance with flood plain regulations.

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

The 15 feet of fill for flood protection on the east and north east side of the addition would prevent access to the existing garage and would restrict the use of existing driveway. Without approved variance existing home would be non-conforming and would limit opportunity of improvements.

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

The location of the existing buildings limits the amount of fill that can be placed on the East and NE side of the proposed addition.

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

A proposed retaining wall built as shown of the attached size plan will keep fill and drainage from impacting property to the east and west.

## 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

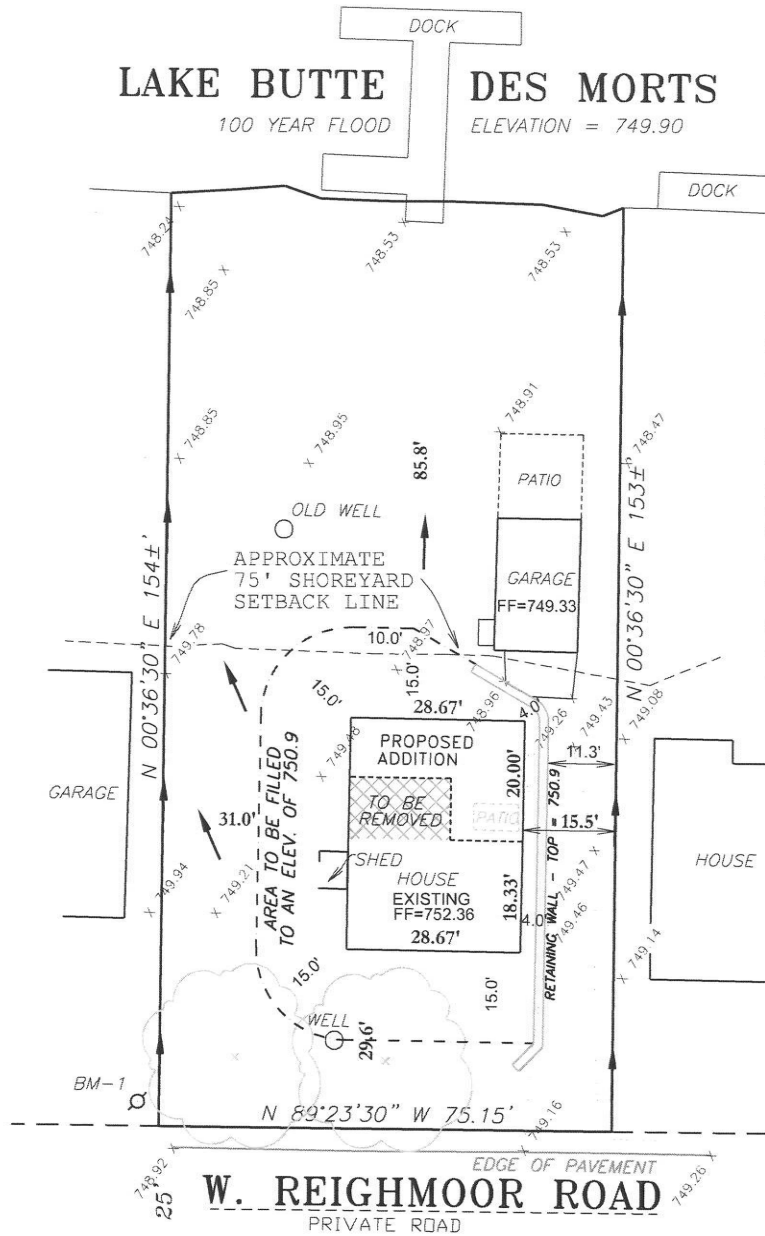
#### 27.6 -8 Variances

(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.

# SITE PLAN

LOT 83 AND THE EAST 1/2 OF LOT 84, IN THE PLAT OF "REIGHMOOR", BEING PART OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 15 EAST, TOWN OF OMRO, WINNEBAGO COUNTY, WISCONSIN.

PREPARED FOR:  
TED A. MCNULTY  
1149 ALGOMA BLVD.  
OSHKOSH, WI 54901



BENCHMARK  
BM-1  
SPIKE IN POWERPOLE  
ELEVATION = 752.02

TAX PARCEL 0160944  
DOCUMENT 1723922  
AREA = 11,565 SQ.FT.±

NOTES:  
FOR PROPOSED ADDITION  
TOP OF CRAWLSPACE 750.0+  
TOP OF FIRST FLOOR 751.9+

CONSTRUCT A RETAINING WALL ALONG THE EAST SIDE OF THE RESIDENCE. MAINTAIN AT LEAST 4 FEET BETWEEN THE EDGE OF THE RETAINING WALL AND THE EAST SIDE OF THE RESIDENCE. RETAINING WALL TO END BEFORE THE SHOREYARD SETBACK LINE

CONTACT WINNEBAGO COUNTY ZONING DEPARTMENT FOR THE EXACT SHOREYARD SETBACK LOCATION

MAINTAIN 10' VEGETATED BUFFER ON LOT LINES OR INSTALL SILT FENCE.

ALL DISTURBED AREAS SHALL BE TOPSOILED, SEEDED AND MULCHED AT THE COMPLETION OF CONSTRUCTION.

## LEGEND

- x 749.0 EXISTING SPOT ELEVATION
- DIRECTION OF PROPOSED DRAINAGE

## 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. 0-2111-001  
FILE 2111001SITEPLAN.DWG

THIS INSTRUMENT WAS DRAFTED BY: DSL

## Floodplain Fill Variance – Additional Information Required

An additional sheet must be filed for each side of the structure where the floodplain fill requirement will not be met.

Retaining wall X OR Sloped to property line \_\_\_\_\_

**Sloped to property line** – Benchmark must be established by a Registered Land Surveyor

Surveyor MFE

Date (BM Established) 10.25.16

BM Elevation 752.02

BM Description SPIKE IN POWER POLE @ SW CORNER OF PROPERTY

A. Regional Floodplain elevation 749.9

B. Required Elevation of fill (A + 1 ft) 751.0

Side (Circle one)    N    S    E    W

C. Lowest ground elevation along property line, in affected area 749.0

D. Depth of Fill required (B - C) \_\_\_\_\_

E. Length of horizontal slope using 3:1 slope (D x 3) \_\_\_\_\_

F. Width of Swale (if proposed) \_\_\_\_\_

G. Side yard setback proposed for structure \_\_\_\_\_

H. Total horizontal fill proposed (G - E - F) \_\_\_\_\_

### Retaining Wall

Side (Circle one)    N    S    E    W

Total fill proposed (from foundation to outer edge of retaining wall) 4 ft

Will the retaining wall(s) meet the 75' required setback from the Ordinary High Water Mark?

YES X NO \_\_\_\_\_

If no, variance requested for retaining wall? \_\_\_\_\_ ft

### List any measures proposed to prevent run-off onto neighboring properties:

X Swale    \_\_\_\_\_ Drain Tile    X Downspouts to lake/ditch

X Other: EXISTING DRAINAGE PATTERN ALONG LOT LINES IS PRESENTLY GOOD.



**Application #16-VA-3930**

Date of Hearing:

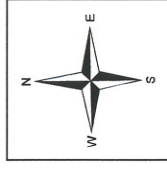
December 21, 2016

Owner(s):

McNulty, Ted A.

Subject Parcel(s):

0160944



Winnebago County  
WINGS Project

**Scale**

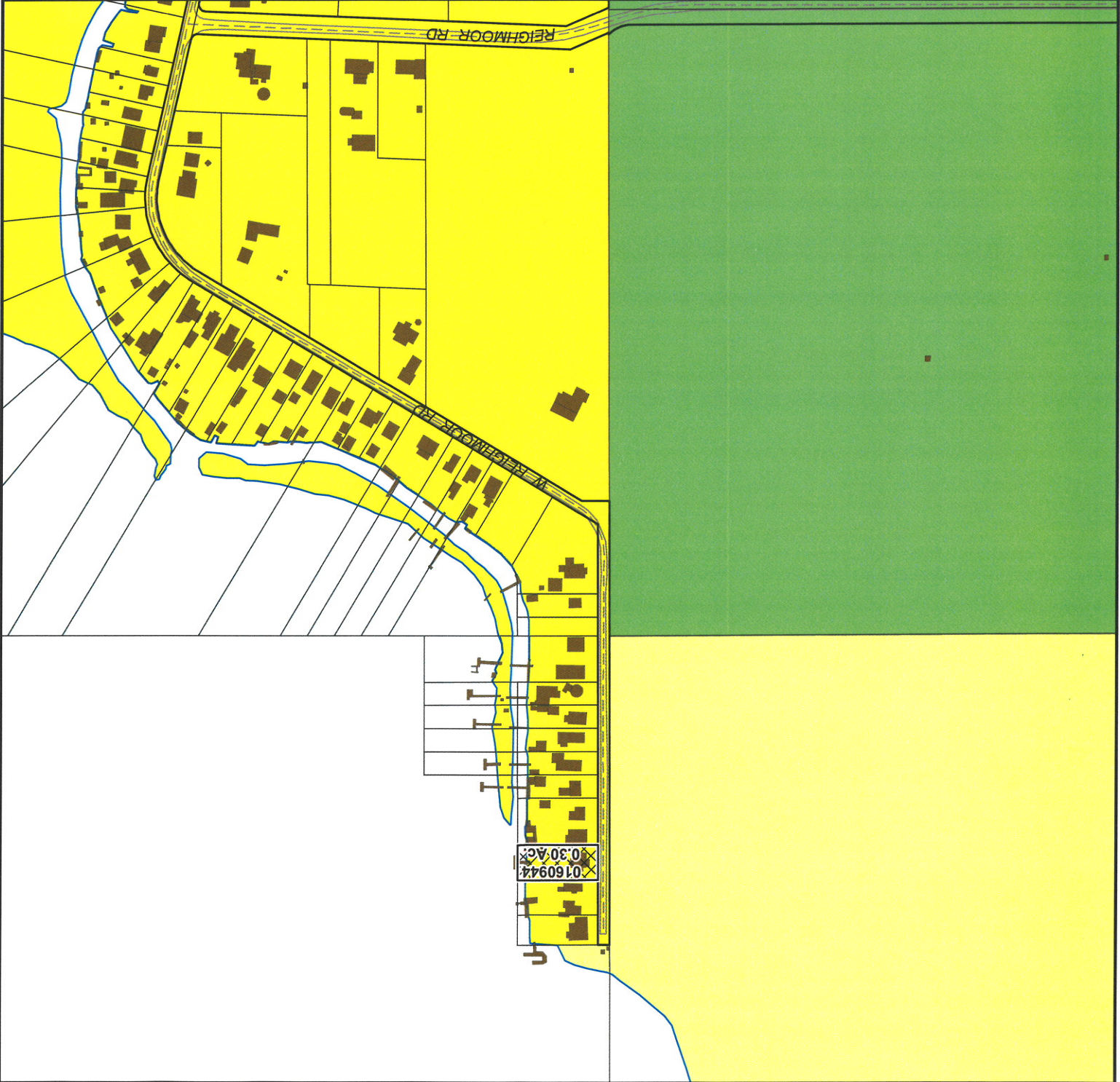
1 inch : 300 feet

**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





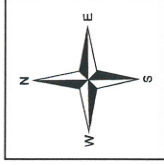
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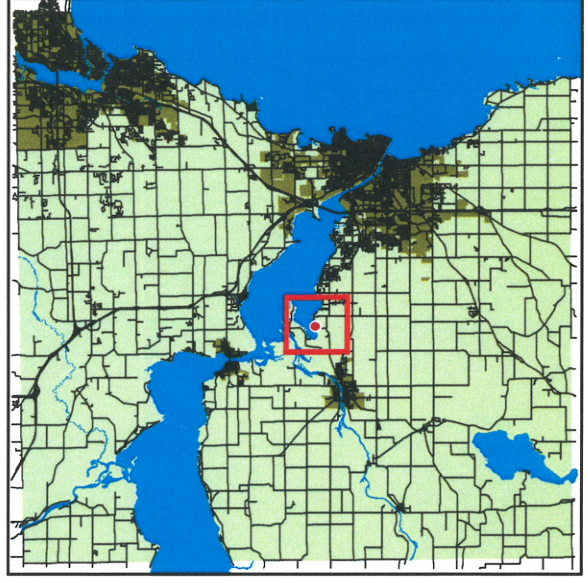
Owner(s):  
**McNulty, Ted A.**

Subject Parcel(s):  
**0160944**

*Winnabago County  
WINGS Project*



**● = SITE**



WINNEBAGO COUNTY

**○ = SITE**



1 inch : 2,000 feet