

# Winnebago County Planning and Zoning Department

## NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 2/27/2018

### 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 2/27/2018 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:**

1497 COUNTY ROAD O LLC

**Agent:**

DAVEL, JOHN - DAVEL ENGEERING & ENVIRONMENTAL INC

**File Number:**

2018-VA-4430

**Location of Premises:**

1517 COUNTY RD O  
NEENAH, WI 54956

**Tax Parcel No.:**

010-021101

**Legal Description:**

Being a part of the S 1/2 of the NW 1/4, Section 20, Township 20 North, Range 17 East, Town of Neenah, Winnebago County, Wisconsin.

**Description of Proposed Project:**

Applicant is requesting a reduced shoreyard setback from navigable waterway for asphalt structures and buildings.

<b>DESCRIPTION:</b>	<b>CODE REFERENCE:</b>	<b>REQUIRED:</b>	<b>PROPOSED:</b>
A 75' setback is required between the ordinary high water mark and structures.	Chapter 27: Sghoreland Zoning Code 6.1 Shoreland Setbacks.	75 feet	The proposal would encroach up to approximately 25 feet to the navigable stream.

## INITIAL STAFF REPORT

**Sanitation:**

System Required  
Private System

**Overlays:**

Surface Water Drainage District  
Wetlands

**Current or Proposed Zoning:**

I-1 Light Industrial

**Code Reference:**

Chapter 27: Shoreline Zoning Code 6.1 Shoreland Setbacks.

**Description of Proposed Use:**

Applicant is requesting a reduced shoreyard setback from navigable waterway for asphalt structures and buildings.

**Surrounding Zoning:**

**North:** I-1  
**South:** I-1  
**East:** I-1  
**West:** I-1

### THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

**Describe your project, include the proposed dimensions and setbacks:**

The proposal is to allow pavements on the south side of the proposed building to be within the 75' shoreland setback. The encroachment of the pavement into the shoreland setback would be up to 25 feet. There is also a wetland setback of 50', which is not encroached upon by this plan.

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

The Wisconsin Department of Transportation relocated the stream as a part of its wetland restoration project in 2016 on the property to the south. Normally, the stream navigability would go with the relocation. In this case, the Wisconsin Department of Natural Resources is not ready to declare the old stream location as not navigable at this time, but agree that it is likely over time that the new stream course will become more established and the old stream bed will lose its characteristics. The proposed building will be permanent and could not be later moved when the inevitable occurs.

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

The user of the building to the north is desiring to expand their facility. There is a need and desire for a campus like facility incorporating multiple buildings and product lines on one site. There is a need for this building to be built now to suit this need, who needs to have the ability for large vehicles to flow through the building (assemble line) which requires the drive width on the south side of the building to be what is proposed. The building has been shifted north as far as is possible. If the variance is not granted, the user will not be able to locate their facility in this location, which may then forced them to look for another entire site for their entire operation.

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

Because of the Wisconsin Department of Transportation's wetland restoration project, the physical location of the stream has already changed. The storm water drainage from the site is captured within the property and flows to storm water ponds and not this reach of the stream, nor the wetlands to the south. As previously mentioned the wetland setback is not proposed to be encroached upon, therefore there are no conceivable adverse impacts on surrounding lands.

## 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.

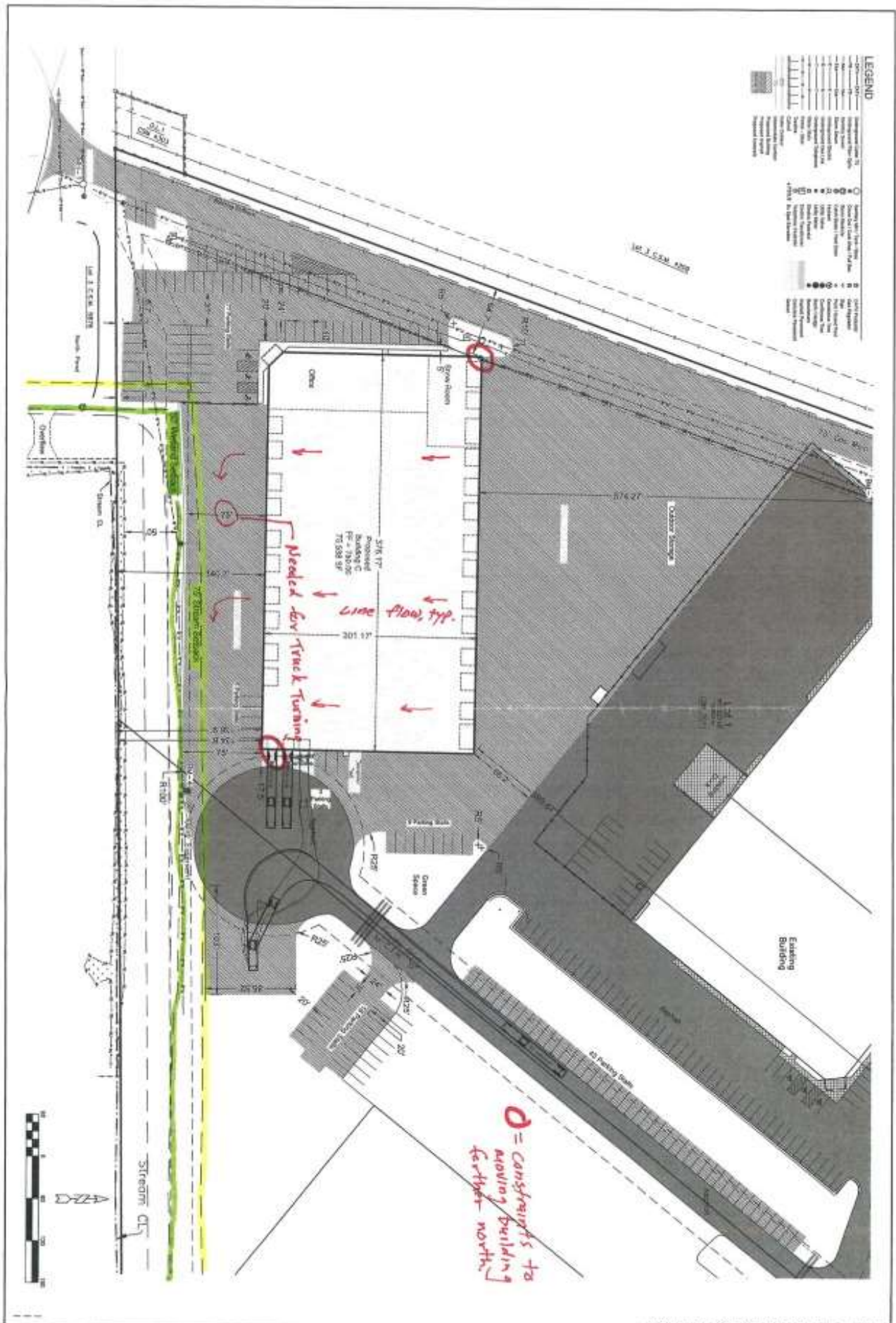
### Shoreland Zoning Code

#### 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.

LEGEND

Proposed Building	Existing Building
Proposed Parking	Existing Parking
Proposed Driveway	Existing Driveway
Proposed Stormwater	Existing Stormwater
Proposed Stream	Existing Stream
Proposed Easement	Existing Easement
Proposed Utility	Existing Utility
Proposed Fencing	Existing Fencing
Proposed Landscaping	Existing Landscaping
Proposed Retention Wall	Existing Retention Wall
Proposed Signage	Existing Signage
Proposed Access	Existing Access
Proposed Utility	Existing Utility
Proposed Fencing	Existing Fencing
Proposed Landscaping	Existing Landscaping
Proposed Retention Wall	Existing Retention Wall
Proposed Signage	Existing Signage
Proposed Access	Existing Access



<p>1517 Cty Rd O Town of Neenah, Winnebago County, WI For: Ogden Development</p>	<p><b>SITE PLAN</b></p>	<p>DAVEL ENGINEERING &amp; ENVIRONMENTAL, INC. CIVIL ENGINEERING CONSULTANTS 1211 Rockwell Street - Neenah, WI 54956 Ph: 920-961-1360 Fax: 920-961-9599 www.davel.com</p>
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**Legend**

- Sample Plots
- ⚡ Gauge
- Well
- Wetland Line
- Waterway
- RPE Enhancement Area (+/- 0.49 acres)
- Creditable Area (+/- 20 acres)
- Project Area (+/- 32.61 acres)
- Site Boundary (+/- 34.84 acres)

**Wetland Type**

- Total RPE (+/- 26.52 acres)
- RPE within Creditable Area (+/- 18.68 acres)



**Application #18-VA-4430**

Date of Hearing:

February 27, 2018

Owner(s):

1497 County Road O, LLC

Subject Parcel(s):

010021101



Winnebago County  
WINGS Project

**Scale**  
1 inch : 400 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 #18-VA-4430

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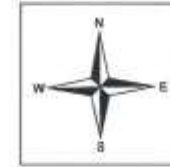
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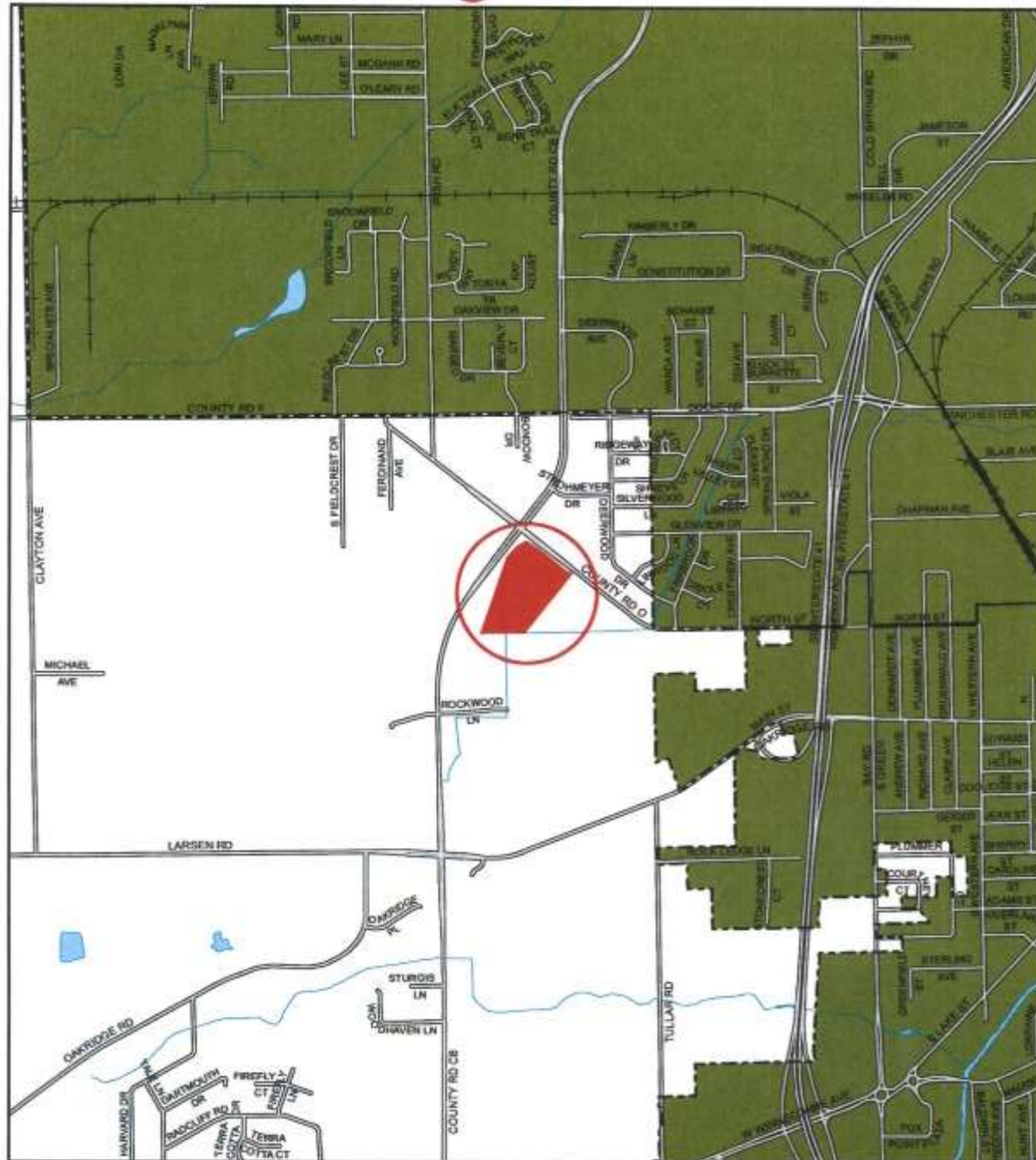
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010021101



Winnebago County  
WINGS Project

● = SITE



1 inch : 2,000 feet

WINNEBAGO COUNTY

# Winnebago County Planning and Zoning Department

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### INFORMATION ON VARIANCE REQUEST

**Applicant:**

DONNELLY, JOHN F  
DONNELLY, STACY H

**Agent:**

WILLIAMS, CHARLES -

**File Number:**

2018-VA-4420

**Location of Premises:**

4136 CORONADO LN  
OSHKOSH, WI 54902

**Tax Parcel No.:**

004-0573

**Legal Description:**

Being a part of Lots 4 and 5 of Coronado Beach Resort, located in Government Lot 2, Section 7, Township 17 North, Range 17 East, Town of Black Wolf, Winnebago County, Wisconsin.

**Description of Proposed Project:**

Applicant is requesting a reduced shoreyard setback to place an at-grade patio after- the- fact.

<b>DESCRIPTION:</b>	<b>CODE REFERENCE:</b>	<b>REQUIRED:</b>	<b>PROPOSED:</b>
A 75 foot setback from the Ordinary High Water Mark is required for the patio.	Chapter 27: Shoreland Zoning Section 6.1 Shoreland Setback requires 75 foot setback.	75 ft setback	Placement of approximately 260 sq ft patio to be placed within the 75 ft. shoreland setback at grade.



## INITIAL STAFF REPORT

**Sanitation:**

Existing System  
Private System

**Overlays:**

Floodplain  
Shoreland

**Current or Proposed Zoning:**

R-1 Rural Residential

**Code Reference:**

Chapter 27: Shoreland Zoning Section 6.1 Shoreland Setback requires 75 foot setback.

**Description of Proposed Use:**

Applicant is requesting a reduced shoreyard setback to place an at-grade patio after- the- fact.

**Surrounding Zoning:**

**North:** R-2  
**South:** R-2  
**East:** R-1  
**West:** R-1

### THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

**Describe your project, include the proposed dimensions and setbacks:**

Concrete patio 24 x 15 arc shaped at ground level on plat and county records show set back at 71.4 although actual measurement show 79'

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

With the current requirement that includes patio and boat houses as structures, allows for boat houses up to 500 sq ft and 17' high to be built at the shoreline but not a flat concrete slab at ground level to go in as in encroached on the lake, but an actual structure as in a boat house doesn't.

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

The thing that is preventing the patio is the set back to the lake, any and all other set backs, height requirements, including the 30' set back line for natural vegetation have been met.

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

Granting the variance won't harm any shoreline vegetation, any domestic or wildlife, or the lake itself. It won't obstruct any view of any neighbor in any direction from views of the lake. The patio is set at ground level to prevent it from any adverse affects on any surrounding. Nor will any structure be built on the patio.

## SECTION REFERENCE AND BASIS OF DECISION

### Town/County Zoning Code

#### 23.7-234 Basis of decision

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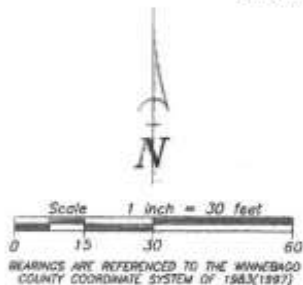
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# PLAT OF SURVEY

PART OF LOT 4 AND LOT 5 IN CORONADO BEACH RESORT, BEING PART OF GOVERNMENT LOT 2, IN SECTION 7, TOWNSHIP 17 NORTH, RANGE 17 EAST, TOWN OF BLACK WOLF, WINNEBAGO COUNTY, WISCONSIN.



SURVEY FOR:  
D&J QUALITY CONSTRUCTION  
2415 NICKORY LANE  
OSHKOSH, WI 54901  
ATTN: JIM ERDMAN

SETBACK'S PER WINNEBAGO COUNTY  
SHORE YARD: 71.5'  
STREET YARD: 15'  
SIDE YARDS: 15.6' TOTAL, NO ONE SIDE LESS THAN 5'



## 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.

*James E. Smith*  
Wisconsin Professional Land Surveyor

## Martenson & Eisele, Inc.



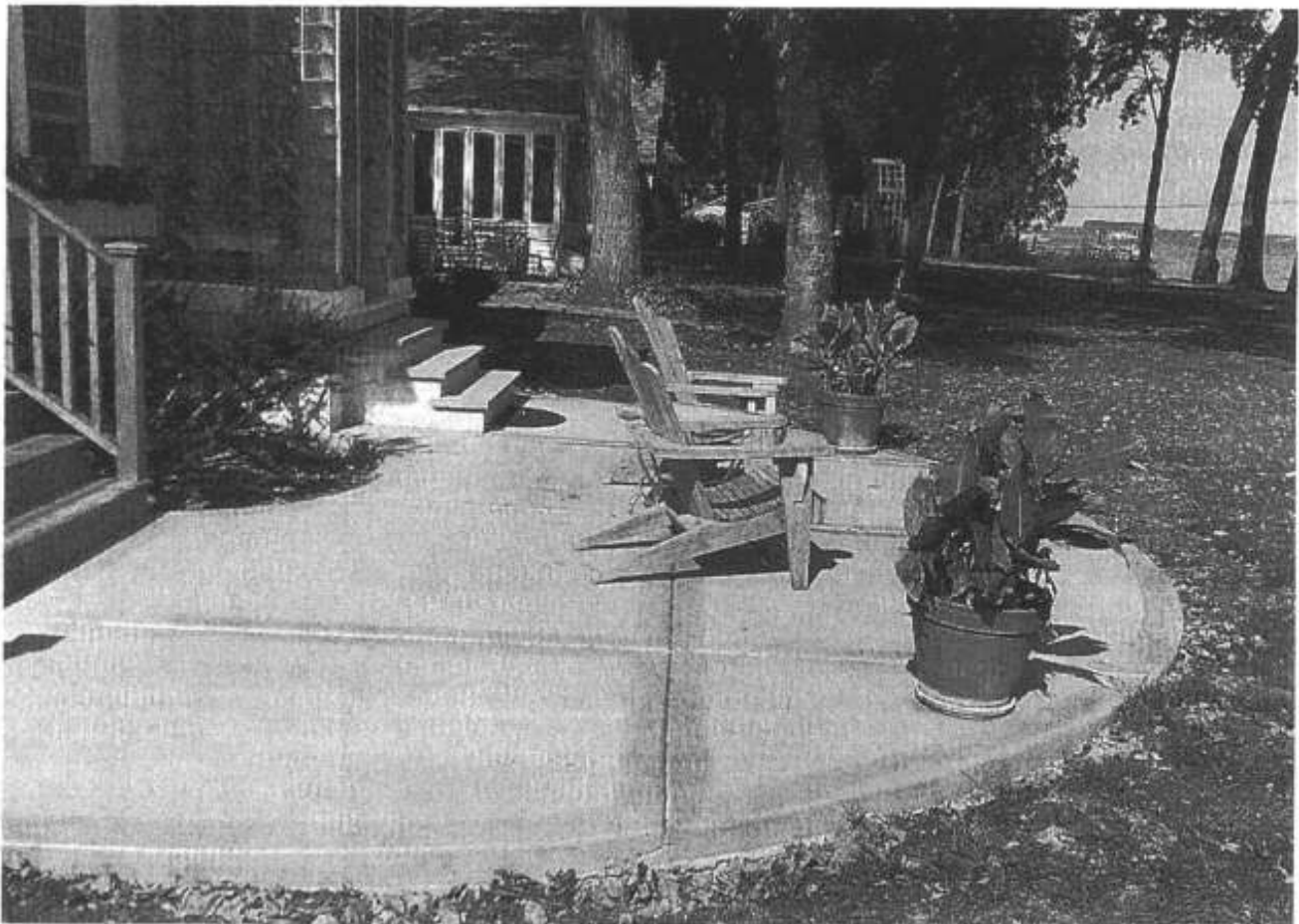
109 West Main Street  
Omro, WI 54963  
www.martenson-eisele.com  
P 920.685.6240 F 920.685.6340

Planning  
Environmental  
Surveying  
Engineering  
Architecture



PROJECT NO. 0-1632-003  
FILE 1632003POS.DWG  
THIS INSTRUMENT WAS DRAFTED BY: DSL

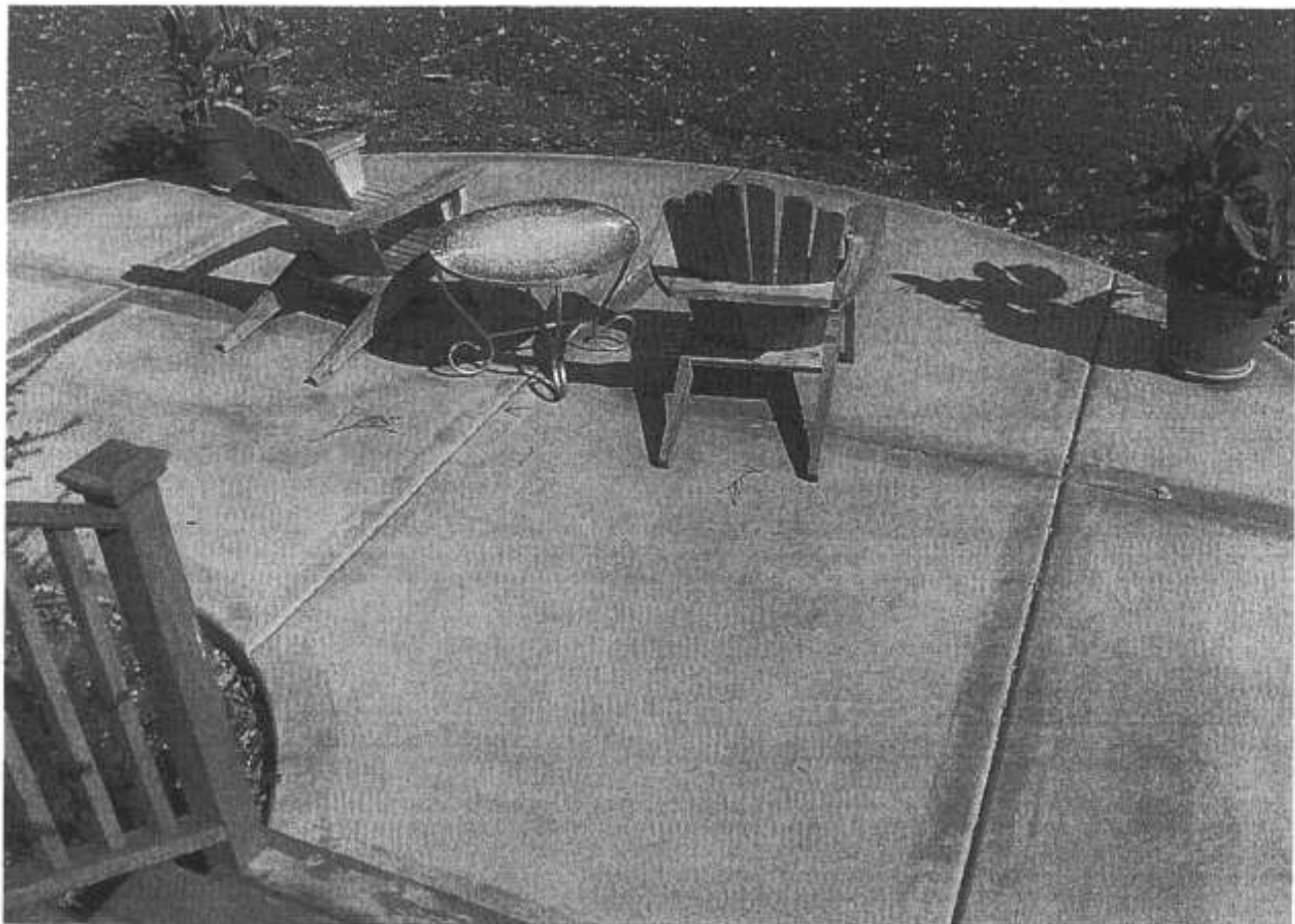
1. Patio looking north.



2. Patio looking south.



3. Patio looking east.



3

4. Shore line to the South East of Donnelly property.



John Donnelly with cracked concrete "rock" on his right on subject shoreline



5





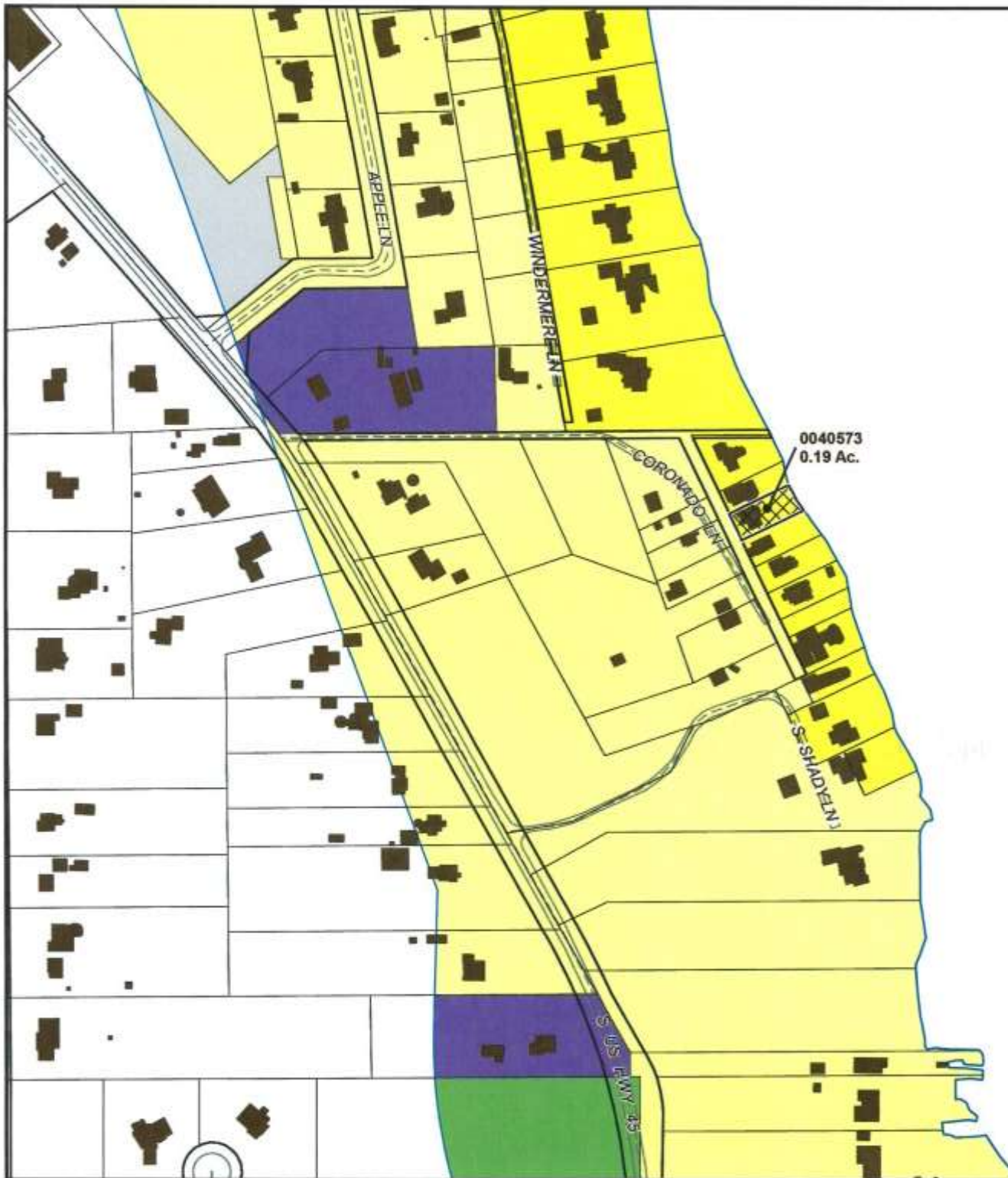
John Donnelly's hand on tape measure showing cracked concrete "rock" 75' from the principal structure on subject property. Plat of survey shows set back 71.4'. It is submitted that the set back of the principal structure exceeds 75' and is 79' to the ordinary high water mark. The principal structure is located to the left in the above photo taken December 26, 2017.



John Donnelly with cracked concrete "rock" approximately 4' to his right on subject shore line showing that set back from the principal structure on subject property is greater than 75' from the ordinary high water mark.



John Donnelly standing in front of subject property with cracked concrete "rock" to his right approximately 74' from the subject residence with patio at ground level in front of steps on residence.



**Application #18-VA-4420**

Date of Hearing:  
February 27, 2018

Owner(s):  
Donnelly, John & Stacy

Subject Parcel(s):  
0040573



Winnebago County  
WINGS Project

**Scale**  
1 inch : 300 feet

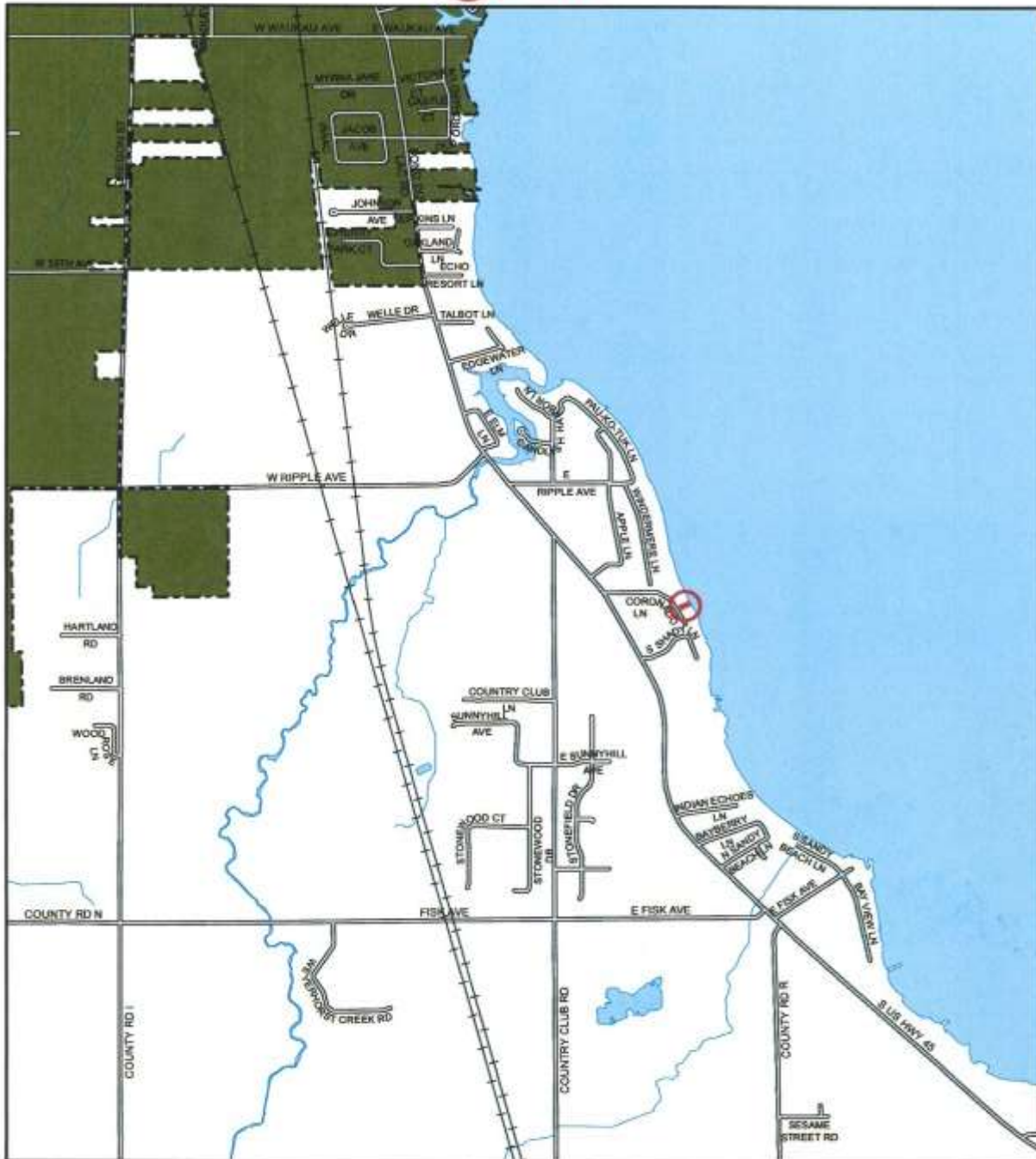
**County Zoning Districts**

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



1 inch : 2,000 feet

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Winnebago County  
WINGS Project

● = SITE



WINNEBAGO COUNTY