

# Winnebago County Planning and Zoning Department

## NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 10/22/2019

### 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 10/22/2019 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:**

STATE ROAD TWENTY ONE LLC

**Agent:**

KOHLBECK, MICHAEL P - MCMAHON ASSOCIATES INC

**File Number:**

2019-VA-5110

**Location of Premises:**

4266 STATE RD 21  
OSHKOSH, WI 54904

**Tax Parcel No.:**

002-0179

**Legal Description:**

Being a part of the SW 1/4 of the NW 1/4, Section 18, Township 18 North, Range 16 East, Town of Algoma, Winnebago County, Wisconsin.

**Description of Proposed Project:**

Applicant is requesting a variance to expand the use of a salvage yard within 600 feet from a residential and commercial zoning district.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The applicant is seeking a variance for expanding the use of salvage yard within 600 feet of a residential and commercial zoning district.	23.8-420 (a)	600 feet	199 feet from R-2 parcel west of subject property.

## INITIAL STAFF REPORT

**Sanitation:**

Existing System  
Private System

**Overlays:**

Microwave Radio Path  
Shoreland  
Surface Water Drainage District  
Wetlands

**Current or Proposed Zoning:**

I-2 Heavy Industrial

**Code Reference:**

23.8-420 (a)

**Description of Proposed Use:**

Applicant is requesting a variance to expand the use of a salvage yard within 600 feet from a residential and commercial zoning district.

**Surrounding Zoning:**

**North:** A-2  
**South:** PDD;B-2  
**East:** R-4;R-1  
**West:** R-2

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

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

## VARIANCE APPLICATION

**C-1 Describe your project, include the dimension and proposed setbacks:**

The Owner of Wally's U Pull It, State Road Twenty One LLC, is proposing to construct a new 19,558 SF (77'x254') vehicle processing building on parcel 0020179 to accommodate the growth of their existing salvage yard business. The proposed building will be used for the processing of incoming vehicles, a process that currently occurs outdoors. In addition to the proposed building, the Owner is proposing to construct a stormwater retention pond on parcel 0020182 to meet Wisconsin Department of Natural Resources and Winnebago County Stormwater Management requirements.

Refer to the included site plan. The proposed 77' X 254' building will be located approximately 199 feet east of the west property line of parcel 0020179, 45 feet east of the existing Wally's U Pull It building, approximately 50-feet west of the eastern property line of parcel 0020179 and approximately 70-feet north of the north right-of-way line of STH 21. The proposed location of the stormwater management pond is northeast of the proposed building, on parcel 0020182. The pond would be located approximately 20-feet east of the western property line of parcel 0020182, 20-feet west of the west property line of 002018201, and approximately 275-feet north of the north right-of-way line of STH 21.

**C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:**

The requirements of Zoning Ordinance 23.8-420 unreasonably prevents or restricts further development of the permitted use on parcels 0020179 and 0020182. Ordinance 23.8-420 states that all buildings, structures, and outdoor storage areas and any other activity areas (related to a salvage yard) shall be located at least 600 feet from a property in residential, mixed-use, or commercial zoning district.

Wally's U Pull It currently operates on parcels 0020179, 0020182, and 0020177. Referring to the included County Zoning Site Map, there are residentially zoned parcels located to both the east and west of the subject parcels and business/commercial (B-2) zoned parcels to the south of the subject parcels, along the south side of STH 21. There is also a residentially zoned parcel, parcel 002018201, that is surrounded by parcel 0020182. This parcel is owned by State Road Twenty One LLC.

The overall east-west dimension of parcels 0020179 and 0020182 is approximately 975 feet. If a 600-foot setback line is mapped from both the west

property line of parcel 0020179 and the east property line of 0020182, in accordance with Ordinance 23.8-420, the setback lines would overlap each other and there would be no area on the parcel where a structure related to the existing salvage yard use could not be constructed.

With regards to the business/commercially zoned properties along the south side of STH 21, if the proposed Wally's U Pull It building were constructed in a location that is 600-feet from the business/commercially zoned properties, the proposed building would have to be constructed 415 feet north of the north right-of-way line of STH 21. There are however delineated wetlands that bisect parcel 0020179 (east-west) at this location. To avoid the wetlands, while meeting wetland setback requirements, and the 600-foot setback requirement from business/commercially zoned parcels, the building would need to be constructed approximately 60 feet further to the north or approximately 475 feet north of the north right-of-way line of STH 21. Although this location would meet the 600-foot setback requirement from the business/commercially zoned parcels, the location does not work for the established and permitted Wally's U Pull It facility. As mentioned earlier, the proposed building will be used for the processing of incoming salvaged vehicles. For the established salvage yard facility to function efficiently, the proposed building needs to be located adjacent to the existing Wally's U Pull It building and as close to STH 21 as possible for ease of deliveries. Constructing the building in the middle of the property would position the proposed building too far from the existing building and too far from STH 21 for the business to function as intended and would be unnecessarily burdensome.

**C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:**

As stated in the previous section, the overall east-west dimension of parcels 0020179 and 0020182 is approximately 975 feet. This is the limitation that prevents the property from being developed in compliance with Ordinance 23.8-420. To be in compliance with Ordinance 23.8-420, the minimum width of a parcel would need to be roughly 1250 feet. This would allow for a 600-foot setback to both the east and west property lines and a 50' wide building.

**C-4 Describe how the granting of the requested variance will not harm public interest or have adverse effects on surrounding properties:**

If the requested variance is granted public interest would not be harmed and the surrounding properties would not be adversely affected for the following reasons:

- The existing salvage yard business has been a permitted use on the property for over 15 years (based on a review of historical aerial photographs) and is part of the community. Give the dimensions of the existing property, all the existing buildings, structures, outdoor storage areas, and activity areas related to the existing salvage yard operation currently do not meet the requirements of Ordinance 23.8-420. If the requested variance is granted, the proposed building

and stormwater management pond would be constructed within the footprint of the existing salvage yard operation, i.e. the salvage yard operation would not be expanded closer to the residentially zoned properties to accommodate the new building.

- The addition of a new building in the location identified on the site plan would provide a visual barrier between STH 21 and the salvage yard area to the north. This could be viewed as a benefit the public.
- The reason for requesting a variance to Ordinance 23.8-420 is to construct a building that will be used for the processing of incoming vehicles for the salvage yard. The processing of incoming vehicles currently occurs outside of the existing buildings in open air. With the construction of the proposed building, a majority of vehicle processing will be moved indoors. Moving the processing inside will reduce noise and shield the operation from the public's view. This could be viewed as a benefit the public.

## 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.



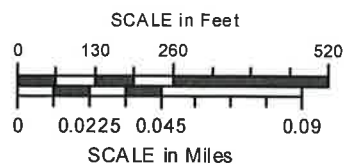
# County Zoning Site Map



Winnebago County GIS, Imagery Date: March, 2015



August 30, 2019



**W.I.N.G.S. Project Disclaimer**  
This data was created for use by the Winnebago County Geographic Information System project. Any other use/application of this information is the responsibility of the user and such use/application is at their own risk. Winnebago County disclaims all liability regarding fitness of the information for any use other than Winnebago County business. \*Data for this map copyrighted December 31, 2006\*





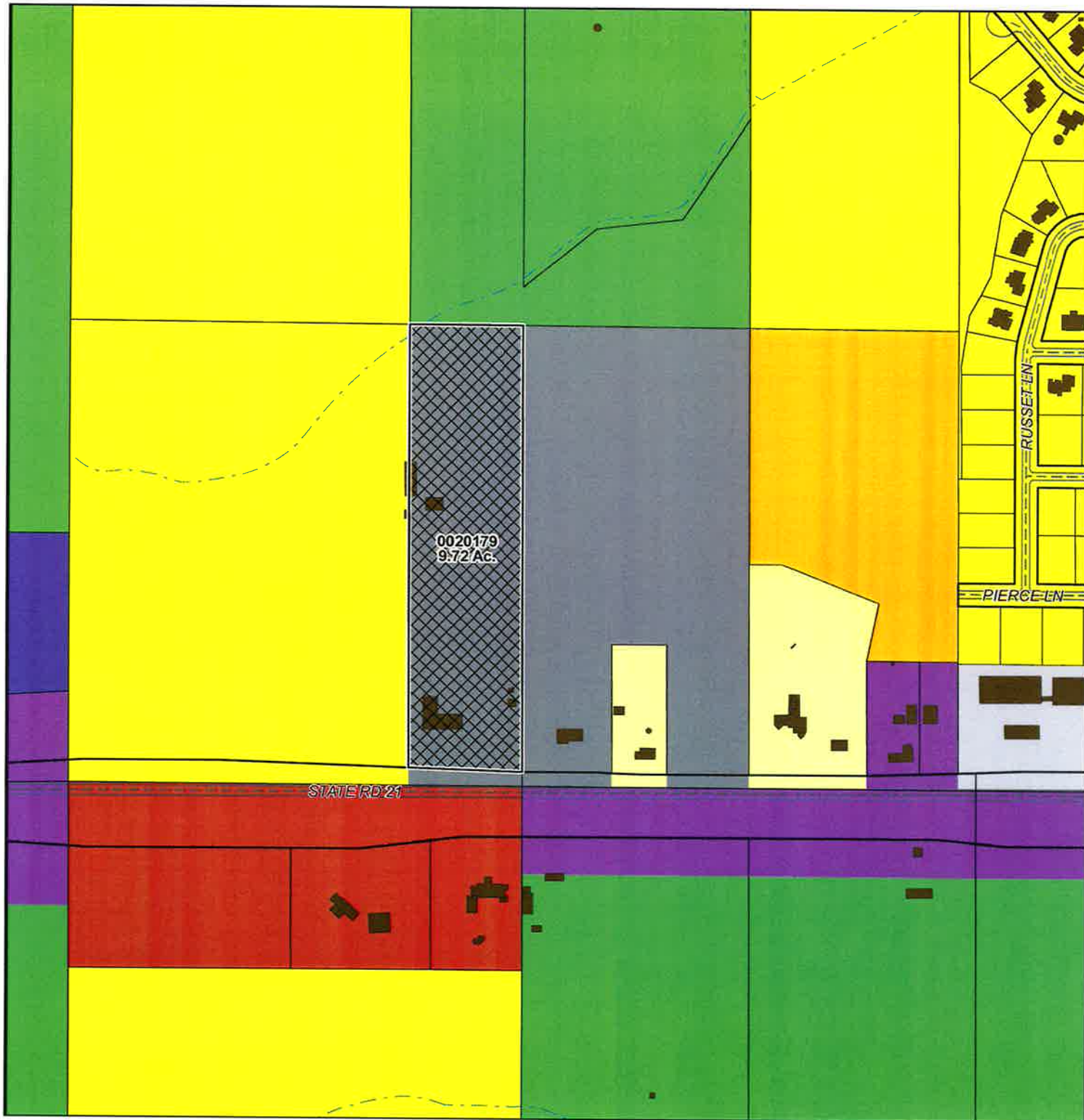


C-003

WALLY'S U PULL IT  
4266 STATE ROAD 21  
PROJECT AREA OVERVIEW

NO.	DATE	REVISION

**McMAHON**  
McMAHON ENGINEERING, INC.  
1000 McMAHON DRIVE, SUITE 100  
MAY 10, 2019 10:00 AM (EST) (GMT-5)  
P:\15040401\15040402\CADD\Civil\3D\plan sheets\C-003.dwg



## Application #19-VA-5110

Date of Hearing:

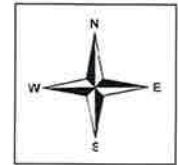
October 31, 2019

Owner(s):

State Road Twenty One LLC

Subject Parcel(s):

0020179



Winnebago County  
WINGS Project

**Scale**

1 inch : 400 feet

## County Zoning Districts

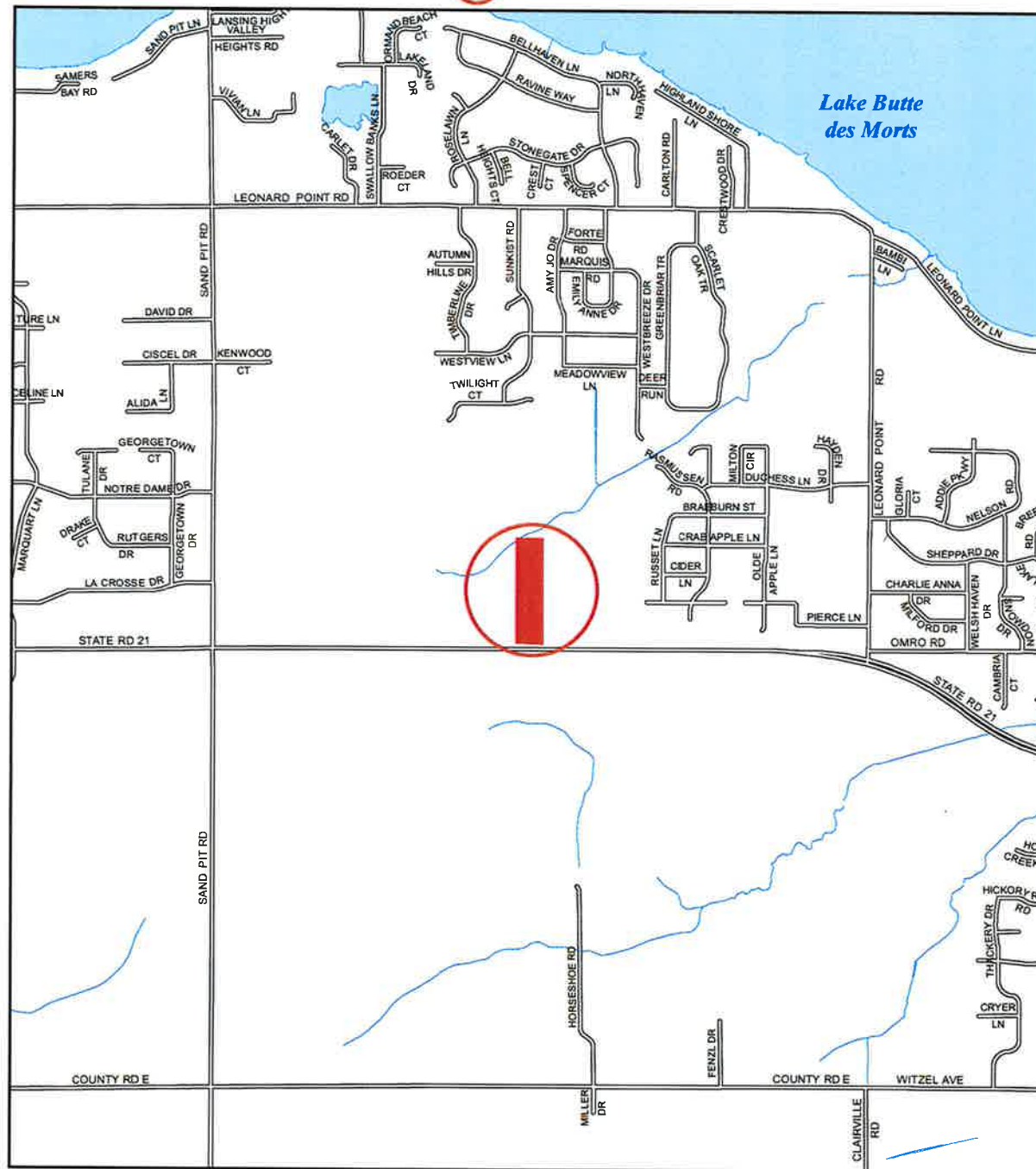
R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial  
Zoning Jurisdiction

Incorporated Area



○ = SITE



1 inch : 2,000 feet

**Application #19-VA-5110**

Date of Hearing:

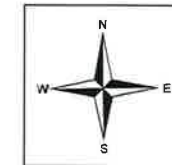
October 31, 2019

Owner(s):

State Road Twenty One LLC

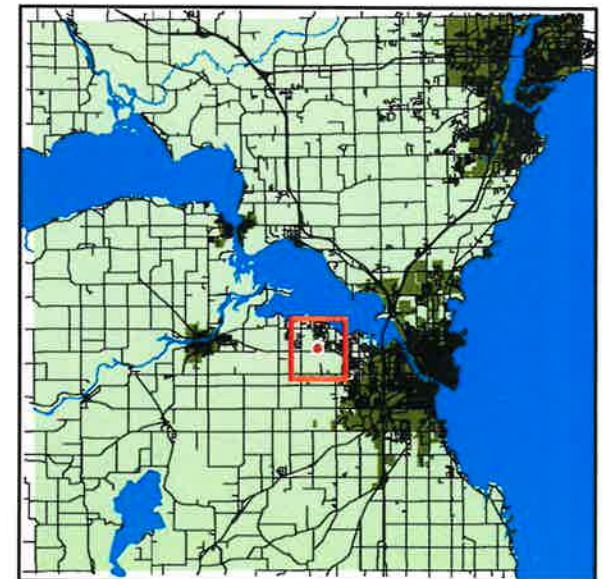
Subject Parcel(s):

0020179



Winnebago County  
WINGS Project

● = SITE



**WINNEBAGO COUNTY**

# Winnebago County Planning and Zoning Department

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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:**

WHITE, LYNDIA M  
WHITE, PAUL D

**Agent:**

None

**File Number:**

2019-VA-5100

**Location of Premises:**

8166 MILDRED LN  
WINNECONNE, WI 54986

**Tax Parcel No.:**

020-000904

**Legal Description:**

Being a part of Government Lot 4, Section 10, Township 19 North, Range 14 East, Town of Poygan, Winnebago County, Wisconsin.

**Description of Proposed Project:**

Applicant is requesting 7.5 feet and 8.5 feet of floodplain fill, where 15 feet is required.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
Applicant is seeking a variance to reduce the required amount of fill to flood proof a structure within the floodplain. Applicant is requesting 7.5 feet of fill on the West side of the home with a retaining wall and 8.5 on the east side of home. The fill on the East side of the home will be level with neighboring property's grade.	Ch. 26.5-23 (b) (1)	15 feet	8.5 feet and 7.5 feet.

## INITIAL STAFF REPORT

**Sanitation:**

Existing System  
Municipal System

**Overlays:**

Floodplain  
Shoreland

**Current or Proposed Zoning:**

R-1 Rural Residential

**Code Reference:**

Ch. 26.5-23 (b) (1)

**Description of Proposed Use:**

Applicant is requesting 7.5 feet and 8.5 feet of floodplain fill, where 15 feet is required.

**Surrounding Zoning:**

**North:** Lake Poygan

**South:** R-1

**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:**

Proposed new single family home. Property is in floodplain. Property width is 50'. Proposed side yard setback on east - 8.5'; on west - 7.5'. Fill requirements around home is 15' in floodplain. Asking variance from 15' of fill on sides of home. See attached site plan.

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

With the lot being only 50' wide and the fill requirement of 15' on each side of home makes compliance difficult with a reasonably sized home.

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

Main limitation is the width of property. 50'

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

Proposed home will be reasonably safe from flooding with proposed fill of 7.5' and retaining wall. Fill of 8.5' on east side will blend in with fill of neighbors.

## 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.

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(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.

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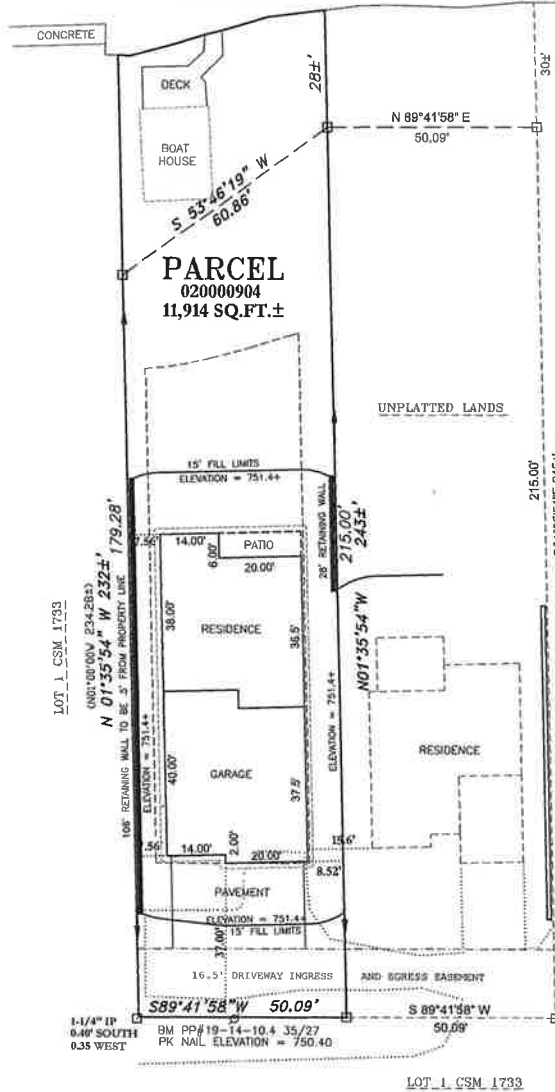


# SITE PLAN

PART OF FRACTIONAL GOVERNMENT LOT 4, SECTION 10, TOWNSHIP 19 NORTH, RANGE 14 EAST,  
TOWN OF POYGAN, WINNEBAGO COUNTY, WISCONSIN.

## LAKE POYGAN

100 YEAR FLOOD = 750.40



SURVEY FOR:  
PAUL WHITE  
504 STEEPLE VIEW ROAD  
WEST BEND, WI 53095

SITE ADDRESS:  
8166 MILDRED LANE

TAX PARCEL NUMBER:  
020000904

TOTAL AREA:  
11,914 SQ.FT.±/0.273 AC.±

30% OF TOTAL AREA = 3,574 SQ.FT.

EXISTING IMPERVIOUS AREA  
DECK = 188 SQ.FT.  
BOAT HOUSE = 366 SQ.FT.  
SHED = 104 SQ.FT.  
COTTAGE = 940 SQ.FT.  
CONCRETE = 100 SQ.FT.  
GRAVEL = 1145 SQ.FT.  
= 2843 SQ.FT.

EXISTING IMPERVIOUS % = 23.86%

### PROPOSED IMPERVIOUS SURFACES

30% OF TOTAL AREA = 3,574 SQ.FT.

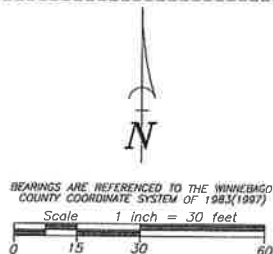
EXISTING DECK = 188 SQ.FT.  
EXISTING BOAT HOUSE = 366 SQ.FT.

PROPOSED HOUSE  
WITH 16" OVERHANG = 3002 SQ.FT.

PROPOSED PAVEMENT = 640 SQ.FT.

PROPOSED RETAINING  
WALLS = 133 SQ.FT.  
= 4,329 SQ.FT.

IMPERVIOUS % = 36.34%



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

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

- 770.0 PROPOSED FINISHED GRADE ELEVATION
- [752.5] PROPOSED FIRST FLOOR ELEVATION
- DIRECTION OF PROPOSED DRAINAGE
- 1-1/4" O.D. IRON PIPE FOUND
- ( ) RECORDED AS

Martenson & Eisele, Inc.



101 West Main Street  
Omro, WI 54983  
www.martenson-eisele.com  
P 920.685.6240 F 920.685.6340

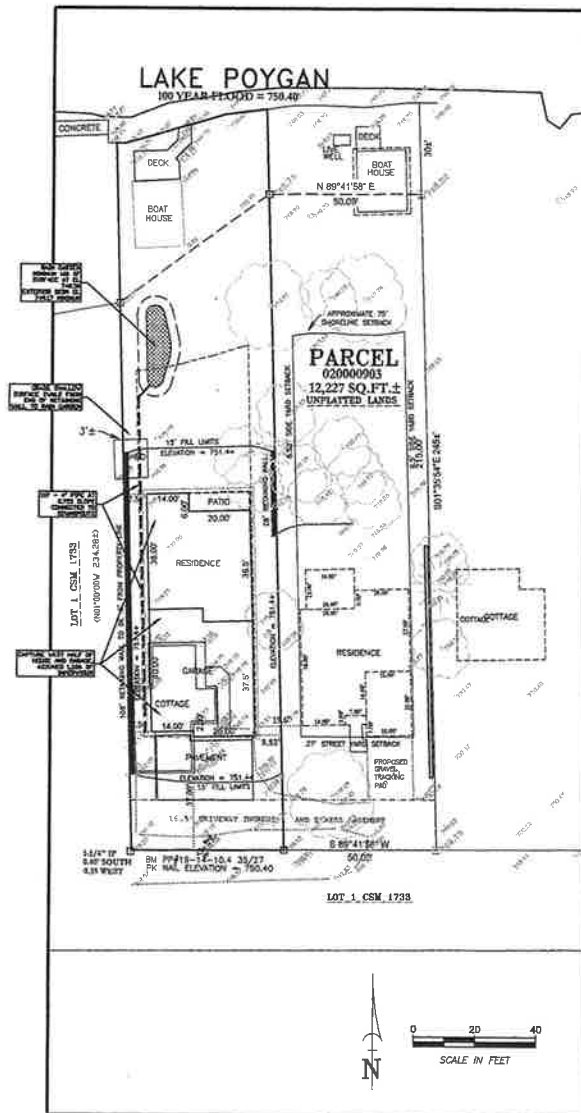
Planning  
Environmental  
Surveying  
Engineering  
Architecture

PROJECT NO. 0-2356-001

FILE 2356001POS.DWG

THIS INSTRUMENT WAS DRAFTED BY: DSL

## PAUL WHITE RESIDENCE: RAIN GARDEN DETAIL



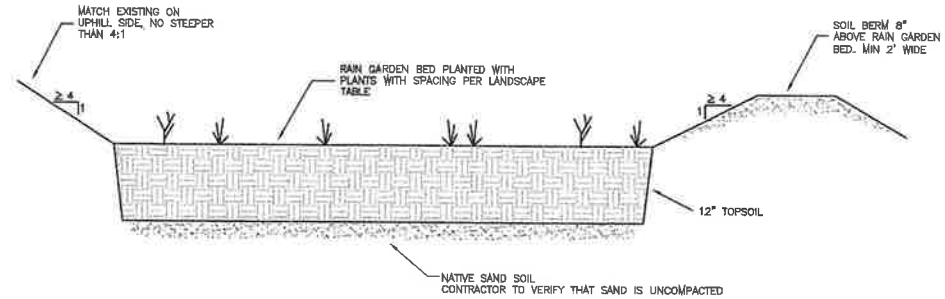
RAIN GARDEN NOTES:

DUE TO THE SITE'S SANDY SOILS, THE RAIN GARDEN FOOTPRINT MUST BE ABOUT 10% OF THE AREA OF THE CAPTURED DRAINAGE BASIN

THE RAIN GARDEN BED SHOULD BE LEVEL AND THE EXTERIOR BERM SHOULD BE A MINIMUM OF 8" HIGHER THAN BED

CARE SHOULD BE TAKEN TO MINIMIZE COMPACTION OF THE SUBGRADE BELOW THE RAIN GARDEN DURING CONSTRUCTION

THE RAIN GARDEN SHOULD BE PLANTED WITH A MINIMUM PLANTING DENSITY OF 1 PLANT PER SQ.FT. A PLANTING TABLE HAS BEEN PROVIDED WITH PLANTS SUITED TO THE SOILS AND EXPECTED SUN. THE QUANTITIES OF EACH PLANT CAN BE ADJUSTED AS LONG AS THE REQUIRED PLANTING DENSITY IS MAINTAINED.



RAIN GARDEN TYPICAL SECTION  
(N.T.S.)

LANDSCAPE SCHEDULE				
COMMON NAME	COLOR	SIZE	SPACING	QUANTITY
Isotria medeolae	red	3'-3'	1'	18
RED MILLETOSS				
asclepias incarnata	white	3'-5'	2'	7
WHITE FALSE INDOOR				
boerhaavia lactea	white	3'-5'	2'	7
Blue Flag Iris	blue	2'-3'	1'	4
iris versicolor				
Smooth Periwinkle	white	2'-3'	1'	9
periwinkle digitalis				
Prunella blanda	pink	3'-5'	1'	13
Prunella blanda				
pyracantha	white	3'-5'	1'	13
Wild Yucca	white	3'-5'	1'	14
periwinkle				
Yellow Cornflower	yellow	3'-6'	1'	12
radix pinata				
Falsely Aster	white/pink	2'-4'	1'	16
botanica asteroides				
Steel's Black-eyed Susan	yellow	4'-6'	2'	9
rudbeckia subtomentosa				
Ironweed	mauve	4'-6'	1'	16
veronica fasciculata				
New England aster	blue/purple	3'-6'	1'	25
aster novae-angliae				
SWIFT Goldenrod	yellow	3'-5'	1'	13
solidago rigida				
Fox Sedge	green	1'-3'	1'	135
carex vulpinoidea				
TOTAL PLANTS				295

CONTRACTOR MAY SUBSTITUTE OTHER SUITABLE PLANTINGS WITH THE APPROVAL OF THE ENGINEER.

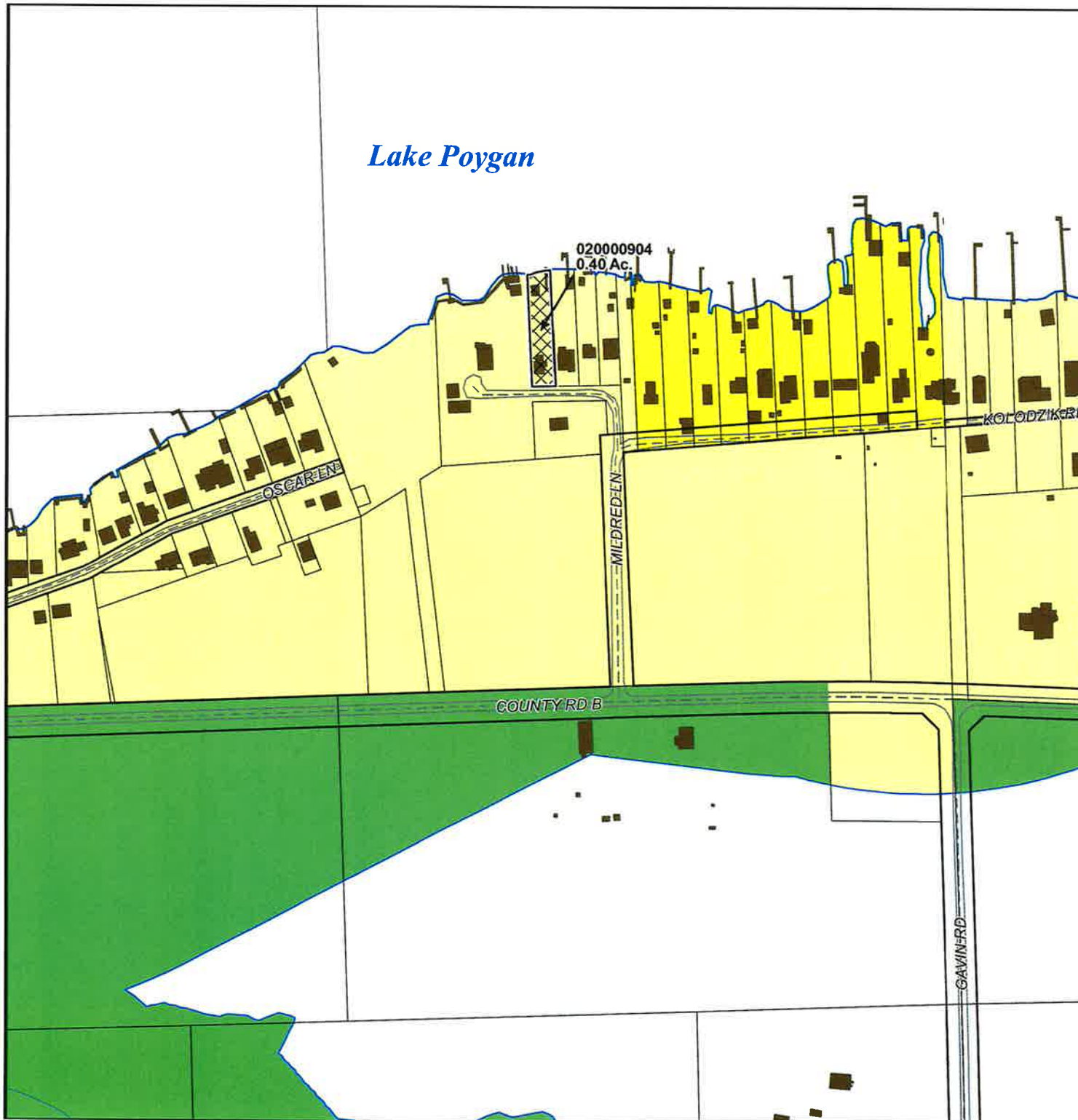
**Martenson & Eisele, Inc.**  
  
 1377 Midway Road  
 Menasha, WI 54952  
[www.martenson-eisele.com](http://www.martenson-eisele.com)  
[info@martenson-eisele.com](mailto:info@martenson-eisele.com)  
 920.751.0381 • 800.238.0381  
 Planting  
 Environmental  
 Surveying  
 Engineering  
 Architecture

DRAWN BY		CHECKED BY		APPROVED BY		FIELD WORK	
NAME	DATE	NAME	DATE	NAME	DATE	NAME	DATE
1							
2							
3							
4							
5							

**RAIN GARDEN DETAIL**  
**PAUL WHITE RESIDENCE**  
**SHORELAND ZONING APPLICATION**  
TOWN OF POYGAN, WINNEBAGO COUNTY, WISCONSIN

SCALE	DATE
BAR SCALE	8/14/2019
COMPUTER FILE	
0-2004-001ds.dwg	

DRAWING NO.  
C1.1



## Application #19-VA-5100

Date of Hearing:

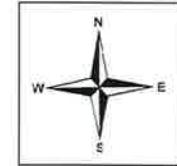
October 31, 2019

Owner(s):

White, Paul D. & Lynda M.

Subject Parcel(s):

020000904



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 #19-VA-5100**

Date of Hearing:

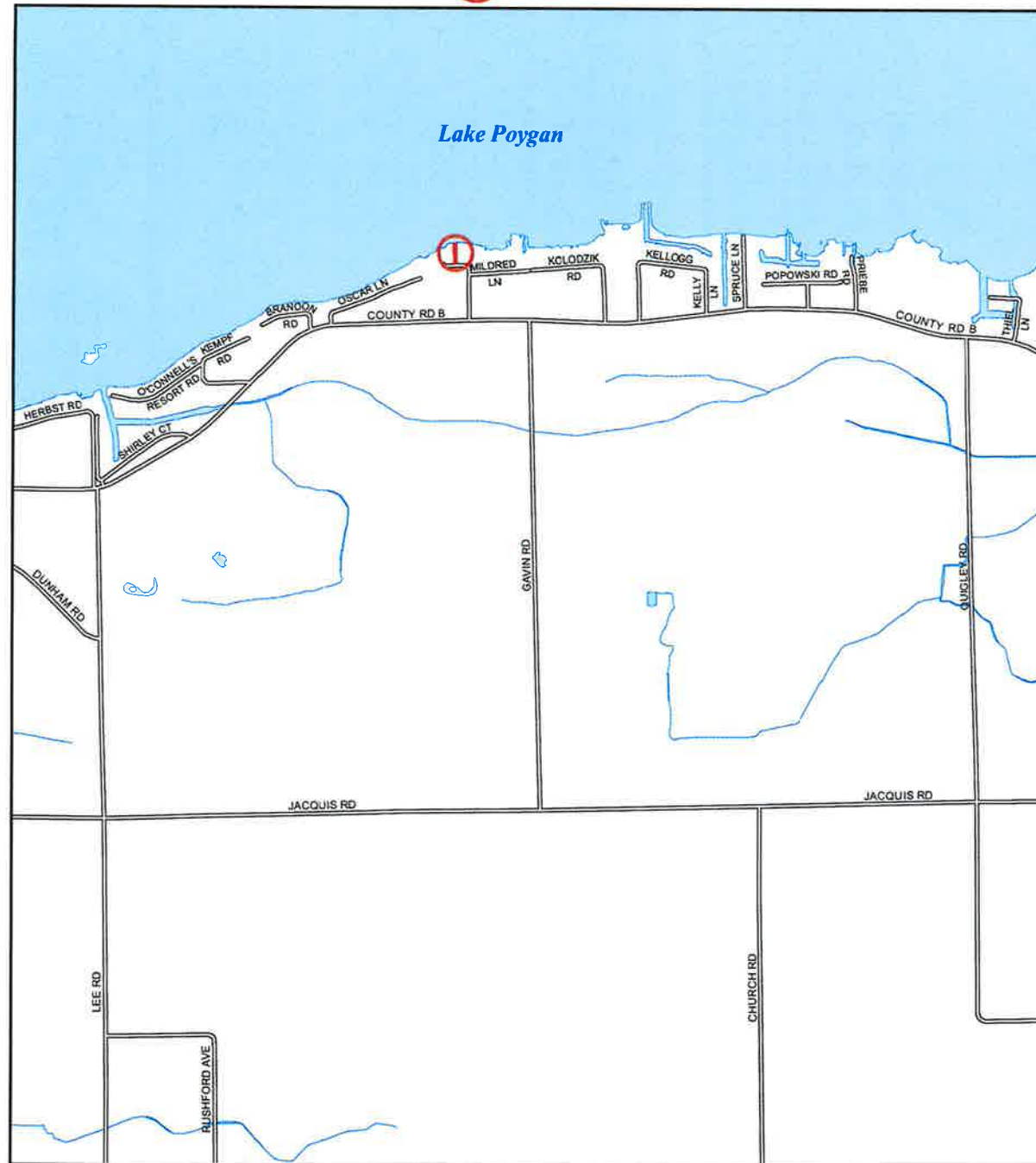
October 31, 2019

Owner(s):

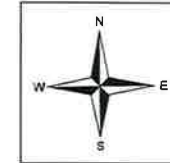
White, Paul D. & Lynda M.

Subject Parcel(s):

020000904

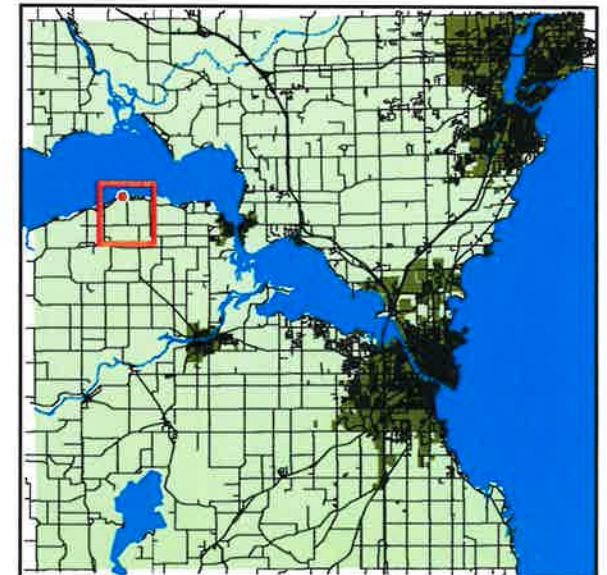


1 inch : 2,000 feet



*Winnebago County  
WINGS Project*

● = SITE



**WINNEBAGO COUNTY**