NOTICE FOR PUBLIC HEARING

A public hearing as required by the General Code of Ordinances for Marathon County Chapter 17 Zoning Code will be held by the **Marathon County Board of Adjustment** at **9:00 a.m., Thursday, April 25, 2024**, at 500 Forest Street, Wausau WI 54403.

Persons wishing to attend the meeting by phone may call into the telephone conference beginning fifteen. (15) minutes prior to the start time indicated above using the following number:

Phone Number: 1-408-418-9388 Access Code/Meeting Number: 2482 290 3069

PLEASE NOTE: If you are prompted to provide an "Attendee Identification Number" enter the # sign. No other number is required to participate in the telephone conference.

When you enter the telephone conference, PLEASE PUT YOUR PHONE ON MUTE!

- 1. Approval of the February 22 & March 28, 2024, minutes.
- 2. The application of Stanford Troyer for a conditional use permit per section 17.204.57 of the General Zoning Code of Ordinances under Marathon County Chapter 17-Zoning Code to operate a Major Home Occupation/Home Professional Business in the Rural Estate zoning district, located in part of the Southwest ¼ of the Southwest ¼, Section 4, Township 26 North, Range 2 East, Town of Spencer; Pin # 074.2602.043.0985. Property address 208171 Andrews Road, Spencer, WI 54479.
- 3. The application of Kurt and Tamara Cable for Area Variances from the terms of Marathon County General Code of Ordinances Chapter 17-Zoning Code Sections 17.202.03(G)(2)c relating to setbacks to the road, Section 17.805.12(A) relating to enlargement of a non-conforming structure exceeding 50% of the existing building footprint over the life of the structure within the U-R Urban Residential district, being a part of Government Lot 1, Section 18 Township 27 North, Range 10 East, and Government Lot 2 Section 18, Township 27 North, Range 10 East, Town of Elderon; PIN # 022.2710.185.0033. Property address 215010 Lakefront Drive, Hatley, WI 54440.
- 4. The application of American Asphalt of WI for a Conditional Use Permit per Section 17.204.61 of the General Zoning Code of Ordinances under Marathon County Chapter 17 Zoning Code to construct and operate a temporary concrete and/or blacktop mix plant, processing, stockpiling, and recycling of road building materials facility located within the General Agricultural District, on property described as PT SE 1/4 SW 1/4 & PT OF SW 1/4 SE 1/4 Section 29, Township 27 North, Range 9 East, Town of Reid; PIN# 064.2709.294.0990. Property address: 211155 Budnick Road, Hatley, WI 54440.
- 5. Board Reappointments
- 6. Announcements and Requests
- 7. Adjourn

All interested persons will be provided the opportunity to provide testimony at the public hearing. Those planning to attend this meeting who need some type of special accommodation in order to participate should call the County Clerk's Office at 715-261-1500. Please call at least one business day in advance of the meeting.

In the event you are unable to attend the public hearing and wish to provide written testimony, please contact the Conservation, Planning and Zoning Department at 715-261-6000 for assistance.

Pat Schreiner, Chairman Board of Adjustment
Laurie Miskimins, Director
Conservation Planning and Zoning Department

Publish: April 8th and April 15th, 2024 E-mailed to Wausau Daily Herald on April 5, 2024, at 8 a.m. / nd February 22, 2024 9:00 a.m.

MINUTES

MARATHON COUNTY BOARD OF ADJUSTMENT

Members present in person: Pat Schreiner, Richard Lawson, Carolyn Opitz, Kerry Brimmer, Tom Seubert

Members present via WebEx / phone: None

Members not present: Jim Servi

Also present remotely via phone / WEBEX or in person: Shad Harvey, Garrett Pagel, Teal Fyksen, Nicole Delonay, Brittanie Schulz, Conservation, Planning & Zoning;

<u>Called to order</u> at 9:00 a.m., 210 River Drive, Wausau by Chair Pat Schreiner, who explained the <u>rules of the</u> <u>hearing</u> and the reason for the establishment of the Board of Adjustment.

- 1. <u>Approve November 16, 2023, minutes</u> Motion / second by Brimmer/Seubert to approve the November 16, 2023, minutes as distributed. Motion **carried** by voice vote, no dissent.
- 2. <u>The application</u> of Dan Schallock for a conditional use permit per section 17.401 of the General Zoning Code of Ordinances under Marathon County Chapter 17-Zoning Code to construct an accessory building prior to a principal structure (for personal/private use and or accessory to the principal use of the lot) in the Rural Residential zoning district, located in part of the Southeast ¼ of the Southeast ¼, Section 26, Township 28 North, Range 3 East, Town of Frankfort; Pin # 026.2803.264.0990.

Harvey was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Harvey reviewed the staff report and discussed Ordinance Section 17.401.01 for the purpose of constructing an accessory building prior to a principal structure (For personal/private use and/or accessory to the principal use of the lot) in the Rural Residential District. Harvey reviewed the sections of Chapter 17 that apply to this request and the information shared by the applicant to address the questions that apply. Harvey stated the Town of Frankfort gave their approval to the petition at their January 15th, 2024, meeting.

<u>Dan Schallock</u> – 241410 Staadt Ave - was sworn in and indicated he plans to build the garage to store his personal belonging prior to constructing a single-family home. Schallock hopes to have both structures built within two years.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 9:14 am.

<u>Motion</u>/second by Lawson/ Seubert to <u>grant</u> the conditional use permit with conditions for Dan Schallock as requested. The conditions are as follows:

1. All other required federal, state, and local permits and approvals shall be obtained and followed.

Project The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion <u>carried</u> 5 yes, 0 no, 0 abstain. Roll call vote.

3. The application of Earth Inc on behalf of Dennis & Krisan Stroetz for a conditional use permit per section 17.204.54 of the General Zoning Code of Ordinances under Marathon County Chapter 17 Zoning Code to operate a for the purpose of continuing an existing nonmetallic mine site (the previous conditional use permit will be expiring). The nonmetallic mine is located on property currently owned by Dennis W Stroetz & Krisan M Stroetz Joint Revocable Trust located in the F-P Farmland Preservation Zoning district on properties described as part of the S ½ of the NW ¼ (PIN # 056.2603.102.0993) and part of the N ½ of the SW 1/4 (PIN # 056.2603.103.0981), Section 10, T26N, R3E, Town of McMillan with a property address of 207601 Galvin Ave, Marshfield, WI 54449.

Teal Fyksen was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Fyksen reviewed the staff report and discussed Ordinance Section 17.204.54 for the continuing an existing nonmetallic mine site (the previous conditional use permit will be expiring). The nonmetallic mine is located on property currently owned by Dennis W Stroetz & Krisan M Stroetz Joint Revocable Trust located in the F-P Farmland Preservation Zoning district. Fyksen reviewed the sections of Chapter 17 that apply to this request and the information shared by the applicant to address the questions that apply. Fyksen stated the Town of McMillan gave their approval to the petition at their

February 12, 2024, meeting. Fyksen read a letter of support submitted by James Griesbach the Marathon County Highway commissioner (Exhibit 1) and noted the Town of McMillan minutes that were provided by the town. (Exhibit 2)

Brimmer questioned where the closest pit to this location is. Fyksen stated the closest pit, with similar material, is believed to be in the town of Brighton, roughly 20 miles away.

Lawson asked for clarification on the hour change proposed by the Town of McMillan.

Opitz asked for clarification regarding exhibit 1, and questioned why the County Commissioners mentioned placing an asphalt plant within the quarry boundaries when the original permit did not allow for that. Fyksen shared that a conditional use permit was approved in 2015 for an asphalt batch plant. Harvey noted it was a separate conditional use that was approved.

The following people were sworn in and gave testimony in favor to the Earth Inc. Conditional Use Permit request:

<u>Dan De Boer</u> – Provided the history of the Stroetz Mine which was started in 1999 and indicated that Earth Inc has been operating the mine since 2010. De Boer explained that this mine was brought forth to the Board of Adjustments in 2019. De Boer explained their compliance with the 2019 standards that were set by the BOA. De Boer explained that in 2019 the hours of operation got changed to 7am to 530pm Monday through Friday, and the operation had to be closed January 1- April 15th. De Boer also gave a summary of what the mix of asphalt contains and why the town of McMillan proposed a change in hours. He stated that it is not feasible to operate an asphalt plant with the 7am-5:30pm M-F hours. De Boer explained why the hours recommended by the town of McMillan are necessary and explained why this pit is an important staple to the surrounding community.

Opitz questioned_the approximate 60ft depth of the current pit and which De Boer stated it is possible that the pit be at that depth in one corner. De Boer confirmed the total acreage of the mine.

Opitz questioned the water quality concerns, and De Boer provides a summary of how granite is extracted.

De Boer stated that well water test have been completed on neighbors properties as required since 2019 and the results have come back in compliance.

Opitz also questioned why tankers are running the roads.

De Boer stated that the company used the north driveway and the tankers at questions may be used for other agricultural purposes.

<u>Dan Stroetz</u> – was sworn in and noted that Mullins Farms has been using the farm road to spread sludge on his farmland.

Opitz questioned the agreement between Earth Inc and Stroetz's.

Schreiner questioned how Earth Inc gets notified of complaints and how they handle the situations that arise. De Boer explained how the company handles all the situations that have arose.

<u>Damon Stichert</u> – Representing Dennis & Kris Stroetz: Stichert explained the family history of the farm and the goal of the aquaculture pond for trout that would be 21 acres in size. Stichert noted they are not looking to change the original requested depth or size of the pond. Stichert presented the following exhibits for the record in favor:

Exhibit 3 - Adjacent Properties

Exhibit 4 - Quarry to County Highway C

Exhibit 5 - Berms & Trees

Exhibit 6 - Berms & Trees 2

Stichert explained that the Stroetz have taken great strides to make this property harmonious with neighbors and indicated there have been 0 complaints from the town of McMillan against the quarry. He indicated that the quarry has not affected property values within the area and the blasting is not affecting the surrounding area as they do blasts that are smaller than the state law standard and significantly less blasting that most quarries. (blasting reports provided in the petition packet) Stichert noted that the Niehaus's received paid for construction work from Earth Inc due to allegations that the blasting had caused the Niehaus's well to crack and drywall to crack within their home. Earth Inc paid for testing to verify if the blasting could have caused the possible cracking, and it came back that the vibration levels caused by blasting could not have caused the cracking. Stichert also gave a summary of the well report over the course of a few years and the costs that the Niehaus's received. Stichert noted that the deposits are getting more dense and closer to the surface. Stichert indicated that the Stroetz support the 10-year extension of the mine.

Seubert questioned who controls the reclamation fee.

<u>Heidi Peskie</u> owns property near the mine and are long term residence of the area. Her concerns include: The proposed hour changes, including Saturday operations; dust control; berm height and being driven on; water quality, back up sensors and gate entrance safety. Peskie noted that the Town of McMillan did not allow public comment. It was reported that the Town of McMillan did not host a public hearing, but this application went through the Planning Commission and then was forwarded to the Town Board.

Exhibit 7 -Peskie also read a letter written by Kimberly Niehaus pertaining to her concerns with the mine.

Robert Peskie was sworn in and shared his concern for the proposed longer hours, Saturday operation hours and berm travel.

<u>Russel L Kollmansberger</u> was sworn in and indicated he is a neutral party. Kollmansberger asked that the hours recommended by the town of McMillan be reconsidered and consider the original permit hours requested.

Stichert presented the well reports that were provided in the staff packet.

De Boer gave a summary of how trucks move about the property and explained the alarms on the trucks are code. De Boer also clarified that the town wanted the extended out and it would benefit Earth Inc and benefit the community. Harvey clarified that alarms on machinery are required per MSHA but there are white noise alarms available that are MSHA compliant.

Robert Peskie shared photos of the trees and berm to the committee. (Exhibit 8-12)

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 11:30 am.

The board discussed what conditions should be considered for the permit. Items discussed were back up beepers used, berm vegetation, dust control, hours of operation and length of permit.

Motion/second by Brimmer/Seubert to grant the conditional use permit with conditions for Earth Inc as requested.

<u>Amended Motion</u>/ <u>Brimmer/ Seubert</u> to <u>grant</u> the conditional use permit with conditions for Earth Inc as requested and the conditions are as follows:

- 1. Haul route All haul trucks, loaded or empty, exiting or entering the Stroetz Quarry shall use the north driveway onto Galvin Avenue to/from the north connecting to County Road C.
- 2. Safety In the event the quarry excavation (pit) is within 100ft. of a residential property line, a berm, fencing and signage will be installed.
- 3. Expiration of permit Conditional Use Permit is valid for 10-years beginning February 22nd, 2024.
- 4. All other required Federal, state, and local permits and approvals shall be obtained and followed.
- 5. Alternative back up beeper equipment shall be installed on all equipment that's primary function is to be used and support operations within the boundaries of the approved non-metallic mine.
- 6. On the western berm, beginning from the forested area extending along the length of the berm going south shall be graveled to prevent dust.
- 7. Hours of operation shall be from 7:00 AM to 6:30 PM, Monday through Friday, with no operations on Saturdays or Federal Holidays.

The Board deliberated and completed the Conclusion of Law and Decision Sheet.

Motion carried 5 yes, 0 no, no abstain. Roll call vote.

- 4. **Board Reappointments** None
- 5. **Board education and training as needed** -Administrative Appeals
- 6. Announcements and Requests None
- 7. Next meeting date March 28, 2024, at 9:00 a.m., 500 Forest Street, Wausau, WI 54403
- 8. Meeting adjourned Motion/second by Seubert/ Brimmer to adjourn the meeting at 12:28 a.m.

Motion carried.

by voice vote, no dissent.

Respectfully submitted, Carolyn Opitz, Secretary Marathon County Board of Adjustment

cc: Board of Adjustment (6), County Clerk, Town Clerk

 $O: \label{localized} O: \lab$

March 28, 2024 9:00 a.m.

MINUTES

MARATHON COUNTY BOARD OF ADJUSTMENT

Members present in person: Pat Schreiner, Richard Lawson, Mike Ritter, Kerry Brimmer, Tom Seubert

Members present via WebEx / phone: **None** Members not present: Jim Servi, Carolyn Opitz

Also present remotely via phone / WEBEX or in person: Shad Harvey, Garrett Pagel, Teal Fyksen, Nicole Delonay, Laurie Miskimins -Conservation, Planning & Zoning; Mike Puerner – Corporation Counsel; Dale Oestreich, Jonathon Hagenbucher, Randy Beilke, Ron Beilke, Paul Daigle, Tyler Seehafer, Emily Seehafer, Chris Fieri, Dan Krautkramer, Mark Kolbe, Keith Langenhahn, Tony Brown

<u>Called to order</u> at 9:00 a.m., 210 River Drive, Wausau by Chair Pat Schreiner, who explained the <u>rules of the hearing</u> and the reason for the establishment of the Board of Adjustment.

- 1. <u>Approve February 22, 2024, minutes</u> Lawson asked that the conditions be added to the Schallock Conditional Use from last meeting prior to approval of the February 22, 2024, meeting minutes. The meeting minutes from February 22, 2024, meeting will be approved at the May 25th, 2024 meeting.
- 2. <u>The application</u> of the appeal of Tyler Seehafer (through Seehafer Farms LLC) alleging an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the Marathon County General Code of Ordinances Chapter 17 General Zoning Ordinance. The property currently zoned in the Farmland Preservation zoning district and is located in part of the Southeast ¼ of the Northeast ¼, Section 23, Township 28 North, Range 6 East, Town of Marathon; Pin # 054.2806.231.0996.

Harvey was sworn in and asked the Board to use the determination worksheets in their decisions and cited the provisions of law which apply. Harvey reviewed the staff report and discussed Ordinance Section 17.804.05 for the purpose of an appeal to the Marathon County Board of Adjustment. Harvey gave a summary of the appeal request from Tyler Seehafer.

Seubert questioned what the original zoning permit was issued for, and Harvey indicated the zoning permit was permitted for the residence to be moved.

Harvey clarified the definition of what constitutes a farm residence.

Seubert also questioned the materials the County gave the Seehafer's when the zoning permit was issued.

Harvey stated that the actual permit issued to the Seehafer's, was issued based on the intent of permit was to pick the home up and move to another location. No future land uses were discussed at the time of issuance.

<u>Tyler Seehafer</u> was sworn in and indicated he is the owner of the property and was born and raised within the town of Marathon.

<u>Paul Daigle</u> was sworn in and indicated he is the agent for Tyler Seehafer. Daigle presented a PowerPoint (Exhibit 1) that went through the following information: Daigle indicated they are here today to appeal the denial of the Farm consolidation. Daigle indicated that the farm residence did exist on this parcel prior to January 1st, 2014 and stated even though the farm residence was moved within the parcel, it still meets the definition of existing residence, and is not a new residence. Daigle noted Marathon County's Zoning Code Section 17.301 and Section 17.901.

Daigle noted that Tyler Seehafer increased the tillable acreage of prime farmland and makes the parcel much easier to farm. Daigle also provided an aerial view of the Seehafer parcel as it exists today. Daigle noted that this is not a new residence. Daigle read SPS 320.04 5(a)(b) and stated this is what Mr. Seehafer is doing and the UDC does not consider this a new residence. Daigle asked the board to reverse the zoning administrator's decision and allow the consolidation on the grounds that meets the purpose, definition and be considered an existing structure.

Seubert questioned the size of the property.

Questions arose regarding the Town of Marathons Planning Commission process and how the Seehafer rezone was handled prior to being pulled at the County level.

Ritter stated that if that course had been taken, he thinks a rezone would have been authorized. Daigle pointed out that 30 days following the approval of a rezone, a town may veto a request for one.

<u>Larry Seehafer</u> was sworn in and indicated he is the father of applicant Tyler Seehafer and that he resides south of this land.

<u>Randy Beilke</u> was sworn in and indicated that the property to the north has three houses that have been moved to where they currently reside.

<u>Dan Krautkramer</u> was sworn in and stated that a when relocating a building, no matter what the building it will always have a foundation under it. Krautkramer believes that what the Seehafer's did vastly improved the quality of farmland.

<u>Chris Fieri</u> was sworn in and stated he was the surveyor for this property. Fieri believes more of these situations will arise in the future and this should be addressed in the code.

<u>Mark Koble</u> was sworn in and stated he is representing the Town of Marathon Plan Commission. Koble stated that the town of Marathon has a high level of integrity when it comes to the zoning.

Discussion took place between Koble, Daigle and the Board regarding the Town of Marathons Planning Commission process and the public notice notification process that occurred with the Seehafer case.

Harvey noted that each project is unique and is looked at on a case by case basis.

<u>Tony Brown</u> was sworn in and questioned what the town of Marathon looks at when making a determination.

<u>Mike Puerner – Corporation Counsel</u> reminded the board to look at the appeal that is before the Marathon County Board of Adjustment.

Tyler Seehafer noted he investigated a possible farmland consolidation in the past utilizing documents he found.

<u>Keith Langenhahn</u> was sworn in and stated he is the Town of Marathon Chairman. Langenhahn gave a summary of what happened to the town level notification process and why they held two meetings pertaining to the Seehafer's.

The committee was reminded to stay on topic regarding the reason of this appeal.

The committee was recessed until 11:20 am.

There was no additional testimony in favor, opposed, or as interest may appear via in person, or virtually. Testimony portion of the hearing closed at 11:28 am.

Corporation Counsel was present to answer any legal questions.

A definition of parcel/lot was read into the record.

The deliberated and completed the Conclusion of Law and Decision Sheet.

Motion/second by Lawson/ Ritter to Affirm the determination, decision, and/or action based upon the findings and conditions.

Motion carried 4 yes, 1 no, 0 abstain. Roll call vote.

- 3. Board Reappointments None.
- 4. Board education and training as needed None.
- 5. Announcements and Requests
- 6. Next meeting date May 23, 2024, at 9:00 a.m., 500 Forest Street, Wausau, WI 54403
- 7. Meeting adjourned Motion/second by Brimmer/Ritter to adjourn the meeting at 11:39 a.m.

Motion carried.

by voice vote, no dissent.

Respectfully submitted, Carolyn Opitz, Secretary

Marathon County Board of Adjustment

cc: Board of Adjustment (6), County Clerk, Town Clerk

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APPLICATION FOR CONDITIONAL USE PERMIT MARATHON COUNTY BOARD OF ADJUSTMENT

The applicant hereby requests the Board of Adjustment to hear and decide upon this application as prescribed by Section 17.803 of the Marathon County Zoning Ordinance. Use a separate sheet if necessary. Name of Applicant: Stanford Trayer Mailing Address: PO Box 106 Unity WI Telephone: 715-897-0535 Email: Saltrayer 90 @ amail.com Owner Name: (if different) Mailing Address: PO Box 106 Unity, WI 54488 Telephone: 715-897-0535 Fax: PARCEL INFORMATION 074- 2602-043-0985 (If more than one parcel is included in this application, list all parcel numbers & legal descriptions on a separate sheet.) Parcel ID # (PIN): Legal Description: Government Lot: or SW 4 SW 4 Section: 4 ,T 26 N, R 2 E, Town of Spencer Block -Subdivision Property Address: TRD Parcel size: Zoning District: Acres or Present use of property (List all current uses, i.e. home, store, farm field, wooded, etc.): Farm Field Existing improvements (Structures, well, septic, etc.):
Vacant Let - But Planning to Ruld Home - Business PROPOSAL Describe specifically the nature of this request (be sure to list all proposed uses of the parcel). What do you plan to do? Lawn Care business the business will be housed in the garage of home - feture potential of porting up small cold storage structure for business If this application is for a use that will be restricted to part of the parcel, specify the exact dimensions of the affected area. The majority of the business will be inside buildings however any ofthe business related outdoor activities will be perform on the North Half a Provide the following information if this box is checked

Proposal has additional development standards in Section 17. 204, 57 Explain how your proposal meets

or exceeds these requirements.



Use separate/additional sheet(s) if necessary

INSTRUCTIONS TO APPLICANT

- Be sure to complete all items on the application. This includes a brief, but complete explanation of the current use and proposed new use.
- 2. Prepare a map at a scale which is reproducible (11" x 17" or smaller). For maps larger than 11" x 17", be prepared to provide as many copies as needed for transmittal. In no instance may the scale of the map be less than 1 inch equals 200 feet. There are instances where a cross-section of the property or contours will be helpful, and in some cases one or both may be required. Narrative or photos may be included as supporting documentation.

At a minimum the map must include:

- The location, dimensions, and parcel identification number of the lot or lots including a legal description.
- Location of any and all nearby public and private streets.
- Dimensions of the lot and the location of all existing and proposed buildings or structures, and location of existing or proposed private onsite wastewater treatment (septic) system.
- Required front, rear, and side yard areas, open space, and parking.
- On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms.
- Location and dimensions of all buildings or structures to be erected, structurally altered, or moved.
- Wetlands and floodplains
- Screening/Buffers
- Lighting
- Parking
- 3. Include the \$600 fee when you submit the application. Please make checks payable to Marathon County.

We cannot consider an application complete until the following are submitted to this office:

Check if	Initial of	
submitted	staff	
9	GX	Completed application including signatures.
I /	GP	Map with all required information.
9/	G-8	Additional documents, as needed (lot combination forms, hunting/fishing shelter application, etc.)
1	GR	Zoning Permit application
	GP	Fee

Please contact the Marathon County Conservation, Planning and Zoning Department with any questions: 715-261-6000.

	IMPORTANT: The applicant or authorized representative must be present at the hearing or Board may deny the application without prejudice.					
Owner Signatu	re (required)	07/20/24 Date				
Agent / Person	responsible for work Signature (required)	Date				
and the Secre		test date of signature on the approval letter signed by Chairman sed construction or preparation of land for use has not commenced. to six (6) months upon show of valid cause.				
Return to:	Board of Adjustment Marathon County CPZ Department 210 River Drive	Telephone: 715-261-6000 Toll free within Marathon County: 1-800-236-0153 Facsimile: 715-261-6016				

For office use For office use

Amount Received: \$ (900

Wausau, WI 54403-5449

Date Stamp:

1. The location of the business will be inside my attached garage and possible small accessory structure to be added in the fature 2. Man use will be for primary residence - most of my work will be conducted off site 3. I am the owner of the business and the will be my residence 4. Building plans ect. will abide by Zoning standards 5 Building will meet all required setbacks 6. No anticipated burden with noise-odor-dust ect. We will not be opposeding at night. Maintenance will primarily be done, reside of structure 7. The oct door storage area will not be located within restricted set backs - oct door storage should be primarily trailers ect. Storage area will be behind structures. 8. Don't plan on any Signage currently - if this changes I will apply with Marathen County
9. Parking area will be behind the building - don't anticipate much on site traffic 10 New System is being installed - will contact DNR regarding any requirements

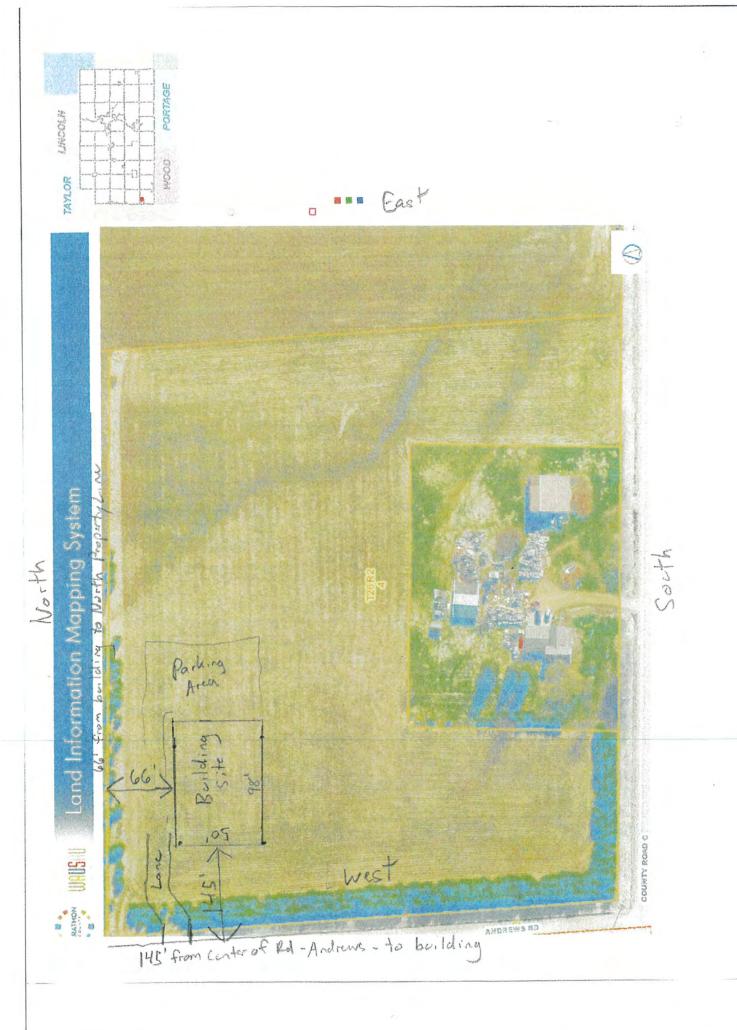


EXHIBIT "A"

Lot Two (2) of Certified Survey Map No. 15335 recorded October 16, 2008 in Volume 69 of Certified Surveys, page 77 as Document No. 1522539; being part of Lot One (1) of Certified Survey Map No. 12305, all being located in the Southwest Quarter of the Southwest Quarter (SW¼ SW¼), Section Four (4), Township Twenty-six (26) North, Range Two (2) East, Town of Spencer, Marathon County, Wisconsin.

State Bar of Wisconsin Form 1-2003 WARRANTY DEED

Document Number

Document Name

THIS DEED, made between

Blade A. Begert

("Grantor," whether one or more), and

Stanford D Troyer and Kerra L Troyer, husband and wife as survivorship marital property

("Grantee," whether one or more).

Grantor, for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Marathon County, State of Wisconsin ("Property") (If more space is needed, please attach addendum):

See Attached Exhibit A

STATE OF WISCONSIN - MARATHON COUNTY RECORDED

02-22-2024 at 9:50 AM DEAN J. STRATZ, REGISTER OF DEEDS

> DOC#: 1894725 Pages: 2 Transfer Fee: \$239,70

This document has been electronically recorded and returned to: KBTS - Marshfield

Recording Area

Name and Return Address: Stanford D Troyer and Kerra L Troyer P O Box 106 Unity, WI 54488

> 074-2602-043-0985 Parcel Identification Number (PIN)

This is not homestead property.

Grantor warrants that the title to the Property is good, indefeasible in fee simple and free and clear of encumbrances except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in the Grantor's (Seller's) Real Estate Condition Report, if any, and in the Offer to Purchase for the Property between the Grantor and Grantee, if any, and general taxes levied in the year of closing and will warrant and defend the same.

day of February, 2024

AUTHENTICATION

Signature(s): Blade A. Begert authenticated on

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not.

authorized by Wis. Stat. § 706.06)

THIS INSTRUMENT DRAFTED BY:

Tammy Jo Leichtman Scrivener / 2257398

Knight Barry Title Services LLC

601 S. Central, Ste. 100 Marshfield, WI 54449

ACKNOWLEDGMENT

STATE OF WISCONSIN COUNTY OF WOOD

The instrument was acknowledged before me on February 22, 2024, by Blade A. Begert (the signer).

e signer was: physically in my presence OR

in my presence involving the use of communication

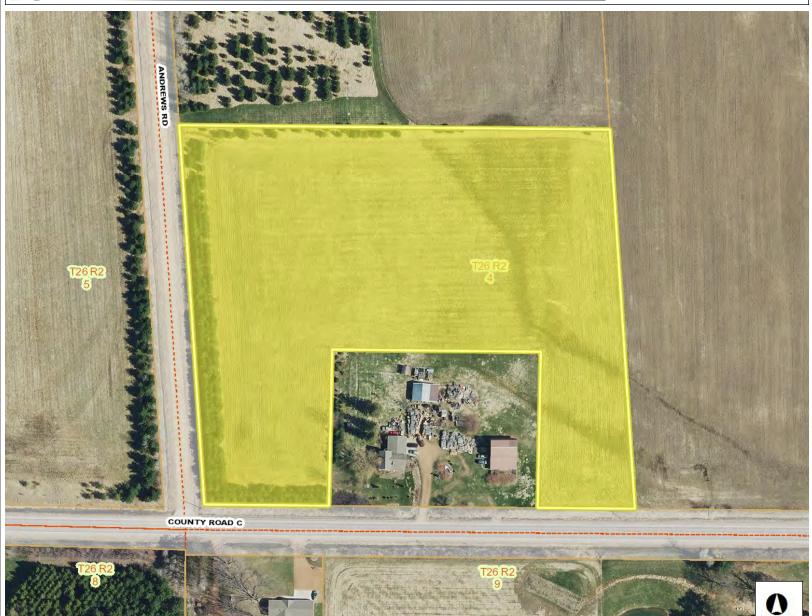
technology

Notary Public. Tammy Le. Le. Notary Public, State of Wisconsin

My commission (is permanent)(expires: 04/17/2024)



Land Information Mapping System



LINCOLN TAYLOR PORTAGE WOOD

Legend

Road Names

- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities 2020 Orthos Countywide
 - Red: Band_1
 - Green: Band_2
 - Blue: Band 3

78.42 Feet 78.42 0

NAD_1983_HARN_WISCRS_Marathon_County_Feet

DISCLAIMER: The information and depictions herein are for informational purposes and Marathon County-City of Wausau specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Marathon County-City of Wausau will not be responsible for any damages which result from third party use of the information and depictions herein or for use which ignores this warning. THIS MAP IS NOT TO BE USED FOR NAVIGATION Notes



Land Information Mapping System



TAYLOR LINCOLN

WOOD PORTAGE

Legend

Road Names

- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities2020 Orthos Countywide
 - Red: Band_1
 - Green: Band_2
 - Blue: Band 3

191.90 0 191.90 Feet

NAD_1983_HARN_WISCRS_Marathon_County_Feet

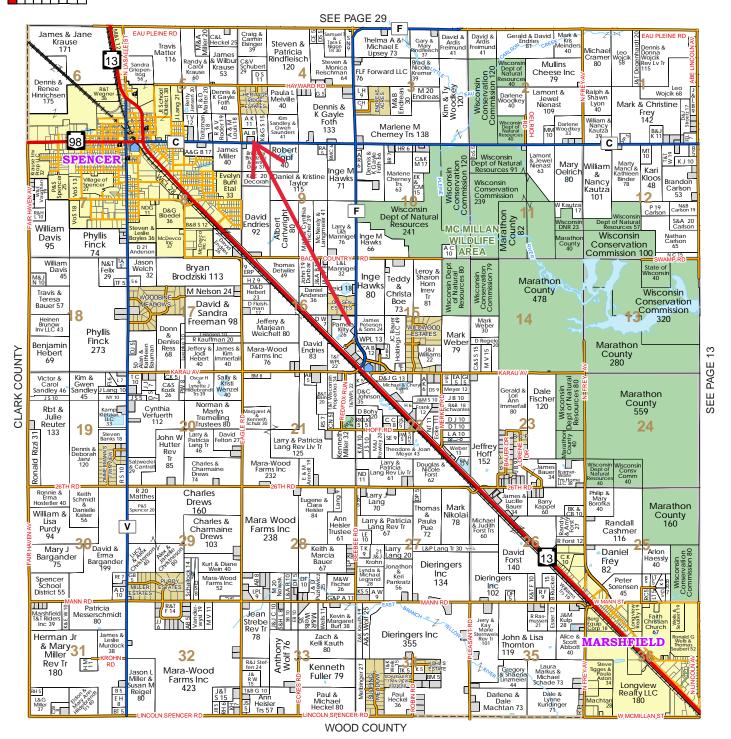
DISCLAIMER: The information and depictions herein are for informational purposes and Marathon County-City of Wausau specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

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MARATHON COUNTY) TOWN OF SPENCER)
TOWN RESOLUTION OF RECOMENDATION
TO THE MARATHON COUNTY BOARD OF ADJUSTMENT
I, Dennis Gonnering, Clerk of the Town of Spencer Marathon County, State of Wisconsin, do hereby certify that the following is a true and correct copy of a resolution adopted by the Town of Spencer Town Board at a meeting held on the 12th ay of March . 2024.
RESOLUTION
WHEREAS, the Marathon County Board of Adjustment is established for the purpose of hearing certain appeals, applications and granting variances in harmony with the general purpose and intent of land use regulations, and
WHEREAS, such a hearing is scheduled to come before the Board affecting lands within the Town of Town of Spencer.
NOW, THEREFORE BE IT RESOLVED that the Town of Spencer Town Board considered on the 12+ May of March 2024, the application of Stanford Troyer for a conditional use permit per section 17.204.57 of the General Zoning Code of Ordinances under Marathon County Chapter 17-Zoning Code to operate a Major Home Occupation/Home Professional Business in the Rural Estate zoning district, located in part of the Southwest ¼ of the Southwest ¼, Section 4, Township 26 North, Range 2 East, Town of Spencer; Pin # 074,2602.043.0985. Property address 208171 Andrews Road, Spencer, WI 54479., and hereby recommends:
Marathon County Board of Adjustment APPROVE application
☐ Marathon County Board of Adjustment DENY application
Comments, conditions and reasons for recommended action:
Is consistant with Town of Spencer Zoning
Clerk Day Donning
Town Board Demvis R, Fathy, Chalveerso

STATE OF WISCONSIN)

NOTE: If you recommend disapproval of this request, please make every effort to send a representative to the Board of Adjustment Public Hearing. Town input at the hearing is always appreciated. Please return this form before April 11, 2024 to:

Board of Adjustment

Marathon County Conservation, Planning and Zoning Department
210 River Drive

Wausau, WI 54403



Stanford Troyer

Conditional Use Permit Application Staff Report, April 25th, 2024 Marathon County Board of Adjustment

PETITIONER:

Stanford Troyer- PO Box 106, Unity, WI 54488

PROPERTY OWNERS:

Stanford Troyer- PO Box 106, Unity, WI 54488

REQUEST:

The application of Stanford Troyer for a conditional use permit per section 17.204.57 of the General Zoning Code of Ordinances under Marathon County Chapter 17-Zoning Code to operate a Major Home Occupation/Home Professional Business in the Rural Estate zoning district, located in part of the Southwest ¼ of the Southwest ¼, Section 4, Township 26 North, Range 2 East, Town of Spencer; Pin # 074.2602.043.0985. Property address 208171 Andrews Road, Spencer, WI 54479.

PUBLIC HEARINGS/MEETINGS:

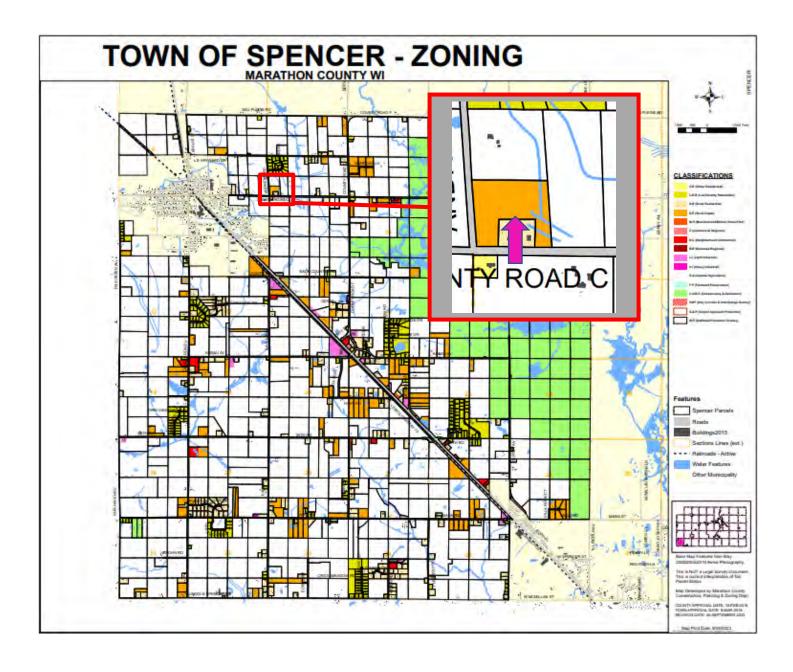
- Town of Spencer Town Board Meeting: March 12th, 2024
- Marathon County Board of Adjustment Meeting: April 25th, 2024; 9AM

Legal Notification:

A legal advertisement was published in the *Wausau Daily Herald*. Notice of the CUP was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

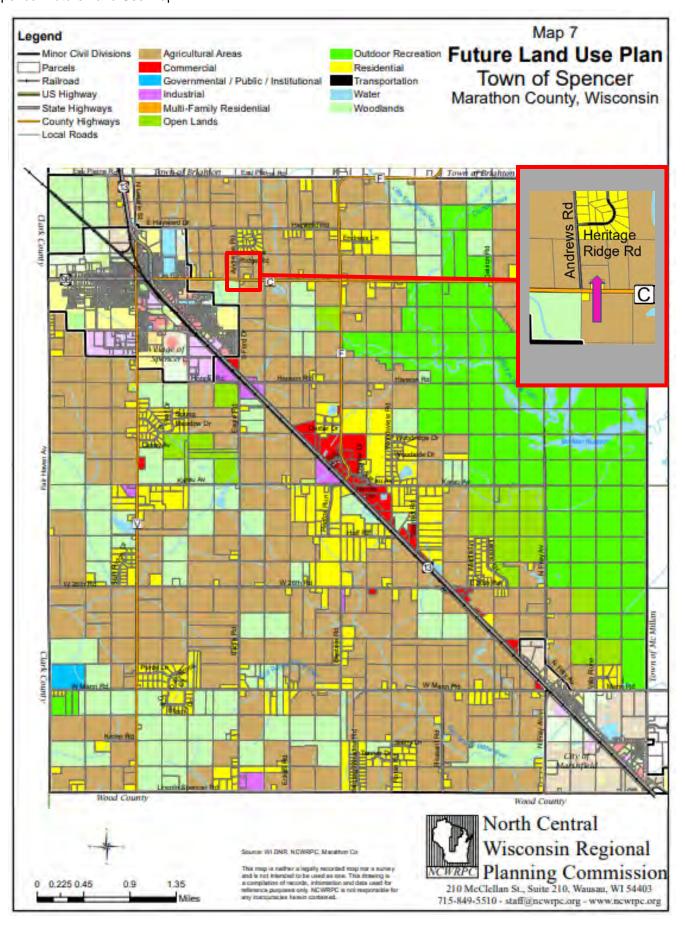
EXISTING ZONING DISTRICT:

A. **R-E Rural Estate District**. The purpose of the R-E district is to accommodate single-family residential use along existing streets, to preserve the rural character while promoting open space single-family medium residential development (involving the extension of new streets), and to separate agricultural uses from other more extensive community development within the County. Limited agricultural activities and livestock are allowed in this district. These areas may or may not be serviced by municipal water and sanitary sewer.



Parcel Acreage (According to tax records): 8.00 acres

Town Comprehensive Plan Future Land Use Map: The parcel is shown to be designated as agriculture in the Town of Spencer Future Land Use Map.



SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

- The parcel is:
 - o Not located within mapped floodplain
 - Not located within DNR mapped wetlands, or water features.
 - Not located within the shoreland overlay district.

VIOLATIONS

There are no known violations on the property.

Aerial Photo





Site Plan



Chapter 17 Sections that apply to this application

Table 3. Uses Permitted by District

Key: P Permitte	ed U	se		C	Con	ditio	nal U	se		(E	Blank	c) Us	e Not Permitted
USE		Residential Districts			Agricultural Districts			Nonresidential Districts				Development Standards	
		L-D-R	R-R	R-E	F.P	G-A	C-V/R-C	N-C	υ	B-R	Ξ	H	
Д	CCE	SSO	RY,	TEN	1PO	RAR	Y, an	d 01	THE	RUS	ES		
Accessory Buildings, Structures, and Uses	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	<u>Chapter 17.401</u>
Accessory Building(s) prior to a Principal Structure (For personal/private use and/or accessory to the principal use of the lot)	С	С	С	Р	Р	Р	С						Section 17.401.01(A)
Permanent use of Storage/Shipping containers as an accessory structure				С	Р	Р	С	Р	Р	P	Р	Р	Section 17.401.01
Concrete and/or Blacktop Mix Plant, processing, stockpiling, and recycling of road building materials					С	С					С	С	Section 17.204.61
Garage, Yard, and Estate Sales	Р	Р	Р	Р	Р	Р	Р						Section 17,204,55
Minor Occupation/Home Professional Business (in residential unit)	Р	Р	Р	Р	Р	Р				H			Section 17,204.56
Minor Occupation/Home Professional Business (in accessory building)	С	С	С	С	С	С	С						Section 17.204.56
Major Home Occupation/Home Professional Business	С	С	С	С	С	С							Section 17.204.57

Section 17.204.57 MAJOR HOME OCCUPATION/ HOME PROFESSIONAL BUSINESS

- A. Major Home Occupation/Home Professional Business. Any home occupation or home professional business may include uses such as upholstery, small engine repair, pet boarding, kennel, appliance repair, and veterinary clinic. A major home occupation/home professional business shall not employ more than two persons not members of the resident family. Major home occupation/home professional businesses shall comply with the following requirements:
 - 1. <u>Location.</u> A conditional Use Permit shall be required to establish or maintain a major home occupation or professional office within an accessory structure on a parcel that has a principal use of residential or agricultural. Such use shall be conducted primarily outside of the residence used by the person conducting the major home occupation/home professional business as his private residence.
 - The location of the business will be inside my attached garage and possible small accessory structure to be added in the future.
 - 2. <u>Incidental and Secondary.</u> Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not involve any extension or other structural modification of the dwelling.
 - Main use will be for primary residence, most of my work will be conducted off site.
 - 3. Reside in Dwelling. Such use shall be conducted only by persons residing in the dwelling unit.
 - I am the owner of the business, and it will be my residence.
 - 4. <u>Architectural Design</u>. Any structure used as a major home occupation/home professional business must be compatible in terms of height, bulk, and building materials type of the District in which it is located.
 - Building plans etc. will abide by zoning standards.
 - 5. <u>Minimum Yard Setback</u>. All structures must comply with district requirements.
 - Building will meet all required setbacks.

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- 6. <u>Nuisance</u>. Such use shall not create a nuisance by reason of noise, light, odor, dust, vibration, fumes, smoke, electrical interference, or other causes.
 - No anticipated burden with noise, odor, dust etc. We will not be operating at night. Maintenance will primarily be done inside of structure.
- 7. <u>Outdoor Storage</u>. Outdoor sales, storage and display of goods, supplies and equipment shall not be located in any required setback. All goods, supplies, or equipment shall be located within the building being used as the major home occupation or home professional business.
 - The outdoor storage area will not be located within restricted setbacks- outdoor storage should be primarily trailers etc. storage area will be behind structures.
- 8. Signage. There shall be no outward evidence of such use except not more than one sign as authorized by Title 7.
 - Don't plan on any signage currently. If this changes I will apply with Marathon County.
- 9. <u>Traffic/Parking</u>. Traffic or parking generated by such major home occupation/home professional business shall not be significantly greater in volume or requirement than normally to be expected in a residential neighborhood.
 - Parking area will be behind the building- don't anticipate much on-site traffic.
- 10. <u>POWTS System</u>. A private on-site wastewater treatment system evaluation shall be conducted and any improvement to or replacement of the system must be completed before the business may commence.
 - New System is being installed -will contact DNR regarding any requirements.

<u>Farmland Preservation District</u>. The use shall not impair or limit the current or future agricultural use of the farm or other protected farmland.

- N/A

Section 17.803.01 PURPOSE AND AUTHORITY

A. **Purpose**. Certain uses are of such a nature, or their effects are as dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this chapter for the determination of such uses as conditional uses. Conditional uses are land uses listed as such in <u>Table 3</u> Uses Permitted by District. They may be established in such district only upon approval by the Board of Adjustment.

The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

- 1. Ensure full compliance with the standards contained in this ordinance and other applicable local ordinances, and state and federal laws.
- 2. Achieve efficient use of the land.
- 3. Prevent adverse impact on adjoining or nearby properties.
- 4. Protect natural resources.
- 5. Facilitate development in accordance with the County's land use objectives per the Comprehensive Plan.

Section 17.803.02 APPLICATION PROCEDURES

- I. Board of Adjustment Determination. The Board of Adjustment shall review the application for conditional use, together with the previous meetings' findings and reports and recommendations from the Zoning Administrator, public safety officials, and other reviewing agencies. The Board of Adjustment shall then make a determination on the conditional use application, as set forth in Section <u>17.803.03</u> and based on the Substantial Evidence, other requirements and standards of this ordinance. The Board of Adjustment may approve, approve with conditions, or deny a conditional use request as follows:
 - 1. <u>Approval</u>. Upon determination by the Board of Adjustment that the final plan for conditional use is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, approval shall be granted.
 - Approval with Conditions. The Board of Adjustment may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:
 - a. Conditions must be to the extent of practical and measurable
 - b. Conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - d. Conditions shall be necessary to meet the intent and purpose of this ordinance, related to the standards established in this ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards. These conditions may include, but are not limited to the following:
 - 1) Permit duration, transfer or renewal
 - 2) Setback and yard dimensions.
 - 3) Specified sewage disposal and water supply facilities.
 - 4) Landscaping and planting screens.
 - 5) Operational controls.
 - 6) Sureties.
 - 7) Deed restrictions.
 - 8) Location of structures, docks, piers or signs.
 - 9) Location and amount of parking facilities.
 - 10) Type of construction.
 - 11) The obtaining of other permits required by the state or federal government agencies, and other county requirements based upon other ordinances as conditions that must be met before issuance of such permit.
 - 1. <u>Denial</u>. Upon determination by the Board of Adjustment that a conditional use proposal does not comply with the spirit or intent or standards and regulations set forth in this ordinance, or would constitute a nuisance by reason of noise,

dust, smoke, odor, or other similar factors, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the county, the conditional use proposal shall be denied.

Section 17.803.03 BASIS OF DETERMINATION

- A. **Conformance with Requirements**. The applicant shall be required to establish by clear and convincing evidence that the applicable standards of this Chapter, the specific standards pertinent to each conditional use, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Chapter (refer to Chapter 17.204, Development Standards for Specific Uses) have been met.
- B. **General Standards**. The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:
 - 1. <u>Compatibility with Adjacent Uses</u>. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - c. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - 2. <u>Comprehensive Plan</u>. The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the town and county comprehensive plan.
 - 3. <u>Compliance with Applicable Regulations</u>. The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.
 - 4. <u>Use of Adjacent Property</u>. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
 - 5. <u>Public Services</u>. The proposed conditional use will be served adequately by essential public facilities and services including but not necessarily limited to utilities, highways, streets, police and fire protection, drainage structures, refuse disposal, and school(s); unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
 - 6. <u>Impact of Traffic</u>. The location of the proposed conditional use shall, within the zoning district, minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. Proximity and access to major thoroughfares.
 - b. Estimated traffic generated by the proposed use.
 - c. Proximity and relation to intersections.
 - d. Adequacy of driver sight distances.
 - e. Location of and access to off-street parking.
 - f. Required vehicular turning movements.
 - g. Provision of pedestrian traffic (if applicable).
 - 7. Enhancement of Surrounding Environment. The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
 - a. The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Ordinance may be required as a condition of approval of a conditional use.
 - b. The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.
 - 8. <u>Impact on Public Health, Safety, and Welfare</u>. The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, and environmental impact.

- 9. <u>Isolation of Existing Uses</u>. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
- 10. <u>Substantial Evidence</u>. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.

RECOMMENDATIONS FOR THE CUP

<u>If granted</u>, the CUP should consider including the following conditions:

- The Board of Adjustment should specify in their decision (and subsequently the letter that is issued to the applicant)
 - Expiration of permit (Change of Ownership)
 - o All other required federal, state, and local permits and approvals shall be obtained and followed.

TOWN RECOMMENDATION:

The **Town of Spencer** Town Boards Recommend **Approval** to Marathon County's Board of Adjustments.

THE STAFF RESERVE THE RIGHT TO AMEND THIS REPORT BASED ON NEW EVIDENCE PRESENTED PRIOR TO AND/OR DURING THE PUBLIC HEARING.

DECISIONS OF THE BOARD ARE SUBJECT TO APPEAL AS PROVIDED IN SS.59.694(10) WIS. STATS.

RESPECTFULLY SUBMITTED:

	4/8/2024
DATE	
	DATE

Petition for Area Variance

to the

Marathon County Board of Adjustment

Applicants Address: Email Address: D			ICANT FILLOUT	11
	ETITION FOR	VADIAN	NCE IN A SEPERA	TE
Owner (if different than applicant	t):	Phone	CE II A SEI ERA	
Owner's Address:	WORD DOCUM	MENT P	ROVIDED BELO	W
Town of:	Parcel ID#:		Zoning District:E	
Property Legal Description:	1/41/4, Section	, TN	N, RE	
Site Address:				
	public interest where, owing to specia	l conditions, a litera	al, in specific cases, variances from the ternal enforcement of the provisions of the ordinastantial justice done.	
Area variance – Provides an incr building height or setback.	ement of relief (normally small	l) from a physic	al dimensional restriction such as a	
Current use of property & improv	ements:			_
Describe the variance requested:				
	*			
Ordinance standard from which the	e variance is being sought (Sec	ction Number ar	nd Text):	_
Description of any prior petition f	or appeal, variance, or conditio	nal use:		

Alternatives

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Attach a site map showing alternatives you considered in each category below.

	ward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you reject m
-	
A 1.	
Alt	ernatives you considered that require a lesser variance and reasons you rejected them. If you reject such rnatives, provide the reasons you rejected them.
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Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

1) Unnecessary Hardship / Practical Difficulty

	Owner Courts wheth	(for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Is have also determined that economic or financial hardship does not justify a variance. When determining the runnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The ty owner bears the burden of proving unnecessary hardship.
	pr res lal Th pr	or an area variance, unnecessary hardship / practical difficulty exists when compliance would unreasonably event the owner from using the property for a permitted purpose or would render conformity with such strictions unnecessarily burdensome. The Wisconsin Supreme Court also determined that living without a reside porch was a personal inconvenience and did not constitute unnecessary hardship or practical difficulty. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the operty, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community d on the public interests.
	Is unn	ecessary hardship/practical difficulty present?
	□ Y6	es. Describe:
		o. A variance cannot be granted.
2)		e property limitations
	proper need for lack of	e physical limitations of the property such as steep slopes or wetlands that are not generally shared by other ties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family or a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent nee compliance and are common to a number of properties should be addressed by amending the ordinance.
	Do un	ique physical characteristics of your property prevent compliance with the ordinance?
		es. Where are they located on your property? Please show the boundaries of these features on the site map that u used to describe alternatives you considered.
	_	
	=	
	5	
	I No	A variance cannot be granted.

-							
21	No E	171 11111	to	Duch	lin	Int	awaste
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A variance may not be granted which results in harm to public interests. In applying this test, the zoning board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety, and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures and lots
- Any other public interest issues

Does this red	quest cause harn	a to public interests?

☐ Yes. A variance cannot be granted.	
□ No. (Explain)	
certify that the information I have provided in this application is true	e and accurate.
Owner Signature:	Date: 3/2/24
Owner Signature: Tomara a. Cable	Date: 3/6/2024
Applicant Signature (if different):	Date:

Name of Applicant: Kurt A Cable & Tamara A Cable

Phone: (715) 832-4442 & (715) 456-4200

Applicants Address: 215010 Lakefront Dr, Hatley, WI, 54440

Email Address:

Owner (if different from applicant): N/A

Phone: N/A

Owner's Address: N/A

Town of: Elderon

Parcel ID#: 02227101850033

Zoning District: <TBD>

Property Legal Description: <TBD>1/4 <TBD>, Section <TBD>, T <TBD> N, R <TBD> E

Lot <TBD>, Block <TBD>, Subdivision <TBD>

Legal Description: Sec. 18, T27N, R10E

FRANKLIN PARK ADDITION LOT 18 INCL THAT PT OF GOVT LOT 2 SEC 18-27-10 DESD AS VAC PIKE LAKE RD LYG WLY OF WLY R/W OF LAKEVIEW DR AS DESD IN DOC #1645924 & INCL PT OF LOT 1 FRANKLIN PARK 2^{ND} ADD- N/D/A LOT 1 CSM VOL 78 PG 124

Site Address: 215010 Lakefront Dr, Hatley, WI 54440

Current use of the property & improvements: Primary residence, tool shed, garden shed, playhouse, deck, porch, rock wall, well, septic.

Describe the variance requested: A garage and addition which would encroach into various setbacks and the expansion would be larger than what the current code allows.

Ordinance standard from which the variance is being sought (Section Number and Text): Marathon County Chapter 17, section 17.202.03(G) - front yard/side yard road setbacks. Chapter 22, Section 22.208.03 – expansion of a non-conforming structure within a setback.

Description of any prior petition for appeal, variance, or conditional use: N/A

Description and location of all nonconforming structures & uses on the property: Primary residence – due to road setback, setback from OHWM, small storage shed (would remove if approved), playhouse (would remove if approved), garden shed (would remove if approved), and rock wall (too close to the road setback).

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Attach a site map showing alternatives you considered in each category below.

A. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

Alternative A:

- 1. Looked into purchasing adjacent property on the North side.
 - A. There would still be setback issues.
 - a. Property is a non-conforming structure.
 - b. It is too close to the road setbacks.
 - c. Unable to control land that is not for sale.
 - B. We wouldn't have an attached garage and would still be facing our safety issue of ice and sno
- 2. We could tear down our 9 1/2-year primary residence.
 - A. We could tear down our primary residence and reconstruct a new primary structure that is not a non-conforming structure.
 - a. The current structure was built back on the original footprint of the primary structure after a disaster claimed the structure in a fire, destroying the dwelling in November 2012.
 - Were compliant with the rebuild of the primary structure as per zoning and development regulations.
 - c. We were also compliant with other regulations according to setbacks, as seen on permit instructions. All setbacks were met as seen on zoning permit number Z 14-035.
 - d. Would not be able to build a garage in compliance with today's code.
- 3. Have a significant slope to our property, making it hard for the placement of utilities and structures.
 - A. Septic placement was the only area that would work for the property.
 - a. Could remove the conventional system and replace it with a large holding tank; however, holding tanks are not environmentally friendly and would need constant pumping due to the property being a primary residence.
 - b. Holding tanks are not designed for large households or long-term use and need to be emptied every one to four weeks, adding to the environmental cost of pumping onto designated areas 24 times a year versus one time every three years with a conventional system.
 - Marathon County is a last resort holding tank county and chooses conventional systems over holding tanks.
 - B. Well placement.
 - a. New well was installed in August 2022 and was placed in the only spot that fit the topography; the equipment needed to drill the well could not traverse the slope.
 - b. Wells need to be 50 feet from septic systems.
 - c. The well was placed parallel to the neighbor's well located to the South.
 - d. Had a shallow, sand point well inside the primary structure and decided to have a drilled well for various reasons: safer drinking water, better water pressure, and less likely to freeze or run dry.
 - C. Garage placement.

- Only location due to the slope of the property, septic system placement, and well placement.
- b. Looked at various limited designs, and after the designer measured surveyor stakes, it was determined there was only one suitable design and location for the garage and addition.
- c. Discussed a tandem garage on the left side, but it wouldn't work because of the radius turn into the garage. If the driveway wasn't changed, it would not be compliant with shoreline setbacks.

Alternative B:

- 1. One car attached garage on the left side of the primary structure.
 - Would not address the safety issue because the second car would be parked on the driveway.
 - B. The radius turn into the garage would not allow a second car in the driveway; it would constantly be moving vehicles.
 - C. Would be limited to a one-car garage.
 - D. The driveway entrance would have to be moved to accommodate the radius turn arc. This would create a public hazard because the placement of the new driveway would be at the T intersection of Pike Lake Rd. and Lakefront Drive (intersection pictures included).
 - E. Removal of Rockwall.
 - a. Wall creates a barrier for the primary structure and has been a part of the property for 60-plus years.
 - Protects the primary structure/garage from vehicles driving into it. The primary structure has been driven into in the past.

Is unnecessary hardship/practical difficulty present?

Yes. Describe: The property presents a challenging situation due to its significant slope, making the placement of utilities and structures difficult. The primary structure was rebuilt on the same footprint as the dwelling destroyed by a fire in 2012.

During the rebuilding process, we encountered numerous contradictory instructions from the Department of Zoning and Development. Initially, we were informed that we could only rebuild on the same footprint and had to retain 50% of the structure, so we had to keep the foundation. Additionally, we were granted 50% square footage for expansion, which contradicted previous correspondence from Lane Loveland. Correspondence included.

After over a year of navigating through these contradictions, we finally obtained a permit. However, the permit's specifications differed significantly from what was initially communicated by the zoning department. Our plans had already been approved based on our site plan, but the permit allowed for different provisions. Had we would have been able to build based on what the zoning permit allowed we would have been able to build more than we were told we could build and we would not be seeking this variance for the addition. Building permit inclosed Z14-035.

One of the significant challenges we faced was the inability to build a small porch for protection against snow and ice during the winter. We were told that doing so would encroach further onto the non-conforming structure and road setback.

Furthermore, the slope of the property makes accessing the residence difficult, especially when carrying items such as groceries or luggage. Despite expressing our concerns about safety, the only solution provided was a small covered portico, which minimally addressed our safety concerns.

Safety is paramount for us, especially during the winter months when ice and snow accumulate on the stairs and driveway, posing significant risks of falls. An incident in January 2023, where a family member suffered a head injury from a fall, further emphasizes the urgency of addressing safety concerns.

Medical experts have highlighted the importance of fall prevention, particularly for seniors. Falls are a leading cause of fatal and non-fatal injuries among older adults, and the risks are exacerbated in rural areas like ours due to weather conditions and terrain.

In addition to safety concerns, easy accessibility and security are compelling reasons for needing an exception. As we age, accessing the primary residence through a garage would be much easier, and having a secured location for our belongings is essential for peace of mind.

In summary, the property's challenging terrain, coupled with inconsistent instructions from the zoning department, has led to significant hardships, particularly concerning safety, accessibility, and security.

We have faced numerous challenges and contradictions from the zoning department, resulting in significant delays and limitations during the rebuilding process. The slope of the property makes accessing the residence difficult and poses safety risks, particularly during winter months. Moreover, the family has experienced firsthand the consequences of these safety risks with a member suffering a head injury from a fall. Considering these factors, it's evident that there is unnecessary hardship and practical difficulty present, warranting an exception to address safety, accessibility, and security concerns.

Yes, there are unique property limitations.

The situation presents several unique property limitations, primarily related to its size and shape, which significantly constrain its development. These constraints result in unnecessary hardship and practical difficulties for the property owner.

Firstly, the size and shape of the property restrict the type and extent of development that can occur. This limitation arises from the property's unique topography and overall size, which may not conform to standard zoning regulations. As mentioned, variances have been approved for other properties on Pike Lake due to similar constraints, indicating that such limitations are not uncommon in the area.

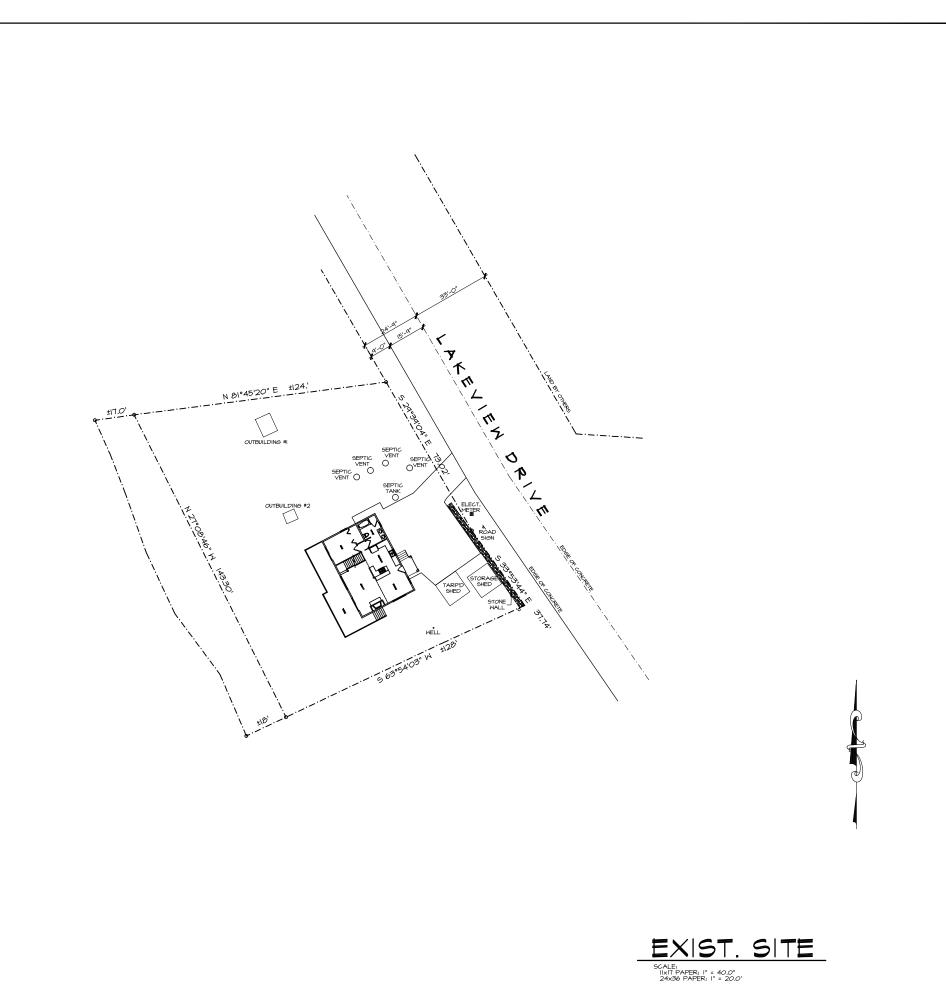
This further supports the argument that the constraints faced by the property owner are indeed significant and warrant consideration for exceptions of variances.

In summary, the unique limitations of the property, particularly its size and shape, create unnecessary hardship and practical difficulties for development. The precedent of variances granted for similar properties underscores the validity of the argument for accommodating the property owner's challenges.

Support for No Harm to Public Interest:

This request does not cause harm to public interest.

- Public Hazard: The presence of an existing Rockwall between the garage and the road mitigates any
 potential hazards that the garage might pose to the public. Additionally, maintaining the driveway in its
 current location ensures safety.
- 2. Water Quality: No anticipated impact on water quality.
- 3. Fish and Wildlife: The construction of the garage and addition will not significantly affect fish and wildlife compared to the current situation.
- 4. Natural Scenic Beauty: Given the presence of similar structures on the lake, the addition of the garage and addition will not alter the area's natural scenic beauty.
- 5. Minimization of Property Damage: No damage anticipated.
- 6. Provisions of Efficient Public Facilities and Utilities: The construction of the garage will not burden existing public utilities.
- 7. Achievement of Eventual Compliance for Nonconforming Uses, Structures, and Lots: Not without a variance or laws and statutes changing.
- 8. Any Other Public Interest Issues: None.





813 WESTERN AVE, MOSINEE, WI 54455

© A-K DESIGN, LLC COPYRIGHT

AD FILE:

23085-V3.dwg

AST MODIFIED:

10 January 2024

DATE PRINTED:

16 January 2024

215010 LAKEFRONT DRIVE 54440 RESIDENCE CABLE HATLEY

ĸ	REVISIONS		
0	DATE	TYPE OF REVISIONS	

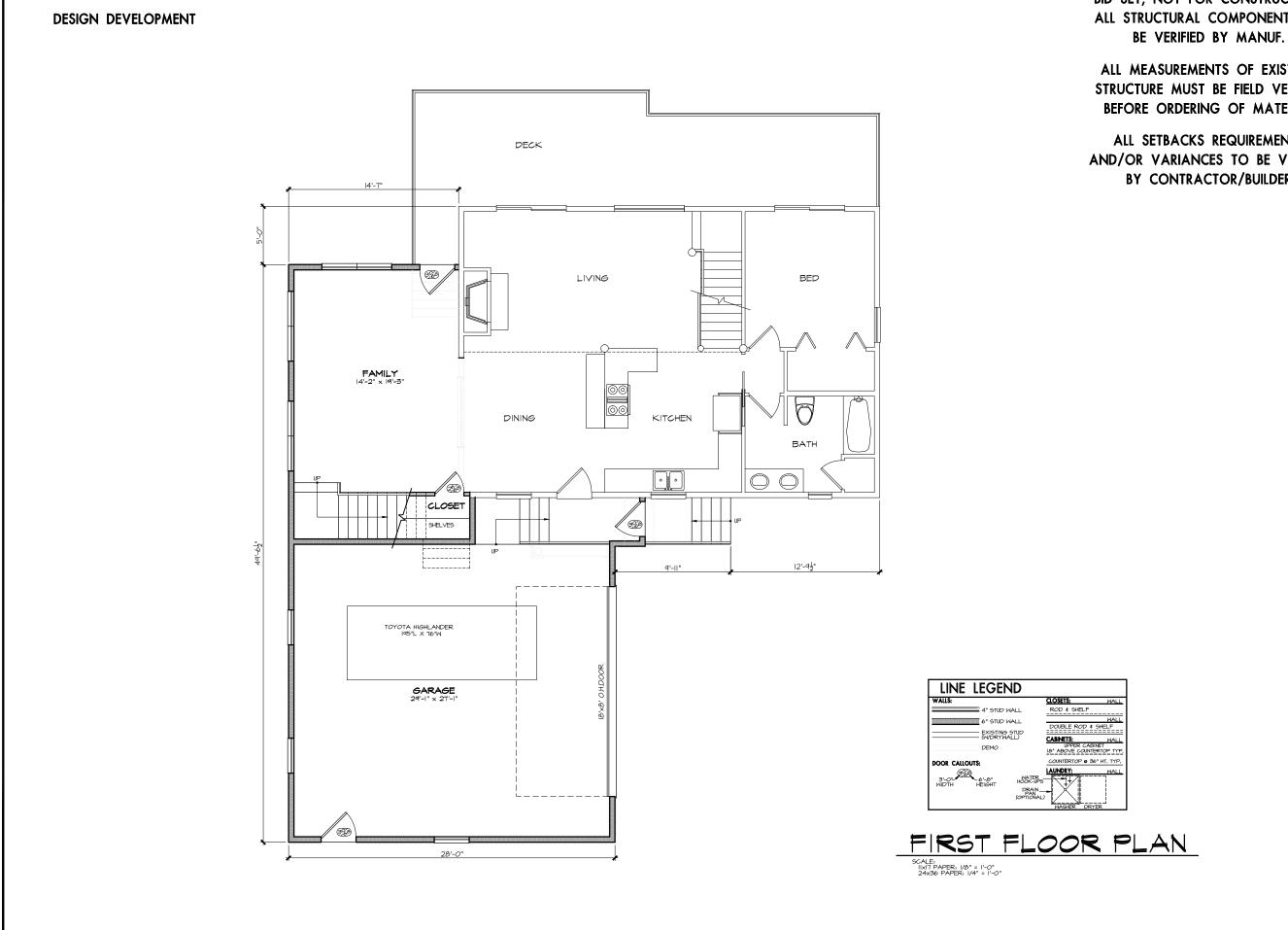
TABLE OF CONTENTS EXISTING SITE PLAN PROPOSED ADDITION PROPOSED SITE PLAN

EXISTING AREAS				
LOT SIZE	15584			
HOUSE FOOTPRINT	904			
COVERED FRONT PORCH	48			
DECK	400			
DRIVEWAY	1085			
STORAGE SHED	107			
TARPED SHED	10 <i>7</i>			
(2)SMALL OUTBUILDINGS	74			
TOTAL IMPERVIOUS	2725			
IMPERVIOUS PERCENTAGE	17.5%			

JOB # 23085-V3

OF

COUNTY REVIEW



BID SET, NOT FOR CONSTRUCTION, ALL STRUCTURAL COMPONENTS TO

ALL MEASUREMENTS OF EXISTING STRUCTURE MUST BE FIELD VERIFIED BEFORE ORDERING OF MATERIAL

ALL SETBACKS REQUIREMENTS AND/OR VARIANCES TO BE VERIFIED BY CONTRACTOR/BUILDER



715.321.1301 813 WESTERN AVE, MOSINEE, WI 54455 © A-K DESIGN, LLC COPYRIGHT

AD FILE: 23085-V3.dwq AST MODIFIED: 10 January 2024 DATE PRINTED:

16 January 2024

DRIVE 54440 **RESIDENCE** 215010 LAKEFRONT ₹ CABLE HATLEY

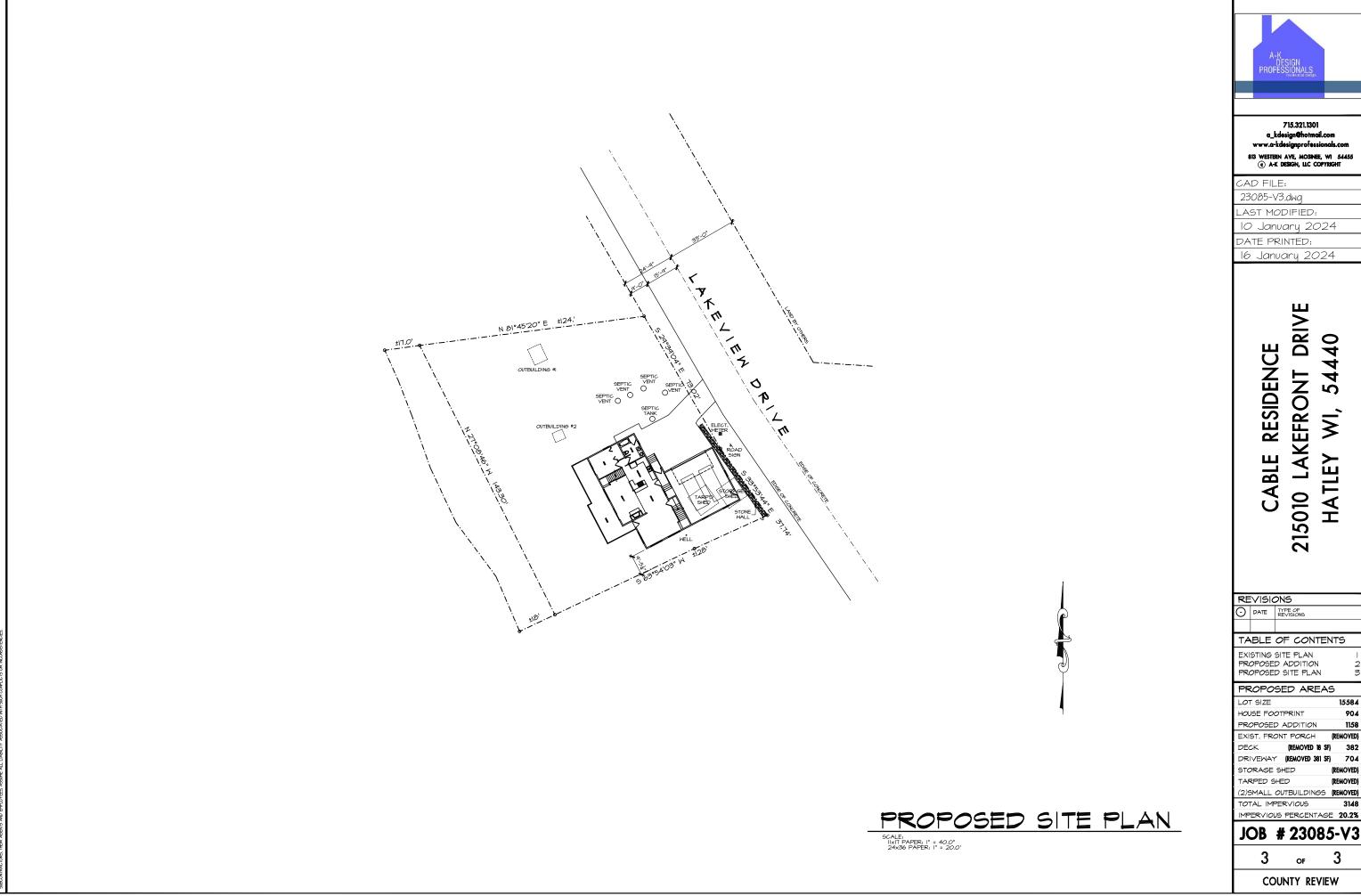
REVISIONS						
KEVISIONS						
0	DATE	TYPE OF REVISIONS				
TABLE OF CONTENTS						

EXISTING SITE PLAN PROPOSED ADDITION PROPOSED SITE PLAN

PROPOSED ADDITION SF SARAGE & FRONT PORCH 802 TOTAL COVERED:

JOB # 23085-V3

COUNTY REVIEW





REVISIONS							
O DATE	TYPE OF REVISIONS						

15584 1158 (REMOVED 18 SF) 382 704 (REMOVED) (REMOVED) (2)SMALL OUTBUILDINGS (REMOVED) 3148

JOB # 23085-V3

FIRST FLOOR PLAN

COPTIONAL

CONTENTOR OF THE CONTENTOR TYPE

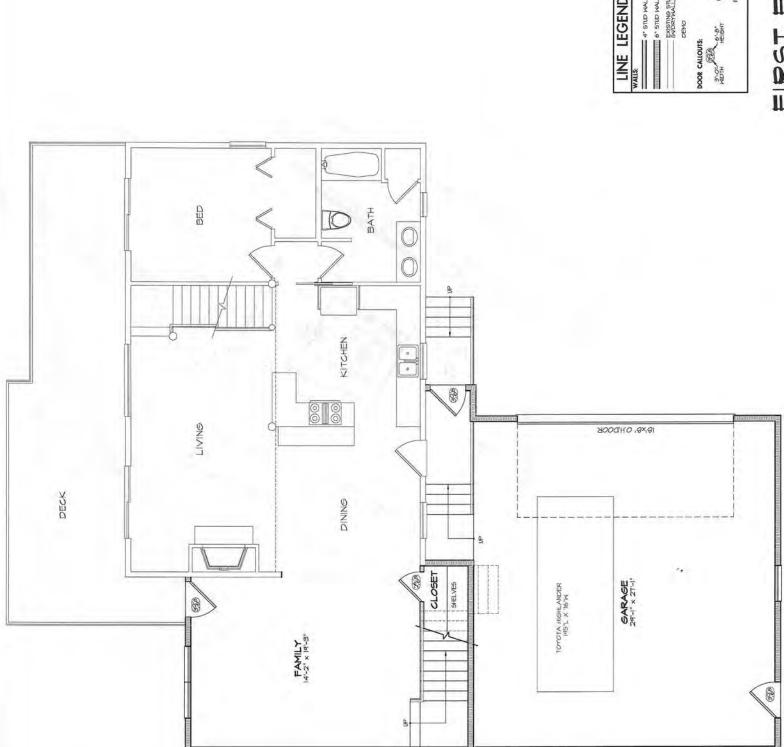
- EXISTING STUD (WDRYWALL) DEMO

4" STUD WALL

LINE LEGEND

AND/OR VARIANCES
BY CONTRACTO

BEFORE ORDERING (OINCOLONE MOOI OF

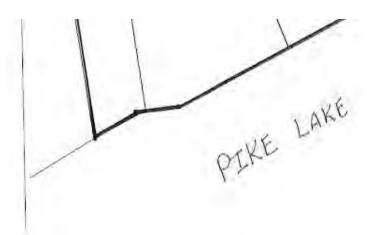












is a NOT a legal survey document

from pis to be used for reference only
retrain County assurities NO legal responsibility

of the information

or thinked betterin.



TAMMY & KURT/RICHARD CABLE PROPERTY

- STEP 1: Take care of the Pike Lake Rd. Right of Way Issue. This issue needs to be resolved before any permits can be obtained for the property.
- STEP 2: combine parcels together by Survey. (These parcels will need to be combined to make more room for expansion of the cabin and so that setbacks are met.)
- STEP 3: Decide if the cabin will be kept in its current location and for the possibility of expansion, or if the Cabin will be torn down completely. If cabin is kept in same location it will be considered a previous non-conforming structure due to the setback from Lakeview Drive. Remove other Non-conforming outbuildings.
- Step 4. If cabin is removed and reconstructed in a conforming location, an average setback staking could benefit the homeowner to build closer to the OHWM of Pike Lake. There also would be no restrictions on the size of the cabin other than side yard, height, road, and water setbacks.
- Step 5: If the cabin is kept in current location, then it will be subject to be expanded by up to 50% of original footprint over the entire life of the cabin. (unless the roadside wall is located to a conforming location). *As a reminder, the house is not parallel to the road and an expansion would be permitted but not to be more non-conforming. (average shoreland staking can still be conducted)
- Step 6: Get a shoreland staking done by Marathon County CPZ department
- Step 7: Obtain a reconnection permit for your sanitary system (Evaluation needed?)
- Step 8: Obtain a Shoreland Zoning permit.
 - These steps are assuming that an average shoreland staking is conducted and that all other regulations and restrictions are met in compliance.



ZONINĞ & REGULATORY DIVISION MARATHON COUNTY CONSERVATION, PLANNING, & ZONING DEPARTMENT 210 RIVER DRIVE – WAUSAU, WI 54403-5449 TELEPHONE (715) 261-6020 OR 6021

When applicable, return ALL COPIES with fee and any Additional Documentation

Application for Zoning Permit

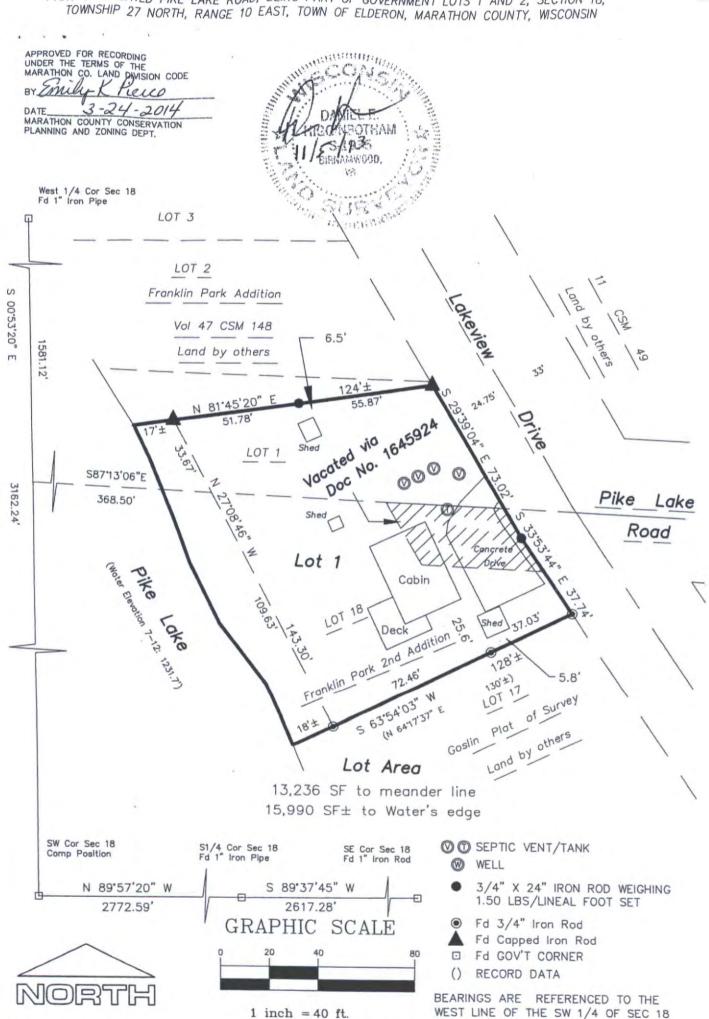
The undersigned hereby makes application for a Zoning (Land Use) Permit and agrees that all construction and use shall be in accordance with the requirements of the Marathon County General Code of Ordinances Chapter 17 Zoning Code and all other applicable ordinances and the laws of the State of Wisconsin.

Pursuant to Chapter 17.11(1) Zoning Ordinance, Marathon County Conservation, Planning, and Zoning (CPZ) Department employees assigned to inspect properties shall have access to said properties to make inspections.

If within six (6) months of the date of issuance the proposed construction or use has not commenced this permit shall expire, unless a renewal has been

granted by the CPZ Director or designee. Only one renewal may be granted upon showing	11
022-2710-185-0033	A-T-F
Parcel I.D. # (from tax rolls) 11 - 0156-500-018-00-00	Permit No. 214-035
(Include all zeroes and decimal points)	(Office Use Only)
Town of: Elderon 1/4, 1/4, Sec. 18, T27 N RIVE, Lot 18	Block Subdivision Franklin Park Addition
Owner Kurt + Tannay Cable	
Apent Steven A. Vera Date	10/7/2013 Telephone 446 3379
Mailing Address 1514 Lake View Dr. Hatley W1. 5444	ð
Property Address 1366 Lake View Dr. Hatley W1. St	1440
Builder S. A. Vera Co. Address 1514 Lake Vis	ew Hotlay W1. 54440 Telephone 446 3379
Owner/Agent Signature	
Owner/Agent Signature	
1. Zoning District: RS-1/20 Existing Land Use: Residental 2. Proposed Land Use: Residential 3. Purpose of Project: Home Construction 4. Other required Sanitary, CountyID No. Town UDC Permit Permits: Other 5. Structure: New Structure; Alteration; Addition; Moved 6. Use: Principal Building Accessory Building 7. Type: Frame; Factory Cut; Mobile Home; Other Log 8. Size: 36 ft. x 25 ft.; Height 29 Other Building ft. x ft. 9. Floor Area: 2880 sq. ft.; Stories Z; Value \$ \$450,000 10. Lot Area: 15200 sq. ft. or Number of Acres	 11. Site Map (Use separate sheet) – Sketch Building(s) Outline, show distances on map as required by 12 to 17 below. 12. Road Setback:
Permit Issued by Date Permit Denied for the Following Reasons:	Fee \$ 330.00 Make checks payable to Marathon County Date Started
	Signature / Date
Inspections Date 02-24-15 Inspector A// S	O ZONINGFORMS Zone Pmise pos doc





SHEET 1 OF 3

SURVEY PROVIDED BY:

WEST LINE OF THE SW 1/4 OF SEC 18 ASSUMED TO BEAR S 0° 53' 20" E

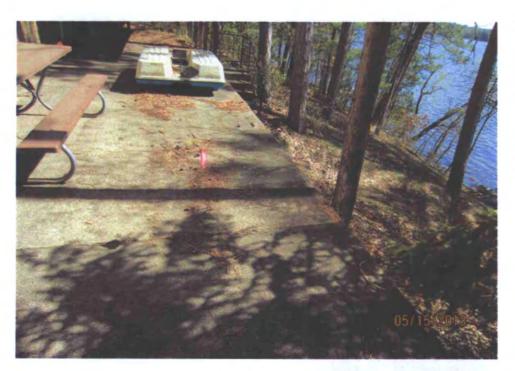






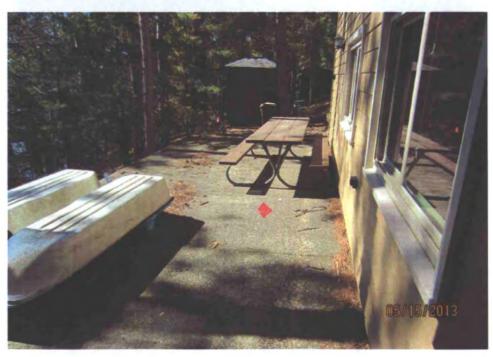












ZUNING PK:KIN

A-7- E

Permit Number:

Issued To Kuit + Tammy Cable

DATE 4/11/2014

FOR Single family home PARCEL ID#.022-2710-185-0033
SANITARY PERMIT # LOCATED 1366 La Keview T 27 N R 10 E **BLOCK** SUBDIVISION TOWN OF Elder

All land uses on the property for which this permit is issued shall be conducted in accordance with the Marathon County Zoning Ordinance. Failure to adhere to the ordinance or the terms of the permit shall void the

rd min set Backs 10 fe OHUM SOTback 68ft Than 43' from Set Back of building is

not enclock cluser.

ZONING ADMINISTRATOR OR DEPUTY

If within six (6) months of the date of issuance of this permit, the proposed construction or use has not commenced, said permit shall expire, unless an extension has been granted by the Zoning Administrator (see Section 17.16 Zoning Ordinance).

STOYOUS

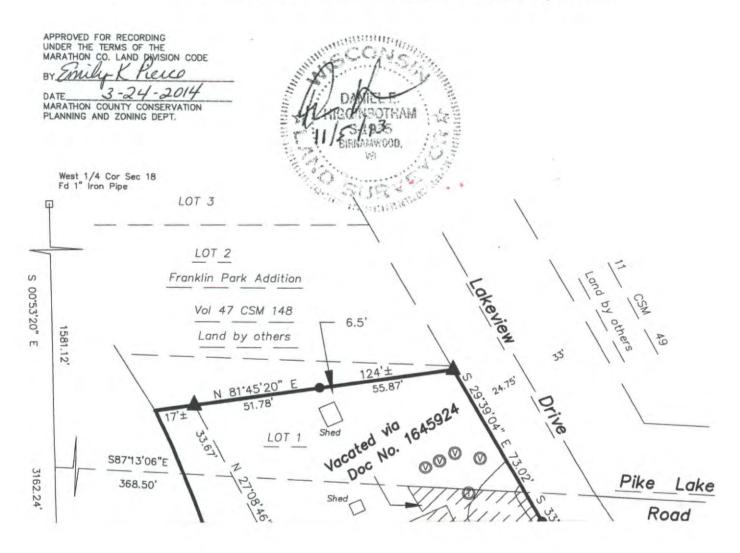
mmediately before

These setbacks are either minimum setbacks as listed in the Marathon County Zoning Ordinance or as shown on the permit application.

POST IN VIEW OF THE ROAD FRONTING THE LOT DURING CONSTRUCTION

CERTIFIED SURVEY MAP NO.____ VOL___ PAGE___

OF ALL OF LOT 18, FRANKLIN PARK ADDITION AND PART OF LOT 1, FRANKLIN PARK 2ND ADDITION AND PART OF VACATED PIKE LAKE ROAD, BEING PART OF GOVERNMENT LOTS 1 AND 2, SECTION 18, TOWNSHIP 27 NORTH, RANGE 10 EAST, TOWN OF ELDERON, MARATHON COUNTY, WISCONSIN



26.28,2024

To: Board of adjustments,

We live across the struct from

Kurt + Tammy Caple. We have

lived on this corner lat for the

past 54 years. Jim Konkal grew

up on the farm across from Pike

Lake a few houses before this

intersection, so he has lived

here all his 73 years. Because

the purposed building site does

not obstruct our view, has no

effect on troppic flow at the

intersection, and taking into

account all the construction

account all the construction

account all the longer and present,

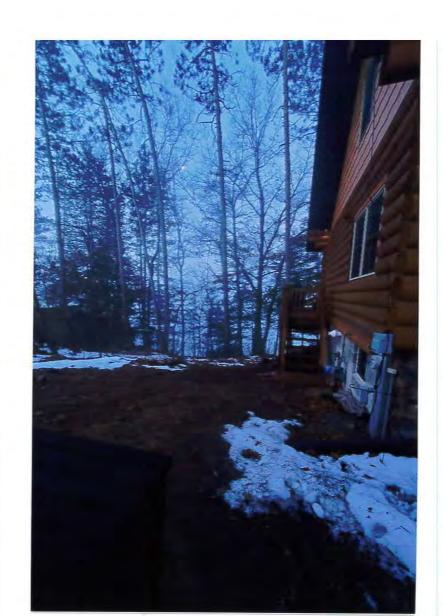
we see no reason why they shouldn't

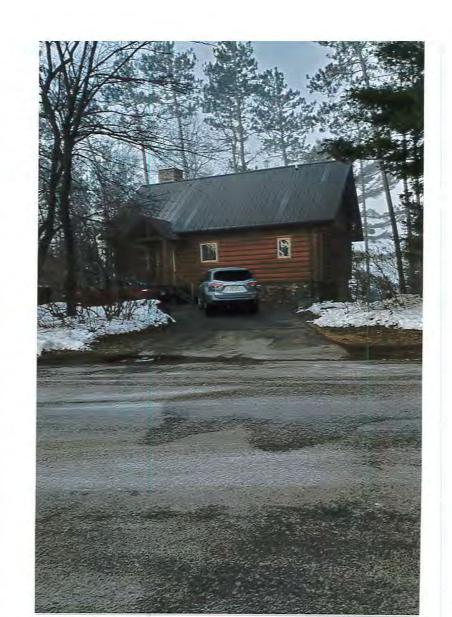
be allowed this need contruction.

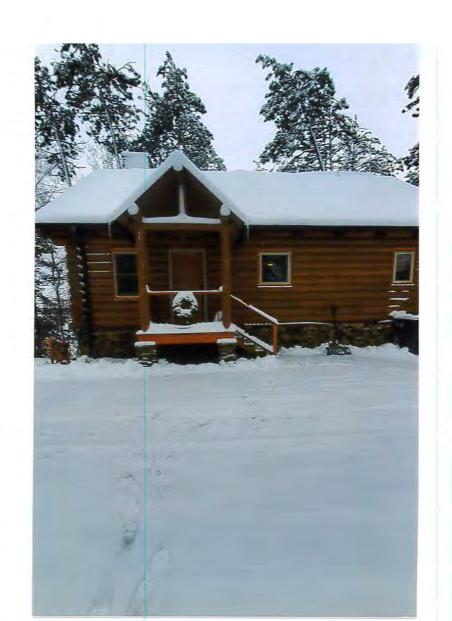
Games Konkol) Luanne Konkol

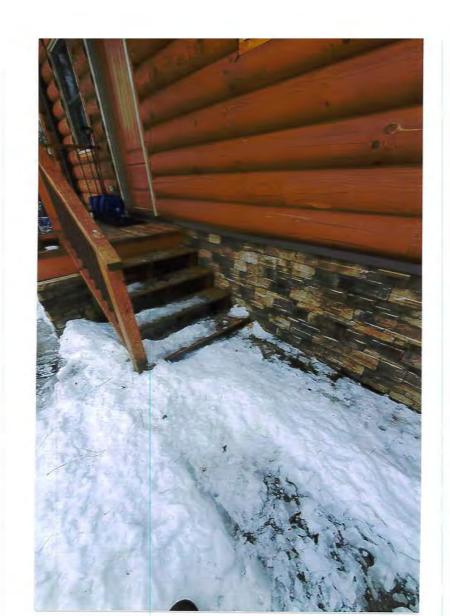






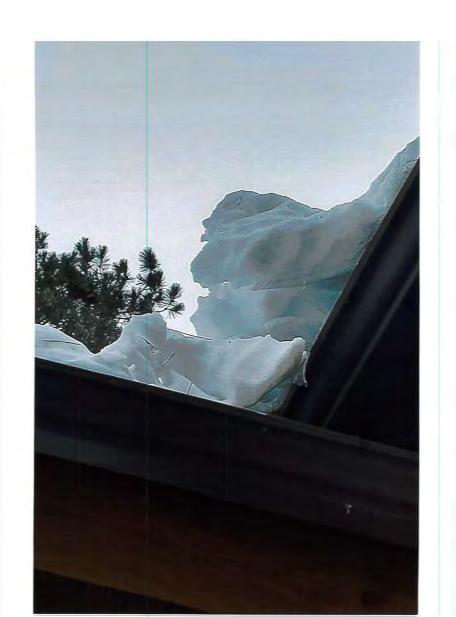




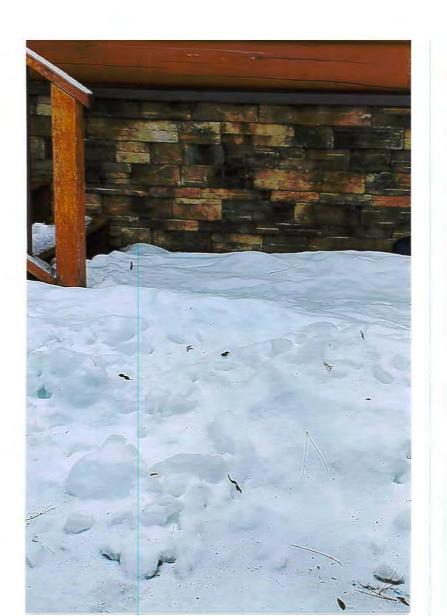




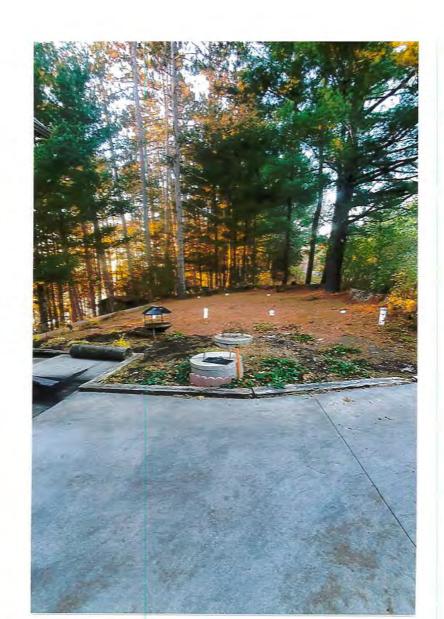




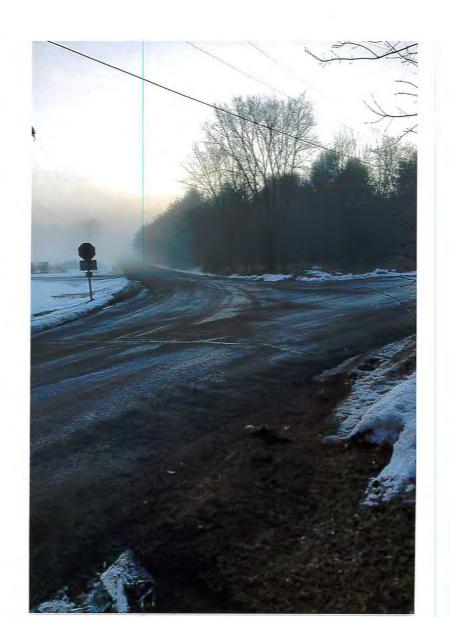














Land Information Mapping System



LINCOLN TAYLOR WOOD PORTAGE

Legend

Road Names

- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities
 - 2020 Orthos Countywide
 - Red: Band_1
 - Green: Band_2
 - Blue: Band 3

38.20 0 38.20 Feet NAD_1983_HARN_WISCRS_Marathon_County_Feet DISCLAIMER: The information and depictions herein are for informational purposes and Marathon County-City of Wausau specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Marathon County-City of Wausau will not be responsible for any damages which result from third party use of the information and depictions herein or for use which ignores this warning. THIS MAP IS NOT TO BE USED FOR NAVIGATION **Notes**





Green: Band_2 Blue: Band 3

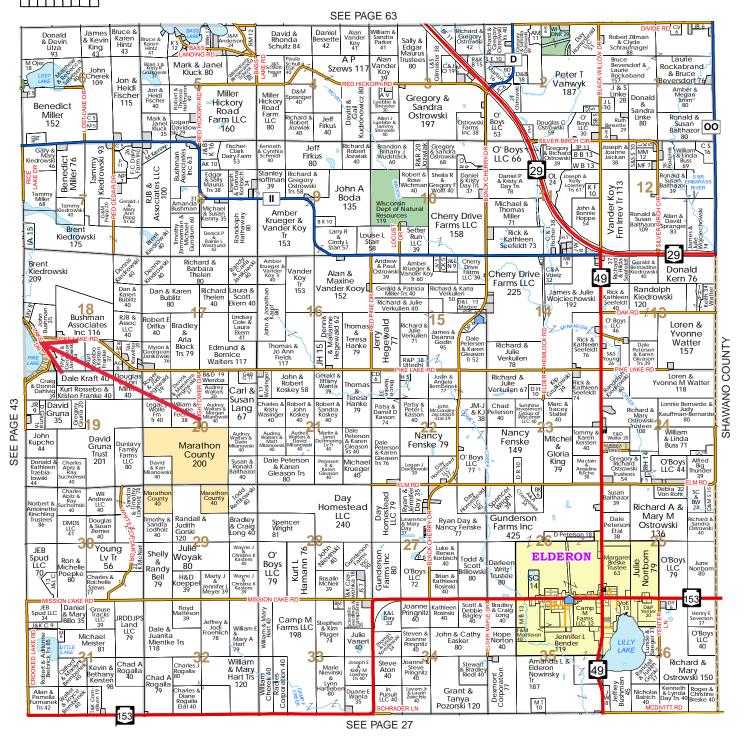
IKE LAKE RD

117.75 0 117.75 Feet NAD_1983_HARN_WISCRS_Marathon_County_Feet

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Township 27N - Range 10E

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STATE OF WISCONSIN)
MARATHON COUNTY)
TOWN OF ELDERON)
TOWN RESOLUTION OF RECOMENDATION
TO THE MARATHON COUNTY BOARD OF ADJUSTMENT
I, Mary Ostrowski, Clerk of the Town of Elderon Marathon County, State of Wisconsin, do hereby certify that the following is a true and correct copy of a resolution adopted by the Town of Elderon Town Board at a meeting held on the lower day of April 2024.
RESOLUTION
WHEREAS, the Marathon County Board of Adjustment is established for the purpose of hearing certain appeals, applications and granting variances in harmony with the general purpose and intent of land use regulations, and
WHEREAS, such a hearing is scheduled to come before the Board affecting lands within the Town of Town of Elderon.
NOW, THEREFORE BE IT RESOLVED that the Town of Elderon Town Board considered on the day of
Marathon County Board of Adjustment APPROVE application
☐ Marathon County Board of Adjustment DENY application
Comments, conditions and reasons for recommended action:

NOTE: If you recommend disapproval of this request, please make every effort to send a representative to the Board of Adjustment Public Hearing. Town input at the hearing is always appreciated. Please return this form before April 11, 2024 to:

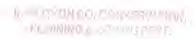
Clerk Town Board

Board of Adjustment

Marathon County Conservation, Planning and Zoning Department

210 River Drive

Wausau, WI 54403





Kurt and Tamara Cable

Petition for Variance Staff Report, April 25th, 2024 Marathon County Board of Adjustment

APPLICANT(s):

Kurt and Tamara Cable – 215010 Lakefront Drive, Hatley, WI 54440

PROPERTY OWNERS:

Kurt and Tamara Cable – 215010 Lakefront Drive, Hatley, WI 54440

REQUEST:

The application of Kurt and Tamara Cable for Area Variances from the terms of Marathon County General Code of Ordinances Chapter 17-Zoning Code Sections 17.202.03(G)(2)c relating to setbacks to the road, Section 17.805.12(A) relating to enlargement of a non-conforming structure exceeding 50% of the existing building footprint over the life of the structure within the U-R Urban Residential district, being a part of Government Lot 1, Section 18 Township 27 North, Range 10 East, and Government Lot 2 Section 18, Township 27 North, Range 10 East, Town of Elderon; PIN # 022.2710.185.0033. Property address 215010 Lakefront Drive, Hatley, WI 54440.

PUBLIC HEARINGS/MEETINGS:

- Town of Elderon Town Board Meeting: April 10th, 2024
- Marathon County Board of Adjustment Meeting: April 25th, 2024; 9AM

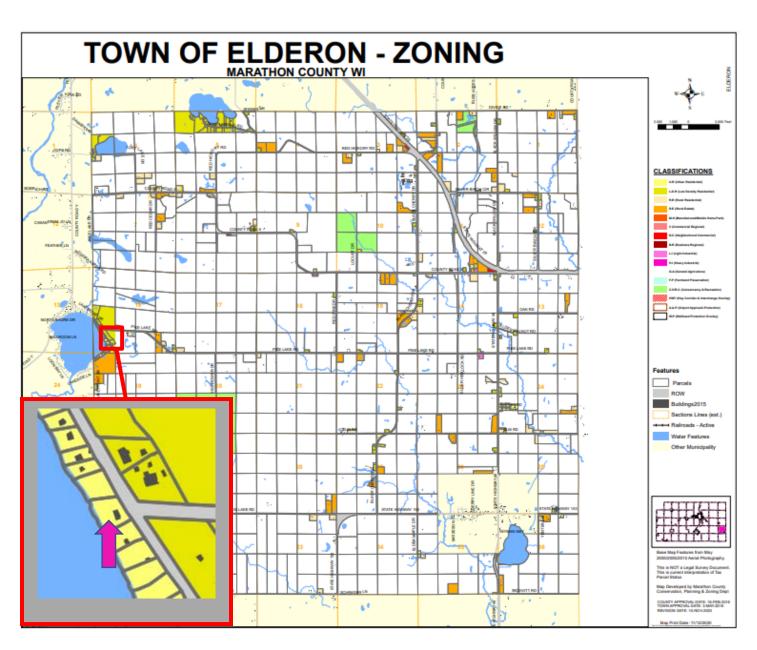
Legal Notification:

A legal advertisement was published in the *Wausau Daily Herald*. Notice of the Variance was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

EXISTING ZONING DISTRICT:

<u>U-R Urban Residential District.</u> The purpose of the U-R district is to encourage relatively greater density residential development in areas generally adjacent to the built up sections of the community or in areas of existing development of such density. The Residential districts are designed to encourage a suitable environment for family life by permitting under certain conditions, such neighborhood facilities as churches, schools, playgrounds, and appropriate institutions and by protecting the residential character against non-compatible uses. The U-R district is to encourage multi-family development at densities up to five dwelling units per acre in areas adjacent to community shopping facilities. Development is to consist primarily of single-family (attached or detached), planned unit development, and multi-family dwellings in groupings which will provide for the efficient development and utilization of community facilities.

<u>Town of Elderon Zoning Map:</u> Parcel is currently zoned urban residential.



Parcel Acreage: 0.36 Per Marathon County Tax Records

SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

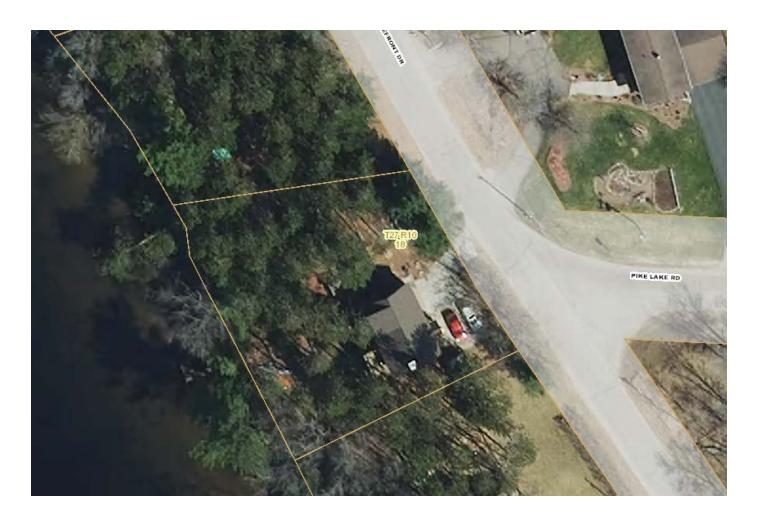
- The parcel:
 - o Is **not** located within mapped floodplain.
 - o Does **not** have DNR mapped wetlands.
 - o **Is** located within the shoreland overlay district.

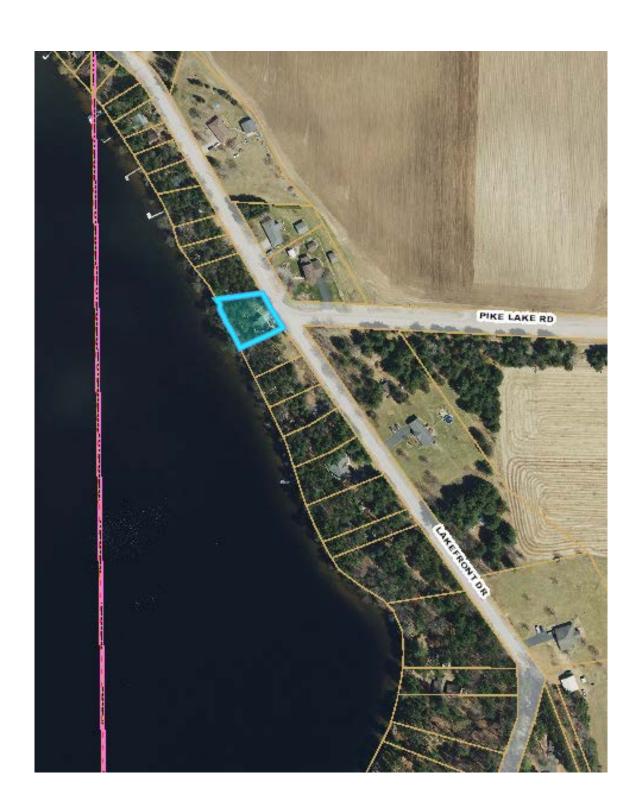
VIOLATIONS

Unpermitted tarp structure on the property.

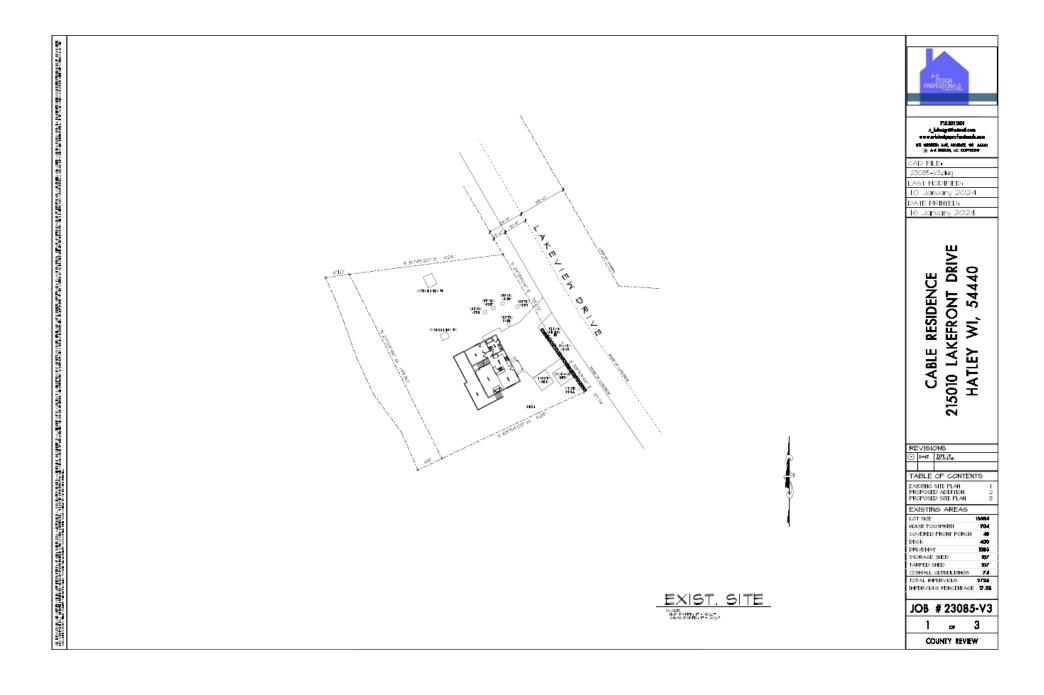
-The department put this violation in abeyance until the outcome of this hearing property owner has been very willing to comply and work with our department.

Aerial Photo

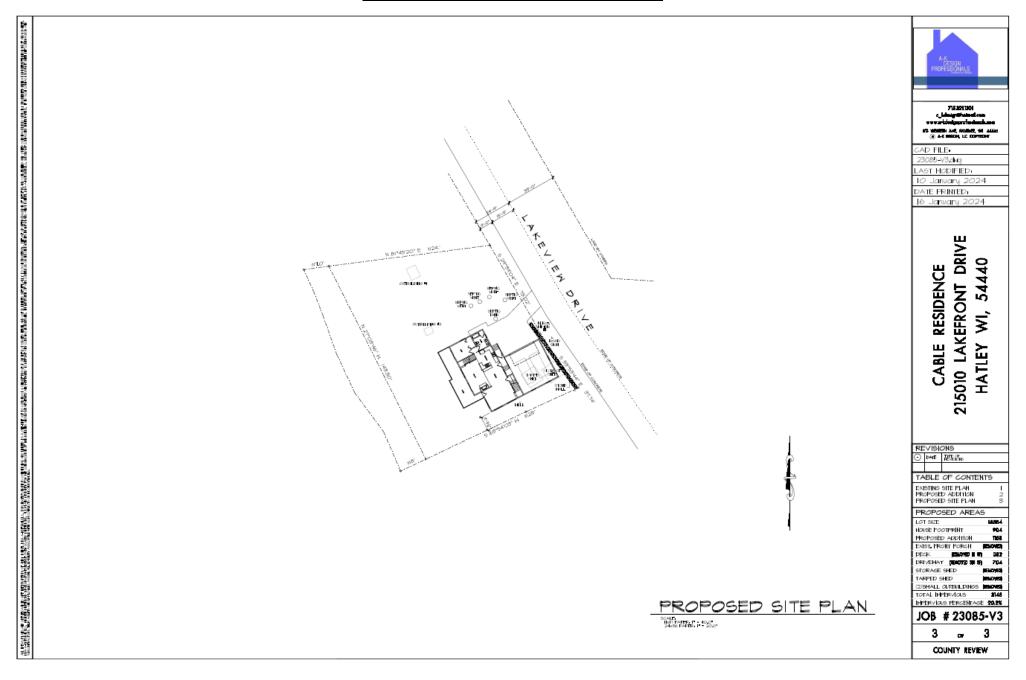


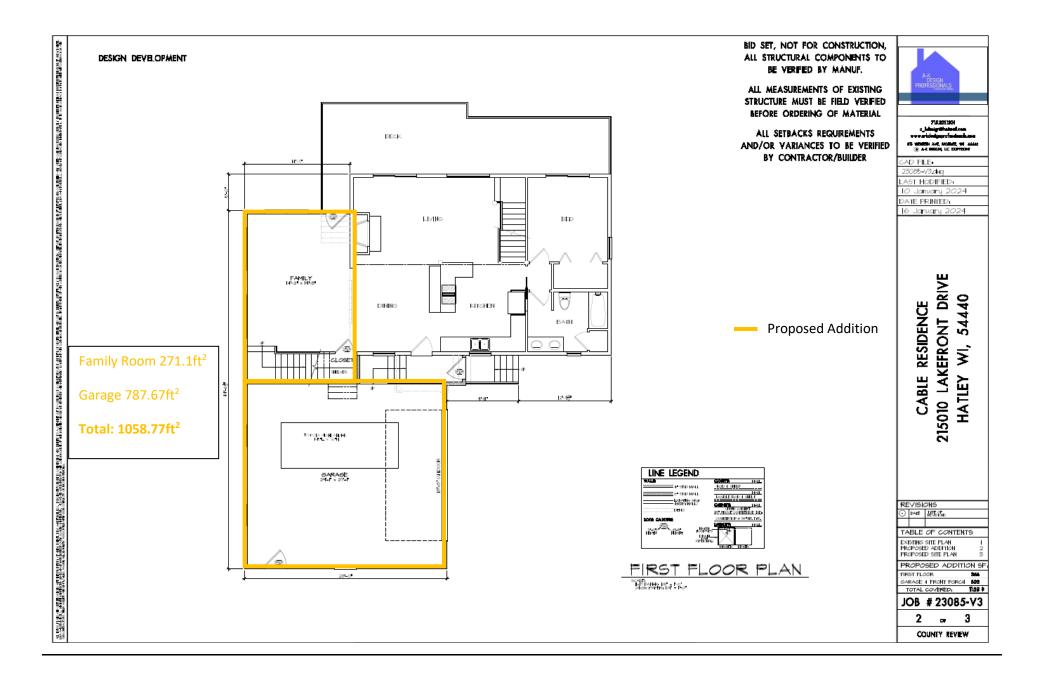


Existing Site

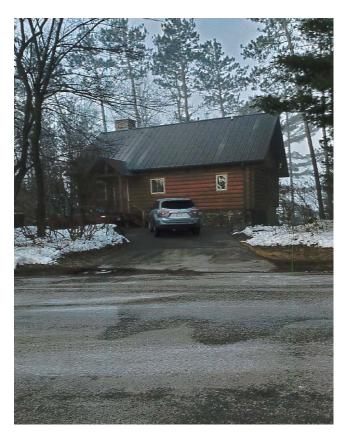


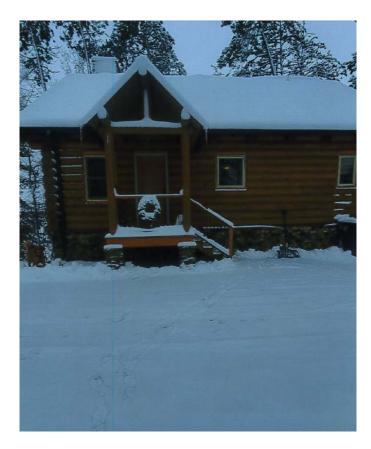
Planned Development (Site Plans)

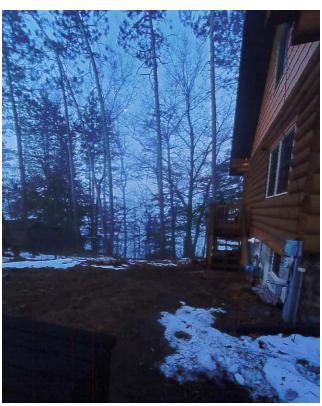




Site Photos Provided by Applicant





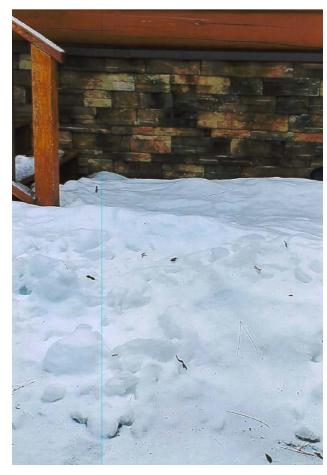






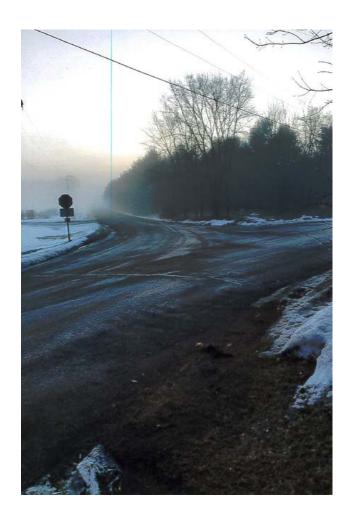






















Chapter 17 Sections that apply

Staff comments: Blue Text

Table 3: Uses Permitted by Usage:

Key: P Permitted Use					C Conditional Use				(Blank) Use Not Permitted					
	Residential Districts			Agricultural Districts			Nonresidential Districts					Development Standards		
USE		L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	v	B-R	Ξ	≆		
RESIDENTIAL USES														
Mixed Residential Development Option	С	С	С										Section 17.204.16	
Manufactured Home and Mobile Home	Р	Р	Р	Р	Р	Р							Section 17.204.22	
Manufactured Mobile Home Park (existing areas only)	С	С											<u>Chapter 17.302</u>	
Mixed Use Building – Residential with Non-residential								С					Section 17.204.17	
Multi-Family Dwelling	С	С	С										<u>Section 17.204.18</u>	
Conservation Development Option	Р	Р	Р	Р									<u>Section 17.204.19</u>	
Single-Family Dwelling, Detached	Р	Р	Р	Р	Р	А		С	С				<u>Section 17.204.20</u>	
Two-Family Dwelling	Р	Р	Р	Р	Р	Р							Section 17.204.21	
Farm Residence (Farmland Preservation District)					Р								Section 17.301.06	
Farm Consolidation (2 acres – 4.99 acres)					Р	Р							<u>Section 17.204.23</u>	

Section 17.204.20 SINGLE-FAMILY DWELLING, DETACHED

- A. **Dwelling**. The structure must be in compliance with the Wisconsin Uniform Building Code and Private On-Site Waste Ordinance.
 - -Town Building inspector will be responsible for ensuring compliance with Uniform Building Code
- B. **Dwellings** in N-C & C districts:
 - 1. Structure must be in compliance with the Wisconsin Uniform Building Code and Private On-Site Waste Ordinance.
 - 2. Dwelling must be accessory to the business on the property.
 - 3. Dwelling is for the owners of the business.

-Property is zoned Urban Residential (B does not apply)

Table 2: Schedule of regulations for a Structure:

Zoning District	Mi	nimum Lo	ot	Minimum Yar	d Setbac	ck (A)			
	Lot Area (sq. ft.)(acre) ** Easement Acreage	(sq. e (at building in feet) (sept)		Road ^(F) (setback in feet from Right of Way)	Side (feet)	Rear (feet)	MAX. Building Height (feet)	Max Lot Coverage (C)	Max Density (Dwelling Units/Acre)
U-R Urban Residential w/sanitary sewers & public water	10,000 ^(l) (.229 ac)	60 ^(E)	60	See Section 17.202.03(F)	7	35	35	30%	3.7
w/o sanitary sewers & public water	20,000 ^(l) (.459 ac)	80 ^(E)	60	See Section 17.202.03(F)	10	35	35	30%	1.85

Front Yard/Side Yard (Road) Setbacks. Setbacks from roads shall be measured from the road right-of-way and/or the centerline of the traveled way. Preference shall be given to measurements from right-of-way.

G. Front Yard/Side Yard (Road) Setbacks. Setbacks from roads shall be measured from the road right-of-way and/or the centerline of the traveled way. Preference shall be given to measurements from right-of-way.

1. Road Classifications:

- a. Class A: All State and federal highways are hereby designated as Class A highways.
- b. Class B: All County trunk highways are hereby designated as Class B highways. For the purpose of this chapter any road will be considered as a county trunk after it has been placed on the County trunk system by the County Board and approved by the State Department of Transportation.
- c. Class C: All town roads, public streets and highways not otherwise classified are hereby designated Class C highways.

2. Setbacks:

- a. Class A Highways.
 - The setback for Class A highways shall be 110' from the centerline of the highway and/or 50 feet from the right-of-way line, whichever distance is greater, except that for any freeway or divided Class A highway the setback distance shall be 50 feet from the right-of-way line.
- b. Class B Highways.
 - The setback for Class B highways shall be 83 feet from the centerline of such highway and/or 42 feet from the right-of-way line, whichever distance is greater. Buildings which were legally built at a setback of 75 feet to 83 feet from the centerline may be added to or rebuilt on the existing foundation subject to the limitations in Section 17.19(1)(a)4 and 17.25.
- c. Class C Highways
 - The setback from Class C highways shall be 63 feet from the centerline of such highway and/or 30 feet from the right-of-way line, whichever distance is greater. Dedicated public accesses to navigable water shall not be considered Class C highways for setback purposes unless they serve a dual purpose of access to navigable water and vehicular access to adjoining parcels of land.
- d. Access Easement or Railroad right-of-way 30 feet from the described easement or right-of-way.
- e. Dedicated public accesses to navigable water shall not be considered Class C highways for setback purposes unless they serve a dual purpose of access to navigable water and vehicular access to adjoining parcels of land.

Current Structure is considered a non-conforming structure due to the current set back from the road.

-The current home sits approximately 57ft from the centerline of the road and approximately 33ft from the road right-of-way.

Section 17.805.12 NON-CONFORMING STRUCTURES

Non-conforming structures shall be subject to the following standards:

A. **Enlargement.** A building which is non-conforming due to setbacks shall be allowed so long as the extension is not closer to the property line and the extension does not exceed 50% of the existing building footprint over the life of the structure.

A non-conforming structure may otherwise be enlarged, increased, or extended beyond the area it occupied as of the effective date of this Ordinance, provided the Zoning Administrator, finds all of the following:

- The enlargement will not create a new non-conformity or increase the degree of existing nonconformity (e.g., if a structure is non-conforming as to rear yard setback as of the effective date of this Ordinance, it cannot subsequently be enlarged such that it becomes non-conforming as to height or encroaches further into the required rear yard setback);
 - The proposed project will increase the degree of the existing non-conformity by reducing the road setback from approximately 57feet to the road centerline and approximately 33ft from the road right-of-way. To approximately 30ft from the road centerline and 5ft from the road right-of-way
- 2. The enlargement will not interfere with the operation of conforming uses in the District or with circulation on adjacent public streets;

 There is currently an existing rock wall bordering the road right-of way (see attached pictures for more
 - There is currently an existing rock wall bordering the road right-of way (see attached pictures for more detail).
- The enlarged structure will cause no greater adverse impacts on surrounding properties than did the original non-conforming structure; and No known impacts.
- 4. That over the life of the structure, all increases and enlargements do not exceed 50% of the footprint that the non-conforming structure occupied as of the effective date of this Ordinance.

The existing structure footprint is approximately 1232ft². The proposed project is 1058.77ft² approximately 86% the size of the existing footprint, which exceeds this standard by 36%.

50% expansion would only allow approximately 616ft² of expansion.

Alteratives looked at by the applicant (from application materials)

A. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

Alternative A:

- 1. Looked into purchasing adjacent property on the North side.
 - There would still be setback issues.
 - a. Property is a non-conforming structure.
 - It is too close to the road setbacks.
 - c. Unable to control land that is not for sale.
 - B. We wouldn't have an attached garage and would still be facing our safety issue of ice and sno
- 2. We could tear down our 9 1/2-year primary residence.
 - We could tear down our primary residence and reconstruct a new primary structure that is not a non-conforming structure.
 - a. The current structure was built back on the original footprint of the primary structure after a disaster claimed the structure in a fire, destroying the dwelling in November 2012.
 - Were compliant with the rebuild of the primary structure as per zoning and development regulations.
 - We were also compliant with other regulations according to setbacks, as seen on permit instructions. All setbacks were met as seen on zoning permit number Z 14-035.
 - d. Would not be able to build a garage in compliance with today's code.
- 3. Have a significant slope to our property, making it hard for the placement of utilities and structures.
 - A. Septic placement was the only area that would work for the property.
 - a. Could remove the conventional system and replace it with a large holding tank; however, holding tanks are not environmentally friendly and would need constant pumping due to the property being a primary residence.
 - b. Holding tanks are not designed for large households or long-term use and need to be emptied every one to four weeks, adding to the environmental cost of pumping onto designated areas 24 times a year versus one time every three years with a conventional system.
 - Marathon County is a last resort holding tank county and chooses conventional systems over holding tanks.
 - B. Well placement
 - a. New well was installed in August 2022 and was placed in the only spot that fit the topography; the equipment needed to drill the well could not traverse the slope.
 - Wells need to be 50 feet from septic systems.
 - c. The well was placed parallel to the neighbor's well located to the South.
 - d. Had a shallow, sand point well inside the primary structure and decided to have a drilled well for various reasons: safer drinking water, better water pressure, and less likely to freeze or run dry.
 - C. Garage placement.

- Only location due to the slope of the property, septic system placement, and well placement.
- Looked at various limited designs, and after the designer measured surveyor stakes, it was determined there was only one suitable design and location for the garage and addition.
- c. Discussed a tandem garage on the left side, but it wouldn't work because of the radius turn into the garage. If the driveway wasn't changed, it would not be compliant with shoreline setbacks.

Alternative B:

- 1. One car attached garage on the left side of the primary structure.
 - Would not address the safety issue because the second car would be parked on the driveway.
 - B. The radius turn into the garage would not allow a second car in the driveway; it would constantly be moving vehicles.
 - C. Would be limited to a one-car garage.
 - D. The driveway entrance would have to be moved to accommodate the radius turn arc. This would create a public hazard because the placement of the new driveway would be at the T intersection of Pike Lake Rd. and Lakefront Drive (intersection pictures included).
 - E. Removal of Rockwall.
 - Wall creates a barrier for the primary structure and has been a part of the property for 60-plus years.
 - Protects the primary structure/garage from vehicles driving into it. The primary structure has been driven into in the past.

<u>Section 17.804.05: Standards for Variance and Appeals</u> (with applicant responses)

Section 17.804.05 STANDARDS FOR VARIANCES AND APPEALS

Variances and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variances and appeals shall be upon the applicant. The extent to which the following factors, standards, and criteria apply to a specific case shall be determined by the Board of Adjustment.

A. Area Variances.

1. No variance may be granted unless there is an unnecessary hardship present in that a literal enforcement of the terms of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or render conformity with such restrictions unnecessarily burdensome. The Board of Adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Is unnecessary hardship/practical difficulty present?

Yes. Describe: The property presents a challenging situation due to its significant slope, making the placement of utilities and structures difficult. The primary structure was rebuilt on the same footprint as the dwelling destroyed by a fire in 2012.

During the rebuilding process, we encountered numerous contradictory instructions from the Department of Zoning and Development. Initially, we were informed that we could only rebuild on the same footprint and had to retain 50% of the structure, so we had to keep the foundation. Additionally, we were granted 50% square footage for expansion, which contradicted previous correspondence from Lane Loveland. Correspondence included.

After over a year of navigating through these contradictions, we finally obtained a permit. However, the permit's specifications differed significantly from what was initially communicated by the zoning department. Our plans had already been approved based on our site plan, but the permit allowed for different provisions. Had we would have been able to build based on what the zoning permit allowed we would have been able to build more than we were told we could build and we would not be seeking this variance for the addition. Building permit inclosed Z14-O35.

One of the significant challenges we faced was the inability to build a small porch for protection against snow and ice during the winter. We were told that doing so would encroach further onto the non-conforming structure and road setback.

Furthermore, the slope of the property makes accessing the residence difficult, especially when carrying items such as groceries or luggage. Despite expressing our concerns about safety, the only solution provided was a small covered portico, which minimally addressed our safety concerns.

Safety is paramount for us, especially during the winter months when ice and snow accumulate on the stairs and driveway, posing significant risks of falls. An incident in January 2023, where a family member suffered a head injury from a fall, further emphasizes the urgency of addressing safety concerns.

Medical experts have highlighted the importance of fall prevention, particularly for seniors. Falls are a leading cause of fatal and non-fatal injuries among older adults, and the risks are exacerbated in rural areas like ours due to weather conditions and terrain.

In addition to safety concerns, easy accessibility and security are compelling reasons for needing an exception. As we age, accessing the primary residence through a garage would be much easier, and having a secured location for our belongings is essential for peace of mind.

In summary, the property's challenging terrain, coupled with inconsistent instructions from the zoning department, has led to significant hardships, particularly concerning safety, accessibility, and security.

We have faced numerous challenges and contradictions from the zoning department, resulting in significant delays and limitations during the rebuilding process. The slope of the property makes accessing the residence difficult and poses safety risks, particularly during winter months. Moreover, the family has experienced firsthand the consequences of these safety risks with a member suffering a head injury from a fall. Considering these factors, it's evident that there is unnecessary hardship and practical difficulty present, warranting an exception to address safety, accessibility, and security concerns.

2. No variance may be granted unless there is a hardship due to the unique physical limitations of the property such as steep slopes or wetlands rather than the circumstances of the applicant.

Yes, there are unique property limitations.

The situation presents several unique property limitations, primarily related to its size and shape, which significantly constrain its development. These constraints result in unnecessary hardship and practical difficulties for the property owner.

Firstly, the size and shape of the property restrict the type and extent of development that can occur. This limitation arises from the property's unique topography and overall size, which may not conform to standard zoning regulations. As mentioned, variances have been approved for other properties on Pike Lake due to similar constraints, indicating that such limitations are not uncommon in the area.

This further supports the argument that the constraints faced by the property owner are indeed significant and warrant consideration for exceptions of variances.

In summary, the unique limitations of the property, particularly its size and shape, create unnecessary hardship and practical difficulties for development. The precedent of variances granted for similar properties underscores the validity of the argument for accommodating the property owner's challenges.

No variance may be granted that is contrary to the public interest as expressed by the objectives of the ordinance.

Support for No Harm to Public Interest:

This request does not cause harm to public interest.

- Public Hazard: The presence of an existing Rockwall between the garage and the road mitigates any
 potential hazards that the garage might pose to the public. Additionally, maintaining the driveway in its
 current location ensures safety.
- 2. Water Quality: No anticipated impact on water quality.
- Fish and Wildlife: The construction of the garage and addition will not significantly affect fish and wildlife compared to the current situation.
- Natural Scenic Beauty: Given the presence of similar structures on the lake, the addition of the garage and addition will not alter the area's natural scenic beauty.
- Minimization of Property Damage: No damage anticipated.
- Provisions of Efficient Public Facilities and Utilities: The construction of the garage will not burden existing public utilities.
- Achievement of Eventual Compliance for Nonconforming Uses, Structures, and Lots: Not without a variance or laws and statutes changing.
- 8. Any Other Public Interest Issues: None.

Neighbor Input:

216.28,2024 To: Board of adjustments, We live across the street from Kurt + Tammy Caple. We have lived on this corner lat for the up on the faum across from Pike Lake a few houses before this intersection, so he has lived here all his 73 years. Because the purposed building site does not obstruct our view h effect on troppic flow at the into account all the construction around the lake post and present, We see no reason why they shouldn't be allowed this need contruction. James Konkol Luanne Konkul

Town Input:

STATE OF WISCONSIN MARATHON COUNTY)
TOWN OF ELDERON	
	TOWN RESOLUTION OF RECOMENDATION
TO THE MARATHON CO	UNTY BOARD OF ADJUSTMENT
	the Town of Elderon Marathon County, State of Wisconsin, do hereby certify that the following is a solution adopted by the Town of Elderon Town Board at a meeting held on the 10 th day of, 2024.
	RESOLUTION
	arathon County Board of Adjustment is established for the purpose of hearing certain appeals, riances in harmony with the general purpose and intent of land use regulations, and
WHEREAS, such a	hearing is scheduled to come before the Board affecting lands within the Town of Town of Elderon.
County General Code of Ordi 17.805.12(A) relating to enlar of the structure and Marathon Code Section 22.208.03(C) re structure within the U-R Urbs East, and Government Lot 2.5 address 215010 Lakefront Dr	RE BE IT RESOLVED that the Town of Elderon Town Board considered on the day of application of Application of Kurt and Tamara Cable for Area Variances from the terms of Marathon inances Chapter 17-Zoning Code Sections 17.202.03(G)(2)c relating to setbacks to the road, Section regement of a non-conforming structure exceeding 50% of the existing building footprint over the life County General Code of Ordinances Chapter 22- Shoreland, Shoreland-Wetland, and Floodplain elating to the expansion of the non-conforming structure exceeding 200 square feet over the life of the an Residential district, being a part of Government Lot 1, Section 18 Township 27 North, Range 10 Section 18, Township 27 North, Range 10 East, Town of Elderon; PIN # 022.2710.185.0033. Property ive, Hatley, WI 54440, and hereby recommends:
☐ Marathon Cou	nty Board of Adjustment DENY application
Comments, conditions and re	easons for recommended action:
	Town Board Donald Rangussen Michael Rapath
the Board of Adjustmen	end disapproval of this request, please make every effort to send a representative to the Public Hearing. Town input at the hearing is always appreciated.
	Board of Adjustment on County Conservation, Planning and Zoning Department 210 River Drive
APR 15 2024	Wausau, WI 54403

MARATHON CO. CONSERVATION, PLANNING & ZOWING DEPT.

Section 17.804.01 PURPOSE

A. **Purpose**. The purpose of this chapter is to provide guidelines and standards to be followed by the Board of Adjustment in considering requests for variances and appeals, where the jurisdiction of the Board of Adjustment has been established by Section <u>17.801.03</u>.

B. Purpose of Variances and Appeals.

1. Variances. Variances are waivers in the terms of this chapter. In a variance case, the terms of this chapter are not in dispute. An applicant for a variance acknowledges that this chapter forbids the development for which approval is sought. Two avenues of relief can be pursued in such a case. One is for the applicant to seek an amendment to this chapter. The second possible avenue of relief, one that is available only under strictly defined circumstances, is to seek a variance. Variances are an available form of relief only where the use in question is allowed in the zoning district, but the dimensional standards (setbacks, minimum lot area, building height, etc.), block or hinder the desired form of development. Where dimensional standards create a hardship which can be relieved by modifying the standards for that parcel of land without destroying the basic intent of this chapter, a variance is the appropriate means of granting the relief. The variance procedure allows the impact of general rules to be varied in response to unusual circumstances without involving the County Board in amendment procedures for each such localized situation. The Board of Adjustment may authorize in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions affecting a particular property a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

2. Appeals Matters.

- a. Decisions by the Zoning Administrator which consists of interpretations of the terms of this chapter, and which are made in the course of determining whether a permit of approval will be issued by such Administrator are appealable to the Board of Adjustment as administrative appeals.
- b. Decisions by the Zoning Administrator to issue an enforcement demand or to commence other chapter enforcement activities, where the Administrator has determined that violation of this chapter exists, is appealable to the Board of Adjustment as an administrative appeal.
- c. Decisions by the Committee which consists of interpretations of the terms of this chapter and which are made in the course of determining whether a permit or approval will be issued by the Zoning Administrator are appealable to the Board of Adjustment as administrative appeals. An appeal must be filed within 30 days of issuance of the applicable written decision, and such appeal shall be made on forms made available by the Zoning Administrator.

Section 17.804.02 APPLICATION PROCEDURES

Completed applications for variances and appeals shall be submitted to the Zoning Administrator and accompanied by the appropriate fee as specified by the Department fee schedule. Applications for variances and appeals shall be on forms provided by the Zoning Administrator.

Any application for a variance or appeal under this zoning ordinance shall be submitted in accordance with the following procedures:

A. Application. Any application for a variance or appeal shall be submitted to the Board of Adjustment on forms provided by the Zoning Administrator. Each application shall be accompanied by the payment of a fee as specified by the Department fee schedule. The application may include single parcels of land or groupings of parcels, contiguous or noncontiguous. In addition, the Board of Adjustment, where appropriate, may refer an application to qualified consultants for study and a report if it deems necessary. The cost of such study and report shall be at the expense of the applicant and the report shall be completed as soon as is practicable.

B. Applicant Eligibility.

- 1. The application for a variance shall be submitted by the owner of an interest in land for which variance is sought, or by the owner's designated agent. The applicant or a designated representative should be present at all scheduled review meetings and/or public hearings or consideration of the proposal may be delayed.
- 2. The application for an appeal may be initiated by any person aggrieved by the decision or interpretation being appealed or by any officer, department, board or committee of the County government. An aggrieved appellant must have a legally recognizable interest which is or will be affected by the action of the zoning authority in question. The applicant or a designated representative should be present at all scheduled review meetings and/or public hearings or consideration of the proposal may be delayed.

C. Information Required with Application.

- 1. <u>Form.</u> Forms provided by Zoning Administrator to be completed by the applicant. Applications involving a request for a variance shall specify the section number(s) containing the standards from which a variance is sought and the nature and extent of such variance.
- Variance Site Plan. Site plan or plot plan that complies with the site plan submittal requirements of Section <u>17.802.02</u>
 A site plan which does not meet the stipulated requirements shall be considered incomplete and shall therefore not be subject to formal review or placed on the Board of Adjustment agenda.
- 3. <u>Grounds for Appeal</u>: An appeal shall be commenced by filing a notice of appeal specifying the decision appealed from, the grounds for appeal, and the relief requested.
- 4. Fee. A fee as specified in the Department fee schedule.
- 5. <u>General Standards</u>. A statement supported by substantiating evidence regarding the requirements enumerated in Section <u>17.803.03 B</u>.

D. Timeframe.

- 1. <u>Variances</u>. Variance applications must be submitted to the Zoning Administrator or designee at least 45 days prior to the Board of Adjustment meeting.
- 2. <u>Appeal</u>. Applications for appeal shall be filed with the Zoning Administrator or designee within 30 business days after making of the decision or interpretation being appealed.
- E. Complete. Variance and appeal applications must be complete before they will be accepted and processed.

Section 17.804.03 APPLICATION REQUIREMENTS

At a minimum the applicant must supply the following information:

A. Variance Application.

- 1. <u>Contents</u>. In order to be complete, a variance application must contain the following information, where applicable:
 - a. A completed variance application form including property owner(s) signature.
 - b. A site plan and information as set forth in Section <u>17.802.02.</u>
 - c. The name, address, phone number and signature of the person authorized by the owner(s) to be the representative.
 - d. A statement indicating the exact nature of the variance being requested and why the variance is necessary.
 - e. A statement demonstrating the variance requested is needed due to an unnecessary hardship, unique property limitations and that there will be no harm to public interests.
 - f. Any additional information required by the Zoning Administrator or the Board of Adjustment to make the determination requested herein.

B. Appeals Application.

- 1. Contents. In order to be complete, an appeals application must contain the following information;
 - a. The code section which was the subject of the determination, decision, and/or action.
 - b. The determination, decision, and/or action or part thereof that is being appealed.
 - c. A clear and concise statement of the decision the appellant wants the Board of Adjustment to make.
 - d. Reasons why the determination, decision, and/or action or part thereof was inappropriate.
 - e. Reasons indicating why the relief requested by the appellant in subsection c, above, are appropriate.

Section 17.804.04 PUBLIC HEARING BY THE BOARD OF ADJUSTMENT

- A. **Board of Adjustment Public Hearing.** After all application materials have been deemed complete, the application shall be transmitted by the Zoning Administrator to the Board of Adjustment and reviewed in accordance with following public hearing procedures:
 - 1. <u>Acceptance for Processing</u>. The application shall be placed on the agenda of the next available scheduled Board of Adjustment meeting.
 - Notification. The Board of Adjustment shall hold a public hearing in accordance with the procedures specified in Section <u>17.801.03 D.</u>
- B. **Board of Adjustment Consideration and Review**. The Board of Adjustment shall review the proposed variance or appeal, as presented on the submitted form and site plans and documentation, in terms of the standards established in this Zoning Ordinance.
 - 1. Process. The Board of Adjustment shall consider all documents simultaneously.
 - 2. <u>Plan Revision</u>. If the Board of Adjustment determines that revisions are necessary to bring the proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised application and site plan. Following submission of revised application materials, the proposal shall be placed on the agenda of the next available scheduled meeting of the Board of Adjustment for further review and possible action.
- C. **Hearing Continuation**. The Board of Adjustment members may recess such public hearing as necessary to gather additional information or evidence needed to make a decision. If the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.

Section 17.804.05 STANDARDS FOR VARIANCES AND APPEALS

Variances and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variances and appeals shall be upon the applicant. The extent to which the following factors, standards, and criteria apply to a specific case shall be determined by the Board of Adjustment.

A. Area Variances.

- 1. No variance may be granted unless there is an unnecessary hardship present in that a literal enforcement of the terms of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or render conformity with such restrictions unnecessarily burdensome. The Board of Adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.
- 2. No variance may be granted unless there is a hardship due to the unique physical limitations of the property such as steep slopes or wetlands rather than the circumstances of the applicant.
- 3. No variance may be granted that is contrary to the public interest as expressed by the objectives of the ordinance.
- B. Evidence Required. The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board of Adjustment. A variance:
 - 1. Shall be consistent with the spirit, intent and purpose of this chapter.
 - 2. Shall not be granted because of conditions that are common to a group of adjacent lots or premises.
 - 3. Shall not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons or property values in the area.
 - 4. Shall not be granted for actions which require an amendment to this chapter or the maps.
 - 5. Shall not have the effect of granting or increasing a use of property which is prohibited in a particular zoning district.
 - 6. Shall not be granted solely on the basis of economic gain or loss;
 - 7. Shall not be granted for a self-created hardship;
 - 8. Shall not damage the rights or property values of other persons in the area;
 - 9. Shall not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure;
 - 10. Shall demonstrate whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and/or
 - 11. Shall not permit standards less restrictive than those required by the Wis. Stats., Wisconsin Administrative Code or the State Department of Natural Resources.

C. Variance Conditions.

- 1. Conditions shall be attached in writing to all approved variances where such conditions will achieve compliance with standards of this chapter.
- 2. Conditions may include, but are not limited to, specifications in Section <u>17.803.02</u>.
- D. Appeal to Board of Adjustment. Applicant may file an appeal on determinations, decisions, and/or actions on matters relating to this ordinance where it is alleged that an error in any order, requirement, decision or interpretation has been made. The Board of Adjustment shall reverse a determination, decision, and/or action only if it finds that the determination, decision, and/or action appealed:
 - 1. Was arbitrary or capricious; or
 - 2. Was based on an erroneous finding of a material fact; or
 - 3. Was based on erroneous interpretation of this Ordinance or zoning law; or
 - 4. Constituted an abuse of discretion.

Section 17.804.06 ACTION BY THE BOARD OF ADJUSTMENT

Decisions by the Board of Adjustment. Following a public hearing and other investigation, the Board shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Board may reverse or affirm, wholly or partly, or may modify the decision, determination, or interpretation appealed from and may make such decision as ought to have been made, and to that end shall have all powers of the official from whom the appeal is taken. All decisions by the Board on administrative appeals shall be based upon the terms of this chapter and evidence as to legislative intent. With an affirmative decision, the Board of Adjustment may impose conditions.

Section 17.804.07 VARIANCE APPROVAL PERIOD

If construction has not commenced within 12 months after the Board of Adjustment grants a variance to permit the erection or alteration of a building, then the variance shall become null and void. The period of approval may be automatically extended by 12 months if the variance was sought in conjunction with a site plan for which approval has been extended by the Zoning Administrator and/or Board of Adjustment.

Section 17.804.08 STAY OF PROCEEDINGS

An appeal to the Board of Adjustment shall stay enforcement proceedings in furtherance of the appealed action, unless the Zoning Administrator and/or Corporation Counsel certifies to the Board of Adjustment, that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. A stay of enforcement proceedings shall not stay the County's authority to issue a stop work order on a project that may be in progress and being performed in a manner that is not in conformance with applicable ordinances and regulations. Also, it shall not stay a project when the appeal is brought by a third-party contesting the issuance of a permit.

Duties of the BOA:

Determine If applicant meets the standards of a variance.

Section 17.804.05 STANDARDS FOR VARIANCES AND APPEALS

Variances and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variances and appeals shall be upon the applicant. The extent to which the following factors, standards, and criteria apply to a specific case shall be determined by the Board of Adjustment.

A. Area Variances.

- 1. No variance may be granted unless there is an unnecessary hardship present in that a literal enforcement of the terms of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or render conformity with such restrictions unnecessarily burdensome. The Board of Adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.
- 2. No variance may be granted unless there is a hardship due to the unique physical limitations of the property such as steep slopes or wetlands rather than the circumstances of the applicant.
- 3. No variance may be granted that is contrary to the public interest as expressed by the objectives of the ordinance.

**Staff Note: Please ensure the decision is well documented including reason(s) the determination was made related to the criteria listed above.

THE STAFF RESERVE THE RIGHT TO AMEND THIS REPORT BASED ON NEW EVIDENCE PRESENTED PRIOR TO AND/OR DURING THE PUBLIC HEARING.

DECISIONS OF THE BOARD ARE SUBJECT TO APPEAL AS PROVIDED IN SS.59.694(10) WIS. STATS.

RESPECTFULLY SUBMITTED:

SIGNATURE

______4/5/2024 DATE

APPLICATION FOR CONDITIONAL USE PERMIT

MARATHON COUNTY BOARD OF ADJUSTMENT

The applicant hereby requests the Board of Adjustment to hear and decide upon this application as prescribed by Section 17.803 of the Marathon County Zoning Ordinance. Use a separate sheet if necessary.

Name of Applicant: American Ashlalt of WI
Mailing Address: P.O. Bex 98 Mosinec WI 54455
Telephone: 715-693-5400 Fax: 715-693-5400
Cellphone: Email:matt. es linger e amelian asphalt of wi, com
Owner Name: (if different) Milestone Materials
Mailing Address: PO Box 98 Mosince WI 54955
Telephone: 715 - 693 - 5300 Fax: 715 - 693 - 5300
Parcel ID # (PIN): PAREL INFORMATION (If more than one parcel is included in this application, list all parcel numbers & legal descriptions on a separate sheet.)
Legal Description: Government Lot or SW 1/4 SE 1/4 Section 29, T 27, N, R 9 E, Town of Reid
Property Address: 2155 Budnik Rd Hathy VI 54440
Property Address: 21155 Budni R Rd Hathy W 54440 Parcel size: 38.57 Acres or Sq. Ft.
Zoning District:
·
Present use of property (List all current uses, i.e. home, store, farm field, wooded, etc.):
Sand of Grand Pit
Existing improvements (Structures, well, septic, etc.):
PROPOSAL
Describe specifically the nature of this request (be sure to list all proposed uses of the parcel). What do you plan to do? Alout Hacks of the pit will be used as a tempolory asphalt plant site.
If this application is for a use that will be restricted to part of the parcel, specify the exact dimensions of the affected area.
☐ Provide the following information if this box is checked
Proposal has additional development standards in Section 17, 204. 61 17.204.61 TF. Explain how your proposal meets or exceeds these requirements. The temperary plant will be located in the alea shown on attacked map, which is in the permitted non metallic mine that least look from any residence. American Asphalt is asking for a CUP from
-1-24 thru 11-20-25. America would like to request the hours of Mon-Fri Gam-7pm + 5xt. Gam-5pml American will spray Chloride on the travel roote in the pit to suppress dust.

INSTRUCTIONS TO APPLICANT

- 1. Be sure to complete all items on the application. This includes a brief, but complete explanation of the current use and proposed new use.
- 2. Prepare a map at a scale which is reproducible (11" x 17" or smaller). For maps larger than 11" x 17", be prepared to provide as many copies as needed for transmittal. In no instance may the scale of the map be less than 1 inch equals 200 feet. There are instances where a cross-section of the property or contours will be helpful, and in some cases one or both may be required. Narrative or photos may be included as supporting documentation.

At a minimum the map must include:

- The location, dimensions, and parcel identification number of the lot or lots including a legal description.
- Location of any and all nearby public and private streets.
- Dimensions of the lot and the location of all existing and proposed buildings or structures, and location of existing or proposed private onsite wastewater treatment (septic) system.
- Required front, rear, and side yard areas, open space, and parking.
- On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms.
- Location and dimensions of all buildings or structures to be erected, structurally altered, or moved.
- · Wetlands and floodplains
- · Screening/Buffers
- · Lighting
- Parking
- 3. Include the \$600 fee when you submit the application. Please make checks payable to Marathon County.

Check if Initial of staff submitted TF X Completed application including signatures. TF Map with all required information. TF Additional documents, as needed (lot combination forms, hunting/fishing shelter application, etc.) X TF Zoning Permit application X TF Fee

We cannot consider an application complete until the following are submitted to this office:

Please contact the Marathon County Conservation, Planning and Zoning Department with any questions: 715-261-6000.

or Board <u>may deny</u> the application without prejudice.	
Date Date	
d 16 d	
for work Signature (required) Date	

Conditional Use Permits <u>expire</u> six (6) months from the latest date of signature on the approval letter signed by Chairman and the Secretary of the Board of Adjustment if the proposed construction or preparation of land for use has not commenced. The Zoning Administrator may grant an extension for up to six (6) months upon show of valid cause.

Return to:

Board of Adjustment

Marathon County CPZ Department

210 River Drive

Wausau, WI 54403-5449

Telephone: 715-261-6000

Toll free within Marathon County: 1-800-236-0153

Facsimile: 715-261-6016

For office use

-

For office use

REGEIVED

For office use

Amount Received: \$

600.00

Date Stamp:

MAR 0 7 2024



February 16, 2024

Shad Harvey Marathon County Zoning & Planning 210 River Dr Wausau, WI 54403-5449

Re: Conditional Use Permit Application, Ziolkowski Pit

To Whom This May Concern:

Please find herein an application by American Asphalt of Wisconsin for a Conditional Use Permit for a temporary asphalt plant at the following locations:

· Ziolkowski Pit, Town of Reid

We plan to do asphalt mix production at this location for various projects, including providing asphalt to Marathon County Highway Department and for paving a DOT project located in Marathon County. We would like a permit for operation starting May 1, 2024 – Nov 20, 2025. American is asking for a 2 year CUP, to cover the possibility of the need for a portable plant in this location during the 2025 construction season.

A portable drum mix asphalt plant will be used to provide hot mix asphalt for the projects. The normal plant operating hours being requested are 6:00 AM to 7:00 PM, Monday through Saturday.

I am attaching a map and a plant layout diagram for your review. The plant layout would encompass approx. 4 acres, including aggregate stockpiles

American Asphalt provides portable sanitary facilities and dumpsters for solid waste disposal at each location. Both are serviced as needed for the duration for the project.

All company asphalt plants are tested for air quality compliance biannually and meet all requirements of the Wisconsin Department of Natural Resources. In a program sponsored by the Wisconsin Department of Natural Resources and the Wisconsin Asphalt Paving Association, American Asphalt is a recipient of the Hot Mix Asphalt Environmental leadership Award for demonstration environmental excellence in their asphalt plant operations.

If you have any questions, please contact me.

Sincerely, American Asphalt of Wisconsin

Matt Eslinger Division Manager



MARATHON CO. CONSERVATION, PLANNING & ZONING DEPT

Staff Clarification:

Per a phone conversation with the applicant (Matt Esslinger) on 3/8/24, the hours of operation requested are as follows:

Monday – Friday 6am to 7pm

Saturday 6am to 5pm

Google Maps





MARATHON

5

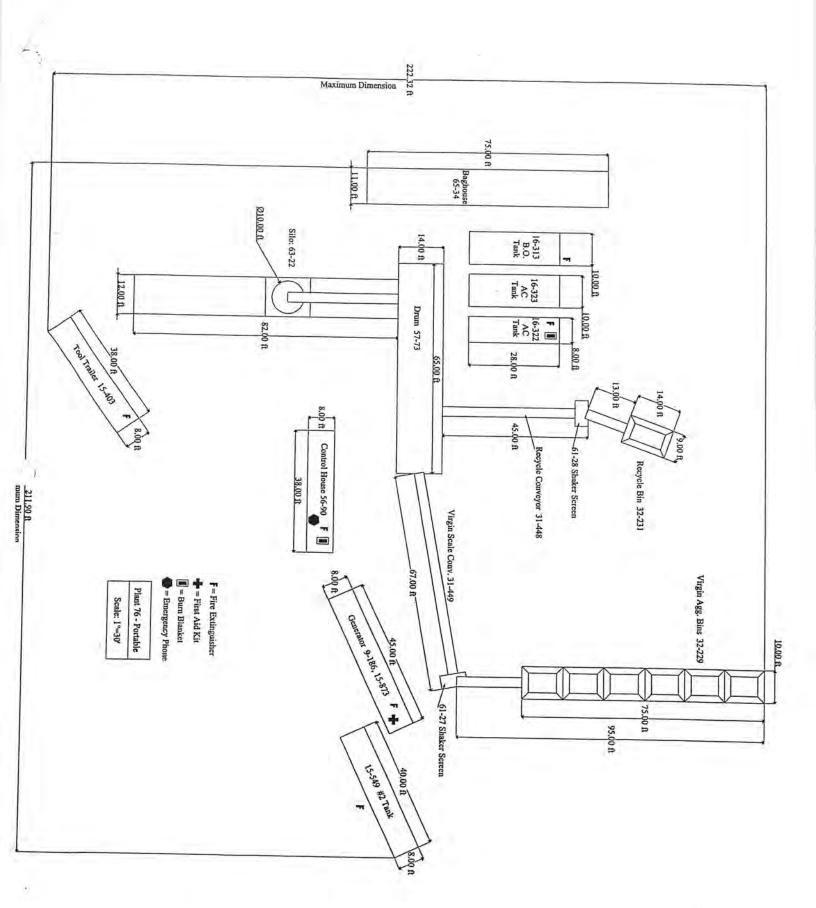
Land

TAYLOR

PORTAGE

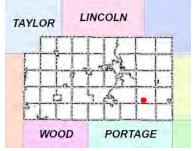
depictions herein or for use which ignores this warning.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

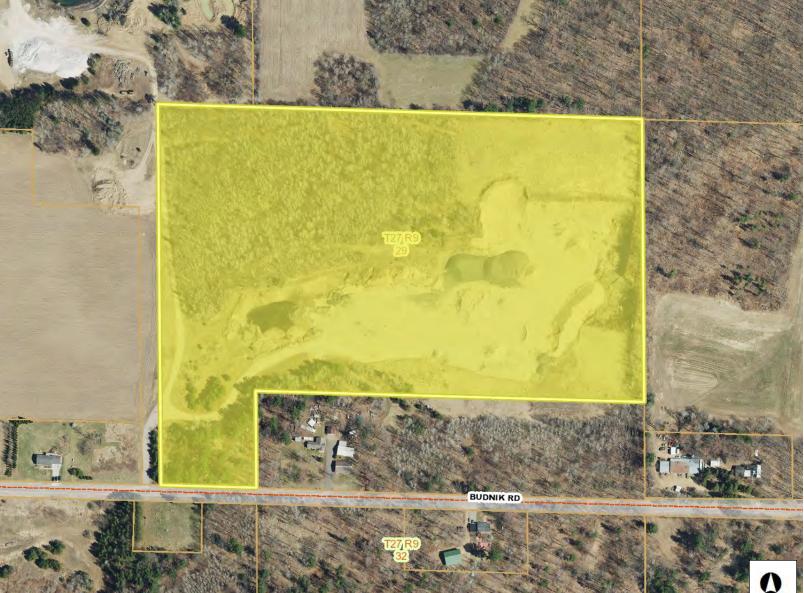
NAD_1983_HARN_WISCRS_Marathon_County_Feet





Land Information Mapping System





Legend

Road Names

Parcels

Parcel Lot Lines

Land Hooks

Section Lines/Numbers

Right Of Ways

Named Places

Municipalities

2020 Orthos Countywide

Red: Band_1

Green: Band_2

■ Blue: Band 3

162.38 0 162.38 Feet

NAD_1983_HARN_WISCRS_Marathon_County_Feet

DISCLAIMER: The information and depictions herein are for informational purposes and Marathon County-City of Wausau specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Marathon County-City of Wausau will not be responsible for any damages which result from third party use of the information and depictions herein or for use which ignores this warning.

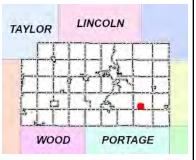
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



Land Information Mapping System





Legend

Road Names

- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities2020 Orthos Countywide
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

324.75 0 324.75 Feet

NAD_1983_HARN_WISCRS_Marathon_County_Feet

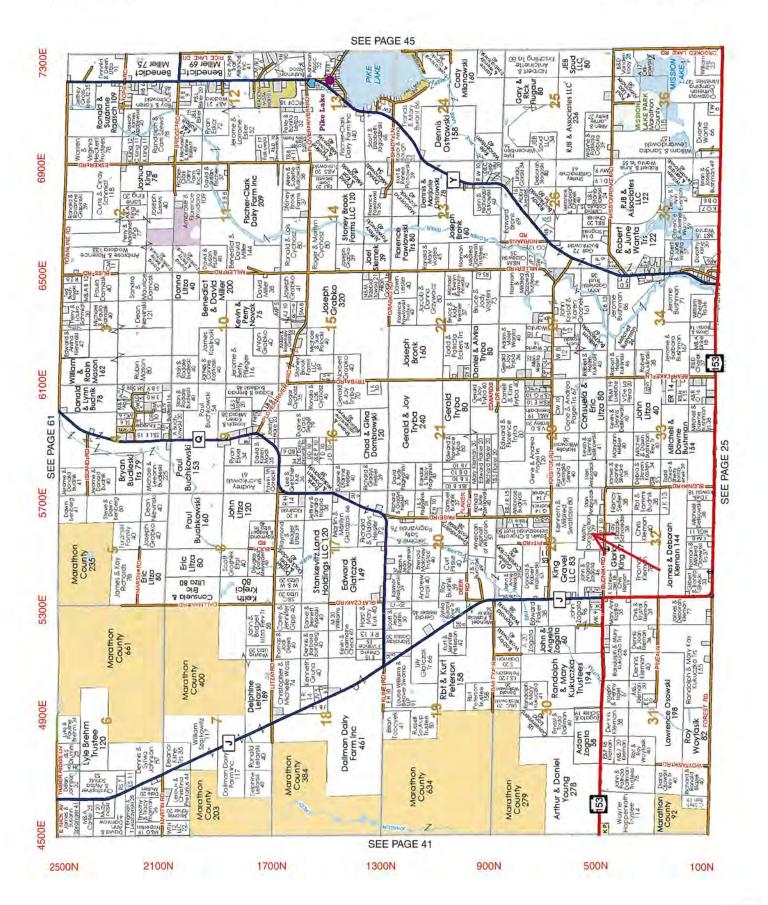
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



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STATE OF WISCONSIN) MARATHON COUNTY) TOWN OF REID)
TOWN RESOLUTION OF RECOMENDATION
TO THE MARATHON COUNTY BOARD OF ADJUSTMENT
I, Kittie Milanowski, Clerk of the Town of Reid Marathon County, State of Wisconsin, do hereby certify that the following is a true and correct copy of a resolution adopted by the Town of Reid Town Board at a meeting held on the 12 day of 2024.
RESOLUTION
WHEREAS, the Marathon County Board of Adjustment is established for the purpose of hearing certain appeals, applications and granting variances in harmony with the general purpose and intent of land use regulations, and
WHEREAS, such a hearing is scheduled to come before the Board affecting lands within the Town of Reid.
NOW, THEREFORE BE IT RESOLVED that the Town of Reid Town Board considered on the 12th day of 2024, the application of: The application of American Asphalt of WI for a Conditional Use Permit per Section 17.204.61 of the General Zoning Code of Ordinances under Marathon County Chapter 17 – Zoning Code to construct and operate a temporary concrete and/or blacktop mix plant, processing, stockpiling, and recycling of road building materials facility located within the General Agricultural District, on property described as PT SE 1/4 SW 1/4 & PT OF SW 1/4 SE 1/4 - LOT 1 Section 29, Township 27 North, Range 9 East, Town of Reid; PIN# 064,2709,294,0990. Property address: 211155 Budnick Road, Hatley, WI 54440.
, and hereby recommends:
Marathon County Board of Adjustment APPROVE application
☐ Marathon County Board of Adjustment DENY application
Comments, conditions and reasons for recommended action:
Town Board Robert Krishing
- Jenjeh filler

NOTE: If you recommend disapproval of this request, please make every effort to send a representative to the Board of Adjustment Public Hearing. Town input at the hearing is always appreciated. Please return this form before April 11, 2024 to:

Board of Adjustment

Marathon County Conservation, Planning and Zoning Department
210 River Drive

Wausau, WI 54403



American Asphalt of WI

Conditional Use Permit Application Staff Report, April 25th, 2023 Marathon County Board of Adjustment

PETITIONER:

American Asphalt of WI – PO Box 98, Mosinee, WI 54455

PROPERTY OWNERS:

Mathy Construction Co - 920 10th Ave. North, Onalaska, WI 54650

REQUEST:

The application of American Asphalt of WI for a Conditional Use Permit per Section 17.204.61 of the General Zoning Code of Ordinances under Marathon County Chapter 17 – Zoning Code to construct and operate a temporary concrete and/or blacktop mix plant, processing, stockpiling, and recycling of road building materials facility located within the General Agricultural District, on property described as PT SE 1/4 SW 1/4 & PT OF SW 1/4 SE 1/4 - LOT 1 Section 29, Township 27 North, Range 9 East, Town of Reid; PIN# 064.2709.294.0990. Property address: 211155 Budnick Road, Hatley, WI 54440.

PUBLIC HEARINGS/MEETINGS:

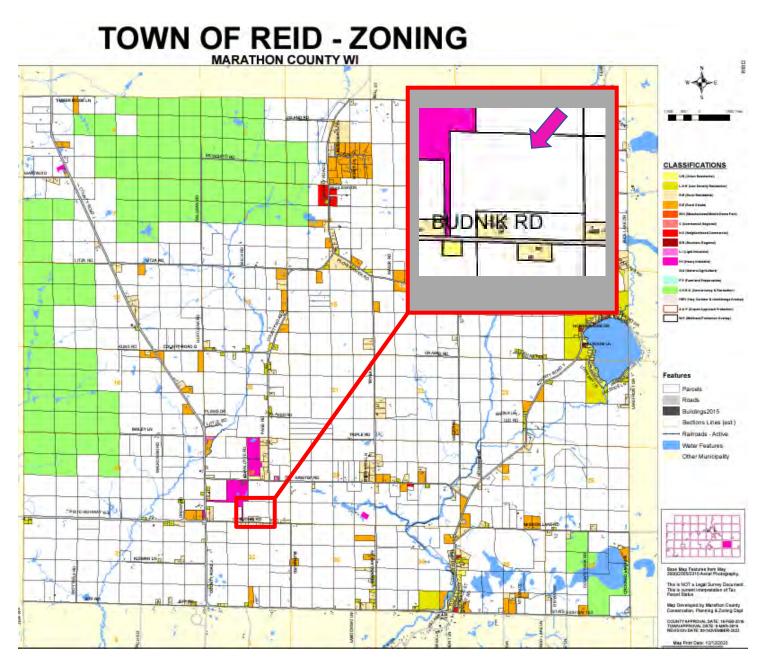
- Town of Reid Town Board Meeting: March 12th, 2023
- Marathon County Board of Adjustment Meeting: April 25th, 2024; 9AM

Legal Notification:

A legal advertisement was published in the *Wausau Daily Herald*. Notice of the CUP was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

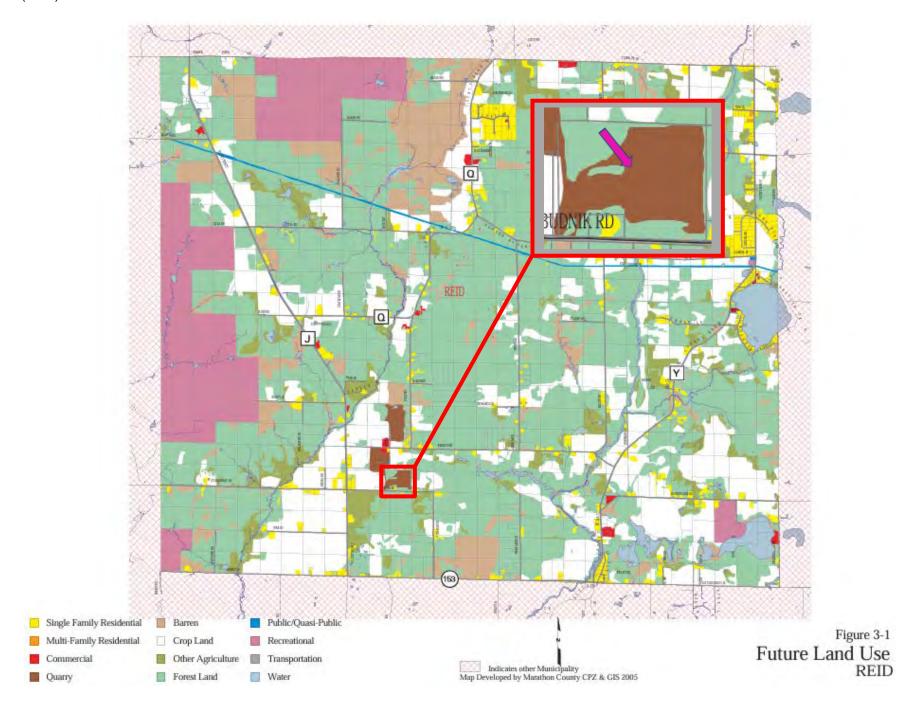
EXISTING ZONING DISTRICT:

<u>G-A General Agricultural.</u> The purpose of the G-A district is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land as classified in 18.07(2) and (3) into five or more tracts, parcels or lots within a five-year period. This district provides for limited residential development with modest densities that require relatively large land areas that are compatible with the surrounding rural land use activities. The district is intended to provide towns with multiple options to guide growth and development in concert with the comprehensive planning efforts.



Acreage: 38.37 Acres (approximate)

<u>Town Comprehensive Plan Future Land Use Map:</u> The parcel is shown to be designated as Quarry and Forest Land, in the Town of Reid's Future Land Use Map (2007)



SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

- The proposed plant on this parcel is:
 - o **Not** located within mapped floodplain
 - o **Not** located within DNR mapped wetlands, or water features.
 - o **Not** located within the shoreland overlay district but is close.

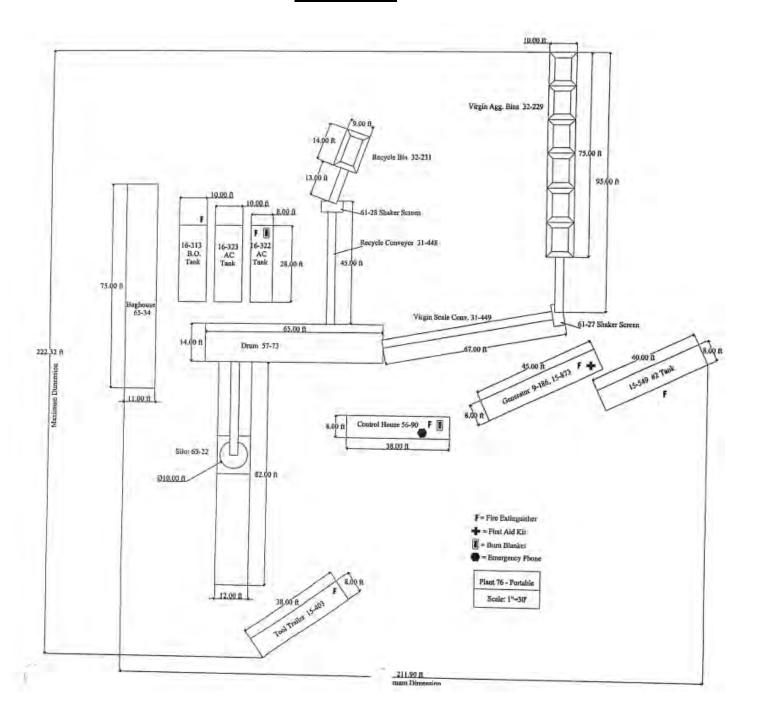
VIOLATIONS

There are no known violations on the property.

Aerial Photo



Site Plans



Google Maps



Imagery ©2019 Google, Map data ©2019 Google 100 ft

Chapter 17 Sections that apply to this application

Table 3. Uses Permitted by District

Key: P Permitte	ed U	se		C	Con	ditio	nal U	se		(E	Blank	c) Us	e Not Permitted
USE	Residential Districts					ricult Distric		Nonresidential Districts					Development Standards
	H-O	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	Ü	B-R	2	Ŧ	
A	CCE	SSO	RY,	TEN	IPOI	RAR	Y, an	d 01	HEF	RUS	ES		
Accessory Buildings, Structures, and Uses	P	P	P	Р	Р	P	Р	Р	Р	P	P	P	<u>Chapter 17.401</u>
Accessory Building(s) prior to a Principal Structure (For personal/private use and/or accessory to the principal use of the lot)	С	С	С	P	P	P	С						Section 17.401.01(A)
Permanent use of Storage/Shipping containers as an accessory structure				С	P	P	C	Р	P	P	P	P	Section 17.401.01
Concrete and/or Blacktop Mix Plant, processing, stockpiling, and recycling of road building materials					С	С					С	С	Section 17.204.61
Garage, Yard, and Estate Sales	P	P	Р	P	Р	Р	P						Section 17.204.55

Section 17.204.61 CONCRETE AND/OR BLACKTOP MIX PLANT, PROCESSING, STOCKPILING, AND RECYCLING OF ROAD BUILDING MATERIALS

- A. The proposed plant is strongly advised to be located within an existing permitted nonmetallic mine where there are currently no violations.
- B. The proposed plant shall not be located within 100 feet of a residence (unless it is the owner or operator's residence).
- Hours of operation shall be limited to Monday through Friday 7 am-7 pm (unless otherwise specified by the BOA).
- D. The proposed plant permit shall be valid for a maximum of 2 years (unless otherwise specified by the BOA).
- E. No portion of the batch plant or its operation shall be located on a public or private street.
- F. The proposed plant shall be operated in a manner that eliminates unnecessary dust, noise, and odor.
- G. The site must be clear of all equipment, material and debris upon completion of the project or upon expiration of the permit, whichever comes first.

Section 17.204.61 Responses

- A. The proposed site is located in an existing non-metallic mine and there are currently no violations.
- B. Per Site Plan and Aerial images: There are no residence withing 100-feet of the project area.
- C. Per application Materials: Requested hours are from 6am-7pm Monday through Friday AND 6am 5pm Saturday
- D. Per application Materials: Project will begin May 1st, 2024 and project completion in November 20th, 2025
- E. Per Site Plan: No portion of plant will be located on a public or private street.
- F. Per application materials: Haul roads will be treated with chloride to suppress dust
- **G.** Per application Materials: Debris and equipment will be removed from project site by 11/20/2025.

Section 17.803.01 PURPOSE AND AUTHORITY

A. **Purpose**. Certain uses are of such a nature, or their effects are as dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this chapter for the determination of such uses as conditional uses. Conditional uses are land uses listed as such in <u>Table 3</u> Uses Permitted by District. They may be established in such district only upon approval by the Board of Adjustment.

The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

- 1. Ensure full compliance with the standards contained in this ordinance and other applicable local ordinances, and state and federal laws.
- 2. Achieve efficient use of the land.
- 3. Prevent adverse impact on adjoining or nearby properties.
- 4. Protect natural resources.
- 5. Facilitate development in accordance with the County's land use objectives per the Comprehensive Plan.

Section 17.803.02 APPLICATION PROCEDURES

- I. Board of Adjustment Determination. The Board of Adjustment shall review the application for conditional use, together with the previous meetings' findings and reports and recommendations from the Zoning Administrator, public safety officials, and other reviewing agencies. The Board of Adjustment shall then make a determination on the conditional use application, as set forth in Section <u>17.803.03</u> and based on the Substantial Evidence, other requirements and standards of this ordinance. The Board of Adjustment may approve, approve with conditions, or deny a conditional use request as follows:
 - 1. <u>Approval</u>. Upon determination by the Board of Adjustment that the final plan for conditional use is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, approval shall be granted.
 - Approval with Conditions. The Board of Adjustment may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:
 - a. Conditions must be to the extent of practical and measurable
 - b. Conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - d. Conditions shall be necessary to meet the intent and purpose of this ordinance, related to the standards established in this ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards. These conditions may include, but are not limited to the following:
 - 1) Permit duration, transfer or renewal
 - 2) Setback and yard dimensions.
 - 3) Specified sewage disposal and water supply facilities.
 - 4) Landscaping and planting screens.
 - 5) Operational controls.
 - 6) Sureties.
 - 7) Deed restrictions.
 - 8) Location of structures, docks, piers or signs.
 - 9) Location and amount of parking facilities.
 - 10) Type of construction.
 - 11) The obtaining of other permits required by the state or federal government agencies, and other county requirements based upon other ordinances as conditions that must be met before issuance of such permit.

3. <u>Denial</u>. Upon determination by the Board of Adjustment that a conditional use proposal does not comply with the spirit or intent or standards and regulations set forth in this ordinance, or would constitute a nuisance by reason of noise, dust, smoke, odor, or other similar factors, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the county, the conditional use proposal shall be denied.

Section 17.803.03 BASIS OF DETERMINATION

- A. **Conformance with Requirements.** The applicant shall be required to establish by clear and convincing evidence that the applicable standards of this Chapter, the specific standards pertinent to each conditional use, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Chapter (refer to Chapter 17.204, Development Standards for Specific Uses) have been met.
- B. **General Standards**. The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:
 - 1. <u>Compatibility with Adjacent Uses</u>. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - c. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - 2. <u>Comprehensive Plan</u>. The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the town and county comprehensive plan.
 - 3. <u>Compliance with Applicable Regulations</u>. The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.
 - 4. <u>Use of Adjacent Property</u>. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
 - 5. <u>Public Services</u>. The proposed conditional use will be served adequately by essential public facilities and services including but not necessarily limited to utilities, highways, streets, police and fire protection, drainage structures, refuse disposal, and school(s); unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
 - 6. <u>Impact of Traffic</u>. The location of the proposed conditional use shall, within the zoning district, minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. Proximity and access to major thoroughfares.
 - b. Estimated traffic generated by the proposed use.
 - c. Proximity and relation to intersections.
 - d. Adequacy of driver sight distances.
 - e. Location of and access to off-street parking.
 - f. Required vehicular turning movements.
 - g. Provision of pedestrian traffic (if applicable).
 - 7. Enhancement of Surrounding Environment. The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
 - a. The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Ordinance may be required as a condition of approval of a conditional use.
 - b. The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.

- 8. <u>Impact on Public Health, Safety, and Welfare</u>. The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, and environmental impact.
- 9. <u>Isolation of Existing Uses</u>. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
- 10. <u>Substantial Evidence</u>. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.

RECOMMENDATIONS FOR THE CUP

If granted, the CUP should consider including the following conditions:

- The Board of Adjustment should specify in their decision (and subsequently the letter that is issued to the applicant)
 - Dust control
 - Hours of operation
 - Expiration date of permit

TOWN RECOMMENDATION:

The **Town of Reid** Town Board Recommends **Approval** to Marathon County's Board of Adjustment.

NOW, THEREFORE BE IT RESOLVED that the Town of Reid Town Board considered on the 10th day of 2024, the application of: The application of American Asphalt of WI for a Conditional Use Permit per Section 17.204.61 of the General Zoning Code of Ordinances under Marathon County Chapter 17 – Zoning Code to construct and operate a temporary concrete and/or blacktop mix plant, processing, stockpiling, and recycling of road building materials facility located within the General Agricultural District, on property described as PT SE 1/4 SW 1/4 & PT OF SW 1/4 SE 1/4 - LOT 1 Section 29, Township 27 North, Range 9 East, Town of Reid; PIN# 064,2709,294,0990, Property address: 211155 Budnick Road, Flatley, WI 54440.
, and hereby recommends:
Marathon County Board of Adjustment APPROVE application
☐ Marathon County Board of Adjustment DENY application
Comments, conditions and reasons for recommended action:
Town Board Robert Kuffer in Bayes

THE STAFF RESERVE THE RIGHT TO AMEND THIS REPORT BASED ON NEW EVIDENCE PRESENTED PRIOR TO AND/OR DURING THE PUBLIC HEARING.

DECISIONS OF THE BOARD ARE SUBJECT TO APPEAL AS PROVIDED IN SS.59.694(10) WIS. STATS.

RESPECTFULLY SUBMITTED:

SIGNATURE DATE