



# American Asphalt Conditional Use Permit Application Staff Report, February 25<sup>th</sup>, 2021 Marathon County Board Of Adjustment

## Findings of Fact

### REQUEST:

The application of American Asphalt of WI for a conditional use permit per 17.203.05 (table 3) and 17.204.62 of the Marathon County General Code of Ordinances Chapter 17 for the purpose of placing a temporary asphalt plant in an existing, permitted, nonmetallic mine located within the F-P Farmland Preservation district. The parcel is described as part of the NE ¼, NW FRL ¼, Section 3, T27N, R3E, Town of Eau Pleine further described as PIN# 020.2703.032.0999.

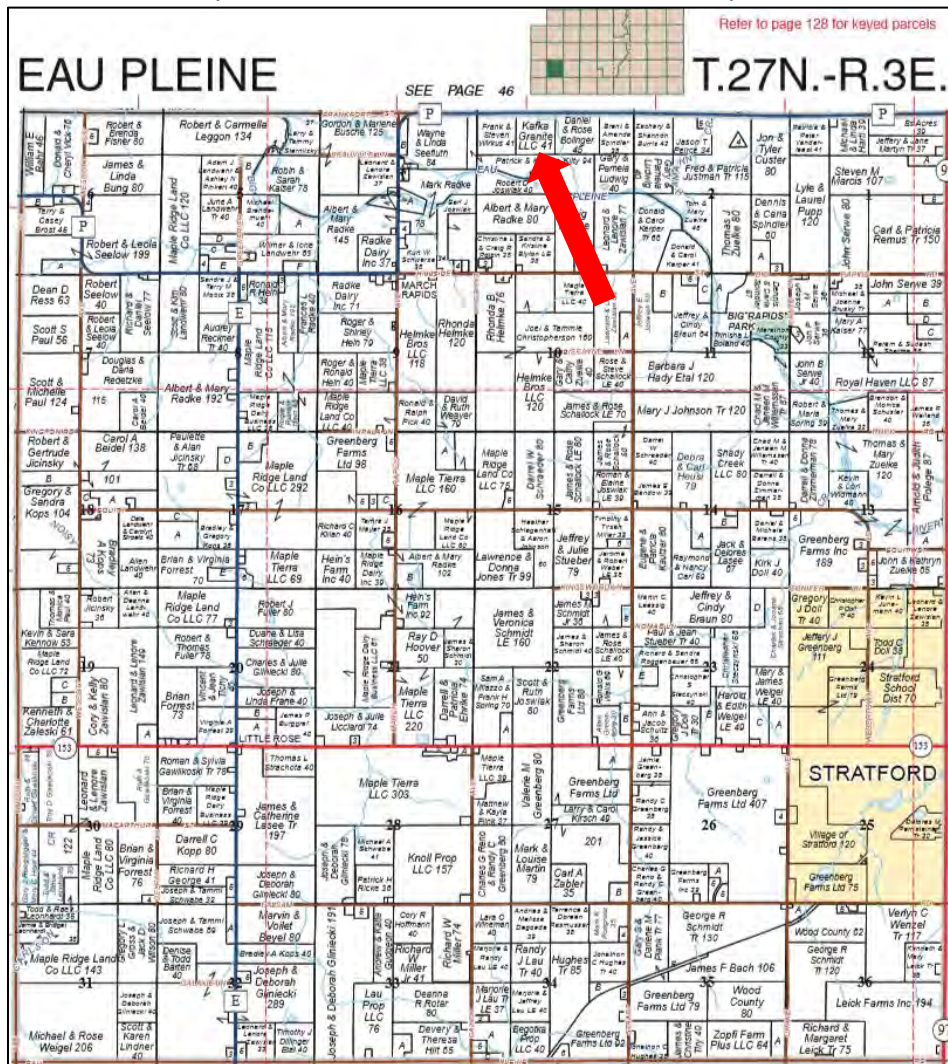
### PUBLIC HEARINGS/MEETINGS:

- Town of Eau Pleine Town Board Meeting (February 9<sup>th</sup>, 2021)
- Marathon County Board of Adjustment Meeting (February 25<sup>th</sup>, 2021 at 9:00am)

**APPLICANT(s):** American Asphalt – P.O. Box 98, Mosinee, WI 54455.

**PROPERTY OWNER:** Glenn Kafka – NE ¼ NE ¼ Section 3, Township 27N, R3E, Town of Eau Pleine, PIN# 020.2703.032.0999. Property address of: 114445 County Road P - Stratford, WI 54484.

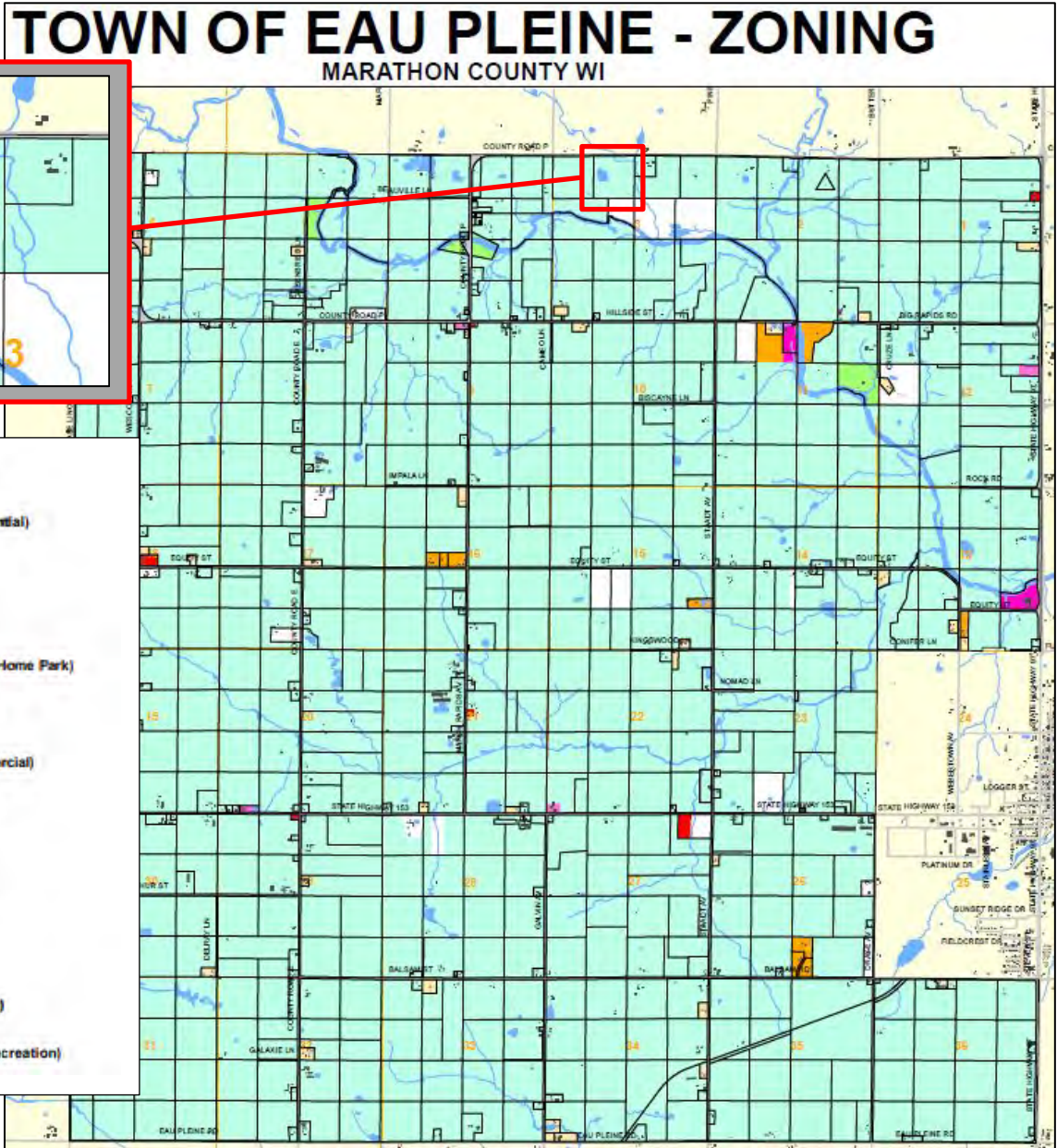
*Map 1: Location of Conditional Use Permit Request*



**EXISTING ZONING DISTRICT:**

**F-P Farmland Preservation District** - The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. This district is not intended to accommodate non-agricultural growth.

**EXISTING ZONING DISTRICT MAP:** Adjacent parcels and parcels within close proximity are zoned General Agricultural (white) and Farmland Preservation (teal). Immediately adjacent to the North is the Town of Frankfort.

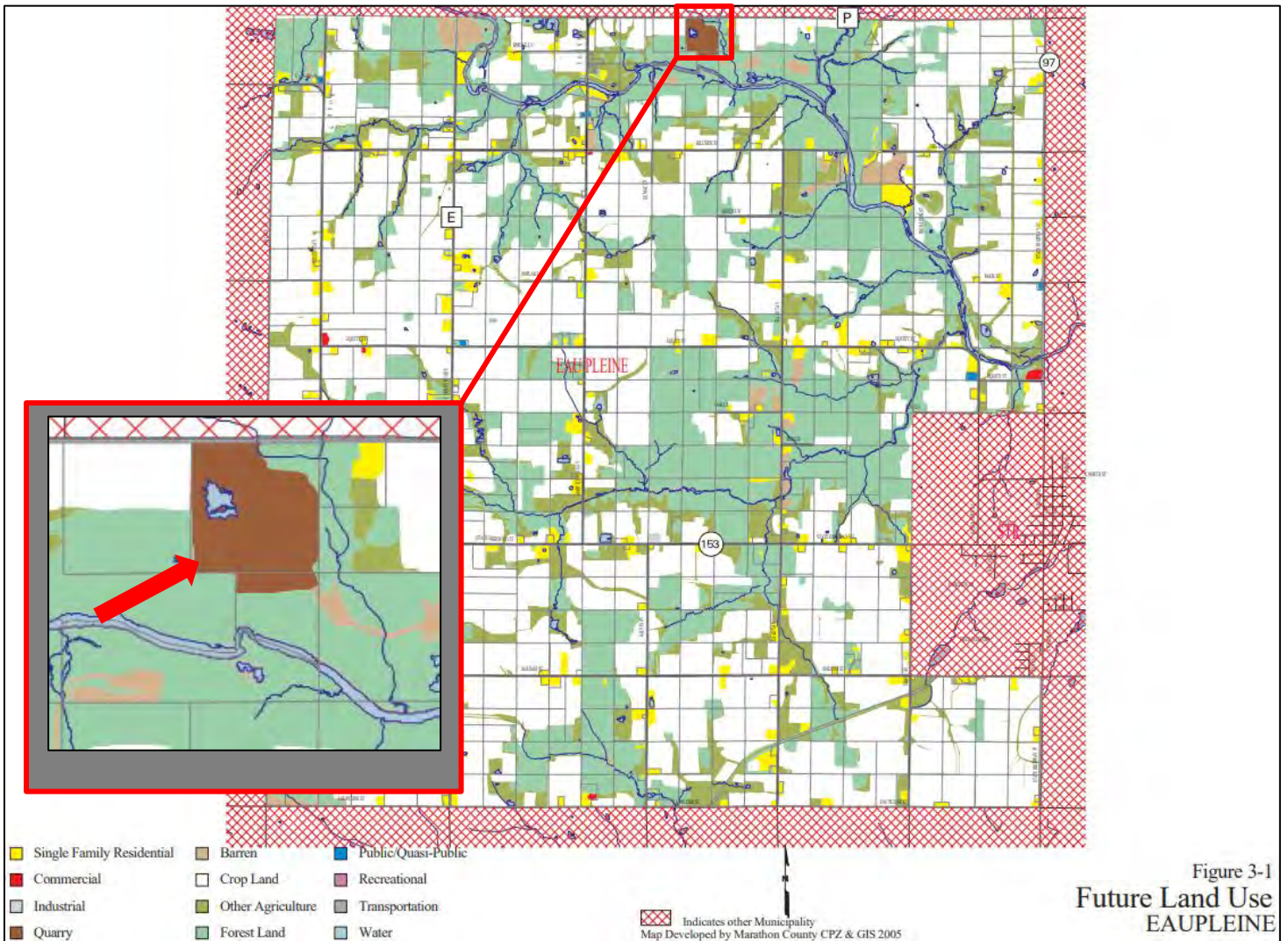


- U-R (Urban Residential)
- L-D-R (Low Density Residential)
- R-R (Rural Residential)
- R-E (Rural Estate)
- M-H (Manufactured/Mobile Home Park)
- C (Commercial Regional)
- N-C (Neighborhood Commercial)
- B-R (Business Regional)
- L-I (Light Industrial)
- H-I (Heavy Industrial)
- G-A (General Agriculture)
- F-P (Farmland Preservation)
- C-V/R-C (Conservancy & Recreation)

**ACREAGE:**  
41.13 Acres

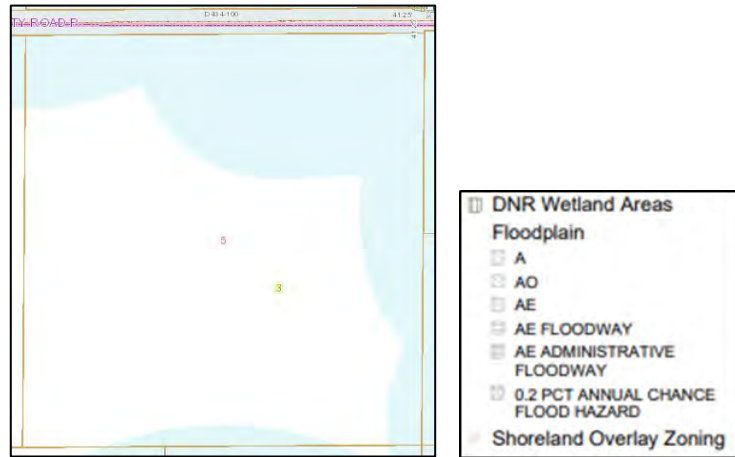
**Legal Notification:**  
A legal advertisement was published in the *Wausau Daily Herald* on Monday February 8<sup>th</sup>, 2021 and February 15<sup>th</sup>, 2021. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

**TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP:** The parcel in question is shown to be designated as Woodland in the Town of Marathon's Comprehensive Plan Future Land Use Map. Additionally, there is some agricultural and single family residential land uses adjacent to within close proximity to the parcel in question.



**SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:**

- The proposed development location on this parcel is:
  - **Not** located within mapped floodplain
  - **Not** located within DNR mapped wetlands, or water features.
  - The parcel and proposed development **are** located partially within the shoreland overlay district



**Aerial Photo of the Property:**



**Aerial Photo of adjacent lands:**



**Violations:**

There are no active or past zoning violations on the property in question.

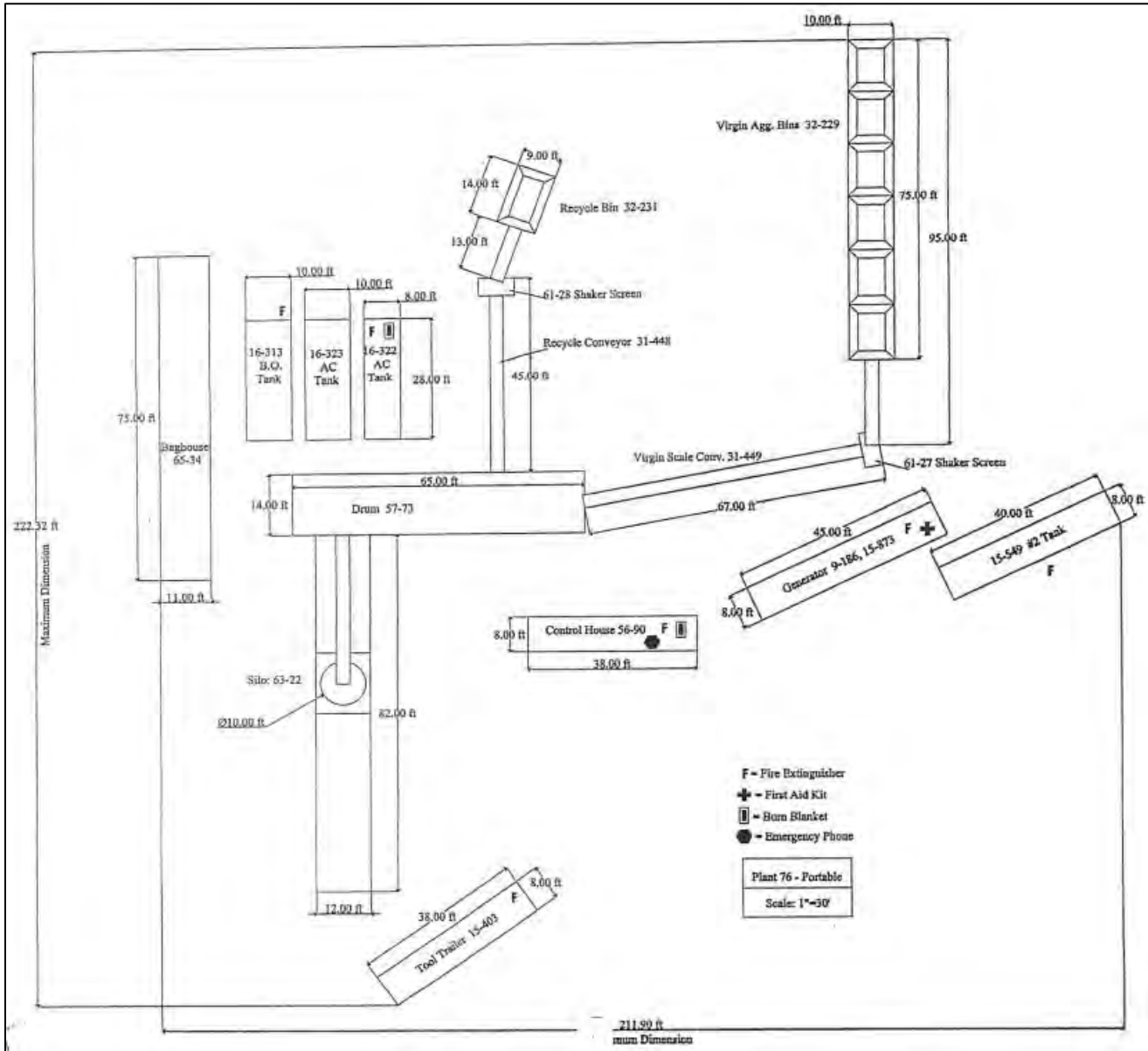
**Site Plan (submitted by the applicant):**

**Batch Plant Location**



**Supporting Documentation (submitted by the applicant)**

**Batch Plant Diagram**



**Provisions of Law – General Standards (Reminder)**

**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. Compatibility with Adjacent Uses.
2. Comprehensive Plan.
3. Compliance with Applicable Regulations.
4. Use of Adjacent Property.
5. Public Services.
6. Impact of Traffic.
7. Enhancement of Surrounding Environment.
8. Impact on Public Health, Safety, and Welfare.
9. Isolation of Existing Uses.
10. Substantial Evidence.

**Specific Provision of Law:**

**Title 2: Zoning Districts and Uses**

**Section 17.204.62 CONCRETE AND/OR BLACKTOP MIX PLANT, PROCESSING, STOCKPILING, AND RECYCLING OF ROAD BUILDING MATERIALS – (TEMPORARY)**

- A. The Temporary plant shall be strongly advised to be located within an existing permitted nonmetallic mine that is up-to-date with all annual fees, financial assurance, and there are currently no violations.
- B. The temporary plant shall not be located within 100 feet of a residence (unless it is the owner or operators residence).
- C. Hours of operation shall be limited to Monday through Friday 7 am-7 pm (unless changed or altered by the BOA).
- D. The temporary plant permit is valid for a maximum of 1 year (unless changed or altered by the BOA).
- E. No portion of the batch plant or its operation shall be located on a public or private street.
- F. The temporary 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.

**Title 2: Zoning Districts and Uses**

Key:	P Permitted Use				C Conditional Use			(Blank) Use Not Permitted					
	Residential Districts				Agricultural Districts			Nonresidential Districts			Development Standards		
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R		L-I	H-I
Concrete and/or Blacktop Mix Plant, processing, stockpiling, and recycling of road building materials –(temporary)					C	C					C	C	<a href="#">Section 17.204.62</a>



**TOWN RECOMMENDATION:**

On February 9, 2021 the **Town of Marathon** Town Board Recommended **Approval** to Marathon County's Environmental Resources Committee.

STATE OF WISCONSIN )  
MARATHON COUNTY )  
TOWN OF EAU PLEINE )

**TOWN RESOLUTION OF RECOMENDATION**

**TO THE MARATHON COUNTY BOARD OF ADJUSTMENT**

I, Deanna Landwehr, Clerk of the Town of Eau Pleine, 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 Eau Pleine Town Board at a meeting held on the 9<sup>th</sup> day of February, 2021.

**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 Eau Pleine

NOW, THEREFORE BE IT RESOLVED that the Town of Eau Pleine Town Board considered on the 9<sup>th</sup> day of February, 2021, the application of American Asphalt of WI for a conditional use permit per 17.203.05 (table 3) and 17.204.62 of the Marathon County General Code of Ordinances Chapter 17 for the purpose of placing a temporary asphalt plant in an existing, permitted, nonmetallic mine located within the F-P Farmland Preservation district. The parcel is described as part of the NE 1/4, NW FRI 1/4, Section 3, T27N, R3E, Town of Eau Pleine further described as PIN# 020.2703.032.0999 and hereby recommends:

- Marathon County Board of Adjustment **APPROVE** application
- Marathon County Board of Adjustment **DENY** application

Comments, conditions and reasons for recommended action:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Clerk Deanna Landwehr  
Town Board Mark Landwehr  
Bob Shuman  
Mark Guller

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 February 11, 2021 to:

Board of Adjustment  
Marathon County Conservation, Planning and Zoning Department  
210 River Drive  
Wausau, WI 54403



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:

A handwritten signature in black ink, appearing to read "Julie" followed by a long horizontal flourish.

02/10/2021

SIGNATURE

DATE



**Edward and Anmarie Wolf  
Conditional Use Permit Application  
Staff Report, February 25<sup>th</sup>, 2021  
Marathon County Board Of Adjustment**

**Findings of Fact**

**REQUEST:**

The application of Edward and Anmarie Wolf for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential district, described as NW ¼ SW ¼ Section 4, Township 26N, R2E, Town of Spencer, described as PIN# 074.2602.043.0005 with a property address of: 208825 Andrews Rd. Spencer, WI 54479.

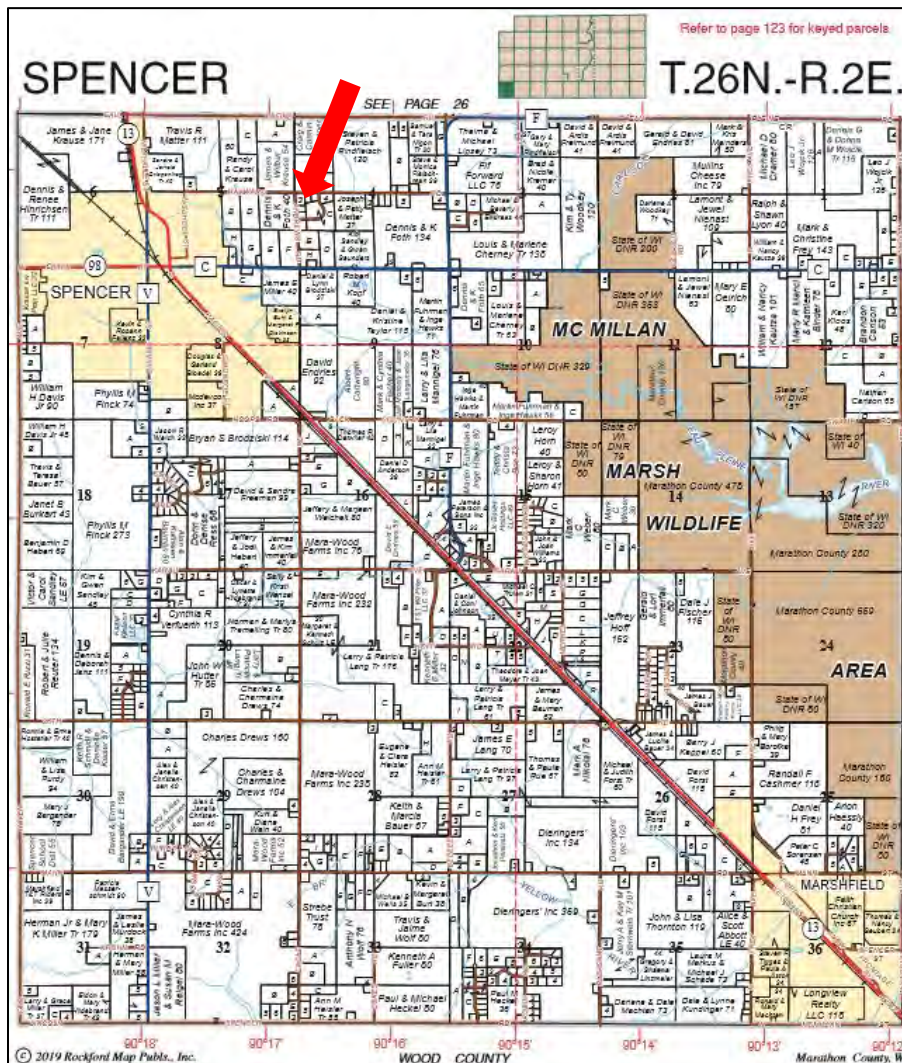
**PUBLIC HEARINGS/MEETINGS:**

- Town of Spencer Town Board Meeting (February 9<sup>th</sup>, 2021)
- Marathon County Board of Adjustment Meeting (*February 25<sup>th</sup>, 2021 at 9:00am*)

**APPLICANT(s):** Edward and Anmarie Wolf – 208825 Andrews Road, Spencer WI 54479

**PROPERTY OWNER:** (*same*) Edward and Anmarie Wolf – 208825 Andrews Road, Spencer WI 54479

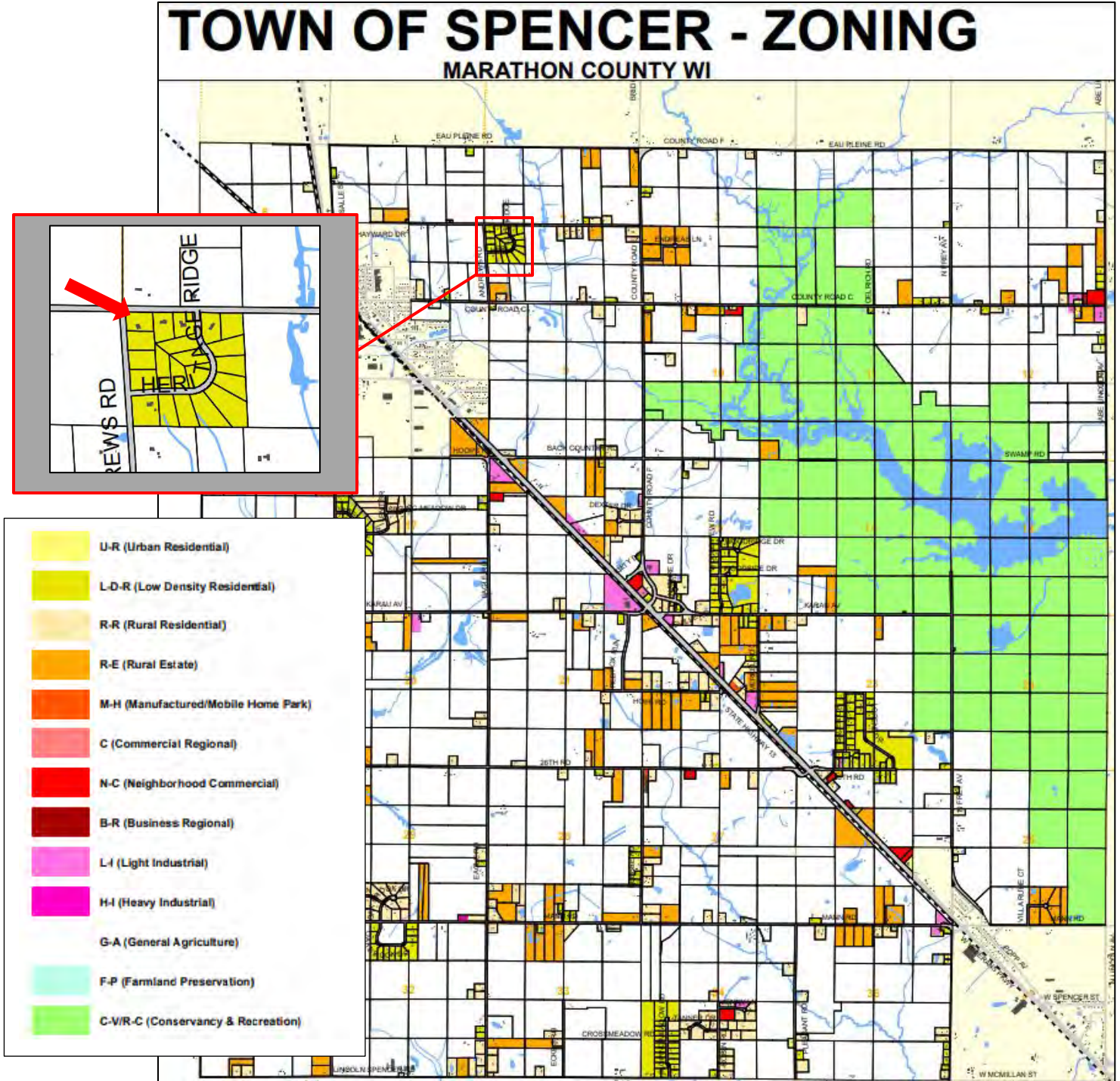
*Map 1: Location of Conditional Use Permit Request*



### EXISTING ZONING DISTRICT:

**L-D-R Low Density Residential District.** The purpose of the L-D-R district is to accommodate single-family residential use along existing streets and to promote single-family residential development (involving the extension of new streets) where sanitary sewer and municipal water may be available. The densities are intended to provide for areas of suburban character in the community and to prevent excessive demands on sewerage and water systems, streets, schools, and other community facilities. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces, and site area while making available a variety of dwelling types and densities to serve a wide range of individual requirements and thereby providing a more orderly and efficient extension of public facilities.

**EXISTING ZONING DISTRICT MAP:** Adjacent parcels and parcels within close proximity are zoned General Agricultural (white).

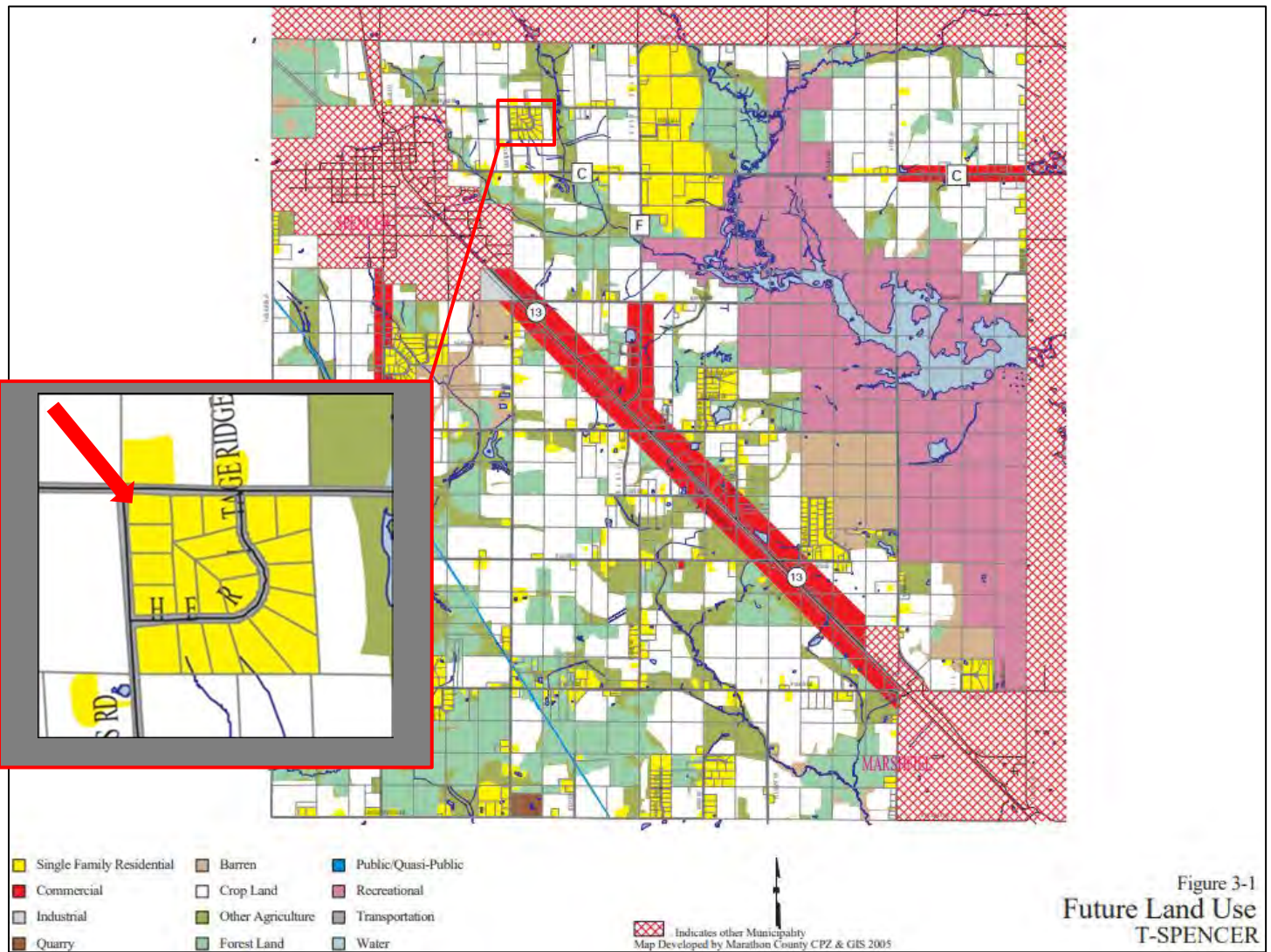


**ACREAGE:**  
1.15 Acre

**Legal Notification:**

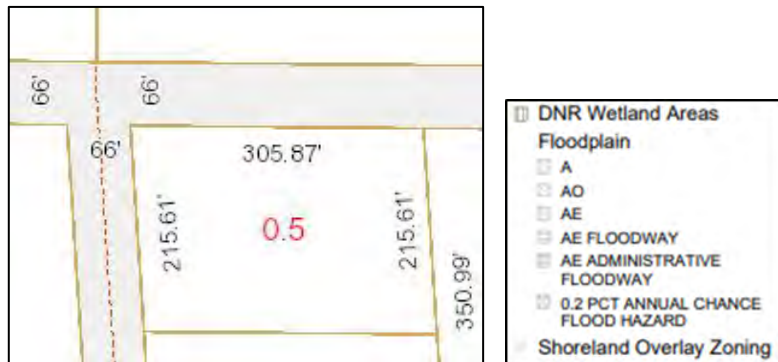
A legal advertisement was published in the *Wausau Daily Herald* on Monday February 8<sup>th</sup>, 2021 and February 15<sup>th</sup>, 2021. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

**TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP:** The parcel in question is shown to be designated as Woodland in the Town of Marathon's Comprehensive Plan Future Land Use Map. Additionally, there is some agricultural and single family residential land uses adjacent to within close proximity to the parcel in question.



**SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:**

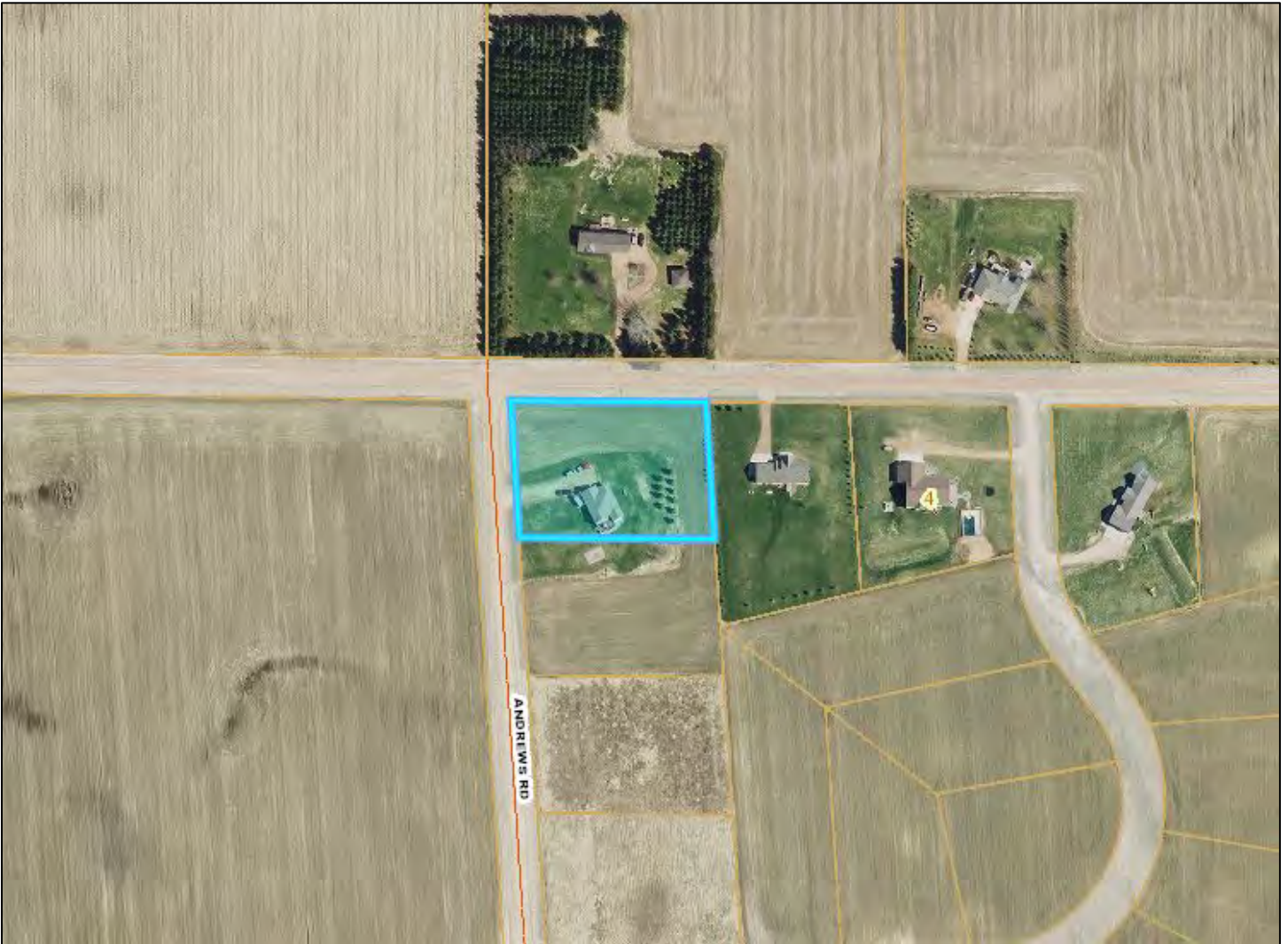
- The proposed development location on this parcel is:
  - **Not** located within mapped floodplain
  - **Not** located within DNR mapped wetlands, or water features.
  - The parcel and proposed development is **Not** located within the shoreland overlay district from a nearby pond (therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would not apply).



**Aerial Photo of the Property:**



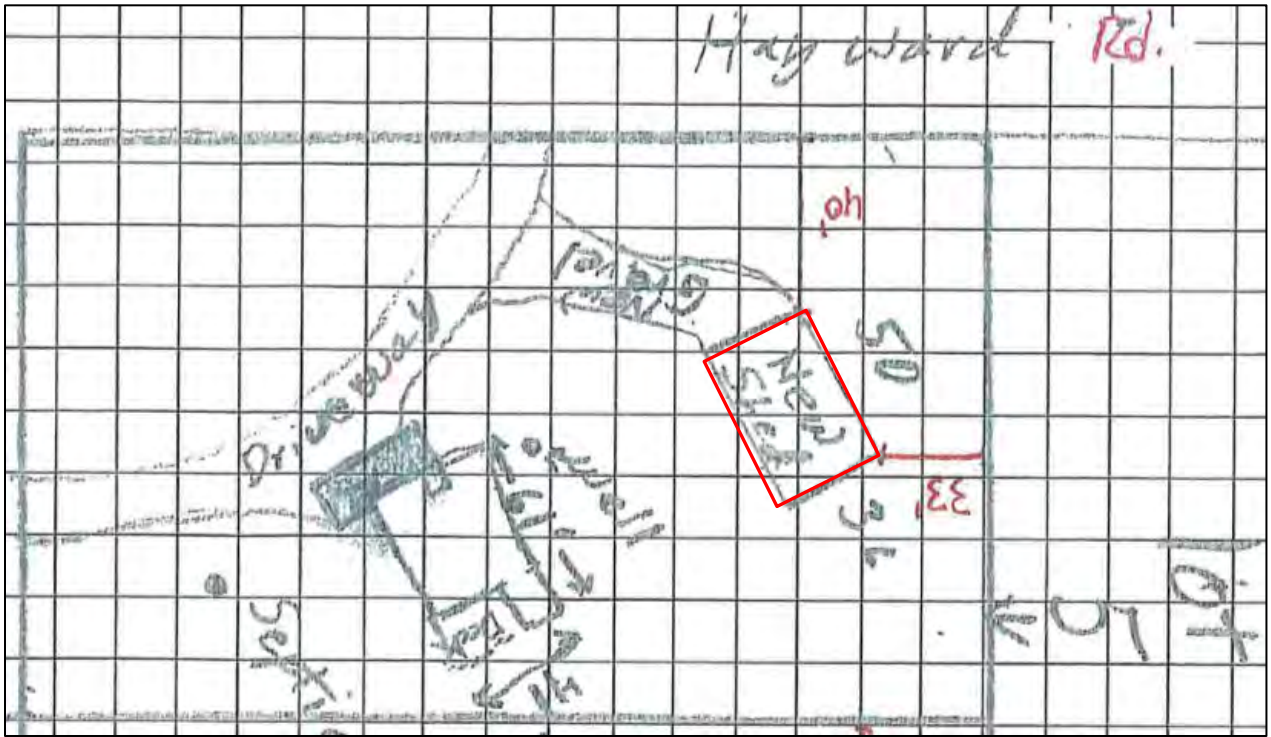
**Aerial Photo of adjacent lands:**



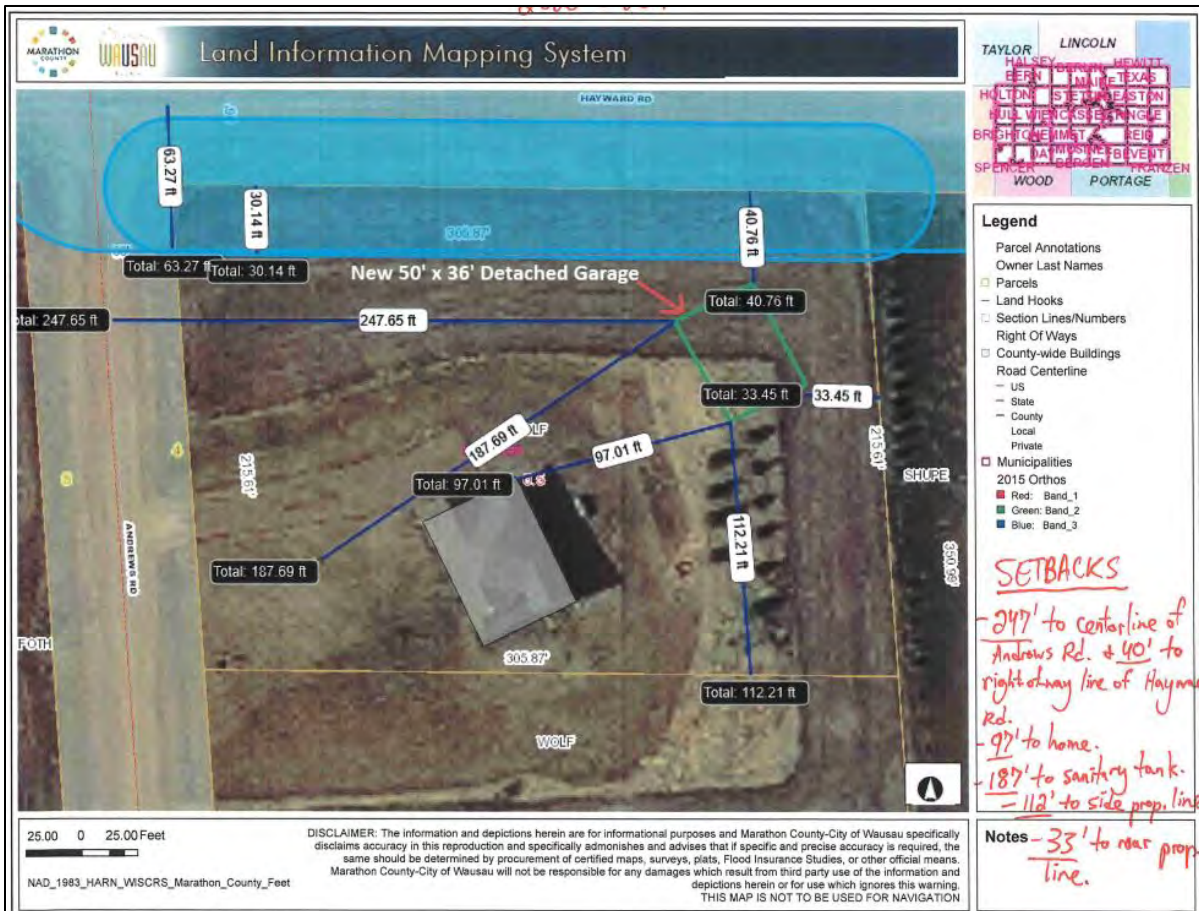
**Violations:**

There are no active or past zoning violations on the property in question.

**Site Plan (submitted by the applicant):**



**Supporting Documentation (submitted by the applicant)**





## Provisions of Law – General Standards (Reminder)

**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. Compatibility with Adjacent Uses.
2. Comprehensive Plan.
3. Compliance with Applicable Regulations.
4. Use of Adjacent Property.
5. Public Services.
6. Impact of Traffic.
7. Enhancement of Surrounding Environment.
8. Impact on Public Health, Safety, and Welfare.
9. Isolation of Existing Uses.
10. Substantial Evidence.

### Specific Provision of Law:

Key:	P Permitted Use				C Conditional Use				(Blank) Use Not Permitted					
USE	Residential Districts				Agricultural Districts				Nonresidential Districts					Development Standards
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I		
<b>ACCESSORY, TEMPORARY, and OTHER USES</b>														
Accessory Buildings and Structures exceeding the dimensional and lot coverage standards of Table 6.	C	C	C	C	C	C	C	C	C	C	C	C	C	<a href="#">Section 17.401.02(E)</a>

### Section 17.401.02 ACCESSORY BUILDINGS

The use of the accessory building must be secondary and incidental to the principle use.

- A. **Attached Accessory Buildings.** An accessory building which is attached to the main building by a common wall and roof shall comply with all the requirements and regulations that are applicable to the principle building.
- B. **Detached Accessory Buildings.** Detached accessory buildings shall not be used as a separate dwelling unit and shall comply with the requirements of the following [Table 6](#):
- C. **Accessory Structures housing Livestock:** [Section 17.204.01 \(A\) \(3\)](#)
- D. **Accessory Structures within shoreland jurisdiction:** Existing and new accessory buildings shall comply with all Marathon County shoreland regulations and provisions.
- E. **Construction of Detached Accessory Structures exceeding the dimensional building standards:**
  1. A conditional Use Permit may be applied for the construction of a detached accessory structure with floor area and components differing from the dimensional and maximum lot coverage standards listed in [Table 6](#).
  2. When considering a conditional use permit under this section the following standards shall apply.
    - a. The applicant shall provide evidence demonstrating the need for the proposed accessory structure which exceeds the dimensional standards of the zoning district in [Table 6](#).
    - b. The proposed accessory structure shall not be contrary to public interest.
    - c. The accessory structure shall not interfere or unnecessarily affect the adjacent property owner(s) ability to use their property.

**Chapter 17 - Table 6: Detached Accessory Building Standards**

Requirement	Residential Districts (U-R or L-D-R)	Residential Districts (RR)	Residential District (RE)	Agricultural Districts (GA & FP)	Any Other Zoning District
Location	Rear , side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard
Accessory Structure allowed prior to Principle Structure	conditional use permit required	conditional use permit required	YES	YES	NO
Setback Requirements from principle structure	15 feet	15 feet	15 feet	15 feet	15 feet
from side property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
from rear property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
Maximum Lot Coverage (*)(**)	25% of buildable area	10% of buildable area	10% of buildable area	--	25% of buildable area
Maximum side wall height	14 feet	14 feet	None	None	None
Maximum garage door height	12 feet	12 feet	None	None	None
Maximum Size	1200 sq. ft.	1800 sq. ft.	NONE	NONE	NONE
Maximum Height (**)	24 feet	24 feet	35 feet ***	35 feet ***	35 feet ***

**Proposal as it relates to the applicable accessory building standards:**

Applicable Setbacks, Dimensions, and Requirements	Code Requirement Low Density Residential (L-D-R)	Proposed Setbacks and Dimensions per the application
Location	Rear , side or front yard	Rear/side yard
Setback Requirements from principle structure	15 feet	50+ feet
from side property line	7 feet	33 feet
from rear property line	7 feet	75+ feet
Maximum Lot Coverage %	25%	Approx. 8%
Maximum side wall height	14 feet	16 feet (exceeds standard by 2 feet)
Maximum garage door height	12 feet	14 feet & 10 feet (exceeds standard by 2 feet)
Maximum Size	1200 sq. ft.	1,800 sq.ft. (exceeds standard by 600 feet)
Maximum Height (**)	24 feet	25 feet (exceeds standard by 1 feet)

**TOWN RECOMMENDATION:**

On February 9, 2021 the **Town of Spencer** Town Board Recommended **Approval** to Marathon County's Environmental Resources Committee.

STATE OF WISCONSIN }  
 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 9<sup>th</sup> day of February, 2021.

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 Spencer.

NOW, THEREFORE BE IT RESOLVED that the Town of Spencer Town Board considered on the 9<sup>th</sup> day of February, 2021, the application of Edward and Annmarie Wolf for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential district, described as NW 1/4 SW 1/4 Section 4, Township 26N, R2E, Town of Spencer, described as PIN# 074.2602.043.0005 with a property address of: 208825 Andrews Rd. 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:

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Clerk Dennis Gonnering  
 Town Board Dennis Gonnering  
Debbie K. Peltz  
Carl P. Hoff

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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 February 11, 2021 to:

Board of Adjustment  
 Marathon County Conservation, Planning and Zoning Department  
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RESPECTFULLY SUBMITTED:

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02/10/2021

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SIGNATURE

DATE



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Conditional Use Permit Application  
Staff Report, February 25<sup>th</sup>, 2021  
Marathon County Board Of Adjustment**

**Findings of Fact**

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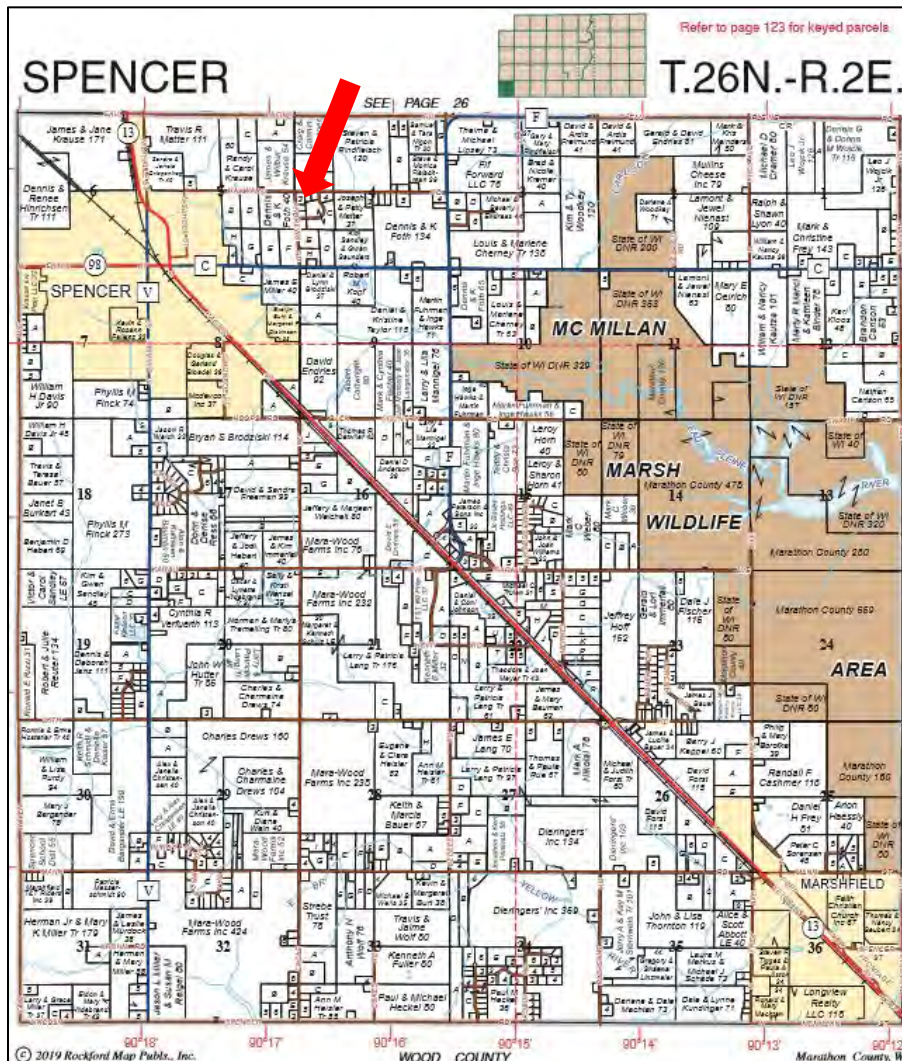
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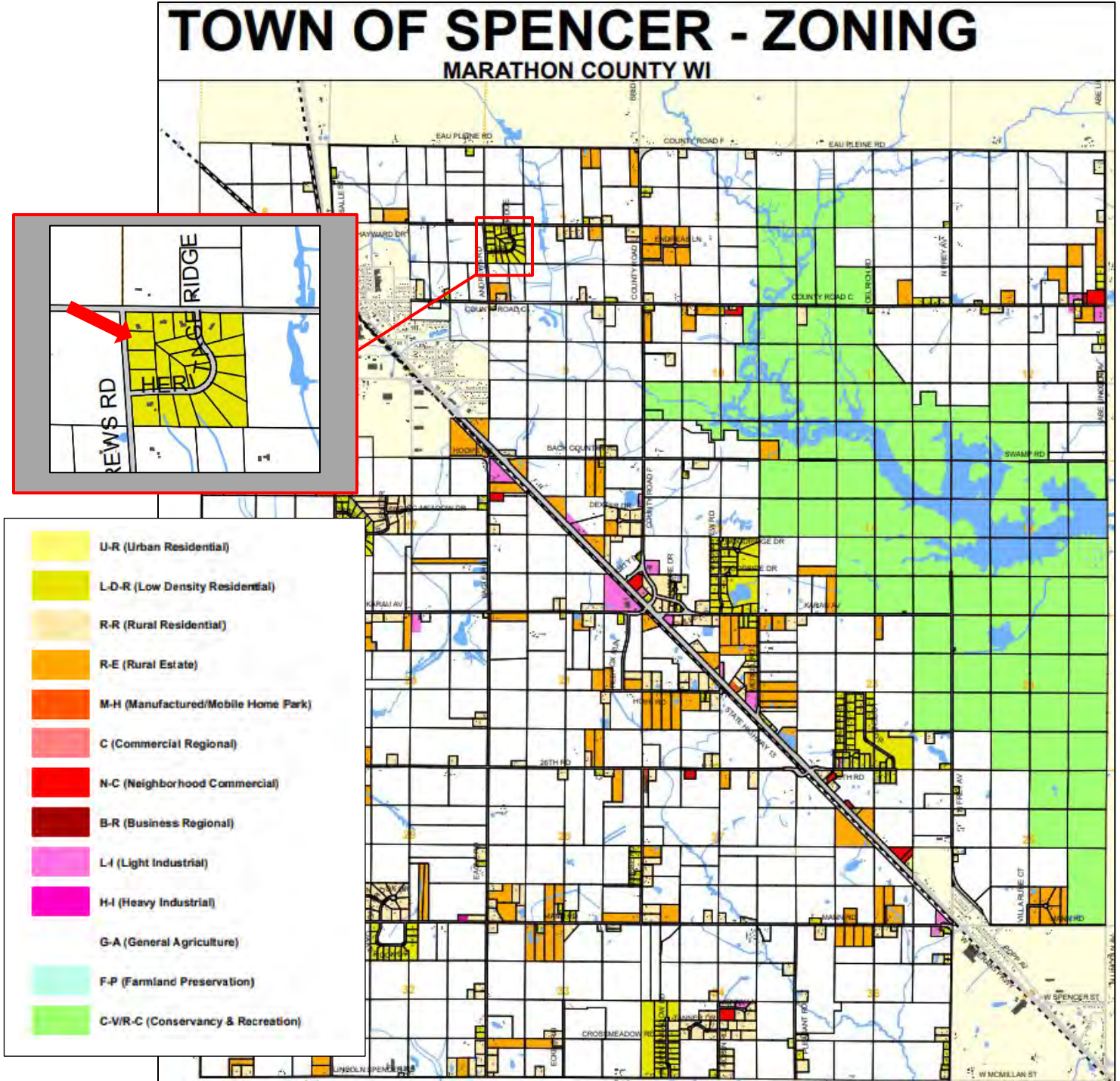
*Map 1: Location of Conditional Use Permit Request*



**EXISTING ZONING DISTRICT:**

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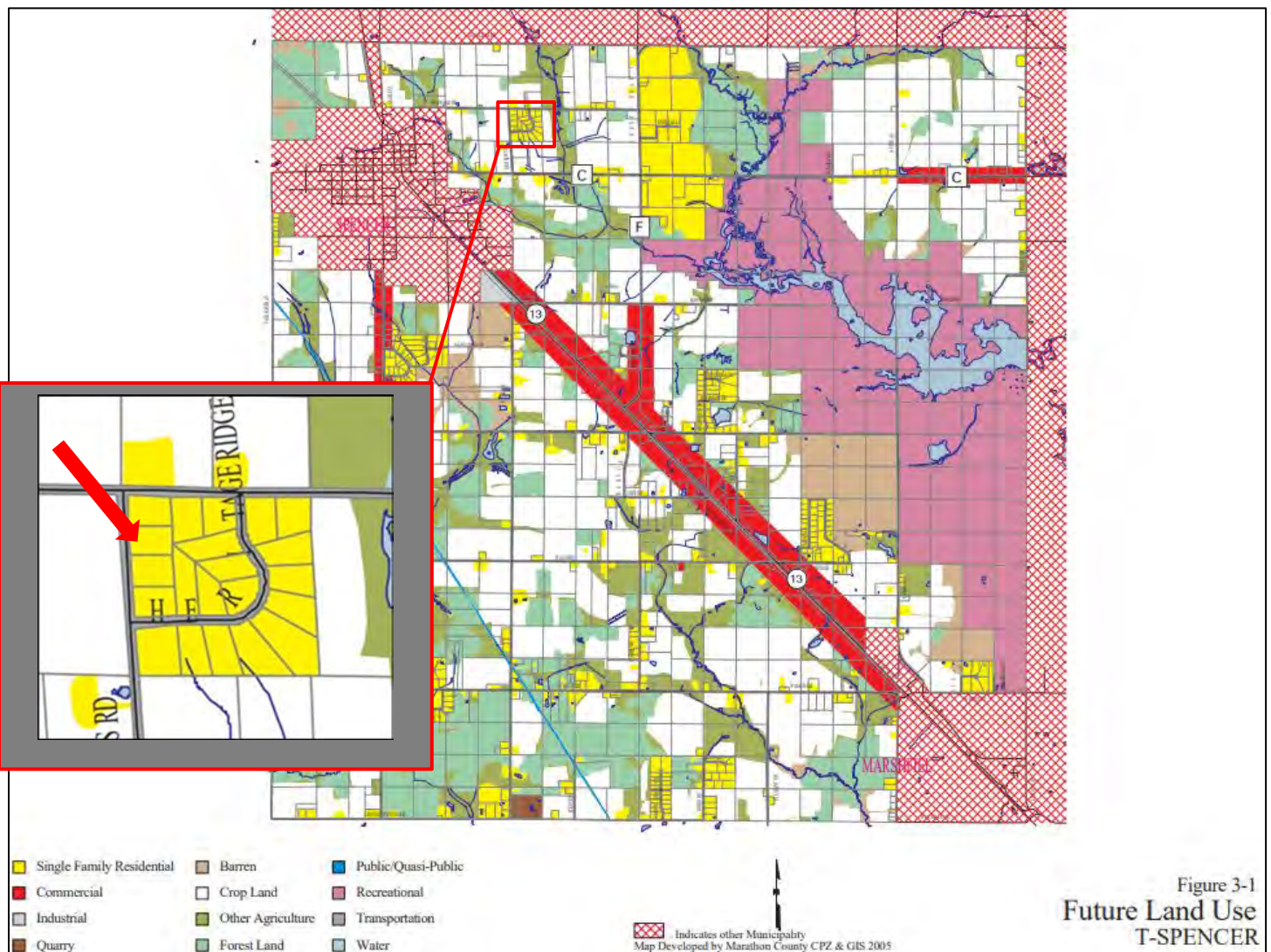


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**SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:**

- The proposed development location on this parcel is:
  - **Not** located within mapped floodplain
  - **Not** located within DNR mapped wetlands, or water features.
  - The parcel and proposed development is **Not** located within the shoreland overlay district from a nearby pond (therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply). Additionally, there does appear to be a pond and intermittent stream on the parcel, yet the waterway(s) do not appear to be navigable.

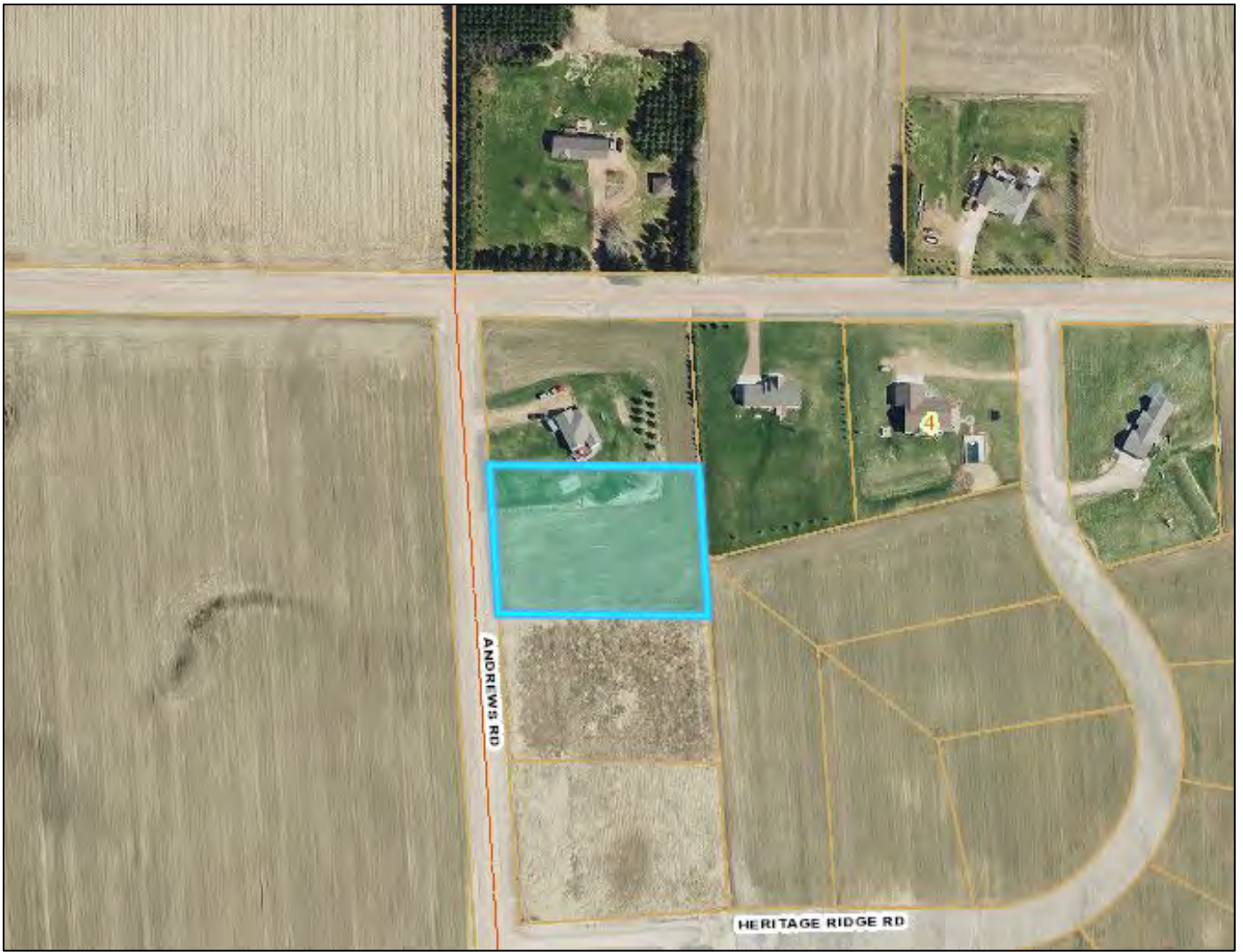


**Aerial Photo of the Property:**



**Aerial Photo of adjacent lands:**

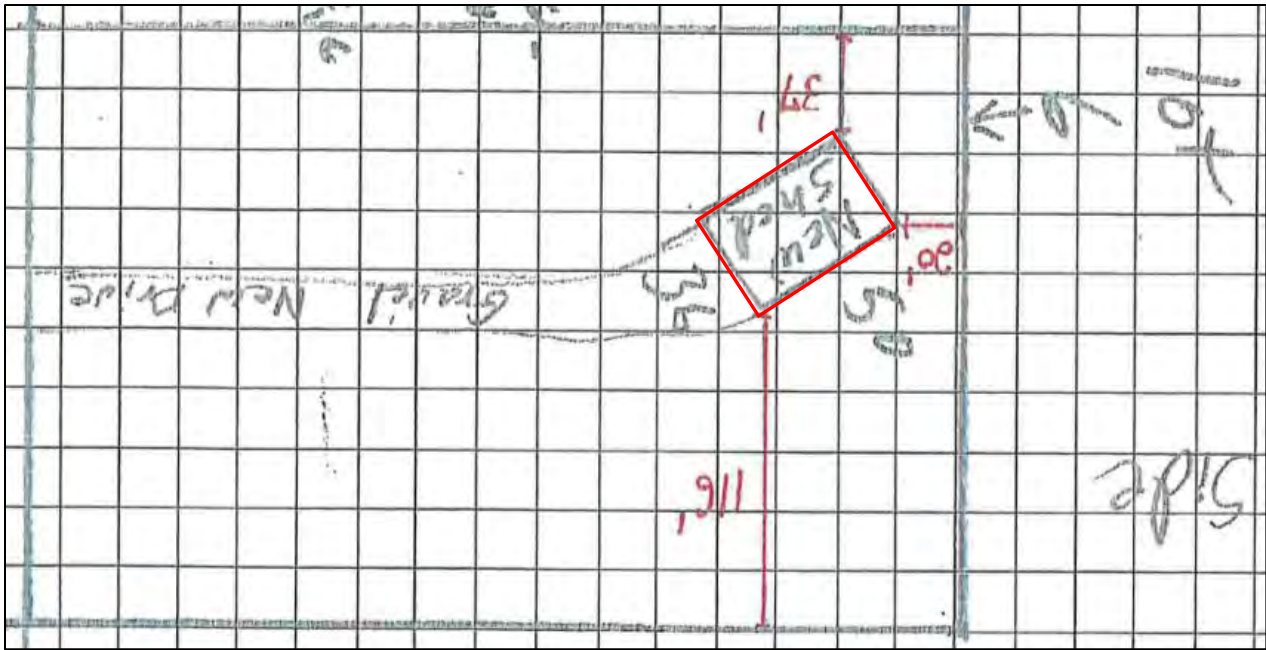




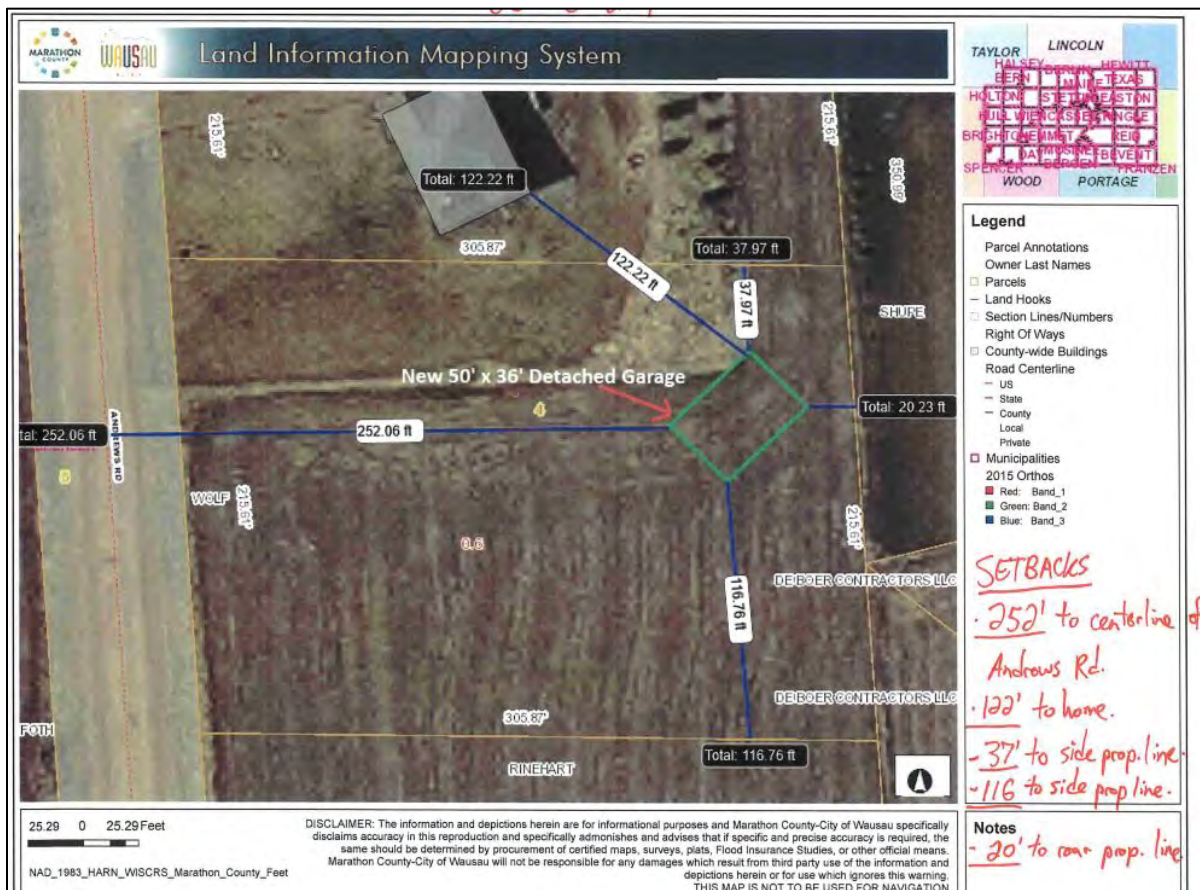
**Violations:**

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**Site Plan (submitted by the applicant):**



**Supporting Documentation (submitted by the applicant)**



**Provisions of Law – General Standards (Reminder)**

**General Standards.** The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:

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9. Isolation of Existing Uses.
10. Substantial Evidence.

**Specific Provision of Law:**

Key:  USE	P Permitted Use				C Conditional Use				(Blank) Use Not Permitted					
	Residential Districts				Agricultural Districts				Nonresidential Districts					Development Standards
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I		
<b>ACCESSORY, TEMPORARY, and OTHER USES</b>														
Accessory Structure prior to Principle Structure	C	C	C	P	P	P	C							<a href="#">Section 17.401.02(A)</a>
Accessory Buildings and Structures exceeding the dimensional and lot coverage standards of Table 6.	C	C	C	C	C	C	C	C	C	C	C	C	C	<a href="#">Section 17.401.02(E)</a>

**Section 17.401.02 ACCESSORY BUILDINGS**

The use of the accessory building must be secondary and incidental to the principle use.

- A. **Attached Accessory Buildings.** An accessory building which is attached to the main building by a common wall and roof shall comply with all the requirements and regulations that are applicable to the principle building.
- B. **Detached Accessory Buildings.** Detached accessory buildings shall not be used as a separate dwelling unit and shall comply with the requirements of the following [Table 6](#):
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    - c. The accessory structure shall not interfere or unnecessarily affect the adjacent property owner(s) ability to use their property.

**Chapter 17 - Table 6: Detached Accessory Building Standards**

Requirement	Residential Districts (U-R or L-D-R)	Residential Districts (RR)	Residential District (RE)	Agricultural Districts (GA & FP)	Any Other Zoning District
Location	Rear , side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard
Accessory Structure allowed prior to Principle Structure	conditional use permit required	conditional use permit required	YES	YES	NO
Setback Requirements from principle structure	15 feet	15 feet	15 feet	15 feet	15 feet
from side property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
from rear property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
Maximum Lot Coverage (*)(**)	25% of buildable area	10% of buildable area	10% of buildable area	--	25% of buildable area
Maximum side wall height	14 feet	14 feet	None	None	None
Maximum garage door height	12 feet	12 feet	None	None	None
Maximum Size	1200 sq. ft.	1800 sq. ft.	NONE	NONE	NONE
Maximum Height (**)	24 feet	24 feet	35 feet ***	35 feet ***	35 feet ***

**Proposal as it relates to the applicable accessory building standards:**

Applicable Setbacks, Dimensions, and Requirements	Code Requirement Low Density Residential (L-D-R)	Proposed Setbacks and Dimensions per the application
Location	Rear , side or front yard	Rear/side yard
Setback Requirements from principle structure	15 feet	NA
from side property line	7 feet	37 feet and 116 feet
from rear property line	7 feet	20 feet
Maximum Lot Coverage %	25%	Approx. 2.7%
Maximum side wall height	14 feet	16 feet (exceeds standard by 2 feet)
Maximum garage door height	12 feet	14 feet & 10 feet (exceeds standard by 2 feet)
Maximum Size	1200 sq. ft.	1,800 sq.ft. (exceeds standard by 600 feet)
Maximum Height (**)	24 feet	25 feet (exceeds standard by 1 feet)

**TOWN RECOMMENDATION:**

On February 9, 2021 the **Town of Spencer** Town Board Recommended Approval to Marathon County's Environmental Resources Committee.

STATE OF WISCONSIN )  
MARATHON COUNTY )  
TOWN OF SPENCER )

**TOWN RESOLUTION OF RECOMENDATION**

TO THE MARATHON COUNTY BOARD OF ADJUSTMENT

I, Dennis Goussier, 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 9<sup>th</sup> day of February, 2021.

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 Spencer:

NOW, THEREFORE BE IT RESOLVED that the Town of Spencer Town Board considered on the 9<sup>th</sup> day of February, 2021, the application of Edward and Anamarie Wolf conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure prior to a principle structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential district, described as NW 1/4 SW 1/4 Section 4, Township 26N, R2E, Town of Spencer, described as PIN# 074.2602.043.0006

and hereby recommends:

- Marathon County Board of Adjustment **APPROVE** application
- Marathon County Board of Adjustment **DENY** application

Comments, conditions and reasons for recommended action:

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Clerk Dennis Goussier  
Town Board Edward and Anamarie Wolf  
Carl H. Hoff

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 February 11, 2021 to:

Board of Adjustment  
Marathon County Conservation, Planning and Zoning Department  
210 River Drive  
Wausau, WI 54403

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:

A handwritten signature in black ink, appearing to read "Jul" followed by a long horizontal flourish.

02/10/2021

SIGNATURE

DATE



# Cory & Lisa Lang Conditional Use Permit Application Staff Report, February 25<sup>th</sup>, 2021 Marathon County Board Of Adjustment

## Findings of Fact

### REQUEST:

The application of Cory Lang for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential zoning district, described as part of the NE 1/4 SE 1/4 Section 13, Township 28N, R06E, Town of Marathon, described as PIN# 054.2806.134.0971 with a property address: 146101 Crocus Road, Wausau WI 54401.

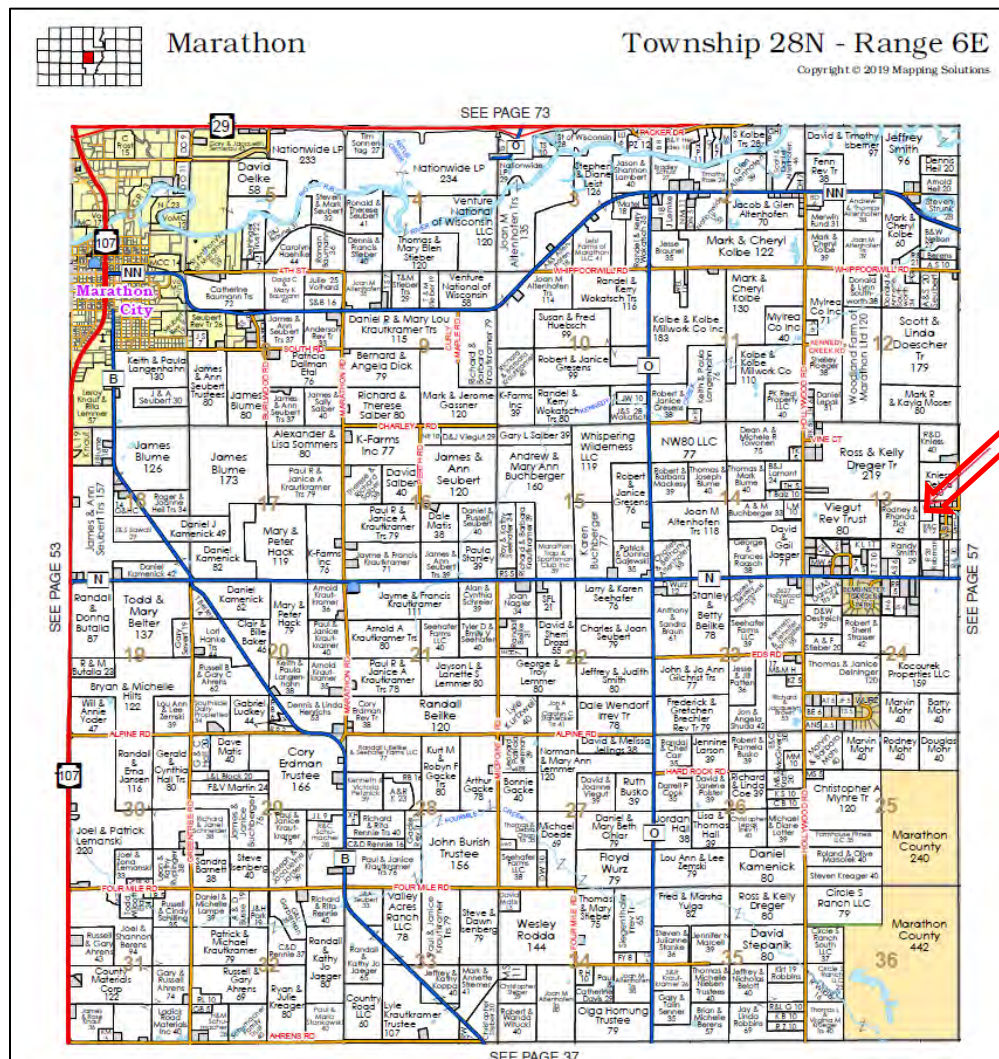
### PUBLIC HEARINGS/MEETINGS:

- Town of Marathon Planning Commission Meeting (January 26<sup>th</sup>, 2021)
- Town of Marathon Town Board Meeting (February 15<sup>th</sup>, 2021)
- Marathon County Board of Adjustment Meeting (February 25<sup>th</sup>, 2021 at 9:00am)

**APPLICANT(s):** Cory & Lisa Lang – 146101 Crocus Road, Wausau WI 54401.

**PROPERTY OWNER:** (same) Cory & Lisa Lang – 146101 Crocus Road, Wausau WI 54401.

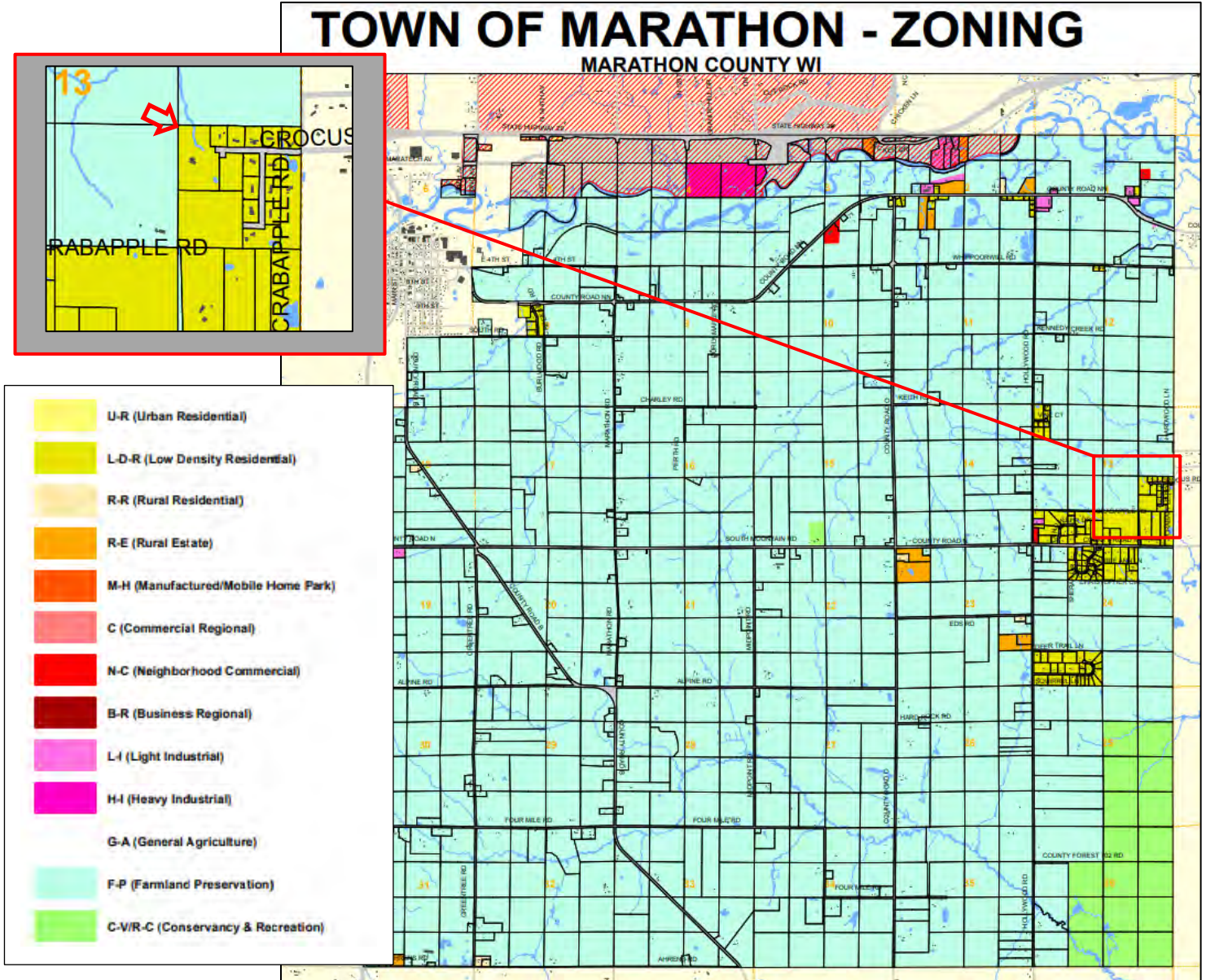
*Map 1: Location of Conditional Use Permit Request*



**EXISTING ZONING DISTRICT:**

**L-D-R Low Density Residential District.** The purpose of the L-D-R district is to accommodate single-family residential use along existing streets and to promote single-family residential development (involving the extension of new streets) where sanitary sewer and municipal water may be available. The densities are intended to provide for areas of suburban character in the community and to prevent excessive demands on sewerage and water systems, streets, schools, and other community facilities. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces, and site area while making available a variety of dwelling types and densities to serve a wide range of individual requirements and thereby providing a more orderly and efficient extension of public facilities.

**EXISTING ZONING DISTRICT MAP:** Adjacent parcels and parcels within close proximity are zoned Low Density Residential (yellow) and Farmland Preservation (teal).

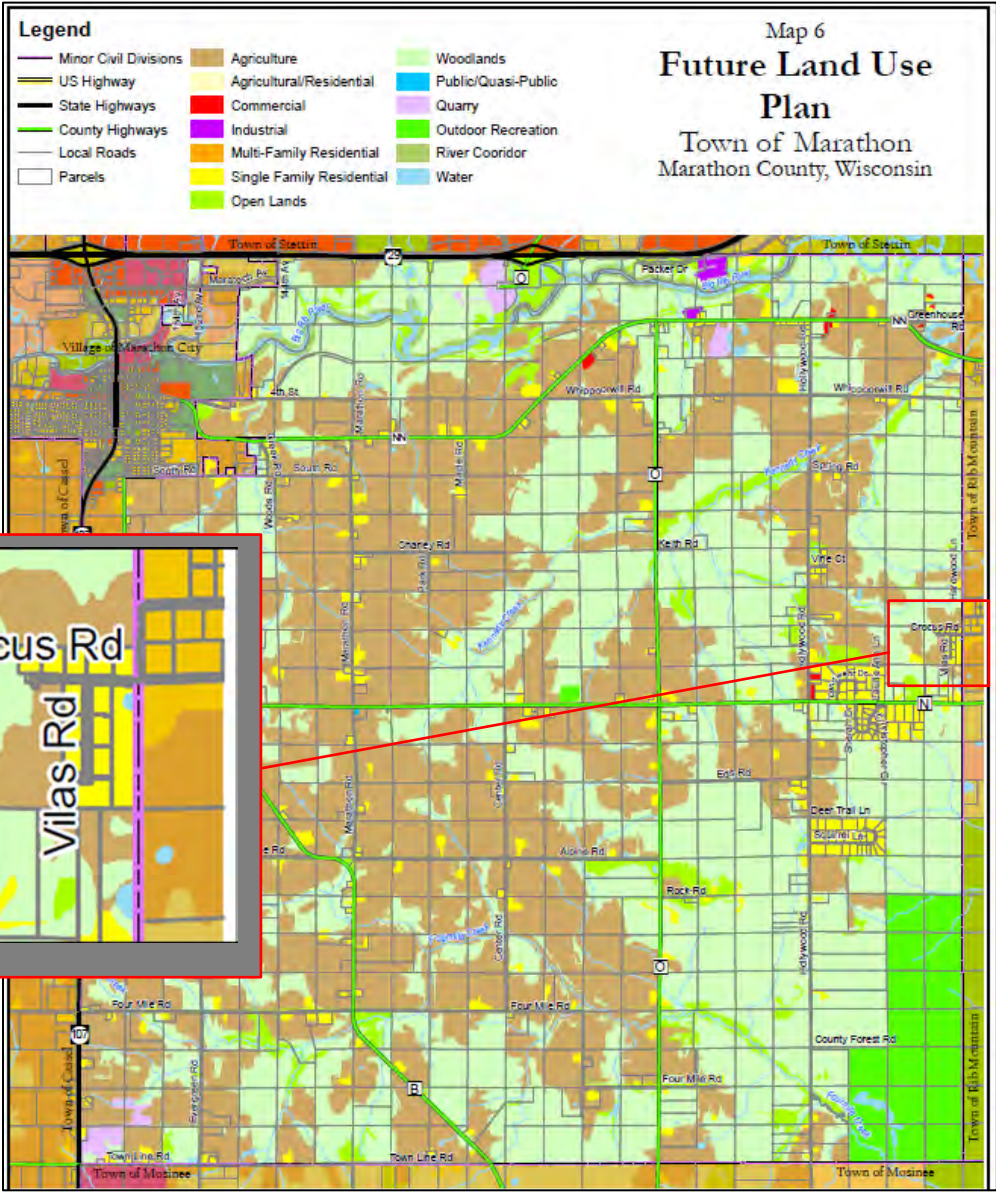




**ACREAGE:**  
6.6280 Acre

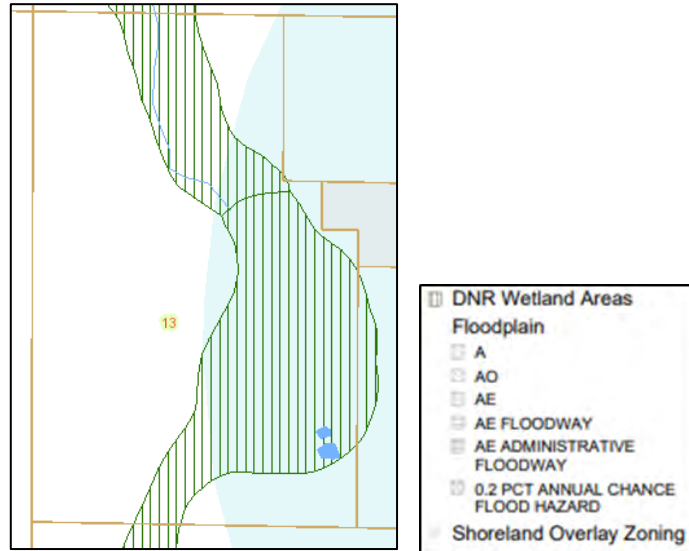
**Legal Notification:**  
A legal advertisement was published in the *Wausau Daily Herald* on Monday February 8<sup>th</sup>, 2021 and February 15<sup>th</sup>, 2021. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

**TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP:** The parcel in question is shown to be designated as Woodland in the Town of Marathon’s Comprehensive Plan Future Land Use Map. Additionally, there is some agricultural and single family residential land uses adjacent to within close proximity to the parcel in question.



**SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:**

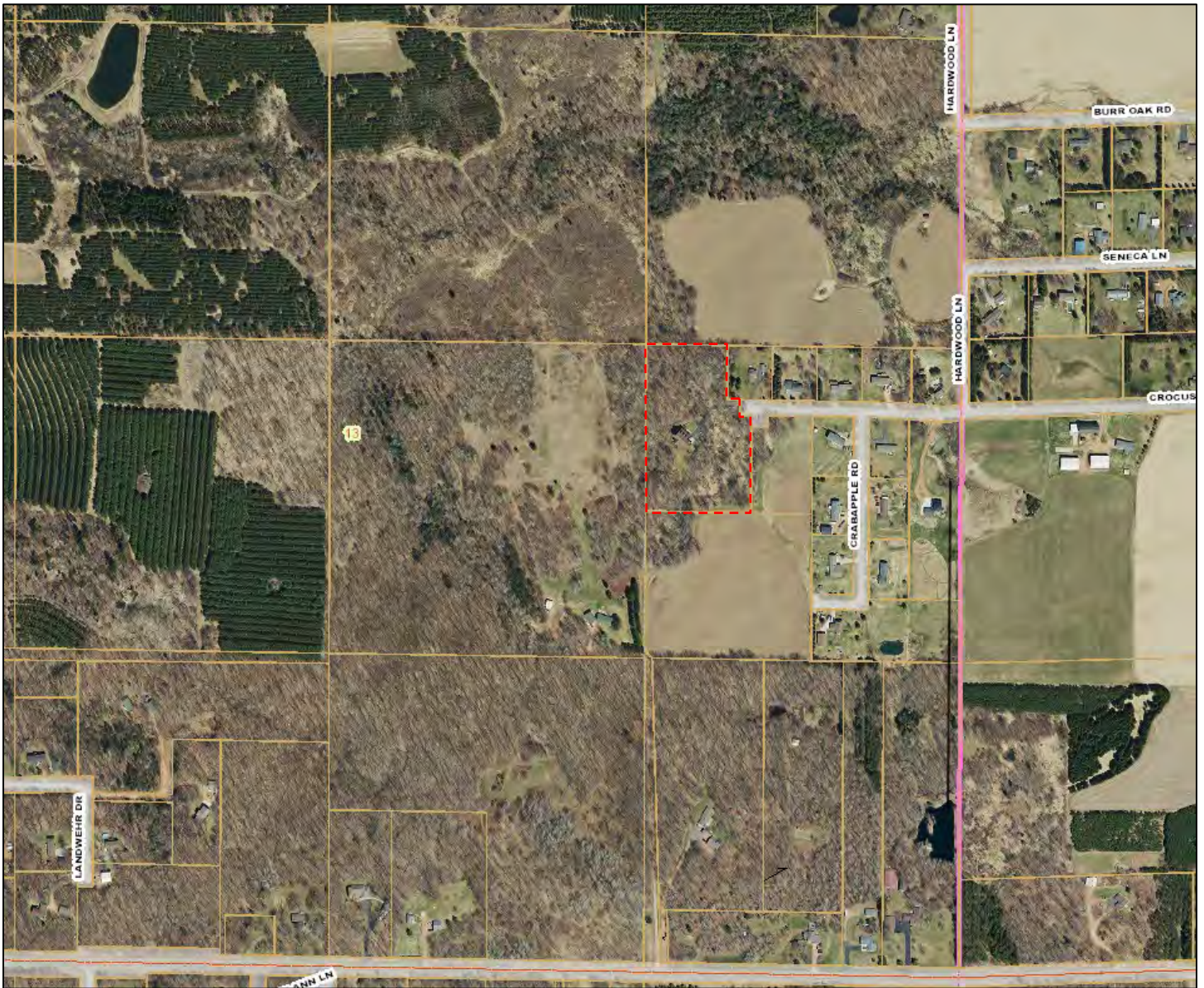
- The proposed development location on this parcel is:
  - **Not** located within mapped floodplain
  - **Not** located within DNR mapped wetlands, or water features.
  - The parcel and proposed development is located partially within the shoreland overlay district from a nearby pond (therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply). Additionally, there does appear to be a pond and intermittent stream on the parcel, yet the waterway(s) do not appear to be navigable.



**Aerial Photo of the Property:**



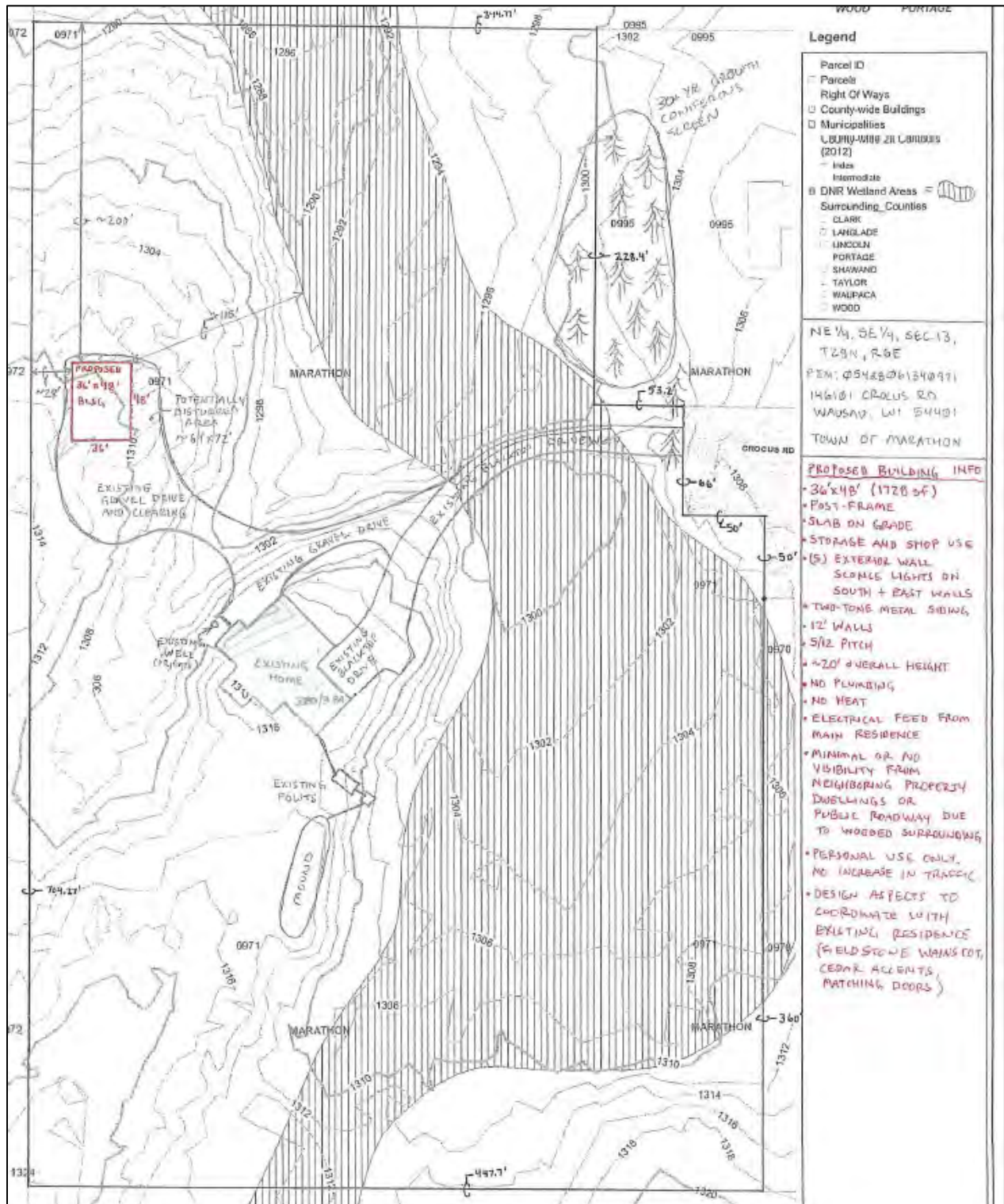
**Aerial Photo of adjacent lands:**



**Violations:**

There are no active or past zoning violations on the property in question.

**Site Plan (submitted by the applicant):**



**Supporting Documentation (submitted by the applicant)**

**LANG OUT-BUILDING PROPOSAL  
CONDITIONAL USE PERMIT - SUPPORTING DOCUMENTATION.**

1. What is the proposed garage door height? (side wall height shown to be 12 feet per the application)  
*The garage doors will be 8' high and 10' high. A standard walk door will be 6'-8" high. Here is a rendering of the proposed structure (garage doors are on South side of building):*



2. Please provide detailed answers to the following questions/standards. Once we receive the answers/proposal as it relates to the standards we can include them with the CUP application. I did notice you did provide some of the information asked for on the site plan but please submit an email or letter explaining how you meet (or plan to meet) the below three standards. Section 17.401.02(E)(2)

a. *The applicant shall provide evidence demonstrating the need for the proposed accessory structure which exceeds the dimensional standards of the zoning district in Table 6.*

*Current personal property/equipment (autos, boat, recreational vehicles and property maintenance equipment) are not able to fit in attached garage of dwelling. These items are exposed resulting in corrosion, weathering and general decline. Owner would like to keep these out of the elements and out of sight. Currently, these items are stored on the driveway, which is the most publicly visible portion of the property. The garage would provide weather/elemental protection, theft deterrent and concealment from public view. 1200sf building would not accommodate these storage needs.*

b. *The proposed accessory structure shall not be contrary to public interest.*

*Keeping property out of sight in an enclosure will prevent using the driveway as storage, where said items may be visible to passersby. As a person comprising the public, I feel seeing a tidy property with a storage building (that will only be visible during certain seasons) would be more desired than a property scattered with the owner's vehicles and equipment. Many of the neighbors have larger out-buildings, so I don't think they will complain. I feel confident my property taxes will increase, benefitting the community with increased revenue. The proposed structure will not cause an increase in local traffic. Building colors will be chosen in an attempt to coordinate with surroundings to decrease visual impact.*

c. The accessory structure shall not interfere or unnecessarily affect the adjacent property owner(s) ability to use their property.

*It will be in very limited view, will not prevent any access or block any easements. Wildlife thoroughfares are naturally on the neighboring property to the West, so the building should not adversely affect wildlife patterns and the ability for neighbors to hunt their property. Roof line will be well below the canopy of surrounding vegetation. Neighboring dwellings are substantial distance from the proposed structure location. The closest dwelling is has a vegetation screen between it and the proposed site. There are no situations that I can think of that would hinder neighboring property usage.*

3. Lastly, there does appear to be an intermittent stream on the property if the stream is deemed navigable either by our department or the Wisconsin DNR the shoreland regulations would apply and a shoreland alteration permit would be required for the proposed earthwork within 300ft of the waterway. (We can discuss what the navigability determination processes is like over the phone if you would like). Based on a preliminary review it doesn't appear the stream will be deemed navigable but we will need to verify.

*Per my interpretation, the stream/waterway does not meet the stipulations of the State of WI or Marathon Co GCO Section 22.201.02 to be considered navigable. To my knowledge, there have been no signs that any part of the wetlands sustains an area large enough to float a log or canoe in any recurring event, even during Spring thaw. Here is a screenshot of the USGS Quadrangles. It appears any navigable waterways in the area are off my property. Please advise if there is anything further I can or should do with regards to this topic.*



**Provisions of Law – General Standards (Reminder)**

**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. Compatibility with Adjacent Uses.
2. Comprehensive Plan.
3. Compliance with Applicable Regulations.
4. Use of Adjacent Property.
5. Public Services.
6. Impact of Traffic.
7. Enhancement of Surrounding Environment.
8. Impact on Public Health, Safety, and Welfare.
9. Isolation of Existing Uses.
10. Substantial Evidence.

**Specific Provision of Law:**

Key:	P Permitted Use				C Conditional Use			(Blank) Use Not Permitted					
USE	Residential Districts				Agricultural Districts			Nonresidential Districts			Development Standards		
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R		L-I	H-I
<b>ACCESSORY, TEMPORARY, and OTHER USES</b>													
Accessory Buildings and Structures exceeding the dimensional and lot coverage standards of Table 6.	C	C	C	C	C	C	C	C	C	C	C	C	<a href="#">Section 17.401.02(E)</a>

**Section 17.401.02 ACCESSORY BUILDINGS**

The use of the accessory building must be secondary and incidental to the principle use.

A. **Attached Accessory Buildings.** An accessory building which is attached to the main building by a common wall and roof shall comply with all the requirements and regulations that are applicable to the principle building.

B. **Detached Accessory Buildings.** Detached accessory buildings shall not be used as a separate dwelling unit and shall comply with the requirements of the following [Table 6](#):

C. **Accessory Structures housing Livestock:** [Section 17.204.01 \(A\) \(3\)](#)

D. **Accessory Structures within shoreland jurisdiction:** Existing and new accessory buildings shall comply with all Marathon County shoreland regulations and provisions.

E. **Construction of Detached Accessory Structures exceeding the dimensional building standards:**

1. A conditional Use Permit may be applied for the construction of a detached accessory structure with floor area and components differing from the dimensional and maximum lot coverage standards listed in [Table 6](#).
2. When considering a conditional use permit under this section the following standards shall apply.
  - a. The applicant shall provide evidence demonstrating the need for the proposed accessory structure which exceeds the dimensional standards of the zoning district in [Table 6](#).
  - b. The proposed accessory structure shall not be contrary to public interest.
  - c. The accessory structure shall not interfere or unnecessarily affect the adjacent property owner(s) ability to use their property.

**Chapter 17 - Table 6: Detached Accessory Building Standards**

Requirement	Residential Districts (U-R or L-D-R)	Residential Districts (RR)	Residential District (RE)	Agricultural Districts (GA & FP)	Any Other Zoning District
Location	Rear , side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard	Rear, side or front yard
Accessory Structure allowed prior to Principle Structure	conditional use permit required	conditional use permit required	YES	YES	NO
Setback Requirements from principle structure	15 feet	15 feet	15 feet	15 feet	15 feet
from side property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
from rear property line	7 feet	7 feet	7 feet	7 feet	Minimum setback required in zoning district
Maximum Lot Coverage (*)(**)	25% of buildable area	10% of buildable area	10% of buildable area	--	25% of buildable area
Maximum side wall height	14 feet	14 feet	None	None	None
Maximum garage door height	12 feet	12 feet	None	None	None
Maximum Size	1200 sq. ft.	1800 sq. ft.	NONE	NONE	NONE
Maximum Height (**)	24 feet	24 feet	35 feet ***	35 feet ***	35 feet ***

**Proposal as it relates to the applicable accessory building standards:**

Applicable Setbacks, Dimensions, and Requirements	Code Requirement Low Density Residential (L-D-R)	Proposed Setbacks and Dimensions per the application
Location	Rear , side or front yard	Rear/side yard
Setback Requirements from principle structure	15 feet	100+ feet
from side property line	7 feet	200+ feet
from rear property line	7 feet	28+ feet
Maximum Lot Coverage %	25%	Approx. 2.5%
Maximum side wall height	14 feet	12 feet
Maximum garage door height	12 feet	10 feet & 8 feet
Maximum Size	1200 sq. ft.	1,728 sq.ft. (exceeds standard by 528 feet)
Maximum Height (**)	24 feet	20 feet



**TOWN RECOMMENDATION:** (pages 11-13)

On February 15, 2021 the **Town of Marathon** Town Board Recommended **Approval** to Marathon County's Environmental Resources Committee.

STATE OF WISCONSIN )  
MARATHON COUNTY )  
TOWN OF MARATHON )

**TOWN RESOLUTION OF RECOMENDATION**

TO THE MARATHON COUNTY BOARD OF ADJUSTMENT

I, Kelley Blume, Clerk of the Town of Marathon, 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 Marathon Town Board at a meeting held on the 15<sup>th</sup> day of February, 2021.

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 Marathon.

NOW, THEREFORE BE IT RESOLVED that the Town of Marathon Town Board considered on the 15<sup>th</sup> day of February, 2021, the application of: Cory Lang for a conditional use permit per Section 17.401.02 of the General Zoning Code of Ordinances for Marathon County Chapter 17 Zoning Code to construct a detached accessory structure for personal use with dimensions differing from the standards in the L-D-R Low Density Residential zoning district, described as part of the NE ¼ SE ¼ Section 13, Township 28N, R06E, Town of Marathon, described as PIN# 054.2806.134.0971 with a property address: 146101 Crocus Road, Wausau WI 54401

and hereby recommends:

- Marathon County Board of Adjustment **APPROVE** application
- Marathon County Board of Adjustment **DENY** application

Comments, conditions and reasons for recommended action:

Clerk Kelley A Blume  
Town Board [Signature]  
David Kupath James  
Emie Jiel

## 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. **Compatibility with Adjacent Uses.** 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. **Comprehensive Plan.** 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.

the area of this building is in an area that  
could be considered transitional or Buffering to Ag

3. **Compliance with Applicable Regulations.** The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.

Town of Marathon is under County zoning

4. **Use of Adjacent Property.** The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.

building site is naturally screened and located farther  
away from other lots

5. **Public Services.** 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.

the building site is served only by a <sup>single</sup> private driveway

6. Impact of Traffic. 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.  
*the site of the building is very hard to see from near by properties*
- 
- 

8. Impact on Public Health, Safety, and Welfare. 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.  
*Very little*
- 
- 

9. Isolation of Existing Uses. 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.  
*Natural screening and adequate setback*
- 
- 

10. Substantial Evidence. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.
- 
-

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:



02/17/2021

---

SIGNATURE

DATE



**Michael & Taryn Vaughn  
Variance Petition (Application)  
Staff Report, February 25<sup>th</sup>, 2021  
Marathon County Board Of Adjustment**

**Findings of Fact**

**REQUEST:**

The application of Michael Vaughn for a variance from the terms of Section 17.202.03(F) of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for a variance to the setback requirement to the town road to construct a single family home, described as Section 18, T27N, R10E, part of Govt Lot 1-Lot 2 Town of Elderon, PIN # 022.2710.185.0986 with a property address: 215250 Lakefront Drive, Hatley WI 54440.

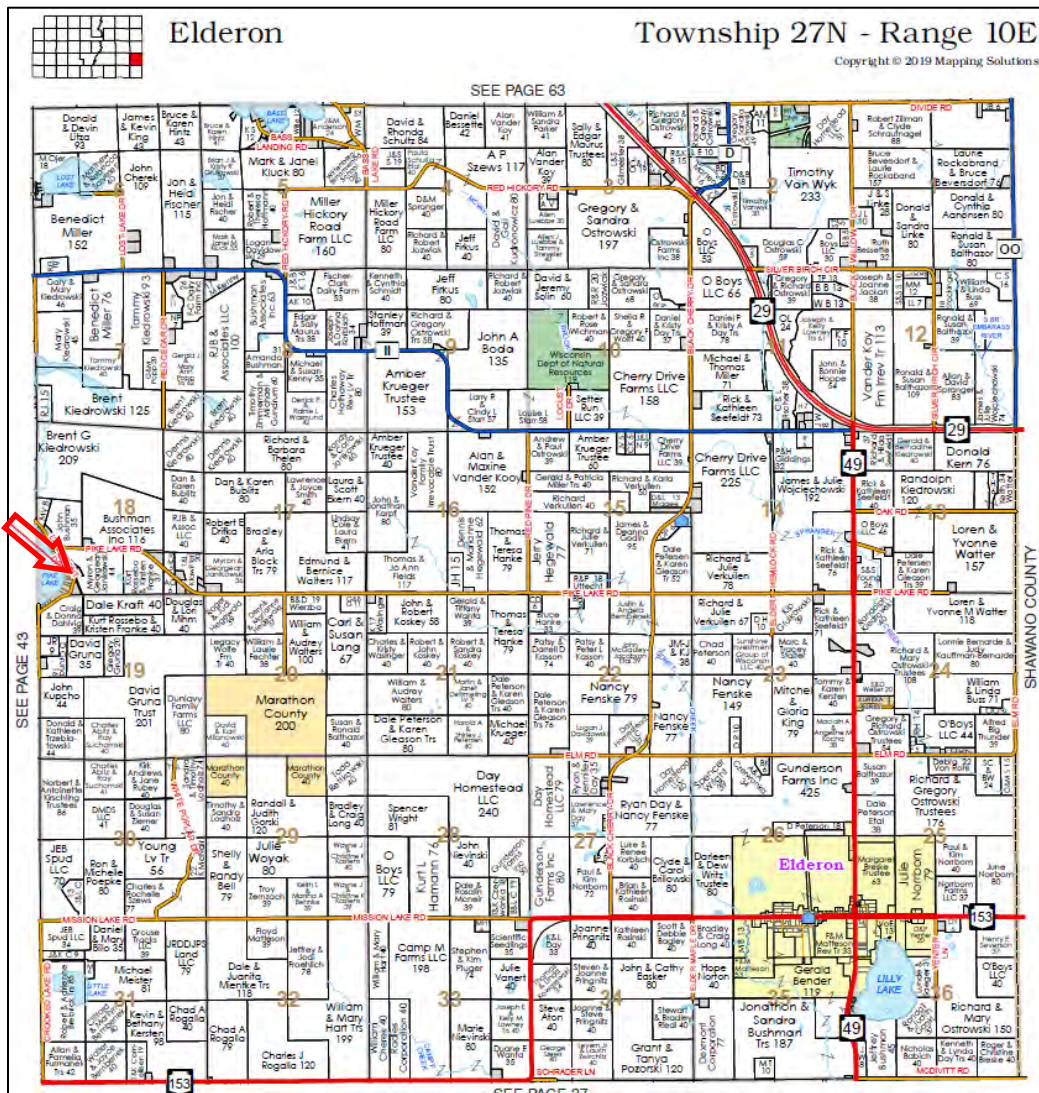
**PUBLIC HEARINGS/MEETINGS:**

- Town of Elderon Town Board Meeting (*Unknown at the time the staff report was created*)
- Marathon County Board of Adjustment Meeting (*February 25<sup>th</sup>, 2021 at 9:00am*)

**APPLICANT(s):** Michael Vaughn – 215255 Lakefront Drive, Hatley WI 54440

**PROPERTY OWNER:** (same) Michael & Taryn Vaughn – 215255 Lakefront Drive, Hatley WI 54440

Map 1: Location of Variance Request

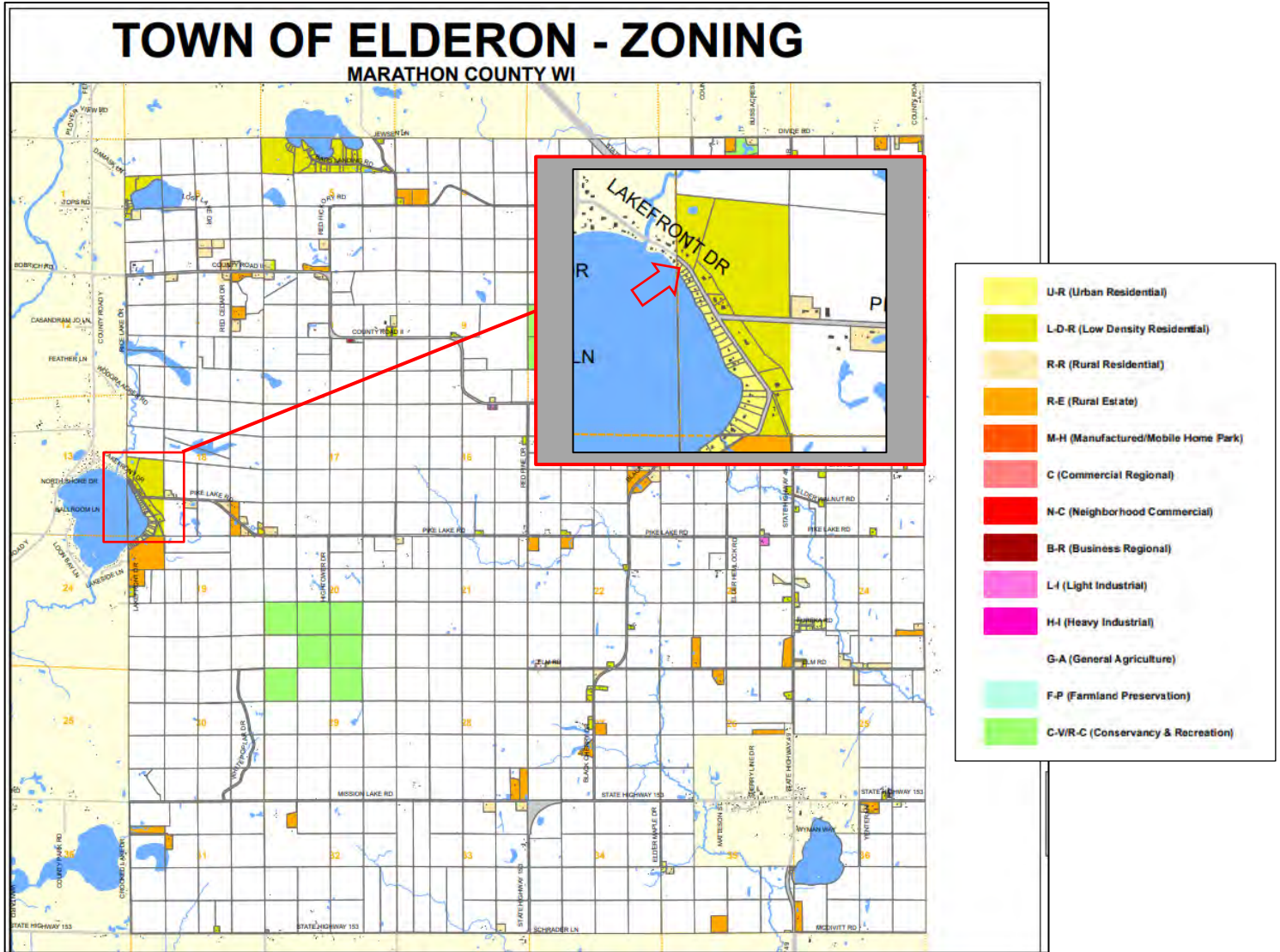


**EXISTING ZONING DISTRICT:**

**U-R Urban Residential District.** 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.

**EXISTING ZONING DISTRICT MAP:**

Adjacent parcels are zoned Urban Residential (light yellow) with parcels zoned Low Density Residential (yellow) within close proximity.



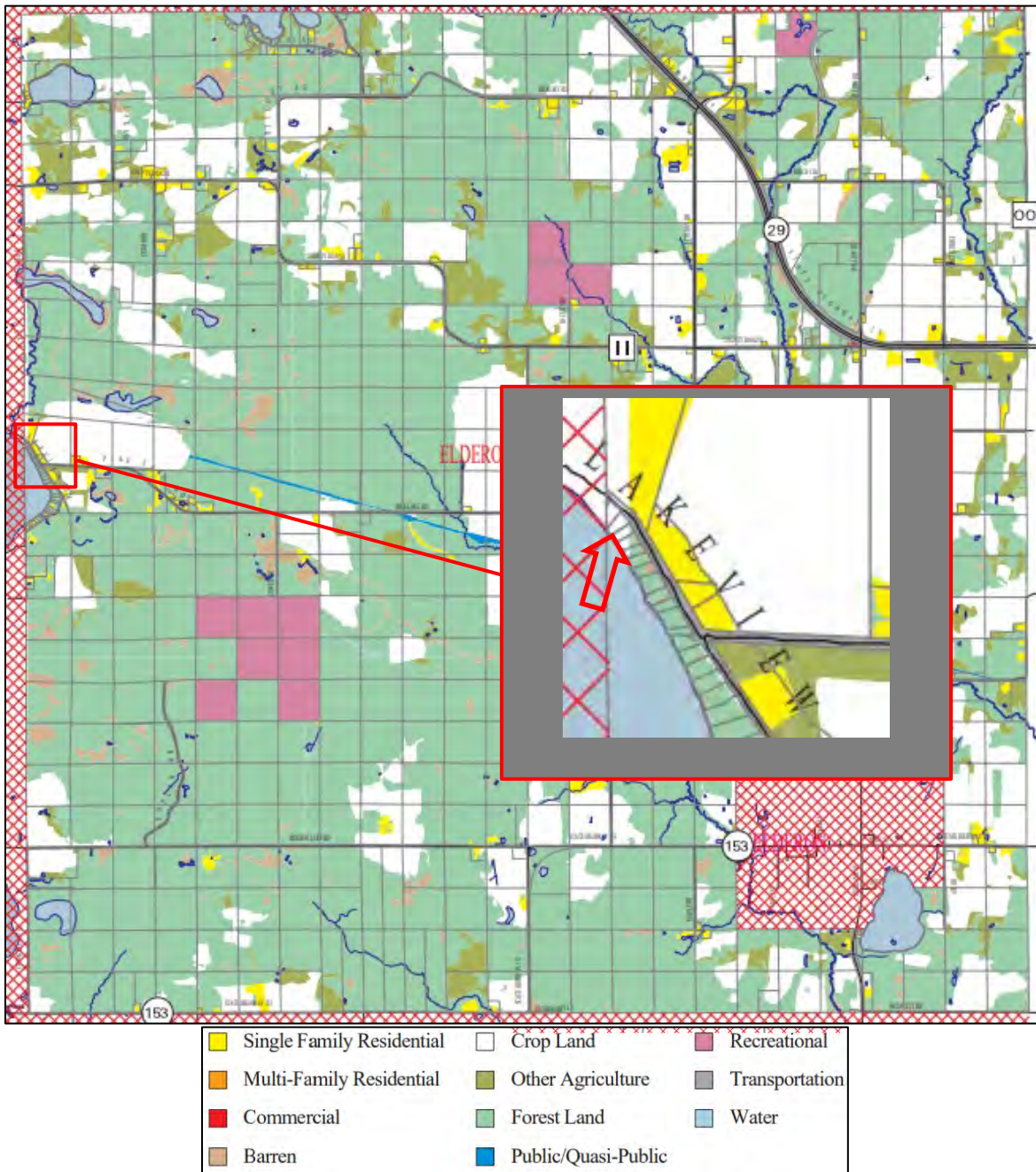
**ACREAGE:**  
0.169 Acres

**Legal Notification:**

A legal advertisement was published in the *Wausau Daily Herald* on Monday February 8<sup>th</sup>, 2021 and February 15<sup>th</sup>, 2021. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

### TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP:

The parcel in question is shown to be designated as Crop Land in the Town of Elderon's Comprehensive Plan Future Land Use Map. It appears there was an error in the map along the western portion of the town as you can see the majority of the area in question was designated as either woodlands or single family residential.



### SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

- The proposed development location on this parcel is:
  - **NOT** located within mapped floodplain
  - **NOT** located within DNR mapped wetlands.
  - The parcel and proposed development is located within the shoreland overlay district given the parcel is directly adjacent to Pike Lake therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply.

**Aerial Photo of the Property:**



**Aerial Photo of Adjacent Lands:**





Composite Staff Site Plan – Vaughn Variance Petition 2021

Proposed Setbacks:

(Cabin) Distance to the Centerline (**43.2 ft NW** and 45.3ft NE)

(Cabin) Distance to the Road Right-of-Way (**16.5 ft NW** and 20.2 ft NE)

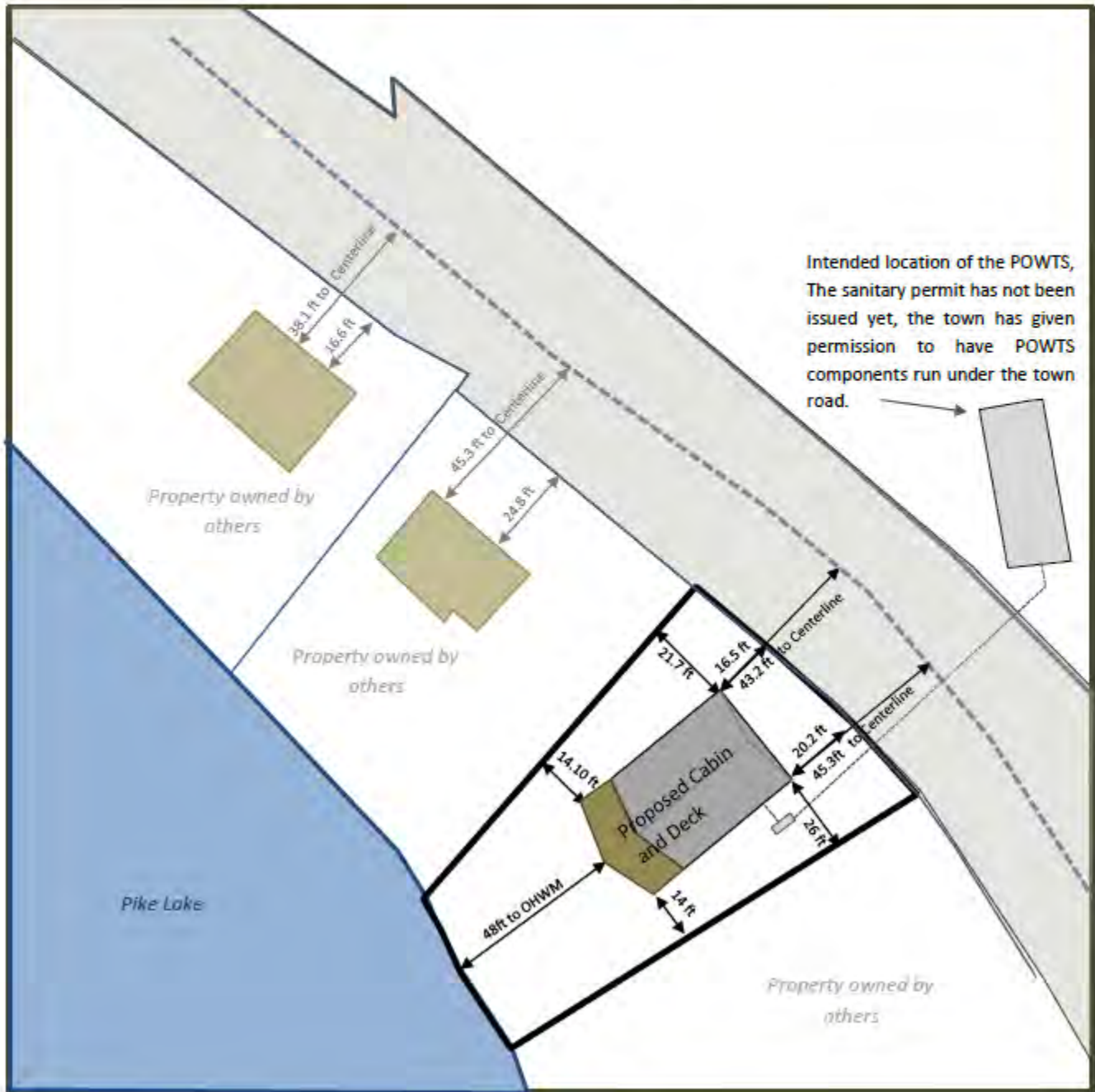
Side yard Setbacks ( NW = 21.7 ft, NE =26 ft, SW = 14.1 ft, SE =14.00 ft)

**Variance Per 17.202.03(F)**

Standard minimum = 30 ft to the ROW  
Standard minimum= 63 ft to the Centerline

**Proposed**

Minimum setback to the ROW = 16.5ft  
Minimum Setback to Centerline = 43.2 ft



The above composite site plan was created by CPZ staff, the information and dimensions of which derive from the variance petition materials supplied by Mr. VAUGHN.  
 Michael Vaughn Approval of the Staff Site Plan depiction *[Signature]* Date *[Date]*

**Supporting documentation submitted by the applicant with the variance petition:**

Petition for variance to the Marathon county board of adjustment.

The Distance from the left hand side of the proposed cabin to the center line of Lakefront Dr. (standing on Lakefront drive and facing the cabin and lake) is 45.3 feet. The distance from the right hand side of the cabin facing the same way is 43.2 feet. The reason for this difference is that Lakefront drive has a gentle curve at the property.

A. Without the variance the cabin size that could be built would be about 10 feet deep. This is obviously too small to be viable. A new Certified Survey Map CSM was completed in late 2020 by Dan Higgenbotham owner of NorthCentral Land Surveying LLC, and is attached to this application. If you look at the adjacent properties on the lake you will see that distance to the center line of the road is very similar to proposed cabin. The distance is consistent with the pattern of use on the lake.

B. The small size of the lake lots on Pike lake.

C. The distance to the center line of the proposed cabin is nearly identical to neighboring lots on the lake, thus the pattern of use on the lake will remain consistent.

**Staff Comments:**

- The parcel in question is 0.169 acres in size which is substantially smaller than the minimum lot size for the zoning district 0.459 acres (w/o sanitary sewer) for the Urban Residential Zoning District.
- With all applicable setbacks for the U-R zoning district as well as those from the road centerline, road right of way, and Ordinary High Water Mark applied the buildable area of the parcel in question is approximately 406.71 feet.



**Section 17.804.05 STANDARDS FOR VARIANCES AND APPEALS**

Variations and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variations 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 Variations.**

1. No variation 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 variation on the neighborhood, the community and on the public interests.
2. No variation 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 variation may be granted that is contrary to the public interest as expressed by the objectives of the ordinance.

**Specific Provision of Law: Section 17.202.03(f)**

Zoning District	Minimum Lot			Minimum Yard Setback <sup>(A)</sup>			MAX. Building Height (feet)
	Lot Area (sq. ft.)(acre) ** Easement Acreage	Frontage (at street in feet)	Width (at building line in feet)	Road <sup>(F)</sup> (setback in feet from Right of Way)	Side (feet)	Rear (feet)	
<b>U–R Urban Residential</b> w/o sanitary sewers & public water	20,000 <sup>(B)</sup> (.459 ac)	80 <sup>(E)</sup>	60	See Section <a href="#">17.202.03(f)</a>	10	35	35

**F. 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.

**Standards vs. Proposed:**

<b><u>Chapter 17 – Zoning Code Standard(s)</u></b>	<b><u>Setback</u></b>	<b><u>Proposed</u></b>
Minimum Setback to a Town Road Centerline	63 - Feet	43.2 - Feet
Minimum Setback to a Town Road Right-Of-Way (ROW)	30 - Feet	16.5 - Feet

**Staff Notes:**

The town road in question (Lakefront Drive) is only a 3 rod road (48-feet wide) whereas, the standard for town roads is 4 rods wide (66-feet).


**Town Recommendation/Resolution:**

At the time of the creation of this staff report (02/17/2021) the **Town of Elderon** Town Board has not submitted an official town resolution/recommendation regarding the variance petition in question. In the event the town recommendation/resolution is received by the department prior to the February 25<sup>th</sup>, 2021 Board of Adjustment Hearing, the resolution will be provided during the public hearing and will be reflected in a revised staff report.

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:



02/17/2021

SIGNATURE

DATE



**Seth Hornung & Sage Brooks  
Variance Petition (Application)  
Staff Report, February 25<sup>th</sup>, 2021  
Marathon County Board Of Adjustment**

**Findings of Fact**

**REQUEST:**

The application of Seth Hornung for a variance from the terms of Section 17.202.03(F) of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for a variance to the setback requirement to the town road to construct an addition onto an existing home, described as part of NW ¼, SE ¼, Section 34, T26N, R07E, Town of Knowlton, PIN # 048.2607.344.0026 with a property address: 152179 Greenview Drive, Mosinee WI 54455

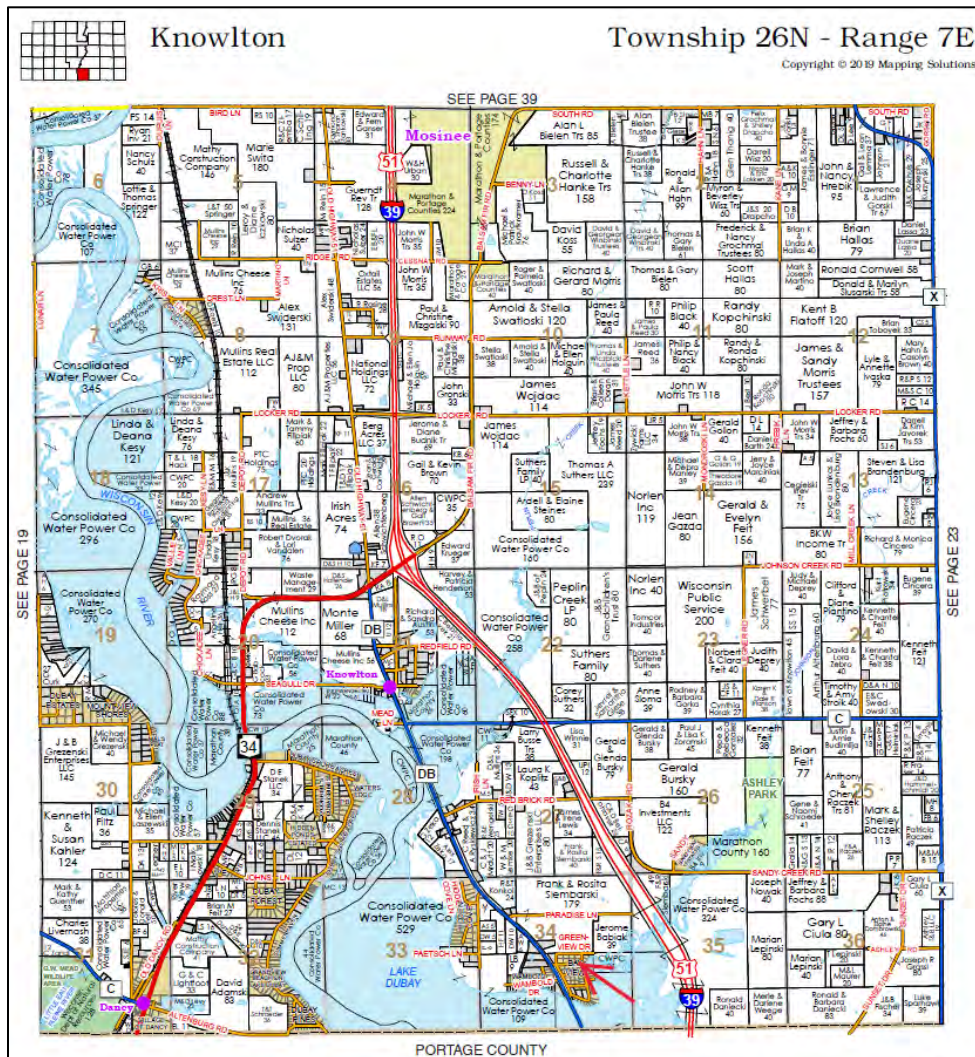
**PUBLIC HEARINGS/MEETINGS:**

- Town of Knowlton Planning/Zoning Committee Meeting (January 26<sup>th</sup>, 2021)
- Town of Knowlton Town Board Meeting (February 8<sup>th</sup>, 2021)
- Marathon County Board of Adjustment Meeting (February 25<sup>th</sup>, 2021 at 9:00am)

**APPLICANT(s):** Seth Hornung – 152179 Greenview Drive, Mosinee WI 54455

**PROPERTY OWNER:** Seth Hornung and Sage Brooks – 152179 Greenview Drive, Mosinee WI 54455

*Map 1: Location of Variance Request*

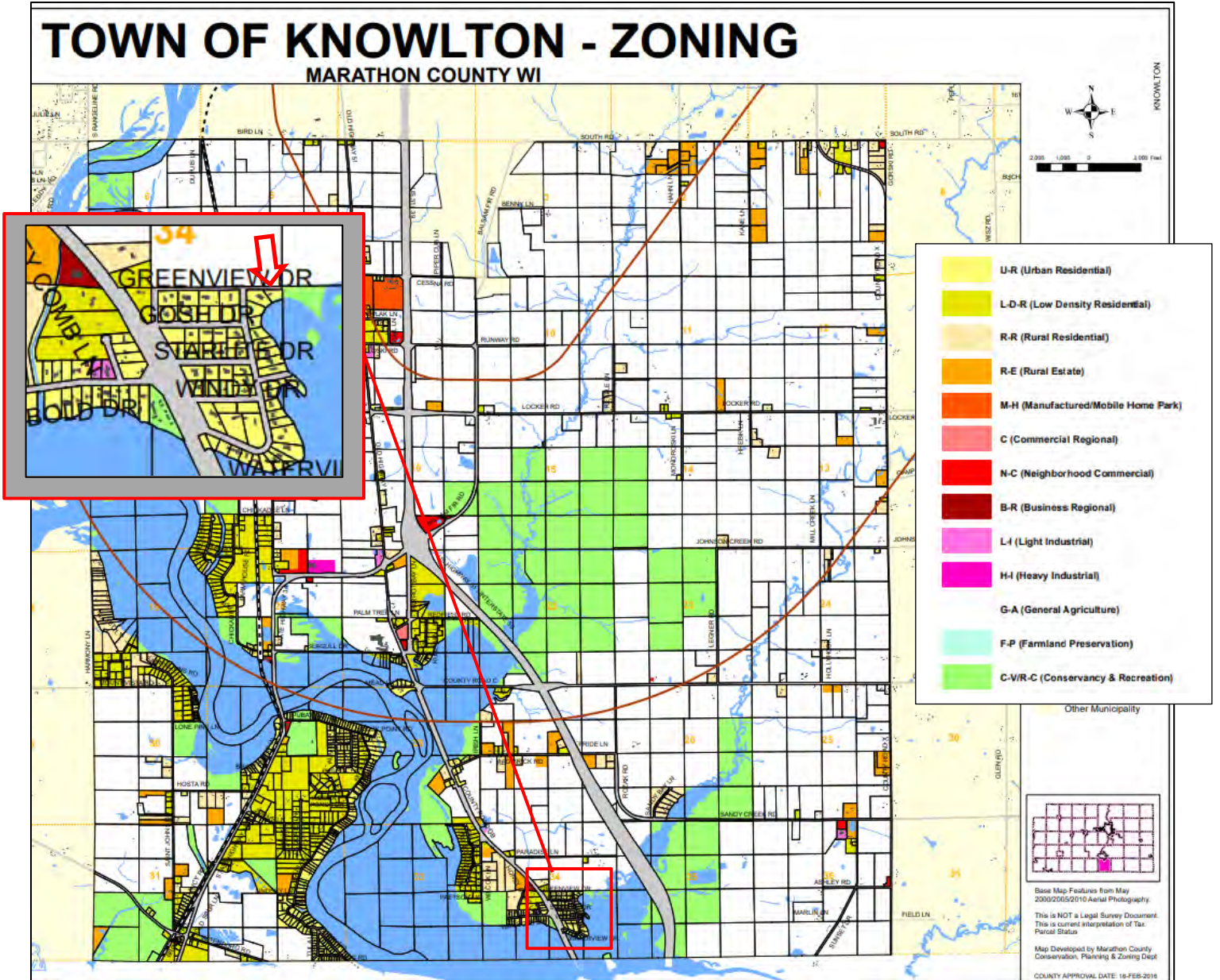


**EXISTING ZONING DISTRICT:**

**U-R Urban Residential District.** 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.

**EXISTING ZONING DISTRICT MAP:**

Adjacent parcels are zoned Conservancy and Recreation (green) and Urban Residential (light yellow) with parcels zoning General Agriculture (white) within close proximity.



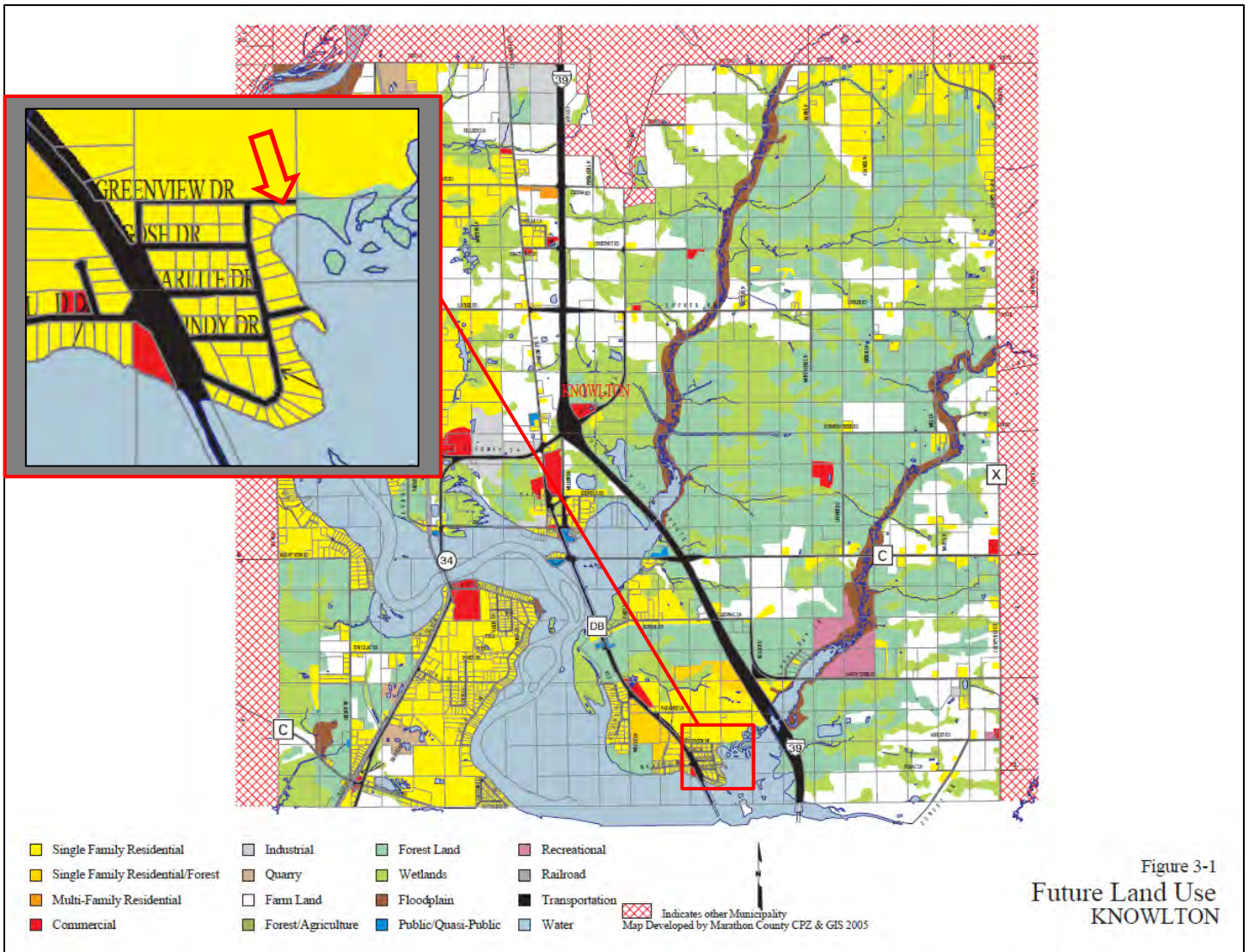
**ACREAGE:**  
0.39 Acres

**Legal Notification:**

A legal advertisement was published in the *Wausau Daily Herald* on Monday February 8<sup>th</sup>, 2021 and February 15<sup>th</sup>, 2021. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

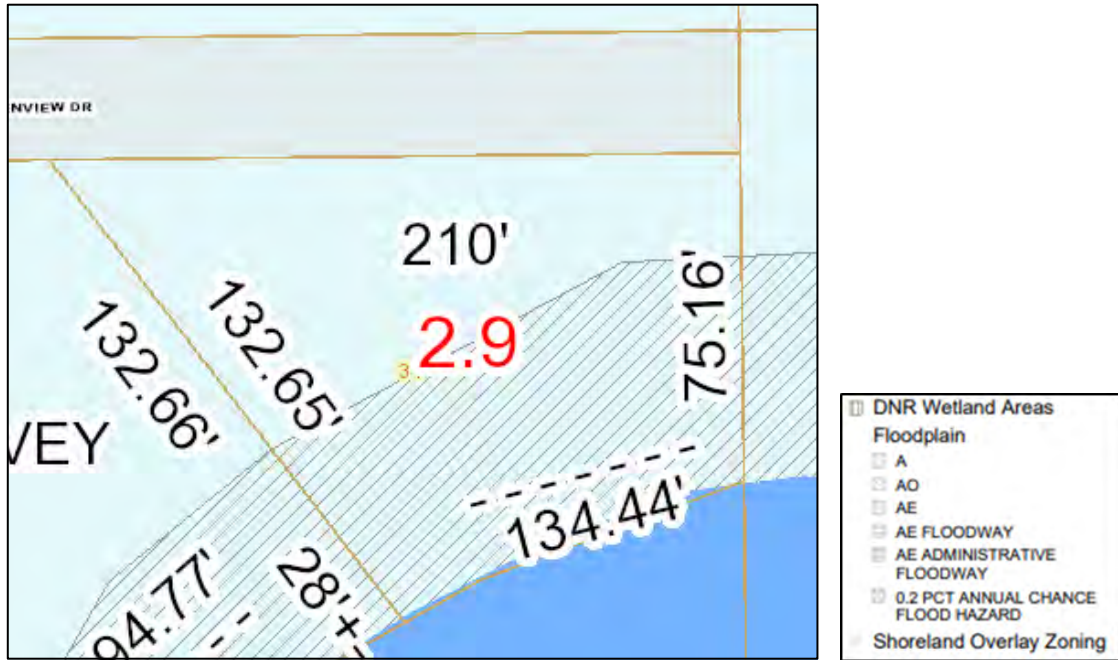
**TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP:**

The parcel in question is shown to be designated as Single Family Residential in the Town of Knowlton's Comprehensive Plan Future Land Use Map. Additionally, there is some forest land and single family residential land uses within close proximity to the parcel in question.

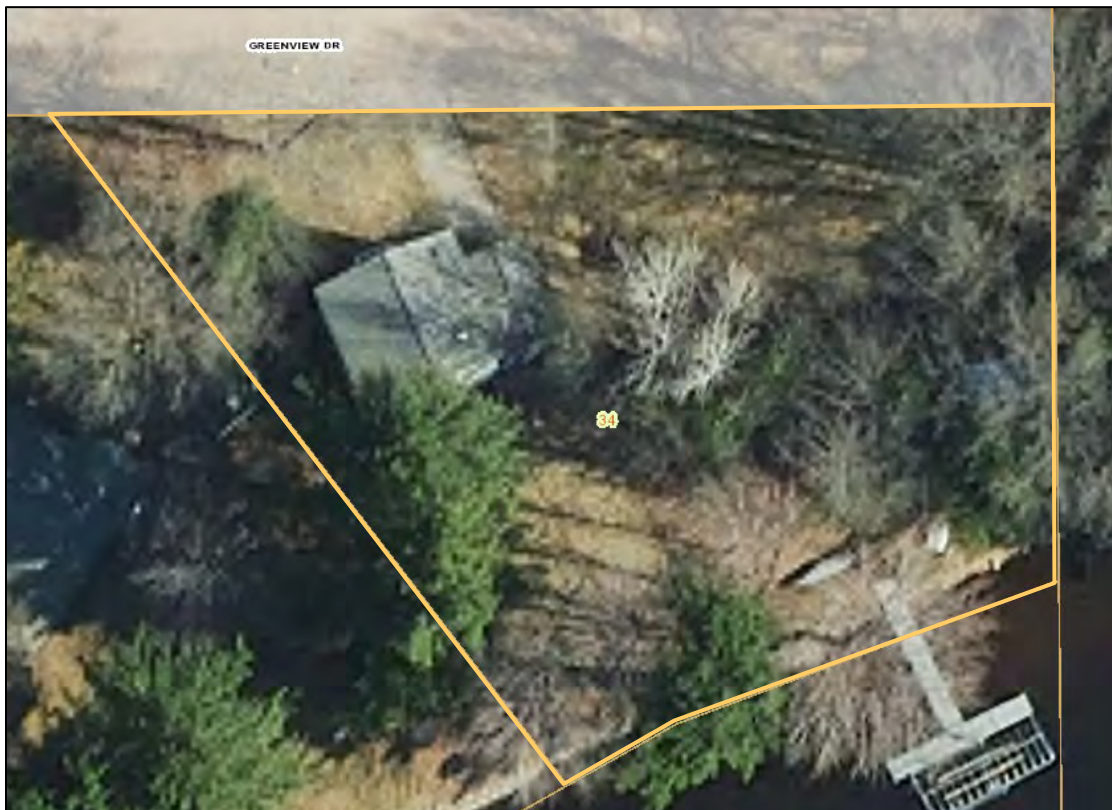


**SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:**

- The proposed development location on this parcel is:
  - **NOT** located within mapped floodplain
    - *There is mapped floodplain onsite (Zone A), yet the area proposed to developed was removed from the regulatory floodplain by a Letter of Map Amendment (LOMA) approved by FEMA January 22<sup>nd</sup>, 202.*
  - **NOT** located within DNR mapped wetlands.
  - The parcel and proposed development is located within the shoreland overlay district given the parcel is directly adjacent to Lake Dubay (Wisconsin River) therefore the Chapter 22 Shoreland, Shoreland-Wetlands, Floodplain Ordinance would apply.

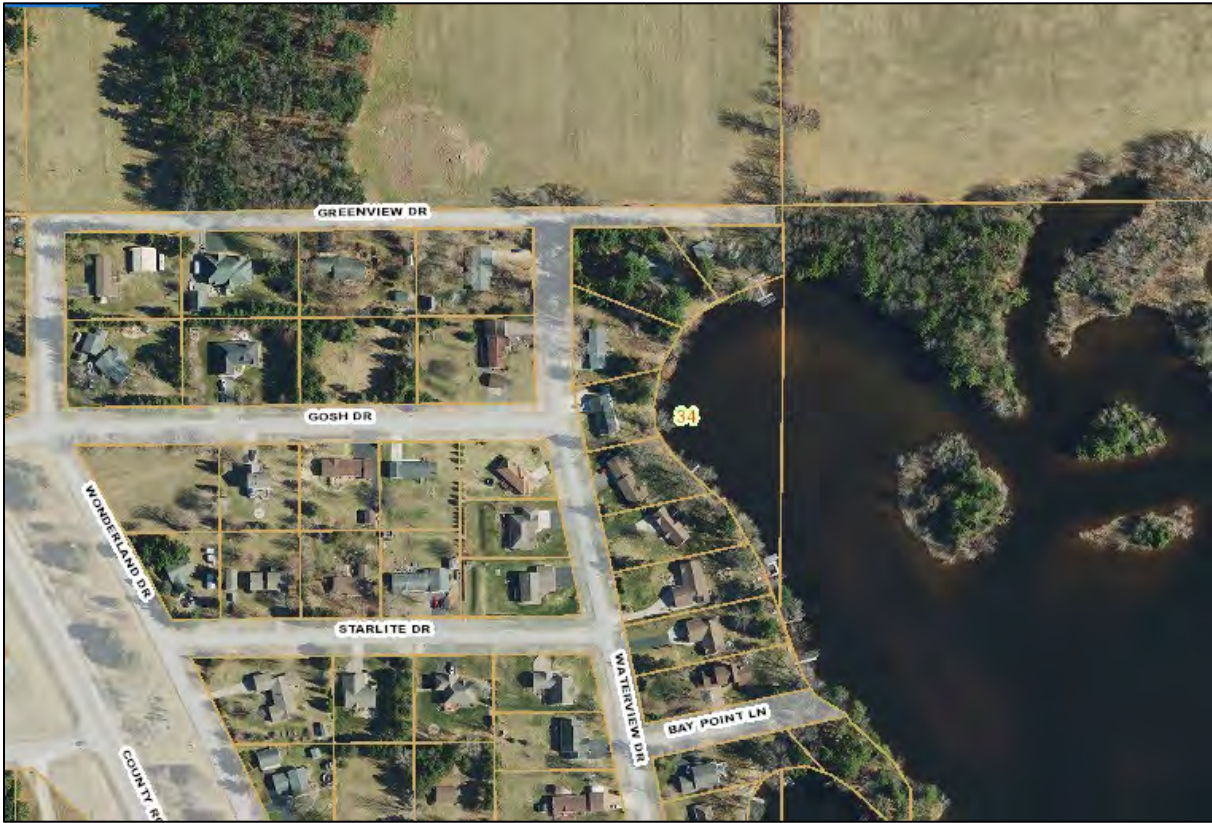


**Aerial Photo of the Property:**



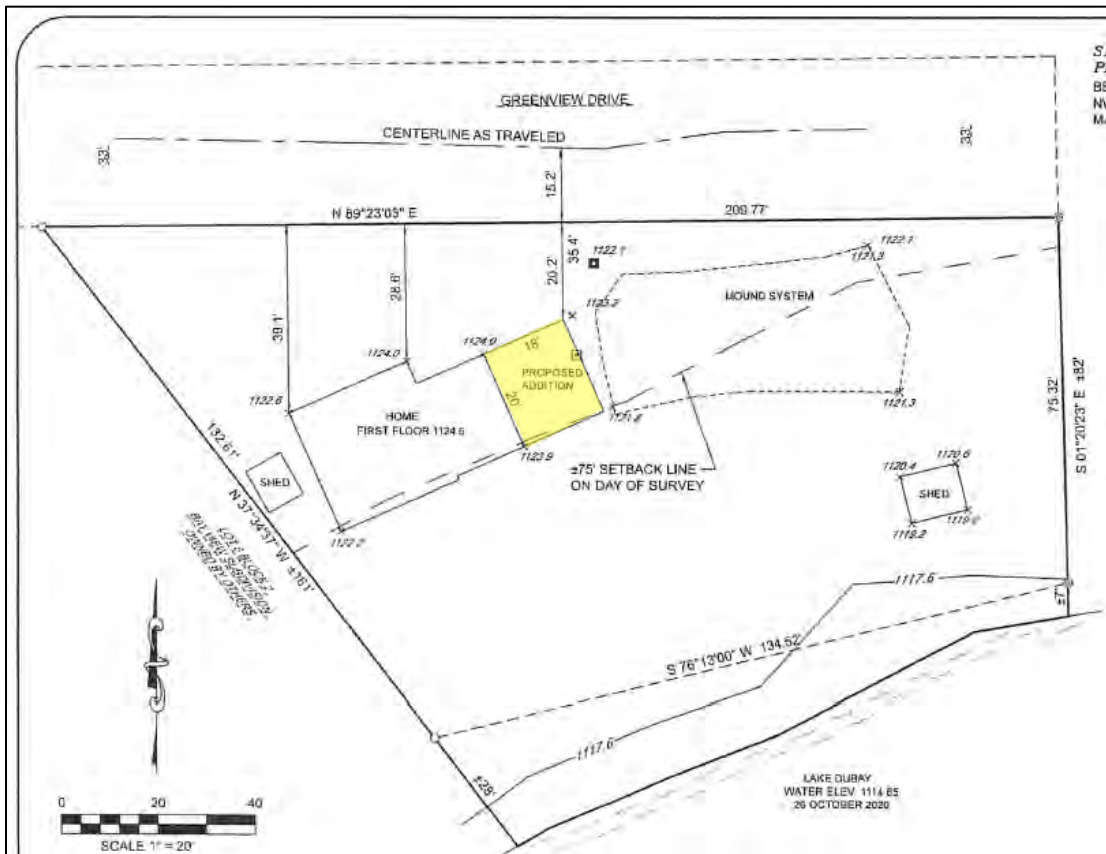


**Aerial Photo of Adjacent Lands:**



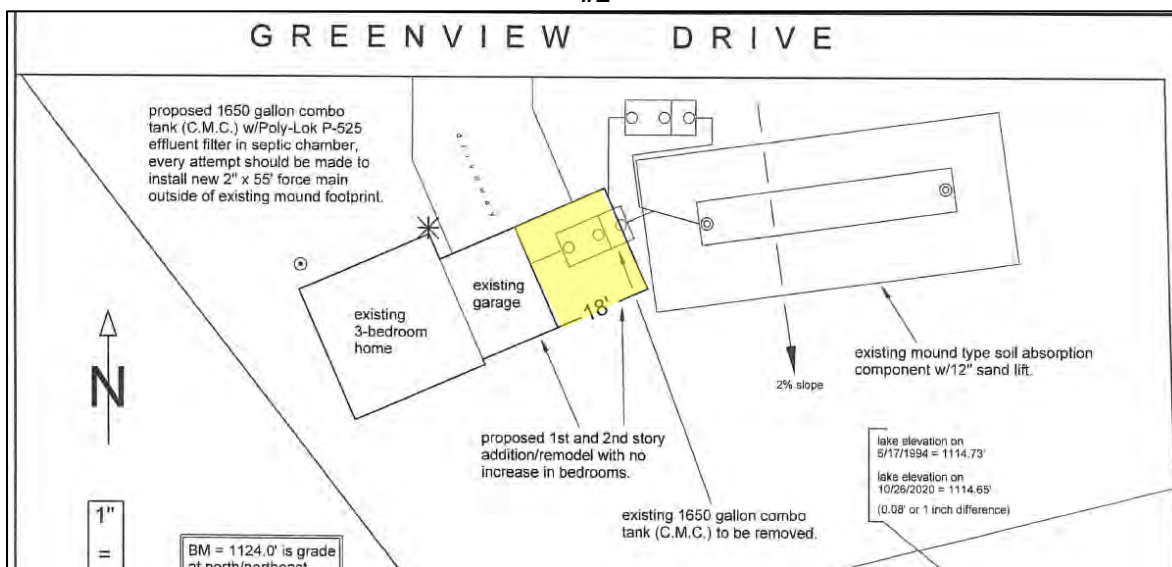
**Site Plan(s) submitted by the applicant:**

**#1**



*Proposed addition is shown above in yellow.*

#2



*Proposed addition is shown above in yellow.*

**Supporting documentation submitted by the applicant with the variance petition:**

Exhibit #1: Petition for Variance

**B. The hardship is due to the following unique limitations of the property.**

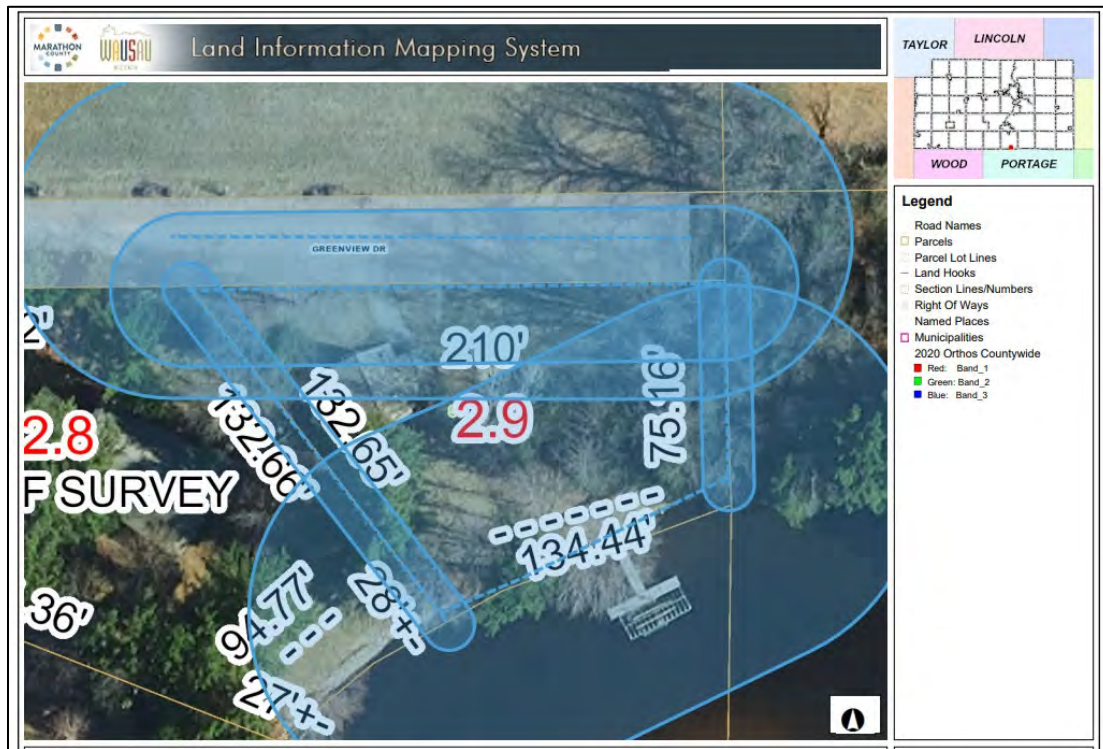
A few limitations contribute to this hardship. To start, the existing non-conforming status of the structure due to the minimum required town road setbacks. The subject parcel within the initial design of the subdivision was only 0.4 acres, plus abnormal in shape. Besides not meeting the minimum size requirements for the U-R district, this limits the useability of the parcel with the setbacks in mind.

Throughout, there is not a location that meets the 75ft setback to navigable waterways and road setbacks. With the need for a sanitary system to function as a residence and the portion of land used. This once again limits the areas on which an expansion/addition may occur and the use of the approximate 3,303.66 ft<sup>2</sup> of area on this parcel that would be considered buildable.

Our initial task was to prove that the current structure or the 18' x 20' addition is not or would not be within the floodplain. A pending LOMA from FEMA and via the attached site survey provides information that neither would be affected. This was initially seen as a limitation of the subject parcel.

## Staff Comments:

With all applicable setbacks for the U-R zoning district as well as those from the Road centerline, right of way, and Ordinary High Water Mark applied the buildable area of the parcel in question is approximately 537.47 sq.ft.



## Section 17.804.05 STANDARDS FOR VARIANCES AND APPEALS

Variations and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variations 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 Variations.

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.

**Specific Provision of Law: Section 17.202.03(f)**

Zoning District	Minimum Lot			Minimum Yard Setback <sup>(A)</sup>			MAX. Building Height (feet)
	Lot Area (sq. ft.)(acre) ** Easement Acreage	Frontage (at street in feet)	Width (at building line in feet)	Road <sup>(F)</sup> (setback in feet from Right of Way)	Side (feet)	Rear (feet)	
<b>U-R Urban Residential</b> w/o sanitary sewers & public water	20,000 <sup>(D)</sup> (.459 ac)	80 <sup>(E)</sup>	60	See Section <a href="#">17.202.03(f)</a>	10	35	35

**F. 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.

**Standards vs. Proposed:**

<b><u>Chapter 17 – Zoning Code Standard(s)</u></b>	<b><u>Setback</u></b>	<b><u>Proposed</u></b>
Minimum Setback to a Town Road Centerline	63 - Feet	35.4 - Feet
Minimum Setback to a Town Road Right-Of-Way (ROW)	30 - Feet	20.2 - Feet

**Staff Notes:**

The town road in question (Greenview Drive) is only a 2 rod road (33-feet wide) whereas, the standard for town roads is 4 rods wide (66-feet).

**Town Recommendation/Resolution: (Pages 9-11)**

On February 8<sup>th</sup>, 2021 the **Town of Knowlton** Town Board Recommended **Approval** to Marathon County's Board of Adjustment (*with no additional conditions*).

STATE OF WISCONSIN )  
MARATHON COUNTY )  
TOWN OF KNOWLTON )

**TOWN RESOLUTION OF RECOMMENDATION**

**TO THE MARATHON COUNTY BOARD OF ADJUSTMENT**

I, Alan Fochs, Clerk of the Town of Knowlton, 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 Knowlton Town Board at a meeting held on the 8<sup>th</sup> day of February, 2021.

**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 Knowlton.

NOW, THEREFORE BE IT RESOLVED that the Town of Knowlton Town Board considered on the 8<sup>th</sup> day of February, 2021, the application of Seth Homung for a variance from the terms of Section 17.202.03(F) of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code for a variance to the setback requirement to the town road to construct an addition onto an existing home, on property owned by Seth Homung and Sage Brooks, described as part of NW ¼, SE ¼, Section 34, T26N, R07E, Town of Knowlton, PIN # 048.2607.344.0026 with a property address: 152179 Greenview Drive, Mosinee WI 54455

and hereby recommends:

Marathon County Board of Adjustment **APPROVE** application

Marathon County Board of Adjustment **DENY** application

Comments, conditions and reasons for recommended action:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Clerk [Signature]  
Town Board [Signature]  
[Signature]  
[Signature]

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 February 11, 2021 to:

Board of Adjustment  
Marathon County Conservation, Planning and Zoning Department  
210 River Drive  
Wausau, WI 54403

**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. **Compatibility with Adjacent Uses.** 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.  
Yes it is compatible, it is a single family home.

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- 2. **Comprehensive Plan.** 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.

Yes

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- 3. **Compliance with Applicable Regulations.** The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.

Septic tank is very close to right of way, approximately 5ft. Corner of garage is 20ft from the edge of the right of way and 35ft from centerline. Regulation is 63ft from centerline.

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- 4. **Use of Adjacent Property.** The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.

No

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- 5. **Public Services.** 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.

NA

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6. Impact of Traffic. 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).

No change

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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.

No impact

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8. Impact on Public Health, Safety, and Welfare. 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.

No impact

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9. Isolation of Existing Uses. 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.

NA

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10. Substantial Evidence. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.

Maps provided by applicant

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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

02/17/2021

DATE