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LINCOLN COUNTY ZONING BOARD OF ADJUSTMENT

Thursday, July 27, 2023 at 9:00am

Meeting Location: Lincoln County Service Center, 801 N. Sales St, Room #247, Merrill, WI 54452

Via Teleconference and In-Person Attendance

Electronic Attendance Available: Persons wishing to attend the meeting electronically may enter the meeting beginning ten minutes prior to the start time indicated above using the following number or web address:

Conference Call: 1 413-998-6178

Access Code: 474 899 921#

Meeting ID: meet.google.com/gbp-owoc-owt

The teleconference cannot start until the host dials in and enters the host password. In the event there is an unforeseen technical difficulty that prevents all or a part of the meeting from being available electronically, the meeting will continue in person and those wishing to attend can appear in person at the location indicated in this agenda.

MEETING AGENDA

Action where applicable and necessary

1. Call Meeting to Order
2. Roll Call
3. Adopt Agenda
4. June 22, 2023 BOA Meeting Minutes

OLD BUSINESS

none

NEW BUSINESS

5. 9:00am Public Hearing – Testimony will be taken on the appeal hearings as noticed (see public hearing notice). Following each hearing for a variance there will be Discussion, Deliberations, Findings of Fact, conclusions and Determinations.
 - a) A request for variance by Jackie L Leonhard And Robert A Leonhard Jr Joint Revocable Trust from section 21.07(4)(b) of Lincoln County Shoreland Ordinance to allow for the building of a structure which is less than the minimum required side yard setback from the property line.

ANNOUNCEMENTS

6. Next meeting date and time
7. Adjourn

NOTE: Public Hearings published numerically are itemized in agenda alphabetically in the same order.

DISTRIBUTION:

Zoning Board of Adjustment Members – Kim Brixius, Curtis Powell, & Phillip Rausch

Zoning Board of Adjustment Alternates – Jim Beaumont & vacant

County Board Supervisors

Administrative Coordinator

Department Heads

Posted on _____ at _____ .m by _____

While there may be a quorum of other Lincoln County committees present at this meeting, no other Lincoln County committee business will be conducted at this meeting.

Requests for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. Please contact the Lincoln County Clerk at 715-539-1019 as early as possible so that proper arrangements may be made. Requests are kept confidential.

GENERAL REQUIREMENTS:

1. Must be held in a location which is reasonably accessible to the public.
2. Must be open to all members of the public unless the law specifically provides otherwise.

NOTICE REQUIREMENTS:

1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

MANNER OF NOTICE:

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

TIME FOR NOTICE:

1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

PROCEDURE FOR GOING INTO CLOSED SESSION:

1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:

1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(c).
6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).
7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

CLOSED SESSION RESTRICTIONS:

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session within twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting. Sec. 19.85(2).
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.

BALLOTS, VOTES, AND RECORDS:

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

USE OF RECORDING EQUIPMENT:

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

LEGAL INTERPRETATION:

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

PENALTY:

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.

Lincoln County Board of Adjustment
Minutes of Thursday, June 22, 2023 at 9:00 a.m.
Lincoln County Service Center, Meeting room #247
Meeting recording available on the Lincoln County website

Members Present for Meeting (In-Person): Kim Brixius, Phil Rausch, and Curtis Powell
Members Absent: none
Department Heads/Staff (In-Person): Mike Huth (Zoning Program Manager/Land Services Administrator), Laura Boquist (Shoreland Specialist), and Elizabeth Peronto (Program Assistant)
Department Heads/Staff (Virtual): none
Visitors (In Person): James Krueger
Visitors (Virtual): none

1. Call Meeting to Order – Meeting was called to order by Chair Rausch at 9:00am
2. Roll Call- All members present.
3. Adopt Agenda – M/S Powell/Brixius to adopt the agenda as presented. Motion carried on a voice vote.
4. April 27, 2023 BOA Meeting Minutes -

M/S Powell/Brixius to approve the minutes from the 4/27/2023 BOA Meeting. Motion carried on a voice vote.

OLD BUSINESS

None

NEW BUSINESS

5. 9:00am Public Hearing - Testimony will be taken on the appeal hearings as noticed (see public hearing notice). Following each hearing for a variance there will be Discussion, Deliberations, Findings of Fact, conclusions and Determinations.

Variance

- a) A request for variance by James Krueger from sections 21.07(4)(c) of Lincoln County Shoreland Ordinance to allow for the building of a structure which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline.

A narrated video providing an overview/tour of the property was shown as prepared by Land Services Staff.

Rausch asked if there were any proponents for the request. James Krueger was present, sworn in, and explained his request. Discussion occurred.

Rausch asked if there were any additional proponents for the request. There were none present.

Rausch asked if there were any opponents for the request. There were none present.

Mike Huth and Laura Boquist were sworn in. Huth presented the staff report. Laura Boquist gave further insight to the proposed project. Discussion occurred.

Rausch closed the public hearing for the variance request.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

M/S Brixius/Powell to DENY THE REQUEST for a variance to allow for the building of a structure which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline.

Motion carried on a roll call vote:

Member	Vote
Rausch	Aye
Powell	Aye
Brixius	Aye

ANNOUNCEMENTS

6. Next Meeting Date and Time – The next meeting is to be determined based on variance applications and board business. Call of Chair.
7. Adjourn – No further business, meeting adjourned at 9:26am.

Minutes prepared by Elizabeth Peronto

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Adjustment will hold a Public Hearing on Thursday July 27, 2023 at 9:00a.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #247/248, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

VARIANCE

1. A request for variance by Jackie L Leonhard And Robert A Leonhard Jr Joint Revocable Trust from section 21.07(4)(b) of Lincoln County Shoreland Ordinance to allow for the building of a structure which is less than the minimum required side yard setback from the property line. The property is located in Section 15, T34N, R8E, in the Town of Harrison and has a parcel number of 01034081539915, with an address of W1184 Packer Point Dr.

The above hearings will be held in **Meeting room #247/248 of the Lincoln County Service Center, at 801 N. Sales Street, Merrill, WI.** All parties wishing to be heard are requested to be present. Both written and oral testimony will be entered into the record and considered when making the decisions. All those wishing to testify must be sworn in. Original materials may be viewed in the Lincoln County Zoning office at 801 N. Sales St. Merrill, WI.

NOTE: A final decision on any of the above requests may be made at a later date. Items not acted upon or laid over will come before the Board again as "Old Business." The Board may but is not obligated to take any additional testimony.

Kim Brixius, Secretary

Owner Jackie & Robert Leonhard Joint Rev. Trust
Last Name
First Name
Town Harrison
Parcel # 01034081539915
Fax

RECEIVED
JUN 27 2023

PETITION FOR VARIANCE
LINCOLN COUNTY BOARD OF ADJUSTMENT

Receipt: 16623(3232) Fee: \$450

VAR- 23 - 003

APPLICATION WILL BE RETURNED/DISMISSED IF NOT COMPLETED IN FULL

Property Owner Information

Name : Robert A Leonhard Jr & Jackie Leonhard Daytime Phone: (715) 612-2673 or 715-612-2203

Mailing Address: W1184 Packer Point Dr City, State ZIP Gleason WI 54435

Petitioner Information (if other than property owner)

Name : Daytime Phone: ()

Mailing Address: City, State ZIP

Site Address: W1184 Packer Point Dr, Gleason WI 54435 Zoning District: SH

Legal Description Summary: Acres: .91

Section: 15 Township: 34 North Range: 8 East

Gov Lot: OR Quarter/Quarter: NE1/4- SW1/4

Lot Number: 1 Subdivision/CSM: No 1850

Current use and improvements: Residential

Proposed use and improvements: 14x28 Storage shed

Ordinance section relating to variance request: 10 ft from lot line 21.07(4)(b)

Relief is requested to allow: A stoarge shed 6 ft from the lot line.

Address each of the following criteria for granting a variance (please be specific).

1) Unnecessary hardship is present because...

We used to store our tractor in the neighbors garage as part of a deal we have had for years because it was over our lot line. Then it collapsed this winter. We use the tractor to clear snow from Packer Point Dr, which is a private road used by 4 properties.

2) Unique features of this property prevent compliance with the terms of the ordinance; they include...

We have a hill we can not remove because WPS would not move where the power comes in and serves the properties on the point. We tried to get them to move it when they put everything underground but they refused. See the attached easement we had to sign. This is the only flat spot on our lot to put a storage shed.

3) A variance will not be contrary to the public interest because...

This is on a private road and the neighbor is ok with this setback because his garage was over the lot line for years. He is currently rebuilding his garage 6ft away from the line

Names of adjoining property owners: _____

James & Liz Morgan

A SCALE DRAWING MUST BE ATTACHED that accurately depicts the following:

Include on the drawing ALL of the information requested below that applies to the property.

1. Shape of parcel, include all lot line dimensions.
2. Indicate NORTH.
3. Show the location and names of all surrounding roads/highways.
4. Show the location and names of all area water bodies (lakes, rivers, creeks, ponds, etc.)
5. Indicate ALL other existing buildings on parcel with "EB".

Complete the following if the request is for NEW Construction

6. Show the location of the proposed construction on the parcel. Include the following measurements:
 - a) Distance from the centerline of any/all roads.
 - b) Distance from the right-of-way of any/all roads.
 - c) Distance to all lot lines.
 - d) Distance to any/all water bodies adjacent to or within the parcel.
7. Indicate distance from septic tank or holding tank to proposed construction.
8. Indicate distance from sewage system drain field to proposed construction.
9. Indicate distance from well to proposed construction.
10. (IF on water) Indicate proposed clearings within the vegetative buffer zone (please refer to Shoreland Ordinance for limitations on different water classifications).

APPLICANTS ARE REQUIRED TO CLEARLY MARK THE LOCATION OF:

1. The proposed change of construction
2. All Property Lines
3. Sanitary System components (Drain fields, tanks, etc.)
4. Well(s)
5. Other physical features pertinent to the decision.

THESE FEATURES SHOULD BE MARKED WITH HIGH VISIBILITY FLAGS, TAPE, OR STAKES

Additional information beyond what has been specifically requested in this application may be required by the Lincoln County Board of Adjustment before rendering a decision. Failure to provide all requested information could result in the dismissal or denial of your application. The Lincoln County Board of Adjustment is governed by Rules of Procedure. A copy of the Rules of Procedure are available to any interested party upon request.

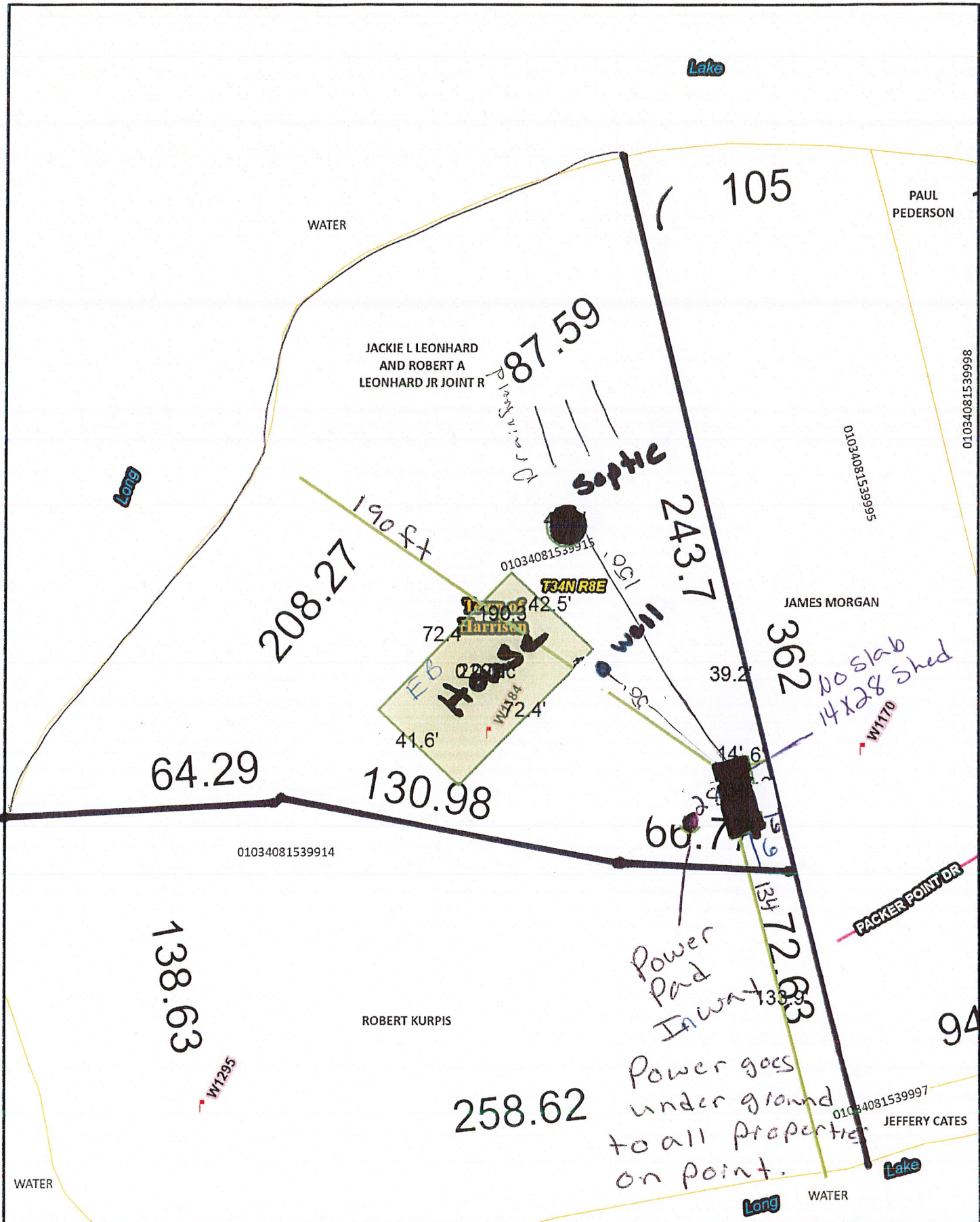
To the Lincoln County Zoning Administrator / Lincoln County Board of Adjustment: The undersigned hereby makes application for a PETITION FOR VARIANCE for work described and located as shown herein. The undersigned agrees that all work shall be done in accordance with the requirements of the Lincoln County Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Property Owner Signature: Robert Lechner Date: 6-20-23

Property Owner Signature: Jackie Lechner Date: 6-20-23

FOR OFFICE USE ONLY

Date Application Received: 6-27-23 By (Staff): CP Date of Hearing: 7-27-2023



Lincoln County, WI

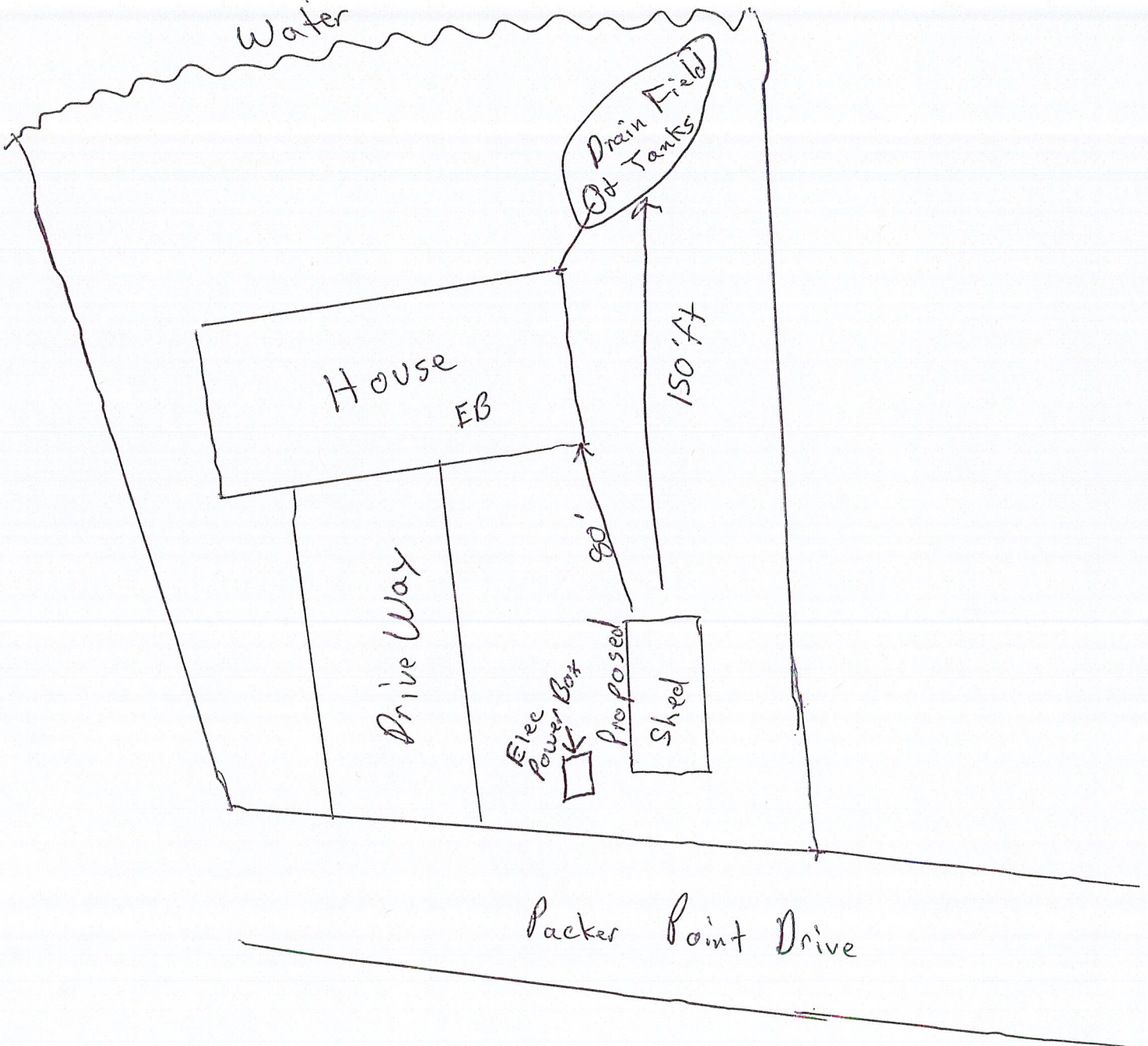
Author: Public
Date Printed: 6/21/2023



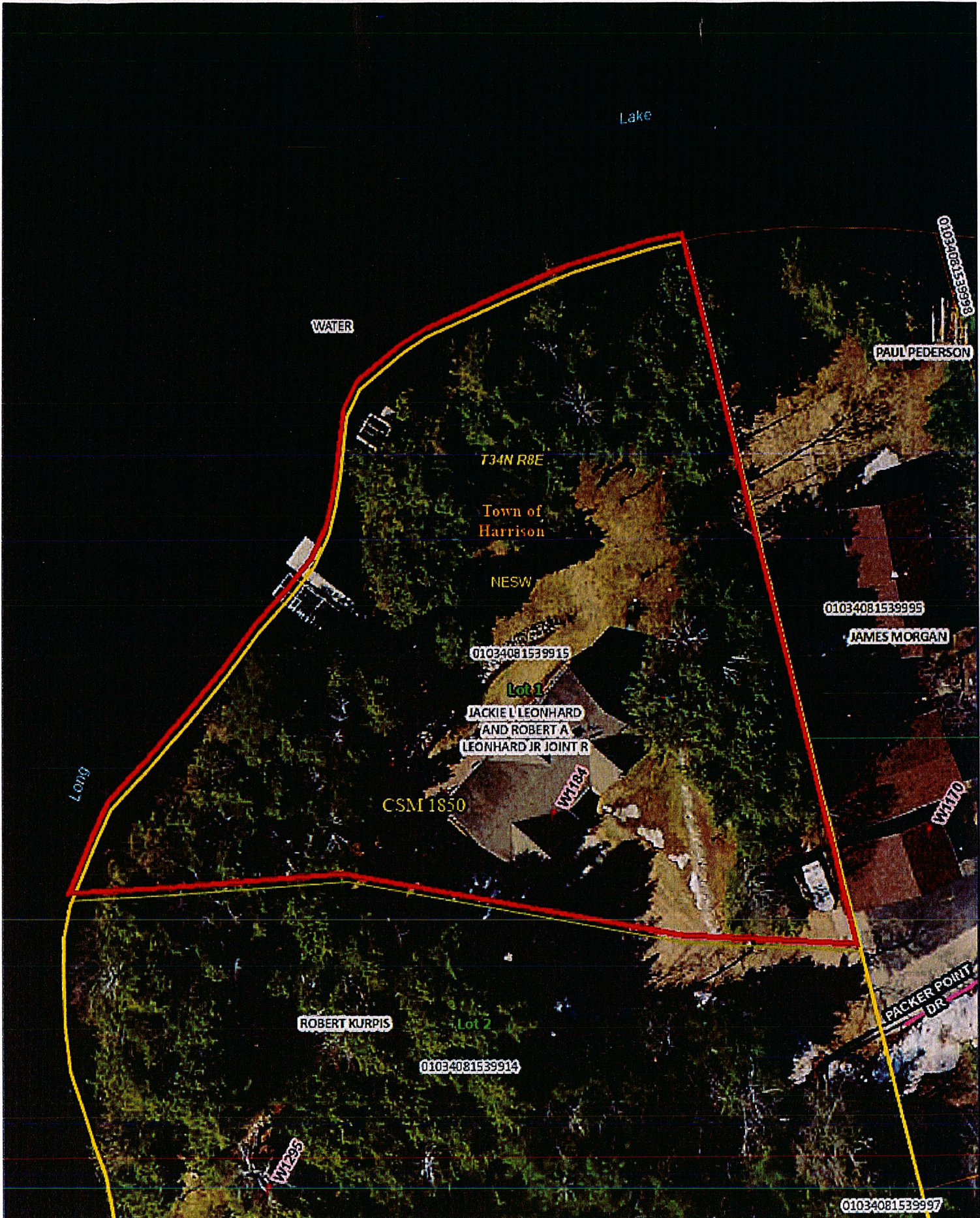
DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.

Long Lake

Water



Packer Point Drive



Lincoln County, WI

Author: Public

Date Printed: 6/27/2023



DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.



PETITION FOR VARIANCE REQUEST

STAFF REPORT

Report Date: July 20, 2023
Hearing Date: July 27, 2023
Property Owner: Jackie & Robert Leonhard
Property Address: W1184 Packer Point Dr.
Town of: Harrison
Tax Parcel Numbers: 010-3408-153-9915
Zoning District: Unzoned- Shoreland
Zoning District Overlay: Shoreland
Staff Reviewer: Laura Boquist- Shoreland Specialist
Submitted Materials: Request for Variance Application and supporting documents

OVERVIEW

REQUEST

A request for variance by Jackie & Robert Leonhard Revocable Joint Trust from section 21.07 (4)(b) of the Lincoln County Shoreland Zoning Ordinance to allow for the placement of a storage shed within the minimum required side lot line set-back. Section 21.07 (4)(b) of the Lincoln County Shoreland Zoning Ordinance requires a minimum of 10 feet from the side lot line to the nearest part of a structure/building foundation.

The property is located in the NE ¼ SW ¼ of Section 15, T34N, R8E, in the Town of Harrison, has a parcel number of 010-3408-153-9915 and an address of W1184 Packer Point Dr.

SITE CHARACTERISTICS

W1184 Packer Point Dr. is Lot 1 of Certified Survey Map 1850 and is calculated at .91 acres or roughly 40,048 sq. ft. in size. The lot was created through a minor subdivision in 2005 and is a conforming parcel, meeting minimum lot size and average lot width requirements. The Town of Harrison is unzoned through the general zoning ordinance but this lot is located within the shoreland overlay zone and is subject to all shoreland zoning requirements, per Chapter 21.05(1).

Impervious surface coverage on the lot is below 15% of the listed lot area, per GIS aerial calculations. The addition of a 14' x 28' storage shed will not increase the impervious surface coverage beyond 15% of the listed lot area. Per code section 2.13(4)(a), impervious surface coverage is allowed up to 15% of the lot area without condition.

The lot does not contain mapped wetlands or floodplains and is mostly wooded. There is an existing natural shoreland buffer extending 50 feet or more from the ordinary high water mark (OHWM) of the Lake with a small view/access corridor clearing. Topography on the majority of the lot is steep, with an average grade of 20% or more. The South-east corner of the lot, however, where the storage shed is

proposed, is flat and no additional levelling or major soil disturbance work would be required for the storage shed placement in this location.

There was a portion of a garage encroaching onto this parcel from the adjacent parcel, W1170 Packer Point Drive. The Leonhard's had been using the portion of the neighbor's garage that was encroaching onto their lot for storage. Over this past winter, the garage collapsed. The neighbor's garage is being re-built but the area of encroachment into this parcel is not being re-built. Therefore, the structure which was previously used for storage is no longer available to them for their use.

There is an existing Wisconsin Public Service (WPS) power box and underground power lines which are unable to be relocated on the lot, per the landowner. The WPS power box is preventing compliance with structure meeting the 10 ft. side lot line set-back.

PROPERTY HISTORY AND SUMMARY OF NOTEWORTHY TOPICS

The lot was initially developed in 2005. Sanitary, Land-use, and soil disturbance permits were obtained as required during this time-frame.

In 2005, The Lincoln County shoreland ordinance contained Lake Classification. Lake Classification outlined more restrictive requirements for development on some waterways, which were determined through studies, to be more sensitive to development pressures. At the time of development, the required shoreland set-back was a minimum of 90 feet from the OHWM on moderate sensitivity lakes, including Long Lake. Per code, this set-back could be reduced by implementing a mitigation plan and recording a land-use affidavit with certain restrictions placed on the lot. In order to reduce the 90 foot set-back requirement to 75 feet, a land-use affidavit was signed in 2005 outlining the preservation of a natural shoreland buffer along the shoreline to a minimum depth of 50 feet, with the exception of one 30 foot wide view/access corridor. This affidavit remains on the lot in perpetuity and the lot is meeting the standards outlined on this document.

Additional septic permitting was obtained in 2013 to increase the size of the drainfield.

PUBLIC NOTIFICATION

The legal notice of the request was noticed in the proper manner. Staff mailed notices of the petitioner's request to neighboring property owners within 300' from the property boundary and the Town of Harrison.

APPLICABLE ORDINANCE SECTIONS

The general purpose of the Lincoln County Shoreland Ordinance is "For the purpose of promoting the public health, safety, convenience, and welfare, and protect the public trust in navigable waters". Areas regulated by chapter 21 shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Lincoln County, which are Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages and lands Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater, must comply with the requirements specified under general provisions for Lincoln County.

- 21.07 (4)(b)- *SIDE YARD SETBACK*. A minimum of 10 feet to the nearest part of a structure/building foundation.
- 17.8.60 (1) - *VARIANCE REVIEW AND APPROVAL PROCEDURE. PURPOSE*. The purpose of this section is to provide regulations which enable the Board of Adjustment to hear and decide requests for permitted variation from the terms of this chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done; as provided for by Wisconsin Statutes and applicable case law.

- **17.8.60 (9) TIME LIMITS ASSOCIATED WITH VARIANCES.** An approved variance shall expire 24 months from the date issued if the work described in the permit is not commenced, unless a one-time, one-year extension is applied for, without fee, from the Board of Adjustment prior to the expiration date.

EVALUATION

APPROVAL CRITERIA

The Board of Adjustment shall review all variance petitions against the standards provided under Wisconsin Statutes and applicable case law, and with the consideration to the following three legal standards of the Lincoln County Zoning Ordinance. The petitioner has submitted responses to the variance standards outlined in the variance application (see variance application in packet) and below is the staff analysis of the request.

- 1) Unnecessary Hardship – Compliance with variance standards would unreasonably prevent the owner from use of the property for a permitted purpose, or would be unnecessarily burdensome.**

Staff Analysis: In the case of the standard “Unnecessary Hardship”, the applicant does provide clear evidence that denial of the variance would be unnecessarily burdensome. Denial of a variance for this location, would require the landowners to place the shed in another area of the lot where there are steeper grades and existing mature vegetation. Access to a storage shed in a different location would be challenging due to the topography on the site. There is also the need for a driveway or walkway surface to the shed and the soil disturbance needed to level the ground for placement of the shed is not ideal. Soil disturbance activities on steep grades with a sandy soil type can cause long term erosion/ stabilization issues.

- 2) Unique Property Features - this hardship is created because of unique qualities of the property, not the circumstances of the owner.**

Staff Analysis: To meet this standard, the hardship must be because of unique property features, rather than the circumstances of the owner. Examples of unique property features could include a legal substandard lot size, steep slopes, existing building configurations, or existing septic layout/location which prevent building in compliance with the ordinance. This property does have unique characteristics which create a hardship in the fact that lot is relatively steep. The WPS power box and underground power lines serving the properties on this roadway cannot be relocated, per the applicant. The prior garage encroachment that was being used for storage collapsed and because there is a restriction to re-build a structure over an adjacent lot line, there is no allowance to replace the neighbor’s garage structure which was in this location for storage use. Having a storage shed in another area of the lot is not ideal as this shed cannot be accessed from Packer Point Dr.

- 3) Public Interest – the variance would not harm the public interest, which is the purposed and intent of the ordinance.**

Staff Analysis: Under standard three, the variance cannot be contrary to public interest or the intent of the zoning district. This standard is met by this application. Reducing the lot line set-back by 4 feet will not harm the public interest. There are many nonconforming storage structures, located within 10 feet of a lot line, throughout the Town of Harrison.

STAFF RECOMMENDATION

Based on the evidence available in the application and the three variance standards, staff recommends **approval** of the variance from section 21.07 (4)(b) of the Lincoln County Shoreland Zoning Ordinance to allow for the placement of a storage shed within the minimum required side lot line set-back.

Laura Boquist

Laura Boquist, Lincoln County Shoreland and Land Use Specialist

Date 7/12/23

Looking North



Looking Northeast



Looking East



Looking South



Looking Northwest



Property Overview

