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LINCOLN COUNTY ZONING BOARD OF ADJUSTMENT

Thursday, April 25, 2024 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. October 26, 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 Scott and Cathy Weber to allow for the building of a structure which is less than the required horizontal setback from the ordinary high water mark (OHWM) of the nearest navigable waters and less than the minimum required street yard setback.

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, October 26, 2023 at 8:30 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, Curt Powell, and Phil Rausch

Members Absent:

Department Heads/Staff (In-Person): Mike Huth (Zoning Program Manager/Land Services Administrator), Karry Johnson (Corporation Counsel), Laura Boquist (Shoreland Specialist), and Elizabeth Peronto (Program Assistant)

Department Heads/Staff (Virtual): none

Visitors (In Person): See attached sign-in sheet

Visitors (Virtual): See attached sign-in sheet

1. Call Meeting to Order – Meeting was called to order by Chair Rausch at 8:35am
2. Roll Call - Quorum present.
3. Adopt Agenda – M/S Powell/Brixius to change the agenda order so that item #5b is heard before item #5a but otherwise adopt the agenda as presented. Motion carried on a voice vote.
4. October 12, 2023 BOA Meeting Minutes – Elizabeth Peronto presented two proposed corrections. The first correction is to the last paragraph in item 5a correcting the language in the motion/second to accurately reflect the variance. The second correction in the last paragraph in item 5b correcting the language in the motion/second to accurately reflect the variance.

M/S Powell/Brixius to approve the minutes from the 10/12/2023 BOA Meeting with the two proposed corrections by Elizabeth Peronto. Motion carried on a voice vote.

OLD BUSINESS

None

NEW BUSINESS

5. 8:30am Public Hearing - Testimony will be taken on the 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

- b) A request for variance by MNM Income Trust from Lincoln County Shoreland section 21.07(6)(2)(b) to allow for the building of a new boathouse exceeding maximum size allowances and from section 21.07(6)(2)(d) to allow for the building of a new boathouse outside of the allowable view and access corridor.

Rausch asked if there were any proponents for the request. Michael Marcell, the applicant, was present, sworn in, and requested a layover of this discussion and decision in order to prepare a response to the staff report.

M/S Powell/Brixius to approve of the layover of the hearing to a future meeting. Motion carried on a voice vote.

Appeal

- a) An appeal by Skanawan Property Owners Association, U.A. for an Appeal of Administrative Decision of the Land Services Committee which approved a Conditional Use Permit (CUP-96-1075) for Milestone Materials a division of Mathy Construction Co. regarding an expansion of a non-metallic mineral (NMM) extraction use (sand and gravel pit).

Rausch stated that in Lincoln County Ordinance 17.8.12(2)(b), the Zoning Board of Adjustment shall have the specific duty to hear and decide appeals where it is alleged that there is an error in any decision of the Land Services Committee related to a conditional use permit request, with such review limited to determining whether the Committee's action considered the appropriate standards and met the requirements of this chapter, as opposed to the Board of Adjustment conducting a de novo review.

By request of Powell, Huth gave an overview of what documents were in the packet with regard to the public meeting record. Further discussion by Board of Adjustment members occurred regarding the Board of Adjustment's role in this appeal of the Land Services Committee's decision with regard to the Lincoln County Code of Ordinance.

M/S Powell/Brixius to deny the appeal. Motion carried on a roll call vote.

Member	Vote
Rausch	Aye
Powell	Aye
Beaumont	Aye

ANNOUNCEMENTS

6. Next Meeting Date and Time – The next meeting will be call of the Chair.
7. Adjourn – M/S Powell/Brixius to adjourn at 8:55am. Motion carried on a voice vote.

Minutes prepared by Elizabeth Peronto and Mike Huth

LINCOLN COUNTY SIGN-IN SHEET FOR COMMITTEE MEETING

Board of Adjustment	Lincoln County Service Center Meeting Room #247	8:30am Meeting - 9:00am <i>UP</i>
<u>COMMITTEE</u>	<u>LOCATION</u>	<u>TIME CALLED TO ORDER</u>

DATE: October 26, 2023

MEMBERS PRESENT:

DEPARTMENT HEAD

MIKE HOTH
Harry Johnson

CHAIR PHIL RAYSON

MEMBER Kim Bixius

MEMBER Christ Brown

ALTERNATE _____

ALTERNATE _____

* = Attended Virtually

VISITORS MUST SIGN-IN (PLEASE PRINT LEGIBLY)

<u>Elizabeth Perabo</u>	<u>Kathleen Henry</u>	_____
<u>Jim Beaumont</u>	<u>Chere Lathrop</u>	_____
<u>Joe Dozma</u>	<u>Mike Hesse</u>	_____
<u>JOHN LAZARZ</u>	<u>Jim Small</u>	_____
<u>Laura Baquist</u>	<u>Wally Hood</u>	_____
<u>Mary Kraus</u>	<u>Jacqueline Horvath</u>	_____
<u>Tom Burch</u>	_____	_____
<u>BOB SERVICE</u>	* <u>Attorney Craig Nienow</u>	_____
<u>JOHN HECKENDORF</u>	* <u>Attorney Eric McLeod</u>	_____
<u>Ryan R. Britz</u>	* <u>Anthony Tamazhek</u>	_____
<u>Michael W. Marcell</u>	_____	_____

Turn Over for More Spaces

8:55am
 Time of Adjournment

TBD
 Date, Time, & Place of Next Meeting

(revised 7/6/19)

Recording Secretary

[Signature]

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Adjustment will hold a Public Hearing on Thursday April 25, 2024 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 Scott and Cathy Weber from sections 21.07(4)(a), 21.07(4)(c), & 17.4.10 of Lincoln County Ordinance to allow for the building of a structure which is less than the required horizontal setback from the ordinary high water mark (OHWM) of the nearest navigable waters and less than the minimum required street yard setback. The property is located in Gov. Lot 3 of Section 32, T32N, R6E, in the Town of Merrill and has a parcel number of 014-3206-322-9969, with an address of N2817 State Rd 107.

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

PETITION FOR VARIANCE

LINCOLN COUNTY BOARD OF ADJUSTMENT

Receipt: 17090

Fee: \$450

VAR- 24 - 001

RECEIVED

JAN - 2 2024

APPLICATION WILL BE RETURNED/DISMISSED IF NOT COMPLETED IN FULL

Property Owner Information

Name: Scott J. & Cathy M. Weber Daytime Phone: (715) 536-7291

Mailing Address: W9860 Hwy 64 City, State ZIP Merrill, WI 54452

Petitioner Information (if other than property owner)

Name: _____ Daytime Phone: (_____) _____

Mailing Address: _____ City, State ZIP _____

Site Address: 22817 Hwy 107 Merrill, WI Zoning District: RR2

Legal Description Summary: _____ Acres: _____

Section: 32 Township: 32 North Range: 6 East

Gov Lot: 3 OR Quarter/Quarter: _____

Lot Number: _____ Subdivision/CSM: _____

Current use and improvements: camping and boating - Recreation

Proposed use and improvements: build a cottage to enjoy the property more - Single family dwelling

Ordinance section relating to variance request: lot size can't meet the setbacks.

Relief is requested to allow: us to build this cottage in this nonconforming lake lot. - Reduce setbacks from road and shoreland.

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

1) Unnecessary hardship is present because... of the nonconforming lot size we can't meet the setbacks.

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

3) A variance will not be contrary to the public interest because... we will be improving the site by putting a cottage (vs) camper and we will not interfere with the view of the lake to any of our neighbors. the trailer that was there for the last at least 15 years will be replaced by building a cottage so the view will not change that much.

Ch. 21.07 (4)(a) and 21.07 (4)(c)

Owner Weber Scott, Catherine First Name Last Name Tax Parcel # 014-3206-322-9969 Town Merrill

Names of adjoining property owners: HARRY Weber, - Michael Mensching -
Arthur Weber - Timothy Schmidt - James Johnson -
Scott & Tir McGregor

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: [Signature] Date: 2 Jan 2024
 Property Owner Signature: Catherine M. Weber Date: Jan. 2, 2024

FOR OFFICE USE ONLY

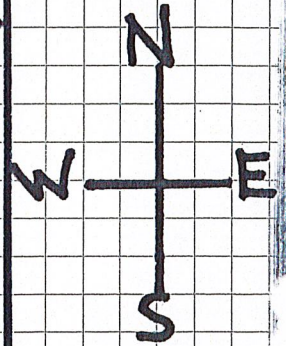
Date Application Received: 1-2-24 By (Staff): CP +LB Date of Hearing: 4-25-2024

James Johnson

Scott & Tim McGregor

Mandy
Timothy
Schmidt

Highway 107



Michael
Greese

Michael
Mensching

HARRY
Weber

Septic
6'

Arthur
Weber

7' Well

26' x 22'
Cottage

26' x 6'
Deck

EB

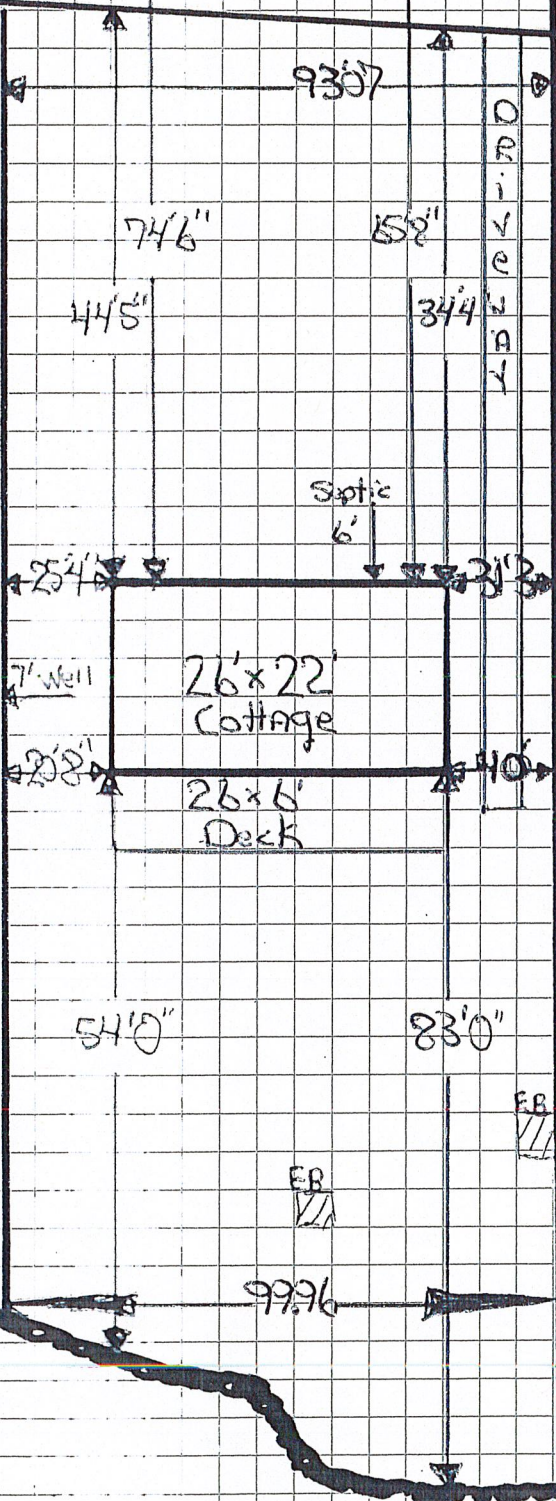
EB

Scott & Cathy
Weber

R2817 Hwy 107

LAKE

ALEXANDER





Lincoln County, WI

Author: Public

Date Printed: 3/25/2024



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: April 15, 2024
Hearing Date: April 25, 2024
Property Owner: Scott & Catherine Weber
Property Address: N2817 State Road 107
Town of: Merrill
Tax Parcel Number: 014-3206-322-9969
Zoning District: RR2-Rural Residential
Zoning District Overlay: Shoreland
Staff Reviewer: Laura Boquist- Shoreland Specialist, Mike Huth- Zoning Program Manager
Submitted Materials: Request for Variance Application and supporting documents

OVERVIEW

REQUEST

A request for variance by Scott and Cathy Weber from sections 21.07(4)(a), 21.07(4)(c), & 17.4.10 of Lincoln County Ordinance to allow for the building of a structure which is less than the required horizontal setback from the ordinary high water mark (OHWM) of the nearest navigable waters and less than the minimum required street yard setback.

The proposed structures include a cottage, deck, and driveway. The property is located in Gov. Lot 3 of Section 32, T32N, R6E, in the Town of Merrill and has a parcel number of 014-3206-322-9969, with an address of N2817 State Rd 107.

SITE CHARACTERISTICS

The parcel is located within the shoreland overlay zone and is subject to shoreland zoning requirements. The parcel is .35 acres or 15,246 sq. ft. in size, is 100 feet wide at the road, and contains close to 100 feet of frontage on the waterway, per the metes and bounds description of the lot. The lot is considered substandard, as it is below the minimum lot size requirement of 40,000 sq. ft. for the RR-2 zoning district. The parcel was created before applicable ordinance requirements for minimum lot size. There is no survey on file for the parcel. It should be noted the landowners submitted the variance application prior to the ordinance change requiring all parcels to have a survey on file for variance requests.

Required structure set-backs from a State road include a minimum distance of 50 feet from the Road ROW and a minimum distance of 110 feet from the Road Centerline, whichever is greater. State Road 107 in this location has a 33 foot wide ROW per the surveys on file for adjacent and nearby lots. Therefore, the centerline set-back is most restrictive. To meet 110 feet from the centerline of the road, the structure

would need to be located a minimum of 77 feet from the ROW of State Road 107. The required shoreland set-back for new structures is a minimum of 75 feet from the ordinary high water mark (OHWM) of the Lake. The required road set-back and shoreland set-back overlap. Therefore, there is no buildable area on the lot meeting both of these required set-backs. Shoreland set-back averaging per section 21.07(5) of the Lincoln County Shoreland ordinance does not apply to this parcel as the lot to the East is currently undeveloped and therefore there is no pre-existing development pattern present on the adjacent lots.

There are no mapped wetlands or floodplain located on the parcel. Grades are relatively level with less than a 5% slope. There are no erosion concerns or soil disturbance permit requirements applicable for the proposed project.

Impervious surface regulations, per the Lincoln County Shoreland Ordinance apply to water-front lots and non-waterfront lots fully located within 300 feet of the ordinary high water mark (OHWM) of a waterbody. Impervious surface coverage regulations apply to this lot and coverage is allowed up to 15% of the lot area without conditions. If the development proposal exceeds 15% impervious surface coverage per the lot size, mitigation will be required per Lincoln County shoreland Ordinance section 21.13

The proposed structure type and overall land use is allowed in the Rural Residential (RR-2) zoning district.

PROPERTY HISTORY AND SUMMARY OF NOTEWORTHY TOPICS

Per Lincoln County zoning records, a complaint was filed in August 2023 regarding this parcel. The complaint alleged multiple camping units were being occupied on the lot for over 60 days cumulative in the calendar year without permits on file and were situated within 75 feet of the OHWM of the Lake. There were no land-use or septic records associated with the parcel and there was no address assigned on the lot.

A letter was sent to the Landowners in September of 2023 regarding the issue. Per section 17.3.03(9) of the Lincoln County Zoning Ordinance, permitting is required for camper occupation on the parcel exceeding 60 days cumulative in one calendar year. A camper being used on this lot for a duration of 60 days or more cumulative in a calendar year, requires a land-use permit, rural address, and a septic system or holding tank if there is running water supply in the camper. If there is no running water supply, a type of non-plumbing sanitary system is acceptable. Per the listed lot size for the Rural Residential (RR-2) zoning district, one camper can be permitted for occupation on this parcel exceeding 60 days cumulative in the calendar year, with the necessary paperwork. More than one camping unit occupied over 60 days cumulative in a calendar year is not permissible on this lot. When not in use, unpermitted camping units must be removed from the lot. A deadline was provided to the landowners to submit the required permit paperwork for a camper on the parcel and for removal of all other camping units.

In October of 2023, a land-use permit was issued for one existing camping unit and the existing deck on the parcel. During discussions with the landowner, it was determined the primary camping unit and deck on the property has been on the lot in the same location for over 10 years. The deck and camping unit are located within 75 feet of the OHWM of the Lake. Per Lincoln County shoreland ordinance section 21.17(1), and as outlined in Wisconsin State Statute 59.69(1), if a building or structure violates the dimensional or use standards of the ordinance but the violating building or structure has been in place for more than 10 years before an enforcement action is initiated, such building or structure shall not be pursued as a violation or require removal from the parcel. However, the structure or building will not be considered a nonconforming structure according to the definition found in Section 21.18 and the provisions of Section 21.12 do not apply to illegally constructed buildings or structures.

According to this ordinance language, the camping unit and deck were able to be permitted on the lot in the existing location but the footprint of these structures cannot be used for future development of the lot. A variance is required for new proposed structures not meeting regulated set-backs from the Lake and/or road.

The camper on the lot is not currently connected to a running water supply. A holding tank was permitted in October of 2023 but has not yet been installed on the lot. The holding tank was initially permitted to

be connected to the camping unit on the property but will be connected instead to the proposed dwelling when installed.

New structures must be a minimum of 5 feet from the edge of the holding tank, 2 feet from a well, and 10 feet from side lot lines. The proposed structures will meet these required set-backs. The proposed dwelling and deck will be built at 54 feet from the OHWM of the Lake, 20 feet from the closest side lot line, and 74.5 feet from the centerline of the road.

The overall impervious surface coverage of the lot area with the proposed development will be under 15% of the lot area and mitigation therefor will not be required for the proposed development.

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 Merrill.

APPLICABLE ORDINANCE SECTIONS

The general purpose of the Lincoln County Ordinance is to "of protect the public health, safety, morals, comfort, convenience and general welfare of the residents of Lincoln County". Section 17.4.10 outlines the minimum required street yards, also known as Highway set-backs for new structures. The minimum required street yards, "highway setbacks", shall apply to all yards which abut public roads. Such minimum required yards shall vary depending on the type of public road in accordance with the table provided in section 17.4.10.

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)(a) SHORELAND SETBACK. Unless exempt under section 21.07(6) or reduced under section 21.07(5), a horizontal setback of 75 feet from the ordinary high water mark of any navigable waters to the nearest part of a building or structure shall be required for all structures.
- 21.07(4)(c) ROAD SETBACK . Refer to section 17.4.10 of the Lincoln County Ordinances.
- 17.4.10- MINIMUM REQUIRED STREET YARDS. The minimum required street yard from nearer public road right-of-way of a State Trunk or U.S. Highway is listed at 50 feet. The Minimum Street Yard from Centerline of Public Road Right-of-Way of a State Trunk or U.S. Highway is listed at 110 feet.
- 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 unreasonably prevent them from permitted uses and unreasonably prevent them from developing the parcel. The required State Road set-back and shoreland set-back present a unique factor to the subject property along a stretch of uniquely shaped parcel development. Thus, preventing compliance with the ordinance standards for road and shoreland set-backs.

- 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 to meet the current standards. The lot is a legally created but substandard size lot which creates a hardship due to the lack of room on the parcel for development. Due to the configuration of parcel, a new structure cannot be set-back from the State road and lake at complaint set-backs. Placement of a structure would be either too close to the Road or Lake.

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

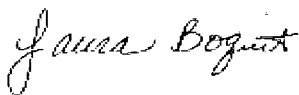
Staff Analysis: Under standard three, the variance cannot be contrary to public interest or the intent of the zoning district. This standard is met by this application. Other non-conforming structures, not meeting current road or lake set-backs, exist along Highway 107 on Lake Alexander in the Town of Merrill. All other shoreland zoning ordinance regulations will be met with the proposed development.

STAFF RECOMMENDATION

Based on the evidence available in the application and meeting the three variance standards, staff recommends **approval** of the variance to allow for the building of a structure which is less than the required setback from the State Road ROW & State Road centerline and less than the required shoreland set-back.

Staff recommends the following conditions be placed upon a favorable approval:

1. The variance must be exercised within 24 months as required by 17.8.60(9).
2. All other applicable regulations shall be met.



Lincoln County – Shoreland and Land Use Specialist

4/15/24
Date

Looking North



Looking West



Looking East




Looking South



Property Overview



<p>Lincoln County, WI</p> <p>Author: Public</p> <p>Date Printed: 3/25/2024</p> 	<p>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.</p>
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