

**PUBLIC HEARING BEFORE
THE DOOR COUNTY BOARD OF ADJUSTMENT**

Door County, Wisconsin

A public hearing will be held by the Door County Board of Adjustment on **Tuesday, March 24, 2020, at 6:30 p.m.** in the **“Peninsula Room” (C121) – First Floor** of the **Door County Government Center**, 421 Nebraska Street, Sturgeon Bay, Wisconsin. The purpose of this hearing is to give consideration to the following County zoning ordinance variance petition as specified in the County zoning ordinance.

Starting at 6:30 p.m.

Town of Sturgeon Bay

Michael A. Lorenz petitions for a variance from section 3.12(4) of the Door County Comprehensive Zoning Ordinance which requires accessory buildings that are constructed on vacant lots to comply with specific standards of the ordinance. This section of the ordinance limits the size of the buildings to 120 square feet, limits the height of the buildings to 8 feet 6 inches, allows only one entrance door, not to exceed 6 feet in width, and prohibits windows, skylights, patio doors, or other glazing in the building along with other limitations. Mr. Lorenz is proposing to construct a 672 square foot detached garage on a vacant parcel that is located across the road from his existing residence. The garage would be 18.5 feet high, would contain two 8.5 foot wide garage doors, and a total of 8 windows. This property is located at 2478 South Lake Michigan Drive in Section 27, Town 27 North, Range 26 East, and in a Single Family Residential – 20,000 (SF20) zoning district.

Interested parties may give oral testimony. Written testimony will be accepted on 8 1/2" x 11" paper only at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, WI 54235 (Fax 920-746-2387) until **3:30 p.m.** the day before the hearing. Anonymous correspondence will not be accepted. **Please note that any correspondence or testimony you may have submitted for any town-level proceedings regarding this matter does NOT get forwarded to the county.**

All application/petition materials may be viewed at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, Wisconsin during normal business hours, 8:00 a.m. to 4:30 p.m., Monday-Friday. Application/petition materials may also be viewed on-line beginning approximately four business days before the hearing at:

<http://map.co.door.wi.us/Agendas-Minutes/Zoning%20Board%20of%20Adjustment/>

Fred Frey, Chairman
Door County Board of Adjustment

RDB
03/04/20

PUBLIC MEETING

**DOOR COUNTY BOARD OF ADJUSTMENT
421 NEBRASKA STREET – DOOR COUNTY GOVERNMENT CENTER
STURGEON BAY, WI 54235**

The Door County Board of Adjustment will hold a meeting on **Tuesday, March 24, 2020**, at **6:30 p.m.** in the **Peninsula Room (C121), Door County Government Center**, at Sturgeon Bay, WI 54235.

AGENDA

- 1.0 Call to order and declaration of quorum.
- 2.0 Discuss and arrive at a decision on a Petition for Grant of Variance.
 - 2.1 Michael Lorenz; standards for accessory buildings constructed on vacant lots; Sturgeon Bay.
- 3.0 Old Business.
 - 3.1 Read and act on minutes of March 10, 2020, meeting.
 - 3.2 Final disposition of the following case considered by the Board of Adjustment at the March 10, 2020, meeting: The Raymond P. & Barbara J. Hansen Trust.
- 4.0 Other Matters.
 - 4.1 Announce next meeting.
- 5.0 Vouchers.
- 6.0 Adjournment.

** Deviation from the order shown may occur. **

Fred Frey, Chair
Board of Adjustment

3/11/20

*Materials regarding these agenda items may be viewed at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, Wisconsin during normal business hours, 8:00 a.m. to 4:30 p.m., Monday-Friday. Application materials may also be viewed on-line beginning approximately four business days before the hearing at: <http://map.co.door.wi.us/Agendas-Minutes/Zoning%20Board%20of%20Adjustment/>

In compliance with the Americans with Disabilities Act: Any person needing assistance to participate in this meeting should contact the Office of the County Clerk at (920) 746-2200. Notification 48 hours prior to a meeting will enable the County to make reasonable arrangements to ensure accessibility to that meeting.

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Fred Frey, Chairman
Door County Board of Adjustment

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PETITION FOR GRANT OF VARIANCE

DOOR COUNTY
LAND USE SERVICES DEPARTMENT

A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

PETITION: (I) (We)

Full Name MICHAEL A. Lorenz Telephone No. 920-467-6677
Mailing Address N6041 State Hwy 32
City Sheboygan Falls State WI Zip 53085
hereby petition(s) the Door County Board of Adjustment for a variance from
Section (s) See Attachment A

of the Door County Zoning Ordinance which requires _____
See Attachment A

(I) (We) propose to Construct a 24 x 28 Garage
See Attachment A

LOCATION:

The description of the property involved in this petition is located at:
Fire # 2478 Road South Lake Michigan Drive Township Sturgeon Bay
Govt Lot 1 or 1/4 - 1/4 Section 27 Town 27 North, Range 26 East
Tax Parcel No. 024-022-7272612 G1
Zoning District _____ Lot Size 50' x 410
Existing use of structure or land in question _____

ATTACHMENTS:

- 1) A site plan, drawn to-scale, indicating lot size, size of buildings and decks, distances between buildings and the centerlines of all abutting roads, ordinary high water mark, lot lines (identify lot markers), the sanitary waste disposal system and well. If a survey is available, please submit the survey. **IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".**
- 2) Building plans, drawn to scale, of the proposed project, including floor plans and elevation views. The application will not be processed without scaled drawings. (Plans submitted with this petition will be the only plans reviewed by the Board of Adjustment. A change in plans will warrant a new petition, fee, and public hearing.) **IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".**
- 3) Please provide **complete** responses regarding a), b), and c) below. Attach additional pages if necessary. To qualify for a variance, the applicant must demonstrate that their request/situation meets the following three requirements:
 - (a) Unique property limitations
Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unique features of this property prevent compliance with the terms of the ordinance, including:

see Door County Board of Adjustment Decision
Making Worksheet (See Attachment B)

FOR OFFICE USE ONLY
 Receipt No. 4037 Fee 500.00 Date 11-20-19
 Hearing Advised Dates: _____
 Hearing Date _____
 Decision _____
 SECTION T N, R _____ E
 PARCEL NO.: 0
 TOWN OF: _____
 OWNER: _____

(b) No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Adjustment must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

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DOOR COUNTY
LAND USE SERVICES DEPARTMENT

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

A variance will not be contrary to the public interest because:

(See Attachment B)

(c) Unnecessary hardship

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

For an area variance, unnecessary hardship exists when compliance 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 would 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.

Unnecessary hardship is present because:

See Attachment B

4) A non-refundable \$450.00 fee payment to defray the cost of publishing the legal notice and mailing to all interested parties.

AUTHORIZATION FOR INSPECTION:

I hereby authorize the Zoning Administrator to enter upon the premises for which this petition is made at any reasonable time for all purposes of inspection related to this petition.

CERTIFICATION:

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

SIGNATURE OF PETITIONER/AGENT:

DATE:

[Handwritten Signature]

11-16-19

SCHEDULING:

This petition will be scheduled for the next available Door County Board of Adjustment meeting. Approximately two weeks prior to that meeting, a legal notice will be mailed to you providing further information regarding the time and location of the meeting. It is recommended that the petitioner attend the Board of Adjustment meeting to present the case and to answer any questions the Board of Adjustment may ask. If you are unable to attend the meeting, you may want to have your attorney or contractor present on your behalf.

Attachment B

Door County Board of Adjustment
Decision- Making Worksheet

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JAN 24 2020

DOOR COUNTY
LAND USE SERVICES DEPARTMENT

Michael A. Lorenz
2478 South Lake Michigan Drive
Sturgeon Bay , WI. 53

1.) Unique Physical Property Limitations

Yes, this property is split into two parts, as per the Door County Land Use Services Dept (D.C.U.S.) although deeded as one parcel. We, as land owners, wish to build a 24' x 28' garage on the property. Due to the property width (50ft.) and the ordinary high water mark, there is insufficient room to build on the same side of SLMD as the dwelling is located (east side) of SLMD.

2.) Unnecessary Hardship

The Door County Land Use Services Dept views this as two parcels (yet only one tax plot). The ordinance states that a garage can not be built on a parcel unless a dwelling unit is constructed first, so (B) conformity with the regulation would not be even possible, therefore the property on the west side of SLMD could not be used for any purpose.

3.) Public Interest/spirit and intent of the ordinance

Granting of this variance would result in no harm to the public interest. A garage being allowed to be constructed on the west side of SLMD would result in a more picturesque view. A 10' x 12' shed and an old outhouse currently used for storage would be removed. The garage would be built as aesthetically pleasing as possible with earth tone colors and blending in with the environment.

We, the listed home owners of this property located at 2478 SLMD , Sturgeon Bay, WI. wish to submit

this application for a variance request dated this day 1-22-2020

Signed: Nancy L. Lorenz Nancy L. Lorenz

Signed: Michael A. Lorenz Michael A. Lorenz

Signed : Cindy L. Mais Cindy Mais

Signed: Amy L. Unger Amy Unger

Tax Parcel # 0240227272612G1

PETITION FOR GRANT OF VARIANCE

NANCY LEE LORENZ LIFE ESTATE

ATTACHMENT A

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JAN 24 2020
DOOR COUNTY
LAND USE SERVICES DEPARTMENT

Michael A. Lorenz, on behalf of the Nancy Lee Lorenz Life Estate, petitions for a grant of variance from portions of Section 3.12(4) of the Door County Comprehensive Zoning Ordinance which states that an accessory structure shall not be permitted until its associated principal structure is present or under construction, except that one accessory building may be permitted prior to the erection of a principal structure, provided the following requirements are met:

- (a) The floor area of the accessory building shall not exceed 120 square feet.
- (b) The total height of the accessory building shall not exceed 8 feet 6 inches as measured from the grade elevation to the highest point on the roof.
- (c) The accessory building shall be constructed of wood.
- (d) There shall be no windows, skylights, patio doors, or other glazing in the building.
- (e) Not more than one entrance door, not to exceed 6 feet in width, shall be permitted.
- (f) The building shall comply with all setback and yard requirements for accessory structures.
- (g) There shall be no water service, sanitary waste disposal, or electricity connected to the accessory building.

* See Note

The Lorenz's parcel is divided by a town road right-of-way. The residence is located on the east side (water-side) of S. Lake Michigan Drive and the proposed detached garage is located on the west side of S. Lake Michigan Drive. According to the Door County Comprehensive Zoning Ordinance, since the town road right-of-way divides this tax parcel, the detached garage is considered to be located on a separate lot. The applicant is proposing to construct a 24' x 28' detached garage with a wood exterior. The 672 square foot garage would be 18.5' in height, would contain two, 8.5' wide garage doors, and a total of 8 windows.

Note: The existing 10' x 12' shed and smaller accessory structure (historically used as an outhouse) will be removed from the property.

Note: These are what is allowed without a variance.

PETITION FOR GRANT OF VARIANCE

NANCY LEE LORENZ LIFE ESTATE

ATTACHMENT A

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Note: The existing 10' x 12' shed and smaller accessory structure (historically used as an outhouse) will be removed from the property.

Site Sketch

LOCATED IN:
GOV'T LOT 1, SECTION 27, T. 27 N., R. 26 E.,
TOWN OF STURGEON BAY, DOOR COUNTY, WISCONSIN

BUILDING ZONE = SF 20

- 65' CENTERLINE SETBACK
- 10' REAR-YARD ACCESSORY SETBACK
- 5' SIDE-YARD ACCESSORY SETBACK
- 10' EDGE OF ROW SETBACK
- 75' ORDINARY HIGH WATER MARK SETBACK

Caveat:

Building zones depicted are based on zoning setbacks in effect at the time this map was produced and should not be relied upon without first obtaining written verification thereof from the Door County Land Use Services Department: Zoning and/or any other local zoning authorities.

"Any land below the ordinary high water mark of a lake or a navigable stream is subject to the public trust in navigable waters that is established under article IX, section 1 of the state constitution."

PREPARED FOR:

CURRENT OWNER:
NANCY LORENZ
MICHAEL LORENZ
CYNTHIA MAIS
AMY UNGER
1642 N. 29TH STREET
SHEYBOYGAN, WI 53081

PROPERTY ADDRESS:
2478 S. LAKE MICHIGAN DRIVE

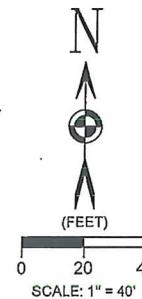
PREPARED BY:

BRIAN FRISQUE SURVEYS INC.
BRIAN D. FRISQUE
PROFESSIONAL LAND SURVEYOR
3121 MATHEY ROAD
STURGEON BAY, WI 54235
(920) 743-7183

SURVEYOR'S NOTES:

BEARINGS BASED FROM A TERRENCE J. McNULTY MAP #017690, DATED OCTOBER 23, 2013.

THE ORDINARY HIGH WATER MARK WAS DETERMINED BY THE DOOR COUNTY LAND USE SERVICES DEPARTMENT: ZONING ON JUNE 17, 2019.



LEGEND

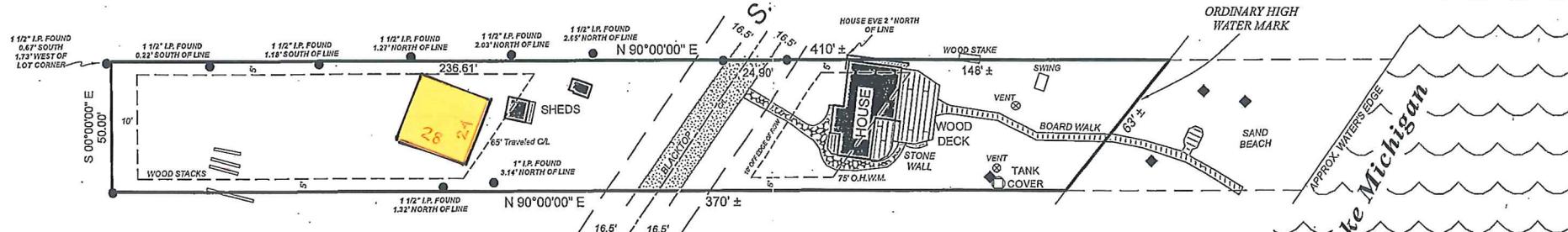
● = EXISTING 1" IRON PIPE
(UNLESS NOTED)

◆ = WOOD PILING

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LAND USE SERVICES DEPARTMENT



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JAN 24 2020

DOOR COUNTY
LAND USE SERVICES DEPARTMENT

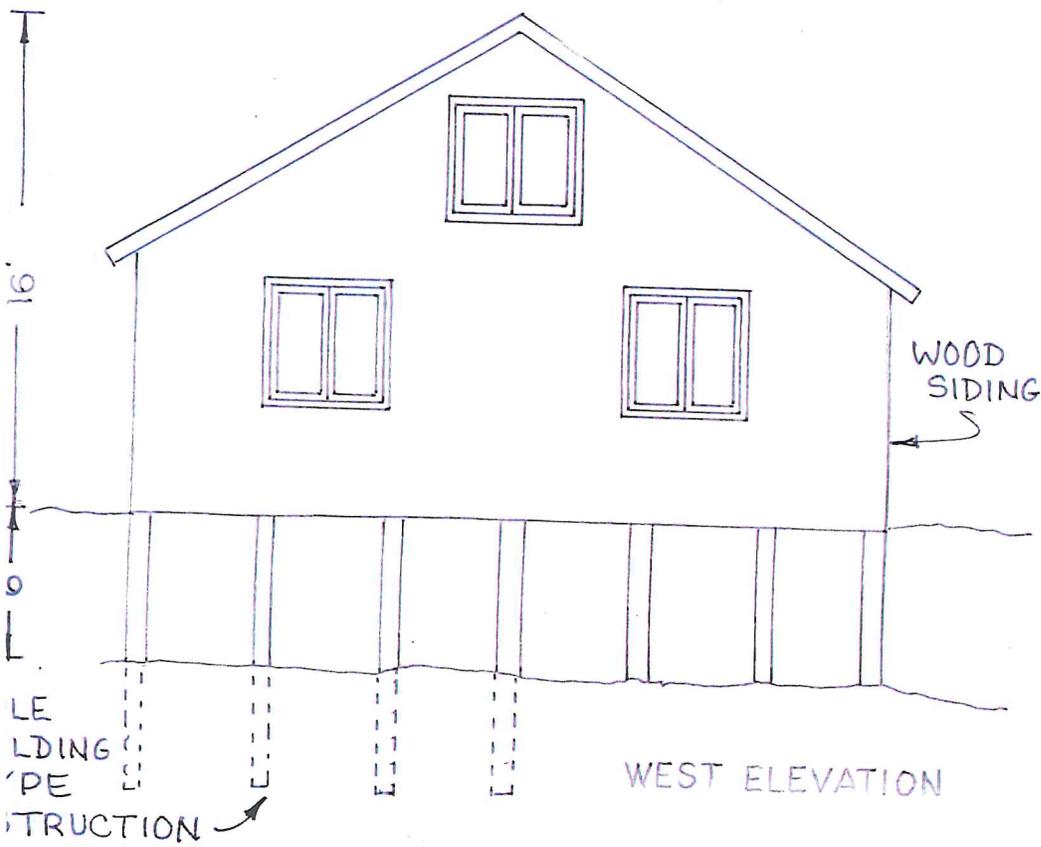
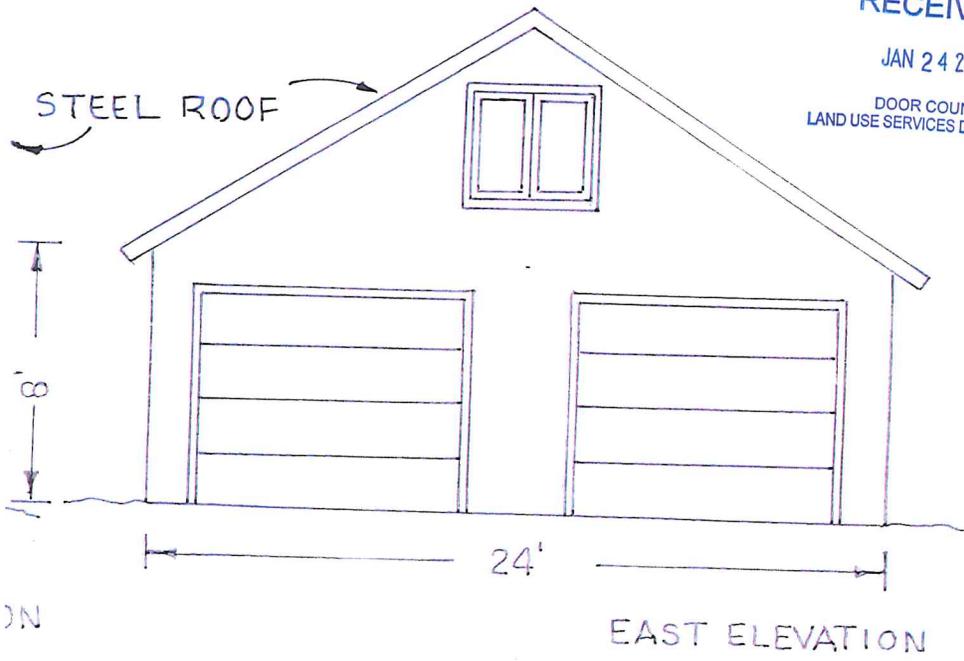
06-26-19
D-061719L-SS.dwg
Drawn By: C.E.C
JOB#: D-061719L

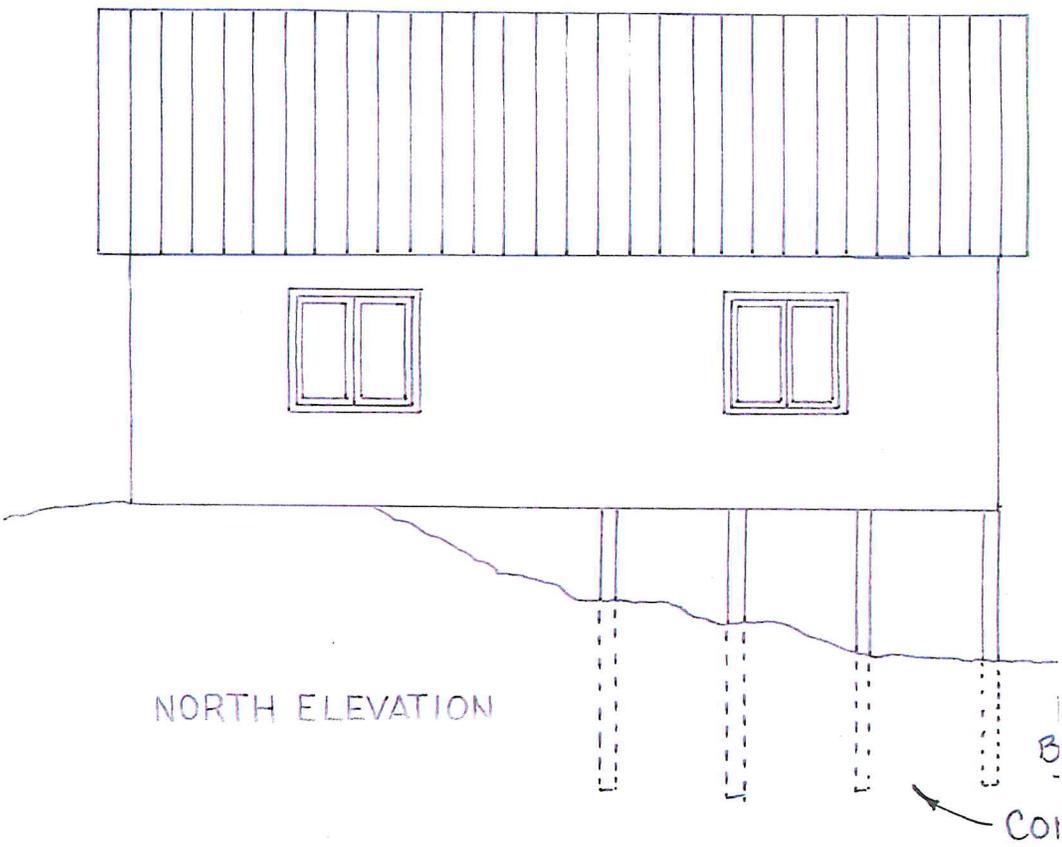
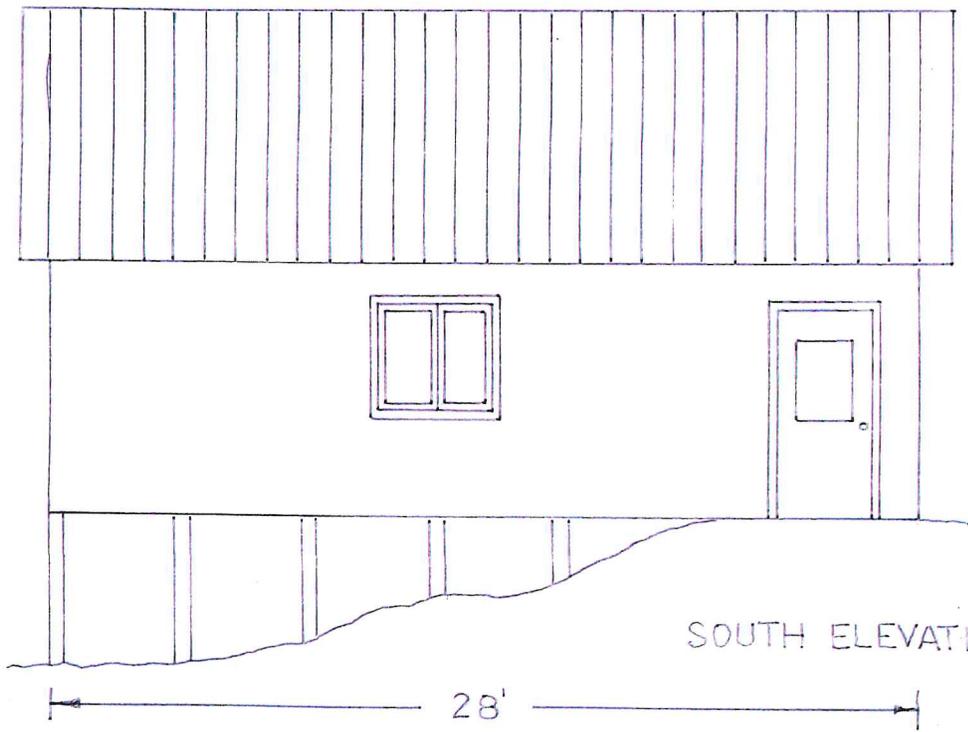
SHED PROPOSAL
2478 SLMD

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JAN 24 2020

DOOR COUNTY
LAND USE SERVICES DEPARTMENT



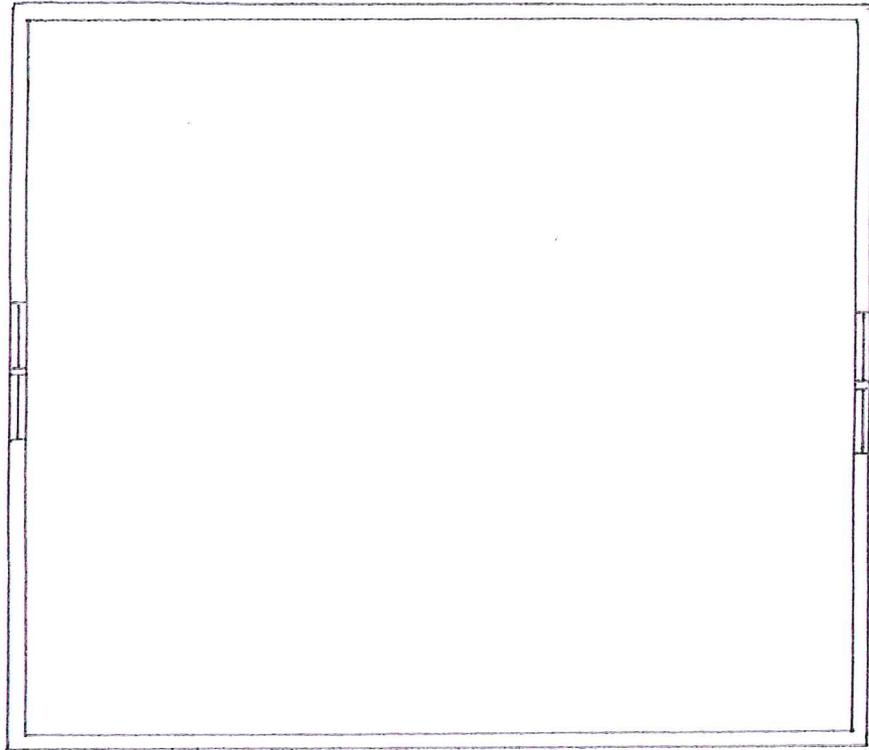


SHED PROPOSAL - 2478 SOUTH LAKE MICHIGAN DRIVE

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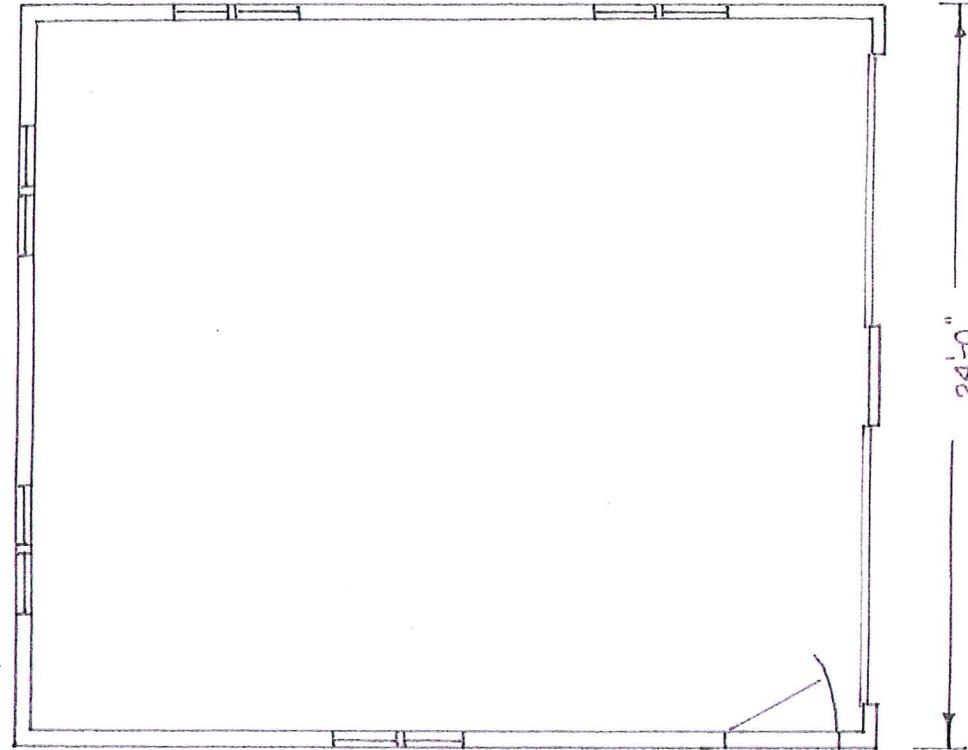
JAN 24 2020

DOOR COUNTY
LAND USE SERVICES DEPARTMENT



JAN. 2020

UPPER LEVEL



LOWER LEVEL

$\frac{1}{4}'' = 1'-0''$

1/31/20 11:29:48

ASSESSMENT INQUIRY
0240227272612G1 R 2020

INQ091
~~12~~

N 2478 S LAKE MICHIGAN DR
LORENZ, NANCY LEE LFEST

Geo.Loc: 15 024 4 27 26 27 1 01 001

MAIL TO:

LORENZ
NANCY LEE LFEST

1642 N 29TH ST
SHEBOYGAN WI 53081

2710

LEGAL DESCRIPTION

27 27 26 AC .00
COM NW COR GOVT LOT 1, E
1900' S 550' TO BEG S 50' E
TO LAKE NELY ALG LAKE TO PT
E OF BEG W TO BEG.

DOC# 799994 HT
DOC# 778694 QCD
MORE LEGAL AVAILABLE

BILL NO:

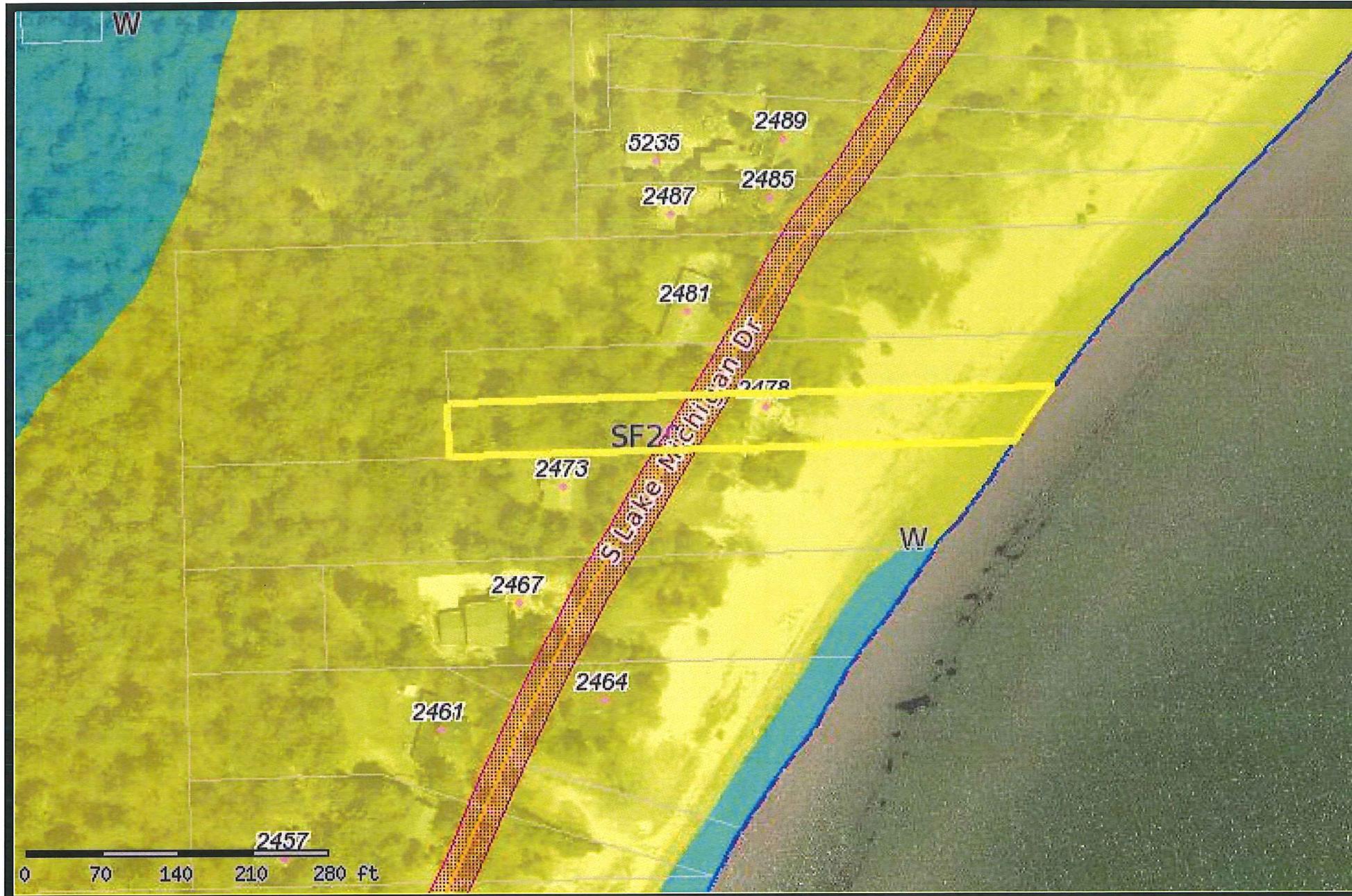
COMMENTS

EACH 1/3 INTEREST

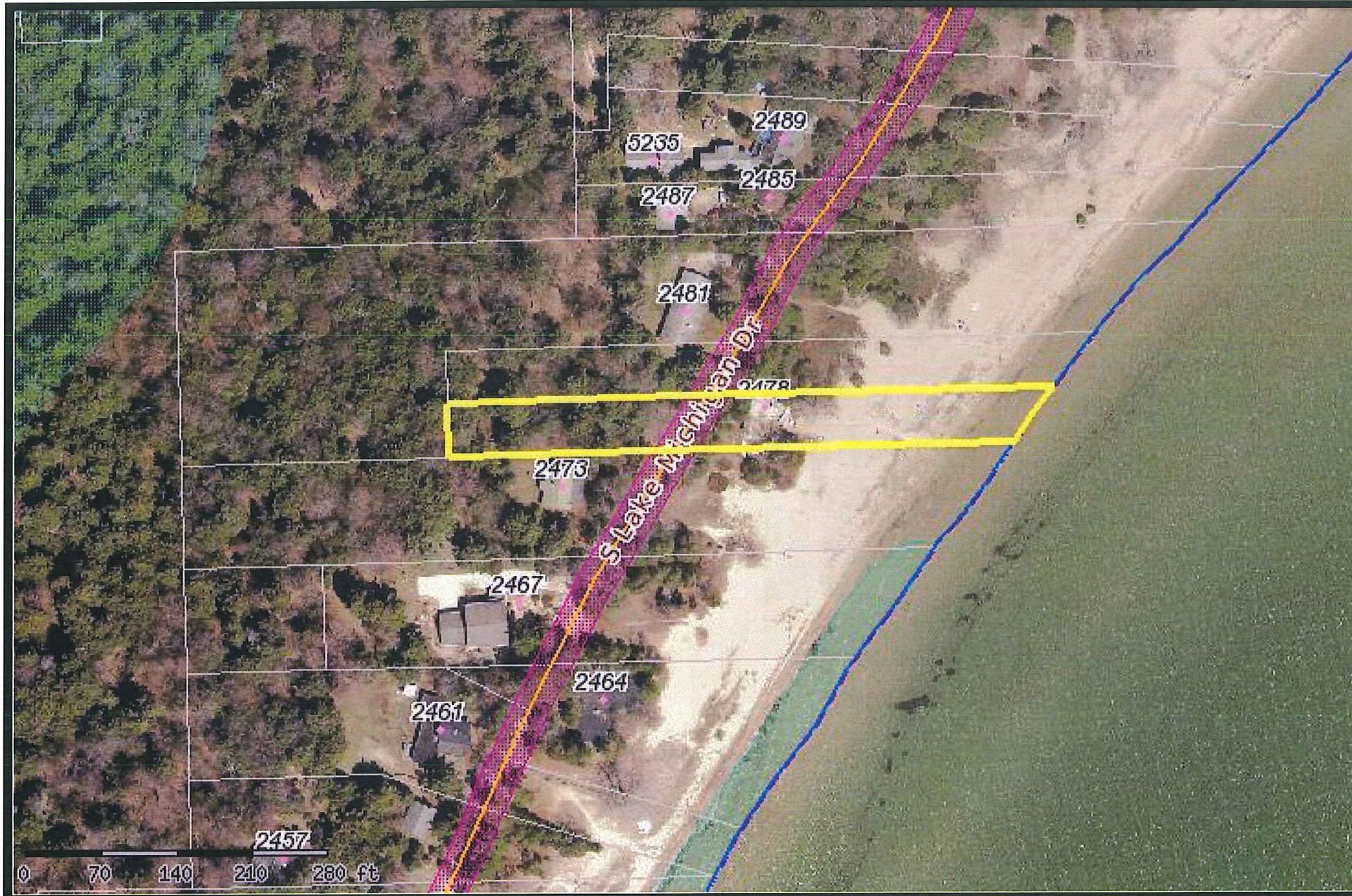
CURRENT TAX ASSESSMENT AS OF 2019				
CODE	ACRES	LAND	IMPROVE	TOTAL
L1		80000	63300	143300

TOTALS 80000 63300 143300

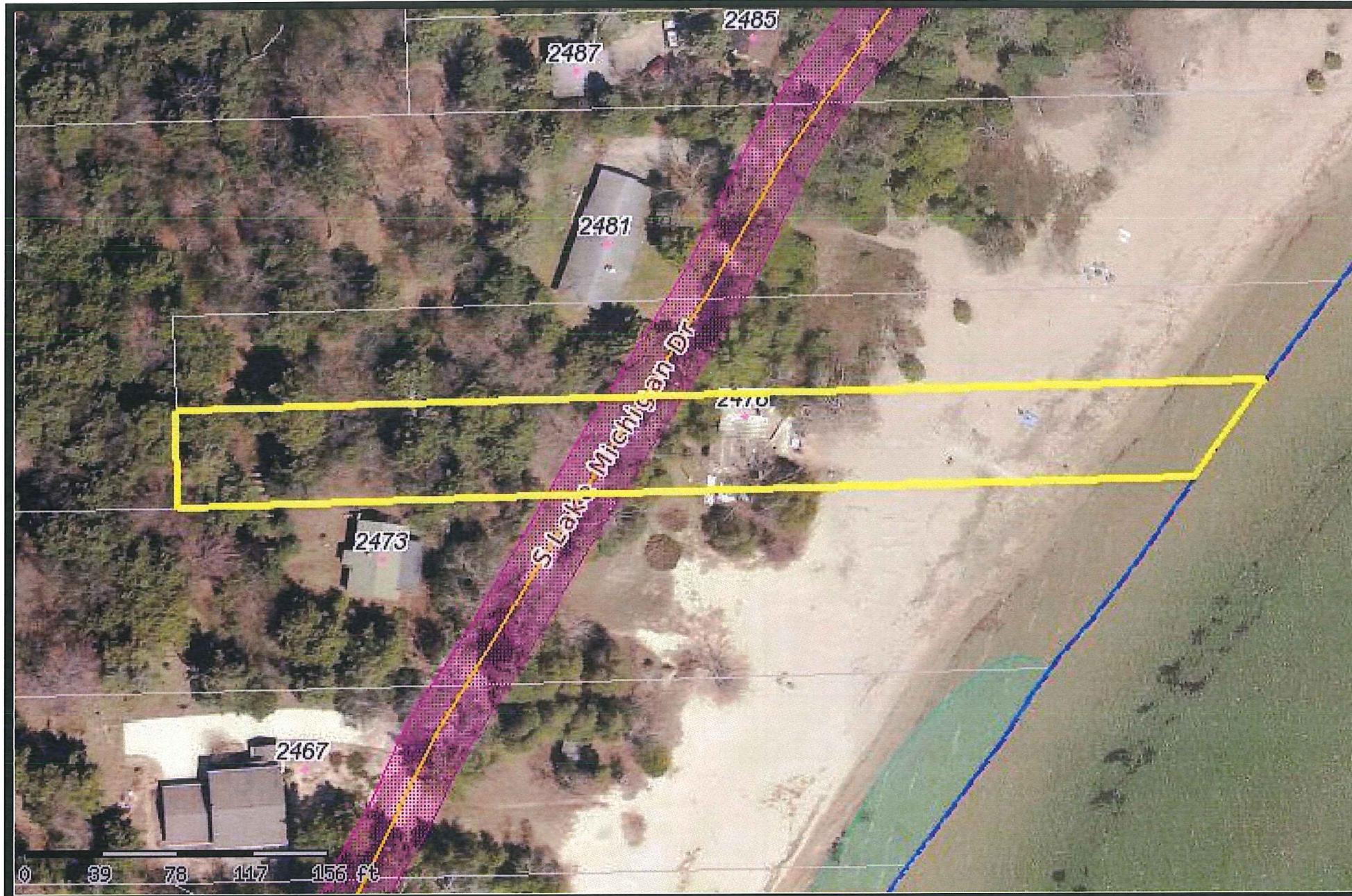
F3-Exit F5-Owners F7-Tax Detail F8-Legal F9-Directory
 F11-Districts F12-Prev Scrn F17-Fire# F18-DOA Site
 F21-Geo Location F6-Vol/Page Detail



Door County can not and does not make any representation regarding the accuracy or completeness, nor the error-free nature, of information depicted on this map. This information is provided to users "as is". The user of this information assumes any and all risks associated with this information. Door County makes no warranty or representation, either express or implied, as to the accuracy, completeness, or fitness for a particular purpose of this information. The Web Map is only a compilation of information and is NOT to be considered a legally recorded map or a legal land survey to be relied upon.



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Proposed garage location on West-side of SLMD.

Mike & Becky Boyer

934 Linden Avenue
Wilmette, Illinois 60091

2/18/2020

County of Door
Land Use Services Department of Zoning
County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235

Re: Petition for variance for Tax Parcel 024-02-27272612G1 (2478 South Lake Michigan Drive)

We are Mike and Becky Boyer, the property owners of 2481 South Lake Michigan Drive, north and adjacent to the subject property. Regarding the variance request for 2478 South Lake Michigan Drive, we have no objections to the plans as submitted.

Please feel free to contact us if you have any questions.



Mike Boyer & Becky Boyer
2481 South Lake Michigan Drive

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FEB 20 2020

**DOOR COUNTY
LAND USE SERVICES DEPARTMENT**

Michael A. Lorenz, on behalf of the Nancy Lee Lorenz Life Estate is requesting variances from portions of Section 3.12(4) of the Door County Comprehensive Zoning Ordinance which states that an accessory structure shall not be permitted until its associated principal structure is present or under construction, except that one accessory building may be permitted prior to the erection of a principal structure, provided the following requirements are met:

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The (circle one) Town Board / Planning Committee of the Town of Sturgeon Bay held a legally noticed and posted meeting on March 2, 2020, at which, by a vote of 3 (Yea) to 0 (Nay), the town recommended (check one) **SUPPORT** **DENIAL** for a variance.

Reason(s) for the town's decision:

No other options on property and there is room to do so. Property owner already has a house on the parcel.

Is the proposal consistent with the Town Comprehensive Plan?

Yes

Concerns or objections the town may wish to see potentially addressed through conditions:

None

Nancy Anschutz
Town Clerk Signature

3-2-2020
Date

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MAR 03 2020

*See reverse for variance criteria.

**MINUTES OF MEETING
DOOR COUNTY BOARD OF ADJUSTMENT**

March 10, 2020

1.0 Call to order and declaration of quorum.

The meeting was called to order by Chairman Frey at 6:30 p.m. on Tuesday, March 10, 2020, in the Peninsula Room (C121) of the Door County Government Center, Sturgeon Bay, Wisconsin.

Board of Adjustment Members

Fred Frey, Chairperson
Aric Weber, Vice-Chairperson
Bob Ryan
John Young
Monica Nelson

Staff Present:

Richard D. Brauer, Zoning Administrator

Excused:

Arps Horvath, First Alternate
Chris Anderson, Second Alternate

2.0 Discuss and arrive at a decision on a Petition for Grant of Variance.

2.1 The Raymond P. & Barbara J. Hansen Trust; woodland clearing limitations; Washington.

Motion by Ryan, seconded by Weber, to grant the petition for grant of variance. Motion carried unanimously (5-0).

Aye: Frey, Young, Ryan, Weber, Nelson.

The basis for the decision is set forth on the attached Board of Adjustment decision making worksheets.

3.0 Old Business.

3.1 Read and act on Minutes of February 25, 2020, meeting.

Motion by Young, seconded by Nelson, to approve the minutes as presented. Motion carried unanimously (5-0).

3.2 Final disposition of the following case considered by the Board of Adjustment at the February 25, 2020, meeting: Town of Baileys Harbor.

Motion by Weber, seconded by Young, to approve the final disposition of the case. Motion carried unanimously.

4.0 Other Matters.

4.1 Announce next meeting.

Brauer announced that the next meeting will be held on March 24, 2020. One variance case has been scheduled for public hearing that evening. Board member Weber announced that he would be unable to attend that meeting. Brauer also reminded the board members that Arps Horvath will be out of town on that date.

5.0 Vouchers.

All of the board members present submitted vouchers.

6.0 Adjournment.

Motion by Ryan, seconded by Young, to adjourn. Motion carried unanimously. Chairperson Frey declared the meeting adjourned at 7:12 p.m.

Respectfully submitted,

Richard D. Brauer
Zoning Administrator

RDB
03/11/20

**DOOR COUNTY BOARD OF ADJUSTMENT
DECISION-MAKING WORKSHEET**

APPLICANTS NAMES: The Raymond P. & Barbara J. Hansen Trust

PROPERTY ADDRESSES / P.I.N.s: Located south of 893 Jackson Harbor Road /
028-04-32343012B

HEARING DATE: March 10, 2020

To grant an area variance, all three of the standards enumerated below must be met. In addressing each standard, express the reasons for the decision, i.e., why the facts did or did not satisfy the standards, the weight and credibility of the evidence presented (or lack thereof), and any other relevant considerations.

1. UNIQUE PHYSICAL PROPERTY LIMITATIONS.

Are there unique physical property limitations such as steep slopes, wetlands, or parcel shape that prevent compliance with the ordinance? The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. The variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.

In order for a variance to satisfy the unique physical property limitation test, the question below must be answered affirmatively.

Does this property contain unique physical property limitations (e.g., wetland presence, parcel shape, steep slope, etc.) that would prevent compliance with the ordinance?

YES X NO _____

EXPLAIN: The question does not really fit the circumstance, but if the mine is to be approved it cannot operate without removing trees. It is adjacent to other mines and will fill a need for dimensional stone that the high water levels are creating. The denial of the variance would prevent the applicants from establishing a use that is allowed in this zoning district.

2. UNNECESSARY HARDSHIP.

Unnecessary hardship exists when a literal enforcement of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or when conformity with ordinance standards would be unnecessarily burdensome.

Considerations:

- Unnecessary hardship should be determined in light of the purpose and intent of the zoning ordinance in question, as well as any statute or administrative rule upon which the ordinance is based. (See page 4.) The facts of the case should be analyzed in light of these purposes. Only after considering the purpose(s) of the statute and/or ordinance, and the nature of the specific restriction(s) at issue, may a decision be made as to whether or not failure to grant a variance will cause an unnecessary hardship.

- Unnecessary hardship may arise due to a unique property limitation of a parcel (see #1, above). A variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.
- Unnecessary hardship does not include considerations personal to the property owner (e.g., personal preference, desire to maximizing the economic value of the property, or financial hardship caused by ordinance compliance).
- Any self-created hardship, and/or any hardship that existed irrespective of the zoning ordinance in question are not proper grounds upon which to grant a variance.
- Alternatives to a variance (e.g., conditional use permit or restrictive covenant) may, as neither runs with the land, be preferable to accommodate a disability of the owner or owner's dependent.

In order for a variance to satisfy the unnecessary hardship test, one of the questions below (A or B) must be answered affirmatively.

- A. Does denial of the variance -- i.e., requiring compliance with the strict letter of the ordinance provision(s) in question (e.g., setbacks, height limitations, etc.) -- unreasonably prevent the owner from using the property for a permitted purpose?**

YES NO

EXPLAIN: This is a historic use for adjacent land and is allowed in this zoning district. The denial of the variance will prevent the applicants from establishing a use that is allowed in this zoning district.

OR

- B. Is conformity with the regulation(s) unnecessarily burdensome?**

YES NO

EXPLAIN: The denial of the variance would prevent the applicant from developing a use that is allowed in this zoning district. The town needs this dimensional stone to protect its shorelines during this time of high water levels. Shipping stones from the mainland is becoming a huge financial burden for property owners on the island.

3. PUBLIC INTEREST/SPIRIT AND INTENT OF THE ORDINANCE.

A variance may not be granted which results in harm to public interests, nor thwarts the spirit and intent of the ordinance. In applying this test, the board should review the purpose statements of the ordinance (and any statute or administrative rule upon which the ordinance is based) in order to identify public interests. (See page 4.) The short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state, should be considered. Review should focus on the general public interest, rather than just the narrow interests or impacts on neighbors, patrons, or residents in the vicinity of the project.

Cumulative effects are a proper consideration. For instance, in the context of shoreland zoning, the general availability of variances permitting the horizontal expansion of structures so close to the water's edge may have the cumulative effect of enclosing our lakes within a wall of impermeable surfaces to the exclusion of vegetation and impairing the ecological functions of the shoreland buffer.

A variance is not a popularity contest. The mere fact of public support or opposition is not, in and of itself, determinative of whether or not a variance is contrary to the public interest.

The board may grant only the minimum variance needed, i.e., the minimum variance necessary to relieve the unnecessary hardship. For instance, if the request is for a variance of 30 feet from the minimum setback, and a finding is made that a 10-foot setback reduction would allow the petitioner to use the property for a permitted purpose, then only a 10-foot setback reduction may be authorized.

Distinguish between hardships that are unnecessary in light of the unique conditions of the property and the purpose of the zoning ordinance from hardships that are inconsequential or not unique or because a variance would unduly undermine the purpose of the ordinance or the public interest.

In order for a variance to satisfy the public interest test, the question below must be answered negatively.

Does the granting of the variance result in harm to the public interest?

YES _____ NO X

EXPLAIN: An overriding public benefit will be provided by allowing construction material to be supplied without transport from the mainland. The main use for this material now will be for shoreline protection during this period of high water. The mine will be screened from adjoining properties by a 50 foot wide buffer of existing trees. There are similar uses in the area. The granting of the variance will help to eliminate the expense of shipping stone from the mainland. The granting of the variance will promote planned and orderly land use development. The granting of a variance will protect property values and the property tax base. The granting of the variance will advance the use of this land with its character and suitability. The project will aid in implementing the county development plan.

Has the applicant seeking a variance demonstrated that each of the three standards has been satisfied in this case? YES X NO _____. If yes, then substantial justice will be done by granting the variance.

The privileges granted by this decision shall become void after one year unless the property owners obtain the appropriate zoning permits within such time.

Dated this March 11, 2020

Door County Zoning Ordinance Purpose Statements

"1.04 Purpose. The purpose of this Ordinance is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare. Further purposes of this Ordinance are to:

- (1) Aid in implementing the county development plan.
- (2) Promote planned and orderly land use development.
- (3) Protect property values and the property tax base.
- (4) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
- (5) Prevent overcrowding of the land.
- (6) Advance uses of land in accordance with its character and suitability.
- (7) Provide property with access to adequate sunlight and clean air.
- (8) Aid in protection of groundwater and surface water.
- (9) Preserve wetlands.
- (10) Protect the beauty of landscapes.
- (11) Conserve flora and fauna habitats.
- (12) Preserve and enhance the county's rural characteristics.
- (13) Protect vegetative shore cover.
- (14) Promote safety and efficiency in the county's road transportation system.
- (15) Define the duties and powers of administrative bodies in administering this Ordinance.
- (16) Prescribe penalties for violation of this Ordinance."

Wisconsin Statutes Purpose Statement

281.31. Navigable waters protection law

"(1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." (*Emphasis added.*)

Examples as to how to use the above in conjunction with analysis of a variance request

When considering a variance request to relax the required ordinary high water mark setback, county zoning ordinance purposes (8), (10), (11), and (13) are likely relevant to consider. Purposes (2), (3), (4), and (5) may also be relevant. Depending upon the nature of the variance request, any of the components of the statutory purposes behind shoreland zoning (above) may be relevant to consider.

When considering a variance request to relax a required yard (setback), county zoning ordinance purposes (2), (3), (4), and (5) are likely relevant to consider.