

**ZONING BOARD OF APPEALS  
AGENDA**

**Tuesday, June 18, 2019  
5:00 PM**

- 1) Site Inspections
  - a. Approximately 5:05 pm – Steve Winter, N8315 Northshore Road
- 2) Return to Municipal Building – Approximately 5:25pm
- 3) Call to Order
- 4) Roll Call
- 5) Pledge of Allegiance
- 6) Election of Vice-Chair
- 7) Election of Secretary
- 8) Approve Minutes
  - a. May 1, 2018
- 9) Public Participation (Non-Agenda Harrison Related Items)

*Please be advised per State Statute Section 19.84(2), information will be received from the public; be further advised that there may be limited discussion on the information received; however, no action will be taken under public comments.*
- 10) Convene Meeting and Enter Public Hearing– Approximately 5:30pm
  - a. Variance – Steve Winter – N8315 Northshore Road
- 11) Close Public Hearing and Reconvene Regular Meeting
- 12) Items for Discussion and Possible Action
  - a. Variance – Steve Winter – N8315 Northshore Road
- 13) Adjourn

Any person with hearing disabilities or requiring special accommodations to participate in the meeting should contact the Clerk's Office (920-989-1062) at least 24-hours prior to the meeting. This is a public meeting. As such, a quorum of the Village Board, Plan Commission, or Committees may be in attendance. However, the only business to be conducted is for the Zoning Board of Appeals.

Posted: June 11, 2019

## Zoning Board of Appeals Minutes

May 1, 2018

- 1) Site Inspections: Site inspection occurred at 5:05pm. Viewed the following properties:
  - a. W5622 Vans Road – Steven Sommi.
- 2) Call to Order: Meeting was called to order at 5:25pm.
- 3) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, Scott Chicoine, 1 seat vacant.  
Staff present: Mark Mommaerts, AICP (Planner).
- 4) Pledge of Allegiance: Pledge was recited.
- 5) Election of Vice-Chair: Motion (Capper/Majewski) to nominate John Jung as Vice-Chair.  
Motion carried unanimously.
- 6) Election of Secretary: Motion (Capper/Jung) to nominate Craig Majewski as Secretary.  
Motion carried unanimously.
- 7) Approve Minutes: Motion (Capper/Jung) to approve the June 6, 2017 minutes. Motion carried unanimously.
- 8) Public participation: There was no public comment.
- 9) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:30pm. The following petitions were heard:
  - a. Variance – Steven Sommi – W55622 Vans Road. The hearing notice was read into the record. Testimony was taken from Jeff Stodola, Frontier Builders (Petitioner’s agent) and Steven Sommi (Petitioner) who spoke in favor of the variance request. Mr. Stodola stated that at first the petitioner wanted to raise the grade around the building to avoid flooding. He stated that the petitioner has owned the property since 2012 and is looking to replace the garage with a modern building that would fit into the neighborhood. He also stated that 168 sq ft would be returned to green space but the building footprint would increase. Sheila Hopfensperger, W5630 Vans Road stated that she is concerned about grading and runoff. She stated that she does not have a problem with the size of the building and that the area is low. Zoning Board member Capper asked if the infrastructure of the existing building was salvageable. Mr. Stodola stated that there is rotting on the inside and the grade

would have to be raised 12-18 inches and the plan is to use a swale to keep the water on-site. Raising the building and repouring concrete was the initial plan. Zoning Board member Jung asked if the building was a two part structure. Mr. Stodola stated that it was prior to the petitioner owning the property. Staff memo to the Zoning Board of Appeals dated May 1, 2018 was included in the record.

10) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 5:44pm.

11) Items for Discussion and Possible Action: The following items were discussed:

- a. Variance – Steven Sommi – W5622 Vans Road. The Zoning Board of Appeals had general discussion regarding the standards to approve a variance found in the Zoning Ordinance. The Zoning Board of Appeals found the following:
  1. The variance is contrary to the public interest because the zoning code limits accessory buildings to 900 square feet for all properties in the RS-1 zoning district. The 900 square feet was determined by the Village to be the appropriate size for an accessory building in the RS-1 zoning district.
  2. Special conditions and circumstances which are peculiar to the land, structure, or building do not exist because the property is not unique to other properties in the area due to lot size or use.
  3. The hardship is shared generally by other land or buildings in the area because the 900 square foot limit covers all properties in the RS-1 zoning district.

Motion (Capper/Majewski) to deny the variance request. Jung asked if cost was a factor. Chicoine responded that cost is not a factor when granting variances. Motion carried unanimously.

12) Set Next Meeting Date: Next meeting set for June 5, 2018 at 5:00pm.

13) Adjourn: Motion (Jung/Capper) to adjourn at 5:54pm. Motion carried unanimously.

*Dated: May 2, 2018*

*Prepared by: Mark Mommaerts, AICP, Planner*

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Craig Majewski, Secretary      Date  
Zoning Board of Appeals

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**ZONING BOARD OF APPEALS MEETING**

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**VILLAGE OF HARRISON**

**From:**

Mark J. Mommaerts, AICP, Planner

**Meeting Date:**

June 18, 2019

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**Title:**

Variance - Winter

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**Issue:**

Should the Zoning Board of Appeals grant a variance request to construct an accessory building/structure on an adjacent lot from the principal building prior to a principal building being on the adjacent lot?

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**Background and Additional Information:**

The applicant, Steve Winter, is requesting a variance in order to construct an accessory building/structure (open sided shelter with fireplace) on an adjacent lot to the principal building prior to a principal building being on the lot. The applicant currently owns three (3) parcels that are adjacent to each other, Tax IDs 41302, 41306, and 39916. The properties are all zoned Single-Family Residential (Suburban) [RS-1] and Shoreland Overlay [SHO]. Tax ID 41302 includes the existing home occupied by the applicant which was recently constructed within the past 3 years. The applicant purchased Tax IDs 41306 & 39916 and removed the existing home in 2018. The rear yard of Tax ID 41302 is limited due to the steep slopes adjacent to Lake Winnebago. The applicant wishes to place the shelter on Tax ID 41306, approximately where the house use to be.

It was suggested that the applicant combine all 3 parcels into 1 lot. This would allow the applicant to place the shelter in the desired location. The applicant has future plans to build a house on Tax ID 41306. By combining the 3 parcels into 1, the applicant would be limited at a future land division to creating lots that meet the zoning requirements for lot frontage, typically 80-feet but can be reduced to 33-feet for flag lots. Currently, Tax ID 41306 only has 17-18 feet of road frontage, it is a legal nonconforming lot. So combining the 3 lots into 1 and then splitting them back into the original lots will not meet the zoning requirements.

The applicant is requesting the variance because a lot combination is acceptable to have the accessory structure on the same lot as the principal structure, but not if a future land division cannot occur to create the same existing lots for a new home.

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**Zoning Ordinance:**

117-54(a)(1) & (8)

Sec. 117-54. - Accessory uses, buildings and structures.

- (a) *General regulations for accessory uses, buildings and structures.* All accessory uses, buildings and/or structures shall abide by the following general regulations:

- (1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction, except temporary construction trailers.
- (2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, and maximum lot coverage standards.
- (3) When not attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the accessory buildings and/or structures in the zoning district including, but not limited to setback requirements, building height limits, and maximum lot coverage standards.
- (4) Accessory buildings or structures in the RS-1, RS-2, and RT zoning districts shall not be located closer to the front lot line than is the principal structure, except those properties located adjacent to the shoreline of Lake Winnebago.
- (5) Accessory buildings or structures shall not be located within any recorded easement (utility, drainage, or other) without written consent of the entity controlling the easement.
- (6) The following, including but not limited to, truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall not be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.
- (7) Any detached accessory use, building and/or structure with a water closet (toilet facility) shall require a conditional use permit, pursuant to article XI, Conditional Use Permits.
- (8) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.
- (9) Detached accessory buildings shall not be used as a secondary dwelling.

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**Conclusions of Law/Requirements for a Variance [Section 117-360.]:**

Variations shall only be granted when the Zoning Board finds that:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance.  
*Staff finds that the variance is not contrary to the public interest because the structure will meet all required setbacks and the property is located at the end of a private road.*
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.  
*Staff finds that accessory buildings, similar to the proposed shelter, are allowed accessory uses in the RS-1 zoning district.*
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.  
*Staff finds slopes along Lake Winnebago affect the amount of usable land for these parcels.*

4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.  
*Staff finds that other properties in the RS-1 zoning district are allowed accessory buildings/structures.*
5. The hardship is not shared generally by other land or buildings in the area.  
*Staff finds that other properties are limited with placement location of accessory buildings. Staff finds that accessory buildings are a convenience and are incidental to the principal building/use of the property.*
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.  
*Staff finds that the variance request is not self-created.*

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**Recommended Action:**

Based on the information provided, staff recommends denial of the Variance request. The reason is that an accessory building is a convenience and is incidental to the principal use/building. The property can be utilized for its intended use as a single-family home site.

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**Attachments:**

- Variance Application
- Aerial Map
- Site Plan for Shelter
- Plan view and Elevation view of Shelter

Village of Harrison

W5298 Hwy 114  
Harrison, WI 54952  
Phone: 920-989-1062

**VARIANCE &  
ADMINISTRATIVE APPEAL  
APPLICATION**

Applicant Information			
Applicant Name (Indiv., Org. or Entity) STEVE & TERI WINTER		Authorized Representative Steve	
Mailing Address N8321 NORTHSHORE RD		Title OWNER	
E-mail Address swinter@rolliewinter.com		City MENASHA	State WI
		Postal Code 54952	
		Telephone (include area code) 920-585-9144	Fax (include area code)
Landowner Information (if different than Applicant)			
Name (Organization or Entity) STEVE & TERI WINTER		Contact Person Steve	
Mailing Address SAME		Title	
E-mail Address SAME		City	State
		Postal Code	
		Telephone (include area code)	Fax (include area code)
Project or Site Location			
Site Name (Project): N8315 NORTHSHORE RD		Location ID(s): MENASHA 41306	
Site Address / Location: N8315 Northshore Rd		Plat / CSM / Lot No.: LOT 17, LANSERS FRESH AIR BEACH PLAT	
Quarter: <input type="checkbox"/> NW <input checked="" type="checkbox"/> NE <input type="checkbox"/> SW <input type="checkbox"/> SE	Section: 22	Township: 20 N	Range: 18 E
Legal Description: All of Lot 17, LANSERS FRESH AIR BEACH PLAT			
Current Zoning: RESIDENTIAL		Proposed Zoning:	
Current Uses: VACANT LOT		Proposed Uses: OPEN SHELTER	
Lot Dimensions: Front: 17 Side: 290 Rear: 145 Side: 240 Lot Area: 19,400 <input type="checkbox"/> acres or <input checked="" type="checkbox"/> square feet			
Variance or Administrative Appeal Petition (see reverse side also)			
List which code section(s) requesting variance from or decision appealing: 117-54(a)(1) + (8)		Describe the Reason(s) for the Request (attach separate document if needed): ACCESSORY STRUCTURE ON ADJACENT LOT	
Fees			
<input checked="" type="checkbox"/> \$350.00			
Certification & Permission			
<p><b>Certification:</b> I hereby certify that I am the landowner of the property which is the subject of this Application. I certify that the information contained in this form and attachments is true and accurate. I understand that failure to comply with any or all of the provisions of the ordinances and/or permit may result in notices, fines / forfeitures, stop work orders, permit revocation and cease &amp; desist orders.</p> <p><b>Permission:</b> As landowner of the property, I hereby give the permit authority permission to enter and inspect the property to evaluate this application, to determine compliance with the ordinances and to perform corrective actions after issuing proper notice to the landowner.</p>			
Applicant Signature 		Date Signed 5/28/19	
Landowner Signature (required) 		Date Signed 5/28/19	

Page 1 of 2

LEAVE BLANK – FOR MUNICIPAL USE ONLY			
Application Withdrawal Signature (required):		Date Signed:	Reason:
Date Complete	<div style="border: 2px solid black; padding: 5px; text-align: center;"> <b>RECEIVED</b>   <b>MAY 28 2019</b> </div>	Fee Received \$ 350. <sup>00</sup>	Receipt No: 8481
Application Received:		Date Paid: 5-28-19	Taken By: jw

HARRISON PLANNING

**Required Information** The following items are required attachments. An application will not be considered complete until all attachments are filed. (Please attach additional sheets if more room is needed.)

**Site Plan.** A detailed drawing, drawn to scale, indicating lot lines, roads, driveways, buildings/structures, setbacks and any other pertinent information shall be submitted.

**Project Plans.** A detailed drawing, drawn to scale, indicating all floor plans, elevations and any other pertinent information shall be submitted.

**Photos (Optional).** Photographs of the site, building or project may be submitted as part of the application.

**Written Statements.** Statements responding to the following criteria shall be submitted.

1. **Unique Property Limitations.** Unique physical limitations of the property (i.e. steep slopes, wetlands, etc.) that prevent compliance with ordinance requirements can be considered for a grant of a variance. The circumstances of an applicant (i.e. growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by an ordinance amendment request.

Unique features of this property which prevent compliance with the terms of the ordinance include:

THIS USE IS ALLOWED IF LOTS ARE COMBINED INTO A NEW CSM HOWEVER BECAUSE OF SMALL AMOUNT OF FRONTAGE ON PRIVATE ROAD, THESE LOTS COULD NOT BE SPLIT AGAIN IN FUTURE

2. **No Harm to Public Interests.** A variance may not be granted which results in harm to public interests. In applying this test, the Zoning Board of Appeals must consider the impact of the proposal and the cumulative impacts of similar projects on the interest of the neighbors, the entire community and the general public. These interests are listed in the Purpose and Intent section of the ordinance.

A variance will not be contrary to the public interests because: THIS IS AT END OF PRIVATE

ROAD

3. **Unnecessary Hardship.** An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (i.e. excavating a pond on a cant 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 Zoning Board of Adjustment must consider the purpose and intent of the zoning restriction, the zoning restrictions 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.

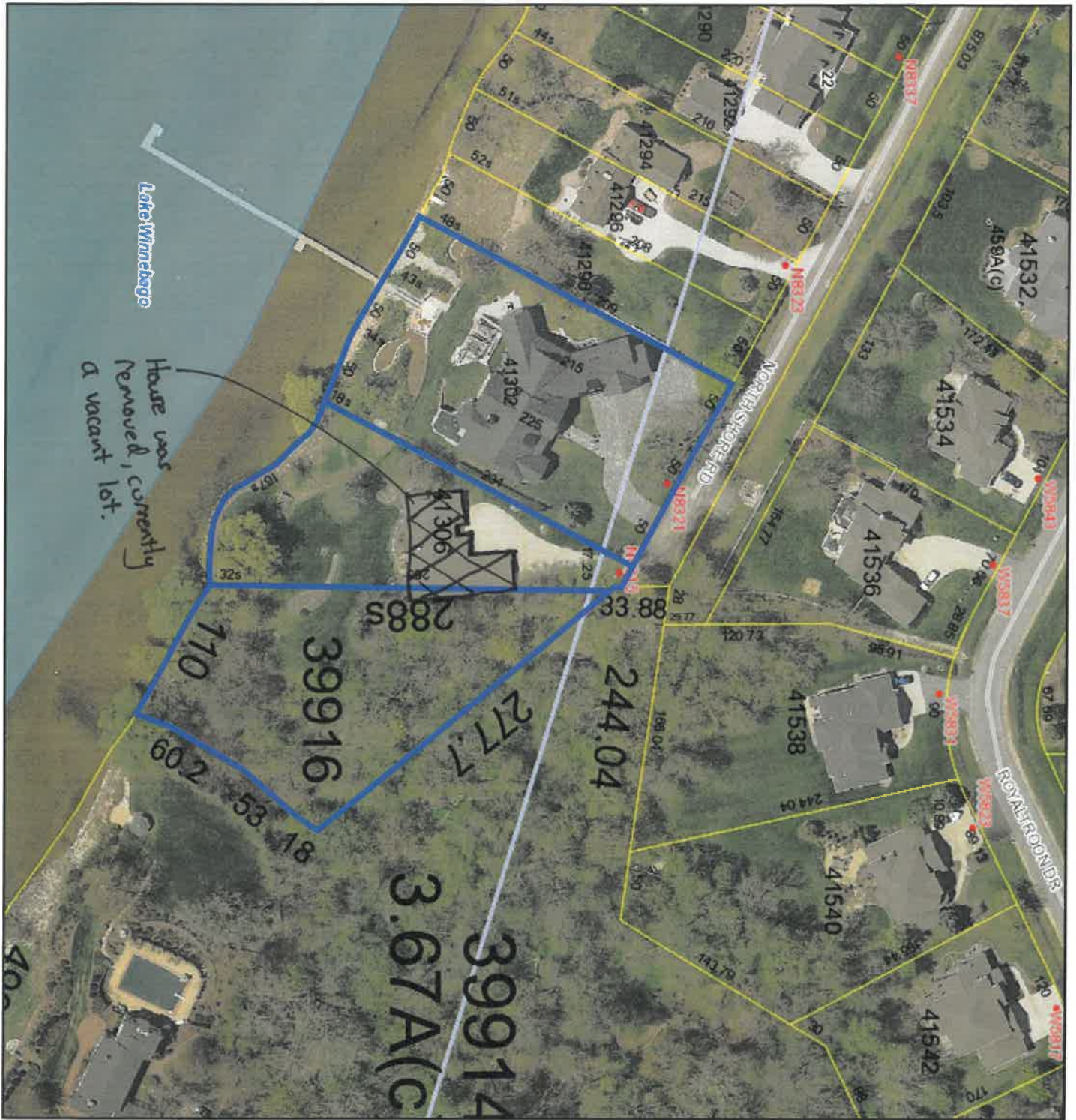
The unnecessary hardship is, and is present because: THE EXTREME SHAPE OF THE LOT

PREVENTS ADDING FRONTAGE TO MAKE ANY FUTURE SPLITTING OF THE LOT BACK TO ITS CURRENT STATUS IMPOSSIBLE.

**Basis for Approval:** Variances shall only be granted when the Zoning Board finds:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this ordinance.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
5. The hardship is not shared generally by other land or buildings in the area.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.





**Calumet County, WI**

**Legend**

- Address Point
  - County Boundary
  - Wisconsin Water
  - Unincorporated Community
  - Town Boundary
  - Point of Interest
  - Parcel Boundary
  - Property Hook
  - PLSS Section
  - State Parks
  - County Parks
  - Lake
  - River and Stream
  - Major Roads
  - Local Roads
  - Local Roads
  - Municipal Streets
  - Trail
  - Railroad
- Color 2018**
- Red: Band\_1
  - Green: Band\_2
  - Blue: Band\_3



0 50 100 150ft

**DISCLAIMER:** This map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user.

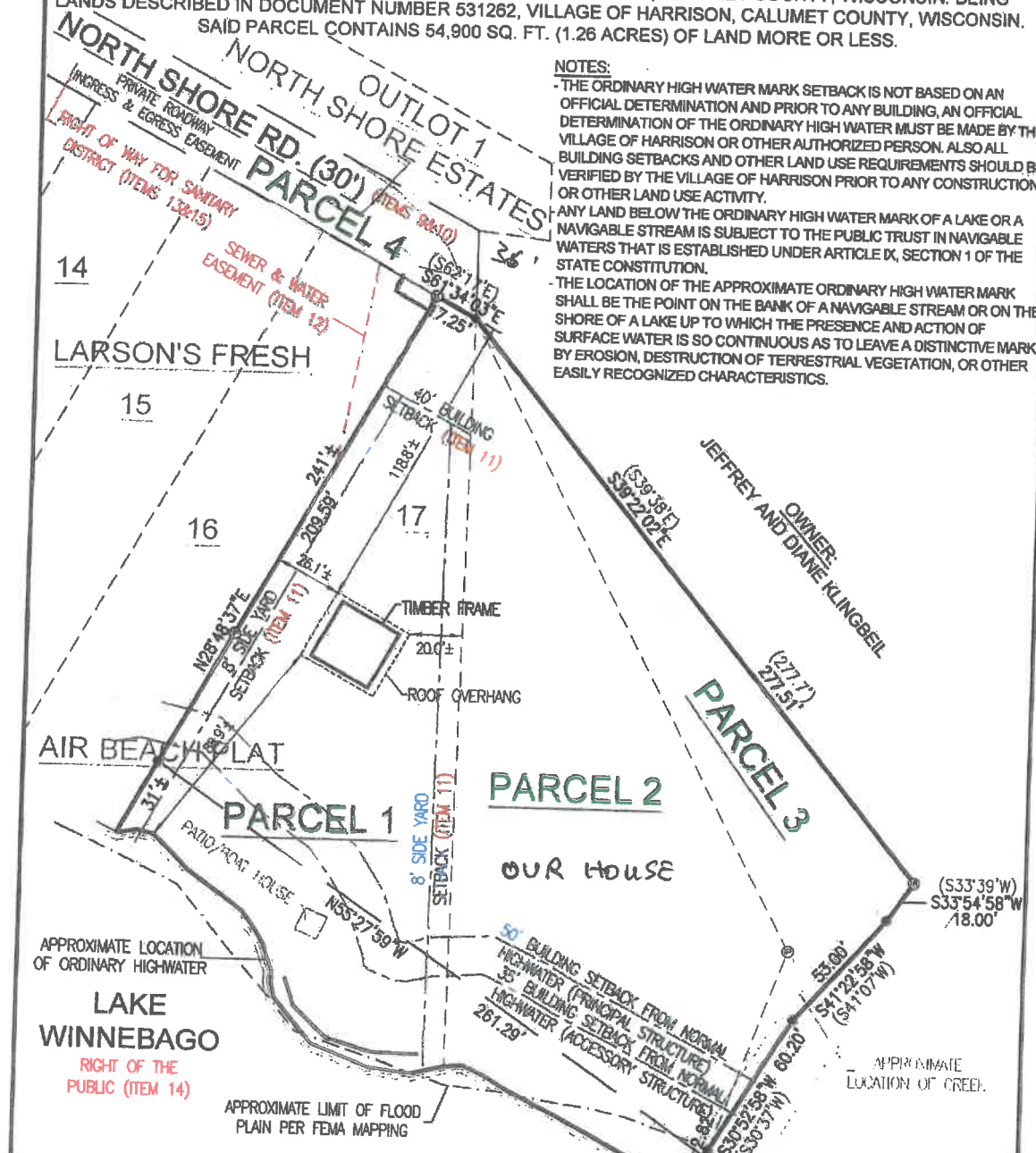
Author:	
Data Provided:	04/18/2022 PM
Sources:	

# "PLAT OF SURVEY"

BEING ALL OF LOT 17, LARSON'S FRESH AIR BEACH PLAT AND PART OF THE GOVERNMENT LOT 2, SECTION 22, TOWNSHIP 20 NORTH, RANGE 18 EAST, VILLAGE OF HARRISON, CALUMET COUNTY, WISCONSIN. BEING LANDS DESCRIBED IN DOCUMENT NUMBER 531262, VILLAGE OF HARRISON, CALUMET COUNTY, WISCONSIN. SAID PARCEL CONTAINS 54,900 SQ. FT. (1.26 ACRES) OF LAND MORE OR LESS.

**NOTES:**

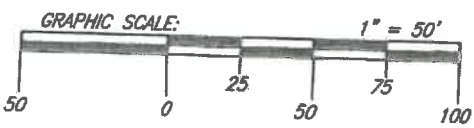
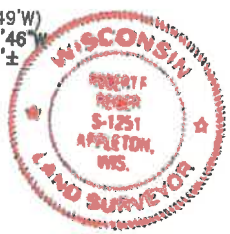
- THE ORDINARY HIGH WATER MARK SETBACK IS NOT BASED ON AN OFFICIAL DETERMINATION AND PRIOR TO ANY BUILDING, AN OFFICIAL DETERMINATION OF THE ORDINARY HIGH WATER MUST BE MADE BY THE VILLAGE OF HARRISON OR OTHER AUTHORIZED PERSON. ALSO ALL BUILDING SETBACKS AND OTHER LAND USE REQUIREMENTS SHOULD BE VERIFIED BY THE VILLAGE OF HARRISON PRIOR TO ANY CONSTRUCTION OR OTHER LAND USE ACTIVITY.
- 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.
- THE LOCATION OF THE APPROXIMATE ORDINARY HIGH WATER MARK SHALL BE THE POINT ON THE BANK OF A NAVIGABLE STREAM OR ON THE SHORE OF A LAKE UP TO WHICH THE PRESENCE AND ACTION OF SURFACE WATER IS SO CONTINUOUS AS TO LEAVE A DISTINCTIVE MARK BY EROSION, DESTRUCTION OF TERRESTRIAL VEGETATION, OR OTHER EASILY RECOGNIZED CHARACTERISTICS.



**LEGEND:**

- = 1" X 24" I.D. ROUND IRON PIPE SET, WEIGHING 1.13 LBS. PER LIN. FT.
- ⊙ = 1-1/4" SOLID ROUND IRON REBAR FOUND
- ⊕ = 1" IRON PIPE FOUND
- ⊗ = CHISEL CROSS FOUND
- ( ) = RECORDED AS

CLIENT:  
**STEVE WINTER**  
 C/O ROLLIE WINTER & ASSOCIATES  
 3305C N. BALLARD ROAD  
 APPLETON, WISCONSIN 54911



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AS SHOWN ACCORDING TO THE OFFICIAL RECORDS AND THAT THIS PLAT OF SURVEY IS A CORRECT REPRESENTATION OF SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Robert F. Reider*  
 ROBERT F. REIDER, PLS-1251 DATED 9-28-2018 REVISED 5-16-2019

**CAROW LAND SURVEYING CO., INC.**

615 N. LYNNDAL DRIVE, P.O. BOX 1297  
 APPLETON, WISCONSIN 54912-1297  
 PHONE: (920)731-4168 FAX: (920)731-5673

SCALE	1" = 50'
DRAWN BY	cep RDD
PROJECT NO.	A1808.3



