

**CALUMET COUNTY ZONING BOARD OF ADJUSTMENT
AGENDA**

Date: May 20, 2021
Time: 6:30 p.m.
Place: Room 025

Information pertaining to the meeting can be found on the Calumet County Website www.calumetcounty.org and navigating to the Planning, Zoning, & Land Information Department page. Any member of the public wishing to attend this public hearing virtually can do so by calling **1-844-992-4726**. Once you dial the number, you will be asked to enter an access code. The number is **187 104 3442**. Once you have entered the access code correctly, you will be prompted to enter your attendee ID. Call in users simply press the **# Key**. Please note that all attendees will be muted until the public participation portion of the meeting.

Agenda:

1. Depart Courthouse at approximately 5:45 p.m. to conduct a site inspection.
2. At approximately 6:00 p.m. inspect the Tom Mullins site at N2873 Driftwood Beach Rd. Return to the Courthouse at approximately 6:30 p.m.
3. Call Meeting to Order
4. Meeting Announcement and Posting
5. Roll Call
6. Approve Agenda
7. Approve Minutes from the November 19, 2020 Public Hearing
8. Public Participation not related to Public Hearings (if honored by Committee Chair)
9. Communications not related to Public Hearings
10. Convene Meeting and go into Public Hearing
 - a. Petition 1 – Tom Mullins
11. Close Public Hearing and Reconvene Meeting
12. Reminder-Next meeting date set for June 17, 2021
13. Adjournment

This is a public meeting. As such, all members or a majority of the members of the County Board may be in attendance. While a majority of the County Board members or the majority of any given County Board Committee may be present, only the above committee will take official action based on the above agenda. So as not to disturb the meeting, all cell phones must be placed on vibrate and all calls taken outside the meeting room.

Any person wishing to attend who, because of a disability, requires a special accommodation, should contact the Planning, Zoning & Land Information Department at (920) 849-1442 at least 24 hours before the scheduled meeting time so appropriate arrangements can be made.



PUBLIC HEARING NOTICE

CALUMET COUNTY ZONING BOARD OF ADJUSTMENT

The Calumet County Zoning Board of Adjustment will hold a public hearing beginning at approximately 6:30 p.m. on May 20, 2021, in Conference Room 025 of the Calumet County Courthouse. Use Courthouse Entrance B and follow the signs. Prior to the hearing, the Board will meet at 5:45 p.m. in the Calumet County Courthouse West Parking Lot. The Board will then leave the Courthouse to view the subject property at approximately 6:00 p.m. and then return to the Courthouse.

Any member of the public wishing to attend this public hearing virtually can do so by calling **1-844-992-4726**. Once you dial the number, you will be asked to enter an access code. The number is **187 104 3442**. Once you have entered the access code correctly, you will be prompted to enter your attendee ID. Call in users simply press the **# Key**. Detailed directions on how to join the virtual meeting and to view information pertaining to the requested variance can be found on the Calumet County Website www.calumetcounty.org by navigating to the Planning, Zoning & Land Information Department's page.

Individuals interested in the following issues are encouraged to attend the meeting or submit written testimony to Brian Giebel at the Planning, Zoning & Land Information Department, 206 Court Street, Chilton, WI 53014, (920) 849-1442 or by emailing brian.giebel@calumetcounty.org.

PETITIONS/APPEALS

1. Tom Mullins is requesting a variance from Section 52-47 of the Calumet County Shoreland Zoning Code to construct a 10ft x 12ft accessory structure within the 75 foot shoreland setback area of a navigable waterway. The subject property is located at N2873 Driftwood Beach Rd in the Town of Brothertown.

DELIBERATION

The Board will accept and review all pertinent information relative to the above-listed items. The Board may, if deemed necessary, recess into executive session to deliberate upon the proposed petitions pursuant to Chapter 19.85(1)(a) of the Wisconsin Statutes.

DECISION

The Board will make their decision in open session providing all appropriate information is available.

Respectfully submitted:

Deb Reinhart, Chair
Zoning Board of Adjustment

Planning and Zoning

CALUMET COUNTY ZONING BOARD OF ADJUSTMENT
November 19, 2020 Virtual (WebEx) Public Hearing Meeting Minutes
THESE MINUTES HAVE NOT BEEN APPROVED

1. Call Meeting to Order

Reinhart called the meeting to order at 5:35 p.m.

2. Meeting Announcement & Posting

Giebel indicated that the public hearing was properly noticed within the Tri-County News for the weeks of November 5th and November 12th.

3. Roll Call

Reinhart took roll call.

Board Members present: Deb Reinhart, Dave Jannette, Kevin Fischer, Gary Winkler, Jon Cousins. Board members inspected the property separately prior to the hearing. Fischer was excused from the meeting at 7:00 p.m.

Members absent: n/a

Planning Staff present: Brian Giebel, Code Administrator; Chris Meuer, Code Administrator, Matt Payette, Director

4. Election of Officers

Giebel called for nominations for Chairman. Only one nomination was made. Dave Jannette nominated Deb Reinhart for Chairman. After a unanimous vote, Deb Reinhart was elected Chairman.

Giebel called for nominations for Vice Chairman. Only one nomination was made. Kevin Fischer nominated Dave Jannette for Vice Chairman. After a unanimous vote, Dave Jannette was elected Vice Chairman.

Giebel will continue on as recording secretary.

5. Special Meeting Approval:



Reinhart read the following: Our rules do not prohibit virtual meetings; however, we are eliminating some things from the agenda due to this being a special meeting. Therefore, I would ask for a motion to set aside the Rules for this special virtual meeting. After a motion is made, seconded, and voted on, the meeting can continue to follow the agenda.

Motion by Cousins, second by Fischer, to approve the special meeting approval as presented. Motion passed unanimously.

6. Approve Agenda

Motion by Jannette, second by Winkler, to approve the agenda with one correction. Motion passed unanimously. The correction being the date of the minutes from the previous meeting. April 20, 2020 was listed, but the correct date was April 30, 2020.

7. Approve Minutes from the April 30, 2020 Public Hearing

Motion by Fischer, second by Jannette, to approve the minutes as presented. Motion passed unanimously.

8. Communications not related to Public Hearings

None

9. Convene Meeting and go into Public Hearings

Reinhart informed everyone in attendance how the Board of Adjustment process works and explained the three variance criteria that the applicant had to meet before the board could grant a variance.

Giebel read public hearing notice into record

a. Petition 1 – Jay & Nancy Bailey

Deb Reinhart and Gary Winkler recused themselves from the Bailey hearing due to conflicts of interest. Dave Jannette took over as Vice Chairman.

Giebel read the staff memo into record.

Jay & Nancy Bailey spoke on behalf of the variance petition.

Giebel reported that three letters of support were received from neighboring property owners. Giebel read the letters of support into record from the Becker's, Boll's and Krupp's.

Giebel indicated that the Town of New Holstein submitted a letter of non-objection to the variance request and read it into record. Gary Winkler relayed the Town's thoughts to the Board.

No other communications were received for or against the petition.

The Board went into deliberation before making their decisions.

Road Setback Variance - Motion made by Cousins, seconded by Fischer, to approve the requested variance. The motion to approve was unanimous.

b. Petition 2 – Loren & Connie Loewe

Deb Reinhart and Gary Winkler rejoined the Board. Reinhart resumed the Chairman position.

Giebel read the staff memo into record.

Connie & Loren spoke on behalf of the variance petition.

Giebel reported one letter of support was received from a neighboring property owner. Giebel read the letter of support into record from the Willems.

Dean Joas from the Town of Stockbridge reported that the Town of Stockbridge had no objections to the petition.

No other communications were received for or against the petition.

Before the Board went into deliberation and made their decision, Kevin Fischer was excused from the meeting at 7pm.

After-The-Fact Retaining Wall Variance - Motion made by Cousins, seconded by Jannette, to deny the requested variance. The motion to deny passed with a 3:1 vote with one nay from Winkler. Fischer was excused from the meeting and did not vote.

c. Petition 3 – Mike Jansen

Giebel read the staff memo into record.

Matt Greely and Stuart Boerst from McMahon spoke in favor of the petition.

No other communications were received for or against the petition.

The Board went into deliberation before making their decisions.

Vegetative Buffer – Access & Viewing Corridor Variance - Motion made by Jannette, seconded by Cousins, to deny the requested variance. The motion to deny passed with a 3:1 vote with one nay from Winkler. Fischer was excused from the meeting and did not vote.

10. Close Public Hearing and Reconvene Meeting

Reinhart closed the public hearing and reconvened the meeting.

11. Reminder – Next meeting date set for December 17, 2020.

Giebel identified that there may be a few petitions for the December hearing.

12. Adjournment

Motion made by Cousins, seconded by Jannette, at 8:10 p.m. to adjourn the meeting. Motion passed unanimously.

Respectfully submitted,
Brian Giebel
ZBA Secretary

Calumet County Zoning Variance / Appeal Application



206 Court Street
Chilton, WI 53014
Phone: (920) 849-1442
Fax: (920) 849-1481
www.calumetcounty.org

THIS AREA FOR OFFICE USE ONLY	
Application Number:	
Fee: \$ 450.00	Receipt Number:
Date Received:	
Type: <input type="checkbox"/> Zoning <input checked="" type="checkbox"/> Shoreland	<input type="checkbox"/> Floodplain <input type="checkbox"/> POWTS

PROPERTY INFORMATION			
Owner Name: Thomas & Pamela Mullins	Location ID #: 3437		
Mailing Address: N2873 Driftwood Beach Rd	Town of: Brothertown		
City, State Zip Code: Chilton, WI 53014	Physical Address: N2873 Driftwood Beach Rd		
Phone: 920-205-3927	Gov Lot # 3	T 18 N	R 18 E
Email: tmullins@new.rr.com	Parcel(s) Size (acre): 27,978 sq.ft.	Zoning District: Shoreland	

Contractor / Agent Information	
Contractor / Agent Name:	Company:
Mailing Address:	Phone:
City, State Zip Code:	Email:

Project Information <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Appeal
Variance Requested from (Code Section): Section 52-47 Calumet County Shoreland Zoning Code
Description of Variance Requested: To locate a 10x12' storage shed on our property inside of the 75' set-back from a drainage.
Project Description: We would like to build storage shed on our property. our desired location is beyond the set-back from Lake Winnebago but we also have a drainage creek that runs the length of our property. I understand this is considered a navigable waterway and a 75' set-back is required. We are asking for a variance to this set-back.

Required Supplemental Information	
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Floor Plan / Building Profile
<input type="checkbox"/> Variance Addendum	

Applicant Accountability Agreement
I, the undersigned, hereby apply for a Variance from the terms of the ordinance and certify that all the information on the application and attached is true and correct to the best of my knowledge. I acknowledge responsibility for providing accurate setback measurements and to know where affected property lines are. I affirm that all work performed will be done in accordance with all applicable laws and regulations. I understand that construction CANNOT begin without a valid county permit and that if building does occur before that time, I am subject to fines and/or removal of the non-permitted structure(s). I hereby authorize members of the Calumet County Planning, Zoning and Land Information Department to enter the affected property, provided at a reasonable time and an attempt is made to inform the occupant, for purposes of obtaining information pertinent to my application request and to conduct land use code inspections.

Owner or Agent Signature:
Date: 5/03/2024

Staff Notes: This Area For Office Use Only

Variance Addendum:

Unique Property Limitation

Unique physical limitations of the property such as steep slopes or wetlands that prevent an applicant from complying with the provisions of the ordinance can be considered for a grant of variance. (However, be advised that even if unique physical limitations exist, the variance still may not be granted.) Valid unique property limitations that are not generally shared by other properties can be considered but must prevent compliance with ordinance requirements.

The circumstances of the applicant (growing family, need for a larger garage, wanting a better view, 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 which prevent compliance with the terms of the ordinance include:

See Attached Information

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 there is no room for the home and requesting setback variances). Courts have also determined that economic or financial hardships do not justify granting a variance. When determining whether an unnecessary hardship exists, the property as a whole is considered, rather than just a portion of the parcel (if an applicant prefers to build by the water but can't due to the water setback, but can build on the rear of the lot without a variance, the water setback shall be denied). 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 on 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.

The unnecessary hardship is, and, is present because:

See Attached Information

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 neighbor, the entire community and the general public. These interests are listed as objectives in the purpose statement of the ordinance and include, but are not limited to:

- | | |
|--|---|
| • Protect public, safety and welfare | • Protect property values |
| • Preserve wetlands | • Conserve soil, water and forest resources |
| • Prevent water pollution | • Encourage the protection of groundwater & surface water |
| • Protect fish and wildlife habitat | • Preserve natural scenic beauty & rural character |
| • Promote a safe and efficient transportation system | |

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

See Attached Information

Unique Property Limitations

We have set-backs on three sides of our property. The Lake, the drainage creek and Driftwood Beach Rd. The only alternate possible location is on our southern lot line but that location has a possible drainage issue from the driveway that is on the south side of our home. There is sufficient room at our desired location near the drainage creek.

Unnecessary Hardship

With a setback from both the lake and the drainage, we are locked into no other viable location. With multiple setbacks that we have to meet, development on our lot is more restrictive than for the other owners in the neighborhood. The only other location that we found that you could put the shed is just off the south lot line. In that location the shed would be far enough away from the lake and waterway, but it would be in line with the driveway on that side of the lot which limits access from the driveway to the lake for installing the pier, moving our boat and camper, and making good use of our lower area. It places the shed in line with surface water that drains off the driveway towards the lake and places the shed in the sight line of the lake for the property owner to the south.

When the lot was platted in the early 1980's, I understand that the waterway was not considered navigable, today it is.

No Harm to Public Interests

The location to the creek is similar to that of our neighbors storage shed and is not near the lot line. The look of the structure on our property will not be out-of-place. It will also not infringe on the view of that lake from the road or other spots as it is at the base of the hill on our property.



Lake
Winnebago

Tom Mullins
N2873 Driftwood Beach Rd
Town of Brothertown
TaxId # 3437

Navigable Waterway

75 feet

75 feet

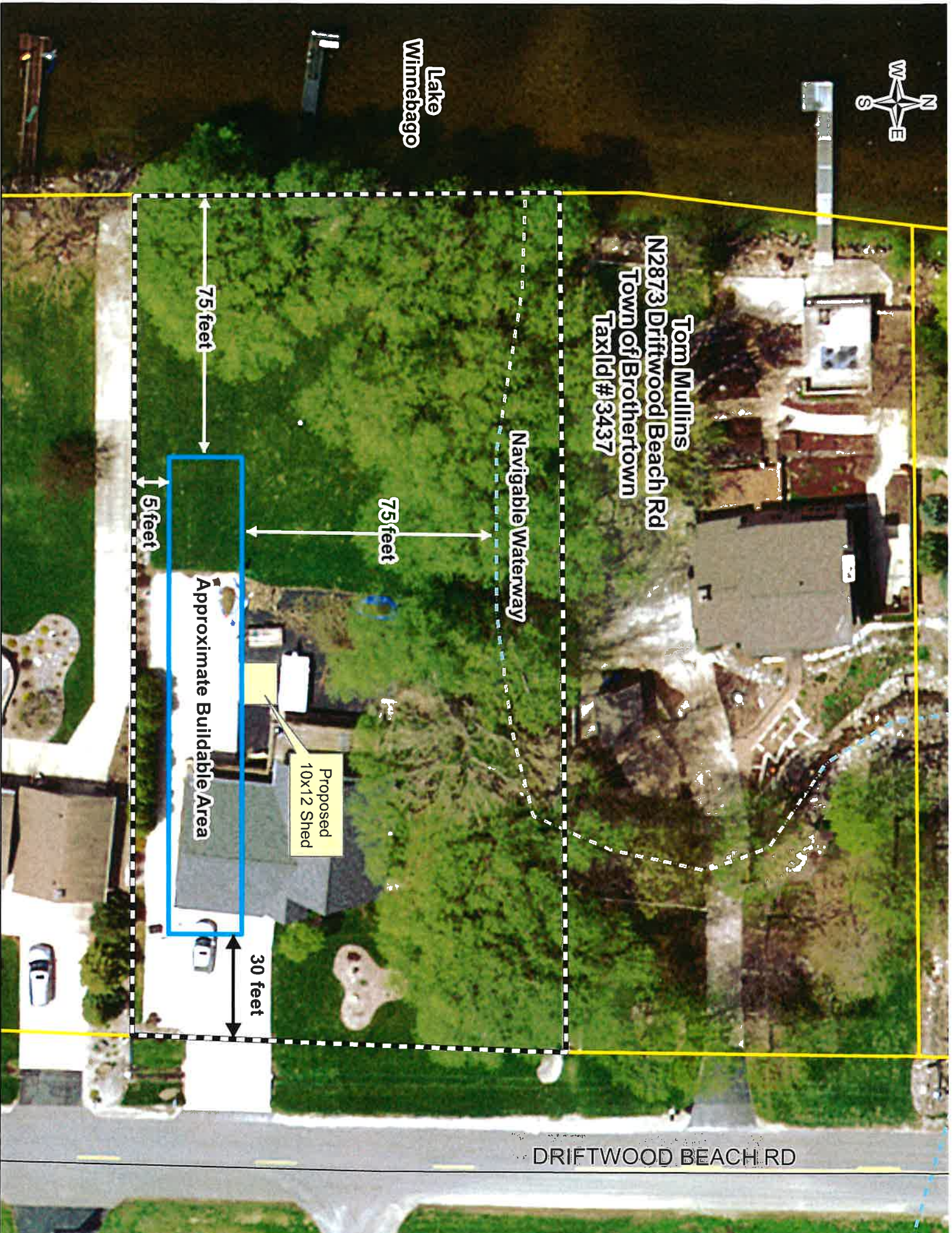
5 feet

Approximate Buildable Area

Proposed
10x12 Shed

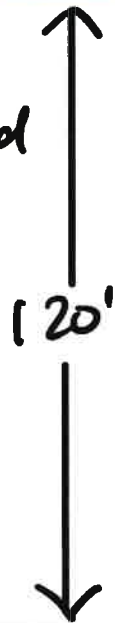
30 feet

DRIFTWOOD BEACH RD

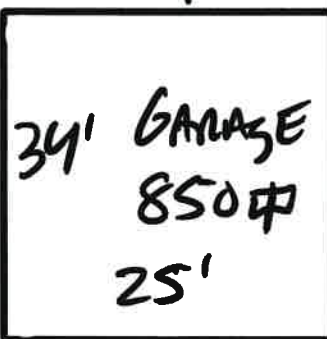
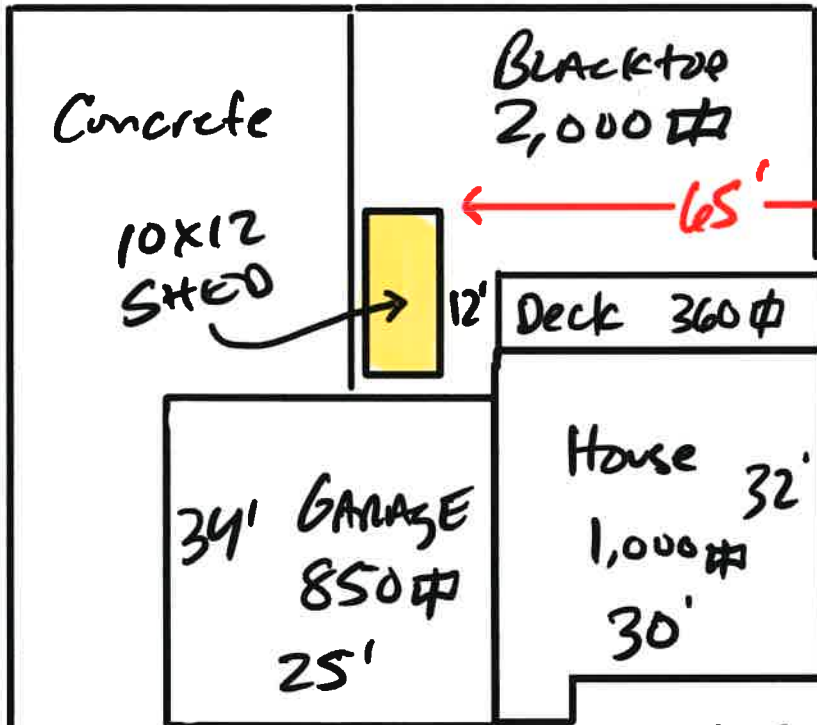


LACE Winnebago

Tom Mullins
N2873 DRIFTWOOD BEACH RD
TAX ID # 3437



NAVIGABLE WATERWAY



Lot Size
27,978 \$

Concrete
DRIVEWAY
3,000 \$

15% I.S. = 4,200 \$
EXISTING I.S. = 7,200 \$

4/16/21
BG

DRIFTWOOD BEACH RD