

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 6/29/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 6/29/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

* All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda calendar on the above indicated date.

- **Join Zoom Meeting:** <https://us02web.zoom.us/j/85394438101?pwd=Vnc4bWlTUzVhVWRzR3ZsWkdXS1VOQT09>
- **Dial by your location:** +1 312 626 6799 US (Chicago)
- **Meeting ID:** 853 9443 8101
- **Passcode:** 000808

Additional Instructions for making a virtual appearance can be found at: <https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON VARIANCE REQUEST

Applicant: PANSKE, GINA M PANSKE, RICHARD T

Agent: None

File Number: 2021-VA-5690

Location of Premises: 5404 E REIGHMOOR RD

Tax Parcel No.: 016-086402

Legal Description: Being all Lot 2 of CSM-7726, located in Lots 4 & 5 of the Plat of Reighmoor, located in the SW 1/4 of the SE 1/4, Section 2, Township 18 North, Range 15 East, Town of Omro, Winnebago County, Wisconsin.

Description of Proposed Project: Applicant is requesting a variance for a sub-standard shore yard setback and floodplain fill requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The shore yard setback from the nearest point of any structure shall be at least 75ft from the OHWM unless exempt under section 6.1(1) or reduced under section 6.2. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirement in subsection (b)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 ft beyond the limits of the structure.	27-6.1 26.5-23(b)(1)	Shore Yard: 75 ft Floodplain Fill: 15 ft	Shore Yard: 40.7 ft Floodplain Fill: 7 ft & 10 ft

INITIAL STAFF REPORT

Sanitation: System Required; Municipal System

Overlays: Floodplain; Shoreland

Current: R-2 Suburban Low Density Residential

Code Reference: 27-6.1 26.5-23(b)(1)

Description of Proposed Use: Applicant is requesting a variance for a sub-standard shore yard setback and floodplain fill requirement.

Surrounding Zoning: North: R-2; South: R-2; East: Lake Butte des Morts; West: R-2

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

Single family home ~ 50' deep and 40' wide. Proposed set backs are 10' on West and 7' on East.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

The property is in a flood plain which requires 15' set back on both West and East. This set back requirement would result in retaining walls which have less favorable drainage options than available using a 10' and 7' set back. The 10' and 7' set back would allow for a drainage swale. In addition to improving the drainage options a swale also improves the usable space of the property as well as the aesthetics compared to a retaining wall.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

The property is in a flood plain which eliminates the practicality of a basement or crawl space that would accommodate the furnace, water pump, water heater and water softener (building mechanicals) and storage. The building mechanicals and storage will all be on the main level instead of the basement/crawl space which is why the building footprint is 50' deep and 40' wide.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:

Granting the flood plain variance request will improve drainage for both this property and reduces the impact of any drainage from this property on the neighboring properties.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code
23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.

- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

(1) The variance shall not cause any increase in the regional flood elevation;

(2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;

(3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

Rowe, Cary

From: R Panke <rpanskebas@gmail.com>
Sent: Thursday, June 3, 2021 9:11 PM
To: Rowe, Cary
Subject: Town feedback on Flood Plain Fill Variance request 5404 E. Reighmoor Rd.

Hey Cary,
Hope all is excellent.

Gina and I attended the town planning commission meeting since our variance request was at the top of their agenda. There was a lot of discussion (20 minutes) and some questions / confusion about what was being requested. This was the new chairpersons first meeting and I did not appreciate some of his comments which he did not permit me to speak to since public comments had ended. In the end they recommended the board approve the variance but only as worded and that was regarding the last 15' of the retaining wall. They did not approve allowing a 7' / 10' East and West flood plain fill variance. Bruce the chairperson said the variance code reference 27-6.1 referred to the shoreyard setback variance even though what was described is a request for a 10' and 7' setback...this is where there was confusion since they said the variance code was about shoreyard setback and the description in the variance was about using 10' and 7' setback variance (instead of 15').

The commission seemed generally in favor of the 10' and 7' setback (other than the chair, Bruce); however, because they said the incorrect variance code was referenced they could not approve the 10' and 7' floodplain fill requirement (in place of the 15' requirement). So what they approved was what the code referenced and that was removing the requirement for the retaining wall for the last 15' so the shoreyard setback wasn't violated.

What Brian Noe recommended is for me to contact you, clarify the language in the variance request and submit the revision to the town so when it comes before the town board at the end of this month (June 21) the variance code reference is consistent with the 10' / 7' flood plain fill variance request so they can consider approving that and thereby eliminate the retaining wall discussion entirely (since if we only have to fulfill the flood plain fill requirement of 1' above flood plain for 7' and taper the remaining 8' to the property line there is no need for a retaining wall).

My apologies if this is confusing. This is near and dear to my life and I know the rest of the county and town are dealing with many issues. So just a reminder the only reason we'd need to eliminate the last 15' of the retaining wall would be if the 10'/7' side floodplain fill variance was not approved. So the 10'/7' variance request was intended to be the preferred Option 1: Adjust the 15' flood plain fill requirement on the East side of the property to 7' tapering for the remaining 8' to the property line to retain the existing swale and drainage. Option 2: (only applicable if Option 1 was not approved) was to eliminate the requirement for the last 15' of the retaining wall so it did not violate the shoreyard setback requirement. Somehow this did not come across clearly to the board so when they approved something they approved Option 2 without even considering Option 1 because Bruce advised the commission that they couldn't approve Option 1 based on the variance code that was referenced.

Please give me a call to discuss. I'm confident, like anything, we can work through this.

Thanks Cary! In case I miss you on Friday have a great weekend and talk to you soon.

Rick
920.216.3149

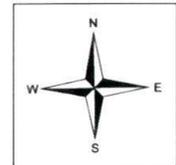


Application #21-VA-5690

Date of Hearing:
June 29, 2021

Owner(s):
PANSKE, RICHARD T /
PANSKE, GINA M

Subject Parcel(s):
016086402



Winnebago County
WINGS Project

Scale
1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE

Application #21-VA-5690

Date of Hearing:

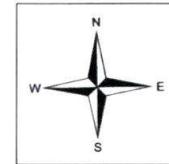
June 29, 2021

Owner(s):

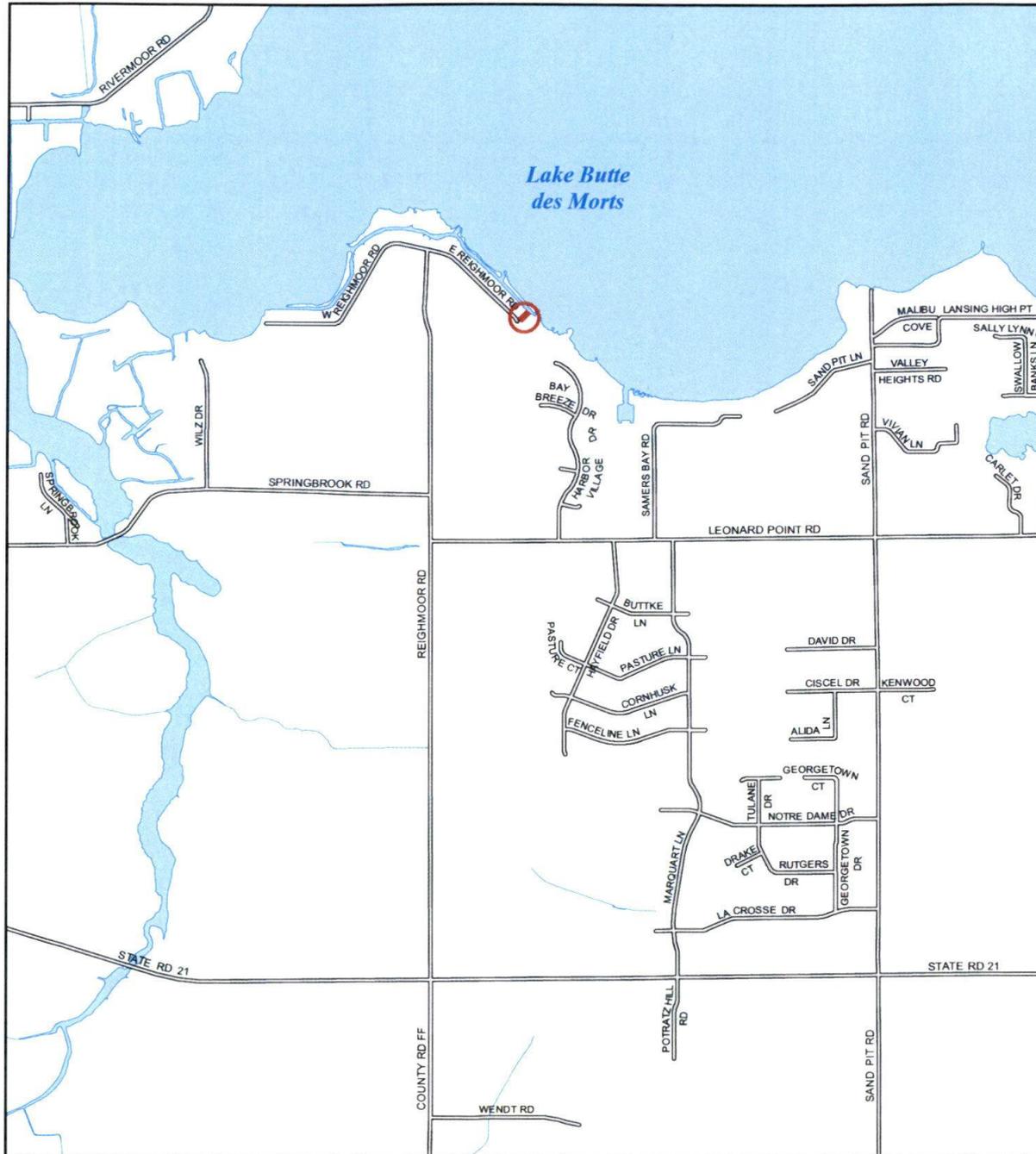
PANSKE, RICHARD T /
PANSKE, GINA M

Subject Parcel(s):

016086402

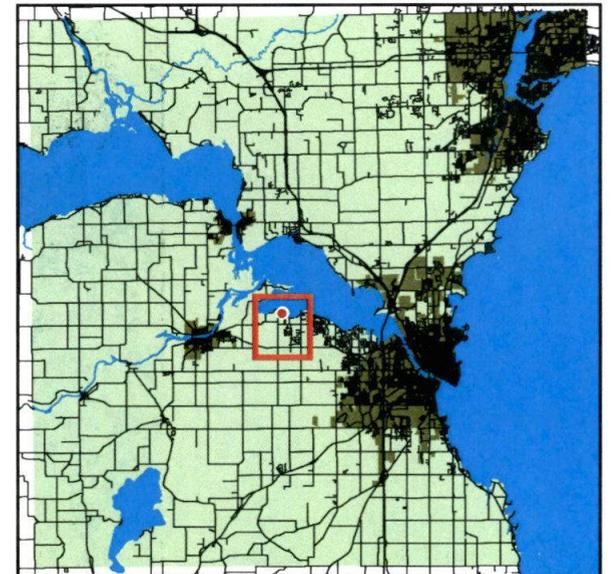


Winnebago County
WINGS Project



1 inch : 2,000 feet

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 6/29/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 6/29/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

All interested persons wishing to be heard at the public hearing may appear in person or via Zoom using the meeting information below. A direct link to the Zoom Meeting is available on the Winnebago County Meetings and Agenda calendar on the above indicated date.

Join Zoom Meeting: <https://us02web.zoom.us/j/85394438101?pwd=Vnc4bWlUzVhVWRzR3ZsWkdXS1VOQT09>

- **Dial by your location:** +1 312 626 6799 US (Chicago)
- **Meeting ID:** 853 9443 8101
- **Passcode:** 000808

Additional Instructions for making a virtual appearance can be found at:

<https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON VARIANCE REQUEST

Applicant: HETRICK LIV TST, ANNETTE L; HETRICK LIV TST, WADE A

Agent: None

File Number: 2021-VA-5700

Location of Premises: 6776 SUNSET TRAIL

Tax Parcel No.: 030-1080

Legal Description: Being all of Lot 13 Block 2 in the Plat of Indian Shores, located in the SW 1/4 of the NW 1/4, Section 10, Township 19 North, Range 15 East, Town of Winneconne, Winnebago County, Wisconsin.

Description of Proposed Project: Applicant is requesting a variance for a sub-standard shore yard setback requirement.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The shore yard setback from the nearest point of any structure shall be at least 75 ft from the OHWM unless exempt under section 6.1(1) or reduced under section 6.2.	27-6.1	Shore Yard: 75 ft	Shore Yard: 26 ft

INITIAL STAFF REPORT

Sanitation: Existing System; Municipal System

Overlays: Floodplain; Shoreland

Current or Proposed Zoning: R-2

Code Reference: 27-6.1

Description of Proposed Use: Applicant is requesting a variance for a sub-standard shore yard setback requirement.

Surrounding Zoning: **North:** R-2
South: R-2
East: Lake Winneconne Channel
West: R-2

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

Nearly 5 years ago we added a circular patio/firepit area with 2 brick planters & a 6' wide brick walkway, not realizing these were "structures". We had just purchased the property and remodeled the interior with full permits and inspections. The exterior was in good shape & we had no other projects outside. The patio is 18' in diameter and 26' away from the OHWM of the Channel. We have removed the permanent planters & 6' wide walkway as requested. We are asking for a variance to keep the existing patio and access walkway in place.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

Because the house is so close to the water and due to the placement of other existing structures (garage/shed) we are very limited in our patio placement options. The only other place a patio would fit within the guidelines given would be to the west of our house. This would not afford us any privacy and would be a fire risk to our house due to west winds off of the lake. We are asking for the variance to have an outdoor living space which we believe is a permitted use and to enjoy reasonable use of the property. We utilize our patio almost daily in the summer and frequently use it during the other seasons when the weather/temperatures allow.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

This is a very unique property. Our home was originally a wet slip boat house with a deck/wharf on the channel. The boat house was built 14 feet from the ordinary high-water mark. our understanding is at some point in the 1970's the boat slip was abandoned and turned into a permanent residence. Our home is 780 SF total, with a 600 SF footprint. We added no additional footprint to the house when we completely remodeled it in 2015/16. It was our understanding we would be allowed to add up to 50% of the existing footprint to this non-compliant structure. We are not looking to do that, only to add the above proposed 200 SF patio "structure", which does not have sides, screens or a roof.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:

There is an established vegetative border which does not allow run off from the patio to the channel. We would add additional vegetative buffer zone if the review board believed this would be helpful. The patio does not adversely affect surrounding properties. There is no drainage to the property to the south from the patio. This is the only surrounding property that could be affected. If this property were 1.1 mile away in the Village of Winneconne, it is my understanding, our patio would not be in question.

There are two newly constructed homes at 250 and 260 Twin Harbor Drive with similar structures 25 feet from the water. These homes are in highly developed area right on Lake Winneconne. We are located in a similar highly developed area on the channel on the same overall body of water.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- (1) The variance shall not cause any increase in the regional flood elevation;
- (2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;
- (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

Parcel Viewer

Click on a Parcel for Detailed Information

6776 sunset

Show search results for 6776 ...

SUNSET TR

0301081

118.0'

6776

Garage

0301080

75.24'

75.0'

House

patio in question
NT

124.0'

26'
Grass-22'

Pea Gravel-4'

6770

0301079

24'



Application #21-VA-5700

Date of Hearing:

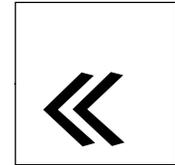
June 29, 2021

Owner(s):

HETRICK LIV TST, WADE A /
HETRICK LIV TST, ANNETTE L

Subject Parcel(s):

0301080



Winnebago County
WINGS Project

Scale

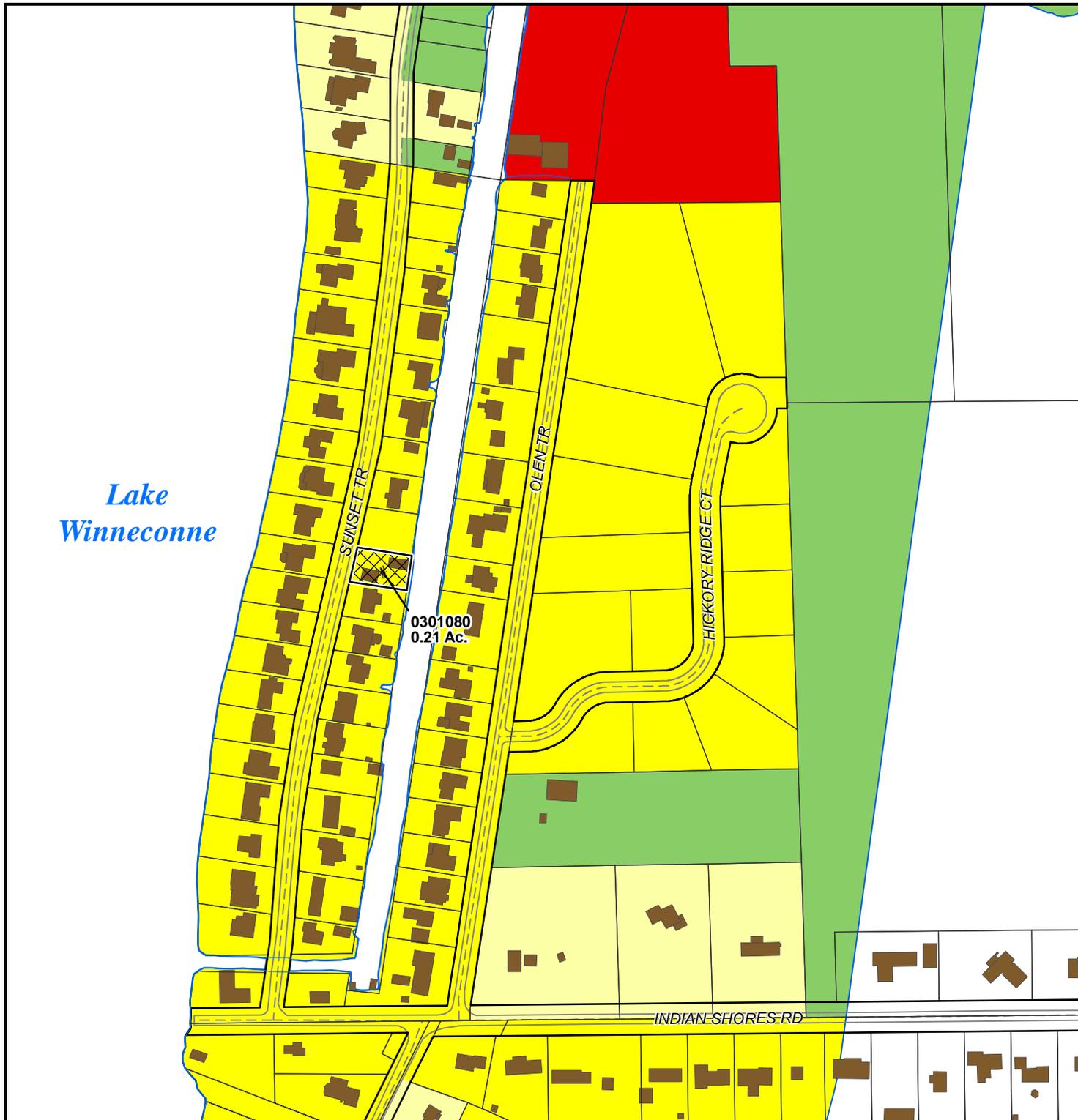
1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area



Lake
Winneconne

SUNSET TR

OLEN TR

HICKORY RIDGE CT

INDIAN SHORES RD

0301080
0.21 Ac.

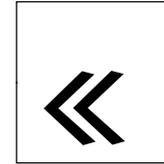
○ = SITE

Application #21-VA-5700

Date of Hearing:
June 29, 2021

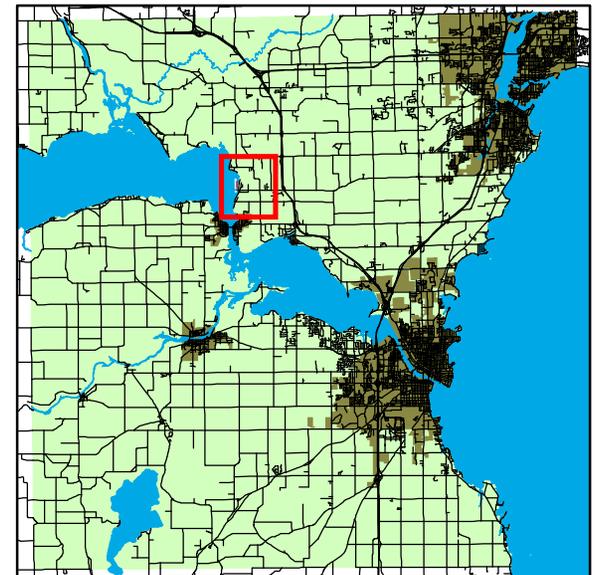
Owner(s):
HETRICK LIV TST, WADE A /
HETRICK LIV TST, ANNETTE L

Subject Parcel(s):
0301080

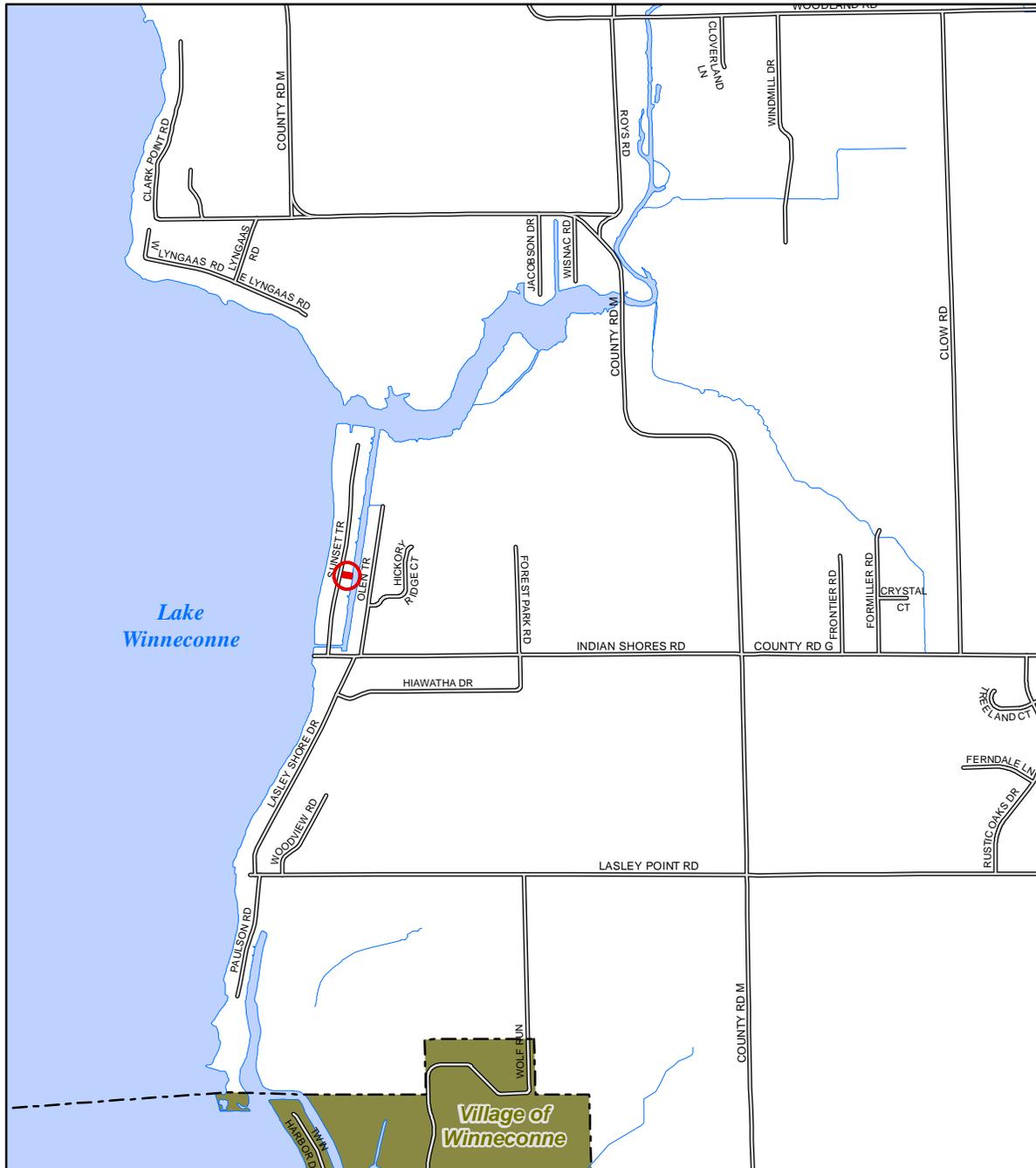


Winnebago County
WINGS Project

● = SITE



WINNEBAGO COUNTY



1 inch : 2,000 feet