

CHIPPEWA COUNTY**BOARD OF ADJUSTMENT****REGULAR MEETING****JULY 22, 2021****CHIPPEWA COUNTY COURTHOUSE, RM 302****4:30 PM****1. CALL TO ORDER****2. ROLL CALL**

Attendee Name	Organization	Title	Status	Arrived
Jeff Bennesch	Chippewa County	Citizen Rep (Chair)	Present	
Doug Matthews	Chippewa County	Citizen Rep	Present	
Roger McFarlane	Chippewa County	Vice Chair	Present	
Julie Geissler	Chippewa County	Citizen Rep	Present	
Larry Marquardt	Chippewa County	Citizen Rep	Present	
Carolyn Kaiser	Chippewa County	Citizen Rep - Alternate	Present	
Dale Shipman	Chippewa County	Citizen Rep - Alternate	Present	

3. MEMBERS OF THE PUBLIC WISHING TO BE HEARD

None

4. CONSENT AGENDA

Motion to approve the consent agenda.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Doug Matthews, Citizen Rep
SECONDER:	Larry Marquardt, Citizen Rep
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

1. Approve the Agenda

2. Approve the Minutes

Board of Adjustment - Regular Meeting - Jun 24, 2021 1:00 PM

3. Schedule Next Meeting Date - August 19, 2021 @ 1:00PM

5. BUSINESS ITEMS**1. Discussion on 2020-0003 Popple & Thompson Variance Request**

Bennesch spoke regarding the Ziegler, Edward court case as it pertains to this petition. Atty. Raihle Jr. made a request that if the meeting be postponed or rescheduled, that the next hearing be made for September as he wouldn't be in the area in August and therefore would be unable to attend the hearing,

Motion by Bennesch to renew and postpone this variance until the September BOA hearing. Geissler seconded the motion. A voice vote occurred and the motion was unanimous.

Board of Adjustment

Minutes
Regular Meeting

Chippewa County Courthouse, Rm 302

July 22, 2021
4:30 PM

RESULT:	POSTPONE [UNANIMOUS]	Next: 9/23/2021 2:30 PM
MOVER:	Jeff Bennesch, Citizen Rep (Chair)	
SECONDER:	Julie Geissler, Citizen Rep	
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt	

2. 2021-0002 Bethard - Variance Request - Town of Anson - Tony Roder

Ron Mikesell, neighbor to the property owner, spoke regarding the insurance industries definition of a structure. Mr. Mikesell did not believe this gazebo was a gazebo or even a structure under insurance industry standards.

Roder spoke and explained the structure definition based on State Statutes and the Chippewa County Shoreland Ordinance. This structure was a structure, by definition in the statutes and ordinance. A general discussion occurred regarding the current location and alternate locations on the property. Additional discussions occurred regarding the accuracy of the north lot line on the County GIS web mapping site and actual occupation lines on-site.

Motion by Matthews to DENY the variance request. McFarlane seconded the motion. Matthews stated that he did not believe there was any unique limitations that prevented placement of this structure in another location on the property where setbacks couldn't be met. Matthews also stated that both this lot and the lot to the north are usable as they currently exist and this structure is accessory to the principal use of the property. With all members voting to deny the variance request, the motion to deny the request was unanimous.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Doug Matthews, Citizen Rep
SECONDER:	Roger McFarlane, Vice Chair
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

3. 2021-0003 Schultz - Variance Request - Town of Lafayette - Tony Roder

Mr Schulz explained the high nitrate drinking water issues he was experiencing at the property and his work with the WI DNR to correct or improve the problem. The solution identified was treatment and that this 8'x 16' building addition was necessary to house the additional treatment equipment. A general discussion occurred regarding the current location, alternate locations, septic location, and ability to purchase additional property.

Motion by Marquardt to approve the variance request with conditions A-C of the County staff report. McFarlane seconded the motion. Marquardt stated that he believed there were unique limitations that prevented placement of this structure in another location on the property. Even if an alternate location was identified, there would be no guarantee as to the volume or water quality of water from a new well. With all members voting to approve the variance request, the motion to approve the request was unanimous.

Board of Adjustment

Minutes
Regular Meeting

Chippewa County Courthouse, Rm 302

July 22, 2021
4:30 PM

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Marquardt, Citizen Rep
SECONDER:	Roger McFarlane, Vice Chair
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

6. AGENDA ITEMS FOR FUTURE CONSIDERATION

A general discussion occurred and the BOA requested an on-site inspection prior to the next hearing for the Popple-Thompson variance request. The BOA also requested outside legal counsel on this variance matter.

7. ADJOURN

Motion to Adjourn.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Roger McFarlane, Vice Chair
SECONDER:	Julie Geissler, Citizen Rep
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

CHIPPEWA COUNTY**BOARD OF ADJUSTMENT****REGULAR MEETING****JUNE 24, 2021****CHIPPEWA COUNTY COURTHOUSE, RM 302****1:00 PM****1. CALL TO ORDER****2. ROLL CALL**

Attendee Name	Organization	Title	Status	Arrived
Jeff Bennesch	Chippewa County	Citizen Rep (Chair)	Present	
Doug Matthews	Chippewa County	Citizen Rep	Present	
Roger McFarlane	Chippewa County	Vice Chair	Present	
Julie Geissler	Chippewa County	Citizen Rep	Present	
Larry Marquardt	Chippewa County	Citizen Rep	Present	
Carolyn Kaiser	Chippewa County	Citizen Rep - Alternate	Excused	
Dale Shipman	Chippewa County	Citizen Rep - Alternate	Excused	

3. MEMBERS OF THE PUBLIC WISHING TO BE HEARD

None.

4. CONSENT AGENDA

Clary informed the Board of Adjustment that a meeting will be held on July 22, 2021 as the Department had received a couple of petitions. Time will be determined for inspections and meeting.

Motion to approve.

RESULT:	APPROVED [4 TO 0]
MOVER:	Larry Marquardt, Citizen Rep
SECONDER:	Doug Matthews, Citizen Rep
AYES:	Bennesch, Matthews, McFarlane, Marquardt
RECUSED:	Geissler

1. Approve the Agenda

2. Approve the Minutes

Board of Adjustment - Regular Meeting - May 5, 2021 3:30 PM

3. Schedule Next Meeting Date - TENTATIVE July 22, 2021

5. BUSINESS ITEMS

1. 2020-0003 Thompson & Popple - Variance Request - Town of Eagle Point - Doug Clary

Minutes Acceptance: Minutes of Jun 24, 2021 1:00 PM (Consent Agenda)

Board of Adjustment

Minutes
Regular Meeting

Chippewa County Courthouse, Rm 302

June 24, 2021
1:00 PM

Motion to Approve the Variance. Discussion centered around the ability of the Board to grant this variance as the property owner, Thompson, did not sign the variance appeal. Rather the variance application was signed and submitted by the Popples.

RESULT:	DEFEATED [0 TO 5]
MOVER:	Julie Geissler, Citizen Rep
SECONDER:	Doug Matthews, Citizen Rep
NAYS:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

6. AGENDA ITEMS FOR FUTURE CONSIDERATION

Elections of the Board Positions.

7. ADJOURN

Motion to adjourn.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Doug Matthews, Citizen Rep
SECONDER:	Roger McFarlane, Vice Chair
AYES:	Bennesch, Matthews, McFarlane, Geissler, Marquardt

Minutes Acceptance: Minutes of Jun 24, 2021 1:00 PM (Consent Agenda)

Manydeeds Law, S.C.
Attorneys at Law
 1119 Regis Court, Suite 110
 Eau Claire, WI 54701

Telephone: (534) 444-3118
 Facsimile: (534) 444-3121

Edmund Manydeeds III
 John Manydeeds

July 13, 2021

VIA EMAIL Dclary@co.chippewa.wi.us

Board of Adjustment
 c/o Director Douglas Clary
 711 N. Bridge Street
 Chippewa Falls, WI 54729

RE: Thompsons/Popples Variance Request
Appeal # 2020-0003

Board Members,

My name is John E. Manydeeds and I have been representing Robert & Mary Popple during the variance request number 2020-0003. I am writing this letter for the July 22, 2021 meeting when this variance issue will be reopened for discussion.

I did want to explain some matters to help guide the Board as it relates to Robert & Mary Popple's interests in the property and how the variance application was able to be filed.

In 1993, Robert and Mary Popple gifted the land in question to their cousin, Melvin Popple. Attached to this letter is a copy of the Warranty Deed which was part of the variance paperwork you were originally provided with. Robert and Mary Popple's only requirement of Melvin Popple for the transaction was that if he ever sold his property or when he passed away, he was supposed to give the land back to them. This was incorporated in the deed which states:

Grantee [Melvin Popple] agrees that if the property is ever sold or when grantee dies, Grantors [the Popples] will be given the first option to buy the property at an amount equal to the cost of the improvements plus acquisition costs.

The language from the 1993 deed was reused in the Designation of TOD Beneficiary Form that was signed by Melvin Popple on December 21, 2017 and recorded the same day by the Register of Deeds. I have attached a copy of that form as well to this letter.

This language about the first option to buy grants a contractual ownership interest in the property to the Popples. The Wisconsin Supreme Court has issued decisions related to these options and has stated:

An option to purchase when consideration is given therefor is a continuing promise by the landowner to sell real estate to another at a specified price and within a specified period of time. The distinguishing feature of an option is that it does not bind the purchaser to purchase or exercise the option.

Clear View Estates, Inc. v. Veitch, 67 Wis. 2d 372, 377, 227 N.W.2d 84, 87 (1975).

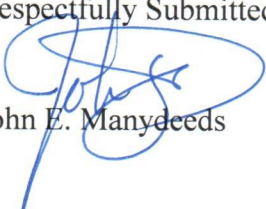
Melvin Popple took ownership over the land in 1993 and in consideration for that land, he agreed to give it back to the Popples if he ever decided to sell the land or upon his death. This continuing promise to the Popples survives through the TOD Beneficiary form that Melvin Popple signed transferring the land to the Thompsons. The language is included in both the 1993 Warranty Deed and the 2017 TOD Beneficiary Form.

Judge James M. Isaacson signed an Order on May 24, 2021 stating that the First Option to Buy Language in the Recorded Deed is binding upon the parties. This was in the Order that I provided at the previous meeting. I am attaching that Order to this letter for your review.

The Thompsons are contractually obligated to allow the Popples to get their land back at the contractual amount if they want the land back. The Popples do want the land back which gives them the ability to request the variance.

I will be attending the meeting on June 22. If you have any questions, please feel free to contact me or let me know at the meeting.

Respectfully Submitted,


John E. Manydeeds

DOCUMENT NO.

523072

STATE BAR OF WISCONSIN FORM 1—1982
WARRANTY DEED

INDEXED

THIS SPACE RESERVED FOR RECORDING DATA

This Deed, made between
Robert Popple and Mary Popple

and Melvin L. Popple

Grantor,

Grantee,

Witnesseth, That the said Grantor, for a valuable consideration

conveys to Grantee the following described real estate in Chippewa
County, State of Wisconsin:A strip of land in Government Lot 5 on Popple Lake
in Section 25, Township 30 North, Range 8 West
further described as follows:Commencing at the Southeast corner of said Lot 5 on
the shore of Popple Lake; thence proceeding 54 feet more or less to an iron stake
in the ground being the point of beginning; thence North 120 feet along the lake
shore; thence Westerly 10 rods; thence Southerly 120 feet; thence Easterly 10 rods
to the point of beginning.It being intended to convey a strip of land 120 feet wide extending back 10 rods
such strip being immediately adjacent to and North of the property currently owned
by Melvin L. Popple as recorded in Volume 541 of Records, Page 257.Grantee agrees that if property is ever sold or when grantee dies, Grantors will be
given the first option to buy the property at an amount equal to the cost of the
improvements plus acquisition costs.TRANSFER
FEE

\$ 21.00

This is not homestead property.
(is) (is not)

Together with all and singular the hereditaments and appurtenances thereunto belonging;

And Grantors

warrants that the title is good, indefeasible in fee simple and free and clear of encumbrances except
easements, restrictions and reservations of record, if any, and zoning ordinances
and regulations

and will warrant and defend the same.

Dated this 19th day of October, 1993

Robert Popple (SEAL)

* Robert Popple

(SEAL)

Mary Popple (SEAL)

* Mary Popple

(SEAL)

AUTHENTICATION

Signature(s) of Robert Popple and
Mary Popple
authenticated this 19th day of October, 1993* Charles G. Norseng,
TITLE: MEMBER STATE BAR OF WISCONSIN(If not,
authorized by § 706.06, Wis. Stats.)

State Bar # 1013752

THIS INSTRUMENT WAS DRAFTED BY

Charles G. Norseng, Attorney
P. O. Box 370
Chippewa Falls, WI 54729(Signatures may be authenticated or acknowledged. Both
are not necessary.)

ACKNOWLEDGMENT

STATE OF WISCONSIN

ss.

County.

Personally came before me this day of
19 the above namedto me known to be the person who executed the
foregoing instrument and acknowledge the same.Notary Public County, Wis.
My Commission is permanent. (If not, state expiration
date: 19.)

*Names of persons signing in any capacity should be typed or printed below their signatures.

WARRANTY DEED

STATE BAR OF WISCONSIN

Wisconsin Legal Blank Co. Inc.

EXHIBIT 1

Packet Pg. 8

Attachment: Manydeeds Letter to the Board of Adjustment 071321 (6499 : Reconsideration of Popple & Thompson Variance Motion)

USE BLACK INK

State Bar of Wisconsin Form 9-2009
DESIGNATION OF TOD BENEFICIARY
 Under Wis. Stat. 705.15

Document Name

THIS DESIGNATION is made by MELVIN L. POPPLE(collectively, "Owner") of the following described real estate located in CHIPPEWA County, State of Wisconsin (the "Property") (attach Exhibit A if more space is needed):See Attached Legal Descriptions

Owner transfers the Property without probate upon death of the sole owner, or upon the last to die of multiple owners, to the following TOD beneficiary, without warranties:

Select A or B:

☒ A. ROGER L. THOMPSON, SHEILA R. THOMPSON

Insert name of beneficiary, whether one or more. This revokes all previous TOD beneficiary designations.

☐ B. The sole purpose of this instrument is to revoke all previous TOD beneficiary designations.

Document Number being Revoked: _____

Beneficiary Name(s) being Revoked: _____

This Designation is effective only upon the recording of this instrument.

This transaction is Fee Exempt under Wis. Stat. 77.25(10m), and exempt from the filing of a transfer return under Wis. Stat. 77.21(1). The transfer contemplated by this instrument may be subject to encumbrances, liens, and other matters created by or affecting Owner, including claims in Owner's estate.

Dated 12-21-2017Melvin L. Popple* Melvin L. Popple

Print/Type Name

* _____

Print/Type Name

AUTHENTICATION

Signature(s) _____

Authenticated on _____

* _____

Print/Type Name

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, _____)

Authorized by Wis. Stat. 706.

THIS INSTRUMENT DRAFTED BY:

Roger L. Thompson

8 1 5 7 9 4 9

Tx:4135585

874435**RECORDED ON****12/21/2017****2:12 PM****MARGE L. GEISSLER****REGISTER OF DEEDS****REC FEE: 30.00****FEE EXEMPT: 10M****CHIPPEWA COUNTY, WI****PAGES: 2** **COPY**

Recording Area - DO NOT WRITE IN THIS AREA

Name and Return Address

Roger L. Thompson
227 Oak Hollow Dr.
Chippewa Falls, WI 54729See Attached

Parcel Identification Number

This IS NOT homestead property.
(is) (is not)

* _____

Print/Type Name

* _____

Print/Type Name

ACKNOWLEDGMENT

STATE OF WISCONSIN

Chippewa COUNTYPersonally came before me on 12/21/2017
the above-named Melvin L. Poppleto me known to be the person(s) who executed the foregoing
instrument and acknowledged the same.Lisa A. Meier* Lisa A. Meier

Print/Type Name

Notary Public, State of Wisconsin

My Commission ☐ is permanent ☒ expires: 2/7/2020

(Signatures may be authenticated or acknowledged. Both are not necessary.)

NOTE: THIS IS A STANDARD FORM. ANY MODIFICATIONS TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.

DESIGNATION OF TOD BENEFICIARY

STATE BAR OF WISCONSIN

FORM NO.9-2009

A strip of land in Government Lots 4 and 5 on Popple Lake in Section 25, Township 30 North, Range 8 West, further described as follows: Beginning on the line between Government Lots 4 and 5 at its intersection with the lake shore and marked by an iron pipe in the ground; thence Northerly along the lake shore 54 feet more or less, to an iron stake in the ground; thence Westerly 10 rods more or less to a large stone near a pine tree and marked by an iron pipe in the ground; thence Southerly 76 feet more or less, to an iron stake in the ground; thence Easterly 10 rods more or less to the shore of Popple Lake and marked by an iron stake in the ground; thence Northerly along the lake shore 22 feet, to the point of beginning.

23008 - 2523 - 50040925

A strip of land in Government Lot 5 on Popple Lake in Section 25, Township 30 North, Range 8 West further described as follows:

Commencing at the Southeast corner of said Lot 5 on the shore of Popple Lake; thence proceeding 54 feet more or less to an iron stake in the ground being the point of beginning; thence North 120 feet along the lake shore; thence Westerly 10 rods; thence Southerly 120 feet; thence Easterly 10 rods to the point of beginning.

It being intended to convey a strip of land 120 feet wide extending back 10 rods such strip being immediately adjacent to and North of the property currently owned by Melvin L. Popple as recorded in Volume 541 of Records, Page 257.

Grantee agrees that if property is ever sold or when grantee dies, Grantors will be given the first option to buy the property at an amount equal to the cost of the improvements plus acquisition costs.

23008 - 2523 - 50040925

The North Half (N-1/2) of the Northeast Quarter (NE-1/4), and the East 66 feet of the Southwest Quarter (SW-1/4) of the Northeast Quarter (NE-1/4), in Section Twenty-six (26), Township Thirty (30) North, of Range Eight (8) West.

23008-2611-000000000

23008-2612-000000000

EXHIBIT 2
Page 2 of 2

FILED

05-24-2021

Clerk of Circuit Court

Chippewa County, WI

2020CV000274

DATE SIGNED: May 24, 2021

Electronically signed by Judge James M Isaacson
Circuit Court Judge

STATE OF WISCONSIN
CIRCUIT COURT
CHIPPEWA COUNTY

ROGER L. THOMPSON
SHEILA R. THOMPSON

Plaintiffs,

v.

ROBERT POPPLE
MARY POPPLE

Defendants.

Case No. 20 CV 274

Case Code: 30701-Declaratory

Judgment

ORDER

A hearing was held in this matter on May 13, 2021. At that time plaintiffs appeared in person with their attorney David Raihle and defendants appeared in person with their attorney John Manydeeds.

After hearing arguments on the matter, the Court issued an Order as follows:

- 1) The First Option to Buy Language in the Recorded Deed is binding upon the parties.
- 2) Plaintiffs' motion for summary judgment is denied.
- 3) The matter is remanded back to the Board of Adjustment for a determination on the

Variance Application.

- 4) The Court abstains from making a determination on the valuation of the transfer.



STATEMENT OF EXPLANATION

5.2

2021-0002 BETHARD - VARIANCE REQUEST - TOWN OF ANSON - TONY RODER

A VARIANCE is a relaxation of a dimensional standard in a land use ordinance (e.g., setbacks, lot area, height, etc.). The Board of Adjustment (BOA), after a public hearing, decides whether a variance is to be granted or denied. It is a quasi-judicial body because it functions almost like a court. The BOA's main objective is not to compromise ordinance provisions, but to apply legal criteria provided in State Supreme Court Decisions, State Laws and the County Ordinances to a specific development request, which does not meet the minimum ordinance requirements. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden on a property.

Variance Request: To allow an after-the-fact gazebo that does not meet the 75' water setback in the Shoreland District in accordance with sections 55-42(b) and 55-49(a) of the Chippewa County Shoreland Ordinance. Parcel number: 22908-1522-50010490, which is located in the NW ¼ of the NW ¼, Section 15, Township 29 North, Range 08 West. Town of Anson. Physical Address: 10894 161st Street.

(Publish – Chippewa Herald – July 12 and July 15, 2021)

CHIPPEWA COUNTY BOARD OF ADJUSTMENT
NOTICE OF PUBLIC HEARING
STATE OF WISCONSIN

PUBLIC NOTICE is hereby given to all persons in the County of Chippewa, Wisconsin, that a public hearing will be held on **July 22, 2021** beginning at **4:30 PM** in Room 302, located in the Chippewa County Courthouse, Chippewa Falls, Wisconsin, relative to following requests:

Variance Petition: #2021-0002

Appellant: Roger Bethard

To allow an after-the-fact gazebo that does not meet the 75' water setback in the Shoreland District in accordance with sections 55-42(b) and 55-49(a) of the Chippewa County Shoreland Ordinance. Parcel number: 22908-1522-50010490, which is located in the NW ¼ of the NW ¼, Section 15, Township 29 North, Range 08 West. Town of Anson. Physical Address: 10894 161st Street.

Variance Petition: #2021-0003

Appellant: Steve Schulz

To allow an after-the-fact accessory building addition that does not meet the road setback in the Local Commercial District in accordance with section 70-109(a)(2)(a) of the Chippewa County Zoning Ordinance. Parcel number 22807-0711-01250000, which is located in the NE ¼ of the NE ¼, Section 07, Township 28 North, Range 07 West. Town of Lafayette. Physical Address: 19941 County Hwy X.

All persons interested are invited to attend. Specific information regarding this hearing can be obtained at the Chippewa County Department of Planning & Zoning.

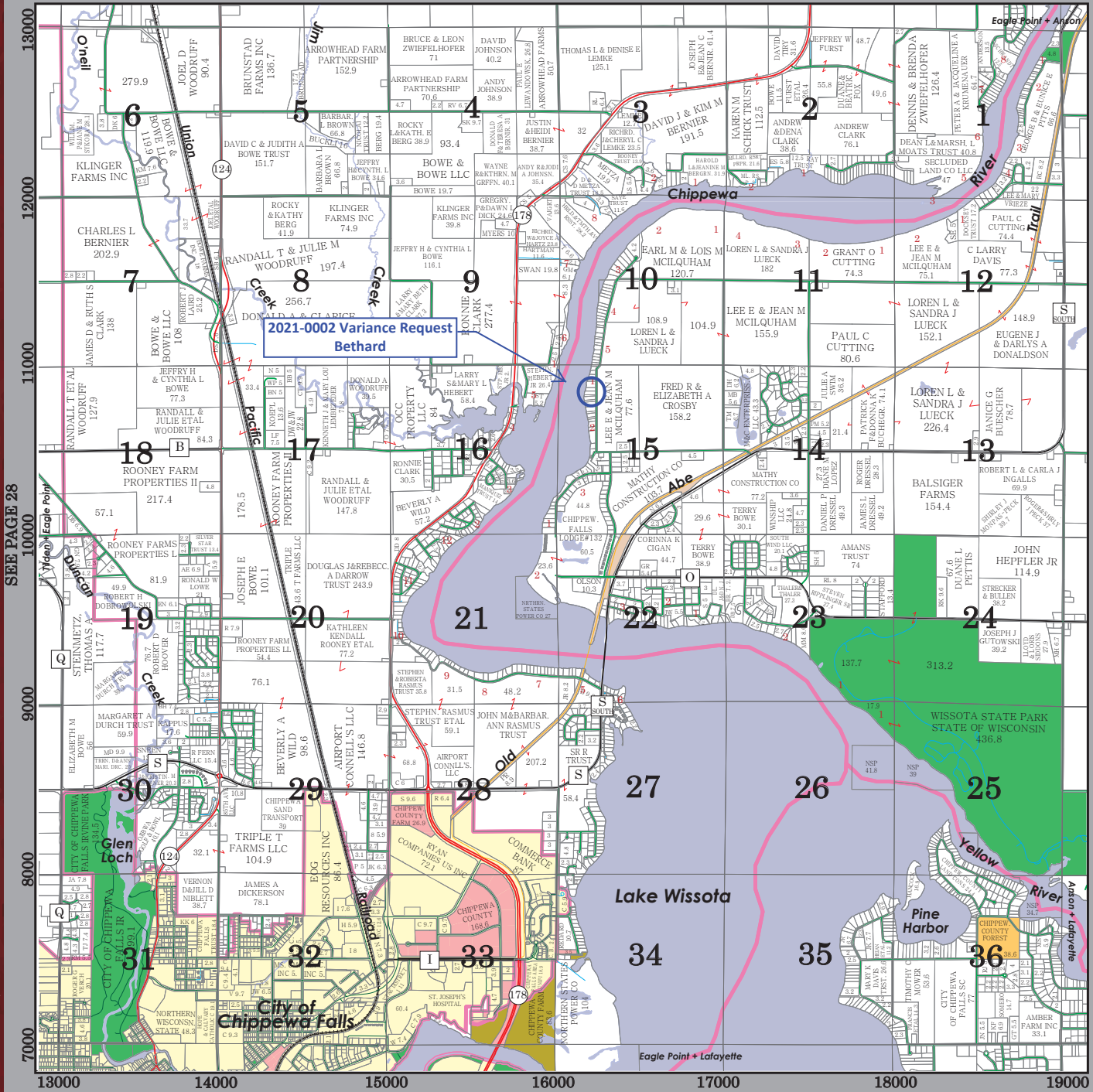
Dated this **8th** day of **July**, 2021.

Douglas Clary, Director
Department of Planning & Zoning
Chippewa County, Wisconsin

Attachment: 2021-0002 Bethard - Variance - Public Hearing Notices & Maps (6497 : Bethard Variance Request)



SEE PAGE 42



SEE PAGE 18

© 2017 Chippewa County, WI

All acreages are computed & rounded to the closest tenth acre, roadways are excluded from totals. All mapping is for reference only and is not intended, or to be used for any legal purpose.

Land Records Division / County Surveyor

- Coordinates land records modernization in Chippewa County
- Files and records land record information pertaining to land corners, maps of survey and information relating to land parcels
- Prepares parcel maps for Chippewa County lands
- Maintains the Public Land Survey System
- Creates and maintains the County Geographic Information System (GIS)
- Determines the geodetic positions of locations for survey and mapping projects
- Publishes the plat book for Chippewa County

Chippewa County Land Records
711 North Bridge Street
Chippewa Falls, WI 54729

www.co.chippewa.wi.us/government/land-records-county-surveyor



CHIPPEWA COUNTY DEPARTMENT OF PLANNING & ZONING

• 711 North Bridge Street, Chippewa Falls, WI 54729 • Phone: 715.726.7940 • Fax: 715.726.4596 • www.co.chippewa.wi.us •

Land Management

Land Planning

Land Records & G.I.S.

POWTS & Wells

Date: July 8, 2021

To: Property Owner(s)

From: Tony Roder, Zoning Inspector



Re: Public Meetings & Public Hearing

Dear Property Owner(s):

The Chippewa County Department of Planning & Zoning has received a request for a variance as indicated below. Your property has been determined to be within the legal public hearing notification distance per county and state requirements. I have enclosed a map identifying the location of the parcels associated with this rezone request. If you have any questions regarding this variance petition, please contact me at (715) 738-2603.

VARIANCE REQUEST: #2021-0002

Appellant: Roger Bethard

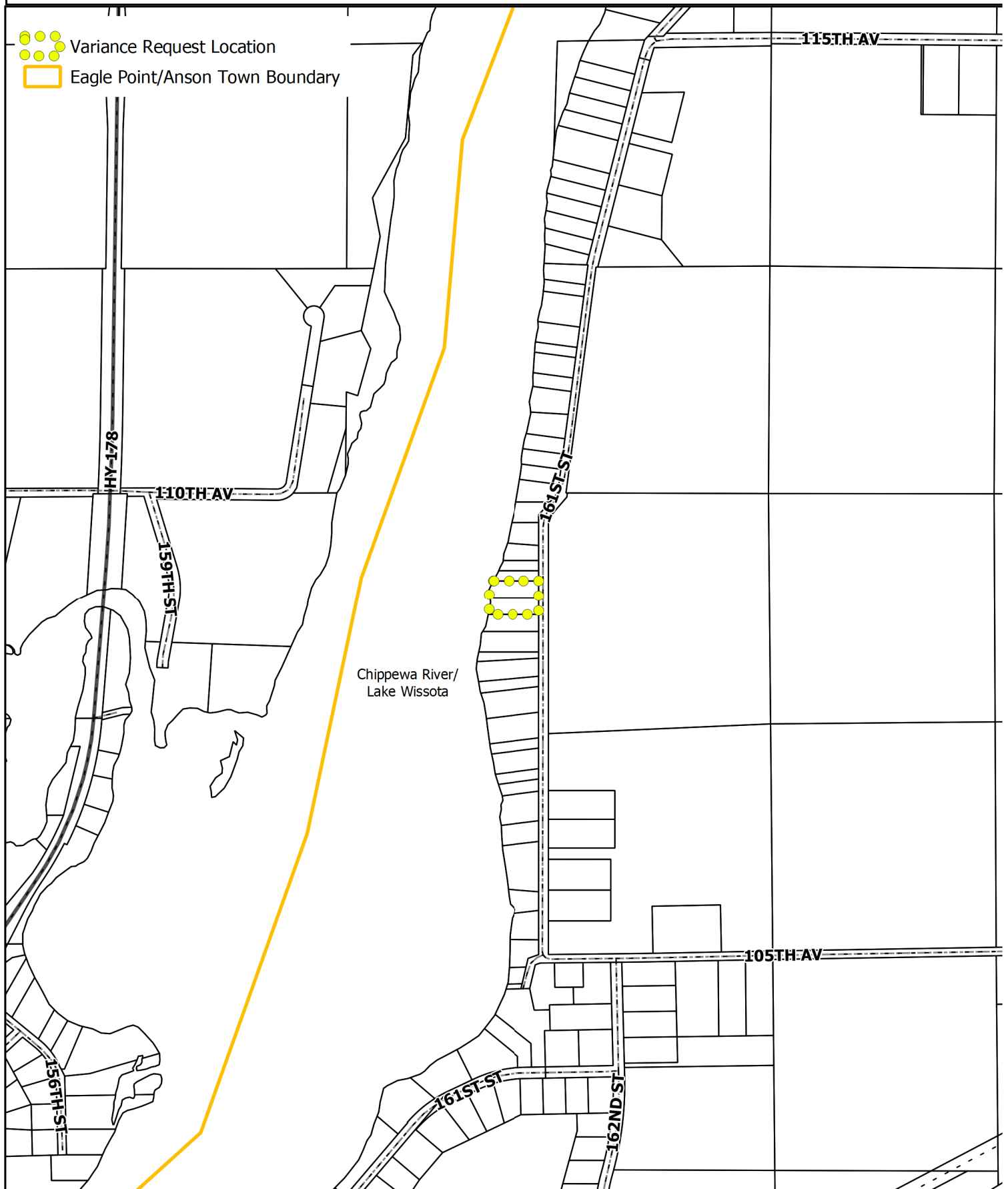
To allow an after-the-fact gazebo that does not meet the 75' water setback in the Shoreland District in accordance with sections 55-42(b) and 55-49(a) of the Chippewa County Shoreland Ordinance. Parcel number: 22908-1522-50010490, which is located in the NW ¼ of the NW ¼, Section 15, Township 29 North, Range 08 West. Town of Anson. Physical Address: 10894 161st Street.

Chippewa County Board of Adjustment:

The Chippewa County Board of Adjustment (BOA) will hold a **PUBLIC HEARING** on **July 22, 2021** at **4:30 PM**, in room 302, of the Chippewa County Courthouse located at 711 N. Bridge Street, Chippewa Falls, Wisconsin. The BOA will make a determination to approve or deny the request.

Attachment: 2021-0002 Bethard - Variance - Public Hearing Notices & Maps (6497 : Bethard Variance Request)

2021-0002 Bethard - Variance Request - Location Map



Attachment: 2021-0002 Bethard - Variance - Public Hearing Notices & Maps (6497 : Bethard Variance Request)

2021-0002 Bethard - Variance Request - Aerial (2020)

-  Eagle Point/Anson Town Boundary
-  Variance Request Location



Attachment: 2021-0002 Bethard - Variance - Public Hearing Notices & Maps (6497 : Bethard Variance Request)

CHIPPEWA COUNTY DEPARTMENT OF PLANNING & ZONING

• 711 North Bridge Street, Chippewa Falls, WI 54729 • Phone: 715.726.7940 • Fax: 715.726.4596 • www.co.chippewa.wi.us •

2021 Variance Application



A VARIANCE is a relaxation of a dimensional standard in a land use ordinance (e.g., setbacks, lot area, height, etc.). The Board of Adjustment (BOA), after a public hearing, decides whether a variance is to be granted or denied. It is a quasi-judicial body because it functions almost like a court. The BOA's main objective is not to compromise ordinance provisions, but to apply legal criteria provided in State Supreme Court Decisions, State Laws and the County Ordinances to a specific development request, which does not meet the minimum ordinance requirements. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden on a property.

Once a completed application is received, the Chippewa County Department of Planning & Zoning will prepare and publish in the Chippewa Herald a public hearing notice of your variance request. The public hearing notice will include the location and time of the required public hearing before the BOA. In addition, your neighbors and any applicable state agency(s) will also be notified. At the hearing, any party may appear in person or may be represented by an agent or attorney to present information to the BOA in opposition or support of your request.

SECTION I: Owner Information				SECTION II: Agent/Contractor Information			
Name: <u>Roger Bethard</u>				Name:			
Mailing Address: <u>10894 161st St</u>				Mailing Address:			
City: <u>Chippewa Falls</u>	State: <u>WI</u>	Zip: <u>54729</u>		City:	State:	Zip:	
Telephone: <u>715 894 7080</u>				Telephone:			
Email Address: <u>roger.bethard@gmail.com</u>				Email Address:			
SECTION III: Parcel Information							
Town of: <u>Ausau</u>				Property Address: <u>10894 161st St</u>			
Parcel Number: <u>22908-1522-50010490</u>				City: <u>Chippewa Falls</u>	State: <u>WI</u>	Zip: <u>54729</u>	
Zoning District(s): <u>Residential</u>							

GENERAL DIRECTIONS:

- Complete** the attached Application form and the required six (6) parts:

☐ Part 1: Board of Adjustment Schedule - 2021	☐ Part 4: Construction and/or Plot Plans Required
☐ Part 2: General Questions/Alternatives	☐ Part 5: Applicant Acknowledgements
☐ Part 3: Three Step Test Criteria for Variance	☐ Part 6: Application Completeness Statement
- Submit** the application, all required information and a **\$650.00 public hearing fee** by the deadline listed in Part 1 of the application to the Chippewa County Department of Planning & Zoning, Room 009, 711 N. Bridge Street, Chippewa Falls, Wisconsin 54729.
- Make arrangements** to attend or have a representative attend the public hearing, so that the request can be presented and questions answered.

FOR DEPARTMENT OF PLANNING & ZONING STAFF USE:

Receipt Number: <u>18198</u>	Appeal Number: <u>2021-0002</u>	Public Hearing Date: <u>7-22-2021</u>
------------------------------	---------------------------------	---------------------------------------

Chippewa County – 2021 Variance Application

Part 1: Board of Adjustment Schedule - 2021

All actions delegated to the BOA pursuant to county ordinances will be subject to the below filing deadlines. Applications will not be considered to be filed and will not be placed on the agenda unless they are properly completed and include **ALL** required supporting information or documents, including payment of fees. You are encouraged to consult with staff of the Department of Planning & Zoning prior to the filing of an application to insure that all pertinent issues are identified and to determine what information in addition to the application forms will be necessary in order for the department to accept and process your application. Please CIRCLE or HIGHLIGHT the meeting you intend on attending:

Application Deadline: 12:00 Noon**Public Hearing**

December 21, 2020	January 21, 2021
January 21, 2021	February 18, 2021
February 18, 2021	March 18, 2021
March 25, 2021	April 22, 2021
April 22, 2021	May 20, 2021
May 27, 2021	June 24, 2021
June 24, 2021	July 22, 2021
July 22, 2021	August 19, 2021
August 26, 2021	September 23, 2021
September 23, 2021	October 21, 2021
October 21, 2021	November 18, 2021
November 18, 2021	December 16, 2021

*Note: Applications and all supporting information are due at **12:00 Noon** on the designated date.*

Note: Board of Adjustment meetings start at 5:30 PM.

Part 2: General Questions/Alternatives related to the request (Use a separate 8.5" x 11" sheet to answer these questions):

SEE ATTACHED ADDENDUM "PART 2"

- (A) Section references to all applicable ordinances, which the variance is being sought. Please identify the exact section(s) and number(s).
- (B) Describe the variance being requested (See Part 3 below).
- (C) Describe the effects on the property, if the variance is not granted.
- (D) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing each alternative separately that you considered in each category listed below.
 - (1) Alternatives you considered that comply with the existing standards. If you find such an alternative, you can move forward with this option with a regular permit. Provide the reasons why you rejected the compliant alternatives.
 - (2) Alternatives you considered that require a lesser variance and reasons you rejected them. Provide the reasons why you rejected the alternatives by a lesser variance.

Chippewa County – 2021 Variance Application

PART 3: Three-Step Test Criteria for Variance

Please use a separate 8.5" x 11" sheet of paper to address the questions as presented below. To qualify for a variance, you must meet the three (3) following requirements:

SEE ATTACHED ADDENDUM "PART 3"

Step One: Unnecessary Hardship

Strict application of an ordinance requirement such as a setback, the required road frontage, the height of a structure, the bulk or density required, will result in unnecessary hardship. Wisconsin case law explains that unnecessary hardship is present where, in the absence of a variance, compliance with the ordinance would prevent the owner from using the property for a permitted use or would render conformity with such restrictions unnecessarily burdensome. If a parcel as a whole, but not necessarily each portion of the parcel provides for a permitted use then the test is not met and a variance cannot be granted. An applicant may not claim hardship because of conditions which are self-imposed or created by a prior owner (for example, splitting a lot to create two substandard lots or starting construction without the proper permits and then claiming hardship). Courts have also determined that loss of profit or financial hardship does not, by themselves, justify a variance.

In your opinion, is unnecessary hardship present on this property?

- ☒ YES. Please describe the unnecessary hardship present on this property and why it is unnecessarily burdensome for you to comply with the regulations.
- ☐ NO. A variance cannot be granted.

Step Two: Hardship due to unique physical limitations of the property

The hardship is due to unique physical limitations of the property, i.e. compliance with the ordinance is prevented by limitations of the property (steep slopes, wetlands, etc.) that are not generally shared by other properties. The circumstances of an applicant (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. Minor property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amendment of the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

- ☒ YES. What are the unique physical limitations of your property? Please show the boundaries of these features on the site map(s) and describe the alternatives that you considered.
- ☐ NO. A variance cannot be granted.

Step Three: No harm to public interests

A variance may not be granted which results in harm to public interests. In applying this test, the BOA must consider 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 the ordinance and may include:

- 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 non-conforming uses, structures and lots
- Any other public interest issues

Does your request harm the public interest?

- ☐ YES. A variance cannot be granted.
- ☒ NO. Please explain why this request does not cause harm to the public interest.

Chippewa County – 2021 Variance Application

Part 4: Construction and/or Plot Plans:

The plot and construction plans are the most important piece of information pertaining to your request. An accurate diagram showing the relationship of your existing buildings and the proposed activities that you are requesting the variance for is an essential piece of information that the BOA needs in order to reach a decision. In some cases it is not required that you submit professional quality plans, but if you cannot accurately and clearly illustrate your proposal, it is recommended that you obtain assistance in preparing your plot plan.

SEE ATTACHED ADDENDUM "PART 4"

REQUIRED INFORMATION:

- ☐ A Map of Survey showing all of the following:
- ☐ Dimensions, location(s) and setback(s) of existing and proposed structures and/or additions.
 - ☐ Location of roadways and easements on the property
 - ☐ Location of well(s) and sanitary system(s)

☐ An accurate building diagram

☐ Anticipated project start date

ADDITIONAL INFORMATION, if Applicable and requested by the Planning & Zoning Department and/or BOA:

- | | |
|--|--|
| ☐ Vegetation removal proposed | ☐ Location and extent of filling, grading and/or excavation |
| ☐ Contour lines (1-2 ft. intervals) | ☐ Location and type of storm water and erosion control measures |
| ☐ Ordinary high water mark | ☐ Any other construction related to your request |
| ☐ Floodplain & wetland boundaries | |

Part 5: Applicant Acknowledgement/Signature

- I certify that the information I have provided in this application is true, accurate and complete.
- I understand that the BOA's review of this application is a quasi-judicial proceeding.
- I or a representative will have an opportunity to present to the BOA information in favor of this request.
- I have the authority to allow the staff of the Department of Planning & Zoning and BOA Committee member's access to the property to conduct necessary inspections related to my request.
- I understand that I cannot speak to any member of the BOA about this application, except at the public hearing.
- I understand that I cannot direct any written communication about this application to a member of the BOA unless I also file a copy with the Department of Planning & Zoning and direct additional copies to each person who has registered an interest in this application.
- I also understand that if I or my representative fails to appear in front of the BOA during the designated public hearing, as listed below, or my failure to observe the above mentioned rules, my request may be **DENIED**.

Signed: _____

Owner/Agent

Date: _____

20210620

Part 6: Application Completeness Statement

The Chippewa County Department of Planning & Zoning recommends that the owner/agent for the requested variance submit the information at least **one week** prior to the deadline. Once an application is submitted, the staff will review it to determine if information is missing and/or not submitted by the application deadline. If it is determined that the application is not complete, I understand the application will be either returned to me or placed in "holding" until all requested information is submitted.

By missing the required deadline I understand that this might delay my hearing by one or more months.

Signed: _____

Owner/Agent

Date: _____

20210620

20210620 Zoning Variance Application

Roger Bethard
10894 161st St; Chippewa Falls, WI; 54729
"Dad's Gazebo"

DOCUMENT ORGANIZATION

Page 2-10	Variance Application
Page 2-5	Original document
Page 6-7	Addendum "Part 2"
Page 8-9	Addendum "Part 3"
Page 10	Addendum "Part 4"
Page 11	Picture 1: Aerial map of neighborhood, 10894 highlighted center
Page 12	Picture 2: Site Plan 10894, from Zoning Permit Request 20210507
Page 13	Picture 3: Gazebo close-up, from Zoning Permit Request
Page 14	Picture 4: Aerial view of 10910 (left), 10894 (center)
Page 15	Picture 5: Water view of 10910 (left), 10894 (center)
Page 16	Picture 6: Water view of south neighbors now under construction

20210620 Zoning Variance Application

Roger Bethard
10894 161st St; Chippewa Falls, WI; 54729
"Dad's Gazebo"

ADDENDUM "PART 2"

Part 2(A): Section references to all applicable ordinances for which the variance is being sought.

Per notification dated 20210518 from zoning inspector Tony Roder, I am in violation of the following zoning ordinances:

- Chapter 55 "Shoreland Zoning" Sec. 55-49 "Open-Sided and Screened Structures"
- Chapter 55 "Shoreland Zoning" Sec. 55-16 "Zoning Permits"
- Chapter 70 "Zoning" Sec. 70-33 "Permits"

Part 2(B): Describe the variance being requested.

I own two adjacent waterfront properties on 161st St (each 100-ft width standard, each constructed legally at the 50' historical waterfront setback standard). I purchased 10894 in 1991 as my primary residence. I purchased 10910 in 2010 for renovation into a HANDICAP-capable residence for my parents. All renovation permits were properly obtained. In 2014 for dad's 94th birthday I purchased and installed for him a Menards 10'x12' open-walled gazebo on the 10894 property at the only HANDICAP-accessible safe site in either of the two adjacent backyards. I acknowledge that, until recently, I did not believe that permitting is required for an owner-installed open-walled temporary structure.

This year for mom's 80th birthday I promised her I'd replace the deteriorated original steps and dock on property 10894 with new HANDICAP-capable access. I applied for a zoning permit because I knew this was construction of permanent structure. It was during the permitting process of this waterfront staircase that the missing 7-year-old gazebo permit was identified by zoning inspector Tony Roder.

I am requesting that an after-the-fact variance be granted in order to preserve (not develop, not expand) dad's HANDICAP-accessible open-walled gazebo. This year would have been dad's 100th, and mom will presently be celebrating her 80th; she continues to need the same HANDICAP safety and access that dad required.

Part 2(C): Describe the effects on the property if the variance is not granted.

There is no *conforming site* on either property for dad's HANDICAP-accessible gazebo between the foot of the driveway and the 75' waterfront setback. There is no *conforming site* on the road-side halves of either adjacent properties with a view of the waterfront.

There is no other *non-conforming site* on either property for dad's HANDICAP-accessible gazebo. Within the waterfront setback on property 10910 there is a natural crown slope in both the east-west direction and the north-south direction; the combination makes HANDICAP-access dangerous without employing excavation and regrading. Within the waterfront setback on property 10894 there is a pronounced east-west slope on all land south of the dock staircase (farthest away from property 10910) which makes HANDICAP-access dangerous without employing excavation and regrading.

Within the waterfront setback of both adjacent 100' properties there is only one area where the undisturbed ground slope is level and HANDICAP-access is safe; this is where dad's open-walled gazebo is located.

Part 2(D)(1): Describe considered alternatives to your proposal which comply with existing standards, with site map showing each alternative separately.

Part 2(D)(2): Describe rejected alternatives to your proposal which require lesser variance, with site map showing each alternative separately.

(Note: I recognize the two **Part 2(D)** questions are not framed in the context of after-the-fact variance permitting, and I answer here as thoroughly as I can. I did not process the gazebo site selection through the lens of 75' setback requirements. I was under the incorrect assumption that temporary open-walled structures such as gazebos were exempt. My primary consideration was always about dad's HANDICAP-accessible safety first, followed closely with maintaining the waterfront of both properties as undisturbed as possible.)

Please refer to comments in **Part 2(C)**. All other locations along the 200' frontage of combined properties 10894 and 10910 are rejected because they intrinsically HANDICAP-accessible **unsafe**. Additionally, as a long-time waterfront property owner I would have summarily dismissed any alternative which would have required excavation or regrading along the water.

20210620 Zoning Variance Application

Roger Bethard
10894 161st St; Chippewa Falls, WI; 54729
"Dad's Gazebo"

ADDENDUM "PART 3"

Part 3(A): In your opinion, is unnecessary hardship present on this property?

Yes, I believe an unnecessary hardship exists in this case. The decision to place dad's HANDICAP-accessible open-walled gazebo within this particular setback region is driven first and foremost by safety concerns; however, legitimate concerns for preservation of the waterfront and for the public interest are also regarded and prioritized by the structure placement. Please refer to attached "Picture 4: Aerial view of 10910 (left), 10894 (center)" and "Picture 5: Water view of 10910 (left), 10894 (center)". The existing 12-16' 10894 waterfront viewing corridor implementation (of 35' max allowable) is more than sufficient to be shared by the gazebo; the remaining brush/shrub/tree untouched waterfront vegetation is more than sufficient to hide the gazebo from the remainder of public view. No excavation or regrading is required to make this open-walled gazebo HANDICAP-accessible safe. The gazebo location meets all other applicable setback requirements (from property line, from septic field, from primary structure).

Part 3(B): Do unique physical characteristics of your property prevent compliance with the ordinance?

Please refer back to **Part 2(C)**. Within the waterfront setback of both adjacent 100' properties there is only one area where the undisturbed ground slope is level and HANDICAP-access is safe; this is where dad's open-walled gazebo is located.

Part 3(C): Does your request harm the public interest?

Respectfully, a 10'x12' open-walled gazebo on level ground at an elevation of 2 stories on high bank above water level and well-obscured behind brush and trees poses zero harm to public interests. Please refer to attached "Picture 4: Aerial view of 10910 (left), 10894 (center)" and "Picture 5: Water view of 10910 (left), 10894 (center)".

There are two adjacent properties to the south of me, permitted and under construction this summer, which might more accurately flag one or more issues listed in the application. Please refer to attached "Picture 6: Water view of south neighbors now under construction".

20210620 Zoning Variance Application

Roger Bethard
10894 161st St; Chippewa Falls, WI; 54729
"Dad's Gazebo"

ADDENDUM "PART 4"

Part 4: Construction and/or Plot Plans.

There are no construction plans as this is an application for after-the-fact variance and permit for dad's open-walled HANDICAP-accessible gazebo structure to remain.

An accurate diagram of the existing gazebo placement and its relationship with other strategic property landmarks are filed with the county in the zoning permit application dated 20210507. The site plan page of that application is included in this document as "Picture 2: Site Plan 10894, from Zoning Permit Request 20210507".

mapping.co.chippewa.wi.us

CHIPPEWA COUNTY WEB MAPPING

Get Info Clear Selection Search Print Pictometry Viewer Drawing Tools More Tools ... Survey Search >> Hide Header

Helpful Links

Basemap Aerial

Jump To:

Property Address Search

Back to Settings

Results: 1

PIN: [22908-1522-50010490](#)

Owner Name: ROGER A BETHARD

Owner Address: 10894 161ST ST

Owner City, State: CHIPPEWA FALLS WI

Owner Zip Code: 54729

Assessed Value: 317800

Fair Market Value: 404000

School Code: 1092

Document Num:

Vol-Page:

Description: GOVT LOT 1 (N 1/2 NW) PCL BEG 697.15' N OF S LN & 1344' W OF E LN; N 100' W TO LK WISS, SLY ALG SH TO PT W OF BEG, E TO POB.

GIS Acres: 0.7

Location: 10894 161ST ST CHIPPEWA FALLS 54729

[Tapestry Documents](#)

[View Parcel Report](#)

22908-1522-50010470

22908-1522-50010490

22908-1522-50010520

22908-1522-50010540

161ST ST

Developed by hei geo 1:461

Lat, Lon: 45.00012, -91.34318

>> Hide Tabs

Attachment: 2021-0002 Bethard - Variance - Application (6497 : Bethard Variance Request)

Setbacks To:

NOTE: These distances must be shown on submitted site plan

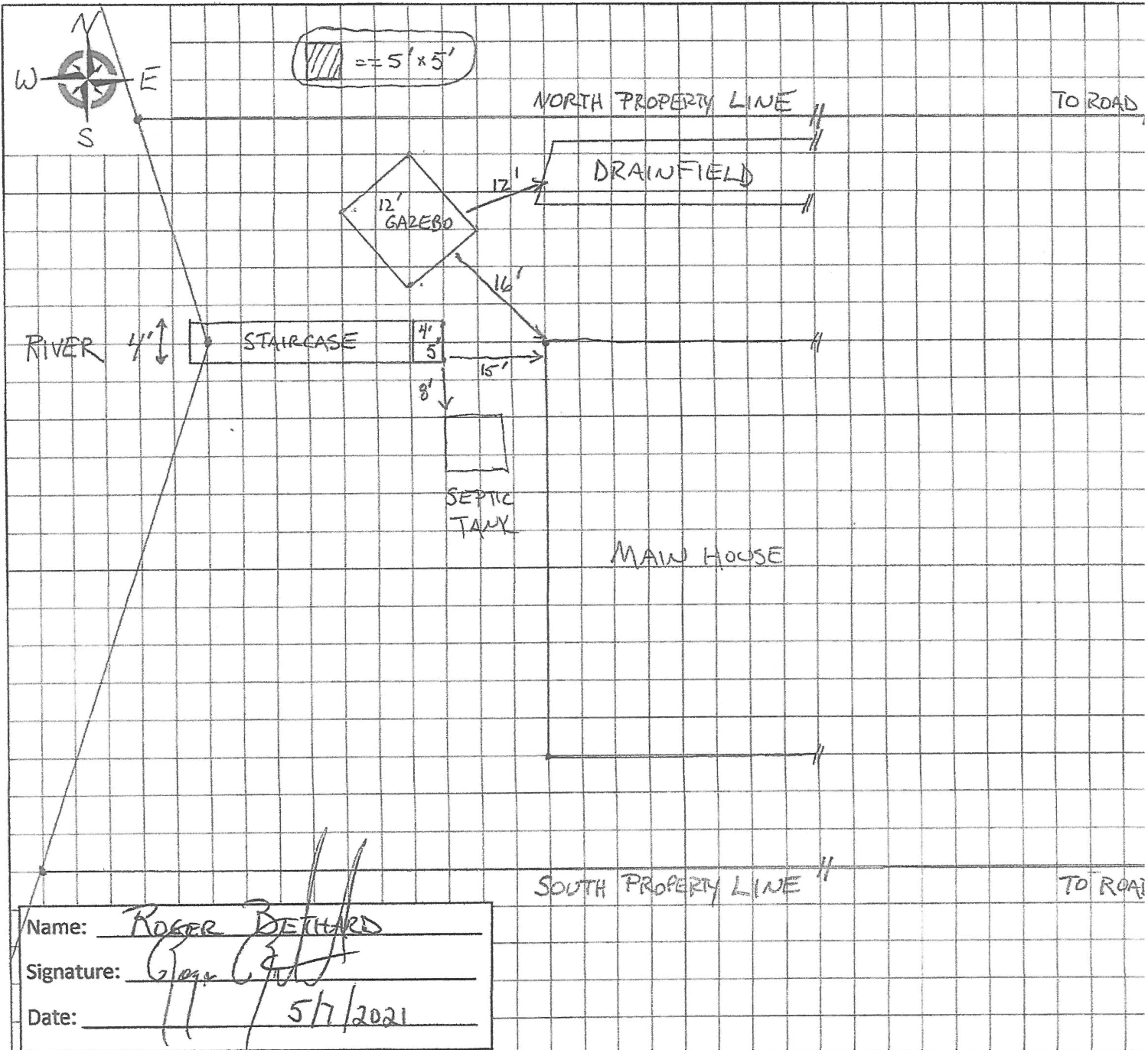
		County Use Only	Notes/Comments/Restrictions
		Measured	
Front Lot Line/Road Right-of Way	ft.	ft.	
Rear Lot Line	ft.	ft.	
Side Lot Line 1	ft.	ft.	
Side Lot Line 2	ft.	ft.	
Septic/Holding Tank	ft.	ft.	
Septic Drain Field	ft.	ft.	
Well	ft.	ft.	
Principal Structure	ft.	ft.	
Accessory Structure	ft.	ft.	
Edge of Driveway to Side Lot Lines	ft.	ft.	

☐ Approved

Inspector:

☐ Denied

Date:



Name: ROGER BETHARD

Signature: [Signature]

Date: 5/7/2021







Attachment: 2021-0002 Bethard - Variance - Application (6497 : Bethard Variance Request)



Attachment: 2021-0002 Bethard - Variance - Application (6497 : Bethard Variance Request)



STATEMENT OF EXPLANATION
2021-0003 SCHULTZ - VARIANCE REQUEST - TOWN OF LAFAYETTE -
TONY RODER

A VARIANCE is a relaxation of a dimensional standard in a land use ordinance (e.g., setbacks, lot area, height, etc.). The Board of Adjustment (BOA), after a public hearing, decides whether a variance is to be granted or denied. It is a quasi-judicial body because it functions almost like a court. The BOA's main objective is not to compromise ordinance provisions, but to apply legal criteria provided in State Supreme Court Decisions, State Laws and the County Ordinances to a specific development request, which does not meet the minimum ordinance requirements. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden on a property.

Variance Request: To allow an after-the-fact accessory building addition that does not meet the road setback in the Local Commercial District in accordance with section 70-109(a)(2)(a) of the Chippewa County Zoning Ordinance. Parcel number 22807-0711-01250000, which is located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 07, Township 28 North, Range 07 West. Town of Lafayette.
Physical Address: 19941 County Hwy X.

(Publish – Chippewa Herald – July 12 and July 15, 2021)

CHIPPEWA COUNTY BOARD OF ADJUSTMENT
NOTICE OF PUBLIC HEARING
STATE OF WISCONSIN

PUBLIC NOTICE is hereby given to all persons in the County of Chippewa, Wisconsin, that a public hearing will be held on **July 22, 2021** beginning at **4:30 PM** in Room 302, located in the Chippewa County Courthouse, Chippewa Falls, Wisconsin, relative to following requests:

Variance Petition: #2021-0002

Appellant: Roger Bethard

To allow an after-the-fact gazebo that does not meet the 75' water setback in the Shoreland District in accordance with sections 55-42(b) and 55-49(a) of the Chippewa County Shoreland Ordinance. Parcel number: 22908-1522-50010490, which is located in the NW ¼ of the NW ¼, Section 15, Township 29 North, Range 08 West. Town of Anson. Physical Address: 10894 161st Street.

Variance Petition: #2021-0003

Appellant: Steve Schulz

To allow an after-the-fact accessory building addition that does not meet the road setback in the Local Commercial District in accordance with section 70-109(a)(2)(a) of the Chippewa County Zoning Ordinance. Parcel number 22807-0711-01250000, which is located in the NE ¼ of the NE ¼, Section 07, Township 28 North, Range 07 West. Town of Lafayette. Physical Address: 19941 County Hwy X.

All persons interested are invited to attend. Specific information regarding this hearing can be obtained at the Chippewa County Department of Planning & Zoning.

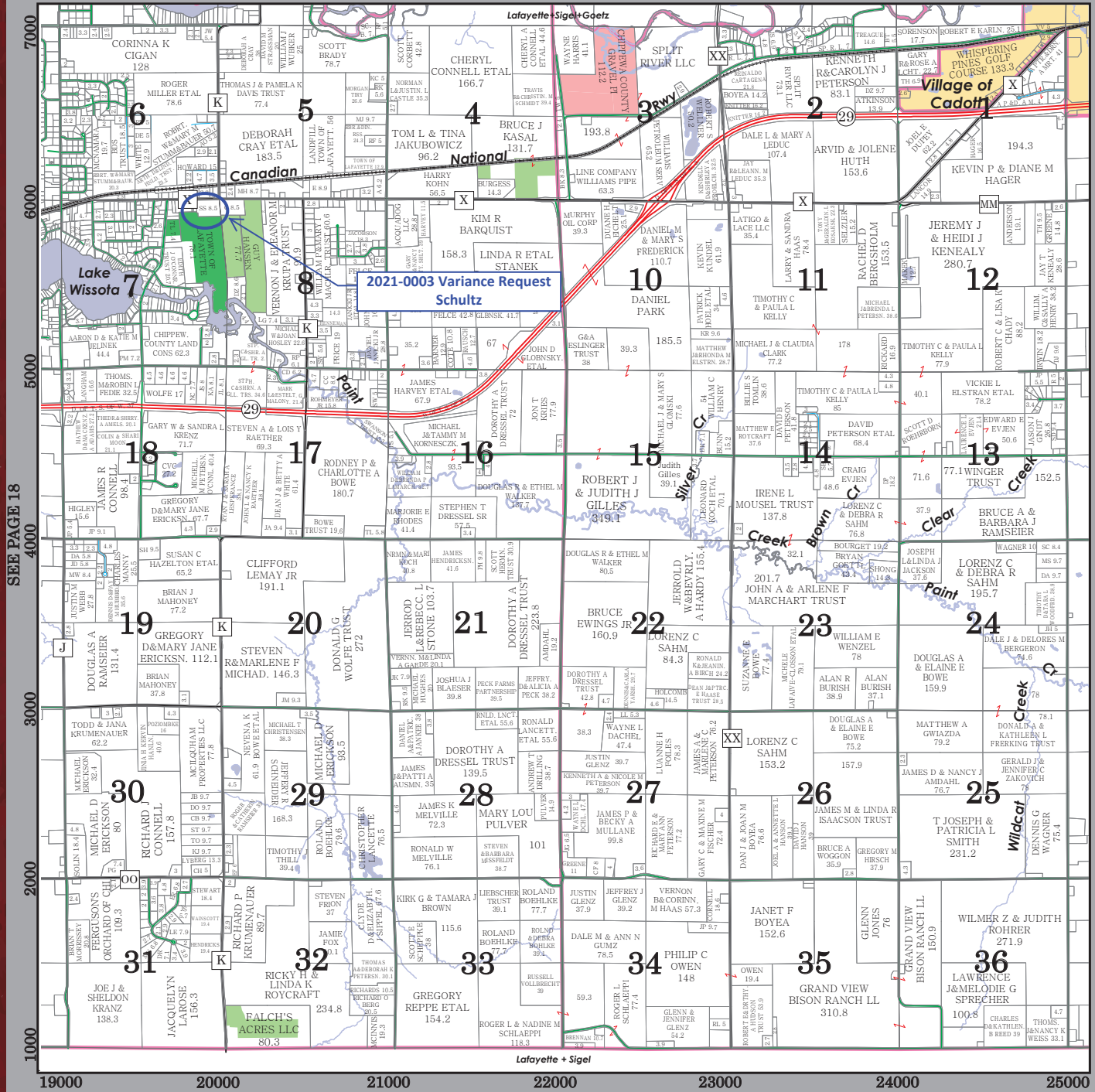
Dated this **8th** day of **July**, 2021.

Douglas Clary, Director
Department of Planning & Zoning
Chippewa County, Wisconsin



SEE PAGE 32

Lafayette-Sigel+Goetz



EAU CLAIRE COUNTY

© 2017 Chippewa County, WI

All acreages are computed & rounded to the closest tenth acre, roadways are excluded from totals. All mapping is for reference only and is not intended, or to be used for any legal purpose.

Chippewa County Treasurer's Office / Property Listing

Check us out on the web! All property tax and assessment information is available on our web site @ www.co.chippewa.wi.us by clicking on "Property Tax" under Useful Links.

For your convenience, taxpayers can pay their postponed or delinquent real estate taxes by credit card, debit card or E-check. There is a convenience fee if you choose to use this option. For Credit/Debit cards the convenience fee is 2.39% of the amount paid. For E-checks the fee is \$1.50 or \$10.00 if the payment is over \$10,000.00.



As always, our friendly and efficient staff is here to serve you!

Chippewa County Treasurer
711 N Bridge St., Chippewa Falls, WI 54729
Phone: 715-726-7960 Fax: 715-720-2504

CHIPPEWA COUNTY DEPARTMENT OF PLANNING & ZONING

• 711 North Bridge Street, Chippewa Falls, WI 54729 • Phone: 715.726.7940 • Fax: 715.726.4596 • www.co.chippewa.wi.us •

Land Management

Land Planning

Land Records & G.I.S.

POWTS & Wells

Date: July 8, 2021

To: Property Owner(s)

From: Tony Roder, Zoning Inspector



Re: Public Meetings & Public Hearing

Dear Property Owner(s):

The Chippewa County Department of Planning & Zoning has received a request for a variance as indicated below. Your property has been determined to be within the legal public hearing notification distance per county and state requirements. I have enclosed a map identifying the location of the parcels associated with this rezone request. If you have any questions regarding this variance request, please contact me at (715) 738-2603.

VARIANCE REQUEST: #2021-0003

Appellant: Steve Schulz

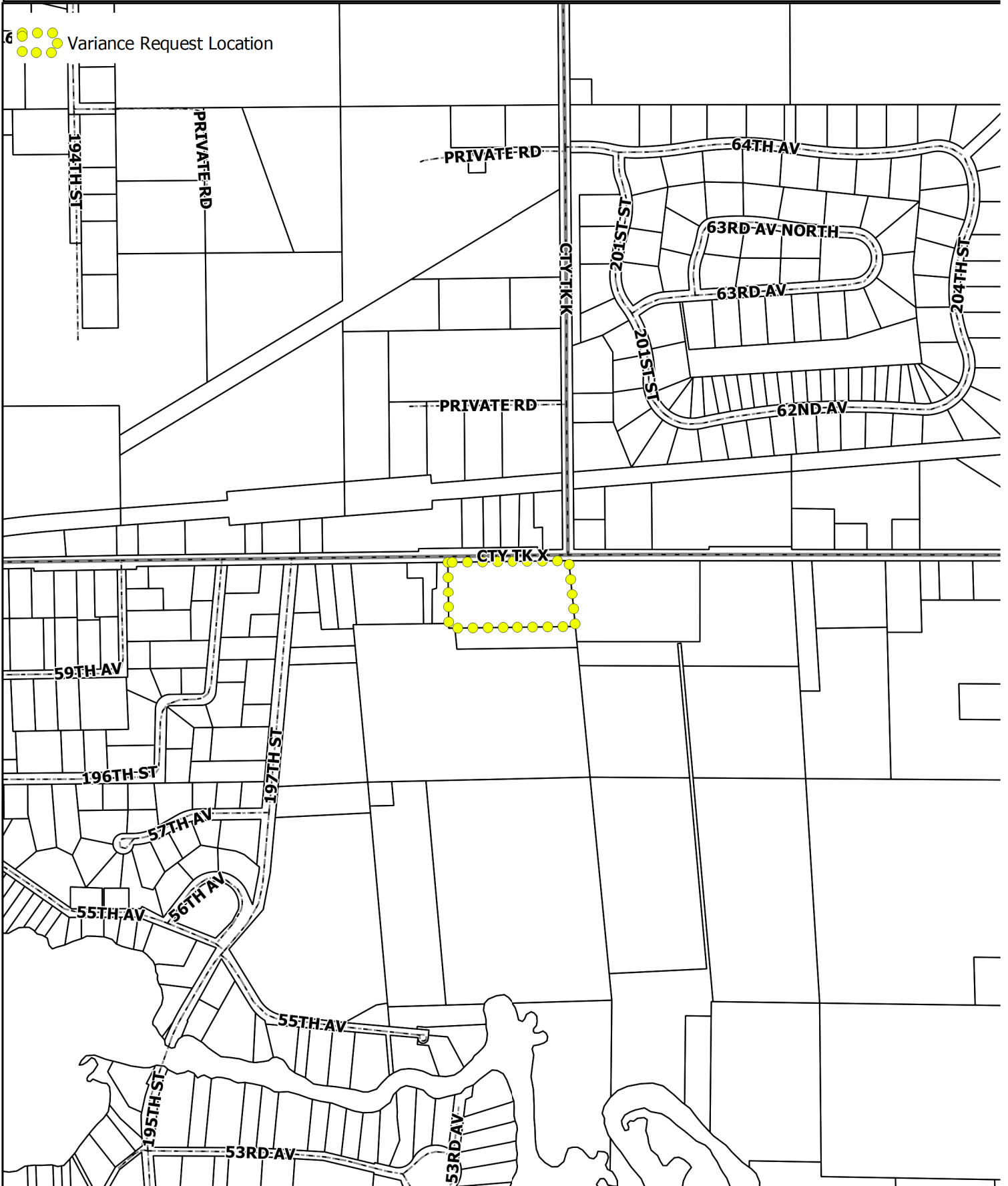
To allow an after-the-fact accessory building addition that does not meet the road setback in the Local Commercial District in accordance with section 70-109(a)(2)(a) of the Chippewa County Zoning Ordinance. Parcel number 22807-0711-01250000, which is located in the NE ¼ of the NE ¼, Section 07, Township 28 North, Range 07 West. Town of Lafayette. Physical Address: 19941 County Hwy X.

Chippewa County Board of Adjustment:

The Chippewa County Board of Adjustment (BOA) will hold a **PUBLIC HEARING** on **July 22, 2021** at **4:30 PM**, in room 302, of the Chippewa County Courthouse located at 711 N. Bridge Street, Chippewa Falls, Wisconsin. The BOA will make a determination to approve or deny the request.

Attachment: 2021-0003 Schultz - Variance Request - Public Hearing Notices & Maps (6498 : Schultz Variance Request)

2021-0002 Bethard - Variance Request - Location Map



Attachment: 2021-0003 Schultz - Variance Request - Public Hearing Notices & Maps (6498 : Schultz Variance Request)

2021-0003 Schultz - Variance Request - Aerial (2020)

 Variance Request Location

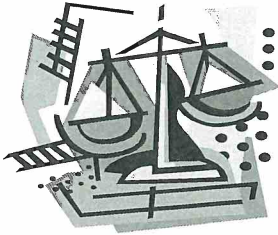


Attachment: 2021-0003 Schultz - Variance Request - Public Hearing Notices & Maps (6498 : Schultz Variance Request)

CHIPPEWA COUNTY DEPARTMENT OF PLANNING & ZONING

• 711 North Bridge Street, Chippewa Falls, WI 54729 • Phone: 715.726.7940 • Fax: 715.726.4596 • www.co.chippewa.wi.us •

2021 Variance Application



A **VARIANCE** is a relaxation of a dimensional standard in a land use ordinance (e.g., setbacks, lot area, height, etc.). The Board of Adjustment (BOA), after a public hearing, decides whether a variance is to be granted or denied. It is a quasi-judicial body because it functions almost like a court. The BOA's main objective is not to compromise ordinance provisions, but to apply legal criteria provided in State Supreme Court Decisions, State Laws and the County Ordinances to a specific development request, which does not meet the minimum ordinance requirements. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden on a property.

Once a completed application is received, the Chippewa County Department of Planning & Zoning will prepare and publish in the Chippewa Herald a public hearing notice of your variance request. The public hearing notice will include the location and time of the required public hearing before the BOA. In addition, your neighbors and any applicable state agency(s) will also be notified. At the hearing, any party may appear in person or may be represented by an agent or attorney to present information to the BOA in opposition or support of your request.

SECTION I: Owner Information				SECTION II: Agent/Contractor Information			
Name: <u>Steve Schultz</u>				Name:			
Mailing Address: <u>P.O. Box 172</u>				Mailing Address:			
City: <u>Chippewa Falls</u>		State: <u>WI</u>	Zip: <u>54729</u>	City:		State:	Zip:
Telephone: <u>715-723-3663-715-456-8759</u>				Telephone:			
Email Address:				Email Address:			
SECTION III: Parcel Information							
Town of: <u>Lafayette</u>				Property Address: <u>19941 Cty Hwy X</u>			
Parcel Number: <u>22801-0711-0125 0000</u>				City: <u>Chippewa Falls</u>		State: <u>WI</u>	Zip: <u>54729</u>
Zoning District(s): <u>Chippewa County</u>							

GENERAL DIRECTIONS:

- Complete** the attached Application form and the required six (6) parts:

☒ Part 1: Board of Adjustment Schedule - 2021	☒ Part 4: Construction and/or Plot Plans Required
☒ Part 2: General Questions/Alternatives	☒ Part 5: Applicant Acknowledgements
☒ Part 3: Three Step Test Criteria for Variance	☒ Part 6: Application Completeness Statement
- Submit** the application, all required information and a **\$650.00** public hearing fee by the deadline listed in Part 1 of the application to the Chippewa County Department of Planning & Zoning, Room 009, 711 N. Bridge Street, Chippewa Falls, Wisconsin 54729.
- Make arrangements** to attend or have a representative attend the public hearing, so that the request can be presented and questions answered.

FOR DEPARTMENT OF PLANNING & ZONING STAFF USE:		
Receipt Number: <u>18194</u>	Appeal Number: <u>2021-0003</u>	Public Hearing Date: <u>7-22-2021</u>

Chippewa County – 2021 Variance Application

Part 1: Board of Adjustment Schedule - 2021

All actions delegated to the BOA pursuant to county ordinances will be subject to the below filing deadlines. Applications will not be considered to be filed and will not be placed on the agenda unless they are properly completed and include **ALL** required supporting information or documents, including payment of fees. You are encouraged to consult with staff of the Department of Planning & Zoning prior to the filing of an application to insure that all pertinent issues are identified and to determine what information in addition to the application forms will be necessary in order for the department to accept and process your application. Please CIRCLE or HIGHLIGHT the meeting you intend on attending:

<u>Application Deadline: 12:00 Noon</u>	<u>Public Hearing</u>
December 21, 2020	January 21, 2021
January 21, 2021	February 18, 2021
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April 22, 2021	May 20, 2021
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June 24, 2021	July 22, 2021
July 22, 2021	August 19, 2021
August 26, 2021	September 23, 2021
September 23, 2021	October 21, 2021
October 21, 2021	November 18, 2021
November 18, 2021	December 16, 2021

Note: Applications and all supporting information are due at **12:00 Noon** on the designated date.

Note: Board of Adjustment meetings start at 5:30 PM.

Part 2: General Questions/Alternatives related to the request (Use a separate 8.5" x 11" sheet to answer these questions):

- (A) Section references to all applicable ordinances, which the variance is being sought. Please identify the exact section(s) and number(s).
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- (C) Describe the effects on the property, if the variance is not granted.
- (D) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing each alternative separately that you considered in each category listed below.
 - (1) Alternatives you considered that comply with the existing standards. If you find such an alternative, you can move forward with this option with a regular permit. Provide the reasons why you rejected the compliant alternatives.
 - (2) Alternatives you considered that require a lesser variance and reasons you rejected them. Provide the reasons why you rejected the alternatives by a lesser variance.

Chippewa County – 2021 Variance Application

PART 3: Three-Step Test Criteria for Variance

Please use a separate 8.5" x 11" sheet of paper to address the questions as presented below. To qualify for a variance, you must meet the three (3) following requirements:

Step One: Unnecessary Hardship

Strict application of an ordinance requirement such as a setback, the required road frontage, the height of a structure, the bulk or density required, will result in unnecessary hardship. Wisconsin case law explains that unnecessary hardship is present where, in the absence of a variance, compliance with the ordinance would prevent the owner from using the property for a permitted use or would render conformity with such restrictions unnecessarily burdensome. If a parcel as a whole, but not necessarily each portion of the parcel provides for a permitted use then the test is not met and a variance cannot be granted. An applicant may not claim hardship because of conditions which are self-imposed or created by a prior owner (for example, splitting a lot to create two substandard lots or starting construction without the proper permits and then claiming hardship). Courts have also determined that loss of profit or financial hardship does not, by themselves, justify a variance.

In your opinion, is unnecessary hardship present on this property?

☒ YES. Please describe the unnecessary hardship present on this property and why it is unnecessarily burdensome for you to comply with the regulations.

☐ NO. A variance cannot be granted.

Step Two: Hardship due to unique physical limitations of the property

The hardship is due to unique physical limitations of the property, i.e. compliance with the ordinance is prevented by limitations of the property (steep slopes, wetlands, etc.) that are not generally shared by other properties. The circumstances of an applicant (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. Minor property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amendment of the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

☒ YES. What are the unique physical limitations of your property? Please show the boundaries of these features on the site map(s) and describe the alternatives that you considered.

☐ NO. A variance cannot be granted.

Step Three: No harm to public interests

A variance may not be granted which results in harm to public interests. In applying this test, the BOA must consider 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 the ordinance and may include:

- 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 non-conforming uses, structures and lots
- Any other public interest issues

Does your request harm the public interest?

☐ YES. A variance cannot be granted.

☒ NO. Please explain why this request does not cause harm to the public interest.

Chippewa County – 2021 Variance Application

Part 4: Construction and/or Plot Plans:

The plot and construction plans are the most important piece of information pertaining to your request. An accurate diagram showing the relationship of your existing buildings and the proposed activities that you are requesting the variance for is an essential piece of information that the BOA needs in order to reach a decision. In some cases it is not required that you submit professional quality plans, but if you cannot accurately and clearly illustrate your proposal, it is recommended that you obtain assistance in preparing your plot plan.

REQUIRED INFORMATION:

- ☒ A Map of Survey showing all of the following:
- ☒ Dimensions, location(s) and setback(s) of existing and proposed structures and/or additions.
 - ☒ Location of roadways and easements on the property
 - ☒ Location of well(s) and sanitary system(s)
- ☒ An accurate building diagram
- ☒ Anticipated project start date

ADDITIONAL INFORMATION, if Applicable and requested by the Planning & Zoning Department and/or BOA:

- | | |
|--|--|
| ☐ Vegetation removal proposed | ☐ Location and extent of filling, grading and/or excavation |
| ☐ Contour lines (1-2 ft. intervals) | ☐ Location and type of storm water and erosion control measures |
| ☐ Ordinary high water mark | ☐ Any other construction related to your request |
| ☐ Floodplain & wetland boundaries | |

Part 5: Applicant Acknowledgement/Signature

- I certify that the information I have provided in this application is true, accurate and complete.
- I understand that the BOA's review of this application is a quasi-judicial proceeding.
- I or a representative will have an opportunity to present to the BOA information in favor of this request.
- I have the authority to allow the staff of the Department of Planning & Zoning and BOA Committee member's access to the property to conduct necessary inspections related to my request.
- I understand that I cannot speak to any member of the BOA about this application, except at the public hearing.
- I understand that I cannot direct any written communication about this application to a member of the BOA unless I also file a copy with the Department of Planning & Zoning and direct additional copies to each person who has registered an interest in this application.
- I also understand that if I or my representative fails to appear in front of the BOA during the designated public hearing, as listed below, or my failure to observe the above mentioned rules, my request may be **DENIED**.

Signed: Steve Schuf Date: 6-23-21
Owner/Agent

Part 6: Application Completeness Statement

The Chippewa County Department of Planning & Zoning recommends that the owner/agent for the requested variance submit the information at least **one week** prior to the deadline. Once an application is submitted, the staff will review it to determine if information is missing and/or not submitted by the application deadline. If it is determined that the application is not complete, I understand the application will be either returned to me or placed in "holding" until all requested information is submitted.

By missing the required deadline I understand that this might delay my hearing by one or more months.

Signed: Steve Schuf Date: 6-23-21
Owner/Agent

CHIPPEWA COUNTY PLANNING & ZONING—Zoning Permit Application

SECTION A: General Information

Property Owner: <u>Steve Schultz</u>	Agent/Contractor:
Mailing Address: <u>P.O. Box 172</u>	Mailing Address:
City, State, Zip Code: <u>Chippewa Falls WI 54729</u>	City, State, Zip Code:
Phone: <u>715-723-3663 / 715-456-8759</u>	Phone:
Email: _____	Email:

SECTION B: Property Information

Parcel Identification #: <u>22807-0711-0125-0000</u>	Project Location Address: <u>19941 City Hwy X</u>
Town: <u>Lafayette</u>	Zoning: <u>Chippewa North</u>

SECTION C: Proposed Project: Please note the location of the structure corners will need to be staked

Principal Structure: ☐ New ☐ Addition	Accessory Structure: ☐ New ☒ Addition
☐ Single-Family Home ☐ Two-Family Home ☐ Multi-Family Home ☐ Agricultural Building ☐ Commercial Building ☐ Industrial Building ☐ Deck/Porch ☐ Other _____ Proposed Use: _____ Total Area: _____ Dimensions: _____	NOTICE: Additional permit requirements may be applicable depending on project scope (e.g. Uniform Dwelling Code, Commercial State Plan Approval, Electrical Inspections, Septic System Verification, etc.) ☐ Shed or Garage ☐ Storage Building ☐ Lean-To ☐ Pool ☐ Shelter ☐ Gazebo ☐ Carport ☐ Stairways/Staircases ☐ Sign ☐ On-Premise ☐ Off-Premise ☒ Other: <u>Well House / Treatment Bld.</u> Proposed Use: <u>Well House Treatment Bld.</u>
	Electricity ☐ Yes ☐ No (If yes, additional permitting may be required) Sewer/Water ☐ Yes ☐ No (If yes, additional permitting may be required) Bathrooms ☐ Yes ☐ No (If yes, additional permitting may be required) Width: _____ Length: _____ Wall Height: _____ Total Height: _____ Roof Pitch: _____

SECTION D: Application Submittal

This Application will not be reviewed until the following are properly completed and submitted to the Department of Planning & Zoning:

- ☒ Zoning Permit Application
☐ Site Plan ☐ Floor Plan ☐ Side Views/Building Elevations
☐ Stormwater, Erosion Control and Wetland Addendum ☐ Location of Structure Corners Staked
☒ Applicable Fee (Payable: **Chippewa County Treasurer**) ☐ On each page submitted: Print your name, signature and date.

SECTION E: Property Owner Authorization

- ☒ If the required information is missing, the applicant will be given seven (7) days from notification to formally submit the missing information or to make the necessary corrections. If the information is not submitted or the necessary corrections made within seven (7) days from notification, all submitted information will be returned to the applicant stating the reason why. In addition, the applicable fees will be returned minus a \$25 service charge.
- ☒ If the site is not staked, a re-inspection fee of \$75 will be charged.
- ☒ I, the undersigned, hereby apply for a Zoning Permit and certify that all information presented herein is true and correct to the best of my knowledge. I affirm that all work performed will be completed in accordance with the Chippewa County Zoning Ordinance and with all other applicable ordinances, laws and regulations. I hereby authorize permission for the Department of Planning & Zoning staff to access the property described herein, for the purpose of verifying or gathering information relating to this application and that compliance with the applicable ordinances, laws and regulations is or will be obtained. I further understand that an onsite inspection of the proposed structure or project may be made by the Chippewa County Department of Planning and Zoning between the hours of 8:00 am and 4:30 pm, Monday through Friday during the duration of the applicable permits.

Owner/Agent Signature: Steve Schultz Date: 6-23-21

Attachment: 2021-0003 Schultz - Variance Request - Application (6498 : Schultz Variance Request)

Site Plan

Setbacks To:

NOTE: These distances must be shown on submitted site plan

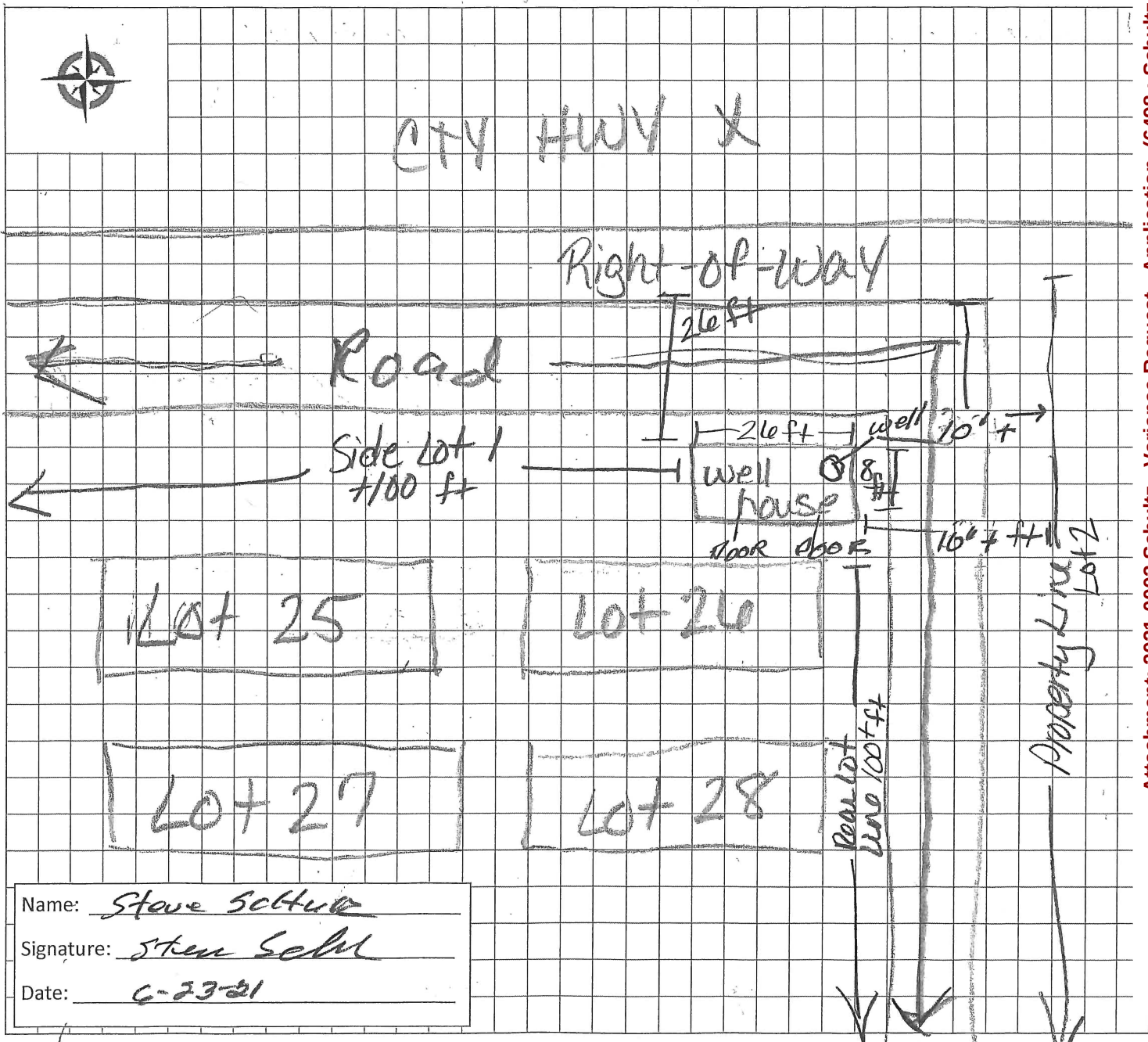
		County Use Only	Notes/Comments/Restrictions
Front Lot Line/Road Right-of Way	23 ft.	Measured	
Rear Lot Line	100+ ft.		
Side Lot Line 1	100+ ft.		
Side Lot Line 2	10+ ft.		
Septic/Holding Tank	300+ ft.		
Septic Drain Field	300+ ft.		
Well	10+ ft.		
Principal Structure	26 ft.		
Accessory Structure	N.A. ft.		
Edge of Driveway to Side Lot Lines	N.A. ft.		

☐ Approved

Inspector:

☐ Denied

Date:


Name: Steve Schultz

Signature: Steve Schultz

Date: 6-23-21

Part 2: General Questions/Alternatives related to the request:

A.) Section references to all applicable ordinances, which the variance is being sought. Please Identify the exact section(s) and number(s):

Sec. 70-109 Setbacks from Highway

(2) Class B highways. All county trunks are designated as a Class B highways. For the purpose of this chapter, and road shall be considered a county trunk after it has been placed on the county trunk system by the County Board and approved by the Chippewa County Highway Department.

a. The setback from Class B highways shall be 40 feet from the right-of-way line.

B.) Describe the variance being requested (see part 3 below): Asking for well house that houses water treatment that is connected to grandfathered structure to stay in place even though it doesn't meet 40' setback from CTY HWY. It is only 26' at the current location.

C.) Describe the effects on the property if the variance is not granted. The treatment portion of the house would have to be removed or moved. This would result in the water not being treated for high nitrate, which is a health-based risk for consumers. Even if the treatment building was moved, which would take months, people would be served high nitrate water that whole time. Facility would be out of compliance with the DNR regulations and the Safe Drinking Water Act.

D.) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing each alternative separately that you considered in each category listed below.

a. Alternatives you considered that comply with the existing standards. If you find such an alternative, you can move forward with this option with a regular permit. Provide the reasons why you rejected the compliant alternatives.

- i. Movement of the building to the west side or the south side of the property rejected – because of long piping to and from the water age increases and can change the water's behavior. Increased water age can also increase potential for microbial growth. The last modification of piping for the treatment system introduced bacteria to the system requiring multiple chlorination's and disruption of water service to the customers. We would like to avoid having to do that again. Piping from the west or south side would require a booster pump to get water back to distribution feed line on the north side. Tying into west or south side of property distribution lines would reverse the flow direction through the distribution pipes and create reverse scouring of pipes and lowers water quality with potential release of high nitrate scale.

b. Alternatives you considered that require a lesser variance and reasons you rejected them.

- i. Movement of building just south of current well house - rejected – would require the eviction of mobile home resident #26. Would not be able to move home if needed. Would have to tear down instead.

Part 3: three-step test criteria for variance**Step One: Unnecessary Hardship**

Hoffmann's had a nitrate exceedance of the safe drinking water act with levels around 11mg/L. We were required to either drill a new well or install treatment. A new well would not meet any set back requirements or guarantee water quality. We tried to get resolution to the unsafe water as quickly as possible and installed treatment by November. The cost to install and build was \$35,000 (in equipment and materials alone) to get the 36 units/residents safe drinking water and be in compliance with the DNR drinking water requirements. Having to evict/get rid of #26 lot would be a hardship for them and property from loss of income.

Step Two: Hardship due to unique physical limitations of the property

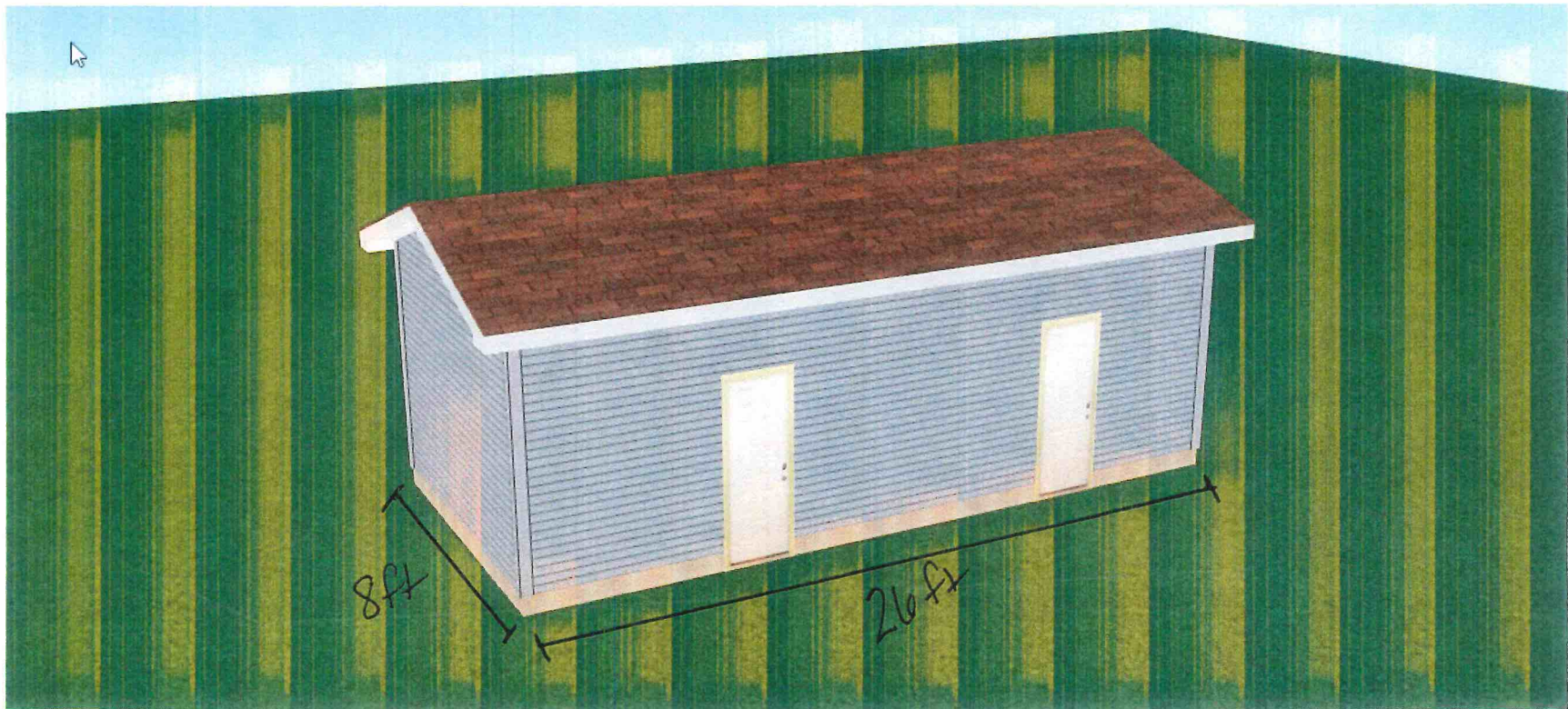
The physical limitations are due to the location of the well on the property limiting only one location for the structure. There were no other alternative locations.

The property is fully utilized at the moment. South side is all septic tanks and drain field piping distance is a real challenge with booster pumps needed and is not desirable based on before mentioned reasons.

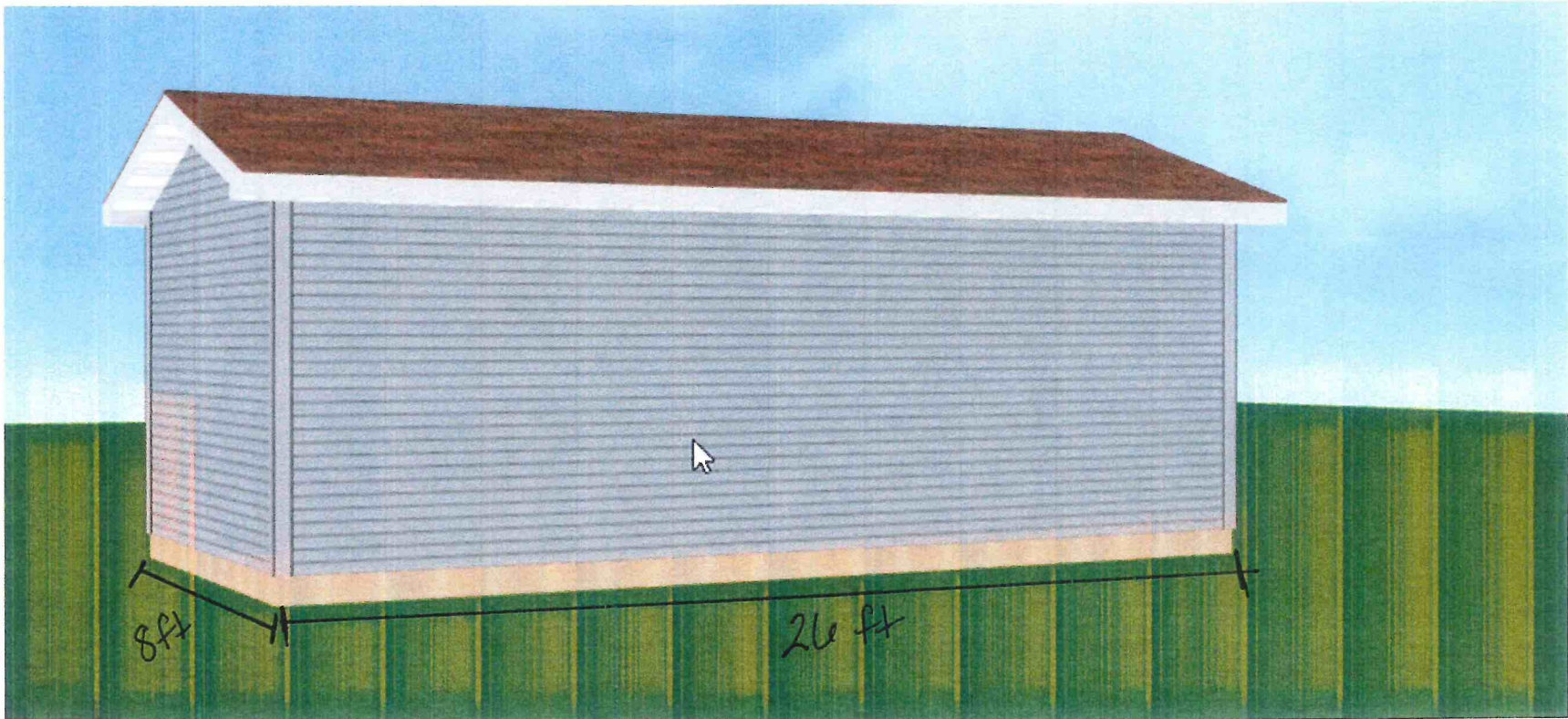
Step Three: No harm to public interests

This does not cause any harm to public interest as it is located on private property, does not cause any harm to wildlife, did not cause any property damage, and in fact increased the water quality for residing tenants now meets the safe drinking water act standards. The original approved well structure was built in 1996 in the same location as new structure is currently located. This location was identified and approved by DNR in 1996 and deemed the necessary location due to the property limitations and setbacks.

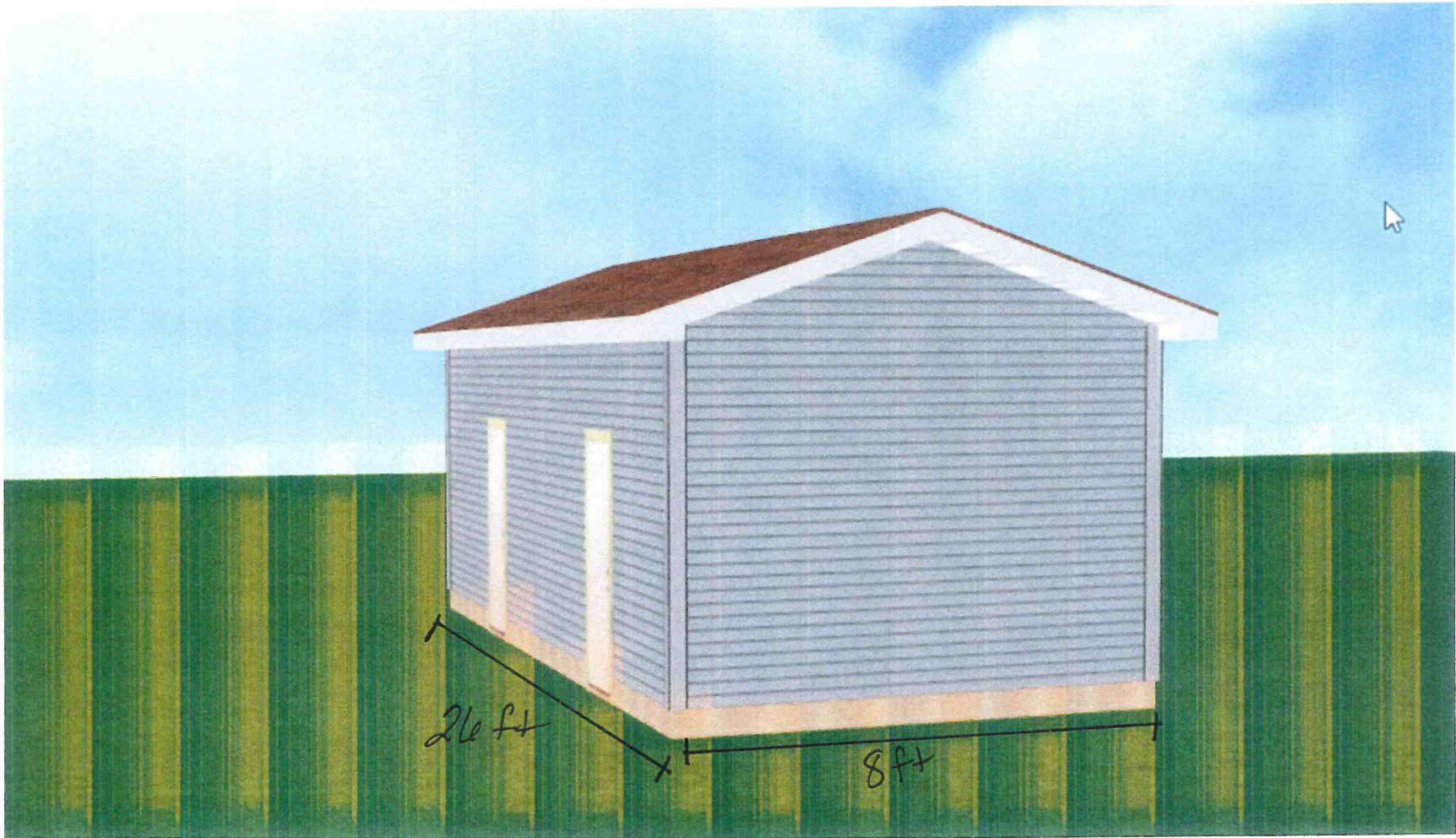
Part 4



part 4

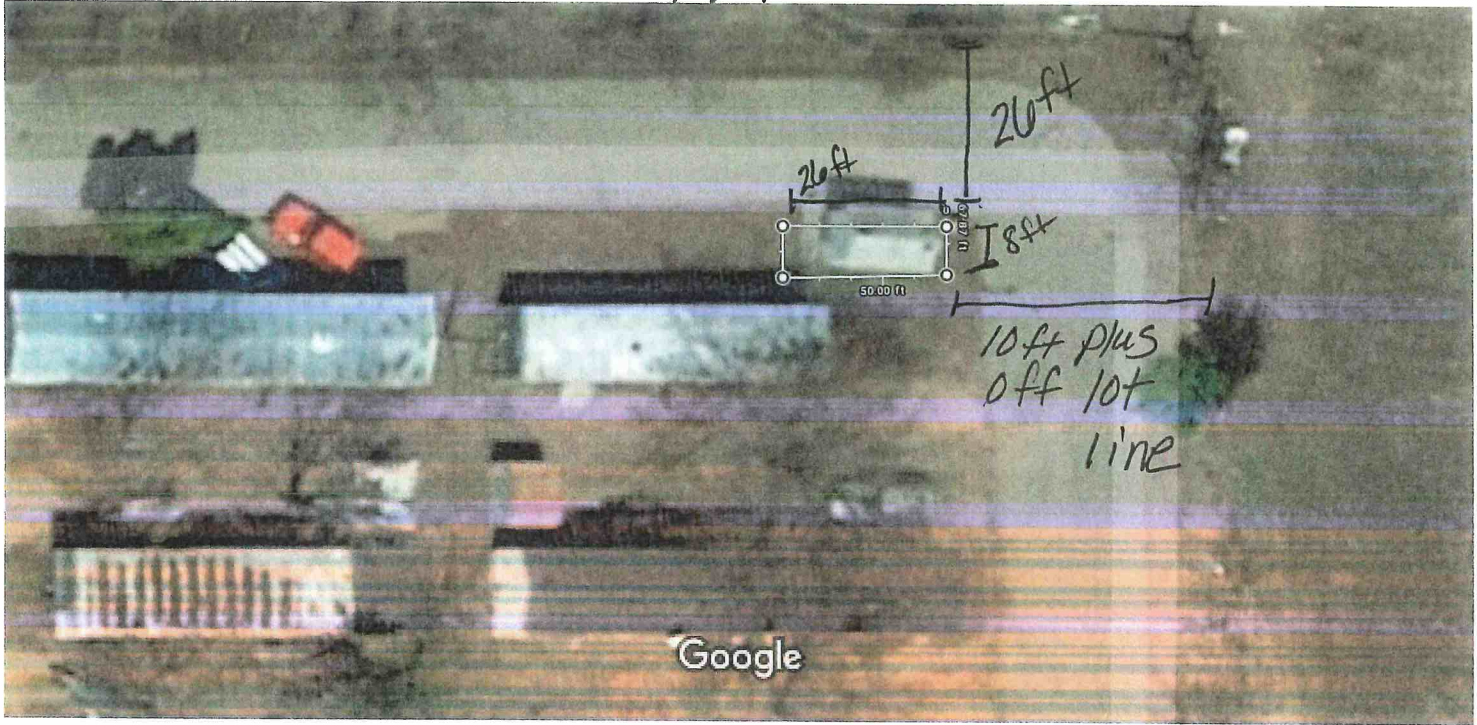


part 4



Google Maps

HWY X

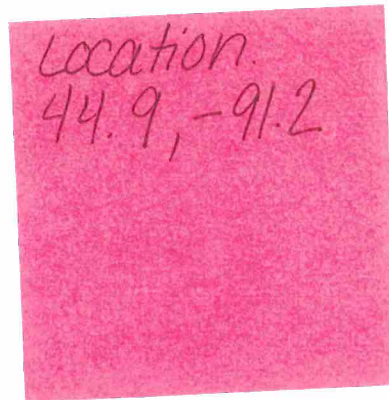


Map data ©2020, Map data ©2020 20 ft

Measure distance

Total area: 207.07 ft² (19.24 m²)

Total distance: 67.87 ft (20.69 m)



Part 4

