

APPLICATION FOR A VARIANCE/APPEAL

Racine County, Wisconsin

Owner: Island View Homeowners Assoc.

Applicant/Agent: Richard Scholze, Attorney for the Association

Address: 3405 S. Browns Lake Dr.  
Burlington, WI 53105

Date petition filed: 12-9-21 Hearing Date: January 4, 2022

Municipality: Town of Burlington

Phone (Hm) 262-763-7768 (Wk) \_\_\_\_\_

Zoning district(s): R-8, Planned Residential District

**TO THE ZONING BOARD OF ADJUSTMENT/APPEALS:** Please take notice that the undersigned was denied a permit or seeks an appeal of the Zoning Administrator for: to allow a concrete pad for the storage of kayaks, concrete pad and fire pit area, crushed red gravel walking path/patio area, and rock retaining wall to remain in non-conforming locations

at site address 3405 S. Browns Lake Drive, Section 28, T 03 N, R 19 E  
Lot(s) — Blk — Subd/CSM — Parcel Id.# 002031928 130001-130013, 130015-130012, 049000

in Racine County, Wisconsin, for the reason that the application failed to comply with Chapter 20 (Zoning) of the Racine County Code of Ordinances with respect to: the concrete pad for the storage of kayaks, concrete pad and fire pit area, crushed red gravel walking path/patio area, and rock retaining wall have insufficient shore yard setbacks.

Applicant is subject to: Article VI Division 12 R-8, Planned Residential District; Section 20-10 Compliance; Section 20-11 Violations; Section 20-61 Required Permits; Section 20-10.7 Reduction or Joint Use; and Section 20-10.5 Shoreland Setbacks and exempt structures

\_\_\_\_\_, of the Racine County Zoning Ordinance.

**Check applicable below:** (Underline or circle the word "all" or "partially" below, as needed)

- Property is partially located in the shoreland area of Browns Lake
- Project is partially located in the shoreland area of Browns Lake
- Property is partially located in the floodplain area of Browns Lake
- N/A Project is all/partially located in the floodplain area of N/A
- N/A Property is all/partially located in a wetland area. N/A Project is all/partially located in a wetland area.

Indicate below or attach separate pages showing how your application meets the legal criteria for a variance.

1) Explain how the Ordinance creates an unnecessary hardship and in the absence of approval no feasible use can be made of the property. See attached.

2) Describe the exceptional, extraordinary or unusual circumstances that are unique to this lot or structure. See attached.

3) Describe how the approval would not create substantial detriment to adjacent property or materially impair or be contrary to the purpose and spirit of zoning or the public interest. See attached.

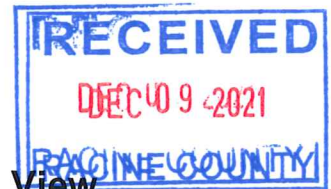
4) Explain how the request is not based on economic gain or loss and is not self-imposed. See attached.

Owner/Applicant's Signature Richard Scholze Date 12/8/2021

Fee paid: \$ 450.00 Check # 44039 (Payable to Racine County Planning) • Please attach required documentation

DEC 0 2021

RACINE COUNTY



## **Attachment to the Application for Variance of Island View Homeowner's Association**

### **1. Explain how the Ordinance creates an unnecessary hardship and in the absence of approval no feasible use can be made of this property:**

The applicable provisions of the Racine County Zoning Ordinances create a hardship for the applicant because they limit the applicant's ability to improve applicant's property in an effort to reduce erosion of applicant's property along the shore of Browns Lake. The area improved by the applicant is within the shoreyard and has been used by the members of the homeowner's association for recreational type purposes since the condominium was established, and for those same or similar purposes, when the property was operated as a resort. The intensive use of this area for recreational purposes makes it difficult to maintain adequate vegetative cover to protect the applicant's property from erosion and consequent sedimentation into Browns Lake. The improvements undertaken by the Association for which it now seeks an after-the-fact variance were undertaken in connection with a grant issued by the Wisconsin Department of Natural Resources, which was administered by Racine County. Throughout the process, the county representative was involved in inspecting the project and insuring compliance with the grant requirements. The applicant mistakenly understood that that county representative also would provide guidance on compliance with other county ordinance requirements, and anticipated that he would alert the applicant in the event that any of the activities performed were not in compliance with applicable ordinances. That mistake and belief led to the installation of these improvements without first obtaining the required permits.

### **2. Describe the exceptional, extraordinary or unusual circumstances that are unique to this lot or structure:**

The area which has been improved by the applicant is common area along the shore of Browns Lake, the use of which is granted to owners of units within Island View Resort Village Condominium. The slopes and soils along the lakeshore prior to the improvements made it difficult for the Association to maintain proper ground cover to prevent soil erosion and its negative impact on the waters of Browns Lake. The

### **3. Describe how the approval would not create substantial detriment to adjacent property or materially impair or be contrary to the purpose and spirit of zoning or the public interest.**

The improvements made by the applicant to it's property consist of a rock retaining wall, which visually matches the rip rap installed along the shore line to prevent erosion, a crushed red granite walk way, a pad underneath an area used for storage of kayaks and a replacement of a hard surface area in which a fire pit is located. The improvements do not obstruct the views of neighboring properties and are visually appealing. They do not materially impair, nor are they contrary to, the purposes of the applicable zoning code regulations. The improvements made by the applicant

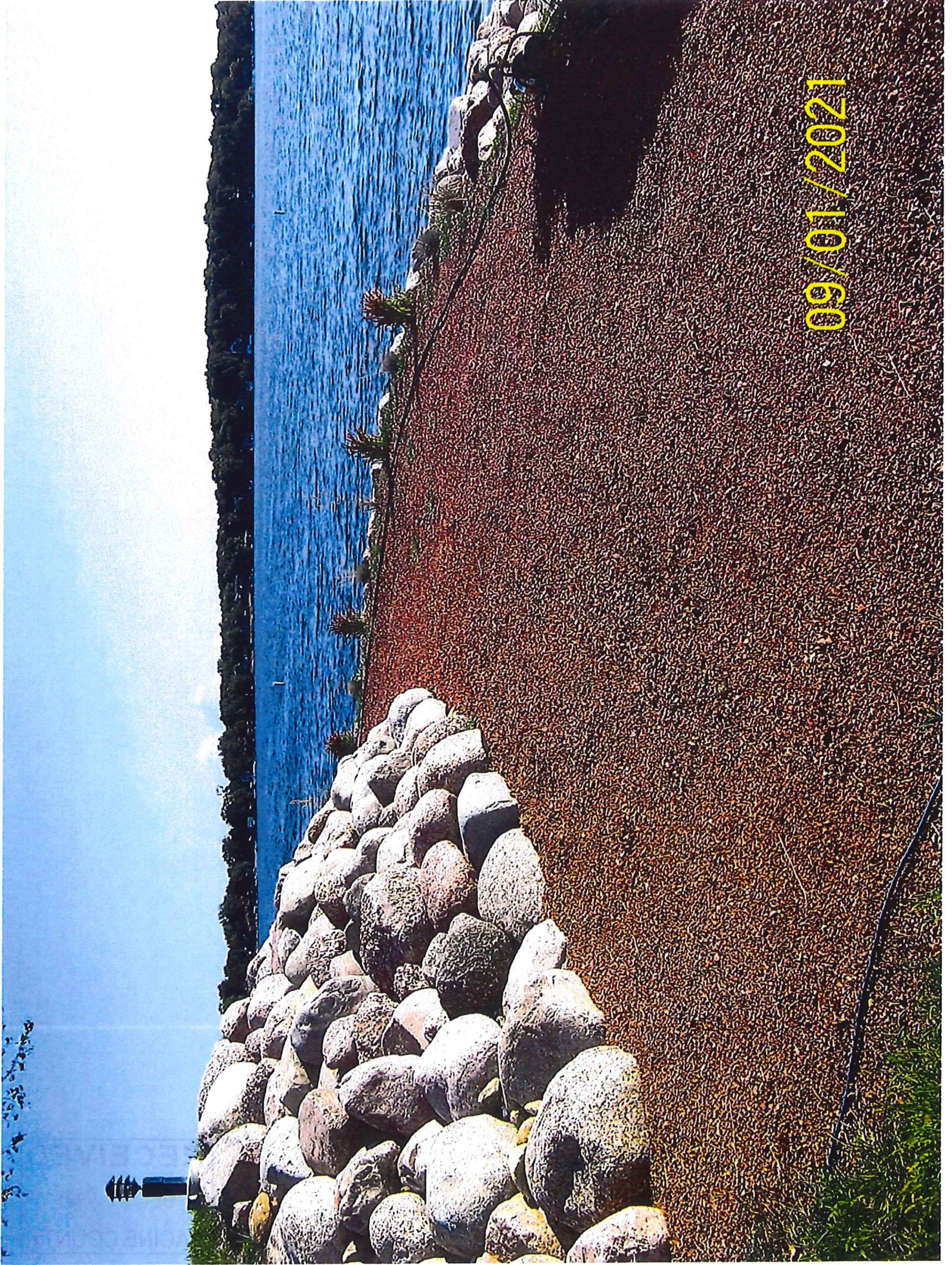
are intended to, and have the effect of reducing erosion of applicant's property and sedimentation into Browns Lake, helping to preserve that body of water for the benefit of the public. The hard surface area around the fire pit replaces a previously existing hard surface area of different configuration and slightly smaller, though similar, size. The applicant has received an opinion from KAPUR & ASSOCIATES, INC., Gregory Governatori, P.E., that the crushed gravel walkway, as installed, is a permeable, rather than an impermeable, surface, the installation of which appears to comply with applicable ordinances.

**4. Explain how the request is not based on economic gain or loss and is not self-imposed.**

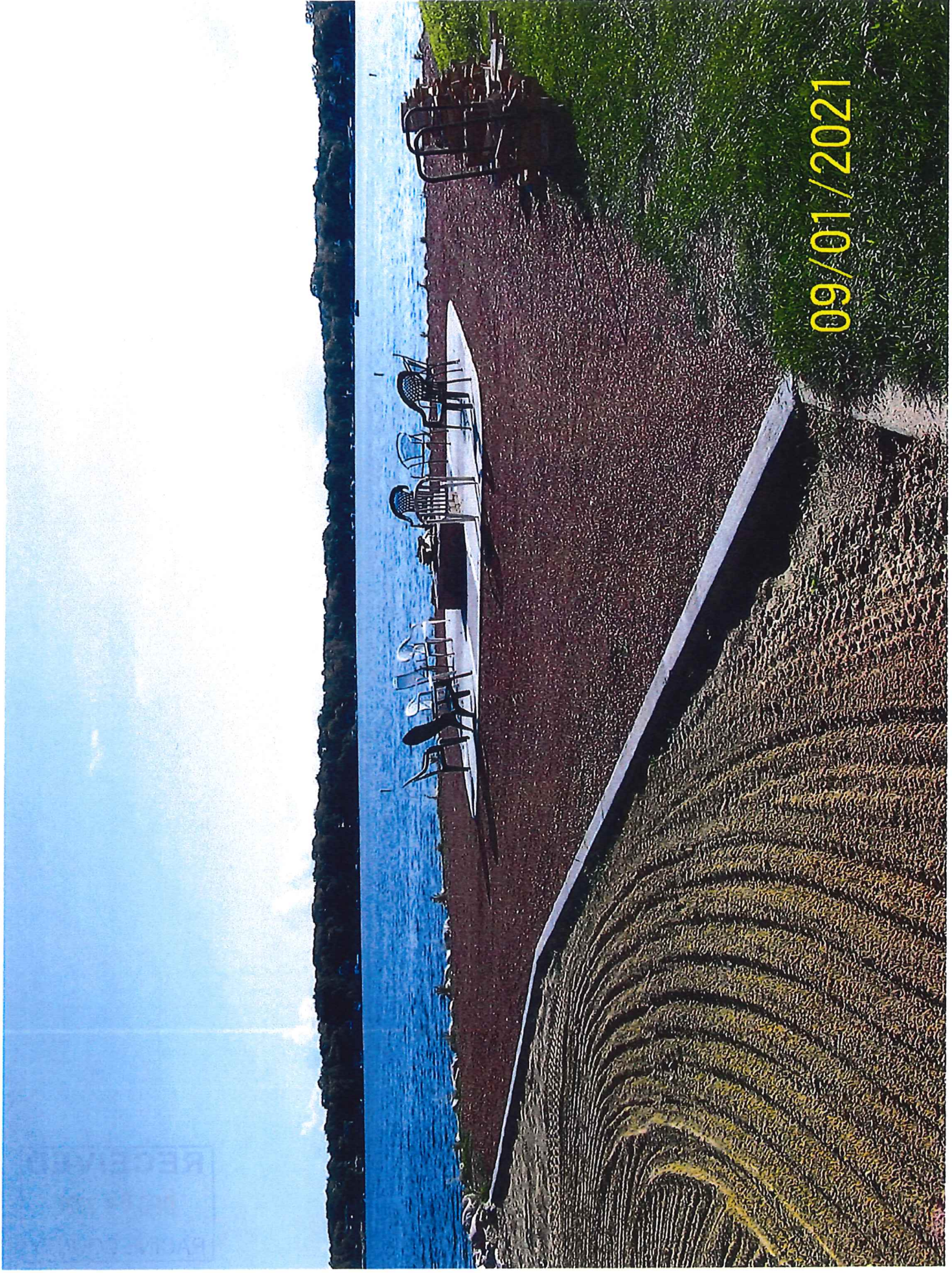
The applicant receives no financial gain from the variance. The hardship is not self-imposed because the conditions which resulted in the improvements made by the applicant are the natural condition of the applicant's property and its proximity to Browns Lake. The improvements installed by the applicant are made in an effort to preserve the applicant's property from erosion, and to also preserve the quality of Browns Lake. The applicant not only is attempting to address the physical conditions of the property, such as its position on the lakeshore, the existing contours and soil types, but is also working within the context of a site layout which largely predates the provisions of the zoning code at issue.



09/01/2021



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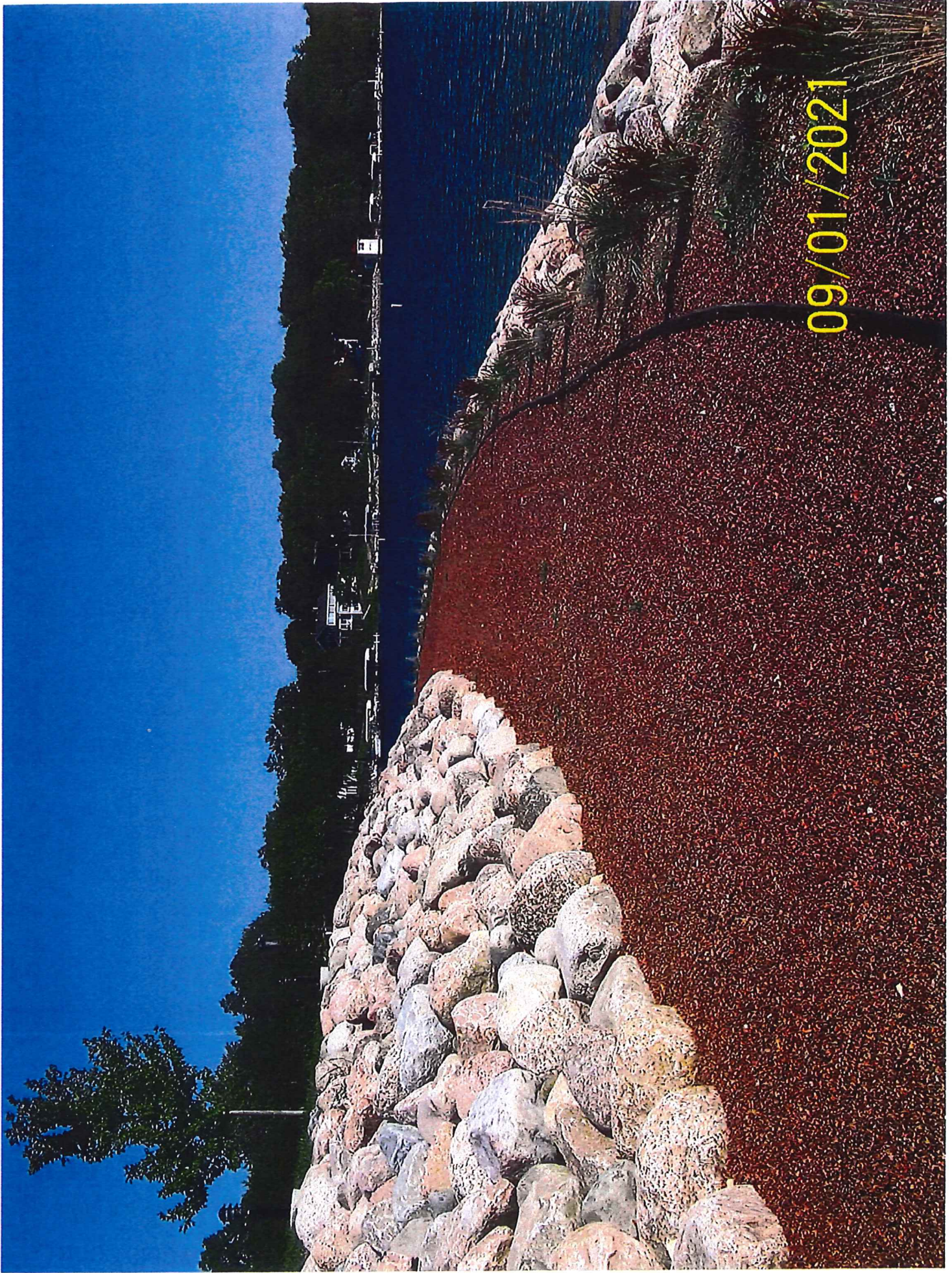


09/01/2021

**PRIVATE  
BEACH  
ISLAND  
VIEW  
CONDOMINIUMS**

09/01/2021





09/01/2021



November 30<sup>th</sup>, 2021

Mr. Rich Scholze  
Wanasek, Scholze, Ludwig, Ekes & Gorn, SC  
133 S. Pine Street  
Burlington, WI 53105

RE: Island View Condominium Permeability Review

Dear Mr. Scholze:

On behalf of the Island View Homeowners association and at the suggestion of Racine County, we are providing the attached technical support of the installation of a crushed granite pathway within the shoreland of Browns Lake. It is our understanding that the Island View Homeowners Association are submitting a variance application to exceed the impervious surface limits of WDNR Chapter 115 allowing the County to permit a maximum 30% impervious area within a highly developed shoreline.

An impervious surface as defined by NR 115 is *"an area that releases as runoff all or a majority of the precipitation that falls on it"*. Crushed materials, including gravel, recycled asphalt, and granite have variable runoff coefficients based on multiple factors. Reviewing the very simplistic rational method for determining storm water runoff, concrete or asphalt are considered .9, while gravel is between 0.5 (uncompacted) and 0.7 (compacted). SCS Tr-55 for Hydrology recommends curve numbers of 61 for lawn, 98 for concrete and asphalt, and artificial landscaping gravel at 96, so very near impervious.

On November 23<sup>rd</sup> we conducted a site visit to review the extent of the construction, obtain pictures, review compaction, material size, and gradation. The site visit was only visual, no testing or materials were collected for additional analysis. The crushed granite path appeared in excellent condition with no visible signs of erosion or washout.

Crushed granite is most often used as a landscape material as a softer trail/pathway material. If the sub-base material is not compacted and a material stabilizer is not applied to the granite, then it can be considered permeable. If the crushed granite is applied on top of compacted base or constructed with a material stabilizer mixed in, then it would be considered impermeable.

The two pictures below show the existing conditions as viewed on site. The material does not appear to be heavy compacted, and there is no indication of a material stabilizer having been used. In addition, the contractor was directed to not compact the crushed granite and to promote natural infiltration.





There is significant variability in the infiltration ability of crushed material depending on what type of material, the amount of compaction, and/or if other treatments are used. The crushed granite material as installed would be considered open graded and would have much less runoff than dense graded material like compacted road base, asphalt, or concrete. The void spaces in the open graded material would allow rainfall to infiltrate before there is any appreciable amount of runoff. The granite material will require regular maintenance to ensure the material remains loose or soft and not become a hard compacted surface. In addition, the path shall be monitored to ensure that erosion of the granite material does not occur (none was observed at the time of review). A small, vegetated buffer has been planted between the pathway and river rock bank stabilization.

It is our opinion that the crushed granite path as installed is permeable as placed and constructed.

Please contact me directly with any questions.

Sincerely,

KAPUR & ASSOCIATES, INC.

Greg Governatori, P.E., CFM, LEED AP  
Associate/Burlington Manager





262-758-6010  
ggovernatori@kapurinc.com

**RECEIVED**  
DEC 09 2021  
RACINE COUNTY