

APPLICATION FOR A VARIANCE/APPEAL

PH ITEM 3B

Racine County, Wisconsin

Owner: Kevin M. Brady
Address: 5305 N. Camelhead Rd.
Phoenix, AZ 85018
Phone (Hm) 602-423-0969 (Wk) -

Applicant/Agent: Christopher Smith, von Briesen & Roper, s.c.
Date petition filed: 08/10/2023 Hearing Date: 09/05/2023
Municipality: Town of Norway
Zoning district(s): R-5 Urban Residential District II

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 patio / fire pit and a fence to remain in non conforming locations.

at site address 7236 S. Loomis Road, Section 8, T 4 N, R 20 E
Lot(s) pt. 13 + 14 Blk - Subd/CSM Addition to Waubeesee Lake Park Parcel Id.# 010-04-20-08-298-000
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 patio / fire pit and fence have insufficient Shoreland Setbacks.

Applicant is subject to: Article VI, Division 8, R-5 Urban Residential District II; Section 20-10 Compliance; Section 20-11 Violations; Section 20-61 Required permits; Section 10-1017 Reduction or joint use and Section 20-1045 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)

- X Property is all/partially located in the shoreland area of Waubeesee Lake
Project is all/partially located in the shoreland area of Waubeesee Lake
X Property is all/partially located in the floodplain area of Waubeesee Lake
Project is all/partially located in the floodplain area of
Property is all/partially located in a wetland area. 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.

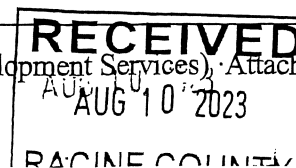
3) Describe how the approval would not create substantial detriment to adjacent property or materially impair or be contrary to the purpose and spirit of zoning or the public interest. See attached.

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

Owner/Applicant's Signature [Signature]

Date 8/9/2023

Fee pd: \$ 450.00 Ck # 220050 (Payable to Racine County Development Services). Attach required documentation



APPLICATION FOR A VARIANCE/APPEAL

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Municipality: Town of Norway

Phone (Hm) (Wk)

Zoning district(s): R-5 Urban Residential District II

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: An after-the-fact variance for a patio within the Shoreland Setback Area per Sec. 20-1045.

at site address 7236 S. Loomis Road, Section 8, T 4 N, R 20 E

Lot(s) Blk Subd/CSM Addition to Waubeesee Lake Park Parcel Id.# 010-04-20-08-298-000

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: Open sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the requirements of W.S.A. 59.692(1v).

Applicant is subject to: Sec. 20-1045 (2)(b)

, of the Racine County Zoning Ordinance.

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

X Property is all/partially located in the shoreland area of Waubeesee Lake

Project is all/partially located in the shoreland area of

X Property is all/partially located in the floodplain area of 55101C0033D eff. 5/2/2012

Project is all/partially located in the floodplain area of

Property is all/partially located in a wetland area. 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.

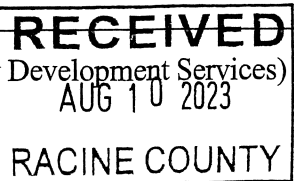
3) Describe how the approval would not create substantial detriment to adjacent property or materially impair or be contrary to the purpose and spirit of zoning or the public interest.

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

Owner/Applicant's Signature [Signature]

Date 8/9/2023

Fee pd: \$ 450.00 Ck # 220050 (Payable to Racine County)



Attach required documentation

Application for a Variance/Appeal

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

The ordinance does not allow for the expansion of a substandard legal non-conforming structure which existed before the current ordinance. The property owner did not construct any vertical structures other than a small fire pit area. No structures on the patio are screened. The previous patio was directly along the shoreline, and the property owner's contractor expanded the patio less than 15 feet along the shoreline. Most of the patio expansion took place east/northeast away from the shoreline, which, while within the 35-foot setback, does not substantially increase the amount of paved area towards the shoreline. The total square footage of the new patio is approximately 800 square feet, which is only 400 square feet larger than the original legal non-conforming patio structure. The majority of the expansion area lies around the fire pit, which extends out a short distance for fireproofing. The new patio area also replaced an existing non-conforming block support structure around a tree which the property owners removed due to health-related safety concerns.

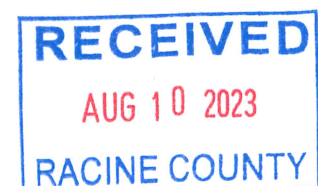
Describe the **exceptional, extraordinary or unusual circumstances** that are unique to this lot or structure.

There was an existing walkway and patio on this lot which existed prior to the current ordinance. While the County ordinance prohibits the structure from exceeding 200 square feet, the state ordinances also specify that the ordinance must exclude boathouses from the calculation. This property did not have a substantial boathouse, which it would have otherwise been allowed to keep. Even if the Board of Adjustment ruled against the property owner, they would still be able to have a patio adjacent to the shoreline of approximately 400 square feet. Denying the variance will not completely remove the structure, while granting it will allow the property owner to keep a well-constructed and well-maintained patio in its existing configuration.

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 expansion to the patio area lies completely within the property boundaries and, at the closest, lies over 30 feet away from the nearest property. This nearest property was formerly vacant, but a new home was constructed on it in 2021. The property owners are aware the construction of this new home and the renovations of others nearby may have drawn some attention to the area; however, the property owners have not received any negative direct feedback regarding the patio renovations. Many other properties on the lake have patio areas of various sizes, some of which lie closer than 35 feet to the shoreline or are larger than 200 square feet.

Additionally, trees north and south of the patio partially block views from neighboring yards. Approval of the variance would allow the patio to exist as constructed. All existing structures are at grade or low to the ground, open to the air, and do not impede the lake views of the property at 7224 S. Loomis Road that does not have direct access to the lake.



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

The property owner inherited a patio which already lied within the 35-foot shoreland setback area (EXHIBIT G: 2015 SPRING AERIAL). This patio appears on county aerial views going back to 2000, well before the applicant purchased the property in 2019. The property owner hired a contractor and landscaper to restore the shoreline who received permitting from WDNR. The property owner was never made aware of permitting concerns regarding the subsequent patio renovation from the same contractor. The property owner did not intend to side-step permitting the structure. Instead, they simply wanted to improve the existing patio to provide a fire pit area fully contained within non-flammable patio area.

Notes

The property owner received violation notice for two other structures. Firstly, an expansion to a shed which did not lie within the shoreland setback area. The property owner will properly pull permits for the expansion, understanding that double fees apply. Secondly, a fence which the applicant replaced at the same place and height. This replacement is protected from County enforcement per WIS. STATS. 59.692 (1K)(2), as it did not expand the footprint of the structure.

Exhibits

- Exhibit A: Neighbors within 100 feet and across the street
- Exhibit B: Notice of representation
- Exhibit C: Property dimensions
- Exhibit D: Structure setbacks
- Exhibit E: Structure area
- Exhibit F: Elevations
- Exhibit G: 2015 spring aerial

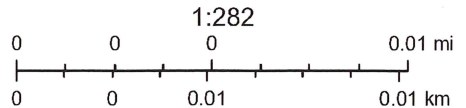
7236 S. Loomis Road - 2015 Spring Aerial



August 9, 2023

- Quarter Quarter Section
- Quarter Section
- Sections
- Tax Parcels
- Municipal Boundaries
- 2010 LiDAR Two Foot Contours

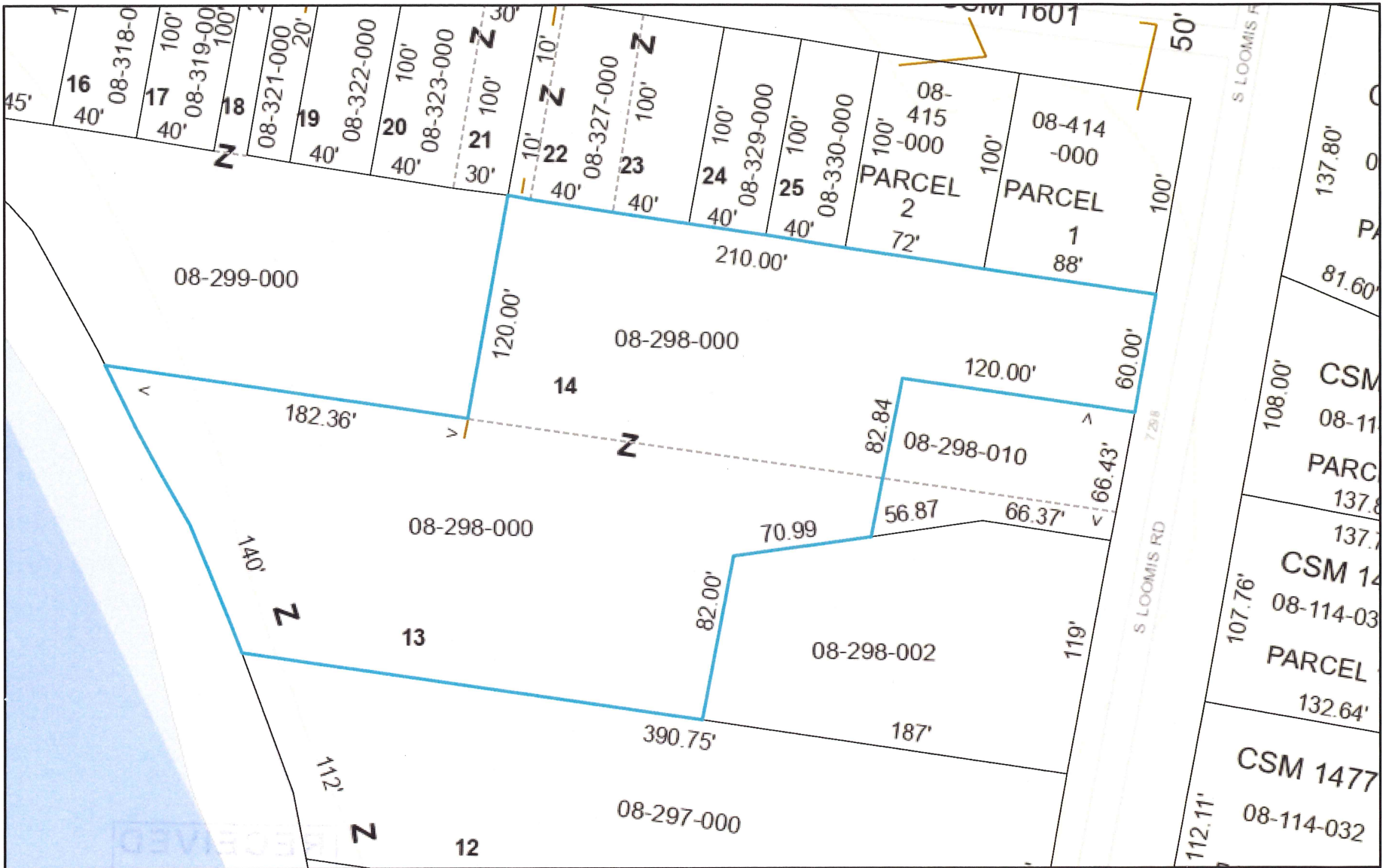
- 2010 LiDAR Spot Elevations
- 2015 Spring Aerial
 - Red: Band_1
 - Green: Band_2



Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, SEWRPC, AeroMetric

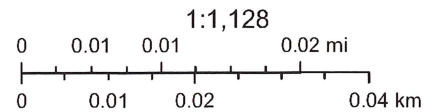
Web AppBuilder for ArcGIS

7236 S. Loomis Road



August 9, 2023

- Quarter Quarter Section
 Sections
 Parcel Tie Lines
- Quarter Section
 Tax Parcels
 Municipal Boundaries




Racine County, SEWRPC, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA




Web AppBuilder for ArcGIS

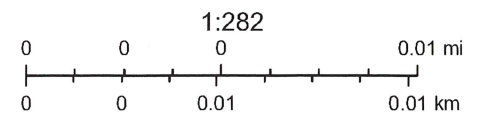
7236 S. Loomis Road - Contours



August 9, 2023

-  Quarter Quarter Section
-  Quarter Section
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Web AppBuilder for ArcGIS

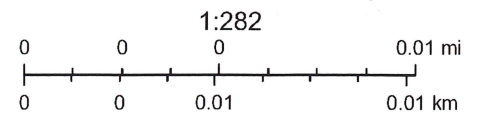
7236 S. Loomis Road - Structure Area



August 9, 2023

- Quarter Quarter Section
- Quarter Section
- Sections
- Tax Parcels
- Municipal Boundaries
- 2010 LiDAR Two Foot Contours

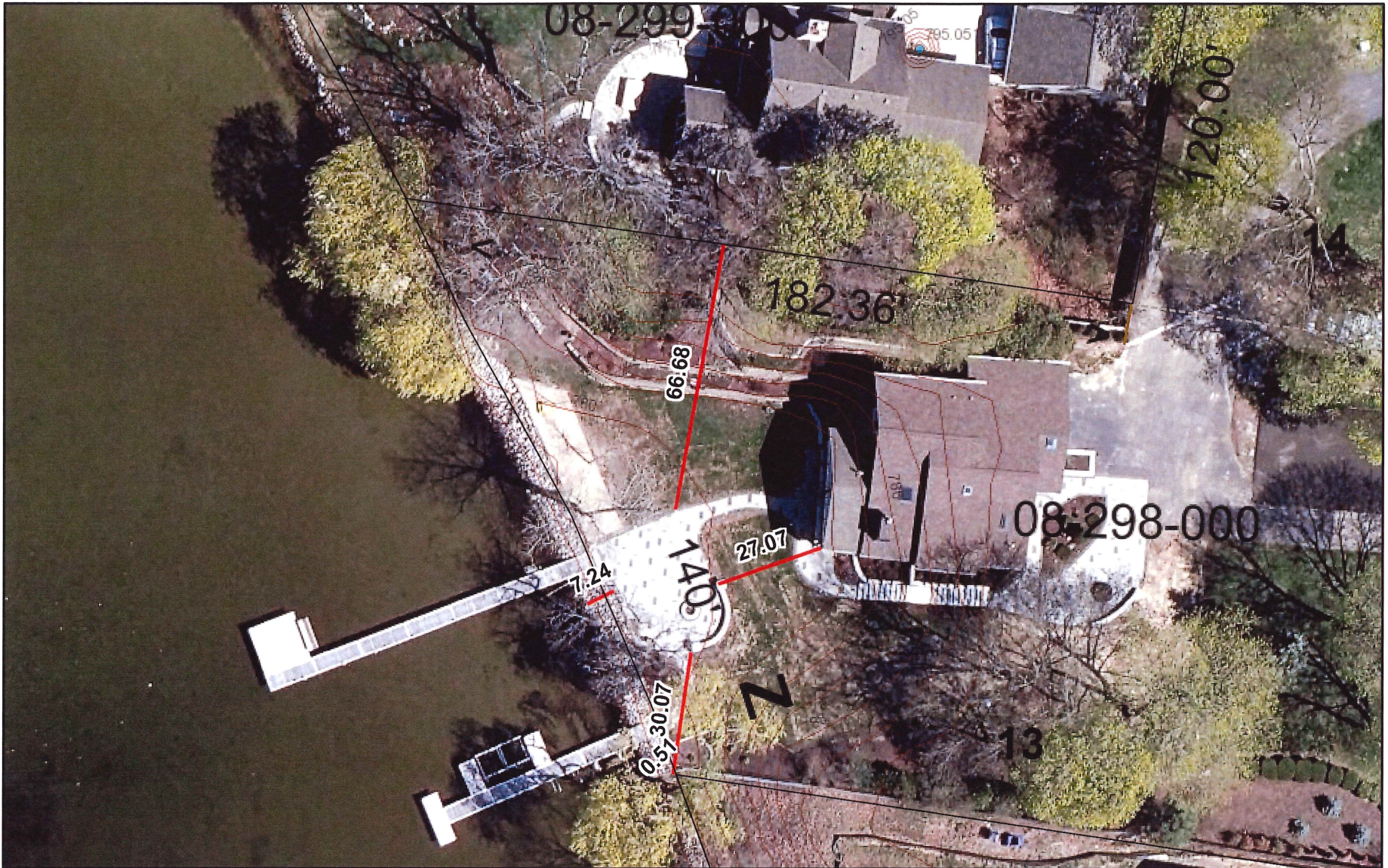
- 2010 LiDAR Spot Elevations
- 2022 Spring Aerial
- Red: Band_1
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Web AppBuilder for ArcGIS

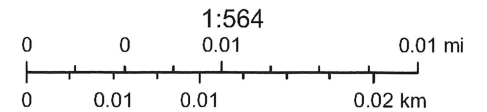
7236 S. Loomis Road - Structure Setbacks



August 9, 2023

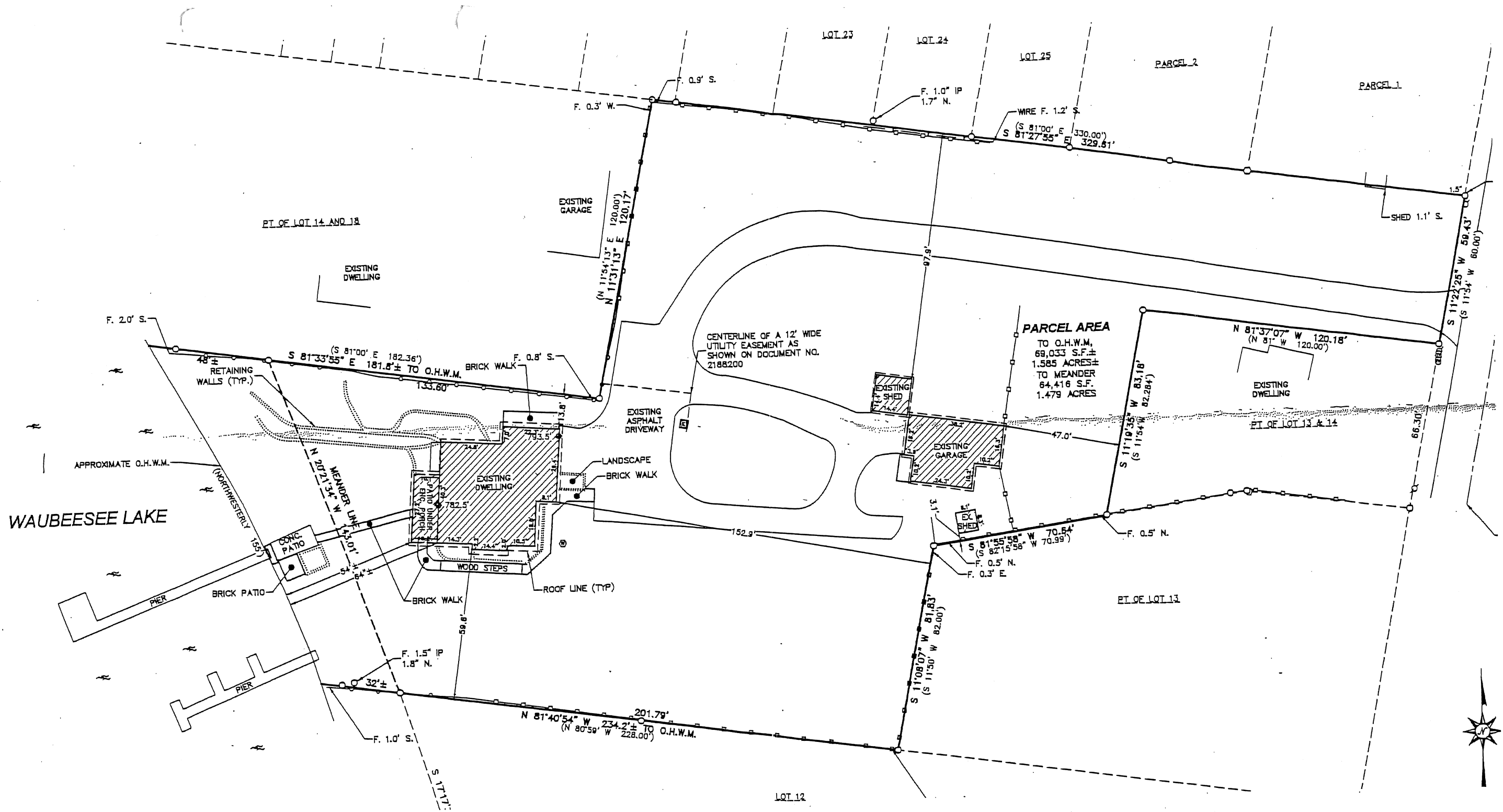
- Quarter Quarter Section
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- Sections
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- 2010 LiDAR Two Foot Contours
- 2010 LiDAR Spot Elevations
- 2022 Spring Aerial
Red: Band_1
- Green: Band_2
- Blue: Band_3



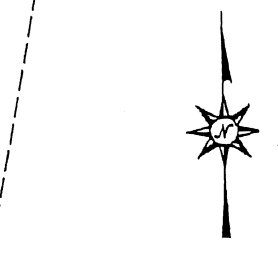
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Web AppBuilder for ArcGIS



PARCEL AREA
 TO O.H.W.M.
 69,033 S.F.±
 1.585 ACRES±
 TO MEANDER
 64,416 S.F.
 1.479 ACRES

CENTERLINE OF A 12' WIDE
 UTILITY EASEMENT AS
 SHOWN ON DOCUMENT NO.
 2188200



Scale 1" = 40'