Project Dane County Variance Application

Location 2801 & 2801B Willow Court

McFarland, WI 53558-9269

Dane County, Town of Dunn (On Lake Waubesa)

Parcel Number: 028/0610-092-7218-1 (2801)
Parcel Number: 028/0610-092-7208-3 (2801B)
Lot Area: 12,967± SF (0.298± acres)

Zoning: SFR – 08

Owners Adam & Andrea Barnes

adamandreabarnes@gmail.com

(608) 886-0804 (Adam) (608) 886-0805 (Andrea)

Contractor Thompson Custom Builders LLC

John Thompson

john@thompsoncustombuilders.com

(608) 838-3140

Agent Chris Landerud

Landerud Plan & Design LLC

4426 Mahoney Road, McFarland, WI 53558

chris.landerud@landerud.design (608) 444-3604

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Permission Letter for Agent from Home Owner Site Photos

Written Statement

In partnership with the home owners, Adam & Andrea Barnes, we are petitioning for a variance to current building setback requirements at 2801 & 2801B Willow Court on Lake Waubesa. There are currently three single family residences (old cabins) on these two properties. The owners are looking to combine these two residential lots into one SFR-08 Single Family Residential Lot. The property owners are looking to demo all existing structures, drives, and walks in order to build one single family residence with an attached garage to meet their current family needs. The surveyor has begun that CSM process to combine the lots into one.

The hardship and issue hindering this property is a result of the "Lot 2" right-of-way directly to the west of the subject property. (This is a plated right-of-way from the Crescent Park plat.) This platted right-of-way was plated decades ago. Communication from the Town of Dunn and Ben Kollenbroich, the Planning and Land Conservation Director, confirmed this undeveloped right-of-way was never intended to be improved as a road and it will forever remain as open green space.

This unimproved neighboring platted Lot 2 right-of-way is causing two setback issues to the subject property as interpreted under current Dane County zoning regulations:

- 1) The right-of-way demands a 20' setback because it is considered road frontage (even though there isn't and never will be a road there). The current house on the property is 5.5'+ from this right-of-way land.
- 2) This right-of-way, wedged along entirely a pattern of residential lots, prevents the subject property from utilizing reduced shoreline setback from averaging the two existing neighboring shoreline setbacks.

The two proposals for this variance request are outlined on the next page.

The two proposals for this Dane County Zoning Variance Request include:

Proposed Variance ONE (V ONE):

The Chapter 10 – All principal buildings must be at least 10 feet from any one side lot line would apply to 2801 Willow Court. (Essentially we are seeking that the entire property would abide to the 10.251 SFR-08 zoning code as if the Lot 2 right-of-way did not exist.)

Specifically we are seeking a 10' side yard setback on the west side yard of the 2801 Willow Court Lot (adjacent to unimproved right-of-way – Lot 2).

The existing west side yard setbacks is currently 5.5'; this new proposed setback would increase this existing setback by 4.5'+.

Because the adjacent western property is technically a right-of-way (Lot 2), as the current zoning is written a 20' setback would be needed. Given the fact this undeveloped right-of-way was never intended to be improved as a road and it will forever remain open green space, the 10' side yard setback as required by SFR-08 Zoning is fitting and aligns with the spirit of the Dane County Zoning Code.

<u>Proposed Variance TWO (V TWO):</u>

The 11.03 Reduced setback regulations would apply to 2801 Willow Court. We are seeking an OHWM setback of 67.2' for the new combined 2801 Willow Court SFR-08 Lot. This 67.2' proposed setback is the average of both neighboring houses to the west (73.6') and east (60.8') of the subject property This OHWM setback averaging is consistent with the SFR-08 Zoning. The current OHWM setback on the subject property is 51.9'; this new proposed setback would increase this existing setback by 15.3+.

Because the adjacent western property is technically a right-of-way (Lot 2), as the current zoning is written a 75' OHWM setback would be needed. Current zoning would not allow us to use averaging because technically there is not a residential lot to the west. Given the fact this undeveloped right-of-way was never intended to be improved as a road and it will forever remain open green space, the OHWM averaging setback as outline by SFR-08 Zoning is fitting for the existing residential development pattern and it aligns with the spirit of the Dane County Zoning Code.

Summary:

At the end of the day, the proposed improvements will increase all the existing setbacks (front, sides, & OHWM setbacks) and the overall impervious surface on the site will be reduced. The property will follow all the SFR-08 Zoning regulations like all the other lots along Willow Court and the surrounding neighborhood. The properties will be combined to one; thus reducing the overall density along the shoreline.

There are some very small portions of concrete sidewalk encroaching on the Lot 2 right-of-way; these concrete and impervious surfaces that are encroaching will be removed as part of future site improvements. This was a request made by the Town of Dunn.

10.251 SFR-08 (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICT. (1) Purpose. The SFR-08 district is designed to: (a) Provide for single-family residential principal uses, compatible home occupations, and residential accessory buildings, appropriate to a compact neighborhood setting, on relatively small parcels. The SFR-08 district accommodates uses which are compatible with residential uses, are typically found in a suburban or residential neighborhood and may or may not be on public sewer. (b) Such uses typically generate traffic, noise or other impacts similar to those produced by a single-family residence. (2) Permitted uses. (a) Undeveloped natural resource and open space areas. (b) Agricultural uses, except as listed below, lawfully existing as of December 31, 2015. 1. Exceptions. Livestock uses lawfully existing as of December 31, 2015, shall be considered a nonconforming use under s. 10.102(7)(b). (c) Single family residential. (d) Residential accessory buildings up to 12 feet in height. (e) Domestic fowl and beekeeping. (f) Foster homes for less than five children. (q) Community living arrangements for fewer than 9 persons. (h) Home occupations. (i) Incidental room rental. (j) Undeveloped natural resource and open space use. (k) Utility services associated with, and accessory to, a permitted or conditional use. (1) A transportation, utility, communication, or other use that is: 1. required under state or federal law to be located in a specific place, or; 2. is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit. (3) Conditional uses. (a) Accessory buildings between 12 and 16 feet in height. (b) Attached accessory dwelling units. (c) Community living arrangements for nine (9) or more persons. (d) Day Care Centers. (e) Governmental, institutional, religious, or nonprofit community uses. (f) Transient or tourist lodging. (g) Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above. (4) Lot dimensions. 10.244(4)(b) - 10.251(4) Page 10-71 rev. 043019 (a) Lots on public sewer. 1. Minimum lot size. All lots must be at least 8,000 square feet in area, excluding public rightsof-way. 2. Minimum lot width. All lots must be at least 60 feet wide. (b) Lots not on public sewer. 1. Minimum lot size. All lots must be at least 20,000 square feet in area, excluding public rights-of-way. 2. Minimum lot width. All lots must be at least 100 feet wide. (5) Setbacks and required yards. (a) Front yard. Any permitted structure must comply with road setbacks as described in s. 10.102(9). (b) Side yard. 1. Except as exempted in 2. or 3. below, all principal and accessory buildings must be at least 10 feet from any one side lot line. 2. Accessory buildings in the rear yard that are at least 10 feet from the principal residence must be at least: a. 4 feet from any side lot line on lots 60 feet or more in width, or b. 2.5 feet from any side lot line on lots less than 60 feet in width. 3. Lots of nonconforming width. a. On lots 50 feet or more in width but less than 60 feet, the minimum aggregate side yards shall be 15 feet and no single side yard shall be less than five (5) feet. b. On lots less than 50 feet in width the minimum side yard on each side shall be five (5) feet. (c) Rear yard. 1. Permitted residences must be at least 50 feet from the rear lot line. 2. Uncovered decks and porches attached to a permitted residence must be at least 38 feet from the rear lot line. 3. Except as exempted in 4 below, accessory buildings must be at least 10 feet from the rear lot line, 4. Accessory buildings in the rear yard that are at least 10 feet from the principal residence must be at least:. a. 4 feet from any rear lot line on lots 60 feet or more in width, or b. 2.5 feet from any rear lot line on lots less than 60 feet in width. (6) Building height. (a) Principal buildings. Residential buildings shall not exceed two and a half stories or 35 feet in height. (b) Accessory buildings. Unless under an approved conditional use permit under s. 10.251(3)(a), residential accessory buildings shall not exceed 12 feet in height. (7) Lot coverage and building area. (a) The total area of all buildings and structures must not exceed: 1. Interior lots: 35% of the total lot area, excluding public rights-of-way. 2. Corner lots: 40% of the total lot area, excluding public rights-of-way. (b) Accessory buildings cannot exceed 100% of the area of the footprint of the principal residence.

11.03 SHORELAND REGULATIONS. 2. Reduced setback. Where an existing development pattern exists, proposed principal buildings may have a reduced setback as follows: a. Where there is a principal building on each side of the proposed site, the setback for the proposed building shall be the average of the setbacks of the existing buildings. b. If there is an existing principal building on only one side, the setback for the proposed building shall be the average of the required setback under s. 11.03(2)(a) and the existing building's setback. c. Notwithstanding a. and b. above, under no circumstances shall any building or structure intrude on the vegetative buffer zone described in s. 11.04. 3.



Dane County Planning & Development Division of Zoning

Appeal No.
Date Received
Date of Public Hearing

VARIANCE APPLICATION:

Owner:	Adam & Andrea Barnes					
Mailing Addres	SS: 2801 Willow Court	2801 Willow Court				
The second of	McFarland, WI 53558-9269					
Phone Numbe	r(s): (608) 886-0804 (Adam) (608) 886-080					
Email Address		adamandandreabarnes@gmail.com				
Assigned Age	ent: Chris Landerud, Landerud Plan & Design	n LLC				
Mailing Address	4426 Mahoney Road					
McFarland, WI 53558						
Phone Number(s): (608) 444-3604						
Email Address	: <u>chris.landerud@landerud.design</u>					
To the Dane County Board of Adjustment: Please take notice that the undersigned was refused a permit by the Dane County Zoning Division, Department of Planning and Development, for lands described below for the reason that the application failed to comply with provisions of the Dane County Code of Ordinances: Chapters 10 – Zoning, 11 – Shoreland, Shoreland-Wetland & Inland-Wetland, 17 – Floodplain Zoning, and/or 76 – Airport Height Regulations. The owner or assigned agent herewith appeals said refusal and seeks a variance. 028/0610-092-7218-1 (2801) Parcel Number:028/0610-092-7208-3 (2801B)Zoning District: SFR – 08 Acreage: 0.298 Town: Town of Dunn Section: 9 1 / 4 S E 1 / 4 N W Property Address: 2801 Willow Court, McFarland, WI 53558-9269 CSM: Attached Lot: 18 / Subdivision: Crescent Park Plat Block/Lot(s): Shoreland: Y/N / Floodplain: Y/N / Wetland: Y/N / Water Body Lake Waubesa Sanitary Service: Public / Private (Septic System)						
Current Use:	Single Family Residential - 3 primary reside	ntial building	s (cabins)			
Proposal: See	attacehd written statement					
Proposal: See attacehd written statement NOTE: You are encouraged to provide a complete and detailed description of the existing use						
	osed project on an attached sheet.	dotanod door		Oxidening add		
on or your propri						
REQUIRED B	Y ORDINANCE					
Section	Description	Required	Proposed	Variance		
	·		or Actual	Needed		
	See attacehd written statement					

PRESENTING YOUR CASE TO THE BOARD OF ADJUSTMENT:

An Area Variance may be authorized by the Dane County Board of Adjustment to vary one or more of the dimensional or physical requirements of the applicable ordinance in connection with some proposed construction.

The burden will be on you, as property owner or authorized agent, to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing, including the staff report. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and may then deny your application.

Please answer the four questions below. You are encouraged to attach a separate sheet, labeling the answers (1) through (4), to provide enough detail to support your appeal:

- (1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:
 - (A) Alternatives you considered that comply with existing standards: If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

The proposal was made to vacate the Lot 2 right-of-way or possibly split the right-of-way and sell the land to both neighboring properties. Vacating the property and reclassifying the land as residential zoning would achieve what this variance is requesting and would allow all current zoning guidelines to apply to the subject property as outlined in this variance request.

(B) Alternatives you considered that require a lesser variance: If you reject such alternatives, provide the reasons you rejected them.

The option to vacate the right-of-way property is not allowed by the Town of Dunn.

It is the Town of Dunn's desire to maintain this Lot 2 right-of-way as a public right-of-way and for the property to remain permanent open green space and a plublic access point for the community.

This determination resulted in the submission of this variance.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship. The Lot 2 right-of-way is not an improved road (and it will never be a road), yet the subject property at 2801 Willow Court faces unnecessary hardships that were not self-created. This results in increased restrictions of setbacks, reduced frontage, and inefficient and poor building and site design opportunities. The consequences include unnecessary and unreasonable burdens in light of the purposes of the current Dane County ordinances.

(3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain. The required Site Plan and/or Survey submitted with your application must show these features.

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. 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.

This unimproved neighboring platted Lot 2 right-of-way is causing two setback issues to the subject property as interpreted under current Dane County zoning regulations: 1)The right-of-way demands a 20' setback because it is considered road frontage (even though there isn't and never will be a road there). The current house on the property is 5.5'+ from this right-of-way land.

2)This right-of-way, wedged along entirely a pattern of residential lots, prevents the subject property from utilizing reduced shoreline setback from averaging the two existing neighboring shoreline setbacks.

(4) What would be the effect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated. The required Site Plan and/or Survey submitted with your application must show any proposed mitigation features.

These interests may be listed as objectives in the purpose statement of an ordinance and may include: Promoting and maintaining public health, safety and welfare; protecting fish and wildlife habitat; maintaining scenic beauty; minimizing property damages; ensuring provision of efficient public facilities and utilities; requiring eventual compliance for nonconforming uses, structures and lots; drainage; visual impact; fire safety and building code requirements; and any other public interest issues.

There would not be negative impacts. The proposed improvements would conform to all zoning regulations, shoreland regulations, and erosion control measures that also apply to the community. The proposed improvements would provide significant benefits to the neighborhood and environment. The improvements would have the following benefits: increase all the existing setbacks (front, sides, & OHWM setbacks), reduce the overall impervious surface on the site, reduce the density along the shoreline, and remove non-conforming structures that pose health and safety risks to occupants and neighborhood.

REQUIRED PLANS AND SPECIFICATIONS:

In addition to providing the information required above, you must submit:

- 1. <u>Site Plan</u>: Complete and detailed plans of your lot or lots, drawn to a standard and easily readable scale. <u>In most cases, a survey by a Registered Land Surveyor is needed.</u> The Site Plan/Survey should include the following, as applicable, as well as any unique existing features of the lot and any proposed mitigation features, as described above:
- Scale and North arrow
- Road names and right-of-way widths
- All lot dimensions
- <u>Existing</u> buildings, wells, septic systems and physical features such as driveways, utility easements, sewer mains and the like, including neighboring properties and structures.
- Proposed new construction, additions or structural alterations.
- □ For property near lakes, rivers or streams:
- □ Location of Ordinary High Water Mark (OHWM) Elevation
- Location of Floodplain Elevation
- □ For property near Wetlands, a Wetland Boundary determination by a qualified professional consultant may be required.
- □ Topographic survey information may be desirable or necessary.
- Setbacks from any existing or proposed structures (building) to lot lines, right-of-way lines,
 Ordinary High Water Mark, and/or Wetland Boundary, as applicable.
- □ For setback from Ordinary High Water Mark Variance Appeals, the setbacks of the two neighboring structures from the OHWM may be required.

2. Floor Plans and Elevations: Professionally-prepared plans and elevations are not required, but the plans submitted must be drawn to a standard and easily readable scale, must show each story of the building or structure, and must include all parts of existing and proposed structures, including any balconies, porches, decks, stoops, fireplaces and chimneys. Exterior dimensions must be included. Show all exit door locations, including sliding doors, and any windows or other features that are pertinent to your appeal. The plans may be a preliminary version, but are expected to represent your actual proposal for the use of your lot.

Please consult with the Assistant Zoning Administrator regarding required plans for non-conventional structures such as signs, construction cranes, etc.

3. Town Acknowledgment: Obtain a signed, dated memo or letter from the Town Clerk or Administrator of the Town where the variance is needed, acknowledging that you have informed them of your intention to apply for the variance(s). You probably will need to appear before the Town Board and/or Plan Commission, which will provide advisory input requested by the Board of Adjustment.

APPLICANT SIGNATURE:

The undersigned hereby attests that all information provided is true and accurate, and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

premises, in relation to the Appeal request made her	ein, during reasonable daylight hours.
Signature Required: Chesph D. Zandani	Date: August 9, 2022
Print Name: Christopher D. Landerud (Agent), L	anderud Plan & Design LLC
Specify Owner or Agent: Agent prepared applica	
Agent must provide written permission from the property	erty owner
STAFF INFORMATION:	
Date Zoning Division Refused Permit (if different from	n filing date)
Filing Date	
Filing Materials Required:	
Site Plan	
Floor Plans Elevations	
Fee Receipt No	
Town Acknowledgement Date	
Notices Mailed Date	
Class II Notices Published Dates	
Site Visit Date	
Town Action Received Date:	
Public Hearing Date	
Action by B.O.A.	
Approved by:	Date:
Director, Division of Planning Operations, Departm	ent of Planning and Development

BIRRENKOTT SURVEYING P.O. Box 237 1677 N. Bristol Street Sun Prairie, WI. 53590 Phone (608) 837–7463 Fax (608) 837-1081

Description:

(Per Warranty Deed Doc. No. 4793315) All of Lot 18, Crescent Park, being part of SE 1/4 of the NW 1/4 of Section 9, Township 6 North, Range 10 East, Town of Dunn, Dane County, Wisconsin

= Existing Elevations

July 21, 2022

 \Box = Pavers

Comp. File: J:\2022\CARLSON Office Map No. 220549

T.A.S. B.E.R.

D.V.B. 386/17-19

Dated:

Drawn: Checked:

Surveyed:

Approved:

Field book:

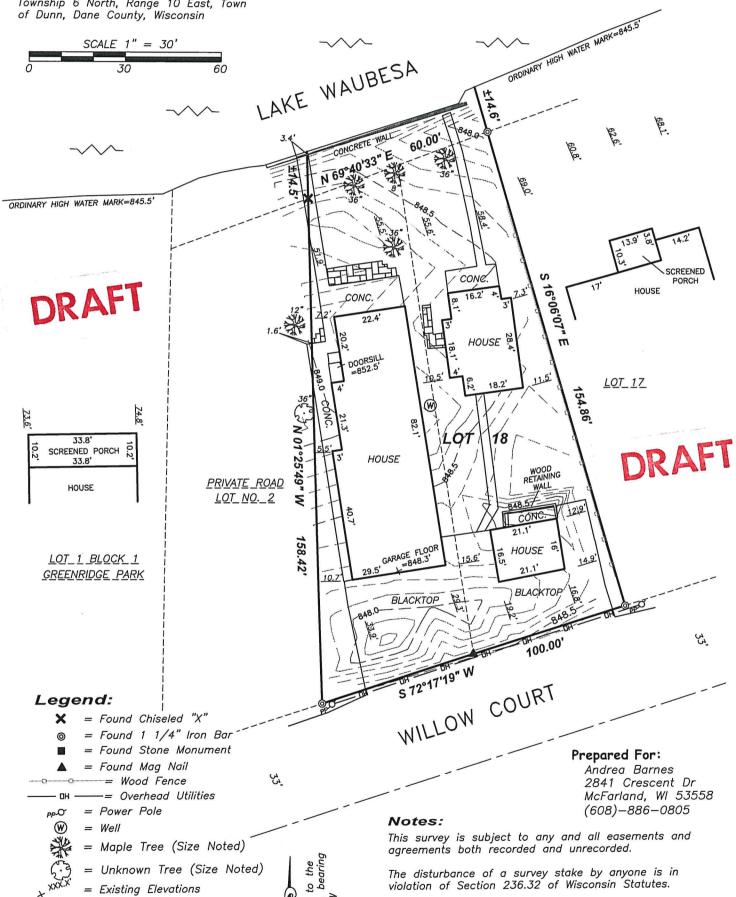
PLAT OF SURVEY

SURVEYOR'S CERTIFICATE:

I, Daniel V. Birrenkott, hereby certify that this survey is in compliance with the Wisconsin Administrative Code, Chapter A-E7. I also certify that I have surveyed and mapped the lands described hereon and that the map is a correct representation in accordance with the information provided and is correct to the best of my knowledge and belief.

Daniel V. Birrenkott

Wisconsin Professional Land Surveyor No. S-1531.



referenced to of Lot 18, b 72.17'19" W

Bearings 1 South line S 7

The disturbance of a survey stake by anyone is in violation of Section 236.32 of Wisconsin Statutes.

Wetlands, if present have not been delineated.

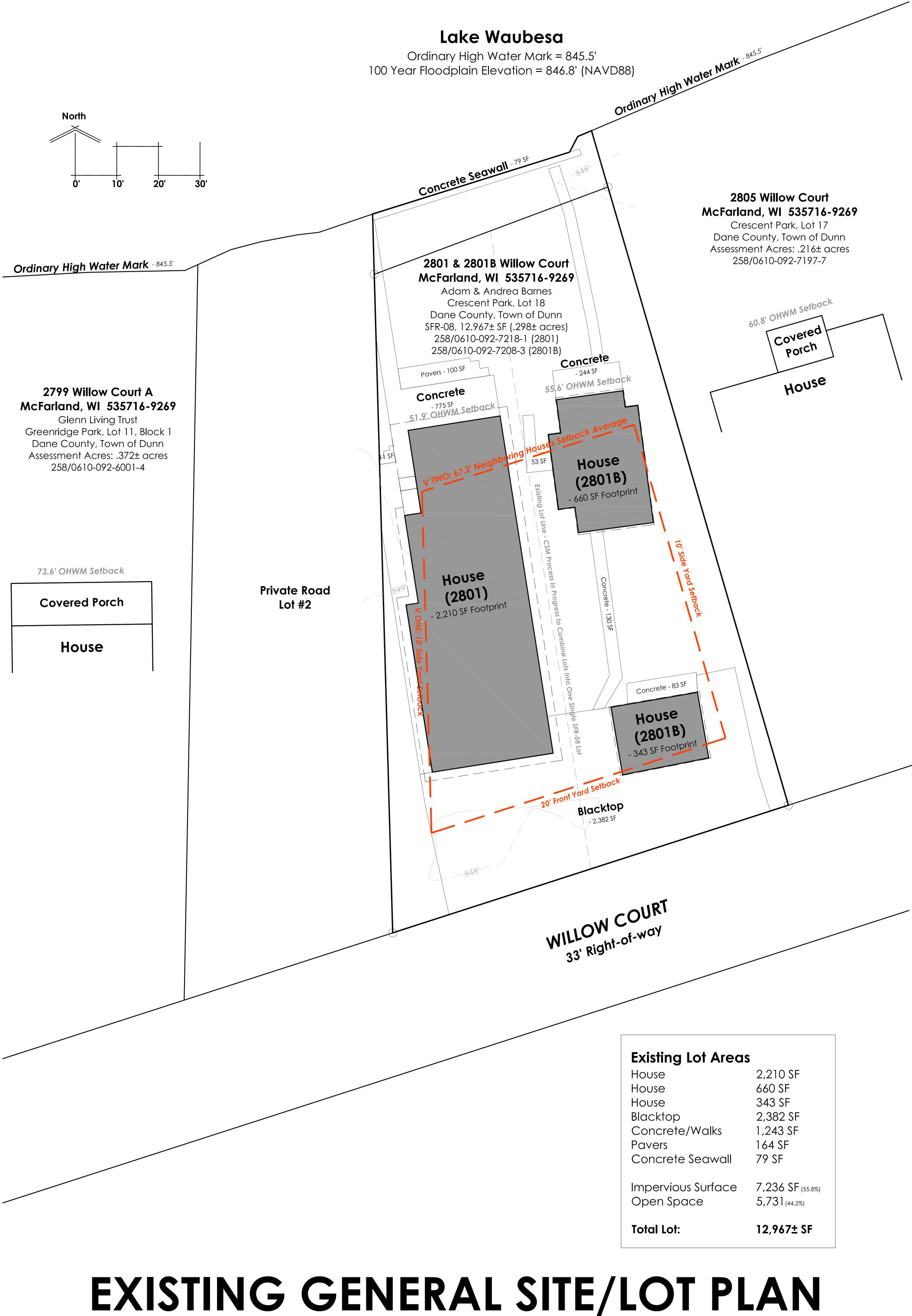
This survey shows visible, above—ground improvements only. No guarantee is made for below—ground structures.

Elevations Referenced To: NAVD 88.

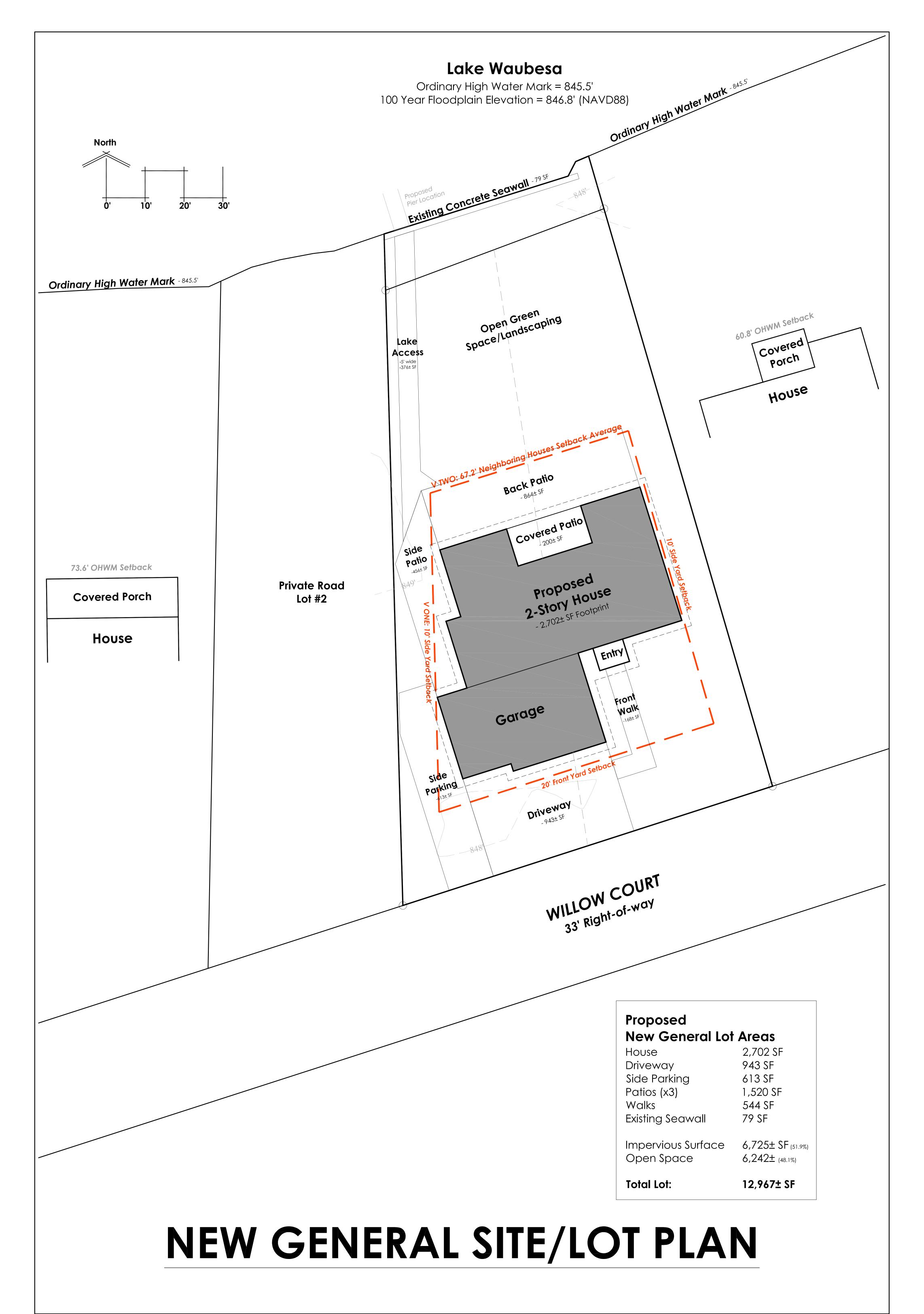
Contours are at a 0.1' Interval.

Date of survey: June 24, 2022.

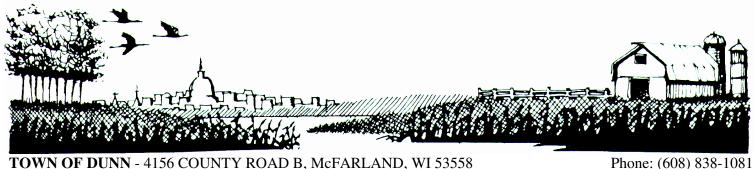
SHEET 1 OF 1



Scale: $\frac{1}{10}$ " = 1' (when printed on 24x36 paper



Scale: $\frac{1}{10}$ " = 1' (when printed on 24x36 paper)



TOWN OF DUNN - 4156 COUNTY ROAD B, McFARLAND, WI 53558

Website: www.town.dunn.wi.us E-mail: townhall@town.dunn.wi.us

FAX: (608) 838-1085

August 9, 2022

To: Adam and Andrea Barnes, 2841 Crescent Drive McFarland, WI 53558

Re: Proposed variance for Parcel 0610-092-7218-1 and Parcel 0610-092-7208-3

This letter confirms that the Town of Dunn has been contacted by the landowner or their representative regarding a proposed variance for the lot referenced above.

After an application has been submitted to Dane County Zoning, the Town Board must make a recommendation to the Dane County Board of Adjustment regarding the proposed variance. The recommendation will be considered at a public meeting of the Town Board.

In order to have the variance placed on a future Town Board agenda you need to do the following:

- 1. Provide the Town with a copy of the completed Dane County Board of Adjustment variance application. Include any supporting documentation, diagrams, or information that explains the variance requested.
- 2. Submit the above materials to the Town immediately after you have filed your application with Dane County.

We recommend contacting your neighbors to let them know you are pursuing a variance. Your adjacent neighbors will receive a notice from the Town when the variance is placed on the Town Board agendas. Neighbors may be more supportive of a variance if they have spoken with the landowner and understand how the variance will affect them before they receive a notice from the Town.

Sincerely,

Ben Kollenbroich Planning and Land Conservation Director

Email copy: Hans Hilbert, Dane County Zoning, Hilbert.hans@countyofdane.com

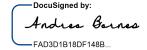
Permission Letter for Agent from Home Owner

August 9, 2022

Dane County Board of Adjustment –

This is a letter of permission acknowledging Chris Landerud of Landerud Plan & Design LLC is acting on our behalf to represent our best interests for our property, while at the same time upholding the values and intent of the Dane County Zoning Codes.

As the property owners, we acknowledge that Chris Landerud is the acting agent and is submitting a variance on our behalf for our property(s) at 2801 & 2801B Willow Court.



8/9/2022

Adam & Andrea Barns

August 9, 2022

2801 & 2801B Willow Court McFarland, WI 53558-9269 Dane County, Town of Dunn

CC.

Dane County Zoning Department, Hans Hilbert Zoning Administrator Town of Dunn, Ben Kollenbroich the Planning and Land Conservation Director Chris Landerud, Landerud Plan & Design LLC

Site Photos 2799 West Neighbor

2801 Subject Property

Lot 2 - right-of-way (west of property)



2801

2801B 2805 East Neighbor

Subject Properties (street side view)



2805 East Neighbor 2801B

2801

Subject Properties (lake side view)

