

Land Resources and Parks Department Staff Report

County Shoreland Conditional Use Permit Application # 2015-0685

Applicant/Owner:

Charles Neuman
N10471 Chief Kuno Trail
Fox Lake, WI 53933

Filing Date: October 12, 2015

Hearing Date: November 2, 2015

Location

PIN# 018-1313-2712-014

Lots 14 & 15, Plat 2 of Lyndon Dale Subdivision, located in part of the NW ¼, NE ¼, Section 27, T13N, R13E, Town of Fox Lake, the site address being N10467 Chief Kuno Trail.

Applicants Request

An application for a Conditional Use Permit under the Shoreland Protection Ordinance, Dodge County, Wisconsin has been submitted for review to allow filling, grading and dredging within a Shoreland district associated with the construction of a landscaping related retaining wall at this location.

Project Details

The applicant is proposing to replace the existing residence at this location. The proposed new residence will have a walkout basement in order to allow for safer access to the shoreline. The applicant is also proposing to construct a landscaping retaining wall along the northwest corner of the property in order to accommodate the approximate 12 to 15' slope difference at this location, and to support the existing foundation of the adjacent residential structure. The retaining wall will be approximately 60' long and will extend from the northwest corner of the proposed residence down to the upslope edge of the rip-rap material located along the shoreline. The retaining wall will be oriented perpendicular to the shoreline and will range in height from ground level at the shoreline to approximately 13' high. Landscaping wall will be constructed with 2' X 3' X 1' limestone blocks.

County Jurisdiction

The County has Shoreland Jurisdiction over this site as the site is located within 1000 feet of the ordinary highwater mark of Fox Lake. The County also has floodplain jurisdiction over this site as portions of the site are designated as floodplains according to the maps listed in Section 1.5(2)a of the Dodge County Floodplain Zoning Ordinance.

Review Criteria

1. Subsections 13.22 of the Shoreland Protection Ordinance details procedural matters, the approval criteria and the form for the conditional use permit application. The Committee shall authorize the Land Use Administrator to issue a Conditional Use Permit (CUP) for conditional uses after review and a public hearing, provided that such conditional uses or structure are in accordance with the purpose and intent of this Ordinance and the approval criteria provided in Section 13.22(3) and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the area.
2. Subsection 13.22(4) of the code lists conditions in addition to those required elsewhere in the Ordinance that the committee may attach to the permit in order to mitigate any potential adverse impacts resulting from the project.

Shoreland Ordinance Provisions

- 1. Section 8.22 requires a conditional use permit for any filling, grading, dredging, and/or ditching of any area which is within 300 feet landward of the ordinary highwater mark of a navigable body of water which has surface drainage toward the water and on which there is filling or grading on slopes of 20 percent or more;

Purpose Statement

The purpose of the Shoreland Protection Ordinance is to promote the public health, safety, convenience and welfare and to promote and protect the public trust in navigable waters.

Physical Features of Site

The features of the proposed construction and property that relate to the granting or denial of the conditional use permit request are as follows:

The property is not located within the County's Zoning Jurisdiction.

Portions of the property are designated as a floodplain according to the maps listed in Section 1.5(2)a of the Dodge County Floodplain Zoning Ordinance. No fill will be placed within the floodplain or the flood storage area.

The topography of the site is gently sloping between Chief Kuno Trail and the residence and abruptly changes to steep sloping from the residence to the shoreline.

Land Use, Site: Residential

Land Use, Area: Residential

Designated Archaeological Site: Yes No

The reduced water setback at this location is 35' from the OHWM of Fox Lake.

The existing residence is located 0' from the Ordinary Highwater Mark (OHWM) of Fox Lake. The replacement residence will be located 35' from the OHWM of Fox Lake. The residential construction project is designed to meet the impervious surface standards for this site.

Town Recommendation: Approve Deny No recommendation submitted

STAFF ADVISORY:

This staff advisory is only advice to the Planning, Development and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.

The staff has reviewed the proposal for compliance with the criteria listed in Sections 13.22(3) of the Dodge County Shoreland Protection Ordinance. The staff review comments are listed in Exhibit A for review by the committee.

It is the staff's position that the project is in compliance with the applicable provisions of the Dodge County Shoreland Protection Ordinance and the Floodplain Zoning Ordinance and it is the staff's position that the Committee will be able to make the findings necessary under Section 13.22 of the Ordinance that are required to approve the Conditional Use Permit for this project. If approved with the following conditions, it is the staff's position that the project will not have an adverse effect on the adjacent land owners, the community or the environment and the proposal will be consistent with the purpose and intent of the Ordinance.

CONDITIONS:

1. It shall be the responsibility of the applicant to obtain all other permits or approvals that may be required (e.g., Wisconsin Department of Natural Resources and/or U.S. Army Corps of Engineers) for the proposed retaining wall project.
2. All erosion control measures required by the applicable Federal, State, County and Local codes shall be in place and shall be maintained throughout the duration of the project in accordance with Best Management Practices.
3. All work shall be done in accord with the plans and specifications submitted on October 12, 2015
4. The decision of the Committee is valid for one year.

EXHIBIT A

Staff Review Comments

The staff has reviewed the proposal for compliance with the applicable criteria listed in Section 13.22(3) of the Dodge County Shoreland Protection Ordinance for dredging projects. The staff comments are as follows:

13.22(3) Conditional use permits shall be approved by the Committee if they find that all of the following criteria have been met:

13.22(3)(b) Will the proposed project be significantly detrimental to the public health, safety and welfare?

- The landscaping wall is being constructed to accommodate the approximate 12- 15' elevation difference at this location and is necessary in order to maintain the structural stability of the ground and to support the existing foundation of the adjacent existing residential structure. It is the staff's position that if the project is completed as proposed, the project will not have a significant detrimental impact on the public health, safety and welfare of the community or the adjacent owners;

13.22(3)(c) Is the project designed to control water pollution and to prevent the erosion of soil into the waterway?

- It is the staff's position that if the project is constructed in compliance with the erosion control provisions of the Shoreland Ordinance and in accord with the Best Management Practice Handbook, the project will control water pollution and will prevent erosion of soil into the waterway.

13.22(3)(d) Is the project in compliance with Dodge County Floodplain Zoning Ordinance and is the project designed to prevent flood damage to adjacent properties due to altered surface water drainage of the site?

- No additional fill will be placed within the floodplain or the flood storage area as a result of the project and the retaining wall will not be located within the floodplain or the flood storage area. It is the staff's position that the project will not have an adverse impact on adjacent properties due to altered surface water drainage.

13.22(3)(e) Is the project designed to minimize soil erosion from the site during and after construction?

- It is the staff's position that if the project is constructed in compliance with the erosion control provisions of the Shoreland Ordinance and in accord with the Best Management Practice Handbook, the project will minimize soil erosion from this site.

13.22(3)(f) Will the project have any adverse effects on any existing or future access roads to this site?

- It is the staff's position that the project will not have an adverse impact on existing or future access roads on this site.

13.22(3)(h) Is the project compatible with adjacent uses in terms of scale, site design, and any other external impacts?

- It is the staff's position that the project is compatible with adjacent land uses.

13.22(3)(i) Will the project generate any liquid or solid wastes? If wastes will be generated, are there adequate plans in place to dispose of the waste generated from this project?

- It is the staff's position that if the project is done in accord with the permit application, any wastes generated from the project will be adequately handled.

13.22(3)(a) Does the proposed use comply with all applicable provisions of the Shoreland Ordinance?

- It is the staff's position that the project complies with all applicable provisions of the Ordinance.

Dodge County Planning, Development and Parks Committee Decision

County Shoreland Conditional Use Permit Application # 2015-0685

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Charles Neuman
N10471 Chief Kuno Trail
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Applicants Request

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CONCLUSIONS OF LAW

Based on the facts presented in the application and at the public hearing the Committee concludes that:

13.22(3) Conditional use permits shall be approved by the Committee if they find that all of the following criteria have been met:

13.22(3)(b) Will the proposed project be significantly detrimental to the public health, safety and welfare?

(Yes / No)

If yes, what measures can be taken to mitigate any potential adverse effects?

13.22(3)(c) Is the project designed to control water pollution and to prevent the erosion of soil into the waterway?

(Yes / No)

If not, what measures can be taken to mitigate the water pollution or soil erosion problems with this project?

13.22(3)(d) Is the project in compliance with local floodplain zoning ordinances?

- Yes – The project is in compliance with the Dodge County Floodplain Zoning Ordinance;
- No – The project is not in compliance with the Dodge County Floodplain Zoning Ordinance;

If not, what measures can be taken to mitigate any potential Floodplain dangers?

13.22(3)(e) Is the project designed to minimize soil erosion from the site during and after construction?

(Yes / No)

If not, what can be done to minimize soil erosion from this site?

13.22(3)(f) Will the project have any adverse effects on any existing or future access roads to this site?

(Yes / No)

If yes, what measures can be taken to mitigate the potential adverse effects on the access to this site?

13.22(3)(h) Is the project compatible with adjacent uses in terms of scale, site design, and any other external impacts?

(Yes / No)

If not, what changes can be made to make the project more compatible with the adjacent uses?

13.22(3)(i) Will the project generate any liquid or solid wastes? (Yes / No)

If waste will be generated, are there adequate plans in place to dispose of the waste generated from this project? (Yes / No)

If not, what measures can be taken to adequately dispose of the waste that will be generated from this project?

13.22(3)(a) Does the proposed use comply with all applicable provisions of the Shoreland Ordinance?

(Yes / No)

If not, what changes must be made to bring the project into compliance with the Ordinance?

Are any conditions for approval needed in this case to mitigate any potential adverse impacts on the adjacent properties, the environment or the community?

(Yes/No)

1. It shall be the responsibility of the applicant to obtain all other permits or approvals that may be required (e.g., Wisconsin Department of Natural Resources and/or U.S. Army Corps of Engineers) for the proposed retaining wall project.
2. All erosion control measures required by the applicable Federal, State, County and Local codes shall be in place and shall be maintained throughout the duration of the project in accordance with Best Management Practices.
3. All work shall be done in accord with the plans and specifications submitted on October 12, 2015
4. The decision of the Committee is valid for one year.

Others

Does the committee believe that the Conditional Use Permit Request meets the approval criteria in Section 13.22(3) of the County Shoreland Protection Ordinance?

(Yes / No)

Motion by _____ to approve the conditional use permit request based upon the previously mentioned findings and conditions.

Motion second _____

Vote

Allen Behl	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Janice Bobholz	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Randy Grebel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Joseph Marsik	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Tom Schaefer - Chairman	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present

Motion (Carried / Denied)

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the committee

- Granted preliminary approval of the conditional use permit subject to the conditions listed above and the Land Use Administrator is directed to issue a conditional use permit incorporating the decision of this Committee.
- Granted the conditional use permit request as proposed and the Land Use Administrator is directed to issue a conditional use permit incorporating the decision of this Committee.
- Denied the conditional use permit request as proposed. The committee finds that the proposal does not meet the following approval criteria of the code:

Expiration of Approval. Any order issued by the Committee requiring a Zoning official to issue a conditional use permit shall become void after one year unless the applicant or appellant shall have met the conditions of approval for such permit and a conditional use permit has been issued by the Zoning official within such time, provided, that the time may be extended when so specified by the Committee.

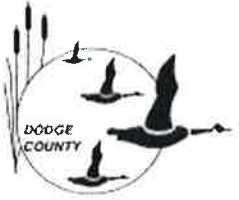
Revocation. This order may be revoked by the Committee in accord with Section 14.43 of the Dodge County Shoreland Protection Ordinance after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals. This decision may be appealed by any person or their agent aggrieved by this decision or by any officer, department, board or bureau of the County, or by any affected town board. Such appeals shall be filed with the Dodge County Land Resources and Parks Department or the review and decision making body from whom the appeal is taken within 30 days after the date of written notice of the decision or order of the review and decision making body. The County assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Dodge County Planning, Development and Parks Committee

Signed _____ Attest _____
Chairperson Secretary

Dated: _____ Filed: _____



DODGE COUNTY
LAND RESOURCES & PARKS DEPARTMENT
 127 E. OAK STREET • JUNEAU, WI 53039
 PHONE: (920) 386-3700 • FAX: (920) 386-3979
 E-MAIL: landresources@co.dodge.wi.us

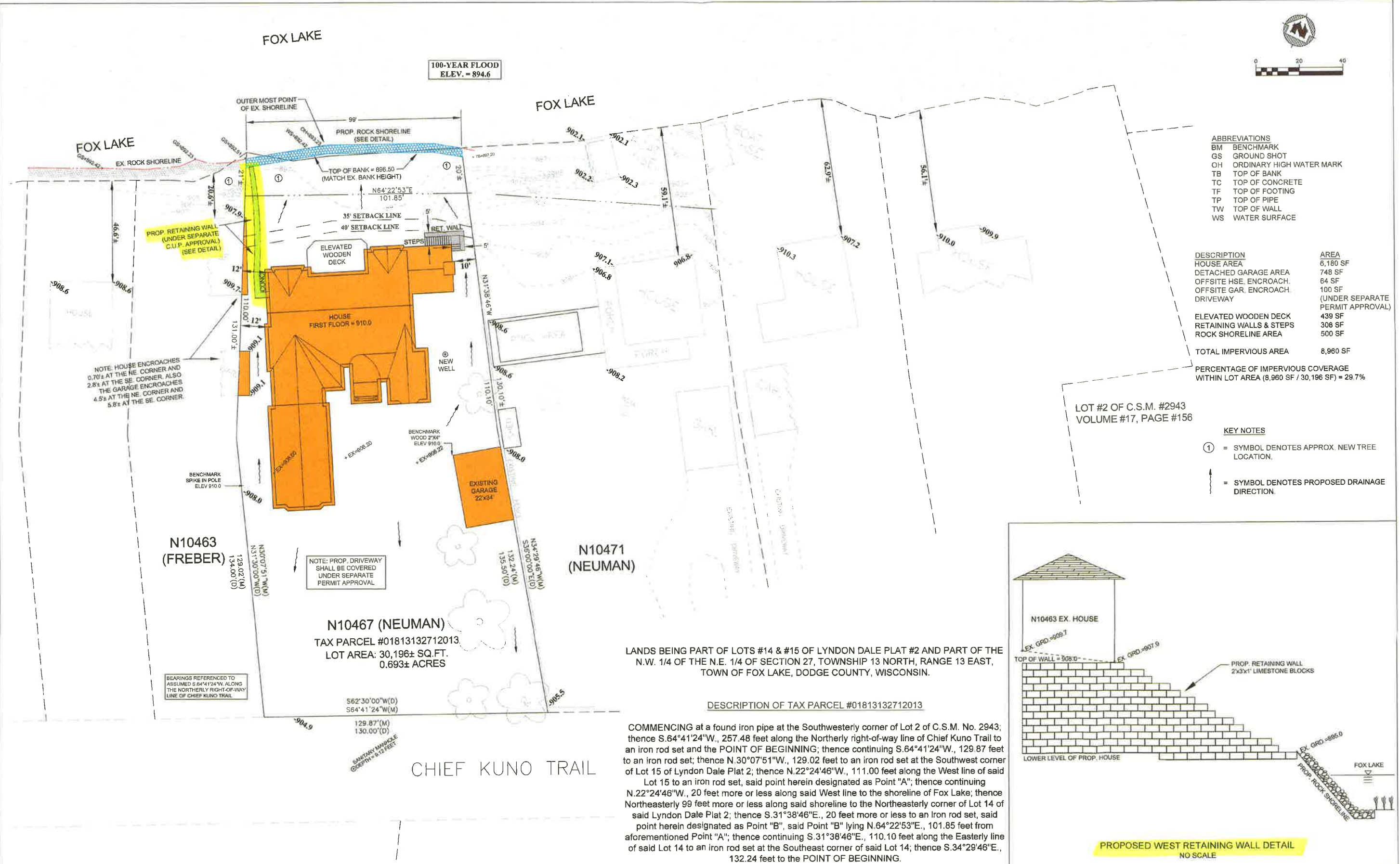
**CONDITIONAL USE PERMIT
 APPLICATION**

THIS AREA FOR OFFICE USE ONLY	
Activity No. 150685	Permit Issued Date
Application Date: 10-12-15	Receipt #: 89389
	Sanitary Permit #:

Application Fee: \$350 (After the Fact Application Fee - \$700)

Please complete page 1 and 2 of this application form and submit the application form with all of the required information listed in the "Application Checklist" for your project. PRINT OR TYPE. Use blue or black ink, do not use pencil. The Dodge County Land Resources and Parks Department will not consider your application unless you complete and submit this application form, the applicable information listed in the "application checklist" for your proposed project and the application fee. Personally identifiable information on this form will not be used for any other purpose, but it must be made available to requesters under Wisconsin's open records law [s.19.31-19.39, Wis. Stats.].

(1) NAMES & MAILING ADDRESSES		(2) PROPERTY DESCRIPTION			
Applicant (Agent) CHARLES M. NEUMAN		Parcel Identification Number (PIN) Q 1813132712Q13			
Street Address N10471 CHIEF KUNO TR		Town FOX LAKE	T TO	N NE	R RE
City • State • ZipCode FOX LAKE, WI 53933		Section NE 1/4	27	Acres .693	Lot (Block)
Property Owner (If different from applicant)		Subdivision or CSM (Volume/Page/Lot)			
Street Address		Address Of Property (DO NOT include City/State/ZipCode) N10467 CHIEF KUNO TRAIL			
City • State • ZipCode		Is this property connected to public sewer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
(3) PROPERTY USE		(4) PROPOSED PROJECT			
Current Use Of Property <input type="checkbox"/> Vacant Property <input checked="" type="checkbox"/> Single-Family Residential <input type="checkbox"/> Active-Working Farm Operation <input type="checkbox"/> Business • Industrial • Commercial • (Describe below) Other _____		(Please check/complete all that apply below) <input type="checkbox"/> Non-Farm Residential Lot <input checked="" type="checkbox"/> Single Family Residence <input type="checkbox"/> Two-Family Residence <input type="checkbox"/> Multi-Family Residence <input type="checkbox"/> Tavern or Restaurant <input type="checkbox"/> Professional Office <input type="checkbox"/> Non-Metallic Mine/Quarry <input type="checkbox"/> Wind Tower <input type="checkbox"/> Create/Expand Business <input type="checkbox"/> Wildlife Pond > 2-acres <input type="checkbox"/> Wireless Communications Tower <input type="checkbox"/> Contractor's Offices and Storage Yards <input checked="" type="checkbox"/> Filling, Grading or Dredging in the Shoreland District Other: _____			
DNR Notice <small>DNR NOTICE: You are responsible for complying with State and Federal laws concerning construction on or near wetlands, lakes and streams. Wetlands that are not associated with open water can be difficult to identify. Failure to comply may result in removal or modification of construction that violates the law or other penalties or costs. For more information, visit the Department of Natural Resources Wetlands Identification Web Page (www.dnr.state.wi.us) or contact a Department of Natural Resources Service Center.</small>					
(5) CERTIFICATE					
<small>I, the undersigned, hereby apply for a Conditional Use Permit and certify that all the information both above and attached is true and correct to the best of my knowledge. I affirm that I have read the DNR Notice shown above. I affirm that all work performed will be done in accordance with the Dodge County Land Use Code and with all other applicable laws and regulations. I hereby authorize members of the Dodge County Land Resources and Parks Department to enter the above-described property for purposes of obtaining information pertinent to my application request and to conduct land use code inspections.</small>					
Signature _____		Date 10-11-15			
Daytime Contact Number (920) 210-4182					
AREA BELOW THIS LINE FOR OFFICE USE ONLY					
PLANNING, DEVELOPMENT & PARKS COMMITTEE ACTION					
Date of Decision _____		Decision _____			
<input type="checkbox"/> APPROVED	CONDITIONS	Land Resources and Parks Department			
<input type="checkbox"/> DENIED		Date: _____			



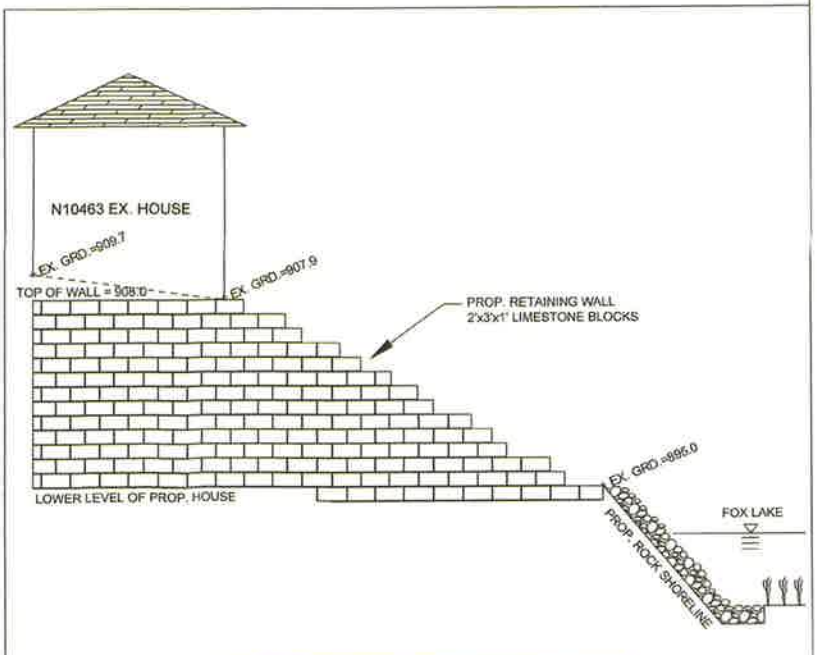
ABBREVIATIONS

BM	BENCHMARK
GS	GROUND SHOT
OH	ORDINARY HIGH WATER MARK
TB	TOP OF BANK
TC	TOP OF CONCRETE
TF	TOP OF FOOTING
TP	TOP OF PIPE
TW	TOP OF WALL
WS	WATER SURFACE

DESCRIPTION	AREA
HOUSE AREA	6,180 SF
DETACHED GARAGE AREA	748 SF
OFFSITE HSE. ENCROACH.	64 SF
OFFSITE GAR. ENCROACH.	100 SF
DRIVEWAY	(UNDER SEPARATE PERMIT APPROVAL)
ELEVATED WOODEN DECK	439 SF
RETAINING WALLS & STEPS	306 SF
ROCK SHORELINE AREA	500 SF
TOTAL IMPERVIOUS AREA	8,960 SF
PERCENTAGE OF IMPERVIOUS COVERAGE WITHIN LOT AREA (8,960 SF / 30,196 SF) = 29.7%	

LOT #2 OF C.S.M. #2943
VOLUME #17, PAGE #156

- KEY NOTES**
- ① = SYMBOL DENOTES APPROX. NEW TREE LOCATION.
 - ↗ = SYMBOL DENOTES PROPOSED DRAINAGE DIRECTION.



PROPOSED WEST RETAINING WALL DETAIL
NO SCALE

LANDS BEING PART OF LOTS #14 & #15 OF LYNDON DALE PLAT #2 AND PART OF THE N.W. 1/4 OF THE N.E. 1/4 OF SECTION 27, TOWNSHIP 13 NORTH, RANGE 13 EAST, TOWN OF FOX LAKE, DODGE COUNTY, WISCONSIN.

DESCRIPTION OF TAX PARCEL #01813132712013

COMMENCING at a found iron pipe at the Southwesterly corner of Lot 2 of C.S.M. No. 2943; thence S.64°41'24"W., 257.48 feet along the Northerly right-of-way line of Chief Kuno Trail to an iron rod set and the POINT OF BEGINNING; thence continuing S.64°41'24"W., 129.87 feet to an iron rod set; thence N.30°07'51"W., 129.02 feet to an iron rod set at the Southwest corner of Lot 15 of Lyndon Dale Plat 2; thence N.22°24'46"W., 111.00 feet along the West line of said Lot 15 to an iron rod set, said point herein designated as Point "A"; thence continuing N.22°24'46"W., 20 feet more or less along said West line to the shoreline of Fox Lake; thence Northeasterly 99 feet more or less along said shoreline to the Northeasterly corner of Lot 14 of said Lyndon Dale Plat 2; thence S.31°38'46"E., 20 feet more or less to an iron rod set, said point herein designated as Point "B", said Point "B" lying N.64°22'53"E., 101.85 feet from aforementioned Point "A"; thence continuing S.31°38'46"E., 110.10 feet along the Easterly line of said Lot 14 to an iron rod set at the Southeast corner of said Lot 14; thence S.34°29'46"E., 132.24 feet to the POINT OF BEGINNING.

N10467 (NEUMAN)
TAX PARCEL #01813132712013
LOT AREA: 30,196± SQ.FT.
0.693± ACRES

N10463 (FREBER)

N10471 (NEUMAN)

PROJECT NO:	07262000	SCALE:	AS SHOWN	NO.	1	DATE:	10/8/2015	REVISION:	PER W.S.D.N.R. REVIEW COMMENTS	BY:	JML
PROJECT DATE:		DRAWN BY:	JML	CHECKED BY:							

MSA
PROFESSIONAL SERVICES

TRANSPORTATION • MUNICIPAL DEVELOPMENT • ENVIRONMENTAL
201 Corporate Drive, Beaver Dam, WI 53816
920-887-4242 1-800-552-6330 Fax: 920-887-4250
Web Address: www.msa-ps.com

N10467 CHIEF KUNO TRAIL
CR NEUMAN PROPERTIES or CHARLES M. NEUMAN
TOWN OF FOX LAKE, DODGE COUNTY, WISCONSIN

PROPOSED SITE CONDITIONS	IMPERVIOUS SURFACE EXHIBIT	FILE NO: 07262000
		SHEET C-100

PLOT DATE: 10/13/15, P:\172008\7260a\72620\07262000\CADD\N10467 Chief Kuno Trail Fox Lake\Neuman 101215.dwg

**DODGE COUNTY PLANNING, DEVELOPMENT AND PARKS COMMITTEE
MINUTES
October 19, 2015**

The Dodge County Planning, Development and Parks Committee met on October 19, 2015 at 7:00 p.m. on the 1st Floor of the Administration Building, Juneau, Wisconsin.

Chairman Schaefer called the meeting to order. Roll Call was taken. Members present were Tom Schaefer, Allen Behl, Randy Grebel and Joseph Marsik. Janice Bobholz was excused. The staff present at the request of the Chairman were Joseph Giebel.

The Chairman asked the staff to confirm compliance with the open meeting laws and the public hearing notice requirements. Mr. Giebel noted that the meeting was properly noticed in accord with the open meeting law and noted that the required notices for the public hearings listed on the agenda were posted, mailed and published in accord with the statute and code requirements.

The agenda was reviewed.

Motion by Randy Grebel to approve the agenda and allow the Chairperson to go out of order as needed to efficiently conduct the meeting. Second: Allen Behl Motion carried.

ADMINISTRATIVE BUSINESS

1. The minutes from the October 5, 2015 meeting were reviewed by the Committee.

Motion by Randy Grebel to approve the minutes as written.

Second by Thomas Schaefer Vote: 4-0 Motion carried.

2. No Committee Member Reports
3. No additional Per Diems.

PUBLIC HEARING

Dale Bratz Jr. – Request for a Conditional Use Permit under the Land Use Code, Dodge County, Wisconsin to allow for the creation of an approximate 2-acre nonfarm single family residential lot within the A-1 Prime Agricultural Zoning District. The property is located in part of the NE ¼, NW ¼, Section 22, Town of Shields, the site address being W8745 County Road Q.

Motion by Joseph Marsik to approve the conditional use permit request to allow for the creation of an approximate 2-acre nonfarm single family residential lot within the A-1 Prime Agricultural Zoning District subject to the following conditions:

1. The applicant shall obtain the required land division approvals for the proposed lot from the County and local municipalities if required, prior to the creation of these lots;
2. The proposed non-farm residential lot shall not exceed 3.8-acres in area unless the lot is successfully rezoned out of the A-1 Prime Agricultural Zoning District;

3. Only one single family residential unit may be located on the proposed non-farm residential lot unless this lot is successfully rezoned into a zoning district which allows additional residential units;
4. The acreage of the proposed non-farm residential lot shall count towards the total non-farm residential acreage that can be created from the base farm tract for this property;
5. A "Notice of Zoning Limitations" document shall be recorded with the Dodge County Register of Deeds Office for the following parcel which notifies the potential buyers of this parcel that there may be limitations as to the number of new lots that can be created from parcel:
 - 040-0914-2221-000
6. The owner and subsequent owners of this non-farm residential lot hereby agree to comply with Subsection 9.2, Right to Farm provisions of the Dodge County Land Use Code and that they will not cause unnecessary interference with adjoining farming operations producing agricultural products and using generally accepted agricultural practices, including access to active farming operations;
7. The decision of the Committee is valid for one year.

Second by Randy Grebel Vote 4-0 Motion carried.

Motion by order of the chairman to adjourn the meeting.

Meeting adjourned at 7:20 p.m.

Respectfully Submitted,

Allen Behl, Secretary

Disclaimer: The above minutes may be approved, amended or corrected at the next committee meeting.