

INFORMATION ON VARIANCE REQUEST

Applicant:
TOOLE, JULIE & TOOLE, MARK

Agent:
SEHLOFF, JAMES - DAVEL ENGINEERING & ENVIRONMENTAL

File Number:
2021-VA-5740

Location of Premises:
5114 CHESAPEAKE CT
OSHKOSH, WI 54901

Tax Parcel No.:
018-0545-05-09

Legal Description:
Being all of Lot 4 of CSM-6889, located in Government Lot Section 29, Township 19 North, Range 17 East, Town of Oshkosh, Winnebago County, Wisconsin.

Description of Proposed Project:
Applicant is requesting a variance for a sub-standard shore yard setback requirement.

<u>DESCRIPTION:</u>	<u>CODE REFERENCE:</u>	<u>REQUIRED:</u>	<u>PROPOSED:</u>
The shore yard setback from the nearest point of any structure shall be at least 75 ft from the OHWM unless exempt under section 6.1(1) or reduced under section 6.2.	27-6.1	Shore Yard: 75 ft - 63.5 ft with setback averaging)	Shore Yard: 50.2 ft

CANCELLED
7/15/2021

INITIAL STAFF REPORT

Sanitation:

System Required
Municipal System

Overlays:

Shoreland

Current or Proposed Zoning:

R-1 Rural Residential

Code Reference:

27-6.1

Description of Proposed Use:

Applicant is requesting a variance for a sub-standard shore yard setback requirement.

Surrounding Zoning:

North: R-1

South: Lake Winnebago

East: Lake Winnebago

West: R-1

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:
SEE ATTACHED.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:
SEE ATTACHED.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:
SEE ATTACHED.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:
SEE ATTACHED.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

(1) The variance shall not cause any increase in the regional flood elevation;

(2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;

(3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

C-1: Describe your project, include the dimensions and proposed setbacks:

The project is a proposed house on an existing Residential Lot along a man-made channel. The Lot extends to the center of the channel with approximately 1 Acre of land above the Ordinary High-Water Mark. There is also a cul de sac bulb with a utility and drainage easement along the right of way. Current setbacks are 30' Front yard setback, 65.5' OHWM Setback based on Averaging and 7/10 Side yard setback. Our request is for a reduced setback from the Ordinary High-Water Mark to 50.2' along the East side of the property for the proposed house and driveway only.

C-2: Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

My client designed the house, with a side entry garage, to avoid the existing power pole in the front of the lot and the location of the houses to the North. By enforcing the existing setbacks, the home would have to be redesigned and would not be consistent with neighboring properties and would reduce portions of it to an unusable size.

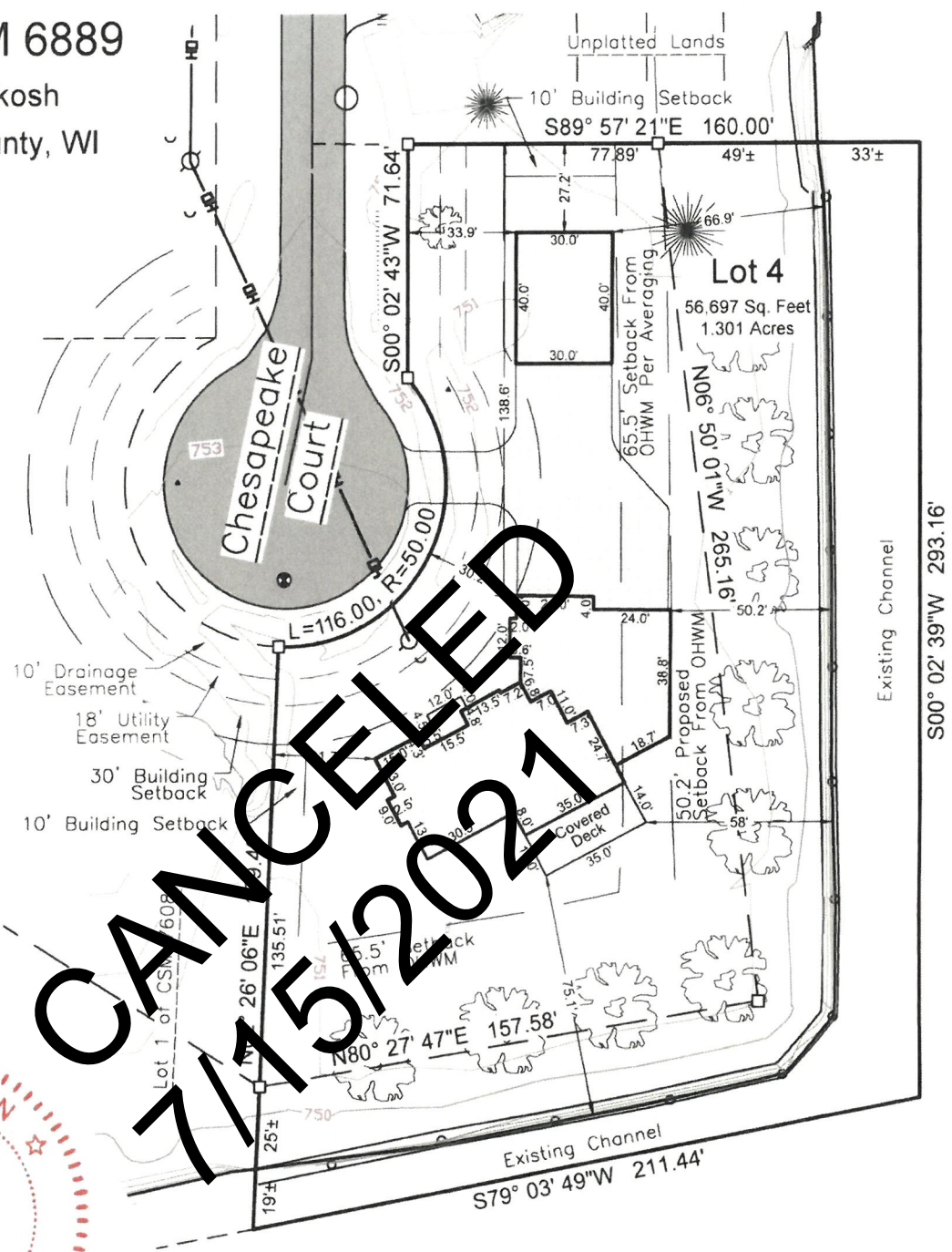
C-3: Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

Lots on the East side of Chesapeake Court all have been built at or near the 50' setback from Ordinary High Mark this is due to the original design of this part of the channels having been created prior to the state adopting a 75' setback. Based on the Setback averaging or the house to the North being closer than 75 feet the ordinary high water mark setback has been reduced to 65.5 feet. This lot also contains a Cul de Sac Bulb with a 30' building setback. Based on these setbacks the buildable width at the narrowest point is 24.7 feet.

C-4: Describe how the granting of the requested variance will not harm public interest or have adverse effects on surrounding properties:

The reduced setback will be in line with the existing house along this portion of the channel and will not be an exception that stands out from other houses. The proposed site, as designed, with a 50' OHWM setback meets all other requirement including the storm water management. The land owner has spoken with the neighbors and several have written letters of support for the proposed reduced setback.

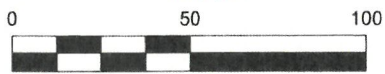
Lot 4 of CSM 6889
 Town of Oshkosh
 Winnebago County, WI



CANCELLED
 2/15/2021

WISCONSIN
 JAMES R
 SEHLOFF
 S-2692
 APPLETON
 WI
 Professional Land Surveyor No. S-2692

James R. Sehloff 27 Jan 2021
 Date



Bearings are referenced to the
 Final Plat of Winnebago County Coordinates

Notes:

The shown location of Best Management Practice (BMP) for erosion control based upon final drainage pattern. Additional BMPs shall be placed where necessary during construction, dependent on existing site conditions.

Dimensions are to the exterior foundation wall, not including the brick ledge.

Setback Requirements
 Front: 30'
 Rear: 65.5' Shoreland
 Sides: 10' each

DAVEL ENGINEERING & ENVIRONMENTAL, INC.
 Civil Engineers and Land Surveyors
 1164 Province Terrace, Menasha, WI 54952
 Ph: 920-991-1866 Fax: 920-441-0804
 www.davel.pro

Site Plan For:
 Calmes Verkuilen Construction LLC
 N4006 Cty E, Suite 2A
 Freedom, WI 54913

April 20, 2021

Town of Oshkosh Board/Zoning
1076 Cozy Lane
Oshkosh, WI 54901

Dear Town Board members & Zoning Committee,

We are writing a letter of support regarding Mark & Julie Toole's variance request for building a home (address TBD) on Chesapeake Court, Oshkosh, WI. For your reference, their property information is below:

Parcel Information Number PIN 01805450509

Property Description
PT GOV LOT 2 DESC AS LOT 4 OF CSM-6889 1.30 A.
Document Number: 1825489
Stated Area (Acres): 1.30
GIS Area (Calculated Acres): 1.30
Municipality: TOWN OF OSHKOSH
Tax Parcel Number
01805450509

We are their direct neighbor to the west of their property and the variance they are seeking would be consistent with the neighboring properties. We have no issues with the proposal or variance they are seeking. If you need anything else from us with regard to this, please do not hesitate to reach out.

Thank you for your time,



Jim Lewan
Serena Conard
5115 Chesapeake Ct.
Oshkosh, WI

CANCELLED
7/15/2021

April 20, 2021

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GIS Area (Calculated Acres): 1.30
Municipality: TOWN OF OSHKOSH
Tax Parcel Number
01805450509

We are a direct neighbor to the north of their property and the variance they are seeking would be consistent with the neighboring properties. We have no issues with the proposal or variance they are seeking. If you need anything else from us with regard to this, please do not hesitate to reach out.

Thank you for your time,

Gary Nettekoven
Amy Rosko
5130 CHESAPEAKE COURT
OSHKOSH WI 54901
920-954-5576

CANCELLED
7/15/2021

Amy Rosko
Gary Nettekoven

Application #21-VA-5740

Date of Hearing:
July 27, 2021

Owner(s):
TOOLE, MARK /
TOOLE, JULIE

Subject Parcel(s):
01805450509



Winnabago County
WINGS Project

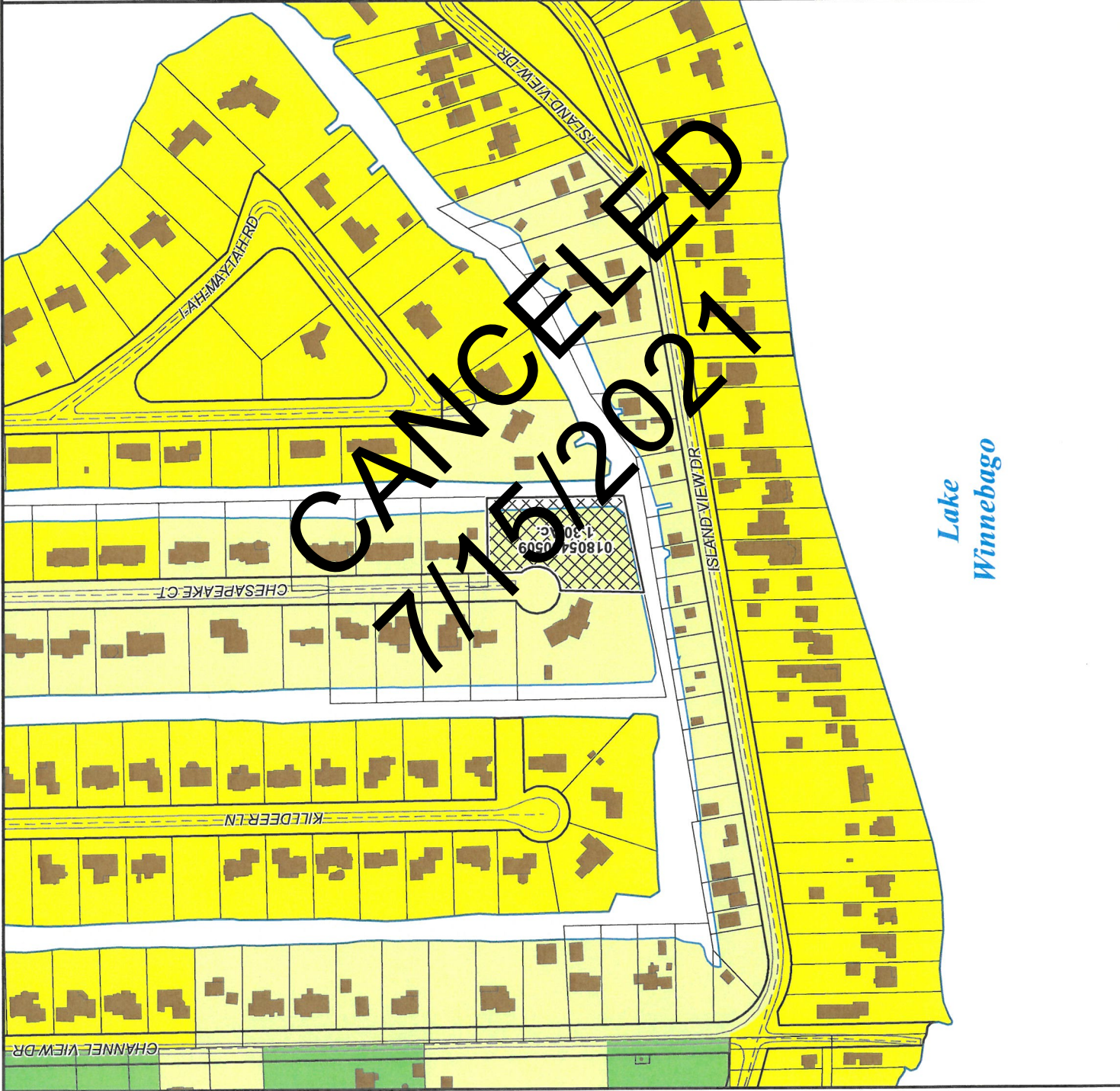
Scale
1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial Zoning Jurisdiction

Incorporated Area



CANCELLED
7/15/2021

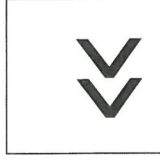
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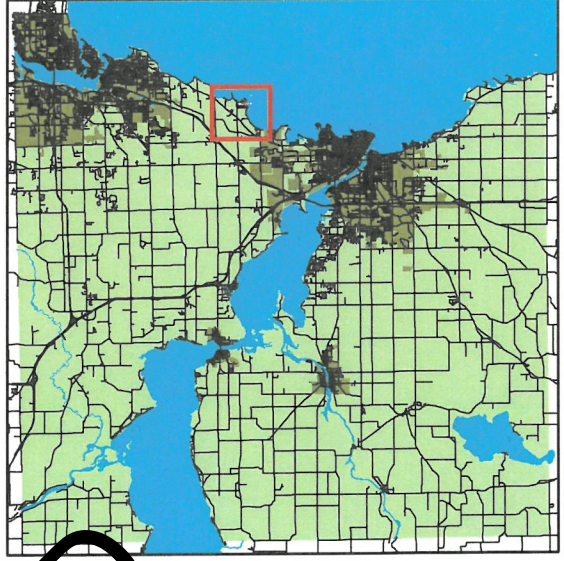
Owner(s):
**TOOLE, MARK /
TOOLE, JULIE**

Subject Parcel(s):
01805450509

*Winnebago County
WINGS Project*



● = SITE



WINNEBAGO COUNTY

○ = SITE



1 inch : 2,000 feet