



136 North Monroe Street
 Waterloo, WI 53594
 Phone: (920) 478-3025
 Fax: (920) 478-2021
www.waterloowi.us

**CITY OF WATERLOO ADMINISTRATIVE APPEALS REVIEW BOARD- AGENDA
 COUNCIL CHAMBER OF THE MUNICIPAL BUILDING – 136 N. MONROE STREET**

Tuesday, April 27, 2021 – 6:00 p.m.-- Participate Remotely Or In-Person


Pursuant to Section 19.84 Wisconsin Statutes, notice is hereby given to the public and news media, a meeting will be held to consider the following:

Remote Meeting Information

Join Zoom Meeting: <https://us02web.zoom.us/j/83263871595?pwd=Y3U0UGRlVHh2d3N0Tk5sZDd2dTU4dz09>
 Meeting ID: 832 6387 1595 Passcode: 865723

Dial-in by phone
 +1 312 626 6799 US (Chicago)
 Meeting ID: 832 6387 1595 Passcode: 865723

1. CALL TO ORDER & ROLL CALL
2. CITIZEN INPUT / PUBLIC COMMENT
3. UNFINISHED BUSINESS
 - a. ADMINISTRATIVE APPEAL - Building Inspectors Determination To Not Apply Provisions Of 385-27 Municipal Code Pertaining To An Agricultural District Request By The Property Owner For A Set-back Less Than 300 For Construction Of An Accessory Structure, Portland Road, Outlot 66 (22.432 Acres), By Property Owner Mark Herbst
4. ADJOURNMENT


 Mo Hansen
 Clerk/Treasurer

Posted & Emailed: 04/23/2021

PLEASE NOTE: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above meeting(s) to gather information. No action will be taken by any governmental body other than that specifically noticed. Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request such services please contact the clerk's office at the above location

Background Information (highlights are Clerk/Treasurer's)

§ 385-27 Zoning permit required.

No building or structure, or any part thereof, shall hereafter be built within the City unless a permit therefor shall first be obtained by the owner or his agent from the Building Inspector. No construction shall be commenced prior to the issuance of such permit. Commencement of construction shall include such acts as beginning excavation or constructing forms for cement work. See Chapter 140, Building Construction, of this Code. **The Building Inspector may grant variances from the terms of this chapter in those cases where a setback, side yard or rear yard variance would clearly be consistent with those existing in the neighborhood.** Where an existing older residence constructed before October 22, 1987, is being rebuilt after a fire or is being converted to a duplex and lacks the minimum square feet of living area and land area required in the zoning district as prescribed in this chapter, the Council may grant a special exception waiving the requirements for a certain minimum square feet of floor space or land area so as to allow such reconstruction or conversion; provided, however, that granting of such special exception will not be contrary to the public interest.

§ 385-18 A Agricultural District.

The A Agricultural District provides exclusively for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for premature provision of essential public improvements and services.

A. Permitted uses.

- (1) Churches, schools, parks and municipal buildings.
- (2) Farming.
- (3) In-season roadside stands for the sale of farm products produced on the premises.
- (4) Water storage and sewage disposal plants and power stations, when surrounded by an eight-foot or more woven fence.
- (5) Nurseries, greenhouses and other agricultural uses.
- (6) Uses customarily incident to any of the above uses, including residential uses incident to any of the above uses.

B. Conditional uses. See also § 385-21 of this chapter.

- (1) Fur farms.
- (2) Kennels.

C. Lot, yard and building requirements.

- (1) Lot frontage: minimum 200 feet.
- (2) Lot area: minimum five acres.
- (3) Residence:
 - (a) Yard and building requirements: same as R-1 District.
- (4) Farm buildings:**
 - (a) Front yard: minimum 300 feet.
 - (b) Side yards: minimum 300 feet.
 - (c) Rear yard: minimum 300 feet and (d) Building height: maximum 50 feet.

TO: ADMINISTRATIVE APPEALS REVIEW BOARD
FROM: CLERK/TREASURER
SUBJECT: HERBST APPEAL AND BACKGROUND INFORMATION
DATE: 4/23/21

HERBST APPEAL: OUTCOME SCENARIOS & BACKGROUND

OUTCOME SCENARIOS

Affirming the initial determination.

If the Board agrees with the Building Inspector' denial of the use of §385-27, a 300 foot set-back would apply. Mark Herbst would have further avenues to pursue his building objective via a conditional use permit process, or similar, as has been the case with other AG District properties such as the McKay Nursery facilities across the street on Portland Road.

Reversing the initial determination.

If the Board decides the appeal is appropriate and §385-27 is to be applied, the Building Inspector would grant a variance based on the Board's decision. With a set back variance granted, Mark Herbst could apply for a building permit working within all other applicable municipal requirements and restrictions.

Modifying the initial determination.

The Board may modify the initial determination.

BACKGROUND

From Chapter 68 Wis. Stat.

§68.07 The Board's decision should be reduced to writing. It is of value for the Boards motion to fully describe it final determination, as the motion will be reduced to writing for the public record.

new email thread since 4/19 meeting

Mo Hansen

From: Jeni Quimby
Sent: Thursday, April 22, 2021 9:35 PM
To: Mark Herbst
Cc: Chris Butschke; Mo Hansen; Jeanette Petts; jimsetz@hotmail.com
Subject: FW: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]
Attachments: Setback Location Based on Ordinance.pdf; 300 Feet from Residential Property Lines.pdf; eMail Response from DNR.PDF; Waterloo Proposed Building Location.pdf

Hi Mark, I was looking for the original drawing (says Waterloo Proposed) to show the farm building 300' away from the Butzine property line vs. 152' and possibly keep it 45' off the DNR property line, as long as they didn't have any issues with this dimension (which comes from the minimum residential setback). So moving your building north is what I was referring to.

However, your other 2 drawings show a couple different location options, all with a full 300' setback, which puts your shed roughly in the middle of your field. So if you choose any of those locations, your within the setbacks and a variance wouldn't be needed.

But if you want to keep it closer to the DNR property line, then you simply need to move your building location up to the 300' mark, or another 150' from where it is currently shown on your original proposed drawing.

Please let me know if this makes sense or if you have any other questions. Thanks Mark,

Jenifer Quimby / Mayor 2019 City of Waterloo, WI
920-478-3025 / 608-516-3363 cell
mayor@waterloowi.us

From: Mark Herbst <MarkDHerbst@aol.com>
Sent: Thursday, April 22, 2021 8:01 PM
To: Jeni Quimby <mayor@waterloowi.us>
Cc: 'Chris Butschke' <CButschke@safebuilt.com>; Mo Hansen <mhansen@waterloowi.us>; Jeanette Petts <alder4-5@waterloowi.us>; jimsetz@hotmail.com
Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Mayor,

I apologize for not understanding that you wanted additional drawings. I still do not completely understand your request but think the 2 drawings might represent what you are asking for. Can you please confirm if these two drawings meet your request?

I reached out to a division of the DNR that handles setbacks for shoreland zoning. Nearest division I could find that dealt with setbacks. Kathleen Kramasz from the DNR responded that the "DNR does not have any regulated structural setbacks". See attached email.

Mark Herbst
414-897-4472

From: Jeni Quimby [<mailto:mayor@waterloowi.us>]
Sent: Thursday, April 22, 2021 4:35 PM
To: Mark Herbst <MarkDHerbst@aol.com>
Cc: Chris Butschke <CButschke@safebuilt.com>; Mo Hansen <mhansen@waterloowi.us>; Jeanette Petts <alder4-5@waterloowi.us>

5@waterloowi.us>; jimsetz@hotmail.com

Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Hi Mark, thank you for submitting this PDF showing the dimensions. As I mentioned in the meeting, as long as the DNR didn't have an issue with distance from their property line, I would be OK with a standard 45' dimension. However, I also mentioned wanting to see the building with the rest of the standard setbacks for AG which is listed under Farm Buildings below:



Please supply another drawing showing the 300' distance from the residential property lines (not the home structure).

Thanks Mark,

Jenifer Quimby / Mayor 2019 City of Waterloo, WI
920-478-3025 / 608-516-3363 cell
mayor@waterloowi.us

From: Mo Hansen <mhansen@waterloowi.us>

Sent: Wednesday, April 21, 2021 8:22 AM

To: Jeni Quimby <mayor@waterloowi.us>; Jeanette Petts <alder4-5@waterloowi.us>; jimsetz@hotmail.com

Subject: FW: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Administrative Review Appeals Board Members Quimby, Petts and Setz:

I am writing to share the Mark Herbst post-meeting 4/20 submitted information, share information from DNR warden call, and to ask about your meeting availability.

1. Mark Herbst replied at 9:34 yesterday morning (see below and attached).
2. I was contacted by DNR Game Warden Alex Brooks by phone this AM.
 - a. Warden Brooks confirmed my comments below regarding hunting. He indicated hunting has to occur "100 yards from an occupied dwelling." He differentiated a difference between a ag building and an occupied dwelling. This restriction doesn't pertain to the Herbst situation (no dwelling).
 - b. Brooks said he had reached out to DNR real estate staff regarding any applicable set-backs. He was aware of any set-backs limitations.
 - c. The Warden asked to be added to our email meeting notification service.
3. Checking on your meeting availability.
 - a. Action requested. Use Doodle poll to reply. LINK -> https://doodle.com/poll/7xvnr8ge6snxpm?utm_source=poll&utm_medium=link

Thank you.

Mo Hansen | Clerk/Treasurer | City of Waterloo | 920.478.3025

From: Mark Herbst <MarkDHerbst@aol.com>

Sent: Tuesday, April 20, 2021 10:46 AM

To: Mo Hansen <mhansen@waterloowi.us>; Jeanne Ritter <jritter@waterloowi.us>

Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Either day would work for me. After 3:30 would be preferred.

From: Mo Hansen [<mailto:mhansen@waterloowi.us>]
Sent: Tuesday, April 20, 2021 10:44 AM
To: Marc Herbst (MarkDHerbst@aol.com) <MarkDHerbst@aol.com>; Jeanne Ritter <jritter@waterloowi.us>
Subject: FW: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

I meant April 26th and 27th...
-Mo

From: Mo Hansen
Sent: Tuesday, April 20, 2021 10:13 AM
To: Marc Herbst (MarkDHerbst@aol.com) <MarkDHerbst@aol.com>
Cc: Jeanne Ritter <jritter@waterloowi.us>
Subject: FW: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Mark,
Thank you for your follow-ups after the 4/19 meeting. Are you available on March 26th, or March 27th for a follow-on meeting. Time not set, but likely later afternoon or evening.

- DNR & set-backs. After consulting with Chris Butschke, it is my understanding any hunting limitation is on the hunter to observe. It does not affect building placement within the city. Two recent examples of construction within the City of Waterloo not affected by a DNR set-back are the two new homes built on Beech Road. The City of Waterloo has jurisdiction for set-backs within municipal boundaries.

Please confirm your availability. Thank you.

Mo Hansen | Clerk/Treasurer | [City of Waterloo](http://CityofWaterloo.com) | 920.478.3025

From: Mark Herbst <MarkDHerbst@aol.com>
Sent: Tuesday, April 20, 2021 9:36 AM
To: Mo Hansen <mhansen@waterloowi.us>
Cc: 'Chris Butschke' <cbutschke@safebuilt.com>; Mike Tschanz <mtschanz@waterloowi.us>
Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Mo,

I read through the DNR regulations and could not find anything regarding setbacks (unless the building occurs in a shoreland zoning). **IF** the building occurs in shoreland zoning the DNR defers the regulating to the county and then the county defers to the city. I do not believe my building location would be under shoreland zoning, however I reached out to that division of the DNR to inquire about how they manage setbacks, since it could be considered a similar department. I sent DNRWMSPublicInquiry@wisconsin.gov an email regarding the question of the DNR setback requirements on neighboring properties and followed up with a call to that department 1-608-267-3126. That phone number had an automated response to send the email and that it could take several days for a response.

Since the DNR tends to defer regulating to the county, I reached out to the zoning department at Jefferson County and spoke with a Zoning Administrative Specialist (Deb Magritz). Deb was able to direct me to page 26 of Jefferson County Zoning Ordinance No 11.

Minimum Yards. Front – See Section 11.07(d)2. Rear – 20 feet. **Side – 20 feet each**, providing that agricultural structures do not exceed in height twice their distance from the nearest lot line. (ATCP 51 setbacks may differ.)

My understanding is that the County in this situation would typically enforce a side setback of 20', if the property was located outside of the City.

I've attached a file with the dimensions that I think the Mayor was asking for. I took the aerial imagery off the attached file and added labels on lines seen on the drawing. I personally think the aerial image makes it easier to orientate the reader, but I know some people prefer the attached style, without the imagery as its easier to read. Dimensions and building locations have not changed.

Please let me know if the appeals board wants to wait "several days" for the DNR to return my inquiry or proceed with above information.

Mark
414-897-4472

From: Mark Herbst [<mailto:MarkDHerbst@aol.com>]
Sent: Thursday, April 8, 2021 11:32 PM
To: 'Mo Hansen' <mhansen@waterloowi.us>
Cc: 'Chris Butschke' <cbutschke@safebuilt.com>; 'Mike Tschanz' <mtschanz@waterloowi.us>
Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Mo,

Thank you for setting up this appeals meeting. I wrote my responses below the questions in Red.

Mark

From: Mo Hansen [<mailto:mhansen@waterloowi.us>]
Sent: Thursday, April 8, 2021 9:44 AM
To: Marc Herbst (MarkDHerbst@aol.com) <MarkDHerbst@aol.com>
Cc: Chris Butschke <cbutschke@safebuilt.com>; Mike Tschanz <mtschanz@waterloowi.us>
Subject: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

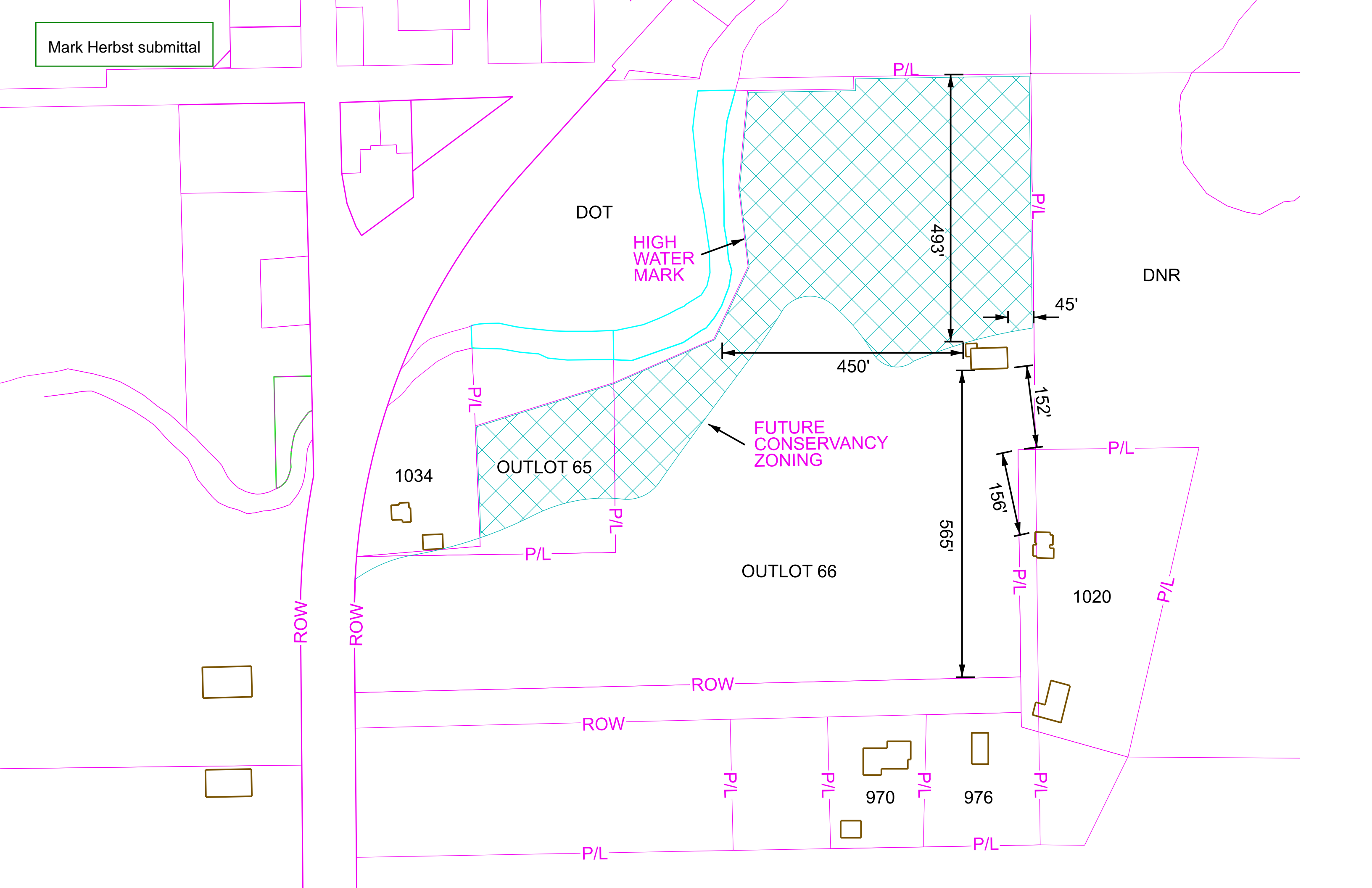
Mark,

We have set April 19th at 6 pm for the Administrative Appeals meeting. The agenda along with background information is attached. Please review the background information.

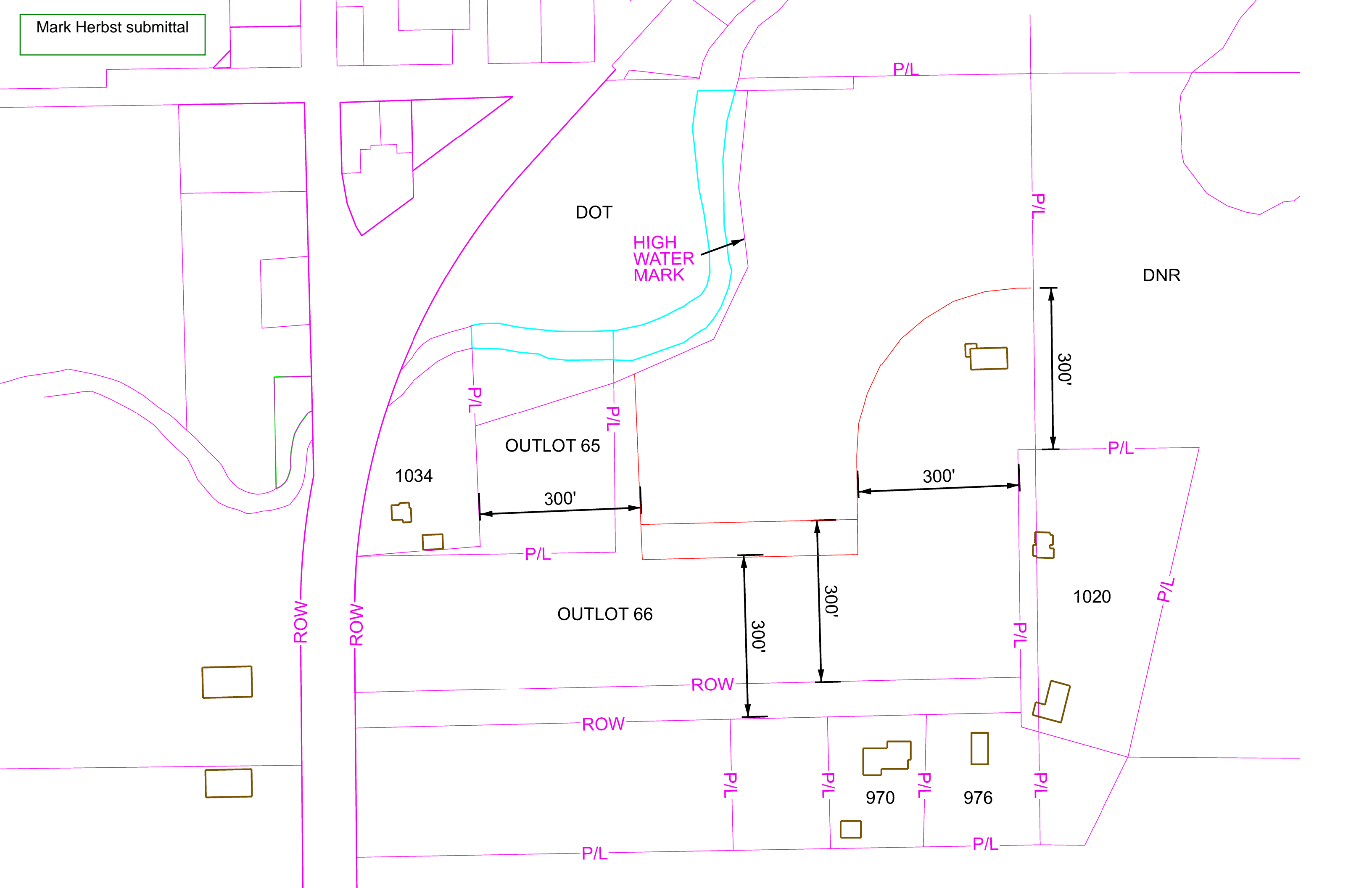
After consultation with Chris Butschke, in order to provide as much clarity as possible for Board members prior to the 4/16, please provide reply to the following:

1. You indicated in the attached you are seeking to construct a farm building. Please confirm.
<RESPONSE> Confirming that I am seeking to construct a farm building
2. In your Appeal of BI Determination document you reference in the past tense: "you had a set-back of 45 ft. It is my understanding no site plan showing set-back was presented to the Building Inspector. If it was please re-submit. Otherwise, provide a site plan for this accessory structure. You have provided the approximate area showing no dimensions. Include:
<RESPONSE> A rough site plan was submitted showing the area I was requesting to put a structure, however the plan did not include where the structure would be specifically located, but I did identify the 45 ft distance I was seeking a variance for. Since I felt the structure could meet the setbacks on the other 3 sides, I was showing it as an area. I prefer the structure be closer to the unimproved road to reduce costs of utilities and access, but am somewhat flexible anywhere in that area. As the structure starts getting closer to the road, it gets closer to current and future neighbors, which is why I'm showing it as far north as possible. Since I understand this appeal is a formal process that needs more definitive location, I will address that below. I apologize if that wasn't clear. See highlighted text from initial email to Chris Butschke.

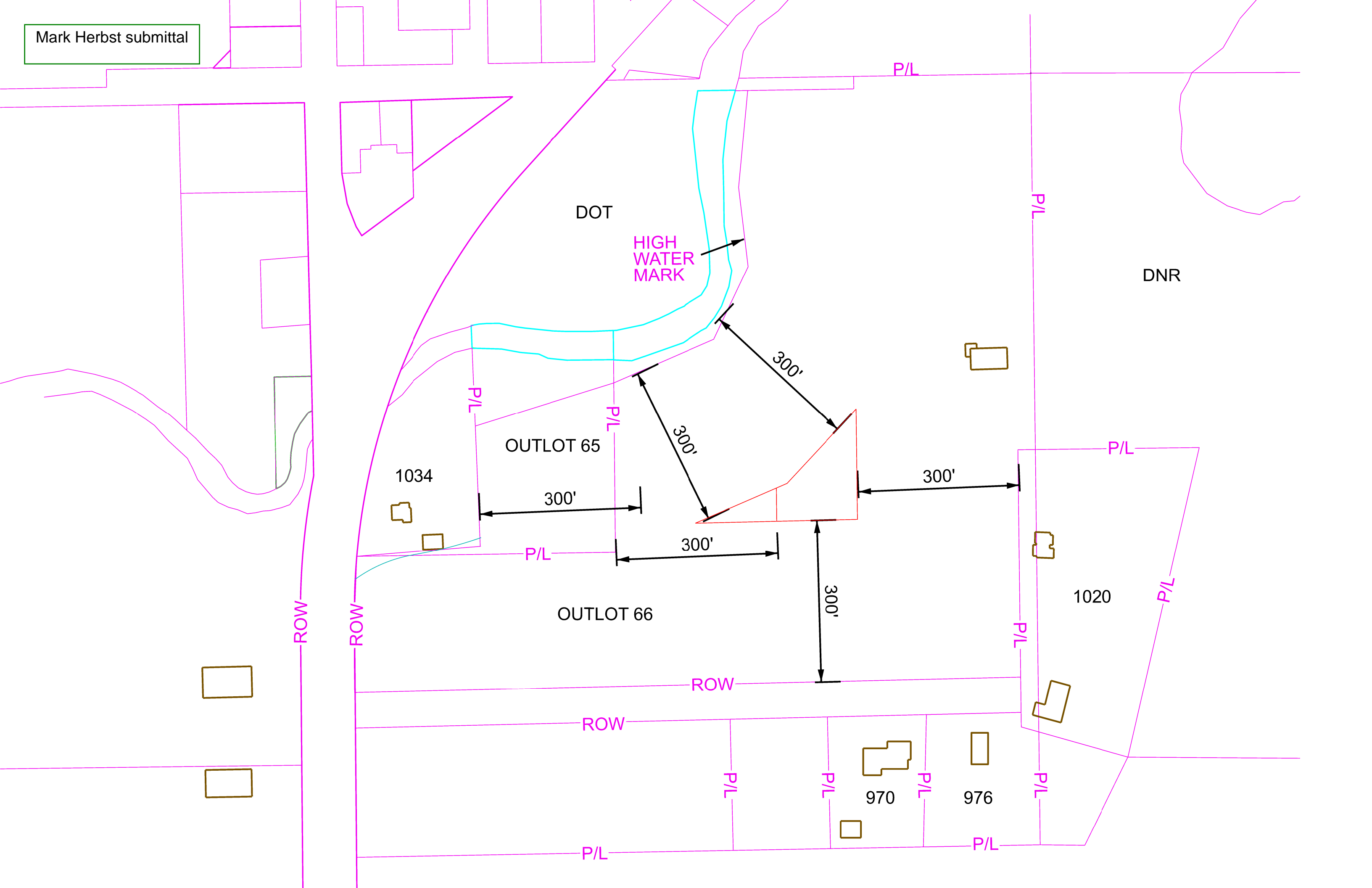
Mark Herbst submittal



Mark Herbst submittal



Mark Herbst submittal



Mark Herbst

From: Kramasz, Kathleen M - DNR <Kathleen.Kramasz@wisconsin.gov>
Sent: Wednesday, April 21, 2021 4:30 PM
To: Mark Herbst
Subject: RE: Outlot 66 Portland Road - Waterloo WI

Mark, DNR does not have any regulated structural setbacks. If there are waterway setbacks (applicable if the land was annexed to Waterloo after 1982) it will be through the City zoning and would be either a 75' or 50' setback, depending on the City ordinance.

Please let me know if you have any additional questions.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Kathi Kramasz

Phone: (920) 893-8531

Kathleen.kramasz@wisconsin.gov

From: Mark Herbst <MarkDHerbst@aol.com>
Sent: Monday, April 19, 2021 11:00 PM
To: DNR WMS Public Inquiry <DNRWMSPublicInquiry@wisconsin.gov>
Subject: Outlot 66 Portland Road - Waterloo WI

I'm requesting a variance to build a farm building inside the city of Waterloo (Jefferson County) side setback. The DNR borders my east property line that I am requesting the setback. The question was raised by one of my neighbors, in the public variance meeting, if the DNR has a minimum setback requirement for neighboring structures. Typically farm buildings in the city require a 300 ft setback, however my property is "L-Shaped" which is the reason I am requesting the variance. I'm requesting a variance of 45 ft setback from the side that borders the DNR. I read through DNR regulations and County Regulations and am not seeing anything. I've looked through the DNR and County maps and do not see the building area in the shoreland zoning or wetland inventory.

If the build site is not in shoreland zoning, wetland inventory, or a mapped floodplain, does the DNR have a setback requirement for neighboring structures?

Mark Herbst
414-897-4472

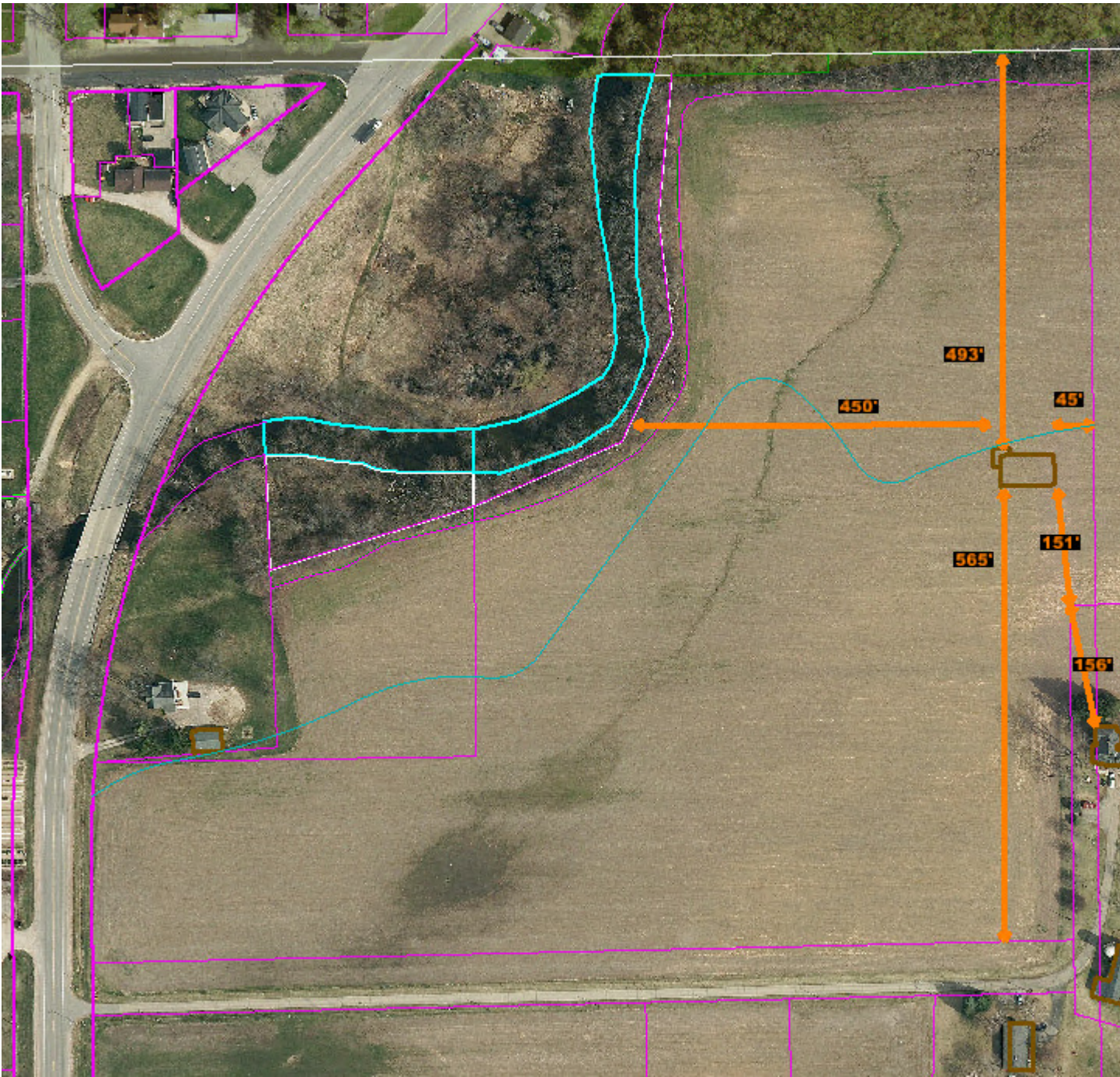
<https://dnr.wisconsin.gov/topic/ShorelandZoning/Care/explore.html>

Can't find the answer to your
question? Call/email:

Waterway and Wetland Information

Line

tel: +1-608-267-3125



INITIAL VARIANCE REQUEST

In accordance with Waterloo Ordinance 385-27 “The Building Inspector may grant variances from the terms of this chapter in those cases where a setback, side yard or rear yard variance would clearly be consistent with those existing in the neighborhood.” I had a side setback for an agricultural building of 45 feet instead of the 300 feet required in Ordinance 385-18 (C)(4)(C). I had noted that two of my immediate neighbors and one neighbor two properties down had large or agricultural buildings that did not meet the setback. McKay Nursery (my neighbor across Portland Rd) has maintenance buildings and greenhouses within a couple of feet of the property line, the Butzines (abutting neighbor) has an old barn about 27 feet from the property line, and 856 Portland Rd (neighbor 1 property over) has approx. 2600 SF outbuilding about 147 feet from the property line.

My Summary of Building Inspector Response

Building inspector responded that McKay was zoned commercial, 856 Portland Rd had a conditional use permit, did not respond about the Butzines barn (assumed it was allowed due to being built before 1975) and then mentioned that I had space on the property to put a building that met the setback requirements.

My Appeal

Some of you may know, that the previous owner of Outlot 66 did a land split. Terms of land split put burden of improving unnamed unimproved public road along southern border of Outlot 66 to parcels along unimproved road. Because of a combination of that burden, topographical elevations, and the soils the likelihood of Outlot 66 being fully developed into a subdivision is pretty remote. Since road improvements are typically assessed on a per foot of frontage to owners along a road, Outlot 66 has a cost burden of approximately half of the road. The road is deteriorating and in one case being damaged by snowmobilers. Putting a burden of a new road on a parcel that may never be developed makes it difficult for the city to reasonably cause necessary infrastructure improvements to occur. When Treyburn Farms 1st Addition’s road was installed the road was 1,150 ft long and contractor estimates ranged from \$517,000 - \$560,000. The asphalt alone was approximately \$80,000. Outlot 66 has 1,238 ft of frontage along the unimproved road. At some point the road will need to be improved.

I own two abutting parcels, Outlot 65 and Outlot 66. My plan is to request Outlot 65 be replatted from its current landlocked position to along the unimproved road. Both lots would retain their current size +/- 1 acre. Outlot 66 would retain a majority of the acreage, Outlot 65 would take on a significant amount of the frontage along the unimproved road. That replatting would cause the less than 1/2 acre that could have a farm building to no longer have the necessary setbacks, due to the parcel being “L” shaped. Outlot 66 would still have approximately 20 acres, would still have the 200 ft of frontage required for farm buildings however there is no way the side setbacks would be able to be met due to the “L” shape. Outlot 66 would still need to be maintained and still require a farm building due to size. The advantage of this move is that the smaller parcel that is currently land locked may be appealing to an individual that may be willing to take on the risks of the road improvement costs for a more rural parcel at a lower cost or possibly a small developer that could take on a small development of 4-8 houses. Either way, there would be 1 or more residents to share the cost of improving the road.

The challenges I’m facing now are trying to maintain an agricultural property requires an immediate building for equipment and tools. If I put a farm building in that small window due to the parcel being “L” shaped, it will cause issues with the replatting of Outlot 65. Looking at how water flows through the property, there is a swale that runs southwest to northeast, there is an outside bend of the

river and a floodplain to the North. This variance request is accounting for geographical features, community development and maximizes distance from neighboring structures (both now and in future). If I request to replat before establishing a reasonable farm building location, I will be stuck without a location to put up a farm building, because I currently have that small area. The formal variance process is much harder to apply in this instance because of the 3 step test. The formal variance process requires demonstrated hardship before an exception can be made.

Ordinance 385 (C)(4)(C) is different from the variance process in that the ordinance is looking at what has been deemed acceptable in the community. Looking at McKay nursery situation, it would be hard to argue that they are not using their buildings in an agricultural capacity, considering some of the buildings are greenhouses. McKay nursery has hundreds of acres, there is no reason they needed to build their buildings inside the setback, but the city has allowed that because it was reasonable to the city. The neighbor 2 properties over that has a large parcel that is more rectangular in shape, the city approved a conditional use permit allowing the neighbor to build a large building. My parcel is Agricultural in nature and it doesn't warrant changing its zoning to something else at this time.

Ordinance 385 (C)(4)(C) does not implicitly say what constitutes a neighborhood or that the neighborhood has to be similar in zoning, it doesn't even say the buildings that are being compared to need to be similar in use. The ordinance intentionally leaves the city with broad authority to allow side setbacks as the city sees fit. Coincidentally I believe that my use is similar to two other parcels in the immediate area and consistent with the setbacks already allowed by the city.

I understand there are a lot of variables, however this step is the most definitive starting point and identifies challenges associated with building on Outlot 66. I thought that ordinance 385-18 (C)(4)(C) would allow the building inspector to allow this variance based on 3 parcels in the immediate area having large buildings and farm buildings well inside of setbacks, however the building inspector denied my request. I would be happy to supply a more detailed plan of how I intend to use the parcel, however since I'm not looking to subdivide or develop in a professional capacity, there isn't a development agreement that would necessarily relate. My main goals are to use the property in an agricultural capacity, possibly have a house and building(s) needed for farming and maintenance of the property and I recently added the goal of reducing liability of the unimproved road, even if that means giving up a couple of acres. I think this is the first step in supporting development, by ensuring I not put a building in a location that would make development more difficult. The next step is moving the landlocked parcel, to position it in a way that will promote development. As such I think this appeal is the most reasonable way the city could allow private development of my parcel, keeping the use in relation to the parcels around me and not impede development.

I'd prefer to provide data for, soil types, geographical features, building locations (both on my parcel and neighboring parcels) in person. I've done a lot of research and would only provide that which is requested.

I appreciate your time and look forward to your response.

Mark Herbst

Outlot 66 Portland Rd

414-897-4472

Mark Herbst

From: Chris Butschke <CButschke@safebuilt.com>
Sent: Wednesday, March 10, 2021 12:07 PM
To: Mark Herbst
Cc: Mo Hansen
Subject: Re: [Waterloo, WI] Side Yard Set Back in Property Zoned AG (Sent by Mark Herbst, MarkDHerbst@aol.com)

Hi Mark,

This variance will be reviewed with the City. It does not fall under my jurisdiction for variance based on the actual zoning violation. In your case you can locate the building in a legal zoning location.

All the cases I referenced, they went through the City for either variances or Conditional Use permits. I did not grant them. So in this case you would also need to go through the City for your Variance. Sorry that I did not clarify prior that those cases went through the City.

Thanks,

Chris

Sent from my iPad

On Mar 10, 2021, at 11:29 AM, Mark Herbst <MarkDHerbst@aol.com> wrote:

Thanks for looking into this and getting back to me. Yes, I would call it an AG building, with no livestock. After reviewing your response below, I'm trying to understand if this variance request is something that would get reviewed by the Council per Ord 380-48, or by the Building Inspector per Ord 385-27? I noticed that below you are saying they are called Acc Bldg's and not AG buildings, even though 1 building is much larger than the foot print allowed for an Acc Bldg and 2 of the buildings for McKay appear to be used in an AG capacity. Would these buildings be considered similar in nature, to what I'm requesting, or are you saying their respective uses are different, which makes no precedence to compare too? Does the city have a description of what constitutes an AG vs Accessory Bldg?

Mark

From: Chris Butschke [mailto:CButschke@safebuilt.com]
Sent: Wednesday, March 10, 2021 11:02 AM
To: MarkDHerbst@aol.com
Cc: Mo Hansen <cityhall@waterloowi.us>
Subject: Re: [Waterloo, WI] Side Yard Set Back in Property Zoned AG (Sent by Mark Herbst, MarkDHerbst@aol.com)

Hi Mark,

I have researched your question regarding the request for a AG building 45' from the East lot line and you would need a Variance from the City of Waterloo.

I have done some research on the properties that you noted in your e-mail.

1185 S Monroe: machine she'd received a variance. One I researched.

856 Portland Road: Conditional Use Permit for Acc Bldg

999 Portland Road(1001) : Recieved variance for acc Bldg.

For application you will need to provide a site plan showing the proposed building with dimensions and the distance to the lot lines. Basic plan of the structure, width, length, height, and a Variance application filed and fee paid. That application is available at the City of Waterloo City Hall.

Thank you,
Chris Butschke
City of Waterloo Building Inspector
608-576-6371

Sent from my iPad

On Mar 7, 2021, at 2:37 PM, Contact form at Waterloo, WI
<cmsmailer@civicplus.com> wrote:

Hello cbutschke,

Mark Herbst (MarkDHerbst@aol.com) has sent you a message via your contact form (<https://www.waterloowi.us/user/146/contact>) at Waterloo, WI.

If you don't want to receive such e-mails, you can change your settings at <https://www.waterloowi.us/user/146/edit>.

Message:

I'm considering adding an Agricultural building (maintenance shop) to my property that is zoned Ag. I'm looking at section 385-18 (C)(4)(C). Where the ordinance reads that the side yard setback is 300 ft.

I further notice under section 385-27 that "The Building Inspector may grant variances from the terms of this chapter in those cases where a setback, side yard or rear yard variance would clearly be consistent with those existing in the neighborhood."

I see that some of my neighbors have what appear to be agricultural buildings inside the side yard setbacks and am trying to understand what would be allowed before planning too many details.

1001 Portland Rd – side setback 125 ft (many not permanent structures even closer - greenhouses)

999 Portland Rd – side setback 5 ft

856 Portland Rd – side setback 147' (approx. 2600 sf shop)

1020 Portland Rd – side setback 27' (barn)

I'd like to put the structure approx. 45 ft from my East lot line, which would be greater than 300 ft from my West lot line, and greater than 300 ft from my South Lot line, the north edge of the ROW for the unimproved public road, which I think is what the city would consider my front setback. I'm looking to understand what you would permit for a minimum distance from my East property line.

Mark Herbst

Mo Hansen

From: Mark Herbst <MarkDHerbst@aol.com>
Sent: Thursday, April 08, 2021 11:32 PM
To: Mo Hansen
Cc: 'Chris Butschke'; Mike Tschanz
Subject: RE: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]
Attachments: Appeal of Building Inspector Determination; Approx Area.jpg; Replat Presentation.pdf; Appeal of BI Determination.pdf; Building Inspector Denied Side Setback Variance eMail.pdf; 2021-04-19AdministrativeBoardofAppealsAgenda.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Mo,

Thank you for setting up this appeals meeting. I wrote my responses below the questions in **Red**.

Mark

From: Mo Hansen [mailto:mhansen@waterloowi.us]
Sent: Thursday, April 8, 2021 9:44 AM
To: Marc Herbst (MarkDHerbst@aol.com) <MarkDHerbst@aol.com>
Cc: Chris Butschke <cbutschke@safebuilt.com>; Mike Tschanz <mtschanz@waterloowi.us>
Subject: City of Waterloo / Administrative Review Appeals Board - [Reply Requested]

Mark,

We have set April 19th at 6 pm for the Administrative Appeals meeting. The agenda along with background information is attached. Please review the background information.

After consultation with Chris Butschke, in order to provide as much clarity as possible for Board members prior to the 4/16, please provide reply to the following:

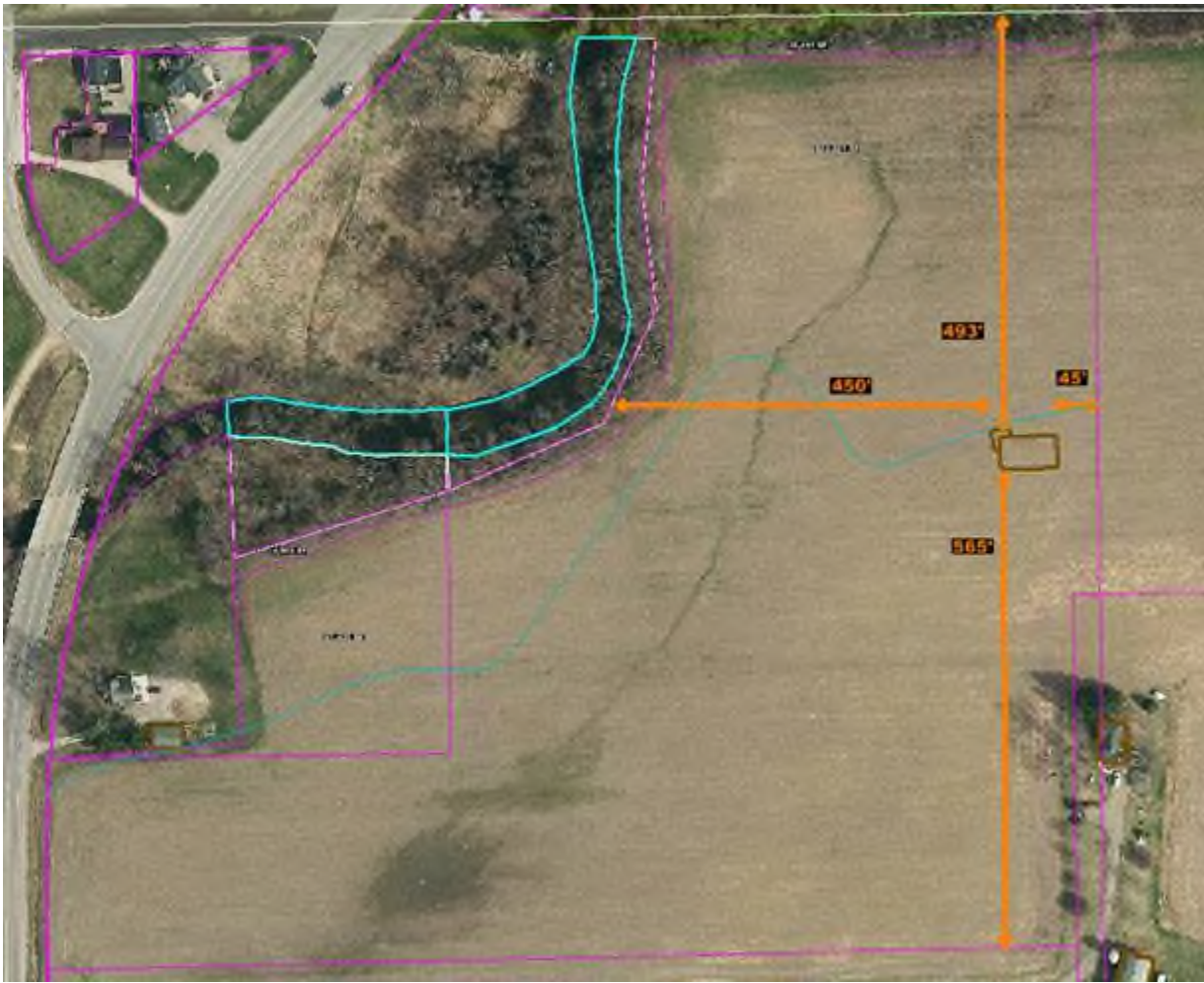
1. You indicated in the attached you are seeking to construct a farm building. Please confirm.
<RESPONSE> Confirming that I am seeking to construct a farm building
2. In your Appeal of BI Determination document you reference in the past tense: "you had a set-back of 45 ft. It is my understanding no site plan showing set-back was presented to the Building Inspector. If it was please re-submit. Otherwise, provide a site plan for this accessory structure. You have provided the approximate area showing no dimensions. Include:
<RESPONSE> A rough site plan was submitted showing the area I was requesting to put a structure, however the plan did not include where the structure would be specifically located, but I did identify the 45 ft distance I was seeking a variance for. Since I felt the structure could meet the setbacks on the other 3 sides, I was showing it as an area. I prefer the structure be closer to the unimproved road to reduce costs of utilities and access, but am somewhat flexible anywhere in that area. As the structure starts getting closer to the road, it gets closer to current and future neighbors, which is why I'm showing it as far north as possible. Since I understand this appeal is a formal process that needs more definitive location, I will address that below. I apologize if that wasn't clear. See highlighted text from initial email to Chris Butschke.

I'd like to put the structure approx. 45 ft from my East lot line, which would be greater than 300 ft from my West lot line, and greater than 300 ft from my South Lot line, the north edge of the ROW for the unimproved public road, which I think is what the city would consider my front setback. I'm looking to understand what you would permit for a minimum distance from my East property line.



<RESPONSE> Its challenging to invest significant time and money into this portion of your request without knowing if an appeal will be approved. What I mean by that is, I recognize constraints of the property and the community as well as my future plans for the property. A building that fits my current needs is much different than one that will meet the needs of the property long term. Because I will forever be limited with what I plan to propose for a replat of outlot 65 my plan is to put up a structure that will meet current and future farming needs of the property. The replat would eliminate the current area that can accept a farm building, so I have to ensure that whatever farm building is granted a variance will meet future needs as there is no contingency plan in the future after the replat. Understanding that this appeals process is formal and that it will help those weighing this decision I am supplying details for a structure that I feel will meet future needs of the property, but I have not taken steps of getting the actual plans or hiring a builder. As that happens I'm expecting slight changes, but feel the footprint and location could be agreed upon. Rather than approving a specific plan set, can the board approve a location, max foot print size? That would allow me some flexibility as I start investing resources.

- a. Size of building foot print.
<RESPONSE> 40'0" x 60'0" with a covered entrance area making total square feet = 2,680 SF
- b. Front, side and rear yard setbacks.
<RESPONSE> See below. Location below takes into consideration multiple variables. Light blue line represents future conservation zoning that Alder Petts was asking about. The topographical elevations and location of swale crossing property were important factors.
- c. Building height.
<RESPONSE> 30'0"
- d. Proposed farm building use.
<RESPONSE> House tools needed for agriculture – tractor(s) – tilling/planting/harvesting equipment – tools needed to maintain equipment (wrenches/air compressor/welder)



From your Appeal of BI Determination document...

INITIAL VARIANCE REQUEST

In accordance with Waterloo Ordinance 385-27 “The Building Inspector may grant variances from the terms of this chapter in those cases where a setback, side yard or rear yard variance would clearly be consistent with those existing in the neighborhood.” I had a side setback for an agricultural building of 45 feet instead of the 300 feet required in Ordinance 385-18 (C)(4)(C). I had noted that two of my immediate neighbors and one neighbor two properties down had large or agricultural buildings that did not meet the setback. McKay Nursery (my neighbor across Portland Rd) has maintenance buildings and greenhouses within a couple of feet of the property line, the Butzines (abutting neighbor)

After consultation with the Building Inspector, we understand that a determination of the Administrative Appeals Review Board, to grant the appeal and direct the Building Inspector to apply 385-27 in this case, would then authorize the Building Inspector to grant a variance with respect to setbacks. The applicant would be required to submit all necessary documents related to construction and comply with all applicable codes.

I would like to include your replies in with other communications making up the 4/19 meeting materials. Thank you.

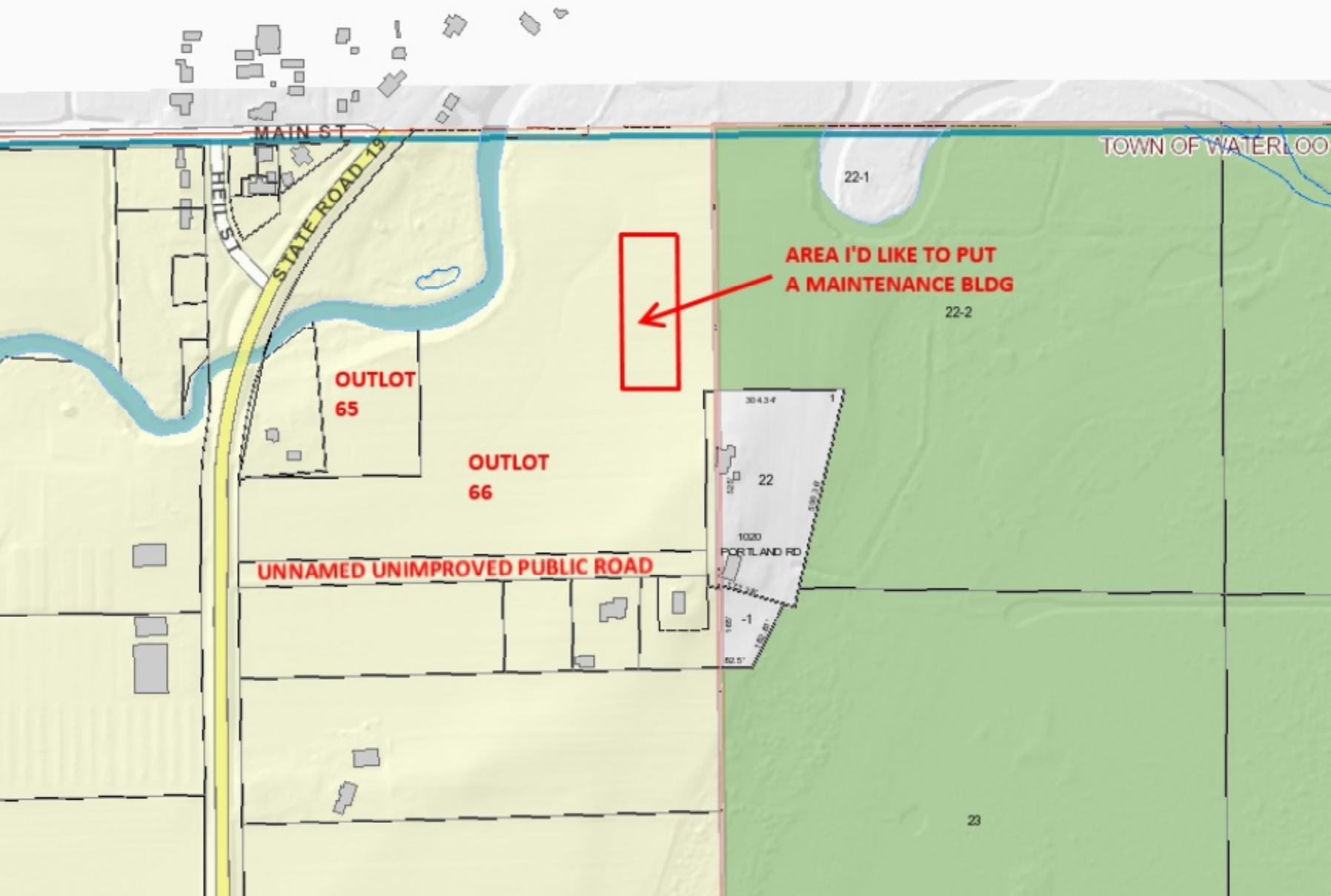
Mo Hansen | Clerk/Treasurer | City of Waterloo | 920.478.3025

From: Mo Hansen

Sent: Wednesday, March 31, 2021 10:39 AM

To: jimsetz@hotmail.com; Jeni Quimby <mayor@waterloowi.us>; Jeanette Petts <alder4-5@waterloowi.us>

PORTLAND



AREA I'D LIKE TO PUT
A MAINTENANCE BLDG

OUTLOT
65

OUTLOT
66

UNNAMED UNIMPROVED PUBLIC ROAD



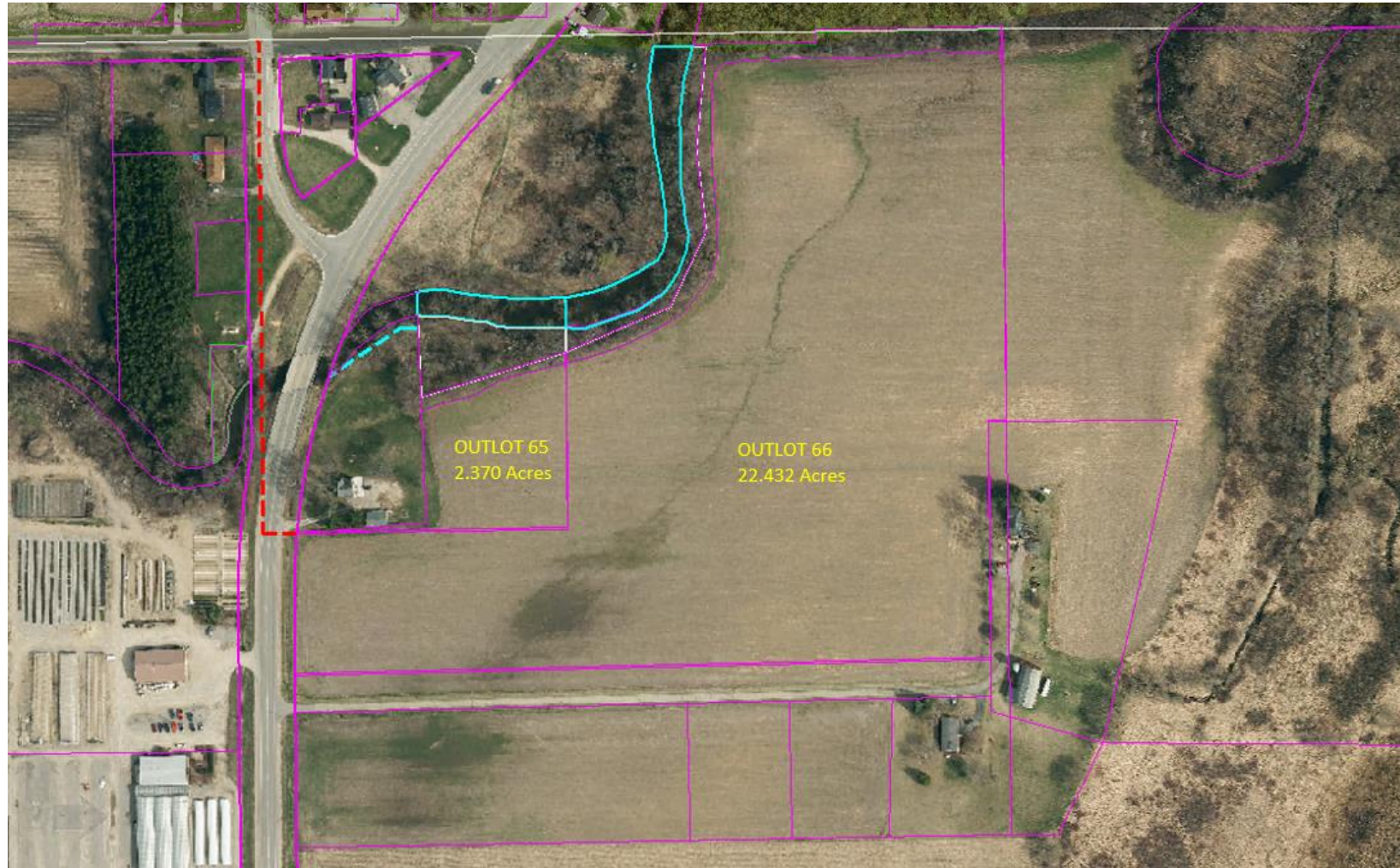
TOWN OF WATERLOO

22-1

22-2

23

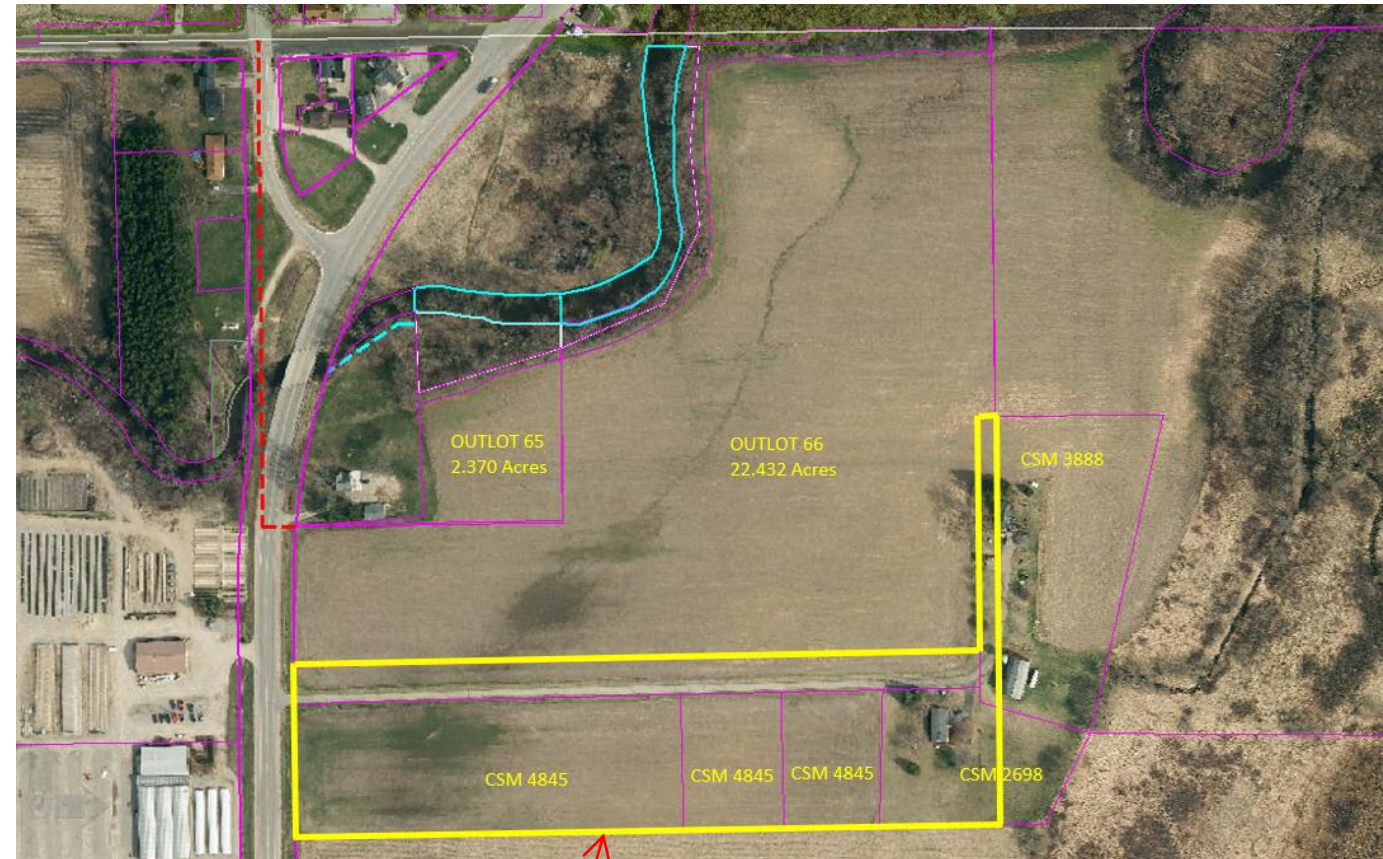
PROPOSED REPLAT OF OUTLOT 65 & OUTLOT 66



LEGAL DESCRIPTION PER WARRANTY DEED DOC. 1410816

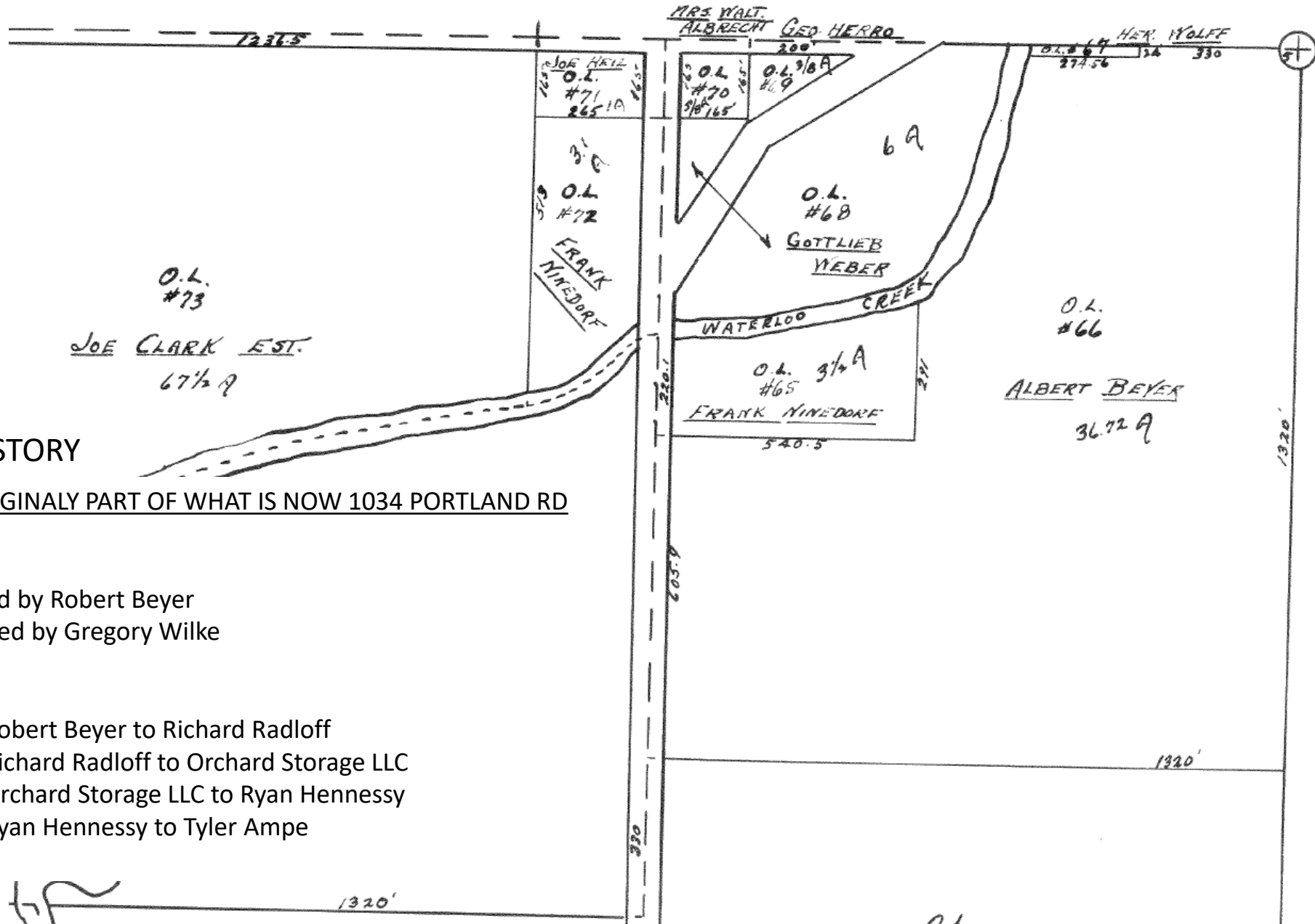
OUTLOT 66, ASSESSOR'S PLAT OF THE CITY OF WATERLOO, JEFFERSON COUNTY, WISCONSIN. EXCEPTING THEREFROM LOT 1 OF CERTIFIED SURVEY MAP NO. 2698 RECORDED IN VOLUME 10 OF CERTIFIED SURVEYS ON PAGE 165, AS DOCUMENT NO. 898300. FURTHER EXCEPTING LOT 1 OF CERTIFIED SURVEY MAP NO. 3888 RECORDED IN VOLUME 18 OF CERTIFIED SURVEYS ON PAGE 241, AS DOCUMENT NO. 1029112. FURTHER EXCEPTING LOTS 1, 2 AND OUTLET 1 OF CERTIFIED SURVEY MAP NO. 4845 RECORDED IN VOLUME 25 OF CERTIFIED SURVEYS ON PAGE 134, AS DOCUMENT NO. 1185423.

OUTLOT 65, ASSESSOR'S PLAT OF THE CITY OF WATERLOO, JEFFERSON COUNTY, WISCONSIN. EXCEPTING THEREFROM THE FOLLOWING: COMMENCING AT AN ALUMINUM MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 5; RUNNING THENCE SOUTH 89°07'19" WEST ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION, 1322.37 FEET TO THE WEST LINE OF THE NORTHEAST ¼ OF SAID ¼ SECTION; THENCE SOUTH 0°32'09" EAST ALONG SAID WEST LINE 879.10 FEET TO THE SOUTH LINE OF OUTLET 65; THENCE NORTH 89°07'19" EAST ALONG SAID SOUTH LINE 59.96 FEET TO THE EAST LINE OF STATE TRUNK HIGHWAY 19 AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE NORTH 85°13'21" EAST, 230.60 FEET; THENCE NORTH 02°21'09" WEST 346.78 FEET TO A 1 INCH IRON PIPE; THENCE CONTINUE NORTH 2°21'09" WEST, 17 FEET, MORE OR LESS, TO THE WATERS EDGE OF THE MAUNESHA RIVER; THENCE SOUTHWESTERLY ALONG THE WATERS EDGE OF SAID RIVER TO THE EAST LINE OF STATE TRUNK HIGHWAY 19, SAID POINT BEING 4 FEET, MORE OR LESS, NORTHEASTERLY FROM AN IRON PIPE, THE MEANDER LINE OF SAID RIVER BEING DESCRIBED AS BEGINNING AT THE LAST MENTIONED 1 INCH IRON PIPE RUNNING THENCE SOUTH 89°32'03" WEST, 31.43 FEET, THENCE SOUTH 55°56'10" WEST 152.95 FEET TO A 1 INCH IRON PIPE ON THE EAST LINE OF STATE TRUNK HIGHWAY 19; THENCE SOUTHWESTERLY ALONG SAID EAST LINE, 4 FEET, MORE OR LESS, TO A 1 INCH IRON PIPE; THENCE CONTINUE SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1223.24 FEET, A CENTRAL ANGLE OF 13°24'28" AND WHOSE LONG CHORD BEARS SOUTH 11°35'55" WEST, 285.60 FEET, A DISTANCE OF 286.25 FEET TO THE POINT OF BEGINNING.



FIRST PARAGRAPH BASICALLY SAYS
WHAT IS IN YELLOW BOX IS NO LONGER
PART OF OUTLOT 66

ASSESSORS PLAT AUGUST 3, 1936



38 YEARS OF HISTORY

OUTLOT 65 WAS ORIGINALLY PART OF WHAT IS NOW 1034 PORTLAND RD

OUTLOT 65

- 6/23/1983 Purchased by Robert Beyer
- 12/14/2012 Purchased by Gregory Wilke

1034 PORTLAND RD

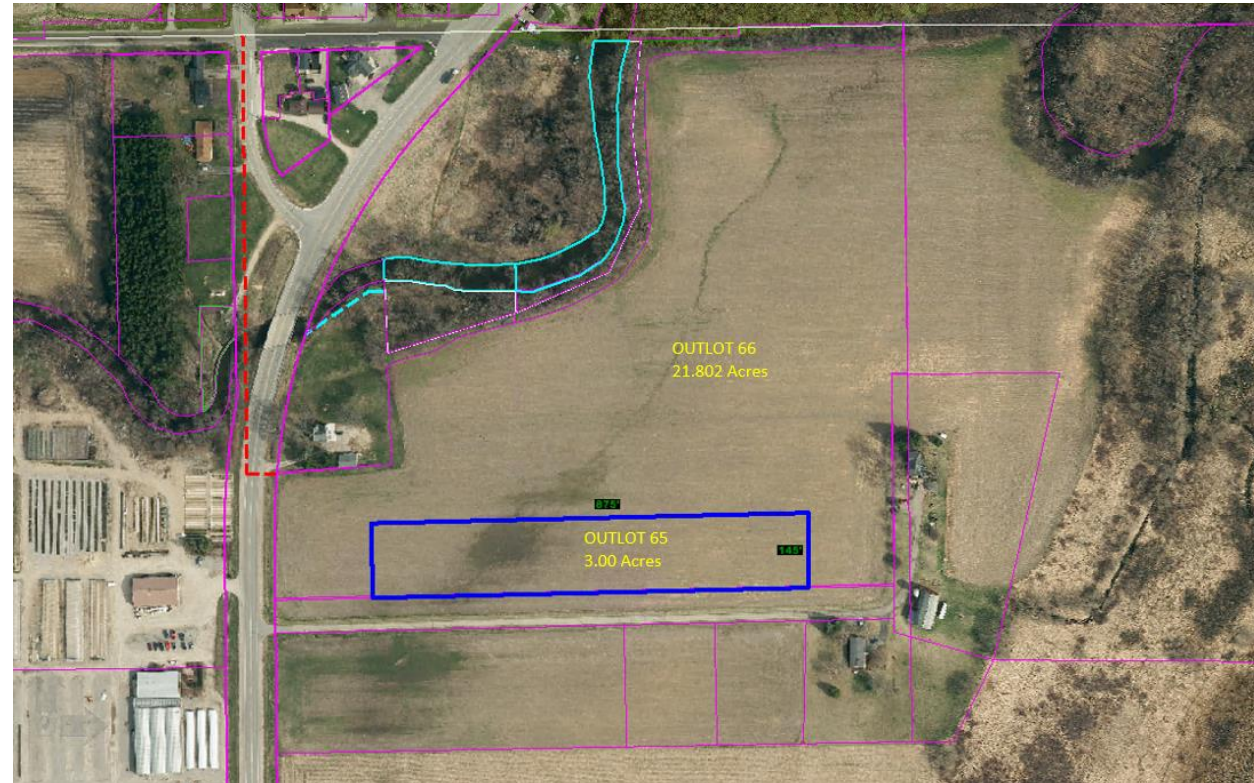
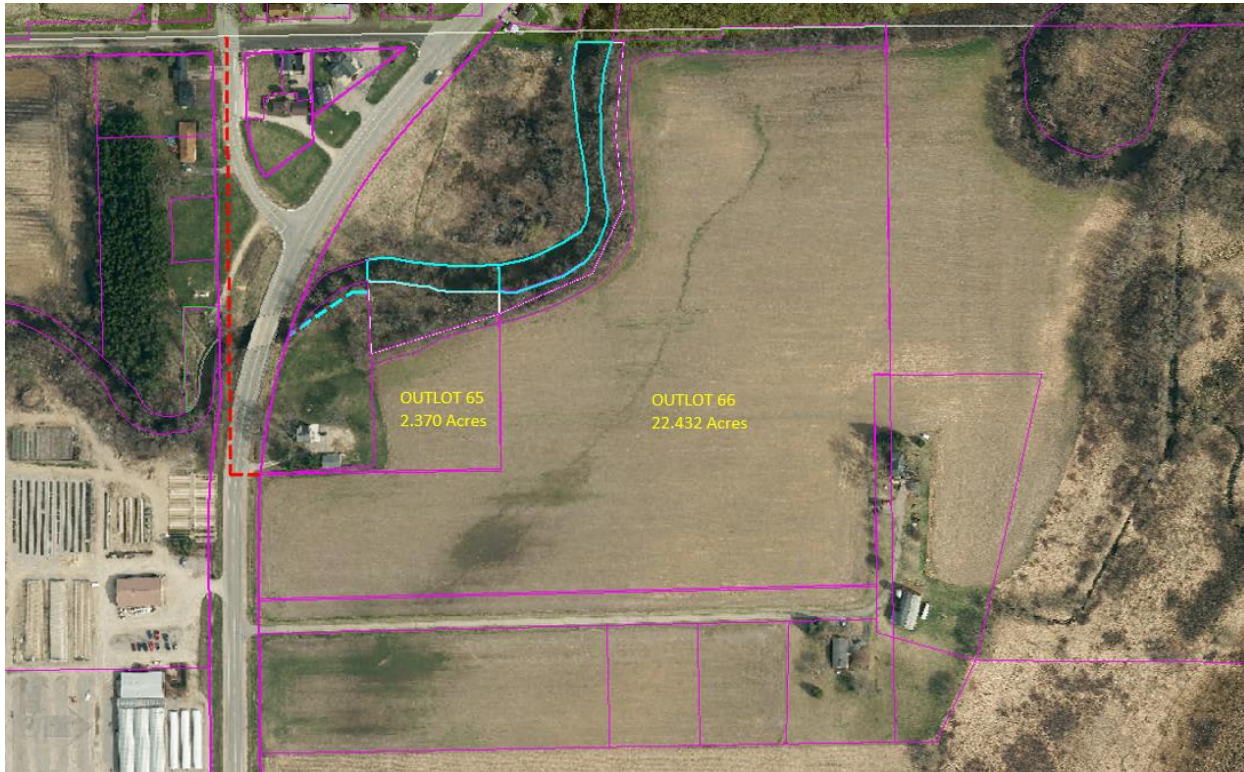
- 5/11/1984 Sold by Robert Beyer to Richard Radloff
- 7/27/2012 Sold by Richard Radloff to Orchard Storage LLC
- 4/30/2014 Sold by Orchard Storage LLC to Ryan Hennessy
- 1/12/2018 Sold by Ryan Hennessy to Tyler Ampe

Proposal is to move Outlot 65 from its landlocked position, to being along Unnamed Unimproved Public Road
This would simply be a REPLAT of an existing lot. No new parcel would be created.

PER Recitals for CSM 4845 – lots on CSM cannot be subdivided further – REPLAT should be allowed

Per Recitals for CSM 4845 – Outlot 65 access must be from Unnamed Unimproved Public Road

Having Outlot 65 along the road, would be more beneficial to that lot being developed



FURTHER DIVISION OF THIS LOT IS NOT POSSIBLE WITHOUT A SUBDIVISION BEING CREATED

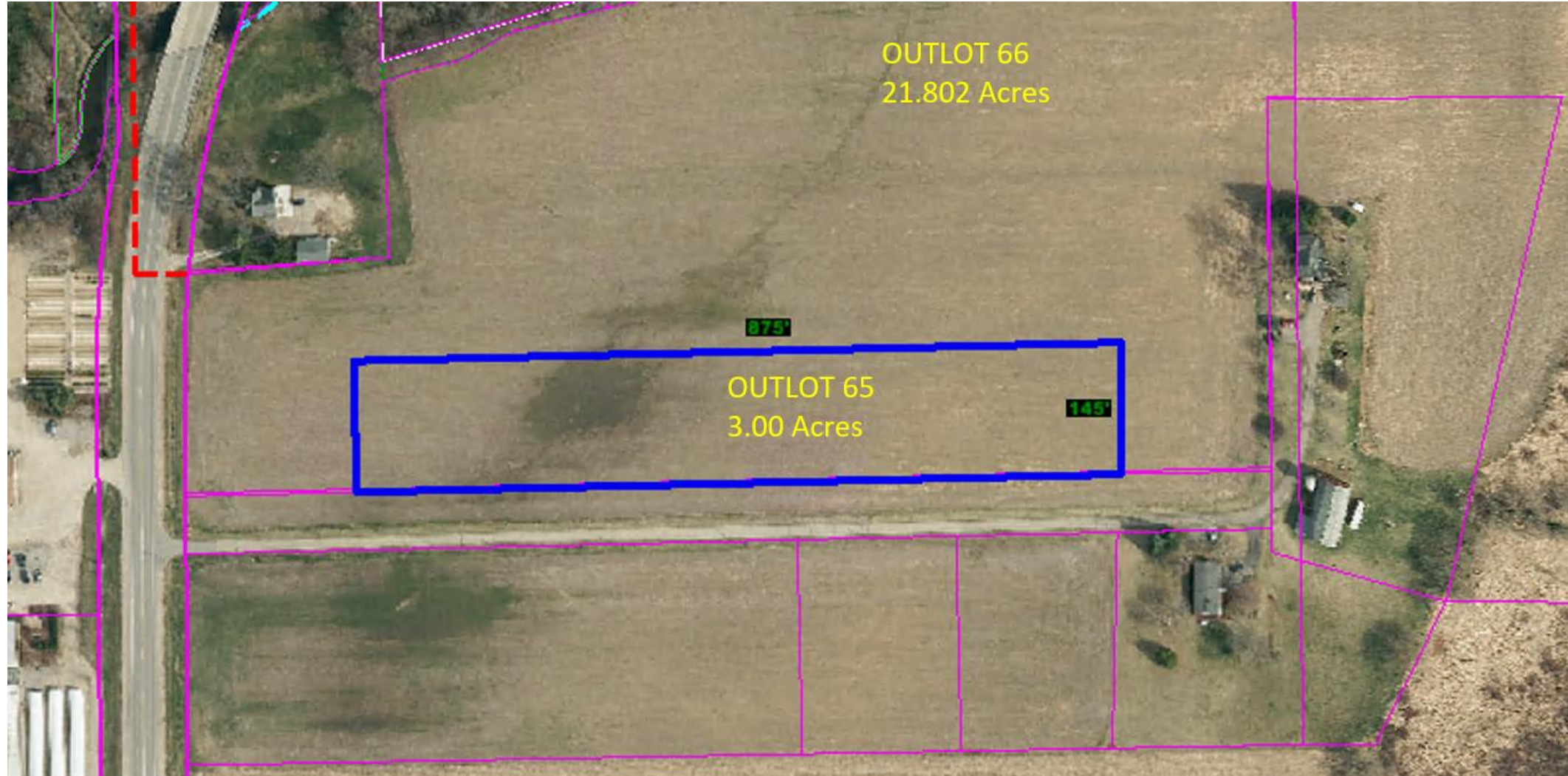
Location and Shape of New Lot assumes at some point it would get subdivided

Shape is rectangular as required in Ordinance 380-29

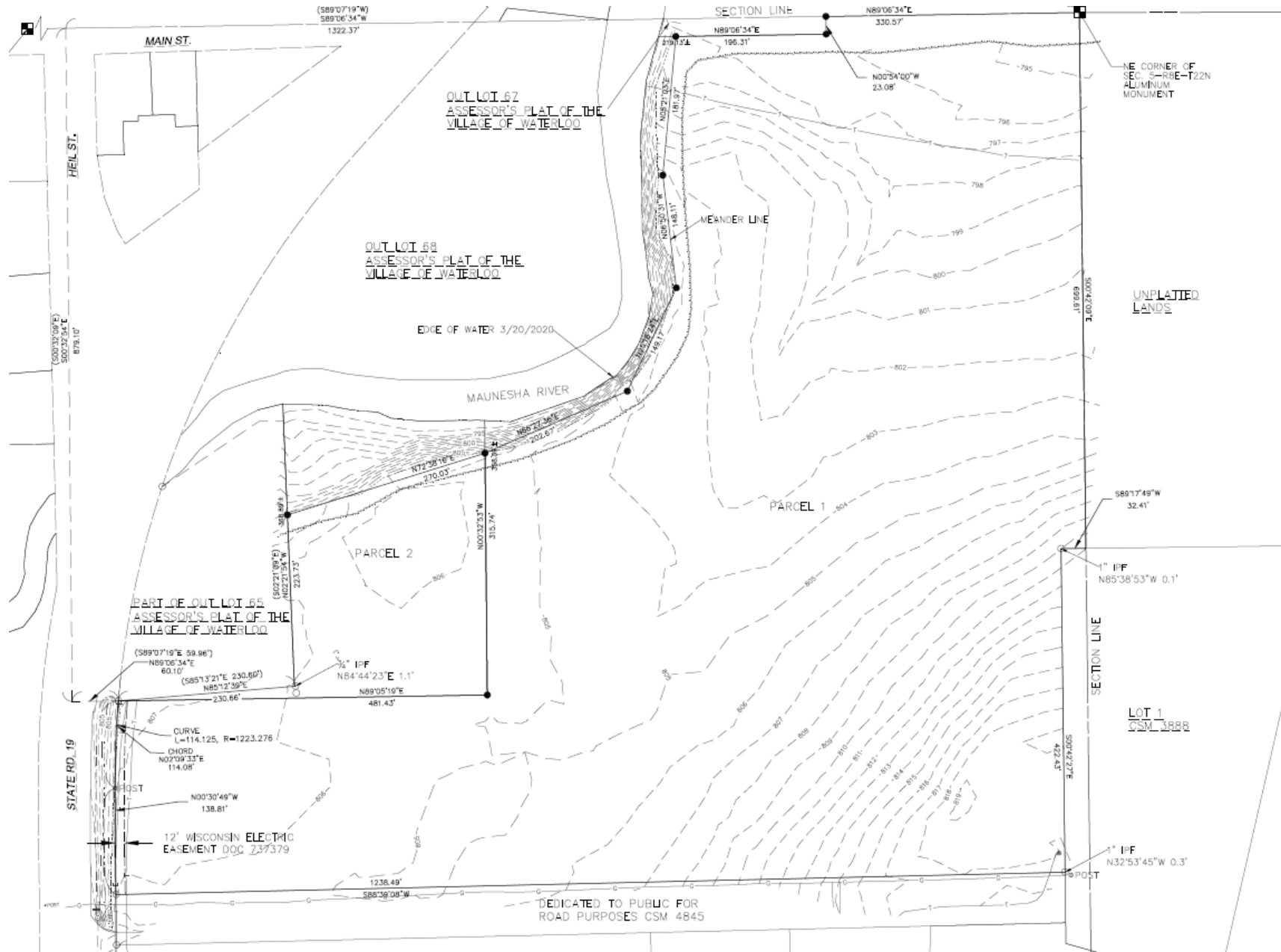
Depth is in line with typical depths of lots on McKay Way

Aligned the East Edge of proposed parcels with East Edge of Lot 1 of CSM 4845

Outlot 66 would retain $1,230 \text{ ft} - 875 \text{ ft} = 355 \text{ ft}$ of Frontage



TOPOGRAPHY OF OUTLOT 65 & OUTLOT 66



USDA WEB SOIL SURVEY

BoC—Boyer loamy sand, 6 to 12 percent slopes

Typical profile

Ap - 0 to 9 inches: loamy sand

Bt - 9 to 29 inches: sandy loam

2C - 29 to 79 inches: stratified sand to gravel

Properties and qualities

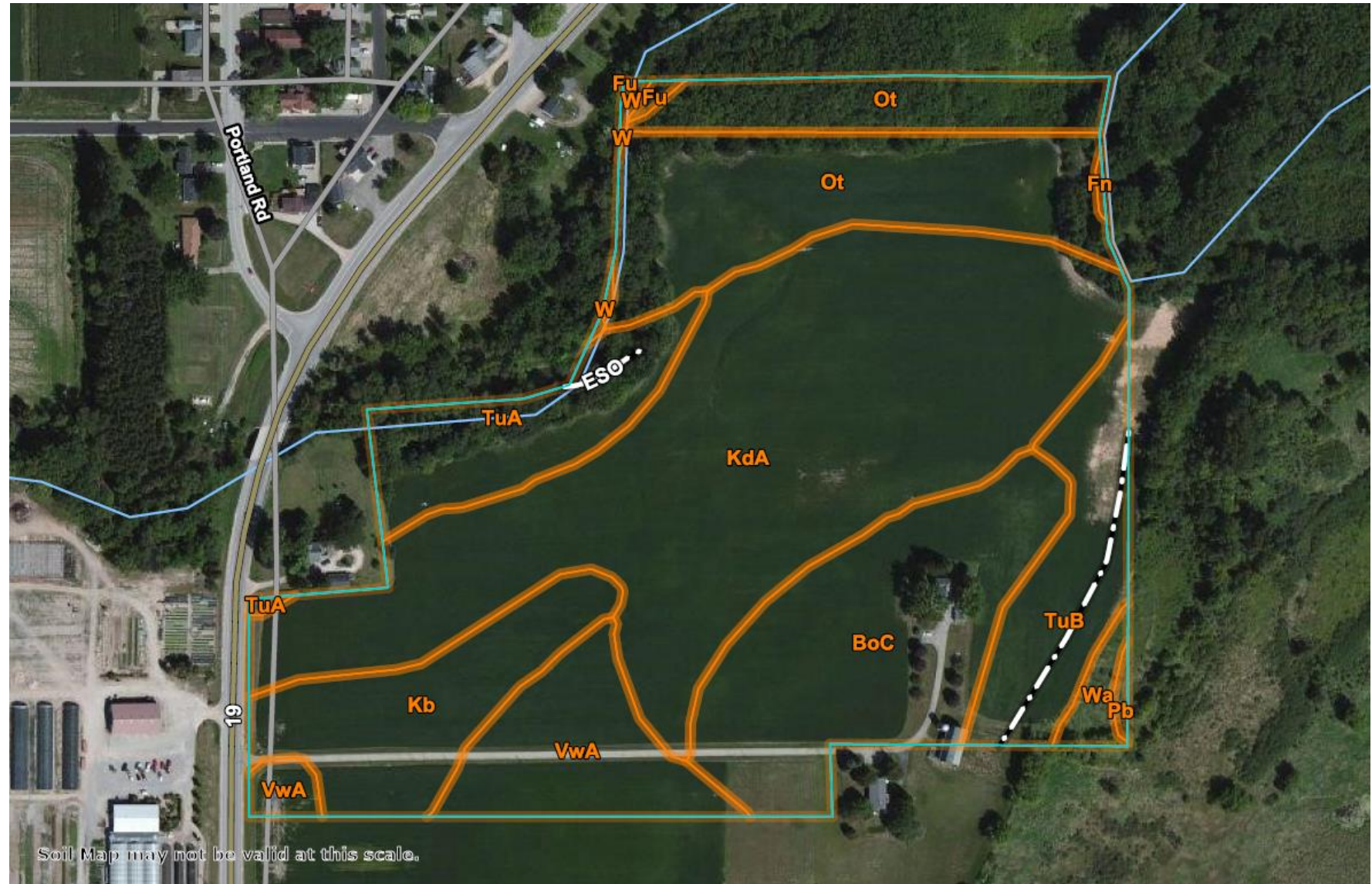
Slope: 6 to 12 percent

Depth to restrictive feature: More than 80 inches

Natural drainage class: Well drained

Runoff class: Medium

HOUSES IN THIS AREA
HAVE HISTORICALLY BEEN
BUILT ON THE BoC SOIL
TYPE



This Replat would:

- Make Outlot 65 accessible by public road without impacting Outlot 66 access
- Would more easily allow a single family residence of a owner that is not Outlot 66
- This shape may even attract a smaller developer as approx. 10 parcels could be made out of the new shape
 - If developed issues with unimproved road go away as developer would be required to improve road according to recitals of CSM 4845
- This location would allow Outlot 66 to still function in the agricultural capacity it is intended

Goals

- Not to Dramatically change the size of Outlot 65.
- To Select a non-partial acreage amount (i.e. 3.00 Acres)
- To leave Outlot 66 with as much of its land as possible, yet REPLAT Outlot 65 to be useable
- Move Outlot 65 to along public road
- Ensure buildable ground and access on Outlot 65 & 66 based on Topography and Soil
 - Both lots would have access to the BoC soil type