



# GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

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The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting and public hearing that is scheduled for **Friday, January 18, 2019**. The business meeting begins at 9:00 a.m. The public hearing will begin at 10:30 a.m.

## Packet Pages:

1. Agenda
- 2-3. Minutes of 11/16/18
4. Public Hearing Notice
- 5-20. **Item I: Owners/Applicants:** St. John's Lutheran Church, Richard Dornfeld **Site Description:** N483 County Road M, Parcel #012-00567-0300 ( $\pm$ 1.68 acres), Part of the SW $\frac{1}{4}$  of Section 29, T14N, R12E, Town of Manchester **Request:** Variance from Section 350-27.A.(3)(c)[1][b] of the County Zoning Ordinance to construct an addition that would provide a  $\pm$ 19-foot street yard setback; whereas, a 40-foot street-yard setback is required.
- 21-31. **Item II: Owners/Applicants:** Guy M. & Margaret H. Larson **Site Description:** W3132 Blackbird Point Lane, Parcel #006-00776-0000, Part of the SW $\frac{1}{4}$  of Section 11, T15N, R12E, Town of Green Lake **Request:** Variance from Section 338-32.A. of the Shoreland Zoning Ordinance to construct a building addition that would provide a 63-foot shoreland setback whereas a 75-foot shoreland setback is required.



**GREEN LAKE COUNTY  
Board of Adjustment**

**571 County Road A, Green Lake, WI 54941**

Office: (920) 294-4156  
FAX: (920) 294-4198

**Board of Adjustment Meeting Notice**

**Date: January 18, 2019 Time: 9:00 AM**

**Green Lake County Government Center, Room #0902  
571 County Road A, Green Lake, WI 54941**

**AGENDA**

**Board of  
Adjustment  
Members:**

*Janice Hardesty  
Board Chair*

*Ron Triemstra  
Board Vice Chair*

*Kathleen Moore*

*Vacant  
Alternate 1*

*Ben Moderow  
Alternate 2*

*Carole  
DeCramer,  
Board  
Secretary*

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Agenda
7. Approve 11/16/18 minutes
8. Adjourn for field inspection

**Public hearing matters will not begin before 10:30 a.m.**

9. Public hearing matters

**Item I: Owners/Applicants:** St. John's Lutheran Church, Richard Dornfeld **Site Description:** N483 County Road M, Parcel #012-00567-0300 (±1.68 acres), Part of the SW¼ of Section 29, T14N, R12E, Town of Manchester **Request:** Variance from Section 350-27.A.(3)(c)[1][b] of the County Zoning Ordinance to construct an addition that would provide a ±19-foot street yard setback; whereas, a 40-foot street-yard setback is required.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

**Item II: Owners/Applicants:** Guy M. & Margaret H. Larson **Site Description:** W3132 Blackbird Point Lane, Parcel #006-00776-0000, Part of the SW¼ of Section 11, T15N, R12E, Town of Green Lake **Request:** Variance from Section 338-32.A. of the Shoreland Zoning Ordinance to construct a building addition that would provide a 63-foot shoreland setback whereas a 75-foot shoreland setback is required.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

10. Adjourn

**Please Note:** Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Carole DeCramer at 920-294-4156 the day before *the meeting no later than noon.*

**GREEN LAKE COUNTY  
BOARD OF ADJUSTMENT  
Meeting Minutes – Friday, November 16, 2018**

**CALL TO ORDER**

The meeting of the Board of Adjustment was called to order Vice Chair Ron Triemstra at 9:00 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende (alternate), Ron Triemstra  
Absent: Janice Hardesty, Kathleen Moore  
Also present: Missy Sorenson, Code Enforcement Officer  
Carole DeCramer, Board Secretary  
Kate Worth, Court Reporter, Worth Court Reporting

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**Motion by Gende/Triemstra, unanimously carried, to approve the agenda.**

**APPROVAL OF MINUTES**

**Motion by Gende/Triemstra, unanimously carried, to approve the 7/20/18 minutes.**

**APPROVE 2019 MEETING CALENDAR**

**Motion by Triemstra/Gende, unanimously carried, to approve the 2019 meeting calendar.**

**RECESS FOR FIELD INSPECTION**

Time: 9:01 a.m.

*Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.*

**PUBLIC HEARING MATTERS**

Board reconvened at 9:43 a.m.

Vice Chair Triemstra read the Rules of Order.

**Item I: Owners/Applicants:** Richard L & Carla Ann Hargrave **Site Description:** W620 Miller Rd, Parcel #006-00420-0200, Part of the NE¼ of Section 23, T15N, R13E, Town of Green Lake **Request:** Variance from Section 350-41.D.(2) of the Zoning Ordinance to allow for a 23' 2" rear-yard setback; whereas, a 25' rear-yard setback is required.

- a. Public hearing

Brett Jenkin, 808 Kathryn Drive, Sun Prairie, WI – Asked questions about how this coincides with the rezone request that is scheduled for the December 6<sup>th</sup> Planning and Zoning public hearing.

Melissa Sorenson, Code Enforcement Officer – Explained why the variance is necessary before the rezone request is heard.

Vice Chair Triemstra reiterated that this board has nothing to do with the rezone request.

**9:50 a.m. Public hearing closed.**

- b. Board discussion and deliberation to include relevant correspondence.

The Board discussed the following:

- Criteria 1 – Unnecessary Hardship
- Criteria 2 – Unique Property Limitations
- Criteria 3 – Harm to Public Interest

- c. Board decision.

**Motion by Gende/Triemstra, unanimously carried on roll call (2-ayes, 0-nays), to grant the variance request from Section 350-41.D.(2) of the Zoning Ordinance to allow for a 23' 2" rear-yard setback; whereas, a 25' rear-yard setback is required with the following condition:**

- 1. The variance granted under this request is contingent upon the property owner successfully rezoning the subject lands to R-4, Rural Residential District in accordance with Chapter 350 of the Code of Green Lake County.**

**CORRESPONDENCE** - None

**NEXT MEETING DATE**

January 18, 2019

**ADJOURN**

**Motion by Gende/Triemstra, unanimously carried, to adjourn.**

Time: 10:06 a.m.

**RECORDED BY:**

Carole DeCramer  
Board of Adjustment Secretary

**APPROVED ON:**



## NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on *Friday, January 18, 2019, at 9:00 a.m.* The meeting will adjourn for site inspections of the following items:

**Item I: Owners/Applicants:** St John's Lutheran Church, Richard Dornfeld **Site Description:** N483 County Road M, Parcel #012-00567-0300 (±1.68 acres), Part of the SW¼ of Section 29, T14N, R12E, Town of Manchester **Request:** Variance from Section 350-27.A.(3)(c)[1][b] of the County Zoning Ordinance to construct an addition that would provide a ±19-foot street-yard setback; whereas, a 40-foot street-yard setback is required.

**Item II: Owners/Applicants:** Guy M & Margaret H Larson **Site Description:** W3132 Blackbird Point Ln, Parcel #006-00776-0000, Part of the SW¼ of Section 11, T15N, R12E, Town of Green Lake **Request:** Variance from Section 338-32.A. of the Shoreland Zoning Ordinance to construct a building addition that would provide a 63-foot shoreland setback whereas a 75-foot shoreland setback is required.

The Board of Adjustment will reconvene at approximately **10:30 a.m.** to consider the items listed above. All interested persons wishing to be heard at the public hearing are invited to be present. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute.* Call the Green Lake County **Land Use Planning and Zoning Department at (920) 294-4156** for further detailed information concerning this notice, to verify that the agenda item you may be interested in has not been withdrawn from the agenda, or for information related to the outcome of the public hearing item.

*Publish: January 3, 2019,  
January 10, 2019*

**BOARD OF ADJUSTMENT STAFF REPORT**

January 18, 2019

**PUBLIC HEARING**

**ITEM I: VARIANCE**

**OWNERS/APPLICANTS:** St. John’s Lutheran Church, Richard Dornfeld, Agent

**REQUEST:** The owners/applicants are requesting a variance from Section 350-27.A.(3)(c)[1][b] of the Zoning Ordinance to construct an addition that would provide a ±19-foot street-yard setback; whereas, a 40-foot setback is required.

**PARCEL NUMBER / LOCATION:** Parcel #012-00567-0300 is located in the SW¼ of Section 29, T14N, R12E, Town of Manchester. Property is located at N483 County Road M.

**EXISTING ZONING AND USES OF ADJACENT AREA:** The subject site is currently zoned A-1, Farmland Preservation District. The surrounding properties are also zoned A-1 and A-2, General Agriculture. There are smaller lots to the south that are zoned R-4, Rural Residential. The subject site is used as a full-time church. There are no mapped wetlands, no floodplain, and no shoreland zoning jurisdiction on this parcel.

**ADDITIONAL INFORMATION / ANALYSIS:** According to the variance application, the owners are proposing an addition to the church that would encroach into the street-yard setback. According to the application, the church has 120 members and its capacity is 130. The applicant states that adding on to the east or west would eliminate their limited parking area. An addition on the north side would make them reconstruct the original church, as well as remove the furnace room, the Pastor’s room to the west, the handicap ramp entrance, and reconstruct their heating system. The owners argue the rebuilding of the original 1864 structure is an unreasonable expectation of the zoning ordinance in order to be allowed to add additional space for the growing congregation.

**VARIANCE CRITERIA:** To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) **Unnecessary Hardship**
  - compliance with standards would be unreasonably burdensome (Snyder)
  - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
  - circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)
  - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
  - economic or financial hardship is not a sole justification (State v. Winnebago County)
  
- 2) **Unique Property Limitations**
  - limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
  - limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
  - alternative designs and locations on the property have been investigated (State v. Winnebago County)
  
- 3) **No Harm to Public Interest**
  - ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
  - short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)

## Variance – St. John’s Lutheran Church

- only allow minimal relief for use of property, may include conditions (Robert M. Anderson, *American Law of Zoning*)

**STAFF COMMENTS:****1) Unnecessary Hardship**

- The purpose of street-yard setbacks is to promote health and safety standards regarding traffic. The existing building was constructed in 1864 when County Road M was just a dirt road. It could be viewed as unreasonably burdensome to tear down an established and long-standing building to comply with a setback created 100+ years after the building was constructed.
- The hardship does not appear to be self-created by the current owners. The building was constructed in 1864. County Road M was only a dirt road when the church was built and no zoning laws existed at the time.
- The circumstances of the applicants do not appear to be a factor. Any church group in possession of this property could eventually encounter the same hardship as churches are defined by their ability to maintain and increase their membership.
- The property, as a whole, has been considered by the applicants. They are stating that the Church is a unique structure that has an historic value that must be maintained and that any addition other than “the proposed” would sully this historic value. Furthermore, the church contends that it is financially burdensome to construct any other addition other than the proposed.
- The owners are claiming an economic / financial hardship in addition to characterizing this structure as a legacy within the community it serves.

**2) Unique Property Limitations**

- There does not appear to be any limitations such as steep slopes, wetlands, or lot size. The parcel is 1.5 acres in size and relatively flat. The BOA must measure whether the architectural significance of the 154 year old building used as a church presents a level of uniqueness that is obviously not shared by properties in proximity.
- This parcel shares identical setback requirements with the nearby similarly-zoned parcels. The BOA must determine if this lot is substantially different and, therefore, unique from neighboring properties based upon provided evidence.
- The variance application indicates that the property owners have looked at north, east, and west sides to add on to the church. They want to preserve the historical significance of their church, maintain the size of the existing parking area, and keep the cost of construction to a minimum. Only adding on to the south can accomplish their goals.

**3) Harm to Public Interest**

- There could potentially be a harm to public interest. The new addition would be 19 feet from the lot line. This is putting the building closer to traffic. The applicant does state there is a deep ditch along County Road M that would act as a barrier to the new building. The applicant also states that the addition resolves current ingress and egress concerns.
- The effects of granting a variance of this nature are that similar requests may also be heard by the BOA. No precedent is set and no harm to public interest is observed *as long as each future request meets the variance criteria*. If the BOA approves a variance for a property that does not meet all three statutory criteria, then the short- and long-term effects will be significant.
- When a hardship has been proven, resolution comes through minimal relief from the ordinance. It is always staff’s opinion that minimal relief should be balanced with protection of the public interest.

Variance – St. John’s Lutheran Church

**Variance Conditions (suggested by zoning staff):**

1. *BOA to insert any conditions that they feel could mitigate the impact of placing this building further into the street-yard setback.*
2. The proposed plan shows a south entrance to the church and no side entrances (east or west). As a way to discourage pedestrian traffic between the addition and the highway the BOA could require the elimination of the south entrance and require an east and west entrance with respect to the addition.
3. The setback area located between the two access driveways (to the subject site) and the proposed addition shall be re-vegetated to include four barrier trees at least 1.5” caliper (balled and bur-lapped). Barrier trees must not be planted in the right-of-way.
4. No walk-way, path, sidewalk, etc. shall be placed in the setback area described in condition 3 above.

# GREEN LAKE COUNTY VARIANCE APPLICATION

*Provide the following information and any other detailed information related to the variance.*

Date Received: 11-1-18

Fee Received: \$375

ST Johns Lutheran Church

Richard Dornfeld

Owner Name

Applicant Name

ST JOHNS LU LUTHERAN CHURCH 11/1/18

Richard Dornfeld 11/1/18

Owner Signature Date

Applicant Signature Date

P.O. Box 121

N756 Salemville Road

Mailing Address

Mailing Address

Cam bria WI. 53923

Cam bria WI 53923

City State Zip

City State Zip

Home Phone Work/Cell Phone

920-210-5529  
Home Phone Work/Cell Phone

Site Address N 483 County Road "M"

Tax Parcel ID # 012 - 00567 - 0300

Lot SW 1/4, SW 1/4, Section 29 T 14 N, R 12 E  
Block Subdivision/Plat

Lot CSM # Town of Manchester

For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected.

The burden of proof rest upon the property owner to show all 3 criteria are being met.

A variance is not a convenience to the property owner and should not be granted routinely.

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

The proposed addition is 30' in length by 28.5' in width. St. John's Church doesn't believe the plans vary from the required dimensional standards other than being in the 42' Building Setback Line.

2. Explain the hardship imposed by the Ordinance:

St. John's Church wants to put an addition to the front of the Church facing County Road "M" for more membership. The current church is full and needs to add more pews. The new addition will be in the 42' Building Setback Line.

3. Describe unique property feature(s) that create the hardship:

St. John's Church cannot put the new addition to the rear of the building because of several mechanical structures such as the furnace, the altar and basement expansion would be too expensive to be cost effective for the church.

4. Explain why the proposed variance will not harm the public interest:

St. John's Church don't believe the proposed addition would do any harm to the public. This would make the public or new members more accommodating for all Church people.

5. Explain why the property can not be utilized without a variance:

Without the variance St. John's Church cannot expand its membership. The Church is at full capacity. The church needs the variance to expand its membership.

**St. John's Evangelical Lutheran Church  
% Richard Dornfeld  
N756 Salemville Road  
Cambria, WI 53923**

**SUBJECT: Variance Request**

**From: ST. John's Evangelical Lutheran Church**

**To: Green Lake County Zoning**

**Date: December 03, 2018**

**With all due respect to Green Lake County Zoning:**

**St. John's Evangelical Lutheran Church would like to appeal, and apply to the Board of Adjustments for a variance from the recently denied original proposal. Our congregation is truly hopeful you would consider a variance for our need to expand our church building while keeping our uniqueness and keep our limited parking area.**

- 1) We are currently at 120 members with the capacity of 130. We are running short on room and need to expand in the most efficient way to maintain the uniqueness of our German Lutheran Church Settlement.**
- 2) With all due respect to the County Highway, our church has existed long before zoning set backs. The location was not self-created; it was the result of the county right of way being in close proximity to the church.**
- 3) Our church was founded in 1864. It's 154 years old, well maintained, and very unique. Our members thrive to keep the look of our church much like it is.**
- 4) We had our architect from Dalton Lumber look at the church to give us various options. If we were to add onto the East and West walls of the Church, we would lose parking area for our members due to the cemetery to the west and small lawn area to the east. Second, by pulling out our side walls and reconstructing the original construction, the cost would be extremely high and therefore out of our budget. We also have a basement under the existing building. We would lose access to our basement windows if we took out the East and West walls. Expansion of the basement is not cost efficient when the expansion is not warranted.**
- 5) An Addition to the North side of our church would also be too costly. We would have to reconstruct the original church, as well as remove the furnace room, the Pastor room to the west, our Northeast handicap ramp entrance, and our North basement entrance, reconstruct our complete alter area, add on more basement, and reconstruct our total heating system. The cost of such a project is completely out of our budget.**

SUBJECT: Variance Request  
N756 Salemville Road  
Cambria, WI 53923  
Page 2

- 6) By adding on the South facing Cty. Hwy. M, we would only have to add an addition without reconstructing the original historical church. By adding the addition, we would be able to maintain the uniqueness and appearance of the church as well as keeping the parking area as needed. In turn, we would be able to eliminate the outside steps, raise the ground elevation to the South ditch, while increasing the ditch depth. This would give us the opportunity to pour footings around the addition, a 3 to 4 foot wall also around the addition as well, and build our addition on up from the foundation. By doing this, we could eliminate the need for steps or a handicap entrance to the building. We would also be able to move our South entrance to the basement level and our balcony entrance to the new addition allowing for ample room for seating in the church. This move would in turn gain more storage room and room for our members to enter the church out of the elements.
- 7) We would still be able to maintain the current driveway in front of the church, where it has always been, and still remain a safe distance from Cty. Hwy. M. We have pictures of other church buildings closer to state highways than what we are located. Our traffic flow is minimal, with the majority of the traffic we have being Amish buggies. In the event of a vehicle slid off, the south ditch would most likely stop the vehicle with added protection to our congregation from the proposed poured foundation wall. Fortunately, in the 154 years of our church's location, this has never happened. In sight of our construction plan, we will be able to protect our members and the general public.
- 8) After meetings with the contractor and looking at the church, it was determined a reconstruction to the East and West walls or to the North end of the building would cost the church approximately 150 to 200 thousand dollars. By adding the addition to the south end, it was estimated between 55 and 75 thousand dollars, an amount our current budget can sustain.
- 9) We live in a relatively low income area with members who are unable to fund a high cost project. LORD WILLING AN ADDITION TO THE FRONT WOULD BE COST EFFICIENT AND JUST AS SAFE AS IT HAS BEEN FOR THE LAST 154 YEARS WITH NO ADDED HARM TO THE GENERAL PUBLIC OR OUR MEMBERS.

We have provided three different drawings for the proposal.

Sincerely,

St. Johns Ev. Lutheran Church  
Salemville

*Pastor Frank Rose*  
*Council, Rick Damsch*  
*Phone 920-210-5529*



# SITE PLAN

DESCRIPTION OF LANDS LOCATED IN PART OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 29, TOWNSHIP 14 NORTH, RANGE 12 EAST, TOWN OF MANCHESTER, GREEN LAKE COUNTY, WISCONSIN.

**SURVEYOR'S CERTIFICATE:**

I, Donald W. Lenz, Professional Land Surveyor for the State of Wisconsin, hereby certify that I have at the order of Richard Domfeld, as representative for Saint John's Lutheran Church, as owners thereof, surveyed lands located in the Southwest ¼ of the Southwest ¼ of Section 29, Township 14 North, Range 12 East, Town of Manchester, Green Lake County, Wisconsin. Containing 1.5054 acres (65,577 sq. ft.). Being subject to all easements and restrictions of record. I further certify that I have surveyed the property described herein, and that the map shown on this site Plan is a true representation thereof to the best of my knowledge and belief. This survey is made for the use of the present owners of the property, also for those who purchase, mortgage, or guarantee the title thereto, as of the date hereon. I further certify that such survey is a correct representation of all exterior boundaries of the land surveyed and the map made thereof, and that I have fully complied with the provisions of Chapter AE-7 of the Wisconsin Administrative Code and the Wisconsin State Statutes in surveying and mapping the same.

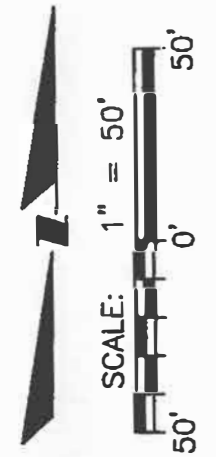
GREEN LAKE SURVEYING COMPANY  
Green Lake, Wisconsin  
*Donald W. Lenz*  
Donald W. Lenz, WI P.L.S. No. S-2005  
Dated this 31st day of October, 2018.



**OWNER(S)**  
ST. JOHN'S LUTHERAN CHURCH  
P.O. BOX 121  
N483 COUNTY ROAD "M"  
CAMBRIA, WISCONSIN 53923



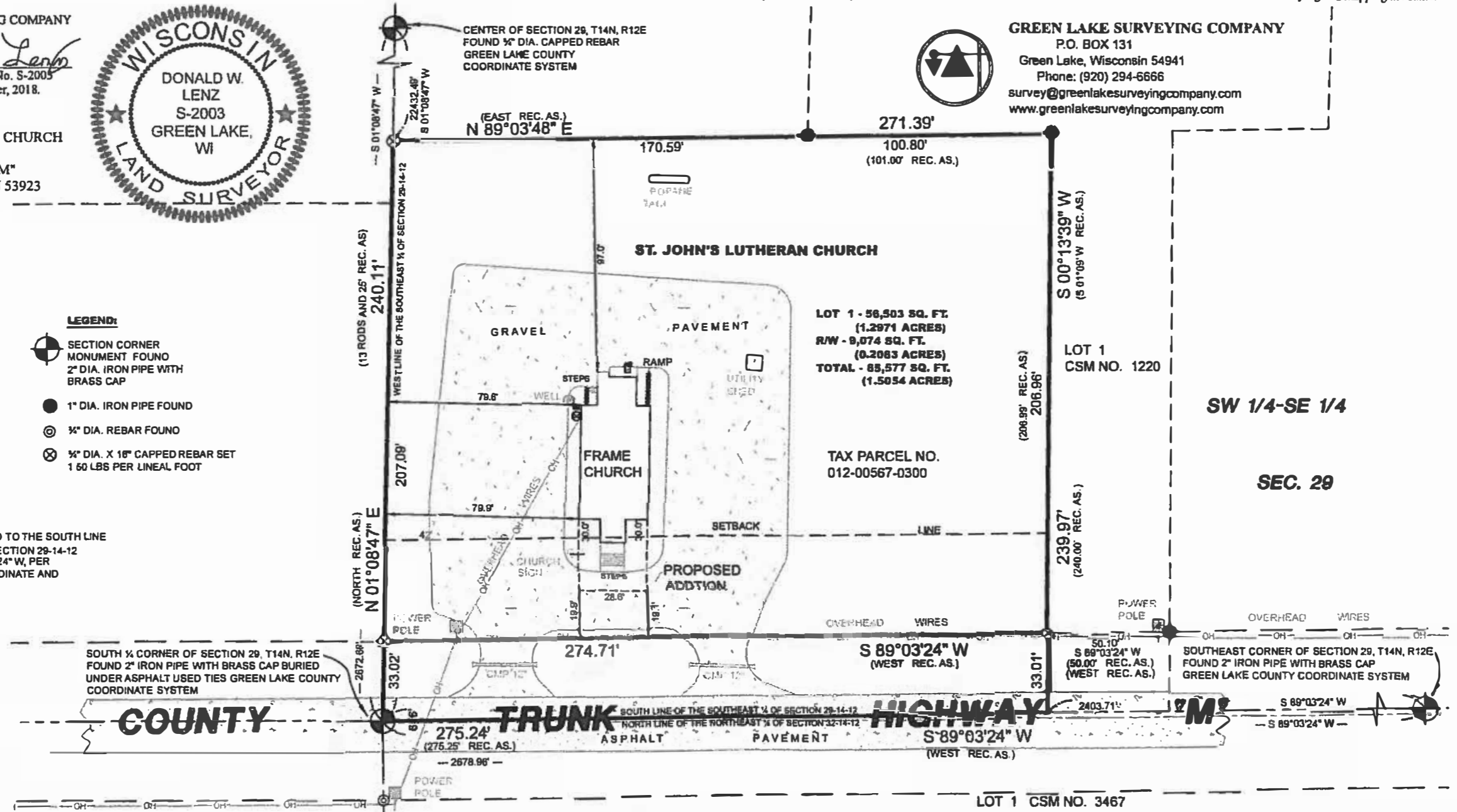
GREEN LAKE SURVEYING COMPANY  
P.O. BOX 131  
Green Lake, Wisconsin 54941  
Phone: (920) 294-6666  
survey@greenlakesurveyingcompany.com  
www.greenlakesurveyingcompany.com



**LEGEND:**

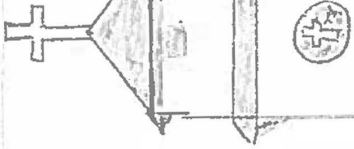
- SECTION CORNER MONUMENT FOUND  
2" DIA. IRON PIPE WITH BRASS CAP
- 1" DIA. IRON PIPE FOUND
- 1/2" DIA. REBAR FOUND
- 3/4" DIA. X 16" CAPPED REBAR SET  
150 LBS PER LINEAL FOOT

BEARINGS ARE REFERENCED TO THE SOUTH LINE OF THE SOUTHWEST ¼ OF SECTION 29-14-12 WITH A BEARING OF S 89°03'24" W, PER GREEN LAKE COUNTY COORDINATE AND BEARING SYSTEM



Lawn. E

Woods N Grass Strip



Parking Area

Parking Area

Cement Foundation with Stone Beams



ORIGINAL Drive way AT Ground Level & Entrance AT Ground Level

Drive way

Drive way

DITCH

DITCH

DITCH

Grass Strip

Cemetery

W

CTY. m

S

Woods To The North M.

LPTANK



parking area

Basement  
Entrance  
North

EXISTING  
Furnace Room

28.6'

North  
Ramp  
Entrances

Restroom

ALTER area

Storage

46.6'

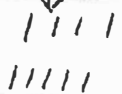
PARKING area

Parking area

LAWN

EXISTING  
Balcony  
South Basement  
ENTRANCE

BALCONY



4.0'

10.6'

9.0'

EXISTING STEPS

30'

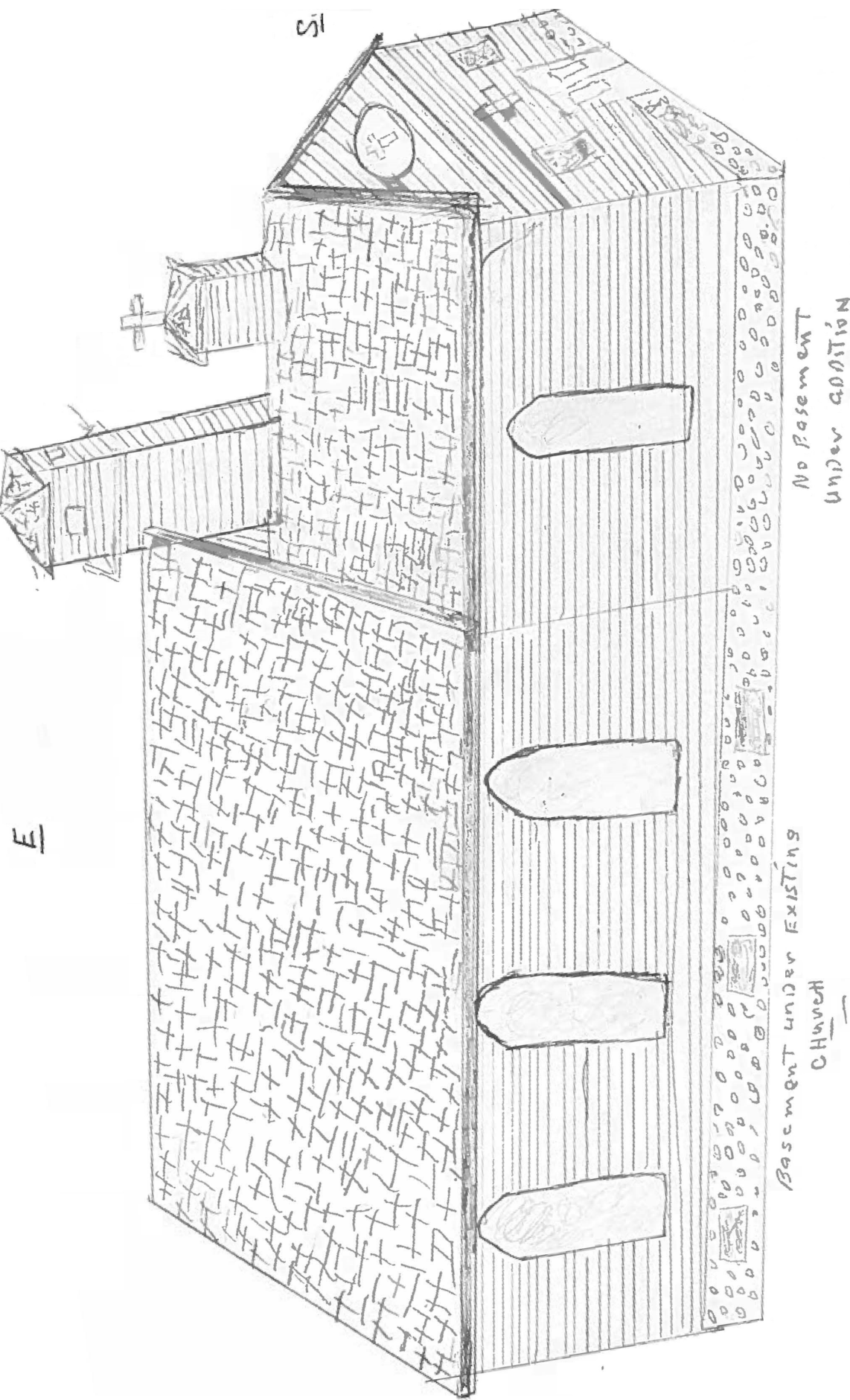
ADDITION

28.6'

- CITY - TRUNK - M -

51

Cemetery



E

51

N

No Basement  
Under Addition

Basement Under Existing  
Church

W  
 This would keep our unique look  
 at a much lesser cost  
 and still keep our parking area



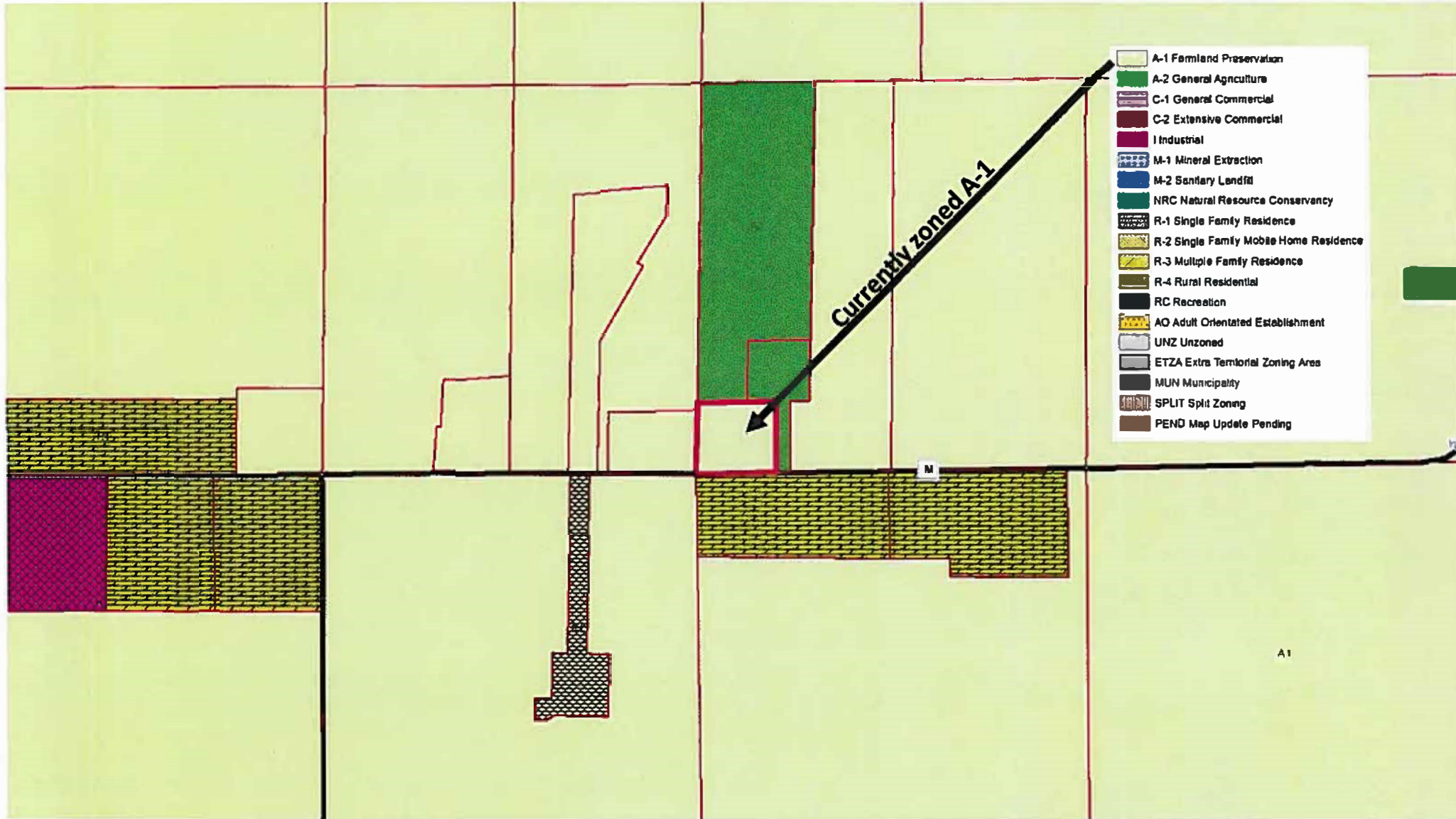




Owner: St. John's Lutheran Church      Applicant: Richard Dornfeld

N483 County Road M, Parcel #012-00567-0300 (±1.68 acres), Part of the SW¼ of Section 29, T14N, R12E, Town of Manchester

The owners/applicant are requesting a variance from Section 350-27.A.(3)(c)[1][b] of the County Zoning Ordinance to construct an addition that would provide a ±19-foot street yard setback whereas a 40 foot street-yard setback is required.





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## BOARD OF ADJUSTMENT STAFF REPORT

January 18, 2019

### PUBLIC HEARING

### ITEM II: VARIANCE

**OWNERS/APPLICANTS:** Guy & Margaret Larson

**REQUEST:** The owners/applicants are requesting a variance from Section 338-32.A. of the Shoreland Zoning Ordinance to construct a building addition that would provide a 63-foot shoreland setback; whereas, a 75-foot setback is required.

**PARCEL NUMBER / LOCATION:** Parcel #006-00776-0000, is located in the SW¼ of Section 11, T15N, R12E, Town of Green Lake. Property is located at W3132 Blackbird Point.

**EXISTING ZONING AND USES OF ADJACENT AREA:** The subject site is currently zoned R-1, Single Family Residence District. The surrounding properties are also zoned R-1, with A-1, Farmland Preservation District south of this site. The subject site is used as a part-time residence. There is mapped flood-fringe on this property but it is outside the scope of the proposed project site.

**ADDITIONAL INFORMATION / ANALYSIS:** According to the variance application, the owner is proposing to build an attached garage and home addition that would be 63 feet from a channel that connects to Green Lake. There is an existing detached garage that is 33 feet from this channel. If the variance is granted the owner plans to remove this structure.

**VARIANCE CRITERIA:** To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) Unnecessary Hardship
  - compliance with standards would be unreasonably burdensome (Snyder)
  - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
  - circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)
  - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
  - economic or financial hardship is not a justification (State v. Winnebago County)
  
- 2) Unique Property Limitations
  - limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
  - limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
  - alternative designs and locations on the property have been investigated (State v. Winnebago County)
  
- 3) No Harm to Public Interest
  - ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
  - short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
  - only allow minimal relief for use of property, may include conditions (Robert M. Anderson, *American Law of Zoning*)

### **STAFF COMMENTS:**

**1) Unnecessary Hardship**

- ❑ Compliance with the standards are unreasonably burdensome. The setback to the ordinary high water mark (OHWM) is 75 feet. This setback preserves much of the buildable area for the purpose of protecting the lake. However, with a 75-foot setback on opposing sides of a small lot, it becomes burdensome to fit a modest cottage with attached garage space within these constraints.
- ❑ The hardship does not appear to be self-created by the current owners.
- ❑ The circumstances of the applicants do not appear to be a factor.
- ❑ The property as a whole is a factor in this situation. The applicants do not have buildable area available to expand the footprint of the existing house due to the OHWM on the water-ward sides of the lot.
- ❑ The owners are not claiming an economic / financial hardship.

**2) Unique Property Limitations**

- ❑ The applicants have identified a limiting condition, which is they have waterfronts on two sides of their property. The setback to the OHWM to both the channel and Green Lake drastically reduce the building area for this lot.
- ❑ This parcel shares identical setback requirements with the a few other homes along Blackbird Point Lane. However, these properties are unique compared to the majority of lake properties, as they have water frontage on two sides.
- ❑ Alternative locations have been reviewed and based on the setbacks, there is no other available area to expand the current home.

**3) Harm to Public Interest**

- ❑ There does not appear to be a harm to public interest. The owner plans to remove the existing detached garage that is closer to the road and channel if the variance is granted. The new addition would be further away from the OHWM which would benefit the public. Also, Blackbird Point Lane is a private road and does not have much traffic.
- ❑ The effects of granting a variance of this nature are that similar requests will also be heard by the BOA. No precedent is set and no harm to public interest is observed *as long as each future request meets the variance criteria*. If the BOA approves a variance for a property that does not meet all three statutory criteria, then the short- and long-term effects will be significant.
- ❑ When a hardship has been proven, resolution comes through minimal relief from the ordinance. It is always staff's opinion that minimal relief should be balanced with protection of the public interest.

**Variance Conditions:**

1. With the approval of the variance, the owners are required to remove the existing nonconforming garage and restore and vegetate the area. (as proposed in the variance application) prior to land use permit expiration.
2. Prior to the pouring of the concrete walls associated with the addition, Land Use Planning and Zoning Staff shall perform a wall form inspection to verify that the addition will be no closer than 63 feet from the OHWM.

VARIANCE APPLICATION – GREEN LAKE COUNTY

Provide the following information and any other detailed information related to the variance.

Date Received: 12/3/18

Fee Received: \$375

Guy Larson  
Owner Name

Same  
Applicant Name

[Signature] 11/14/18  
Owner Signature Date

[Signature] [Date]  
Applicant Signature Date

23446 N. Pointe Ct.  
Mailing Address

[Signature]  
Mailing Address

Barrington IL 60010  
City State Zip

[Signature]  
City State Zip

[Signature] 847-804-6190  
Home Phone Work/Cell Phone

[Signature] [Signature]  
Home Phone Work/Cell Phone

glarson164@gmail.com  
Email address

[Signature]  
Email address

Site Address W3132 Blackbird Pt. Ln. Markesan WI, 53446

Tax Parcel ID # 006 -00776 0000

Lot NE 1/4, SW 1/4, Section 11, T 15 N, R 12 E  
Lot 3 Block \_\_\_\_\_ Subdivision/Plat \_\_\_\_\_  
CSM # 39 Town of Green Lake

A variance is not a convenience to the property owner and should not be granted routinely. For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected. The burden of proof rests upon the property owner to show all 3 criteria are being met.

**See the next page for the applicants' answers to the following questions.**

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

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2. Explain the hardship imposed by the Ordinance:

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3. Describe unique property feature(s) that create the hardship:

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4. Explain why the proposed variance will not harm the public interest:

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5. Explain why the property can not be utilized without a variance: ( USE VARIANCES ONLY)

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## Application for Variance

### W3132 Blackbird Pt Lane

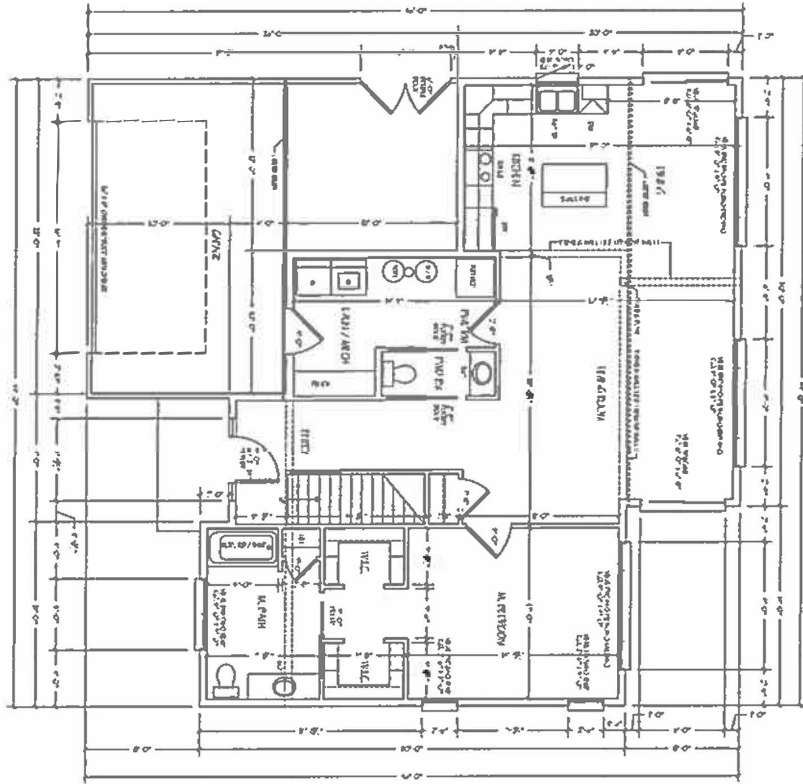
1. The proposed plans for remodel; will utilize the current square footage from the existing garage (to be removed if variance is granted) and incorporated into proposed cottage. This change would put the home/garage closer to the channel. We would be out of compliance with Section 338-32. A.  
Removing the garage from a less desirable location and incorporating it into the proposed home has benefits, such as: moving non- permeable surface further away from the channel and Blackbird Pt. Lane. In addition the existing garage is out of compliance with current lot line setback ordinance.
2. Current ordinances do not allow for movement “swapping” of square footage on a site.
3. The property is unique in that it has water frontage on Green Lake and the Channel along Blackbird Pt. Lane.
4. I cannot think of anything in the proposed plan that would harm the public interest. It has been important to us to be stewards of the land and water. We have always understood the importance of Green Lake and from the beginning have been involved and support conservation efforts to improve the water quality and beauty of the lake and surrounding area.

Our family has been enjoying the Green Lake area for over 20 years. We have raised our 2 children here in the summers, and come up often in the winter. We look forward to our next chapter in the Green Lake area and hopefully can update our cottage to accommodate our growing family.

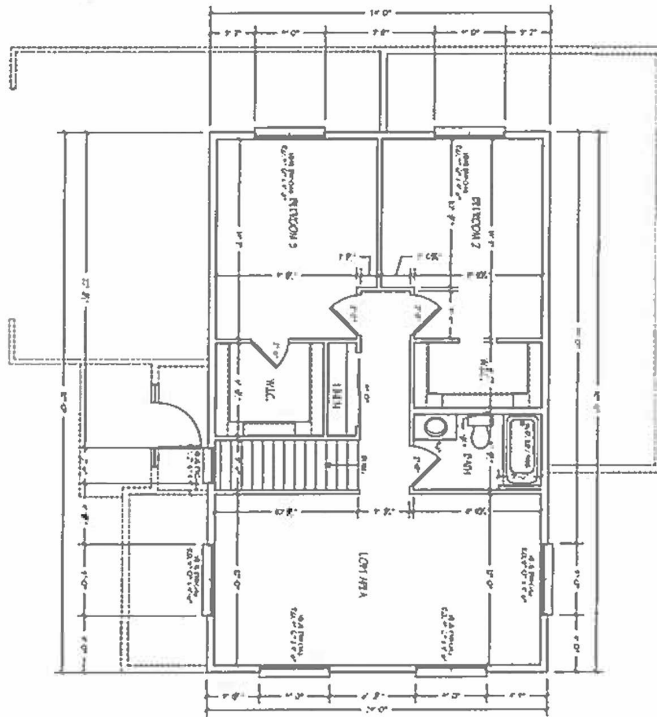
Thanks for your consideration,

Guy & Meg Larson





FIRST FLOOR  
12-14-011



SECOND FLOOR  
05-5-011

PROJECT TITLE AND ADDRESS

CLY LARSON - PRELIMINARY FLOOR PLANS  
NOTED

NOTICE TO CONTRACTOR

These drawings are prepared by  
architectural firm and are not to be  
used for construction without the  
approval of the architect.

DATE	BY
05-5-011	CLY
12-14-011	CLY
05-5-011	CLY

DATE	BY
05-5-011	CLY
12-14-011	CLY
05-5-011	CLY

CLY LARSON  
ARCHITECT  
12-14-011  
NOTED

# PLOT PLAN

DESCRIPTION OF LANDS LOCATED IN PART OF GOVERNMENT LOT 3 OF SECTION 11, TOWNSHIP 15 NORTH, RANGE 12 EAST, TOWN OF GREEN LAKE, GREEN LAKE COUNTY, WISCONSIN.

**SURVEYOR'S CERTIFICATE**  
\*\*\*\*\*

I, Donald W Lenz, Professional Land Surveyor for the State of Wisconsin, hereby certify that I have at the order of Guy & Margaret Larson, as owners thereof, surveyed lands located in a part of Government Lot 3 of Section 11, in Township 15 North, Range 12 East, Town of Green Lake, Green Lake County Wisconsin, being more particularly described as follows:

Commencing at the South 1/4 corner of said Section 11, thence North 00°-19'50" West along the east line of Government Lot 3, 2310.69 feet; thence South 89°40'10" West, 469.78 feet to a meander corner of a lagoon of Green Lake also being a point on the westerly line of Lot 1 of Certified Survey Map No 39, as recorded on April 15, 1958 in the office of the Register of Deeds for Green Lake County in Volume 1 of the Green Lake County Certified Survey Maps of Green Lake County on Page 39, and being the Place of Beginning of lands hereinafter described; thence South 57°-35'-56" West along said meander line, 71.77 feet to the terminus of said meander line; thence North 45°-07'-32" West, 143.26 feet to a meander line of Green Lake; thence North 44°-53'-00" East along said meander line, 69.94 feet to the terminus of said meander line and being a point on the westerly line of Certified Survey Map No. 39; thence South 45°-08'-48" East 159.05 feet to the Place of Beginning. Together with all lands lying between the above described meander lines and the ordinary high water mark of the lagoon of Green Lake and of Green Lake Containing 0.28 ± acres (12,251 ± sq. ft.) of land Also being subject to all easements and restrictions of record, if any

I further certify that I have surveyed the property described herein and that the map shown on this Plot Plan is a true representation thereof to the best of my knowledge and belief. This survey is made for the use of the present owners of the property, also for those who purchase, mortgage, or guarantee the title thereto, as of the date hereon.

I further certify that such survey is a correct representation of all exterior boundaries of the land surveyed and the map made thereof, and that I have fully complied with the provisions of Chapter AE-7 of the Wisconsin Administrative Code and the Wisconsin State Statutes in surveying and mapping the same

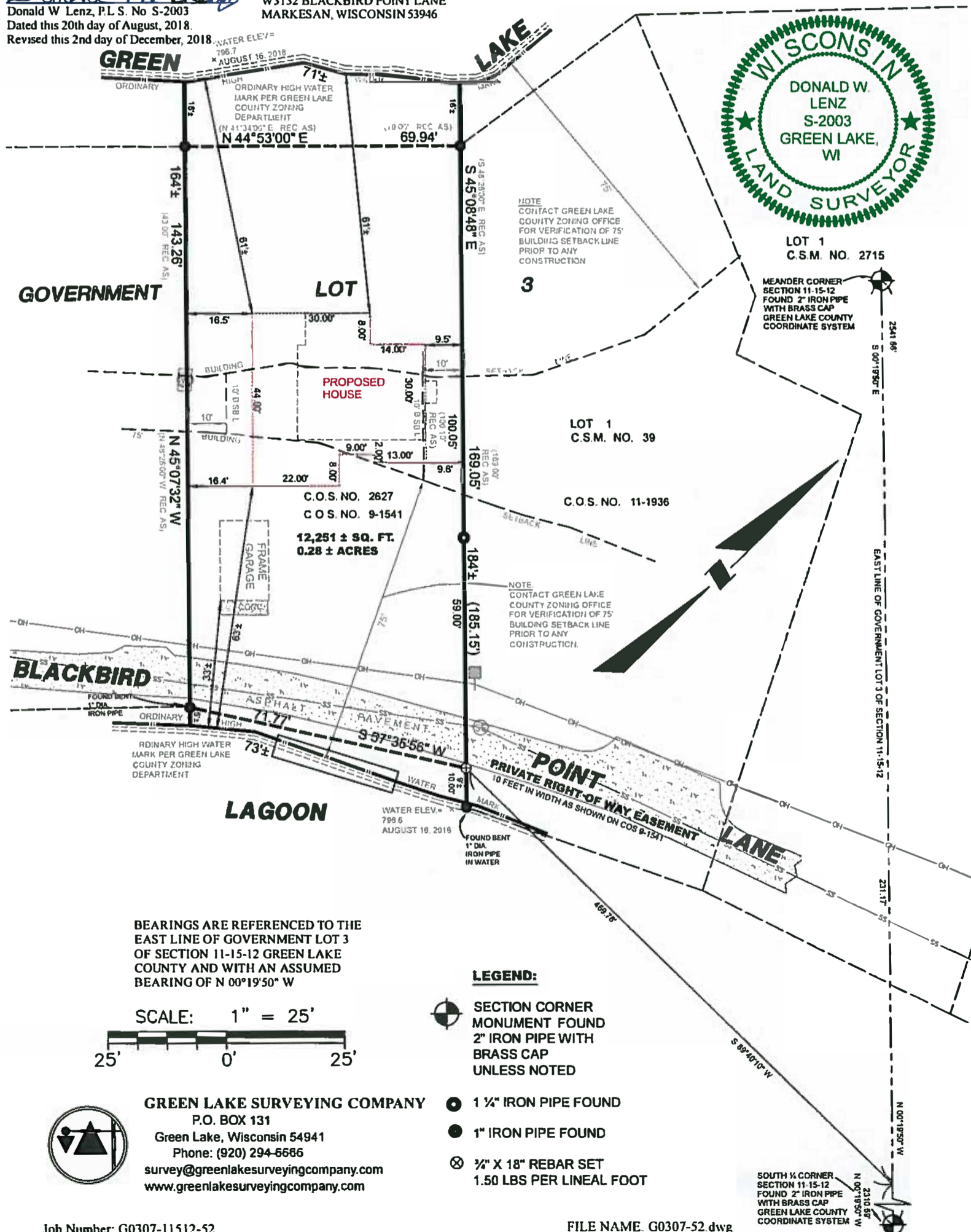
**OWNER(S)**  
GUY M. AND MARGARET H. LARSON

**GREEN LAKE SURVEYING COMPANY**  
Green Lake, Wisconsin

*Donald W. Lenz*  
Donald W. Lenz, P.L.S. No S-2003

**PROPERTY ADDRESS**  
W3132 BLACKBIRD POINT LANE  
MARKESAN, WISCONSIN 53946

Dated this 20th day of August, 2018.  
Revised this 2nd day of December, 2018



BEARINGS ARE REFERENCED TO THE EAST LINE OF GOVERNMENT LOT 3 OF SECTION 11-15-12 GREEN LAKE COUNTY AND WITH AN ASSUMED BEARING OF N 00°19'50" W

SCALE: 1" = 25'



**LEGEND:**



SECTION CORNER MONUMENT FOUND  
2" IRON PIPE WITH BRASS CAP  
UNLESS NOTED



1 1/4" IRON PIPE FOUND



1" IRON PIPE FOUND



1/4" X 18" REBAR SET  
1.50 LBS PER LINEAL FOOT



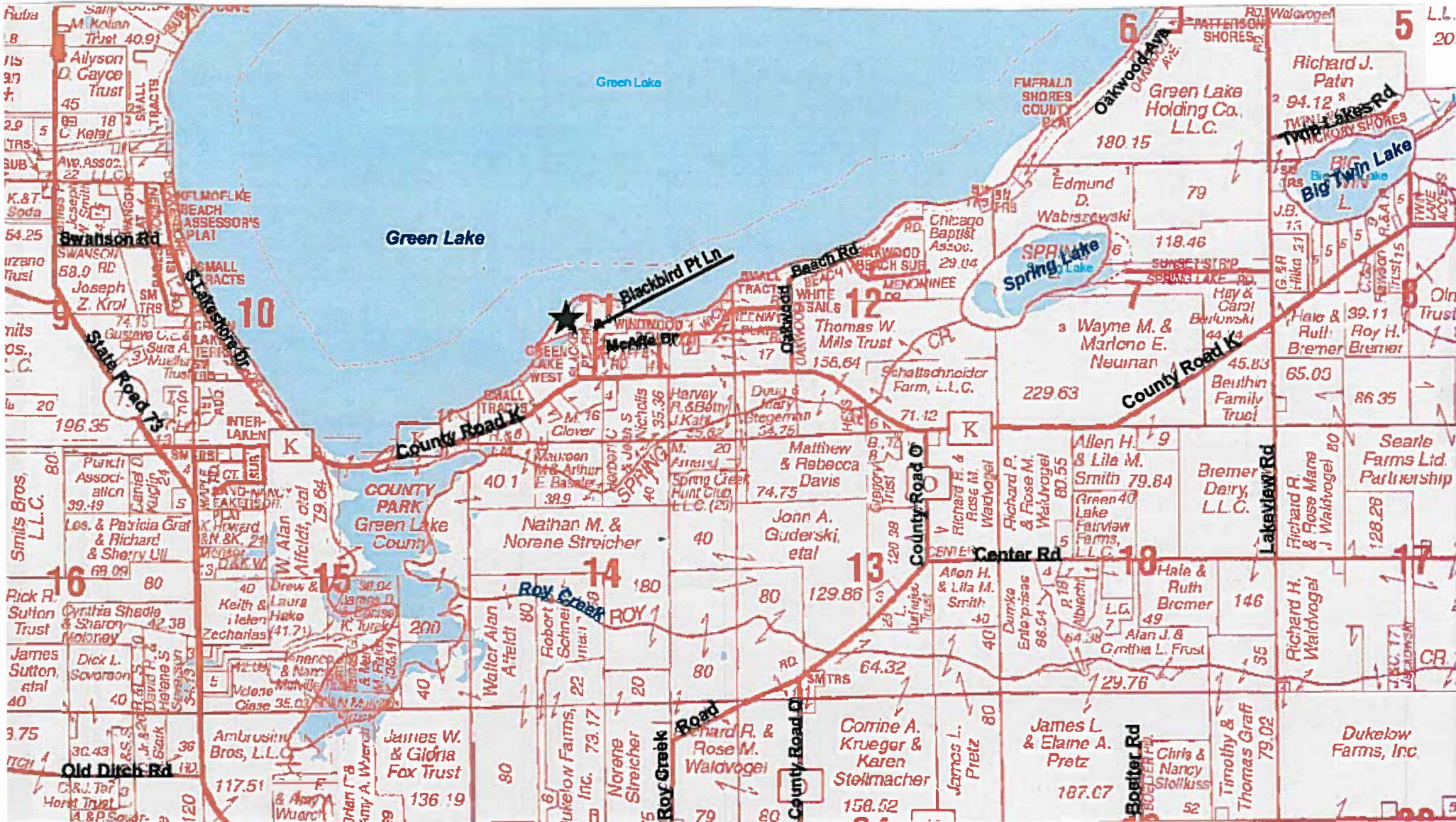
**GREEN LAKE SURVEYING COMPANY**  
P.O. BOX 131  
Green Lake, Wisconsin 54941  
Phone: (920) 294-6686  
survey@greenlakesurveyingcompany.com  
www.greenlakesurveyingcompany.com



**Guy M. & Margaret H. Larson - W3132 Blackbird Point Lane - Town of Green Lake**

**Parcel #006-00776-0000, Part of the SW¼ of Section 11, T15N, R12E**

**The owners/applicants are requesting a variance from Section 338-32.A. of the Shoreland Zoning Ordinance to construct a building addition that would provide a 63-foot shoreland setback; whereas, a 75-foot shoreland setback is required.**

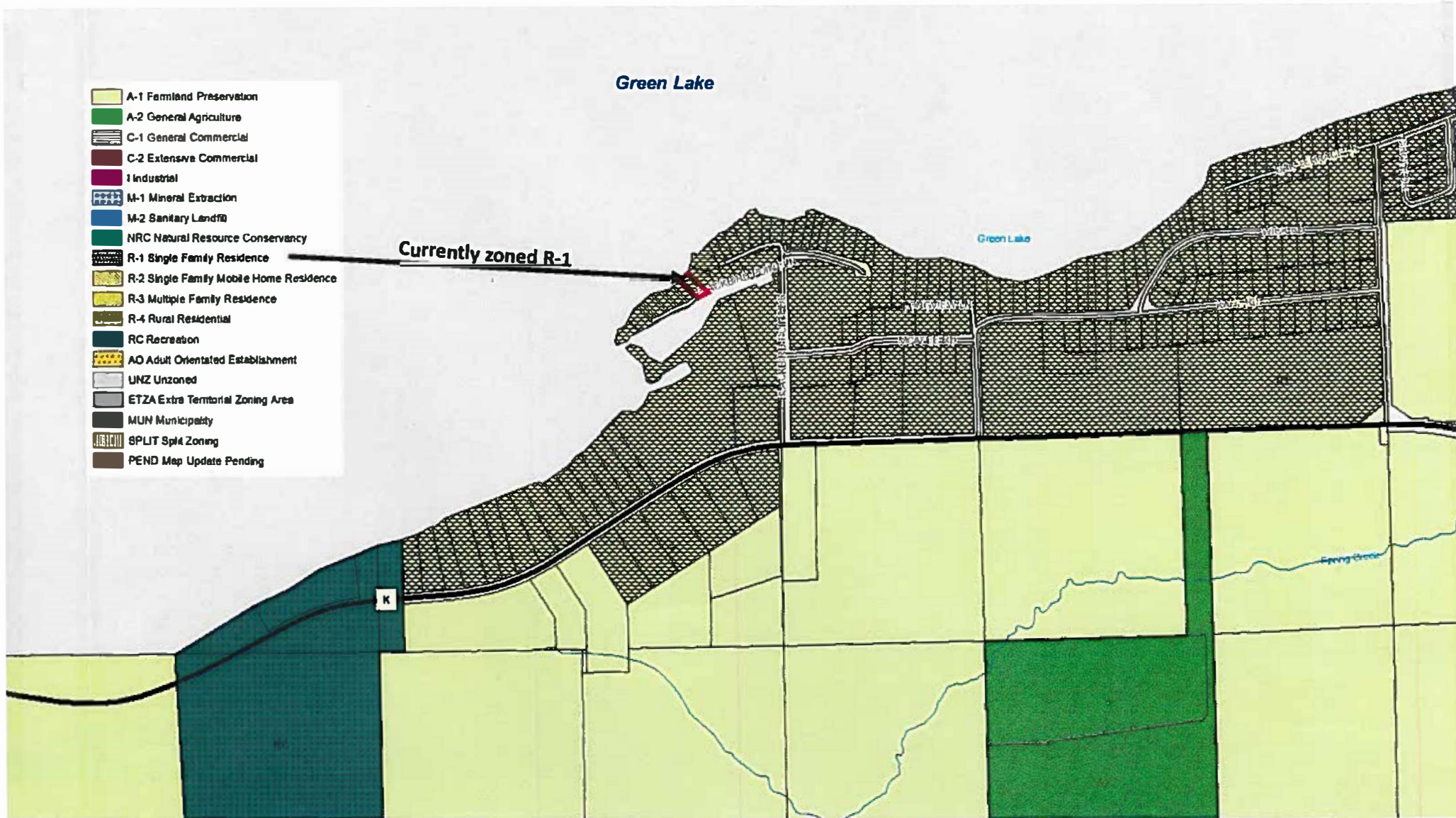




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**Green Lake County Board of Adjustment Public Hearing 01/18/19**



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**Green Lake County Board of Adjustment Public Hearing 01/18/19**