



GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting/public hearing that is scheduled for Friday, September 18, 2020. The business meeting begins at 9:00 a.m. The public hearing will begin at 10:00 a.m.

Packet Pages:

2-3 Agenda

4-5 Minutes

6-7 Public Hearing Notice

8-14 **Item I: Owner:** Jayne Plaganz, et al **Applicant:** Cathy Kohl
Site Description: W1768 Sandstone Ave, parcel # 006-01026-0000, located in the NW, SE **Sect. 32, T16N, R13E, ±1.35 acres, Town of Green Lake Request:** Variance to divide parcel with a 90' width instead of the required 100' width.



GREEN LAKE COUNTY
Board of Adjustment
571 County Road A, Green Lake, WI 54941

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

Email: zoning@co.green-lake.wi.us

Board of Adjustment Meeting Notice	
Date: September 18, 2020 Time: 9:00 AM Green Lake County Government Center, Room #0902 571 County Road A, Green Lake, WI 54941	
<u>AGENDA</u>	
<p>Board of Adjustment Members:</p> <p><i>Janice Hardesty</i> Board Chair</p> <p><i>Ron Triemstra</i> Board Vice Chair</p> <p><i>Michael Lehner</i> Alternate</p> <p><i>Rick Dornfeld</i> Alternate</p> <p><i>Sue Kiener,</i> Secretary</p>	<ol style="list-style-type: none"> 1. Call to order 2. Roll call 3. Pledge of Allegiance 4. Certification of open meeting law 5. Approve 08/21/20 minutes 6. Recess for field inspection <p><u>Public hearing matters will not begin before 10:00 a.m.</u></p> <ol style="list-style-type: none"> 7. Public hearing matters: <ul style="list-style-type: none"> Item I: Owner: Jayne Plaganz, et al Applicant: Cathy Kohl Site Description: W1768 Sandstone Ave, parcel # 006-01026-0000, located in the NW, SE Sect. 32, T16N, R13E, ±1.35 acres, Town of Green Lake Request: Variance to divide parcel with a 90' width instead of the required 100' width. <ol style="list-style-type: none"> a. Public Hearing b. Board Discussion & Deliberation c. Board Decision 8. Adjourn
	<p>Please Note: Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Sue Kiener at 920-294-4156 the day before <i>the meeting no later than noon.</i></p>
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Board of Adjustment
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Office: (920) 294-4156 FAX: (920) 294-4198

Email: zoning@co.green-lake.wi.us

Date: September 18, 2020 Time: 9:00 AM

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

AGENDA

If you care to join via Zoom please follow these instructions:

Join Zoom Meeting click on link:

<https://zoom.us/j/5022456162?pwd=V2lvUTFFb2o3MWNqUFFDcFRtMIBJQT09>

Or Dial 1-301-715-8592 US

Meeting ID: 502 245 6162

Passcode: 345536

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

BOARD OF ADJUSTMENT
August 21, 2020

The meeting of the Green Lake County Board of Adjustment was called to order by Land Use Planning & Zoning Director Matt Kirkman on Friday, August 21, 2020 at 9:00 AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI. The requirements of the open meeting law were certified as being met. The pledge of allegiance was recited.

Present: Janice Hardesty
Ron Triemstra
Mike Lehner

Absent:

Other county employees present:

Matt Kirkman, P&Z Director
Aaron Ogle, P&Z employee
Sue Kiener, Secretary

MINUTES

Motion/second (Hardesty/Triemstra) to approve the minutes of July 17, 2020 with no additions or corrections. Motion carried.

ELECTION OF OFFICERS

Kirkman opened nomination for Chairman:

Motion/Second (Triemstra/Lehner) moved to nominate Janice Hardesty.

Motion/Second (Triemstra/Lehner) moved to close nominations.

All in favor, no objections.

Hardesty opened nominations for Vice Chair

Motion/Second (Lehner/Hardesty) moved to nominate Ron Triemstra.

Motion/Second (Triemstra/Lehner) moved to close nominations

All in favor, no objections.

RECESS FOR FIELD INSPECTION – 9:07AM

PUBLIC HEARING

Board of Adjustment reconvened at 10:34 AM for the Public Hearing.

Chair Hardesty read the guidelines for the Public Hearing.

Item I: Owners/Applicant: Edwin Troyer **Site Description:** W5080 County Road KK, parcel # 014-00516-0000, located in SW-SE, Sect. 36, T15N, R11E, ±40 acres, Town of Marquette **Request:** Variance to construct two buildings with 4 foot street yard setbacks whereas a 40 foot street yard setback is required.

Secretary Kiener read the request for variance. Troyer gave an explanation of request. No one spoke in opposition.

No one spoke in favor. Testimony closed: *Motion/Second (Lehner/Triemstra)* Motion for discussion:

Motion/Second (Lehner/Triemstra). Roll call vote: Lehner: nay, Triemstra: nay, Hardesty: nay. Variance denied.

Item II: Owners: Williams Living Trust **Applicant:** Jane Williams **Site Description:** N3062 N. Kearley Road, parcel # 006-01702-0000, located **NE-SE, Sect. 30, T15N, R13E** being Lot 5 of Block 2 of Eric’s Plat, Town of Green Lake **Request:** Variance to construct a tram and landing platform with a 7 foot 6 inch side yard setback whereas a 12 foot side yard setback is required.

Secretary Kiener read the request for variance. Williams gave an explanation of request. No one spoke in opposition. No one spoke in favor. Testimony closed: **Motion/Second (Triemstra/Lehner)** Motion for discussion: **Motion/Second (Triemstra/Lehner)**. Roll call vote: Lehner: yea, Triemstra: yea, Hardesty: yea. Variance approved.

ADJOURNMENT

Motion/Second (Lehner/Triemsta) to adjourn.

Chair Hardesty adjourned the Board of Adjustment meeting at 11:07 AM.

Submitted by,

Sue Kiener, Secretary

DRAFT

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, September 18, 2020, at 9:00 a.m.*** The meeting will adjourn for site inspection of the following item:

Item I: Owner: Jayne Plaganz, et al **Applicant:** Cathy Kohl **Site Description:** W1768 Sandstone Ave, parcel # 006-01026-0000, located in the NW, SE Sect. 32, T16N, R13E, ±1.35 acres, Town of Green Lake **Request:** Variance to divide parcel with a 90' width instead of the required 100' width.

The Board of Adjustment will reconvene at approximately **10:00 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 and to verify that the agenda item you may be interested in has not been withdrawn from the agenda.

Publish: September 3, 2020

NOTICE OF PUBLIC HEARING SUMMARY

The Green Lake County Board of Adjustment will hold a Public Hearing room #0902 of the Government Center, 571 County Road A, Green Lake, WI on *Friday, September 18, 2020, at 9:00 a.m.* The meeting will adjourn for site inspection of the following items:

Item I: Owner: Jayne Plaganz, et al **Request:** Variance to divide parcel with a 90' width instead of the required 100' width.

The Board of Adjustment will reconvene at approximately **10:00 a.m.** to consider the items listed above.

On *September 3, 2020* the full text of the Notice of Public Hearing was published in Berlin Journal Newspapers and is available for viewing at the Berlin Journal, at www.co.green-lake.wi.us, at www.wisconsinpublicnotice.org and in the public meeting notices board at the Green Lake County Court Government Center.

Publish: September 10, 2020

PUBLIC HEARING

ITEM I: VARIANCE

OWNERS/APPLICANTS: Jayne Plagenz, et al, Cathy Kohl, Agent

REQUEST: The owner/applicant is requesting a variance from Section 338-28 of the Shoreland Zoning Ordinance and Section 350-18 of the Zoning Ordinance to create two lots with an average lot width of ± 90 feet; whereas, all newly created lots are required to be an average width of 100 feet.

PARCEL NUMBER / LOCATION: Parcel #006-01026-0000 located in part of Government Lot 2, Section 32, T16N, R13E, in the Town of Green Lake. The property is located at W1768 Sandstone Ave.

EXISTING ZONING AND USES OF ADJACENT AREA: The subject site is currently zoned R-1, Single-family Residential District and surrounded by other R-1 zoned lots that are used residentially.

ADDITIONAL INFORMATION/ANALYSIS: The variance application describes the current nonconforming structure situation on the subject lot as there are three single-family dwellings occupying the lot. If the variance were to be granted the more westerly home on proposed lot 2 would become code-complaint. The two more easterly dwellings, currently located on proposed lot 1, would be replaced by a code-compliant single-family dwelling. One dwelling would be torn down and the other would be converted into a residential storage building (garage w/out overhead garage door).

The subject lot is currently ± 90 feet wide. The variance does not change this characteristic of the lot as adjacent lands are not being added or subtracted. Essentially, the subject lot is extra deep in dimension at ± 650 feet. This extra depth provides the owners with enough land area to create two code-complaint lots (to lot area) from one lot, so long as the requested variance is granted.

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, $\S 59.694(7)(c)2.$, with No Harm To Public Interest already codified and now renumbered to $\S 59.694(7)(c)3.$)

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 the sole 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 / 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**

- ❑ The owners have identified a need to improve some of the buildings on their property. However, shoreland zoning ordinance standards severely limit their options. Essentially, the owners would have to maintain the existing dwellings' footprints. One dwelling's footprint is ±416 sqft and the other is ±520 sqft. Maintaining a dwelling that is under the minimum dwelling design size of 800 sqft could be viewed as unreasonably burdensome.
- ❑ The hardship seems to be a need, want, or desire to upgrade their property, however zoning standards will not permit a non-code compliant lot to be created. It is the expectation of property owners to want to improve their properties, so this hardship is not self-created.
- ❑ The desire to create two 90 foot wide lots from one in order to construct a new single-family dwelling that is dimensionally code-compliant as well as functional as a residence is not a circumstance of the owner as any owner would have the same desire. The County should expect property owners to want to bring their property's into conformance. The alternative would be to remove all dwellings and construct a much larger single-family residence.
- ❑ The property as a whole is being considered.
- ❑ Economic or financial hardships have not been presented in this request. Solely economic/financial hardships are not to be considered grounds for variance approval.

2) Unique Property Limitations

- ❑ The property does not appear to possess any unique limitations. However, the lot is quite deep at ±650 feet but only ±90 feet in width, which is the limiting factor in subdividing the lot. The owners have had use of the property's three dwellings over the years.
- ❑ The lot does not have the same common lot width as neighboring parcels however it does share roughly the same lot length as the neighboring properties.
- ❑ There are no alternative lot designs that can meet the average lot width ordinance standard.

3) Harm to Public Interest

- ❑ The proposed subdivision of one ±90 foot wide lot into two ±90 foot lots should not cause harm to public interest as the new lots would not interfere directly with the lake any more than the current lot. In fact the variance would better control shoreland land uses by limiting each lot to a single residential land use as opposed to the current multiple residence situation. The proposed second residence would be at least 400 feet from the OHWM and the ordinance does not even regulate impervious surfaces at this distance.
- ❑ Every variance approval stands on its own merits. No precedent is set that would hamstring a future BOA from executing its duties; however, court cases have looked at the impact of variance decisions. The BOA should measure its decisions so as to not create short-term, long-term, or cumulative impacts that can be attributed to variances.
- ❑ Minimal relief is not a concern in this case as the owners only have access to 90 feet of lot width. So the variance is either granted or the current lot configuration and the multiple nonconforming dwelling situation would have to live on.

Variance Conditions (suggested by zoning staff):

1. *If the variance is approved, a certified survey map shall be prepared and approved in accordance with the County's Land Division and Subdivision Ordinance as well as Chapter 236, Wis. Stats. with the exception of allowing two 90 foot width lots minimum. The CSM shall be recorded in the Green Lake County Register of Deeds Office as well as submitted to the Green Lake County Surveyor's Office.*
2. *All dwellings located on proposed Lot 1 shall be either razed or converted to garage space.*

GREEN LAKE COUNTY VARIANCE APPLICATION

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

Date Received: 7-28-2020

Fee Received: #78752176
7-28-2020

Jayne Plagenz, et. al.

Owner Name

Cathy Kohl

Applicant Name

Jayne Plagenz 7-28-2020

Owner Signature Date

Cathy Kohl 7-28-2020

Applicant Signature Date

912 Berlin Rd.

Mailing Address

6765 Laredo St.

Mailing Address

Ripon WI 54971

City State Zip

Las Vegas, NV 89146

City State Zip

920-229-6403

Home Phone Work/Cell Phone
email: jplagenz@hotmail.com

661-810-76738

Home Phone Work/Cell Phone
email: smoothwater@sbcglobal.net

Site Address W1768 Sandstone Ave

Tax Parcel ID # 0000 - 01020 - 0000

Lot NW 1/4, Block SE 1/4, Section 32, T 16 N, R 13 E
Subdivision/Plat meds+
Lot bounds description CSM # bounds description Town of Green Lake

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:

See attachment A.

2. Explain the hardship imposed by the Ordinance:

See attachment A.

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

See attachment A.

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

See attachment A.

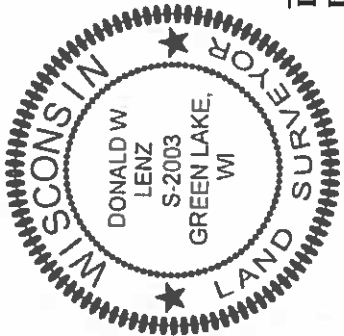
5. ~~Explain why the property can not be utilized without a variance:~~

Attachment A**Plagenz Variance****September 18, 2020**

1. We would like to divide our parcel into two lots. The existing parcel is about 650 feet deep and 90 feet wide. The parcel area is ±58,806 sqft. The County's Zoning and Shoreland Zoning ordinances require any newly created lot be at least 100 feet in width and 20,000 sqft in area. Our proposed lot configuration can meet the area requirement, but due to parcel's 90 foot width cannot meet the required 100 foot average width requirement.
2. The ordinance requires all newly created lots to be at least 100feet in average width. Subdividing our lot due to this ordinance standard is not possible. If we leave the parcel as is, per county ordinances, we would not be able to improve the existing dwellings. So we are left to maintain our current use of the property which consists of three dwelling on a single parcel of land.
3. Our parcel is 90 feet wide, which is nonconforming to the average lot width requirement. However, we are only 10 feet in lot width short of compliance.
4. Presently the property has 3 single-family dwellings on it. The ordinance only allows for one single-family residence per lot. This level of non-conformancy is contrary to the public interest. In the event that we'd be granted a variance, we would convert one of the dwellings into a storage building. Another dwelling would be removed and a new single family dwelling would be constructed. The eventual outcome would yield two new lots each with a code-compliant single family dwelling on each lot. So actually, the outcome of the variance would be in the public interest.

CONCEPT PLAN

CONCEPT PLAN JAYNE A. PLAGENZ ET AL LOCATED IN PART OF GOVERNMENT LOT 2 OF SECTION 32, TOWN 16 NORTH, RANGE 3 EAST, TOWN OF GREEN LAKE, GREEN LAKE COUNTY, WISCONSIN.



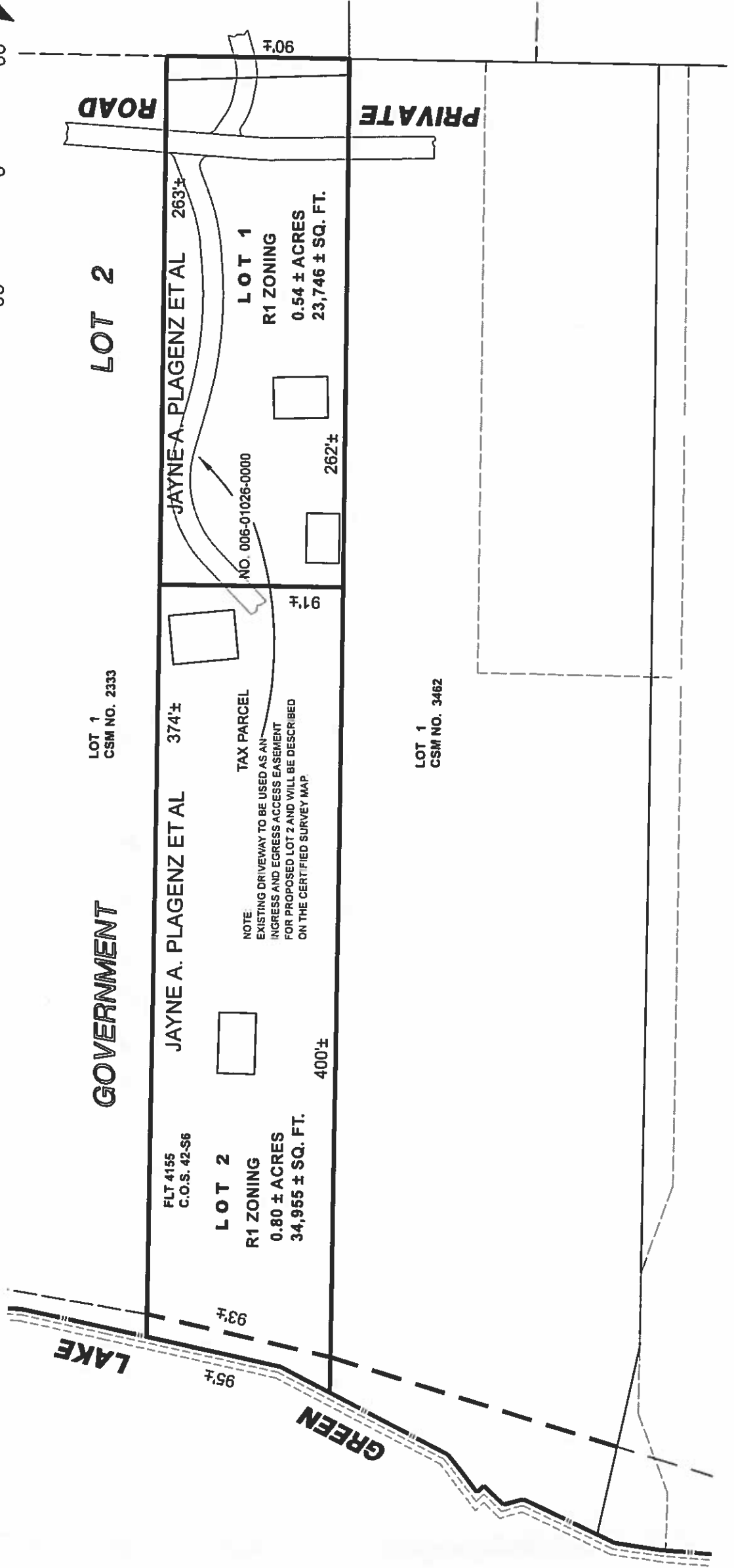
Donald W. Lenz

DONALD W. LENZ - PLS No. S-2003
Dated this 31st Day of July 2020

OWNER(S)
JAYNE A. PLAGENZ ET AL
912 BERLIN ROAD
RIPON, WISCONSIN 54971

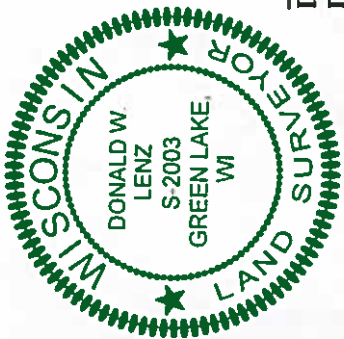


GREEN LAKE SURVEYING COMPANY
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Green Lake, Wisconsin 54941
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survey@greenlakesurveyingcompany.com
www.greenlakesurveyingcompany.com



CONCEPT PLAN

CONCEPT PLAN JAYNE A. PLAGENZ ET AL LOCATED IN PART OF GOVERNMENT LOT 2 OF SECTION 32, TOWN 16 NORTH, RANGE 3 EAST, TOWN OF GREEN LAKE, GREEN LAKE COUNTY, WISCONSIN.



Donald W. Lenz

DONALD W. LENZ - PLS No. S-2003
Dated this 31st Day of July 2020

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JAYNE A. PLAGENZ ET AL
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RIPON, WISCONSIN 54971



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