



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, January 21, 2022**. The business meeting begins at 9:00 a.m. The public hearing will not begin before 10:00 a.m.

Packet Pages:

- 2 Agenda
- 3-4 Draft Meeting Minutes from April 16, 2021
- 5 Approval of 2022 Meeting Calendar
- 6 Boat Wash Station Presentation
- 7 Public Hearing Notice
- 8-17 Public Hearing Items

Item I: Owner: Three Four Five LLC **Applicant:** Brian Urbanowski **Site location:** W6613 Marine Ct **General legal description:** Parcel 014-00377-0000 part of the NE¼ of S32, T15N, R11E, Town of Marquette **Request:** Variance from Section 350-38.E.(1) of the County Zoning Ordinance to construct a patio with a street yard setback of 12ft, whereas a 25ft street yard setback is required.

If you have questions or need additional information,
please contact the Land Use Planning & Zoning Department at (920) 294-4156.



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

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

Email: zoning@greenlakecountywi.gov

Board of Adjustment Meeting Notice

Date: January 21, 2022 Time: 9:00 AM

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

AGENDA *Amended Agenda 1/3/22

***Board of
Adjustment
Members:***

Janice Hardesty
Board Chair

Ron Triemstra
Board Vice Chair

Ed Roepsch
Member

Rick Dornfeld
Alternate

Brian
Zimmerman
Alternate

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Approve 04/16/2021 minutes
6. *Approve 2022 Meeting Calendar**
7. Boat Wash Station Presentation
8. Recess for field inspection
9. Public Hearing (Not begin before 10:00 AM)

Item I: Owner: Three Four Five LLC **Applicant:** Brian Urbanowski **Site location:** W6613 Marine Ct **General legal description:** Parcel 014-00377-0000 part of the NE¼ of S32, T15N, R11E, Town of Marquette **Request:** Variance from Section 350-38.E.(1) of the County Zoning Ordinance to construct a patio with a street yard setback of 12ft, whereas a 25ft street yard setback is required.

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

10. Adjourn

Due to the COVID-19 pandemic, this meeting will be conducted and available through in person attendance (6 ft. social distancing and face masks required) or audio/visual communication. Remote access can be obtained through the following link:

Topic: Board of Adjustment Meeting
Time: Jan 21, 2022 09:00 AM Central Time (US and Canada)

<https://us06web.zoom.us/j/5022456162?pwd=V2lvUTFFb2o3MWNqUFFDcFRtMIBJQT09>

Meeting ID: 502 245 6162 Passcode: 345536

Dial by your location

- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)
- +1 929 436 2866 US (New York)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 900 6833 US (San Jose)

Find your local number: <https://us06web.zoom.us/j/kcAq4olnFU>

BOARD OF ADJUSTMENT

April 16, 2021

The meeting of the Green Lake County Board of Adjustment was called to order by Chair Janice Hardesty on Friday, April 16, 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

Absent: Ed Roepsch
Brian Zimmermann (Alternate)
Rick Dornfeld (Alternate)

Other County employees present:

Liz Otto, County Clerk
Aaron Ogle, P&Z Land Use Specialist

Matt Kirkman, P&Z Director
Samantha Stobbe, Deputy County Clerk

MINUTES

No approval of minutes due to only one member present at that meeting.

ADJOURN FOR FIELD INSPECTION

Chair Hardesty called for recess for field inspection at 9:04 AM.

PUBLIC HEARING – 10:00 AM

Board of Adjustment reconvened at 10:00 AM for the Public Hearing

- **Owner: Matt Boelter Farms, LLC**
- **Applicant: Chad Boelter**
- **Site Description: W2470 County Road AW, parcel #010-00613-0000**
- **Request: Variance to locate a building addition 23 ft. from the highway right-of-way, whereas a 40 ft. highway setback is required.**

Chair Hardesty read the rules for the Public Hearing. P&Z Director Matt Kirkman read the request for a variance to locate a building addition 23 feet from the highway where a 40-foot variance is required. No public speakers. Matt Kirkman outlined the staff report regarding the upgrade to the property. Ron Triemstra spoke about a possible condition of the variance in regards to vehicle parking. Kirkman stated that a condition was not needed. Chad Boelter spoke about the reason for the 23 foot variance. Matt Boelter spoke about the regulations by the State and their processors. Closed the public hearing and the board deliberated.

Motion/second (Triemstra/Hardesty) to approve the request for a variance. Roll call vote – Triemstra – ay, Hardesty – ay. Motion passed, variance granted.

ADJOURNMENT

Chair Hardesty adjourned the Board of Adjustment meeting at 10:35 AM.

Submitted by,

Samantha Stobbe
Deputy County Clerk

DRAFT

Board of Adjustment 2022

Meeting Dates:

January 21
February 18
March 18
April 15
May 20
June 17
July 15
August 19
September 16
October 21
November 18
December 16

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Board of Adjustment Meeting Notice

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- +1 346 248 7799 US (Houston)
- +1 669 900 6833 US (San Jose)

Find your local number: <https://us06web.zoom.us/j/kcAq4olnFU>

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 21, 2022, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

Item I: Owner: Three Four Five LLC **Applicant:** Brian Urbanowski **Site location:** W6613 Marine Ct **General legal description:** Parcel 014-00377-0000 part of the NE¼ of S32, T15N, R11E, Town of Marquette **Request:** Variance from Section 350-38.E.(1) of the County Zoning Ordinance to construct a patio with a street yard setback of 12ft, whereas a 25ft street yard setback is required.

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 attend. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute*. For further detailed information concerning this notice and for information related to the outcome of public hearing items, contact the Green Lake County **Land Use Planning and Zoning Department** at (920) 294-4156.

Publish: January 6, 2022

BOARD OF ADJUSTMENT

Public Hearing

January 21, 2022

Item I: Variance

Owners:

Brian Urbanowski

Applicant:

Brian Urbanowski

Request: The owner/applicant is requesting a variance to locate a 15ft x 20ft patio partially inside the 25ft street yard setback.

Parcel Number/ Location: The request affects parcel 014-00377-0000 (±0.87 acres) located in the SW¼ of the NE¼ of Section 32, T15N, R11E, Town of Marquette. The site address is W6613 Marine Ct.

Existing Zoning and Uses of Adjacent Area: The subject site is currently zoned as R-1, Single-Family Residence District. Neighboring properties are all zoned R-1 as well.

Floodplain and Shoreland zoning apply to the subject site.

Additional Information/ Analysis: The subject site is a riparian lot that is on the Marine Ct. hook which allows access to Lake Puckaway. Since the site is a riparian property, it has a 75ft shoreland setback and a 25ft street yard setback. The site has a shoreline setback on the south and west sides which imposes a 75ft setback. A cul-de-sac on the north side provides the 25ft street yard setback. Between those two setbacks, there is approximately 12ft to build at its most restrictive area. The area being proposed for a patio appears to be a little more than 50% inside the street yard setback but stays outside of the shoreland setback.

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
 - ☐ 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 hardship derived from the property owner's want, need, or desire to construct a residential accessory structure (patio), on private property is self-created as patios are not integral to the residential use of the property. A patio, like a swimming pool, merely complements the residential use.
- The need for a patio is linked to the owner and thus is a circumstance of the applicant. The property has been used residentially for quite a long time without a patio in the proposed location.
- The owner has identified that the building setbacks limit virtually any development. Without removing parts of the home or the existing vegetation (arbor vitae screen) there is no viable location to install a patio/fireplace feature without relief from a setback.
- Economic or financial hardships has not been presented.

2) Unique Property Limitations

- The owner has identified that the property has extensive water frontage which eliminates construction for over half the property. After including the side yard and street yard setbacks, the remaining space to build is limiting.
- All of the neighboring properties also have to contend with the shoreland setback and the recently reduced street yard setback. These setbacks are not unique to the applicant's property.
- The property has been developed prioritizing the dwelling space for the majority of the code-compliant buildable area. Alternative designs that would locate the patio in a code-complaint location have not been submitted.

3) Harm to Public Interest

- Relaxing a building setback that has been applied to so many other property owners in conflict with the hardship and uniqueness criteria would subvert the authority of the Shoreland Zoning Ordinance.
- Here again the stance that the BOA is required to assume must be based on all three statutory criteria. If any of the criteria cannot be met the variance has to be denied. The application lacks evidence of an unnecessary hardship or that there are unique property limitations that prevent ordinance compliance.

- As explained above, the variance request for a patio with outdoor fireplace suffers when examined alongside the required criteria. Minimal relief would make sense if there was an unnecessary hardship, but not being able to construct a patio with outdoor fireplace on a property is not an unnecessary hardship. Again, these are structures that can complement a residential use, but are not integral to residential uses.

VARIANCE CONDITIONS: In the event that the Board finds that the variance application meets the required criteria, the Land Use Planning & Zoning Staff suggests the following conditions:

- 1). The fireplace should not be part of the variance approval as it would be more than minimal relief to go along with the patio.
- 2.) The patio area must be permeable and meet the Land Use Planning and Zoning Departments criteria for an adequately treated impervious surface.

VARIANCE APPLICATION – GREEN LAKE COUNTY

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

Date Received: 11/12/2021

Fee Received: 375.⁰⁰

Three Four Five, LLC/Mr. Brian Urbanowski

Same as Owner

Owner Name

Applicant Name

 11/8/21

Owner Signature _____ Date _____

Applicant Signature _____ Date _____

c/o Attorney Mitchell R. Olson
Axley Brynson, LLP
2 E. Mifflin St., #200

Mailing Address

Mailing Address

Madison WI 53703

City State Zip

City State Zip

(608) 283-6724

Home Phone Work/Cell Phone

Home Phone Work/Cell Phone

molson@axley.com

Email address

Email address

Site Address W6613 Marine Ct., Town of Marquette

Tax Parcel ID # 014 - 00377 - 0000

Lot _____ Block _____ Subdivision/Plat _____
SW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 32, T 15 N, R 11 E

Lot 2 + 3 CSM # 550 Town of Marquette

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.

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 attached.

2. Explain the hardship imposed by the Ordinance:

See attached.

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

See attached.

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

See attached.

Attachment to Variance Application

1. Explanation of Proposed Plans

Attached is a survey of the subject property showing the two lots, which were combined previously, and the residence on the property. This survey depicts all applicable setbacks. (TAB A)

Also attached is a mark-up of the GIS map showing the specific area in which applicant desires to construct a patio with stone fireplace/grill feature (the "improvement"). (TAB B)

The improvement will encroach only on the building setback from the road. The approximate area of the improvement is 350 square feet. This requires relief from the zoning ordinance's road setback requirement, by an approximate distance of ~~25~~ ^{8 ft} feet. ~~All or almost all~~ ^{A little over half} of the 350 square feet total area will be in the ~~25~~ ^{8 ft}-foot road setback area. ~~AO~~ ^{AO}

2. Hardship Imposed by Ordinance

Strict compliance with the ordinance would effectively prevent virtually any development or structure on the Lot 2 of CSM 550. The buildable area is a narrow swath of land that limits virtually any development. No viable use of the property is allowed there absent a variance, especially for an improvement involving a fire-related feature – which should be set back as far as possible from the residence, which has wood siding.

When looking at the property as a whole, there is no other viable location to install a patio/fireplace feature without relief from a setback. Applicant acknowledges the importance of the shoreland zone, and is not seeking to invade that area, which would also increase visibility and impacts to neighbors. The specific area selected here is by far the least impactful to all concerned.

3. Unique Property Features that Create Hardship

The property has extensive water frontage which eliminates construction of any structure in well over half the entire property. When you add the side yard and road setbacks, the space to build is very small. In particular, on what was Lot 2 of CSM 550, the buildable area is a narrow swath of land that limits virtually any development.

Because we are dealing with a fireplace/grill feature, this must be set back from the residence to the west. It therefore, from a safety perspective, leaves only the proposed variance area as a viable and safe site for this improvement.

The unique shape of this legal parcel, in combination with the drastic shoreland setbacks, creates this unique hardship.

4. Proposed Variance Will Not Harm Public Interest

The proposed feature will have no negative impact to the public interest:

- The feature will not be visible to neighbors. It is located in the rear yard. The area in questions is bordered on three sides by a stand of arbor vitae, and the home on the fourth side, such that complete screening is provided. Applicant would stipulate that such screening shall be preserved.
- Ample road right of way exists in this location. It appears unlikely, given the small number of lots served by this dead-end cul de sac, that any future road improvements will be made that would impact this property. Given the existing home to the immediate west, there is no way the road could be widened or improved to invade the variance area at issue here.
- There is an existing boulder wall at the edge of the road right of way just north of the variance area. That wall, plus the arbor vitae wall, plus the stand of trees in the right-of-way between the home and road surface, plus the slow speed at which vehicles can/do travel on this circle/dead end, prevent any opportunity for a vehicle to enter the subject property and collide with the improvements. There is no risk to motorists.
- There is no impact to the provision of emergency services. The exact same road layout and access will exist if this variance is granted.
- There is no known neighbor opposition to this application. Efforts have been made to speak to all neighbors in proximity prior to this application.



The purple box is the Patio Site.

The north setback to road ROW is approximately 17', for which a variance is needed.



GIS Viewer Map
Green Lake County, WI

Time: 11:49:05 AM
Date: 11/8/2021

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DESCRIPTION OF LANDS BEING LOT 2 AND Lot 3 OF CERTIFIED SURVEY MAP NO. 550 LOCATED IN PART OF GOVERNMENT LOT 2 OF SECTION 32, TOWNSHIP 15 NORTH, RANGE 11 EAST, TOWN OF MARQUETTE, 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 Mitchell R. Olson as attorney representing Three Four Five L.L.C., as owner thereof, surveyed lands lying Lot 2 and Lot 3 of Certified Survey Map No. 550, as recorded in the Office of the Register of Deeds for Green Lake County, Wisconsin on July 28, 1972, in Volume 2 on Page 550 of Certified Survey Maps and located in part of Government Lot 2 of Section 32, Township 15 North, Range 11 East, Town of Marquette, Green Lake County, Wisconsin. Containing 0.364 acres (15,798.96 sq. feet) for Lot 2. Containing 0.484 acres (21,126.4 sq. feet) for Lot 3 more or less. Including all those lands lying between the above described meander line and the side lot lines, extended to the ordinary high water mark to the shore of a Boat Chockaway. Also subject to all other easements and restrictions of record.

I further certify that the above Survey 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 therefrom, 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.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	DEGREE OF CURVE	TANGENT BEARING	TANGENT BEARING-OUT
C1	69.07	91.46	68.30	8.2°14.4' E	50°16.0"	5.5100.45 E	N 68°38.1' E	
C2	68.07	98.48	8.8°24.7' S	50°46.1"	38°22.0' E	5.07°19.3' E	S 69°44.1' E	
C3	68.07	98.48	8.8°24.7' S	50°46.1"	38°22.0' E	68°48.47		

GREEN LAKE SURVEYING COMPANY
Green Lake, Wisconsin

Donald W. Lenz
Donald W. Lenz, P.L.S. No. S-2003
Dated this 29th day of August, 2020.

OWNER(S)
THREE FOUR FIVE, LLC

PROPERTY ADDRESS
6613 MARINE COURT
MARKESAN, WISCONSIN 53946

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



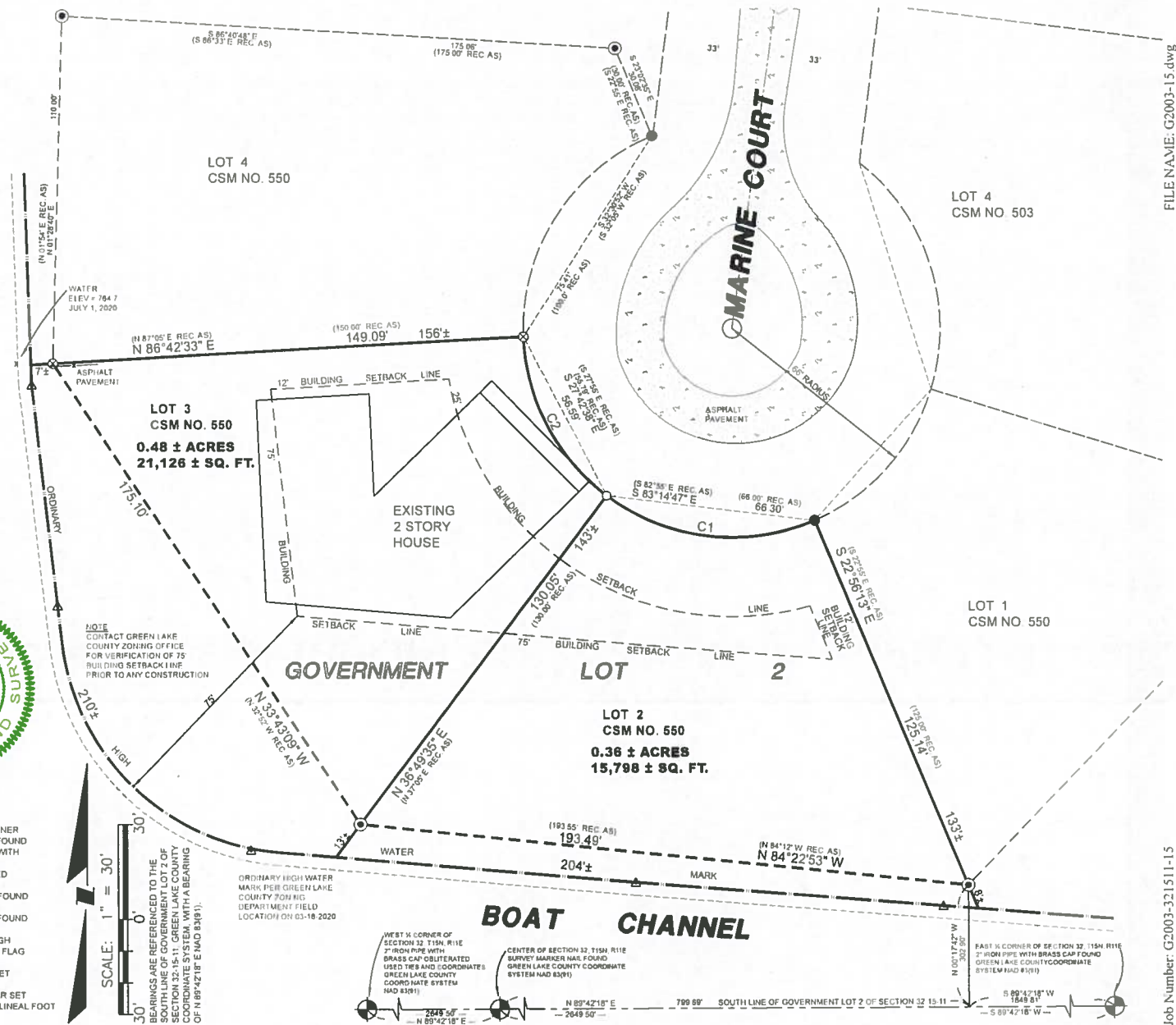
SECTION CORNER
MONUMENT FOUND
2" IRON PIPE WITH
BRASS CAP
UNLESS NOTED

2" IRON PIPE FOUND

1" IRON PIPE FOUND

ORDINARY HIGH
WATER MARK FLAG

⑤ 1/4" X 18" REBAR SET
1.50 LBS PER LINEAL FOOT



Job Number: G2003-321511-15

FILE NAME: G2003-15.dwg