

## SZAC Meeting #4 Miscellaneous NR 115/Zoning Summary Sheet – Decisions

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### NR115 Related

#### **1. *Shore Setback***

#### **NR 115.05(1)(b)1: Shore Setback**

The nearest point of all buildings and structures shall be set back 75 ft. from the OHWM of a navigable waterway, unless averaging applies. The following exceptions apply:

- Boathouses located entirely above the OHWM and within the access and viewing corridor, no plumbing or human habitation may be provided.
- Open sided and screened structures that comply with 59.692(1v), Stats.
- Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diam. and satellite earth station antennas that are 2 meters or less in diameter.
- Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, septic systems, and other utility structures that have no feasible alternative location and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
- Walkways, stairways, or rail systems necessary to provide pedestrian access to the shoreline and are a maximum of 5 ft. in width.

### **Proposed Ordinance Amendments**

Allow for a 5 ft. wide walkway rather than 4 ft. wide in order to comply with NR 115.

## 2. *Shore Setback Averaging (See attached exhibit)*

### **NR 115.05(1)(b)1: Shore Setback Averaging**

Where an “Existing Development Pattern” exists, the 75 ft. shore setback for principal structures may be reduced to the average shoreland setback of the principal structure on each adjacent lot, but the setback shall not be reduced to less than 35 ft.

Per NR 115, an Existing Development Pattern means that principal structures exist within 250 ft. of a proposed principal structure in both directions along the shoreline.

### **ACT 167 (Enacted 2/29/16) Modified Setback Averaging as follows:**

#### *Within 75 ft. of the OHWM (principal structures only)*

- *Substandard residences exist on both sides*

The setback may be reduced to the average setback of the closest adjacent principal structure in each direction on an adjacent lot and within 250 ft. of the proposed structure. Both adjacent structures must be less than 75 ft. from the OHWM. **The setback shall not be reduced to less than 35 ft. Or,**

- *Substandard residence exists on one side, one side vacant*

If a principal structure exists on an adjacent lot and within 250 ft. of a proposed structure in only one direction; is the closest principal structure; and is setback less than 75 ft. from the OHWM, the shore setback shall be equal to the average of 75 ft. and the distance that the adjacent structure is set back from the OHWM, **but no less than 35 ft.**

#### *Beyond 75 ft. of the OHWM (Delafield Shoreland Overlay District Only) (principal structures only)*

If the closest principal structure in each direction to a proposed structure exists on an adjacent lot and within 200 ft. of the proposed structure, both of the existing principal structures are set back more than 75 ft. from the OHWM (based on required setback at time of construction), the setback shall be equal to the average of the setbacks required for those structures.

This provision does not apply if the resulting setback limits the placement of the proposed principal structure to an area on which the structure cannot be built.

### **Proposed Ordinance Amendments**

Modify ordinance to comply with above language of ACT 167. The existing provision that provides the Zoning Administrator the ability to administratively approve a 30 ft. deep building envelope between the road and shore must be modified to provide road, floodplain, and wetland setback relief only. Shore setback relief cannot be provided administratively.

## 3. *Wetland and Floodplain Setback and Averaging*

### **Existing Ordinance Language**

All structures are required to be 75 ft. from a wetland/floodplain unless:

- Setback averaging is available, or
- If the existing natural ground elevation adjacent to the lowest level of a principal building, including an exposed basement, is at least 3 ft. above the regional flood elevation or the high water mark of the wetland area, the setback is reduced to 50 ft.

**Proposed Ordinance Amendments**

- Amend wetland/floodplain setback averaging provisions to be consistent with shore setback averaging per NR115 and recent law changes (see above details).
- Modify floodplain setback. If the existing natural ground elevation adjacent to the lowest level of a building or structure (principal and accessory), including an exposed basement, is at least 3 ft. above the regional flood elevation, the floodplain setback may be reduced to 35 ft. (currently 50').
- Remove the existing 50' setback relief provision relative to wetlands when a 3' vertical separation is met (flexibility is instead proposed to allow minor expansions to nonconforming structures that are substandard to wetland setback).

**4. *Boathouses*****NR 115.05(1)(b)1m: Boathouse Requirements**

*\*Based on ACT 55, counties shall not be more restrictive than the below provisions.*

Boathouses are exempt from the shore setback requirements provided the following conditions are met:

- The boathouse must be located above the OHWM.
- The boathouse must be located entirely within the access and viewing corridor.
- The boathouse shall not contain plumbing or be used for human habitation.
- A county shall not allow a structure that exceeds 35 ft. in height within 75 ft. of the OHWM.

**Existing Ordinance Language (black ink)/Proposed Ordinance Language (new language in red ink and removed language shown with strikethrough)**

***Lots eligible for boathouses***

- Dwelling must be present and limited to 1 boathouse per lot.
- ~~Not allowed on lots less than 15,000 sq. ft. in area or less than 100 ft. in width.~~

***Location standards***

- 5 ft. OHWM setback and within ~~50 ft.~~ **35 ft.** of OHWM
- Must be located outside of the wetland and floodplain.
- Must comply with offsets.
- **Must be located entirely within the access and viewing corridor.**

***Size requirements***

- Minimum size = 200 sq. ft.
- **Maximum size = 450 sq. ft. Overhangs shall not exceed 2 ft. in width.** ~~Within DSO, max. size = 600 sq. ft.~~
- **The boathouse shall not exceed 15 ft. in width, measured parallel to the shore.** ~~Within DSO, max. width is 20'.~~
- Limited to 1-story **with a side wall height not to exceed 10 ft. and a pitch not to exceed 8:12 rise to run (equivalent to max. 15 overall height), unless more than 50% of the slope within the location of the proposed boathouse is 2:1 or steeper, in which case, the side wall height shall not exceed 15 ft. provided the roof contains no pitch.** ~~and the height shall not exceed 15 ft.~~

***Use and structure requirements***

- Storage of marine and accessory items only. Human habitation prohibited.
- ~~Limited plumbing allowed, toilet or shower.~~ **No plumbing allowed.**
- Must have a garage type door facing the lake.
- Flat roofed boathouses may be used for recreation and ~~canopies~~, railings, and access stairs are considered ordinary appurtenances.

**Existing Boathouse Regulations - Southeast Region**

<b>County</b>	<b>Max. size (sq. ft.)</b>	<b>Max. height (ft.)</b>
Kenosha	576	12, except on steep slopes
Ozaukee	400	10
Racine	250	15
Rock	480 (max. width = 16', max, length = 30')	13
Walworth	400	14
Washington	500	none
<b>Average</b>	<b>434</b>	<b>12.8</b>

**5. Minimum Lot Sizes and Width**

The DNR believes that ACT 55 prohibits the regulation of minimum lot sizes and widths in a shoreland ordinance in a more restrictive manner than NR 115.

**NR115.05(1)(a): Minimum Lot Sizes**

Sewered lots: 10,000 sq. ft. and 65 ft. in average width  
 Unsewered lots: 20,000 sq. ft. and 100 ft. in average width

**Proposed Ordinance Amendments**

In order to comply with comprehensive planning law and the Comprehensive Development Plan for Waukesha County as well as uphold district and use regulations in the shoreland ordinance, Staff proposes that the minimum lot size requirements of the existing Shoreland ordinance become part of the Subdivision Control Ordinance in accordance with Ch. 236 WI Statutes and be cross-referenced in the Shoreland Ordinance. No changes to district lot area or width requirements are proposed.

**6. Substandard Lots**

**NR 115 115.05(1)(a)3: Substandard Lots**

A legally created lot or parcel that met minimum area and minimum average width requirements of NR115 when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

- (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.

**DNR Model Ordinance Notes**

- Substandard lots that have been reconfigured by a certified survey map or consolidated into one legal description with the register of deeds, which result in a larger (closer to conforming) lot should be allowed to be utilized as a building site.
- Lots that have a legal description for each substandard lot of record with ROD, but have a single tax key number for taxing/assessing purposes, should be considered separate building sites and should not be considered consolidated.

**Proposed Ordinance Amendments**

The existing Shoreland ordinance does not allow for the sale of adjacent substandard lots of record if owned by the same party. Waukesha Co. has not enforced this provision for many years as a result of a court decision. Staff proposes to delete this provision as it also conflicts with NR 115. The substandard lot provisions of NR 115 will be incorporated.

**Site Examples**



## 7. *Planned Unit Developments (PUD)*

### **NR115.05(1)(a)(4): Planned Unit Developments**

If a PUD is proposed with lots substandard to NR115 area and width requirements, the PUD must comply with certain requirements:

- PUD must be a minimum of 2 acres in area or have a minimum of 200' of shore frontage.
- Larger shore buffers and setbacks for riparian lots must be provided to offset impacts of denser development pattern (smaller lot size and lot width) for non-riparian lots.

### **Proposed Ordinance Amendments**

Amend Section 4(g)(22)(A) to include the above standards. Also, delete open space and floor area ratio from the list of ordinance requirements that can be flexed via PUD and add building footprint and accessory building footprint to the same list.

## 8. *Vegetative Cutting*

### **NR115.05(1)(c): Vegetation**

To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, a county shall establish standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

The ordinance shall designate land that extends from the OHWM to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

- (1) The county may allow routine maintenance of vegetation.
- (2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b) or ACT 55, the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage (or 35% of shoreline frontage). The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
- (3) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with "generally accepted forestry management practices" as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with these practices.
- (4) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
- (5) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

### Existing Ordinance Language

- The County's existing language is fairly consistent with NR 115 and ACT 55, except that the existing ordinance limits the access and viewing corridor to 30% and to a single corridor.
- There is no reference to compliance with forestry management practices on 10 acres or more, as specified in NR 115.
- There is a provision specific to vegetative cutting within the C-1 District on 5 or more acres.
- There are specific provisions related to E-C District (PEC, SEC, INRA) cutting.

### Proposed Ordinance Amendments

- Ensure consistency with NR 115 requirements 1 through 5 as listed above.
- Amend E-C District requirements to clearly specify that shore cutting is permissible to provide for boathouses, walkways, and view corridors between the lake and house.
- Remove provision related to cutting within the C-1 District on 5 or more acres.
- Add specific permit and plan requirements.
  - Require that any tree replacement be located within 35 ft. of OHWM at a 1:1 ratio, minimum size of 2" diameter at breast height (dbh), which is measured 4.5 ft. above ground, if tree removed was healthy or 1" dbh if tree removed was dead, diseased, dying, invasive, or causes safety hazard.
  - Require that shrub and groundcover removal outside of the access and viewing corridor, including invasive species removal, be replaced with native shrub and groundcover densities specified in the Wisconsin Biology Technical Note 1: Shoreland Habitat.
  - Allow the Zoning Administrator the authority to establish a project deadline based on the individual request and site limitations.
  - Require a Shoreland Cutting Plan with established access/view corridor, Financial Guarantee, and Recorded Mitigation/Restoration Plan when 3 or more trees or 300 sq. ft. of groundcover or shrubbery are proposed to be removed or when any native tree or shrubbery is proposed to be removed without replacement in-kind with native species.
  - Limit a property to one (1) access and viewing corridor unless the Zoning Administrator determines that two (2) access and viewing corridors are reasonable due to site conditions such as slope, existing improvements, lake access limitations, or shape of the property.
  - Adopt Staff's proposed priority tree species standards within 300 ft. of the OHWM of a waterway, which includes:
    - The preservation of healthy native trees 12" dbh or greater (specific species listed) that do not cause a safety hazard and are located outside of the access and viewing corridor,
    - Trees may be cut to accommodate permissible structures, driveways, utilities, septic systems and related grading (within 30 ft. of improvements). Flexibility may be provided to accommodate reasonable grading rather than the construction of walls. Trees removed must be replaced.
    - The provisions do not apply to areas zoned E-C District as unique provisions exist in these areas.
    - Additional consideration of specific ordinance provisions and species to be protected will be given by staff.

### **9. NR115.04: Shoreland-Wetland**

NR 115 requires counties to adopt wetland inventory maps and zone wetlands to protective districts, subject to permitted and prohibited uses.

**Proposed Ordinance Amendments**

Required amendments will be inconsequential. For instance, the County currently allows the harvesting of wild crops in wetlands. The code will need to state that there shall be no associated filling, flooding, drainage, dredging, ditching, tiling, or excavating. We currently regulate in this manner.

Staff may consider separating wetland permitted uses from floodplain permitted uses.

**10. *NR115.05(4): Administrative Duties***

NR 115 requires counties to issue and maintain records of permits, provide various boards and committees, and meet requirements for public hearings and ordinance amendments.

**Proposed Ordinance Amendments**

Required amendments will be inconsequential. For instance, a provision will need to be added stating that the zoning agency shall keep minutes of its proceedings and keep records of its examinations and other actions, all of which shall be public record. We currently comply with this standard.

**Miscellaneous Zoning Matters****11. *Definition of Lot and Lot Area*****Existing Ordinance Language (black ink) / Proposed Ordinance Language (new language in red ink and removed language shown with strikethrough)**

Lot: A parcel of contiguous land with described boundaries and abutting or having access via an approved easement to a public street or other approved way, and exclusive of any land lying in public rights-of-way, mil tax roads, ~~or below the ordinary high water mark of navigable waters, public streams or other public water body.~~ **or below the ordinary high water mark of navigable waters.** Where ~~such streams or~~ public rights-of-way divide a single described parcel into two (2) or more parts, such severed portions shall be considered separate individual lots if such separate parcels individually meet the use regulations, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet those requirements and have been described as a single parcel of record, together such severed portions shall be considered to be a single lot for regulatory purposes under the provisions of this Ordinance, and such severed areas **shall not be sold separately. See Section 3(j) Area Regulations of this ordinance to determine how area regulations are applied to a lot.** ~~constitute a single lot for computation of area regulations and other locational provisions of this Ordinance.~~

Lot area: The area of a lot as defined herein bounded by lot lines exclusive of land provided for public rights-of-way, mil tax roads, **and lands below the ordinary high water mark of navigable waters.** ~~public streams or other public bodies of water.~~

*Within the area regulations of the code, add the following language:*

- If a single legal lot of record (prior to the ordinance) is severed by a public or private right-of-way, the acreage on both sides of the right-of-way may be used for purposes of calculating minimum lot area, maximum accessory building footprint, maximum building footprint, and allowable impervious surface.
- If multiple legal lots of record are owned by the same owner and the lots are separated by a public or private right-of-way, said lots shall not be considered a single lot for regulatory purposes.
  - The acreage on one side of the right-of-way shall not be used to benefit the lot on the other side of the right-of-way for purposes of calculating minimum lot area, maximum accessory building footprint, maximum building footprint, and allowable impervious surface.

- Where lots on the same public or private right-of-way are directly opposite one another for at least one half of the road frontage of one of the lots and are in the same ownership, an accessory structure may be constructed without the benefit of a principal structure being located on the same lot provided a principal structure exists on the other side of the road right-of-way. A CSM shall be prepared and approved restricting the lots from being sold separately unless the accessory structure is removed.

**Site Example:**



**12. Accessory Building Floor Area/Footprint**

**Existing Ordinance Language**

The total accessory building floor area ratio shall not exceed 3% of the total area of a lot.

**Proposed Ordinance Language**

The footprint of all accessory buildings shall not exceed the limits specified in the following table:

Accessory Building Footprint

Lot Area	Max. Footprint
<14,000 sq. ft.	600 sq. ft.
14,000 sq. ft. or greater	750 sq. ft. or 2% of lot area, whichever is greater

\*Exceptions available for farm consolidation parcels in farmland preservation areas.

Examples of allowable max. footprint with 2% footprint (applies on lots >37,500 sq. ft.)

Lot Area	Max. Footprint
1 acre	871 sq. ft.
2 acres	1,742 sq. ft.
3 acres	2,613 sq. ft.
5 acres	4,356 sq. ft.

- The proposed regulations would be less restrictive for smaller lots and slightly more restrictive on larger lots. The more restrictive provision is similar to Town ordinances:
  - Vernon 1.5% max. for lots between 2-3 acres.
  - Genesee 2% max. for larger acreage lots.

### ***13. Accessory Building Height***

#### **Existing Ordinance Language**

- Accessory structures height is limited based on zoning district: Residential Districts = 18 ft., Agricultural Districts = 15 ft., Farm buildings = 60 ft.

#### **Proposed Ordinance Language**

- DNR believes that maximum building height cannot be set below 35' for structures within 75 ft. of the OHWM.
- DNR has suggested that counties have the ability to regulate side wall height and roof pitch. In order to protect views from neighboring properties and protect the natural scenic beauty from the shore, we recommend the following:
  - Within 75 ft. of the OHWM, accessory buildings, including boathouses, be limited to 1-story with a maximum width of 15 ft., a side wall height not to exceed 10 ft. and a pitch not to exceed 8:12 rise to run. The side wall height can increase to 15 ft. provided 50% or more of the slope is 2:1 or steeper and there is no roof pitch.
  - 75 ft. and beyond the OHWM, the existing ordinance height limitations remain in effect, except that 18' will be used across all districts. The 1' increase provision will be deleted from the residential districts (includes E-C).

### ***14. Minimum Floor Area***

#### **Existing Ordinance Language**

- Minimum floor area (1<sup>st</sup> floor & overall dwelling size) requirements currently vary based upon zoning district.
- Minimum floor area standards for multi-family dwelling units:
  - 900 sq. ft. for 1 bedroom units,
  - 1,000 sq. ft. for 2 bedroom units, and
  - 1,100 sq. ft. for 3 bedroom units

#### **Proposed Ordinance Amendments**

- Staff recommends that the minimum floor area provisions of all districts be modified to match the R-3 District requirement (*basements and attached or detached garages do not count*):

*1<sup>st</sup> floor area = 850 sq. ft.*

*Total floor area = 1,100 sq. ft.*

- Staff recommends that minimum floor area standards for multi-family dwelling units be modified to:
  - 850 sq. ft. per unit (1,700 sq. ft. total) for 2-family buildings (*basements and attached or detached garages do not count*),

- If a building contains more than two residential units, the following applies:
  - 600 sq. ft. for 1 bedroom units,
  - 700 sq. ft. for 2 bedroom units,
  - 800 sq. ft. for 3 bedroom units, and
  - An additional 100 sq. ft. for each additional bedroom.

**15. Minimum Building Footprint**

Staff recommends that the Zoning Administrator be provided with the ability to administratively approve a building footprint not to exceed 1,100 sq. ft. when offsets and setbacks cannot otherwise provide a 1,100 sq. ft. building footprint. The Zoning Administrator is limited to providing road setback and floodplain and wetland setback relief only. The footprint shall not extend into the established road right-of-way or within the floodplain or wetland.

**16. Offset**

**Existing Ordinance Language**

*Offset* is defined as the horizontal distance measured from the side or rear lot line, not along a street, to any roofed or enclosed portion of a building, and not including a roof overhang of twenty-four (24”) inches or less.

Offsets are established per Zoning District. Offset relief is provided for substandard lots per Section 3(h)2 and a 30% reduction is available for lots served by sewer.

***Offset Reduction for principal buildings*** (Section 3(h)2) for lots nonconforming to width:

Actual lot width / Required minimum lot width x Required offset = Reduced offset  
(no less than 10 ft. or 7 ft. if sewer)

***Example Site:***

*64 ft. actual lot width / 120 ft. required lot width x 20 ft. required offset = 10.67 ft. actual required offset*

***Offset Reduction for accessory buildings*** (Section 3(h)2) on lots nonconforming to width:

Actual lot width / 120 x Required offset = Reduced offset (no less than 5 ft.)

- If an accessory building is 200 sq. ft. or less, offset is 5 ft.

**Proposed Ordinance Amendments**

*Offset Definition:* Add the term “structures” to the definition. The existing definition erroneously only refers to buildings.

*Offset Reduction:* Replace the existing offset reduction formula with the following provisions in the R-3 Residential District:

R-3 Residential District (applies to principal and accessory structures)

20 ft. = unsewered  
14 ft. = sewer

If the lot width is less than 120 ft. (unsewered) or 84 ft. (sewered), side offset shall be as specified in the following table:

<b>Lot Width (ft.)</b>	<b>Required Offset (ft.)</b>
35 ft. or less	5'
> 35 ft. - 50 ft.	7'
>50 ft. to < 84 ft.	10'
84 ft. to < 120 ft.	14'

\*If a lot is in any of the other residential, agricultural, commercial, or industrial districts, and the lot does not comply with the district lot width standards, the offset requirements of the R-3 Residential District apply, unless the district offset is less restrictive.

*Offset for Stairs/Decks/Patios:*

**Existing Ordinance Language**

Stairs shall meet the offset provisions unless they are an integral part of a deck/patio, in which case the setback for stairs, decks and patios is 60% of the distance between the required setback of a principal structure and lot line, but no closer than 5 ft.

**Proposed Ordinance Language**

Staff recommends that stairs or walkways of 5 ft. in width or less must be 5 ft. from the side lot lines. Decks/patios that are located directly adjacent to a principal structure and stairs and walkways greater than 5 ft. in width must be located 50% of the distance between the required setback of a principal structure and lot line, but no closer than 5 ft.

**17. *Definition of Lot Width***

**Existing Ordinance Language**

*Lot width, minimum average:* The average between the minimum and maximum distance as measured on a lot between the side lot lines, and perpendicular to the centerline of the lot. A lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot.

**Proposed Ordinance Language**

*Lot width, minimum average:* The average horizontal distance measured between side lot lines at the established base setback line and the rear lot line or OHWM of a navigable waterway. A newly created lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot. At the April 28<sup>th</sup> meeting, staff recommended that the Zoning Administrator have the authority to use reasonable judgement when determining the width of an irregular lot.

**18. *Road Setback***

**Existing Ordinance Language (black ink)/Proposed Ordinance Language (red ink & strikethrough)**

50' setback if unsewered or 35' setback if sewerred, as measured from the established right-of-way line of public roads.

Road setback averaging applies when an existing pattern of development exists closer to the road:

- If a building with a similar use is substandard to road setback and is located on an adjacent parcel, ~~or~~ and within 250' of a proposed building, and located on the same side of the road, the average of the required road setback and the setback of the adjacent building shall apply.
- If two buildings substandard to road setback with similar uses are located on adjacent parcels on each side ~~or~~ and within 250' of the proposed building, and located on the same

**side of the road**, the average road setback of the two buildings on the adjacent parcels shall apply.

- If an addition is proposed to an existing building, the existing building may be used to average the setback.

### **Additional Proposed Ordinance Language**

- To reduce overall impervious surface and runoff and relieve property owners of unnecessary expense, amend road setback requirements for subdivisions platted after October 1, 2016 to 35' on local roads only. This will set a new standard for new subdivisions while still ensuring setback consistency in pre-existing subdivisions.
- Amend the existing 35 ft. road setback for sewerred lots so that it applies to local roads only.

## **19. Human Habitation**

### **Existing Ordinance Language**

*Human habitation:* The use of a building or structure for overnight living or longer periods of time, and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

### **Proposed Ordinance Language**

Staff presented the following definition, but stated at the April 28<sup>th</sup> meeting that input from Corporation Counsel would be necessary to ensure that the definition addresses violations regarding people living in outbuildings.

*Human habitation:* The use or designed use of a building or structure, or portion thereof, for the purposes of lounging, sleeping, eating, cooking or combinations thereof.

## **20. Definition of Applicant**

### **Existing Ordinance Language**

*Applicant:* The applicant for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other application for governmental approval under this Ordinance shall be the landowner, specifically a person or entity holding fee title to the property. The landowner must sign the application or execute the Landowner's Authorized Agent Form, which is available through the Waukesha County Department of Parks and Land Use.

### **Proposed Ordinance Language**

*Add the following to the above definition:* Utility companies or other entities may be deemed the applicant for the subject property if they hold an appropriate easement or have established prescriptive rights under s. 893.28(2) Wisconsin Statutes.

## **21. Definition of Breezeway**

### **Existing Ordinance Language**

*Breezeway:* An above-ground, roofed area for passage for the purpose of connecting two structures or buildings, as between a house and a garage, with either open or enclosed sides, with or without a foundation, and which must be designed and constructed in keeping with the existing structures or buildings.

**Proposed Ordinance Language**

Add a provision to the ordinance, which states that a breezeway does not constitute an attachment of two structures unless it is:

- Enclosed on all sides,
- A minimum of 8 ft. in width, and
- A maximum of 20 ft. in length

**22. *Split Jurisdictional Parcels***

Staff proposes to insert language into the ordinance that where a parcel is split between County Shoreland and Town Zoning jurisdiction, the entire acreage of the parcel can be used to demonstrate compliance with ordinance area and location requirements (i.e. offsets, minimum lot area, density, etc).

**23. *Proposed North Lake Overlay District***

Staff has previously prepared alternate flood protection elevation standards for structures surrounding North Lake to ensure that new development is not subject to flooding. There is documented history of multiple floods having exceeded the FEMA 1% flood elevation. Staff presented proposed ordinance amendments to the Town of Merton and has shared proposed regulations with North Lake District representatives and all have been supportive. Staff proposes to formally incorporate said changes into this set of ordinance amendments.

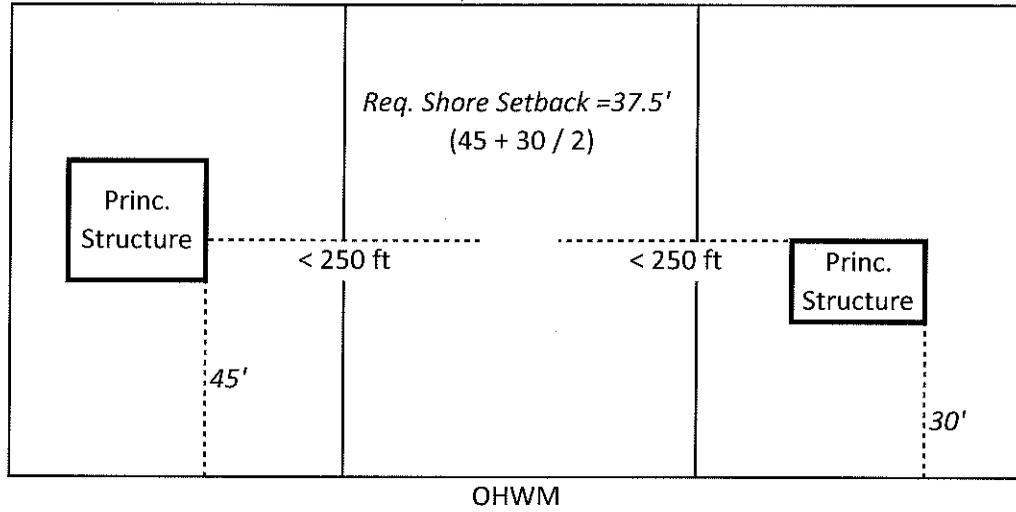
**24. *AD-10 and RRD-5 District prime soils provisions***

Staff proposes to modify the prime agricultural soil preservation requirements of the ordinance to remove the requirement that homes cannot be developed on prime agricultural soils in these two districts. These districts are largely mapped within the Towns of Vernon and Ottawa. Vernon has expressed that they would like to see these changes advanced.

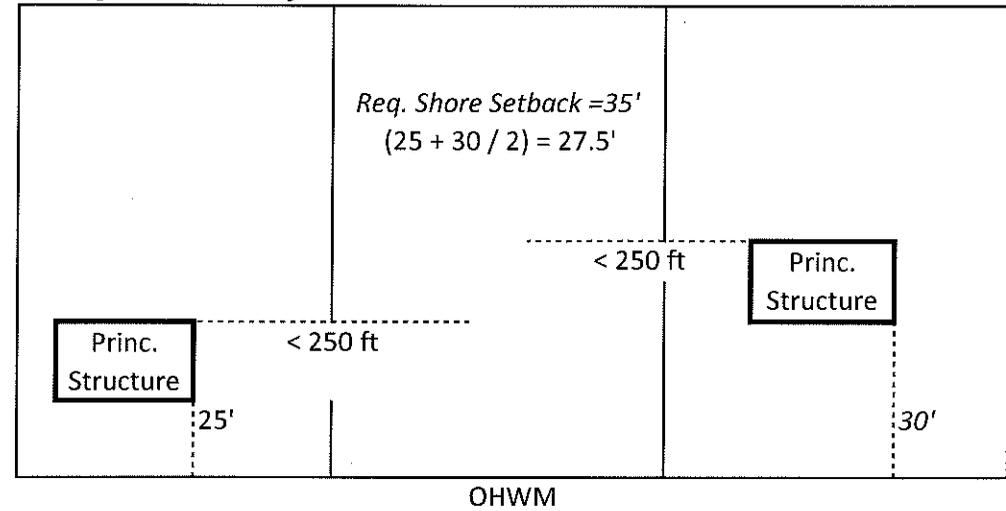
\*\* Staff informed the committee that a proposed Okauchee Overlay District will be considered for the downtown Okauchee Lake area, mostly likely following the code amendments being considered as part of this project.

**Shore Setback Averaging (Within 75 ft of OHWM):**

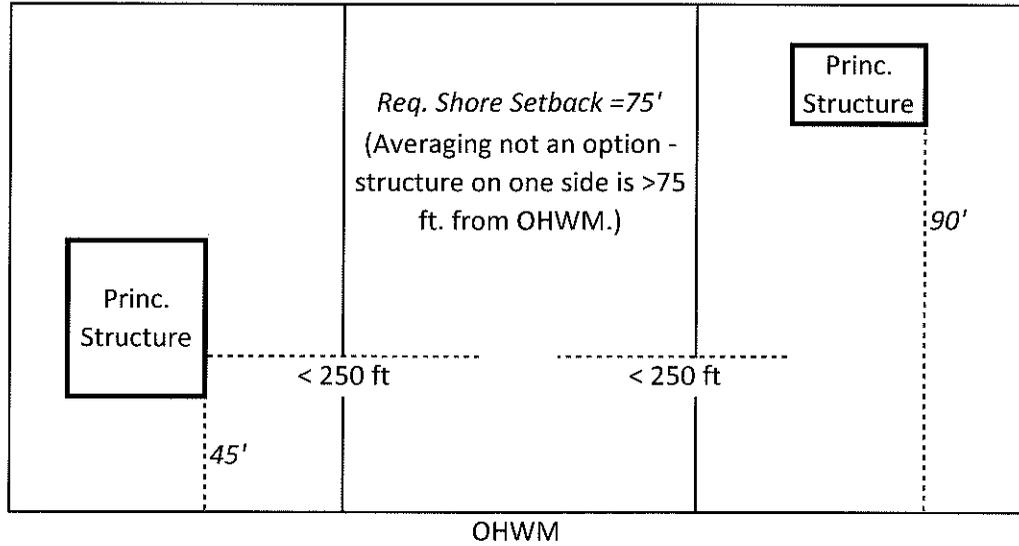
Two adjacent structures less than required setback.



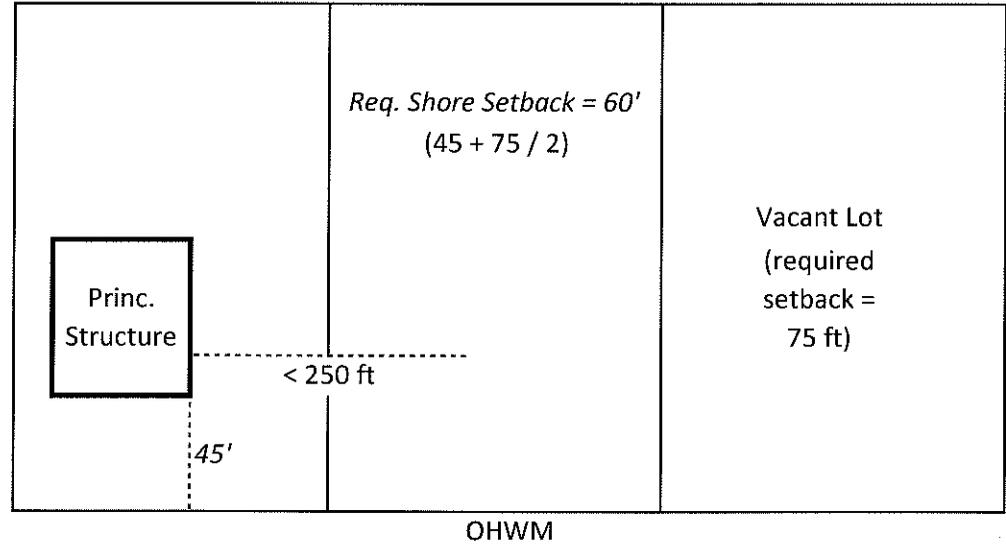
Average setback of adjacent structures is less than 35'



One structure < 75 ft, one structure more than 75 ft.



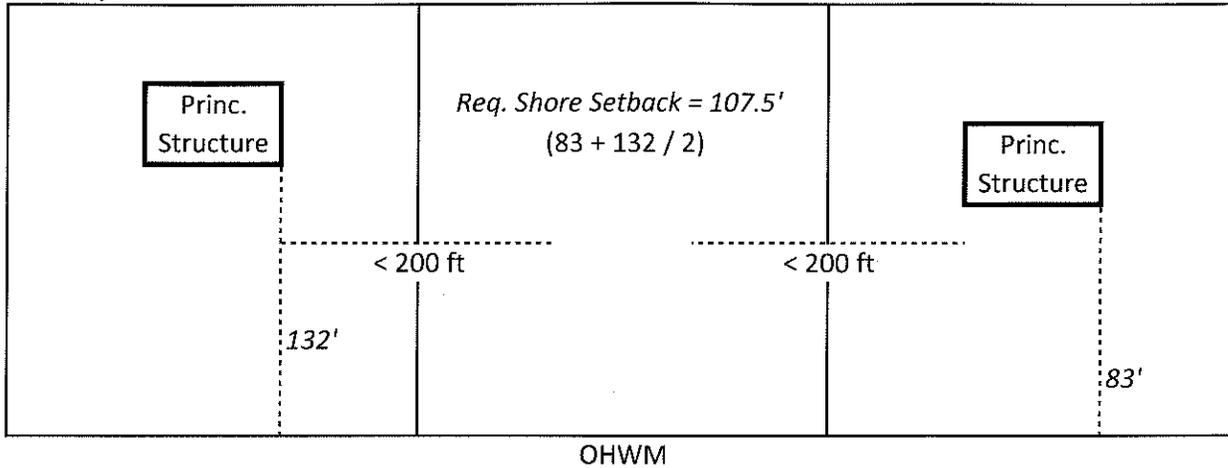
One structure < 75 ft, one side is vacant lot



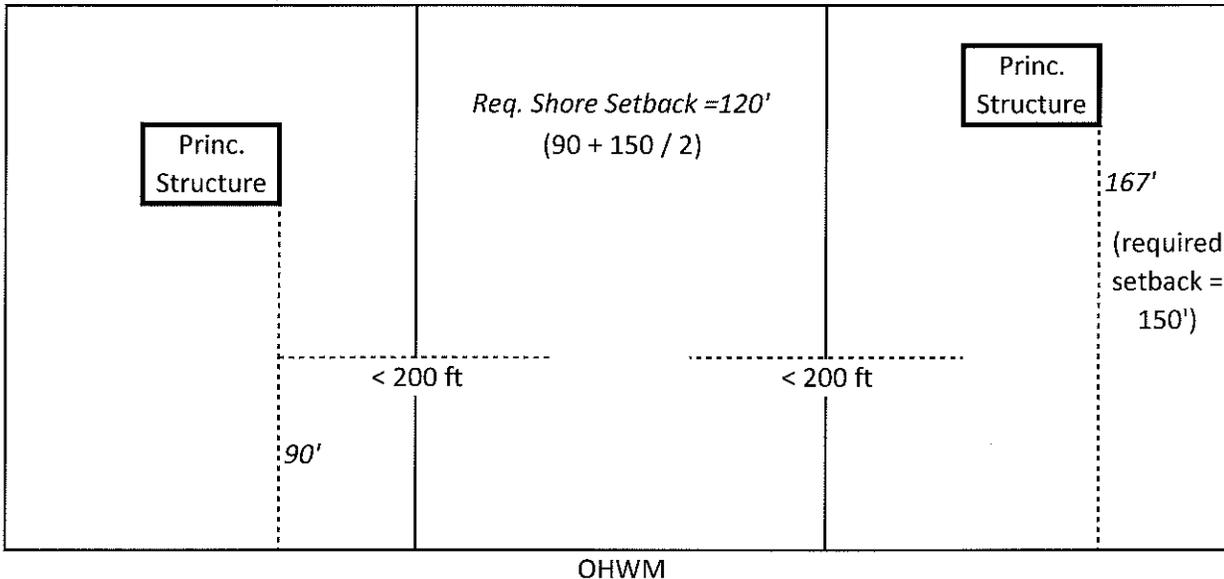
**Shore Setback Averaging - (Beyond 75 ft. of OHWM):**

**\*Applies to Delafield Shoreland Overlay District (DSO) only.**

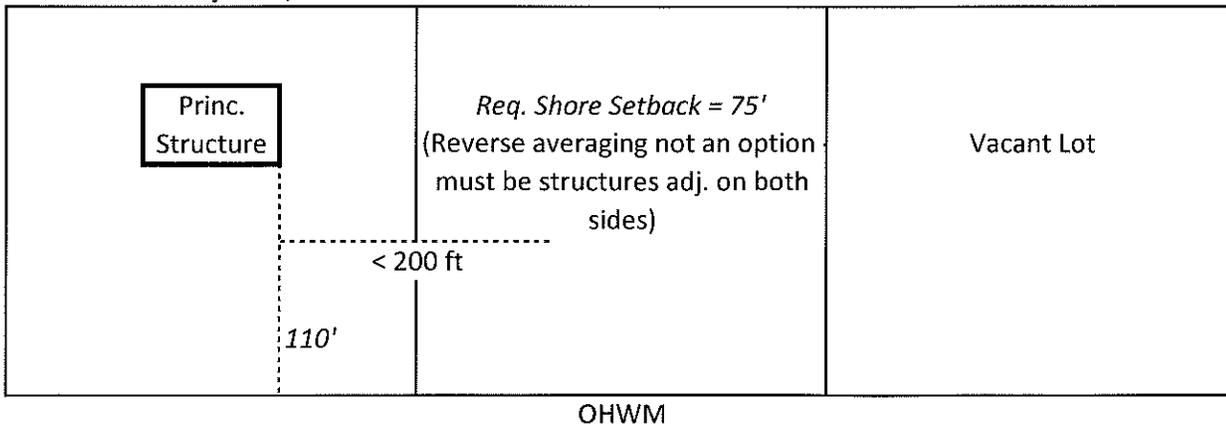
Two adjacent structures- both less than 150 ft.



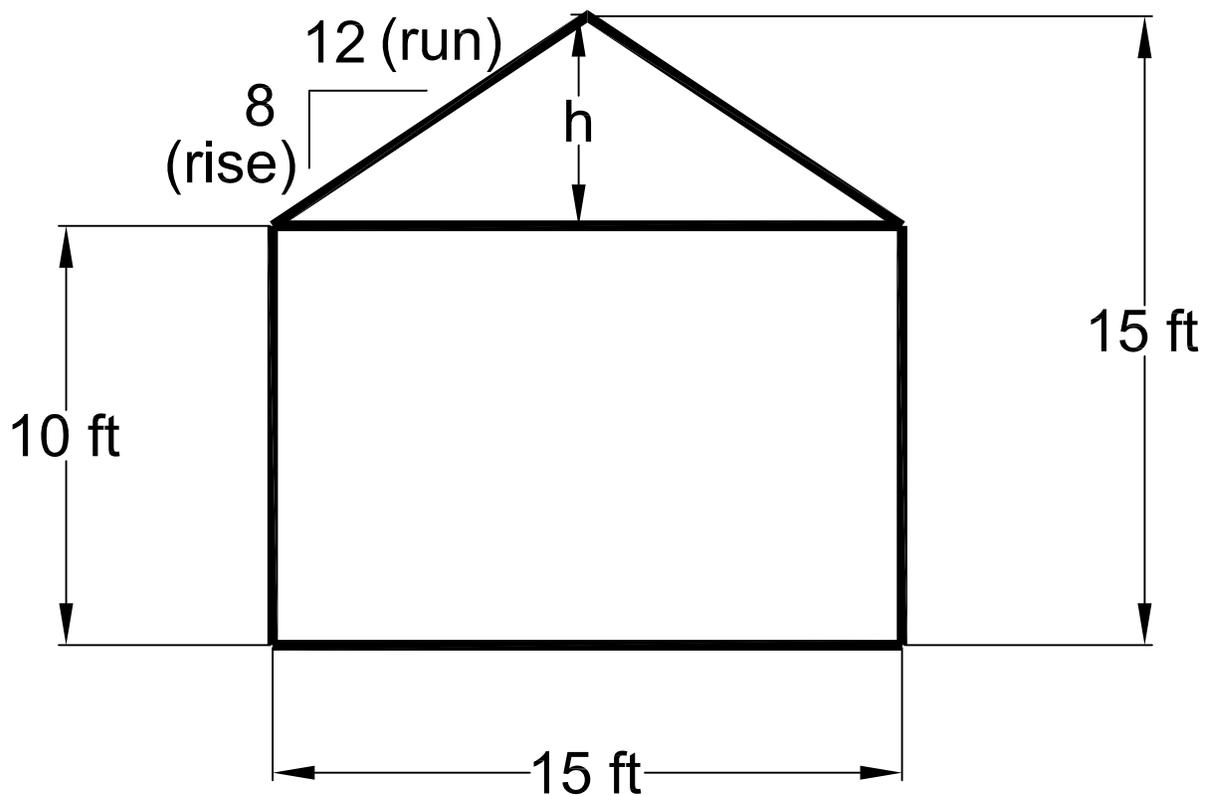
One structure < 150 ft, one structure > 150 ft.



One structure adjacent, one vacant lot.



## Maximum Boat House Sidewall Height and Roof Pitch



$$h = \frac{15 \text{ ft (bldg. width)}}{2} \times \frac{8 \text{ (rise)}}{12 \text{ (run)}}$$

### **Proposed Priority Tree Species**

Native trees that are identified on the below Priority Tree Species list that are in good health and are 12” or more dbh shall be preserved in accordance with the requirements of the ordinance:

Basswood

Beech

Blue Ash

Butternut

Elm (Red, Rock)

Hackberry

Hickory (Bitternut, Shagbark)

Ironwood

Kentucky Coffeetree

Maple (Red, Silver, Sugar)

Oak (all types including White, Bur, Red, Black, Swamp White, Pin)

Red Cedar

Tamarack

Yellow Birch