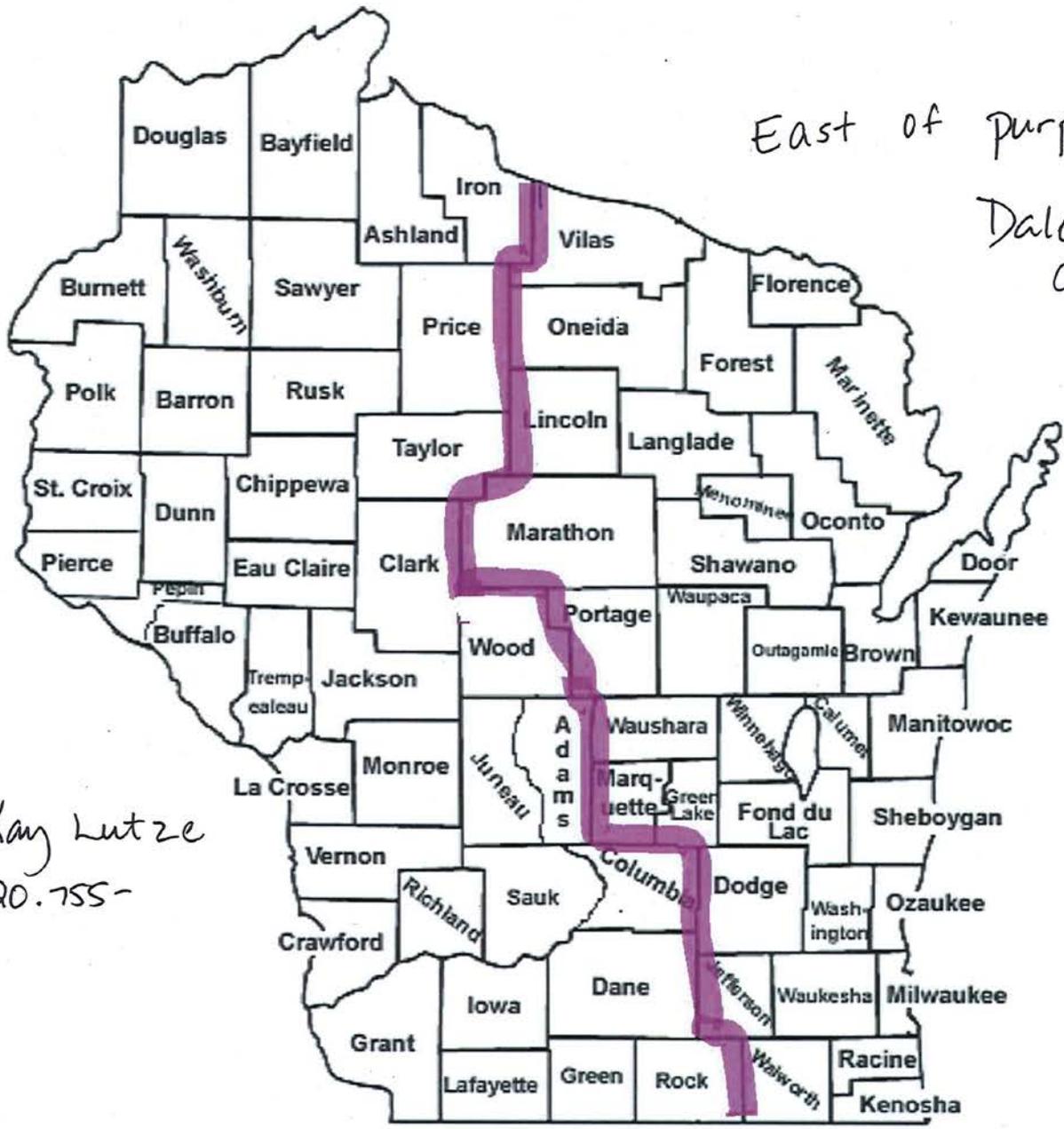


WCCA Fall Conference 2018

Shoreland Zoning

housekeeping items

- Territory
- Act 68 Illegal Structure Language
- Act 183 Wetland Exemption
- Boathouse Roofs
- Boathouse Size
- Rain garden tech standards
- OWHM training spring
- Variance notice



East of purple line

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Act 68

- The **Act** also prohibits state and county regulation of the maintenance, repair, replacement, restoration, rebuilding, or remodeling of structures that were constructed in violation if the structure has been in place for more than 10 years.
 - Model ordinance update
 - Effective November 29, 2017
 - Does not apply floodplain

Section 13 Model Ordinance

- A structure that was illegally constructed which is older than ten years and not enforced under the shoreland ordinance may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. (No vertical or lateral expansion allowed)



Act 183 – Wetland Exemption

- Two classes of exemptions:
 - Non-federal (those not subject to Corps oversight)
 - Artificial wetlands (no wetland or stream history prior to Aug. 1, 1991 and have been modified by human activity that changed the landscape.)
- Property owner needs to notify DNR
- If a discharge of fill for a specific activity or activities is exempt from s. 281.36 permitting requirements, s. 281.36(12m) prohibits the county from regulating discharges only from that specific activity or activities. Discharges from other activities are not exempt.

Boathouse Roofs s.59.692(1o)

- “The department may not promulgate a standard and a county may not enact an ordinance under this section that prohibits the owner of a boathouse in the shoreland setback area that has a flat roof from using the roof as a deck if the roof has no side walls or screens or from having or installing a railing around that roof if the railing is not inconsistent with standards promulgated by the department of safety and professional services under ch. [101](#).”
- No revision to 59.692(1v) – can use the roof as a deck or construct the roof such that it can be utilized as a deck
- legislative author/legislative intent provided that upon further analysis, we revise our position to be in-line with the legislative intent. Our position now is that a deck is allowable on a boathouse that has a flat roof.

Boathouse Size

- Barron County boathouse size of 96 square feet
- Validity of that size has been questioned
- Compliant

Rain Garden Tech Standard 1009

- Stormwater Program
- Rain gardens not suitable for treating large areas of IS
- Limited applicability for clay soils, shallow bedrock or high groundwater conditions
- Maximum limit for IS area is 3,000 square feet

OHWM Training in Spring

- Ice out...June??
- Location – North most likely Vilas County
- Watch for an email – Size will be limited
- Proposal – video to use for new training



Variance Notices

TOWN OF EGG HARBOR

Joseph L. & Catherine W. Hoffmeyer petition for a grant of variance from Section N.B.2.b. of the Door County Shoreland Zoning Ordinance which requires a structure be setback at least 75 feet from the ordinary high water mark of Green Bay/Lake Michigan. The petitioners propose to construct a 12'2" x 5'5" two story lateral addition as close as 45.5 feet from the ordinary high water mark. This property is located at 5569 Bay Shore Drive in Section 31, Town 29 North, Range 26 East, in the Town of Egg Harbor.

PUBLIC NOTICE is hereby given to all persons in Taylor County, Wisconsin, that a public hearing is scheduled for Tuesday, February 27, 2018 at 10 AM in the County Board Room of the Taylor County Courthouse, Medford, WI relative to a proposal to vary the Taylor County Shoreland Zoning Ordinance as follows: Chapter 31.06(1), *Shoreland Setback*. Camp Forest Springs requests a variance to exceed the shoreland setback by approximately 69' from James Lake to construct a chair ski lift to replace two existing rope tows.

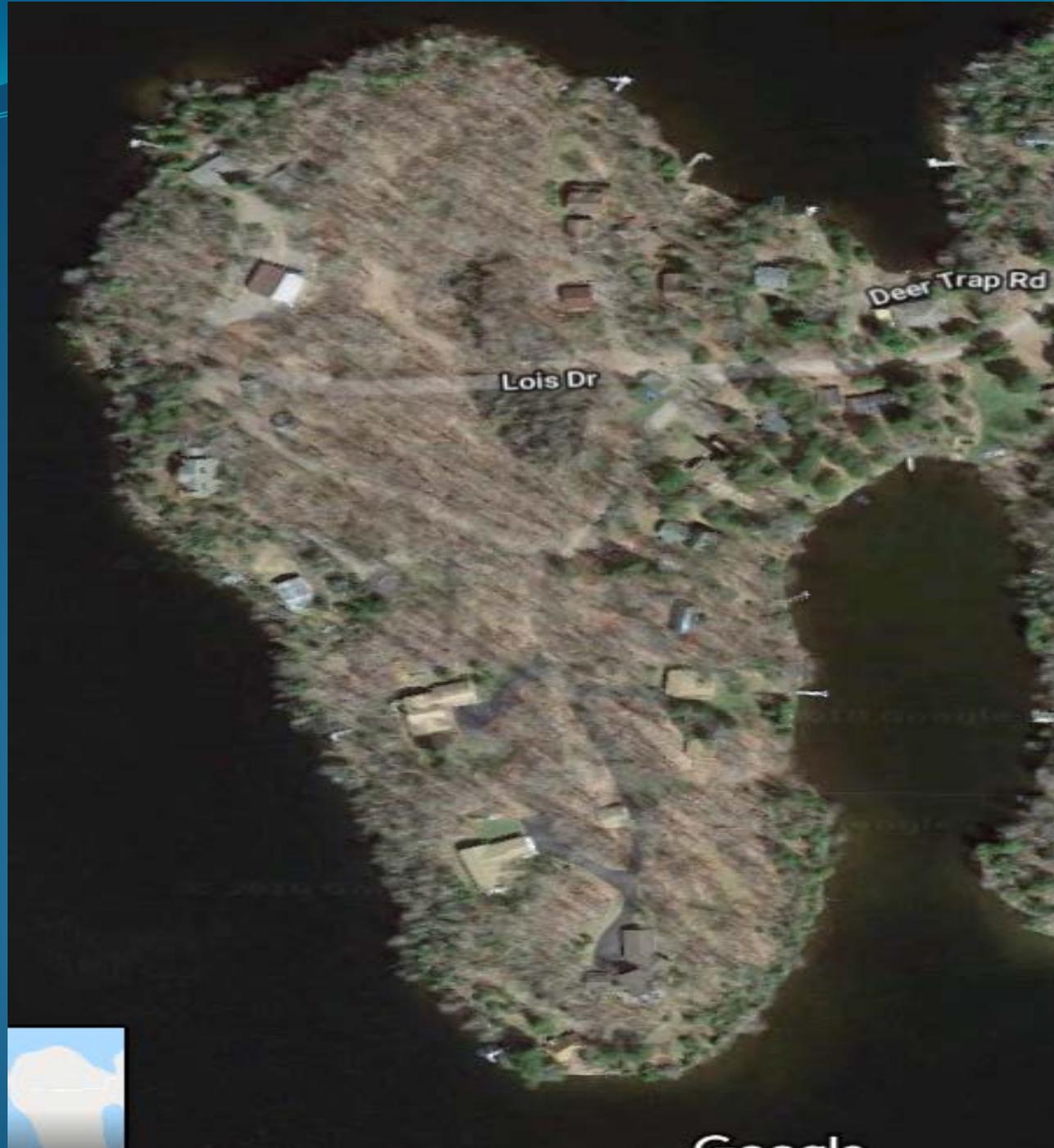
Q&A



Google







Definition of Structure

- “Structure” means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit.
 - Not an exhaustive list.....

Exempt structures.....

- a) Boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:
 - The boathouse has a flat roof.
 - The roof has no side walls or screens.
 - The roof may have a railing that meets the Department of Safety and Professional Services standards.
- (b) Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats:
 - 1. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - 2. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. Boathouses shall be excluded from the calculation.
 - 3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - 4. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
- (c) Fishing rafts that are authorized on the Wolf River and Mississippi River under s. 30.126, Stats.
- (d) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
- (e) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS Comm 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
- (f) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
- (g) Devices or systems used to treat runoff from impervious surfaces.
-

What are these??



Portable Sheds – Not exempt



Portable shed vs. storage container



How do you get the word out?

- Lake Association Newsletter, emails, etc...
- Builders/contractors
- Zoning website
- Shed builder

Intermittent Stream – navigable?

- Perennial and intermittent streams that are mapped on the SWDV to be navigable.
- Intermittent streams usually still meet a navigability definition w/defined bed and banks and ability to float a watercraft on a reoccurring basis.
- The county needs to determine whether or not a property is subject to shoreland zoning – need to do an inspection. If it is a difficult site, please reach out to the WMS.





Town of
Wapasa

Vegetative Buffer Violation

- Consists of three components – ground cover, shrubs and trees.
- A violation should be remedied with a restoration plan that includes all components
- Utilize Wisconsin Biology Technical Note 1: Shoreland Habitat as a reference
 - https://dnr.wi.gov/topic/shorelandzoning/documents/nrcsb_iotechnote.pdf
- Consider recording the restoration plan on the deed as compliance for the violation

Impervious Surfaces & Calculations

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. (except for streets and sidewalks that are public)

Impervious surface standards

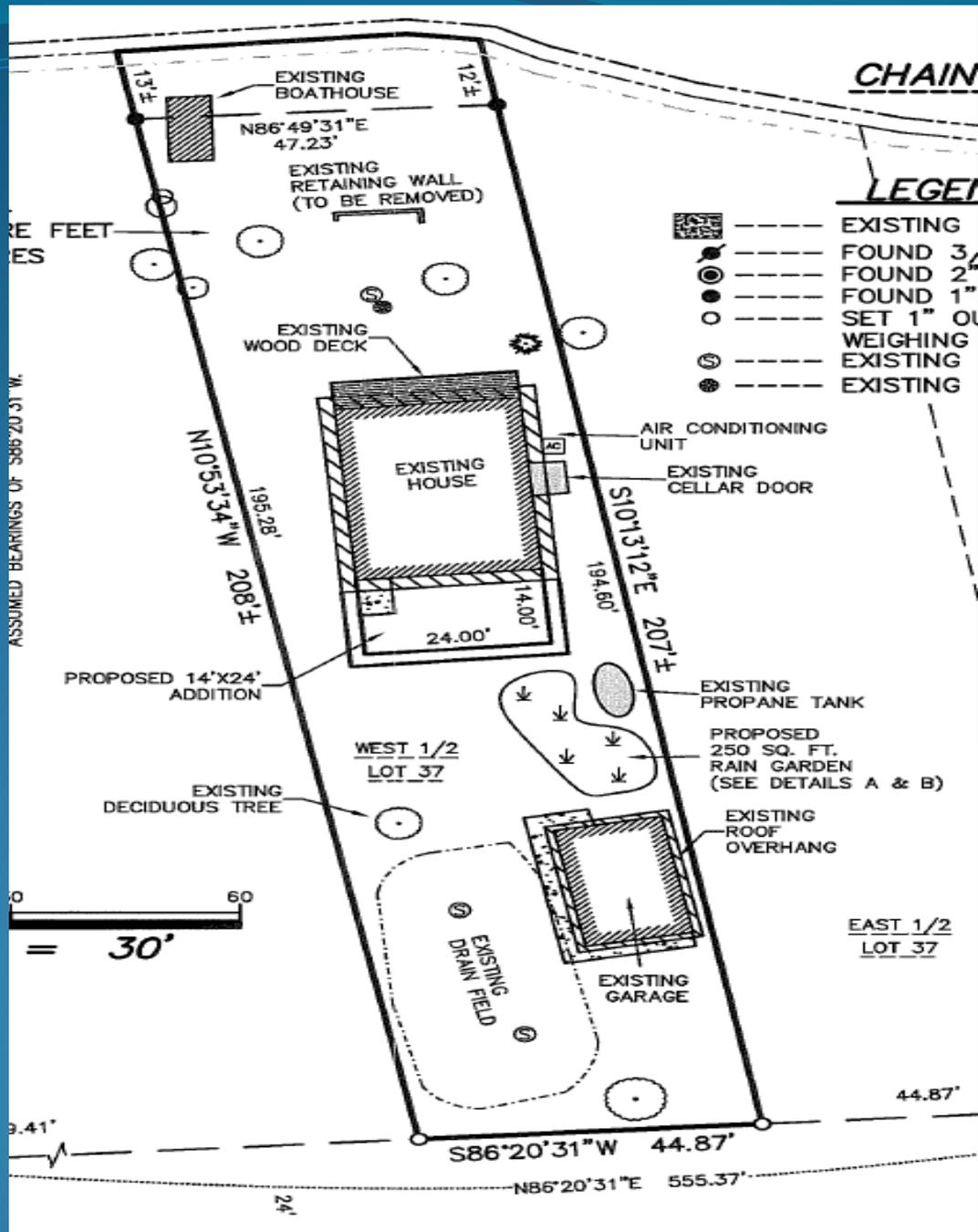
- **What is the standard?**
 - Keep the impervious surfaces you have
 - For riparian lots or non-riparian lots that are entirely within 300 feet of the OHWM
 - Up to 15% impervious no permit is needed
 - Between 15% - 30% ok with a permit and mitigation
 - Highly developed shorelines may go higher than 30% but need to be identified and approved in county ordinance

Treated impervious surfaces....

- Treated impervious surfaces.’ A county may exclude from the calculation any impervious surface where the property owner can show that runoff from the impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bioswales or other engineered systems, or that the runoff discharges to internally drained pervious area that retains the runoff on or off the parcel to allow infiltration into the soil

Calculation of IS%

- Calculation.' Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the lot or parcel by the total surface area of that lot or parcel, and multiplying by 100.
- Ex. $10,000 \text{ sq/ft IS} / 43560 \text{ sq/ ft of lot} = 23\%$
- $(10,000 / 30,000 = 33\%)$



John Seybold - Cabin Addition

	Square Feet		
Retaining Wall	7	<u>Lot Area</u>	
Cellar Door	28	9534	
House	1038		
Garage	398		
Shed	69		
Concrete Surfaces	124		
Deck	122		
Total	1786	% Impervious Before Addition	18.7%
Addition with Roof Line	397		
Updated Total	2183	% Impervious After Addition	22.9%

SITE PLAN

Nonconforming Uses

- 11.1 DISCONTINUED NONCONFORMING USE. (NR 115.05(1)(g)3) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
- NONCONFORMING USES.
- 59.69(10)(ab)(ab) In this subsection “nonconforming use” means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.
- 59.69(10)(am) (am) An ordinance enacted under this section may not prohibit the continuance of the lawful use of any building, premises, structure, or fixture for any trade or industry for which such building, premises, structure, or fixture is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50 percent of its assessed value of any existing building, premises, structure, or fixture for the purpose of carrying on any prohibited trade or new industry within the district where such buildings, premises, structures, or fixtures are located, may be prohibited. The continuance of the nonconforming use of a temporary structure may be prohibited. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance.

Scenario 1

- Since 1965 – two story structure with deck. Deck as close as 40' from OHWM, structure 50' from OHWM
- First floor has been a hair salon
- Second floor is residence with 2 bedrooms
- Zoned Residential R-1, Hair Salon is a NC use
- Hair salon not in use since 2016 but residence occupied
- New owner proposes to tear down, rebuild 3 residence and deck within the existing footprint.
- Can they do so?

Scenario 2

- Since 1950's two story structure: first floor tavern, second floor 2-bedroom living quarters
- NC structure 39' to OHWM, NC use zoned R-1
- Tavern not in use since January of 2018, living quarters occupied
- New owner proposes to tear down structure build a new tavern without living quarters in the same footprint.
- Can they do so?
 - HINT – 50% of EAV

Questions?

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- Dale Rezabek
- Shoreland Specialist
- Dale.Rezabek@wisconsin.gov