

SECTION 6.0 – NONCONFORMITIES

It is the intent of Section 6.0 to not encourage the continuation of nonconformities but to encourage, over time, compliance with Section 5.0 of this Ordinance.

All legally established nonconformities as of the date of adoption of this ordinance and respective amendments may continue, but they will be managed according to applicable state statutes and other regulations of this county for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

- A. **Change of Use.** Such use shall not be expanded, intensified or changed to another nonconforming use, or be re-established if discontinued for a continuous twelve (12) month period or more.

Destruction of Structure If a nonconforming structure is destroyed or altered by any cause, to an extent exceeding fifty percent of its estimated market value as indicated by the records of the County Assessor, a future structure or use of the site shall conform to this ordinance. Replacement of nonconforming structures under validly issued variances are considered to be in compliance with this ordinance.

- B. **Setback** Bluff and Shore Impact Zone setback requirements must be addressed.
- C. **Moving of structure** – If a nonconforming structure is moved from its location, in any direction horizontally, the future location shall conform to this Ordinance.

6.1 Construction on nonconforming lots of record.

- A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 6.2 of this ordinance may be allowed as building sites for dwelling purposes without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.
- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot.
- C. Variances shall only be granted in accordance with Minnesota Statutes, Chapter 394. A variance shall not circumvent the general purpose and intent of this ordinance. No variance shall be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- D. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 6.2 of this ordinance, the lot must not be considered as a separate parcel of land for the purpose of sale or development. The lots must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 6.2 of this ordinance.
- E. No portion of an existing lot shall be separated from the existing parcel unless all portions meet or exceed the lot size requirements in Section 5.1 of this Ordinance. However, a portion of a lot may be separated from the existing parcel as long as the existing parcel meets the requirements of Section 5.1 of this Ordinance and the newly created parcel is combined with an adjacent parcel. The existing parcel must meet the septic system requirements of a newly created lot as in Section 5.71, D, of this Ordinance.

Exception: An existing parcel may be combined with an adjacent parcel(s) under different ownership, to make the adjacent parcel(s) more conforming.

6.2 Minimum lot area and width standards for single residential nonconforming lots of record.

The minimum lot area (square feet) and minimum lot width standards (in feet) for single residential lots created prior to the date of enactment of this Ordinance for the lake classifications are the following:

- A. Natural environment:

Riparian area	60,000
Lot width at shore	150
*Building Coverage	15%
*Impervious surface coverage	25%
- B. Recreational development:

Riparian area	30,000
Lot width at shore	100
*Building Coverage	15%
*Impervious surface coverage	25%
- C. General development:

Riparian area	15,000
Lot width at shore	75
*Building Coverage	15%
*Impervious surface coverage	25%
Non-riparian area	30,000
Lot width	100
*Building Coverage	15%
*Impervious surface coverage	25%

6.3 Additions/expansions to non-conforming principal structures built prior to January 21, 1992 without a variance. If a variance has been granted for an addition/expansion to a principal structure since January 21, 1992, then Sections 6.3 A, B, and C do not apply and a variance is required for any future additions and/or expansions.

A. All additions or any enlargement of an existing sub-standard principal structure shall be allowed providing all of the following criteria will be met: (If all of the following criteria are met, a one-time expansion since January 21, 1992 will be allowed without a variance.)

- (1) The addition/expansion will not decrease the setback of the existing structure from the ordinary high water level,
- (2) The addition/expansion will not exceed 50 percent of the total volume of the existing structure, or exceed 50 percent of the assessed market value as indicated in the records of the County Assessor,
- (3) The existing structure is setback to a minimum of a line parallel with the Shore Impact Zone,
- (4) Impervious surface coverage of the parcel or lot shall not exceed 25 percent.
- (5) The existing structure and proposed addition/expansion must meet all other setback distance requirements of this Ordinance.

B. Deck additions shall be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

- (1) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (2) the deck encroachment toward the ordinary high water level (OHWL) does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet to the OHWL, whichever is more restrictive;
- (3) The deck is not roofed or screened; and
- (4) All other setback distance requirements of this Ordinance must be met.

C. Patios shall be allowed without a variance and not meeting the required setback distance from the ordinary high water level if all of the following criteria and standards are met:

- (1) The patio encroachment from the principle structure toward the ordinary high water level does not exceed 20 percent of the existing setback distance of the structure from the ordinary high water level or does not encroach closer than 30 feet to the OHWL, whichever is more restrictive.
- (2) The patio is not roofed or screened,
- (3) Impervious surface requirements must be met,
- (4) All other setback distance requirements of this Ordinance must be met, and
- (5) The patio must be within 2 feet of the principal structure.

5.22

G. In addition to the water oriented accessory structure (WOAS) allowed in 5.22, B, a patio will be allowed that meets the following:

- 1) Shall be no larger than 2 square foot per lineal foot of lot width, and
- 2) The patio must be setback from the ordinary high water (OHW) level of at least 10 feet, and
- 3) The area between the patio and the OHW level must be in native vegetation or grass cover or natural state or not mowed,
- 4) The patio runoff must not drain towards the water body.
- 5) Patios must be located within the open area as described in 5.31,B(2)c. If the patio is located outside this area it must be located where there is a 25 foot unmowed vegetated buffer between the lake and patio or outside the shore impact zone, and
- 6) Maximum size of a patio and any other water oriented structures shall not exceed a combined square footage of 400 sq.ft. on a Natural Environment lake and 600 sq.ft on a General Development lake or Recreational Development lake.

For all patios within the building setback distance from the OHW that exceed 240 sq.ft in area, a stormwater management plan must be developed (by a licensed engineer in the State of Minnesota, or a soil and water conservation district trained staff or a licensed landscape architect) and constructed to treat the runoff from the patio.

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Sheet B.

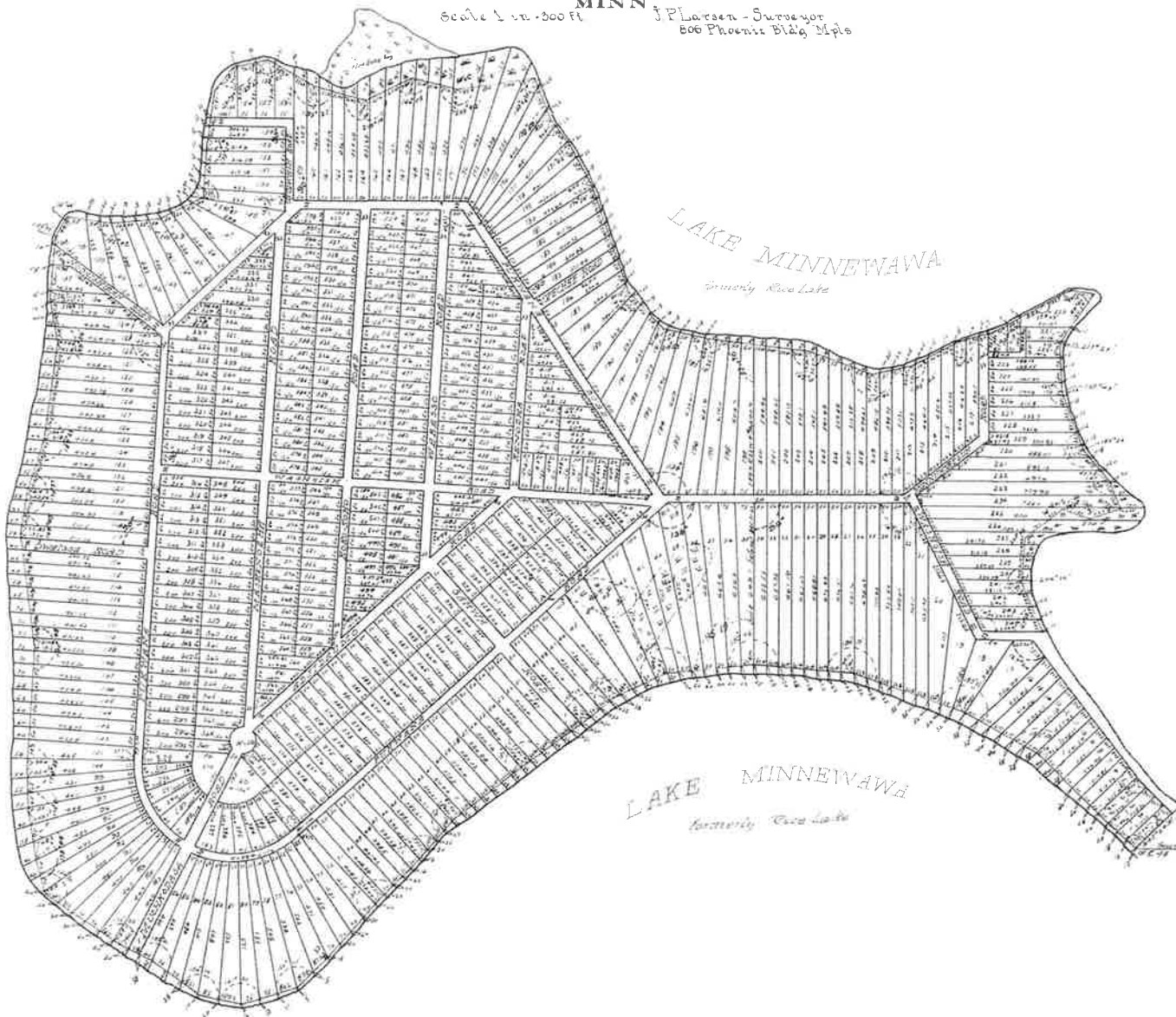
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Scale 1 in. = 200 ft.

J. Larsen - Surveyor
606 Phoenix Bldg. Mpls.



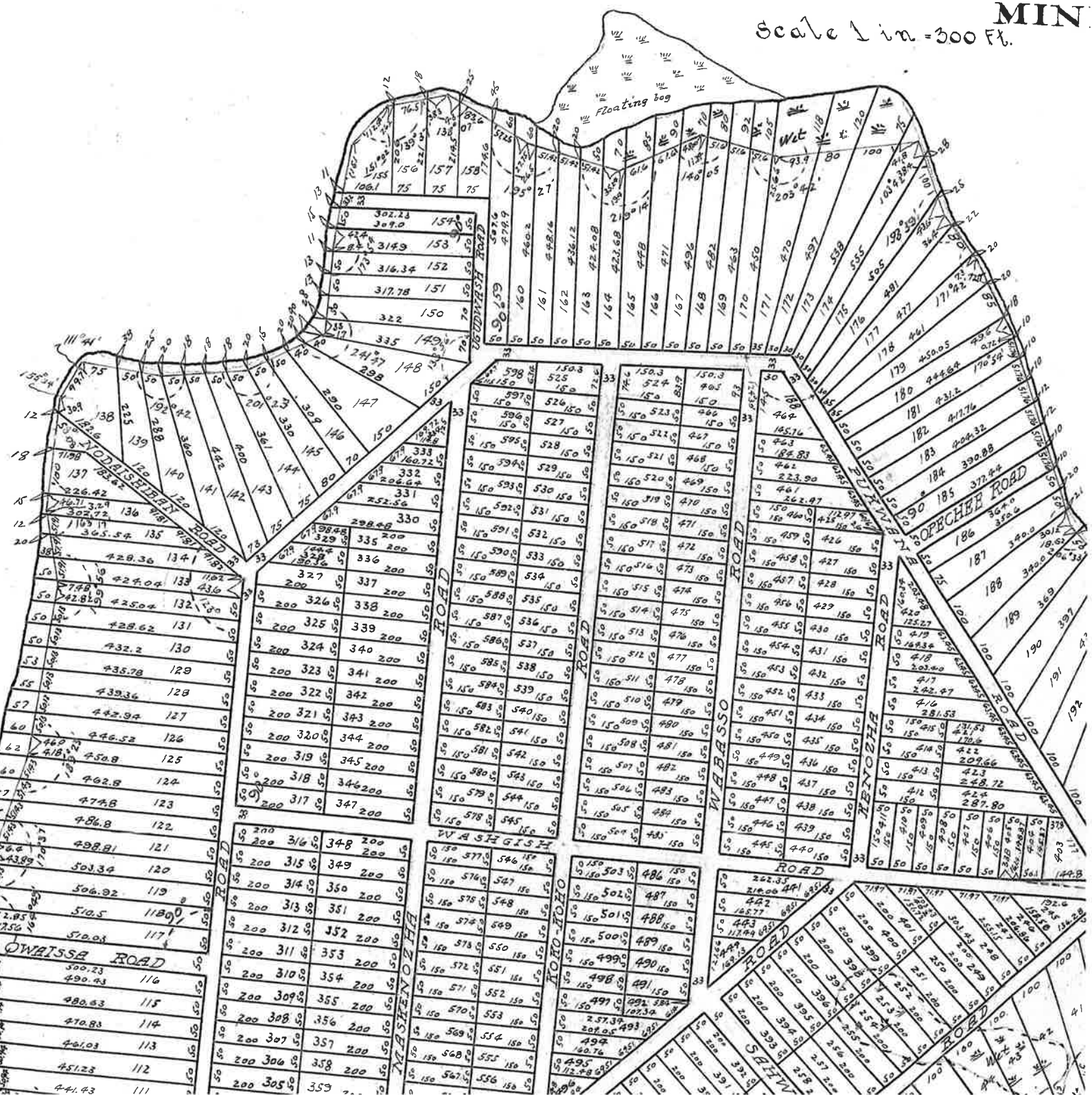
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Sheet E

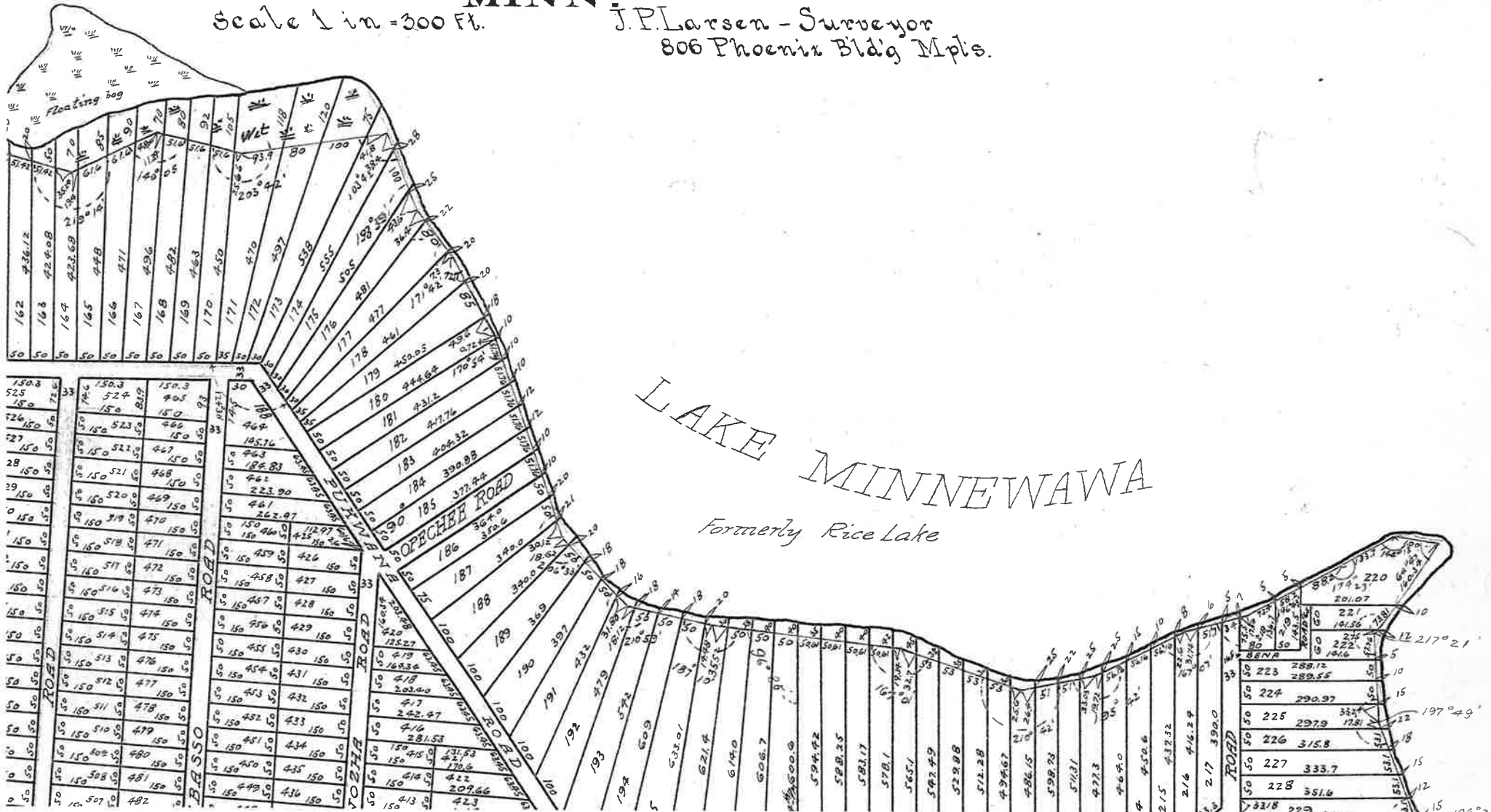
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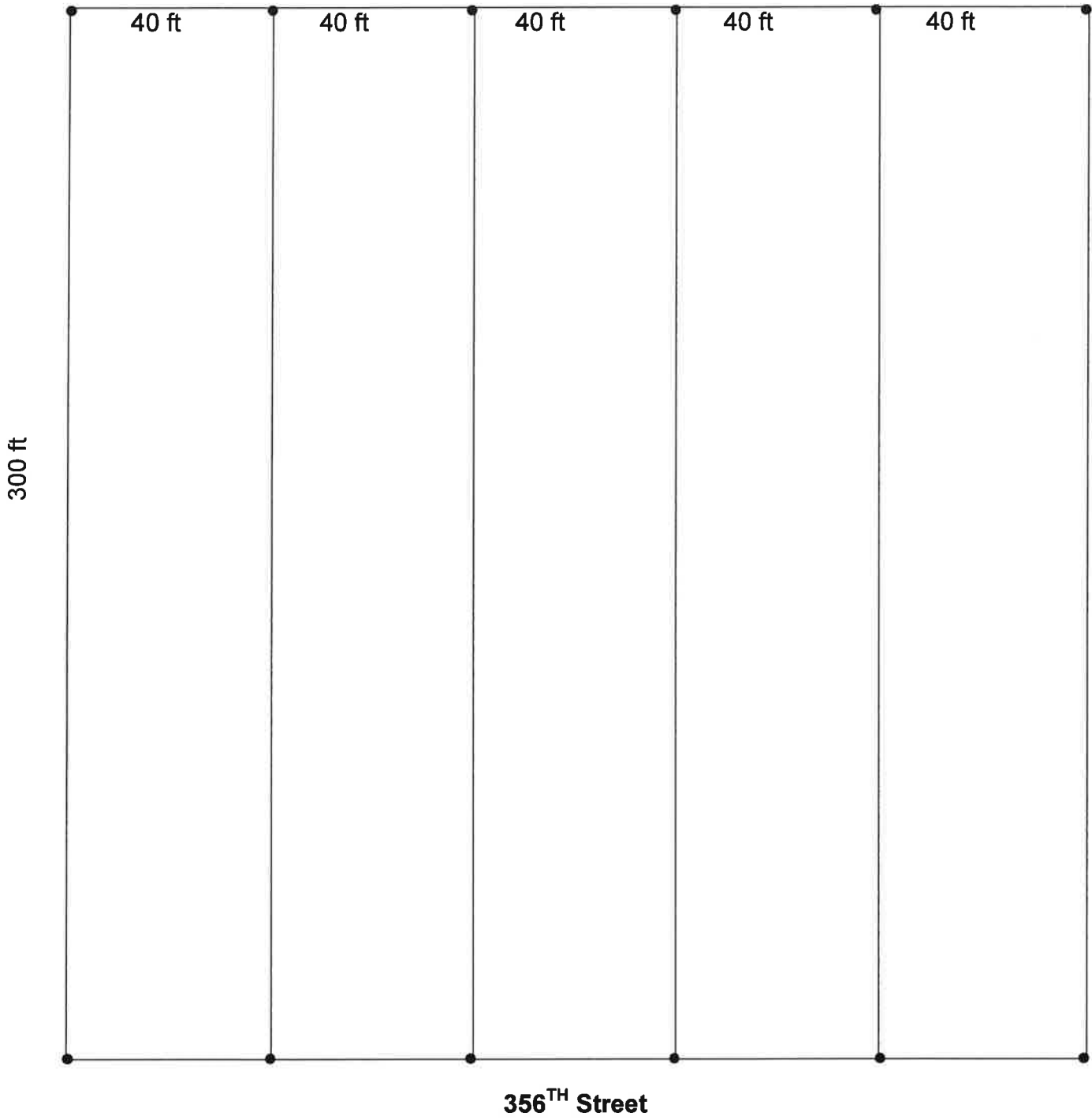
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J.P. Larsen - Surveyor
806 Phoenix Bldg Mpls.

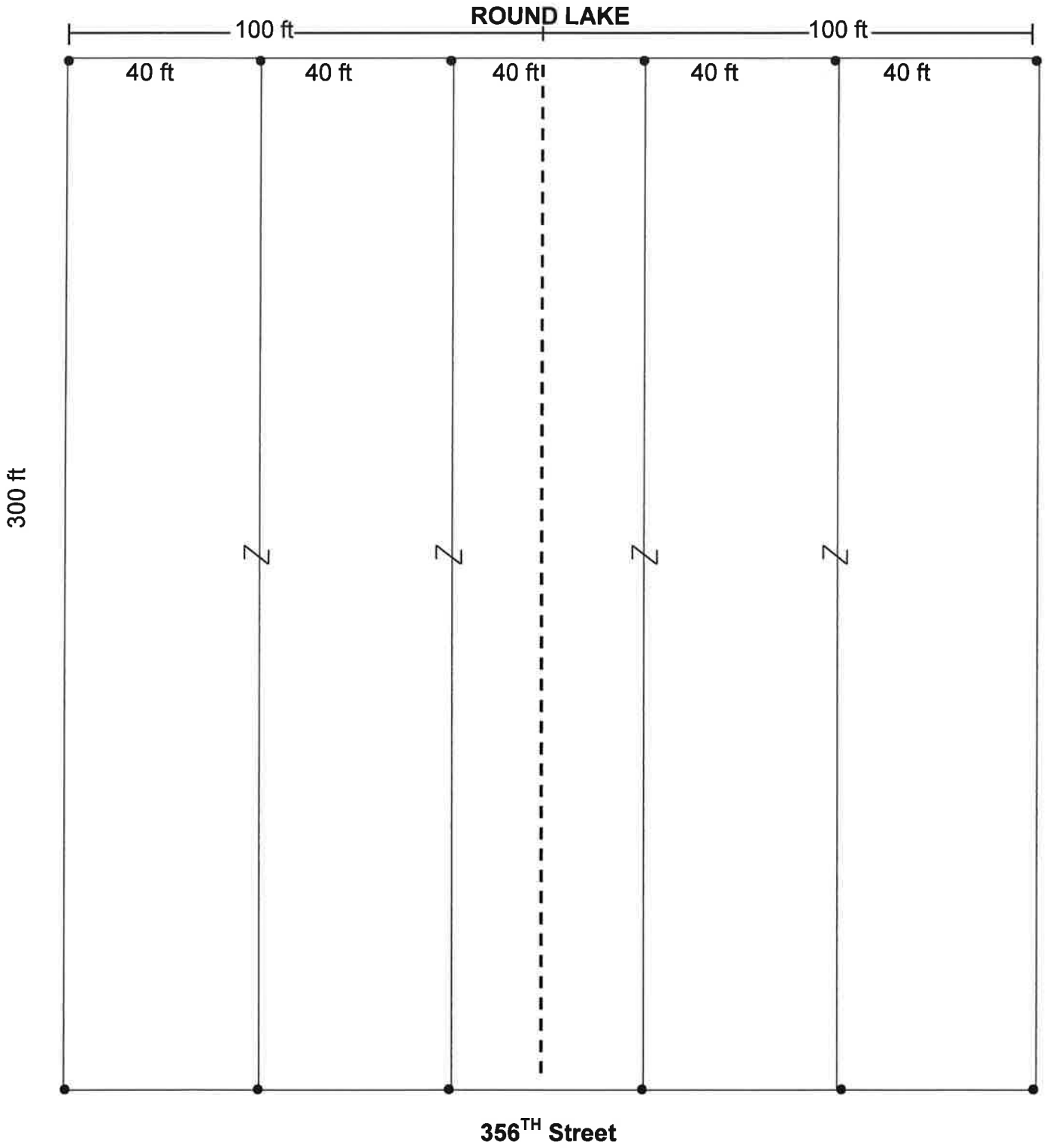


RD Lake: Section 6.2 allows contiguous lots to be 100ft width 30,000 sqft area

ROUND LAKE



RD Lake: Section 6.2 allows contiguous lots to be 100ft width 30,000 sqft area



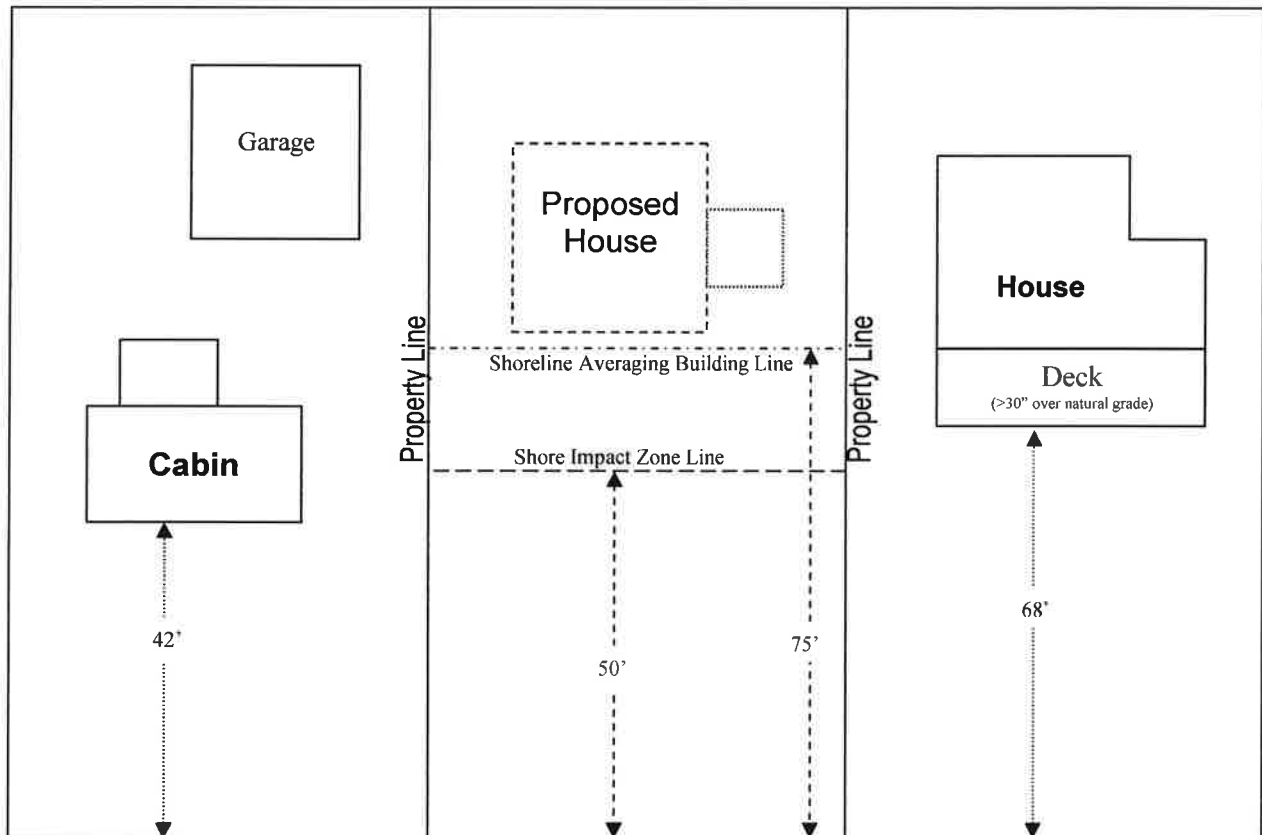
Appendix - II

Shoreline Averaging

5.21 Placement of Structures on Lots. ... Where dwelling units exist on the adjoining lots on both sides of a proposed dwelling site, dwelling setbacks may be altered without a variance to a point twenty (20) feet landward from the adjacent development shoreline average to the ordinary high water level, provided the proposed dwelling site is not located in the shore impact zone or bluff impact zone. The existing structure on adjoining lots must be of a quality such that a reasonable and prudent person would use the same for the purpose of habitation, and must not be a recreational camping vehicle, guest cottage or accessory structure...

Definition: "Shore impact zone" means Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback but not less than 50 feet, whichever is greater.

Note: Shoreline averaging is for new residences only



Averaging Setbacks: $68' + 42' = 110' \div 2 = 55'$
 Add 20' to Average: $55' + 20' = 75'$
 In this example Shoreline Averaging = 75'
 (Minimum setback is the Shore Impact Zone Line)

NOTE: All other setbacks must be met to be qualified for shoreline averaging

Bluff impact zone. “Bluff impact zone” means a bluff and land located within 20 feet from the top of a bluff.

Shore impact zone. “Shore impact zone” means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the required structure setback but not less than 50 feet, whichever is greater.

394.36 NONCONFORMITIES.

Subdivision 1. Continuation of nonconformity; limitations.

Except as provided in subdivision 2, 3, or 4, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, although the use or occupation does not conform to the official control. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its estimated market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

Subd. 4. Nonconformities; certain classes of property.

This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

Subd. 5. Existing nonconforming lots in shoreland areas.

(a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section [115.55](#) and Minnesota Rules, chapter 7080, or connected to a public sewer.