



WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Support for 2009 revised NR 115 Shoreland Zoning Standards

Sue Drum

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TO: Senator's Mark Miller and Jim Holperin

Along with Vilas county Lakes Association, Wisconsin Association of Lakes, River Alliance, Wisconsin Realtors Association and Wisconsin Builder's Association and 1000's of Wisconsin citizens, I strongly support the 2009 revision of NR 115 of Wisconsin's Minimum Shoreland Zoning Regulations and ask Senators Holperin and Miller to help enact this amendment.

After 40 years of ever increasing shoreland development with bigger homes, bigger boats, bigger motors and piers, more invasive species and more people using our lakes, this zoning update to the DNR's 1968 version is long overdue but very necessary.

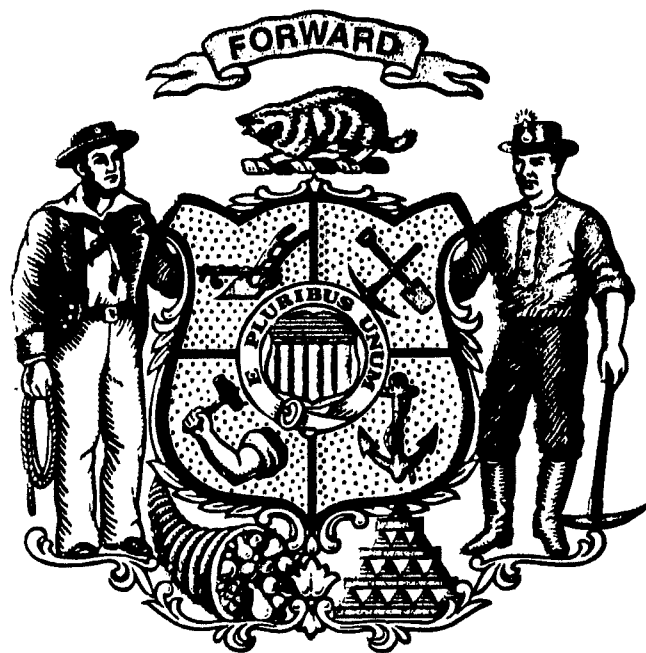
The elements of this update are easy to read and understand: limits on impervious surfaces, mitigation requirements (clearly spelled out), minimum lot size and set backs from the water, conforming and nonconforming structures and maintenance of a 35 foot natural, shoreland buffer. With these new rules riparian owners can still enjoy their lots without polluting their lake. This creates a nice balance between individual needs and public good.

In the past our Vilas County government saved many of our lakes by enacting a lake classification system that mandates stronger shoreland zoning rules than the 1968 minimal standards. This shows how counties can build on **minimum** state rules to become a major player in shoreland protection.

The goals of this DNR update are to protect the purity of our waters, enhance our native ecosystems and preserve natural beauty. This gives people the benefit of healthy fisheries, clear water, myriads of beautiful native plants and animals, and an appreciation and understanding of nature.

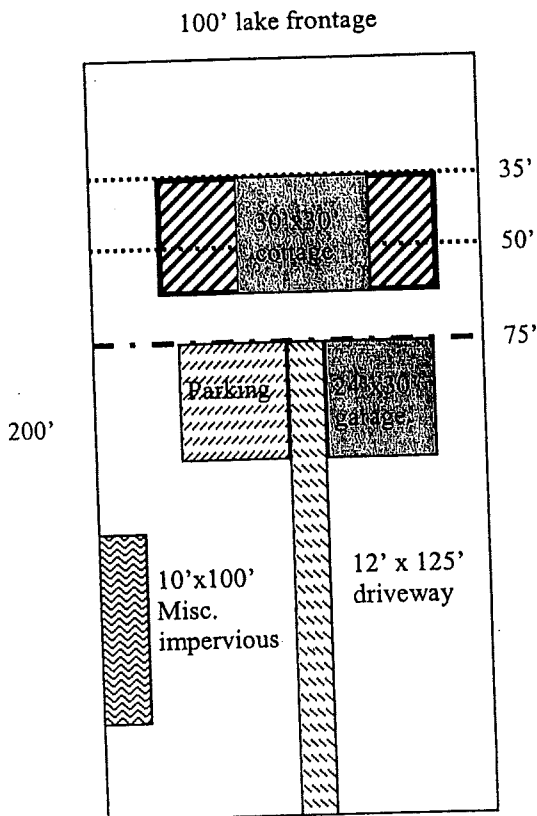
Many people come to the northwoods from suburban neighborhoods where mowed lawns and neat, orderly yards are the norm. They do not understand the meaning of a wild or natural shoreline. These people will not care for their land unless encouraged and educated to follow well-conceived rules. Now is the time to amend Wisconsin's Administrative Code, NR 115, to use modern science and technology to protect our waters.

A handwritten signature in cursive script that reads "Sue Drum". The signature is written in black ink and is positioned below the main body of text.



What happened to Shoreland Protection in NR 115?

Problem—impervious surface limits are not sufficient to limit expansion of structures within the 75-foot setback.

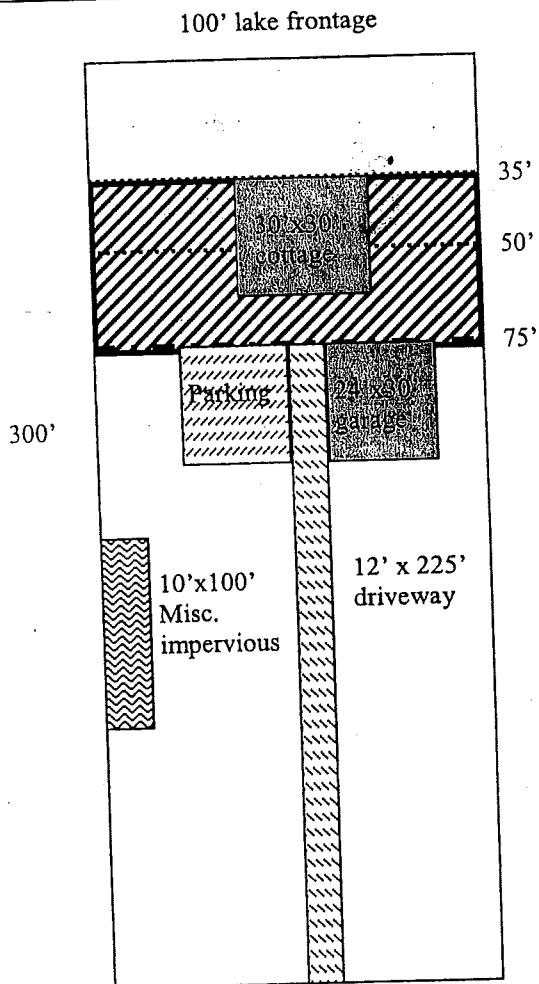


Minimum unsewered lake lot—20,000 sq. ft.
 100' x 200' lot
 30% impervious = 6,000 sq. ft.

Example building scenario:

Cottage - 900 sq. ft.
 Garage—720 sq. ft.
 Driveway—1500 sq. ft.
 Parking/turnaround—720 sq. ft.
 Misc. other—1000 sq. ft.
 Total existing—4840 sq. ft.

Possible building addition—approx.
 1200 sq. ft.— or 40 more feet of
 horizontal width of building 30 feet
 in width. Total home size goes from
 900 sq. ft to 2100 sq. ft.—all within
 the standard setback.

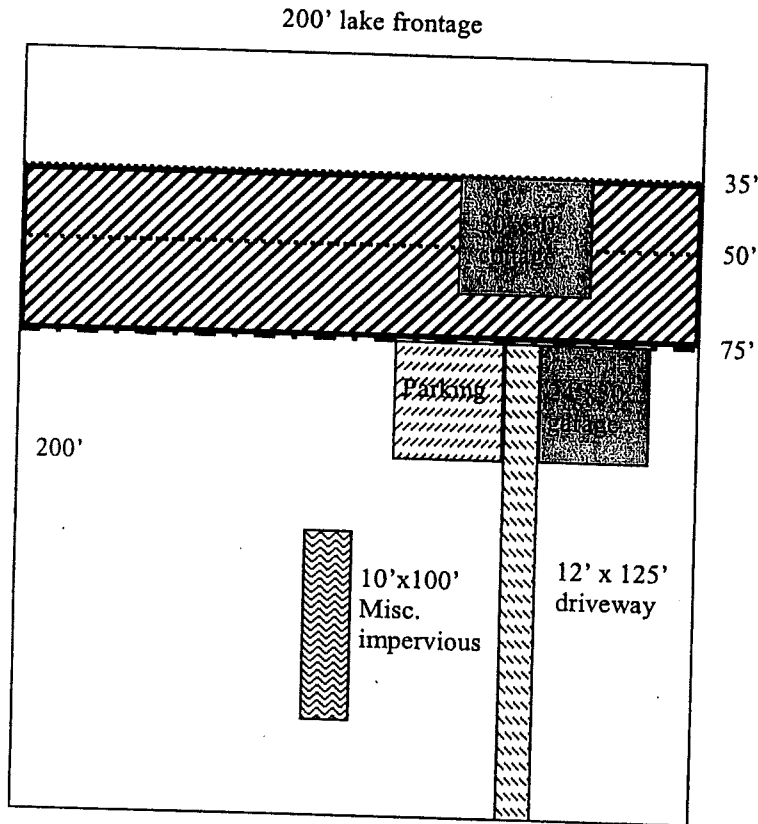


Same scenario but deeper lake lot—30,000 sq. ft.
 100' x 300' lot
 30% impervious = 9,000 sq. ft.

Example building scenario:

Cottage - 900 sq. ft.
 Garage—720 sq. ft.
 Driveway—2700 sq. ft.
 Parking/turnaround—720 sq. ft.
 Misc. other—1000 sq. ft.
 Total existing—6040 sq. ft.

Possible building addition—almost
 3000 sq. ft.— or all 70 more feet of
 frontage of a building 30 feet in width
 plus another 10 feet to the 75' setback
 almost all the way across. Total home
 size goes from 900 sq. ft to 3900 sq.
 ft.—all within the standard 75' setback.

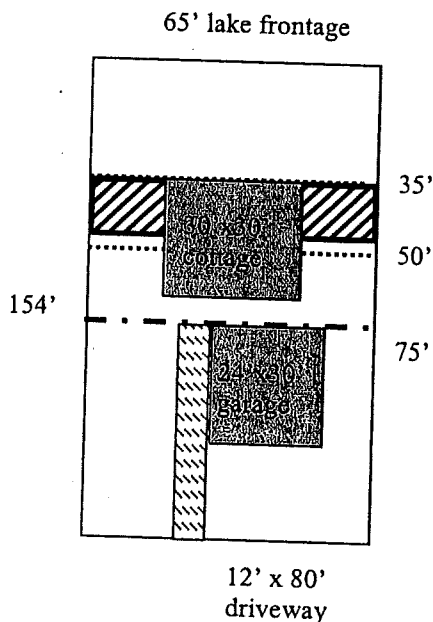


Same scenario, more frontage width—
40,000 sq. ft. (less than one acre)
200' x 200' lot
30% impervious = 12,000 sq. ft.

Example building scenario:
Cottage - 900 sq. ft.
Garage—720 sq. ft.
Driveway—1500 sq. ft.
Parking/turnaround—720 sq. ft.
Misc. other—1000 sq. ft.
Total existing—4840 sq. ft.

Possible building addition—approx.
7,160 sq. ft.— total home size could
go from 900 sq. ft to over 8,000 sq.
ft.—all within the standard setback.

For larger lots, the scenarios get worse!



Doesn't even make sense for the smallest lots:

Minimum sewered lake lot—10,000 sq. ft.
65' x 154' lot
30% impervious = 3,000 sq. ft.
(Note: the lot only has 5135 sq. ft. of surface area
beyond the 75' setback.)

Example building scenario:
Cottage - 900 sq. ft.
Garage—720 sq. ft.
Driveway—960 sq. ft.
Total existing—2580 sq. ft.

Possible building addition—approx.
420 sq. ft.— or all 35 more feet of
horizontal frontage 12 feet in width.
Total horizontal home size goes from
900 sq. ft to 1320 sq. ft.—all within
the standard setback.

What is the solution?

Keep the impervious surface limits as proposed.

Keep the mitigation requirements as proposed, but add mitigation requirements for expansions of structures closer than 75 feet from the OHWM as well as for exceeding the impervious surface limits as proposed.

ADD to NR 115 (see attached and the language in Vilas County's shoreland ordinance):
Maximum of a one-time 50% expansion of principal structures or portions of structures located closer than 75 feet from the OHWM:

- For portions of structures located closer than 50' from the OHWM—rearward expansion only and no new basements or new stories.
- For portions of principal structures located between 50' and 75' from the OHWM—rear, side or vertical expansions permitted, as are new basements or stories.

Expansion beyond the 75-foot setback to be limited by impervious surface limits.

Respectfully submitted by:

Bryan Pierce

2201 Military Rd.

Eagle River, WI 54521

Existing Structures Located Closer Than 75' From OHWM

Background: Structures that are located closer than the 75 feet ordinary high water mark setback have the greatest potential impact on water quality for a lake or river. Runoff from those structures quickly carries nutrients and sediments into the water body, with very little shoreland buffer area to help filter contaminants out. Because expansion of those structures increases the extent of impacts, the ordinance provides for a one-time 50% expansion of the portions of the structures located closer than 75 feet from the OHWM. For portions of structures beyond 50 feet to the OHWM, rear, side, and vertical expansions are permitted. For portions of structures closer than 50 feet to the OHWM, only rearward expansions are permitted. Rearward expansion still increases the impervious surface area and generates increased runoff, but minimizes land disturbance to the sides of the existing structure.

The one-time 50% expansion formula is calculated by figuring **50% of the principal structure, of that portion of the principal structure that is located between 0 – 75 feet from the OHWM.**

No new basements are allowed closer than 50 feet in order to avoid major land disturbances close to the water. No new stories are allowed closer than 50 feet, as new stories close to the water provide greater aesthetic intrusion and often require increased foundation support for the additional weight load. For those seeking to convert small, seasonal cottages close to the water into larger, year-round homes, this provides incentive to first move the structures back to the OHWM setback.

Unlimited maintenance for portions of structures closer than 75 feet from the OHWM

Includes new roofing, new windows, new siding, repairing foundations, and all interior repairs.

- Crawlspace less than or equal to 6 feet in depth are permitted closer than 50 feet from OHWM
(crawlspaces are considered maintenance and repair; not habitable space, not part of the one-time expansion - Shoreland permit only)

One-time 50% expansion of structures or portions of structures closer than 75 feet from the OHWM

For portions of structures located closer than 50 feet from the OHWM:

- Rearward expansion only
- No new basements or new stories

For portions of structures located between 50 feet and 75 feet from the OHWM:

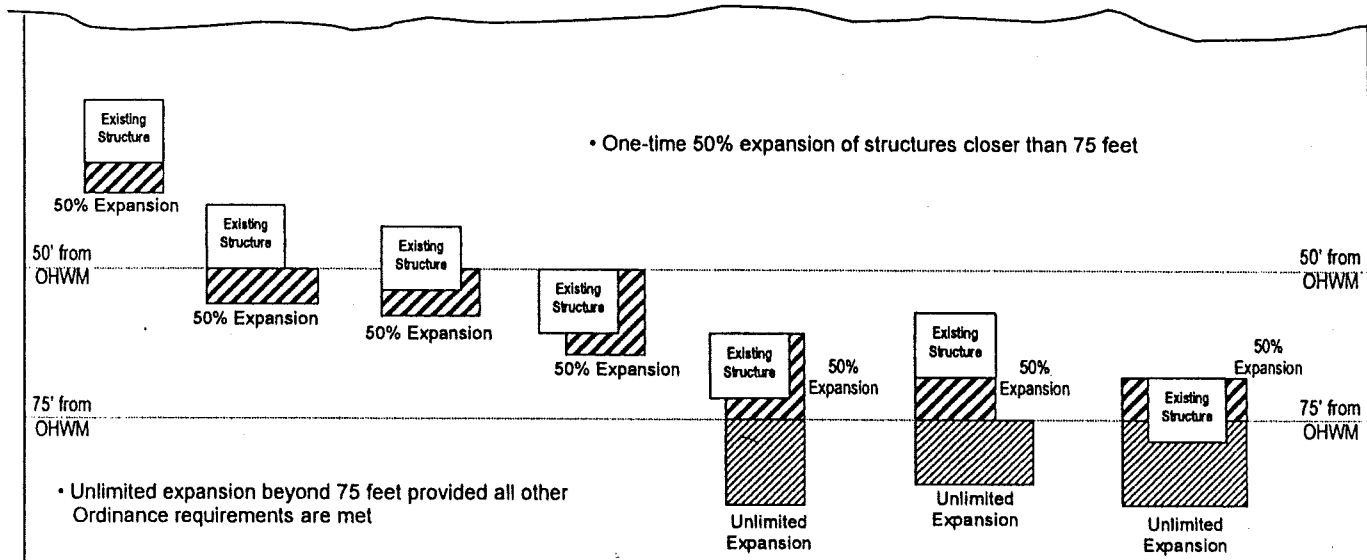
- Rear, side, or vertical expansions are permitted
- New basements and new stories are permitted

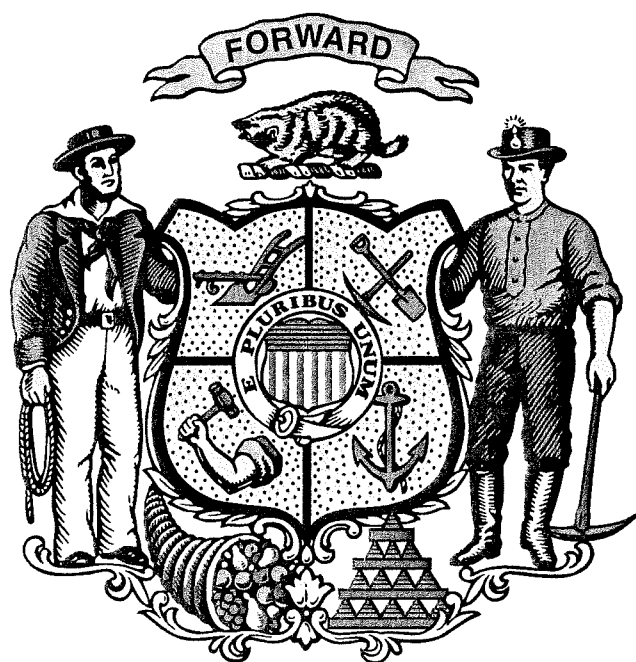
Unlimited expansion beyond 75 feet from the OHWM, provided all other Ordinance requirements are met

Assign Mitigation points according to the density and sensitivity of lake (see Zoning Standards for Lakes Summary)

- Structures located 0 - 40 feet - ADD 2 POINTS
- Structures located 40 - 75 feet - ADD 1 POINT

Impervious Surface Areas may not exceed 15% of lot area or 4,000 sq. ft., whichever is greater, without an approved Stormwater Management Plan.





Summary of Town of Minocqua objections to NR 115 —

- 1. Current law and this proposed rule are not applied uniformly.
(Example, the rule would apply in Minocqua but not in Eagle River.)**
- 2. The rule does not take into account existing development
patterns in long-existing business areas.**
- 3. The 30% impervious surface component would make thousands
of properties non-conforming.**

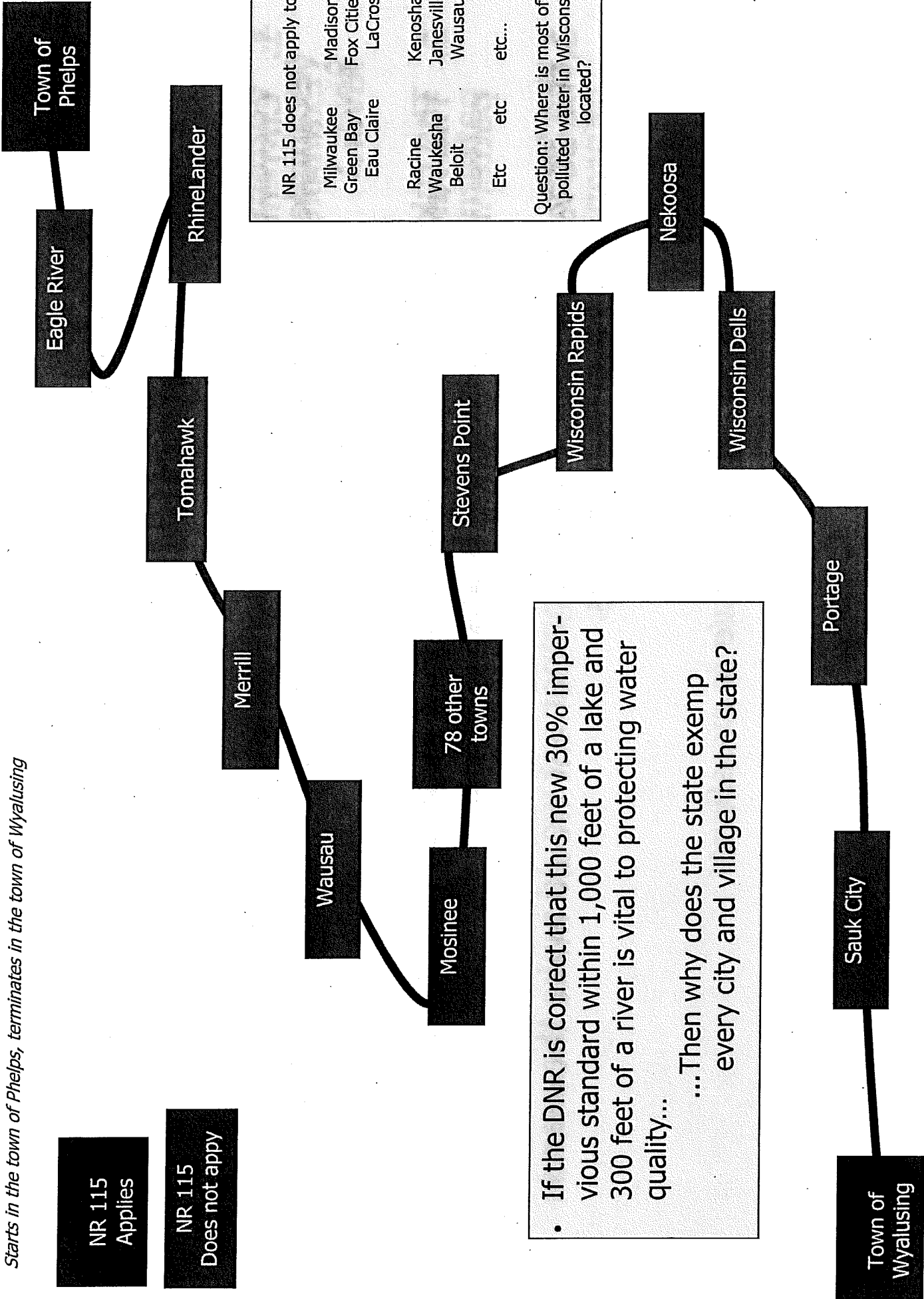
Note: The removal of the 50% rule is excellent!

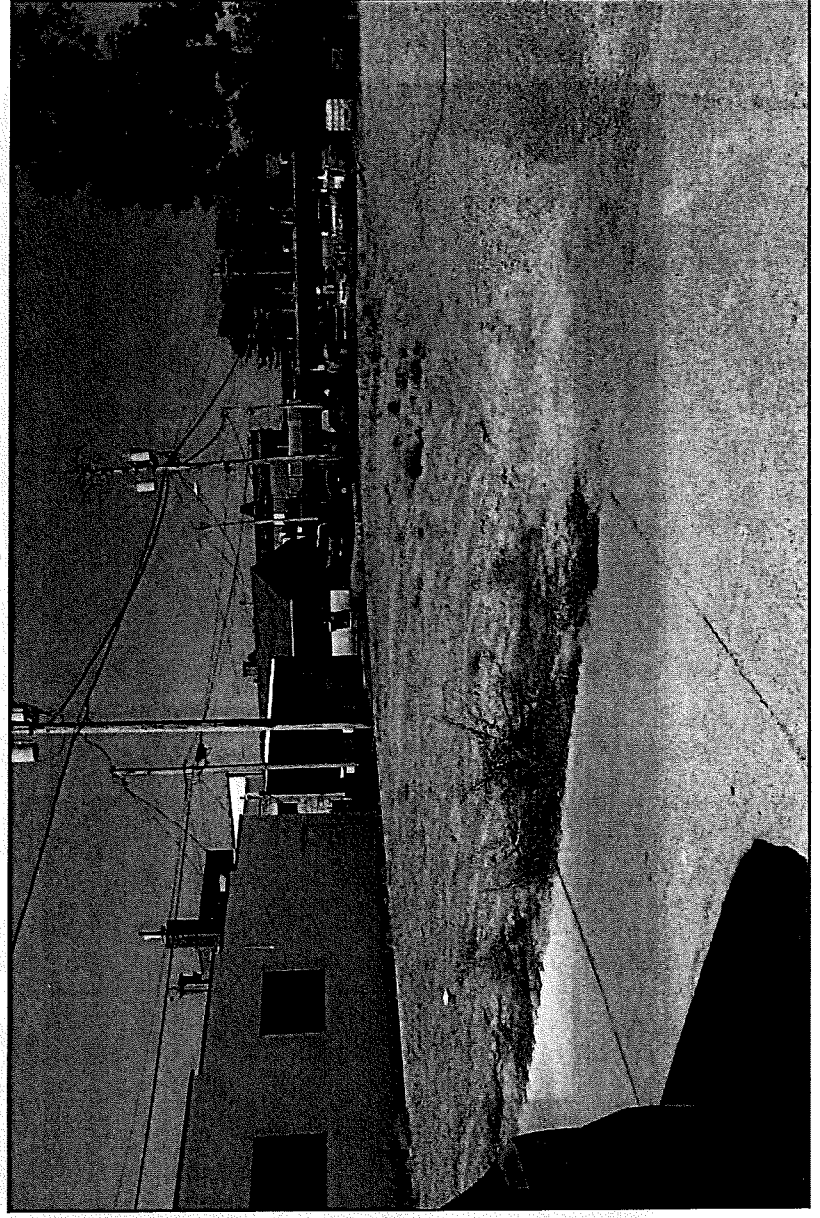
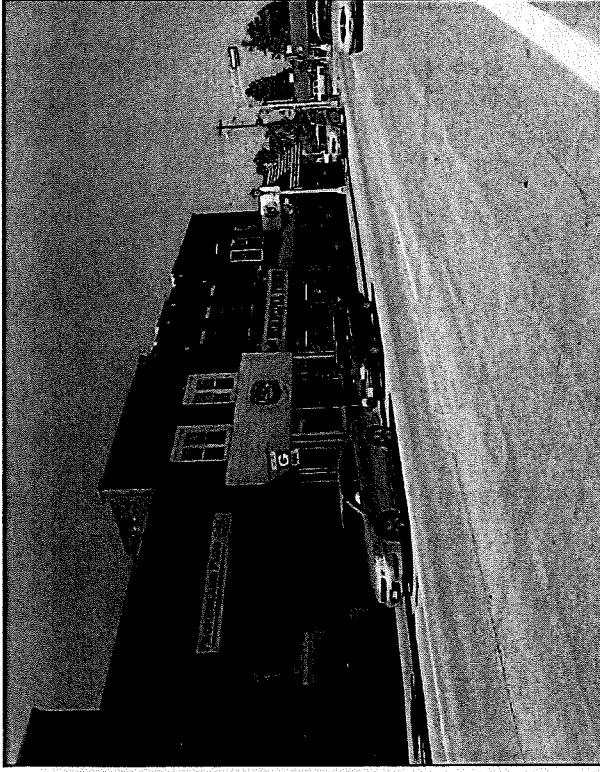
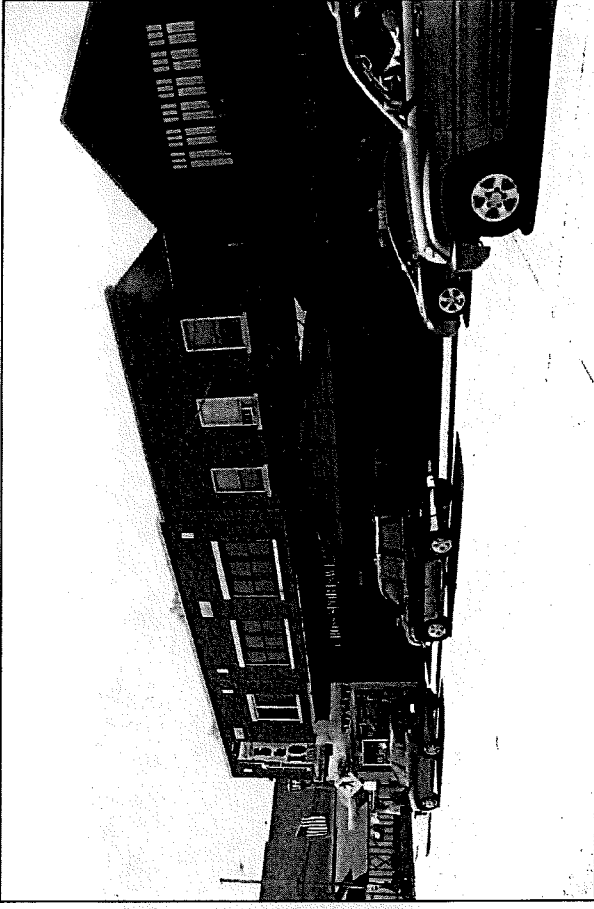
The Wisconsin River

Starts in the town of Phelps, terminates in the town of Wyalusing

NR 115 Applies

NR 115 Does not apply

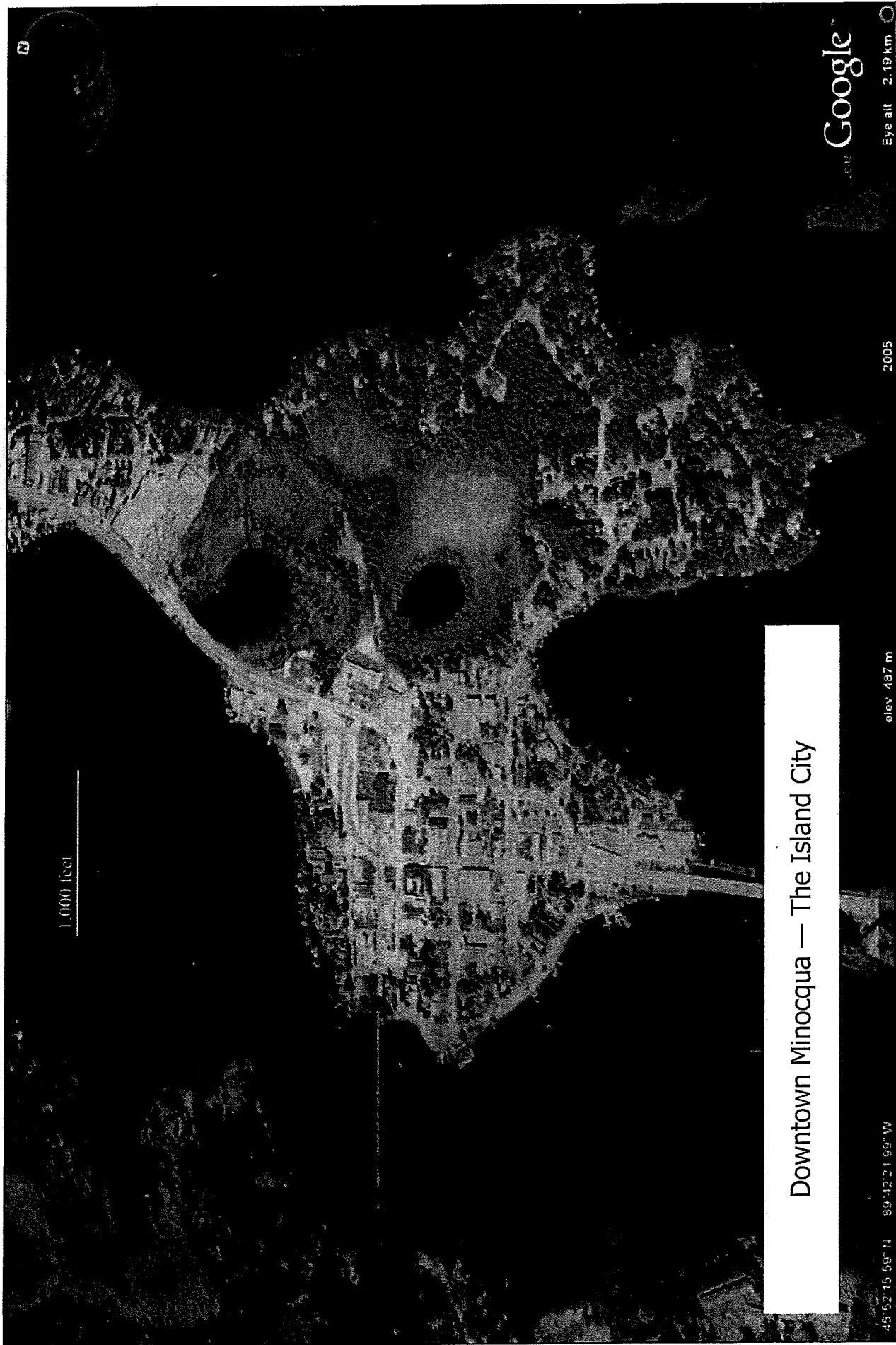




This rule should not move forward as proposed as it does not take into account existing development patterns such as downtown Minocqua.

If the rule does move forward, then every city and village in the state should be forced to follow it **OR** non-incorporated village areas need to be exempted.

Downtown Minocqua. To the right, 50 foot lot. Only 30% could have impervious surface.



1,000 feet

Downtown Minocqua — The Island City

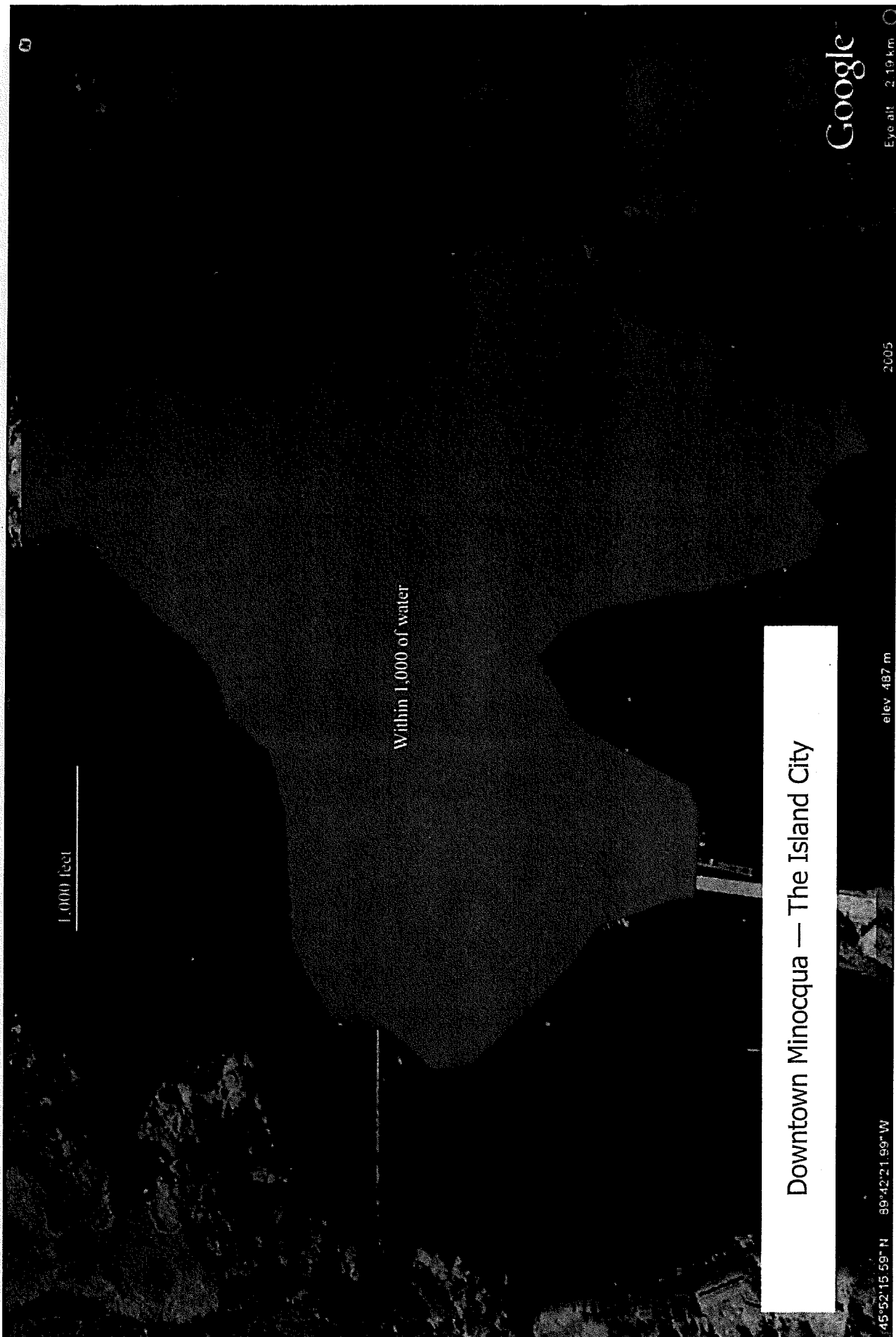
Google

Eye alt 2.19 km

2005

elev 487 m

45°52'15.59"N 89°42'21.99"W



1,000 feet

Within 1,000 of water

Downtown Minocqua — The Island City

45°52'15.59"N 89°42'21.99"W

elev 487 m

2005

Google

Eye alt 2.19 km



Highway 51 north of Island and Highway 70 West

The monster of
non-conformity

1,000 feet

45°53'00.00" N 89°42'08.08" W

485 m

2005

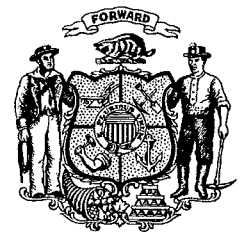
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Google

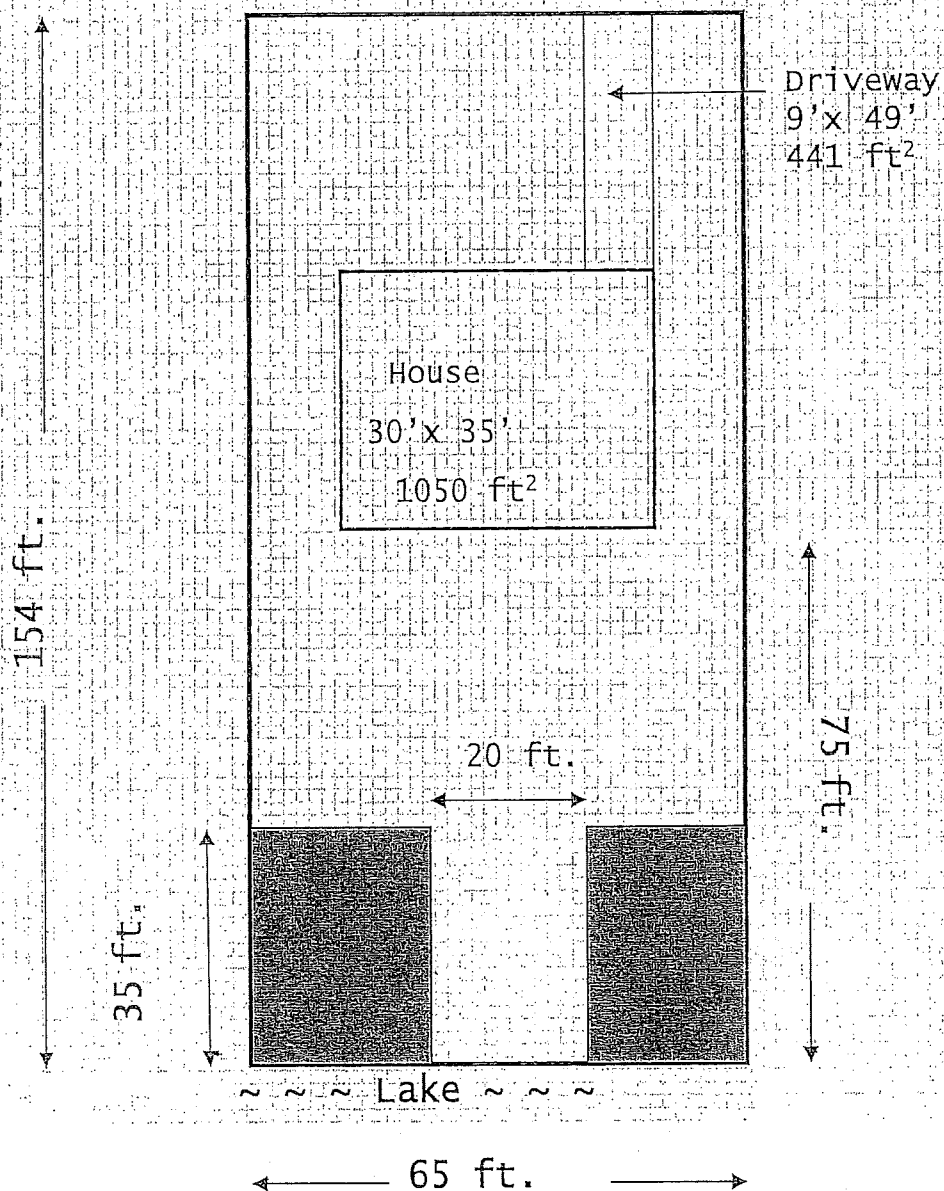
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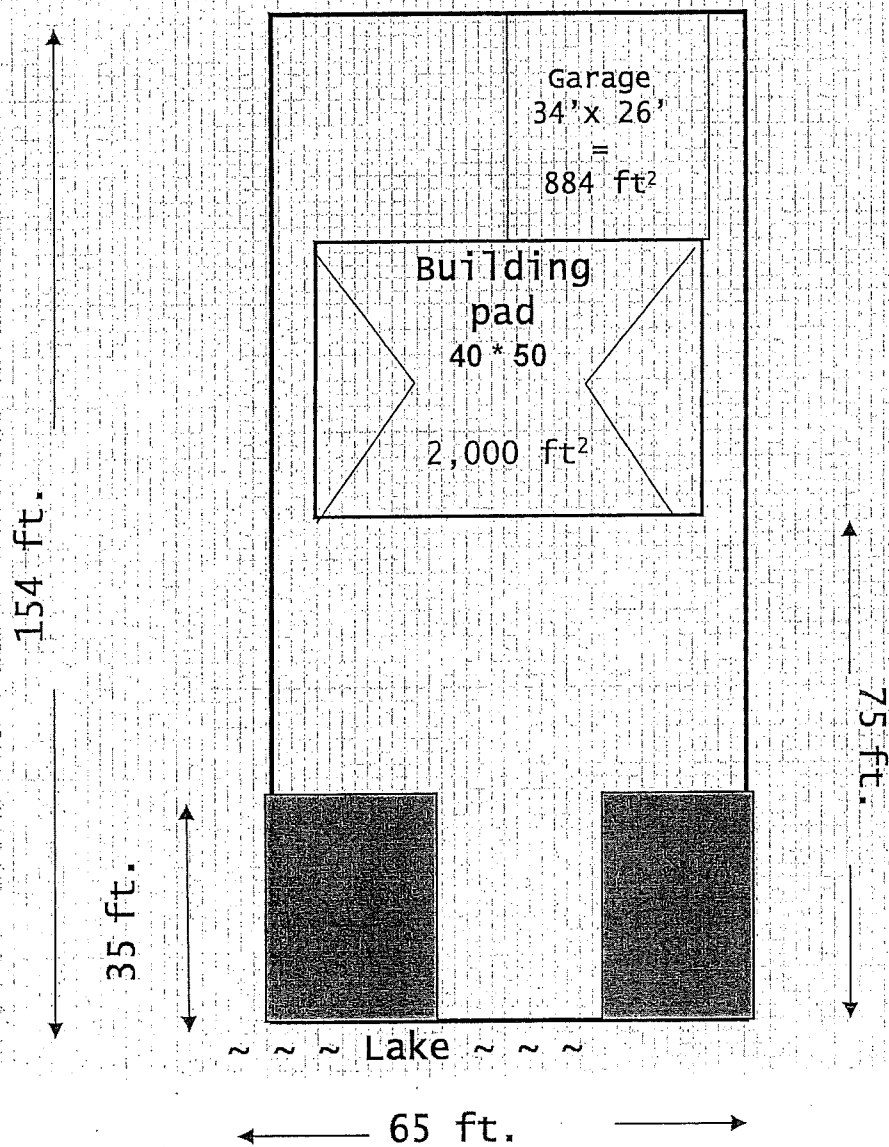


Drawing more or less to scale



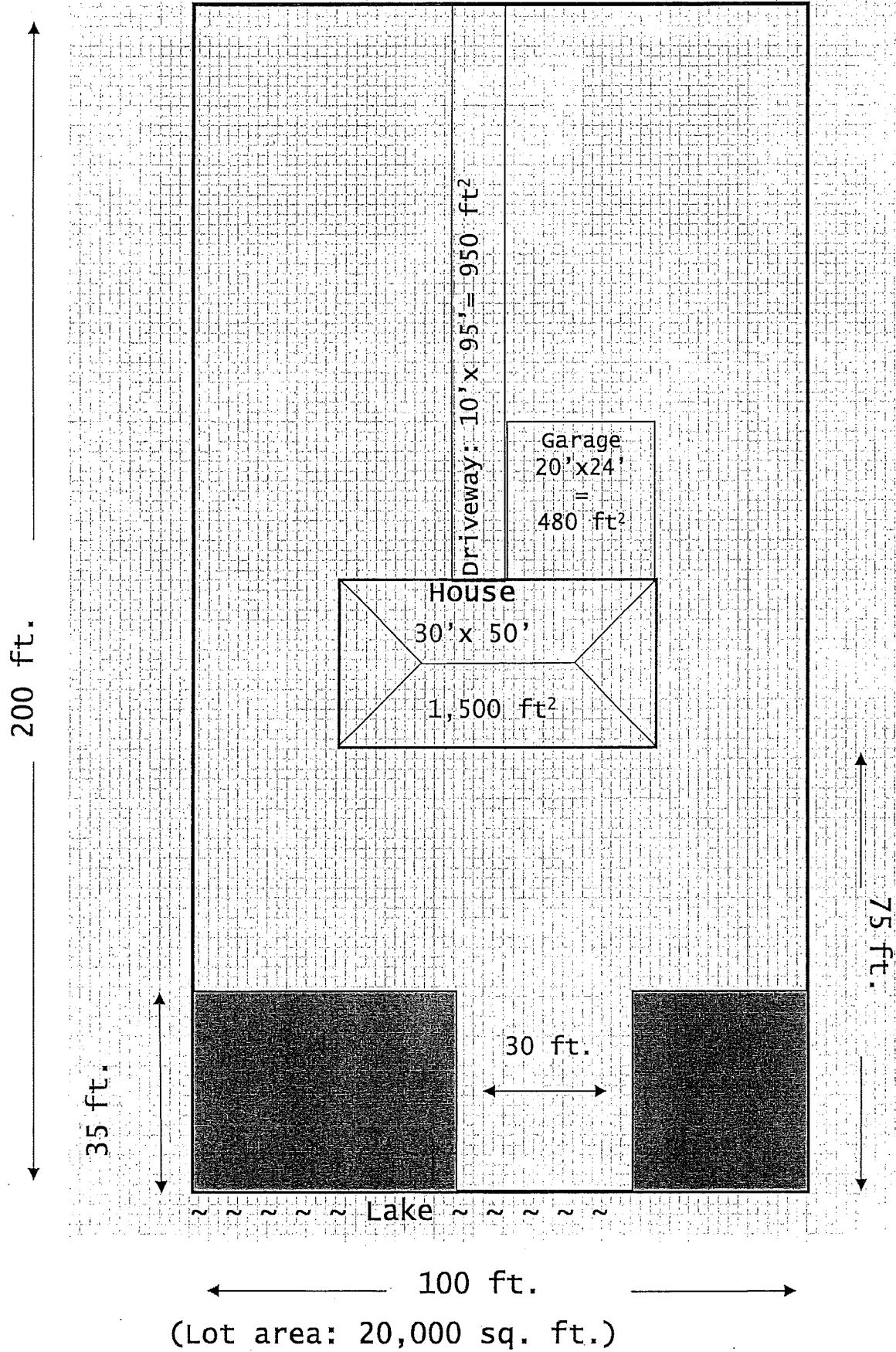
(Lot area: 10,010 sq. ft.)

Drawing more or less to scale

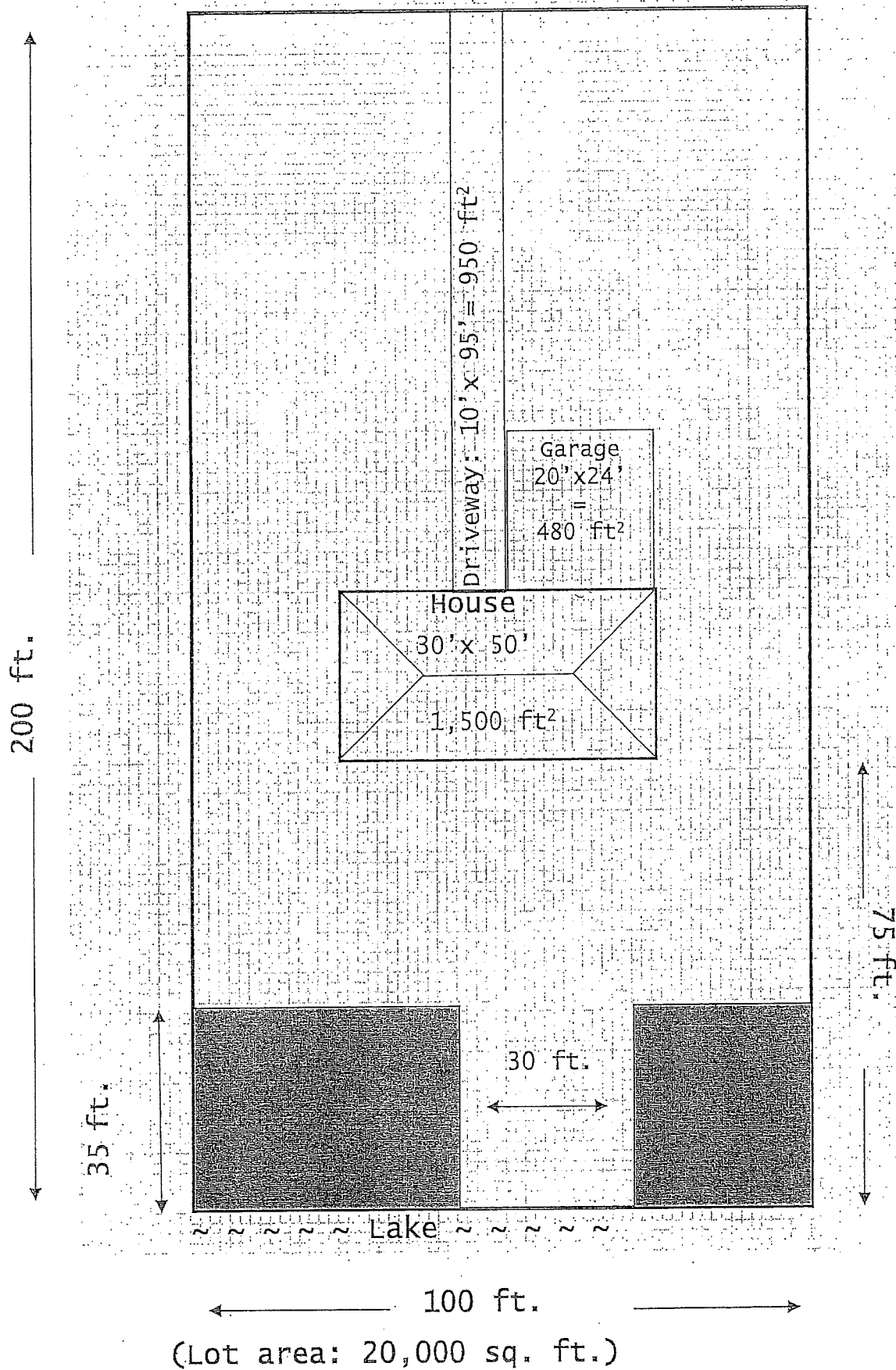


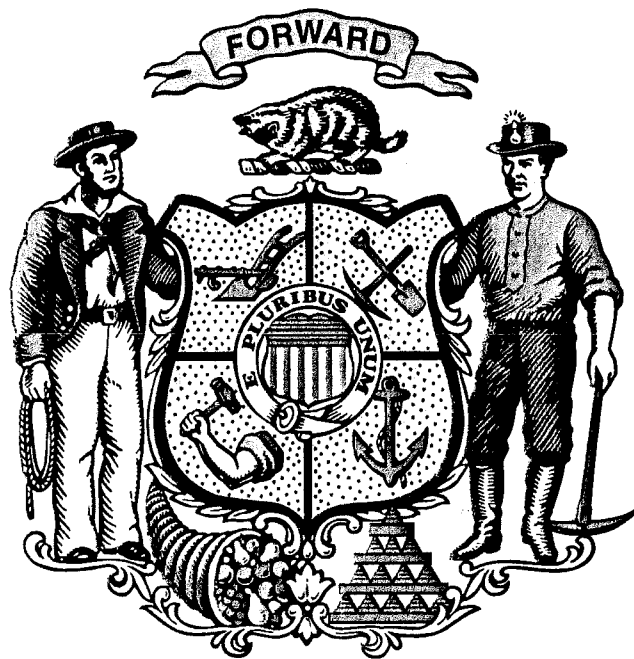
(Lot area: 10,010 sq. ft.)

Drawing more or less to scale

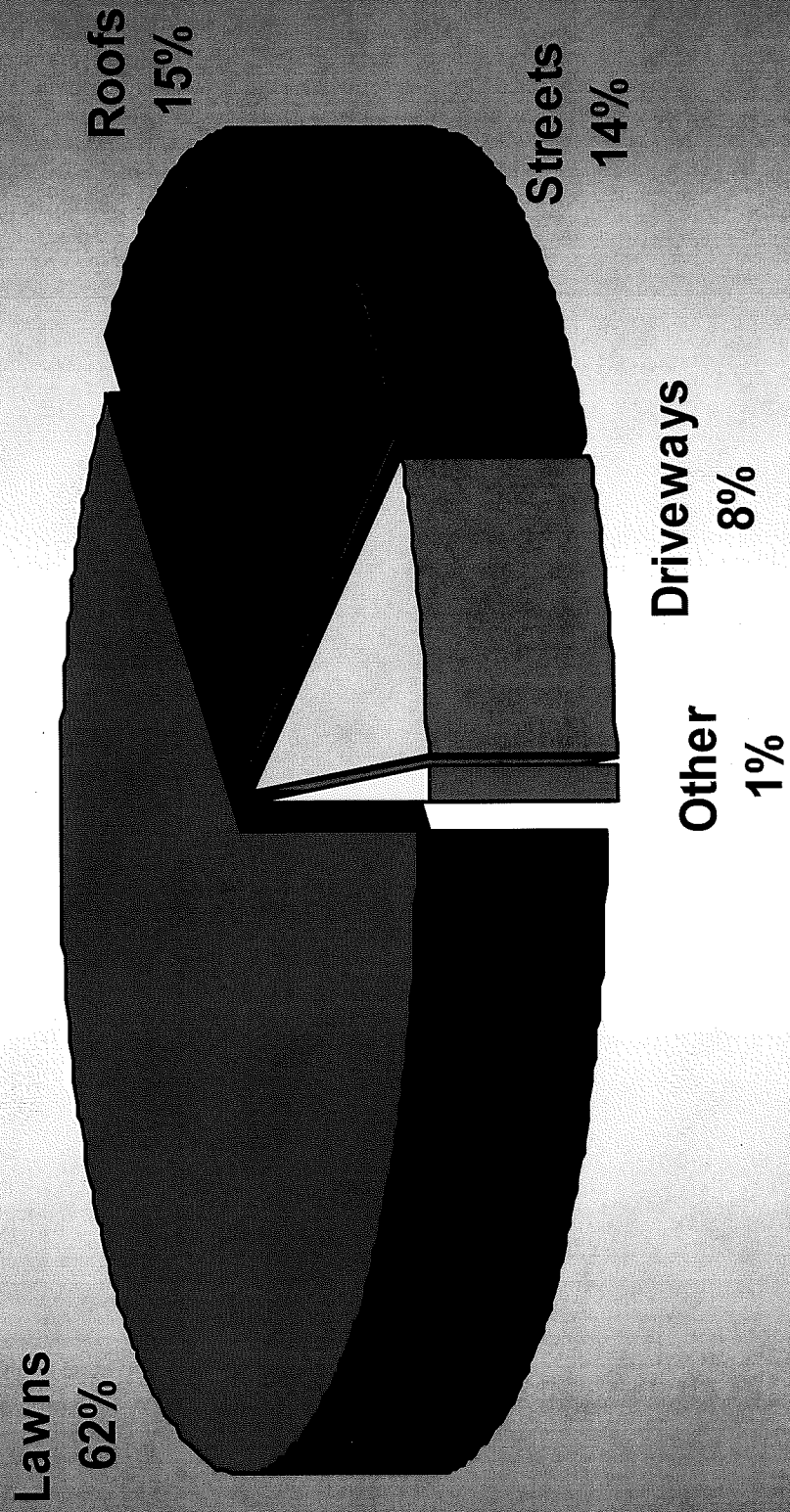


Drawing more or less to scale

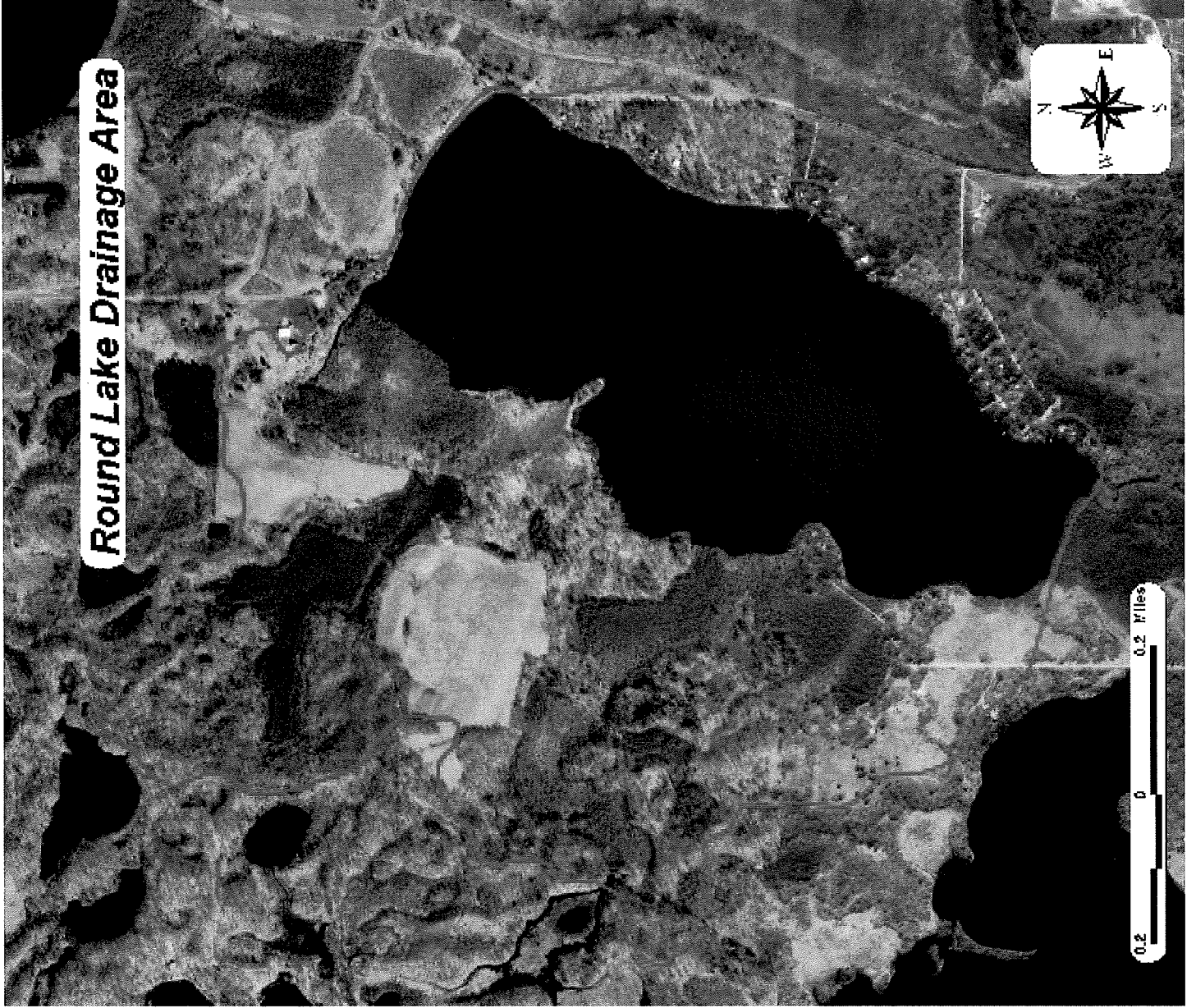




Residential Land Surfaces



Round Lake Drainage Area



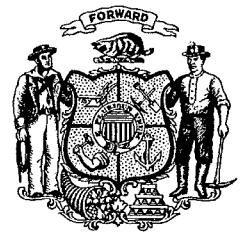








WISCONSIN STATE LEGISLATURE



10/14 Shoreland Zoning

- 1000 ft. distance
- weakness in near-shore development
- mitigation agreements - enforceable + disclosed

Mitigation

- study of counties show that most use affidavits - none use deed restrictions
- Spencer - wants them recorded at register of deeds
- require that there is disclosure on real estate form
 - Mel - DNR does not have authority to do this
- permit authorizes that it must be disclosed might work

1000 ft.

- wants it rolled back to 300 ft.

200 ft.

15% to 25%

300 ft.

15%
20% to 30%

Expansion of non-conforming structures

- there should be no expansion w/in 75 ft.
- existing footprint only
- same building envelope (Black - same Holwein - doesn't care)
- does not include porches/decks
 - or tie to impervious surface definition

- ① enforceable, recordable mitigation
 - ② no expansion w/in 75ft. - but perhaps vertical - unlimited improvement
 - ③ impervious surface - 200 (15-25), 300 (¹⁵~~20~~-30)
 - ④ roll back to 300ft.
 - ⑤ technical changes
- spacer
 Holperin - 15-30 / or 25 everywhere

- Holperin - look at changing "nonconforming" to "legal pre-existing"
- with exception for illegal nonconforming

DNR Process

- need to have letter to LRB by end of Dec.
- Go to MRB - probably by call
- 10 working days by committee when rule