

# Shoreland Zoning

---

ADAM OSSEFOORT

DIVISION DIRECTOR, TODD COUNTY PLANNING AND ZONING/SWCD

# Regulations – Why?

---

Protect the public health, safety, and welfare.

Protect, preserve, and develop the economy.

Promote orderly development

Conservation of natural and scenic beauty.

Conserve and develop natural resources.

Provide compatible uses

Minimize pollution.

# Zoning 101

---

## Comprehensive Land Use Plan

- MN Statute 394.23 – Authority to adopt a Comprehensive Plan; must be the basis of official controls
- Overall development policy of the County
- Long-term plan

## Water Plan

- 103B.311 encourages adoption of plan; Counties responsible but can delegate
- Identifies water-based resource concerns
- Contains goals and objectives to improve water quality and quantity

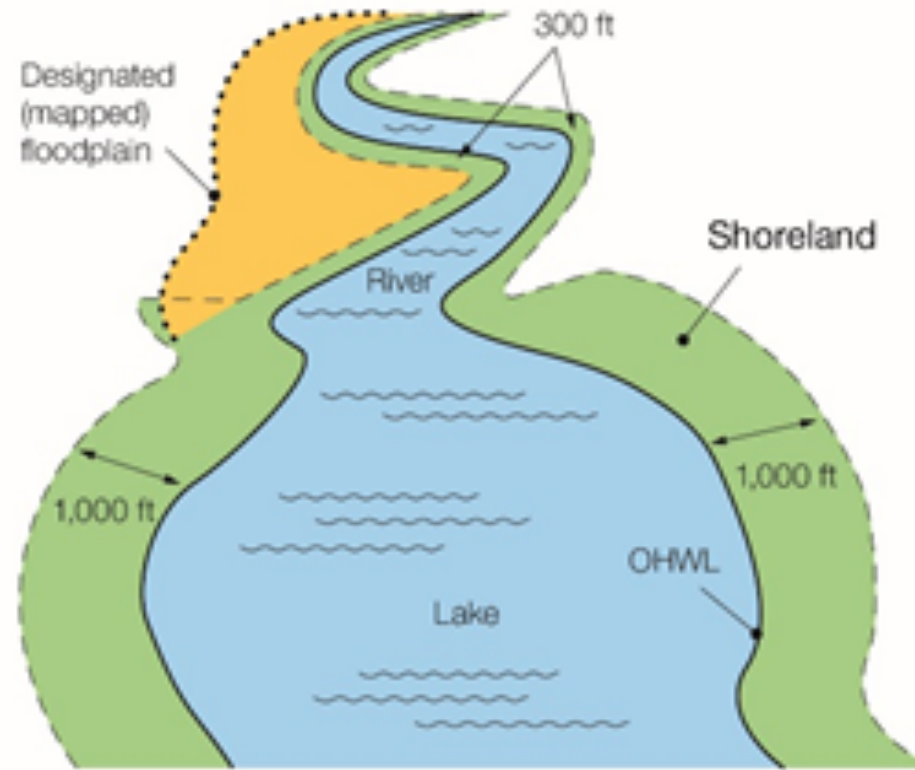
## Zoning Ordinance

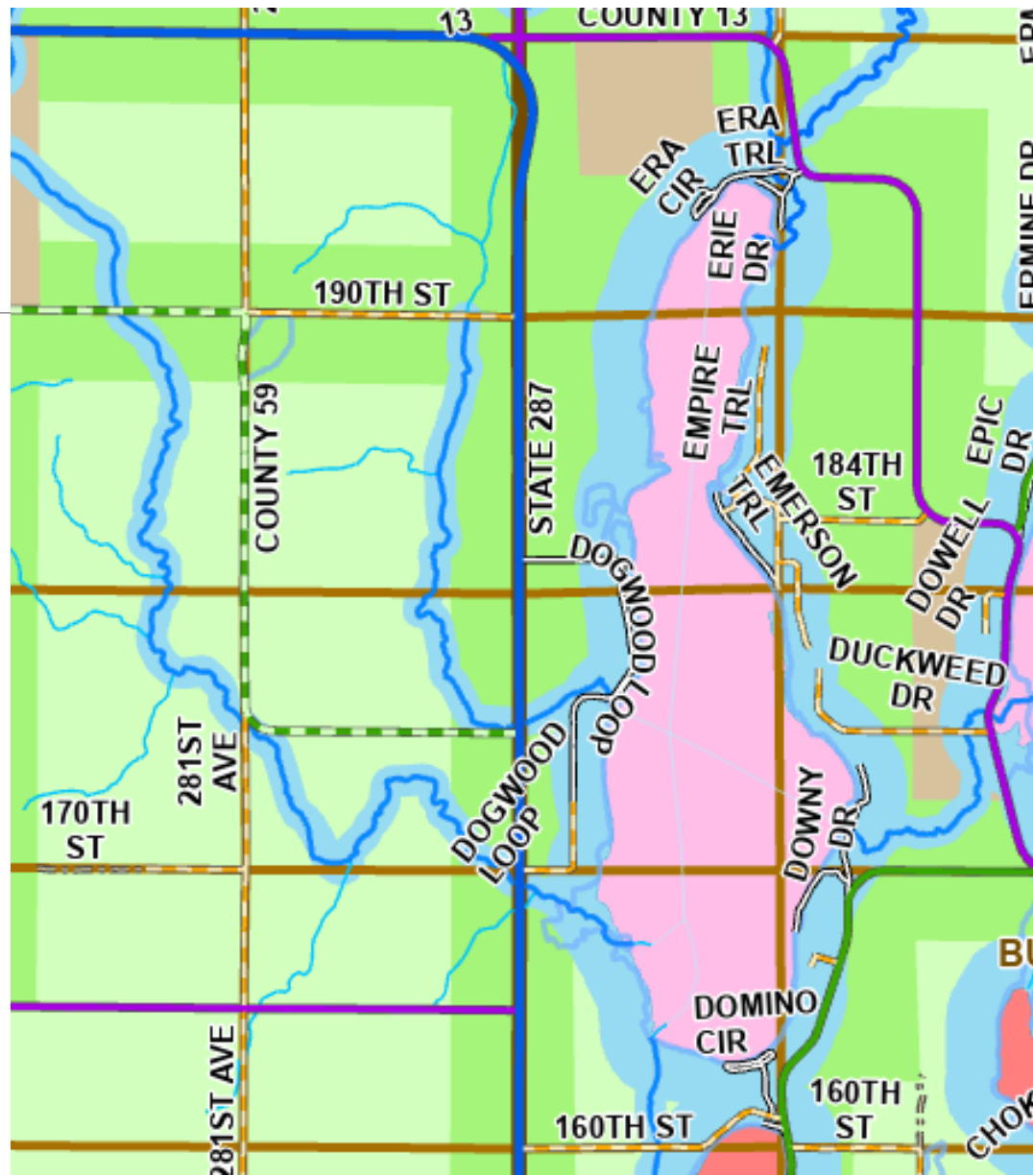
- Regulation that contributes to the accomplishment of the goals and objectives of the Comp and Water Plans\*
- Able to be amended to adjust to changing needs

# Shoreland Designation and Classification

---

Shoreland is areas with 1000' of a lake or 300' from a stream.





# Shoreland Designation and Classification

---

## General Development (GD)

- Generally large, deep lakes with high levels of development. Extensively used for recreation.

## Recreational Development (RD)

- Medium sized with varying depths. Moderate development with moderate recreational use.

## Natural Environment (NE)

- Often small, shallower lakes with limited capacities for assimilating the impacts of development.

Watercourses have varying other designations

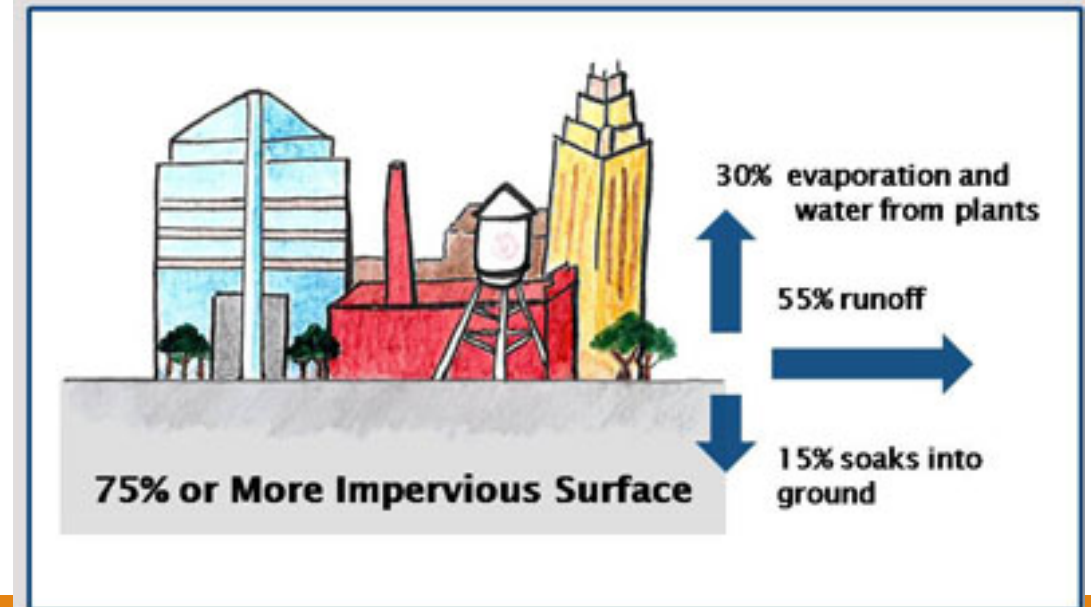
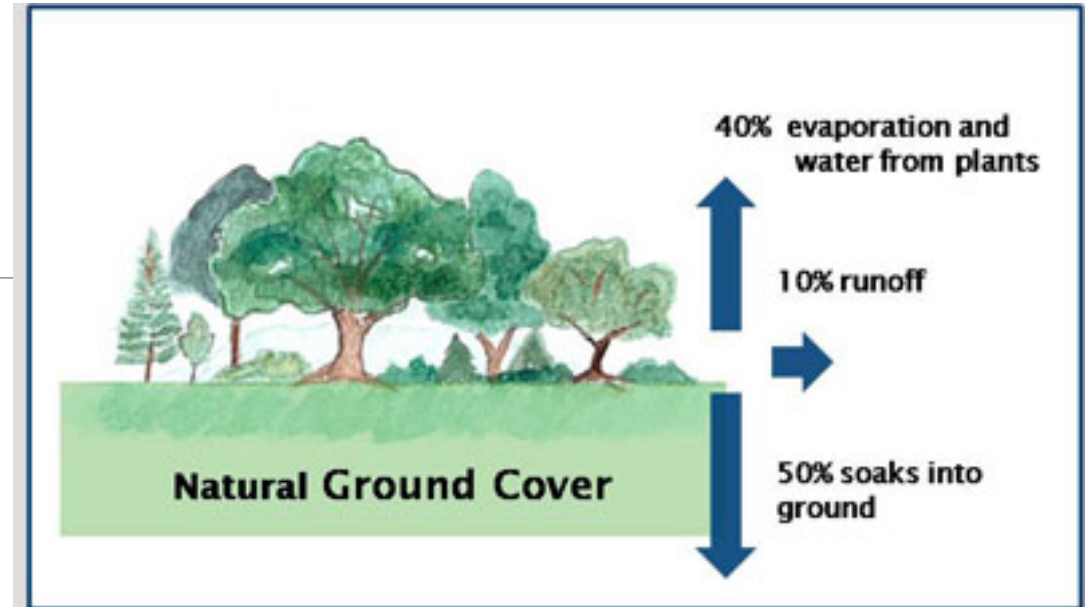
# Impervious Surface

A constructed hard surface that prevents the entry of water into the soil or causes the water to run off the surface in greater quantities.

- Roofed surfaces, roads, driveways, decks, patios, landscaping

## Todd County Standards

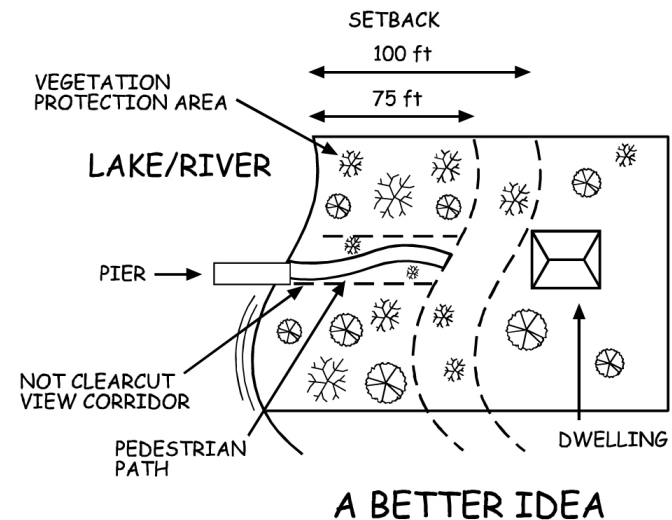
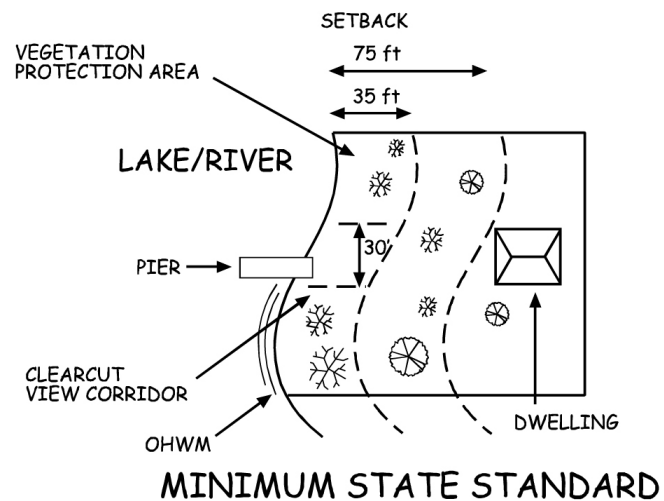
- 15% from roofed surfaces
- 25% total



# Setbacks

A minimum horizontal distance that is the required distance between to known points that restricts the placement of structures.

- For the purposes of public safety and environmental protection.
- Setbacks from the lake.





# Setbacks

---

Big Swan Lake is a Recreational Development Lake

- 100' setback from OHWL (Shore Impact Zone of 50')
- 10' side line setback
- 20' rear line setback
- 20' right of way setback from County or Township Road of at least 66' in width
- 35' setback from right of way narrower than 66'.
- 30' top of bluff setback

# Structure Restrictions

---

Placement

Screening

Peak Height

Natural, Earth Tone Colors



# Types of Permits

---

- Land Use
  - Straight-forward, quickest, easy, most common
- Building
  - Applies building code, more expensive, multiple inspections
- Conditional Use
  - Requires a public hearing, runs with the land, can be: conditioned, denied, controversial
- Interim Use
  - Requires a public hearing, has an end date, can be: conditioned, denied, controversial
- Variance
  - Requires a public hearing, can be: denied, conditioned, controversial

# Types of Permits

---

Use – the purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.

## Administrative Decision Authority vs Board Discretion and Decision

- Variances
- Conditional Use Permits
- Request for Rezoning
- Development/Platting

# Variations

---

Any modification or variation of the official controls.

Variations are presented at a public hearing to the Board of Adjustments

MN Statute 394.27 Subd. 7 – must meet the statutory criteria for granting a variance.

- Individual Counties may have additional criteria in Ordinance.

Practical Difficulty – formerly known as a hardship.

# Variances

---

## Subd. 7. **Variances; practical difficulties.**

The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

# Section 5.03 Variances

---

## B. Variance Criteria

1. Is the variance in harmony with the general purposes and intent of the official control?
2. Is the variance request consistent with the goals and policies of the comprehensive plan?
3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
4. Is the need for a variance due to the circumstances unique to the property not created by the landowner?
5. Will the variance maintain the essential character of the locality?
6. Does the need for the variance involve more than just economic considerations?
7. Have safety and environmental concerns been adequately addressed?

# Conditions

---

Establishment of native buffers

Storm water retention

Screening

Side note, variances cannot be granted for uses.

Additional side note, the BOA also hears appeals of administrative decisions.

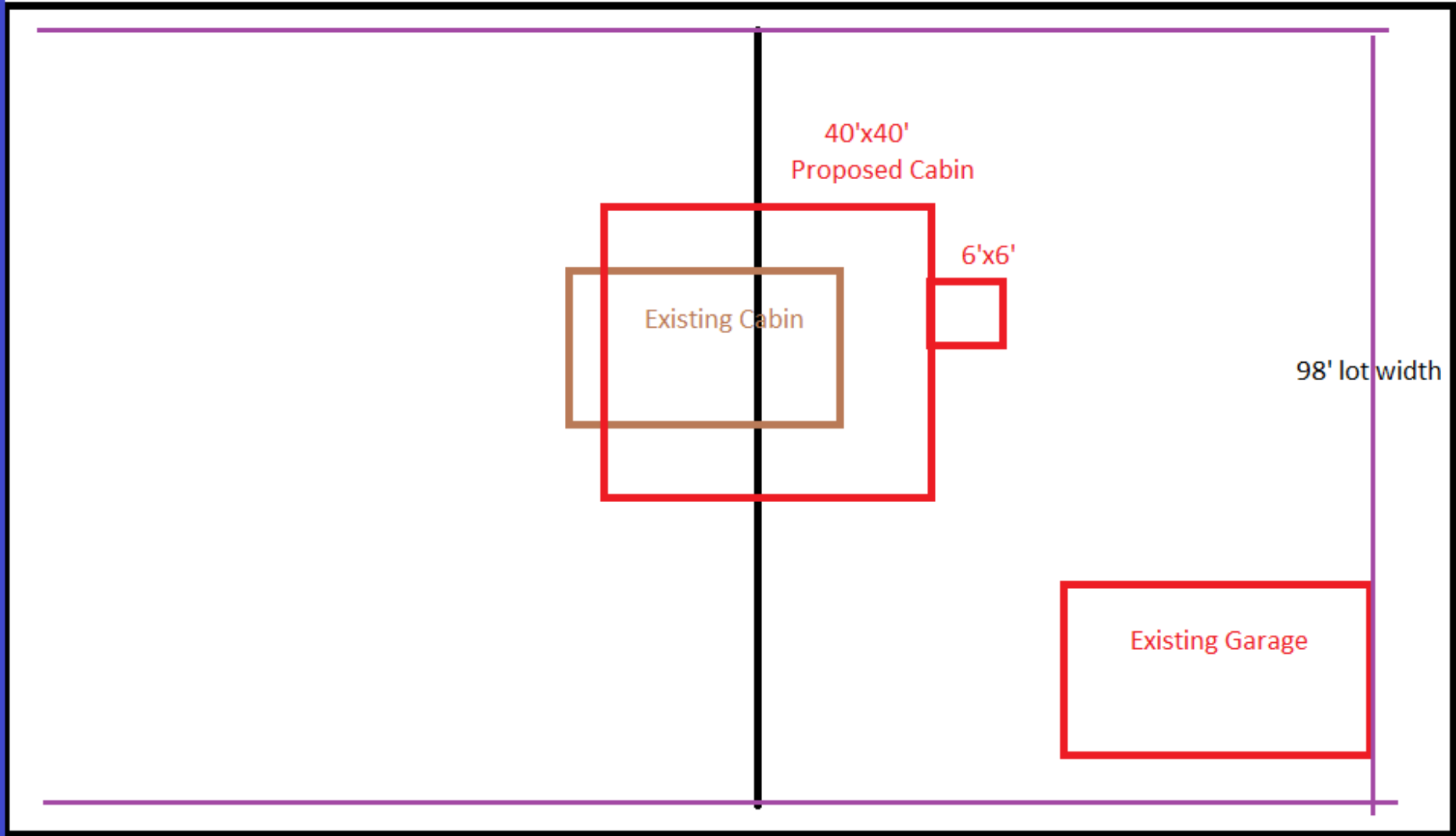


# Scenario #1

---

- Property Owner is requesting to reduce the setback to the OHWL of Big Swan Lake from 100' to 70' and increase the allowable peak height from 18' to 24'.
  - Setback to the lake is 100' by Ordinance
  - Maximum peak height is 18' for structures within any setback distance.
- Practical Difficulty as stated by the applicant
  - The proposed cabin will be further from the lake than the existing cabin
  - The buildable space on the property is not large enough for the proposed structure.

166' lot depth



40'x40'  
Proposed Cabin

6'x6'

Existing Cabin

98' lot width

Existing Garage

# Additional Information

---

1. The right of way is 66' wide (20' setback from the edge of the right of way)
2. Applicant has proposed a stormwater mitigation plan
3. The applicant provided a survey with the application
4. This property was created in 1956 and is non-conforming in size.
5. Neighboring properties are very similar in size with similar structures.

Is the variance in harmony with the general purposes and intent of the official control?

---

Is the variance request consistent with the goals and policies of the comprehensive plan?

---

Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

---

Is the need for a variance due to the circumstances unique to the property not created by the landowner?

---

Will the variance maintain the essential character of the locality?

---



Does the need for the variance involve more than just economic considerations?

---

Have safety and environmental concerns  
been adequately addressed?

---

# Scenario #2

---

Applicant is request to reduce the OHWL setback from 100' to 60' and increase the peak height to 21' for construction of a new home. Also reduce the OHWL setback from 100' to 50' for construction of a deck.

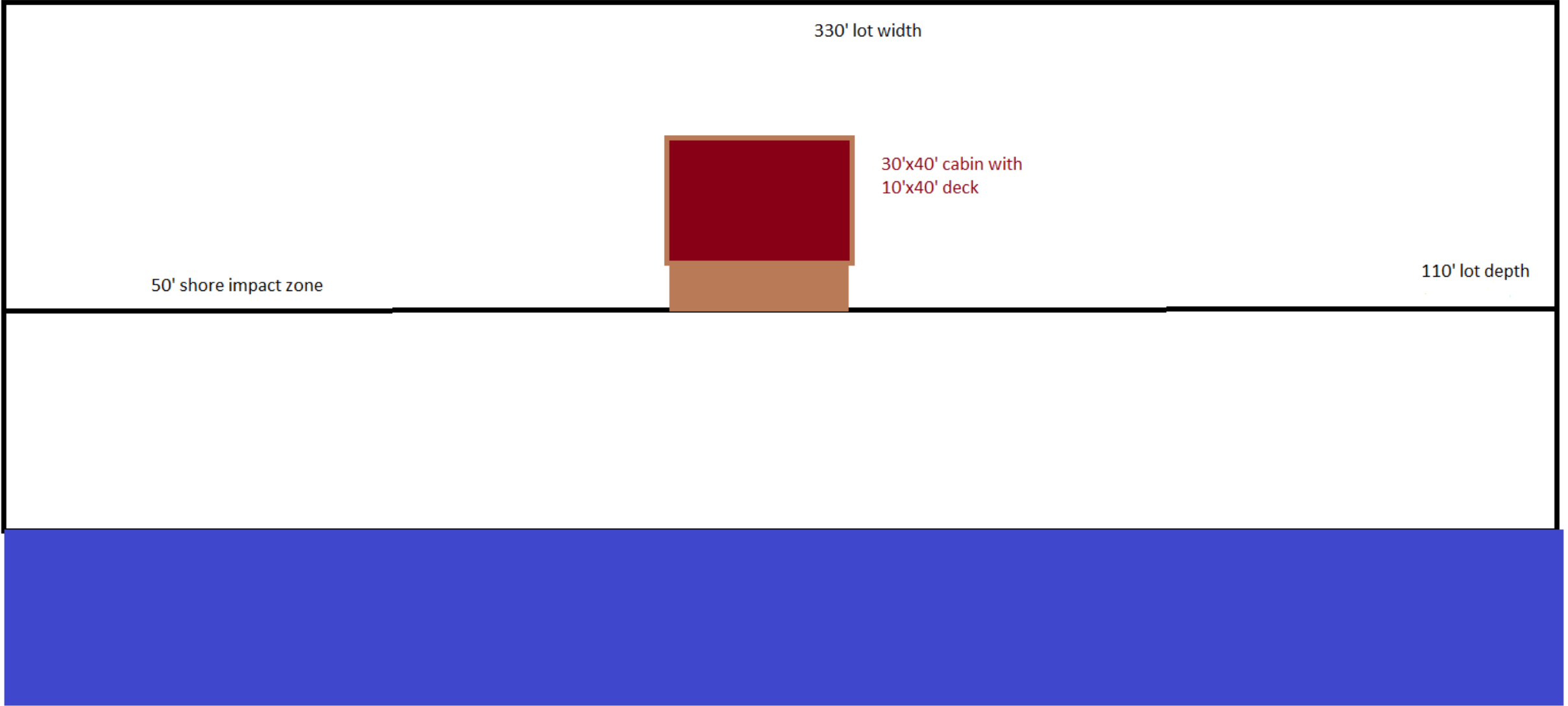
- Setback to the lake is 100' by Ordinance
- Maximum peak height is 18' for structures within any setback distance.
- Practical Difficulty as stated by the applicant
  - o Lot was platted in 1917 prior to shoreland standards
  - o There is no buildable space on the property.

330' lot width

30'x40' cabin with  
10'x40' deck

50' shore impact zone

110' lot depth



# Additional Information

---

1. The right of way is 66' wide.
2. The applicant has worked with the SWCD to develop a stormwater plan and it was included with the application.
3. The applicant provided a survey
4. The lot was created in 1917 and is non-conforming in size.
5. Neighboring properties are similar in size with non-conforming structures.

Is the variance in harmony with the general purposes and intent of the official control?

---

Is the variance request consistent with the goals and policies of the comprehensive plan?

---

Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

---



Is the need for a variance due to the circumstances unique to the property not created by the landowner?

---

Will the variance maintain the essential character of the locality?

---

Does the need for the variance involve more than just economic considerations?

---

Have safety and environmental concerns  
been adequately addressed?

---