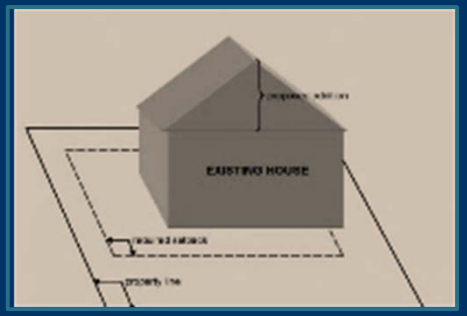
Planning Commission Basics









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Minnetonka Beach
September 26, 2022

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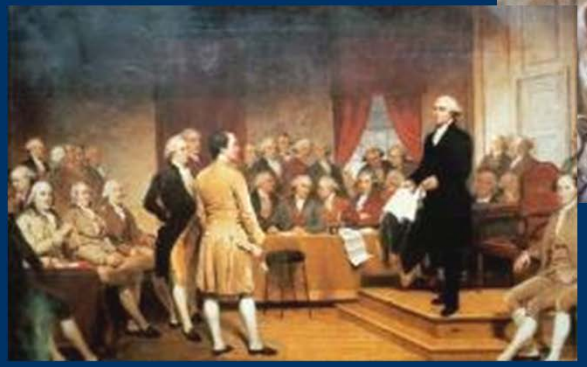
Historical Overview

- Black Plague in Europe
- Industrial Revolution
- American Revolution



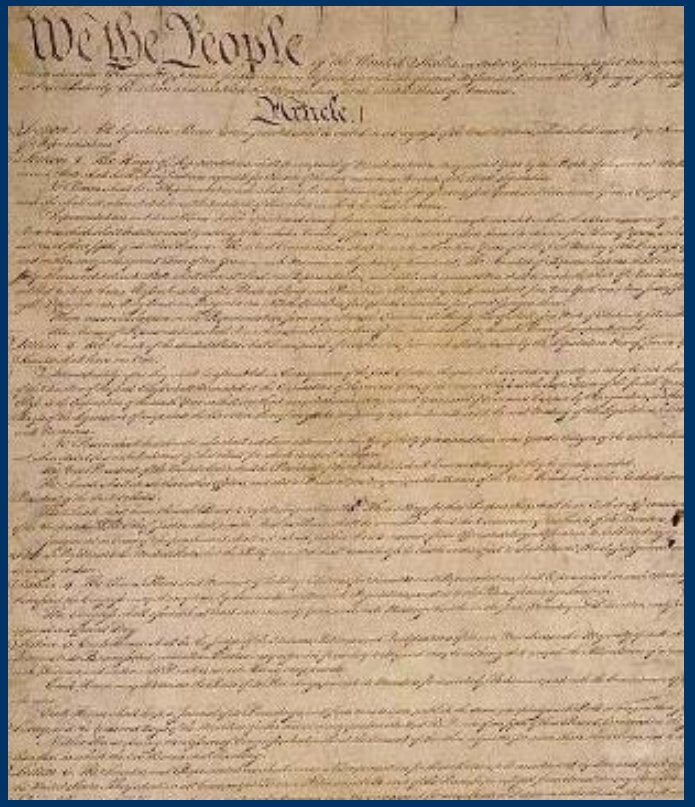
- U.S. Constitution

Our Forefathers

- Constitution framers - landed gentry, not peasants
- Property rights very important
- “Life, liberty and pursuit of happiness” in *Declaration of Independence*
- “Life, liberty and property” in *Constitution* (Bill of Rights)

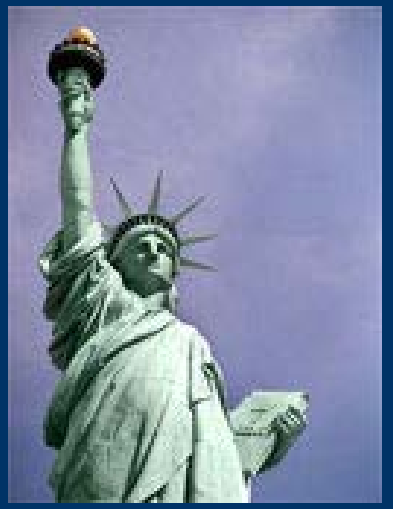
United States Constitution

- Established Federal Government as one of *limited* and *expressly enumerated* powers.
- Grants general *police power* to the States, not the Federal Government.
- States delegate the police power to local government units through the State *enabling legislation*.



United States Constitution

Key Principles:



- Due Process

". . . nor shall any State deprive any person of life, liberty or property without due process of law."

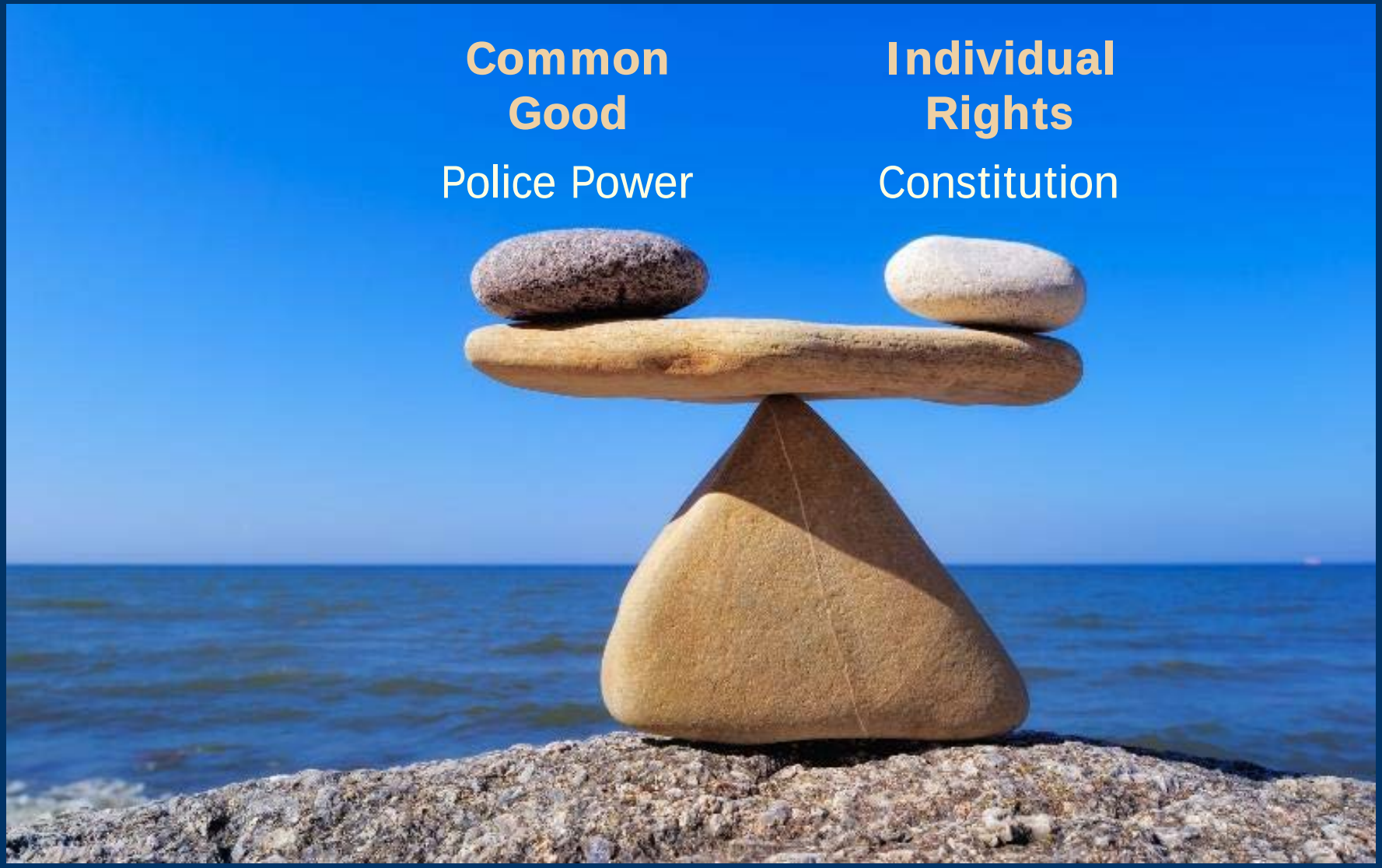
- Equal Protection

". . . nor deny to any person within its jurisdiction the equal protections of the laws."

- Takings

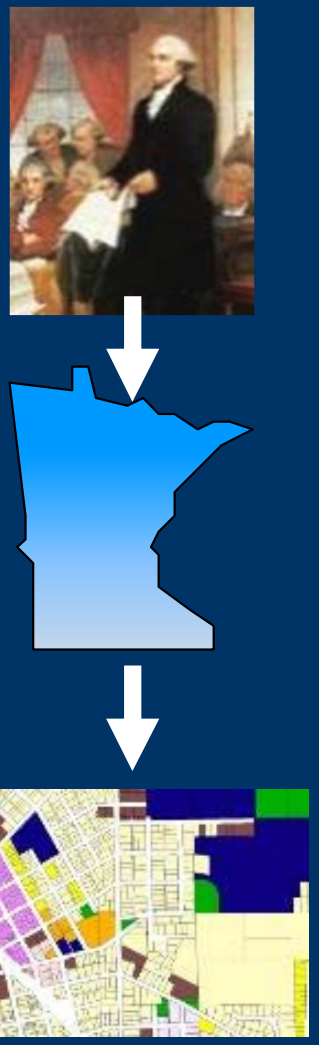
". . .nor shall private property be taken for public use, without just compensation."

A Question of Balance



Role of the Zoning Ordinance

- Its purpose is to **implement the comprehensive plan**
- Source of zoning authority is the state enabling legislation **– limited to what is adopted in the ordinance**
- Standards must be **reasonable means to legal ends**



Types of Uses

PRINCIPAL: The Main/Primary Use of the Property

ACCESSORY: A Secondary/Subordinate use of the Property (not allowed on its own)

PERMITTED USE: A use that is permitted "as of right" with no special approval required or conditions attached.

CONDITIONAL USE or SPECIAL USE: a permitted use to which reasonable conditions may be attached based on factual findings. Runs with the land *in perpetuity* (forever) – no time limit

Interim Use

INTERIM USE:

- A temporary use of the land
- To which reasonable conditions may be attached,
- Which will expire:
  - On a certain date,
  - After a certain event, or
  - When zoning ordinance no longer allows it
- Permitted by State statute but must have provision in Zoning Ordinance.

Legal Non-Conformities

General Rule:

If lawful at the time of a Zoning Ordinance, a *change* in the Ordinance regarding a use, occupation or condition means the original use becomes a **legal non-conformity**

- State statute: Allowed to **continue**, be **repaired**, **maintained**, **replaced,** and **improved**, but not **expanded**
- Cities can allow **expansion** by ordinance

Non-Conformities

- State law requires it to become conforming when
  - Discontinued for more than one year, or
  - Destroyed by more than 50% of market value by fire or other peril and no building permit applied for within 180 days

Subdivision Regulations

- Regulates:
  - Lot sizes
  - Complementary streets to existing land
  - Requirement for parks, trails
  - Preservation of natural resources
  - Payment of park dedication fees
- Ensures new development meets standards for a safe, functional and enjoyable community
- More detailed than Comp Plan & Zoning Ordinance, including public trails, parks, utilities, streets, boulevards, lighting, signs

Variance

- **VARIANCE**: Approval to depart from the requirements of the zoning ordinance; permission to “break the rules.”

  – Standard: PRACTICAL DIFFICULTY

Variance – Practical Difficulties

- Variances *may* be granted, but are not required to be granted, when there are "practical difficulties":
  1) Property will be used in a **reasonable manner**
  2) There are circumstances **unique to property** not caused by landowner
  3) The variance will not alter **essential character** of locality

- Economic considerations alone are not sufficient to justify a variance

Variances

- Reasonable Manner
  - Property cannot be used in a reasonable way under the rules of the ordinance.
  - Not that there is no reasonable use, just that the owner's request is reasonable.
- Unique Circumstances
  - Something different than most other properties
  - Usually physical: shape, slope, wetlands, trees, etc.
- Essential Character of the Locality
  - Setbacks, design, massing, height, etc. are out of character with the area

Variance – General Considerations

- Generally applies to the numbers in the ordinance – setback, height, lot coverage, parking, etc.
- Precedent only applies to applications that are similarly situated in facts and in time (~ 1 year)
- Use variances are not allowed
- An error by city staff does not entitle a person to a variance

Zoning Ordinance Amendments

Zoning Ordinance amendment is changing the terms, classification or boundary of a Zoning District.

- Text or Map amendment

In order to approve a Zoning Ordinance Amendment Application:

- Must comply with Comprehensive Plan
- Must not impede orderly development
- Must not endanger, injure, detrimentally impact surrounding properties

Interim Ordinance/Moratorium

- Adopt an interim ordinance to prohibit a use for a limited period of time (up to 1 year)
  - Must authorize a study
  - Cannot stop a pending application

- Extension only allowed if:
  - Do not have a Comp Plan and need time to finish it (up to one year extension)
  - Need other government approval (up to 120 days)

Public Record & Findings

- Every time the Planning Commission or City Council reviews an application, holds a hearing and makes a recommendation or decision they are creating a public record of the decision
- It is your job to sort through, find and document relevant facts and interpret them according to the applicable standards
- State the facts into the record for clarity
- City staff and attorney may suggest findings
- Findings should accompany a recommendation, especially a denial

60-Day Rule

- Application submitted
  - 15 business days to determine completeness
  - If incomplete, must reject it in writing and state the reasons as to why it is incomplete
  - If complete, the “clock” starts with application date and fees paid

60-Day Rule

- Failure of the City Council to act on a zoning application (CUP, variance, site plan, Final Plat) within 60 days after receipt of a completed application results in **approval** of the request
- Planning Commission may need multiple meetings to consider an application
- City may extend the time to act on an application up to an additional 60 days
  - Provide written notice (email OK) within 1st 60 days
  - State the reasons for the extension
  - State the length of the extension
- Applicant may request an extension

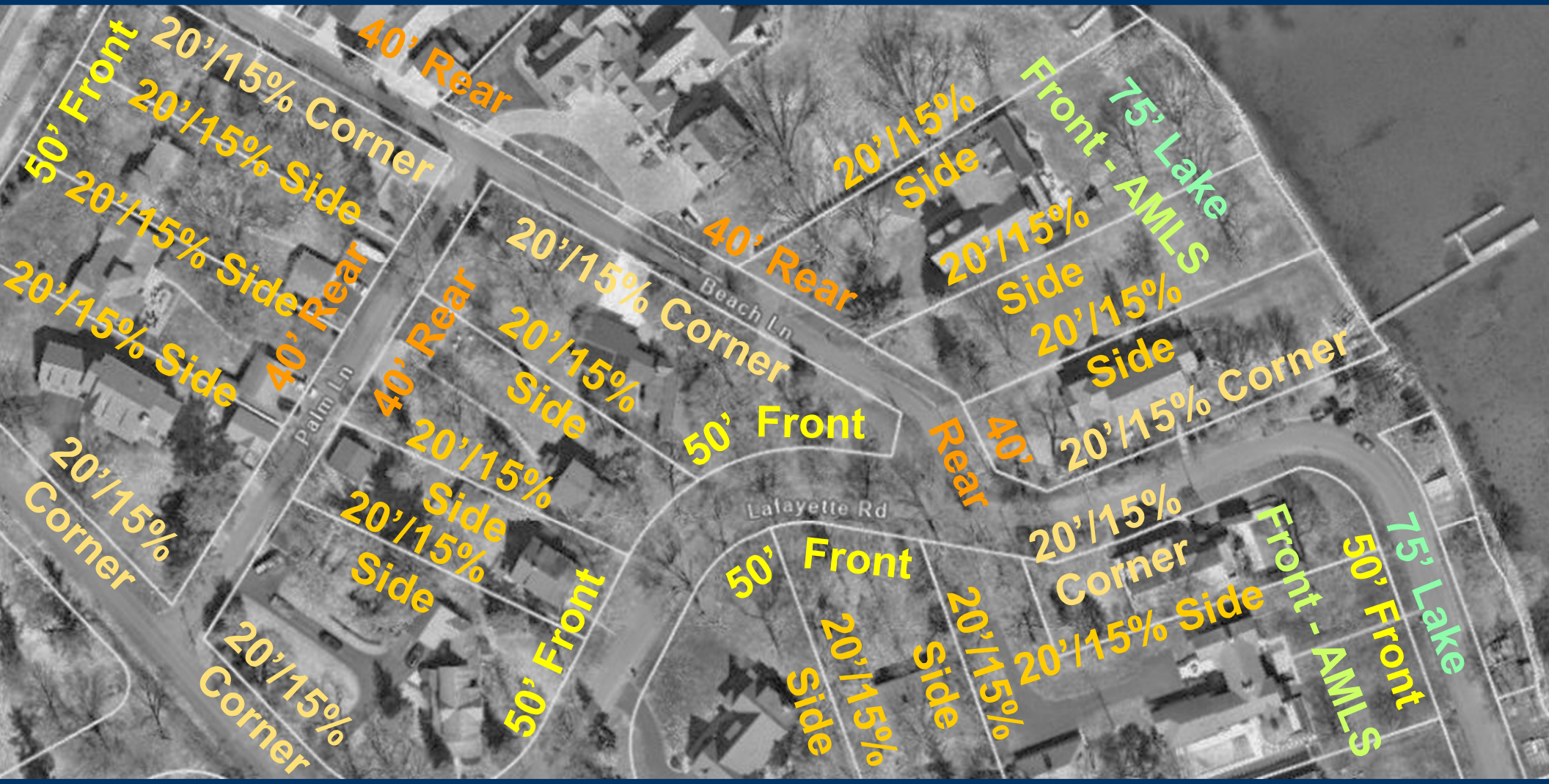
Official Roles & Responsibilities

- Staff (support)
- Planning Commission (advisory)
- City Council (decision making authority)

Minnetonka Beach Standards

- Lot size: 1 acre
- Lot width: 100 ft
- Setbacks:
  - 50 ft front (lake or street if interior lot)
  - 40 ft rear (interior or street if lake lot)
  - 20 ft side (or 15% of lot width <102 ft)
- 40 ft height
- 30% hardcover (credits up to 5% of lot area)

Setbacks


50’ Front
20’/15% Corner
20’/15% Side
40’ Rear
20’/15% Side
40’ Rear
20’/15% Side
20’/15% Corner
Palm Ln
20’/15% Corner
20’/15% Side
40’ Rear
20’/15% Side
20’/15% Side
50’ Front
20’/15% Corner
Beach Ln
40’ Rear
20’/15% Side
20’/15% Side
20’/15% Side
Front - AMLS
75’ Lake
50’ Front
40’ Rear
20’/15% Corner
Lafayette Rd
50’ Front
20’/15% Side
20’/15% Side
20’/15% Side
20’/15% Corner
20’/15% Side
Front - AMLS
75’ Lake

Average Minimum Lakeshore Setback (AMLS)

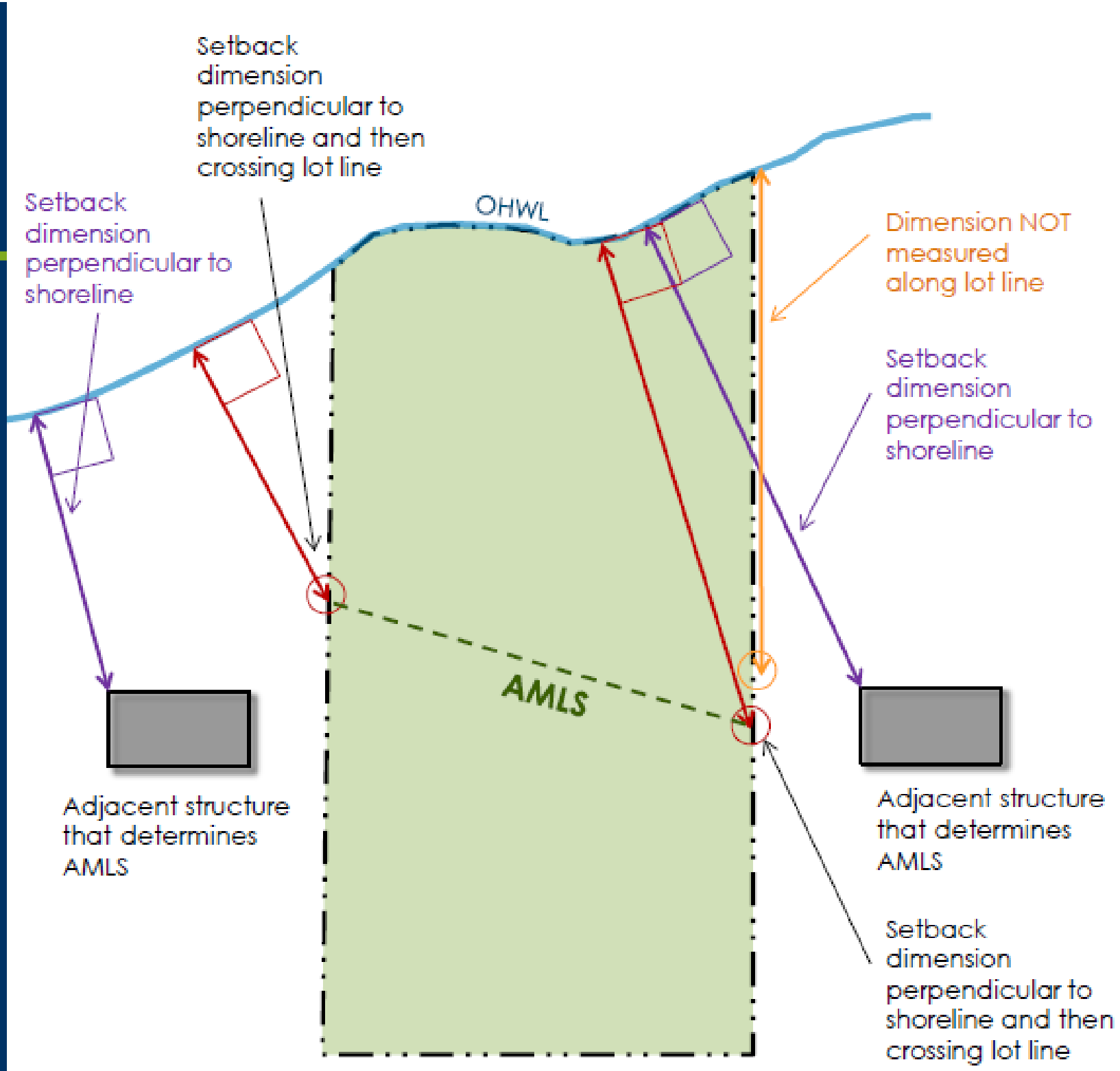
(i) Average Minimum Lakeshore Setback (AMLS)

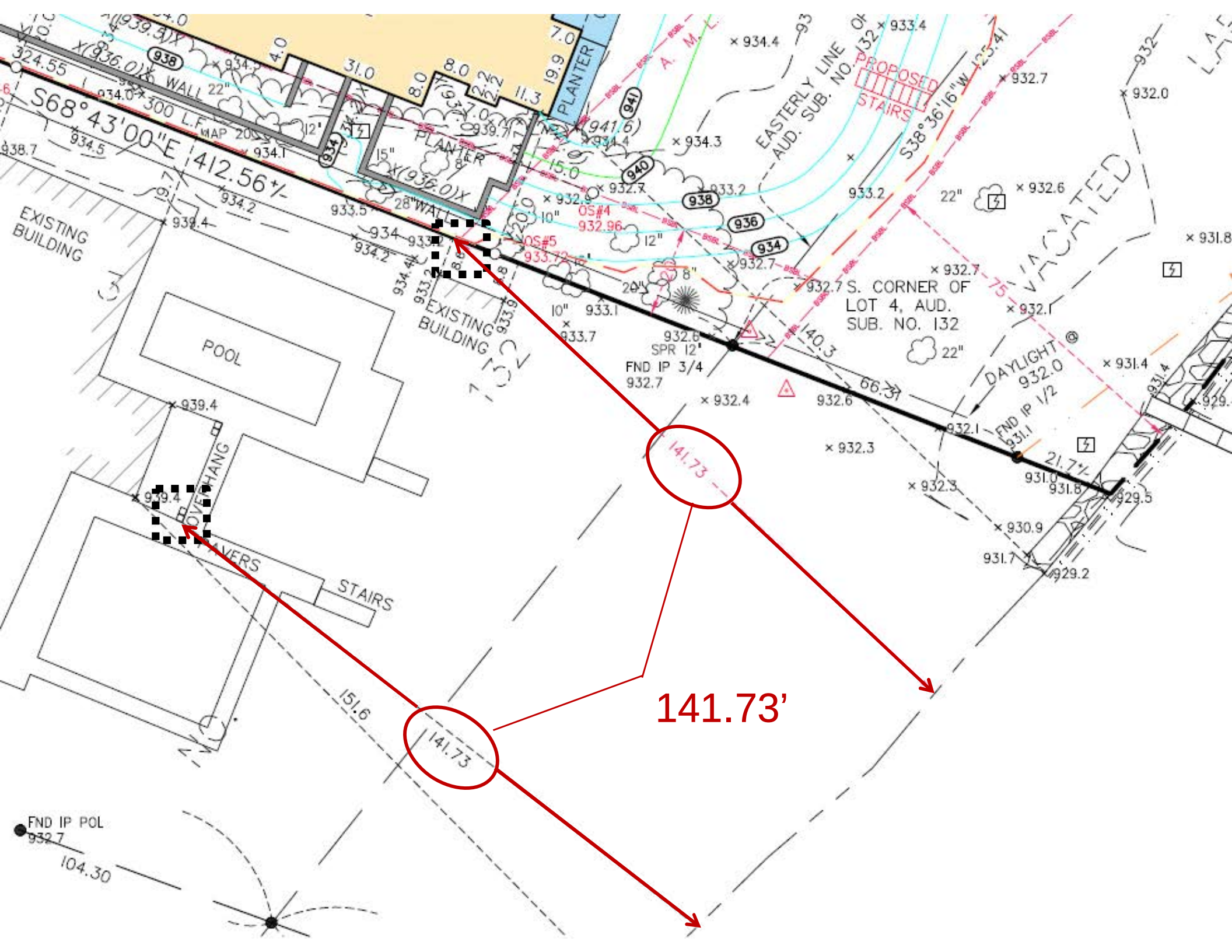
Principal structures—and accessory structures as may be required by this ordinance—shall be located no closer to the lakeshore than a line derived by the greatest setback required by a combination of the following:

1. A line drawn 75 feet parallel to the lakeshore;
2. If the lot is between two (2) lots that contain principal structures, a straight line connecting points on each side lot line that are setback from the lakeshore a distance equivalent to the principal structures on the directly adjacent lots.

AMLS

". . . a straight line connecting points on each side lot line that are setback from the lakeshore a distance equivalent to the principal structures on the directly adjacent lots."



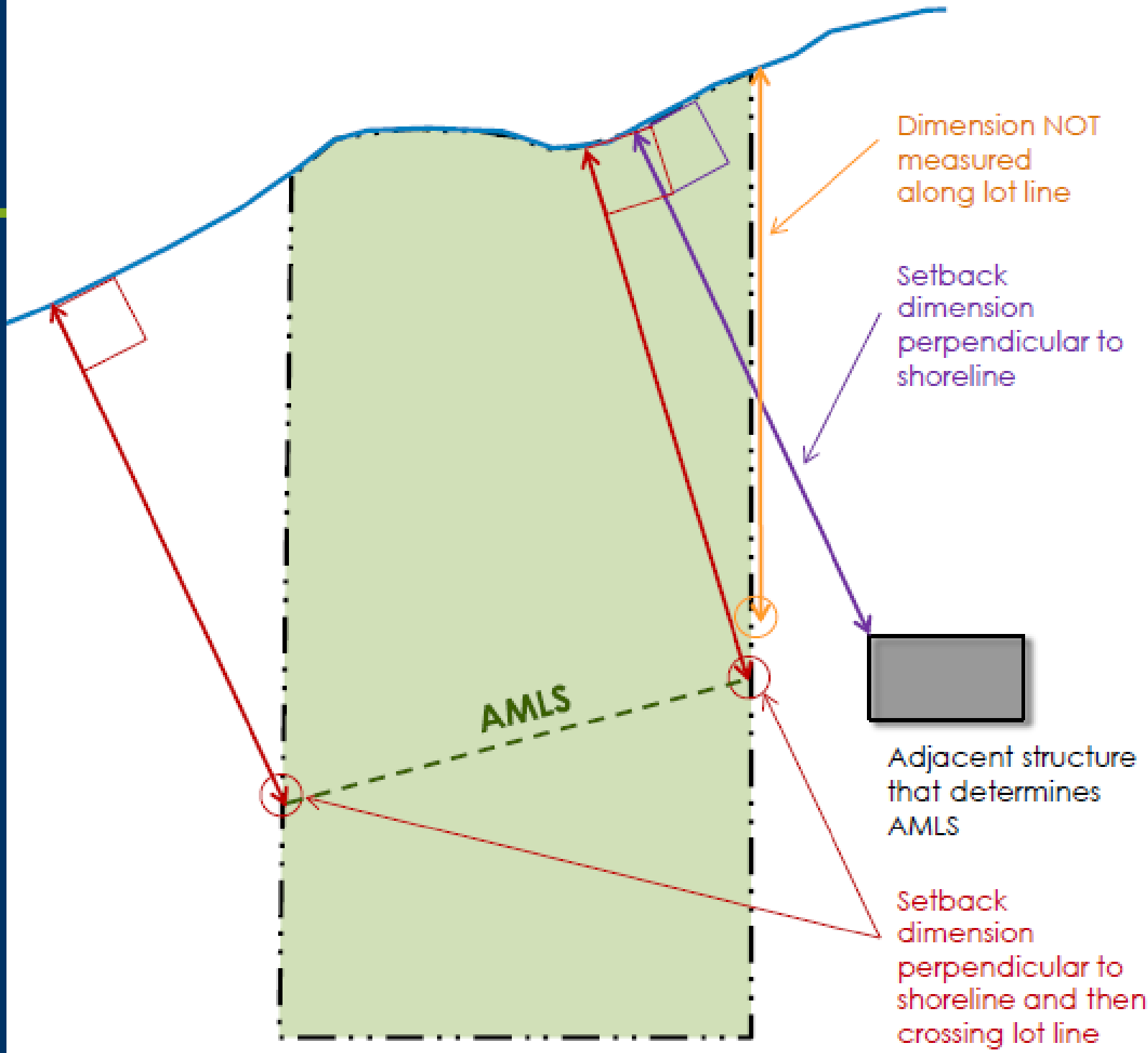

S68°43'00"E 412.56'±
EXISTING BUILDING
POOL
EXISTING BUILDING
PLANTER
PLANTER
WALL 22"
300 L.F.
MAP 20
28" WALL
EASTERLY LINE OF AUD. SUB. NO. 132
PROPOSED STAIRS
S38°36'16"W 125.41
VACATED
S. CORNER OF LOT 4, AUD. SUB. NO. 132
DAYLIGHT @ 932.0
FND IP 1/2
931.1
21.7'±
FND IP 3/4
932.7
SPR 12"
932.6
140.3
66.31
OS#4
932.96
OS#5
933.12
OVERHANG
LAYERS
STAIRS
141.73
141.73
141.73'
151.6
FND IP POL
932.7
104.30

Average Minimum Lakeshore Setback (AMLS)

3. If the lot is adjacent to only one (1) lot containing a principal structure, a straight line connecting points on each side lot line that are setback from the lakeshore a distance equivalent to the setback of the lakeward most point of the adjacent principal structure.

AMLS

". . . a straight line connecting points on each side lot line that are setback from the lakeshore a distance equivalent to the setback of the lakeward most point of the adjacent principal structure."



Issues

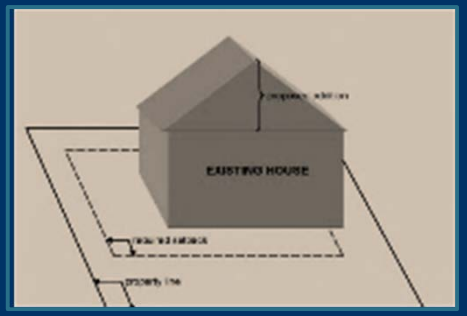
- Variances
- Setback – AMLS, side
- Grading yards in AMLS vs. 75 ft minimum
- Steps & stairs
- ADUs
- DNR model Shoreland Code
- Tree preservation
- Unused right-of-way

Planning Commission Basics









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