

AN ORDINANCE AMENDING SECTIONS 6.0 THROUGH 6.3 AND ADOPTING SECTIONS 9.6 THROUGH 9.8 AND 14.2(11a) OF THE SHORELAND AMENDATORY ORDINANCE OF ASHLAND COUNTY

WHEREAS, after considering the subject of proposed Lake Classification Development Standards for waterfront property on navigable waters in Ashland County, the Ashland County Zoning and Land Committee authorized the following lake classification information meetings which were held on January 28, 2000:

at 10 a.m. at the Mellen Community Center in Mellen, Wisconsin, and

at 1 p.m. at the Clam Lake Community Center in Clam Lake, Wisconsin; and

WHEREAS, notice of such lake classification informational meetings was given to the public by publication in The Daily Press newspaper on January 25, 2000, in the Glidden Enterprise newspaper on January 26, 2000, and in the Mellen Weekly Record newspaper on January 26, 2000, and

WHEREAS, following such lake classification informational meetings, the Ashland County Zoning and Land Committee scheduled a public hearing on proposed amendments to Ashland County's Shoreland Amendatory Ordinance which include Lake Classification Standards for waterfront property on navigable waters to be held on March 10, 2000 in the County Boardroom of the Ashland County Courthouse in the City of Ashland, and

WHEREAS, notice of the time and place of such public hearing was given by the Ashland County Zoning Administrator by:

a. Publication in The Daily Press newspaper in Ashland County as a class 2 notice under Chapter 985, Wisconsin Statutes, on February 11 and February 18, 2000, and

b. A copy of such notice was mailed by registered mail to the town clerk of each town in Ashland County, and

c. Publication in The Mellen Weekly Record newspaper on February 9, 2000, and

d. Publication in The Glidden Enterprise newspaper on February 9, 2000, and

e. Posting on the South door of the Ashland County Courthouse, and

f. Providing a copy to all Zoning and Land Committee members, and

g. Providing a copy to the County Administrator, County Board Chairperson, Corporation Counsel, County Clerk, County Surveyor, UW-Extension Agent for Ashland County, Northwest Regional Planning Commission and Wisconsin Department of Natural Resources, and

WHEREAS, at its May 2, 2000 regular meeting, the Zoning and Land Committee of the Ashland County Board of Supervisors recommended that the Ashland County Board of Supervisors adopt the following ordinance amending Ashland County Shoreland Amendatory Ordinance,

NOW, THEREFORE:

The County Board of Supervisors of the County of Ashland does ordain as follows:

A. Sections 6.0 through 6.3 inclusive of the Shoreland Amendatory Ordinance of Ashland County are hereby amended, renumbered and shall read as follows:

6.0 REMOVAL OF SHORE COVER

The shoreland buffer zones created in this ordinance, which restrict the removal of shore cover, are intended to provide ecological benefits, including, but not limited to: minimizing the impact on the water resource from adjacent upland and landward activities, filtering sediment and runoff, encouraging the uptaking of nutrients, stabilizing shoreland, providing food and cover for wildlife, and improving aesthetics.

6.1 The shoreland buffer zone for parcels of land abutting on a navigable water or containing a navigable water which qualify as existing parcels as defined in Section 9.6(a) of this ordinance, is 35 feet deep.

6.2 The shoreland buffer zone for parcels of land abutting on a navigable water or containing a navigable water which do not qualify as existing parcels as defined in Section 9.6(a) of this ordinance, is 50 feet deep.

6.3 The cutting or removal of trees, shrubs or other vegetation within a shoreland buffer zone is prohibited, except as provided for in Section 6.4 of this ordinance. Except for the 30 foot length referred to in Section 6.4 of this ordinance, there shall be no cutting or mowing of grass within a shoreland buffer zone.

- 6.4 Within any 100 foot length of the shoreland buffer zone, up to 30 feet in length of the shoreland buffer zone may be clear-cut to the depth of the buffer zone.
- 6.5 A conditional use permit is required for clear-cutting on any slope within the shoreland buffer zone which is greater than 20 percent.
- 6.6 From the inland edge of the shoreland buffer zone to the outer limits of the shoreland area, the cutting or removal of trees, shrubs and other vegetation is allowed when accomplished using generally accepted forestry management and soil conservation practices which protect water quality. Such cutting does not require the issuance of a zoning permit.

B. Sections 9.6 through 9.8, inclusive, of the Shoreland Amendatory Ordinance of Ashland County are hereby adopted which read as follows:

9.6 LAKE CLASSIFICATION DEVELOPMENT STANDARDS FOR WATERFRONT PROPERTY ON NAVIGABLE WATERS

The provisions of Section 9.6 apply only to waterfront property on navigable waters in Ashland County.

a. **Existing parcels.** Parcels of land abutting on a navigable water which are of record (i.e. documented by a recorded metes and bounds description, a certified survey map or a platted sub-division) on the date this ordinance is first effective, which are of substandard size under the lake classification development standards of this ordinance, shall be deemed to not be non-conforming as to parcel size.

No parcel of land abutting on a navigable water may be so reduced in size that the dimensional or size requirements under the lake classification development standards of this ordinance are not met.

The construction of new dwellings and other structures, replacement dwellings and other structures, additions to existing structures and the construction of accessory buildings, when a principal structure exists on the parcel, may be allowed by permit provided all other requirements, regulations and set-back requirements are met.

b. **Parcels other than existing parcels.** Parcels of land abutting on a navigable water which do not qualify as

existing parcels under Section 9.6(a) of this ordinance, shall comply with all terms and provisions of the lake development classification standards set forth herein for that navigable water, in addition to any other applicable laws, regulations and ordinances.

c. **Lake Classification Development Standards.** The lakes in Ashland County which are listed below, which are included in the publication entitled "Surface Water Resources of Ashland County", published by the Wisconsin Conservation Department in 1966, and which appear by name on the topographic maps published by the U.S. Geological Survey (which maps are commonly referred to as USGS quadrangle maps) are classified in the manner set forth on the lists in this ordinance.

Unnamed lakes which are listed in the "Surface Water Resources of Ashland County" publication and all named lakes which are 20 acres or less in size are classified as Class 3 lakes.

Any lake omitted from the "Surface Water Resources of Ashland County" publication which is:

i) Over 20 acres in size is to be classified according to the available information used in classifying lakes, and

ii) 20 acres or less in size is classified as a Class 3 lake.

Unnamed lakes with "local" names are classified as Class 3 lakes.

The Lakes Classification Development Standards set forth in the Lakes Classification Development Standards Chart appearing below are adopted.

<u>Class 1</u>	<u>Class 2</u>	<u>Class 3</u>	
Beaver Dam Lake	Augustine Lake	Bass Lake	Nab Lake
Butternut Lake	Bear Lake	Bay Springs	Lindbergh Lake
Day Lake	Beaver Lake 21-44-4W	Beaver Lake 31-43-4W	Little Butternut Lake
English Lake	Caroline Lake	Beaver Lake 7-44-4W	Little Clam Lake
Eureka Lake	Dead Horse Slough	Blueberry Lake	Long Lake 19-45-4W
Gallilee, Lake	Hoffman Lake	Bullhead Lake	Loon Lake
Gordon Lake	McCarthy Lake	Cammerer Lake	Lost Lake
Long Lake 22-44-2W	Moquah Lake	Camp Four Lake	Luebke Lake
Meder Lake	Muskellunge Lake	Conley Lake	McLaren Lake
Mineral Lake	Pelican Lake	Cranberry Lake	Meyer Lake
Spider Lake	Snowshoe Lake	Cub Lake	Mud Lake
Tea Lake	Spillerberg Lake	Cycle Lake	Parker Lake
Upper Clam Lake	Summit Lake	Ditman's Lake	Pole Lake
White River Flowage	Torrey Lake	Dollar Lake	Potter Lake
	Twin Lakes (East)	Dry Lake	Seagels Lake

Class 1
 Twin Lakes (West)
 West Twin Lake
 Zielke Lake

Class 2
 East Twin Lake
 Gates Lake
 Gilbert Lake
 Honest John Lake
 John Frank Lake
 Kempf Springs
 Kenyon Springs

Class 3
 Seitz Lake
 Sells Lake
 Slim Lake
 Snoose Lake
 Three (Lake)
 Trout Lake
 Wolf Lake
 Woodtick Lake

Lake Classification Development Standards Chart

Lakes Classification	Minimum Lot Size	Minimum Lot Width (For Each Single Family Dwelling Unit)	Minimum Lot Depth
Class 1	30,000 s.f.	150 ft. *300 ft.	200 ft.
Class 2	40,000 s.f.	200 ft. *400 ft.	200 ft.
Class 3	62,500 s.f.	250 ft. *500 ft.	250 ft.
Rivers & Streams	62,500 s.f.	250 ft.	250 ft.

NOTE: *1. Two Family Dwelling/Unit
 s.f. equals square feet

The jurisdiction of this ordinance extends only to those parcels which are outside the boundaries of an incorporated village or city.

d. **Resorts and Condominiums.** The construction of additional rental cabins/dwellings within an existing resort or the construction of additional dwelling units within a recorded condominium shall meet the minimum lot width, minimum lot depth and parcel size requirements of the Lake Class Development Standards.

To determine the number of total cabins/dwelling units allowed, on a given parcel, take the total lot or parcel size in square feet and divide by the lake class size requirement off the chart. No principal structure shall be located less than 20 feet from an existing principal structure, and each shall meet all water line, road, lot line, septic setbacks and other requirements.

9.7 SIDE YARDS

There shall be side yards for each building or other structure in a shorelands area. The minimum width of one side yard shall be 10 feet. The minimum combined width of both side yards when added together shall be 40 feet. A side yard distance is measured from the furthest protrusion of each structure.

9.8 LIMITED KEY HOLE DEVELOPMENT

The granting, issuance or conveyance of a right of access to a navigable water through waterfront property is prohibited, except: a right of access to a navigable water through a parcel of waterfront property is permitted for up to a maximum of 4 other lots, each of which other lots has no habitable structure on it or has a maximum of one habitable structure on it, provided the waterfront property complies with all ordinances of Ashland County, including, but not limited to, the Lake Classification Development Standards.

C. Section 14.2(11a) of the Shoreland Amendatory Ordinance of Ashland County is hereby adopted, which reads as follows:

- 11a. "SHORELAND BUFFER ZONE" - means and refers to the strip of land which runs parallel to the shoreline which commences at the ordinary high water mark of a navigable water and proceeds inland the distance the shoreland buffer zone is wide. The width of the shoreland buffer zone is measured laterally from the ordinary high water mark of the navigable water. The shoreland buffer zone runs the entire length of all waterfront which abuts on the parcel of land or is located on the parcel of land.

Dated at the City of Ashland, Wisconsin, this 24th day of July, 2000.

Gay A. Latta
Helen Crateau

John Fowles
Reg Kurella

Mal. Mel

Bud Holt

Don Bouky

Ken Lundquist

Alben Baer

Pat Hunt

Alba

Carl Schubert

George M. M. M.

Clara L. Campbell

Carol J. J.

L. J. Berry

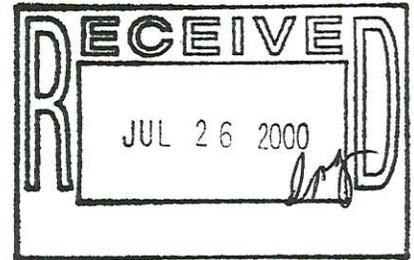
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KEITH W. DALLENBACH
MATTHEW F. ANICH
H. CRAIG HAUKAAS

July 25, 2000

Mr. Lawrence Hildebrandt
County Zoning Administrator
Ashland County Courthouse
201 West Main Street
Ashland, WI 54806

Dear Larry:

Yesterday you called and said the County Board was meeting that morning and would be considering ordinances amending Ashland County's shoreland amendatory ordinance, and you asked when those amendments are effective.

Enclosed is a copy of §9.69(5)(e)(6), Wisconsin Statutes.

It is my understanding these ordinances amending Ashland County's shoreland amendatory ordinance affect each Town in the County.

Within seven days after the ordinance was enacted, the County Clerk shall submit duplicate copies of those amendatory ordinances by registered mail to the Town Clerk of each Town in which lands affected by the ordinance are located.

I recommend that you immediately talk with County Clerk Pat Somppi and discuss with her complying with this statute.

If, after 40 days from the date of the enactment, a majority of the Towns have not filed certified copies of resolutions disapproving the amendments with the County Clerk, the amendment shall be in effect in all of the towns affected by the ordinance.

If you have any questions or problems in this regard, kindly advise.

Yours very truly,

A handwritten signature in cursive script that reads "Matthew F. Anich".

Matthew F. Anich
Corporation Counsel
Ashland County, Wisconsin

mm
Enclosure

5m. If a proposed amendment under this paragraph would make any change in an airport affected area, as defined under s. 62.23 (6) (am) 1. b., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, no ordinance which makes such a change may be enacted except by the affirmative vote of two-thirds of the members of the board present and voting.

6. If an amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved prior to, at or within 10 days under subd. 3. or 30 days under subd. 3m., whichever is applicable, after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by the ordinance of the effective date and also insert the effective date in the proceedings of the county board. Any other amendatory ordinance when enacted shall within 7 days thereafter be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by the ordinance are located. If after 40 days from the date of the enactment a majority of the towns have not filed certified copies of resolutions disapproving the amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall be in effect in all of the towns affected by the ordinance. Any ordinance relating to the location of boundaries of districts shall within 7 days after enactment by the county board be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by the change are located and shall become effective 40 days after enactment of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of the ordinance with the county clerk. If such town board approves the ordinance, the ordinance shall become effective upon the filing of the resolution of the town board approving the ordinance with the county clerk. The clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.

7. When any lands previously under the jurisdiction of a county zoning ordinance have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning ordinance have ceased to be effective as provided in sub. (7), the board may, on the recommendation of its zoning agency, enact amendatory ordinances that remove or delete the annexed lands from the official zoning map or written descriptions without following any of the procedures provided in subds. 1. to 6., and such amendatory ordinances shall become effective upon enactment and publication. A copy of the ordinance shall be forwarded by the clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede s. 80.64.

(6) OPTIONAL ADDITIONAL PROCEDURES. Nothing in this section shall be construed to prohibit the zoning agency, the board or a town board from adopting any procedures in addition to those prescribed in this section and not in conflict therewith. Such procedures may, but are not required to, provide for public hearings before the county board. The public hearing provided by sub. (5) (a) and (e) 2. is deemed to be sufficient for the requirements of due process whether or not the county board holds a further public hearing thereafter.

(7) CONTINUED EFFECT OF ORDINANCE. Whenever an area which has been subject to a county zoning ordinance petitions to become part of a city or village, the regulations imposed by the county zoning ordinance shall continue in effect, without change, and shall be enforced by the city or village until the regulations have been changed by official action of the governing body of the city or village, except that in the event an ordinance of annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(8) EXCHANGE OF TAX DEEDED LANDS. When a county acquires lands by tax deeds, the board may exchange such lands for other lands in the county for the purpose of promoting the regulation and restriction of agricultural and forestry lands and may exchange such lands for other lands for the purpose of creating a park or recreational area.

(9) ZONING OF COUNTY-OWNED LANDS. (a) The county board may by ordinance zone and rezone lands owned by the county without necessity of securing the approval of the town boards of the towns wherein the lands are situated and without following the procedure outlined in sub. (5), provided that the county board shall give written notice to the town board of the town wherein the lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of the hearing by posting in 5 public places in the town.

(b) This subsection does not apply to land that is subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under s. 289.01.

(10) NONCONFORMING USES. (a) An ordinance enacted under this section may not prohibit the continuance of the lawful use of any building or premises for any trade or industry for which such building or premises is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50% of its assessed value of any existing building or structure for the purpose of carrying on any prohibited trade or new industry within the district where such buildings or structures 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 and premises shall conform to the ordinance.

(b) 1. Except as provided under subd. 2., the board shall designate an officer to administer the zoning ordinance, who may be the secretary of the zoning agency, a building inspector appointed under s. 59.698 or other appropriate person.

2. Notwithstanding subd. 1. and s. 59.698, in a county with a county zoning agency and a county executive or county administrator, the county executive or county administrator shall appoint and supervise the head of the county zoning agency and the county building inspector, in separate or combined positions. The appointment is subject to confirmation by the board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. The board, by resolution or ordinance, may provide that, notwithstanding s. 17.10 (6), the head of the county zoning agency and the county building inspector, whether serving in a separate or combined position, if appointed under this subdivision, may not be removed from his or her position except for cause.

3. The officer designated under subd. 1. or 2. shall cause a record to be made immediately after the enactment of an ordinance or amendment thereto, or change in district boundary, approved by the town board, of all lands, premises and buildings in the town used for purposes not conforming to the regulations applicable to the district in which they are situated. The record shall include the legal description of the lands, the nature and extent of the uses therein, and the names and addresses of the

regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The county may create a landmarks commission to designate historic landmarks and establish historic districts. The county may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

(5) **FORMATION OF ZONING ORDINANCE; PROCEDURE.** (a) When the county zoning agency has completed a draft of a proposed zoning ordinance, it shall hold a public hearing thereon, following publication in the county of a class 2 notice, under ch. 985. After such hearing the agency may make such revisions in the draft as it considers necessary, or it may submit the draft without revision to the board with recommendations for adoption. Proof of publication of the notice of the public hearing held by such agency shall be attached to its report to the board.

(b) When the draft of the ordinance, recommended for enactment by the zoning agency, is received by the board, it may enact the ordinance as submitted, or reject it, or return it to the agency with such recommendations as the board may see fit to make. In the event of such return subsequent procedure by the agency shall be as if the agency were acting under the original directions. When enacted, duplicate copies of the ordinance shall be submitted by the clerk by registered mail to each town clerk for consideration by the town board.

(c) A county ordinance enacted under this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance enacted by the county board, under this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town clerk. The ordinance shall become effective in the town as of the date of the filing, which filing shall be recorded by the county clerk in the clerk's office, reported to the town board and the county board, and printed in the proceedings of the county board. The ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.62.

(d) The board may by a single ordinance repeal an existing county zoning ordinance and reenact a comprehensive revision thereto in accordance with this section. "Comprehensive revision", in this paragraph, means a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts. The comprehensive revision may provide that the existing ordinance shall remain in effect in a town for a period of up to one year or until the comprehensive revision is approved by the town board, whichever period is shorter. If the town board fails to approve the comprehensive revision within a year neither the existing ordinance nor the comprehensive revision shall be in force in that town. Any repeal and reenactment prior to November 12, 1965, which would be valid under this paragraph is hereby validated.

(e) The board may amend an ordinance or change the district boundaries. The procedure for such amendments or changes is as follows:

1. A petition for amendment of a county zoning ordinance may be made by a property owner in the area to be affected by the amendment, by the town board of any town in which the ordinance is in effect; by any member of the board or by the agency designated by the board to consider county zoning matters as provided in sub. (2) (a). The petition shall be filed with the clerk who shall immediately refer it to the county zoning agency for its consideration, report and recommendations. Immediate notice of the petition shall be sent to the county supervisor of any affected district. A report of all petitions referred under this paragraph shall be made to the county board at its next succeeding meeting.

2. Upon receipt of the petition by the agency it shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in the county of a class 2 notice, under ch. 985. A copy of the notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing. If the petition is for any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or operator of the airport bordered by the airport affected area.

3. Except as provided under subd. 3m., if a town affected by the proposed amendment disapproves of the proposed amendment, the town board of the town may file a certified copy of the resolution adopted by the board disapproving of the petition with the agency before, at or within 10 days after the public hearing. If the town board of the town affected in the case of an ordinance relating to the location of boundaries of districts files such a resolution, or the town boards of a majority of the towns affected in the case of all other amendatory ordinances file such resolutions, the agency may not recommend approval of the petition without change, but may only recommend approval with change or recommend disapproval.

3m. A town may extend its time for disapproving any proposed amendment under subd. 3. by 20 days if the town board adopts a resolution providing for the extension and files a certified copy of the resolution with the clerk of the county in which the town is located. The 20-day extension shall remain in effect until the town board adopts a resolution rescinding the 20-day extension and files a certified copy of the resolution with the clerk of the county in which the town is located.

4. As soon as possible after the public hearing, the agency shall act, subject to subd. 3., on the petition either approving, modifying and approving, or disapproving it. If its action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit the proposed ordinance directly to the board with its recommendations. If the agency after its public hearing recommends denial of the petition it shall report its recommendation directly to the board with its reasons for the action. Proof of publication of the notice of the public hearing held by the agency and proof of the giving of notice to the town clerk of the hearing shall be attached to either report. Notification of town board resolutions filed under subd. 3. shall be attached to either such report.

5. Upon receipt of the agency report the board may enact the ordinance, as drafted by the zoning agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the agency in which case it shall refer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the ordinance back to the board which may then enact or reject the ordinance.

5g. If a protest against a proposed amendment is filed with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on the ordinance may be deferred until the zoning agency has had a reasonable opportunity to ascertain and report to the board as to the authenticity of the ownership statements. Each signer shall state the amount of area or frontage owned by that signer and shall include a description of the lands owned by that signer. If the statements are found to be true, the ordinance may not be enacted except by the affirmative vote of three-fourths of the members of the board present and voting. If the statements are found to be untrue to the extent that the required frontage or area ownership is not present the protest may be disregarded.