

Plat of Survey

Part of Parcel 1 of Certified Survey Map Number 736 and a part of Government Lot 1 of Section 15, T.34N., R.8E., Town of Harrison, Lincoln County, Wisconsin

Surveyor's Report

History:

Here is a chronological list of the surveys that effect the property in question that we have evidence of at the time of this survey:

1. Unknown 1950's date - the "Roger Pazek Unrecorded Plat" shows lots were surveyed by person(s) unknown. A drawing of this unsigned and undated map, matching the deed calls for the Lots thereof, is filed as Lincoln County Land Information Office map number L31A. The date of this work is evidenced by the original deeds for said lots in close proximity to the survey area of this map as follows: Lot 4 - September 4, 1956, Lot 1 - January 3, 1957, Lot 5 - June 11, 1957, Lot 3 - July 23, 1958, Lot 6 - November 24, 1958.
2. August 30, 1958 - A.W. Kordick surveyed the West line of Government Lot 1, a 280' parcel, a 100' parcel, two 90' parcels, a 50' parcel and a triangle shaped parcel on Seven Island Lake. Evidence shows that Kordick's location of the West line of Government Lot 1 agrees with the line accepted for the "Roger Pazek Unrecorded Plat" and that this 1958 survey was the original survey for "This Parcel" hereof and for the Easterly adjoiner.
3. September 12, 1959 - A.W. Kordick surveyed two parcels in Government Lots 1 and 2 on Seven Island Lake. One of them being a 100' wide parcel in Government Lot 1 and the other being a 25' wide parcel in Government Lot 2. Evidence shows that Kordick's location of the West line of Government Lot 1 agrees with the line accepted for the "Roger Pazek Unrecorded Plat". This is further supported by the fact that this 25' wide parcel in Government Lot 2 was purchased from Roger Pazek on August 14, 1959 in Volume 209 of Lincoln County Records on Page 279 and was sold with the adjoining 100' wide parcel in Government Lot 1 on the same day by the very next deed in Volume 209 of Lincoln County Records on Page 280. This 1959 survey was the original survey for the Westerly adjoiner (lakeside parcel) to "This Parcel" surveyed hereon.
4. September 17, 1990 - Todd Loftus did a survey in part of Government Lot 2 on County Highway "B". He found monuments on the West line of Government Lot 2 which he accepted and he stated that he reestablished the East line of Government Lot 2 solely from calculations based on the Cameron Section Subdivision dated 1969. He doesn't show the Kordick line or monuments, which differ from his by more than 40 feet East to West.
5. February 21, 1994 - Laverne Mosher created Certified Survey Map No. 736 in part of Government Lot 1. He showed that he set all new monuments and came up with a new line for the West line of Government Lot 2, but he doesn't show how he came up with it. He differs from both Loftus, Cameron and Kordick, but doesn't show any reference to their lines or monuments. Note that this survey was done for our client, purporting to be his property, which he does not agree and, as noted below, I do not agree with either. Note that no deeds have been executed in accordance with this Certified Survey Map.
6. December 22, 2000 - Kevin Bixby did a survey of a 100' wide parcel in Government Lot 1, a 25' wide parcel and 500' long parcel in Government Lot 2 and an arbitrary proposed line by agreement for a building and yard "encroachment" that was not agreed to by the owner of Lot 20 of Roger Pazek's Unrecorded Plat. He utilized a mixture of the 1994 Mosher Certified Survey Map No. 736, his own deed interpretation and other found monuments.
7. October 4, 2001 - Certified Survey Map No. 1533 prepared by Lester Schmit was recorded, the Westerly boundary of which was a line by agreement per Document No. 398664. In talking with Lester during the course of this survey, he informed me that his preliminary findings on the Westerly boundary based on the deeds from the exterior Section monumentation were rejected by his client, Charles Phelps, and the adjoining landowner, Ernest Witte, as it did not match the boundary monuments that they had relied on for decades. They then recorded the above-referenced line by agreement to this line, which we now know is the Easterly line of the August 30, 1958 Kordick survey.
8. May 28, 2004 - Laverne Mosher created Certified Survey Map No. 1770 in part of Government Lot 2 within the Todd Loftus survey from 1990. He accepted the line between Government Lots 1 and 2 from the 1990 survey by Loftus, which created a gap of between 13 to 19 feet, more or less, between this Certified Survey Map and his own previous Certified Survey Map No. 736, neither of which match the 1958 and 1959 Kordick surveys.

Analysis and Opinion:

The results of the evaluation of the record survey, record deed, physical evidence and parcel evidence obtained during the course of this survey indicate the following:

That the original survey work in this area was done in the 1950's as stated above. We found an overwhelming number of existing monuments from the 1950's survey of the Roger Pazek's Unrecorded Plat and the 1958-1959 surveys by A.W. Kordick that were not shown or referenced on any of the more recent subsequent surveys. In discussions with the more recent surveyors, it appears that none of them discovered the Kordick surveys in their research at the Lincoln County Surveyor's Office. In addition, I believe that there may have been other, even older surveys done in this area that are not of record, as the Wisconsin Statutes did not require mandatory filing of land surveys until 1972.

Also, in analyzing the deeds in this area, it appears that these older surveys were used for the original deed conveyances (recorded between 1956 and 1960) in this area and were also used when structures were initially built on the lots. The more recent surveys from between 1990 and 2004 conflict, not only with one another, but don't even disclose the historically important monument and record evidence that exists of the original surveys and deeds. Additional evidence includes the boundary line by agreement along the West line of Lot 2 of Certified Survey Map No. 1533 per Document Number 398664 to the Kordick monuments by landowners in the neighborhood as shown hereon. Said landowners testified that the longstanding irons (that we have now determined were set by Kordick) were known and accepted as the boundary corners for decades. Also, the use of calculated Government lot lines using modern measurements by conventional or GPS means based on exterior section corners only was rejected as it ignores all of the historical evidence noted above and would upset the bonafide rights of the property owners in the area.

In conclusion, it is my professional opinion, based on the preponderance of evidence, that the boundary of this property is as depicted on the map on Sheet 1 hereof and as described in the Legal Description hereon.

**For Surveyor's Certificate,
Map and Legend see
Sheet 1 hereof.**

Legal Description

A part of Parcel 1 of Certified Survey Map Number 736 and a part of Government Lot 1 of Section 15, Town 34 North, Range 8 East, Town of Harrison, Lincoln County, Wisconsin, originally described in Volume 214 of Lincoln County Records on Page 497, being more particularly described as follows:

COMMENCING at a found 6" by 6" granite stone at the East one-quarter corner of said Section 15; thence, along the East line of Government Lot 1, South 00°39'48" East, 706.05 feet to a point; thence South 89°20'12" West, 1302.72 feet to a found 2" iron pipe lying on the West line of Government Lot 1 as surveyed by A.W. Kordick in 1958; thence, along said West line, South 00°00'29" West, 59.37 feet to a set 7/8" by 30" iron rebar lying on the Southerly right-of-way line of County Highway "B" and the POINT OF BEGINNING; thence, along said Southerly right-of-way line, the following courses:

1. South 87°05'06" East, 57.31 feet to a set 3/4" by 24" iron rebar at the beginning of a tangent curve, being concave Northerly, having a radius of 884.51 feet and a chord which bears North 87°36'04" East, 163.83 feet;
2. Easterly, 164.07 feet along the arc of said curve through a central angle of 10°37'39" to a set 3/4" by 24" iron rebar at the point of tangency thereof;
3. North 82°17'14" East, 54.84 feet to a set 3/4" by 24" iron rebar lying on the East line of the Parcel recorded in said Volume 214 of Lincoln County Records on Page 497;

thence, along said East line, South 00°13'24" East, 779.36 feet to a set 7/8" by 30" iron rebar at the beginning of a meander line of Seven Island Lake, said point lying North 00°13'24" West, 20 feet, more or less, from the shore of Seven Island Lake; thence, along said meander line, South 83°21'02" West, 120.00 feet to a point; thence, continuing along said meander line; South 35°14'26" West, 100.00 feet to a found 1" iron pipe lying on the East line of the Parcel originally recorded in Volume 209 of Lincoln County Records on Page 280 and the end of said meander line, said point lying North 00°21'50" West, 13 feet, more or less, from said shore; thence, along last said East line, North 00°21'50" West, 322.98 feet to a set 3/4" by 24" iron rebar at the Northeast corner of last said Parcel; thence, along the North line of last said Parcel, North 89°47'03" West, 99.43 feet to found 1-1/2" iron pipe lying on aforesaid West line of Government Lot 1 per A.W. Kordick; thence, along said West line; North 00°00'29" East, 540.27 feet to the POINT OF BEGINNING, including all the land lying between the above-described meander line and the shore of Seven Island Lake, between the side lot lines extended to the shore, and all riparian rights thereto, containing 197,849 square feet or 4.54 acres, more or less.

TOGETHER WITH AND SUBJECT TO a non-exclusive private easement road of record (the width of which is not defined of record) for ingress and egress purposes for West Seven Island Lake Drive.

TOGETHER WITH a non-exclusive private easement road of longstanding use for ingress and egress purposes for Witte Drive.

ALSO BEING SUBJECT TO the rights of the public, held in trust by the State of Wisconsin, below the ordinary high water mark of the Seven Island Lake and all easements and agreements, if any, of record and/or fact.

The above-described Parcel is shown on the Plat of Survey map by Nicolet Surveyors, Inc., Matthew E. Hoglund, RLS number S-1910 dated March 18, 2008 on Sheet 1 hereon and by this reference is made a part hereof.

Notes:

1. As shown on the map on Sheet 1 hereof, a portion of a concrete slab, a portion of the garage building and a portion of the brick walkway extend beyond beyond the East title boundary of the property surveyed hereon. The longstanding use of these areas may indicate unwritten property rights in these areas. The client is advised to seek the advise of legal counsel regarding these items as this is a matter of law.
2. Witte Drive, a private driveway located primarily on the Easterly adjoining property, is being used for ingress and egress to the existing cabin and garage on this property and for the Easterly adjoining property. As there is a very steep and tall slope Northerly and Westerly of said cabin and garage, it appears that this access has been used since these structures were built. Additional evidence of the longstanding existence of Witte Drive is that it is shown on the 1958 Kordick survey referenced hereon and that the size and age of the hardwood trees both Easterly and Westerly of the traveled way indicate this longstanding location. No easement of record for this use was found in the course of our research, but the longstanding use may indicate a prescriptive easement or other unwritten rights and the client is advised to seek the advise of legal counsel regarding this item as this is a matter of law.
3. "This Parcel" shown hereon includes the use of, and is subject to the use by others, of the private roadway known as "Seven Island Lake Drive" (possibly being formerly known as "Roger's Road") for ingress and egress purposes. This easement's width and location is not defined of record, therefore, it is my opinion, based on knowledge common law, that this easement would include the physical roadway as now used, which is presently cleared of vegetation and has a gravel surface. Maintenance rights and responsibilities for this roadway are not known to be defined of record. The client is advised to seek the advise of legal counsel regarding this item as this is a matter of law.
4. There are existing overhead utility lines that serve this parcel and other parcels as shown hereon. Easements of record were not found for these facilities, but appear to be easements of longstanding use.
5. The client is advised to seek the advise of legal counsel regarding the impact and resolution of the survey, possession and title issues disclosed on the map hereon and the issues listed in Notes 1 through 4 listed above.



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Drawn By: JMD	Date: March 18, 2008	Client:
Checked By: MEH	Scale: As shown	Jerry Muzynski
FB: 42, PG: 25-27	Project # 820	Weston, WI

Sheet 2 of 2

M562B