



Chisago County, MN
BOARD OF ADJUSTMENT AND APPEALS
Meeting Agenda
May 25, 2023 | 7:00 pm

Chisago County Government Center | 313 N. Main Street | Center City, MN 55012

Tour Time and Date: Wednesday, May 24, 2023 at 8:15 am
Departing Chisago County Highway Department, 31325 Oasis Road, Center City, MN

- 1. Call to Order – Pledge of Allegiance**
- 2. Roll Call: Determination of a Quorum**
- 3. Approval of Agenda**
- 4. Approval of Minutes**
 - a. April 27, 2023
- 5. Receive all Materials and Submittals into Record**

Previously Distributed Materials:

 - a. Meeting packet including staff reports with attachments for agenda item(s) 6a
- 6. Public Hearings – New Applications**
 - a. **Danny Ketchel** – Property owner Danny Ketchel is requesting a Variance to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses), B. in order to expand a legal non-conforming structure. The 5.34± acre subject property is zoned Agricultural (AG) District and located at 12228 Lindo Trail in Chisago Lake Township, S8, T34, R20 (PID 02.00461.00).
- 7. Public Hearings – Continued Hearings**

None
- 8. Old Business**
- 9. New Business**
- 10. Miscellaneous**
- 11. Adjourn Meeting**

The next meeting is scheduled for Thursday, June 29, 2023 at 7:00 pm.

Wednesday, May 24, 2023 at 8:15 am

Danny Ketchel
PID # 02.00461.00
12228 Lindo Trail, Lindstrom

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
April 27, 2023**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, April 27, 2023 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; and, Diane Sander, Office Manager.

Chair Carlson called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was then taken. Board members present: Chip Yeager, Doug Greene, Gregg Carlson, John Sutcliffe, and Becky Strand. Absent: None. A quorum was established with all members present.

APPROVAL OF AGENDA – Motion to approve the agenda as presented by Strand; second by Sutcliffe. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – Motion to approve the March 30, 2023 meeting minutes as presented by Yeager; second by Greene. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion to receive all applications, submittals, reports, and other materials into the record by Strand; second by Greene. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included: staff reports with attachments. Copies of all correspondence and meeting materials were made available at the entrance to the hearing room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Max & Mary Gustafson – Coordinator Gervais provided background information on Max & Mary Gustafson's Variance request for property located at 11890 Mentzer Trail in Chisago Lake Township (PID 02.01619.00), explaining that the Gustafson's were proposing to expand their existing dwelling by constructing a 32' x 11'6" (368 sf) addition onto their legal non-conforming dwelling, replace their existing 10' x 12' (120 sf) detached accessory structure with a 6' x 8' (48 sf) detached accessory structure, and exceed the maximum allowable amount of impervious surface coverage by 2% (a reduction from 28.6% to 27%).

Gervais explained that the .25-acre subject site was zoned Rural Residential I (RRI) District / Shoreland Management District and was located on the south side of South Lindstrom Lake. Properties to the west, east and south were similarly zoned. Topography of the site included fairly level elevations ranging from 903' near the south property boundary / roadway to 898' near the shore of South Lindstrom Lake. Neighboring properties were similarly sized and had been developed with seasonal cabins / dwellings and related accessory structures.

The Technical Review Committee met with Mary Gustafson on April 12, 2023 and discussed the various Variance requests. County staff acknowledged that the Variances would bring the dwelling size into compliance and the impervious surface coverage would come closer to compliance. The Committee did not identify any concerns. The Chisago Lake Town Board considered the request on April 18, 2023 and recommended approval with the condition that structures were no closer to the lake than current conditions. The state mandated 60-day review period was scheduled to expire on May 29, 2023.

Gervais commented that staff supported the request for Variances with draft Findings of Fact and four conditions.

Chair Carlson invited the applicants to address the Board. Mary Gustafson, property owner, stepped forward along with Kelly Corbin. Gustafson thanked the Board for visiting the site on April 26, 2023.

Chair Carlson asked each Board member for additional questions and comments. Chair Carlson asked clarifying questions on the existing concrete between the proposed shed and dwelling addition. Gustafson indicated that the concrete located behind the garage would be removed with the exception of the concrete under the proposed shed and the walkway. Chair Carlson asked staff for clarification on decks and whether they were considered pervious or impervious. Gervais explained that they were considered pervious so long as water could flow through the deck boards and into the ground below. Yeager sought and received clarification from Gustafson regarding the impervious surface calculation.

Chair Carlson opened the public hearing and sought public comment. With no members of the audience wishing to speak, ***motion*** to close the public hearing by Sutcliffe; second by Yeager. The ***motion passed*** and carried unanimously.

Motion by Sutcliffe to adopt Resolution No. BOAA2023-0401, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Sections 5.21 and 5.52 in order to expand a legal non-conforming structure which is closer to the OHWL than required, to allow the placement of a detached accessory structure closer to the OHWL than required, and to exceed the maximum allowable amount of impervious surface coverage on property located at 11890 Mentzer Trail in Chisago Lake Township, as presented; second by Strand. The ***motion passed*** and carried unanimously.

Conditions:

1. This approval grants the following Variances:
 - a. A 47' Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the proposed dwelling addition to be no closer than 28' from the OHWL of South Lindstrom Lake. The addition shall comply with all other required setbacks.
 - b. A 25' Variance to the OHWL setback requirement allowing the proposed detached accessory structure to be no closer than 50' from the OHWL of South Lindstrom Lake. The structure shall not be located any closer to the OHWL of South Lindstrom Lake than the existing 10' x 12' detached accessory structure which its replacing. The structure shall comply with all other setback requirements.
 - c. A 2% Variance to the impervious surface coverage requirement allowing the total amount of impervious surface to be no greater than 27%.
2. The sizes and locations of the dwelling addition and detached accessory structure shall be in general conformance with the application materials, including site plan, dated received March 20, 2023. Any significant deviation from the approved request and site plan, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. The property owner shall obtain a building permit prior to construction of the dwelling addition and, further, the addition shall comply with all applicable codes and regulations.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Kenneth & Mary Evanoff – Coordinator Gervais provided background information on Kenneth & Mary Evanoff's Variance request for property located at 32740 N. Center Court in Chisago Lake Township (PID

02.01080.00), explaining that the property owners were requesting Variance approval to allow the expansion of their non-conforming structure by expanding the basement which would result in a taller ceiling height in the basement and an overall increase in the height of the dwelling.

Gervais explained that the .21-acre parcel was platted in 1955 and was considered a legal non-conforming parcel, adding that the site was located on the east side of North Center Lake in the Rural Residential II (RRII) District / Shoreland Management District. The subject site had been developed with a dwelling and detached garage and received Variance approval in 2022 to construct an addition which would connect the two structures. Surrounding properties were similarly zoned and developed.

Gervais again reviewed the proposal, explaining that the Evanoffs were requesting Variance approval to allow the expansion of their legal non-conforming structure by expanding the basement. The proposed expansion, similar to the existing dwelling, would be closer to the OHWL than allowed by the Shoreland Management Ordinance but would not encroach any closer than the existing dwelling. The ceiling height of the basement currently varied, with the greatest height being 6'6", and the Evanoffs wished to increase the height of the basement to be in compliance with the Building Code. Being that the lowest floor elevation would need to be at least 3' above the highest known water level or 3' above OHWL, whichever was higher, this would likely mean that the basement floor could not go any deeper and the overall height of the dwelling would need to increase. During the Technical Review Committee meeting, the Evanoffs explained that the dwelling would be lifted approximately 32" to accommodate the expanded basement and to bring the dwelling to the same elevation as the garage. Gervais added that the Evanoff's stated purpose for improving the basement was to have an accessible area for safety and protection in bad weather and to have adequate dry space for a furnace, air conditioner, water heater, and possible extra storage area. The existing dirt floor would be improved with concrete. No additional bedrooms were proposed as part of the expansion.

The Technical Review Committee met with the property owners on April 12, 2023. The Committee did not identify any issues or concerns. The Chisago Lake Town Board considered the request on April 18, 2023 and recommended approval with the condition that the basement was to be built above high water level. The Town Board also commented that the property owners were not proposing to expand the footprint and that the Board supported extension of the 2022 Variance approval. The State mandated 60-day review period was scheduled to expire on May 29, 2023.

Gervais stated that staff recommended approval of the request with draft Findings of Fact and six conditions.

Property owners Kenneth & Mary Evanoff were present and available to address questions and concerns. M. Evanoff thanked the Board for visiting the site on April 26, 2023.

Chair Carlson asked each Board member for questions and comments. Yeager asked a clarifying question about the proposed expansion, seeking confirmation that the proposed expansion was vertical / height rather than expansion of the footprint. Gervais confirmed that the proposed expansion related to the height of the structure. Chair Carlson inquired if the dwelling would be designed as a walk-out. K. Evanoff confirmed that it would be a walk-out. Carlson inquired about other design specifications and the Evanoffs provided the requested details.

Chair Carlson opened the public hearing and sought public comment. With no members of the audience wishing to speak, **motion** to close the public hearing by Strand; second by Sutcliffe. The **motion passed** and carried unanimously.

Yeager inquired if the conditions approved in 2022 would still be in effect if the current request was approved. Gervais confirmed that all 2022 conditions would still be in effect, except for that staff was proposing the extension of the 2022 Variance to align with the 2023 Variance if approved.

Motion by Strand to adopt Resolution No. BOAA2023-0402, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21 in order to expand a legal non-conforming structure on property located at 32740 N. Center Court in Chisago Lake Township, as presented; second by Sutcliffe. The **motion passed** and carried unanimously.

Conditions:

1. This approval allows for the expansion of a legal non-conforming structure in the Rural Residential II (RRII) District / Shoreland Management District through improvement of the existing basement. This approval specifically grants the following Variances:
 - a. A Variance to allow the expansion of a legal non-conforming structure.
 - b. A 47' Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the existing dwelling and proposed basement expansion to be situated 28' from the OHWL.
2. The County acknowledges that the following Variances were granted on July 28, 2022 and filed with the Chisago County Recorder as Document #A-661410 allowing for a 422.5 sf addition to connect the existing dwelling and detached garage:
 - a. A 5.5' Variance to the side yard setback requirement allowing the proposed dwelling with attached garage to be situated 4.5' from the southerly property boundary;
 - b. An approximate 25' Variance to the OHWL setback requirement allowing the proposed addition to be situated approximately 50' from the OHWL;
 - c. An approximate 14' Variance to the township road setback requirement allowing the proposed addition to be situated approximately 26' from the township road Right-of-Way; and
 - d. A .7% Variance to the maximum amount of impervious surface coverage allowing the subject site to have an impervious surface coverage of 25.7%.
3. The property owners shall comply with all conditions of approval included in the July 28, 2022 Variance approval (Document #A-661410) unless specifically noted otherwise by this approval.
4. The expansion shall be constructed in general conformance with the application materials, including site plan, dated received March 29, 2023. Any deviation from the approved request shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.
5. The property owners shall obtain a building permit prior to construction and, further, the expansion shall comply with all applicable codes and regulations except as permitted by this Variance.
6. This Variance shall be made use of within one year of the date of approval or it shall become null and void. Additionally, this approval grants an extension to the July 28, 2022 Variance approval such that the 2022 and 2023 approvals must be made use of within one year of the date of the 2023 approval or they shall both become null and void.

John & Cassandra Clements – Coordinator Gervais provided background information on property owner John Clements' Variance request for property located at 14824 310th Street / CSAH 37 in Chisago Lake Township (PID 02.00751.20), explaining that the property owner was seeking Variance approval in order to exceed the maximum amount of allowable accessory storage space in the Rural Residential II (RRII) District. Gervais shared that the subject site was 4.9 acres in size and generally located north of the intersection of 310th Street / CSAH

37 and Pleasant Valley Road. Surrounding properties to the west, east and immediate south were zoned RRII and properties to the north were zoned Agricultural (AG) District. The subject site was considered a legal non-conforming parcel due in part to the fact that it had no frontage on a public road. The site had been developed with a dwelling and 1,800 sf detached accessory structure. The RRII District allowed a maximum of 2,000 sf of accessory storage space and the property owner was seeking a Variance allowing a total of 4,680 sf of accessory storage space. The proposed detached accessory structure was 40' x 72' (2,880 sf).

Gervais explained that the applicants cited various reasons for the proposed Variance, including the fact that they owned several pieces of machinery and equipment (a 30' motorhome, a 20' boat, a skid steer with many different attachments and a 24' trailer, two snowmobiles and a snowmobile trailer, a car trailer, a tractor, a riding lawnmower, and a 4-wheeler); the proposed structure would provide dedicated covered storage for the machinery and equipment; the applicants maintained and repaired their own machinery and equipment and the proposed structure would provide dedicated space for a workshop; the applicants believed that an indoor workshop would reduce noise pollution associated with maintenance and repair; and, the applicants believed that the proposed structure would provide security for their machinery and equipment and provide a better appearance of their property.

Gervais commented that the application materials, in an effort to demonstrate that the request would not alter the essential character of the neighborhood, cited four other properties in the immediate vicinity which had more than 2,000 sf of accessory storage space. Gervais reviewed details of each property, explaining that one was located in the AG District which had no limit on the amount of accessory storage space, two were classified as legal non-conforming uses, and the final property was likely issued a building permit in error.

Gervais reviewed two examples of similar requests reviewed by the Board in 2022 in an effort to demonstrate that the Clements' request far exceeded what the Board had allowed by Variance approval in the recent past.

The Technical Review Committee met with the applicants on April 12, 2022. The group discussed the basis of the request as being a personal preference rather than related to uniqueness of the property / compliance with the State mandated practical difficulties standard. The Committee also recommended that a septic compliance inspection be completed. The Chisago Lake Town Board considered the request on April 18, 2023 and recommended approval with the condition that the structure met all setback requirements. The Town Board also commented that the proposed structure was "not out of character with neighboring parcels". The 60-day review period was scheduled to expire on May 29, 2023.

Gervais shared that staff did not support the request for Variance and recommended denial and provided the Board with draft Findings of Fact for their consideration. Gervais added that, if the Board determined that the request satisfied the State mandated practical difficulties standard and provided revised Findings of Fact, staff would suggest that the Variance be approved with five conditions of approval.

Applicants John & Cassandra Clements were present and available to address questions and concerns. J. Clements inquired if the Board had viewed the surrounding properties and their accessory structures during the Board's April 26, 2023 tour, commenting that he believed his request to be in keeping with the surrounding area.

Chair Carlson opened the public hearing and sought public comment.

Roger Spencer – 14702 310th Street, Chisago Lake Township. I am the neighbor to the west. I had to adjust my lot, selling some land to the Clements. The Clements live up in woods, not bothering anyone. I don't even see their property in the summertime. I support their request.

With no other members of the audience wishing to speak, ***motion*** to close the public hearing by Strand; second by Yeager. The ***motion passed*** and carried unanimously.

Chair Carlson asked each Board member for additional questions and comments. Greene asked a clarifying question about the size of the existing detached accessory structure, believing the structure to be 1,200 sf rather than 1,800 sf (difference being a lean-to on the west end). Gervais clarified that the County included lean-tos in the overall amount of accessory storage space. Chair Carlson asked how the applicants determined the size of the proposed structure. J. Clements described that they added the measurements of all the items needing to be stored and believed the proposed size of 40' x 72' would be sufficient and still allow a small amount of room for future needs. Sutcliffe inquired if the applicants would have any objection to a septic compliance inspection if the Variance were to be approved. J. Clements indicated that he would have no problem with that requirement. Sutcliffe inquired if the proposed structure would impede an alternate septic site. J. Clements explained that the alternate septic site would be located far north or east of the house. Due to the steep slope in the proposed location of the structure, Strand inquired if the applicants intended to bring in fill. J. Clements explained that he intended to construct a 12' x 100' retaining wall system and fill to level and establish the building area. Strand questioned the setback of the retaining wall and J. Clements indicated that the retaining wall would be approximately 15' from the west property boundary at its closest point.

Motion by Sutcliffe to adopt Resolution No. BOAA2023-0403, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance to Zoning Ordinance Section 4.08.2, F. to exceed the maximum allowable amount of accessory storage space on property located at 14824 310th Street / CSAH 37 in Chisago Lake Township, with staff's five recommended conditions and the addition of condition no. 6 requiring a septic compliance inspection and amended Findings of Fact (shown below); second by Strand. The ***motion passed*** and carried unanimously.

Amended Findings of Fact:

- | | |
|-------------|---|
| Criteria #1 | The proposed action will not impair an adequate supply of light and air to adjacent property; |
| Finding #1 | <i>The proposed accessory structure will be situated in a manner that meets minimum setback requirements so as not to impair an adequate supply of light and air to adjacent properties.</i> |
| Criteria #2 | The proposed action will not unreasonably increase the congestion in the public right-of-way; |
| Finding #2 | <i>The proposed accessory structure will not create additional bedrooms and will not increase the number of occupants in the proposed single family dwelling and will, therefore, not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on 310th Street / CSAH 37 or surrounding roadways.</i> |
| Criteria #3 | The proposed action will not increase the danger of fire or endanger the public safety; |
| Finding #3 | <i>The property owner will be required to obtain a building permit prior to construction of the proposed accessory structure and it will, therefore, be constructed in compliance with all applicable codes. Being compliant with all applicable codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.</i> |
| Criteria #4 | The proposed action will not unreasonably cause undue negative impact to surrounding properties; |
| Finding #4 | <i>The proposed accessory structure itself will likely not cause undue negative impact to surrounding properties; however, the Variance may perpetuate similar requests which, per Finding #7 below, is contrary to the intent of Zoning Ordinance Section 4.08.2, F.</i>
<u><i>The County finds that the proposed action is consistent with surrounding properties – in terms of size / amount of accessory storage space – and therefore will not cause undue negative impacts.</i></u> |

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;
Finding #5 *The proposed accessory structure will not create additional bedrooms and will not increase the number of occupants in the dwelling or the need for additional facilities and services; therefore, the County finds that the proposed accessory structure will not have any strain or increased impact upon existing facilities and services.*

Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and
Finding #6 *The proposed accessory structure will not have any negative fiscal impact on the County or school district. The Board of Adjustment and Appeals finds that the proposed structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and school district.*

Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
Finding #7 ~~*The intent of Zoning Ordinance Section 4.08.2, F. is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District, and allows accessory storage space in proportion to lot size. The Board of Adjustment and Appeals finds that the proposed action is contrary to the intent of Zoning Ordinance Section 4.08.2, F. and finds that the application fails to fully or satisfactorily address the State mandated practical difficulties standard, specifically in terms of reasonableness and uniqueness.*~~
The intent of Zoning Ordinance Section 4.08.2, F. is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District. However, the Zoning Ordinance also allows for Variances, including Variances to exceed the maximum amount of accessory storage space, when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The Board of Adjustment and Appeals finds that the proposed action satisfies the three-factor test of uniqueness, reasonableness and essential character.

Conditions:

1. This approval grants a 2,680 square foot Variance to Zoning Ordinance Section 4.08.2, F, allowing the property to have a total of 4,680 square feet of accessory storage space in the Rural Residential II (RRII) District. In addition to the existing 30' x 60' (1,800 square foot) detached accessory structure, this approval allows the construction of a 40' x 72' (2,880 square feet) detached accessory structure.
2. The accessory structure shall be constructed in general conformance with the application materials, including site plan, dated received March 30, 2023. Any significant deviation from the approved request and site plan, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. Any future subdivision or reconfiguration of the property shall only occur in such a manner that does not reduce the existing lot area of 4.9 acres, unless the property is brought into compliance with the regulations for accessory structures / accessory storage space in the Rural Residential II (RRII) District in effect at the time of said subdivision or reconfiguration.
4. The property owner shall obtain a building permit prior to construction and, further, the accessory structure shall comply with all applicable codes and regulations except as permitted by this Variance.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

6. The property owner shall apply for and ensure completion of a septic compliance inspection prior to or in conjunction with the building permit application process for the approved accessory structure.

Louis & Angela Biondo – Coordinator Gervais provided background information on Louis & Angela Biondo's Variance request for property located at 13XXX North Lakes Lane in Chisago Lake Township (PID 02.01271.21), explaining that the property owners wished to develop their currently vacant lakeshore property by constructing a 2,044 sf dwelling with 816 sf attached garage and 522.4 sf deck. The 1.09-acre subject site, platted as Lot 2, Block 1, Hillcrest Estates in 1989, was located within the Rural Residential I (RRI) District / Shoreland Management District. Surrounding properties located within Hillcrest Estates were similarly sized and four of the lots had been developed with dwellings and related accessory structures. It did not appear that any of the developed properties required setback Variances.

Gervais explained that the proposed dwelling and deck were shown on the survey to be as close as 17.6' from the Top of Bluff and the attached garage was shown to be as close as 20' to township Right-of-Way. As proposed, the dwelling, attached garage and deck were shown to meet the required 10' side yard setbacks (north and south). The primary septic site was shown to meet all required setbacks; however, the alternate septic site was shown to be 6.9' from Top of Bluff. The required setbacks were 30' from Top of Bluff and 40' from township Right-of-Way.

Gervais shared with the Board that the Chisago County Planning Commission had expressed concern about the subject site when it was platted in 1989, with the concerns relating specifically to severe slopes and buildability. Gervais added that, ultimately, the County deemed the subject site to be buildable, which in 1989 required a minimum dwelling size of 750 sf (current requirement was 960 sf) and a 10,000 sf area for primary and alternate septic sites.

The Technical Review Committee met with L. Biondo on April 12, 2022. Biondo had explained that he and his wife had modified their building plans multiple times in an effort to meet the required setbacks to the best of their ability. The Chisago Lake Town Board considered the request on April 18, 2023 and recommended approval with no conditions, commenting that the primary septic system met code, the builder planned to use an infiltration system to help mitigate erosion, site line for road and driveway, and the structure was outside road Right-of-Way. The State mandated 60-day review period was scheduled to expire on June 2, 2023.

Gervais commented that staff believed that the proposed uses – including dwelling, attached garaged, deck, and septic sites – were reasonable uses and consistent with the essential character of the neighborhood, and also believed that the subject site was unique in that it was classified as a bluff and the bluff along with required Top of Bluff setback area encompassed most of the subject site; however, staff was concerned that the applicants were proposing a structure size which was not well suited for the subject site. Gervais added that staff supported the Top of Bluff setback Variance for the alternate septic site and some level of Top of Bluff and township Right-of-Way setback Variances for the proposed dwelling, attached garage and deck; however, staff encouraged the Board to discuss further with the applicants their ability to reduce the dwelling and attached garage sizes in an effort to reduce the setback Variances needed. Ultimately, Gervais provided a recommendation of approval with six conditions.

Property owner L. Biondo was present and available to address questions and concerns. In regard to the Chisago Lake Town Board's comments, Biondo explained that the township did not believe the proposed structure would inhibit the line of sight for traffic. He continued by describing his efforts to design and fit the proposed dwelling on the challenging triangular buildable area. Chair Carlson asked Biondo to review the five surveys included in his application materials to describe for the Board how the proposed dwelling, attached garage and septic sites had been redesigned to better fit the subject site. Board members and Biondo discussed site and neighborhood conditions and existing development within the neighborhood.

Chair Carlson asked each board member for additional questions and comments. Yeager asked clarifying questions on the proposed amount of impervious surface. Biondo commented it was proposed to be well under the maximum allowable amount of 25%. Chair Carlson inquired about the Top of Bluff setback requirement, wondering if it was a new requirement. Gervais confirmed that it had been a long-standing requirement but the County had not received many Variance requests of that type. Chair Carlson inquired about stormwater runoff concerns. Biondo responded that he intended to install an infiltration trench to ensure that water runoff from the dwelling was captured. Gervais commented that staff's recommended conditions of approval included a condition that would allow County staff to require submission of a Stormwater Pollution Prevention Plan and/or erosion control plan if deemed necessary. Chair Carlson inquired about including a condition which would prohibit clear cutting of trees. Gervais responded that the Shoreland Management Ordinance would address clear cutting, but the Board could include a condition if so desired.

Chair Carlson opened the public hearing and sought public comment. With no members of the audience wishing to speak, ***motion*** to close the public hearing by Strand; second by Greene. The ***motion passed*** and carried unanimously.

Motion by Greene to adopt Resolution No. BOAA2023-0404, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances allowing reduced Top of Bluff and township Right-of-Way setbacks on property located at 13XXX North Lakes Lane in Chisago Lake Township, as presented; second by Strand. The ***motion passed*** and carried unanimously.

Conditions:

1. This approval grants the following Variances:
 - a. A 12.4' Variance allowing a dwelling and deck to be no closer than 17.6' from Top of Bluff.
 - b. A 20' Variance allowing a dwelling with attached garage to be no closer than 20' from township Right-of-Way.
 - c. A 23.1' Variance allowing an alternate septic site to be no closer than 6.9' from Top of Bluff.
2. The subject site shall be developed in general conformance with the application materials, including survey, dated received March 31, 2023 and kept on file with the Department of Environmental Services. Any significant deviation from the approved request and survey, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.
3. The property owners shall provide a Stormwater Pollution Prevention Plan (SWPPP) and / or erosion control plan if deemed necessary by the Department of Environmental Services.
4. The property owners shall obtain a building permit prior to construction and, further, the structures shall comply with all applicable codes and regulations.
5. The property owners shall obtain a septic permit prior to installation of either the primary or alternate septic systems and, further, the systems shall comply with all applicable codes and regulations.
6. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUSINESS

None

NEW BUSINESS

None

MISCELLANEOUS

Yeager explained that he was not able to attend the April 26, 2023 tour and, therefore, took a self-guided tour the weekend prior. Yeager added that when he submitted a mileage reimbursement, he was informed by staff that he was only eligible to receive a reduced mileage rate of \$0.35/mile and that prior authorization was required from staff. Yeager asked staff to address the issue of prior authorization. Gervais explained that prior authorization was ideal so that property owners / applicants could be notified. Gervais added that self-guided tours should not be a regular occurrence; they should be the exception rather than the rule. Sutcliffe commented that he had taken self-guided tours in that past and viewed subject sites from the roadway, adding that he had been questioned at times. Yeager suggested that this subject be discussed at the next Planning Commission meeting as well.

ADJOURN MEETING

Motion to adjourn by Yeager; second by Strand. The **motion passed** and carried unanimously. With no further business the meeting was adjourned at 8:28 p.m.

ATTEST:

Gregg Carlson
Chair

Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance to Expand a Legal Non-Conforming Structure
 12228 Lindo Trail, Chisago Lake Township
 DATE: May 25, 2023

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses), B. allowing the expansion of a legal non-conforming structure which is closer to a township road than required and smaller in size than currently required. The existing structure is situated approximately 60' from the centerline of Lindo Trail where the required setback is 73' from centerline, and the dwelling size appears to be 900 square feet (sf) where the required minimum dwelling size is 960 sf.

SITE & APPLICATION INFORMATION

Applicant(s):	Danny Ketchel
Property Owner(s):	Danny Ketchel
Property Address:	12228 Lindo Trail
	Chisago Lake Township
General Location:	Section 8, Township 34, Range 20
PID:	02.00461.00
Property Area:	5.34± Acres
Current Zoning:	Agricultural (AG) District
Adjacent Zoning:	
North:	Agricultural (AG) District
South:	Agricultural (AG) District
East:	Agricultural (AG) District
West:	Agricultural (AG) District
Date Application Received:	May 1, 2023
Date Application Complete:	May 2, 2023
60-Day Review Period:	July 1, 2023



BACKGROUND

Property owner Danny Ketchel is proposing to expand his legal non-conforming dwelling by reconstructing the second story (half-story) and expanding it toward the back of the dwelling / rear property boundary. The project will also include a new and expanded deck on the rear and side of the dwelling. The proposed



expansion will not encroach any closer to the road than the existing dwelling.

SITE ANALYSIS

The 5.34-acre subject site is zoned Agricultural (AG) District and located approximately 340' south of 374th Street / CR 74 on the west side of Lindo Trail. The site has been developed with a dwelling and two detached accessory structures. The exact age of the dwelling is unknown; however, the property owner reports that the dwelling is more than 100 years old. The adjacent image, obtained from the Chisago County Assessor's Office, shows the dwelling in 1972. Based on the attached site plan, the existing dwelling appears to be 900 sf, as measured at the foundation, which is less than the current standard of 960 sf and, therefore, considered to be legal non-conforming.



Topography of the site includes elevations ranging from 932' near the east property boundary / roadway to 898' near the west / rear property boundary, as well as wetland along the entire length of the westerly 90' to 155' of the property. The elevations, wetland and existing vegetation are illustrated in the image below.



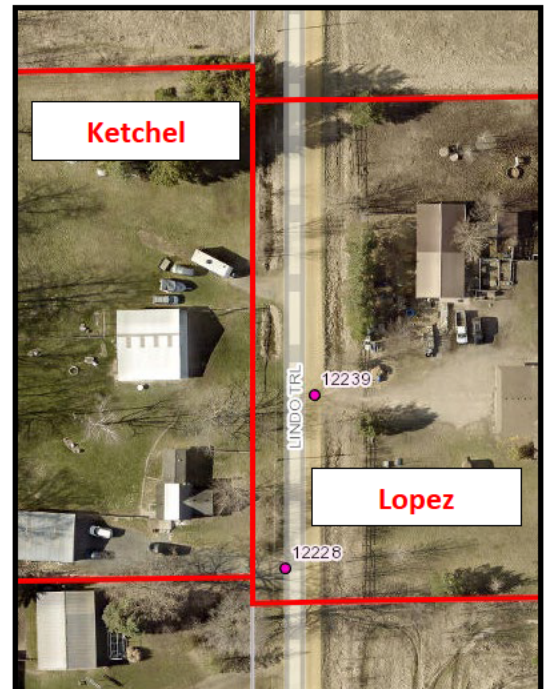
All surrounding properties are similarly zoned and developed for residential purposes and / or used for agricultural purposes.

While the subject site meets the minimum lot area, lot width and lot depth for the AG District, the site itself is considered non-conforming due to the fact that it doesn't have any frontage on a public road.

Current standards require a minimum of 300' of frontage on a public road. The County's GIS Viewer shows that Lindo Trail (township road) runs through the neighboring property to the east (owned by Lopez) and a portion of the Ketchel driveway appears to be located on the Lopez property. The adjacent image illustrates the property configuration. Staff does not know the exact date that the subject site – in its current size and configuration – was created; however, based on information available, it's believed that the parcel is classified as legal non-conforming. As a legal non-conforming property, further development is allowed so long as the structure(s) meet all required setbacks. The existing road setback encroachment has been established in this report as one of the factors making this a legal non-conforming structure.

PROPOSAL ANALYSIS

The property owner is requesting a Variance in order to reconstruct the second story of the dwelling, which is a half story, and expand it further west toward the rear of the dwelling. The site plans also show that the existing deck on the rear and side of the dwelling will be replaced with a covered deck and a second set of steps. If the property owner were simply proposing to reconstruct the second story and deck in their current sizes and locations, no Variance would be required. However, given that the property owner is proposing to expand the legal non-conforming structure, the expansion triggers the need for Variance per MN statute and the Chisago County Zoning Ordinance.



The building plans show that the second story currently includes two bedrooms and a stairway; and, the proposed second story would retain two bedrooms but relocate the stairway and allow for the addition of a walk-in closet for each bedroom. The existing second story appears to be 319 square feet (sf) and the proposed expansion will result in 451 sf (a 132-sf expansion).

The building plans also show that the existing deck on the rear and side of the dwelling will be replaced with a covered deck and one additional set of steps. The base of the proposed porch appears to be generally the same size as the existing deck; however, the building plans show the addition of a roof (see proposed rear elevation and proposed right side elevation) and steps on the side of the porch (see proposed rear elevation).

The written narrative provides history of the subject parcel dating back to 1856 and an explanation that the proposed project is an effort to restore the historic dwelling by reusing, preserving, and repurposing as much of the original materials as possible.

In an effort to address the State mandated practical difficulties standard, the attached written narrative explains that the property owner is not expanding the structure any closer to the road than the existing dwelling; there will be no change to the existing footprint of the dwelling; and, the proposed project will improve the aesthetics of the dwelling and, as a result, the neighborhood. Staff suggests that this explanation addresses the "reasonableness" and "essential character" factors of the practical difficulties standard and would add that the age and location of the dwelling addresses the "uniqueness" factor in that the dwelling was constructed perhaps a century prior to the County's adoption of official land use controls (i.e., pre-existing development).

REVIEW PROCESS

The Technical Review Committee met with property owner Danny Ketchel and wife Jennifer Sorenson on May 10, 2023. Ketchel & Sorenson confirmed that no bedrooms would be added as part of the proposed project; the last septic compliance inspection was completed in approximately 2019; and, their project includes the replacement of a deck on the rear and side of the dwelling. The Committee discussed the possible need for a septic compliance inspection if the Variance were approved.

The Chisago Lake Town Board considered the request on May 16, 2023 and recommended approval with no conditions.

The state mandated 60-day review period expires on July 1, 2023.

VARIANCE ANALYSIS

A Variance to the provisions of the Zoning Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the Ordinance imposes particular hardship or practical difficulties to the property owner in the use of the land. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. A Variance may be granted only in the event that the following circumstances exist. Staff has provided notes (shown in *italics*) for each of the circumstances for the Board's consideration.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control;

The written narrative states that the existing dwelling is more than 100 years old (pre-existing development) and that the property owner's goal is to restore and preserve the history and integrity of the dwelling. Pre-existing development could be considered an exceptional or extraordinary circumstance, and the current property owner certainly had no control over this circumstance.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

Literal interpretation of the Zoning Ordinance would not deprive the applicant of rights commonly enjoyed by other Agricultural (AG) District properties. Properties in the AG District have the right to be developed for residential purposes, in addition to other uses identified by the Zoning Ordinance, and the subject site is presently developed with a dwelling and related detached accessory structures.

3. That the special conditions or circumstances do not result from the actions of the owner(s) or under previous owner(s) under the current law;

Neither the applicant nor the previous property owner(s) created the special circumstance of pre-existing development. The existing dwelling is believed to be situated in its current location for more than 100 years which pre-dates the County's adoption of official land use controls.

4. That granting the Variance requested will not result in allowing a use otherwise not permitted in the same district;

The existing dwelling and the proposed expansion are permitted uses in the AG District; therefore, the Variance would not be considered a use Variance.

5. The Variance requested is the minimum Variance which would alleviate the hardship;

Staff believes that the most discernible cited practical difficulty relates to pre-existing development. The current and previous property owners had no control over the location of the existing dwelling or the structural design (i.e., size of footprint). While the footprint of the dwelling could be expanded to meet the County's minimum requirement of 960 sf (although this wouldn't be allowed without a Variance), there simply is no feasible way to remedy the township road setback encroachment. While the property owner is proposing to expand the existing legal non-conforming structure, he's proposing to do it in a manner which will not exacerbate the existing township road setback encroachment and staff believes it to be a modestly sized expansion.

6. The Variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone;

Staff does not believe that the Variance, if approved, would be detrimental to the purposes or intent of the Zoning Ordinance or to other properties in the AG District. The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area.

7. Economic conditions or circumstances alone shall not be considered in the granting of a Variance request if a reasonable use of the property exists under the terms of this Ordinance; and

The applicant did not cite economic conditions as a practical difficulty.

8. In the Flood Plain District, no Variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by State law.

The subject site is not located in a flood district.

The Board is tasked with determining whether or not a "practical difficulty" exists prohibiting the property owner from using the land in a manner consistent with the Zoning Ordinance. Minnesota Statute 394.27 offers the following guidance:

*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.*

As indicated above, "practical difficulties" is a legal standard that the County must apply when considering applications for Variances. It's a three-factor test, including: reasonableness, uniqueness,

and essential character. In order to constitute practical difficulties, all three factors of the test must be satisfied. Descriptions of the three factors are offered below for the Board's consideration:

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the Variance. For example, if the Variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the Variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential Character

The third factor is that the Variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the Variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

FINDINGS OF FACT

Zoning Ordinance Section 8.06 Variances, E. states that in considering all requests for a Variance, the Board of Adjustment and Appeals shall make certain Findings of Fact. Staff has provided proposed findings, shown in *italics* below, for the Board's consideration.

Criteria #1	The proposed action will not impair an adequate supply of light and air to adjacent property;
<i>Finding #1</i>	<i>The existing dwelling and proposed expansion are located approximately 600 feet from the west property boundary, approximately 245 feet from the north property boundary, and approximately 38 feet from the south property boundary. Given that the existing dwelling and proposed expansion will meet all required setbacks with the exception of the township road setback (east), the County finds that the existing dwelling and proposed expansion are sufficiently distanced from neighboring properties so as not to impair an adequate supply of light and air to adjacent properties.</i>
Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
<i>Finding #2</i>	<i>The proposed dwelling expansion will not create additional bedrooms or otherwise intensify the use of the subject property. Therefore, the County find that the proposed action will not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on Lindo Trail or surrounding roadways.</i>
Criteria #3	The proposed action will not increase the danger of fire or endanger the public safety;

<i>Finding #3</i>	<i>The property owner will be required to obtain a building permit prior to construction of the proposed dwelling expansion, and it will, therefore, be constructed in compliance with all applicable building and fire codes. Being compliant with all applicable building and fire codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.</i>
Criteria #4	The proposed action will not unreasonably cause undue negative impact to surrounding properties;
<i>Finding #4</i>	<i>The subject site is currently developed with a dwelling and related detached accessory structures. The proposed action will not change how the property is being used or allow the structure to be situated any closer to neighboring properties. Therefore, the County finds no evidence to suggest that there will be any negative impact to surrounding properties.</i>
Criteria #5	The proposed action will not cause an unreasonable strain upon existing facilities and services;
<i>Finding #5</i>	<i>The proposed action will not change or intensify the use of the subject site; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.</i>
Criteria #6	The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and
<i>Finding #6</i>	<i>The proposed action will not change the use of the subject site; therefore, the County finds that there will be no negative fiscal impact upon the County or school district.</i>
Criteria #7	The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
<i>Finding #7</i>	<i>The subject site is zoned Agricultural (AG) District and Zoning Ordinance Section 5.06 identifies dwellings as a Permitted Use in this District. The existing dwelling is considered a legal non-conforming structure and the Zoning Ordinance does prohibit the expansion of such structures; however, the Zoning Ordinance also allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action is in keeping with the spirit and intent of the Chisago County Zoning Ordinance and also satisfies the three-factor test of uniqueness, reasonableness and essential character.</i>

STAFF RECOMMENDATION

Staff believes that the requested Variance is reasonable based on the following considerations:

- The property and existing dwelling constitute pre-existing development for which the property owner had no control.
- The proposed dwelling expansion will not exacerbate the road setback encroachment and will meet or exceed all other required setbacks.

Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval of the requested Variance** with recommended Findings of Fact (see above) and conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended condition(s):

1. This approval allows for the expansion of a legal non-conforming structure in the Agricultural (AG) District by allowing:
 - a. The reconstruction and expansion of the second story; and,
 - b. The reconstruction and expansion of the existing deck on the rear and side of the dwelling. The expansion includes the addition of a roof and second set of steps.
2. The expansion shall be constructed in general conformance with the application materials, including site plan and building plans, dated received May 1, 2023. Any significant deviation from the approved request and plans, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. The expansion shall not exacerbate the existing township road setback encroachment, meaning the structure shall not be located any closer to the east property boundary / township road as a result of this Variance.
4. The property owner shall obtain a building permit prior to construction and, further, the dwelling expansion shall comply with all applicable codes and regulations.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

OPTIONS

1. **Approve** the Variance based on the Findings of Fact and conditions as presented or amended.
2. **Deny** the Variance based on amended Findings of Fact or other contributing factors deemed appropriate. The following are suggested findings to assist in motion making. The Board is able to modify these findings and/or make other findings as necessary.
 - a. The request for Variance, as presented, is not consistent with the Chisago County Zoning Ordinance due to _____.
 - b. The proposed Variance will have a negative impact to surrounding properties due to _____.
 - c. The request for Variance, as presented, does not meet the threshold for "practical difficulty" as required by MN Statute 394.27 and Chisago County Zoning Ordinance Section 8.06 Variances, D. because of _____.
3. **Table** action to allow for further review and consideration. The current review period expires on July 1, 2023, allowing the Board to continue its review at the June 29, 2023 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2023-0501, a resolution approving a Variance to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses) allowing the expansion of a legal non-conforming structure on property located at 12228 Lindo Trail in Chisago Lake Township, as presented or amended.

If the Board chooses to deny the request for Variance, staff will prepare a revised resolution based on the Findings of Fact established by the Board.

ATTACHMENTS

1. Application materials:

- a. Application
 - b. Written narrative
 - c. Site plan
 - d. Building plans
 - e. Photos of dwelling
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2023-0501

CC: Danny Ketchel, property owner
County file



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 23-510

Township Chisago Lake S/T/R 8-34-20 PID# 02-00461-00

Project Address 12278 Lindo Trail, Lindstrom mn 55045

Property Owner(s) Danny Kutchel

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) Danny Kutchel

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☒ Variance
☐ Administrative Appeal

Planning Commission

- ☐ Conditional Use Permit (CUP)
☐ Interim Use Permit (IUP)
☐ Amendment to CUP or IUP
- ☐ Preliminary Plat
☐ Rezoning
☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) Expansion of nonconforming structure

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

- ☐ Full Legal Description ☐ Detailed Site Plan ☐ Detailed Written Narrative ☒ Plat Drawings

Danny Kutchel
Applicant Signature

5/1/23
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Fees		Dates	
Base Fee	\$ <u>500-</u>	Application Received	<u>5-1-23</u>
Recording Fee	\$ <u>46-</u>	Application Complete	<u>5-2-23</u>
Plat Fee - No Road(s) / With Road(s)	\$ _____	<u>60</u> / 120 Day Review Period	<u>7-1-23</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>546-</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Chisago Lake S/T/R 8-34-20 PID# 02.00461.00

Project Address 12228 Lindo Trail, Lindstrom MN 55045

Property Owner(s) Danny Ketchel

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) Danny Ketchel

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

☒ Variance

☐ Administrative Appeal

Planning Commission

☐ Conditional Use Permit (CUP)

☐ Interim Use Permit (IUP)

☐ Amendment to CUP or IUP

☐ Preliminary Plat

☐ Rezoning

☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) Expansion of nonconforming structure

Danny Ketchel
Applicant Signature

5/1/23
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Date of County Public Hearing May 25, 2023 Date of Township Presentation May 16, 2023

Township Action Taken (Township Use Only)

☒ Recommendation of Approval

☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

Adding second floor and No change in foot print

Signatures of Township Officials or Authorized Personnel

Sherry St Dee Reed Angela

4/24/2023

To whom it may concern,

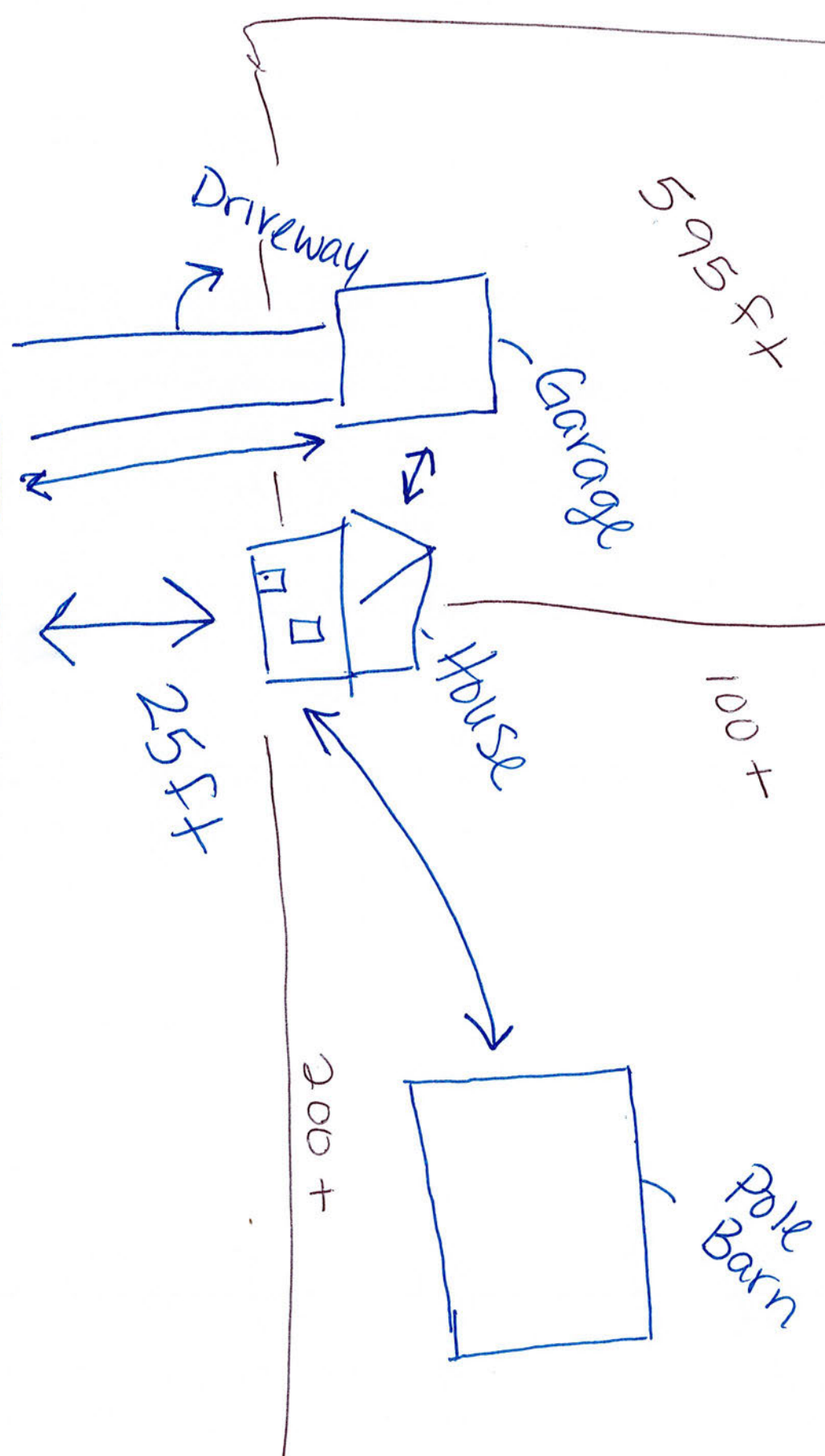
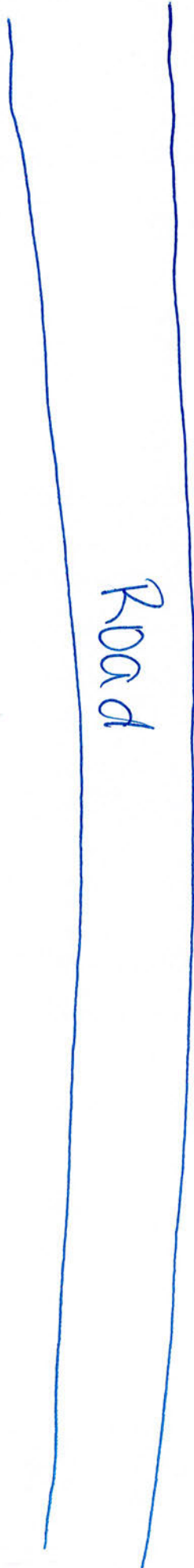
We are asking for a variance the property at 12228 Lindo trail that we purchased in 2013. When we purchased the property it has always been our intention to restore and preserve the history and integrity of the home. Our goal is to update to a modern state without eliminating the history that has stood the test of time.

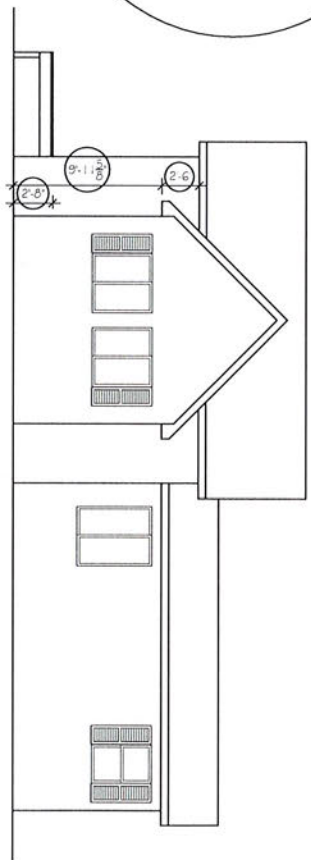
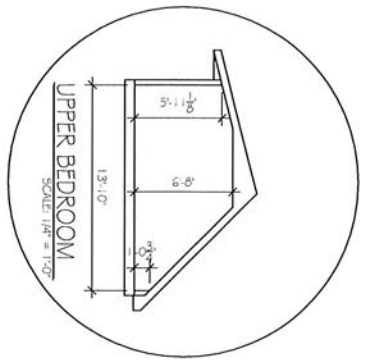
This home comes with a lot of history that dates back to 1856. In 1856 the property was purchased by the Mobergs for a total of \$333.00 for 121 acres of land. The original grain bin was then built (which is my current kitchen now) and the land strived as the largest potato field in Chisago County. This house and property is so special, unique and loved that it has been passed down by generation to generation for years and our hope is to do the same with our family. While we undergo we this restoration/remolding project we plan on reusing, preserving and repurposing as much of the original materials as possible.

This house has been its original location for more than 100 years. There have been some additions throughout the years, but not in years. At one time we in 2019/2020 we were planning on removing the existing home and replacing it with a new one on the property a little further back, however we decided that we wanted to take on the challenge and bring the home back to its former glory. 12228 Lindo Trail has gone through several inspections through the county and the fire department (see attached). The inspections revealed that everything is in compliance with city ordnance including the sewer/septic, well and mound system. The house has also been tested for mold and asbestos, all with a negative result.

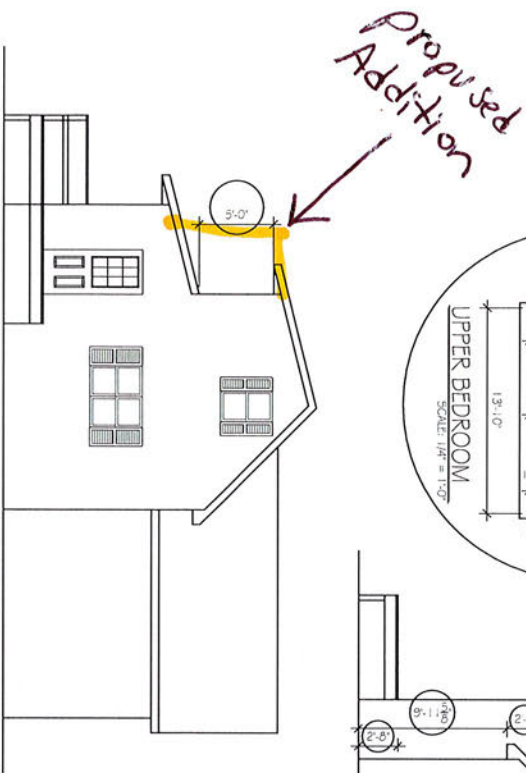
We are not asking to build out closer to the road, but simply to replace the half story upstairs and slightly extend it out towards the back of the house (see attached).

1. We are not building on/ expanding out any closer to the road. There is no change in the footprint of the home. Several times during the 10 years we have owned and lived in the property we have been approached by neighbors asking the status on our house and if we are planning to do anything to update or replace the existing structure. As it stands now the property at 12228 Lindo Trail, is an eye sore and by bringing it back to its former standards will greatly improve the aesthetics of the neighborhood.

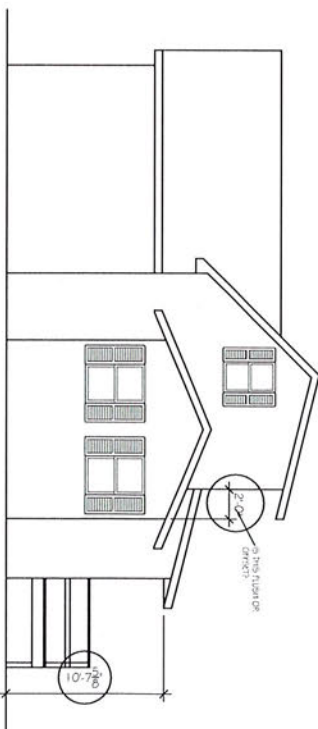




EXISTING FRONT ELEVATION
SCALE: 1/4" = 1'-0"



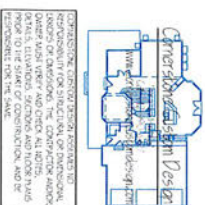
EXISTING LEFT SIDE ELEVATION
SCALE: 1/4" = 1'-0"

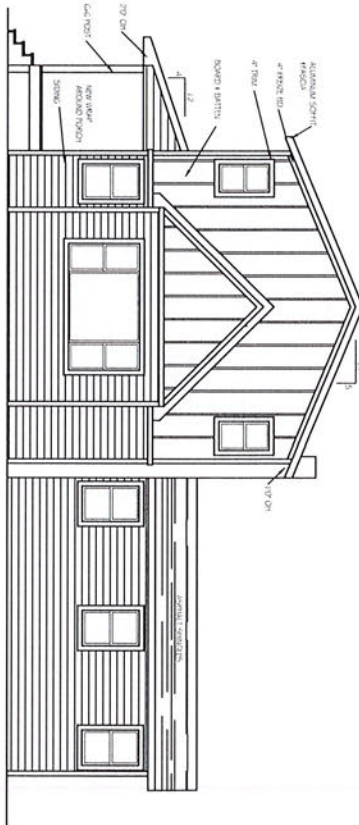


EXISTING RIGHT SIDE ELEVATION
SCALE: 1/4" = 1'-0"

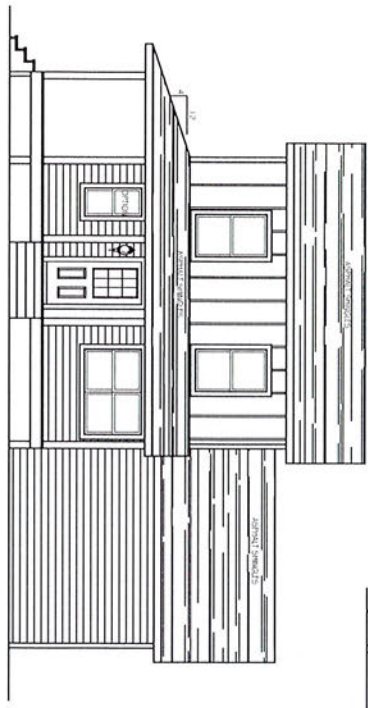


EXISTING REAR ELEVATION
SCALE: 1/4" = 1'-0"

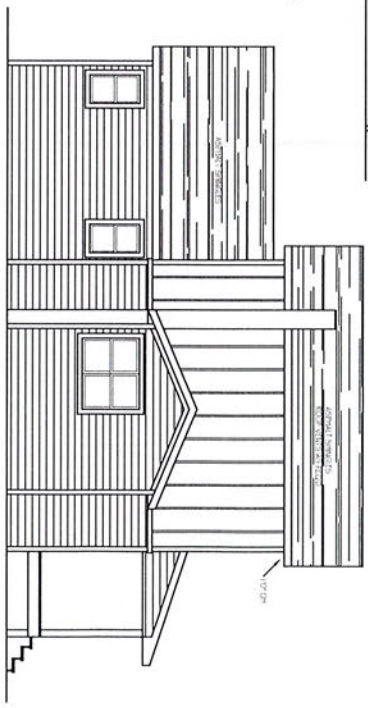




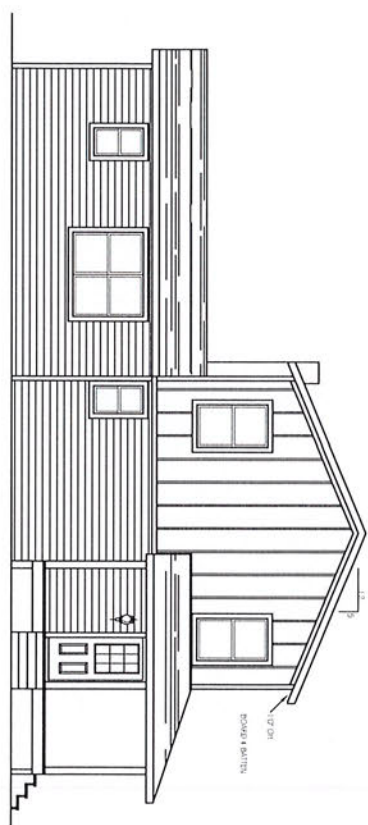
PROPOSED FRONT ELEVATION
SCALE: 1/4" = 1'-0"



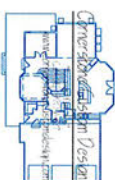
PROPOSED LEFT SIDE ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED RIGHT SIDE ELEVATION
SCALE: 1/4" = 1'-0"

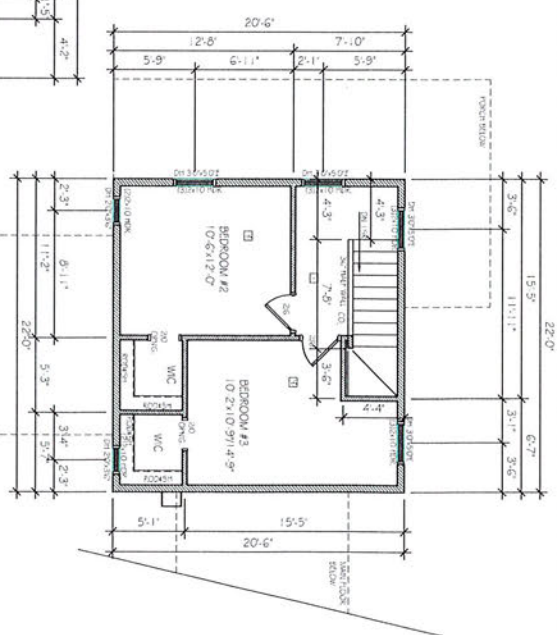
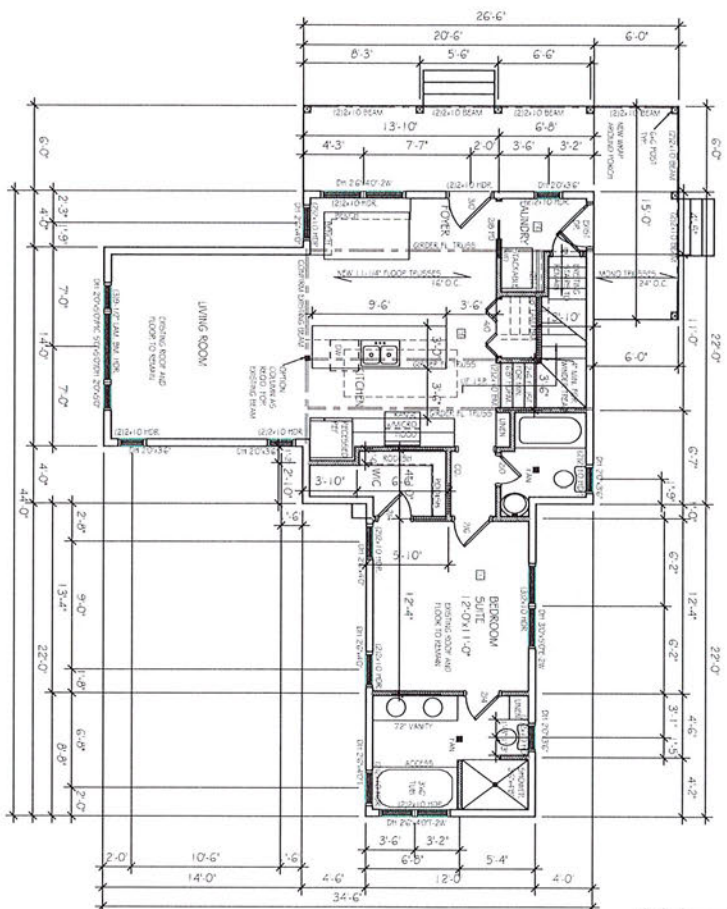
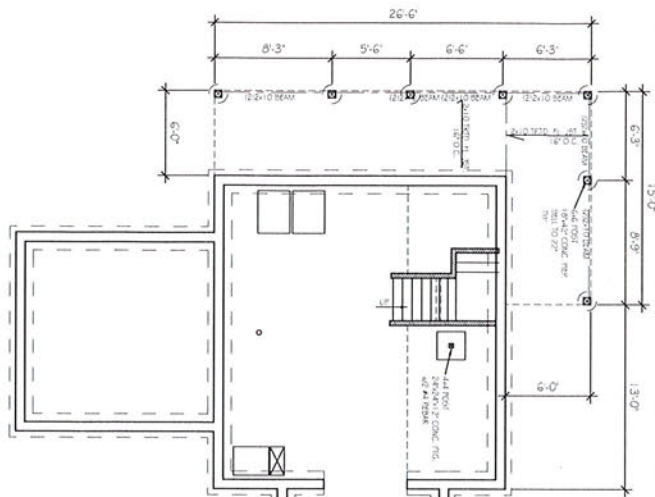


PROPOSED REAR ELEVATION
SCALE: 1/4" = 1'-0"

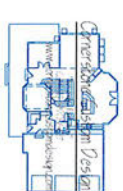


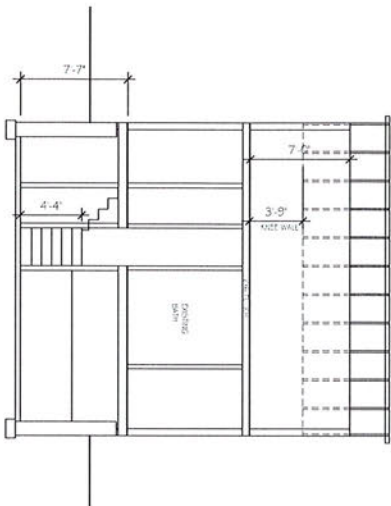
CONSTRUCTION OF THIS PROJECT IS SUBJECT TO THE CITY OF PORTLAND'S ZONING ORDINANCES. THE CONSTRUCTION AND/OR ALTERATION OF THIS PROJECT AND/OR ANY OTHER PROJECTS ON THE SITE SHALL BE IN ACCORDANCE WITH THE CITY OF PORTLAND'S ZONING ORDINANCES.

DATE: 11/11/2021
DRAWN BY: J. S. Sorenson
CHECKED BY: J. S. Sorenson
PROJECT: SORENSON/KETCHEL REMODEL
PLAN #220711
PG 30F5

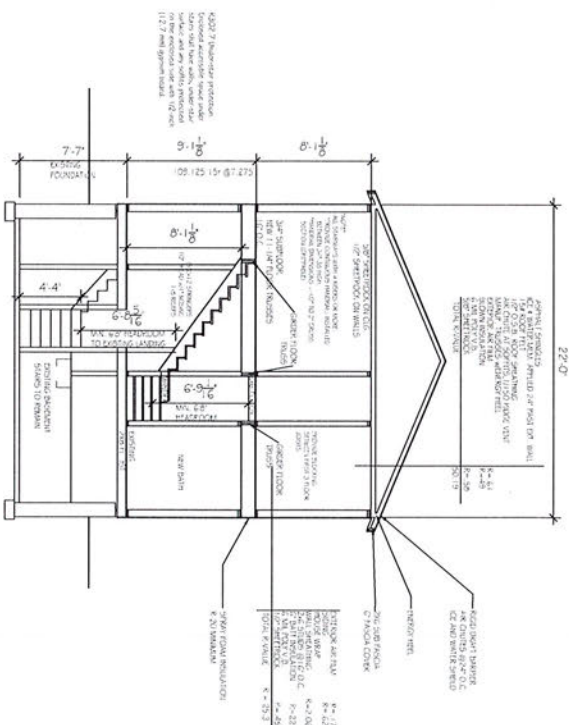
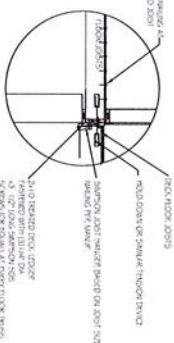


PROJECT: SORENSEN/KETCHEL REMODEL
 PLAN #220711
 PG. 4 OF 5



$$\text{SCALE: } 1/4" = 1'-0"$$


SCALE: 1/4" = 1'-0"

[illegible]

PORCH JOIST DETAIL TYP

$$D_1 = 2H_1 - 2\pi X$$
[illegible]

CONTRACTOR CANNOT BE HELD RESPONSIBLE FOR CONSTRUCTION OF DRAINAGE SYSTEMS OR FOR OMISSIONS. THE CONTRACTOR SHOULD OBTAIN ADEQUATE INFORMATION FROM THE STATE OF CONSTRUCTION, AND BE RESPONSIBLE FOR THE SAME.

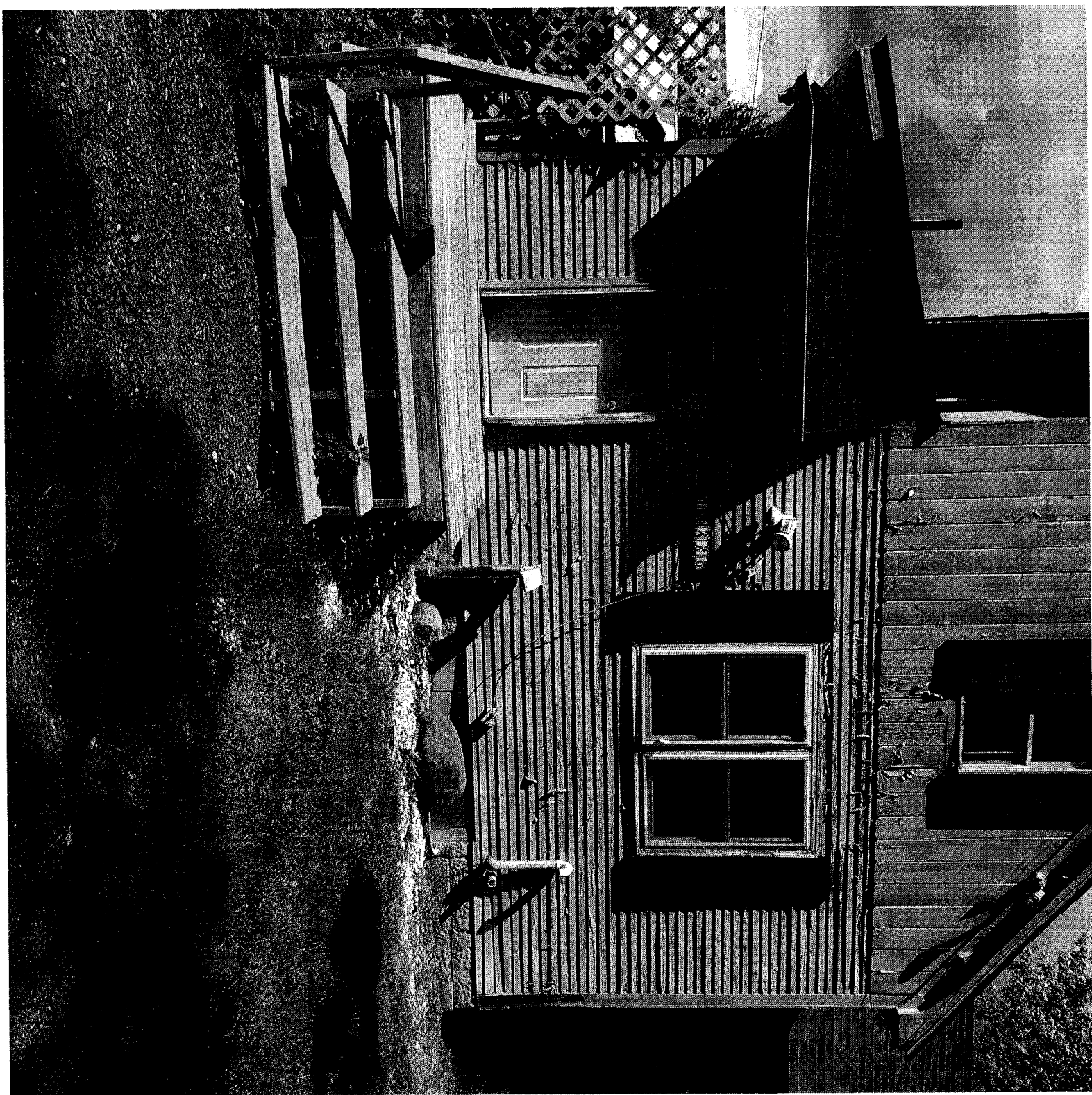
DATE: 04-11-17	DATE: 04-11-17	DATE: 04-11-17
TIME: 9:00	TIME: 9:00	TIME: 9:00
SORENSEN/KETCHEL REMODEL		
PLAN #220711		
PG 50F5		

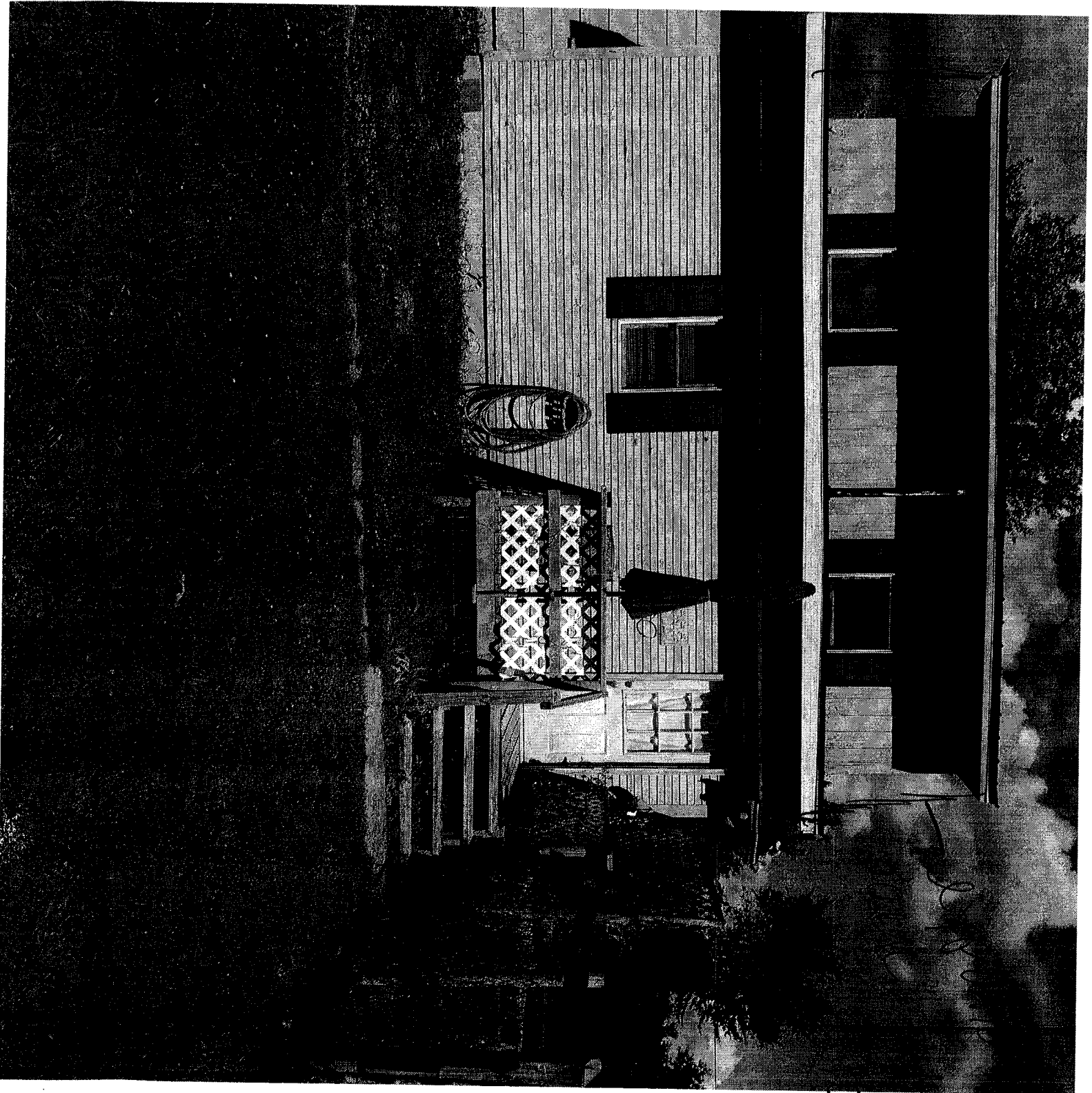
PLAN #220711

PG 50F5

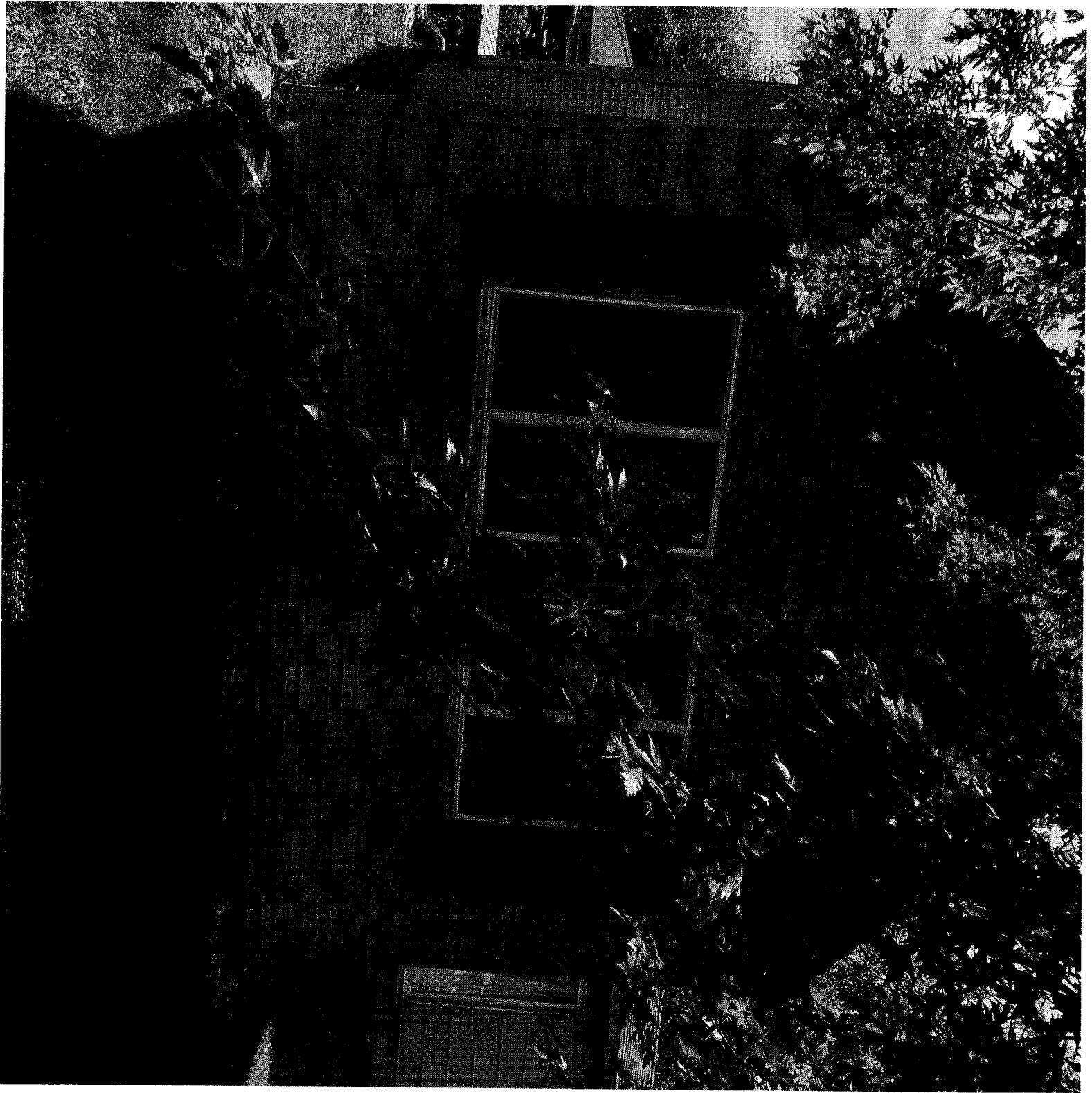
expanding
out to
here





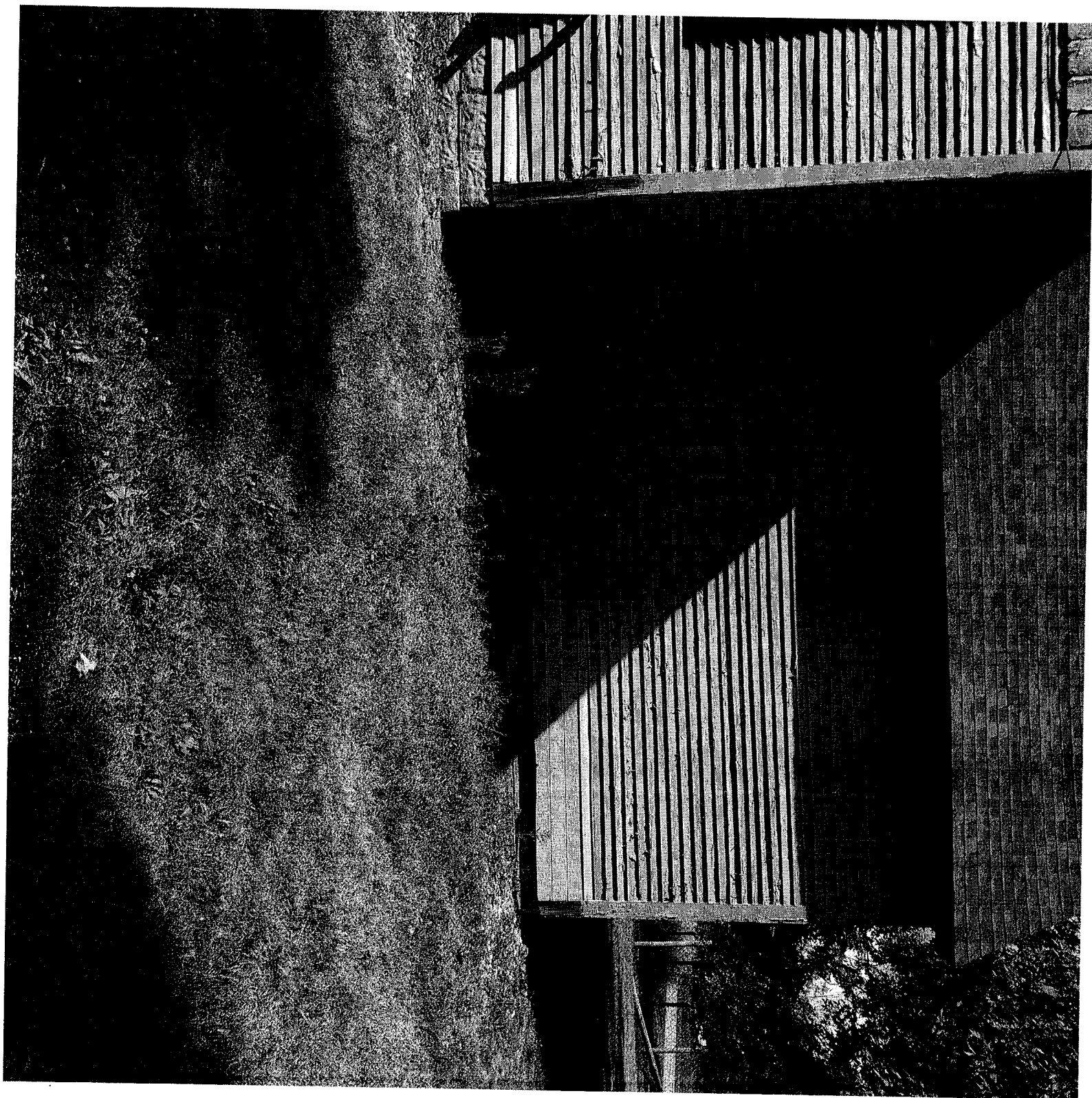


in
out









Danny Ketchel - Aerial Photo

Property owner is requesting a Variance to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses), B. in order to expand a legal non-conforming structure by enlarging the second story of the dwelling. The 5.34± acre subject property is zoned Agricultural (AG) District and located at 12228 Lindo Trail in Chisago Lake Township, S8, T34, R20 (PID 02.00461.00).

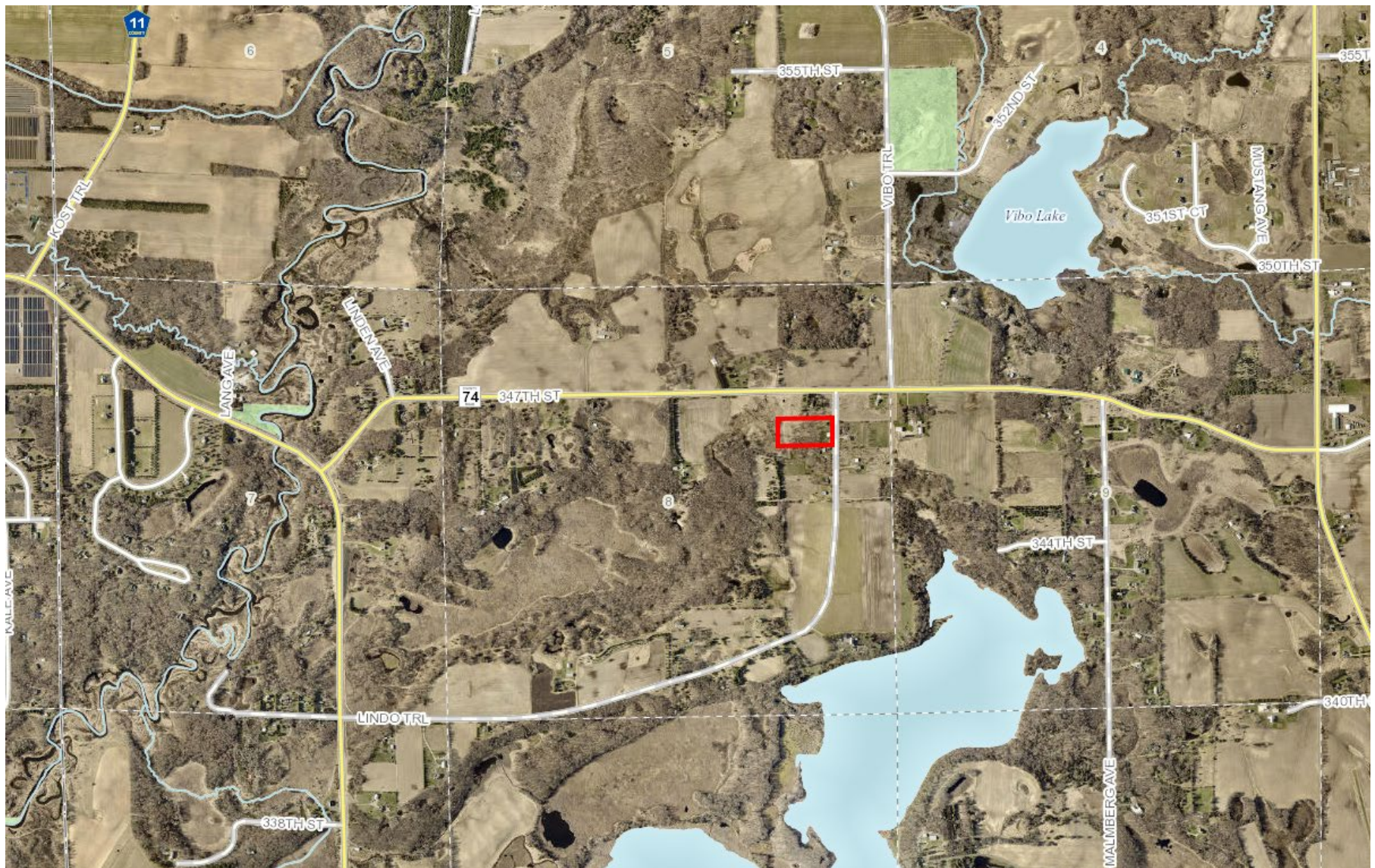
Ketchel property - 



Danny Ketchel - Aerial Photo

Property owner Danny Ketchel is requesting a Variance to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses), B. in order to expand a legal non-conforming structure by enlarging the second story of the dwelling. The 5.34± acre subject property is zoned Agricultural (AG) District and located at 12228 Lindo Trail in Chisago Lake Township, S8, T34, R20 (PID 02.00461.00).

Ketchel property - 



RESOLUTION NO. BOAA2023-0501

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
APPROVING A VARIANCE TO ZONING ORDINANCE SECTION 4.03 (NON-CONFORMING STRUCTURES
AND USES) ALLOWING THE EXPANSION OF A LEGAL NON-CONFORMING STRUCTURE ON PROPERTY
LOCATED AT 12228 LINDO TRAIL IN CHISAGO LAKE TOWNSHIP**

WHEREAS, property owner Danny Ketchel submitted an application dated received May 1, 2023 and considered complete on May 2, 2023 for a Variance to Zoning Ordinance Section 4.03; and

WHEREAS, the property owner wishes to expand his legal non-conforming dwelling by reconstructing and expanding the second story; and

WHEREAS, the subject site is located in the Agricultural (AG) District and legally described as:

PID 02.00461.00

That part of the Southeast Quarter of the Northeast Quarter of Section 8, Township 34, Range 20, Chisago County, Minnesota, described as follows:

Commencing at the Northwest corner of the Southeast Quarter of the Northeast Quarter of said Section 8; thence South 2 Degrees 40 Minutes West, a distance of 33 feet to an iron pipe stake; thence East, parallel with the North line of said Southeast Quarter of the Northeast Quarter, a distance of 682 feet to the West line of a township road crossing said Southeast Quarter of the Northeast Quarter in a Northerly-Southerly direction; thence South 1 Degree 20 Minutes West, along said West township road line a distance of 297.0 feet to the point of beginning; thence North 89 Degrees 59 Minutes West, a distance of 689.7 feet; thence South 2 Degrees 40 Minutes West, a distance of 330 feet, more or less, to the South line of the North Half of the Southeast Quarter of the Northeast Quarter of Section 8; thence Easterly, along said South line, a distance of 698 feet, more or less, to the West line of aforesaid North-South township road; thence Northerly, along the West line of said township road, a distance of 330 feet, more or less, to the point of beginning.

WHEREAS, notice was provided and on May 25, 2023 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the applicant and/or property owner, and invited members of the public to comment; and

WHEREAS, the Board of Adjustment and Appeals considered several criteria for granting Variances and made the following findings per Zoning Ordinance Section 8.06 Variances:

Criteria #1 The proposed action will not impair an adequate supply of light and air to adjacent property;

Finding #1 The existing dwelling and proposed expansion are located approximately 600 feet from the west property boundary, approximately 245 feet from the north property boundary, and approximately 38 feet from the south property boundary. Given that the existing dwelling and proposed expansion will meet all required setbacks with the exception of the township road setback (east), the County finds that the existing dwelling and proposed expansion are sufficiently distanced from neighboring properties so as not to impair an adequate supply of light and air to adjacent properties.

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

- Finding #2 The proposed dwelling expansion will not create additional bedrooms or otherwise intensify the use of the subject property. Therefore, the County find that the proposed action will not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on Lindo Trail or surrounding roadways.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;*
Finding #3 The property owner will be required to obtain a building permit prior to construction of the proposed dwelling expansion, and it will, therefore, be constructed in compliance with all applicable building and fire codes. Being compliant with all applicable building and fire codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.
- Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;*
Finding #4 The subject site is currently developed with a dwelling and related detached accessory structures. The proposed action will not change how the property is being used or allow the structure to be situated any closer to neighboring properties. Therefore, the County finds no evidence to suggest that there will be any negative impact to surrounding properties.
- Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;*
Finding #5 The proposed action will not change or intensify the use of the subject site; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.
- Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and*
Finding #6 The proposed action will not change the use of the subject site; therefore, the County finds that there will be no negative fiscal impact upon the County or school district.
- Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.*
Finding #7 The subject site is zoned Agricultural (AG) District and Zoning Ordinance Section 5.06 identifies dwellings as a Permitted Use in this District. The existing dwelling is considered a legal non-conforming structure and the Zoning Ordinance does prohibit the expansion of such structures; however, the Zoning Ordinance also allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action is in keeping with the spirit and intent of the Chisago County Zoning Ordinance and also satisfies the three-factor test of uniqueness, reasonableness and essential character.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variances is hereby approved, subject to the following conditions:

1. This approval allows for the expansion of a legal non-conforming structure in the Agricultural (AG) District by allowing:
 - a. The reconstruction and expansion of the second story; and,
 - b. The reconstruction and expansion of the existing deck on the rear and side of the dwelling. The expansion includes the addition of a roof and second set of steps.
2. The expansion shall be constructed in general conformance with the application materials, including site plan and building plans, dated received May 1, 2023. Any significant deviation from the approved request and plans, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. The expansion shall not exacerbate the existing township road setback encroachment, meaning the structure shall not be located any closer to the east property boundary / township road as a result of this Variance.
4. The property owner shall obtain a building permit prior to construction and, further, the dwelling expansion shall comply with all applicable codes and regulations.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 25th day of May, 2023.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Gregg Carlson
Chair

ATTEST:

Beth Gervais
Land Services Coordinator