

Tour Date and Time: Wednesday, June 26, 2024 at 8:15 am
Departing from Chisago County Highway Department, 31325 Oasis Road, Center City, MN

- 1. Call to Order and Pledge of Allegiance**
- 2. Roll Call and Determination of a Quorum**
- 3. Approval of Agenda**
- 4. Approval of Minutes**
 - a. May 30, 2024
- 5. Receive all Materials and Submittals into Record**

Previously Distributed Materials:

 - a. Complete meeting packet including staff report(s) with attachments for agenda item(s) 6a and 6b
- 6. Public Hearings – New Applications**
 - a. **Eric & Alicia Houske and Lang Builders** – Property owners Eric & Alicia Houske and applicant Lang Builders are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Urban Residential (UR) District / Shoreland Management District. The .35± acre subject site is located at 29850 Glader Boulevard in Chisago Lake Township, S3, T33, R20 (PID 02.01705.00).
 - b. **James & Kalee Blood** – Property owners James & Kalee Blood are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Agricultural (AG) District / Shoreland Management District / Sunrise River Overlay (SO) District as well as reduced Ordinary High Water Level setbacks for the installation of a septic system and the construction of a detached accessory structure (garage). The combined 34± acre subject site is located at 36214 Locke Avenue in Sunrise Township, S31 and 32, T35, R20 (PIDs 09.00386.10 and 09.00367.00).
- 7. Public Hearings – Continued Hearings**

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

The next meeting is scheduled for Thursday, July 25, 2024 at 7:00 pm.

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
May 30, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, May 30, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Sarah Scheunemann, Office Support Specialist – Land Services

Chair Strand 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: Gregg Carlson, Doug Greene, John Sutcliffe, Chip Yeager, and Chair Becky Strand. Absent: None. A quorum was established with all members present.

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

APPROVAL OF MINUTES – Motion by Carlson to approve the March 28, 2024 meeting minutes as presented; second by Sutcliffe. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Yeager to receive all applications, submittals, reports, and other materials into the record, including an amended resolution for agenda item no. 6a, an updated footing and foundation plan for agenda item 6a, and the completed Chisago Lake Township Presentation Form for agenda item no. 6a; second by Sutcliffe. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included the complete meeting packet with staff reports and attachments. Copies of all meeting materials were made available at the entrance to the County Board Room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Lisa Kettler & Cassandra Murray – Coordinator Gervais provided background information on Lisa Kettler's & Cassandra Murray's Variance request for property located at 32710 N. Center Court in Chisago Lake Township (PID 02.01077.00), explaining that Kettler and Murray were requesting Variances to the Zoning, Shoreland Management and Subsurface Sewage Treatment Systems Ordinances in order for a new dwelling to be located closer to the township Right-of-Way and Ordinary High Water Level (OHWL) than required and for a new septic system to be closer to a property boundary than required. Gervais reviewed details of the subject site and surrounding area, sharing that the .20± acre property, which was platted in 1955, was located in the Rural Residential II (RRII) District / Shoreland Management District. Being that the property was platted in 1955 and the dwelling was constructed in 1956 and neither met the current minimum standards, both were considered legal non-conforming.

Gervais continued to describe that the existing dwelling was 20' x 38' (760 sf) in size with decks on the westerly and southerly sides. The written narrative explained that there was no sound foundation underneath the dwelling and this had led to a sagging roof and soft spots in the floor. In addition, the

original septic system was failing and needed to be replaced. Gervais provided a summary of the existing non-conforming setbacks and other unique features of the subject site. Gervais also indicated that the applicant had submitted amended application materials on May 10, 2024 and staff's proposal analysis focused on the amended materials.

Gervais reiterated that the applicant was seeking a Variance to redevelop the lakeshore property by demolishing the existing single-story dwelling and decks and constructing a new 28' x 50' (1,400 sf) story-and-a-half dwelling. The new dwelling would be located closer to the township Right-of-Way and OHWL than required. The dwelling would be constructed in generally the same location as the existing dwelling and would maintain the existing non-conforming OHWL setback of 31' but would further reduce the already non-conforming roadway setback of 13.9' down to 10'. The proposed septic system would be a single 2,500 gallon holding tank located 1'6" from the southerly property boundary where the required setback was 10', but it would meet all other required setbacks. Gervais noted that the Variance requested for the septic system would normally be processed as an administrative Variance; however, given that the property owner and applicant were requesting other non-administrative Variances, it seemed more efficient and less costly for the property owner and applicant to process all Variances together.

Gervais stated that the application materials included a written narrative addressing the State mandated practical difficulty standard, explaining that the lot size was substandard, it would not be possible to meet all required setbacks; and, the proposed dwelling would not alter the essential character of the surrounding area. Gervais agreed that the subject site was substandard and meeting all required setbacks would be impossible, but she also expressed concern with the proposed exacerbation of the non-conforming roadway setback. Gervais explained that it would be possible to construct a new dwelling which met the County's minimum required dwelling size while maintaining the existing setbacks.

The Technical Review Committee met with applicant Cassandra Murray on May 8, 2024 and reviewed the original application materials. Gervais shared that the Committee expressed concern with the size of the proposed septic system and the proposed exacerbation of the non-conforming dwelling setbacks. The County Sanitarian had noted that the property only required one holding tank rather than two as proposed. Gervais noted that the significance of this comment was that one holding tank would reduce the amount of Variance needed. Gervais continued by sharing that there was concern with the proposed increase of the dwelling footprint and subsequent exacerbation of non-conforming OHWL and township Right-of-Way setbacks. Gervais noted that, in response to the Committee meeting, the applicant provided amended application materials on May 10, 2024 showing only one holding tank and an altered dwelling footprint which maintained the existing non-conforming OHWL setback. The Chisago Lake Town Board met on May 21, 2024 and recommended approval with the condition that the property owner and applicant "move new house and septic tanks two feet to NE so they are more centered on applicant property". The State mandated 60-day review period was scheduled to expire on June 23, 2024.

Gervais explained, based on the Chisago Lake Town Board comments, that the applicant had submitted amended application materials, including an amended site plan, again on May 21, 2024. Gervais reviewed details of the amended site plan highlighting that the proposed septic system was now shown to be located 4' from the southerly property boundary and the proposed dwelling was shifted slightly north while still maintaining the required side yard setbacks. Gervais commented that

staff had prepared an amended draft resolution of approval, based on the May 21st amended request, for the Board's consideration.

Gervais concluded by offering a recommendation of approval for the amended Variance request and reviewed options available to the Board.

Chair Strand invited the applicant to address the Board. Applicant Cassandra Murray provided clarification on details of the existing dwelling and deck structures, as well as dimensional details of the proposed covered deck / porch. Murray explained that the proposed dwelling would meet all building code requirements.

Greene, in response to the fact that the applicant had amended the application materials twice following submission of the original application, clarified that, if the Board were to approve the Variance and the applicant later decided to change the building plans again, the project would need to comply with the approved setbacks.

Carlson sought clarification from staff regarding the septic system, questioning if an alternate septic site was required for holding tank systems. Gervais responded that properties with holding tanks did not require an alternate site. Murray explained that they would ideally like two tanks so they wouldn't have to pump as often but understood staff's concern. Carlson then asked if a property could have a single holding tank or if two were required. Gervais responded that one tank was sufficient. Carlson noted that, while on site for the May 29, 2024 site visit, the existing septic was located between the dwelling and the road. Murray added that the existing system was about 3' from the dwelling. Carlson asked staff what would be required to terminate use of the existing system and if that action needed to be included as a condition of approval. Greene responded that the building permit and/or septic permit would address the existing system and that it didn't need to be included in the conditions of approval. Murray explained that the septic installer indicated that the existing system could be removed or crushed and filled in. Carlson again asked if abandonment of the existing septic system would need to be included in the Variance. Gervais responded that it did not need to be included in the Variance as it would be included in the required septic permit.

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

Chair Strand opened up for further discussion. Carlson stated that the applicant had initially proposed a 1' 6" setback for the holding tank and the Town Board wanted it to be an additional 2' farther from the property boundary. Murray clarified that the Town Board wanted the holding tank to be 4' from the property boundary. Carlson asked if the deck was going to be squared off, commenting that the plans were showing a notch. Murray clarified details of the building plans and said the deck would be squared off.

Motion by Carlson to adopt Resolution No. BOAA2024-0501, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing reduced Right-of-Way and Ordinary High Water Level setbacks for a dwelling and a reduced property boundary setback for a septic system on property located at 32710 N. Center Court in Chisago Lake Township, with Findings

of Fact and conditions as presented; second by Greene. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants the following Variances:
 - a. A 30' Variance to the township Right-of-Way setback requirement allowing the proposed dwelling to be 10' from the N. Center Court Right-of-Way. This Variance will allow the proposed dwelling to be located 3'9" closer to the township Right-of-Way than the existing dwelling.
 - b. A 44' Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the proposed dwelling to maintain the existing non-conforming OHWL setback of 31'.
 - c. A 6' Variance to the southerly side yard setback requirement allowing the proposed septic system (holding tank) to be 4' from the southerly property boundary.
2. Except as specifically required herein, the dwelling shall be constructed in general conformance with the application materials, including amended site plan, dated received May 21, 2024. Any significant deviation, 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 permit holder shall obtain a building permit prior to construction and, further, the dwelling 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.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUISNESS

None

NEW BUISNESS

None

MISCELLANEOUS

None

ADJOURN MEETING – **Motion** by Yeager to adjourn; second by Sutcliffe. The **motion passed** and carried unanimously. The meeting was adjourned at 7:20 p.m.

Rebecca Strand
Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance to Expand a Non-Conforming Structure
 29850 Glader Boulevard, Chisago Lake Township
 DATE: June 27, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing the expansion of a legal non-conforming structure in the Urban Residential (UR) District / Shoreland Management District.

SITE & APPLICATION INFORMATION

Applicant(s): Eric & Alicia Houske and Lang Builders
 Property Owner(s): Eric & Alicia Houske
 Property Address: 29850 Glader Boulevard
 Chisago Lake Township
 General Location: Section 3, Township 33, Range 20
 PID: 02.01705.00
 Property Area: .35± Acres
 Current Zoning: Urban Residential (UR) District / Shoreland Management District
 Adjacent Zoning:
 North: Urban Residential (UR) District / Shoreland Management District
 South: Urban Residential (UR) District / Shoreland Management District
 East: Urban Residential (UR) District / Shoreland Management District
 West: South Center Lake
 Date Application Received: May 30, 2024
 Date Application Complete: June 3, 2024
 60-Day Review Period: August 2, 2024

BACKGROUND

Property owners Eric & Alicia Houske wish to remodel and modernize their existing dwelling, which will include an expansion of the non-conforming dwelling through the addition of a second story and the addition of a covered porch at the main entrance.



SITE ANALYSIS

The .35± acre subject site is generally located approximately one-half mile north of the intersection of Glader Boulevard and Old Holt Court on the west side of Glader Boulevard. The site is located on a peninsula on South Center Lake.

According to Chisago County Assessor's Office records, the original dwelling was 26' wide x 27' deep (702 sf) and there have been a number of additions over the years, including an 8' x 8' entryway, an 8' x 26' porch, and a new basement. It doesn't appear that the dwelling was originally constructed with a garage; however, the Board of Adjustment and Appeals approved a Variance in 2003 which allowed various dwelling additions, including a three-stall attached garage. The top adjacent image shows the dwelling in June 1972 and the bottom adjacent image shows the dwelling in June 2011. The property owners believe that the dwelling was originally constructed in the 1950s as part of a resort.



The attached survey shows that the dwelling and attached garage meet and exceed the northerly and southerly side yard setback requirements of 10' as well as the roadway setback of 40'; however, the structure is encroaching on the required Ordinary High Water Level (OHWL) setback by as much as approximately 15' (the minimum setback required is 50'). Therefore, the structure is deemed non-conforming and can only be expanded with Variance approval. Staff is not aware of the exact year the dwelling was constructed but, based on the top image above from 1972 and the property owner's belief that it was constructed in the 1950s, it's assumed that the dwelling was constructed prior to the County's adoption of official land use controls and is therefore deemed legal non-conforming.

The property, having been platted as Lot 8 and part of Lot 7, Sunset Point in 1946, is deemed legal non-conforming due to the fact that the lot area and lot width do not meet current standards.

The existing amount of impervious surface coverage is reported by the property owners and applicant to be 25.1%, which is .1% greater than the maximum allowable amount of 25%. Rather than requesting a Variance to exceed the maximum allowable amount of impervious surface coverage, the property owners and applicant are proposing to reduce the size of the driveway in order to be at or below 25%.

The subject site is connected to municipal sewer, which means that there is no need for a septic compliance inspection as part of the Variance request or an expansion of the system due to an increase in number of bedrooms.

PROPOSAL ANALYSIS

The attached application materials indicate that the property owners would like to remodel, modernize, and expand their lake home in order to make it a full-time residence. The expansion will include the additions of a second story and a covered porch at the main entrance.

The building plans show that the second-story addition will include a master suite, bedroom, and bathroom. Additionally, the plans show what could be considered a separate living space above the garage, featuring a bedroom, laundry room, small kitchen, and bathroom. Staff is unsure if this living space over the garage is existing or proposed. While the County does not currently allow two separate dwellings on a single parcel, this second living space is allowed so long as all residents have full, unobstructed access to the entire dwelling. Being that this proposed expansion is a vertical expansion, it will not exacerbate the already non-conforming OHWL setback and it will exceed all other required setbacks.

The building plans show the proposed covered porch to be 6' x 14' (84 sf) in size and located on the easterly wall of the dwelling (roadside) at the main entrance. The purpose of the covered porch, as explained during the June 12, 2024 Technical Review Committee meeting, is to increase safety by reducing hazards such as ice outside of the front door. Being that the easterly side of the dwelling exceeds the township Right-of-Way setback, the proposed porch will also exceed the required setback.

The property owners have provided a written narrative to explain what they're hoping to accomplish through this Variance request. The narrative also addresses the State mandated practical difficulty standard by suggesting the request is **reasonable** in that the proposed expansion will not increase the footprint of the dwelling (meaning that the non-conforming OHWL setback will not be exacerbated); the design fits the **essential character** of the area in that the neighboring property owners have offered verbal support; and, the **unique** feature is that the project entails the creative design of Lang Builders.

Staff does agree that the request is reasonable in that the property owners are making an obvious effort not to exacerbate the non-conforming OHWL setback; however, staff does not

believe that the explanations provided for essential character and uniqueness address the intent of the practical difficulty standard. To assist with this task, staff would offer that a unique feature of this property is that it constitutes pre-existing development; and, the dwelling appears to fit the essential character of the area in that it is similar in scale to surrounding dwellings.

The property owners have provided impervious surface calculation worksheets for existing and proposed conditions. While the existing amount of impervious surface coverage is shown to be 25.1%, the property owners and applicant have not included this .1% overage in the Variance request and they have instead chosen to reduce the overall amount of impervious surface coverage to 25%. This reduction will be achieved by reducing the size of the driveway.

The table below provides a comparison of minimum dimensional standards for the UR District / Shoreland Management District and corresponding information for the proposed Variance, with the Variance request shown in red.

	UR District / Shoreland Management District Standards	Proposed
Road Setback	40' to township Right-of-Way	Approximately 44'
Ordinary High Water Level (OHWL) Setback	50' for structures	Approximately 36' from OHWL (existing <u>and</u> proposed)
Side Yard Setback	10' for dwelling and attached garage	20.1' from northerly and 13' from southerly property boundaries
Impervious Surface Coverage	25%	25% per application (following proposed reduction from 25.1%)

REVIEW PROCESS

The Technical Review Committee met with property owner Eric Houske and applicant Lang Builders on June 12, 2024. The property owner and applicant reviewed details of the proposed Variance and plans to reduce the amount of impervious surface coverage. The Committee did not identify any concerns with the request.

The Chisago Lake Town Board considered the request on June 18, 2024 and recommended approval with the comment of “not changing footprint”.

The State mandated 60-day review period will expire on August 2, 2024.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report.

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 subject site was platted in 1946 and was reported to have been developed in the 1950s, prior to the County's adoption of official land use controls, which constitutes pre-existing development. The property owners 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 applicants of rights commonly enjoyed by other UR District / Shoreland Management District properties. Properties located in the UR District / Shoreland Management District have the right to be developed with dwellings in compliance with the Zoning and Shoreland Management Ordinances, and the subject site has been developed with a dwelling.

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;

The circumstance of pre-existing development is not a result of actions of the current property owners or any previous owners under the current Zoning and Shoreland Management Ordinances. The subject site was platted in 1946 and was most likely developed in the 1950s which was well before the County adopted official land use controls.

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

Dwellings are a Permitted Use in the UR District / Shoreland Management District; therefore, the Variance is not considered a use Variance.

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

While the subject site and dwelling are considered legal non-conforming, the property owners and applicant are proposing to expand the dwelling upwards which will create the least amount of impact possible. While the proposed expansion also includes an 84

sf expansion of the footprint for a covered porch at the main entrance, this expansion will meet and exceed all required setbacks, including the OHWL setback. Ultimately, the proposed expansions will not exacerbate any non-conforming setback or create any new non-conformities.

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

The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance related to the property, and when it will not alter the essential character of the surrounding area. Staff believes that the request to expand the legal non-conforming dwelling by increasing the height through the addition of a second story and the expansion of the footprint through the addition of a covered porch is reasonable in that dwellings are a Permitted Use in the UR District / Shoreland Management District and the expansions will not exacerbate the existing non-conforming OHWL setback or create any new non-conformities; that the subject site is unique in that it was platted and developed prior to the County's adoption of official land use controls; and, that the proposed expansions fit the essential character of the subject site and surrounding residential lakeshore neighborhood. Further, staff does not believe that the Variance, if approved, would be detrimental to other properties in the UR District / Shoreland Management District.

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 applicants 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.

While the westerly 15-25"± of the subject site are located in the flood district, all structures, including the dwelling proposed for expansion, are outside of the 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; |
| Finding #1 | <i>The proposed action will increase the height of the dwelling through the addition of a second story and increase the dwelling footprint through the addition of a 6' x 14' covered porch at the main entrance. Neither of the proposed additions will extend the dwelling closer to the two closest neighboring dwellings (north and south). Additionally, the dwelling exceeds the northerly and southerly side yard setback requirements. Therefore, the County finds that the proposed dwelling expansions will be constructed in a manner so as not to impact the supply of light and air to neighboring properties.</i> |
| Criteria #2 | The proposed action will not unreasonably increase the congestion in the public right-of-way; |
| Finding #2 | <i>The proposed action will not change the primary use of the subject site or dwelling. Therefore, the County finds that the proposed expansion will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board / Road Authority did not express any concerns related to impacts on Glader Boulevard.</i> |
| Criteria #3 | The proposed action will not increase the danger of fire or endanger the public safety; |
| Finding #3 | <i>The property owners will be required to obtain a building permit prior to construction of the proposed dwelling expansions and they will, therefore, be constructed in compliance with all applicable codes. The County finds that this compliance 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 subject site is currently developed with a dwelling and attached garage. The proposed dwelling expansions will not change how the property is being used and the proposed expansions will exceed the required northerly and southerly side yard setbacks where there is greatest potential for impacting surrounding properties. Therefore, the County finds no evidence to suggest that the dwelling expansions will have any negative impact to surrounding properties.</i> |

- Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;
- Finding #5 *The proposed dwelling expansions will not change the primary use of the subject site or the structure. Additionally, the subject site is served by municipal sewer, which means that the increased number of bedrooms will not strain or otherwise compromise an individual sewage treatment system. Therefore, the County finds that the proposed dwelling expansions will not create 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 County finds no evidence to suggest that the proposed dwelling expansions will have any negative fiscal impact on 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 intent of Zoning Ordinance Section 4.03 is to regulate non-conforming buildings, structures, and uses. While the existing dwelling is considered legal non-conforming in that it's situated approximately 36' from Ordinary High Water Level (OHWL) where the required setback is 50', the County finds that the proposed expansions will not exacerbate the non-conforming OHWL setback or create any additional non-conformities. Additionally, 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. The County finds that the request is reasonable in that dwellings are a Permitted Use in the UR District / Shoreland Management District and the proposed expansions will not exacerbate the existing non-conforming OHWL setback or create any new non-conformities; that the subject site is unique in that it was platted and developed prior to the County's adoption of official land use controls; and, that the proposed expansions fit the essential character of the subject site and surrounding residential lakeshore neighborhood.*

STAFF RECOMMENDATION

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 draft Findings of Fact (see above) and recommended conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended conditions:

1. This approval grants a Variance allowing the expansion of a legal non-conforming structure by allowing the addition of a second story and the addition of an 84 sf covered porch at the main entrance. The dwelling expansions shall be constructed in general conformance with the application materials dated received May 30, 2024. Any significant deviation from the approved request, 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.
2. The permit holder shall not exacerbate the existing non-conforming Ordinary High Water Level setback and the dwelling shall meet all other required structural setbacks.
3. The permit holder shall reduce the overall amount of impervious surface coverage to 25% or less within one year of the date of approval.
4. The permit holder shall obtain a building permit prior to construction and, further, the dwelling expansions 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 August 2, 2024, allowing the Board to continue its review at the July 25, 2024 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0601, a resolution approving a Variance allowing the expansion of a legal non-conforming structure on property located at 29850 Glader Boulevard in Chisago Lake Township, as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plan / survey
 - d. Building plans
 - e. Impervious surface calculation worksheets
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0601



Chisago County Department of Environmental Services

Planning & Zoning Application

Permit # 2024-0909

Township Chisago Lake S/T/R S3 T33R20 PID# 02.01705.00

Project Address 29850 Glader Blvd

Property Owner(s) ERIC HOUSKE

Mailing Address (If Different from Project Address) 8860 - 152ND Place Savage MN 55378

Phone# [REDACTED] Email [REDACTED]

Applicant(s) ERIC + ALICIA HOUSKE + LANG BUILDERS

Mailing Address (If Different from Project Address) 8860 152ND Place, Savage, MN 55378

Phone# [REDACTED] Email [REDACTED]

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) We are adding a second story. Family has used cabin intent is to move up to lake place once its finished

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

☒ Full Legal Description

☒ Detailed Site Plan

☒ Detailed Written Narrative

☐ Plat Drawings

[Signature]
Applicant Signature

5/29/24
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>600</u>	Application Received	<u>5-30-24</u>
Recording Fee	\$ <u>46</u>	Application Complete	<u>6-3-24</u>
Plat Fee - No Road(s) / With Road(s)	\$ _____	60/ 120 Day Review Period	<u>8-2-24</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>646</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Chisago S/T/R S3T33 R20 PID# 02.01705.00
Project Address 29850 Glader Blvd
Property Owner(s) Eric & Alicia House
Mailing Address (if Different from Project Address) 8360 - 152nd Place Savage, MN 55378
Phone# [REDACTED] Email [REDACTED]
Applicant(s) Eric & Alicia House + LANG BUILDERS
Mailing Address (if Different from Project Address) 8360 - 152nd Place Savage MN 55378
Phone# [REDACTED] Email [REDACTED]

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) Adding 2nd level : planning
to move up to Linostrom full time

[Signature]

5/29/24

Applicant Signature

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 JUNE 27, 2024 Date of Township Presentation JUNE 18, 2024

Township Action Taken (Township Use Only)

- ☒ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

not changing footprint

Signatures of Township Officials or Authorized Personnel

[Signature] [Signature]

May 29, 2024

Eric Houske
29850 Glader Boulevard
Lindstrom, MN 55045

Chisago County
Department of Environmental Services
313 N. Main Street
Center City, MN 55012

My name is Eric Houske, and I am the owner of 29850 Glader Boulevard we purchased the home around 2015. We have used the home for a summertime cabin and occasional ski outings in the winter. We have grown to love the Chisago Lakes & Taylor's Falls area and have enjoyed all that it has to offer. We intend now to remodel and make Lindstrom our full - time residence. We recognize and appreciate, that Chisago County treasures and preserves the lakes, and that is why we have chosen not to adjust the footprint of the home and instead just add a level. So, at this time we are requesting a variance in order to update, modernize and the most important reason of all safety. The home was part of a resort at one time and the neighbors have indicated that they were built in the 1950's. Mechanical systems could be tolerated when it was a part - time residence but are woefully inadequate to meet the needs of a full - time home.

In an effort to be *"Reasonable"* in our request we have chosen not change the footprint of the home. Many on Sunset Point have already updated their home and our project will serve to enhance the peninsula, and maybe help increase property values, as the last homes are updated. We have discussed the project with our nearby neighbors, and have even shown them the plans. They are on board, and excited to see the end result. The design fits the *"Essential Character"* of the peninsula as mentioned we have shown the plan to multiple neighbors and they all indicated they love the design and can't wait to see it completed. Although the home suited our part - time needs in the past it is now our intent to make it a year round home becoming our primary residence. Our family has grown to appreciate Chisago Lakes and all it has to offer and its' citizens and would like to make it permanent. The *"Unique"* aspect of our project entails the creative design of Lang Builders, having good relations with our neighbors we chosen to share the design with them, and everyone that has seen the plans have commented positively and indicated it will be a great addition to Sunset Point.

The main driver of our project is safety both my wife and myself have elderly parents with disabilities. As indicated the home met our part - time needs but falls short in being a full - time residence. They both spend a lot of time in Lindstrom with us and we anticipate that one of them may choose to live with us in the next couple years. We have incorporated this possibility in our design plans and have included features with this in mind. The mechanical systems and just about everything else is in need of an update and we hope you allow us this variance to make it possible. In conclusion thank you for your time and consideration on this matter it is our hope to make Sunset Point even better.

Eric Houske

Eric Houske

29850 Glader Boulevard, Lindstrom, MN

PROPERTY DESCRIPTION: (Warranty Deed Doc. No. A-572859)

Lot 8 of Sunset Point and all of that part of Lot 7 of Sunset Point, Chisago County, Minnesota, described as follows, to-wit: Commencing at the Northeastly corner of said Lot; thence running Southeastly on the Easterly line of said Lot a distance of 33.6 feet to the middle of said Lot on the Easterly line thereof; thence running in a straight line to the middle of said Lot on the Westerly line thereof; which is the shore of Chicago Lake and which point is 37 1/2 feet Southeastly from the Northwestly corner of said Lot; when measured along said lake shore; thence running Northwestly along said lake shore to the Northwestly corner of said Lot; thence running Northwestly along the Northwly line of said Lot, to the point of commencement, which above described tract has been previously referred to as the North 1/2 of Lot 7 in said Sunset Point, Chisago County, Minnesota.

Abstract Property

SURVEY NOTES:

- Orientation of this bearing system is based on the Chisago County Coordinate System MAD83 (1996 ad).
- Vertical Control:
Local Benchmark: MNDOT "Stellar" Elev. = 932.91 NAVD88
Site Benchmark: Top of Neighbors Well Head south of property. Elev = 919.63 NAVD88
- The property address is 29850 Glader Boulevard, Lindstrom, MN 55045
PID No. 02.01705.00
- Total Acreage: (measured to Ordinary High Water Elevation) = 13.253± Sq. Ft. or 0.30 ± Acres
- Elevations and contours shown are based on ground data collected on NAVD88 datum.
- The property is zoned UR - Urban Residential (per Chisago Lake Township Zoning map) and Shoreland overlay
The building setbacks: (per Chisago County Zoning ordinance)
Front : 40 feet
Side : 10 feet
Ordinary High Water Line : 50 feet
South Center Lake DNR Protected ID No. 13-27 - General Development Lake
- The field work was performed on July 10, 2023.

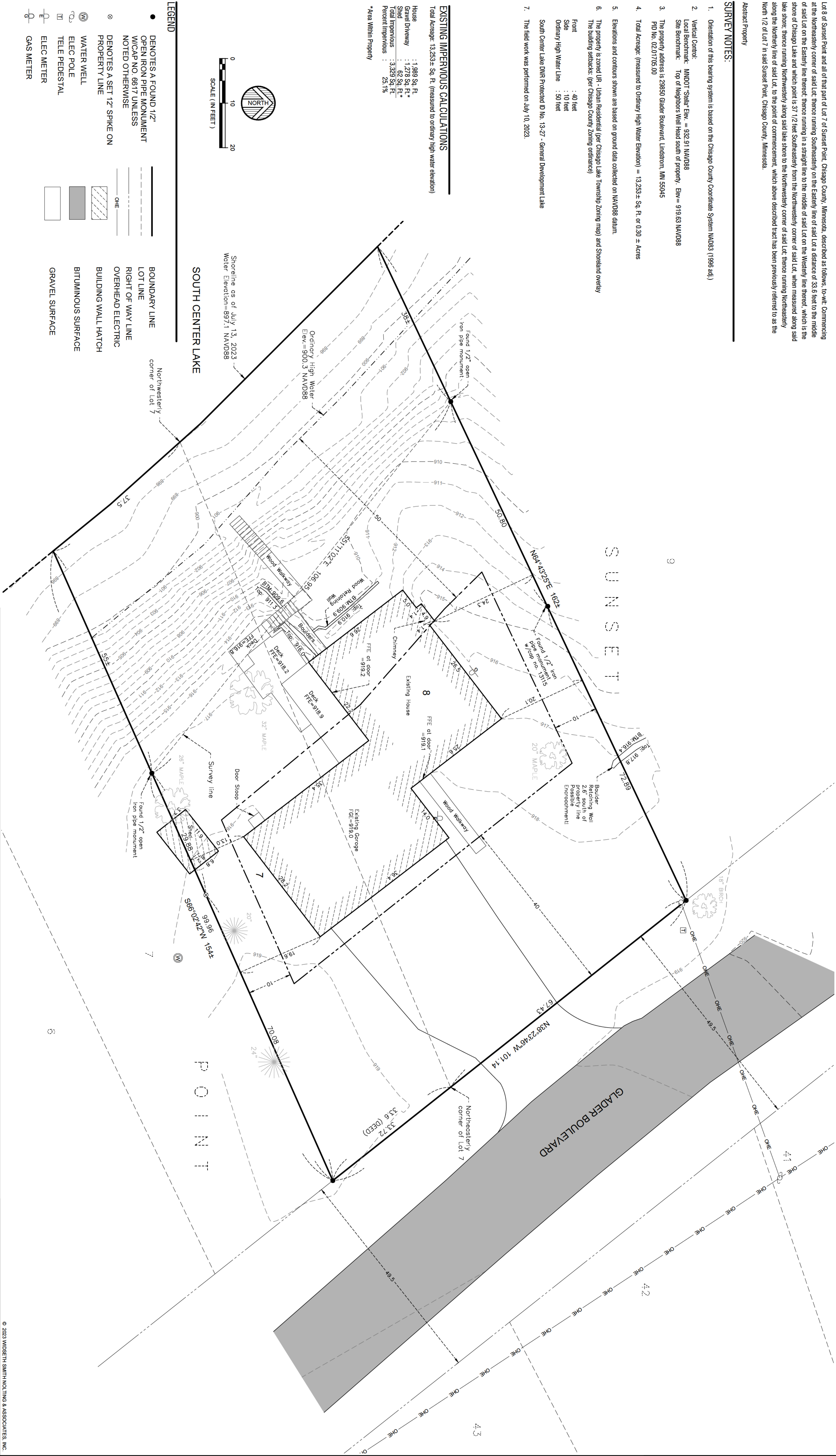
EXISTING IMPERVIOUS CALCULATIONS

Total Acreage: 13.253± Sq. Ft. (measured to ordinary high water elevation)

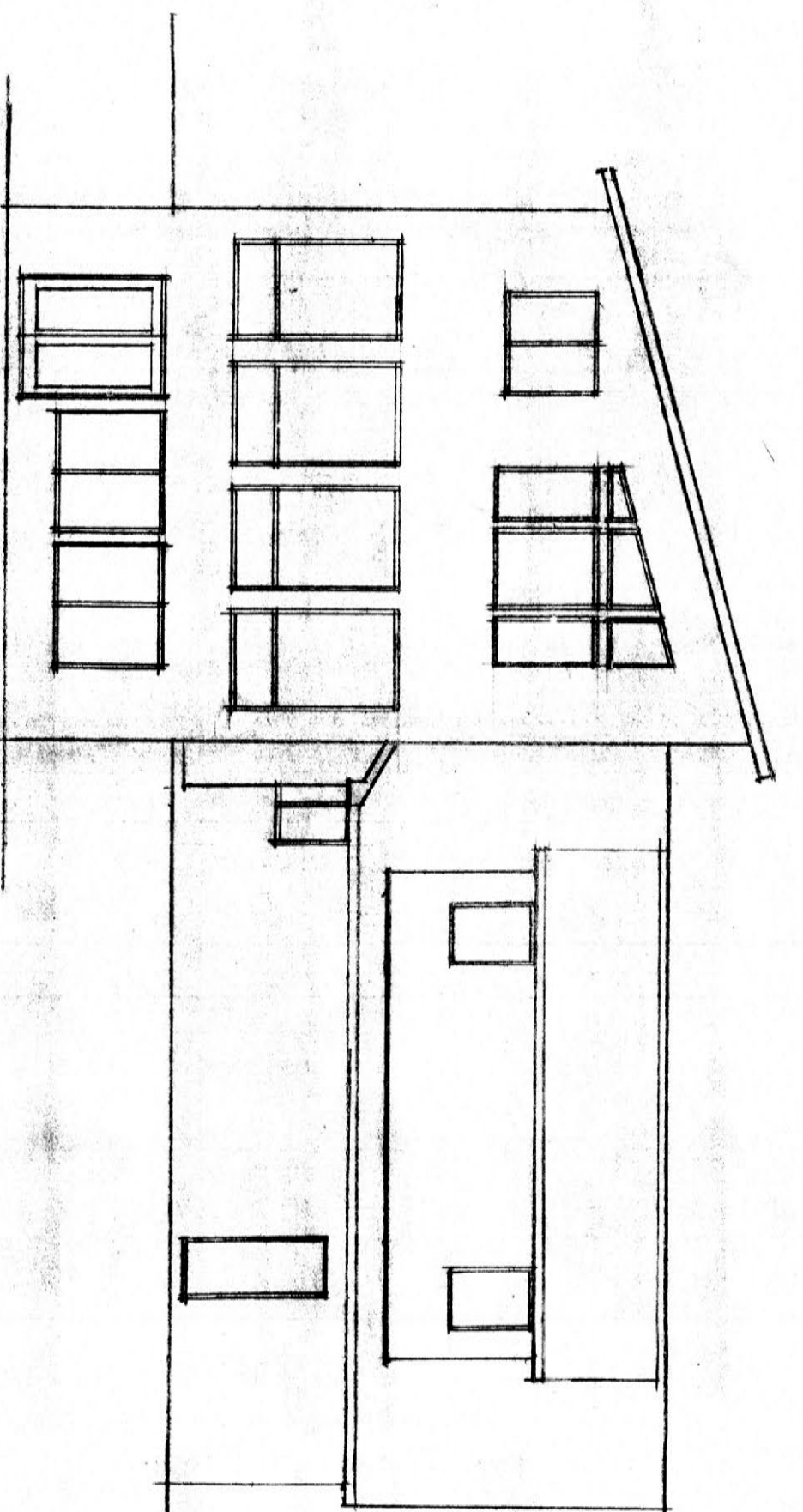
House : 1,989 Sq. Ft.
Gravel Driveway : 1,278 Sq. Ft.*
Shed : 62 Sq. Ft.*
Total Impervious : 3,329 Sq. Ft.
Percent Impervious : 25.1%

*Area Within Property

CERTIFICATE OF SURVEY

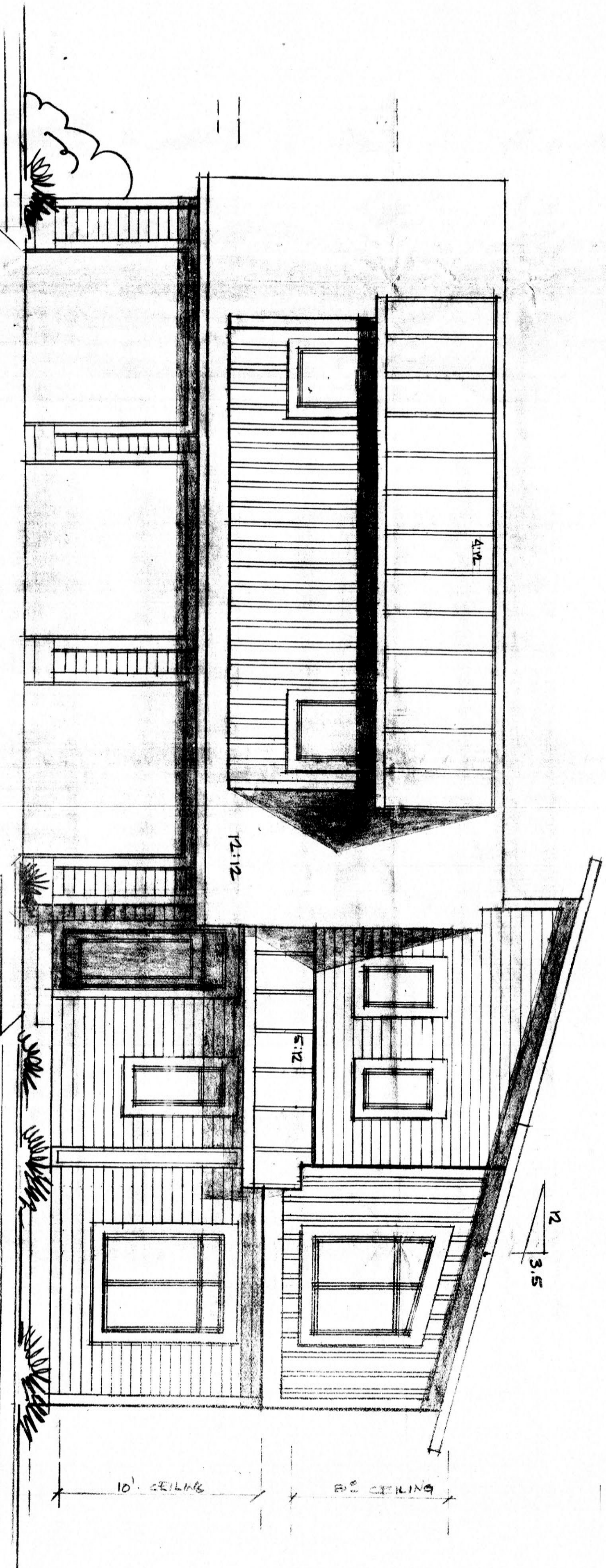


DATE	SCALE	DATE	AMENDMENTS	BY
July 28, 2023	AS SHOWN			
DRAWN BY: JMM				
CHECKED BY: SMK				
FILE NUMBER: 2023-1014				
PREPARED FOR: ERIC HOUKE			I HEREBY CERTIFY THAT THIS SURVEY PLAN OR REPORT WAS PREPARED BY A LICENSED SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA	
PRELIMINARY			Shawn M. Kuehn, L.S.	
			DATE: 7/28/23 L.C. NO. 48271	

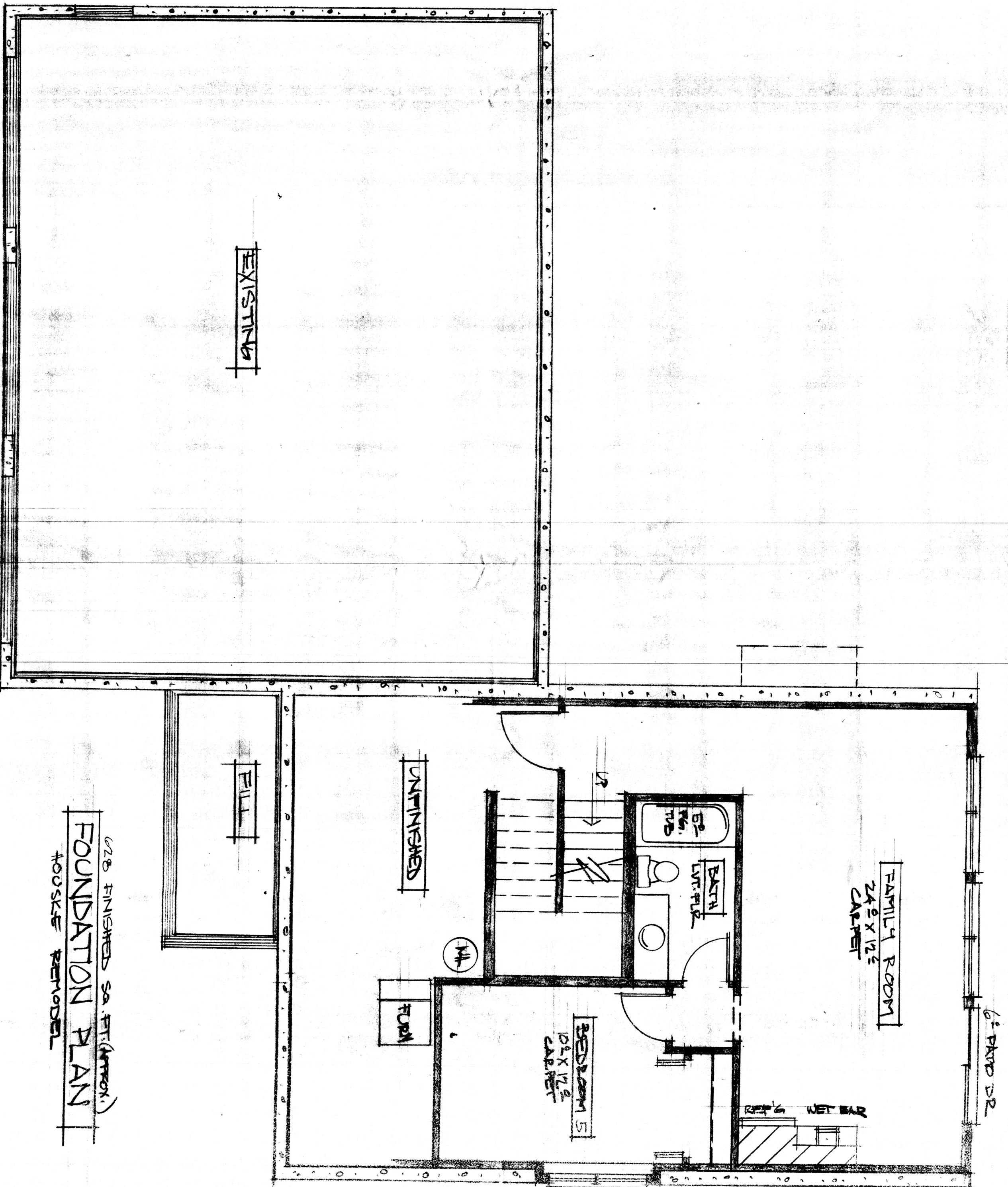


REAR ELEVATION

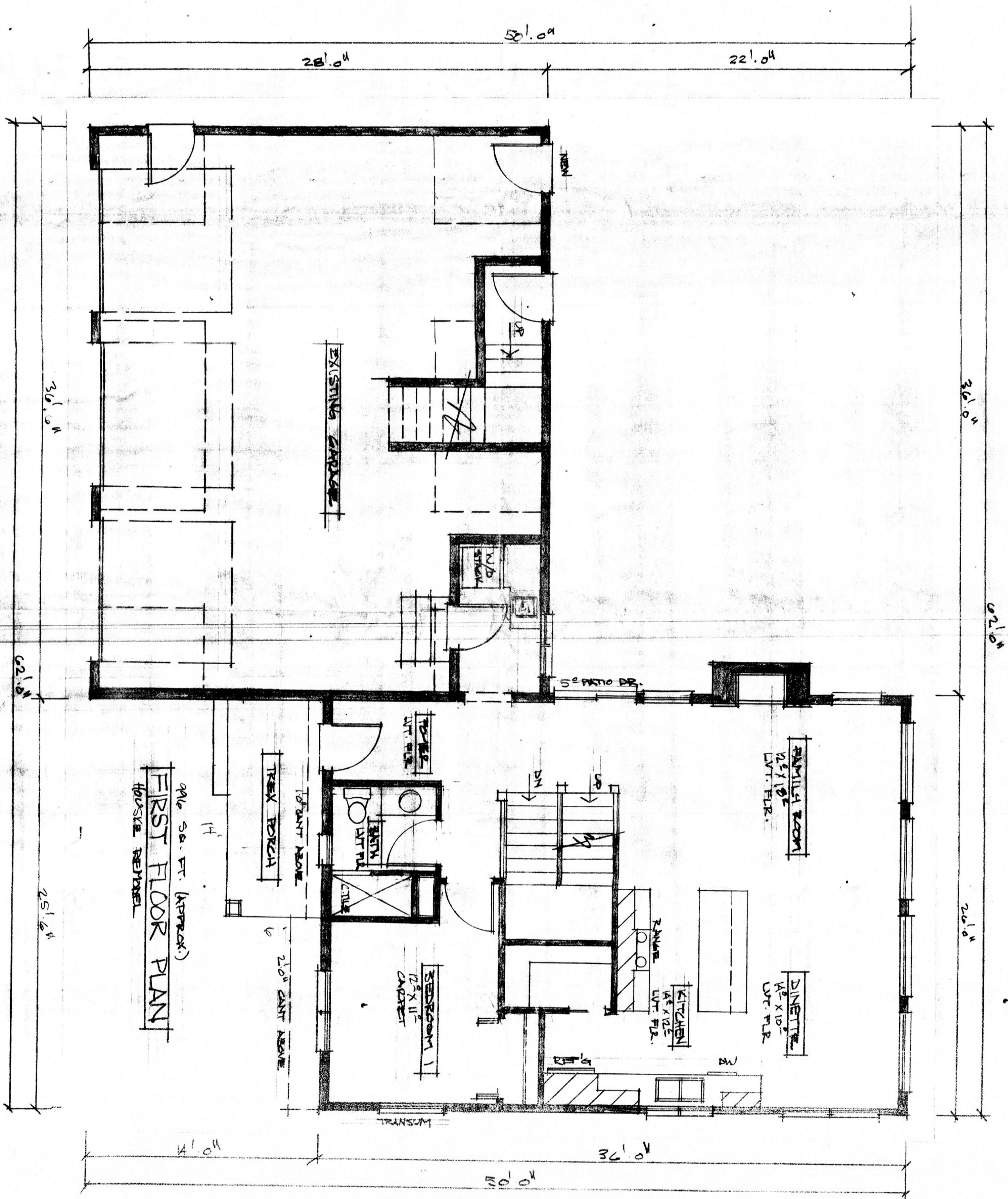
MA

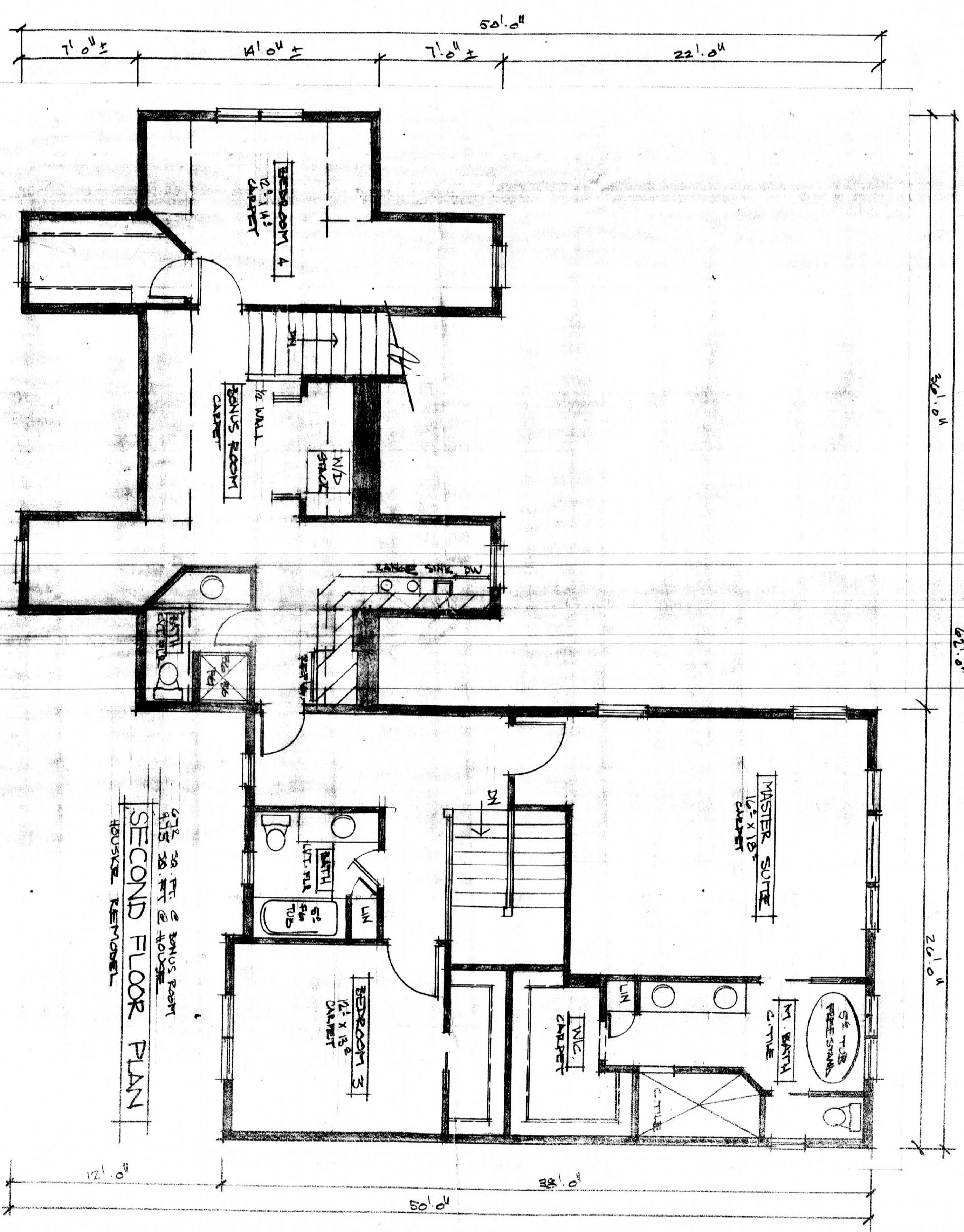


3271 TOTAL FINISHED SQ. FT.
HOUSE REFLECTED
FRONT ELEVATION



628 FINISHED SQ. FT. (APPROX.)
FOUNDATION PLAN
#00SKF RENOVATION





EXISTING IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:	square feet per acre:	Total area of parcel in square feet
.30	x 43,560	= 13,253

OR	Total area of parcel in square feet
	13,253

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)	=	(800)
dwelling		=	1,989
garage		=	
deck		=	
patio		=	
sidewalk		=	
driveway		=	1278
other; list:		=	62
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			3,329

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:		=	
		=	
TOTAL OTHER ITEMS			

Calculate:

Total from "Residential Structures":	3,329	+
Total from "Agricultural Structures":		+
Total from "Other Items":		+
Total square footage of coverage:	3,329	=
(divide by total area of parcel, above)		/
		=
TOTAL IMPERVIOUS SURFACE	25.1	%

signature	
date	5-29-24
corresponding permit number	

PROPOSED IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:	square feet per acre:	Total area of parcel in square feet
1.30	x 43,560	= 13,253

OR	Total area of parcel in square feet
	13,253

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)	=	(800)
dwelling		=	1,989
garage		=	
deck		=	
patio		=	
sidewalk		=	
driveway		=	1,278 1,100
other; list:		=	62
Shed		=	
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			3,324 3,151

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:		=	
		=	
		=	
TOTAL OTHER ITEMS			

Calculate:

Total from "Residential Structures": 3,324 3,151 +
 Total from "Agricultural Structures": +
 Total from "Other Items": +
 Total square footage of coverage: 3,324 3,151 =
 (divide by total area of parcel, above) /
 =
 TOTAL IMPERVIOUS SURFACE 25 %

signature

date

corresponding permit number



Eric & Alicia Houske and Lang Builders - Property owners Eric & Alicia Houske and applicant Lang Builders are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Urban Residential (UR) District / Shoreland Management District. The .35± acre subject site is located at 29850 Glader Boulevard in Chisago Lake Township, S3, T33, R20 (PID 02.01705.00).

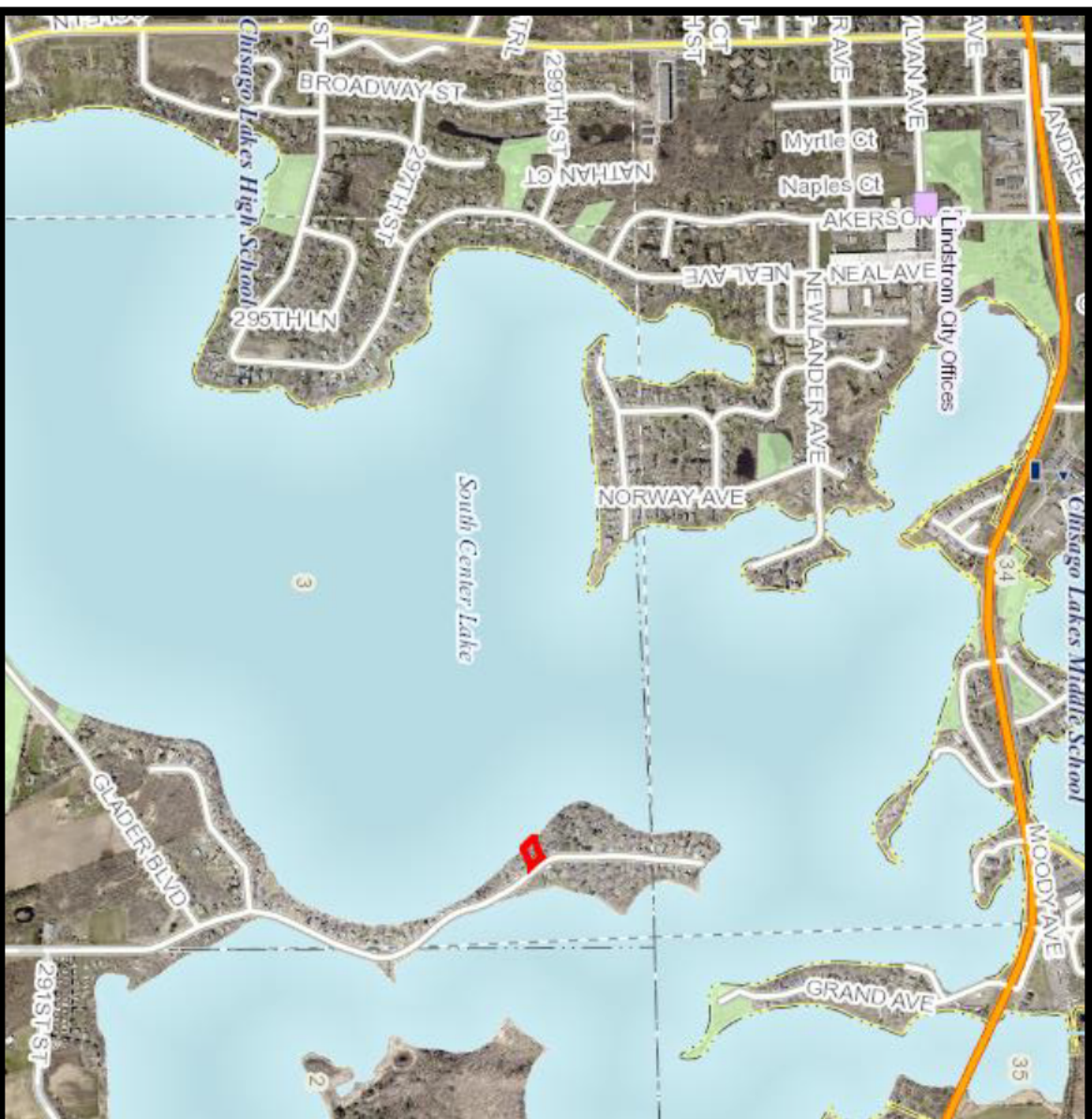
Houske Property - 





Eric & Alicia Housse and Lang Builders - Property owners Eric & Alicia Housse and applicant Lang Builders are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Urban Residential (UR) District / Shoreland Management District. The .35± acre subject site is located at 29850 Glader Boulevard in Chisago Lake Township, S3, T33, R20 (PID 02.01705.00).

Housse Property -



RESOLUTION NO. BOAA2024-0601
A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING THE EXPANSION OF A
LEGAL NON-CONFORMING STRUCTURE ON PROPERTY LOCATED AT
29850 GLADER BOULEVARD IN CHISAGO LAKE TOWNSHIP

WHEREAS, property owners Eric Houske & Alicia Houske and applicant Lang Builders submitted an application dated received May 30, 2024 and considered complete on June 3, 2024 for a Variance to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21; and

WHEREAS, the applicants wish to expand their legal non-conforming dwelling through the addition of a second story and the addition of a covered porch at the main entrance, where the dwelling is located closer to the Ordinary High Water Level of South Center Lake than required; and

WHEREAS, the .35-acre subject site is located in the Urban Residential (UR) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 02.01705.00

Lot 8 of Sunset Point and all of that part of Lot 7 of Sunset Point, Chisago County, Minnesota, described as follows, to-wit: Commencing at the Northeasterly corner of said Lot; thence running Southeasterly on the Easterly line of said Lot a distance of 33.6 feet to the middle of said Lot on the Easterly line thereof; thence running in a straight line to the middle of said Lot on the Westerly line thereof, which is the shore of Chisago Lake and which point is 37 1/2 feet Southeasterly from the Northwesterly corner of said Lot, when measured along said lake shore; thence running Northwesterly along said lake shore to the Northwesterly corner of said Lot; thence running Northeasterly along the Northerly line of said Lot, to the point of commencement, which above described tract has been previously referred to as the North 1/2 of Lot 7 in said Sunset Point, Chisago County, Minnesota.

WHEREAS, notice was provided and on June 27, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the property owner(s) and/or applicant, 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 | <i>The proposed action will increase the height of the dwelling through the addition of a second story and increase the dwelling footprint through the addition of a 6' x 14' covered porch at the main entrance. Neither of the</i> |

proposed additions will extend the dwelling closer to the two closest neighboring dwellings (north and south). Additionally, the dwelling exceeds the northerly and southerly side yard setback requirements. Therefore, the County finds that the proposed dwelling expansions will be constructed in a manner so as not to impact the supply of light and air to neighboring properties.

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

Finding #2 *The proposed action will not change the primary use of the subject site or dwelling. Therefore, the County finds that the proposed expansion will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board / Road Authority did not express any concerns related to impacts on Glader Boulevard.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

Finding #3 *The property owners will be required to obtain a building permit prior to construction of the proposed dwelling expansions and they will, therefore, be constructed in compliance with all applicable codes. The County finds that this compliance 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 attached garage. The proposed dwelling expansions will not change how the property is being used and the proposed expansions will exceed the required northerly and southerly side yard setbacks where there is greatest potential for impacting surrounding properties. Therefore, the County finds no evidence to suggest that the dwelling expansions will have 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 dwelling expansions will not change the primary use of the subject site or the structure. Additionally, the subject site is served by municipal sewer, which means that the increased number of bedrooms will not strain or otherwise compromise an individual sewage treatment system. Therefore, the County finds that the proposed dwelling expansions will not create 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 County finds no evidence to suggest that the proposed dwelling expansions will have any negative fiscal impact on 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 intent of Zoning Ordinance Section 4.03 is to regulate non-conforming buildings, structures, and uses. While the existing dwelling is considered legal non-conforming in that it's situated approximately 36' from Ordinary High Water Level (OHWL) where the required setback is 50', the County finds that the proposed expansions will not exacerbate the non-conforming OHWL setback or create any additional non-conformities. Additionally, 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. The County finds that the request is reasonable in that dwellings are a Permitted Use in the UR District / Shoreland Management District and the proposed expansions will not exacerbate the existing non-conforming OHWL setback or create any new non-conformities; that the subject site is unique in that it was platted and developed prior to the County's adoption of official land use controls; and, that the proposed expansions fit the essential character of the subject site and surrounding residential lakeshore neighborhood.*

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

1. This approval grants a Variance allowing the expansion of a legal non-conforming structure by allowing the addition of a second story and the addition of an 84 sf covered porch at the main entrance. The dwelling expansions shall be constructed in general conformance with the application materials dated received May 30, 2024. Any significant deviation from the approved request, 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.
2. The permit holder shall not exacerbate the existing non-conforming Ordinary High Water Level setback and the dwelling shall meet all other required structural setbacks.
3. The permit holder shall reduce the overall amount of impervious surface coverage to 25% or less within one year of the date of approval.

4. The permit holder shall obtain a building permit prior to construction and, further, the dwelling expansions 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 27th day of June, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

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 and for Reduced Setbacks for Installation of a Septic System and Construction of a Detached Accessory Structure
 36412 Locke Avenue, Sunrise Township
 DATE: June 27, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing the expansion of a legal non-conforming structure in the Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District, as well as allow reduced setbacks for the installation of a septic system and the construction of a detached accessory structure.

SITE & APPLICATION INFORMATION

Applicant(s):	James & Kalee Blood
Property Owner(s):	James & Kalee Blood
Property Address:	36412 Locke Avenue Sunrise Township
General Location:	Sections 31 and 32, Township 35, Range 20
PIDs:	09.00367.00 and 09.00386.10
Property Area:	34± Acres (combined)
Current Zoning:	Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District
Adjacent Zoning:	
North:	Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District
South:	Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District
East:	Agricultural (AG) District / Shoreland Management District
West:	Sunrise River / Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District
Date Application Received:	May 31, 2024
Date Application Complete:	June 4, 2024
60-Day Review Period:	August 3, 2024

BACKGROUND

James & Kalee Blood acquired the subject site in April 2024 and they're now proposing to expand the existing 1,120 sf dwelling by constructing a 20' x 22' (440 sf) addition, as well as installing a septic system (drain field) to accommodate the addition of two bedrooms within the dwelling and constructing a detached accessory structure (garage) of unknown dimensions. The existing and proposed structures and the proposed septic system are all located closer to the Ordinary High Water Levels (OHWLs) of the Sunrise River and/or Vibo Creek than required.



SITE ANALYSIS

The combined 34± acre subject site is located at 36412 Locke Avenue, slightly less than 1,000' south of Kost Dam Road in Sunrise Township. The subject site is comprised of two parcels which are separated by a Section line. The site is bordered by the Sunrise River to the west and Vibo Creek meanders through the southern half of the site.

The subject site is located within the Agricultural (AG) District, Sunrise River Overlay (SO) District, and Shoreland Management District. Setbacks for the AG and SO Districts are regulated by the County's Zoning Ordinance, whereas setbacks for Vibo Creek are regulated by the County's Shoreland Management Ordinance. Surrounding properties are similarly zoned, with the exception that the SO District does not extend to properties east of the subject site.

The stated purpose of the SO District is to "protect and preserve the existing natural, scenic and recreational values of the Sunrise River and to provide for development activities which do not detract from these values." The SO District allows, by right or by Conditional / Interim Use Permit approval, all those uses allowed in the underlying zoning district, which, in this case, is the AG District. The primary impacts of the SO District are increased setbacks for structures and septic systems and increased lot widths in an area defined as being 500' on either side of the OHWL of the Sunrise River.

Topography of the subject site includes elevations ranging widely with higher elevations (893') near the easterly property boundary and lower elevations (846') near the waterways. Portions of the site appear to be heavily wooded (primarily the areas adjacent to the

waterways) and the vast majority of the western parcel and southern half of the eastern parcel appear to be wetland. The image below illustrates the wetland areas.

The existing dwelling was constructed in 1996 and, based on the proposed setback information / site plan provided by the applicant, the structure met all required setbacks at the time. In other words, the dwelling was constructed in its current location without issuance of a Variance. Staff notes that the minimum required setbacks changed / increased with the creation of the Sunrise River Overlay (SO) District as part of the 1997 Zoning Ordinance adoption, and the dwelling is now considered legal non-conforming due to setbacks.



The existing septic tanks were installed in August 2023 by the previous property owner and the existing drainfield is part of the original system dating back to 1996. The existing septic system is compliant and adequately sized for the existing two-bedroom dwelling, but the drainfield is not adequately sized for the proposed four-bedroom dwelling. Like the existing dwelling, the original septic system was installed in its current location without need for Variance and the minimum required setbacks changed / increased with the creation of the Sunrise River Overlay (SO) District as part of the 1997 Zoning Ordinance adoption.

PROPOSAL ANALYSIS

The property owners are requesting a Variance in order to expand their legal non-conforming dwelling closer to the OHWLs of the Sunrise River and Vibo Creek than required by constructing a 20' x 22' (440 sf) addition on the southerly side of the dwelling. The dwelling addition, representing an approximate 40% increase in dwelling size, will include two bedrooms, bringing the total number of bedrooms to four. Additionally, the property owners are requesting a Variance allowing a reduced setback from the Sunrise River OHWL allowing the installation of a new / expanded septic system to support the increased number of bedrooms within the dwelling, and reduced setbacks from the Sunrise River and Vibo Creek OHWLs allowing the construction of a detached accessory structure (garage) of unknown size.

The required setback – for both structures and septic systems – from the OHWL of the Sunrise River is 200'; and, being that Vibo Creek is classified as a Tributary Stream, the required OHWL setback for structures is 100' and the required setback for septic systems is 75'.

While the site plan provided by the property owners indicates the location of OHWLs for both the Sunrise River and Vibo Creek and the proposed setbacks, these reported OHWLs have not been established or endorsed by the Minnesota Department of Natural Resources (DNR) or County staff. In fact, it's staff's understanding that the OHWLs for the Sunrise River and Vibo Creek are unknown / have not been established by the DNR. In a phone conversation between the County's Wetland Specialist and DNR Area Hydrologist Craig Wills on June 17, 2024, Wills reportedly expressed concern with the proposed Variance and recommended the completion of a survey by the DNR to establish the OHWLs in question prior to the County taking action on the request. Without established OHWLs and an accurate bluff determination which may result in an added setback requirement of 30' from Top of Bluff, staff suggests that it would not be possible for the property owners to accurately request specific setback Variances or for the County to fully understand the impact of the requested setback Variances or accurately approve / deny specific setback Variances. In a phone conversation between the County's Land Services Coordinator and the property owners on June 18, 2024, Jim Blood stated that he personally determined the OHWLs. Additionally, the site plan, in the area of Vibo Creek, indicates that the elevations do not constitute bluff status. Again, Jim Blood stated that he personally made this determination.

The table below provides a summary of minimum required setbacks for the AG District / SO District / Shoreland Management District. Without established OHWLs for the Sunrise River and Vibo Creek and a qualified bluff determination, staff is unable to accurately compare true proposed setbacks with the minimum required setbacks; however, the property owners' greatest proposed setbacks are shown in red. Staff again cautions that the proposed setbacks are based on OHWLs which were determined by the property owners and not the DNR and they may not be accurate, and the bluff determination was also made by the property owners and may not be accurate.

	AG District / SO District / Shoreland Management District Standards	Proposed
Road Setback	40' to township Right-of-Way	Not applicable
Sunrise River Ordinary High Water Level Setback	200' for structures and septic systems	116' for dwelling addition; 182' for detached accessory structure; and, 130' for septic system
Vibo Creek Ordinary High Water Level Setback	100' for structures and 75' for septic systems	60' for dwelling addition; and, 75' for detached accessory structure.
Top of Bluff (if bluff status exists)	30' from Top of Bluff	Not applicable (staff notes that the bluff determination was made by the property owners)

Side Yard Setback	20' for dwellings, attached garages, and detached non-ag accessory structures	Not applicable
Rear Yard Setback	50'	Not applicable

To explain and provide justification for the requested Variance, the property owners have prepared a written narrative providing the following as paraphrased by staff:

- The dwelling was constructed in 1996 at a time when the setback requirements were less. As a legal non-conforming structure, it's unreasonable not to allow any modifications to the dwelling.
- Strict compliance with County regulations would prevent improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.
- The design of the dwelling addition and the proposed location of the detached accessory structure (garage) are intended to aid with limited mobility of a household member.
- The dwelling addition will be hidden from the river. The property owners do not believe that the addition will undermine the purpose and intent of the SO District being that it will not be seen from the river.
- Locating the dwelling addition on the east side of the dwelling, in a location which maintains the existing non-conforming setbacks, is in itself a practical difficulty because of the added expense of a "difficult foundation shape", framing, and custom trusses. Locating the dwelling addition on the north side of the dwelling, in a location which maintains the existing non-conforming setbacks, would interfere with the septic system.
- The property owners suggest that a Variance is required for placement of the septic system as there are "no available locations to move the septic tanks".
- The location of the detached accessory structure (garage) is farther from the Sunrise River than the dwelling and no closer to Vibo Creek than the dwelling. The property owners believe that the proposed location is the most reasonable location. Constructing the garage in a location which meets all required setbacks would make accessibility extremely difficult for a person with limited mobility.

REVIEW PROCESS

The Technical Review Committee met with property owners James & Kalee Blood on June 12, 2024. The property owners reviewed details of their request. Land Services Coordinator Gervais expressed concern with the request to construct a new garage and install a new drainfield with reduced setbacks when they could be placed in locations which met all required setbacks.

DNR Area Hydrologist Craig Wills verbally expressed concern with the proposed Variance during a June 17, 2024 phone conversation with the County's Wetland Specialist and recommended the completion of a survey by the DNR to establish the OHWLs in question prior to the County taking action on the request. Given that the DNR does not frequently take issue

with Variance requests within the County, staff asks that the Board give Wills' comments due consideration.

The Sunrise Town Board considered the request on June 20, 2024 and recommended approval with no conditions or comments.

The State mandated 60-day review period will expire on August 3, 2024.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report.

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 existing dwelling and existing septic system were constructed / installed in 1996 prior to the County's establishment of the Sunrise River Overlay (SO) District. The dwelling and septic system were deemed to meet all required setbacks in 1996. Neither the current nor previous property owners had any control over the County's establishment of the SO District or the implementation of increased setback requirements. However, given that the subject site is 34 acres in size, this circumstance does not prevent the current property owners from locating a detached accessory structure in a location which meets all current setback requirements.

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 Ordinances would not deprive the property owners of rights commonly enjoyed by other AG District / SO District / Shoreland Management District properties. Properties located in the AG District / SO District / Shoreland Management District have the right to be developed in compliance with the Zoning and Shoreland Management Ordinances, and the subject site has been developed with a dwelling and a septic system which is adequately sized for the existing dwelling. Further, the property

owners have ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance.

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;

The existing dwelling was constructed and the existing septic system was installed in 1996 under a previous Zoning Ordinance; therefore, the dwelling and septic system, which is adequately sized for the existing dwelling, are considered to be pre-existing development. However, the current property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance. It appears that the primary circumstance / justification provided within the application materials for the location of the proposed structure relates to accessibility issues of a household member. While staff can certainly appreciate this circumstance, it's a unique circumstance related to the property owners and not a unique circumstance related to the property itself.

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

Dwellings, detached accessory structures, and septic systems are all Permitted Uses within the AG District / SO District / Shoreland Management District; therefore, the Variance is not considered a use Variance.

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

Given that staff is concerned about the accuracy of the information provided in regard to OHWLs and bluff status, staff cannot be certain that the property owners have requested the minimum Variance required. In fact, staff suspects that the property owners have not submitted a request which fully accounts for existing topographical conditions (i.e., bluff status and the required 30' setback from Top of Bluff). Additionally, staff believes that the property owners are requesting setback Variances for the proposed detached accessory structure when they have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance.

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, as it relates to the existing dwelling and septic system, would be detrimental to the purposes or intent of the Zoning or Shoreland Management Ordinances or to other properties in the AG District / SO District / Shoreland Management District, so long as bluff conditions do not exist. The Zoning Ordinance allows for Variances from setback requirements 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, and staff believes that the request has the ability to satisfy all three of these factors. However, staff does believe that the Variance, as it relates to the construction of a detached accessory structure, is

detrimental to the purposes or intent of the Zoning or Shoreland Management Ordinances and to other properties in the AG District / SO District / Shoreland Management District. The property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance and personal circumstances (such as accessibility issues) do not satisfy the State mandated practical difficulty standard.

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 application materials do cite economic conditions as a practical difficulty, but not the sole 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.

While a significant portion of the subject property is located within a flood zone, the proposed locations of the dwelling addition, detached garage, and new drainfield appear to be located outside of the flood zone.

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 draft findings, shown in *italics* below, for the Board’s consideration. However, staff notes that these draft findings are based on information provided by the property owners and likely do not fully address the current topographical conditions (i.e., DNR-established OHWLs and bluff determination) or proposed setbacks based on the current topographical conditions (i.e., setbacks are measured from DNR-established OHWLs and Top of Bluff, if a bluff exists).

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

- Finding #1 Given that the subject site is 34± acres in size and the location of existing and proposed structures is approximately 400' from the closest adjacent property, the County finds that the proposed action will not have any impact on the 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 use of the property will not change from the existing residential use; therefore, the County finds that the proposed action will not increase the amount of traffic generated at the subject site or increase the amount of congestion on Locke Avenue or surrounding roadways. Further, the Sunrise Town Board / Road Authority did not express any concern related to the impact on Locke Avenue or surrounding roadways.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;*
- Finding #3 The property owners will be required to obtain building permits prior to construction of the proposed dwelling addition and detached accessory structure, and they 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. Therefore, the County finds that the proposed action will have no impact on the danger of fire or public endangerment.*
- 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 the proposed action, while increasing the number of structures, will not change the use of the property. Additionally, County staff estimates the location of the proposed detached accessory structure, which is the structure closest to a shared property boundary, to be approximately 400' from said property boundary with significant vegetation / forestation between the proposed structure and the closest shared property boundary. Therefore, the County finds no evidence to suggest that there will be any negative impact to surrounding properties.*
- OR-*
- Finding #4 The subject site is currently developed with a dwelling and septic system and the proposed dwelling addition and new / expanded septic system will not change the use of the property. However, without Minnesota Department of Natural Resources-established Ordinary High Water Levels for the Sunrise River and Vibo Creek or the submission of a bluff determination from a qualified individual / organization, the County finds that it cannot be certain that the proposed action would not have negative impacts to surrounding properties based on potential impact to the waterways and land adjacent to the*

waterways. Further, the County cannot be certain that the proposed action would not detract from the protection and preservation of the existing natural, scenic and recreational values of the Sunrise River Overlay (SO) District. Further, the County finds that the property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance, and that the granting of a setback Variance for this portion of the Variance request would have a negative impact on surrounding properties being that it would establish an unnecessary and avoidable precedent.

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;

Finding #5 *The proposed action will not change 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 / Sunrise River Overlay (SO) District / Shoreland Management District and the Zoning Ordinance allows dwellings, septic systems, and detached accessory structures as Permitted Uses in these districts when in compliance with all applicable ordinances, including all required setbacks. However, the Zoning Ordinance also allows for Variances from setback requirements 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 property owner has provided application materials which satisfactorily address the criteria for granting Variances and, therefore, finds that the proposed action is in keeping with the spirit and intent of the Chisago County Zoning Ordinance.*

-OR-

Finding #7 *The Chisago County Zoning and Shoreland Management Ordinances establish required setbacks for structures and septic systems in relation to the Ordinary High Water Levels of the Sunrise River and Vibo Creek as well as setbacks from Top of Bluff when bluff conditions exist. While the Zoning Ordinance allows for Variances from setback requirements 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, without Minnesota Department of Natural Resources-established Ordinary High Water Levels for the Sunrise River and Vibo Creek or the submission of a bluff determination from a qualified individual / organization, the County cannot fully understand the impact of the requested Variance or accurately approve / deny specific setback Variances. Further, the County finds that it cannot be certain that the proposed action complies with the stated purpose of the Sunrise River (SO) District, which includes protection and preservation of the existing natural, scenic and recreational values of the Sunrise River. Further, the County finds that the property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance, and that the granting of a setback Variance would therefore be contrary to the spirit and intent of the Zoning and Shoreland Management Ordinances.

STAFF RECOMMENDATION

Staff has serious concern with the lack of DNR-established Ordinary High Water Levels for the Sunrise River and Vibo Creek and the lack of a bluff determination prepared by a qualified individual, such as a registered land surveyor. Without this crucial information, the property owners are unable to accurately determine their proposed setbacks and the County cannot fully understand the impact of the requested Variance or accurately approve / deny specific setback Variances. Ultimately, staff recommends either denial of the request, based on the draft findings above, or tabling the request to allow the property owners additional time to obtain and submit DNR-established OHWLs for Sunrise River and Vibo Creek and a bluff determination prepared by a surveyor.

If the Board is concerned with requiring that the property owners obtain and submit additional information, staff notes that Zoning Ordinance Section 8.06 Variances, F. states that "The Board of Adjustment and Appeals and the Zoning Administrator shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant if said information is declared to be necessary by the County to review the request or to establish performance conditions in relation to [the] Ordinance."

Alternatively, should the Board determine that the property owners have provided all information necessary to thoroughly review the request and that the request for Variance satisfies the State mandated practical difficulty standard and the Board adopts Findings of Fact (all those Findings shown in *black italics*) to support approval of the request for Variance, staff encourages the Board to consider the following conditions of approval:

Recommended conditions:

1. This approval grants the following Variances for the dwelling addition:

- a. An 84' setback Variance allowing the dwelling addition to be no closer than 116' from the Ordinary High Water Level of the Sunrise River.
 - b. A 40' setback Variance allowing the dwelling addition to be no closer than 60' from the Ordinary High Water Level of Vibo Creek.
2. This approval grants the following Variance for the new / expanded septic system:
 - a. A 70' setback Variance allowing the new / expanded septic system to be no closer than 130' from the Ordinary High Water Level of the Sunrise River.
3. This approval grants the following Variances for the detached accessory structure (garage):
 - a. An 18' setback Variance allowing the detached accessory structure to be located no closer than 182' from the Ordinary High Water Level of the Sunrise River.
 - b. A 25' setback Variance allowing the detached accessory structure to be located no closer than 75' from the Ordinary High Water Level of Vibo Creek.
4. Except as specifically required herein, the dwelling addition and detached accessory structure shall be constructed and the septic system shall be installed in general conformance with the application materials dated received May 31, 2024. Any significant deviation, 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.
5. Prior to application for building and septic permits, the permit holder shall request and obtain a "Tie Together" from the Department of Environmental Services such that the two subject parcels are considered one for purposes of building and zoning. Without "Tie Together" approval, all structures and improvements would also be subject to required setbacks from the shared property boundary.
6. The permit holder shall obtain building and septic permits prior to construction and, further, all structures and improvements shall comply with all applicable codes and regulations.
7. 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 Findings of Fact and conditions established by the Board.
2. **Deny** the Variance based on Findings of Fact presented or amended.
3. **Table** action to allow for further review and consideration. The current review period expires on August 3, 2024, allowing the Board to further review and consider the request at its July 25, 2024 meeting. Additionally, the County has the ability to extend the review period by an additional 60 days, per MN Statute 15.99, if deemed appropriate.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0602, a resolution denying a Variance allowing the expansion of a legal non-conforming dwelling and reduced Ordinary High Water Level setbacks for the construction of a detached accessory structure and the installation of a septic system on property located at 36412 Locke Avenue in Sunrise Township, as presented or amended.

Alternatively, if the Board is agreeable, a motion to table the request until such time that the property owners have obtained and submitted DNR-established OHWLs for Sunrise River and Vibo Creek and a bluff determination prepared by a registered land surveyor. It's important to note that, if this new information increases the requested setback Variances or expands the scope of the Variance request (i.e., setback(s) from Top of Bluff), the property owners may be required to withdraw their current request and submit a new request thereby starting a new Variance process. If tabling the request, staff recommends extending the State mandated review period by an additional 60 days.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plan
 - d. Building plans
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0602 (denial)
5. Draft Resolution No. BOAA2024-0602 (approval)



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 2024-0927

31 / 35 / 20

090036700

Township SUNRISE S/T/R 32 / 35 / 20 PID# 090038610

Project Address 36214 LOCKE AVE, NORTH BRANCH, MN 55056

Property Owner(s) JIM & KALEE BLOOD

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) JIM & KALEE BLOOD

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) _____

SEE ATTACHED

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

☒ Full Legal Description

☒ Detailed Site Plan

☒ Detailed Written Narrative

☒ Plat Drawings

[Signature]
Applicant Signature

5/31/24
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>600 -</u>	Application Received	<u>5-31-24</u>
Recording Fee	\$ <u>46 -</u>	Application Complete	<u>6-4-24</u>
Plat Fee - No Road(s) / With Road(s)	\$ _____	60 / 120 Day Review Period	<u>8-3-24</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>646 -</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township SUNRISE S/T/R 31/35/20 PID# 090036700
32/25/20 090038610
Project Address 36214 LOCKE AVE, NORTH BRANCH, MN 55056
Property Owner(s) JIM & KALLE BLOOD

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) JIM & KALLE BLOOD

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) _____

SEE ATTACHED

[Signature]
Applicant Signature

5/31/24
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 JUNE 27, 2024 Date of Township Presentation JUNE 20, 2024

Township Action Taken (Township Use Only)

☒ Recommendation of Approval

☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

APPROVE VARIANCE AS PRESENTED

Signatures of Township Officials or Authorized Personnel

[Signature] [Signature] [Signature]
[Signature] [Signature] [Signature]

Legal Description

The Northwest Quarter of the Southwest Quarter, Section 32, Township 35, Range 20, Chisago County, Minnesota, EXCEPT the South 694.26 feet of the East 627.50 feet thereof, AND That part of the Northeast Quarter of the Southeast Quarter of Section 31, Township 35, Range 20, Chisago County, Minnesota, lying Easterly of the Centerline of the Sunrise River.

Request

Home Addition and Garage

The purpose of the Sunrise River Overlay District is to “protect and preserve the existing natural, scenic and recreational values of the Sunrise River and to provide for development activities which do not detract from these values.”

The current home, in its entirety, violates the 200’ setback requirement of the SO imposed after the home was built. This would mean absolutely no modifications of the home, in any way, would be allowed. This is unreasonable. Strict compliance with the ordinance will totally prevent improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

The entire south side, the entire east side, and the northeast corner of the current home (2/3 of the home) violates the 100’ setback of a tributary, Vibo Creek. Again, imposed after the home was built. The combination of these 2 ordinances would mean absolutely no modifications of the home, in any way, would be allowed. This is unreasonable. Strict compliance with the ordinance will totally prevent improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

Proposed Variance: **Addition: 116’ setback from Sunrise River OHWL, 60’ from Vibo Creek**
 Garage: 182’ from Sunrise River OHWL, 75’ from Vibo Creek
 Septic: 130’ from Sunrise River OHWL (same as the current drain field setback)

Narrative

Home Addition

We would like to add a main floor bedroom and an accessible garage. The house is a 2 bedroom, placed in the corner of the property, well hidden by trees and barely seen from the water. The house does not have a garage. (The garage burned down, and the previous trustees failed to rebuild in the allotted time.) We are a family of 4 and now will be adding a fifth, aging parent with limited mobility. We plan to add 2 bedrooms with the main goal to add a main floor bedroom for easy accessibility. Also, we would like to build a garage near the home to aid with the parent with limited mobility.

The purpose of the (SO) Sunrise River Overlay District is to “protect and preserve the existing natural, scenic and recreational values of the Sunrise River and to provide for development activities which do not detract from these values.”

The proposed application & plan is in harmony with the ordinance.

The current home conformed to the original setback prior to the adoption of the of the Sunrise River Overlay District. The original setback was 75'. The planned addition is very small (22'x20'). It is simple to tie into the foundation and the roofline. It is easy and straight forward. The addition is behind the home and will be well hidden from the river. Its location and size and will not undermine the purpose and intent of the SO ordinance because it will not be seen from the river.

All available locations for an addition were investigated. Any addition, toward the south or toward the east will violate the 100' setback from a tributary. The current home is setback 75' from Vibo Creek. We looked at one addition toward the east trying to maintain the current homes 75' setback. To do this, the addition will need to be angled maintain the current homes setback of 75'. This angle requires a difficult foundation shape to tie into the home, odd and custom trussed and angled roof lines. Tying in an angled addition into the current home is a practical difficulty because the added expense of foundation, framing and trusses is estimated at over \$50K more than the current proposed addition. The architect's response was "I don't know how I would tie that in."

Any addition off the North side of the home will interfere with current septic tanks. The current septic tanks are new (replaced in '23) and conform to current regulations. There are no available locations to move the septic tanks too. The inability to find a location for the new septic tank is a practical difficulty and would incur additional hardship.

So we propose a simple, strait forward, 22x20' addition off the south side of the home with a variance of 116' setback from Sunrise River OHWL and 60' from Vibo Creek.

New Garage

The proposed detached garage is positioned in such a way for easy access to the home. It is placed further from the Sunrise River than the current home. It is also placed 75' from Vibo Creek OHWL, which is no closer than the current home. Again, will not detract from the natural and scenic views from the river. This is a most reasonable location. Because of the contour of the land, the location of the current septic and proposed new septic, the next location for the garage is on the north side of the driveway 150' feet from the home which is too far for someone with limited mobility and will make accessibility extremely difficult.

The proposed detached garage is placed with a 75' setback from the Vibo Creek. **This set back is the same distance as the current home.** We are proposing a garage on slab (no frost footings). We did look at attaching the garage to the home which would inherently allow the current 75' setback. That would require frost footing, and as mentioned earlier, the garage would require to be angled relative to the home, require odd and custom trussed and angled roof lines. Tying in an angled garage into the current home is a practical difficulty because the added expense for full frost footings, added framing, custom trusses would increase an estimated \$50K more than the current proposed detached garage. This is a similar problem as the angled home addition.

So, we propose a simple, strait forward, detached garage with a variance of 182' from Sunrise River OHWL, 75' from Vibo Creek (same as the current home).

Drain Field

The current septic tanks are conforming. However, the drain field is 25 years old and only sized for a 2 bedroom home. The addition of a bedroom requires a new drain field. The proposed optional location of the drain field meets current DNR regulation for upgrading current systems which allows for similar setback to current systems.

So, we propose a variance of 130' from Sunrise River OHWL (same as the current drain field setback).

Images

Attached are photos of the home from the river. Images are from the northwest and the southwest. The addition and garage will not be any closer to the river than the existing structure. They will not be visible from the river. We are intentionally not trying to make a large looking mansion like other properties on the river. We enjoy the small, quaint size of the home. This request is reasonable because it does not detract from the intent of the Ordinance.

View of the Home from Sunrise River (west side of house):



View of the back of home (south side of the house):



$\Delta=34^{\circ}40'$
363.09 R=

APPROXIMATE
CENTERLINE OF
SUNRISE RIVER

WATER'S EDGE OF
SUNRISE RIVER

FEMA ZONE A

Sunrise
River

FEMA ZONE X

END OF BLUFF,
BEGINNING OF
STEEP SLOPE

TO V

N3°24'12"E
412.11

SLAB
CURRENT
DRAW FIELD
LOCATION OF
NEW DRAW FIELD

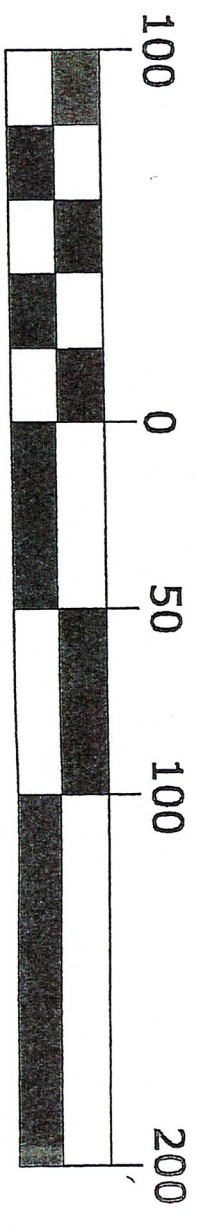
GARAGE

NOT A BLUFF
21' OR LESS

VIBO CREEK

DHWL

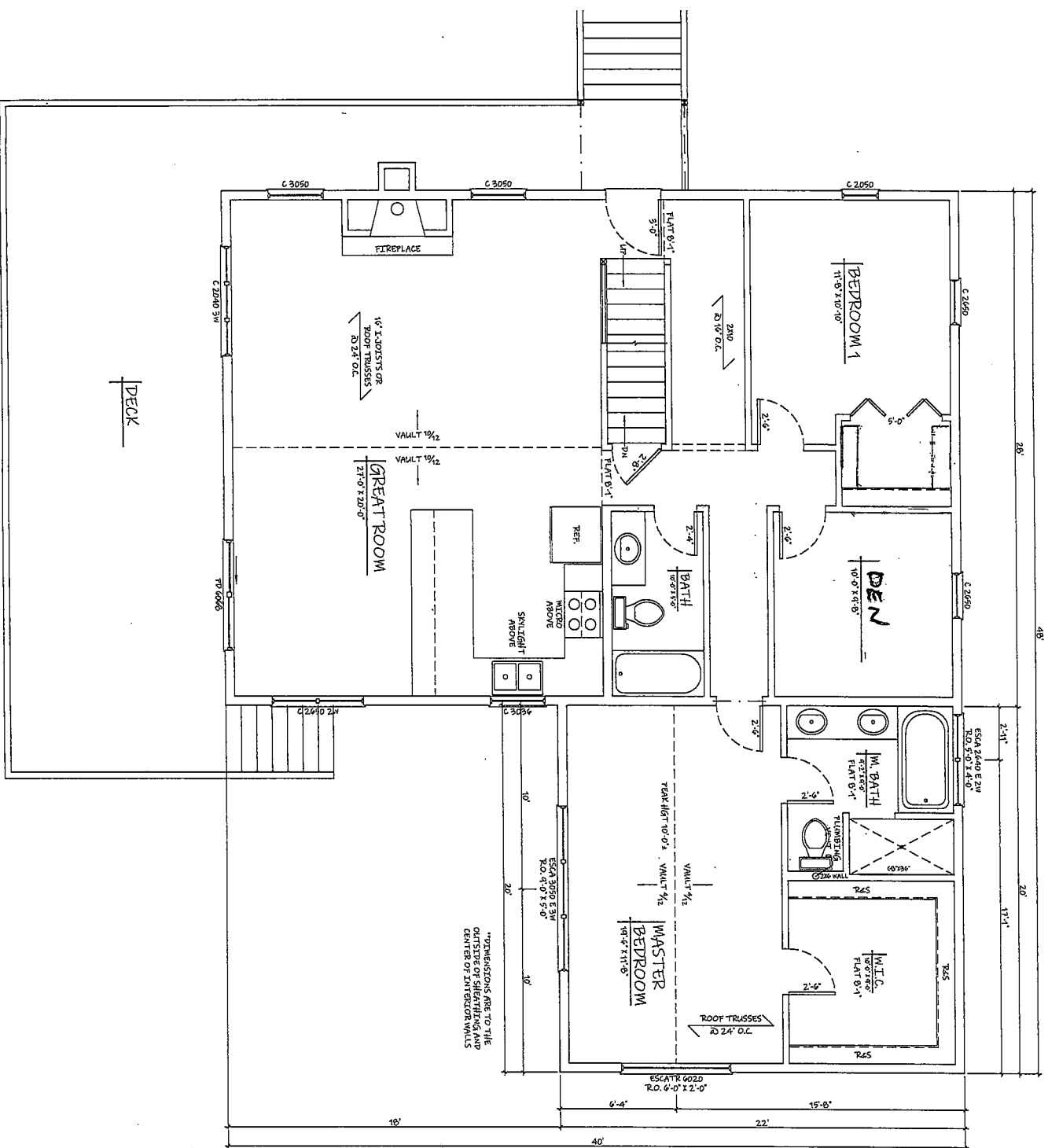
GRAPHIC SCALE



FEMA Z

[illegible]

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)



SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

THESE PLANS ARE FOR GENERAL INFORMATION OR GUIDANCE ONLY. ENGINE DRAFTER MAKES NO WARRANTIES THAT ARE IMPLIED OR EXPRESSED THAT THESE PLANS ARE COMPLETE OR ACCURATE. THE RESPONSIBILITY FOR CONSTRUCTION REST WITH THE BUILDER OWNER OR USER OF THESE PLANS.

PROPERTY:
ANY INFORMATION, IDEAS,
OR CONCEPTS IN TITLES 21 AND

OR CONCERNS IN THIS CASE
ARE THE PROPERTY OF EME
DRAFTING. THESE PLANS
ARE NO TO BE REPRODUCED
IN ANY WAY, WITHOUT
WRITTEN PERMISSION
FROM EME DRAFTING.

E.M.E.
DRAFTING

E.M.E. DRAFTING
ERIC EGGERT
900 MAPLE AVE. E..
MORA, MN 55051

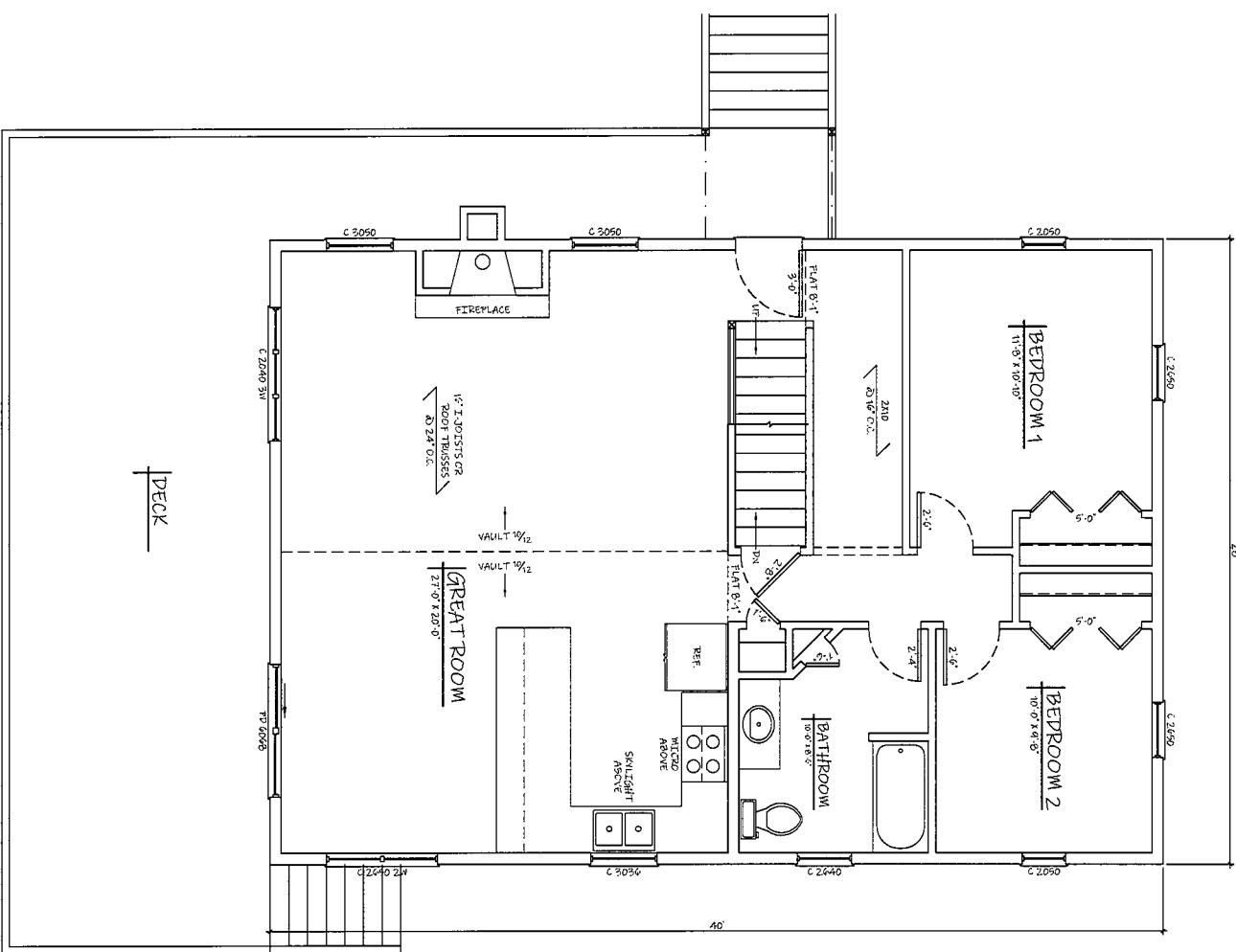
BLOOD

36412 LOCKE AVE
NORTH BRANCH, MN 55056

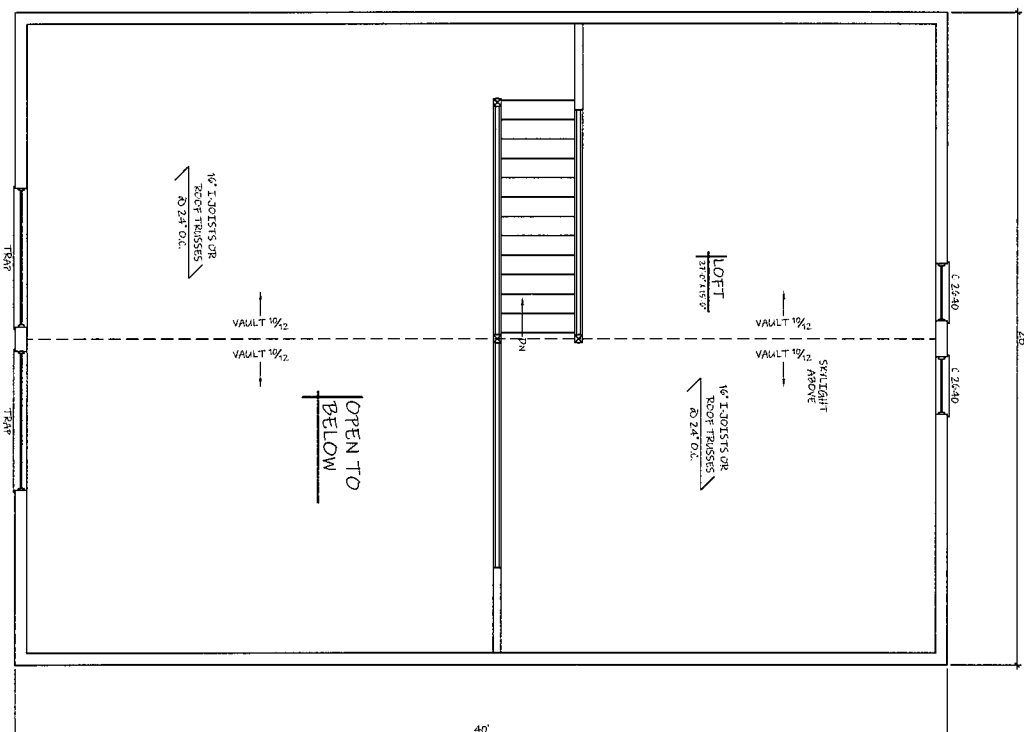
FILE NAME:	BLOOD
PROGRAM SR:	EWE
DATE:	5/29/24
ROUTESR:	0000
ROUTESEP:	0000
ROUTESR:	0000
ROUTESEP:	0000
ROUTESR:	0000
ROUTESEP:	0000
OTPT PLANS	A2

The floor plan shows a second floor with a Family Room (25'-4" x 20'-0") and a Bath (5'-3" x 8'-8"). The Family Room features a fireplace, a walk-in closet, and a look-out. The Bath includes a toilet, sink, and a shower area. A central hallway (3'-0") connects the rooms. The Laundry area (5'-3" x 8'-8") is adjacent to the Bath and includes a washer/dryer area, a storage cabinet, and a look-out. The plan also shows a storage area (11'-0" x 11'-0") and a look-out. The overall dimensions are 16'-0" by 24'-0".

SCALE: 1/4" = 1' (1/2 SCALE ON 11x17)



SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)



SCALE: 1/4" = 1' (1/2 SCALE ON 11x17)

INTELLECTUAL
PROPERTY:

E.M.E.
DRAFTING

E.M.E. DRAFTING
ERIC EGERT
400 MAPLE AVE. E..
MORA, MN 55051

BLOOD

36412 LOCKE AVE
NORTH BRANCH, MN 55056

FILE NAME:	BLOOD
DRAWN BY:	EME
DATE:	5/29/24
REF:SEP:	----
REF:SER:	-----
REF:SEP:	----
REF:SER:	-----
REF:SEP:	----
REF:SER:	-----
EXIST PLANS	A5

DISCLAIMER:
THESE PLANS ARE FOR
GENERAL INFORMATION OR
GUIDANCE ONLY. EME
DRAFTING MAKES NO
WARRANTIES THAT ARE
IMPLIED OR EXPRESSED THAT
THESE PLANS ARE COMPLETE
OR ACCURATE. THE
RESPONSIBILITY FOR
CONSTRUCTION REST WITH
THE BUILDER, OWNER OR
USER OF THESE PLANS.

INTELLECTUAL
PROPERTY:
ANY INFORMATION, IDEAS,
OR CONCEPTS IN THIS PLAN
ARE THE PROPERTY OF EME
DRAFTING. THESE PLANS
ARE NOT TO BE REPRODUCED
IN ANY MANNER WITHOUT
WRITTEN PERMISSION
FROM EME DRAFTING.

E.M.E. DRAFTING
ERIC EGERT
900 MAPLE AVE. E..
MORA, MN 55051

E.M.E.
DRAFTING

BLOOD

36412 LOCKE AVE
NORTH BRANCH, MN 55056

FILE NAME:	BLOOD
PREPARED BY:	EME
DATE:	5/29/24
REVIEWED:	_____
REVIEWED:	_____
REVIEWED:	_____
REVIEWED:	_____
REVIEWED:	_____

REAR ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

LEFT ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

RIGHT ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

FRONT ELEVATION

SCALE: $1/4" = 1'$ (1/2 SCALE ON 11X17)

REAR ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

LEFT ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

RIGHT ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

FRONT ELEVATION

SCALE: $1/4" = 1'$ (1/2 SCALE ON 11X17)

REAR ELEVATION

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

2Y PLANS

26'0"

20'0"

10'0"

15'0"

3'0"

11'0"

13'0"

26'0"

2'0"

10'11"

20'11"

3'0"

R.I.A. TRUSSES
24'0" O.C.

GARAGE
44'0" x 25'0"

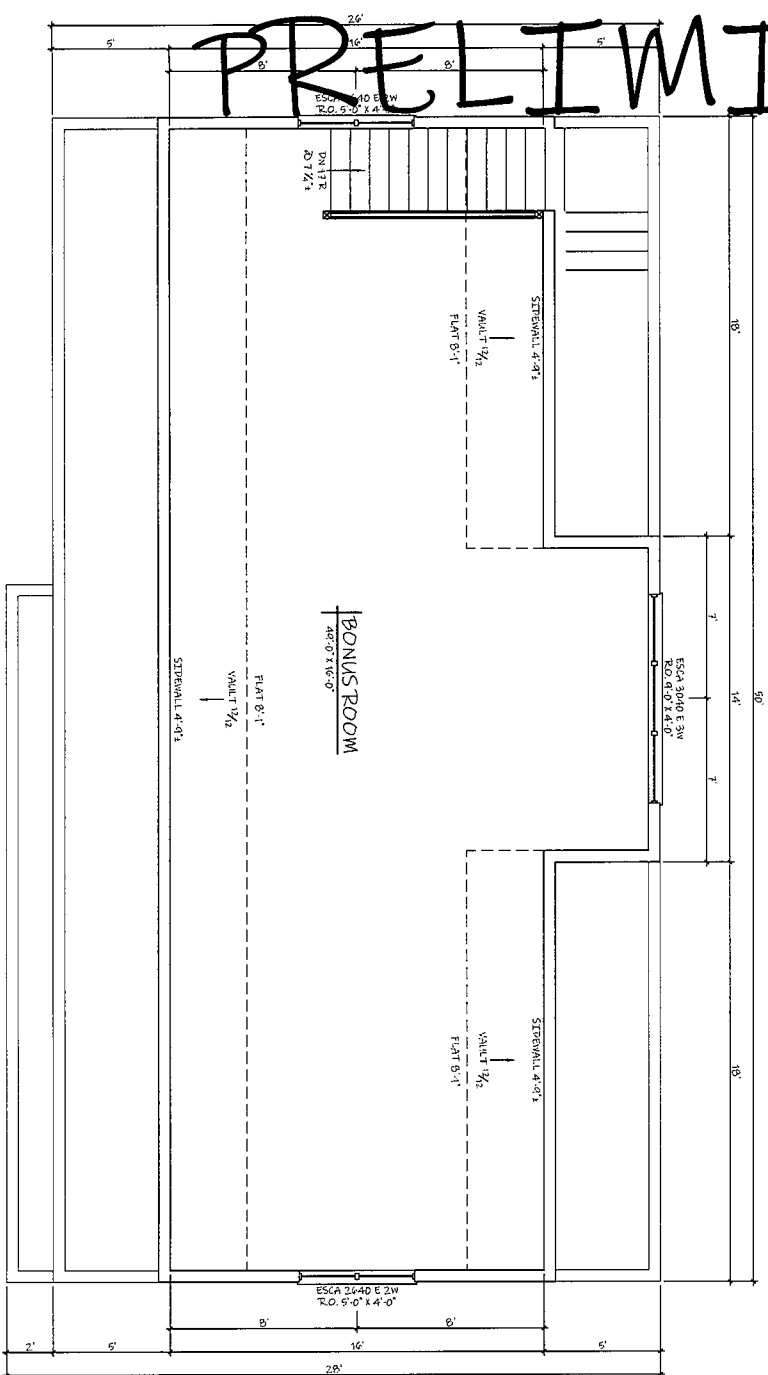
ESCA 24-40 E 2W
R.O. 5'0" x 4'0"

ESCA 24-40 E 2W
R.O. 5'0" x 4'0"

10'0" x 8'0"

18'0" x 8'0"

SCALE: 1/4" = 1' (1/2 SCALE ON 11x17)



SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

SCALE: 1/4" = 1' (1/2 SCALE ON 11X17)

**INTELLECTUAL
PROPERTY:**
ANY INFORMATION, IDEAS
OR CONCEPTS IN THIS PLAN
ARE THE PROPERTY OF EME
PRATTING. THESE PLANS
ARE NOT TO BE REPRODUCED
IN ANY WAY WITHOUT
WRITTEN PERMISSION
FROM EME PRATTING.

E.M.E. DRAFTING
ERIC EGGETT
900 MAPLE AVE. E..
MORA, MN 55051

BLOOD

36412 LOCKE AVE
NORTH BRANCH, MN 55056

PTE NAME	BLOOD
PROGRAM BY:	EME
DATE:	5/29/14
REQ1SDP:	----
REQ1SAP:	----
REQ1SPR:	----
REQ1SEP:	----
GRG PLANS	A7

DISCLAIMER:
THESE PLANS ARE FOR GENERAL INFORMATION OR GUIDANCE ONLY. EME DRAFTING MAKES NO WARRANTIES THAT ARE IMPLIED OR EXPRESSED THAT THESE PLANS ARE COMPLETE OR ACCURATE. THE RESPONSIBILITY FOR CONSTRUCTION REST WITH THE BUILDER, OWNER OR USER OF THESE PLANS.

INTELLECTUAL
PROPERTY:
ANY INFORMATION, IDEAS,
OR CONCEPTS IN THIS PLAN
ARE THE PROPERTY OF EME
DRAFTING. THESE PLANS
ARE NOT TO BE REPRODUCED
IN ANY WAY, WITHOUT
WRITTEN PERMISSION
FROM EME DRAFTING.

E.M.E.
DRAFTING

E.M.E. DRAFTING
ERIC EGERT
900 MAPLE AVE. E..
MORA, MN 55051

TRUSS MANUFACTURER OR MATERIAL PRODUCER IS TO VERIFY ALL BEAM & BEAM SIZES, JOINT LOADS, CONCENTRATED ON THEM MAY CHANGE THE SIZES NOTED. SIZES TO BE VERIFIED PRIOR TO CONSTRUCTION.

ALL TRUSSES TO BE ENGINEERED & INSTALLED PER TRUSS MANUFACTURER

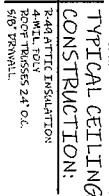
SOLID BEARING AT ALL BEAMS & HEADERS

ESSENTIAL WINDOWS ARE CALLED OUT

THE NAME	BLOOD
PROGRAM NO.	EME
DATE	5/29/24
REVISED:	----
RECEIVED:	----
REVISIT:	----
REVISIT:	----
RECEIVED:	----

GRA SECTIONS

NO

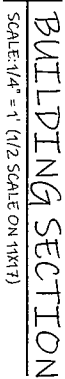
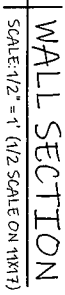


**TYPICAL WALL
CONSTRUCTION:**

- STUDS PER ELEVATIONS
- TYNEX HOUSE WRAP OR EQUAL
- 1/4" OSB SHEATHING
- 2X6 STUDS @ 16" O.C.
- R-21 BATT INSULATION
- 4 MIL. POLY
- 1/2" DRYWALL

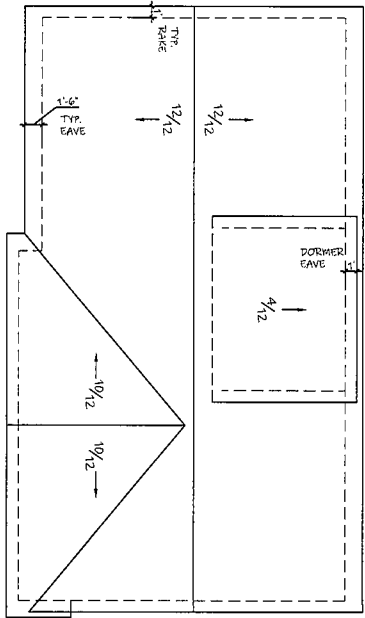
GARAGE SLAB
CONSTRUCTION:

GARAGE FND. WALL
CONSTRUCTION:



03/22 5/31/69

SCALE: 1/8" = 1' (1/2 SCALE ON 11X17)





James & Kalee Blood - Property owners James & Kalee Blood are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Agricultural (AG) District / Shoreland Management District / Sunrise River Overlay (SO) District as well as reduced Ordinary High Water Level setbacks for the installation of a septic system and the construction of a detached accessory structure (garage). The combined 34± acre subject site is located at 36214 Locke Avenue in Sunrise Township, S31 and 32, T35, R20 (PIDs 09.00386.10 and 09.00367.00).

Blood Property -





James & Kalee Blood - Property owners James & Kalee Blood are requesting a Variance in order to expand a non-conforming structure (dwelling) which is located closer to the Ordinary High Water Level than required in the Agricultural (AG) District / Shoreland Management District / Sunrise River Overlay (SO) District as well as reduced Ordinary High Water Level setbacks for the installation of a septic system and the construction of a detached accessory structure (garage). The combined 34+ acre subject site is located at 36214 Locke Avenue in Sunrise Township, S31 and 32, T35, R20 (PIDs 09.00386.10 and 09.00367.00).

Blood Property -



RESOLUTION NO. BOAA2024-0602

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, DENYING A VARIANCE ALLOWING THE EXPANSION OF A LEGAL NON-CONFORMING
DWELLING AND REDUCED ORDINARY HIGH WATER LEVEL SETBACKS FOR THE CONSTRUCTION
OF A DETACHED ACCESSORY STRUCTURE AND THE INSTALLATION OF A SEPTIC SYSTEM ON
PROPERTY LOCATED AT 36412 LOCKE AVENUE IN SUNRISE TOWNSHIP**

WHEREAS, property owners James Blood & Kalee Blood submitted an application dated received May 31, 2024 and considered complete on June 4, 2024 for a Variance to Zoning Ordinance Sections 4.03 and 6.06 and Shoreland Management Ordinance Section 5.21; and

WHEREAS, the property owners wish to expand their legal non-conforming dwelling, install a new / expanded septic system, and construct a new detached accessory structure (garage), all of which are closer to the Sunrise River Ordinary High Water Level and /or the Vibo Creek Ordinary High Water Level; and

WHEREAS, the 34± acre subject site is located in the Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PIDs 09.00367.00 and 09.00386.10

The Northwest Quarter of the Southwest Quarter, Section 32, Township 35, Range 20, Chisago County, Minnesota, EXCEPT the South 694.26 feet of the East 627.50 feet thereof, AND That part of the Northeast Quarter of the Southeast Quarter of Section 31, Township 35, Range 20, Chisago County, Minnesota, lying Easterly of the Centerline of Sunrise River.

WHEREAS, notice was provided and on June 27, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the property owner(s), 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 | <i>Given that the subject site is 34± acres in size and the location of existing and proposed structures is approximately 400' from the closest adjacent property, the County finds that the proposed action will not have any impact on the 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 The proposed use of the property will not change from the existing residential use; therefore, the County finds that the proposed action will not increase the amount of traffic generated at the subject site or increase the amount of congestion on Locke Avenue or surrounding roadways. Further, the Sunrise Town Board / Road Authority did not express any concern related to the impact on Locke Avenue or surrounding roadways.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;*
- Finding #3 The property owners will be required to obtain building permits prior to construction of the proposed dwelling addition and detached accessory structure, and they 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. Therefore, the County finds that the proposed action will have no impact on the danger of fire or public endangerment.*
- 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 septic system and the proposed dwelling addition and new / expanded septic system will not change the use of the property. However, without Minnesota Department of Natural Resources-established Ordinary High Water Levels for the Sunrise River and Vibo Creek or the submission of a bluff determination from a qualified individual / organization, the County finds that it cannot be certain that the proposed action would not have negative impacts to surrounding properties based on potential impact to the waterways and land adjacent to the waterways. Further, the County cannot be certain that the proposed action would not detract from the protection and preservation of the existing natural, scenic and recreational values of the Sunrise River Overlay (SO) District. Further, the County finds that the property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance, and that the granting of a setback Variance for this portion of the Variance request would have a negative impact on surrounding properties being that it would establish an unnecessary and avoidable precedent.*
- Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;*
- Finding #5 The proposed action will not change 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 Chisago County Zoning and Shoreland Management Ordinances establish required setbacks for structures and septic systems in relation to the Ordinary High Water Levels of the Sunrise River and Vibo Creek as well as setbacks from Top of Bluff when bluff conditions exist. While the Zoning Ordinance allows for Variances from setback requirements 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, without Minnesota Department of Natural Resources-established Ordinary High Water Levels for the Sunrise River and Vibo Creek or the submission of a bluff determination from a qualified individual / organization, the County cannot fully understand the impact of the requested Variance or accurately approve / deny specific setback Variances. Further, the County finds that it cannot be certain that the proposed action complies with the stated purpose of the Sunrise River (SO) District, which includes protection and preservation of the existing natural, scenic and recreational values of the Sunrise River. Further, the County finds that the property owners have every ability to locate the proposed detached accessory structure in a location which meets all required setbacks without the need for a Variance, and that the granting of a setback Variance would therefore be contrary to the spirit and intent of the Zoning and Shoreland Management Ordinances.*

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variance is hereby **denied** based on the findings provided herein.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 27th day of June, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator

RESOLUTION NO. BOAA2024-0602

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING THE EXPANSION OF A LEGAL NON-
CONFORMING DWELLING AND REDUCED ORDINARY HIGH WATER LEVEL SETBACKS FOR THE
CONSTRUCTION OF A DETACHED ACCESSORY STRUCTURE AND THE INSTALLATION OF A SEPTIC
SYSTEM ON PROPERTY LOCATED AT 36412 LOCKE AVENUE IN SUNRISE TOWNSHIP**

WHEREAS, property owners James Blood & Kalee Blood submitted an application dated received May 31, 2024 and considered complete on June 4, 2024 for a Variance to Zoning Ordinance Sections 4.03 and 6.06 and Shoreland Management Ordinance Section 5.21; and

WHEREAS, the property owners wish to expand their legal non-conforming dwelling, install a new / expanded septic system, and construct a new detached accessory structure (garage), all of which are closer to the Sunrise River Ordinary High Water Level and /or the Vibo Creek Ordinary High Water Level; and

WHEREAS, the 34± acre subject site is located in the Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PIDs 09.00367.00 and 09.00386.10

The Northwest Quarter of the Southwest Quarter, Section 32, Township 35, Range 20, Chisago County, Minnesota, EXCEPT the South 694.26 feet of the East 627.50 feet thereof, AND That part of the Northeast Quarter of the Southeast Quarter of Section 31, Township 35, Range 20, Chisago County, Minnesota, lying Easterly of the Centerline of Sunrise River.

WHEREAS, notice was provided and on June 27, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the property owner(s), 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 | <i>Given that the subject site is 34± acres in size and the location of existing and proposed structures is approximately 400' from the closest adjacent property, the County finds that the proposed action will not have any impact on the 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 *The proposed use of the property will not change from the existing residential use; therefore, the County finds that the proposed action will not increase the amount of traffic generated at the subject site or increase the amount of congestion on Locke Avenue or surrounding roadways. Further, the Sunrise Town Board / Road Authority did not express any concern related to the impact on Locke Avenue or surrounding roadways.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;
- Finding #3 *The property owners will be required to obtain building permits prior to construction of the proposed dwelling addition and detached accessory structure, and they 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. Therefore, the County finds that the proposed action will have no impact on the danger of fire or public endangerment.*
- 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 the proposed action, while increasing the number of structures, will not change the use of the property. Additionally, County staff estimates the location of the proposed detached accessory structure, which is the structure closest to a shared property boundary, to be approximately 400' from said property boundary with significant vegetation / forestation between the proposed structure and the closest shared property boundary. 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 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 / Sunrise River Overlay (SO) District / Shoreland Management District and the Zoning Ordinance allows dwellings, septic systems, and detached accessory structures as Permitted Uses in these districts when in compliance with all applicable ordinances, including all required setbacks. However, the Zoning Ordinance also allows for Variances from setback requirements 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 property owner has provided application materials which satisfactorily address the criteria for granting Variances and, therefore, finds that the proposed action is in keeping with the spirit and intent of the Chisago County Zoning Ordinance.*

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

1. This approval grants the following Variances for the dwelling addition:
 - a. An 84' setback Variance allowing the dwelling addition to be no closer than 116' from the Ordinary High Water Level of the Sunrise River.
 - b. A 40' setback Variance allowing the dwelling addition to be no closer than 60' from the Ordinary High Water Level of Vibo Creek.
2. This approval grants the following Variance for the new / expanded septic system:
 - a. A 70' setback Variance allowing the new / expanded septic system to be no closer than 130' from the Ordinary High Water Level of the Sunrise River.
3. This approval grants the following Variances for the detached accessory structure (garage):
 - a. An 18' setback Variance allowing the detached accessory structure to be located no closer than 182' from the Ordinary High Water Level of the Sunrise River.
 - b. A 25' setback Variance allowing the detached accessory structure to be located no closer than 75' from the Ordinary High Water Level of Vibo Creek.
4. Except as specifically required herein, the dwelling addition and detached accessory structure shall be constructed and the septic system shall be installed in general conformance with the application materials dated received May 31, 2024. Any significant deviation, 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.
5. Prior to application for building and septic permits, the permit holder shall request and obtain a "Tie Together" from the Department of Environmental Services such that the two

subject parcels are considered one for purposes of building and zoning. Without "Tie Together" approval, all structures and improvements would also be subject to required setbacks from the shared property boundary.

6. The permit holder shall obtain building and septic permits prior to construction and, further, all structures and improvements shall comply with all applicable codes and regulations.
7. 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 27th day of June, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator