

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

Tour Date and Time: Wednesday, July 24, 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. June 27, 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.
- 6. Public Hearings – New Applications**
 - a. **Beth Tatur and Level Contracting, LLC** – Property owner Beth Tatur and applicant Level Contracting, LLC are requesting a Variance allowing a reduced setback from township Right-of-Way for a new dwelling in the Rural Residential I (RRI) District / Shoreland Management District. The .39± acre subject site is located at 46350 Beach Road in Fish Lake Township, S10, T36, R22 (PID 03.01181.00).
- 7. Public Hearings – Continued Hearings**

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

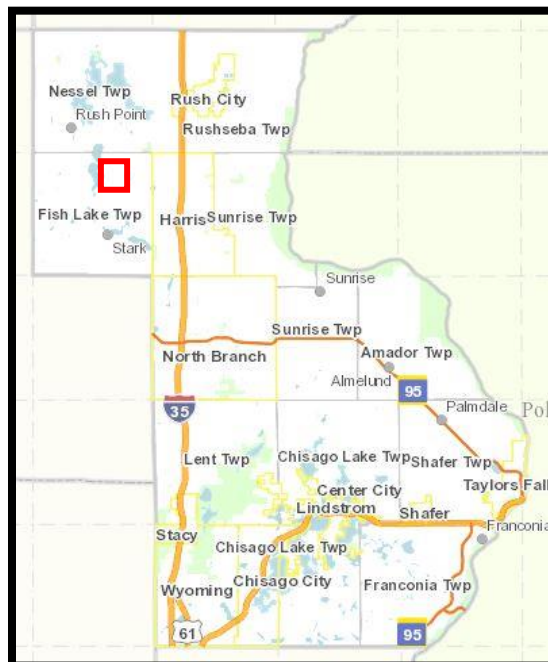
The next meeting is scheduled for Thursday, August 29, 2024 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time:

Wednesday, July 24, 2024, at 8:15 am

Departing from Chisago County Highway Department
31325 Oasis Road, Center City, MN 55012



CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
June 27, 2024

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, June 27, 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. *Clerk's Note: The agenda included Item 6b, a Variance request from James & Kalee Blood for property located at 36412 Locke Avenue; however, the applicants withdrew their request on June 27, 2024 prior to the start of the meeting.*

APPROVAL OF MINUTES – Motion by Sutcliffe to approve the May 30, 2024 meeting minutes as presented; second by Carlson. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Sutcliffe to receive all applications, submittals, reports, and other materials into the record; second by Greene. 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

Eric & Alicia Houske and Lang Builders – Coordinator Gervais provided background information on property owners Eric & Alicia Houske's and applicant Lang Builders' Variance request for property located at 29850 Glader Boulevard (PID 02.01705.00), explaining that the property owners and applicant were requesting a Variance in order to expand a non-conforming structure which was closer to the Ordinary High Water Level (OHWL) than required. Gervais reviewed details of the subject site and surrounding area, sharing that the .35± acre property was platted in 1946 and was deemed legal non-conforming being that it didn't meet current dimensional requirements of the Shoreland Management District. The original dwelling was reportedly constructed in the 1950s as part of a resort.

Gervais continued to describe that the original dwelling was 26' x 27' (702 sf) in size and there had been a number of additions over the years. It didn't appear that the dwelling was originally

constructed with a garage; however, the Board of Adjustment & Appeals approved a Variance in 2003 which allowed various dwelling additions, including a three-stall attached garage.

Gervais reviewed details of the proposed dwelling expansion, stating 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 was proposed to include the additions of a second story and a 6' x 14' (84 sf) covered porch at the main entrance. Being that the proposed second story was a vertical expansion, it would not exacerbate the already non-conforming OHWL setback and it would exceed all other required setbacks. The stated purpose of the covered porch was to increase safety by reducing hazards such as ice outside of the front door. Being that the easterly side of the dwelling exceeded the township Right-of-Way setback, the proposed porch would also exceed the required setback. Gervais noted that the existing amount of impervious surface coverage was reported to be 25.1% but the property owners intended to reduce the size of the driveway in order to bring the percentage down to or below the maximum allowable amount of 25%.

Gervais stated that the applicants provided a written narrative explaining what they were hoping to accomplish through the Variance process and noted that the narrative also addressed the State mandated practical difficulty standard by suggesting the request was reasonable in that the proposed expansion would not increase the footprint of the dwelling; the design fit the essential character of the area in that the neighboring property owners had offered verbal support; and, the unique feature was that the project entailed the creative design of Lang Builders. Gervais noted that staff agreed that the request was reasonable in that the property owners were making an obvious effort not to exacerbate the non-conforming OHWL setback; however, staff did not believe that the explanations provided for essential character and uniqueness addressed the intent of the practical difficulty standard. Therefore, Gervais suggested that a unique feature of the property was that it constituted pre-existing development and the dwelling appeared to fit the essential character of the area in that it was similar in scale to surrounding dwellings.

The Technical Review Committee met with property owner Eric Houske and applicant Lang Builders on June 12, 2024. Houske reviewed details of the proposed Variance and plans to reduce the amount of impervious surface coverage. The Committee did not identify any concerns. The Chisago Lake Town Board met on June 18, 2024 and recommended approval with the comment of "not changing footprint". The State mandated 60-day review period was scheduled to expire on August 2, 2024.

Gervais concluded by offering a recommendation of approval with conditions and reviewed options available to the Board.

Chair Strand invited the property owners and/or applicant to address the Board. Applicant Justin Lang of Lang Builders was present but had no additional information to share with the Board.

Carlson asked the applicant how they would be reducing the impervious surface coverage at the property. Lang stated that they would be reducing the size of the existing driveway. Carlson also asked what material would be used for the proposed porch. Lang replied that decking material would be used.

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

Motion by Sutcliffe to adopt 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, as presented; second by Greene. The **motion passed** and carried unanimously.

Approved 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.

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 7:13 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 Allowing a Reduced Township Right-of-Way Setback
 46350 Beach Road, Fish Lake Township
 DATE: July 25, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing a reduced township Right-of-Way setback in the Rural Residential I (RRI) District / Shoreland Management District.

SITE & APPLICATION INFORMATION

Property Owner(s):	Beth Tatur
Applicant(s):	Level Contracting, LLC
Property Address:	46350 Beach Road Fish Lake Township
General Location:	Section 10, Township 36, Range 22
PID:	03.01181.00
Property Area:	.39± Acres
Current Zoning:	Rural Residential I (RRI) District / Shoreland Management District
Adjacent Zoning:	
North:	Rural Residential I (RRI) District / Shoreland Management District
South:	Rural Residential I (RRI) District / Shoreland Management District
East:	Agricultural (AG) District / Shoreland Management District
West:	Goose Lake
Date Application Received:	July 1, 2024
Date Application Complete:	July 3, 2024
60-Day Review Period:	September 1, 2024

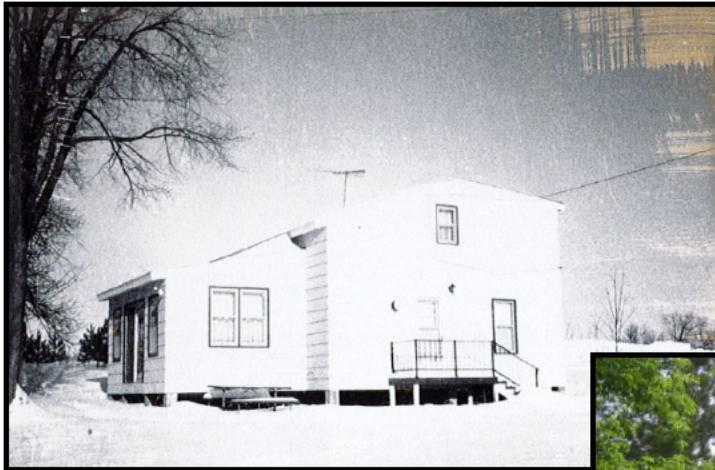
BACKGROUND

Property owner Beth Tatur wishes to demolish or otherwise remove the existing 840sf dwelling located at 46350 Beach Road in Fish Lake Township and construct a new 1,478 sf year-round dwelling with 760 sf attached garage on the same property.



SITE ANALYSIS

The .39± acre subject site is generally located approximately one-quarter mile south of 466th Street on the west side of Beach Road and on the eastern shore of Goose Lake. The site is currently developed with an 840 sf dwelling partially located within the required township Right-of-Way setback, a 124 sf shed located within the required Ordinary High Water Level (OHWL) setback, and an 87 sf shed located within the required township Right-of-Way setback. All existing structures are considered non-conforming due to setback encroachments. Additionally, the existing dwelling is considered non-conforming being that it's less than the current required dwelling size of 960 sf.



The top adjacent image shows the existing dwelling in January 1976 and the bottom adjacent image shows the same dwelling in July 2013. The exact age of the dwelling is unknown to staff, but it appears to be largely unchanged since at least 1976.



The subject site was platted as Lot 16 and the north 15' of Lot 17, Hilding Beach in 1965. The attached survey shows the property to be 95.22' wide at the easterly property boundary / roadway and roughly 193' deep (174.04' at southern boundary and 213.23' at northern boundary). Because the property does not meet current lot area or lot width requirements, it's deemed legal non-conforming.

Topography of the subject site includes elevations ranging from 917' near the shoreline of Goose Lake to 928' in the extreme northeasterly corner adjacent to the township Right-of-Way, a few sparse trees, and no wetlands. While the westerly 40' – 50' of the site is located within a FEMA flood zone, none of the existing structures are located in the flood zone.

The existing amount of impervious surface coverage is shown on the attached survey to be 7.6% which is well below the maximum allowable amount of 25%.

The subject site is located within the County's Rural Residential I (RRI) District / Shoreland Management District as are other lakeshore properties to the north and south; and,

properties to the east are located within the County's Agricultural (AG) District / Shoreland Management District. Surrounding lakeshore properties appear to be similarly sized, whereas properties to the east are significantly larger as would be expected in the AG District. All surrounding properties have been developed for residential purposes.

PROPOSAL ANALYSIS

The attached application materials indicate that the property owner would like to remove the existing dwelling and redevelop the property with a new dwelling and attached garage. The main level of the proposed dwelling is reported by the applicant to be 1,478 sf with an 811 sf upper level and 760 sf attached three-stall garage.

Just as the existing dwelling meets all required setbacks except for the required 40' township Right-of-Way setback, the proposed dwelling is shown to meet all required setbacks except for the required township Right-of-Way setback. The existing dwelling is shown to be as close as 17.3' from township Right-of-Way, and the proposed dwelling is shown to further encroach on this required setback by being as close as 15' to Right-of-Way. This equates to a proposed 25' setback Variance.

Based on the RRI District classification and the size of the subject site, the maximum allowable amount of accessory storage space is 1,000 sf. As proposed – including the attached garage and two detached accessory structures – the site will feature 971 sf of accessory storage space. Staff doesn't have any concern with the total amount of accessory storage space. Staff notes that, based on the proposed impervious surface coverage calculation, it appears that the easterly detached accessory structure will be removed from the site. If this is the case, the proposed amount of accessory storage space would be reduced to 884 sf. Staff encourages this removal as it would remedy one existing non-conformity.

The proposed amount of impervious surface coverage is shown on the attached survey to be 20.5% which is well below the maximum allowable amount of 25%. However, staff notes that the survey also includes notations that the proposed retaining wall (also shown on the survey) is not included in this calculation and that the "driveways are shown for graphic purposes only". Because the property owner and applicant have not included a request to exceed the maximum allowable amount of impervious surface coverage in their Variance request, they will be required to keep the amount at or below 25%.

The existing septic system, which was deemed compliant by the Department of Environmental Services on April 30, 2024, was installed in 2000 and sized to accommodate four bedrooms. The attached building plans indicate that the proposed dwelling will include four bedrooms; therefore, the existing septic system is adequately sized.

The applicant has provided a written narrative to explain what they're hoping to accomplish through this Variance request. The narrative also explains that the "Variance is necessary to ensure proper grading / drainage, new well location and the use to the compliant septic

system currently in place”. Aside from providing this statement, the applicant has not provided any detail to explain grading / drainage concerns or the proposed location of the new well or detail on how this Variance request might satisfy the State mandated practical difficulty standard.

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

	RRI District / Shoreland Management District Standards	Proposed
Road Setback	40' to township Right-of-Way	15'
Ordinary High Water Level (OHWL) Setback	75' for structures; 50' for septic systems	Dwelling = approximately 20'; septic system = unknown
Side Yard Setback	10' for dwelling and attached garage	12' (north) and 28.8' (south)
Impervious Surface Coverage	25%	20.5%

REVIEW PROCESS

The Technical Review Committee considered the request on July 10, 2024 and did not identify any immediate concerns.

The Fish Lake Town Board considered the request on July 8, 2024 and recommended approval with no comments or conditions.

The State mandated 60-day review period will expire on September 1, 2024.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report; however, the applicant provided two letters of support as part of the application materials (see attached).

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;

Neither the property owner nor the applicant have provided an explanation of exceptional or extraordinary circumstances applying to the subject site; however, the applicant states that the "Variance is necessary to ensure proper grading / drainage, new well location and the use to the compliant septic system currently in place". While this explanation doesn't address the circumstance in question, staff would also offer that the subject site was platted in 1965, prior to the County's adoption of official land use controls, which constitutes pre-existing development. The subject site is smaller in area and width than required by current standards and 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 property owner of rights commonly enjoyed by other RRI District / Shoreland Management District properties. Platted properties located in the RRI District / Shoreland Management District have the right to be developed with dwellings and the subject site has been developed with a dwelling. Further, even as a non-conforming structure, the property owner has a statutory right to continue the non-conformity through repair, restoration, maintenance, and even replacement, so long as the non-conformity is not expanded.

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 owner or any previous owners under the current Zoning and Shoreland Management Ordinances. The subject site was platted in 1965 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 RRI 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;

Based on the application materials provided, staff is uncertain if the property owner and applicant have requested the minimum Variance needed. While the subject site has enough depth to allow the dwelling to be shifted westerly to reduce the encroachment on the township Right-of-Way setback while still complying with the required OHWL setback, staff notes that the existing septic system is located between the 75' OHWL

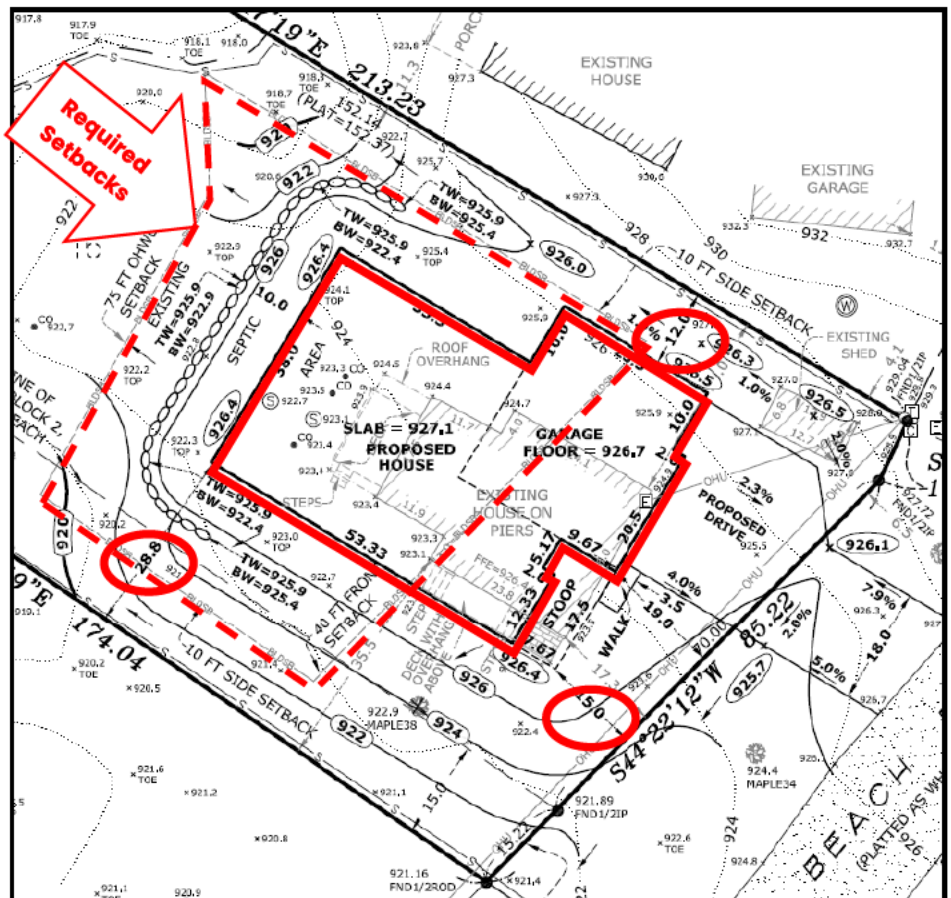
setback and the existing / proposed dwelling, and it seems reasonable to utilize an existing compliant septic system. However, the site plan / survey doesn't provide enough detail for staff to understand the exact location / boundaries of the existing septic system and the setback between the septic system and the proposed dwelling.

Additionally, the Board could question whether the property owner and applicant have considered reducing the size or redesigning the layout of the proposed dwelling in an effort to maintain or even improve the existing non-conforming township Right-of-Way setback. Staff notes that the proposed side yard setbacks exceed the required 10' and this area could be utilized to reduce the requested township Right-of-Way setback.

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 does believe that the subject site is unique in that it constitutes pre-existing development and that the proposed dwelling will not alter the essential character of the neighborhood given that some neighboring properties have been improved with year-round dwellings and the proposed dwelling isn't out of scale with these other dwellings; however, staff questions the reasonableness of the request and is concerned with the proposed exacerbation of the township Right-of-Way setback

encroachment. More specifically, staff believes that it would be reasonable and possible to slightly reduce the size of the dwelling or redesign the layout of the dwelling in an effort to maintain or even improve the existing township Right-of-Way setback encroachment. Making an effort to comply with the required township Right-of-Way setback as much as possible would demonstrate an effort



to uphold the purposes of the Zoning Ordinance.

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

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

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

While the westerly 40' – 50'± of the subject site are located in the flood district, all existing and proposed structures 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 application materials indicate that the proposed dwelling and attached garage will be situated 12' from the northerly property boundary and 28.8' from the southerly property boundary (side yards) where the required setbacks are 10', bordered by a public roadway along the eastern property boundary and bordered by a public body of water along the western property boundary. The County finds that the proposed dwelling will be sufficiently distanced from neighboring properties to the north and south, where there is greatest potential for impact, so as not to impair an adequate supply of light and air to adjacent properties.</i> |
| Criteria #2 | The proposed action will not unreasonably increase the congestion in the public right-of-way; |

- Finding #2 The proposed action will not change or intensify the principal use of the subject site. Therefore, the County finds that the proposed action 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 Fish Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on Beach Road or surrounding township roadways.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;
- Finding #3 The property owner will be required to obtain a building permit prior to construction of the proposed dwelling and attached garage 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 two detached accessory structures. The proposed action will not change how the property is being used and the proposed dwelling with attached garage 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 proposed action 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 action will not change or intensify the principal use of the subject site; therefore, the County finds that the proposed action 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 action 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 As it relates to this specific request, the intent of Zoning Ordinance Section 5.15 is to establish the minimum required setback for all structures in relation to the township Right-of-Way. While the existing dwelling is considered non-conforming in that it's situated approximately 17.3' from township Right-of-*

Way where the required setback is 40', it's assumed that the dwelling was constructed prior to the County's adoption of official land use controls and is therefore considered to be legal non-conforming. The property owner has a statutory right to continue the non-conformity through repair, restoration, maintenance, and even replacement, so long as the non-conformity is not expanded. However, given that the proposed action includes removal / demolition of the existing non-conforming dwelling and construction of a new dwelling, Minnesota Statute and the Chisago County Zoning Ordinance require that the new dwelling comply with all required setbacks unless a Variance is requested and said Variance 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 RRI District / Shoreland Management District and, while the proposed dwelling will exacerbate the existing township Right-of-Way setback encroachment, the proposed dwelling will not create any new non-conformities; that the subject site is unique in that it was platted prior to the County's adoption of official land use controls and is deemed substandard; and, that the proposed dwelling with attached garage fits the essential character of the subject site and surrounding residential lakeshore neighborhood.

STAFF RECOMMENDATION

While staff does believe that the property owner and applicant have the ability to slightly reduce the size of the dwelling and/or redesign the layout of the dwelling in an effort to maintain or even improve the existing township Right-of-Way setback encroachment, staff also recognizes that the requested Variance is consistent with past Variances granted by the Board. Therefore, 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 25' Variance to the township Right-of-Way setback requirement allowing the proposed dwelling with attached garage to be located no closer than 15' from the Right-of-Way boundary. The dwelling with attached garage shall comply with all other required setbacks.
2. The overall amount of impervious surface coverage shall not exceed 25%.
3. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage 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.

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 September 1, 2024, allowing the Board to continue its review at the August 29, 2024 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0701, a resolution approving a Variance allowing a reduced township Right-of-Way setback on property located at 46350 Beach Road in Fish Lake Township, as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plan / survey with impervious surface calculations
 - d. Building plans
 - e. Letter of support – Spencer Richards
 - f. Letter of support – Keith & Sheila Berkley
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0701



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 24-1186

Township Fish Lake S/T/R 10/34/22 PID# 03-01181-00

Project Address 46350 Beach Road Harris MN 55032

Property Owner(s) Beth Tatur

Mailing Address (If Different from Project Address) 46350 Cedarcrest Trl Harris MN 55032

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Level Contracting, LLC - Monty Jensen Manager

Mailing Address (If Different from Project Address) 2062 Ni Gie Trl NW Cass Lake MN 56303

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) 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

7/1/2024
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>7-1-24</u>
Recording Fee	\$ <u>46</u>	Application Complete	<u>7-3-24</u>
Plat Fee -- No Road(s) / With Road(s)	\$ _____	60/120 Day Review Period	<u>9-1-24</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 Fish Lake S/T/R 10/36/22 PID# 03-01181-00

Project Address 46350 Beach Road Harris MN 55032

Property Owner(s) Reth Tatur

Mailing Address (If Different from Project Address) 46350 Cedarcrest Tol Harris MN 55032

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Level Contracting LLC - Monty Jensen Manager

Mailing Address (If Different from Project Address) 3062 Nigig Tol NW Cass Lake MN 56633

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) See Attached

[Signature]
Applicant Signature

7/1/2024
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 July 25, 2024

Date of Township Presentation July 8, 2024

Township Action Taken (Township Use Only)

- ☒ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

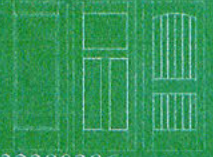
Signatures of Township Officials or Authorized Personnel

[Signature] [Signature] [Signature]



LEVEL
CONTRACTING, LLC

MN Lic# BC681914 WI Lic# DC-032200306



To: Chisago County Department of Environmental Services

July 1, 2024

The property owner of 46350 Beach Road, Harris, MN 55032 started the preliminary construction planning process with Level Contracting, LLC to remove the existing structure and to build a new year-round-home. During the initial septic compliance inspection and survey of the property it was discovered that the existing structure does not meet the building set back nor could a new structure reasonably meet building setbacks without a hardship variance.

Using the existing structure as a starting point, we are requesting an additional 1.5 feet variance from the front of the garage and 1.2 feet from the front of the stoop/porch from the existing structure. Once construction is finalized, the setback to the road right away would be 19 feet to the front of the garage and 15 feet to the stoop/porch at the nearest points to the road right away.

The hardship variance is necessary to ensure proper grading/drainage, new well location and the use of the compliant septic system currently in place (Septic System Passed Inspected 4/30/2024). The proposed project is nearly 1/5 under the 25% allowable impervious, it calculates at 20.5%. Additionally, the neighboring property owners have provided letters of support. Reference attached letters, septic compliance, and certificate of survey.

The new home will be built to Building Code, 2015 Energy Code and intended for year around occupancy. Level Contracting, LLC will apply for a building permit, manage the construction and variance if approved.

If you have any questions, feel free to contact Monty Jensen.

Sincerely,



Monty Jensen, Manager



CERTIFICATE OF SURVEY

~for~ LEVEL CONTRACTING
~of~ 46350 BEACH ROAD
HARRIS, MN 55032



NORTH

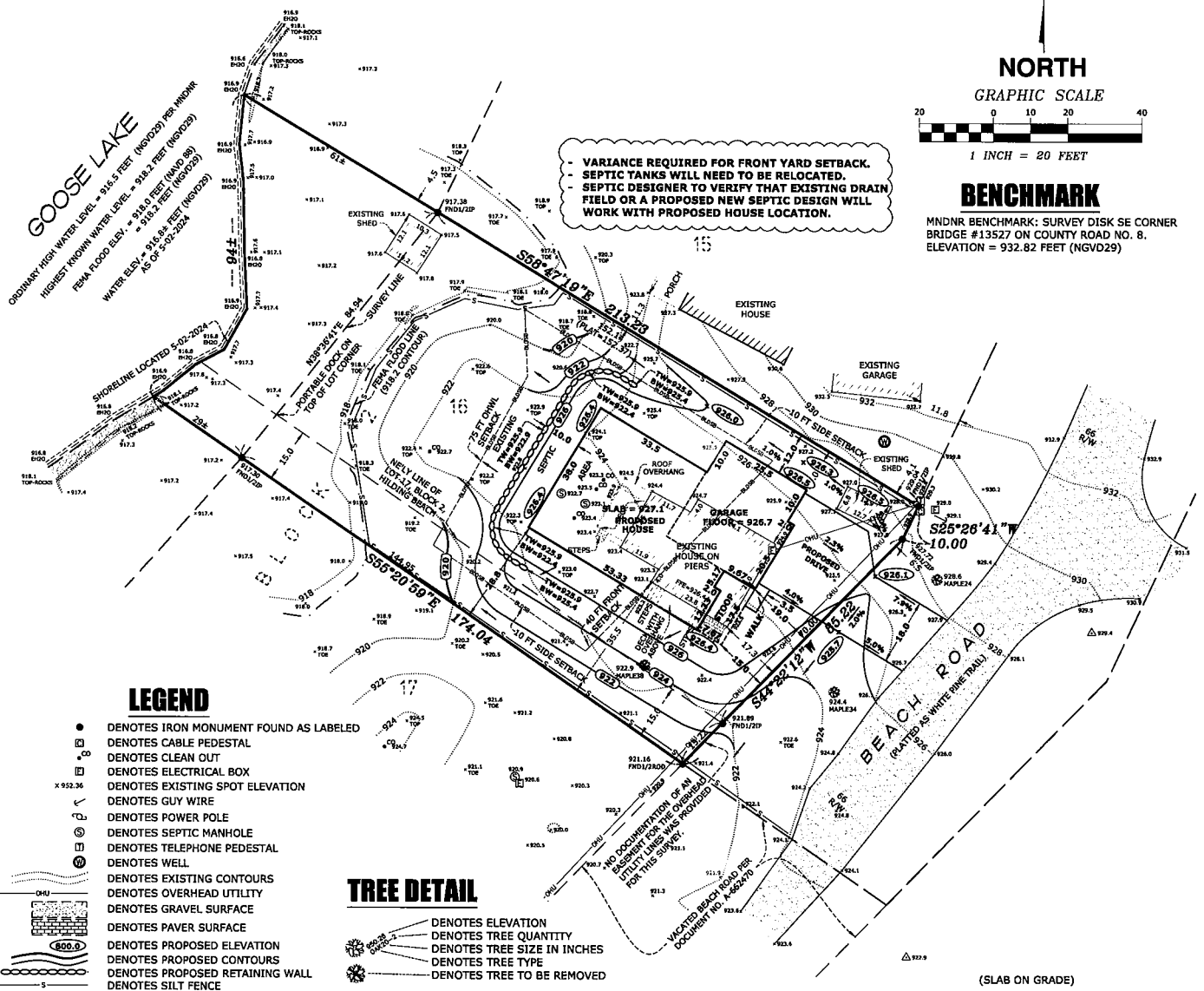
GRAPHIC SCALE



1 INCH = 20 FEET

BENCHMARK

MNDR BENCHMARK: SURVEY DISK SE CORNER
BRIDGE #13527 ON COUNTY ROAD NO. 8.
ELEVATION = 932.82 FEET (NGVD29)



LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES CABLE PEDESTAL
- DENOTES CLEAN OUT
- DENOTES ELECTRICAL BOX
- DENOTES EXISTING SPOT ELEVATION
- DENOTES GUY WIRE
- DENOTES POWER POLE
- DENOTES SEPTIC MANHOLE
- DENOTES TELEPHONE PEDESTAL
- DENOTES WELL
- DENOTES EXISTING CONTOURS
- DENOTES OVERHEAD UTILITY
- DENOTES GRAVEL SURFACE
- DENOTES PAVEMENT SURFACE
- DENOTES PROPOSED ELEVATION
- DENOTES PROPOSED CONTOURS
- DENOTES PROPOSED RETAINING WALL
- DENOTES SILT FENCE

TREE DETAIL

- DENOTES ELEVATION
- DENOTES TREE QUANTITY
- DENOTES TREE SIZE IN INCHES
- DENOTES TREE TYPE
- DENOTES TREE TO BE REMOVED

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 05-02-2024.
- Bearings shown are on Chicago County Coordinate System.
- Parcel ID Number: 03.01181.00.
- This survey was based on a Title Search Package provided by First American Title Insurance Company on 3-21-2024.
- Builder to verify house dimensions, sewer depth and foundation depth.
- Driveways are shown for graphic purposes only. Final driveway design and location to be determined by contractor.
- Finished grade adjacent to home shall be 0.5 feet below top of block except at driveway and patio.

ZONING AND SETBACKS

ZONING: RR-1 - RURAL RESIDENTIAL - 1

FRONT STREET 40 FEET
SIDE YARD 10 FEET
LAKE SIDE 75 FEET FROM OHWL
SEPTIC 20 FEET

MAXIMUM HEIGHT 35 FEET

PROPERTY DESCRIPTION

[PER CHISAGO COUNTY PERSONAL REPRESENTATIVE'S DEED
DOCUMENT NO. A-571717.]

Lot 16, Block 2, of Hilding Beach, Chisago County, Minnesota.

AND
The Northeasterly 15 feet of Lot 17, Block 2, of the recorded plat of Hilding Beach, Chisago County, Minnesota, as determined by a line drawn parallel with distance 15.00 feet southwesterly of the northeasterly line of said Lot 17.

Together with all hereditaments and appurtenances belonging thereto.

IMPERVIOUS SURFACE

TOTAL LOT AREA (ABOVE OHW)..... 16,335 S.F.

EXISTING HOUSE, GARAGE & ROOF OVERHANGS .. 1,011 S.F.
EXISTING SHEDS 211 S.F.
EXISTING PAVERS 24 S.F.
TOTAL EXISTING IMPERVIOUS SURFACE 1,246 S.F.
PERCENT EXISTING IMPERVIOUS 7.6%

PROPOSED HOUSE, GARAGE AND STOOP 2,573 S.F.
PROPOSED DRIVEWAY 622 S.F.
PROPOSED SIDEWALK 25 S.F.
EXISTING SHED BY LAKE 124 S.F.
TOTAL PROPOSED IMPERVIOUS SURFACE 3,344 S.F.
PERCENT PROPOSED IMPERVIOUS 20.5%

MAXIMUM ALLOWABLE IMPERVIOUS (25%) 4,084 S.F.

PROPOSED RETAINING WALL NOT INCLUDED IN IMPERVIOUS SURFACE
CALCULATIONS.

(SLAB ON GRADE)

PROPOSED ELEVATIONS

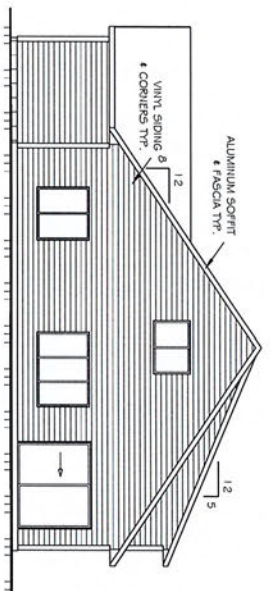
TOP OF BLOCK = 927.1
GARAGE FLOOR = 926.7
HOUSE FLOOR = 927.1

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

James E. Napier
JAMES E. NAPIER
Date: 6-28-2024 License No. 25343

DRAWN BY: JEN	JOB NO: 240266HS	DATE: 05/06/24
CHECK BY: JEN	FIELD CREW: JH - CB	
1	06/03/24	ADD PROPOSED HOUSE
2	06/28/24	ADD PROPOSED GRADING
3		
NO.	DATE	DESCRIPTION
BY		

E.G. RUD & SONS, INC.
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701

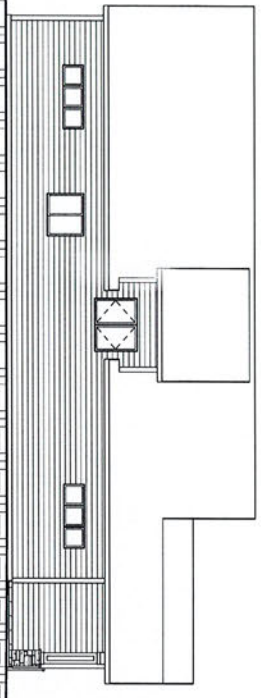


3 REAR ELEVATION
1/8" = 1'-0"

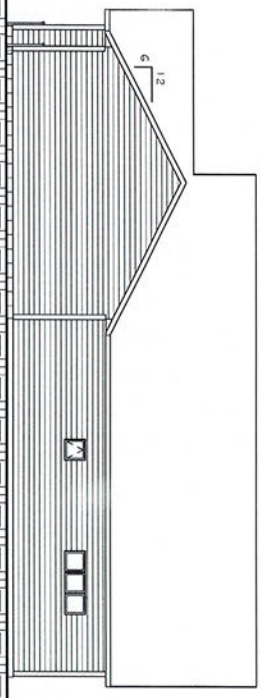
THE IDEAS, DESIGNS, DRAWINGS AND SPECIFICATIONS REPRESENTED HEREIN ARE AND SHALL REMAIN THE EXCLUSIVE COPYRIGHT PROPERTY OF NORTH HOUSE RESIDENTIAL DESIGN. NO PART THEREOF SHALL BE USED, COPIED, OR DISCLOSED IN CONNECTION WITH ANY WORK OR PROJECT OTHER THAN THE SPECIFIED PROJECT FOR WHICH THEY HAVE BEEN PREPARED WITHOUT THE WRITTEN CONSENT OF NORTH HOUSE RESIDENTIAL DESIGN.

THE PLANS FURNISHED HEREIN WERE PREPARED UPON REQUEST BY THE CLIENT AND ARE NOT TO BE USED FOR ANY OTHER PROJECTS, FOR STRUCTURAL OR DIMENSIONAL ERRORS OR OMISSIONS.

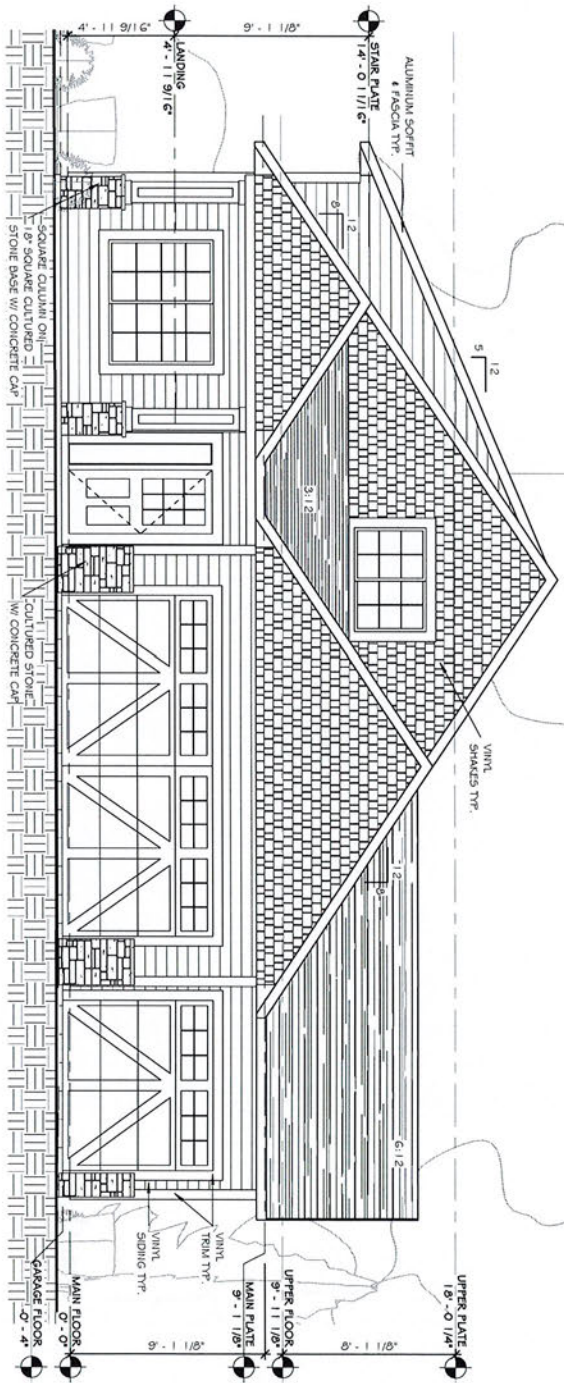
THE CONTRACTOR AND/OR OWNER MUST VERIFY AND CHECK ALL NOTES, DETAILS, ELEVATIONS, SECTIONS AND FLOOR PLANS AND NOTIFY NORTH HOUSE RESIDENTIAL DESIGN OF ANY ERRORS OR OMISSIONS PRIOR TO THE START OF CONSTRUCTION. NO WARRANTIES ARE EXPRESSED OR IMPLIED INCLUDING COMPLIANCE OF THIS PLAN WITH APPLICABLE BUILDING CODES AND REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND THE RESPONSIBILITY OF THE BUILDER, THE OWNER OR THE USER OF THESE PLANS.



4 LEFT ELEVATION
1/8" = 1'-0"



2 RIGHT ELEVATION
1/8" = 1'-0"



1 FRONT ELEVATION
1/4" = 1'-0"

- NOTES:
1. ELEVATIONS ARE AN ARTISTIC RENDERING ONLY. ACTUAL ELEVATIONS MAY VARY.
 2. ALL OVERHANGS TO BE 1'-6" UNLESS NOTED OTHERWISE.
 3. ALL RAKES TO BE 1'-0" UNLESS NOTED OTHERWISE.
 4. ALUMINUM SOFFIT & FASCIA ON ALL SIDES.
 5. VINYL SIDING FRONT AND OTHER 3 SIDES.
 6. WINDOWS TO BE ANDERSEN SILVERLINE

DRAWING DATE	4.25.18 CB
REVISION RECORD	
1	4.30.18 CB
2	5.1.18 CB
3	
4	
5	
6	
7	
8	
FINISHED SQ FT	
UPPER:	811
MAIN:	1478
LOWER:	
BONUS:	
TOTAL:	2289
PROJECT NUMBER	LEV022
SHEET	1 OF 6

JOB INFORMATION

LEVEL CONTRACTING

THE CASS

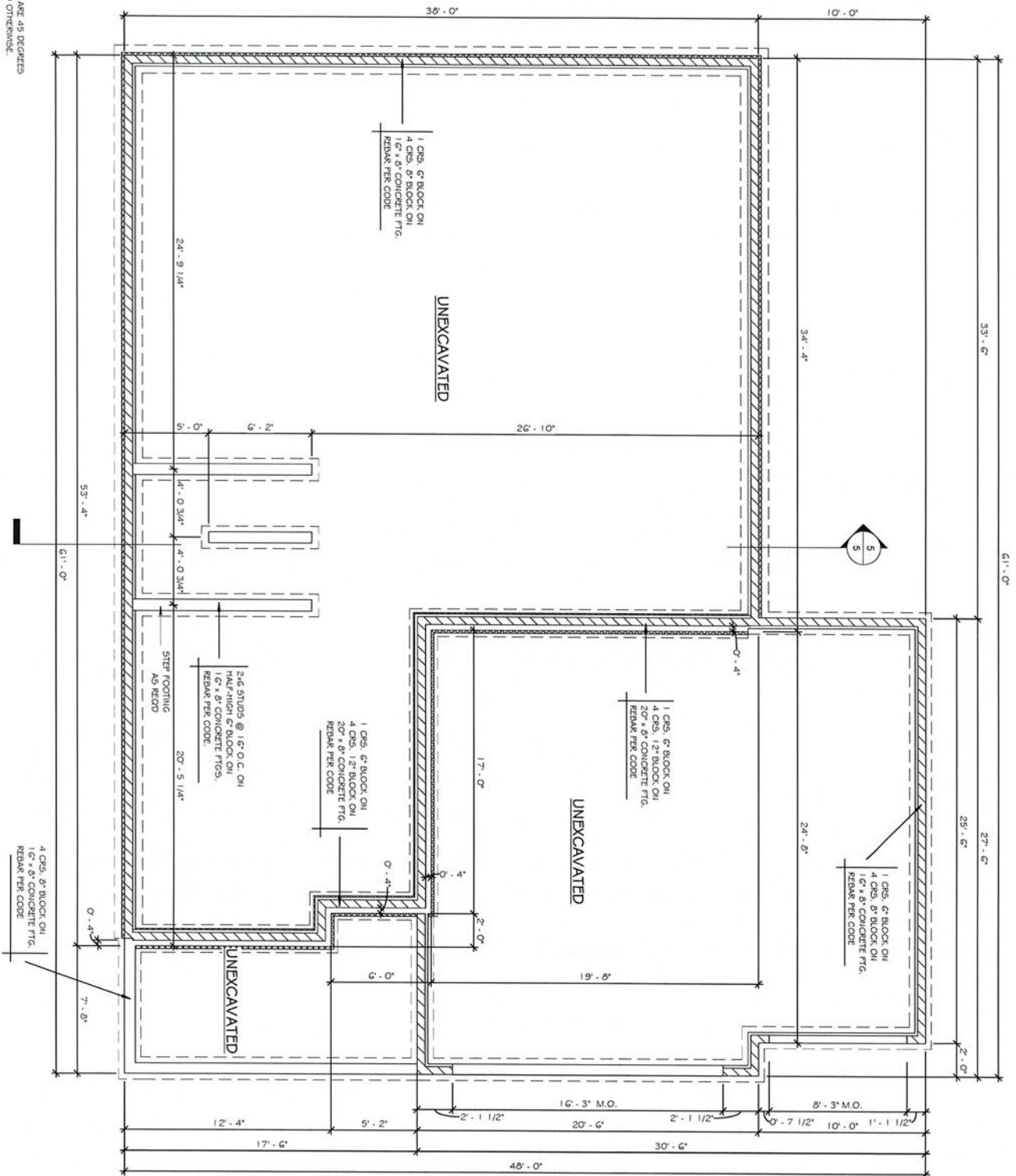
NORTH HOUSE
RESIDENTIAL DESIGN

PO BOX 391
2628 SHAWLEY ROAD
PHILIPPSBURG, NJ 08858
PH (215) 327-7582
NORTHHOUSE-RO.COM

10157 179th AVENUE NW
ELK RIVER, MN 55330
PH (218) 838-5008

- NOTES:
1. ALL ANGLES ARE 45 DEGREES UNLESS NOTED OTHERWISE.
 2. FOUNDATION WALLS TO BE 5 COURSE 8" CONCRETE BLOCK UNLESS NOTED OTHERWISE.
 3. ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF FOUNDATION.

1 FOUNDATION PLAN
2 1/4" = 1'-0"



JOB INFORMATION
LEVEL CONTRACTING
THE CASS

North House
RESIDENTIAL DESIGN
PO BOX 391
25326 SWILEY ROAD
NASSAU, WV 25568
PH (219) 838-5582
NORTHHOUSE-RO.COM

tc
10167 179th AVENUE NW
EDMONTON, ALBERTA
T5H 1Z1 (219) 838-5608

DRAWING DATE
4.25.18 CB

REVISION RECORD
1 4.30.18 CB

2 5.1.18 CB

3

4

5

6

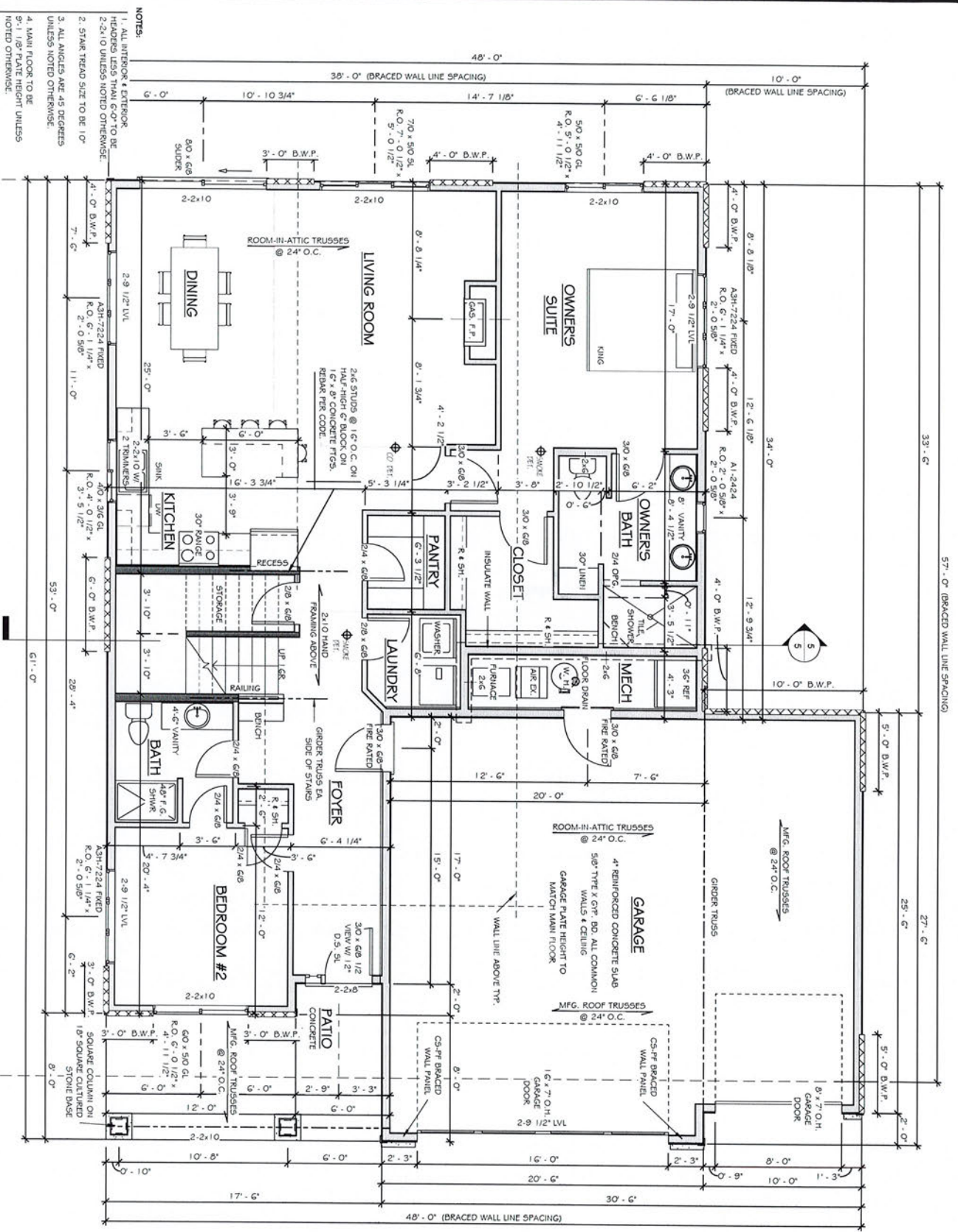
7

8

FINISHED SQ FT
UPPER: 811
MAIN: 1478
LOWER:
BONUS:
TOTAL: 2289

PROJECT NUMBER
LEV022

SHEET
2 OF 6



DRAWING DATE		4.25.18 CB
REVISION RECORD		4.30.18 CB
1	5.1.18 CB	
2		
3		
4		
5		
6		
7		
8		
FINISHED SQ FT		811
UPPER:		1478
MAIN:		
LOWER:		
BONUS:		
TOTAL:		2289

JOB INFORMATION

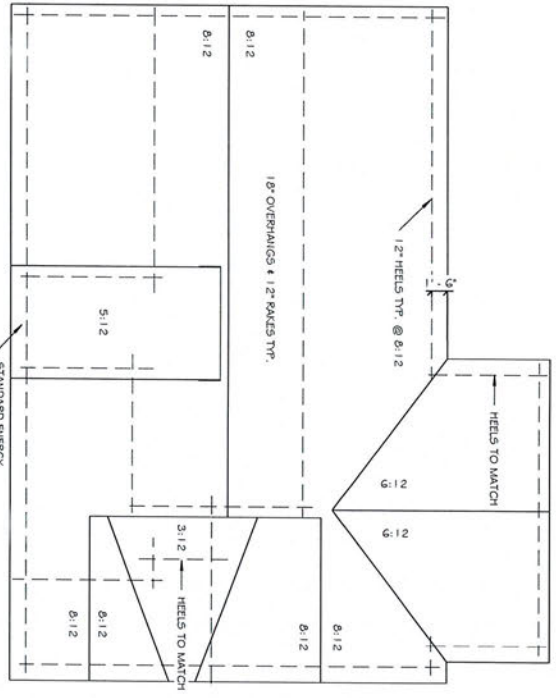
LEVEL CONTRACTING

THE CASS

North House
 RESIDENTIAL DESIGN

PO BOX 391
 25326 SMILEY ROAD
 NISSWA, WA 98488
 206.455.4550
 NORTHHOUSE-RO.COM

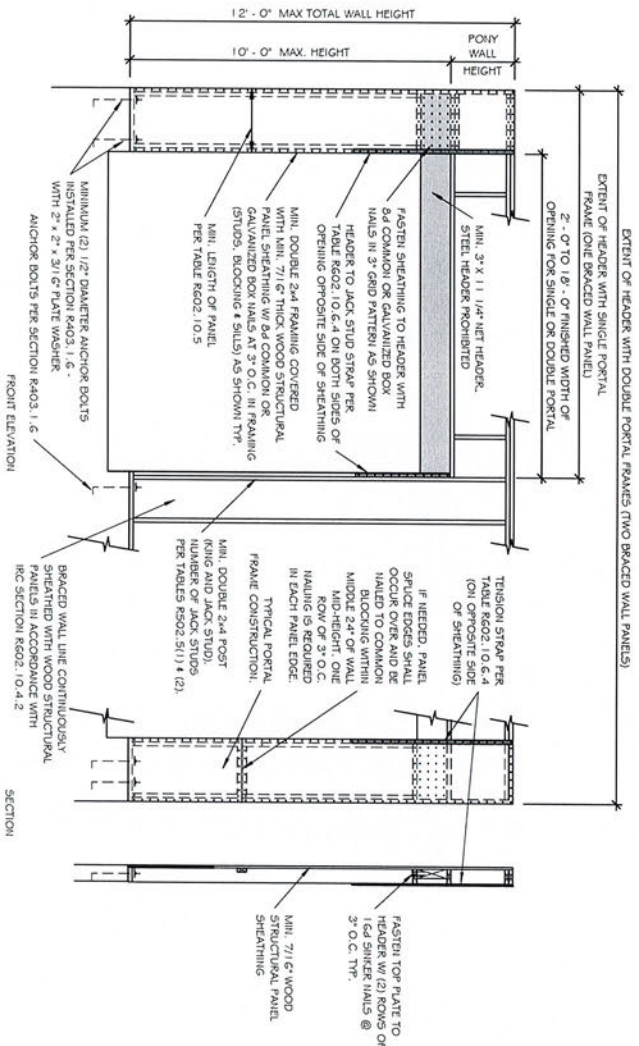
10167 179th AVENUE NW
 BLK RIVER APT 35330
 FH (206) 888-9608



1 ROOF PLAN
6 1/8" = 1'-0"

PASSIVE RADON SYSTEM:
3" MIN. ABS OR PVC GAS-TIGHT PIPE FROM SUBSLAB TO MIN. 12" ABOVE ROOF. MUST BE RUN THRU CONDITIONED SPACE.
PIPE CAN BE CONNECTED TO EXISTING RADON SYSTEM (IF ANY) IN GRAVEL UNDER SLAB.
END OF PIPE MUST BE MIN. 10'-0" AWAY FROM ANY WINDOW OR OTHER OPENING THAT IS LESS THAN 2'-0" BELOW END OF PIPE.
END OF PIPE MUST ALSO BE MIN. 10'-0" AWAY FROM ANY WINDOW OR OTHER OPENING IN ADJOINING OR ADJACENT BUILDINGS.

SUFFICIENT SPACE MUST BE LEFT AROUND PIPE IN ATTIC SPACE TO ADD RAIN. SPACE MUST BE MIN. 12" CENTRED ON AXIS OF PIPE IN MIN. 3'-0" VERTICAL SPACE.
A SINGLE PIPE CAN BE USED IF ALL SOIL GASES IN DWELLING CAN FLOW FREELY BETWEEN ALL LEVELS OF FOUNDATION. THIS INCLUDES INTERIOR FOOTINGS & OTHER BARRIERS IF AIRFLOW HAS BEEN ESTABLISHED.
LABEL THE VENT PIPE AT LEAST ONCE PER FLOOR AND IN ACCESSIBLE ATTICS WITH RADON REDUCTION SYSTEM.
ONE ELECTRICAL RECEPTACLE IS REQUIRED IN THE ATTIC NEAR THE VENT PIPE FOR GFI, FAN,



2 METHOD CS-PF
6 3/8" = 1'-0"

NORTH HOUSE
RESIDENTIAL DESIGN
PO BOX 391
25326 SVALEY ROAD
NISSWA, MN 56468
PH (218) 838-5569
NORTHHOUSE-RO.COM

LC
10167 19th AVENUE NW
ELK RIVER, MN 55330
PH (218) 838-5569

JOB INFORMATION
LEVEL CONTRACTING
THE CASS

DRAWING DATE
4.25.18 CB

REVISION RECORD
1 4.30.18 CB
2 5.1.18 CB
3
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8

FINISHED SQ FT
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PROJECT NUMBER
LEV022

SHEET
6 OF 6

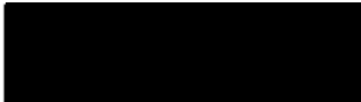
Chisago County,

I am in full support of Beth Tatur – (46350 Beach Rd – Harris, MN 55032) and her new build. I am in full support of all variances requests she may have. Future and present, same or similar footprint. If needed, please give me a call. Thank you for supporting my neighbor as she goes through with this new build.

Spencer Richards

46340 Beach Rd

Harris, MN 55032



To Whom it may Concern,

I am writing on behalf of Beth Tatur as she is looking to build a new home on her property. We are under the impression that she is requesting a variance for hits because the building will be close to the road.

We wanted to let you know that we are aware of her desire and are comfortable with her rebuilding her home with the same or similar footprint of the current building.

If you have any questions, please feel free to reach out to me at [REDACTED] or

[REDACTED]

Sincerely,

Keith and Sheila Berkley
46380 Beach Road
Harris, MN 55032

Beth Tatur and Level Contracting, LLC – Property owner Beth Tatur and applicant Level Contracting, LLC are requesting a Variance allowing a reduced setback from township Right-of-Way for a new dwelling in the Rural Residential I (RRI) District / Shoreland Management District. The .39± acre subject site is located at 46350 Beach Road in Fish Lake Township, S10, T36, R22 (PID 03.01181.00).



Beth Tatur and Level Contracting, LLC – Property owner Beth Tatur and applicant Level Contracting, LLC are requesting a Variance allowing a reduced setback from township Right-of-Way for a new dwelling in the Rural Residential I (RR1) District / Shoreland Management District. The .39± acre subject site is located at 46350 Beach Road in Fish Lake Township, S10, T36, R22 (PID 03.01181.00).



RESOLUTION NO. BOAA2024-0701
A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING A REDUCED TOWNSHIP RIGHT-OF-WAY
SETBACK ON PROPERTY LOCATED AT 46350 BEACH ROAD IN FISH LAKE TOWNSHIP

WHEREAS, property owner Beth Tatur and applicant Level Contracting, LLC submitted an application dated received July 1, 2024 and considered complete on July 3, 2024 for a Variance to Zoning Ordinance Section 5.15; and

WHEREAS, the property owner and applicant wish to demolish or otherwise remove the existing non-conforming dwelling and construct a new dwelling with attached garage closer to the township Right-of-Way than allowed by the Zoning Ordinance; and

WHEREAS, the .39-acre subject site is located in the Rural Residential I (RRI) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 03.01181.00

Lot 16, Block 2, of Hilding Beach, Chisago County, Minnesota.
AND

The Northeasterly 15 feet of Lot 17, Block 2, of the recorded plat of Hilding Beach, Chisago County, Minnesota, as determined by a line drawn parallel with distance 15.00 feet southwesterly of the northeasterly line of said Lot 17.

Together with all hereditaments and appurtenances belong thereto.

WHEREAS, notice was provided and on July 25, 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 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 application materials indicate that the proposed dwelling and attached garage will be situated 12' from the northerly property boundary and 28.8' from the southerly property boundary (side yards) where the required setbacks are 10', bordered by a public roadway along the eastern property boundary and bordered by a public body of water along the western property boundary. The County finds that the proposed dwelling will be sufficiently</i> |

distanced from neighboring properties to the north and south, where there is greatest potential for impact, so as not to impair an adequate supply of light and air to adjacent properties.

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

Finding #2 *The proposed action will not change or intensify the principal use of the subject site. Therefore, the County finds that the proposed action 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 Fish Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on Beach Road or surrounding township roadways.*

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

Finding #3 *The property owner will be required to obtain a building permit prior to construction of the proposed dwelling and attached garage 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 two detached accessory structures. The proposed action will not change how the property is being used and the proposed dwelling with attached garage 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 proposed action 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 action will not change or intensify the principal use of the subject site; therefore, the County finds that the proposed action 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 action 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 *As it relates to this specific request, the intent of Zoning Ordinance Section 5.15 is to establish the minimum required setback for all structures in relation to the township Right-of-Way. While the existing dwelling is considered non-conforming in that it's situated approximately 17.3' from township Right-of-Way where the required setback is 40', it's assumed that the dwelling was constructed prior to the County's adoption of official land use controls and is therefore considered to be legal non-conforming. The property owner has a statutory right to continue the non-conformity through repair, restoration, maintenance, and even replacement, so long as the non-conformity is not expanded. However, given that the proposed action includes removal / demolition of the existing non-conforming dwelling and construction of a new dwelling, Minnesota Statute and the Chisago County Zoning Ordinance require that the new dwelling comply with all required setbacks unless a Variance is requested and said Variance 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 RRI District / Shoreland Management District and, while the proposed dwelling will exacerbate the existing township Right-of-Way setback encroachment, the proposed dwelling will not create any new non-conformities; that the subject site is unique in that it was platted prior to the County's adoption of official land use controls and is deemed substandard; and, that the proposed dwelling with attached garage fits 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 25' Variance to the township Right-of-Way setback requirement allowing the proposed dwelling with attached garage to be located no closer than 15' from the Right-of-Way boundary. The dwelling with attached garage shall comply with all other required setbacks.
2. The overall amount of impervious surface coverage shall not exceed 25%.
3. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage 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.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 25th day of July, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator