



**AGENDA  
PLANNING COMMISSION OF THE  
CITY OF WHITE BEAR LAKE, MINNESOTA  
MONDAY, JANUARY 29, 2024  
7:00 P.M. IN THE CITY HALL COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ATTENDANCE**

**2. APPROVAL OF AGENDA**

**3. APPROVAL OF THE MINUTES**

A. Minutes of the Planning Commission meeting on November 27, 2023

**4. PUBLIC HEARING**

- A. **Case No. 24-1-CUP:** A request by **Dustin and Annie Carlson and Jeff Plaisted** for a conditional use permit for a third curb cut, per code section 1302.050, Subd.4.h.9, at the property located at 2505 Lake Avenue.
- B. **Case No. 24-2-V:** A request by **Dean Hedlund** for a variance from the 120 square foot maximum allowed for a second accessory structure, per section code 1302.030, Subd.4.i.2.b, in order to construct a shed in the rear yard of the property located at 4728 Stewart Avenue.
- C. **Case No. 24-3-V:** A request by **Charles Reese** for a variance from the 5 foot side yard setback per code section 1302.030, Subd.4.e, in order to retain a 120 square foot storage shed at the property located at 2563 Elm Drive.
- D. **Case No. 24-4-V:** A request by **Ken Macdonald** for two variances from the 15 foot side yard setback, per code section 1303.040, Subd.5.c.2, in order to construct a two story home at the property located at 4556 Highway 61.

**5. DISCUSSION ITEMS**

- A. Election of Officers
- B. City Council Meeting Overview
- C. Zoning Update Community Advisory Committee Meeting Overview

**6. ADJOURNMENT**

Next Regular City Council Meeting ..... February 13, 2024  
 Next Regular Planning Commission Meeting ..... February 26, 2024  
 Next Zoning Update Community Advisory Committee ..... February 7, 2024



**MINUTES  
PLANNING COMMISSION MEETING  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
MONDAY, NOVEMBER 27, 2023  
7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ATTENDANCE**

**MEMBERS PRESENT:** Mark Lynch, Mike Amundsen, Andrea West, Ken Baltzer, Scott Bill  
**MEMBERS ABSENT:** Pam Enz, Jim Berry  
**STAFF PRESENT:** Jason Lindahl, Community Development Director; Ashton Miller, City Planner; Shea Lawrence, Planning Technician  
**OTHERS PRESENT:** none

**2. APPROVAL OF AGENDA**

It was moved by Member **Baltzer** and seconded by Member **Lynch** to approve the agenda as presented.

Motion carried, 5:0.

**3. APPROVAL OF THE MINUTES**

A. Minutes of October 30, 2023

It was moved by Member **Bill** and seconded by Member **West** to approve the minutes of October 30, 2023.

Motion carried, 5:0.

**4. CASE ITEMS**

A. **Case No. 23-28-Z:** A City-initiated text amendment to Zoning Code section 1301.040 to allow passage of proposed amendments by a majority vote of the City Council.

Shea Lawrence, Planning Technician, discussed the case. Staff recommended approval of the City Initiated text amendment.

Member Amundsen asked if the city attorney recommended the change based on any recent activity or pushback. Community Development Director Lindahl provided a brief history on state statute as it compared to the city charter. He explained that when state statute required a four-fifths vote, it was acceptable that the zoning code did not align with the city charter, but since state statute has been amended to eliminate the super majority requirement, the zoning code must be updated to align with the city charter.

Lindahl emphasized that this is a house keeping item that came up as a result of the city's overall zoning code update. It was the city attorney's opinion that this item should not wait for the completion of the zoning code update, which is why staff has brought it forward as a standalone amendment.

Member Amundsen opened the public hearing. As there was nobody in the audience, Member Amundsen closed the public hearing.

It was moved by Member **Bill** to approve Case No. 23-28-Z, seconded by Member **Baltzer**.

Motion carried, 5:0

## 5. DISCUSSION ITEMS

### A. City Council Meeting Update

Lindahl provided an overview of the previous City Council meeting, which included approval of the Gun Club conditional use permit. City Council also heard presentations on the progress of the Downtown Mobility and Parking Study and the Housing Community Survey that was completed over the summer and fall. Lindahl also updated the Planning Commission on upcoming meetings for City Council, Planning Commission and the Zoning Code update.

Lindahl extended congratulations to Member West who recently won the open City Council election seat.

## 6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer** seconded by Member **West** to adjourn the meeting at 7:17 p.m. Motion carried 5:0.



**City of White Bear Lake**  
Community Development Department

# MEMORANDUM

**TO:** The Planning Commission  
**FROM:** Shea Lawrence, Planning Technician  
**DATE:** January 29, 2024  
**SUBJECT:** Case No. 24-1-CUP - Carlson Conditional Use Permit, 3<sup>rd</sup> Curb Cut, 2505 Lake Avenue

## SUMMARY

The applicants, Annie & Dustin Carlson and Jeff Plaisted are requesting a conditional use permit (CUP) for a third curb cut, per code section 1302.050, Subd. 4.h.9, at the property located at 2505 Lake Avenue. Based on the findings made in this report, staff finds the standards for conditional use permits laid out in City Code Section 1302.140 have not been met and recommends denial of the request.

## GENERAL INFORMATION

Applicant / Owner: Annie and Dustin Carlson and Jeff Plaisted  
 Existing Land Use / Zoning: Single Unit Dwelling / R-2: Single Family Residential and Shoreland Overlay  
 Surrounding Land Use / Zoning: North: R-3 Single Family Residential and Shoreland Overlay  
 East and West: R-2 Single Family Residential and Shoreland Overlay  
 South: White Bear Lake  
 Comprehensive Plan: Low Density Residential  
 Lot Size & Width: Code: R-2 Single Family Residential: 15,000 sq. ft., 100 ft. wide  
 Existing Site: 61,000 sq. ft., 220 ft. wide  
 60 Day Review Date: February 25, 2024.

## BACKGROUND

The subject property is a double frontage lot located between Stillwater Street to the north and Lake Avenue to the south. The property is also tied to land on the south side of Lake Avenue that fronts onto White Bear Lake. According to Ramsey County property records, the house was originally built in 1941.



In June of 2022, the homeowners received approvals for several variances and a conditional use permit. The homeowners received approvals to build an addition to their home including the addition of a two car attached garage and expanding the existing garage from four to five stalls for a total of 7 garage parking spaces on the site. Additionally, the homeowners received approval for a CUP for an accessory dwelling unit to be located above the detached garage.

After receiving land use approvals for the addition, expanded garage and accessory dwelling unit, the applicant applied for a building permit in August 22, 2022. It should be noted that neither the plans submitted for the land use approvals or the building permit included a garage door facing Stillwater or an additional curb cut and driveway. Had the applicant requested the garage door, curb cut and driveway as part of the CUP for the ADU, that would have likely been denied as it is expressly prohibited by the ADU standards. In this case, Zoning Code Section 1302.125 Subd 4.g. states a separate curb cut and driveway for an ADU is not permitted.

The property is considered legal non-conforming with two curb cuts—one curb cut is located off of Stillwater Street and the other off of Lake Avenue/Highway 96. According to Ramsey County GIS aerial photos, the two curb cuts have existed on the property since before 1985 and therefore is legal non-conforming with two curb cuts. The homeowners have since cut a new section of curb on Stillwater Street for an additional driveway before seeking the proper City approvals. The applicants are now seeking approval for a third curb cut located off of Stillwater Street for an additional driveway that directly accesses the detached garage/ADU and provides additional parking for the ADU.

The applicants have submitted a narrative describing their request (see attached). In it they support the need for a third curb cut based on the following:

- Additional parking for the ADU and drive through access for boat trailers
- The large 1.6 acre lot could theoretically be spilt into four separate lots with four curb cuts
- The two curb cuts are further apart than the curb cuts in many neighborhoods that have only 50 foot wide lots
- Two smaller driveways located off Stillwater Street is more aesthetically pleasing than one wide driveway
- Traffic is minimal on Stillwater, so the curb cut won't have a negative impact to traffic
- There is not a high demand for street parking on Stillwater Street, so the curb cut will not negatively impact parking availability

Community Comment. Under state law and the City's zoning regulations, conditional use permit applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to adjacent property owners within at least 350 feet of the subject property. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. As of the writing of this report, City staff have not received any comments. During the public hearing,

staff will provide an update if any other public comments are received prior to the Planning Commission meeting.

### **ANALYSIS**

Conditional Use Permit Review. City review authority for conditional use permits are considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the applicable review standards. The city's role is limited to applying the review standards to the facts presented by the application. Generally, if the application meets the review standards, it should be approved. The standards for reviewing conditional use permits are detailed in City Code Section 1301.050.

According to City Code Section 1301.050, the City shall consider possible adverse effects of a proposed conditional use. This review shall be based upon (but not limited to) the factors listed below. Based on the findings made in this review, staff recommends denial of the requested conditional use permit.

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Land Use Plan and all other plans and controls.

**Finding:** The proposed third curb cut is inconsistent with the land use and transportation policies and provisions of the Comprehensive Plan.

**Land Use:** The 2040 Comprehensive Plan Future Land Use Map guides the subject property Low Density Residential. The Comprehensive Plan characterizes the Low Density Residential designation with typical housing types being "single family detached and attached when within the density range." The property does contain a single family home on the property and an ADU. While these uses are consistent with the Future Land Use designation in the Comprehensive Plan, a separate curb cut and driveway for the ADU is expressly prohibited and therefore inconsistent with the Comprehensive Plan.

**Transportation.** One of the guiding principles in the Transportation section of the Comprehensive plan states "Roadway improvements will provide a safe, efficient means of moving people and goods through the City by planning and implementing projects that meet the travel demands of all modes of transportation."

As mentioned above, the subject property is a legal non-conforming double frontage lot with two existing curb cuts, one with access to Lake Avenue (Highway 96) and the other with access to Stillwater Street. The Comprehensive Plan designates Lake Avenue as an Arterial Road while Stillwater Street is considered a Local Road. The Comprehensive Plan provides access management recommendations and states the following:

Proper access management is a key component of providing a roadway system that effectively balances mobility and access needs. Access management concerns the number of roadways

and/or driveways that can directly access a given roadway, as well as facility design at the access points. Arterial roadways, which primarily serve a mobility function, can only have limited access to not disrupt the flow of traffic and not create safety concerns. At the other end of the spectrum, the primary function of local streets is to provide access to local land uses, so there are fewer access restrictions on these roadways. However, there are important considerations regarding access on local streets as well. Collector roadways are between arterials and local streets in terms of access allowed, since they serve a relatively even balance of the mobility and access functions.

Numerous studies have demonstrated the safety and operational benefits of managing access in an appropriate manner. The government agency which has jurisdiction over a given roadway determines the applicable access management guidelines for that facility. MnDOT has access management guidelines that apply to Highways, such as TH 96 E (Lake Ave). Similarly, Ramsey County's access management policies apply to County roadways within White Bear Lake. County roadways make up a substantial portion of the arterial roadway network serving the City. Access management is also important for roadways under White Bear Lake's jurisdiction. The City of White Bear Lake does not have access management guidelines for city streets. The City evaluates new and modified accesses to its city streets through a permitting process on a case-by-case basis. In this case, the Engineering Department reviewed this case and does not support a third curb cut access from the subject property to Stillwater Street.

2. The proposed use is or will be compatible with present and future land uses of the area.

**Finding:** The proposed addition of a third curb cut is not compatible with present and future land uses of the area. Per the City's zoning code, single family properties are permitted one curb cut. The subject property currently exceeds that with two curb cuts. The addition of a third would be inconsistent with the single family land use category. Additionally, the property is one of six double frontage properties located between Stillwater Street and Lake Avenue. None of these six properties have more than two curb cuts, therefore approving a third curb cut for this property would be inconsistent with the present and future land uses of the area.

3. The proposed use conforms with all performance standards contained herein.

**Finding:** The proposed third curb cut does not conform with the performance standards for the R-2 zoning district or the specific standards for accessory dwelling units. The proposed curb cut and driveway leads directly to the ADU. As stated in the applicant's narrative, the intent with the driveway is for parking for those residing in the ADU. Per zoning code section 1302.125 Subd 4.g. "no separate driveway or curb cut shall be permitted for the accessory apartment unit." Adding a curb cut and driveway leading directly to the ADU would be contradictory to the code's intent to keep the ADU accessory in nature. Additionally, the existing driveway already provides access to the garage space intended for the ADU and is sizeable enough for additional parking.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

**Finding:** Staff finds that the addition of a third curb cut would be uncharacteristic of the neighborhood, therefore the proposed use could tend to depreciate the area. The City has invested in curb and gutter along the street and permitting more and more curb cuts depreciates the overall neighborhood.

5. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

**Finding:** According to the applicant's plans and a city inspection, the applicant has removed a section of the curb along Stillwater Street and begun to frame-up the proposed third curb cut and driveway without city approval. According to the Engineering department, this change to the curb and road surface within the city right-of-way has the potential to damage the City's snowplowing equipment which could create a burden on the city's snow plowing service capacity.

6. Traffic generation by the proposed use is within capabilities of streets serving the property.

**Finding:** While the addition of third curb cut is not likely to greatly increase the traffic to the property, the addition of a third curb cut creates an additional point of intersection with the city street. Each additional intersection with the street creates potential for safety issues for pedestrians and motorists.

#### **RECOMMENDATION**

Staff recommends denial of a conditional use permit to allow a third curb cut for the property located at 3505 Lake Avenue based on the following findings and determinations:

1. The applicant has started work to install a third curb cut on the subject property without land use or building department approvals.
2. The proposed third curb cut to the accessory dwelling unit was not part of the approved plans for this site.
3. Zoning Code Section 1302.125 Subd 4.g. for accessory dwelling units states "no separate driveway or curb cut shall be permitted for the accessory apartment unit."
4. The proposed third curb cut is inconsistent with the land use and transportation section of the Comprehensive Plan.
5. The proposed third curb cut is incompatible with character of the surrounding present and future land uses.
6. The proposed third curb cut does not conform to the performance standards for access to accessory dwelling units as stated in Zoning Code Section 1302.125, Subd. 4.g.
7. The proposed third curb cut could tend to depreciate the surrounding neighborhood.
8. The proposed third curb cut within the city right-of-way has the potential to damage the City's snowplowing equipment which could create a burden on the city's snow plowing service capacity.

**ATTACHMENTS**

Resolution

Zoning/Location Map

Applicant's Narrative & Plans

**RESOLUTION NO.**

**RESOLUTION DENYING A CONDITIONAL USE PERMIT FOR A THIRD CURB CUT AT  
2505 LAKE AVENUE WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, Annie & Dustin Carlson and Jeff Plaisted have requested a conditional use permit (CUP) for a third curb cut, per code section 1302.050, Subd. 4.h.9, at the property located at following location:

**LOCATION:** 2505 Lake Avenue

**LEGAL DESCRIPTION:** THAT PART OF THE SOUTH HALF OF SECTION 12, TOWNSHIP 30 RANGE 22 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH LINE OF STILLWATER STREET IN WHITE BEAR BEACH WHERE THE SAME IS INTERSECTED BY THE CENTERLINE OF CENTRAL AVENUE AS THE SAME EXISTED BEFORE ITS VACATION: THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF CENTRAL AVENUE IN A STRAIGHT LINE TO THE NORTHWESTERLY LINE OF THE BOULEVARD N/K/A TRUNK HIGHWAY 96: THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF SAID BOULEVARD, A DISTANCE OF 210 FEET; THENCE IN A NORTHERLY DIRECTION TO A POINT ON THE SOUTH LINE OF STILLWATER STREET A DISTANCE OF 220 FEET WEST OF THE POINT WHERE STILLWATER STREET INTERSECTS WITH THE CENTER LINE OF CENTRAL AVENUE AS THE SAME EXISTS BEFORE ITS VACATION; THENCE EASTERLY ALONG THE SOUTH LINE OF STILLWATER STREET TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS OF RECORD.

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on January 29, 2024; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed conditional use permit upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The applicant has started work to install a third curb cut on the subject property without land use or building department approvals.
2. The proposed third curb cut to the accessory dwelling unit was not part of the approved plans for this site.
3. Zoning Code Section 1302.125 Subd 4.g. for accessory dwelling units states “no separate driveway or curb cut shall be permitted for the accessory apartment unit.”

**RESOLUTION NO.**

4. The proposed third curb cut is inconsistent with the land use and transportation section of the Comprehensive Plan.
5. The proposed third curb cut is incompatible with character of the surrounding present and future land uses.
6. The proposed third curb cut does not conform to the performance standards for access to accessory dwelling units as stated in Zoning Code Section 1302.125, Subd. 4.g.
7. The proposed third curb cut could tend to depreciate the surrounding neighborhood.
8. The proposed third curb cut within the city right-of-way has the potential to damage the City's snowplowing equipment which could create a burden on the city's snow plowing service capacity.

**NOW, THEREFORE, BE IT FINALLY RESOLVED**, that the City Council of the City of White Bear Lake, Minnesota that, based on the Staff Report, the Planning Commission's recommendation, the findings contained herein, and the record of this matter, the requested conditional use permit is hereby denied.

The foregoing resolution, offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_, was declared carried on the following vote:

Ayes:  
Nays:  
Passed:

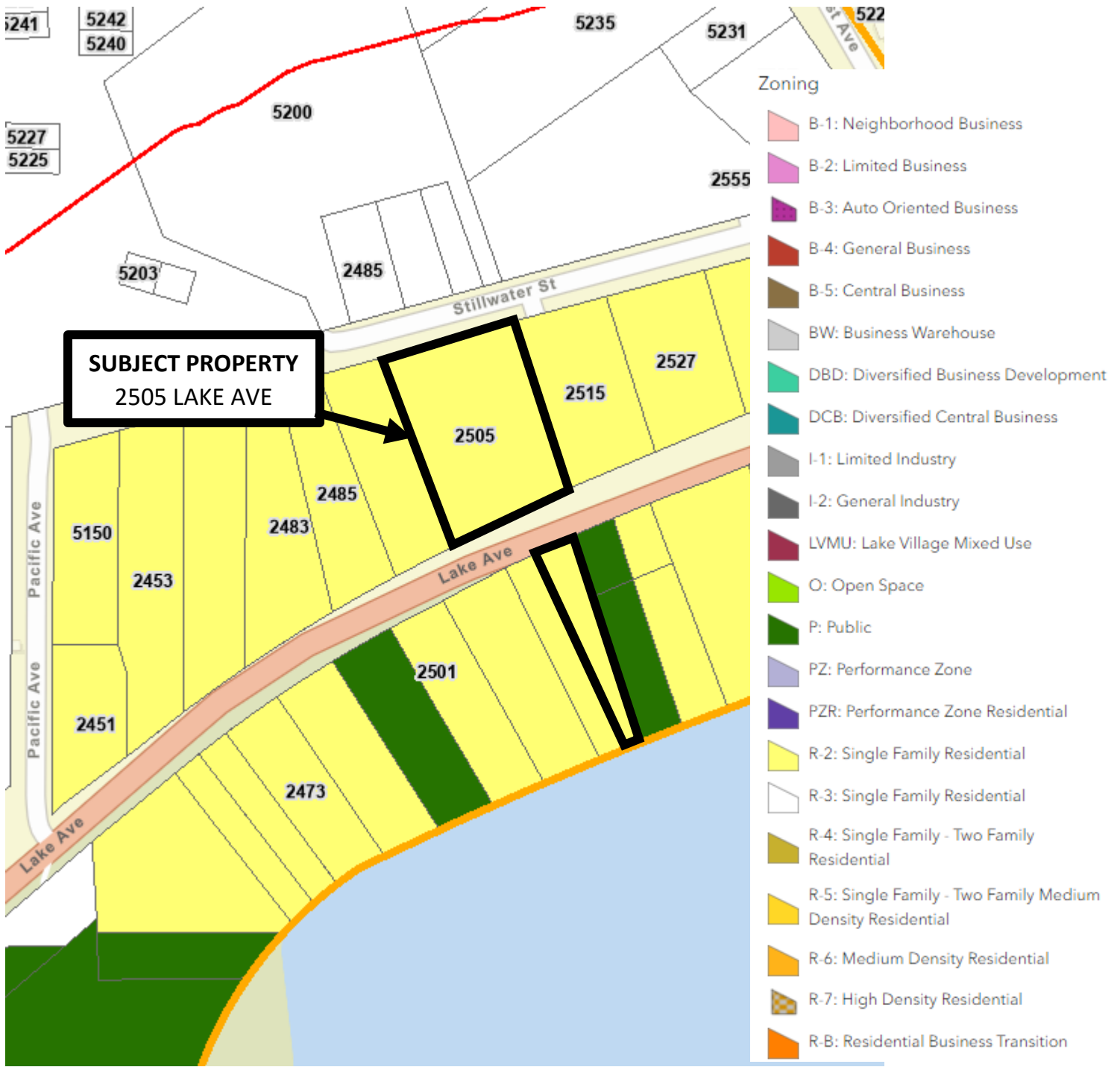
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Dan Louismet, Mayor

**ATTEST:**

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Caley Longendyke, City Clerk



**SUBJECT PROPERTY**  
2505 LAKE AVE



City of  
White Bear Lake  
Planning & Zoning  
651-429-8561

|                  |  |
|------------------|--|
| <b>CASE NO.</b>  | : <u>24-1-CUP</u>                                |
| <b>CASE NAME</b> | : <u>2505 Lake Ave – 3<sup>rd</sup> Curb Cut</u> |
| <b>DATE</b>      | : <u>01-29-2024</u>                              |



January 29th, 2024

Property: 2505 Lake Ave

Land Use Application

Applicants: Dustin and Annie Carlson  
Jeff and Vicki Plaisted

Planning Commission Meeting

Re: Land use application for Conditional Use Permit for a curb cut onto Stillwater St.

We are submitting a land use application for a CUP for an additional curb cut on our property at 2505 Lake Ave. Upon approval last year we built a ADU above a detached garage for the grandparents. Into the building process the way to access the unit changed from the south side to the north. It presented the grandparents their own retreat from the primary driveway.

**Purpose:** The proposed curb cut and driveway will be used for accessing garage parking and drive thru for the ADU and long term will serve as a drive-thru option for boat trailers. The idea for a drive through garage was intended and planned for the future but had not been added onto the original CUP application for the ADU. The decision to add the drive thru garage door on the north side happened during construction and was because of the cost advantage of doing it now instead of later and it added a much needed visual charm to back of the ADU/ garage project.

**Previous Approval of ADU/Variances:** As you are aware the original ADU/variances were approved because of the uniqueness and of the size of the property. We are 61,000 sq. Ft. And 1.6 acres. Per the survey on file, the lot could easily hold 4 single family homes on the property which would have been at least 4 - 24' curb cuts. (See *Example A*). With that in mind, we didn't realize the restrictions of adding an additional curb cut. In addition, the current driveway accesses are on two different streets (Lake Ave and Stillwater St) that are parallel to each other. (*Example B*) This is unique to the property and most properties in White Bear Lake.

**Visual Aesthetics:** In addition to adding the garage door with decorative covered roof facing Stillwater, aesthetically two small driveways will look better than one large driveway. The current driveway is 24' wide and will be reworked this spring to be closer to 16'. The new curb would be no wider than 12'. We are taking 8' from the existing and adding 2-4' to make a new one. There would be 130' between the two

driveways! That's more than just the required minimum lot width in the R2 zoning. This proves true of the uniqueness of the property. Other streets have huge 24' driveways every 50' in a long row. *(Example C)* Because of the size of the lot you cannot even see any of the curb cuts at the same time. *(Example D)* The distance between the driveways, the small size of the driveways and the addition to new landscaping will keep with the charm of White Bear Lake. *(Example E)*

\*We could do 10' on proposed curb/ driveway if negotiations are needed.

**Safety:** There are no negative traffic impacts. Traffic is minimal and slow. The drive through option makes it safer to park and exit the garage. To our knowledge, historically White Bear Lake has not allowed additional curb cuts because it would take away needed off street parking. This is not the case here. There is no need for off street parking. In addition, pedestrian traffic will soon be using the Lake Links Trail along the lake. Currently, the in-laws are parking on the street. We are assuming the snow plow drivers would prefer to have them parking in their driveway/garage.

**Zoning:** The present and future land use of this property does not change with an additional curb cut and will remain single family low density. The physical size and where it is situated between 2 different roads is unique and cannot fit into any single rule or definition.

**In conclusion:** if you take into account the large size of the lot, the uniqueness of our property being between streets, the added curb appeal of 2 small driveways vs. one overlarge driveway and there being no negative traffic or pedestrian impacts there should be no reason why we cannot go forward with our request.

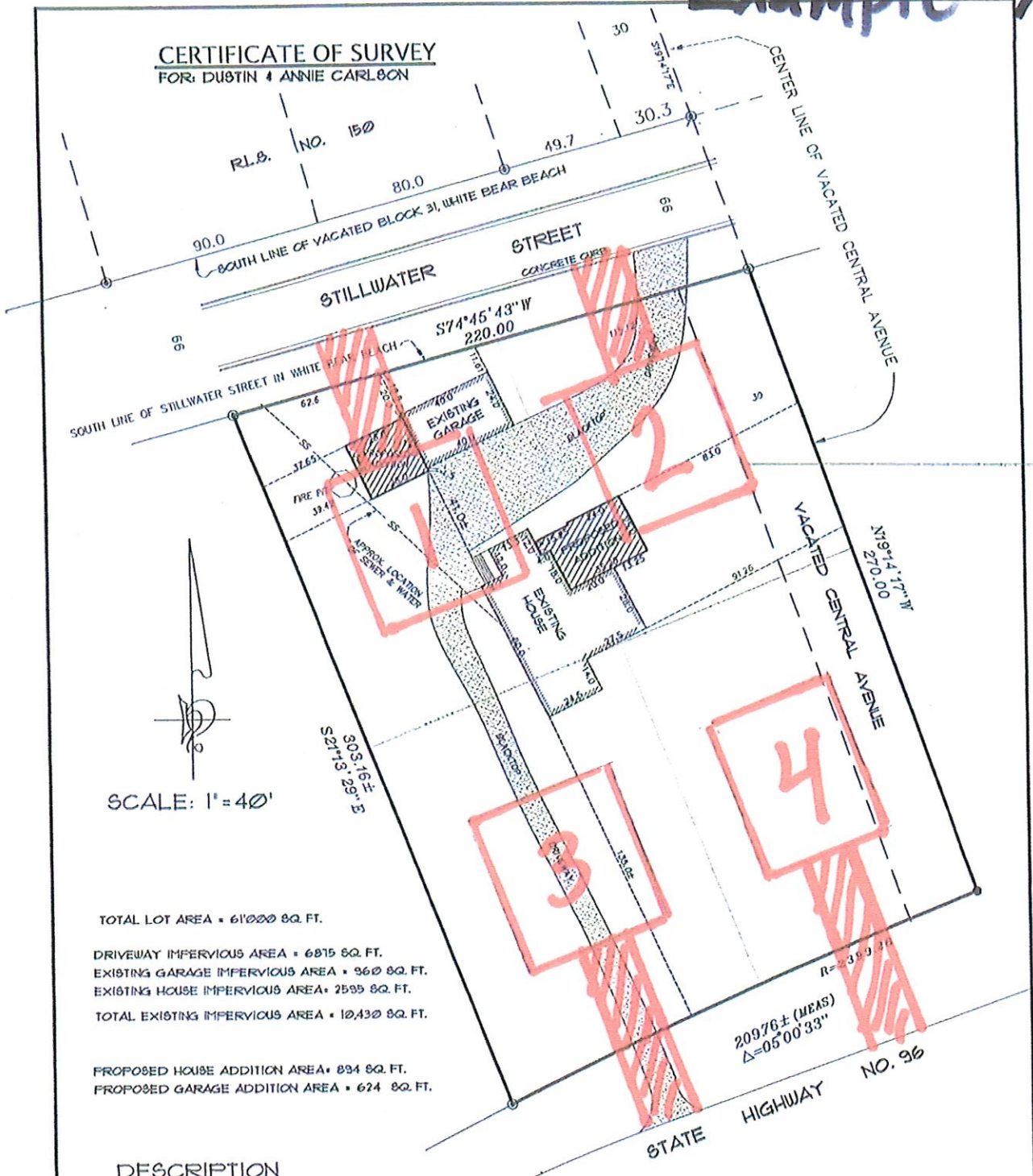
Thank you for your time,

Dustin and Annie Carlson  
Jeff and Vicki Plaisted



# Example A

**CERTIFICATE OF SURVEY**  
FOR: DUSTIN & ANNIE CARLSON



4-24' Driveways

SCALE: 1" = 40'

TOTAL LOT AREA = 61,000 SQ. FT.  
 DRIVEWAY IMPERVIOUS AREA = 6,815 SQ. FT.  
 EXISTING GARAGE IMPERVIOUS AREA = 960 SQ. FT.  
 EXISTING HOUSE IMPERVIOUS AREA = 25,335 SQ. FT.  
 TOTAL EXISTING IMPERVIOUS AREA = 10,430 SQ. FT.  
 PROPOSED HOUSE ADDITION AREA = 834 SQ. FT.  
 PROPOSED GARAGE ADDITION AREA = 624 SQ. FT.

**DESCRIPTION**

THAT PART OF THE SOUTH HALF OF SECTION 12 TOWNSHIP 30 RANGE 22 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH LINE OF STILLWATER STREET IN WHITE BEAR BEACH WHERE THE SAME IS INTERSECTED BY THE CENTERLINE OF CENTRAL AVENUE AS THE SAME EXISTED BEFORE ITS VACATION; THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF CENTRAL AVENUE IN A STRAIGHT LINE TO THE NORTHWESTERLY LINE OF THE BOULEVARD N/K/A TRUNK HIGHWAY 96; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF SAID BOULEVARD, A DISTANCE OF 210 FEET; THENCE IN A NORTHERLY DIRECTION TO A POINT ON THE SOUTH LINE OF STILLWATER STREET A DISTANCE OF 220 FEET WEST OF THE POINT WHERE STILLWATER STREET INTERSECTS WITH THE CENTER LINE OF CENTRAL AVENUE AS THE SAME EXISTS BEFORE ITS VACATION; THENCE EASTERLY ALONG THE SOUTH LINE OF STILLWATER STREET TO THE POINT OF BEGINNING.  
 SUBJECT TO EASEMENTS OF RECORD.

- ⊙ DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- BEARINGS SHOWN ARE ASSUMED DATUM

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.  
*Robert B. Siskich*  
 ROBERT B SIKICH LS Date: 1-24-21  
 License No. 14891 Revises:

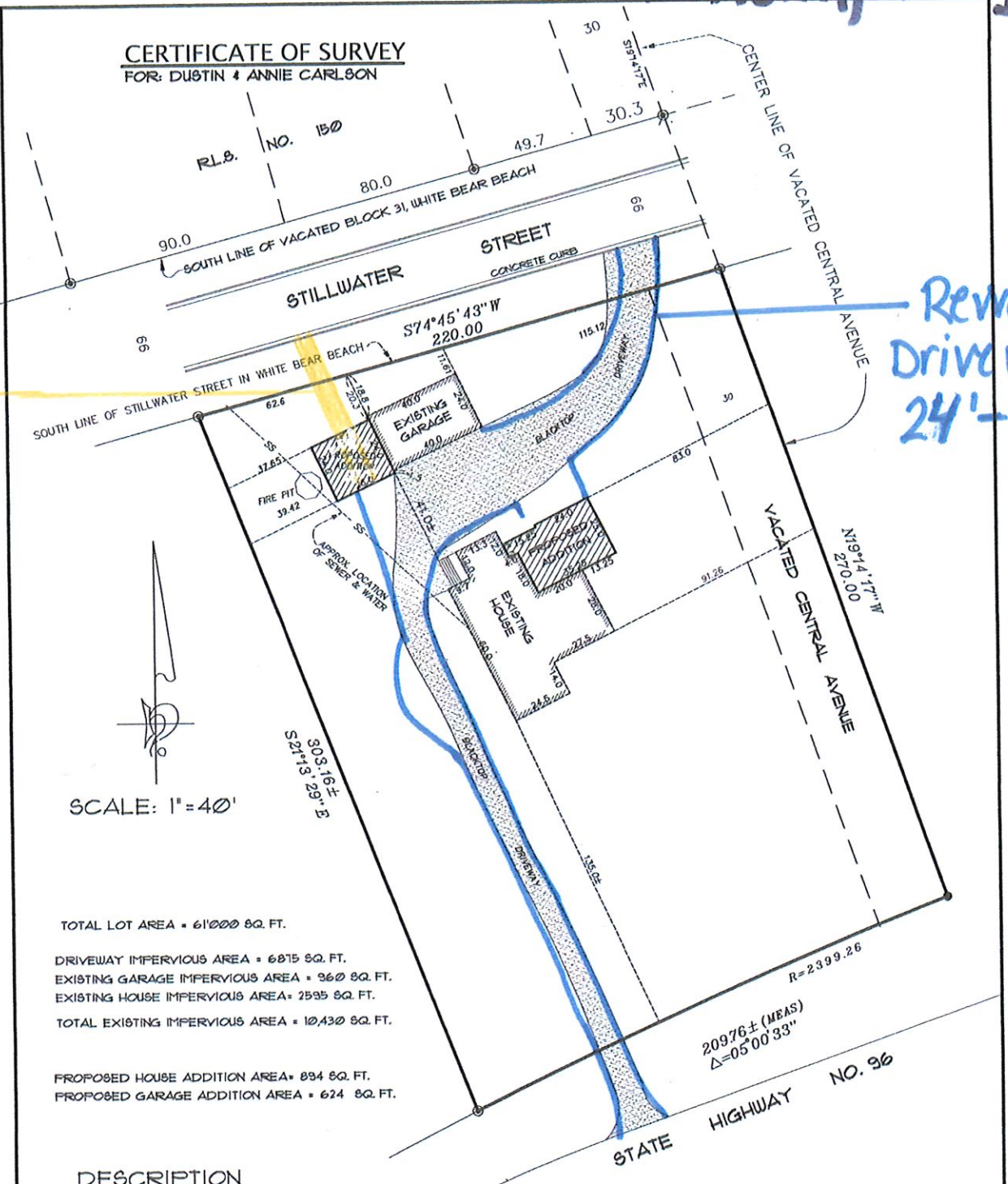


# EXAMPLE B

## CERTIFICATE OF SURVEY FOR: DUSTIN & ANNIE CARLSON

Proposed Driveway

Reworking  
Driveway -  
24'-16'



SCALE: 1" = 40'

- TOTAL LOT AREA = 61,000 SQ. FT.
- DRIVEWAY IMPERVIOUS AREA = 6,875 SQ. FT.
- EXISTING GARAGE IMPERVIOUS AREA = 960 SQ. FT.
- EXISTING HOUSE IMPERVIOUS AREA = 2,595 SQ. FT.
- TOTAL EXISTING IMPERVIOUS AREA = 10,430 SQ. FT.
- PROPOSED HOUSE ADDITION AREA = 894 SQ. FT.
- PROPOSED GARAGE ADDITION AREA = 624 SQ. FT.

### DESCRIPTION

THAT PART OF THE SOUTH HALF OF SECTION 12 TOWNSHIP 30 RANGE 22 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH LINE OF STILLWATER STREET IN WHITE BEAR BEACH WHERE THE SAME IS INTERSECTED BY THE CENTERLINE OF CENTRAL AVENUE AS THE SAME EXISTED BEFORE ITS VACATION; THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF CENTRAL AVENUE IN A STRAIGHT LINE TO THE NORTHWESTERLY LINE OF THE BOULEVARD N/K/A TRUNK HIGHWAY 96; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF SAID BOULEVARD, A DISTANCE OF 210 FEET; THENCE IN A NORTHERLY DIRECTION TO A POINT ON THE SOUTH LINE OF STILLWATER STREET A DISTANCE OF 220 FEET WEST OF THE POINT WHERE STILLWATER STREET INTERSECTS WITH THE CENTER LINE OF CENTRAL AVENUE AS THE SAME EXISTS BEFORE ITS VACATION; THENCE EASTERLY ALONG THE SOUTH LINE OF STILLWATER STREET TO THE POINT OF BEGINNING.  
SUBJECT TO EASEMENTS OF RECORD.

- ⊙ DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- BEARINGS SHOWN ARE ASSUMED DATUM

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

*Robert B. Sikich*

ROBERT B SIKICH LS      Date: 1-24-21  
License. No. 14891      Revised:

## Example C



**Size and number of driveways in single family neighborhood.**

**Driveway spacing for the townhomes down the street from us.**





Example **D**

Existing Driveway is currently 24' wide- we will narrow to around 16'

Stillwater Street



130' between driveways  
New driveway width 10-12'  
Approx Length 35' to road





# Example E



Plans of ADU/ garage without the added doors and overhang.



After and actual



Adding Landscaping in the spring-



**City of White Bear Lake**  
Community Development Department

# M E M O R A N D U M

**TO:** The Planning Commission  
**FROM:** Shea Lawrence, Planning Technician  
**DATE:** January 29, 2024  
**SUBJECT:** Case No. 24-2-V - 4728 Stewart Ave - Second Accessory Structure over 120 sq. ft.

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## SUMMARY

The applicant, Dean Hedlund, is requesting a variance for a second accessory structure over 120 square feet per section code 1302.030, Subd.4.i.2.b, in order to construct a 264 sq. ft. accessory structure in the rear yard of the property located at 4728 Stewart Ave. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd. 6 and recommends approval of this request.

## GENERAL INFORMATION

|                                |   |
|--------------------------------|---|
| Applicant/Owner:               | Susan Welles / Dean Hedlund   |
| Existing Land Use / Zoning:    | Single Family Dwelling<br>R-4: Single Family-Two Family Residential and Shoreland Overlay                 |
| Surrounding Land Use / Zoning: | North and West: R-4 Single Family-Two Family Residential<br>East and South: R-2 Single Family Residential |
| Comprehensive Plan:            | Low Density Residential   |
| Lot Size & Width:              | Code: 7,200 square feet, 60 ft. wide<br>Site: 12,002 square feet; 80 ft. wide                             |
| 60 Day Review Date:            | February 16, 2024   |

## BACKGROUND INFORMATION

The subject site is located on the east side of Stewart Avenue and contains a single unit dwelling. According to Ramsey County property records the principal structure was originally constructed in 1952. The homeowners remodeled the home in 2019 which included an addition of a sunroom to the rear of the house. The property contains an attached single car garage that is 325 square feet in size and also has an 87 square foot storage shed located in the rear yard.



The zoning code allows second accessory structures up to 120 square feet by right—larger structure can be approved through an administrative variance, which requires approval from abutting neighbors. One of the neighbors chose not to sign the request, so the applicant is requesting a formal variance to build the accessory structure.

Community Comment. Under state law and the City’s zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice to property owners within 350 feet of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff received comment via email from the neighbor Jay Rendall at 4740 Stewart Avenue expressing opposition to the proposal. His email is included as an attachment. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

#### **ANALYSIS**

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff’s findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

**Finding:** The purpose of the section of code that regulates accessory structures is, “to establish general development performance standards. These standards are intended and designated to assure compatibility of uses; prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.” This proposal will prevent blight in the area by increasing the indoor storage capacity on the property through the

construction of a high quality new build accessory structure on the lot. The structure will have hardie board siding and an architectural design that is consistent with the principal structure.

Because the property contains an attached garage, through an administrative variance the property could be permitted a second accessory structure up to 625 square feet in size, not to exceed 10 percent of the rear yard. The proposed accessory structure is less than half of the maximum size allowed and would bring the property to a total of 589 square feet of accessory structure space between the single car garage and proposed accessory structure. Staff finds that the variance is in harmony with the purpose and intent of the ordinance.

2. Is the variance consistent with the comprehensive plan?

**Finding:** The Future Land Use Map in the 2040 Comprehensive Plan guides the property as Low Density Residential. Typical housing types for Low Density Residential areas are unit dwelling. Accessory structures such as garages and storage sheds are compatible and common uses in residential areas to provide additional storage space for homeowners. Therefore, staff finds the variance is consistent with the comprehensive plan.

3. Does the proposal put the property to use in a reasonable manner?

**Finding:** This proposal puts the subject property to use in a reasonable manner. The property is zoned R-4 Single Family – Two Family Residential. The property will continue to be residential in nature with the addition of the proposed second accessory structure. Accessory structures such as sheds are often associated with residential properties and are a reasonable use in residential districts. With the addition of the proposed accessory structure, the combined accessory structure square footage will be 589 square feet, which is a reasonable amount for accessory storage space for a single unit residential structure and well below the 625 square foot maximum prescribed in the zoning code for a second accessory structure through an administrative variance.

4. Are there unique circumstances to the property not created by the landowner?

**Finding:** There are unique circumstances to the property not created by the homeowner. The home currently has an attached one car garage that is 325 square feet in size. Due to the existing garage's proximity to the south property line, there is limited space available where expansion of the garage would be possible. Because the proposed second accessory structure is over 120 square feet in size, code requires an administrative variance which requires the applicant obtain signatures from neighboring property owners. The applicant was unable to obtain all the necessary signatures and is therefore requesting a formal variance. The proposed shed meets height and setback requirements and brings the lot to a total of 589 square feet of combined accessory building space.

5. Will the variance, if granted, alter the essential character of the locality?

**Finding:** Granting the requested variance will not alter the essential character of the surrounding neighborhood. Accessory structures such as sheds and garages are a common use in a residential area. Many of the surrounding properties have at least a two car garage. The addition of the proposed accessory structure will provide the property with the same amount of accessory structure square footage as a typical two car garage.

#### **RECOMMENDATION**

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. The existing shed must be removed prior to the construction of the new accessory structure.
4. A building permit shall be obtained before any work begins.
5. Exterior building color, design, and material of the accessory structure shall be compatible with the principal structure.
6. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

#### **ATTACHMENTS:**

Resolution

Zoning/Location Map

Applicant's Narrative & Plans

Neighbor Comments – 4740 Stewart Ave

**RESOLUTION NO.**

**RESOLUTION GRANTING A VARIANCE FOR A SECOND ACCESSORY  
STRUCTURE OVER 120 SQUARE FEET FOR 4728 STEWART AVENUE  
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, Dean Hedlund has requested a variance for a second accessory structure over 120 square feet per section code 1302.030, Subd.4.i.2.b, in order to construct a 264 sq. ft. accessory structure in the rear yard of the property located at:

**LOCATION:** 4728 Stewart Ave

**LEGAL DESCRIPTION:** LOT 8 and 9 and that part of Lot A lying south of the north line of Lot 8 produced easterly over and across said Lot A, HYDE’S REARRANGEMENT OF LOTS 3, 4, 5 AND 6 OF BLOCK 56 OF WHITE BEAR, Ramsey County, Minnesota. PID 133022320040.

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on January 29, 2024; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are unique circumstances to the property not created by the landowner.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

**BE IT FURTHER RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.

**RESOLUTION NO.**

3. The existing shed must be removed prior to the construction of the new accessory structure.
4. A building permit shall be obtained before any work begins.
5. Exterior building color, design, and material of the accessory structure shall be compatible with the principal structure.
6. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

The foregoing resolution, offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_, was declared carried on the following vote:

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Dan Louismet, Mayor

**ATTEST:**

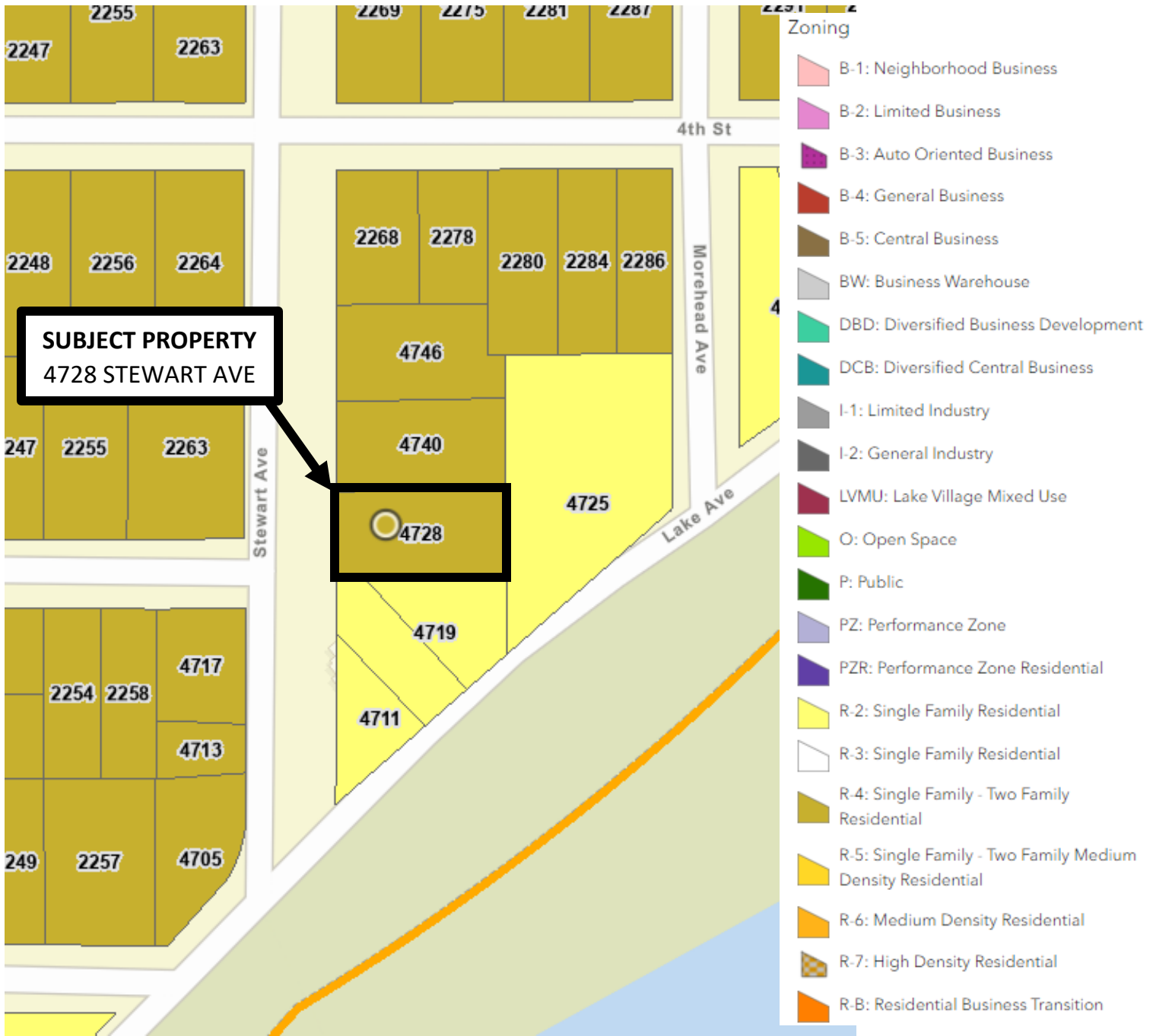
\_\_\_\_\_  
Caley Longendyke, City Clerk


\*\*\*\*\*

Approval is contingent upon execution and return of this document to the City Planning Office.  
I have read and agree to the conditions of this resolution as outlined above.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date



|  |   |
|--|---|
|  <p>City of<br/>White Bear Lake<br/>Planning &amp; Zoning<br/>651-429-8561</p> | <p><b>CASE NO.</b> : <u>24-2-V</u></p>  |
|  | <p><b>CASE NAME</b> : <u>4728 Stewart Ave – 2<sup>nd</sup> Accessory Structure over 120</u></p> |
|  | <p><b>DATE</b> : <u>01-29-2024</u></p>  |

December 17, 2023

To White Bear Lake Planning Commission/White Bear Lake City Council,

I am petitioning you today to ask for a variance from the 120 square foot maximum allowed for a second accessory structure and allow my clients, Dean and Sharon Hedlund at 4728 Stewart Ave. to construct a new accessory building on their property. My clients renovated the current home in 2019 leaving the original attached single car garage as it was designed. Having now lived in the home for a few years they have realized a need to have more storage to accommodate their various garage needs. They would like to construct a 12' X 22' detached accessory building in the NE corner of their property.

The existing property is in the R-4 Single Family – Two Family Residential and Shoreland District per the City's Zoning map. The lot encompasses 12,002 sq. ft. It currently has an impervious coverage of 2,443 sq. ft. (20.3%) with the existing house, garage and driveway.

This accessory building would conform to all rules defined by the City per the Zoning Classification of the Municipal Code {1302.030, Subd. 4.b} Accessory Buildings and Structures.

The proposed increase in impervious surface will add an additional 264 sq. ft. resulting in a total impervious of 2702 sq. ft. (22.6%) on the lot.

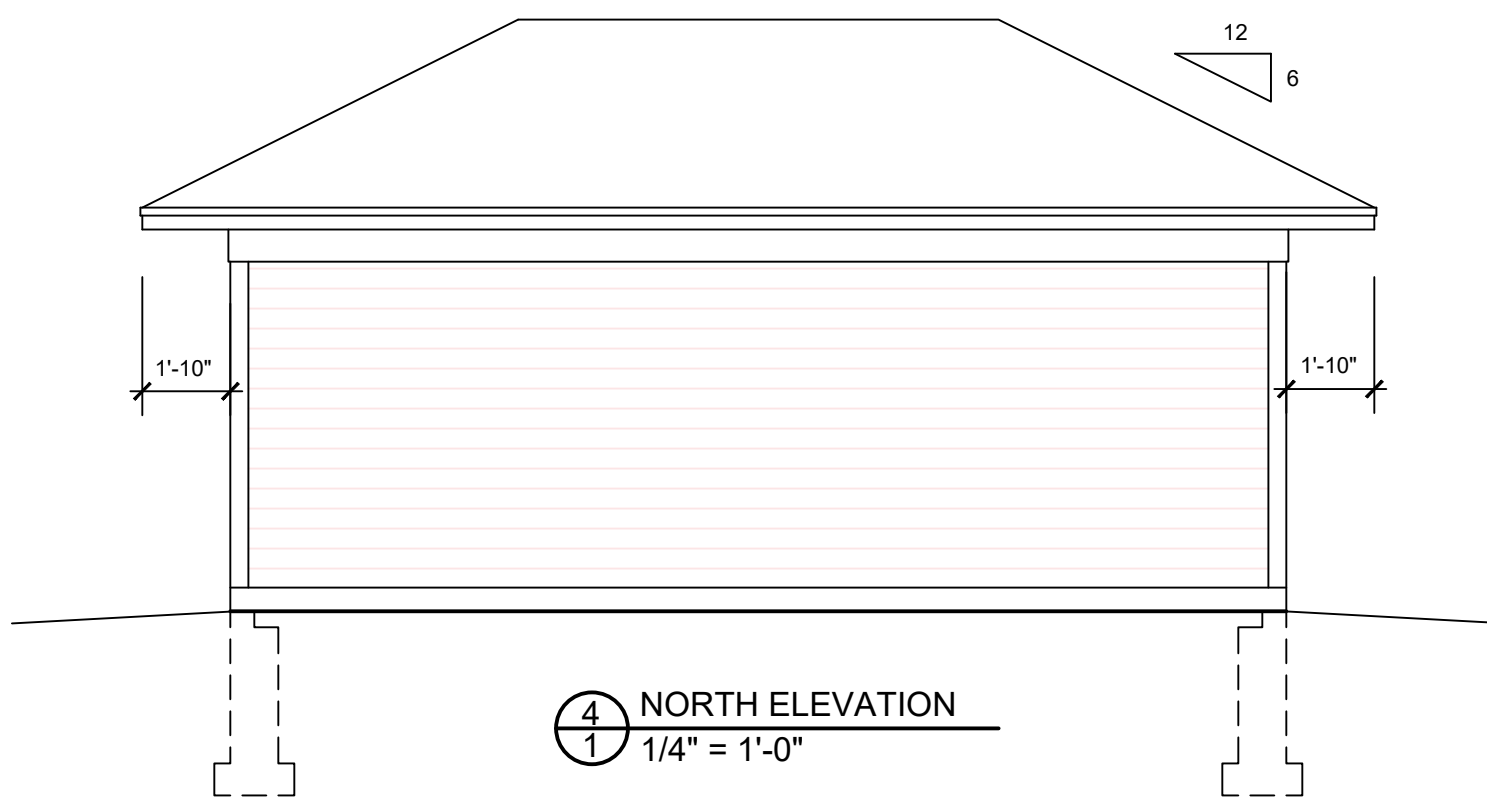
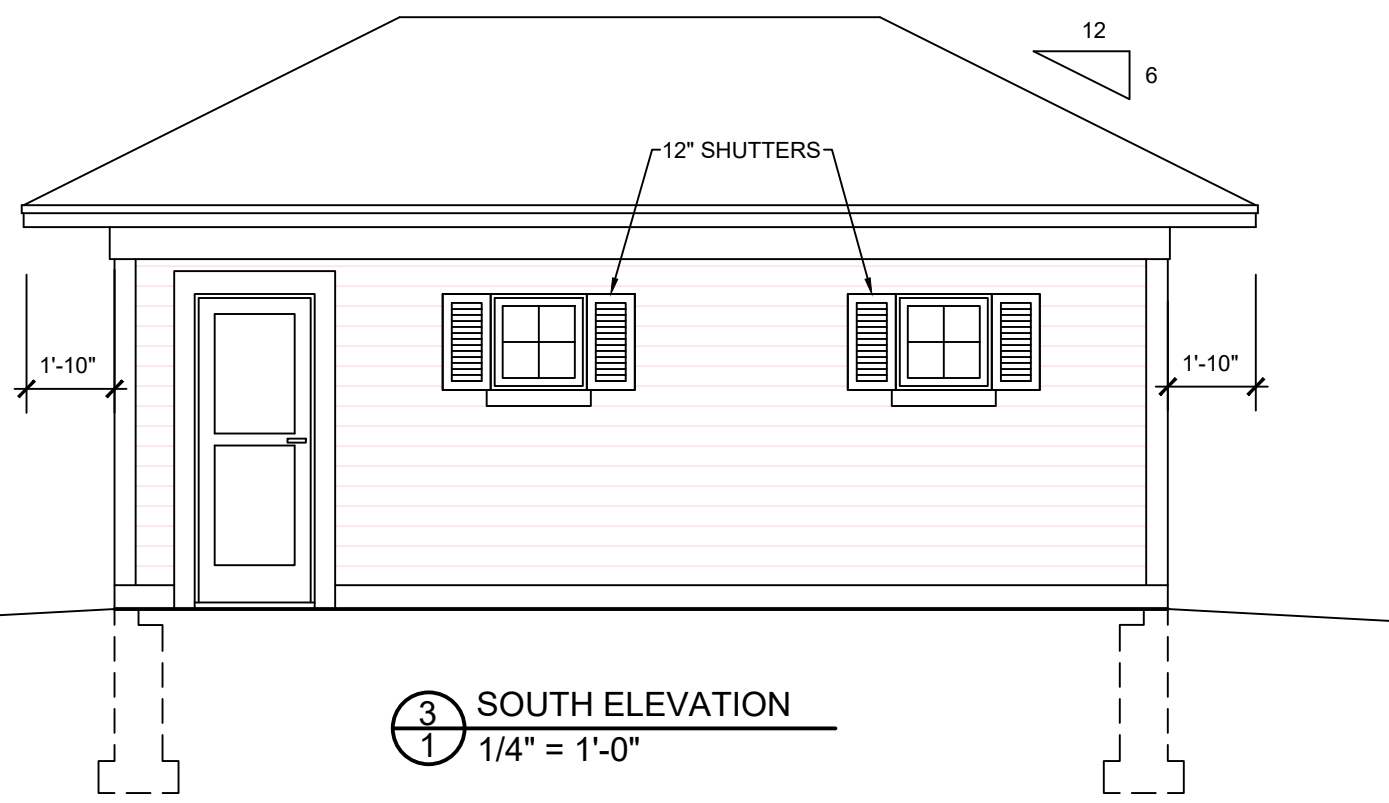
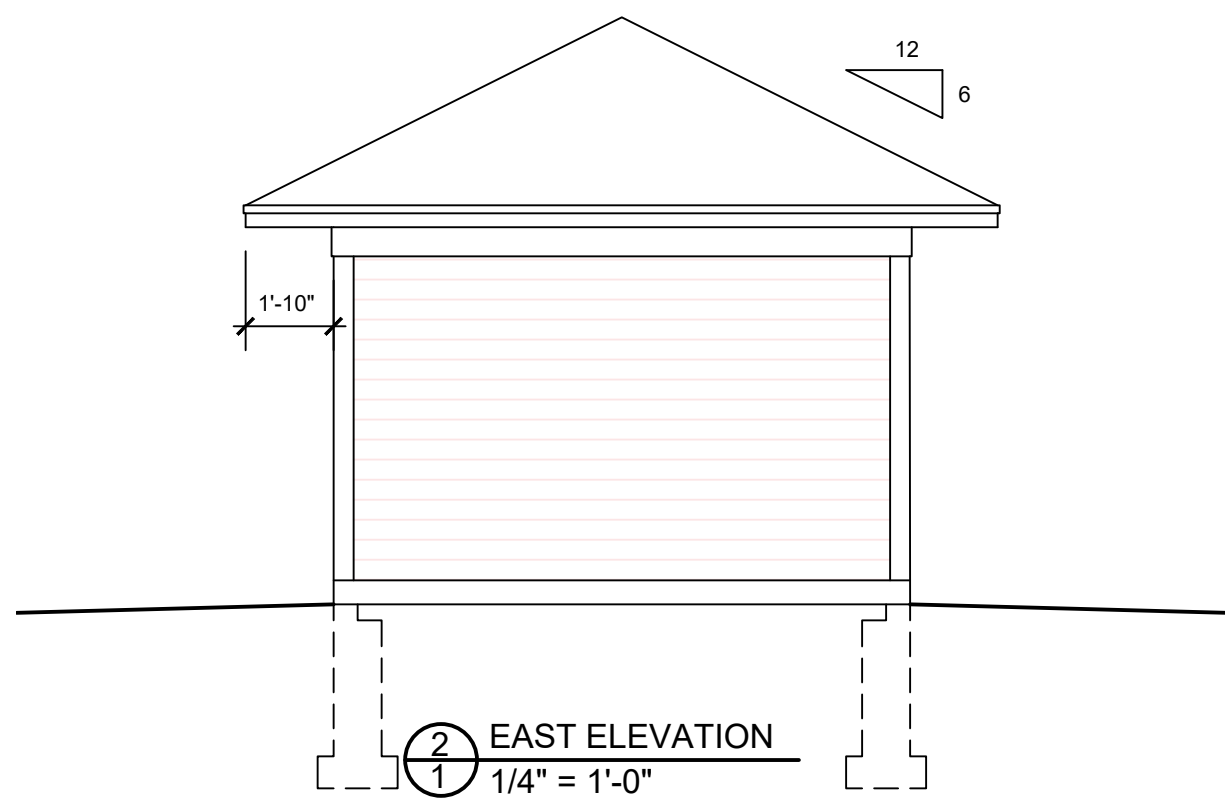
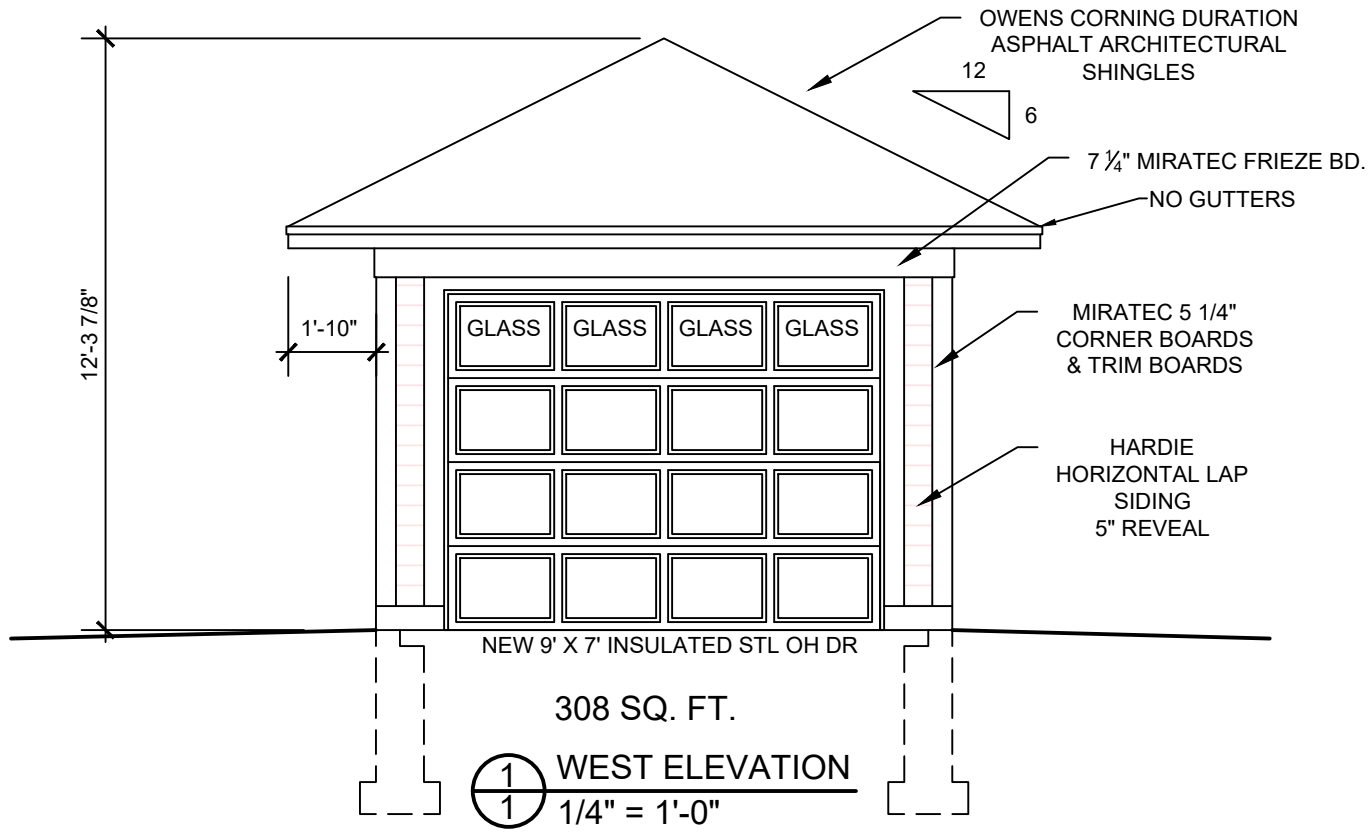
Tree replacement will be handled per the City's Tree preservation guidelines if the building requires removal with the new construction.

Please review the attached plans for the new accessory building along with the site plan that outlines the above conditions as designed and submitted for your review.

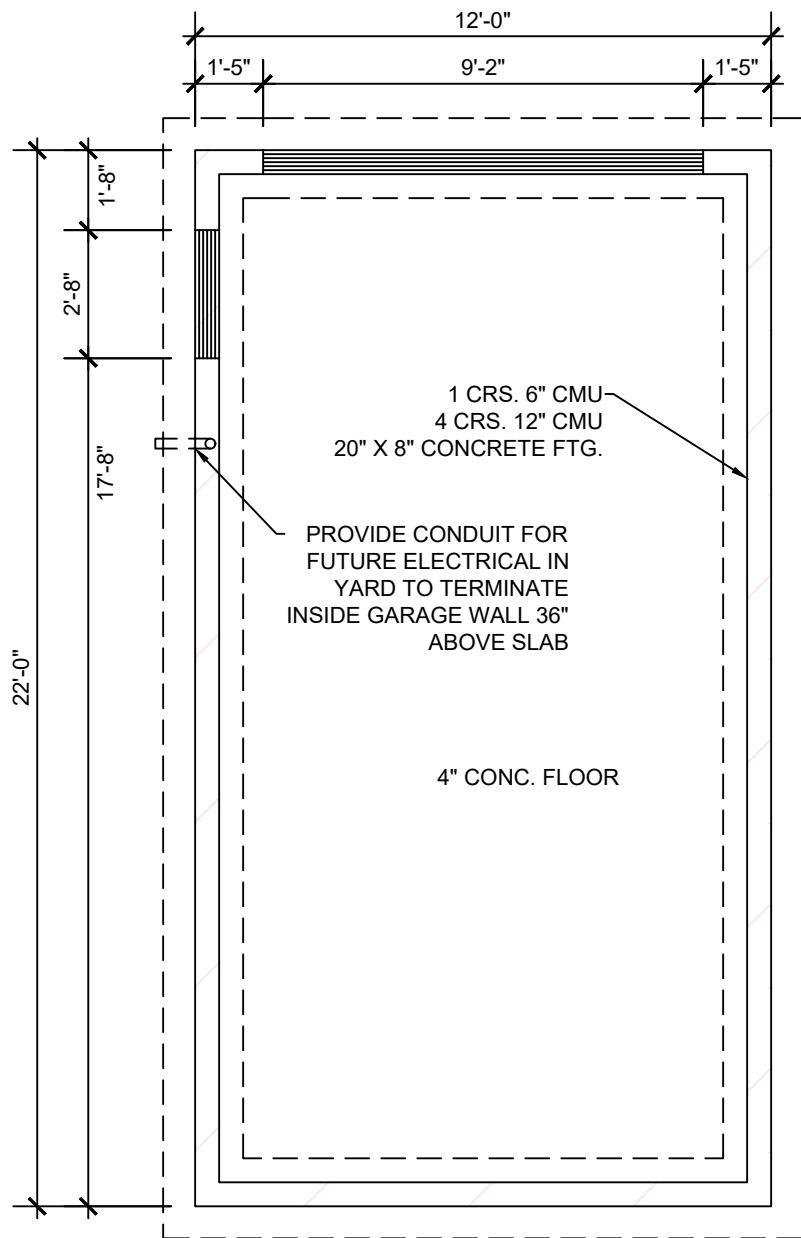
Sincerely,

Susan Hebert Welles-Project Designer

On behalf of Dean and Sharon Hedlund, owners of 4728 Stewart Ave., White Bear Lake, MN





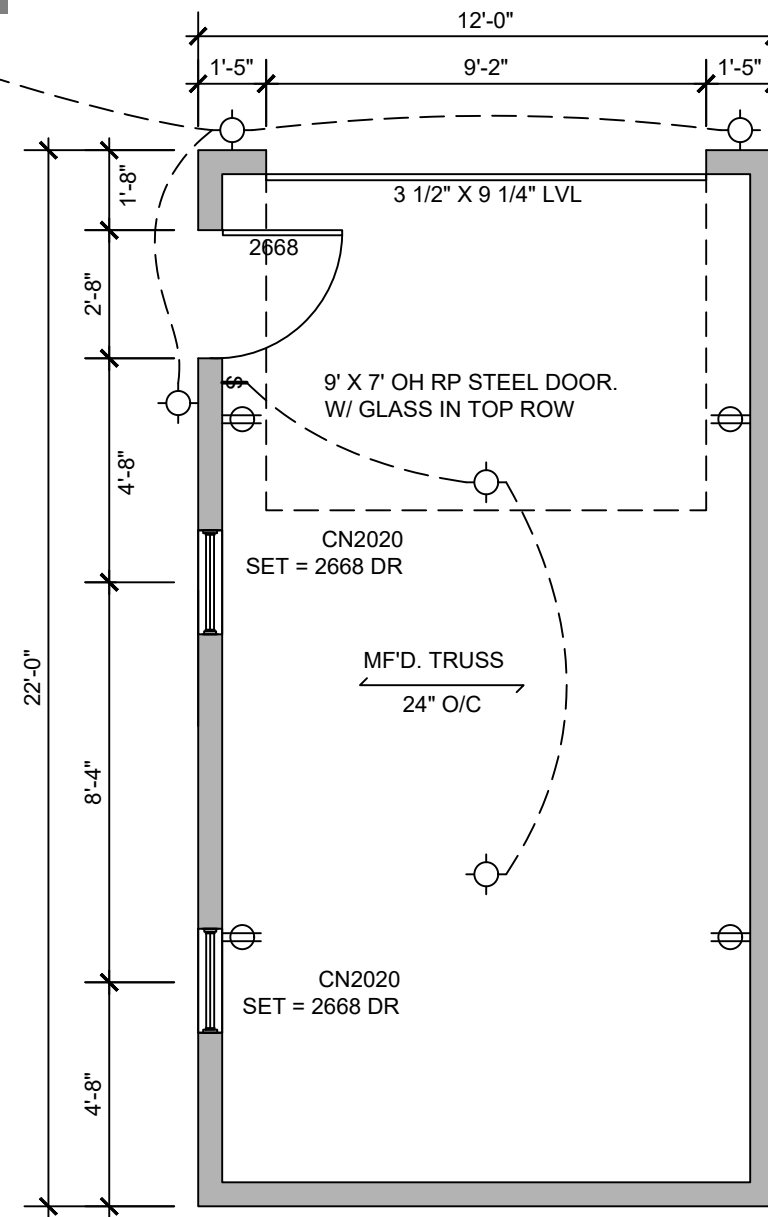


264 SQ. FT.

① FOUNDATION PLAN  
② 1/4" = 1'-0"

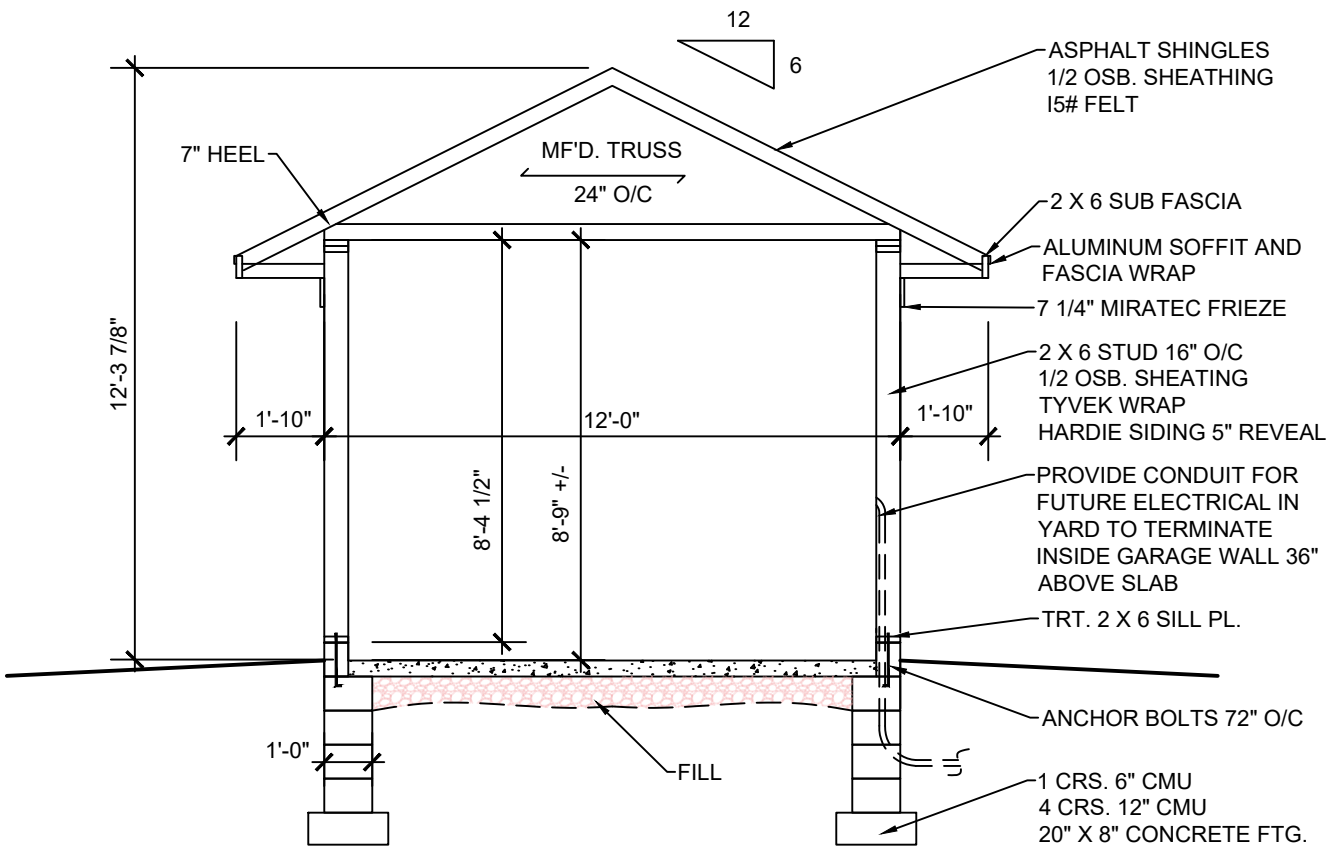


SWITCHED AT HOUSE W/  
DECK EXTERIOR LIGHTS  
SWITCH IN SUNROOM BY  
PATIO DOOR

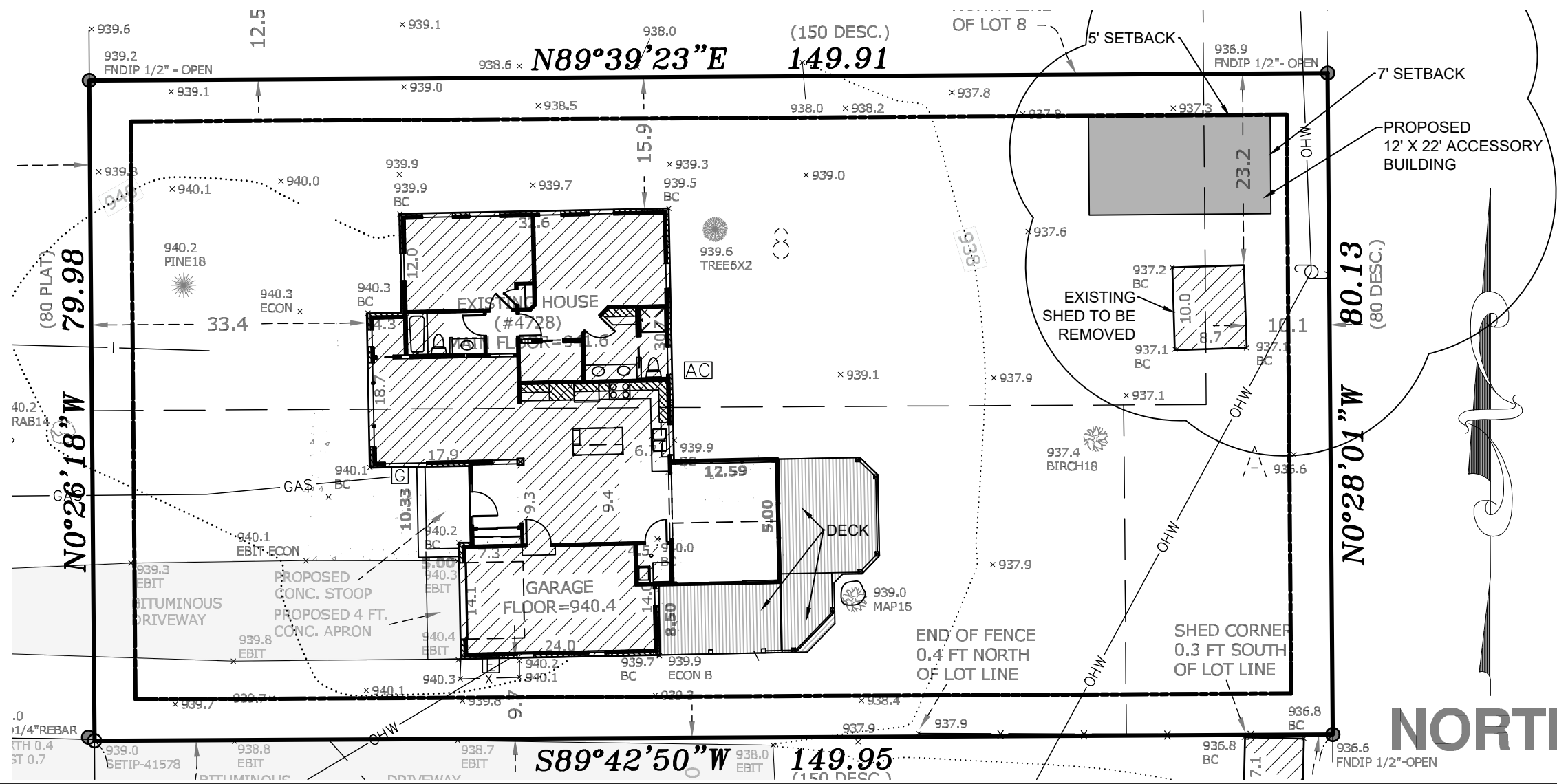


264 SQ. FT.

② FLOOR PLAN  
② 1/4" = 1'-0"



1 CROSS SECTION  
3 1/4" = 1'-0"



2 SITE PLAN  
3 1/16" = 1'-0"

**NORTH**

## Shea Lawrence

---

**From:** JAY RENDALL <wjr444@comcast.net>  
**Sent:** Thursday, January 25, 2024 11:27 AM  
**To:** Community Development  
**Subject:** 4728 Stewart Ave Request for Variance

City Community Development Staff and Planning Commission Members:

Penny and I are the adjacent property owners at 4740 Stewart Ave. We are sending this preliminary comment about Hedlund's application for a variance at 4728 Stewart Avenue.

We are adamantly opposed to the proposed building and the city issuing a variance for it. We have expressed that opposition to the Hedlunds when they initially proposed a similar building a couple years ago. Our opposition to a variance and structure is because of the overall size (being more than double the maximum of 120 square feet allowed for a second accessory structure) and height of structure, its potential use as a garage, the harmful impact it would have on our view of the lake from our yard and home, and the its intrusive nature in our neighborhood.

We will have more specific comments and concerns to share at the public hearing on Monday, January 29th.

Regards,  
Jay Rendall

*Jay Rendall  
4740 Stewart Avenue  
White Bear Lake, MN 55110  
651-253-0044*



**City of White Bear Lake**  
Community Development Department

# MEMORANDUM

**TO:** The Planning Commission  
**FROM:** Ashton Miller, City Planner  
**DATE:** January 29, 2024  
**SUBJECT:** Reese Variance – 2563 Elm Drive – Case No. 24-3-V

---

## SUMMARY

The applicant, Charles Reese, is requesting a 2 foot 7 inch variance from the required 5 foot side yard setback, in order to retain a 120 square foot storage shed in the rear yard. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

## GENERAL INFORMATION

Applicant/Owner: Charles Reese

Existing Land Use / Zoning: Single-Family Home; zoned R-3: Single Family Residential & S: Shoreland Overlay

Surrounding Land Use / Zoning: All Directions: Single-Family Homes; zoned R-3 & S

Comprehensive Plan: Low Density Residential

Lot Size & Width: Code: 10,500 square feet; 80 feet wide  
 Site: 15,246 square feet; 95 feet wide

60 Day Review Date: February 26, 2024

## BACKGROUND INFORMATION

The subject site contains a single-family home with attached garage and storage shed in the northwest corner of the lot. The shed, which is 2 feet 5 inches from the side property line, was already in place when the applicant purchased the home in 2015. The shed was constructed without a permit, so based on historic aerials from Ramsey County, staff estimates that the shed was constructed sometime between 2011 and 2014.

In the summer of 2023, city staff was alerted to the possible encroachment of the shed into the

setback by a resident. The topography and vegetation in the area made it difficult to locate the property pins, so the applicant hired a surveyor to determine the property lines. During a field inspection, staff verified that the shed did not comply with the required five foot setback.

Community Comment. Under state law and the City’s zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to adjacent property owners of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff received one email from a neighbor at 2542 Oak Court stating his objection to the variance, comments attached. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

### **ANALYSIS**

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff’s findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

**Finding:** The variance is in harmony with the purpose and intent of this ordinance. The purpose of the general building and performance requirements section of the zoning code, which regulates the size and location of accessory structures is, “to establish general development performance standards... intended and designated to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.” The shed is located in a corner of the yard that is at least 50 feet away from the nearest neighboring principal structure, is generally well maintained, and allows the storage of materials that would otherwise clutter the yard. Therefore, the shed is in harmony with the intent of the ordinance.

2. Is the variance consistent with the comprehensive plan?

**Finding:** The Future Land Use Map in the 2040 Comprehensive Plan guides the property as low density residential. The low density residential future land use category allows a density range of 3 to 9 units per acre. The subject site is at a density of 2.86 units per acre, just slightly under the allowable range. The storage shed does not impact the density of the lot, which will continue to be used as a single unit dwelling, therefore the variance is not inconsistent with the comprehensive plan.

3. Does the proposal put the property to use in a reasonable manner?

**Finding:** This proposal puts the subject property to use in a reasonable manner. Accessory uses in the R-3 zoning district include tool houses, shed, and similar buildings for storage of domestic supplies and noncommercial recreational equipment. As stated in the applicant's narrative, the shed is used primarily for tools and equipment that are typically found on residential properties. The purpose of the R-3 zoning district is to provide for single-family detached residential dwelling units along with directly related and complementary uses. A storage shed is a complementary use to the single-family home and is therefore reasonable.

4. Are there unique circumstances to the property not created by the landowner?

**Finding:** There are unique circumstances to the property not created by the landowner. The property slopes precipitously towards Peppertree Pond. There is approximately a 20 foot change in elevation from the edge of the shed to the edge of the water, so the space that is available to place an accessory structure is limited. Moving the shed would require re-grading the property or bringing in fill and potentially removing some trees. Using the information available on Ramsey County GIS, staff finds that the amount of elevation change on the property meets the definition of a steep slope in the zoning code, and per the Minnesota Department of Natural Resources, this means the area is more susceptible to slope erosion and failure in response to development, vegetation removal, or land alterations. Therefore, any alteration to the topography is only permitted if it does not adversely affect adjacent or nearby properties and methods to prevent erosion are employed.

5. Will the variance, if granted, alter the essential character of the locality?

**Finding:** Granting the requested variance will not alter the essential character of the surrounding neighborhood. The shed has been in this location for at least 9 years with no known adverse effects on the neighborhood. The architecture of the shed complements the home and landscaping consisting of rocks, shrubs, grasses and trees surround the shed, providing screening from the neighboring properties.

#### **RECOMMENDATION**

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this

- application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
  3. A zoning permit shall be obtained.
  4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

**ATTACHMENTS:**

Resolution

Zoning/Location Map

Applicant's Narrative & Plans (5 Pages)

Neighbor Comments – 2542 Oak Court

**RESOLUTION NO.**

**RESOLUTION GRANTING A SETBACK VARIANCE FOR  
2563 ELM DRIVE WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, Charles Reese (24-3-V) has requested a 2 foot 7 inch variance from the 5 foot side yard setback, per code section 1302.030, Subd.4.a in order to retain an accessory structure at the following location:

LEGAL DESCRIPTION: Lot 3, Block 4, Lakeview Hills Plat 2, and that part of Lot 6, Block 1, Lakewood North Second Addition described as follows: Beginning at the Southeast corner of said Lot 6 thence North along the East line of said Lot 6 for 51.32 feet to the Northeast corner of said Lot 6; thence Northwesterly along the Northeasterly line of said Lot 6 for 46.73 feet; thence Southerly to a point on the South line of said Lot 6, 50 feet Westerly of the point of beginning; thence Easterly 50 feet to the point of beginning and there terminating, Ramsey County, Minnesota. PID 363022130065

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on January 29, 2024; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

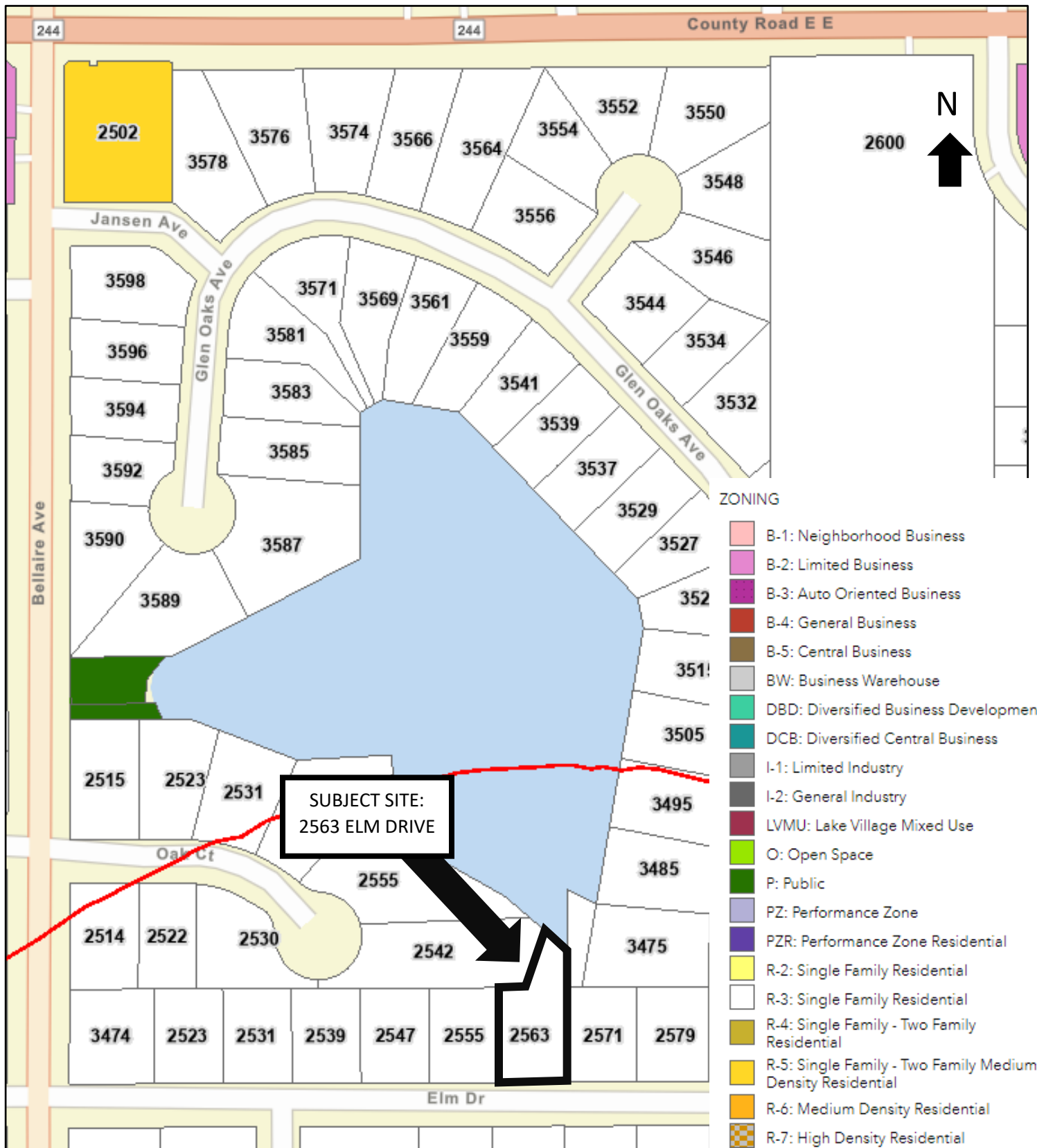
1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are not unique circumstances to the property not created by the landowner; however, the historical layout of the building necessitates the setback variance in this location.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

**BE IT FURTHER RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.





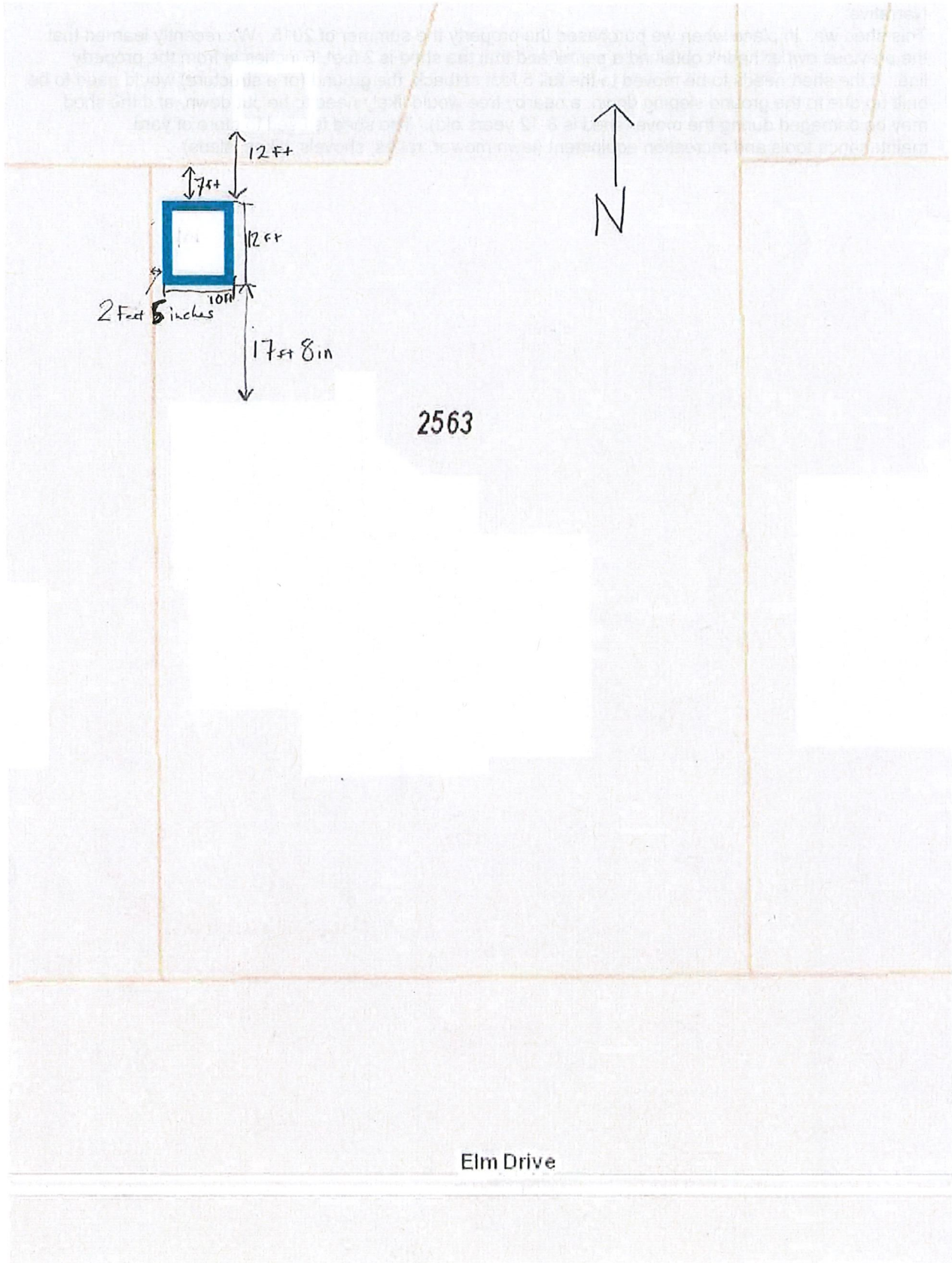


City of  
White Bear Lake  
Planning & Zoning  
651-429-8561

|                  |                           |
|------------------|---------------------------|
| <b>CASE NO.</b>  | : <u>24-3-V</u>           |
| <b>CASE NAME</b> | : <u>Reese</u>            |
| <b>DATE</b>      | : <u>January 29, 2024</u> |

**Narrative:**

This shed was in place when we purchased the property the summer of 2015. We recently learned that the previous owner hadn't obtained a permit and that the shed is 2 feet, 5 inches in from the property line. If the shed needs to be moved to the full 5 foot setback, the ground (or a structure) would need to be built up due to the ground sloping down, a nearby tree would likely need to be cut down, and the shed may be damaged during the move (shed is 8-12 years old). The shed is used to store of yard maintenance tools and recreation equipment (lawn mower, rakes, shovels, bikes, sleds).



2 Feet 5 inches



7ft

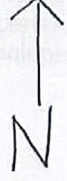
12ft

12ft

10ft

17ft 8in

2563



Elm Drive













## Ashton Miller

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**From:** wayneleonard@gmail.com  
**Sent:** Wednesday, January 24, 2024 3:20 PM  
**To:** Community Development  
**Cc:** wayneleonard@gmail.com  
**Subject:** FW: Opposition to "Variance" for Charles Reese - 2563 Elm Drive

**Importance:** High

I oppose the variance for the following reasons-

The shed is ON the property line and is required to be a minimum of 5 feet from each property line.

The location of the shed prevents maintenance to powerlines (the main power line for Elm Drive is behind the shed as well as power lines on the southside of my property). EXCEL Energy is unable to access the main powerline which services Elm Drive because they cannot get machinery close enough to the main powerline due to the location of the shed as well as the fence (another code violation – the fence is located 4+ feet on their neighbors property 2555 Elm Drive even though the back property marker is clearly visible...). EXCEL energy is forced to go through my entire yard (400+ feet) to access the main power line for service/repair vs 100 feet from Elm Drive. This has caused major damage to my lawn 2 times in the past 5 years!

There are multiple other loactions on the property for the shed to be relocated to which would be in compliance with the published 5 feet setback code for all property lines.

I was forced to move my shed because Charles Reese complained that he could see the CORNER of my shed out of his office window even though it was not in violation of the 5 foot setback code... I had to pay to have my property surveyed, pay the shed company to move the shed while the property line dispute was in progress, pay to have the shed put back in place (within 6 inches of the original location and not any closer to the property line). The first thing I see everyday is the entire side of their shed out of my bedroom window and is the last thing I see at night. I didn't complain... My shed is in compliance, theirs is not!

Unfortunately, I'm unable to attend the planning meeting on 1/27/2024 due to a previous engagement. Please feel free to reach out prior to the meeting if I can answer any questions and/or provide additional context.

Wayne Leonard  
2542 Oak Court  
612-386-5002





**City of White Bear Lake**  
Community Development Department

# MEMORANDUM

**TO:** The Planning Commission  
**FROM:** Ashton Miller, City Planner  
**DATE:** January 29, 2024  
**SUBJECT:** Macdonald Variance – 4556 Highway 61 – Case No. 24-4-V

---

## SUMMARY

The applicant, Ken Macdonald, requests both east and west side yard setback variances to rebuild and add a second story to the single unit dwelling located at 4556 Highway 61. Should the city approve the requested variances, the new house would be located on generally the same footprint as the existing house. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

## GENERAL INFORMATION

Applicant/Owner: Ken Macdonald

Existing Land Use / Zoning: Single Family; zoned R-2: Single Family Residential & S – Shoreland Overlay District

Surrounding Land East & West: Single Family; zoned R-2 & S  
 North: State Highway 61  
 South: White Bear Lake

Comprehensive Plan: Low Density Residential

Lot Size & Width: Code: 15,000 sq. ft.; 100 feet  
 Site: 11,052 sq. ft.; 38 feet street side; 34 feet lakeside

60 Day Review Date: February 16, 2024

## BACKGROUND INFORMATION

The subject site is located on the east side of Highway 61, just south of where Lake Avenue and Highway 96 intersect with Highway 61. The property abuts White Bear Lake on the southwest. The property contains a single family home with attached single stall garage that was constructed in 1920. The applicant would like to demolish the existing home in order to rebuild using the same side yard setbacks that currently exist, while adding a second story and extending the home towards the lake. Adding a second story and extending the structure

toward the lake are within the zoning standards and do not require variances.

The specific variances requested by the applicant include an 11.64 foot variance from the required 15 foot side yard setback on the west side and a 9 foot variance from the 15 foot setback on the east side. The variances have been requested in order to tear down and rebuild a single unit dwelling 3.36 feet from the west property line and 6 feet from the east property line.

The previous owners applied for the same side yard setback variances in 2023 with the intent to reconstruct the home with a second story. The Planning Commission held a public hearing on January 30, 2023 and unanimously recommended approval to the City Council. The City Council unanimously approved the variances on February 14, 2023.

During the land use application process, the abutting neighbor at 4552 Highway 61 cited a number of concerns with the proposal and eventually filed suit against the applicant and the city. The neighbor provided an engineering report that evaluated the structural condition of her home and documented potential impacts construction could have on the house. In order to resolve the dispute with the adjacent property owner, the previous owners requested that the variances be vacated, so in response, the City Council repealed the variances on April 11, 2023.

Community Comment. Under state law and the City's zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to property owners within 350 feet of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. As of the writing of this report, city staff has received one letter from an attorney representing the neighboring property at 4552 Highway 61, which is included in the packets. During the public hearing, staff will provide an update if any other public comments are received prior to the Planning Commission meeting.

#### **ANALYSIS**

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city's role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In Summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff's findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

**Finding:** The property is zoned R-2: Single Family Residential and S: Shoreland Overlay. The purpose of the R-2 zoning district is "to provide for urban density single family detached residential dwelling units," meaning the property is intended to be used for single-family development. The neighborhood was platted in 1907, before the R-2 zoning district and its standards were established, so even though the lot is substandard in both size and width by current code, as a lot of record, it is entitled to be used for single-family development. The variances make the reconstruction of the single-family home on the lot possible, therefore the proposed home is in harmony with the purpose of the zoning district. In addition, staff has reviewed the proposal against the standards in the zoning code and all other aspects comply.

**Parking.** The proposed home will include a two-car garage. The zoning code requires that new single-family homes have at least a two-car garage, so the expansion is bringing the property into conformity. The garage will meet the side yard and street side setbacks (5 feet and 20 feet, respectively).

**Lake Side Setback.** The required lakeside setback is an average of the two abutting neighbors as measured to the closest point of the Ordinary High Water Level, which for this property, is 145.5 feet. Unenclosed decks on the first floor of the home are allowed to encroach into the setback up to 8 feet, which is what the applicant is proposing.

**Height.** The maximum height allowed in the R-2 zoning district is 35 feet as measured from average ground grade to the mean of the roofline. The elevations provided indicate the house will be 30.5 feet in height. The applicant is not requesting a height variance as part of this application.

**Impervious Surface Coverage.** The property is limited to 30% impervious surface by right. The applicant is proposing to increase the amount of impervious to 33.3%, which under the zoning standards may be mitigated through the use of a trench drain. The final design of the stormwater mitigation feature will be reviewed and approved by the Engineering Department before issuance of a building permit to ensure compliance with code. A condition of approval also requires the applicant to install gutters and direct runoff away from adjacent properties.

2. Is the variance consistent with the comprehensive plan?

**Finding:** The proposed variances are not inconsistent with the 2040 Comprehensive Plan. The property is guided for "low density residential", which has a density range of 3 to 9 units per acre. Typical housing includes single family detached. The property is at a density of 4 units per acre, within the allowable density range. Granting the variance to allow the reconstruction of

the home is consistent with the goals and policies of the “low density residential” future land use category of the comprehensive plan.

3. Does the proposal put the property to use in a reasonable manner?

**Finding:** The proposal puts the subject property to use in a reasonable manner. Both the Comprehensive Plan and the purpose and intent of the R-2 zoning district allow for single family dwelling units, so the request to reconstruct a single family home on the lot is reasonable.

4. Are there unique circumstances to the property not created by the landowner?

**Finding:** There are unique circumstances not created by the landowner. The property is only 38 feet wide on the street side and 34 feet wide on the lake side at the setback line. The required setbacks are 15 feet from each side, leaving only 4 to 8 feet of buildable space. The code also requires houses to be a minimum of 22 feet wide, meaning a minimum of an 18 foot variance is required to make the lot buildable. Cumulatively, the applicant is asking for 20.64 feet of variance split between the two sides, and although not the minimum, the requested variances are consistent with the setbacks of the existing home. Further, at 24.5 feet in width, the house is only slightly larger than the minimum required by code.

5. Will the variance, if granted, alter the essential character of the locality?

**Finding:** Granting the requested variance will not alter the essential character of the surrounding neighborhood. The surrounding properties are similar in width, roughly 40 to 45 feet on the street side, and tapering to 30 feet or less along the lake. Consequently, all of the adjacent homes also encroach into the side yard setbacks at comparable rates. For example, the adjacent home at 4552 Highway 61 is only 3.2 feet from the shared lot line.

Further, several side yard variances have been granted for neighboring properties that are consistent with what is being requested here. The property to the north at 4558 Highway 61 was granted a 12.75 foot side yard variance to expand the home in 1995 and 4542 Highway 61 was granted a 12 foot side yard setback variance in 1998 for a deck.

#### **RECOMMENDATION**

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.
5. Gutters shall be installed and runoff directed away from adjacent properties.

6. All impervious area above 30% shall be mitigated according to the zoning code; design and infiltration calculations shall be approved by the Stormwater Engineer.
7. Porous pavers, rain gardens or other mitigating features used to offset impervious area shall be maintained by homeowner according to manufacturer's specifications or to preserve design function and capacity.
8. If grading extends closer than 50 feet to the OHWL, a grading plan must be submitted to the Rice Creek Watershed District for review and approval.
9. Conformance with all requirements of the city's Building, Engineering, and Fire departments as well as the Rice Creek Watershed district.

**ATTACHMENTS:**

Resolution

Zoning/Location Map

Applicant's Narrative & Plans (32 Pages)

Engineering Review Memo – Dated 1/12/24

Attorney Letter Representing 4552 Highway 61

**RESOLUTION NO.**

**RESOLUTION GRANTING TWO SETBACK VARIANCES  
FOR 4556 HIGHWAY 61 WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, Ken Macdonald (Case No. 24-4-V) has requested an 11.64 foot variance from the required 15 foot setback along the west side and a 9 foot variance from the 15 foot setback on the east, per code section 1303.040, Subd.5.c.2 in order to construct a single-family home on the property at the following location:

LEGAL DESCRIPTION: Attached as Exhibit A (PID # 23302212008)

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on January 29, 2024; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variances upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variances are in harmony with purposes and intent of the ordinance.
2. The requested variances are consistent with the 2040 Comprehensive Plan.
3. Granting the requested variances will allow the property to be used in a reasonable manner.
4. There are unique circumstances to the property not created by the landowner.
5. Granting the requested variances alone will not alter the essential character of the neighborhood.

**BE IT FURTHER RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variances, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.
5. Gutters shall be installed and runoff directed away from adjacent properties.

**RESOLUTION NO.**

6. All impervious area above 30% shall be mitigated according to the zoning code; design and infiltration calculations shall be approved by the Stormwater Engineer.
7. Porous pavers, rain gardens or other mitigating features used to offset impervious area shall be maintained by homeowner according to manufacturer's specifications or to preserve design function and capacity.
8. If grading extends closer than 50 feet to the OHWL, a grading plan must be submitted to the Rice Creek Watershed District for review and approval.
9. Conformance with all requirements of the City's Building, Engineering, and Fire departments as well as the Rice Creek Watershed district.

The foregoing resolution, offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_, was declared carried on the following vote:

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Dan Louismet, Mayor

**ATTEST:**

\_\_\_\_\_  
Caley Longendyke, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office. I have read and agree to the conditions of this resolution as outlined above.

\_\_\_\_\_  
Applicant's Signature

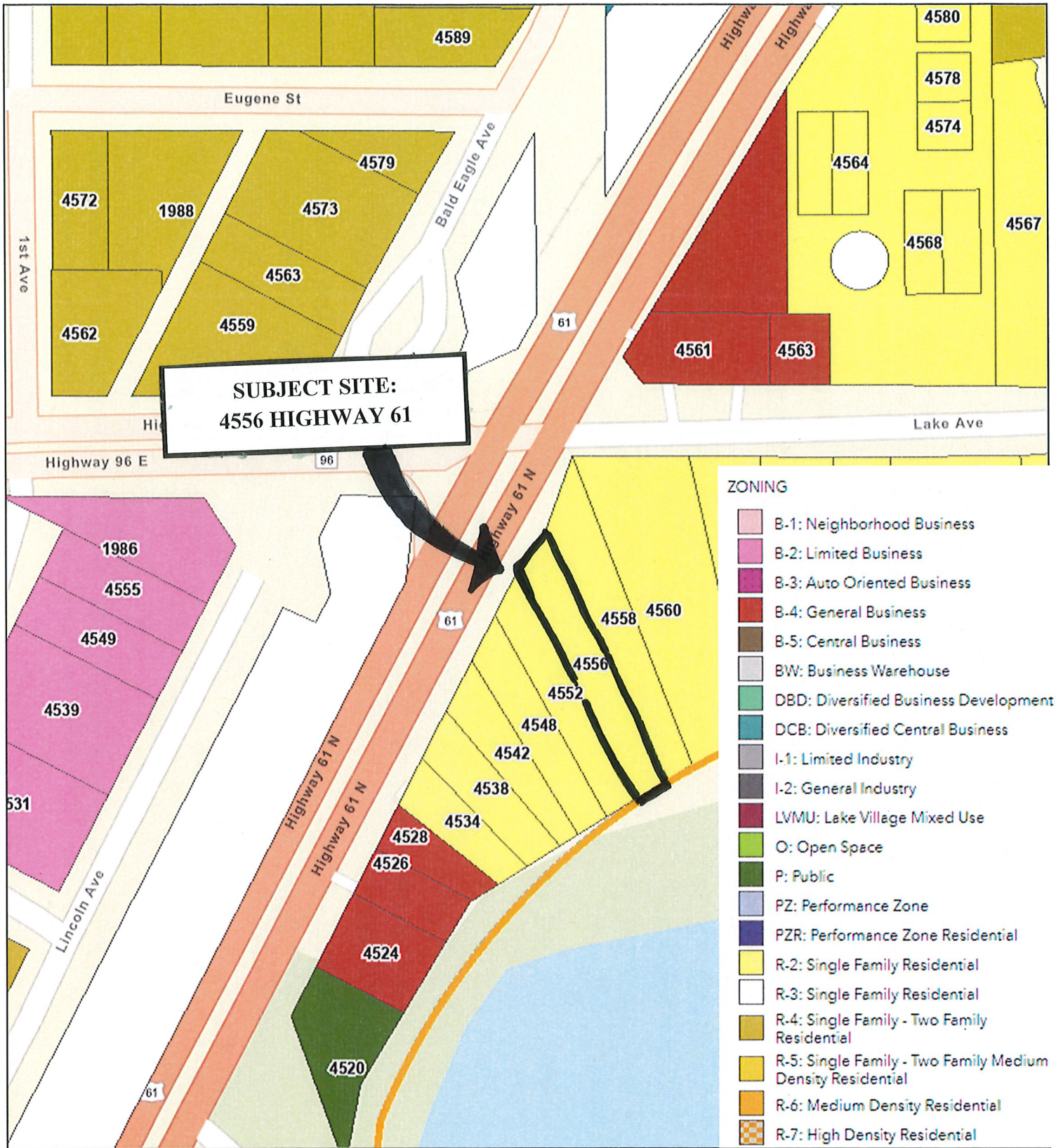
\_\_\_\_\_  
Date

**RESOLUTION NO.**

**EXHIBIT A  
LEGAL DESCRIPTION**

Lot 7, PRICE'S ADDITION TO WHITE BEAR, MINNESOTA, EXCEPT that part described as follows: All that part of Lots 4, 5, 6 and 7, PRICE'S ADDITION TO WHITE BEAR, MINNESOTA, lying Northerly of a line described as follows: Commencing at an iron monument at the Northeast corner of Lot 8 of said Addition, thence on a curve to the right with a radius of 164.15 feet to an iron monument at the intersection with original line of Lake Avenue in Lot 4 of said Addition, said point being 100 feet Easterly from the original angle point of Lot 6 of said Addition, and also EXCEPT all that part of the following described tract: That part of Lot 7, PRICE'S ADDITION TO WHITE BEAR, MINNESOTA, lying Southeasterly of Trunk Highway No. 61 as now located and established, which lies Northwesterly of the following described line: Beginning at the most Westerly corner of the above described tract; thence run northeasterly to the point of intersection of the northeasterly line of said tract with a line run parallel with and distant 5 feet Southeasterly of the northeasterly line of said tract and there terminating. Ramsey County, Minnesota. (PID # 23302212008)





City of  
White Bear Lake  
Planning & Zoning  
651-429-8561

CASE NO. : 24-4-V

CASE NAME : Macdonald

DATE : January 29, 2024

WRITTEN NARRATIVE IN SUPPORT OF SIDE YARD SETBACK VARIANCE REQUEST AT 4556 HWY 61

Side yard setback variance of 11.64 foot from the required 15 foot setback along the west side, and a 9 foot variance from the 15 foot setback on the east, per code section 13.03.040, Subd.5.c.2 in order to replace the current home on the property.

The "practical difficulty" that is unique to this property, and not created by the landowner, is the narrow lot size. The lots were platted, and the existing home was built well before the current lot size and setback requirements were established.

The existing home is 3.2 feet from the west lot line, and 7.5 feet from the east lot line. We plan to build within the exact same side yard setbacks, as was previously approved by a recent variance application from the previous owner. The proposed home will be expanded toward the lake in order to get a view that is less obstructed, up to the lakeside setback requirement. And toward the street in order to fit a 2 car garage. The building is well within the streetside setback requirement (proposed 36.3 ft vs a minimum of 20 ft). The proposed home will be higher than the existing house. We are well below the height requirement and are not requesting a variance for height (proposed 30.5 ft vs a max of 35 ft).

If this variance is granted, the essential character of the locality will not be altered. For comparison, the 5 adjacent homes to the west, and the 5 to the east were compared:

- 10 of the 11 are single family homes, including the subject property. One is duplex (4452 Hwy 61). Two of the properties have 2 residences on one parcel.
- 9 of the 11 are 2 story homes or have a portion of the home that is 2 stories. 2 of the 11 are currently single story, (including the subject property).
- None of the 11 would be buildable today without a variance.

Approving this variance will allow the replacement of a vacant, uninhabitable house with a new home that will be an asset to the community.

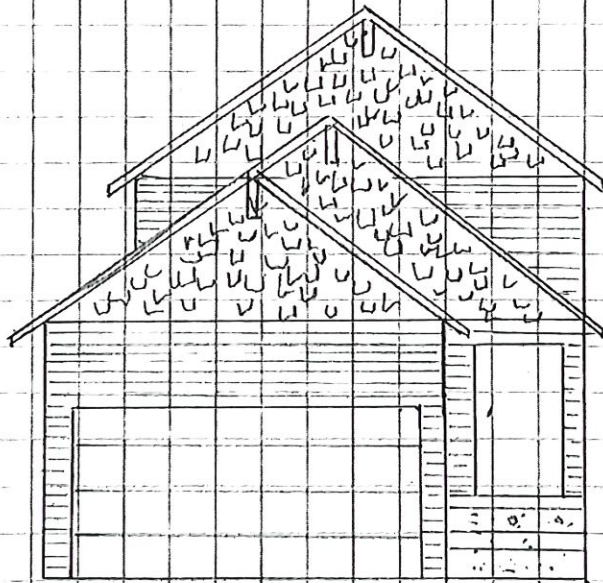


4556

HWY 61

STREET

ELEVATION



1" = 10'

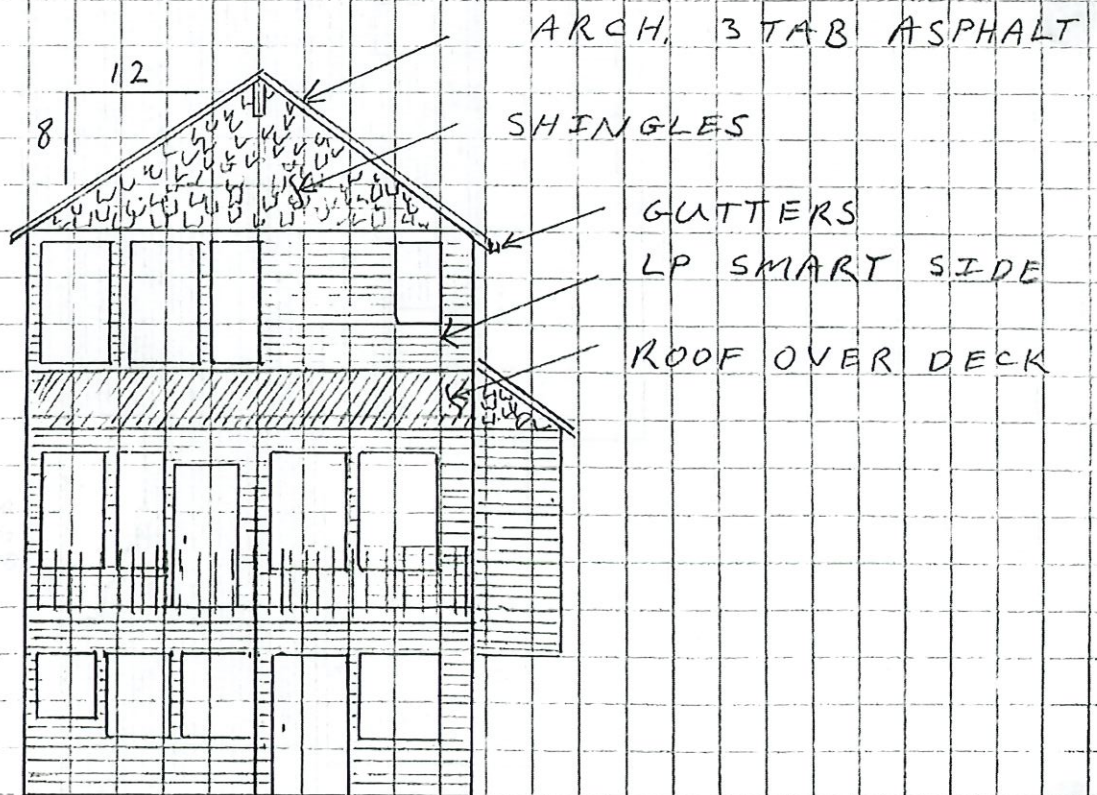


4556

HWY 61

LAKE

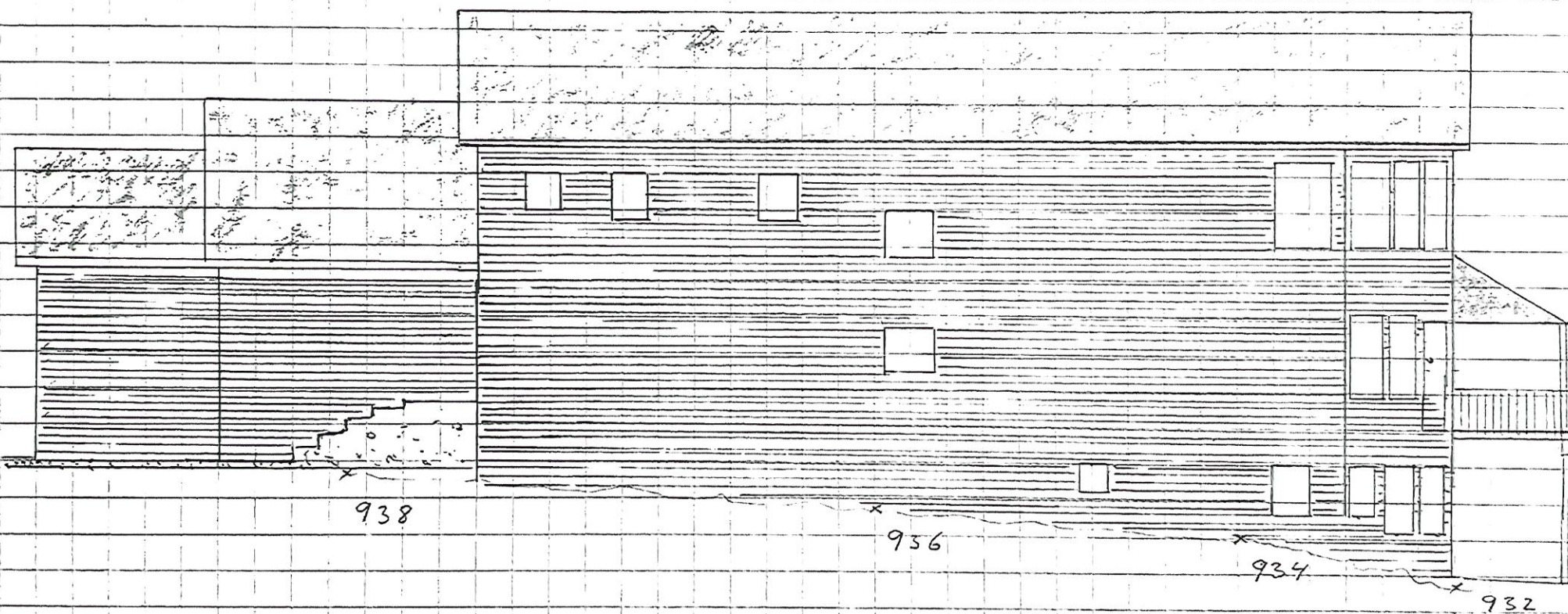
ELEVATION





4556 HWY 61

WEST  
ELEVATION

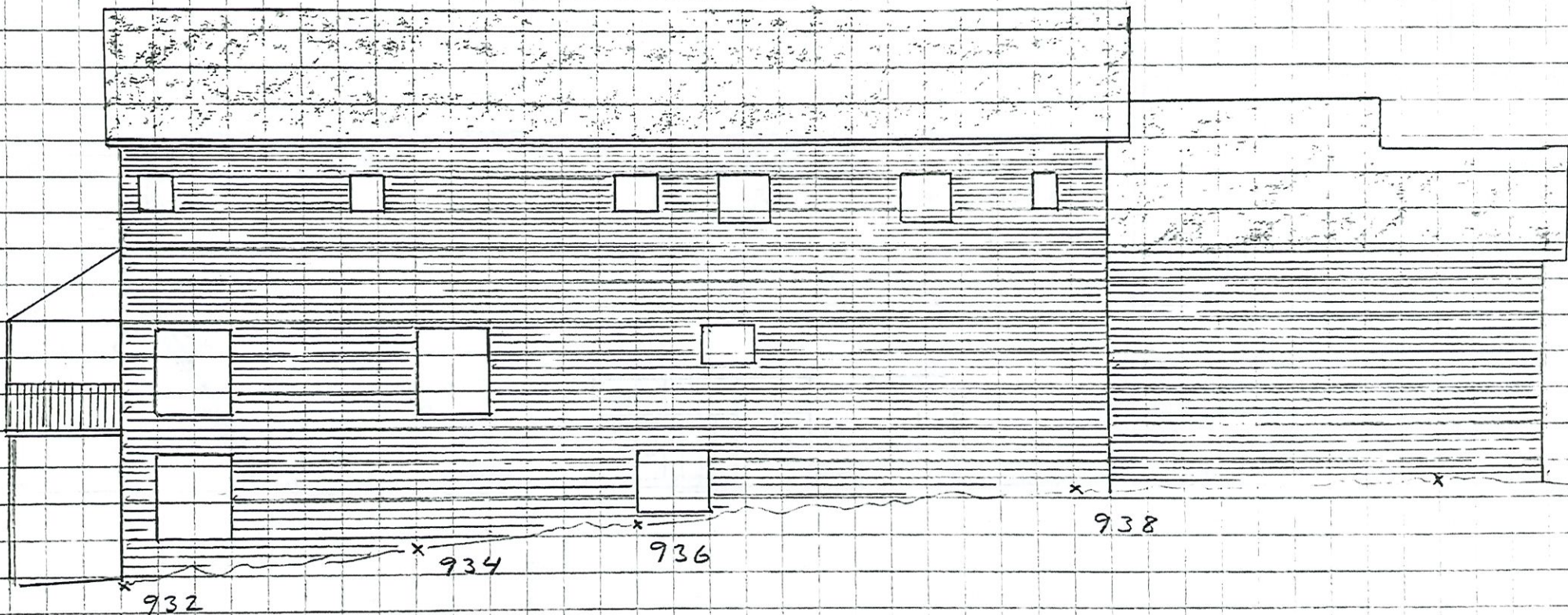


1" = 10'



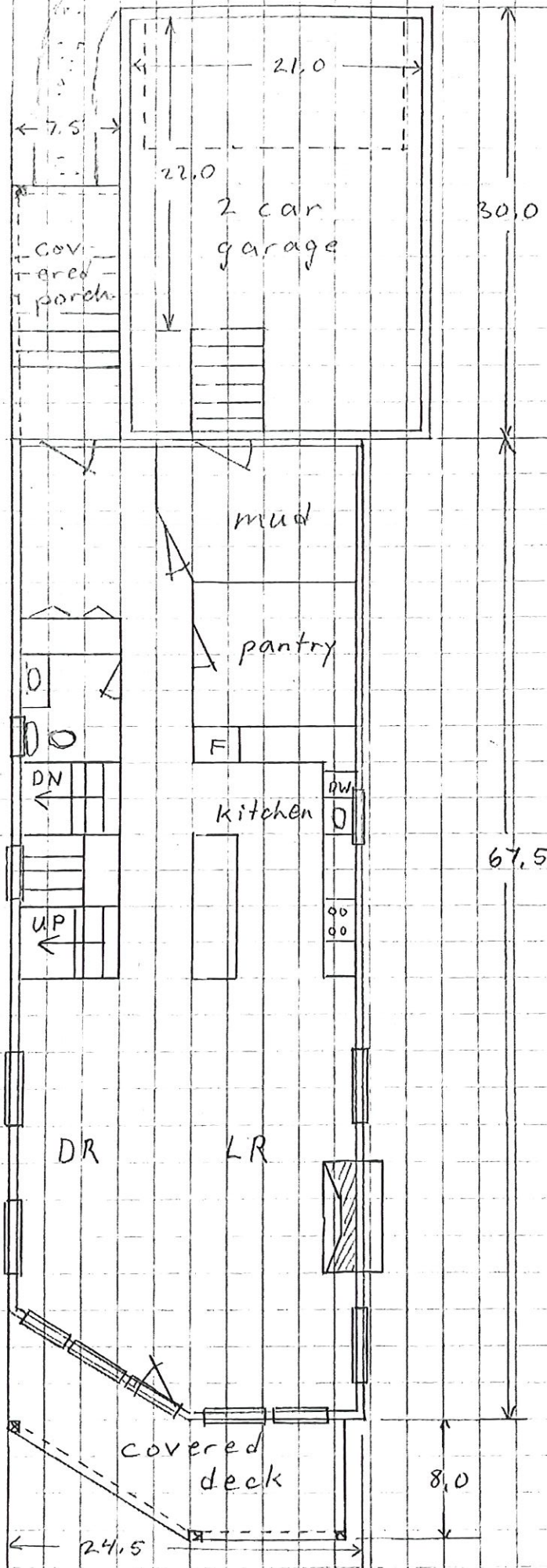
4556 HWY 61

EAST  
ELEVATION



1" = 10'





4556  
 HWY 61  
 MAIN FLOOR

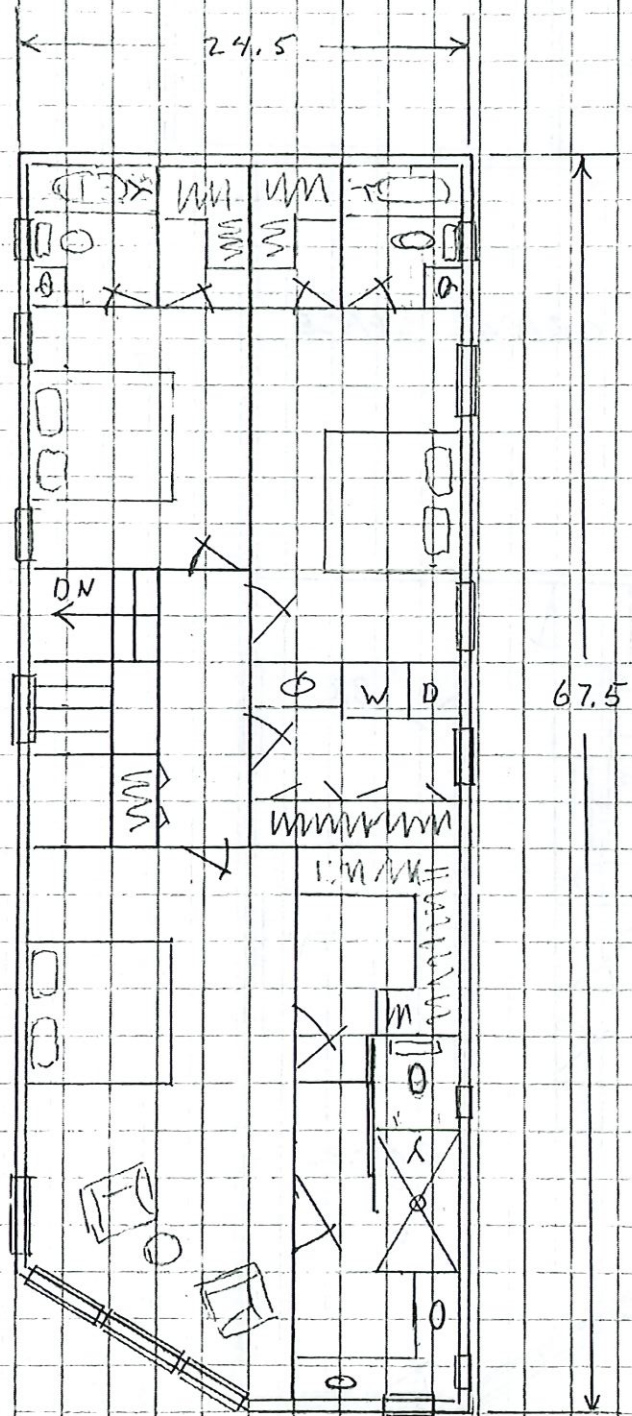
1" = 10'



4556

HWY 61

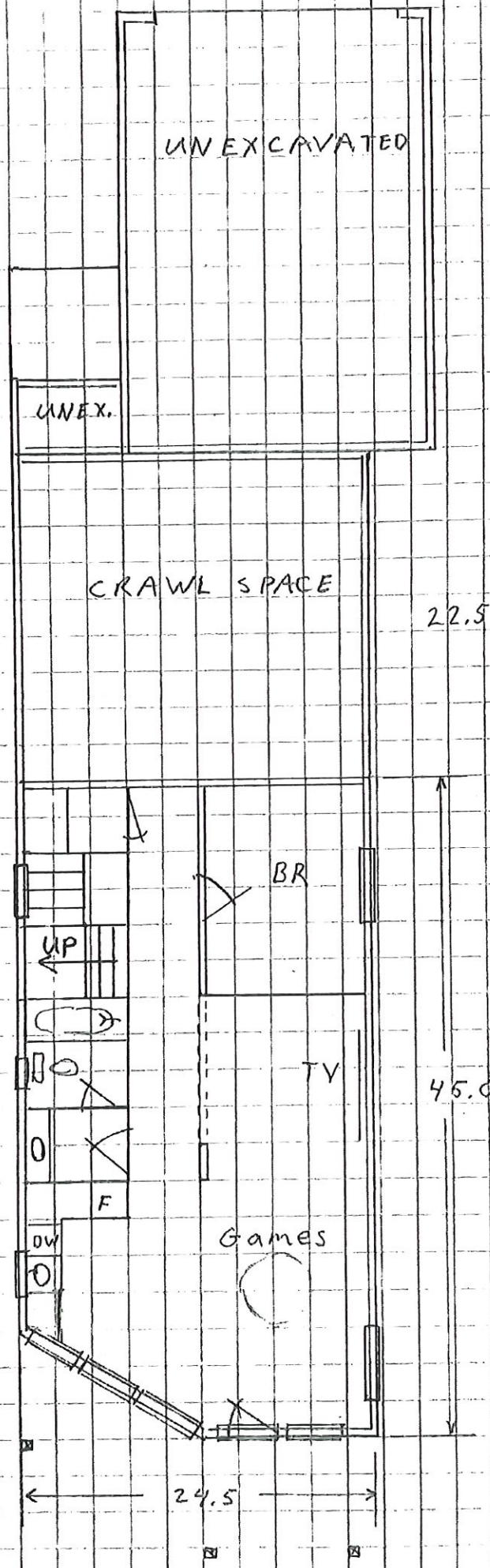
UPPER



1" = 10'



4556  
HWY 61  
BASEMENT

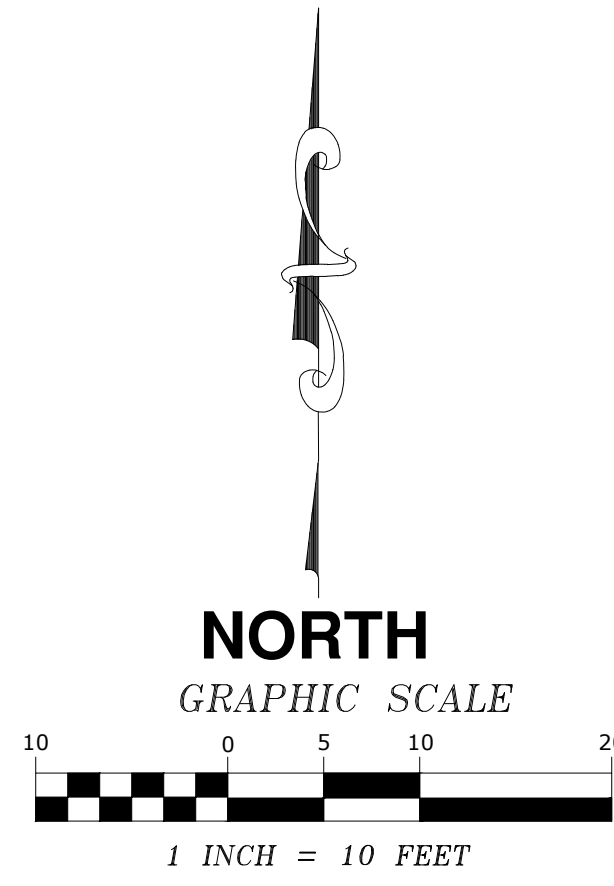


# CERTIFICATE OF SURVEY

~for~ KEN MCDONALD  
 ~of~ 4556 HIGHWAY 61  
 WHITE BEAR LAKE, MN

## NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 01/18/2024.
- Bearings shown are on the Ramsey County Coordinate System.
- Parcel ID Number: 23-30-22-12-0008.
- Curb shots are taken at the top and back of curb.
- The proposed building is setback using a calculation of the two adjoining main residents from OHW measurement of 129.8 feet and 160.1 feet for an averaged distance of 145.0 feet from OHW.
- For further boundary information see E.G. Rud and Sons, Inc. Certificate of Survey for Job Number 17682LS signed 9/29/2017.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.



## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES CURB STOP
- DENOTES ELECTRICAL BOX
- ⊕ DENOTES ELECTRICAL MANHOLE
- x 952.36 DENOTES EXISTING SPOT ELEVATION
- ⊕ DENOTES GAS METER
- ⊕ DENOTES HAND HOLE
- ⊕ DENOTES POWER POLE
- DENOTES RETAINING WALL
- DENOTES OVERHEAD UTILITY
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE
- DENOTES PAVER SURFACE

## PROPERTY DESCRIPTION

Lots 7, PRICE'S ADDITION TO WHITE BEAR, Ramsey County, Minnesota.

## BENCHMARK

RAMSEY COUNTY BENCHMARK NO. 9072  
 ELEVATION = 938.303 (NAVD 88)

(9.3' BASEMENT WALKOUT)

## PROPOSED ELEVATIONS

MAIN FLOOR = 942.0  
 TOP OF WALL HOUSE = 941.0  
 TOP OF BLOCK GARAGE (DROP) = 939.3  
 GARAGE FLOOR = 939.0  
 LOWEST FLOOR = 932.0  
 TOP OF FOOTING = 931.7

## IMPERVIOUS SURFACE CALCULATIONS EXISTING

TOTAL LOT AREA ABOVE OHW ..... 11,033 SQ. FT.  
 TOTAL LOT AREA ABOVE OHW, LESS RIGHT OF WAY ..... 10,056 SQ. FT.  
 EXISTING HOUSE AND GARAGE ..... 1,380 SQ. FT.  
 EXISTING BITUMINOUS DRIVEWAY ..... 127 SQ. FT.  
 EXISTING CONCRETE DRIVEWAY ..... 1,185 SQ. FT.  
 TOTAL IMPERVIOUS SURFACE OUTSIDE RIGHT OF WAY ..... 2,692 SQ. FT.  
 PERCENT IMPERVIOUS ..... 26.8%

## IMPERVIOUS SURFACE CALCULATIONS PROPOSED

TOTAL LOT AREA ABOVE OHW ..... 11,033 SQ. FT.  
 TOTAL LOT AREA ABOVE OHW, LESS RIGHT OF WAY ..... 10,056 SQ. FT.  
 PROPOSED HOUSE AND GARAGE ..... 2,295 SQ. FT.  
 PROPOSED COVERED DECK AND PORCH ..... 332 SQ. FT.  
 EXISTING BITUMINOUS DRIVEWAY ..... 127 SQ. FT.  
 EXISTING AND PROPOSED CONCRETE ..... 1,332 SQ. FT.  
 TOTAL IMPERVIOUS SURFACE ..... 4,086 SQ. FT.  
 PERCENT IMPERVIOUS ..... 40.6%

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.

*D.S.H.*  
 DANIEL S. HANSON

Date: 01/24/2024 License No. 52140

**E. G. RUD & SONS, INC.**  
 EST. 1977 Professional Land Surveyors  
 6776 Lake Drive NE, Suite 110  
 Lino Lakes, MN 55014  
 Tel. (651) 361-8200 Fax (651) 361-8701

|               |                   |                          |     |
|---------------|-------------------|--------------------------|-----|
| DRAWN BY: DSH | JOB NO: 24.0016HS | DATE: 01/24/2024         |     |
| CHECK BY: JER | FIELD CREW: DT/CT |                          |     |
| 1             | 01/24/24          | PROPOSED NEW HOME UPDATE | DSH |
| 2             |                   |                          |     |
| 3             |                   |                          |     |
| NO.           | DATE              | DESCRIPTION              | BY  |



# CERTIFICATE OF SURVEY

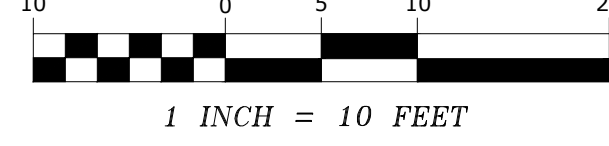
~for~ KEN MCDONALD  
 ~of~ 4556 HIGHWAY 61  
 WHITE BEAR LAKE, MN

## NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 01/18/2024.
- Bearings shown are on the Ramsey County Coordinate System.
- Parcel ID Number: 23-30-22-12-0008.
- Curb shots are taken at the top and back of curb.
- For further boundary information see E.G. Rud and Sons, Inc. Certificate of Survey for Job Number 17682LS signed 9/29/2017.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.

NORTH

GRAPHIC SCALE



## PROPERTY DESCRIPTION

Lots 7, PRICE'S ADDITION TO WHITE BEAR, Ramsey County, Minnesota.

## BENCHMARK

RAMSEY COUNTY BENCHMARK NO. 9072  
 ELEVATION = 938.303 (NAVD 88)

**IMPERVIOUS SURFACE CALCULATIONS EXISTING**  
 TOTAL LOT AREA ABOVE OHW..... 11,033 SQ. FT.  
 TOTAL LOT AREA ABOVE OHW, LESS RIGHT OF WAY ..... 10,056 SQ. FT.  
 EXISTING HOUSE AND GARAGE ..... 1,380 SQ. FT.  
 EXISTING BITUMINOUS DRIVEWAY ..... 127 SQ. FT.  
 EXISTING CONCRETE DRIVEWAY ..... 118 SQ. FT.  
 TOTAL IMPERVIOUS SURFACE OUTSIDE RIGHT OF WAY ..... 2,692 SQ. FT.  
 PERCENT IMPERVIOUS ..... 26.8%

## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- CS DENOTES CURB STOP
- DENOTES ELECTRICAL BOX
- ⊕ DENOTES ELECTRICAL MANHOLE
- x 952.36 DENOTES EXISTING SPOT ELEVATION
- ⊠ DENOTES GAS METER
- ⊞ DENOTES HAND HOLE
- ⊞ DENOTES POWER POLE
- ⊞ DENOTES RETAINING WALL
- OHU DENOTES OVERHEAD UTILITY
- ▨ DENOTES BITUMINOUS SURFACE
- ▨ DENOTES CONCRETE SURFACE
- ▨ DENOTES PAVER SURFACE

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.

*Daniel S. Hanson*  
 DANIEL S. HANSON

Date: 01/24/2024 License No. 52140

**E. G. RUD & SONS, INC.**  
 EST. 1977 Professional Land Surveyors  
 6776 Lake Drive NE, Suite 110  
 Lino Lakes, MN 55014  
 Tel. (651) 361-8200 Fax (651) 361-8701

| DRAWN BY: DSH | JOB NO: 24.0016HS | DATE: 01/24/2024 |    |
|---------------|-------------------|------------------|----|
| CHECK BY: JER | FIELD CREW: DT/CT |                  |    |
| 1             |                   |                  |    |
| 2             |                   |                  |    |
| 3             |                   |                  |    |
| NO.           | DATE              | DESCRIPTION      | BY |

WHITE BEAR LAKE  
 OHW=925.35 (NAVD 88) - DNR CONVERSION  
 WATER ELEVATION = 922.0  
 MEASURED 01/18/24

## RESPONSE TO PUBLIC COMMENT FOR SIDE YARD SETBACK VARIANCE REQUEST AT 4556 HWY 61

As part of the public comment portion for the previously approved variance, the Millers (owners at 4552 Hwy 61), raised several concerns. We have mitigated or addressed those as follows:

### 1) Reduction in Property Value

Based on the review of those adjacent properties, my house is the smallest, and has the lowest tax assessed value, please see *Attachment A – Tax record data for neighboring properties*. The condition of the current house at 4556 Hwy 61 is very poor. From the outside, the paint is peeling, there's a pile of broken concrete next to the front entry, the front stoop has a significant cant toward the house, there are weeds along the city sidewalk, and between the slabs in the driveway. The previous owners were granted an interior demolition permit, which was started. The interior is a bare shell: no cabinets, no fixtures, no plumbing, no insulation, no drywall, no flooring and with several locations where daylight can be seen through the exterior walls. The house has been vacant for over a year. See *Attachment B – Pictures of current condition of 4556*.

The proposed project expands the square footage, increases the number of bedrooms (from 2 to 4), and increases the garage stalls (from 1 to 2). The new house will have new windows, new roof, new siding, new landscaping, new appliances, new flooring, etc.

Given the substantial investment in the property being proposed, I fail to see how this project could possibly reduce the Miller's property value.

### 2) Structural Engineering report of 4552 (12/13/2022) See *Attachment C – Miller's Structural Evaluation of 4552*

#### *Engineer findings:*

- *“Water is the enemy of foundations”*
- *“Condition is good when compared to others of similar age” (Built in 1921)*
- *No “**significant**” water intrusion issues.*
- *No “**significant**” cracks or displacement in the foundation. Without **structurally significant** cracks or displacement.*
- *Basement slab **has some cracks noted**.*
- *Joist **deterioration is seen** which contributes to the **uneven floors** above.*
- *Plaster/**sheetrock cracking** is noted at the upper levels.*
- *Floors are slightly **uneven throughout***
- *Concrete slab in garage **has cracks** typical of age*

#### *Engineer recommendations:*

- *Document existing cracks*
- *Additional monitoring should be performed*
- *Add gutters and downspouts with water deposited at least 5-10 feet away.*
- *Remove decorative landscape borders which trap water next to the foundation*
- *Maintain/correct the landscaping and grading at the area surrounding the home to direct surface water, and water from the roof, to flow away from the foundation walls.*

Since this report, over a year ago, the Miller's have not added gutters or changed landscaping or grading. The Miller's cannot legally deposit their water 5-10 feet away from their foundation as recommended, since their house is only 3 feet from the property line. Their current building does not have gutters or downspouts.

My proposed home **will** have gutters and downspouts. The downspouts will be routed to a French drain that will carry the water along the property line toward the lake. This will terminate away from both houses, at an elevation lower than both basements, but above the shore impact zone. The drain will be sized to carry water from both structures, since we don't want the uncontrolled water from 4552 making its way into our basement.

Additionally, the proposed home is designed with a stepped foundation and a smaller finished basement footprint than was previously approved to eliminate the need for deep excavations next to the property line.

### 3) Fire Hazard

The MN state building code has very specific requirements for buildings based on usage, and "fire separation distance" (the distance between buildings). The code addresses when 1, 2, or 4-hour fire rating building construction methods are required, the maximum percentage opening area (windows), and whether or not projections (eaves, decks, balconies) are allowed, or have to be fire rated. This would be reviewed during the building permit process. For single family homes, with a separation of greater than 5 feet, there are no restrictions, and openings are unlimited. The proposed plan has opening sizes, and projections that would still be allowable, even if we were at the next closest fire separation distance (less than 5 ft, but greater than 3 ft). The exact wall construction method will be determined as part of the building permit process with the City. As a possible example of what may be required, see *Attachment D – possible detail for 1 hour fire rated wall*

### 4) Access to Light

The Miller's duplex is 2 stories, and is to the south and west of mine, so increasing the height of my house, will not shade their building. The WBL 2040 Comprehensive Plan discusses the protection and development of access to solar energy. Of the 5 houses to the south and the 5 to the north, there is only 1 other house that is currently only 1 story. Preventing me from building in height to match the neighboring properties, prevents my ability to access the same light and solar energy as currently enjoyed by the neighbors. See *Attachment E – Google Project Sunroof picture of 4556 Hwy 61*. Note that it looks like the Millers are currently enjoying access to light/solar on their garage, which would not be impacted by my project. See *Attachment F – Miller Garage Photo* and *Attachment G shadow angle based on time of day*

### 5) Access to Air

Not quite sure exactly what "access to air" means – except a desire to not build something larger than fits in the character of the neighborhood. See *Attachment A – Tax record data for neighboring properties*. And note that all the dwellings are single family residences except for the Miller's. Also, note if this proposal is approved, 10 of the 11 houses will be at least partially 2 stories. The remaining 1 story at 4542 is on a lot size that is half the size of mine, so the proposed home fits within the existing density of the neighborhood.

#### 6) Wind Tunnel Creation between buildings

By far my most challenging class when getting my Mechanical Engineering degree was Advanced Computation Fluid Dynamics, where we were required to write a computer program to predict the flow of a fluid. I'd love to see the professional engineering report or wind tunnel test that would support the Miller's opinion that increasing the building height would increase the wind velocity between the buildings. I know enough to not make a claim in this area, but I'd guess that not changing the distance between 2 buildings, and increasing the height of the second to match the height of the first, that the creation of any vortices would be reduced, lessening the risk of damaging wind between the buildings.

However, if wind between the buildings becomes an issue, we can install a privacy fence between the 2 buildings to block the wind.

#### 7) Convenience of Access to property

The Millers have paved over a portion of my property, which they use for a turn-around and parking. See *Attachment H – photo of parking encroachment*. There is no easement for this, and no agreement for this use. To mitigate the water runoff, and hard surface area percentage coverage on my property, we are considering removing the existing bitumous that is between our driveway and the property line and instead installing landscaping along the city sidewalk. The Millers will still have access to their property from their city provided curb cut, directly to their driveway, in front of their garage. See *Attachment I – 4552 Curb Cut*. Approval of my project should not be denied because the Miller's want to drive on my property. If the Millers did not apply for a variance to pave the portion of their driveway that is located within their side yard setback, they should do so.

The Millers will likely need to relocate their and their tenants' 5 large garbage containers where they can access them without trespassing.

Both of the Miller's encroachments are existing, and not made worse by the proposed project, since the proposed side yard setback matches the existing setback.

#### 8) Icicles

The existing building has notched 2x4 rafters sitting directly on the top plate of the wall. There is no insulation in the ceiling. Even if there were some added, there is not sufficient space to add the required ventilation and the thickness of insulation to prevent a warm roof and creation of icicles.

Modern building code and practices with a tight vapor barrier, vented attic space, and sufficient ceiling insulation drastically reduce the formation of ice dams and icicles along a building edge. We will be selecting trusses with an "energy heel" (space for insulation on top of the wall), and following the current building code.

The risk of icicles will be drastically reduced by approving this project. However, if icicles are still formed, we will install heat tracing on the roof and gutters as needed.

#### 9) Surface Icing between Properties

The existing house does not have gutters or downspouts, but the proposed house will. Additionally we will have proper grading and a French drain to route water away from the both structures to a safe location in the lake side yard. Since water won't be flowing from 4556 to 4552, then if surface icing on

the Miller's property is an issue, the Millers should follow their engineer's recommendation and correct their grading and install gutters and downspouts on their structure.

10) Erosion from water falling from roofs between properties

The existing house does not have gutters or downspouts, but the proposed home will, so any risk of erosion will be reduced by approving this project. If erosion under the Miller's eaves is an issue from water falling from their 2 story building, then the Millers should follow their engineer's recommendation and install gutters and downspouts on their building.

11) Potential for damage during construction

All care will be taken to prevent damage, but it is still possible for construction accidents to happen. The City of WBL mitigates this by requiring contractors operating in the city to be licensed, bonded and insured.



VARIANCE REQUEST - ATTACHMENTS

Attachment A – Tax record data for neighboring properties

Attachment B – Pictures of current condition of 4556

Attachment C – Miller’s Structural Evaluation of 4552

Attachment D – possible detail for 1 hour fire rated wall

Attachment E – Google Project Sunroof of 4556 Hwy 61

Attachment F – Miller Garage Photo

Attachment G – shadow angle based on time of day

Attachment H – photo of parking encroachment

Attachment I – 4552 Curb Cut

**Attachment A – Tax record data for neighboring properties**

| Address            | Lot Size (acres) | Tax Assessed Value (\$1,000) | House SF | Garage SF | Land Use                           | House Height | Property Width x Length |
|--------------------|------------------|------------------------------|----------|-----------|------------------------------------|--------------|-------------------------|
| 4534 Hwy 61        | 0.08             | 883                          | 3530     | 440       | Single Family                      | 2 story      | 30x120                  |
| 4538 Hwy 61        | 0.11             | 633                          | 2512     | 528       | Single Family                      | 1 1/2 story  | 30x160                  |
| 4542 Hwy 61        | 0.09             | 630                          | 1635     | 528       | Single Family                      | 1 story      | 20x190                  |
| 4548 Hwy 61        | 0.13             | 569                          | 1907     | 200       | Single Family                      | 1 1/2 story  | 30x190                  |
| 4552 Hwy 61        | 0.17             | 603                          | 2491     | 1080      | Duplex (2 family dwelling up/down) | 1 1/2 story  | 30x240                  |
| <b>4556 Hwy 61</b> | 0.18             | 541                          | 926      | 264       | Single Family                      | 1 story      | 30x260                  |
| 4558 Hwy 61        | 0.19             | 709                          | 2090     | 748       | Single Family                      | 1 1/2 story  | 30x280                  |
| 4560 Lake          | 0.40             | 957                          | 2372     | 924       | 2 residences on one parcel         | 2 story      | 100x290                 |
| 4564 Lake          | 0.19             | 861                          | 2321     | 704       | Single Family                      | 2 story      | 30x280                  |
| 4568 Lake          | 0.26             | 1001                         | 2740     | 720       | 2 residences on one parcel         | 2 story      | 44x260                  |
| 4570 Lake          | 0.44             | 1272                         | 2622     | 738       | Single Family                      | 2 story      | 80x240                  |

**Attachment B – Pictures of current condition of 4556**









### Attachment E – Miller Garage Photo

4552 currently looks to be enjoying their available light.



### Attachment F – shadow angle based on time of day

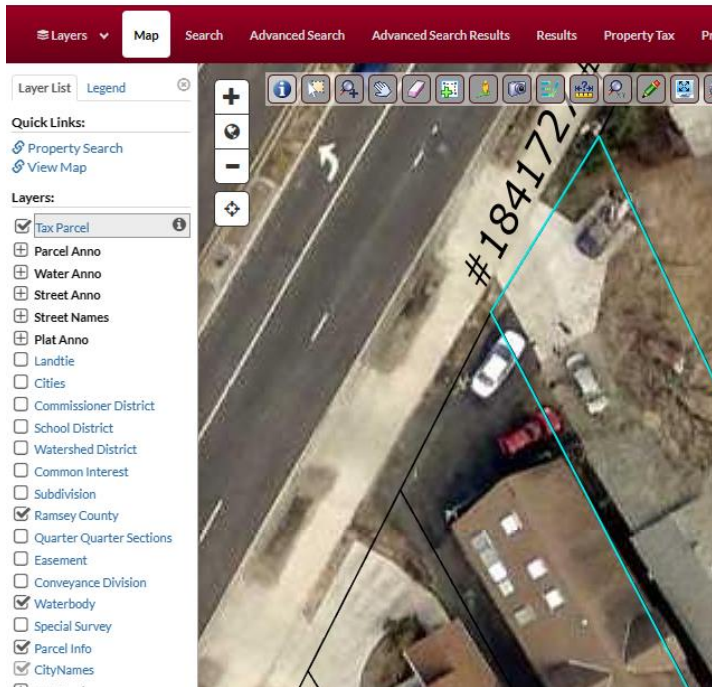
Picture showing the angle to the sun at various times throughout the day. 4556 does not shade 4552. In fact, 4556 is preventing access to light for 4452.

A screenshot of the SunEarthTools website. The browser address bar shows the URL https://www.sunearthtools.com/dp/... with coordinates 45.0786955, -93.0154411 and 45° 4' 43.304". The page includes a search bar, a sidebar with navigation links like 'Home', 'Photovoltaic payback', and 'Sun Position', and a main content area. The main area displays a map with a yellow sun icon and several black arrows representing shadow angles at different times of the day, labeled with numbers 10 through 16. The map shows a residential area with houses and trees. The page also includes a footer with a Creative Commons license and a link to 'Insert this map tool in your site'.



## Attachment G – photo of parking encroachment

 RAMSEY COUNTY



## Attachment H – 4552 Curb Cut

The property at 4552 has plenty of legal access to their property so their convenience should not be adversely impacted.



Exhibit A

Legal Description

The Land is described as follows:

Lot 7, Price's Addition to White Bear, Minnesota, except that part described as follows: All that part of Lots 4, 5, 6, and 7, Price's Addition to White Bear, Minnesota, lying Northerly of a line described as follows:

Commencing at an iron monument at the Northeast corner of Lot 8 of said Addition; thence on a curve to the right with a radius of 164.15 feet to an iron monument at the intersection with original line of Lake Avenue in Lot 4 of said Addition, said point being 100 feet Easterly from the original angle point of lot 6 of said Addition, and also except all that part of the following described tract:

That part of Lot 7, Price's Addition to White Bear, Minnesota, lying Southeasterly of Trunk Highway No. 61 as now located and established, which lies Northwesterly of the following described line: Beginning at the most Westerly corner of the above described tract; thence run Northeasterly to the point of intersection of the Northeasterly line of said tract with a line run parallel with and distant 5 feet Southeasterly of the Northwesterly line of said tract and there terminating, Ramsey County, Minnesota.



December 13, 2022

Rosalie and Michael Miller  
4552 Highway 61 North  
White Bear Lake, MN 55110  
Submitted by email: millerworld@comcast.net

Re: Structural Evaluation  
Project Location: 4552 Highway 61 North, White Bear Lake, Minnesota  
Criterium File No.: 22-6832

Dear Rosalie and Michael:

At your request, an initial pre-construction condition survey of the above property has been completed, as well as a visual review of the site layout and conditions as related to the adjacent property to the north at 4556 Highway 61 North. The report that follows has been prepared based on that inspection. This inspection was performed by Paul Schimnowski, PE.

My work includes the following:

1. Visual observations during a physical walk-through on December 7, 2022.
2. Observe factors influencing the performance of the structure.
3. Provide a written report containing the following:
  - a. Scope of services.
  - b. Observations, site characteristics, and data deemed pertinent by me.
  - c. Discussion of major structural factors influencing the performance of this house.
  - d. Conclusions and any recommendations for further investigation and remedial or preventative measures.
4. This inspection is limited to the visible site elements, house foundation, framing, and the nearby or related structural elements as determined by the engineer. You asked me to pay special attention to the potential impacts to the house as related to demolition and/or construction activities at the adjacent property to the north.

## CONCLUSIONS

The following is a summary of my professional opinions regarding this house and proposed construction on the adjacent property to the north:

1. The structural condition of your house is considered to be good when compared to others of similar age and construction type. No structural repairs are required at this time. recommended. Other items noted and general recommendations have been included as well.
2. Construction activities at the adjacent property to the north could affect the structural performance of your house. Depending on the extent of the work performed, the foundation of your house could be negatively affected. Subsequent and/or other effects of construction activities in close proximity to your house could consist of framing damage and crack/gap development on walls, floors, and ceilings.

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3. More information about the proposed work and construction details on the adjacent property would need to be provided in order for me to elaborate further on potential construction-related damage to your house.
4. Regarding potential site and drainage issues, ensuring that surface water continues to be directed away from your house foundation will be important. You reported that you have not had any significant water intrusion issues in the basement of your house. Maintaining a positive slope away from your foundation and preventing water from the adjacent property being directed towards your house will be important to reduce the chances of future water intrusion.
5. The existing proximity between the two structures varies from approximately 7'-3" to 9'-5". This is less than the current White Bear Lake setback requirement of 10-feet. The City should be consulted to verify this requirement and to inquire about possible exemptions, variances, or "grandfathered" rules. The first zoning code was not established in the City until 1965.
6. It is possible that if the existing foundation at 4556 Highway 61 is fully or partially maintained, a new structure may be allowed to be built on it. The structural engineer for the project will need to determine the feasibility of keeping the foundation.
7. Based on the information you provided, a new 2-car, attached garage is proposed on the west end of the house. This addition would likely require a new foundation which may not be allowed as shown on the drawings due to setback requirements.
8. You requested that I comment on some of your other concerns regarding the close proximity of the proposed structure:
  - a. Fire hazard: Having combustible buildings in close proximity to each other increases the risk of a fire spreading from one structure to another. Contact the City Fire Marshall for more information.
  - b. Winter safety: Reducing the opportunity for icicles to form on the edge of the proposed 2-story overhang will be important for safety reasons. Adequate attic insulation and ventilation, as well as gutters and downspouts, will help to reduce this risk.

## RECOMMENDATIONS

Prior to any construction or demolition activities on the adjacent property to the north, another pre-construction condition survey should be performed. The intent would be to document existing cracks, as well as the lack of damage in areas, at the interior and exterior conditions of your house.

A complete plan of all work to be performed on the adjacent property should be provided for review and comment. This could include details regarding excavation, temporary shoring of earth, proposed foundation repair work, and full construction drawings of the proposed modifications to the existing structure.

## GENERAL RECOMMENDATIONS FOR HOUSES:

1. Continue to verify that grading adequately directs surface water to flow away from the house. Surface runoff water is the enemy of foundations. Maintain/correct the landscaping and grading at the area surrounding the home to direct surface water, and water from the roof, to flow away from the foundation walls. Consider removing any decorative landscape border which traps water against the foundation walls especially if basement water has been noted.

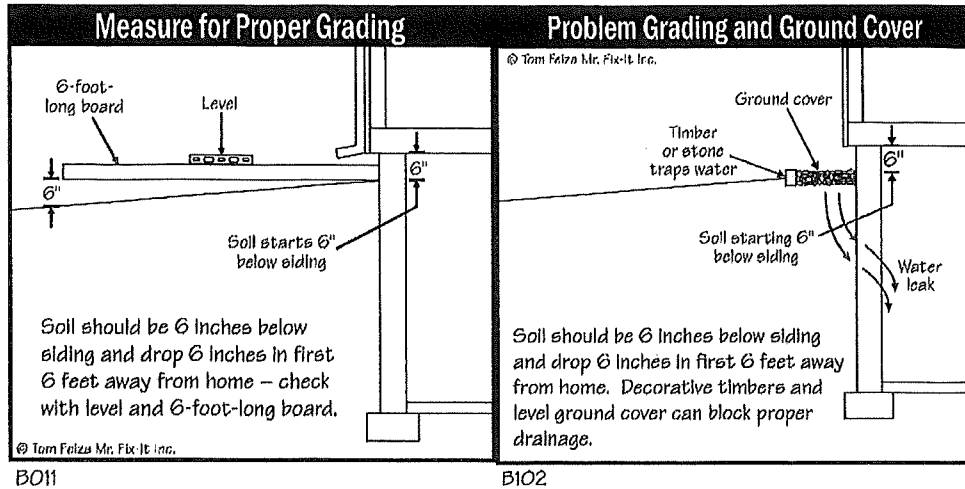
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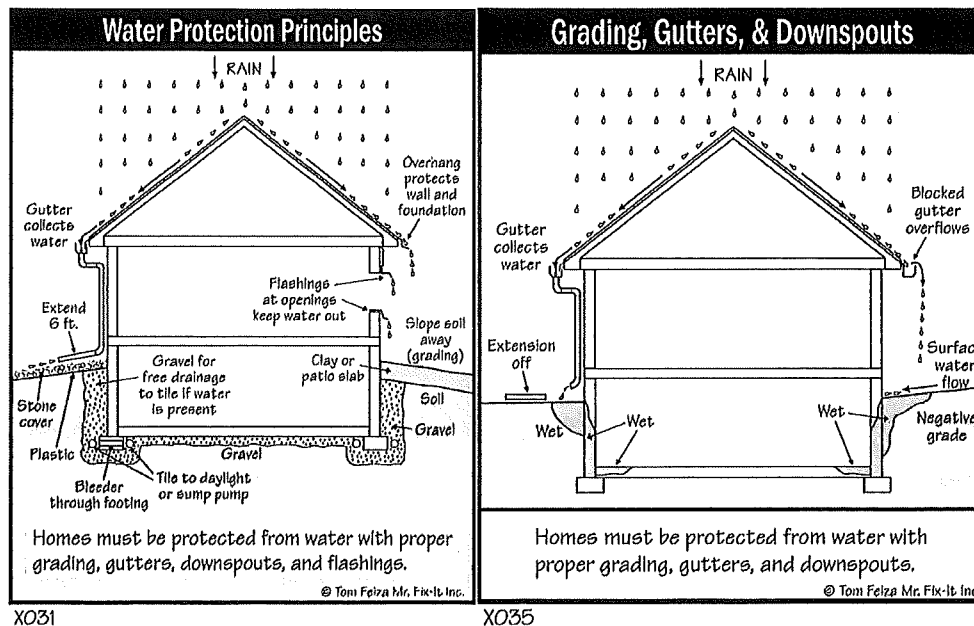
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2. **Gutter/Downspouts:** Water from the roof damages foundations. Install a gutter/downspout water control system. Ensure that all gutters are unplugged, flowing and all downspouts and leaders are depositing water at least 5 to 10 feet from the home. Gutters with guards, to keep debris from collecting in the gutters, should be considered if not already installed.



3. In addition to any specific issues noted, the integrity of the entire building envelope should be maintained to prevent water intrusion into the structure. The house envelope includes such features as roofing, flashing, siding, and trim.

**INSPECTION DETAILS**

- Our client, to whom this report is addressed, is the owner.
- The client was present during our site visit.

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- The following areas were inaccessible or not visible, and this limited the extent of our structural inspection:
  - Most of the foundation system and slab (underground and/or concealed due to finished conditions)
  - Wall and floor framing (concealed)

## **DESCRIPTION OF STRUCTURE**

- This building is a two-level single-family home.
- The house has a full basement.
- The original structure was built around 1921 with subsequent additions in the 1960s and 1980s.
- The front of the house faces east toward the lake. The attached garage faces west.

## **DOCUMENT REVIEW**

In conjunction with this investigation, the following documents were provided for review:

- Certificate of Survey prepared by E.G. Rud & Sons dated September 29, 2017.
- Drawings of a proposed home remodel for 4556 Highway 61.
- A partial site survey drawing for 4556 Highway 61 with notes indicating the proposed house footprint and 2-car garage addition.

These documents were considered when rendering our professional opinion regarding the performance of the home's structural system and/or when providing design specifications or repair details.

## **EXTERIOR**

The exterior walls of this house are covered with composite siding. The siding is in overall good condition.

The exterior foundation walls are mostly concealed. At the visible areas, they are in good condition without structurally significant cracks or displacement noted.

## **ROOF**

The roof covering of this home consists of asphalt/fiberglass shingles. The roof is snow covered.

## **GROUNDS**

The grounds are snow covered but appear to be generally adequate to control ground water. The driveways and walkways are adequately sloped to keep water away from the building foundation.

Gutters and downspouts are recommended.

## **BASEMENT**

The basement has a concrete masonry unit (CMU) foundation system. It is accessible and partly finished. Thus, portions of the foundation as well as some areas of framing are not visible. The covered walls have no bulging or displacement to suggest underlying structural issues with the CMU walls. The visible areas of the foundation walls are in good condition without structurally significant cracks or displacement.

The basement floor consists of a concrete slab which is partially visible. The slab is in good condition with some cracks noted. The cracks are typical for this type of construction and do not signify a structural

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problem. There is no evidence at the covered floors to suggest a structural problem with the concrete slab.

The wood beams and wood posts are in overall good condition. The first-floor joists and subfloor are in overall good condition for age and type of construction. Some typical joist deterioration is seen which contributes to uneven floors above. This is not a structural issue and repairs are not required.

## INTERIOR

Some plaster/sheetrock cracking is noted at the upper level(s) which is typical for houses in this climate and due to seasonal temperature and humidity change.

The floors are slightly uneven throughout. This is a common finding in houses of this age and in this climate and due to typical deterioration of joists and subfloor.

## GARAGE

The attached garage has a concrete masonry foundation system with a ground supported slab. The garage is partly finished. Visible areas of the foundation walls are in good condition without structurally significant cracks or displacement.

The concrete slab is in overall good condition and the cracks seen are typical for age and type of construction. No repairs are needed.

There are no indications of structural issues with the garage framing. No bowing or water intrusion is noted at the finished walls/ceiling.

## DESCRIPTION OF TERMS

Terms used in this report to describe the condition of observable components and systems are listed and defined below. It should be noted that a term applied to an overall system does not preclude that a part or a section of the system or component may be in different condition:

- Excellent-** Component or system is in "as new" condition, requiring no rehabilitation, and should perform in full accordance with expected performance.
- Good-** Component or system is sound and performing its function. Although it may show signs of normal wear and tear, some minor rehabilitation work may be required.
- Fair-** Component or system falls into one or more of the following categories: a) Evidence of previous repairs not in compliance with commonly accepted standards, b) Workmanship not in compliance with commonly accepted standards, c) Component or system is obsolete, d) Component or system approaching end of expected performance. Repair or replacement is required to prevent further deterioration or to prolong expected life.
- Poor-** Component or system has either failed or cannot be relied upon to continue performing its original function as a result of having exceeded its expected performance, excessive deferred maintenance, or state of disrepair. Present condition could contribute or cause the deterioration of other adjoining elements or systems. Repair or replacement is required.

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## SCOPE OF SERVICES and LIMITATIONS

The purpose of this inspection and report is to evaluate the current condition of the **structural system** of this building and to determine what, if any, significant maintenance, repairs, and/or replacement to this system might be expected within the next few years.

The report is not to be considered a guarantee of condition and no warranty is implied.

Our evaluation of this structure is based on many indirect observations. Examination of the foundation is completed without excavation; therefore, we cannot be certain of the condition below grade. Additionally, we cannot certify that the footings extend below the frost line. We cannot see most of the framing. We look for cracks, bulges, and other evidence of distress or deterioration to help us evaluate the condition. In addition, often, construction details cannot be known, and we then assess that system with typical construction practices for our area in mind. As with any limited inspection, it is possible that there are structural deficiencies that cannot be known.

This scope of this inspection does not include a comprehensive evaluation for code compliance, governmental regulation compliance, fire safety, or hazardous materials in or around this building. It does not include an inspection of heating, cooling, plumbing and electrical systems or repair designs. Inspecting for mold is not included in the scope of a structural inspection. Our services do not include determining the presence of a virus in this building. Evidence of any moisture-related problems in the home is not always visible. We cannot be responsible for any such conditions that might be discovered later. This report is not a termite inspection, and no responsibility is assumed for any damage caused by wood-destroying organisms.

This report is based on an examination of the structural system and is an opinion about the condition of the structural system of the building. It is based on evidence available during a diligent inspection of all reasonably accessible areas. No surface materials were removed, no destructive testing undertaken, nor furnishings moved. This report is not an exhaustive technical evaluation. Examination of the exterior veneer, exterior siding, interior walls, trim, windows, doors or frames is completed only to see if any signs of differential movement are present and not to render an opinion of the condition of these items. Issues concerning the veneer, siding, trim, windows, doors or frames, or any associated rot, caulking, etc., are not included in the scope of a structural inspection and, if we address any of these items in our report, it is only as a courtesy and should not be considered an opinion of these items or an all-inclusive list of deficiencies.

As Professional Engineers, it is our responsibility to evaluate available evidence relevant to the purpose of this inspection. We are not, however, responsible for conditions that could not be seen or were not within the scope of our service at the time of the inspection. If additional documentation or information is made available for review, I reserve the right to amend or add to the opinions and observations presented in this report.

No building is perfect. As you review this report, pay particular attention to our notes that often our observations and recommendations are typical of many structures we inspect.

## CLOSING

In summary, I consider the structural condition of this house to be good when compared to others of similar age and construction type. Additional documentation and monitoring should be performed prior to and during any construction activity on the adjacent property to the north.

Opinions and recommendations in this report are limited to the scope of work. This report has been prepared in strict confidence with you as our client. Reliance upon our report by other parties is strictly prohibited. If you choose to share our report, you agree to indemnify, defend and hold harmless the

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Engineer from any third-party action. No reproduction or re-use is permitted without express written consent. Further, we will not release this report to anyone without your permission.

If additional documentation or information is made available for review, I reserve the right to amend or add to the opinions and observations presented in this report.

Please call with any additional questions you may have. Thank you for the opportunity to be of assistance to you.

Sincerely,

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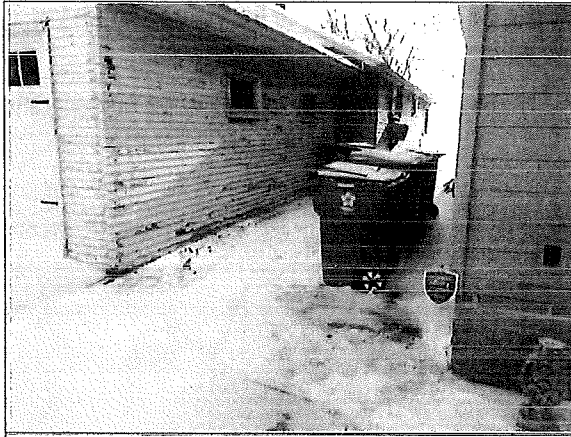


Location  
4552 Highway 61,  
White Bear Lake, MN

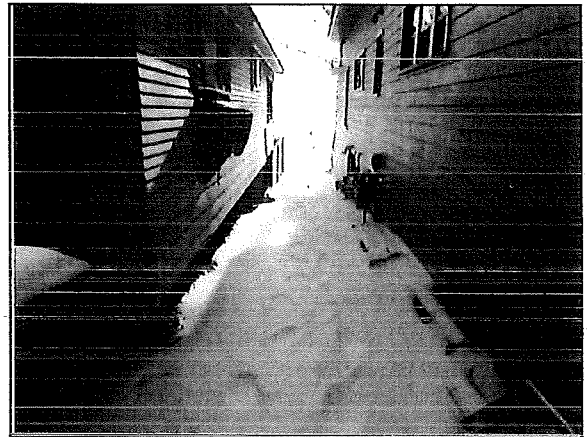
Photos Taken by:  
Paul D Schimnowski, P.E.

Inspection Date:  
December 7, 2022

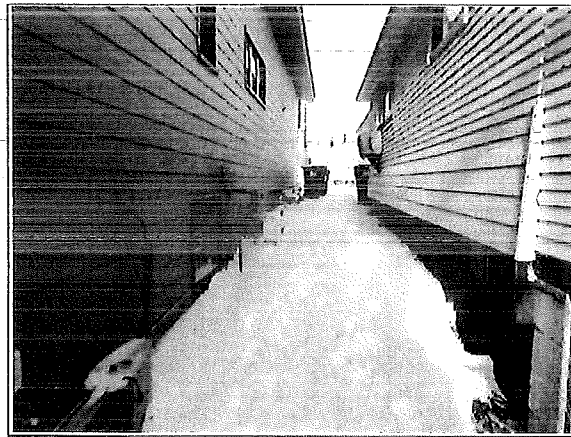
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1 View of area between structures. (4552 Hwy, 61 on right, 4556 Hwy. 61 on left). Approx. 9.5'



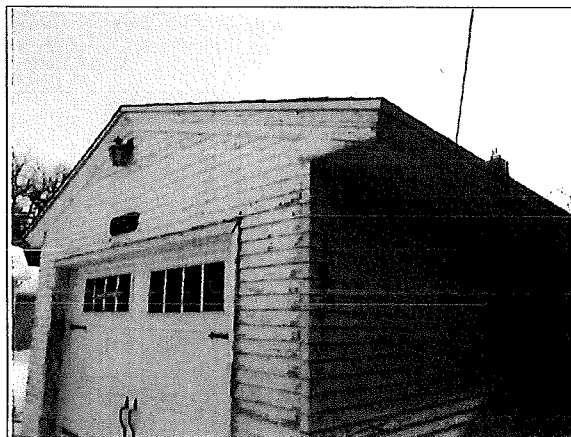
2 View between existing structures looking east.



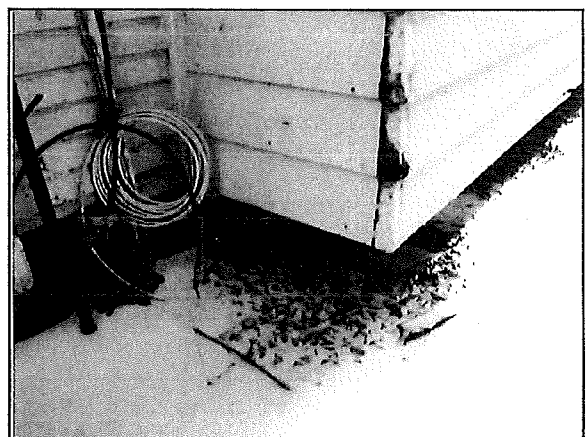
3 View between existing structures looking west.



4 View between existing structures looking east.



5 Existing garage at 4556 Highway 61.



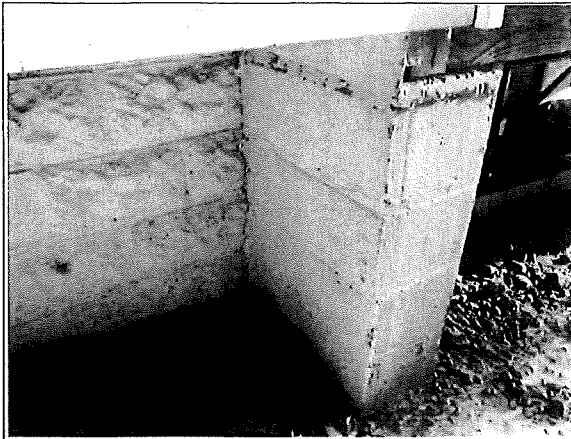
6 Overhang from foundation on existing house at 4556 Highway 61 is approx. 2'-4".

Location  
4552 Highway 61,  
White Bear Lake, MN

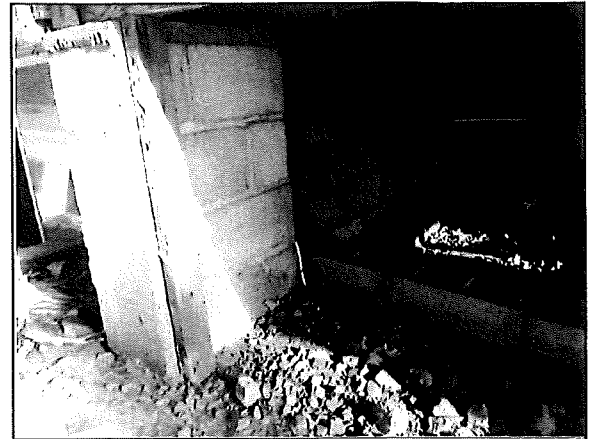
Photos Taken by:  
Paul D Schimnowski, P.E.

Inspection Date:  
December 7, 2022

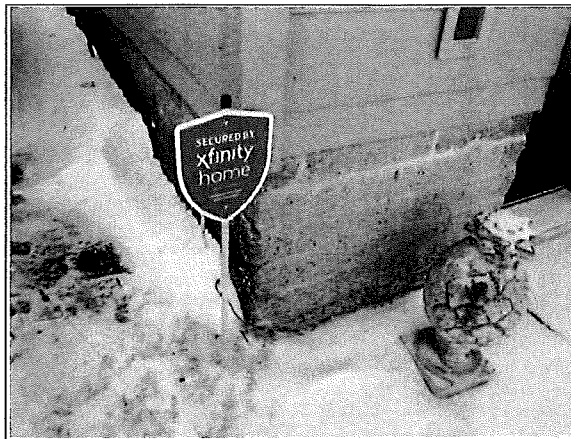
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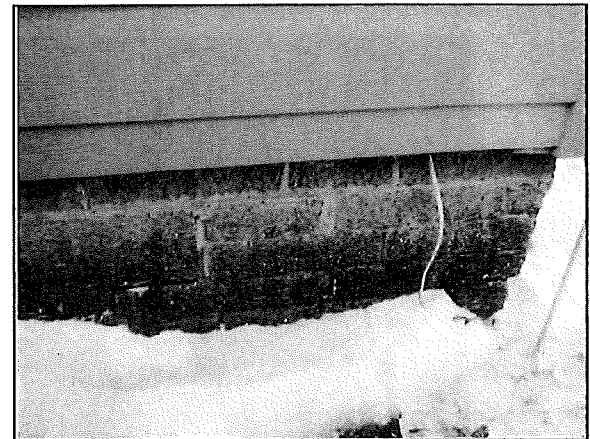
7 Existing foundation at 4556 Highway 61.



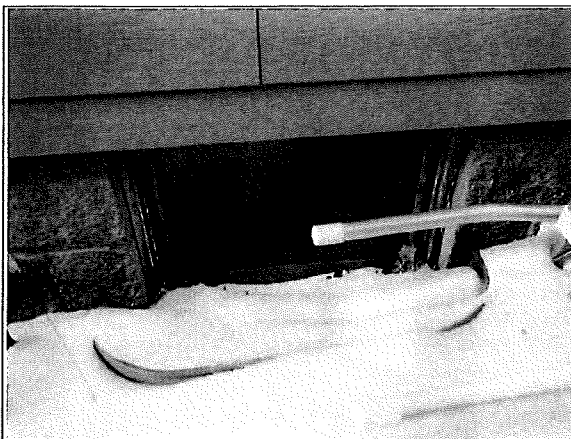
8 Existing foundation at 4556 Highway 61.



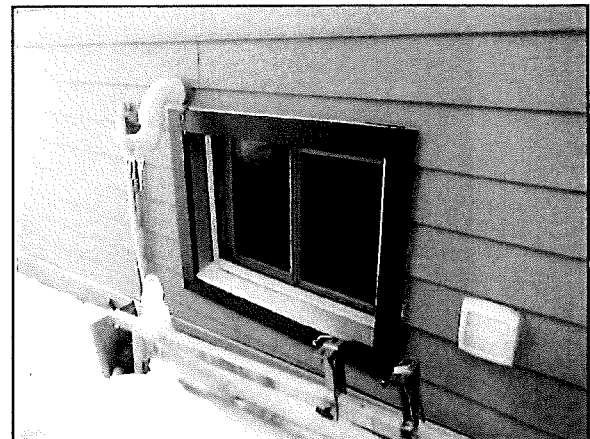
9 Existing garage foundation wall at northwest corner of 4552 Highway 61.



10 Existing garage foundation wall on north side of 4552 Highway 61.



11 Existing north foundation wall at 4552 Highway 61.



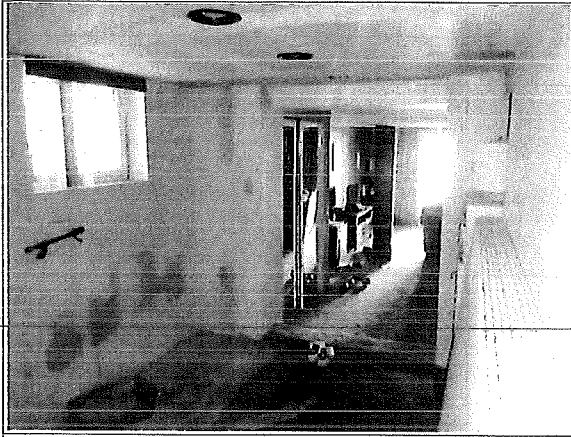
12 Existing conditions along north side of 4552 Highway 61.

**Location**  
4552 Highway 61,  
White Bear Lake, MN

**Photos Taken by:**  
Paul D Schimnowski, P.E.

**Inspection Date:**  
December 7, 2022

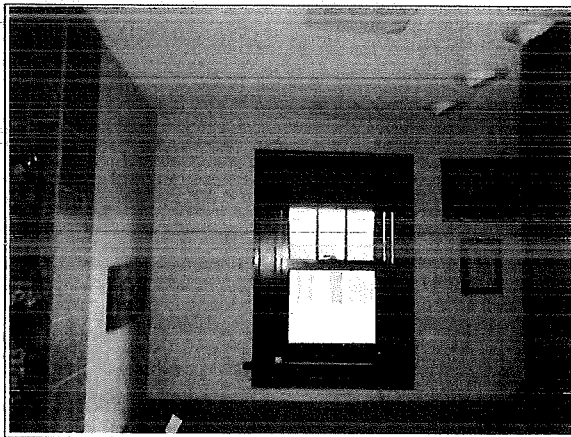
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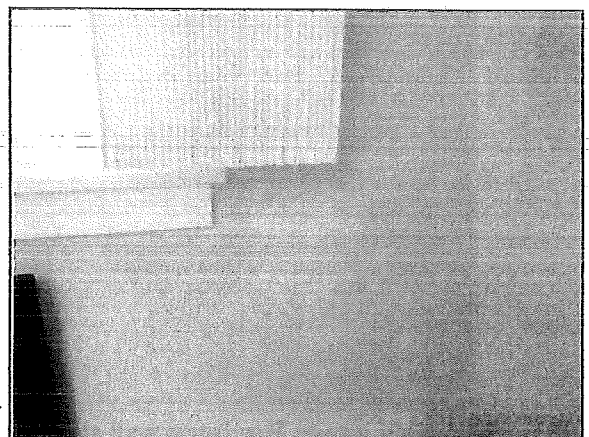
**13** Existing conditions along north basement wall. Foundation concealed.



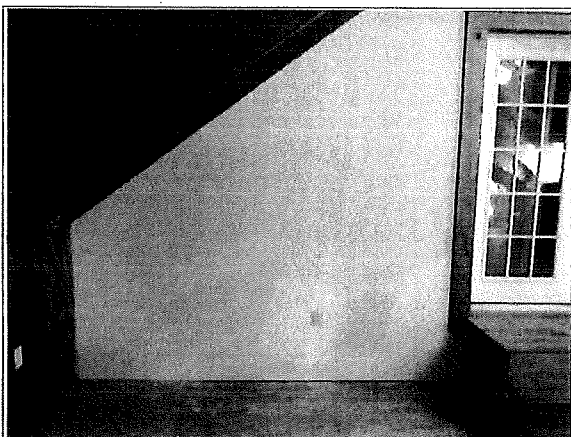
**14** Existing conditions along north basement wall. Foundation concealed by paneling.



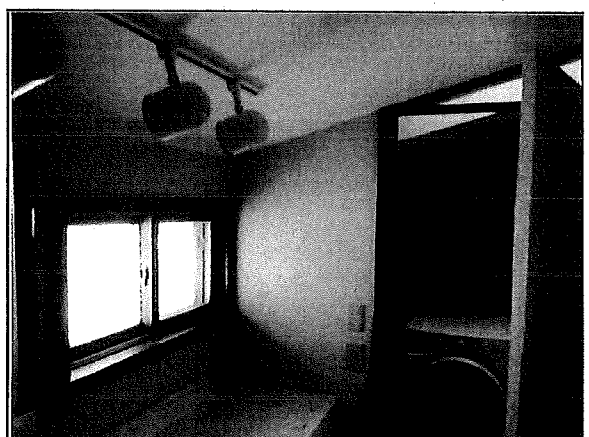
**15** Existing conditions at main level bathroom on north side of house.



**16** Existing conditions at main level bedroom on north side of house.



**17** Existing conditions along north side of upper level loft area over garage.



**18** Existing conditions along north side of upper apartment.





**City of White Bear Lake**  
Engineering Department

# MEMORANDUM

**To:** Ashton Miller  
**From:** Connie Taillon, P.E., Environmental Specialist/Water Resources Engineer  
**Date:** January 12, 2024  
**Subject:** 4556 Highway 61 Engineering Review Comments

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The Engineering Department reviewed the Site and Grading Plan; Written Narrative in Support of Side Yard Setback Variance Request at 4556 Hwy 61; Variance Request – Attachments; Response to Public Comment for Side Yard Setback Variance Request at 4556 Hwy 61 document; house plan elevations; and Impervious Area Calculations, undated, and received December 21, 2023 for the above referenced project. The following items are outstanding:

**The following outstanding items must be addressed prior to issuance of a Building Permit**

**General**

- 1) Submit a Certificate of Survey for review. Include the impervious surface calculations; OHW; 25' shore impact zone and 50' setback (measured from the OHW); and first floor, lowest floor, and lowest opening elevations of the proposed house.
- 2) Impervious surface mitigation is required for this project as per the Shoreland Overlay District (see comment 11).
- 3) A permit may be required from Rice Creek Watershed District (RCWD). Provide a copy of the permit for our records, or correspondence from RCWD that a permit is not required.

**Site and Grading Plan**

- 4) The 25' shore impact zone and 50' setback is measured from the OHW. Please revise.
- 5) Runoff from impervious surfaces must not flow towards adjacent properties. Show on this plan how runoff from the impervious surfaces will be routed towards either the lake or road (gutters, shallow ditches/swales, pipe, etc.).
- 6) Label the first floor, lowest floor, and lowest opening of the proposed house. These elevations shall meet freeboard requirements, which are found on pages 38 and 39 in the City's Engineering Design Standards for Stormwater Management.  
<https://www.whitebearlake.org/engineering/page/design-standards-stormwater-management>

### **Site and Grading Plan (continued)**

- 7) Add the impervious surface mitigation design to this plan. See comment 11.
- 8) Update the proposed impervious surface calculation.
- 9) Show proposed grading contours.

### **Impervious Area Calculations**

- 10) Remove the city sidewalk from the impervious surface calculations. Include the existing and proposed impervious surface calculations on the Site and Grading Plan and Certificate of Survey.
- 11) A separate stormwater mitigation design for the proposed dry well shall be submitted. See attached for submittal requirements. Also attached are calculation worksheets for an infiltration trench and raingarden, the two most common types of stormwater mitigation in our community. Please be aware that multiple review iterations may be required before the mitigation design is approved, so plan for additional review time.

Note that if additional impervious surfaces will be considered as part of a landscape design (patios, retaining walls, swimming pool, golf green, etc.), these impervious surfaces must also be included in the calculation.

#### ***Note:***

- If the sidewalk is damaged during construction, it must be replaced in-kind.
- If any site work/landscaping is proposed within the shore impact zone, submit a design for review. Shoreline alteration shall be minimized as much as possible, unless restoring with native vegetation.
- City inspections are required during construction of impervious surface mitigation practices to ensure that design requirements are being met. Additional information will be provided as part of the building permit review.

**While the following items are not required for issuance of a building permit, we would like to take this opportunity to raise this point:**

- i. The City encourages shoreland owners to restore their shorelines with native vegetation. Technical and financial assistance for a shoreline restoration project may be available from the Rice Creek Watershed District. For more information, visit:  
<https://www.ricecreek.org/grants>.

The DNR provides information about maintaining and restoring natural shorelines at:  
<https://www.dnr.state.mn.us/lakescaping/maintaining-and-restoring-natural-shorelines.html>

For the building permit review submittal, please have the applicant provide the following:

- A response to each review comment in this memo
- Impervious surface mitigation calculations
- Revised plans

**Contact Information**

For questions contact Connie Taillon at: 651- 429-8587 or [ctaillon@whitebearlake.org](mailto:ctaillon@whitebearlake.org)

# Kelly & Lemmons, P.A.

A T T O R N E Y S A T L A W

• Chad D. Lemmons  
[chadlemmons@kellyandlemmons.com](mailto:chadlemmons@kellyandlemmons.com)

Real Property Law Specialist, Certified by the Real  
Property Section of the Minnesota State Bar Association

City of White Bear Lake  
Zoning Administrator  
[communitydevelopment@whitebearlake.org](mailto:communitydevelopment@whitebearlake.org)

January 25, 2024

**VIA EMAIL**

**RE: White Bear Lake Case 24-4-V**

Dear Sirs,

We represent Michael and Rosalie Miller, who own and reside at 4552 Highway 61 North, White Bear Lake. Their home and the property located at 4556 Highway 61 share a common boundary line. Being the northerly line of the Miller Property and the southerly line of 4556 Highway 61.

The Millers have a number of concerns regarding the variances requested as well as procedure being followed. First, it should be pointed out that the public notice refers to White Bear Lake Ordinance 1302.040 Subd. 5. That ordinance deals with efficiency apartments and a multiple dwelling unit. It has nothing to do with setbacks between single family homes. Therefore, the notice is incorrect.

Next, White Bear Lake Ordinance 1301.060 subd. 1(b)(3) requires that the applicant post a sign visible from a primary road (Highway 61) informing the public of the upcoming public hearing regarding the requested variances. This sign must be posted at least 10 days prior to the hearing. As of this date, no sign has been posted.

I have another procedural concern. On behalf of the Miller's, I filed a data practice request, requesting all information regarding the property at 4556 Highway 61, including but not limited proposed plans and variance applications. The City acknowledged receipt of my data practice request and sent me a bill for copying costs. On January 5, 2024, I paid that bill. However, I have yet to be provided the copies that I have requested. Without that information it is hard to respond to the variances requested by the applicant.

A single-family dwelling already exists at 4556 Highway 61. The present dwelling is non-conforming due to the fact that it violates the setback requirements adopted by the City of White Bear Lake. According to the provisions of White Bear Lake Ordinance 1302.010 subd. 2(d) the size or volume of an existing non-conforming residential building cannot be increased. If the existing



dwelling is demolished, then the new dwelling must be in full compliance with White Bear Lake Code. Subd. 2(e) does allow for expansion of a single-family home as a conditional use, provided that the non-conformity is not increased. Assuming that the applicant intends to build the same single-family home that was proposed in 2023 by a prior owner of 4556 Highway 61, the code provisions I have just cited will be violated. It is my understanding that the applicant has applied for a variance from that portion of the code which governs the setbacks of single-family homes. According to White Bear Lake Code section 1301.060(b)(2) the City must find that the variances necessary for reasonable use of the land or buildings and that the variances is the minimum variance which will accomplish this purpose. The standards that must be applied are reasonable use, uniqueness, and harmony with the existing comprehensive plan.

As to reasonable use. A single-family home already exists at 4556 Highway 61. The existing dwelling was used and occupied as a single-family home for quite a number of years. Those past occupants found the home more than adequate for their use. The fact that the applicant doesn't find the home quite to their liking doesn't negate the fact that a reasonable use already exists. As to the standard of uniqueness. There is nothing unique about the physical characteristics of the property. The variances being requested represent the personal preference of the applicant. Personal preferences of the applicant are not the basis for finding that unique condition exists justifying granting the variance. When granting a variance a City should take into account public health and safety issues which may arise if the variance is granted.

In this case, the home located at 4552 Highway 61 and the home located at 4556 Highway 61 are only 7 feet 3 inches apart at their closest point. Again, based on the plans that were submitted in 2023 the applicant intends to maintain the same distance. First, this raises a serious fire concern. How can fire personal safely operate in such a confined space if one of the homes were to catch fire. Furthermore, if one home caught fire the flames could easily cross to the adjoining home given the narrow space between the two which the applicant proposes. Another safety issue is surface icing. Water flowing off the roof of either home will fall into this narrow space. Once that water freezes using this narrow space to access the side of either home would be hazardous. The increase flow of surface water which will result if the variance is granted also represents long term damage to the Miller's home. Given the narrowness of the space between the two homes, surface water will flow against the Miller's foundation creating the potential of long-term damage. There is also the issue of erosion of the Miller's backyard.

Constructing a home this near to an existing home also represents the potential for long term damage. Not only is there the possibility that the Miller home may be damaged accidentally during the construction of the applicant's new home. There is also the concern of lack of lateral support. Excavating this close to an existing home could compromise the lateral support that presently exists. Compromising lateral support could weaken the Miller's foundation. Finally, building homes so close together creates a wind tunnel effect. Especially with property located on White Bear Lake. This wind tunnel effect adversely affects the exterior of the Miller's home as well as the applicant's new home.

For the reasons set forth above, the Miller's are requesting that the planning commission deny the variances being request by the applicant.

Respectfully submitted,

**KELLY & LEMMONS, P.A.**

*/s/ Chad D. Lemmons*

Chad D. Lemmons  
CDL/tlb



**City of White Bear Lake**  
Community Development Department

# MEMORANDUM

**To:** Planning Commission  
**From:** Jason Lindahl, AICP Community Development Director  
**Date:** January 29, 2024  
**Subject:** Election of Officers for 2024

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## SUMMARY

The Planning Commission shall conduct nominations and elections of officers for 2024.

## BACKGROUND INFORMATION

According to the Planning Commission By-Laws, the Planning Commission shall elect both a Chair and Vice-Chair. The terms of office shall be for one year until the next annual meeting to be held in October. Members shall not serve more than two (2) consecutive years in one elected officer position. The newly elected officers will take their positions at the February 2024 meeting.

Process to elect officers. The process for nomination and election of officers is outlined below.

- The current Chairperson will begin by asking the Commission for nominations for the position of Chairperson.
- Nominations do not require a "second."
- After nominations are made, there should be a motion made to close the nominations.
- A second is necessary to close the nominations.
- The Commission needs to vote to close the nominations. Ayes/Nays are needed.

If only one nomination is made, the following motion could be used:

"Move to elect \_\_\_\_\_ by unanimous consent to the position of Chairperson."

- A second to the motion is necessary.
- Ayes/Nays are needed.

If more than one nomination is made:

- The current Chairperson will request a show of hands for each nominee and record the votes.
- Based upon the show of hands, a motion should be made by the Chairperson:

"Move that \_\_\_\_\_ is elected to the position of Chairperson.

- A second to the motion is necessary.
- Ayes/Nays are needed.

This process should be repeated for Vice-Chairperson.

**RECOMMENDATION**

Staff recommends the Planning Commission conduct nominations and elections of officers for 2024.

**ATTACHMENTS**

None.