WHERE THE FOREST MEETS THE PRAIRIE
Todd County
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The following is the agenda for **Thursday, March 28, 2024 at 6:00pm** the Todd County Board of Adjustment will hold a public hearing in the Commissioner's Boardroom, Historic Courthouse, 215 1st Ave South, Suite 301, Long Prairie.

NOTE: This meeting is again being held in-person and the public is encouraged to attend, but Zoom and phone options are still available for those who are unable to attend in person. If you wish to join via Zoom, please contact our office for the call-in information. Those who do attend in person can find parking atop the hill on the west side of the Historic Courthouse and enter through the North Doors, near the American Flag and monument.

If you have any concerns or questions in regard to the upcoming meeting and the applications on the agenda, feel free to contact the Planning & Zoning Office at either **(320) 732-4420** or **toddplan.zone@co.todd.mn.us**. All correspondence must include name & mailing address and be received 48 hours before the date and time of the hearing.

Agenda

- Call to Order
- Pledge of Allegiance
- Introduction of Board of Adjustment Members and process review
  - The applicant is introduced
  - Staff report
  - Applicant confirms if staff report accurately represents the request
  - Public comment
  - Board review with applicant, staff, and public
- Approval of agenda
- Approval of February 22, 2024 Board of Adjustments meeting minutes

1. **Edward C. Kortuem:** Section 14, Birchdale Township, Sauk (North Bay) Lake
   Site Address: 12281 Alcott Drive, Sauk Centre, MN 56378 **PID:** 03-0030000
   1. Request for variance to reduce the setback from the OHWL from 100' to 75' for proposed new house with attached garage in RD Shoreland Zoning.
   2. Request for variance to increase the height limit from the required 18' to 21'11" for proposed new house with attached garage in RD Shoreland Zoning.

2. **Paul E. Van Gorp and Roberta M. Knutson:**
   PID: 06-0009300, Section 07, Burnhamville Township, Big Swan Lake
   Site Address: 18550 State 287, Long Prairie, MN 56347
   PID: 06-0025000, Section 18, Burnhamville Township, Big Swan Lake
   Site Address: NA
   1. Request to reduce the road frontage requirement from 150' to 66' for parcel 06-0009300 in RD Shoreland Zoning.
   2. Request to reduce the road frontage requirement from 150' to 0' for parcel 06-0025000 in RD Shoreland Zoning.

3. **Dan & Jan Atkinson:** Section 29, Grey Eagle Township, Big Birch Lake
   Site Address: 30336 Aspen Drive, Grey Eagle, MN 56336 **PID:** 11-0062500
   1. Request to reduce the OHWL setback from 100' to 50.9' in RD Shoreland Zoning.
   2. Request to increase the peak height limit from 18' to 23'4.25" in RD Shoreland Zoning.
   3. Request to reduce the road right-of-way setback from 35' to 14.77' in RD Shoreland Zoning.

4. Request to increase the roofed impervious limit from 15% to 16.8% and total limit from 25% to 26.1% in RD Shoreland Zoning.

4. John T. Masingale: Section 27, Grey Eagle Township
Site Address: 33052 Stearns Line Road, Freeport, MN 56331 **PID:** 11-0041001

1. After the fact Request to reduce the rear property line setback from 50' to 25' for detached garage in AF-1 Zoning.
2. After the fact Request to reduce the side property line setback from 30' to 26' for detached garage in AF-1 Zoning.

5. Nancy Primus: Section 14, Birchdale Township, Sauk (North Bay) Lake
Site Address: 12327 Alcott Drive, Sauk Centre, MN 56378 **PID:** 03-0029600

1. Request to increase the impervious surface coverage limit from 15% to 18.6% in RD Shoreland Zoning.

6. Corey and Angela Thieschafer: Section 34, Ward Township, Horseshoe Lake
Site Address: 26158 County 18, Browerville, MN 56438 **PID:** 26-0034000

1. Request to reduce the 150' OHWL setback to 135' for the construction of two support posts in Natural Environment Shoreland Zoning.

7. Dawn & Greg Graves: Section 33, Leslie Township, Osakis Lake
Site Address: 13411 Falcon Drive, Osakis, MN 56360 **PID:** 15-0045800

1. Request to increase the peak height limit from 18' to 21' 5" for proposed cabin replacement in General Development Shoreland Zoning.

Adjournment. Next meeting: **April 25th, 2024**

Minutes of the Todd County Board of Adjustment Meeting

February 22, 2024

Completed by: Sue Bertrand P&Z Staff

Site visit completed by Adam Ossefoort and Ken Hovet on February 15, 2024

Meeting attended by board members: Chair Rick Johnson, Vice Chair Bill Berscheit and Planning Commission Liaison Ken Hovet, and alternate Larry Bebus.

Staff members: Adam Ossefoort and Sue Bertrand

Other members of the public: Sign-in Sheet is available for viewing upon request.

Rick called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Each board member introduced themselves and Rick explained the process for those attending.

Rick drew attention to the amended items on the agenda; Rengstorf has withdrawn indefinitely and Kortuem has asked to table until the March meeting. Ken motioned to have the agenda approved as amended, and Bill seconded. Voice vote, no dissent heard, motion carried.

Bill motioned to have the January 25th, 2024 meeting minutes approved. Ken seconded the motion. Voice vote, no dissent heard, motion carried.

Introduction of the meeting process and etiquette by Rick.

AGENDA ITEM 1: Ryan Rengstorf – PID 22-0052500 – Staples Township

This item has been withdrawn from consideration.

AGENDA ITEM 2: Michael T. and Lori K. Lyon – PID 11-0049600 – Staples Township

Requests:

1. Request to reduce the OHWL setback from 100' to 34.85' for construction of deck in RD Shoreland Zoning.
2. Request to reduce the OHWL setback from 100' to 44.85' for the proposed house with attached garage in RD Shoreland Zoning.
3. Request to reduce road right-of-way from 20' to 8.56' for the proposed garage in RD Shoreland Zoning.
4. Request to increase the height limit from 18' to 21'1.5" for the proposed house in RD Shoreland Zoning.

Updated Requests:

1. Request to reduce the OHWL setback from 100' to 37.5' for construction of deck in RD Shoreland Zoning.
2. Request to reduce the OHWL setback from 100' to 47.5' for the proposed house with attached garage in RD Shoreland Zoning.
3. Request to reduce road right-of-way from 20' to 8.56' for the proposed garage in RD Shoreland Zoning.
4. Request to increase the height limit from 18' to 21'1.5" for the proposed house in RD Shoreland Zoning.

Proposed Condition(s):

1. Implementation of a stormwater management plan as designed and approved by the Soil and Water Conservation District.
2. Establishment of a 10' vegetated buffer along the lake frontage (no mow zone). A 6' wide maintained area shall be allowed for lake access.
3. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
4. Establishment of construction stormwater controls prior to issuance of land use permits.

Michael & Lori were present as the applicants.

Rick reminded the board this application had been tabled from the January meeting. What we were asking for was staff to provide good information to establish the road right-of-way easement and locations and how that relates relatively to the property lines and asked Adam if we could have that.

Staff Findings: Adam reviewed the new information added to the report. The staff report is available for viewing, upon request, in the Planning & Zoning Office.

Rick asked Mike and Lori if they felt the Staff Report was accurate and they both agreed it was. Mike also added after the last meeting, he thought the question was on the survey by Brad Nyberg. He stated, you'll see a dashed line going through the property. He called Brad and asked him what the dashed lines mean and Brad was hesitant. Mike stated Brad, you are going to tell me that is the road right-of-way, aren't you? Brad stated yes, it is. Mike responded the road is not there, and Brad's comment was he was hired to survey his lot not the road. Brad said he had some information for Mike and sent him some surveys, the initial one Mike sent to Adam, to which Adam confirmed receipt. Mike continued, the original plat map actually shows the North side which was actually lot five at that time, being a hundred and twenty feet deep and it shows the road, right at the edge not going through the property. That was the original one and he didn't know what year, but was October 15th of some year.

Adam offered to find it.

Mike continued, after that, there was a survey done by Ron Engelmeyer, on the 29th of July in 1983, which is the first one they find with the road showing the dashed lines going through those lots. When he had the conversation with Brad, he said his personal opinion was the dashed line was put in the wrong spot on the original plat and nobody has changed it. So, on that particular survey, it shows that North side as one hundred and twenty feet deep still, and one hundred and twenty-five on the South side. After that, David Engelmeyer surveyed it on May 27th, 2023, and he didn't survey these lots, but the lot just to the South of there. There again, still showing the road where it's at, but on the South side, it went from the one hundred and twenty-five feet to one hundred and twenty-six feet and didn't do anything on the North side because he was surveying the neighbor's lot to the South. Still showing the road right there. The last one, done by Nyberg, whom he hired to have it done, shows the North side at only one hundred and thirteen feet but the South side grew to one hundred and twenty-seven. His point is, there have been three different surveys and three different surveyors, all coming up with pretty much the same lot line measurements within a couple of feet or so for the lot dimensions. He added he thought the road was drawn in on the wrong spot. After that, he called the Todd County GIS mapping, didn't remember the gentleman's name, and asked if he could help him through this? He pulled it up and stated it was showing a road right-of-way of 88' and it should be 66' so our mapping is wrong and we can't even go by that. Mike stated he does not know what else he has to do.

Ken stated I was the one who had the concern with the road right-of-way and probably the reason we are back here tonight, but he is interested in the resolution we got from the township, basically says our road is where it is physically, regardless of what it says on the map. He stated that is what he and Adam had done on the site visit, is pull out a tape measure from where the road is driven, and we have plenty of room, and as far as he was concerned, this is not even an issue anymore, as they have the resolution right there.

Mike stated they tracked that down through John Young and MaryAnn Primus with Eagle Valley township.

Ken stated it is kind of a novel way of handling this situation, but as far as he was concerned it's as official as it needs to be. He was good with that.

Bill stated he was very good with that, and he did agree with Adam in an effort to do due diligence and protect our procedure and protect anything that happens going forward, if we grant this, we should grant it with the condition in regards to that setback on the road.

Ken stated he didn't follow.

Adam explained, if we grant the Variance we should include granting of the right-of-way setback anyway, as a due diligence effort to protect the platted road right-of-way. We know that the township right-of-way is fine anyway.

Bill stated his logic was, we don't have an established distance otherwise.

Ken stated he has no problem with that, as far as he was concerned, that setback is not even an issue anymore, so whatever you want to put in there is fine.

Rick asked, so what does that do to the variances? We are showing four variances, so does that change anything?

Adam stated, in his opinion, it does not change anything. It didn't impact anything on the lake side, or any of those setbacks, and the road is simply, at this point, a due diligence, because it was included in the request, but we know it has no impact on the road.

Bill, added, if anything, it gives the applicant a little more space on the road side, if they chose to use it. But, it was so close already, he didn't know if there was a point to that.

Rick asked for any written correspondence: None.

Public comment: None.

Board discussion:

Larry stated he wasn't here last month and asked what was discussed in reference to the variance from the water level? He stated, looking at this, he doesn't know what they had discussed last month. Going from 100 feet to 35 feet and going from 100 feet to 45 feet is pretty drastic.

Rick stated he didn't know how to summarize that.

Mike stated there is an existing structure there already, that is already closer than that to the lake, and with the new structure, what they are trying to do, is move further away from the lake, further off the road and control the water. Asked Adam to pull up the survey where it shows the new structure overlay of the old structure. You can kind of see what is going on.

Bill stated he would like to add to what Mike is saying, stated he was on site last month, and all of this stuff looks significant, and it is significant, but every request here is less than what is currently there. So, in any direction there is a request for a variance, there's less infringement than what there was previously.

Mike added the lot, at its' widest point, is only one hundred and twenty-seven feet. So, with aone hundred feet off the lake, and twenty feet off the road, it gives me a seven-foot structure.

Ken confirmed there is no room to meet all of the setbacks.

Adam stated they had worked with Soil and Water, prior to his application, so he has those plans in the staff report too, if Larry wanted to see that. He showed the recommendations from Josh Vortruba, showed the directional flow of the water and retention "map", and how they came up with a storm water plan. It's all in his staff report if he wanted to take a look at that.

Rick stated he was struggling with having to put Larry in this position, and unfortunately, we only have the four board members present tonight, and each and every vote is going to be critical. He suggested we can do one of two things: take some time to have Larry review the minutes, because everything that was discussed is reflected in the minutes, or he stated, he felt compelled to start over from the beginning.

Larry asked for a couple minutes to look at the staff report.

Rick stated the minutes are quite long (six pages), so he stated we are going to take a ten-minute recess, and during that recess, we are going to allow Larry time to read the minutes, so he can catch up, as he was not at the last meeting to hear what was discussed. Stated we will reconvene at 6:35 (10 min.)

Rick reconvened at 6:33 as Larry is finished, everyone was back, and no one left.

Rick asked Larry if he had any questions of Mike and Lori, after reading everything, to which Larry stated not at this time. Rick asked the other board members if they had any questions or comments.

Rick stated we had discussed, at the last meeting, combining all appeals for variances. There are four of them for this application, and he reviewed the original requests and added these are all interconnected, which simply means without approval of the dwelling, there would be no need to obtain a variance for the other

three. So, when we go through the criteria questions, we're going to do this a single time, but when you give your reasons for your decisions, if the reasons relate to all four, you don't need to stated anything. If there is a decision you feel that you need to expand upon, because it is not interconnected, please say so.

Mike asked if he could make one comment regarding height, and stated he did measure the existing structure and it is actually taller than what they are asking for.

Rick clarified the proposed new structure will have a shorter peak height, and actually be farther from the lake, to his understanding, but the footprint will be enlarged.

Mike confirmed that was correct.

Rick called for Criteria Questions individually by request.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes.

Majority response- Yes

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, basically we are moving back, with each one of these requests, it's less than what is currently there. But also, to truly appreciate this, and thought Ken would agree with him, the amount to which we are improving this lot, you kind of need to be on the lot. A lot of applications we get a pretty good picture, but what is put before us, does make a difference to be on the lot.
Ken Hovet	Yes. For all the same reasons, and it is going to improve the setback situation than what is there now, and that is a win.
Larry Bebus	Yes.
Rick Johnson	Yes. The comprehensive plan, goals and policies are to protect the quality and use of the surface water. He felt in this situation, we are replacing a non-conforming structure but at the end, we are going to end up in a much better place. When we look at official controls and comprehensive plans, he does understand we need to do a balancing act. He stated in this situation because of what you are proposing, all the work you have done, combining lots, all of the conditions that we're proposing to add, we are just in a better place. Because of that he will say yes.

Majority response- Yes

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, stated he agrees with Larry.
Ken Hovet	Yes.

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Larry Bebus	Yes, even though the setbacks are still fairly drastic, based on what the existing structures are, and what is going on, he'll say yes.
Rick Johnson	Yes.

Majority response-Yes

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes, the lots were platted in 1917, plus, it appears that the depths of the lot in this particular location are due to the location of the township road, restricting the lot depths. So, the variance is needed due to that lot depth.

Majority response- Yes

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes.

Majority response- Yes

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, environmentally, this is a win for the lake.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes.

Majority response- Yes

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, and just add that this is one the best put together applications this board has seen in quire some time, in regards to addressing environmental issues and other issues on the lot. He commended the applicants for that, and thereby environmental concerns have definitely been addressed.
Ken Hovet	Yes.
Larry Bebus	Yes, he noted the recommendations were in there from Josh, and confirmed with Mike and Lori those were going to be met, so, yes.
Rick Johnson	Yes, he feels most conditions will mitigate the adverse effects of the variance.

Majority response-

Summary of criteria question majority responses as follows:

#1	Yes
#2	Yes
#3	Yes

#4	Yes
#5	Yes
#6	Yes
#7	Yes

Ken motioned to approve, all four variance requests with the proposed conditions, and seconded by Bill.

Conditions:

1. Implementation of a stormwater management plan as designed and approved by the Soil and Water Conservation District.
2. Establishment of a 10' vegetated buffer along the lake frontage (no mow zone). A 6' wide maintained area shall be allowed for lake access.
3. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
4. Establishment of construction stormwater controls prior to issuance of land use permits.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Larry Bebus	Yes
Bill Berscheit	Yes
Ken Hovet	Yes
Rick Johnson	Yes

Motion to grant all four variances has been approved.

AGENDA ITEM 3: Edward C. Kortuem – PID 03-0030000 – Birchdale Township

Item requested to be tabled until the March meeting.

AGENDA ITEM 4: Bruce and Linda Westbrock – PID 11-0030500 – Grey Eagle Township

Requests:

1. Request for variance to reduce the setback from the OHWL from 100' to 39' for proposed dwelling replacement in RD Shoreland Zoning.
2. Request to reduce the right-of-way setback from County 47 from 20' to 12' for proposed dwelling replacement in RD Shoreland Zoning.
3. Request to increase the max roof surface impervious from 15% to 16.2% for proposed dwelling replacement in RD Shoreland Zoning.
4. Request for variance to increase the peak height limit from the required 18' to 20' for proposed dwelling replacement in RD Shoreland Zoning.

Bruce and Linda were present as the applicants.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Development and implementation of a storm water management plan submitted to Planning and Zoning Prior to issuance of a Land Use Permit.
2. Establishment of a 5' vegetated buffer (No Mow Zone) along the lake frontage. A 6' maintained access path shall be allowed for lake access.

Bruce and Linda confirmed the staff report was accurate. The slope of 6% between the cabin and the lake, where all the water seems to migrate to that spot. Right now, he didn't think there was too much water going into the lake off of the land. Leveled off a little bit and they did work with the County putting in the ditch on the south side. He'd like to get it cleared up. He'd like to run through the rain gutter and then into the ditch. So, the water running is not running off the roof and running in.

Adam explained the 6%, just to be clear is based on the contour lines, measuring contours and the distance, doing rise over run, is how he established that number, just what comes off the computer screen.

Ken reviewed his site report notes and this report may be viewed in full upon request, at the Planning and Zoning office.

Correspondence received: Yes. These two letters were read by Adam and may be viewed in full in the Planning and Zoning Office, upon request.

Public comment: None.

Adam also added that Sue provided the calculations for the total additional square footage that will be added with the new proposed additions is 124 sq. ft. He stated the existing cabin is 686.18 sq. ft. and the new will be 810 sq. ft. Adam zoomed into the map that showed the new over the old and pointed out the proposed areas that will be added.

Board discussion:

Rick stated he notices this proposed dwelling is within the shore impact zone. He stated he agrees with Ken that the proposed footprint is insignificant from what is currently sitting there. Asked the applicants why they are replacing the structure?

Linda stated they first considered remodeling, and had a carpenter look at it and all the windows would have to be replaced, the floor between the kitchen and living room is kind of sagging down, right now pressure tank and the water heater were put down in a hole and it is all rusted and they would like to raise that up and there is no room to do it. There are just so many little things, the carpenter stated they would end up putting more money into remodeling this 1962 cabin. Another thing they want to do is go up a little higher, you probably saw that, we would like to do a story and a half is it?

Bruce stated a two story.

Linda stated they had two tiny little bedrooms now and they would like to have space for kids, grandkids, whatever, upstairs.

Rick stated that was his other question, you barely increase the footprint we can almost dismiss it as it's so insignificant, but you are looking to expand up.

Linda agreed.

Bill stated this side of Big Birch, many, many years ago, the highway department did come to the landowners down that side of Big Birch Lake, with a proposal to move County Road 47 back about a half mile to the East, and they met with a significant resistance and thought that it was a significant loss at that point in time that that didn't happen, and this represents where it was a significant loss.

Linda agreed.

Rick stated Hwy 47 goes from…

Larry added Rock Tavern to St. Rosa.

Rick continued that's where the speed limit is reduced to 40 mph. in that area and that is where they are?

Linda, yes.

Rick stated this application includes four variances and reviewed the requests. He added all of these are interconnected, without approving the dwelling, there is no need to approve the other variances, so we will go through the criteria questions once. Keep in mind our reasons for approval are for all four variances. So if you need to respond separately, please do.

Rick called for Criteria Questions individually by request.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes. He agrees with Rick.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes. Primarily because the variances are insignificant. You do have the right to use the property as residential dwellings. You do have the right to replace the existing structure exact for exact and you are just asking for a little more. He is not concerned about that.

Majority response- Yes

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, assuming there are conditions attached that would improve the water quality, and mitigate or treat any roof water coming from the structure. Assuming those two things, he says yes.
Ken Hovet	Yes, with the same conditions and for the same reasons to question number one. A replacement of the exact size is allowed, although there will be a slight increase in square footage, it will not affect the setbacks any. So, as far as he is concerned, he's good with that. Yes.
Larry Bebus	Yes, with the same comments as Bill.
Rick Johnson	Yes, for the same reasons as Ken just articulated.

Majority response- Yes

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes.
Ken Hovet	Yes. The replacement of a cabin is reasonable use.
Larry Bebus	Yes.
Rick Johnson	Yes, he considers this to be reasonable, because it is such an insignificant change to an already non-conforming structure.

Majority response- Yes

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, stated he does have some concerns, not sure this is the question to address them on. One is; we are going to increase the use of this lot by increasing the height and increasing the inside floor space and that is a land owner issue. The other thing is; he is concerned this is going to increase the seasonality use of this structure, thereby, increasing the parking and the demands on this lot, but still says yes.
Ken Hovet	Yes, quite simply, it is a small lot.
Larry Bebus	Yes, but has the same concerns as Bill, mentioned the grandchildren, people are probably going to be coming up there, possibly spending more time, more usage, possibly not just in the summer time. Is the lot big enough to handle everybody coming in and parking there? He stated he doesn't see that on the drawing where the septic tank and the well are. * Larry stated, for now is what counts, and Loren with the County already stated he can live with it, and he's the guy that has to live with it.
Rick Johnson	Yes, due to the small lot that was platted, prior to the now conforming ordinances. He also thinks it's worth noting what Bill stated of the proposed moving of it. That was not created by the landowner, felt it was worth stating that.

Majority response- Yes.

*Linda and Adam pointed out on the drawing where the well is, beside the house in the front, and the septic is back in the road right-of-way area. Linda stated it's a holding tank and they usually park two along the side, and if their son comes…
*Bruce added they only have two kids.
*Linda added they all live locally in Sauk Centre, so, they don't usually stay overnight very often.

Rick made a short summary: Obviously, looking at this lot, it's such an extreme non-conforming lot, there are a lot of concerns. But, never the less, we are just simply here to address your variances on replacing the building with an insignificant increase. There is not a lot the board can do about their concerns at this point, outside the scope of their capacity. Route 47 will be okay.

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes. Their structure is not the only one along there that's in that very tight pinched in position.

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	**Vote and Comments**
Ken Hovet	Yes. Even though the new cabin is going to be somewhat taller, it is certainly not going to detract from anything, and anything new looks nice.
Larry Bebus	Yes.
Rick Johnson	Yes.

Majority response- Yes

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	**Vote and Comments**
Bill Berscheit	Yes, there is need for repair, if there is a sagging floor, and no footings, then the structure needs significant repair. Would we need to change the dimensions of it to do the repair? Probably not, but as Rick has repeatedly stated the change equates to about a 10' x 12' room and is not highly significant, and it does square the structure off.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes. For the same reasons as Bill.

Majority response- Yes

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	**Vote and Comments**
Bill Berscheit	No, and he is going to hang on to his statement earlier in regards to the County proposing to move the highway. That proposal was to allow room for these lots, as well as for safety reasons. When they did rebuild the highway, the entire highway was built for 55-mph traffic, and very shortly after that it was reduced to 40 for safety concerns. He stated he thinks in the granting this variance we are increasing activity and also safety concerns.
Ken Hovet	Yes.
Larry Bebus	Yes.
Rick Johnson	Yes, only as long as the proposed conditions by staff are part of the variances.

Majority response- Yes

Summary of criteria question majority responses as follows:

#1	Yes
#2	Yes
#3	Yes
#4	Yes
#5	Yes
#6	Yes
#7	Yes

Ken motioned to approve with the conditions stated, Larry seconded.

Conditions:

1. Development and implementation of a storm water management plan submitted to Planning and Zoning Prior to issuance of a Land Use Permit.

2. Establishment of a 5' vegetated buffer (No Mow Zone) along the lake frontage. A 6' maintained access path shall be allowed for lake access.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	Yes
Bill Berscheit	Yes
Larry Bebus	Yes
Rick Johnson	Yes

Motion carried to approve the four variances.

AGENDA ITEM 5: Garhard Hendricks – PID 21-0009100 – Round Prairie Township

Requests:

1. Appeal of administrative decision a feedlot was illegally established on the property.
2. Appeal of administrative decision a variance could not be applied for because it would constitute a use variance.

Gerhard was present as the applicant.

Rick stated we will ask the staff for the grounds for this decision and then ask the applicant to specify his grounds for taking the action causing the appeal. Then written correspondence, public comments, then open it up to the board for discussion, then make a decision.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Options for a decision:

1. A motion to reverse the decision.
2. A motion to wholly affirm the decision.
3. A motion to partly affirm the decision.
4. A motion to modify the decision.

Adam added one other note, that 1599 which is the 60-day rule, does not apply to these applications.

Rick addressed Garhard, and stated he is asking him to state what grounds he has for taking this action to appeal this first administrative decision that states a feedlot was illegally established on this property.

Gerhard stated he didn't purchase the land (his place of residence) until July 17th, 2006 and there had already been animals there and he was never told he couldn't have them. They moved in August first, 2006 and from the pictures you can see in 2003 the ground is broken already, showing black dirt, in that area, what is circled there doesn't have the structure. It was built before he bought it, but he doesn't know how it was permitted. He stated according to Adam, it was not permitted properly, as it was a detached garage, he believed, and you tell me, what detached garage has an automatic water and a hydrant in it. That stuff was there when he bought the place. He stated he did not know anything about variances, and had he known he needed a

variance, he sure would have applied for one. He was a young kid. He was twenty. He didn't know any of this stuff. The only reason he has cattle is his kids are in 4-H. These are their 4-H projects. He stated he has horses too, and again, 4-H. That is why we have them. He is a strong believer in kids having projects in livestock as because it teaches responsibility. He has an acre. But all the land back behind it there's fifty-five acres that he rents that the cattle are normally on. The only time they are up front, like now, is winter. It's hard to keep an eye on cattle during the winter, especially when they are trying to calve, to have prospect calves. That's the only reason it looks the way it does right now. Other than that, I don't really have anything, other than I bought it as a farm, that's what it was listed as.

Rick stated, moving on to the second appeal, as Adam covered both, but wanted to ask Garhard about the second one. Asked him to please specify his grounds for causing to take an action to appeal that decision.

Garhard stated because he does not know what he is doing. Seriously, he has lived there since 2006, and this is the first time something has ever come about. Honestly, as a parent trying to raise his kids in a good manner, he was blindsided. We don't even have ten head, with the horses it would be nine.

Rick stated that was fair. So, with respect to the two appeals for the administrative decisions, first of all, is there any written correspondence? None.

Public comment: None.

Board discussion:

Bill asked Adam, how far over the required registration level are we.

Adam stated he didn't think we ever confirmed how many animal units were the max out there because we never had the site registered. He didn't count when we were out there, so we only have what Garhard shared tonight.

Bill, so at what threshold do you not need a feedlot permit?

Adam stated no permit would be involved, it would be the registration. Our ordinance requires registration of feedlots starting at ten animal units. But regardless of the number of animals you have on a site, you may have feedlot conditions even at less than ten. It just may not be required to be registered. In reality, you could have one or less animal units, but if there is accumulation of manure, or black dirt in a confined area, it's still going to meet that definition of a feedlot, even though you are not required to register as a feedlot.

Bill stated his point to his question is the registration process or communication from the County would have happened if we were consistently over ten animal units. So, the animal units are only part of the question here, the majority of the question is the traffic, the destruction of natural vegetation and the accumulation of waste.

Adam confirmed, right.

Bill stated we have a short list of issues.

Adam noted this registration piece, as we had no documentation that a feedlot existed on this site.

Rick asked Bill to specify exactly what his point is.

Bill stated his point was, he can understand if they looked at the rules, and looked at the animal units, they weren't concerned about registering a feedlot, and on the other side, the County wasn't communicating with them. Because normally the County with a feedlot has to register and re-register, but with the low animal unit level, presumably under threshold, neither side is initiating that communication. His point is, what is initiating this issue was simply an accumulation of waste and traffic that has created a lack of vegetation. That is his point. Is it pertinent to number two, as he is not 100% certain as to why we are here? Appeal of administrative decision, a variance could not be applied for because it would constitute a use variance. In his mind, we have to cross this bridge before looking at the other one.

Ken agreed and stated he was absolutely right. It is zoned where you cannot have a feedlot, and it is within a quarter of a mile of a church. So, we can't change either one of those.

Bill stated he is not sure how we can even decide, as he is not seeing it and his question to the board is where is the traction? What are we doing with it?

Ken stated there isn't anything we can do. We can't move the church.

Bill continued, having said all that, what he would say to the applicants is: as a person with a history of feedlots, he is not a feedlot person right now, but he has been, and he would simply say that if you make a significant effort, you have acres enough there, if you have 55 acres back there you are renting, you have acres enough to move these things out and keep moving feeders. You could have 15 / 20 animals, not have an accumulation of waste and not have a destruction of vegetation. You could meet all of the County's requirements and not have to lose your animals or your 4-H projects or detract from anything the kids are doing. This is a very doable thing. He stated maybe it should be part of your kid's 4-H project. There's a lot of resources available to instruct them and help them figure out how to spread this out and move it so we don't have this concentration that's causing the issue. He stated he didn't think this is an "either/or" you can't have livestock question. He didn't see it that way. But he also didn't see how we can do anything with this.

Garhard stated his daughter raises steers for 4-H and they do rate-of-gain. He acknowledged Bill having feedlots, and stated you want to get to that projected number by a certain date. Obviously, you do have to keep them in a smaller area to get that. What would be a way to alleviate that and still gain vegetation? They are in that front pen and he directed to the overhead photos.

Bill stated Garhard was asking him the question his daughter should be asking other resources, but he does know that it is possible. Are you going to win awards for rate-of-gain, he didn't know that you can or will, but he does know that walking of a near quarter mile is not going to have any type of negative impact on rate-of-gain. The feed side to Bill, would be of less concern than the water side. When it gets hot in the summer, water availability is going to be more important than the feed availability to maintain that rate-of-gain.

Regardless, he thinks he can achieve all the things you are trying to achieve and not have black dirt there, or if there is it's going to be a narrow path, as they come and go to the water tank.

Garhard pointed to the overhead and showed the two-and-a-half-foot wide path, and stated that is what we are seeing. The picture makes it look like a big area, but it is really not. Believe it or not, that is two and a half feet wide.

Bill stated when applicants come before the board of adjustment, like Rick mentioned before, earlier, the burden of truth is on the applicant. He stated in this case, the burden is on you and your children to figure out how to make this work. Bill didn't think he'd have to give much of anything up, other than you have to figure out how to disperse this load, and not have it concentrated.

Garhard agreed, absolutely. He stated he had discussed this with his father and wife. Had he known this was going to be an issue… He stated growing up they always kept their cattle close.

Ken, if you feel you can make use of those 55, 65 acres you have next to you, and you will for some foreseeable time into the future, that's your pasture and you don't need a feedlot.

Garhard, agreed absolutely, it can be done.

Roger Hendrickson, Round Prairie town board, stated he got a call from a township resident that lives approximately four miles from Round Prairie, and said he better come to the meeting. Roger stated he better come because this must be something bad, but he hasn't seen anything bad and doesn't know how many cattle he has there. By the ordinance, he can see this is too close to the Church, and Gerhard may not have even known there was an ordinance that would keep him away from the Church by so far, when he put the cattle in there. He stated there was no correspondence from the city limits of Round Prairie, so as a town board member, he was going to leave it up to the board, whatever they decide, he didn't care one way or the other.

Garhard stated didn't know about any correspondence. He could have had correspondence from neighbors. But to be honest, he could go to everyone of his neighbors and none of them had any issues with what he has out there. He stated he will agree, come spring, he hauls out with the manure spreader, so there is some build up there, but he will alleviate that issue.

Adam stated in reference to Roger's comment on no correspondence submitted, part of that may be because this type of appeal doesn't require it to be noticed to neighbors, it just requires it to be publicly noticed in the paper, so the neighbors may not have even known you were going to be here tonight, because we are not required to notice the ten neighbors within the quarter mile distance. Stated, the reason we became aware of this in the first place is we did receive a complaint about the feedlot, didn't know off hand and couldn't share where it came from, but that's the reason it came to us in the first place, and how we tried to get it registered and that, into the future.

Bill said he thought it was good, the stockpiling of manure and the concentration of manure has to be alleviated. It has to be fixed. But you can do it. You can figure it out.

Guy Hendicks, Garhard's dad, stated the reason the pile of manure is there right now is when we had that rain over Christmas. The front pen got so muddy because of all that rain he scraped it all out at Christmas time. The front pen got all muddy at Christmas time. That's why that's there. That was all cleaned up. There's nothing you can do when you get four inches of rain.

Bill stated, your goal is you are going to have to not house them and not concentrate them. You are going to have to move your feed source daily or every three days. You are going to have to move the food source. You are not going to be able to do concentrated feeding.

Bill asked Roger again, and Roger did not have further comment, so Bill added he thought Soil and Water may have to be contacted as the better resource as opposed to the feedlot office. He felt Soil and Water can give better information and resources on re-establishing grass in there and what type of foot traffic it can handle without destroying the cover. Those resources are available within the County and certainly available within the Extension Services. They are out there. This can be done.

Ken agreed, if they have that much land available, there is no reason this can't be taken care of.

Gerard stated he agreed absolutely. Had he known there was an issue, this would have been done a long time ago.

Ken added he grew up with dairy, but we pastured them all summer, and we had self-feeders out there, but we'd move them, often, like Bill was talking about. Otherwise, you end up with a big muddy mess someplace, which is just the way cows are. This is doable, absolutely doable.

Bill, Amen.

Garhard added everything you see pasture there is actually also hay field, so, it's spread out onto there.

Bill repeated simply, if they move the feeders, there won't be any manure to deal with. They won't be scooping manure, they won't be hauling manure.

Rick announced he would like to make a statement for the record. Felt he has let this discussion go on for a long time because he felt it was a very good discussion, and it was very productive. You are getting a lot of good advice from the board members and they tend to do that. They tend to go above and beyond their job. But the statement he would like to make though, is when we are talking about feedlots and cows and everything else, admitted he does not have that background, so a lot of this was flying over his head. He was trying to grab it and process this as best he could, but where he is stuck, where he is at, what his position is right now, and just speaking for himself, but why we are here is simply to review two administrative decisions. Once we review those decisions, your appeal for the two administrative decisions is this boards' responsibility to make a motion to:
Reverse that decision
Or motion to wholly confirm that decision
Or motion to partially affirm

Or modify the decision
Rick stated based on everything he has heard, and the findings of facts that were presented by the staff and the staff report, he finds the staff's decision really, on both the appeals for the administrative decision, to be fully supported and there's been nothing presented tonight for a finding of facts where you oppose those decisions. He is looking for reasons and the grounds for opposing those decisions based on these findings of facts. He understands that he doesn't understand it, and doesn't have the knowledge of that, and when it comes to feedlots, neither does he. So, he thinks we just need to focus on exactly why they are here. He thinks we need to make a motion to:
Reverse the administrative decision or
To wholly confirm their decision.

Ken motioned to confirm both administrative decisions.

Bill seconded and added this is not necessarily a negative vote on the applicant or the request person. It does not necessarily find them at fault for things that happened multiple years ago, but it does support the position of staff so, yes, he seconds the motion.

Rick asked for any other board discussion on this motion, or any other comments before putting it to a vote?

Larry asked if this is something Kevin could work on as far as feedlots and things like that?

Adam stated we have feedlot staff like Dylan and Tim and regardless of what the decision is here tonight, this wouldn't mean you absolutely can't have animals. He thought we have to work together to get to what the discussion was here. He stated he'd be willing to help with that, and we have staff in our office with grazing expertise in all of this stuff so, we have resources to assist in this process too. Just find that balance between not having a feedlot but having the animals there that you need, to support what you are after.

Larry stated what he was going to suggest, could he get together with Dylan, whoever and you (Adam) or whoever it is, and work out something?

Adam stated yes, and he thinks the best approach would be is to try to get to a positive resolution where we know we don't have a feedlot, but they can operate in a way that hopefully works for them, and they can have some animals in and around that area there.

Rick stated we have a motion and a second to affirm the two administrative decisions.
Roll call vote commenced as follows:

Board member	**Vote (yes or no)**
Ken Hovet	Yes
Bill Berscheit	Yes
Larry Bebus	Yes
Rick Johnson	Yes

Motion Carried.

Adam stated training on this Tuesday, 2:00.

Ken motioned to adjourn and Bill seconded. Voice vote to adjourn. No dissention heard. Motion carried and the meeting adjourned at 7:49 PM.

DRAFT

WHERE THE FOREST MEETS THE PRAIRIE
Todd County
• MINNESOTA • EST. 1855 •

PLANNING & ZONING
215 1st Avenue South, Suite 103
Long Prairie, MN 56347
Phone: 320-732-4420 Fax: 320-732-4893
Email: ToddPlanZone@ToddMN.us

RECEIVED
JAN 02, 2024
TODD
PLANNING & ZONING

Appeal for a Variance

Applicant EDWARD & MARNIE KORTUEM

Mailing Address EDWARD.KORTUEM@GMAIL.COM

Site Address 12281 ALCOTT DRIVE SAUK CENTRE

Phone Number _____ Cell Number [redacted]

E-Mail Address _____

Property Owners Name & Address (if not applicant) _____

_____

Parcel Number(s) 03-00300000

Section: 14 Township Birchdale

Zoning District (circle one): AF-1; AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Sauk Lake

Do you own land adjacent to this parcel(s) ____Yes __X__No

Septic System: Date installed_____ Date of Compliance Inspection_____

Is a new system needed: __X__yes ____no __X__ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width____	Lot area____	Lake or River setback__X__	Bluff setback____
Road right-of-way setback____	Side Yard setback____		Buildable area____
Impervious surface coverage____	Building/Structure Height____		Other____

Receipt # 2024-03

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) On the lake side propose reduction of setback from 100ft to 75 feet for a short distace for proposed new house.

2.)

3.)

4.)

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

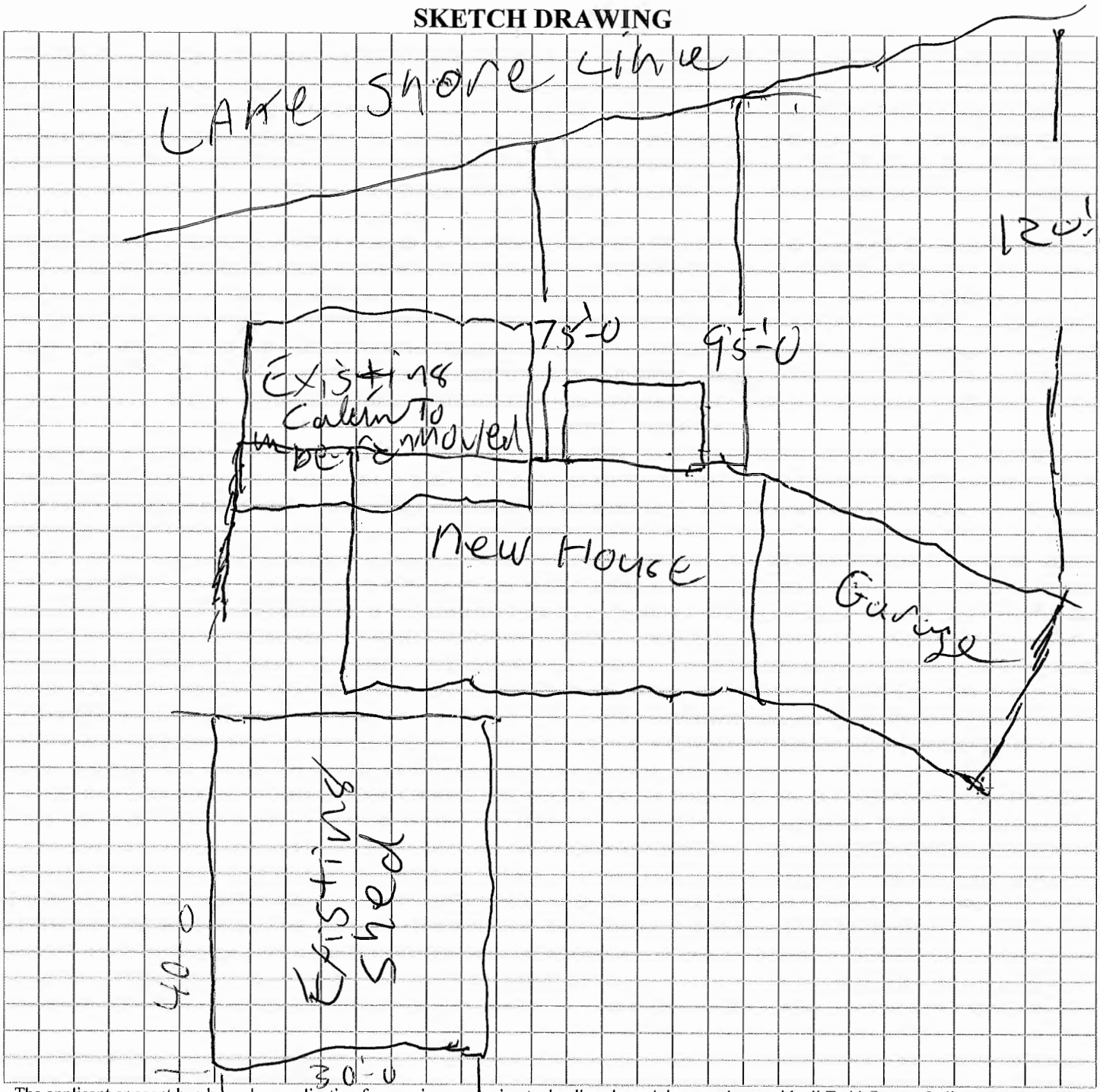
EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

This proposed change will allow for the least amount of excavation to the lot. Decreasing changes to the lots run off and drainage into the lake and therefore least environmental impact as this will still be farther from the lake the existing structure that is currently there.

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

SKETCH DRAWING



The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

EDWARD CHARLES KORTUEM	Edward C. Kortuem	10-8-23
Applicant Name Printed	Signature	Date
EDWARD CHARLES KORTUEM	Edward C Kortuem	10-8-23
Property Owner Name Printed	Signature (If different than applicant)	Date

AUTHORIZED AGENT FORM

I hereby authorize Aaron Lahr Construction Inc **to act as my authorized agent for all public hearing(s) and legal relations with this application on property located at:**

Site address 12281 Alco Dr Sauk Centre MN 56378

Section # 14 **Township Name** Birchdale

Parcel Number(s) 03-003.0000

Property Owner(s) name (print) EDWARD CHARLES KORTUEM

Property Owner(s) Signature(s) Edward C. Kortuem **Date** _____

Authorized Agent(s) name (print) _____

Authorized Agent(s) Signature(s) _____ **Date** _____

Authorized Agent Phone Number _____

IMPERVIOUS SURFACE WORKSHEET
(FOR SHORELAND ONLY)

APPLICANT INFORMATION

Name Kortuem

Phone (____) ____ - _____

Mailing Address _____

_____

Site Address 12281 Alcott Dr.

City Sauk Centre State MN Zip _____

Parcel Number 03 - 003 0000

Lake/River Name _____

IMPERVIOUS SURFACE: is a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities & at an increased rate of flow than prior to development.

LOT/STRUCTURE DIMENSIONS

Total lot area: 24,393.6 sq ft

List all structures (structure's foundation footprint: length, width, and total area)

Existing	Proposed
1. Shed 30 x 40'	36 x 46 House with
2.	32 x 30 Attached garage
3.	with 12 x 20 4 season
4.	room with 34 x 30
5.	Concrete Apron
6.	
7.	
8.	

List all non-roofed hard surfaces: Examples include sidewalks, paver stones, retaining walls, patios, decks, driveways & parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impervious liners:

Existing	Proposed
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

Total of 25% of lot may be covered by impervious surfaces (15% of which are from roofed structures)

1. List in the table below any efforts by landowner to reduce project impact by removing or reducing impervious surfaces.

List Structure or Impervious Surface to Be removed	Square footage to be removed	Location of structure or impervious surface to be removed (see table below)
Example: concrete drive to lake	8' x 35' = 280 sq ft	(C) Within Impact Zone

Location of variance request in reference to Ordinary High Water level	General Development Lake	Recreational Development Lake	Natural Environment Lake and Rivers / Streams
A. Outside shoreland building setback	75'+	100'+	150' +
B. Between Shore Impact Zone and Building Setback	37.5' to 75'	50' to 100'	75' to 150'
C. Within Shore Impact Zone	0 to 37.5'	0 to 50'	0 to 75'

2. List below any Storm Water Management Best Management Practices (BMP's) that will be installed to help mitigate impacts of development.

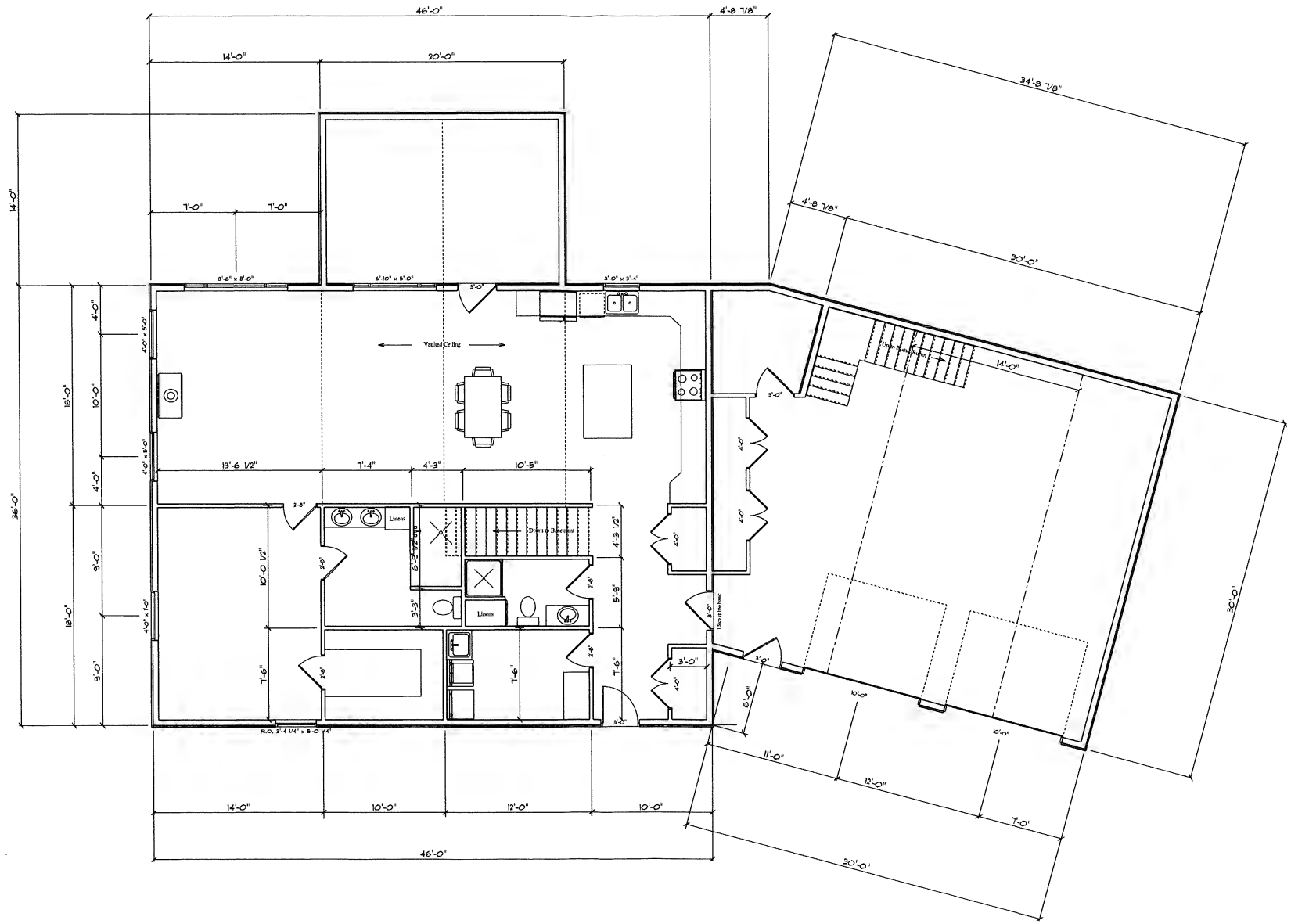
INFILTRATION BMP's

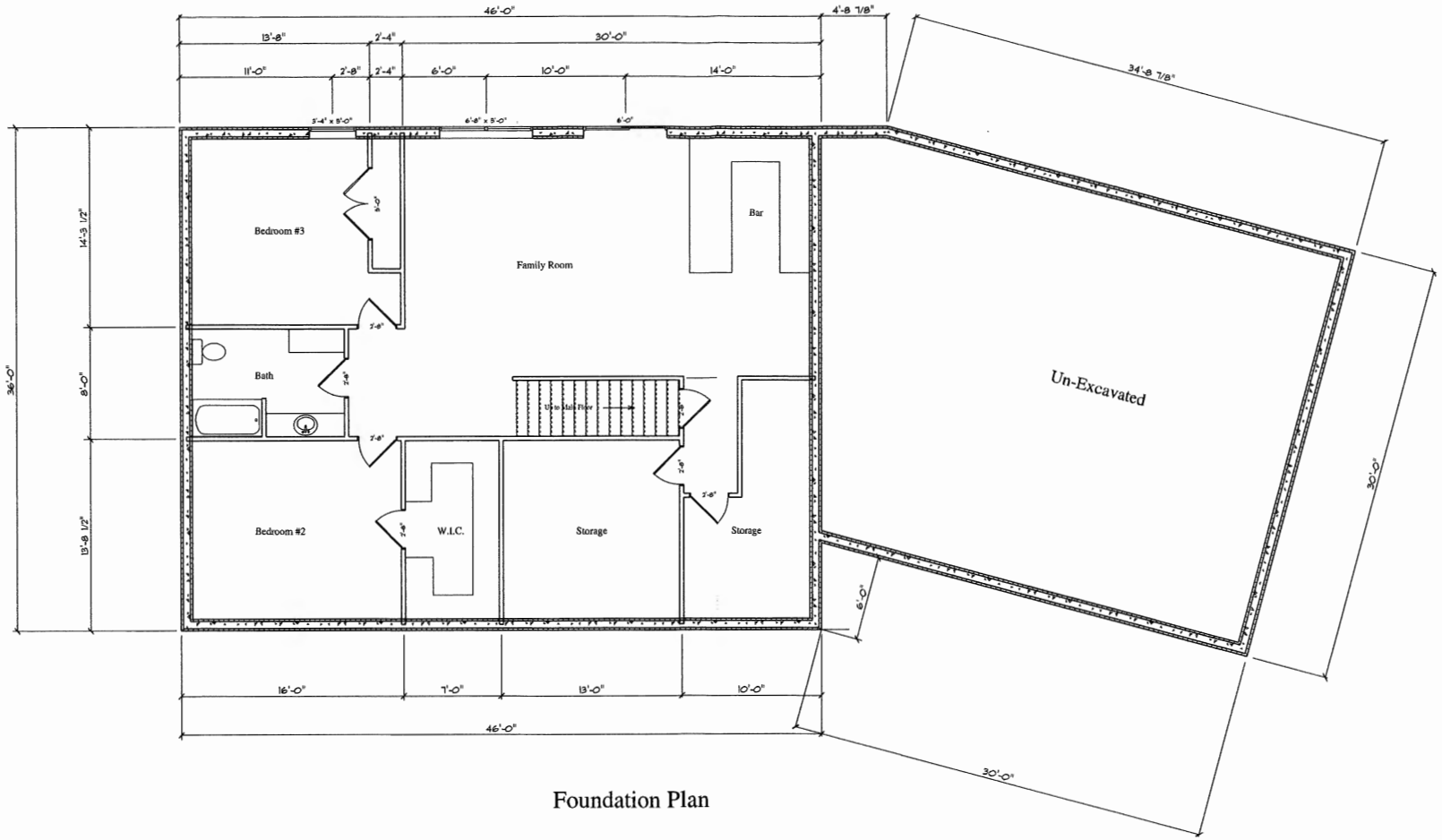
List any measures you plan on taking to increase water infiltration and retention. Examples include rain gutters, rain gardens, retention swales, berms, sub-surface tile, etc. Efforts to install BMP's will be graded positively in the site evaluation. Locate projects on site map.

Rain Barrel to catch roof water and Gutters

VEGETATION BMP's

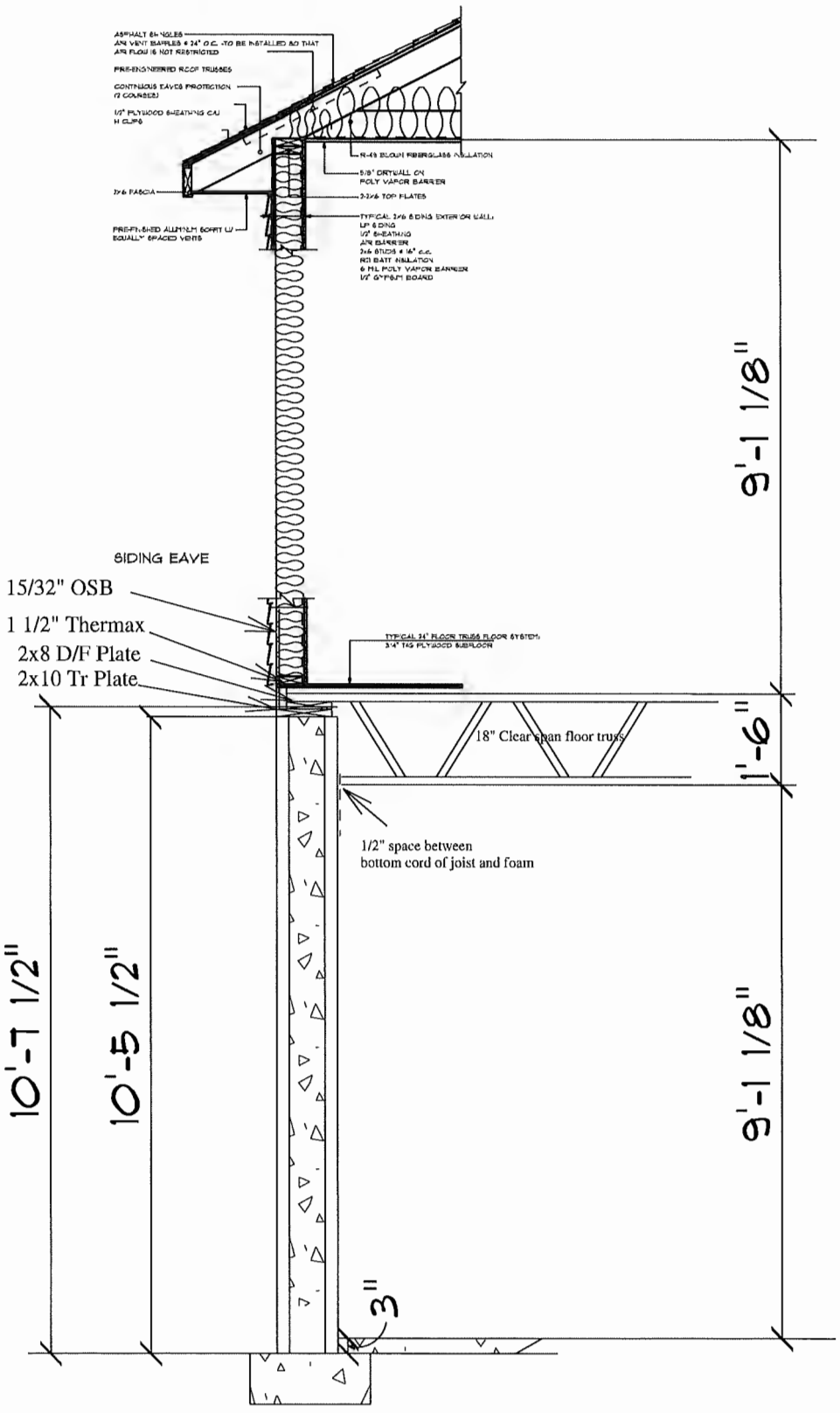
Vegetation planting along lake shore areas is also a Best Management Practice. Planting areas of your lakeshore impact zone with permanent vegetation helps infiltrate water, reduce lake impact, provide habitat, and screen the dwelling from other lake users. Plantings are graded positively in the site evaluation. List any areas to be planted or restored and mark the location on your site map.

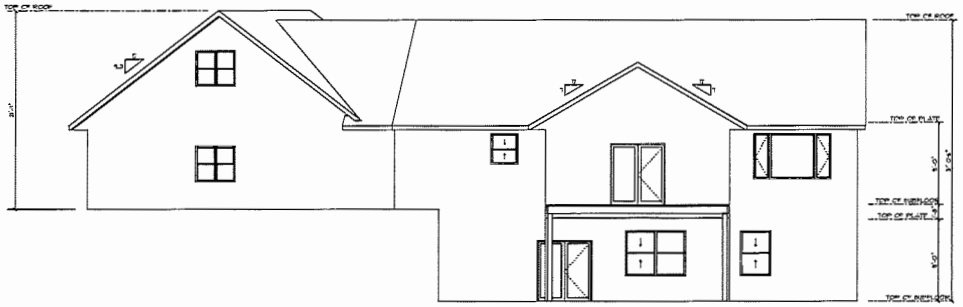

46'-0"
4'-8 7/8"
14'-0"
20'-0"
34'-8 7/8"
4'-8 7/8"
30'-0"
7'-0"
7'-0"
14'-0"
8'-6" x 8'-0"
6'-10" x 8'-0"
3'-0"
3'-0" x 3'-4"
Vaulted Ceiling
Down to Basement
Linens
Linens
Up to Bedrooms
36'-0"
18'-0"
10'-0"
4'-0"
4'-0" x 8'-0"
4'-0" x 8'-0"
4'-0" x 1'-0"
13'-6 1/2"
7'-4"
4'-3"
10'-5"
10'-0 1/2"
7'-6"
7'-6"
7'-6"
4'-3 1/2"
5'-9"
3'-3"
6'-3 1/2"
3'-0"
6'-0"
11'-0"
12'-0"
7'-0"
30'-0"
R.O. 3'-4 1/4" x 8'-0 1/4"
14'-0"
10'-0"
12'-0"
10'-0"
46'-0"



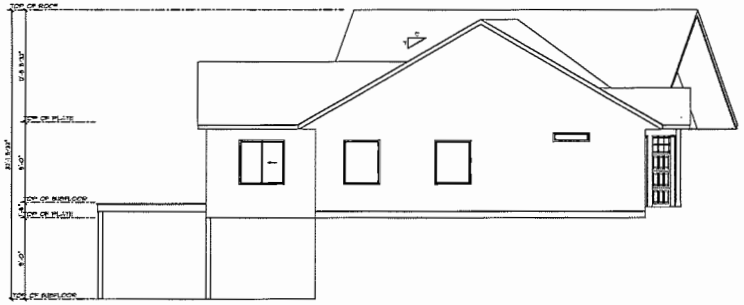
Foundation Plan

Ed Kortum
Wall Section Drawing

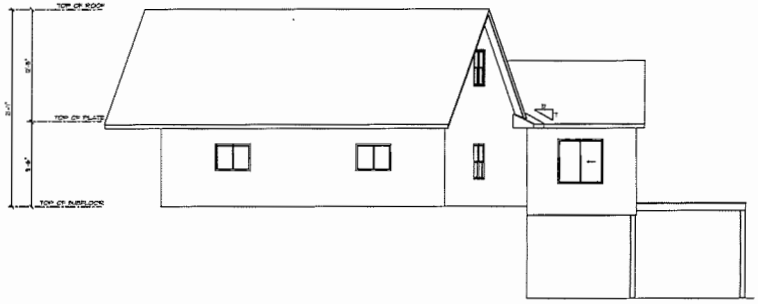




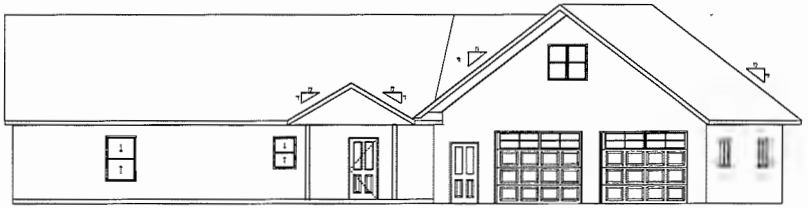
Rear Elevation



Left Elevation



Right Elevation



Front Elevation

These Plans are furnished by Elrosa Lumber Co. In Preperation of this plan, every attempt has been made to avoid mistakes. The drafter cannot guarantee Against error and is not an engineer or architect. The contractor is to verify all conditions and dimensions of the plan. Not to be copied without permission.	ELROSA LUMBER CO. 404 2nd Ave. P.O.Box 140 ELROSA MN, 56325 Phone / 320-697-5591	Name: Ed Kortuem	Scale:	Date: Jan 3 2024
		Phone:	Sq.Ft.	Drawn By: Allen Kollman



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.0125 0.025 0.05 mi

0 0.0125 0.025 0.05 mi

N W E S

The Todd County GIS & Land Services Department has made every effort to provide the most accurate and up-to-date information available in this publication and cannot be held responsible for any unforeseen errors or omissions. If the recipient wishes to locate parcel corners and property lines, employ the services of a Registered Land Surveyor.

Printed on:
Wednesday, January 3, 2024

WHERE THE FOREST MEETS THE PRAIRIE
Todd County
• MINNESOTA • EST. 1855 •

Received
FEB 2 8 2024
Todd County Planning & Zoning

PLANNING & ZONING
215 1st Avenue South, Suite 103
Long Prairie, MN 56347
Phone: 320-732-4420 Fax: 320-732-4803
Email: ToddPlan.Zone@Co.Todd.MN.US

Accepted 2/29/2024
KLM

Appeal for a Variance

Applicant Paul VanGorp & Roberta Knutson
Mailing Address 18449 State 287, Long Prairie
Site Address 18550 State 287, Long Prairie, Mn.
Phone Number _____ Cell Number [redacted]
E-Mail Address bluespruce18550@gmail.com
Property Owners Name & Address (if not applicant) same

Parcel Number(s) 06-0009300 and 06-0025000
Section: 7 & 18 Township Burnhamville
Zoning District (circle one): AF-1; (AF-2); R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Big Swan Lake

Do you own land adjacent to this parcel(s) ✓ Yes ____ No

Septic System: Date installed 8-2-2005 Date of Compliance Inspection 5-6-23
Is a new system needed: ____ yes ✓ no ____ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width____	Lot area____	Lake or River setback____	Bluff setback____
Road right-of-way setback____		Side Yard setback____	Buildable area____
Impervious surface coverage____		Building/Structure Height____	Other ✓

Shore-land private access road to R.D. Lake is 66 feet wide. There apparently is a 150' requirement for access to an RD classified Lake in the ordinance.

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) Allow the 66 foot access Road to the Shoreland in the M.L.T. Conservation Easement to remain

2.) Allow the portion of the easement that is in Section 18 to not require separate access sufficient since it can not be separated, according to terms of the conserv. easement

3.) ~~3.~~

4.) See attached. #1

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

See appeal letter. #2

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

orange ribbons on survey stakes placed in Nov. 23.

see maps and accompanying explanations.

SKETCH DRAWING

The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

Paul VanGorp Roberta Knutson	Paul E. VanGorp Roberta M Knutson	2/28/24
Applicant Name Printed	Signature	Date
same		
Property Owner Name Printed	Signature (If different than applicant)	Date

#1

List your variance request:

1. Request to reduce the road frontage requirement from 150' to 66' for parcel 06-0009300.
2. Request to reduce the road frontage requirement from 150' to 0' for parcel 06-0025000.

#2

We have placed 46 acres of lake frontage property on Big Swan Lake into the Minnesota Land Trust. We did this because we would like to see this beautiful and unique shoreland property remain undeveloped and undivided.

In July 2023 we placed our farm (parcels 06-0009300 and 060025000) amounting to 140 acres including the conservation easement on the real estate market.

We currently have prospective buyers for both the agricultural land and the easement, but two separate buyers. To complete the sale we need to split the property into the easement and the agricultural land with buildings.

The easement needs an access road from State Highway 287. We purchased three lake lots on the north end of parcel 06-0009300 along with a primitive two track road to them in 1995. The access road was 66 feet in width. Several years later we combined the road and the lake lots with 83 acres to the south that we had purchased in 1976 to create parcel 06-0009300.

The access road is fenced on both sides. We do not own the land to the north. The property on the south side is almost entirely wooded with mature trees, mostly oak, that would need to be removed to widen the road and create a new fenced boundary. This would be expensive, difficult and destructive to habitat.

We appeal for variance to the 150 foot requirement because the road is and will remain a private road to the property that is in a conservation easement with the Minnesota Land Trust in perpetuity. As such, it will not be developed or divided and will remain agricultural land owned by one owner. There will be no public access. The owner does have the right to build one small structure with a maximum 3000 square foot footprint within a 100 foot by 300 foot building envelope on the north end of the conservation easement. There are many restrictions (see the draft of the conservation easement and habitat management plan.) #3

We simply request that the 66 foot access road be split off the property again as it was prior to merging it and that it be considered an adequate access to the shoreland property. It is already considered an adequate access to Stearns Electric and the Minnesota Land Trust.

PROPERTY MAP

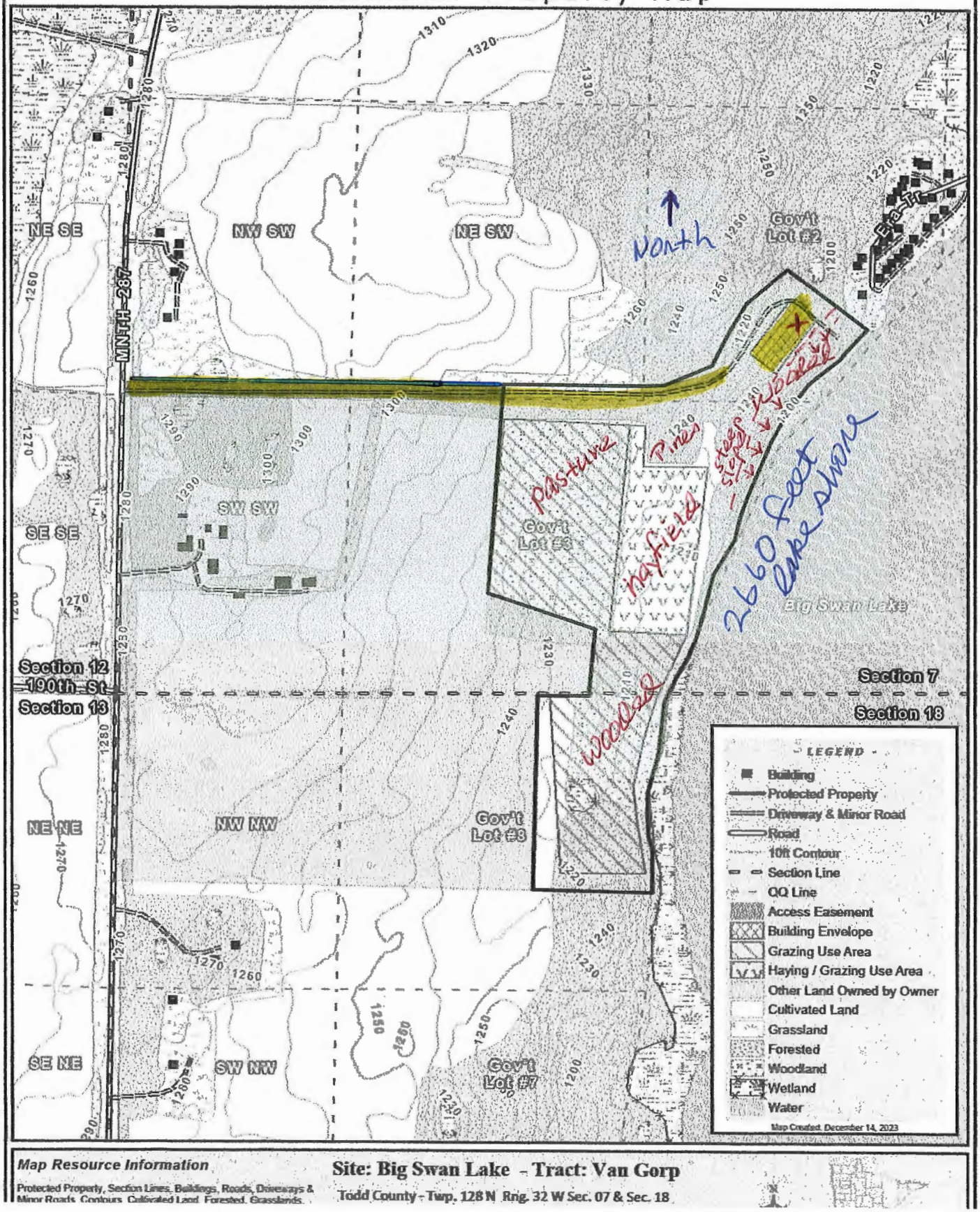
- The conservation easement is outlined in red
- The 66 foot wide private access road is highlighted in yellow
- The Stearns Electric power line is in blue ink along the north edge of the access road.
- The well is marked by a red X

EXHIBIT B PROPERTY MAP

- The potential building envelope is highlighted in yellow
- The access road is highlighted in yellow
- The well site is marked with a red X

Stearns Electric and the MN Land Trust have easements on the private road. Stearns for the repairs and maintenance of their power line, and the MN Land Trust to monitor for compliance of their rules.

Exhibit B: Property Map



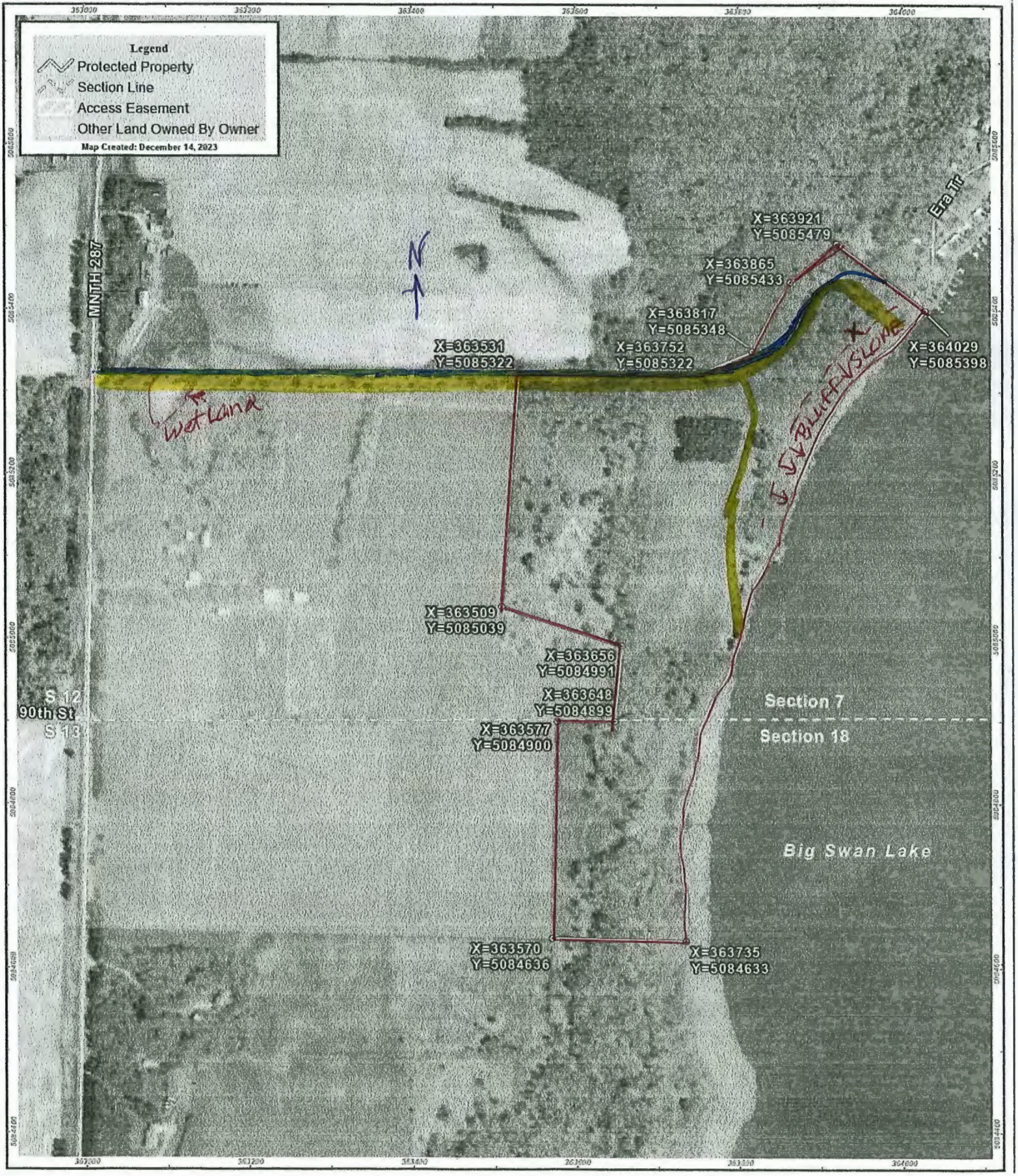
Map Resource Information

Protected Property, Section Lines, Buildings, Roads, Driveways & Minor Roads, Contours, Cultivated Land, Forested, Grasslands

Site: Big Swan Lake - Tract: Van Gorp

Todd County - Twp. 128 N Rng. 32 W Sec. 07 & Sec. 18

Aerial Photography Map



CONSERVATION EASEMENT

Pursuant to the laws of the State of Minnesota, and in particular Minnesota Statutes Chapter 84C, and in consideration of the mutual covenants contained herein, and as an absolute and unconditional gift, for which no goods or services have been provided, Paul E. Van Gorp and Roberta M. Knutson, spouses married to each other, (the "Owner") hereby conveys and warrants to the Minnesota Land Trust, a non-profit corporation organized and existing under the laws of the State of Minnesota (the "Land Trust"), and its successors and assigns, a perpetual conservation easement (the "Easement") over the real property described below (the "Protected Property"). This Easement creates a property right immediately vested in the Land Trust and consists of the rights, terms, and restrictions set out below.

CONSERVATION PURPOSE

The conservation purpose (the "Conservation Purpose") of this Easement is to provide significant public benefit by preserving and protecting in perpetuity the conservation values of the Protected Property described below (the "Conservation Values") as those values exist at the time of this conveyance and as they may evolve in the future.

This Conservation Purpose is accomplished by confining the development, management, and use of the Protected Property to activities and improvements that are consistent with the preservation of these Conservation Values, by prohibiting activities and improvements that significantly impair or interfere with these Conservation Values, and by providing for remedies in the event of any violation of this Easement.

BACKGROUND

A. OWNER. The Owner is the current owner of approximately 46 acres of real property located in Todd County, Minnesota, referred to herein as the Protected Property and more fully described below. The Owner includes, jointly and severally, the current owner or owners of the Protected Property and their personal representatives, heirs and assigns, and any successors in interest to the Protected Property.

A. MINNESOTA LAND TRUST. The Land Trust is a non-profit corporation organized and operated exclusively for charitable and educational purposes including the preservation and protection of land in its natural, scenic, or other open space condition. The Land Trust is a public charity as defined in Sections 501(c)(3) and 509(a) of the Internal Revenue Code and an organization qualified to hold conservation easements under Minnesota law and Section 170(h) of the Internal Revenue Code and related regulations, possessing the commitment to protect the Conservation Purpose and the resources to enforce the restrictions. The Land Trust is a holder of conservation easements under Minnesota Statutes Chapter 84C. The Land Trust includes the Minnesota Land Trust and its successors or assigns to its interest in this Easement.

B. PROTECTED PROPERTY. The Protected Property is that real property legally described in **Exhibit A** and generally depicted on the Property Map in **Exhibit B**. Both exhibits are attached to this Easement and incorporated by this reference. The Easement includes both this instrument of conveyance and the property interest of the Protected Property conveyed from the Owner to the Land Trust.

The Protected Property is part of a larger tract of land owned by the Owner.

Context

The Protected Property is located in Burnhamville Township, approximately eight (8) miles southeast of Long Prairie, Minnesota.

The Protected Property is located within the Land Trust's Mississippi Corridor North Priority Conservation Program Area. The Minnesota Land Trust's Mississippi Corridor North Priority Conservation Program Area is located along both sides of the Mississippi River and situated between the Land Trust's Twin Cities Metro and Mississippi Headwaters program areas. A wide variety of native habitats including oak savanna, hardwood forests, wetlands, lakes, and prairie are present in this program area, a transition zone between prairies to the west and forests to the east. The scenic Mississippi River corridor provides a variety of recreational opportunities and the river's many tributaries play a significant role in the water quality of the river. The Avon Hills, a glacial moraine featuring a large complex of forest and wetland habitat, is an important conservation focus. Large tracts of protected land are present in Camp Ripley (managed by the Minnesota National Guard) and Crane Meadows National Wildlife Refuge, though outside these areas agricultural uses and lakeshore development are widespread and native habitats are increasingly fragmented.

The Protected Property is located within the Hardwood Hills Ecological Subsection, which is part of the Eastern Broadleaf Forest Province of Minnesota's Ecological Classification System. The subsection is characterized by steep slopes, high hills and lakes formed in glacial end moraines and outwash plains. A mosaic of vegetation occurred in the subsection historically, ranging from oak savanna and tallgrass prairie to oak forest. Much of the subsection is currently farmed. Lakes and wetlands are numerous. Before settlement by people of European descent, the subsection was dominated by maple-basswood forests interspersed with oak savanna, tallgrass prairie, and oak forest. Important areas of forest and

prairie exist throughout the subsection but are small and fragmented; approximately 15 percent of the subsection is currently forested.

The Protected Property lies within the Swan River subwatershed, which drains approximately 180 square miles of land within the larger Mississippi River - Brainerd watershed. The Mississippi River - Brainerd watershed covers 1,687 square miles in the north-central part of the Upper Mississippi River Basin in central Minnesota. The watershed encompasses all or parts of Aitkin, Cass, Crow Wing, Morrison, and Todd counties. The majority of the watershed is within the North Central Hardwood Forest with small sections in the Northern Lakes and Forests ecoregion.

General Description

The Protected Property consists of approximately 19 acres of forest, 15 acres of woodland, less than one (1) acre of grassland, less than 1 (one) acre of wetland, and ten (10) acres of cultivated land. Further, the Protected Property includes approximately 2,790 feet of shoreline along Big Swan Lake.

The Protected Property is currently used for low-impact outdoor recreational use, nature observation, habitat management, and agricultural use, including haying and grazing. Future uses may include a seasonal or year-round dwelling within the building envelope.

Existing improvements on the Protected Property include a natural surface, two-track road, three (3) field roads, well, and a network of trails. Improvements are more specifically described in the baseline documentation report (the "Baseline Documentation Report") referred to in section 5 of this Easement.

Natural Attributes

The natural attributes of the Protected Property include the relatively natural fish and wildlife habitat provided by a matrix of woodlands, grasslands, and undeveloped shoreline along Big Swan Lake. Forest and woodlands dominate the Protected Property; a pine plantation occurs in the northern portion. Terrain slopes gently west to east toward Big Swan Lake, with bluffs 20-40 feet high occurring along the lakeshore in the northern one-half of the Protected Property.

The Protected Property's grasslands, forests, and riparian areas provide key habitat for a variety of Species in Greatest Conservation Need ("SGCN") as identified in *Minnesota's Wildlife Action Plan 2015-2025*, including red-shouldered hawk, cerulean warbler, and least darter. Furthermore, the project protects nearly 2,800 feet of shoreline along Big Swan Lake, which is a Lake of Biological Significance as identified by the Minnesota Department of Natural Resources ("DNR"). Moreover, the majority of the Protected Property was identified in The Nature Conservancy's Resilient and Connected Landscape analysis, which mapped areas estimated to be the most climate resilient, as having above average resiliency.

The Protected Property builds upon a complex of nearby protected conservation lands. Approximately 489 acres of protected conservation lands are located within a 5-mile radius of the Protected Property, including Ireland and Ostendorff Wildlife Management Areas

managed by the DNR. As part of this matrix of protected lands, the Protected Property contributes to the preservation of natural areas for wildlife, increases habitat connectivity enabling movement of wildlife, and helps protect sensitive groundwater and surface water resources.

Scenic Attributes

The scenic attributes of the Protected Property include 2,790 feet of undeveloped shoreline which is visible to the public from Big Swan Lake. The Protected Property provides openness and scenic views of the lakeshore directly adjacent to a heavily developed area.

Threats and Opportunities

The Protected Property is located in an area experiencing substantial lakeshore development. Wildlife species (including the SGCN listed above) and natural communities are impacted by development, habitat fragmentation, and reduced water quality, and suffer when habitat is lost or degraded.

Preservation of the Protected Property provides a significant opportunity to protect shoreline habitat associated with Big Swan Lake. Conservation of the Protected Property alleviates the threat of development and helps maintain ecologically significant habitat and open space in the area. Further, the Protected Property—in its undeveloped state—helps protect the water quality of Big Swan Lake, and all downstream waterbodies, such as the Swan River.

C. CONSERVATION VALUES. Collectively and individually, the natural, scenic, and open space qualities of the Protected Property that are outlined above comprise its Conservation Values:

- The undeveloped and relatively natural character of the Protected Property provides significant habitat for a variety of fish, wildlife, and plants.

- The undeveloped shoreline along Big Swan Lake on the Protected Property helps maintain the water quality of the Big Swan Lake and provides near-shore habitat for a variety of aquatic plants, animals, and natural communities.

- The open and natural character of the Protected Property provides scenic views enjoyed by the general public from Big Swan Lake.

These Conservation Values have not been and are not likely to be significantly impaired by the continued use of the Protected Property as described above or as authorized in this Easement or by the use, maintenance, or construction of any structures and improvements that presently exist on the Protected Property or that are authorized below.

The preservation and protection of these Conservation Values will provide significant benefit to the public.

D. CONSERVATION POLICIES. Protection of the Conservation Values of the Protected Property is in accordance with delineated governmental policies including those established by the following:

- Minnesota Statutes Section 97A.056, which governs the Outdoor Heritage Fund and Minnesota Laws 2023, Chapter 40, Article 1, Section 2, Subdivision 3(a), which provides funding to acquire permanent conservation easements and restore and enhance forest habitats in the Hardwood Hills ecological section of west-central Minnesota.

- Minnesota Statutes Chapter 103A, which promotes protection of Minnesota's waters and their adjacent lands, and Minnesota Statutes Section 103A.206 in particular, which recognizes the economic and environmental importance of maintaining and enhancing the soil and water resources of this state and the role of private lands in these conservation efforts to, among other things, preserve natural resources, protect water quality, preserve wildlife, and protect public lands and waters.

- *Todd County 2016 Water Plan,* which identifies opportunities for protection and management of water resources and related land resources, including encouraging landowners to protect land through conservation easements.

- *Minnesota Statewide Conservation and Preservation Plan,* 2008, which promotes the protection of priority land habitats, critical shorelands, and private shorelands via economic incentives and other tools, including conservation easements.

- *Minnesota's Wildlife Action Plan,* 2015 – 2025, which seeks to ensure the long-term health and viability of Minnesota's wildlife, focusing on species that are rare, declining, or vulnerable to decline by addressing the primary causes of species population declines, including habitat loss, degradation, and fragmentation. As a result, opportunities to enjoy wildlife, including SGCN, and participate in conservation are both created and enhanced.

- Minnesota Statutes Chapter 84C, which recognizes the importance of private conservation efforts by authorizing conservation easements for the protection of natural, scenic, or open space values of real property, assuring its availability for agriculture, forest, recreational, or open space use, protecting natural resources, and maintaining or enhancing air or water quality.

E. CONSERVATION INTENT. The Owner and the Land Trust are committed to protecting and preserving the Conservation Values of the Protected Property in perpetuity. Accordingly, it is their intent to create and implement a conservation easement that is binding upon the current Owner and all future owners of the Protected Property and that conveys to the Land Trust the right to protect and preserve the Conservation Values of the Protected Property for the benefit of this generation and generations to come.

F. FUNDING. Funding for the acquisition of this Easement has been provided by Minnesota's Outdoor Heritage Fund as recommended by the Lessard-Sams Outdoor Heritage Council. Specifically, this Easement was funded through the Hardwood Hills Habitat Conservation Program under a grant contract agreement between the Land Trust and the State of

Minnesota, acting through its Commissioner of Natural Resources, under grant number 235455. The purpose of this grant is to acquire permanent conservation easements and restore and enhance forest habitats in the hardwood hills ecological section of west central Minnesota.

Due to this funding, this Easement is subject to Minnesota Statutes Section 97A.056, Subdivision 15, which specifically requires, among other things, that a notice of funding agreement pertaining to the Easement interest must be recorded against the Protected Property. This notice of funding agreement contains the following statement:

> This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

This interest applies only to the Easement interest held by the Land Trust and not to the fee title interest held by the Owner.

RESTRICTIONS AND RESERVED RIGHTS

1. RESTRICTIONS. Any activity or improvement on or use of the Protected Property in a manner that may significantly impair or interfere with a Conservation Value of the Protected Property or that is inconsistent with the terms or the Conservation Purpose of this Easement is prohibited.

   This specifically prohibits any future development that would interfere with or intrude upon the essential scenic quality of the Protected Property or the visual enjoyment of the open and natural character of the Protected Property by the general public.

   Except as specifically permitted in section 2 of this Easement and without limiting the general prohibition above, restrictions imposed upon the Protected Property expressly include the following:

   1.1. Industrial Activity. No industrial use of the Protected Property is allowed.

   1.2. Commercial Activity. No commercial use of the Protected Property is allowed except for that agricultural use, forest management, habitat management, recreational and educational use, or home business use as specifically permitted in section 2 of this Easement or except as directly related or incidental to other uses or activities specifically permitted under this Easement. Any commercial activities conducted on the Protected Property shall not significantly impair or interfere with the Conservation Values protected by this Easement.

1.3. Agricultural Use. No agricultural use of the Protected Property is allowed except as specifically permitted in section 2.2 of this Easement.

1.4. Residential Use and Development. No residential use or development of the Protected Property is allowed except as specifically permitted in section 2.4 of this Easement. The area including the Owner's residence and accessory structures and improvements has been excluded from the Easement area and is hereinafter referred to as the "Exclusion Area" for purposes of this Easement.

1.5. Division of the Protected Property. The Protected Property may not be divided, subdivided, or partitioned. The Protected Property may be conveyed only in its entirety as a single parcel under single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.

The general prohibition set out above does not prohibit the following subject to the prior approval of the Land Trust under the provisions of section 6.6 of this Easement:

The division of the Protected Property when a portion of the Protected Property is being conveyed for conservation purposes to a conservation entity defined as a qualified entity under Section 170(h) of the Internal Revenue Code.

1.6. Development Rights. Under no circumstances may the Protected Property or any portion thereof be included as part of the gross tract area of other land not subject to this Easement, for the purposes of determining density, lot coverage, land area requirements, open space, or natural resource use or extraction under otherwise applicable laws, regulations, or ordinances controlling land use, building density, or transfer for development rights. The development rights that have been encumbered or extinguished by this Easement may not be transferred to any other property or used to obtain any regulatory mitigation credits.

1.7. Easements and Rights of Way. The Owner shall not convey any additional easement or grant of right of way for any purpose, including but not limited to roads or utilities, without the prior approval of the Land Trust under the provisions of section 6.6 of this Easement. This provision does not affect any easements or rights of way existing at the time of the conveyance of this Easement.

1.8. Structures and Improvements. No temporary or permanent buildings, structures, utilities, roads, or other improvements of any kind may be placed or constructed on the Protected Property except as specifically permitted in section 2 of this Easement or as set forth below:

a. Utilities. Currently, there are overhead electrical lines and a well on the Protected Property, which are more specifically described in the Baseline Documentation Report. These utilities may be maintained, repaired, and replaced in their current locations at the time of the conveyance of this Easement but may not be extended or relocated on the Protected Property without the approval of the Land Trust under the provisions of section 6.6 of this Easement.

No additional utilities may be installed on the Protected Property without the prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

b. Signs. No billboards or other signs may be placed or erected on the Protected Property except for small, unlighted signs for informational or interpretive purposes that do not impair or interfere with the natural habitat or scenic quality of the Protected Property.

The Owner acknowledges and agrees that the Land Trust, as a recipient of a grant from Minnesota's Outdoor Heritage Fund for the acquisition of this Easement, may display as required and where practicable at access points to the Protected Property a sign that includes the Clean Water, Land, and Legacy Amendment logo.

Further, the Owner acknowledges and agrees that the Land Trust may place small Easement boundary signs to demarcate the perimeter of the Protected Property.

c. Driveways and Roads. Currently, there is a two (2)-track, natural surface driveway and one (1) field road located on the Protected Property, which are more specifically described in the Baseline Documentation Report. These existing roads may be maintained and improved but may not be widened, extended, or relocated on the Protected Property without the prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

No other roads, driveways, or parking areas may be established or constructed on the Protected Property without the prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

d. Trails. Currently, there are several trails on the property, which are more specifically described in the Baseline Documentation Report. These trails may be maintained in their current states at the time of the conveyance of this Easement without the prior approval of the Land Trust. No additional trails, or any expansion, relocation, or improvement of existing trails, are permitted without prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

Permitted trails may be used for non-motorized and limited motorized recreational uses, habitat management, land management, residential uses, agricultural purposes, and other activities permitted under the terms of this Easement.

Permitted trails may be maintained, used, and established only in a manner that does not result in significant erosion and that does not impair or interfere with the natural habitat, water quality, or scenic quality of the Protected Property. Motorized vehicles may be used on trails at the Protected Property only as set forth at section 1.14.

e. Fences. Fences may be constructed, maintained, improved, replaced, or removed to mark boundaries, to secure the Protected Property, or as needed in carrying out activities permitted by this Easement.

Fences may not be located or constructed in a way that impairs or interferes with the natural habitat or scenic quality of the Protected Property or interferes with established wildlife corridors.

f. Outdoor Lighting. No permanent outdoor lighting is allowed on the Protected Property except lighting that is currently present. Existing light poles may be maintained and replaced in their current location, but they may not be moved. Notwithstanding the foregoing, additional permanent lighting may be permitted in accordance with residential use and development described in section 2.4 and with prior approval of the Land Trust in accordance with section 6.6 of this Easement.

Lighting is fully described in the Baseline Documentation Report.

g. Drainage. Currently, there is a private ditch and small drainage basin on the Protected Property, which are more specifically described in the Baseline Documentation Report. This ditch may be maintained and used in its current state at the time of the conveyance of this Easement in accordance with the terms and conditions of this Easement and any applicable laws and regulations.

Any surface alteration on the Protected Property resulting from the use or maintenance of the drainage ditch shall be undertaken in accordance with section 1.11 and section 2.2.

No new ditches or extension of the existing ditch are allowed on the Protected Property.

Currently, a portion of a tile drainage system is present in the Protected Property, which is described more fully in the Baseline Documentation Report. This tile drainage system may be used and maintained in accordance with the terms of this Easement and any applicable laws and regulations.

The Owner will provide the Land Trust with notice and the opportunity to provide comments on a repairment, replacement, or removal plan for the tile drainage system. Any repairment, replacement, or removal of the tile drainage system must be approved by the Land Trust under the provisions of 6.6 of this Easement.

Any surface alteration on the Protected Property resulting from the repairment, replacement, or removal of the tile drainage shall be undertaken in accordance with section 1.11 and section 2.2.

No new drainage tile or expansion of the existing tile drainage system is allowed on the Protected Property.

h. Docks: One (1) dock may be installed on the protected property with the prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

1.9. Dumping. No trash, garbage, debris, unserviceable vehicles or equipment, junk, other unsightly material, or hazardous or toxic substances may be dumped or accumulated on the Protected Property. This does not prohibit burning or composting of excess brush or other plant material resulting from activities permitted by this Easement. This does not prohibit temporary placement of building materials, debris, or refuse containers if incidental to activities and construction permitted by this Easement.

1.10. Mining and Extraction.

The Owner is prohibited from mining, drilling, exploring, or removing any minerals, sand, gravel, rock, or fossil fuels from the Protected Property.

The minerals and mineral rights in the Protected Property have been severed in whole or in part from fee title and are not under the current control or ownership of the Owner. The Owner believes that, as of the time of the conveyance of this Easement, the probability of surface mining on the Protected Property is so remote as to be negligible. If the currently severed minerals and mineral rights and the fee title are merged or reassembled in the future, the Owner agrees that no mining, drilling, exploring for, or removing of any minerals from the Protected Property is allowed.

If the Owner is approached by or in contact with the owner of the minerals or mineral rights for the purpose of entering into any agreement or contract regarding the minerals or mineral rights, including a surface use agreement or notice of a mineral lease sale, the Owner shall obtain the prior approval of the Land Trust under the provisions of section 6.6 of this Easement before executing any such agreement or contract. In the unlikely event that the exercise of a third party's right to any mineral interest results in the termination of this Easement, such termination shall be subject to the provisions of section 6.3 of this Easement.

1.11. Topography and Surface Alteration. No alteration or change in the topography or the surface of the Protected Property is allowed. This includes no ditching, draining, or filling and no excavation or removal of soil or other material. Except as permitted under section 1.8 of this Easement.

This does not, however, include or prohibit surface alterations incidental to any construction or other activities or uses otherwise specifically permitted by this Easement, including those activities described in section 2.2. Any alteration resulting from an otherwise permitted activity or use shall be undertaken with minimal disturbance to soils, topography, and vegetation and with proper erosion control practices. At the conclusion of the activity, the surface shall be restored in a timely manner to a condition consistent with the Conservation Purpose of this Easement.

This provision does not apply to or prohibit creation, maintenance, restoration, or enhancement of wildlife habitat or native biological communities otherwise permitted under section 2.3 of this Easement.

1.12. Water. No alteration, manipulation or diversion of natural watercourses, lakes, shorelines, wetlands or other surface or subsurface bodies of water or creation of new wetlands or water bodies is allowed except to restore or enhance wildlife habitat or native biological communities, to improve or enhance the function and quality of existing wetlands or water bodies or as specifically permitted in section 2.3 of this Easement.

This does not prohibit the installation of wells permitted under the provisions of section 1.8 above or water uses incidental to activities and uses specifically permitted by this Easement.

This does not prohibit the maintenance of existing drainage tile, drainage ditches, or the drainage basin.

Any alteration or creation of wetlands, watercourses, or water bodies must be undertaken in accordance with a habitat management plan and detailed action plan approved by the Land Trust under section 2.3 of this Easement.

No activities on or uses of the Protected Property that cause significant erosion or that significantly impair water quality or quantity are allowed.

If changing water levels or water courses or water action such as accretion or reliction leads to the emergence of new land within the boundaries of the Protected Property, or if the boundaries change as a result of emergence of land, the Owner and Land Trust agree that such lands shall be subject to the terms of the Easement to the extent that the Owner becomes the owner or has management rights to such land.

1.13. Vegetation Management. No removal, cutting, pruning, trimming, or mowing of any trees or other vegetation, living or dead, and no introduction of non-native species is allowed except as follows:

a. In conjunction with agricultural activities as specifically permitted in section 2.2 of this Easement.

b. In conjunction with habitat management as specifically permitted in section 2.3 of this Easement.

c. As reasonably required to construct and maintain buildings, structures, roads, trails and other improvements specifically permitted under this Easement and provided that following any construction vegetation shall be restored in a timely manner to a condition consistent with the Conservation Purpose of this Easement.

d. As minimally required to create the filtered view permitted in section 2.4 of this Easement.

e. Landscaping or personal gardening within the building envelope defined in section 2.4 of this Easement.

f. As minimally required to prevent or control insects, noxious weeds, invasive vegetation, disease, fire, personal injury, or property damage.

g. To remove a limited amount of downed or dead timber for firewood or other personal use.

h. Harvesting naturally occurring plant products, such as mushrooms, berries, nuts, herbs, and prairie seed, in a manner that maintains a sustainable growth and reproduction cycle for the harvested plant populations and the surrounding vegetation.

Nothing in this section allows the intentional introduction of recognized invasive vegetation on the Protected Property. Sections 1.13.f, 1.13.g, and 1.13.h are intended to permit only limited, small scale activities. Any larger-scale activities on the Protected Property require an approved habitat management plan and an approved detailed action plan in accordance with section 2.3 of this Easement.

1.14. Vehicles. Limited off-road use of motorized vehicles is allowed only in conjunction with uses specifically permitted under this Easement, including vegetation management, land management, habitat management, and agricultural, residential, and recreational uses. Motorized vehicles may be used only in a manner that does not result in significant erosion or impairment to or interference with the natural habitat, water quality, or scenic quality of the Protected Property.

This provision is not intended to otherwise limit the use of motorized vehicles on roads or driveways permitted under this Easement or in conjunction with construction and maintenance of permitted buildings, structures, roads, trails, and other improvements provided that such use or development does not result in significant erosion or impairment to or interference with the natural habitat, water quality, or scenic quality of the Protected Property.

2. RESERVED RIGHTS. The Owner retains all rights associated with ownership and use of the Protected Property that are not expressly restricted or prohibited by this Easement. The Owner may not, however, exercise these rights in a manner that impairs or interferes with the Conservation Values of the Protected Property. Additionally, the Owner must give notice to the Land Trust before exercising any reserved right that might impair or interfere with a Conservation Value of the Protected Property.

Without limiting the generality of the above, the following rights are expressly reserved and the Owner may use and allow others to use the Protected Property as follows:

2.1. Right to Convey. The Owner may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property. This right to convey the Protected Property is subject to the following provisions.

a. Covered Transactions. Any lease, deed or other conveyance or any encumbrance of the Protected Property is subject to this Easement.

b. Notice to New Owner. The Owner will reference this Easement in any deed or other document by which the Owner conveys title to or any interest in the Protected Property.

c. Notice to Land Trust. The Owner will notify the Land Trust of any proposed conveyance of title to the Protected Property at least 15 days before closing. The Owner will also provide the Land Trust with the name and address of the new owner of the Protected Property and a copy of the deed transferring title within 15 days after closing. Notice and documents shall be sent to the Land Trust in accordance with section 6.6 of this Easement.

d. Designated Representative. If the Protected Property is owned by a trust, business entity or any common or jointly held ownership, the Owner shall designate a representative authorized to receive notice on behalf of the Owner and provide the Land Trust with the name and address of the designated representative. The Owner shall notify the Land Trust of any change in the designated representative and provide the Land Trust with the new name, address, and other contact information within 15 days after the change.

e. Notice of Action Affecting Easement. The Owner will also notify the Land Trust of any proposed condemnation or any claim, legal proceeding, foreclosure, or other legal action that might affect title to the Protected Property or the validity or enforceability of this Easement within 15 days after Owner receives actual or constructive notice of said action. The Owner must also notify the Land Trust of any mineral lease sale or other proceedings regarding mining or extraction per section 1.10 within 15 days after Owner receives actual or constructive notice of said action.

The enforceability or validity of this Easement will not be impaired or limited by any failure of the Owner to comply with this section 2.1.

2.2. Agricultural Use. The Protected Property may be used and developed for agricultural purposes only as follows or as specifically allowed:

a. Agricultural Use Location. Agricultural use is confined to those areas depicted as the "Grazing Use Area" or "Haying/Grazing Use Area" on **Exhibit B**.

The Grazing Use Area and Haying/Grazing Use Area encompass existing lands used for haying and grazing, while putting in place 150-foot buffers to protect Big Swan Lake from any potential impacts.

b. Type of Agricultural Use. The Protected Property may be used to raise or produce crops, livestock, and livestock products, and for all directly related agricultural activities. This includes the right to maintain and use cultivated fields and pastures.

The "Grazing Use Area" and "Haying/Grazing Use Area" may be used to graze livestock, including cattle, in accordance with the terms of the Easement and

pursuant to a habitat management plan and conservation grazing and haying plan approved by the Land Trust in accordance with section 2.3 of this Easement. The "Haying/Grazing Use Area" may also be used for cutting and baling perennial vegetation for forage, provided haying occurs after July 15 of the calendar year. All haying activities must be carried out in accordance with the terms of the Easement and pursuant to a habitat management plan and conservation grazing and haying plan approved by the Land Trust in accordance with section 2.3 of this Easement. This area may not be tilled and must remain in perennial cover.

c. Feed Lots. In no event is a feedlot permitted anywhere on the Protected Property. A feedlot is defined as open ground or buildings or a combination of open ground and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained. Open lots used for feeding and rearing poultry are considered feedlots. Areas immediately adjacent to supplemental feeding and watering areas are not considered feedlots.

d. Agricultural Buffers. A minimum 150-foot permanently vegetated buffer of trees, shrubs, or low ground cover consisting of deep-rooted perennial grasses, forbs, or similar vegetation must be maintained between the cultivated fields of the Protected Property and the ordinary high-water mark of Big Swan Lake. This buffer shall be maintained in a natural state in which the vegetation is left unaltered or is managed to maximize ecological benefit. All management, including any mowing, burning or other alteration of the buffer vegetation, must be undertaken in accordance with a habitat management plan approved by the Land Trust under section 2.3 of this Easement.

e. Drainage Ditches and Tiles. Drain tile may be maintained in place but size may not be increased. Use of drain tile may continue so long as it does in impact conservation values. Drain tile begins on adjacent agricultural fields and terminates to basin on protected property. Drainage is more fully described in the Baseline Documentation Report.

f. Restoration and Future Use of "Grazing Use Area" and "Haying/Grazing Use Area". If any portion of the "Grazing Use Area" or "Haying/Grazing Use Area" is actively restored to native vegetation pursuant to restoration action plan in accordance with a habitat management plan under section 2.3 or pursuant to enrollment in a government program, the right to use said portion for agricultural purposes shall terminate and permanently extinguish.

g. Other Permitted Uses. This section is not intended to restrict or prohibit personal pets, beekeeping, maple syrup collection, or vegetation management activities allowed in section 1.13 of this Easement.

2.3. Habitat Management. The Protected Property may be used to create, maintain, restore, or enhance habitat for wildlife and native biological communities in

accordance with a habitat management plan, conservation grazing action plan, and/or other management plan approved by the Land Trust under the provisions of section 6.6 of this Easement.

Specific habitat management, restoration or enhancement activities are permitted in accordance with an additional detailed action plan approved by the Land Trust under the provisions of section 6.6 of this Easement that is consistent with the approved habitat management plan. The Owner may actively manage, enhance, or restore the vegetation on the Protected Property only in accordance with an approved detailed action plan, or as otherwise permitted under section 1.13 or section 2.2 of this Easement.

The habitat management, conservation grazing action plan, or other management plan may be amended or modified with the Land Trust approval under the provisions of section 6.6 of this Easement. In case of a conflict between the Easement and the habitat management plan or any associated action plans, the terms of the Easement control.

2.4. Residential Use and Development. The Protected Property may be used and developed for single or extended family residential purposes only as follows:

a. Structures. The total cumulative footprint for all buildings and structures shall not exceed 3,000 square feet.

Footprint is defined as the total ground area covered by a structure calculated on the basis of the exterior dimensions of any perimeter walls (whether at or above ground level) and including any balconies, carports or breezeways, patios or terraces, decks, and porches.

b. Building Envelope. All permitted buildings and structures shall be located within the building envelope identified on Exhibit B as the "Building Envelope," and as legally described in the Baseline Documentation Report.

c. Additional Restrictions on Residential Structures. All existing, new, expanded, or replaced buildings are subject to the following restrictions:

- Height: No building or structure may exceed 30 feet in height as measured from the lowest point of finished grade along the foundation to highest point of the roof excluding chimneys or antennas.

- Visibility: Trees, shrubs, and other vegetation shall be managed to maintain a "filtered view" of the Protected Property. "Filtered view" means a view through trees and lesser vegetation of sufficient and reasonable density as to maintain a continuous or near-continuous overhead canopy while concealing at least 50% of any structures from Big Swan Lake, assuming a leaf-on condition.

It is the intent of this provision to provide for a limited view of Big Swan Lake from the residence permitted on the Protected Property while screening and buildings as viewed from Big Swan Lake and protecting the scenic and natural character of the shoreline. To this end, it is the purpose of this provision to prevent Owner from creating lawns, clearings, excessive thinning or pruning or other such unnatural openings or alteration of natural vegetation.

- Color: Siding and rooftops of all buildings and structures on the Protected Property shall be of darker, non-reflective natural colors such as greens, browns, and tans to blend with natural habitat surroundings.

d. Home Businesses and Limited Commercial Enterprises. Any residential dwelling or accessory building permitted on the Protected Property by this Easement may be used for professional offices, day care, production and sale of crafts, a studio or workshop, and other similar home businesses or limited commercial enterprise conducted by a person residing on the Protected Property. No additional buildings, structures, utilities, roads, parking lots, or other improvements not otherwise permitted under this Easement may be constructed or placed on the Protected Property to accommodate these activities.

e. Notice. Before beginning any construction permitted under this section, the Owner must give notice to and seek any required approval of the Land Trust under the provisions of section 6.6 of this Easement.

2.5. Recreational and Educational Uses. The Protected Property may be used for hiking, cross-country skiing, horseback riding, camping, hunting, fishing, trapping, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than a minimal impact on the Conservation Values of the Protected Property.

Minor rustic structures such as tents and tent platforms, trail barriers, benches, hunting blinds or stands, and informational kiosks that do not impair or interfere with the natural habitat or scenic qualities of the Protected Property may be placed on the Protected Property in conjunction with any permitted educational and recreational activities. Such structures may not be used for residential use and no utilities may be installed to service any such structures without the prior approval of the Land Trust under the provisions of section 6.6 of this Easement.

STANDARD TERMS AND CONDITIONS

3. LAND TRUST'S RIGHTS AND REMEDIES. In order to accomplish the Conservation Purpose of this Easement to preserve and protect the Conservation Values of the Protected Property, the Land Trust has the following rights and remedies:

3.1. Right to Enter. The Land Trust, including its agents, has the right to enter the Protected Property at reasonable times and in a reasonable manner for the following purposes:

a. To inspect the Protected Property and to monitor compliance with the terms of this Easement.

b. To inspect the Protected Property and to monitor the ecological impacts of any activities conducted on the Protected Property pursuant to a specific action plan.

c. To obtain evidence for use in seeking judicial or other enforcement of this Easement.

d. To survey or otherwise mark the boundaries of all or part of the Protected Property if necessary to determine whether there has been or may be a violation of this Easement. Any survey completed under this provision will be at the Owner's expense.

e. To otherwise exercise its rights under this Easement.

3.2. Access. In order for the Land Trust to enter the Protected Property, the Owner has conveyed to the Land Trust, by means of a separate recorded document, a nonexclusive, perpetual access easement that runs with the Protected Property. The access easement is generally located and depicted on **Exhibit B** as the "Access Easement." This access easement is appurtenant to the interest of the Land Trust in this Easement. The Land Trust may use the appurtenant access easement to enter the Protected Property. The Land Trust, however, does not assume any responsibility for the maintenance, repair, or replacement of the access easement area nor does the Land Trust assume any responsibility for any damages resulting from the Owner's failure to maintain or repair said access easement area.

3.3. Right of Enforcement. The Land Trust has the right to prevent or remedy violations of this Easement, including prohibiting the construction of buildings or improvements, through appropriate judicial action brought in any court of competent jurisdiction, or through other methods of dispute resolution, against the Owner or other responsible party.

a. Notice. The Land Trust may not initiate judicial action until the Owner has been given notice of the violation, or threatened violation, of this Easement and a reasonable opportunity to correct the situation. This provision shall not apply if in the Land Trust's sole discretion and exclusive judgment immediate judicial action is necessary to prevent or mitigate significant impairment to or interference with the Conservation Values of the Protected Property or if reasonable, good faith efforts to notify the Owner are unsuccessful.

b. Remedies. In enforcing this Easement, the Land Trust has the right to:

- Seek temporary or permanent injunctive relief for any violation or threatened violation of this Easement.

- Require restoration of the Protected Property to its condition at the time of this conveyance or as otherwise necessitated by a violation of this Easement.

- Seek specific performance or declaratory relief.

- Recover damages resulting from a violation of this Easement or injury to any Conservation Values associated with the Protected Property.

These remedies are cumulative and are available without requiring the Land Trust to prove actual damage to the Conservation Values of the Protected Property.

The Land Trust and the Owner agree that the damages created by a violation of this Easement may be determined by calculating the cost of acquiring a conservation easement over similar property. The Land Trust and the Owner also recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations of this Easement.

The Land Trust is entitled to seek expedited relief, ex parte if necessary, and shall not be required to post any bond applicable to a petition for such relief.

c. Costs of Enforcement. The Owner shall be responsible for all reasonable costs incurred by the Land Trust in enforcing this Easement, including without limitation costs of suit, attorneys' fees, and expenses related to restoration of the Protected Property.

d. Enforcement Decisions. The Land Trust does not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement by any delay or prior failure of the Land Trust in discovering a violation or initiating enforcement proceedings. The Land Trust shall not be barred by any applicable statute of limitations in bringing any action to enforce the terms of this Easement.

e. Acts and Circumstances Beyond Owner's Control. The Land Trust may not bring an action against the Owner for any change to the Protected Property resulting from any of the following:

- Causes beyond the Owner's control such as changes caused by fire, flood, storm, natural deterioration, or the unauthorized acts of third parties.

- Reasonable actions taken in good faith under emergency conditions to prevent or mitigate damage resulting from such causes.

Actions by the Owner's lessees, invitees, agents, employees, contractors, or any other party at or using the Protected Property with the permission or acquiescence of the Owner are not considered unauthorized acts of third parties.

This section does not preclude the Owner or the Land Trust from recovering damages or bringing an action against any third party for trespass or other violation of their respective rights in this Easement or in the Protected Property.

f. Right to Report. In addition to other remedies, the Land Trust has the right, but not the obligation, to report any environmental concerns or conditions or any

actual or potential violations of any environmental laws to appropriate regulatory agencies.

g. Enforcement Rights of Others. Nothing in this Easement is intended to create any right to enforce this Easement in any third party where no such right otherwise exists under this Easement or under law.

3.4. Limitation on Rights. Nothing in this Easement gives the Land Trust the right, obligation, or responsibility to exercise physical control over day-to-day operations on the Protected Property or to become involved in management decisions involving the use or disposal of hazardous substances or to otherwise become an operator of the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state or local statutes or laws regarding responsibility for environmental conditions associated with contamination.

4. PUBLIC ACCESS. Although the public benefits from this Easement through the preservation and protection of the Conservation Values of the Protected Property, nothing in this Easement gives the public a right to enter upon or use the Protected Property where no such right existed prior to the conveyance of this Easement.

The Owner retains the right to permit any public use of the Protected Property consistent with the preservation and protection of the Conservation Values of the Protected Property and the terms and restrictions of this Easement, including the restrictions on commercial recreational use set out in section 2.5 of this Easement.

The public does, however, have the right to view the Protected Property from nearby publicly accessible areas including Big Swan Lake.

5. DOCUMENTATION. The current uses of the Protected Property, the state of any existing improvements, and the specific Conservation Values of the Protected Property that are briefly described in this Easement are more fully described in the Baseline Documentation Report on file at the office of the Land Trust. The Owner and the Land Trust acknowledge that the Baseline Documentation Report accurately represents the condition of the Protected Property at the time of this conveyance and may be used by the Land Trust in monitoring future uses of the Protected Property, in documenting compliance with the terms of this Easement and in any enforcement proceeding. This Baseline Documentation Report, however, is not intended to preclude the use of other information and evidence to document the present condition of the Protected Property in the event of a future controversy.

The Land Trust will update or amend the Baseline Documentation Report periodically. The Owner shall cooperate with the Land Trust in maintaining accurate documentation for the Protected Property.

6. GENERAL PROVISIONS.

6.1. Assignment. Subject to the provisions of Minnesota Statutes Section 97A.056, this Easement may be assigned or transferred by the Land Trust only to a conservation

entity defined as a qualified organization under Section 170(h) of the Internal Revenue Code and related regulations and as an authorized conservation easement holder under Minnesota law. Any future holder of this Easement shall have all of the rights conveyed to the Land Trust by this Easement.

As a condition of any assignment or transfer, the Land Trust will require any future holder of this Easement to continue to enforce the terms of this Easement to effectuate the Conservation Purpose of this Easement in perpetuity.

The Land Trust will notify the Owner of any assignment within 30 days after the assignment and will provide the Owner with the name and address of the new holder.

6.2. Amendment. Subject to the provisions of Minnesota Statutes Section 97A.056, and under appropriate circumstances as determined by the Land Trust, this Easement may be modified or amended by a written instrument signed by the Land Trust and the Owner. However, the Land Trust may in its sole discretion and exclusive judgment refuse to agree to any amendment or modification of this Easement, including, but not limited to, any amendment in which any one of the following apply:

a. The amendment is inconsistent with the Conservation Purpose of this Easement.

b. The amendment will impair or interfere with the Conservation Values of the Protected Property.

c. The amendment proposes to permit development, improvements, or uses specifically prohibited by this Easement.

d. The amendment affects the perpetual duration of this Easement.

e. The amendment affects the validity of this Easement under Minnesota law or the status of the Land Trust under Sections 501(c)(3) and 170(h) of the Internal Revenue Code or successor related law.

f. The amendment creates or results in impermissible private benefit or private inurement as prohibited by Section 501(c)(3) of the Internal Revenue Code.

g. Lienholders of existing liens and mortgages will not agree to subordinate their interests to the amended Easement.

A boundary line adjustment to the Protected Property may be made only pursuant to a judicial proceeding to resolve a bona fide dispute regarding a boundary line's location.

Any amendment or modification must be in writing and recorded in the same manner as this Easement.

6.3. Termination. This Easement may be terminated or extinguished in whole or in part only as set forth in this section and subject to the provisions of Minnesota Statutes Section 97A.056.

a. Change of Circumstances. This Easement may be terminated or extinguished if circumstances arise that make continued use of the Protected Property in a manner consistent with the Conservation Purpose of this Easement impossible or impractical. In this event, this Easement may be extinguished only through judicial proceedings.

b. Condemnation. This Easement may be terminated or extinguished pursuant to the proper exercise of the power of eminent domain.

c. Proceeds upon Termination. Following any termination or extinguishment of this Easement in whole or in part, the Land Trust shall be entitled to a portion of the proceeds from any sale, exchange, or involuntary conversion of the Protected Property.

The Land Trust's share of the proceeds shall be no less than the greater of the amount equal to the fair market value of this Easement at the time of the extinguishment or the amount equal to the proportionate value that this Easement bears to the value of the Protected Property as a whole at the time of this conveyance.

The value of this Easement at the time of extinguishment or termination shall be calculated by the method required by the Internal Revenue Service for calculating an income tax deduction for a charitable donation of a conservation easement.

The Land Trust will use the resulting share of its proceeds in a manner consistent with the Conservation Purpose of this Easement and in accordance with Minnesota Statutes Section 97A.056.

6.4. Warranties. The current Owner represents and warrants as follows:

a. The current Owner is the sole owner of the Protected Property in fee simple and has the right and ability to convey this Easement to the Land Trust.

b. The Protected Property is free and clear of all rights, restrictions, and encumbrances other than those subordinated to this Easement or otherwise specifically agreed to by the Land Trust.

c. The Protected Property is not subject to any pending claim, legal proceeding, foreclosure, or other legal action affecting title to the Protected Property or the validity or enforceability of this Easement.

d. The current Owner has no actual knowledge of any use or release of hazardous substances, wastes, or toxic substances on the Protected Property in violation of an applicable federal, state, or local environmental law and will defend,

indemnify, and hold the Land Trust harmless against any claims of damages arising from the release of any such substances.

6.5. Ownership Responsibilities, Costs and Liabilities. The Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the use, ownership, and maintenance of the Protected Property.

a. Taxes. The Owner shall pay all real estate taxes and assessments levied against the Protected Property, including any levied against the interest of the Land Trust created by this Easement. The Land Trust may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to immediate reimbursement from the Owner.

b. Regulatory Compliance. All activities or construction permitted by this Easement shall be undertaken in accordance with applicable federal, state, and local laws, regulations and ordinances and nothing in this Easement shall be construed to exempt the Protected Property or the Owner from otherwise applicable laws or regulations.

The Owner is solely responsible for obtaining any required governmental permits relating to projects undertaken by the Owner.

c. Indemnity. The Owner shall defend, indemnify, and hold the Land Trust harmless from any and all costs or liability, including but not limited to, reasonable attorney fees and court costs, for any loss, damage, or personal injury occurring on or related to the Protected Property or the existence of this Easement, except to the extent attributable to the negligence of the Land Trust.

d. Future Environmental Condition. The Owner is solely responsible for Owner's use or release on the Protected Property of any hazardous or toxic substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state, or local law or regulation regarding responsibility for environmental conditions associated with contamination. The Owner shall take all steps necessary to complete all legally required measures necessary to contain and remediate all releases of any such hazardous substance, contaminant, or pollutant.

6.6. Notice and Approval. Any notice or request for approval required by this Easement must be in writing and is subject to the following.

a. Approval Requirements. No activity requiring the prior approval of the Land Trust may proceed without the Land Trust's written approval as set out in this section. Approval of the Land Trust must be in writing to be effective. Failure of the Owner to receive approval from the Land Trust constitutes denial of the request.

b. Delivery. Any required notice or request for approval must be delivered personally or sent by first class mail or other nationally recognized delivery service to the appropriate party at the following addresses (or other address specified in writing):

To the Owner:
Paul Van Gorp and Roberta Knutson
18449 State 287
Long Prairie, MN 56347

To the Land Trust:
Minnesota Land Trust
2356 University Avenue West
Suite 240
St. Paul, MN 55114

c. Timing. Unless otherwise specified in this Easement, any required notice or request for approval must be delivered at least 30 days prior to the date proposed for initiating the activity in question.

d. Content. The notice or request for approval must include sufficient information to allow the Land Trust to make an informed decision on whether any proposed activity is consistent with the terms and Conservation Purpose of this Easement. At a minimum, the notice should address all of the following:

- The location, nature, and scope of the proposed activity.
- The proposed use, design, and location of any building, structure, or improvement.
- The plan for any needed restoration of the Protected Property following construction.
- Any potential impact on the Conservation Values of the Protected Property.

e. Approval Decisions. The Land Trust may withhold its approval if it determines in its sole discretion that the proposal may impair or interfere with the Conservation Values of the Protected Property or is inconsistent with the terms or Conservation Purpose of this Easement or lacks sufficient information to allow the Land Trust to reach an informed decision. The Land Trust may condition its approval on the Owner's acceptance of modifications, which would, in the Land Trust's judgment, make the proposed activity consistent with the Easement or otherwise meet any concerns.

6.7. Binding Effect. This Easement creates a property right immediately vested in the Land Trust and its successors and assigns that cannot be terminated or extinguished except as set out herein.

This Easement shall run with and burden the Protected Property in perpetuity. The terms of this Easement are binding and enforceable against the current Owner of the Protected Property, all successors in title to the Protected Property and all other parties entitled to possess or use the Protected Property.

6.8. Non-Merger. If at any time the Land Trust or other holder of this Easement becomes the owner of all or a portion of the fee interest in the Property, this Easement shall not be deemed to merge with the underlying fee interest but shall remain in force and effect unless otherwise terminated or extinguished as set out herein.

6.9. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon the transfer or termination of that party's interest in this Easement or the Protected Property, provided, however, that any liability for acts or omissions occurring prior to the transfer or termination will survive that transfer or termination.

6.10. Recording. The Land Trust will record this Easement in a timely manner in the official records for the county in which the Protected Property is located. The Land Trust may re-record this Easement or any other documents necessary to protect its rights under this Easement or to assure the perpetual enforceability of this Easement.

6.11. Interpretation. This Easement shall be interpreted as follows:

a. Controlling Law and Construction. This Easement shall be governed by the laws of the State of Minnesota and construed to resolve any ambiguities or questions of validity of specific provisions in favor of giving maximum effect to its Conservation Purpose and to the policies and purposes of Minnesota Statutes Chapter 84C and Minnesota Statutes Section 97A.056, and Minnesota Laws 2023, Chapter 40, Article 1, Section 2, Subdivision 3(a).

b. Severability. A determination that any provision or specific application of this Easement is invalid shall not affect the validity of the remaining provisions or any future application.

c. Captions. Captions have been inserted in this document solely for convenience of reference and shall have no effect upon interpretation or construction.

d. Future Economic Condition. A change in the potential economic value of any use that is prohibited by or inconsistent with this Easement, or a change in any current or future uses of neighboring properties, shall not constitute a change in conditions that makes it impossible or impractical for continued use of the Protected Property for the Conservation Purpose and shall not constitute grounds for terminating the Easement.

6.12. Additional Documents. The Owner agrees to execute or provide any additional documents reasonably needed by the Land Trust to carry out in perpetuity the provisions and the intent of this Easement, including, but not limited to any

documents needed to correct any error or mutual mistake, legal description or title matter, or to comply with any federal, state, or local law, rule, or regulation.

6.13. Entire Agreement. This document sets forth the entire agreement of the parties and supersedes all prior discussions or understandings.

6.14. Signatures. This Easement may be completed with the signatures of the parties to this Easement executed and notarized on separate pages which when attached to this document shall constitute one complete document.

The remainder of this page has been intentionally left blank.

IN WITNESS WHEREOF, the Owner has voluntarily executed this Easement on the _____ day of _____, 2024.

OWNER:

_____
Paul E. Van Gorp

_____
Roberta M. Knutsen

State of_____)
) ss
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____ and by Paul E. Van Gorp and Roberta M. Knutson, spouses married to each other.

_____
Notary Public
My Commission Expires:

ACCEPTANCE

The MINNESOTA LAND TRUST hereby accepts the foregoing Easement effective as of the _____ day of _____, 2024.

MINNESOTA LAND TRUST

By: _____
Kris Larson

Title: Chief Executive Officer

State of MINNESOTA)
) ss
County of RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Kris Larson, the Chief Executive Officer of the Minnesota Land Trust, a non-profit corporation under the laws of the State of Minnesota, on behalf of said corporation.

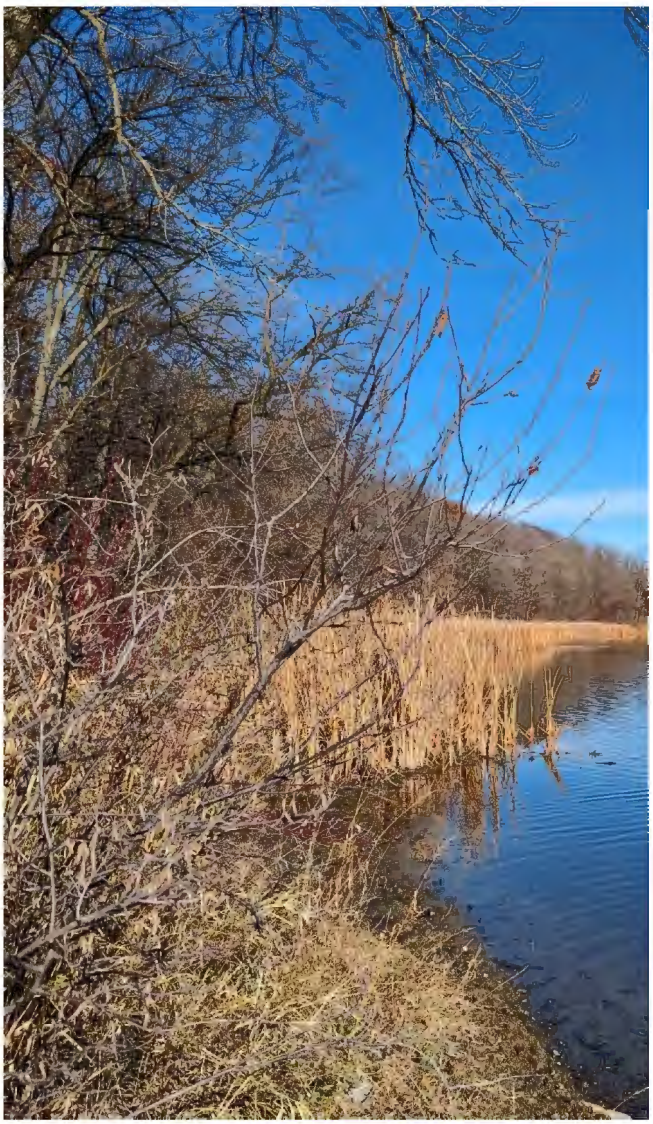
_____
Notary Public
My Commission Expires:

This document drafted by:

Minnesota Land Trust
2356 University Avenue West
Suite 240
St. Paul, MN 55114

Legal to insert Exhibit A, Legal Description of the Protected Property once it is reviewed and approved by legal, the surveyor, and title company.

Exhibit B, Property Map to be added once it is finalized.



Big Swan Lake (van Gorp)

Habitat Management Plan

DRAFT

December 18, 2023

Prepared for:

MINNESOTA LAND TRUST

Minnesota Land Trust
2356 University Ave. W. Suite 240
St. Paul, MN 55114

MNL
8740 – 77th Street NE
Otsego, MN 55362
www.MNLcorp.com

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FIGURE 6 TARGET COMMUNITIES
FIGURE 7 MANAGEMENT PRIORITIES

Appendix

APPENDIX A MDNR NATIVE PLANT COMMUNITY FACT SHEET: SOUTHERN DRY-MESIC OAK (MAPLE) WOODLAND

Introduction

The Minnesota Land Trust ("Land Trust") provides Habitat Management Plans (the "Management Plan") for Owners whose properties are newly protected through a Land Trust conservation easement ("Easement"). As an Owner of a "Protected Property" this Management Plan provides you with recommendations to guide the management, ecological restoration, or enhancement of the habitat on your land.

Easements detail the negotiated terms agreed upon by the Land Trust and the Owner to protect the Conservation Values (described below) of the Protected Property. Easements, however, do not often require you, as an Owner, to conduct habitat management activities on your property although in some instances such requirements are put forth. Long-term protection of a Protected Property's Conservation Values can be heightened through regular, prescribed habitat management activities over time. This Management Plan provides you with the guidance to manage these habitats in a manner that is ecologically appropriate, consistent with the terms of the Easement, and meets any requirements of the associated funding source and your desires as the Owner.

Since an Easement is the over-arching legal document that provides for the long-term protection of a property, any recommended action put forth in a Management Plan must be in accordance with the terms of the Easement. As such, the two documents are complementary to each other.

Your Management Plan also intersects with the Baseline Documentation Report ("Baseline"), which augments your Easement and provides complete documentation of both the Conservation Values and condition of the Protected Property at the time the easement closed. The Baseline provides a benchmark against which the ecological impact of any prescribed management activity may be measured over time.

This Management Plan also addresses additional requirements put forth for easements acquired with financial support from the Lessard-Sams Outdoor Heritage Council (LSOHC) through the Outdoor Heritage Fund (OHF). Hardwood Hills Habitat Conservation Program will permanently protect and restore high-value natural areas.

This Management Plan is intended to be the basis for a working partnership between the Owner and the Land Trust. If you, as an Owner, wish to undertake any habitat management or restoration activity on the Protected Property as laid out in the Management Plan, you will be required to provide a detailed action plan ("Action Plan") to the Land Trust for approval prior to commencement of any desired activities. These Action Plans provide specific, more detailed, descriptive information related to the proposed activity, including course of action, schedule, and management objectives. In general, all but small-scale activities on the Protected Property require an approved detailed Action Plan that builds from this Management Plan, in accordance with sections 2.3 and 6.6 of your Easement.

Protected Property Description

The Protected Property is approximately 46 acres that occur on the northwest shore of Big Swan

Lake (Figure 1), about 6 miles southeast of Long Prairie in Todd County, Minnesota. The property is located in the portions of Sections 7 and 18 (Twp 128N; Range 32W). The property lies within the Mississippi River (Brainerd) major watershed as designated by the Minnesota Department of Natural Resources (MDNR). Big Swan Lake drains to the north into the Swan River which flows north then to the east into the Mississippi River just south of Little Falls, Minnesota.

Conservation Values and Management Objectives

The purpose of the Conservation Easement is to provide significant public benefit by preserving and protecting the "Conservation Values" of the Protected Property, in perpetuity. The Conservation Values for the Protected Property, as defined in the Conservation Easement are outlined below.

For each Conservation Value, management objectives have been identified based on the current conditions of the Protected Property. These objectives consider the overall goals of the Owner, and provide measurable and specific outcomes (i.e., desired conditions) for maintaining the Conservation Values of the Protected Property.

- *Conservation Value:* The undeveloped forest and natural areas of the Protected Property provide habitat for wildlife and plants.
    - *Objective 1*: Native plant communities are greatly enhanced by reducing invasive shrub species such as common buckthorn (*Rhamnus cathartica*) and non-native honeysuckles (*Lonicera* spp.).
    - *Objective 2*: Increasing plant diversity and forest structure will restore the characteristics of the native plant communities that provide the greatest benefit to wildlife.
- *Conservation Value:* Working lands managed with perennial vegetation reduce erosion, improve soil health, and maintain water quality while providing economic and social benefits to the community.
    - *Objective 3*: Maintain and improve untilled land on the Protected Property.
    - *Objective 4:* Continue to manage grazing and hay fields to maintain productivity and protect the soil for sustainable food production.

Ecological Restoration Principles

The Society for Ecological Restoration (SER) has developed eight principles for ecological restoration projects to standardized restoration projects and goals of "protecting biodiversity; improving human health and wellbeing; increasing food and water security; delivering goods, services, and economic prosperity; and supporting climate change mitigation, resilience, and adaptation." These principles should be used to guide the restoration work to be completed on the Protected Property to the degree feasible. The principles are summarized in the *International Principles and Standards for the Practice of Ecological Restoration* (SER 2019), as follows:

- Engages stakeholders.
- Draws on many types of knowledge.

- Is informed by native ecosystems, while considering environmental change
- Supports ecosystem recovery processes.
- Is assessed against clear goals and objectives, using measurable indicators.
- Seeks the highest level of ecosystem recovery possible.
- Gains cumulative value when applied at large scales.
- Is part of a continuum of restorative activities?

Adherence to these principles will benefit the Protected Property by helping to ensure that it is developed to meet ecological values and best practices for current and future conditions. This will help to minimize the likelihood of later modification to the site and provide local community support for the project.

Site Conditions

The Protected Property is adjacent to Big Swan Lake. The Landowner has made great efforts to eliminate sedimentation into the lake coming from tilled, disturbed soils. A tiered agricultural cropping area has been developed east of the Protected Property to reduce erosion. The Protected Property was converted entirely to perennial cover to buffer the lake from the cultivation and minimize runoff.

Historic Context

Land cover of the Protected Property was reviewed based on historic aerial photographs. In 1938 (Figure 2), the western portion of the property was in agriculture and likely cultivated. Most of the remaining parts of the property were open and likely used for hay or pasture. Only a small portion of northern and southern ends of the property were wooded.

By 1991 (Figure 3), the fields just west of the Protected Property were terraced. There were scattered trees and shrubs in the western part of the property which was likely used as pasture. There was an open hay field in the middle of the site. Wooded areas at the north and south parts of the property were expanding including much of the area along the lake shore.

The Protected Property was obtained by the Landowner in the early 1980's. Since that time, a concentrated effort have been made to stabilize and improve the soil and to manage the land sustainably through grazing and haying to sustain a select number of cattle, horse, sheep, and goats. Efforts have been made to improve forage quality in open fields and pastures through the addition of legumes and other forage species, though the sandy soil and the aggressive silver cinquefoil (*Potentilla argentea*) have largely impeded such establishment. The Landowner intends to maintain this hay field and continue these management practices to ensure the continued protection of the lake and water resources while continuing to raise livestock.

Red pine (*Pinus resinosa*) were planted in a plantation a sandy slope in the northern part of the hay field in 1984. Other native conifers were planted in small patches elsewhere around the property as well, including white pine (*P. strobus*), jack pine (*P. sylvestris*), white cedar (*Thuja occidentalis*), black spruce *(Picea mariana*), white spruce (*P. glauca*), and balsam fir (*Abies balsamea*). The Landowner is not aware of prescribed fire or logging on the Protected Property

and has noticed the die off of elms (*Ulmus* spp.) from apparent Dutch elm disease infection.

Prior to the 1980's, portions of the pasture were excavated for fill material for adjacent road projects. The areas of erosion were filled with fieldstone and other debris to halt erosion. In addition, the prior owner installed a driveway running along the northern boundary to the lake and had installed above ground electricity with a light post. There is also an abandoned well near the driveway in a location that had been planned to be used for a building near a high point in the oak forest. The driveway is actively maintained via mowing, but the other amenities are not active.

Recreational uses for the land are largely limited to deer hunting.

Current Land Cover and Management Unit Recommendations

Most of the Protected Property cover is deciduous forest with various canopy density and composition. Each cover type on the site is shown in Figure 5 and is described in more detail in the following sections. Areas of the Protected Property are considered to be Native Plant Communities (NPC) according to the MDNR Native Plant Community (NPC) Classification system (MDNR 2005). NPCs are generally defined by the vegetation that is present and have similar soils, landscape positions, and disturbance regimes (e.g., fires, flooding, etc.). Vegetation for each NPC and other land cover is described based on layers such as canopy trees, sub-canopy trees, shrubs, and ground layer or herbaceous species. Some NPCs mapped on the site are highly degraded as they have reduced native diversity.

NPCs are classified by the DNR with specific assemblages of plants that can be used to set targets for habitat goals and measure progress toward reaching those goals. However, they should not be considered overly prescriptive. The ultimate goals are based on the conservation values described above. Management actions should be used to facilitate development of natural communities and to minimize potential invasive species that may overtake native species and reduce diversity. If the actual community does not match the target NPC but has high diversity and is not susceptible to infestations from invasive species, erosion, or other forms of degradation then it will likely meet the goals of habitat conservation and sustainability.

Management of the Protected Property

This section defines the existing land cover and target NPCs that have been identified for the Protected Property and provides management recommendations to guide the implementation of restoration for the fields considering the existing land cover and potential future land cover.

Management Units

A summary description of the current conditions of each map unit as shown in Figure 5 is provided in the following section. For each map unit, a target community is defined that is expected to be the desired condition. These are described with reference to the intact, high-quality NPC as described in the Field Guide to Native Plant Communities (MDNR 2005).

The current condition of each NPC is ranked is based on an Element Occurrence (EO) ranking. This is an estimated degree to which the community meets the characteristics and diversity of an intact NPC. Mapped units with high diversity and little or no non-native or invasive species would have a higher ranking (A or B). Units with low diversity and abundant non-native and invasive species has a lower ranking (C or D).

For land cover types that do not match an NPC, the desired conditions are based on which appropriate NPC would be a Target Community to steer management decisions. These are considered at the site-scale to the degree practical and in association with the other communities on the site. These communities are determined based on landscape context and existing species composition.

For the Protected Property, two management units are expected to remain as working lands (pasture and hay field) that maintain appropriate conservation value. The management of these areas is described in general terms. For each, there is an NPC target community that would be the expected condition if the area is no longer used for hay or pasture.

For each management unit, there is a summary of the proposed management options with a general level of effort. Each of the management options are summarized for each community type and discussed in greater detail in the Management Priorities Section.

Southern Dry-Mesic Oak (Maple) Woodland

The northern and southern portions of the property are wooded occurring on well-drained east-facing slopes near the lake (Figure 5). This oak dominated hardwood woodland contains a relatively diverse canopy over low diversity shrubs and ground layer. There are small amounts of invasive shrubs present. The community is a Southern Dry-Mesic Oak (Maple) Woodland (FDs37) (referred to as oak woodland), the target NPC (Figure 6). It has a current EO ranking of C.

The oak woodland is dominated by bur oak (*Quercus macrocarpa*), ironwood (*Ostrya virginiana*), prickly ash (*Zanthoxylum americanum*) and a contiguous layer of Pennsylvania sedge (*Carex pensylvanica*). There's also a notable amount of pin oak (*Q. ellipsoidalis*), basswood (*Tilia americana*), green ash, American elm (*Ulmus americana*), and to a lesser degree red oak (*Q. rubra*), and black cherry (*Prunus serotina*). The ground layer was low diversity, forbs were nearly absent or not visible because of the late season visit (November), species observed included: zigzag goldenrod (*Solidago flexicaulis*), wood anemone (*Anemone quinquefolia*), Wild geranium (*Geranium maculatum*), Solomon's seal (*Smilacina* spp.). Non-native invasive species included honeysuckles (likely showy honeysuckle [*Lonicera* X *bella*]) and common buckthorn; these are present in low abundance.

The lakeshore area did not significantly differ from the adjacent woodlands, though at the water's edge populations of narrowleaf cattail (Typha angustifolia), red osier dogwood (*Cornus sericea*), reed canary grass (*Phalaris arundinacea*), various sedges (*Carex* spp.), and willows (*Salix* spp.) were common.

Desired Conditions for the Southern Dry-Mesic Oak (Maple) Woodland

- This forested canopy is generally dominated by bur oak and northern pin oak with other oaks and red maple (*Acer rubrum*) often present.
- Shrubs and small trees generally include black cherry, wild honeysuckle *(Lonicera dioica)*, snowberry or wolfberry *(Symphoricarpos* spp.), chokecherry (*Prunus virginiana*), American hazelnut (*Corylus americana*), gray dogwood, prickly ash, etc.
- Ground layer may be predominantly Pennsylvania sedge and usually includes pointed-leaved tick trefoil (*Desmodium glutinosum*), Clayton's sweet cicely (*Osmorhiza claytonii*), hog peanut (*Amphicarpaea bracteata*), Canada mayflower (*Maianthemum canadense*), and wild geranium.

Table 1. Oak woodland management options

Management Effort	Management Options	Management activities	Trajectory	Projected EO Rank
None	Allow natural processes to continue	None	Degradation of the existing communities is expected to occur with the expansion of invasive shrubs; the EO rank is expected to gradually decline	C/D
Low	Monitor for erosion or other damage to the lake shore and propose remedy as needed	Monitoring	The plant community will remain largely unchanged	C
Medium	Cut/treat existing buckthorn and honeysuckle. Continue to monitor for invasive species infestations and treat as needed	Invasive Species Management; Monitoring	The plant community will slightly improve because of a lack of invasive species; species diversity may increase naturally over time	B/C
Medium	Tree thinning. Periodic fire or grazing/browsing Use short duration/high intensity stocking	Prescribed burns/ ground fires* Introduce goats for browsing or cattle or sheep for grazing	Open canopy to increase light at ground layer. Disturb ground layer to allow new species to become established. Prevent dense shrubs from establishing throughout	B/C
High	Introduce target community species to increase diversity	Planting and seeding. Monitor successful establishment	Species diversity will increase and improve habitat value.	B/A
* Prescribed burns should be implemented by professional burn crews; an Action Plan should be developed and approved by the Land Trust before implementation.				

Summary of management options

As this community remains largely intact, only minimal management is necessary. That would include the identification and removal of buckthorn and honeysuckle through targeted cutting and stump treatment. Ongoing monitoring should continue thereafter to ensure new seedlings are readily eliminated.

Elm forest

The forest south of the hay field (Figure 5) is a unique patch of American elm trees, many of which are dead or dying, likely due to Dutch elm disease. The area was part of a hay field in the 1939 aerial photo so the trees establishing here appear to be secondary re-growth within the last 70 or 80 years (or less). In the 1991 aerial, a portion had regrown with small trees. Although this currently has a different canopy than the rest of the oak woodland on the property, it should be considered to have the same target NPC: Southern Dry-Mesic Oak (Maple) Woodland (FDs37). The current condition is not considered an NPC.

The overstory in this area is composed of elms with many black willow (*Salix nigra*) and green ash (*Fraxinus pennsylvanica*). Understory also includes basswood and common buckthorn. Other species present include quaking aspen (*Populus tremuloides*), bur oak, and box elder (*Acer negundo*), along with weedy herbaceous layer including golden glow (*Rudbeckia laciniata*) and non-native honeysuckles. There is a small groundwater spring located within this area creating a small area with wet soils, not large enough to be separated into a separate community type.

Summary of management options

This community is secondary regrowth and may eventually trend toward returning to the oak woodland community if the invasive species do not become dominant. To aid in restoration of the community, management of the existing understory is recommended. Removing buckthorn and non-native honeysuckles would be the priority.

Other management activities may include planting new trees within gaps created by dead trees or following the removal of invasive shrubs. Tree species to plant would include those that are appropriate for the oak woodland community as described for the Southern Dry-Mesic Oak (Maple) Woodland (FDs37) included in Appendix A. Some of the existing low quality canopy trees can be removed to allow for larger gaps to improve and expand these plantings.

It is not necessary to remove dead or dying elms or green ash unless some of these trees pose a hazard. The standing dead trees can provide good habitat for wildlife so they should be left standing where it is practical and safe to do so.

Similar to the elm trees, the ash trees are likely to die within the next five to ten years from emerald ash borer (*Agrilus planipennis*, EAB) an invasive insect that is killing ash trees. It is possible that this insect will kill most of the trees at the site. According to the MDNR (2023a), management is not considered an appropriate tool for slowing EAB spread or preventing

infestations. The forestry management approach for state lands is to maintain forest cover to the extent possible by increasing the density of other trees within the ash stand.

Table 2. Elm forest management options

Management Effort	Management Options	Management activities	Trajectory	Projected EO Rank
None	Allow natural processes to continue	None	Degradation of the existing communities is expected to continue. Invasive species will increase in density and lower value trees replace existing canopy	None
Medium	Control buckthorn and honeysuckle	Cut and treat stumps. Follow-up monitoring and control	Invasive shrubs will decrease to allow native species to fill canopy including oaks and basswood. Canopy may still include many willow and boxelder in the future (low quality species)	C/D
Medium	Reintroduce target NPC trees and shrubs	Planting or seeding oaks, red maple, ironwood, black cherry	Species diversity will increase and improve habitat value.	B/C
High	Reduce low quality trees and re-plant NPC trees, shrubs, and herbaceous plants	Remove black willow, green ash, boxelder to create large canopy gaps for re-planting or seeding	Species diversity will increase and improve habitat value.	B

Hay field

An important conservation value for this site is to continue using this area for sustainable livestock production. Therefore, objectives for this area are to maintain the perennial soil cover and reduce invasive species that may negatively affect other areas if they begin to expand. An alternative target NPC for this area would be a Southern Dry-Mesic Oak (Maple) Woodland (FDs37), which would require considerable effort and time to restore if haying and pasture is eliminated here.

The hay field (Figure 5) is annually grazed for a short duration and occasionally hayed when the forage is plentiful. The resulting vegetative composition is mixed due to some extreme variation and soil types, from heavy saturated soils adjacent to a natural spring to dry and sandy near the top of hills. The hay field is not currently an NPC, and it is expected to be used for hay and grazing in the future.

Due to recent haying, forage crop ID was not possible, cool season non-native grasses such as smooth brome (*Bromus inermis*) and orchard grass (*Dactylis glomerata*) covered the majority of the field. Broadleaf species present included common wormwood (*Artemisia absinthium*) and common yarrow (*Achillea millefolium*). The well drained sandy areas were dominated by silver cinquefoil which has been problematic for the Landowner in trying to establish forage species such as red clover (*Trifolium pratense*).

Summary of management options

The hay field (Figure 5) will be managed for sustainable production for hay and temporary pasture for cattle and other livestock. The Landowner should continue to manage this area to protect the soil by maintaining perennial cover and maintaining low stocking rates or intermittent short duration, high intensity stock rates. In addition, minimizing invasive species is important for this area so that invasive species do not overtake the field or contribute seed to neighboring natural areas.

Some management activities may be used to improve the field including some soil amendments to help establish clover or other desirable forage species within the sandy portions of the field. Reducing the silver cinquefoil would be a good goal if it can be done without causing soil erosion. One soil amendment that may help is the inoculation of the clover or other legume seeds with *Rhizobium* spp. to support their establishment. *Rhizobium* are a bacteria that attach to roots of clover and other legumes to fix nitrogen from the air and help the clover plants grow in poor quality soils. Other soil amendments may include mulches or compost in the sandy areas to help hold moisture and get desirable species to establish and compete with silver cinquefoil.

An additional option is to introduce native prairie while maintaining the hay field and allow diverse native species to become the primary forage. Native species could be inter-seeded within the existing cover and management efforts (timing of grazing, burning, and mowing) could be used to benefit these species until they become the primary cover. The presence of native grasses and forbs would improve habitat for native insects including pollinators. Plant diversity may also improve soil stability and health.

If the hay field will no longer be managed for hay or pasture, an Action Plan should be created to plan for management and restoration of the area and to ensure that invasive species do not overtake native vegetation as it begins to change following elimination of the activities.

Table 3. Hay field management options

Management Effort	Management Options	Management activities	Trajectory	Projected EO Rank
None	Allow natural processes to proceed without continued haying or grazing	None	Degradation of the existing communities is expected to continue and the EO rank is expected to continually decline as invasive species increase in density	NA
Low	Monitor for erosion or and propose remedy as needed	Monitoring	The plant community will remain largely unchanged	NA
Low	Continue targeted grazing and occasional haying to manage for optimal forage production	Timed grazing, haying	No change in plant composition expected.	NA
Medium	Control non-native weedy herbaceous species through repeated herbicide applications.	Herbicide, mowing, etc. Erosion control and prevention	Eliminate existing invasive species to allow for restoration or forage establishment.	NA
Medium	Establish more desirable forage in dry sandy areas dominated by non-native weeds	Soil amendments and herbicide	Establish higher quality forage and improve soil cover while reducing problematic non-native weeds	NA
High	Introduce diverse native prairie to become primary forage	Seeding and follow-up management. Prescribed burns*	Species diversity will increase dramatically and support more native insects and pollinators	C (or higher for prairie community)
High	Eliminate grazing/haying and restore to forest	Tree planting; invasive species management	Community can be restored to an oak woodland or oak savanna	B/C
* Prescribed burns should be implemented by professional burn crews; an Action Plan should be developed and approved by the Land Trust before implementation.				

Pine Plantation

The pine plantation (Figure 5) was planted in 1984 and consists of maturing red pine on a sandy slope within the field perimeter and is nearly a monoculture with some spruce (*Picea* spp.) and white cedar (*Thuja occidentalis*). The understory is largely barren of herbaceous species and contains a moderate amount of non-native honeysuckles. Although this area currently has few species similar to the neighboring oak woodland, it should be considered to have the same

target NPC: Southern Dry-Mesic Oak (Maple) Woodland (FDs37). The current condition is not considered an NPC.

Summary of management options

The pine plantation is not a native plant community, management options for this can be wide-ranging. These red pine are unlikely to reproduce naturally in this area, so this plantation is not sustainable as it is. Eventually, the existing will begin to die off and the species that replace them would likely be invasive species (buckthorn or honeysuckle) or low quality, weedy native trees like boxelder or willow. Therefore, some actions are recommended to begin to support regeneration of the NPC. In addition, this area currently provides low quality wildlife habitat that could be augmented by increasing diversity.

Thinning the pine in the plantation would allow light to penetrate the canopy and allow for planting of herbaceous species, trees, or shrubs. The additional light may also encourage invasive species, so care should be taken to follow-up with the area after clearing. Maintaining some of the pine canopy is recommended to maintain the forest structure and habitat.

Table 4. Pine plantation management options

Management Effort	Management Options	Management activities	Trajectory	Projected EO Rank
None	Allow natural processes to continue	None	Pine will eventually begin to die-off and invasive or low-quality species will replace them	NA
Medium	Invasive shrub management. Continue to monitor for invasive species infestations and treat as needed	Cut/treat buckthorn and honeysuckle. Monitoring	The plant community will remain largely unchanged	NA
High	Thin pines to improved light penetration	Tree cutting. Monitor species that become established	Species diversity will increase and improve habitat. Some oaks or ironwood may become established naturally	C/D
High	Introduce target community species	Planting or seeding oaks, red maple, ironwood, black cherry	Species diversity will increase and improve habitat value.	B/C

Pasture

An important conservation value for this site is to continue using this area for sustainable livestock production. Therefore, objectives for this area are to maintain the perennial soil cover and reduce invasive species that may negatively affect other areas if they begin to expand. The pasture is not currently an NPC. An alternative target NPC for this area would be a Southern

Dry-Mesic Oak (Maple) Woodland (FDs37), which would require considerable effort and time to restore if grazing is eliminated here.

Table 5. Pasture management options

Management Effort	Management Options	Management activities	Trajectory	Projected EO Rank
None	Allow natural processes to continue	None	Invasive species would increase following the cessation of grazing. Invasive shrubs would become established.	NA
Low	Grazing for optimal forage production	Grazing and targeted weed control	No change in plant community composition expected.	NA
Low	Monitor for erosion or and propose remedy as needed	Monitoring and erosion control measures, if needed	The plant community will remain largely unchanged	NA
Medium	Invasive shrubs and tree control	Cut, stump treatment, and herbicide applications for buckthorn, honeysuckle, and Siberian elm	Community will improve because of the reduction of invasive species that can spread to other areas.	NA
Medium	Invasive herbaceous species management	Herbicide applications, timed grazing, mowing, and prescribed burns*	Eliminate existing invasive species to favor improved forage or native species.	NA
Medium	Native species introduction. Prairie / Savanna restoration	In areas treated for herbaceous weeds, reintroduce target community species.	Species diversity will increase and improve habitat value. Grazing will continue	Potential B/C
High	Eliminate grazing and restore to oak woodland	Invasive species control Seeding Tree and shrub planting	Species diversity will increase and improve habitat value. Grazing would end (mostly)	Potential B/C
* Prescribed burns should be implemented by professional burn crews; an Action Plan should be developed and approved by the Land Trust before implementation.				

The pasture is south and east of the hay field that is an open pasture with scattered trees and is regularly grazed. This area is dominated by scattered large box elder and American elm, many of which are dying. Siberian elm (*Ulmus pumila*), an invasive species, is also present. The ground layer is dominated by non-native perennial cool season grasses, plumeless thistle (*Carduus acanthoides*), wormwood, yarrow, motherwort (*Leonurus cardiaca*), common mullein (*Verbascum*

thapsus), river grape (*Vitis riparia*), and silver cinquefoil. This area slopes gradually to the lake, but there is a contiguous herbaceous layer lacking any significant erosion.

Summary of management options
The pasture will be managed for sustainable production forage for cattle and other livestock. The Landowner should continue to manage this area to protect soil by maintaining perennial cover and maintaining appropriate stocking rates. In addition, minimizing invasive species is important for this area so that invasive species do not overtake the area or contribute seed to neighboring natural areas.

One management option may be to restore the area to a prairie or oak savanna while maintaining the pasture to support diverse native species with the continuation of grazing. Native species could be inter-seeded within the existing cover and management efforts (timing of grazing, burning, and mowing) could be used to benefit these species until they become the primary cover. The presence of native grasses and forbs would improve habitat for native insects including pollinators. Plant diversity may also improve soil stability and health.

Management Priorities

Management priority areas are shown in Figure 7 for the Protected Property. The areas identified include most of the Protected Property because of the importance of managing common buckthorn to prevent it from further spread. Map unit IDs are shown on the figure and correspond to Table 6 below and are, generally, in order of priority for management activities.

Table 6. Priority management areas

Map ID (Figure 7)	Current Conditions	Desired NPC	Management Options
1	Oak woodland	Southern Dry-Mesic Oak (Maple) Woodland - FDs37	Eliminate invasive shrubs present in each area at low abundance (common buckthorn, non-native honeysuckles, and Siberian elm); Manage re-sprouts
2	Pine plantation	Red pine monoculture	
3	Elm forest	Dead and dying elm trees	
4	Pasture	Open pastures with scattered trees and shrubs	
5	Hay field and Pastures	Sustainable use for grazing and hay; Healthy soil and forage	Use appropriate stocking rates and protect against erosion by maintaining perennial cover

Management Activities

The Protected Property should be managed in a manner that minimizes the spread and infestation of invasive species while protecting adjacent sensitive water resources. All areas of the Protected Property contain varying levels of desirable and invasive species, and with targeted management minimal restoration efforts should be necessary. However, if degradation of the native plant communities continue uninhibited, natural regeneration of some communities may no longer be possible in the future.

The management activities described below are intended to provide a summary of activities that can be implemented on the Protected Property to meet the management objectives described above. These activities are discussed briefly in relation to the management options for each of the management units, but this is meant to provide some additional detail and context for each activity. If interested in implementing any of these activities contact the Land Trust for more information or to develop an Action Plan, as necessary.

Monitoring

Regular monitoring is recommended to review management units for presence of invasive species or predominance of certain species at the expense of diversity. The monitoring events should include a walk over survey regularly performed throughout the property searching for the presence of invasive species. New occurrences or expansions of existing populations should be well documented. It is recommended that these monitoring reviews occur two times during each growing season: once in May or June and again in August or September. Much of this review can be completed by driving the trails, but walking portions of the property and going into hard to access areas periodically is recommended as well.

Following each monitoring event, there should be recommendations for future management decisions and documentation of the success of previous efforts to understand how each of the previous management activities are changing the communities and to help plan future management.

Fixed photo monitoring points are specifically recommended as well. These can be taken during each of the monitoring visits and during management activities to record the area before an activity is undertaken, how it looks following that activity, and for future review later to monitor the success.

Invasive Species Management

Preventing the introduction and spread of invasive species is the first step in invasive species management. Ensure all vehicles/equipment are free of seeds and plant material of invasive species prior to entering the Protected Property to prevent introduction; this includes ATVs and other vehicles used for recreation, management and/or haying. The MDNR (2023b) recommends a method referred to as early detection and rapid response (EDRR) as the most effective method for preventing the introduction and spread of invasive species. EDRR is especially important at the Protected Property due to the haying and trail use, which are common means of introductions into new areas for many invasive species. EDRR entails monitoring for and promptly treating small, new infestations with the goal.

Target Species

The primary target species for control at the Protected Property include common buckthorn, non-native honeysuckles, Siberian elm, and Canada thistle though many others are present or may become problematic in the future. Invasive species should be managed continually

throughout the Protected Property. Methods for control will depend on the species present and may include herbicide applications, mowing, and other management treatments.

Additional information on control of invasive species can be found at the MDNR (2023b) invasive species website: https://www.dnr.state.mn.us/invasives/index.html.

Noxious weeds are a special classification for plant species that have been designated as having the potential or are known to be detrimental to human or animal health, the environment, public roads, crops, livestock, or other property (MDA 2023). Landowners may be required to control these plants on their properties. A list of these species is available from the Minnesota Department of Agriculture (MDA) website: www.mda.state.mn.us/plants-insects/minnesota-noxious-weed-list

Woody species control

Treatment of woody invasive species often begins with the removal of the above ground growth through various methods. This may include hand cutting with saws, girdling with hand tools or mechanical removal with forestry mower heads, tree shears, or other logging equipment. Mechanical removal has very high impact and can negatively impact soils so care should be taken to do so on firm ground, either during dry periods or in the winter months when the ground is frozen. Removal of the cut material is recommended where follow-up treatments will be necessary to eliminate re-sprouting stumps or newly germinated seedlings. If material is to be shredded or mulched and left on site, it should not accumulate to a depth of more than three to four inches. Material that is cut may also be stacked and burned, or occasionally stacked and left as wildlife habitat.

Herbicide use

Herbicide use should be minimized to the extent practicable in high quality areas, though extensive use may be needed in areas of heavy weed pressure. During the initial phases of weed eradication, broadcast applications may be required. Thereafter, herbicides should only be used to spot-treat target invasive species to reduce non-target impacts to desirable native species. Spot-treating can be done using a backpack sprayer or handheld sprayer, and wicking is a method in which herbicide is wiped onto leaves of invasive species using a glove or rope wick. Spot-treating is typically done for small infestations or where native species are interspersed, and wicking is done for more dense stands or monocultures. All herbicides must be used in accordance with labeling requirements and must not be used in areas of surface water, unless specifically labeled for such use. Timing and method of application should always be considered to reduce impacts to native plants and animals.

Prescribed Burning

Burning may be an important tool in helping to achieve restoration on portions of the site, specifically to help reduce shrubs in the oak woodland or to provide stimulation to grasses in the pasture or hay field. This would be especially useful if the pasture or hay field will be

restored with native prairie or oak savanna species.

To manage invasive species, remove accumulated thatch, and invigorate native, fire-dependent communities, periodic prescribed burning may be recommended. Burns would normally be completed in the spring of the year in the dead standing material, but they can also be completed in the fall, winter, or even in the summer in a dry period.

Prescribed burns should be set in a controlled manner by trained professionals using clear burn plans that are understood by the Protected Property manager and the full burn crew. The goals and objectives should be clearly identified before each burn so that it is implemented for clear purposes.

Grazing

Grazing can be an important tool for managing invasive species and natural areas. Historically, the primary grazers present at the Protected Property would have been bison (*Bison bison*) and elk (*Cervus canadensis*). However, those animals are likely not practical as a management tool. Other grazers can be allowed to graze the site and may include sheep, cattle, horses, goats, among other species. Each type of grazing animal would have different effects on the plant community and would promote additional biodiversity within the Protected Property.

If utilized, grazing should be managed carefully to prevent potential issues with loss of plant diversity, soil rutting, erosion, or other potential issues that can reduce the health and diversity of the communities. Generally, short-duration intensive grazing at a high stocking density is a good tool to reduce certain plants in favor of other species and will likely be positive for the plant community and biodiversity. If grazing is utilized regularly and invasive species are brought under control, the timing of grazing events should vary from year to year. This ensures that a rotating group of desirable species are allowed to propagate during each season. Grazing at the same time every year can tend to favor certain species over others and alter the community composition over time.

At the Protected Property, grazing has been used for many years and has led to sustainable perennial cover that protects soil resources. These activities should be continued in a similar manner with specific focus on maintaining and supporting the dense cover.

Cattle, goats, or sheep may also serve to control buckthorn seedlings after initial clearing efforts in the oak woodlands. However, the non-selective nature of their browsing will negatively impact desirable regeneration as well. Therefore, intensive grazes may be optimal for a limited period, followed by the implementation of less frequent, lower intensity rotational grazing once an acceptable level of control is obtained. Native seeds or live plants can be installed after intensive grazing events, but these may need to be protected if additional grazing is implemented.

Haying

Continuation of periodic haying may also be a management tool for accessible grasslands within the Protected Property. Extracting hay annually would reduce overall diversity and negatively impact bird nesting, insects, and other wildlife, but periodic cutting and harvesting may be one method to mimic some of the effects of prescribed burning or grazing where and when those activities are not practical. If implemented carefully, haying can be used to maintain high quality forage and cover for the field.

Tree and shrub planting

Some tree and shrub planting is recommended for the oak woodland communities, particularly within the elm forest. It is recommended that these areas are cleared before planting additional trees so that there is sufficient light getting to the ground surface. Trees and shrubs can be trimmed or removed within an area to create a canopy gap or at least to reduce shading for young plantings.

Plants can be achieved most economically using mass plantings of bare root seedlings: small-rooted seedlings available in the spring that come in bundles of 25 to many hundreds. These cost-effective bundles are easy to plant at a quantity where significant mortality is acceptable. In areas with dense existing vegetation, a biodegradable weed suppression mat should be used to allow seedlings a few years to mature.

In certain situations, dormant cuttings may be used in the restoration of shrubland communities. Dormant cuttings of willow species and red osier dogwood readily root in wet soils and can be mass planted in the spring to rapidly establish the targeted community. This technique is probably not well suited for the Protected Property except along the lake shore, where the soil conditions are moist; however, there is already plenty of dense vegetation along the lake.

References

MDA. 2023. *Minnesota Noxious Weed List*. https://www.mda.state.mn.us/plants-insects/minnesota-noxious-weed-list

MDNR. 2005. *Native Plant Community Classification System*. Available at URL: www.dnr.state.mn.us/npc

MDNR. 2023a. *Midpoint Assessment of Forest Management Strategic Direction: Sustainable Timber Harvest Implementation – Fiscal Years 2019-2022*. Available at URL: https://files.dnr.state.mn.us/forestry/subsection/harvest-analysis/midpoint-assessment-sthi.pdf

MDNR. 2023b. *Invasive Species in Minnesota*. URL: https://www.dnr.state.mn.us/invasives/index.html

SER. *International Principles and Standards for the Practice of Ecological Restoration, 2nd edition.* Available at URL: www.ser.org/page/SERStandards.

Figures

Appendix A

MDNR Native Plant Community Fact Sheet:
Southern Dry-Mesic Oak (Maple) Woodland
from MDNR (2005)



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.1 0.2 0.4 mi

0 0.1 0.2 0.4 mi

N W E S

The Todd County GIS & Land Services Department has made every effort to provide the most accurate and up-to-date information available in this publication and cannot be held responsible for any unforeseen errors or omissions. If the recipient wishes to locate parcel corners and property lines, employ the services of a Registered Land Surveyor.

Printed on:
Tuesday, March 5, 2024

WHERE THE FOREST MEETS THE PRAIRIE

Todd County

• MINNESOTA • EST. 1855 •

Received
MAR 01 2024
Todd County Planning & Zoning

PLANNING & ZONING
215 1st Avenue South, Suite 103
Long Prairie, MN 56347
Phone: 320-732-4420 Fax: 320-732-4803
Email: ToddPlan.Zone@Co.Todd.MN.US

Accepted 3/1/2024
ICLM

Appeal for a Variance

Applicant Dan and Jan Atkinson

Mailing Address 39377 Co Rd 166 Freeport Mn 56331

Site Address 30336 Aspen Dr. Grey Eagle Mn 56336

Phone Numb[redacted] ell Numbe[redacted]

E-Mail Address[redacted]

Property Owners Name & Address (if not applicant) _____

Parcel Number(s) 11-0062500

Section: 29 Township 127

Zoning District (circle one): AF-1; AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Big Birch Lake

Do you own land adjacent to this parcel(s) ____Yes X No

Septic System: Date installed May 1999 Date of Compliance Inspection July 2023

Is a new system needed: ____yes X no ____ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:

What standards or requirements are you unable to maintain? (Check all that apply)

Lot width____	Lot area____	Lake or River setback X	Bluff setback____
Road right-of-way setback X	Side Yard setback____		Buildable area____
Impervious surface coverage X	Building/Structure Height X		Other____

VAR RECEIPT #2024-0063

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) Request for variance, to reduce the OHWL setback from 100' to 50.9'

2.) Request for variance, to increase the peak height limit from 18' to 23' 4¼"

3.) Request to reduce the road right-of-way setback from 35' to 14.77'

4.) Request to increase roofed impervious from 15% to 16.8% and total from 25 to 26.1%

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

EXPLAIN YOUR PRACTICAL DIFFICULTIES ** **or reason why you need your request approved.**

my family and I have enjoyed our cabin on Big Birch Lake for over 30 years and look forward to making more memories. Due to some structural issues and my wife's declining vision, we are we are applying for variances to replace the cabin with a new structure that would better accomodate her needs. She has a rare eye disease, resulting in low vision, night blindness, and lack of depth perception, which makes

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

steps and unlevel surfaces challenging to navigate. Adding additional height to the cabin, would allow spac for a personal care attendant to assist with future care needs. See additional page

We are restricted by our lot size, the OHWL setback, and ROW setback overlap. The proposed structure will in no way restrict anyone's view.

SKETCH DRAWING

See drawing

The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

Daniel Atkinson	Daniel Atkinson	2/29/24
Applicant Name Printed	Signature	Date
Janet Atkinson	Janet Atkinson	2/29/24
Property Owner Name Printed	Signature (If different than applicant)	Date

IMPERVIOUS SURFACE WORKSHEET
(FOR SHORELAND ONLY)

APPLICANT INFORMATION

Name Dan and Jan Atkinson Site Address 30336 Aspen Dr

Phone [redacted] City Grey Eagle State Mn Zip 56331

Mailing Address 39377 Co Rd 166 Parcel Number 11-006-2500
Freeport Mn 56331 Lake/River Name Big Birch Lake

IMPERVIOUS SURFACE: is a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities & at an increased rate of flow than prior to development.

LOT/STRUCTURE DIMENSIONS

Total lot area: 7909 sq ft

List all structures (structure's foundation footprint: length, width, and total area) See attached Survey

Existing	Proposed
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

List all non-roofed hard surfaces: Examples include sidewalks, paver stones, retaining walls, patios, decks, driveways & parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impervious liners:

Existing	Proposed
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

Total of 25% of lot may be covered by impervious surfaces (15% of which are from roofed structures)

1. List in the table below any efforts by landowner to reduce project impact by removing or reducing impervious surfaces.

List Structure or Impervious Surface to Be removed	Square footage to be removed	Location of structure or impervious surface to be removed (see table below)
Example: concrete drive to lake	8' x 35' = 280 sq ft	(C) Within Impact Zone
existing garage the 26'4" from the survey does not include the area in the ROW	18.5 X 20.5	

Location of variance request in reference to Ordinary High Water level	General Development Lake	Recreational Development Lake	Natural Environment Lake and Rivers / Streams
A. Outside shoreland building setback	75'+	100'+	150' +
B. Between Shore Impact Zone and Building Setback	37.5' to 75'	50' to 100'	75' to 150'
C. Within Shore Impact Zone	0 to 37.5'	0 to 50'	0 to 75'

2. List below any Storm Water Management Best Management Practices (BMP's) that will be installed to help mitigate impacts of development.

INFILTRATION BMP's

List any measures you plan on taking to increase water infiltration and retention. Examples include rain gutters, rain gardens, retention swales, berms, sub-surface tile, etc. Efforts to install BMP's will be graded positively in the site evaluation. Locate projects on site map.

gutters
The driveway will have the gravel material to mitigate surface water impact

VEGETATION BMP's

Vegetation planting along lake shore areas is also a Best Management Practice. Planting areas of your lakeshore impact zone with permanent vegetation helps infiltrate water, reduce lake impact, provide habitat, and screen the dwelling from other lake users. Plantings are graded positively in the site evaluation. List any areas to be planted or restored and mark the location on your site map.

Parcel ID: 11-0062500 Existing

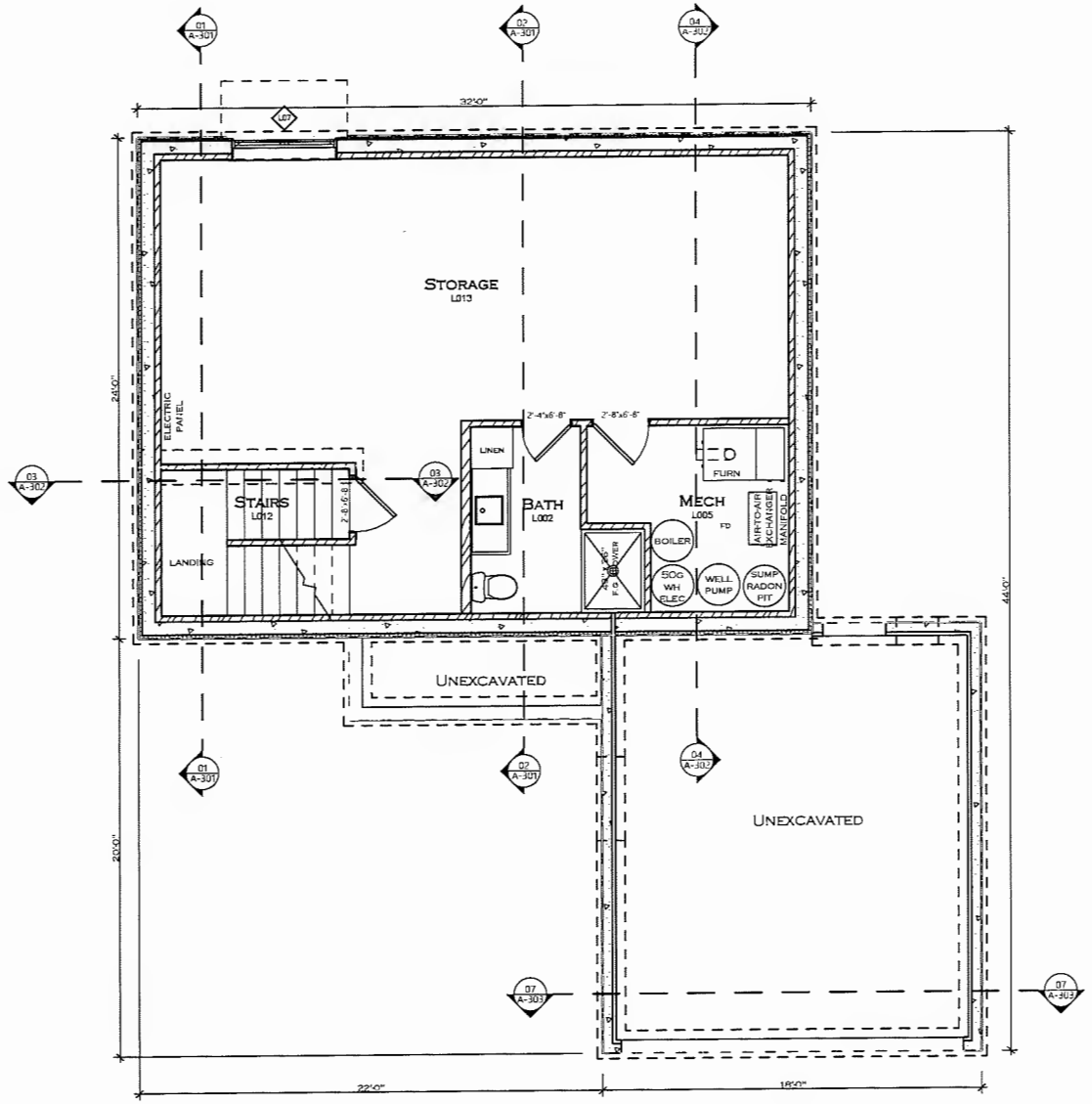
Roof Covered Surfaces					
Type	Length	Width	Area	Sq Ft	Notes
Dwelling			778	778	"House"
Shed			152	152	"Boathouse"
Garage			264	264	*Only portion on lot, not in ROW,
				-	garage total is 360 sqft
				-	
				1,194	Total Roof SF
Max 15% Roof Covered				15.16	% Total Roof Impervious

Other Impervious Surfaces					
Type	Length	Width	Area	Sq Ft	Notes
Deck			196	196	"deck"
Patio			356	356	"concrete & pavers"
Other			39	39	"cellar door & chimney"
Other			24	24	"concrete"
				-	
				615	Total Imp. SF
Parcel SF	7,909.00			1,809	Grand Total SF
Max 25% Total Impervious				22.87	% Total Impervious

Parcel ID: 11-0062500 Proposed

Roof Covered Surfaces					
Type	Length	Width	Area	Sq Ft	Notes
Dwelling			1,180	1,180	"Proposed house & porch" (+garage)
Shed			152	152	"Existing boathouse"
				-	
				-	
				-	
				1,332	Total Roof SF
Max 15% Roof Covered				16.84	% Total Roof Impervious

Other Impervious Surfaces					
Type	Length	Width	Area	Sq Ft	Notes
Driveway			293	293	"Proposed 'pervious' driveway"
Sidewalk			176	176	"Proposed sidewalk"
Deck			196	196	"Existing deck"
Other			71	71	"Existing concrete & parvers"
				-	
				736	Total Imp. SF
Parcel SF	7,909.00			2,068	Grand Total SF
Max 25% Total Impervious				26.15	% Total Impervious



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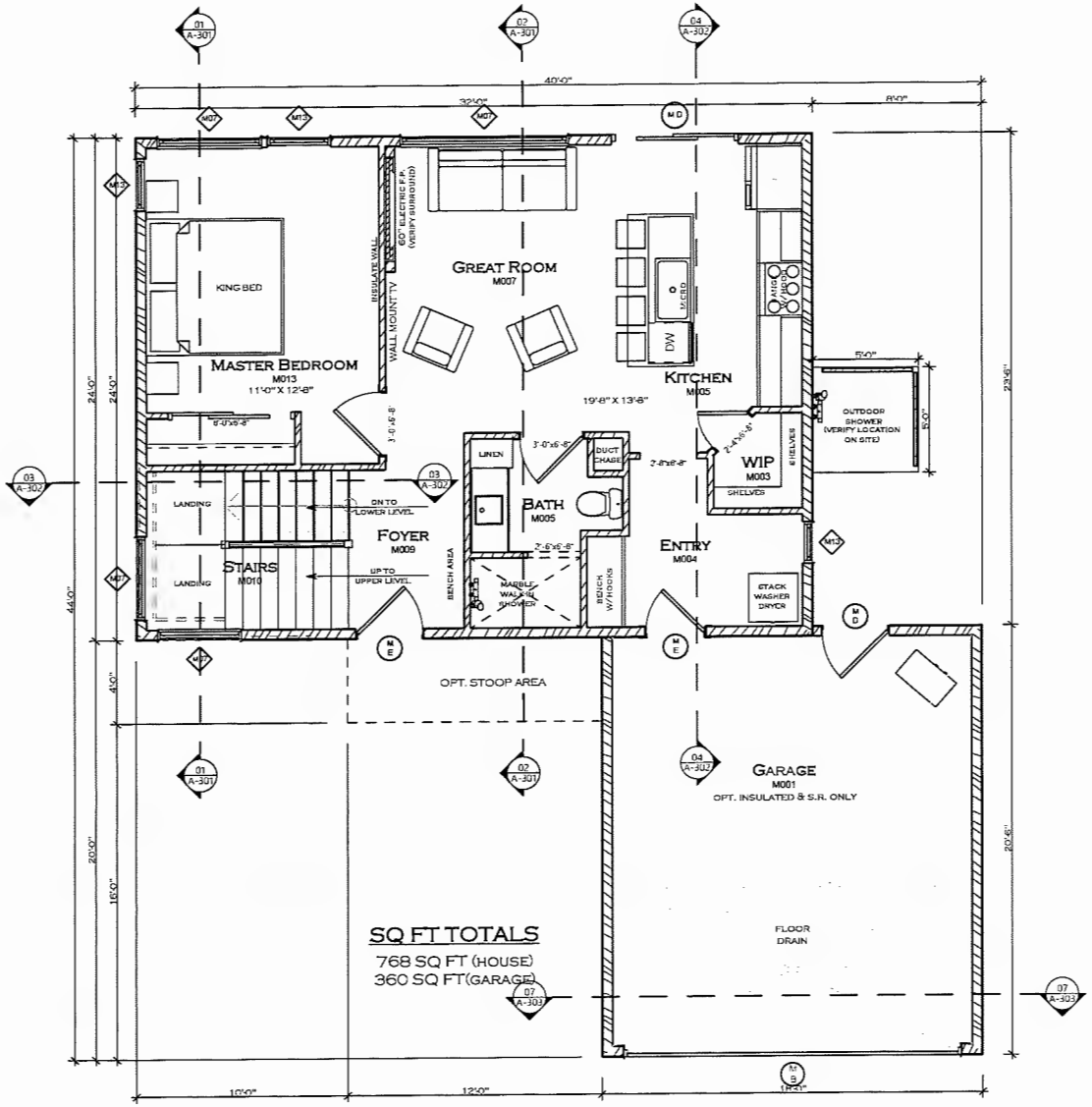
PLANS FOR:
BIG BIRCH LAKE
BUILT FOR:
THE ATKINSON'S

REV	DATE	DESCRIPTION

PLAN DATE: 02-27-24
PROJECT NO:
DRAWN BY: ADS
PLAN TYPE: CONCEPT SET
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SHEET TITLE:
LOWER LEVEL PLAN

A-102
SHEET 4 OF 7



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PLANS FOR:
BIG BIRCH LAKE

BUILT FOR:
THE ATKINSON'S

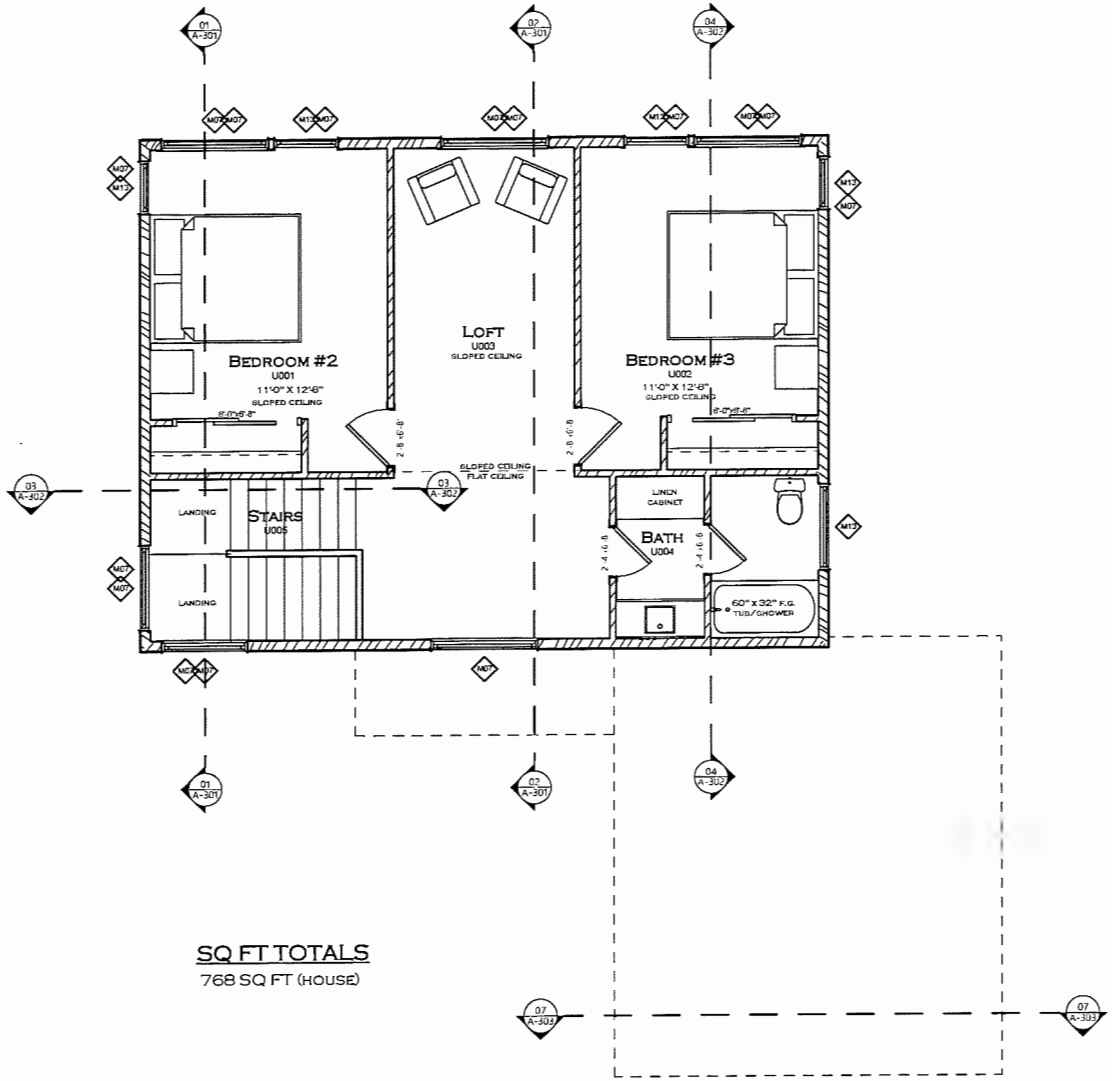
REV	DATE	DESCRIPTION

PLAN DATE: 02-27-24
PROJECT NO:
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SHEET TITLE:
MAIN LEVEL PLAN

A-103



SQ FT TOTALS

768 SQ FT (HOUSE)

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PLANS FOR:
BIG BIRCH LAKE

BUILT FOR:
THE ATKINSON'S

REV	DATE	DESCRIPTION

PLAN DATE: 02-27-24
PROJECT NO:
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PLAN TYPE: CONCEPT SET

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SHEET TITLE:
UPPER LEVEL PLAN

A-104



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



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

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PLANS FOR: BIG BIRCH LAKE

BUILT FOR: THE ATKINSON'S

REV	DATE	DESCRIPTION

PLAN DATE: 02-27-24
PROJECT NO:
DRAWN BY: ADS
PLAN TYPE: CONCEPT SET
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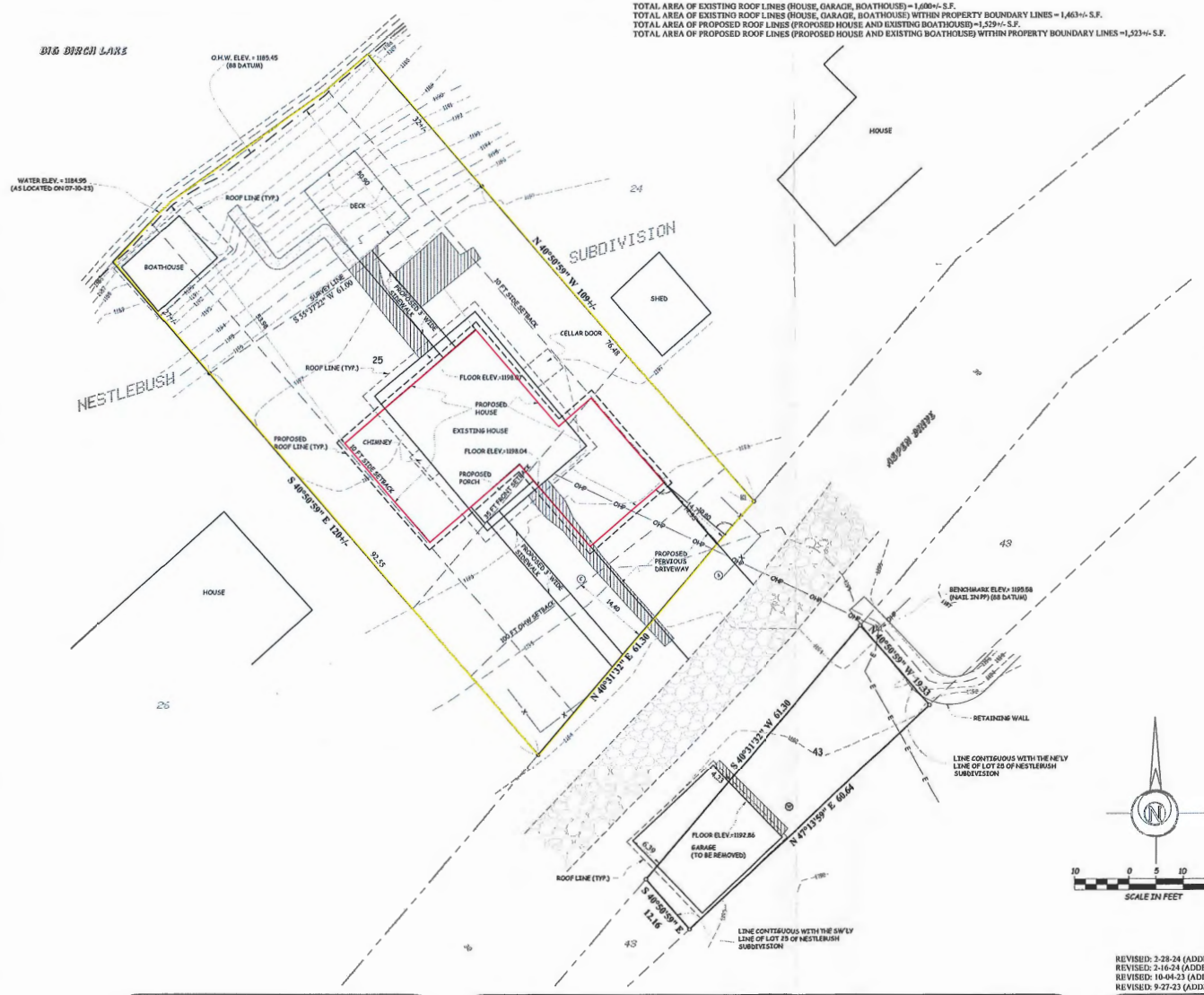
SHEET TITLE:
EAST/WEST ELEVATIONS

A-201

SHEET 7 OF 7

ROOF LINE AREAS

TOTAL AREA OF EXISTING ROOF LINES (HOUSE, GARAGE, BOATHOUSE) = 1,600+/- S.F.
TOTAL AREA OF EXISTING ROOF LINES (HOUSE, GARAGE, BOATHOUSE) WITHIN PROPERTY BOUNDARY LINES = 1,463+/- S.F.
TOTAL AREA OF PROPOSED ROOF LINES (PROPOSED HOUSE AND EXISTING BOATHOUSE) =1,529+/- S.F.
TOTAL AREA OF PROPOSED ROOF LINES (PROPOSED HOUSE AND EXISTING BOATHOUSE) WITHIN PROPERTY BOUNDARY LINES =1,523+/- S.F.



LEGAL DESCRIPTION

(Certificate No. 368.0)
Lot Twenty-five (25) of NESTLEBUSH SUBDIVISION and a part of Lot Forty-three (43) of said NESTLEBUSH SUBDIVISION which is contiguous to Lot 25 in NESTLEBUSH SUBDIVISION of Government Lots 3 & 4 Section 29, Township 127, Range 32, according to the recorded plat thereof on file and of record in the office of the Registrar of Titles, Todd County, MN.

BUILDING SETBACKS:
Front - 35 feet from Right of Way (with Right of Way less than 66 ft.)
Side - 10 feet
Rear - 100 feet (from ordinary high water)

EXISTING LAKE SIDE LOT IMPERVIOUS SURFACE CALCULATIONS:
Total Impervious Surface - 1,521+/- s.f.
House - 778+/- s.f.
Deck - 196+/- s.f.
Concrete & pavers - 356+/- s.f.
Boathouse - 152+/- s.f.
Cellar Door - 26+/- s.f.
Chimney - 13+/- s.f.
Total Lot Area - 6,955+/- s.f.
Impervious Surface Percentage - 21.9%

EXISTING SOUTHEASTERLY OF ROAD IMPERVIOUS SURFACE CALCULATIONS:
Total Impervious Surface - 288+/- s.f.
Garage - 264+/- s.f.
Concrete - 24+/- s.f.
Total Lot Area - 954+/- s.f.
Impervious Surface Percentage - 30.2%

PROPOSED LAKE SIDE LOT & LOT SOUTHEASTERLY OF ROAD IMPERVIOUS SURFACE CALCULATIONS:
Total Impervious Surface - 2,068+/- s.f.
Proposed House & Porch - 1,180+/- s.f.
Proposed "Pervious" Driveway- 293+/- s.f.
Proposed Sidewalk - 176+/- s.f.
Existing Deck - 198+/- s.f.
Existing Concrete & pavers - 71+/- s.f.
Existing Boathouse - 152+/- s.f.
Total Lot Area - 7,909+/- s.f.
Total Lot Area (above O.H.W.) - 7,858+/- s.f.
Impervious Surface Percentage (including "Pervious" Driveway)- 26.1%
Impervious Surface Percentage (including "Pervious" Driveway) (above O.H.W.) - 26.3%
Impervious Surface Percentage (excluding "Pervious" Driveway)- 22.4%
Impervious Surface Percentage (excluding "Pervious" Driveway) (above O.H.W.) - 22.6%

Legend
- INDICATES IRON MONUMENT PLACED
- INDICATES IRON MONUMENT FOUND
- INDICATES UNDERGROUND ELECTRIC
- INDICATES OVERHEAD POWER
- INDICATES FENCE LINE
- INDICATES POWER POLE
- INDICATES CABLE PEDESTAL
- INDICATES SEPTIC CLEANOUT
- INDICATES SEPTIC MANHOLE
- INDICATES WELL
- INDICATES CONCRETE SURFACE
- INDICATES GRAVEL SURFACE
- INDICATES IMPERVIOUS SURFACE TO BE REMOVED

CERTIFICATE OF SURVEY PREPARED FOR: JANET ATKINSON
JOB NO:2023-350
FILE NAME:2023-350B.DWG
LOCATION:29-127-32

REVISED: 2-28-24 (ADDED NEW HOUSE PLAN, ADDED NEW SIDEWALK, UPDATED IMPERVIOUS SURFACE)
REVISED: 2-16-24 (ADDED ROOF LINES, CHIMNEY & CELLAR DOOR.)
REVISED: 10-04-23 (ADDED DISTANCES FROM PROPOSED HOUSE TO O.H.W. AND R.O.W.)
REVISED: 9-27-23 (ADDED PROPOSED HOUSE AND REMOVED IMPERVIOUS 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.
DATE: 07-11-2023
DANIEL M. KRON
MINNESOTA REGISTRATION NO. 42621

SHEET 1 OF 1

NOTE: THIS SURVEY IS INTENDED ONLY FOR THE BENEFIT OF THE PARTY TO WHOM IT WAS PREPARED FOR AND SHOULD NOT BE RELIED UPON BY ANY OTHER PARTY OR FOR ANY OTHER PURPOSE. UNAUTHORIZED REPRODUCTION OF THIS DOCUMENT IS PROHIBITED.

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PH. 320-235-4012

340 CHAPEL HILL RD.
COLD SPRING, MN 56320
PH. 320-685-5905

1250 HWY 15 SOUTH
HUTCHINSON, MN 55350
PH. 320-234-1223

CERTIFICATE OF SURVEY PREPARED BY:
O'MALLEY & KRON
LAND SURVEYORS, INC.



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.005 0.01 0.02 mi

0 0.005 0.01 0.02 mi

N W E S

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Printed on:
Tuesday, March 5, 2024

WHERE THE FOREST MEETS THE PRAIRIE

Todd County

• MINNESOTA • EST. 1855 •

PLANNING & ZONING
215 1st Avenue South, Suite 103
Long Prairie, MN 56347
Phone: 320-732-4420 Fax: 320-732-4803
email: ToddPlan.Zone@Co.Todd.MN.US

Received
Mar 04 2024
Todd County Planning & Zoning

Received
MAR 04 2024
Todd County Planning & Zoning

Appeal for a Variance

Applicant John T. Masingale

Mailing Address 33052 450th St, Freeport MN 56331

Site Address 33052 Stearns Line Rd Freeport MN 56331

Phone Number _____ Cell Number [redacted]

E-Mail Address [redacted]

Property Owners Name & Address (if not applicant) _____

_____

Parcel Number(s) 11-0041001

Section: 27 Township 127

Zoning District (circle one): ***(AF-1;)*** ***AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name):*** _____

Full and Current Legal Description(s): _____
(attach if necessary)

Do you own land adjacent to this parcel(s) ____Yes __X__No

Septic System: Date installed Replacement 6/20/2001 Date of Compliance Inspection 6-1-2010

Is a new system needed: ____yes ____no → Winter agreement ____ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width____	Lot area____	Lake or River setback____	Bluff setback____
Road right-of-way setback____		Side Yard setback ✓	Buildable area____
Impervious surface coverage____		Building/Structure Height____	Other ✓

VAR RECEPT #2024-0006

Accepted 3/4/2024 KLM

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) Reduce Rear Setback to 25 feet & East Set back to 26' for ~~After the fact~~ Construction of Detached

2.) Garage for Vehicle, tractor, & Personal Storage & Repair

3.)

4.)

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

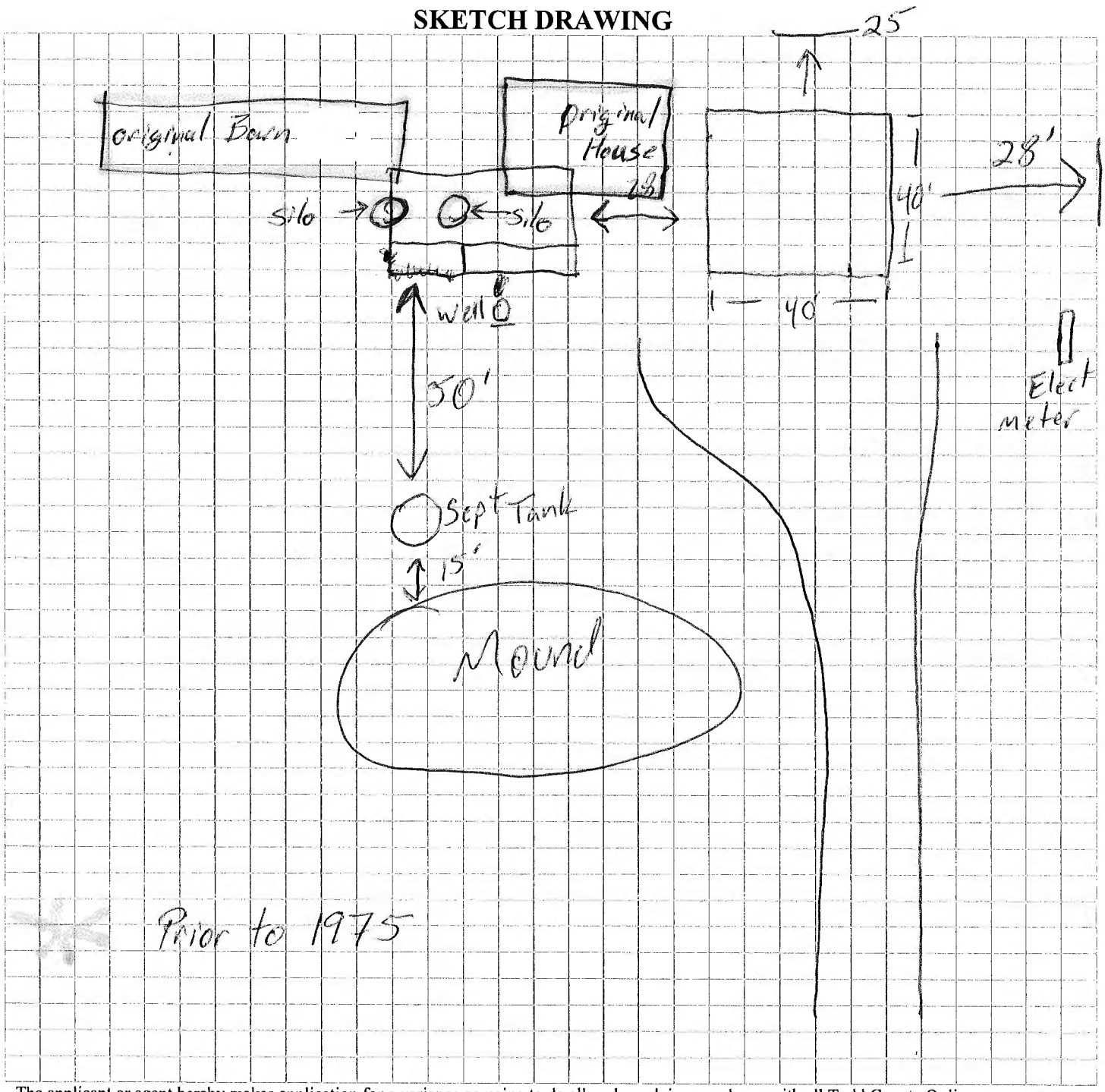
EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

The Garage is placed so it doesn't block the Solar panels on the roof of the house, tillable acreage, or interfere with the General use of the property. It maintains distance from the Septic & the well that Supplies water to 3properties (ours, Tina's parents house & Barn, & Tina's Brother)

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N) Fence Post Painted yellow

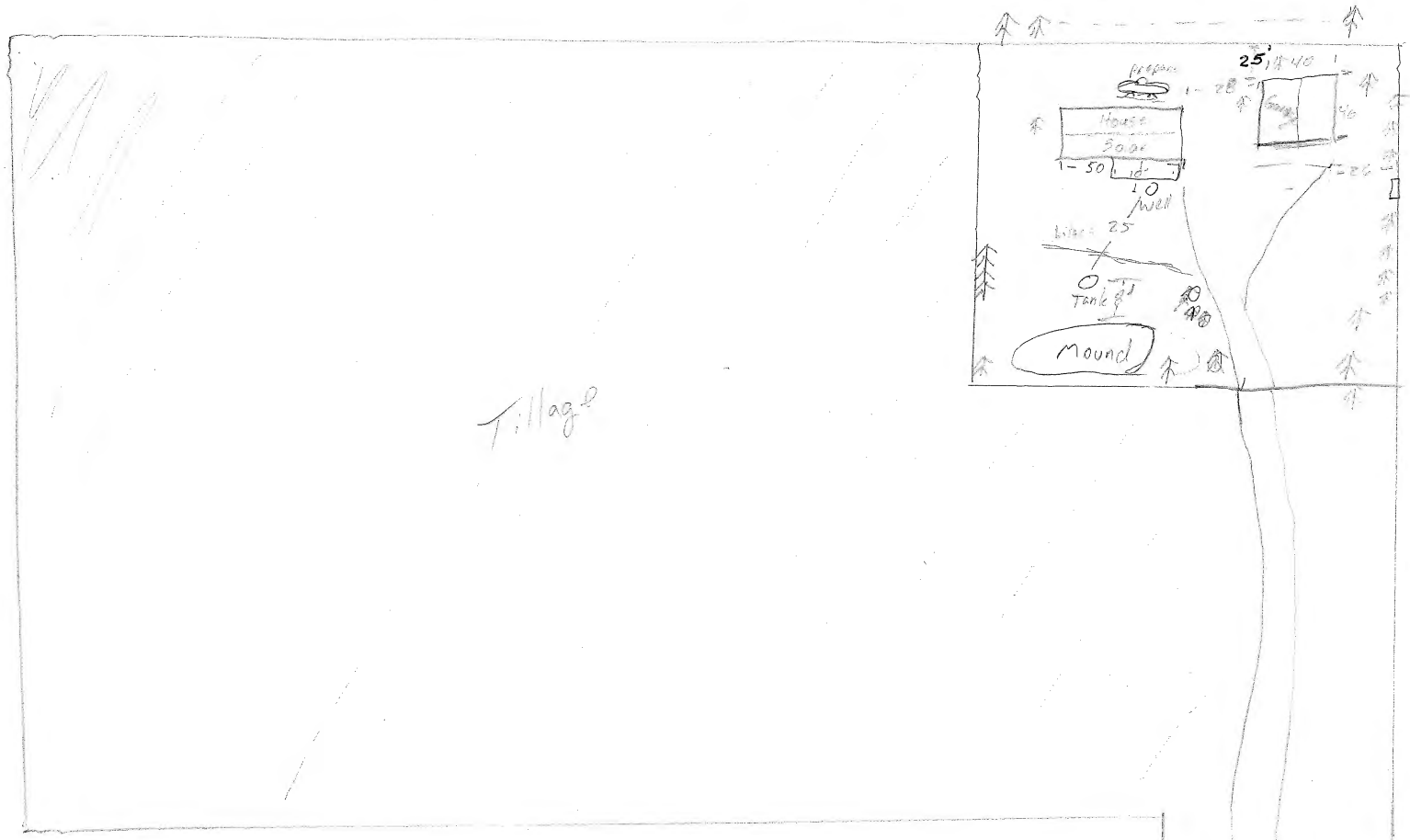
SKETCH DRAWING



The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

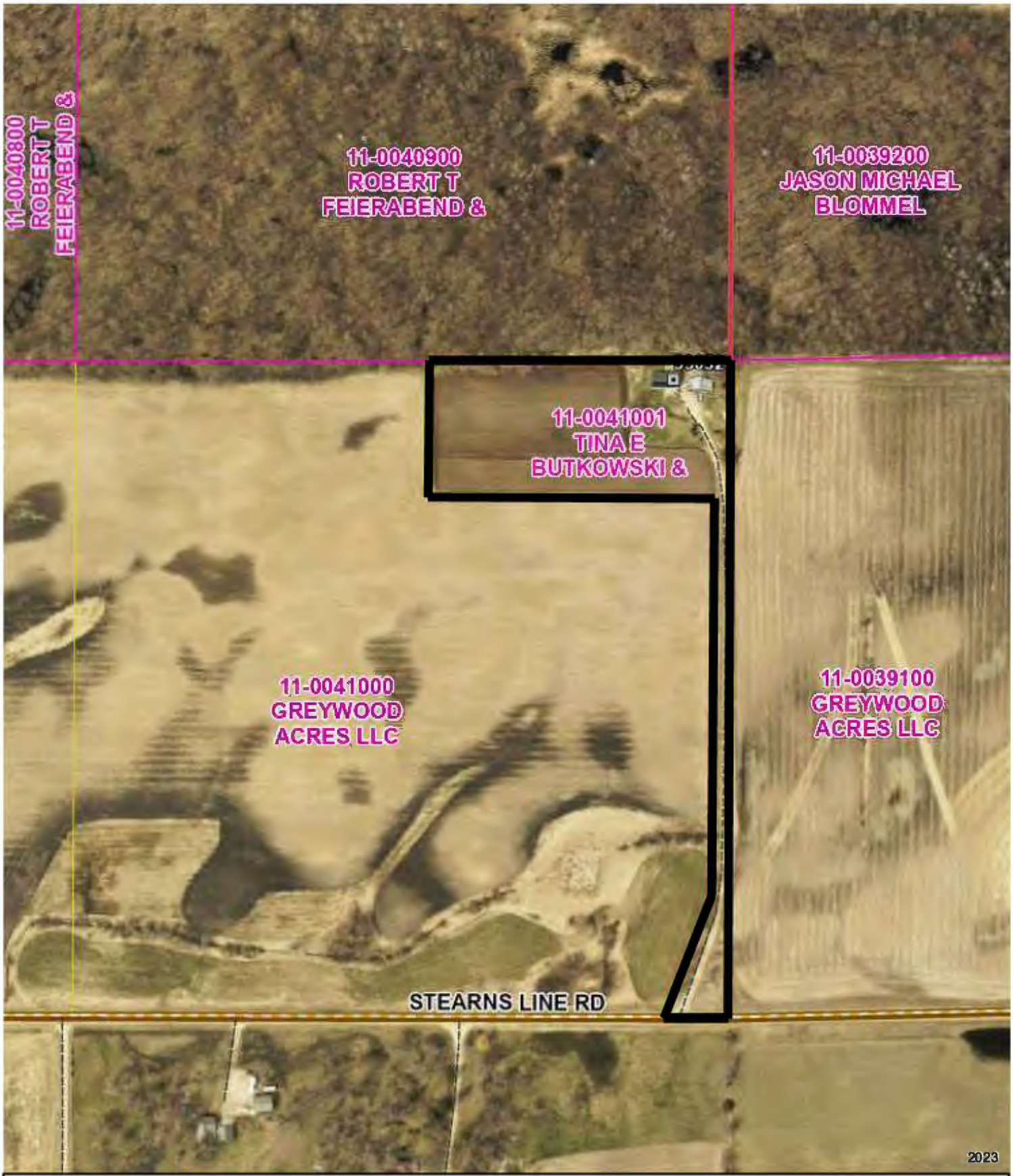
John Masingale		3-1-2024
Applicant Name Printed	Signature	Date
Property Owner Name Printed	Signature (If different than applicant)	Date


Propane
House
Garage
1-50
10
Well
Lines 25
Tank
Mound
25'
40
1-20
1-20
T. Village

To Whom it may concern,

It was never my intent to cause problems with my neighbors or the county. The Butkowski family has owned the property since 1975. They purchased it when a new well needed to be drilled for milking cows. Tina and I purchased it with a trailer house that we had been living in from her brother and eventually built the house due to mold in the walls of the trailer. The area that we have been living and building on are where the original house, barn, and silos were at. Our old garage that was on the property was falling over because the dirt on the east side collapsed and gave way. I built the new one in the same general area, moving it slightly North and East to better clear shadows from the solar panels. I did build it slightly larger than the old garage so that I could better fit vehicles, tractors, & farm equipment inside for repairs & maintenance. I do oil changes for our kids, her parents and her nieces fairly regularly as well. We have planted trees, bushes, flowers, and gardens making it a home. I'm not trying to take from anyone and plan to continue maintaining the area on and around my property as I have for everyone's benefit, such as mowing the grass on the East side of the property between the line and field road; and keeping fallen trees and underbrush cleaned up on the North side without removing all wildlife habitat.

Thank you,
John Masingale



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.05 0.1 0.2 mi

0 0.05 0.1 0.2 mi

N W E S

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Printed on:
Tuesday, March 5, 2024

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Todd County
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Email: ToddPlan.Zone@Co.Todd.MN.US

Received
MAR 04 2024
Todd County Planning & Zoning

Accepted 3/4/24 KLM

Appeal for a Variance

Applicant Nancy Primus

Mailing Address 36128 County Rd. 171, Sauk Centre, MN 56378

Site Address 12327 Alcott Drive, Sauk Centre, MN 56378

Phone Number 320-290-2177 Cell Number [redacted]

E-Mail Address [redacted]

Property Owners Name & Address (if not applicant) _____

_____

Parcel Number(s) 03-0029400

Section: 11 Township 127

Zoning District (circle one): AF-1; AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Sauk Lake

Full and Current Legal Description(s): See attached
(attach if necessary)

Do you own land adjacent to this parcel(s) _____Yes __X__No

Septic System: Date installed 7-11-1996 Date of Compliance Inspection 10-26-2023

Is a new system needed: _____yes __X__no _____ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width_____	Lot area_____	Lake or River setback_____	Bluff setback_____
Road right-of-way setback_____		Side Yard setback_____	Buildable area_____
Impervious surface coverage__X__		Building/Structure Height_____	Other_____

VAR RECEIPT # 2024-0067

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) I would like 18.6% Impervious surface versus the 15% maximum allowed.

2.)

3.)

4.)

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

Loss of property. I've been paying for .45 acres on my property taxes since purchase in 2007 and continue to pay for .45 acres. See attached parcel inquiry

1 acre = 43,560 sq ft .35 acres = 15,246 sq ft

.45 acres = 19,602 | 15% = 2940.3 Sq. ft, 15% = 2,286.9 sq. ft.

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

10/19/23 *-PARCEL INQUIRY-* INQ010 11/24/09

TAX N/A/D REAL ESTATE 2022 PAY 2023

TAXP # 39363
NANCY A PRIMUS
36728 CO RD 171
SAUK CENTRE MN 56378

PARCEL # 03-0029600

MP# 03-0029600

TWP/CITY	SCHOOL	WATR	****	DEBT	AGRI
3	743	1			

DESCRIPTION ACRES .45

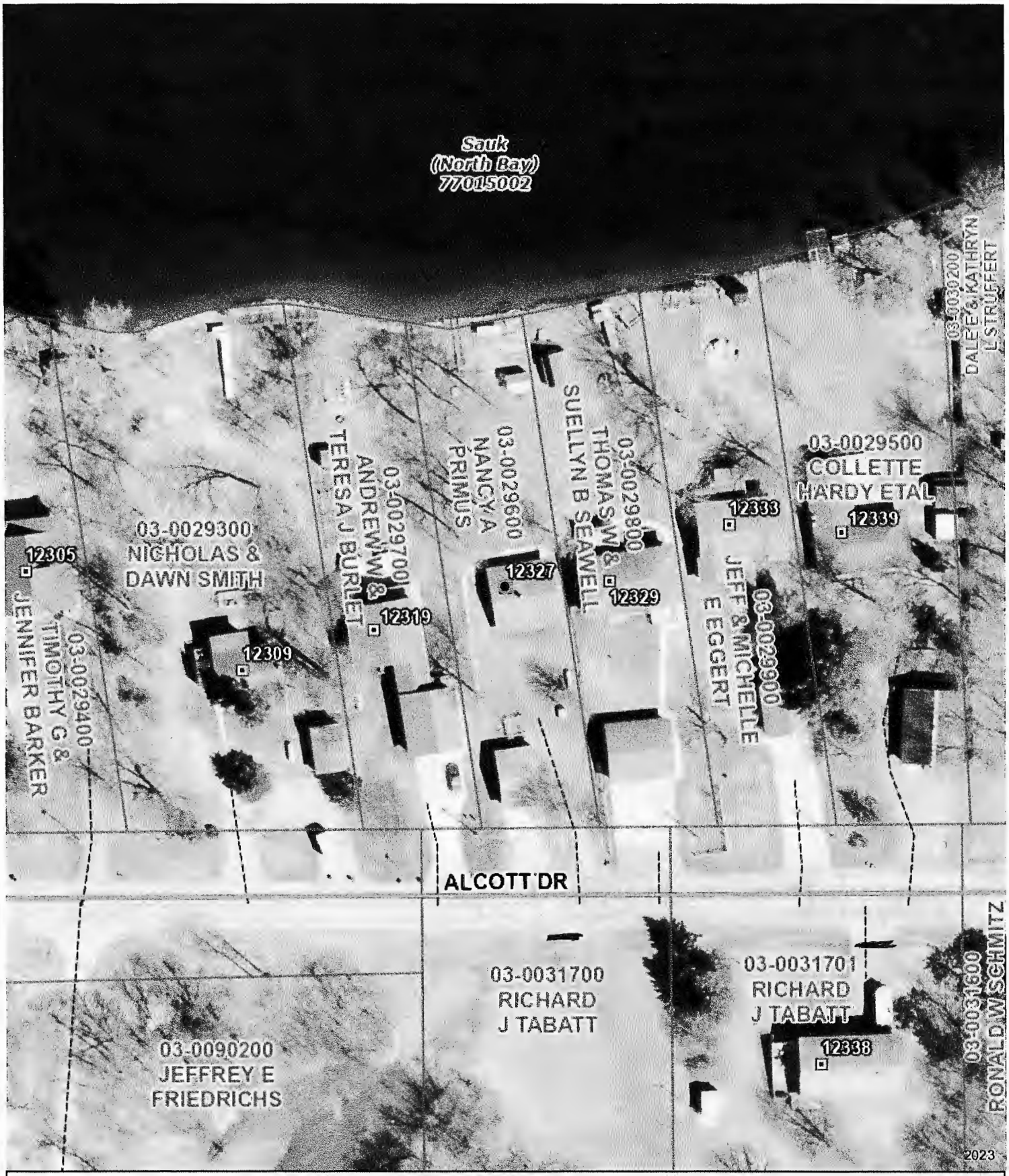
SECT-14 TWP-127 RANG-34
COMM AT SE COR OF GOVT LOT 2, W 434 FT TO PT OF BEG; THENCE W 60 FT, NW TO SAUK LAKE E-RLY ALONG LAKESHORE TO PT THAT IS NW OF PT OF BEG, SE TO BEG.
.45 ACRES

PROPERTY ADDRESS
12327 ALCOTT DR

ENTER PARCEL#/YEAR 3 - / 2023

F1-RETURN F2-INQ F3-EOJ F6-NEXT PRCL F12-PRV SCRN F18-PRV PRCL

All that part of Government Lot 2 of Section 14, Township 127 North, Range 34 West, bounded and described as follows: Beginning at a point on the south line of said Government Lot 2 which point is 434 feet West of the Southeast corner of said Lot 2, and thence running West along said South line 60 feet, thence North 8° West to Sauk Lake and Sauk Lake Millpond, thence Easterly along its shore line to a point which is North 8° West of the point of beginning, and thence South 8° East to the point of beginning.



Todd County
MINNESOTA

Todd County GIS
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Todd County GIS

GIS Site Map

0 0.0125 0.025 0.05 mi

0 0.0125 0.025 0.05 mi

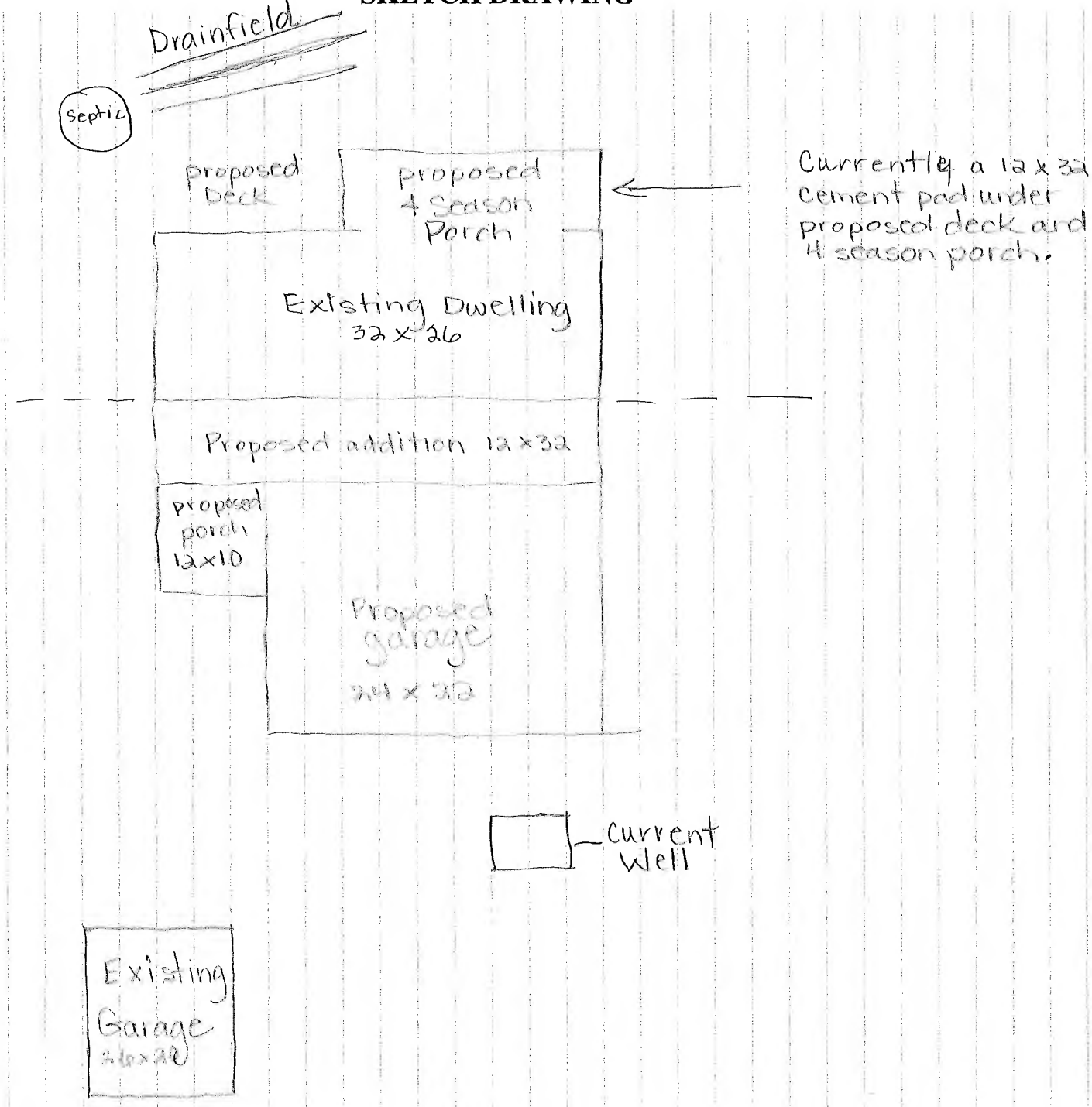
N W E S

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Printed on:
Monday, February 26, 2024

Sauk Lake

SKETCH DRAWING



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If the applicant is not the property owner, both signatures are required below.

Nancy Primus	Nancy Primus	3-2-24
Applicant Name Printed	Signature	Date
Nancy Primus		3-2-24
Property Owner Name Printed	Signature (If different than applicant)	Date

IMPERVIOUS SURFACE WORKSHEET (FOR SHORELAND ONLY)

APPLICANT INFORMATION

Name Nancy Primus

Phone (320) 290 - 2177

Mailing Address 36738 Co. Rd. 171
Sauk Centre, MN 56378

Site Address 12327 Alcott Dr.,

City Sauk Centre State MN Zip 56378

Parcel Number 03-0029600

Lake/River Name Sauk Lake

IMPERVIOUS SURFACE: is a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities & at an increased rate of flow than prior to development.

LOT/STRUCTURE DIMENSIONS

Total lot area:_____sq ft

List all structures (structure's foundation footprint: length, width, and total area)

	Existing	Proposed
1.	Dwelling 32 x 26 = 832	Dwelling 38 x 32 = 1,216
2.	Garage 26 x 20 = 520	Garage 24 x 22 = 528
3.	Shed 12 x 8 = 96	Sun Porch + Deck 12 x 32 = 384
4.		Covered front porch 13 x 10 = 130
5.		Existing garage 26 x 30 = 580
6.		Existing Shed 12 x 8 = 96
7.		
8.		Total = 2,864

List all non-roofed hard surfaces: Examples include sidewalks, paver stones, retaining walls, patios, decks, driveways & parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impervious liners:

	Existing	Proposed
1.	Driveway 20 x 15	Existing driveway 20 x 15
2.		Plan to use the remaining
3.		non-roofed surface on
4.		driveway, walkway, etc.
5.		not to exceed the 25%
6.		limit.
7.		
8.		

Total of 25% of lot may be covered by impervious surfaces (15% of which are from roofed structures)

1. List in the table below any efforts by landowner to reduce project impact by removing or reducing impervious surfaces.

List Structure or Impervious Surface to Be removed	Square footage to be removed	Location of structure or impervious surface to be removed (see table below)
Example: **concrete drive to lake**	**8' x 35' = 280 sq ft**	**(C) Within Impact Zone**

Location of variance request in reference to Ordinary High Water level	General Development Lake	Recreational Development Lake	Natural Environment Lake and Rivers / Streams
A. Outside shoreland building setback	75'+	100'+	150' +
B. Between Shore Impact Zone and Building Setback	37.5' to 75'	50' to 100'	75' to 150'
C. Within Shore Impact Zone	0 to 37.5'	0 to 50'	0 to 75'

2. List below any Storm Water Management Best Management Practices (BMP's) that will be installed to help mitigate impacts of development.

INFILTRATION BMP's

List any measures you plan on taking to increase water infiltration and retention. Examples include rain gutters, rain gardens, retention swales, berms, sub-surface tile, etc. Efforts to install BMP's will be graded positively in the site evaluation. Locate projects on site map.

I'm planning to have rain gutters. I enjoy flowers and plants so will do some form of landscaping. May use rain barrels to collect water and run a soaker hose on the backside to the flowers + plants to help divert water from roof. May have some form of rock garden. Once the structure is up I will know better what I want to do. I will ask the county for help when the time comes.

VEGETATION BMP's

Vegetation planting along lake shore areas is also a Best Management Practice. Planting areas of your lakeshore impact zone with permanent vegetation helps infiltrate water, reduce lake impact, provide habitat, and screen the dwelling from other lake users. Plantings are graded positively in the site evaluation. List any areas to be planted or restored and mark the location on your site map.

Changing housing structure. As part of this project I will address any lakeshore erosion to the best of my ability.

From: **nancy primus** nancyprimus@gmail.com
Subject: Impervious surface
Date: March 3, 2024 at 9:53 PM
To: **nancy primus** nancyprimus@gmail.com

Parcel ID: 03 00 29 600

	A	B	C	D	E	F	G	H
1	Roof Covered Surfaces							
2	Type	Length	Width	Area	Sq Ft	Notes		
3	Dwelling	38	32	120	1,336	Proposed dwelling + covered porch		
4	Garage	26	20		520	Existing detached (staying)		
5	Other	12	32		384	Proposed sun porch + enclosed deck		
6	Shed	12	8		96	Existing shed (staying)		
7	Garage	24	22		528	Proposed garage		
8					2,864	Total Roof SF		
9								
10	Max 15% Roof Covered				18.50	% Total Roof Impervious		
11								
12	Other Impervious Surfaces							
13	Type	Length	Width	Area	Sq Ft	Notes		
14	Driveway	20	15		300	Existing concrete pad		
15								
16						Can have up to 686 more sqft to reach		
17						maximum of 25%		
18								
19					300	Total Imp SF		
20								
21	Parcel SF	15,400.00			3,164	Grand Total SF		
22								
23	Max 25% Total Impervious				20.55	% Total Impervious		
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								

S:\ZONE\Office Tool Box\Impervious Surface Calculation.xlsx

From: **Kasen Christiansen** Kasen.Christiansen@co.todd.mn.us
Subject: SWCD Letter
Date: March 1, 2024 at 10:12 AM
To: nancyprimus@gmail.com

Nancy,

Please see attached Letter regarding water controls.

Let me know if you have any questions.

Thanks,
Kasen

Kasen Christiansen
Resource Conservationist - Wetlands
Todd County Soil and Water Conservation District
215 1st Ave South, Ste 104
Long Prairie, MN 56347
Office: (320) 732-2627
Work Cell: (320) 874-0167

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SOIL AND WATER CONSERVATION DISTRICT
215 1st Avenue South, Suite 104
Long Prairie, MN 56347
Phone: 320-732-2644 Fax: 320-732-4803

March 1st, 2024

Nancy Primus
36728 CO Rd 171
Sauk Centre, MN 56378

Parcel: 03-480296480

Dear Nancy,

This letter is in regards to your recent request for technical assistance for water control structures on your lakeshore property located on Sauk Lake, Parcel 03-480296480. After reviewing maps and conducting site visits, the Todd SWCD recommends installing rain gutters to the garage/house and installing rain barrels to capture roof water.

Thank you for reaching out to the SWCD for technical assistance. If you have any questions, please contact myself (Kasen Christiansen) or call the SWCD office at 320.732.2627.

Sincerely,

Kasen Christiansen

Kasen Christiansen
Resource Conservationist – Wetlands Technician
Todd County Soil and Water Conservation District
215 1st Ave South, Ste 104
Long Prairie, MN 56347
Office: (320) 732-2627

From: nancyprimus@gmail.com
Subject:
Date: March 3, 2024 at 9:49 PM
To: nancy primus nancyprimus@gmail.com

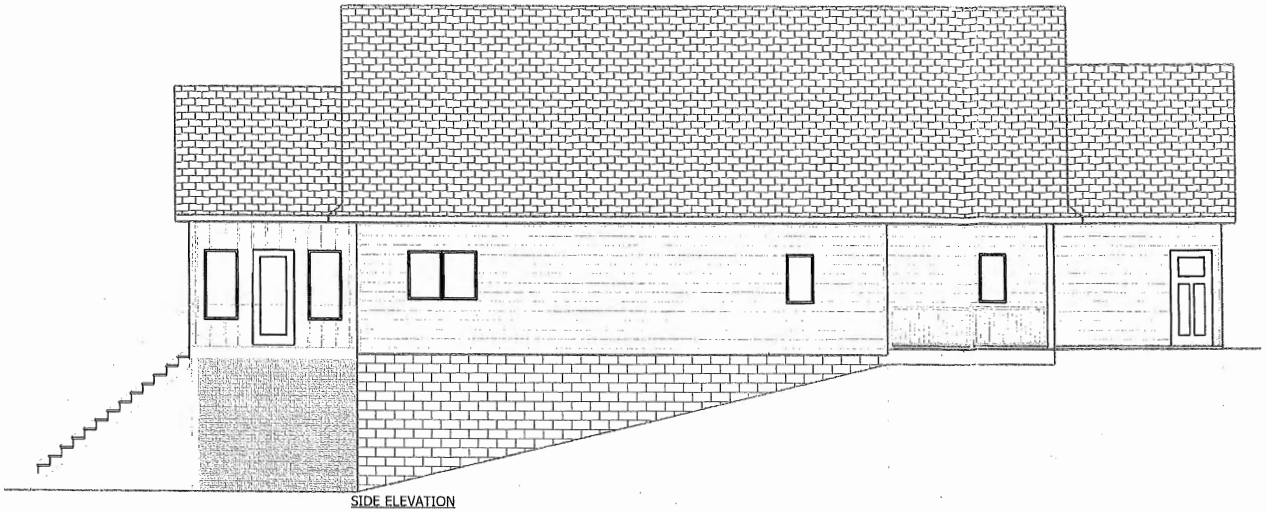




From: nancyprimus@gmail.com
Subject:
Date: March 3, 2024 at 9:51 PM
To: nancy primus nancyprimus@gmail.com



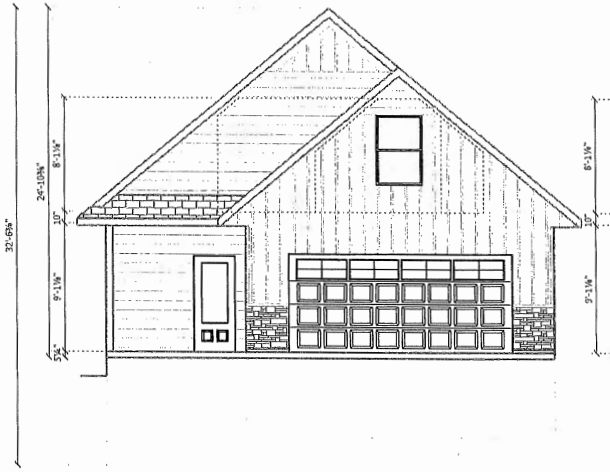




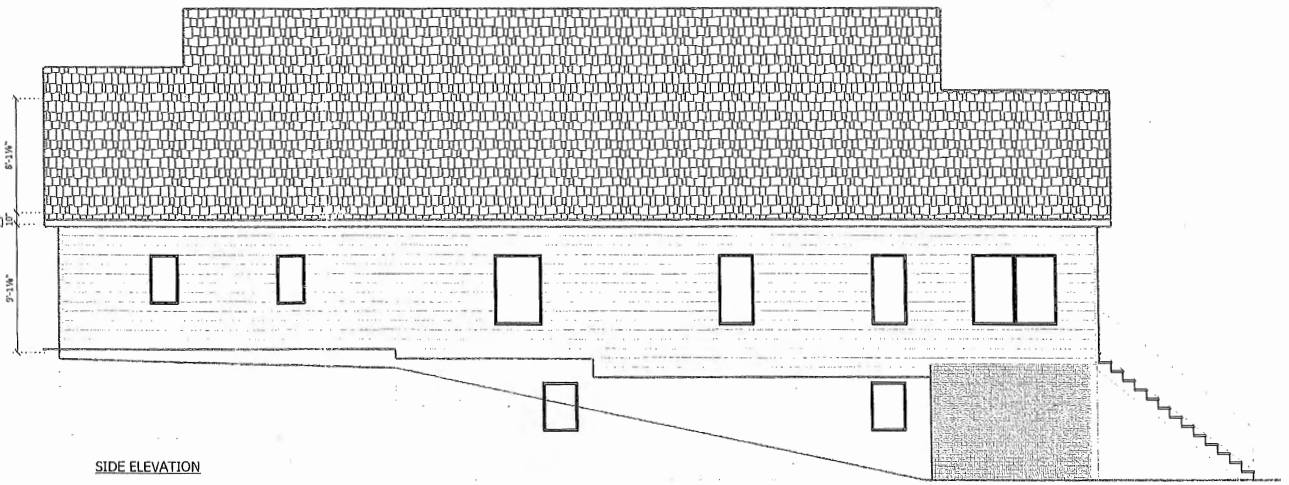
SIDE ELEVATION



LAKESIDE ELEVATION



ROAD SIDE ELEVATION



SIDE ELEVATION

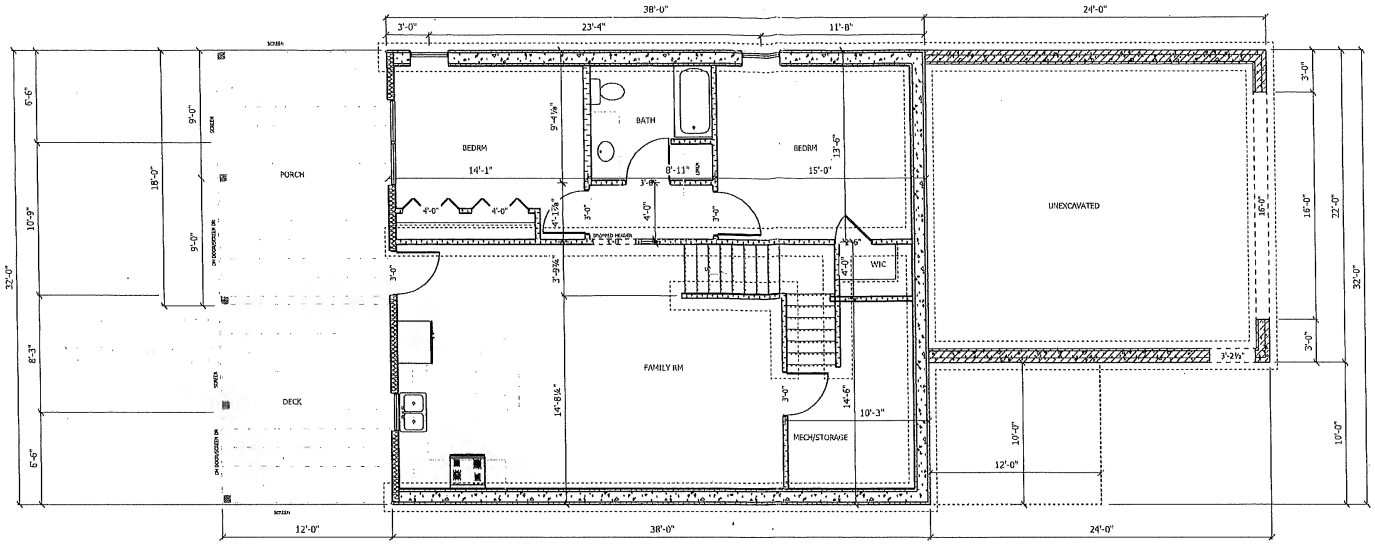
Building Relationships Since 1958

KRAEMER LUMBER CO., INC.

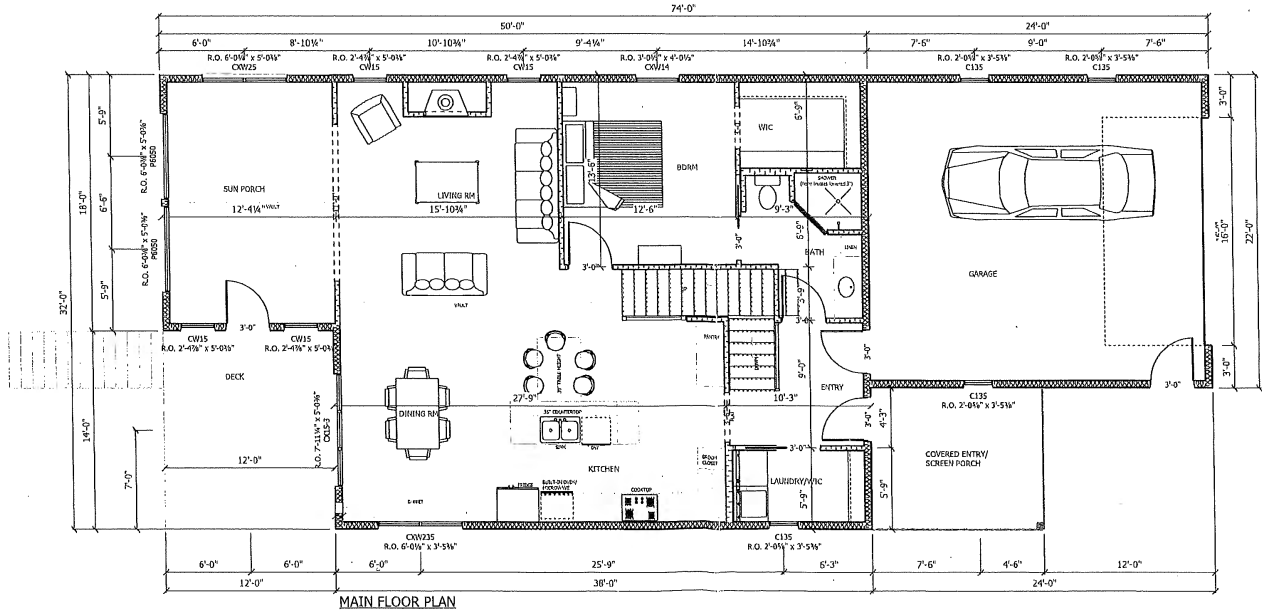
NANCY PRIMUS

Jody K. Wehlage

SHEET 1 of 4



BASEMENT PLAN



MAIN FLOOR PLAN

Building Relationships Since 1958

KRAEMER LUMBER CO., INC.

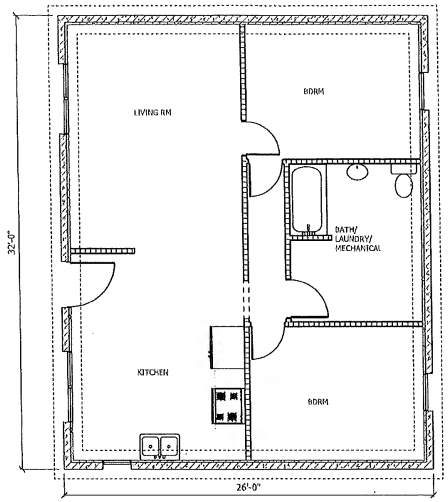
NANCY PRIMUS

Drawn by: Jody K. Wehlage

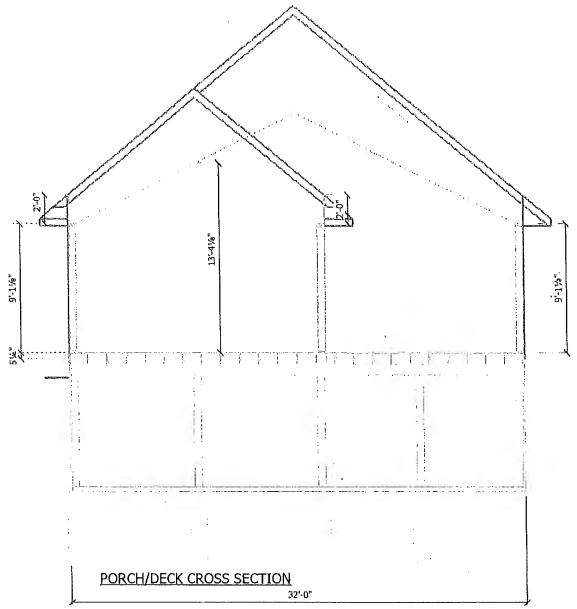
Date: 01-31-24

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

SHEET 2 OF 4

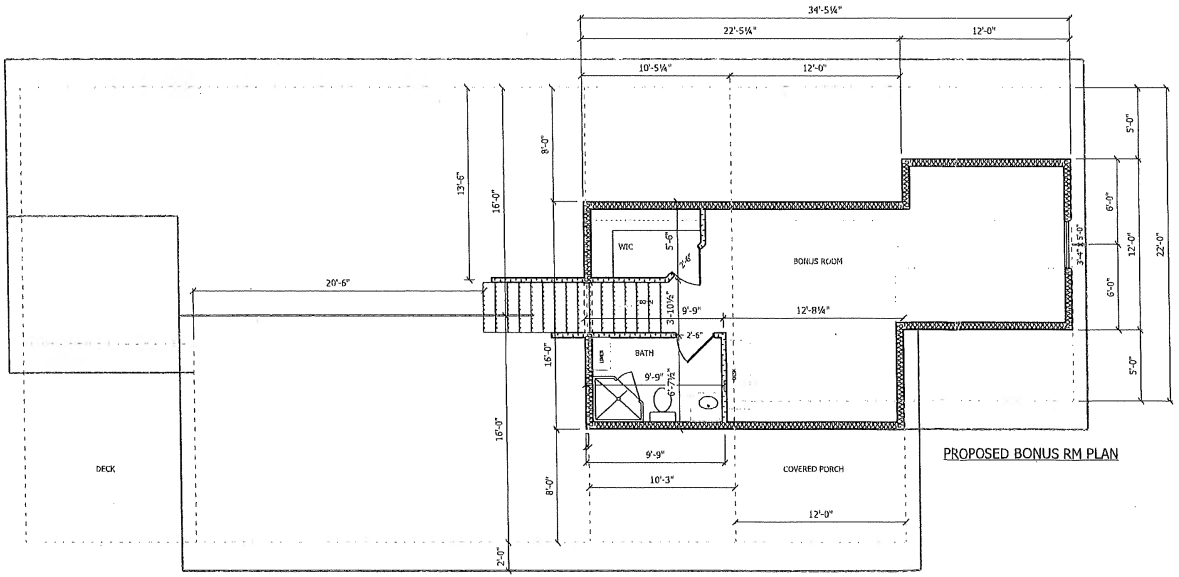


EXISTING FLOOR PLAN



PORCH/DECK CROSS SECTION

32'-0"



PROPOSED BONUS RM PLAN

Building Relationships Since 1958

KRAEMER LUMBER CO., INC.

NANCY PRIMUS

Drawn by: Jody K. Weinage

SHEET 3 OF 4

03-00297700
ANDREW W &
TERESA J BURLET
12319
03-00298000
THOMAS W &
SUELLYN B SEAWELL
01-00296000
NANCY A
PRIMUS



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.0125 0.025 0.05 mi

0 0.0125 0.025 0.05 mi

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Phone: 320-732-4420 Fax: 320-732-4803
Email: ToddPlan.Zone@Co.Todd.MN.US

Accepted 3/4/2024 KLM

Appeal for a Variance

Applicant Corey and Angela Thieschafer

Mailing Address 26158 County 18 Browerville, MN 56438

Site Address 26158 County 18 Browerville, MN 56438

Phone Number _____ Cell Number [redacted]

E-Mail Address [redacted]

Property Owners Name & Address (if not applicant) Same

Parcel Number(s) 36-0034000

Section: _____ Township Ward

Zoning District (circle one): AF-1; AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Horseshoe Lake (NE)

Do you own land adjacent to this parcel(s) ____Yes __X__No

Septic System: Date installed 5/14/97 Date of Compliance Inspection August 2022 2020

Is a new system needed: ____yes __X__no ____ STS Design attached

Winter Agreement 2021

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width____	Lot area____	Lake or River setback__X__	Bluff setback____
Road right-of-way setback____	Side Yard setback____		Buildable area____
Impervious surface coverage____	Building/Structure Height____		Other____

Receipt #2024-0064

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) Request to reduce the 150ft setback to 136 ft for the construction of two support posts.

2.)

3.)

4.)

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

The roofline was designed very poorly which funnels the watershed from the roof directly above the front door entrance.

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

SKETCH DRAWING

See attached

The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

Corey Thieschafer	Cory Thieschafer	3-1-2024
Applicant Name Printed	Signature	Date
Corey Thieschafer	Cory Thieschafer	3-1-2024
Property Owner Name Printed	Signature (If different than applicant)	Date

IMPERVIOUS SURFACE WORKSHEET
(FOR SHORELAND ONLY)

APPLICANT INFORMATION

Name Corey and Angela Thieschafer
Phone [redacted]
Mailing Address 26158 County 18
Brownville MN 56438

Site Address 26158 County 18
City Brownville State MN Zip 56438
Parcel Number ____-____
Lake/River Name Horseshoe Lake

IMPERVIOUS SURFACE: is a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities & at an increased rate of flow than prior to development.

LOT/STRUCTURE DIMENSIONS

Total lot area: 283,140 sq ft

List all structures (structure's foundation footprint: length, width, and total area)

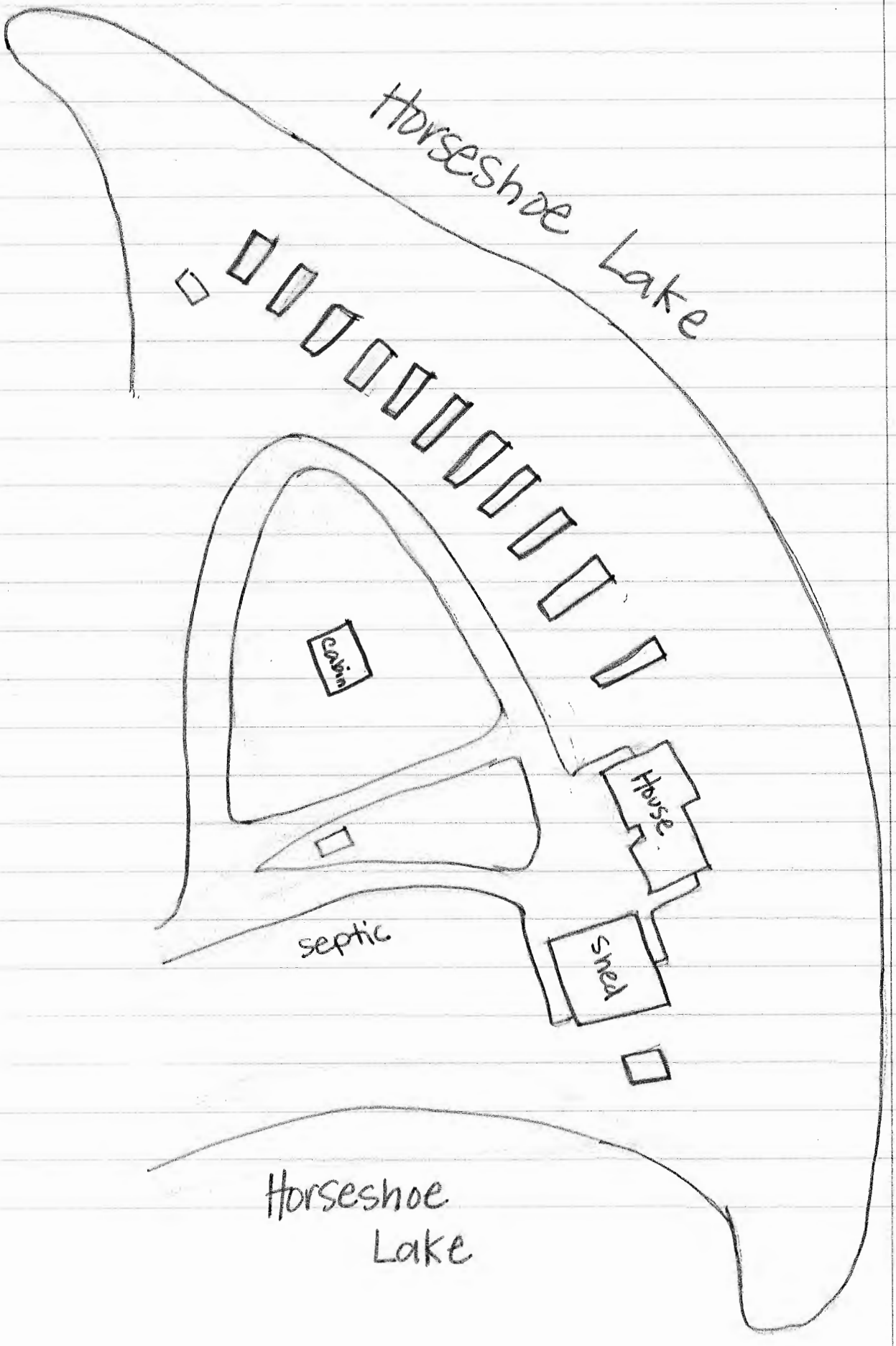
Existing	Proposed
1. House	2,080 square feet
2. Pole Shed	30x40 : 1,200
3. Cabin-small	27 x 12.4 : 334.8
4. garden shed	6 x 8 : 48
5. Check-in Shed	12.4 x 12 : 148.8
6. Garden Shed	6 x 8 : 48
7.	
8.	

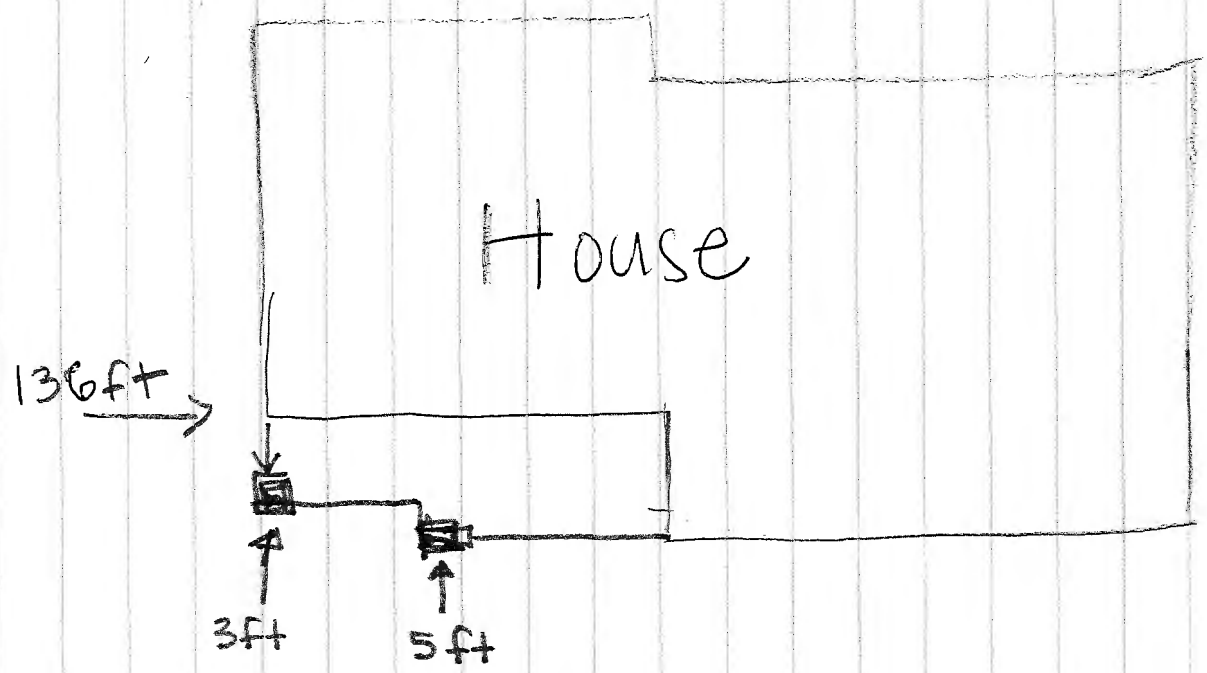
List all non-roofed hard surfaces: Examples include sidewalks, paver stones, retaining walls, patios, decks, driveways & parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impervious liners:

Existing	Proposed
1. driveway - gravel	1,156 ft x 7ft : 8092
2. parking pad - concrete	
3. sidewalks	2,035.55
4. patio #1	20 x 10.3 : 206
5. patio #2	16 x 5 : 80
6.	
7.	
8.	

Total of 25% of lot may be covered by impervious surfaces (15% of which are from roofed structures)

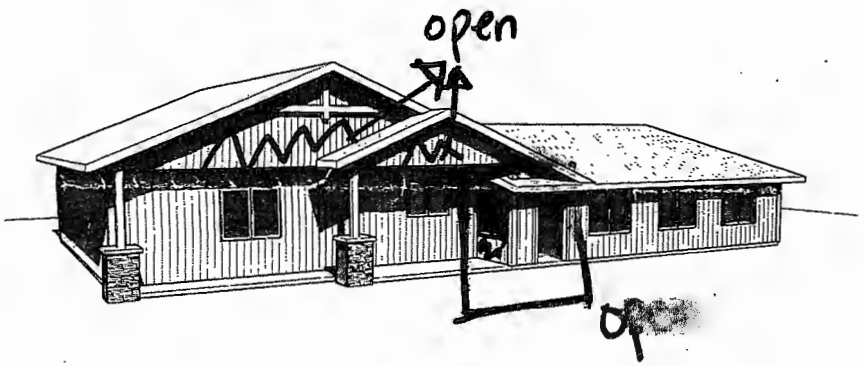
campers and decks on back →

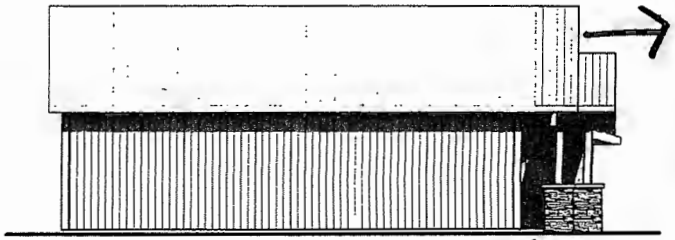

Horseshoe Lake
Cabin
House
septic
Shed
Horseshoe
Lake


House
136ft
3ft
5ft



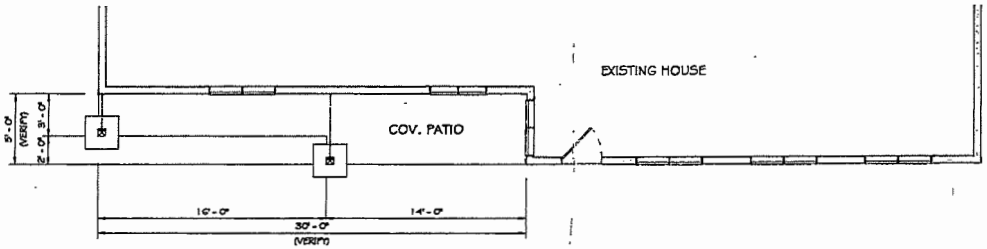
1 A3 FRONT ELEVATION
1/8" = 1'-0"





2 A3 LEFT ELEVATION
1/8" = 1'-0"

how far does this come out? 3ft?



3 A3 MAIN LEVEL
1/8" = 1'-0"

*ALL CONDITIONS & MEASUREMENTS TO BE VERIFIED ON SITE PRIOR TO START BY GENERAL CONTRACTOR & OWNER

HILLTOP LUMBER
We help plan, supply and deliver dreams.
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1405 NORTH NOKOMIS NE
ALEXANDRIA, MN 56308
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ANGIE THIESCHAFER
COV. ENTRY

Designer:	JEFF
Date:	04-07-2023
Status:	PRELIMINARY
Number:	23-083

MAIN LEVEL

A3



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.05 0.1 0.2 mi

0 0.05 0.1 0.2 mi

N W E S

The Todd County GIS & Land Services Department has made every effort to provide the most accurate and up-to-date information available in this publication and cannot be held responsible for any unforeseen errors or omissions. If the recipient wishes to locate parcel corners and property lines, employ the services of a Registered Land Surveyor.

Printed on:
Tuesday, March 5, 2024

WHERE THE FOREST MEETS THE PRAIRIE
Todd County
• MINNESOTA • EST. 1855 •

Received
MAR 04 2024
Todd County Planning & Zoning

PLANNING & ZONING
215 1st Avenue South, Suite 103
Long Prairie, MN 56347
Phone: 320-732-4420 Fax: 320-732-4803
Email: ToddPlan.Zone@Co.Todd.MN.US

Accepted 3/4/2024 KMM

Appeal for a Variance

Applicant DAWN & Greg Graves

Mailing Address 22924 CO 10 Long Prairie . MN 56347

Site Address 13411 Falcon Drive Osakis mN 56360

Phone Number 320-304-0194 Cell Number [redacted]

E-Mail Address [redacted]

Property Owners Name & Address (if not applicant) _____

_____

Parcel Number(s) 15-0045800

Section: 33 Township Leslie

Zoning District (circle one): AF-1; AF-2; R-10; R-2; UG; RT; Commercial; Industry; or Shoreland (Lake or River Name): Osakis

Do you own land adjacent to this parcel(s) X Yes _____No

Septic System: Date installed Sept-5, 1990 Date of Compliance Inspection March 2024

Is a new system needed: _____yes _____no _____ STS Design attached

Required for applications with existing septic systems: Approved design submitted for new system to be installed, new system installed within previous 5 years, or passing compliance inspection on existing system in previous 3 years

Variances Requested:
What standards or requirements are you unable to maintain? (Check all that apply)

Lot width_____	Lot area_____	Lake or River setback_____	Bluff setback_____
Road right-of-way setback_____		Side Yard setback_____	Buildable area_____
Impervious surface coverage_____		Building/Structure Height X	Other_____

VAR #
VAR Rec'd 2024-0008

LIST YOUR VARIANCE REQUEST(s) and what, if the variance were granted, you intend to build or use the land for. **For example:** *"Request to reduce the 10ft structural setback from my west side lot line to 8ft for the construction of a detached garage to be used for vehicle and personal storage."*

1.) request to increase Peak height 18ft to 21ft 5in

2.)

3.)

4.)

**State Statutes Section 394.7 Subd7: Variances: Practical Difficulties. The BOA shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of official control, and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with official rules; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The Board of Adjustment may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

EXPLAIN YOUR PRACTICAL DIFFICULTIES or reason why you need your request approved.**

lotsize is too small to build somewhere else

It is important that you flag your related property lines and proposed building locations

Have you flagged your lot? (Y) (N)

Cabin will be located on the same foundation

SKETCH DRAWING

See attached drawing

The applicant or agent hereby makes application for a variance agreeing to do all such work in accordance with all Todd County Ordinances. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith are true and accurate. Applicant or agent agrees that, in making application for a variance grants permission to Todd County, at reasonable times during the application process and thereafter, to enter applicant's premises to determine the feasibility of granting said variance or for compliance of that application with any applicable county, state, or federal ordinances or statutes. If any of the information provided by the applicant in his/her application is alter found or determined by the county to be inaccurate, the County may revoke the variance based upon the supply of inaccurate information.

If the applicant is not the property owner, both signatures are required below.

DAWN Graves	Dawn Graves	3-4-24
Applicant Name Printed	Signature	Date
DAWN + Greg Graves	Dawn Graves + Greg Graves	3-4-2024
Property Owner Name Printed	Signature (if different than applicant)	Date



WHERE THE FOREST MEETS THE PRAIRIE
Todd County
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Todd County GIS
215 1st Ave S, Ste 102
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(Office) 320-732-4248

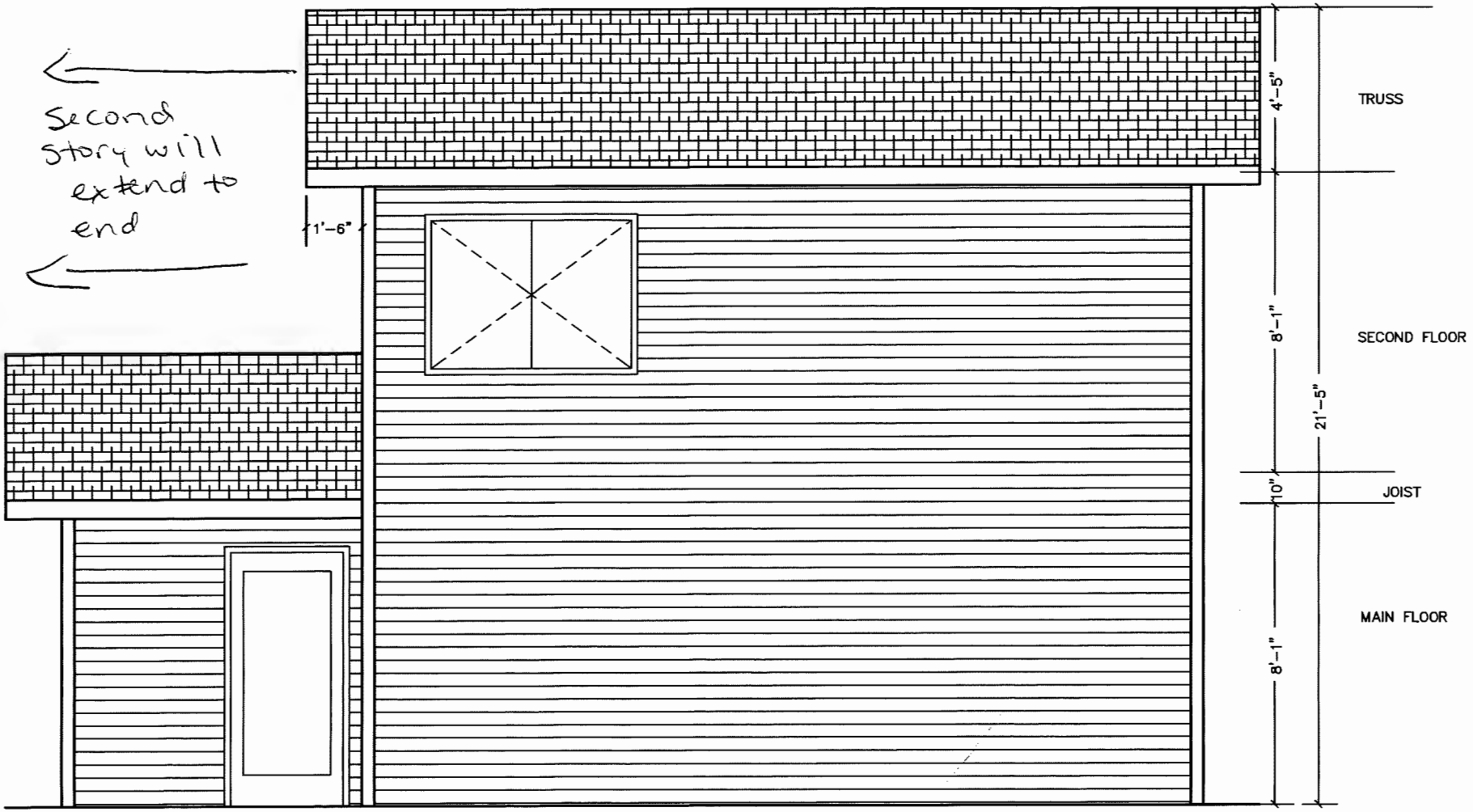
Printed on:
Monday, March 4, 2024

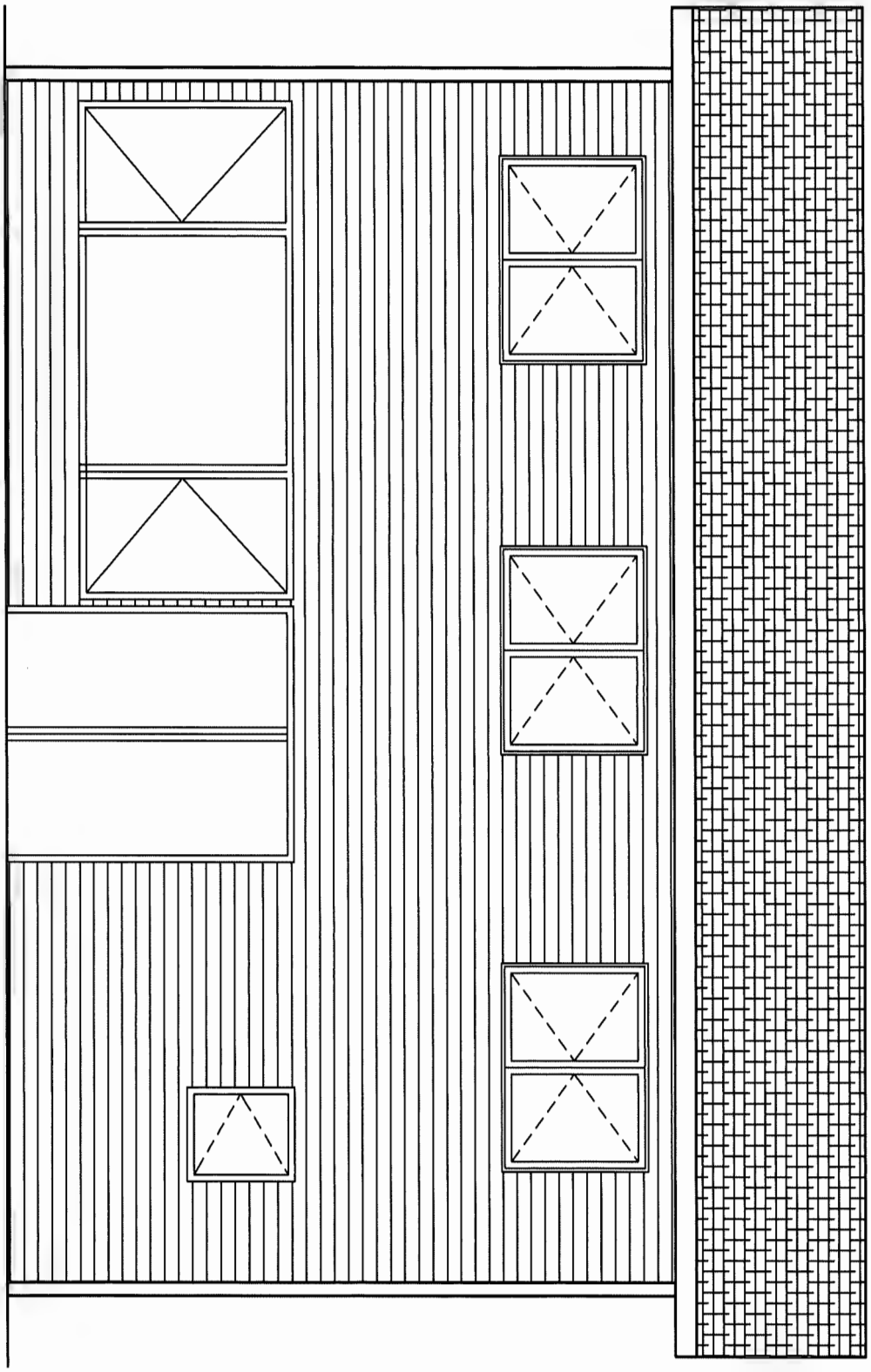
GIS Site Map

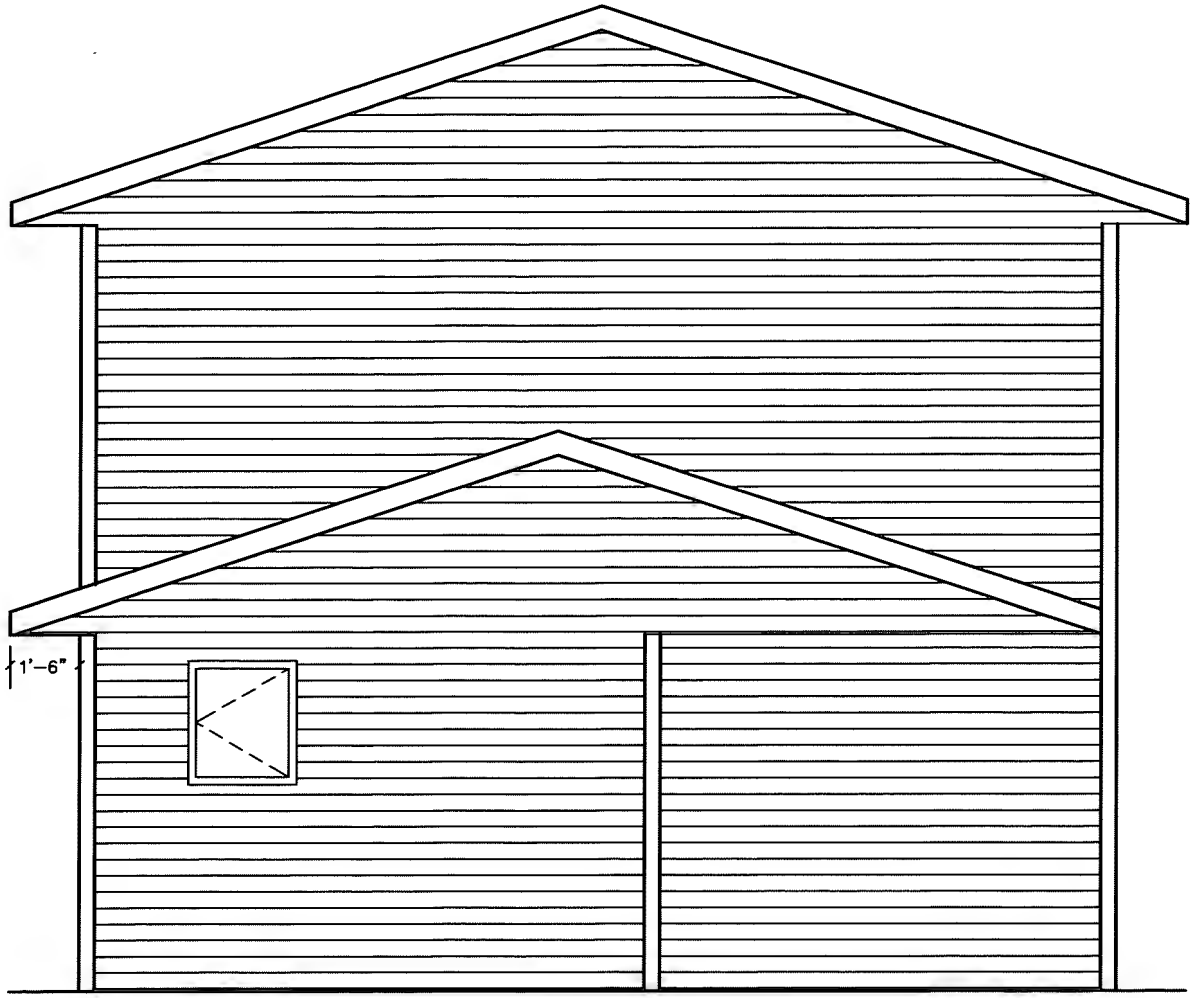
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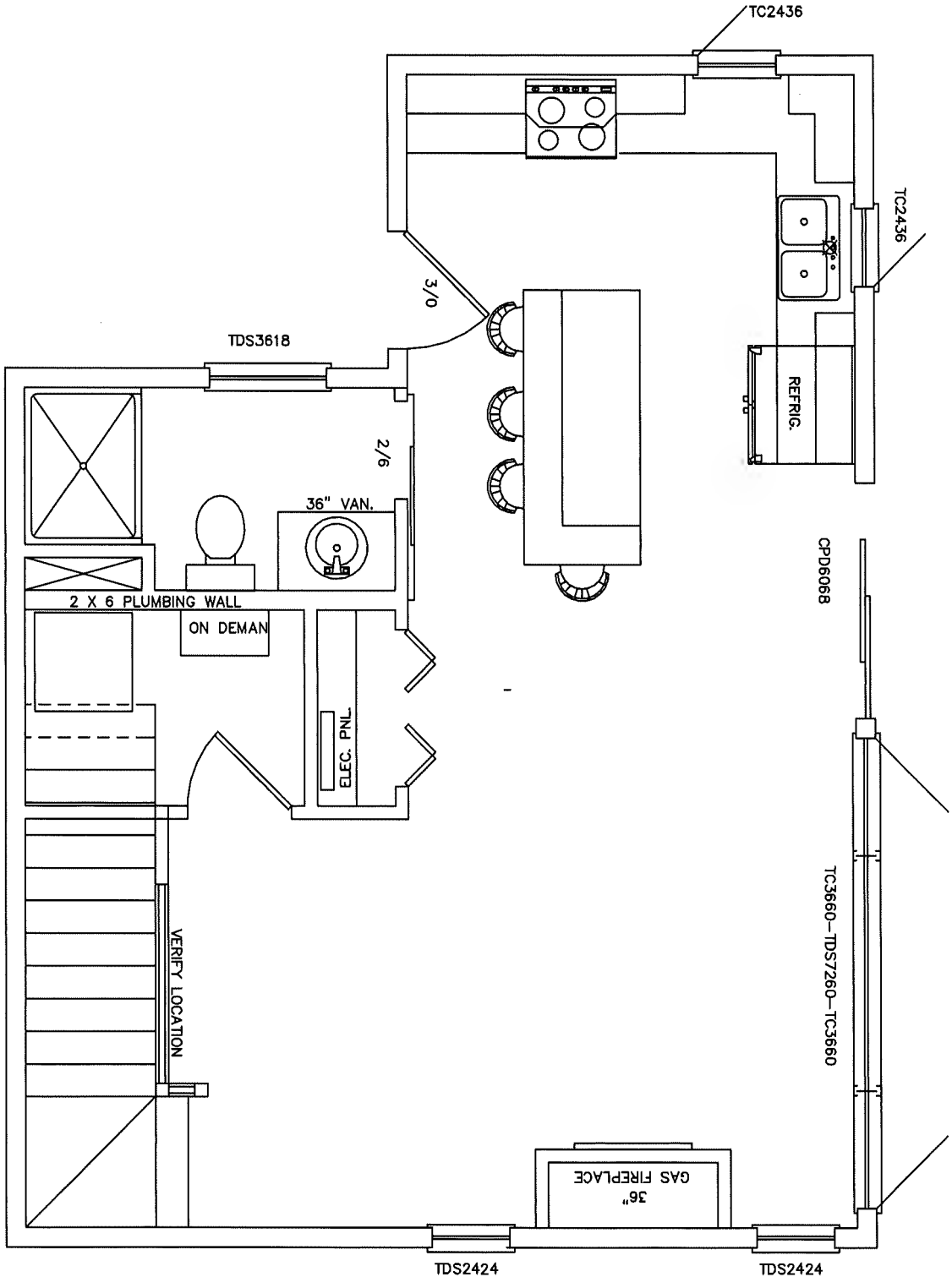
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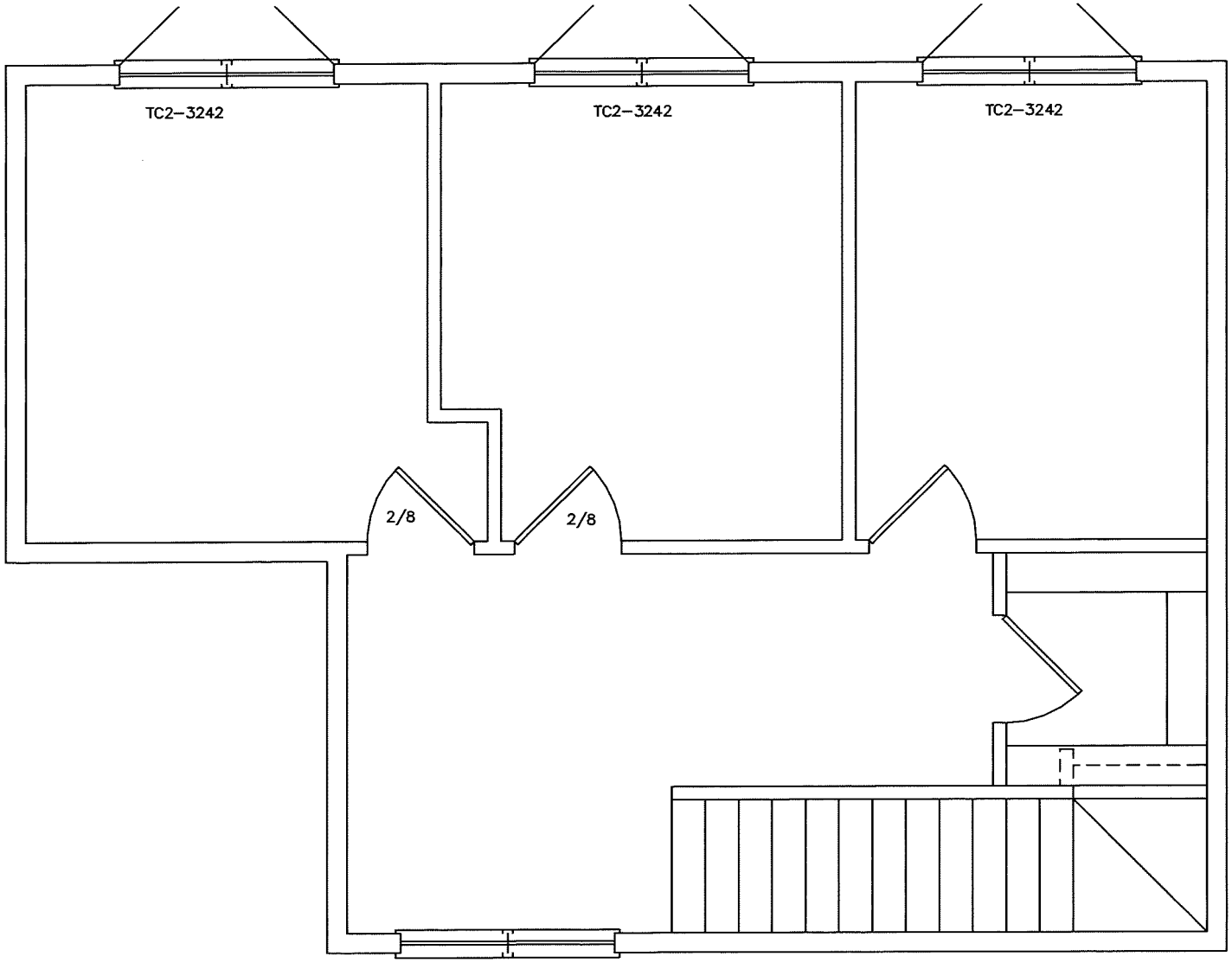
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Second story will extend to end
1'-6"
4'-5"
TRUSS
8'-1"
SECOND FLOOR
21'-5"
10"
JOIST
8'-1"
MAIN FLOOR




1'–6"


TC2436
TC2436
3/0
TDS3618
REFRIG.
2/6
36" VAN.
CPD6068
2 X 6 PLUMBING WALL
ON DEMAN
ELEC. PNL.
TC3660-TDS7260-TC3660
VERIFY LOCATION
GAS FIREPLACE
36"
TDS2424
TDS2424


TC2–3242
TC2–3242
TC2–3242
2/8
2/8

IMPERVIOUS SURFACE WORKSHEET
(FOR SHORELAND ONLY)

APPLICANT INFORMATION

Name Dawn & Greg Graves
Phone [redacted]
Mailing Address 22924 CO 10
Long Prairie MN 56347

Site Address 13411 Falcon Dr.
City Osakis State MN Zip 56360
Parcel Number 15 - 0045800
Lake/River Name Osakis

IMPERVIOUS SURFACE: is a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities & at an increased rate of flow than prior to development.

LOT/STRUCTURE DIMENSIONS

Total lot area: 4,256 sq ft approx

List all structures (structure's foundation footprint: length, width, and total area)
Find dimension of structure outside wall - ↓ Garage

↓	Existing	Proposed
1.	cabin 580 sq ft →	
2.	garage 240 sq ft →	
3.		
4.		
5.		
6.		
7.		
8.		

List all non-roofed hard surfaces: Examples include sidewalks, paver stones, retaining walls, patios, decks, driveways & parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impervious liners:

	Existing	Proposed
1.	288 sq ft cement patio	
2.	most of the lot is covered by small rocks	
3.		
4.		
5.		
6.		
7.		
8.		

Total of 25% of lot may be covered by impervious surfaces (15% of which are from roofed structures)



Todd County
MINNESOTA

Todd County GIS
215 1st Ave S, Ste 102
Long Prairie, MN 56347
(Office) 320-732-4248

Todd County GIS

GIS Site Map

0 0.00325 0.0065 0.013 mi

0 0.0035 0.007 0.014 mi

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Printed on:
Wednesday, March 6, 2024