

**CITY OF SHOREWOOD
PLANNING COMMISSION MEETING
TUESDAY JUNE 1, 2021**

**COUNCIL CHAMBERS
5755 COUNTRY CLUB ROAD
7:00 P.M.**

Due to the Centers for Disease Control's recommendation limiting the number of people present at a meeting, and pursuant to MN Statute §13D.02, the Shorewood Planning Commission meetings will be held by electronic means. For those wishing to listen live to the meeting, please go to http://ci.shorewood.mn.us/current_meeting/ for the meeting link. Contact the city at 952.960.7900 during regular business hours with questions. For link issues at meeting time, call 952.960.7906.

A G E N D A

CALL TO ORDER

ROLL CALL / (LIAISON) SCHEDULE

MADDY (APR) _____
EGGENBERGER (JUN) _____
GAULT (MAY) _____
RIEDEL (AUG) _____
HUSKINS (JUL) _____
COUNCIL LIAISON (Callies) _____

1. APPROVAL OF AGENDA

2. APPROVAL OF MINUTES

- ♦ May 4, 2021

3. MATTERS FROM THE FLOOR

(This portion of the meeting allows members of the public the opportunity to bring up items that are not on the agenda. Each speaker has a maximum of three minutes to present their topic. Multiple speakers may not bring up the same points. No decisions would be made on the topic at the meeting except that the item may be referred to staff for more information or the City Council.)

4. PUBLIC HEARINGS

A) CUP for fill in excess of 100 cubic yards and variances to impervious surface coverage and building height

Applicant: Tod and Bonnie Carpenter

Location: 26050 Birch Bluff Road

B) Sign Ordinance Amendments

Applicant: City of Shorewood

Location: Citywide

5. NEW BUSINESS

A) Variance to front yard setback

Applicant: Justin Robinette

Location: 4530 Enchanted Point

B) Variance for detached garage height

Applicant: Kuhl Design Build

Location: 28110 Woodside Road

6. OTHER BUSINESS - None

7. REPORTS

- A) Council Meeting Report
- B) Draft Next Meeting Agenda

8. ADJOURNMENT

MINUTES

CALL TO ORDER

Chair Maddy called the meeting to order at 7:04 P.M.

ROLL CALL

Present: Chair Maddy; Commissioners Eggenberger, Gault, Riedel, and Huskins; Planning Director Darling; Planning Technician Notermann, and Council Liaison Gorham

Absent: None

1. APPROVAL OF AGENDA

Riedel moved, Huskins seconded, approving the agenda for May 4, 2021, as presented. Roll Call Vote: Ayes – all. Motion passed 5/0.

2. APPROVAL OF MINUTES

- April 6, 2021

Eggenberger moved, Riedel seconded, approving the Planning Commission Meeting Minutes of April 6, 2021, as presented. Roll Call Vote: Ayes – all. Motion passed 5/0.

3. PUBLIC HEARINGS

Chair Maddy explained the Planning Commission is comprised of residents of the City of Shorewood who are serving as volunteers on the Commission. The Commissioners are appointed by the City Council. The Commission's role is to help the City Council in determining zoning and planning issues. One of the Commission's responsibilities is to hold public hearings and to help develop the factual record for an application and to make a non-binding recommendation to the City Council. The recommendation is advisory only.

A. PUBLIC HEARING – CUP AMENDMENT, VARIANCES AND SITE PLAN AMENDMENT REVIEW FOR TONKA BAY CAR WASH

Applicant: Reprise Design

Location: 24245 Smithtown Road

Planning Director Darling stated that the applicant is proposing a conditional use permit to rehabilitate the existing car wash and convert two of the bays to be automatic car wash, rather than manual. The applicant is asking for two variances to allow less stacking and less parking than required by ordinance. This would also require a site plan amendment for the proposed changes. She stated that this is currently zoned C-1 and reviewed the surrounding property uses. She explained that the applicant is proposing that the flow of traffic be changed so the vehicles enter the car wash from the west side of the building and exit on the east side of the building. They are proposing to plant new bushes on the south side of the stacking area to provide required screening. She noted that staff recommends that they have a new enclosure for their dumpster

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once it is relocated and that they hook up to City sewer and water. She gave an overview of the request for reduced stacking and explained staff's recommendation that the applicant provide additional stacking spaces on the site, which would not need a variance. She stated that the business had originally asked to operate 24 hours/day, but are now proposing 6:00 a.m. to 12:00 p.m. She noted that the applicant has shown that they can meet the noise standards however the City Attorney has asked that there be a condition added that the dryers only function when the doors are closed and also a condition that the applicant must continue to operate the car wash consistent with the City's noise standards. She stated that the other variance that the applicant is asking for is related to the required parking spaces. She explained that the Zoning Ordinance required 10 full parking spaces but with a fully automatic car wash with the possibility of a maximum of one staff member being on site at a time, they feel that parking requirement may be a bit excessive and have asked to provide the one parking space as proposed on the north end of the building. Staff recommends approval of the variance to provide only one parking stall, denial of the request for reduced stacking, and overall approval of the application.

Commissioner Riedel asked for additional clarification on the proposed stacking.

Planning Director Darling explained the stacking and noted that staff is proposing that the stacking lines be painted going to the north side of the building so it is clear how the stacking would function. She stated that the Commission could also add a condition that they place a sign that states no stacking is permitted into the public street.

Commissioner Huskins asked if the through-putting of cars took into account the vacuuming units that occur right at the exit. He asked if there will be a right turn only sign as cars depart.

Planning Director Darling stated that they have full access at their eastern entrance, so she does not think the City could say that it was right turn only. She explained that the applicant is moving most of the vacuuming stations from the site. She stated that she does not believe it will be a problem with stacking but could block exiting cars and suggested that the applicant address this question.

Commissioner Gault asked why staff was recommending this be hooked up to City sewer and water.

Planning Director Darling explained the reasoning behind this recommendation was related to City Code which requires hook up with development if water is available.

Commissioner Gault stated that he would like to know how they propose to deactivate the automatic washes outside of the business hours and asked if the City was proposing that even the manual stalls have limited operating hours.

Planning Director Darling stated that she assumed that the manual and automatic stalls would have the same hours of operation.

Farhad Hakim, owner of the property, stated that he can answer some of the questions that were raised. He stated that they would like to address the dumpster issue. Since he has owned the property, there are weeks that the dumpster just sits empty. He stated that they are proposing to remove the dumpster and have 2 roller bins on the inside of the building for people to use when emptying their cars and 2 bins on the outside of the building in a similar location to the dumpster. He stated that they would just have the four bins emptied every week rather than having a dumpster on the site. He stated that their goal is to bring the site back to life so it doesn't look run

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down and flow easily through the site. He stated that their plan is to only keep the vacuum that is located between the self-service bays.

Commissioner Gault asked how the applicant proposed limiting the hours of operation since it is automatic.

Mr. Hakim stated that all the machines, including the manual machines, lighting, and doors, can be set on a timer so they will not operate outside of operating hours.

Commissioner Riedel asked for the applicant to comment on the stacking issue and whether reorienting the stacking towards the east entrance is acceptable.

Mr. Hakim stated that they do not think stacking will be a problem with two automatic bays operating because they will be able to move people through more quickly. He stated that they are willing to put it in writing that if it does become an issue and leak out into the street then they will close the other entrance. He stated that they are definitely open to painting the stacking lines as suggested by staff.

Commissioner Eggenberger asked about the possibility of closing the west entrance from the start.

Mr. Hakim stated that his biggest issue is that once they are closed you can never get them reopened and would like to leave it open for future possibilities.

Commissioner Huskins asked the applicant to comment on the recommendation from staff for this site to use City water and sewer.

Mr. Hakim stated that they are not opposed to hooking up to City sewer and water. He stated that either option of using well or City water have pros and cons.

Chair Maddy noted that the staff report has a lot of conditions and asked if there were any that the applicant was not willing to concede on.

Mr. Hakim stated that they have gone through them and are not opposed to them, but would hope that the City is not trying to hammer them to the ground with restrictions.

Corey Englund, Reprise Design, stated that he wanted to touch on the earlier statement that they are planning to move away from dumpsters and change to 96-gallon carts similar to standard residential and commercial size. He asked if the trash enclosure provision could go away if they do that rather than dumpsters.

Planning Director Darling stated that the code requires that all trash receptacles on commercial properties to be screened. She stated that if they are kept within the car wash bays, then they would not have to provide an enclosure for the carts. She stated that the 2 carts the applicant would like to have located outdoors would require screening.

Mr. Hakim stated that they do not have to be the rolling type of trash can but can just be a bigger receptacle like what is seen at Target or a gas station.

Planning Director Darling stated that a trash can could be kept outdoors without an enclosure, but not a cart or a dumpster.

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Mr. Englund stated that he thinks the proposed plan will do a lot to clean up this building and stated that he feels their layout will ensure that the stacking does not overflow to the street.

Commissioner Huskins asked about the response time if a person is required to respond to something that occurs on the property. He gave the example of it being 11:30 p.m. and someone is using the automatic bay and the doors do not open at the conclusion of the wash.

Mr. Hakim stated that he lives about 9 minutes from the site so he will be responding. He noted that they also have cameras on site and the machines will be new that will even send alerts to his phone if there is something wrong.

Chair Maddy opened the Public Hearing at 7:48 P.M. noting the procedures used in a Public Hearing.

There being no public comment, Chair Maddy closed the Public Hearing.

Commissioner Riedel stated that he is still a bit uncomfortable with the potential stacking issue and noted that he thinks the Commission should be planning for this to be a very successful business, which means congestion. He stated that he understands the applicant's reluctance to close off one of the entrances and supports the condition that should stacking occur, then the City can require an entrance to be closed.

Commissioner Eggenberger stated that he agrees with Commissioner Riedel and would also like to stipulate that the vacuum between the automatic bays is removed.

Commissioner Huskins stated that he likes the idea of continuing the striping so it is clearly marked and avoid issues. He stated that he is still unsure about the City sewer and water because of the cost of the hook up.

Commissioner Eggenberger asked if Commissioner Huskins felt that the applicant should have the option to keep well water if he wants.

Commissioner Huskins stated that he just wasn't sure what the Commission should recommend because he feels there would be advantages to hooking up to City water, but understands that the costs to hook up are not low. He asked what other Commissioners felt about the recommendation from staff regarding City water.

Commissioner Gault stated that he had the same concern and noted that it was phrased as a recommendation within the staff analysis and not a requirement. He stated that if it is not required within the Code, he likes the idea of giving the applicant the option of making that decision.

Commissioner Eggenberger asked what the reasoning was being the staff recommendation for hooking up to City water.

Planning Director Darling stated it was because of the change in use and the more intense water user now being on City water. She noted that the other commercial properties along Smithtown have already hooked up to City water and this would be the last one.

Riedel moved, Huskins seconded, recommending approval of the CUP and Site Plan Review for Tonka Bay Car Wash located at 24245 Smithtown Road, subject to the recommendations that applicant provide full cut off light fixtures and side shielding of the lighting, the dumpster be removed or if they choose to keep it screening be provided, the

area be restriped to provide additional stacking space for a minimum of 3 vehicles, connect to public water and pay the connection fee, subject to approved financial guarantees, should any stacking occur in the future in the public right-of-way, the applicant would be required to close the westerly access, business hours will be limited to 6:00 a.m. to 12:00 p.m., the overhead doors are required to be closed during the blowing cycle, and the vacuum between the automatic stalls will be removed.

Commissioner Eggenberger expressed concern about the wording being “any stacking” and stated that it seems harsh. He asked what would happen if there was stacking just one time.

Riedel amended the motion, Huskins seconded the amended motion, recommending approval of the CUP and Site Plan Review for Tonka Bay Car Wash located at 24245 Smithtown Road, subject to the recommendations that applicant provide full cut off light fixtures and side shielding of the lighting, the dumpster be removed or if they choose to keep it screening be provided, the area be restriped to provide additional stacking space for a minimum of 3 vehicles, connect to public water and pay the connection fee, subject to approved financial guarantees, should staff judge the stacking to be problematic in the public right-of-way, the applicant would be required to close the westerly access, business hours will be limited to 6:00 a.m. to 12:00 p.m., the overhead doors are required to be closed during the blowing cycle, and the vacuum between the automatic stalls will be removed.

Roll Call Vote: Ayes – all. Motion passed 5/0.

B. SIGN ORDINANCE AMENDMENTS – Continued to June 1, 2021

Chair Maddy opened the Public Hearing at 8:03 P.M. noting the procedures used in a Public Hearing.

Planning Director Darling noted that the City had received a letter from Pamela McDonald expressing concerns that even with a 10-foot setback there are some areas with drainage ditches that would make it difficult to put political signage out.

Riedel moved, Gault seconded, to continue the Public Hearing for the Sign Ordinance Amendments to June 1, 2021. Roll Call Vote: Ayes – all. Motion passed 5/0.

4. NEW BUSINESS

A. Variance to Front yard Setback

Applicant: John Mark Graham
Location: 5565 Howards Point Road

Planning Technician Notermann explained the request for a variance at 5565 Howards Point Road is in order to add a porch to be 43 feet from the front property line where 50 feet is required. She explained that the home was built in 1954 and is considered a legal non-conforming structure. She stated that this lot has 28.8% impervious surface which is more than the 25% allowed in the Shoreland District, but noted that the Shoreland regulations were adopted in 1987. The City received one e-mail from the neighbor at 5490 Howards Point Road, that expressed support for this request. Staff recommends approval of the variance request.

Commissioner Riedel asked when the impervious surface on the property increased.

Planning Technician Notermann explained that it was unclear in the older permits because there wasn't much information regarding impervious surface at that time. She stated that if you look at aerial imagery, you can see a bit of increased driveway on the south side of the garage and a bit in the back, that was not anything they could find permits for and it is hard to tell when those areas came to be.

John Graham, stated that where they plan to put the porch will cover up a garden that had some plastic underneath it. He stated that if the City would like them to remove some of the plastic to help bring down the impervious surface a bit, they are happy to do that.

Commissioner Huskins stated that he would like clarification from the applicant on when the home was built and the setback because there are discrepancies between the staff report and the information the applicant submitted.

Mr. Graham stated that they have lived in the home for about 50 years and after they moved in an older gentleman had walked by and told him that he used to milk cows in the basement of their house because the home had originally been a barn.

Mrs. Graham stated that when they first moved in it was a little bungalow which is where the number from the 1950s came from when they built it on top of the barn.

Mr. Graham stated that they do not know exactly when the original house was built because the foundation of the house is double brick wall which was most likely the original barn. He stated that they have added onto the home several times over the years.

Planning Technician Notermann stated that she thinks the discrepancy regarding the setback is the difference between the measurement to the edge of the road versus measuring the setback from the property line.

Bob Boyer, contractor, stated that he was contacted by the Grahams because they would like to stay in this home as long as they can. He stated that they have tried to move their living to the main level so he is working on a remodeling project to assist them in that effort and a porch is part of that plan for them.

Eggenberger moved, Gault seconded, to recommend approval of the variance request to the front yard setback at 5565 Howard's Point Road for the purpose of constructing a porch
Roll Call Vote: Ayes – all. Motion carried.

B. Site Plan Review

Applicant: Minnetonka Public School District

Location: 19685 State Highway 7

Planning Director Darling explained that this is a request for a site plan amendment for property located at 19685 State Highway 7. The Minnetonka School District recently purchased the property and is proposing to remodel the building and site to accommodate a school use for older, special needs students to help them acquire job and life skills to transition into a more independent life. She explained that the majority of the changes are interior to the building but noted that there are a few site changes being proposed. She reviewed some of the conditions and noted that staff recommends approval of the application, subject to those conditions.

Commissioner Gault asked about access and drop-off locations.

Planning Director Darling suggested that the applicant answer those questions.

Paul Bourgeois (with the Minnetonka School District) stated that they are expecting between 25 and 40 students who are mildly impaired, ages 18-21. He stated that these are students that can have successful lives if they are taught things such as how to live in an apartment and other life skills. They will also work with local business on apprentice type job opportunities. He explained that there is cross access within the Planned Unit Development and his understanding is that in essence, technically all the parking could be shared. He stated that they are not intending to share and noted that there should be about 10-15 staff members on site on a daily basis. The bus traffic will be the small buses with classes from about 9:00 am to 3:00 pm. He stated that there will be some traffic during the day because the students will go on field trips to various businesses to learn about different jobs. He stated that they have spoken with Alerus and are planning to have the buses enter the west driveway and loop around, drop the students at the west door, and then the buses would exit. He stated that they are anticipating 2 or 3 buses in the morning and also in the afternoon.

Eggenberger moved, Riedel seconded, to recommend approval of the request for a Site Plan Amendment for 19685 State Highway 7, subject to conditions as listed in staff report. Roll Call Vote: Ayes – all. Motion carried.

5. OTHER BUSINESS

6. REPORTS

- **Council Meeting Report**

Council Liaison Gorham reported on matters considered and actions taken during the Council's recent meetings.

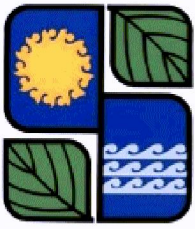
- **Draft Next Meeting Agenda**

Planning Director Darling stated there are a number of new variance applications planned for the next meeting including: a CUP for a new home to be constructed on Birch Bluff; a variance for a new garage addition on Woodside Road; and a variance on Birch Bluff for building height and hard cover.

Planning Director Darling stated that although the Planning Commission does not look over Final Plat applications, she wanted to let them know that two submitted, one for The Villas at Shorewood Village, which will now be known as Walnut Grove, and for two duplexes at 20325 Excelsior Boulevard, which will be called Excelsior Woods.

7. ADJOURNMENT

Riedel moved, Huskins seconded, adjourning the Planning Commission Meeting of May 4, 2021, at 8:52 P.M. Roll Call Vote: Ayes – all. Motion passed 5/0.



CITY OF
SHOREWOOD

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MEMORANDUM

TO: Planning Commission, Mayor and City Council

FROM: Marie Darling, Planning Director

MEETING DATE: June 1, 2021

REQUEST: Conditional Use Permit and Variances to construct a New Home

APPLICANT: Tod and Bonnie Carpenter

LOCATION: 26050 Birch Bluff Road

REVIEW DEADLINE: September 11, 2021

LAND USE CLASSIFICATION: Low Density Residential

ZONING: R-1C/S

FILE NUMBER: 21.09

REQUEST:

The applicant requests the following to construct a new home:

- a conditional use permit to import 500 cubic yards of fill where 100 cubic yards is allowed without a conditional use permit
- a variance to allow the house to be 40.6 feet in height where a maximum of 35 feet is allowed without a variance
- a variance to allow 25.74 percent impervious surface coverage where a maximum of 25 percent is allowed without a variance

Notice of the public hearing for the Conditional Use Permit was published in the official newspaper at least 10 days prior to the meeting. Notice of both the conditional use permit and the variances were mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.



BACKGROUND

Context: The existing home was constructed around 1973. The lot was created as part of the Birch Bluff Upper Minnetonka subdivision recorded in 1881. The lot abuts Lake Minnetonka to the north and the property is within shoreland district and has floodplain below the 931 elevation. The lowest floor elevation of the home is required to be a minimum of three feet above the ordinary high water level (OHWL) of Lake Minnetonka (929.4).

The adjacent properties are all developed with single-family homes and zoned R-1C. The property contains mature trees and is subject to the City's tree preservation policy.

Applicable Code Sections:

Chapter 1201.03 Subd. 8. of the zoning regulations specifies that land reclamation includes depositing of 100 cubic yards or more of fill on any lot or parcel. The regulations also include requirements that the CUP include language on the type of fill, program for general maintenance of the site, controls of vehicular ingress and egress and for the control of material disbursed from wind or hauling of material to or from the site.

Chapter 1201.12 of the zoning regulations states that the maximum building height is 35 feet or 2.5 stories, whichever is less. Chapter 1201.26 Subd. 5 (6) states that the maximum building height is 35 feet.

The definitions of building height both before and after the recent code amendments are attached to this staff report.

Chapter 1201.03 Subd. 2.u. of the zoning regulations states that the maximum amount of impervious surface coverage on properties within the shoreland district is 25 percent of the lot area.

ANALYSIS

The applicants' narrative is attached and indicates that they propose to remove the home from the lot and reconstruct a new home on the property. The narrative indicates that the home design necessitates the variances because the homeowners are above average height and are designing the home to accommodate their height on all floors. Additionally, they want to have a main floor master suite and including that feature widened their design and increased the impervious surface coverage.

Storm Water Management:

Impervious Surface Coverage:

	Max. Allowed	Existing	Proposed
Impervious Surface	25%	17.37%	±25.74%*

*Variance Requested and discussed below.

Rate Control:

The applicants have shown that he will provide an underground vault to provide the necessary rate control for the stormwater run-off. The City Engineer has reviewed the application and has some review comments, which are attached. Staff recommend a condition that the Engineer's comments be satisfied prior to issuance of a building permit.

Tree Preservation:

The applicants' plans indicate that at least 13 trees on the property would be removed to accommodate the home. Based on the City's tree preservation policy, at least four trees would be required to be replanted. Their landscaping plan doesn't include a planting schedule or identify the plant materials and staff can't confirm the number of trees proposed to be planted. As a result, staff recommend the applicant amend their plan to show the required trees.

Conditional Use Permit Criteria:

To accommodate their house design, the applicants have proposed to import 500 feet of fill to construct a building pad and raise the elevation of the garage courtyard to accommodate the taller ceilings proposed for the area below the garage.

Conditional use permit applications for fill are subject to both the general conditions in 1201.04 Subd. d. (1) of the zoning regulations as well as the specific requirements listed in 1201.03 Subd. 8. Below is a summary of the specific requirements for grading operations:

- Haul Route: The applicants have indicated that the haul route would be from Highway 7 to the site using Eureka Road.
- Duration: It would take 2-3 days to bring in the necessary fill.
- Dust control: The applicants would water the site as needed to reduce dust from the operation.
- Street Sweeping: The streets would be cleaned each day during the grading and filling operation and at least once a week during the remaining construction period.
- Construction Management Plan: The applicants are required to submit a construction management plan consistent with City Code, indicating hours of operation, reiterating the street sweeping indicated above, indicating where contractors would park during the construction process and how deliveries would occur without blocking the street.
- Restoration: The applicants must restore the site with ground cover within seven days after grading is complete.

Variance Criteria:

The applicants have proposed two variances: one to allow the house to be 40.6 feet in height and another to allow 25.74 percent impervious surface coverage.

Section 1201.05 subd.3.a. of the zoning regulations sets forth criteria for the consideration of variance requests. These criteria are open to interpretation. Staff reviewed the request according to these criteria as follows:

1. *Intent of comprehensive plan and zoning ordinance:* The property owner would continue to use the property for residential purposes and proposes no uses on the site that would be inconsistent with either the intent of the residential land use classification or the district's allowed uses.
2. *Practical difficulties:* Practical difficulties include three factors, all three of which must be met. Staff finds that the practical difficulties for the property are related to the topography.
 - a. *Reasonable:* The applicants has proposed reasonable residential uses on the property.

- b. *Unique Situation vs. Self-Created:* The applicants point out that due to their height, they need the extra ceiling height on all three levels. This aspect of their design is a unique situation. However, there is an element of self-created hardship with this application because any time a new home is being designed, there are code constraints that need to be considered. The applicants point to a recent code amendment as a constraint, however, that code change resulted in no difference to the way homes are measured, see the attached definition change.
- c. *Essential Character:* The amount of impervious surface coverage over the allowed amount of 25 percent is about 159 square feet and is unlikely to alter the essential character of the area, especially considering the rate and volume control provided by the proposed vault. The height is a more challenging aspect of the request and would be more noticeable. In an existing neighborhood, the taller height could alter the essential character of the area. The city has long used impervious surface coverage, height restrictions and setbacks to control the bulk of structures and massing on properties.



3. *Economic Considerations:* The applicants have not proposed the variance solely based on economic considerations, but to provide the home that suits their family's needs.

4. *Impact on Area:* The property owner is not proposing anything that would impair an adequate supply of air to an adjacent property, increase the risk of fire, or significantly increase the impact on adjacent streets. Regarding solar access, the applicants have submitted additional graphics and a video showing the solar impact on the adjacent homes. The applicants' architect has found that the additional five feet in height results in a difference of 11 minutes of shadow on the longest day of the year. After reviewing these materials, staff concludes the solar impact is not substantial.

10:41 a.m. as proposed



5. *Impact to Public Welfare, Other Lands or Improvements:* The applicants propose to mitigate any impact from the additional impervious surface coverage by providing a subsurface vault that provides rate and volume control and encourages infiltration. Staff recommend a condition that the area where the vault is to be installed be protected from compaction during the delivery of material to the site.
6. *Minimum to Alleviate Practical Difficulty:* The request for the increase in impervious surface coverage with the provision of the vault to mitigate impervious surface coverage is the minimum

necessary to alleviate the practical difficulties. The height request is more challenging as it directly impacts the tools used to regulate massing and bulk on residential properties. This applicants have documented a need for taller ceilings and on the basis of that personal request, staff finds the request is the minimum necessary to alleviate that practical difficulty for that reason.

RECOMMENDATION

Staff recommends approval, subject to the list of conditions shown below, but acknowledges that the conditional use permit criteria and variance criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise.

Should the Planning Commission recommend approval of the requests, staff recommends that the applicants be required to:

- 1) Acquire all necessary permits prior to construction.
- 2) Prior issuance of the building permits, provide the following consistent with City Code, City policies and the Engineer's memo dated May 24, 2021, and as follows:
 - a. Submit a revised survey that includes: 1) the lowest floor elevation for the home at least three feet above the OHWL of Lake Minnetonka; 2) includes any easements on the property; 3) any storm sewer or drain tile on the property that crosses under Birch Bluff Road; and 4) removes any retaining walls from the public right-of-way or any drainage and utility easement along the side property lines.
 - b. Submit a revised landscaping plan indicating trees to be replanted in conformance with the tree preservation policy.
 - c. Submit an executed storm water management agreement and a permit from the Minnehaha Creek Watershed District.
 - d. Submit a construction management plan addressing contractor parking, dust control, street sweeping, hours of operation, etc., the approved truck route and reference to the erosion control plan.
 - e. Submit a soils report from a licensed professional engineer with the building permit application that indicates the soils on the site and the compaction are adequate to support the construction of the structures.
- 3) The applicants shall protect the area where the vault is to be installed from compaction during the delivery and initial grading of the site.
- 4) The applicants shall restore all disturbed portions of the property with slopes no steeper than 3:1.
- 5) The applicants shall restore ground cover within seven days after grading is completed.
- 6) During the initial delivery of fill and in dry periods, the exposed dirt shall be sprayed with water to control dust.
- 7) The truck route used to access the site shall be along Eureka Road between Highway 7 and Birch Bluff Road.

ATTACHMENTS

Location map

Definitions related to building height

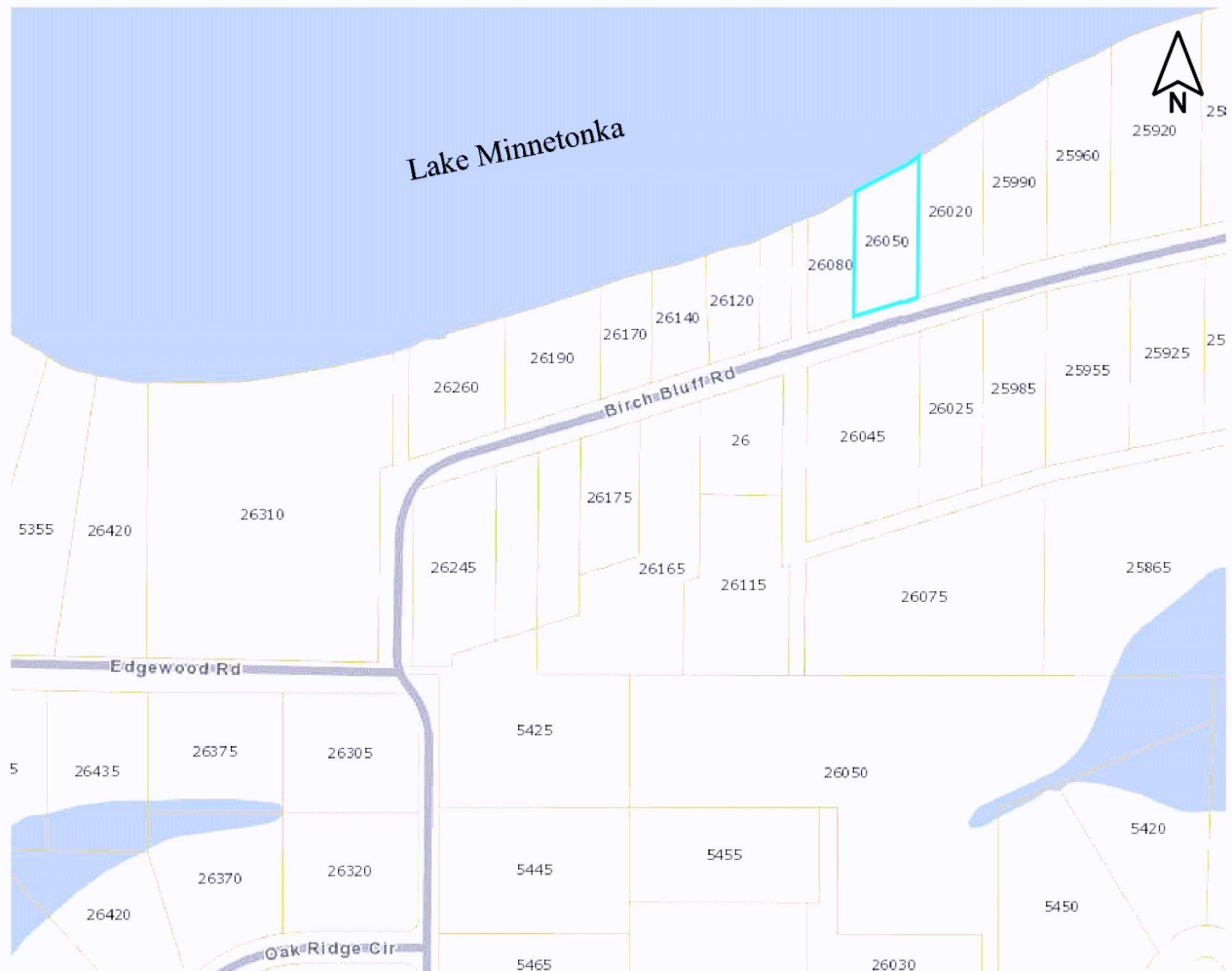
Engineer's memo

Applicants' narrative and plans

Applicants' supplemental narrative related to height

Correspondence received

26050 Birch Bluff Road Location Map





MEMORANDUM

Date: 5/24/2021
To: Marie Darling, Planning Director
From: Matt Bauman, PE
Subject: 26050 Birch Bluff Road CUP and Variance Request
City of Shorewood
Project No.: 0C1.123603

The following documents were submitted for review of compliance with the City of Shorewood's City Code, Local Surface Water Management Plan and Engineering Standards:

- Conditional Use Permit Narrative, revised dated May 11, 2021
- Proposed Site Plan, Grading and Erosion Control Plan revised dated May 13, 2021
- Stormwater Management Plan and HydroCAD models dated April 19, 2021
- Soils Report dated April 15, 2021
- Certificate of Survey revised dated January 4, 2021

This review only included the documents listed above, primarily dealing with grading, modelling and stormwater management and CUP and Variance requests.

1. Remove proposed improvements from the Existing Conditions Certificate of Survey page 1 of 2 (stormwater chambers).
2. All grading in City right of way must be done without the use of retaining walls.
3. Include the building elevations on the proposed grading plan.
4. Include top and bottom elevations of retaining walls on the plan. Walls over 4' tall will need to be designed by a registered engineer.
5. Ensure adequate fall protection for the retaining walls.
6. City water is not available to this lot so a well will be required.
7. An existing tile line runs along the west property line that will need to be protected or replaced during construction.
8. Based on the soil data provided it appears the majority of the site is HSG B soil, but conservatively modelled as HSG C.
9. The property must meet the City of Shorewood Surface Water Management Plan Regulations (Section 5.3). The proposed plan meets these regulations, with a few clarifications needed.
 - a. Provide the minimum building opening elevation and verify that it is 3.0 feet above the proposed 100-year HWL for the underground storage. However, if 3.0 feet is a hardship, 2.0 feet will be acceptable if the following conditions are met:
 - i. That, within the 2-foot freeboard area, stormwater storage is available which is equal to or exceeds 50% of the stormwater storage currently available in the basin below the 100-year elevation.

- ii. That a 25% obstruction of the basin outlet over a 24-hour period would not result in more than 1.0 feet of additional bounce in the basin.
 - iii. An adequate overflow route from the basin is available that will provide assurance that one foot of freeboard will be maintained for the proposed low building opening.
 - b. Provide additional details of the underground storage chamber design, and outlet pipe design with future submittals to verify modelling assumptions.
 - c. Verify that there is at least 3.0 feet of separation from the bottom of the infiltration chamber to the groundwater elevation. This should be confirmed with a soil probe prior to issuance of building permit due to using a structural underground storage system, which is more expensive to modify during construction than an infiltration/filtration basin.
10. It is unclear from the plans how a portion of the site drains south. If a pipe exists under Birch Bluff Road, this should be shown and labeled in the plans.
- a. Proposed grading shows creating an isolated low point east of the proposed driveway that should be regraded if this is not a pipe inlet.
11. The HydroCAD modelling assumes all runoff from the house is directed to the underground storage basin. Applicant shall provide detail that gutters and spouts are sized for the 100-year storm event or update the proposed modelling for a portion to bypass and directly runoff to the west.
12. Update the Stormwater Management Plan South drainage Proposed Condition runoff rate for the 10-year event to 0.24 cfs.
13. Owners of private stormwater facilities shall enter into an agreement with the City describing responsibility for the long-term operation and maintenance of the stormwater facilities and shall be executed and recorded with building permit application. An operations and maintenance plan for the proposed stormwater system should be included with future submittals.
- a. A sample plan is attached.
14. A permit will be required with Minnehaha Creek Watershed District for Erosion and Sediment Control.

Definitions Pertaining to Building Height

From Chapter 1201.02 of City code

Previous Definitions for Height:

BUILDING HEIGHT. A distance to be measured from the average land grade to the top of a flat roof, to the mean distance (between eaves and peak) of the highest gable on a pitched or hip roof, to the roof deck line of a mansard roof, to the uppermost point on all other roof types.

GRADE (AVERAGE LAND GRADE). The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or when the property line is more than five feet from the building, between the building and a line five feet from the building.

New definition of Height:

BUILDING HEIGHT. A distance to be measured from the lowest land grade to the top of a flat roof, to the mean distance (between eaves and peak) of the highest gable on a pitched or hip roof, to the roof deck line of a mansard roof, to the uppermost point on all other roof types. The lowest land grade shall mean the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or when the property line is more than five feet from the building, between the building and a line five feet from the building.

April 17, 2021

Dear Mayor, City Council, City Planner and Planning Commission of Shorewood:

We, Tod and Bonnie Carpenter, are the new owners of the property located at 26050 Birch Bluff Road, Shorewood, Minnesota 55331. We respectfully request a variance to the hardcover allowance on our property for 1.84% or 395.5 square feet - our proposed rain-water runoff mitigation/infiltration system reduces our effective hardcover to 7.09%, significantly lower than the requisite 25%, as shown on the supporting documents. Also, due to the recent clarification in height restrictions, we are requesting to be held to the interpreted standard that was in place on December 29, 2020 upon purchase of the lot and January 12, 2021 - met on site w/KHP along with Peter Eskuche, and subsequent design commencement with Eskuche Design Group.

Current situation

We have been Minnesota residents for the past 27 years. We are both in our early 60's and are planning our retirement years. We have 3 children and 4 grandchildren- 3 boys and 1 princess - and one on the way (boy) We are a tall family. I am 6'7" and my wife 5'10" with 2 of 3 children 6'2 or taller, including our daughter, and so far, 2 of our grandchildren projected to be at least 6'9". With a tall and continuing to grow family, we decided a larger space would help family gatherings and enhance our retired years. Grandchildren and a lake experience appeal to us. After looking at several homes for sale we concluded we would like to build rather than buy an existing home and that Shorewood's expansive lake views and all the city offered were our preferred choice. In short, we decided to build our dream and ultimately "toe tag" home in Shorewood on Lake Minnetonka. We entered contract to buy the property in December 2020 and became owners in February 2021. We look forward to gatherings with friends, but mostly, with our family.

Important question responses

- 1) The variance, and its resulting construction and use, is consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of the zoning regulations.**

We are not seeking excessive permissions outside the normal expectations around construction and use of a lakeside single-family residence. What we aim to accomplish is very much in harmony with the intent of the zoning regulations.

2) Practical difficulties:

- (a) Hardcover: Like most of us, as we age into and through our retirement years, we want to go about our day-to-day living on a single level of our home while providing space for visiting family, friends and guests. Having our master bedroom suite on the main level along with our intended entertaining spaces is part of this design. This one-level living has caused the footprint to expand

outside the maximum allowable hardcover limits on this narrow lot. The water run-off mitigation system we have proposed brings the effective hardcover to 7.09%, well below the maximum allowed. All of our proposed uses are reasonable and within normal expectations of a lake front property. All set-backs will be complied with.

- (b) Height: As we searched for a property that would afford us the lifestyle we desired as we enter and age through our retirement years, we decided upon this lot and the possibilities it presented. We purchased the lot and designed the home to meet our desired current and future lifestyle. As we worked with our Architect to design our dream home, it was discovered that a zoning rule defining the point at which the overall building height is measured from was administratively clarified, and average grade had been defined as "the lowest point of elevation of the finished surface of the ground....or sidewalk, within 5' from the building." This resulted in our newly designed home being approximately 5' taller than the allowed maximum. (Shorewood Ordinance 575, modified January 7, 2021.) This has a dramatic negative impact on the design we have developed, which was within the presumed allowed maximums given our understanding of the word "average". Neither we, nor our Architect, were aware of this recent clarification. If this had been known, we may have chosen a different lot on which to build.

As I previously noted, we have a tall family, the design takes that into consideration, we have 9' ceilings in the Lower Level, 10'-6" ceilings on the main level and 9' ceilings with sloping ceilings in the dormered areas, a living in the roof effect. We have also designed an architecturally congruent design that is traditional in nature and patterns itself into a practical shingle style lake home. The way in which the newly revised height restriction reads would preclude us from having much of a sloped roof, which takes away all the character and aesthetically correct scale and form that a shingle style home would normally portray. When one calculates the 3 levels of design as I have noted above along with the idea of adding a ceiling to floor dimension between floors of 2' you end up at 32.5 feet in height and we do not have a roof on the home yet. It is our belief that the intention of the ordinance was not to cause nearly flat roofed homes or homes to not be able to accomplish a walk-out Lower Level unless one has a flat roof. We hope that the practical understanding of the function and the architectural form would be allowed to play out to cause the home to be used as intended inside with ceilings that make sense for the occupants and for the design to be able to play out in the beauty of the style we and our architect have chosen to pursue. We hope that you agree that what we are doing is not outside of the norm.

- (c) None of our proposed variances will have any negative effect on our neighbors, the surrounding area or the general public. Our proposed new home will beautify and enhance the aesthetics and value of our neighborhood.

- 3) The variance would not be based exclusively on economic considerations:

Our requested variances are not at all economically based. Our only basis for these requests is to accommodate our intended current and future use and lifestyle.

- 4) The variance shall not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion on the public street or increase the danger of fire or endanger the public safety.

Our requested variances will have no negative impact on our neighbors, the City of Shorewood or the general public.

- 5) The variance, and its resulting construction project, would not be detrimental to the public welfare, nor would it be injurious to other lands or improvements in the neighborhood.

Our requested variances will have no negative impact on our neighbors, the City of Shorewood or the general public.

- 6) The variance is the minimum variance necessary to address or alleviate the practical difficulties.

Our requested variances do not exceed that which is necessary to accommodate our desired current and future lifestyle and is only what is needed to alleviate the practical difficulties as outline above.

We appreciate your attention and consideration to our variance request. We hope our explanation and request meets your approval and is subsequently granted authority to proceed.

Respectfully submitted,

A handwritten signature in black ink, reading "Tod E. Carpenter". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Tod Carpenter

KYLE HUNT & PARTNERS

I N C O R P O R A T E D

April 20, 2021, Revised May 11, 2021

Conditional Use Permit, Narrative

Re: 26050 Birch Bluff Road, Shorewood

The construction of the new home at 26050 Birch Bluff Road requires that we import approximately 500 cu. yds. of fill, in excess of the 100 cubic yards stipulated in City of Shorewood Regulation 1201.03, Sub d 8 (a) Land Reclamation.

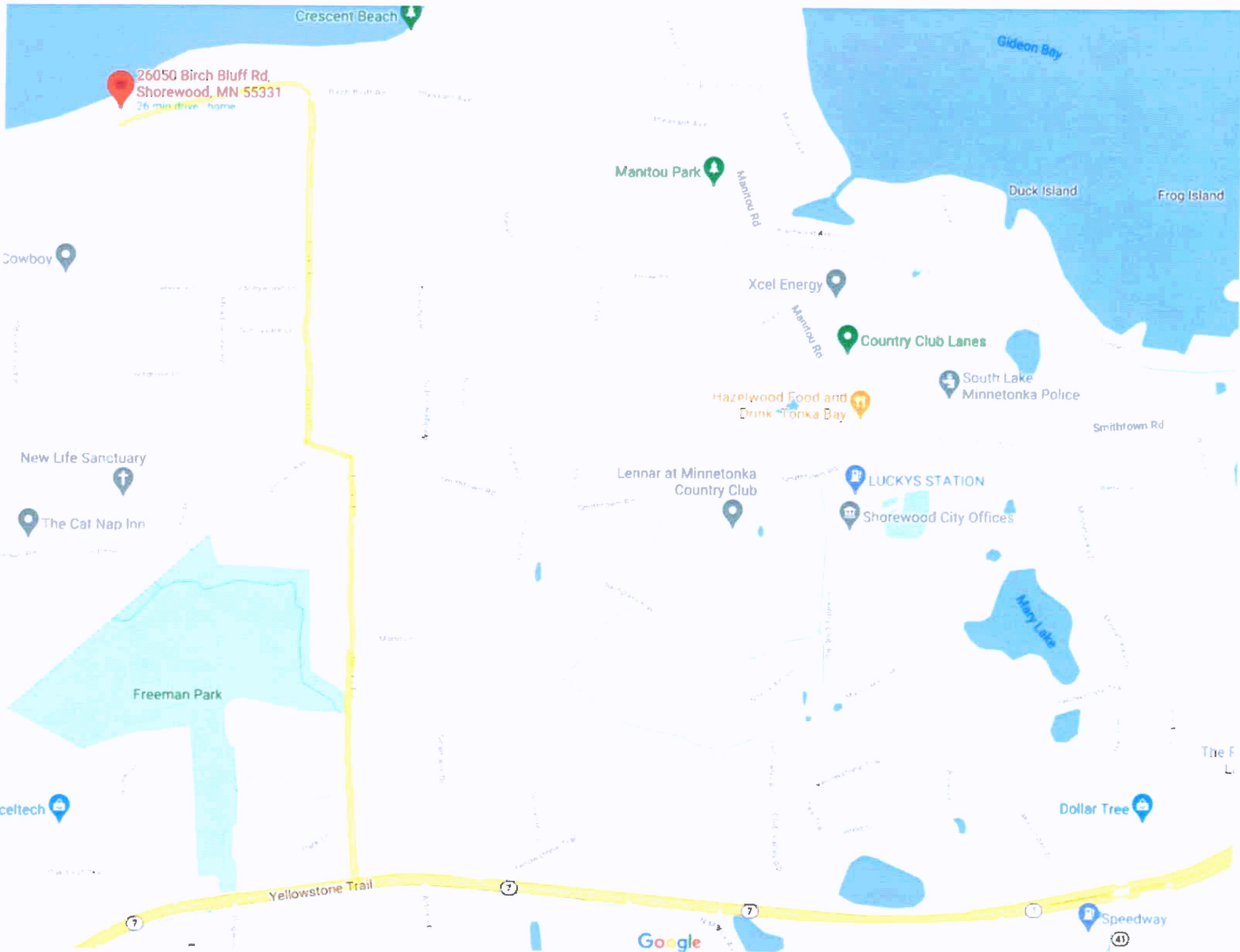
All excavation and fill activities will comply with City of Shorewood Regulation 1201.26 Sub d 7 (b) Shoreland Alteration; Grading and Filling.

The proposed fill is necessary to provide adequate foundational strata upon which to construct the new home. This fill will provide enough level ground to facilitate the proper construction of a safe, accessible driveway and a flat building pad. The fill also allows us to more closely comply with newly altered building height restrictions and helps to mitigate a depression that would be formed between our driveway and the driveway/parking area of our neighbor to the east.

1. Our proposed use is consistent with all policies and provisions.
2. Our proposed use will not depreciate or in any way negatively impact the surrounding area.
3. Our proposed use will have no negative impact upon any City of Shorewood capacities or services.
4. Our proposed use will have no negative impact upon any general public welfare or safety.
5. Our proposed use will be compliant with all applicable City of Shorewood codes, regulations and ordinances.
6. Our proposed fill and grade operation will take approximately two to three days.
7. Our haul-route (highlighted illustration attached) will be Highway 7 to Eureka Road, North to Smithtown Road, West to Eureka Road, North on Eureka Road to Birch Bluff Road, west to 26050 Birch Bluff Road. This route will be used in reverse for the return trips.
8. Dust control will be maintained by manual watering on-site as needed. Streets will also be cleaned as needed at the end of day of fill and grade operations.

Thank You,

Kyle Hunt



Marie Darling

From: Brent Stevens <Brent.Stevens@kylehuntpartners.com>
Sent: Friday, May 14, 2021 11:09 AM
To: Marie Darling
Cc: Kyle Hunt; Laurie Hunt; Carpenter, Tod; Bonnie; Peter Eskuche; Jean Rehkamp Larson; Sara Stearns; Brent Stevens
Subject: Narrative Letter - Amended
Attachments: Carpenter Variance Narrative - Amended.pdf; 26050 Birch Bluff Road Site Plan Amended.pdf

Importance: High

Marie,

Attached are the narrative letter and site plan with the requested changes.

Also, below are some notes and a video link from the Architect to illustrate the shadowing of the westerly neighbors property. His work here shows there would be no appreciable difference in shadowing by lowering the roof by 5'. The neighbor would only realize 11 more minutes of sun in the mornings on the longest days of the year.

Video Link:

<https://www.youtube.com/watch?v=dsoUAAwd9AA> showing the entire day.

Language and images re: as proposed and lower by 5':

This set of visuals nails down the metric the neighbors would care most about. The difference in daylight between the proposed home and one with the roof dropped 5', all else being the same. In summary (of below) the difference is 11 minutes more sunlight with the roof dropped 5'. June is the time of year they would lose more minutes as the rest of the year the more direct southerly sunlight on the neighbor misses this proposed home height makes a marginal influence on how many more minutes of sunlight they would receive.

All of these are in June (averaged - I only have it accurate to the month, not day)

9 a.m. as proposed



10:41 a.m. as proposed



9 a.m. everything the same except roof dropped 5' (no difference in daylight)



10:30 a.m. Same everything except roof dropped 5'



Please let me know if you need anything else.

Thanks!

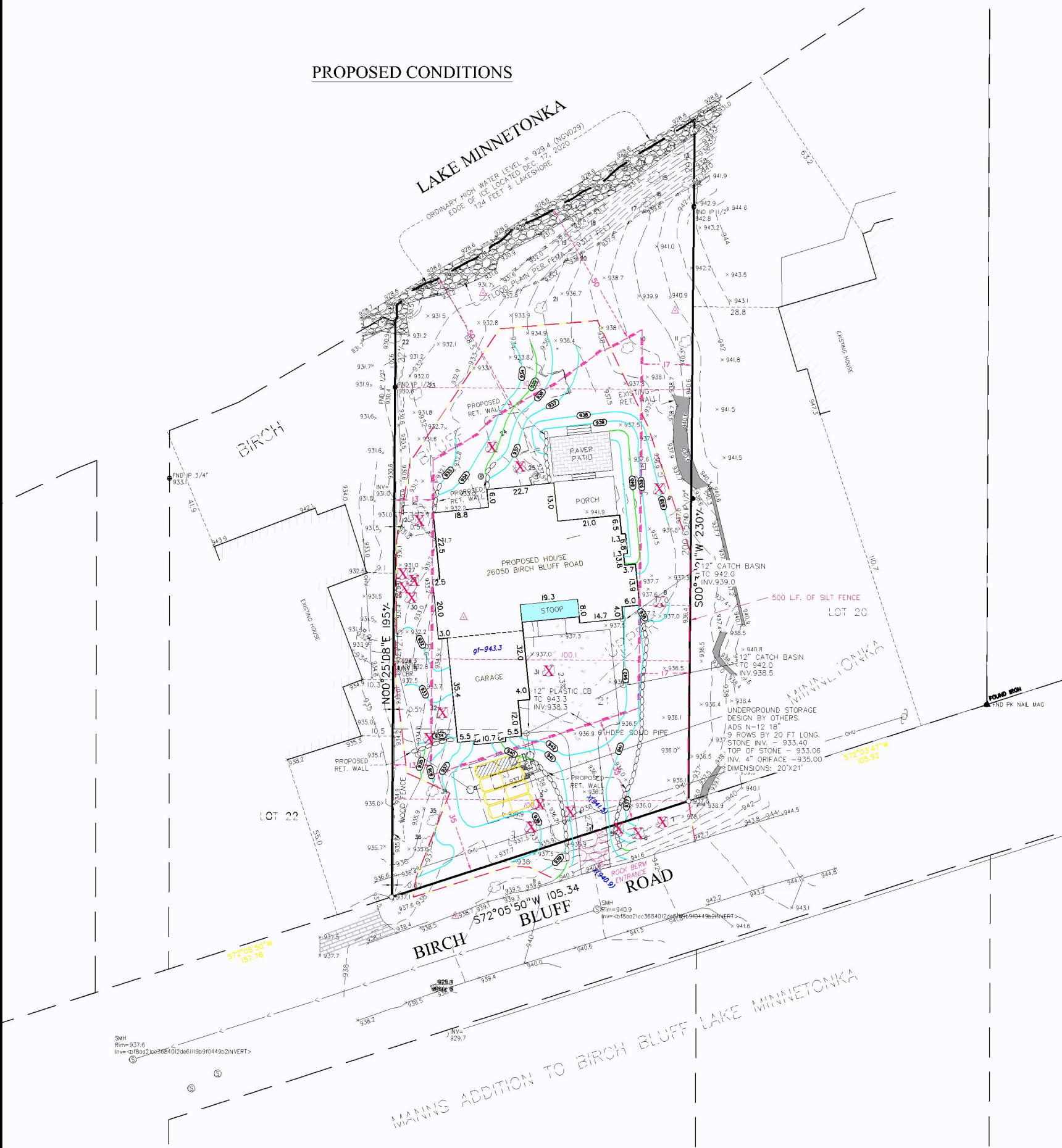
KYLE HUNT & PARTNERS

I N C O R P O R A T E D

An Uncommon Building Company

Brent Stevens
Project Manager
Kyle Hunt & Partners, Incorporated
18324 Minnetonka Boulevard
Deephaven, MN 55391
Cell: 612-437-5654
Email: Brent.Stevens@kylehuntpartners.com
Web: www.kylehuntpartners.com

PROPOSED CONDITIONS



TREE INVENTORY

Tree #	Species	DBH	Condition	Stems	Height	Significant
1	Ash, green	15.0	Good	1		Yes
2	Elm, American	10.5	Good	1		Yes
3	Walnut	12.0	Good	1		Yes
4	Maple, silver	26.5	Good	1		Yes
5	Maple, silver	61.0	Good	2		Yes
6	Elm, American	10.5	Good	1		Yes
7	Walnut	10.0	Good	1		Yes
8	Ash, green	28.0	Good	1		Yes
9	Maple, silver	42.0	Fair	1		Yes
10	Oak, red	45.0	Good	1		Yes
11	Spruce, blue	4.0	Fair	1	22	Yes
12	Maple, sugar	10.0	Good	1		Yes
13	Boxelder	22.0	Fair	1		No
14	Ash, green	10.0	Good	1		Yes
15	Elm, red	8.0	Good	1		Yes
16	Maple, sugar	11.0	Good	1		Yes
17	Maple, sugar	11.5	Good	1		Yes
18	Walnut	9.5	Good	1		Yes
19	Walnut	8.5	Good	1		Yes
20	Elm, American	12.0	Good	1		Yes
21	Maple, sugar	9.5	Good	1		Yes
22	Ash, green	9.0	Good	1		Yes
23	Maple, sugar	14.5	Good	1		Yes
24	Maple, silver	38.5	Good	1		Yes
25	Redcedar	2.5	Good	1	10	Yes
26	Maple, silver	41.5	Good	1		Yes
27	Arborvitae	2.0	Good	1	10	Yes
28	Arborvitae	2.0	Good	1	10	Yes
29	Arborvitae	2.5	Good	1	13	Yes
30	Arborvitae	3.0	Good	1	13	Yes
31	Maple, silver	14.0	Good	1		Yes
32	Maple, silver	30.0	Good	2		Yes
33	Ash, green	18.0	Good	1		Yes
34	Ash, green	20.0	Good	1		Yes
35	Spruce, white	5.0	Fair	1	34	Yes
36	Spruce, white	6.0	Fair	1	36	Yes

DESCRIPTION OF PROPERTY SURVEYED
Lot 21, Birch Bluff Upper Minnetonka

STANDARD NOTES

- Site Address: 26050 Birch Bluff Road, Shorewood, Minnesota 55331
- A title opinion was not furnished to the surveyor as part of this survey. Only easements per the record plat are shown unless otherwise denoted hereon.
- Flood Zone Information:** Zone X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown at 931.1 feet. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Maps, Community Panel No. 27053C0311 effective date of 11/04/2016.
- Parcel Area Information:** Gross Area: 21,506 s.f. +/- = 0.494 acres +/- (As measured to the Ordinary High Water Level 929.4 feet)
- Benchmark:** Elevations are based on MN/DOT Geodetic Station Name: DAVEY which has an elevation of 982.913 feet (NGVD29).
- Zoning Information:** The current Zoning for the subject property is R-1-C (Single Family) per the City of Shorewood's zoning map dated January 2017. The setback, height, and floor space area restrictions for said zoning designation are as follows:
Principal Structure Setbacks - Street(s): 35 feet
Side: 10 feet min, 35 feet from a street side
Rear: 40 feet
Lake: 50 feet (From Ordinary High Water Line)
Height: 35 feet
Hardcover: 25 percent of lot area
Please note that the zoning information shown hereon may have been amended through a city process. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site. All setback information and hardcover data for planning and design must be verified by all parties involved in the design and planning process.
We have not received the current zoning classification and building setback requirements from the insurer.
- Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.
- Verify sanitary service invert prior to any concrete work.

Existing Elevations

Garage Floor Elevation	= 938.1
First Floor Elevation	= 942.4
Walkout Elevation	= 933.9

Proposed Elevations

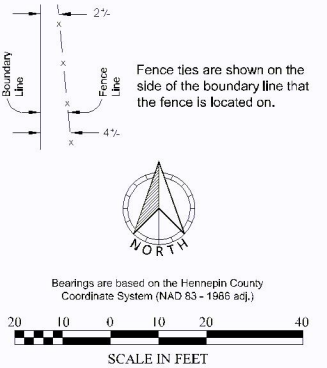
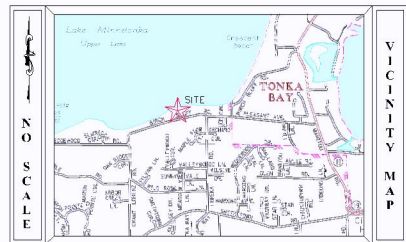
Proposed Garage Floor Elevation	= 943.3
Proposed First Floor Elevation	= 943.8
Proposed Basement Floor Elevation	= 932.4

Existing Hardcover

Lot Area	= 21,506 S.F.
House Area	= 935 S.F.
Garage Area	= 495 S.F.
Concrete Area	= 695 S.F.
Bituminous Area	= 1,611 S.F.
Total Area	= 3,736 S.F.
Coverage	= 17.37%

Proposed Hardcover

Lot Area	= 21,506 S.F.
House Area	= 2,574 S.F.
Garage Area	= 877 S.F.
Concrete Area	= 268 S.F.
Stoop Area	= 112 S.F.
Sidewalk Area	= 50 S.F.
Driveway Area	= 1,349 S.F.
Paver Patio Area	= 306 S.F.
Total Area	= 5,536 S.F.
Coverage	= 25.74%



SURVEY LEGEND

<ul style="list-style-type: none"> CAST IRON MONUMENT IRON PIPE MONUMENT SET IRON PIPE MONUMENT FOUND DRILL HOLE FOUND CHISELED "X" MONUMENT SET CHISELED "Y" MONUMENT FOUND REBAR MONUMENT FOUND PK NAIL MONUMENT SET PK NAIL MONUMENT FOUND PK NAIL W/ ALUMINUM DISC SURVEY CONTROL POINT A/C UNIT CABLE TV PEDESTAL ELECTRIC TRANSFORMER ELECTRIC MANHOLE ELECTRIC METER ELECTRIC OUTLET YARD LIGHT UTILITY PEDESTAL FIBER OPTIC MANHOLE FLAG POLE FUEL PUMP FUEL TANK PROPANE TANK GAS METER GAS VALVE GAS MANHOLE GENERATOR GUARD POST HAND HOLE MAIL BOX 	<ul style="list-style-type: none"> PIEZOMETER POWER POLE GUY WIRE ROOF DRAIN LIFT STATION SANITARY MANHOLE SANITARY CLEANOUT STORM MANHOLE STORM DRAIN CATCH BASIN FLARED END SECTION TREE CONIFEROUS TREE DECIDUOUS TREE CONIFEROUS REMOVED TREE DECIDUOUS REMOVED TELEPHONE MANHOLE TELEPHONE PEDESTAL UTILITY MANHOLE UTILITY PEDESTAL UTILITY VAULT WATERMAIN MANHOLE WATER METER WATER SPIGOT WELL MONITORING WELL CURB STOP GATE VALVE HYDRANT IRRIGATION VALVE POST INDICATOR VALVE SIGN SOIL BORING 	<ul style="list-style-type: none"> WOE WALKOUT ELEVATION FFE FIRST FLOOR ELEVATION GFE GARAGE FLOOR ELEVATION TOF TOP OF FOUNDATION ELEV. LOE LOWEST OPENING ELEV. CONCRETE BITUMINOUS BUILDING SETBACK LINE CABLE TV CONCRETE CURB CONTOUR EXISTING CONTOUR PROPOSED GUARD RAIL DRAIN TILE ELECTRIC UNDERGROUND FENCE FO FIBER OPTIC UNDERGROUND GAS UNDERGROUND OVERHEAD UTILITY TREE LINE SANITARY SEWER STORM SEWER TELEPHONE UNDERGROUND RETAINING WALL UTILITY UNDERGROUND WATERMAIN RAILROAD TRACKS RAILROAD SIGNAL RAILROAD SWITCH SATELLITE DISH WETLAND BUFFER SIGN BEOTES SUMP PUMP
---	---	--

FIELD CREW	NO.	BY	DATE	REVISION
DM AK	1	DLS	1/4/2021	CONVERTED TO 1 FT CONTOURS
DRAWN	2	DLS	5/11/2021	ADDED EROSION CONTROL
SDR	3	TS	5/13/2021	HOUSE ROTATED
CHECKED				
DLS				
DATE				
12/19/2020				

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

Dated this 29th day of December, 2020.

Daniel L. Schmidt

Daniel L. Schmidt, PLS
schmidt@sathre.com
Minnesota License No. 26147



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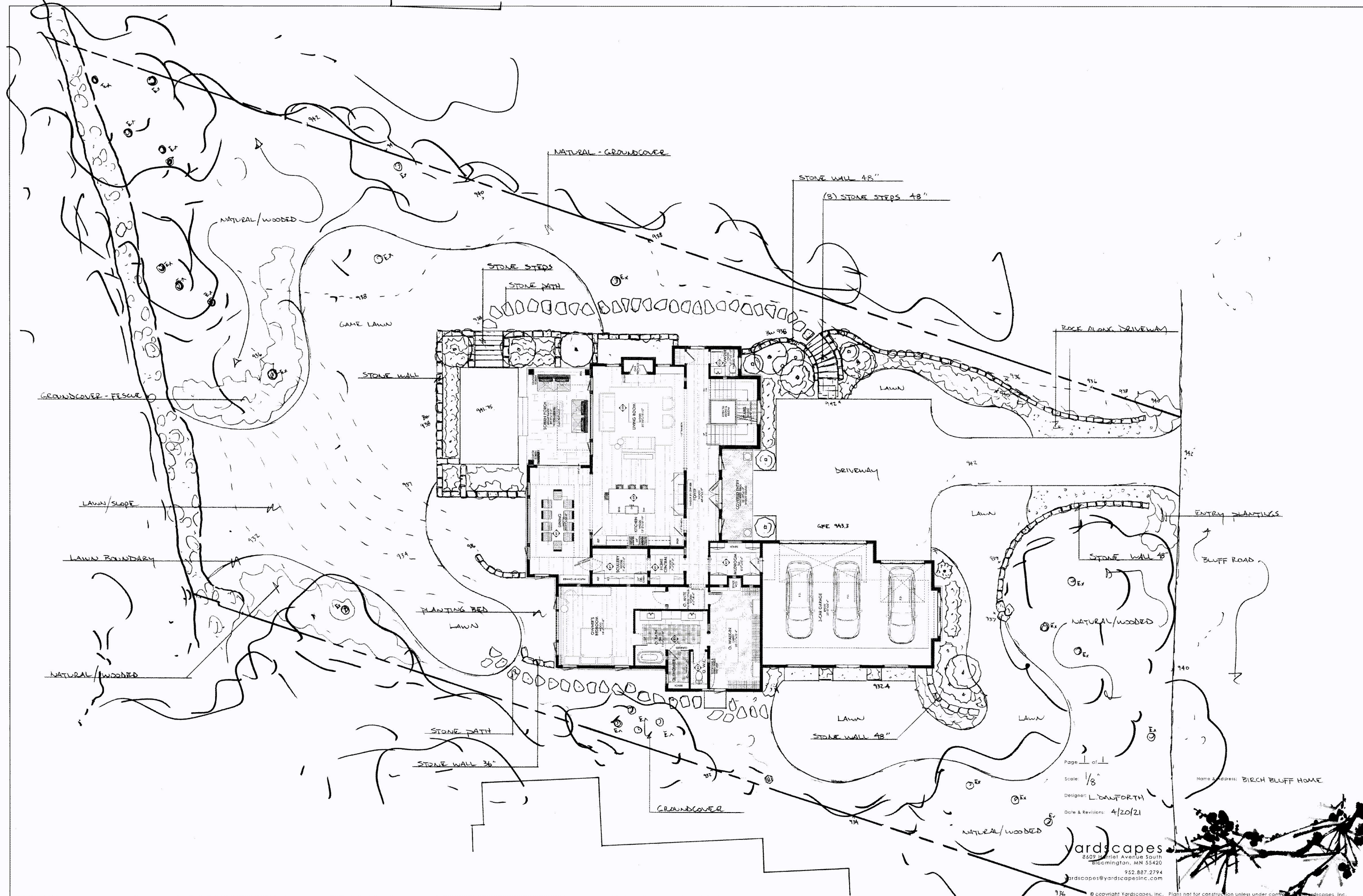
TWP:xxx-RGE:xx-SEC:xx
xxxxxx County
SHOREWOOD, MINNESOTA

PROPOSED SITE PLAN, GRADING AND EROSION CONTROL PLAN
PREPARED FOR:
KYLE HUNT & PARTNERS

FILE NO.
4930-040

2

2



Page 1 of 1

Scale: 1/8"

Designer: L. DANFORTH

Date & Revisions: 4/20/21

Name & Address: BIRCH BLUFF HOME

yardscapes
8609 Harriet Avenue South
Bloomington, MN 55420
952.887.2794
yardscapes@yardscapesinc.com

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BIRCH
BLUFF

26050 BIRCH BLUFF RD
SHOREWOOD MN
55331

VARIANCE SET
14 APRIL 2021

SHEET

A4



BIRCH
BLUFF

26050 BIRCH BLUFF RD
SHOREWOOD MN
55331

VARIANCE SET
14 APRIL 2021

SHEET

A5



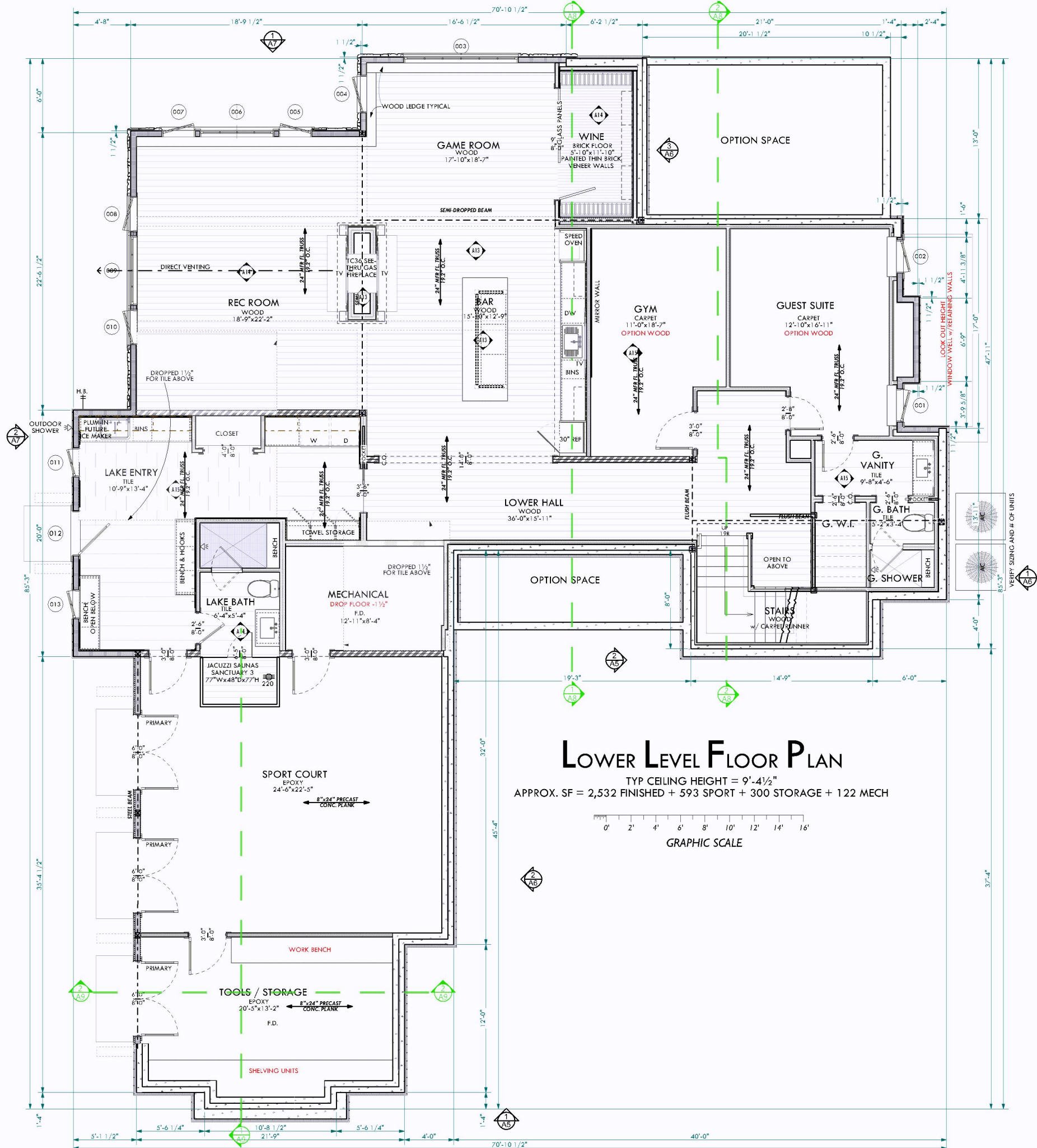
BIRCH BLUFF

26050 BIRCH BLUFF RD
SHOREWOOD MN
55331

CLIENT MEETING
11 MARCH 2021
PROGRESS SET
05 APRIL 2021
06 APRIL 2021
22 APRIL 2021
07 MAY 2021

SHEET

A1



LOWER LEVEL WINDOW & DOOR SCHEDULE							
MARK	UNIT	QTY	WIDTH	HEIGHT	JAMB	HEADER HEIGHT	REMARKS
001	CASEMENT	1	2'-8"	4'-11 1/8"		8'-0 1/2"	EGRESS
002	CASEMENT	1	2'-8"	4'-11 1/8"		8'-0 1/2"	EGRESS
003	IN-SASH FIXED	1	9'-3 3/8"	1'-11 1/8"		8'-0 1/2"	
004	CASEMENT	1	3'-0"	4'-11 1/8"		8'-0 1/2"	
005	CASEMENT	1	2'-8"	4'-11 1/8"		8'-0 1/2"	
006	IN-SASH FIXED	1	8'-0"	4'-11 1/8"		8'-0 1/2"	
007	CASEMENT	1	2'-8"	4'-11 1/8"		8'-0 1/2"	
008	CASEMENT	1	2'-10"	4'-11 1/8"		8'-0 1/2"	
009	IN-SASH FIXED	1	5'-7"	4'-11 1/8"		8'-0 1/2"	
010	CASEMENT	1	2'-10"	4'-11 1/8"		8'-0 1/2"	
011	CASEMENT	1	2'-4"	3'-11 1/8"		8'-0 1/2"	
012	SWING DOOR	1	3'-6"	7'-11 1/2"		8'-0"	
013	CASEMENT	1	2'-4"	3'-11 1/8"		8'-0 1/2"	

GENERAL NOTES:

-BEAMS ARE BOTTOM FLUSH UNLESS INDICATED AS "DROPPED"

-DIMENSIONS AT INTERIOR ARE CENTER TO CENTER INCLUDING 1/2" GYP. BD. EA. SIDE OF STUD (UNLESS NOTED F.F. FINISH TO FINISH)

-DIMENSIONS AT EXTERIOR ARE TO FACE OF FRAMING

INTERIOR CEILING HEIGHTS INDICATED ON PLAN ARE APPROXIMATE, SEE SECTIONS FOR EXACT HEIGHTS

-REFER TO SHEETS S1-S2 PROVIDED BY STRUCTURAL ENGINEER FOR ADDITIONAL NOTES & DETAILS

INTERIOR DOORS TO BE FRAMED 6" FROM INSIDE CORNER UNLESS DIMENSIONED OTHERWISE

- 2X4 FUR WALL W/ STUDS @ 19.2" O.C. & 1/2" AIR SPACE BETWEEN FND. WALL & STUDS W/ 1/2" GYP. BOARD ONE SIDE
- INTERIOR WALL W/ STUDS @ 16" O.C. & 1/2" GYP. BOARD BOTH SIDES
- INTERIOR BEARING WALL W/ STUDS @ 16" O.C. W/ HORIZONTAL BLOCKING BETWEEN STUDS & 1/2" GYP. BOARD BOTH SIDES
- EXTERIOR WALL W/ STUDS @ 16" O.C. W/ 1/2" SHEATHING AT EXTERIOR & 1/2" GYP. BOARD AT INTERIOR
- INSULATED WALLS IN ADDITION TO TYPICAL (EXTERIOR WALLS & PLUMBING WALLS)

WINDOW AND FULL VIEW DOOR:

(SEE SPEC FOR ADD'L INFORMATION)

MARVIN ELEVATE WINDOWS
STONE WHITE
ALUM. CLAD WOOD WINDOWS:
6-9/16" PINE JAMBS, BARE WOOD
INTERIOR, 1 1/4" OGEE SDL w/BLACK
SPACER BAR, WHITE HARDWARE,
LOW-E 366 DOUBLE PANE, HIGH
TRANSPARANCY SCREENS

MARVIN SIGNATURE DOORS
STONE WHITE
METAL CLAD WOOD DOORS:
6-9/16" PINE JAMBS, BARE WOOD
INTERIOR, 1 1/4" OGEE SDL w/BLACK
SPACER BAR, TRADITIONAL HANDLE
WITH MULTI-POINT HARDWARE,
ADJUSTABLE BLACK HINGES, LOW-
E366 DUAL PANE, BRONZE SILL &
BLACK WEATHERSTRIPPING, HIGH
TRANSPARANCY SCREENS

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TYPICAL FLOOR TRUSSES:
LIVE LOAD 40 LBS/S.F.
DEAD LOAD 20 LBS/S.F.
DEFLECTION LIVE LOAD L/480
DEFLECTION TOTAL LOAD L/360

FLOOR TRUSSES AT TILE AREAS
LIVE LOAD 40 LBS/S.F.
DEAD LOAD 25 LBS/S.F.
DEFLECTION TOTAL LOAD L/600

FLOORING MATERIAL NOTE:
PATTERNS ON FLOOR PLANS ARE
REPRESENTATION ONLY, EXACT
LAYOUT AND PATTERN TO BE
DETERMINED



STAIR INSPIRATION
BLACK TOP RAIL w/ DETAILED NEWELS
& CARPET RUNNER

MAIN LEVEL WINDOW & DOOR SCHEDULE							
MARK	UNIT	CALL NUMBER	QTY	WIDTH	HEIGHT	JAMB	REMARKS
100	3W w/ 2" MULL	1	9'-0"	5'-11 1/8"	8'-0 1/2"		CASEMENTS + IN-SASH FIXED
101	IN-SASH FIXED	1	3'-0"	5'-11 1/8"	8'-0 1/2"		
102	CASEMENT	1	3'-0"	5'-3 1/8"	8'-0 1/2"		
103	SWING DOOR	1	6'-1 1/2"	2'-11 1/2"	8'-0"		
104	CASEMENT	1	3'-0"	5'-3 1/8"	8'-0 1/2"		
105	2W w/ 2" MULL	1	5'-0"	5'-11 1/8"	9'-0 1/2"		CASEMENT, TEMPERED GLASS
106	CASEMENT	1	2'-8"	4'-11 1/8"	8'-0 1/2"		
107	CASEMENT	1	3'-0"	5'-11 1/8"	8'-0 1/2"		
108	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		
109	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		
110	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1101	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		TRANSOM
111	IN-SASH FIXED	1	9'-4"	5'-11 1/8"	6'-10 1/2"		
1111	IN-SASH FIXED	1	9'-4"	1'-11 1/8"	9'-0 1/2"		TRANSOM
112	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1121	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		TRANSOM
113	BI-FOLD DOOR	1	9'-0" x 11'-2"	8'-11 1/2"	9'-0 1/2"		3 PANELS
114	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1141	AWNING	1	2'-8"	1'-11 1/2"	9'-0 1/2"		TRANSOM
115	IN-SASH FIXED	1	9'-4"	5'-11 1/8"	6'-10 1/2"		
1151	IN-SASH FIXED	1	9'-4"	1'-11 1/2"	9'-0 1/2"		TRANSOM
116	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1161	AWNING	1	2'-8"	1'-11 1/2"	9'-0 1/2"		TRANSOM
117	CASEMENT	1	3'-0"	5'-11 1/8"	6'-10 1/2"		
1171	IN-SASH FIXED	1	3'-0"	1'-11 1/8"	9'-0 1/2"		TRANSOM
118	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1181	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		TRANSOM
119	IN-SASH FIXED	1	6'-0"	5'-11 1/8"	6'-10 1/2"		
1191	IN-SASH FIXED	1	6'-0"	1'-11 1/2"	9'-0 1/2"		TRANSOM
120	CASEMENT	1	2'-8"	5'-11 1/8"	6'-10 1/2"		
1201	AWNING	1	2'-8"	1'-11 1/8"	9'-0 1/2"		TRANSOM
121	CASEMENT	1	3'-0"	5'-3 1/8"	6'-10 1/2"		
1211	IN-SASH FIXED	1	3'-0"	1'-11 1/8"	9'-0 1/2"		TRANSOM
122	CASEMENT	1	3'-0"	5'-3 1/8"	6'-10 1/2"		
1221	IN-SASH FIXED	1	3'-0"	1'-11 1/8"	9'-0 1/2"		TRANSOM
123	CASEMENT	1	3'-0"	5'-3 1/8"	6'-10 1/2"		TEMP. GLASS
1231	IN-SASH FIXED	1	3'-0"	1'-11 1/8"	9'-0 1/2"		TRANSOM
124	IN-SASH FIXED	1	2'-0"	3'-11 1/8"	8'-0 1/2"		IN SHOWER
125	IN-SASH FIXED	1	2'-6"	4'-11 1/8"	8'-0 1/2"		BLACK OUT, DRYWALL OVER
126	CASEMENT	1	2'-0"	4'-11 1/8"	8'-0 1/2"		
127	2W w/ 2" MULL	1	5'-0"	4'-11 1/8"	8'-0 1/2"		IN-SASH FIXED
128	2W w/ 2" MULL	1	5'-0"	4'-11 1/8"	8'-0 1/2"		CASEMENTS
129	2W w/ 2" MULL	1	5'-0"	4'-11 1/8"	8'-0 1/2"		IN-SASH FIXED

GENERAL NOTES:

-BEAMS ARE BOTTOM FLUSH UNLESS INDICATED AS "DROPPED"

-DIMENSIONS AT INTERIOR ARE CENTER TO CENTER INCLUDING 1/2" GYP. BD. EA. SIDE OF STUD (UNLESS NOTED F.F. FINISH TO FINISH)

-DIMENSIONS AT EXTERIOR ARE TO FACE OF FRAMING

INTERIOR CEILING HEIGHTS INDICATED ON PLAN ARE APPROXIMATE, SEE SECTIONS FOR EXACT HEIGHTS

REFER TO SHEETS S1-S2 PROVIDED BY STRUCTURAL ENGINEER FOR ADDITIONAL NOTES & DETAILS

INTERIOR DOORS TO BE FRAMED 6" FROM INSIDE CORNER UNLESS DIMENSIONED OTHERWISE

- 2x4 FUR WALL W/ STUDS @ 19.2" O.C. & 1/2" AIR SPACE BETWEEN FND. WALL & STUDS W/ 1/2" GYP. BOARD ONE SIDE
- INTERIOR WALL W/ STUDS @ 16" O.C. & 1/2" GYP. BOARD BOTH SIDES
- INTERIOR BEARING WALL W/ STUDS @ 16" O.C. W/ HORIZONTAL BLOCKING BETWEEN STUDS & 1/2" GYP. BOARD BOTH SIDES
- EXTERIOR WALL W/ STUDS @ 16" O.C. W/ 1/2" SHEATHING AT EXTERIOR & 1/2" GYP. BOARD AT INTERIOR
- INSULATED WALLS IN ADDITION TO TYPICAL (EXTERIOR WALLS & PLUMBING WALLS)

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DEFLECTION LIVE LOAD L/480
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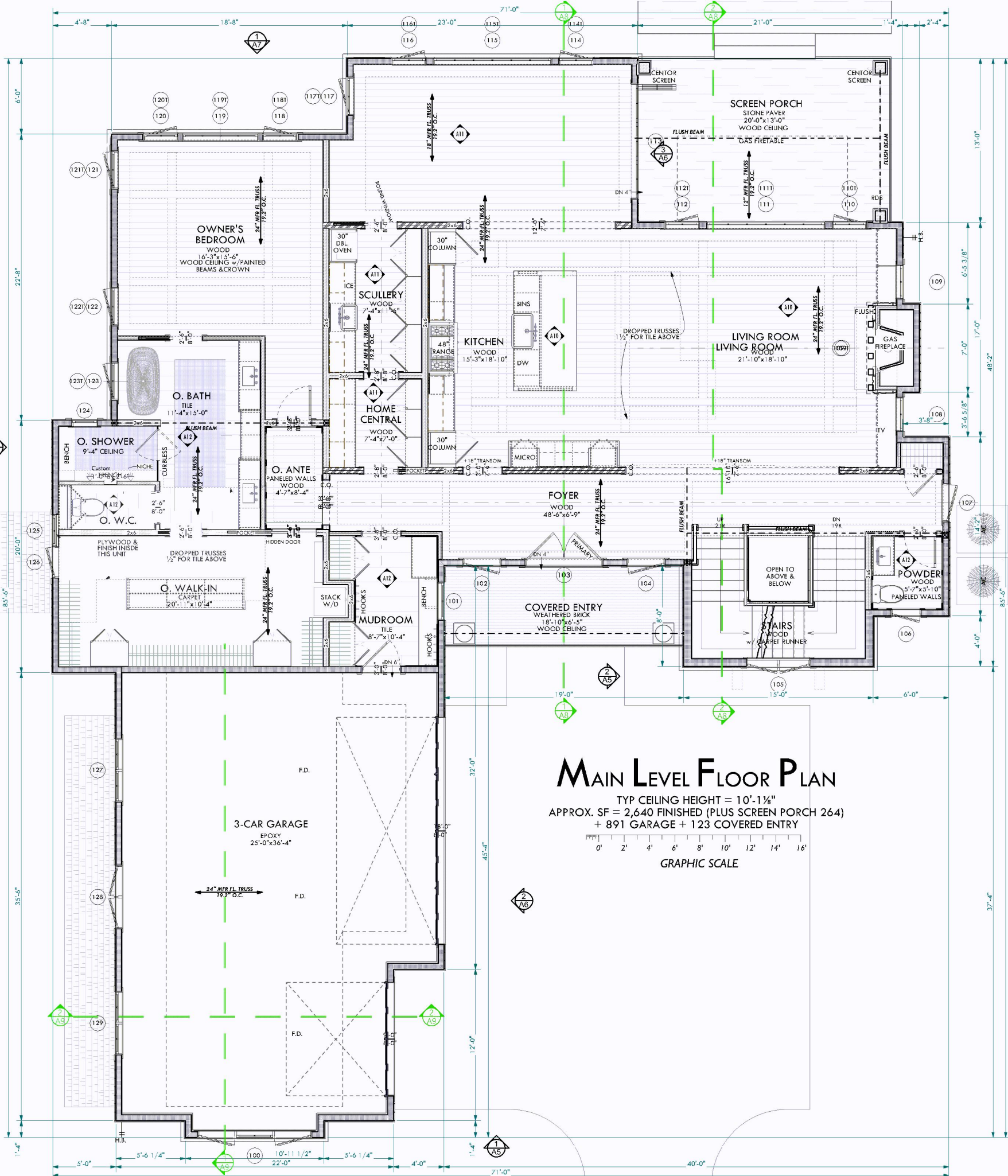
FLOOR TRUSSES AT TILE AREAS:
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DEAD LOAD 25 LBS/S.F.
DEFLECTION TOTAL LOAD L/600

WINDOW AND FULL VIEW DOOR:

(SEE SPEC FOR ADD'L INFORMATION)

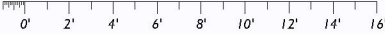
MARVIN ELEVATE WINDOWS
STONE WHITE
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INTERIOR, 1 1/8" OGEE S.D.L. w/BLACK
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TRANSPARENCY SCREENS



MAIN LEVEL FLOOR PLAN

TYP. CEILING HEIGHT = 10'-1 1/8"
APPROX. SF = 2,640 FINISHED (PLUS SCREEN PORCH 264)
+ 891 GARAGE + 123 COVERED ENTRY



GRAPHIC SCALE

BIRCH
BLUFF

26050 BIRCH BLUFF RD
SHOREWOOD MN
55331

CLIENT MEETING
11 MARCH 2021
PROGRESS SET
05 APRIL 2021
06 APRIL 2021
22 APRIL 2021
07 MAY 2021

SHEET

A2



MURPHY BED
WALL INSPIRATION

UPPER LEVEL WINDOW & DOOR SCHEDULE						
MARK	UNIT	QTY	WIDTH	HEIGHT	JAMB	REMARKS
200	2W w/ 2" MULLS	1	6'-0"	4'-7 1/8"		CASEMENTS
201	4W w/ 2" MULLS	1	10'-0"	3'-7 1/8"		IN-SASH FIXED
202	CASEMENT	1	2'-6"	4'-11 1/8"		
203	IN-SASH FIXED	1	2'-6"	4'-11 1/8"		
204	IN-SASH FIXED	1	2'-6"	4'-11 1/8"		
205	CASEMENT	1	2'-6"	4'-11 1/8"		
206	2W w/ 2" MULLS	1	5'-0"	5'-11 1/8"		CASEMENTS, TEMPERED GLASS
207	2W w/ 2" MULLS	1	7'-0"	5'-6 1/8"		CASEMENT+IN-SASH FIXED
208	6' DOOR w/ SIDELITE	1	9'-0"	7'-11 1/2"		
209	2W w/ 2" MULLS	1	7'-0"	5'-6 1/8"		CASEMENT+IN-SASH FIXED
210	2W w/ 2" MULLS	1	5'-0"	4'-11 1/8"		CASEMENTS

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DEFLECTION LIVE LOAD L/480
DEFLECTION TOTAL LOAD L/360

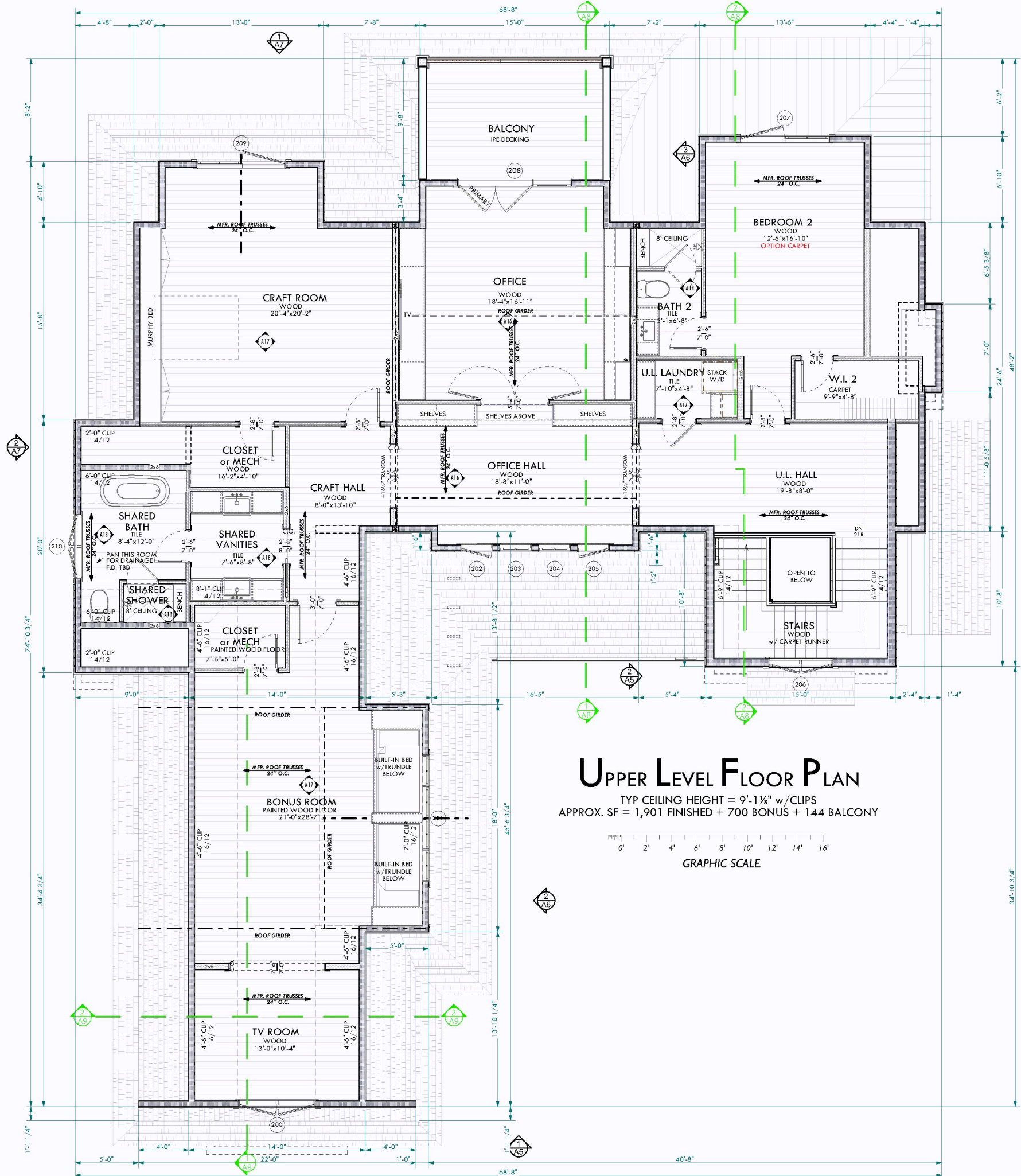
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WINDOW AND FULL VIEW DOOR:
(SEE SPEC FOR ADD'L INFORMATION)

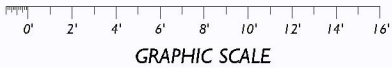
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UPPER LEVEL FLOOR PLAN

TYP CEILING HEIGHT = 9'-1 1/8" w/CLIPS
APPROX. SF = 1,901 FINISHED + 700 BONUS + 144 BALCONY



Michael and Susan Newberg
26045 Birch Bluff Road
Shorewood, MN 55331
952-292-2905

5-14-2021

It has come to our attention that the property at 26050 Birch Bluff Road has been sold and will be demolished. We also understand that the new owners have requested a variance(s) from the city.

We welcome the new owners to the neighborhood but we have just 1 important concern.

There is a drainage culvert / tile that runs North and South beginning at the North side of our property 26045 Birch Bluff Road . The drain tile runs Northward to the edge of Lake Minnetonka. The drain tile is located on the property line west of 26050 and east of 26080 Birch Bluff Road.

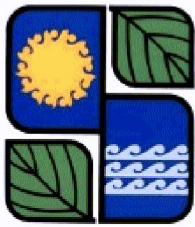
Both the south east and south west side of Birch Bluff Road drain into our front yard during rain storms and then flow out through this drain tile system. We want to make sure that both the City of Shorewood and the new owners of 26050 are fully aware of the location and the importance of making sure that the drain tile remains intact and is protected during any excavation /construction process.

This drain tile system is old and already has a restricted flow because of its age and some damage to the tile system. There is a large amount of rain water that ends up in our front yard because of topography and local hard cover. Any sand or silt that is allowed to flow into this drain tile clogs the system and causes a potential flooding issue to our property and home.

We are usually available any time to meet with the new owners of 26050, their contractors or the city of Shorewood to point out the location of the drain tile and discuss this in further detail.

We do not have any issues with their new build or their variance request as long as this drain tile system is carefully protected and sustains no damage during any excavation and construction.

Michael and Susan Newberg



CITY OF
SHOREWOOD

5755 COUNTRY CLUB ROAD, SHOREWOOD, MINNESOTA 55331-8927 • 952.960.7900
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us

MEMORANDUM

TO: Planning Commission

FROM: Marie Darling, Planning Director

MEETING DATE: June 1, 2021 (Continued from the May 4, 2021 Meeting)

RE: **Text Amendments for Political Signage**

Background

At the April Planning Commission meeting, the Commissioners gave direction on specific changes that are reflected in the attached draft ordinance. Specifically,

- The commission did not recommend increasing the distance from streets or prohibiting campaign/noncommercial speech signs from the right-of-way during the allowed election times.
- The commission recommended that the City have the same timeframe for campaign/noncommercial speech signs for those elections not included in the state primary/general election statutes.
- A commissioner asked if signs could be posted during political rallies in the park. Chapter 902.02 specifically prohibits pasting, affixing or inscribing any handbill, poster or sign within the parks, unless authorized by permit from the City Council. The chapter does not prohibit people from holding or carrying signs during an event.

Staff left in all the sign related definitions for your use while reviewing the changes. Only the definitions that will be changing will be left in the final draft of the ordinance forwarded to the Council for adoption.

Please review the attached ordinance amendments to determine if the ordinance is adequate to correct the issues with duplication and lack of clarity in the existing ordinance and if the substitution clause is adequate.

ATTACHMENTS:

Correspondence Received
Planning Commission Memorandum April 6, 2021
Minutes from Planning Commission Meeting April 6, 2021
Article from the League of Minnesota Cities
Draft Ordinance

Marie Darling

From: McDonald <p.m.mcdonald@usfamily.net>
Sent: Sunday, May 2, 2021 2:40 PM
To: Marie Darling
Subject: RE: Amendments to the Sign Regulations

Thank you for sending this information. I was unable to open the Staff Report document as it appeared to be damaged, however the minutes were readable. Just a comment regarding the setback of ten feet. Many places in the city have a drop-off or ditch close to the road that would prohibit placing any campaign signs with that amount of setback.

I have a proposal for signs that I would like the City to consider.

Since we don't have sidewalks, and we love to walk, it is important for people to be aware of traffic on the road when they are walking. Many people walk with their backs to traffic and with some kind of headphones on. If pedestrians walk facing traffic, on the left side of the road, that would enable awareness of oncoming cars. During my lifetime I've heard of people being injured, even death, because of a lack of awareness of traffic. A sign that says "Pedestrians Keep Left" would encourage awareness of safer ways to use the roadways.

Of course what I'm proposing is a traffic sign (like a No Parking sign). I hope that this is something the City of Shorewood could do to help people protect themselves.

Best Regards,
Pam McDonald

From: Marie Darling [mailto:MDarling@ci.shorewood.mn.us]
Sent: Thursday, April 29, 2021 4:24 PM
To: Marie Darling <MDarling@ci.shorewood.mn.us>
Cc: Emma Notermann <ENotermann@ci.shorewood.mn.us>
Subject: Amendments to the Sign Regulations

I was very excited to hear that you are interested in the proposed ordinance amendments. However, I wanted to let you know that I will be requesting a continuance of the review of the sign amendments to the June 1 Planning Commission meeting. The Planning Commission won't have a draft to review but they will be opening and continuing the public hearing. If you want to come and request the opportunity to speak on this topic, you can do so. You are also welcome to come to the meeting on June 1st.

The links to the May meeting will be available on the city's website late Tuesday afternoon, typically before 6:00 p.m.

Because you requested for information on what has been discussed so far, I have attached a copy of the original staff report and the minutes from the April planning commission where the amendments were discussed generally.

Please let me know if you have any questions.

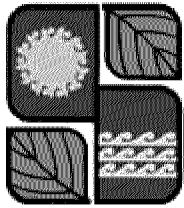
Marie Darling
Planning Director

952-960-7912
mdarling@ci.shorewood.mn.us

City of Shorewood
5755 Country Club Road

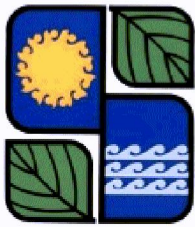
Shorewood, MN 55331

MN Data Practices Notification: Pursuant to MN Data Practices Chapter 13 all government data including email communications is presumed to be public unless there is a specific state statute, federal law, or temporary classification that classifies it otherwise.



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MEMORANDUM

TO: Planning Commission
FROM: Marie Darling, Planning Director
MEETING DATE: April 6, 2021
RE: **Text Amendments for Political Signage**

One of the priorities set by the City Council for 2021, was the review and amendment of the political sign regulations. Of concern were the number and proximity of the signs to the street throughout the city.

Background

Minnesota State Statute 211B.045 has specific language regarding noncommercial speech signs during state election years.

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

All noncommercial signs of any size may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the state general election. Municipal ordinances may regulate the size and number of noncommercial signs at other times.

During the defined time-period above, no City may limit the number or size of campaign signs.

Shorewood's sign regulations include the following regulations for political and noncommercial signs signs: (Section 1201.03 Subd. 11. b. (1) (d))

- (d) Every campaign sign must contain the name and address of persons responsible for the sign, and that person shall be responsible for its removal. Signs shall be permitted on each lot for a period of 100 days prior to and ten days after an election. All campaign signs or other noncommercial speech signs may be posted from 46 days before the state primary in a state general election year until ten days following the state general election, pursuant to M.S. § 211B.045. Signs posted both during and after this time period are subject to all other applicable requirements in this subdivision. At any time, the city shall have the right to remove signs that are prohibited under this subdivision, and assess a fee as provided from time to time by ordinance. Campaign signs or other noncommercial speech signs shall not be located closer than ten feet from any street surface, and shall not be placed in front of any property without the consent of the property owner;

This paragraph includes two standards for election signs: the required language that mirrors state statute and another standard that appears to apply to all elections, including state primaries. The City can allow a

greater period than the state required standard (but not lesser) and can have different standards that apply to school, county and municipal elections. However, having two different standards that apply to the same elections is confusing.

Also, there is no definition of noncommercial speech signs or noncommercial speech in the zoning regulations. Finally, there is no fee identified in Chapter 1300 (Municipal Fees) or the Master Fee Schedule regarding removal of signs.

Another section of the sign regulations (Section 1201.03 Subd. 11. B. (3) states:

- (3) No portion of any sign shall be located within five feet of any property line. No signs other than governmental signs and political campaign signs as provided in b.(1)(d) of this subdivision shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-way. Any unauthorized signs located in public right-of-way or on public property shall be considered abandoned and are subject to immediate removal and disposal without notice.

There is no definition of governmental signs and the term political campaign sign seems to refer to campaign signs, but with no additional definition.

Proposed Ordinance Amendments

Definitions: Staff propose to add additional definitions for noncommercial speech signs and abandoned signs. Staff also propose to change the reference of “governmental signs” to “public signs” and amend the reference of “political campaign signs” to solely “campaign signs”. Instead of campaign signs, the Planning Commission could recommend the term “noncommercial speech sign”, which is more content neutral and matches the language in state statute.

Elections: Staff propose to amend the language for elections so that the wording continues to mirror the state statute for elections with primaries, but amend the other standard so that it applies to all other elections. The length of time would be the same as indicated in the ordinance now, but where the rules apply would be clearer.

Increase the Distance from Streets: In order to increase the distance between the public street and the campaign signs, staff propose to prohibit all signs other than governmental signs from the right-of-way or 15 feet from the curb or edge of pavement, whichever is greater. Staff proposed the second setback as some streets have a very small right-of-way or the right-of-way applies to the traveled surface. There are a few streets that have extra width in the right-of-way over the standard width and this proposal would require the signs to be placed farther back. Staff also recommend that any signs placed in the right-of-way or within the allowed 15-foot setback from a roadway would be considered abandoned and the appropriate jurisdiction could remove them.

Public Lands and Public Parks: The current ordinance prohibits placing signs in public rights-of-way or on land without the permission of the adjacent property owner. As the City cannot give permission to one candidate or side of an issue without giving permission to all candidates or sides, staff recommends prohibiting noncommercial signs in parks and public lands. Further, that any signs installed on public lands or parks would be considered abandoned and the City could remove them without notice.

Responsibility for Signs: The signs are currently the responsibility of the persons that place them. That type of language was partially struck down by the MN Court of Appeals in 2006. Staff are not aware that anyone ever puts that language on a campaign sign or other noncommercial speech signs. Staff would propose that the property owner be responsible for the placement of a sign on their property.

Noncommercial Speech Signs: Under the current regulations, the signs are treated differently based on when the signs are installed, as follows:

- During an election period, the signs are treated the same as any political signs
- Outside of the election period, the signs are limited by 1) the same requirements in each district as any other signs; 2) may not be placed in the public right of way; and 3) must be installed at least five feet from all property lines

Staff propose to continue to treat noncommercial signs the same as above.

However, staff notes that there is one other issue related to noncommercial speech on signs that should be addressed. This is not related specifically to political or campaign signs. Shorewood is required to allow the substitution of any noncommercial speech for any other speech on any sign that is allowed in any zoning district. For example, a homeowner is allowed one nameplate sign. Because they are allowed a nameplate sign, they may substitute other noncommercial speech on a sign of the same size allowed for a nameplate sign, like “Black Lives Matter” or “Blue Lives Matter” or “Thank You Essential Workers.” Similarly, in a commercial district, a property owner may substitute noncommercial speech for advertising on any business sign, like replacing their business name with “Happy Easter” or “Heroes Work Here” and the city cannot prohibit or regulate the content. Because this is established law and the City would be amending the sign regulations, staff recommend including a statement to that effect in the general provisions.

How do other cities regulate signage?

Attached is a summary table of other cities’ ordinances related to political signs and campaign signs. Much of the regulations are very similar to state statute and have similar limitations. The majority of cities prohibit signs in the right-of-way.

ATTACHMENTS: Summary of other cities’ ordinances

City	Reference	Code
Shorewood	ROW	Section 1201.03 Subd. 11. B. (3) states that no signs other than governmental signs and political signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-way. There is no definition of governmental signs.
	Political Campaign Signs	Signs must contain the name and address of the persons responsible for the sign and its removal.
	Political Campaign Signs	Signs shall be permitted on each lot for a period of 100 days prior to and 10 days after an election.
	Political Campaign Signs	All campaign signs or other noncommercial speech signs may be posted from 46 days before the state primary in a state general election year until 10 days after the state general election.
	Political Campaign Signs	At any time, the city shall have the right to remove signs that are prohibited under this subdivision and assess a fee.
Mound	Political Campaign Signs	Campaign signs or other noncommercial speech signs shall not be located closer than 10 feet from any street surface and shall not be placed in front of any property without the consent of the property owner.
	Political Campaign Signs	(d) Exemptions. No permit shall be required for the following signs; provided, however, that all signs herein exempted from the permit requirements shall conform with all other requirements of this chapter:
	ROW	Campaign sign means a temporary sign posted by a bona fide candidate for political office or by a person or group promoting a political issue for a candidate.
	Political Campaign Signs	(a) No sign other than governmental unit signs shall be erected or placed upon any public way or upon public easements with the exception of garage sale and real estate directional signage as provided for in subsection (i) of this section, pertaining to temporary signs.
	ROW	(r) Campaign signs may be placed in any district, subject to the following restrictions: (1) Pursuant to Minn. Stats. § 211B.045, all noncommercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state election.
Excelsior	Political Campaign Signs	(2) Campaign signs shall be exempt from fees.
	ROW	(3) All campaign signs shall have the name and telephone number of the person responsible for posting the sign clearly marked either on the face or reverse side.
	ROW	(4) Campaign signs shall be removed and/or replaced if they become torn, faded, or otherwise damaged.
	ROW	No sign shall be placed within any drainage or utility easement or within the public right-of-way except by the issuance of a license agreement in accordance with article 25 of this Appendix E.
	ROW	No sign or sign structure shall be placed on or protrude over the public right-of-way except wall (maximum protrusion 18 inches), canopy, awning, marquee, and nonilluminated sandwich board signs not to exceed eight square feet per side. All signs located over public right-of-way or over any public or private access route (sidewalk, etc.) shall be located a minimum of eight feet above surface grade.
Deephaven	ROW	Except for traffic control, all signs are prohibited within the public right-of-way or easements except that the zoning administrator may grant an administrative permit to locate signs, banners and decorations on or within the right-of-way, as allowed in subsections 24-3(h) and 24-3(k).
	Political Campaign Signs	All noncommercial speech signs of any size posted in any number from 46 days before the state primary in a state general election year until ten days following general election, and 13 weeks prior to any special election until ten days following the special election. Sign installation shall comply with the Fair Campaign Practices Act contained in Minn. Stats., chapter 211B.
	Political Campaign Signs	Subd. 27. "Non-commercial Speech" Dissemination of messages not classified as Commercial Speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
	Political Campaign Signs	Subd. 32. "Political Sign" Any sign which includes the name or picture of an individual seeking election or appointment to public office, or pertaining to a forthcoming public election or referendum, or pertaining to or advocating political views or policies, which is erected on private property by a bona fide candidate for political office or by a person or group supporting such a candidate and which contains the name of the person or group responsible for the erection and removal of the sign.
	Political Campaign Signs	1115.05 Exemptions. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.
Victoria	Political Campaign Signs	c. Political Signs. Freestanding political signs, not exceeding a sign surface area of 12 square feet each, displayed for a period of not more than eight weeks prior to the pertinent election date and not more than one week after that election date.
	ROW	1115.06 Prohibited Signs. Unless a sign is specifically permitted under this Section, or a temporary sign permit has been issued for the sign under this Section, or a special use permit has been issued for the sign under the City's Zoning Ordinance, the sign is prohibited. By way of example and not by way of limitation, the following signs are specifically prohibited: (h) Signs within the public right-of-way, public property or public easement.
	Political Campaign Signs	Signs containing noncommercial speech are permitted without a permit anywhere that signs containing commercial speech are permitted without a permit, subject to the same regulations regarding size and setback applicable to such signs.
	ROW	No sign other than public signs (governmental signs) shall be erected or placed upon any public street, right-of-way, public easement, public land or project over public property.
	Political Campaign Signs	The following signs are allowed without a permit: A. Political campaign signs. Political campaign signs not exceeding eight square feet. The sign must contain the name and address of the person responsible for such sign, and that person shall be responsible for its removal. The city shall have the right to remove and destroy signs not conforming to this section.
Minnetrista	Political Campaign Signs	State Law reference— Noncommercial signs permitted during certain times, Minn. Stats. § 211B.045.
	ROW	The following signs are prohibited in all districts: Signs on or over the public rights-of-way, unless the city council grants permission for a temporary sign on or over the public rights-of-way for a period of time not to exceed ten days, except in section 21-21(E,4) sandwich board signs in the central business district.
	ROW	Uncontrolled and unlimited signs, particularly temporary signs, which are commonly located within or adjacent to public right-of-way, or are located at driveway or street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians.
	Political Campaign Signs	The following types of Signs are prohibited within the city: (a) Signs within public right-of-way or easements, except Government Signs.
	ROW	The following types of Signs are allowed without a permit in all zoning districts: (e) Signs permitted by Minnesota Statutes Section 211B.045.
		(h) No Signs erected on private property shall project over public property.

	ROW	Findings. The city finds it is necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further the city finds:
	ROW	Uncontrolled and unlimited signs, particularly temporary signs, which are commonly located within or adjacent to public right-of-way, or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information.
Chanhasen		Signs allowed without permit. Political campaign signs. Temporary political campaign signs are permitted according to the following: The sign must contain the name of the person responsible for such sign, and that person shall be responsible for its removal.
		Signs are not permitted in the public right-of-way, or within the sight triangle.
		Shall comply with the Fair Campaign Practices Act contained in M.S. § 211B.045.
		The city shall have the right to remove and destroy signs not conforming to this subsection.
		Permitted from 46 days before the state primary in a state general election year until ten days following the state general election and 13 weeks prior to any special election until ten days following the special election.
	Political Campaign Signs	No such sign shall be located within 100 feet of any polling site.
		Sign shall be located on private property with permission of the property owner.
	ROW	No sign, other than governmental signs, shall be erected or placed upon any public street, right-of-way, or project over public property unless approved by the city and contingent upon an approved encroachment agreement. Temporary signs may not be erected or placed in a public easement unless approved by the city. No sign shall be placed within any drainage or utility easement without an approved encroachment agreement.
	ROW	uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;
	Political Campaign Signs	the right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number.
	Political Campaign Signs	17."Non-commercial sign" - any sign that is not a commercial sign, including but not limited to signs that convey messages concerning political, religious, social, ideological, public service and informational topics.
Minnetonka	Political Campaign Signs	The following signs do not require a permit but must meet the regulations in this section: a) Signs required or allowed by section 325.05, subd. 3.
	Political Campaign Signs	f) In all districts, any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of any other copy. For new signs posted with a noncommercial message, the sign fee is waived until such time as the sign is converted to contain a commercial message.
		a) Signs may not be located on property without the permission of the property owner. For signs located in public right-of-way as allowed under subdivision 3(e) of this section 325.05, the permission of the immediately adjacent property owner must be obtained.
	ROW	b) Unless specifically noted otherwise, all signs must maintain a 10-foot setback from all lot lines. The city may require a greater or lesser setback because of public safety reasons which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.
	ROW	e) Signs may not be located within public right-of-way except for official traffic control devices and those allowed by section 3(e) of this section 325.05.
	ROW	<i>Streets and Easements.</i> No sign other than public signs shall be erected or placed upon any public street, right-of-way, public easement, or public land, or project over public property or public easements, except as allowed in the I-394 Mixed Use Zoning District.
	ROW	No garage sale signs shall be Located on any governmental property, including the street right-of-way.
Golden Valley	Political Campaign Signs	All signs containing non-commercial speech of any size may be posted in any number from 46 days before the State primary in a State general election year until 10 days following the State general election subject to the applicable provisions of Minn. Stats. § 211B.045.
	Political Campaign Signs	All signs containing non-commercial speech of any size may be posted in any number from 90 days before a special or municipal election until 10 days following the special or municipal election.
	Political Campaign Signs	All such signs shall conform with the location, setback, and placement provisions of this chapter.

6. NEW BUSINESS

A. Sign Ordinance Update – Discussion on Political Signs

Planning Director Darling explained that this item is also a staff-initiated item regarding text amendments for political signage. She stated that one of the priorities that the Council set for themselves and the Planning Commission this year was to review and consider amendments of the political sign regulations and noted that of concern specifically were the number and proximity of campaign signs to the streets. She stated that it is a complicated issue and there are a number of State statutes that give the City some requirements for what is allowed. She read aloud the State statute and the City's sign regulation language. She stated that the language is similar but has two separate standards that apply to all elections which causes confusion about when the City can apply their standards and when they cannot. Staff is proposing that the code be changed to be more clear when the non-commercial signs can be put up before all elections. She reviewed the recommendations from staff that they would like the Planning Commission to consider.

Commissioner Eggenberger asked about regulation of non-commercial signage and whether the City can regulate where they are placed.

Planning Director Darling stated that the City can impose location requirements.

Councilmember Callies stated that she thinks it is a good idea to have the language be consistent with the State law but thinks that 15 feet from the edge of the pavement is not practical for most areas of the City and would basically prohibit any campaign signs being visible.

Commissioner Huskins stated that he would agree that a 15-foot setback seems a bit excessive, but his concern was that it may have the unintended consequence of having people place larger signs in order for them to be visible. He stated that he would prefer smaller signs in the neighborhoods. He asked if a campaign would be allowed to have signage for an event if they got a permit to hold a rally on public lands.

Planning Director Darling stated that she would have to review that information and noted that there are very few signs that organizations can put up during events.

Commissioner Huskins stated that the proposed language states that the City would have the right to remove the signs that are in violation.

Planning Director Darling clarified that this is would either be in the right-of-way or on public land. She stated that if there were violations on private property, the City would notify the property owner.

Commissioner Gault commented that he was not sure if residents understood the regulations surrounding nameplate signs and substitution of non-commercial signs.

Planning Director Darling stated that nameplate signs seem to be going away and very few homeowners even have them anymore.

Commissioner Riedel asked if Commissioner Gault was asking if someone, under this ordinance, would be permitted to put up a non-conforming sign simply because it contains non-commercial speech. He stated that he does not think that is the case and people cannot put up a fully non-conforming sign.

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Commissioner Gault stated that he agreed, but feels this language says they can substitute their nameplate sign with a non-commercial speech sign but cannot have both.

Commissioner Riedel stated that he would agree and feels that this is a 1st Amendment issue that if you are allowed to write something, then you are allowed to write anything.

Chair Maddy stated he has the same concern because you can have a sign that says, "Vote for Joey", but cannot have a sign that says, "Eat at Joey Nova's". He stated that he would like to stay as far away from this as possible.

Commissioner Riedel stated that he would not want to go further than the City has to with this issue and would like to do the minimum to avoid 1st Amendment issues.

Chair Maddy stated that State law dictates what the City has to do and asked why the City would not just match their language and not touch any restrictions. He stated that he did not think the City has had a problem with excessive signage.

Planning Director Darling stated that the City can match the State law exactly, except State law does not apply to things like school board elections or municipal elections that would happen in non-State general election year. She stated that she thinks that there should be rules for those instances as well.

Chair Maddy suggested having the school board and other elections match the framework of the State election language and just leave it at that.

Planning Director Darling stated that would be fine.

Commissioner Gault suggested that it just refer to 'public elections'.

Planning Director Darling clarified that there have been complaints about the number of signs and how close they were which is why the Planning Commission was directed to take a look at this issue.

Commissioner Gault stated that he would go to the free speech issue that if he can say one thing, he should be able to say it 100 times or be able to say 100 different things.

Commissioner Huskins stated that the State language does not appear to say anything about setbacks. He stated that if the City simply takes the State's language, he does not think that would be sufficient.

Chair Maddy asked if the setback issue was because of traffic and visibility concerns.

Planning Director Darling stated that there could be visibility issues which is why she thinks there has been a setback included. She stated that she thinks it was that there were so many, so close to the street, that there was a concern that it would be a distraction.

Commissioner Riedel stated that he thinks a setback is helpful and becomes an issue when there are complaints if there is a specific hard number to point to, then it becomes less of a subjective issue. Just stating that signage is not allowed to interfere with visibility opens it up for discussion and interpretation. He stated that he thinks a 15-foot setback is excessive and would suggest something like 5-10 feet.

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Chair Maddy stated that he does not want to dictate how many feet back a sign can be. He stated that it is not blocking the view of traffic, he would prefer the City just stay out of it.

Commissioner Gault stated that it has to be on private property so whatever number that would be forces there to be a setback. He stated that then this raises the question of whether the City allows it at the property line.

Planning Director Darling asked what would be done when the property line is in the middle of the street.

Commissioner Gault stated that some common sense needs to be used and people cannot put any sign where it will obstruct traffic either for pedestrians or vehicles. He stated that the speech he wants to promote on his private property is whatever he wants it to be and the City has no constitutional ability to stop that unless he would advocate for violence or something. He stated that he does not have a concern with the number of signs, but does have a concern with someone putting up a 10 x 12 sign at an intersection where it will obstruct visibility.

Commissioner Eggenberger stated that the trouble with that, without using a setback, is people just saying, 'oh, well that doesn't obstruct traffic' and it is just an opposing discussion without a tangible solution. He stated that if there is a setback then it is clear when things need to be moved and when they do not.

Commissioner Riedel stated that the more he thinks about this, the more he agrees with Chair Maddy. A setback onto private property could actually be challenged. He stated that a public right-of-way is one thing, but an individuals property is their property and a setback in this situation would be somewhat arbitrary.

Commissioner Eggenberger stated that all of the City codes could be considered somewhat arbitrary and listed a few examples.

Chair Maddy stated that to paraphrase, it appears that what the Commission wants to do is not push any values and let people speak. He stated that the setback issue is interesting because there are good arguments on both sides.

Commissioner Huskins stated that he would agree with Commissioner Gault and thinks that a setback will help clarify and reduce some of the subjectivity that would otherwise occur. He stated that he believes a ten-foot setback is reasonable.

Commissioner Eggenberger stated that he would agree with Commissioner Huskins.

Planning Director Darling asked if they meant ten feet from the edge of the road or ten feet from the front property line.

There was a consensus that the measurement would be from the edge of the road. There was consensus to follow the State guidelines for all public elections for signs to be posted 46 days before the election.

Commissioner Huskins stated that he prefers the terminology 'non-commercial speech' versus 'campaign signs'.

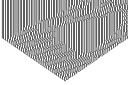
Commissioner Riedel asked what type of sign is permitted year round with or without a permit.

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Planning Director Darling stated that most small signs, such as nameplates and the small signs that stick in the ground do not require a permit. Nameplate signs are allowed in any residential district, so there can also be a non-commercial speech sign of the same size, subject to the same setback requirements at any time in the year. She clarified that people get to have one sign and can choose to use it for their name or some other non-commercial speech message. She thanked the Commission for their input and stated that she will bring this back to the Commission at a future date.



Can Cities Prohibit Campaign Signs and Flags?

City Regulations



Do cities have the authority to prohibit campaign signs and flags?



We have been getting this question a lot lately because there is some confusion about a state law that preempts local sign ordinances during election season. In short, city regulations must comply with both state law and the First Amendment to the U.S.

Constitution. State law (Minnesota Statutes, section 211B.045) provides a limited preemption of cities' authority to regulate campaign signs during the election season (defined as 46 days before the state general primary until 10 days after the state general election). State law requires cities to allow the posting of noncommercial signs of any size or number during this time. However, during the rest of the year, state law permits cities to regulate the size and number of noncommercial signs.

In addition, courts have ruled that the First Amendment prohibits cities from regulating signs based on their content. Best practice suggests avoiding total bans on noncommercial lawn signs in residential areas and using caution in adopting provisions that may favor some messages over others. City ordinances can regulate the size and number of signs, but not their content.

Courts have also recognized that the display of flags can constitute expressive conduct protected under the First Amendment. If regulating flags, cities should use caution to avoid favoring some types of flags (particularly, the U.S. flag) over other flags. If one type of noncommercial flag is acceptable, any noncommercial flag should be allowed. Learn more from the LMC information memo at www.lmc.org/signs.

Answered by Research Attorney Jacob Glass: jglass@lmc.org

Employment Law



It's been a while since we've checked to make sure our city has all the correct employment law posters. How can we check on this?



It's important to make sure you update required workplace posters as new laws are passed. For example, during 2020, COVID-related leave laws required special postings and notices to employees. Fortunately, there are free websites offering required federal and state employment

posters. The U.S. Department of Labor offers a site that helps determine which posters you need at <https://webapps.dol.gov/elaws/posters.htm>. And the Minnesota Department of Labor and Industry will even notify you via email when updates have been made to required posters. You can sign up for these updates at www.dli.mn.gov/about-department/workplace-posters.

Generally, the law requiring the labor law poster will indicate for whom it must be displayed. Some posters must be displayed in places available to job applicants as well as employees. Some cities, for example, post a notice on their website stating, "Applicants have rights under federal and state employment laws," and link to various employment posters. It's a good idea to do that in addition to placing posters in the workplace and on the city's employee intranet.

Answered by Human Resources Director Laura Kushner: lkushner@lmc.org

Construction Risk



Our city is about to build a new community center. How can we protect the building in case it is damaged during construction?



The city should make sure the new building under construction is covered by builder's risk insurance. This is a specialized type of property insurance that protects buildings under construction from loss. Coverage is usually written on an all-risk basis and covers loss from many types of causes, including fire, storm damage, theft, and vandalism. Materials, supplies, scaffolding, and equipment are usually covered as well. Builder's risk insurance is a no-fault coverage that protects the city, contractor, and subcontractors. The city should specify in the construction contract who is responsible for buying the builder's risk insurance.

The League of Minnesota Cities Insurance Trust's (LMCIT) property coverage provides automatic builder's risk coverage for buildings under construction, alteration, repair, or expansion, if the estimated total project cost is less than \$3 million. Construction projects under this threshold do not have to be reported and scheduled for the builder's risk coverage to apply. However, the building must be included in the schedule of property at the member's subsequent renewal. Payment of a claim is subject to a member's deductible. LMCIT can sometimes provide higher limits for an additional premium depending on the scope and cost of the project. If the member does not provide the builder's risk coverage, it should require the coverage to be purchased by the contractor. Learn more from the LMC information memo at www.lmc.org/prop-guide.

Answered by Risk Management Attorney Chris Smith: csmith@lmc.org

ORDINANCE xxx

CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA

AN ORDINANCE APPROVING AN AMENDMENT TO
SHOREWOOD CITY CODE CHAPTER 1201 (ZONING REGULATIONS)
RELATED TO SIGNS

Section 1: City Code Section 1201.01 (Definitions) is hereby amended to add or alter the following definitions:

Language ~~stricken~~ is proposed to be removed, language underlined is proposed for insertion.

1201.02 DEFINITIONS.

SIGN. The use of any words, numerals, figures, devices or trademarks by which anything is made known such as are used to show an individual, firm, profession or business and are visible to the general public.

SIGN - ADDRESS. A sign communicating street address only, whether script or in numerical form. In R Districts an address sign may include the name of the resident.

SIGN - ADVERTISING. A billboard, poster panel, painted bulletin board or other communication device which is used to advertise products, goods or services which are not exclusively related to the premises on which the sign is located.

SIGN AREA. The total area of a sign measured at the perimeter of the surface on which the sign is inscribed. For signs consisting of letters, figures, or symbols applied directly onto a building or structure, the sign area shall be that area enclosed within the smallest rectangle that can be made to circumscribe the sign.

SIGN - AREA IDENTIFICATION. A freestanding sign which identifies the name of a residential housing development, an office or business structure containing two or more independent concerns; a single business consisting of three or more separate structures existing on individual platted lots or as a planned unit development; or any integrated combination of the above. The sign is limited only to the identification of an area or complex and does not contain the name of individual owners or tenants nor contain advertising.

SIGN, BENCH. A sign which is affixed to a bench such as at a bus stop.

SIGN - BUSINESS. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including

entertainment, offered or sold upon the premises where the sign is located.

SIGN - CAMPAIGN. A temporary sign promoting the candidacy of a person running for a governmental office or promoting an issue to be voted on at a governmental election.

SIGN - CANOPY. Any message or identification which is affixed to a projection or extension of a building or structure erected in a manner as to provide a shelter or cover over the approach to any entrance of a store, building or place of assembly.

SIGN - CONSTRUCTION. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

SIGN - DIRECTIONAL. A sign erected on public or private property which bears the address or name or both of a business, institution, church or other use or activity plus directional arrows or information on location.

SIGN - DIRECTORY. An exterior informational wall sign which identifies the names of businesses served by a common public entrance in a shopping center.

SIGN - DYNAMIC DISPLAY. A sign or characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, “digital ink” or any other method or technology that allows the sign face to present a series of images or displays.

SIGN - FREESTANDING. Any stationary or portable, self-supported sign not affixed to any other structure.

SIGN - HOLIDAY. Decorations or messages which recognize an official national, state or local holiday.

SIGN - ILLUMINATED. Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

SIGN - INFORMATIONAL. Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.

SIGN - INSTITUTIONAL. A sign which identifies the name and other characteristics of a public or semi-public institution on the site where the sign is located.

SIGN - INTEGRAL. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

SIGN - MAXIMUM HEIGHT OF. The vertical distance measured from the grade to the top of a sign.

SIGN - MENU BOARD. Any sign that has a message related to the site's food service and the copy is manually or electronically changed and the lettering of which is two inches or less in height so as to not be readable from the adjoining street right-of-way or adjoining property.

SIGN - MINIMUM HEIGHT OF. The vertical distance measured from the nearest finished grade to the lower limit of the sign.

SIGN - MONUMENT. A sign whose base and structure is positioned primarily on the ground and is typically solid from grade to the top of the structure.

SIGN – NON-COMMERCIAL SPEECH. A sign that disseminates messages not classified as a Business Sign, which includes, but is not limited to, messages concerning political, religious, social, ideological, public service and information topics.

SIGN - NONCONFORMING.

- a. ***LEGAL.*** A sign which lawfully existed at the time of the passage of this chapter or amendments thereto, but which does not conform with the regulations of this chapter.
- b. ***ILLEGAL.*** A sign which was constructed after the passage of this chapter or amendments thereto and does not conform with the regulations of this chapter.

SIGN - PORTABLE. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground or structure.

SIGN - PROJECTING. A sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

SIGN - PUBLIC. Any sign erected by municipal, county, state or other governmental agencies, including, but not limited to street signs, traffic-control signs and parking-control signs.

SIGN - REAL ESTATE. A business sign placed upon a property advertising that particular property for sale, for rent or for lease.

SIGN - ROOF. Any sign which is erected, constructed or attached wholly or in part upon or over the roof of a building.

SIGN, ROTATING. A sign which revolves or rotates on its axis.

SIGN - STRUCTURE. The supports, uprights, bracing and framework for a sign, including the sign area.

SIGN - TEMPORARY. Any sign which is erected or displayed for a specific period of time.

SIGN - WALL. A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A wall sign does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

SIGN - WALL GRAPHIC. A sign which is painted directly on an exterior wall surface.

SIGN - WINDOW. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

Section 2: City Code Section 1201.03 (General Building and Performance Standards) Subd. 11. (Signs) b. (Permitted and Prohibited Signs) (1) (Permitted Signs) is hereby amended as follows:

Section 1201.03 General Building and Performance Standards

Subd. 11. *Signs.*

b. *Permitted and prohibited signs.*

(1) *Permitted signs.* The following signs are allowed without a permit, but shall comply with all other applicable provisions of this chapter:

- (a) Public signs;
- (b) Address signs;
- (c) Integral signs;

~~(d) Every eCampaign sign and noncommercial speech signs, subject to the following:~~

- ~~(i) must contain the name and address of persons responsible for the sign, and that person shall be responsible for its removal. Signs shall be permitted on each lot for a period of 100 days prior to and ten days after an election.~~
- All campaign signs or other noncommercial speech signs may be posted

from 46 days before the state primary in a state general election year until ten days following the state general election, pursuant to M.S. § 211B.045.

- (ii) ~~For all other public elections, campaign or other noncommercial speech signs may be posted 46 days prior to the election and 10 days after.~~
- (iii) ~~Signs posted both during outside of and after this- the time period indicated in parts (i) or (ii) above are subject to all other applicable requirements in this subdivision. At any time, the city shall have the right to remove signs that are prohibited under this subdivision, and assess a fee as provided from time to time by ordinance.~~
- (iv) Campaign signs or other noncommercial speech signs shall not be located closer than ten feet from any curb or (for those streets without curbs) paved street surface;.
- (v) ~~No campaign sign or other noncommercial speech sign and shall not be placed in front of on~~ any property without the consent of the property owner. For any campaign sign or noncommercial speech sign placed in the right-of-way, the sign shall not be placed in front of any property without the consent of the abutting property owner.;
- (vi) Any campaign sign placed in violation of parts (iv) or (v) above shall be considered abandoned and subject to removal and disposal without notice.
- (vii) The property owner shall be responsible for any sign placed on his/her property or within the right-of-way in front of his/her property.
- (viii) No lights may be affixed to or installed in any manner to illuminate a temporary campaign or other noncommercial speech sign.

- ~~(d)~~(e) Holiday signs, displayed for a period not to exceed 30 days and no larger than 32 square feet in area;
- ~~(e)~~(f) Construction signs. The signs shall be confined to the site of the construction, alteration or repair and shall be removed within two years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner as determined by the City Building Official or his or her agent. One sign shall be permitted for each major street the project abuts. No sign may exceed 50 square feet;
- ~~(f)~~(g) Real estate sale or rental signs. Signs must be removed within 14 days after sale or rental of property. Signs may not measure more than six square feet in Residential Districts, nor more than 20 square feet in all other districts. There shall be only one sign per premises. Corner properties, however, may contain two signs, one per frontage. Lakeshore lots may contain two signs, one in the front and one facing the lake;
- ~~(g)~~(h) Informational/directional signs shall not be larger than three square feet and shall conform to the location provisions of the specific district;
- ~~(h)~~(i) Owner-occupant signs. One residential name sign, not to exceed two square feet in area, identifying only the name of the owner or occupant of a residential building.

Section 3: City Code Section 1201.03 (General Building and Performance Standards) Subd. 11. (Signs) c. (General Provisions) is hereby amended as follows:

c. *General provisions.*

- (1) All signs shall comply with the Minnesota State Building Code as may be amended.
- (2) When electrical signs are installed, the installation shall be subject to the State Building Code as may be amended.
- (3) No portion of any sign shall be located within five feet of any property line. No signs other than governmental-public signs and political-campaign ~~or other~~ noncommercial speech signs as provided in b.(1)(d) of this subdivision, shall be erected or temporarily placed within any street right-of-way, ~~or~~ upon public lands, ~~or~~ easements, or rights-of-way. Any unauthorized signs located in public right-of-way, easements or on public property shall be considered abandoned and are subject to immediate removal and disposal without notice.
- (4) Temporary signs.
 - (a) The temporary use of signs, searchlights, banners, pennants and similar devices shall require a permit. The permit shall be valid for ten consecutive days. The permit shall be prominently displayed during the period of validity. Only two temporary permits may be granted for any property within any 12-month period. Temporary signs shall not exceed 32 square feet in area. Any new business that has applied for its permanent business sign may, at the same time, apply for a temporary business sign to be displayed for no longer than 30 days, or until the permanent sign has been erected, whichever comes first. The temporary business sign shall be professionally prepared and shall be no larger than the approved permanent sign.
 - (b) A conditional use permit may be granted to nonprofit athletic associations, contracted with the city pursuant to Section 902.06 of this code, for the display of temporary business sponsorship signs to be placed on certain ball field fences on public property, provided that:
 - (i) A nonprofit athletic association under contract with the City may display signs only on facilities that have been reserved for its use;
 - (ii) Signs may be displayed only in a community park, as defined in the Shorewood Comprehensive Plan;
 - (iii) Signs may be displayed only on outfield fences, facing into the ball field, and situated so as to minimize view of the signs from adjacent residential properties;
 - (iv) All signs must be professionally made, using durable weather resistant

material, painted or colored dark green on the back side of the sign;

- (v) Signs are limited in size to no larger than 42 inches in height and seven feet in length;
 - (vi) There shall be a minimum spacing between signs of seven feet;
 - (vii) The maximum number of signs per ball field is 15;
 - (viii) The nonprofit athletic association is responsible for maintaining the signs in good repair. If a sign become detached, torn, or vandalized, the association must repair or replace them immediately or the sign will be summarily removed by the city;
 - (ix) The nonprofit athletic association is responsible for any damage to the fence on which it is displayed that is caused by installation or display of the sign;
 - (x) The conditional use permit is subject to review and recommendation by the Shorewood Park Commission;
 - (xi) The nonprofit athletic association must obtain an annual license from the city and enter into a license agreement setting forth the conditions of approval and the duration of the approval. The association shall pay an annual license fee as established by the City Council from time to time. The association shall have no vested right in obtaining licenses from season to season; and
 - (xii) It shall be the responsibility of the nonprofit athletic association to obtain a temporary sign permit for each sign to be displayed on ball field fences, prior to erecting the sign.
- (5) No sign or sign structure shall protrude over a public right-of-way.
 - (6) All signs which require a permit shall display, in a conspicuous manner, the owner's name, permit number and date the sign was erected.
 - (7) All height restrictions on signs shall include height of sign structure and be measured from lot grade.
 - (8) In the case of a two-faced, freestanding sign, where the two faces of the sign are parallel and face in opposite directions, only one face shall be used in computing the allowable area of the sign.
 - (9) Any sign now or hereafter existing which no longer advertises or identifies a

business conducted, service rendered or product sold on the premises shall be removed by the owner, agent or person having the beneficial use or control of the building or structure upon which the sign may be found within 60 days from the date of vacancy.

(10) The regulations contained herein shall not apply to traffic signs or the flag, separate emblem, or insignia of a nation, political unit, school or religious group, or integral signs. There shall be no more than four one United States flag and no more than three other non-commercial flags on a property. Nor shall these regulations pertain to a sign inside a building, provided the sign is at least three feet in back of the inside of the exterior wall and is readable from the inside of the building.

~~(10)~~

(11) All signs requiring a permit from the city shall be subject to review and approval by the Zoning Administrator.

~~(11)~~(12) The owner of any sign which is otherwise allowed by this subdivision may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting so long as the substitution changes the message of the sign only. The purpose of this provision is to prevent any inadvertent favoring of messages on business signs over messages on noncommercial speech signs, or favoring of any particular noncommercial speech over any other non-commercial speech. This exemption to separate approvals or permits shall not be construed as relieving the sign owner from responsibility for its erection and maintenance or its compliance with the provisions of this subdivision or any other law or ordinance regulating the same.

NOW THEREFORE the City Council of the City of Shorewood, Minnesota, ordains:

Section 4. That Ordinance xxx Amending Shorewood City Code, Chapter 1201 (ZONING REGULATIONS) RELATED TO SIGNS has been hereby approved and adopted.

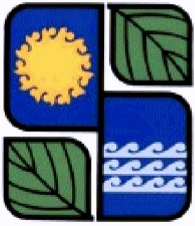
Section 5. This Ordinance xxx shall take effect upon publication in the City's official newspaper.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA this xxth day of x, 2021.

JENNIFER LABADIE, MAYOR

ATTEST:

SANDIE THONE, CITY CLERK



CITY OF
SHOREWOOD

5755 COUNTRY CLUB ROAD, SHOREWOOD, MINNESOTA 55331-8927 • 952.960.7900
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us

MEMORANDUM

TO: Planning Commission, Mayor and City Council

FROM: Emma Notermann, Planning Technician

MEETING DATE: June 1, 2021

REQUEST: Variance to the front yard setback

APPLICANT: Justin Robinette

LOCATION: 4530 Enchanted Point

REVIEW DEADLINE: August 17, 2021

LAND USE CLASSIFICATION: Low Density Residential

ZONING: R-1C/S

FILE NUMBER: 21.08



REQUEST:

The applicant requests a variance to the setback from the front yard property line to add an enclosed entry and porch to their existing non-conforming house. The proposed addition would be located 22.5 feet from the front property line abutting the public right-of-way of an unimproved portion of Enchanted Lane where 35 feet is required.

Notice of this application and the public meeting was mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.

BACKGROUND

Context: The existing home was constructed in 1980 and is located 29.1 feet from the front property line abutting the right-of-way of an unimproved portion of Enchanted Lane. The R-1C zoning district requires a front yard setback of 35 feet, so the house is considered a legally non-conforming structure.

The adjacent properties are all developed with single-family homes and zoned R-1C/S.

Applicable Code Sections:

Section 1201.12 subd. 5. d. of the zoning regulations requires a setback of 35 feet from the front yard line.

Section 1201.03 subd. 1(i) of the zoning regulations allows the expansion of non-conforming single-family residential units, provided-

1. *That the expansion does not increase the nonconformity and complies with height and setback requirements of the district in which it is located;*

The entry and porch addition does not comply with the setback requirement and consequently a variance is required for this expansion.

**There are additional criteria, in this section but since the proposed development does not meet the first regulation, a variance is required.*

1201.02 Definitions

LOT LINE - FRONT. The front of a lot shall be, for purposes of complying with this chapter, that boundary having the least width abutting a public right-of-way or private street.

ANALYSIS

The applicant's narrative is attached and indicates that the property owners propose to add a new entry way and porch on the west side of their existing home. The proposed addition would encroach into the front yard setback by 12.5 feet and would meet all other yard setbacks. The purpose of the addition is to create a functional entry point to the home both outside and inside.

Variance Criteria:

Section 1201.05 subd.3.a. of the zoning regulations sets forth criteria for the consideration of variance requests. These criteria are open to interpretation. Staff reviewed the request according to these criteria as follows:

1. *Intent of comprehensive plan and zoning ordinance:* The property owner would continue to use the property for residential purposes. They propose no uses on the site that would be inconsistent with either the intent of the residential land use classification or the district's allowed uses.
2. *Practical difficulties:* Practical difficulties include three factors, all three of which must be met. Staff finds that the practical difficulties for the property are related to the age of the home and the front yard abutting an unimproved public right-of-way.
 - a. *Reasonable:* The applicant has proposed reasonable residential use on the property.
 - b. *Unique Situation vs. Self-Created:* The situation is unique as the home was constructed under different regulations and is already in a non-conforming location on the property.
 - c. *Essential Character:* The addition would not be out of character for the neighborhood. The addition would not change the character of the neighborhood since the encroachment is towards an unimproved public right-of-way that is not travelled the same way that a street is.

3. *Economic Considerations:* The applicant has not proposed the variance solely based on economic considerations, but to enhance the livability and accessibility of the home.
4. *Impact on Area:* The property owner is not proposing anything that would impair an adequate supply of light and air to an adjacent property, increase the risk of fire, or increase the impact on adjacent streets. The closest adjacent home to the property is about 100 feet away and it is located on the opposite side of the unimproved public right-of-way of Enchanted Lane, leaving more space between the properties than other homes that share lot lines.
5. *Impact to Public Welfare, Other Lands or Improvements:* Staff finds the addition of an entry way and porch would not be detrimental to the public welfare as it would be a typical addition found for many residences.
6. *Minimum to Alleviate Practical Difficulty:* Staff finds the variance request is the minimum necessary to alleviate the practical difficulties on the property.

FINDINGS/RECOMMENDATION

Staff finds the variance proposal meets the criteria above and recommends approval of the variance while acknowledging that the variance criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise.

Should the Planning Commission recommend approval of the variance, staff recommends that the applicant be required to acquire all necessary permits prior to construction.

ATTACHMENTS

Location map

Applicants' narrative and plans

4530 Enchanted Point Location Map

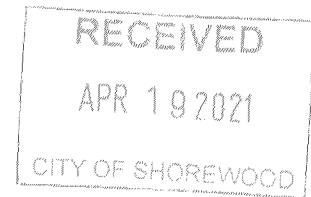


Variance Application | Written Description of the Request

Justin Robinette (Homeowner)

4530 Enchanted Pt., Shorewood MN 55364

April 15, 2021



Thank you for the opportunity to tell our story. As a family with two young boys that moved into this house in 2017, we intended to fix up and maintain this home as our primary residence for the long term. We also see the inherent challenges with the current setback limits to improve our home's entry as we intend, both for safety (aging parents and visitors) as well as function. We hope this written response provides you with the required, additional information to consider with our application and documents. Thank you. - The Robinette family.

1. The proposed use of adding a modest foyer/addition and re-position of our house's front door towards the true street access (south) of the city road (Enchanted Point) is consistent with the intent of the comprehensive plan. The unimproved road (Enchanted Lane) poses no direct access to the front door, nor does it provide access to any other residential building/home in the neighborhood. It is unused by any home, structure and without a current safety purpose.
2. The practical difficulty in complying with this chapter are as follows:
 - a. The non-existent, unimproved road creates a front setback of 30 feet rather than 15 feet for a side setback – given that my house faces the south access, existent road of Enchanted Point.
 - b. The unimproved road is a circumstance and practical difficulty not created by the homeowner.
 - c. My neighbors have standard, similar side setbacks for their property of 15 feet. My request is consistent with and would not alter the essential character of the locality.
3. As the homeowner, our intent is to improve the access, safety, living space, function and curb appeal of our primary residence.
4. The variance does not impair adequate supply of light or cast shadows on any neighboring homes because they are well beyond the standard setback ranges. The current, unimproved road (Enchanted Lane) creates an additional 20 feet of open-air space. In construction of the addition/foyer, no trees or natural vegetation will need to be removed – leaving the original unimproved road and current property setback unchanged. The unimproved road is not accessible or used for any access to properties for car/foot traffic or for fire or public safety response purposes.
5. The variance would not be detrimental to public welfare (above) and would not injury other lands (above) because there is no excavation with this project. During construction, this would not pose any neighborhood access.
6. The variance request is of minimal impact. The current porch/entry footprint is very similar to the proposed addition footprint. The current structure (porch, entry door, decking and staircase) needs repair and a safer access point. The current structure is at the setback limit and the variance is needed to reasonably improve and maintain our primary residence (property).

17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SURVEY 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.

YMBL

Thomas M. Bloom

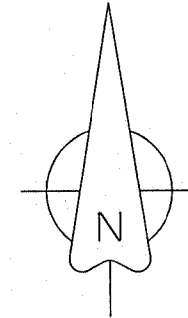
42379

LICENSE NO.

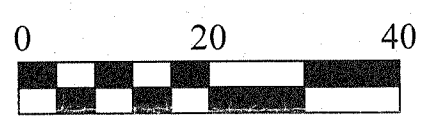
APRIL 17, 2019

DATE:

DRAWING ORIENTATION & SCALE



SCALE - 1" = 20'

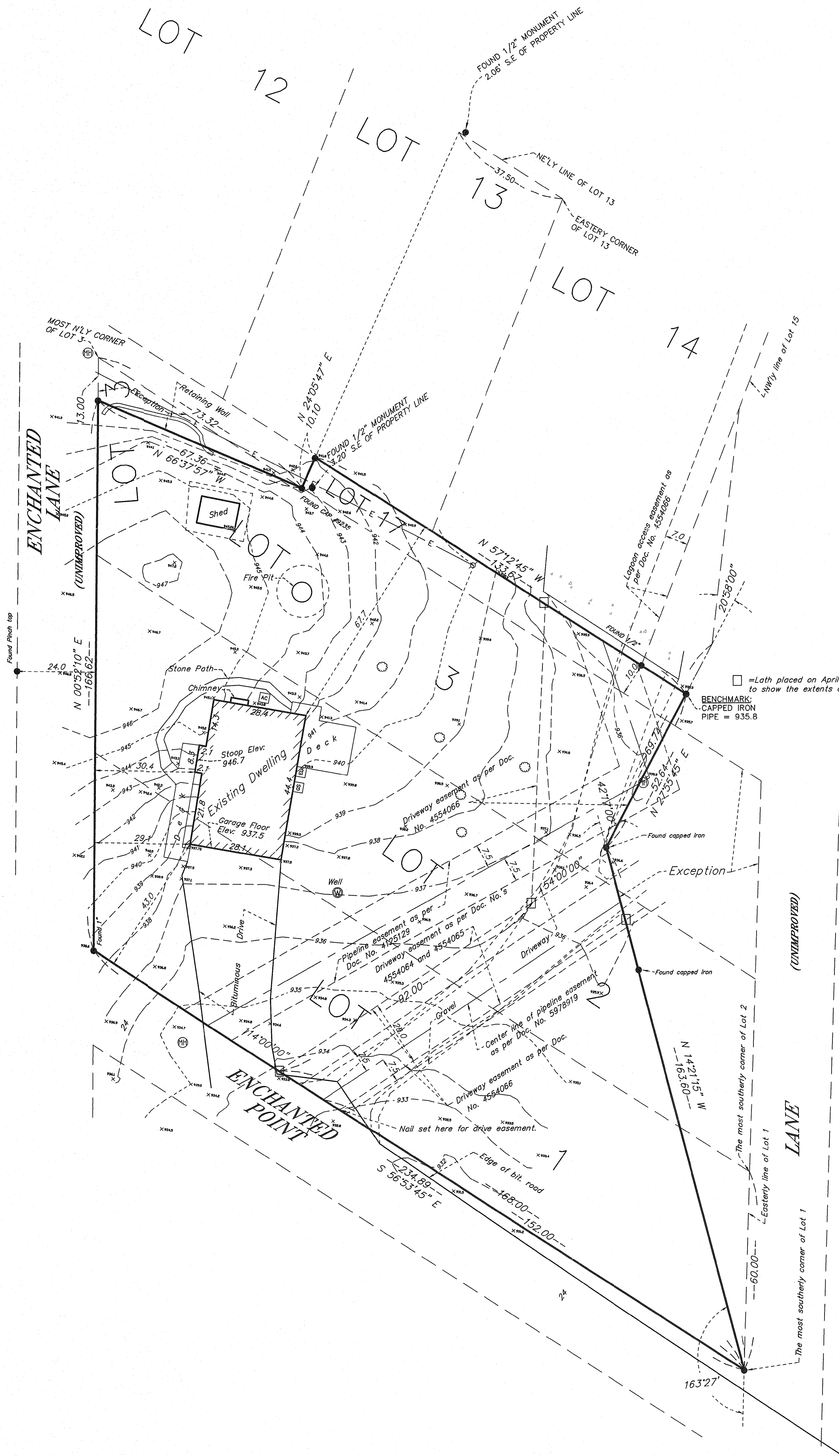


CLIENT NAME / JOB ADDRESS

JUSTIN
ROBINETTE

4530 ENCHANTED
POPINT

SHOREWOOD, MN



LEGAL DESCRIPTION:

That part of Lots 1, 2, 3, Block 3, Enchanted Park, Lake Minnetonka, Minn., and that part of Lot 17, Auditor's Subdivision No. 354, lying Westerly of the following described line: Commencing at the most Southerly corner of said Lot 2; thence Southerly along the Easterly line of said Lot 1 to the most Southerly corner thereof, said corner being the actual point of beginning of the line to be described; thence Northerly deflecting to the right at an angle of 163 degrees 27 minutes a distance of 163.6 feet; thence Northeasterly deflecting to the right 42 degrees 17 minutes a distance of 69.74 feet; thence Northerly deflecting to the left 20 degrees 58 minutes a distance of 66.45 feet to the Northwesterly line of Lot 15, Auditor's Subdivision Number 354, Hennepin County, Minnesota; thence Northeasterly along the Northwesterly line of said Lot 15 to the most Northerly corner thereof and there terminating; except that part of said Lot 3 described as follows: Beginning at the most Northerly corner of said Lot 3; thence Southeasterly along the Northeasterly line of said Lot, a distance of 73.32 feet; thence Northwesterly to a point on the Westerly line of Lot 3, 13 feet South of the most Northerly corner thereof; thence Northerly along the Westerly line of said Lot 3 a distance of 13 feet to the point of beginning; and except that part of Lot 17, in Auditor's Subdivision Number 354, Hennepin County, Minnesota, lying Northwesterly of the following described line: Commencing at the most Northerly corner of Lot 3, Block 3, Enchanted Park, Lake Minnetonka, Minn., thence Southeasterly along the Northerly line of Lot 3, a distance of 73.32 feet to the point of beginning of the line to be described; thence Northerly a distance of 118.01 feet to a point on the Northeasterly line of Lot 13, Auditor's Subdivision Number 354, Hennepin County, Minnesota, distant 37 1/2 feet Northwesterly along said Northeasterly Lot line from the most Easterly corner of said Lot 13 and there terminating, according to the recorded plat thereof on file and of record in the office of the County Recorder, in and for Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, set, unless otherwise noted.

LEGEND

- CATCH BASIN
- FIRE HYDRANT
- POWER POLE
- MANHOLE
- TELEPHONE PED.
- ELEC. TRANSFORMER
- WELL
- GATE VALVE
- LIGHT POLE
- FENCE LINE
- SS SANITARY SEWER LINE
- W WATER LINE
- G GAS LINE
- ST STORM DRAIN LINE
- E OVERHEAD UTILITY LINE

DATE REVISION DESCRIPTION

11/18/20 Added Topography

DATE SURVEYED: MARCH 29, 2019

DATE DRAFTED: APRIL 17, 2019

SHEET TITLE

EXISTING
CONDITIONS

DRAWING NUMBER

202078 TB

SHEET SIZE 22 X 34

SHEET NUMBER

S1

SHEET 1 OF 1

RECEIVED
APR 19 2021
CITY OF SHOREWOOD

PROPOSED PORCH AND ENTRY
ADDITION PLANS FOR:
JUSTIN & ANGELA ROBINETTE
4530 ENCHANTED POINT
SHOREWOOD, MN



NOTE: HALF SCALE ON 11X17

Boyer
Building Corporation

REVISION TABLE	
NUMBER	DATE

REMODEL PLANS FOR:
JUSTIN & ANGELA ROBINETTE
4530 ENCHANTED POINT
SHOREWOOD, MN

TITLE SHEET/ SITE PLAN

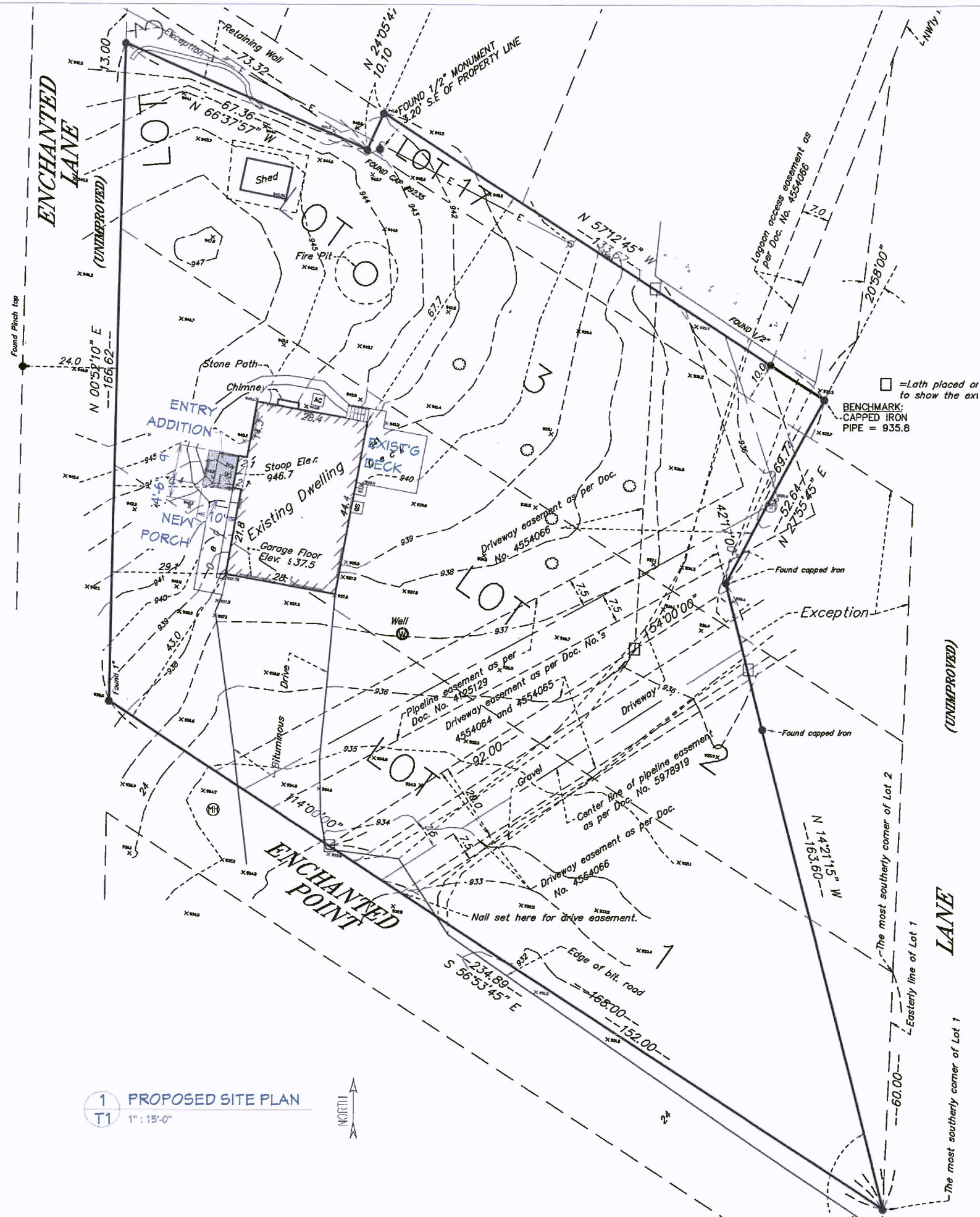


DRAWINGS PROVIDED BY:
KAREN RIVERS
RIVERS DESIGN HOUSE, LLC
www.riversdesignhouse.com
763.670.9806

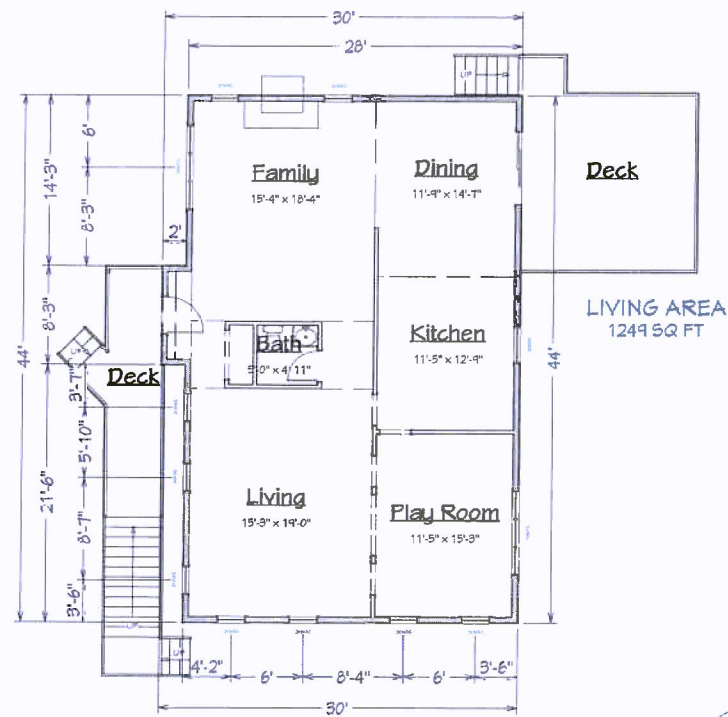
DATE:
4/13/2021

SHEET:

T1



1 PROPOSED SITE PLAN
T1 1" = 15'-0"



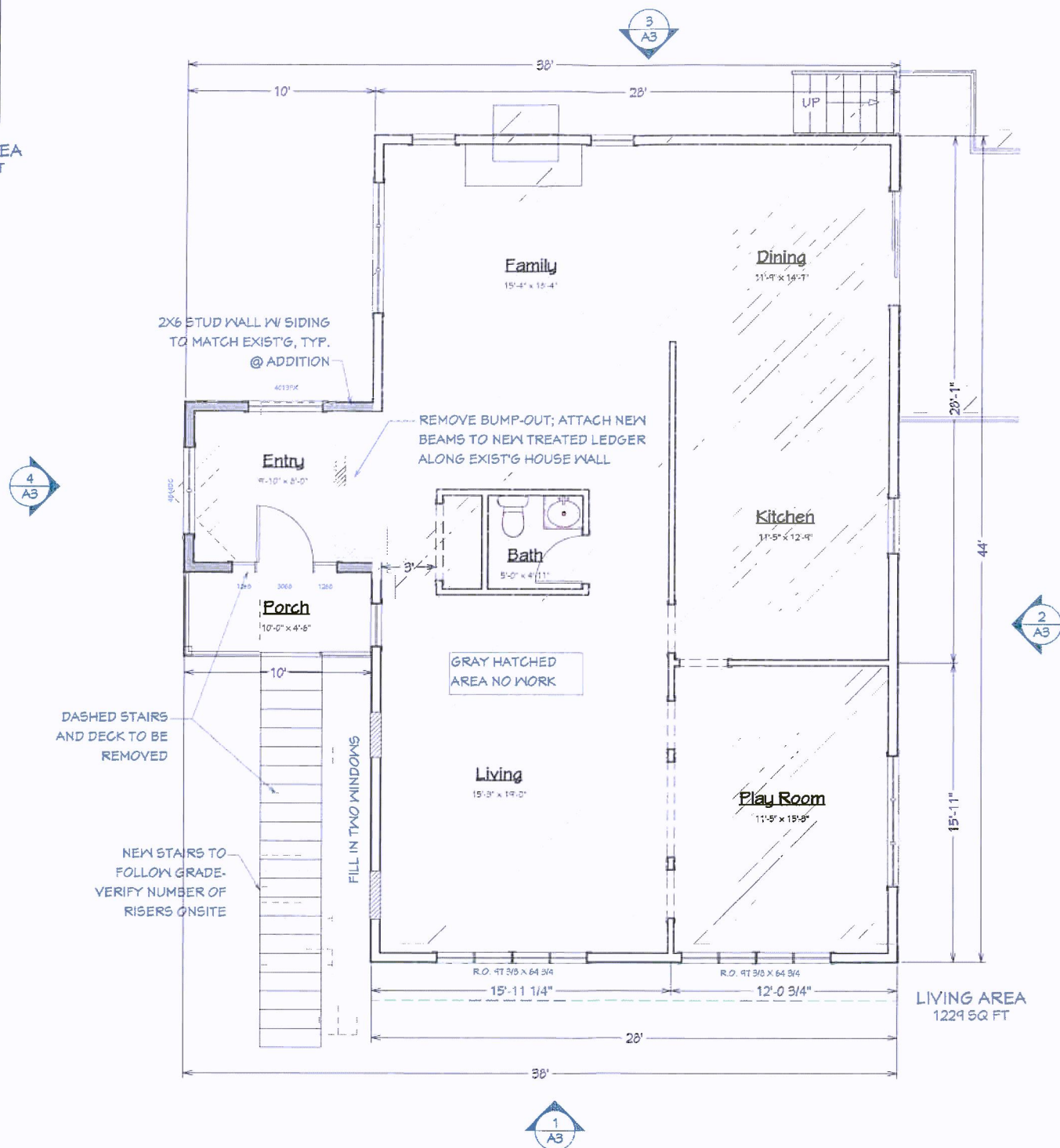
1 AS-BUILT FLOOR PLAN
1/8" = 1'-0"



AS-BUILT



AS-BUILT



2 PROPOSED FLOOR PLAN
1/4" = 1'-0"



PROPOSED ADDITION AND UPDATE TO FRONT ELEVATION

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CITY OF SHOREWOOD

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Building Corporation

REVISION	TABLE
NUMBER	DATE

REMODEL PLANS FOR:
JUSTIN & ANGELA ROBINETTE
4590 ENCHANTED POINT
SHOREWOOD, MN

MAIN FLOOR PLAN AND
RENDERINGS

RIVERS
Design
HOUSE

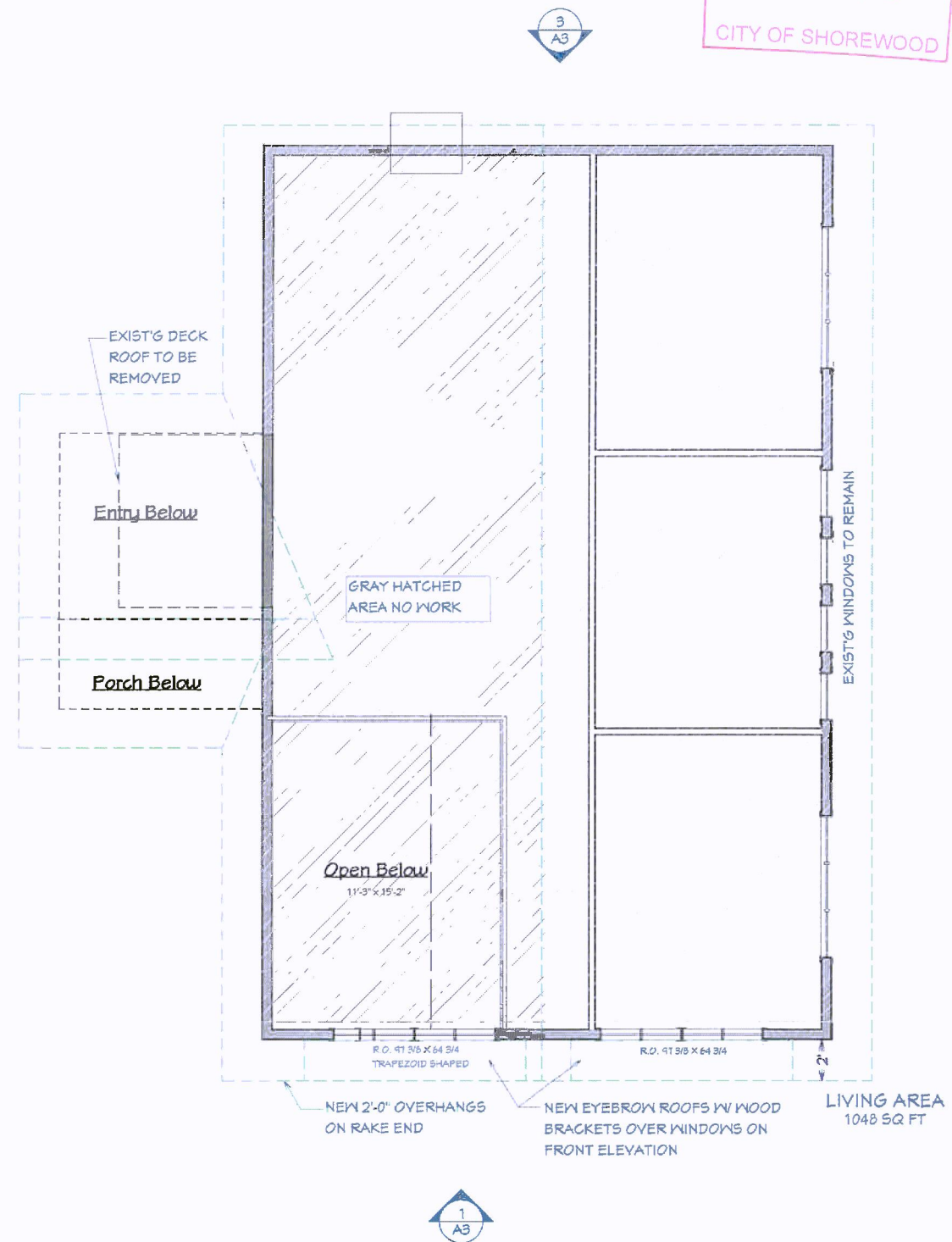
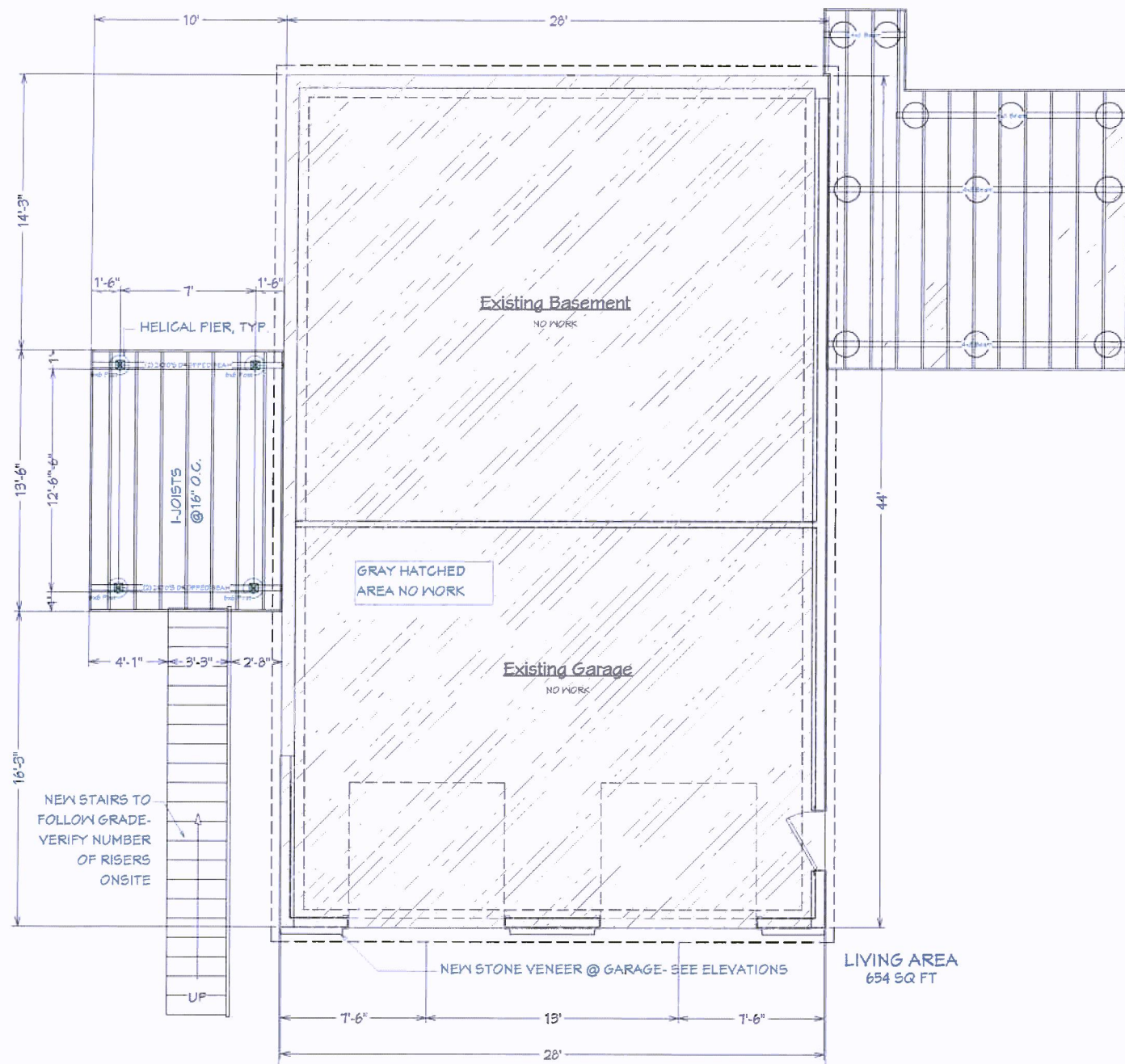
DRAWINGS PROVIDED BY:
KAREN RIVERS
RIVERS DESIGN HOUSE, LLC
www.riversdesignhouse.com
763.670.4806

DATE:
4/13/2021

SHEET:

A1

NOTE: HALF SCALE ON 11X17



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APR 19 2021
CITY OF SHOREWOOD

REVISION NUMBER	DATE

REMODEL PLANS FOR:
JUSTIN & ANGELA ROBINETTE
4530 ENCHANTED POINT
SHOREWOOD, MN

BASEMENT PLAN, UPPER
LEVEL AND ROOF PLAN



DRAWINGS PROVIDED BY:
KAREN RIVERS
RIVERS DESIGN HOUSE, LLC
www.riversdesignhouse.com
763.670.9306

DATE:
4/13/2021

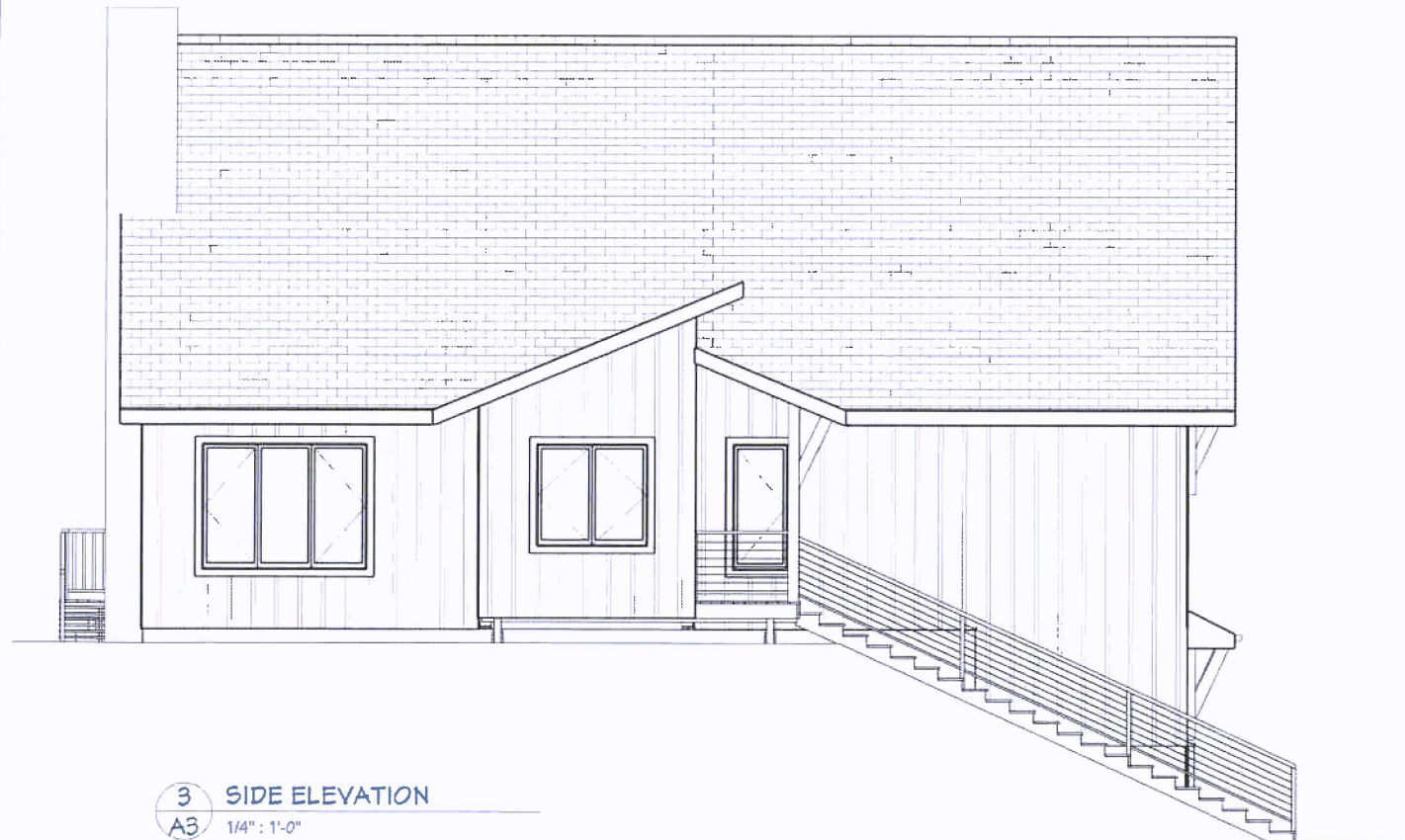
SHEET:

A2

NOTE: HALF SCALE ON 11X17



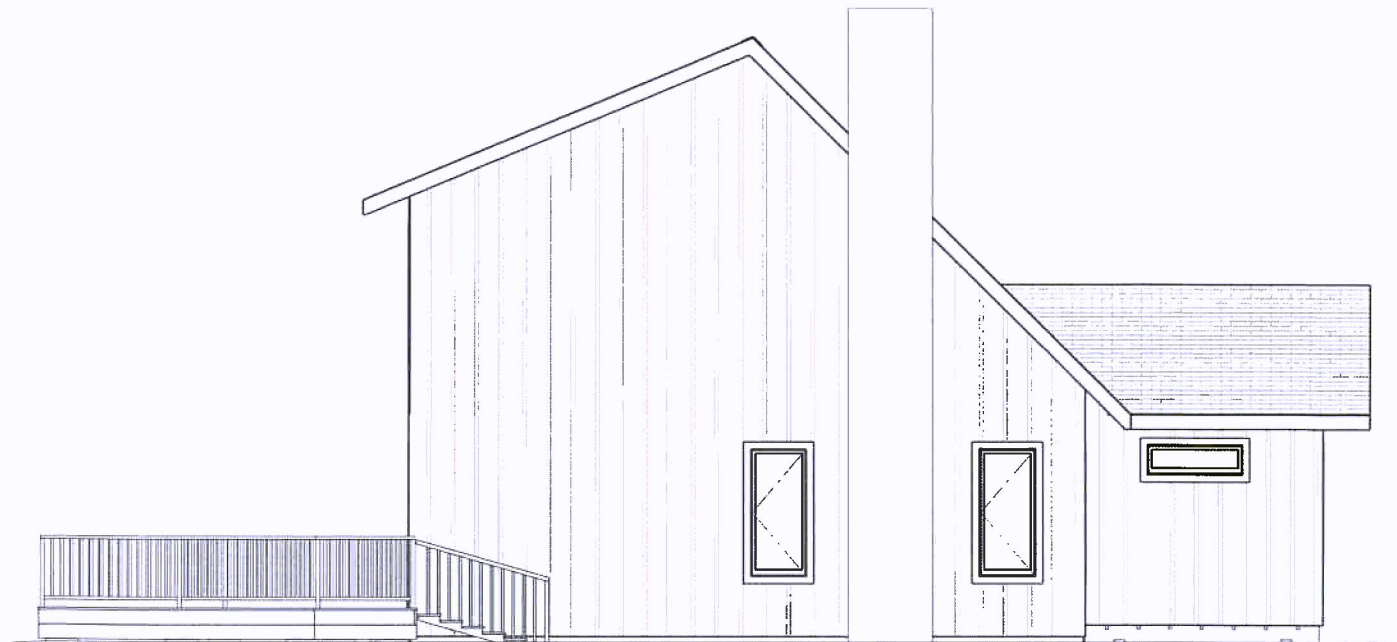
1 FRONT ELEVATION
A3 1/4" : 1'-0"



3 SIDE ELEVATION
A3 1/4" : 1'-0"



2 SIDE ELEVATION
A3 1/4" : 1'-0"



4 REAR ELEVATION
A3 1/4" : 1'-0"

RECEIVED
APR 19 2021
CITY OF SHOREWOOD

Boyer
Building Corporation

REVISION NUMBER	TABLE DATE

REMODEL PLANS FOR:
JUSTIN & ANGELA ROBINETTE
4550 ENCHANTED POINT
SHOREWOOD, MN

ELEVATIONS



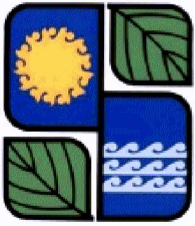
DRAWINGS PROVIDED BY:
KAREN RIVERS
RIVERS DESIGN HOUSE, LLC
www.riversdesignhouse.com
TEL 612.980.9806

DATE:
4/13/2021

SHEET:

A3

NOTE: HALF SCALE ON 11X17



CITY OF
SHOREWOOD

5755 COUNTRY CLUB ROAD, SHOREWOOD, MINNESOTA 55331-8927 • 952.960.7900
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us

MEMORANDUM

TO: Planning Commission, Mayor and City Council

FROM: Emma Notermann, Planning Technician

MEETING DATE: June 1, 2021

REQUEST: Variance to the building height regulations

APPLICANT: Kuhl Design Build

LOCATION: 28110 Woodside Road

REVIEW DEADLINE: August 19, 2021

LAND USE CLASSIFICATION: Low Density Residential

ZONING: R-1A/S

FILE NUMBER: 21.11



REQUEST:

The applicant requests a variance to the building height regulations for detached accessory structures to rebuild a garage on the property at 28110 Woodside Road. The proposed garage would be 20.7 feet tall and considered two stories where the zoning regulations limit detached accessory structures to 15 feet or one story. The second story is proposed to be accessible via a pull-down ladder.

Notice of this application and the public meeting was mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.

BACKGROUND

Context: The existing home on the property was constructed in 1910. It is situated on the east side of the property close to Woodside Road. The existing garage on the property will be demolished and replaced with the proposed garage to add more storage space for the owners. The proposed garage would meet the setback requirements and all other zoning regulations.

The adjacent properties are all developed with single-family homes and zoned R-1A/S.

Applicable Code Sections:

1201.03 Subd. 2.d(2). Requires that no detached accessory structures shall exceed 15 feet or one story in height.

1201. Subd. 7.b(1). All detached accessory buildings in excess of 150 square feet in floor area that are accessory to residential dwelling units shall be constructed with materials and a design compatible with the general character of the principal structure on the lot.

ANALYSIS

The applicant's narrative is attached and indicates that the property owners propose to construct a new detached garage to make the space more usable for their storage needs. The proposed garage would be 20.7 feet tall and two stories where the zoning regulations require a maximum of 15 feet or one story.

The applicant states that the main reason for the variance request for the garage to be taller than 15 feet or one story is to keep it in the same architectural style as the home. The Building Official has confirmed that the slope of the proposed garage roof matches the slope of the existing home roof and would be a compatible design to the general character of the house. Additionally, the garage sits lower than much of the surrounding area, so the additional height of the proposed garage would be obscured by topography even with its proximity to the road.

Staff would consider the proposed garage to be a two-story building because of the 9.9-foot ceiling height in the second-floor storage area. If the ceiling height were less than six feet tall, staff would consider the second floor to not be a full story.

Variance Criteria:

Section 1201.05 subd.3.a. of the zoning regulations sets forth criteria for the consideration of variance requests. These criteria are open to interpretation. Staff reviewed the request according to these criteria as follows:

1. *Intent of comprehensive plan and zoning ordinance:* The property owner would continue to use the property for residential purposes. They propose no uses on the site that would be inconsistent with either the intent of the residential land use classification or the district's allowed uses.
2. *Practical difficulties:* Practical difficulties include three factors, all three of which must be met. Staff finds that the practical difficulties for the property are related to architectural style and age of the existing home.
 - a. *Reasonable:* The applicant has proposed reasonable residential use on the property.
 - b. *Unique Situation vs. Self-Created:* The situation is self-created, as the applicant is requesting a full second story where a shorter ceiling height would suffice.

- c. *Essential Character*: The garage would not be out of character for the neighborhood. It sits relatively lower than other parts of the neighborhood and therefore will not appear taller than surrounding buildings.
3. *Economic Considerations*: The applicant has not proposed the variance solely based on economic considerations, but to enhance the usability of their garage space.
4. *Impact on Area*: The property owner is not proposing anything that would impair an adequate supply of light and air to an adjacent property, increase the risk of fire, or increase the impact on adjacent streets. The proposed garage is within the setbacks for the property and is located approximately 80 feet from the neighboring home to the southwest.
5. *Impact to Public Welfare, Other Lands or Improvements*: Staff finds the proposed garage would not be detrimental to the public welfare as it would blend into the architecture of the home and would appear to have been constructed.
6. *Minimum to Alleviate Practical Difficulty*: Staff finds the variance request is not the minimum necessary to alleviate the practical difficulties on the property. The request for a full second story on the proposed garage increases the height variance needed. If the applicant were to reduce the ceiling height of the second floor by 3.975 feet, they would still be able to achieve a compatible design and would only have a one-story structure.

FINDINGS/RECOMMENDATION

Staff finds the variance proposal does not meet the criteria above and recommends denial of the variance while acknowledging that the variance criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise.

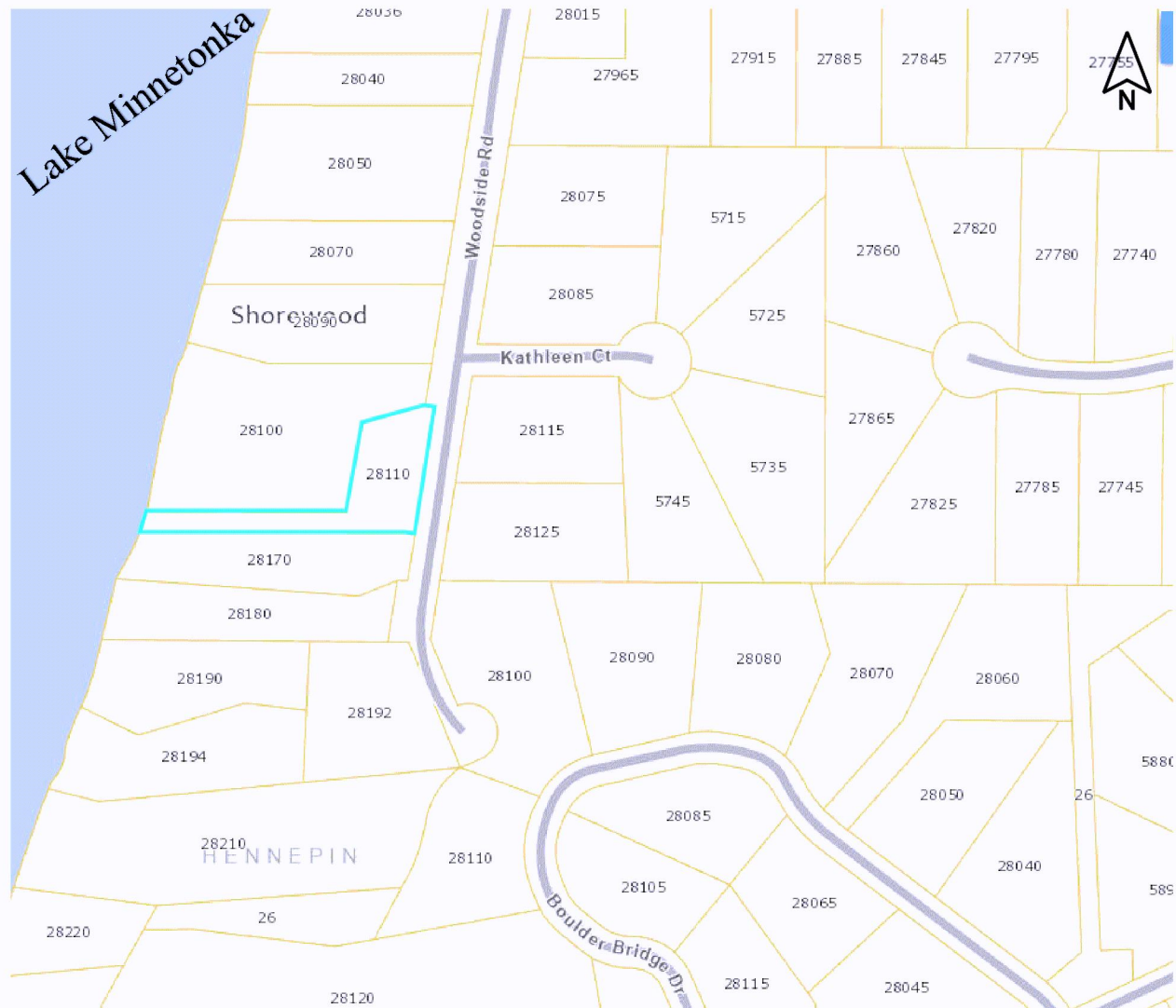
Should the Planning Commission recommend approval of the variance, staff recommends that the applicant be required to acquire all necessary permits prior to construction.

ATTACHMENTS

Location map

Applicants' narrative, pictures and plans

28110 Woodside Road Location Map



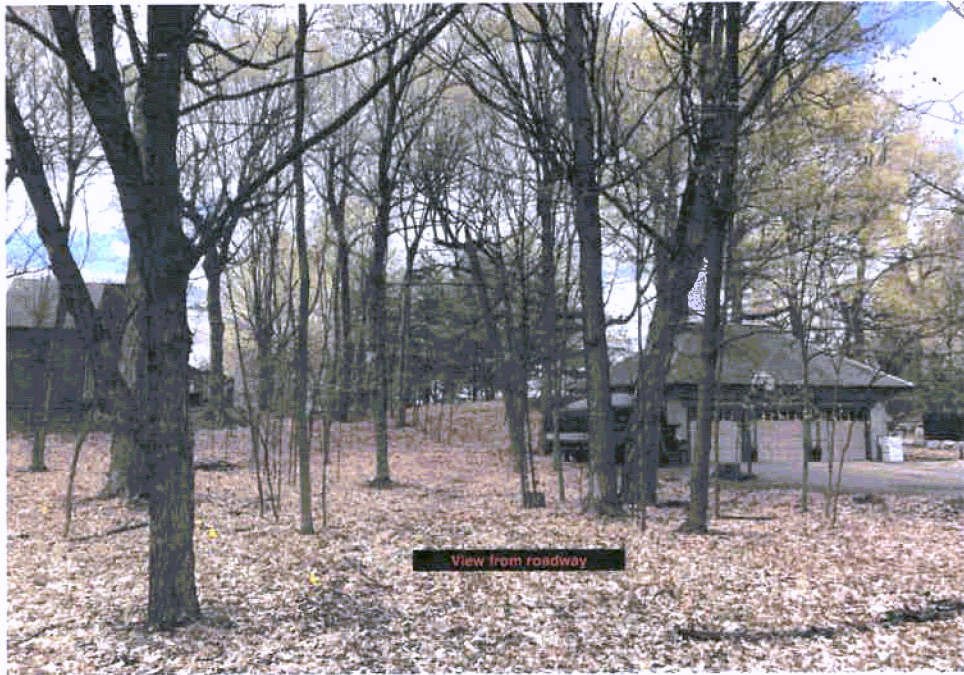
Thank you for taking the time to meet with us about our variance request. The following is a brief description of our project:

We are requesting a variance for the 15' midpoint height requirement for garages. Our goal of the project is to build a garage that accomplishes two goals. One to be closer in line with the architecture of our existing house and the other is to have a more modern space to accommodate larger vehicles, yard and seasonal equipment. To accommodate both goals we had to increase the size of the current garage (keeping it well within the allowable hardcover and city setbacks) in doing so, and wanting to design a garage that complimented the architecture of our current home, we needed to increase the pitch of the garage roof. Due to the topography of where our home is situated, this seems like a reasonable request as it will not impede any neighborhood sight lines and will blend nicely into the surroundings.

1. The variance, and its resulting construction and use, is consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of the zoning regulations: ***The garage will be completely within the harmony of the zoning regulations. We are going to be using the garage as a garage just like anyone would. One of our goals of the design is to make sure we can store ALL the various yard/seasonal equipment inside which will enhance the views in the neighborhood.***
2. The applicant has established that there are practical difficulties in complying with this Chapter. Practical difficulties mean:
 - a. The property owner proposes to use the property in a reasonable manner not permitted in this Chapter: ***In attempting to match the architectural integrity of the garage and house, it is extremely difficult to get a steeply pitched garage roof.***
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner: ***When we purchased the home, we fell in love with the surroundings and the architecture of the house. As our family grew, we started to recognize that we are one of the few homes where the main garage is actually detached. We are comfortable with the detached garage because we feel it adds to the charm of the neighborhood, if we were to attach a garage we would not need to apply for the 15' variance.***
 - c. The variance, if approved, would not alter the essential character of the locality: ***As I mentioned above, by granting the variance it will actually enhance the locality and maintain the character and charm of the neighborhood.***
3. The variance would not be based exclusively on economic considerations: ***Economics play no role in this request, we are trying to maintain architectural integrity and keep the overall feel of the neighborhood in tact.***
4. The variance shall not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion in the public street or increase the danger of fire or endanger public safety: ***None of these factors will be affected in any way.***
5. The variance, and its resulting construction or project, would not be detrimental to the public welfare, nor would it be injurious to other lands or improvements in the neighborhood: ***There would be zero affect to the public welfare and will increase the charm of the neighborhood.***
6. The variance is the minimum variance necessary to address or alleviate the practical difficulties: ***We wanted to ensure that the only variance we are requestion is the 15' midpoint roof variance and there are no other variances necessary.***







View from roadway



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Robert A. Shaffer
Date 04/19/2021 Reg. No. 20803

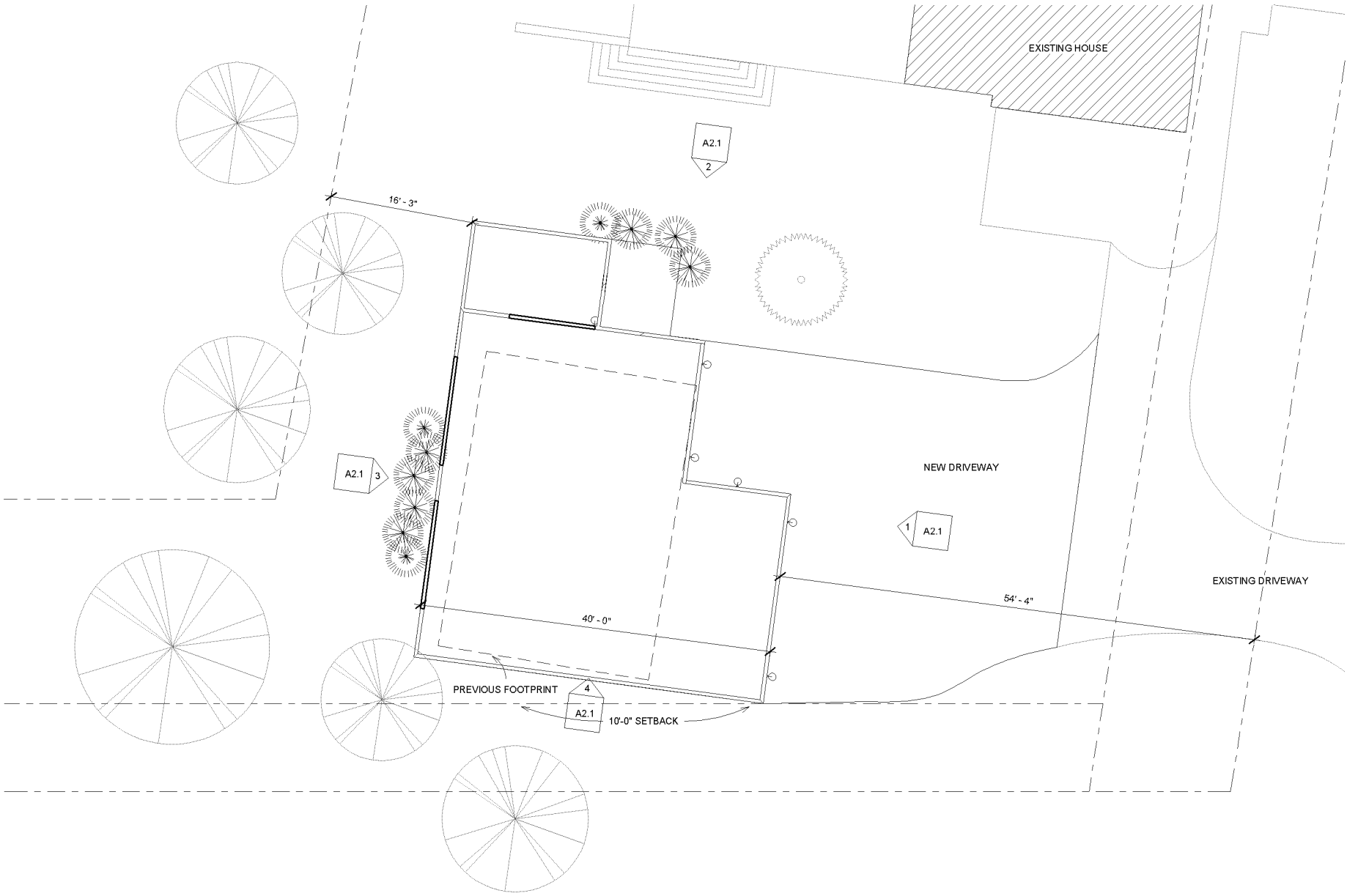
GIEBENHAIN GARAGE
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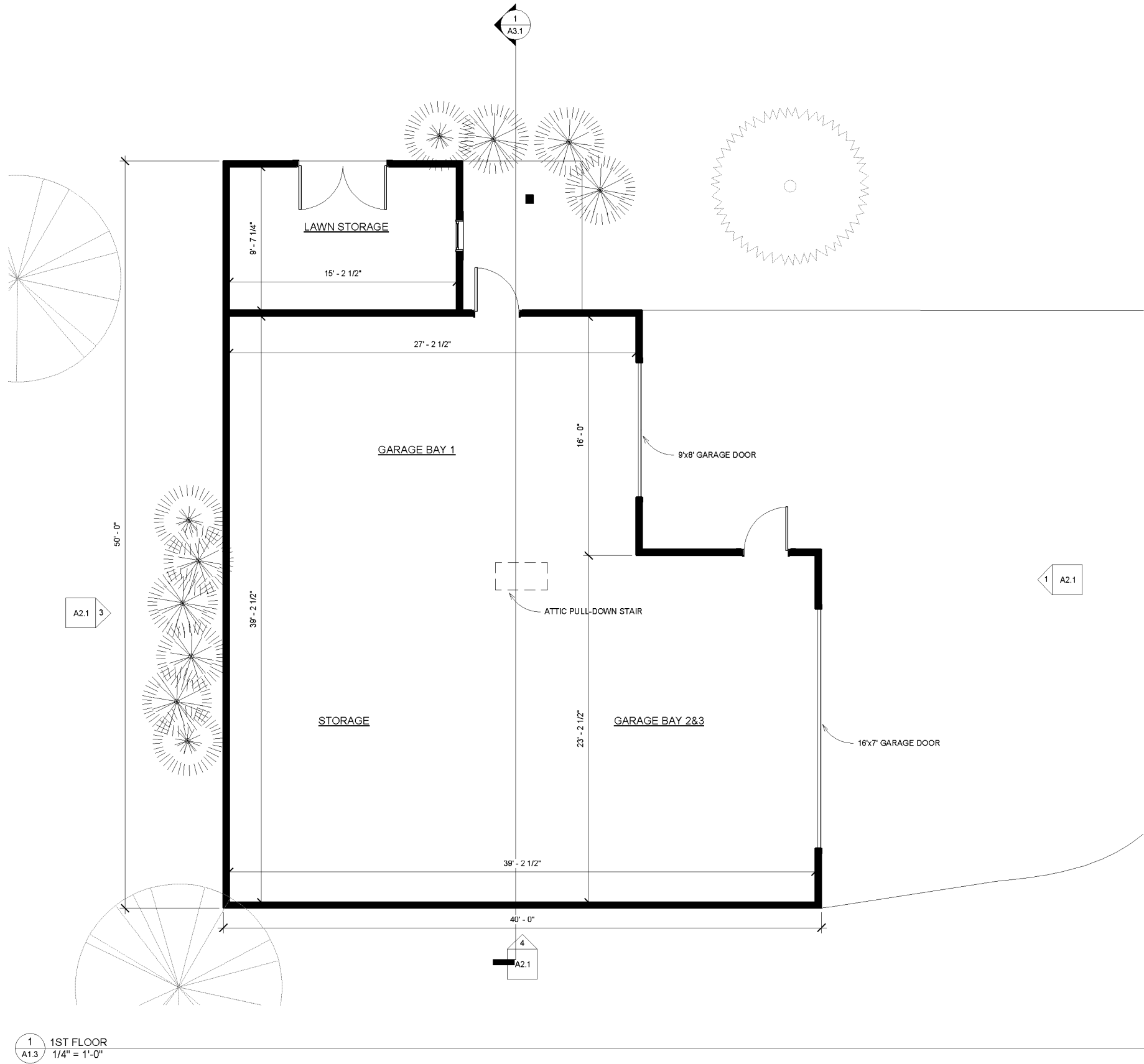
SITE PLAN

Date 04.19.2021
Project Number 21-06

A1.1



1 SITE PLAN
A1.1 1/8" = 1'-0"



1 1ST FLOOR
A1.3 1/4" = 1'-0"

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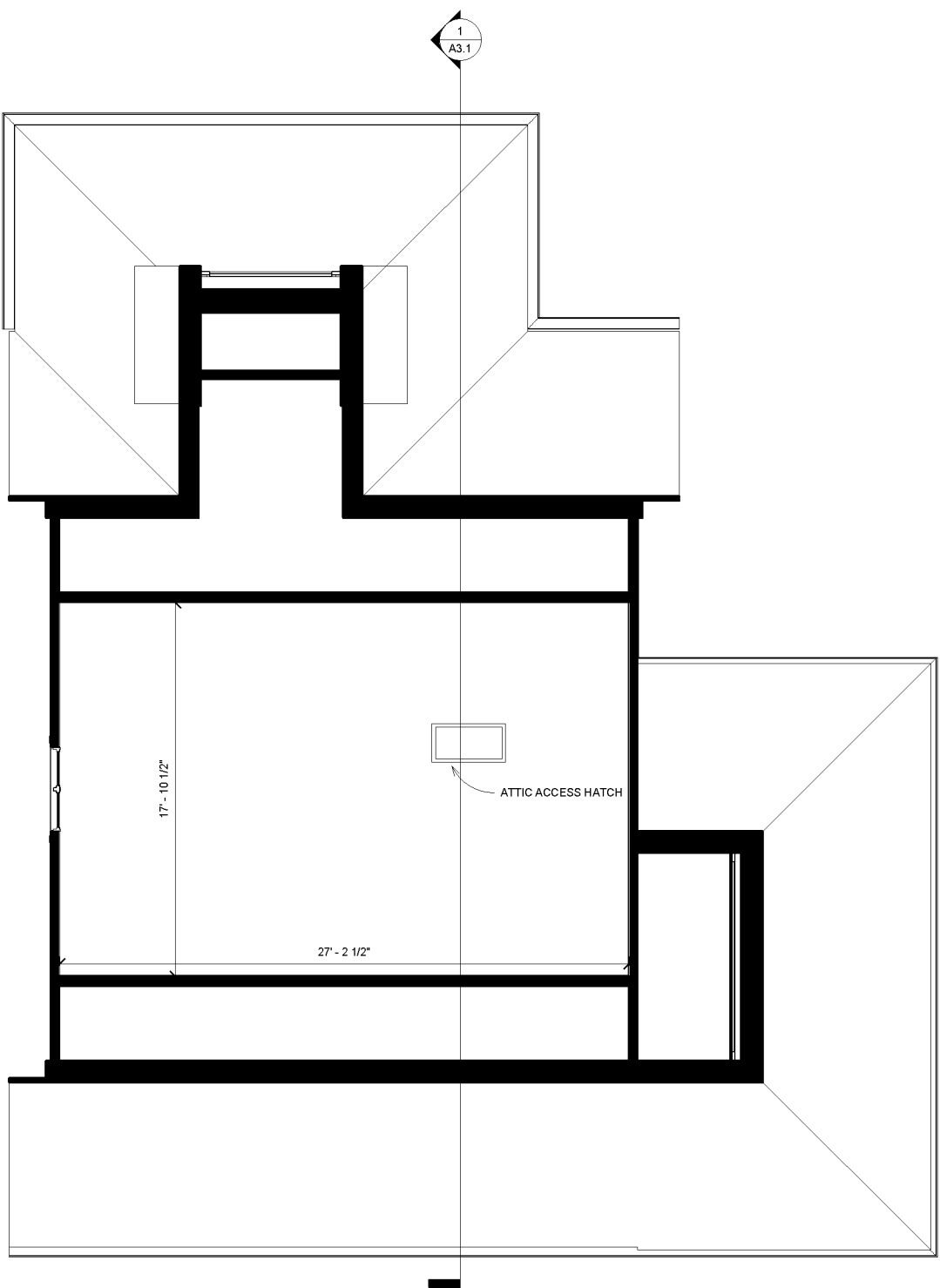
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1ST
FLOOR

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A1.3



1 2ND FLOOR
A1.4 1/4" = 1'-0"

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2ND
FLOOR

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A1.4



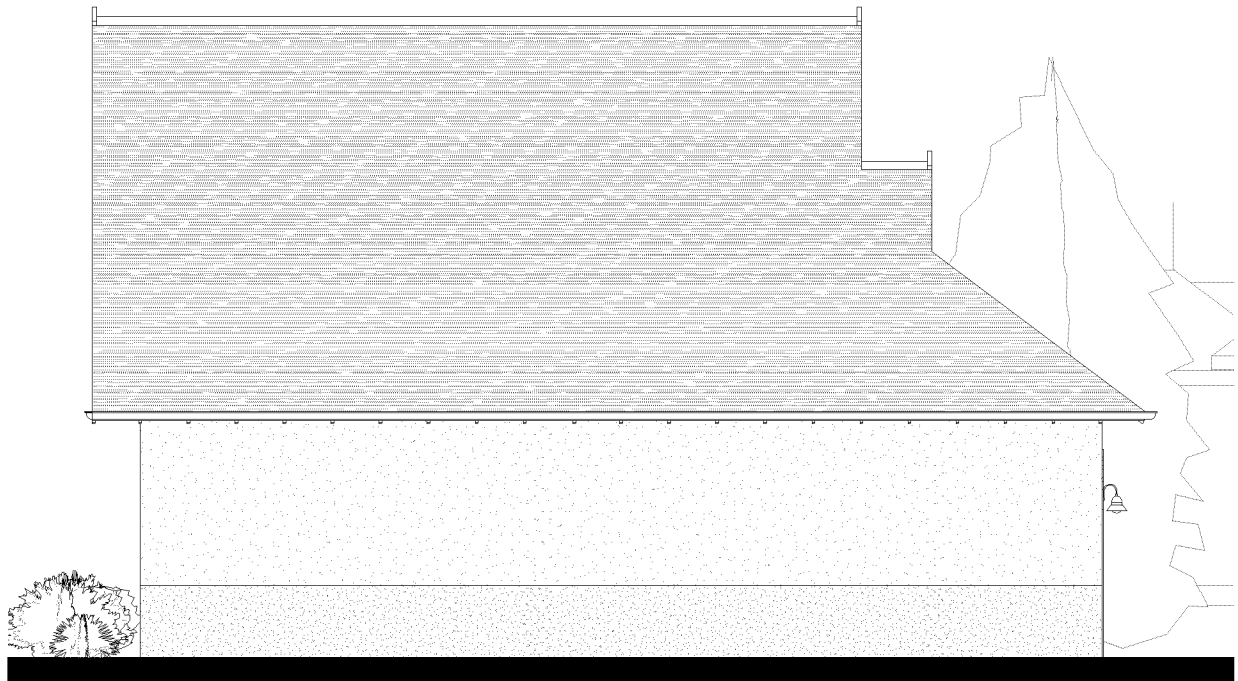
1 EAST ELEVATION
A2.1 1/4" = 1'-0"



2 NORTH ELEVATION
A2.1 1/4" = 1'-0"



3 WEST ELEVATION
A2.1 1/4" = 1'-0"



4 SOUTH ELEVATION
A2.1 1/4" = 1'-0"

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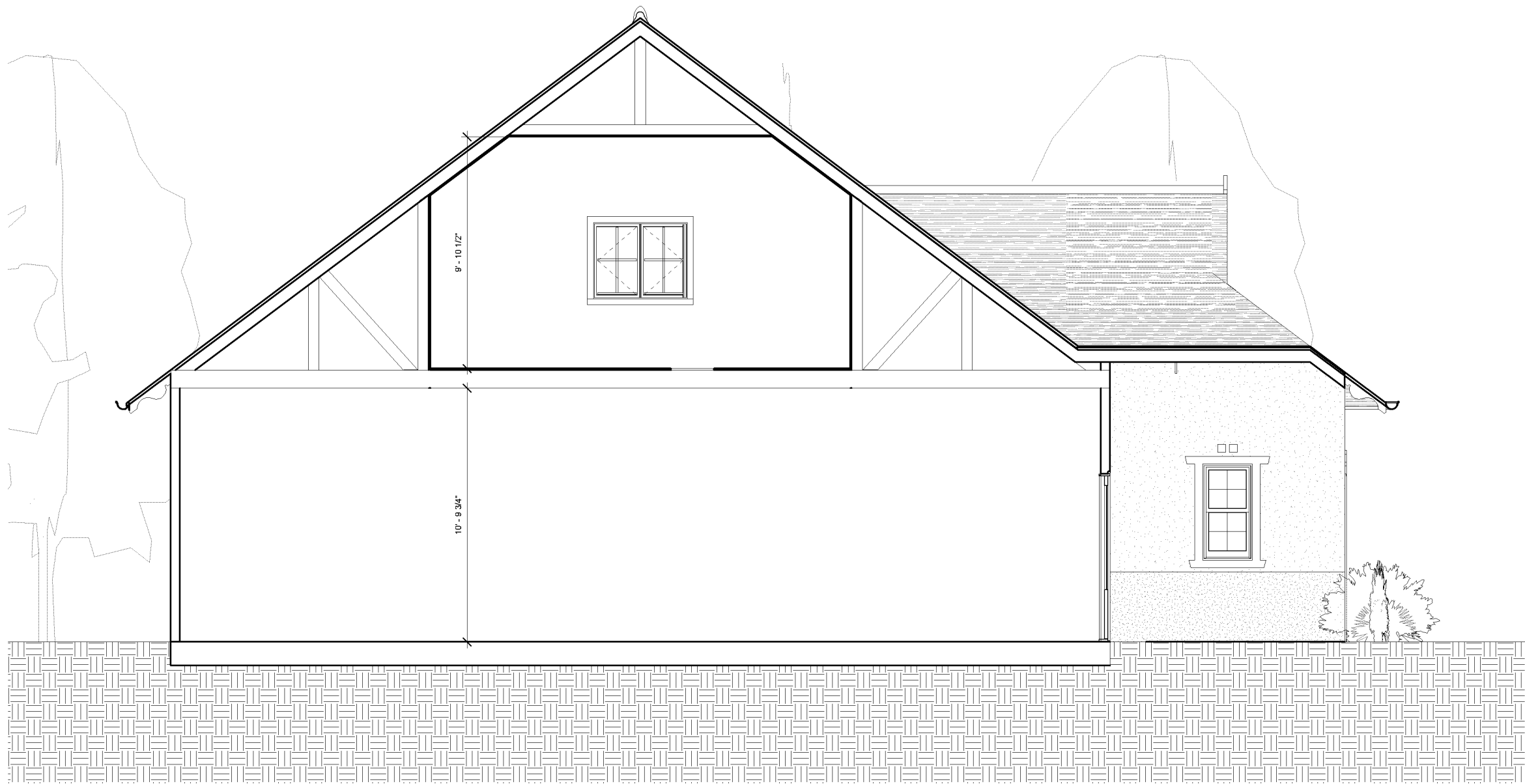
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EXTERIOR
ELEVS

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A2.1



1 N-S SECTION
A3.1 3/8" = 1'-0"



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BUILDING
SECTION

Date 04.19.2021
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A3.1

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3D VIEW

Date 04.19.2021
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A9.1

