

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
APPEAL FOR VARIANCE
STAFF REPORT**

DATE: October 14, 2020

FILE NO.: BA65

PETITIONERS: Robert and Julie Wold
N56 W37815 Sunset Lane
Oconomowoc, WI 53066

TAX KEY NO.: OCOT 0543.006

LOCATION:

The subject property is described as Lot 6, in Block A, Revised Plat of Shorewood Terrance, located in part of the SW ¼ of Section 28, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N56 W37815 Sunset Lane.

REQUEST:

Variance from Section 3.17 Nonconformance to Road Setback requirements of the Waukesha County Zoning Code to permit the construction of an addition to the existing residence.

ZONING CLASSIFICATION: R-3 Residential District.

LOT CONFIGURATION:

The property is approximately 19,264 sq. ft., with 100 ft. of frontage on Sunset Lane. The existing and required average lot width, average lot depth and lot size are shown in the following table.

	Average Lot Width	Average Lot Depth*	Lot Size
Existing	100 ft. +/-	193 ft. +/-	19,264 sq. ft.
Required	120 ft.	n/a	20,000 sq. ft.

*excluding the established road right-of-way of 33 ft. from the centerline

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:

None.

PENDING ACTIONS:

None.

PROPOSAL AND STAFF ANALYSIS:

The property contains a single-family ranch-style residence with an attached garage and a shed (see Exhibit A). The property is served by private waste disposal system and private well. The topography of the lot is flat with mature trees. The neighborhood generally consists of one-story residences with similar size lots. The subdivision was platted prior to the Ordinance being enacted in Oconomowoc and the homes are set back from the road in the same general pattern of development.

The petitioners are proposing to construct an addition to the rear of the residence (Exhibit B). The Zoning Code regulates building footprint as covered areas, including areas where overhangs exceed two feet. The addition is 288 sq. ft. of living space, with 3 ft. extended overhangs. Therefore, the building footprint is increasing by 412 sq. ft.

The table below summarizes the existing and proposed improvements.

	Acc. Bldgs. (sq. ft.)	Basement (sq. ft.)	1 st floor (sq. ft.)	Beds	Baths
Existing	150	1,428	1,667	3	2
Proposed	+0	+0	2,079 (+412)	+0	+0

The proposed addition requires variances from the nonconforming to the road setback requirements, as summarized in the following table.

PROVISION	ZC	EXISTING	NON- CONFORMING? 3.17	PROPOSED	REQUIRED	VARIANCE?
ROAD SETBACK	3.09(1)	31.1'	Y	83' (addition)	34.5'	Y
OFFSET (E)	3.09(3)	14.5'	N	14.5'	14'	N
OFFSET (W)	3.09(3)	21.4'	N	25.4'	14'	N
TOTAL BUILDING FOOTPRINT	3.11(5)	2,334 sq. ft. (12.1%)	N	2,746 sq. ft. (14.2%)	3,371 sq. ft. (17.5%)	N
ACCESSORY FOOTPRINT	3.11(4)	150 sq. ft.	N	0	Up to 750 sq. ft.	N
MIN. FLOOR AREA (S.E.)	3.11(1)	1,667 sq. ft.	N	1,667 sq. ft.	850 sq. ft.	N
BLDG HEIGHT	3.10	16'	N	14'-8"	35'	N

Both of the adjacent residences are located slightly further from the road than the subject residence by approximately 2-3 feet. The road setback averaging provisions were modified in the 2016 comprehensive ordinance amendments. The modified averaging provisions no longer allow this residence to benefit from road setback averaging. Therefore, the residence is nonconforming to the road setback. The nonconforming to the road setback provisions state that a structure located within 20-35 feet of the base setback line is limited to a 200 sq. ft. addition over the lifetime of the structure. Structures that are 35-50 ft. from the base setback line have no size limits to proposed lateral additions, so long as they do not encroach any further onto the road setback.

PETITIONERS' COMMENTS:

The petitioners' comments are attached as Exhibit C.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **conditional approval** of the request for a variance from the nonconformance to road setback requirements of the Waukesha County Zoning Code, to permit the construction of an addition to the existing residence. This recommendation is based upon the analysis of the below tests for a variance and the criteria to be considered for a special exception, as analyzed below. We recommend that this approval be subject to the following conditions:

1. A Preliminary Site Evaluation approval is required from the Environmental Health Division, prior to the issuance of a Zoning Permit.

AREA VARIANCE TEST CRITERIA ANALYSIS

State law, case law, and County ordinances require that the petitioner demonstrate that their request meet the following tests for a variance. The below Staff analysis assesses the merits of the subject application relative to the tests:

- 1. Compliance with the ordinance would cause the owner to experience an unnecessary hardship. Unnecessary hardship is proven by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. A property owner bears the burden of proving that the unnecessary hardship is based on special conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner. Hardships should not be financial or economic in nature. Variances are intended to provide only the minimum amount of relief necessary, and the purposes of the Ordinance shall be observed.**

The residences on Sunset Lane are all approximately the same distance from the road right of way. The Ordinance only allows properties to use the adjacent parcels for purpose of averaging to achieve a reduced road setback. Because the adjacent residences are approximately 2-3 feet further from the road than the subject residence, averaging does not apply and the property is limited to a small expansion over the lifetime of the structure. To limit the size of the expansion would be unnecessarily burdensome on this property, as the addition is on the rear of the residence and will have no adverse impacts to the adjacent properties. If this property were redeveloped, a new residence, which could be significantly larger and taller, would be in almost exactly the same location as it sits today.

- 2. The granting of the variance will not adversely affect the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources in the area. Lack of local opposition does not mean a variance will not harm the public interest.**

The proposed addition will not require any trees to be removed from the property or require any change to the topography. The addition is located on the rear of the residence and will have no impact to the adjacent neighbors or the surrounding neighborhood.

Respectfully submitted,

Reviewed and approved by:

Rebekah Leto

Jason Fruth

Rebekah Leto
Senior Land Use Specialist
Phone: 262-548-7790

Jason Fruth
Planning and Zoning Manager

Exhibits: A: Plat of Survey
B: Proposed Site Plan and Building Plans
C: Petitioners' Comments

PLAT OF SURVEY

BEING ALL OF LOT 6, BLOCK A OF THE REVISED PLAT OF SHOREWOOD TERRACE, LOCATED IN THE SW 1/4 OF SECTION 28, T.8N., R.17E., TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WI.

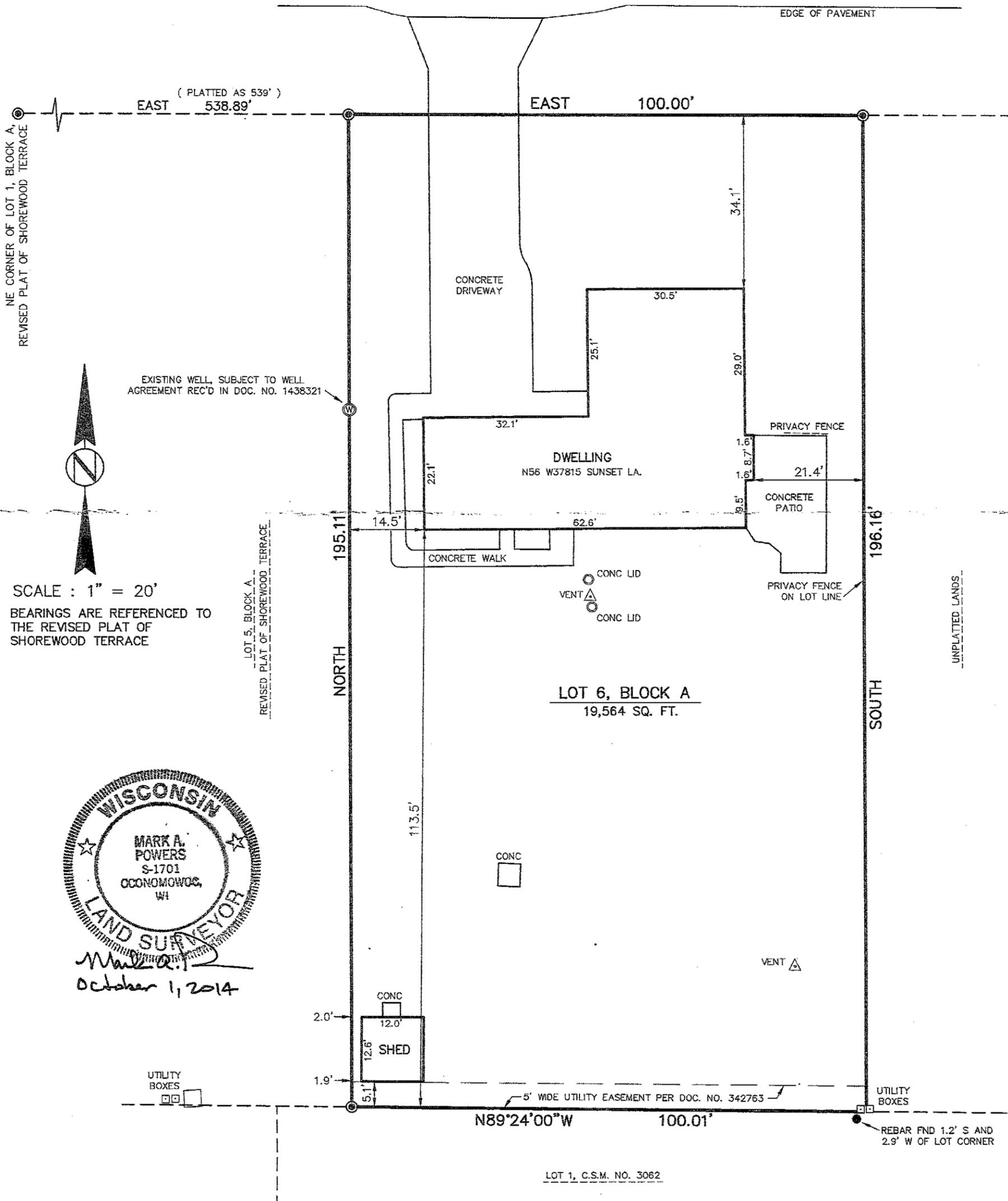
SURVEYOR
 MARK A. POWERS, RLS 1701
 LAKE COUNTRY ENGINEERING, INC.
 970 S. SILVER LAKE ST., SUITE 105
 OCONOMOWOC, WI. 53066
 (262)569-9331

SURVEY FOR
 ROBERT WOLD
 N56 W37815 SUNSET LANE
 OCONOMOWOC, WI. 53066

LEGEND
 ⊙ - 1.25" DIA. IRON PIPE FOUND
 ● - 3/4" DIA. REBAR FOUND

EDGE OF PAVEMENT

SUNSET LANE (60' WIDE R/W)



SCALE : 1" = 20'
 BEARINGS ARE REFERENCED TO THE REVISED PLAT OF SHOREWOOD TERRACE

WISCONSIN
 MARK A. POWERS
 S-1701
 OCONOMOWOC, WI
LAND SURVEYOR
Mark A. Powers
 October 1, 2014

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS, ROADWAYS, AND VISIBLE ENCROACHMENTS, IF ANY.

THIS SURVEY IS MADE FOR THE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE HEREOF.

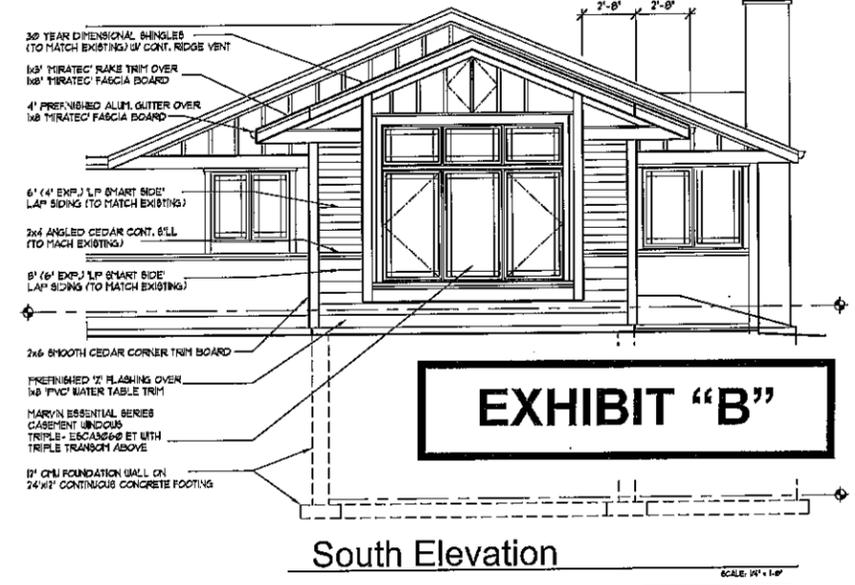
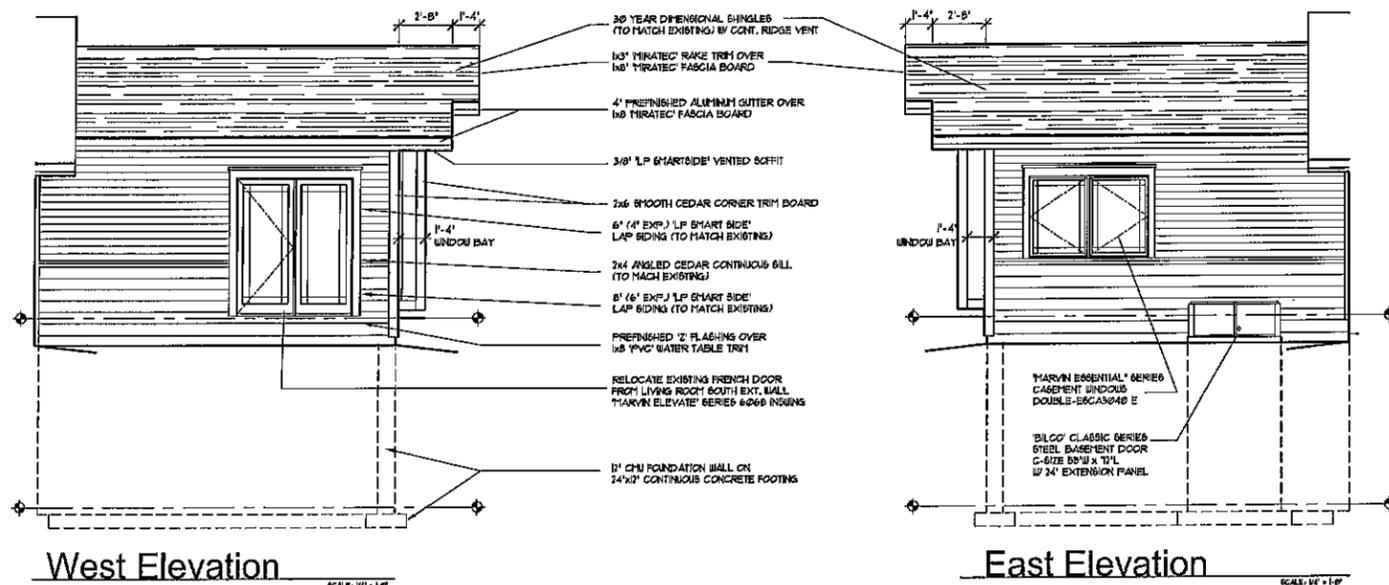
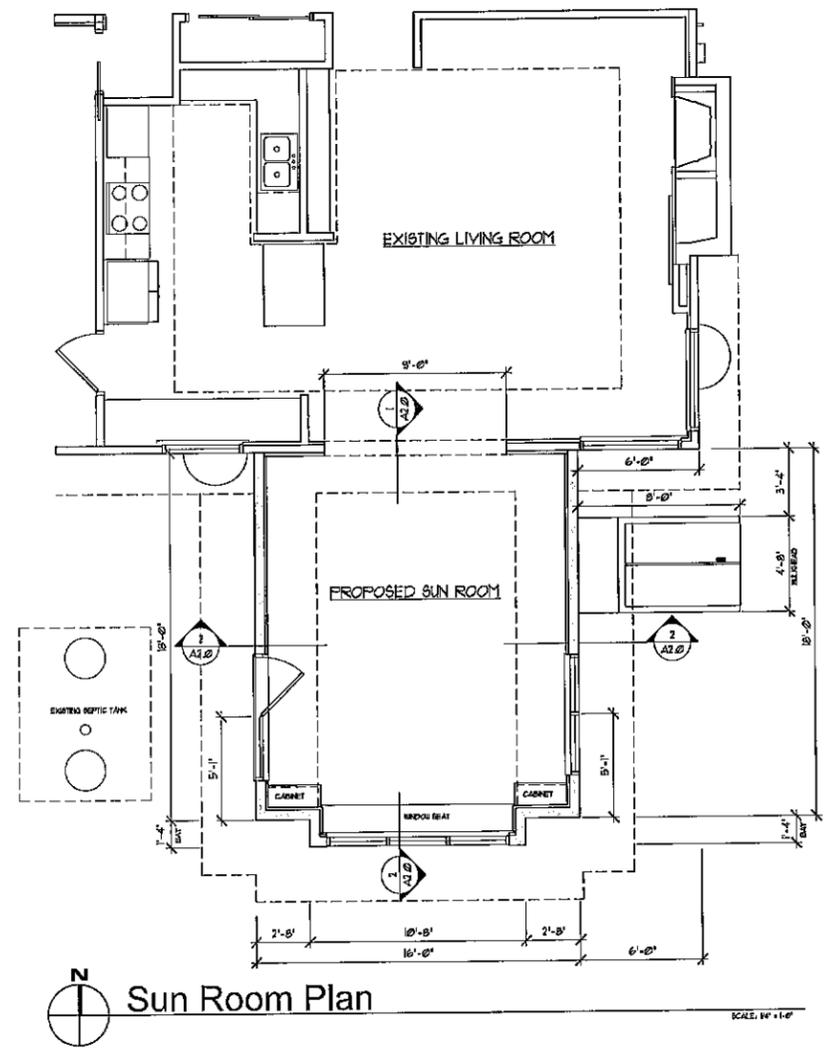
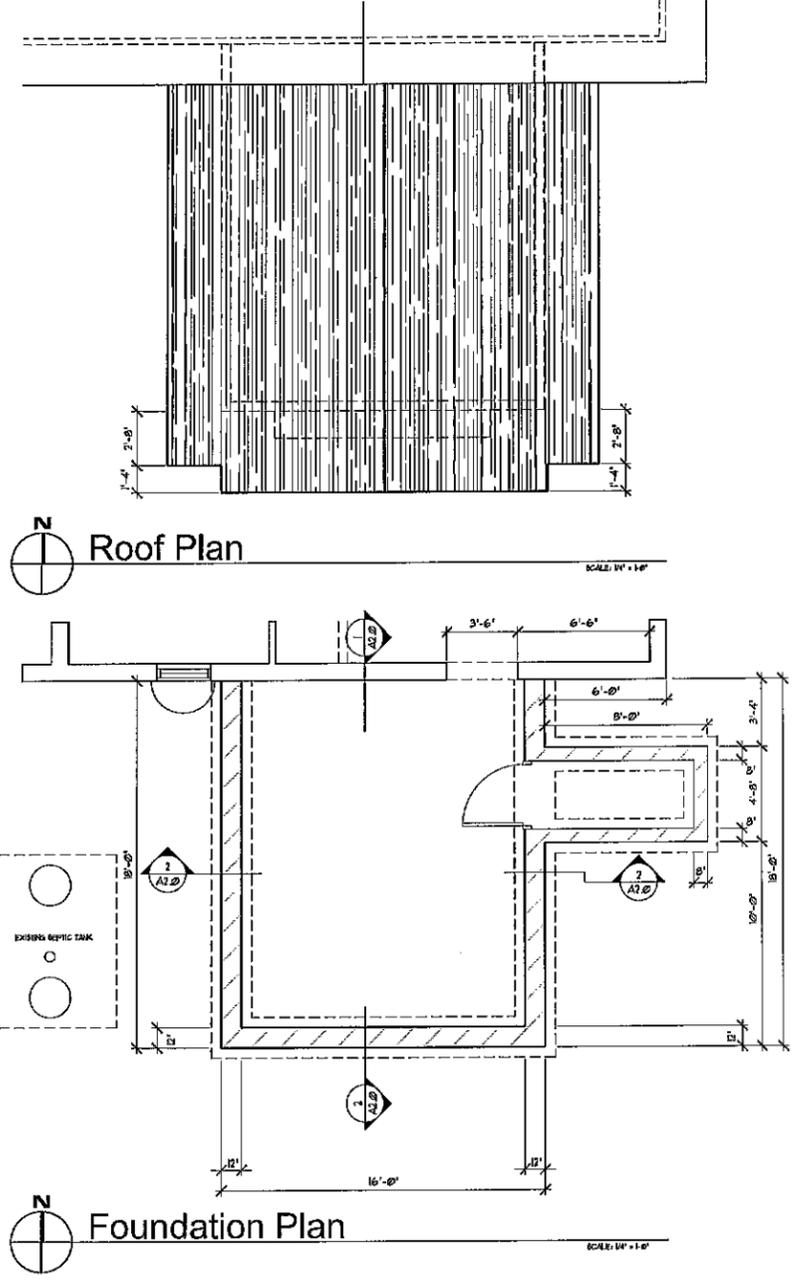
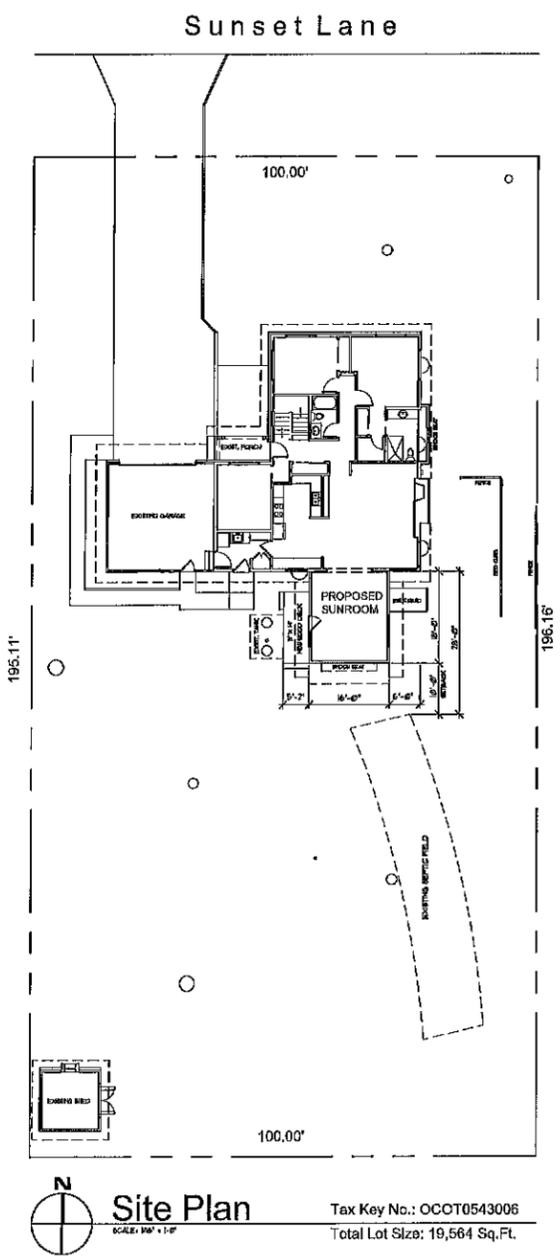


EXHIBIT "B"

Area Calculations

EXISTING HOME:	1,667 Sq.Ft.
EXISTING GARAGE:	465 Sq.Ft.
EXISTING PORCH:	52 Sq.Ft.
EXISTING SHED:	150 Sq.Ft.
±SUN ROOM- ADDITION:	288 Sq.Ft.
TOTAL UNDER ROOF	2,622 Sq.Ft.

TOTAL LOT SIZE: 19,564 Sq.Ft.
 19,564 x 17.5% = 3,424 Sq. Ft.
 ALLOWABLE UNDER ROOF: 3,424 Sq. Ft.



REVISIONS

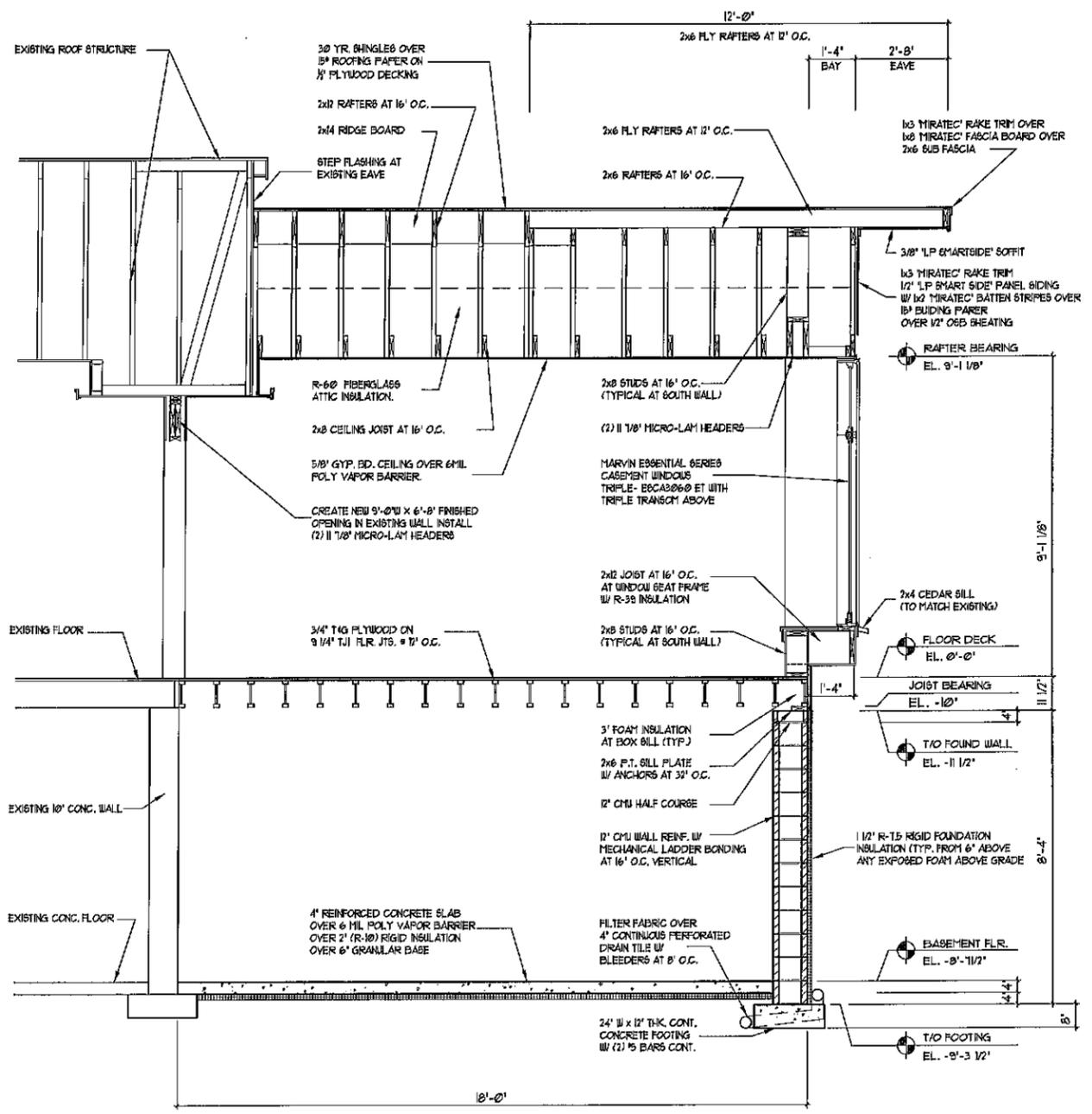
PROPOSED ALTERATION
Wold Residence
Sun Room Addition

N56 W37815 Sunset Lane
Oconomowoc, WI 53066

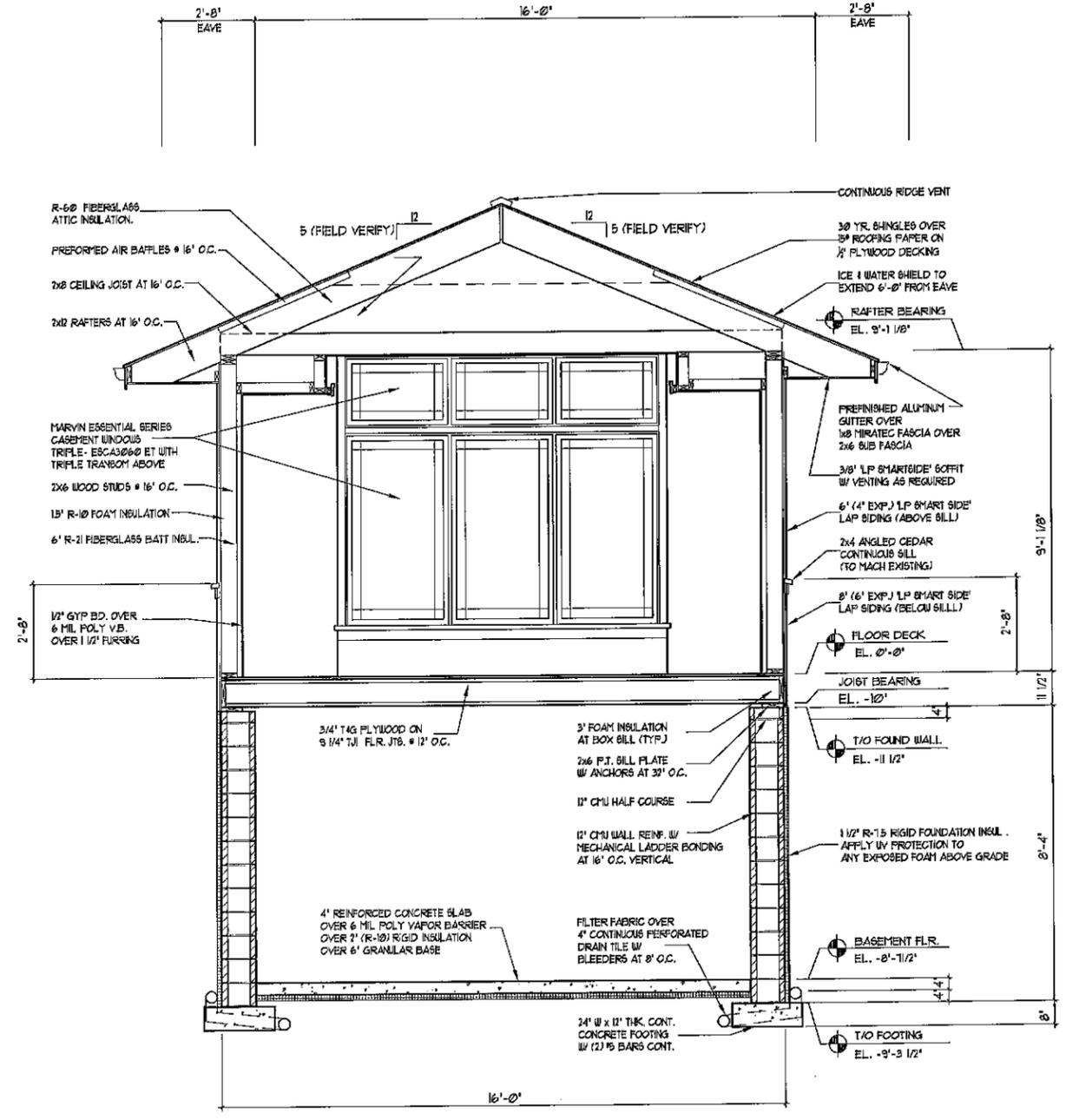
SHEET TITLE
Site Plan
Floor Plan
Elevations

PROJECT NO. 2020-07
 DATE 8.18.2020
 SCALE 1/4" = 1'-0"
 CHECKED BY
 DRAWN BY
 SHEET **A1.0**

EXHIBIT "B"



① Thru - Section (North / South) SCALE: 1/2" = 1'-0"



② Thru - Section (East / West) SCALE: 1/2" = 1'-0"



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REVISIONS

PROPOSED ALTERATION
Wold Residence
Sun Room Addition

SHEET TITLE Cross Sections	
PROJECT NO.	2020-07
DATE	8.18.2020
SCALE	1/2" = 1'-0"
CHECKED BY	
DRAWN BY	
SHEET	A2.0

EXHIBIT "C"

Robert and Julie Wold N56 W37815 Sunset Lane Oconomowoc, WI 53066

Describe the proposed construction/request and use in detail:

CONSTRUCTION: We are proposing to build an addition to our existing home. The proposed office addition will be 16 ft. x 18 ft.= 288 square ft. The addition will be of wood framed construction with a full basement. The roof height and pitch, wood siding, shingles, and windows will match the existing structure. The size of the addition, along with the existing structure under roof, will fall well below all of the land/area ratio requirements. The current code would allow up to an additional 1,090 sq. ft. of roofed structure based on a 17.5 % land/area ratio.

REQUEST: We are requesting a variance of an additional 88 sq. ft. to accommodate our home office needs. The property was purchased six years ago in an effort to downsize and to plan for our retirement. We met with the planning office in the summer of 2014 with a preliminary plan concept for an addition to the home. It was verbally conveyed to us at that time that an addition up to 600 sq. ft. would be permitted based on a 15% land/area ratio. We were also told at that time that the minimum front setback could be averaged with the neighboring homes up and down the street. Thus we were told that our front setback would work and should not be a concern. We purchased the property with the knowledge that a substantial sized building addition could be built in the future.

It appears that there have been changes to the county zoning statutes that would prevent us from building this size addition. Even though we were told it would be possible at the time of purchase. Our existing home is 34.1 ft. from the front setback. We are 10.75 inches short of the 35 ft. front setback. Thus, we are only allowed a 200 sq. ft. addition which will not accommodate our work from home needs we are requesting.

USE: The use of this room will be a home office. It will accommodate two desks, a conference table, filing system, and side conversation/consulting area. Five years ago we remodeled the original home where we could age in place. Due to the recent Corona virus pandemic, along with life style adjustments, we have transitioned from working outside the home to working from home. It is apparent that this is the correct time to add work space onto to our existing home to accommodate working from home needs.

Area Variance:

After an extensive search, we purchased this unique property in 2014. The 1956 ranch style home is on a .4 acre flat, wooded lot. It is located within easy walking distance to downtown Oconomowoc. We felt strongly that these inherent features would be a great starting point for our future retirement/age in place home. Our plan was to remodel the home and build a future addition. At the time of purchase we were told that our addition plans would be possible.

Affects:

The granting of the variance will in no way affect the general public interest or welfare of our neighborhood. The addition is in the back and does not extend out into the yard to be detrimental to nearby properties. We have checked with neighbors on both sides of this property, and they are in full support of this addition as it will increase property values on our street.