

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

DATE: October 14, 2020

FILE NO.: BA66

OWNERS: Jeffrey and Heather Sorensen
W345 S10503 CTH E
Mukwonago, WI 53149

AGENT: Thomas Stelling
P.O. Box 506
Burlington, WI 53105

TAX KEY NO.: EGLT 1870.030.002

LOCATION:

Lot 1 of Certified Survey Map No. 11645, located in the NW ¼ of Section 36, Town 5 North, Range 17 East, Town of Eagle. The property has frontage on Eagle Spring Lake.

REQUEST:

Variance from Section 3 (h) (2) Shore Setback and Section 3 (i) Height requirements of the Waukesha County Shoreland and Protection Ordinance to permit an addition to the principal structure, retaining walls, a driveway and sidewalk.

ZONING CLASSIFICATION: R-3 Residential

LOT CONFIGURATION:

The rectangular shaped property is located on a peninsula in Eagle Spring Lake, with approximately 163 ft. of shoreline frontage on the west side of the property and approximately 185 ft. of frontage on a private ingress and egress easement that abuts Eagle Spring Lake on the east side of the property. There is a ridge running along the centerline of the peninsula, with the land sloping steeply to the lake from both the east and west sides. The easement on the east side serves two additional properties at the end of the peninsula. The south side of the parcel has many mature trees on the property. 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	184 ft. +/-	130 ft. +/-	26,877 sq. ft.
Required	120 ft.	n/a	20,000 sq. ft.

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:

BA04:052 The previous owners were granted variances from the lot size and lot width requirements to permit a land transfer of approximately 24 ft. to the north property. The lot line adjustment was completed via Certified Survey Map No. 9891.

BA05:026 The previous owners were granted variances to the shore and floodplain setback to add a concrete block basement beneath the existing residence to provide structural support for the residence. It should be noted the applicant believes the soil removed from the property to build the basement was not hauled off site, but left on the property to create the knoll. However, staff cannot find evidence to support this based on documentation in the variance file (photos and description of the property) describing the ridge and steep slopes and photos from older variances of adjacent properties.

BA17:013 The previous owners were granted a variance from the offset provisions to allow lot line adjustments to incorporate the existing detached garage into the subject parcel area. Previously, the detached garage was located within the commonly owned outlot but owned by the subject property.

PENDING ACTIONS:

None.

PROPOSAL AND STAFF ANALYSIS:

The property contains a single-family residence, wrap-around screened-in porch and detached garage. Access to the property is on the north side of the property via a shared driveway with the adjacent neighbor. A private on-site sewage system is located on the north side of the property. The petitioners are proposing to construct a two-story addition to the south side of the residence (Exhibit A). The addition is approximately 52 ft. wide and 63 ft. deep. The proposed basement level includes a 24 ft. x 24 ft. (576 sq. ft.) attached garage, a half bathroom, lake storage, mechanical storage and a theater room. The first floor addition is mainly living space (great room, bonus space) and the second floor would include relocated bedrooms. See Exhibit B for the proposed building plans. The table below summarizes the existing and proposed improvements.

	Acc. Bldgs. (sq. ft.)	Basement (sq. ft.)	1 st floor (sq. ft.)	2nd floor (sq. ft.)	Beds	Baths
Existing	490	1,945	1,978	1,767	4	4
Proposed	No change	+2,106 (includes att. Garage) (total 4,051)	+2,228 (total 4,206)	+1,559 (total 3,326)	4	6 (+2)

In order to construct the addition, significant land altering is required along with large retaining walls. The petitioner has been informed that a separate Conditional Use application for land altering would be required should this variance be granted. No assurance of approval of such an application should be assumed as the proposed disturbance of a steep slope does not conform to the steep slope preservation recommendations of the County Development Plan. The proposed

basement elevation is 823.3', which is approximately one foot lower than the access easement. In order to achieve access to the attached garage from the ingress egress easement to the east, the slope would be removed and retaining walls constructed to retain the remainder of the hill. The proposed retaining walls range from 3-11 ft. tall. There is currently a 3-4.5 ft. tall boulder retaining wall at the base of the slope for the easement that runs along the entire eastern property line. This retaining wall ends at the south property line, as both houses to the south have basement level garages that are at grade with the easement. The new retaining walls would outline the driveway and tie into the existing retaining walls along the easement. See Exhibit C for the proposed landscape plan.

A portion of the new driveway would be located within 35 ft. of the shore and the proposed retaining walls would be located within 75 ft. of the shore. The shoreline vegetative buffer area, which extends from the shoreline to 35 ft. inland from the Ordinary High Water Mark of Eagle Spring Lake, does not allow for the construction of driveways. In addition, new retaining walls greater than 2 ft. in height must meet a shore setback of 75 ft. Therefore, a shore setback variance is required for both the driveway and the retaining walls. Based on the submitted landscaping plan, it does not appear as though retaining walls greater than two feet are required on the west side of the residence. There is also a new sidewalk to a proposed foyer area from the existing parking area on the northeast side of the residence that is within the shore setback area and requires a variance.

There are many mature trees on the property. The proposed addition requires the removal of four large trees, two of which are oak and two are unknown. The driveway requires the removal of one additional mature oak.

The proposed improvements require variances from the shore setback requirements and the height requirements as summarized in the following table:

PROVISION	SFPO	EXISTING	NON-CONFORMING? 3(o)	PROPOSED	REQUIRED	VARIANCE/ SPECIAL EXCEPTION?
PRIVATE ROAD SETBACK/ E OFFSET	3 (h) (1) (C)/ 3 (h) (3) (A)	35 ft.	N	20.6 ft. (to addition)	20 ft.	N
OFFSET (N)	3 (h) (3) (A)	44 ft.	N	97 ft. (to addition)	20 ft.	N
OFFSET (S)	3 (h) (3) (A)	98 ft.	N	36.1 ft. (to addition)	20 ft.	Y / N
TOTAL BUILDING FOOTPRINT	3 (j) (5) (B)	4,235 sq. ft. (15.7%)	N	4,696 sq. ft. (17.4%)	4,703 sq. ft. (17.5%)	N
ACCESSORY FOOTPRINT	3 (j) 4	490.86 sq. ft.	N	+0 sq. ft.	Up to 750 sq. ft.	N
MIN. FLOOR AREA (S.E.)	3 (j) (1)	1,100 sq. ft. overall	N	7,532 sq. ft. overall	1,100 sq. ft. minimum	N
BLDG HEIGHT	3 (i)	37 ft.	Y	37 ft.	35 ft.	Y
SHORE SETBACK (W)	3 (h) (2)	70 ft.	N	66 ft. (addition)	62.5 ft. (w/ avg)	N
SHORE SETBACK (E)	3 (h) (2)	77 ft.	N	54' (to overhangs) 31' Driveway 31' Retaining walls 55' Sidewalk	55 ft. (w/ avg for residence) 75 ft. (driveway, sidewalk retaining walls)	Y
IMPERVIOUS SURFACE	3 (t)	4,670 sq. ft. 17.3%		8,020 sq. ft. 29.8%	8,063 sq. ft. 30%	N

The addition requires a shore setback variance because of the overhangs on the east side of the residence. The Ordinance allows for overhangs up to 24" wide to be excluded when measuring for building footprint, offset, road setback, floodplain setback, and wetland setback. Shore setback, however, is measured to the closest point of a structure, which would include the overhang. The overhang encroaches into the shore setback by approximately one foot. The petitioner was not aware at the time of application that the overhangs were not excluded from the shore setback requirement and has noted that the residence can be shifted a foot to the west to meet the setback, if required.

The existing structure currently has a measured height of 37 ft. as measured from the lowest exposure to the peak of the roof on the west side of the residence. The petitioners are proposing to match the existing roof height mainly for architectural purposes. The proposed height exceeds the allowable height by two feet.

PETITIONERS' COMMENTS:

The petitioners' comments are attached as Exhibit D.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **denial** of the request for a variance from the shore setback and height requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to permit an addition to the principal structure which includes retaining walls, a driveway and sidewalk(s). 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.

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 residence on the property has been expanded previously, including the addition of a full walkout basement in 2005. The property has an existing 3,745 sq. ft. residence and a 490 sq. ft. two-story detached garage. This provides well more than the minimum required living space specified by the ordinance. While the property has unique features due to slope, the existing improvements on this conforming parcel do not prevent the owners from using the property for its permitted residential purpose. The proposal to significantly expand an already large home on a part of the site with steep slopes creates a condition where the shore buffer zone would be encroached upon in multiple different regards. A smaller expansion or alternative driveway plan would avoid the shore setback encroachments. The petitioner's personal desire for significantly more living space and an attached garage do not represent that the ordinance unreasonably prevents the property for being used for a permitted purpose. Architectural design is not considered a hardship as it relates to the height of a structure. State shoreland zoning rules limit the height of structures within 75' of lakes to protect shoreline aesthetics. The proposed addition can be shifted west in order to meet the shore setback to the overhangs of the structure from the east shoreline.

- 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 existing residence sits on top of a ridge that runs through the center of a peninsula. This specific proposal requires the removal of an approximately 1,000 sq. ft. steeply sloped area with up to an 11 ft. cut in order to create a grade-level attached garage. The proposal would cause multiple large trees to be removed. Adding an additional access point from an

unimproved right of way that is directly adjacent to the lake would be detrimental to the natural landscape of the property. The proposed driveway removes green space area and creates additional impervious surface within 75 ft. of the shore, which is contrary to state shoreland protection rules and the Shoreland and Floodland Protection Ordinance's purpose and intent. Part of the soil removal and retaining wall modifications would also be located within the commonly owned outlot. Finally, such large retaining walls can pose a safety hazard and are not in the public interest.

Respectfully submitted,

Rebekah Leto

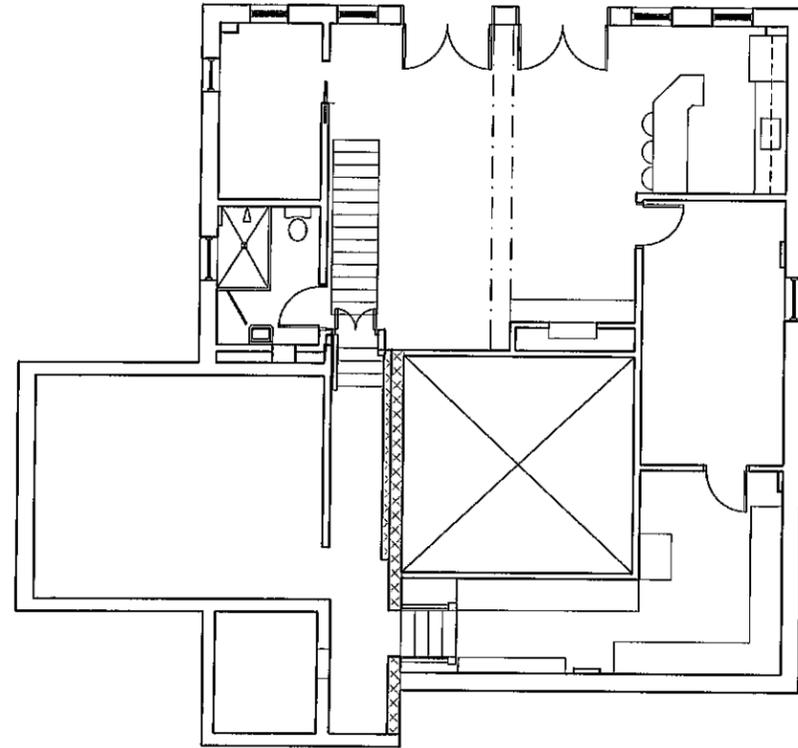
Rebekah Leto
Senior Land Use Specialist
Phone: 262-548-7790

Reviewed and approved by:

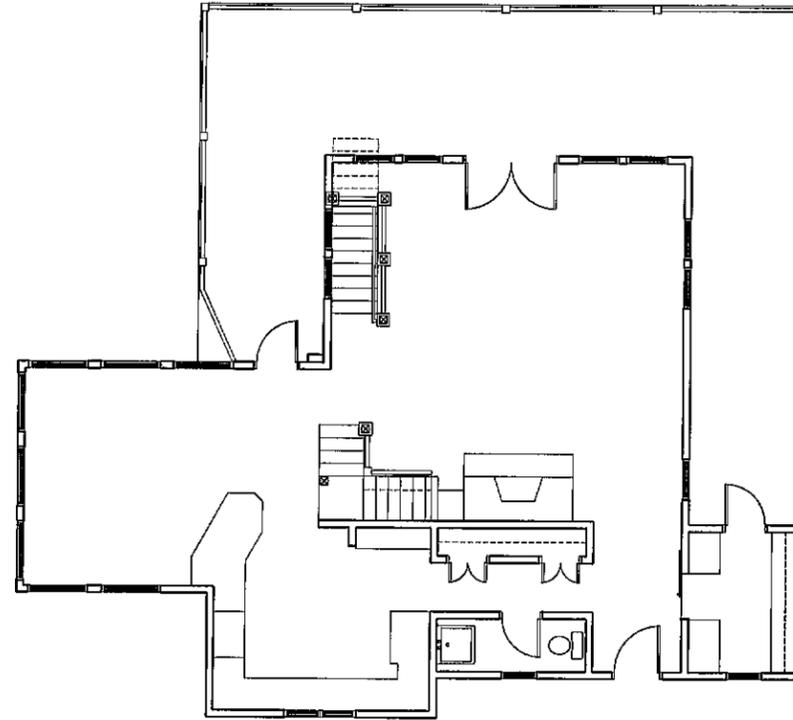
Jason Fruth

Jason Fruth
Planning and Zoning Manager

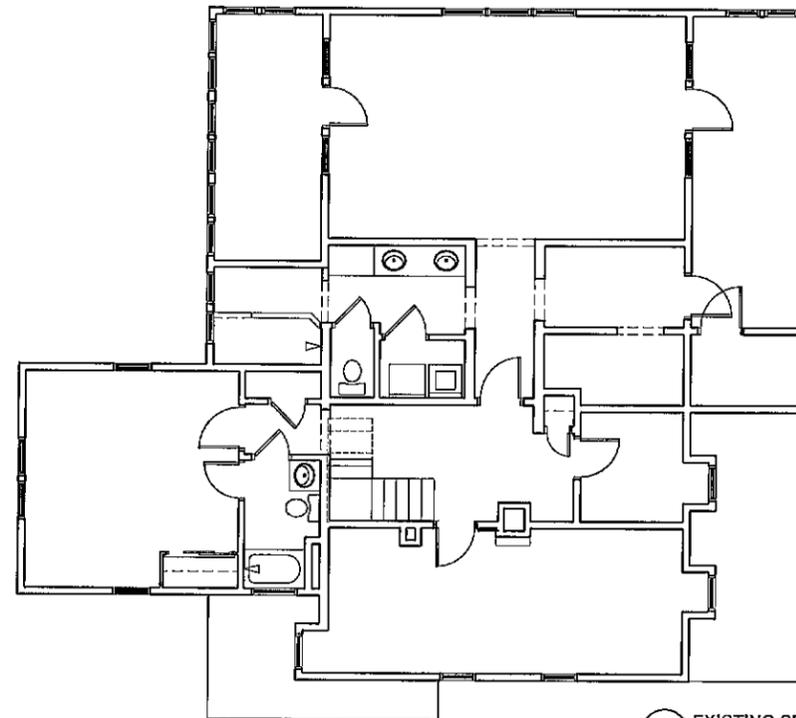
Exhibits: Exhibit A: Site Plan
Exhibit B: Building Plan
Exhibit C: Landscape Plan
Exhibit D: Petitioner comments



1 EXISTING BASEMENT
3/16"=1'-0"



2 EXISTING FIRST FLOOR
3/16"=1'-0"



3 EXISTING SECOND FLOOR
3/16"=1'-0"

NOTE
GENERAL CONTRACTOR TO CONFIRM ALL EXISTING CONDITIONS AND REVIEW RESIDENCE. IF QUESTIONS ARISE, CONTACT ARCHITECT/OWNER PRIOR TO CONSTRUCTION

NOTE
CONTRACTOR TO VERIFY WINDOW SIZES WITH OWNER AND UDC EGRESS AND LIGHT REQUIREMENTS

NOTE
GENERAL CONTRACTOR TO DISTRIBUTE ALL SHEETS IN SET TO SUBCONTRACTORS! DO NOT DISTRIBUTE PARTIAL SETS

ALL DIMENSIONS MEASURED TO AND FROM FACE OF WALL
ALL ANGLES TO BE 90 DEGREES UNLESS OTHERWISE NOTED ON DRAWINGS
DO NOT SCALE FROM DRAWING
IF ANY QUESTIONS ARISE NOTIFY ARCHITECT IMMEDIATELY

RECEIVED
By erica at 3:12 pm, Sep 09, 2020

EXHIBIT "B"

STELLING & ASSOCIATES
ARCHITECTS, LTD.
181 W. CHESTNUT STREET P.O. BOX 506
BURLINGTON, WI 53105
TELEPHONE (262) 763-9726 FAX: (262) 763-9771

RESIDENTIAL REMODEL/ADDITION
JEFF & HEATHER SORENSEN
WISCONSIN DESIGN C.T.H. INC.
MUKWONAGO, WI 53149

EXISTING FLOOR PLANS

THIS DOCUMENT AND THE IDEAS AND DESIGN CONCEPTS HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE SOLE PROPERTY OF STELLING & ASSOCIATES ARCHITECTS, LTD. AND IS NOT TO BE USED IN WHOLE OR IN PART FOR ANY OTHER PROJECT OR PURPOSE WITHOUT THE EXPRESS WRITTEN AUTHORIZATION OF STELLING & ASSOCIATES ARCHITECTS, LTD.

ZONING & VARIANCE APPLICATION

REVISIONS:
APPROVED:
DRAWN BY: CR
DATE: 9-4-20
ARCHITECT'S PROJECT NUMBER: 19019
SHEET NUMBER:

A100
5 OF 12

RECEIVED
By Erica at 3:12 pm, Sep 09, 2020

EXHIBIT "B"

STELLING AND ASSOCIATES
ARCHITECTS, LTD.
1000 W. WISCONSIN STREET
MUKWONAGO, IL 60067
TEL: 847.584.1100
FAX: 847.584.1101

PROJECT DESCRIPTION
Residential Remodel/Addition
PROJECTOR
Jeff and Heather Sorensen
W345S10503 C.T.H. E
MUKWONAGO, WI 53149

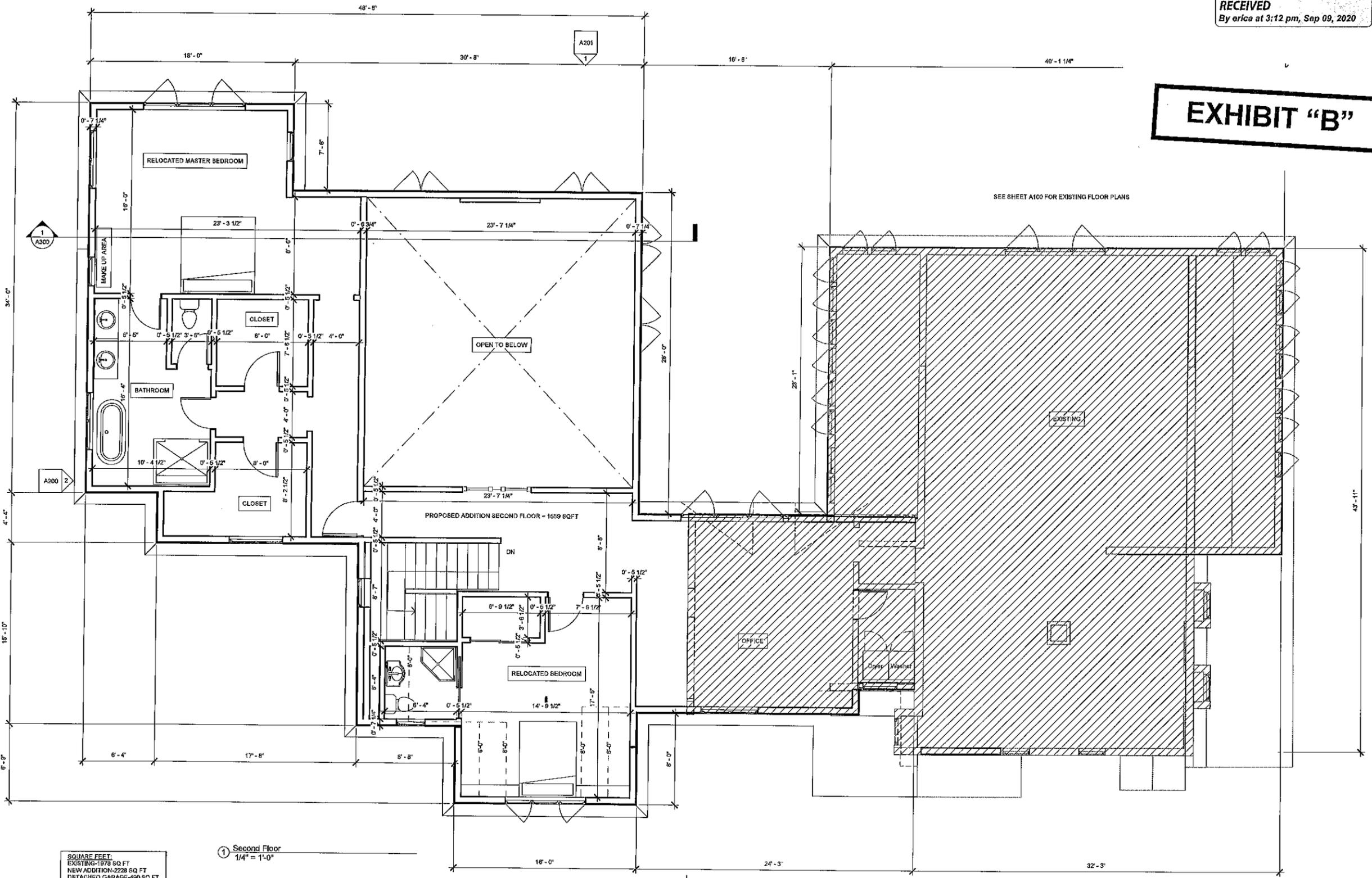
Second Floor Plan

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ZONING & VARIANCE APPLICATION

REVISIONS
APPROVED
DRAWN BY
CRJJB
DATE
9-4-20
SUBJECT
PROJECT NUMBER
19019
SHEET NUMBER

A103
8 OF 12



SQUARE FEET:
EXISTING-1978 SQ FT
NEW ADDITION-2228 SQ FT
DETACHED GARAGE-490 SQ FT
TOTAL: 4696 SQ FT

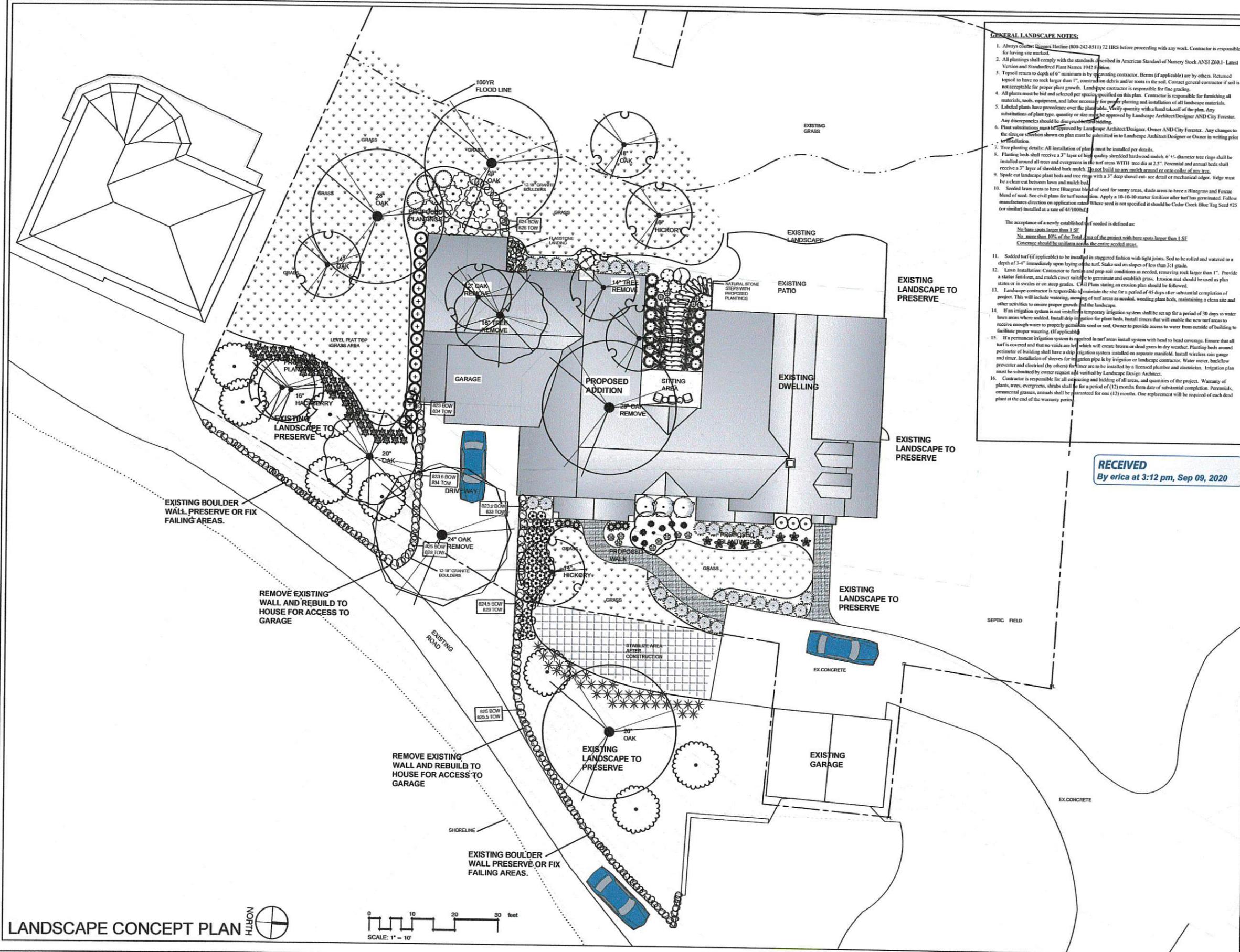
NOTE: HATCHED AREA REPRESENTS EXISTING/REMODELED AREA

① Second Floor
1/4" = 1'-0"

← NEW ADDITION EXISTING →

2020 Project: Mukwonago, WI, 10503 C.T.H. E, Project: Residential Remodel/Addition, Drawing: Second Floor Plan, Scale: 1/4" = 1'-0", Date: 9/4/20

SOURCE: 8/24/20 PM



- GENERAL LANDSCAPE NOTES:**
1. Always contact Diggers Hotline (800-242-8511) 72 HRS before proceeding with any work. Contractor is responsible for having site marked.
 2. All plantings shall comply with the standards described in American Standard of Nursery Stock ANSI Z60.1 - Latest Version and Standardized Plant Names 1942 Edition.
 3. Topsoil return to depth of 6" minimum is by excavating contractor. Berms (if applicable) are by others. Returned topsoil to have no rock larger than 1", construction debris and/or roots in the soil. Contact general contractor if soil is not acceptable for proper plant growth. Landscape contractor is responsible for fine grading.
 4. All plants must be bid and selected per species specified on this plan. Contractor is responsible for furnishing all materials, tools, equipment, and labor necessary for proper planting and installation of all landscape materials.
 5. Label all plants with price code over the plantable. Verify quantity with a hand takeoff of the plan. Any substitutions of plant type, quantity or size must be approved by Landscape Architect/Designer AND City Forester. Any discrepancies should be discussed before bidding.
 6. Plant substitutions must be approved by Landscape Architect/Designer, Owner AND City Forester. Any changes to the sizes or selection shown on plan must be submitted in to Landscape Architect/Designer or Owner in writing prior to installation.
 7. Tree planting details: All installation of plants must be installed per details.
 8. Planting beds shall receive a 3" layer of high quality shredded hardwood mulch. 6" diameter tree rings shall be installed around all trees and evergreens in the turf areas WITH tree size at 2.5". Perennial and annual beds shall receive a 3" layer of shredded bark mulch. Do not build an any mulch around or onto collar of any tree.
 9. Spade cut landscape plant beds and tree rings with a 3" deep shovel cut- see detail or mechanical edger. Edge must be a clean cut between lawn and mulch bed.
 10. Seeded lawn areas to have Bluegrass blend of seed for sunny areas, shade areas to have a Bluegrass and Fescue blend of seed. See civil plans for turf details. Apply a 10-10-10 starter fertilizer after turf has germinated. Follow manufacturers direction on application rates. Where seed is not specified it should be Cedar Creek Blue Tag Seed #25 (or similar) installed at a rate of 4#/1000sq ft.
- The acceptance of a newly established turf seeded is defined as:
 No bare spots larger than 1 SF.
 No more than 10% of the total area of the project with bare spots larger than 1 SF.
 Coverage should be uniform across the entire seeded areas.
11. Sodded turf (if applicable) to be installed in staggered fashion with tight joints. Sod to be rolled and watered to a depth of 3-4" immediately upon laying the turf. Stake sod on slopes of less than 3:1 grade.
 12. Lawn Installation: Contractor to furnish and prep soil conditions as needed, removing rock larger than 1". Provide a starter fertilizer, and mulch cover suitable to germinate and establish grass. Erosion mat should be used in plan states or in swales or on steep grades. Call Plans stating an erosion plan should be followed.
 13. Landscape contractor is responsible to maintain the site for a period of 45 days after substantial completion of project. This will include watering, mowing of turf areas as needed, weeding plant beds, maintaining a clean site and other activities to ensure proper growth and the landscape.
 14. If an irrigation system is not installed a temporary irrigation system shall be set up for a period of 30 days to water lawn areas where sodded. Install drip irrigation for plant beds. Install timers that will enable the new turf areas to receive enough water to properly germinate seed or sod. Owner to provide access to water from outside of building to facilitate proper watering. (If applicable)
 15. If a permanent irrigation system is required in turf areas install system with head to head coverage. Ensure that all turf is covered and that no voids are left which will create brown or dead grass in dry weather. Planting beds around perimeter of building shall have a drip irrigation system installed on separate manifold. Install wireless rain gauge and timer. Installation of sleeves for irrigation pipe is by irrigation or landscape contractor. Water meter, backflow preventer and electrical (by others) for timer are to be installed by a licensed plumber and electrician. Irrigation plan must be submitted by owner request and verified by Landscape Design Architect. Irrigation plan must be submitted by owner request and verified by Landscape Design Architect.
 16. Contractor is responsible for all estimating and bidding of all areas, and quantities of the project. Warranty of plants, trees, evergreens, shrubs shall be for a period of (12) months from date of substantial completion. Perennials, ornamental grasses, annuals shall be warranted for one (12) months. One replacement will be required of each dead plant at the end of the warranty period.

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 By Erica at 3:12 pm, Sep 09, 2020

General Notes
DIGGERS HOTLINE
 Dial 811 or (800) 242-8511
 www.DiggersHotline.com

Design based on driveway below

EXHIBIT "C"

Drawn by:
David Kmetz
Reesman's
 SERVICE CORPORATION
 Outdoor design build specialists
 262-206-7379 • reesmans.com

Division of

REESMAN		
1	Landscape Concept Plan	8/27/2020
No.	Revision/Issue	Date

28815 Bushnell Road
 Burlington, WI 53105
 Phone 262.342.1425
 Fax 262.539.2665
 www.reesmans.com

Sorensen Residence
 W345S10503 C.T.H.E
 Mukwonago, WI 53149

Project Landscape	Sheet
Date 8/27/2020	L100
Scale 1"=10'	

LANDSCAPE CONCEPT PLAN NORTH

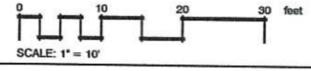


EXHIBIT "D"

**Waukesha County Department of Parks and Land Use
Planning and Zoning Division**

**Variance, Special Exception and Appeals to Waukesha County Board of
Adjustments**

**Application Attachment
Exhibit "A"**

For: Jeffrey & Heather Sorensen
W345 S10503 County "E"
Mukwonago, WI 53149

Tax Key:
EGLT1870030002 and
EGLT1870030003

A portion of Waukesha County Shoreland & Floodland Protection Ordinance is sited below *in italic*.

Zoning: R-3 Ordinance: Section 25 – R-3 Residential District

- *Setback Averaging:*
 - *(b) Building Location*
 - *2. Shore and Wetland Setback:*
 - *B. Additional regulations and exceptions for Section 3(h)2 apply*
- *Zoning - Section 3 – General Provisions*
 - *3(h) Building Location*
 - *2. Shore, Floodplain and Wetland Setback:*
 - *(I) Shoreland Setback Averaging: Where there is a development pattern with principal Structures having Shore Setbacks less than seventy-five (75) feet from the Ordinary High Water Mark of a Navigable Waterway, , the setback requirements for new principal Structures or additions to principal Structures shall be allowed to be reduced in accordance with the following setback averaging formulas,*
 - *i. Where there are existing principal Structures in both directions, the Shore Setback shall equal the average of the distances that the two existing principal Structures are set back from the Ordinary High-Water Mark provided all of the following are met:*
 - a. Both of the existing principal Structures are located on an adjacent Lot to the proposed principal Structure.*

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By erica at 2:41 pm, Sep 09, 2020

b. Both of the existing principal Structures are located within two hundred fifty (250) feet of the proposed principal Structure and are the closest principal Structures.

WAUKESHA COUNTY SHORELAND & FLOODLAND PROTECTION ORDINANCE

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c. Both of the existing principal Structures are located less than seventy-five (75) feet from the Ordinary High-Water Mark.

d. The average setback shall not be reduced to less than thirty-five (35) feet from the Ordinary High-Water Mark of any Navigable Waterway.

On December 11, 2019 these requirements were reviewed by the County staff and Stelling & Associates Architects, Ltd. At the meeting the averaging setbacks were outlined with: Ben Greenberg, Senior Land Use Specialist, at Waukesha County Department of Parks and Land Use; Planning and Zoning Division. Then after that meeting an additional County staff reviewed the final averaging setbacks (as indicated on these plans dated 9-4-2020) were established.

The current owner wishes to add to the existing Residence (The Oldest Home on Eagle Springs Lake dating back to the 1800's). Once a seasonal residence, then years ago was converted to a year-round home. The owner will need to enlarge the home and add an attached garage to make the home meet their needs year-round in retirement.

The Existing Home site has proven to have significant limitations for access to the area designated for the home's addition (which must be located on the southside of the existing home), and the owner required an attached garage. It has been determined to be best facilitated if the new attached garage and a new access driveway from the east off of a shared common element (Tax Key:1870030003), this access is shared with two other property owners to the south (see site plans for clarifications). This will also allow for the best construction process, along with a year-round moderately flat driveway into the new lower level garage. We believe this location is best suited for this site and existing site surrounding vegetated environment.

Based on the following observations, the access to an attached garage if it were to be located on the First Floor Level one would need to traverse a very steep existing driveway (north side of the home site). This drive is shared with two other lots to the north. This might be workable, however in order to add the attached garage one must place it on the south end of the home, noting that the north side of the existing home has the septic system and drainage field, and due to site steepness and topography, a new septic system relocation would be inappropriate if not impossible (see existing survey for septic location and driveway location). We have looked at the viability of placing the Garage on the south end of the first floor, however, we concluded the devastation to the existing home and site would be most significant. The typical activities associated with the general construction process, such as the stock piling of earth, dump and delivery trucks, hauling of material, concrete etc., became damaging to many of the existing trees, landscaping areas, the existing hardscape and the existing steep shared driveway (this shared driveway was not designed for heavy construction loads, and provides the only access to two other homes, and the owners present home).

Once access from below off the existing access driveway was considered, the preservation of the existing site and the home, along with the additions constructability of the lower driveway became clearly to be the best option.

In order to receive final Zoning approval, we will need to construct several boulder/stone retaining walls within the 75' foot Shoreland Setback. (noting, we would also be repairing and adding on to the existing retaining walls along the west side of the east access drive which has already bolder/stone walls). See *Landscaping and Grading plans by The Reesman Company - Reesman Service Corporation for additional information and clarifications.*

- *Zoning - Section 3 – General Provisions*
 - *3(d) Site Regulations*
 - *5. Preservation of Topography*
 - *C. No changes in the existing topography or drainage courses on any land shall be allowed which will result in adversely altering the drainage or increasing any portion of the existing slope through fill, and /or grading to a ratio greater than three (3) horizontal to one (1) vertical. The construction of retaining wall (stone, ties, brick or other material) five (5) feet or less from the property line may be specifically authorized by plan commission and zoning agency and Applicants stating that the method and purpose of construction will not in any way adversely affect drainage or aesthetics of the adjacent lot. A retaining wall five (5) feet or greater from a property line may be allowed pursuant to issuance of a zoning permit as long as said wall will serve to promote the purposed and intent as stated in the Ordinance. All retaining walls shall be at least seventy-five (75) feet from the Ordinary High-Water Mark of a navigable body of water and outside of the conservancy District. Retaining walls cannot be averaged with the setbacks of Building or Fill or grading considered by the zoning administrator to be necessary backfill and/or excavation for an otherwise permitted structure may be permitted as long as said fill or grading is accessory to said construction and does not create a slope greater than (3) horizontally to (1) vertical and does not extend to a distance greater than thirty (30) feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property. In order to make such a determination, the property owner shall submit a grading plan of existing and proposed grades on the subject lot and adjacent lands where said accessory fill and/or grading is closer than twenty (20) feet to a property line. The fill must be located outside of an area designated as Floodplain or Wetland.*

We respectfully request a Variance for additional boulder retaining walls within the 75' Shoreland setback. For the following hardships:

1. This home site is unique, unlike any in Waukesha County. This homestead and lands subdivisions and separation defining the Private Road date back to 1891, long before any Zoning Ordinances were in place (Yes, this owner is not the original owner and is aware of the R-3 Zoning and has for the last 9 months worked with the Planning and Zoning Division to resolve the best ways to construct the desired home addition, and preserve the existing site amenities) .
2. This home is located on a narrow peninsula on Eagle Spring Lake.
 - a. The site has a knoll on it between the two shorelines. The Lake's Ordinary High-Water Elevation equals 820.9 with the top of the knoll at 837+. The width between the shores is 140' foot apart at the South property line. Note: The steep incline up from the shores and within the buildable/grading area for the new addition create a site access hardship!
 - i. It appears that the last approximate 3'-0" feet at the top of knoll elevation 837+ may have been the earth removed from below the original Home/ Cottage when it was elevated and Lower Level/Basement was added, the existing Basement Floor Elevation 823.3'. This observation is supported by excavators and landscapers alike, the visual lack of significant Vegetation or Trees with in that area (as indicted by grades at significant tree bases on the attached survey).
 - ii. Grade changes and buildable area are further hampered by the location of the existing septic system north of the existing home (location of tanks and field located on the attached survey), the system relocation would be a further hardship if not impossible.
 - iii. The required access for construction is restricted by the existing knoll, access along the north side of site due to existing septic, tank and field location and steep grade.
 - iv. Access over the existing shared driveway will cause great hardship as follows:
 1. Driveway has not been designed for heavy construction vehicles. Access by neighbors that share this drive way will be interrupted on a daily basis.
 2. Existing tree canopy and tree placement along the east side of the homesite would need to be removed to create the required construction work space around the addition for excavation and material handlings, deliveries (earth, concrete, lumber, etc.).
 3. The onsite grades on the east side/edge has a cross pitch making maneuvering very difficult and safety is of a concern.
 4. Access from the west is impossible unless across the ice or by barge, and not sure if shoreline could take the traffic that would be placed on it.
 - v. Within the Additional Vegetation Removal and Grading Application, we could conform to the Ordinance (Section 3(D)

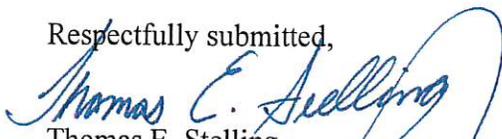
5.C.). This could be possible; however, we would need to remove almost all of the trees and vegetation that we have indicated to remain if access is allowed from the lower common access road and additional retaining walls are permitted (see site plans and elevations for further details).

1. Drainage will remain the same with out adding any additional water to the neighbors, lake to lake only adding what is allowed by the ordinance.
- vi. There are existing retaining walls located all around the homesite and access drive already, made of: concrete, stone and boulders, both onsite/and offsite as indicated in the photos Sheet A700 on the attached plans. With the addition of the newly requested boulder walls, which will be harmonious with the existing walls, we can then protect most of the vegetation and significant trees around the site and finished addition.

The granting of this variance will not adversely affect the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources in the area.

- All work is performed off of a private road and common access elements.
- All construction will be within the existing Zoning Ordinance with the exception of the retaining walls.
- All site work will be performed to meet the Shoreland, Floodplain and Wetland Ordinance.
- All home construction work will be completed utilizing the Wisconsin Uniform Dwelling Code
- Existing vegetation will be protected and preserved with the exception of those outlined on the site Survey and Landscape plans.
- Existing west shore will remain as is without change.
- Deteriorating retaining walls along the existing access road will be repaired at the site of the new entry walls and existing access roadway.
- Stormwater management will be as required by ordinance and controlled so as not to run onto neighbors' sites.
- Lot coverage (buildings and impervious surfaces) will be below the Ordinance requirements.
- Erosion control will be placed and maintained throughout the construction process.
- Site will be open for inspection and review
- Rooflines will match the existing at ridge at 37' foot constructed before Ordinance change in 2016. Or we can meet the code required 35'- 0" foot max as viewed for any side, Zoning Departments clarification and choice, however, matching the existing makes the best aesthetic choice. (2016 Ordinance Change).

Respectfully submitted,


Thomas E. Stelling
Architect and Owners Agent