

# CITY OF ROCKVILLE

## Planning/Zoning Commission Meeting

Tuesday, December 13, 2016 - 6:00 p.m.

City Hall - 229 Broadway Street East

### AGENDA

1. ROLL CALL
2. APPROVAL of AGENDA/AMENDMENTS
3. APPROVAL OF NOVEMBER 15, 2016 MEETING MINUTES
4. PUBLIC HEARING MIMBACH VARIANCE REQUEST
5. PUBLIC HEARING JEFF'S AUTO BODY SIGN VARIANCE
6. PUBLIC HEARING ZONING AMENDMENTS - accessory structures exceeding 120SF TO STATE 200SF & All Accessory Structures under 200SF needs a site plan approval  
  
AND: Storm water management Impervious Surface
7. OTHER BUSINESS
  - a) Planning Commission Applications
  - b) Next Meeting January 10, 2017, 6:00 p.m.
8. ADJOURNMENT

\*This agenda has been prepared to provide information regarding an upcoming meeting of the Rockville City Planning Commission. This document does not claim to be complete and is subject to change.

December 13, 2016

STAFF REPORT

Rockville Planning Commission; City Council

Re: Variance Request(s)

Owner: Kathleen Mimbach

Property Address: 21567 Agate Beach Road

Legal Description: Parcel ID# 76.41800.0010 – N2 lot 10 and FR.14A of Govt Lot 2 ADJ to said lot old #28.17224.000, Lot 10 of First Add to Agate Beach, Section-Township-Range 28-123-029

Zoning District: R-1 Single Family Residential

Variance(s) Requested:

1. An after-the-fact Variance to setback requirement of a non-conforming lot in an R-1 District

Section 17, Subsection 6, 5 Setbacks,

B. Side Yard Setback. The side yard setback must be at least ten (10) feet, except that the side yard setback on corner lots must be at least fifteen (15) feet.

Relevant Information:

1. This property is located in the Grand Lake Shoreland District
2. Variance of 3.1 feet on the West end of new addition and 3.5 feet on the East end.
3. 20 notices of public hearing were sent out.

**RECOMMENDATION**

1. **Approve**

Submitted by:  
Martin M. Bode  
Zoning Administrator

Var – Kathleen Mimbach setback 2016

**Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:**

- 1) Current Zoning:
  - a. Subject Property: R-1 Single Family Residential District. Shoreland Overlay District.
  - b. Surrounding Properties: R-1 Single Family Residential District (north and south); A-40 Agricultural District to the east (wetland).
- 2) Current Land Use:
  - a. Subject Property: Low density residential, detached single family dwelling.
  - b. Surrounding Properties: Low density residential, detached single family dwellings to the north and south. Agricultural (wetland) to the east. Grand Lake is to the west.
- 3) Lot size: The parcel is an interior lot fifty (50) feet in width and approximately 320 feet in depth equating to a lot size of approximately 16,000 sf. The property immediately south is a similarly shaped residential parcel. The parcel was created decades ago and precedes consolidation and the institution of zoning standards.
- 4) Natural Features: This is a riparian parcel on Grand Lake.
- 5) Required considerations. Section 30, Subd. 2 of the Rockville Zoning Ordinance requires consideration of the following when reviewing variance requests:
  - a. *Unique Circumstances.* There are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district as follows:
    - i. The parcel was created prior to consolidation of the township and the City.
    - ii. The parcel was created prior to the existence of land use regulations.
    - iii. The parcel was developed as a single family detached dwelling nearly 70 years ago.
    - iv. The original dwelling is not positioned on the property perpendicular to the front lot line, rather it is askew from being parallel with the side lot lines.
    - v. The original dwelling was found to be in disrepair and in need of updating.
    - vi. When the dwelling was updated it was expanded 13.8 feet to the east into the front yard (toward Agate Beach Road).
    - vii. The dwelling expansion extended the original setback line.
    - viii. The City approved a site plan acting in good faith the original setbacks were adequate.

- ix. After repairs were completed it was determined the original footprint of the dwelling encroached into side yard setbacks required under Section 17, Subd. 6 of the Zoning Ordinance (ten feet is required).
  - x. The extent of encroachment is limited to an area 13.8 feet in length with a depth ranging from 3.1 feet (west) to 3.5 feet (east).
  - xi. Since the construction has been completed, in good faith, while it appears physically possible to meet the required setback (reconstructing the expansion and offsetting the expansion from the existing side building wall), doing so will involve additional cost, disruption within the shoreland overlay, and disturbance of additional soil area.
- b. *Reasonable use of the property.* The requested variance is reasonable in that the front, side (south), and rear required setbacks are met. The parcel, which was created prior to modern zoning standards, is by today's standards a narrow and deep lot. The variance is of limited area. The limited area of the variance, the fact the site plan was approved by the City (acting in good faith), and the significant costs for remedying the encroachment are evidence the variance is reasonable.
- c. *Not merely economic.* Cost or expense saving is not the sole rationale for the variance. The existing parcel is narrow and deep in shape. In addition, the original dwelling is placed unusually on the parcel and not perpendicular to the road or parallel to the side property line. The City, operating in good faith, previously approved a site plan and construction has been completed. This is an 'after the fact' variance.
- d. *Neighborhood Character Maintained.* The variance does not alter the essential character of the neighborhood as the use is consistent with single family dwellings on riparian lots adjacent to Grand Lake. The variance is for a performance standard and not for the use of the property.
- e. *Spirit of Zoning Ordinance and Comprehensive Plan Retained.* Planned and existing land use are consistent with continued low density residential use. Comprehensive Plan. Providing for continued low density residential use is fitting with the residential character of the existing built environment.

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF STEARNS )

**AFFIDAVIT OF SERVICE**

Debbie Weber, being duly sworn, on oath says that at the City of Rockville in said County and State, on the **23rd** day of **November, 2016** he/she served the annexed Notice on see attachment, the person therein named, personally, by then and there handing to and leaving with him/her a true and correct copy of said Notice.



Signature

Subscribed and sworn to before me this 23 day of Nov, 2016.

  
Notary Public Signature **MARTIN M. BODE**  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2020

Notary Public Stamp

✓ GLENN FAMILY TRUST  
36 3RD ST NW  
SAINT MICHAEL MN 55376

✓ LEROY K STEINHOFF REV TRUST  
21525 AGATE BEACH RD  
SAINT CLOUD MN 56301

✓ THOMAS A RUETHER  
21583 AGATE BEACH RD  
ST CLOUD MN 56301

GLENN FAMILY TRUST  
36 3RD ST NW  
SAINT MICHAEL MN 55376

✓ KATHLEEN MIMBACH LIVING TRUST  
7 SKYVIEW DR  
SAUK RAPIDS MN 56379-1318

CITY OF ROCKVILLE  
PO BOX 93  
ROCKVILLE MN 56369-0093

✓ MICHAEL L & JOY L HORNUNG  
1816 8TH ST N  
SARTELL MN 56377

12 NOTICES  
11

✓ NONA J PETERSON  
2041 HIGHVIEW DR  
SAUK RAPIDS MN 56379

✓ JUDITH L ROTHSTEIN TRUST AGREE  
PO BOX 923  
ST CLOUD MN 56302-0923

✓ PAUL J DONNAY  
9705 63RD AVE N  
MAPLE GROVE MN 55369

✓ JAMES L SCHUELLER REV TRUST  
21607 AGATE BEACH RD  
ST CLOUD MN 56301

✓ ROMA K STEIL  
21603 AGATE BEACH RD  
ST CLOUD MN 56301-4794

✓ JEAN E SCHENDEL TRUST  
1309 KINGS RUN DR NW  
ROCHESTER MN 55901



# CITY OF ROCKVILLE

229 Broadway Street East

P.O. Box 93

Rockville MN 56369

Phone 320-251-5836

Fax 320-240-9620

Jeff Hagen, Mayor  
Don Simon, Councilor  
Susan Palmer, Councilor  
Richard Tallman, Councilor  
Duane Willenbring, Councilor

Martin M. Bode, City Administrator  
Judy Neu, Finance Director  
Nick Waldbillig, Public Works Director  
Debbie Weber, Administrative Assistant

## NOTICE OF PUBLIC HEARING CITY OF ROCKVILLE

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, December 13, 2016 at approximately 6:00 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Kathleen Mimbach for a variance from setback requirements in a R-1 District. The address of the property is: 21567 Agate Beach Road, Rockville, MN with a legal description of:

Parcel ID# 76.41800.0010 – N2 lot 10 and FR.14A of Govt Lot 2 ADJ to said lot old #28.17224.000, Lot 10 of First Add to Agate Beach, Section-Township-Range 28-123-029

The request is for a variance from the setback requirements for side yard in a R-1 District.

All persons attending the hearing and wishing to address the Planning Commission will have an opportunity to do so. Those not able to be present at this meeting should submit their opinions in writing to the Rockville City Administrator/Clerk, P.O. Box 93, Rockville, MN 56369 prior to the hearing.

Martin M. Bode  
Administrator/Clerk

Publish 11/29/16  
*Cold Spring Record*

In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, room 326-w, Whitten Building, 1400 Independence Ave, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice & tdd). USDA is an equal opportunity provider and employer.

Mimbach setback Variance.11.29.16.wd.doc

# SmartConnect Map

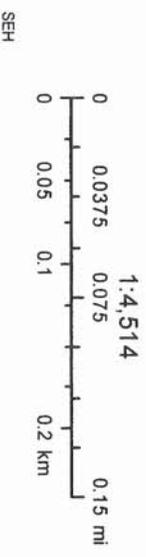


November 22, 2016

Search Results: Parcels

Override 1

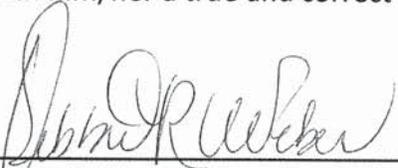
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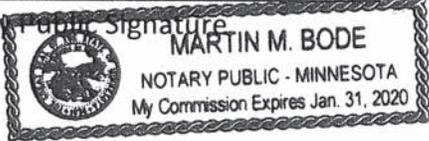
STATE OF MINNESOTA )  
 )ss.  
COUNTY OF STEARNS )

**AFFIDAVIT OF SERVICE**

Debbie Weber, being duly sworn, on oath says that at the City of Rockville in said County and State, on the **30th** day of **November, 2016** he/she served the annexed Notice on see attachment, the person therein named, personally, by then and there handing to and leaving with him/her a true and correct copy of said Notice.

  
\_\_\_\_\_  
Signature

Subscribed and sworn to before me this 30 day of Nov, 2016.

  
\_\_\_\_\_  
Notary Public Signature  


Notary Public Stamp

Addresses/Names start 10 houses North of the Mimbach's Residence to their residence and then each house South of their residence. Included are residence owner, Agate Beach Road address, permanent address, and type of residence on Agate Beach road.

Agate Beach Cabin LLC  
21813 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41648.0900  
Seasonal Recreational Residence

5462 Golfview Cir N  
Oakdale, MN 55128

Edward J Zapp Rev Trust  
21785 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41648.0800  
Residential Homestead

21785 Agate Beach Rd  
St. Cloud, MN 56301

Edward J Zapp Rev Trust  
21763 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41648.0700  
Seasonal Recreational Residence

21785 Agate Beach Rd  
St. Cloud, MN 56301

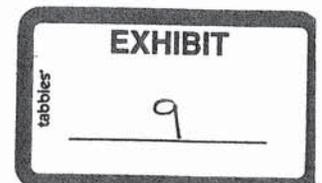
Laura & Timothy Saterfield  
21743 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0001  
Seasonal Recreational Residence

505 E Dean Ave  
Madison, WI 53716

Timothy J & Lori A Torborg  
21723 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0002  
Seasonal Recreational Residence

1932 Tyrol Dr  
St. Cloud, MN 56301

Michael G. Torborg



9

Michael Torborg  
21657 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0004  
Seasonal Recreational Residence

2201 Clare Ct PO Box 714  
St. Cloud, MN 56302

✓ Paul J Donnay  
21633 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0006  
Seasonal Recreational Residence

9705 63<sup>rd</sup> Ave N  
Maple Grove, MN 55369

✓ James L Schueller Rev Trust  
21607 Agate Beach Road  
St. Cloud, MN 56301  
Parcel Number 76.41800.0007  
Residential Homestead

21607 Agate Beach Rd  
St. Cloud, MN 56301

✓ Roma K Steil  
21603 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0008  
Residential Homestead

21603 Agate Beach Rd  
St. Cloud, MN 56301

✓ Thomas A Ruether  
21583 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0009  
Residential Homestead

21583 Agate Beach Rd  
St. Cloud, MN 56301

✓ Kathleen Mimbach Trust  
21567 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0010  
Registered – Seasonal Recreational

7 Skyview Drive  
Sauk Rapids, MN 56379

Jean E Schendel Trust  
21553 Agate Beach Rd  
St. Cloud, MN 56301

✓ Parcel Number 76.41800.0011  
Seasonal Recreational Residence

1309 Kings Run Dr. NW  
Rochester, MN 55901

Michael L Hornung Rev Trust  
21537 Agate Beach Rd  
St. Cloud, MN 56301

✓ Parcel Number 76.41800.0012  
Seasonal Recreational Residence

1816 8<sup>th</sup> St N  
Sartell, MN 56377

*done*  
Leroy K Steinhoff Rev Trust  
21528 Agate Beach Rd  
St. Cloud, MN 56301  
✓ Parcel Number 76.41800.0013  
Residential Homestead

21525 Agate Beach Rd  
St. Cloud, MN 56301

Nona J Peterson

21503 Agate Beach Rd  
St. Cloud, MN 56301

✓ Parcel Number 76.41800.0014  
Seasonal Recreational Residence

2041 Highview Dr  
Sauk Rapids, MN 56379

Judith L Rothstein Trust Agree

21485 Agate Beach Rd

✓ St. Cloud, MN 56301  
Parcel Number 76.41800.0015  
Residential Homestead

PO BOX 923  
St. Cloud, MN 56302

*OK*  
James A Hall Rev Trust

21475 Agate Beach Rd  
St. Cloud, MN 56301

Parcel Number 76.41800.0016  
Seasonal Recreational Residence

21443 Agate Beach Rd  
St. Cloud, MN 56301

*SAME AS PAULINE HALL*

Pauline M Hall Rev Trust  
21443 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41800.0017  
Residential Homestead

21443 Agate Beach Rd  
St. Cloud, MN 56301

Leander H Torborg Rev Trust  
21415 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41705.0001  
Seasonal Recreational Residence

1000 23<sup>rd</sup> Ave N  
St. Cloud, MN 56303

John E Knutson Trust  
21405 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41705.0002  
Residential Homestead

21405 Agate Beach Rd  
St. Cloud, MN 56301

Steven A & Robin J Kraemer  
21387 Agate Beach Rd  
St. Cloud, MN 56301  
Parcel Number 76.41705.0003  
Residential Homestead

21387 Agate Beach Rd  
St. Cloud, MN 56301

THOMAS G. JOVANOVICH ♦  
USAN M. KADLEC †  
LORI L. ATHMANN

1010 WEST ST. GERMAIN, SUITE 420  
ST. CLOUD, MN 56301  
OFFICE: 320-230-0203  
FAX: 320-230-0188

KRISTI D. STANISLAWSKI

**THOMAS G. JOVANOVICH**  
[Thomas.Jovanovich@jkalawfirm.com](mailto:Thomas.Jovanovich@jkalawfirm.com)

November 10, 2016

HAND DELIVERED

Martin Bode, City Administrator  
City of Rockville  
229 Broadway Street East  
PO Box 93  
Rockville MN 56369

RE: Application for Variance Request by Kathleen Mimbach  
Our File No. 41103

Dear Mr. Bode:

Enclosed please find an Application for Variance Request which is being filed on behalf of Kathleen Mimbach regarding property located at 21567 Agate Beach Road, Rockville, Minnesota. Also enclosed please find two checks: one to the City of Rockville for \$200 for your filing fee; and one to the City of Rockville for \$46 for the recording fee.

We are requesting to have this matter placed on the Planning Commission meeting for Tuesday, December 13, 2016. It is also my understanding that the matter would then be referred to the City Council by the Planning Commission for a City Council meeting on Wednesday, December 21, 2016. Please advise if this will be the schedule for the variance request.

The names and addresses of the individual property owners within 350 feet or the nearest 10 property owners on each side of the property is contained in Exhibit 9 with the variance application package.

Also enclosed with this letter please find the following:

1. City of Rockville Application for Variance Request Form which has been signed by Kathleen Mimbach, as both the property owner and applicant;
2. Request by Kathleen Mimbach for an After-the Fact Sideyard Setback Variance, which includes the variance justification information;
3. Exhibit 1 - Legal description for the property located at 21567 Agate Beach Road;

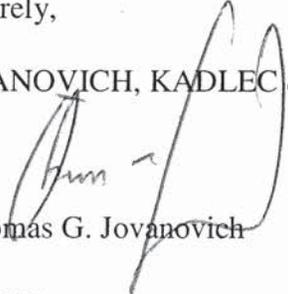
4. Exhibit 2 – Ownership and transfer book showing ownership of the property in the Kathleen Mimbach Living Trust;
5. Exhibit 3- Survey of the property prepared by O'Malley & Kron;
6. Exhibit 4 – Plot plans for the repair, renovation and extension of the Mimbach Lake Home which were submitted to the City of Rockville prior to the issuance of any building permits;
7. Exhibit 5 – Pictures of the sideyard area in question;
8. Exhibit 6 – Pictures of 10 homes located immediately to the south of the Mimbach Lake Home on Grand Lake;
9. Exhibit 7 – Pictures of 6 homes located immediately to the north of the Mimbach Lake Home on Grand Lake;
10. Exhibit 8 – Pictures of homes located on Agate Beach Road on Grand Lake; and
11. Exhibit 9 – Addresses of the 10 homeowners located on both the north and south side of the Mimbach Lake Home.

If you have any questions regarding the enclosed, please advise.

Sincerely,

JOVANOVIĆ, KADLEC & ATHMANN, PA

By

  
Thomas G. Jovanovich

TGJ/baw

Enclosure

c: Chris LaNave (via email)  
James Thomson (via email)

**CITY OF ROCKVILLE**  
**APPLICATION FOR VARIANCE REQUEST: Fee \$200**  
**RECORDING FEE \$ 46.00 (PER DOCUMENT)**

**Need separate checks: 1 for variance request & 1 for recording fee(s)**

**Need a Copy of Deed**

**PLEASE NOTE:** ANY COSTS (i.e. LEGAL, ENGINEERING, ADMINISTRATIVE, STEARNS COUNTY FEES, ETC) INCURRED OVER AND ABOVE THE APPLICATION FEE ARE THE RESPONSIBILITY OF THE PETITIONER

PROPERTY LOCATION/ADDRESS: 21567 Agate Beach Road, Rockville, MN

LEGAL DESCRIPTION: See attached PARCEL#: 76.41800.0010 ZONING: R1 Single  
Family Residential

EXPLANATION OF REQUEST: Variance for side yard setback on an addition to an existing home.

**Provide Individual property owner names/addresses within 350 feet or nearest 10 property owners, whichever is greatest. See Exhibit 9 for 20 property owners.**

If replacing an existing structure, what will be done with the old structure? Old structure was repaired and replaced.

Has a variance request been made previously on this property? No If yes, when? \_\_\_\_\_

**PROPERTY OWNER:**

Name (Print): Kathleen Mimbach Living Trust Phone: 320-251-9599

Address: 

First Name	Middle Initial	Last Name
<u>7 Skyview Drive,</u>	<u>Sauk Rapids,</u>	<u>MN 56379-1318</u>

Signature (required): *Kathleen Mimbach* Date: 11-8-16

\*Signature of property owner shall serve as acknowledgement and authorization of this request.

**APPLICANT:**

Name (Print): Kathleen Mimbach Phone: 320-251-9599

Address: 7 Skyview Drive, Sauk Rapids, MN 56379-1318

Signature (required): *Kathleen Mimbach* Date: 11-8-16

(I hereby certify that I have read the above information and I agree with the terms).

**STAFF USE ONLY:**

Permit# _____
R# _____ Variance Application Fee Check # _____ Date _____ 101.41000.34103 \$200.00
R# _____ Reimb. for Invoice Check# _____ Date _____ 101.41000-34102 \$46.00





---

**Staff Use only:**

Zoning Administrator reviewed Variance Application.

1. Referred to City Attorney and/or City Engineer: Date \_\_\_\_\_

Why: \_\_\_\_\_

2. Determination made & why: \_\_\_\_\_

( ) Complete Application

( ) Incomplete Application Why: \_\_\_\_\_

Applicant was notified for additional information: Date \_\_\_\_\_ in which the information needs to be turned in by. \_\_\_\_\_ in person \_\_\_\_\_ by phone \_\_\_\_\_ email

Staff \_\_\_\_\_ Date \_\_\_\_\_

REQUEST BY KATHLEEN MIMBACH FOR AN AFTER-THE-FACT  
SIDEYARD SETBACK VARIANCE FOR A HOME ON GRAND LAKE

Requested Variance:

Applicant is requesting an after-the-fact variance from the 10-foot sideyard setback requirement on the northeast corner of a lake home on Grand Lake. The request arises out of the repair, renovation and extension of the lake home in 2016.

The requested sideyard variance is 13.8 feet in length and has a setback of 6.9 feet on the west end, and 6.5 feet on the east end. In other words, the applicant is seeking relief from the 10-foot sideyard setback of 3.1 feet on the west, and 3.5 feet on the east. The length of the requested relief is 13.8 feet.

History of Property:

The subject property (hereinafter “Mimbach Lake Property” or “Mimbach Lake Home”) is owned by the Kathleen Mimbach Living Trust. Kathleen Mimbach is the Trustee of the Trust and she is currently 90 years old.

The Mimbach Lake Property was originally purchased by Kathleen Mimbach’s parents, Leon and Alma Kolb, on May 28, 1948, according to the records at Stearns County. (See attached Exhibit 1 which is the legal description of the Mimbach Property and Exhibit 2 which are the transfer and ownership records from the Stearns County Recorder’s Office). The lot was a 50 foot wide lot in the First Addition to Agate Beach. The old lake home was built by Kathleen Mimbach’s parents in approximately 1950. The 50 foot lot has been owned by the Mimbach family for the past 68 years and the old lake home was approximately 66 years old. The Mimbach Lake Home was one of the first homes in the area on what is now known as Agate Beach Road. Currently, Agate Beach Road is fully developed. Kathleen Mimbach inherited the property from her parents. (See Exhibit 2 which are the ownership and transfer records from the Stearns County Recorder’s Office). Five generations of the Mimbach family have used the Lake Property during that time period, to include Kathleen Mimbach’s parents, her generation, her children, her grandchildren, and her great-grandchildren.

During the past few years, it was apparent that the old Mimbach Lake Home was in need of repairs because of its age. There was some rotting on the deck and the outside of the house near the deck. The basement walls were cracking and were bowed inward.

Kathleen Mimbach asked her grandson, Matthew Mimbach, to assist with the repairs, renovation and extension to the lake home. Matthew Mimbach then started working with the City of Rockville to obtain the appropriate permits to make the repairs, renovation and extension.

Thomas and Holly Ruether own the home to the north of the Mimbach Lake Home. Neither family has ever agreed to where the exact placement of the property line between their respective properties should be.

Matthew Mimbach contacted Rena Weber, who was the building official for the City of Rockville. He explained what the project was about and obtained information from her with respect to what was allowed by the City ordinances. Plot plans were prepared for the City zoning official to review. These are attached as Exhibit 4. The plans show that the old deck was 240 square feet, with a 48-foot setback from the lake. The plans also show the old lake home of 1,064 square feet, with an existing tuck-under garage. The plans for the renovation called for a second floor over the existing first floor. The plans also called for an extension to the existing footprint of the building on the road side of the home. The project extended the length of the building by 13.8 feet towards the east or the road. The width of the extension matched the existing width of the home. The repairs and renovation on the lake side of the property did not change the existing footprint at all. The deck is no closer to the lake than the original deck, and the new deck and home are the same width as the old deck and home. The plan shows a 10-foot setback on the north side of the property. The 10-foot setback was determined by measuring from the southerly property line of the Schindel property. A survey of the property was not requested by the City.

Construction on the project did not start until all plans were reviewed and approved by the City of Rockville and the building permits had been issued by the City of Rockville.

A recent survey by Dan Kron has shown that the existing home, as well as the 13.8-foot extension to the east, did not meet the required 10-foot sideyard setback. (See Exhibit 3, O'Malley & Kron Survey). The setback for the existing home was 8.2 feet at the northwesterly corner, and 6.9 feet at the northeasterly corner. The setback for the 13.8 foot extension is 6.9 feet on the west side of the extension, and 6.5 feet on the east side of the extension.

The requested sideyard variance is 13.8 feet in length and has a setback of 6.9 feet on the west end, and 6.5 feet on the east end. In other words, the applicant is seeking relief from the 10-foot sideyard setback of 3.1 feet on the west, and 3.5 feet on the east. The length of the requested relief is 13.8 feet. (See Exhibit 5 for pictures of the sideyard area in question).

The height of the lake home meets the height for residential structures in the Shoreland Management Ordinance. Section 32, Subd. 10(j) of the Shoreland Management Ordinance provides that "no structures . . . shall exceed 30 feet in height of building." "Building Height" is defined in Subd. 2 of Section 8, Rules and Definitions. "Building Height" means "the vertical distance measured from the average ground level adjoining the building to the highest point of the roof surface if a flat roof, . . . and to the mean height level between eaves and ridge of gable, hip and gambrel roofs." The roof in this house is a gable roof. The survey of Dan Kron shows that the mid-point of the roof between eaves and ridge is at an elevation of 131.56 feet. The average ground level adjoining the building is located at the garage-floor level, concrete patio level, and points C, B, H and G of the O'Malley & Kron Survey. (See Exhibit 3). The average ground elevation of these six points is 102.9 feet. This results in a building height of 28.66 feet.

Variance Justification:

Minnesota Statutes §§394.27 and 462.357 set forth the criteria for municipal variances under Minnesota law. The following must be shown for the granting of a variance:

1. The variance should be in harmony with the general purposes and intent of the ordinance and be consistent with the Comprehensive Plan;
2. The applicant must establish that there are practical difficulties in complying with the Zoning Ordinance. Practical difficulties in connection with granting a variance mean:
  - a. the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
  - b. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - c. the variance, if granted, will not alter the essential character of the locality.

1. Proposed use is in harmony with the general purposes and intent of the ordinance and is consistent with the Comprehensive Plan.

The repairs, renovation and extension of the lake home is in harmony with the purposes and intent of the ordinance since the renovated home sits on the exact same footprint as the original lake home, except for the 13.8-foot extension to the east, toward the roadside. The use is a residential use and is consistent with the residential area. The size of the lake home is consistent with other homes located on Grand Lake. It is not the largest residential structure, nor is it the smallest. (See Exhibits 6, 7 and 8, which are pictures of homes located on each side of the Mimbach Lake Home).

2. Practical Difficulties.

- a. The property is put to a reasonable use since the property is being used as it was historically used and that is as a residential home. The use is also consistent with the R1 zoning of the area.
- b. The plight of the landowner is due to circumstances unique to the property. The property was purchased as a 50-foot-wide lot in 1948, with the original home being built in 1950. This was well before the ordinance which required a larger lot. This situation is unique to the property since it has been a 50-foot-wide lot for the past 68 years.
- c. The variance does not alter the essential character of the locality. The variance being requested is a sideyard setback variance 13.8 feet in length, with a sideyard setback running from 6.5 feet to 6.9 feet. This does not alter the essential character of the locality, nor does it alter the essential character of the home in relation to the neighboring home since the original house did not meet the 10-foot sideyard setback. The Mimbach Lake Home is also in harmony with the other homes in the area. (See Exhibits 6, 7 and 8).

Conclusion:

Kathleen Mimbach respectfully requests that the City of Rockville grant the after-the-fact variance from the sideyard setback of 10 feet on the north side of the home. The specific variance being requested is 13.8 feet in length, with a sideyard setback running from 6.9 feet on the west side of the extension to 6.5 feet on the east side of the extension. (See Exhibits 3 and 5).

LEGAL DESCRIPTION FOR KATHLEEN MIMBACH LIVING TRUST PROPERTY  
LOCATED AT 21567 AGATE BEACH ROAD, ROCKVILLE, MINNESOTA

Lot Numbered Ten (10), except the Southerly One-half ( $\frac{1}{2}$ ) thereof, in First Addition to Agate Beach, according to the plat and survey thereof on file and of record in the Office of the Register of Deeds, in and for Stearns County, Minnesota. ALSO: That part of Government Lot Numbered Two (2), of Section Numbered Twenty-eight (28), in Township Numbered One Hundred Twenty-three (123) North, of Range Numbered Twenty-nine (29) West, described as follows, to-wit: Beginning at a point on the East boundary line of Lot 10 of First Addition to Agate Beach on Grand Lake, which point is 50 feet NEly of the SEly Corner of said Lot 10; thence SEly perpendicular to the Ely boundary line of said Lot 10 of said First Addition to Agate Beach to a point of intersection with a line described as follows, to-wit: Commencing at the SE Corner of Lot 2, First Addition of Agate Beach; thence due East on South line of said Lot 2 produced 263.3 feet; thence South 5 degrees 50' 30" East 301 feet for point of beginning; thence South 21 degrees 07' 30" West 118 feet; thence South 48 degrees 26' 30" West 223.95 feet; thence South 32 degrees 28' 30" West 39.03 feet; thence South 16 degrees 03' 30" West 279.13 feet; thence South 20 degrees 44' 30" West 213.6 feet; thence South 15 degrees 44' 30" West 137.12 feet; thence South 56 degrees 44' 30" West 179.73 feet and there terminating, thence from the point of such intersection NEly along the line last hereinabove described to an intersection with the Nly boundary line of said Lot 10 of said First Addition to Agate Beach projected SEly; thence from the point of such intersection to the NEly corner of said Lot 10 of First Addition to Agate Beach; thence SEly along the Ely boundary line of said Lot 10 to the point of beginning and there terminating, all being in Stearns County, Minnesota.

EXHIBIT

tabbles

## EXHIBIT 2

Ownership and transfer book records from the Stearns County Recorder's Office for the Kathleen Mimbach Living Trust property located at 21567 Agate Beach Road, Rockville, Minnesota.

# Transfer Book and Record of Delinquent Tax Sales and Assignments in Stearns County, Minnesota

esota

DEEMED Party Amount of Redemption Dolls. Cts.	LAST GRANTEE	DATE OF TRANSFER			SUBDIVISION	ACREAGE Acres 100ths	TOWNSHIP Range	Years Delinquent	WHEN AND TO WHOM SOLD OR ASSIGNED			AMOUNT SOLD FOR			WHEN AND BY WHOM REDEEMED			Amount of Redemption Dolls. Cts.
		Month	Day	Year					Month	Day	Year	Name of Purchaser or Assignee	Dolls.	Cts.	Month	Day	Year	
	Edmund J. & Gertrude J. Kollb	MAY	28	1948	1st Add to Agate Beach	10												
	Leon F. & Alma C. Kollb																	
	Alma C. Kollb																	

17224

17225

17226

William and Josephine Schmitt Oct 10 1951  
 Ronald J. & Jean E. Schmitt SEP 19 1968

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 2  
 EXHIBIT

Wendyush Add.  
 Wheelock Shore Lots  
 Grand Lake  
 Walsman's 2nd Add.

TRANSFERRED

TRANSFERRED

TRANSFERRED

Transfer Book and Record of Delinquent Tax Sales and Assignments in Stearns County, Minnesota

LAST GRANTEE	Date of Transfer Month Day Year	76-41800-011 SUBDIVISION	Range 17-1-15	Section 246	Township for 246 1st 1st	Acres 10	WHEN AND TO WHOM SOLD OR ASSIGNED			Amount Sold For	WHEN AND BY WHOM REDEEMED			Amount of Redemption
							Month Day Year	Name of Purchaser or Assignee	Date		Month Day Year	Name of Party Redeeming	Date	
Ronald J. Jarek	Jan 23 2001													

*Handwritten notes:*  
 246 for 246 1st 1st  
 10  
 20 ft  
 road dep.

*Handwritten notes:*  
 76-41800-012 - sec pg 246  
 17-1-15 - for 246 1st 1st

*Handwritten entries:*  
 Maria L. Voronyak and  
 Nancy K. Spalden Oct 13 1975  
 Richard A. Spalden Oct 24 1980  
 (Maria Voronyak)  
 Richard L. Spalden  
 Glorise E. Spalden  
 Maria L. Spalden  
 Starr

*Handwritten notes:*  
 and tail of A of lot  
 20 ft  
 road dep.

A.K.A.

Lot Numbered Eleven (11) in First Addition to Agate Beach, Grand Lake, in the Township of Rockville, according to the plat and survey thereon on file and of record in the Office of the Register of Deeds in and for Stearns County, Minnesota, excepting, however, and reserving the right to travel over and improve the 10 foot right of way, hereafter excepted and reserved by the terms and provisions of a warranty deed, made, executed and delivered by Ruth H. Mitchell and Eleanor Mitchell, both single women, as grantors to Robert B. Halverson, as grantee dated May 23 1948, and filed in said Register of Deeds office on June 7, 1948, at 1:39 o'clock P.M. and recorded in Book 26 of deeds at page 489 and including the tract of land now or hereafter lying westerly of said Lot numbered Eleven (11) and between said lot and the westerly side of Grand Lake bounded on the northerly and southerly sides by lines commencing at the westerly corner of said platted lot and ending at the center of Grand Lake. ALSO That part of Section Twenty-eight (28), Township One Hundred Twenty-three (123) North of Range Twenty-nine (29) West, described as follows, to-wit: Beginning at the NE 1/4 corner of Lot Eleven (11) in the First Addition to Agate Beach on Grand Lake; thence SE 1/4 along the North line of said Lot 11 of said First Addition to Agate Beach projected to an intersection with a line described as follows, to-wit: Commencing at the Southeast corner of lot Two (2), First Addition to Agate Beach; thence due East on South line of said Lot 2 produced 263.3 feet; thence South 5°50'10" East 301.0 feet for point of beginning; thence South 21°07'08" West 118.0 feet; thence South 48°26'30" West 223.95 feet; thence South 32°28'30" West 85.00 feet; thence South 15°00'30" West 279.13 feet; thence South 20°44'30" West 111.6 feet; thence South 15°44'30" West 137.11 feet; thence South 35°44'30" West 139.72 feet and there terminating, thence SE 1/4 along the said last described line to a point of intersection with the S 1/4 line of Lot 11 of First Addition to Agate Beach projected SE 1/4 thence from the point of such intersection to the SE 1/4 corner of said Lot 11, First Addition to Agate Beach; thence NE 1/4 along the westerly line of said Lot 11 to the point of beginning and there terminating; reserving to the grantor, however, and all of the fee title holders of lands in First Addition to Agate Beach a perpetual easement or right-of-way over and above the herein granted land, with easement or right-of-way is 20 feet in width and the E 1/4 boundary of which permanent easement is the line hereinabove described in meters and bounds, and such easement being the easterly 20 feet of the land hereinabove conveyed.

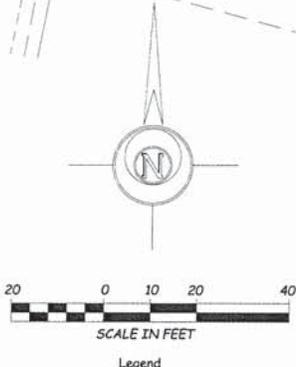
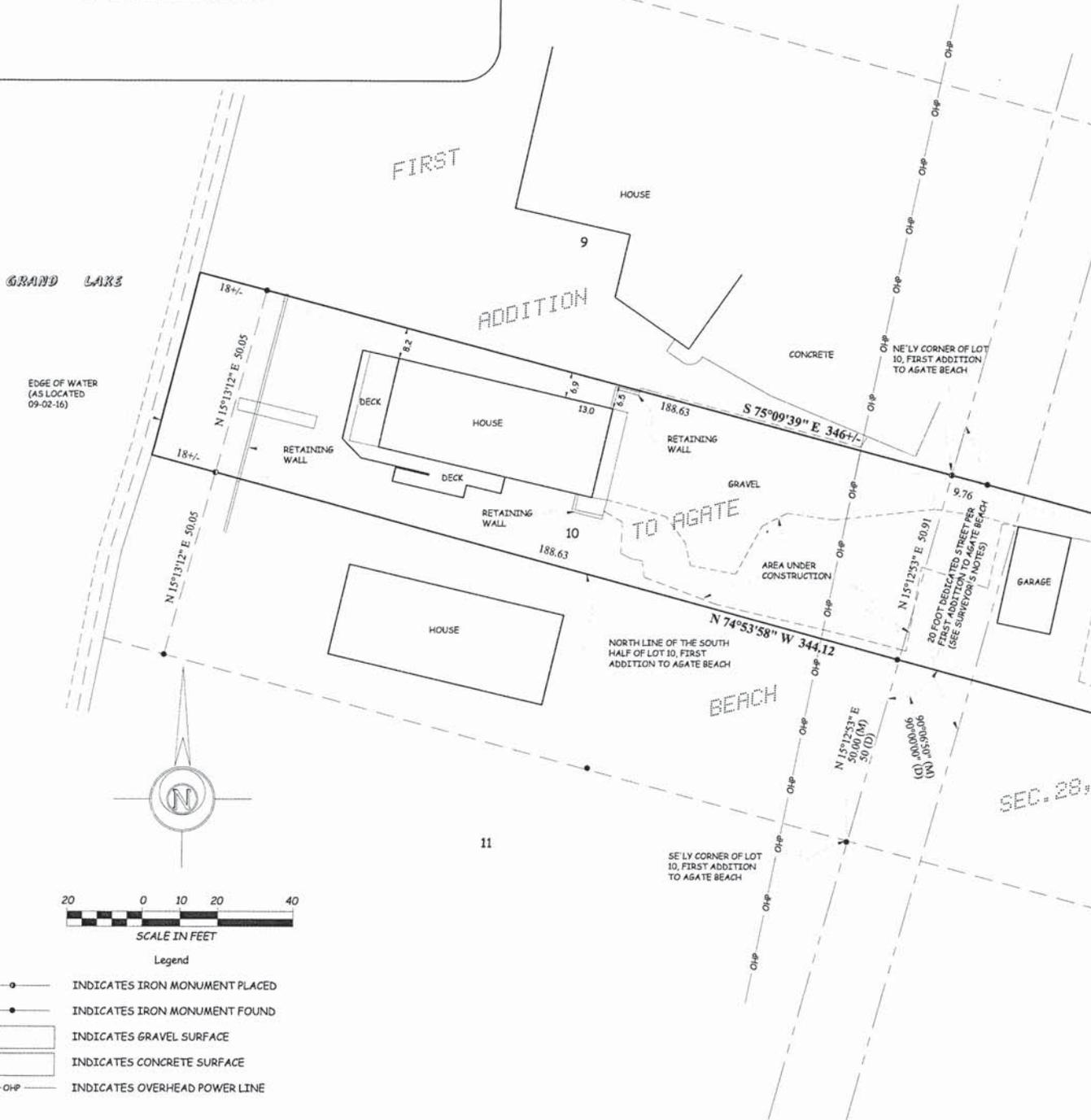




# LEGAL DESCRIPTION

As furnished by client:

Lot Numbered Ten (10), except the Southerly One-half (1/2) thereof, in First Addition to the Agate Beach, according to the plat and survey thereof on file and of record in the Office of the Register of Deeds, in and for Stearns County, Minnesota. ALSO: That part of Government Lot Numbered Two (2), of Section Numbered Twenty-eight (28), in Township Numbered One Hundred Twenty-three (123) North, of Range Numbered Twenty-nine (29) West, described as follows, to-wit: Beginning at a point on the East boundary line of Lot 10 of First Addition to Agate Beach, which point is 50 feet NEly of the SEly Corner of said Lot 10; thence SEly and perpendicular to the Ely boundary line of said Lot 10 of said First Addition to Agate Beach to a point of intersection with a line described as follows, to-wit: Commencing at the SE Corner of Lot 2, First Addition to Agate Beach; thence due East on South line of said Lot produced 263.3 feet; thence South  $5^{\circ}50'30''$  East 301 feet for point of beginning; thence South  $21^{\circ}07'30''$  West 118 feet; thence South  $48^{\circ}26'30''$  West 223.95 feet; thence South  $32^{\circ}28'30''$  West 89.03 feet; thence South  $16^{\circ}03'30''$  West 279.13 feet; thence South  $20^{\circ}44'30''$  West 213.6 feet; thence South  $15^{\circ}44'30''$  West 137.12 feet; thence South  $56^{\circ}44'30''$  West 179.73 feet and there terminating, thence from the point of such intersection with the Nly boundary line of said Lot 10 of said First Addition to Agate Beach projected SEly; thence from the point of such intersection to the NEly corner of said Lot 10 of First Addition to Agate Beach; thence SEly along the Ely boundary line of said Lot 10 to the point of beginning and there terminating, all being in Stearns County, Minnesota.



- Legend
- INDICATES IRON MONUMENT PLACED
  - INDICATES IRON MONUMENT FOUND
  - ▭ INDICATES GRAVEL SURFACE
  - ▭ INDICATES CONCRETE SURFACE
  - OHP— INDICATES OVERHEAD POWER LINE

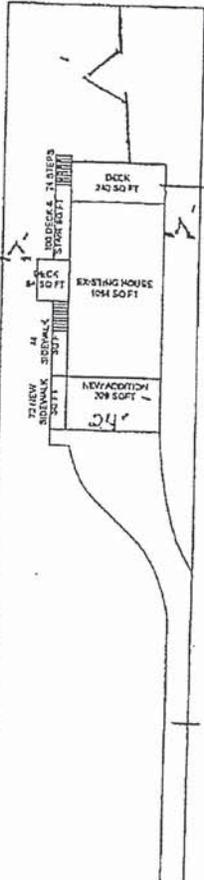
**NOTE:** THIS SURVEY IS INTENDED ONLY FOR THE BENEFIT OF THE PARTY TO WHOM IT WAS PREPARED FOR AND SHOULD NOT BE RELIED UPON BY ANY OTHER PARTY OR FOR ANY OTHER PURPOSE WITHOUT FIRST CONTACTING THE SURVEYOR WHO DEVELOPED AND MADE THIS DRAWING. UNAUTHORIZED REPRODUCTION OF THIS DOCUMENT IS PROHIBITED.

CERTIFICATE OF  
**O'MAL**  
**LAND SURVEYING**  
 370 CHAPEL HILL RD., SUITE 105  
 COLD SPRING, MN 56320  
 PH. 320-685-5905  
 FAX 320-685-3056

## EXHIBIT 4

Plot plans for the repair, renovation and extension of the Mimbach Lake Home which were submitted to the City of Rockville.

PL  
30 00



Matt - is there a sidewalk down to the lake? See the other site plan  
 Are you increasing the deck?  
 Need setbacks from LAKE SIDES

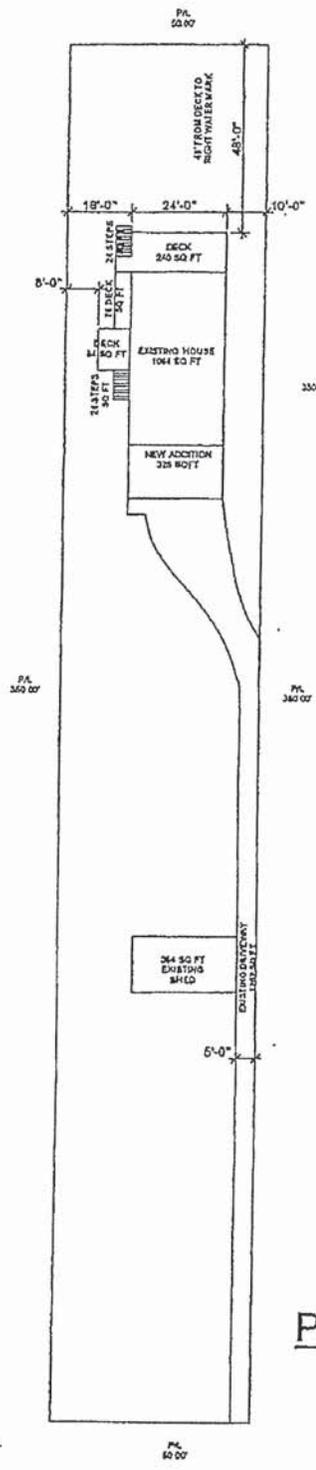
17500 LOT SQ FOOTAGE  
 2000 ALLOWABLE LOT COVERAGE BY RAIN BARRELS  
 38% LOT COVERED

PL  
350 00

PL  
350 00

5' Wide X length

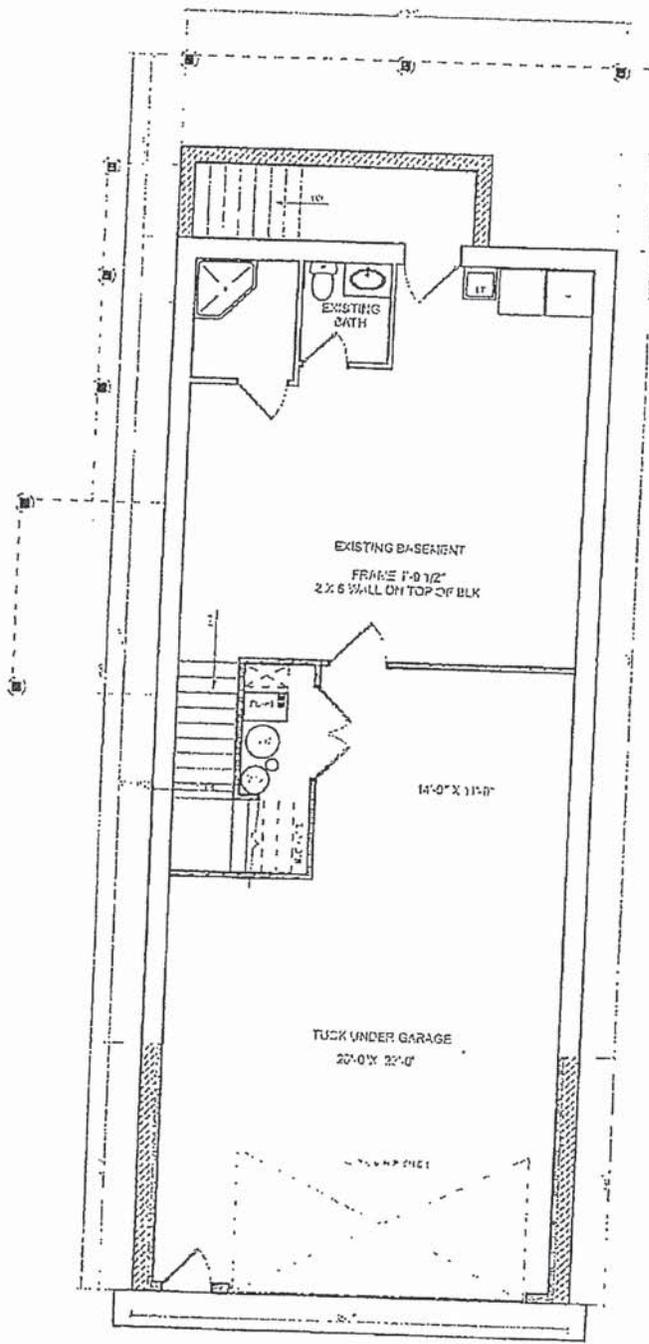
... ..



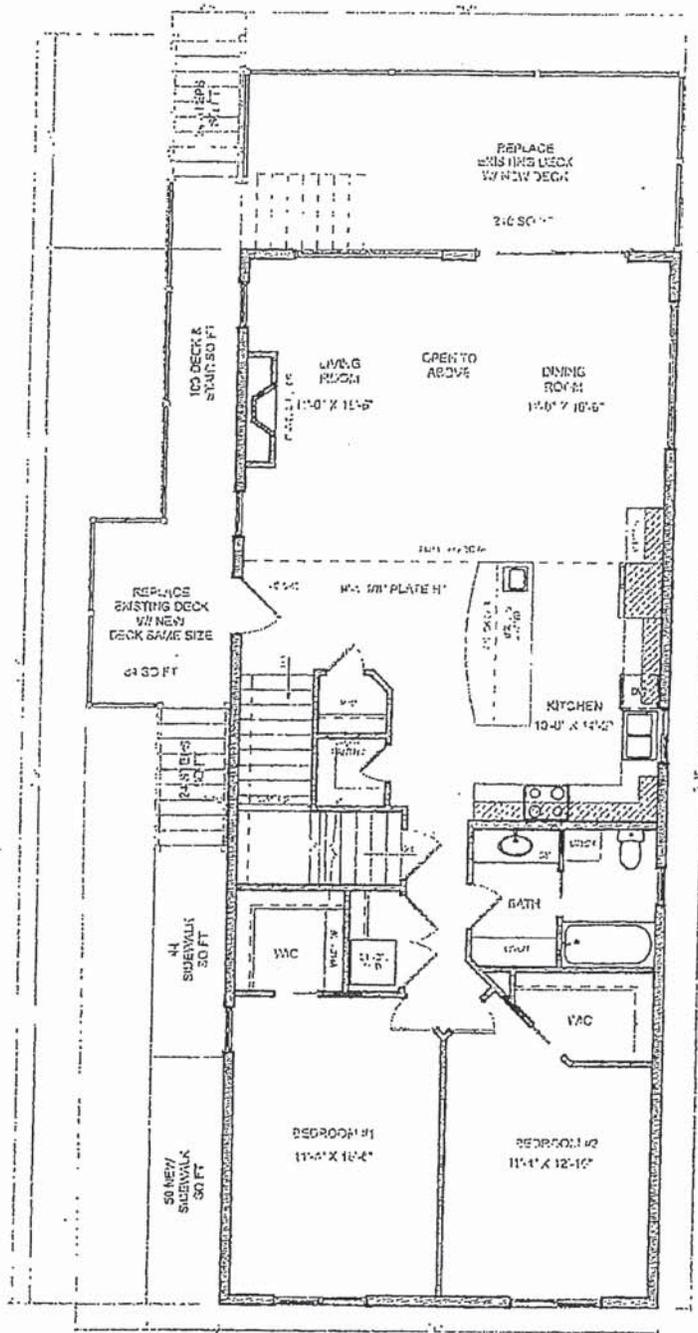
1700 LOT SQ FOOTAGE  
 3300 ALLOWABLE LOT COVERAGE W/ RAIN BARRELS  
 344 LOT COVERED

$17,500 \times 15\% = 2625.00$   
 $17,500 \times 20\% = 3500.00$   
 3466 proposed  
2625  
 841 over

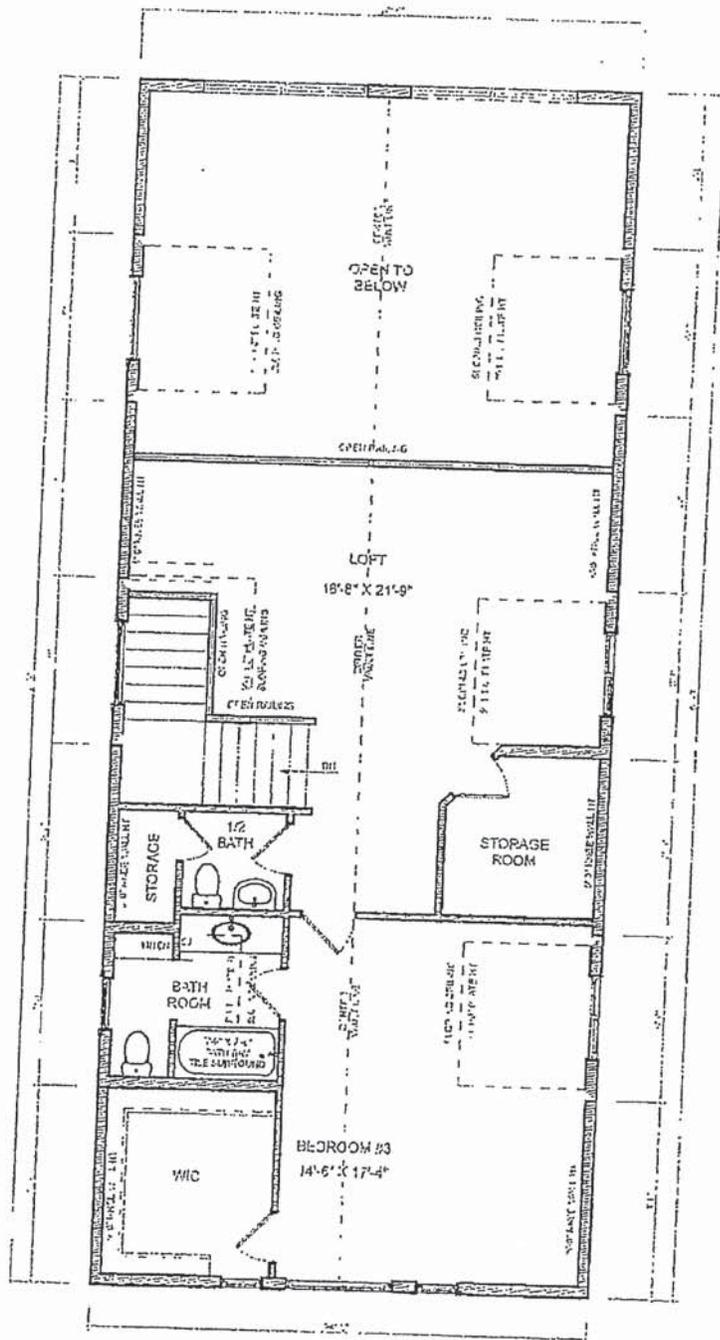
**PLOT PLAN**  
 SCALE: 1" = 30'-0"



**BASEMENT FLOOR PLAN**



**MAIN FLOOR PLAN**

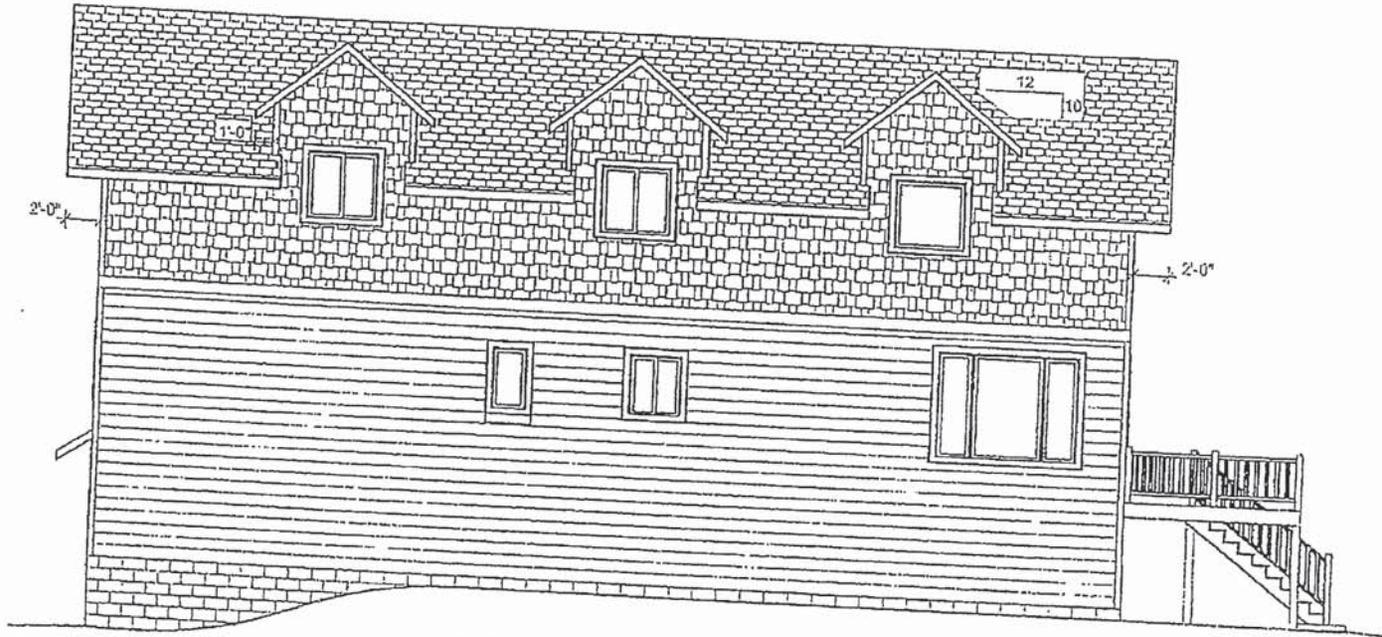


**SECOND FLOOR PLAN**

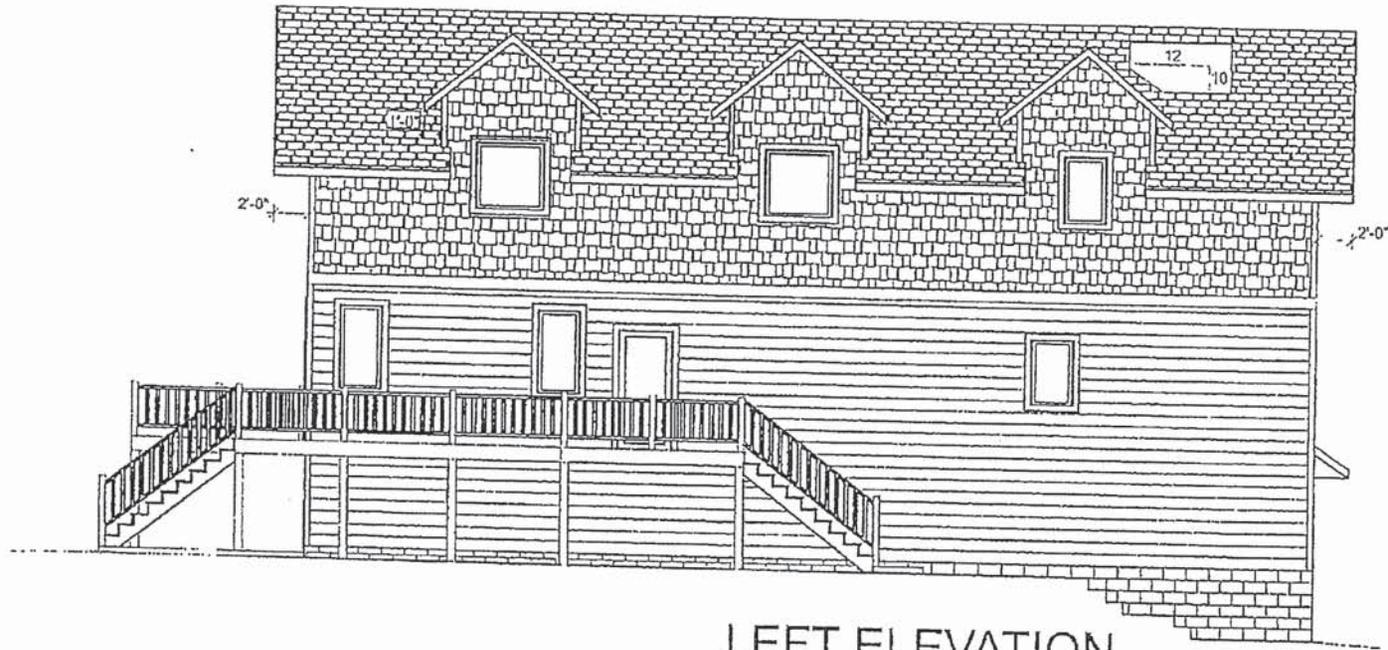
SCALE: 1/4" = 1'-0"



REAR / LAKE ELEVATION



RIGHT ELEVATION



LEFT ELEVATION



FRONT / ROAD ELEVATION

KATIE MIMBACH

Rain Garden or trench Sizing

Fill in the amount that is over if they decide to do a rain barrel plus rain garden then subtract out the 176 first then enter the remaining amount in the yellow area

Area Over Limit (Sq Ft)	Runoff Generated	Rain Garden Area (12" Depth)	Area At Top (18" Depth)
441	70.08333333	90	60
		Example you would need 10 x 9 sq ft or 5 x 18 (so what ever totals that amount)	Example 10 x 6 (so what ever totals that amount)
1 Rain Barrel = 176 sq ft			
Area Over 1 rain barrel	265		
1 rain garden	130 sq ft or 90 sq ft		

Remaining amount that need to be taken care of Below are examples

this is what is remaining so enter that amount in the yellow area and what is in the rain garden area or area at top (what we need) need to be addressed so for example can do another rain garden that is 10x13 or 10x9 12" depth (if you went with 12" depth) or if you went with a 18" depth (you would need a)

Rain Garden or trench Sizing

Fill in the amount that is over if they decide to do a rain barrel plus rain garden then subtract out the 176 first then enter the remaining amount in the yellow area

Area Over Limit (Sq Ft)	Runoff Generated	Rain Garden Area (12" Depth)	Area At Top (18" Depth)
441	70.08333333	90	60
		Example you would need 10 x 9 sq ft or 5 x 18 (so what ever totals that amount)	Example 10 x 6 (so what ever totals that amount)
1 Rain Barrel = 176 sq ft			
let say they wanted 2 Rain barrels	Area Over	441	
1 rain garden	449		

this is what is remaining so enter that amount in the yellow area and what is in the rain garden area or area at top (what we need) 12" depth (if you went with 12" depth) or if you went with a 18" depth (you would need a)

Rain Garden or trench Sizing

Fill in the amount that is over if they decide to do a rain barrel plus rain garden then subtract out the 176 first then enter the remaining amount in the yellow area

Area Over Limit (Sq Ft)	Runoff Generated	Rain Garden Area (12" Depth)	Area At Top (18" Depth)
441	70.08333333	90	60
		Example you would need 10 x 9 sq ft or 5 x 18 (so what ever totals that amount)	Example 10 x 6 (so what ever totals that amount)
1 Rain Barrel = 176 sq ft			
just a rain garden	Area over 1 rain garden or	441	

this is what the amount you would enter in the yellow area and what is in the rain garden area or area at top (what we need) 12" depth (if you went with 12" depth) or if you went with a 18" depth (you would need a)

## EXHIBIT 5

Pictures of the sideyard area in question.

The first two pages of Exhibit 5 have an area circled in black on the side of the Mimbach Lake Home. This is the approximate area of the sideyard variance being requested. The Mimbach Lake Home is the gray home with white trim. The neighboring home is brown and beige and is the Tom and Holly Ruether home.



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EXHIBIT  
5







## EXHIBIT 6

Pictures of 10 homes located immediately to the south of the Mimbach Lake Home on Grand Lake. The first page shows the Mimbach Lake Home, which is gray with white trim. The pictures then show homes moving south of the Mimbach Lake Home on Grand Lake. Each picture was taken at the waterline. Pictures were taken on October 31, 2016.



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**EXHIBIT**  
6



























