

**Thursday, August 24, 2023****4:00 PM****McFarland Municipal Center**  
*Community Room*

## AGENDA

You are invited to this meeting through a Zoom webinar. The public may attend in-person or remotely through the webinar or telephone options listed below.

PLEASE CLICK THE LINK BELOW TO JOIN THE ZOOM WEBINAR:

<https://us02web.zoom.us/j/86944360811>

Or by Telephone: +1 (312) 626-6799

Webinar ID: 869 4436 0811

Press \*9 to raise/lower hand. Press \*6 to mute/unmute.

1. CALL TO ORDER, ROLL CALL.

2. PUBLIC APPEARANCES.

- a. This is an opportunity for members of the public to address the Board of Zoning Appeals for items that are not on the agenda. Please remember this is a hybrid meeting conducted in person and through the Zoom online meeting platform. Meeting attendees wishing to address the Board about items not on the agenda may do so at this time. Zoom attendees should type their name and address in the Question and Answer feature within the Zoom online meeting platform at this time. Members of the public who are present in person and wish to address the Board should fill out a public comment form and turn into the meeting chairperson. When you are called upon to speak, state your name, address, and provide your comments to the Board for their consideration. Please adhere to the 3-minute time limit. Additionally, you may send your public comments to [community.development@mcfarland.wi.us](mailto:community.development@mcfarland.wi.us) to be included as part of the meeting.

Members of the public may also speak during their selected agenda item as they designate on the public comment form or in the Question and Answer feature on Zoom.

3. APPROVAL OF MINUTES.

- a. Motion to approve the minutes of the June 21, 2023 meeting.

4. ANNOUNCEMENT OF PROCEEDINGS

- a. Review of meeting proceedings.

5. PUBLIC HEARING

- a. Public Hearing for a request by Mike and Candice Pennekamp for a variance to the front, street, and rear yard minimum setback requirements of Sec. 62-70 to construct a replacement two-story single family dwelling in the location of the existing foundation of the two-story single family dwelling at 4503 Beckler Street, McFarland, WI. Property zoned R-1B.

6. BUSINESS.

- a. Discussion and action on a request by Mike and Candice Pennekamp for a variance to the front, street, and rear yard minimum setback requirements of Sec. 62-70 to construct a replacement two-story

single family dwelling in the location of the existing foundation of the two-story single family dwelling at 4503 Beckler Street, McFarland, WI. Property zoned R-1B.

7. SCHEDULE NEXT MEETING DATE.

- a. To be determined

8. ADJOURNMENT.

Any person who has a qualifying disability as defined by the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format should contact the McFarland Municipal Center at (608)838-3153, 5915 Milwaukee Street, McFarland, Wisconsin, or [village.clerk@mcfarland.wi.us](mailto:village.clerk@mcfarland.wi.us) by 2:00 p.m. at least 5 business days prior to the meeting so that any necessary arrangements can be made to accommodate each request. If the meeting or request is less than 5 business days from the meeting, requests for accommodations may still be made and reasonable efforts will be made to accommodate each request.

## **Board of Zoning Appeals Minutes**

**June 21, 2023, at 4:30 PM**

Members Present: Gordon Kinder, Art Luetke, Joe Rademacher (A), John Robertson, Jeff Sorenson (A).

Members Absent: Ken Brost, Blake Draper

Staff Present: Andrew Bremer, Jim Trebian, Kong Thao

### **1. CALL TO ORDER**

Kinder called the meeting to order at 4:30 p.m. Kinder noted that both alternate members, Joe Rademacher and Jeff Sorenson, would serve in placement of Regular Members Ken Brost and Blake Draper who are absent.

### **2. ANNOUNCEMENT OF PROCEEDINGS**

Kinder and Bremer provided background on the purpose and authority of the Board of Zoning Appeals, the announcement of proceedings, and procedure for the meeting as included in packets.

### **3. PUBLIC APPEARANCES.**

None.

### **4. APPROVAL OF MINUTES.**

- a. Motion to approve the minutes of the January 12, 2022 Board of Zoning Appeals meeting.

Motioned by Robertson and seconded by Kinder to approve the minutes. Motion passes 4-0-1 with the abstention from Sorenson.

### **5. PUBLIC HEARING**

- a. Public Hearing for a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

Kinder opened the public hearing at 4:38PM. Bremer recited the oath before providing the staff report to the Board. Bremer's summary included past roadway reconstruction on the property as well as safety concerns that initiated the applicant's variance request. Bremer commented that the applicant received approval of a Site/Design Review Permit from the Plan Commission at the June 20, 2023 regular scheduled meeting, conditioned on obtaining a variance from the Board of Zoning Appeals. This concluded Staff's opening statement.

Grady Reinking, Pinnacle Engineering, recited the oath before providing their opening statement. Reinking provided summary on the variance request, referencing onsite

constraints, intended use of the accessory structure for maintenance and emergency equipment, and accessibility.

Luetke asked for details on the accessory structure's location, setback requirements, and the location if it were to meet setback requirements. Sorenson inquired about the function of the building and the types of materials to be stored within the structure along with the advantage of the location chosen. Reinking and Bremer provided comments addressing the Board member's concerns referencing the site plan included in the packet. Reinking's comments included accessibility of the location and its advantage to aid surrounding buildings as rationale.

Bremer provided Staff's review of the variance request and the justification for recommending approval of the variance.

1. The layout of the petroleum tanks predates the Village zoning regulations and the characteristics of those tanks and related apparatus, including applicable federal safety design requirements, limit locations on the property to place the accessory structure in compliance with the front yard setback requirements.
2. Alternative locations for the construction of an accessory structure within the property would diminish the effective use and intent of the accessory shed to improve on-site safety in the event of an emergency.
3. The request for a variance is in keeping with previous variances approved for the property and the setback distances of existing buildings to the front lot line.
4. The desire for the accessory structure is not financially motivated.

No comments or questions from the Board members regarding staff's review.

Derek Pirkl, CHS – 4103 Triangle Street, recited the oath before providing his comments. Pirkl stated the storage building will include equipment for daily maintenance safety and operations equipment, while adding an improvement to the flow of trucks entering the site. Sorensen inquired on the critical function of the buildings and why there are two sheds of similar type purposes present on the site. Pirkl commented on the nature of temporary placement shown on the site map and function of emergency responder's access points. Pirkl noted that there is a preference to have safety equipment housed on each side of the loading rack so staff doesn't have to go through or around the building in the event of an emergency to access the safety equipment.

Jake Hover, Environmental Scientist with CHS - 803 US Hwy-212, Laurel, MT, attended the meeting via phone call and recited the oath before providing his comments. Hover stated that he was the emergency response coordinator for all CHS pipeline and terminal operations. Hover affirmed the shed's location selection as strategically advantageous, concurring with previous statements from CHS staff about its use. No rebuttal or comments from the applicant and their staff was made related to Village Staff's opening statement and written report.

Seeing no witnesses present in person or online wishing to speak to the item further, Kinder closed the public hearing at 5:03PM.

## 6. BUSINESS.

- a. Discussion and action on a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

Kinder surveyed the Board members for additional comments or concerns. Rademacher commented he was in favor of the location proposed, affirming emergency accessibility. No additional comments or concerns from the other Board members. Kinder motioned to approve the variance referencing Village staff's written justification for approval provided in the packet.

*Staff recommends a motion to approve the variance request as presented by CHS. In Staff's opinion, the applicant's response to all the standards for granting a variance under Sec. 62-366(e) of the Municipal Code is reasonable. Staff's justification for recommending approval of the variance includes:*

- 1. The layout of the petroleum tanks predates the Village zoning regulations and the characteristics of those tanks and related apparatus, including applicable federal safety design requirements, limit locations on the property to place the accessory structure in compliance with the front yard setback requirements.*
- 2. Alternative locations for the construction of an accessory structure within the property would diminish the effective use and intent of the accessory shed to improve on-site safety in the event of an emergency.*
- 3. The request for a variance is in keeping with previous variances approved for the property and the setback distances of existing buildings to the front lot*

Rademacher seconded the motion. The following rationale was provided by each Board member.

- Rademacher voted in favor of approving the variance, reiterating comments on the location and affirming emergency accessibility.
- Luetke voted in favor of approving the variance based on accommodations of multiple safety factors and alignment with previously approved setbacks for the property.
- Sorenson voted in favor of approving the variance, referencing the site constraints mentioned and enhancement of safety while benefiting the community.
- Robertson voted in favor of approving the variance, concurring with the previous Board member's statements.
- Kinder voted in favor of approving the variance, with reasoning which reflected Staff's written justification of approval.

Motion passes 5-0.

- b. Discussion and action to approve updates to the Board of Zoning Appeals application.

Bremer provided a summary on the format of the current application form and addressed the proposed changes within the new application's format as it better aligns with the current Village Ordinance. Sorensen inquired about additional guidance relating to background needed by an applicant trying to apply. Bremer stated that Staff provides guidance on the application process with the applicant while sharing with the Board members an available letter to applicants, found on the Village website.

Luetke motioned to accept the staff recommended modifications to the variance application, so it stays aligned with Village Ordinances. Seconded by Kinder. Motion passes 5-0.

#### 7. SCHEDULE NEXT MEETING DATE.

- a. To be determined.

#### 8. ADJOURNMENT.

Rademacher motioned to adjourn, seconded by Luetke. Motion passed 5-0. Meeting adjourned at 5:23 p.m.

  
**VILLAGE OF**  
**McFarland**  
**SUMMARY SHEET**

**MEETING DATE:** Thursday, August 24, 2023

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:** Andrew Bremer, Comm & Eco Dev Director

**AGENDA ITEM:** Review of meeting proceedings.

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

The packet includes the general procedures and processes the Board of Zoning Appeals uses to conduct reviews of zoning appeals applications. This script is meant to be reviewed at the beginning of the Board of Zoning Appeals meetings so that applicants and members of the public who are not familiar with Board of Zoning Appeals learn 1) what a Board of Zoning Appeals is 2) what Wisconsin laws require that Board of Zoning Appeals base their decisions on and 3) what to expect during a Board of Zoning Appeals public hearing.

**FINANCIAL/BUDGET IMPACT:**

**VILLAGE PLAN REFERENCE:**

**ORDINANCE REFERENCE:**

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

This agenda item is presented for discussion only.

**ATTACHMENTS:**

1. Board of Zoning Appeals Announcement of Proceedings\_2023

## Board of Zoning Appeals - Announcement of Proceedings

*This script is meant to be reviewed at the beginning of the Board of Zoning Appeals meetings so that applicants and members of the public who are not familiar with Board of Zoning Appeals learn 1) what a Board of Zoning Appeals is 2) what Wisconsin laws require that Board of Zoning Appeals base their decisions on and 3) what to expect during a Board of Zoning Appeals public hearing.*

The Board of Zoning Appeals (BZA) functions like a court, and must follow state laws and local zoning ordinances. The BZA cannot change or ignore any part of the zoning ordinance or state laws, but must apply the laws as written. The BZA may only grant a variance, special exception or administrative appeal if the applicant provides evidence showing that they meet all of the legal standards for that decision. The legal standards the BZA will use to decide on each variance application have been provided to the applicant and are found within Sec. 62-366(e) of the Village of McFarland Municipal Code of Ordinances, and as provided on page two.

1. **Opening of Public Hearing.** The public hearing will be opened by the Chair.
  - a. Witness appearing during the public hearing will be asked to state their name, address, and the following oath:

*I solemnly and sincerely declare and affirm that the evidence I shall give will be the truth, the whole truth, and nothing but the truth.*
2. **Summary of Appeal.** Village Staff will summarize the appeal requested.
3. **Opening Statements.** The Applicant may make an opening statement followed by an opening statement by the Zoning Administrator or Village representative. Either party can waive their opportunity for an opening statement. Please adhere to a 5-minute time limit.
4. **Applicant's Case.** The applicant, and any agents of the applicant, will be sworn in and then present the reasons and evidence to support why they think they meet the legal standards for the application. Please adhere to a 15-minute time limit.
  - a. The BZA may ask questions of the applicant, its agents, or Village staff (examine witnesses).
  - b. Village Staff may ask questions of the applicant or their witnesses (cross examination).
  - c. Applicant may provide re-direct testimony of their witnesses.
5. **Village Staff's Case.** The Village Zoning Administrator, or representative, will review the staff report in the meeting packet and summarize reasons and evidence to support or deny the application. Please adhere to a 15-minute time limit.
  - a. The BZA may ask questions of the applicant, its agents, or Village staff (examine witnesses).
  - b. The Applicant may ask questions of Village Staff or their witnesses (cross examination).
  - c. Village Staff may provide re-direct testimony of their witnesses.
6. **Public Statements & Rebuttal**
  - a. Public statements provided to Village Staff prior to the meeting will be read or included in the meeting packet.

- b. Members of the public may address the BZA. Please adhere to a 3-minute time limit. The BZA will start with individuals attending in-person and then move to those individual attending remotely via Zoom.
  - c. Rebuttal by Applicant. Applicants may address any questions raised by the public or rebuttal testimony.
  - d. Rebuttal by Village Staff. Village Staff may address any questions raised by the public or rebuttal testimony.
7. **Closing Statements.** The Applicant may make a closing statement followed by a closing statement by the Zoning Administrator or Village representative. Either party can waive their opportunity for a closing statement. Please adhere to a 5-minute time limit.
  8. **Close the Public Hearing.** The Chair will close the public hearing.
  9. **Business.** The BZA will deliberate the application or appeal and decide<sup>1</sup> whether the applicant has met the legal standards under Sec. 62-366(e) of the Municipal Code. Final decisions shall be made by a majority of the members present. In making its determination, the BZA shall state reasons for the BZA's determination.

The Board of Zoning Appeals shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

Following the meeting Village Staff will provide a written summary of the BZA's decision to the applicant. Any person aggrieved by any decision of the BZA may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board of Zoning Appeals.

**Sec. 62-366(e) Standards for Granting Variances.**

- (1) Unnecessary hardship. Variances shall be granted only where the applicant demonstrates the existence of an unnecessary hardship. An unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. When considering any variance, the Board of Zoning Appeals shall determine whether the particular restriction in question is unnecessarily burdensome in light of the underlying purpose of that restriction. The purpose of the regulation shall be the primary concern, not the burden upon the property owner. Variances may not be granted where they are contrary to the public interest or where granting the variance would violate the spirit of the regulation. A use variance may not be granted unless it is proved that there can be no reasonable use of the property absent a variance. The Board of Zoning Appeals

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<sup>1</sup> Per Sec. 62-365(a) the BZA shall render its decision either at the termination of the hearing or within 30 days thereafter.

shall consider the following factors to determine whether an unnecessary hardship exists to justify issuance of an area variance:

- a. The purpose of the zoning restriction in question;
  - b. The effect of the restriction on the property; and
  - c. The effect of a variance on the neighborhood and the larger public interest.
- (2) Hardship may not be self-imposed. Variances may not be granted to remedy self-imposed hardships.
- (3) Hardships must be unique to the property. Where the same hardship is imposed upon other properties in the zoning district, a variance shall not be granted.

  
VILLAGE OF  
**McFarland**  
**SUMMARY SHEET**

**MEETING DATE:** Thursday, August 24, 2023

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:** Andrew Bremer, Comm & Eco Dev Director

**AGENDA ITEM:** Public Hearing for a request by Mike and Candice Pennekamp for a variance to the front, street, and rear yard minimum setback requirements of Sec. 62-70 to construct a replacement two-story single family dwelling in the location of the existing foundation of the two-story single family dwelling at 4503 Beckler Street, McFarland, WI. Property zoned R-1B.

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

Mike and Candice Pennekamp, owners and applicants, are requesting a variance to the front, street, and rear yard minimum setback requirements from Sec. 62-70 to raze and construct a new two-story single family home. The Pennekamp's acquired this property and the adjacent (west) 4501 Beckler Street in November of 2022. The proposed new home will occupy the existing building's footprint and include a ground floor three-car garage. The dwelling space will be elevated to the second story. The proposed new home will also include a deck on the second floor. The gross floor area of the proposed building is 2,048 square feet, an increase of 604 SF (42%) over the existing building. The finished floor area will be 1,168 SF (144 SF Main floor and 1,024 Second floor), a decrease of 276 square feet (19%) over the existing building. The peak building height will be 31'4", an increase of 7'10" (33%) over the existing building (excluding chimneys). Additional proposed improvements to the property include removal of two existing metal sheds, replacement or repair of the existing concrete walkway/driveway to the building's west (between 4501 Beckler), and a new concrete driveway along Beckler to access the three-car garage.

**EXISTING PROPERTY CONDITIONS**

The existing property is a corner lot and approximately 3,252 square feet (SF), zoned R-1B, Single Family Residence. The lot includes an existing two-story residential home at approximately 1,444 SF (1,024 Main floor and 420 SF Second floor). The lot includes two accessory metal sheds. The existing home is 8'3" from the Beckler Street front lot line. The minimum front yard setback requirement in the R-1B district is 20 feet. At its closest point, the existing home is 4'7" from the Card Avenue street lot line. The minimum street yard setback requirement is 7 feet. The existing home is approximately 15.5' from the rear lot line (5022 Card Ave side). The minimum rear yard setback requirement is 30 feet (non-waterfront). The existing home is approximately 12'7" from the interior side lot line (4501 Beckler St. side). The minimum side yard setback is 7'. Therefore, the existing home is nonconforming to the front,



street and rear yard minimum requirements of the R-1B district.

The property includes two driveways, one connecting to Beckler Street located along the north lot line, between 4501 Becker Street, and the other occupies the corner space where Beckler St and Card Ave meet. The Beckler Street driveway is approximately 10.5 feet wide and 34 feet long, from the property line, and a total of approximately 46 feet long from the edge of the Beckler Street pavement. Excluding the portion of the driveway within the ROW, the driveway can likely accommodate two off-street parking stalls, and three stalls when including the portion in the ROW. The Card Avenue driveway is approximately 13 feet from the Card Ave property line at its narrowest point and 24 feet at its longest point. The driveway is approximately 24 feet wide. The driveway can probably accommodate 2-3 off-street parking stalls bringing the total off-street parking stalls to 4-6 stalls. There are also two on-street parking stalls on Beckler Street in front of the existing residence. The proposed home would require the removal of the western stall to accommodate the proposed driveway/garage.

### **STANDARDS FOR GRANTING A VARIANCE - Comments Regarding Applicant's Responses**

The BZA variance application includes six questions, or standards, or review and approval of a variance (area) application. For the BZA to grant a variance, it must find all six items are met.

Note upon initial review of the application, staff had several follow-up questions related to the application and requested the applicant provide supplementary clarification to the application.

The applicant's responses are provided in the packet. The following are staff's comments regarding the applicants' responses, and whether, in staff's opinion, the responses or desired development meets the standards.

1a. The Purpose of the Zoning Restriction in Question. The Board of Zoning Appeals shall determine whether the particular restriction in question is unnecessarily burdensome in light of the underlying purpose of that restriction. The purpose of the regulation shall be the primary concern, not the burden upon the property owner. The granting of the variance should not be so general or recurrent in nature as to suggest the Zoning Code should be changed. Describe why granting of the variance will not undermine the general intent and purpose of the Zoning Code and the specific purpose of the regulation in question?

- Staff concurs with the applicant's statement that, given the size and dimensions of the lot, it would be impossible to build any residential structure within the existing minimum setback requirements. However, staff does not concur with the applicant's statement that the two-story home *"will maintain the nonconforming setbacks"*. While the grade of the building will match the existing structure, the applicant proposes to increase the amount of the cubic volume of the structure that is nonconforming to setbacks. The gross floor area of the proposed building is 2,048 square feet, an increase of 604 SF (42%) over the existing building. In addition, the peak building height will be 31'4", an increase of 7'10" (33%) over the existing building (excluding chimneys). Sec. 62-150(b)(2) of the Zoning Code provides that *"ordinary repairs and alterations, as well as structural alterations, may be made to a nonconforming building or structure that is nonconforming as to bulk, provided said ordinary repairs, alterations and structural alterations do no increase the*



*nonconformity to the regulations of the district in which it is located.*" The existing home can continue to be utilized for a permitted use. If the existing home is in such condition that razing is necessary, as an existing conforming structure, the owner has the right to rebuild the structure without the need for a variance, provided the owner rebuilds the structure to match the existing dimensions of the home and existing foundation, like for like. The applicant has not provided specific justification for why this can't be done.

- The applicant has stated that the replacement home will "*maintain the established neighborhood character, and improving a single family home that is safe, energy efficient, and affordable*". The applicant has provided existing photos looking west down Beckler Street and south down Card Avenue. The applicant has further provided an example "precedent" image of a neighboring residential structure (5018 Card Ave) where an existing home was replaced with a new two-story home. The applicant has stated that the 5018 Card Ave home "*expanded their second story nonconforming setbacks.*" However, as shown in the site plan on-file with the Department (included in the packet), this structure conforms to all R-1B minimum setback requirements. In addition, the applicant has not provided any additional information as to why replacing the existing home like for like without the cubic volume increase in nonconformity would result in a home that was less safe, less energy efficient or less affordable than the proposed structure. The applicant has provided a second "precedent" image for a home at 5913 Lake Edge Road that was granted a variance by the BZA to increase its cubic volume of nonconforming building space. The 5913 Lake Edge Road and 4503 Beckler Street properties do share some similar characteristics. Both lots are nonconforming in size, include nonconforming setbacks on three sides, and do not include garages. However, in the case of 5913 Lake Edge, the BZA in its approval commented, in part, that the current property was a hunting shack and the 300 square feet in additional cubic volume seemed acceptable. Additional distinguishing characteristics of the 5913 Lake Edge Road property include a smaller lot (2,934), a smaller original structure (803 SF), and a shorter new structure, 23'7" peak height (previous 14'10"). In addition, the 5913 Lake Edge Road design did not include the addition of a three-car garage. Staff notes that on page 98 of the [Zoning Board Handbook For Wisconsin Zoning Board of Adjustments and Appeals](#) (2nd Edition 2006, Lynn Markham and Rebecca Roberst, UW-Extension Center for Land Use Education), it states that the BZA may grant only the minimum variance needed. "*For example if a petitioner requests a variance of 30 feet from setback requirements, but the zoning board finds that a 10-foot setback reduction would not be unnecessarily burdensome, the board should only authorize a variance for the 10-foot setback reduction.*" The applicant has not provided justification as to why the proposed design is the minimum amount of relief necessary. Given the request to utilize the entire grade level for a three-car garage and mechanicals, it could be argued that the amount of relief requested is the maximum and not the minimum (refer to staff comments under #3 regarding three-car garages).
- In staff's opinion, the granting of the variance as proposed would be so general or recurrent in nature as to suggest the Zoning Code should be changed. The applicant's



response to 1b. states that *"nearly the entire neighborhood does not conform to standard zoning setbacks"*. The applicant's response to 1c also states that *"this property, and most/many in this Edwards Park neighborhood are non-conforming lots with non-conforming structures that are decades old."* If true, then the granting of the variance would be so general and recurrent in nature as to suggest the Zoning Code should be changed. Using GIS data provided by Dane County, staff found that there are five other zoning lots that are nonconforming in size to the minimum 6,000 square feet. In each case, including the subject property, these lots were reduced in size from the original Edwards Park Plat to be less than 6,000 square feet required under the R-1B district.

- The general purpose of the Zoning Code, Sec. 62-3, is to *"promote the comfort, health, safety, morals, prosperity, aesthetic and general welfare of the people of the Village."* The general purpose of setback regulations is to provide a measure of public safety, health and comfort between structures and adjacent streets, watercourses, and structures. Setback areas act as "buffers" from adjacent right of ways, watercourses, and other structures. The buffers provide a greater measure of safety from veering traffic, flooding events, fire separation from adjacent structures, solar access between adjacent structures, noise separation, and potential space for future utility or roadway improvements. Granting a variance to increase the nonconformity by 42% undermines the spirit and general purpose of setback regulations by placing additional residents and structural improvements within the buffer areas. Adjacent property owner's may raise concerns regarding the effect of the larger proposed structure on solar access or viewsheds to Lake Waubesa.

1b. The Effect of the Restriction on the Property. An unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Describe the effect of the zoning restriction on your property and how this impacts the reasonable use of your property or would render conformity unnecessarily burdensome?

- Staff concurs with the applicant that the lot is small compared to the minimum lot size of the R-1B district of 6,000 square feet. However, in staff's opinion, the applicant's response did not provide reasons why the use of the property is impacted. The existing home can continue to be utilized for a permitted use. If the existing home is in such condition that razing is necessary, as an existing conforming structure, the owner has the right to rebuild the structure without the need for a variance, provided the owner rebuilds the structure to match the existing dimensions of the home and existing foundation. In addition, the applicant states that *"nearly the entire neighborhood does not conform to standard zoning setbacks."* If true, then the granting of the variance would be so general and recurrent in nature as to suggest the Zoning Code should be changed.

1c. The Effect of a Variance on the Neighborhood and Larger Public Interest. Describe why



granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

- The applicant's response does not specifically address the question that was asked. The applicant has indicated that *"this property, and most/many in this Edwards Park neighborhood are non-conforming lots with non-conforming structures that are decades old."* There are 39 lots in the Edwards Park Plat of 1899. Using GIS data provided by Dane County, staff found that there are five other zoning lots that are nonconforming in size to the minimum 6,000 square feet. In each case, including the subject property, these lots were reduced in size from the original Edwards Park Plat to be less than 6,000 square feet. Staff concurs that nearly all primary residential homes in the Edwards Park neighborhood have a non-conformity to either a front or side minimum setback requirement. However, that fact alone does not provide justification as to why the applicant should be allowed to increase the cubic volume of the home that is non-conforming to the minimum setbacks, or at least to the degree proposed. If the variance were allowed, then presumably all other lots would also be allowed to increase their cubic volume of non-conformity. The applicant has not addressed why it would be ok here but not so reoccurrent elsewhere to suggest the Zoning Code should be amended.
- Reasons why the proposed house, as submitted, may be detrimental to the public welfare or injurious to other property or improvements in the neighborhood includes the removal of the on-street parking space on Beckler street to accommodate the proposed driveway/three-car garage.

2. Hardship must not be self-imposed. Variances may not be granted to remedy self-imposed hardships. Describe why you feel the hardship is not self-imposed?

- Staff concurs with the applicant that the existing lot and structure were not created by the property owner and likely existed prior to the Village adopting zoning regulations. Staff believes the owner was aware of the nonconformities prior to purchase of the property. It is also worth noting that the original 1899 Edward's Park Plat did not include this lot. The lot was subdivided at some point in the past from Lot 1 of Edward's Park at an unclear time. This does not change staff's opinion that the existing lot and structure were self-imposed, they existed prior to the property owner purchasing the property. The response provided by the applicant for this standard states that *"...the need for a variance [is] to maintain the current use and form of the residential neighborhood."* The use of the property and its existing features for a single-family home is permitted by right. A variance is not needed to maintain the current use of the property as the home could be repaired or replaced like for like without the need for a variance. The applicant provides no specific justification for why the proposed home will maintain the *"form of the residential neighborhood."* Staff notes that there are other residential homes in the Edward's Park Plat that have a second story setback from the ground floor similar in design to the subject property. This includes, but is not limited to, 4511 Beckler Street, 4507 Beckler Street, 4501 Beckler Street, 5017 Card Avenue, 4508 Field Avenue, 4521 Field Ave Avenue, 4517 Field Avenue, 4515



Field Avenue, 4516 Larson Street, 4518 Larson Street.

3. Hardship Must Be Unique To The Property. Where the same hardship is imposed upon other properties in the zoning district, a variance shall not be granted. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district. The conditions upon which a petition for a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity.

Describe the circumstances that exist which make this issue inquire to the property?

- The applicant states that *"a variance is 100% necessary to maintain this property and this neighborhood with single family housing that uses current construction and building code requirements."* Staff notes that the applicant has not provided specific justification for what specific construction and building code requirements require the cubic volume increase in the nonconformity of the proposed home, or require this specific layout and design. According to the Village Building Inspector, the Wisconsin Uniform Dwelling Code does not require a minimum square foot for a residential home. The applicant further states that *"there are 24 single family residential homes on Beckler Street and Card Avenue. (24 of 24) do not conform to existing zoning setbacks."* While staff did not verify the records of each of these properties, as previously stated, the new residential home across the street from the subject property, 5018 Card Ave, nonconforms to setback requirements. Staff questions how the applicant arrived at the determination that 24 of 24 homes on Beckler and Card Avenue do not conform to existing zoning setbacks. Staff also notes that within the Edward's Park Plat only three residential homes have a three-car garage (5118 Card Ave., 4509 Field Ave., 5026 Card Ave.). The majority are either one or two-car garages, some lack a garage entirely. The subject lot does appear to be the smallest lot in the Edward's Park Plat and it would be impossible to build a new home to meet all applicable R-1B setbacks. However, the subject lot is not the only nonconforming lot and nonconforming structure.

4. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

- The property owner purchased the subject property, the adjacent 4501 Beckler Street residence, and already maintains a permanent residence elsewhere in McFarland. This raises a concern that the desire to increase the cubic volume of the home is financially motivated in that it could be the intent of the property owner to either rent the larger home, turn it into a tourist rooming house, or flip it for resale. In each case, it is likely that a larger home would substantially increase the value or income potential of the property. In response to a supplemental staff question on this matter, the property owner indicated *"It is our intention to update/improve the property at 4503 Beckler Street for our personal use, ownership, and our enjoyment of lake access and the neighborhood. The current residential structure is in very poor condition and the possibilities for the proposed improvements are still unknown. How*



*our family uses the property in the future depends a bit on the determination of the Board of Zoning appeals next week on August 24. It is our hope we are able to improve the property generally as proposed to make it livable, safe, and enjoyable for our family."*

### **Public Comments**

Prior to publication of this meeting packet the Department did not receive any written comments for inclusion in the meeting packet. However, the adjacent property owner at 5022 Card Avenue and 5024 Card Avenue contacted the Department objecting to the variance application as presented. The property owner has indicated to staff their intent to attend the public hearing to provide the BZA with their comments and concerns.

### **Staff Recommendation**

Staff recommends a motion to deny the variance request as presented for failure to meet the standards for granting a variance under Sec. 62-366(3) of the Municipal Code and the Board of Zoning Appeals Variance Application. More specifically noting:

1. Denial of the variance would not unreasonably prevent the owner from using the property for a permitted purpose. The owner may reconstruct the home to its same size and location without the need for a variance.
2. The granting of the variance would be so general or recurrent in nature as to suggest the Zoning Code should be changed. There are other nonconforming lots with nonconforming structures that could similarly request a variance to increase the cubic volume of nonconforming structures.
3. The applicant has not provided any additional information as to why replacing the existing home like for like without the cubic volume increase in nonconformity would result in a home that was less safe, less energy efficient or less affordable than the proposed structure.
4. The applicant has not provided specific justification for what specific construction and building code requirements require the cubic volume increase in the nonconformity of the proposed home.
5. The applicant has not provided justification as to why the proposed design is the minimum amount of relief necessary.
6. Harm to public interests, including the removal of at least one on-street parking space, potential solar access and Lake Waubesa viewshed impacts to adjacent properties.

### **FINANCIAL/BUDGET IMPACT:**

None.

### **VILLAGE PLAN REFERENCE:**

Comprehensive Plan, 2017 - Map 6 of the Future Land Use Map identifies the property as Single Family Residential. The proposed project does not look to alter or change the use of the property, maintaining its current use.

### **ORDINANCE REFERENCE:**

Sec. 62-366. - Variances



**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

This item is for discussion only. Action on the variance request will be considered under Agenda Item 6.a. after completion of the public hearing.

**ATTACHMENTS:**

1. 4503 Beckler Street - McFarland Board of Zoning Appeals Application\_07.21.23
2. 4503 Beckler Street Landerud Email\_08.1.2023
3. 4503 Beckler Street Pennekamp Email\_08.15.2023
4. 4503 Beckler Street Landerud Email\_08.17.2023
5. Edwards Park Plat Map 055800
6. 4503 Beckler 2020 Aerial Photo
7. 5018 Card Ave Site Plan



www.mcfarland.wi.us/communityandeconomicdevelopment | 5915 Milwaukee St, McFarland, WI 53558 | 608.838.3154

**Application for Administrative Appeal,  
Use Variance, and Area Variance**

**TO: The Board of Zoning Appeals, Village of McFarland, WI**

*Per Sec. 62-363(e), a filing fee of \$450.00 is required with each application submittal. The Applicant is responsible for publication fees and notification charges, plus actual legal, engineering and financial consulting costs incurred by the Village, to be billed later. No permits can be issued until all monies owed are paid. Filing fee is non-refundable.*

NOTE: The Village recommends all Applicants read the "Letter to Applicants" as supplemental to the purpose and intent of this application. Applicants are encouraged to submit additional pages to answer application questions in full as needed.

**Name of Appellant/Applicant** Mike & Candice Pennekamp

**Address** 6110 Pattison Court  
McFarland, WI 53558-9070

**Owner's name/address  
(if different than Applicant)** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Phone** (608) 209-5606 & (608) 209-5607

**Email** mic.pennekamp@gmail.com & cjkennekamp@gmail.com

**Address of Property** 4503 Beckler Street (corner of Card Ave),  
McFarland, WI 53558-9456

**Parcel No.** 154/0710-343-2781-3

**Lot #** Lot 1 Beg Se Co... Edwards Park Block 2 Prt

**Lot Size** 3,259 Square Feet (0.0748 acres)

**Current Use of Property** 2-Story Single Family Residential

**Proposed Use of Property** 2-Story Single Family Residential

**Zoning Classification** Zoning: Residential 1-B

Applicants should complete Sections #1, #3, and #4 and either Sections 2A, 2B, or 2C on the following pages.

- 1) **Prior Appeals/Variations.** Has there been a past appeal or application with respect to this property?  Yes  No (If yes, provide a summary of the previous appeal below.)

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Disposition of previous appeal: \_\_\_\_\_

Date of decision in previous case: \_\_\_\_\_

How does this appeal differ from the previous request?

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- 2) **Stating the purpose and grounds of your appeal.**

Check the box (A, B or C) which best meets the relief request of your appeal then answer only those questions within that section. You may include an attached sheet with your response if there is not enough space.

**(A) Administrative Appeal.**

This request is for a review of zoning ordinance and/or petition of order, requirement, decision, or determination of administrative official. Please include any additional documentation, letters or forms you received which is associated with this appeal. Use the lines provided below stating the reasons why you claim this order, requirement, decision, or determination is erroneous.

- 1) Date of notice of such decision received by applicant: \_\_\_\_\_

- 2) In the lines below, provide a summary of the order of administrative official from which appeal was taken:

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- 3) In the lines below, provide reasoning why the requirement, decision, or determination is erroneous.

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**(B) Use Variance**

Any use variance granted shall be limited to the specific use described in the BZA decision and shall not permit variances in yard, area, or other requirements of the districts in which located.

- 1) Is this property located in a designated Floodplain or Wetland and Conservancy District?     Yes     No
  
- 2) Has the applicant previously applied for a zoning amendment or a conditional use permit?  Yes     No

**(If yes, provide the following information in the lines below.)**

Date when request was determined: \_\_\_\_\_

Was this request approved?     Yes     No

Describe the specific proposed use of the subject property for which a use variance is requested:

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- 3) Describe why no lawful and feasible use of the subject property can be made in the absence of such a variance.

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**(C) Area Variance.**

An area variance is a request for a modification(s) to a dimensional, physical, or locational requirement such as setback, frontage, height, bulk, or density restriction for a structure.

Describe the area variance you are requesting, including the specific section(s) of the Zoning Code:

The scope of the project at 4503 Beckler Street simply proposes the replacement of a 2-story 2 bedroom residential home with a 2-story 2 bedroom residential home. The proposed variance will exactly maintain all lot front, rear and side yard setbacks from the first story perspective. The existing house structure is a 2-story building, but the new proposed 2-story 2 bedroom residential home expands the second story area. These proposed improvements will not undermine the spirit and general purposes of the Zoning Code. The proposed replacement of the residential structure will maintain the existing setbacks while updating the new structure up to existing building codes. The new structure will be under the max height allowed of 35'; it will exceed the usable open space of 1,000 SF per dwelling unit, and it will exceed and add to the minimum of 2.0 parking spaces per dwelling unit. The proposed replacement will exactly maintain the existing 32' x 32' footprint. The existing house footprint and lot coverage will not increase. Additional off-street parking (3 proposed street level garage bays) will enhance the neighborhood and safety by decreasing the on-street parking demand on these narrow streets.

**Sec. 62-366(e) Standards for Granting a Variance.** In the lines below, answer each question thoroughly for each item listed. For the Board- of Zoning Appeals to grant a variance, it must find that all conditions are met.

**1. Unnecessary Hardship.**

- a. The Purpose of the Zoning Restriction in Question. The Board of Zoning Appeals shall determine whether the particular restriction in question is unnecessarily burdensome in light of the underlying purpose of that restriction. The purpose of the regulation shall be the primary concern, not the burden upon the property owner. The granting of the variance should not be so general or recurrent in nature as to suggest the Zoning Code should be changed. Describe why granting of the variance will not undermine the general intent and purposes of the Zoning Code and the specific purpose of the regulation in question?

The proposed 2-story home replacement will maintain the nonconforming setbacks, but the home replacement will conform to all other zoning and building code regulations. Given the existing tiny lot size and dimensions, it would be impossible to build any residential structure within the existing zoning setback standards. The propose replacement with be an enhancement to the neighborhood by maintaining existing setbacks, maintaining the established neighborhood character, and improving a single family home that is safe, energy efficient, and affordable.

- b. The Effect of the Restriction on the Property. An unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Describe the effect of the zoning restriction on your property and how this impacts the reasonable use of your property or would render conformity unnecessarily burdensome?

The existing lot is 3,259 SF, or 54% of the 6,000 SF min zoning requirement. The existing residential structure, and nearly the entire neighborhood, does not conform to standard zoning setbacks. If standard zoning setbacks were to be applied, a building envelope of 6'1" x 28'7" would be the result. This would be impossible to build any residential structure within the existing zoning standards.

- c. The Effect of a Variance on the Neighborhood and Larger Public Interest. Describe why granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

This property, and most/many in this Edwards Park neighborhood are non-conforming lots with non-conforming structures that are decades old. According to 1937 Dane County Aerial imagery, these neighborhood streets and many lake lots are present. The hardship is a result of existing old, tiny lots that simply do not work with newer zoning standards.

2. **Hardship May Not Be Self-Imposed.** Variances may not be granted to remedy self-imposed hardships. Describe why you feel the hardship is not self-imposed?

The existing lot is 3,259 SF, or 54% of the 6,000 SF min zoning requirement. The existing residential structure, and nearly the entire neighborhood, does not conform to standard zoning setbacks. This neighborhood, the existing tiny lots, and the many residential structures, existed decades before the current zoning code standards were ever adopted. This hardship is directly a result of old tiny residential lots that don't conform to existing zoning standards. This hardship is not self-imposed as both the existing lot configuration and the zoning code pose the need for a variance to maintain the current use and form of the residential neighborhood.

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3. **Hardship Must Be Unique To The Property.** Where the same hardship is imposed upon other properties in the zoning district, a variance shall not be granted. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district. The conditions upon which a petition for a variance are unique to the property for which the variance is being sought and that such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity. Describe the circumstances that exist which make this issue unique to the property?

A variance is 100% necessary to maintain this property and this neighborhood with single family housing that uses current construction and building code requirements. This proposed replacement of a 2-story single family home is in complete consistency with the neighborhood. There are 24 single family residential homes on Beckler Street and Card Avenue. 100% (24 of 24) do not conform to existing zoning setbacks. 23 of those 24 homes are 2-story homes. 2-story, non-conforming structures are the standard in this neighborhood because the existing tiny, irregular lots demand reduced setbacks to allow even modest and small homes.

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4. **Purpose Must Not Be Financially Motivated.** Describe why the purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property?

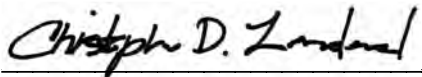
The purpose of the variance is simply to replace a 2-story 2 bedroom single family residence with a 2-story 2 bedroom single family residence. The existing structure is in very poor condition, its outdated construction makes for a terribly energy inefficient home, and the outdated code standards when originally constructed pose safety concerns. The replacement of this 2-story 2 bedroom single family residence actually maintains affordable single-family housing options within the Village. The proposed variance is not at all financially motivated. The motivation is to improve an existing residence that is livable and safe for the property owners.

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- 3) **Site Inspection.** Do you grant permission for the Board of Zoning Appeals and staff, either individually or as a group, to enter onto the subject property for a site inspection?  
 Yes  No
- 4) **Site Plan.** Per Sec. 62-363(c) of the Municipal Code of Ordinance, each application for appeal must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties, and improvements thereon and the requested change or addition.

**DISCLAIMER**

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.



Signature of Applicant

Chris Landerud (Agent), Landerud Plan & Design LLC

July 21, 2023 (7.6.23 original application completed)

Date

**Existing Photo - 4503 Beckler Street on Left**  
Looking West Down Beckler Street



**Existing Photo - 4503 Beckler Street on Right**  
Looking South Down Card Avenue



## **Neighborhood Single Family Home & Current Precedent Example A**

Neighborhood Residential Structures and examples of replaced/rebuilding homes that also expanded their second story nonconforming setbacks.



**BEFORE – 5018 Card Street, McFarland, WI 53558**  
**(on right - directly across the street from the subject property)**  
August 2018



**AFTER – 5018 Card Street, McFarland, WI 53558**  
**(on right - directly across the street from the subject property)**  
June 2023

## **Neighborhood Single Family Home & Current Precedent Example B**

Neighborhood Residential Structures and examples of replaced/rebuilding homes that also expanded their second story nonconforming setbacks.



**BEFORE - 5913 Lake Edge Road, McFarland, WI 53558**

August 2018



**AFTER - 5913 Lake Edge Road, McFarland, WI 53558**

May 2023



**Landerud**

Plan & Design LLC

Project **2-Story Single-Family House Replacement**

Location **4503 Beckler St (corner of Card Ave)  
McFarland, WI 53558-9456**

Dane County, Village of McFarland

Parcel Number: 154/0710-343-2781-3

Edwards Park Block 2 Prt Lot 1 Beg Se Co...

Zoning: Residential 1-B Lot Area: 3,259± SF

Contacts **Mike & Candice Pennekamp**

[mic.pennekamp@gmail.com](mailto:mic.pennekamp@gmail.com) (608) 209-5606

[cjkpennekamp@gmail.com](mailto:cjkpennekamp@gmail.com) (608) 209-5607

## **2-Story Single-Family House Plan Set**

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- 1) Existing Site/Lot Plan w/ Photos
- 2) Existing Site Survey (by others 2.13.23)
  
- 3) New Updated Site/Lot Plans
- 4) New House/Garage – Second/Residential Level – Floor Plan  
New House/Garage – Main/Garage Level/Foundation Plan  
New House/Garage – Typical House Section Drawing
- 5) New House/Garage – Elevations x4 (Front, Back, & Sides)

**1 June 2023**

Created: 4.3.23, 4.6.23, 4.20.23, 5.1.23

**NOTE:** *The final plans are intended to give an accurate scope of the project. Details may adjust to reflect building practices and each contractor's specifications. Although every effort has been taken to ensure the accuracy of these plans, Landerud Plan & Design LLC assumes no responsibility or liability. Verification of dimensions, structure, and engineering is the responsibility of the contractor.*

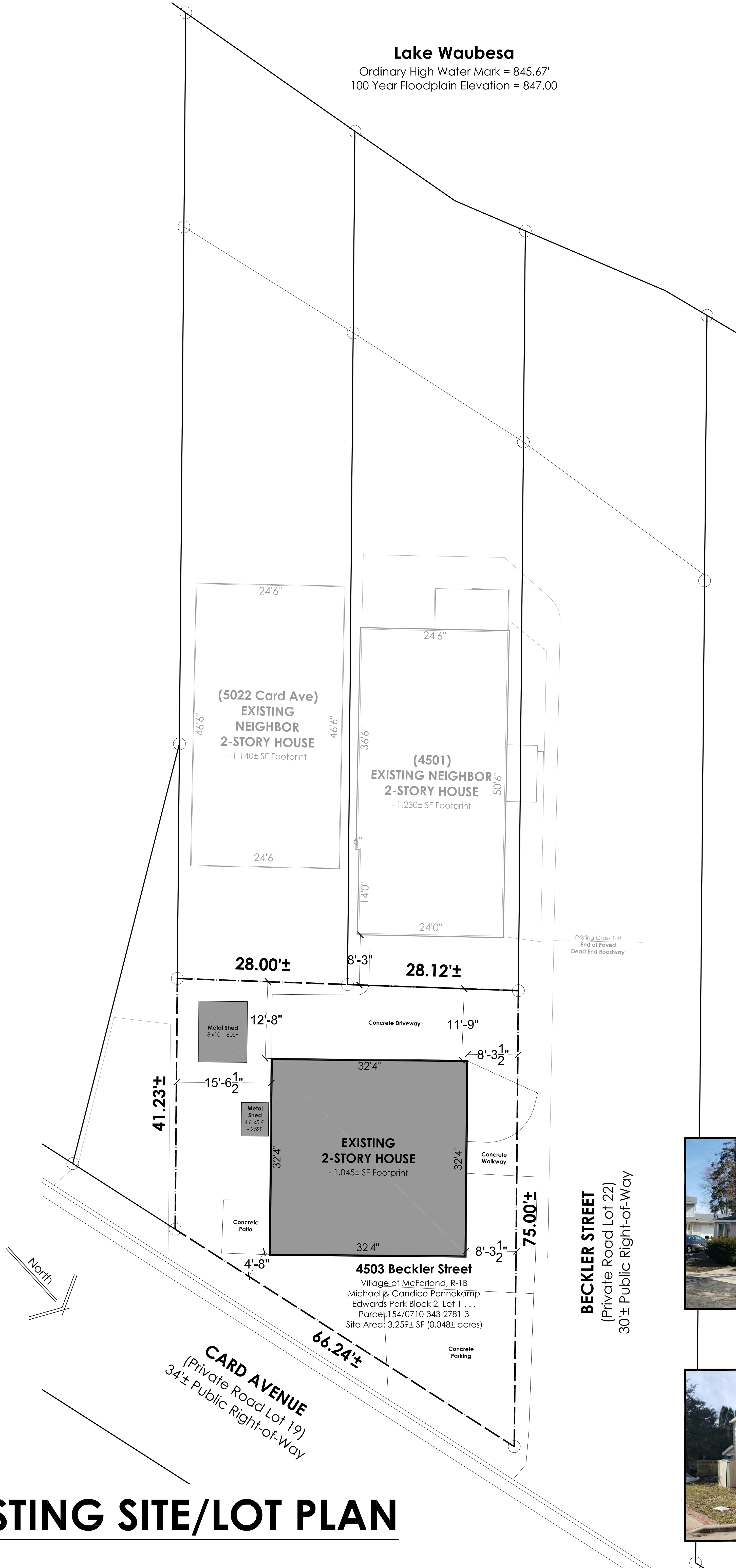
Chris Landerud

4426 Mahoney Road • McFarland, WI 53558

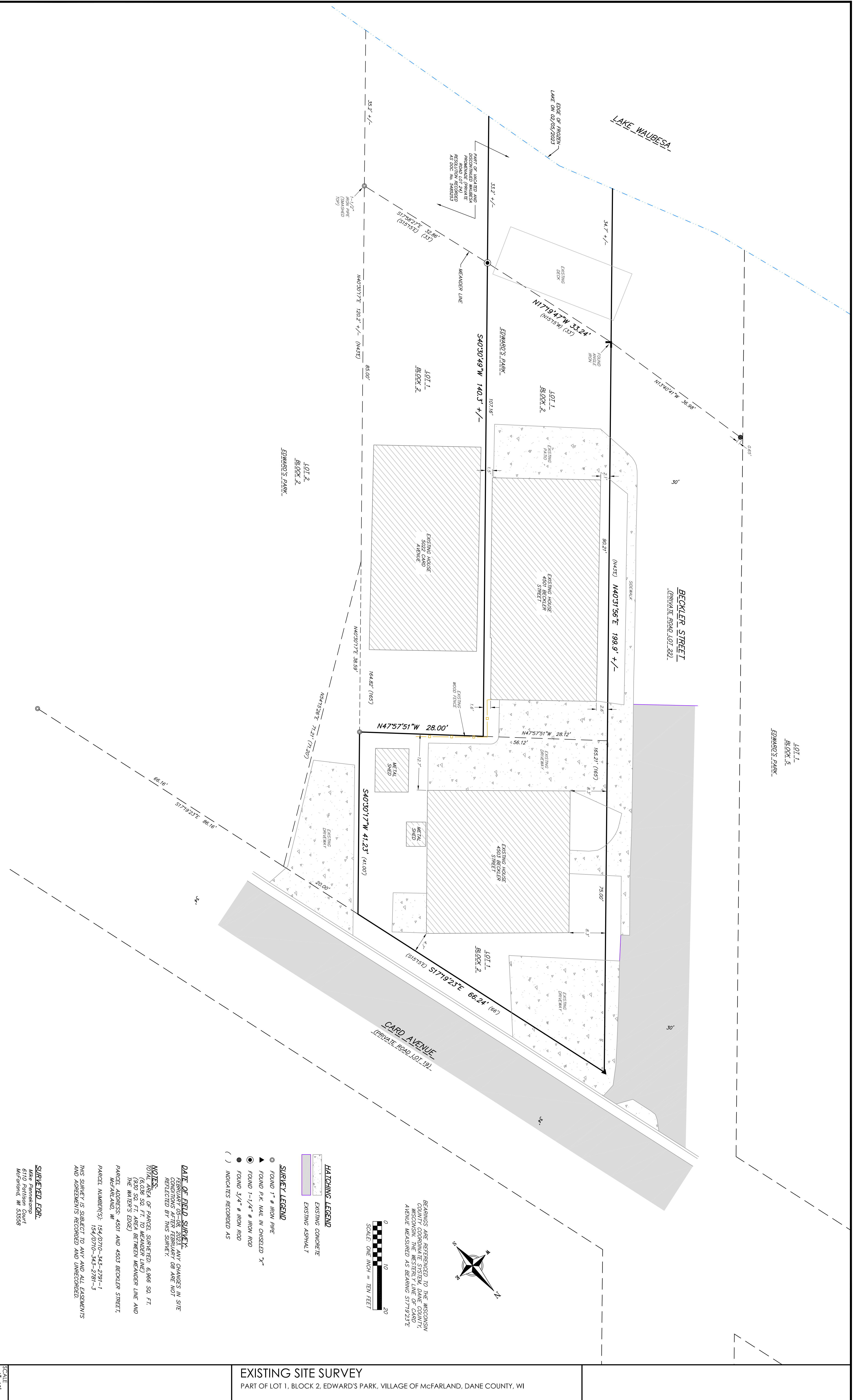
[chris.landerud@landerud.design](mailto:chris.landerud@landerud.design) • 608.444.3604

**Lake Waubesa**

Ordinary High Water Mark = 845.67'  
100 Year Floodplain Elevation = 847.00



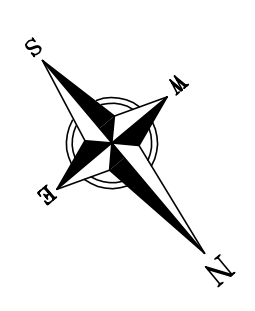
**EXISTING SITE/LOT PLAN**



LOT 1  
BLOCK 2  
EDWARD'S PARK

BECKLER STREET  
(PRIVATE ROAD LOT 22)

CARD AVENUE  
(PRIVATE ROAD LOT 19)



0 10 20  
SCALE: ONE INCH = TEN FEET

BEARINGS ARE REFERENCED TO THE WISCONSIN COUNTY CORNER MESSIER, DANE COUNTY AVENUE MEASURED AS BEARING S77°19'23"E

**HATCHING LEGEND**  
 EXISTING CONCRETE  
 EXISTING ASPHALT

**SURVEY LEGEND**  
 FOUND 1" # IRON PIPE  
 FOUND P.K. NAIL IN CHISELED "X"  
 FOUND 1-1/4" # IRON ROD  
 FOUND 3/4" # IRON ROD  
 ( ) INDICATES RECORDED AS

**DATE OF FIELD SURVEY:**  
 FEBRUARY 05-08, 2023. ANY CHANGES IN SITE CONDITIONS AFTER FEBRUARY 08 ARE NOT REFLECTED BY THIS SURVEY.

**NOTES:**  
 TOTAL AREA OF PARCEL SURVEYED: 6,966 SQ. FT.  
 TOTAL AREA OF PARCEL SURVEYED AS TO THE MEASUREMENT (930 SQ. FT. AREA BETWEEN MEANDER LINE AND THE WATER'S EDGE)

**PARCEL ADDRESS:** 4501 AND 4503 BECKLER STREET, MCFARLAND, WI  
**PARCEL NUMBER(S):** 154/0710-343-2791-1  
 154/0710-343-2781-3  
 THIS SURVEY IS SUBJECT TO ANY AND ALL EASEMENTS AND AGREEMENTS RECORDED AND UNRECORDED.

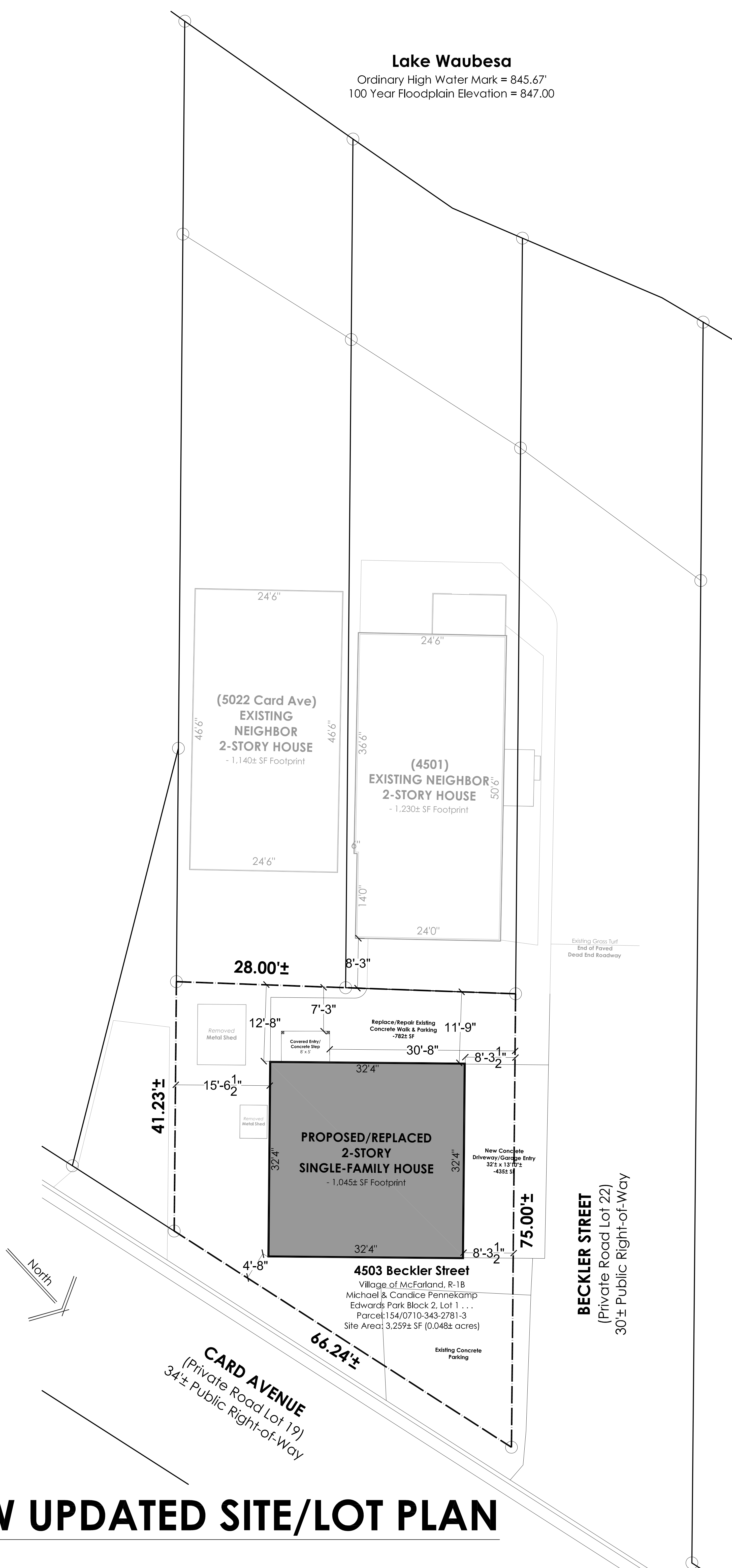
**SUBMITTED FOR:**  
 Village of McFarland  
 6110 Pattison Court  
 McFarland, WI 53559

**EXISTING SITE SURVEY**  
 PART OF LOT 1, BLOCK 2, EDWARD'S PARK, VILLAGE OF MCFARLAND, DANE COUNTY, WI

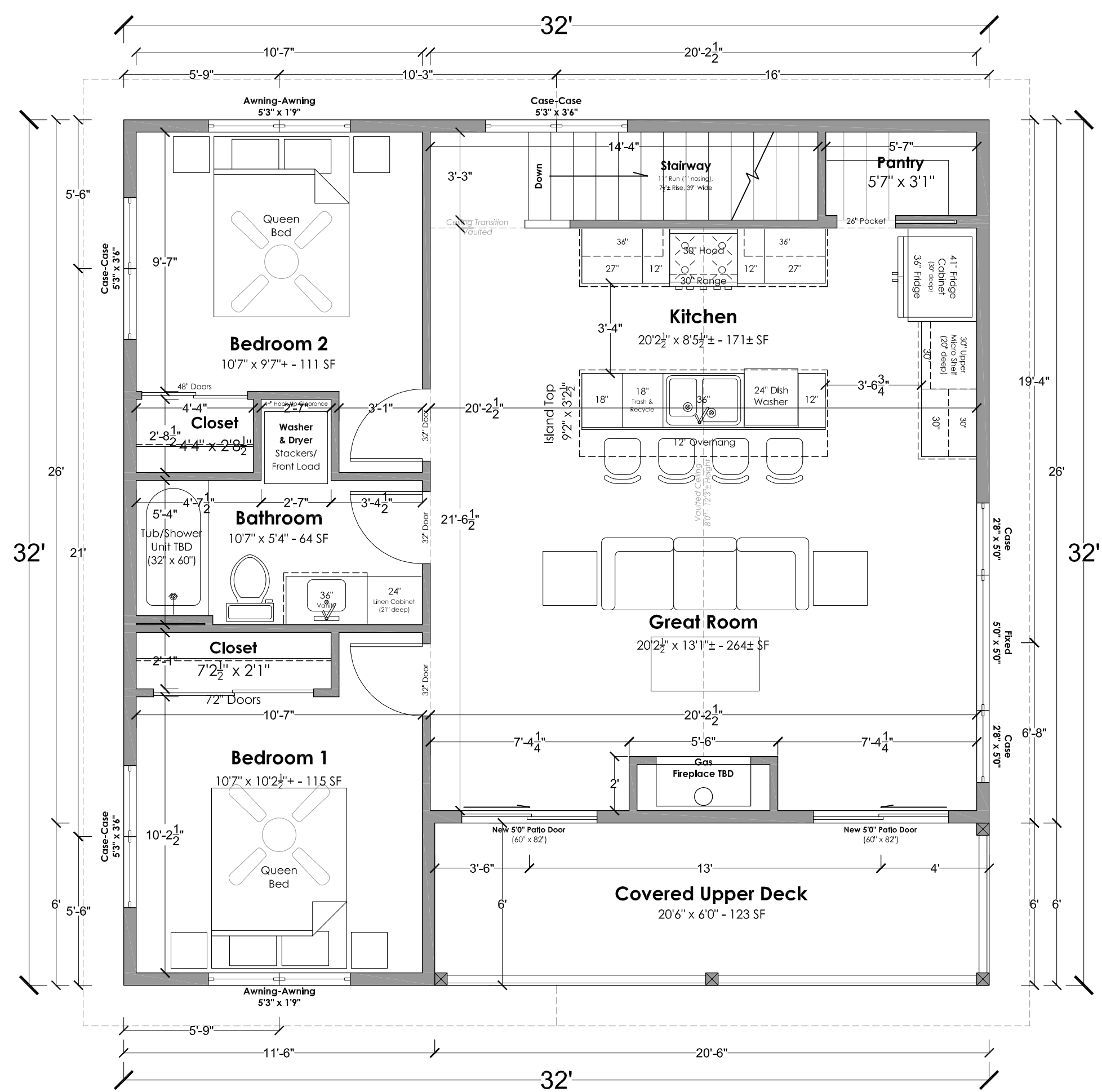
SCALE: 1"=10'  
 DATE: 02/13/2023  
 SHEET: 1 OF 1

**Lake Waubesa**

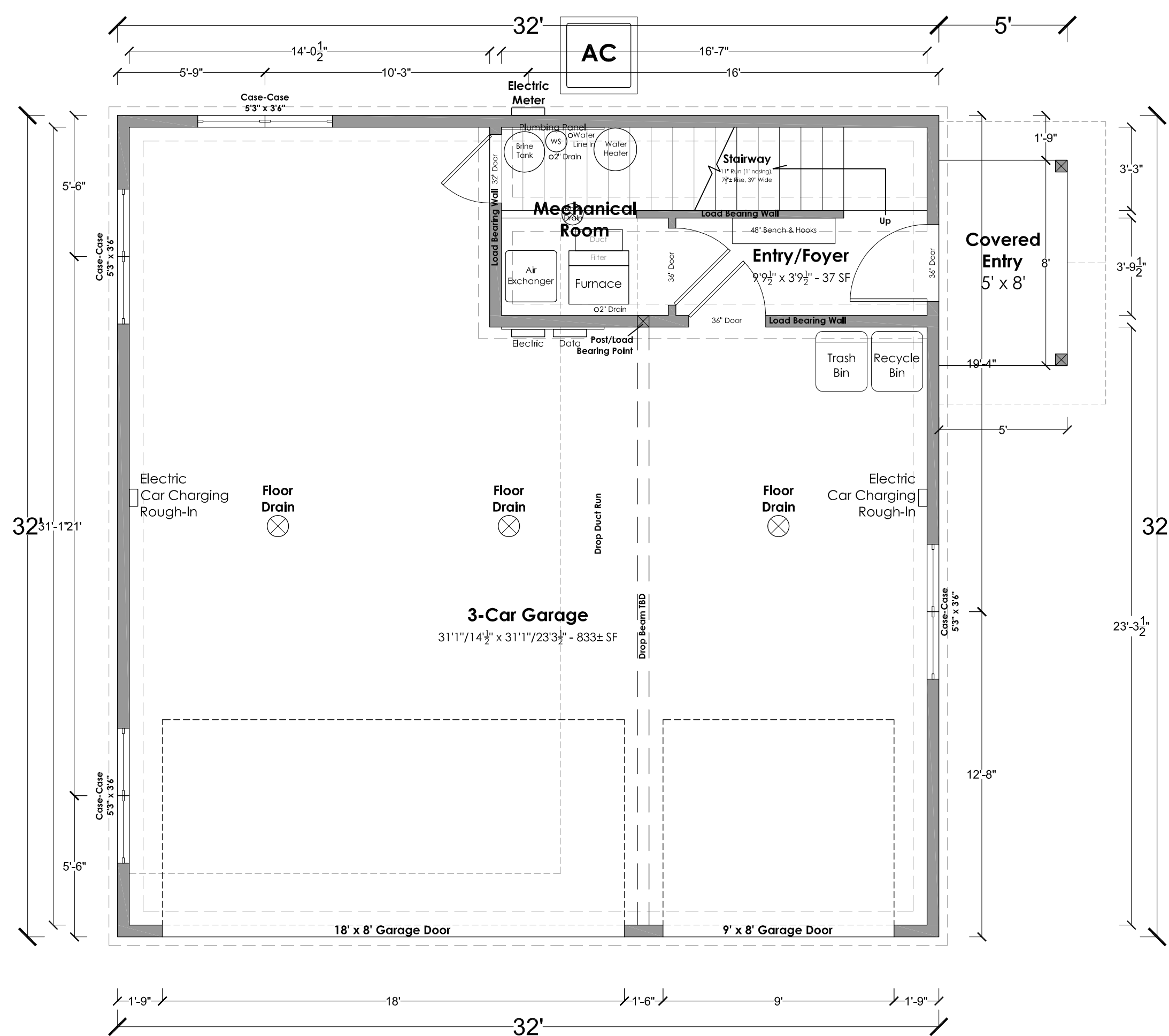
Ordinary High Water Mark = 845.67'  
100 Year Floodplain Elevation = 847.00



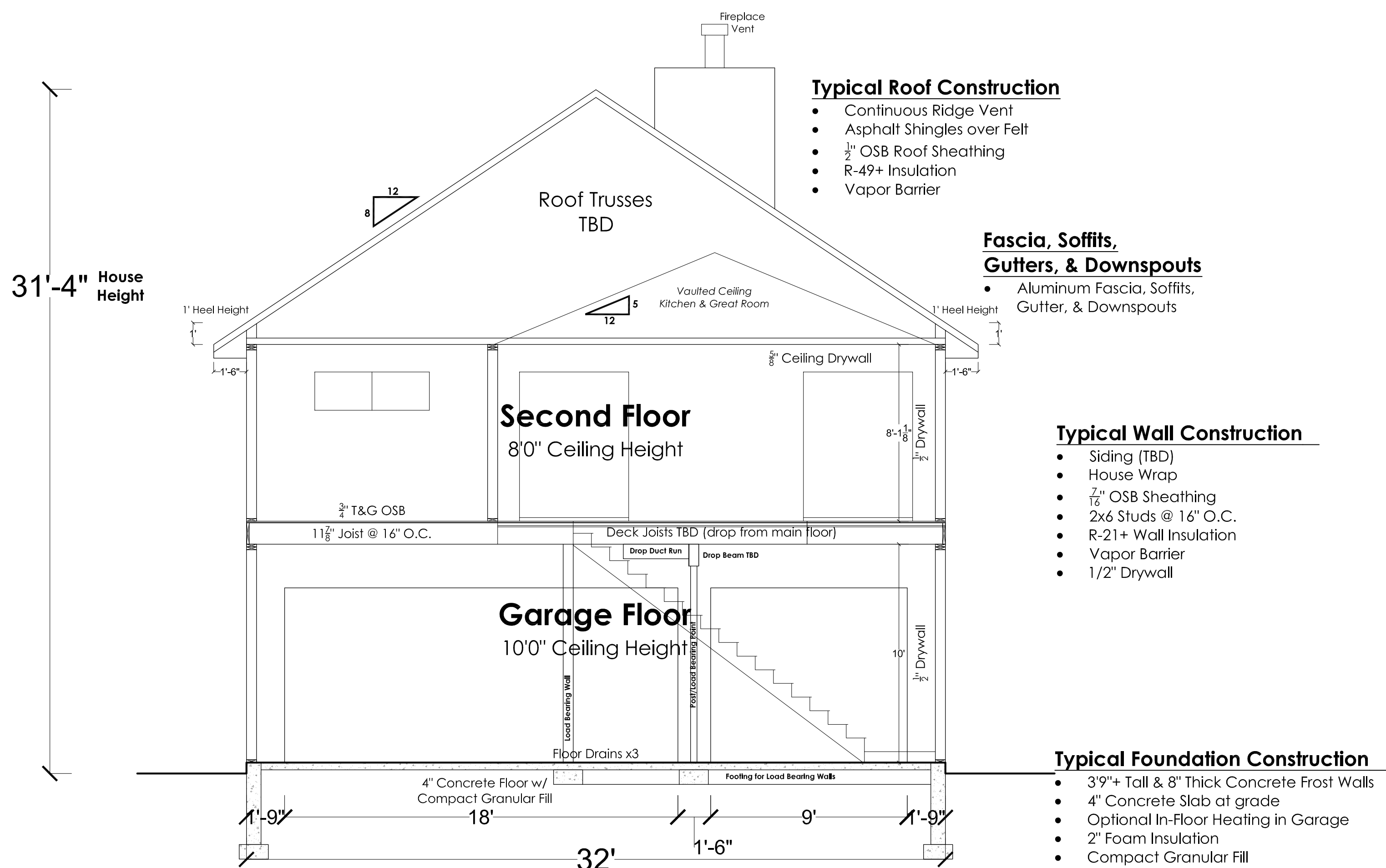
**NEW UPDATED SITE/LOT PLAN**



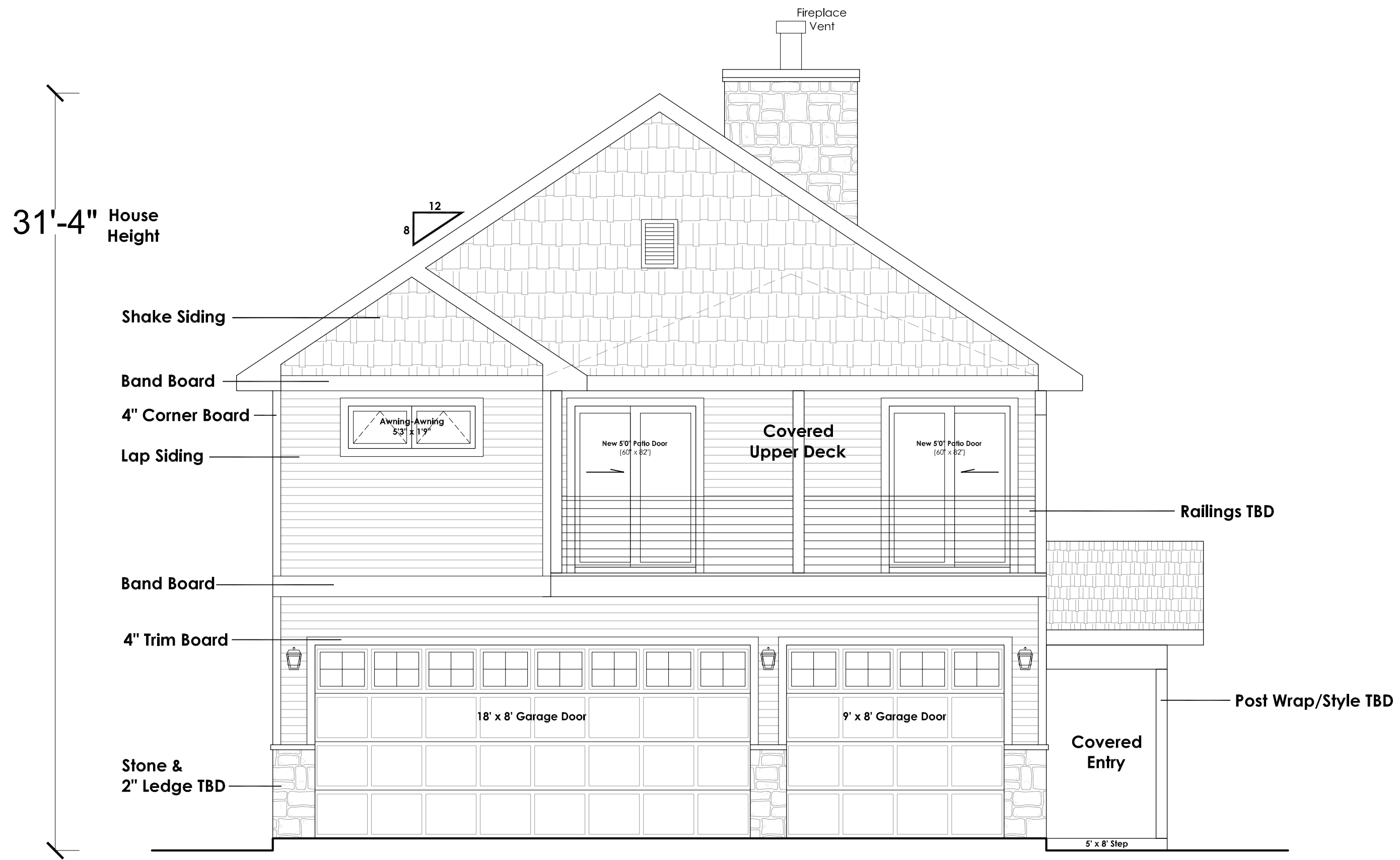
**SECOND/RESIDENTIAL LEVEL - FLOOR PLAN**



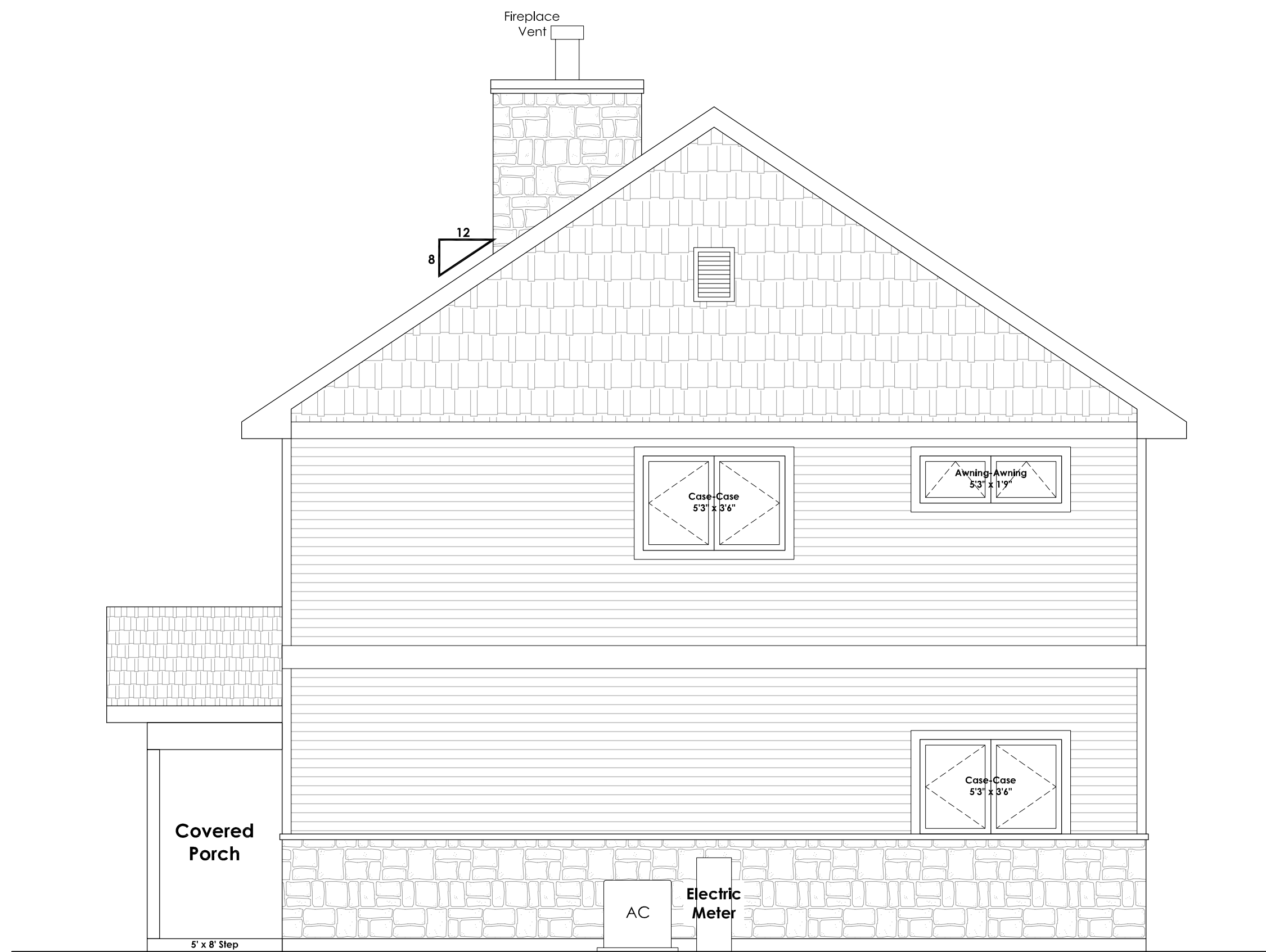
**MAIN/GARAGE LEVEL - FLOOR/FOUNDATION PLAN**



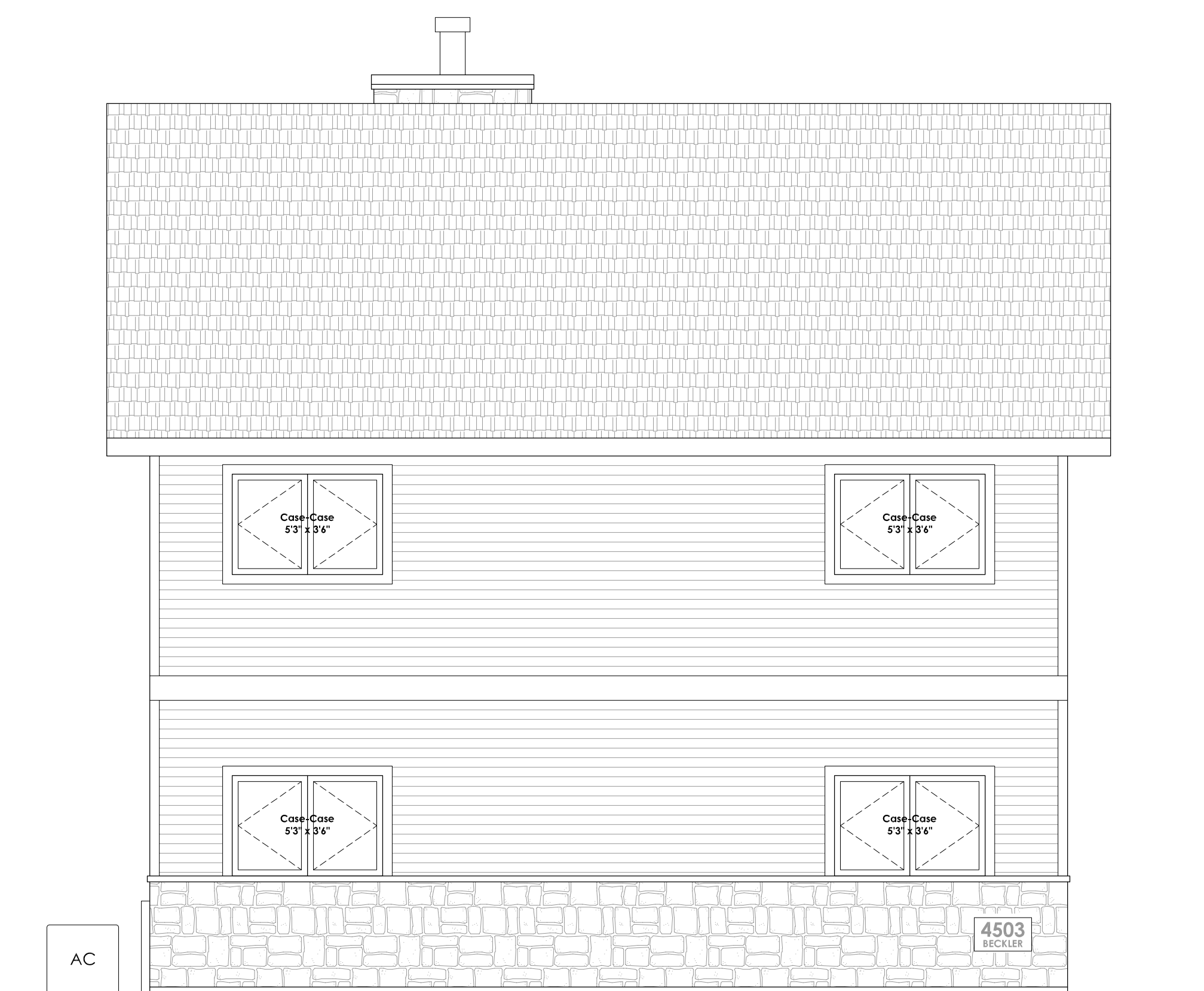
**TYPICAL HOUSE SECTION DRAWING**



**NEW FRONT (NORTH) ELEVATION**  
4503 BECKLER STREET



**NEW BACK (SOUTH) ELEVATION**  
4503 BECKLER STREET



**LEFT SIDE (EAST) ELEVATION**  
4503 BECKLER STREET



**RIGHT SIDE (WEST) ELEVATION**  
4503 BECKLER STREET

## Andrew Bremer

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**From:** Chris Landerud <chris.landerud@landerud.design>  
**Sent:** Tuesday, August 1, 2023 11:23 AM  
**To:** Andrew Bremer  
**Cc:** Mike Pennekamp; Mike Pennekamp; Kong Thao  
**Subject:** Re: 4503 Beckler Street - McFarland Board of Zoning Appeals Application

Andrew –

I can make Thursday, August 24<sup>th</sup> at 4PM work. I would want to set that date/time rather than move into September. If 3:00PM or 3:30PM that same day is a possibility, I would gladly start this meeting a bit earlier. (I have a family reunion at my parents' farm starting at 4PM that same day. I can still make 4PM work, but any earlier time would be appreciated if feasible.)

The existing finished floor area for the existing house is 1,444 square feet. (1,024 SF Main Floor, 420 SF Second Floor)

The proposed finished floor area for the new residential structure is 1,168 square feet. (144 SF Main Floor, 1,024 SF Second Floor). This is a reduction of 276 square feet (19%) of finished floor area. This new residential structure includes a main floor garage, so the overall floor area is 2,048 square feet. The new overall structure footprint and location is exactly the same as the existing structure.

Please confirm that the 24<sup>th</sup> still works to meet, and if it is possible to move that meeting up a bit. Feel free to contact me with any additional questions or points of clarification.

Thank you,

Chris

### Chris Landerud

Landerud Plan & Design LLC  
(608) 444-3604

On Fri, Jul 28, 2023 at 12:51 PM Andrew Bremer <[andrew.bremer@mcfarland.wi.us](mailto:andrew.bremer@mcfarland.wi.us)> wrote:

Chris/Mike,

I've heard back from all the BZA members and the best date that worked to get a quorum was Thursday, August 24<sup>th</sup> at 4PM. Chris, I know that wasn't an option you highlighted in your last email. Due you have flexibility to accommodate that day? We likely could adjust the time a little if that helped. Otherwise, I was having trouble getting a quorum for the next week and then we'd be pushing into September.

Also, do you have a calculation of the gross floor area of the existing structure? The plans show the footprint square footage but it is not apparent what the second story floor area size is. Looking to compare the cubic volume of existing to proposed.

Thanks,

Andrew

Andrew Bremer, AICP

Community & Economic Development Director

Village of McFarland

5915 Milwaukee Street

PO BOX 110

McFarland, WI 53558

P: 608-838-2313

[www.mcfarland.wi.us/communityandeconomicdevelopment](http://www.mcfarland.wi.us/communityandeconomicdevelopment)



## Andrew Bremer

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**From:** Michael Pennekamp <mic.pennekamp@gmail.com>  
**Sent:** Tuesday, August 15, 2023 2:32 PM  
**To:** Andrew Bremer  
**Cc:** Chris Landerud; Mike Pennekamp; Kong Thao  
**Subject:** Re: 4503 Beckler Street - McFarland Board of Zoning Appeals Application

Andrew –

It is our intention to update/improve the property at 4503 Beckler Street for our personal use, ownership, and our enjoyment of lake access and the neighborhood. The current residential structure is in very poor condition and the possibilities for the proposed improvements are still unknown. How our family uses the property in the future depends a bit on the determination of the Board of Zoning appeals next week on August 24. It is our hope we are able to improve the property generally as proposed to make it livable, safe, and enjoyable for our family. Thanks!!

Mike & Candice

Sent from my iPhone

On Aug 14, 2023, at 3:43 PM, Andrew Bremer <andrew.bremer@mcfarland.wi.us> wrote:

Hey Mike,

Could you please comment on the intended use of the property. I know you currently reside at Pattison Court and you have purchased both 4503 and 4501 Beckler. Are you intending to make 4503 Beckler your primary residence, rent the new home, turn it into a tourist rooming house/AirBnB, flip-it, etc.

Thanks,  
Andrew

Andrew Bremer, AICP  
Community & Economic Development Director  
Village of McFarland  
5915 Milwaukee Street  
PO BOX 110  
McFarland, WI 53558  
P: 608-838-2313  
[www.mcfarland.wi.us/communityandeconomicdevelopment](http://www.mcfarland.wi.us/communityandeconomicdevelopment)  
<image001.jpg>

## Andrew Bremer

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**From:** Chris Landerud <chris.landerud@landerud.design>  
**Sent:** Thursday, August 17, 2023 1:44 PM  
**To:** Andrew Bremer  
**Subject:** Re: 4503 Beckler structure height

Andrew -

The existing home at 4503 Beckler is 23'6" (plus about another 2' above for the brick chimney).  
Let me know if you have any other questions prior to our meeting next week.

Thank you,  
Chris

### Chris Landerud

Landerud Plan & Design LLC  
(608) 444-3604

On Thu, Aug 17, 2023 at 1:28 PM Andrew Bremer <[andrew.bremer@mcfarland.wi.us](mailto:andrew.bremer@mcfarland.wi.us)> wrote:

Hey Chris,

Can you provide me with the height of the existing home?

Thanks,

Andrew

Andrew Bremer, AICP

Community & Economic Development Director

Village of McFarland

5915 Milwaukee Street

PO BOX 110

McFarland, WI 53558

P: 608-838-2313

227697  
**EDWARD'S PARK**

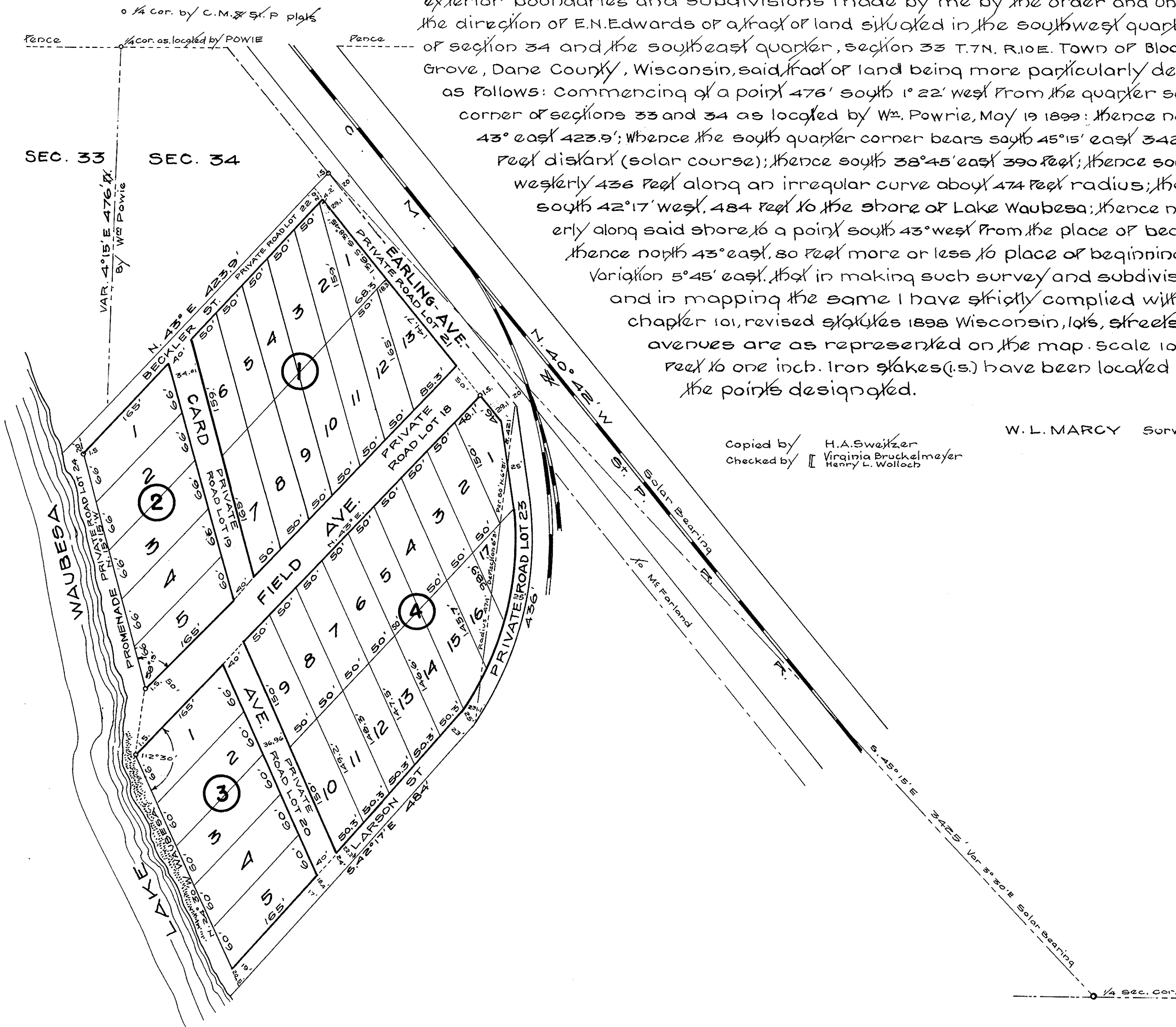
SCALE 1" = 100'

W. L. MARCY Surveyor  
 RECORDED JUNE 24 1899

I hereby certify that the accompanying map is a correct representation of all the exterior boundaries and subdivisions made by me by the order and under the direction of E. N. Edwards of a tract of land situated in the southwest quarter of section 34 and the southeast quarter, section 33 T. 7 N. R. 10 E. TOWN OF Blooming Grove, Dane County, Wisconsin, said tract of land being more particularly described as follows: Commencing at a point 476' south 1° 22' west from the quarter section corner of sections 33 and 34 as located by Wm. Powrie, May 19 1899; thence north 43° east 423.9'; thence the south quarter corner bears south 45° 15' east 3425 feet distant (solar course); thence south 38° 45' east 390 feet; thence south 42° 17' west 484 feet to the shore of Lake Waubesa; thence northerly along said shore to a point south 43° west from the place of beginning; thence north 43° east, 80 feet more or less to place of beginning. Variation 5° 45' east. That in making such survey and subdivisions and in mapping the same I have strictly complied with chapter 101, revised statutes 1898 Wisconsin, lots, streets, avenues are as represented on the map. Scale 100 feet to one inch. Iron stakes (i.s.) have been located at the points designated.

Copied by H. A. Sweitzer  
 Checked by Virginia Bruckelmeyer  
 Henry L. Wolloch

W. L. MARCY Surveyor



228100  
**ATKINSON'S ADDITION  
 TO COTTAGE PARK**

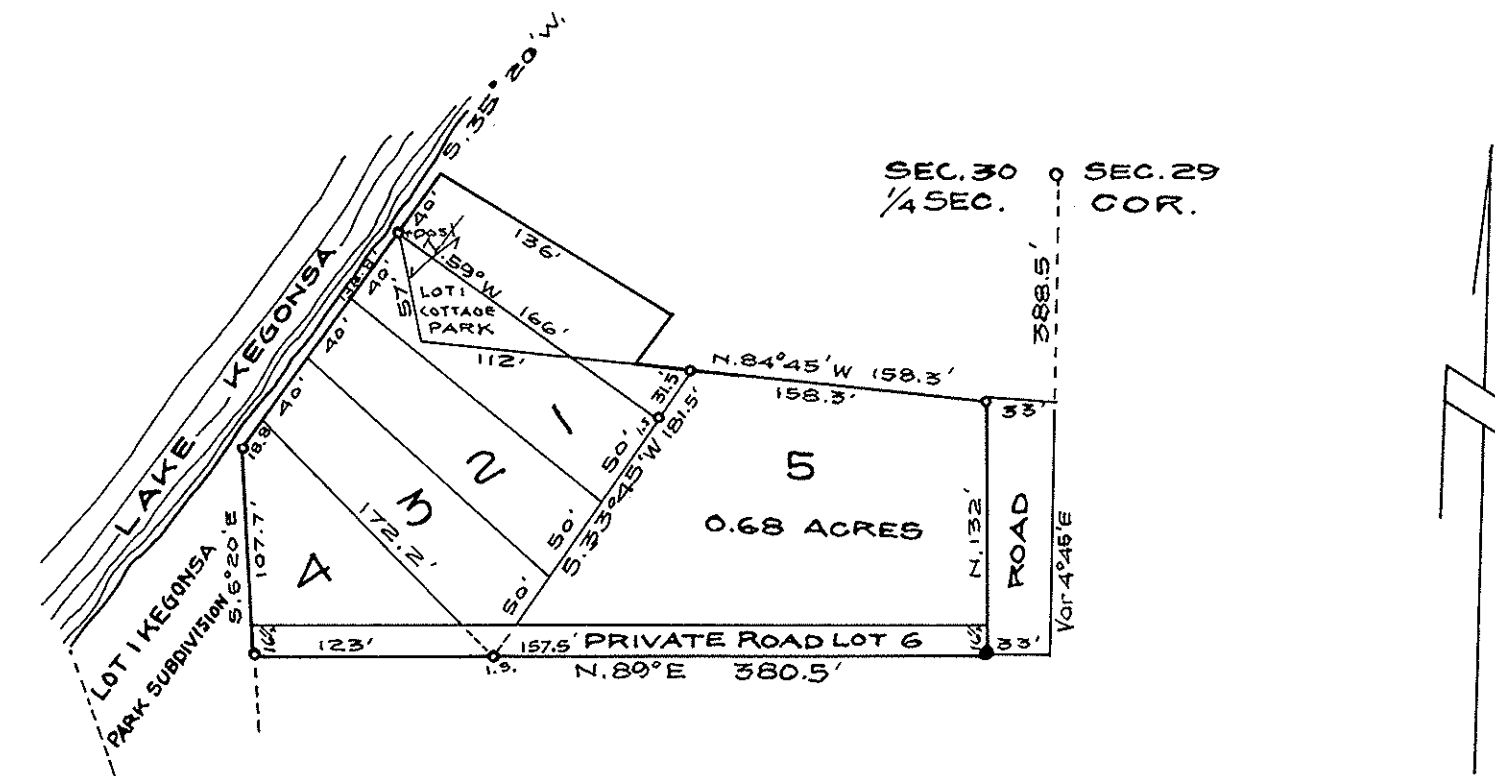
SCALE 1" = 100'

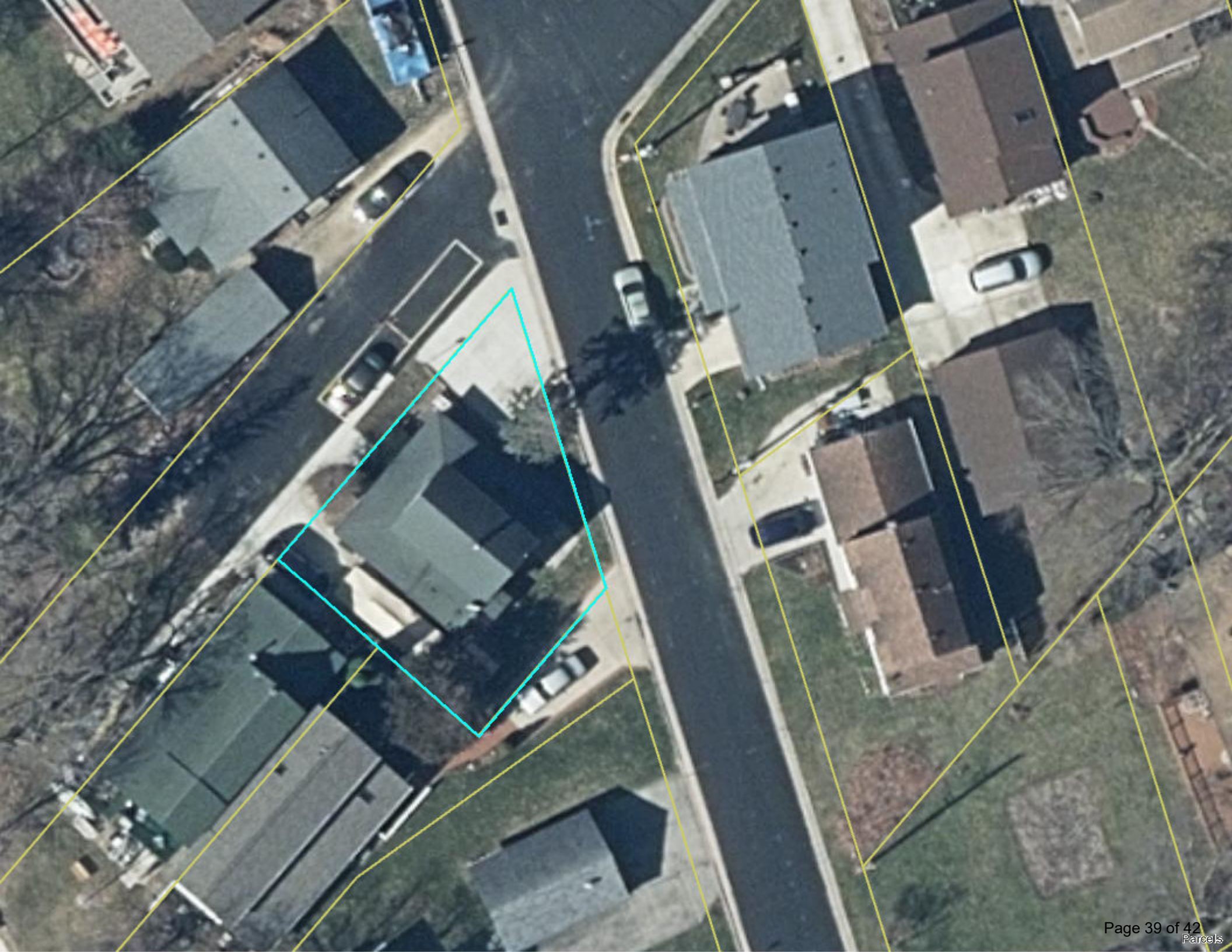
W. L. MARCY Surveyor  
 RECORDED JULY 20 1899

I hereby certify that the accompanying map is a correct representation of all the exterior boundaries and subdivisions as made by me by the order and under the direction of John Atkinson of a tract of land located in lot one W. section 30 T. 6 N. R. 11 E. town of Pleasant Springs, Dane County, Wisconsin, being more particularly described as follows: Commencing at the southwest corner of lot 1, Cottage Park at a post on the bank of Lake Kegonsa; thence south 35° 20' west along said bank 138.8 feet to the east line of Kegonsa Park subdivision; thence south 5° 20' east 107.7 feet; thence north 89° east 380.5 feet; thence north 132 feet; thence north 84° 45' west 158.3 feet; thence south 33° 45' west 31.5 feet; thence north 59° west 166 feet to the place of beginning, excepting therefrom a triangular piece of lot 1, Cottage Park as represented on the map. I further certify that in making such survey and subdivisions and in mapping the same, I have fully complied with chapter 101 Revised Statutes 1898 Wisconsin. Lots and roads are as represented upon the map. Scale 100' to 1". Iron stakes have been driven at the points designated.

W. L. MARCY Surveyor

Copied by H. A. Sweitzer  
 checked by Virginia Bruckelmeyer  
 Henry L. Wolloch







  
VILLAGE OF  
**McFarland**  
**SUMMARY SHEET**

**MEETING DATE:** Thursday, August 24, 2023

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:** Andrew Bremer, Comm & Eco Dev Director

**AGENDA ITEM:** Discussion and action on a request by Mike and Candice Pennekamp for a variance to the front, street, and rear yard minimum setback requirements of Sec. 62-70 to construct a replacement two-story single family dwelling in the location of the existing foundation of the two-story single family dwelling at 4503 Beckler Street, McFarland, WI. Property zoned R-1B.

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

All of the items regarding this agenda item are found under Agenda Item 5a.

**FINANCIAL/BUDGET IMPACT:**

**VILLAGE PLAN REFERENCE:**

**ORDINANCE REFERENCE:**

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

Motion, second, to deny the variance request by Mike and Candice Pennekamp for a variance to the front, street, and rear yard minimum setback requirements of Sec. 62-70 to construct a replacement two-story single family dwelling in the location of the existing foundation of the two-story single family dwelling at 4503 Beckler Street, McFarland, WI.

Staff recommends a motion to deny the variance request as presented by Mike and Candace Pennekamp. In Staff's opinion, the responses to the standards for granting a variance under Sec. 62-366(e) of the Municipal Code are not met. Staff's justification for recommending denial of the variance include:

1. Denial of the variance would not unreasonably prevent the owner from using the property for a permitted purpose. The owner may reconstruct the home to its same size and location without the need for a variance.
2. The granting of the variance would be so general or recurrent in nature as to suggest the Zoning Code should be changed. There are other nonconforming lots with nonconforming structures that could similarly request a variance to increase the cubic volume of nonconforming structures.
3. The applicant has not provided any additional information as to why replacing the existing home like for like without the cubic volume increase in nonconformity would result in a home



that was less safe, less energy efficient or less affordable than the proposed structure.

4. The applicant has not provided specific justification for what specific construction and building code requirements require the cubic volume increase in the nonconformity of the proposed home.
5. The applicant has not provided justification as to why the proposed design is the minimum amount of relief necessary.
6. Harm to public interests, including the removal of at least one on-street parking space, potential solar access and Lake Waubesa viewshed impacts to adjacent properties.

**ATTACHMENTS:**

None