

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN the following Public Hearings will be held by the Waukesha County Board of Adjustment on Wednesday, April 10, 2024, at 6:00 p.m., in Room AC 255/259 of the Waukesha County Administration Center, 515 W. Moreland Blvd., Waukesha, Wisconsin, 53188, to consider the following requests:

BA185: JEFF AND DONNA LAITSCH (OWNERS), STEVE BERES (APPLICANT) request a variance from the maximum building footprint requirements and a special exception from the non-conformance to offset provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a second-floor addition to the principal residence as well as an enclosed porch. The subject property is described as Lot 62, Reddelien Beach, part of the SE ¼ of Section 17, T8N, R18E, Town of Merton. More specifically, the property is located at W322 N7332 Reddelien Road (Tax Key No. MRTT 0356.026).

BA186: TOM AND MONICA DUNN (OWNERS), SWEET DESIGNS (APPLICANT) request variances from the offset, shore setback and maximum building height provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a new single-family residence. The subject property is described as part of Lot 6, Hinkels Park No. 1, part of the NE ¼ of Section 36, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N53 W34390 Road Q (Tax Key No. OCOT 0573.009).

For additional information concerning these public hearings, please contact Jacob Heermans of the Waukesha County Department of Parks and Land Use at 262-548-7790 or jheermans@waukeshacounty.gov.

All interested parties will be heard.

WAUKESHA COUNTY BOARD OF ADJUSTMENT
Richard Bayer, Chairman

Legal notice to be published in
the West Now on
Wednesday, March 27, 2024, and
Wednesday, April 3, 2024

Staff reports and meeting materials will be located on the Waukesha County Planning and Zoning Division webpage at <https://www.waukeshacounty.gov/landandparks/planning-and-zoning/meeting-information> under Board of Adjustment Meeting Documents, no later than April 8, 2024.

N:\PRKANDLU\Planning and Zoning\Board of Adjustment\PROJECT FILES\April BOA Notice BA185_BA186.docx

AGENDA – FINAL
WAUKESHA COUNTY BOARD OF ADJUSTMENT

April 10, 2024, 6:00 p.m.

Waukesha County Administration Center, Room AC 255/259
515 W. Moreland Blvd., Waukesha, WI 53188

CALL TO ORDER

ROLL CALL

NOTE: THE AGENDA ITEMS MAY **NOT** NECESSARILY BE TAKEN UP IN THE ORDER LISTED BELOW.

REQUEST: **BA185: JEFF AND DONNA LAITSCH (OWNERS), STEVE BERES (APPLICANT)**

Town of Merton

(Maximum building footprint) (Special exception – non conformance to offset)

BA186: TOM AND MONICA DUNN (OWNERS), SWEET DESIGNS (APPLICANT)

Town of Oconomowoc

(Shore setback) (Maximum building height)

SUMMARY OF MEETING:

Approval of the Summary of Meeting for March 13, 2024.

OTHER ITEMS REQUIRING BOARD ACTION:

- BA172: Ryan Lewis (Owner)
Town of Ottawa
(Request for Reconsideration of March 13, 2024, decision)

Following each public hearing portion of the meeting, the WAUKESHA COUNTY BOARD OF ADJUSTMENT will deliberate and make recommendations or decisions on the variances/special exceptions presented. Following the public hearing portion request of BA185, the Town of Merton Board of Adjustment will also deliberate and make recommendations on the variances/special exceptions presented, which may continue in a separate room open to the public. The chairman shall announce to those present the recommendations or decisions made.

The Staff Reports and meeting materials will be located on the Waukesha County Planning and Zoning Division webpage at <https://www.waukeshacounty.gov/landandparks/planning-and-zoning/meeting-information/> no later than April 8, 2024. See Board of Adjustment Meeting Documents heading for April 10, 2024. For questions regarding this agenda, please call (262) 548-7790 or email jheermans@waukeshacounty.gov.

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

DATE: April 10, 2024

FILE NO.: BA185

OWNERS: Jeff and Donna Laitsch
 W322 N7332 Reddelien Road
 Hartland, WI 53029

APPLICANT: Steve Beres
 17909 W. Lincoln Avenue
 New Berlin, WI 53146

TAX KEY NO.: MRTT 0356.026

LOCATION:

The subject property is described as Lot 62, Reddelien Beach, part of the SE ¼ of Section 17, T8N, R18E, Town of Merton. More specifically, the property is located at the Reddelien Road address cited above with frontage on North Lake.

REQUEST:

Variance from **Section 3(j)(5)(B) Maximum Building Footprint** provisions and a Special Exception from the **Section 3(o) Non-conformance to Offset** provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a second-floor addition to the principal residence as well as an enclosed porch.

ZONING CLASSIFICATION: R-3 Residential and North Lake Overlay (NLO) Districts.

LOT CONFIGURATION: The existing and required average lot width, average lot depth and lot size, riparian frontage and road frontage are shown in the following table.

	Average Lot Width	Average Lot Depth	Lot Size* (sq. ft.)	Road Frontage (Reddelien Rd)	Riparian Frontage (North Lake)
Existing	58 ft. +/-	149 ft. +/-	8,850	60 ft.	56 ft.
Required	120 ft. min.	n/a	20,000 (unsewered)	30 ft. min	100 ft. min.

*Excluding the established 50 ft. wide road right-of-way of Reddelien Rd.

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:

BA96:098: On September 11, 1996, the Board of Adjustment granted a variance from the road setback, floodplain setback, floor area ratio and offset requirements to permit the construction of a new residence with an attached garage. The home was constructed.

BA98:088: On September 23, 1998, the Board of Adjustment denied a variance from the shore setback requirements but granted a variance from the floodplain setback requirements to permit the construction of a new lakeside deck. The Board also approved a request to amend the conditions of approval of the 1996 variance relative to the first-floor elevation. The deck was constructed.

PENDING ACTIONS:

None.

PROPOSAL AND STAFF ANALYSIS:

The subject property, which is served by an on-site well and a private sewage system is located on the east side of Reddelien Road with frontage on North Lake. The site is flat and sits only a few feet higher than the lake. The property contains a two-story single-family residence with an attached garage, covered (unenclosed) porch, lakeside deck and detached garage. The residence is located 5.98 ft. to the north lot line, whereas 10 feet is required. It should be noted that the property owners also own the lot across the street (Lot 12 Reddelien Beach). A condition of the variance granted in 1996 (BA96:098) was that the two lots be tied together via a deed restriction and cannot be sold separately. The deed restriction was recorded with the Register of Deeds in 1996. While the lots cannot be sold separately, the lake lot does not benefit from the acreage on the off-lake lot.

The petitioners are proposing to vertically expand the existing residence, adding 567 square feet of living space above the attached garage. They are also proposing to fully enclose a covered porch on the roadside of the residence. The new enclosed porch area will be slightly larger than the existing porch, as the depth of the porch is proposed to increase by approximately 1.5 feet. The porch improvement will add 26 sq. ft. to the overall building footprint; however, the second-floor addition will not increase overall building footprint.

The table below summarizes the existing and proposed improvements. A site plan showing existing and proposed improvements is attached as Exhibit A. Building plans showing the proposed improvements are attached as Exhibit B.

	1 st Floor (sq. ft.)	2 nd Floor (sq. ft.)	Att. Garage (sq. ft.)	Accessory Bldgs. (sq. ft.)	Beds	Baths
Existing	1,061	660	503	330	2	2
Proposed	1,087 (+26)	1,227 (+567)	No Change	No Change	3 (+1)	No Change

The proposed second story addition requires a special exception from the Non-Conformance to Offset provisions and the enclosed porch requires a variance from the Maximum Building Footprint provisions of the Waukesha County Shoreland Protection Ordinance as summarized in the following table.

PROVISION	SPO	EXISTING	NON- CONFORMING? 3(o)	PROPOSED	REQUIRED	VARIANCE/ SPECIAL EXCEPTION?
ROAD SETBACK	3 (h) (1) I	48 ft.	Y	48 ft.	50 ft.	N
OFFSET (N)	3 (h) (3) (A)	5.98 ft.	Y	5.98 ft.	10 ft. min	Y (Special Exception)

OFFSET (S)	3 (h) (3) (A)	14.1 ft.	N	14.1 ft.	10 ft. min	N
TOTAL BUILDING FOOTPRINT	3 (j) (5) (B)	1,894 sq ft. (21.4%)	N	1,920 sq ft. (21.7%)	1,548 sq ft. (17.5% max)	Y
ACCESSORY FOOTPRINT	3 (j) 4	330 sf	N	330 sg	650 sf max	N
MINIMUM FLOOR AREA	3 (j) (1)	993 sf (1 st floor) 1953 sf (overall)	N	1,088 sf (1 st floor) 2,315 sf (overall)	850 sf (1 st floor) 1,100 sf (overall)	N
BLDG HEIGHT	3 (i)	26 ft.	N	26 ft.	35 ft. max	N
SHORE SETBACK	3 (h) (2)	56.2 ft. (res) 43 ft. (deck)	Y	56.2 ft. (res) 43 ft. (deck)	58.1 ft. (res) 53.5 ft. (deck)	N

PETITIONERS’ COMMENTS:

The petitioners’ comments are attached as Exhibit C.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **denial** of the request for a variance from the maximum building footprint provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of an enclosed porch but **approval** of the request for a special exception from the non-conformance to offset provisions of the Ordinance to permit the construction of a second-floor addition to the principal residence. These recommendations are based upon the analysis of the below tests for a variance and special exception, as described below.

AREA VARIANCE TEST CRITERIA ANALYSIS

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

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

No hardship has been demonstrated with respect to the request to exceed the allowable 17.5% building footprint standard. In 2016, a committee inclusive of local developers and builders, produced recommendations that were incorporated into subsequent shoreland zoning amendments. These adopted recommendations included changing how the size of buildings is regulated and new provisions that would allow a property owner more administrative flexibility with zoning requirements to help achieve a 1,100 sq. ft. conforming building footprint, outside of the variance process. In addition, a less restrictive 17.5%

building footprint scheme replaced a 15% floor area ratio scheme. Considering that the lot meets all minimum living space requirements and has an existing building footprint of 21.4%, which already exceeds the maximum allowable, the petitioner can use the property for a permitted purpose without any footprint relief. While the request for footprint relief is minor, the covered porch could be altered so that the footprint of the lot is not increased.

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

It is not in the general public’s interest to allow a greater building footprint than what is permitted by right as it may generate additional stormwater runoff impacts and will replace open space with the bulk of additional building footprint which can impact natural scenic beauty. The 17.5% standard creates a level of consistency within neighborhoods and the stated standard sets an expectation for what neighbors should expect in the future.

SPECIAL EXCEPTION TEST CRITERIA ANALYSIS

The Ordinance defines Special Exception as a request for a minor adjustment to the requirements of the Ordinance only where specifically authorized by the Ordinance, owing to special conditions of the property. The granting of the special exception will not adversely affect the general public interest/welfare or adversely affect adjacent property owners. The request will not be detrimental to nearby properties/improvements or the natural resources in the area. Lack of local opposition does not mean a special exception will not harm the public interest.

If a new residence were to be constructed it would be in a similar location to what currently exists, albeit, conforming. The proposed vertical expansion is a minor adjustment and will not increase any non-conformities and allows the petitioners to add additional living space over the attached garage. The proposed vertical expansion is on the roadside of the residence, and will extend no taller than the existing residence, and will not block the lake views of neighboring property owners. The proposed vertical expansion will not negatively affect or result in a nuisance to the surrounding neighborhood or nearby natural resources.

Respectfully submitted,

Reviewed and approved by:



Jacob Heermans
Senior Land Use Specialist
Phone: 262-548-7790

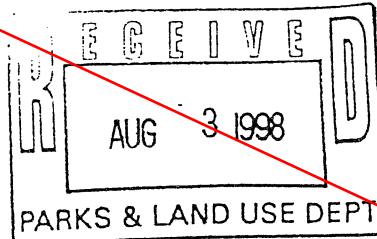


Ben Greenberg
Senior Planner

Exhibits: Exhibits A-C

Exhibit A

PLAT OF SURVEY



LOCATION: W322 N7332 Reddelien Road, Merton, Wisconsin

LEGAL DESCRIPTION: Lot 12, Block 1 of REDDELIEN BEACH RESERVE, being a subdivision of lands included in the Plat of Reddelien Beach, being a part of the South 1/2 of the Southeast 1/4 of Section 17, Town 8 North, Range 18 East, Town of Merton, Waukesha County, Wisconsin. ALSO, Lot 62 of REDDELIEN BEACH SUBDIVISION, being a part of the South 1/2 of the Southeast 1/4 of Section 17, Town 8 North, Range 18 East, Town of Merton, Waukesha County, Wisconsin.

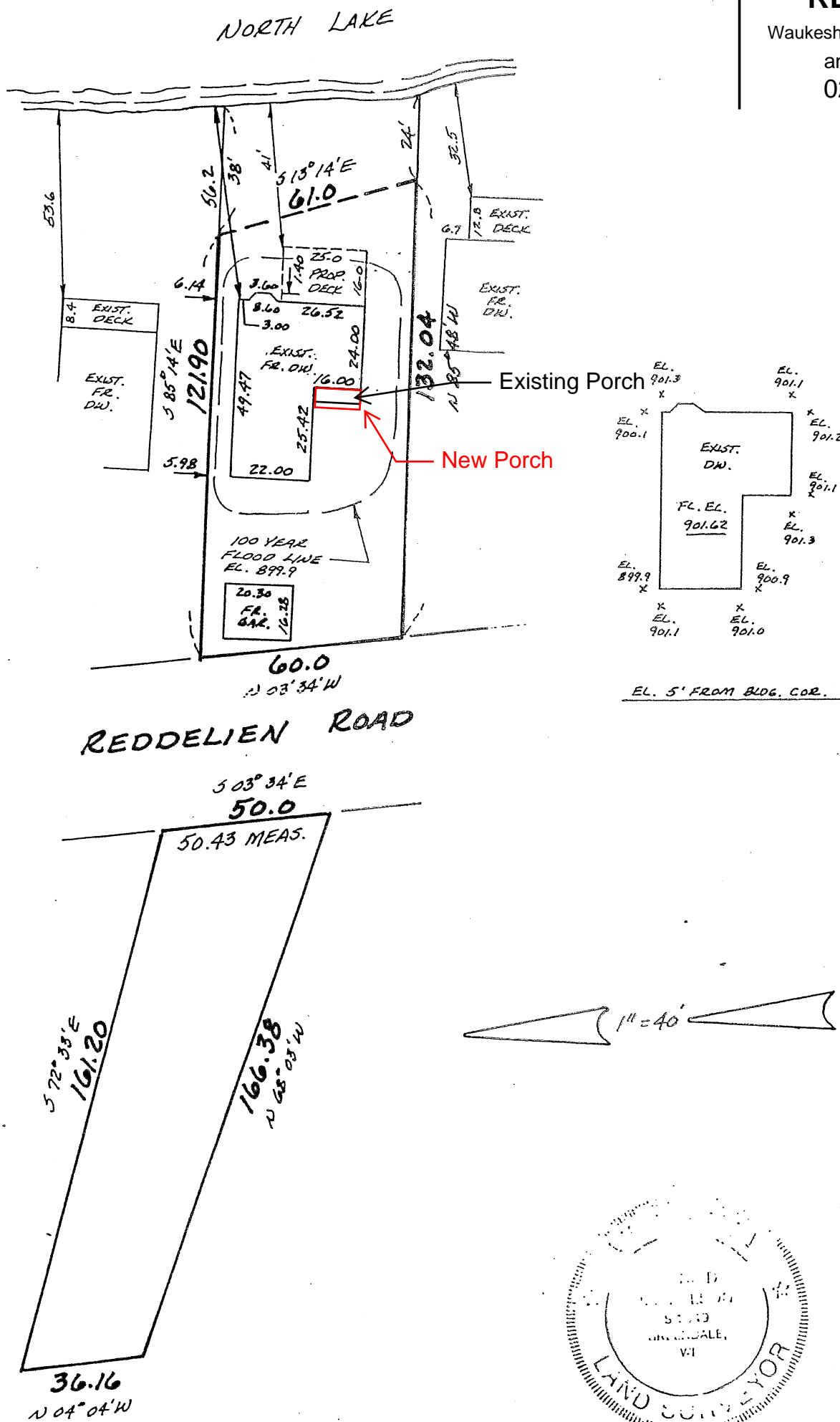
Janaury 31, 1997

Survey No. 2783-B

Revised Drawing July 9, 1998

100 Year Flood Line Added July 29, 1998

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and Land Use
02/23/2024



METROPOLITAN ENTERPRISES, INC.

REGISTERED LAND SURVEYORS

415 W. FOREST HOME AVE., SUITE 202, HALES CORNERS, WI 53130

PH. 529-5380 FAX 529-9787

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

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

SIGNED *Wayne D. Mickelson*

Wayne D. Mickelson
Registered Land Surveyor 8-1346

Exhibit B

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OF THESE PLANS IN THE FUTURE



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



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



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



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

REVISIONS

Laitsch Residence
W322N7332 Reddellen rd. , Heartland, WI 53029

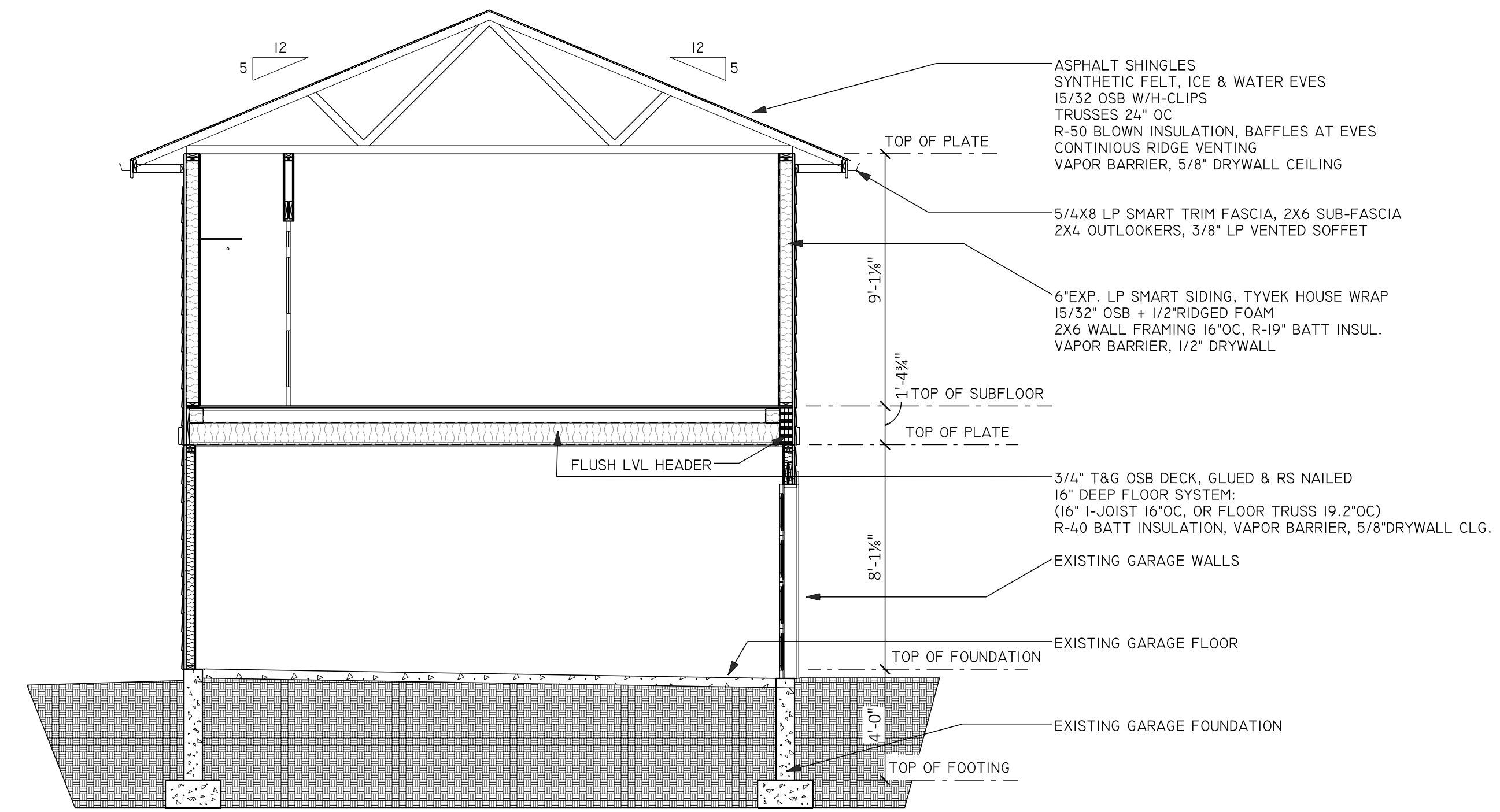
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DATE: 01.27.24

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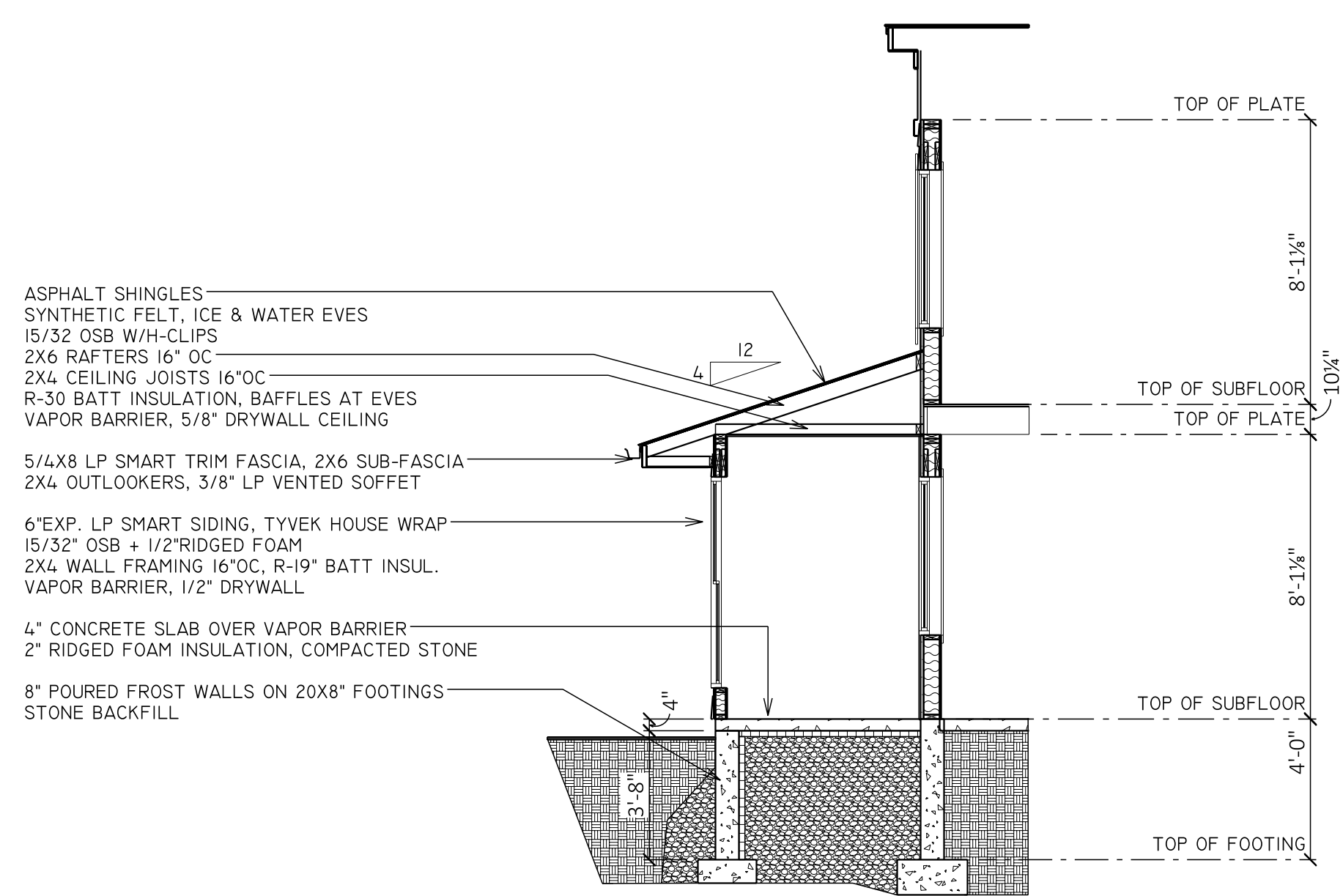
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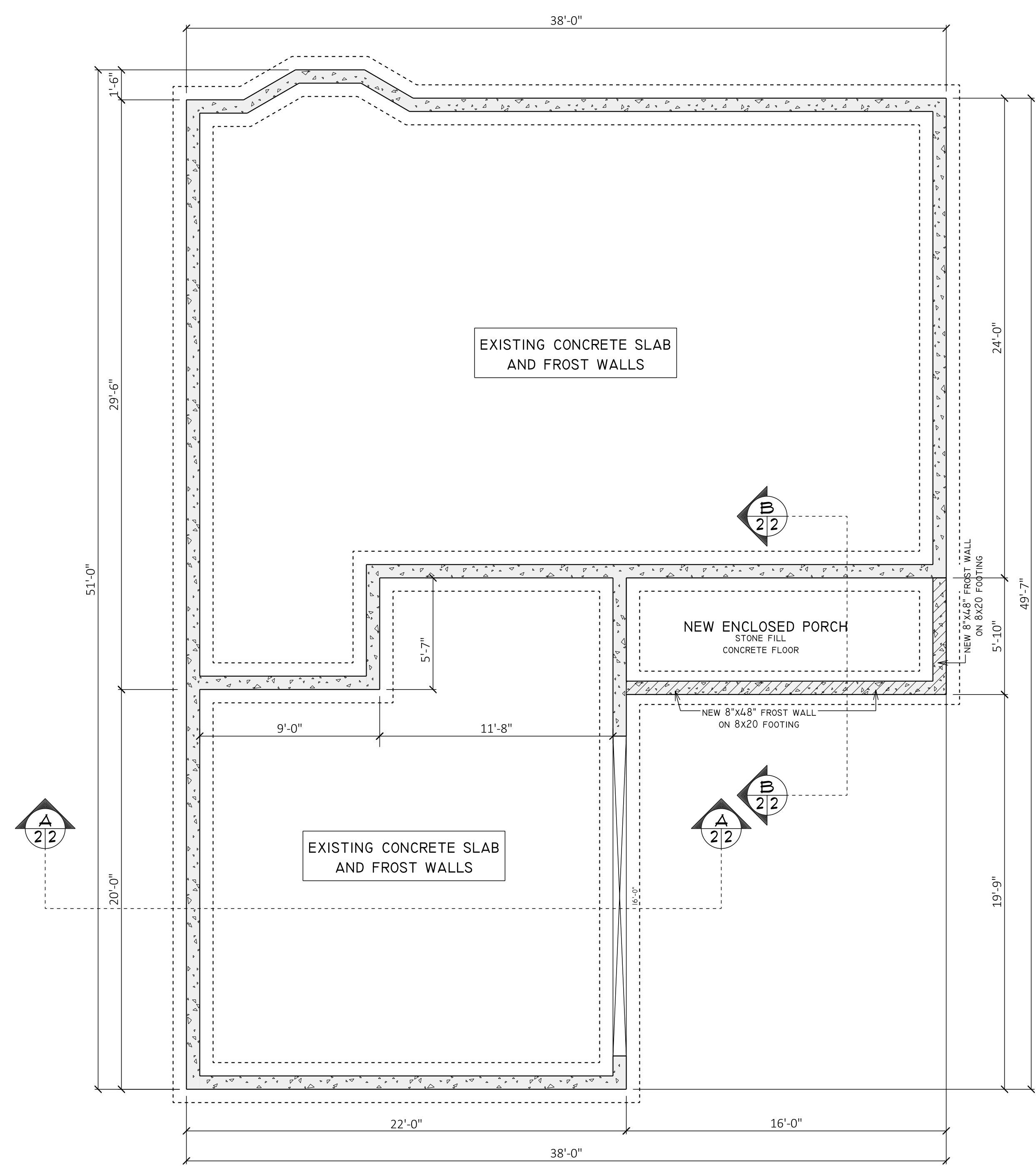
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A
 2/2
 CROSS SECTION A
 SCALE: 1/4" = 1'-0"



B
 2/2
 CROSS SECTION B
 SCALE: 1/4" = 1'-0"



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

REVISIONS

Laitsch Residence
 W322N7332 Reddellen rd. , Heartland, WI 53029

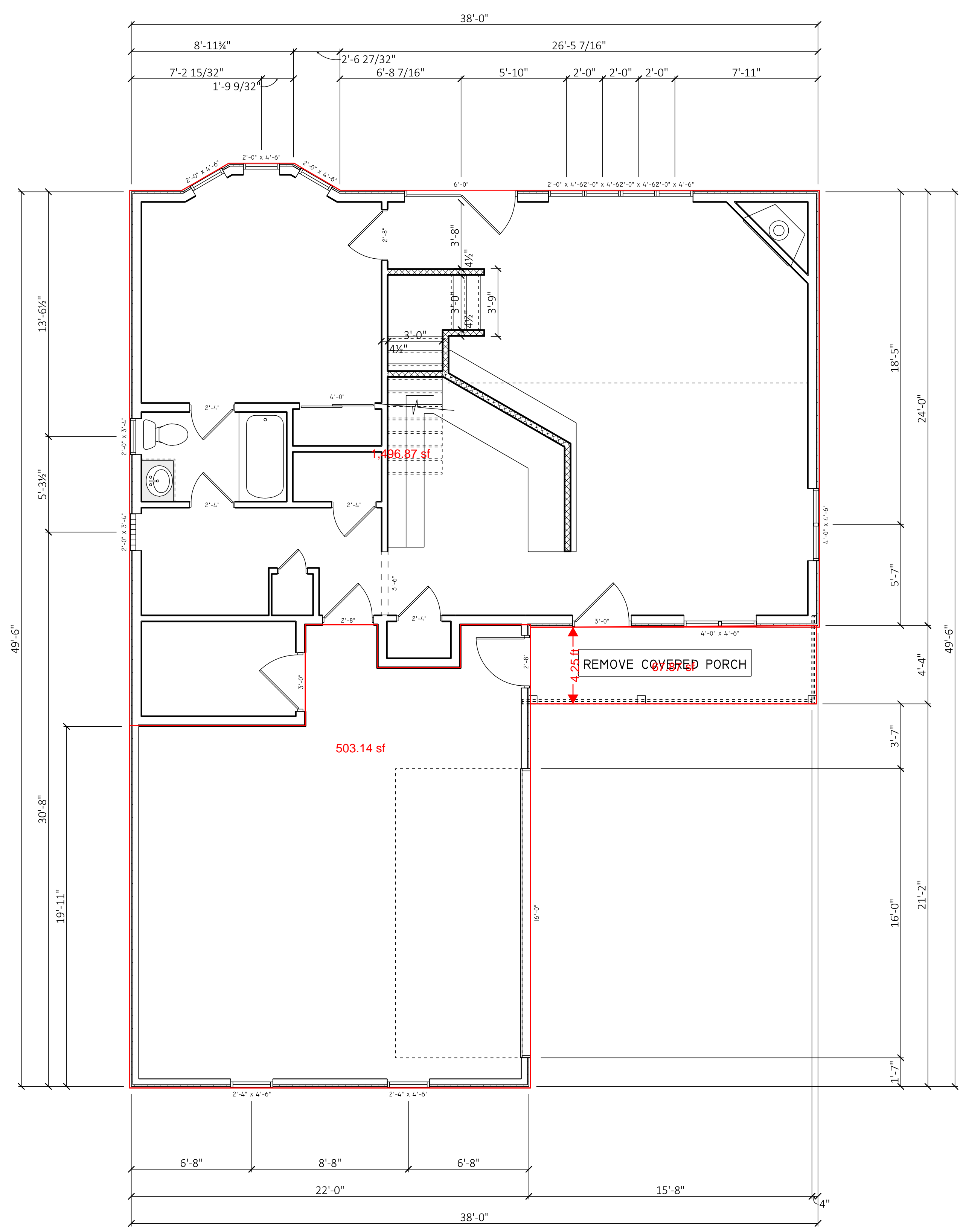
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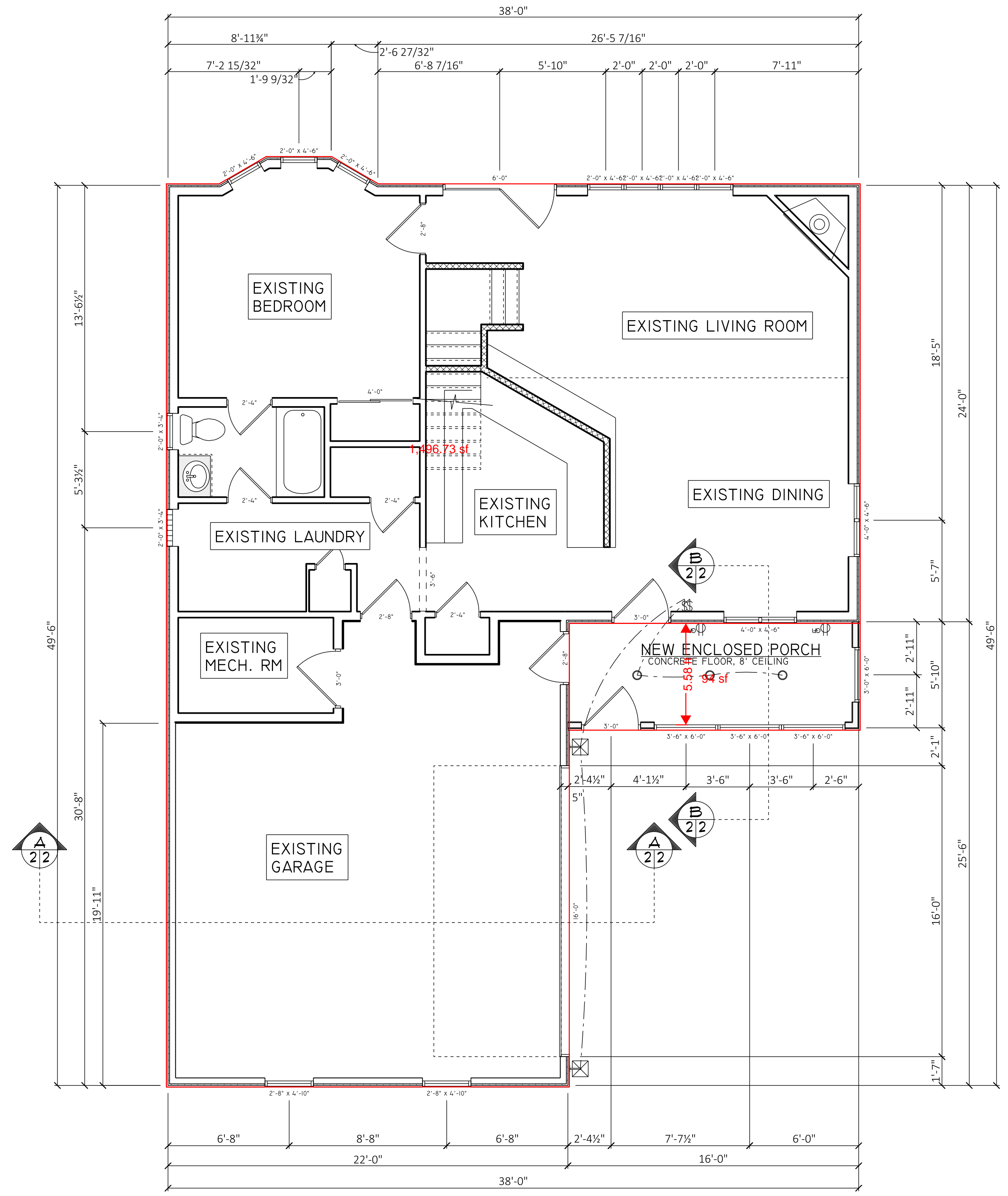
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MAIN FLOOR
 SCALE: 1/4" = 1'-0"



ALL OPENINGS ARE NOMINAL SIZED - SEE WINDOW ORDER FOR R.O.'S
 DIMINSTIONS ARE TO OUTSIDE OF FINISHED WALLS TO WORK WITH ORIGINAL PLANS

NEW MAIN FLOOR
 SCALE: 1/4" = 1'-0"

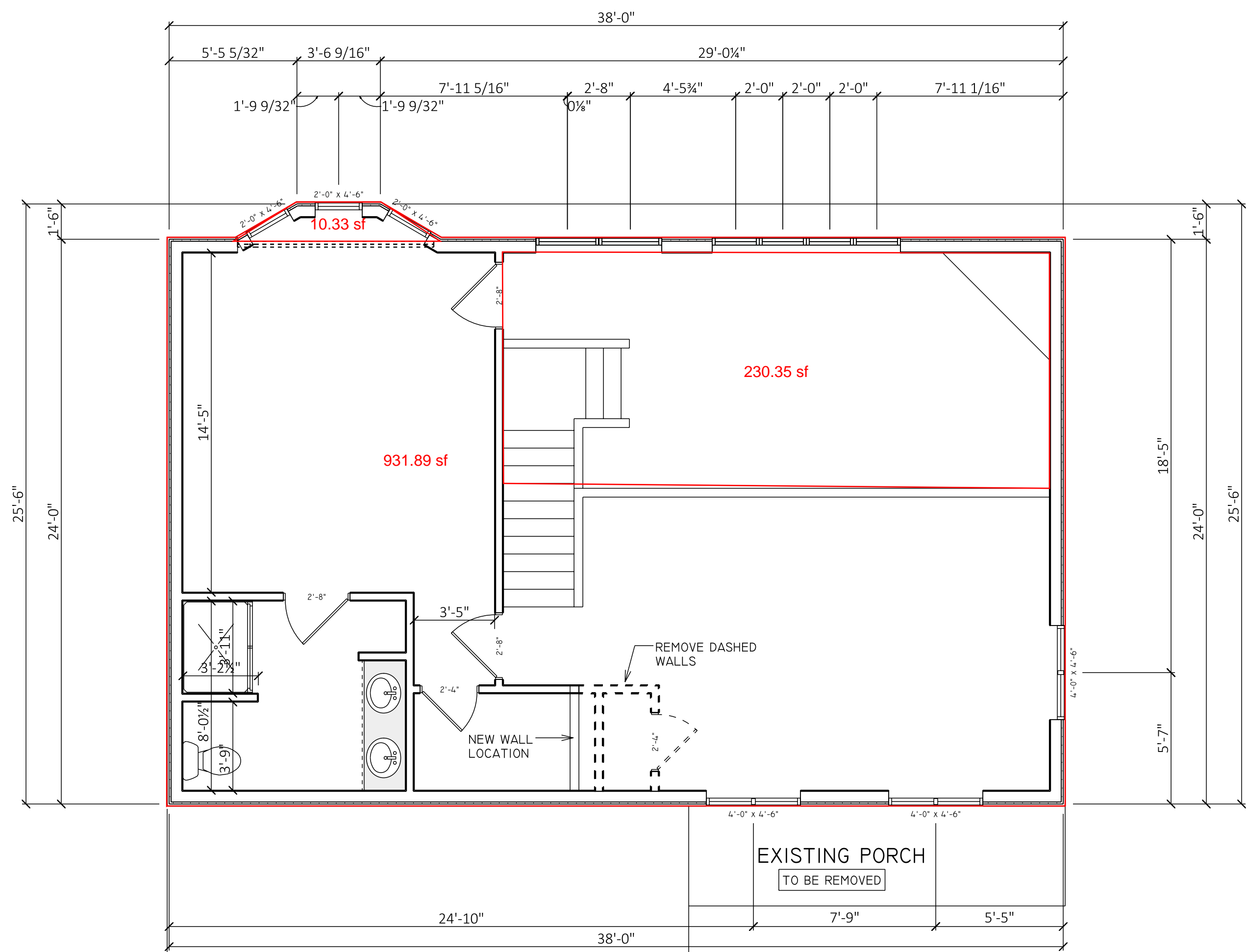
REVISIONS

Laitsch Residence

W322N7332 Reddellen rd. , Heartland, WI 53029

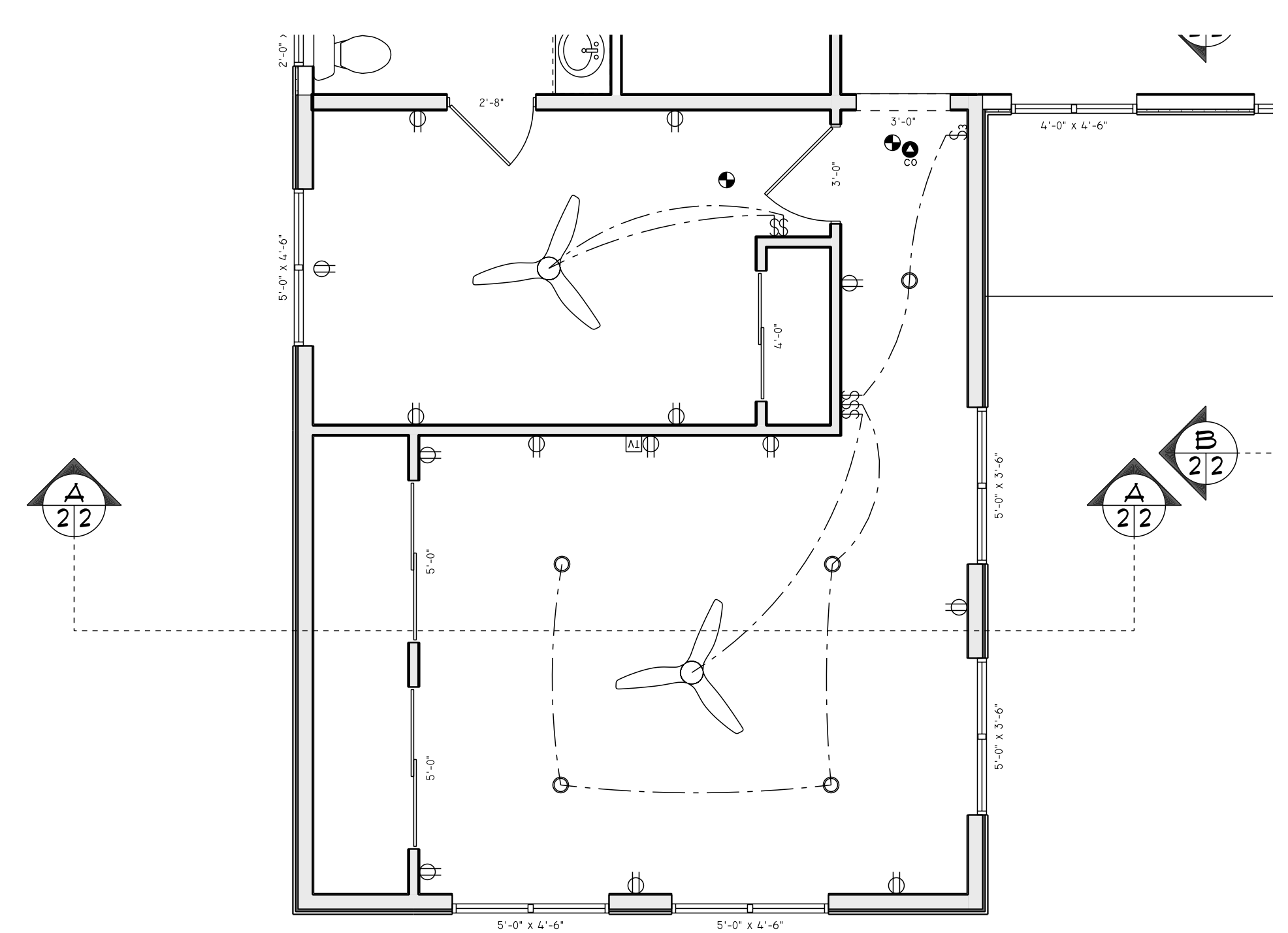
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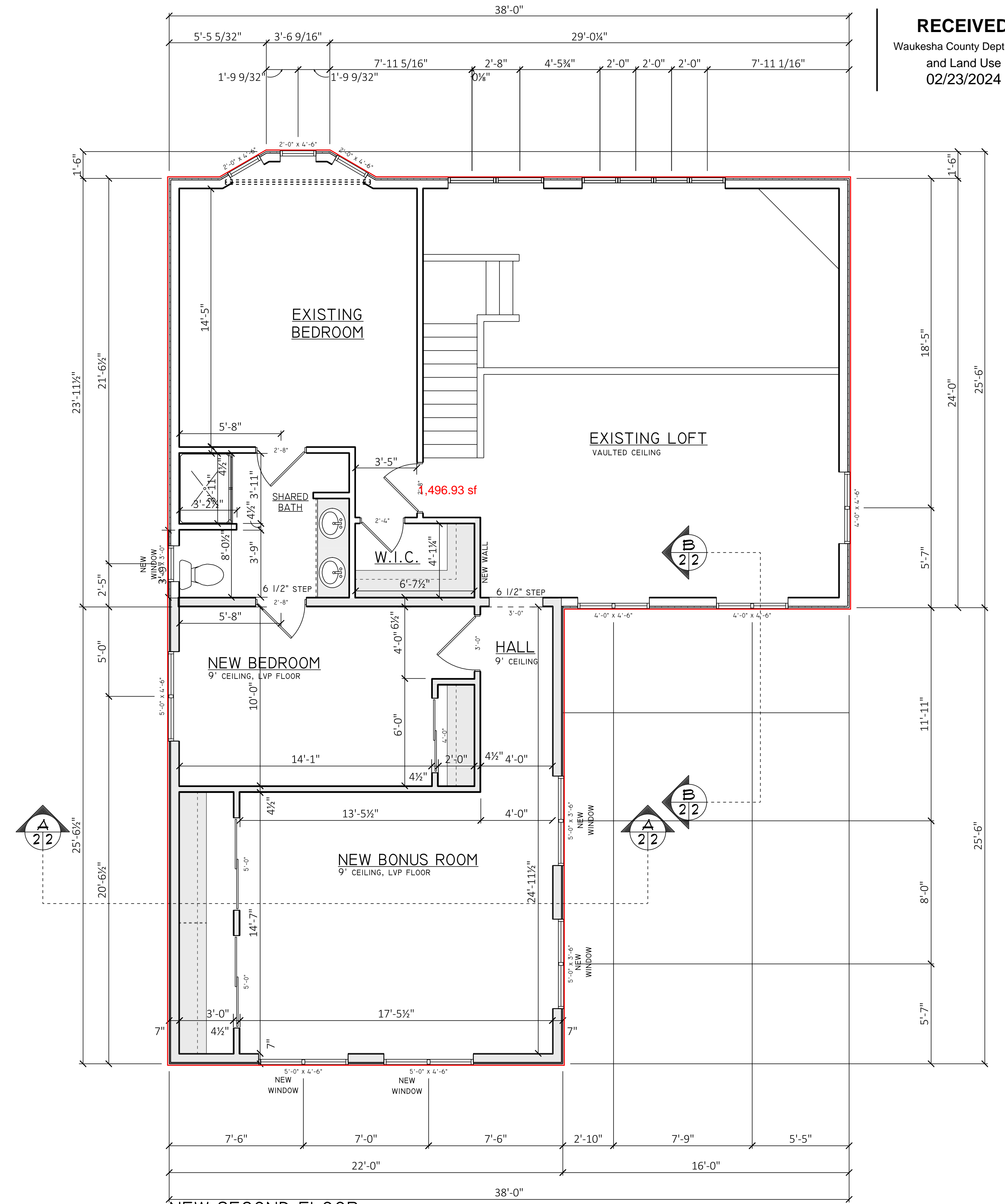


EXISTING GARAGE BELOW
ROOF TO BE REMOVED

EXISTING SECOND FLOOR
SCALE: 1/4" = 1'-0"
660 SQUARE FEET



NEW 2ND FLOOR ELECTRICAL
SCALE: 1/4" = 1'-0"



NEW SECOND FLOOR
SCALE: 1/4" = 1'-0"
660 EXISTING SF. + 567 NEW SF. = 1,227 TOTAL SQUARE FEET
ALL OPENINGS ARE NOMINAL SIZED - SEE WINDOW ORDER FOR R.O.'S
DIMINSTIONS ARE TO OUTSIDE OF FINISHED WALLS TO WORK WITH ORIGINAL PLANS

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02/23/2024



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OF THESE PLANS IN THE FUTURE

REVISIONS

Laitsch Residence
W322N7332 Reddelein rd. , Heartland, WI 53029

SCALE: 1/4" = 1'-0"
DRAWN BY:
DATE: 01.27.24

4
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Exhibit C

Complete this Section for **AREA VARIANCE** requests only.

An **Area Variance** is a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure. The request must be justified by the applicant using **ALL** of the following criteria in accordance with *Section 59.694, Wis. Stats.*, and the Waukesha County Shoreland & Floodland Protection Ordinance/Zoning Code. The applicant is responsible for justifying each variance type requested (i.e. offset and shore setback). **Attach additional sheets if necessary.**

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

enclosing the existing open porch to the outside face of the existing overhang
footing will have to be poured for the new support of the roof, current support post are set back from the face of the overhang

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

we will not be changing the homes footprint with the enclosure by staying within the current roof line

Complete this Section for **USE VARIANCE** requests only.

An **Use Variance** is the authorization for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. The request must be justified by the applicant using **ALL** of the following criteria in accordance with *Section 59.694, Wis. Stats.*, and the Waukesha County Shoreland & Floodland Protection Ordinance/Zoning Code. **Attach additional sheets if necessary.**

1. **Compliance with the ordinance would cause the owner to experience an unnecessary hardship.** Unnecessary hardship is proven by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a Variance. A property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

~~enclose existng porch to the outside face of the existing overhang
we will have to pour a footing for the support of the roof, the current support post are set back from the face of the existing overhang, the intent is to stay within the current footprint of the home to the outside face of the current overhang~~

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

~~based on how we are proposing the enclosed porch we will not be extending further than the existing roof overhang above the current open porch~~

Complete this Section for **SPECIAL EXCEPTION** requests only.

A **Special Exception** is a minor adjustment to the requirements of the Ordinance, where specifically authorized, and is justified by special conditions of the property. A request must be justified by the applicant using the following criteria. **Attach additional sheets if necessary.**

1. **The granting of the special exception will not adversely affect the general public interest/welfare or adversely affect adjacent property owners. The request will not be detrimental to nearby properties/improvements or the natural resources in the area.** Lack of local opposition does not mean a special exception will not harm the public interest. When reviewing a special exception request from the minimum floor area provisions, the proposed building shall not be of such character or quality as to depreciate the property values of the surrounding area.

we will be adding a second story addition above the current attached garage which would add a bedroom and open living area

ITEMS THAT MUST ACCOMPANY ALL VARIANCES AND SPECIAL EXCEPTIONS:

1. One electronic copy of an **accurate** site plan/map (a plat of survey is preferred) **drawn to scale** showing the following:
 - A. The boundaries and dimensions of the subject property.
 - B. The location and dimensions of **all** existing **and** proposed structures **and** buildings on the property.
 - C. The location and dimensions of **all** buildings **and** structures on adjacent properties.
 - D. The location and centerline of **all** abutting streets.
 - E. The 100-year floodplain, wetland boundary, **and** the ordinary high water mark of any water body which the lot abuts.

NOTE: Maps, plans and surveys shall **not** be reduced, enlarged, or faxed as these functions alter the scale. The scale of the map shall **not** be altered.
 2. A zoning permit, impervious surface worksheet, nonconforming use and structure value worksheet, building plans, grading plan and/or Environmental Health approval may also be required.
 3. The required filing fee, payable to the Waukesha County Department of Parks and Land Use. Once the public notice has been sent, this fee is nonrefundable.
- Application must be **complete** upon submittal. Once the public notice has been sent, **no changes to the request may be made**. If any changes or deviations from the original application are desired after the public notice has been sent, a new application will be required.
 - Variances from multiple ordinance provisions may be requested as part of a single application, but only one proposal may be made per application. Each alternative proposal will be considered a separate request and require a separate application packet and fee.

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

DATE: April 10, 2024

FILE NO.: BA186

OWNERS: Thomas and Monica Dunn
 N53 W34392 Road Q
 Okauchee, WI 53069

APPLICANT: Sweet Designs
 c/o Joan Sweet
 1316 Nagawicka St.
 Delafield, WI 53018

TAX KEY NO.: OCOT0573.009

LOCATION:
 The property is described as Lot 6 Hinkels Park No 1, part of the NE ¼ of Section 36, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Road Q address cited above with frontage on Okauchee Lake.

REQUEST:
 Variances from **Section 3(h)2 Shore Setback, and Section 3(i) Maximum Building Height** provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a new single-family residence with attached garage and lakeside deck.

ZONING CLASSIFICATION: R-3 Residential District

LOT CONFIGURATION: The existing and required average lot width, average lot depth and lot size, riparian frontage and road frontage are shown in the following table.

	Average Lot Width	Average Lot Depth	Lot Size* (sq. ft.)	Road Frontage (Road Q)	Riparian Frontage (Okauchee Lake)
Existing	40 ft. +/-	320 ft. +/-	13,869	38 ft.	67 ft.
Required	84 ft. min. (sewered)	n/a	14,000 (sewered)	30 ft. min	65 ft. min.

*Excluding the established 30 ft. wide road right-of-way of Road Q.

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:
 BA77:165: On December 14, 1977, the Board of Adjustment denied a variance from the shore setback requirements to permit the construction of a new lakeside deck.

BA13:009: On July 15, 2013, the Board of Adjustment denied a variance from the floor area ratio requirements and approved a special exception from the accessory building floor area ratio requirements to permit the construction of a new detached garage. The garage was constructed as proposed.

PENDING ACTIONS:

None.

PROPOSAL AND STAFF ANALYSIS:

The subject property, which is served by municipal sewer and a private well, is located on the north side of Road Q with frontage on Okauchee Lake. The southern portion of the property is relatively flat; however, the lot drops off sharply north of an existing detached garage, with approximately 25’ of grade change to the lake, creating lakeside slope conditions in the 25% range. The property contains a two-story single-family residence with a lakeside deck, patio, and detached garage. The home sits below the surrounding yard grade, with primary (roadside) access on the 2nd floor of the residence. A series of tiered retaining walls and stairs surrounds the residence, and an elevated deck/bridge provides access to the main entrance of the residence. In 2013, when the previous owners applied for a variance for the detached garage it was noted that a deck had been constructed without the benefit of a permit. It was unclear when the deck was constructed, but it had been more than 10 years, so staff could not pursue it as a violation and the Board of Adjustment did not require the deck be removed as a condition of the variance.

The petitioners are proposing to remove the existing residence, deck, patio, retaining walls and detached garage and build a new, larger 2 story residence with an attached garage, lakeside deck, patio and covered entry. The new home is proposed to be built 26.3 feet from the lake, which is slightly farther than the existing home which is setback 23.65 feet from Okauchee Lake. The new deck is proposed to be located 15.3’ from the lake which is slightly closer than the existing deck which is setback 16’ from the Okauchee Lake. The new home is proposed to be nearly 9 feet taller than the existing residence to accommodate a steeper roof pitch and position the 2nd floor at grade.

The table below summarizes the existing and proposed improvements. A site plan showing existing improvements is attached as Exhibit A and a site plan showing the proposed improvements is attached as Exhibit B. Building plans showing the proposed improvements are attached as Exhibit C.

	1 st Floor (sq. ft.)	2 nd Floor (sq. ft.)	Att. Garage (sq. ft.)	Accessory Bldgs. (sq. ft.)	Beds	Baths
Existing	1,033	902	n/a	838	4	3
Proposed	1,645*	1,555	635	n/a	No change	5 (+2)

*Includes covered entry and garage overhang

The proposed residence and lakeside deck require variances from the Shore Setback and Maximum Building Height provisions of the Waukesha County Shoreland Protection Ordinance as summarized in the following table.

PROVISION	SPO	EXISTING	NON-CONFORMING? 3(o)	PROPOSED	REQUIRED	VARIANCE/ SPECIAL EXCEPTION?
ROAD SETBACK	3 (h) (1) (C)	257.98'	N	211.7'	50' Min	N
OFFSET (NE)	3 (h) (3) (A)	4.40'	Y	8.01'	7' Min	N
OFFSET (SW)	3 (h) (3) (A)	9.01'	N	7'	7' Min	N
TOTAL BUILDING FOOTPRINT	3 (j) (5) (B)	1,871 SF	N	2,282 SF	2,477 SF (17.5% Max)	N
ACCESSORY FOOTPRINT	3 (j) 4	838 SF	Y	n/a	750 SF Max	N
BLDG HEIGHT	3 (i)	33'6"	N	42'-4 1/2"	35' Max	Y
SHORE SETBACK	3 (h) (2)	Deck 16' Patio 14.25' Home 23.65'	Y	Deck 15.3 Patio 15.3' Home 26.3'	35' (Deck/Patio) 43.5' Min (Home) w/ averaging	Y
IMPERVIOUS SURFACE	3 (t)	6,375 SF (45%)	Y	6,149 SF (43.4%)	No Net Increase	N

PETITIONERS' COMMENTS:

The petitioners' comments are attached as Exhibit D.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **denial** of the request for a variance from the shore setback and maximum building height provisions of the Waukesha County Shoreland Protection Ordinance to permit the construction of a new single-family residence. This recommendation is based upon the analysis of the below tests for a variance, as described below.

AREA VARIANCE TEST CRITERIA ANALYSIS

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

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

With respect to the shore setback variance, the owners currently have a residence with 1,935 sq. ft. of living space, not including the exposed basement, which exceeds the required 1,100 sq. ft. of overall living space for a two-story residence, as well as a deck, patio, and detached garage. The Ordinance allows even the most severely nonconforming structures to be replaced in kind, which would allow the owners to rebuild the existing residence while improving site drainage. Alternatively, a conforming residence, using the setback averaging provisions of the code, could be permitted further from the lake. While the lot does become narrower the further the home is located from the lake, there is still adequate width in which to locate a residence. Locating the home further from the shore may also allow for a first-floor garage and main entry, rather than a garage at the second floor and exterior steps down to the first floor. An exhibit showing the buildable area is attached as Exhibit E. Given the existing improvements, the ability to replace all structures in-kind and the conforming footprint available for a rebuild, a hardship has not been demonstrated to justify shore setback relief as strict compliance with setback requirements does not prevent the petitioner from utilizing the property for a permitted residential purpose, given the options available to the property owners.

There has also been no hardship demonstrated with respect to the height variance request. As noted above, there are alternative conforming locations away from the steepest slopes where the natural grades would make the roadside of a new home more accessible. In addition, if an 8/12 pitch is desired, a one-story home could be proposed. Similarly, if the owners desire an 11-foot-tall basement, a structure with flat(er) roof could be proposed.

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

State and county shore setback standards exist in part to protect the nearby natural resources and environmentally sensitive shoreland areas from runoff and other impacts of development. Setback standards are also intended to preserve natural scenic beauty. The area that is 35' inland from the shore is a state required vegetative buffer zone intended to help buffer views of structures from the water and allow for more effective infiltration of runoff before entering the lake. Allowing improvements within the shore setback may adversely impact the lake and shoreland areas and provides an averaging point for neighboring properties who may redevelop in the future. Furthermore, the height/bulk can adversely impact neighboring property owners who may have reasonable expectations about that size of buildings that could be constructed on nearby lots and can adversely affect neighboring property owners' lake views. Lots less than 65 feet in average lot width are held to a 35-foot standard to limit bulk, given the reduced offsets and typically higher density of nearby residences in neighborhoods with narrower lots. Furthermore, state shoreland law limit structures within 75 feet of the shore to an overall height of 35 feet. Denial of the request for relief from the shore setback and maximum building height requirements meets the purpose and intent of the Ordinance.

Respectfully submitted,

Reviewed and approved by:



Jacob Heermans
Senior Land Use Specialist
Phone: 262-548-7790



Ben Greenberg
Senior Planner

Exhibits: Exhibits A-E

N:\PRKANDLU\Planning And Zoning\Board Of Adjustment\PROJECT FILES\Towns\Oconomowoc\BA186 Dunn\Staff Report & Exhibits_Decision Sheet\BA186 Dunn Staff Report.Doc

Exhibit A

Plat of Survey # 3178

Deed Description:

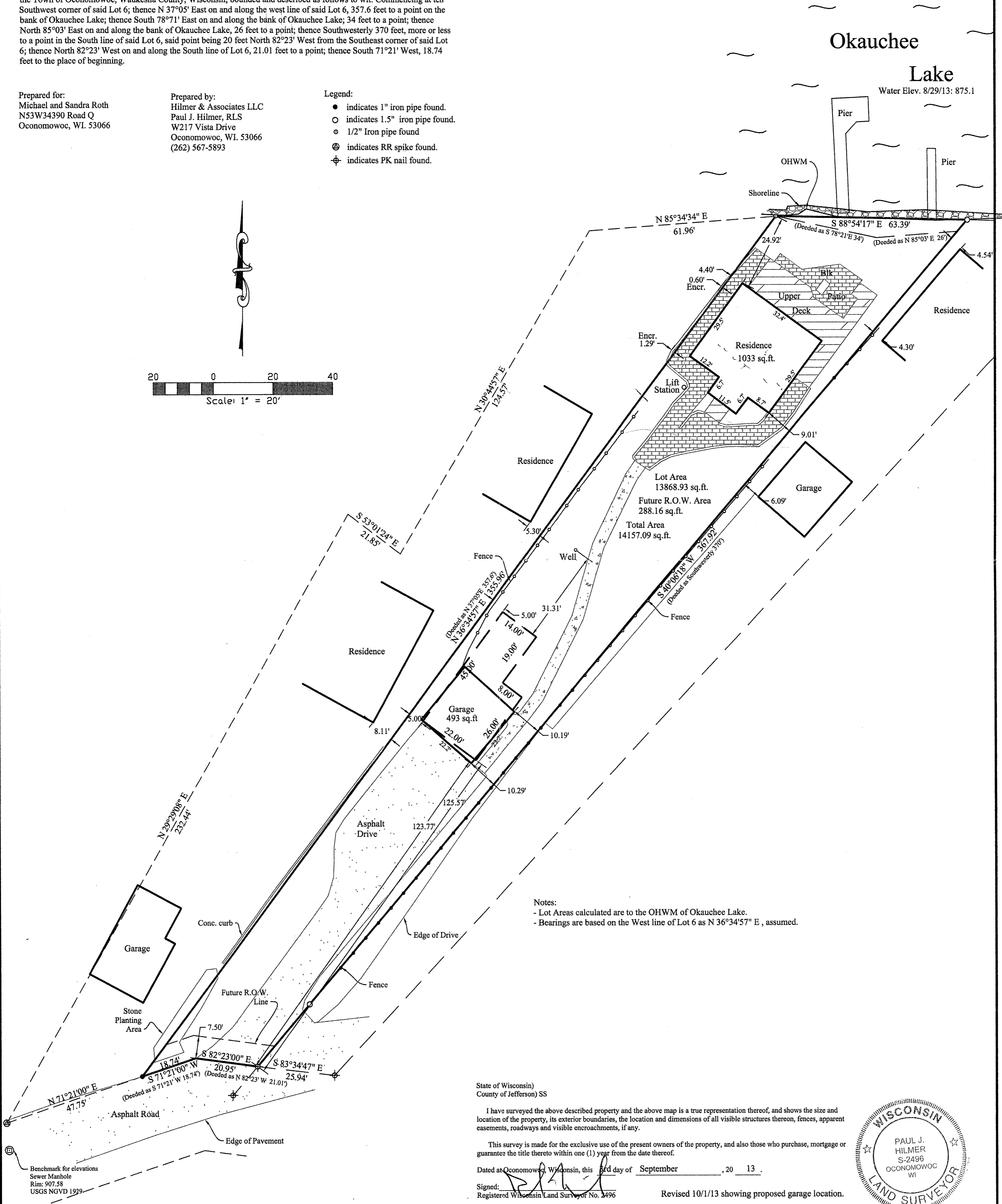
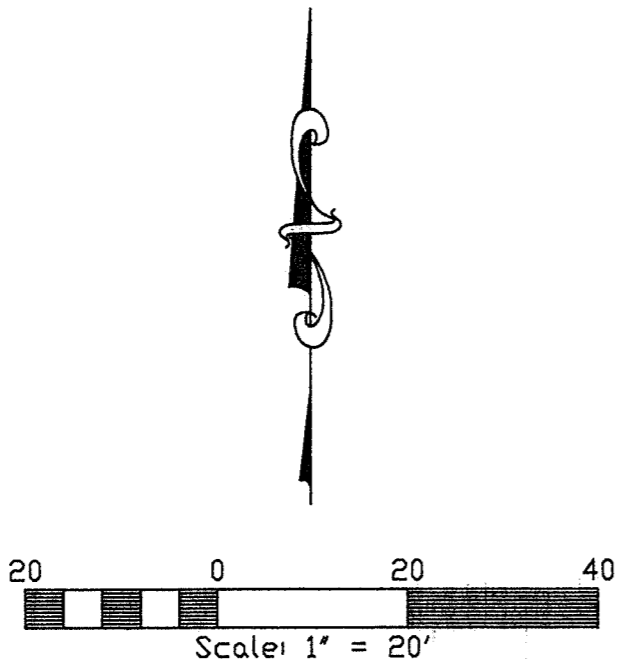
That part of Lot 6 in Hinkel's Park No. 1, being a part of the fractional Section 36, Township 8 North, Range 17 East, in the Town of Oconomowoc, Waukesha County, Wisconsin, bounded and described as follows to wit: Commencing at the Southwest corner of said Lot 6; thence N 37°05' East on and along the west line of said Lot 6, 357.6 feet to a point on the bank of Okauchee Lake; thence South 78°71' East on and along the bank of Okauchee Lake; 34 feet to a point; thence North 85°03' East on and along the bank of Okauchee Lake, 26 feet to a point; thence Southwesterly 370 feet, more or less to a point in the South line of said Lot 6, said point being 20 feet North 82°23' West from the Southeast corner of said Lot 6; thence North 82°23' West on and along the South line of Lot 6, 21.01 feet to a point; thence South 71°21' West, 18.74 feet to the place of beginning.

Prepared for:
 Michael and Sandra Roth
 N53W34390 Road Q
 Oconomowoc, WI. 53066

Prepared by:
 Hilmer & Associates LLC
 Paul J. Hilmer, RLS
 W217 Vista Drive
 Oconomowoc, WI. 53066
 (262) 567-5893

Legend:

- indicates 1" iron pipe found.
- indicates 1.5" iron pipe found.
- indicates 1/2" Iron pipe found
- ⊙ indicates RR spike found.
- ⊕ indicates PK nail found.



Notes:
 - Lot Areas calculated are to the OHWM of Okauchee Lake.
 - Bearings are based on the West line of Lot 6 as N 36°34'57" E, assumed.

State of Wisconsin)
 County of Jefferson) SS

I have surveyed the above described property and the above map is a true representation thereof, and shows the size and location of the property, its exterior boundaries, the location and dimensions of all visible structures thereon, fences, apparent easements, roadways and visible encroachments, if any.

This survey is made for the exclusive use of the present owners of the property, and also those who purchase, mortgage or guarantes the title thereto within one (1) year from the date thereof.

Dated at Oconomowoc, Wisconsin, this 3rd day of September, 2013.

Signed: *Paul J. Hilmer*
 Registered Wisconsin Land Surveyor No. 2496

Revised 10/1/13 showing proposed garage location.



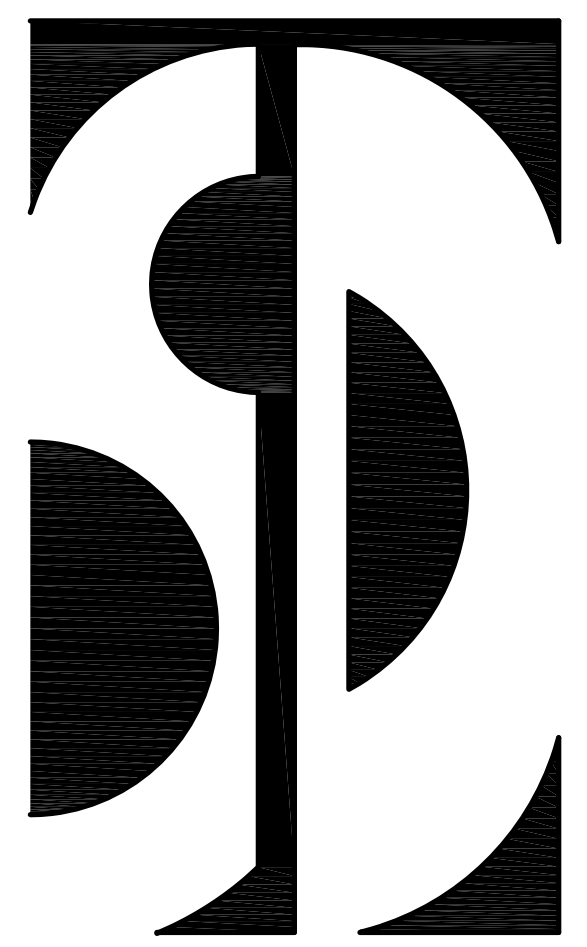
Benchmark for elevations
 Sewer Manhole
 Rim: 907.58
 USGS NGVD 1929

Exhibit B

REVIEW SET

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE OWNED BY AND REMAIN THE PROPERTY OF SWEET DESIGNS. NO REPRODUCTIONS ALLOWED WITHOUT ARCHITECTS CONSENT.

LOT AREA 13868.93 SQ. FT
 EXIST. GARAGE AREA 838 SQ. FT
 EXIST. HOUSE AREA 1033 SQ. FT. SQ. FT.
 EXIST. TOTAL FOOTPRINT 1871 SQ. FT.
 17.5% COVERAGE ON LOT
 13868.93 SQ. FT. * 17.5% = 2421.06 SQ. FT. ALLOWED
 PROPOSED TOTAL FOOTPRINT 2241 SQ. FT.



SWEET DESIGNS
 JOAN M. SWEET
 ARCHITECT

1316 NAGAWICKA ST
 DELAFIELD, WISCONSIN
 53018
 (262) 227-1228

PROJECT:

SPEC HOME FOR

DUNN FAMILY

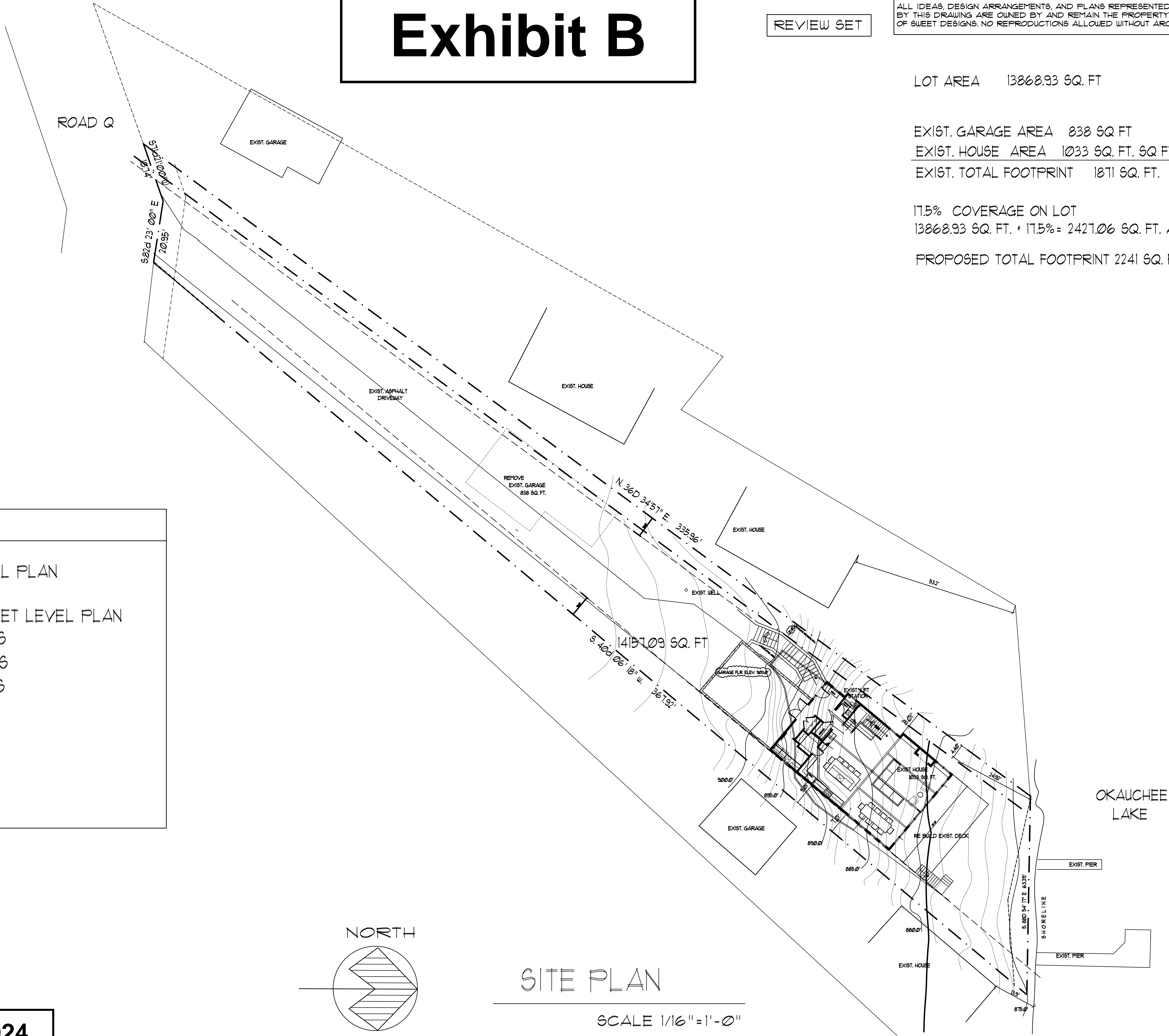
N53 W34390
 ROAD Q
 OKAUCHEE LAKE
 OCONOMOWOC WISCONSIN

SITE PLAN

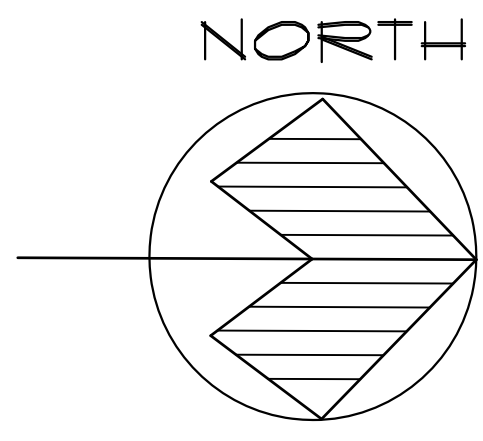
DATE :
 02/20/2024
 03/11/2024

SHEET NO.

A-1



SHEET INDEX	
A-1	SITE PLAN
A-2	BASEMENT LAKE LEVEL PLAN
A-3	FIRST FLOOR PLAN
A-4	SECOND FLOOR/ STREET LEVEL PLAN
A-5	EXTERIOR ELEVATIONS
A-6	EXTERIOR ELEVATIONS
A-7	EXTERIOR ELEVATIONS
EX-1	EXISTING SITE PLAN
EX-2	EXIST FLOOR PLANS



SITE PLAN

SCALE 1/16" = 1'-0"

RECEIVED 3/11/2024
 DEPT PARKS & LAND USE

Exhibit C



SWEET DESIGNS
JOAN M. SWEET
ARCHITECT

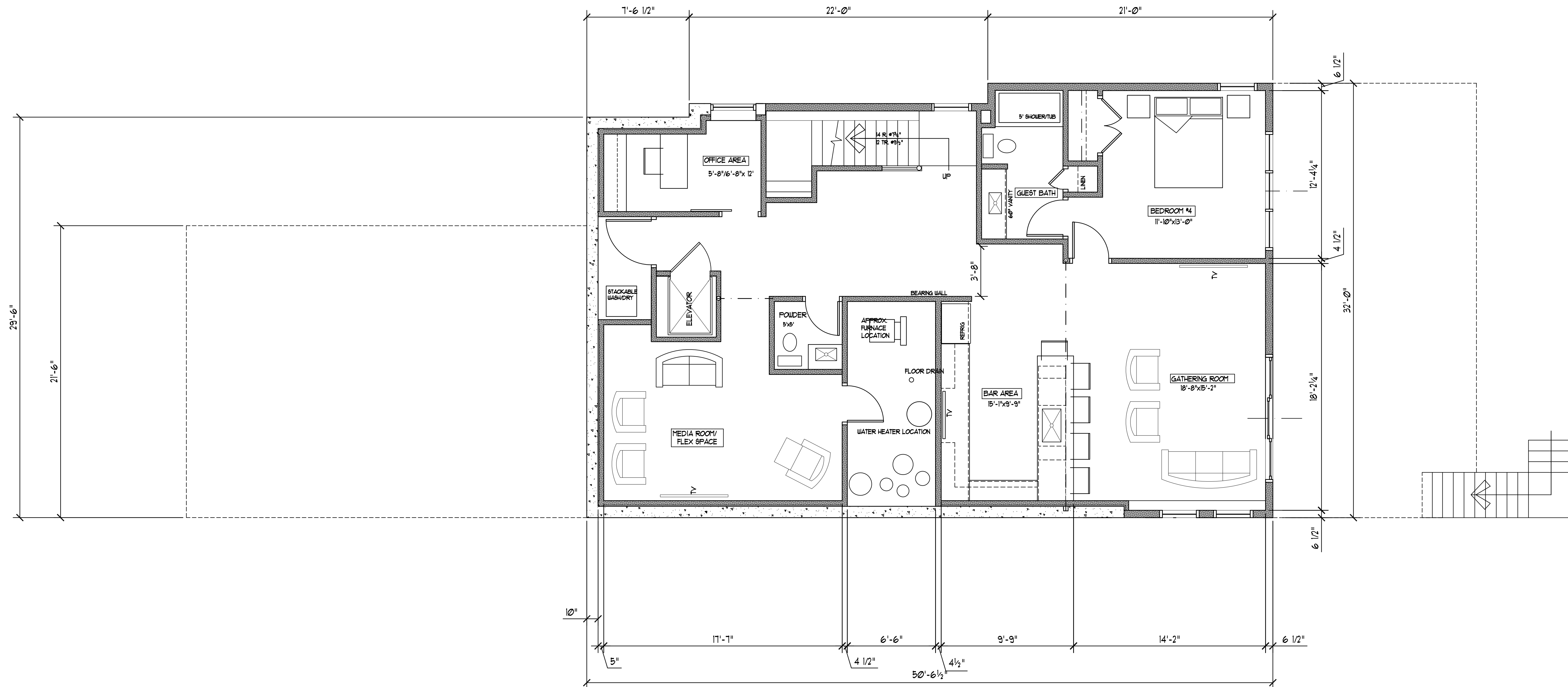
1316 NAGAWICKA ST
DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:

HOME
REMODEL

DUNN
FAMILY

N53 W34390
ROAD Q
OKAUCHEE
LAKE
OCONOMOWOC
WISCONSIN



BASEMENT/LAKE LEVEL

HOUSE 1380 SQ. FT. FINISHED SPACE SCALE 1/4" = 1'-0"
TOTAL FOOTPRINT 1565 SQ. FT.

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
BY THIS DRAWING ARE OWNED BY AND REMAIN THE PROPERTY
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LAKE LEVEL
PLAN

DATE :
01/15/2024

SHEET NO.

A-2



SWEET DESIGNS
 JOAN M. SWEET
 ARCHITECT

1316 NAGAWICKA ST
 DELAFIELD, WISCONSIN
 53018
 (262) 227-1228

PROJECT:

HOME
 REMODEL

DUNN
 FAMILY

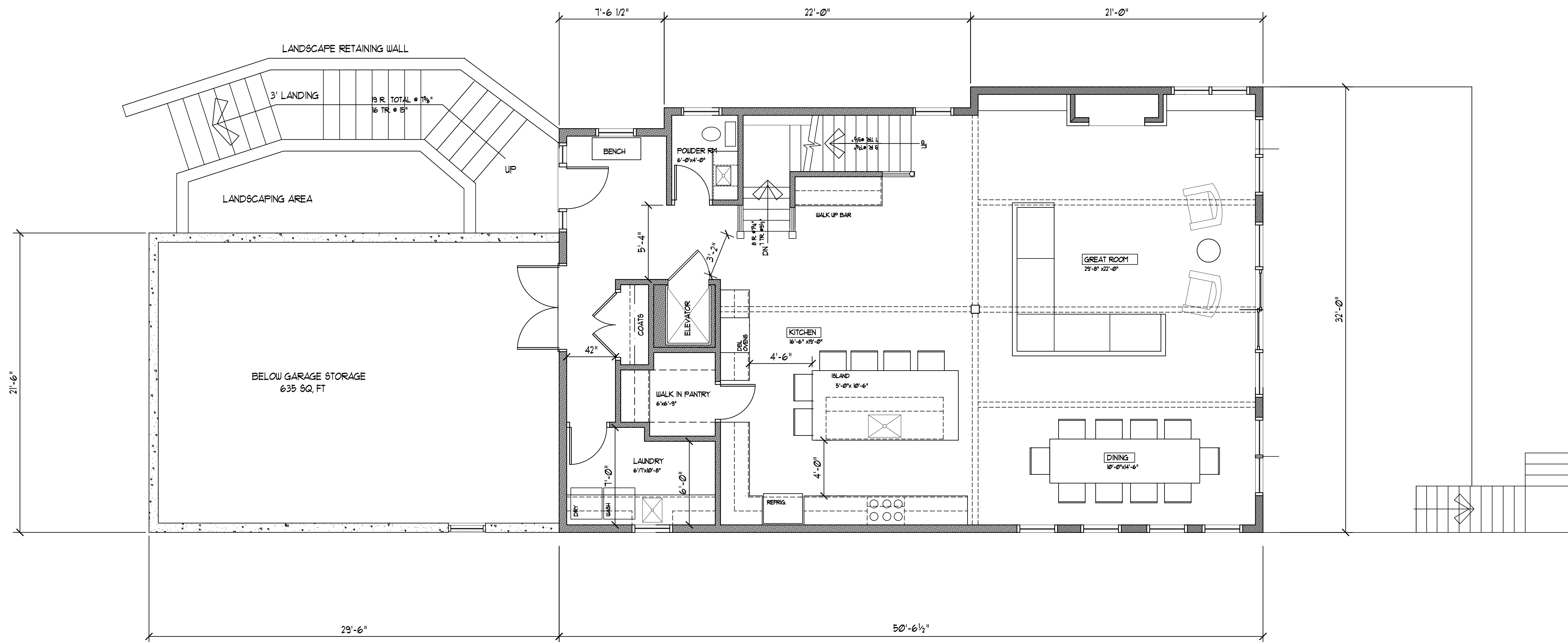
N53 W34390
 ROAD Q
 OKAUCHEE
 LAKE
 OCONOMOWOC
 WISCONSIN

FIRST FLR.
 PLAN

DATE :
 01/15/2024

SHEET NO.

A-3

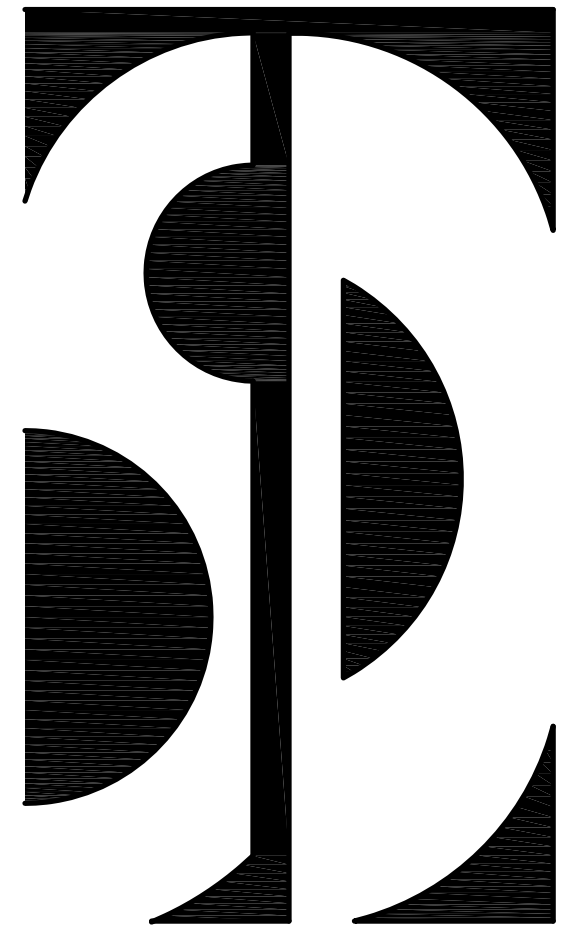


FIRST FLOOR

HOUSE 1561 SQ. FT.
 GARAGE 633 SQ. FT.
 TOTAL FOOTPRINT 2241 SQ. FT.

SCALE 1/4" = 1'-0"

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
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SWEET DESIGNS
JOAN M. SWEET
ARCHITECT

1316 NAGAWICKA ST
DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:

HOME
REMODEL

DUNN
FAMILY

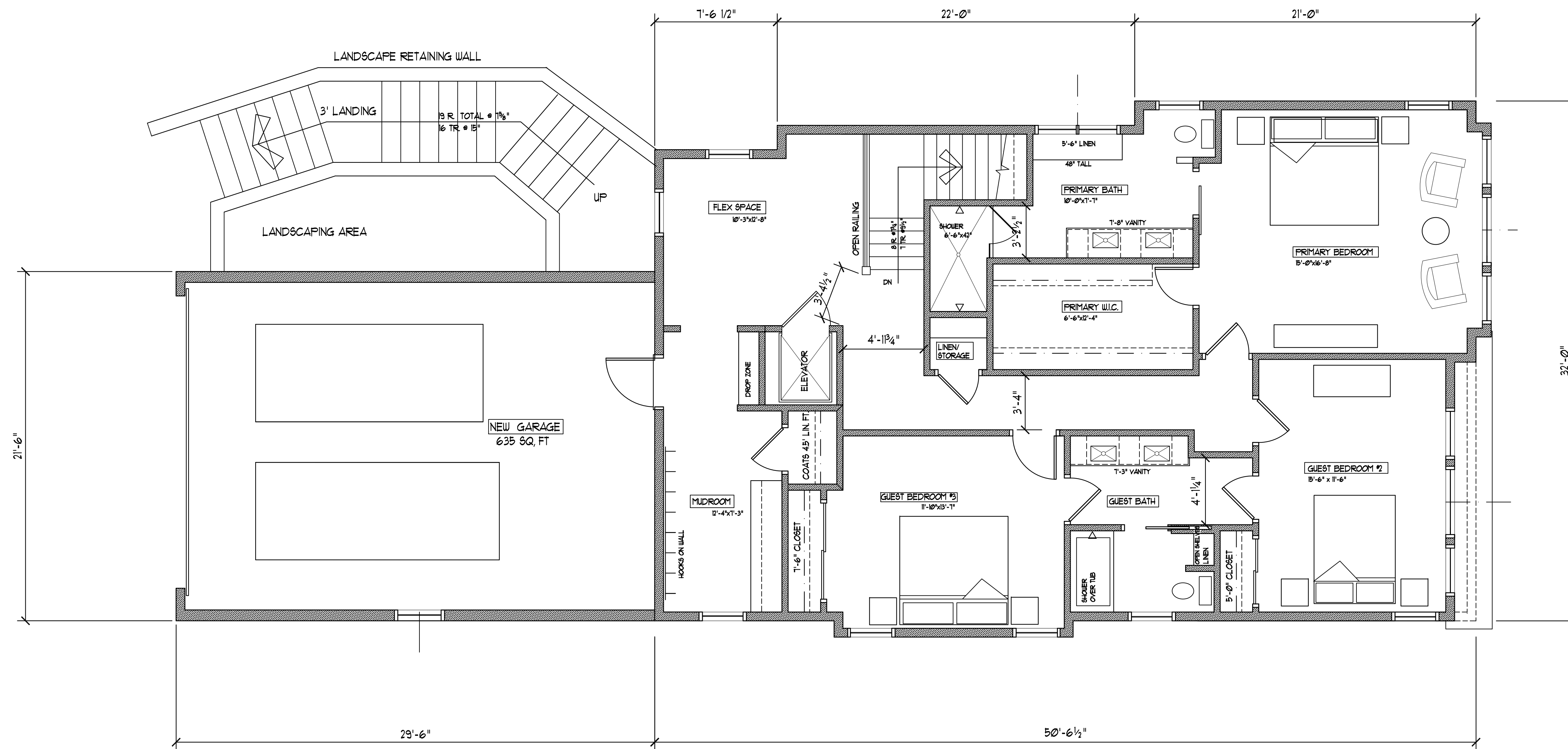
N53 W34390
ROAD Q
OKAUCHEE
LAKE
OCONOMOWOC
WISCONSIN

SECOND FLR.
PLAN

DATE :
01/15/2024

SHEET NO.

A=4

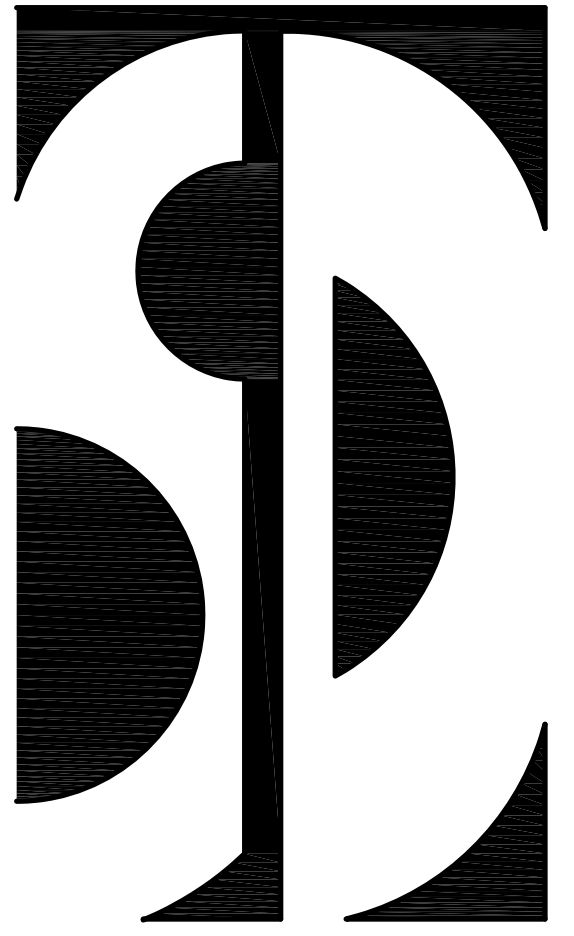


SECOND FLR/ STREET LEVEL GRADE

HOUSE 1555 SQ. FT.
GARAGE 633 SQ. FT.
TOTAL FOOTPRINT 2241 SQ. FT.

SCALE 1/8" = 1'-0"

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
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JOAN M. SWEET
ARCHITECT

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DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:
HOME
REMODEL

DUNN
FAMILY

N53 W34390
ROAD Q
OKAUCHEE
LAKE
OCONOMOWOC
WISCONSIN

EXT. ELEV.

DATE:
01/15/2024

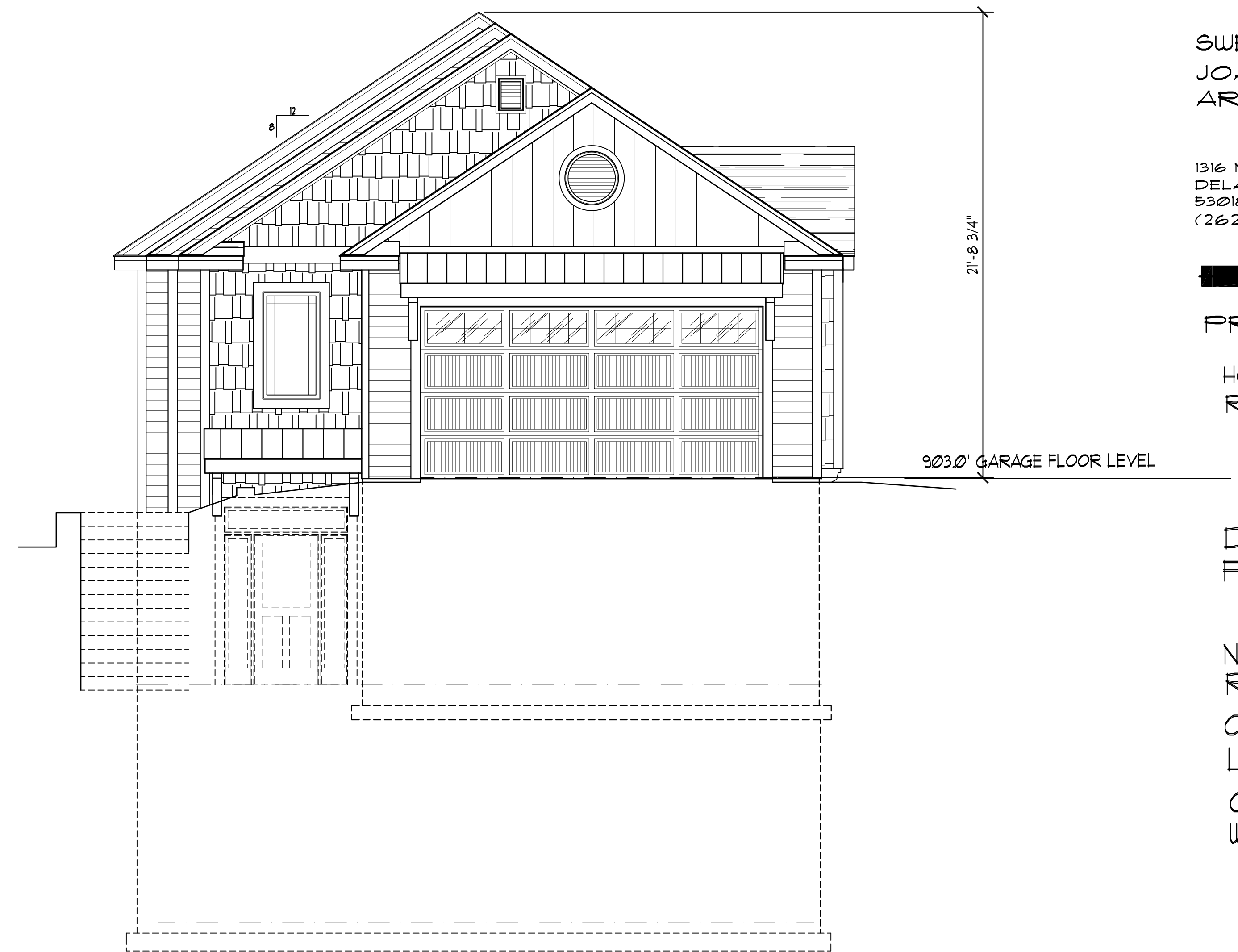
SHEET NO.

A-5



LAKESIDE ELEVATION -

SCALE 1/4" = 1'-0"



STREET ELEVATION -

SCALE 1/4" = 1'-0"

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
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JOAN M. SWEET
ARCHITECT

1316 NAGAWICKA ST
DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:

HOME
REMODEL

DUNN
FAMILY

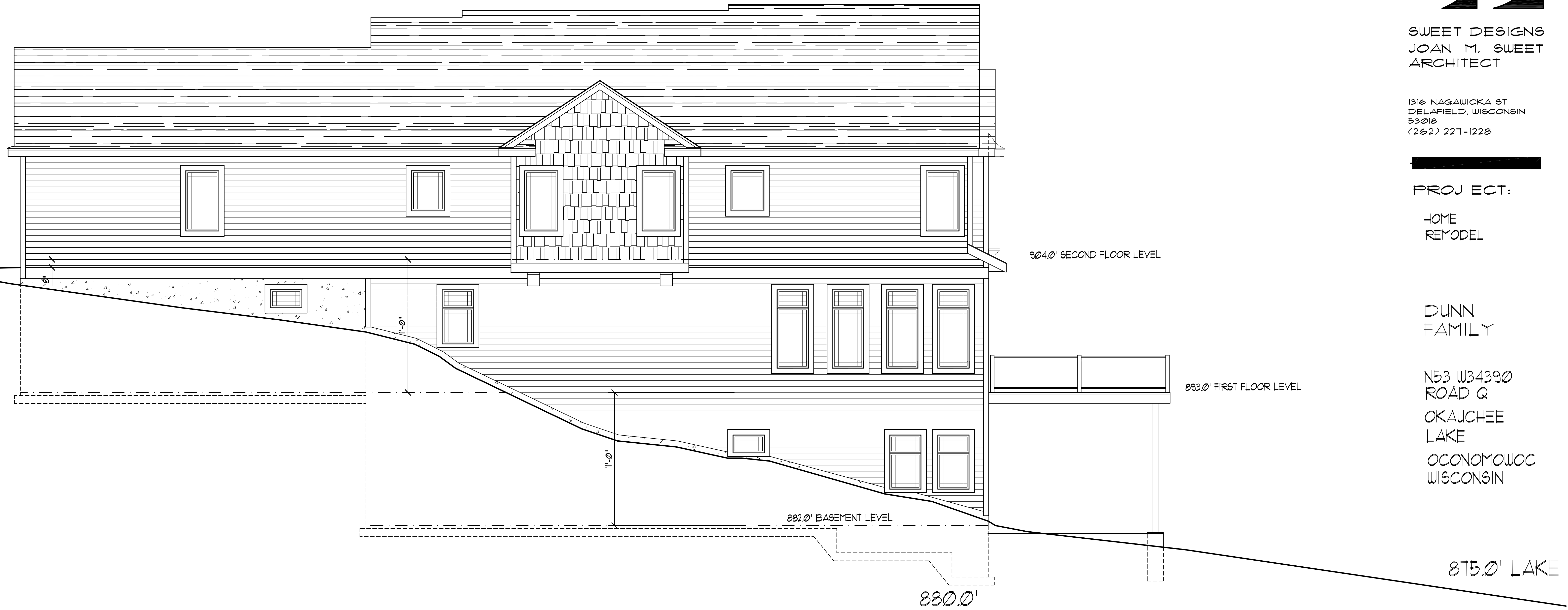
N53 W34390
ROAD Q
OKAUCHEE
LAKE
OCONOMOWOC
WISCONSIN

EXT. ELEVATIONS

DATE :
01/11/2024

SHEET NO.

A-6



SIDE ELEVATION -

SCALE 1/4" = 1'-0"

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
BY THIS DRAWING ARE OWNED BY AND REMAIN THE PROPERTY
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SWEET DESIGNS
JOAN M. SWEET
ARCHITECT

1316 NAGAWICKA ST
DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:

HOME
REMODEL

DUNN
FAMILY

N53 W34390
ROAD Q
OKAUCHEE
LAKE
OCONOMOWOC
WISCONSIN

EXT. ELEVS.

DATE :
01/15/2024

SHEET NO.

A-7



SIDE ELEVATION -

SCALE 1/4"=1'-0"

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SWEET DESIGNS
JOAN M. SWEET
ARCHITECT

1316 NAGAWICKA ST
DELAFIELD, WISCONSIN
53018
(262) 227-1228

PROJECT:

SPEC
HOME FOR

REICHHART/
KUTZ

LOT 1

DRUMLIN
HEIGHTS
ASHIPPUN
WISCONSIN

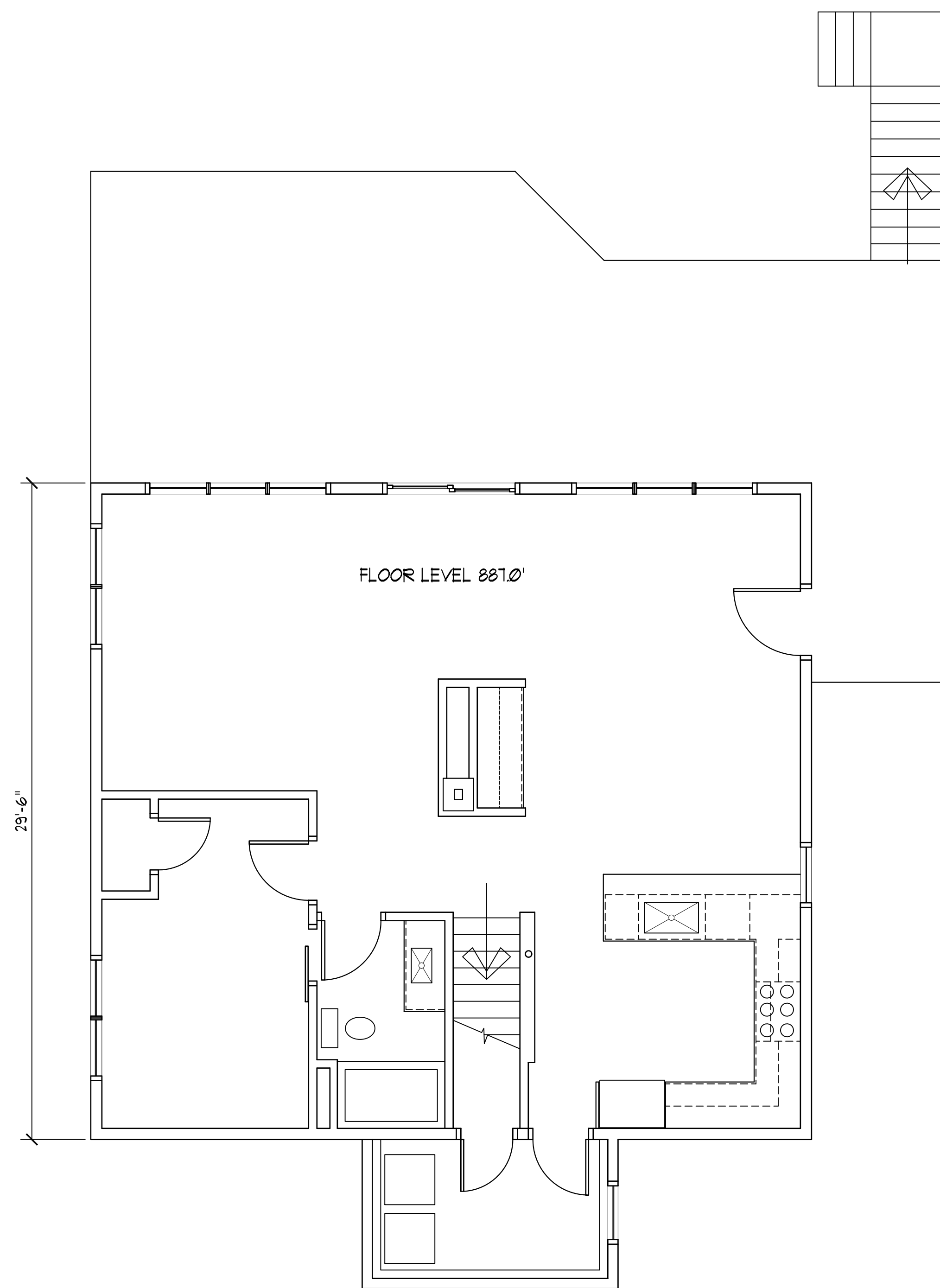
EXISTING
FLOOR PLANS

DATE :
02/20/2024

SHEET NO.

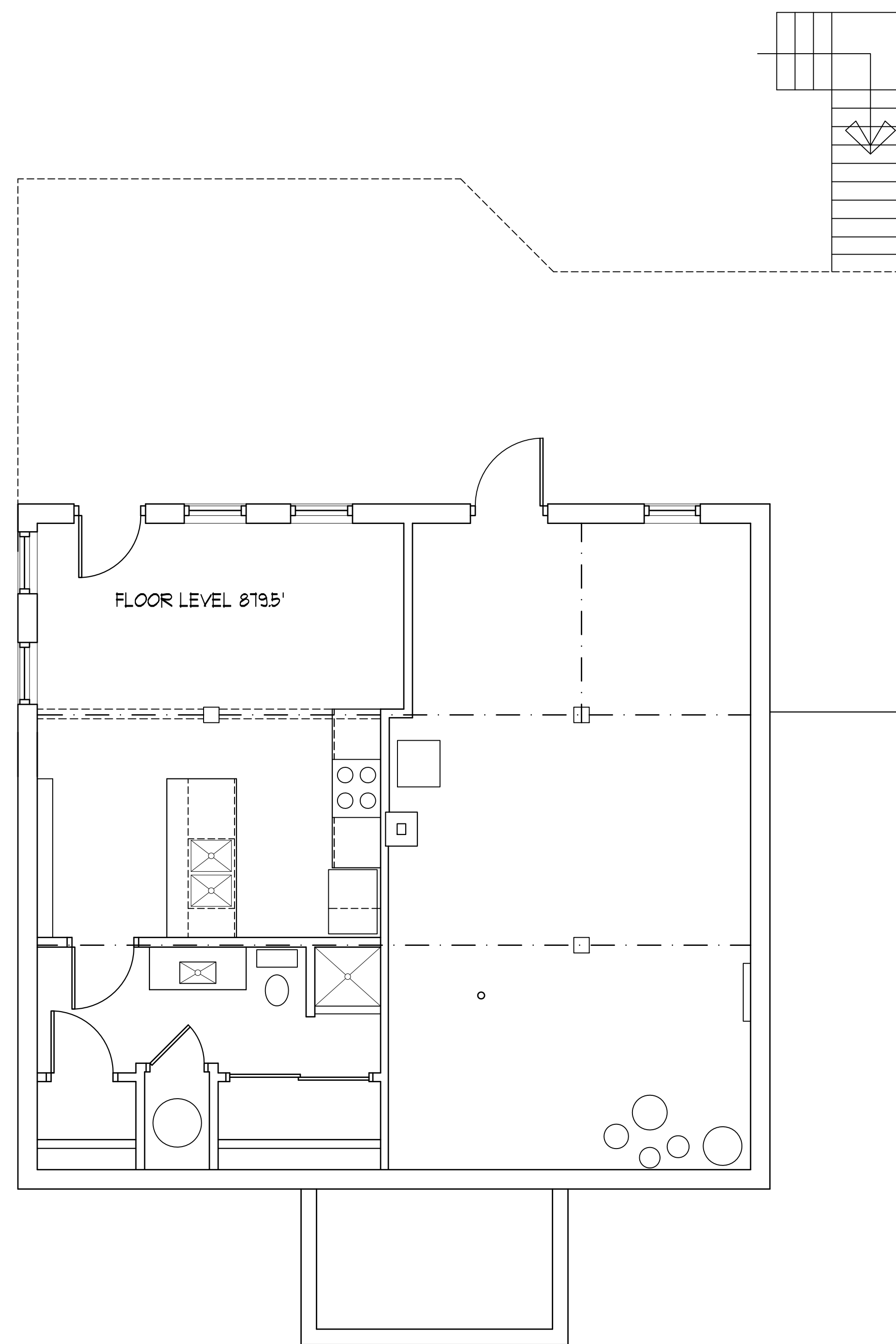
EX-2

TOTAL EXIST FLOOR AREA	
FIRST FLOOR AREA	= 1033 SQ.FT.
SECOND FLOOR AREA	= 902 SQ.FT.
BASEMENT AREA	= 955 SQ.FT.
GARAGE AREA	= 838 SQ.FT.
TOTAL BUILDING AREA = 3728 SQ.FT.	



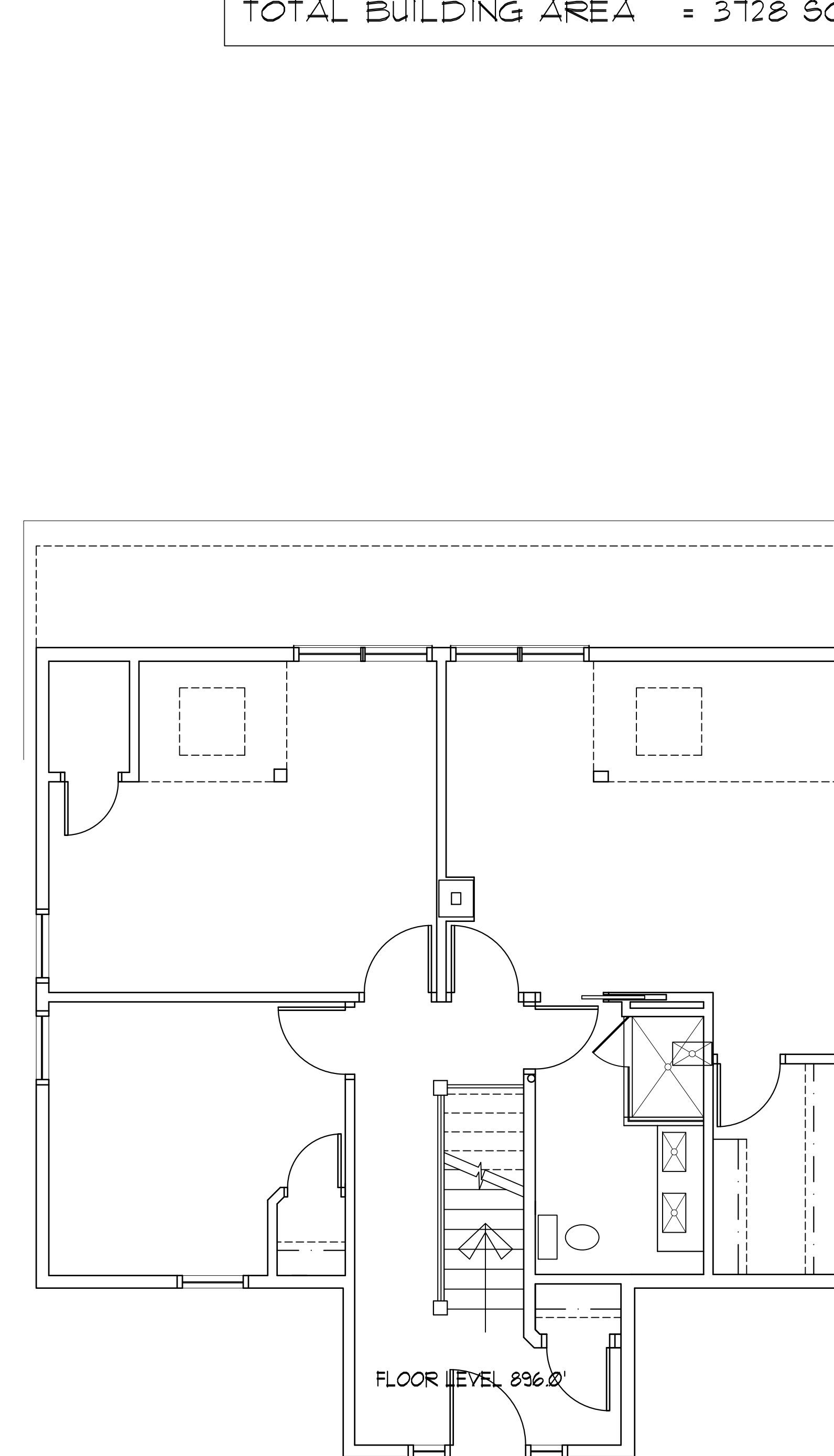
FIRST FLOOR

SCALE 1/4"=1'-0"
1033 SQ.FT.



BASEMENT FLR/ LAKESIDE GRADE

SCALE 1/4"=1'-0"
955 SQ.FT.



SECOND FLR/ FRONT GRADE

SCALE 1/4"=1'-0"
902 SQ. FT.

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED
BY THIS DRAWING ARE OWNED BY AND REMAIN THE PROPERTY
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SWEET DESIGNS
1316 Naqawicka Street Delafield WI 53018

Exhibit D

February 26, 2024

Waukesha County Department of Parks and Land Use Planning and Zoning Department
515 W. Moreland Blvd. Room AC230
Waukesha, WI 53188

Re: Zoning various

Project: Tom and Monica Dunn
N53W34390 Road Q
Town of Oconomowoc
Okauchee, WI 53069

To whom it concerns:

Following is our request for a variance on lake setback and height variance setback on above mentioned project.

After careful consideration and design process we are respectfully asking for a variance on Lakeshore setback and height variance for the following hardships.

- Current house sits very low on lot and the only entrance is through the second-floor entrance. You can enter first floor on east side after approaching house, and walking down 12 more risers to get to first floor door off of deck.
- Garage from house is currently 120' from door of garage to front of second floor entrance. There are approximately 10 steps down to house and it transcends approximately 18' in elevation from garage level to second floor level.
- The only way to access lowest level of house is to walk out on deck, walk down exterior stairs to a door entering lowest level. All mechanicals including furnace, water heater and electrical panel are located in basement. There is not interior stair from first floor to basement.
- The house initially had 2 separate addresses. It is assumed at this point that the house had 2 separate occupants, possibly why there is no interconnecting stair between lowest level and main level.
- With Wisconsin weather, walking from garage to house, and leaving house to access basement can be very dangerous, especially as clients age and when family visits. Traversing the stairs in any adverse weather is treacherous at best. Snow blowers, shovels and anything needed to clear a path to house are all in garage. In most recent snow neighbors had to shovel path for owners to get to garage.
- Currently lot is a pie shape and narrows from 64' at lake to 38' at road. There is currently a difference in elevation from the lake to the garage of 29'. Existing home is currently in violation of side yard and lake setbacks.

- **Lake setback variance #1 request.** Proposed home will have a connected garage and the side yard setback violations will be eliminated. Total footprint of new house and attached garage will be compliant with the 17.5% coverage and 186 sq. ft under that requirement. Existing garage will be demolished. The home is being set back 1' from current lake setback. Per zoning this lot would be subjected to the lake averaging setback. Per attached survey, neighbors' homes are set at 53.2' and 13.9' for a total of 67.1'. By law of averaging this property would need to be 34' from the lake shore. Currently home sits at 24.9' from lake. We are proposing a 26' setback. Per attached pictures, the house currently sits lower than the neighbors. This location will not impede the view of either neighbors. Currently homeowner looks at side of the neighbors home (to the east) which is at 13.9' from the lake. Neighbor to the west main view of lake is to the west as the lake bends at the channel. Homeowner request to rebuild in kind the deck as it currently sits. If house is moved back on lot, it begins to narrow, making it very hard to build any kind of home, except a very long and skinny home. Where new garage is currently proposed, we would only have 29' of width between setbacks.
- **Height variance setback #2 request.** Currently home sits very low on site. From grade at lake to ridge is approximately 33' in height. The current design still requires a second-floor entrance, with an exterior stair to first floor. Homeowner will need to install an elevator for elderly visitor to access primary level of home. The garage will enter at the grade with only one step up to second floor. The design incorporates taller ceilings in order to get the second floor at grade level entrance, while leaving the basement level with exist lake grade level. The owners would like to make the home as accessible as possible for their visitors with disabilities as they all age. As the house currently sits, homeowners' father cannot enter home, due to the number of steps between grade and second floor entry. Ideally, they wanted a first-floor entrance, but due to the constraints of the existing lot that is not possible. As stated above, the current design incorporates a second-floor level entrance. Upon entering home, you can either use stairs to first floor level, basement level, or an elevator to traverse the levels. As designed the home sits in the hill of the lot with all floor elevations aligning with the grade around it. Currently there are retaining walls built on sides of property, there is in essence a bridge to enter second floor. All of these retaining walls are crumbling and need to be replaced. The walls create a mote around the house, for all the water and snow melting that sits against the current foundation and creates water drainage issues. The new design will eliminate the retaining walls, using the foundation of the house to retain the grade, with all water running along the side of the house in a positive drainage pattern, and not negatively effecting the neighbors' properties. The current design has a 6/12 pitch on the home. The total height of new home from grade at lake to ridge is 42'-4 1/2", at street side, the ridge is only at 21'-8 3/4". This pitch was chosen to allow effective rain and snow drainage. In Wisconsin, it is not advisable to build a lower pitch roof due to the snow loading and rain runoff. Clearly, we could build a flat pitch roof, but in the course of my career, these roofs all create leaking down the road, and the low pitch roofs have issues with leakage and ice damming.

All information above is respectfully submitted for your review. If you have any questions on above, do not hesitate to contact me. Thank you for considering my clients concerns on their property.

Respectfully submitted,

Joan M Sweet, Architect
Sweet Designs 262-227-1228
sweetjt@wi.rr.com

cc: Monica Dunn, Homeowner
Timothy T. Kay, Attorney

Exhibit E

REVIEW SET

ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE OWNED BY AND REMAIN THE PROPERTY OF SWEET DESIGNS. NO REPRODUCTIONS ALLOWED WITHOUT ARCHITECTS CONSENT.

LOT AREA 13868.93 SQ. FT

EXIST. GARAGE AREA 838 SQ FT
 EXIST. HOUSE AREA 1033 SQ. FT. SQ FT
 EXIST. TOTAL FOOTPRINT 1871 SQ. FT.

17.5% COVERAGE ON LOT
 13868.93 SQ. FT. * 17.5% = 2421.06 SQ. FT. ALLOWED

PROPOSED TOTAL FOOTPRINT 2241 SQ. FT.



SWEET DESIGNS
 JOAN M. SWEET
 ARCHITECT

1316 NAGAWICKA ST
 DELAFIELD, WISCONSIN
 53018
 (262) 227-1228

PROJECT:

SPEC HOME FOR

DUNN FAMILY

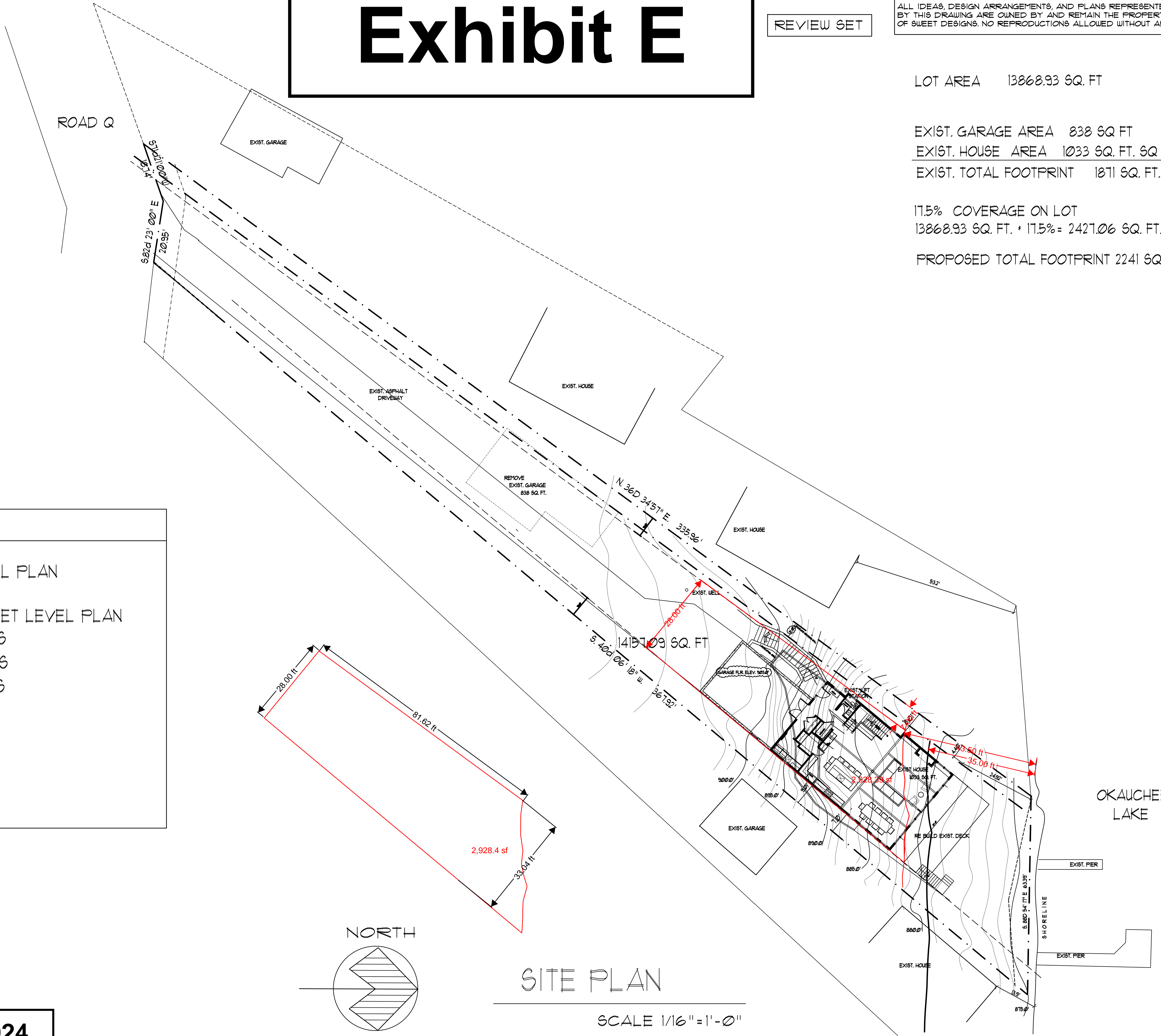
N53 W34390 ROAD Q
 OKAUCHEE LAKE
 OCONOMOWOC WISCONSIN

SITE PLAN

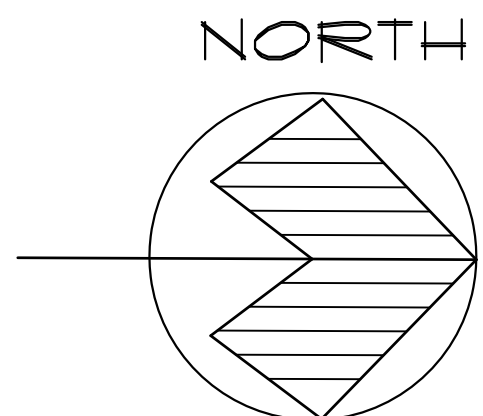
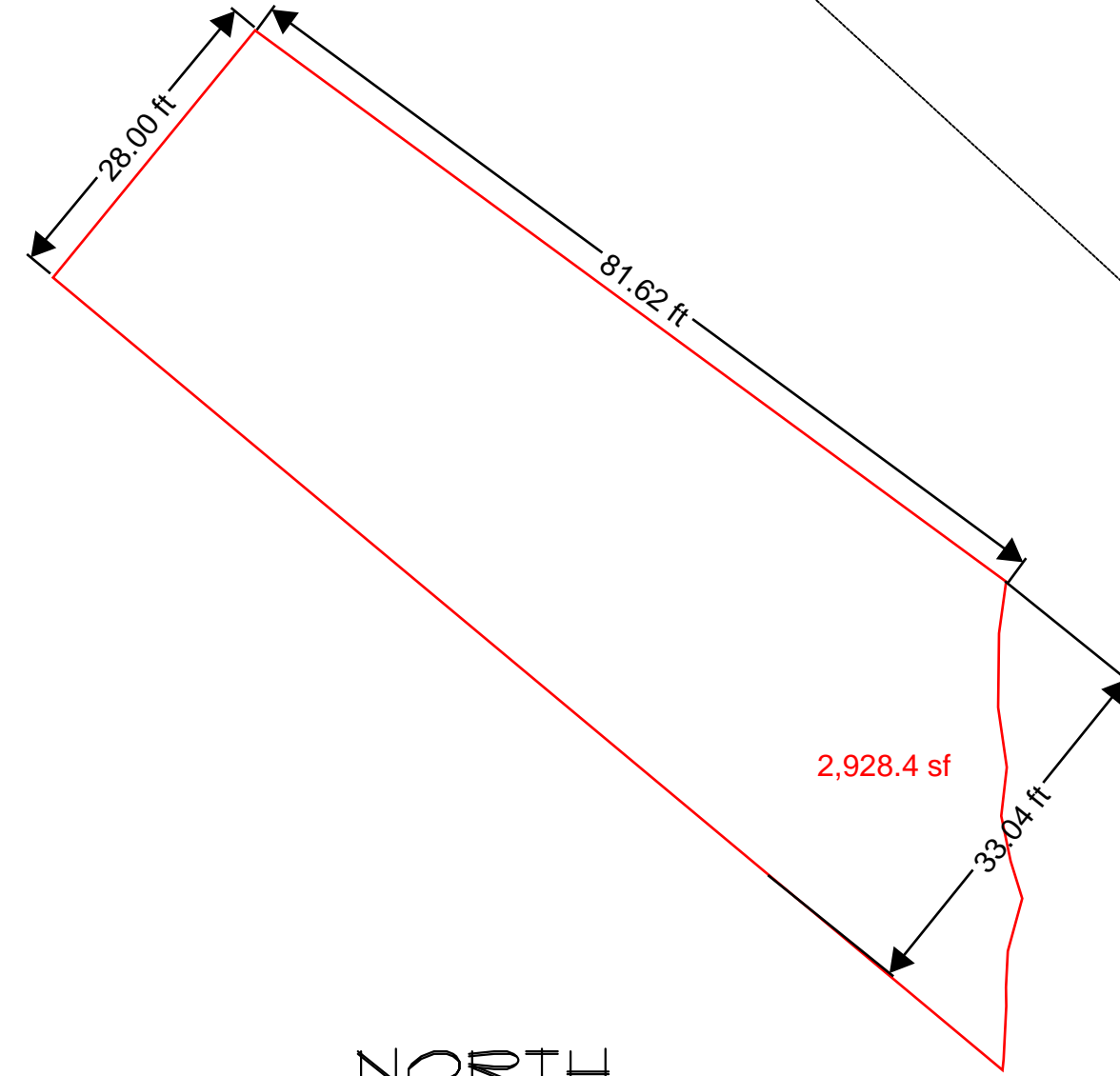
DATE :
 02/20/2024
 03/11/2024

SHEET NO.

A-1



SHEET INDEX	
A-1	SITE PLAN
A-2	BASEMENT LAKE LEVEL PLAN
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A-7	EXTERIOR ELEVATIONS
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EX-2	EXIST FLOOR PLANS



SITE PLAN

SCALE 1/16" = 1'-0"

RECEIVED 3/11/2024
 DEPT PARKS & LAND USE



Waukesha County
Department of Parks and Land Use

MEMORANDUM

To: Waukesha County Board of Adjustment

From: Ben Greenberg, Senior Planner

Date: April 10, 2024

Subject: Reconsideration of BA172, Ryan Lewis, W370 S1519 Utica Road. The subject property is described as Certified Survey Map No. 519, part of the NE ¼ of Section 4, T6N, R17E, Town of Ottawa.

At its March 13, 2024, meeting the Waukesha County Board of Adjustment (Board) approved a request for variances from the offset requirements, wetland setback requirements and the EC Environmental Corridor Overlay District green space preservation requirements of the Waukesha County Shoreland Protection Ordinance to allow the construction of a new detached garage. The approval (Exhibit A) was subject to several conditions, including a condition that established a maximum accessory building footprint of 1,000 sq. ft.

The petitioner's request for reconsideration is attached as Exhibit B. He states in his reasons that he would like the Board to amend one of the conditions of approval to allow for a garage larger than 1,000 sq. ft. The petitioner indicates that they were not properly prepared for the EC [issues] and now have a better approach to present.

The Board of Adjustment Rules of Procedure provide that the Board may entertain a request for reconsideration by an Appellant provided that the request is in writing and (1) based on new, substantial, or material evidence that could not have reasonably been presented at the previous hearing and the request includes the reason why the evidence was not available at the original hearing, or (2) when a previous variance or appeal was denied without hearing because the appellant failed to appear for the scheduled hearing and the appellant shows good cause for such nonappearance.

Based on the above information, the Planning and Zoning Division Staff recommends that the Board **not reconsider** the conditions of their previous decision on this matter, as the petitioner has not met either criterion for reconsideration. Staff addressed the matter at length in their written report which was made available to the petitioner well in advance of the hearing. In addition, the petitioner could have requested the Board table his request to a future meeting if more time to prepare was needed.

Attachments: Exhibits A and B

Planning and Zoning

515 W Moreland Blvd., AC 230 • Waukesha, Wisconsin 53188-3878

Phone: (262) 548-7790 • Fax: (262) 896-8071 • www.waukeshacounty.gov/planningandzoning

DECISION SHEET

WAUKESHA COUNTY
BOARD OF ADJUSTMENT
515 WEST MORELAND BLVD.
WAUKESHA, WISCONSIN 53188
(262) 548-7790

March 25, 2024

TO: Ryan Lewis
W370 S1519 Utica Road
Dousman, WI 53118

RE: BA172, Tax Key No. OTWT 1597.998, Certified Survey Map No. 519, part of the NE ¼ of Section 4, T6N, R17E, Town of Ottawa. More specifically, the property is located at the Utica Road address cited above.

HEARING DATE: March 13, 2024

Please be informed that the WAUKESHA COUNTY BOARD OF ADJUSTMENT took the following action on March 13, 2024 relative to your appeal:

CONDITIONALLY APPROVED the request for a use variance from the EC Environmental Corridor Overlay District green space preservation requirements and area variances from the offset and wetland setback requirements of the Waukesha County Shoreland Protection Ordinance to permit the construction of an accessory building, subject to the following conditions:

CONDITIONS:

1. The accessory building footprint is limited to a maximum of 1,000 sq. ft. with overhangs no greater than 2 ft. maximum width.
2. Prior to the issuance of a Zoning Permit, a Vegetation Removal Permit shall be submitted, reviewed and approved by the Planning and Zoning Division for any tree removal within the Primary Environmental Corridor necessitated by the proposed building. As part of the Vegetation Removal Permit, a Primary Environmental Corridor (PEC) Restoration Plan shall be submitted to the Planning and Zoning Division staff for review and approval that identifies the location, type and number of trees that are to be removed and the location, type and number of trees that are to be replanted. The replacement trees shall be of similar species as the existing trees to be removed and shall be of native origin to Wisconsin. Trees shall be replaced on a 1:1 ratio with trees that are a minimum of 2" in diameter at breast height in an area generally located along the PEC where the upper level driveway is to be removed (see condition 3). The approved plan that identifies the newly configured PEC disturbance envelope shall be filed with the Waukesha County Register of Deeds (by Waukesha County) and a deed restriction recorded by the property owner that identifies the BOA action, in addition to the maintenance responsibilities and preservation restrictions of the newly created PEC in perpetuity. This deed restriction may be combined with the deed restriction required in condition no. 4.
3. As proposed, the existing upper-level driveway shall be removed and the area replanted with trees in accordance with Condition 2 above, prior to the occupancy of the accessory building

or by October 1, 2024, whichever is sooner. The gravel removal shall be substantially compliant with the area shown on Exhibit D.

4. In order to further mitigate impacts to the high-quality wetland, prior to a Zoning Permit being issued, a Declaration of Restrictions shall be recorded that states no additional impervious surfaces are permitted on the property unless the impervious surfaces can be treated by a Stormwater Best Management Practice approved via a Stormwater Permit from the Waukesha County Land Resources Division.
5. The offset of the proposed accessory building shall be no less than 10 ft. to the northern property lines.
6. Prior to the issuance of a Zoning Permit, a complete set of building plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
7. Prior to the issuance of a Zoning Permit, a revised Plat of Survey showing the staked-out location of the accessory building and the final impervious surfaces to remain on the property shall be prepared by a professional land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
8. A revised Grading and Drainage Plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Waukesha County Department of Parks and Land Use - Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. The following information must also be submitted with the Grading and Drainage Plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage. The Grading and Drainage Plan may be combined with the Plat of Survey required in Condition No. 6.
9. If land disturbance exceeds 3,000 sq. ft. to construct the accessory building and remove and restore the driveway, a Stormwater Permit for Erosion Control from the Land Resources Division is required prior to the issuance of a Zoning Permit.
10. Prior to the issuance of a Zoning Permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a Sanitary Permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.

Please note: The required Declaration of Restrictions may be prepared either by the Waukesha County Department of Parks and Land Use – Planning and Zoning Division staff or by you or your attorney. Please contact the Planning and Zoning Division staff if you would like them to draft the Declaration of Restrictions. There is a fee of \$125.00 for this service. If you choose not to have the Declaration of Restrictions prepared by the Planning and Zoning Division staff, please submit a copy of the Declaration of Restrictions to the Planning and Zoning Division staff for review and approval, prior to recording it in the Waukesha County Register of Deed's office.

REASONS:

Based upon the petitioner's application, the staff analysis and comments submitted by the Waukesha County Parks and Land Use Department, comments made at the public hearing, and the Board's decision, all of which are incorporated herein by reference, the Board renders the above decision for the following reasons:

Though wetlands conditions are not uncommon on many lots in the area, the subject lot is unique with respect to the size and extent of onsite wetlands, which encompass approximately two acres of the three-acre property. When the seventy-five (75) foot wetland setback is applied, only 10,000+/- sq. ft. of the three-acre lot is located outside of a wetland or wetland setback area and a significant portion of that lands is within the required thirty-five (35) foot side yard offset and/or is within the PEC. In addition, the Ordinance would not provide an opportunity for the property owner to add a garage addition to the principal residence, as the existing residence is nonconforming to the wetland setback requirements. If the property were to be redeveloped, an oddly shaped building envelope of approximately 975 sq. ft. would be available to construct a residence that conforms to all Ordinance requirements (see green building envelope on Exhibit D). While a conforming building envelope exists for an accessory structure (see orange building envelope on Exhibit D), it is oddly shaped, sits on top of the existing well and could practically fit no more than a 200 sq. ft. shed located directly in front of the existing residence. Strict conformance with the Ordinance requirements would not allow this property to be reasonably redeveloped without variances or administrative relief as the wetland setback and more restrictive PEC Overlay District offset often overlap within the disturbance envelope. Therefore, a hardship is present from the wetland setback and offset provisions. Without constructing the building partially within the environmental corridor, the building would be located almost in front of the residence, which is also nonconforming to the offset requirement, and would make entering the garage more practically difficult. Therefore, as conditioned, the required tree removal is being mitigated on a 1:1 replanting ratio to expand the corridor in an area of the property that is not identified as PEC.

The property contains a high quality wetland with a known Critical Species Habitat. The petitioner stated that the upper-level gravel driveway would be removed and restored. This is a reduction of approximately 1,500 sq. ft. of impervious surface where the runoff goes directly into the wetland (see Exhibit D). As conditioned, a deed restriction restricting additional impervious surfaces from being added to the property without being treated for stormwater management offsets any potential impacts to the wetland.

A 2,400 sq. ft. accessory building is beyond the minimal relief necessary for the granting of a variance. However, the petitioner does not have enclosed storage space in the attached garage for cars and other gas-powered equipment to maintain the property due to an open flame furnace located within the attached garage. Therefore, we feel that a 1,000 sq. ft. accessory building would provide a reasonable space to store vehicles and other gas powered equipment.

Reconsideration: This decision and order of the Board of Adjustment may be subject to reconsideration at the next scheduled meeting of the Board of Adjustment, consequently the language contained herein may be subject to change or modification.

Appeal: Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment or any taxpayer or any office, department, board or bureau of the municipality, may appeal from a decision of the Board of Adjustment within thirty (30) days after the filing of the decision in the office of the Board of Adjustment in the manner provided in Section 59.694 of the Wisconsin Statutes. The decision was filed in the office of the Waukesha County Board of Adjustment on the date this letter was signed by the Secretary.

Any construction within the thirty (30) day appeal period is done at the risk of the appellant or landowner.

Expiration: Unless authorized by the Board of Adjustment, any variance or special exception that does not involve a permit must be exercised by the appellant **within two (2) years of the date of the board decision** granting the variance or special exception. If the variance or special exception does require a permit, the permit must be obtained **within two (2) years of the date of the board decision** granting the variance or special exception. If not exercised or obtained within the time allowed, the permit or privilege shall expire and become null and void. However, an extension of the permit or privilege may be granted by the Board upon written application of the appellant without additional fee and for good cause as determined by the Board.

When you comply with the conditions of approval, please notify the Planning and Zoning Division of the Waukesha County Department of Parks and Land Use, so any necessary inspections of your property can be made and a Zoning Permit issued.

If you have questions regarding this decision, please contact Rebekah Leto of the Planning and Zoning Division of the Waukesha County Department of Parks and Land Use at 262-548-7790 or rleto@waukeshacounty.gov.

Respectfully yours,

Nancy Bonniwell

March 25, 2024

Nancy Bonniwell
Acting Secretary, Board of Adjustment

Date

cc: Waukesha County Board of Adjustment Members (via e-mail only)
Ryan Lewis, owner, ryanlewisconstruction26@gmail.com (via email only)
Bobbi Lewis, owner, LLAuditingLLC@outlook.com, (via email only)
Matt Gralinski, mgralinski@hrblawfirm.com, (via email only)
Town of Ottawa Clerk (Also, please distribute to the Town Plan Commission and Town Board at your discretion) (via email only)
Town of Ottawa Building Inspector (via email only)
Town of Ottawa Planner (via e-mail only)
Christine Mommaerts, Waukesha County Board Supervisor (via email only)
Dale Rezabek, DNR Regional Shoreland Specialist, dale.rezabek@wisconsin.gov (via e-mail only)
Skylar Behm, Environmental Health Division (via email only)
File

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
 PLANNING AND ZONING DIVISION
 515 West Moreland Blvd. Room AC 230
 Waukesha, Wisconsin 53188
 (262) 548-7790
 Website: www.waukeshacounty.gov

Exhibit B

**SUBMITTAL DATE
 OF REQUEST**

RECEIVED

Waukesha County Dept Parks
 and Land Use
 03/27/2024

**REQUEST FOR RECONSIDERATION OF A DECISION OF THE
 WAUKESHA COUNTY BOARD OF ADJUSTMENT**

A request for reconsideration must be filed in the office of the Board no later than thirty (30) days from the date of the filing of the Board's Decision.

BOA File No.: 172 LEWIS

Town Ottawa Address of Subject Property 4370 S1519 UTICA RD

Tax Key No(s) OTWT 1597.998 Section 4 Legal Description MAP No. 519 part of NE 1/4 of section 4, T6N, R17E, Town of Ottawa

Ryan Lewis 4370 S1519 UTICA RD DOUGSMAN WI 53118 262 327-5199
 Owner Mailing Address City State Zip Daytime Phone No.

Applicant (if different) Mailing Address City State Zip Daytime Phone No.

Email address and/or fax number: RYAN LEWIS CONSTRUCTION 26@GMAIL.COM

A request for reconsideration must be (i) based upon new, substantial, or material evidence that could not have reasonably been presented at the previous hearing and the request shall include the reason why the evidence was not available at the original hearing, or (ii) when a previous variance or appeal was denied without hearing because the appellant (owner or agent) failed to appear for the scheduled hearing and the appellant shows good cause for such nonappearance.

REASON(S) FOR REQUEST FOR RECONSIDERATION (please describe request in detail and attach additional pages, plans, surveys, etc., as necessary):

Would like to request upgrade in size from 1000 sq ft that was granted. We were very unprepared for the E.C. property. We have a better approach present. Attached is a letter of explanation and photos (Aerial photos) of size comparisons of proposed new area where building will be.

The undersigned owner hereby certifies that all of the above statements, information and attachments contained herein (site plan/survey, building plans, exhibits, etc.) are true and accurate to the best of his or her knowledge and belief.

[Signature]
 Signature of the Owner

3-27-24
 Date

Signature of the Applicant (if different from above)

Date

- The filing of a request for reconsideration, the approval of a motion for reconsideration, or a hearing based upon the reconsideration does not toll or stop the running of the 30 day period to appeal the original decision of the Board to the circuit court.
- The Board may only allow one reconsideration request of a previous decision based upon a request of an appellant (owner or agent), and only one reconsideration request may be made on the application form.
- Application must be complete upon submittal. Once the public notice has been sent, no changes to the request may be made.
- If any changes or deviations from the request are desired after the public notice has been sent, a new application will be required.
- Submittal, and subsequent review, of this application may include a site inspection. Please advise the staff if dogs are not secured on the site and/or if dogs would be a problem during the inspection.
- Please advise the staff of any scheduling conflicts at the time of submittal, and we will attempt to accommodate your schedule.

Waukesha County Board,

First, we would like to thank you for the variance approvals that you have granted us thus far.

We do agree to all terms set forth in the meeting. We were misled and the wrong information to come prepared for a proper presentation, for that we are sorry for wasting that time. We were prepared only to present a building that met the requirements of 2% of our lot size. Knowing now that we don't have a typical residential lot, but in fact an Environmental Corridor lot that obviously purposes different terms.

We do own a unique property that comes with extra tasks throughout the seasons. For example, we will still have a large driveway at over 300ft, that will require a 4-wheeler with a plow on it for snow removal. However, when the snow gets to heavy the skidsteer will need to move the piles of snow when the 4-wheeler cannot. The skidsteer also regrades the gravel driveway as it must be done 3 times a year. The property is surrounded by trees, sometimes in big storms we have lost up to 3 trees and numerous sizable tree limbs. Which takes the help of the tractor and the skidsteer to move them. To help with that clean up the tractor also has a woodchipper and a log splitter that runs off the tractor's (PTO) power take off.

Between the 4wheeler/plow, skidsteer, tractor its accessories, lawn tractor and equipment to take care of the yard on a weekly basis and not to mention the fishing boat we have to take our family fishing. All of that alone takes up the 1000sqft you have granted us. Which also leaves us with minimal room to maintain that equipment.

We are asking for the reconsideration from the board for a bit more relief in the size of the building. We would like to propose 30x50 (1500 sqft) which is almost 1000sqft smaller than our original proposal. I laid things out at 25X40 (1000 sqft) and it does not leave any room to walk around the vehicle much less maintain it. We are not seeking the biggest garage, just enough to comfortably store our belongings from the elements.

Being that the garage will need to be cut into a hill, we feel like disrupting the property and putting forth that much money and effort is not worth the 1000sqft that doesn't cover the basic needs. We are asking for no changes to the previous meeting outcome except for a slight upgrade in the building size.

1500 sqft would suffice are needs as well as beautify the property for us and our neighbors around us.

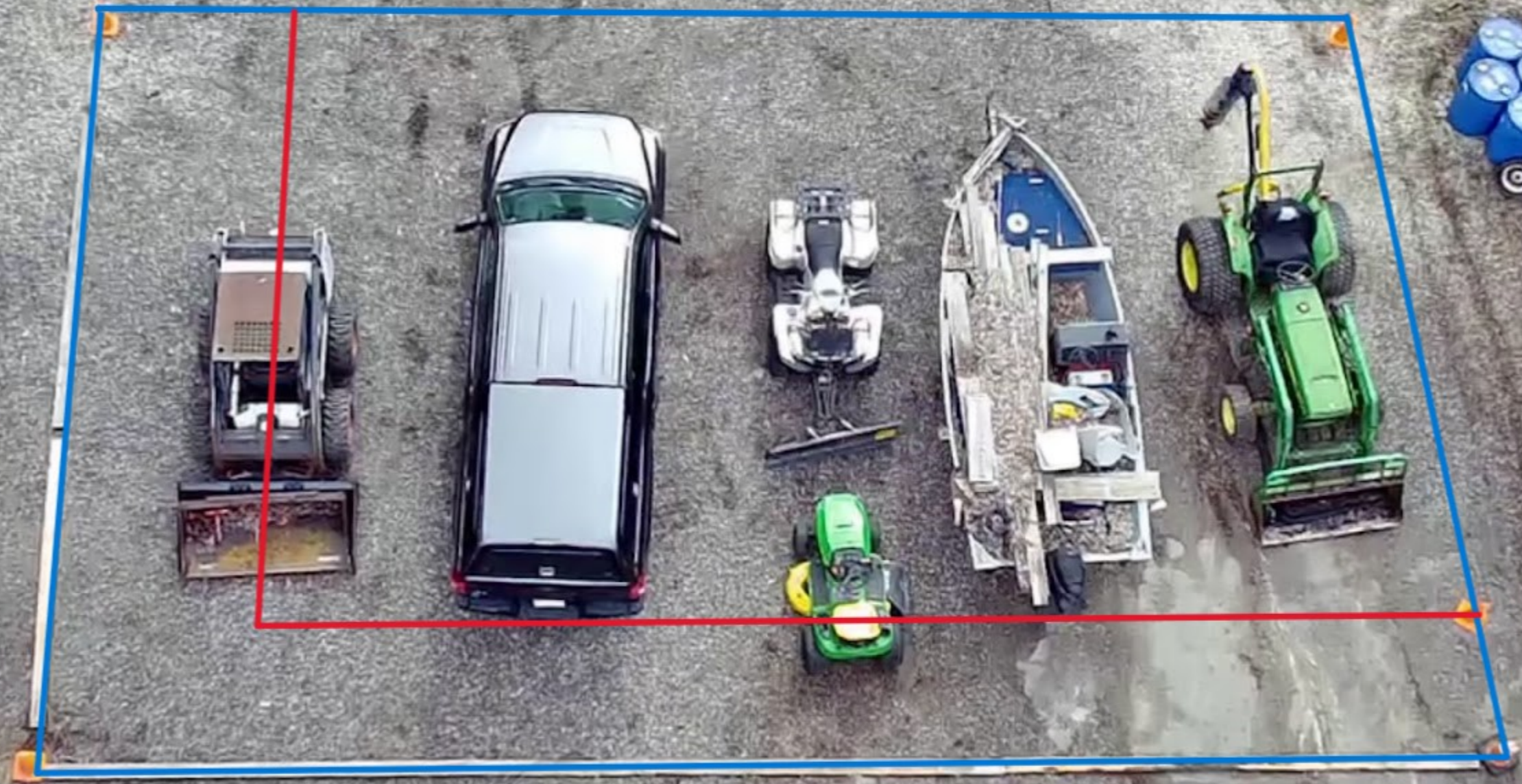
Please see attached pictures showing the size difference between a 1000sqft building and a 1500sqft building.

Thank you for your time,

Mr. & Mrs. Lewis

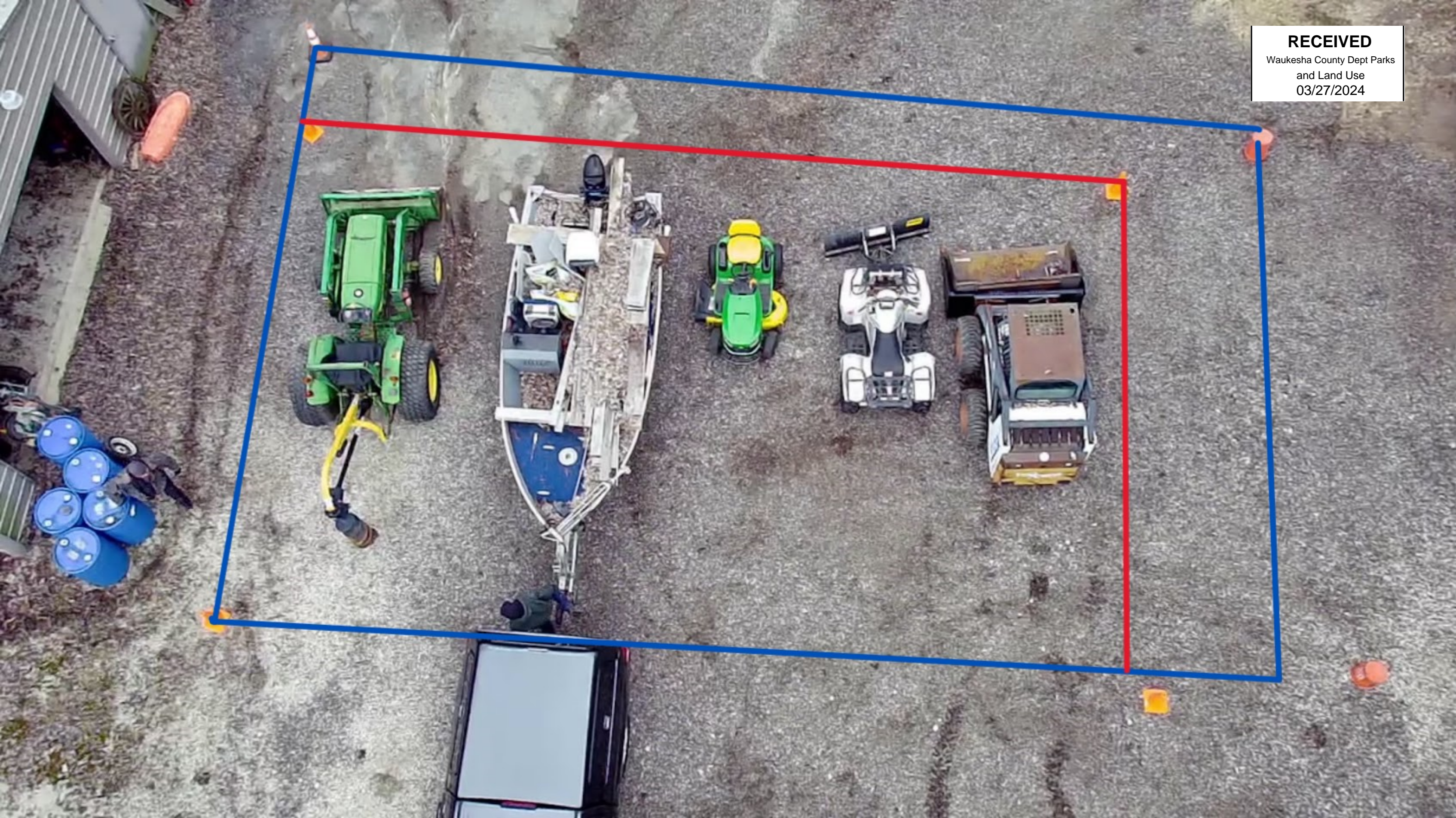
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