



PLANNING COMMISSION/BOARD OF ADJUSTMENT

Tuesday, September 12, 2023 at 7:00 PM

City Hall 8319 Co. Rd. 11 Breezy Point, MN 56472

(218) 562-4441 | Office Hours 8:00 a.m. - 4:00 p.m. | cityadmin@cityofbreezypointmn.us

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. APPROVAL/AMENDMENT OF THE AGENDA

5. OPEN FORUM

Items not included in the agenda.

6. APPROVAL OF MINUTES

A. August 8, 2023 Regular Planning Commission/Board of Adjustment Meeting Minutes

7. COUNCIL LIAISON REPORT

A. September 5, 2023 City Council Meeting

8. NEW BUSINESS

A. Public Hearing: Variance Application V-23-005 James and Susan Sackreiter 32601 Point. Lot 31 Trotter-Cade. Parcel 10030538. Request to expand legal nonconforming use (dwelling) proposed 8' x 32' addition to dwelling. Proposed addition 24 feet from OHW. Zone R-2.

- 1) Open Public Hearing
- 2) Applicant Presentation
- 3) Staff Review
- 4) Public Input
- 5) Close Public Hearing

B. Official Action Variance Application V-23-005

9. OLD BUSINESS

10. STAFF REPORTS

11. COMMISSION MEMBER REPORTS

12. ADJOURN

Breezy Point Planning Commission/Board of Adjustment

**August 8, 2023
Regular Meeting**

The regular meeting of the Breezy Point Planning Commission/Board of Adjustment was called to order by Commission Chair Marcy Weaver at 7:00 p.m. Those in attendance included members Joe Ayers, Lee Brisbin, Roger Theis, Marcy Weaver, and Teddy Zierden; City Planner Jerry Bohnsack, Administrator Clerk David Chanski, and Deputy Clerk Deb Runksmeier.

Approval of Agenda

Motion Theis/Zierden to approve Agenda, Motion Carried 5-0

Approval of 7/12/2023 regular meeting

Motion Theis/Zierden to approve the minutes as written, Motion carried 5-0.

City Council Liaison Report

Administrator Chanski reported on the August 1 council workshop and the August 7 city council meeting.

Open Forum

No one spoke

Public Hearing – Rezoning Petition (Application) Whitebirch, Inc. Rezone property presently Zoned R-1 and RC to R-4.

OUTLOT A, LOT 1, LOT 2, and LOT 3, BLOCK ONE, WHITEBIRCH VISTA, according to the record plat thereof, Crow Wing County, Minnesota. AND That part of OUTLOT E, WHITEBIRCH SEVEN, according to the record plat thereof, Crow Wing County, Minnesota described as follows; Commencing at the Southwest corner of Block 3, said plat; Thence North 21 degrees 42 minutes 41 seconds West, assumed bearing along the westerly line of said Block 3, a distance of 1355.00 feet to an angle point thereon; thence North 44 degrees 18 minutes 38 seconds East 121.41 feet to the Southwesterly Right of Way line of County State Aid Highway Number 11 as platted; thence North 45 degrees 41 minutes 22 seconds West along said Right of Way line 350.00 feet to the Point of Beginning of the tract to be herein described; thence South 44 degrees 18 minutes 38 seconds West 150.41 feet; thence North 45 degrees 41 minutes 22 seconds West 150.55 feet to the easterly line of Whitebirch Vista, according to the record plat thereof said County; thence northeasterly along said easterly line 150.41 feet to said westerly Right of Way line; thence South 45 degrees 41 minutes 22 seconds East 150.55 feet to the Point of Beginning.

The Public hearing was opened by Chairperson Weaver.

Mr. David Landecker representing Whitebirch, Inc. reviewed the request to rezone to facilitate construction of 4 – Twin Home Units. Similar to units in Whitebirch Village. Mr. Landecker further reviewed plans to extend municipal sewer to the Chickasaw Circle Cul-de-sac.

Planner Bohnsack reviewed the staff report.

Mr. Roger Jensen 7841 Chickasaw Circle and Mr. Jamie Hukriede 7778 Chickasaw Circle reviewed concerns with the commission:

- 1) Safety of Intersection County Road 11 and Ouray Drive
- 2) Number of Units proposed
- 3) Sewer extension – timing and expense
- 4) Rental vs. Ownership

Chairperson Weaver Closed the Public Hearing.

Motion Ayers/Zierden to Recommend Rezoning of the following described property R-1 and RC to R-4.

OUTLOT A, LOT 1, LOT 2, and LOT 3, BLOCK ONE, WHITEBIRCH VISTA, according to the record plat thereof, Crow Wing County, Minnesota. AND That part of OUTLOT E, WHITEBIRCH SEVEN, according to the record plat thereof, Crow Wing County, Minnesota described as follows; Commencing at the Southwest corner of Block 3, said plat; Thence North 21 degrees 42 minutes 41 seconds West, assumed bearing along the westerly line of said Block 3, a distance of 1355.00 feet to an angle point thereon; thence North 44 degrees 18 minutes 38 seconds East 121.41 feet to the Southwesterly Right of Way line of County State Aid Highway Number 11 as platted; thence North 45 degrees 41 minutes 22 seconds West along said Right of Way line 350.00 feet to the Point of Beginning of the tract to be herein described; thence South 44 degrees 18 minutes 38 seconds West 150.41 feet; thence North 45 degrees 41 minutes 22 seconds West 150.55 feet to the easterly line of Whitebirch Vista, according to the record plat thereof said County; thence northeasterly along said easterly line 150.41 feet to said westerly Right of Way line; thence South 45 degrees 41 minutes 22 seconds East 150.55 feet to the Point of Beginning.

There being no further business the meeting adjourned at 7:39 p.m.

Submitted by Jerry Bohnsack
City Planner



CITY COUNCIL REGULAR MEETING

Tuesday, September 05, 2023 at 6:30 PM

City Hall 8319 Co. Rd. 11 Breezy Point, MN 56472

(218) 562-4441 | Office Hours 8:00 a.m. - 4:00 p.m. | cityadmin@cityofbreezypointmn.us

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. APPROVAL/AMENDMENT OF THE AGENDA

5. CLOSED SESSION PURSUANT TO MN STATUTE 13D.05 SUBD. 3(B) ATTORNEY-CLIENT PRIVILEGE TO DISCUSS POTENTIAL LITIGATION

6. OPEN FORUM

Items not included in the agenda.

7. ITEMS OF PUBLIC INTEREST

[A.](#) 2024 Preliminary Budget & Levy Presentation, Public Hearing, and Adoption

8. CONSENT AGENDA

One action, topics will not be discussed unless removed from consent agenda. Items requiring the expenditures of funds are budgeted items or have been previously discussed by the City Council.

[A.](#) August 1, 2023 City Council Workshop Minutes

[B.](#) August 7, 2023 Regular City Council Meeting Minutes

[C.](#) August 15, 2023 City Council Workshop Minutes

[D.](#) Approval of Claims in the Amount of \$147,133.39

[E.](#) Resolution 12-2023 Implementing a Salary Plan

[F.](#) Memorandum of Understanding with LELS Local #359 Setting 2024 and 2025 Wages

[G.](#) Public Safety Building Furnace Replacement

9. ITEMS REMOVED FROM CONSENT AGENDA

10. NEW BUSINESS

[A.](#) Proposed Ordinance 2023-03 Cannabis Regulations

[B.](#) Proposed Ordinance 2023-04 Cannabis Licensure and Retail Sale Moratorium

[C.](#) Planning & Zoning Administrator Position

[D.](#) Outdoor Warning Siren Discussion

[E.](#) Discussion on Council Committees

11. OLD BUSINESS

[A.](#) Disc Golf Course Event Permit

12. STAFF REPORTS

13. MAYOR AND CITY COUNCIL REPORTS

14. AGENDA FORECAST

15. ADJOURN

City of Breezy Point
Notice of Public Hearing
Tuesday, September 12, 2023, 7:00 p.m.
Breezy Point City Hall

Whom It May Concern:

Notice is hereby given that the City of Breezy Point Planning Commission / Board of Adjustment will hold a public hearing on Tuesday, September 12, 2023 at 7:00 p.m. or shortly thereafter at Breezy Point City Hall, 8319 County Road 11, to consider the following;

Variance Application V-23-005 James and Susan Sackreiter 32601 Timberlane Point. Lot 31 Trotter-Cade. Parcel 10030538. Request to expand Legal non-conforming use (dwelling) proposed 8' x 32' addition to dwelling. Proposed addition 24 feet from OHW. Zone R-2.

A notice relative to above listed request is sent to all property owners located within 350 feet of the applicant's property. Please share this information with your neighbor in the event that any property owner has been missed, or that our records are not correct.

Public is invited to attend and be heard on these matters.

Jerry Bohnsack, Planner
City of Breezy Point
218-569-1003
planner@cityofbreezypointmn.us

Echo Journal
August 30 & September 6, 2023



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Section 8, Item A.

Received by City: 08/11/2017
Application Number: V-23-005
Non-refundable Fee Paid: 250.00
Receipt #: 22392



8319 County Road 11
Breezy Point, MN 56472
Phone: (218) 562-4441
Fax: (218) 656-1326
www.cityofbreezypointmn.us

Variance Application

Name of Applicant James and Susan Sackreiter
Address 32601 Timberlane Point Email: jim@sackreiter.net
City, State, Zip Breezy Point, MN 56472
Phone 979-203-5840 Alternate Phone 979-203-5620

Physical Address / Location of Property 32601 Timberlane Point

Legal Description of Property TROTTER-CADE LOT 31 & ALSO INCL PT OF VACATED TIMBER LN ON DOC #897023.

Parcel ID Number 101400000310009 Zoning District _____

Applicant is:

- Legal Owner of Property
- Contract Buyer
- Option Holder
- Agent
- Other _____

Title Holder of Property (if different than applicant):

Name _____
Address 32601 Timberlane Point
City, State, ZIP Breezy Point, MN 56472
Phone 979-203-5840

State the nature of your request in detail. What are you proposing for your property?

The Sackreiters desire to extend the east side of their house eight feet (8') in a generally easterly/northeasterly direction to allow for a second bathroom and to enlarge two (2) bedrooms.

DocuSigned by:

James Sackreiter

Signature of Owner, authorizing application

(By signing, the owner is certifying that he/she has read and understands the instructions accompanying this application.)

Signature of Applicant (if different than owner)

(By signing, the applicant is certifying that he/she has read and understands the instructions accompanying this application.)

By signing above, I acknowledge that I understand that I am responsible for all fees incurred by the City as a result of professional services provided by the City Engineer, City Attorney, and other contracted agencies in reviewing my application.

APPLICANTS, PLEASE NOTE: Pursuant to the Breezy Point Zoning Ordinance, the applicant should be prepared to explain the unique situation on the property that requires the proposed variance. The Zoning Ordinance defines a practical difficulty as follows: "A practical difficulty exists if the property in question cannot be reasonably utilized under the conditions allowed by the official controls, if the plight of the landowner is due to circumstances

unique to the property and not of his own making, and the variance (if granted) would not alter the essential character of the locality. Economic considerations alone shall not constitute a practical difficulty as reasonable use of utilization of the property exists under the terms of the Ordinance.”

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: See attached Exhibit A _____

Landscaping: _____

Parking/Signs: _____

2. What are the unique circumstances of the property (parcel size, shape, topography, or other characteristics not created by the landowner) that make strict interpretation of the Ordinance impractical?
See attached Exhibit A

3. How is granting this variance consistent with the intent of the City of Breezy Point Zoning Ordinance?
See attached Exhibit A

4. How will **reasonable** use of the property be deprived if the variance is not granted?
See attached Exhibit A

5. What other options, either conforming or non-conforming, have been considered and why were those options not chosen?
See attached Exhibit A

6. Describe the impact on the use and enjoyment of other property in the immediate vicinity. If there is no impact, explain why.
See attached Exhibit A

7. Describe the character of the area and the existing patterns and uses of development in the area. How is this proposal consistent with those patterns and uses?
See attached Exhibit A

8. Discuss any environmental limitations of the site or the area that limit building in other areas.
See attached Exhibit A

9. Please include any other comments pertinent to this request.
See attached Exhibit A

Definition of PRACTICAL DIFFICULTY: The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property not created by the landowner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a PRACTICAL DIFFICULTY if reasonable use for the property exists under the terms of the ordinance.

10. Please state the **practical difficulty** that exists with this property.
See attached Exhibit A

INSTRUCTIONS TO THE APPLICANT

Completed applications, with *all* submittal requirements, must be submitted to the Planning & Zoning Department no fewer than **25 days** prior to the meeting date. In order for your application to be accepted as complete, and to have a public hearing scheduled, the following

- _____ 1. This application must be completed, including responses to all parts of this application.
- _____ 2. The required fee must be paid. See fee schedule for details.
- _____ 3. Certificate of Survey with the following information, as a minimum, unless waived by the Planning Commission / Board of Adjustment.
 - _____ Legal description of the site.
 - _____ Site plan, prepared by a licensed surveyor, showing parcel and existing structure dimension, water features, and 10 foot contour lines (smaller contour lines may be required if deemed necessary by the Planning Department, Planning Commission, or City Council).
 - _____ Location of all structures and their square footage.
 - _____ Existing and proposed curb cuts, driveways, access roads, turn-arounds, parking including RV, boat and additional vehicle storage, off-street loading, and sidewalks. Size and type of surface should also be included.
 - _____ Proposed landscaping and screening plans: garbage dumpsters, areas preserved in natural state including buffer areas, areas to be developed into lawn (grass), areas to be covered by woodchips or mulch, garden areas, shrubbery, types, size, age, and number of proposed trees and their locations, exterior lighting to be proposed including location and type, any other items deemed appropriate.
 - _____ Square footage of all impervious coverage. Impervious coverage includes the horizontal area of all buildings, decks, roof overhangs, patios, walks, driveways, and any other parking areas and drives constructed of any material.
 - _____ Proposed drainage plan.
 - _____ Proposed and existing sanitary sewer and water supply plans with estimated usages on peak day.
 - _____ Soils data showing capability for building and on-site sewage treatment.
 - _____ Existing iron pipe boundary monuments marked with proof of survey.
 - _____ Approximate location of any proposed signs (if applicable).
- _____ 4. Color scheme for all existing and proposed structures.
- _____ 5. Outside storage proposal.
- _____ 6. Elevation plans for all existing and proposed structures.

Exhibit A

Please take this Exhibit as the answers to questions 1-10 of the Variance Petition for James and Susan Sackreiter and the lot located at 32601 Timberlane Point, Breezy Point, MN, 56472 (the "Subject Property").

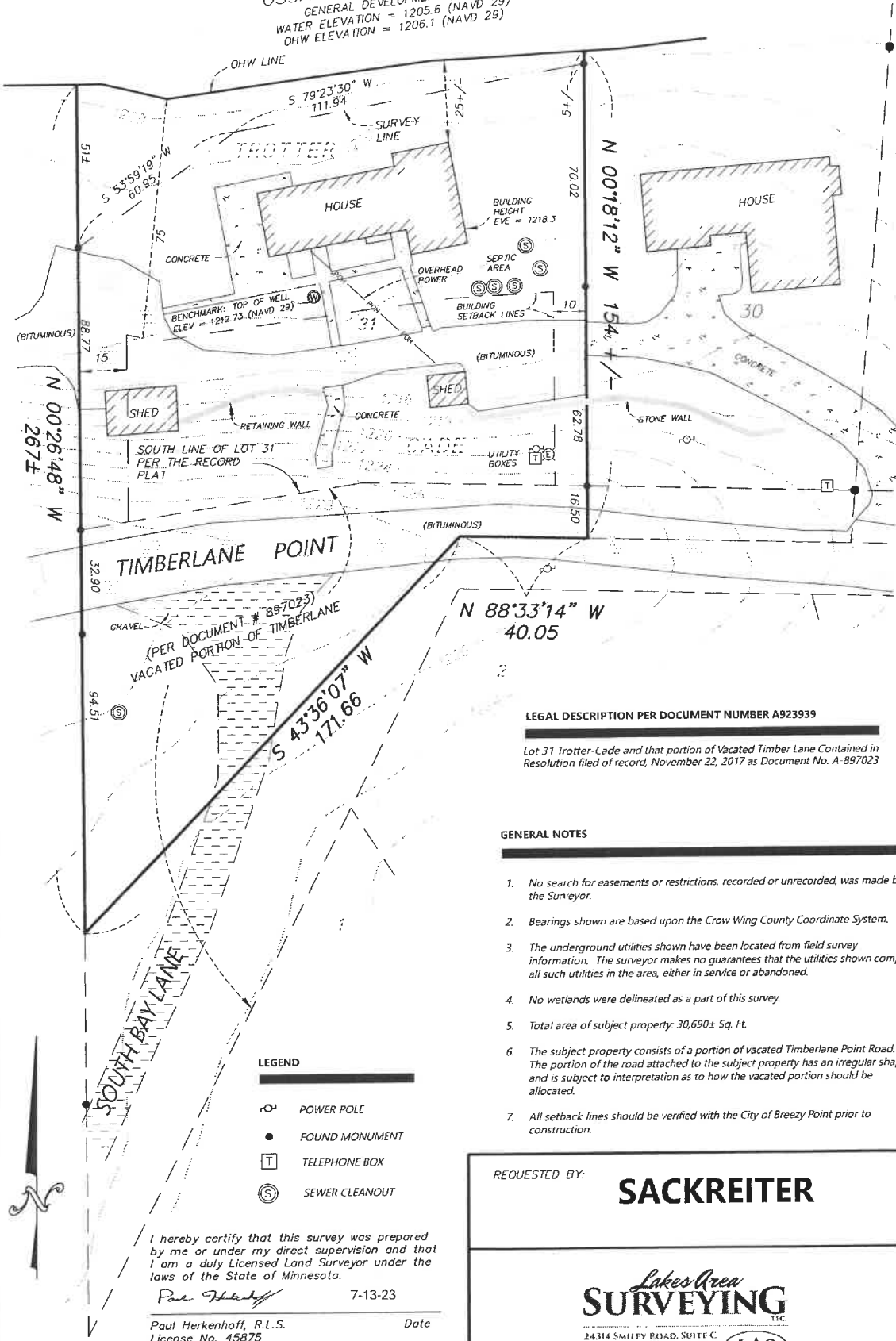
1. The Sackreiters' propose to extend the east wall of their house out eight feet (8').
2. The unique circumstances of the Subject Property that make strict interpretation of the Ordinance impractical are:
 - a. The lot is shaped in a way, and has a slope in it, that makes moving the driveway impossible.
 - b. A strict interpretation of the Ordinance would result in much more work, cost and environmental impact.
 - c. One of the stated goals of the Ordinance is to protect the environment so strict reading resulting in a greater impact on the environment does not seem practical.
3. Granting the variance is consistent with the intent of the Ordinance because Granting this application would increase the aesthetic and economic value to the surrounding properties. This variance would not cause any more impact on the shoreland, and any potential expansion of an encroachment would be negligible at worst. This variance would also, as stated in question 2, minimize impact on the local environment.
4. Reasonable use of the property will be deprived if the variance is not granted because the expansion will be negligible, if at all. Many lots in the local area have similar land use and encroach more of the shoreland than this proposed change.
5. Because of the topography of the property and layout of the house, no other options were seriously considered as they would have been incredibly burdensome on the environment and would have been extraordinarily more expensive.
6. There would be no negative impact on the enjoyment of other property in the immediate vicinity. This addition would not negatively impact the views of any neighbors and would only increase the aesthetic and economic values of the immediate area. The proposal would also not increase the number of visitors or increase the occupancy of the Subject Property.
7. The character of the area is single family residential homes in a shoreland area. There are numerous properties in the immediate vicinity of the Subject Property that encroach in a similar manner, or greater, than the proposal contained in this petition. This proposal simply allows the Sackreiters to use the Subject Property in the same way their neighbors have.
8. The slope of the lot confines the driveway to one location, it cannot reasonably be moved and there is further slope on the property that makes building in other locations impractical.

9. N/A

10. Due to the topography of this lot, the driveway cannot be moved and this proposed variance is for an encroachment that is of negligible change from the current encroachment. There are also many examples of similar land use in the immediate area so there would be no negative impact in the essential character of the locality, it will only enhance the locality.

CERTIFICATE OF SURVEY

OSSAWINNAMAKEE LAKE
 GENERAL DEVELOPMENT (GD)
 WATER ELEVATION = 1205.6 (NAVD 29)
 OHW ELEVATION = 1206.1 (NAVD 29)



LEGAL DESCRIPTION PER DOCUMENT NUMBER A923939
 Lot 31 Trotter-Cade and that portion of Vacated Timber Lane Contained in Resolution filed of record, November 22, 2017 as Document No. A-897023

GENERAL NOTES

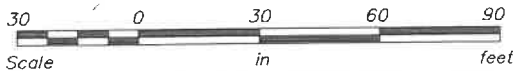
- No search for easements or restrictions, recorded or unrecorded, was made by the Surveyor.
- Bearings shown are based upon the Crow Wing County Coordinate System.
- The underground utilities shown have been located from field survey information. The surveyor makes no guarantees that the utilities shown comprise all such utilities in the area, either in service or abandoned.
- No wetlands were delineated as a part of this survey.
- Total area of subject property: 30,690± Sq. Ft.
- The subject property consists of a portion of vacated Timberlane Point Road. The portion of the road attached to the subject property has an irregular shape and is subject to interpretation as to how the vacated portion should be allocated.
- All setback lines should be verified with the City of Breezy Point prior to construction.

LEGEND

- POWER POLE
- FOUND MONUMENT
- TELEPHONE BOX
- SEWER CLEANOUT

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

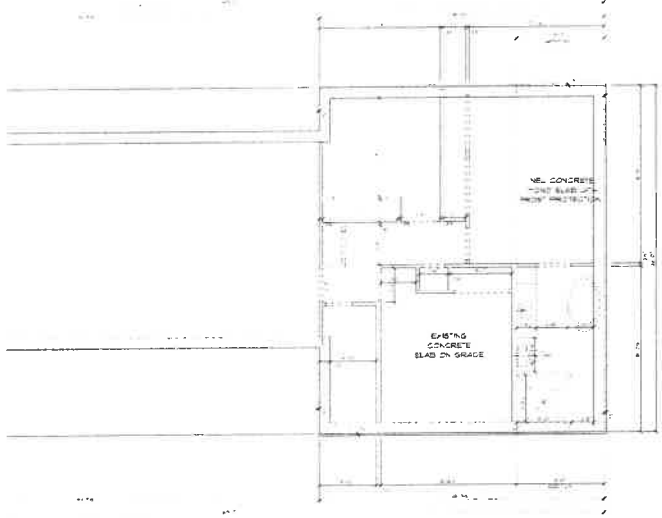
Paul Herkenhoff 7-13-23
 Paul Herkenhoff, R.L.S. Date
 License No. 45875



REQUESTED BY: **SACKREITER**

Lakes Area
SURVEYING
 LLC
 24314 SMILEY ROAD, SUITE C
 NISSWA, MN 56468
 OFFICE (218) 961-0090

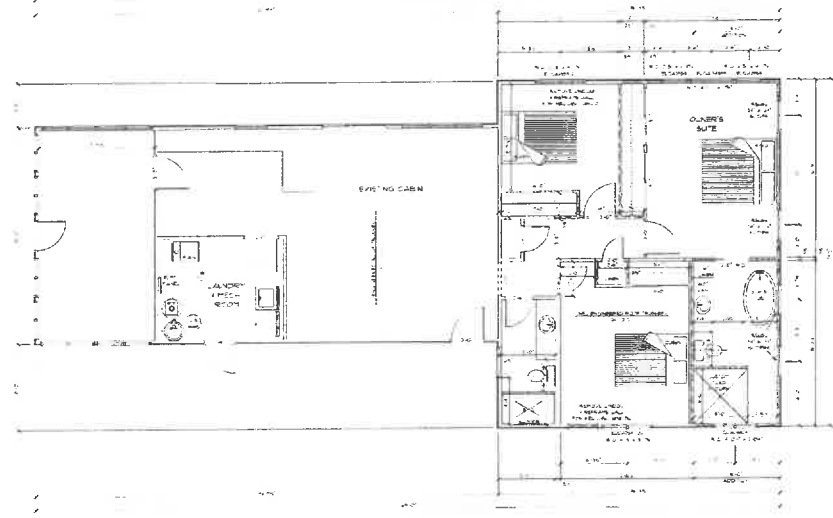
Drawn by: PDH Date: 07/13/23 Job No: 23-117



NEW FOUNDATION PLAN

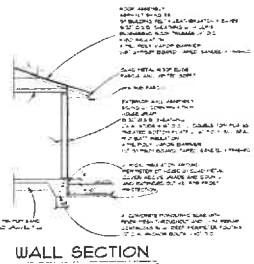
SCALE: 1/4" = 1'-0"

EXISTING BUILDING NOTES
 - THIS EXISTING BUILDING HEIGHT
 - EXISTING EXTERIOR CONCRETE SLAB
 WITH NO INSULATION



NEW MAIN LEVEL FLOOR PLAN

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

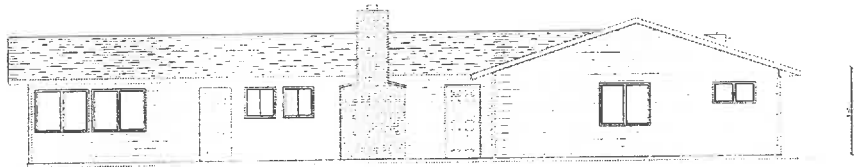


WALL SECTION
 SCALE: 1/4" = 1'-0"

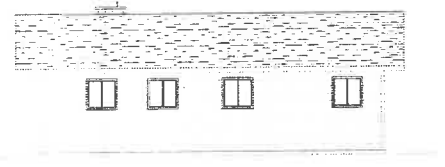
NOTE
 FIELD VERIFY ALL DIMENSIONS HEIGHTS AND
 SIZES OF EXISTING STRUCTURAL MEMBERS
 ALL DIMENSIONS ARE TO FACE UNLESS
 OTHERWISE NOTED
 2" X 4" OF INSULATION OVER ALL EXTERIOR
 OPENINGS, ALSEY OTHER SEE NOTES
 EXTERIOR DOORS BY THENPANELS OR
 EQUAL UNLESS OTHERWISE NOTED
 VERIFY ALL ENERGY CODE REQUIREMENTS
 WITH OWNER AND MANUFACTURER AND
 VERIFY ALL SIZES AND ROUNDS OPENINGS
 TO BE AS THE UNLESS NOTED - VERIFY
 EXTERIOR DOOR ROUGH OPENING HEIGHTS

VERIFY ALL TRIMMS, BEAMS AND
 PROFILES WITH TRUSS MANUFACTURER
 DETAILS AROUND ALL EXTERIOR
 AND DOORS
 VERIFYING OF ENERGY CODE REQUIREMENTS
 TO BE THE RESPONSIBILITY OF CONTRACTOR
 THIS PLAN WAS DESIGNED TO COMPLY WITH
 2009 INTERNATIONAL BUILDING CODES AT THE TIME
 AND FOR THE LOCATION LISTED HERE DRAWN
 CHECK WITH YOUR CONTRACTOR
 REGARDING LOCAL CODES THAT MAY VARY
 THE OWNER AND CONTRACTOR ASSUME THE
 RESPONSIBILITY TO COMPLY WITH LOCAL CODES.
 REVISED APR 30 2013

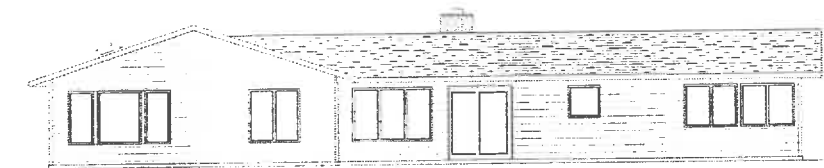
P.F.S. DESIGN LLC	
218-821-0630	
PROJECTION: 1/4"	PAGE NO: 2-2
DATE: APR 30 2013	
REVISED APR 30 2013	



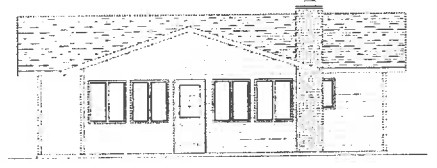
ROADSIDE ELEVATION
SCALE 1/4" = 1'-0"



RIGHTSIDE ELEVATION
SCALE 1/4" = 1'-0"



LAKESIDE ELEVATION
SCALE 1/4" = 1'-0"



LEFTSIDE ELEVATION
SCALE 1/4" = 1'-0"

P.F.S. DESIGN LLC	
218-821-0630	
PROJECT FOR	DATE
SUB BACKSTAYERS	1-2
DATE	
AUG 13 2013	

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of September 12, 2023

Variance Request 2023-005

Applicant: James & Susan Sackreiter

Legal Description: Lots 31 & portion of vacated Timberlane Point. Trotter-Cade

Address: 32601 Timberlane Point, Breezy Point MN 56472

Property Identification Number (PIN): 10030538

Zoning: Residential Medium Density R-2

Applicable Code: 153.007, 153.032, 153.044, 153.045, 153.120

Request:

Expand legal nonconforming use 8 ft. x 32 ft. addition to dwelling unit. 24 ft. from OHW.

Property:

The property is located on Timberlane Point (vacated portion) Access to property from shared driveway on adjacent 32635 Timberlane Point. This property and adjacent properties (east) is a narrow peninsula in Lake Ossawinnamakee. The property currently hosts a dwelling, two out buildings, driveway, and miscellaneous concrete ground cover. The existing dwelling is located within the 75 ft. setback and the NE corner of the dwelling is 25 ft. from OHW.

Because the dwelling is located within the 75 ft. setback from OHW the dwelling is considered Legal Non-conforming use.

The applicant is seeking variance to expand existing dwelling (legal non-conforming use) with addition 8' x 32' on East wall of dwelling NE corner of proposed addition 24 ft. +- from OHW.

The existing impervious coverage of the original Lot 31 is 31.24%

VARIANCE. A legally permitted deviation as provided in M.S. § 462.357, Subd 6, as it may be amended from time to time, from the provision of this chapter as deemed necessary by the Board of Adjustment when the strict interpretation of the ordinance would create practical difficulty and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance. Variances cannot create a land use not permitted in a zone.

Variance Review:

- Variance Review §153.120 E 1-5
- (E) Variances shall be decided within a reasonable time with considerations for the

following:

- (1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;
- (2) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;
- (3) The land use created by the variance is permitted in the zoning district where the property is located;
- (4) The variance will not alter the essential character of the locality; and
- (5) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.

Findings:

- 1) The applicant contends that the practical difficulty is _____
- 2) The property is part of a 1961 Plat.
- 3) The use is consistent with character of surrounding Neighborhood.
- 4) Impervious coverage is proposed to be 32.44%.
- 5) _____

The following finding of fact may be used to support denial of the Variance request.

- 1) The property preexists subdivision and zoning regulations.
- 2) The impervious Coverage does exceed 25% (31.24%)
- 3) The proposed expansions does encroach OHW more than the existing dwelling.
- 4) Proposed impervious coverage 32.44%

The following may be used to support Approval of the of the Variance request.

- 1) The subdivision was created prior to zoning and subdivision regulations. (1961)
- 2) The Request is inharmony with general purpose and intent of official controls and consistent with comprehensive plan.
- 3) The property owner is proposing to use the property in a reasonable manner.
- 4) The plight of the owner is due to circumstances unique to the property not created by the owner.
- 5) The Variance of granted will not alter the essential character of the locality.
- 6) The practical difficulty is _____.
- 7) If approved the following may be conditions of approval:
 - a) Minimum elevation of lowest floor 1210
 - b) Maximum impervious coverage ?
 - c) Develop surface water retention and management plan.
 - d) Other.

Planning Commission/Board of Review Direction

The Board may by resolution choose to approve, deny, or modify the requested variance. The resolution should clearly state the practical difficulty and reasons for approval, denial, or modification of the variance.

From: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Sent: Friday, September 1, 2023 2:57 PM
To: Deb Runksmeier <drunksmeier@cityofbreezypointmn.us>
Cc: Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>; Petrik, Daniel (DNR) <daniel.petrik@state.mn.us>
Subject: RE: Breezy Point Public Notice - 32601 Timberlane Point

Good afternoon Deb:

The MN DNR offers the following comments regarding the Sackreiter variance request(s):

The Minnesota DNR recommends DENIAL of the OHW setback request for the following reasons:

- 1.) The Variance is not due to circumstances unique to the property, and is created by the property owner:
 - a) Based on the certificate of survey provided from Lakes Area Surveying revised 8/21/2023, the existing residence is at 25 feet from OHW, represents a 75% existing deviation from the 75' GD classified lake setback. Further encroaching an additional one foot towards the OHW represents an exasperation of the issue, cause increased recreation and potential vegetation modification, increase impervious surfaces, and increase stormwater run-off close to open-water. This may result in reduced water quality benefits and a reduction in near-water habitat within the Shore Impact Zone (SIZ).
 - b) Unless other information is supplied to the contrary, there appears to be ample area to add an addition to the house on the west side, further away from the lake, and in an area already covered by existing concrete patio surfaces. It is also not clear why an addition could not be considered to the rear of the house or somewhere on the back-sides away from the lake.

- 2.) The variance is not in harmony with the purposes and intent of the Zoning Ordinance:
 - a) The proposed 8' addition to the east may end up causing a new variance from dwelling unit to septic tank – which MPCA rules mandates a minimum 10' setback from dwelling units to septic tanks. Doing so could cause maintenance access issues for pumpers and maintainers in the future. Measurements are not shown on the survey, but since the min. 10' distance is in doubt, the survey should be updated to include this information and a separate additional variance request will need to be called-out for and published within statutory timelines prior to a public hearing.
 - b) According to the certificate of survey, the proposed addition will result in an impervious coverage of 35.56%. According to the City of Breezy Point's Zoning Ordinance, Section 153.032 G23, the maximum allowed impervious coverage on this medium density residential (R-2) unsewered lot is 25%. Also, according to MN Rule 6120.3400 subp. 11 B(1), impervious surface coverage on residential lots in the Shoreland area must not exceed 25%. Any proposed improvements to this lot that involve increased impervious surfaces cannot and must not be considered unless/until the impervious coverage is reduced to 25%. Further, the Minnesota DNR would not be / is not supportive of any variance consideration to deviate from maximum impervious coverage LGU and State Rules.
 - a. For the above impervious coverage comment, the certificate of survey should be revised showing a detailed plan of how and where impervious surfaces are to be reduced to meet City and State shoreland rules standards, prior to considering the variance request for OHW setback due to a proposed addition. And, since it may result in an additional variance request for impervious coverage, a separate

additional variance request will need to be called-out for and published within statutory timelines prior to a public hearing.

- b. There appears to be ample opportunity to reduce impervious surface coverage by eliminating all of the concrete surfaces within the 75' building setback and also narrow the existing driveways and parking areas in the rear lot zone.

Thank you for allowing the DNR with an opportunity to comment on this application. Per Minnesota Rules, please be sure to send a copy of the record/notice of decision with supporting findings of fact within 10 days of decision for this application.

Jacob Frie

Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources

1601 Minnesota Drive

Brainerd, MN, 56401

Phone: 218-203-4367

Email: Jacob.frie@state.mn.us

mndnr.gov

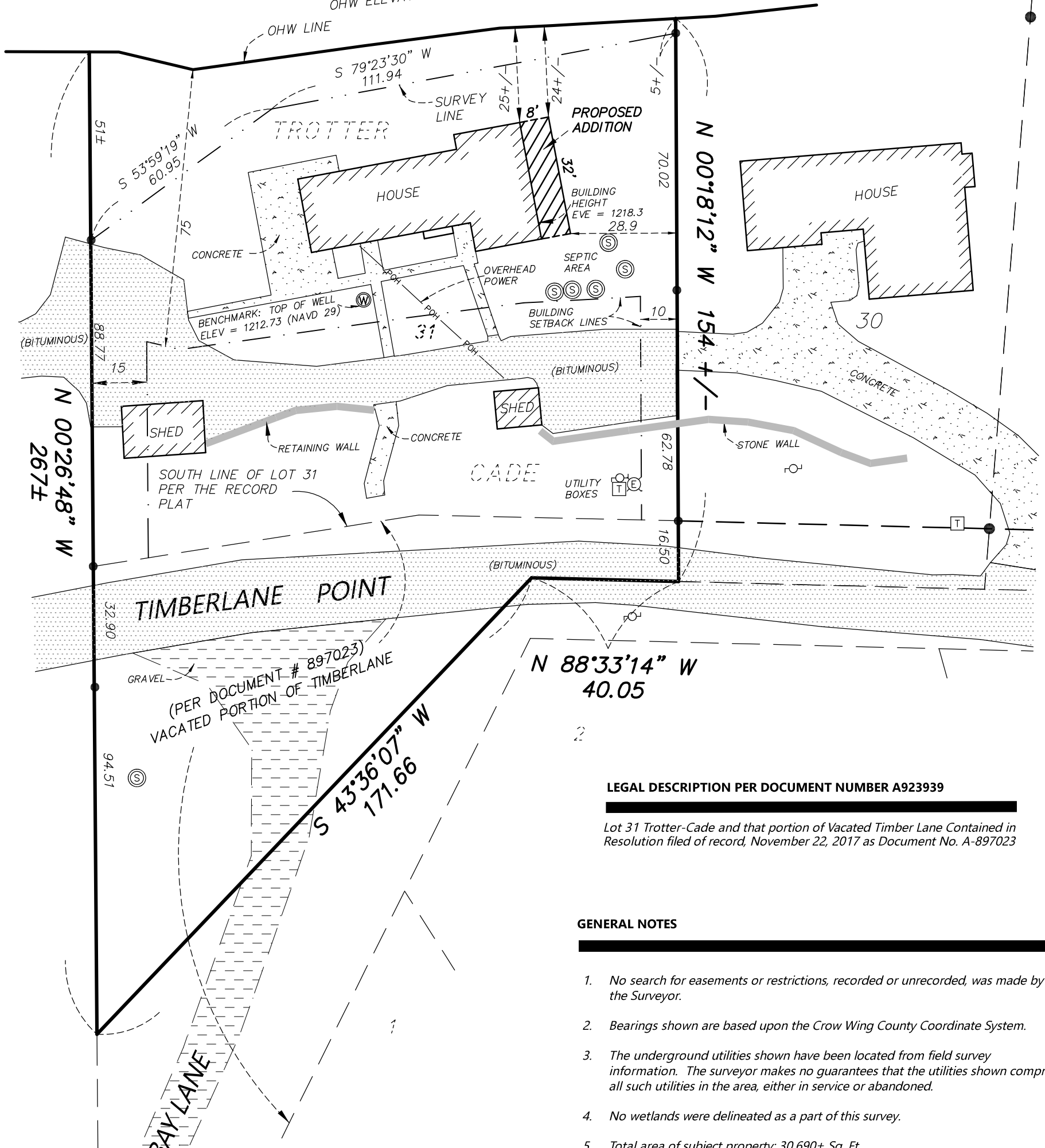




PROPOSED IMPERVIOUS CALCULATIONS ORIGINAL LOT 31			
EXISTING	IMPERVIOUS AREA (SQ. FT.)	GROSS AREA (SQ. FT.)	PERCENT IMPERVIOUS
BUILDINGS	2,179	21,202	10.28%
BITUMINOUS	3,365	21,202	15.87%
GRAVEL	0	21,202	0.00%
CONCRETE	1,079	21,202	5.09%
TOTAL	6,623	21,202	31.24%

CERTIFICATE OF SURVEY

OSSAWINNAMAKEE LAKE
 GENERAL DEVELOPMENT (GD)
 WATER ELEVATION = 1205.6 (NAVD 29)
 OHW ELEVATION = 1206.1 (NAVD 29)



LEGAL DESCRIPTION PER DOCUMENT NUMBER A923939

Lot 31 Trotter-Cade and that portion of Vacated Timber Lane Contained in Resolution filed of record, November 22, 2017 as Document No. A-897023

GENERAL NOTES

1. No search for easements or restrictions, recorded or unrecorded, was made by the Surveyor.
2. Bearings shown are based upon the Crow Wing County Coordinate System.
3. The underground utilities shown have been located from field survey information. The surveyor makes no guarantees that the utilities shown comprise all such utilities in the area, either in service or abandoned.
4. No wetlands were delineated as a part of this survey.
5. Total area of subject property: 30,690± Sq. Ft.
6. The subject property consists of a portion of vacated Timberlane Point Road. The portion of the road attached to the subject property has an irregular shape and is subject to interpretation as to how the vacated portion should be allocated.
7. All setback lines should be verified with the City of Breezy Point prior to construction.

LEGEND

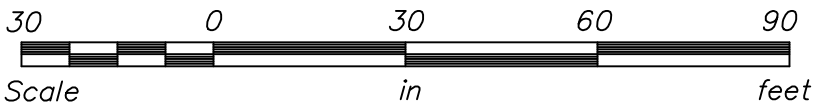
- POWER POLE
- FOUND MONUMENT
- TELEPHONE BOX
- SEWER CLEANOUT

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Paul Herkenhoff 7-13-23

Paul Herkenhoff, R.L.S. Date
 License No. 45875

REVISED 8-16-23



REQUESTED BY:

SACKREITER

Lakes Area
SURVEYING
 LLC.

24314 SMILEY ROAD, SUITE C
 NISSWA, MN 56468
 OFFICE (218) 961-0090



Drawn by: PDH

Date: 07/13/23

Job No: 23-117