



PLANNING COMMISSION/BOARD OF ADJUSTMENT

Tuesday, August 12, 2025 at 6:30 PM

Public Safety Building 8361 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. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. OPEN FORUM

5. APPROVAL OF MINUTES

[A.](#) June 10, 2025 Minutes

6. PUBLIC HEARING - CONDITIONAL USE APPLICATION C-25-002 Whitebirch, Inc. to Construct Social Club and Golf Cart Storage structures. Location existing Traditional Golf Course.

1- Open Public Hearing

2- Applicant Presentation

3- Staff Review

4- Public Input

5- Close Public Hearing

OFFICIAL ACTION CUP-25-002

[A.](#) CUP Application C-25-002

7. WHITEBIRCH INC - Presentation Introduction of planned Improvement to Breezy Point Marina Area.

8. SCOTT VEE REQUEST to Un-Consolidate Lots 17 & 18 Block 2 Breezy Point Estates. SW Intersection of North Drive and N Lakeview Drive

[A.](#) Request to Separate Lot Consolidation

9. OTHER

[A.](#) Variance Information

10. STAFF REPORTS

11. COMMISSIONER REPORTS

12. ADJOURN

Breezy Point Planning Commission/ Board of Adjustment June 10, 2025 Regular Meeting Minutes

Call To Order

The meeting was called to order at 6:30 pm by Chair Weaver.

Pledge Of Allegiance

The Pledge of Allegiance was recited by all present.

Roll Call

Interim City Administrator Jerry Bohnsack conducted the roll call. Joe Ayers, Lee Brisbin, Roger Theis, Marcy Weaver, and Roger Theis were present. Lee Brisbin and Teddy Zierden were absent. Staff present included Bohnsack and Deputy Clerk Deb Runksmeier.

Open Forum

The Chair opened the floor for public comments, but no one approached to speak.

Approval Of Minutes

March 11, 2025 Planning Commission Minutes

The Chair asked for any adjustments to the previous meeting minutes from March 11, 2025. No adjustments were proposed.

Thisis made a motion to approve the minutes. The motion was seconded by Ayers. All voted in favor, and the motion passed 3-0.

Breezy Point Resort Golf Course Update Presentation

David Landecker, representing Breezy Point Resort and Whitebirch, presented plans for significant changes and investments in the resort. He outlined three main topics:

- Changes to the Whitebirch Golf Course near holes 8 and 9.
- Modifications to the Traditional Golf Course.
- Development of a new social club and golf course.

For the Whitebirch course, Landecker explained that they would need to rezone an area from R4 to resort commercial, create a new plat, vacate existing easements, and obtain grading permits. The goal was to begin construction in the fall and complete most mass grading, with fine-tuning and seeding in the spring.

Regarding the traditional golf course, Landecker stated that they planned to shorten all fairways to create par-three holes. This change would not require permits, only involve moving tee boxes and some shaping. He emphasized that this modification would benefit the community by reducing the risk of golf balls entering residential areas.

For the new development, Landecker presented plans for a 12-hole lighted golf course with a social club clubhouse. The project would require conditional use permitting for the clubhouse and ancillary uses. He described features such as a 15,000 square foot clubhouse area, lighted golf course, 120 parking stalls, and a cart barn.

Eric Hart, Breezy Point Resort General Manager, explained the concept behind the new course design, emphasizing its educational aspect and the incorporation of template holes from famous courses worldwide. He also discussed the lighting plans, assuring that they would use directional lighting to minimize impact on surrounding areas.

The commissioners asked questions about the timeline, potential challenges, and impacts on the community. Landecker and Hart addressed these concerns, explaining their phased approach and efforts to mitigate any negative effects.

The Chair and other commissioners expressed appreciation for the presentation and the proactive approach to sharing information with the public.

Discussion Subdivision Of Consolidated Lots 8 & 9 Block 4 Whitebirch Four. 7602 Blackhawk Circle. Zoning R-1

Bohnsack presented a request for subdivision of consolidated lots at 7602 Blackhawk Circle. He explained that this request had initially come to him 3-4 years ago, but he had initially said it couldn't be done based on the ordinance.

Outlined several issues with the request:

- The current house was built over the property line between the two original lots.
- The subdivision regulations at the time required a 40,000 square foot lot size, while current regulations require 2.5 acres for new subdivisions in the R1 zone.
- There is a guest house and garage on the far side of the second lot, which would become a nonconforming use if subdivided.

Bohnsack shared correspondence between himself and the city attorney regarding these issues. He asked the commission to consider the matter but did not expect an immediate answer.

The commissioners discussed the complexities of the request, including:

- Whether to apply current regulations or those in place when the lots were originally purchased.
- The creation of nonconforming structures through subdivision.
- The potential for setting precedents that could lead to similar requests in the future.

Bohnsack mentioned that the commission might be looking at changes to lot size requirements in the future, which could affect how this request is viewed.

No decision was made, as this was presented for informational purposes and future consideration.

Other

Interim Administrator Bohnsack presented a request from a resident who wanted to place a container structure on their property for storage purposes. He explained that the current ordinance does not allow for such structures, except during construction or moving.

The commissioners discussed the pros and cons of allowing container structures, including:

- Their cost-effectiveness compared to traditional sheds
- Concerns about aesthetics and how they fit with the community's "up north" look
- The potential for these structures to become permanent fixtures

Bohnsack mentioned that he would share this information with the city council to see if there was any interest in changing the ordinance. He suggested that this topic could be revisited during the upcoming ordinance review process.

No decision was made, as this was presented for informational purposes and potential future consideration.

Staff Reports

Interim Administrator Bohnsack provided an update on staffing:

- A new administrator, Allie Polsfuss, will start on July 1st. She is currently the assistant administrator in Minnetrista and has previous experience in Savage and Eagle Lake.
- The move to the new city offices is progressing, with furniture being assembled and many finishes in place.
- The new council chambers are expected to be ready by September.

Commissioner Reports

A commissioner asked about the progress of filling staff positions.

The commissioners discussed the importance of allowing the new administrator to be involved in the hiring process for her team.

Adjourn

The Chair thanked everyone and adjourned the meeting at 8:05 pm.



8319 County Road 11
 Breezy Point, MN 56472
 Phone: (218) 562-4093
 Fax: (218) 562-4486
www.cityofbreezypointmn.us

Received by City: 07/10/20 Section 6, Item A.
 Application Number: C-25-002
 Non-refundable Fee Paid: 35000
 Receipt #: 24880

Conditional Use Application

Name of Applicant White Birch INC
 Address 9252 Breezy Point Drive
 City, State, Zip Breezy Point, MN 56472
 Phone 218-831-9283 Alternate Phone 218-820-4038
DAVID SPIZZO DAVID Landecker

Physical Address / Location of Property 30072 CLUBHOUSE LN

Legal Description of Property Part of NE 1/4 - NW 1/4 Sec 21 AND Part of SE 1/4 - SW 1/4 Sec 16, T136N, R28W Crow Wing County Torrens Property. see full legal description Attached Exhibit A.
 Parcel ID Number 10162074 Zoning District RG-resort Commercial

Applicant is: Legal Owner of Property Contract Buyer Option Holder Agent Other _____

Title Holder of Property (if different than applicant):
 Name _____
 Address _____
 City, State, ZIP _____
 Phone _____

State the nature of your request in detail. What are you proposing for your property?
Build Social Club/ Club house building AND ASSOCIATED FACILITIES FOR THE CONVERSION OF THE TRADITIONAL GOLF COURSE INTO 'ACE VALLEY' SHORT COURSE. See Various exhibits Attached See CONCEPT STATEMENT ATTACHED

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) David Spizzo Agent
 (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.

CONDITIONAL USE: A land use or land development, as defined by the Ordinance, that is allowed, but would not be appropriate without restrictions or conditions as determined by the Planning Commission. The proposed use must meeting the following standards: (a) the use or development is an appropriate conditional use in the land use zone, (b) the use or development with conditions conforms to the comprehensive land use plan, (c) The use with conditions is compatible with the existing neighborhood, and (d) the use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, or prosperity of residents in the City.

The following questions must be answered.

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

Building: Social Club building seating for 216 plus cart barns

Landscaping: patios, Golf Course

Parking/Signs: Parking to facilitate Club/Social building AND Golf Course New entrance on CSAT #4 (Intersection with Dove St)

2. Describe the impact on the use and enjoyment of other property in the immediate vicinity. If there is no impact, explain why.

There should be no impact on the use or enjoyment of properties in the immediate vicinity as the property will ultimately retain its current use. The Social Club House will be situated in the center of the property.

3. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses?

Existing land is currently noted as the traditional Golf Course. The new short course will maintain current use and patterns. The social club and cart barns and parking will replace the existing club house

4. Describe the impact on the capacity of existing or planned community facilities (sewer, drainage, other). Explain if additional facilities will be required.

The social club house building will be connected to the city municipal sewer system will have a private water well, drainage and grading will be maintained on site meeting all city and state requirements.

5. Describe the impact on the character of the neighborhood in which the property is located.

The social club house and golf course will be a marquee attraction for the neighborhood and entire community of Breezy Point.

6. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal?

The social club house and golf course will have a new entrance from CSAT #4 as shown on submitted site plans. Parking has been adequately designed to accommodate all needs and is further detailed in this application

7. Discuss any environmental limitations of the area that would limit or constrain construction on this property.

There are no environmental limitations that will constrain construction activities.

8. Please include any other comments pertinent to this request.

See various Attached Surveys, Site Plans
AND Building Plans.
See Concept Statement

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 information must be submitted:

- _____ 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. Legal description of the site.
- _____ 4. Site plan, drawn to scale, showing parcel and existing structure dimensions, 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).
- _____ 5. The site plan or should also show the location of all structures and their square footage.
- _____ 6. 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.
- _____ 7. 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.
- _____ 8. 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.
- _____ 9. Proposed drainage plan.
- _____ 10. Proposed and existing sanitary sewer and water supply plans with estimated usages on peak day.
- _____ 11. Soils data showing capability for building and on-site sewage treatment.
- _____ 12. Existing iron pipe boundary monuments marked with proof of survey.
- _____ 13. Approximate location of any proposed signs (if applicable).
- _____ 14. Color scheme for all existing and proposed structures.
- _____ 15. Outside storage proposal.
- _____ 16. Elevation plans for all existing and proposed structures.

EXHIBIT A

Traditional golf course PID # 10162074 Description

That part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) of Section Twenty-one (21), Township One hundred thirty-six (136) North, Range Twenty-eight (28) West and of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Sixteen (16), Township One hundred thirty-six (136) North, Range Twenty-eight (28) West, County of Crow Wing and State of Minnesota, described as follows: Beginning at the Northwest corner of said NE1/4 NW1/4 of Section 21; thence South 120.3 feet along the West line of said NE1/4NW1/4 to the Northwest corner of the Sixth Addition to Breezy Point Estates; thence East 50 feet along the boundary of said Sixth Addition to Breezy Point Estates; thence South 47 degrees 15 minutes East, 244.2 feet continuing along said boundary; thence South 31 degrees 24 minutes East, 200 feet continuing along said boundary; thence South 13 degrees 20 minutes East, 200 feet continuing along said boundary; thence South 21 degrees 38 minutes East, 200 feet continuing along said boundary; thence South 28 degrees 20 minutes East, 150 feet continuing along said boundary; thence North 79 degrees 54 minutes East, 159 feet continuing along said boundary; thence North 02 degrees 53 minutes East, 100 feet continuing along said boundary to the Southerly boundary of the Twenty-second Addition to Breezy Point Estates; thence North 08 degrees 13 minutes East, 78.70 feet along the Westerly boundary of said Twenty-second Addition to Breezy Point Estates; thence North 31 degrees 49 minutes East 123.10 feet continuing along said Westerly boundary to the Southerly boundary of Thirtieth Addition to Breezy Point Estates; thence North 70 degrees 08 minutes West, 32.36 feet along the Southerly boundary of said Thirtieth Addition to Breezy Point Estates; thence North 07 degrees 08 minutes East, 309.43 feet along the westerly boundary of Thirtieth Addition to Breezy Point Estates; thence North 27 degrees 46 minutes East, 359.7 feet continuing along said boundary; thence North 56 degrees 06 minutes East, 136 0 feet continuing along said boundary; thence North 12 degrees 50 minutes East, 159.74 feet to the Northerly line of said Thirtieth Addition to Breezy Point Estates; thence North 45 degrees 55 minutes East 93.88 feet; thence North 18 degrees 24 minutes East, 227.0 feet; thence North 29 degrees 41 minutes West, 99.08 feet; thence North 13 degrees 40 minutes East, 50.0 feet; thence North 08 degrees 51 minutes East, 129.89 feet; thence North 09 degrees 28 minutes East, 26.94 feet,; thence North 70 degrees 41 minutes West, 166.74 feet; thence North 19 degrees 19 minutes East, 176.27 feet to the Southerly boundary of Second Addition to Breezy Point Estates; thence North 69 degrees 43 minutes West, 551 34 feet along the Southerly boundary of said Second Addition to Breezy Point Estates; thence South 89 degrees 16 minutes West, 127.2 feet continuing along said boundary thence

North 06 degrees 48 minutes East, 80.69 feet along the Westerly boundary of said Addition, to the Southerly boundary of Breezy Point Drive in the Plat of Breezy Point Estates; thence South 89 degrees 16 minutes West, 480.6 feet along said Southerly boundary of Breezy Point Drive to the West line of said SE1/4 SW1/4, Section 16; thence South 00 degrees 02 minutes East, 1,264.8 feet along the West line of SE1/4SW1/4, Section 16 to the place of beginning; EXCEPTING THEREFROM the following described parcel; That part of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section Sixteen (16), Township One hundred thirty-six (136), Range Twenty-eight (28), Crow Wing County, Minnesota described as follows: Commencing at the Southwest corner of Lot 4-A, Third Addition To Breezy Point Estates; thence South 14 degrees 30 minutes west 222.20 feet; thence North 76 degrees 58 minutes 56 seconds West 80.43 feet to the actual point of beginning of tract to be herein described; thence North 76 degrees 58 minutes 56 seconds West 231.00 feet; thence South 13 degrees 01 minutes 04 seconds West 130.00 feet; thence South 76 degrees 58 minutes 56 seconds East 231.00 feet; thence North 13 degrees 01 minutes 04 seconds East 130.00 feet, more or less, to the point of beginning; AND ALSO EXCEPT: That part of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4), Section Sixteen (16), Township One hundred thirty-six (136), Range Twenty-eight (28), Crow Wing County, Minnesota described as follows: Commencing at the Southeasterly corner of Lot 4-A of Third Addition to Breezy Point Estates; thence North 67 degrees 57 minutes West, assumed bearing, along the Southerly line of said Lot 4-A a distance of 36.70 feet to the Southwesterly corner thereof; thence South 14 degrees 30 minutes West 222.20 feet; thence South 09 degrees 28 minutes West 125.27 feet to the point of beginning of tract to be herein described; thence South 8 degrees 51 minutes West 119.63 feet; thence North 83 degrees 37 minutes West 125.00 feet; thence North 8 degrees 51 minutes East 129.12 feet, more or less, to the Southerly line of Lot 5, Block 1, Pelican Greens; thence South 76 degrees 58 minutes 56 seconds East along said Southerly line 36.67 feet, more or less, to the Southeast corner of said Lot 5; thence South 80 degrees 12 minutes 30 seconds East 88.32 feet, more or less, to the point of beginning, County of Crow Wing and State of Minnesota.



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.

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of August 12, 2025

Conditional Use Application C-25-002

Applicant: Whitebirch, Inc.

Property Address: 30072 Clubhouse Road, Breezy Point MN 56472

Property ID: #10162074

Legal Desc: See Attached

Zoned: RC – Resort Commercial

City Code: 153.039 Resort Commercial RC

Construct Social Club Building and support facilities in conjunction with the rehabilitation of Traditional Golf Course.

The Property is Zoned – Resort Commercial. The property is currently utilized as a golf course serviced from existing clubhouse located at 30072 Clubhouse Lane.

Findings

Upon review of a Conditional Use application the commission needs to consider the findings as required in Section §153.119 (E). In review the commission should state whether or not the finding is acceptable towards granting the CUP, if applicable.

The following findings must be met:

- (a) The use or development is an appropriate conditional use in the land use zone

The property is zoned RC and the request is appropriate under Section §153.039 C-20.

- (b) The use or development with conditions conforms to the Comprehensive Land Use Plan.

- (c) The use with conditions is compatible with the existing neighborhood.

- (d) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.

The following must be considered:

- (a) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair property values in the immediate vicinity;

- (b) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

- (c) The conditional use will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;

The use does not require any additional public infrastructure.

- (d) The conditional use will promote and preserve the Northwoods character of the community;

- (e) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public

thoroughfares;

The proposed use is in keeping with the residential character of the neighborhood creating nominal additional traffic flow.

(f) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use;

The use is in keeping with the resort commercial use and character of the neighborhood creating nominal additional parking or loading requirements.

(g) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner that no disturbance to neighboring properties will result;

The proposed use is in keeping with the residential character of the neighborhood. No commercial use of the property is proposed as a condition of the CUP.

(h) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance; and

Not Applicable

(i) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

The proposed use is in keeping with the residential character of the neighborhood.

- Applicant has filed the appropriate application for CUP.
- Applicant has paid the appropriate fee for the application.
- Public notice of Conditional Use Hearing was published in the legal newspaper and all property owners within 350' were given mailed notice of said hearing.
- Public Hearing was held on Tuesday, August 12, 2025.

Staff has reviewed the following:

- Site Plan
- CUP Application
- Zoning Code compliance

153.039 C.

Social Club is a Conditional Use in Resort Commercial Zone. The existing use of the property is a golf course. The property will continue to be utilized as a golf facility. Social Club building and accessory structures to support and supplement golf course.

The following may be appropriate conditions for approval of C.U.P.

- 1) Applicant shall obtain Building Permit for Social Club and Accessory structure.
- 2) Applicant shall comply with all zoning requirements.
- 3) All structures shall comply with state building code.
- 4) Social Club to be serviced by municipal sewer.
- 5) Ingress and Egress to Social Club to be from County Road 4 and Dove Street intersection.
- 6) Permit for Ingress and Egress to be obtained from Crow Wing County Highway Department.
- 7) Applicant to comply with all terms of Entrance permit.
- 8) All surface water to be confined to the site.
- 9) Lighting of Golf Course to be focused on site.
- 10) Lighting of Golf Course to be controlled. Hours of Lighting _____ AM to _____ PM.

Concept Statement Proposed Social Club Planning Exhibit

Building: The Social Club building occupies approximately 6600 square feet of space and consists of three levels with total indoor and outdoor occupancy and seating capacity of 216 individuals. The Social Club will be the host for a variety of social opportunities and a significant investment to the community. This facility will service a bar, restaurant, two short golf courses, a putting course and potentially four pickleball courts.

Additional structures: Two cart barns will also be constructed to house the carts for the Ace Valley course, approximately 1400 square feet as well as a cart barn for use of the course west of CSAH # 4, approximately 2000 square feet.

Landscaping and screening: Plans for creating various berms for screening the parking and golf course will be included in the final design. Landscaping features such as plantings and shrubs will be constructed similarly to many of the recent projects the resort has completed. Referring to the Deacons golf course club house, Antlers club house, Whitebirch Village and Whitebirch Vista projects. Landscaping will be a significant part of the planning. Shared public pathways and a concealed dumpster site for the clubhouse are planned.

Lighting plans: The golf course will have a lighting plan associated with its function and will be timed to turn off and on depending on the needs to extend golf play during low light periods and dusk. The shut off time of these lights will vary by the season and by the end of September will not be on past 9PM.

A lighting plan for the entrance drive, sidewalk entrance and parking lot are also planned. Specific plans for lighting the golf course and parking are part of this submission.

Access: The Social Club and construction will require a new entrance from CSAH # 4. To ease potential congestion concerns and address safety needs, this entrance has been designed and located to create a common lined up intersection with Dove Steet and CSAH # 4. In addition, a new cart path crossing will be planned south of this intersection to allow the use of the golf course on the west side of CSAH # 4. This one path will replace the existing two cart path crossing on CSAH # 4 making that singular crossing safer all around. The intersection planning is being coordinated with the CWC Highway Department.

Parking: Social Club vehicular parking Lot has been designed as follows: 72 stalls to accommodate the Social Club, 32 stalls to accommodate the golf course, 12 stalls to accommodate pickleball facilities and 6 stalls for employee parking which is a total of 122 parking stalls, and more than we'd ever expect to need. The parking lay out includes 6 handicap stalls, and several pull through stalls for vehicles pulling trailers. In addition, there will be 24 designated golf cart parking stalls and 35 existing parking stalls at the old club house site.

Additionally, the new planned facilities are within walking distance to much of the resort, and serviced by the resort's shuttle like all the other courses at the resort, significantly limit the needs for vehicle parking. Overall planned parking stalls = 181, for all uses.

Storm Drainage and Grading: Storm drainage and grading will be maintained on site and meet all City and State regulations. A complete drainage plan and stormwater plan with applicable MN PCA permits will be obtained prior to construction.

Sewer and Water: The Social Club building will be connected to the City Municipal system. A private well will be constructed for water and fire protection services.

Environmental: There exists one delineated wetland on the site which was delineated by Mitch Brinks. This wetland will not be reduced or eliminated by the plans or construction methods. In addition, there is a stormwater pond and easement to Crow Wing County for stormwater drainage along CSAH # 4. This pond and easement will not be reduced or compromised by plans or construction methods.

Demolition: Existing bituminous cart paths and the concrete tennis courts will be removed during construction.

Additional planned facilities: A golf practice facility will be located at the southerly end of the project utilizing the existing green and partial fairways for putting and chipping. Pickleball courts are planned on the south end of the Social Club parking area with their own parking spaces.

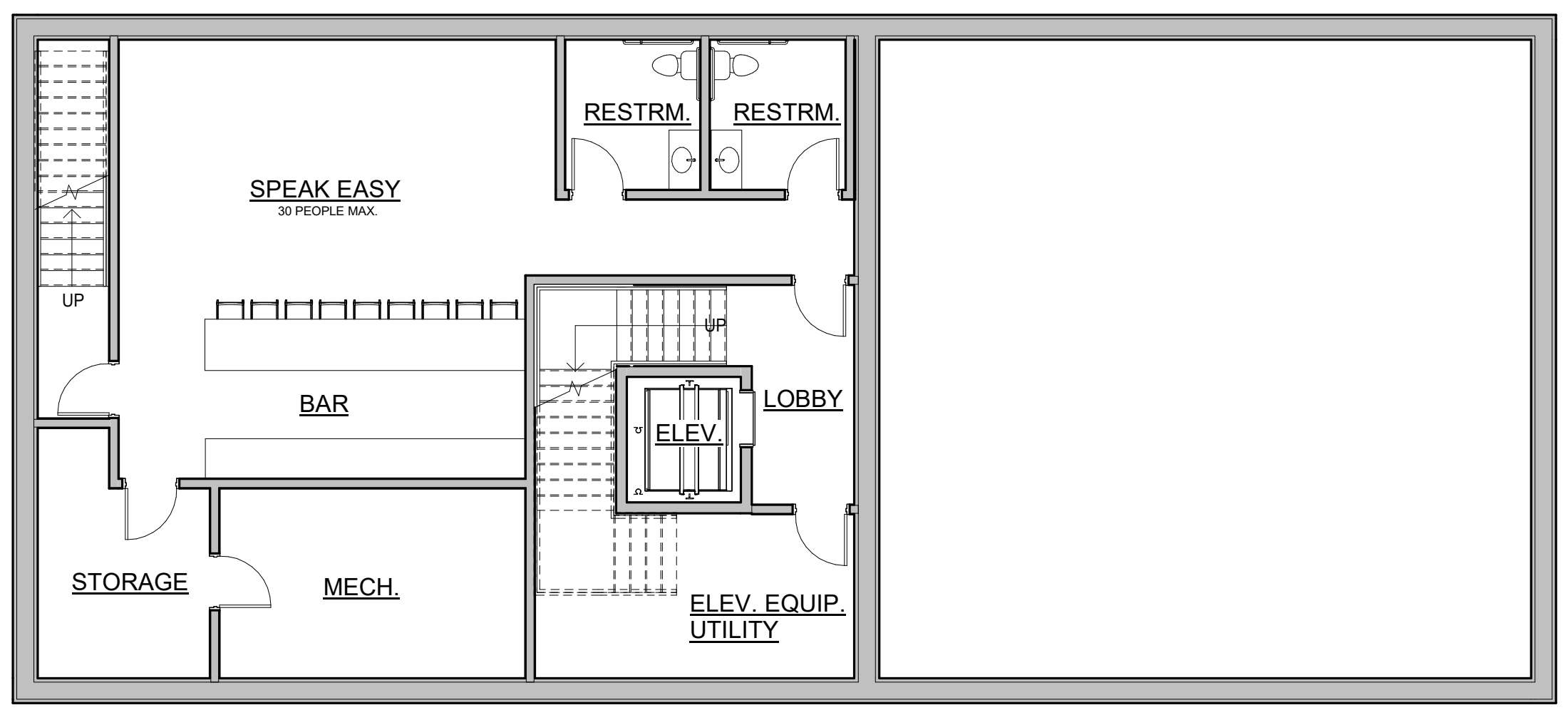
Future planned housing: The area around where the current club house occupies will be considered in the future for up to approximately 24 housing units. Future plans associated with this would need to meet and be applied for separately with the City of Breezy Point meeting all ordinance requirements.

Proposed Conditions

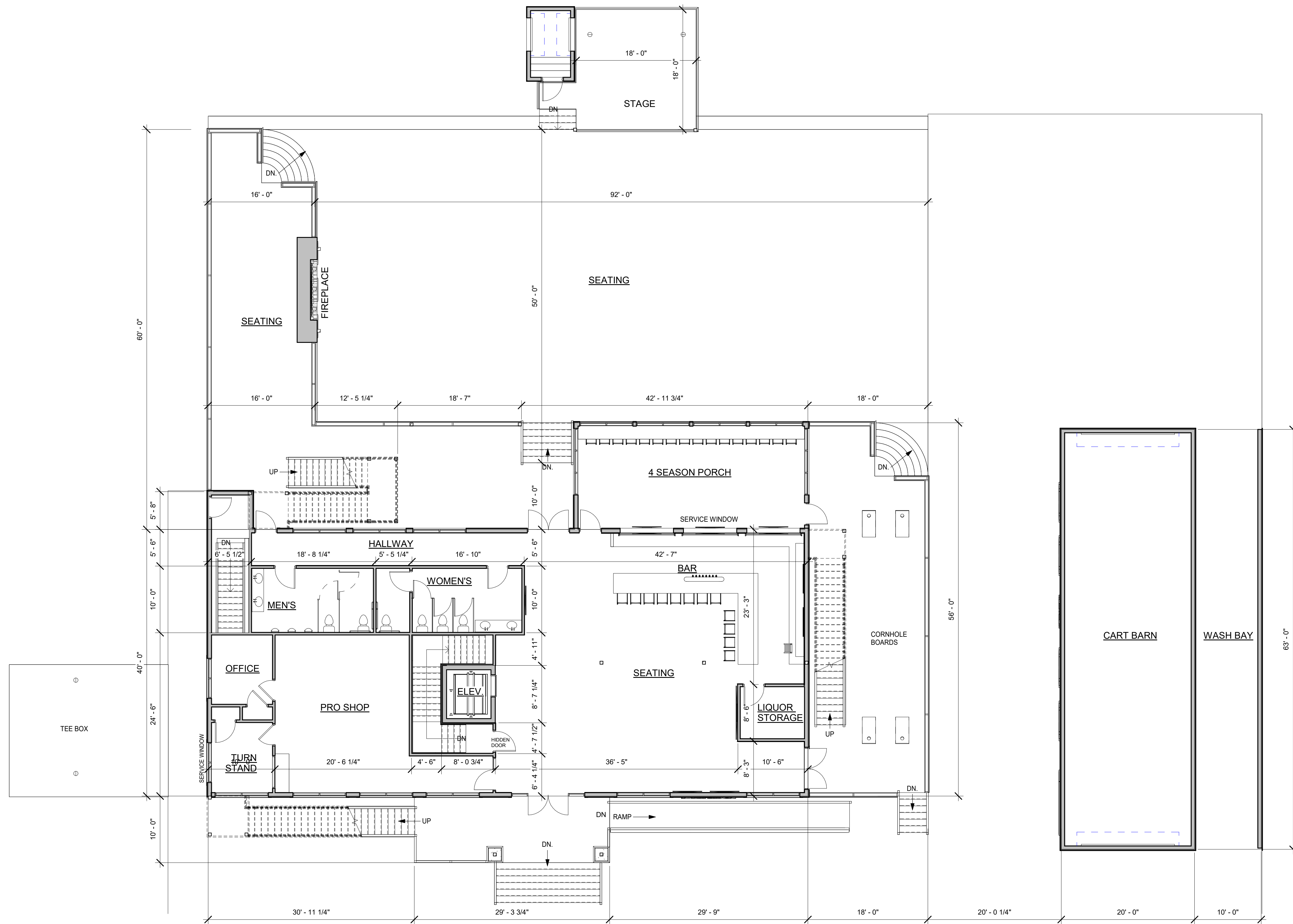
1. Planned improvements must conform to submitted site plans.
2. Stormwater will be designed to be retained on site and meet all City and State requirements during and after construction. Plans and permits must be completed obtained by all applicable agencies prior to construction commencing.
3. Entrance from CSAH # 4 must be approved by CWC Highway Department. This includes the road and golf cart crossings.
4. Parking for 122 vehicle stalls (includes 6 handicap stalls) and 24 golf cart stalls will be required.
5. Lighting for the parking lot and driveway safety will be downward lighted.
6. Lighting for the golf course will be downward lighted and timed to turn off hole-by-hole with the last designated tee time of players.
7. Landscaping to meet resort standards of the Antlers and Deacons club house areas.

Proposed Construction timelines

1. Complete planning approvals and permitting by September 1st 2025
2. October 1st 2025 commencing construction of the Ace Valley course grading and tree removal.
3. Open entrance from CSAH # 4 for construction access and future drive entrance October 2025.
4. Continue construction of Ace Valley course grading and shaping spring 2026.
5. Install irrigation system for Ace Valley course spring 2026.
6. Seeding Ace Valley course summer 2026.
7. Summer 2026 commencing construction of the Social Club and adjoining Cart barn including well and sewer connections.
8. Fall 2026 – Spring 2027 complete drives, parking, sidewalks, landscaping, lighting and ancillary service needs for the Social Club and golf course.
9. **Grand Opening of Social Club May 1, 2027.**
10. **Grand Opening of Ace Valley Golf Course May 28, 2027.**
11. Construct 30' X 50' Cart Barn 2028.
12. Demo existing (old) club house for traditional golf course May 2030.



1 LOWER LEVEL FLOOR PLAN
 A1.0 1/8" = 1'-0"

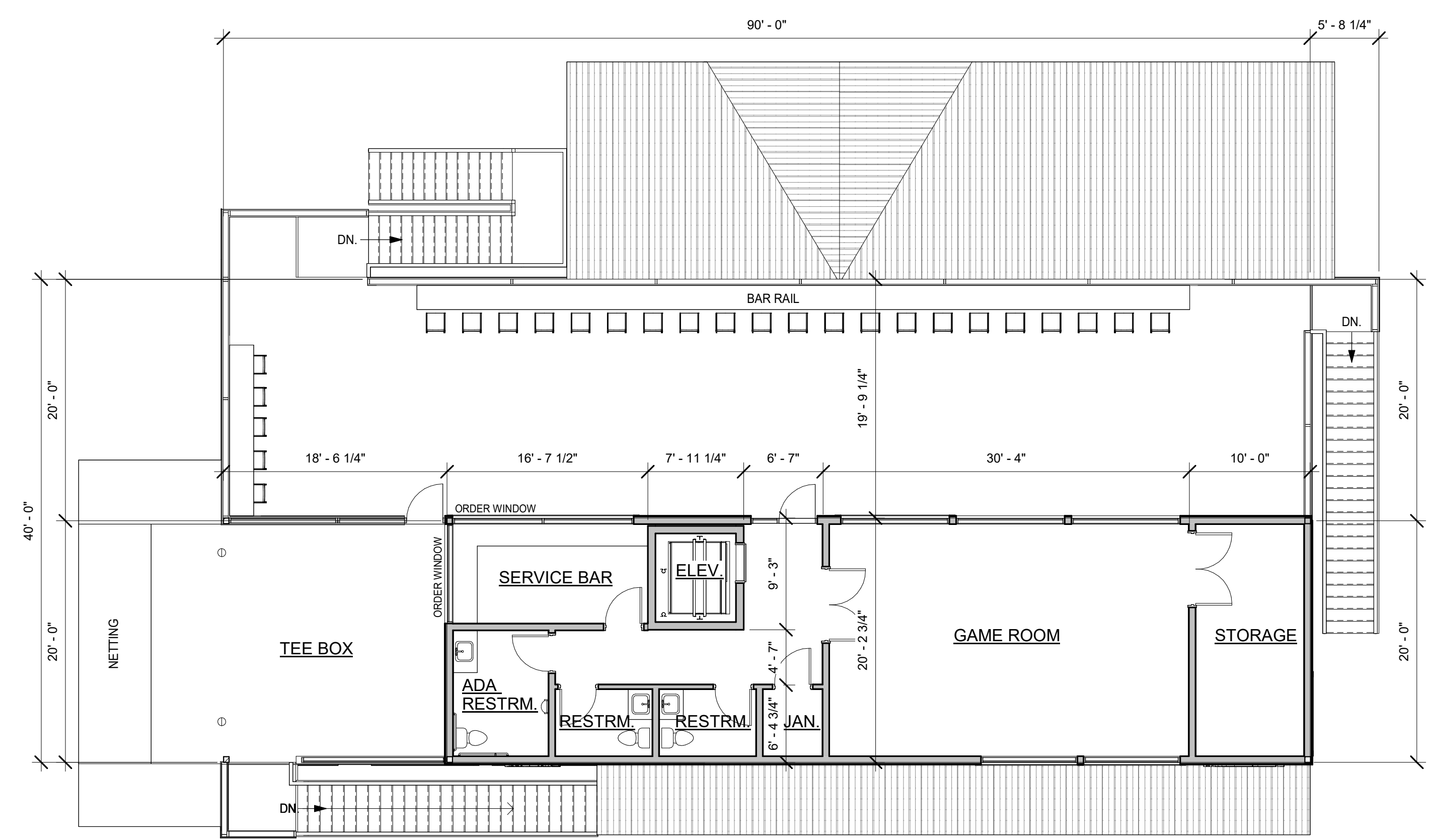


1 MAIN LEVEL FLOOR PLAN
 A1.1 1/8" = 1'-0"

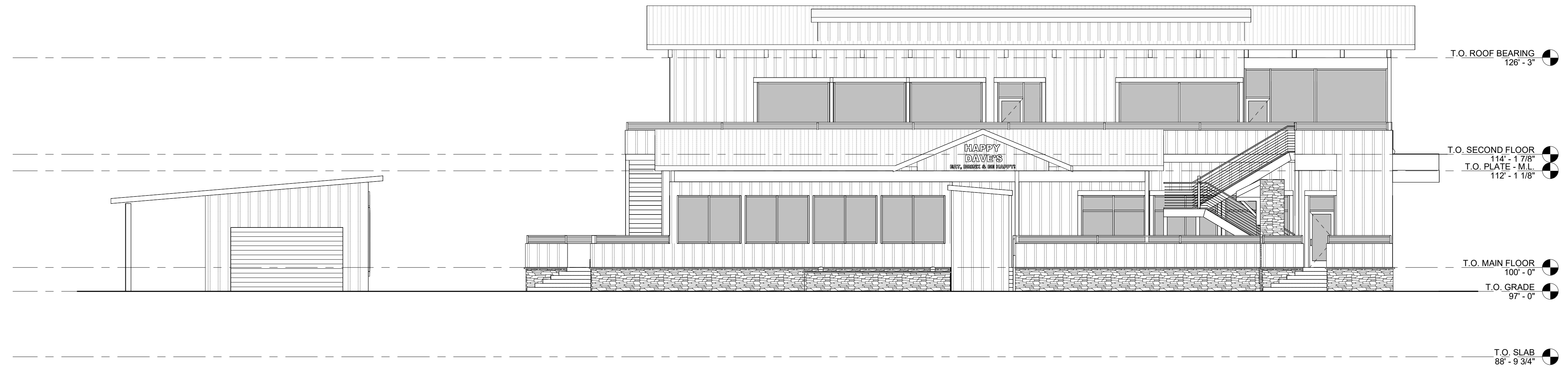
BREEZY POINT SOCIAL CLUB CONCEPT



11360 BUSINESS 371
 BRAINERD, MN 56401
 PHONE 218/829-8529
 FAX 218/829-5383
 hyteconstruction.com
 lic #BC-20050648



1 UPPER LEVEL FLOOR PLAN
 A1.2 1/8" = 1'-0"



2 NORTH ELEVATION
A2.1 1/8" = 1'-0"

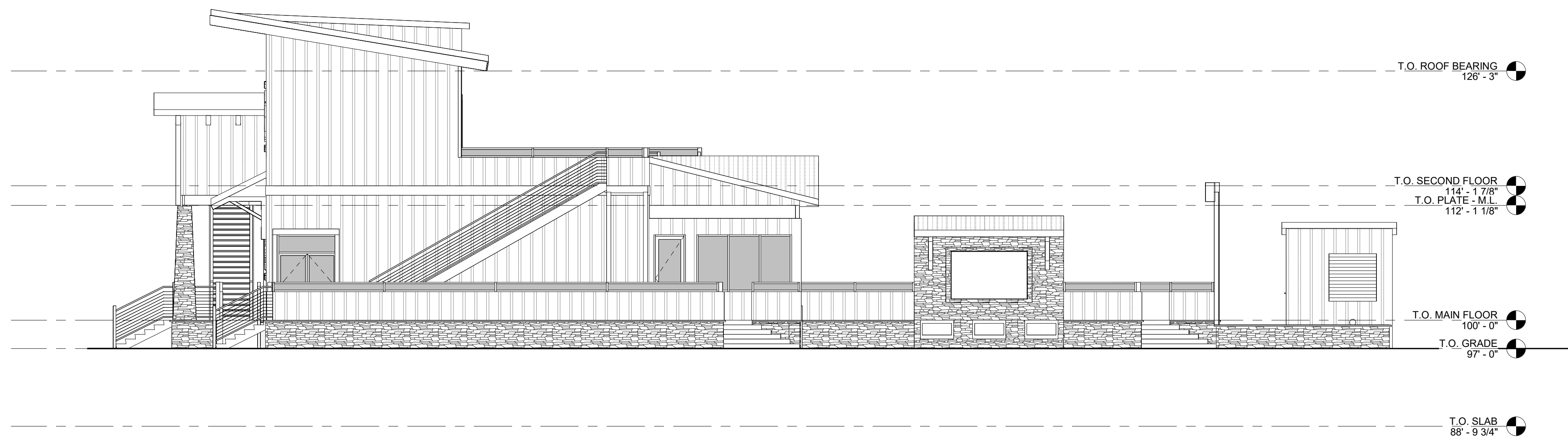


1 SOUTH ELEVATION
A2.1 1/8" = 1'-0"

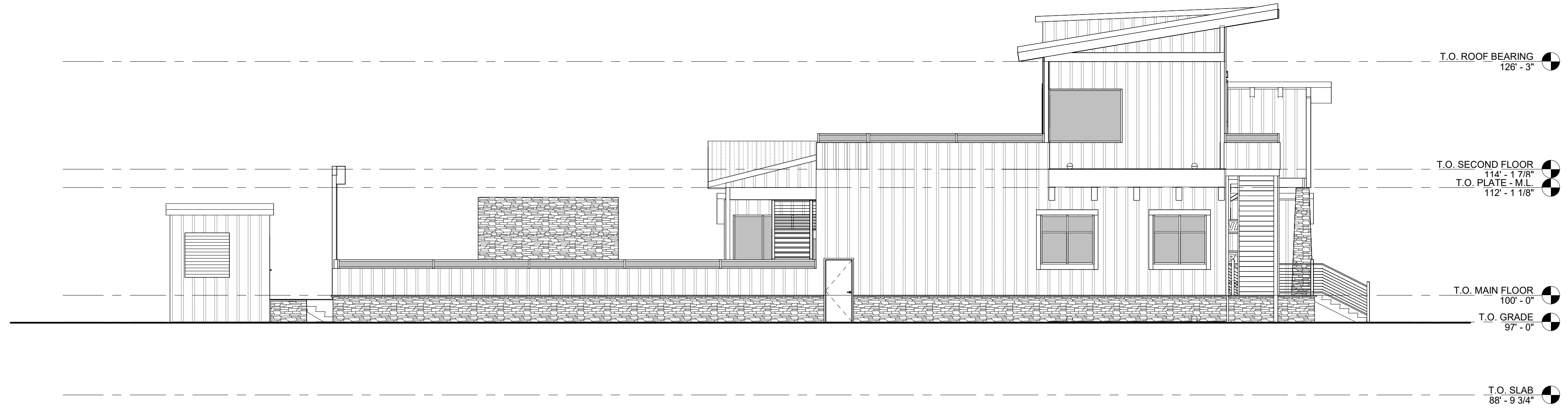


11360 BUSINESS 371
BRainerd, MN 56401
PHONE 218/829-8529
FAX 218/829-5383
hyteconstruction.com
lic #BC-20050648

BREEZY POINT SOCIAL CLUB CONCEPT



1 EAST ELEVATION
A2.2 1/8" = 1'-0"



2 WEST ELEVATION
A2.2 1/8" = 1'-0"

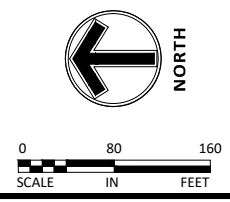


Underground utility lines and structures are shown in an approximate way only, according to information provided by others. A request that utilities be located for this survey was made through Gopher State One Call (Ticket No. 251041115). The underground utility lines and structures shown on this map represent the information provided to Bolton & Menk, Inc. as a result of that request. The surveyor does not guarantee that the information provided was either complete or accurate. The surveyor does not guarantee that there are no other underground utility lines and structures, active or abandoned, on or adjacent to the subject property.

EXISTING CONDITIONS BREEZY POINT, MINNESOTA	
 BOLTON & MENK	7656 DESIGN ROAD, SUITE 200 BAXTER, MN 56425 (218) 825-0684
FOR: BREEZY POINT RESORT	

REVISIONS	
#	REVISION NOTE
1	DATE
2	DATE
3	DATE

SHORT COURSE SITE IMP.
OVERALL SITE PLAN
BREEZY POINT, MINNESOTA



BREEZY POINT DRIVE

COUNTY ROAD NO. 4

DOVE STREET

OVERFLOW PARKING AREA

FUTURE HOUSING AREA

SANITARY SEWER WELL

TRASH ENCLOSURE

LANDSCAPED ISLAND

PRACTICE AREA

PICKLEBALL COURTS (X4)

STORMWATER INFILTRATION BASIN

PUTTING GREEN

CART BARN

GRAVEL SURFACE CART STAGING AREA

WETLAND DELINEATED

CROW WING COUNTY STORMWATER POND TO REMAIN

CROW WING COUNTY D&U EASEMENT

REMOVE CART CROSSING

REMOVE CART CROSSING & PED RAMP

PROPOSED CART CROSSING

10

11

12

13

5

6

7

1

4

3

2

8

9

12

13

5

6

7

1

4

3

2

8

9

BREEZY POINT DRIVE

COUNTY ROAD NO. 4

WELL HOUSE

WETLAND DELINEATED ON 4-9-2025

ARVIG TELEPHONE COMPANY EASEMENT PER DOC #135262

MH SSWR R=1222.52 INV: 55 (10"CH PVC) 1205.82 INV: NW (10"CH PVC) 1205.34 INV: NW (10"CH PVC) 1207.36 INV: S (8"CH PVC) 1211.57

10' WIDE UTILITY EASEMENT PER ARVIG TELEPHONE COMPANY DOC #135262

CLUBHOUSE LANE

SANITARY SEWER EASEMENT PER DOC #30732

MH SSWR R=1223.49 INV: N (8"CH PVC) 1224.69 INV: E (8"CH PVC) 1228.69

66' WIDE INGRESS & EGRESS EASEMENT PER DOC #52604

INGRESS & EGRESS EASEMENT PER DOC #47537

EXISTING CLUBHOUSE

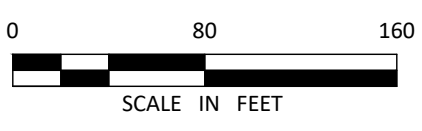
SANITARY SEWER EASEMENT PER DOC #47538

ARVIG TELEPHONE COMPANY EASEMENT PER DOC #135262

MH SSWR R=1226.50 INV: S (10"CH PVC) 1226.75 INV: N (8"CH PVC) 1228.05 INV: W (8"CH PVC) 1228.00

20' WIDE ARVIG TELEPHONE COMPANY EASEMENT PER DOC #135262

MH SSWR R=1226.22 INV: NE (8"CH PVC) 1224.02 INV: SW (8"CH PVC) 1204.09



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EXISTING CONDITIONS
BREEZY POINT, MINNESOTA

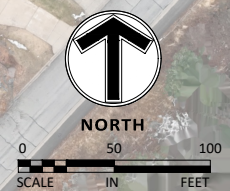
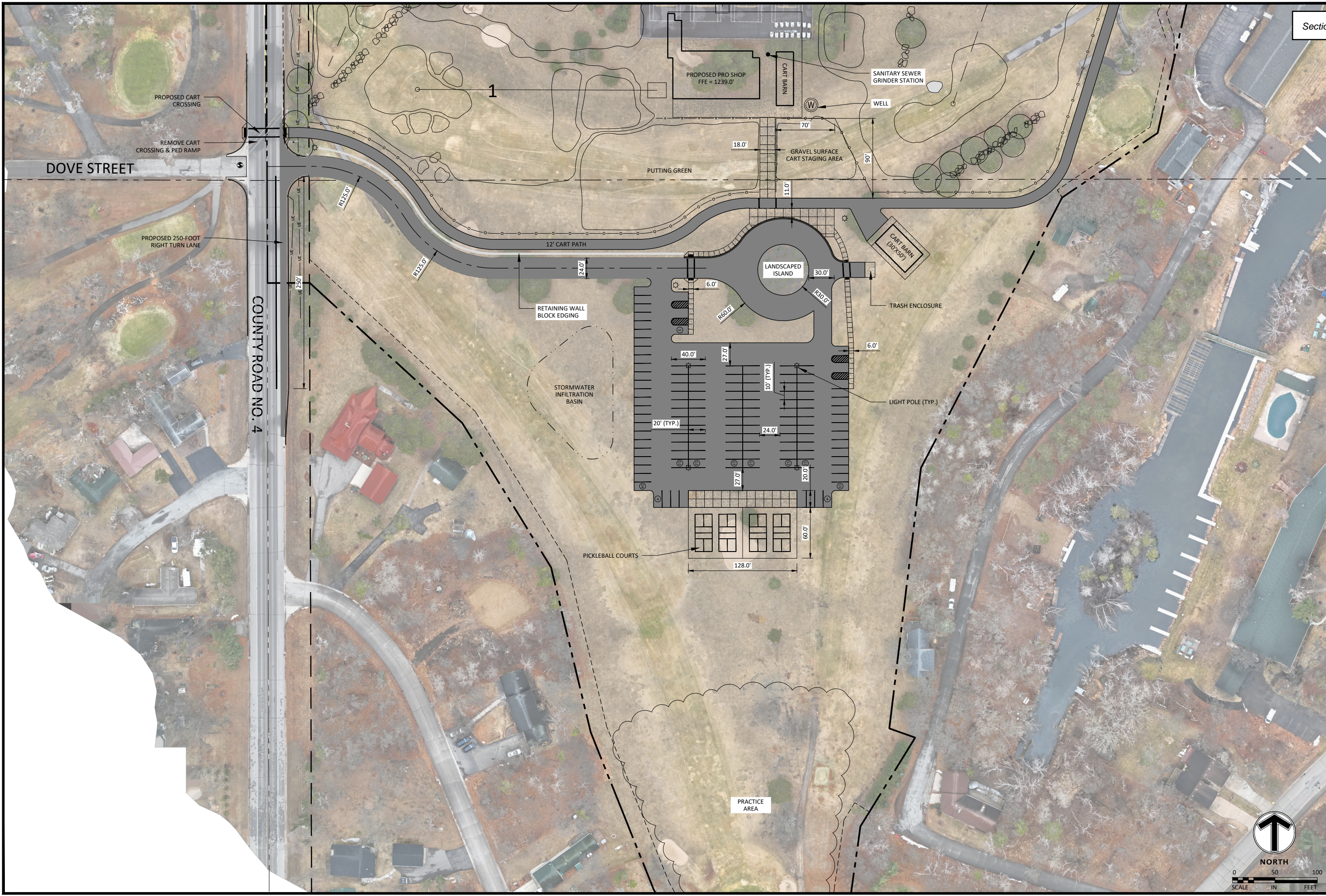


7656 DESIGN ROAD, SUITE 200
BAXTER, MN 56425
(218) 825-0684

FOR: BREEZY POINT RESORT

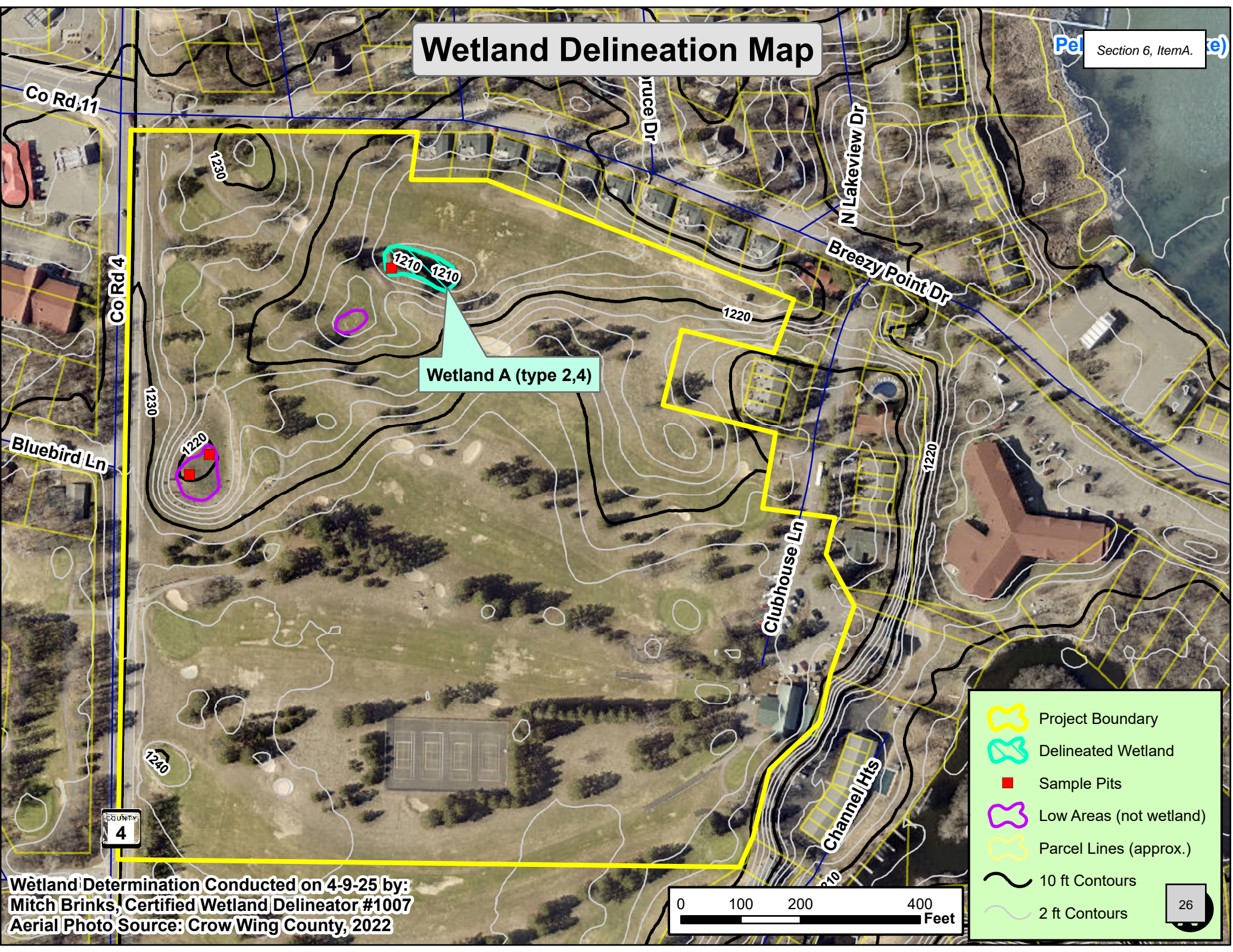
REVISIONS		
#	REVISION NOTE	DATE
1		
2		
3		

SHORT COURSE SITE IMP.
CONCEPT SITE PLAN
BREEZY POINT, MINNESOTA



Wetland Delineation Map

Section 6, Item A.



Wetland Determination Conducted on 4-9-25 by:
Mitch Brinks, Certified Wetland Delineator #1007
Aerial Photo Source: Crow Wing County, 2022

- Project Boundary
- Delineated Wetland
- Sample Pits
- Low Areas (not wetland)
- Parcel Lines (approx.)
- 10 ft Contours
- 2 ft Contours

- BLUE SQUARES: 12 FT LIGHTS (14) : STRAIGHT DOWN LIGHTING ONE PER HOLE.
- YELLOW TRIANGLES: 24 FT LIGHTS (18) : DIRECTIONAL DOWNWARD LED LIGHTING ONE PER HOLE.



* ALL LIGHTING POINTED INWARD + AWAY FROM ADJACENT HOUSING.
 - SHUTOFF TIMES OF LIGHTS INDICATED ON MAP.

From: Matt Kallroos <Matt.Kallroos@crowwing.gov>
Sent: Tuesday, August 5, 2025 9:52 AM
To: Deb Runksmeier <drunksmeier@cityofbreezypointmn.us>
Cc: Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>
Subject: RE: Breezy Point Resort Golf Course / Whitebirch Inc. Meeting Information

The County Highway Department has met with the applicant throughout the development process and had the following comments:

The proposed new entrance across from Dove Street will increase the traffic generated along this corridor and as a result a right turn lane will be required on CSAH 4. The required right turn lane will follow the current Cost Share Policy which states the developer shall be responsible for 75% of the cost and the County shall be responsible for 25% of the cost.

We talked about a bypass lane to alleviate the southbound traffic on CSAH 4 but due to Dove Streets location it is a difficult location for a bypass lane, thus we will not require a bypass lane. We looked at a dedicated left turn lane on CSAH 4 for south bound traffic but came to the conclusion that it would be a difficult location as well.

Furthermore, due to the required right turn lane, the Highway Department will require the proposed cart crossing to move to the north side of the proposed new entrance. With the new cart crossing location, a crosswalk for pedestrians will also be required to be incorporated to ensure both golf carts and pedestrians can safely cross CSAH 4. Moving the crossing to the north will also eliminate the need for carts/ pedestrians to cross the proposed new road as shown on the old site plan.

The applicant has addressed the County Highway Departments comments/concerns that were listed above, as seen in the updated site plan.

Thanks!

Matt Kallroos
Transportation Planner

Office: (218)824-1110

Direct: (218)822-2694

www.crowwing.us

Crow Wing County Highway Department
16589 County Road 142
Brainerd, MN 56401

City of Breezy Point
Notice of Public Hearing
Tuesday, August 12, 2025, 6:30 p.m.
Breezy Point Public Safety Building

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, August 12, 2025 at 6:30 p.m. or shortly thereafter at Breezy Point Public Safety Building, 8361 County Road 11, to consider the following;

Conditional Use Application C-25-002 Whitebirch, Inc. 30072 Clubhouse Lane Breezy Point MN 56472. Parcel 10162074 to construct Social Club building, and Golf Cart Storage Structures in conjunction with golf course rehabilitation. Zone (RC) Resort Commercial.

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
jbohnsack@cityofbreezypointmn.us

Echo Journal
July 30 & August 6, 2025

TO: Planning Commission

FROM: Jerry Bohnsack

RE: Vee Request

Meeting of August 12, 2025

Lot Division Request

Mr. Vee is requesting that lots that were consolidated in the past be un-consolidated to reflect two parcels that are the same as they were when the plat of Breezy Point Estates was platted.

Based on the county policy is it possible to un-consolidate properties as long as the parcels have property lines that are the same as originally platted.

The process would be very straight forward if there were no buildings on the property. The commission would need to consider whether the new property lines would be creating non-conforming building which do not meet current setbacks.

The current proposal contemplates removal of existing structures and maintaining some existing structures.

Staff would recommend that a certificated survey be prepared prior to official consideration of the un-consolidation. This survey to show all old and new property lines and the relationship of all building proposed to be removed and building proposed to be maintained.

Mr. Vee is trying to gauge interest prior to incurring survey costs.

July 29, 2025

Planning & Zoning Board
Breezy Point, MN 56472

RE: 8931 North Drive; Breezy Point, MN-Parcel #10162035

I (Scott Vee) am asking to divide my lot at 8931 North Drive; Breezy Point, MN 56472-Parcel #10162035. Currently the property consists of Lots 17 & 18, Block 2 of Breezy Point Estates.

These lots were combined by the previous owner over 20 years ago. I'm asking to return to the original property lines in order to sell Lot 17. Upon sale the non-conforming garage will be removed to make the lot completely vacant. Upon sale the shed on lot 18 would be removed permanently. I would be asking for a variance to allow the existing garage to remain in place on Lot 18 as its been there for over 60 years.

I spoke with Maggie at Crow Wing County Land Services and she will restore the original property lines pending the approval of the Breezy Point Planning & Zoning Board.

An email to Maggie with your decision would be appreciated.

Thank you



Scott Vee

612-819-4368

Now

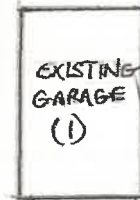
NEIGHBOR DAN + WENDY

NEIGHBOR JIM + CAROLYN

EXISTING .57 ACRES

GARAGE TO BE REMOVED UPON SALE

SHED TO BE REMOVED UPON SALE



OWNERS SCOTT + LYNN VEE
612 819 4368

PUBLIC ACCESS

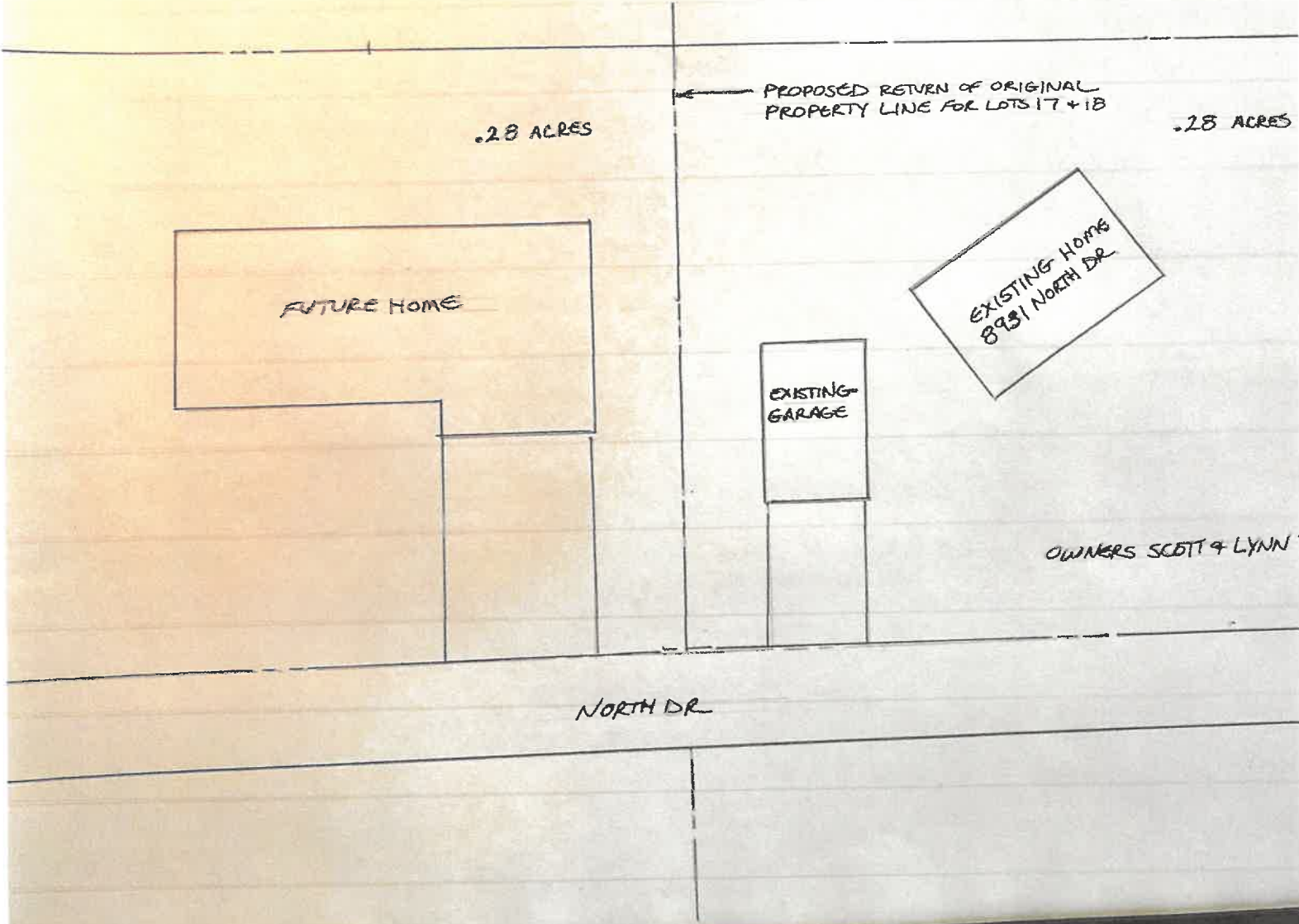
NORTH DR

NEIGHBOR GARY + LYNN

OWNERS SCOTT + LYNN VEE

FUTURE

PROPOSED LOT DIVISION



BREEZY POINT ESTATES



KNOW ALL MEN BY THESE PRESENTS: That Pedelco, Incorporated, a Minnesota Corporation, and R.F.B. Cote and Julia Cote, his wife, are the owners of Government Lot 4, Section 16, Township 136 North, Range 28 West, and R.F.B. Cote and Julia Cote, his wife, are the owners of that part of the southeast quarter of the southwest quarter (SE 1/4 SW 1/4) of Section 16, Township 136 North, Range 28 West, which lies northerly of the following described line: Beginning at the point on the west line of said SE 1/4 SW 1/4 which is 55.2 feet south 0 degrees 39 minutes west from the northwest corner of said SE 1/4 SW 1/4; thence south 67 degrees 19 minutes east 465.1 feet to the east line of said SE 1/4 SW 1/4 and there ending, and being desirous of platting in such cases, made and provided. The name of this plat shall be "BREEZY POINT ESTATES". The COUNTY HIGHWAY and NORTH DRIVE are hereby dedicated to the Public. BREEZY POINT DRIVE, NORTH BIRCHWOOD DRIVE, NORTH PINEWOOD DRIVE, NORTH SPRUCE DRIVE, NORTH LAKEVIEW DRIVE, the 20 foot WALKS and the areas shown as BEACH and PARK are hereby dedicated for the use of the owners, their assigns, and the owners of the lots in BREEZY POINT ESTATES. Subject to restrictions or reservations of record, if any. In witness hereof said R.F.B. Cote and Julia Cote, his wife, have hereunto set their hands and seals, and said Pedelco, Incorporated, has caused these presents to be executed in its corporate name by Laif D. Thrane and Jerome D. Lenz, its President and its Secretary respectively, and its corporate seal to be hereunto affixed this 4th day of June, 1962.

WITNESSES:
Laif D. Thrane
Jerome D. Lenz
 PEDELCO, INCORPORATED
 BY: *Laif D. Thrane*
 PRESIDENT
Jerome D. Lenz
 SECRETARY
Julia Cote

State of Minnesota } SS
 County of Crow Wing }
 On this 4th day of June, 1962, before me, a Notary Public within and for said County, personally appeared Laif D. Thrane and Jerome D. Lenz, to me personally known, who, being each by me duly sworn, did say that they are respectively the President and the Secretary of Pedelco, Incorporated, and that the seal affixed to the above dedication is the corporate seal of said Corporation, and that said dedication was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and said Laif D. Thrane and Jerome D. Lenz acknowledge said dedication to be the free act and deed of said Corporation.
 My commission expires: 2/1/67

State of Minnesota } SS
 County of Crow Wing }
 On this 7th day of June, 1962, before me, a Notary Public within and for said County, personally appeared R.F.B. Cote and Julia Cote, his wife, to me well known to be the persons described in and who executed the above dedication, and they hereby acknowledge the same as their free act and deed.
 My commission expires: 2/1/67

I hereby certify that I have, at the instance of the owners, made the before mentioned survey and plat of "BREEZY POINT ESTATES" and that all information shown hereon is correct to the best of my knowledge and belief. There are no wet lands or public roads on this land other than shown on the plat. Iron pipe monuments have been placed as shown on the plat for the guidance of future surveys.
Dean M. Anderson
 Registered Land Surveyor

State of Minnesota } SS
 County of Crow Wing }
 On this 4th day of June, 1962, before me, a Notary Public within and for said County, personally appeared Dean M. Anderson, to me well known to be the person described in and who executed the above certificate and he hereby acknowledges the same as his free act and deed.
 My commission expires: March 2, 1967

I, Elmer R. Anderson, Auditor for Crow Wing County, Minnesota, do hereby certify that the taxes on the lands described hereon have been paid for the years prior to 1961.
Elmer R. Anderson
 Auditor
 Crow Wing County, Minnesota

I, Doug M. Anderson, Treasurer for Crow Wing County, Minnesota, do hereby certify that the taxes on the lands described hereon have been paid for the year 1961.
Doug M. Anderson
 Treasurer
 Crow Wing County, Minnesota

This plat of "BREEZY POINT ESTATES" was approved by the Council for the Village of Pelican Lakes this 11th day of June, 1962.
 Attest:
 Village Clerk Mayor

SCALE: 1" = 100'
 ○ = IRON PIPE MONUMENT

Crow Wing County Consolidating tax parcels 2025 information:

- A lot is able to be divided back out after consolidation if it is divided into the lots it was before consolidation. i.e. if five 1 acre parcels are consolidated and 10 years down the road they wish to divide, it must be back into five 1 acre parcels. If they want a 2 acre and 3 acre parcel, they must go through a lot split.
- There are 555 possible parcels in Breezy Point for consolidation. Crow Wing will be sending that list over.
- GIS will be pushing out a map that shows a consolidated parcel layer.
- Crow Wing will be sending out mailings to parcels eligible for consolidation this fall.



[Address Block]

July 1, 2025

Subject: Consolidation of Tax Parcels

Dear [Landowner],

It has come to our attention that two or more of your tax parcels located in Crow Wing County may be eligible for consolidation into one taxable parcel. Combining your parcel does not impact your ownership regarding the parcels; it creates one tax parcel, instead of multiple parcels.

Parcel Numbers: [PINS]

If you would like to consolidate your property into one taxable parcel, please return the attached request with signatures from all of the owners listed above. There is no cost to consolidate tax parcels.

Upon approval, your parcels will be consolidated into one parcel. In the future, you will receive a single property tax statement rather than multiple property tax statements.

To ensure that your parcels are combined for taxes payable in 2026, the consolidation request need to be submitted to Crow Wing County's Department of Land Services by December 31st, 2025.

If you have questions regarding this letter or consolidations, please contact the Land Services Department at 218-824-1010.

Sincerely,

Maggie Young

Maggie Young
Sr. Operations Specialist
Land Services Department
218-454-7472

Gary Griffin, Director
Land Services Department
322 Laurel Street, Suite 15
Brainerd, MN 56401
Office: (218) 824-1010
Fax: (218) 824-1126
www.crowwing.gov

Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

TO: Planning Commission

FROM: Jerry Bohnsack

RE: Variances

Meeting of August 12, 2025

Variances

Attached is some basic background information about Variance. Please review and note questions and concerns that you might have.

We should be able to discuss the concerns with our Planning Consultants when we begin the Ordinance Review process.

I anticipate that we will begin the process with the consultants in September.



**League of Minnesota Cities
Insurance Trust**

145 University Avenue West, St. Paul, MN 55103-2044
(651) 281-1200 • (800) 925-1122
Fax: (651) 281-1298 • TDD: (651) 281-1290
www.lmnc.org

LMCIT RISK MANAGEMENT MEMO
**THE NECESSITY OF ADEQUATE FINDINGS/
REASONS TO SUPPORT MUNICIPAL LAND USE DECISIONS**

When a city’s land use decision is challenged in court, the court’s review is quite narrow. The standard of review of a city’s land use decision is limited to whether the city had a rational basis for its decision. “Land use decisions are entitled to great deference and will be disturbed on appeal only in instances in which the city’s decision has no rational basis.” *SuperAmerica Group, Inc. v. City of Little Canada*, 539 N.W.2d 264, 266 (Minn. App. 1995). That is, courts review a municipal body’s decision to determine if it is unreasonably arbitrary or capricious. *Swanson v. City of Bloomington*, 421 N.W.2d 307, 313 (Minn. 1988). This narrow scope of review accorded to the land use decisions of cities reflects judicial recognition that local governing bodies are in the best position to assess what zoning classifications and decisions best serve the public welfare. *Larson v. Washington County*, 387 N.W.2d 902, 905 (Minn. App. 1986).

In land use cases, Minnesota courts are looking for a sufficient statement of the reasons given by the city to grant or deny an application request. The role of the court is to examine the city’s reasons and ascertain whether the record before the city council supports them. The reasons given by the city must be legally sufficient and have a factual basis.

Minnesota case law and statutory law demands that the reasons for a city’s decision on a land use case be articulated on the record. We recommend the city adopt writing findings of fact, or “reasons,” and conclusions of law when it makes land use decision. The city should approve a document that contains all the relevant facts. The document should then apply those facts to the relevant criteria.

When a city is presented with a land use application, the role of the city council/planning commission is to apply the facts presented to the law and to articulate the reasons for its decision. The role of the city council/planning commission is to determine and consider how the facts presented to them compare with the city’s articulated standards. The city council and/or planning commission should base their decision on the facts presented at the hearing and then apply those facts to the legal standards contained in city ordinances and relevant state law. City staff reports should reference applicable city code provisions. (E.g. review standards in ordinance granting a variance.)

Example of A Variance Consideration

Under Minnesota law, a municipality may grant a variance where unique circumstances of the individual property create an undue hardship. Minn. Stat. Sec. 462.357, subd. 6. “Undue hardship” generally means:

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 the property not created by the landowner, and the variance will not alter the essential character of the locality.

The “undue hardship” requirement does not mean a property owner must show that the land cannot be put to any reasonable use without the variance. Instead, the undue hardship standard requires a showing that the property owner would like to use their property in a reasonable manner that is prohibited by ordinance. Minnesota courts have explained there are three requirements for granting a variance under the “undue hardship” standard. The requirements are: (1) reasonableness; (2) unique circumstances; and (3) the essential character of the locality.

Sample of City Code Variance Standards

Is the proposed variance in conformity with the established criteria contained in the City Code:

- (1) Because of the particular physical surrounding, shape or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- (2) The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought;
- (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land;
- (4) The grant of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the parcel of land is located;
- (5) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values with the vicinity.
- (6) The granting of the proposed variance will not be contrary to the intent of this Code and the City’s Comprehensive Plan.

Consider standards #1 and #2 pertaining to the unique circumstances of the subject property.

An example of an adequate reason, or “finding” to support a denial:

The existing topography involves slope and floodplain issues that limit development in some portions of this property. The property is located at the end of a cul-de-sac, has a stand of trees and a significant grade change of 44 feet. The proposed building has been placed to maximize the property despite the existing slope and floodplain issues.

VS.

An example of an unfounded reason:

Unique circumstances exist because the applicant mistakenly believed he could develop his property as proposed.

Consider standard #5 pertaining to the issue of traffic.

An example of an adequate reason, or “finding”:

The proposal will generate traffic that will have a significant negative impact on the transportation system capacity and will result in diminution of the level of service and safety of said system especially at the intersection of First Street and Main Street. Numerous adjacent property owners testified at the public hearing about current congestion and specifically that it currently takes “three to four light changes just to get through the intersection.”

VS.

An example of an unfounded reason:

The proposal will generate excess traffic.

In formulating adequate findings or reasons to support a land use decision, one of the key steps is to apply the facts presented to the standards contained in the city ordinances. In other words, use the standards already set forth in the city ordinances as the template or guide to the city council/planning commission consideration of a land use application.

Susan Sager 04/04

Findings of Fact Examples

Criteria #1: Is the variance in harmony with the intent of the Comprehensive Plan, Zoning Ordinance and the State Shoreland Management regulations?

Good Example:

The proposal includes uses that are consistent with the Breezy Point Comprehensive Plan. The proposal meets the general intent of the zoning ordinance and shoreland regulations because of effective screening of the structure from the water.

Bad Example:

- The addition is in character with the style of the house.
- The addition is similar to the neighbors.
- The house was not built with children in mind.

Criteria #2 Without the variance, is the owner deprived of reasonable use of the property?

Good Example:

The proposal provides for conversion to a year round structure by adding interior plumbing, heating and reasonable kitchen facilities. The home will have 3 bedrooms and a total of 1200 sf of living space.

Bad Example:

- The applicant bought the property last month with every intent of converting to a year round home.
- The applicant needs 6 bedrooms and three decks as proposed in the site plan.
- The applicant threatened to take the County to Court unless the variance is granted.
- The realtor did not inform the applicant of zoning restrictions.

Criteria #3. Is the alleged hardship due to circumstances unique to this property?

Good Example:

The home is situated on a peninsula lot with river setbacks required on three sides of the property.

Bad Example:

The applicant was tired of sitting on his deck and swatting mosquitoes.

Criteria #4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowner

Good Example:
The hardship is created by the presence of poor soils and wetlands and not by any action of the property owner.

Bad Example:
-The applicant's contractor told him that no permit was necessary unless you increased the size of the home.
-The existing house does not have a usable deck where the applicant can enjoy the river views.

Criteria #5. Will the issuance of the variance maintain the essential character of the locality?

Good Example:
The proposed addition is not visible from the river or from adjoining properties and therefore will not alter the essential character of the neighborhood.

Bad Example:
- The addition will make the run down house look good.
- None of the neighbors objected at the meeting.

Criteria #6. Does the alleged hardship involve more than economic considerations?

Good Example:
The applicant is requesting a lot width variance, however, the proposal does not involve of the creation of more lots that would normally be allowed in the underlying zoning district. The proposed split was created by an action of the court as part of a divorce settlement.

Bad Example:
The applicant needs the additional lot in order to make the development economically viable.

Findings of Fact

Criteria #1: The strict interpretation of the Ordinance would create undue hardship,

Criteria #2: 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,

Criteria #3: The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance,

Criteria #4: The variance will not create a land use not permitted in the zone, and

Criteria #5: The variance will not alter the essential character of the locality,

Criteria #6: The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

Public Hearing Procedure

1. **Staff Report** Staff gives report on application.
2. **Commission Questions Staff** Commission asks the staff questions on the application or Ordinance.
3. **Applicant Presentation** Applicant may present additional information to the Commission at this time.
4. **Commission Questions Applicant** Commission may ask the applicant questions or clarification.
5. **Public Questions** Public may ask questions of the Commission or the Applicant
6. **Public Comments in Support** Public may speak in support of the proposal.
7. **Public Comments Against** Public may speak against the proposal.
8. **Board Discussion/Action** The Commission may discuss the application and may vote or continue the application. This portion of the hearing is closed to public input. The commission reserves the right to ask questions of staff or the applicant.

Proving a practical difficulty for a dimensional variance request

Brad Neumann<neuman36@msu.edu>, [Michigan State University Extension](#) - August 24, 2022

While inherently rigid, there are mechanisms in zoning to allow for flexibility.

A zoning ordinance is inherently rigid. Within this rigid structure of zoning are the definitions of where suitable uses can take place, the bulk or scale of those uses allowed, how those uses are accessed, etc. There must also be mechanisms for flexibility based on statutory ([Michigan Zoning Enabling Act](#)) and Constitutional ([5th Amendment](#)) grounds. Zoning must allow for differences in types of allowed uses, physical characteristics of the land, unique needs of neighborhoods and to prevent infringement on constitutionally protected property interests.

One mechanism for flexibility in zoning is the variance. A variance is the authority to depart from the literal application of the zoning ordinance because of an *Unnecessary Hardship* (in the case of a use variance) or a *Practical Difficulty* (in the case of a non-use or dimensional variance) resulting from the physical characteristics of the land. This article will focus on dimensional variances and the principles that amount to a showing of a practical difficulty.

Dimensional Variances

The [Michigan Court of Appeals](#) has applied the following principles in dimensional variance court cases, which **collectively** amount to the showing of a practical difficulty (*National Boatland, Inc. v. Farmington Hills ZBA*, 146 Mich App 380 (1985)):

- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use or would render conformity necessarily burdensome.
- The particular request, or a lesser relaxation of ordinance standard, would provide substantial justice to the landowner and neighbors;
- The plight is due to unique circumstances of property and is not shared by neighboring properties in the same zone.
- The problem is not self-created.

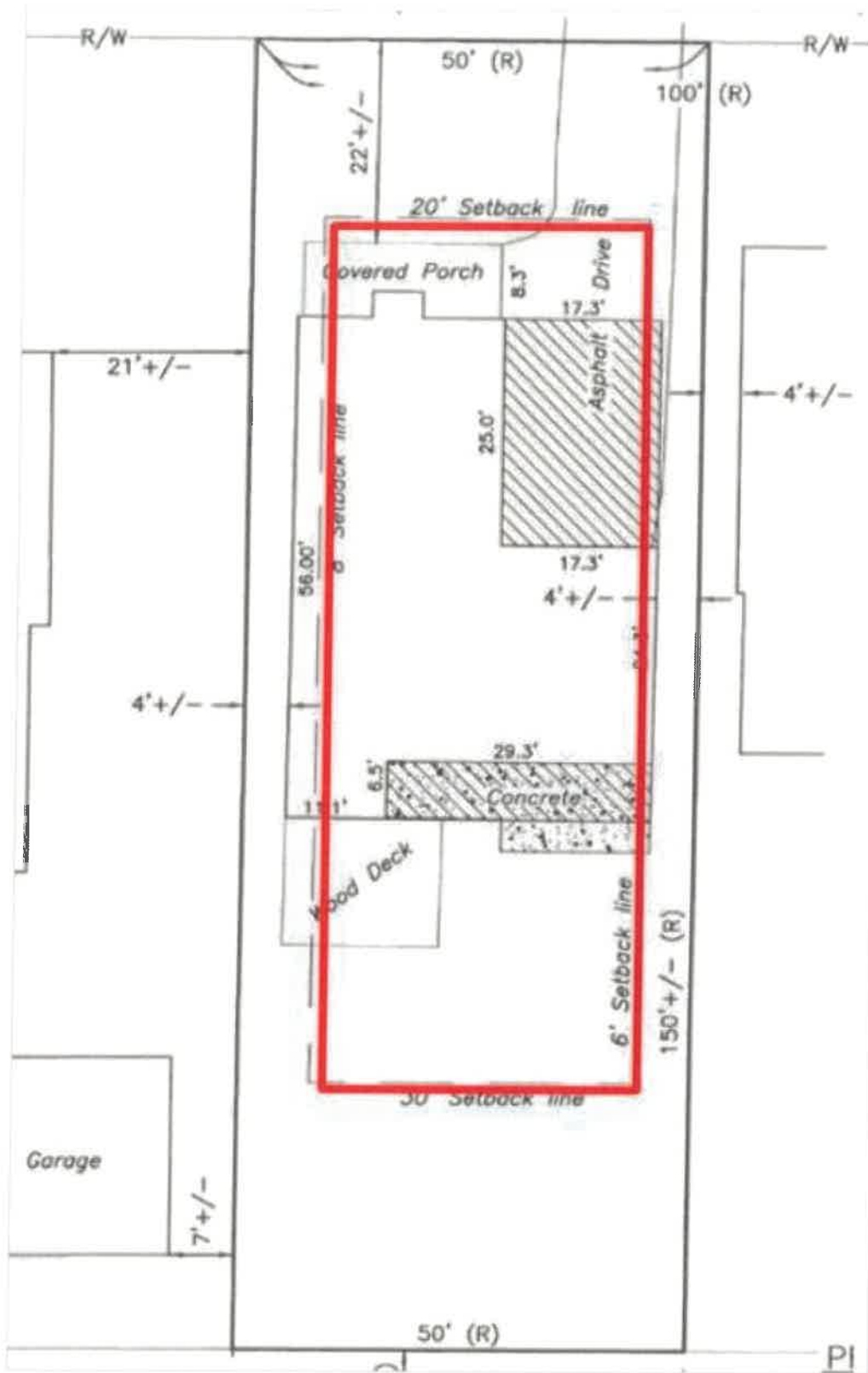


Figure 1: The home addition proposed in this plan requires a dimensional variance from the side yard setback. There are no unique characteristics of this lot or of the land and the design could be changed to meet the setback. Technically, this variance request should be denied.

Again, the standards come from case law. The Michigan Zoning Enabling Act does not define what a practical difficulty is, though the statute does state “the ordinance shall establish procedures for the rev

and standards for approval of all types of variances” (Sec. 604(7)). Therefore, the zoning ordinance should include these standards and may include additional standards that apply to dimensional variance requests.

Seeking Alternatives

For the first standard (above), the zoning board of appeals (ZBA) should figure out if there is a way to accomplish the same purpose without a variance even if it will be more inconvenient or more expensive for the applicant. If so, a variance should not be granted. For example, if the design for an addition proposed by the applicant can be changed such that a variance is no longer needed, the variance request should be denied (see Figure 1). A variance is granted for circumstances unique to the property (e.g. odd shape), not those unique to the property owner (e.g. large family).

Is there another option?

On the second standard, there are valid health and safety reasons for zoning setbacks, but when these regulations treat an applicant unfairly in relation to unique aspects of the land they should be relaxed. However, if a lesser variance than requested would provide substantial justice to the property owner, the lesser variance should be considered. For example, if the request is to encroach into the setback by 4 feet, but a 2-foot encroachment would allow the owner to use their property for the permitted use then the appeals board must not approve a greater variance than minimally necessary (see Figure 2).

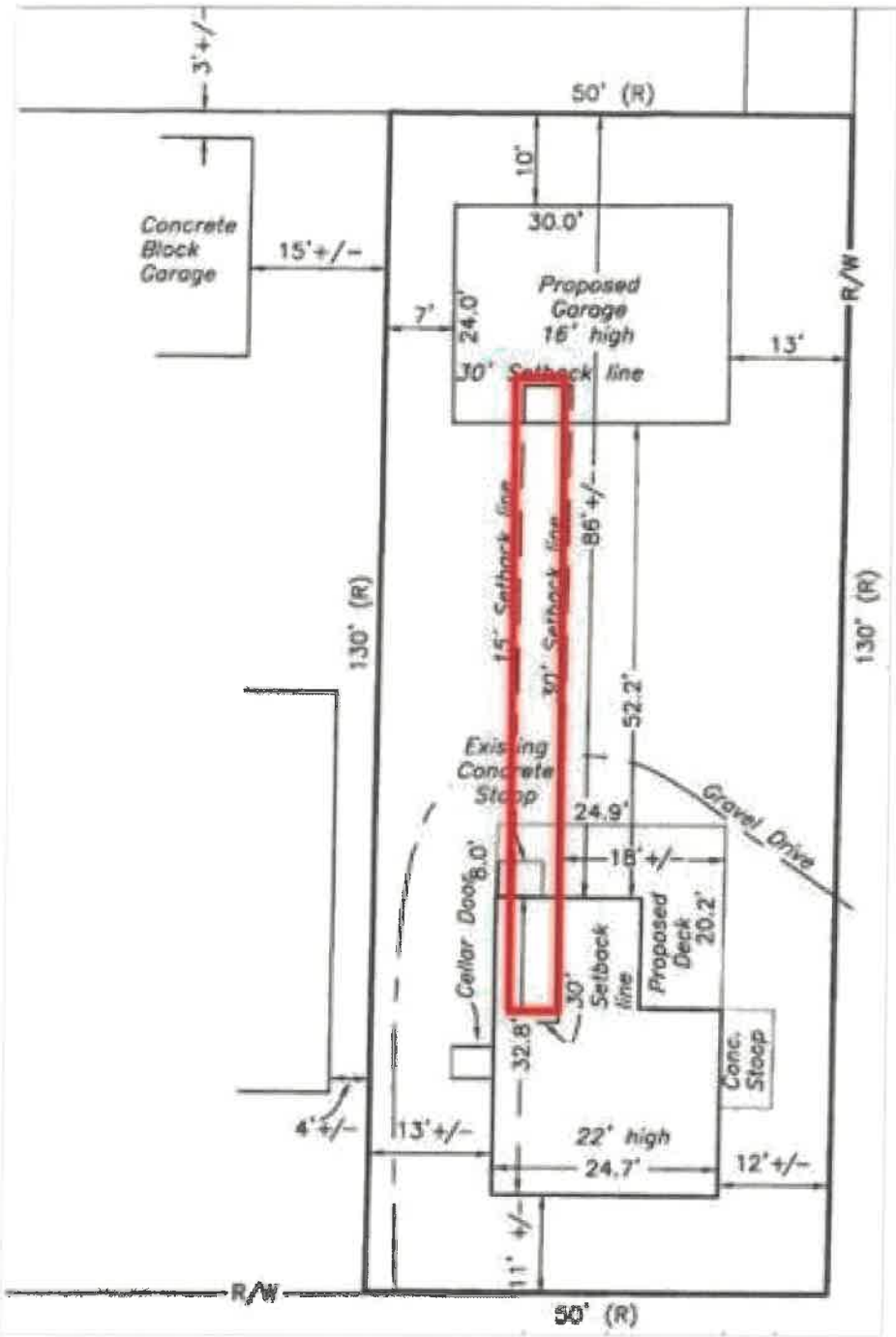


Figure 2: With two front yard setbacks (red line is the buildable envelope) this corner lot has unique circumstances for which a variance to construct a garage may be warranted. However, the proposed three-car garage in this plan is probably beyond the minimum necessary and may not be fair to neighboring properties in the single-family zone.

Amending an ordinance

Third, if the circumstances for which a variance is warranted are shared among numerous properties in the same zone, then the variance request should be denied. It may be better to consider amending the zoning ordinance. For instance, a historic portion of a community developed around the turn of the 20th Century might have 50-foot lots throughout a neighborhood of single-family homes. If this neighborhood is subjected to the same zoning standards as neighborhoods developed later with 70-foot-wide lots, projects not requiring a

dimensional variance in the newer neighborhood will most likely require a variance in the historic neighborhood. The proper solution is to create a new zoning district for the historic neighborhood that is more reflective of the existing character (see [Study neighborhood typology to discover a library of information on form](#)).

Is the issue "self-created"?

The fourth standard is widely misunderstood among ZBA members. The proper interpretation is to ask whether the applicant took some affirmative action that created the need for the variance, such as making an unusual land division (shape), filling the entire building envelope so that a porch must necessarily extend into the setback area, digging a pond, etc. A practical difficulty cannot be self-created (*Norman Corp v. City of East Tawas*, 263 Mich App 194 (2004)). Being “self-created” includes actions of the current property owner and actions of all previous owners.

In other words, a self-created practical difficulty by a predecessor in title can bar a subsequent owner from a legitimate variance request (*Johnson v. Robinson Twp*, 420 Mich 115 (1984)). At the same time, the Court of Appeals recognizes that merely purchasing property with the knowledge of ordinance limitations does not preclude someone from applying for (and receiving) a variance (*City of Detroit v. City of Detroit BZA*, 326 Mich App 248 (2018)). The key is whether a property owner — present or past, took affirmative action to alter the property counter to the controlling ordinance at the time. The purchase of a unique lot, even with knowledge of the current ordinance, should not be held against a new owner. This standard is inappropriately applied if a ZBA member sees the presence of the applicant before the ZBA as a self-created situation. This mindset would lead to the conclusion that all variance requests are self-created. It is not an applicant’s desire for a variance that is a self-created problem; it is an applicant’s previous action to fill the buildable envelope with structures, or divide the parcel into an unusual shape that is the self-created problem.

Lastly, it is important to note that all the standards that amount to the showing of a practical difficulty must be satisfied in order for a variance to be granted. The list of standards from the Court of Appeals, and any additional standards in the zoning ordinance, must all be satisfied in order for the applicant to have a practical difficulty. The collection of facts that satisfy all of the applicable standards must then be captured in the record to document the reasons for the decision (see [How to take Minutes for Administrative Decisions](#)).

The role of the ZBA member is an unenviable one. Board members are asked to apply the standards described in this article (and possibly more) to the requests of perfect strangers, acquaintances, and friends alike (outside of a bona fide conflict of interest) and do so consistently and without bias. Doing so is easier when all members of the ZBA understand the standards in the ordinance and have reference material in

front of them at each meeting that spells out what constitutes a practical difficulty (or unnecessary hardship).

Section 9, Item A.

Michigan State University Extension offers training for ZBA members to help them make more defensible decisions. Contact a land use educator to learn more.

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Resolution Adopting Findings of Fact, LMC Model Resolution

League staff thoughtfully develops models for a city's consideration. Models should be customized as appropriate for an individual city's circumstances in consultation with the city's attorney. Helpful background on this model may be found in League information on "[Land Use Variances.](#)"



This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.

RESOLUTION NO. _____

A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR _____ FOR VARIANCE APPLICATION OF _____ AT _____



Insert either "approval" or "denial" in the first blank. Insert the applicant's name and address in the second and third blanks.

FACTS

1. _____ is the owner of a parcel of land located at _____; and,



Insert the applicant's name in the first blank, and the address including city and state in the second blank.

2. The subject property is legally described as found on Exhibit A; and,

3. _____ has applied to the City for a variance to build _____ as described on Exhibit B



Insert the applicant's name in the first blank and the proposed project in the second blank.

4. The proposal would vary from (Ordinance Requirement) in that it would (Deviation Sought).



Insert the ordinance requirement in the first blank and the deviation sought in the second blank.

5. Following a public hearing on the application, the _____ Planning Commission has recommended (approval/denial) of the variance on (date).



Insert the city's name in the first blank; either "approval" or "denial" in the second blank and the date of the Commission's action in the last blank.

6. The City Council of the City of _____ reviewed the requested variance at its Meeting of _____.



Insert the city's name in the first blank and the month, day and year of the council meeting in the next blank.





Add more facts about the project using additional numbers as may be necessary and relevant.

APPLICABLE LAW


7. Minnesota Statute Section 462.357, subd. 6 provides:


- a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
- b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.


8. City Ordinance allows variances if _____
 *Cite to relevant city variance standard, if applicable.*


9. City Ordinance requires _____
 *Cite to applicable ordinances, including that being varied from.*


CONCLUSIONS OF LAW

10. The requested variance _____ in harmony with the purposes and intent of the ordinance because _____
 *Insert either "is" or "is not" in the first blank, and your reasons in the second blank.*

11. The requested variance _____ consistent with the comprehensive plan because _____
 *Insert either "is" or "is not" in the first blank, and your reasons in the second blank.*


12. The property owner _____ propose to use the property in a reasonable manner because _____.
 *Insert either "does" or "does not" in the first blank, and your reasons in the second blank.*

13. There _____ unique circumstances to the property not created by the landowner because _____.
 *Insert either "are" or "are not" in the first blank, and your reasons in the second blank.*

14. The variance _____ maintain the essential character of the locality because _____.
 *Insert either "will" or "will not" in the first blank, and your reasons in the second blank.*

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, MINNESOTA AS FOLLOWS:

The application to issue a variance to allow _____ to build _____ so as to deviate from _____ is hereby _____.

 *Insert the applicant's name in the first blank, the proposed project in the second blank, the ordinance requirement in the third blank, and either "approved" or "denied" in the last blank.*

Passed by the City Council of _____, Minnesota this _____ day of Month, Year.

Zoning Code Variation Guidelines for Particular Hardship and Practical Difficulty Criteria

Seeking a variation is a legal process that allows property owners to build structures or use land in a way that is contrary to the local zoning regulations. Variations are meant to be used sparingly. Granting a variation should be based on a practical difficulty or a particular hardship that is directly related to the property and related uses. The Glen Ellyn Zoning code reads:

“The Zoning Board of Appeals shall not recommend, and the Village Board shall not vary, the provisions of this Zoning Code, except in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any regulation of this Zoning Code relating to the use, construction or alteration of buildings or structures or the use of land.”

It is very important to consider what constitutes a practical difficulty or particular hardship. Unfortunately, there is more information about what is not a practical difficulty or particular hardship than there is to define one. This is probably because there are an infinite number of variation probabilities and scenarios.

The courts have ruled that a practical difficulty or particular hardship cannot be self created, cannot be just showing that the property would be worth more if a variation were granted, and it cannot be just a demonstration that a property is better suited for a use that is prohibited than a use that is permitted.

In trying to define the practical difficulty or particular hardship the person making the decision on whether or not to support the variance will need to evaluate if:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; or
2. The plight of the owner is due to unique circumstances; and that the Variation, if granted, will not alter the essential character of the locality;

The first test above essentially applies to the variety of uses that could be developed on the land. The applicant or owner must show more than a loss. The applicant or owner must demonstrate that there would be a loss or lack of reasonable return from each and every permitted use on the property. The second test implies that the hardship conditions shall not be generally applicable to a similar situation in the same zoning district. If that were the case, then the zoning of the district would be materially changed. Uniqueness relates to hardship, which refers to the land and not to the personal circumstances of the applicant or owner.

Furthermore, the Zoning Board must also consider other standards prescribed in the Glen Ellyn Zoning Code when deciding on variations:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner as distinguished from a

- mere inconvenience, if the strict letter of the regulation were to be carried out;
2. That the conditions upon which the petition for Variation is based would not be applicable generally to other property within the same zoning district;
 3. That the purpose of the Variation is not based exclusively upon a desire to make more money out of the property;
 4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
 5. That the granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 6. That the proposed Variation will not:
 - a). Impair an adequate supply of light and air to adjacent property;
 - b). Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c). Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;
 - d). Diminish or impair property values within the neighborhood;
 - e). Unduly increase traffic congestion in the public streets and highways;
 - f). Create a nuisance; or
 - g). Result in an increase in public expenditures;
 7. That the Variation is the minimum Variation that will make possible the reasonable use of the land, building or structure.

A zoning variation runs with the land indefinitely. This reinforces that variations should not be granted based on personal circumstances; while the people eventually will go away, the variation does not. The New York Supreme Court defined a variance as:

"An authority to a property owner to use the property in a manner forbidden by the ordinance."

The owners seeking variations are expected to bear a "higher burden of proof". Where a request for a variation is not unique or changes the essential character of the area, the petitioner should seek an amendment to the zoning code that would then apply throughout the district, rather than a variation. Variations are meant to be used sparingly, which is intentional as suggested in a reference from the case of *Real Properties v. Board of Appeals of Boston* that reads:

"The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances peculiar in their nature and with due regard to the main purpose of a zoning ordinance to preserve the property rights of others."

Hardships and Practical Difficulties
August 23, 2006
Page 3

Here are a couple of examples of variation requests that have hardships:

1. A platted lot that is uniquely shaped and when the zoning code is applied, interferes with the buildable area of the lot.
2. Unusual topography or natural conditions within a parcel.

These are a few variations requests that do not include hardships:

1. The cost of a project would be greater if it were constructed in an area that would be otherwise permissible.
2. Request to accommodate the size of ones family or personal health issues.
3. Request to expand beyond conditions created by a previous owner. For example, the previous owner may have elected to build the structure up to the setback line even though there was ample space to provide more distance from the property line.

In conclusion, a hardship is not just ordinary inconvenience or difficulty and the owner must be able to show that there is an inability to make reasonable use of the land. The hardship or difficulty must be unique and should not generally apply to other properties. Hardships cannot be self-created, which even applies to action taken by previous owners, including work performed without a permit. According to the courts, a hardship does not include a potential for economic loss or less than maximum return. Finally, the use or modification must not alter the essential character of the area. The ultimate question that must be asked is “Is the property owner deprived of rights or deprived of their desires?”

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INFORMATION MEMO

Land Use Variances

Learn about variances as a way cities may allow an exception to part of their zoning ordinance. Review who may grant a variance and how to follow and document the required legal standard of “practical difficulties” (before 2011 called “undue hardship”). Links to a model ordinance and forms for use with this law.

RELEVANT LINKS:

Minn. Stat. § 462.357, subd. 6.

Minn. Stat. § 462.357, subd. 6.

Minn. Stat. § 462.357, subd. 6.

I. What is a variance

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota—state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located.

II. Granting a variance

Minnesota law provides that requests for variances are heard by a body called the board of adjustment and appeals; in many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council.

A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

III. Legal standards

When considering a variance application, a city exercises so-called “quasi-judicial” authority. This means that the city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. The city acts like a judge in evaluating the facts against the legal standard. If the applicant meets the standard, then the variance may be granted. In contrast, when the city writes the rules in zoning ordinance, the city is exercising “legislative” authority and has much broader discretion.

A. Practical difficulties

“Practical difficulties” is a legal standard set forth in law that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

RELEVANT LINKS:

2011 Minn. Laws, ch. 19, amending Minn. Stat. § 462.357, subd. 6.

Krummenacher v. City of Minnetonka, 783 N.W.2d 721 (Minn. June 24, 2010).

Minn. Stat. § 462.357 subd. 6.
Minn. Stat. § 394.27, subd. 7.

See Section I, *What is a variance*.

See Section IV-A, *Harmony with other land use controls*.

3. Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

B. Undue hardship

“Undue hardship” was the name of the three-factor test prior to a May 2011 change of law. After a long and contentious session working to restore city variance authority, the final version of HF 52 supported by the League and allies was passed unanimously by the Legislature. On May 5, Gov. Dayton signed the new law. It was effective on May 6, the day following the governor’s approval. Presumably it applies to pending applications, as the general rule is that cities are to apply the law at the time of the decision, rather than at the time of application.

The 2011 law restores municipal variance authority in response to a Minnesota Supreme Court case, *Krummenacher v. City of Minnetonka*. It also provides consistent statutory language between city land use planning statutes and county variance authority, and clarifies that conditions may be imposed on granting of variances if those conditions are directly related to, and bear a rough proportionality to, the impact created by the variance.

In *Krummenacher*, the Minnesota Supreme Court narrowly interpreted the statutory definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance. The new law changes that factor back to the “reasonable manner” understanding that had been used by some lower courts prior to the *Krummenacher* ruling.

The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retained the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. Also included is a sentence new to city variance authority that was already in the county statutes.

RELEVANT LINKS:

Issuance of Variances, LMC model ordinance.

Variance Application, LMC model form.
Adopting Findings of Fact, LMC model resolution.

Minn. Stat. § 462.357, subd. 6.

See LMC information memo, *Taking the Mystery out of Findings of Fact.*

Minn. Stat. § 462.357, subd. 6.

C. City ordinances

Some cities may have ordinance provisions that codified the old statutory language, or that have their own set of standards. For those cities, the question may be whether you have to first amend your zoning code before processing variances under the new standard. A credible argument can be made that the statutory language pre-empts inconsistent local ordinance provisions. Under a pre-emption theory, cities could apply the new law immediately without necessarily amending their ordinance first. In any regard, it would be best practice for cities to revisit their ordinance provisions and consider adopting language that mirrors the new statute.

The models linked at the left reflect the 2011 variance legislation. While they may contain provisions that could serve as models in drafting your own documents, your city attorney would need to review prior to council action to tailor to your city’s needs. Your city may have different ordinance requirements that need to be accommodated.

IV. Other considerations

A. Harmony with other land use controls

The 2011 law also provides that: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.” This is in addition to the three-factor practical difficulties test. So a city evaluating a variance application should make findings as to:

- Is the variance in *harmony with* the purposes and intent of the ordinance?
- Is the variance *consistent with the comprehensive plan*?
- Does the proposal put property to use in a *reasonable manner*?
- Are there *unique circumstances* to the property not created by the landowner?
- Will the variance, if granted, alter the *essential character* of the locality?

B. Economic factors

Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exist only when the three statutory factors are met.

RELEVANT LINKS:

Minn. Stat. § 462.357, subd. 6.

C. Neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While city officials may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help the city in addressing these factors, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision. If neighborhood opinion is a significant basis for the variance decision, the decision could be overturned by a court.

D. Conditions

A city may impose a condition when it grants a variance so long as the condition is directly related and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the effect of excess height.

V. Variance procedural issues

A. Public hearings

Minnesota statute does not clearly require a public hearing before a variance is granted or denied, but many practitioners and attorneys agree that the best practice is to hold public hearings on all variance requests. A public hearing allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

B. Past practices

While past practice may be instructive, it cannot replace the need for analysis of all three of the practical difficulties factors for each and every variance request. In evaluating a variance request, cities are not generally bound by decisions made for prior variance requests. If a city finds that it is issuing many variances to a particular zoning standard, the city should consider the possibility of amending the ordinance to change the standard.