



City of Lake Geneva, 626 Geneva St, Lake Geneva, WI 53147- 262.248.3673- www.cityoflakegeneva.gov

CITY OF LAKE GENEVA ZONING BOARD OF APPEALS

MONDAY, AUGUST 28, 2023 - 5:00 PM

CITY HALL, CONFERENCE ROOM 2A

Members:

Chairperson Al Kupsik, Robert McCormick, Todd Krause, Thomas Anthony, Wesley (Pete) Peterson, and Kelly Yunker-1st Alternate

AGENDA

1. Meeting called to order by Chairperson Kupsik
2. Roll Call
3. Approve Minutes of the June 19, 2023 Zoning Board of Appeals meeting as distributed
4. Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to five (5) minutes
5. Acknowledgment of Correspondence
6. Public Hearing and Action on an application for a Variance Request filed by John Law, P.O. Box 27 Lake Geneva, 53147. For a Variance Request for the property located at 1351 Elkhorn Rd. in the Planned Industrial (PI) zoning district, Tax Key No. ZYUP00043A
7. Adjournment

QUORUM OF CITY COUNCIL MEMBERS MAY BE PRESENT

Requests from persons with disabilities, who need assistance in order to participate in this meeting, should be made to the City Clerk's office, in order for appropriate Accommodations.

CITY OF LAKE GENEVA ZONING BOARD OF APPEALS MINUTES
MONDAY, JUNE 19, 2023 - 5:00 PM
CITY HALL, CONFERENCE ROOM 2A

Members: Chairperson Al Kupsik, Robert McCormick, Todd Krause, Thomas Anthony, Wesley (Pete) Peterson, and Kelly Yunker-1st Alternate

Call to order by Chair Al Kupsik

Chairman, Al Kupsik called the meeting to order 5:00 PM.

Roll Call

Present: Al Kupsik Chairperson, Todd Krause, Bob McCormick and Thomas Anthony.

Absent: Wesley Peterson

Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to five (5) minutes

No Public Comments

Approve minutes of the March 1, 2022 Zoning Board of Appeals meeting as distributed

Krause / McCormick motion to approve. Motion carried unanimously.

Acknowledgment of Correspondence

No Correspondence

Public Hearing and Action on an application for a Variance Request filed by Jayson P. Nordstrom 510 Franklin Ave Lake Geneva, 53147. For a variance request to the side, rear, and allowable lot coverage for a property located in the Single Family – 4 (SR-4) zoning district Tax Key No. ZMA00026

Peterson arrived at 5:04 PM.

Applicant, Jayson Nordstrom, 510 Franklin Ave. Lake Geneva Wi - Presented the specifics of his request for a Variance Request at 510 Franklin Ave. and answered Board member's questions.

Mary Jo Fesenmaier, 1085 S Lake Shore Dr: Spoke about having procedures in place that would require signage posting on-site.

Linda Frame, 940 Lake Geneva Blvd: Inquired about lot sizes in the area.

Administrator Walling provided details and answered Board member's questions. Attorney Draper answered Board member's questions.

Kupsik / McCormick motion to close the public hearing. Motion carried unanimously.

Kupsik stated that the Board must vote on all 5 criteria to record a vote to approve or deny this variance request.

Zoning Board of Appeals Meeting Monday, June 19, 2023 – 5:00 PM

Conditions for Granting / Denying Variance
510 Franklin Ave.

1. There exists a unique hardship, which is caused by special conditions of the property and is not self-created by the Applicant.

Roll Call Vote

Al Kupsik <input checked="" type="checkbox"/> Y/N	Bob McCormick <input checked="" type="checkbox"/> Y/N	Todd Krause <input checked="" type="checkbox"/> Y/N
Thomas Anthony <input type="checkbox"/> Y/N	Pete Peterson <input checked="" type="checkbox"/> Y/N	

2. A literal enforcement of the provisions of the ordinance will result in practical difficulty or undue hardship.

Roll Call Vote

Al Kupsik <input checked="" type="checkbox"/> Y/N	Bob McCormick <input checked="" type="checkbox"/> Y/N	Todd Krause <input checked="" type="checkbox"/> Y/N
Thomas Anthony <input type="checkbox"/> Y/N	Pete Peterson <input checked="" type="checkbox"/> Y/N	

3. Granting of the Variance is within the spirit of the Zoning Code.

Roll Call Vote

Al Kupsik <input checked="" type="checkbox"/> Y/N	Bob McCormick <input checked="" type="checkbox"/> Y/N	Todd Krause <input checked="" type="checkbox"/> Y/N
Thomas Anthony <input type="checkbox"/> Y/N	Pete Peterson <input checked="" type="checkbox"/> Y/N	

4. The Public's health, and safety and welfare are secured.

Roll Call Vote

Al Kupsik <input checked="" type="checkbox"/> Y/N	Bob McCormick <input checked="" type="checkbox"/> Y/N	Todd Krause <input checked="" type="checkbox"/> Y/N
Thomas Anthony <input type="checkbox"/> Y/N	Pete Peterson <input checked="" type="checkbox"/> Y/N	

5. Granting of the variance will result in justice being served.

Roll Call Vote

Al Kupsik <input checked="" type="checkbox"/> Y/N	Bob McCormick <input checked="" type="checkbox"/> Y/N	Todd Krause <input checked="" type="checkbox"/> Y/N
Thomas Anthony <input type="checkbox"/> Y/N	Pete Peterson <input checked="" type="checkbox"/> Y/N	

Roll Call: Kupsik, McCormick, Peterson and Krause voted yes, & Anthony voted no.
Motion to grant the variance carried by a rollcall vote 4-1

Adjournment

Kupsik / McCormick motion to adjourn. Motion carried unanimously. The meeting adjourned at 5:37 PM.

APPLICATION FOR VARIANCE

Name of Applicant: John Law

Address: PO Box 27
Lake Geneva, WI 53147-0027

Telephone No. & Email: (262) 745-4500 johnlawrealtor@gmail.com

Property Owner: 1351 Elkhorn Road LLC
John Law, Sole Member

Telephone No. & Email: Same as Applicant

Owner Signature: J L

Legal description of property (include separate sheet if necessary):
Tax Parcel ZYUP 00043A. Refer to Plat of
Survey provided with this application for
full legal description.

Proposed Use: Mixed Use Structure as permitted by
right in the Planned Industrial (PI)
Zoning District.

TERMS OF ORDINANCE:

Sec 98.408 (7) Non-Conforming
Structure & Building Regulations

Sec 98.105 (g) PI District
4 (a) Minimum Landscape Ratio
4 (b) G Rear Setback
4 (b) I Minimum Paved Surface Setback

VARIANCE REQUESTED:

Paragraph (7) Enlargement
of structure

Lower to 20%
Reduced for Exit Landing
Reduced to 0' from ROW

SEE ATTACHED CHECKLIST FOR SUBMITTAL REQUIREMENTS.

VARIANCE FEE: \$400.00 PAYABLE UPON FILING APPLICATION.

7-17-2023
Date filed

J L
Signature of Applicant

Cost Recovery # _____

Petitioner Name _____

Project Address _____

OFFICE USE ONLY

Description of Request _____

Agreement for Services

REIMBURSABLE BY THE PETITIONER / APPLICANT. The city may retain the services of the professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposals coming before the Plan commission and/or Common Council. The submittal of a development proposal application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal including any financing charges that may accrue. The City applies the charges for these services to the Petitioner. The City Administrator at any time may require an applicant to submit an advance deposit of **\$500 to \$5,000 depending on the complexity and anticipated involvement of the City's consultants** or continuing advance deposits against future billings by the City for recovery of costs provide by this ordinance 98-935(4). **An advanced deposit shall be required for the application related to Extraterritorial matters.** Surplus deposits shall be returned to the Applicant at the conclusion of the project.

John Law

_____, as applicant/petitioner for

Project:

1351 Elkhorn Road LLC

Project Address:

1351 Elkhorn Road, Lake Geneva, WI

Parcel No.

ZYUP 00043 A

Name:

1351 Elkhorn Road LLC

Address:

PO Box 27

Lake Geneva, WI 53147-0027

Cell Phone: *(262) - 745 - 4500*

Phone: () - -

Email: *johnlawrealtor@gmail.com*

Dated this *17th* Day of *July*, 20 *23*

John Law

Printed Name of Applicant / Petitioner

John Law

Signature of Applicant/Petitioner

Applicant/Petitioner agrees that in addition to those normal costs payable by an applicant/petitioner (e.g., filing or permit fees, publication expenses, recording fees, etc.), that in the event the action applied or petitioned for requires the City of Lake Geneva, in the judgment of its staff, to obtain additional professional service(s), (e.g., engineering, surveying, planning, legal) than would be routinely available "in house" to enable the City to properly address, take appropriate action on, or determine the same, applicant/petitioner shall reimburse the City for the costs thereof

Section 98-935 Fees:

(1) Fees for Procedures or Permits Requested by a Private Party: The fees for the procedures and permits established by this Chapter shall be established by resolution of the Common Council of the City of Lake Geneva

(2) Fees for Procedures Requested by the City of Lake Geneva: There shall be no fee in the case of applications filed in the public interest by the Common Council or the Plan Commission, other agency, or official of the City of Lake Geneva.

(3) Payment of Fees: Fees shall be payable at the time applications are filed with the appropriate officer of the City (per the requirements of this Chapter), and are not refundable.

(4) Professional Consultant Review Services: The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission. The City may apply the charges for these services to the Petitioner. The City will require the Petitioner to sign a professional consultant review services form. The City Administrator at any time may require an applicant to submit an advance deposit of \$500 to \$5,000 depending on the complexity and anticipated involvement of the City's consultants or continuing advance deposits against future billings by the City for recovery of costs provide by this ordinance 98-935(4). **An advanced deposit shall be required for the application related to Extraterritorial matters.** The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the Petitioner. The submittal of a development proposal application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. Review fees which are applied to a Petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property.

**CITY OF LAKE GENEVA PROCEDURAL CHECKLIST FOR:
VARIANCE REVIEW AND APPROVAL (Requirements per Section 98-910)**

This form should be used by the Applicant as a guide to submitting a complete application for a variance and by the City to process said application. Parts II and III should be used by the Applicant to submit a complete application; Parts I - IV should be used by the City as a guide when processing said application.

I. RECORDATION OF ADMINISTRATIVE PROCEDURES

___ Pre-submittal staff meeting scheduled:

Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

Follow-up pre-submittal staff meetings scheduled for:

___ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

___ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

___ Application form filed with Zoning Administrator: Date: _____ by: _____

___ Application fee of \$ _____ received by Zoning Administrator: Date: _____ by: _____

___ Reimbursement of professional consultant costs agreement executed: Date: _____ by: _____

II. APPLICATION SUBMITTAL PACKET REQUIREMENTS

Prior to submitting the 8 final complete applications as certified by the Zoning Administrator, the Applicant shall submit 1 initial draft application packet and 1 digital copy for staff review, followed by one revised draft final application packet based upon staff review and comments.

Initial Packet (1 Copy and 1 Digital Copy to Zoning Administrator) Date: _____ by: _____

↓ *Draft Final Packet (8 Copies and 1 Digital Copy to Zoning Administrator)* Date: _____ by: _____

↓

- ✓ ___ (a) A map of the subject property:
 - ✓ Showing all lands for which the variance is proposed;
 - ✓ Indicating current zoning of the subject property and environs, and the jurisdiction(s) which maintains that control;
 - ✓ Map and all its parts are clearly reproducible with a photocopier;
 - ✓ Map scale not less than one inch equals 800 feet; = 1,000 Feet
 - ✓ All lot dimensions of the subject property provided;
 - ✓ Graphic scale and north arrow provided.

✓ ___ (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;

- (c) A written description of the proposed variance describing the type of specific requirements of the variance proposed for the subject property;
- (d) A site plan of the subject property as proposed for development conforming to all requirements of Section 98-908(3). (See "Site Plan Approval checklist")
- (e) Written justification for the requested variance consisting of the reasons why the Applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the standards set out Section 98-910(4)(c)1.-6. (See below)

III. JUSTIFICATION OF THE PROPOSED VARIANCE

1. What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district.

- a. Describe the hardship or difficulty that is peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed; The subject property is a legal non-conforming structure built on a legal pre-existing substandard parcel. Also 39.6% of the gross area of this parcel is within the road right of way.

NOTE:

- *Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
- *Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
- *Violations by, or variances granted to, neighboring properties shall not justify a variance;
- *The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

2. In what manner do the factors identified in 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

To comply with current state building code requirements for emergency exits and provide efficient access to the existing structure several small enlargements to the existing structure are required, but not permitted per City of Lake Geneva Zoning Ordinance.

3. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

No. If this variance is granted, we will be removing a large existing lean-to roof on the North end of the building that covers a loading dock. The net increase in ground area coverage for the existing 15,000 sq. ft. structure is only 221 sq. ft.

4. Would the granting of the proposed variance as depicted on the required site plan (see (d), above), result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of the Zoning Ordinance, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

No. In fact, we believe the requested enlargements will be aesthetic enhancements to this structure. The intended use of the structure will conform to the permitted uses by right for the Planned Industrial (PI) Zoning District.

5. Have the factors which present the reason for the proposed variance been created by the act of the Applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of the Zoning Ordinance (see Section 98-011.) The response to this question shall clearly indicate that such factors existed prior to the effective date of the Ordinance and were not created by action of the Applicant, a previous property owner, or their agent.

For the period from 1970 to 2018 the building's primary use was office space, warehousing and distribution of products for a single business entity. There was no consideration given to current state code requirements for emergency exits.

6. Does the proposed variance involve the regulations of Section 98-203 (Table of Land Uses)? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Section.

No. This variance request only pertain to the enlargement of the existing legal non-conforming structure, some setbacks and the landscape surface ratio.

IV. FINAL APPLICATION PACKET INFORMATION

____ Receipt of Final Application Packet by Zoning Administrator: Date: _____ by: _____

____ Receipt of 8 Copies of Final Applications by Zoning Administrator: Date: _____ by: _____

____ A digital copy of Final Application Packet shall be emailed to the Building and Zoning Department upon submittal deadline. Date: _____ by: _____

____ Certification of complete Final Application Packet and required copies to the Zoning Administrator by City Clerk: Date: _____ by: _____

____ Class 2 Legal Notice sent to official newspaper by City Clerk: Date: _____ by: _____

____ Class 2 Legal Notice published on _____ and _____ by: _____

DESCRIPTION OF VARIANCE REQUEST FOR 1351 ELKHORN ROAD

There are six specific items in this variance request and one blanket item for the entire property. You will find hereinafter a description for each specific item and separate diagrams of the building that identifies the location of each item. All of these items are enlargement of structures issues and in some cases a setback issue.

ITEM (1): To be constructed front entry vestibule with outside dimensions of 10' x 10'. This will be conditioned space and is the only entrance that allows access to all sections of the building. No such entry exists at the present time.

ITEM (2): New concrete retaining wall around a 8' x 12' concrete slab with a lean-to roof overhead for some protection from rain/snow when exiting or entering the building through the two South side doors. This is not conditioned space and is essentially like a covered porch.

ITEM (3): Wood (or metal) framed 4' x 5.5' landing with two or three steps down to the ground level. This is strictly an emergency exit door.

ITEM (4): New emergency exit door from second floor out to a 6' x 20' covered porch, of which a portion will be conditioned space. There will be a 3 foot wide staircase to the ground level. During the construction of this emergency exit, we will be removing a large lean-to roof over a loading dock area and constructing a new lean-to roof that only projects 6' out from the building and will wrap around to the NE corner of the building to cover over a new emergency exit door. The new lean-to roof, porch and stairs will actually be 28 square feet less in land area coverage.

ITEM (5): Dumpster Enclosure. None currently exists on the property will require a retaining wall. It will be mostly concealed on 3 sides in that it is being built into a hillside and will have a solid panel gate. I do not believe we have any setback issues, but it does require a reduction in the minimum landscape ratio.

ITEM (6): On the North wall of the building is a 14' x 10' overhead garage door that requires a widen of the driveway to improve vehicular access. I am requesting that the 5' setback from the road right of way be reduced to 0'. The actual street curb for Cemetery Road is at least 18' from the road right of way line and is elevated about 10' uphill.

BLANKET ITEM: I am requesting that the minimum landscape ratio be reduced to 20%. With 38.6% of this parcel being in a road right of way, it is almost impossible to meet a higher ratio.

**JUSTIFICATION OF VARIANCE REQUEST
FOR 1351 ELKHORN ROAD**

The subject property consists of a legal non-conforming structure on a legal pre-existing substandard parcel that also has 38.6% of the property in a designated road right of way.

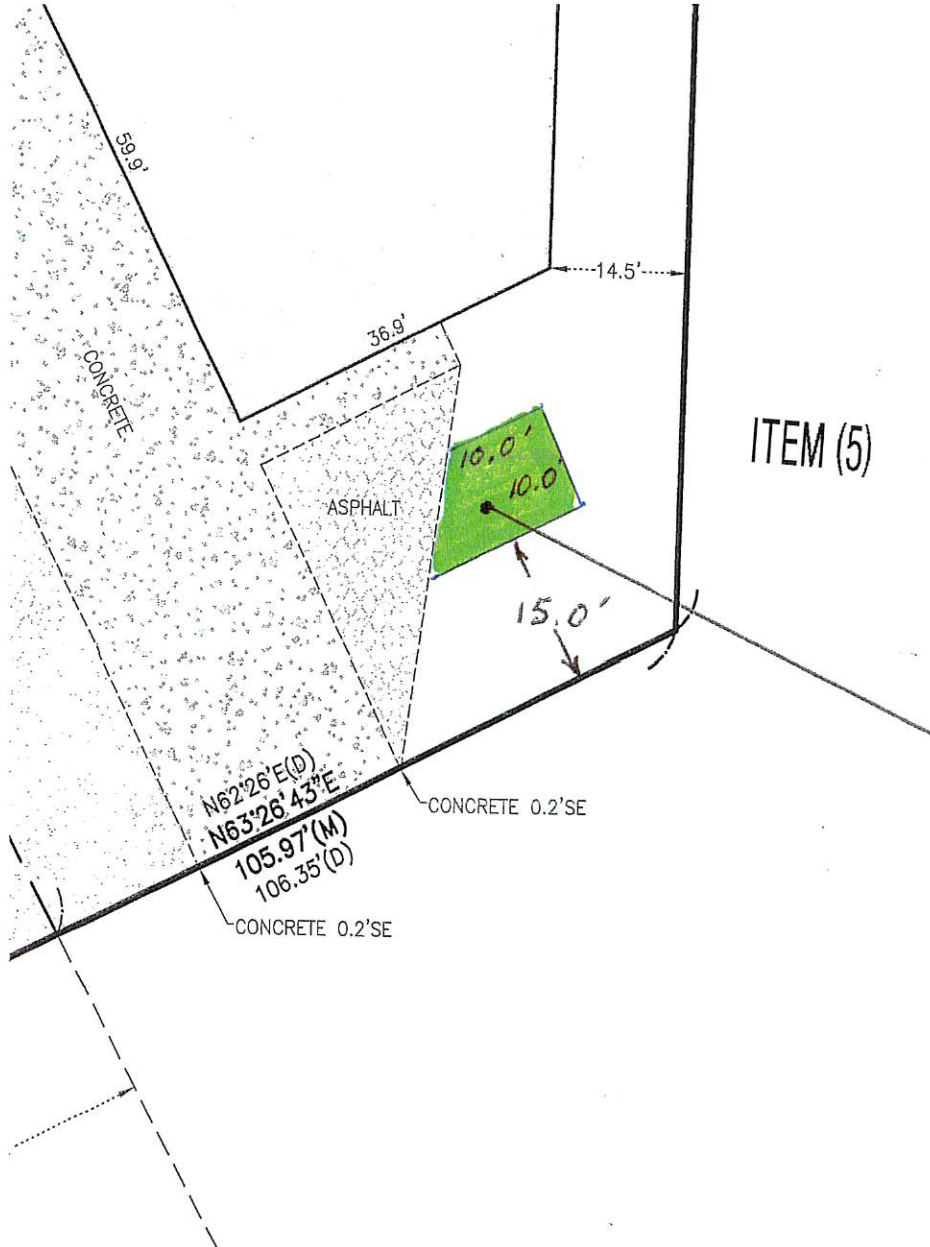
I think it is reasonable to say that this does create a true hardship, since you can not enlarge the building for such essential items as creating emergency exits that are now required by state building code. This is a legitimate SAFETY issue.

The requested variance items are not rentable spaces and are for the sole purpose of providing emergency exits and improving overall access into the building.

Creating the new 100 square foot exit/entry vestibule reduces our parking by one stall, which are in very short supply with this property. I would not be asking to do so, if I did not believe it was important to have this additional exit/entry.

I am confident that the requested variance items will not be detrimental or cause harm to any of the neighboring property owners or the general public.

EXHIBIT C



DUMPSTER ENCLOSURE



1± Sq.Ft.
 355± Sq.Ft.
 9%
 10%

STATE OF ILLINOIS)) S.S.
 COUNTY OF McHENRY)

I hereby state that we have platted the premises above described, and that the plat hereon is a true representation of the said description.

This is not a Boundary Survey

Dated at Woodstock, McHenry County, Illinois 12/5 A.D., 2019.

Vanderstappen Land Surveying, Inc..
 Design Firm No. 184-002792

[Handwritten signature]

EXHIBIT D

S89°18'W 231.22'(D)
N89°30'05"W 232.23'(M)

PLACE OF BEGINNING

CEMETERY

ROAD

ITEM (6)

S89°30'05"E 176.70'(M)

5.0'

ASPHALT

CANOPY
W/CONCRETE
BELOW

CONCRETE

2-STORY
BLOCK, FRAME & BRICK
BUILDING #1351

ELKHORN

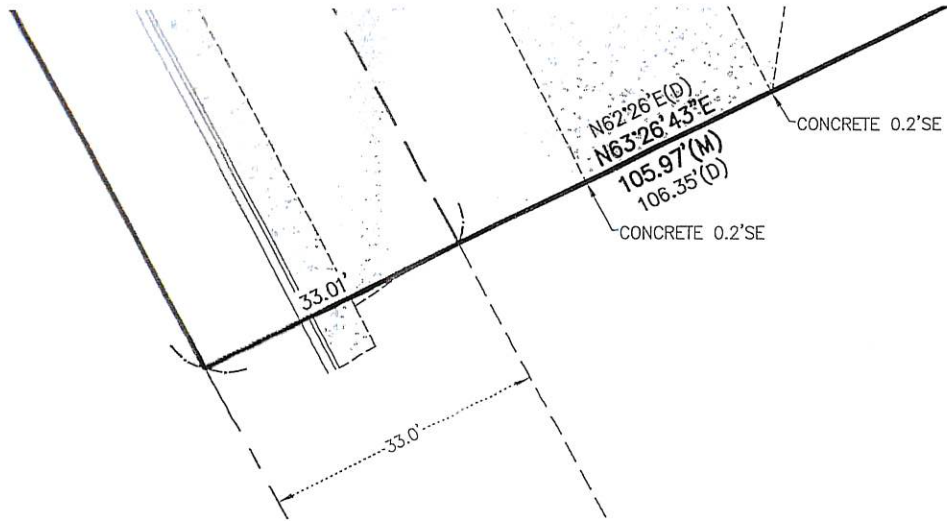
(COUNTY TRUNK)

S27°39'31"E 286'
S28°29'E 285'

N27°39'31"

N01°15'16"E 204.34'(M)
N00°E 204.14'(D)

EXHIBIT E



NET AREA = 23,596±Sq.Ft.
GROSS AREA = 38,897±Sq.Ft.

NET NON-IMPERVIOUS AREA = 6,954±Sq.Ft.
GROSS NON-IMPERVIOUS AREA = 11,855±Sq.Ft.

$6,954 / 23,596 = 0.29 \times 100 = 29\%$
 $11,855 / 38,897 = 0.30 \times 100 = 30\%$



STATE OF ILLINOIS)
) S.S.
 COUNTY OF McHENRY)

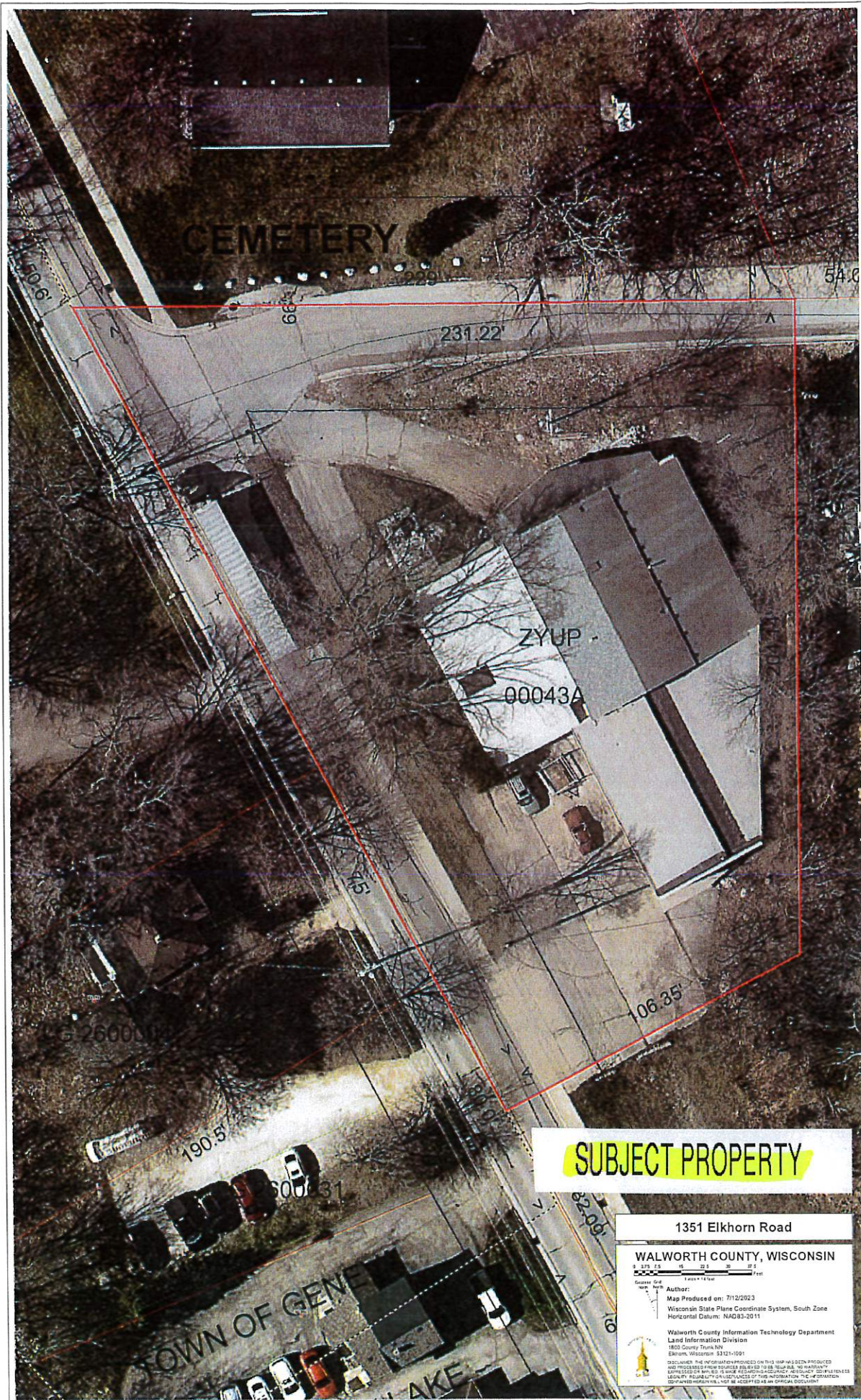
I hereby state that we have platted the premises above described, and that the plat hereon is a true representation of the said description.

This is not a Boundary Survey

Dated at Woodstock, McHenry County, Illinois 12/5 A.D., 20 19.

Vanderstappen Land Surveying, Inc..
 Design Firm No. 184-002792

By: *William J. Vanderstappen*
 Wisconsin Professional Land Surveyor No. S1777



SUBJECT PROPERTY

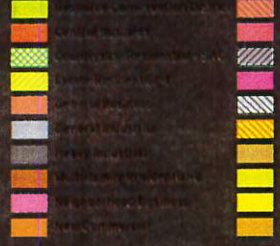
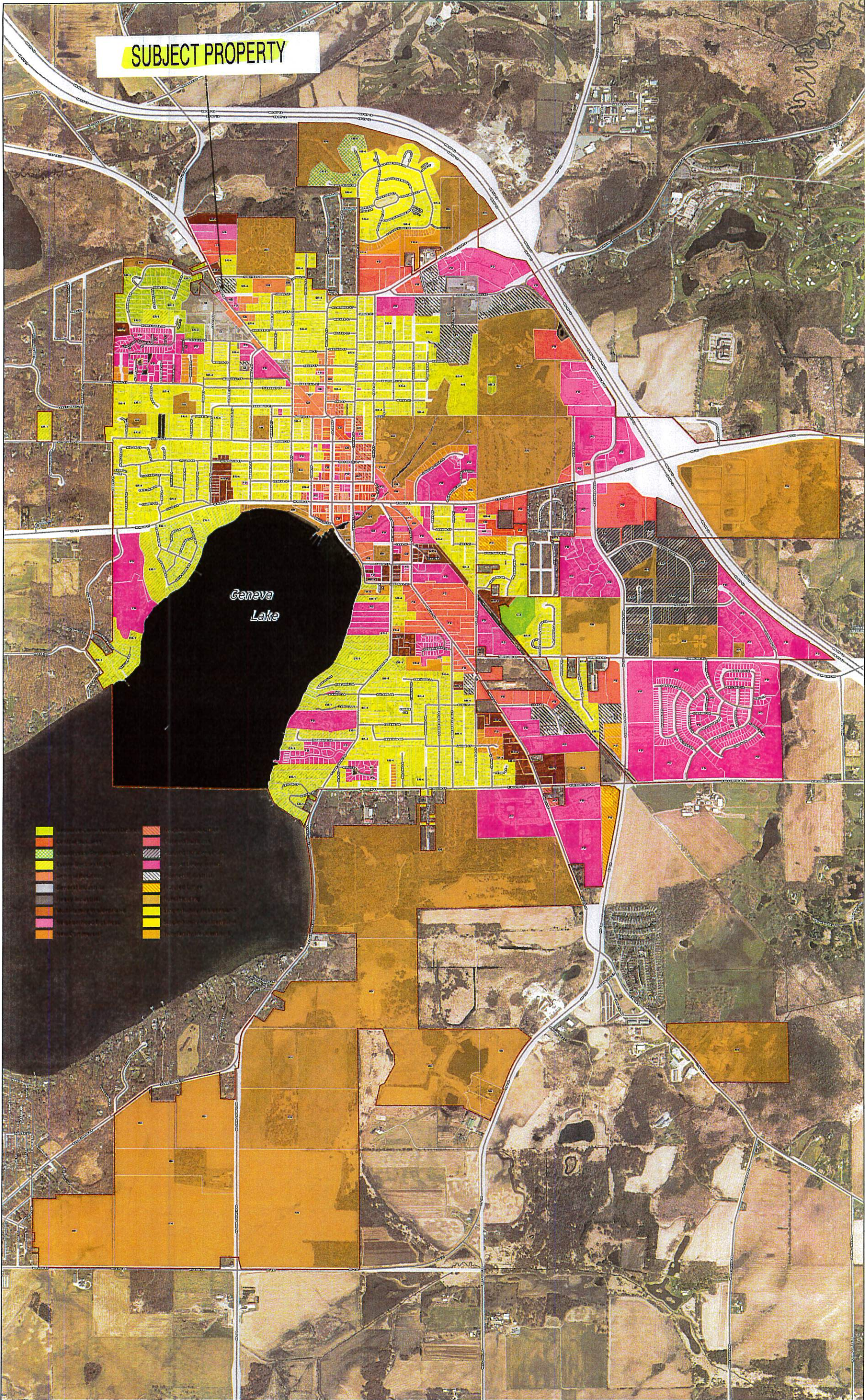
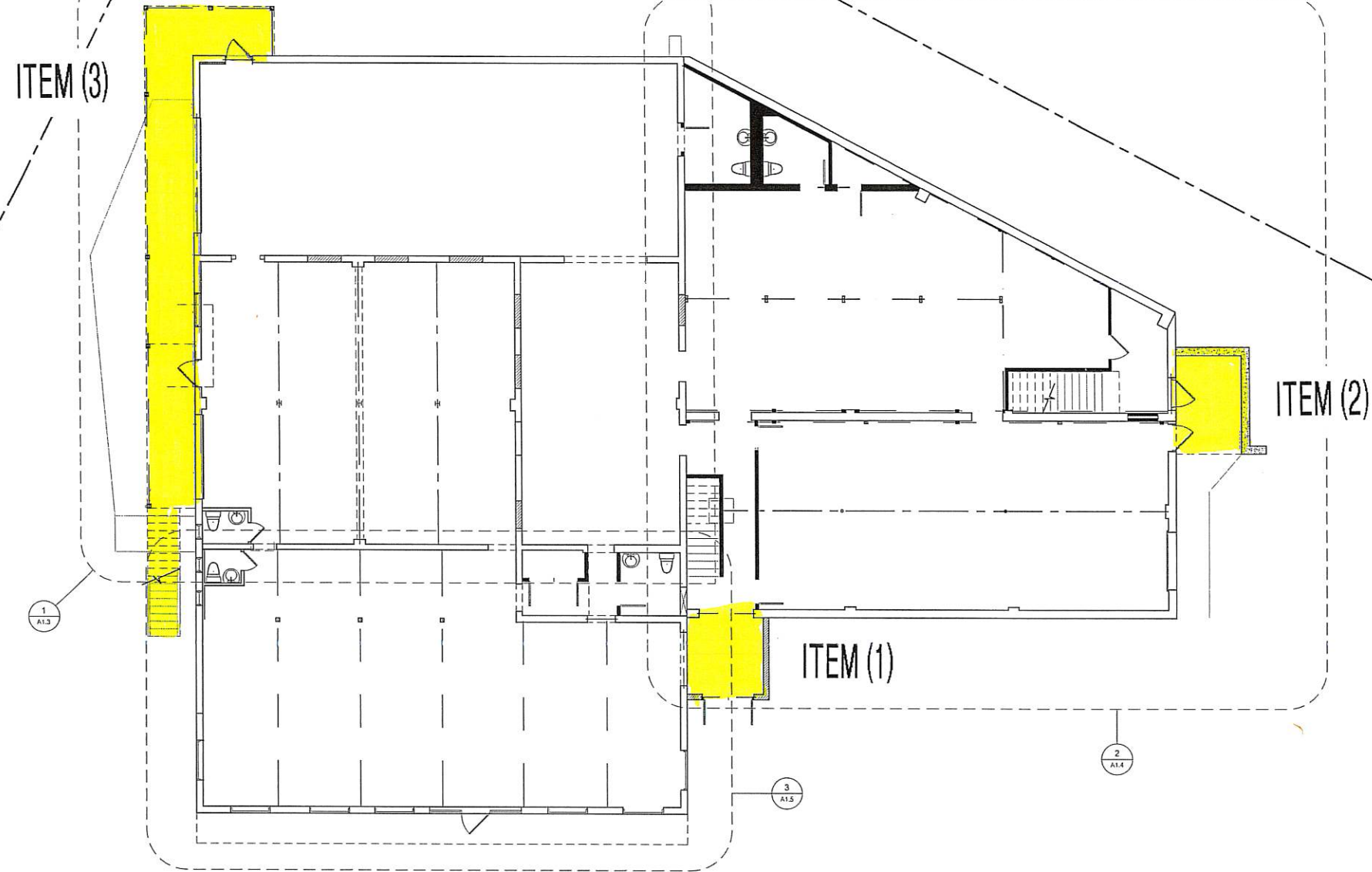


EXHIBIT A



ITEM (3)

ITEM (2)

ITEM (1)

1
A1.3

2
A1.4

3
A1.5

SHEET INDEX	
A1.1	FIRST FLOOR OVERALL
A1.2	SECOND FLOOR OVERALL
A1.3	FIRST FLOOR AREA 1 -ENLARGED
A1.4	FIRST FLOOR AREA 2 -ENLARGED
A1.5	FIRST FLOOR AREA 3 -ENLARGED
A1.6	SECOND FLOOR AREA 1 -ENLARGED
A1.7	SECOND FLOOR AREA 2 -ENLARGED

REMODEL FIRST FLOOR PLAN OVERALL

SCALE: 1/8" = 1'-0"



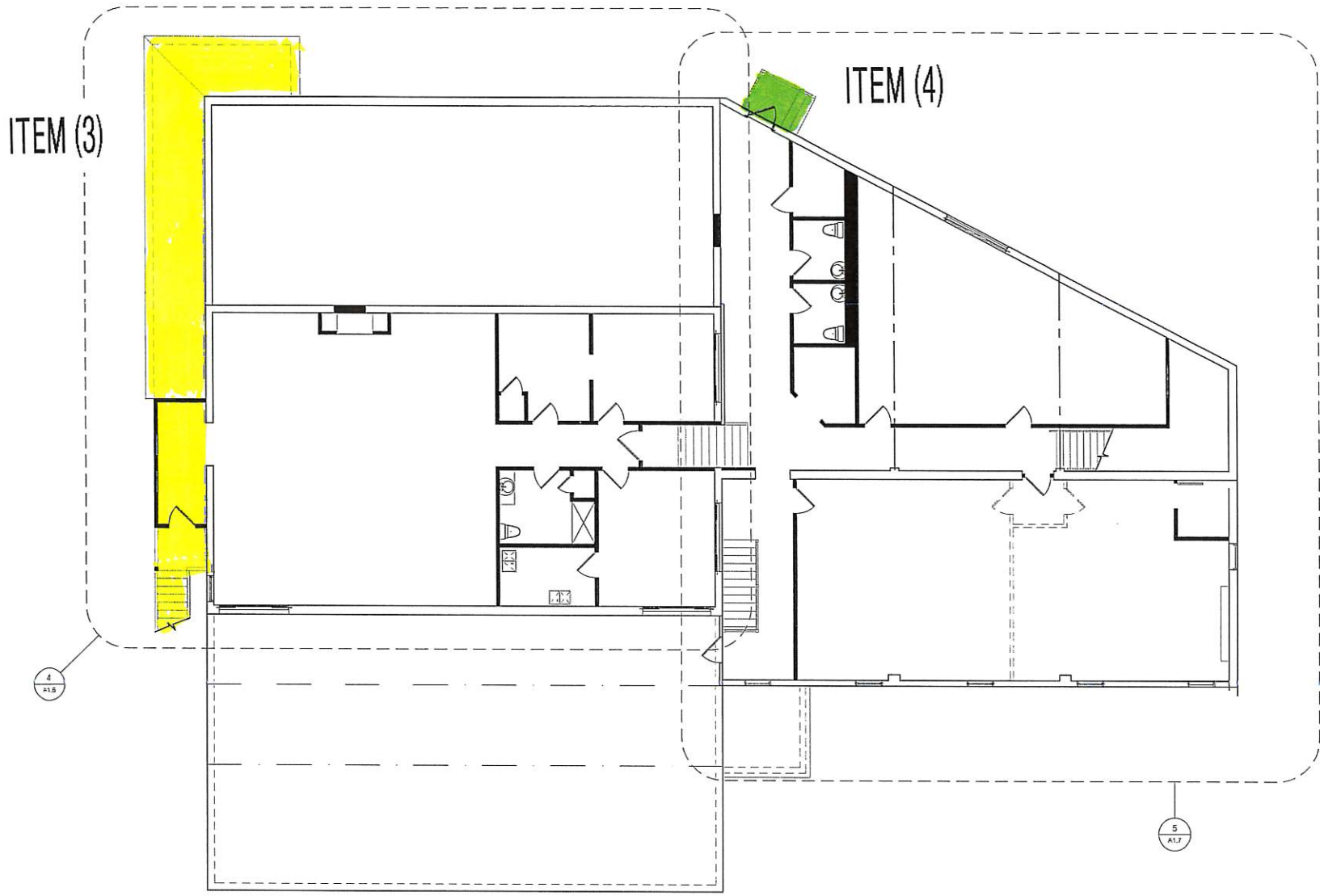
REVISIONS	DESCRIPTION	DATE

Date: 6-16-2023
Project: 2019-01.007
Drawn by: KRG
Checked by: MAP

SHEET NUMBER

A1.1

EXHIBIT B



REMODEL SECOND FLOOR PLAN OVERALL

SCALE: 1/8" = 1'-0"



REVISIONS NUMBER	DESCRIPTION	DATE

Date: 6-16-2023
Project: 2019-01.007
Drawn by: KRG
Checked by: MAP
SHEET NUMBER

Zoning Board of Appeals Meeting

Monday, August 28, 2023 – 5:00 PM

Conditions for Granting / Denying Variance
John Law – 1351 Elkhorn Rd.

1. There exists a unique hardship, which is caused by special conditions of the property and is not self-created by the Applicant.

Roll Call Vote

Al Kupsik Y/N	Bob McCormick Y/N	Todd Krause Y/N
Thomas Anthony Y/N	Kelly Yunker Y/N	Pete Peterson Y/N

2. A literal enforcement of the provisions of the ordinance will result in practical difficulty or undue hardship.

Roll Call Vote

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Roll Call Vote

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Roll Call Vote

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Roll Call Vote

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Thomas Anthony Y/N	Kelly Yunker Y/N	Pete Peterson Y/N