



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

**ZONING BOARD OF APPEALS
THURSDAY, NOVEMBER 21, 2024 - 4:00 PM
CITY HALL, COUNCIL CHAMBERS**

Members:

Chairperson Al Kupsik, Robert McCormick, Joseph Zimmer, Thomas Anthony, Wesley (Pete) Peterson, Kelly Yunker-1st Alternate, Eric Anderson-2nd Alternate

AGENDA

1. Meeting called to order by Chairperson Kupsik
2. Roll Call
3. Approve Minutes of the August 28, 2023 Zoning Board of Appeal 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. Presentation by Vandewalle & Associates on the variance process
7. Public Hearing and Action on an application for a Variance Request filed by Shauna Basil, 1410 Linda Lane, Lake Geneva, WI 53147 for the property located at 1410 Linda Lane in the Single-Family Residential – 4 (SR-4) zoning district, tax key no. ZST 00001
8. 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, 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

Meeting called to order by Chairperson Kupsik
 Chairperson, Al Kupsik called the meeting to order 5:00 PM.

Roll Call
Present: Al Kupsik, Bob McCormick, Thomas Anthony, Pete Peterson
Absent: Todd Krause

Approve Minutes of the June 19, 2023 Zoning Board of Appeals meeting as distributed
 Motion to approve by Peterson, second by Kupsik. Motion Carried; 4-0

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 comment

Acknowledgment of Correspondence
 Correspondence distributed

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
 Applicant Jon Law presented a Variance Request for the property located at 1351 Elkhorn Road in the Planned Industrial (PI) zoning district and answered questions from the Board members.

Motion by Kupsik to close Public Hearing, second by Anthony. Motion Carried: 4-0

Addressed questions related to the specific conditions for granting or denying variances,

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			
Al Kupsik Y/N	Bob McCormick Y/N	Todd Krause Y/N	
Thomas Anthony Y/N	Kelly Yunker Y/N	Pete Peterson Y/N	
3. Granting of the Variance is within the spirit of the Zoning Code.			
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	
4. The Public's health, and safety and welfare are secured.			
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	
5. Granting of the variance will result in justice being served.			
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	

The Board wishes to formally state that landscaping is not a matter of concern.

Chairperson Kupsik stated that based on roll call of the "Conditions for Granting/Denying Variance", variance is approved.

Adjournment

Motion by Kupsik to adjourn, second by McCormick. Motion Carried: 4-0 The meeting adjourned at 5:48pm.

STAFF REPORT
To Lake Geneva Zoning Board of Appeals
Meeting Date: November 21, 2024

Agenda Item #7

Applicant:
Shauna Basil
1410 Linda Lane
Lake Geneva, WI

Request:
1410 Linda Lane
Proposed Variance

Description:

The applicant has submitted a request for a variance to allow for an expansion and reconstruction of their single-family home located at 1410 Linda Lane. The subject property is zoned Single-family Residential-4 (SR-4) with adjacent properties to the north and west sharing the same zoning classification. Properties to the east across Elmwood Avenue are zoned Multi-family Residential-8 (MR-8). Properties to the south across Main Street are zoned Estate Residential-1 (ER-1).

The subject property currently contains a single story single-family residence with detached garage. The home was built in the 1950s before the current zoning ordinance was established. The required front setback in the SR-4 district is 25 feet. The existing home currently encroaches on the required 25-foot front setback, and the actual front setback provided is 21 feet 10 inches.

The proposed expansion of the residence would include demolition of the existing structure and construction of a new two-story residence on the same foundation. The proposed expansion would also include enlarging the one-car garage into a two-car garage and the addition of entry stairs at the front of the house.

Due to the irregular shape of the lot, steep slope at the rear of the property, and the location of the existing building foundation, the buildable area on the lot is limited. Thus, the applicant is seeking two variances:

1. A variance to allow a portion of the new residence and attached garage to further encroach into the required 25-foot front setback, resulting in a 16-foot front setback. The resulting setback encroachment would be nine feet.
2. A variance to allow new entry stairs on the front of the residence that would encroach into the required 20-foot setback for stairs, resulting in setback of approximately 11 feet. The resulting setback encroachment would be approximately nine feet.

The applicant proposes to rebuild the deck at the rear of the home in the same size and location, as allowed by the zoning ordinance. No variance is required for this.

All other setbacks will be met, and no other variances are requested.

Variance Process

A variance is a process in which an applicant may seek relief from the requirements of the zoning ordinance in the face of extenuating circumstances. These circumstances typically include irregularities in the shape of the lot, topography, and other factors that are outside of the applicant's control. If a variance is approved, it would allow the applicant to deviate from the zoning code for a specific project after the review of proposed plans and statements from the applicant.

The Zoning Board of Appeals (ZBA) is the body that makes determinations on variance requests. In making its decision on the variance, the ZBA is required to make two sets of findings, as required by Section 98-934(7) and Section 98-910(4)(c)1.-6. of the zoning ordinance.

ZBA decisions are "quasi-judicial," meaning that ZBA members weigh the ordinances adopted by the City, the justification provided by the applicant in the submitted materials, and testimony provided during the public hearing. ZBA practices adhere to placing the burden of proof on the applicant to justify the need for the variance.

Action by the ZBA:

As part of the consideration of the requested variance, the ZBA is required to:

- Make findings per Section 98-934(7)
- Make findings per Section 98-910(4)(c)1.-6.
- Approve or deny the variance request
- Make a written report of its findings
- Document findings of fact and reasons for all actions taken in the meeting minutes

The ZBA may:

- Request further information or additional reports from staff or the applicant
- Take final action at the meeting or continue to another meeting (Note: if the ZBA fails to make a determination within the 30 days following the public hearing, then the variance is considered denied)

Required Findings on the Variance per Section 98-934(7)

The Zoning Board of Appeals is authorized to grant a variance from the zoning ordinance which is not contrary to the public interest and if the following findings are found to be in the affirmative:

1. There exists a unique hardship, which is caused by special condition of the property and is not self-created by the applicant.
2. A literal enforcement of the provisions of the zoning ordinance will result in practical difficulty or undue hardship.
3. Granting of the variance is within the spirit of the zoning ordinance.
4. The Public's health, safety and welfare are secured.
5. Granting of the variance will result in justice being served.

Required Findings on the Variance per Section 98-910(4)(c)1.-6.:

Additionally, the Zoning Board of Appeals must make findings per Section 98-910(4)(c)1.-6.:

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. Specifically:
 - a. The hardship or difficulty shall be 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;
 - b. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - c. 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;
 - d. Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - e. 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 Subsection (4)(c)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.
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.
4. Would the granting of the proposed variance as depicted on the required site plan, 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 this chapter, 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.
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 this chapter? The response to this question shall clearly indicate that such factors existed prior to the effective date of this chapter and were not created by action of the applicant, a previous property owner, or their agent.

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.

The applicant has evaluated the variance request against these factors and provided justification for the proposed variance in their variance application.

Staff has evaluated the applicant's justification and provided further comment in the "Staff Review" section below.

Staff Review:

Staff offers the following evaluation of and comment on the applicant's justification of the variance per Section 98-910(4)(c)1.-6. The numbers 1-6 below correlate with the criteria numbered 1-6 above.

1. The main factors affecting this property include an irregular lot shape, topography, and an original structure that does not conform with the current zoning ordinance. The lot is triangular, has frontage on two streets, and has a steep slope at the rear. Together, these factors greatly reduce the buildable area of the lot. These conditions are unique to this lot and do not apply to other lots in the neighborhood.
Staff notes that the existing structure, including the foundation, was constructed in the 1950s and already encroaches into the required 25-foot front setback. This may reflect different setback requirements at the time but may also reflect the challenges of this specific lot.
Staff further notes the property already contains a single family residence, and so the variance request to accommodate a bigger home with a two-car garage could be considered a self-imposed hardship. Staff notes that the applicant could redesign the project to avoid further encroaching on the front setback, but it would require them to reconstruct the building foundation.
2. Without a variance, the above-mentioned factors prohibit the applicant from expanding the size of the residence and garage – as desired by the applicant. The above-mentioned factors do not prohibit the applicant from continuing to use the existing house as-is. Increasing the size of the residence and constructing a two-car garage would allow the property to conform to the character of the neighborhood, as many of the surrounding properties have upgraded to more modern and larger homes and two-car garages.
3. Staff feels that the proposed variance would not cause detriment to the character of the neighborhood nor to the integrity of adjacent properties.
4. Staff feels that approval of the variance would not result in 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, the goals of the Comprehensive Plan, or any other long range planning activities.

5. Staff does not believe that the conditions requiring the need for a variance were created by of the applicant or previous property owner or their agent after the effective date of zoning ordinance.
6. The applicant has not proposed a variance pertaining to land use.

Suggested Motions:

- I recommend approval of the proposed variances for 1410 Linda Lane including a finding that the variance is justified per Section 98-910(4)(c)1.-6. and findings in the affirmative per Section 98-934(7).
- I recommend denial of the proposed variances for 1410 Linda Lane because [provide rationale for denial, based on findings in the negative above].

*Jackie Mich, AICP
City Planning Consultant
Vandewalle & Associates*

APPLICATION FOR VARIANCE

Name of Applicant: Shauna Basil

Address: 1410 Linda Lane

Telephone No. & Email: 561-573-5732 shaybaz22@gmail.com

Property Owner: Shauna Basil

Telephone No. & Email: 561-573-5732 shaybaz22@gmail.com

Owner Signature: _____

Legal description of property (include separate sheet if necessary):
Lot 1 of Sturwood Addition, City of Lake Geneva, Walworth County, Wisconsin.
TAX ID # ZST 00001

Proposed Use: Primary residence

TERMS OF ORDINANCE:
25 foot setback from property pins.
6 foot side yard set back on west.

VARIANCE REQUESTED:
-5 feet on north east and 3 feet to the north
of existing garage
-Newly constructed front porch impinging
on 25 foot setback

SEE ATTACHED CHECKLIST FOR SUBMITTAL REQUIREMENTS.

VARIANCE FEE: \$400.00 PAYABLE UPON FILING APPLICATION.

10-11-2024
Date filed

Shauna L. Basil
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.

Shauna Basil _____, as applicant/petitioner for

Project: Partially, newly constructed home _____

Project Address: 1410 Linda Lane Lake Geneva, WI 53147 _____

Parcel No. ZST 00001 _____

Name: Shauna Basil _____

Address: 1410 Linda Lane _____

Lake Geneva, WI 53147 _____

Cell Phone: (561) - 573 - 5732 Phone: (561) - 573 - 5732

Email: shaybaz22@gmail.com _____

Dated this 11th Day of October, 20 24

Shauna Basil _____

Printed Name of Applicant / Petitioner

Shauna L. Basil

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:* 10-11-24 *by:* S.B.

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

↓

X _____ **(a) A map of the subject property:**

- X Showing all lands for which the variance is proposed;
- X Indicating current zoning of the subject property and environs, and the jurisdiction(s) which maintains that control;
- X Map and all its parts are clearly reproducible with a photocopier;
- X Map scale not less than one inch equals 800 feet;
- X All lot dimensions of the subject property provided;
- X 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; 25 foot zoning ordinance was not in affect at construction of home in 1955. Parcel is on a unique lot being triangular in shape and encompassed by two city streets. I am proposing an addition of a second story which will create the need for a two car garage for future expanded family use. This proposal is standard for similar homes in the area.

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.

The 25 foot setback on the northeast side of the property prohibits the proposed constuction of a two car garage on this triangular lot. Other homes in the area do not have this shaped lot with these limitations.

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, the proposed variance will not inhibit or impede any adjacent properties.

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, the proposed variance will not affect any of the factors listed above.

5. Have the factors which present the reason for the proposed variance been created by the act of the Application 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.

No such factors were created by the previous property owner, agent, or applicant.

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, home will be used as a primary residence. Single-family attached.

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: _____

**CITY OF LAKE GENEVA PROCEDURAL CHECKLIST FOR:
SITE PLAN REVIEW AND APPROVAL (Requirements per Section 98-908)**

This form should be used by the Applicant as a guide to submitting a complete application for a site plan review and by the City to process said application. Part II should be used by the Applicant to submit a complete application; Parts I - III 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: _____

___ 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: 10-11-24 by: S.B.
 ↓ *Draft Final Packet (8 Copies and 1 Digital Copy to Zoning Administrator)* Date: _____ by: _____

X (a) **A written description of the intended use describing in reasonable detail the:**

- X Existing zoning district(s) (and proposed zoning district(s) if different);
- X Land use plan map designation(s);
- X Current land uses present on the subject property;
- X Proposed land uses for the subject property (per Section 98-206);
- X Projected number of residents, employees, and daily customers;
- X Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
- X Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation;

- Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in Article VII (Sections 98-701-98-721) including: street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials;
- If no nuisances will be created (as indicated by complete and continuous compliance with the provisions of Article VII), then include the statement "The proposed development shall comply with all requirements of Article VII.";
- Exterior building and fencing materials (Sections 98-718 and 98-720);
- Possible future expansion and related implications for points above;
- Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

X (b) **A Small Location Map** at 11" x 17" showing the subject property, all properties within 300 feet, and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City's Official Zoning Map with the subject property clearly indicated shall suffice to meet this requirement.)

X (c) **A Property Site Plan drawing which includes:**

- X A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
- X The date of the original plan and the latest date of revision to the plan;
- X A north arrow and a graphic scale (not smaller than one inch equals 100 feet);
- X A reduction of the drawing at 11" x 17";
- X A legal description of the subject property;
- X All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
- X All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
- X All required building setback lines;
- X All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
- X The location and dimension (cross-section and entry throat) of all access points onto public streets;
- X The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by the Ordinance;
- X The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
- X The location of all outdoor storage areas and the design of all screening devices;
- X The location, type, height, size and lighting of all signage on the subject property to include a photometric plan;
- X The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property -- including the clear demonstration of compliance with Section 98-707;
- X All engineering requirements for utilities, site designs, etc;
- X The location and type of any permanently protected green space areas;
- X The location of existing and proposed drainage facilities for storm water;

- In the legend, data for the subject property on:
 - Lot Area;
 - Floor Area;
 - Floor Area Ratio (b/a);
 - Impervious Surface Area;
 - Impervious Surface Ratio (d/a);
 - Building Height.

- (d) **A Detailed Landscaping Plan of the subject property:**
 - Scale same as main plan (> or equal to 1" equals 100')
 - Map reduction at 11" x 17"
 - Showing the location of all required bufferyard and landscaping areas
 - Showing existing and proposed Landscape Point fencing
 - Showing berm options for meeting said requirements
 - Demonstrating complete compliance with the requirements of Article VI
 - Providing individual plant locations and species, fencing types and heights, and berm heights;

- (e) **A Grading and Erosion Control Plan:**
 - Same scale as the main plan (> or equal to 1" equals 100')
 - Map reduction at 11" x 17"
 - Showing existing and proposed grades including retention walls and related devices, and erosion control measures.

- (f) **Elevation Drawings of proposed buildings or remodeling of existing buildings:**
 - Showing finished exterior treatment;
 - With adequate labels provided to clearly depict exterior materials, texture, color and overall appearance;
 - Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.

NOTE: Initiation of Land Use or Development Activity: Absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of law and shall be subject to all applicable enforcement mechanisms and penalties.

NOTE: Modification of an Approved Site Plan: Any and all variation between development and/or land use activity on the subject property and the approved site plan is a violation of law. An approved site plan shall be revised and approved via the procedures of Subsections 98-908(2) and (4) so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.

III. FINAL APPLICATION PACKET INFORMATION

- Receipt of 1 full scale copy in blue/line or black/line of complete Final Application Packet by Zoning Administrator: Date: by: S.B.
- Receipt of 8 reduced (8.5" by 11" text and 11" x 17" graphics) copies of complete Final Application Packet 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: S.B.

From:
Shauna Basil
1410 Linda Lane
Lake Geneva, WI 53147
T: 561-573-5732
Email: shaybaz22@gmail.com

10-11-2024

To:
City Hall
Zoning Department
626 Geneva Street
Lake Geneva, WI 53147
T: 262-248-3673

Re: Variance Application for Property at 1410 Linda Lane, Lake Geneva, WI 53147

Dear Members of the Zoning Board/Variance Committee,

I am writing to formally request a variance for the property located at 1410 Linda Lane in Lake Geneva, WI. As part of an ongoing improvement project, I plan to expand the existing square footage of the home and convert the current one-car garage into a two-car garage. The home was originally built in 1955, and at some point thereafter, the building setback line was amended to 25 feet. As a result, the current structure, including the garage, now encroaches upon the revised 25-foot setback.

To facilitate the planned improvements, I respectfully request a variance of an additional 5 feet to the existing garage structure. This variance is necessary for the following reasons:

- 1.) Practicality: Upon completion, the home will be a two-story structure exceeding 3,000 square feet, making a two-car garage more practical and appropriate for the size of the residence.
- 2.) Neighborhood Consistency: A two-car garage is typical and consistent with the majority of homes in the neighborhood, ensuring the property aligns with community standards.
- 3.) Market Appeal: Enhancing the property with a two-car garage will increase attractiveness to potential buyers of existing homes in the area to meet today's housing market needs.
- 4.) Value Enhancement: The proposed improvements will raise the overall value of the property and contribute positively to the neighborhood.
- 5.) Minimal Impact: Extending the setback by an additional 5 feet will not undermine the original intent of the setback requirements and will not negatively impact the surrounding properties.

A denial of this variance would result in undue hardship due to the following considerations:

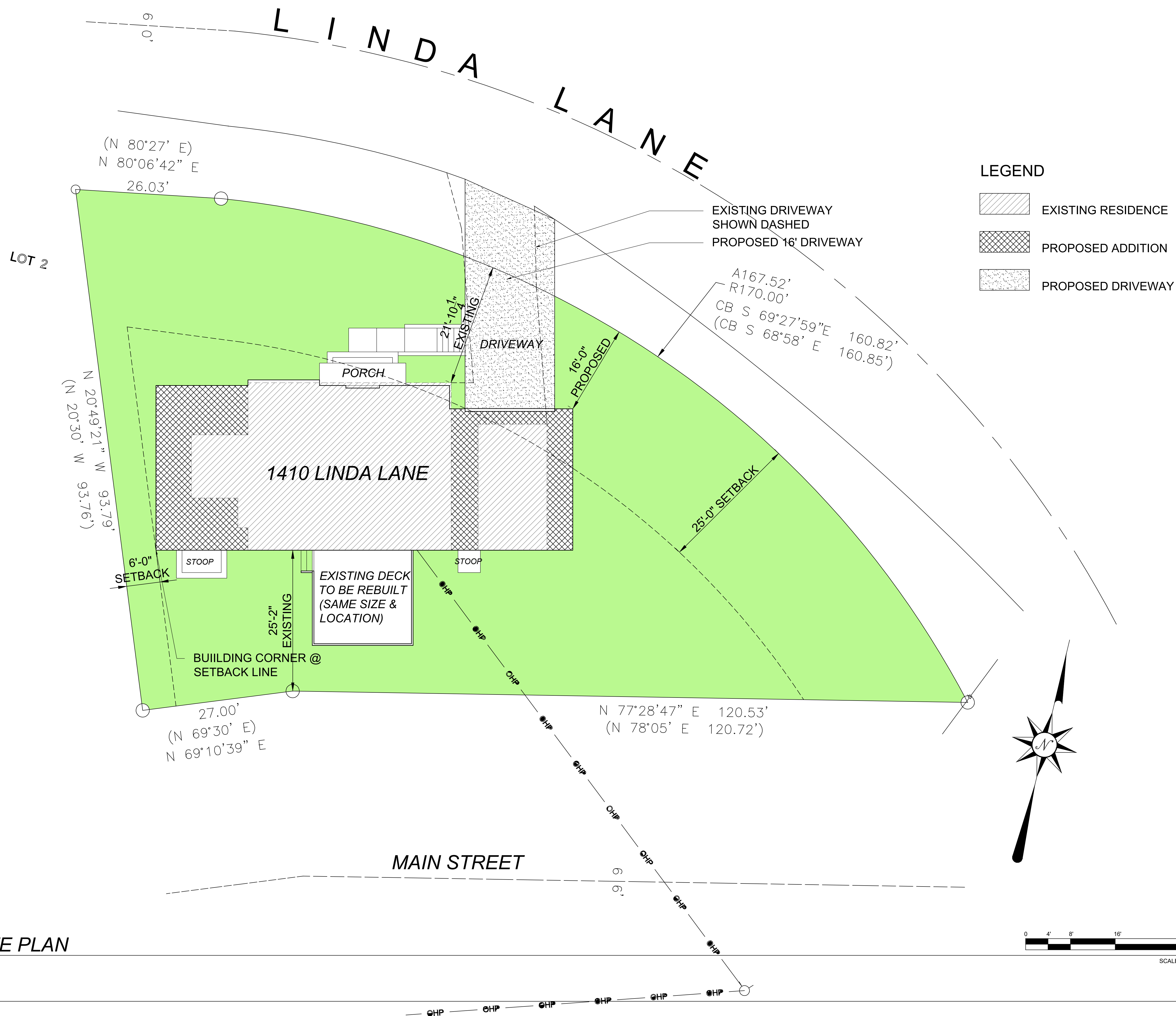
- 1.) A one-car garage is not practical for a home of this size, making the property less appealing and creating parking difficulties resulting in parking to extend onto the street.
- 2.) The existing one-car garage is already inconsistent with other properties in the area, which predominantly feature two-car garages.
- 3.) As a primary residence, the lack of a two-car garage would impede family planning.

I appreciate your time and consideration of this request. Should you have any questions or require additional information, please do not hesitate to contact me at 561-573-5732 or shaybaz22@gmail.com. Thank you for your attention to this matter.

Best regards,



Shauna Basil



SEAL

ARCHITECT: RICKY J. LUKASIK
 EXPIRES: 11.30.2024
 DATE:

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I CERTIFY THAT THESE DRAWINGS HAVE BEEN PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY ABILITY CONFORM TO THE BUILDING CODE REQUIREMENTS OF: LAKE GENEVA, WISCONSIN

SIGNATURE: _____ DATE: _____

MARK	SUBMISSIONS/ REVISIONS	DATE

SITE PLAN

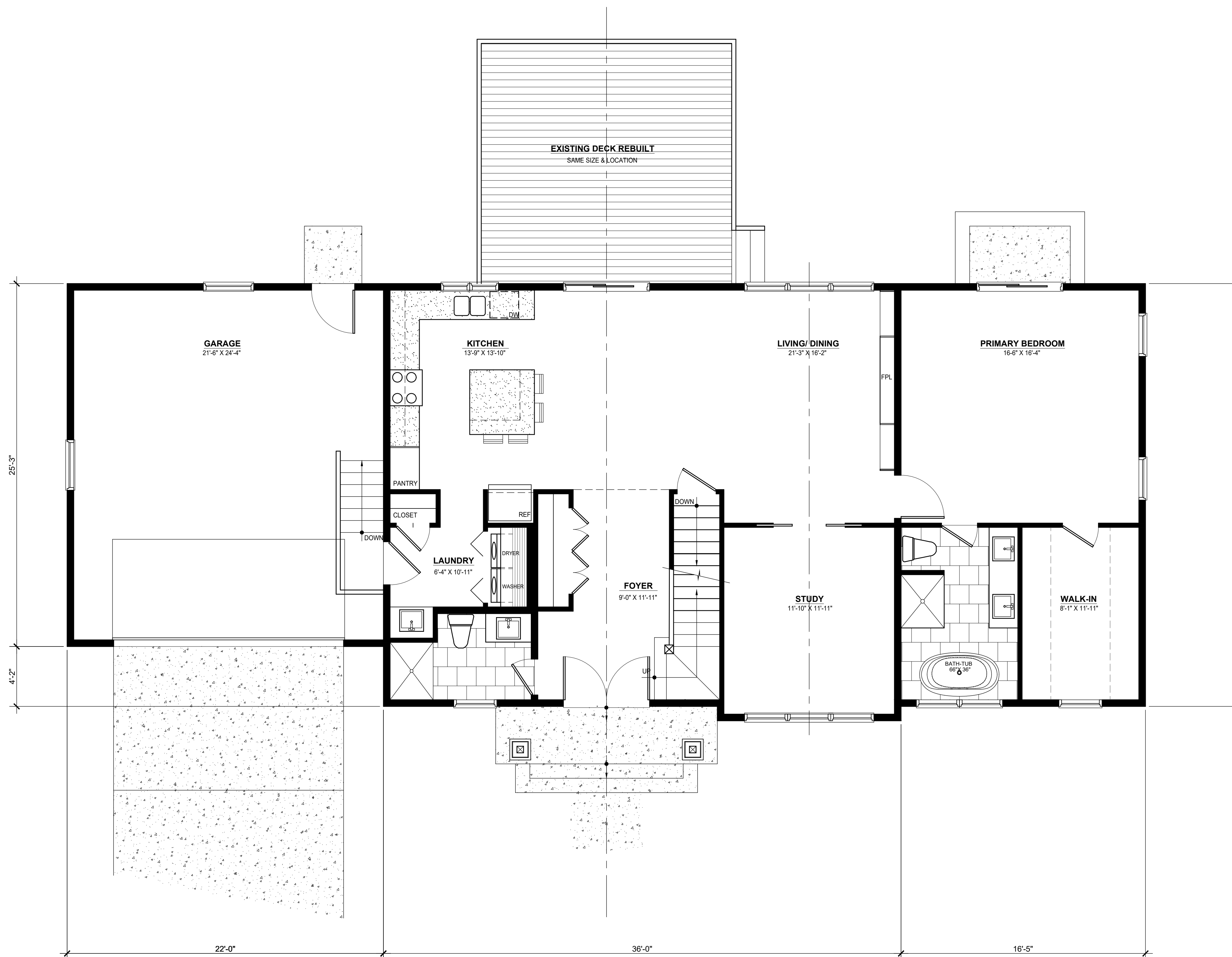
DATE: OCTOBER 10, 2024
 NORTH SCALE: As Noted

LUKASIK + ASSOCIATES LTD
 ARCHITECTS

PROFESSIONAL DESIGN FIRM IL LICENSE No.184.006340
 1044 WESTERN AVENUE PHONE: 708.785.4107
 FLOSSMOOR, ILLINOIS 60422 FAX: 708.798.4780

SP1.0

1 SITE PLAN



1 GROUND FLOOR PLAN - OPTION 'B'

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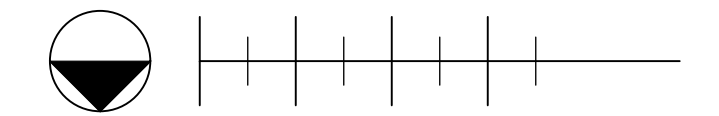
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SIGNATURE _____ DATE _____

MARK	SUBMISSIONS/ REVISIONS	DATE

GROUND FLOOR PLAN

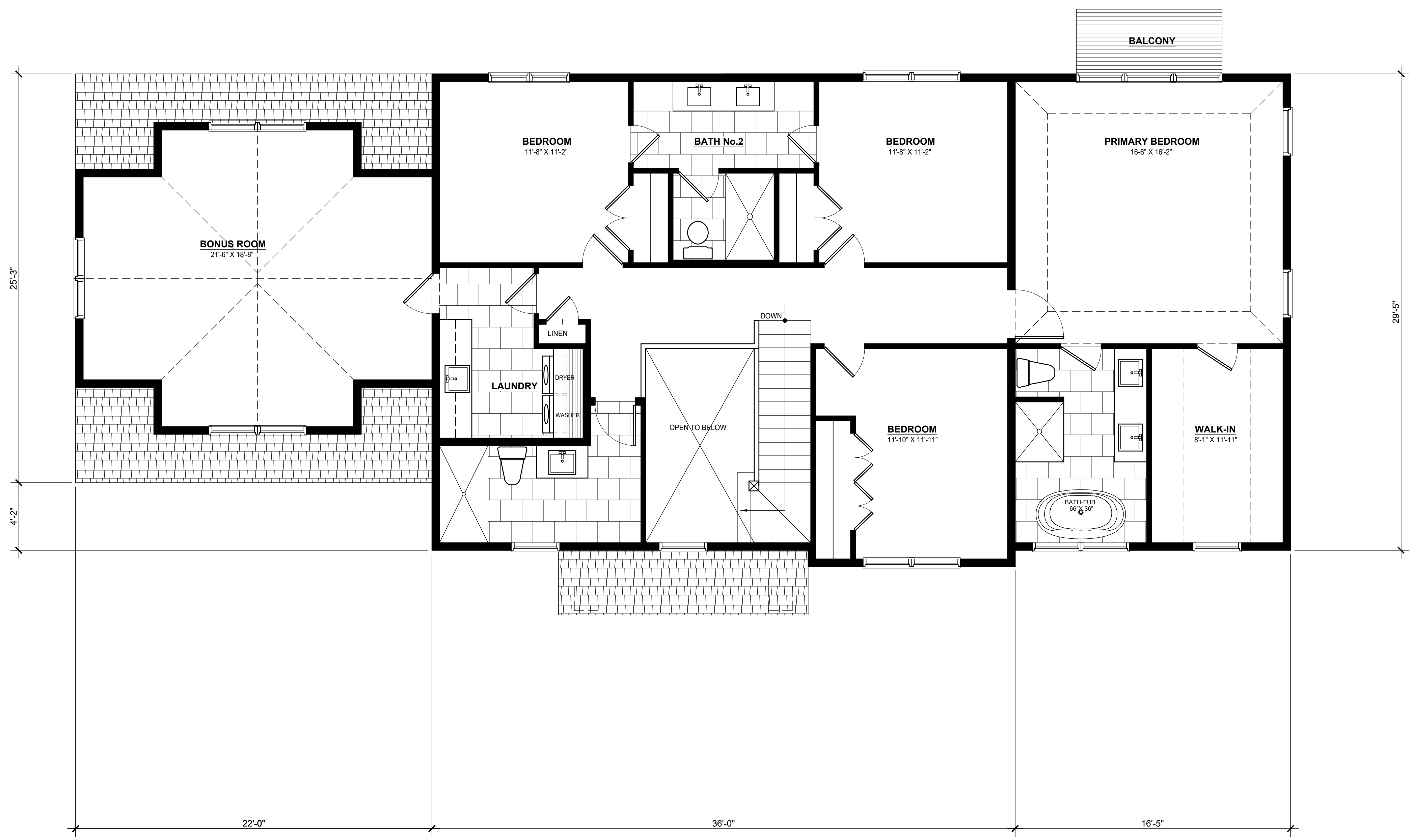
DATE: OCTOBER 10, 2024
NORTH SCALE: As Noted



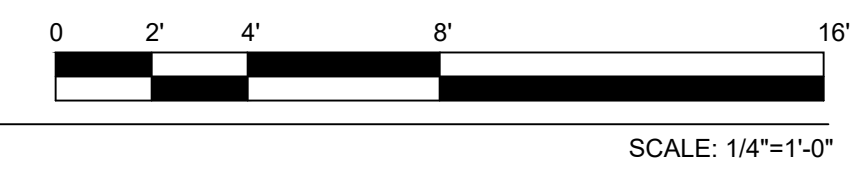
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1044 WESTERN AVENUE PHONE: 708.785.4107
FLOSSMOOR, ILLINOIS 60422 FAX: 708.798.4780

A1.1



1 SECOND FLOOR PLAN - OPTION 'B'



SEAL

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EXPIRES : 11.30.2024
DATE:

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SIGNATURE _____ DATE _____

MARK	SUBMISSIONS/ REVISIONS	DATE

SECOND FLOOR PLAN

DATE OCTOBER 10, 2024
NORTH SCALE As Noted

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SIGNATURE _____ DATE _____

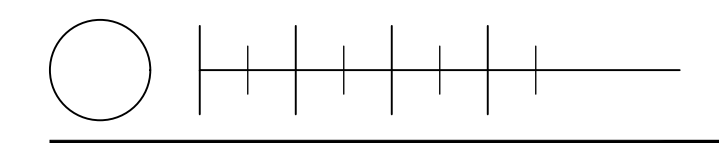
MARK	SUBMISSIONS/ REVISIONS	DATE

BUILDING

ELEVATIONS

DATE OCTOBER 10, 2024

NORTH SCALE As Noted

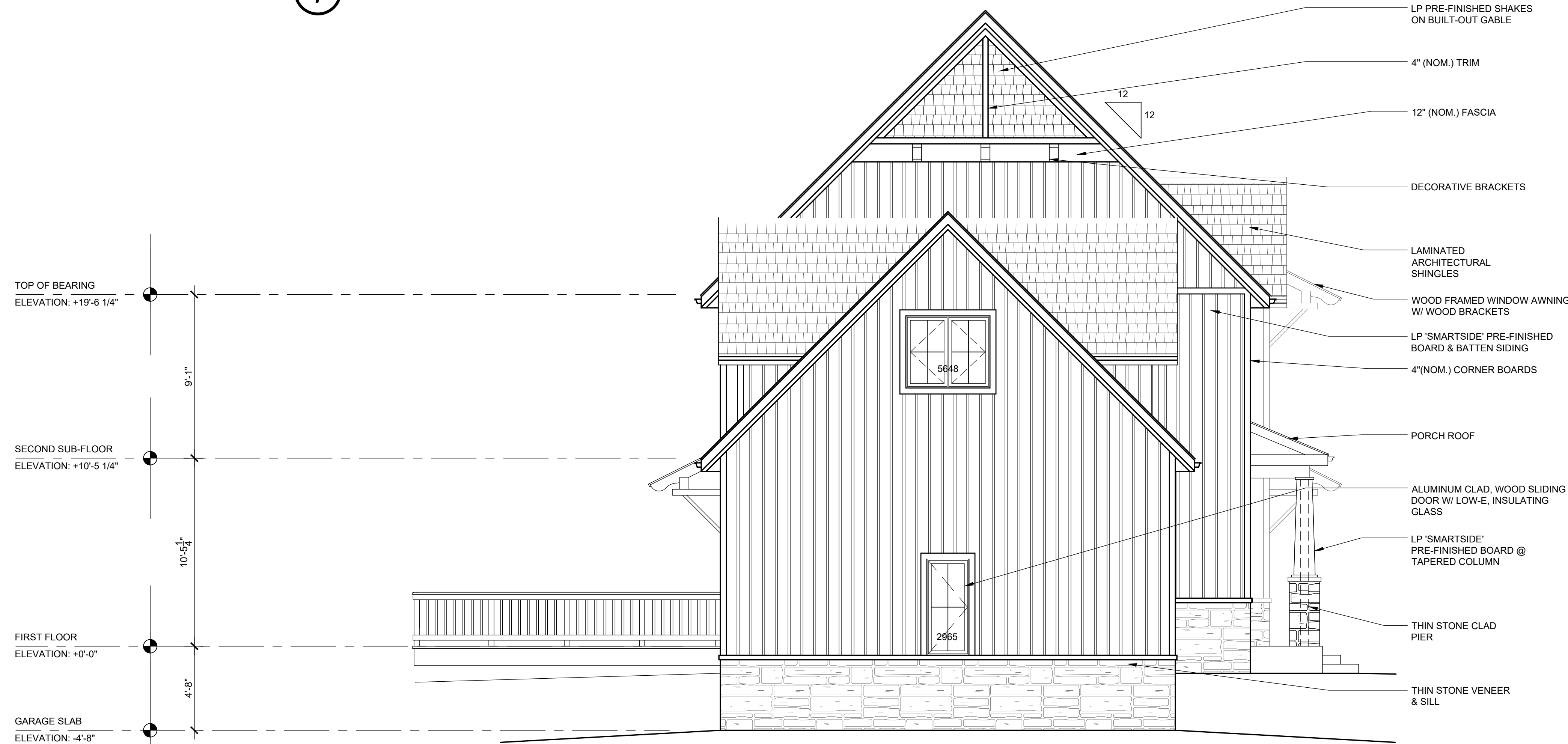


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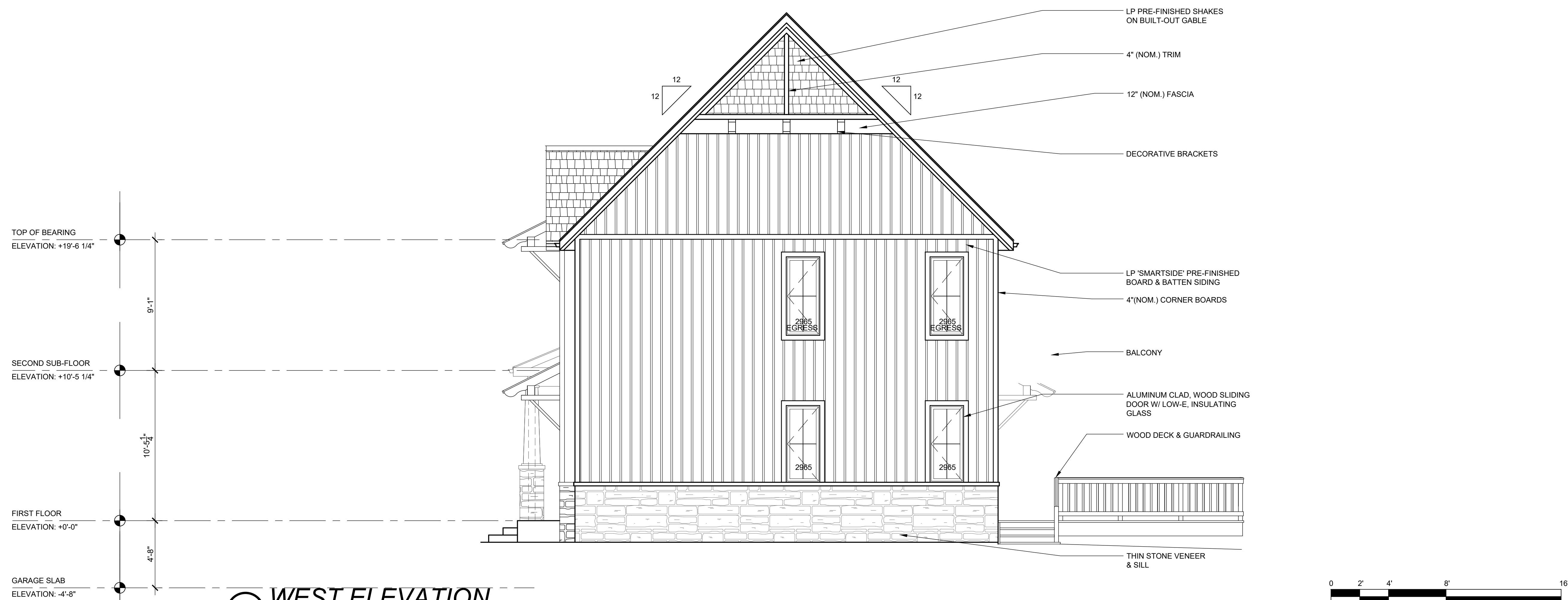
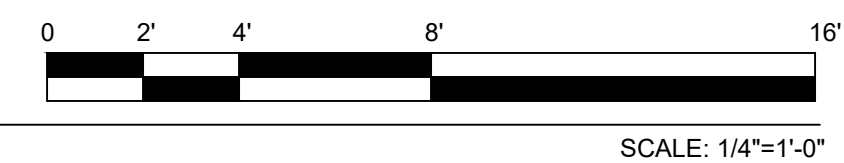
① NORTH ELEVATION



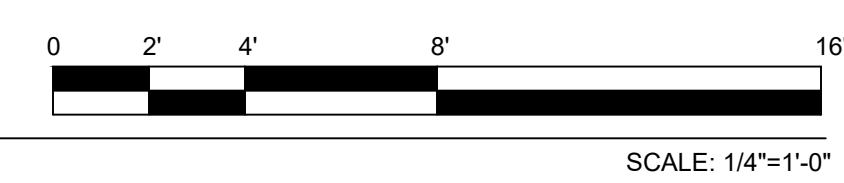
② EAST ELEVATION



① SOUTH ELEVATION



② WEST ELEVATION



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SIGNATURE _____ DATE _____

MARK	SUBMISSIONS/ REVISIONS	DATE

BUILDING ELEVATIONS

DATE: OCTOBER 10, 2024
NORTH SCALE: As Noted

LUKASIK + ASSOCIATES LTD
ARCHITECTS

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FLOSSMOOR, ILLINOIS 60422 FAX: 708.798.4780

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1
2
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1812



City of Lake Geneva Zoning Board of Appeals

November 21, 2024

1

Variations

- Variance allows a property to be used in a manner ordinarily not allowed by the zoning ordinance.
- Variations provide an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback

2

Zoning Board of Appeals

- Makes determinations on variance requests.
- In making its decision on the variance, the ZBA is required to make two sets of findings, as required by Section 98-934(7) and Section 98-910(4)(c)1.-6. of the zoning ordinance.

3

Action by the ZBA

- Make findings per **Section 98-934(7)**
- Make findings per **Section 98-910(4)(c)1.-6.**
- Approve or deny the variance request
- Make a written report of its findings
- Document findings of fact and reasons for all actions taken in the meeting minutes

4

Section 98-910(4)(c)1.-6. Summary

1. **Special factors not present on other properties:**
 - a. Hardship is unique to this property
 - b. Request is not only due to loss of profit or costs
 - c. No self-imposed hardship
 - d. Request is not based on violations or variances on other properties
 - e. Hardship would not exist in absence of a zoning ordinance
2. These **special factors prohibit the development** in a manner similar to that of others in same zoning district
3. Granting variance would **not** be of substantial detriment to adjacent properties
4. Reason for variance **not** created by the applicant or previous property owner
5. Variance does **not** involve the regulations of Section 98-203 (Land Uses)

5

Section 98-934(7)

1. There exists a unique hardship, which is caused by special condition of the property and is not self-created by the applicant.
2. A literal enforcement of the provisions of the zoning ordinance will result in practical difficulty or undue hardship.
3. Granting of the variance is within the spirit of the zoning ordinance.
4. The Public's health, safety and welfare are secured.
5. Granting of the variance will result in justice being served.

6

Findings of Fact

7

Section 98-910(4)(c)1.-6.

- The variance is justified based on the criteria provided in Section 98-910(4)(c)1.-6.
 - Yes
 - No

8

Section 98-934(7)

- 1. There exists a unique hardship, which is caused by special condition of the property and is not self-created by the applicant.**
 - Yes
 - No
- 2. A literal enforcement of the provisions of the zoning ordinance will result in practical difficulty or undue hardship.**
 - Yes
 - No

9

Section 98-934(7)

- 3. Granting of the variance is within the spirit of the zoning ordinance.**
 - Yes
 - No
- 4. The Public's health, safety and welfare are secured.**
 - Yes
 - No
- 5. Granting of the variance will result in justice being served.**
 - Yes
 - No

10

Sec. 98-934. Zoning Board of Appeals. [1-19-2022]

The Zoning Board of Appeals shall have the power and duty to review and determine all matters relating to requested variances from the provisions of this chapter (see Section 98-910); or appeals regarding an interpretation of the Zoning Administrator of the provisions of this chapter (see Section 98-911 and 98-912).

- (1) Establishment and membership. A Zoning Board of Appeals is hereby established. The Zoning Board of Appeals shall consist of five members appointed by the Mayor, subject to confirmation by the Common Council, for three years, except that of those first appointed, one shall serve for one year; two for two years. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members Chairman. The Mayor shall appoint subject to confirmation of the Council for staggered terms of three years, two alternate members of such board, in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board refuses or declines to vote, is disqualified because of interest, or when a member is absent. The second alternate shall so act when the first alternate so refuses or declines to vote, is disqualified because of interest or is absent or when more than one member so refuses or declines, is disqualified, or is absent. Other provisions herein appearing, with regard to removal and filling of vacancies, shall apply to such alternates. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Appointments shall be made at the organizational meeting the third Tuesday in April. Terms of office shall commence the first day of May. The City Clerk shall serve as Secretary of the Board. The Board of Appeals may employ other employees.
- (2) Organization. The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board of Appeals may determine. The Chairman, or in his absence an elected Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals, which is the City Clerk's office, and shall be a public record.

- (3) Powers.
 - (a) The Board of Appeals shall have the following powers:
 1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 2. To hear and decide special exceptions to the terms of this Code upon which the Board of Appeals is required to pass.
 3. To authorize, upon appeal in specific cases, such variance from the terms of this

Code as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

4. Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - (b) In exercising the above listed powers, the Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator or other administrative officer from whom the appeal is taken. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Code.
 - (c) In addition to the foregoing powers, the Board of Appeals shall have the following specific powers:
 1. To interpret the provisions of this Code in such a way as to carry out the intent and purpose of the plan, as shown on the Zoning Map accompanying and made a part of this Code, where the street layout actually on the ground varies from the street layout on the aforesaid map.
 2. The Board of Appeals shall have the power to call on any other city department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.
 - (d) Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.
- (4) Appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Lake Geneva affected by any decision of the administrative officers. Such appeal shall be taken within 30 days, as provided by the rules of the Board of Appeals, by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide to same within a reasonable time. **[Ord. No. 00-1512-11-2000]**
- (5) Notice of hearing. The Board of Appeals shall fix a reasonable time and place for the hearing, within 45 days of filing, cause notice thereof to be published in the official newspaper not

less than seven days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five days prior to the hearing to the fee owners of record of all land within 300 feet of any part of the subject building or premises involved in the appeal. **[Ord. No. 00-1512-11-2000]**

(6) Hearings. Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. Decisions of the Board following public hearing may be made either in public or closed session as the Board shall determine.

(7) Findings.

(a) Findings of fact and reasons for all actions taken shall be reduced by the Board to writing in the minutes of the proceedings.

(b) The Board is authorized to grant a variance from this chapter which is not contrary to the public interest and if the following findings are found to be in the affirmative:

1. There exists a unique hardship, which is caused by special condition of the property and is not self created by the applicant.
2. A literal enforcement of the provisions of this chapter will result in practical difficulty or undue hardship.
3. Granting of the variance is within the spirit of this chapter.
4. The Public's health, safety and welfare are secured.
5. Granting of the variance will result in justice being served. **[Ord. No. 04-338-23-2004]**

(c) Further to be considered by the Board in case of appeal based on variance, in arriving at its reasons and grounds for the above-required findings, are the following:

1. Preservation of intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
2. Exceptional circumstances. There may be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general recurrent nature as to suggest that the Zoning Code should be changed.
3. Economic hardship and self-imposed hardship not grounds for variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

4. Preservation of property rights. Such variance may be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 5. Absence of detriment. Such variance should not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this Code or the public interest.
- (d) Additional requirements in floodland districts. No variance shall be granted when it is found:
1. Filling and development contrary to the purpose and intent of the Floodway District (FW) and the Floodplain District (FP) would result.
 2. A change in the boundaries of the Floodway District (FW), Floodplain District (FP), or the Floodfringe District (FF) would result.
 3. A lower degree of flood protection than a point two feet above the 100-year recurrence interval flood for the particular area would result.
 4. Any action contrary to the provisions of Subchapter NR-116 of the Wisconsin Administrative Code would result.
- (8) Wetland and floodland mapping disputes.
- (a) Wetland disputes. See Section 98-504(13).
 - (b) Floodland disputes. Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal flood insurance study and the actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available to the Board of Appeals, the person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the City Plan Commission of its findings and the Plan Commission shall proceed to petition the Common Council for a map amendment.
- (9) Decision. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit by regular mail to the address on the application a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and City Plan Commission.
- (a) Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.
 - (b) Variances, substitutions, or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.
 - (c) Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and risk to life or property may result from the granting of the variance. The Board shall keep a record of the notification

in its files.

- (10) Notice to the DNR. The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the lakeshore portion of the shoreland-wetland overlay district or to the floodland regulations in a FW, FP, or FF floodland district, and a copy of all shoreland-wetland and floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to shoreland-wetland regulations or to floodland regulations, and a copy of all decisions to shoreland-wetland and floodland appeals, shall be transmitted to the DNR within 10 days of the date of such decision.
- (11) Review by court of record. Any persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.

Sec. 98-910. Variances. [1-19-2022]

- (1) Purpose. The purpose of this section is to provide regulations which enable the City to hear and decide requests for permitted variation from the terms of this chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done; as provided for by § 62.23(7)(e)(7), Wis. Stats.
- (2) Initiation of request for approval of a variance. Proceedings for approval of a requested variance shall be initiated by:
 - (a) An application of the owner(s) of the subject property.
- (3) Application requirements. All applications for requested variances shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the City Clerk, the applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:
 - (a) A map of the subject property showing all lands for which the variance is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as determined by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a North arrow shall be 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. Said site plan shall conform to any and all the requirements of Section 98-908(3); and
 - (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 standard set out in Subsection (4)(c)1 through 6, below.

- (4) Review by The Zoning Administrator. The requested variance shall be reviewed by the Zoning Administrator as follows:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the Zoning Administrator determines that the application is complete, he shall so notify applicant.
 - (b) Upon notifying the applicant that his application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed variance provided in the application per Subsection (3)(a) through (e), above.
 - (c) The Zoning Administrator may also evaluate the application to determine whether the requested variance is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(c)1 through 6, below:
 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. Specifically:
 - a. The hardship or difficulty shall be 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;
 - b. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - c. 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;
 - d. Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - e. 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 Subsection (4)(c)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.

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.
 4. Would the granting of the proposed variance as depicted on the required site plan [see Subsection (3)(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 this chapter, 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.
 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 this chapter (see Section 98-011.)? The response to this question shall clearly indicate that such factors existed prior to the effective date of this chapter and were not created by action of the applicant, a previous property owner, or their agent.
 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.
- (d) The Zoning Administrator shall forward the report per Subsection (4)(b), and if prepared the report per Subsection (4)(c), to the Zoning Board of Appeals for the Board's review and action. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of this chapter and Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.
- (5) Review and determination by zoning board of appeals.
- (a) Within 30 days after filing of the complete application as determined by the Zoning Administrator, the Zoning Board of Appeals shall hold a public hearing. Notice of the requested variance and the public hearing shall conform to the requirements of § 62.23(7)(d), Wis. Stats. Said notice shall contain a description of the subject property and the proposed variance per Subsections (3)(a) and (c), above. In addition, at least 10 days before said public hearing, the City Clerk shall mail an identical notice to the

applicant of the proposed variance; to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the subject property; and to all property owners within 300 feet of the boundaries of the subject property as identified in Subsection (3)(a), above. Failure to mail said notice, to said clerk(s) of such neighboring municipalities, provided it is unintentional, shall not invalidate proceedings under this section.

- (b) Within 30 days after the holding of the public hearing [per Subsection (5)(a), above], or, within an extension of said period approved by the applicant and granted by the Zoning Board of Appeals, the Zoning Board of Appeals make its findings per Subsection (4), above, and its determination regarding the application as a whole. The Zoning Board of Appeals may request further information and/or additional reports from The Zoning Administrator and/or the applicant. The Zoning Board of Appeals may take final action on said request for approval of the requested variance at time of its initial meeting, or said proceedings may be continued from time-to-time for further consideration. The Zoning Board of Appeals shall make a written report of its findings and determinations following its determination.
 - (c) If the Zoning Board of Appeals fails to make a determination within 30 days after said public hearing, then the request for the variance shall be considered denied.
 - (d) Said report shall include a formal findings of facts developed and approved by the Zoning Board of Appeals concerning the requirements of Subsection (4)(c)1 through 6, above.
- (6) Effect of denial. No application for a variance which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (7) Limited effect of a variance. Where the Zoning Board of Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a nonconforming use other than that which it has as a result of the variance. Granting of a variance shall be considered as unique to the variance granted, and shall not be construed as precedent for any other proposed variance.
- (8) Stay of proceedings. An application for a variance shall stay all legal proceedings furthering enforcement of any provisions of this chapter from which the applicant is requesting a variance, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the request for the variance has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals, or by a court of record on application, on notice to the Zoning Administrator, and on due cause shown. State law reference: § 62.23(7)(e)5., Wis. Stats.
- (9) Notice to the DNR. The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain, or Floodfringe Overlay Zoning Districts, and a copy of all Shoreland floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10

days prior to any public hearings. A copy of all decisions relating to variances to shoreland-wetland conservancy regulations or to floodland regulations, and a copy of all decisions to shoreland-wetland conservancy and floodland appeals, shall be transmitted to the DNR within 10 days of the date of such decision.

(10) Fee. A fee is required for this procedure. Refer to Section 98-935.