



111 Gecowets Drive Fremont IN 46737  
(260) 495-9158 / (260) 495-5902 fax  
[www.townofclearlake.org](http://www.townofclearlake.org)

**Board of Zoning Appeals  
Regular Session**

**Tuesday, April 9, 2024 @ 7 PM**

Conference number 1-646-931-3860

Meeting ID: 647 970 5713

Passcode: Clear

Passcode by Phone: 121380

Join Zoom Meeting: <https://us06web.zoom.us/j/6479705713?pwd=bGoxRjllTXNXeWRhQlcrVzljaHUwdz09>

**Agenda**

- A. Call to Order
- B. Introductions and Roll Call Quorum
- C. Approval of Meeting Agenda
- D. Approve Minutes
  - 1. February 13, 2024
- E. Budget items - None
- F. Applications, Petitions, or Hearings
  - 1. Variance Application 2024-02: 105 Billings Court, Belfrage
  - 2. Variance Application 2024-03: 335 Penner Drive, Disser
- G. Old Business - None
- H. New Business
- I. Discussion
- J. Adjournment

The next regularly scheduled meeting of the Clear Lake Board of Zoning Appeals will be Tuesday, June 11, 2024, at 7:00 PM. The deadline for items requiring legal notices is 28 days before the regularly scheduled meeting.

*Please note: Agenda items listed are those reasonably anticipated and may be discussed at the meeting. Not all items listed may necessarily be discussed and there may be other items not listed that may be brought up for discussion.*

# Town of Clear Lake – Board of Zoning Appeals

## Meeting Minutes – February 13, 2024

Chairman Jim McClain called meeting to order at 7:00pm.

There were 10 residents in attendance and 13 via Zoom.

Roll Call:

Kathy Latz, 610 East Clear Lake Drive

Roger Dammeier, 624 East Clear Lake Drive

Matt Rippe, 68 West Clear Lake Drive

Jim McClain, 1226 Quiet Harbor Drive

Jessica Swander, 7382 E State Road 120

Mike Hawk, Attorney to the BZA

Robert Hawley, Zoning Administrator

Jennifer Sattison, Billing Clerk

J. McClain entertained a motion to approve the agenda.

**Motion by:** J. McClain

To approve the agenda.

**2<sup>nd</sup> by:** R. Dammeier

All in favor, say aye. Vote was unanimous. Motion carried; agenda approved.

J. McClain entertained a motion to approve December 12, 2023, Board of Zoning minutes.

**Motion by:** J. McClain

To approve December 12, 2023, Board of Zoning minutes.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Vote was 4-0 with one abstained. Motion carried; December 12, 2023, Board of Zoning minutes approved.

J. McClain entertained a motion to approve February 6, 2024, Board of Zoning special session minutes.

**Motion by:** R. Dammeier

To approve February 6, 2024, Board of Zoning special session minutes.

**2<sup>nd</sup> by:** K. Latz

All in favor, say aye. Motion carried; February 6, 2024, Board of Zoning special session minutes approved.

Appeal Application 2023-05: Request for an administrative appeal for ILP 2023-18 regarding a decision letter dated 9-6-2023 to Denny and Jackie Keiser at 933 South Clear Lake Drive. The request for a boiler and supplemental equipment to be installed in the garage was denied and no water components are to be allowed in the garage.

Zoning Administrator R. Hawley went through the staff report for Appeal Application 2023-05, Denny and Jackie Keiser, 933 South Clear Lake Drive.

J. McClain entertained a motion to open for public comment.

**Motion by:** K. Latz

To open for public comment.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Motion carried; open for public comment.

Denny and Jackie Keiser’s attorney, Will Gooden, discussed Keiser’s appeal.

Board of Zoning members asked questions to Attorney Will Gooden and Denny and Jackie Keiser.

Zoning Administrator R. Hawley went through feedback forms.

Residents discussed their opposition and support to the appeal.

Keiser’s attorney, Will Gooden, had a rebuttal to the oppositions and supported feedback from residents.

J. McClain entertained a motion to close public comment.

**Motion by:** R. Dammeier

To close public comment.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Motion carried; closed public comment.

Zoning Administrator R. Hawley restated Appeal Application 2023-05.

Board of Zoning members discussed.

J. McClain entertained a motion to proceed to final action for Appeal Application 2023-05.

**Motion by:** K. Latz

To proceed to final action for Appeal Application 2023-05.

**2<sup>nd</sup> by:** R. Dammeier

All in favor, say aye. Motion carried; proceeded to final action for Appeal Application 2023-05.

Zoning Administrator R. Hawley went through voting ballots for Appeal Application 2023-05.

J. Swander – Reverse Appeal

J. McClain – Reverse Appeal

M. Rippe – Affirm Appeal

K. Latz – Affirm Appeal

R. Dammeier – Affirm Appeal

Vote was 3-2 to affirm Appeal Application 2023-05. Appeal Application 2023-05 denied.

J. McClain asked for a 5 (five) minute break.

Board of Zoning meeting back to order at 8:09pm.

Variance 2024-01(A) & (B): Request for a Development Standards Variance at 1124 South Clear Lake Drive by David Gerig. The request is to allow the establishment of a new home within the Horizontally Protected Viewshed and Established Building Setback. The setbacks requested are 74 feet from the water's edge for the new home and 54 feet from the water's edge for an elevated deck.

Variance 2024-01(A): Horizontally Protected Viewshed 5.65(C)(1) – New Primary Structure

Variance 2024-01(B): Horizontally Protected Viewshed 5.65(C)(2) – New Elevated Deck

Zoning Administrator R. Hawley went through the staff report for Variance 2024-01(A) & (B), David Gerig, 1124 South Clear Lake Drive.

J. McClain entertained a motion to open for public comment.

**Motion by:** R. Dammeier

To open for public comment.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Motion carried; open for public comment.

Variance applicant, David Gerig, discussed his projects regarding Variances 2024-01(A) & (B).

Board of Zoning members asked David Gerig questions.

Residents discussed their opposition and support to Variances 2024-01(A) & (B).

J. McClain entertained a motion to close public comment.

**Motion by:** R. Dammeier

To close public comment.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Vote was unanimous. Motion carried; closed for public comment.

Zoning Administrator R. Hawley restated Variance 2024-01(A).

J. McClain entertained a motion to proceed to final action for Appeal Application 2024-01A.

**Motion by:** R. Dammeier

To proceed to final action for Appeal Application 2024-01A.

**2<sup>nd</sup> by:** J. Swander

All in favor, say aye. Motion carried; proceeded to final action for Appeal Application 2024-01A.

Zoning Administrator R. Hawley went through the findings of fact.

Findings of Fact #1: Legal notice of the petition has been provided in accordance with applicable Indiana Code and notice has been made to appropriate landowners.

K. Latz – Yes



R. Dammeier – Yes  
M. Rippe – Yes  
J. Swander – Yes  
J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #1 criteria was met.

Findings of Fact #2: The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

K. Latz – Yes  
R. Dammeier – Yes  
M. Rippe – Yes  
J. Swander – Yes  
J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #2 criteria was met.

Findings of Fact #3: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

K. Latz – Yes  
R. Dammeier – Yes  
M. Rippe – Yes  
J. Swander – Yes  
J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #3 criteria was met.

Findings of Fact #4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

K. Latz – Yes  
R. Dammeier – Yes  
M. Rippe – Yes  
J. Swander – Yes  
J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #4 criteria was met.

Variance 2024-01A was approved.

Zoning Administrator R. Hawley restated Variance 2024-01(B).

J. McClain entertained a motion to proceed to final action for Appeal Application 2024-01B.

**Motion by:** K. Latz

To proceed to final action for Appeal Application 2024-01B.

**2<sup>nd</sup> by:** R. Dammeier

All in favor, say aye. Motion carried; proceeded to final action for Appeal Application 2024-01B.

Zoning Administrator R. Hawley went through the findings of fact.

Findings of Fact #1: Legal notice of the petition has been provided in accordance with applicable Indiana Code and notice has been made to appropriate landowners.

K. Latz – Yes

R. Dammeier – Yes

M. Rippe – Yes

J. Swander – Yes

J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #1 criteria was met.

Findings of Fact #2: The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

K. Latz – Yes

R. Dammeier – Yes

M. Rippe – Yes

J. Swander – Yes

J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #2 criteria was met.

Findings of Fact #3: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

K. Latz – Yes

R. Dammeier – Yes

M. Rippe – Yes

J. Swander – Yes

J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #3 criteria was met.

Findings of Fact #4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

K. Latz – Yes

R. Dammeier – Yes

M. Rippe – Yes  
J. Swander – Yes  
J. McClain – Yes

Final Vote: 5-0. Yes, Findings of Fact #4 criteria was met.

Variance 2024-01B was approved.

Elections of Officers

Chairman

J. McClain nominated J. Swander.

J. McClain entertained a motion to close chairman nominations.

**Motion by:** R. Dammeier

To close chairman nominations.

**2<sup>nd</sup> by:** M. Rippe

All in favor, say aye. Vote was unanimous. Motion carried; closed chairman nominations.

Jessica Swander is the Board of Zoning Chairman.

Newly elected chairman, Jessica Swander, took over for J. McClain.

Vice Chair

J. McClain nominated M. Rippe.

J. Swander entertained a motion to close vice chair nominations.

**Motion by:** R. Dammeier

To close vice chair nominations.

**2<sup>nd</sup> by:** K. Latz

All in favor, say aye. Vote was unanimous. Motion carried; closed vice chair nominations.

Matt Rippe is the Board of Zoning Vice Chair.

Rules Committee

J. Swander nominated R. Dammeier and J. McClain

J. Swander entertained a motion to close rules committee nominations.

**Motion by:** R. Dammeier

To close rules committee nominations.

**2<sup>nd</sup> by:** M. Rippe

All in favor, say aye. Vote was unanimous. Motion carried; closed rules committee nominations.

R. Dammeier and J. McClain are on the Board of Zoning Rules Committee.

Secretary

J. Swander nominated R. Hawley.

J. Swander entertained a motion to close secretary nominations.

**Motion by:** J. McClain

To close secretary nominations.

**2<sup>nd</sup> by:** K. Latz

All in favor, say aye. Vote was unanimous. Motion carried; closed secretary nominations.

Robert Hawley is the Board of Zoning Secretary.

J. Swander entertained a motion to adjourn meeting.

**Motion by:** R. Dammeier

To close vice chair nominations.

**2<sup>nd</sup> by:** K. Latz

All in favor, say aye. Vote was unanimous. Motion carried; meeting adjourned.

Meeting adjourned at 8:46pm.

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Board of Zoning Appeals Chairman: Jessica Swander

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Attest: Jennifer Smith-Sattison, Billing Clerk



Permit #: \_\_\_\_\_

### DEVELOPMENT STANDARDS VARIANCE APPLICATION

Town of Clear Lake, 111 Gecowets Drive, Fremont, IN 46737

Office: (260) 495-9158 Mobile: (260) 243-6701 Email: [zoning@townofclearlake.org](mailto:zoning@townofclearlake.org)

#### Applicant Information

Name: Eric and Alison Belfrage (Alison M Belfrage Trust Agreement)  
 Address: 105 Billings Ct  
 City, State, Zip: Clear Lake, IN 46737  
 Phone: [REDACTED] Email: [REDACTED].com  
 Applicant is:  Owner  Engineer / Architect  Contractor

#### Owner Information

Name:  Same as above Eric and Alison Belfrage  
 Address: 5421 Reserve Dr  
 City, State, Zip: Dublin, Ohio 43017  
 Phone: [REDACTED] Email: [REDACTED].n

#### Project Information

Project Address: 105 Billings Ct Clear Lake IN 46737  
 Parcel ID #: 76-01-19-310-222.000-002  
 Legal Description: *(attach if necessary)* PT NE1/4 SW1/4 SEC 19 .298A  
 Current Zoning: Lake Residential (LR)  
 Current Use: Single Family Home  
 Variance Requested: Architectural Standards (AR) section 5.13 roof requirements.

UDO Provisions for which relief is requested? AR 5.13 Roof Requirements

#### Describe the project request in detail.

Existing structure built in 1976 has shed type roof structure with a street side section at 3/12 pitch and lake side section at 6/12 pitch. We are planning an approximate 500 sf kitchen, 1/2 bath, and utility room addition, as well as a whole house remodel. Lynn Delagrang Inc. has designed the remodel to tie into existing architecture, and must retain roof lines to do so. The majority of the new addition contains 350 sf of roof area that matches the 6/12 pitch on the lake side, while 219 sf of 3/12 pitch is necessary to extend the street side roof to accommodate a relocated stairway. We are asking for a variance to AR5.13 section B to enable this improvement.

#### Explain why the requested variance is essential to the practical use of your property.

Existing first floor functional utility including stairway location, utility room, existing 1/2 bath, and galley kitchen are poorly located, and of obsolete design. The planned renovations and expansion of kitchen, relocation of stairway and creation of separate utility room enable a far superior utilization of the space for our family.

**Findings of Fact**

The Board of Zoning Appeals must make detailed findings of fact based on your application and presentation at the meeting. Failure to present evidence in support of the findings may result in the denial of your application. Therefore, please complete the following statements:

The proposed project will not be injurious to the public health, safety, morals, and general welfare of the community because:

~~The addition and remodel will enhance the home's appeal and value. The improvements will elevate the home to be aesthetically and functionally more similar to the surrounding homes on Billings Ct. The improvements will be accretive to home value of both our home and neighboring properties.~~

The use and value of the area adjacent to the proposed project will not be affected in a substantially adverse manner because:

~~These improvements will enhance the existing home and surrounding properties.~~

The strict application of the terms of the ordinance will result in practical difficulties in the use of the property because:

~~Inability to add to our home, and improve both the lake side and street side design elements will limit it's functional utility and aesthetics. To achieve the improvements that we wish to make, we feel it is unreasonable to be required to reconstruct the entire existing roof to comply with an ordinance that was not in effect when the structure was originally constructed.~~

*[Handwritten Signature]*  
ERIC E BELFRAGE

**Affidavit**

I/We, Eric E. Belfrage, being duly sworn, depose and say that I/we, am/are the owners/contract purchasers of the property involved in this application; and that the forgoing signatures, statements, and answers herein contained, and the information herewith submitted, are in all respects true and correct.

Ohio  
STATE OF INDIANA)  
franklin) SS:  
COUNTY OF STEUBEN)



Subscribed and sworn to before me, a Notary Public in and for said County and State, on this 26 day of February, 2024.

My Commission Expires: [Signature]  
Signature  
1-11-2028  
Date



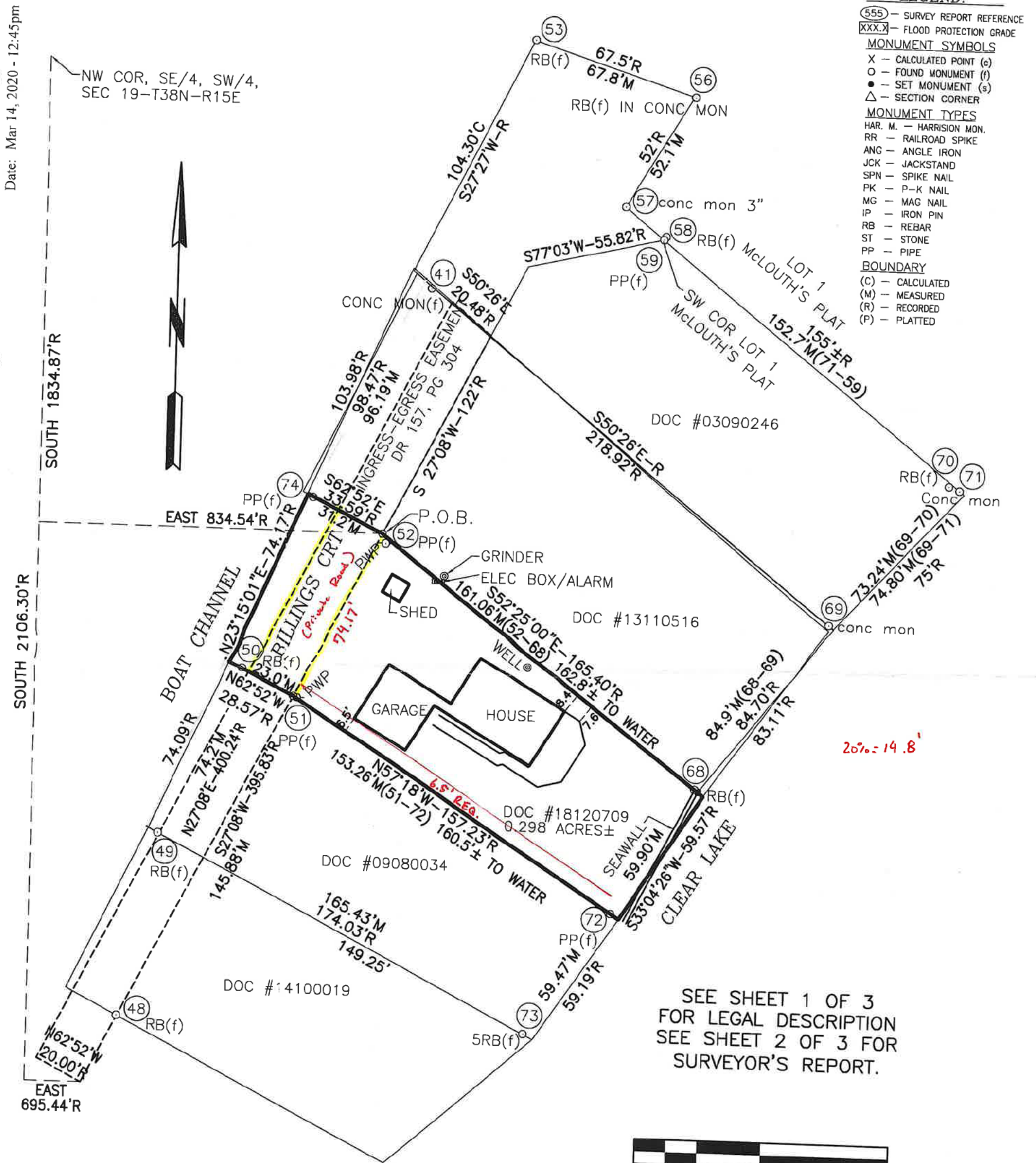
# Maxwell Surveying & Engineering

STEVEN A. MAXWELL P.E. & R.L.S.  
R.L.S. NO. 29900007

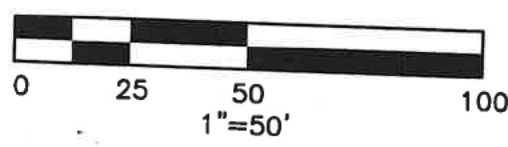
P.O BOX 5068  
HUNTINGTON, IN 46750  
260-224-6813

**LEGEND:**

- (555) - SURVEY REPORT REFERENCE
- XXX.X - FLOOD PROTECTION GRADE
- MONUMENT SYMBOLS**
- X - CALCULATED POINT (c)
- O - FOUND MONUMENT (f)
- - SET MONUMENT (s)
- △ - SECTION CORNER
- MONUMENT TYPES**
- HAR. M. - HARRISON MON.
- RR - RAILROAD SPIKE
- ANG - ANGLE IRON
- JCK - JACKSTAND
- SPN - SPIKE NAIL
- PK - P-K NAIL
- MG - MAG NAIL
- IP - IRON PIN
- RB - REBAR
- ST - STONE
- PP - PIPE
- BOUNDARY**
- (C) - CALCULATED
- (M) - MEASURED
- (R) - RECORDED
- (P) - PLATTED



SEE SHEET 1 OF 3  
FOR LEGAL DESCRIPTION  
SEE SHEET 2 OF 3  
FOR SURVEYOR'S REPORT.



- NOTES:**
1. NO DISCREPANCIES EXIST BETWEEN SURVEY LINES AND OCCUPATION LINES UNLESS CHECKED HERE.
  2. THE COMMITMENT FOR TITLE INSURANCE WAS NOT PROVIDED FOR THIS PARCEL UNLESS CHECKED HERE. AN ABSTRACT OR TITLE SEARCH MAY REVEAL ADDITIONAL INFORMATION AFFECTING THIS PROPERTY.
  3. THIS SURVEY MUST BE RECORDED IN ACCORDANCE WITH TITLE 865 IAC WHEN CHECKED HERE (R.E.A. TO RECORD).
  4. ALL PINS SHOWN AS SET HAVE IDENTIFICATION CAPS WHERE POSSIBLE.
  5. THE RELATIVE POSITIONAL ACCURACY FOR THIS SURVEY, DUE TO MEASUREMENT, IS CERTIFIED TO NOT EXCEED THE ACCEPTABLE ACCURACY OF A "SUBURBAN" CLASSIFICATION AS DEFINED BY 865 IAC 1-12-7.

I, THE UNDERSIGNED REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE HEREON PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTION, AND THAT THIS SURVEY AND ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC 1-12 AND ALL OTHER AMENDMENTS THERETO.

THIS SURVEY VALID ONLY WITH ORIGINAL HAND AND/OR SEAL AND PAYMENT OF INVOICE.  
THIS SURVEY MUST HAVE ALL PAGES INCLUDING SURVEYOR'S REPORT TO BE COMPLETE.

FIELD WORK COMPLETED ON 3/4/20 AND CERTIFIED THIS 3/14/20 BY: *Steven Maxwell*  
JOB NO. 2001-007 FOR Anthony Smith/Eric & Alison Belfrage



CIVIL ENGINEERS \* LAND SURVEYORS \* LAND PLANNERS

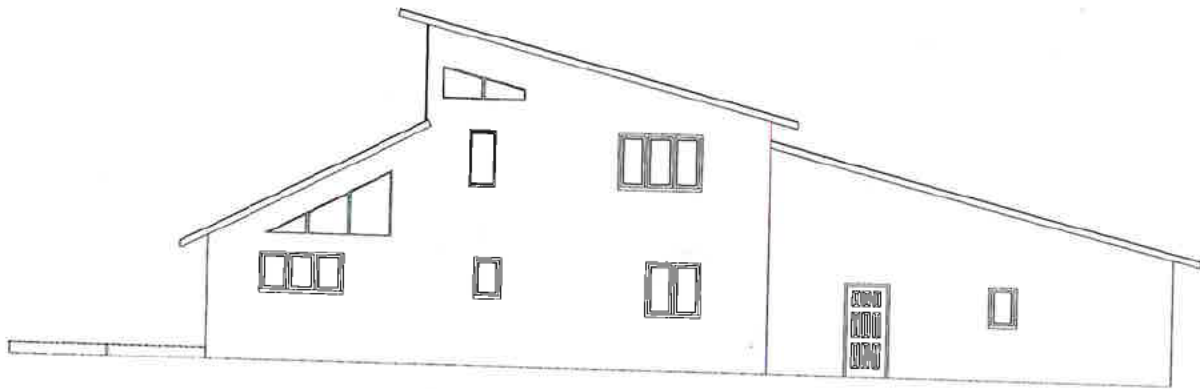
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Date: Mar 14, 2020 - 12:45pm



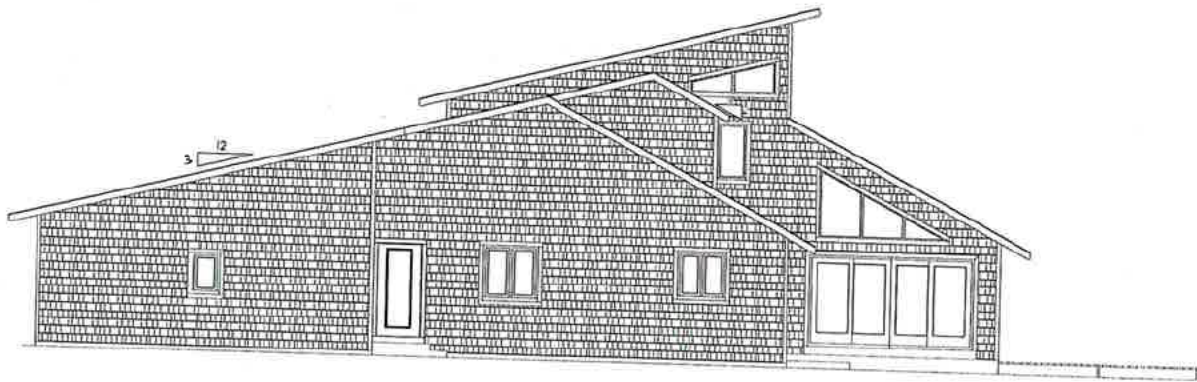
NEW NORTH ELEVATION

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



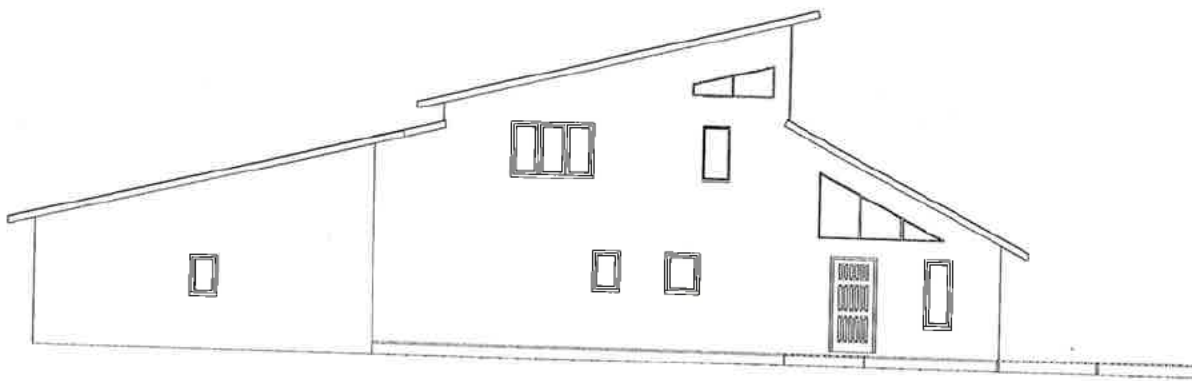
EXISTING NORTH ELEVATION

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



NEW SOUTH ELEVATION

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



EXISTING SOUTH ELEVATION

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

EXPANSION & REMODEL PROJECT FOR  
ERIC & ALISON BELFRAGE  
105 BILLINGS COURT CLEAR LAKE

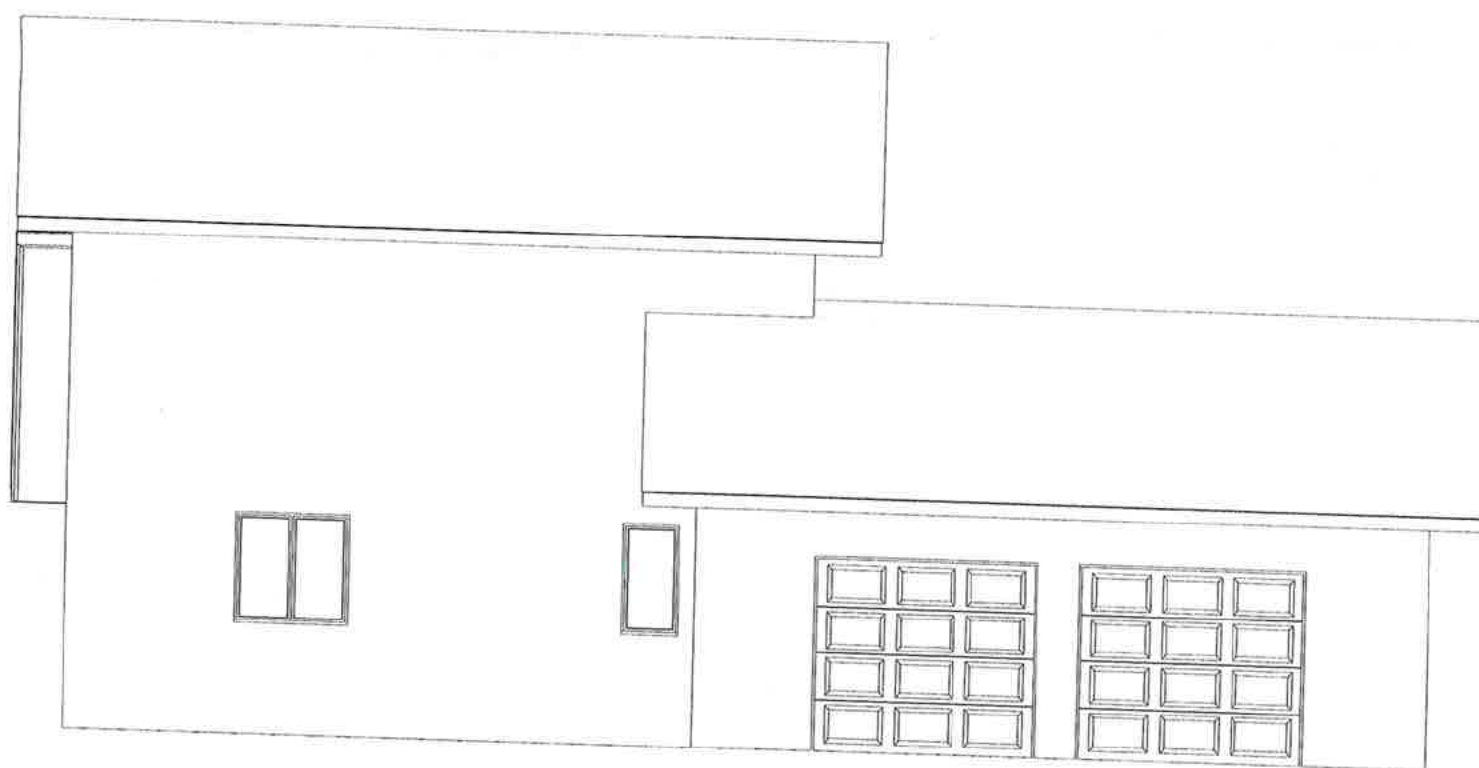
Lynn Delagrangé





**NEW STREET ELEVATION**

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



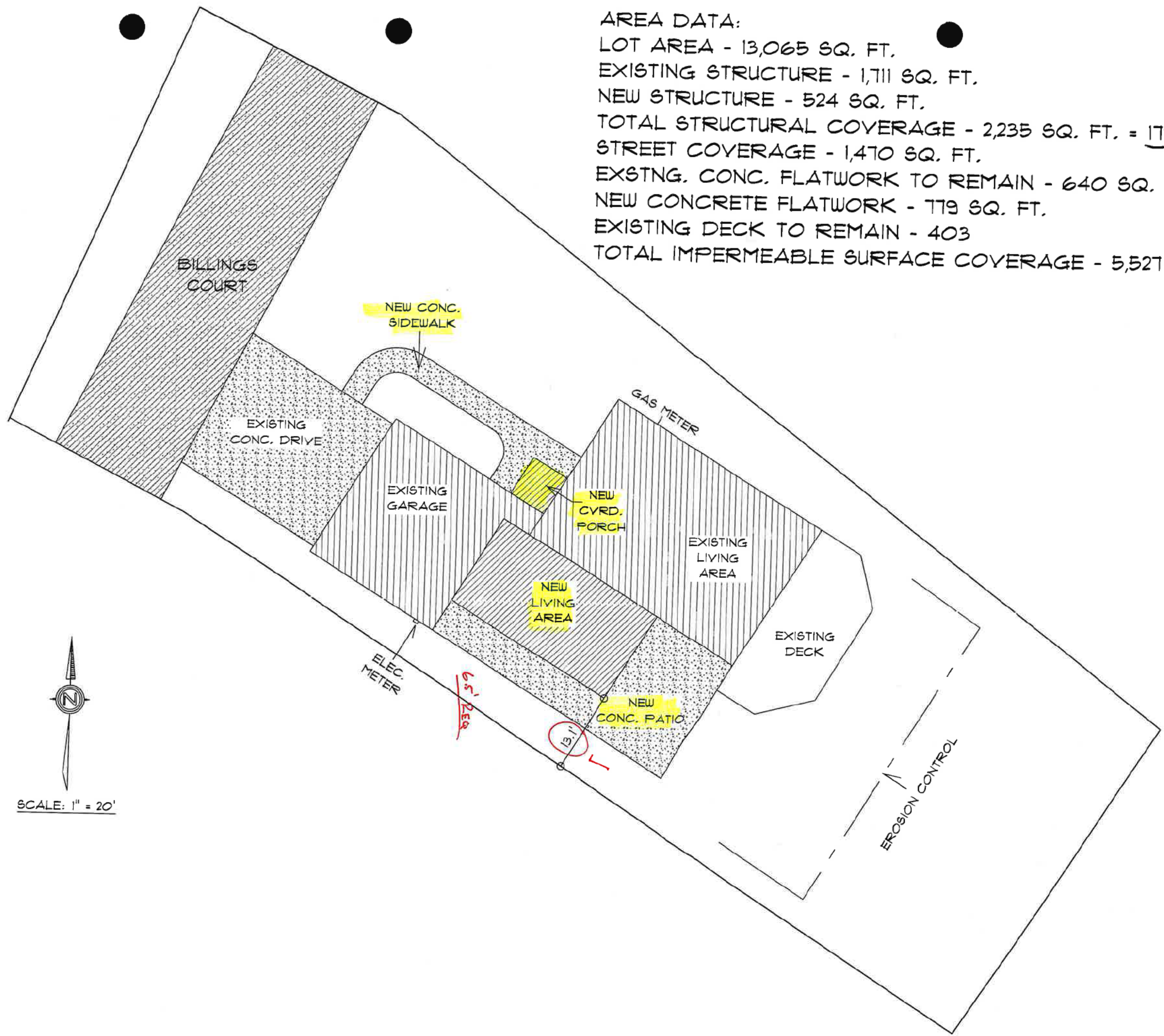
**EXISTING STREET ELEVATION**

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

EXPANSION & REMODEL PROJECT FOR  
 ERIC & ALISON BELFRAGE  
 105 BILLINGS COURT CLEAR LAKE

Lynn Delagrangge

AREA DATA:  
 LOT AREA - 13,065 SQ. FT.  
 EXISTING STRUCTURE - 1,711 SQ. FT.  
 NEW STRUCTURE - 524 SQ. FT.  
 TOTAL STRUCTURAL COVERAGE - 2,235 SQ. FT. = 17%  
 STREET COVERAGE - 1,470 SQ. FT.  
 EXSTNG. CONC. FLATWORK TO REMAIN - 640 SQ. FT.  
 NEW CONCRETE FLATWORK - 779 SQ. FT.  
 EXISTING DECK TO REMAIN - 403  
 TOTAL IMPERMEABLE SURFACE COVERAGE - 5,527 SQ. FT. = 42%



SCALE: 1" = 20'

# Town of Clear Lake Board of Zoning Appeals

Staff Report

## GENERAL INFORMATION

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<b>Request Number:</b>	2024-02
<b>Applicant:</b>	Eric & Alison Belfrage
<b>Status of Applicant:</b>	Owner
<b>Owner (if different from applicant):</b>	N/A
<b>Location:</b>	105 Billings Ct
<b>Zoning:</b>	LR – Lake Residential
<b>Current Use:</b>	Single Family Residential
<b>Type:</b>	Dimensional Variance
	5.13(B)(1) Roof Requirements
	The request is to allow the applicant relief for section 5.13(B)(1) Roof Requirements, which would allow them to match existing roof pitches with an addition but would exceed the square foot requirement of 20% max pitch under 5/12.
<b>Adjacent Area Zoning &amp; Uses:</b>	<b>North:</b> Channel
	<b>East:</b> LR - Lake Residential
	<b>South:</b> Lake
	<b>West:</b> LR – Lake Residential
<b>Hearing Date:</b>	April 9, 2024
	<ul style="list-style-type: none"><li>• Publication of legal notice was published in the Herald Republican on March 29, 2024</li><li>• A legal Notice was also posted by the Zoning Administrator outside the Town Hall.</li><li>• 2 adjacent owners were sent Legal Notices with a certificate of mailing.</li><li>• 21 interested property owners were sent “courtesy notices” by regular US mail.</li><li>• Notifications were sent to adjacent property owners within 300 feet of the subject property.</li></ul>

## Criteria:

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### UDO 9.19(E)(7)(a) Development Standard Variances

Development Standards Variance Findings of Fact: The Board of Zoning Appeals shall make the following findings of fact for Development Standards Variances. Approval of the findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.

- i. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- iii. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

### Things to consider:

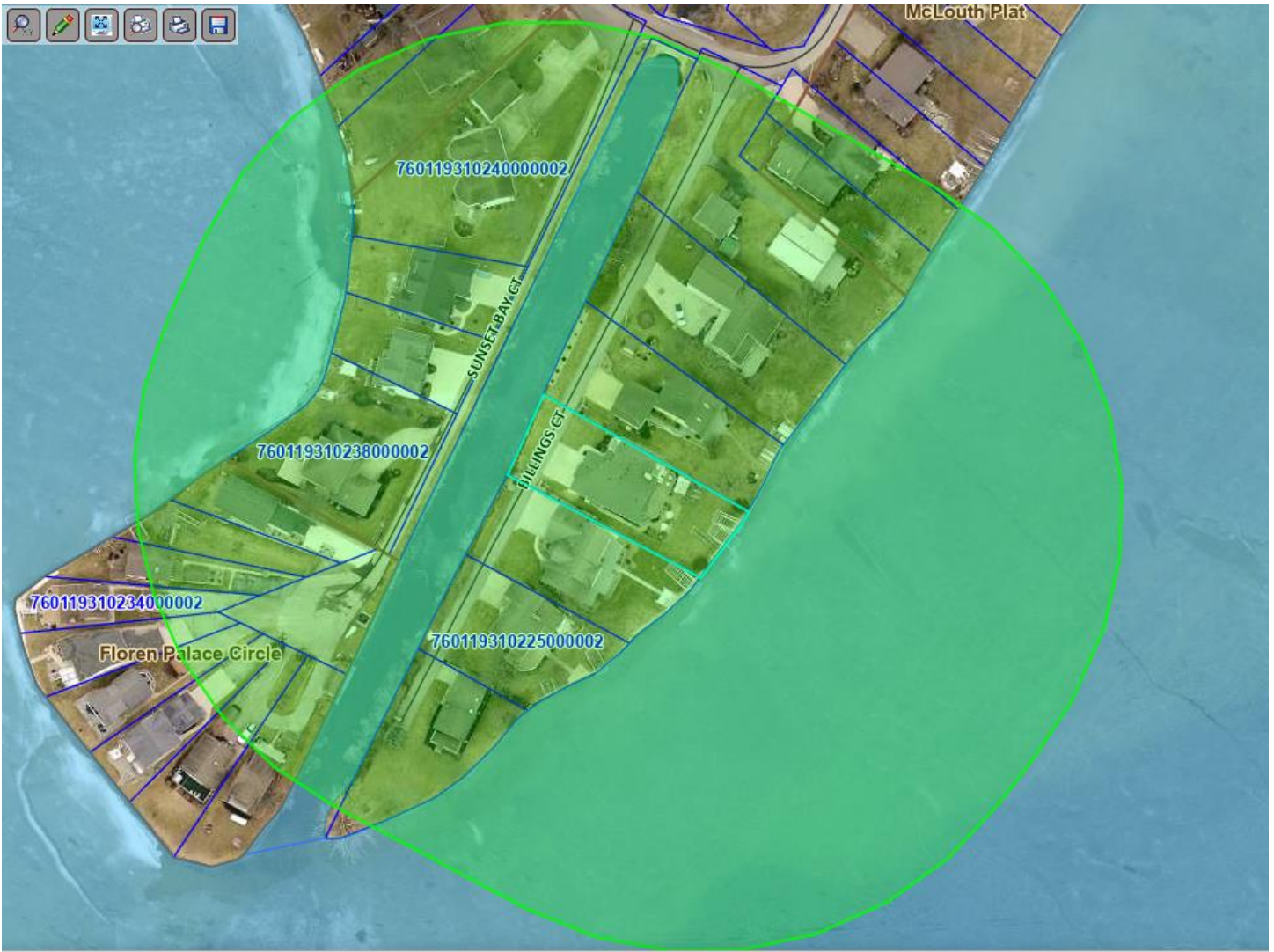
- Is enforcement of the Ordinance unreasonable and prevents the owner from using the property for a permitted use?
- Would conforming to the ordinance be unnecessarily burdensome?
- Does the variance do substantial justice to the applicant and other property owners in the district?
- Would a lesser relaxation be more appropriate?
- Is the situation causing the need for a variance due to unique circumstances related to the property?
- Is the situation self-created (created by an action of the applicant)?



## Notices

Owner Name	Owner Address	Owner City/St/Zip
Behnfeldt Rick L & Angela M H/W	103 Billings Ct	FREMONT, IN 46737
Belfrage Alison M Trust Agreement dtd 3-12-20	5421 Reserve Dr	DUBLIN, OH 43017
Cape Christina K & Luke L W/H	2573 Conkle Rd	EDGERTON, OH 43517
Christoff Joseph A & Catherine B Frey-Christoff H/W w/LE James D & Judith J Frey	11225 Dell Loch Way	FORT WAYNE, IN 46814
Clear Lake Township Land Conservancy Inc	111 Gecowets Dr	FREMONT, IN 46737
Clem Jill & Michael W/H	11835 Halter Rd	GRABILL, IN 46741
D & B Farm & Storage LLC	122 Sunset Bay Ct	FREMONT, IN 46737
Dietrich Ilene R Rev Trust dtd 8-13-15	136 West Clear Lake Dr	FREMONT, IN 46737
Gallmeyer Virginia M Trustee of the Virginia M Gallmeyer Rev Declaration of Trust dtd 6-15-00	98 West Clear Lake Dr	FREMONT, IN 46737
Greer Jeffrey & Kathryn Trust dtd 5-26-16	1570 Cambridge Blvd	COLUMBUS, OH 43212
Hefflinger Glenn	Po Box 225	TONTOGANY, OH 43565
Joost Matthew & Kierstin H/W	1269 Bearpaw Dr	DEFIANCE, OH 43512
Kraus Anthony & Michelle F	118 Sunset Bay Ct	Fremont, IN 46737
Pepple William & Kim H/W	100 Sunset Bay Ct	FREMONT, IN 46737
Pfister Dean W & Jean S H/W T/E	7707 Walnut Hill Ct	FORT WAYNE, IN 46804
Stellhorn Jean Ann	110 Sunset Bay Ct	FREMONT, IN 46737
Sundberg Claudia D	107 Billings Ct	FREMONT, IN 46737
Van Curen Gregory	16018 Coldwater Rd	FORT WAYNE, IN 46845
Warnimont Steven C & Chad Warnimont & Beverly Warnimont JT/RS	14630 Dexter Falls	PERRYSBURG, OH 43551
Yoder Theodosia R & her Successors as Trt under Theodosia R Yoder Trust dtd 06-05-07	831 Ringenberg Dr	ARCHBOLD, OH 43502
Zachrich Clan 2002 L L C (The)	10266 Moreland Way	PLAIN CITY, OH 43064
Zephyr Limited Partnership	15590 Viberg Rd	LEO, IN 46765
Zientek Brian P & Amy J Patton-Zientek H/W	3415 Amberwood Ln	TOLEDO, OH 43617
<b><i>Adjacent properties are highlighted</i></b>		

# Notices – Buffer Area



## **Feed Back – Variance 2024-02**

	<b>Support</b>	<b>Oppose</b>
<b>Total</b>	10	3

**FINDING OF FACT #1:** The approval of the variance will not be injurious to public health, safety, morals, and general welfare of the community.

	<b>Agree</b>	<b>Disagree</b>
<b>Comments:</b>	10	3

**FINDING OF FACT #2:** The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner.

	<b>Agree</b>	<b>Disagree</b>
<b>Comments:</b>	10	3

**FINDING OF FACT #3:** The strict application of the terms of the zoning ordinance (UDO) will result in practical difficulties in the use of the property.

	<b>Agree</b>	<b>Disagree</b>
<b>Comments:</b>	10	3

***Note: comments are a summary of responses, and a detailed list is available upon request.***

# Zoning Map



## UDO Provision

**5.13(B). Roof Requirements:** The following applies to primary and accessory buildings. 1. *Minimum and Maximum Roof Pitch:* The minimum pitch of at least eighty percent (80%) of a building's roof shall be five vertical units to twelve horizontal units (5:12 pitch). The maximum pitch of at least eighty percent (80%) of a building's roof shall be twelve vertical units to twelve horizontal units (12:12 pitch).

Existing Conditions:

Required	≤ 5/12 Pitch No less than 80 %	> 5/12 Pitch 20 % Max	< 12/12 Pitch 20 % Max	Total (sq. ft.)
Existing	600 sq. ft. (18 %)	2738 sq. ft. (82 %)	N/A	3338
Purposed	950 sq. ft. (24 %) +350 sq. ft.	2957 sq. ft. (76 %) +219 sq. ft.	N/A	3907 (+569)

Although the increase in square footage reduced the percentage of roofs to less than 5/12 from 82 % to 76 % the addition of 219 sq. ft. of new roof would not fall under 8.04 Legal nonconforming subsection 1. Building Expansion, as it is still an increase to the existing nonconforming structure.





**DEVELOPMENT STANDARDS VARIANCE APPLICATION**

Permit #: 2024-03

Town of Clear Lake, 111 Gecowets Drive, Fremont, IN 46737  
Office: (260) 495-9158 Mobile: (260) 243-6701 Email: zoning@townofclearlake.org

*\$300.00 Application Fee*  
*Fees \$100.00 Public Notice*

**Applicant Information**

Name: Peter Disser  
Address: \_\_\_\_\_  
City, State, Zip: 335 Penner Dr, Fremont, IN 46737  
Phone: [REDACTED] Email: [REDACTED]  
Applicant is:  Owner  Engineer / Architect  Contractor

**Owner Information**

Name:  Same as above  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Project Information**

Project Address: 335 Penner Dr.  
Parcel ID #: 760118430211000002  
Legal Description: (attach if necessary) PENN ACRES SEC II LOT 18  
Current Zoning:  LR  
Current Use:  Res.  
Variance Requested: Relief to construct a storage shed in front of the side building envelop, near the lake front.

UDO Provisions for which relief is requested? 5.08 (F) Location

Describe the project request in detail.

Construction of a rectangular storage shed on a non permanent (crushed stone or metal skid) foundation near the NE boundary of Lot 18 (335 Penner Drive). Wood frame and shingle construction. No utilities. Erosion control will be crushed rock or pea gravel skirt under drip line of roof. Primary purpose is storage of tools and boating accessories.

**Explain why the requested variance is essential to the practical use of your property.**

The Covenants of Penn Acres mandated that the primary structure be built on the road side of a utility easement that bisects the property roughly parallel to the lake shore and Penner Drive. As a result, the main structure is > 200 feet from the shoreline. The attached garage is ~275 feet away. Storage of tools, lawn furniture, boating and water sports equipment in the garage requires carrying this gear 275 feet over uneven and often marshy terrain. While I understand (but only recently learned) that the Town does not regulate Covenants, the house design was partially informed by a December 8, 2020 letter (attached) my attorney received from the President, Clear Lake Plan Commission and acting Zoning Administrator which reads in part:

\*Notable info from Covenants: please read thoroughly  
A 20' NIPSCO utility easement exists (north to south) through the middle of the lot and may not be built over. This obstacle creates a building line at the West edge of this utility easement to the established building line at the road. Building envelope will be approximately 112' long x 58' wide.  
The Covenants provide for a 120 sq. ft accessory building between the east utility line and the shoreline." Presumably, due to the extreme setback from the Lake that the utility easement imposes, this Covenant was created as concession to make the property more conducive to lake use.

**Findings of Fact**

The Board of Zoning Appeals must make detailed findings of fact based on your application and presentation at the meeting. Failure to present evidence in support of the findings may result in the denial of your application. Therefore, please complete the following statements:

The proposed project will not be injurious to the public health, safety, morals, and general welfare of the community because:

The proposed structure is a simple storage shed. No plumbing, heating, electric, or sleeping quarters. It will be aesthetically pleasing - same color scheme as main structure. It will not create a problematic precedent because of the unique nature of the Covenants that give rise to the unique need.

The use and value of the area adjacent to the proposed project will not be affected in a substantially adverse manner because:

Presumably the restriction was enacted to preserve lake views for adjacent property owners. Neither adjacent lake front lot is occupied, nor has ever been developed. Tall brush exists in front of these adjacent properties blocking the lake view currently. Should these properties be developed, they are subject to the same utility easement Covenant and would also be required to be ~200 feet from the shore. The further back the houses, the wider the visual perspective of the lake and smaller the area of view obstructed by any object, relative to the lake. Because the adjacent houses would be so far back from the lake, the shed would only obstruct a tiny fraction of the degrees of view that that same shed would, located on the more common Town configurations where the houses are much closer to the Lake and closer to each other.

The strict application of the terms of the ordinance will result in practical difficulties in the use of the property because:

Absent the storage structure, lake use is encumbered by the necessity of carrying any stored (often bulky/heavy) gear nearly 100 yards to the shore.

**Affidavit**

I/We, Peter T. Dissler, being duly sworn, depose and say that I/we, am/are the owners/contract purchasers of the property involved in this application; and that the forgoing signatures, statements, and answers herein contained, and the information herewith submitted, are in all respects true and correct.

STATE OF INDIANA)

) SS:

COUNTY OF STEUBEN)

Subscribed and sworn to before me, a Notary Public in and for said County and State, on this 7 day of March, 2024

(seal)

My Commission Expires: \_\_\_\_\_

[Signature]  
7th March 2024  
01/01/2027

Date

Peter T. Dissler  
Feb 7, 2024

**Explain why the requested variance is essential to the practical use of your property.**

The Covenants of Penn Acres mandated that the primary structure be built on the road side of a utility easement that bisects the property roughly parallel to the lake shore and Penner Drive. As a result, the main structure is > 200 feet from the shoreline. The attached garage is ~275 feet away. Storage of tools, lawn furniture, boating and water sports equipment in the garage requires carrying this gear 275 feet over uneven and often marshy terrain. While I understand (but only recently learned) that the Town does not regulate Covenants, the house design was partially informed by a December 8, 2020 letter (attached) my attorney received from the President, Clear Lake Plan Commission and acting Zoning Administrator which reads in part:

"Notable info from Covenants: please read thoroughly

A 20' NIPSCO utility easement exists (north to south) through the middle of the lot and may not be built over. This obstacle creates a building line at the West edge of this utility easement to the established building line at the road. Building envelope will be approximately 112' long x 58' wide.

The Covenants provide for a 120 sq. ft accessory building between the east utility line and the shoreline." Presumably, due to the extreme setback from the Lake that the utility easement imposes, this Covenant was created as concession to make the property more conducive to lake use.

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Presumably the restriction was enacted to preserve lake views for adjacent property owners. Neither adjacent lake front lot is occupied, nor has ever been developed. Tall brush exists in front of these adjacent properties blocking the lake view currently. Should these properties be developed, they are subject to the same utility easement Covenant and would also be required to be ~200 feet from the shore. The further back the houses, the wider the visual perspective of the lake and smaller the area of view obstructed by any object, relative to the lake. Because the adjacent houses would be so far back from the lake, the shed would only obstruct a tiny fraction of the degrees of view that that same shed would, located on the more common Town configurations where the houses are much closer to the Lake and closer to each other.

**The strict application of the terms of the ordinance will result in practical difficulties in the use of the property because:**

Absent the storage structure, lake use is encumbered by the necessity of carrying any stored (often bulky/heavy) gear nearly 100 yards to the shore.

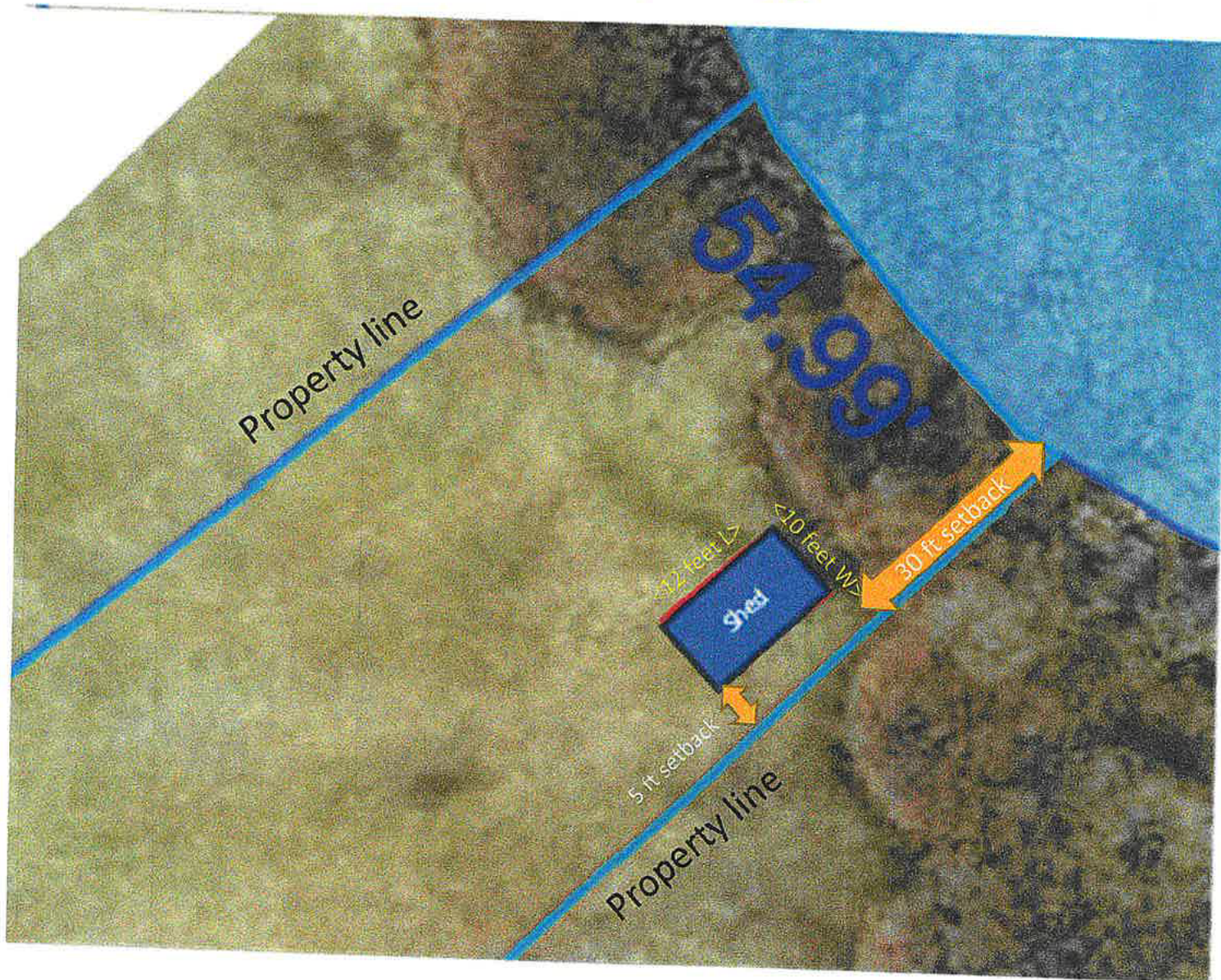


Disser storage shed Permit Application  
335 Penner Dr.  
Parcel ID 760118430211000002

**EXHIBIT # A**



*Site plan of proposed structure; dimensions; setbacks*

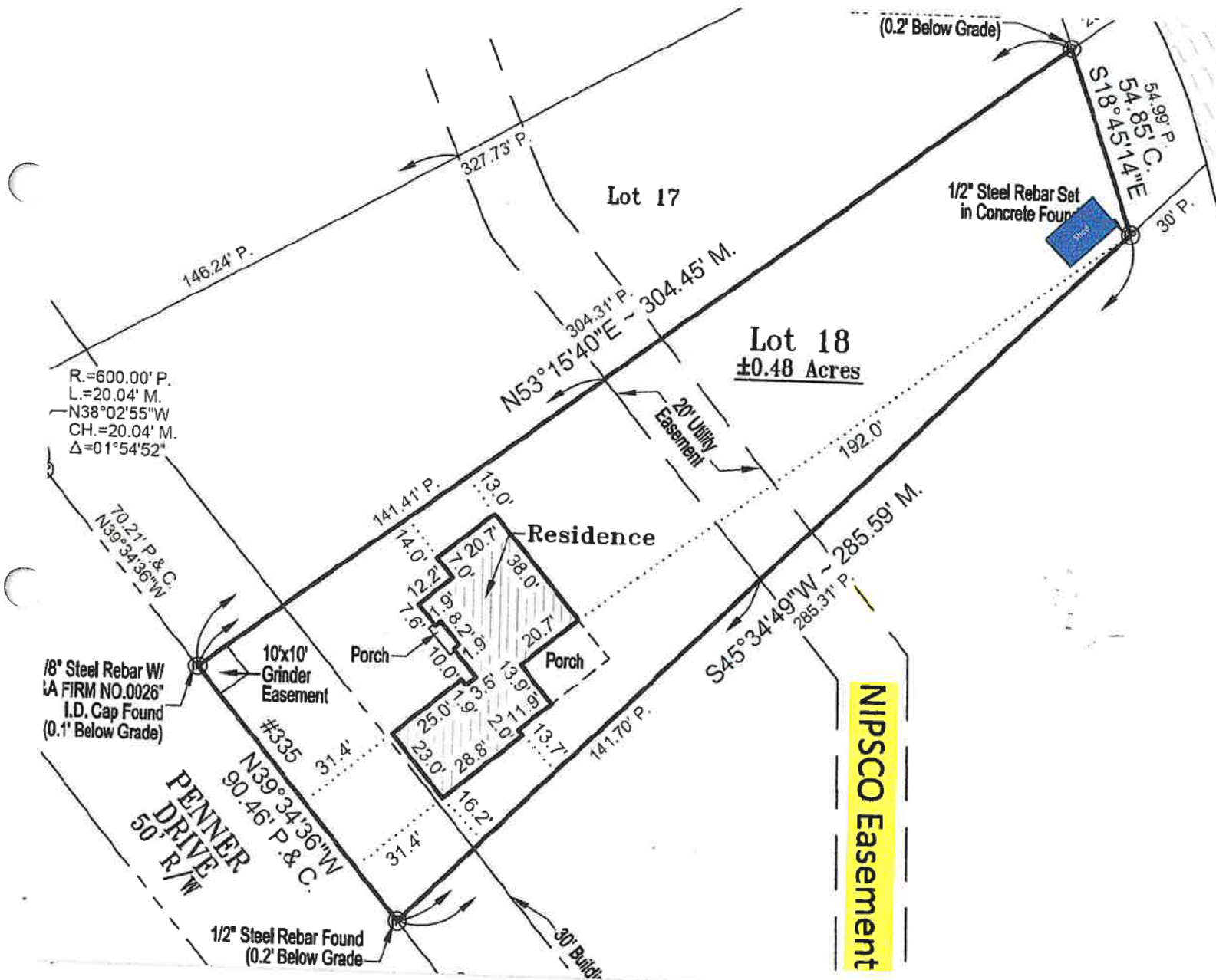




Disser storage shed Permit Application  
 335 Penner Dr.  
 Parcel ID 760118430211000002

Existing structure, proposed structure,  
 easements, rights of way/road

EXHIBIT # B

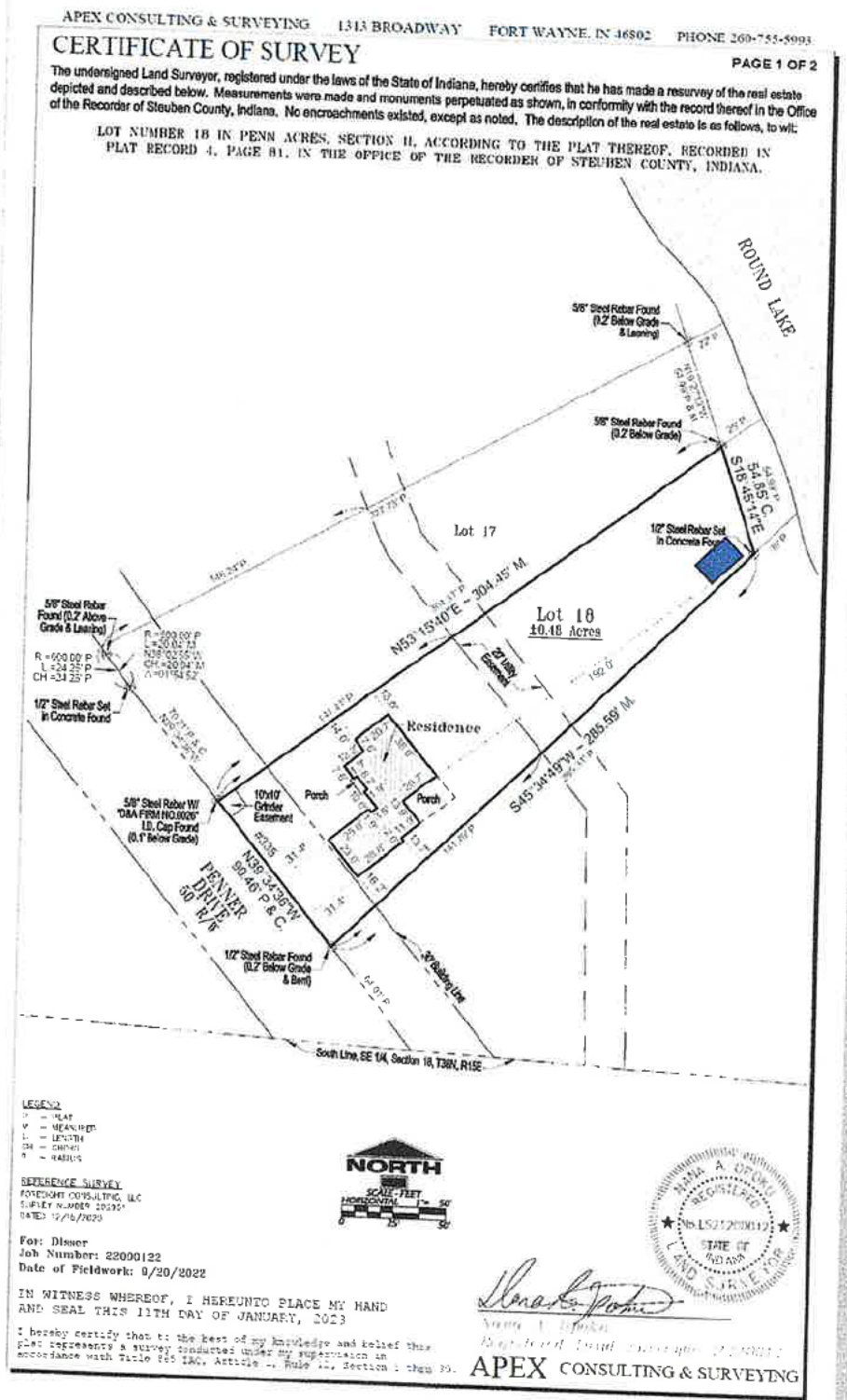
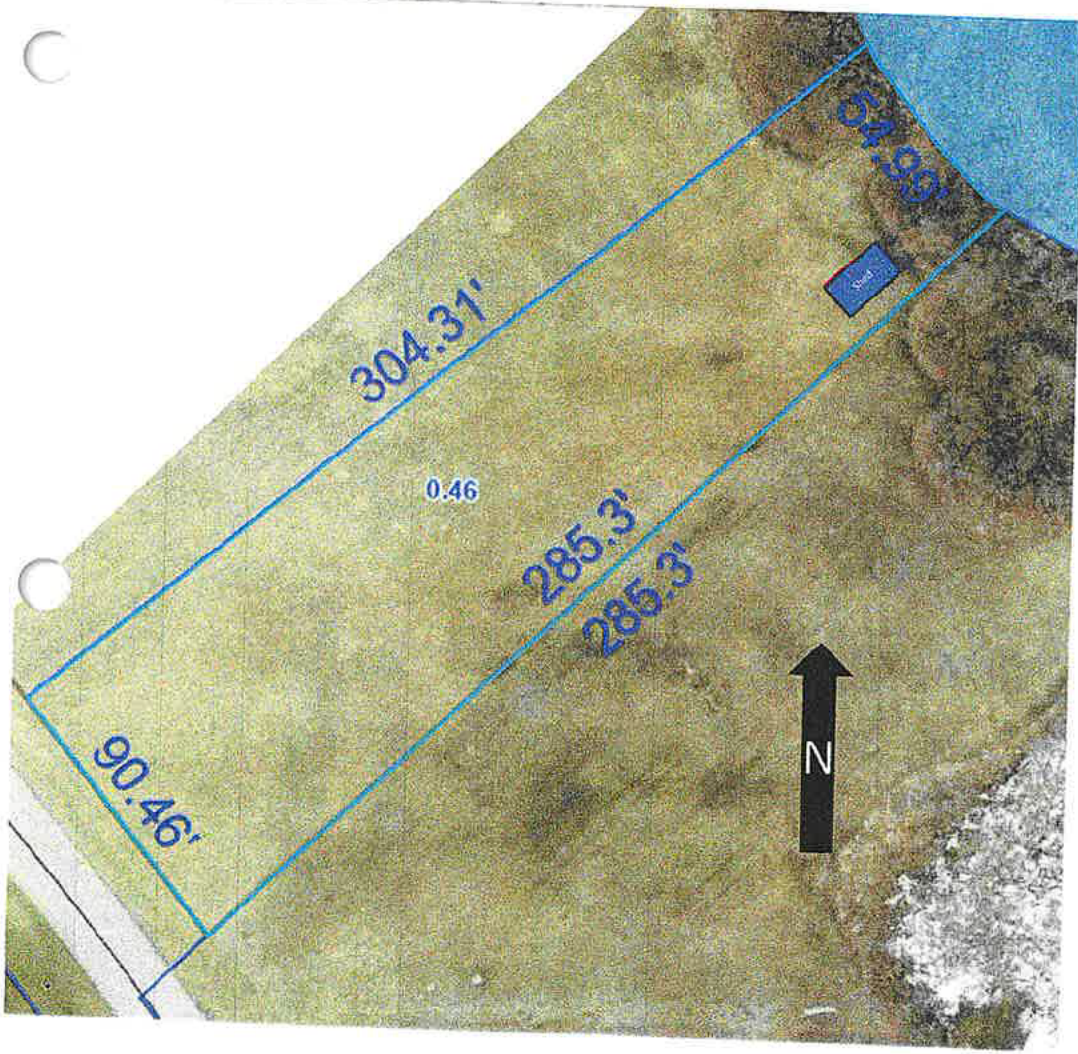


Disser storage shed Permit Application  
335 Penner Dr.

Parcel ID 760118430211000002

Lot dimensions, property lines,  
existing structure, proposed  
structure, easements

EXHIBIT # C







December 8, 2020

Re: Steuben County parcel # 7601184430211000002 Round Lake, Penner Drive,  
Covenants of Penn Acres Section II, lot 18

**General info:**

Town of Clear Lake zone: Lake Residential (LR)

Lot is approx. 21,438 square feet

no well

Sewer: approx. \$7500 hook up fee, monthly sewer/trash fee \$99.61

Garbage Service: weekly

Dock: may be installed according to State of IN DNR guidelines

Please find our building ordinances on our website at [townofclearlake.org](http://townofclearlake.org) see bottom of page "UDO" page 2-15, blue box will lead to sections that apply to this zone.

**Highlights:**

minimum main floor square feet: 800

road setback: 25' from property line, please note that Penner Dr. has a 50' ROW rendering a 15' utility easement at the edge of paved surface, resulting in a build line that begins 40' from paved road edge.

Side setbacks: 20% of lot width, with no side yard being smaller than 5', total side setback approximately 14.5'. Please note the Covenants speak of side setbacks but cannot be located on the document so the setbacks are governed by our UDO.

Height: 35'

**Notable info from Covenants: please read thoroughly**

A 20' NIPSCO utility easement exists (north to south) through the middle of the lot and may not be built over. This obstacle creates a building line at the West edge of this utility easement to the established building line at the road. Building envelope will be approximately 112' long x 58' wide.

The Covenants provide for a 120 sq. ft accessory building between the east utility line and the shoreline.

Please also note the property line that does not meet the water. The surveyor should research this?

Town of  
CLEAR LAKE  
EST. 1932



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111 Gecowets Drive Fremont IN 46737  
(260) 495-9158 / (260) 495-5902 fax  
[www.townofclearlake.org](http://www.townofclearlake.org)

Pete, I think I have covered the major topics, I am happy to answer any further questions.

I will make copies of the Covenants, this afternoon and place I the mail to you. I will also drop a copy at Foresight.

Thanks,

Bonnie Brown, President, Clear Lake Plan Commission and acting Zoning Administrator



# Town of Clear Lake Board of Zoning Appeals

Staff Report

## GENERAL INFORMATION

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**Request Number:** 2024-03  
**Applicant:** Peter Disser  
**Status of Applicant:** Owner  
**Owner (if different from applicant):** N/A  
**Location:** 335 Penner Drive  
**Zoning:** LR – Lake Residential  
**Current Use:** Single Family Residential  
**Type:** Dimensional Variance  
5.08(E) Location  
The request is to allow for the placement of a storage-based accessory in the Lake side envelope of the property. The section relief is being sought is 5.08(E) Location, as storage based accessory structures are only permitted in the side and roadside yard envelopes in the Lake Residential District.

**Adjacent Area Zoning & Uses:**

<b>North:</b>	LR – Lake Residential
<b>East:</b>	Round Lake
<b>South:</b>	LR – Lake Residential
<b>West:</b>	SR – Single Family Residential

**Hearing Date:** April 9, 2024

- Publication of legal notice was published in the Herald Republican on March 29, 2024
- A legal Notice was also posted by the Zoning Administrator outside the Town Hall.
- 3 adjacent owners were sent Legal Notices with a certificate of mailing.
- 7 interested property owners were sent “courtesy notices” by regular US mail.
- Notifications were sent to adjacent property owners within 300 feet of the subject property.

## Criteria:

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### UDO 9.19(E)(7)(a) Development Standard Variances

Development Standards Variance Findings of Fact: The Board of Zoning Appeals shall make the following findings of fact for Development Standards Variances. Approval of the findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

### Things to consider:

- Is enforcement of the Ordinance unreasonable and prevents the owner from using the property for a permitted use?
- Would conforming to the ordinance be unnecessarily burdensome?
- Does the variance do substantial justice to the applicant and other property owners in the district?
- Would a lesser relaxation be more appropriate?
- Is the situation causing the need for a variance due to unique circumstances related to the property?
- Is the situation self-created (created by an action of the applicant)?

## Notices

Owner Name	Owner Address	Owner City/St/Zip
Woods Irene M Trt U/D/T dtd 11-07-02 F/B/O The Woods Rev Tr	10124 Fawns Ford	FORT WAYNE, IN 46825
Disser Peter T Rev Trust dtd 11-8-18	2611 Roslyn Tr	Long Beach, IN 46360
Tyler Eric & Kathleen H/W	280 Penner Dr Round Lake	FREMONT, IN 46737
Penner Larry J & Janice JoAnn H/W	340 Penner Dr	FREMONT, IN 46737
Robinson Stanley M & Antoinette U	5933 Mariposa Ln	SARASOTA, FL 34238
Jacquay Pierre L & Anne A H/W	60 Penner Dr Round Lk	Fremont, IN 46737
Cove Thirteen L L C	60 Penner Dr Round Lk	FREMONT, IN 46737
Oakwood Clear Lake LLC	601 Ash St	WINNETKA, IL 60093
Nicolaides Cynthia D as Trustee of the 2012 Cynthia D Nicolaides Trust & Scott B Dickes as Trustee of the 2012 Scott B Dickes Trust	601 Ash St	WINNETKA, IL 60093
Voirol Roger J & Jacqueline L H/W T/E	782 E 1250 N	MILFORD, IN 46542

**Adjacent properties are highlighted**



## **Feed Back – Variance 2024-03**

	<b>Support</b>	<b>Oppose</b>
<b>Total</b>	0	43

**FINDING OF FACT #1:** The approval of the variance will not be injurious to public health, safety, morals, and general welfare of the community.

	<b>Agree</b>	<b>Disagree</b>
	4	39

**Comments:**

Lake front yards are visually precious and should be protected as stated in the Comprehensive Plan and UDO.

The UDO is setup to protect the welfare of all the Clear Lake Community and this variance possibly could affect the UDO and its purpose.

**FINDING OF FACT #2:** The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner.

	<b>Agree</b>	<b>Disagree</b>
	2	41

**Comments:**

View of the lake would be obstructed

Lakeside storage sheds will materially degrade the aesthetics of Clear Lake.

**FINDING OF FACT #3:** The strict application of the terms of the zoning ordinance (UDO) will result in practical difficulties in the use of the property.

	<b>Agree</b>	<b>Disagree</b>
	5	38

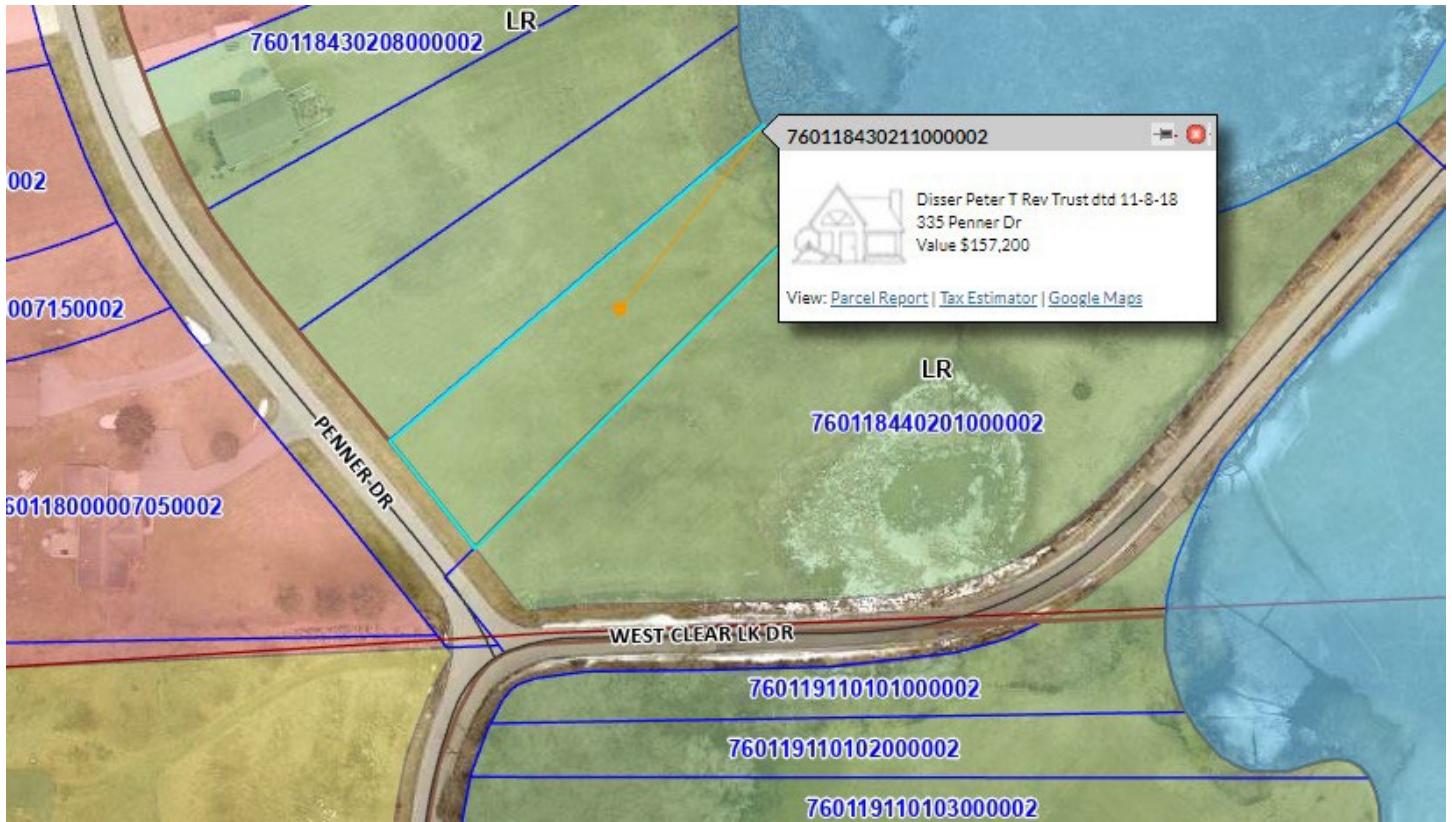
**Comments:**

Convenience does not make the practical use of the property difficult, thus it does not meet this standard.

The UDO is a reasonable standard that should be consistently applied.

***Note: comments are a summary of responses, and a detailed list is available upon request.***

# Zoning Map





## UDO Provision

**5.08(E). Location:** Storage-based accessory structures **shall only be permitted in the street yard envelope and side yard envelope**. Recreation-based accessory structures shall be permitted in the lake yard envelope, street yard envelope, and side yard envelope. However, sport courts shall not be permitted in the lake yard envelope.

