



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

**Board of Zoning Appeals
Regular Meeting**

Tuesday, December 12, 2023 @ 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.
 - October 10, 2023
- E. Budget items - None
- F. Applications, Petitions, and/or Hearings
 - 1. Appeal Application 2023-05; 933 South Clear Lake Drive, Denny & Jackie Keiser
 - 2. Variance Application 2023-06; 70 West Clear Lake Drive, Cass & Janie Cullis
- E. Old Business - None
- E. New Business
 - 2024 Meeting Dates
- I. Discussion
- J. Adjournment

The next regularly scheduled Clear Lake Board of Zoning Appeals meeting will be Tuesday, February 13, 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 – October 10, 2023

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

There were 3 residents in attendance and 1 via Zoom.

Roll Call:

Matt Rippe, 68 West Clear Lake Drive

Walter (Mokey) Grabowski, 254 West Clear Lake Drive

Jim McClain, 1226 Quiet Harbor Drive

Jessica Swander, 7382 E State Road 120

Mike Hawk, Attorney to the BZA

Jennifer Sattison, Billing Clerk

Robert Hawley, Zoning Administrator

J. McClain entertained a motion to approve the agenda.

Motion by: M. Rippe

To approve the agenda.

2nd by: J. Swander

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

J. McClain entertained a motion to approve August 8, 2023, Board of Zoning minutes.

Motion by: M. Rippe

To approve August 8, 2023, Board of Zoning minutes.

2nd by: J. Swander

All in favor, say aye. Vote was unanimous. Motion carried; August 8, 2023, Board of Zoning minutes approved.

No Budget Items.

Variances 2023-04a and b: Request for variance from Section 5.65C Viewshed and Section 2.14 Minimum Lake Yard Setback

Zoning Administrator R. Hawley went through the staff report for Tom and Barbara Rumsey's Variances 2023-04a and b.

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

Motion by: J. Swander

To open for public comment.

2nd by: M. Rippe

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

Variance Applicant, Todd Rumsey, discussed his projects regarding to Variances 2023-04a and b.

Board of Zoning members asked variance applicant, Todd Rumsey, questions.

Zoning Administrator R. Hawley went through the public feedback.

J. McClain entertained a motion to close public comment.

Motion by: J. Swander

To close public comment.

2nd by: W. Grabowski

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

J. McClain entertained a motion to move to final action of Variances 2023-04a and b.

Motion by: J. Swander

To move to final action of Variances 2023-04a and b.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; moved to final action of Variances 2023-04a and b.

J. McClain entertained a motion to vote on final action of Variance 2023-04a.

Motion by: J. Swander

To move to vote on final action of Variance 2023-04a.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; moved to vote on final action of Variance 2023-04a.

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.

Final Vote: 4-0. 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.

Final Vote: 4-0. 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.

Final Vote: 4-0. 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.

Final Vote: 4-0. Yes, Findings of Fact #4

Variance 2023-04a was approved.

J. McClain entertained a motion to vote on final action of Variance 2023-04b.

Motion by: J. Swander

To move to vote on final action of Variance 2023-04b.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; moved to vote on final action of Variance 2023-04b.

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.

Final Vote: 4-0. 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.

Final Vote: 4-0. 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.

Final Vote: 4-0. 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.

Final Vote: 4-0. Yes, Findings of Fact #4

Variance 2023-04b was approved.

No old Business, new business or discussion.

J. McClain entertained a motion to adjourn meeting.

Motion by: J. Swander

To adjourn meeting.

2nd by: M. Rippe

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

Meeting adjourned at 7:31pm.

Board of Zoning Appeals Chairman: Jim McClain

Attest: Jennifer Smith-Sattion, Billing Clerk

Town of Clear Lake Board of Zoning Appeals

Staff Report

GENERAL INFORMATION

Request Number:	2023-06
Applicant:	Cass & Janie Cullis
Status of Applicant:	Owner
Owner (if different from applicant):	N/A
Location:	70 West Clear Lake Drive
Zoning:	LR – Lake Residential
Current Use:	Single Family Residential
Type:	Dimensional Variance
Adjacent Area Zoning & Uses:	North: LA – Lake Accessory East: LR – Lake Residential South: N/A West: LR – Lake Residential
Hearing Date:	December 12, 2023
	<ul style="list-style-type: none">• Publication of legal notice was published in the Herald Republican on November 30, 2023.• A legal Notice was also posted by the Zoning Administrator outside the Town Hall.• 2 adjacent owners were sent Legal Notices with a certificate of mailing.• 12 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:

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 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
Bushey James E & Karen S H/W	74 W Clear Lk Dr	FREMONT, IN 46737
Champion Thomas Kalvin & Samantha J H/W	82 West Clear Lake Dr	FREMONT, IN 46737
Clear Lake Township Land Conservancy Inc	111 Gecowets Dr	FREMONT, IN 46737
Cullis Cass M Trustee of the Hannah R Cullis 2012 Irrevocable Trust fbo Cass M Cullis	1253 Ridgewood Dr	TROY, OH 45373
Folland Christopher & Jill H/W	52 West Clear Lake Dr	FREMONT, IN 46737
Gay Bradley A Rev Trust dtd 3-16-04	88 West Clear Lake Dr	Fremont, IN 46737
Laukhuf Family Living Trust dtd 1-28-22	8451 Road 48	HAVILAND, OH 45851
Laukhuf John E & Marcia A H/W	4186 Rd 71	PAYNE, OH 45880
Lindenberg Family Rev Living Trust Thomas Arnold Lindenberg & Marilyn E Lindenberg Trustees under the Provisions of a Trust Agreement dtd 19th March 2008	10826 Morning Mist Tr	FORT WAYNE, IN 46809
Rippe Jerry J & Joan R	6828 Sweetwood	FORT WAYNE, IN 46814
Schenkel Joseph J & Kathy J H/W	72 W Clear Lake Dr	FREMONT, IN 46737
Star Homes By Delagrange & Richhart Inc	5909 Wheelock Rd Ste 101	FORT WAYNE, IN 46835
Vetter Dennis M & Sheryl L H/W	1623 State Route 18	HICKSVILLE, OH 43526
Wickland Peggy E & Jack C	8111 Minnie Ha Ha Cir	FORT WAYNE, IN 46818

Adjacent properties are highlighted in pink



Feed Back – Variance 2023-06

	Support	Oppose
Total	6	2

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

	Agree	Disagree
Comments: None	7	1

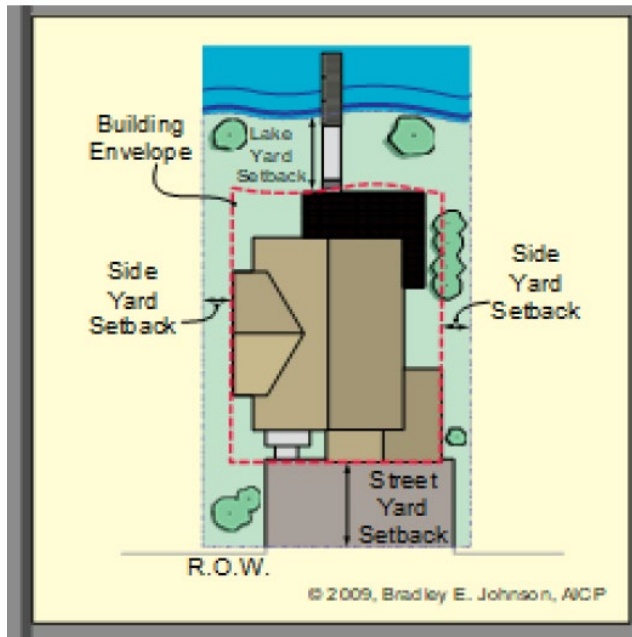
FINDING OF FACT #2: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

	Agree	Disagree
Comments: None	7	1

FINDING OF FACT #3: The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property

	Agree	Disagree
Comments: <i>I do not believe strict adherence will result in practical difficulties in the property use, although to me it appears this property already has a legal non-conforming for the lower level.</i> <i>While the enforcement of the UDO will not result in difficulties in the use of the property, the requested variance doesn't encroach beyond current foot print.</i> <i>There is no practical difficulty. The owner can make a compliant addition on the 2nd floor by simply reducing the overall size of the addition.</i>	4	4

Zoning Matrix



Minimum Street Yard Setback

- 25 feet for primary structure
- 25 feet for accessory structure

Existing Site Conditions

The current home is a legal nonconforming building per 8.04 Legal Nonconforming Structures:

Legal Nonconforming Building Provisions: The provisions for legal nonconforming buildings, a subcategory of structures, are as follows: 1. Building Expansion: A legal nonconforming building shall be permitted to expand in area and height as long as the nonconformity is not increased and the expansion otherwise meets the current Unified Development Ordinance. For example, if a building is in violation of the maximum height standard, it can be expanded in area as long as the new addition does not exceed the maximum height standard and is otherwise in compliance with current Unified Development Ordinance.

DEVELOPMENT STANDARDS VARIANCE APPLICATION

#2023-06

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

APPLICANT INFORMATION

Name Cass & Janie Cullis E-mail cjcullis@gmail.com

Address 70 WCLD - Fremont 46737 1253 Ridgewood Dr - Troy, OH 45373
lake permanent

Phones 937-901-1080
preferred other

PROJECT INFORMATION

Address of Property 70 W Clear Lake Drive - Fremont, IN 46737

Legal Description see attached survey
(attach if necessary)

Property Owner Cass & Janie Cullis

Current Zoning LR Existing Covenant _____

Current Use Single Family Residence Proposed Use Single Family Residence

Variances Requested Relief from required street yard setback as specified in section 2.14 of UDO from 25' to 19.3'
which is the current distance between the existing NE corner of home and property line

PROJECT DETAILS

Describe the project request in detail.

Expand the 2nd floor toward the road, it will not extend beyond the existing bedroom wall below.

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

We are respectfully requesting this variance to make the best use of space that is now currently wasted. Our family is growing and we love being together at Clear Lake. We are retired and enjoy sharing the lake experience with our friends and our children enjoy entertaining their friends and families as well. It's important to us to be able to spend time comfortably together while at the lake and two additional bedrooms would help make that possible. Our proposed project is designed as such to not encroach beyond our existing building footprint nor have a negative impact on our adjacent neighbors.

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 will be constructed of high quality materials and will support, maintain, or improve adjacent property values. It would not be detrimental to the public health, safety, morals or general welfare of the community.

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

The proposed reduced setback would not cause an interference with the areas adjacent to it, the proposed 2nd floor expansion would move closer to the existing exterior wall of the bedroom below but would not project any further toward the street than the existing structure. Visibility and travel along W Clear Lake Drive would not be affected.

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

Due to our growing family the current upstairs space puts constraints on how much of them can visit at any one particular time, this variance has been requested to help out with the accommodations. The Cullis family has a long history with Clear Lake, if this variance is granted it will allow us to continue to make significant and positive improvements to our property.

AFFIDAVIT

I/We, Cam M. Cullis, 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 foregoing 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)



DEBORAH J. BURGHER
Notary Public, State of Ohio
My Comm. Expires Sept. 7, 2027

Subscribed and sworn to before me, a Notary Public in and for said County and State, on this 8 day of November, 2023

My Commission Expires:

Deborah J. Burgher
Signature

8 Nov 2023
Date



**GOULOFF - JORDAN
SURVEYING AND DESIGN, INC.**

1133 BROADWAY FORT WAYNE, IN 46802
PH (260) 424-5362 FAX (260) 424-4916

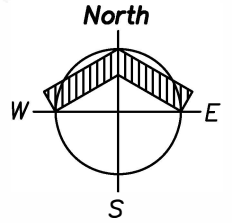
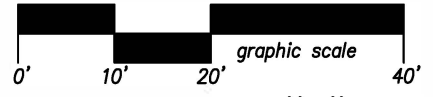
Boundary Retracement Survey

Property Address:
70 West Clear Lake Drive, Fremont, IN 46737

LEGEND

- (m) MEASURED
- (r) RECORDED
- (c) CALCULATED
- (p) PLATTED INFORMATION

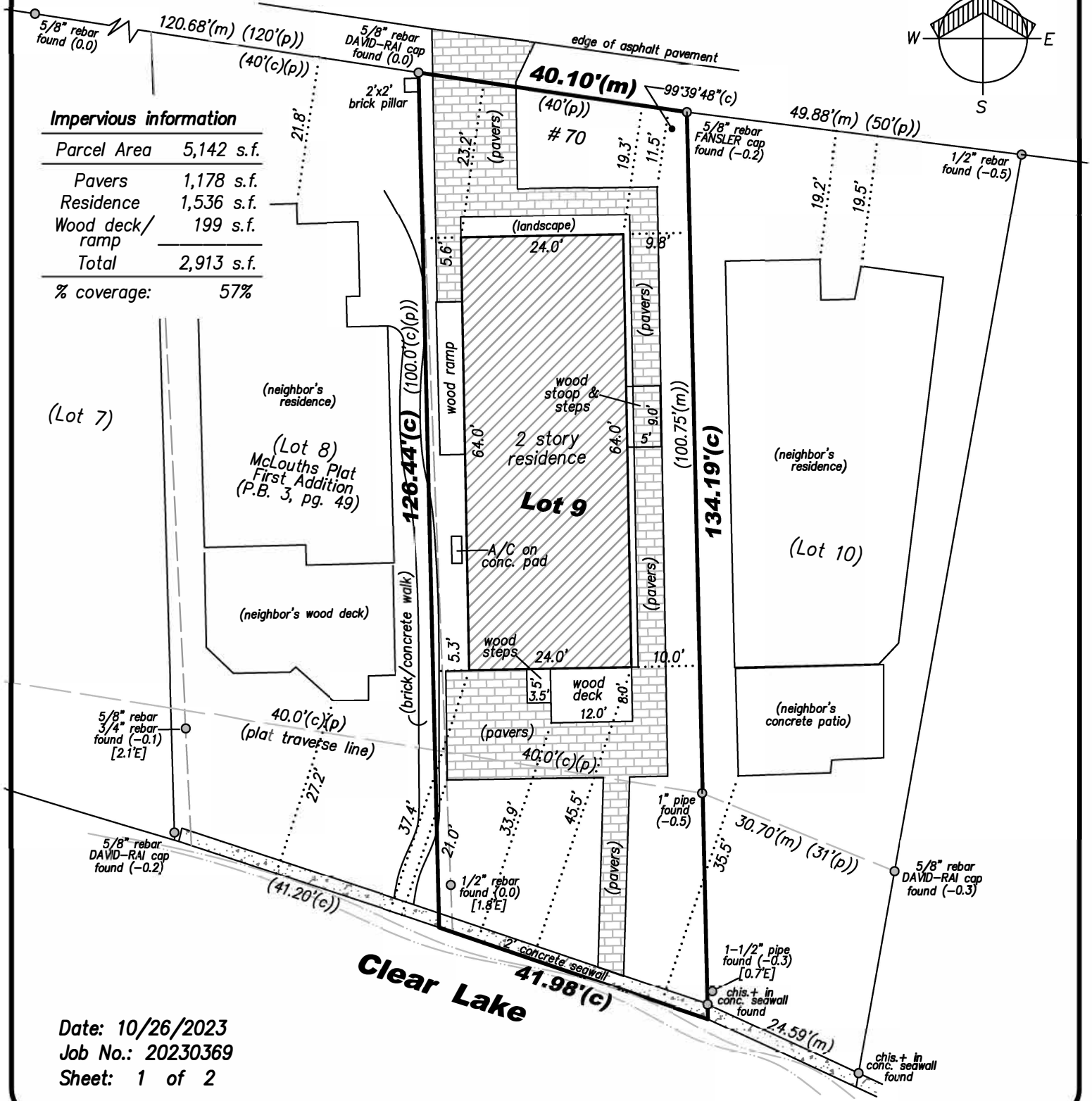
SCALE: 1" = 20'



**West Clear Lake Drive
(40' public R/W)**

Impervious information

Parcel Area	5,142 s.f.
Pavers	1,178 s.f.
Residence	1,536 s.f.
Wood deck/ ramp	199 s.f.
Total	2,913 s.f.
% coverage:	57%



(Lot 7)

(Lot 8)
McLouths Plat
First Addition
(P.B. 3, pg. 49)

Lot 9

(Lot 10)

Date: 10/26/2023
Job No.: 20230369
Sheet: 1 of 2

Clear Lake



**GOULOFF - JORDAN
SURVEYING AND DESIGN, INC.**

1133 BROADWAY FORT WAYNE, IN 46802
PH (260) 424-5362 FAX (260) 424-4916

Boundary Retracement Survey

Property Address:

70 West Clear Lake Drive, Fremont, IN 46737

DESCRIPTION

Lot 9 in McLouths Plat – Original Plat of the First Addition, according to the plat thereof, recorded in Plat Book 3, page 49 in the Office of the Recorder of Steuben County, Indiana.

SURVEYOR'S REPORT

This report and the accompanying survey plat have been prepared in accordance with Title 865, Article 1, Rule 12, Sec 1–29 and all amendments thereto of the Indiana Administrative Code, which establishes the minimum standards for the practice of land surveying.

*Monuments set are 5/8 inch round by 24 inch long steel rebars with yellow plastic caps stamped "GOU LS29500017", and set flush with the ground surface, unless otherwise noted.
Monuments found are noted with an above (x.x) or below (-x.x) ground surface dimension.*

PURPOSE:

The purpose of this survey is to "retrace" the boundary of the parcel of land described hereon.

THEORY OF LOCATION:

The lines and corners of this survey were established on and between found monuments or calculated utilizing platted and/or recorded information as depicted on the survey drawing.

The uncertainty in the lines and corners found or established by this survey are as follows:

(A) Availability and condition of reference monuments:

Monuments found are described and depicted on the survey drawing.

Uncertainty created by the location of the monuments found or set on the subject property due to variations in reference monuments (monuments found on the subject property and on adjacent properties) is the difference between "measured" and "platted" or "recorded" angular or distance measurements as depicted on the survey drawing. The uncertainty for this survey is 2.0 feet +/-.

(B) Occupation or possession lines:

No uncertainty was created by visible occupation or possession lines.

(C) Clarity or ambiguity of the record description and or adjoiner's descriptions:

No uncertainty was created by the above mentioned documents.

(D) This survey falls under the classification of a "Suburban" survey. The acceptable relative positional accuracy (random errors in measurements) = 0.13 feet (40 millimeters) plus 100 parts per million as specified in Section 7 of said Rule 12.

SURVEYOR'S CERTIFICATION

This survey was performed by, or under the responsible direction of the undersigned registered land surveyor and to the best of said registered land surveyor's knowledge and belief, said survey was executed according to the applicable survey requirements of 865 IAC-1-12-1 thru 29.

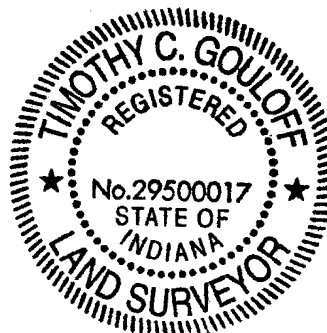
Field work performed on 10/24/2023.

DATED THIS 26th DAY OF OCTOBER, 2023.

Timothy C. Gouloff, R.L.S. 29500017

Job No.: 20230369

Sheet: 2 of 2





**GOULOFF - JORDAN
SURVEYING AND DESIGN, INC.**

1133 BROADWAY FORT WAYNE, IN 46802
PH (260) 424-5362 FAX (260) 424-4916

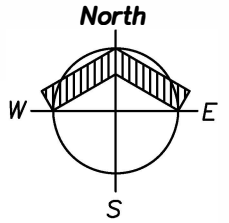
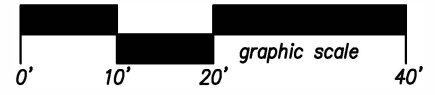
Plot Plan

Property Address:
70 West Clear Lake Drive, Fremont, IN 46737

LEGEND

- (m) MEASURED
- (r) RECORDED
- (c) CALCULATED
- (p) PLATTED INFORMATION

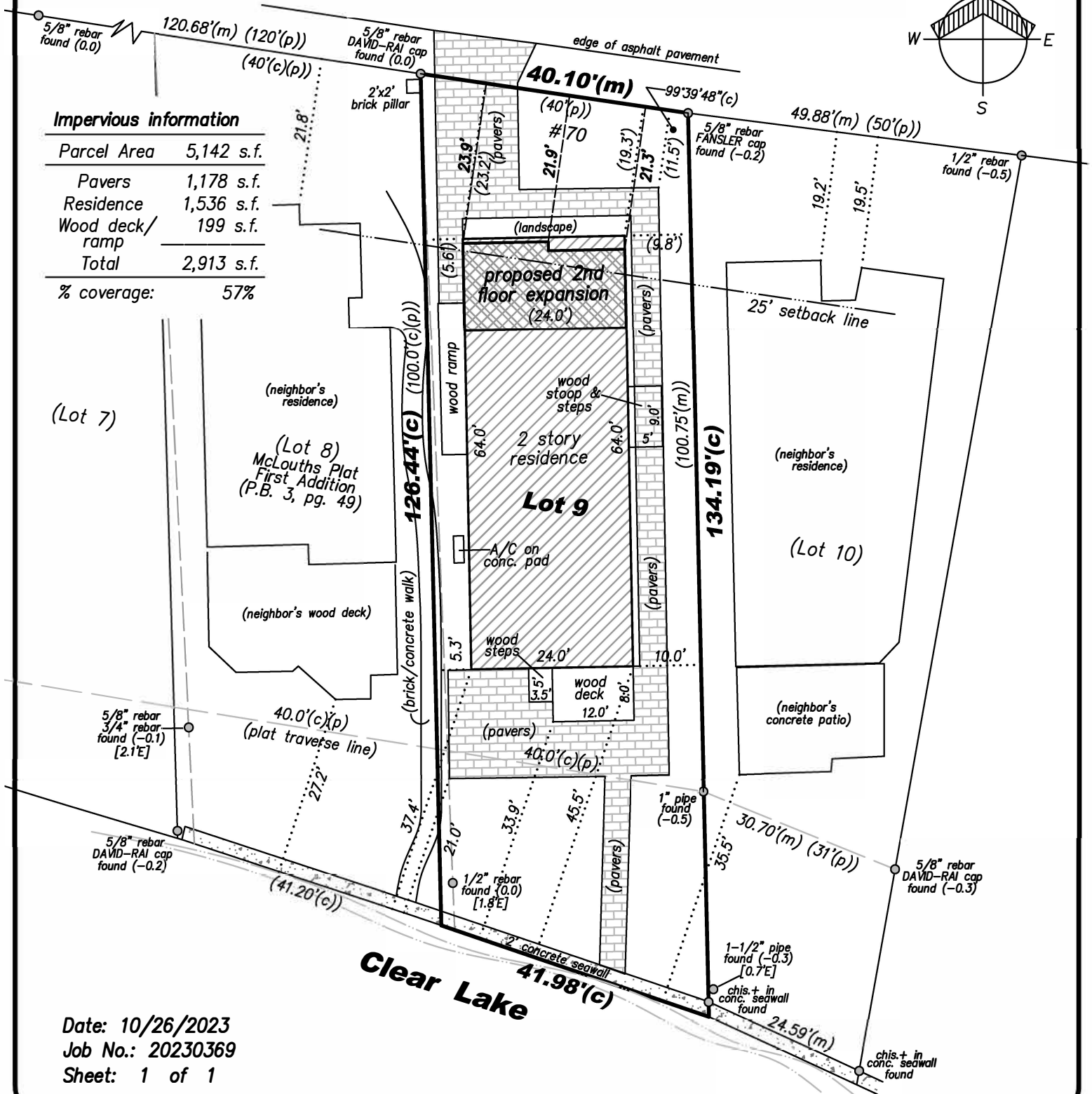
SCALE: 1" = 20'



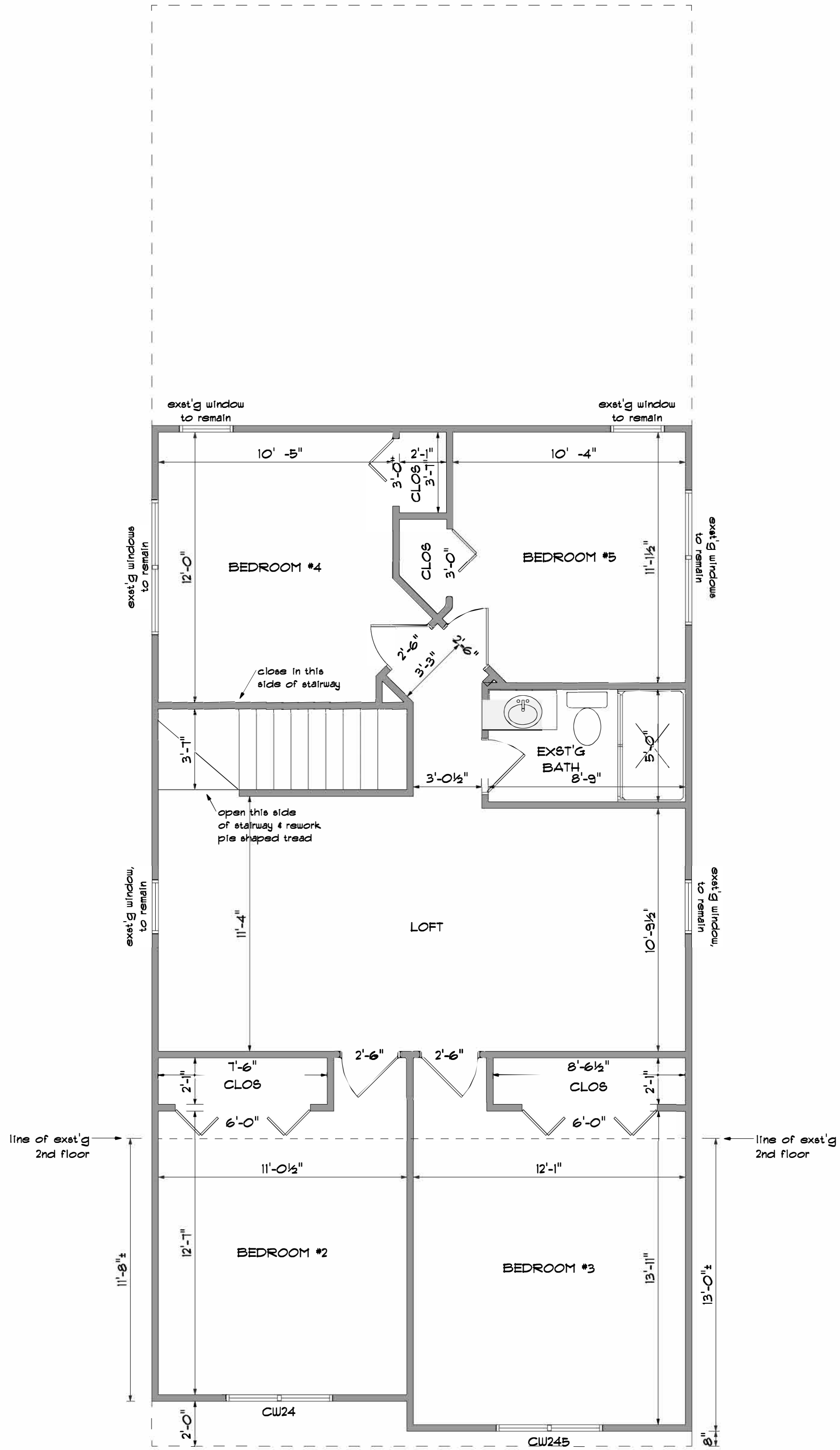
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Total	2,913 s.f.
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Date: 10/26/2023
Job No.: 20230369
Sheet: 1 of 1



5909 Wheelock Rd.
 Suite 101
 Fort Wayne, IN 46835
 260-755-5999
 starhomesinc.com



Copyright: Star Homes Inc. 2023

RESIDENCE FOR:
 Cass & Janie Cullis
 70 W Clear Lake Drive
 Fremont, IN 46737


SQUARE FOOTAGE TOTALS:

NEW LIVING AREA = 297 SQ. FT.

Scale: 1/4" = 1'-0"
 October 11, 2023
 Drawn by: Justin

SECOND FLOOR PLAN

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE

16080497 DEED \$22.00
08/18/2016 12:16:39P 3 PGS
Linda S Myers
Steuben County Recorder IN
Recorded as Presented


AUG 18 2016


AUDITOR STEUBEN COUNTY

TRUSTEE'S DEED

THIS INDENTURE WITNESSETH, That **Cass M. Cullis, Christopher P. Cullis, David H Cullis, Co-Trustees of the Hannah R. Cullis 2012 Irrevocable Trust**, as amended, convey and warrant to **Cass M. Cullis, Trustee of the Hannah R. Cullis 2012 Irrevocable Trust fbo Cass M. Cullis**, in consideration of Zero Dollars (\$0.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Steuben County, in the State of Indiana:

Lot number nine (9) in the First Addition to McLouth's Plat as the same appears of record in the records of Steuben County, Indiana.

Also part of the southeast quarter of the northwest quarter of section 19, township 38 north, range 15 east, bounded as follows:

Beginning at the northwest corner of said lot numbered nine (9) in the First Addition to McLouth's Plat as the same appears of record and running thence north on the extended west line of said lot about 40 feet to the north line of the 40 foot roadway as shown in said plat, which is the true place of beginning of this description; thence continuing north on the continuation of said west line of said lot numbered 9 a distance of 80 feet; thence south 78 degrees east 40 feet; thence south 80 feet parallel with the extended west line of said lot to the north line of said platted roadway; thence north 78 degrees west 40 feet to the true place of beginning.

Subject to all covenants, restrictions, reservations, rights of way, easements, taxes, assessments, conditions and rights appearing of record; subject to any state of facts that an accurate survey would show.

RECITAL: Cass M. Cullis, Christopher P. Cullis and David H. Cullis as Co-Trustees of the Hannah R. Cullis 2012 Irrevocable Trust, as amended, state that they have full authority under the Trust to make this conveyance and that the Trust has not been amended or revoked in any fashion, which would preclude this conveyance.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Executed this ____ day of _____, 2016.

Cass M. Cullis Co-TRUSTEE
Cass M. Cullis, Co-Trustee

STATE OF OHIO)
COUNTY OF Miami) SS:



The foregoing instrument was acknowledged before me this 22 day of JUNE, 2016 by Cass M. Cullis, Co-Trustee.

Jewetta McCoy
Notary Public

My Commission Expires: July 25, 2017

Christopher P. Cullis Co-TRUSTEE
Christopher P. Cullis, Co-Trustee

STATE OF OHIO)
COUNTY OF Williams) SS:

The foregoing instrument was acknowledged before me this 10th day of June, 2016 by Christopher P. Cullis, Co-Trustee.

Erica A. Thompson
Notary Public

My Commission Expires: 6-8-20



ERICA A. THOMPSON
Notary Public, State of Ohio
My Commission Expires 6-8-20

David H. Cullis
David H. Cullis, Co-Trustee *Co-Trustee*

STATE OF OHIO)
) SS:
COUNTY OF Lucas)

The foregoing instrument was acknowledged before me this 14th day of June, 2016 by David H. Cullis, Co-Trustee.

Edith Banfy
Notary Public

*Edith Banfy, Notary Public
State of Ohio
My Commission Expires
09-24-2020*

My Commission Expires: _____

This Instrument Prepared By:
John H. Burson, Esq., Shumaker, Loop & Kendrick, LLP
1000 Jackson Street, Toledo, Ohio 43604-5543

Grantee's tax-mailing address:
1809 Sherck Blvd, Wooster, Ohio 44691

16080497 DEED \$22.00
08/18/2016 12:16:39P 3 PGS
Linda S Myers
Steuben County Recorder IN
Recorded as Presented





November 8, 2023

Material List for Cullis Proposed 2nd Floor Expansion at 70 W Clear Lake Drive

- Exterior siding to be a combination of high quality vinyl shake & vinyl lap
- Roof shingles to be asphalt dimensional style
- Masonry on street side of home to match what is installed on the lake side of home



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

Date: December 12, 2023

TO: TOCL BZA Members

RE: 2024 Meeting Dates for TOCL BZA

Tuesday, February 13, 2024

Tuesday, April 9, 2024

Tuesday, June 11, 2024

Tuesday, August 13, 2024

Tuesday, October 8, 2024

Tuesday, December 10, 2024