



Scott County
Board of Adjustment
September 14, 2020
6:30PM

Scott County Government Center
County Board Room
200 Fourth Avenue West
Shakopee, MN



Scott County

**September 14, 2020
Board of Adjustment**

Table of Contents

Index

Board of Adjustment Cover / Agenda

1

Agenda

Minutes from August 10, 2020 Meeting for Approval

Mesenbrink Variance

2

Hall Variance

3



**SCOTT COUNTY
BOARD OF ADJUSTMENT**

**Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota**

**Monday, September 14, 2020
County Board Room at 6:30 PM**

AGENDA

I. ROLL CALL AND INTRODUCTIONS

II. APPROVAL OF AUGUST 10, 2020 BOA MINUTES

III. PUBLIC HEARING – 6:30 PM MESENBRINK VARIANCE (PL#2020-046)

A. Request for a Variance to Reduce the Required Lot Width From 100 Feet to 66 Feet.

Location: Section 10
Township: Credit River
Current Zoning: UER

IV. PUBLIC HEARING – 6:35 PM HALL VARIANCE (PL#2020-056)

A. Request for a Variance From the Required Minimum Lot Size of 40 Acres in the Urban Transition Reserve District to a 1.95 Acre Parcel.

Location: Section 13
Township: Helena
Current Zoning: UTR

V. GENERAL & ADJOURN



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINTUES

Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota

Monday, August 10, 2020 6:30PM

I. ROLL CALL AND INTRODUCTIONS

Chair Gary Hartmann opened the meeting at 6:30 PM with the following members present: Donna Hentges by phone, Ed Hrabe by phone, Thomas Vonhof, Barbara Johnson by phone, Ray Huber and Lee Watson. Phone attendees through Skype teleconference.

County Staff Present: Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Nathan Hall, Associate Planner; Deb Brazil, Administration; Tom Wolf, County Board Commissioner-appearing by phone with Skype; and Deputy Clerk to the Board, Barb Simonson.

II. APPROVAL OF JULY 13, 2020 BOARD OF ADJUSTMENT MINUTES.

Motion by Commissioner Vonhoff; Second by Commissioner Huber to approve the July 13, 2020 BOA minutes. The motion carried unanimously with Commissioner Watson abstaining due to not being present at the July meeting.

Chair Hartmann called for a roll call vote with results as follows:

Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Abstain

The motion passed with 6 Ayes

III. PUBLIC HEARING 6:30 PM DUSTIN RASMUSSEN VARIANCE (PL#2020-042)

A. Request for a Variance to Reduce the Required Structure Setback From 35' to 27' to a Local Road Right-of-Way.

Location: Section 20
Township: Helena
Current Zoning: A-1

Planner Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website: [August 10, 2020 Board of Adjustment Agenda Packet.](#)

(To view the staff report on the website, www.scottcountymn.gov, click on the download arrow and click on Agenda, Save and Open. Next open the bookmark at the top of the page and click on the Rassmussen Variance project.)

Comments and Questions from the Commissioners:

Commissioner Huber inquired about the portion of the proposed deck that is within the 18-inch compliance and would not have needed a variance. *Mr. Wagner outlined the portion on the site photo and plans that fell within the 18-inch height requirement on the displayed photo.*

Commissioner Hartman commented on the history of the property and noted the Commission had recently approved a variance in the hamlet for a garage setback.

Chair Hartmann opened the meeting up to the public:

Noting no comments from the public there was a motion by Commissioner Watson; second by Commissioner Hrabec to close the public hearing. The motion carried unanimously.

Motion by Commissioner Huber; second by Commissioner Vonhof to approve the variance based on the criteria for variance consideration I recommend approval of the requested variance to reduce the 35-foot road right-of-way setback to 27 feet in order to construct a deck.

Chair Hartmann called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabec: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

Criteria for Granting Variance:

1. *Granting the variance will not conflict with the Comprehensive Plan.*
The proposal is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for promoting public health, safety, and general welfare.
2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*
Most of the parcels in the St. Benedict hamlet are legal non-conforming lots of record created before current zoning ordinance standards, and the existing home was built in the 1910 well before current land use standards. The need for the variance is due to the topography of the parcel causing a portion of the deck to be higher than 18 inches from ground level, which would otherwise be exempt.
3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*
In reviewing other parcels in the area, the majority have decks and some of the homes and other structures are of similar distance back from the road.
4. *That the special conditions or circumstances do not result from the actions of the applicant.*
The need for the variance is due to the location of the existing home that was constructed in 1910 before current county zoning ordinance standards requiring larger structure setbacks.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*
Granting of the requested variance would not confer on the applicants any special privilege. They would be able to construct a small deck on the front of the home, similar to other single-family homes in rural Scott County.
6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*
The requested variance is for a reasonable front deck that would extend 11 feet out from the front of the home. This is about an average depth for a deck when comparing to other new decks, and it would be situated approximately 46 feet from the edge of the public road.
7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*
The variance would not be materially detrimental or alter the character of the property, nor of the St. Benedict hamlet area that consists of other single-family homes.
8. *Economic considerations alone do not constitute a practical difficulty.*
There are no economic considerations involved in this variance request

IV. GENERAL & ADJOURN

Motion by Commissioner Watson; second by Commission Hentges to adjourn the meeting at 6:44 PM. The motion carried unanimously.

Chair Hartmann called for a roll call vote with results as follows:

- Commissioner Vonhof: Aye**
- Commissioner Hartmann: Aye**
- Commissioner Hentges: Aye**
- Commissioner Hrabe: Aye**
- Commissioner Huber: Aye**
- Commissioner Johnson: Aye**
- Commissioner Watson: Aye**

Meeting was adjourned.

Gary Hartmann
Chair, Board of Adjustment

Date

Barbara Simonson
Deputy Clerk to the Board

Date



STAFF REPORT PREPARED FOR TOWNSHIPS & COUNTY BOARD OF ADJUSTMENT

GOVERNMENT CENTER 114 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220
www.scottcountymn.gov

Mesenbrink Variance #PL2020-0046

Request:

A variance to reduce the required lot width from 100 feet to 66 feet.

Greg Wagner, Principal Planner, is the project manager and is available for questions at 952-496-8360

General Information:

Applicant:	John Mesenbrink	Site Location:	17963 Natchez Avenue
Property Owners:	John & Mary Mesenbrink	Township:	Section 10, Credit River
Public Hearing Date:	September 14, 2020	Action Deadline:	October 3, 2020 (60 Day)

Zoning/Comprehensive Plan Information:

Zoning District:	Urban Expansion Reserve Cluster	Comprehensive Land Use Plan:	Urban Expansion
Overlay Zoning District:	Shoreland	School District:	Lakeville #194
Watershed District:	Scott WMO	Fire District:	Prior Lake Fire
Ordinance Sections:	Chapters 2 & 31	Ambulance District:	Allina Transportation

Report Attachments:

1. Site Location Map
2. Aerial Photo
3. Application letter dated July 28, 2020
4. Certificate of Survey dated July 28, 2020

- Request:** A variance to reduce the required lot width from 100 feet to 66 feet.
- Comprehensive Plan-** The property was guided Urban Expansion Reserve under the 2030 Comprehensive Plan. Since Credit River Township plans to assume land use authority the township was not included in the 2040 Comprehensive Plan Update.
- Adjacent Land Use/Zoning-** North – Murphy Hanrehan Park Reserve, zoned UER
South – 120 acre agricultural parcel, zoned UER
West – 2.5 - 5 acre residential lots, zoned UER & UER-C
East – Murphy Hanrehan Park Reserve, zoned UER
- Existing Conditions-** The 95.32 acres is a mix of agricultural land, woodland, and wetland. There are five detached accessory buildings on the property, as well as a single family home.
- Ordinance Requirements-** Density – 1 dwelling unit per 40 acres
Lot Size – 1 acre of non-hydric land and the ability to locate a home and two (2) individual sewage treatment systems, which all meet applicable setback requirements.
Lot Width – 100 feet from the front setback line maintained to the primary building site
Structure Setbacks:
Front Yard: 30 feet from local road right-of-way
Side Yard: Thirty (15) feet
Rear Yard: Sixty (30) feet
- Proposed Development-** Density – 1 dwelling unit per 40 acres
Lot Size – 7.3 acres for existing home; The remaining parcel will be 88.02 acres.
Lot Width – Minimum proposed is 100 feet at the front setback but reduces to 66 feet before it reaches the primary building.
Setbacks – The existing house meets all required setbacks, which were verified at time of building permit.
- Existing Roads-** The property has frontage on Natchez Avenue, a paved Credit River Township road.
- Proposed Roads-** No new roads are proposed for this project.
- Public Hearing Notice-** Required public hearing notices were mailed to all adjacent property owners within 500 feet of the property.

Site Photo: View of the existing 95 acre parcel and home location is indicated by arrow



Background:

John and Mary Mesenbrink are proposing to split off an existing single family home on approximately 7.5 acres of their 95.32 acre parcel located in section 10, Credit River Township. The 95.32 acre parcel is a mix of open agricultural land, woodlands, and wetlands, and the parcel borders Murphy Hanrehan Park Reserve on the east and north boundaries. The parcel has several detached accessory buildings scattered through the property, and the applicants built a home on the parcel in 2019 for a family member that they are now requesting to separate from the larger parcel.

The parcel is zoned Urban Expansion Reserve, UER, which requires a 40 acre lot size and 600 foot lot width so the applicants are requesting a rezoning to the Urban Expansion Reserve Cluster, UER-C, zoning district, which allows a 1 acre lot size but has a 100 foot lot width. Both zoning districts have a 1 dwelling unit per 40 acre development density, and parcels over 40 acres are allowed to subdivide existing homes administratively. The issue with the proposed lot split is maintaining the 100 foot lot width from the front setback line to the location of the principal building. The existing home is over 2,000 feet from the front yard setback and maintaining the 100 foot lot width would create a property line through an existing accessory building. The applicants have requested a variance from the lot width to reduce it to 66 feet.

Analysis:

The applicants have provided a property survey showing the proposed property split, which indicates the proposed Parcel B for the existing single family home. From Natchez Avenue to the east Parcel B maintains the 100 foot lot width from the front yard setback (67 feet from road right-of-way) extending 627.01 feet to the existing accessory building location. The lot line then adjusts around the building and reduces down to a 66 foot lot width from that point back to where the lot widens around the existing home, septic sites, and surrounding yard area.

Granting the variance would allow the proposed Parcel B to therefore meet the 100 foot width for approximately 1/3rd of the distance to the principal home and then maintain 66 feet east of the accessory building. 66 feet is a common number as it is the typical width of dedicated local road right-of-way and was the minimum lot width and frontage on a publicly maintained road in the Scott County Zoning Ordinance from 1971 to 1996. The Ordinance was changed in 1996 to still require a minimum of 66 feet lot frontage on a publicly maintained road, but it also increased lot widths to eliminate the possibility of creating multiple “flag” lots, and established a requirement that the width is maintained to where the principal building or home is located.

Here the applicants are able to maintain the lot width for a good portion of the required distance but an existing structure causes a difficulty to meet the full requirement of the Ordinance.

627.01 feet is a significant distance for most parcels to maintain a width, and the home here is over 2000 feet from the public road. Meeting the requirement of the Ordinance would place a lot line through an existing structure making it non-conforming due to a setback encroachment. The applicants have a recorded road easement over the 66 foot area that allows them to utilize it for both parcels shown on the survey.

Township Recommendation:

The Credit River Town Board will make a recommendation on this application at the September monthly meeting. A copy of the recommendation will be provided at the public hearing.

Staff Recommendation:

While the setback requested is close to the property line, the subject property and adjacent properties were developed prior to the adoption of a zoning ordinance and the required setbacks. Based on the project information submitted by the applicant and subject to the criteria for practical difficulty, staff recommends approval of the requested variance.

Criteria for Granting Variances:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*

The Comprehensive Plan guides this parcel as Urban Expansion Reserve under the County's 2030 Land Use Plan. It is believed that Credit River Township also guides this parcel as large lot residential and the existing use is not changing that would conflict with either plan.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

The existing accessory building was constructed in 1996 ahead of the Zoning Ordinance change requiring the larger lot width. The applicants placed the shed so they would be able to get a 66 foot strip of land on the south side of the building, which was the requirement at the time the building was constructed.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

The applicants are able to meet the 100 foot lot width for a portion of the required extent, and they are proposing to maintain a 66 foot width, which was the standard at one time and is the width of the adjacent parcel to the south/east.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

As stated, the building causing the lot width issue was constructed prior to the current zoning lot width standards; a situation that was out of the control of the applicant.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting of the requested variance would not confer the applicant any special privilege, as it would only allow them to reduce the lot width for a portion of their lot. They have proposed the lot width reduction and meeting the required lot frontage, rather than other alternatives.

6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*

The requested variance alleviates the practical difficulty by reducing the lot width to 66 feet, which is the minimum lot frontage requirement of the Zoning Ordinance.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not alter the character of the property or the area since the adjacent home to the south has a 66 foot wide land strip, which does not meet the lot width at any portion, and the home to the north is land-locked and only accessible via the shared driveway.

8. *Economic considerations alone do not constitute a practical difficulty.*

Economic considerations are not suggested as a reason for this variance request.

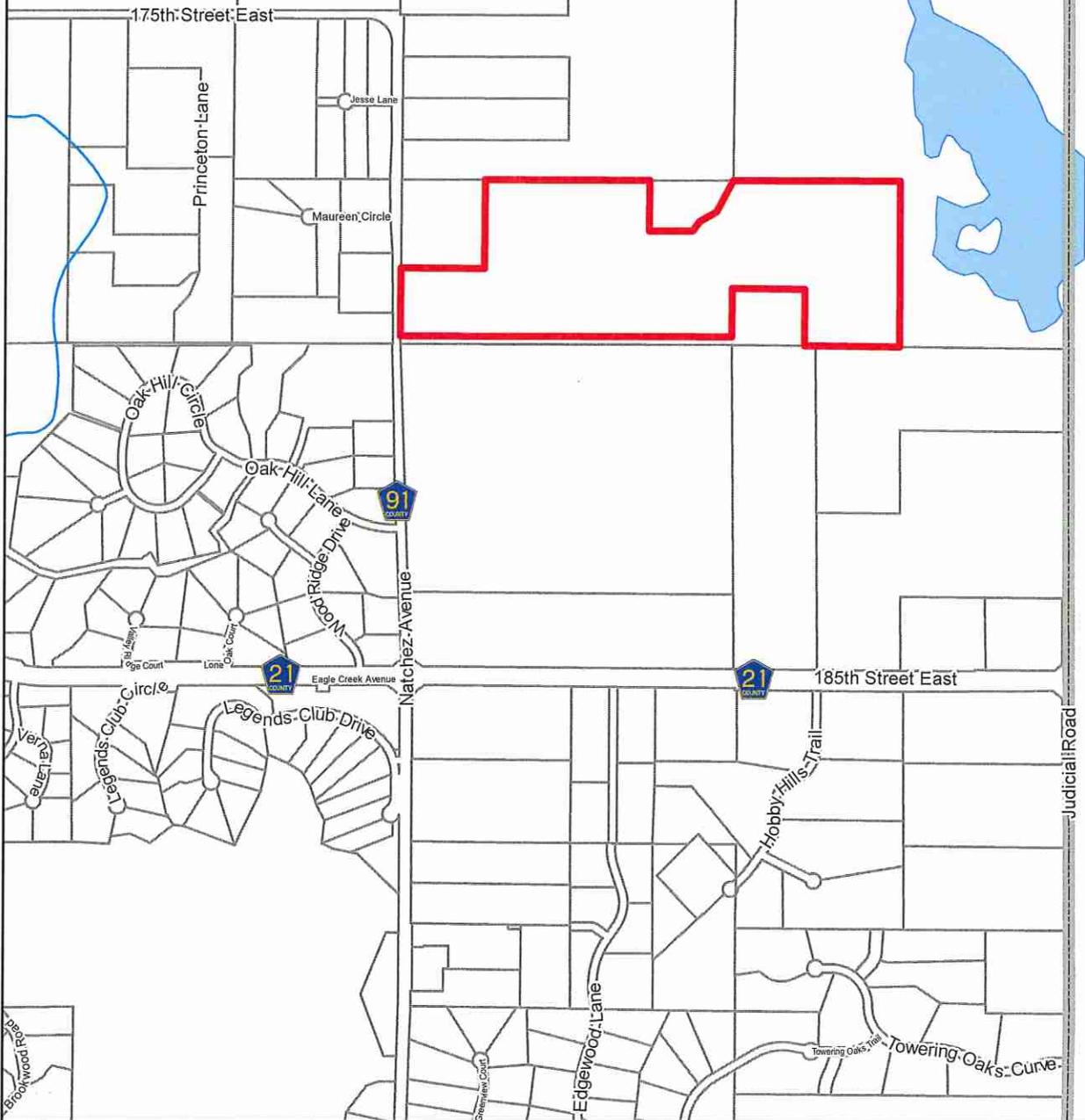
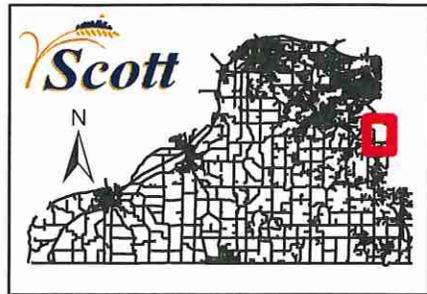
Board of Adjustments/Township Alternatives:

1. Approve the variance request as recommended by zoning staff based on the practical difficulty criteria as detailed in this report.
2. Approve the variance request with amendments to the requested variance and to the practical difficulty criteria.
3. Table the variance request for a specific reason.
4. Deny the variance request for a specific reason.

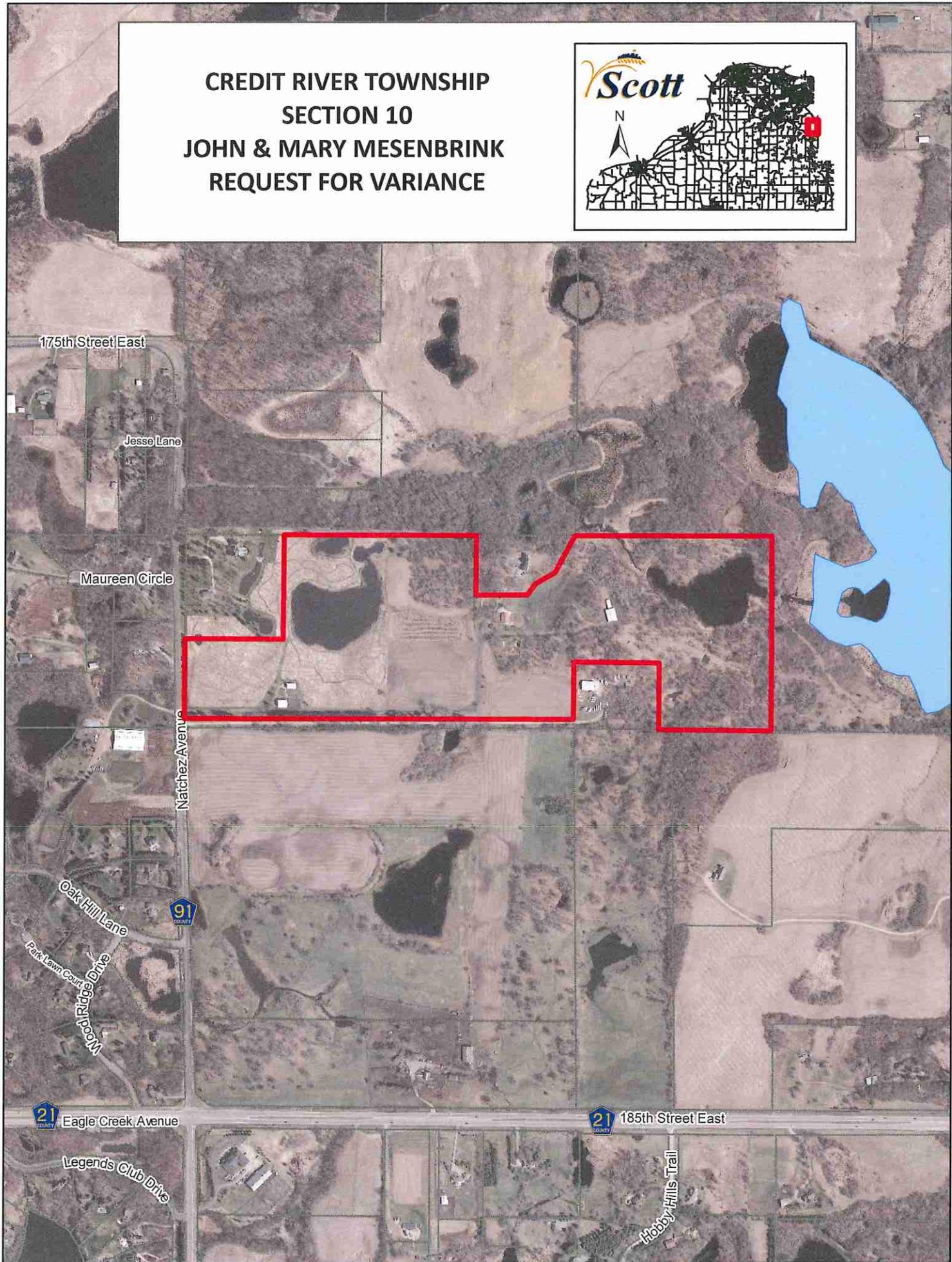
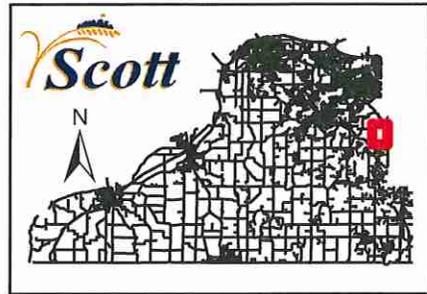
Suggested Motion for Board of Adjustments or Township Board:

Based on the findings listed in the staff report, I recommend approval the variance to reduce the 100 foot lot width to 66 feet.

**CREDIT RIVER TOWNSHIP
SECTION 10
JOHN & MARY MESENBRINK
REQUEST FOR VARIANCE**



**CREDIT RIVER TOWNSHIP
SECTION 10
JOHN & MARY MESENBRINK
REQUEST FOR VARIANCE**



July 28, 2020

Scott County Zoning Administration
200 Fourth Avenue West
Shakopee, MN 55379

To whom it may concern:

I am asking to rezone my property from UER to UER-C to split off a parcel for my daughter's home.

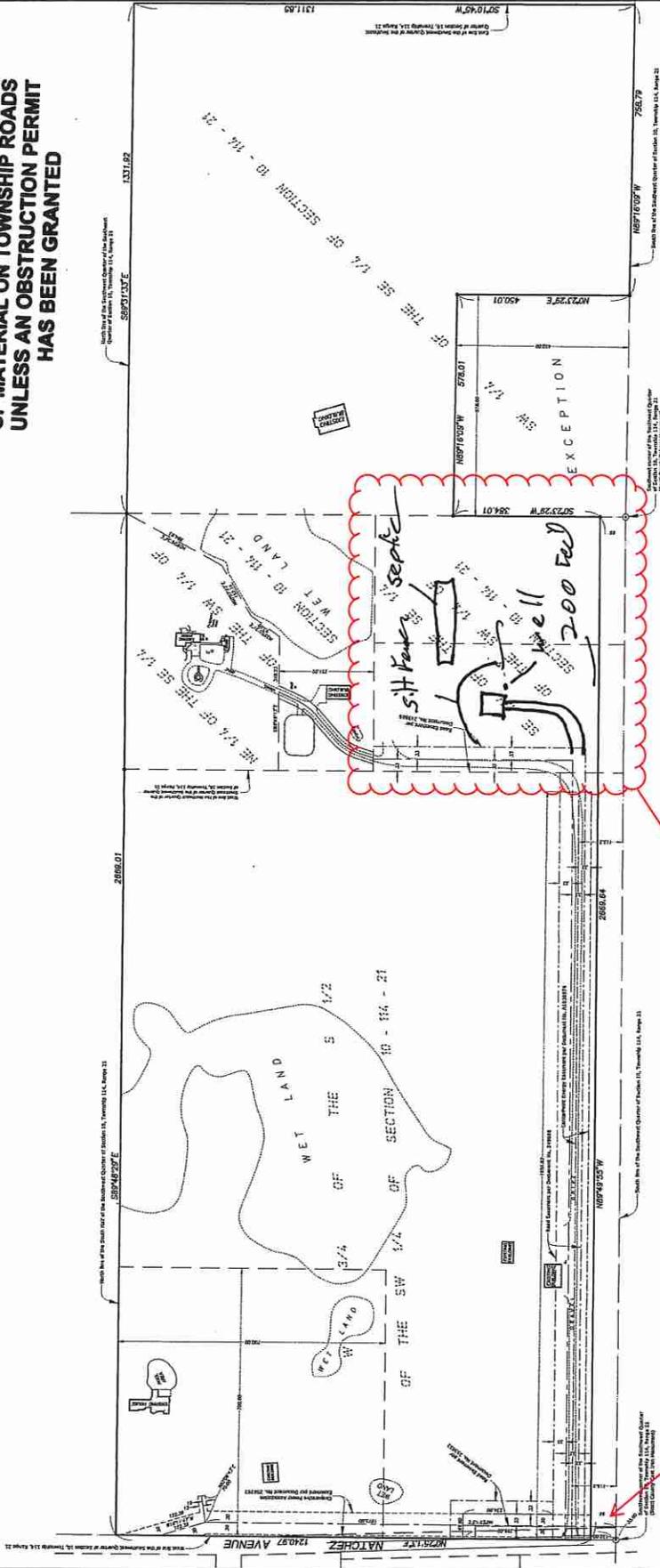
I am asking for a variance for the lot width from 100 foot wide to 66 foot wide due to the obstruction from one of our out buildings then back to the 100 foot width the rest of the way to the street.

Thank you,


John Mesenbrink

Survey for: JOHN & MARY MESENBRINK

**CREDIT RIVER TOWNSHIP
DOES NOT ALLOW
THE STAGING OR STOCKPILING
OF MATERIAL ON TOWNSHIP ROADS
UNLESS AN OBSTRUCTION PERMIT
HAS BEEN GRANTED**



PROPERTY DESCRIPTION

This part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Credit River Township, contains the following described land:

Beginning at the southeast corner of the Section 21, 21.00 feet of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, and running North 87° 16' 00\"/>

**Pending Lot Split - All
required setbacks shall
be met. Provide detailed
survey when complete**

**Provide Address
throughout
construction**

Survey conducted on the 15th day of February, 2023.
Surveyed by:
ANDREA B. ASSOCIATES, INC.
Surveyors
ANDREA B. ASSOCIATES, INC.
10000 10th Street, NW
Tombala, AL 36688

This part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Credit River Township, contains the following described land:

Beginning at the southeast corner of the Section 21, 21.00 feet of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, and running North 87° 16' 00\"/>

Rehder and Associates, Inc.
2418 Turner Drive - Suite 111 - Apex, North Carolina 27502
Phone: 919-216-1102



BOARD OF ADJUSTMENT PLANNING REPORT

GOVERNMENT CENTER A101 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220
(952) 496-8475 · Fax (952) 496-8655 · Web www.co.scott.mn.us

Hall Variance PL#2020-056

Request:

The request is for a variance from the required 40 acre lot size to a 1.95 acre parcel to move-in a home.

Nathan Hall, Associate Planner, is the project manager and is of no relation to the applicant. Nathan Hall is available for questions at 952-496-8892.

General Information:

Applicant:	Brandon & Laura Hall	Site Location:	725 240 th Street West Jordan, MN 55352
Legal Description:	Part of the N1/2 of the NW1/4	Township:	Helena, Section 13
Public Hearing Date:	September 14, 2020	Action Deadline:	October 24, 2020 (60 Days)

Zoning/Comprehensive Plan Information:

Zoning District:	UTR, Urban Transition Reserve	Comprehensive Plan:	Urban Transition Area
Overlay Zoning District:	NA	School District:	New Prague School District
Watershed District:	Sand Creek (Scott WMO)	Fire District:	New Prague Fire Department
Ordinance Section:	Chapter 33-3	Ambulance District:	New Prague Ambulance Service

Report Attachments:

1. Site Location Map
2. Aerial Photo
3. Applicant's Narrative
4. Real Estate Listing with Photos
5. Site Plan
6. Floor Plan and Elevation of Proposed Home

Request: A variance from the required minimum lot size of 40 acres to a 1.95 acre parcel to move-in a home.

Comprehensive Plan- The property is located within the 2040 Comprehensive Plan's Urban Transition Area

Adjacent Land Use/Zoning- North – 9 acre rural residential parcels zoned UTR
South – 10 acre and larger rural residential parcels zoned UTR
East – 11 acre rural residential parcel zoned UTR
West – 10 acre rural residential parcel zoned UTR

Existing Conditions- The 1.95 acre parcel has access to 240th Street West (County Road 64). There is an existing garage that includes a small apartment in the center of the parcel. There is also a well and septic system located on the parcel.

Ordinance Requirements- Front Yard Setback: 150 feet from the centerline of County Road 64.
Side Yard Setback: 15 feet
Rear Yard Setback: 30 feet

Proposed Setbacks- Front Yard Setback: 310 feet from the centerline of County Road 64.
Side Yard Setback: 50 feet
Rear Yard Setback: 145 feet

Public Notice- Notices were sent to property owners within 500 feet of the site.

Site Photos:



Background:

The applicant, Brandon Hall, intends to purchase the subject parcel from the existing owner and construct a new home on the property. The parcel includes a building with garage and small living quarters, well and a septic system. The current owner purchased the property from Rodney Dose in 2019.

Mr. Dose purchased the property in 2012 and applied for a building permit to move a home onto the parcel in May of 2013. Because the lot did not meet the minimum lot size for the zoning district, the planner reviewing the permit researched the lot to determine if the lot was created prior to the adoption of the Zoning Ordinance, if it was it would make it a legal non-conforming lot or grandfathered. Through this research it was determined that the lot was not a legal non-conforming parcel and in 1979 a prior owner (Gilbert Born) was convicted of violating three zoning regulations namely living in a garage in violation of the ordinance, installing a sewer without a permit and installing a well without a permit.

In 1976 Gilbert Born applied for a permit to construct a garage on the parcel. Shortly after the garage was constructed it was observed by the Planning Director that a portion of the garage had been converted to living quarters. The Planning Director advised the owner to seek a variance from the required 40 acre lot size to the 1.95 acre parcel. The owner applied for the variance but the variance was denied. The owner continued to reside in the garage after the variance denial. So in 1979 the County charged Gilbert Born with the violations mentioned above. While the owner was convicted of the violations it does not appear that he was required to remove the living quarters and at some point he again began residing in the garage.

While it is clear that the subject parcel is not a lot of record it is unusual that there has been living quarters located here since 1976. After the court convicted the prior owner of the parcel of violations of the zoning ordinance little or no action was taken to remove the living quarters from the garage. The attached photos of the garage and living quarters were part of the most recent real estate listing for the property.

In 2013, Mr. Dose was granted a variance from the required 40 acre lot size to a 1.95 acre parcel to move-in a modular home. A variance must be acted upon within one year from date of issuance and since Mr. Dose did not place a home within one year, the variance expired.

Mr. Hall is proposing to construct a home on the lot and convert the living quarters in the garage to garage space. The home he is proposing to construct is approximately 32' x 30' with an attached 24' x 26' garage. The home would be located in the center of the 1.95 acre lot and would meet or exceed all required setbacks.

Township Recommendations:

The Helena Town Board will be making a recommendation at their September, 2020 meeting. A copy of the recommendation will be provided at the public hearing.

Staff Recommendation:

This part of the County has experienced many changes in the zoning designation and minimum lot size over the years. Because of these changes most of the properties (including all parcels adjacent to the applicants) don't meet the required 40 acre minimum lot size. Most properties in this area are less than 10 acres in size. This lot is a little over a ¼ mile from Cedar Lake where there are many lots similar in size to the applicants. Staff could make an argument for approval or denial of this variance. The recommendation is for approval because of the very

unique history of the lot, including approval of this same variance in 2013, and the residential use of the parcel is compatible with the adjacent lots and other lots in the area.

Staff recommends approval of the requested variances based on the Practical Difficulties Criteria listed below. If the Board of Adjustment finds that the variance request should be denied Staff recommends that you direct staff to develop criteria of denial for review at the October Board of Adjustment meeting.

Criteria for Approval – Practical Difficulties:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*

The Comprehensive Plan guides this property as Urban Transition for very long range urban development. The lot size is significantly larger than a typical urban sized lot and therefore would not conflict with the Comprehensive Plan.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

The lot was created in the mid 1970's when zoning regulations require a larger lot size and width. The extraordinary circumstance in this case is that the structure continued to be occupied for approximately 40 years after the previous owner was convicted of a zoning violation for using the structure as a residence. The residential use of the property and the real estate listing would certainly suggest that residential uses would be permitted here.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

The use of the applicant's property for the construction of a single family home is consistent with how other properties in the area are used. Because of changes to the minimum lot size in this area over the years most of the lots around the applicants don't meet the current minimum lot size of 40 acres. The applicant's circumstance is unique, staff is not aware of any other lot in the County where there has been a non-conforming residential use occurring for the past 40 years. In addition, this same variance was approved in 2013.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

The property had been used residentially for approximately 40 years and the real estate listing advertised the property as residential. The buyer most likely would have had no knowledge that in 1976 a prior owner was charged and convicted of using the property as a residence in violation of the Zoning Ordinance. Nothing was recorded against the parcel to indicate the residential use was non-conforming and it appears that no action was taken by the County after the conviction to remove the living quarters from the garage. In addition, this same variance was approved in 2013.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting the variance would allow the applicants to replace the existing small non-conforming living quarters on the property with a home. While this would be a special

privilege granted to the applicant staff is not aware of any other any properties in the County where there has been a non-conforming residential use occurring for the past 40 years.

6. *The variance requested is the minimum variance which would alleviate the practical difficulties.*

The requested variance to the 1.95 acre lot is the minimum necessary to alleviate the practical difficulties.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not be detrimental or alter the character of the properties in the zoning district or the immediate neighborhood. The use of the lot for a single family residence is consistent with how the other properties in the area are use. Not approving the variance would be more detrimental to the area as the lot and structure would only be able to be used for storage which is inconsistent with how other properties in the area are used.

8. *Economic considerations alone do not constitute a practical difficulty.*

There is an economic component to this request without the variance the value of the property is significantly less than it is as a building site.

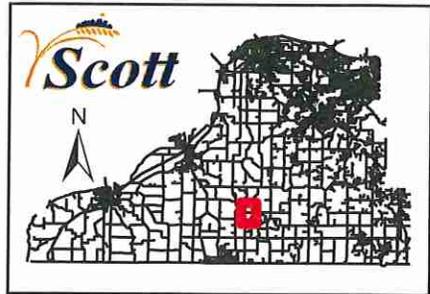
Alternatives:

1. Approve the variance request as recommended by Planning Staff based on the Practical Difficulties criteria.
2. Approve the variance request as recommended by the Planning Staff with amendments to the Practical Difficulties criteria and/or add conditions.
3. Table the variance request for a specific reason.
4. Deny the variance request for a specific reason.

Suggested Motion:

Mr. Chairman, based on the variance Practical Difficulties Criteria stated in the staff report, I recommend approval of the requested lot size variance.

HELENA TOWNSHIP
SECTION 13
BRANDON HALL
REQUEST FOR VARIANCE



Marden Court Baseline Boulevard

235th Street

Redwing Avenue

240th Street West

West Cedar Lake Drive

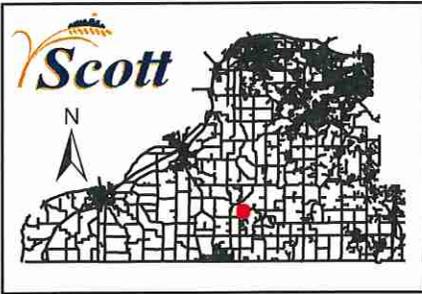
245th Street West

COUNTY 89 ROAD

Pexa Drive

Ce

**HELENA TOWNSHIP
SECTION 13
BRANDON HALL
REQUEST FOR VARIANCE**



240th Street West



To whom it might concern,

I Brandon Hall & my wife Laura Hall have purchased the property at 725 240 th st. W New Prague MN 56071. We intend on building a single-family home on the property. Attached is a rough sketch of where we would place the new house. Once the new home is completed, we plan to return the non-permitted structure back to a garage/storage upon completion of the new home. We plan to abandon the old septic system and install a new up to code system. We should have house plans ready some time the week of august 17, 2020.



Last Sold For \$160,000

View up to 3 home estimates



Map

1 bath **390** sq ft **1.95** acres lot

 FEMA
Zone **X** (est.)

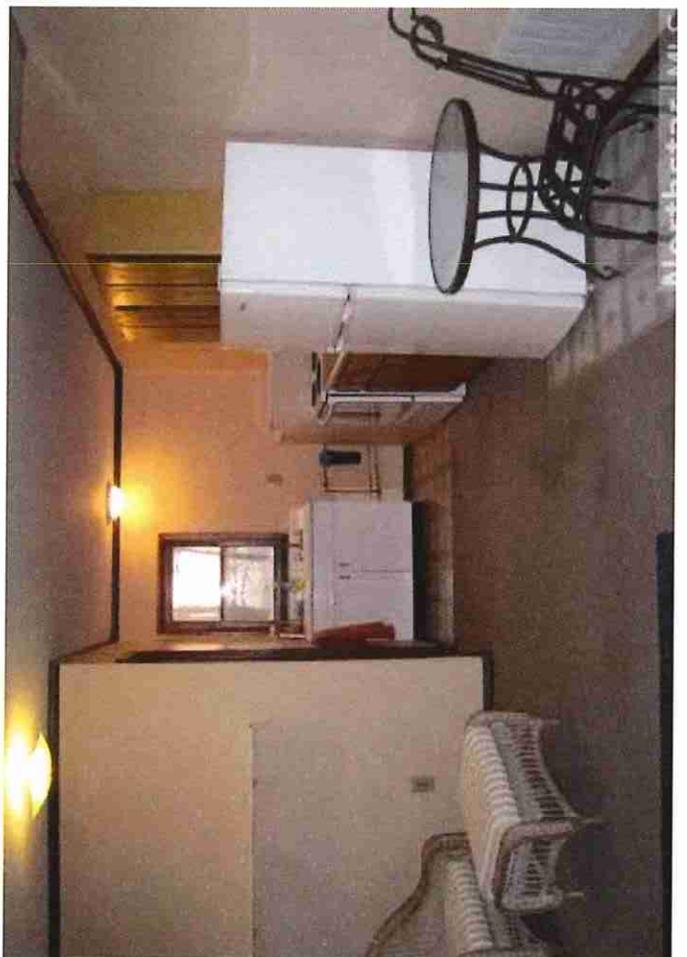
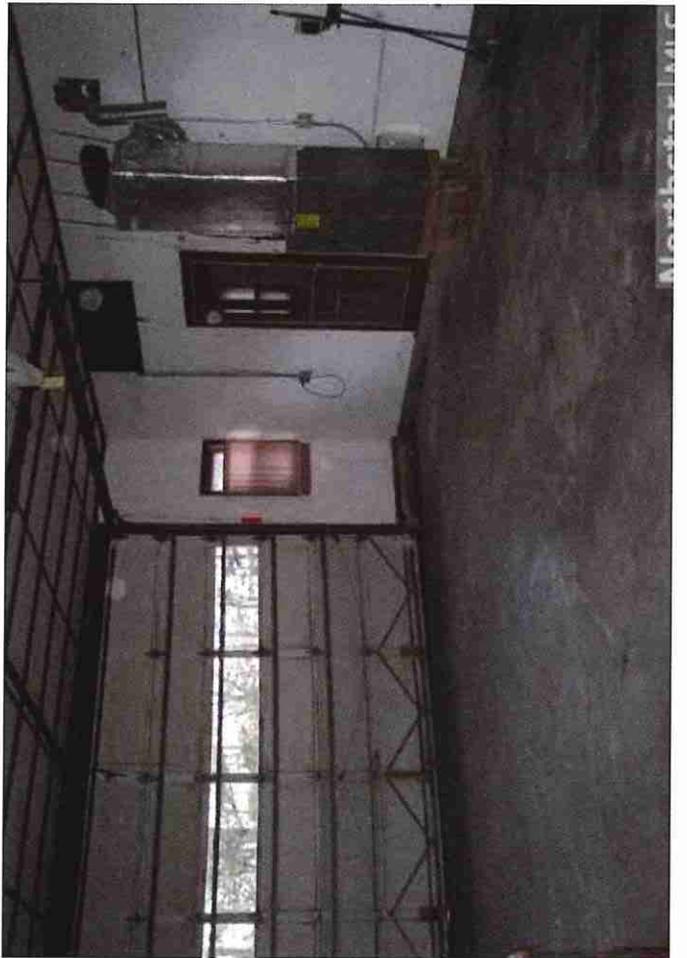
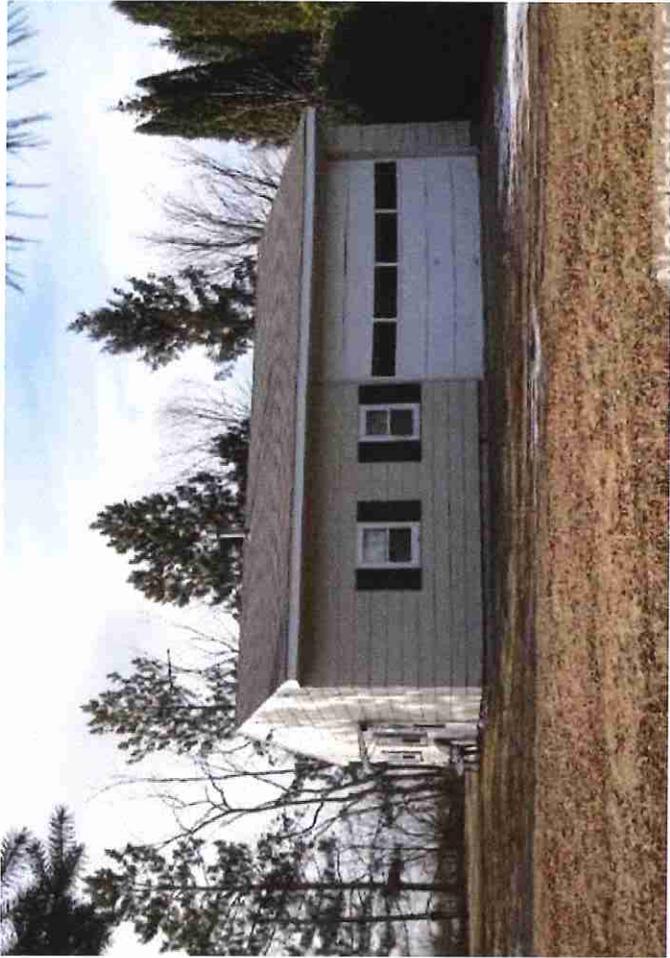
NEW

Commute Time

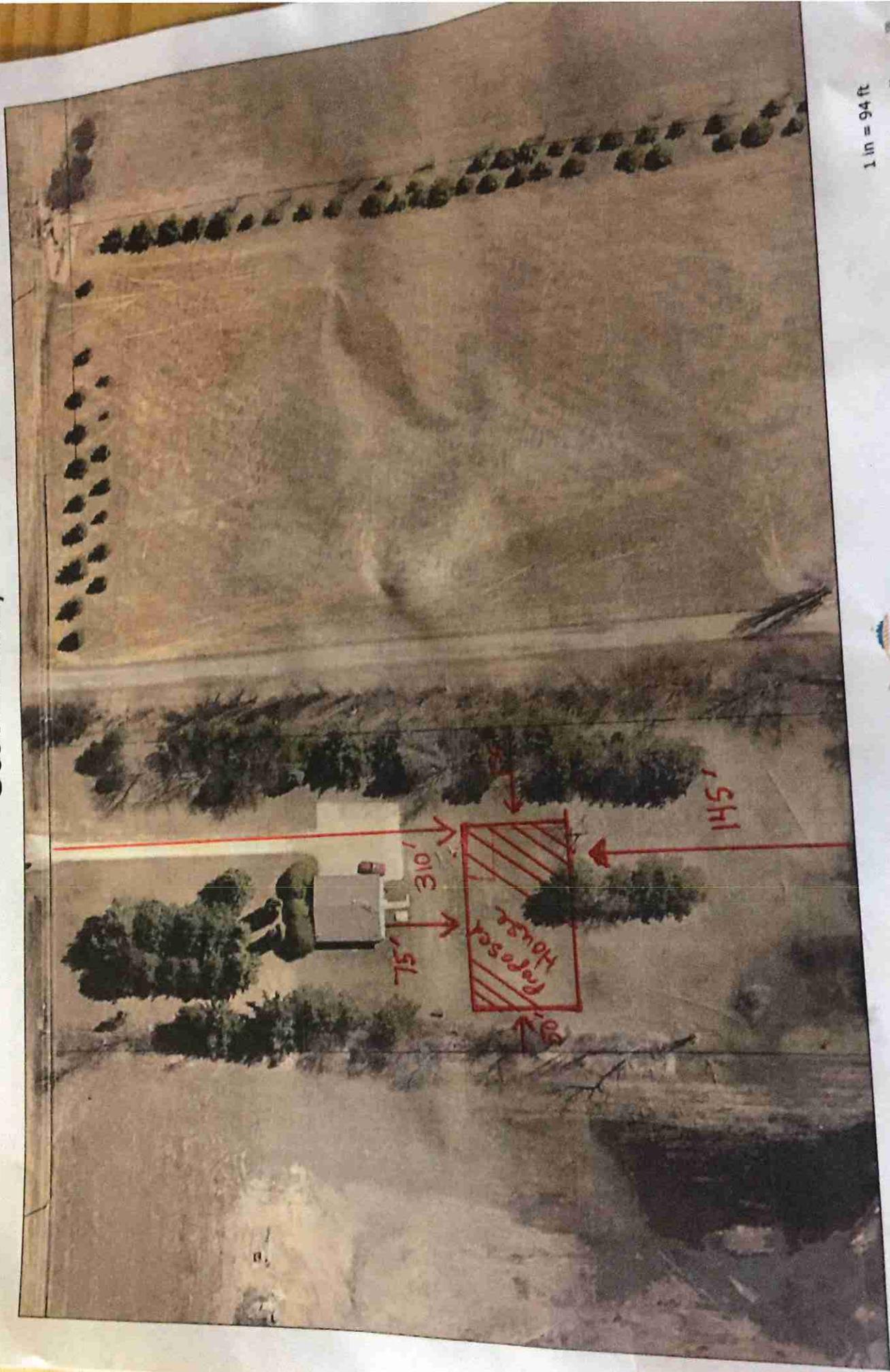
725 W 240th St • Flood Factor
Jordan, MN 55352  1/10

Property Overview - Weekend get away - 1/2 mile to cedar lake access. Beautiful lot w/pine trees. Quaint living w/huge oversized heated & insulated garage w/tall dr & ceiling. New ba, furnace, water heater, pressure tank & paint inside. Suitable for year round. No legal bdrm

This property overview is from the previous listing when the home was listed for sale in Oct 24, 2012.



Scott County

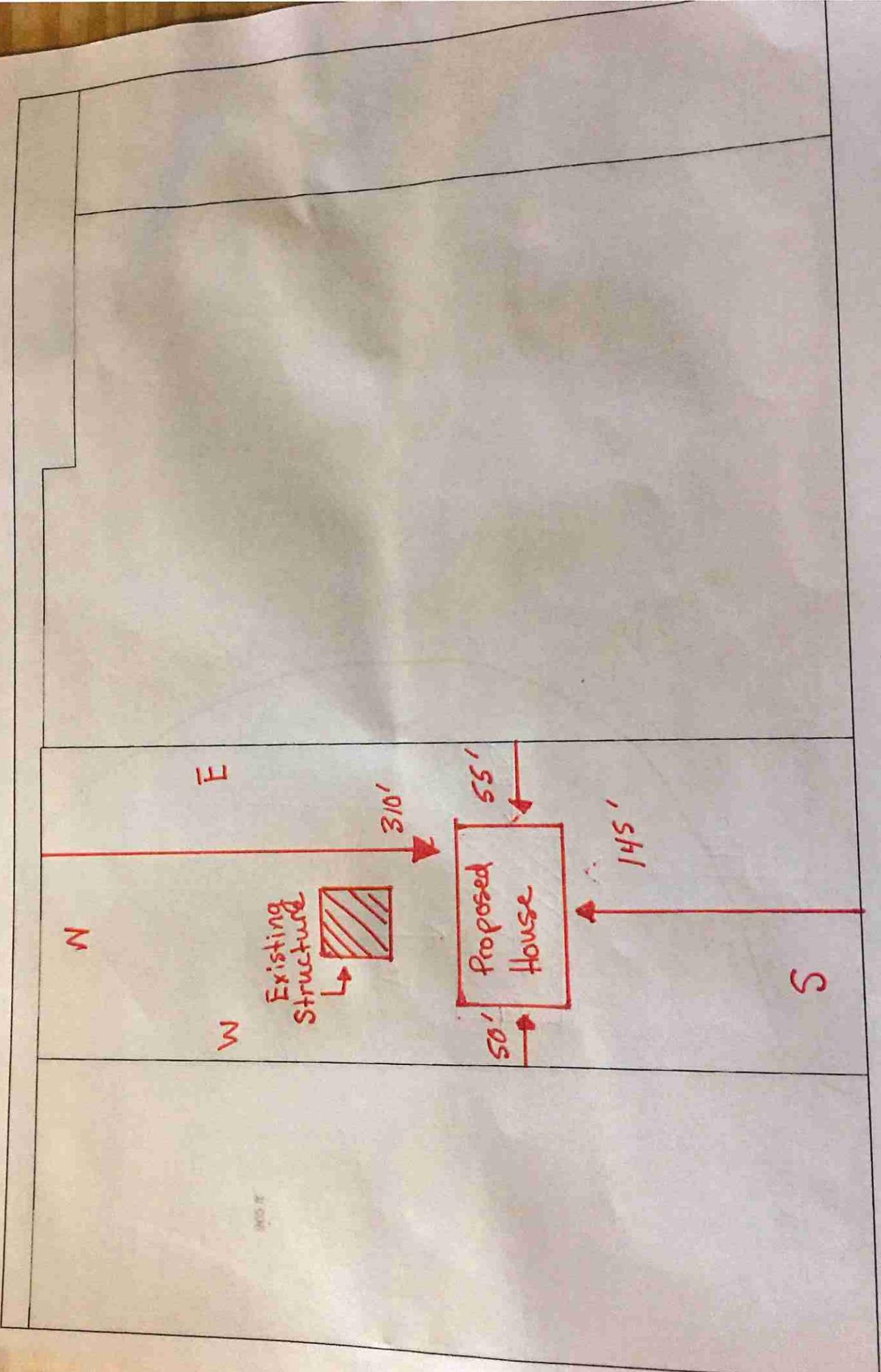


1 in = 94 ft

Scott
Date: 8/28/2020

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. This drawing is a computer-generated map and data shown are for informational purposes only. Scott County is not responsible for any errors or omissions. For more information, please contact the Scott County Planning Department at 505-325-1100.

Scott County



1 in = 94 ft



Date: 8/28/2020

This drawing is neither a legally binding map nor a survey and is not intended to be used as one. This is a preliminary compilation of records, information, and data located in the public records of Scott County, Iowa, and other sources affecting the area shown. It is to be used for reference purposes only. Scott County is not responsible for any errors or omissions that may appear hereon. If discrepancies are found, please contact the Scott County Auditor's Office at 515-281-2000.

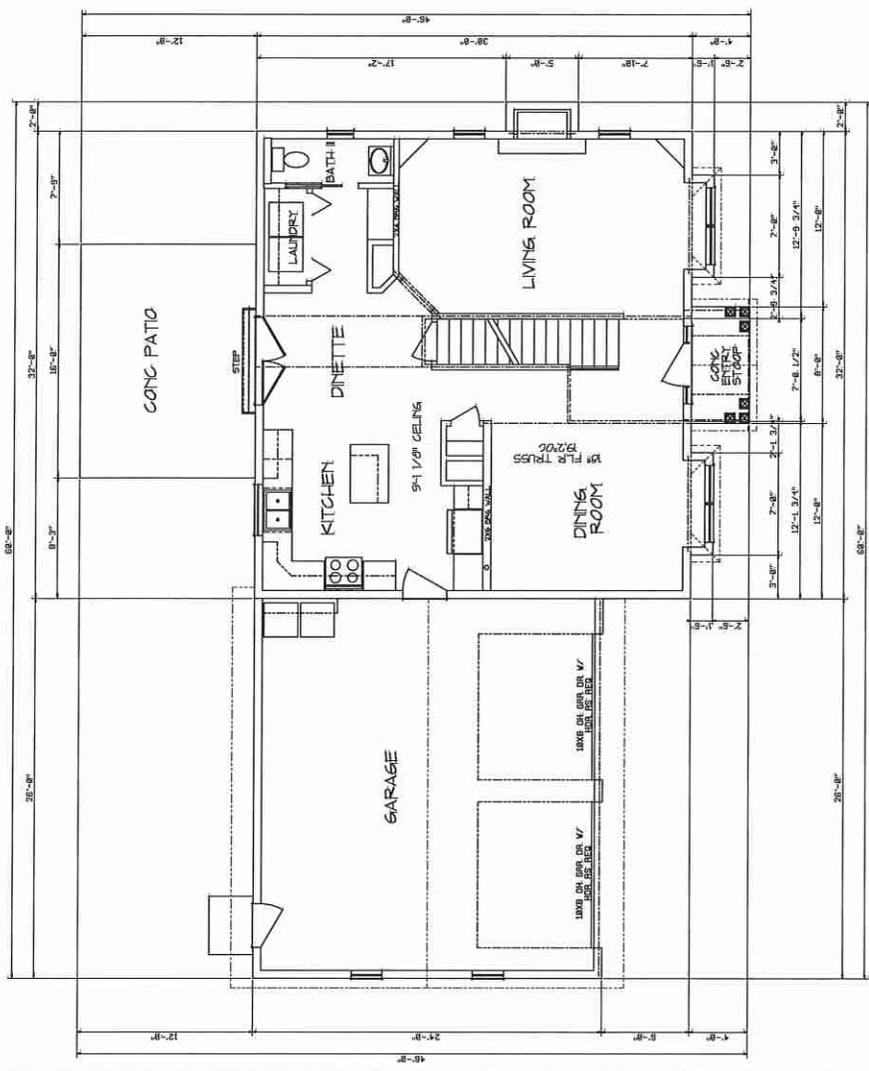
APPROVED AS SHOWN
 APPROVED WITH CHANGES
 DATE: _____
 CONTRACTOR: _____

HALL RESIDENCE

DRAWN BY: _____
 KRES DRAFTING & DESIGN, INC.
 1281 DIAMOND CT
 SHARON, MA 01918
 932-445-5787 BUS/FAX
 932-445-5787 FAX
 701-1
 DATE: 8/27/20
 PLAN NO: 701-1



THIS DRAWING AND ALL RIGHTS IN IT ARE RESERVED BY THE ARCHITECT. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREIN. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHERS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREIN. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHERS.



MAIN LEVEL FLOOR PLAN

