



## **STAFF REPORT**

DATE: 6/10/2024

ITEM#: 4a – PUBLIC HEARING  
MOTION

**TO:** Planning Commission  
**FROM:** Sophia Jensen, City Planner  
**AGENDA ITEM:** **Variance Request – 8286 Hidden Bay Court**

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### **INTRODUCTION:**

Jeff and Judy Otto (Applicants) submitted a variance application for a reduced ordinary high water level setbacks for a new home on the property located at 8286 Hidden Bay Ct (Subject Property). This is a deviation from the City's Shoreland Management Overlay District Code Section 105.12.1260 Table 17-3 for unsewered shoreland lots.

The existing home is considered a legal nonconformity because it is within the 100 foot ordinary high water level (OHWL) setback, and because the impervious surface maximum for unsewered shoreland lots is exceeded. The applicants are looking to demolish the existing home and construct a new single family home.

In 2023 the applicants requested a structure setback variance (to 36.9'), septic setback variance (to 38.3'), and impervious surface variance for the property (to 21.8%). They withdrew the structure setback and impervious surface requests prior to City Council action and only received a variance for the septic setback from the OHWL.

The applicants have since revised their plans to come into compliance with impervious surface requirements. They have reduced the site from the existing 18.3% down to 15% hard cover. Due to the unique nature of the lot the applicants are still requesting a variance for a structure setback from the OHWL although they are not encroaching any further than the current house and requesting a smaller variance than in 2023.

Request	Required	Existing	Proposed
Structure Setback from OHWL	100'	47.2'	47.2'

### **ISSUE BEFORE PLANNING COMMISSION:**

The Planning Commission is being asked to hold a public hearing, review, and make a recommendation on the Variance request.

### **VARIANCE REQUEST DETAILS/ANALYSIS:**

*Address:* 8286 Hidden Bay Court North  
*PID:* 09.029.21.23.0013  
*Variance Requests:* The applicant is seeking deviations from LEC 105.12.1260 Table 17-3 which requires structure setback from the OHWL to be 100 feet.  
*Existing Zoning:* Rural Single Family, Shoreland Overlay District, Valley Branch Watershed District

<i>Surrounding Zoning:</i>	North: Rural Single Family South: Rural Single Family East: Rural Single Family West: Rural Single Family
<i>Deadline for Action:</i>	Application Complete – 5/10/2024 60 Day Deadline – 7/9/2024 City Council Review – 6/18/2024
<i>Applicable Regulations:</i>	Article V - Zoning Administration and Enforcement Article XI – Rural Districts Article XIX – Shoreland Overlay District

### **REVIEW AND ANALYSIS/DRAFT FINDINGS:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 105.12.320 before the City may grant an exception or modification to city code requirements. These criteria are listed below, along with comments from Staff about the applicability of these criteria to the applicant's request.

- 1) Practical Difficulties.** Where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

***Findings:** A single family house is consistent with the zoning district and shoreland overlay district. With this request the site's impervious surface will be reduced and brought into conformance (15%).*

- 2) Unique Circumstances.** The plight of the landowner must be due to circumstances unique to the property not created by the landowner.

***Findings:** The OHWL setback and zoning setbacks on this property significantly impact buildable area. Staff finds the site revisions made from the previous request better meet the intent of the shoreland overlay code. The applicants are not proposing to encroach any further than the existing conditions.*

- 3) Character of Locality.** The proposed variance must not alter the essential character of the locality in which the property in question is located.

***Findings:** Essential character should not be altered with this request. The proposal is at the same setback as the current structure.*

- 4) Adjacent Properties and Traffic.** The proposed variance must not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

***Findings:*** *The reduced structure setback should not increase congestion on a public street or negatively impair adjacent properties.*

**CITY AGENCY REVIEW:**

This request was distributed to several departments and agencies for review on June 12<sup>th</sup> 2023. The following departments provided comments on the variance request.

- Valley Branch Watershed District (5/20/24) Provided comments regarding a 35' wide buffer strip, grading, and the minimum floor elevation. The variance for the septic approved in 2023 has the condition regarding the buffer installation.
- City Engineer – Did not have comments.
- Fire Department – Did not have comments.
- MN DNR – Did not have comments.

**PUBLIC COMMENT:**

A hearing notice was sent to surrounding properties on May 29<sup>th</sup> 2024. A hearing notice was published in the local newspaper on May 31<sup>st</sup> 2024.

**FISCAL IMPACT:**

None

**RECOMMENDED CONDITIONS OF APPROVAL**

1. This variance approval is only for a reduced structure setback from the ordinary high water level to 47.2 feet.
2. The applicant must obtain all other necessary City, State, and other governing body permits and approvals prior to construction.
3. If approved, this variance shall expire if work does not commence within 12 months of the date of granting the variance.

**OPTIONS:**

The Planning Commission may:

- Recommend approval of the variance, citing recommended findings of fact for approval.
- Recommend approval of the variance with conditions citing recommended findings of fact for approval.
- Recommend denial of the variance, citing recommended findings of fact for denial.

**RECOMMENDATIONS:**

Staff recommends the following motion:

***“Move to recommend approval of the request with conditions from Jeff and Judy Otto for a variance to allow a reduced structure setback of 47.2 feet from the ordinary high water level for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report.”***

**ATTACHMENTS:**

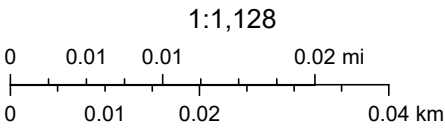
- 1) Location Map
- 2) Land Use Application
- 3) Written Statement and Plans
- 4) VBWD Email (5/20/24)



5/20/2024, 12:19:52 PM

 Parcels

DNR Protected Waters ID



Date Received: \_\_\_\_\_  
Received By: \_\_\_\_\_  
Permit #: \_\_\_\_\_



651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

## VARIANCE APPLICATION

Applicant: Jeff and Judy Otto

Address: 8286 Hidden Bay Court North, Lake Elmo, MN 55042

Phone # 612.325.0930

Email Address: baboootto@gmail.com

Fee Owner: Jeff and Judy Otto

Address: 8286 Hidden Bay Court North, Lake Elmo, MN 55042

Phone # 612.325.0930

Email Address: 24

Engineer: (Architect) PLAAD, LLC

Address: 1229 Tyler Street NE, Suite 202, Minneapolis, MN 55413

Phone # 651.336.1393

Email Address: matt@plaadoffice.com

Property Location (Address): \_\_\_\_\_

Complete Legal Description: \_\_\_\_\_

That part of Tract A lying Southerly and Westerly of a line described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C; thence Northwesterly along the extension of the Southwesterly line of Tract C a distance of 2.92 feet; thence North parallel with the East line of Tract A and its extension a distance of 63.29 feet; thence Northwesterly, deflecting to the left 46 degrees 30 minutes a distance of 50 feet; thence Northwesterly, deflecting to the left 4 degrees, to the Westerly line of Tract A;

PID#: 0902921230013

Detailed Reason for Request: Please refer to supplemental documentation.

\*Variance Requests: As outlined in LEC Section 103.00.110 (c), the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows: Please refer to supplemental documentation.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of fee owner: \_\_\_\_\_

Date: \_\_\_\_\_

# Otto Residence

8286 Hidden Bay Court  
Lake Elmo, Minnesota

Variance Application - Written Statements



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## PROJECT TEAM

Owner:	Jeff and Judy Otto 8286 Hidden Bay Court Lake Elmo, Minnesota
Architect:	PLAAD, LLC Matthew Byers, AIA Mark Stankey, AIA 1229 Tyler Street NE, Suite 202 Minneapolis, MN 55413 651.336.1393 matt@plaadoffice.com mark@plaadoffice.com
Surveyor	E.G. Rud & Sons, Inc. Professional Land Surveyors Jason Rud 6776 Lake Drive NE, Suite 110 Lino Lakes, MN 55014 651.361.8200

## PROJECT DATA

**Owner:** *Jeff and Judy Otto  
8286 Hidden Bay Court  
Lake Elmo, Minnesota*

## Site Data

**Legal Description:** *That part of Tract A lying Southerly and Westerly of a line described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C; thence Northwesternly along the extension of the Southwesterly line of Tract C, a distance of 2.92 feet; thence North parallel with the East line of Tract A and its extension a distance of 63.29 feet; thence Northwesternly, deflecting to the left 46 degrees 30 minutes, a distance of 50 feet; thence Northwesternly, deflecting to the left 4 degrees, to the Westerly line of Tract A; all in Registered Land Survey no. 46.*

**Parcel Identification #:** *09.029.21.23.0013*

**Parcel Size (acres):** *0.6 acres*

**Parcel Size (square feet):** *25,910sf  
Above OHWM*

**Existing Use:** *Single family residence*

**Zoning:** *RS - Rural Single Family and Shoreland Management Overlay District*

**Lake Elmo City Code provisions for which variance is sought:** *LEC 105.12.1260 (c)(3) Table 17-3 (for structure setbacks)*

**Required Structure Setbacks** *Side Yard: 10'  
Rear Yard: 30'  
OHWM: 100'*

## PROJECT DESCRIPTION

May 10, 2024

Dear City of Lake Elmo Planning Department:

Thank you for the opportunity to submit our application for one variance request for a new proposed home at 8286 Hidden Bay Court in Lake Elmo for Jeff and Judy Otto.

The parcel is located on the narrows separating Lake Demontreville and Olson Lake. A non-conforming home built in 1958 and non-compliant septic system from 1984 are currently on the property. Under LEC 105.04.690(b) (3) the current septic system is non-compliant and is required to be updated. A variance request to update the non-compliant septic system was granted on August 15th, recorded as Resolution No. 2023-073.

The existing home is non-conforming because it sits entirely within the required setback from the OHWM and exceeds the currently allowed impervious surface coverage. Therefore, any modification to the home beyond cosmetic updates requires a variance to be granted. This can be seen on the next page in Figure A.

In evaluating the existing home for a potential remodel early in the process, a new build was determined to be the most appropriate path forward for the following primary reasons:

- 1) The existing garage on the lower level is only 18' deep, with a width of just over 20' and a head height of 7'-4". Due to this size, Judy and Jeff are unable to park their vehicles within the garage at the same time. Given its location on the lower level of the home and bounded by bearing walls carrying the floor system of the home above, it would be infeasible to expand the garage in its current location to accommodate two reasonably sized cars. *A two-car garage is usually 24' wide and 24' in depth to allow one to park two cars with enough space to get into and out of the cars. This is especially true for medium to larger SUVs and trucks.*
- 2) The new septic system that is required and that was approved in August of 2023 requires a top-of-mound height that is three feet taller than the current non-compliant mound. This in turn increases the distance between the existing driveway level and the new top of the mound from 3 feet to 6 feet. Instead of providing a new 6-foot-tall retaining wall to separate the driveway from the septic system, modifying the existing layout and footprint of the home to allow the foundation wall of the home to double as the necessary septic retaining system made topographic sense in order to blend the new required grade modifications for the septic system into the surrounding landscape and create a more natural appearance to the grading.
- 3) In several areas in the basement, evidence of water migration and efflorescence through the foundation walls is evident, suggesting unmitigated hydrostatic pressure along the exterior of the walls.

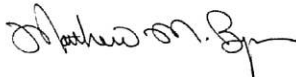
In designing the new home, the architecture team took great care to respect the boundaries of the existing footprint of the home, respect the necessary (and only viable) location of the new septic system (as detailed further below) and to the greatest extent possible mimic natural grade toward the lake. The proposed new home satisfies the required side yard and front yard setbacks, **does not** encroach any closer to the OHWM than the existing home and **reduces** the existing non-conforming 18.2% hardcover down to 15% to bring the lot back into conformance with the maximum allowable impervious surface coverage.

The applicants, Jeff and Judy Otto, previously submitted an entirely different project for consideration last June. In that application, our client was seeking three different variances: 1) a reduced setback from the OHWM for the Soil Treatment Area for the new septic system, 2) a variance to allow the new home to encroach closer to the OHWM than the existing home, and 3) a variance to match the existing impervious surface coverage of 18.2%.

The septic-related variance was granted as noted in the first paragraph above. However, the property owners and design team faced steep opposition to the other two variances. After the Planning Commission meeting on July 10th, 2023, the applicant and design team chose to respectfully pull the request from further consideration and instead study how the design might be altered to alleviate the commission's concerns to *not* encroach any closer to the lake than the existing home, and to eliminate the need for a site coverage variance. After pausing for reflection, our clients, Judy and Jeff, reengaged our team in February of this year and invested additional resources into developing a new design that eliminates all variance requests with the exception of the setback from the OHWM. Again, this variance request is to simply allow the new home to match the existing setback for the existing home. A detailed analysis of this request is provided in this application. As evidenced by the entirely new home design, compared with what was presented in June of 2023, Jeff and Judy have demonstrated a strong commitment to incorporate the feedback from the June 2023 Staff Report and Planning Commission commentary in an effort to gain support for their vision.

We sincerely thank you for your time and consideration and look forward to answering any additional questions that you may have. You may reach me directly at 651.336.1393 or at [matt@plaadoffice.com](mailto:matt@plaadoffice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew M. Byers", with a stylized flourish at the end.

Matthew M. Byers, AIA

## VARIANCE REQUEST SUMMARY

We are applying for one variance to request that the existing setback from the OHWM of 47.2' to the existing structure be renewed for a new home. For reasons described in the introductory letter, the existing home is proposed to be removed and a new home built in substantially the same location as the existing home.

### **Variance required to renew existing setback from OHWM to the new building structure**

The variance request is request to rebuild a new home in a substantially similar footprint as that of the existing home. Because the existing home is non-conforming, rebuilding a new home the same distance from the OHWM requires a variance. The footprint of the new home would encroach ***no closer*** to the OHWM than the existing home.

As indicated in **Figure B**, the small, dashed line that overlays the new proposed home shows the extents of the existing home.

### **In summary:**

LEC 105.12.1260(c)(3) Table 17-3 requires a setback of 100' from OHWM to building structure.

The setback of the existing home is 47.2' from OHWM to building structure.

We are requesting to match that setback of 47.2' to the new home

## VARIANCE REQUEST DETAILED ANALYSIS

Given the unique constraints placed upon this parcel by the setbacks and impervious surface requirements that post-date the construction of the existing residence, any modification to the home greater than simple exterior cosmetic upgrades and interior remodeling requires a variance. The homeowner considered both a substantial remodel as well as a new build.

In evaluating the existing home for a potential remodel early in the process, a new build was determined to be the most appropriate path forward for the following primary reasons:

- 1) The existing garage on the lower level is only 18' deep, with a width of just over 20' and a head height of 7'-4". Due to this size, Judy and Jeff are unable to park their vehicles within the garage at the same time. Given its location on the lower level of the home and bounded by bearing walls carrying the floor system of the home above, it would be infeasible to expand the garage in its current location to accommodate two reasonably sized cars. *A two-car garage is usually 24' wide and 24' in depth to allow one to park two cars with enough space to get into and out of the cars. This is especially true for medium to larger SUVs and trucks.*
- 2) The new septic system that is required and that was approved in August of 2023 requires a top-of-mound height that is three feet taller than the current non-compliant mound. This in turn increases the distance between the existing driveway level and the new top of the mound from 3 feet to 6 feet. Instead of providing a new 6-foot-tall retaining wall to separate the driveway from the septic system, modifying the existing layout and footprint of the home to allow the foundation wall to double as the necessary septic retaining system made topographic sense in order to blend the new required grade modifications for the septic system into the surrounding landscape and create a more natural appearance to the grading.
- 3) In several areas in the basement, evidence of water migration and efflorescence through the foundation walls is evident, suggesting unmitigated hydrostatic pressure along the exterior of the walls.

In order for action by the board of adjustment to approve or deny a variance request, four findings must be made in accordance with LEC 105.12.320(f). Below, we have detailed our response to each of these required findings for each of the variances sought.

*LEC 105.12.320(f)(1) Practical difficulties.*

*a) A variance to the provision of this chapter may be granted by the board of adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.*

*b) Definition of practical difficulties. The term "practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.*

As graphically communicated earlier in **Figure A**, if the currently mandated setbacks are strictly applied to a new home proposal, the resulting buildable area, shown in the diagram as a hatched red area, provides for an unbuildable site. Given that the owner wishes to construct a modestly sized new home on the property, the strict application of the required structure setbacks alone creates the necessary practical difficulty.

*LEC 105.12.320(f)(2) Unique circumstances.*

*The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the landowner/applicant.*

The current setbacks and site impervious surface coverage limits were imposed on the property after the existing home was constructed. Therefore, there is no possible way to construct a new home, even one that exactly replicates the existing home, without being in violation of the current setback requirements and requiring a variance.

*LEC 105.12.320(f)(3) Character of locality.*

*a) The proposed variance will not alter the essential character of the locality in which the property in question is located.*

*b) Definition of locality. For the purposes of this subsection, the term "locality" shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley of other public property.*

Provided that we are proposing to **not** encroach any closer to the lake, to **not** violate the maximum impervious surface coverage, and to **not** violate the height restrictions, we argue that rebuilding a new home that respects all existing required setbacks and surface coverages will not adversely impact neighboring properties and will respect the character of locality.

*LEC 105.12.320(f)(4) Adjacent properties and traffic.*

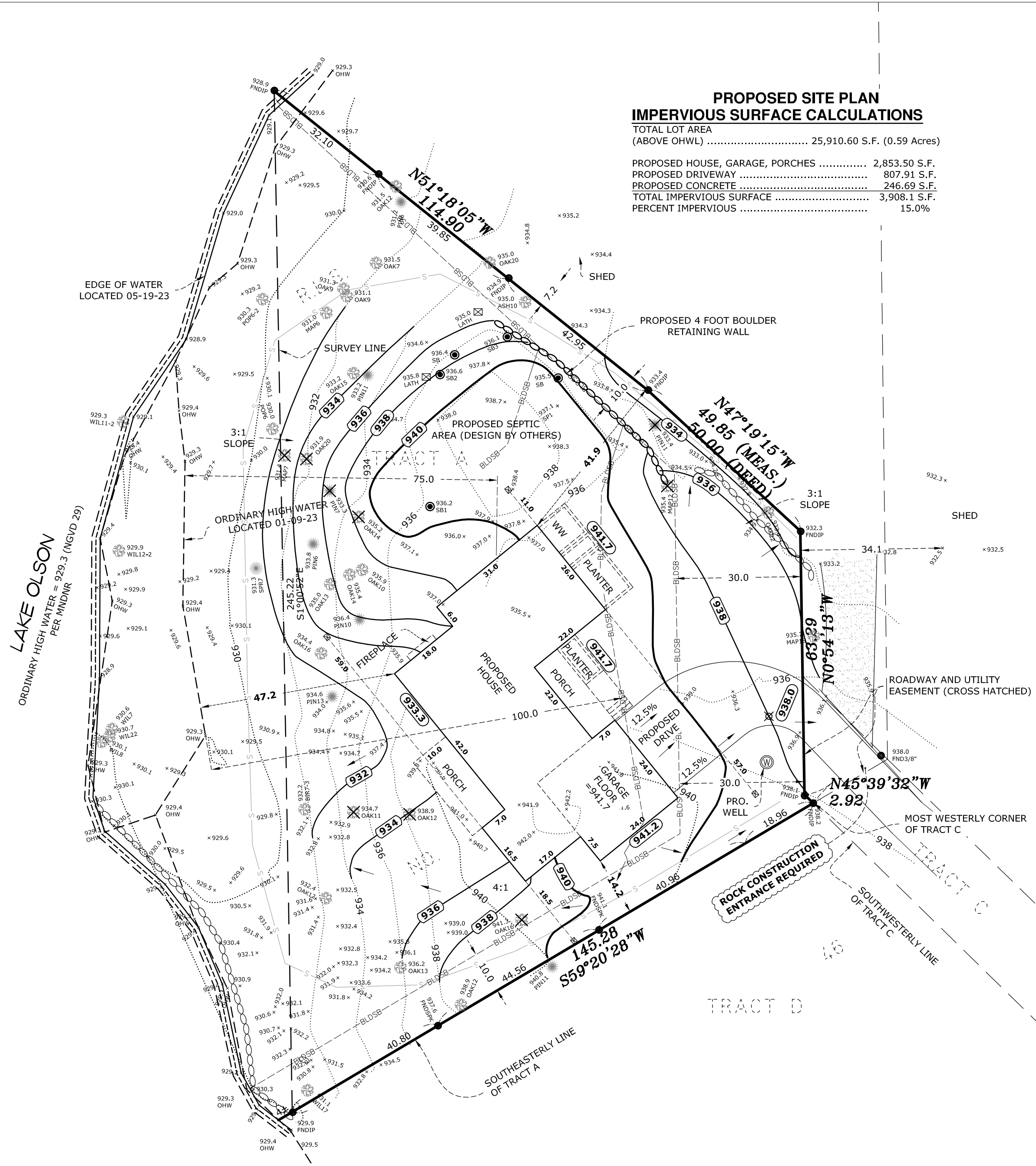
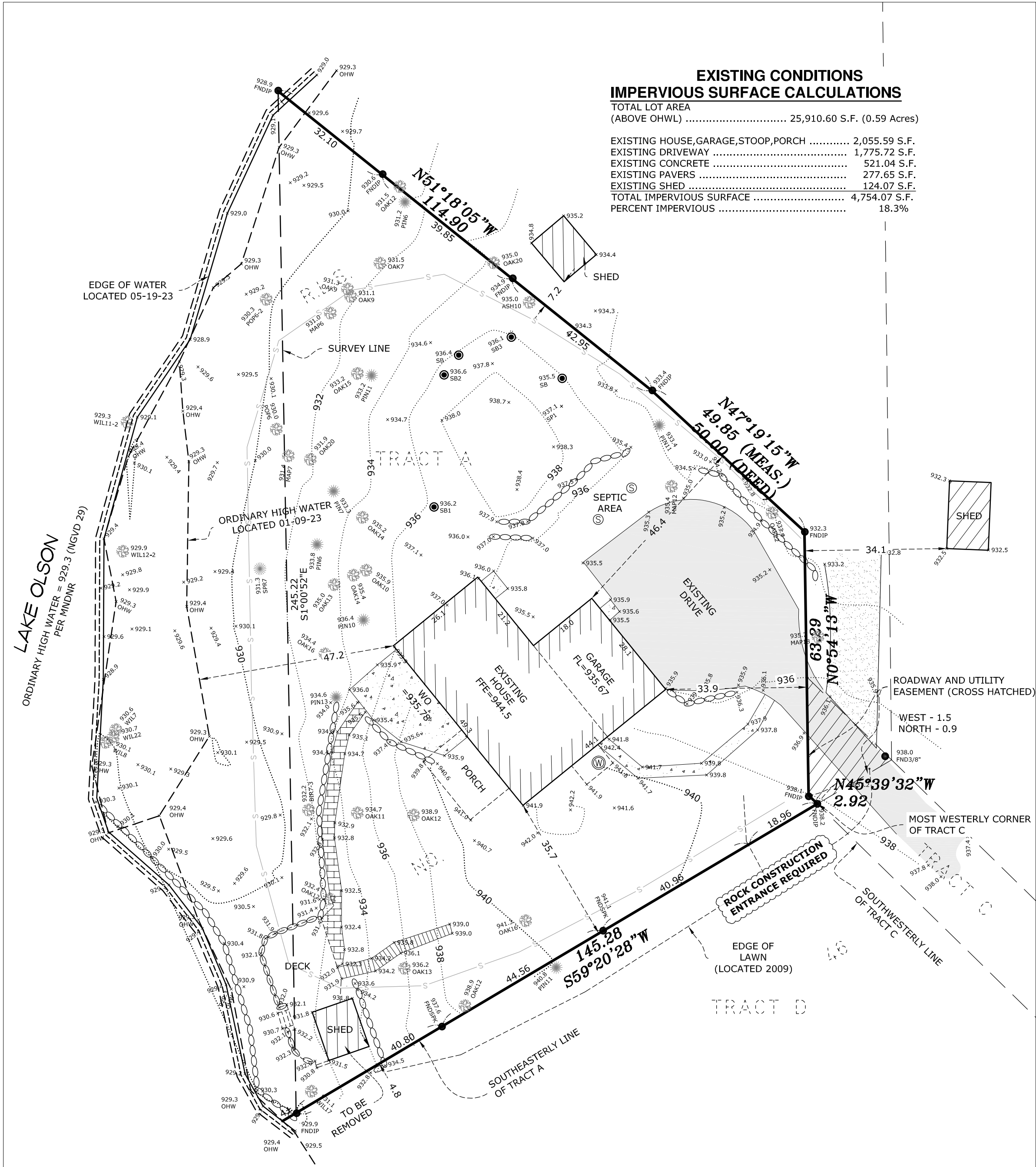
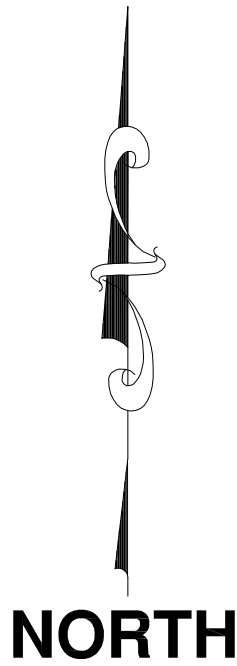
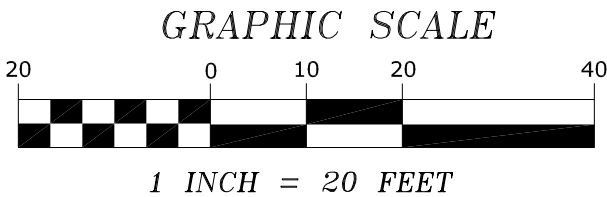
*The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.*

The proposed design reduces the impervious coverage on the site from the existing 18.2% to 15%, as well as respects the existing setback from the OHWM, thereby keeping the massing and placement of the home on the property substantially similar. A new home will substantially increase the property values of the neighborhood instead of remaining as an older non-conforming home with a non-compliant septic system.

The home will remain a single-family residence, and therefore, no new anticipated traffic or congestion is projected beyond the existing conditions.

CERTIFICATE OF SURVEY

~for~ JUDY OTTO  
~of~ 8286 HIDDEN BAY COURT NORTH  
LAKE ELMO, MN



- LEGEND**
- DENOTES IRON MONUMENT FOUND
  - DENOTES IRON MONUMENT SET
  - ⊗(800.0) DENOTES PROPOSED ELEVATION
  - x1011.2 DENOTES EXISTING ELEVATION
  - ↗ DENOTES DIRECTION OF DRAINAGE
  - ⊙ DENOTES SANITARY SEWER MANHOLE
  - ⊙ DENOTES SOIL BORING. (BY OTHERS)
  - ⊙ DENOTES WELL
  - S— DENOTES SILT FENCE
  - DENOTES EXISTING CONTOURS
  - DENOTES PROPOSED CONTOURS
  - BLD5B--- DENOTES BUILDING SETBACK LINE
  - DENOTES BITUMINOUS SURFACE
  - DENOTES CONCRETE SURFACE
  - DENOTES PAVER SURFACE

- SURVEY NOTES**
- Field survey was completed by E.G. Rud and Sons, Inc. on 10-26-09, 01-09-23, 05-19-23, and 06-01-23.
  - Bearings shown are on Washington County datum.
  - This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

- TREE DETAIL**
- DENOTES ELEVATION
  - DENOTES TREE QUANTITY
  - DENOTES TREE SIZE IN INCHES
  - DENOTES TREE TYPE
  - ✗ DENOTES TREE TO BE REMOVED

**BENCHMARK**  
MNDOT BENCHMARK: MICHAEL MN163  
ELEVATION: 919.42 (NGVD 29)

(11 FOOT POURED WALL WALKOUT)  
**PROPOSED ELEVATIONS**  
TOP OF FOUNDATION = 944.3  
GARAGE FLOOR = 941.74  
LOWEST FLOOR = 933.8  
TOP OF FOOTING = 933.3

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Date: 5/9/2024 License No. 41578

DRAWN BY: RAF	JOB NO: 220858BS	DATE: 01-16-23
CHECK BY: JER	FIELD CREW: DT/CT	
1	06-02-23	ADDED FIELD INFO. RAF
2	06-09-23	ADDED PROPOSED HOUSE RAF
3	05-08-24	NEW HOUSE PLAN/SITE PLAN RAF
4	05-09-24	RAISE HOUSE 0.74 RAF

**E.G. RUD & SONS, INC.**  
EST. 1977  
Professional Land Surveyors  
6776 Lake Drive NE, Suite 110  
Lino Lakes, MN 55014  
Tel. (651) 361-8200 Fax (651) 361-8701

**LEGAL DESCRIPTION**

That part of Tract A lying Southerly and Westerly of a line described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C; thence Northwesterly along the extension of the Southwesterly line of Tract C a distance of 2.92 feet; thence North parallel with the East line of Tract A and its extension a distance of 63.29 feet; thence Northwesterly, deflecting to the left 4 degrees, to the Westerly line of Tract A;

All in REGISTERED LAND SURVEY No. 46, as surveyed and platted and now on file and of record in the office of the Registrar of Titles of said County of Washington, State of Minnesota.

Together with a roadway and utility easement over that part of Tract A described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C, thence Northwesterly along the extension of the Southwesterly line of Tract C a distance of 2.92 feet, thence North parallel with the East line of Tract A and its extension to the intersection with the extension Northwesterly of the Northeastly line of Tract C, thence Southeasterly to the Southeast corner of Tract A, thence Southwesterly along the Southeasterly line of Tract A to the point of beginning; all in REGISTERED LAND SURVEY No. 46, which easement is an appurtenant easement to that part of Tract A described above; also

Together with a roadway and utility easement over Tract C, REGISTERED LAND SURVEY No. 46, which easement is an appurtenant easement to Tracts A, B, and D, REGISTERED LAND SURVEY No. 46; also

Together with a utility easement over the Southwesterly 10 feet of Lot 12 in OACE ACRES.

Figure C | Proposed Certificate of Survey

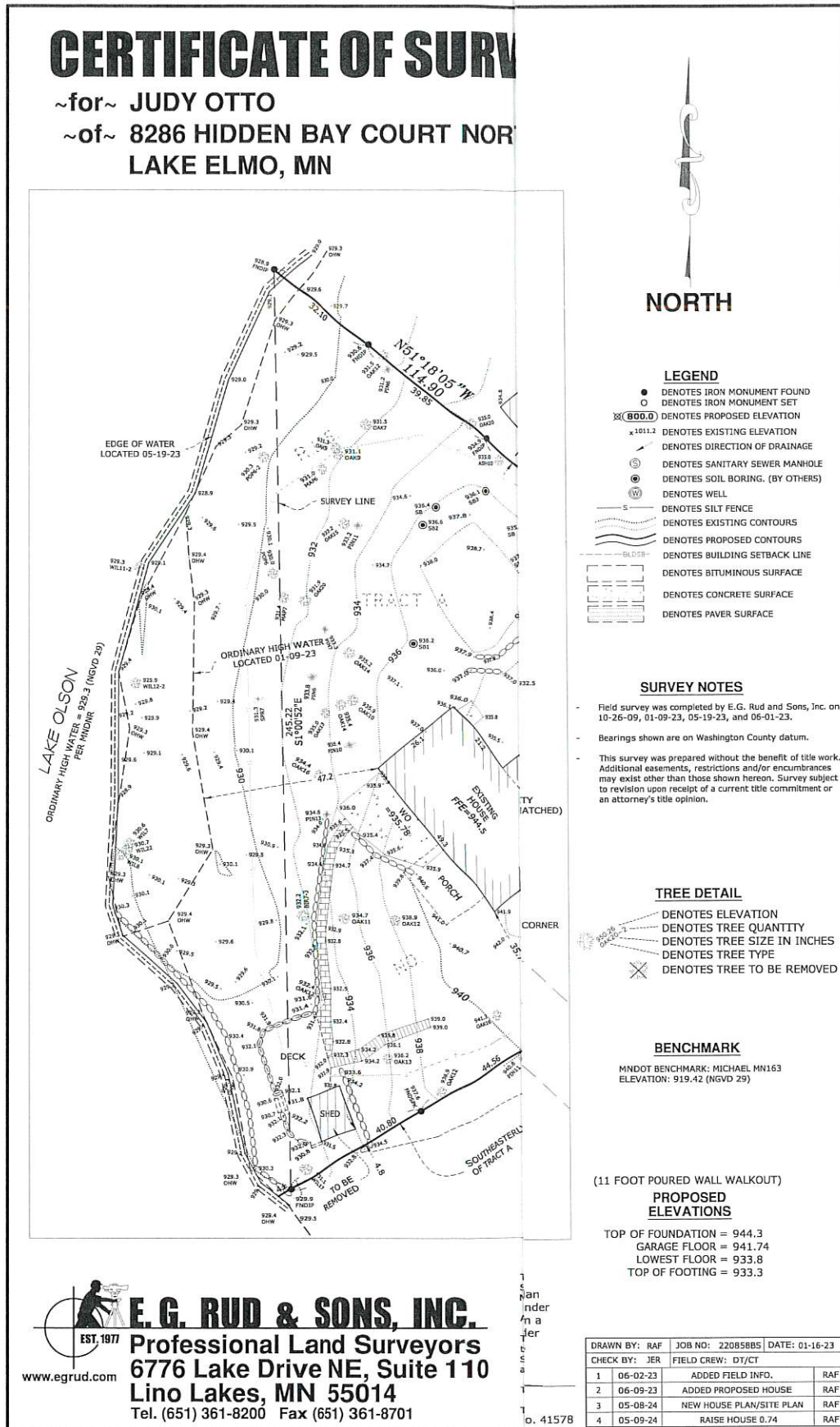


Figure D | Existing and Proposed View From Entry Drive



*Existing view to the northwest from entry drive*



*Proposed view to the northwest from entry drive*

## PROOF OF TITLE

DocuSign Envelope ID: B1E51747-5A99-4CE4-A79F-D6C33C7C485E

American Land Title Association

ALTA Settlement Statement - Borrower/Buyer  
Adopted 05-01-2015

Results Title  
ALTA Universal ID: 1050914  
2100 Ford Parkway  
#201  
Saint Paul, MN 55116

File No./Escrow No. : 22-05448  
Print Date & Time: September 27, 2022 10:00 am  
Officer/Escrow Officer : Brenda White  
Settlement Location : 2100 Ford Parkway, #201  
Saint Paul, MN 55116  
  
Property Address: 8286 Hidden Bay Court N  
Lake Elmo, MN 55042  
Buyer: Judy Otto and Jeff Otto  
Seller: Nancy S. Rowe Trust u/d/t dated December 30, 1999  
8286 Hidden Bay Court N  
Lake Elmo, MN 55042  
Estate of William N. Rowe  
8286 Hidden Bay Court N  
Lake Elmo, MN 55042  
Nancy S. Rowe  
8286 Hidden Bay Court N  
Lake Elmo, MN 55042  
Lender: CASH  
  
Settlement Date: September 30, 2022  
Disbursement Date: September 30, 2022

Description	Borrower/Buyer	
	Debit	Credit
<b>Financial</b>		
Sale Price of Property	730,000.00	
Deposit		15,000.00
<b>Prorations/Adjustments</b>		
City/Town Taxes 09/30/22 - 01/01/23	5.05	
County Taxes 09/30/22 - 01/02/23	1,709.28	
<b>Title Charges and Escrow/Settlement Charges</b>		
Settlement/Closing Fee to Results Title	325.00	
Title Search & Exam Fee to Results Title	515.00	
Title Service Fee to Results Title	25.00	

Description	Borrower/Buyer	
	Debit	Credit
<b>Title Charges and Escrow/Settlement Charges (continued)</b>		
Owner's Title Insurance to Results Title Coverage: 730,000.00 Premium: 1,715.00	1,715.00	
<b>Commissions</b>		
Commission- Broker Commission for Selling Broker to RE/MAX Results	499.00	
<b>Government Recording and Transfer Charges</b>		
Recording Fees to Washington County	46.00	
Well Certification to Washington County	50.00	
	<b>Debit</b>	<b>Credit</b>
<b>Subtotals</b>	734,889.33	15,000.00
<b>Due from Buyer</b>		719,889.33
<b>Totals</b>	734,889.33	734,889.33

**Acknowledgement**

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Results Title to cause the funds to be disbursed in accordance with this statement.

Buyer

DocuSigned by:

Judy Otto

A1422FFF89AD4D4...

DocuSigned by:

Jeff Otto

3491287500244D...

Jen Otto

\_\_\_\_\_  
Brenda White  
Closer

**RESULTS TITLE**

2100 Ford Parkway, #201, Saint Paul, MN 55116

(651)696-0847

File No.: 22-05448

Property Address: 8286 Hidden Bay Court N, Lake Elmo, MN 55042

Buyer(s): Judy Otto and Jeff Otto

Seller(s): Nancy S. Rowe Trust u/d/t dated December 30, 1999, Estate of William N. Rowe, and Nancy S. Rowe

Lender: CASH

**COMPLIANCE AGREEMENT, LIMITED POWER OF ATTORNEY AND DISCLOSURE**

The undersigned hereby agree to cooperate with any representatives of the Lender or RESULTS TITLE regarding any reasonable requests made subsequent to closing to correct errors made concerning this transaction, including but not limited to the execution or re-execution of documents. The undersigned further agrees to provide any and all additional documentation deemed necessary by the Lender or RESULTS TITLE to effect this transaction and make the loan marketable or insurable. The parties hereby understand that the Seller(s) and Buyer(s) are not responsible for performing any duties or obligations of the other party in this transaction, if any. The undersigned hereby acknowledges that RESULTS TITLE may receive ancillary benefits from the deposit or the closing funds.

The undersigned hereby appoints RESULTS TITLE to act as his/her/its attorney-in-fact to correct typographical or clerical errors discovered in any of the closing documentation executed by the undersigned at closing. THIS LIMITED POWER OF ATTORNEY MAY NOT BE USED TO INCREASE THE UNDERSIGNED'S INTEREST RATE, LOAN TERM, OUTSTANDING PRINCIPAL BALANCE OR MONTHLY PRINCIPAL AND INTEREST PAYMENTS. In the event this limited power of attorney is exercised, the undersigned will receive a copy of the document corrected, executed or initialed thereunder.

The undersigned and RESULTS TITLE hereby further agree that in the event that this agreement is enforced or attempted to be enforced by judicial process, the prevailing party shall be entitled to all reasonable costs, disbursements and attorneys' fees incidental thereto from the non-prevailing party.

The undersigned confirm agreement to receive privacy notices electronically and acknowledge receipt of the privacy policy of RESULTS TITLE in accordance with applicable law.

THE UNDERSIGNED FURTHER ACKNOWLEDGE RECEIPT OF THE FOLLOWING TWO DISCLOSURES REQUIRED BY MINNESOTA STATUTE §507.45 AT LEAST FIVE BUSINESS DAYS BEFORE CLOSING.

1. A CLOSING FEE WILL BE CHARGED IN THE AMOUNT OF \$325.00.
2. RESULTS TITLE, OR ITS AGENT, ACTING AS REAL ESTATE CLOSING AGENT IN THE ABOVE TRANSACTION, HAS NOT AND, UNDER APPLICABLE STATE LAW, MAY NOT EXPRESS OPINIONS REGARDING THE LEGAL EFFECT OF THE CLOSING DOCUMENTS OR THE CLOSING ITSELF.

In the event the current year's property taxes are not yet available from the County Treasurer, the undersigned understand and agree to base the tax proration on last year's actual property tax amount or on the tax estimate received from the County. This is a full and final settlement of the tax proration.

In the event the taxes are non-homestead, the Seller(s) agrees to pay \$\_\_\_\_\_. Buyer(s) and Seller(s) agree that this is a full and final settlement and that no additional adjustments will be made should the non-homestead portion exceed this settlement amount.

As a requirement of closing, RESULTS TITLE is being requested to payoff liens and/or mortgages. The acceptance of the payoff of figures by the lien holder/mortgage company is NOT guaranteed by RESULTS TITLE. The undersigned agree to immediately pay any additional funds necessary to satisfy the liens/mortgages against them, including but not limited to: additional interest, escrow account shortages, late fees, foreclosure fees, legal fees or accounting errors. If the undersigned dispute the accuracy of any additional funds required to pay off the

Sales Compliance Agreement

22-05448

liens/mortgages, the undersigned agree to pay the additional funds immediately and settle the dispute after the lien/mortgage has been released.

The undersigned Buyer(s):

1. Requests to take title to the Property as:

**Joint Tenants or Tenants in Common (circle one)**

2. Understands that filing for homestead classification is a responsibility of Buyer(s). Failure to do so will result in a non-homestead classification of the Property for tax purposes and Buyer(s) will be responsible for payment of the tax assessed.
3. Acknowledges responsibility for all future taxes due on the Property and further acknowledges that if there is not an escrow for property taxes, Buyer is responsible for contacting the County for the purpose of obtaining a duplicate property tax statement from the County. Note: Taxes are due on May 15 and October 15.

The undersigned Seller(s) certifies that:

1. There ☒ ARE ☐ ARE NOT any wells on the Property.
2. The property ☐ IS ☒ IS NOT subject to an Association.
3. Seller(s) ☐ HAS ☒ HAS NOT received notice of any pending special assessments or notice of hearing for a new improvement project, the costs of which may be assessed against the property, from any assessing authority that has not been disclosed to Buyer(s) in writing.
4. A filing for Homestead Classification ☒ WAS ☐ WAS NOT completed. Therefore the current year's taxes will be ☒ HOMESTEAD ☐ NON-HOMESTEAD and the taxes in the year following closing will be ☐ HOMESTEAD ☐ NON-HOMESTEAD.

**Buyer(s):**

DocuSigned by:

*Judy Otto*

A1422FF89AD4D4  
Judy Otto

\_\_\_\_\_  
Date

Email Address: \_\_\_\_\_

Address (if different from property): \_\_\_\_\_

DocuSigned by:

*Jeff Otto*

34912875002444D  
Jeff Otto

\_\_\_\_\_  
Date

Email Address: \_\_\_\_\_

Address (if different from property): \_\_\_\_\_

**Seller(s):**

Nancy S. Rowe Trust u/d/l dated December 30, 1999

\_\_\_\_\_  
Philip Loaicano

\_\_\_\_\_  
Date

Email Address: \_\_\_\_\_

Address (if different from property): \_\_\_\_\_

Estate of William N. Rowe

\_\_\_\_\_  
Date

Email Address: \_\_\_\_\_

Address (if different from property): \_\_\_\_\_

\_\_\_\_\_  
Nancy S. Rowe

\_\_\_\_\_  
Date

Email Address: \_\_\_\_\_

Address (if different from property): \_\_\_\_\_

# RESULTS TITLE

## ACCEPTANCE TO PURCHASE OWNERS TITLE INSURANCE

Date: September 27, 2022  
File No.: 22-05448  
Borrower(s): Judy Otto and Jeff Otto  
Property Address: 8286 Hidden Bay Court N  
Lake Elmo, MN 55042



I (We) desire the Owners Title Insurance Policy, with extended coverage in the amount of \$730,000.00 (value of property).

(Circle One)

1. Attached is my (our) check in the amount of \$1,715.00, payable to Results Title.
2. We authorize the amount of \$1,715.00, be included as part of the closing costs as shown on the Closing Disclosure Form.

Send Policy to: (check one)

☒ X EMAIL to \_\_\_\_\_  
\_\_\_\_\_

DocuSigned by:  
  
A1422FFF89AD4D4...  
DocuSigned by:  
  
34912875002444D...  
JEFF OTTO

Acceptance of Owner's Policy by Buyer

22-05448

**INSTRUCTIONS: READ THIS ENTIRE DOCUMENT BEFORE SIGNING.**

If any statement is not accurate, insert a note directing attention to the reverse side and set forth an accurate statement on the reverse side, and NOTIFY THE TITLE COMPANY OF ANY ADDITIONS PRIOR TO CLOSING.

**RESIDENTIAL AFFIDAVIT - PURCHASER**

STATE OF MINNESOTA

FILE NO.: 22-05448

COUNTY OF \_\_\_\_\_

In order to induce Results Title to issue its policy of title insurance on the property legally described as:

See Exhibit A attached hereto and made a part hereof.

with an address of 8286 Hidden Bay Court N, Lake Elmo, MN 55042, the undersigned, hereinafter referred to as affiant (whether one or more), of lawful age, being first duly sworn upon oath, states to the best of affiant's knowledge that:

1. The property is located in a platted subdivision and that there is located thereon a single-family dwelling which has been completed for at least six months.
2. No one is in possession of said property other than the affiant, except \_\_\_\_\_, (If none, state "None".)
3. There are no recorded or unrecorded mortgages, contracts, leases, easements, agreements, documents, or notices of claims relating to the property, other than those listed in the commitment issued for the above referenced file, except \_\_\_\_\_. (If none, state "None".)
4. There are no unpaid bills for labor, services or material for construction of improvements, alterations or repairs to the property during the last six months.
5. There has been no work in the immediate vicinity in the last six months for matters such as: grading, repairing or paving of streets or sidewalks; installation or repair of sewer, water or electrical lines; installation of street lights; etc.
6. The affiant has received no notices of future public improvements which might result in special assessments or charges against the property.
7. The affiant has not been notified of any violations of local setback or building restriction regulations.
8. There have been no disputes with neighbors over fence or boundary lines, driveways, walks, street or alley locations, encroachments of buildings or improvements, or violations of covenants and restrictions.
9. The affiant has no knowledge of any underground pipes, cables, conduits, ditches or drain tiles crossing the property.
10. There are no poles, wires or lines crossing the property and serving other property.
11. There are no shared driveways or party walls except \_\_\_\_\_. (If none, state "None".)
12. There are no encroachments of buildings, eaves, bay windows, walks, fences, drives, etc. from the property of the affiant onto adjoining property (including streets and alleys), or onto easements or setbacks, nor are there such encroachments of adjoining property improvements onto the affiant's property.
13. There are no unpaid taxes, assessments, water and sewer bills, or homeowners association dues.

Affidavit Purchaser

22-05448

14. There are no marriage dissolutions, probate, conservatorship or guardianship proceedings, tax liens, or unpaid taxes which could result in a lien, bankruptcies, pending lawsuits or unsatisfied judgments of record, in any court, State or Federal, against the affiant.
15. Affiant(s) is/are United States citizens.
16. That there have been no proceedings in bankruptcy, and that there are no unsatisfied judgments of record nor any actions pending in any Courts, State or Federal, nor any tax liens filed against the above entity except as stated herein;
17. That any judgments, bankruptcies, State or Federal tax liens, of record against parties with same or similar names are not against the above named entity, except as stated herein;

Dated this \_\_\_\_\_

DocuSigned by:  
*Judy Otto*  
A1422FFF89AD4D4 ...

DocuSigned by:  
*Jeff Otto*  
34912875002444D ...  
JEFF OTTO

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by Judy Otto and Jeff Otto.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY:  
Results Title  
2100 Ford Parkway, #201  
Saint Paul, MN 55116  
(651)696-0847  
File No.: 22-05448

Affidavit Purchaser

22-05448

## EXHIBIT "A"

**Parcel 1:**

That part of Tract A lying Southerly and Westerly of a line described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C; thence Northwesterly along the extension of the Southwesterly line of Tract C a distance of 2.92 feet; thence North parallel with the East line of Tract A and its extension a distance of 63.29 feet; thence Northwesterly, deflecting to the left 46 degrees 30 minutes, a distance of 50 feet; thence Northwesterly, deflecting to the left 4 degrees, to the Westerly line of Tract A; All in Registered Land Survey No. 46, as surveyed and platted and now on file and of record in the office of the Registrar of Titles of said County of Washington, State of Minnesota.

**Parcel 2:**

Roadway and utility easement over that part of Tract A described as beginning at the point of intersection of the Southeasterly line of Tract A and the most Westerly corner of Tract C, thence Northwesterly along the extension of the Southwesterly line of Tract C a distance of 2.92 feet, thence North parallel with the East line of Tract A and its extension to the intersection with extension Northwesterly of the Northeasterly line of Tract C, thence Southeasterly to the Southeast corner of Tract A, thence Southwesterly along the Southeasterly line of Tract A to the point of beginning; all in Registered Land Survey No. 46, which easement is an appurtenant easement to that part of Tract A described above, Washington County, Minnesota.

**Parcel 3:**

Tract C, Registered Land Survey No. 46, Washington County, Minnesota.

Affidavit Purchaser

22-05448

# RESULTS TITLE

## DELINQUENT AND FINAL WATER CERTIFICATION

Property: 8286 Hidden Bay Court N  
Lake Elmo, MN 55042

File No.: 22-05448

The undersigned seller(s) do(es) hereby state I/we will make arrangements with the city water department to have the final water reading made on the water meter and will have the city send the final bill to me/us at my/our forwarding address and agree that I/we will pay the final water bill immediately upon receipt so that the final water bill does not become a lien on the described property.

Seller(s) acknowledge(s) it is the seller's responsibility to pay the final water bill. If there is a discrepancy or dispute in the amount of the billing, it is the seller(s) responsibility to deal directly with the City to reach a settlement.

The undersigned seller(s) and buyer(s) do hereby waive any and all claims against Results Title relating to the final water bill and individually and jointly agree to fully protect, defend, and hold Results Title harmless from any and all loss, costs, damages, attorney's fees and expenses of every kind and nature which it may suffer or incur, under or by reason of the final water bill and this water certification.

**RESULTS TITLE WILL NOT BE RESPONSIBLE FOR PAYMENT OR RECOVERY OF ANY DELINQUENT OR FINAL WATER BILLS.**

BUYER:

DocuSigned by:

*Judy Otto*

A1422FFF69AD4D4...

Judy Otto

Jeff Otto

SELLER:

Nancy S. Rowe Trust u/d/t dated December 30, 1999

BY:

Philip Loaicano  
Co-Trustee

Estate of William N. Rowe

BY:

Nancy S. Rowe

Forwarding Address:

\_\_\_\_\_  
\_\_\_\_\_

Forwarding Address:

\_\_\_\_\_  
\_\_\_\_\_

Water Letter

22-05448

**RESULTS TITLE**  
2100 Ford Parkway, #201  
Saint Paul, MN 55116  
Phone: (651)696-0847 Fax: (651)696-0864

**REAL ESTATE TAX PAYMENT NOTICE**

Minnesota Real Estate taxes are payable May 15th and October 15th. It is your responsibility to pay the Real Estate taxes for this property beginning with the next payment due. If you have not received a tax statement prior to that date, please contact the County Treasurer's Office in the county in which the land is located.

DocuSigned by:  
*Judy Otto*  
A1422FFF88AD4D4...  
DocuSigned by:  
*Jeff Otto*  
34912875002444D...  
Jeff Otto

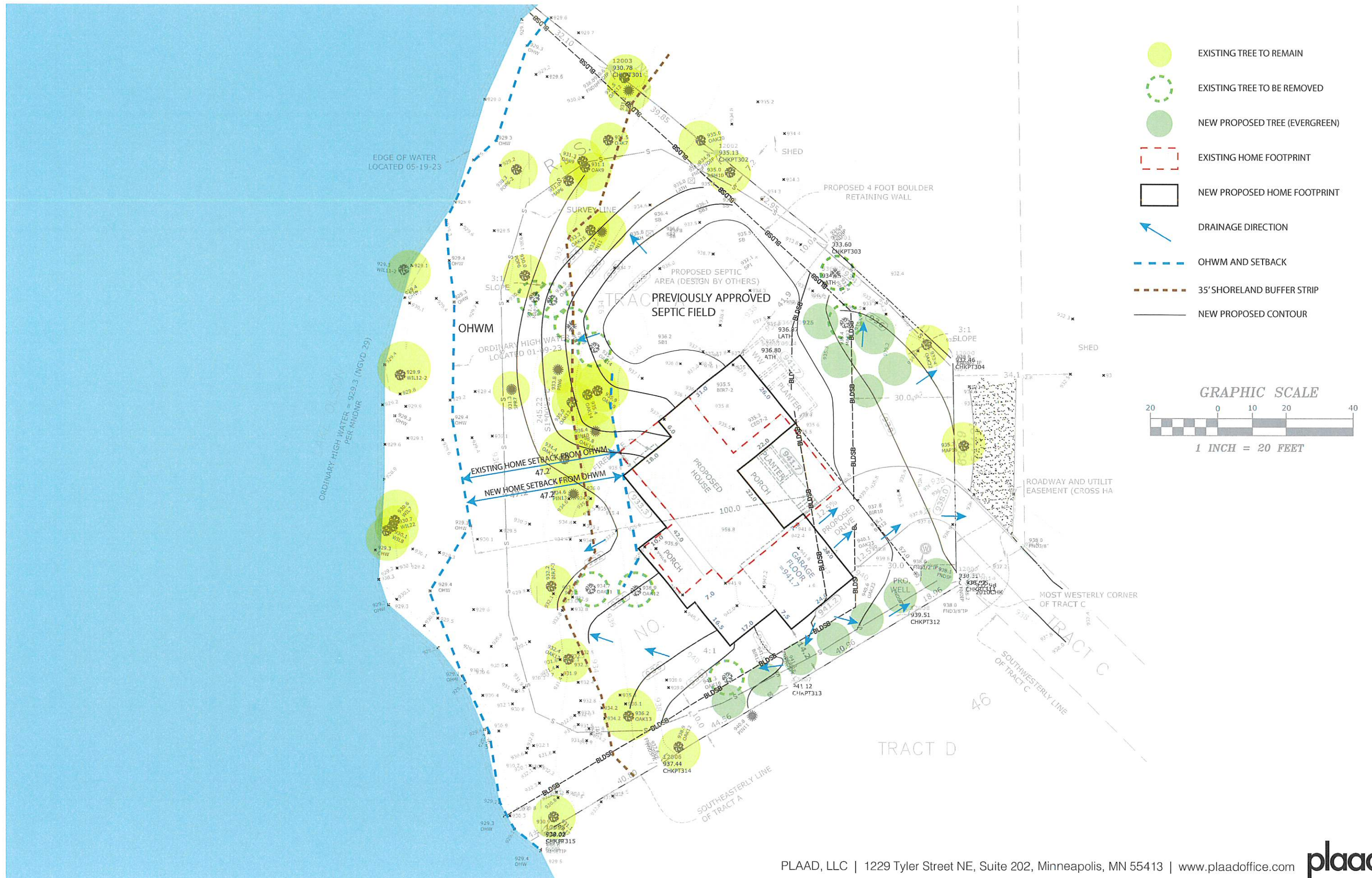
Non Escrow Tax Notice

22-05448

Figure A | Existing Conditions and New Septic Design Requirements



Figure B | Proposed Architectural Site Plan



**From:** [John P. Hanson](#)  
**To:** [Sophia Jensen](#)  
**Subject:** RE: Lake Elmo Land Use Review - May 1st Batch  
**Date:** Monday, May 20, 2024 12:06:07 PM  
**Attachments:** [image002.png](#)

---

**Caution:** This email originated outside our organization; please use caution.

Hi Sophia,

Since the 2023 variance includes the required buffer, you can disregard the comment (unless you need to reinforce the requirement/remind the landowners).

Thanks,

John

John P. Hanson, PE  
Valley Branch Watershed District Engineer  
Barr Engineering Co. | 4300 MarketPointe Drive | Bloomington, MN 55435  
office: 952.832.2622 | cell: 612.590.1785  
[JHanson@barr.com](mailto:JHanson@barr.com) | [www.barr.com](http://www.barr.com) | [www.vbwd.org](http://www.vbwd.org)

resourceful. naturally.



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**From:** Sophia Jensen <[SJensen@lakeelmo.gov](mailto:SJensen@lakeelmo.gov)>  
**Sent:** Monday, May 20, 2024 11:52 AM  
**To:** John P. Hanson <[jhanson@barr.com](mailto:jhanson@barr.com)>  
**Subject:** RE: Lake Elmo Land Use Review - May 1st Batch

**CAUTION: This email originated from outside of your organization.**

The property received a variance in 2023 (attached) condition 2 is for the property to have a 35' wide buffer per VBWD requirements. Are you asking me to make that condition again for this variance request? Or can I disregard the comment since they already are installing the 35' wide buffer with the last variance approval.

Let me know if this makes sense.

**Sophia Jensen**

City Planner

3880 Laverne Ave N | Lake Elmo MN 55042

651-747-3911 | [www.lakeelmo.gov](http://www.lakeelmo.gov)

3880 Laverne Ave N | Lake Elmo MN 55042  
651-747-3911 | [www.lakeelmo.gov](http://www.lakeelmo.gov)



*\*\*The City of Lake Elmo will be changing to a .gov domain starting May 17<sup>th</sup>. Please use [sjensen@lakeelmo.gov](mailto:sjensen@lakeelmo.gov) moving forward. I will still be receiving emails to .org during the transition period.*

---

**From:** John P. Hanson <[jhanson@barr.com](mailto:jhanson@barr.com)>  
**Sent:** Monday, May 20, 2024 10:03 AM  
**To:** Sophia Jensen <[SJensen@lakeelmo.gov](mailto:SJensen@lakeelmo.gov)>  
**Subject:** RE: Lake Elmo Land Use Review - May 1st Batch

**Caution:** This email originated outside our organization; please use caution.

Hi Sophia,

Valley Branch Watershed District (VBWD) rules say:

“A minimum 35-foot-wide buffer strip measured perpendicular to the OHW extending 35 feet inland shall be provided. A mowed access path and shoreline are allowed but must not exceed 30% of the landowner’s shoreline width or 30 feet, whichever is less. For shorelines less than 20 feet wide, a 6-foot-wide access path is allowed. Access paths shall not be located where concentrated runoff will flow to the lake.”

“Upland buffer vegetation shall be provided around wetlands, streams, and lakes as discussed in the following paragraphs and Rule 4, Standard 6c. Native, noninvasive vegetation is preferred. Buffer vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch, yard waste, or snow piles, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by the VBWD or when implemented pursuant to a written agreement executed with the VBWD. **No new structure or impervious surface shall be placed within a buffer.** Grading within upland buffers must result in slopes of 5 feet horizontal to 1 foot vertical or flatter with 8-feet[1]horizontal to 1-foot-vertical buffers encouraged. No fill, debris, or other material shall be excavated from or placed within a buffer without VBWD approval.”

It appears the proposal can meet the VBWD's buffer rule.

To meet VBWD's minimum floor elevation rule, the lowest floor should be no lower than 933.8 (NAVD 88).

Please let me know if you have any questions.

Thanks,  
John

John P. Hanson, PE  
Valley Branch Watershed District Engineer  
Barr Engineering Co. | 4300 MarketPointe Drive | Bloomington, MN 55435  
office: 952.832.2622 | cell: 612.590.1785  
[JHanson@barr.com](mailto:JHanson@barr.com) | [www.barr.com](http://www.barr.com) | [www.vbwd.org](http://www.vbwd.org)

resourceful. naturally.



---

**From:** Sophia Jensen <[SJensen@lakeelmo.gov](mailto:SJensen@lakeelmo.gov)>

**Sent:** Monday, May 20, 2024 8:21 AM

**To:** Anthony Svoboda <[ASvoboda@lakeelmo.gov](mailto:ASvoboda@lakeelmo.gov)>; Dustin Kalis <[DKalis@lakeelmo.gov](mailto:DKalis@lakeelmo.gov)>; John P. Hanson <[jhanson@barr.com](mailto:jhanson@barr.com)>; [daniel.scollan@state.mn.us](mailto:daniel.scollan@state.mn.us)

**Cc:** Ashley Monterusso <[AMonterusso@lakeelmo.gov](mailto:AMonterusso@lakeelmo.gov)>

**Subject:** FW: Lake Elmo Land Use Review - May 1st Batch

**CAUTION: This email originated from outside of your organization.**

Team,

Just a reminder that agency review is due tomorrow for the application below.

Thank you!

**Sophia Jensen**

City Planner

3880 Laverne Ave N | Lake Elmo MN 55042

651-747-3911 | [www.lakeelmo.gov](http://www.lakeelmo.gov)