
CORINNA TOWNSHIP

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

MEETING PACKET FOR
August 15, 2012



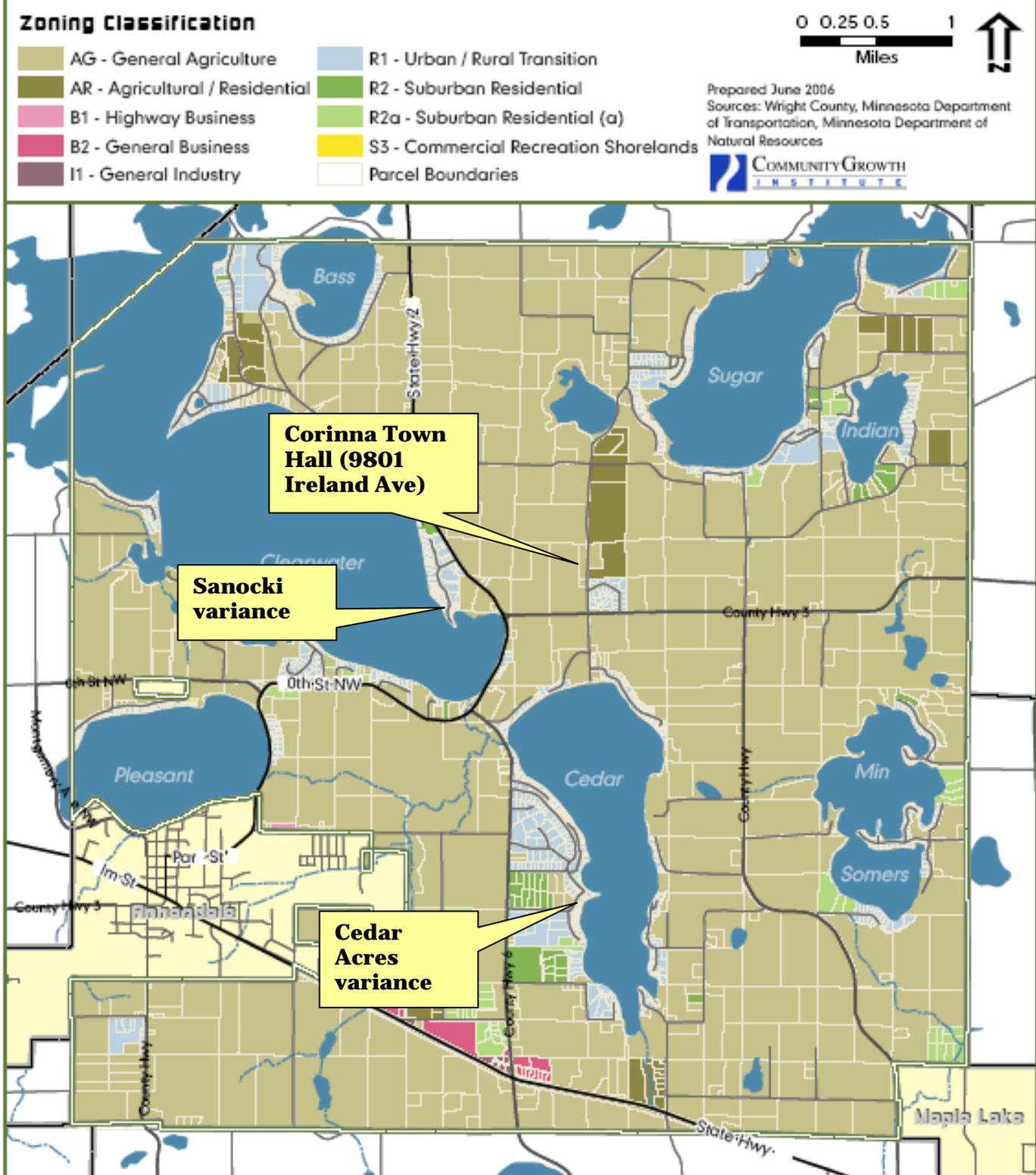
CORINNA TOWNSHIP
AGENDA
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
August 15, 2012

7:00 PM

1. Call to Order
2. Roll Call
3. Additions or Deletions to the Agenda
4. Public Hearings
 - a. Request to amend a variance granted November 15, 2011 that allowed for the expansion of an existing nonconforming recreational campground to allow for up to 6 RVs, campers, fish houses or tents at any one time.
 - i. Applicant(s): Cedar Acres Association, Inc.
 - ii. Property Address: 7755 Isaak Ave NW, Annandale
 - iii. Sec/Twp/Range: 27-121-27
 - iv. Parcel Number(s): 206035000020
 - b. Variance to construct a new dwelling served by a Type III sewage treatment system (Type I system required) involving Phase II of a previously granted conditional use/land alteration permit for additional fill.
 - i. Applicant(s): Steve and Maria Sanocki
 - ii. Property Address: Between 9531 and 9581 Jeske Ave NW, Annandale, MN
 - iii. Sec/Twp/Range: 16-121-27
 - iv. Parcel Number(s): 206031000320
5. Approve Previous Meeting Minutes
 - a. July 10, 2012
6. Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Enforcement Actions
7. Other Business
 - a. Discussion – Potential update of 2007 Comprehensive Plan
 - b. Discuss end-of-year ordinance updates/clarifications.
8. Adjournment

This agenda is not exclusive. Other business may be discussed as deemed necessary.

Corinna Township Location Map for August 15, 2012 Public Hearings



**The parcels identified on this map are subject to public hearing.
The public hearing will be held at Corinna Town Hall
at 7:00 pm.**

STAFF REPORT

Application: Request to amend a variance granted November 15, 2011 that allowed for the expansion of an existing nonconforming recreational campground to allow for up to 6 RVs, campers, fish houses or tents at any one time. The revised application is to allow for up to 4 such units.

Applicant: Cedar Acres Association

Agenda Item: 4a

Background: The property owners were granted a variance in November 2011 to expand an existing nonconforming recreational campground to allow for up to 4 RVs, campers or tents at any one time and 6 such units if they received necessary permits or other permission from the Minnesota Department of Health (which has its own set of requirements for recreational camping areas with over 4 units). The Board of Adjustment, at that time, had given a recommendation that only allowed for 4 units. The Town Board added the allowance for up to 6 units if MDH approval were granted.

The Town Board's decision also included the following conditions:

- 1) The applicant must submit a plan for adequate sewage treatment. This may include submitting a copy of a contract with a portable toilet company for maintenance of a portable toilet on the site at all times when camping is occurring on the site. This documentation must be kept current and the portable toilet properly maintained at all times so as not to create a pollution problem.
- 2) The applicant shall ensure that RVs and tents meet a minimum lake setback of 75 feet at all times.
- 3) The applicant shall ensure that RVs and tents meet a minimum side-yard setback of 50 feet and a minimum road setback of 300 feet (or enough so that they are not located on the steep slopes leading up to the road) at all times.
- 4) The applicant shall create a 10-foot vegetative buffer along the shoreline that is to remain unmowed, between the lake and the lawn area, for permanent stormwater management.
- 5) The applicants shall designate a person to serve as the contact person with the Township.
- 6) Covered trash receptacles shall be on site and need to be emptied properly on at least a weekly basis.
- 7) No camping unit shall be located on the property for longer than seven (7) days at a time.
- 8) No fire rings shall be located within 50 feet of Cedar Lake.
- 9) The Township shall review, before January of every year, compliance with the above conditions.

Since the November 2011 variance, the issue became the subject of litigation involving the Cedar Acres Association and Corinna Township as defendants and a group of area

residents as the plaintiffs. The litigation moved into mediation and a settlement has been reached by the Cedar Acres Association and the defendants. This settlement cannot be finalized unless the Township approves the reduction of allowable RVs to no more than four (4) RVs, campers or tents at any one time. Since the Town Board allowed for the possibility of six (6) units, it has been requested that the Township amend the November 2011 approval to reflect that agreement.

Note that this application will be addressed entirely by the Board of Adjustment, given the recent change in the ordinance that makes the BOA the final authority for variance requests. The Town Board will not be directly involved in any final decision.

The variance application involves a 4.92 acre parcel located on the western shore of Cedar Lake. The parcel is currently owned by the Cedar Acres Association (an association of homeowners) and has been used as a private campsite (for members and their guests) for about 38 years according to the applicants, since the site was given to them in 1973. The site currently contains at least two electrical hookups, several picnic tables, a portable toilet, a fishing pier, a docking/beach area for several boats and a boat launch. There is no RV dumpsite available on the property and no trash facilities. The camping area is surrounded on all sides (except for the shoreline) with heavily wooded land and is generally well-screened from surrounding properties (less so on the north end). The parcel contains about 850 feet of shoreline – about 700 of which contains significant emergent vegetation in the lake and some of which is due to there being a peninsula at the northern end of the property. Measured from one side of the property to the other the amount of shoreline is about 425-450 feet.

Location:

- Property Address: 7755 Isaak Ave NW, Annandale
- Sec/Twp/Range: 27-121-27
- Parcel Number(s): 206035000020

Zoning: Urban/Rural Transition (R1) /Residential Recreation Shorelands (S-2) Overlay District, Cedar Lake (General Development lake)

Lot size: Approximately 4.92 acres.

Septic System Status: The property is currently served by portable toilets. No permanent sewage treatment systems exist on the property as there are no permanent structures or living units on the property. The previously granted variance included a condition regarding regular maintenance of the portable toilets.

Natural Features:

Floodplain: The property is not within an identified floodplain.

Bluff/Steep Slopes: There is a steep slope leading down from the road to the camping area, although the property flattens for a considerable distance (about 150 feet) before reaching the lake.

Wetlands: There do not appear to be any wetlands on the property that would impact the proposal.

□ **Requested Variance(s):**

- Expand an existing nonconforming recreational campground to allow for up to 4 RVs, campers or tents at any one time (instead of the grandfathered allowance for two such units).

Applicable Statutes/ Ordinances:

Corinna Township Comprehensive Plan

The Corinna Township Comprehensive Plan (adopted in 2007) classifies this property, and all other shoreline properties in the area as "Shoreline Residential":

Shoreline Residential: A designation for shoreline properties already developed, or to be developed, residentially.

Wright County Comprehensive Plan

The Wright County Comprehensive Plan (adopted in 2009), classifies this property as appropriate for "Residential", which is described as:

Residential Designates existing residential areas that are already characterized by relatively small lots (for unsewered areas) and those limited undeveloped areas deemed appropriate for conversion to similar use. Most areas currently exist as a result of lakeshore development prior to any zoning or environmental regulation, and other isolated areas exist that developed with small lots historically. In general, due to the environmental and health impacts of developing areas with small lots and on-site sewage treatment, such development will be discouraged. However, in certain limited cases, such as riparian lots on general development and recreation development lakes, or "infill" in areas that are surrounded by similar development, some expansion of residential areas can be allowed. Rezoning from Agricultural to residential districts will generally be considered appropriate in this district, depending on environmental factors. Rezoning to R-1 will only be considered for riparian lakeshore lots, or as "infill" where most surrounding land is already zoned R-1. Multi-family structures are not allowed in areas without municipal sewer and water services

Minnesota Statutes

394.27 CREATION AND DUTIES OF BOARD OF ADJUSTMENT.

Subd. 7. Variances; practical difficulties.

The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in

harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "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; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Corinna Township/Wright County Zoning Ordinance

405. NON-CONFORMING USES

405.1 Non-conforming Building and Uses

- (1) A non-conforming use existing at the time of adoption of this Ordinance may be continued except as provided herein.

- (4) In the event that a non-conforming use is discontinued or its normal operation stopped for a period of six (6) months, the use shall thereafter conform to the regulations of the district in which it is located.

405.2 Expansion and Alteration

A non-conforming use existing at the time of the adoption of this Ordinance may be continued provided that the exterior dimensions of such use shall not be extended or expanded. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

502. APPEALS AND BOARD OF ADJUSTMENT

502.2 Duties and Responsibility

The Board of Adjustment shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing the Ordinance. Such appeal may be taken by any person, firm, or corporation aggrieved, or by any officer, department, Board or bureau of a town, municipality, county, or state.

...

The Board of Adjustment shall have the exclusive power to order issuance of Variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purpose and intent of the official control in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any official control, and when the terms of the Variance are consistent with the Comprehensive Plan. "Hardship" as used in connection with the granting of a Variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the Variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use of the property exists under the terms of this Ordinance. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of Variances to insure compliance and to protect adjacent properties and the public interest. The Board of Adjustment may consider the inability to use solar energy systems a "hardship" in the granting of the Variance.

612.5 Shoreland Performance Standards

612.5 (1) General Performance Standard for Lakes

Performance standards in shoreland areas are additional to standards of the primary zoning district. In case of a conflict, the stricter standard shall apply as well as any additional requirements if flood plain elevations have been established.

(a) General Development Minimum Standards:

Structure setback from NOHW	75 ft.
Structure setback from Bluff	30 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level	4 ft.
Water Oriented Accessory Structure setback from NOHW	10 ft.

612.8 Commercial-Recreational Shoreland District S-3

NOTE: Section 612.8 does not directly apply to this property as the property is zoned for residential use - not commercial/recreational. However, it is being included for reference as it outlines the regulations that would apply to a recreational campground in that district.

- (6) Recreational Campground Provisions. Recreational Campgrounds must meet the following requirements as well as any additional requirements set forth in the Statewide Standards for the Management of Shoreland Areas.
- (a) Definition - A Recreational Camp shall constitute any area used on a daily, nightly or weekly basis for the accommodation of three or more occupied tents or travel trailers whether privately or publicly owned; and whether use of such accommodation is granted free of charge or for compensation.
 - (b) Licensing - Every person, organization or municipality establishing or having control of a Recreational Camping Area shall obtain all necessary licenses and permits required by the State of Minnesota and the State Health Department.
 - (c) Caretaker - A responsible attendant or caretaker shall be in charge of every recreational camping area at all times and the duties of said attendant or caretaker shall be to maintain records of the park, keep the facilities and the equipment in a clean, orderly and sanitary condition. The caretaker or attendant shall be the owner or operator of the camping area, or his appointed representative.
 - (d) Recreational Camping Area Location - No recreational camping area shall be located that the drainage from the park or camp area will endanger any water supply. No waste water from recreational camping vehicles shall be deposited on the surface of the ground.
 - (e) Recreational Camping Area Spacing - A site size appropriate to meet all spacing requirements shall be provided for each recreational camping vehicle or tent in camping areas. The Planning Commission shall determine the location density, and spacing of recreational camping vehicles, tents, primary, and accessory structures whether permanent or temporary based upon water supply and waste disposal facilities, topography, drainage, and other locational and natural characteristics of the site. Any accessory structure such as attached awnings, car ports or individual storage facilities shall, for the purposes of the setbacks and separation requirements, be considered to be part of the recreational camping vehicle, tent or other structure.
 - (f) Density - At least 50 percent of the total project area must be preserved as open space as defined in the State Standards for Management Shoreland Areas.
 - (g) Water Supply - Facilities for water supply and waste disposal must meet the minimum requirements of the State Health Department and any other State laws or regulations and the County standards for sewage treatment.
 - (h) Garbage and Refuse Disposal - All garbage and refuse shall be stored and disposed of in a manner that will not create or tend to create a nuisance, or provide a breeding place for flies. Garbage and refuse containers shall

be constructed of non-absorbent materials with tight fitting lids. All containers shall be washed at least once each week and sprayed with effective insecticides. Garbage or refuse containers shall be supplied for each four camp sites, and shall be not more than two hundred feet from the farthest site. Containers shall be emptied twice weekly or more often if required.

- (i) Picnic Areas - Picnic areas shall be provided with suitable toilets, or privies and refuse containers consistent with the usage demands. Such facilities shall be constructed in accordance with standards of the State Health Department.
- (j) Swimming Areas - Natural swimming areas shall be located only on lakes and streams which are relatively free from human, animal and industrial pollution, and where swimming will not endanger the quality of a domestic water supply. Swimming areas shall be located at least seventy-five (75) feet (preferably 150 feet) from boat docks or boat landing slips and shall be roped off by floats and cables to designate the safe limits of the swimming areas. Artificial swimming and wading pools shall be constructed in accordance with standards of the State Health Department.
- (k) Submission of Plans
 - (1) No recreational vehicle camp shall be constructed nor shall any system of plumbing, sewage system, water supply or swimming pool for the vehicle camp be installed or altered until four (4) plans drawn to scale have been submitted to and approved by the County Planning Commission and the State Health Department.
 - (2) An applicant for a Recreational Vehicle Camping Area Conditional Use Permit shall submit a development plan for the proposed park including the following:
 - The proposed site and existing development.
 - Proposed size, location and arrangement of buildings.
 - Parking areas and stall arrangements.
 - Entrance and exit drives.
 - Proposed sewer and water system.
 - Recreation areas.

Staff Findings: The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

- 1) **Will the granting of the variance be in harmony with the general purposes and intent of the Corinna Township Land Use (Zoning) and/or Subdivision Ordinance?**

- a) Yes. The spirit and intent of the ordinance is to limit uses in residential areas that would have an impact beyond what would be expected on a single residential lot or a number of residential lots in a neighborhood. Given the size of this parcel (approximately 5 acres and 450 feet of width), a density of one RV per 0.8-1.25 acres or one RV per 75-112.5 feet of shoreline frontage is not inconsistent with the allowance for one RV on a residential lot. Within about ¼ mile of this property, existing residential properties have an average width of about 63 feet and lot sizes that are much less than one acre in most cases.

2) Will the granting of the variance be consistent with the Corinna Township Comprehensive Plan?

Yes. The Corinna Comprehensive Plan identifies this property as “Shoreline Residential”. This is defined as “A designation for shoreline properties already developed, or to be developed, residentially”.

See the discussion in Findings of Fact 1), 3) and 5) about how the allowed use of this property for up to four (4) RVs, tents or campers is consistent with that of a residential neighborhood. Clearly, allowing three or more RVs/tents/campers in combination would not be allowed under today’s ordinance. However, the fact that the applicants have provided some evidence indicating that the area has been used for more than three RVs or tents at a time for more than 30 years provides at least some argument for allowing more than three units at a time, which would be consistent with state law protecting existing nonconforming uses. The Comprehensive Plan discusses the need to follow state law.

The Comprehensive Plan also states the following as strategies to “protect, preserve, and enhance lake water quality”:

- Require on-site storm water retention and erosion-control plans for all new lakeshore development and redevelopment of existing sites, to ensure that storm water runoff is properly managed and treated before entering surface waters.
 - Comment: The site is currently mowed almost all the way down to the lake, if not the entire way for most of its lake frontage. While some stormwater does soak into the large grass area, it is also likely that much of it flows into the lake fairly directly. See letter from Wright County SWCD for the discussion of stormwater issues. The recommended number of RVs/tents/campers allowed under this variance would not be likely to significantly increase the amount or rate of stormwater beyond what has existed in the past.
- Seek ways to ensure that new development, landscaping, or other alterations on lakeshore properties preserve and/or provide for the planting of native trees and shoreline vegetation.

- Comment: The west portion of the property is heavily treed. The east portion is mowed regularly down to the lake for most of the frontage. See comments above.
 - Require the use of best management practices as outlined by the Minnesota DNR, University of Minnesota Extension, or other appropriate agencies during the development and re-development of all property in the Township to prevent erosion and sedimentation that eventually reaches area lakes and wetlands through ditches, direct runoff, or other means.
 - Comment: See previous discussion and SWCD letter.
 - Limit the amount of grading and filling in the shoreland area so as to minimize the disturbance of soil and prevent erosion.
 - Comment: No grading or filling is proposed as part of this application, and would not be anticipated in the future unless it involved the construction of a small berm perhaps, along the shoreline to capture runoff and help it infiltrate into the ground before entering the lake.

3) Is the proposed use of the property reasonable?

Yes, with the lesser number of RVs/tents allowed. The allowance for up to four (4) RVs, tents or campers in combination represents a reasonable use of the property in that it is consistent with the residential setting of the area, taking into account current minimum lot width (150 feet) and size (one acre) requirements and the average lot width of existing residential lots within ¼ mile of the property (about 63 feet). At four or fewer units, the site would be unregulated by the Minnesota Department of Health.

4) Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

Yes. There has apparently been a lot of confusion in recent years over what is allowed on the site or not allowed. It seems fairly clear from records submitted to the Township that the site was created and used for more than 35 years as a recreational camping area. While this was not allowed by the 1973 Zoning Ordinance without a conditional use permit (for three or more RVs/tents), the County either was not aware of the use or it was not a problem for the neighborhood as there is no record we have seen of complaints or enforcement action until the last 18 months (at least one public comment indicated there was a complaint to the County Sheriff regarding noise at the property about 5 years ago). As such, there is a question about what the applicants should have known or not - particularly because they are an association whose membership has changed over the years.

5) Will the variance, if granted, alter the essential character of the locality?

No, with the lesser number of RVs/tents allowed. The allowance for up to four (4) RVs, tents or campers in combination represents a density of RVs that is consistent with the residential setting of the area, taking into account current

minimum lot width and size requirements and the average lot width of existing residential lots within ¼ mile of the property.

6) **Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?**

No. There are other considerations than simply economic. These include the apparent historic use of the site for recreational camping (more than 35 years) and the lack of any complaints or enforcement by the County - which may not have had knowledge of the violations of its ordinance.

7) **Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?**

No. The practical difficulty (not being able to use the site for group camping as it apparently has been for more than 35 years) cannot be alleviated by any other method given that the grandfathered number of RVs, tents and campers allowed is two (2). The property owners have previously applied for, and been denied, a rezoning to the Commercial-Recreational Shoreland District (S-3) that would allow for a recreational campground area via a conditional use.

8) **Will the granting of the variance adversely affect the environmental quality of the area?**

No, if properly managed. There are a number of potential environmental impacts that could occur from a group camp setting. So long as sewage is properly managed, this should not be one of them. Use of the surface water and potential impact on lake quality from that is a potential concern, but enforcement is more of a DNR or Wright County sheriff issue as it involves surface water use which is not subject to the Township Zoning Ordinance. Impervious surface would be much lower than the maximums allowed under the ordinance.

Board of Adjustment Direction: The Board of Adjustment may approve the variance request, deny the request, or table the request if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Recommendation: Given the proposed findings above indicating that the request meets the requirements for a variance and the extensive amount of time, effort and money put into the settlement reached by the Plaintiffs and Defendants, staff would recommend that the requested application be approved (for up to 4 RVs/tents at any one time).

Note: This recommendation is based on the assumption that the only change to the previously granted variance is a reduction in the number of allowable RVs, tents or campers from a possible 6 to a firm limit of 4. Staff's understanding is that any other

changes to the previously imposed conditions would not be consistent with the mediated settlement and if such changes are requested they should be denied.

Accordingly, staff would recommend the Board of Adjustment adopt the same findings as previously imposed by the Town Board in November 2011:

- 1) The applicant must submit a plan for adequate sewage treatment. This may include submitting a copy of a contract with a portable toilet company for maintenance of a portable toilet on the site at all times when camping is occurring on the site. This documentation must be kept current and the portable toilet properly maintained at all times so as not to create a pollution problem.
- 2) The applicant shall ensure that RVs and tents meet a minimum lake setback of 75 feet at all times.
- 3) The applicant shall ensure that RVs and tents meet a minimum side-yard setback of 50 feet and a minimum road setback of 300 feet (or enough so that they are not located on the steep slopes leading up to the road) at all times.
- 4) The applicant shall create a 10-foot vegetative buffer along the shoreline that is to remain unmowed, between the lake and the lawn area, for permanent stormwater management.
- 5) The applicants shall designate a person to serve as the contact person with the Township.
- 6) Covered trash receptacles shall be on site and need to be emptied properly on at least a weekly basis.
- 7) No camping unit shall be located on the property for longer than seven (7) days at a time.
- 8) No fire rings shall be located within 50 feet of Cedar Lake.
- 9) The Township shall review, before January of every year, compliance with the above conditions.

Application # _____	Date Application Rec'd ___/___/___ (for office use only)	Fee Collected \$ _____
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**CORINNA TOWNSHIP
VARIANCE APPLICATION**

Name of Applicant Cedar Acres Assoc, Inc. Phone 612-619-2327 / Brian Marx
President

Property Address (E911#) 7755 Isaak Ave. N.W.

Mailing Address (8660 78th Street NW) Local Phone 320-274-3456
(if different than above) (if different than above)

City, State, Zip Annamdale, MN 55302

Applicant is:

Title Holder of Property (if other than applicant)

- Legal Owner
- Contract Buyer
- Option Holder
- Agent
- Other Park Association

Cedar Acres Association, Inc.
(Name)
7755 Isaak Ave. NW
(Address)
Annamdale, MN 55302
(City, State, Zip)

Signature of Legal Owner(s), authorizing application (required) _____
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): Brian Marx
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Property ID # (12 digit # beginning with 206-XXX-XXXXXX) 206035000020

Full legal description of property involved in this request, including total acreage or square footage (required – attach separate sheet if necessary):

(See attached legal description)

Zoning District R-1, Lake Name (if applicable) Cedar Lake
(urban/rural transition)

What type of variance are you requesting (check as many as apply)?

- 1 per 40 Division
- Lot Line Adjustment
- Undersized Lot
- Appeal of Staff Interpretation
- Road Setback
- Lake or River Setback
- Side or Rear Line Setback
- Bluff Setback
- Building/Impervious Coverage
- Height of Structure
- Septic System Setback
- Other Amendment Request to

What are you proposing for the property? State nature of request in detail: "Expansion" to a non-conforming use.

See attachment: "What are you Proposing For the Property" (Amendment Proposal)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

David and Susan Levi, Orv and Kathy Jonsrud,
and Dave and Cheryl Wagner,

Plaintiffs,

**MEDIATED SETTLEMENT
AGREEMENT**

vs.

Corinna Township, and Cedar Acres
Association, Inc.,

Court File No. _____

Defendants.

DEFINITIONS

“Plaintiffs” means David and Susan Levi, Orv and Kathy Jonsrud, and Dave and Cheryl Wagner, and their respective heirs, agents, representatives and assigns.

“Township” means Corinna Township, a political subdivision of the State of Minnesota, and its agents, officers, employees, elected officials, successors and assigns.

“Association” means Cedar Acres Association, Inc. and its agents, officers, members, successors and assigns.

“Lawsuit” means the captioned action.

Legal Description:

“Park” means the real property owned by the Association which abuts Cedar Lake, with an address of 7755 Isaak Ave. NW, Annandale, MN, and is legally described as:

Part of Government Lot B, Outlot B, F.G.R. Addition, according to the plat of record, excepting therefrom Spruce Grove Third Addition, according to the plat of record, all in Section 27, Township 121, Range 27 West, Wright County, MN.

“Covenants and Restrictions” means the document attached hereto as **Exhibit A**, which was adopted by the Association on or about August 31, 2011, and as modified by this Agreement.

“Camping Unit” shall mean one RV, camper, tent, fishhouse or other unit providing overnight sleeping accommodation for persons.

“Benefitted Parties” means Plaintiffs.

WHAT ARE YOU PROPOSING FOR THE PROPERTY? State nature of request in detail:

Amendments to the Variance granted on 11/15/11:

DATE: July 29, 2012
Cedar Acres Association, Inc.

1) Removal of the 10 foot vegetative buffer:

We have concerns regarding how no one else around the lake is required to have the 10 foot buffer.

Cedar Acres Park is a non-sloped lot with grass to the shoreline. We feel that the reeds, cattails and lily pads offer a natural buffer, which mostly exists along the shore except the beach area. We would like this rule removed from the existing variance.

2) 75 Foot Setback and 300 Foot Road Setback:

We feel that the 75 foot setback is excessive. We have observed units around our lake and other surrounding lakes nearby that are parked closer than a 75 foot setback. We should have the same prerogatives as any other camping units in this area.

Pasturing livestock are only allowed a 50 foot setback. Livestock deposit a lot more run-off into the waters than a self-contained camper would, as well as a park like ours with a satellite.

We are also questioning the 300 foot road setback. No one has ever camped on the slope of the hill and probably never will. Before it was fenced in, we had trouble with 4-wheelers eroding that part of our park and now vegetation is growing back to its natural state. We have helped this area grow and improve itself. It seems unnecessary to have this measurement in the existing variance. We are asking for this to be removed.

3) Number of Units at the Park:

We have been compliant with the number of units allowed down at the park. We have kept it at 4 units or less at all times. All families have been abiding. We will NOT be seeking to apply for an additional two units from the Department of Health. We are under the understanding that Corinna Township will be amending this in the variance.

Township Variance

- If the applicants meet the standards of and are approved by the MN Department of Health as a campground, they are allowed up to 6 RVs, campers, fish houses or tents at any one time.
 - NOTE: The Corinna Town Board clarified at its December 6, 2011 meeting that this approval requires that the applicant meet whatever requirements may be imposed by the Department of Health in issuing a campground license/permit. The Town Board makes no specific requirements except that the applicants receive approval from the MN Department of Health.

Conditions what we would like amended :

- 1) The applicant must submit a plan for adequate sewage treatment. This may include submitting a copy of a contract with a portable toilet company for maintenance of a portable toilet on the site at all times when camping is occurring on the site. This documentation must be kept current and the portable toilet properly maintained at all times so as not to create a pollution problem.
- 2) The applicant shall ensure that RVs and tents meet a minimum lake setback of 75 feet at all times.
- 3) The applicant shall ensure that RVs and tents meet a minimum side-yard setback of 50 feet and a minimum road setback of 300 feet (or enough so that they are not located on the steep slopes leading up to the road) at all times.
- 4) The applicant shall create a 10-foot vegetative buffer along the shoreline that is to remain unmowed, between the lake and the lawn area, for permanent stormwater management.
- 5) The applicants shall designate a person to serve as the contact person with the Township.
- 6) Covered trash receptacles shall be on site and need to be emptied properly on at least a weekly basis.
- 7) No camping unit shall be located on the property for longer than seven (7) days at a time.
- 8) No fire rings shall be located within 50 feet of Cedar Lake.
- 9) The Township shall review, before January of every year, compliance with the above conditions.

Findings of Fact

- 1) Will the granting of the variance be in harmony with the general purposes and intent of the Corinna Township Land Use (Zoning) and/or Subdivision Ordinance?

- a) Yes. The spirit and intent of the ordinance is to limit uses in residential areas that would have an impact beyond what would be expected on a single residential lot or a number of residential lots in a neighborhood. Given the size of this parcel (approximately 5 acres and 450 feet of width), a density of one RV per 0.8-1.25 acres or one RV per 75-112.5 feet of shoreline frontage is not inconsistent with the allowance for one RV on a residential lot. Within about ¼ mile of this property, existing residential properties have an average width of about 63 feet and lot sizes that are much less than one acre in most cases.

- 2) Will the granting of the variance be consistent with the Corinna Township Comprehensive Plan?

Yes. The Corinna Comprehensive Plan identifies this property as "Shoreline Residential". This is defined as "A designation for shoreline properties already developed, or to be developed, residentially".

See the discussion in Findings of Fact 1), 3) and 5) about how the allowed use of this property for

TERMS

In order to settle the matters raised in the captioned Lawsuit and other matters in dispute between Plaintiffs and Defendants Township and Association relating to the Park, the parties agree to the following terms and conditions:

1. **Park Use Rules and Regulations.** The Association agrees to adopt the following additions and modifications to the Covenants and Restrictions (see attached Exhibit A):
- At the end of paragraph 1, add the following: "Pets shall not be left unattended, to prevent, among other things, howling dogs at the Cedar Acres Park."
 - Remove paragraph 14.
 - At the end of paragraph 15 (renumbered 14 because paragraph 14 has been renumbered), insert the following additional paragraphs:
 - 15. These Rules and Regulations shall be posted at the Cedar Acres Park and provided to all members of the Association.
 - 16. If a user of the Cedar Acres Park violates any of these Rules and Regulations, the Association may remove the user from the Cedar Acres Park and may also revoke the user's membership in Cedar Acres Association, Inc.
 - 17. Cedar Acres Park shall only be used by Association members or members of their immediate families, or persons who are accompanied by Association members or members of their immediate families.
 - 18. Cedar Acres Park shall create a 10-foot vegetative buffer along the shoreline that is to remain unmowed, between the lake and the lawn area, for permanent storm water management.
 - 19. No camping unit shall be located on the property for longer than seven (7) days at a time.
 - 20. No more than four (4) RVs, campers, tents, fishhouses or other units providing overnight sleeping accommodations shall be parked overnight on the Cedar Acres Park at any one time.

Amend?

Agreed on

Hereafter, the Rules and Regulations as modified pursuant to the foregoing are the "Modified Park Rules."

2. **Applicability of the Modified Park Rules.** Within 30 days of all parties signing this Agreement, the Modified Park Rules shall be: (a) adopted by the Association during a properly called meeting; (b) prepared in a form that shall be recorded in the Wright County real estate records as a deed restriction and burdening the Park; and (c) shall be

part of a Settlement Agreement approved by the Court in the Lawsuit and recorded in the real estate records as a Court Order.

3. **Amendments.** The Covenants and Restrictions, and Modified Park Rules may not be amended or vacated unless agreed to in writing by a majority of the Benefitted Parties.
4. **Names of Association's Contact Persons.** If any Plaintiff believes that there is a violation of the Modified Park Rules, the complaining party shall contact the Association to address the alleged violation. The Association shall provide Plaintiffs with the name and current phone numbers of the president of the Association and of at least one additional Association Board member for such contacts. In addition to the foregoing, if there is an alleged violation of the Modified Park Rules, all parties reserve their right to make any other contacts, calls or acts that are permitted by law.
5. **Camping Units.** The Association agrees that no more than "4" Camping Units shall be overnight at the Park at any one time. In addition, the Association agrees to waive its right for all time, pursuant to this Agreement, to seek approval from the Minnesota Department of Health or any other State, Local or Federal unit of government for an increase in the number of Camping Units.
6. **Benefitted Plaintiffs.** The Association agrees that the Covenants and Restrictions, and Modified Park Rules shall benefit the Plaintiffs. Plaintiffs shall have the right to enforce the Modified Park Rules and this Agreement by an action in the Wright County District Court.
7. **Township Approval.** Upon execution of this Agreement by all parties, the Corinna Township Planning and Zoning Commission and Board of Adjustment will consider a proposal to vacate its decision of November 15, 2011, and allow no more than four Camper Units at the Park. This reconsideration will be held after appropriate notice and in the manner that variance proceedings are normally held in Corinna Township. This Agreement is contingent on both such approvals.
8. **All Necessary Documentation.** Plaintiffs and the Association agree to execute all reasonable and necessary documentation to fulfill the intent of this Mediated Settlement Agreement, including without limitation a Stipulated Order or other recordable document as referenced in paragraph 1 above.
9. **Release and Dismissal of Action.** Upon completion of the acts contemplated by the foregoing two paragraphs: (a) each party shall release the other from all claims that were raised or could have been raised in the Lawsuit; and (b) all parties to the Lawsuit shall stipulate that all claims in the Lawsuit may be dismissed with prejudice and without costs or fees to any party.
10. **Counterparts.** This Agreement may be signed in counterpart, and a faxed or electronically scanned copy of an original signature is as binding as the original.

11. **Binding Agreement.** Except as expressly stated herein, this is a binding Agreement and contract, and pursuant to Minn. Stat. § 572.35, the parties were advised in writing that: (a) the mediator has no duty to protect the parties' interests or provide them with information about their legal rights; (b) signing a Mediated Settlement Agreement may adversely affect the parties' legal rights; and (c) the parties should consult an attorney before signing a Mediated Settlement Agreement if they are uncertain of their rights.

David Levi
Date: _____, 2012

Susan Levi
Date: _____, 2012

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

On this ____ day of _____, 2012, before me, a Notary Public for this County, personally appeared David Levi, who I know to be the person described in the foregoing instrument, and who acknowledged that he executed that instrument as his free act and deed.

Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

On this ____ day of _____, 2012, before me, a Notary Public for this County, personally appeared Susan Levi, who I know to be the person described in the foregoing instrument, and who acknowledged that she executed that instrument as her free act and deed.

Notary Public

Please read the variance application in its entirety before submitting the application. See the attached schedule of public hearings for relevant application deadlines. The full land use ordinance is available at the Town Hall and online at www.hometownplanning.com/corinna-township.html.

NOTE: Incomplete applications, as determined by the Zoning Administrator, will not be accepted or scheduled for a hearing. It is recommended that you work with the Zoning Administrator well before the application deadline to ensure that you have all required information so as to avoid delays in the hearing of your application.

Please complete all of the following questions:

1. Describe why you believe the granting of the variance request would be in harmony with the general purposes and intent of the Corinna Township Land Use and/or Subdivision Ordinance (available at www.hometownplanning.com/corinna-township.html).

See attached (Same from previous request)

2. Describe why you believe the granting of the variance would be consistent with the Corinna Township Comprehensive Plan (Plan available at www.hometownplanning.com/corinna-township.html).

See attached - (Same from previous request.)

3. Describe why you feel that your proposal is a reasonable use of the property.

See attached - (Same from previous application)

4. Describe what factors contributing to the need for a variance were not in your control. Address factors such as the lot size or shape, topography, location of existing buildings, sewer systems and wells, and any other factors you feel are relevant.

See attached - (Same as prev. application)

5. Describe the character of the area and why your project will not substantially change the character of the neighborhood or be a detriment to nearby properties.

See attached - (Same as prev. application)

6. Describe why it is not feasible for your project to meet the minimum requirements of the ordinance. What options did you explore that would minimize the variance necessary and why did you determine these were not feasible alternatives?

See attached - (Same as prev. application)

7. Discuss what impacts, if any, the requested variance may have on the environmental quality of the area. For any potential impacts, how do you intend to eliminate or minimize their effect?

See attached - (Revised) 7-29-12

8. Please include any other comments pertinent to this request.

See attached - Revised 7/29/12

Corinna Township Variance Application

Question # 1: We are not using this parcel for any commercial-recreational intent.

There will be no resort facilities, taverns, restaurants, golf courses or clubhouses, etc., listed in Section 612.8 dealing with “recreational campgrounds”

We are being consistent with the Township ordinance- Section 612.8 dealing with “Recreational Campgrounds”. Our park has nothing in common with the conditional uses listed under this Section 612.8. We solely use the park for recreational short term camping a few weekends out of the summer. The only ones who use the park are the members, their families and friends to get together. We do not harm this parcel, shoreline or the lake areas in any way. In fact, we are quite protective of it. The looks of the park have not changed much since it first started back in the early 70’s.

Question #2: We believe as park members that we will abide by the rules and regulations that we have drafted and make sure that each family that belongs to the park has the written Covenants and Regulations given to them. (A copy of the Covenants and Regulations attached). The park will be respected in every way. It has been maintained in the past and will continue to be cared for and valued by each of us. It has never been neglected. In fact, it has improved over the years, since we have fenced it in to keep vandalism and trespassors away. We, as members of the park have worked hard to put up “No Trespassing” signs and sturdy gates to keep the park from being ruined and vandalized. We have installed a port-a-biff that is cleaned regularly and used for when we camp down at the lake. It is

maintained by the park and checked often for pumping. We keep the lawn mowed and trees trimmed. We have 5 picnic tables to enjoy our recreational needs. We have 3 electrical hookups for electricity for our campers and or tents. There is a road leading to the beach area where we can unload our boats, etc into the water. We have a couple of docks to tie our boats on during the summer months. They are removed out of the water for winter. Each family has a key to the gate to get into the park. The 100 foot area coming into the park is open to those who do not belong to the park and live on this end of the lake. Those included are those that live on the opposite side of the road (not lakeside) from 75th Street down to 80th Street. It is not used by many. Cedar Acres Park maintains that 100 foot area as well. We have some members of the park grade the road coming into the park due to washouts from the rains.

Question #3: We have been using the park for the same privileges of camping and recreational activities since the early-mid 1970's. Nothing has changed. Park members camp, fish, swim and picnic on this parcel of land ever since it was given to us by FGR Addition. Being there is no other use for this parcel, it seems a perfect spot to establish a park/recreational area for the residents of Cedar Acres to enjoy.

Question #4: The main reason for a need for this variance is that the property was not zoned correctly from the very beginning. Historical versions of the County Map apparently are not on record. The March, 1974 version of the County Zoning Ordinance appears to be the relevant ordinance in force during 1975-76.

Question #5: There are no building projects/or changes taking place on this parcel of land. We only wish to continue with the usual camping activity that we have done so for the past 30 + years. We are not causing any damage/harm to the environment or land or lake area. We only wish to keep the same privileges and activities that we have had throughout these years. Nothing has ever been said to us for all these years until now, and it seems we should have some long-term improvised provision that should allow the park to continue as it has. The park does not change the character of its surroundings in any way. It has not changed its looks in all the years it has existed. This parcel is not an eyesore or abused in any way. We feel it is not a detriment to nearby properties. It is a very peaceful location.

Question 6: It seems it is hard to prove what the March 1974 version of the County Zoning Ordinance really had read. Knowing that records were not apparently kept, we were not aware of having to get a conditional use permit. If we would have to conform, what about all the other residents around the lake that have family and friends at their residential sites with more than 1 tent, camper, RV, etc.? Now that time has gone by and some residents have complained about the number of campers at the park, there has to be an answer to a problem and that is why we are applying for this variance to comply with, and try to resolve a predicament and make sure it does not come up again in the future.

Amended

Question 7: We feel that the amendments would not have any effect on Cedar Lake or the surrounding areas.

We would like to eliminate the 75 foot set back for the campers.

We have calculated approximately that from the lake to the service road that leads down to the beach is only 125 feet, which only gives us approximately 50 feet of available space to camp. We would like to see this measurement of 75 feet eliminated or decreased.

We have drafted a list of guidelines to follow and this was proposed by the park members regarding noise level, care and maintenance of our park and regular pumping of our satellite.

These guidelines are listed under our Covenant and Restrictions.

Question 8:

In finalizing our requests for asking for amendments to the variance, we would like to propose to eliminate the 10 foot vegetative buffer, eliminate or decrease the 75 foot setback for the camping units and also eliminate the 300 foot road setback, which

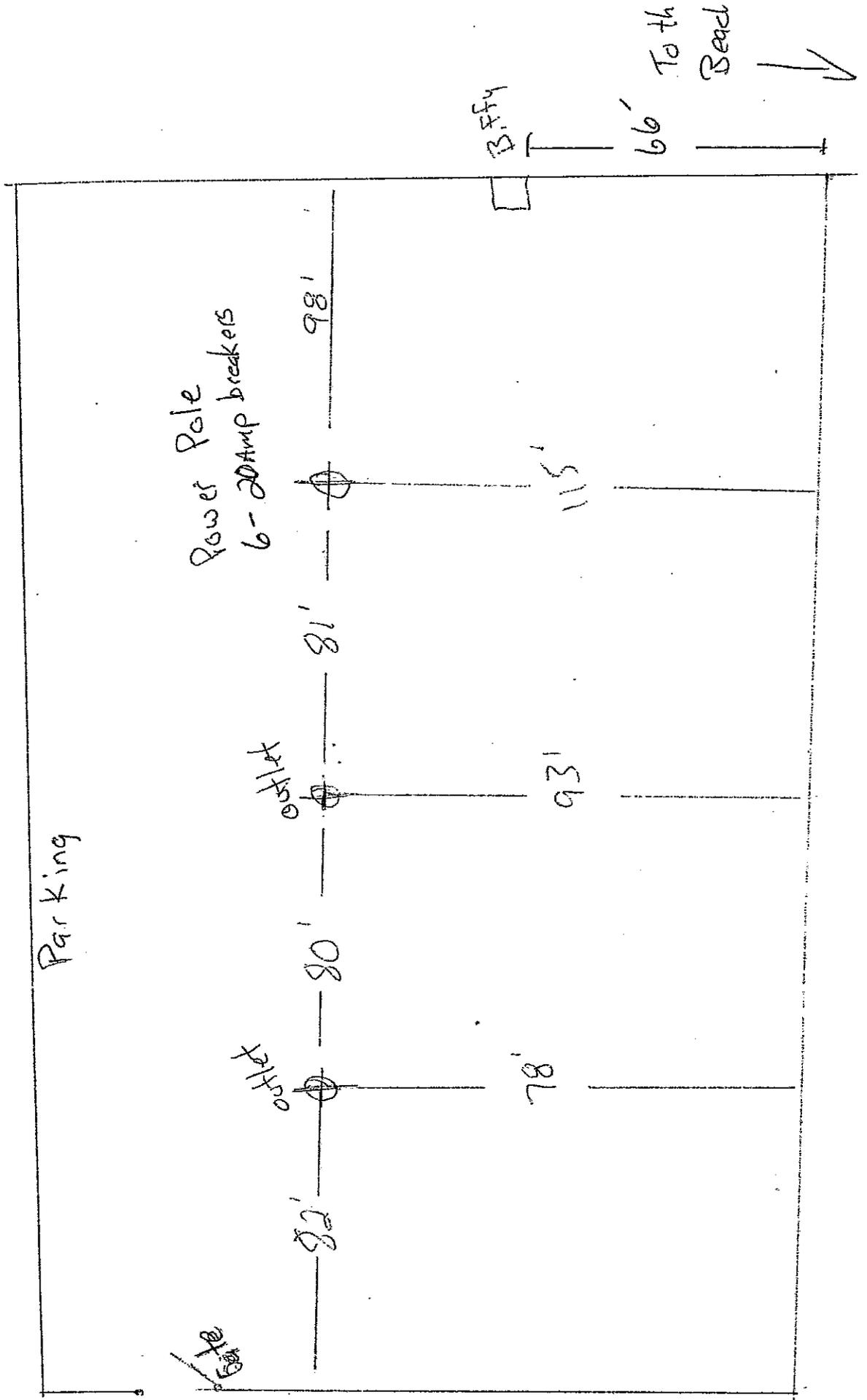
we feel is unnecessary due to the park members have not and will never camp on this slope.

We are complying with the limit of 4 units camping at Cedar Acres Park for any given time and intend to continue to do so. We will NOT be asking the Dept. of Health for an extension of any more units. Corinna Township will have this documented in the amended variance.

Cedar Acres Association, Inc.

Dated: July 29, 2012

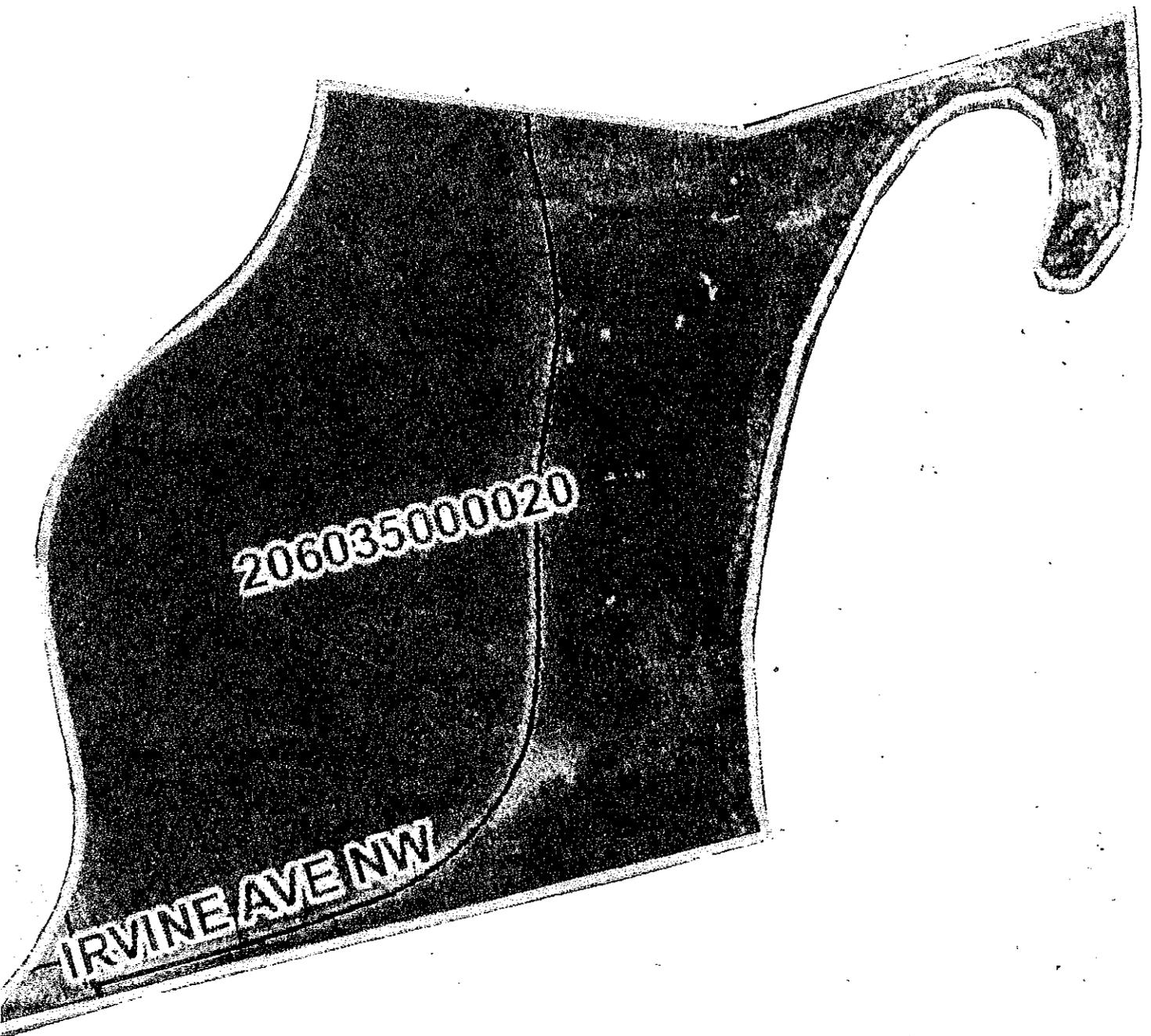
Cedar Acres Park

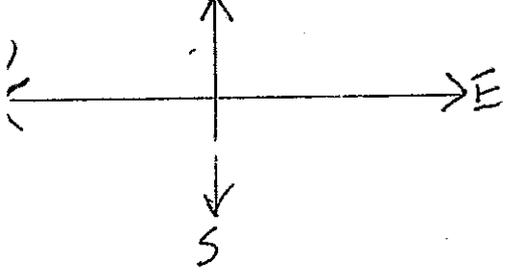


Calculations:

$$336' (B) + 304' (I) = 640' \div 2 = 320' \times 91' = 29,120' \div 12 = 2,426'$$

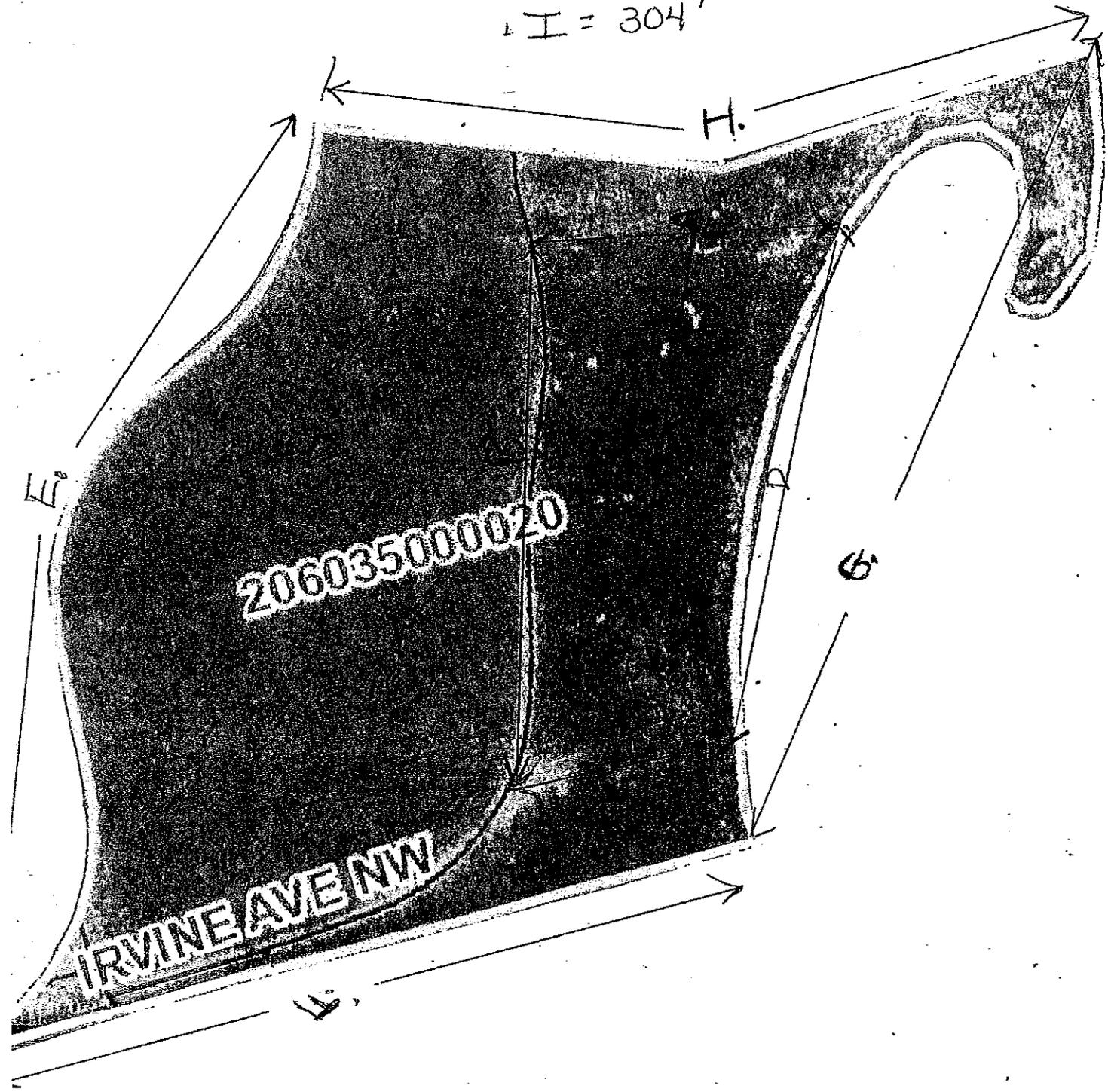
Approx. 50' x 50' sq. footage area per camper.





- A = 197' - 75' = 122'
- B = 336'
- C = 135' - 75' = 60'
- D = 273'
- E = 650'
- F = 543'
- G = 544'
- H = 477'
- I = 304'

$$\left(\begin{array}{l} 122' + 60' = 182' \\ \div 2 = 91' \end{array} \right)$$





STAFF REPORT

Application: Variance to construct a new dwelling served by a Type III sewage treatment system (Type I system required) involving Phase II of a previously granted conditional use/land alteration permit for additional fill.

Applicant: Steve and Maria Sanocki

Agenda Item: 4(b)

Background Information:

- Location:**
 - Property Address: Between 9531 and 9581 Jeske Ave NW, Annandale, MN
 - Sec/Twp/Range: 16-121-27
 - Parcel Number(s): 206031000320
- Zoning:** Urban/Rural Transition (R1) /Residential Recreation Shorelands (S-2) Overlay District, Clearwater Lake (General Development lake).
- Lot size:** Approximately 109 x 356.5 or 38,859 sq ft (0.89 acres) according to provided site plan.

Existing Impervious Coverage:

- Buildings: Approx. 1,667 sq ft (5.2%)
- Total: Approx. 5,271 sq ft (16.5%)

Proposed Impervious Coverage:

- Buildings: Approx. 2,929 sq ft (9.2%)
- Total: Approx. 6,717 sq ft (21.0%)

- Septic System Status:** The variance request involves installing a new Type III sewer system. The ordinance requires a Type I system, but that is not possible due to on-site soil conditions including fill (Type I systems are required to be built on natural soil) and a high water table/flood elevation.

- Natural Features:**

Floodplain: The property is within an identified floodplain. The regulatory flood protection elevation (RFPE) for Clearwater Lake is 997.7 feet (the elevation to which structures need to be constructed).

Bluff/Steep Slopes: The property does not contain any bluffs or steep slopes.

Wetlands: There do not appear to be any wetlands on the property that would impact the proposal.

- Proposal:** This application is related to an application heard in July 2011 for a conditional use permit to move in approximately 980 cubic yards of material for fill in two phases. The first phase involved about 650 cubic yards of material and was for the purpose of building a pad for the home that is now being proposed. The second phase was to be an approximate additional 320 cubic yards to put additional fill around the home now being proposed (to meet required floodplain elevations) and to raise the driveway (to meet required floodplain elevations). That figure will be

significantly less with the current proposal due primarily to the proposed home being smaller than had been anticipated in July 2011.

□ **Requested Variance:**

- Construct a new dwelling served by a Type III sewage treatment system (Type I system required)

Applicable Statutes/Ordinances:

Minnesota Statutes

462.357 (2011) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "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 the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Corinna Township/Wright County Regulations

502. APPEALS AND BOARD OF ADJUSTMENT

502.4 Findings

- (1) The Board of Adjustment must review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.
 - (a) The granting of the variance will be in harmony with the County Land Use Plan.
 - (b) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
 - (c) The plight of the owner is due to circumstances unique to the property not created by the owner.
 - (d) The proposal does not alter the essential character of the locality.
 - (e) The practical difficulty cannot be alleviated by a method other than a variance; and.
 - (f) The granting of the variance will not adversely affect the environmental quality of the area.

The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

2011 Minnesota Statutes

394.36 NONCONFORMITIES.

Subd. 5. Existing nonconforming lots in shoreland areas.

(a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

Staff Findings: The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

1) Will the granting of the variance be in harmony with the general purposes and intent of the Corinna Township Land Use (Zoning) and/or Subdivision Ordinance?

a) **Yes.** The spirit and intent of the ordinance (Type I sewer system for new construction), is generally to minimize the risk of a failing sewer system when a project involves new development on a lot. In this case, the proposed home is technically considered “new construction” because the pre-existing cabin was very small and in disrepair and did not have much property value as compared to the new home. However, the lot has existed in its current size for many decades and the inability of the applicants to install a Type I system is due primarily to the location of the lot in a floodplain and the previous use of fill on the lot. It appears that any new sewage treatment system on this lot – even if the previously existing cabin were only replaced and not expanded – would require a Type III or Type IV system. The Type III system designed for this lot is essentially the same as a Type I mound system except that it is raised so as to meet floodplain and other elevation requirements.

2) Will the granting of the variance be consistent with the Corinna Township Comprehensive Plan?

Yes. The Comprehensive Plan states the following as strategies to “Ensure that all Township properties are adequately and efficiently treating sewage, both for current residents and expected future population growth”:

- Require all on-site sewage treatment systems to strictly conform to state and county requirements for new and existing on-site sewage treatment systems.
 - Staff Comment: The applicants proposed sewage treatment system is designed so as to meet applicable regulations regarding sewage treatment and sewage systems in floodplain areas.

3) Is the proposed use of the property reasonable?

Yes. The applicant is requesting the construct a dwelling that is of reasonable size (1,460 sq ft footprint) as compared to others in the neighborhood and it will stay under the maximum allowed building coverage for the lot. The adjacent lots on either side are 1,200 sq ft and 2,317 sq ft respectively in their footprint. The proposed home will also meet all required setbacks.

4) Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

Yes. The need for the variances are created by the location of the lot in a floodplain and the soil conditions on the lot. The applicant had no control over either of these situations.

5) **Will the variance, if granted, alter the essential character of the locality?**

No. The site is already used residentially, as is the rest of the neighborhood. The proposed new home and sewer system will not add anything out of character with the residential setting. It will increase the amount of building visible from the lake compared to what existed previously, although the existing trees and shrubs will help minimize the effect.

6) **Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?**

No. The need for the variance is created entirely by the location of the lot within a floodplain and the existing soil conditions. A Type I sewer system would likely be less costly than the proposed Type III system.

7) **Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?**

No. Even if a smaller cabin were constructed on the lot, a Type III or Type IV system would likely be necessary. The only way to avoid the need for a variance is to not construct a home at all, which would not be feasible given the fact that the lot has been developed with a cabin for decades.

8) **Will the granting of the variance adversely affect the environmental quality of the area?**

No. With proper design and installation of a sewage treatment system, there is relatively minimal risk to the environment as compared to what would exist with a Type I system.

Board of Adjustment Direction: The Board of Adjustment may approve the variance request, deny the request, or table the request if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Recommendation: Based on the findings of fact and discussion listed above, Staff recommends that the variance be approved with the following conditions:

1. The applicant is granted an additional six (6) months to complete Phase II of the conditional use permit granted in July 2011 (beyond the 12 months granted originally).
2. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. This shall include repair and maintenance of the existing silt fence along the west property line along with any new installations of silt fence on downslope areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets or other forms of temporary cover until vegetation is re-established.

Application # _____	Date Application Rec'd ___/___/___ (for office use only)	Fee Collected \$ _____
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**CORINNA TOWNSHIP
VARIANCE APPLICATION**

Name of Applicant Steve + Maria Sanocki Phone 651 307-6236

Property Address (E911#) Between 9531-9581 Jeske Ave NW, Annandale, MN

Mailing Address 253 123rd Ave Local Phone _____
(if different than above) (if different than above)

City, State, Zip Hudson, WI 54016

Applicant is: _____ Title Holder of Property (if other than applicant) _____

Legal Owner	<input checked="" type="checkbox"/>	_____
Contract Buyer	<input type="checkbox"/>	(Name)
Option Holder	<input type="checkbox"/>	_____
Agent	<input type="checkbox"/>	(Address)
Other _____		_____
		(City, State, Zip)

Signature of Legal Owner(s), authorizing application (required) Steve M Sanocki
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): _____
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Property ID # (12 digit # beginning with 206-XXX-XXXXXX) 206-031-000320

Full legal description of property involved in this request, including total acreage or square footage (required – attach separate sheet if necessary):
Please see attachment A for full legal description
Total lot square footage (above OHW) = 31890 SF

Zoning District R1, S-2, Lake Name (if applicable) Clearwater Lake

- What type of variance are you requesting (check as many as apply)?
- | | | |
|---|--|---|
| <input type="checkbox"/> 1 per 40 Division | <input type="checkbox"/> Road Setback | <input type="checkbox"/> Building/Impervious Coverage |
| <input type="checkbox"/> Lot Line Adjustment | <input type="checkbox"/> Lake or River Setback | <input type="checkbox"/> Height of Structure |
| <input type="checkbox"/> Undersized Lot | <input type="checkbox"/> Side or Rear Line Setback | <input type="checkbox"/> Septic System Setback |
| <input type="checkbox"/> Appeal of Staff Interpretation | <input type="checkbox"/> Bluff Setback | <input checked="" type="checkbox"/> Other <u>Type III Septic System</u> |

What are you proposing for the property? State nature of request in detail: We are proposing to build a lake home. In order to build a dwelling on the old cabin site, we believe we will need your approval to install a type III septic system.

Please read the variance application in its entirety before submitting the application. See the attached schedule of public hearings for relevant application deadlines. The full land use ordinance is available at the Town Hall and online at www.hometownplanning.com/corinna-township.html.

NOTE: Incomplete applications, as determined by the Zoning Administrator, will not be accepted or scheduled for a hearing. It is recommended that you work with the Zoning Administrator well before the application deadline to ensure that you have all required information so as to avoid delays in the hearing of your application.

Please complete all of the following questions:

1. Describe why you believe the granting of the variance request would be in harmony with the general purposes and intent of the Corinna Township Land Use and/or Subdivision Ordinance (available at www.hometownplanning.com/corinna-township.html).

First, we are improving the land & septic system from what previously existed by bringing in fill in compliance with the flood plain regulations, as well as, installing the proper type of septic system. This type of system is recommended by Bernie Miller at MSTs which will prevent pollution into the ground water.

2. Describe why you believe the granting of the variance would be consistent with the Corinna Township Comprehensive Plan (Plan available at www.hometownplanning.com/corinna-township.html).

We are proposing to build within all the setbacks of the lake & property lines. By putting in a proper septic system, we are less likely to contribute to groundwater issues than what was currently in place. We are consistent with township regulations.

3. Describe why you feel that your proposal is a reasonable use of the property.

There has been a small cabin on the property for decades. We would like to build a retirement house on the land.

4. Describe what factors contributing to the need for a variance were not in your control. Address factors such as the lot size or shape, topography, location of existing buildings, sewer systems and wells, and any other factors you feel are relevant.

Per staff report dated July 7, 2011: "It may be that a type III septic system would require a variance (MN Statutes 394.36) that staff is researching this issue to see whether the fact that the lot has an existing dwelling changes this requirement"

5. Describe the character of the area and why your project will not substantially change the character of the neighborhood or be a detriment to nearby properties.

The character of the area is recreational shorelands, all nearby properties are occupied by lake homes.

6. Describe why it is not feasible for your project to meet the minimum requirements of the ordinance. What options did you explore that would minimize the variance necessary and why did you determine these were not feasible alternatives?

The lot is slightly undersized at 0.9 ac & the elevation is low for a type I sewer system. A type III is a more environmentally friendly sewer system for this property.

7. Discuss what impacts, if any, the requested variance may have on the environmental quality of the area. For any potential impacts, how do you intend to eliminate or minimize their effect?

By granting this variance, we will replace an outdated septic system & install a system that is in compliance and will be more environmentally friendly than the existing system.

8. Please include any other comments pertinent to this request.

ATTACHMENT A – Legal Description of Subject Property

That part of Lots Thirty-two (32) and Thirty-three (33), Clearwater Beach, according to the recorded plat thereof, Wright County, Minnesota, lying northwesterly of the following described line:

Commencing at the northeasterly corner of said Lot Thirty-two (32); thence southeasterly along the northeasterly line of said Lot Thirty-two (32), a distance of 108.97 feet to the southeasterly corner of said Lot Thirty-two (32) to the point of beginning of the land to be described; thence southwesterly deflecting to the right 122 degrees 54 minutes 54 seconds, a distance of 370 feet, more or less, to the shore line of Clearwater Lake and there said line terminates.



Stantec

Stantec Consulting Services Inc.

2335 Highway 36 West
St. Paul MN 55113
Tel: (651) 636-4600
Fax: (651) 636-1311

July 19, 2012

Mr. Ben Oleson
Zoning Administrator
Corinna Township
9801 Ireland Avenue NW
Annandale, MN 55302

Re: Steve & Maria Sanocki Property
Lot 32, Clearwater Beach
Wright County, MN
Pid#206-031-000320

Dear Ben:

This letter is a follow-up to our phone conversation we had on Tuesday, July 17, 2012. During our phone conversation I questioned what you were looking for related to submitting a permanent stormwater management plan (Condition #2 from the March 23, 2012 letter to Steve & Maria Sanocki). You indicated that it would be acceptable to show and include directional flow arrows on the 7/6/11 site plan prepared by Mr. Bernie Miller (MSTS WRM Services, Inc.).

At my direction, I have requested through Steve Sanocki to have Mr. Miller make the following changes to the 7/6/11 site plan:

- The north side of the proposed building will be 20' south of the northern property line (previously 16' south of the northern property line).
- The 2' high retaining proposed along the north property line will be eliminated (we will match into existing grades 4' south of the northern property line).
- Revise the current building footprint (footprint has been reduced in size).
- Update proposed building footprint areas.
- Show and label the highpoints that are proposed on the north and south side of the building.
- Include directional flow arrows on all side of proposed building.
- Include a 15" corrugated metal pipe (CMP) under the proposed driveway on the south side of Jeske Avenue NW within the right-of-way
- A 2% swale will be constructed near the northern property line that will route drainage from this and the northern lot to the proposed 15" CMP.

The above changes to the site will maintain existing water flows in the neighborhood; particularly water that flows from the north will not be hindered or affected from the proposed building construction. The water that is routed along the northern property line will be channeled southeast through the proposed 15" CMP and within the existing Jenske Avenue drainage ditch. Once in the Jenske Avenue drainage ditch the water is routed offsite per the attached drawings shown in attachment 1 and 2.

If you have any questions related to the proposed storm water management plan feel free to call me contact me at (651) 604-4905.

Sincerely,

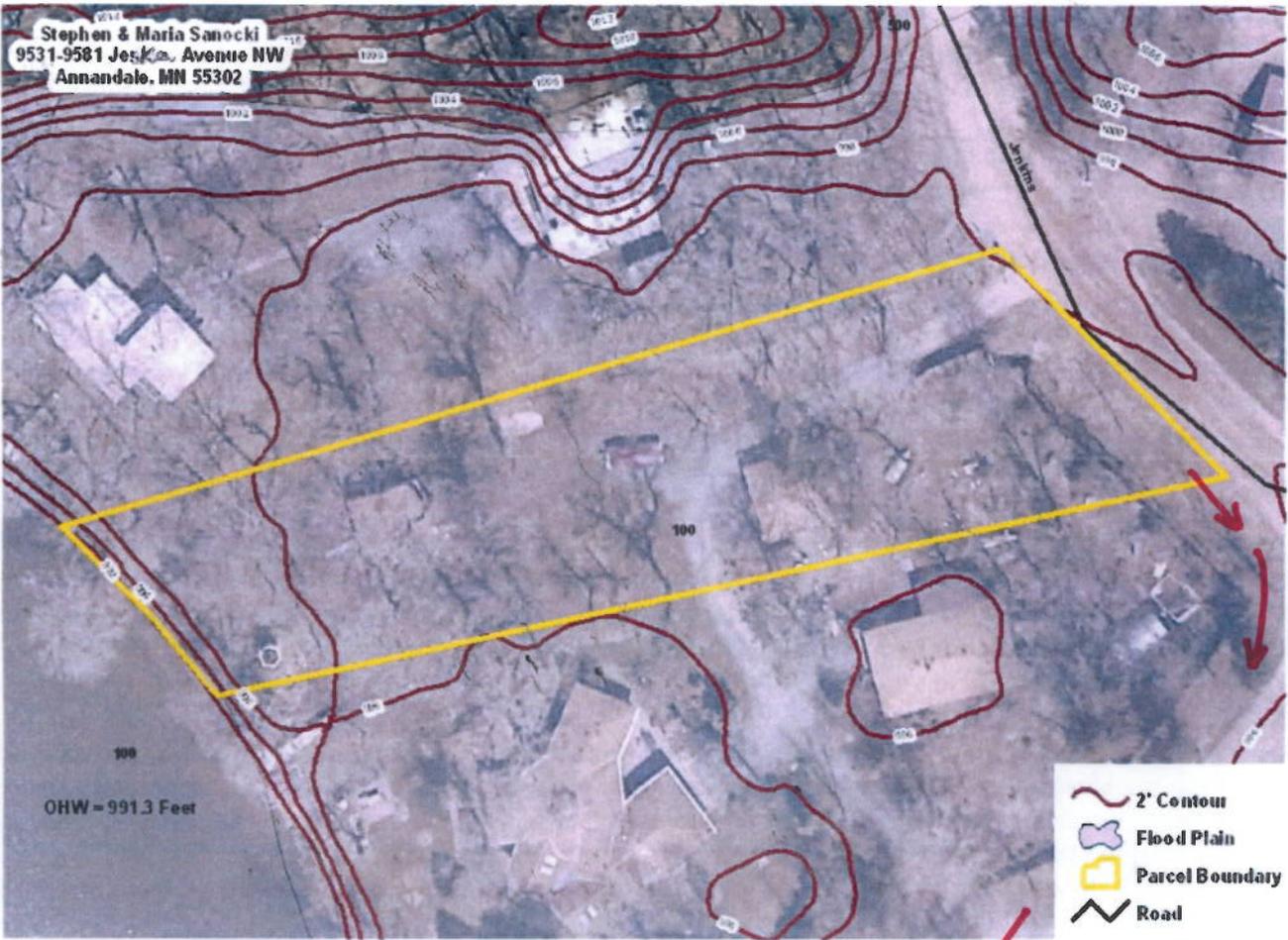
A handwritten signature in black ink that reads "David R. Sanocki". The signature is written in a cursive style with a large initial 'D' and a period at the end.

David R. Sanocki, P.E.
License Number 40973

Attachments

CC: Steve and Maria Sanocki
Bernie Miller

Sanocki Property



Stephen & Maria Sanocki
9531-9581 Jeska Avenue NW
Annandale, MN 55302

OHW = 991.3 Feet

- 2' Contour
- Flood Plain
- Parcel Boundary
- Road

1 inch equals 4.4 feet

Produced By: Wingate GIS, June 22, 2011

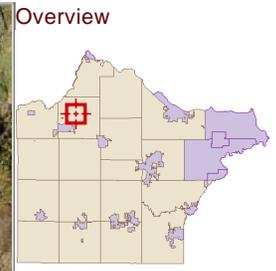
Approximate water flow path when leaving Sanocki property



Sanocki Property

© 2012 Google
Image USDA Farm Service Agency

Google earth



- Legend**
- Roads**
- CSAHCL
 - CTYCL
 - MUNICL
 - PRIVATECL
 - TWPCCL
- City/Township Limits**
- c
 - t
 - Parcels

Parcel ID	206031000320	Alternate ID	n/a	Owner Address	STEPHEN M & MARIA K SANOCKI
Sec/Twp/Rng	16-121-27	Class	151 - SEASONAL RES REC		253 123RD AVE
Property Address		Acreage	n/a		HUDSON, WI 54016
District	n/a				
Brief Tax Description	Sect-16 Twp-121 Range-027 CLEARWATER BEACH Lot-032 TH PRT OF LTS32&33LY NWLY OF FOL COM NELY COR OF LT32TH SELY ALG NELY LN108.97FT TO SELY COR OF LT32TO POB TH SWLY DEF R122D54'54"370FT M/L TO CLEARWATER LK&TERM				
	(Note: Not to be used on legal documents)				

Last Data Upload: 7/24/2012 1:17:35 PM

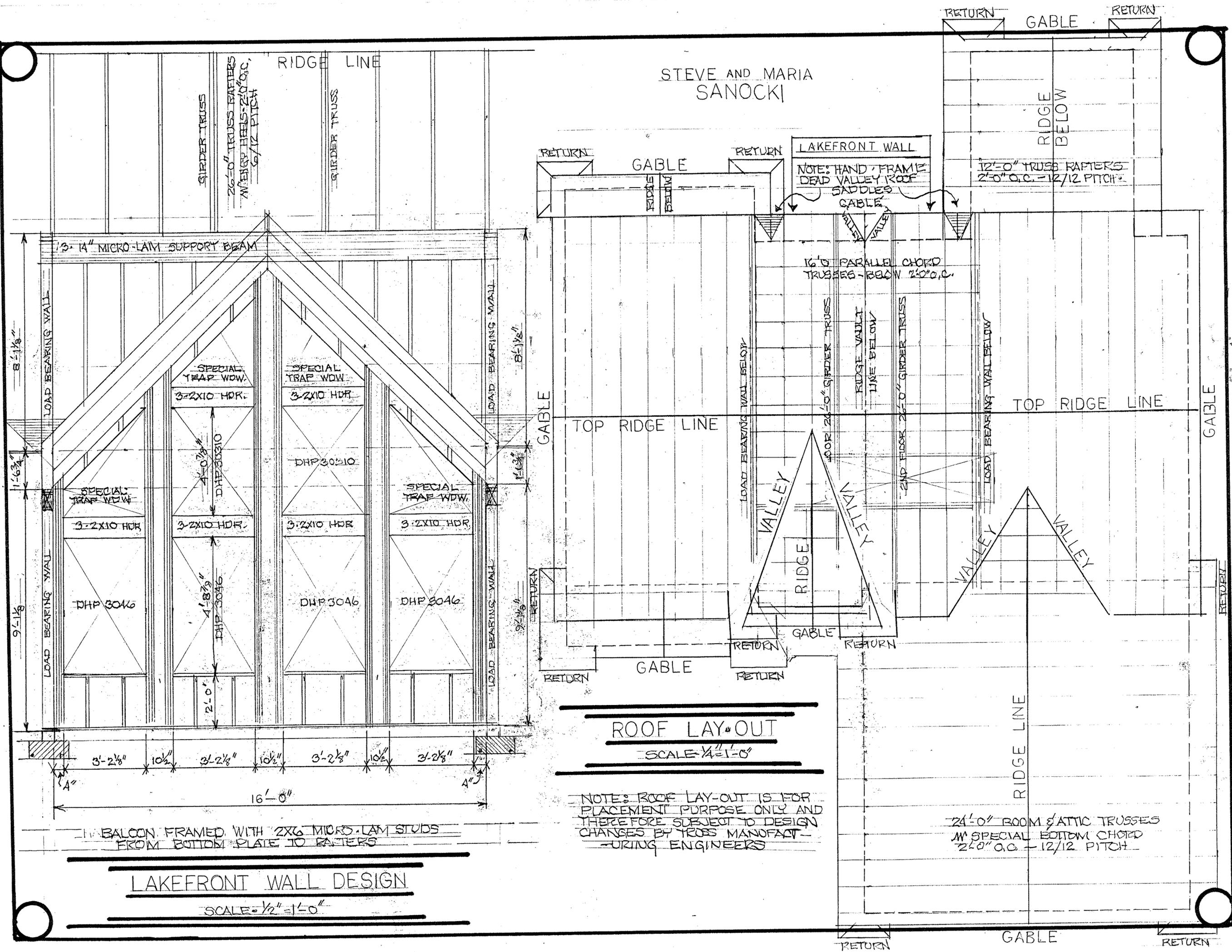


FRONT ELEVATION

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

STEVE AND MARIA
SANOCKI

STEVE AND MARIA
SANOCKI



ROOF LAY-OUT

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

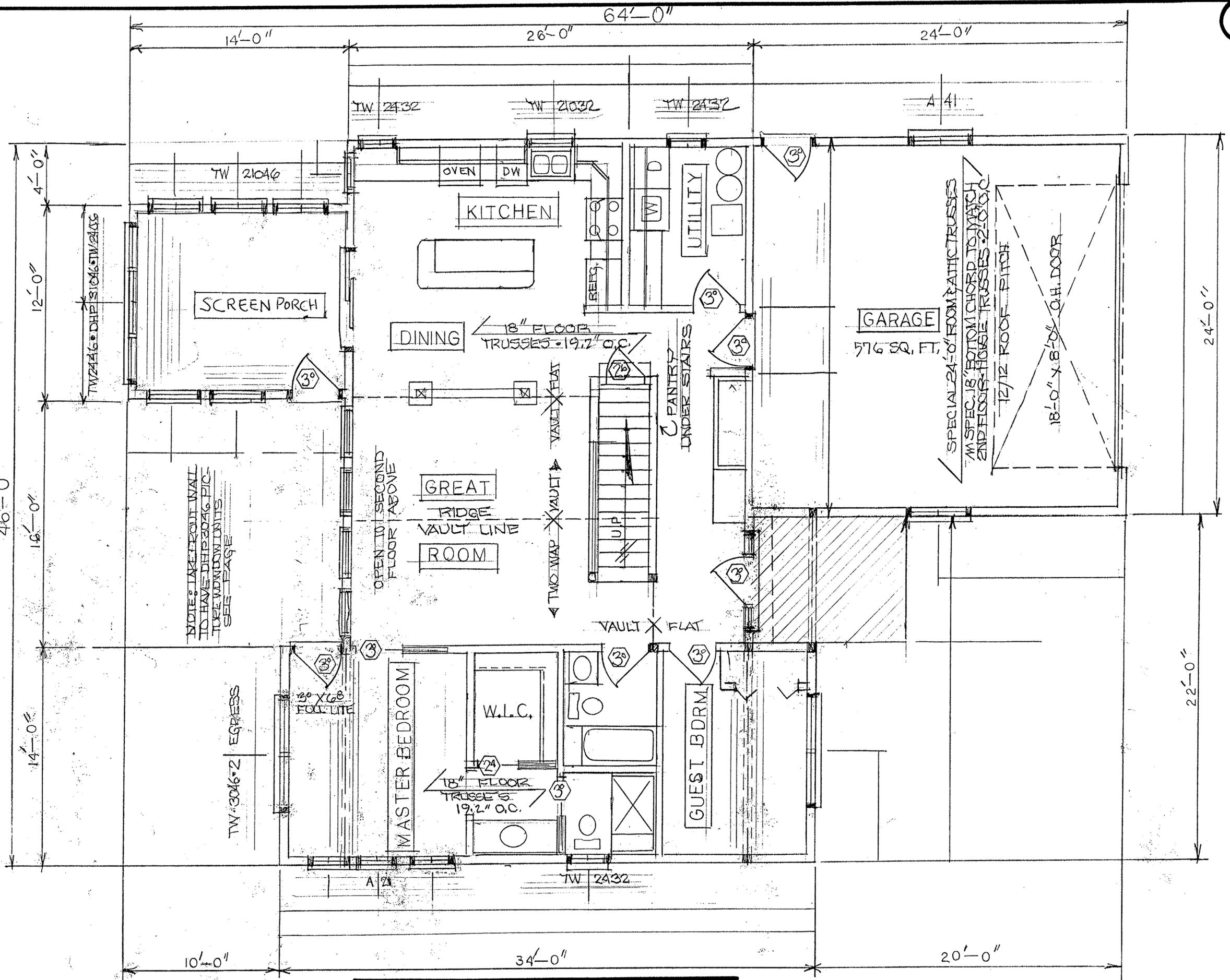
NOTE: ROOF LAY-OUT IS FOR
PLACEMENT PURPOSE ONLY AND
THEREFORE SUBJECT TO DESIGN
CHANGES BY TRUSS MANUFACT-
URING ENGINEERS

LAKEFRONT WALL DESIGN

SCALE = 1/2" = 1'-0"

STEVE AND MARIA
SANOCKI

46'-0"



NOTE: LAKEFRONT WALL
TO HAVE DHP 3046 PIC
TURE WINDOW UNITS
SEE PAGE

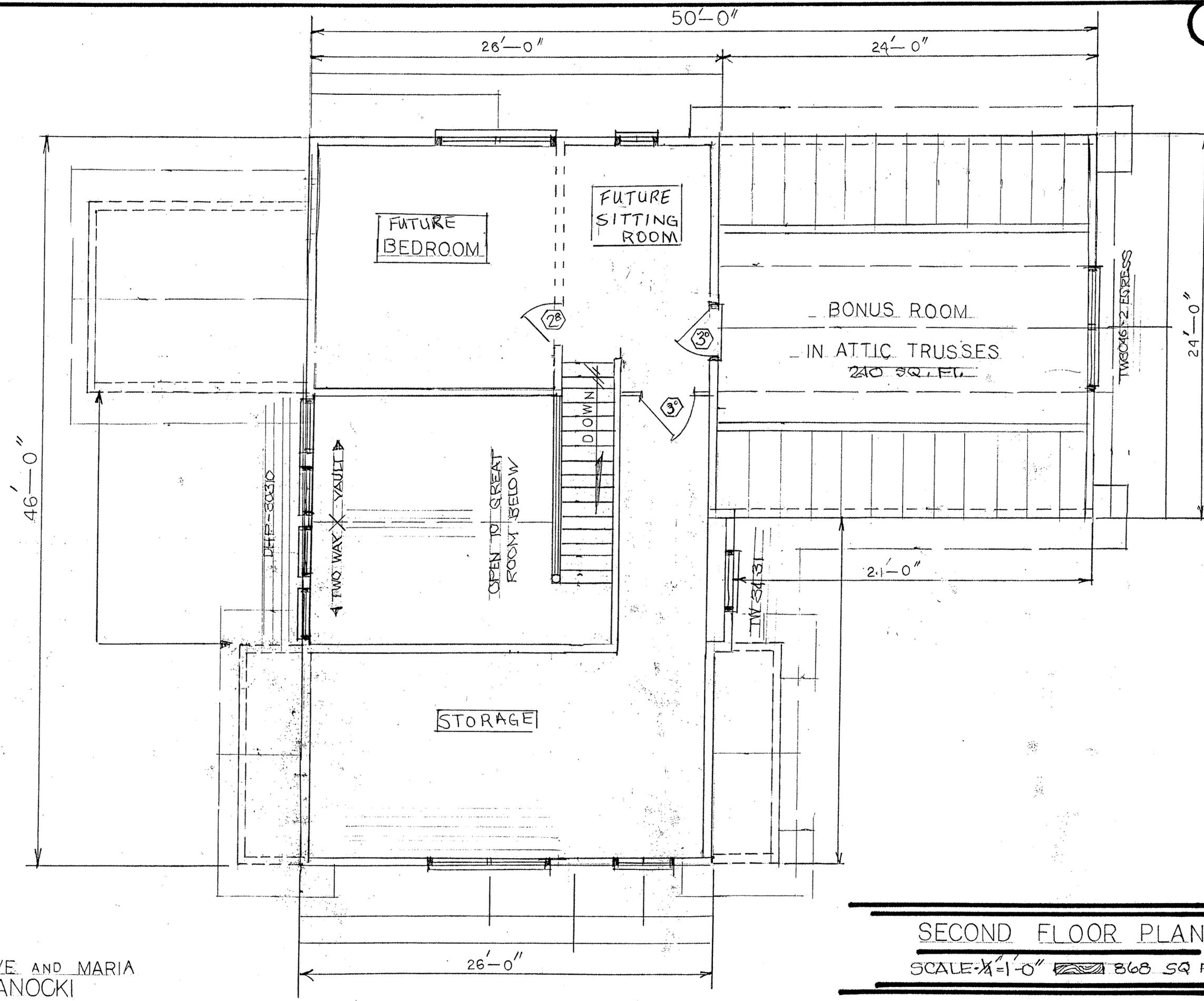
OPEN TO SECOND
FLOOR ABOVE

TWO MAP VAULT
VAULT FLAT

SPECIAL 24'-0" ROOM RATH TRUSSES
1" SPEC. 18" BOTTOM CHORD TO MATCH
2ND FLOOR HOUSE TRUSSES 21046
12/12 ROOF PITCH

MAIN FLOOR PLAN

SCALE - 1/4" = 1'-0" 1460 SQ. FT.



STEVE AND MARIA
SANOCKI

SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0" **868 SQ. FT.**

