
CITY OF LONG BEACH

ZONING MEETING PACKET FOR December 13, 2017



CITY OF LONG BEACH
AGENDA
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
December 13, 2017

6:30 PM

1. Call to Order
2. Roll Call
3. Additions or Deletions to the Agenda
4. Public Hearings
 - a. (Revised from tabled November application) Variance to construct an approx. 14' x 20' storage building approx. 1 ft from a public road easement (min. 30 ft required) and 45 ft from Lake Minnewaska (min. 75 ft required) and a patio addition (for future conversion to an enclosed structure) with associated grading/fill approx. 18 ft from Lake Minnewaska (min. 75 ft required) on a lot that exceeds impervious coverage limits.
 - i. Applicant: Kenneth Moe
 - ii. Property Owner: Moe & Gerdes Properties
 - iii. Legal Description: Lot 1, Block One, Torguson Addition
 - iv. Property Address: 23583 North Lakeshore Drive
 - v. Parcel number(s): 24-0280-000
5. Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Enforcement Actions
6. Other Business
7. Adjournment

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

STAFF REPORT

Application: (Revised from tabled November application) Variance to construct an approx. ~~16'-14'~~ x 20' storage building approx. 1 ft from a public road easement (min. 30 ft required) and ~~1645~~ ft from Lake Minnewaska (min. 50/75 ft required) and a 1,825 sq ft patio addition (for future conversion to an enclosed structure) with associated grading/fill approx. 18 ft from Lake Minnewaska (min. 50/75 ft required) on a lot that exceeds impervious coverage limits.

Applicant: Kenneth Moe

Property Owner: Moe & Gerdes Properties

Background Information:

- **Proposal:** The applicant is proposing to construct a new 14' x 20' storage building and a patio addition that would eventually be converted to an enclosed structure approximately 45 and 18 feet from Lake Minnewaska, respectively (min. 50 ft required).

The site is already over its impervious limit of 25% and the proposed additional structures would further increase the coverage. Current coverage is about 55-60%.

The application is a revision of the application that was tabled at the November meeting of the Planning Commission. The changes to the original plan were to move the proposed shed significantly further from the lake (from a 16-foot to a 45-foot lake setback) and closer to the road, such that a front yard setback variance is now required (1-foot setback vs required 30-foot setback).

The revision also includes additional information on how the proposed patio would be constructed from pervious pavers so as to minimize the impact of the additional impervious surface on the lot and additional information on the size of the proposed patio (1,825 sq ft as measured to the foundation, 1,701 sq ft as measured to the overhang of the roof).

The applicant summarizes the changes as follows:

1. Storm Water Management -
 - a. I'll add Rain Gutter on existing building along new patio and extend drain to rain garden
 - b. I will install a Permeable Paver system
 - c. The installation and base set up will be a Permeability Subgrade, Permeable Base (Typically #2 Aggregate), Permeable Base (Typically #57 Aggregate), Drainage Aggregate (Typically #8 Aggregate) & Permeable Paving Stones.
 - d. The Patio Lakeside Edging will be as recommended by the professional landscaper. Drawing shows a Concrete Curbing but I'll review with Contractor to see what is recommended to lock in paving stones.
 - e. I'll have a ICPI & PICP installer put system as recommended by Alex Brick & Stone
2. Patio Addition Square Footage - 1825 Square Feet with an outdoor bar area roughly 10'x10' and overhead Pergola

3. Alternate Shed Location - Change to a 14'x20' in size [from 16' x 20' in original application]
 - a. I met with Brian the County Engineer and he would like to maintain the 33' easement.
 - b. From the center of the center yellow line we have a little over 48 feet to the building and this includes going up and over the sidewalk.
 - c. So I'm proposing a 14' wide shed and putting it up on the side walk closer to the building. This will allow a little over a foot between the road easement and new shed.
 - d. This will be located further off the road than the High Line Poles and Existing City Sewer Grinder Station

- **Location:**

- Applicant: Kenneth Moe
- Property Owner: Moe & Gerdes Properties
- Legal Description: Lot 1, Block One, Torguson Addition
- Property Address: 23583 North Lakeshore Drive
- Parcel number(s): 24-0280-000

- **Zoning:** RC - Residential/Commercial

- **Lake Designation:** General Development (Lake Minnewaska)

- **Parcel size:** Approximately 1.8 acres (from survey) – approx. 1.2 acres is located outside of the County Road right of way.

Applicable Statutes/Ordinances:

Minnesota Statutes

462.357 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.

Subd. 1e. Nonconformities.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

City of Long Beach Zoning Ordinance

SECTION 9 - RC RESIDENTIAL & COMMERCIAL TRANSITION DISTRICT

9.06: LOT AREA AND SETBACK REQUIREMENTS. The following minimum requirements shall be observed in the RC District **subject to additional requirements, exceptions and modifications set forth in this Ordinance.**

B. Principal Structure Setbacks:

7. Minimum Structure Setback from Ordinary High Water (OHW) mark: Seventy-five (75) feet.

9.07: LOT COVERAGE AND HEIGHT. The following requirements shall be observed in the RC District:

- A. The ground area of single family detached dwellings, including detached garages, and single-family attached dwellings not exceeding four housing units shall not exceed twenty-five (25) percent lot coverage.
- B. The total ground area of all other permitted residential buildings excluding single family detached dwellings and single-family attached dwellings not exceeding four housing units shall not exceed forty-five (45) percent lot coverage.
- C. **The total ground area of a commercial structure, including accessory buildings, shall not exceed seventy-five (75) percent lot coverage.**

SECTION 28 - SHORELAND MANAGEMENT OVERLAY DISTRICT

28.05: ZONING, WATER SUPPLY AND SANITARY SEWER PROVISIONS.

B. Placement, Design, and Height of Structures.

1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

a. Structure and On-site Sewage System Setbacks from Ordinary High Water Level*.

Classes of	Setbacks (in feet)*		
	Structures	Sewered	Sewage Treatment System
Public Waters	Unsewered		
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50

*One water-oriented accessory structure designed in accordance with Section 28.05 Letter B Number 2 of this Chapter may be set back a minimum distance of ten (10) feet from the ordinary high water level.

d. Uses Without Water Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria For Structures.

a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows.

(1) For lakes, by placing the lowest floor at a level at least three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher.

(3) Water oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

b. Water Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 28.05

Letter B Number 1 of this Chapter if this water-oriented accessory structure complies with the following provisions.

- (1) The structure or facility must not exceed ten feet (10') in height, exclusive of safety rails, and cannot occupy an area greater than two hundred and fifty (250) square feet. Detached decks must not exceed eight feet (8') above grade at any point.
 - (2) The setback of the structure or facility from the ordinary high water level must be at least ten feet (10') and not in the bluff impact zone.
 - (3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
 - (4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
 - (5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
 - (6) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty feet (20') as measured parallel to the configuration of the shoreline.
3. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed thirty-five feet (35') in height.

E. Stormwater Management. The following general and specific standards shall apply.

2. Specific Standards:

- a. Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) **Current Zoning:**

- Subject Property: RC - Residential/Commercial
- Surrounding Properties:
 - North: RC - Residential/Commercial
 - South: LD - Low-Density Residential
 - West: CD - Conservation, Parks and Open Space

- East: None (Lake Minnewaska)

2) Current Land Use:

- Subject Property: Bar/Restaurant
- Surrounding Properties:
 - North: Resort
 - South: Residential PUD
 - West: Lake (Shallow Pond)
 - East: Lake (Lake Minnewaska)

3) Lot size: Approx. 1.8 acres total (approx. 1.2 acres not including the County Road)

- Existing impervious surface: Approx. 55-60% (estimated from aerial photo)
- Proposed impervious surface: Approx. 55-60% (more than existing)

4) Sewer/Water: The property is served with City sewer and private water.

5) Natural Features:

- Floodplain: There are no mapped floodplains in the City of Long Beach. DNR regulations indicate that the lowest floor of structures be at least three (3) feet above the highest known water level of the lake. In this case, the lowest floor would need to be at an elevation of 1142.68 (1139.68 + 3 ft).
- 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 except those associated with the shoreline or lake itself.

6) Will the granting of the variance be in harmony with the general purposes and intent of the Zoning and/or Subdivision Ordinance?

The general intent of the 75 ft lake setback is to preserve more natural views from the lake, to allow for management of stormwater running off buildings and to protect buildings from damage to near-shore areas from ice pushes or wave action. The intent of the 25% impervious surface limit is to protect water quality by allowing space for water to infiltrate into the ground or be filtered through vegetation before it enters the lake.¹

The proposed setback of 45-foot setback from the lake for the storage building and 18 feet for the patio structure would not seem to meet the intent of the ordinance in that it would place structures very close to the lake. However, the existing bar/restaurant structure is also very

¹ The City's ordinance identifies a 75 ft minimum setback from the ordinary high water level of the lake in the RC district and a 75% limit for impervious coverage for commercial uses. Section 28.05, however, relates to the shoreland districts and allows for a 50 ft lake setback when the lake is sewered and a maximum 25% impervious coverage regardless of the use being commercial or residential. Staff has adhered to the more restrictive of the standards in each case (75 ft lake setback, 25% impervious limit) in the writing of this staff report. Generally, when there is conflict, the more restrictive of the standards applies (Section 1.02.A of the Ordinance states "Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the Ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail."). Arguably however, the 50 ft lake setback could be what applies, but regardless, the proposal does not meet either a 50 or 75 ft lake setback.

close and has been “grandfathered” in as a legal nonconformity. There is also very limited space on the property that would meet the setback requirement and serve the desired function. As such, the proposed uses would not have much additional impact on the view of the buildings/property from the lake. However, stormwater management would need to be implemented to achieve the intent of the ordinance for larger setbacks.

The proposed increase in impervious coverage on the lot is inconsistent with the ordinance in that the existing coverage already greatly exceeds the maximum allowed. Given that all of the existing impervious coverage, however, is a legal nonconformity in that it pre-existed the ordinance requirements, it may be possible to argue that adding additional impervious would be consistent with the ordinance provided that an equal amount of impervious that is being added is reduced elsewhere on the lot. The applicant has not proposed this “trading” of impervious coverage however, and it appears unlikely that they would be able to do so without losing needed parking area. Instead, the applicant has proposed constructing the new patio (which would now be the only new impervious on the lot after the location for the proposed shed has been changed to an area already covered by impervious surface) from pervious pavers so that the potential impact of the additional impervious will be mitigated to some degree by allowing water to soak in between the paver stones.

7) Will the granting of the variance be consistent with the City of Long Beach’s Comprehensive Plan?

The Comprehensive Plan does not directly address applications such as these.

8) Is the proposed use of the property reasonable?

The requested variance is reasonable in that it is not unusual for a owner of a lakeshore-oriented restaurant/bar to seek additional outdoor seating areas and storage building area for equipment, etc. related to the business. However, the site already greatly exceeds the impervious limits allowed as well as the minimum setback requirements and any worsening of these situations could be deemed unreasonable.

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

The need for the variance would appear to primarily be related to the shape of the lot, and the pre-existing nature of the business and buildings on the property. However, the applicant is also asking for more building and closer setbacks to the lake that has historically existed.

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

The use of the property would remain very similar in character to what already exists. It would place more structure within the lake setback and further increase impervious coverage, however, which could be deemed a change in character.

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

Economic considerations do not appear to play a significant factor in the requested variance, except in relation to the potential for increased business if the bar/restaurant addition is allowed. They have more to do with the location of the existing building, the size/shape of the lot and the historical use of the property prior to zoning requirements.

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

In order to avoid the need for the variance, the applicant would need, at a minimum, to have no net increase in impervious coverage. The lake setback variance appears to be unavoidable if it is to achieve its intended purposes.

Planning Commission/City Council Direction: The Commission/Council may approve the request, deny the request, or table the request if it should need additional information from the applicant. If the Commission/Council should approve or deny the request, it should state the findings which support either of these actions.

Staff Recommendation: Based on the findings noted above, Staff would generally recommend denial of the request given that it is making an already nonconforming situation even more nonconforming.

If the application is approved, Staff had recommended the following conditions of approval in the original staff report:

1. (Option 1) That an equal amount of impervious coverage that is proposed for addition to the property, be removed elsewhere from the property.

OR

(Option 2) That a stormwater management plan be implemented on the property, as designed by a professional, to manage at least a 1" rain from impervious surfaces on the lot equal to at least 2 times the square footage being added.

2. That the lakeside addition to the building be limited to an open patio or deck, and not be allowed to be roofed (except for the use of temporary awnings or pergola-type structures).
3. That the storage building be located no closer than ~~25~~37.5 feet from the lake (i.e. out of the "shore impact zone" as defined by DNR regulations).

The applicant's revised proposal would not eliminate impervious elsewhere on the lot, but is proposing the installation of a rain garden and paver patios that would be designed to infiltrate water instead of having it run directly toward the lake. This has not been engineered to handle a specific amount of rainwater – just to be able to infiltrate more than would otherwise occur.

The applicant has agreed to meet the other two conditions listed above, although the City may wish to leave them in to ensure it is clear what the expectations are.



Rain Gutter

Rain Garden

BAR

Patio Addition

30'

10'

10'

29'

28'

51'

85'

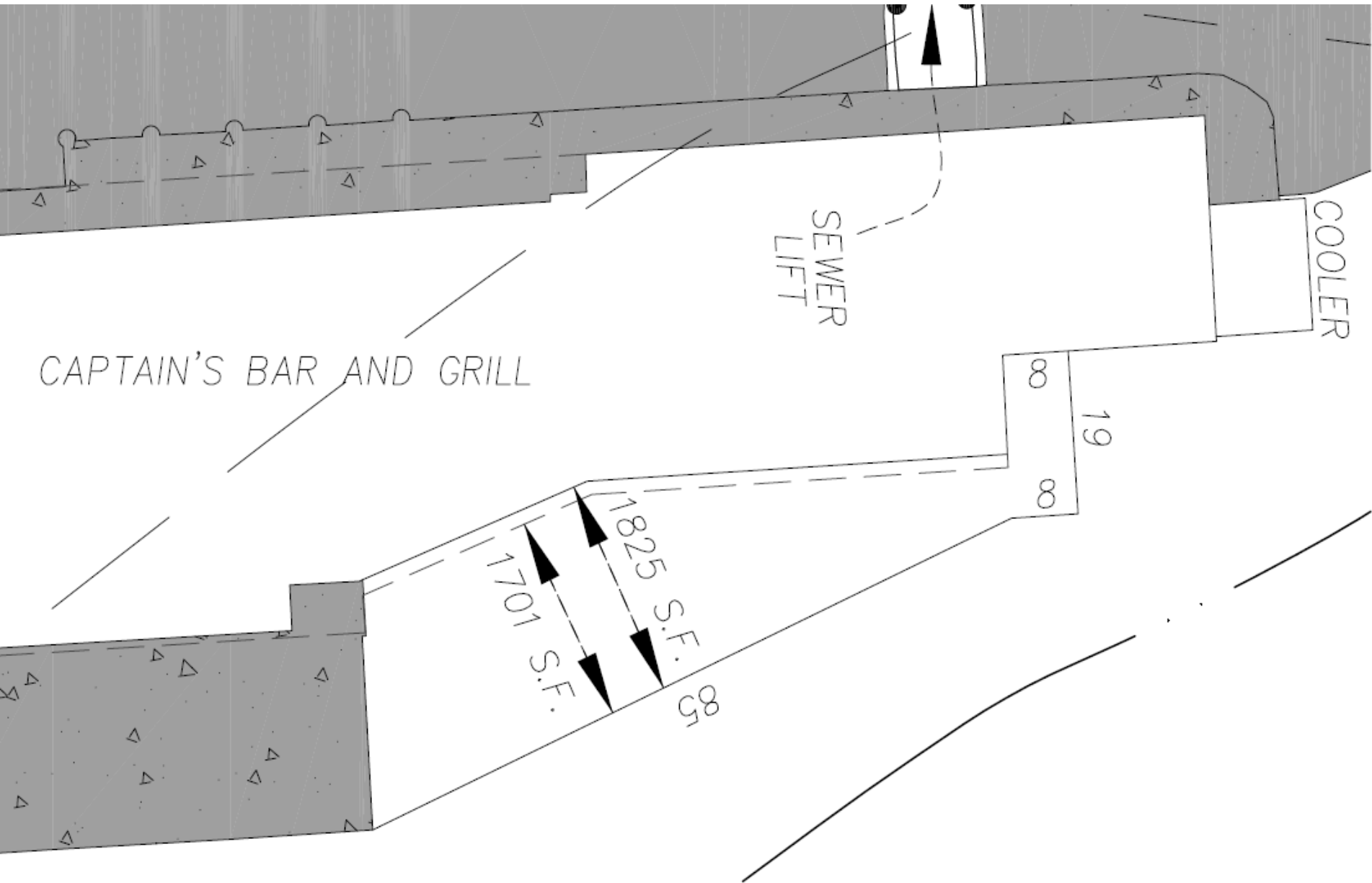
8'

8'

8'

19'

Patio Expansion to be 1825 Square Feet



Shed Location – End of the building to the left of the 2 poles.

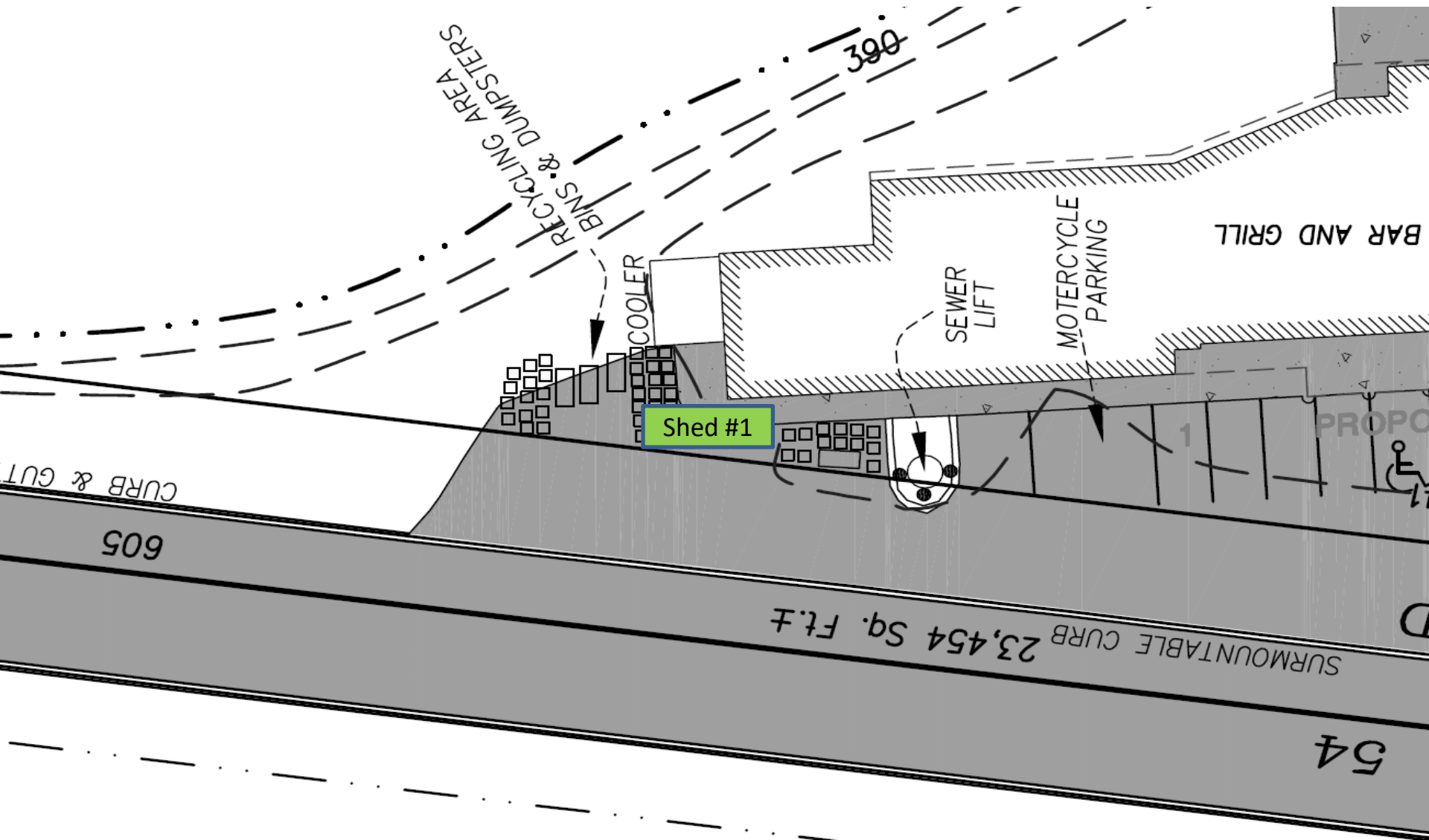


14 x 20

N Lakeshore Dr

N Lakeshore Dr

Going to a 14'x20' Shed to stay out of 33' Road Easement.

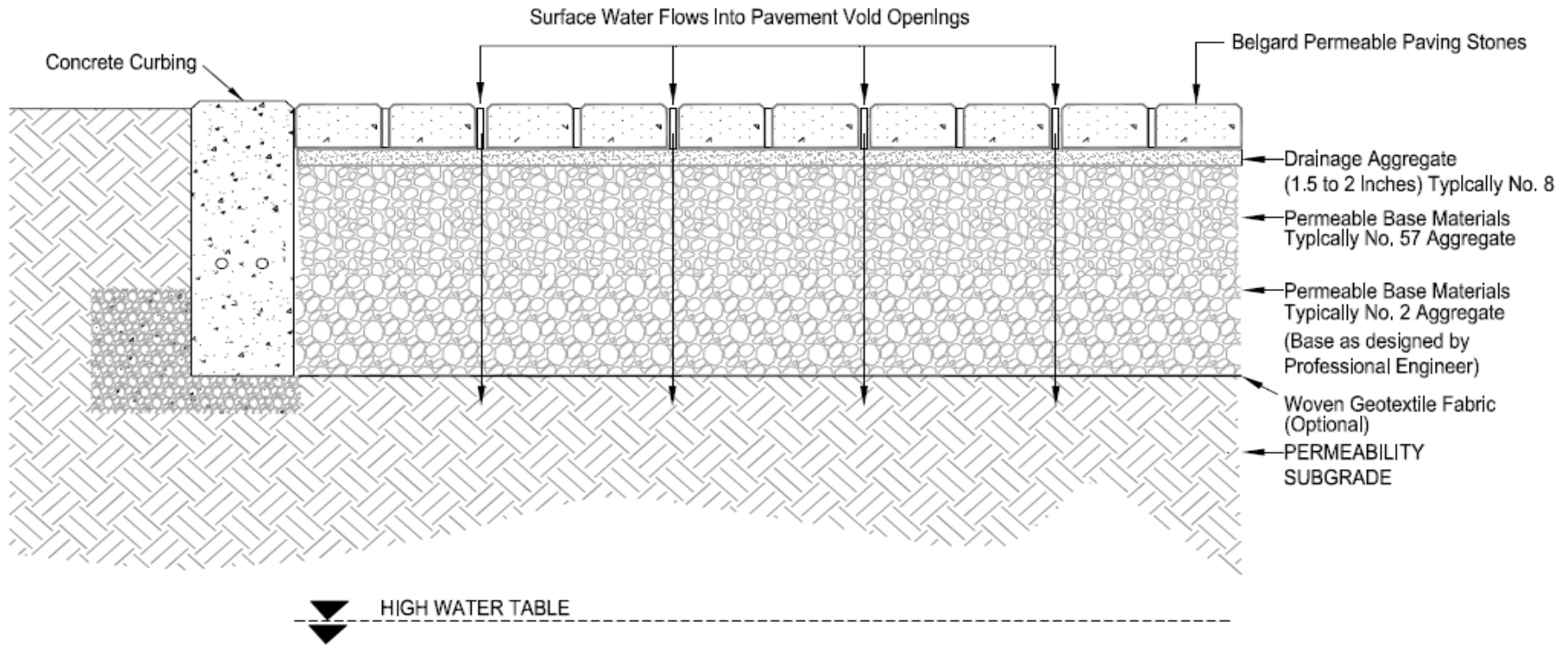


This came from Tom at LandTeam

PERMEABLE PAVERS

BELGARD PERMEABLE PAVER DETAIL

Direct Infiltration Into Permeable Subgrade



This cross section drawing is intended for preliminary design purposes only. The actual structural design and site evaluation should be performed by a qualified Professional Engineer.



BE PREPARED FOR COMPANY™

I spoke to Alex Brick & Stone and they said I should have a ICPI & PICP Course & Installer Certified business (Highlighted Ones Below) put the paver system in so it is done correctly.



Landscaping Contractors

All Landscapers on list have completed the Alex Brick & Stone Installer Course.

* = ICPI Installer I Certified

** = PICP Course Completed

CONTRACTOR NAME	CONTACT	AREA	PHONE NUMBER
A&A Landscaping	Tony Ruud	Elbow Lake	(218) 770-8396
Alex Irrigation & Landscaping *, **	Connie Krohnfelt	Alexandria	(320) 852-7595
All Around Companies *	Pete Anderson	Alexandria	(320) 260-4471
Braaten Masonry	Brett Braaten	Starbuck / Glenwood	(320) 424-2615
Brundell Landscaping *, **	Gary Brundell	Alexandria	(320) 760-9481
Creative Environments *, **	Matt Kelly	Alexandria	(320) 815-4047, (320) 834-2800
Creative Landscapes *, **	Scott Giroux / Dave Klein	Alexandria	(320) 760-6002, (320) 760-1811
Dynamic Landscapes *	Ben Johnson	Garfield	(320) 815-2776
H & H Landscaping	Kent Huisman	Evansville	(320) 834-4568
Landscapes Design & Installation **	Jesse Bugher	Alexandria	(320) 808-9997
Lanoue, Todd	Todd Lanoue	Glenwood	(320) 808-3095
Lawn & Limb Landscaping	Ben Huvsby	Richville	(218) 495-2129
North Country Lawns *, **	Mark Jacobs	Fergus Falls	(218) 739-2610
Outdoor Living & Landscaping	Pat Bunnell	Alexandria	(320) 805-0367
Outdoor Renovations *, **	Matt Hoen/Rick Jacob	Underwood	(218) 826-6623
Rosengren Lawn Care & Landscaping **	Ryan Rosengren	Alexandria	(320) 815-3217
Ultimate Landscapes & Design, LLC *, **	Andrew Gabrielson	Alexandria	(320) 808-3645