



Building Services

W240N3065 Pewaukee Road
Pewaukee, WI 53072
(262) 691-9107 Fax (262) 691-6039

ZONING BOARD OF APPEALS MEETING NOTICE AND AGENDA

Tuesday, February 19, 2019

6:00 PM

Common Council Chambers ~ Pewaukee City Hall
W240 N3065 Pewaukee Road ~ Pewaukee, Wisconsin

-
1. Call to Order and Pledge of Allegiance
 2. **DELIBERATION** and Possible Action Regarding the Petition of **TYLER J. PINTER** for the Property Located at **W267N2965 PETERSON DRIVE** (PWC 0930-026) Previously Heard on Wednesday, February 13, 2019 for the following:
 - 2.1 **Section 17.0411** to allow side yard setbacks of 5.2 feet from the north property line and 3.0 feet from the south property line, opposed to the RS-7 District minimum side yard setback of 8.0 feet for a two story dwelling
 - 2.2 **Section 17.0410e(4)** to allow for the sum total of the first floor area of the principal building and all accessory buildings to exceed 30 percent of the lot area
 - 2.3 **Section 17.0435f** to allow a principal building to be located within 75-feet of the floodplain boundary
 - 2.4 **Section 17.043c(5)** to allow a building/structure to be located within 75-feet of the floodplain boundary
 - 2.5 **Section 17.0436d** to allow for an increased in lot coverage

PLEASE NOTE:

NO ADDITIONAL TESTIMONY WILL BE ADMITTED AT THIS TIME.

3. Adjournment

Kelley Tarczewski
Clerk/Treasurer

February 15, 2019

NOTICE

It is possible that members of other governmental bodies of the municipality may be in attendance to gather information that may form a quorum. At the above stated meeting, no action will be taken by any governmental body other than the governmental body specifically referred to above in this notice.

Any person who has a qualifying disability under the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible format must contact the Building Services office, at (262) 691-9107 by 11:00 a.m. the Monday prior to the meeting so that

arrangements may be made to accommodate your request.

**CITY OF PEWAUKEE
ZONING BOARD OF APPEALS AGENDA ITEM 2.**

DATE: February 19, 2019

DEPARTMENT: PRCS - Zoning Appeal

PROVIDED BY:

SUBJECT:

DELIBERATION and Possible Action Regarding the Petition of **TYLER J. PINTER** for the Property Located at **W267N2965 PETERSON DRIVE** (PWC 0930-026) Previously Heard on Wednesday, February 13, 2019 for the following:

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Pinter Request

Pinter Staff Report

Stone Letter

Pinter Photos

Matt Photos

City of Pewaukee Zoning Board of Appeals
W240 N3065 Pewaukee Road
Pewaukee, WI 53072

December 20, 2018

Dear City of Pewaukee Zoning Board of appeals,

The letter is to request the grant of variances' for our proposed home located at W267N2965 Peterson DR Pewaukee. The variance request pertains to the Rs-7 Single-Family Residential District, F-1 Floodplain District and SO Shoreland Overlay District

Section 17.0411 to allow for side yard setbacks of 5.2-feet (north side) and 3.0-feet (south side), opposed to the Rs-7 District minimum side yard setback of 8-feet for a two story dwelling.

The Pinter's (petitioner) requests a variance to the proposed. The property to the north is vacant and the home on the property to the south is 30' away from the property line. Assuming the proposed setbacks are granted, in the event of a fire there are no issues accessing the proposed home or the home to the south. The petitioner adds that the current home on this lot is only 2' off of the south property line, moving to 3' would be an increase from existing. The petitioner also adds that the body of the home has a 5' setback on both the north and south Property line. The only 3' setback area is the attached garage on the south property line.

Section 17.0410e.(4) to allow for the sum total of the first floor area of the principal building and all accessory buildings to exceed 30 percent of the lot area. The lot size is 12,317 square feet, which would allow a maximum of 3,695.1 square feet of lot coverage.

The petitioner requests a variance to the proposed. This property is located directly adjacent to a vacant parcel. In addition, the proposed home is nearly on the same footprint as the existing.

Section 17.0435f, to allow a principal building to be located within 75-feet of the floodplain boundary.

The petitioner requests a variance to the proposed. The current home on this property is 25.8' away from the floodplain boundary. The proposed really does not move the home itself any closer to the floodplain than existing. The petitioner adds that the proposed dwelling with deck is no closer or further away from the lake than the neighbor to the south, while the property to the north is a common vacant parcel.

Section 17.0436c.(5) to allow a building/structure to be located within 75-feet of the floodplain boundary.

The petitioner requests a variance to the proposed.

Section 17.0436d. to allow for an increase in lot coverage.

The petitioner requests a variance to the proposed.

December 20, 2018

Denny and Amy Stone
N29W26716 Peterson Drive
Pewaukee, WI 53072
262-366-9410

Sirs:

We have had the opportunity to review the Pinter family house plan and proposed placement on their property. We are excited to see the proposed improvement to our neighborhood and community, and can find no fault with any aspect. The placement will in no way affect the use of our lake home or views, and the structure would seem to only enhance our own property value.

We are currently out of state and in all probability, would be unable to appear in person to represent our complete assent and approval for any necessary variances or permits. Please consider this letter in our stead.

Thank you so much for your anticipated approvals. Should you have any questions or need clarification, do not hesitate to contact us by phone, text, or email (PewaukeeWI@sbcglobal.net).

Respectfully,

Denny and Amy Stone

Cc: City Clerk
City Planner
Tyler Pinter

Application Deadline: _____

Meeting Date: _____

**Zoning Board of Appeals
Appeal and Application for Variance**

Pewaukee City Hall
W240N3065 Pewaukee Rd.
Pewaukee, WI 53072

NOTICE: The board meets on the first Wednesday of each month at 6:30pm in the City Hall Conference Room unless otherwise noted. **ATTENDANCE OF THE APPLICANT OR REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted upon without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Building Services Department **30 days prior to the next Zoning Board of Appeals meeting and within 20 days of the Building Inspector's denial of permit**, accompanied by the filing fee of \$400.00 and a list of names of all owners of property within 600 feet from the exterior boundaries of the properties requesting the variance. ** Note: Applicant/Owner is also responsible for reimbursing the City for cost of publishing legal notices and other fees, including, but not limited to, attorney fees for reviewing the petition.

ALL APPEALS FOR VARIANCES MUST INCLUDE PLANS SHOWING THE VARIANCES BEING REQUESTED.

Site Address W267N2965 Peterson Dr

Parcel Tax Key No. PWC 0930 026

Applicant
(person to receive notices)

Property Owner

Name Tyler Pinter

Tyler Pinter

Address W267N2965 Peterson Dr

W267N2965 Peterson Dr

City, Zip Pewaukee, 53072

Pewaukee, 53072

Phone (262) 617-1632

(262) 617-1632

TO THE ZONING BOARD OF APPEALS:

I hereby make an application for a Zoning variance
(appeal from the decision of the Zoning Inspector)

For the property located at the following address: W267N2965 Peterson Dr Pewaukee WI

Present use of premises Single family home

Briefly describe proposal variances needed to build new home on lake lot # see letter

If this is an appeal, attach the following:

- (1) Statement of principal points on which appeal is based
- (2) Plans showing the variances requested.
- (3) Plat of Survey, which shows where the building for the variance request would be built.

I hereby depose that the above statements contained in the papers submitted herewith are true and correct.

Date: 12-19-18

Applicant Signature: Tyler Pinter

< By signing this document you are giving the Zoning Board of Appeals members permission to view your property.>

LOT 27, PETERSENS SUBDIVISION NO. 2, BEING A PART OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 17, TOWNSHIP 7 NORTH, RANGE 19 EAST, CITY OF PEWAUKEE, COUNTY OF WAUKESHA, STATE OF WISCONSIN.

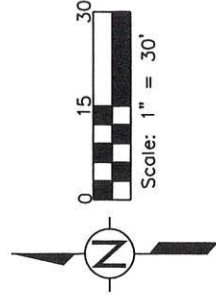
CONTAINING 12,317 SQUARE FEET, 0.2828 ACRES MORE OR LESS MEASURED TO THE SHORELINE OF PEWAUKEE LAKE.

PLAT OF SURVEY FOR:

TYLER PINTER
W267 N2965 PETERSON DR.
PEWAUKEE, WI 53072

LEGEND

- ✱ P.K. MAG. NAIL SET
 ○ 3/4" REBAR SET
 ● 1" IRON PIPE FOUND
 ◦ WELL
 ▮ POWER POLE



JASON T. MAYER
P.L.S. NO. 2844

THIS IS AN ORIGINAL PRINT ONLY IF SEAL IS IMPRINTED IN RED. "I have surveyed the above property, representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all structures thereon, fences, apparent easements, roadways, and visible encroachments and is in compliance with Wisconsin Administrative Code AE-7 for property survey standards and is correct to the best of my knowledge and belief.

This survey is made for the exclusive use of the present owner of the property; also those who purchase, mortgage, or guarantee the title thereto, within one year from the date hereof."

AS OF THE DATE OF THIS SURVEY, NO TITLE POLICY WAS PROVIDED, THEREFORE THIS PLAT OF SURVEY DOES NOT GUARANTEE THE EXISTENCE, SIZE AND LOCATION OF ANY EASEMENTS ENCUMBRANCES, RESTRICTIONS OR OTHER FACTS THAT COULD OTHERWISE BE DISCLOSED IN A TITLE SEARCH OR CURRENT TITLE POLICY.

THIS INSTRUMENT WAS DRAFTED ON 12-05-2018 BY JASON T. MAYER, P.L.S. W241 N7303 S. WOODSVIEW DR. SUSSEX, WI 53089 (262)424-7552

LOT 27, PETERSENS SUBDIVISION NO. 2, BEING A PART OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 17, TOWNSHIP 7 NORTH, RANGE 19 EAST, CITY OF PEWAUKEE, COUNTY OF WAUKESHA, STATE OF WISCONSIN.

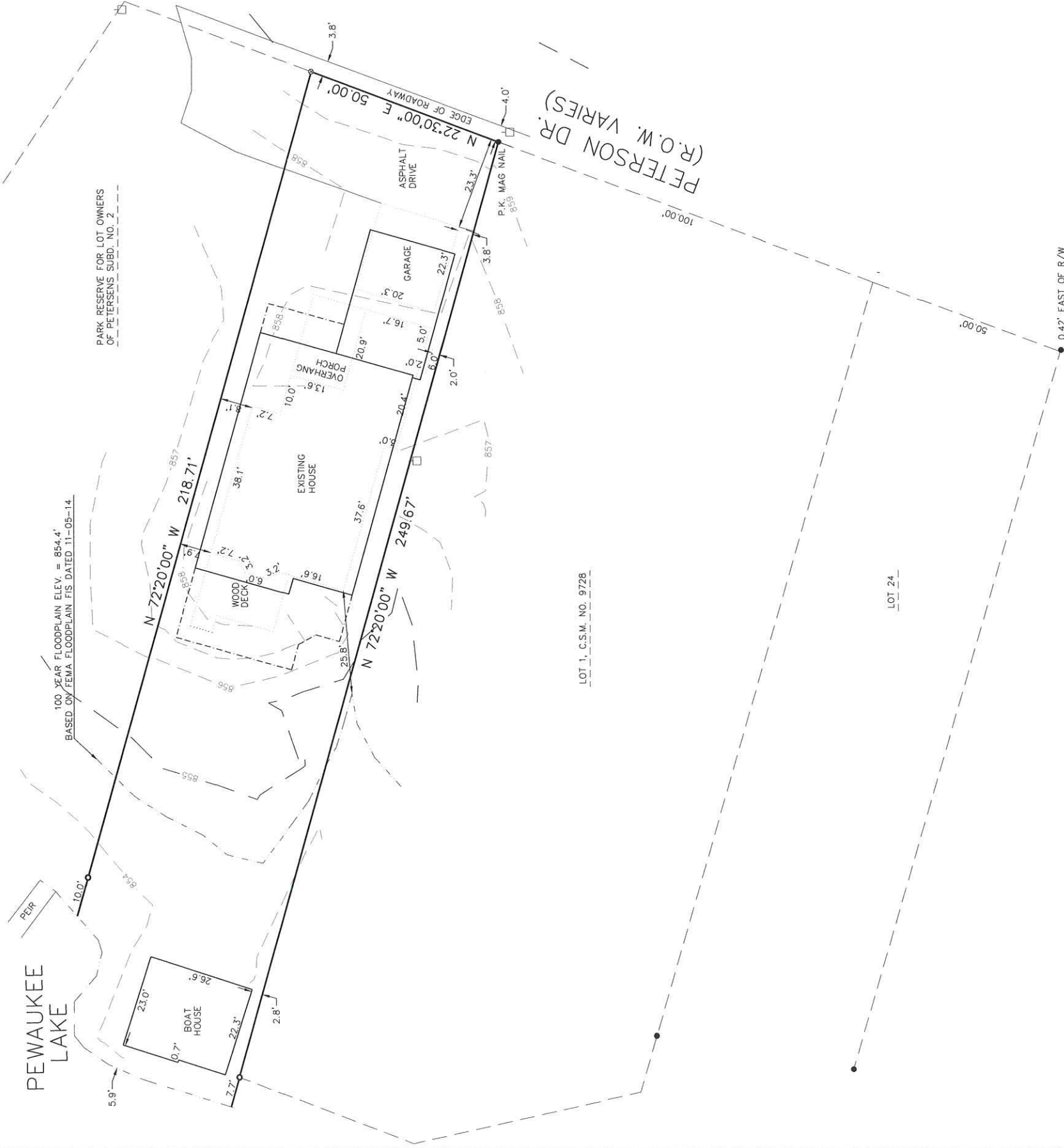
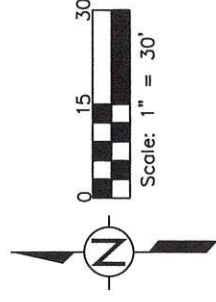
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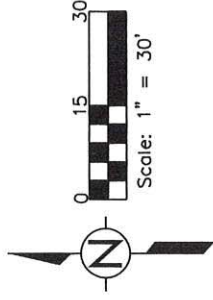
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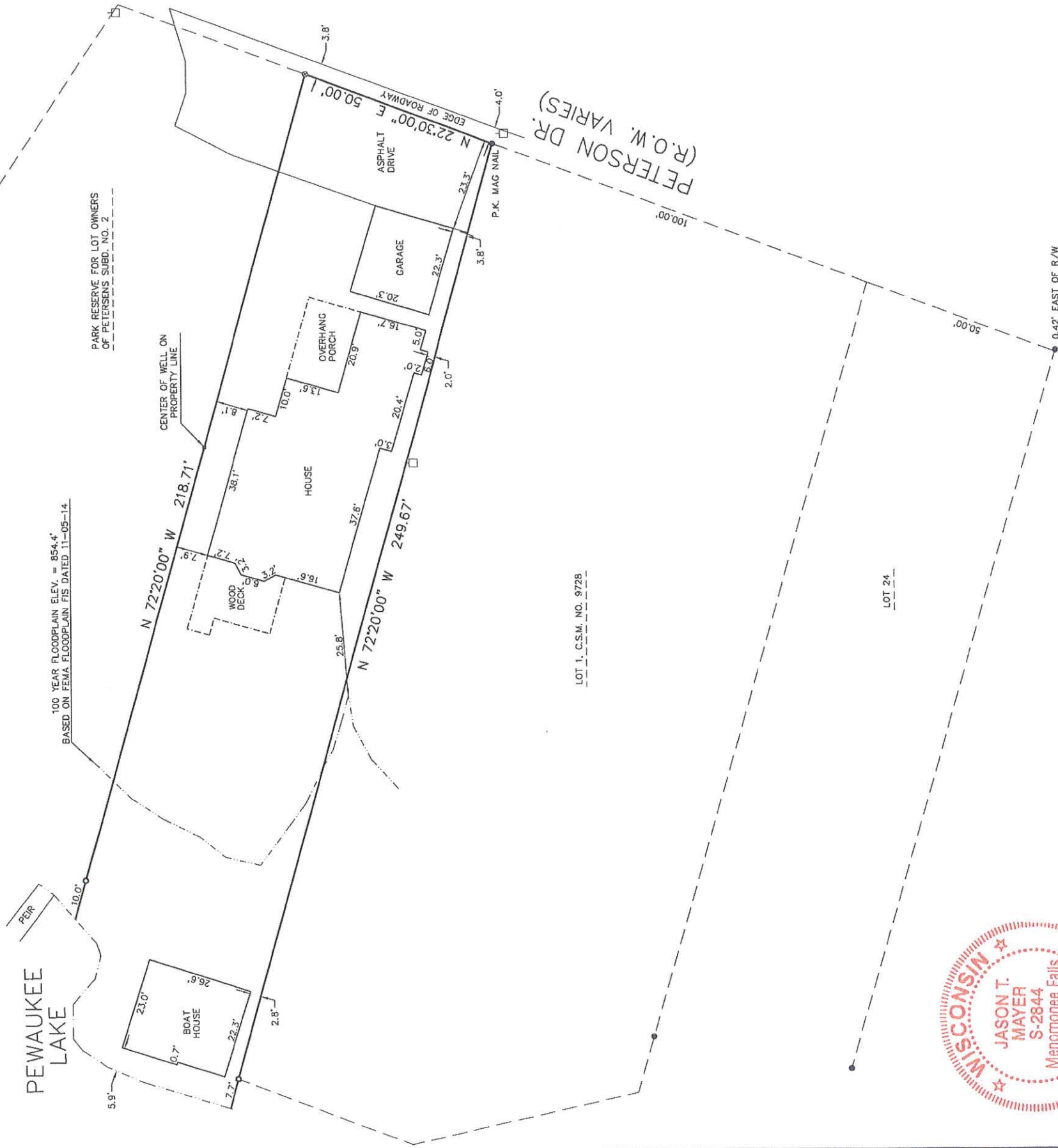
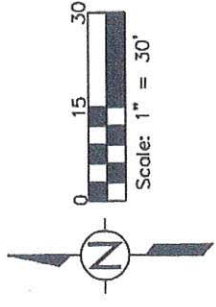
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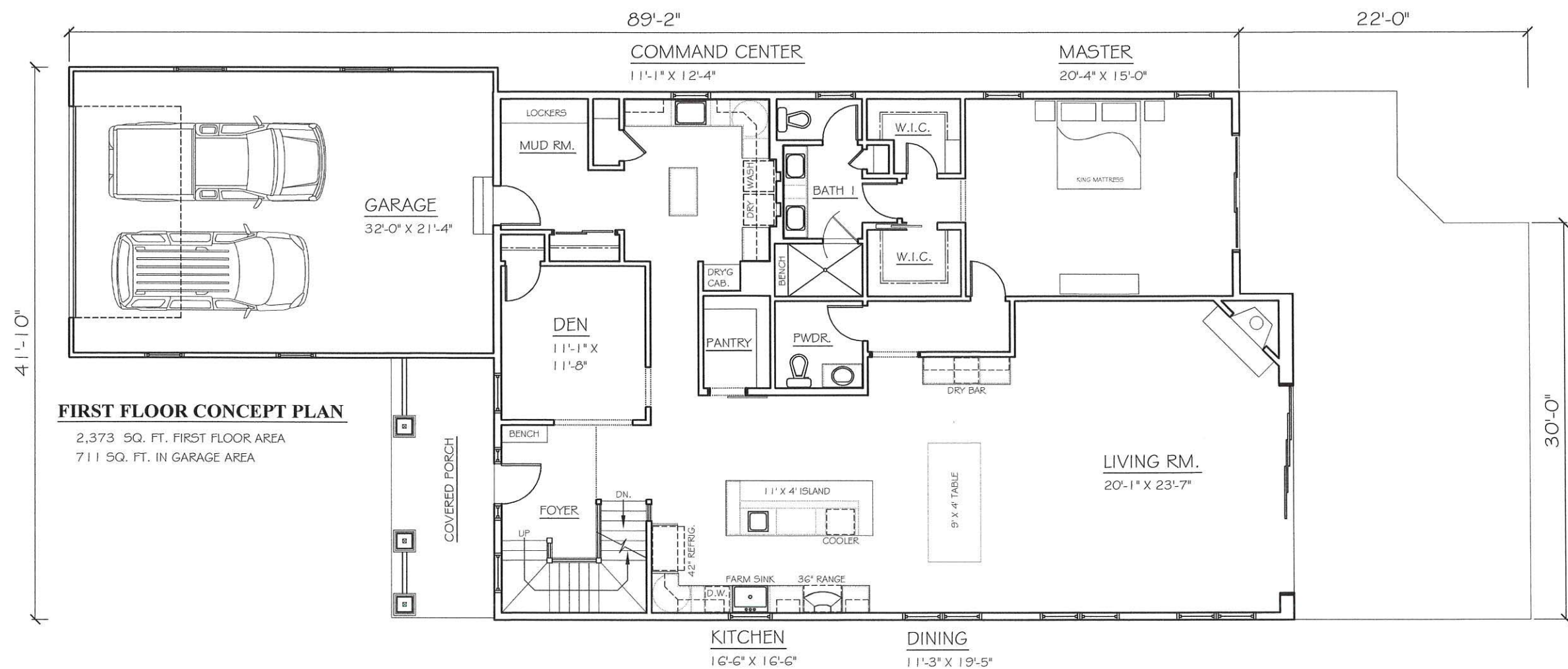
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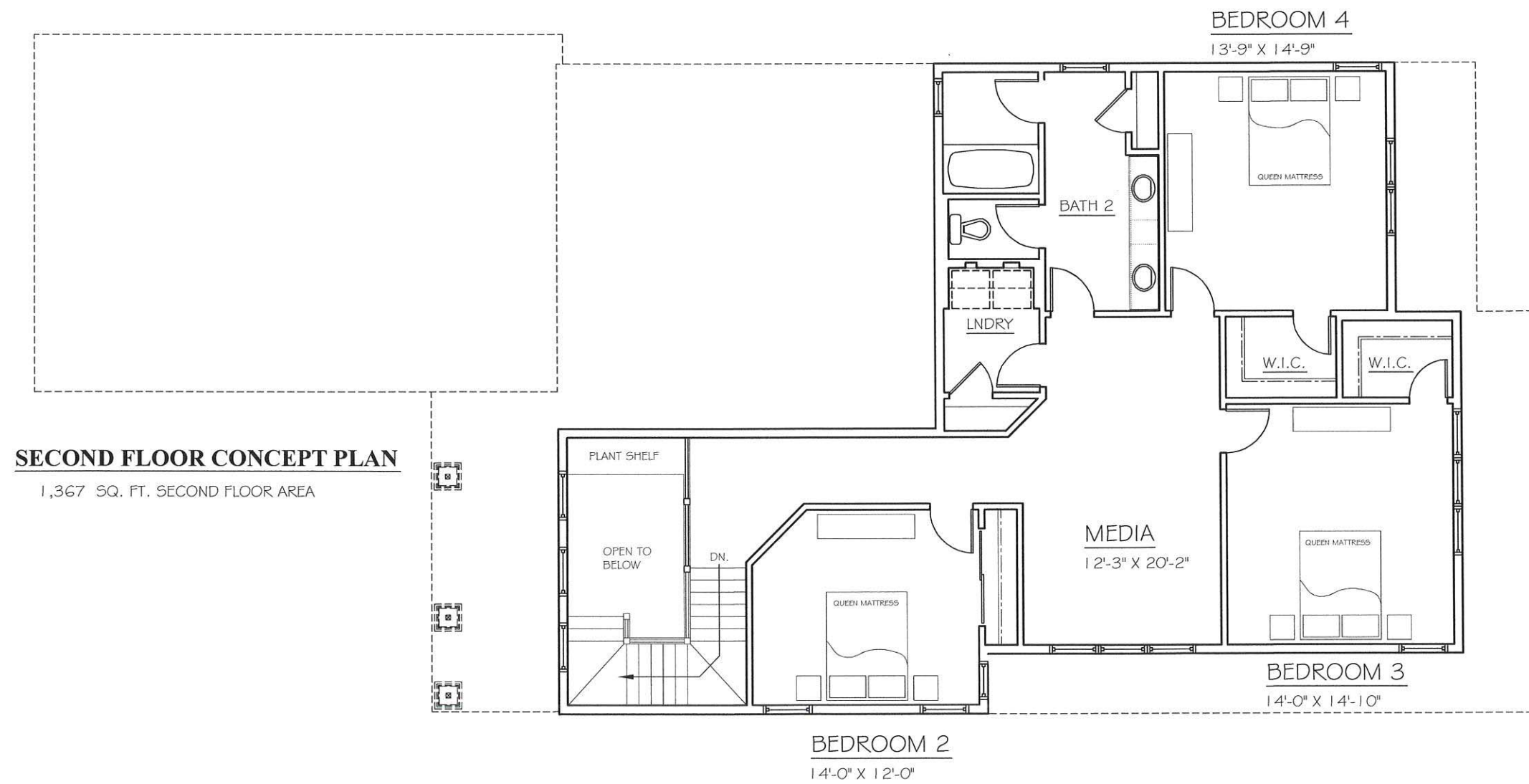
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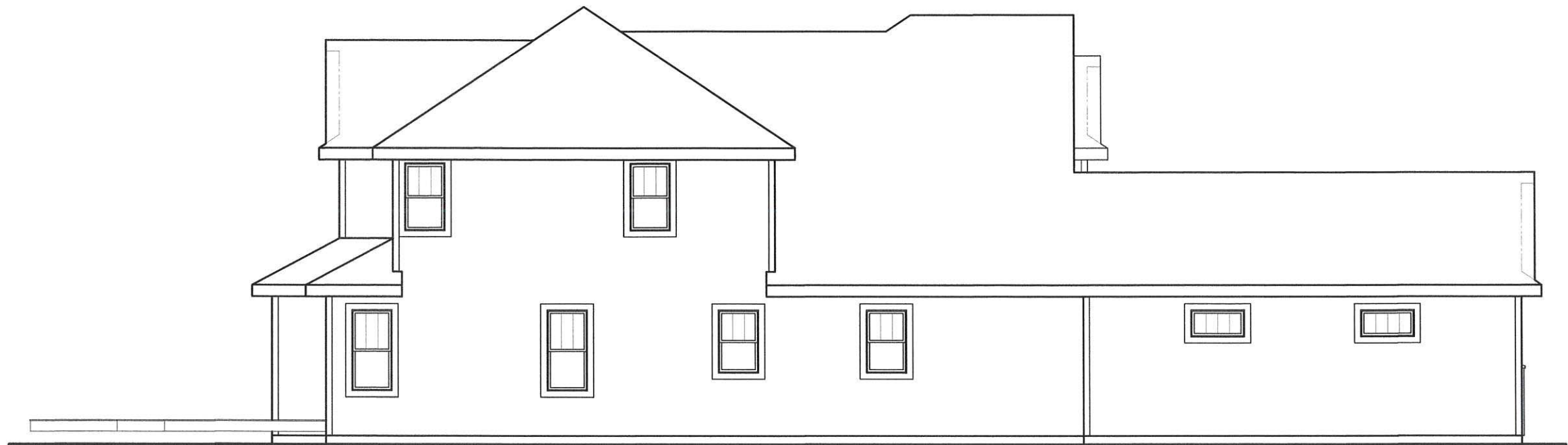
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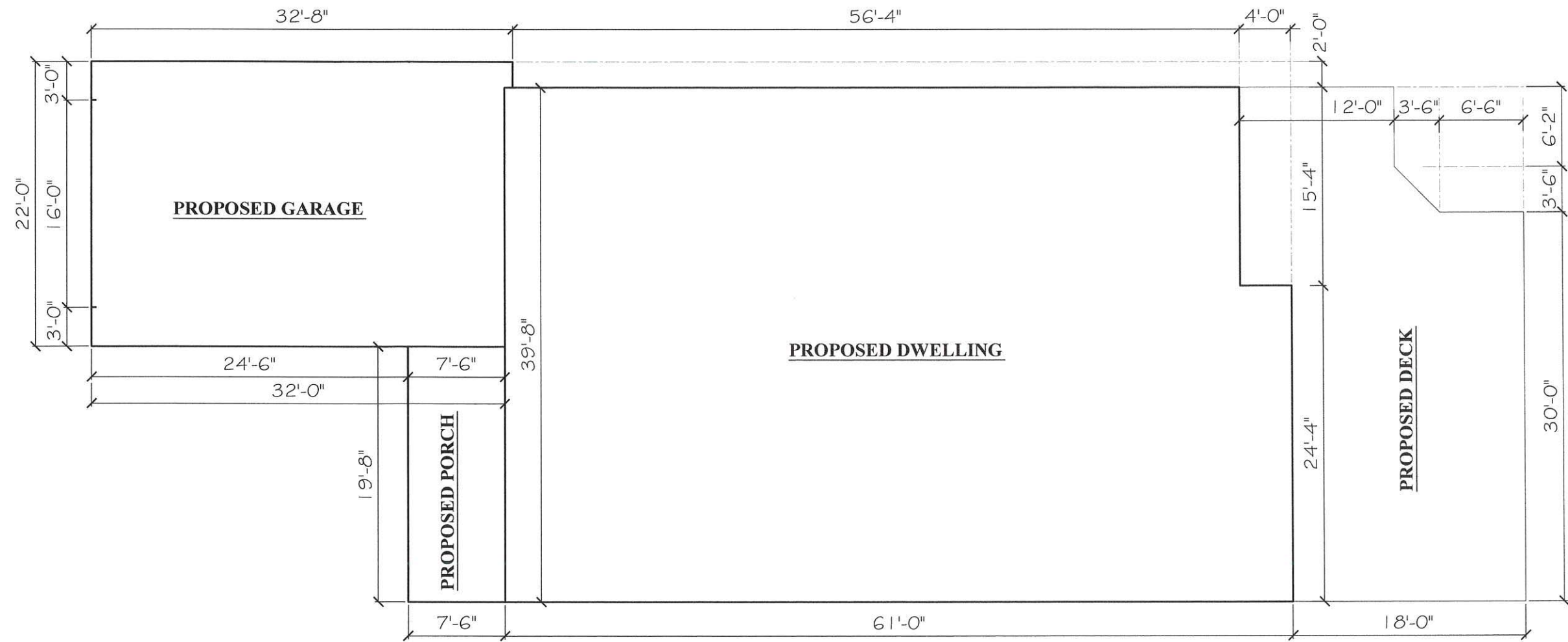
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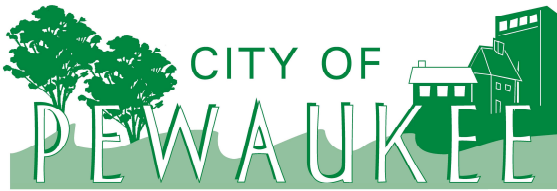












Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE ZONING BOARD OF APPEALS

Meeting of February 13, 2019

Date: January 23, 2019

Project Name: Pinter Variance Request

Project Address/Tax Key No.: W267N2965 Peterson Drive/PWC0930026

Applicant: Tyler J. Pinter

Property Owner: Tyler J. Pinter

Current Zoning: Rs-7 Single-Family Residential District

Proposed Zoning: Same

2050 Land Use Map Designation: Low – Medium Density Residential and Flood Plains, Lowland & Upland Conservancy, and Other Natural Areas

Use of Surrounding Properties: Single-family residential to the north, south, and east and Pewaukee Lake to the west

Project Description:

The applicant, Tyler Pinter, filed an application for variances from several sections of the zoning ordinance to allow for the construction of a new home upon property located at W267N2965 Peterson Drive. The applicant is requesting a variance from:

1. Section 17.0411 to allow for reduced side yard setbacks;
2. Section 17.0410e.(4) to allow for increased lot coverage;
3. Section 17.0435f to allow for a reduced setback to the floodplain boundary;
4. Section 17.0436c.(5) to allow a building/structure to be located within the floodplain setback;
and
5. Section 17.0436d. to allow for an increase in lot coverage.

Below is a further analysis of each request. In considering the variance requests, it should be noted that the property is zoned Rs-7 Single-Family Residential District, F-1 Floodplain District and SO Shoreland Overlay District and has an area of 12,317 square feet or approximately 0.2828 acres.

Furthermore, below is a breakdown of impervious surface areas provided by the applicant, which are the square footage amounts utilized in the analysis.

House/garage/porch	3,211 square feet
Deck	685 square feet
Additional concrete drive & walk	500 square feet
Asphalt drive	1,219 square feet
Existing boat house	603 square feet
Total	6,218 square feet

In addition, the applicant includes findings within their project narrative for Board review. The applicant references the vacant property to the north. Please be aware that this is a “Park Reserve” on the Petersen’s Subdivision No. 2 plat, and is jointly owned by the property owners of the Petersen’s Subdivision.

A letter from the owner of the single-family residence to the north of the Park Reserve, owned by Denny L. Stone, in support of the variance has also been provided by the applicant.

Analysis:

1. Variance from Section 17.0411 to allow for reduced side yard setbacks

The applicant is proposing side yard setbacks of 5.2-feet from the north property line and 3.0-feet from the south property line, opposed to the Rs-7 District minimum side yard setback of 8-feet for a two story dwelling.

2. Variance from Section 17.0410e.(4) to allow for increased lot coverage

The Rs-7 District, in referring back to the Rs-6 District, states that “The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 30 percent of the lot area.” Note that in this case, 30% of the lot area would allow for a maximum of 3,695.1 square feet ($12,317 \times .30 = 3,695.1$).

The proposed home, garage, covered porch, and existing boat house total 3,814 square feet, which exceeds this standard by 118.9 square feet. Considering these structures, the proposed lot coverage is 30.96%.

Note that considering the deck as part of the home (as it is attached), the proposed lot coverage is 4,499 square feet or 36.53% ($4,499 / 12,317 = 0.36526$), which exceeds the lot coverage by 803.9 square feet.

3. Variance from Section 17.0435f. to allow for a reduced setback to the floodplain boundary

The F-1 Floodplain District states that “No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain...”

The proposed setback from the floodplain boundary from the home and deck varies. The majority of the home is closer than 75-feet to the floodplain boundary and the deck is setback 13.3-feet at its nearest point.

4. Variance from Section 17.0436c.(5) to allow a building/structure to be located within the floodplain setback

The Shoreland Overlay District also includes a requirement that a building/structure shall not be located within 75-feet of the floodplain boundary (see below).

(5) Structure Setbacks. No structure except necessary streets or access ways, utilities, navigational aids, piers and boat launch facilities, parking areas, approved boathouses, and principal buildings shall be located within 75 feet of a designated 100 year recurrence interval (base flood) floodplain of any lake or navigable stream or within 50 feet of an OHWM or officially designated wetland, unless there are existing principal use structures on adjoining

parcels, in which case the setback from the OHWM or base flood elevation may be an average of setbacks on the adjoining parcels but no less than 35 feet. (See subsection 17.0435p for definition of 'base flood'). In this subdivision, 'principal building' shall mean the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

Note that averaging setbacks does not apply in this case as the property to the north does not contain a principal structure. Furthermore, the deck and a small portion of the home would be within 35-feet of the floodplain boundary.

5. Variance from Section 17.0436d. to allow for an increase in lot coverage.

Section 17.0436d.(1):

For properties within 300-feet of the ordinary high water mark or base flood elevation of a lake, whichever is greater, the SO District requires that the total building coverage or footprint of permanent structures shall be no more than 20% of the total area of a parcel. Note that the SO District states, "Permanent structures include houses, condo/apartment buildings, commercial, industrial or institutional buildings, garages, boathouses, storage buildings, swimming pools, cabanas, gazebos, porticos, carports and like structures."

The subject lot is 12,317 square feet; therefore, these structures may not exceed 2,463.4 square feet. The proposed house, garage, porch, and existing boat house total 3,814 square feet. Thus, the applicant is proposing to exceed this standard by 1,350.6 square feet. These structures occupy about 30.96% of the lot.

Section 17.0436d.(3):

The SO District also requires that permeant impervious surfaces such as driveways, parking areas, walkways, patios, ground level decks, ramps, tennis and other sports courts, and fountains or pools shall total no more than 7-1/2% of parcels of 10,000 square feet or more.

Again, the lot is 12,317 square feet. The total allowed area of these impervious surfaces is 923.78 square feet. The applicant is proposing 2,404 square feet of impervious surface consisting of the deck, additional concrete drive and walk, and asphalt drive. Therefore, these structures would total approximately 19.52% of the lot, exceeding the allowed square footage amount by 1,480.22 square feet.

Section 17.0436d.(4) & (5):

Finally, the SO District states the "the total combined coverage of permanent structures and permanent impervious surfaces outside the structures may be increased to a total of 35 percent when the parcel is located within 300 feet of the OHWM or base flood elevation of either a lake or navigable stream whichever is greater..." Note that mitigation is required to exceed the 20% and 7-1/2% standards and increase coverage to a total of 35%.

Moreover, the SO District states that "In no case shall lands lying within 300 feet of the OHWM or base flood elevation of a lake or a navigable stream, whichever is greater, have less than 65 percent of the parcel covered with natural grasses and vegetation and/or aforementioned mitigation measures."

35% lot coverage would allow for 4,310.95 square feet of impervious surface. With a total of 6,218 square feet of impervious structures and surfaces proposed, the applicant is requesting to exceed this standard by 1,907.05 square feet. The proposed lot coverage is about 50.5%.

Also note that mitigation measures are not being proposed by the applicant. If the property owner is allowed to exceed lot coverage in any way, staff recommends that the property owner provide mitigation measures consistent with Section 17.0436d.(4)a. and b., subject to review and approval by the Engineering Department.

Recommendation:

Section 17.1007 states that the Zoning Board of Appeals shall not grant a variance “unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.” Below are the Findings for Board review.

- a. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted principle use, permitted accessory use, or permitted conditional use in that particular district.
- b. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Ordinance should be changed.
- c. Economic or Financial Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted on the basis of economic/ financial gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- d. Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- e. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- f. Additional Requirements in Floodplain District: No variance in or related to a floodplain* shall be granted where:
 - 1) A change in the boundaries or elevation of the base flood floodplain (F-1 District) would result.
 - 2) A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval base flood for the particular area would result.
 - 3) Any action contrary to the provisions of Chapter NR-116 of the Wisconsin Administrative Code would result. (See sub-section 17.0435 and WisDNR requirements)
 - 4) The lot or parcel is larger than one-half acre and is not contiguous to existing structures constructed below the regional (base) flood elevation.
 - 5) No good or sufficient cause can be shown; greater than a minimum relief is necessary; there is increased risk to public safety or nuisances; rescue and relief costs would be increased; and, it is contrary to the purposes of this ordinance.
 - 6) Such variance would allow alteration of an historical structure and/or use.

- g. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 per coverage. A copy shall be maintained with the variance record.

Staff does not find that the applicant has provided evidence that demonstrates the Findings of Section 17.1007 are met; therefore, staff recommends denial of the variance requests. More specifically, staff contends that the City's zoning code created the Rs-7 District to provide standards for development of existing substandard lots and abiding to these standards would then preserve the intent of the Zoning Code.

Additionally, staff does not find exceptional or unusual circumstances as the subject lot is similar to surrounding lots around Pewaukee Lake and other Rs-7 zoned properties.

Staff finds that property rights are preserved without the approval of the variance requests as a new single-family dwelling could be built within the standards of the Rs-7, F-1 and SO Districts. Therefore, staff recommends that the home be reduced in size and designed to comply with the applicable zoning districts standards.

If the Zoning Board of Appeal wishes to approve the variance requests, a suggested motion would be approval of variance requests from Section 17.0411 to allow for side yard setbacks of 5.2-feet from the north property line and 3.0-feet from the south property line, opposed to the Rs-7 District minimum side yard setback of 8-feet for a two story dwelling; 2) Section 17.0410e.(4) to allow for the sum total of the first floor area of the principal building and all accessory buildings to exceed 30 percent of the lot area; 3) Section 17.0435f. to allow a principal building to be located within 75-feet of the floodplain boundary; 4) Section 17.0436c.(5) to allow a building/structure to be located within 75-feet of the floodplain boundary; and 5) Section 17.0436d. to allow for an increase in lot coverage to allow for construction of the proposed single-family dwelling, porch, garage, deck and other impervious surfaces upon property located at W267N2965 Peterson Drive, pursuant to the plans and findings as presented by the applicant [or as modified by the Zoning Board of Appeals].

If approved, staff would again recommend that mitigation measures be required to compensate for the increase in lot coverage.

December 20, 2018

Denny and Amy Stone
N29W26716 Peterson Drive
Pewaukee, WI 53072
262-366-9410

Sirs:

We have had the opportunity to review the Pinter family house plan and proposed placement on their property. We are excited to see the proposed improvement to our neighborhood and community, and can find no fault with any aspect. The placement will in no way affect the use of our lake home or views, and the structure would seem to only enhance our own property value.

We are currently out of state and in all probability, would be unable to appear in person to represent our complete assent and approval for any necessary variances or permits. Please consider this letter in our stead.

Thank you so much for your anticipated approvals. Should you have any questions or need clarification, do not hesitate to contact us by phone, text, or email (PewaukeeWI@sbcglobal.net).

Respectfully,

Denny and Amy Stone

Cc: City Clerk
City Planner
Tyler Pinter







Stone's view from deck

