

Project **Dane County Variance Application**

Location **3433 Stoney Crest Road**
McFarland, WI 53558
Dane County, Town of Dunn
Parcel Number: 028/0610-133-9180-2
028/0610-133-9190-0
Assessment Acres: 0.236 Acres
Zoning: SFR – 08

Owners **Mike & Jacki Moss**
11336 Garrison Close, Belvidere, IL 61008
mdmoss726@gmail.com (815) 914-8230

Agent **Chris Landerud**
Landerud Plan & Design LLC
4426 Mahoney Road, McFarland, WI 53558
chris.landerud@landerud.design (608) 444-3604

Table of Contents

- A. Written Statement
 - B. Dane County Zoning Completed Variance Application
 - C. Plat of Survey Map
 - Site Plan/Map with Proposed Building Setbacks
 - D. Preliminary Concept Floor Plans
 - E. Letter from the Town Clerk or Administrator
- Permission Letter for Agent from Home Owner
Site Photos

Written Statement

In partnership with the home owners, Mike & Jacki Moss, we are petitioning for a variance to current building setback requirements at 3433 Stoney Crest Road on Lake Kegonsa. There is currently a single family residence on the property and the owners are looking to rebuild and expand their home to meet the current needs of their family.

The hardship and issue hindering this property is a result of the "Lake Street" right-of-way directly to the west of the subject property. (This is a plated right-of-way from the Pike Front plat.) This platted right-of-way was plated decades ago and is precariously situated at the outside corner/curve of County Highway AB. This wedged shaped right-of-way is approximately 150' deep and between 30'-48' wide. This unimproved land is pinched between a county highway and Lake Kegonsa and is green open space with no roadway or improvements. This town right-of-way has never had a street or any public improvements on it. After communication with Town of Dunn staff, Ben Kollenbroich the Planning and Land Conservation Director on April 14, 2021, there are no plans to construct a roadway. Furthermore the location on the outside curve embankment of a count highway would forever prevent safe or feasible access of a potential roadway. This land currently has a small culvert running underground down the center that diverts stormwater towards Lake Kegonsa. The property is grass with a couple trees that is mowed and maintained by the home owners and the other neighboring property owners at 2442 County Highway AB.

This unimproved neighboring platted Lake Street right-of-way is causing two setback issues to the subject property as interpreted under current Dane County zoning regulations:

- 1) The right-of-way demands a 20' setback because it is considered road frontage (even though there isn't and never will be a road there). The current house on the property is 5'+ from this right-of-way land.
- 2) This right-of-way, wedged along entirely a pattern of residential lots, prevents the subject property from utilizing reduced shoreline setback from averaging the two existing neighboring shoreline setbacks.

The two items included in this variance request include:

- 1) **The Chapter 11 Existing Structures & Uses regulations would apply to the ENTIRE existing building footprint on 3433 Stoney Crest Road – even the portion within the 20' right-of-way setback.** This would allow the existing footprint to remain with the possibility of vertical expansion up to 35' (as permitted under current zoning). This would also allow construction of a proper lower level foundation within the existing footprint of the existing house.

Currently, the 20' area within the right-of-way setback falls under the Chapter 10 Zoning Code and would only allow maintenance and repair, and not vertical expansion or modification of structure.

See the attached site map for building envelope area and the below Chapter 11.11 for exact code definitions.

- 2) The 11.03 Reduced setback regulations would apply to 3433 Stoney Crest Road.** The property to the west has a house 42.1' from the lake and the property to the east has a house 66.9' from the lake. This 54.5' average would allow a building area on the east side of the existing lot and existing house. This setback is consistent with current Chapter 11 code as outlined below. Because of the fact a unimproved right-of-way (Lake Street) directly borders the subject property, this current ordinance does not apply.

The Lake Street right-of-way is not a road (and will never be a road), yet the subject property at 3433 Stoney Crest Road faces unnecessary hardships that were not self-created. This results in increased restrictions of setbacks, reduced frontage, and limited building height. The consequences include unnecessary and unreasonable burdens in light of the purposes of the current Dane County ordinances.

11.11 EXISTING STRUCTURES AND USES.

(2) Construction on nonconforming structures with shoreland zoning permit. The following activities are allowed on nonconforming structures, subject to approval of a shoreland zoning permit. Shoreland mitigation permits are not required, unless impervious surface limits in s. 11.03(3) are exceeded. (a) Maintenance and repair. A nonconforming principal structure may be maintained and repaired within its existing building volume. Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding, or roofing. (b) Expansion of nonconforming principal structure beyond setback. A nonconforming principal structure may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements in s. 11.03(2), and that all other provisions of the shoreland ordinance are met. (c) Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in s. 11.03(3), the property owner may do any of the following: 1. maintain and repair of all impervious surfaces; 2. replace existing impervious surfaces with similar surfaces within the existing impervious surface area footprint; 3. relocate or modify existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and meets the applicable setback requirements in 11.03(2).

11.03 SHORELAND REGULATIONS.

2. Reduced setback. Where an existing development pattern exists, proposed principal buildings may have a reduced setback as follows: a. Where there is a principal building on each side of the proposed site, the setback for the proposed building shall be the average of the setbacks of the existing buildings. b. If there is an existing principal building on only one side, the setback for the proposed building shall be the average of the required setback under s. 11.03(2)(a) and the existing building's setback. c. Notwithstanding a. and b. above, under no circumstances shall any building or structure intrude on the vegetative buffer zone described in s. 11.04. 3. Marina f



Dane County Planning & Development

Division of Zoning

Appeal No. _____

Date Received _____

Date of Public Hearing _____

VARIANCE APPLICATION:

Owner: Mike & Jacki Moss
Mailing Address: 11336 Garrison Close
Belvidere, IL 61008
Phone Number(s): (815) 914-8230
Email Address: mdmoss726@gmail.com

Assigned Agent: Chris Landerud, Landerud Plan & Design LLC
Mailing Address: 4426 Mahoney Road
McFarland, WI 53558
Phone Number(s): (608) 444-3604
Email Address: chris.landerud@landerud.design

To the Dane County Board of Adjustment:
Please take notice that the undersigned was refused a permit by the Dane County Zoning Division, Department of Planning and Development, for lands described below for the reason that the application failed to comply with provisions of the Dane County Code of Ordinances: Chapters 10 – Zoning, 11 – Shoreland, Shoreland-Wetland & Inland-Wetland, 17 – Floodplain Zoning, and/or 76 – Airport Height Regulations. The owner or assigned agent herewith appeals said refusal and seeks a variance.

028/0610-133-9180-2

Parcel Number: 028/0610-133-9190-0 - Zoning District: SFR – 08 Acreage: 0.236

Town: Town of Dunn Section: 13 1 / 4 S W 1 / 4 S W

Property Address: 3433 Stoney Crest Road

CSM: Attached Lot: / Subdivision: Block/Lot(s):

Shoreland: / N / Floodplain: Y / / Wetland: Y / / Water Body Lake Kegonsa

Sanitary Service: Public / Private (Septic System)

Current Use: Single Family Residential

Proposal: See attacehd written statement

NOTE: You are encouraged to provide a complete and detailed description of the existing use and your proposed project on an attached sheet.

REQUIRED BY ORDINANCE

Section	Description	Required	Proposed or Actual	Variance Needed
	<u>See attacehd written statement</u>			

PRESENTING YOUR CASE TO THE BOARD OF ADJUSTMENT:

An Area Variance may be authorized by the Dane County Board of Adjustment to vary one or more of the dimensional or physical requirements of the applicable ordinance in connection with some proposed construction.

The burden will be on you, as property owner or authorized agent, to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing, including the staff report. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and may then deny your application.

Please answer the four questions below. You are encouraged to attach a separate sheet, labeling the answers (1) through (4), to provide enough detail to support your appeal:

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. **Attach a site map showing alternatives you considered in each category below:**

(A) Alternatives you considered that comply with existing standards: If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

The homeowner and agent proposed to the Town of Dunn to vacate the Lake Street right-of-way or possibly split the right-of-way and sell the land to both neighboring properties. Vacating the property and reclassifying the land as residential zoning would achieve what this variance is requesting and would allow all current zoning guidelines to apply to the subject property as outlined in this variance request.

(B) Alternatives you considered that require a lesser variance: If you reject such alternatives, provide the reasons you rejected them.

The option to vacate the right-of-way property was formally denied on April 14, 2021 through phone and email communications with Town of Dunn staff, Ben Kollenbroich, the Planning and Land Conservation Director. This determination resulted in the submission of this variance.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

The Lake Street right-of-way is not a road (and will never be a road), yet the subject property at 3433 Stoney Crest Road faces unnecessary hardships that were not self-created. This results in increased restrictions of setbacks, reduced frontage, and limited building height. The consequences include unnecessary and unreasonable burdens in light of the purposes of the current Dane County ordinances.

- (3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain. **The required Site Plan and/or Survey submitted with your application must show these features.**

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.

This unimproved neighboring platted Lake Street right-of-way is causing two setback issues to the subject property as interpreted under current Dane County zoning regulations: 1) The right-of-way demands a 20' setback because it is considered road frontage (even though there isn't and never will be a road there). The current house on the property is 5'+ from this right-of-way land. 2) This right-of-way, wedged along entirely a pattern of residential lots, prevents the subject property from utilizing reduced shoreline setback from averaging the two existing neighboring shoreline setbacks.

- (4) What would be the effect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated. **The required Site Plan and/or Survey submitted with your application must show any proposed mitigation features.**

These interests may be listed as objectives in the purpose statement of an ordinance and may include: Promoting and maintaining public health, safety and welfare; protecting fish and wildlife habitat; maintaining scenic beauty; minimizing property damages; ensuring provision of efficient public facilities and utilities; requiring eventual compliance for nonconforming uses, structures and lots; drainage; visual impact; fire safety and building code requirements; and any other public interest issues.

There would not be negative impacts on the neighborhood or community. The proposed improvements and expansion of the residence would conform to all zoning regulations, shoreland regulations, and erosion control measures that also apply to the neighborhood and community.

REQUIRED PLANS AND SPECIFICATIONS:

In addition to providing the information required above, you must submit:

1. **Site Plan:** Complete and detailed plans of your lot or lots, drawn to a standard and easily readable scale. **In most cases, a survey by a Registered Land Surveyor is needed.** The Site Plan/Survey should include the following, as applicable, as well as any unique existing features of the lot and any proposed mitigation features, as described above:
 - Scale and North arrow
 - Road names and right-of-way widths
 - All lot dimensions
 - Existing buildings, wells, septic systems and physical features such as driveways, utility easements, sewer mains and the like, including neighboring properties and structures.
 - Proposed new construction, additions or structural alterations.
 - For property near lakes, rivers or streams:
 - Location of Ordinary High Water Mark (OHWM) Elevation
 - Location of Floodplain Elevation
 - For property near Wetlands, a Wetland Boundary determination by a qualified professional consultant may be required.
 - Topographic survey information may be desirable or necessary.
 - Setbacks from any existing or proposed structures (building) to lot lines, right-of-way lines, Ordinary High Water Mark, and/or Wetland Boundary, as applicable.
 - For setback from Ordinary High Water Mark Variance Appeals, the setbacks of the two neighboring structures from the OHWM may be required.

2. Floor Plans and Elevations: Professionally-prepared plans and elevations are not required, but the plans submitted must be drawn to a standard and easily readable scale, must show each story of the building or structure, and must include all parts of existing and proposed structures, including any balconies, porches, decks, stoops, fireplaces and chimneys. Exterior dimensions must be included. Show all exit door locations, including sliding doors, and any windows or other features that are pertinent to your appeal. The plans may be a preliminary version, but are expected to represent your actual proposal for the use of your lot.

Please consult with the Assistant Zoning Administrator regarding required plans for non-conventional structures such as signs, construction cranes, etc.

3. Town Acknowledgment: Obtain a signed, dated memo or letter from the Town Clerk or Administrator of the Town where the variance is needed, acknowledging that you have informed them of your intention to apply for the variance(s). You probably will need to appear before the Town Board and/or Plan Commission, which will provide advisory input requested by the Board of Adjustment.

APPLICANT SIGNATURE:

The undersigned hereby attests that all information provided is true and accurate, and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Signature Required: Christopher D. Landerud Date: May 11, 2021

Print Name: Christopher D. Landerud (Agent), Landerud Plan & Design LLC

Specify Owner or Agent: Agent prepared application. See attached owner permission letter.

Agent must provide written permission from the property owner

STAFF INFORMATION:

Date Zoning Division Refused Permit (if different from filing date)

Filing Date

Filing Materials Required:

Site Plan

Floor Plans

Elevations

Fee _____ Receipt No. _____

Town Acknowledgement Date

Notices Mailed Date

Class II Notices Published Dates

Site Visit Date

Town Action Received Date:

Public Hearing Date

Action by B.O.A. _____

Approved by: _____ **Date:** _____

Director, Division of Planning Operations, Department of Planning and Development



Lake Street ROW
Unimproved

855'

2442 County Hwy AB
Lakeside Setback
(to be verified with survey)
42.1'±

850'
845'

845'

County Highway BB
Right-of-Way

83.5'±

42' County Highway Setback
47.1'±

10' Side Yard Setback
32.0'±

3431 Stoney Crest Road
Lakeside Setback
(to be verified with survey)
66.9'±

145.5'±

1) Variance
Area ONE

Total Building Envelope
Front Width: 65'±
Back Width: 73'±
Total Area: 3,656± SF

75' Lake (OHWM)
Setback

19.0'±

2) Variance
Area TWO

25.0'±

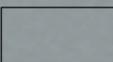
54.5' Lake (OHWM)
Setback

23.0'±

111.0'±

51.0'±

121.0'±

-  Conforming Building Envelope
-  Existing Non-Conforming OHWM Setback
-  1) Variance Area ONE
-  2) Variance Area TWO

3433 Stoney Crest Road
McFarland, WI 53558

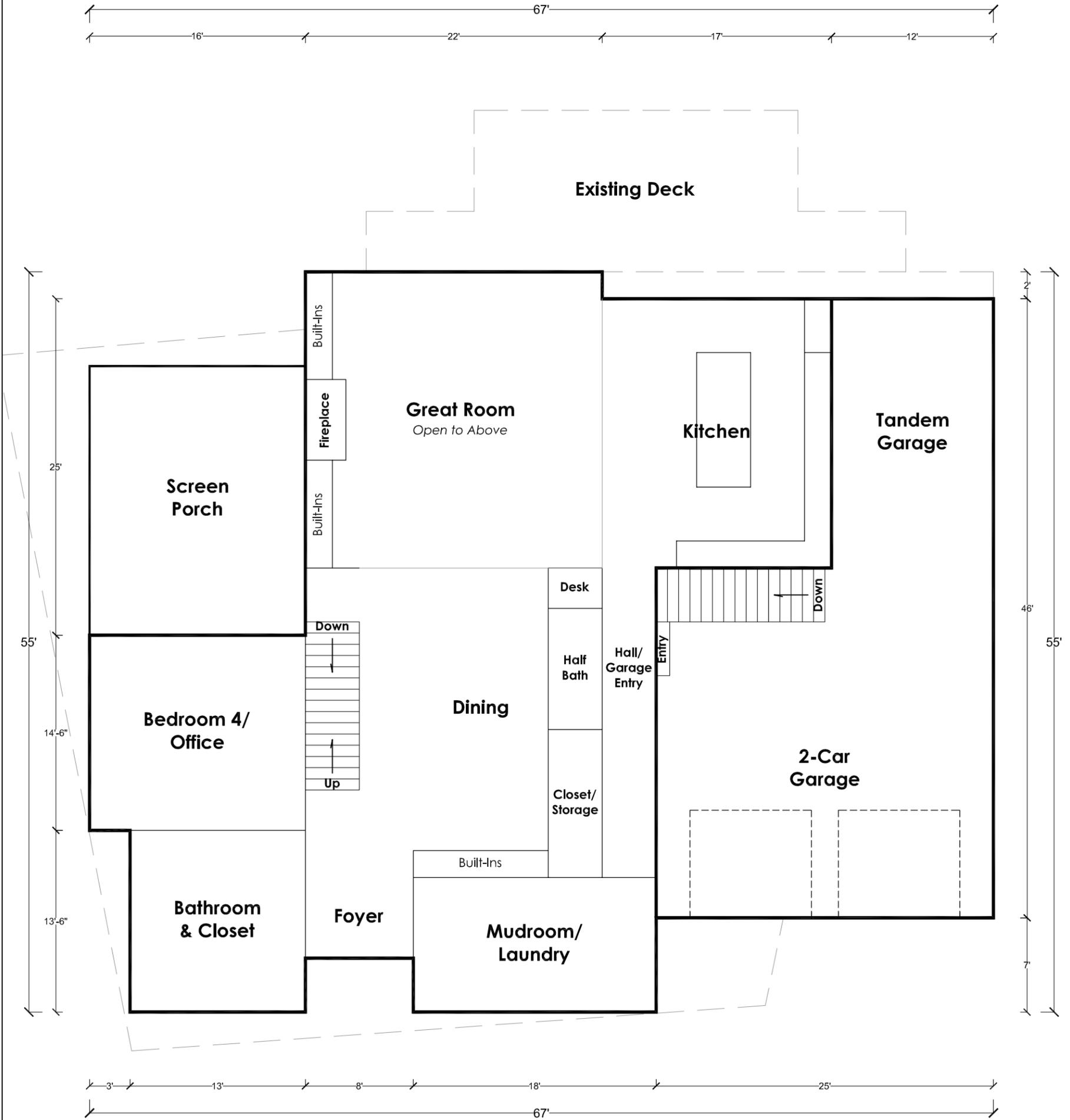
Mike & Jacki Moss
Dane County, Town of Dunn
Parcel #:
028/0610-133-9180-2
028/0610-133-9190-0
SFR-08 Zoning, 12,085± SF

EXISTING SITE PLAN

Lake Kegonsa

100 Year Floor Elevation: 845.0'
Ordinary High Water Mark: 843.5'

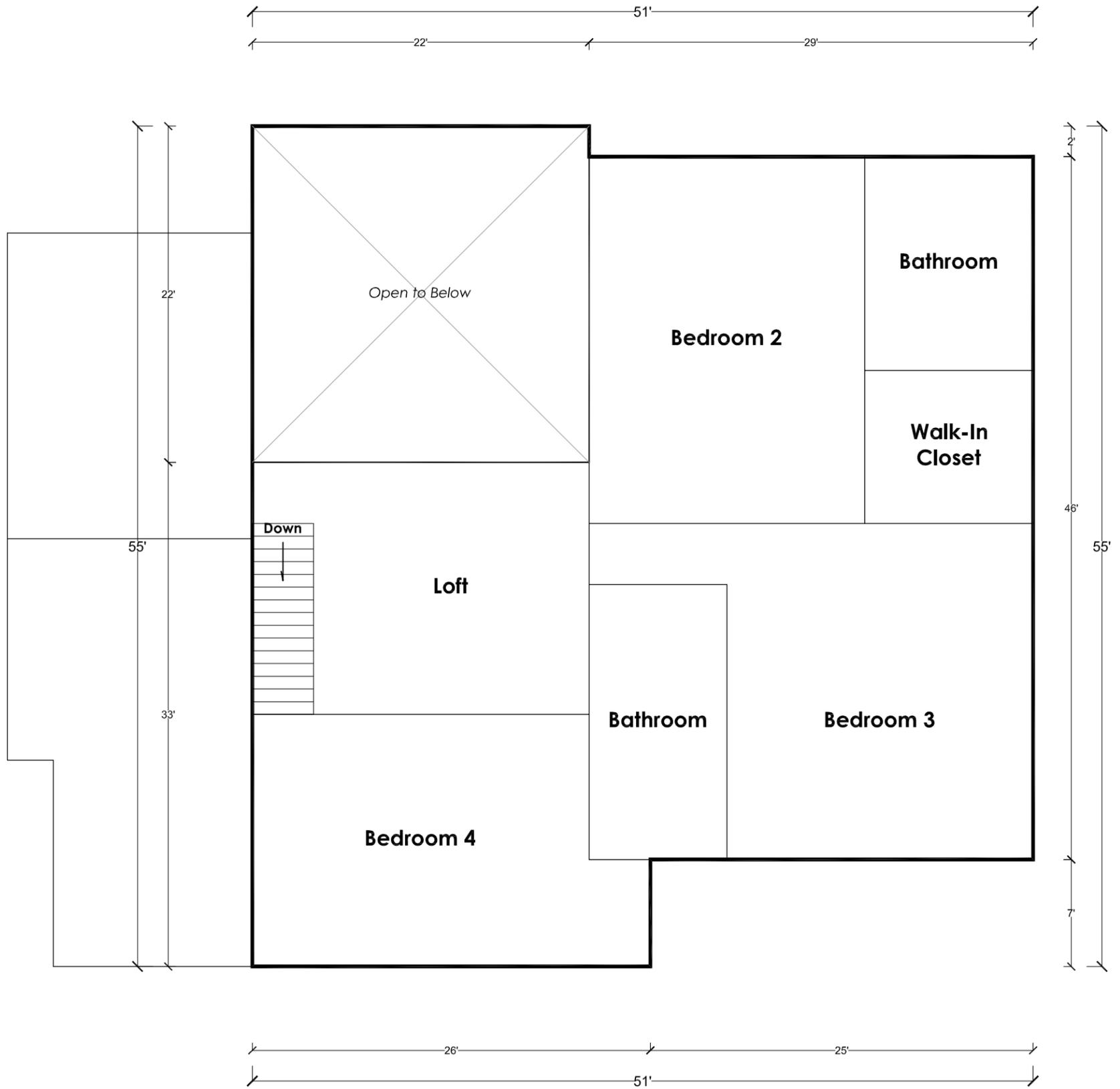
**Preliminary
Working
Drawings**



PRELIMINARY MAIN FLOOR PLAN LAYOUT

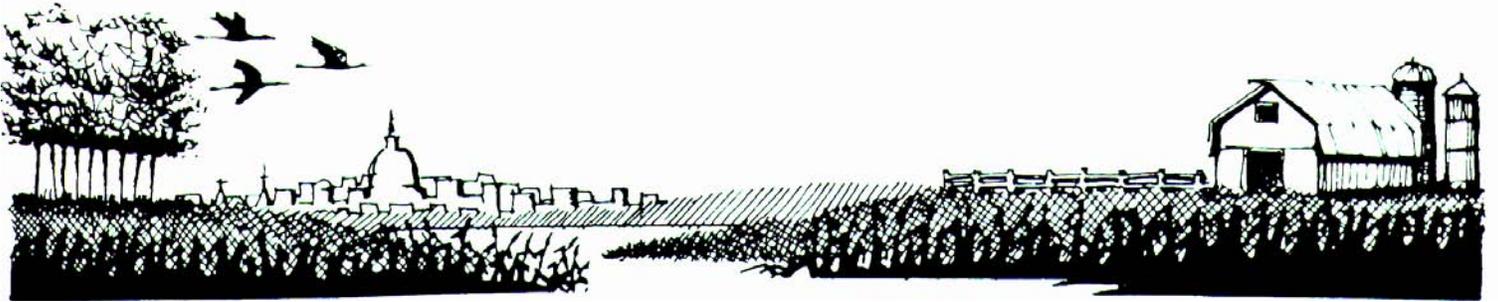
Area: 2,377 SF
 (Garage 890 SF)
 Total Finished Area: 4,096±

**Preliminary
Working
Drawings**



PRELIMINARY SECOND FLOOR PLAN LAYOUT

Area: 2,038 SF



TOWN OF DUNN - 4156 COUNTY ROAD B, McFARLAND, WI 53558

Phone: (608) 838-1081

Website: www.town.dunn.wi.us

E-mail: townhall@town.dunn.wi.us

FAX: (608) 838-1085

May 10, 2021

To: Michael & Jacki Moss, 11336 Garrison Close Belvidere, IL 61008

Re: Proposed variance for Parcel 0610-133-9180-2

This letter confirms that the Town of Dunn has been contacted by the landowner or their representative regarding a proposed variance for the lot referenced above.

After an application has been submitted to Dane County Zoning, the Town Board must make a recommendation to the Dane County Board of Adjustment regarding the proposed variance. The recommendation will be considered at a public meeting of the Town Board.

In order to have the variance placed on a future Town Board agenda you need to do the following:

1. Provide the Town with a copy of the completed Dane County Board of Adjustment variance application. Include any supporting documentation, diagrams, or information that explains the variance requested.
2. Submit the above materials to the Town immediately after you have filed your application with Dane County.

We recommend contacting your neighbors to let them know you are pursuing a variance. Your adjacent neighbors will receive a notice from the Town when the variance is placed on the Town Board agendas. Neighbors may be more supportive of a variance if they have spoken with the landowner and understand how the variance will affect them before they receive a notice from the Town.

Sincerely,

Ben Kollenbroich
Planning and Land Conservation Director

Email copy: Hans Hilbert, Dane County Zoning, Hilbert.hans@countyofdane.com

Site Photos

3433 Stoney Crest Road property in center (existing brown house) with Lake Street Right-of-Way on right (west of property)



3433 Stoney Crest Road property on left (existing brown house) with Lake Street Right-of-Way in center (unimproved open space)



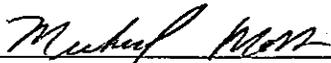
Permission Letter for Agent from Home Owner

May 11, 2021

Dane County Board of Adjustment –

This is a letter of permission acknowledging Chris Landerud of Landerud Plan & Design LLC is acting on our behalf to represent of best interests of our property, while at the same time upholding the values and intent of the Dane County Zoning Codes.

As the property owner, I acknowledge that Chris Landerud is the acting agent and is submitting a variance on our behalf for our property at 3433 Stoney Crest Road.



Mike Moss

May 11, 2021

3433 Stoney Crest Road
McFarland, WI 53558
Dane County, Town of Dunn

cc.

Dane County Zoning Department, Hans Hilbert Zoning Administrator
Town of Dunn, Ben Kollenbroich the Planning and Land Conservation Director
Chris Landerud, Landerud Plan & Design LLC