



# Dane County Planning & Development

## Division of Zoning

Appeal No. 3678  
 Date Received 5/9/16  
 Date of Public Hearing 6/23/16

### VARIANCE APPLICATION:

**Owner:** Donald J. Muto & Melinda H. Muto  
**Mailing Address:** 2060 Barber Drive, Stoughton, WI 53589  
or 140 Redwood Lane, Barrington, IL 60010  
**Phone Number(s):** 847-366-5401  
**Email Address:** dmuto@ixiacom.com

**Assigned Agent:** \_\_\_\_\_  
**Mailing Address:** \_\_\_\_\_  
 \_\_\_\_\_  
**Phone Number(s):** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_

*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.

Parcel Number: 061026201573 Zoning District: \_\_\_\_\_ Acreage: 0.134  
 Town: Dunn Section: 26, T, 06 N, R10 E 114 NE 114 NW  
 Property Address: 2060 Barber Drive, Stoughton, WI 53589  
 CSM: 8298 Lot: 3 / Subdivision: \_\_\_\_\_ Block/Lot(s): \_\_\_\_\_  
 Shoreland:  N / Floodplain: Y  Wetland: Y  Water Body Lake Kegonsa  
 Sanitary Service:  Public  Private (Septic System)

Current Use: See attached document!

Proposal: \_\_\_\_\_  
 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

**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.

See Attached Document

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

See Attached Document

(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.*

See Attached Document

- (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.*

*See Attached Document*

---

---

- (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.*

*See Attached Document*

---

---

#### 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: Donald J. Muto Date: 5-7-16

Print Name: Donald J. Muto Melinda H. Muto

Specify Owner or Agent:

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

H:\Zoning\Board of Adjustment\Checklists and Forms\VARIANCE APPLICATION FORM - CURRENT 04162008.doc

## **DONALD & MELINDA MUTO – VARIANCE APPLICATION**

### **CURRENT USE:**

Our lot, 2060 Barber Drive, Stoughton, WI 53589, originally occupied two small homes. Each home had it's own boathouse and access/stairs to the lake. One of the homes had constructed a concrete seawall, attached to their boathouse, as well as 3' concrete stairs as their egress to the lake. The other home built 4' wooden stairs as their egress to the lake next to a wooden boathouse. They also tied in wooden timbers as a seawall for half of their property and the rest was comprised of rock/riprap. In 1984 the property was sold and the new owners decided to combine both homes into one home. They also created a plan to build an additional room to provide more living space. According to the previous owners, when they applied for building permits they were instructed to remove one of the two boathouses as they were creating one home where there were previously two. They proceeded to remove one of the boathouses but in doing so never filled in the land/hole where the boathouse resided, creating a very steep and dangerous slope to the lake which has contributed to additional erosion. In addition, while they removed the boathouse they failed to remove the wooden stairs or seawall timbers leaving the land looking awkward with two egress points just a few feet from each other, both of which are less than 5'. Last fall, the deteriorating timber seawall collapsed allowing all the land and stones behind it to begin eroding into the lake as well as being extremely dangerous and unsightly. In addition, the current Concrete Seawall is cracked, leaning towards the lake and deteriorating.

### **PROPOSAL:**

We are providing the following plan for your review and approval. The key objectives of this plan are the following:

1. Remove all dangerous debris from the deteriorated timber seawall that has fallen
  - a. Including dozens of sharp and rusty nails – many exceeding 6 inches long.
2. Remove and replace, with new materials and design, the existing timber and concrete seawalls and stairs.

3. Repair and resolve the erosion taking place as a result of the wall collapsing at the shoreline
4. Complete the landscaping transition from originally supporting two separate homes to the current single family home in place since 1984.
5. Make it look cohesive to improve the aesthetics of our yard bringing it up to par with the other homes on Lake Kegonsa

**1. Describe alternatives to your proposal such as other locations, designs and construction techniques.**

**a. Alternatives you considered that comply with the existing standards:**

We have looked at design/plans for rebuilding the current Concrete and Timber Seawall footprints and widening the 3' concrete stairs to 5' in the same location.

The reasons we prefer to reject this proposal is the stair location is positioned to support a property that was positioned on only half of the lot. We would like to have a more cohesive plan that takes in to consideration the entire lot. Because we now have one home occupying the space where two homes previously resided, it cuts our land directly in half creating an unbalanced aesthetic of the yard. If this home were being build new today, or if the previous owners would have completed the transition of the land to conform to a single residence, as opposed to two homes on the same lot, they would never have positioned the stairs in the location they are today. In addition, the variance we are requesting is to allow us to move the stairs approximately four feet from where they are today, abutting the concrete boathouse, after we expand to the 3' to 5' egress.

**b. Alternatives you considered that require a lesser variance:**

The other alternative would be to use the space the deteriorated wooden stairs currently occupy. The location/position of these stairs on the land is even more dramatically out of balance than the concrete stairs in terms of the house and what the best visually aesthetic solution would be.

**2. Will there be unnecessary hardship to the property owner to strictly comply with the ordinance?**

The cost of the repair of the deteriorated timbers as well as the failing concrete seawall/stairs is significant. To comply with the ordinance would leave the lake front view of the property looking unusual and out of balance which ultimately would, potentially, negatively affect resale value of the home. In addition, complying with the ordinance would mean the landscape design would continue to conform to a two home design instead of a one home design. This is our opportunity to finally fix the landscape design to conform to the transformation of the home from two homes to one, done 32 years ago.

**3. Do unique physical characteristics of your property prevent compliance with the ordinance? No**

**4. What would be the affect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated.**

We believe our plan will eliminate erosion issues with our property due to the steep slopes created by the removal of the second boathouse in 1984 when nothing was done to fill in the land that was left behind. The key affect of granting this variance request would be preserving the integrity of the lakefront land by designing a plan that keeps the lake and our family safe. Our plan will also visually improve our property. Many homeowners on Lake Kegonsa have worked hard to improve their lakefront landscape which helps promote the beauty of the lake and ultimately the desirability in terms of attracting home buyers to our community. Should we be granted this variance, in addition to the above stated benefits, it would also allow us to achieve our ultimate goals for this project:

- a. Remove all dangerous debris from the deteriorated timber seawall that has fallen including dozens of sharp and rusty nails – many exceeding 6 inches long.
- b. Remove and replace, with new materials and design, the existing timber and concrete seawalls and stairs.

- c. Repair and resolve the erosion taking place as a result of the wall collapsing at the shoreline.
- d. Complete the landscaping transition from originally supporting two separate homes to the current single family home in place since 1984.
- e. Make it look cohesive to improve the aesthetics of our yard bringing it up to par with the other homes on Lake Kegonsa.















EX. BRICK

LOT LINE

LOT LINE

REMOVE EXISTING WALKS

GRIND STUMP TO LEVEL FOR TOP SOIL & TURF

REMOVE EX TREE

PROPOSED BRICK PAVED STEPS

EXISTING BRICK PAVED

22'-0"

4'-0"

REMOVE EXISTING 95  
93  
92

EXISTING RIP RAP

REMOVE WALK & STEPS

REMOVE EXISTING WALK & STEPS

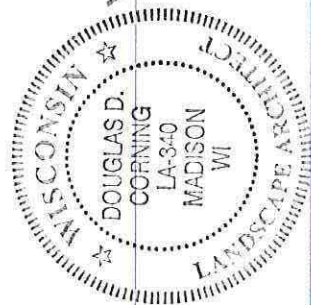
LAKE MEGANSA

EL. 87.84

SCALE 1" = 8'-0"

NORTH

DON MUTO RES. 2058 BARBER DR



EX. WALK

LOT LINE

LOT LINE

35'-0"

REMOVE EXISTING WALKS

GRIND STUMP TO GRADE FOR TOPSOIL & TURF

REMOVE FENCE

REMOVE EX. TREE

PROPOSED

ROUTED STEPS

EXISTING BRAT FLOOR

22'-0"

4'-0"

EXISTING RIP RAP

REMOVE WALK & STEPS

REMOVE EXISTING WALL & STEPS

LAKE MESHONA

EL. 8'-04"

SCALE 1" = 8'-0"

NOTED

DON MILTO RES. 2055 BARBER DR





EX. TREES

LOT LINE

LOT LINE

REMOVE EXISTING WALKS

GRIND STUMP TO  
EOL TOP SOIL & TURF

REMOVE  
EX. TREES

PROPOSED  
RELOCATED STEPS

EXISTING  
BACK YARD

22'-0"

4'-0"

EXISTING RIP RAP

NEW WALK & STEPS

REMOVE EXISTING WALK & STEPS

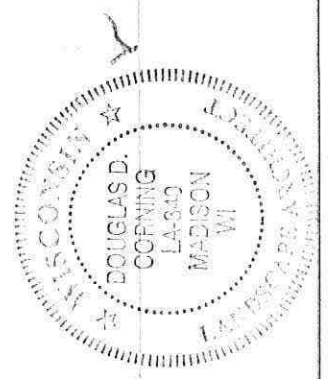
LAKE KEGONSA

EL. 8' 8"

SCALE 1" = 8'-0"

NORTH

DON MUTO RES. 2008 BARBER DR



35'-0"

EX. TREE

LOT LINE

LOT LINE

REMOVE EXISTING WALKS

BRING STUMP TO TOP OF TURF

REMOVE EXISTING

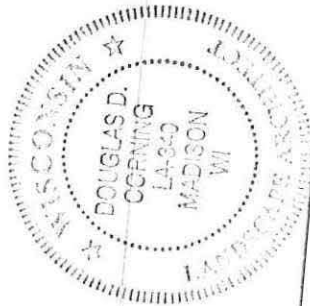
REMOVE EX. TREE

PROPOSED RELOCATED STEPS

EXISTING BOAT HOUSE

22'-0"

4'-0"



EXISTING RIP RAP

NEW WALK & STEPS

REMOVE EXISTING WALL & STEPS

LAKE MEGANSIA

EL. 8' 04"

SCALE 1" = 8'-0"

NORTH

DON MILTO RES. 2055 BARBER DR

EX. DRIVE

LOT LINE

LOT LINE

REMOVE EXISTING WALKS

REMOVE GRASS TO EXPOSE FOOTING & TURF

REMOVE EX. STAIRS

PROPOSED RELOCATED STEPS

EXISTING BOAT HOUSE

EXISTING RIP RAP

REMOVE EXISTING WALK & STEPS

REMOVE EXISTING WALK & STEPS

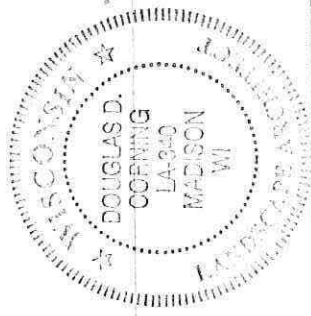
LAKE MEGANNA

EL. 8' 8"

SCALE 1" = 8'-0"

NORTH

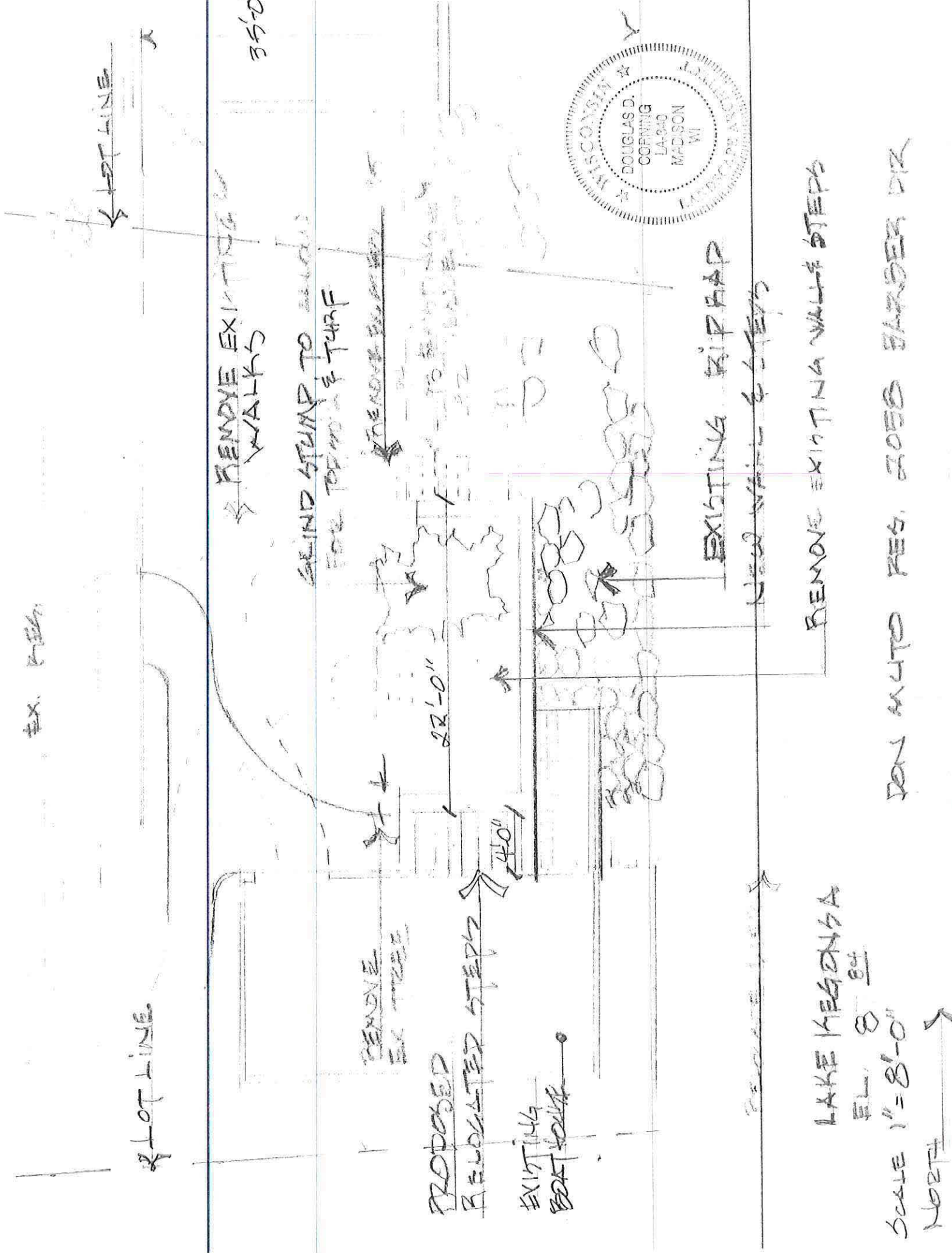
DON ALTO RES. ROSS BARBER DR



35'-0"

22'-0"

4'-0"



EX. GRASS

LOT LINE

LOT LINE

REMOVE EXISTING WALKS

GRIND STUMP TO SURFACE FOR TOPSOIL & TURF

REMOVE TREE

PROPOSED RELOCATED STEPS

EXISTING BOAT WALK

22'-0"

4'-0"

EXISTING RIP RAP

REMOVE WALK & STEPS

REMOVE EXISTING WALK & STEPS

LAKE HEADWORK

EL. 87.84

SCALE 1" = 8'-0"

NORTH

DON ALTO RES. 2055 BARBER DR



35'-0"

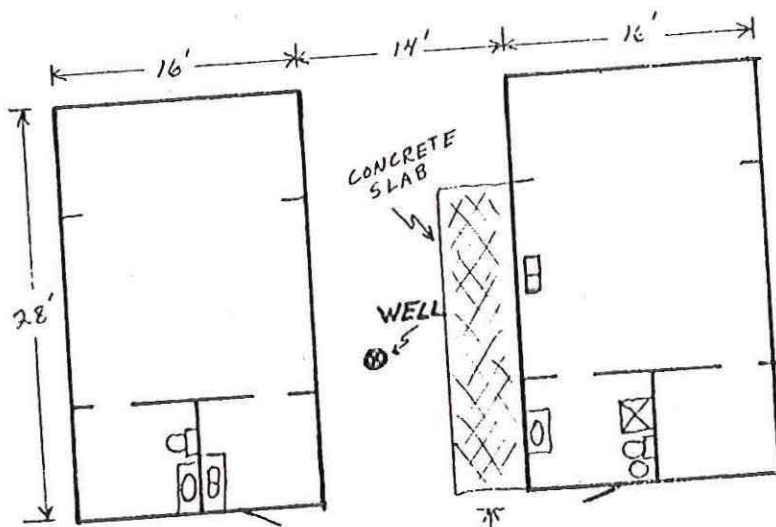
DON GRUBB  
509 SHEARWATER ST.  
MADISON, WIS. 53714  
222-8957

LAKE KEGONSA

2058 BARBER DRIVE  
2060'

NORTH

84.3'



94.5'

20'

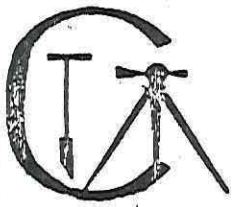
72.7'

PAVEMENT

BARBER DRIVE

MAP NO. 84003

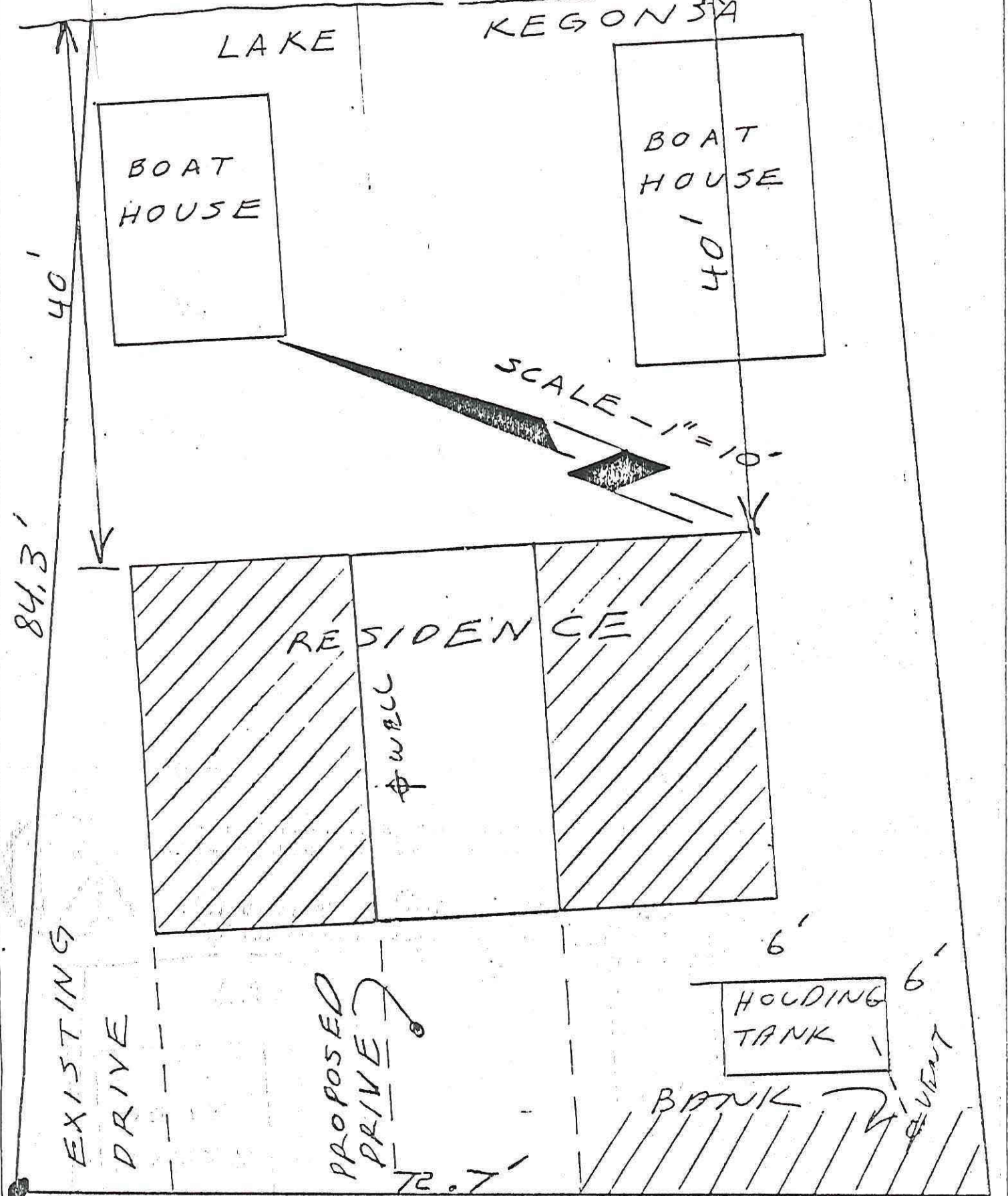
Lot 6, Lincoln Park, being part of the NW 1/4 of Section 26, T6N, R10E, Town of Dunn, Dane County, Wisconsin.



CLAYTON SURVEYING AND TESTING CO.

4891 East Clayton Rd., Madison, Wisconsin, 53711

(608) 271-8194

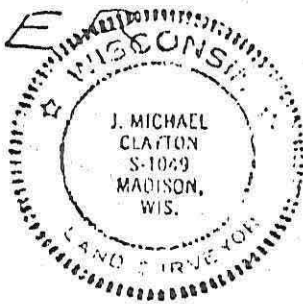


2058 BARBE

DRIVE

*Donaldo Ampe*

DATE: 1/27/84  
CST NO. 84003  
SHEET 1 OF 1



# SURVEY MAP NO. 9

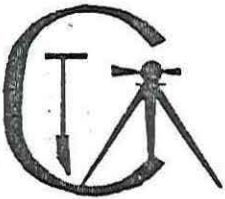
**DESCRIPTION:**

Lot 6, Lincoln Park, being part of the NW 1/4 of Section 26, T1N, R10E, Town of Dunn, Dane County, Wisconsin.

## CLAYTON SURVEYING AND TESTING CO.

4891 East Clayton Rd., Madison, Wisconsin, 53711.

(608) 271-8194



**SURVEYOR'S CERTIFICATE:**

I hereby certify that I have surveyed this parcel according to the description furnished and the official records, and that the map hereon is a true and correct representation of said survey.

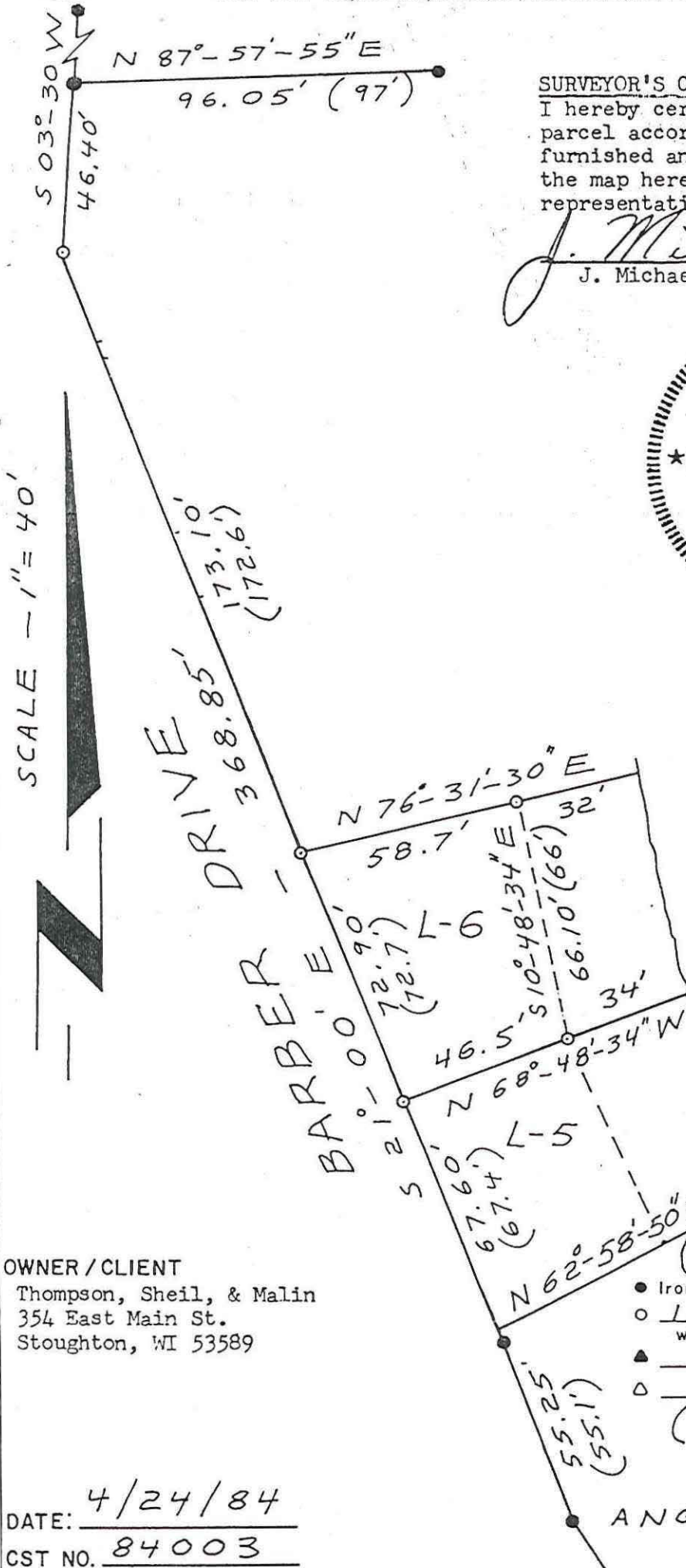
*J. Michael Clayton*  
 J. Michael Clayton RLS S-1049



SCALE - 1" = 40'

BARBER DRIVE

LAKE KEGONSA



**OWNER / CLIENT**  
 Thompson, Sheil, & Malin  
 354 East Main St.  
 Stoughton, WI 53589

DATE: 4/24/84  
 CST NO. 84003  
 SHEET 1 OF 1

- LEGEND**
- Iron Stake Found
  - 1" x 24" 113 lbs./ft. solid round iron pipe with Aluminum Cap set.
  - ▲ Spike found
  - △ Spike set
- (97') RECORDED

ANGLE POINT