

D. CLARKE SUGAR csugar@axley.com 608.260.2481

April 7, 2017

#### VIA EMAIL AND US MAIL

Dane County – Board of Adjustments Attn: Hans Hilbert (*Hilbert.hans@countyofdane.com*) 210 Martin Luther King Jr. Boulevard, Room 116 Madison, Wisconsin 53703

Re:

3392 Quam Drive, Stoughton

Our File: 21918.77458

Dear Mr. Hilbert:

Enclosed please find the Variance Application and attachments we are submitting on behalf of our clients Jack Lazzaro and Georgia Stone-Lazzaro. Also enclosed is a check in the amount of \$350 made payable to Dane County Planning & Development. Please do not hesitate to contact us if you have any questions.

Sincerely,

AXLEY BRYNELSON, LLP

D. Clarke Sugar

DCS:mah

Enclosures

cc:

Roger Lane (via email only)

Cathy Hasslinger (via email only)

Jack Lazzaro (via email only)

Georgia Lazzaro (via email only)

Charles V. Sweeney (via email only)



# Dane County Planning & Development Division of Zoning

Appeal No.	368	7		
Date Received	4/1			
Date of Public H	earing_	's/	25/	17

# **VARIANCE APPLICATION:**

Owner: Jack H	I. Lazzaro Revocable Trust and Georgia Y. Stone-Lazzaro Revo	ocable Trust dated Sep	tember 29, 2004	
Mailing Addre	9SS: 1994 Selkirk Court, Inverness, Illinois 60010			
Dhono Numb	07/0). /847) 304 0674			
	er(s): (847) 304-9671			
Email Addres	S: Jack_Lazzaro@ajg.com and geolazz@gmail.com			
Assigned Ag	ent: Charles V. Sweeney			
	2 E. Mifflin Street, Suite 200			
	Madison, Wisconsin 53703			
Phone Number	er(s): (608) 257-5661			
	S: csweeney@axley.com			
Please take n Department of failed to comp Shoreland, Sh Regulations. T  Parcel Number Town: Dunn Property Addi CSM: Shoreland: Y	County Board of Adjustment: otice that the undersigned was refused a Planning and Development, for lands describly with provisions of the Dane County Code oreland-Wetland & Inland-Wetland, 17 - Fine owner or assigned agent herewith appear on:	ribed below for a cele of Ordinances Floodplain Zonin als said refusal actrict:  R3  Quam's Park Blo	the reason that : Chapters 10 :g, and/or 76 - nd seeks a vari Acr 1 / 4 NV ck/Lot(s):	the application – Zoning, 11 – Airport Height
Current Use:	Residential.			
NOTE: You a	sidential remodel utilizing existing home foundation. are encouraged to provide a complete an bosed project on an attached sheet.	nd detailed des	cription of the	existing use
REQUIRED E	BY ORDINANCE			
Section	Description	Required	Proposed or Actual	Variance Needed
10.07	Chapter 10, Section 10.07, subpart (7)	10' setback	1' setback	9'
11.03	Chapter 11, Section 11.03, subpart (2)1.	75' setback	74' setback	1'

### 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.

<u>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:</u>

<ul> <li>(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:         <ul> <li>(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.</li> </ul> </li> <li>Please see Addendum A attached hereto.</li> </ul>
(B) Alternatives you considered that require a lesser variance: If you reject such alternatives, provide the reasons you rejected them.  Please see Addendum A attached hereto.
(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. Please see Addendum A attached hereto.
Please see Addendum A attached hereto.

(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.

Please see Addendum A attached hereto.

(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.

Please see Addendum A attached hereto.

#### REQUIRED PLANS AND SPECIFICATIONS:

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

- <u>Site Plan</u>: 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
- <u>Existing</u> 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 clovations 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: 47 /2 AM (1974) Home Mary 2/2 Date: 4-7-17
P(1/y) AA W
Print Name: Jack H ligzzaro, Trusios dan Georgia Y. Sicra Lazzary, Trusico
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Specify Owner or Agent: OATOVS
Agent must provide written permission from the property owner
Editorial Constitution of the Constitution of
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 Malled Date
Glass II Notices Published Dates
Site Visit Dato
Town Action Received Date:

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

Action by B.O.A.

Approved by:

Public Hearing Date

Date:

### ADDENDUM A TO VARIANCE APPLICATION

#### Response to Question (1)(A):

The Applicants have considered whether there are suitable alternatives that would comply with existing standards and have determined that there are none in this case. As described in the supporting correspondence and as shown on the Plat of Survey, both submitted contemporaneously herewith, the property has a number of existing features and attributes that make the proposed location the only one acceptable. First and foremost, the proposed project would be built to utilize the existing foundation which itself is located within the ten (10) foot setback area running along the western boundary of the property and also impedes slightly across the seventy-five (75) foot setback from the Lake Kegonsa. Utilizing the existing foundation is of paramount importance since it will minimize impact to the lateral support structure of the adjacent property, minimize soil erosion and consequently runoff into Lake Kegonsa, and ensure that there is no damage resulting to the root structure of the mature oak tree located immediately behind the property and other mature trees located upon the property. Moreover, the proposed location is encapsulated not only by the oak tree immediately to the north; but also by the existing well, grinder pump, and utility pole located to the south and the existing sanitary sewer easement and line serving both the property and neighboring property surrounding the proposed location immediately upon the eastern boundary and then making a right angle along the proposed location's northern boundary. All of these physical impediments predate Applicant's ownership of the property. Finally, as set forth in the attached correspondence, abandoning and removing the existing foundation would require substantial backfill in those area while at the same time working with virgin soil on the other side of the addition. The end result would create a site area prone to settling at two different rates, whereby increasing the risk of structural These physical attributes of the property make the proposed location the only acceptable choice for the proposed project.

### Response to Question (1)(B):

As indicated in response to Question (1)(A), the Applicants seek to build the proposed project utilizing the existing foundation. The existing foundation is itself located within the ten (10) foot setback area along the western boundary of the property as well as slightly impeding on the seventy-five (75) foot setback from Lake Kegonsa for which the variance is sought. Utilizing this foundation is based upon the Applicant's and the community interest in limiting erosion and preserving the historic oak tree, and is further curtailed by the other physical features on the property that eliminate alternative locations for the proposed project. Any use of the existing foundation necessarily involves a variance regarding the setback requirements along the western boundary, and therefore there is simply not a lesser variance or alternative that would accommodate the proposed project.

### Response to Question (2):

An unnecessary hardship will result if the variance sought is not approved. The Applicants' conformance with the setback requirements for which the variance is sought would result in an unnecessary burden to the Applicants. As previously stated, the proposed project has been

designed to (a) utilize the existing foundation in order to avoid diminishing the lateral supporting for adjacent property, minimize erosion and runoff, to prevent damage from the mature oak tree residing within close proximity to the foundation; and (b) take into consideration other existing features of the property that would be extremely burdensome for Applicants' to adjust (i.e. existing well, sanitary sewer line, and utility pole). The decision to deny the variance to build upon top of the existing foundation would undoubtedly result in an unnecessary burden to the Applicants since it would subject them to attempting to conform their use of the property (to the extent that it could even be done) to come within all of these existing constraints, all to avoid building upon the exact location where the current structure has resided for years.

### Response to Questions (3):

As demonstrated hereinabove, the physical characteristics of this property prevent Applicants from compliance with the setback ordinance. Utilizing the existing foundation obviously necessitates locating the proposed project thereon. Moreover, the proposed location is clearly driven by the physical characteristics of the property including the location of existing well, the sanitary sewer and components, the utility pole, and the mature oak tree, all of which predate the Applicants' ownership of the property. It is almost certain that the Applicants' excavation an alternative foundation would result in root damage and destruction to mature oak which been there for hundreds of years and is clearly a physical characteristic of the property that merits protection. Finally, while approval from the adjacent neighbor is not a determinative factor, it is nevertheless merits mentioning that the Applicants have their full support for this project as outlined in the attached correspondence.

### Response to Question (4):

Clearly in this case granting the variance will have a positive effect on this property, the community or neighborhood, and the general public interest. The Applicants' proposal is to construct a beautiful renovation and improvement to an existing home site that preserve the existing physical characteristics of the property. This well thought out improvement to an existing home site will clearly have a positive visual impact and result in an increase in the desirability and valuations within the community as a whole. Moreover, the Applicants have given special attention and effort to preserving the mature oak, which is a highly noticeable and beloved physical attribute of the property. The oak has been around for hundreds of years and any replacement thereto would certainly not be realized in the lifetime of anyone considering this Application. Finally, the project has been designed to mitigate any disturbance of lateral support of the adjacent property and runoff from erosions into Lake Kegonsa which are important considerations.

Dane County Zoning March 29, 2016

From: Jack & Georgia Lazzaro

To:

Subject: Variance requests for our home at 3392 Quam Drive, Stoughton (Town of Dunn), Wisconsin.

We have owned the home on Quam Drive since May 1994 and couldn't begin to adequately tell you how much this home and land have meant to us, our family and numerous friends. Our attention to detail in and around the house has been a labor of love and will continue to be where memories have been and will continue to be made.

The 300-400 year old pin oak in our back yard is the anchor to our property. We were told by an arborist that it was likely nurtured by Native Americans hundreds of years ago because of it's straightness and symmetry. The tree's canopy (approx. 100 feet across) reaches the house and we were advised that the roots are likely touching the foundation. Removing the foundation would probably kill the tree. We feel our family has been given the gift of maintaining this gorgeous specimen until it's passed on to the next caregiver. Hopefully it will stay in our family for generations to come.

We're planning on making Quam Drive our permanent residence once Jack retires in a few years. Unfortunately, we've realized the current structure is not adequate for two retired people. Currently our laundry and only bathtub are in the basement. The home was never set up for any kind of handicap needs. With all the improvements we've made to the home, it still isn't as energy efficient as we would like. In addition, the garage is not attached and there are several steps down from the garage and up into the house.

That being said, we hope to build a beautiful, energy efficient, safe and comfortable home.

With respect to variances;

- We're hoping keep the existing foundation for many reasons:
- It has solid thick walls and doesn't leak.

- Disruption would surely kill the neighborhood's beloved oak tree.
- -Other design options (of which there were many) simply don't work. Other design options involved the electric pole that sits in our front yard. We understand that moving it would be a major problem if not impossible. Also other house designs would require us to move the well and possibly the sanitation grinder pump.
- -Both our grandsons (2  $\frac{1}{2}$  & 4  $\frac{1}{2}$ ) feel extremely comfortable playing alone and sleeping in our basement and may want to continue sleeping there even after they would have bedrooms on the second floor available to them.
- -During the unfortunate tornado of 2005, I took refuge in that basement along with a good friend and her 5 children, all under the age of 9. Thank God we didn't have a direct hit, but if we had, I can only assume that basement would have saved all our lives.
- -Building on top of the main floor could also prove to be difficult since the floor is off by several inches due to settling. Last year we had a bookcase made uneven on the base so that it would sit level.

Although this process is arduous and necessary, we're anxious to build our dream home in Stoughton (Dunn) on beautiful Lake Kegonsa.

Sincerely and respectfully,

Georgia & Jack Lazzaro 3392 Quam Drive Stoughton, Wi 53589

file Lurrare Coul Sign

To Whom It May Concern:

We are the neighbors (address) directly west of the Lazzaros (3392 Quam Drive) in the town of Dunn.

We understand they are planning on rebuilding and we have seen their plan. The plans show that they would like to build on their existing foundation plus expand the current footprint to build a larger home.

As we understand it, there are a few parts of their plan that may require Dane County variance approval. The variances that could have any impact on us are the following:

- The foundation of the current west wall of their home (including their fireplace foundation) will remain and it is apparently outside of the 10' side setback.
- The plan includes a new second floor which would be set back 6' or 7' from the west property line directly next to our house.
- The plan includes repairing the current deck which is partially outside the 75' high water mark setback.

As we mentioned above, we have seen the plan and we have no problem with any of the above potential variances.

Sincerely,

Jo Ferraro

3396 Quam Dr.

Stoughton, WI 53589

Tom Nicewander

American Design Concepts

1334 Applegate Rd, Madison, WI

Dane County and the Town of Dunn

Zoning and Variance boards

3/31/2017

Addition / Major remodel for Jack and Georgia Lazzaro

I am Tom Nicewander, owner and principle of American Design Concepts. I am a professional residential home designer in the Madison, Dane county area. Recently I helped Jack and Georgia design, and reinvent their existing lake home. Jack, Georgia, and I considered many design options, but ultimately determined that reusing the existing foundation would best meet their needs as well as respect and maintain the spirit of the community's rules and codes. We ultimately decided the driving factor of the design would be the preservation of an existing several hundred year old oak tree that the Lazzaros, neighbors, and community have passively enjoyed forever. To achieve this, we determined that minimizing the soil disturbance and root system of the "anchor" oak tree was paramount to the project. Meeting this goal, and still constructing a modern home has been a challenge. However we believe the proposed structure has achieved a beneficial balance of old and new.

As you have seen, or will see, we are asking for a variance to reuse the existing foundation. All new construction would be done within the permitted building envelope. In fact all new foundation walls have been specifically designed to avoid soil disturbance and the "anchor" oak tree root system as much as possible. In addition and in keeping the goal of minimal disturbance, reusing the existing foundation allows us to preserve a direct foundation entrance on the northwest basement corner without re-contouring the existing grade.

We hope you will agree that this proposed structure will best meet not only the Lazzaros interest, but the interests of the community.

Thank you for your time and consideration on the matter.

Tom Nicewander

American Design Concepts



March 31, 2017

**Dane County Zoning** 210 Martin Luther King Jr. Blvd., Rm 116 Madison, WI 53703

Re:

3392 Quam Drive - Town of Dunn

Variance Request

The following variance is being requested for the referenced project.

1) Variance to use the existing house foundation within the 10' sideyard setback for home reconstruction;

Rationale: The existing foundation is within the 10' sideyard setback. Re-using the existing foundation will prevent unnecessary excavation and land disturbance on the property, thereby preventing soil erosion to Lake Kegonsa. Secondly, there are several mature trees on the property, including a very large oak tree. Excavation for a new foundation on the property could potentially kill the root structure of this tree.

If you have any questions or need further information, please feel free to contact me.

Sincerely,

Aaron Falkosky, P.E.

CC:

Jack and Georgia Lazzaro via email Charles V. Sweeney via email

FN: EC-18-17

## ABSOLUTE CONSTRUCTION

## N 890 SUNRISE POINT RD. CHETEK WI 54728

CELL (715)642-2152

## REMODELING # RESTORATION # ADDITIONS # KITCHENS # BATHS # FINISHED BASEMENTS

To:

Dane County Zoning

Date 3-25-17

Subject;

Jack and Georgia Lazzaro Addition

#### Dear sir/madam

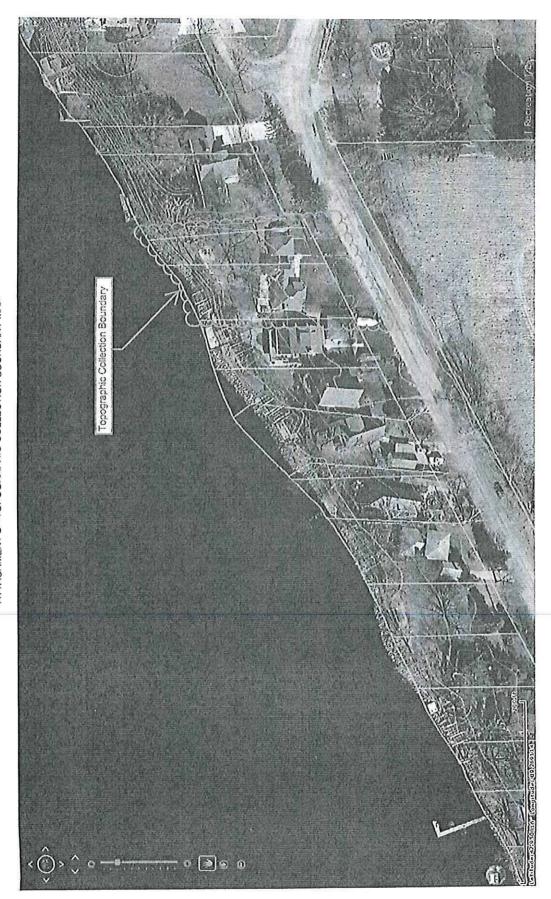
I have been working with the Lazzaros since very early on in the planning of their new addition. I have been asked to address the reasoning for utilizing the existing foundation walls verses removing and installing new walls in a different location. Upon extensive review of the current site conditions and the Lazzaros wishes. It was my recommendation that they add on to the existing foundation for the following reasons;

- There is a large oak tree on the lake side of the house that is very dear to the Lazzaros. It is almost
  certain that pulling out the existing walls would negatively affect the life of that tree.
- The Lazzaros expressed to me the desire to maintain the basement in it's current state due to the many fond memories created there over the years.
- Removing the existing foundation would drastically affect the design of the Lazzaros dream home making it impossible for them to accomplish their lifelong plans.
- The existing services (water, sewer, electric, gas) would remain intact. Saving all costs and affects associated with those services.
- Removing the existing foundation would require us to mobilize equipment onto the neighbors property to the west. Thereby disrupting portions of there property that would otherwise not be affected.
- What is most important to me as a builder with hands on experience is the structural component. Noting; that by removing the existing foundation a substantial amount of over digging and undermining would be necessary in those areas. This will create a situation that will require substantial backfill in those areas, while working with virgin soil on the addition side of the house. Marrying those two conditions will create one structure that will certainly settle at two different rates. I have personally witnessed structural failure at the area where the virgin soil walls meet the backfilled walls. Resulting in cracked concrete, walls, drywall and roofline. These types of failures are always difficult and costly to correct after the fact. This is why whenever possible I always recommend adding onto existing structure.

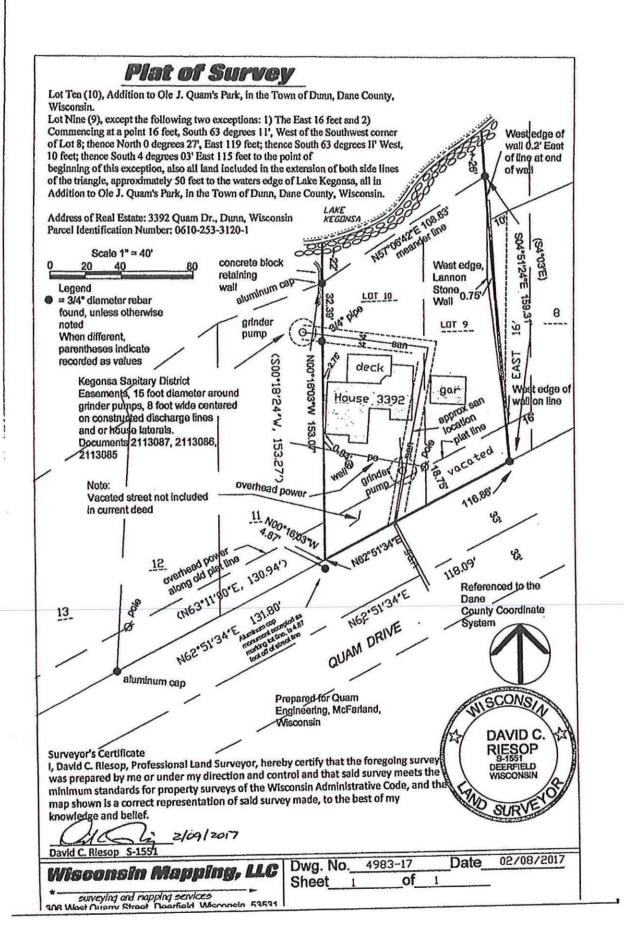
I hope this is helpful in assisting with your decision making process. Please feel free to contact me with any questions or concerns.

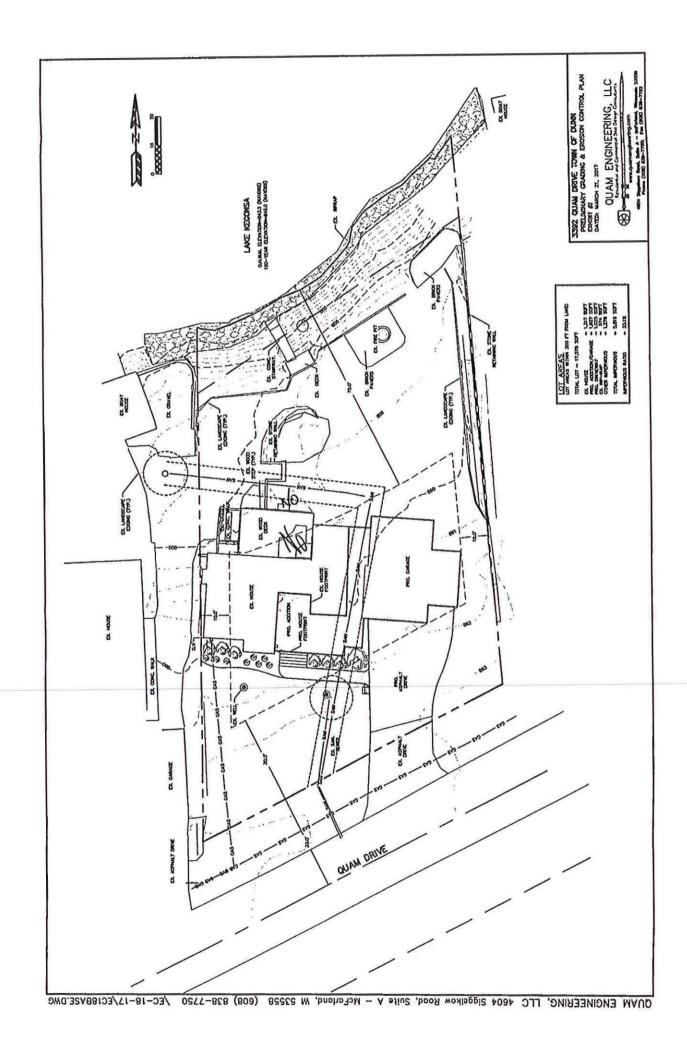
Sincerely,

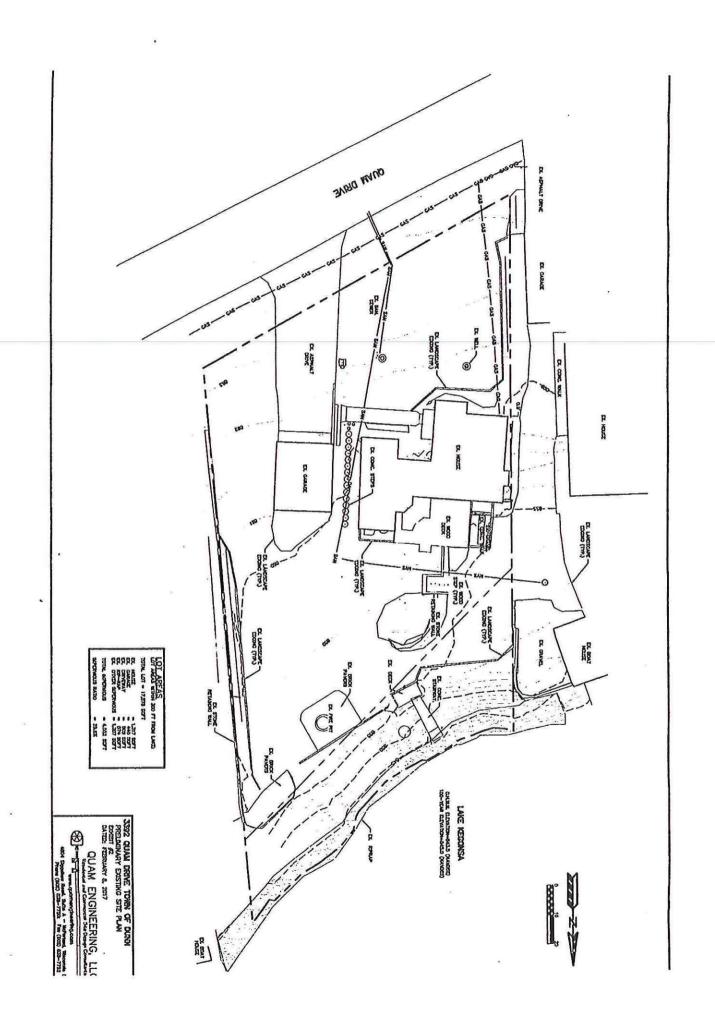
Eric Comstock Absolute Construction 715-642-2152



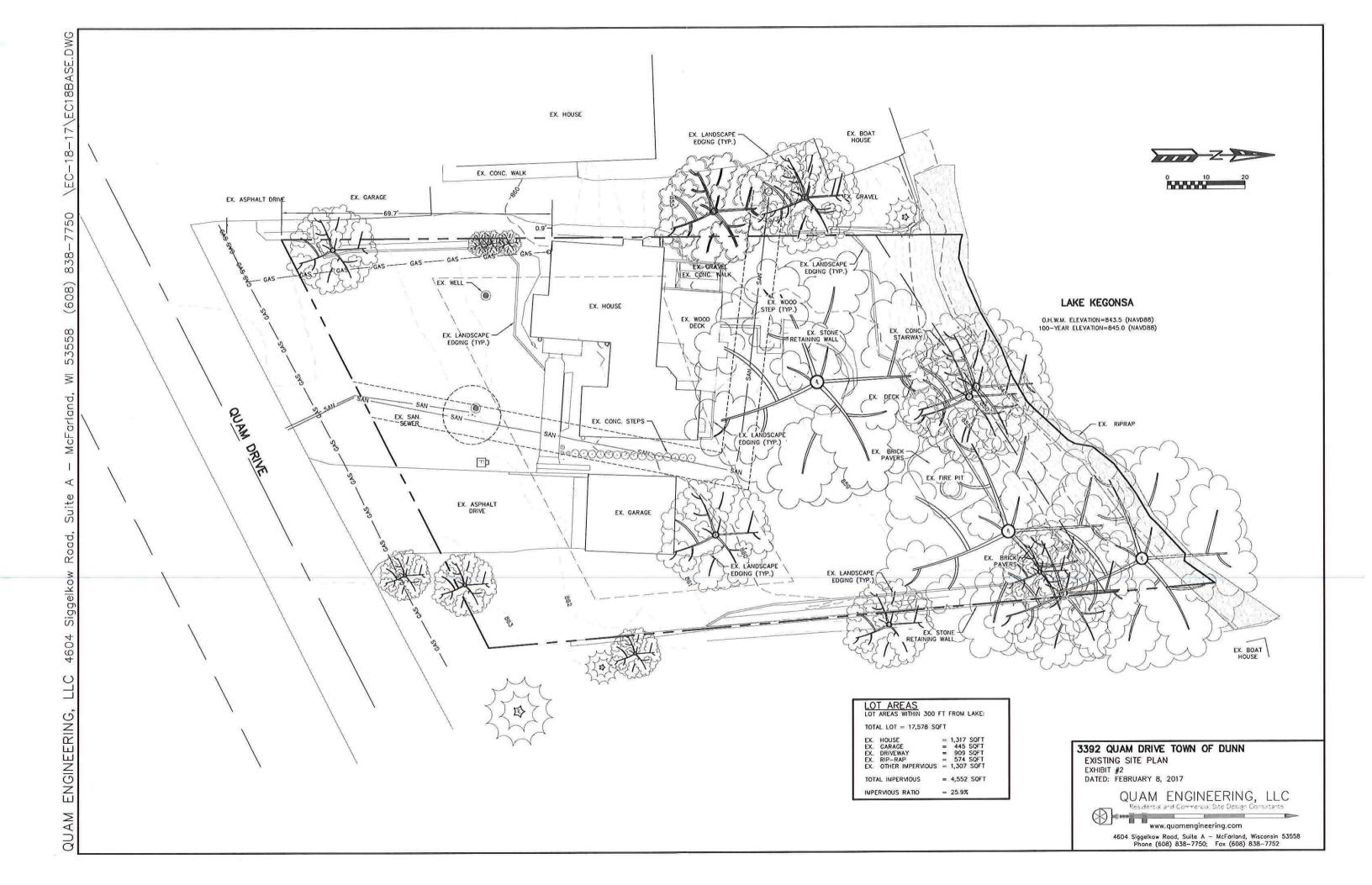
ATTACHMENT B - TOPOGRAPHIC COLLECTION BOUNDARY MAP

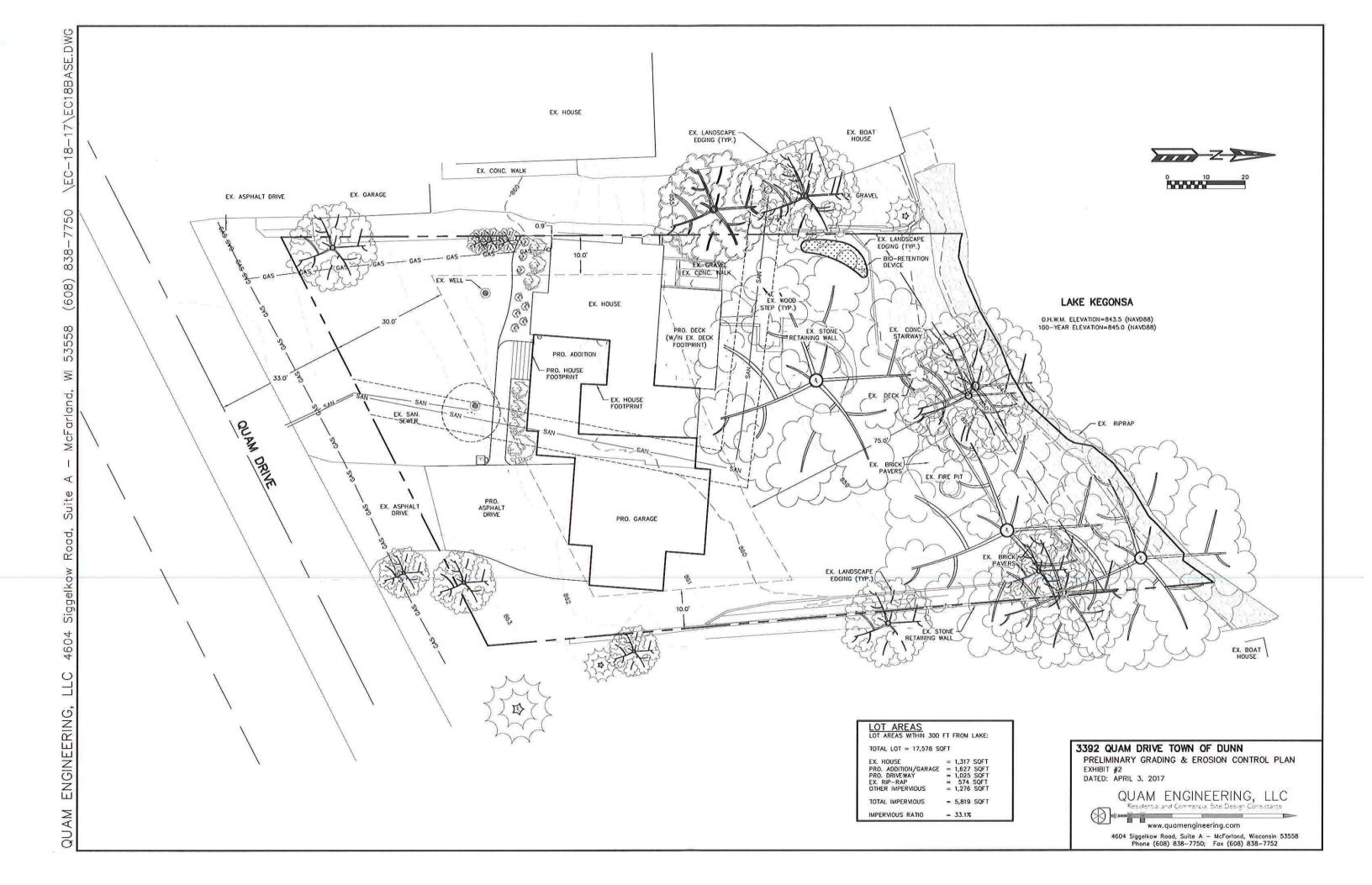


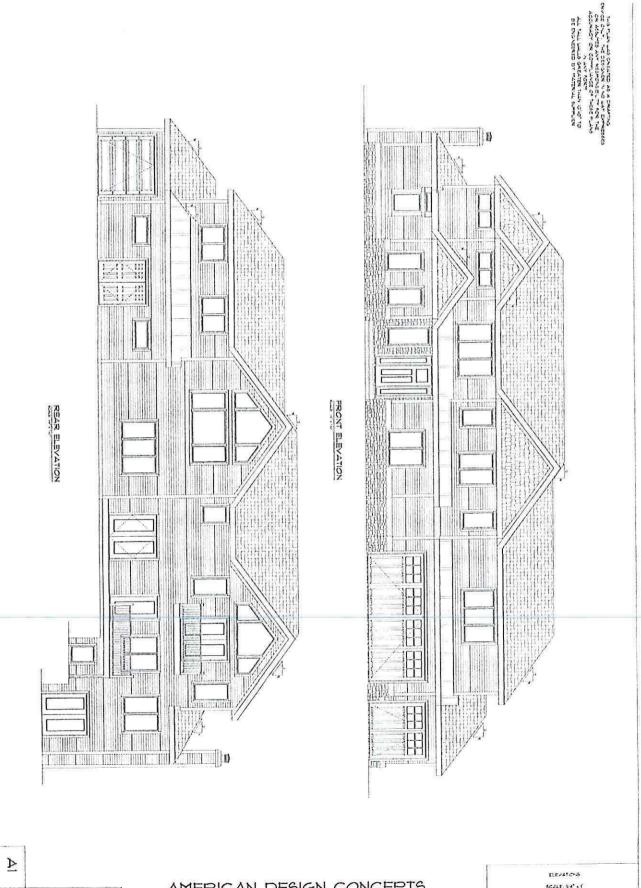




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LAZZARO RESIDENCE

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MASS COST	*********
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