



Dane County Planning & Development

Division of Zoning

Appeal No. 3690
Date Received 11/8/2017
Date of Public Hearing 12/18/2017

VARIANCE APPLICATION:

Owner: Robert T & Christine M DICKE

Mailing Address: 6205 Knollwood Drive
Oregon WI 53575

Phone Number(s): (608) 770-0228 (608) 835-5529

Email Address: rtdengr@charter.net

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: 0509-201-2601-0 **Zoning District:** DCPREZ-0000-07200 **Acreage:** 17.862

Town: Oregon **Section:** 20-5-9 PRT NW1/4NE1/4&PRT NE1/4... 1 / 4 1 / 4

Property Address: 5886 Hwy A Brooklyn WI 53521

CSM: _____ **Lot:** _____ **Subdivision:** _____ **Block/Lot(s):** _____

Shoreland: Y / N **Floodplain:** Y / N **Wetland:** Y / N **Water Body** _____

Sanitary Service: Public / Private (Septic System)

Current Use: Vacant land with pole building

Proposal: New home construction 695' north of Hwy A and 985' west of Tipperary Rd.

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
10.093(3)	Building height	2 1/2 story or 35'	3 story or 42'	7'

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.

Option 1 is to eliminate the top story of the home or modify it with a mansard type roof. Eliminating the story would eliminate one of the major attractions of the building site, namely the beautiful views to the east, south, and west that continuous windows provides. The home is of a Prairie style design. Putting a mansard roof on a Prairie design home would look absolutely awful.

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

Option 2 is to sink the first level 6.5' into the ground. This would make the whole home 6.5' shorter. However this would also necessitate cutting 6.5' from the top of the hill because the entrance to the home is from the top of the hill. This would destroy the character of the lot and cause an awkward transition to the east. This would also make it impossible to have an outside access to the bottom floor and would not allow egress from the bedroom located on that floor.

(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.

Yes, there will be an unnecessary hardship to me to strictly comply with the ordinance. The concept of this home is to use earth shelter techniques along with completely passive solar air conditioning that employs convection cooling to exhaust hot air and earth tubes to bring in cool air. These are novel techniques that will demonstrate very efficient use of energy for home heating and cooling. These techniques rely on a home that is cut into a

A. WRITTEN STATEMENT

1. Name and address of applicant: Robert T and Christine M DICKE 6205 Knollwood Drive, Oregon WI 53575
2. Property: 5886 Hwy A Brooklyn WI 53521. On Highway A between Tipperary Road and the Cemetery. Tax Parcel Number: 042/0509-201-8601-0 Property Description: SEC 20-5-9 PRT NW1/4NE1/4 & PRT NE1/4NE1/4...
3. Project: Our new home in and on the hill approximately 700' north of Highway A and 1,000' west of Tipperary Road. Our home will be earth sheltered and convection cooled with the lower two levels cut into the hill. The home's entrance is on the north side at hilltop level where there will be another two levels. The lowest level is an exposed basement. Level 2 is the main living area with a two story atrium. Level 3 is the main entrance on to a balcony overlooking Level 2. Level 4 is an Observatory, overlooking views to the east, south, and west. There is an attached garage and woodworking shop behind the home and connected to the main home with a tunnel at level 2 from the garage and a bridge from level 4. The entrance to the home is under the bridge
4. Complete property description: SEC 20-5-9 PRT NW1/4NE1/4 & PRT NE1/4NE1/4 COM SEC N1/4 COR TH S00DEG01'32"E 376.50 FT ALG N-S 1/4 LN TH S88DEG01'35"E 1165.79 FT TO POB TH S88DEG01'35"E 127.11 FT TH S03DEG56'23"E 90.46 FT TH S87DEG52'06"E 373.88 FT TO A PT ON W LN LOT 4 CSM 4635 TH S02DEG12'38"W 311.60 FT ALG W LN SD LOT 4 TH S80DEG11'34"E 943.96 FT ALG SLY LN SD LOT 4 TO E LN OF NE1/4NE1/4 SD SEC 20 TH S01DEG06'56"E 381.35 FT ALG E LN SD SEC 20 TO SE COR NE1/4NE1/4 SD SEC TH N88DEG59'49"W 1226.02 FT ALG S LN NE1/4NE1/4 TO ELY LN OF CEMETERY TH N00DEG44'09"E 19.47 FT ALG SD ELY LN TO NLY LN OF CTH A TH N00DEG44'09"E 171.23 FT ALG SD ELY LN TO NE COR SD CEMETERY TH N84DEG45'24"W 218.82 FT ALG NLY LN SD CEMETERY TO NW COR THF TH N00DEG41'39"E 729.87 FT TO POB SUBJ TO CTH A & TIPPERARY RD EXC COM AT NE COR OF SD SEC 20 TH S1DEG41'57"E 1330.10 FT TH N87DEG20'52"E 1202.46 FT TO POB OF THIS EXC TH N0DEG46'55"E 195.30 FT TH N85DEG46'52"W 244.01 FT TH S00DEG40'11"W 25.08 FT TH S84DEG46'52"E 218.89 FT TH S00DEG46'55"W 171.35 FT TH S87DEG20'52"E 25.01 FT TO POB OF THIS EXC TOG W/ACCESS ESMT IN DOC #4433579

1. Unnecessary Hardship.

The hardship stems from the zoning code. The ordinance says that my home will be 6' 3" too tall as viewed from Highway A even though the structure will be only two levels above the hill. Ordinances need be written to cover the majority of situations and the majority of building sites are on flat lots in subdivisions. No one would want a 42' house on a flat lot right next to a subdivision full of ranch houses. This project is not on a flat lot. Two of the levels are cut into the hill and two are above the hill. The irony of this project is that if my lot was on the south side of Highway A, and the view of my home from the street was of the two levels that are above the hill, there would no conflict with the ordinance.

2. Hardship Due to Unique Physical Limitation of the Property

This is a unique lot. I looked for many months to find a south-facing hill that was tall enough to accommodate two levels of earth shelter. This home will be a model of energy efficiency when the earth shelter construction is combined with convection cooling. Convection cooling works by exhausting hot air at the top of the structure and allowing it to be replaced with cool air drawn in through the earth tubes. In order for convection cooling to work properly all the levels need to be intact, since the taller the chimney the greater the convection cooling efficiency.

3. No Harm to Public Interests

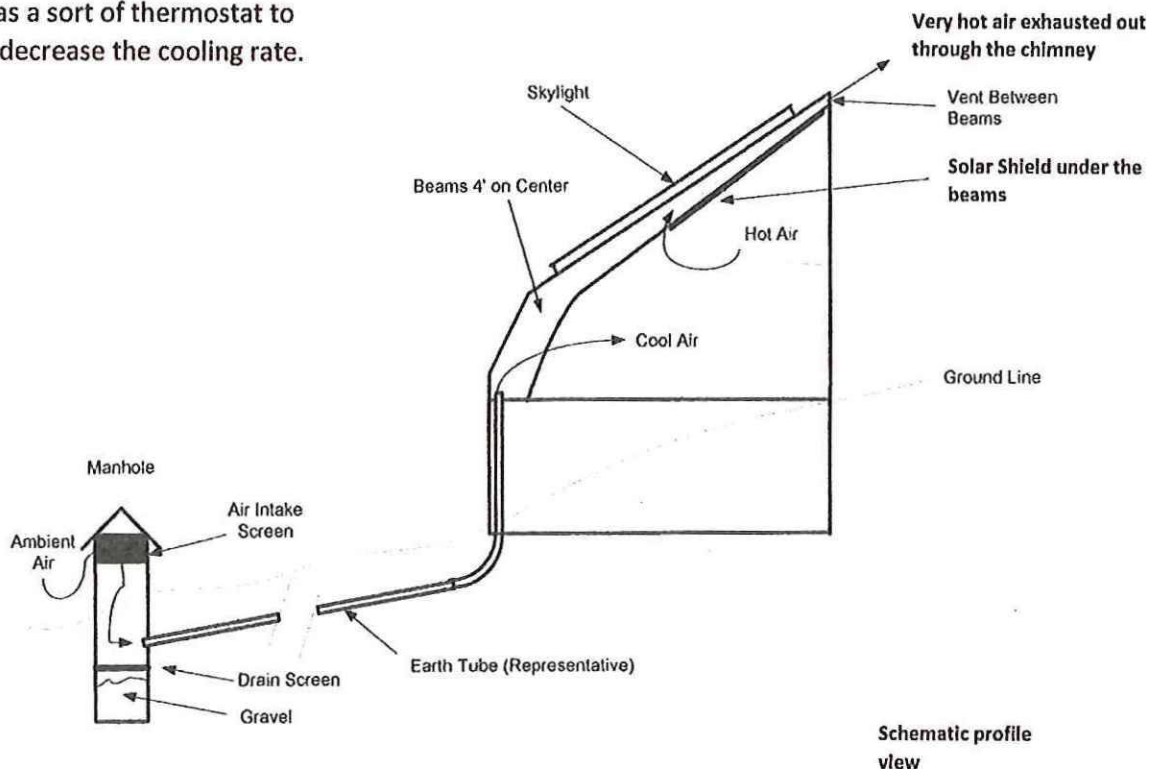
There should be no harm to public interest as my home will be 700' from Highway A and we own 18 acres around the home. There will be only two levels above the hill. The only issue is that the building site is on the wrong side of Highway A.

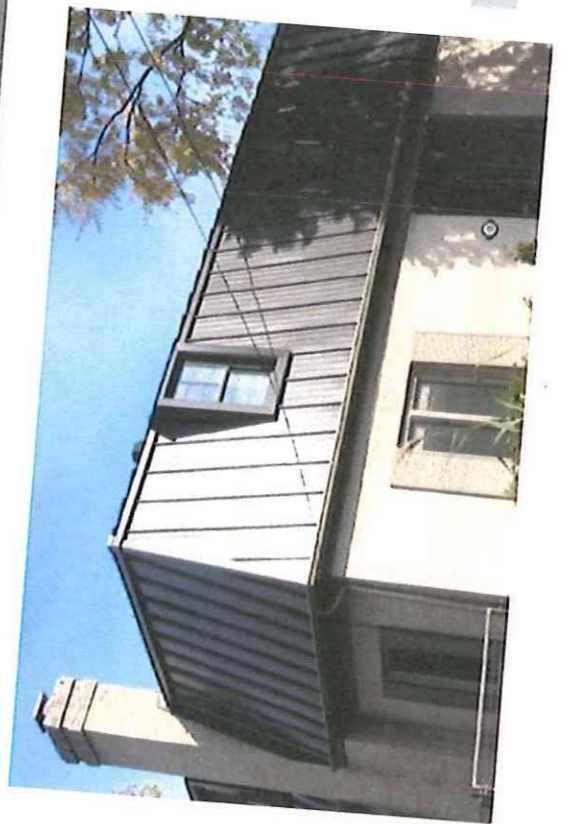
hill so that building temperatures can be stabilized by the earth. Convection cooling works best if there is a tall chimney that the hot air can use for exhaust; the taller the chimney the greater the air draw. This chimney would be integrated into the top story. It is possible to have this chimney without the top story of the building but that would be architecturally awkward. Eliminating the top story would deprive us of the wonderful views of the country side.

As the Solar Shield, is pulled down along the bottom of the beams, more hot air will be generated between it and the glass. This will increase the rate of convection cooling. Thus the Solar Shield acts as a sort of thermostat to increase or decrease the cooling rate.

Convection Cooling

Air heated between the glass and Solar Shield rises up the cavity and out the chimney causing a partial vacuum in the building. This brings in earth cooled air through the Earth Tubes and into the home





- (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 is a unique piece of land. The hill provides the possibility of building an earth sheltered home. Most residential lots are flat and don't allow this kind of construction. Zoning rules are written for the average building site. This site is different because two levels of the home are cut into the hill and the home is really only two stories above the top of the hill.

- (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.

The public interest impact of this home will be to demonstrate the energy saving concepts of earth shelter construction combined with a novel use of thermal principles to show that a home can be air conditioned by using convection cooling and without the use of any electricity.

I will be more than happy to work with any organization to install sensors and collect data that will document the validity of these construction concepts.

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.



GEORGE A. WEIR - LAND SURVEYOR

PROPERTY SURVEYS, HIGHWAY SURVEYS, TOPOGRAPHIC SURVEYS, ACCIDENT SURVEYS,
PLATS, MUNICIPAL SURVEYS

AFFILIATED WITH

Royal Oak Engineering Inc.

LAND PLANNING, MUNICIPAL ENGINEERING, HIGHWAYS, DESIGN,
CONSTRUCTION SUPERVISION



June 24, 1987

B:±T05R09±SEC20±DICKE.687

Mr. Bob Dicke
6205 Knollwood Drive
Oregon, Wi 53575

SUBJECT: Description Section 20, T05N R09E, Town of Oregon, Dane County,
Wisconsin.

Dear Mr. Dicke,

The following is the description you asked us to prepare for you. This description is the results of our survey of the property and shown on map number 12033-L.

The following described parcel is part of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, of Section 20, T05N R09E, Town of Oregon, Dane County, Wisconsin, more fully described as:

Commencing at the N $\frac{1}{4}$ corner of said Section 20;
Thence S00°01'32"E, 376.50 feet, along the North-South $\frac{1}{4}$ line;
Thence S88°01'35"E, 1165.79 feet, to the Point Of Beginning of this description;
Thence S88°01'35"E, 127.11 feet;
Thence S03°56'23"E, 90.46 feet;
Thence S87°52'06"E, 373.88 feet, to a point on the West line of Lot 4, Certified Survey Map Number 4635;
Thence S02°12'38"W, 311.60 feet, along the West line of said Lot 4, said line has been recorded as S02°13'33"W, 311.57 feet;
Thence S80°11'34"E, 943.96 feet, along the Southerly line of said Lot 4, to the East line of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 20, said line has been recorded as bearing S80°11'00"E, 943.85 feet;
Thence S01°06'56"E, 381.35 feet, along the East line of said Section 20, to the Southeast corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section;
Thence N88°59'49"W, 1226.02 feet, along the South line, of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ to the Easterly line of the cemetery;
Thence N00°44'09"E, 19.47 feet, along said Easterly line, to the Northerly line of County Trunk Highway "A";
Thence N00°44'09"E, 171.23 feet, along said Easterly line to the Northeast corner of said cemetery;
Thence N84°45'24"W, 218.82 feet, along the Northerly line of said cemetery, to the Northwest corner thereof;

(Continued on Page 2)

Page 2
Dicke
June 24, 1987

Thence $N00^{\circ}41'39''E$, 729.87 feet, to the Point Of Beginning of this description.

Said parcel contains 18.722 acres to the South line of the $NE\frac{1}{4}$ of the $NE\frac{1}{4}$, and the East line of said $NE\frac{1}{4}$ of the $NE\frac{1}{4}$, and 17.920 acres, excluding the right of way for County Trunk Highway "A" and Tipperary Road.

Said parcel is subject to a road right of way across its Southerly side for said County Trunk Highway "A", and its Easterly side for Tipperary Road

Sincerely,

A handwritten signature in cursive script, appearing to read "Arden T. Sandsnes", written in dark ink.

Arden T. Sandsnes, Professional Land Surveyor S812

Part of the NE 1/4 of the NE 1/4, and part of the NW 1/4 of the NE 1/4, of Section 20, T8S1 R99E, Town of Oregon, Dane County, Wisconsin, more fully described as:

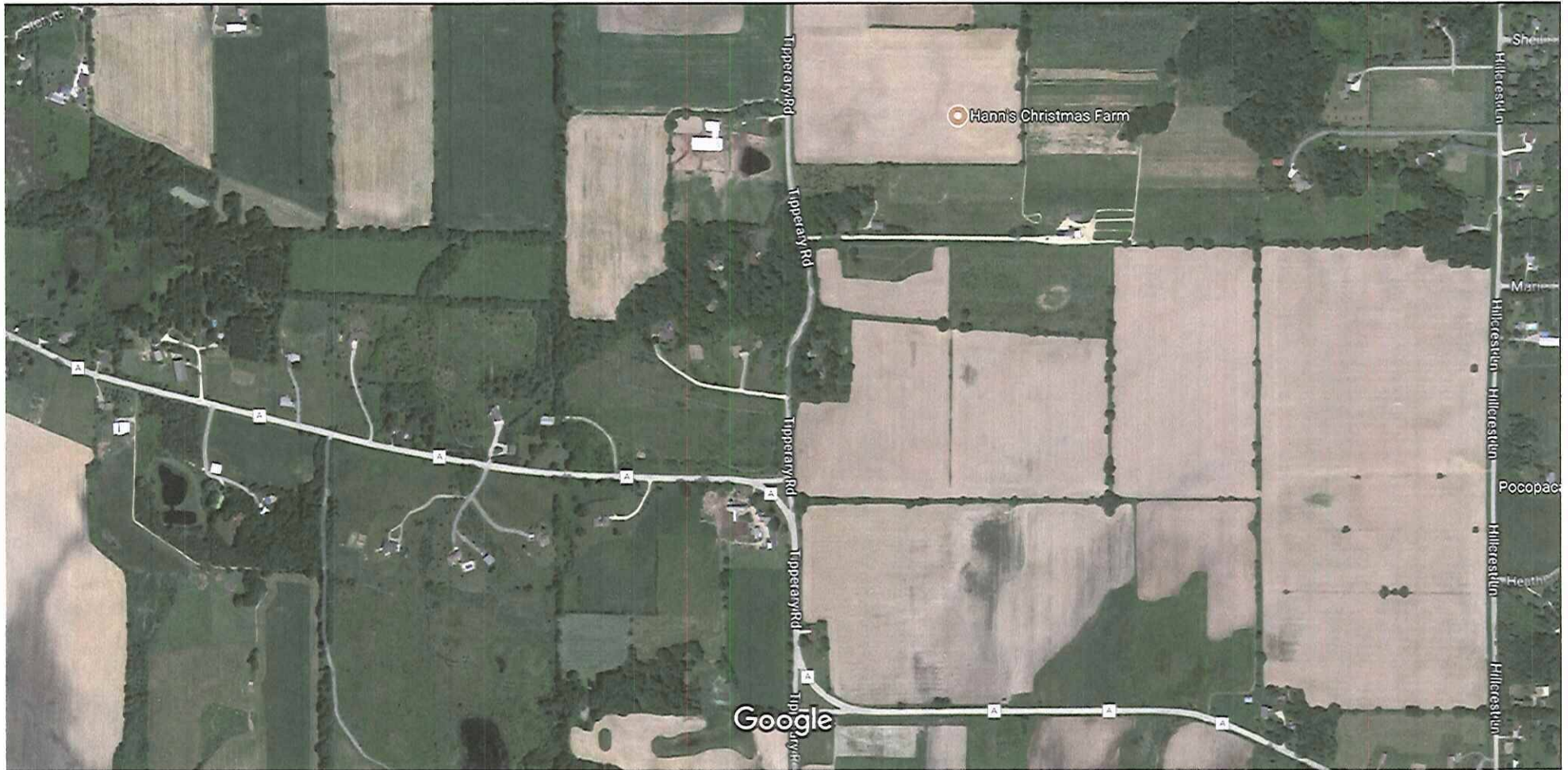
Commencing at the NE 1/4 Corner of said Section 20; Thence S00°01'32"E, 376.50 feet; Thence S88°01'35"E, 1,165.73 feet to the Point of Beginning of this description; Thence S88°01'35"E, 127.11 feet; Thence S03°56'23"E, 90.46 feet; Thence S87°52'06"E, 373.68 feet to a point on the West line of Lot 4, C.S.M. #4635; Thence S02°12'38"W, 311.60 feet, along said West line, said line has been recorded as S02°13'33"W, 311.57 feet; Thence S80°11'34"E, 943.96 feet, along the Southern line of said Lot 4, to the East line of the NE 1/4 of said Section 20, said line has been recorded as bearing the NE 1/4, of said Section 20, 943.85 feet; Thence S01°06'56"E, 381.35 feet, along the East line of said Section 20, to the Southwest Corner of the NE 1/4 of the NE 1/4, of said Section; Thence N88°59'49"W, 1,226.02 feet, along the South line of the NE 1/4 of the NE 1/4, to the Eastern line of the cemetery; Thence N00°44'09"E, 19.47 feet, along said Eastern line to the Northern line of County Trunk Highway "A"; Thence N00°44'09"E, 171.23 feet, along said Eastern line, to the Northeast corner of said cemetery; Thence N84°45'24"W, 218.82 feet, along the Northern line of said cemetery, to the Northwest corner thereof; Thence N00°44'39"E, 723.87 feet, to the Point of Beginning of this description.

Said parcel contains 18.722 acres to the South and East lines of the NE 1/4 of the NE 1/4, and 17.920 acres, excluding the right-of-way for County Trunk Highway "A" and Tipperary Road.

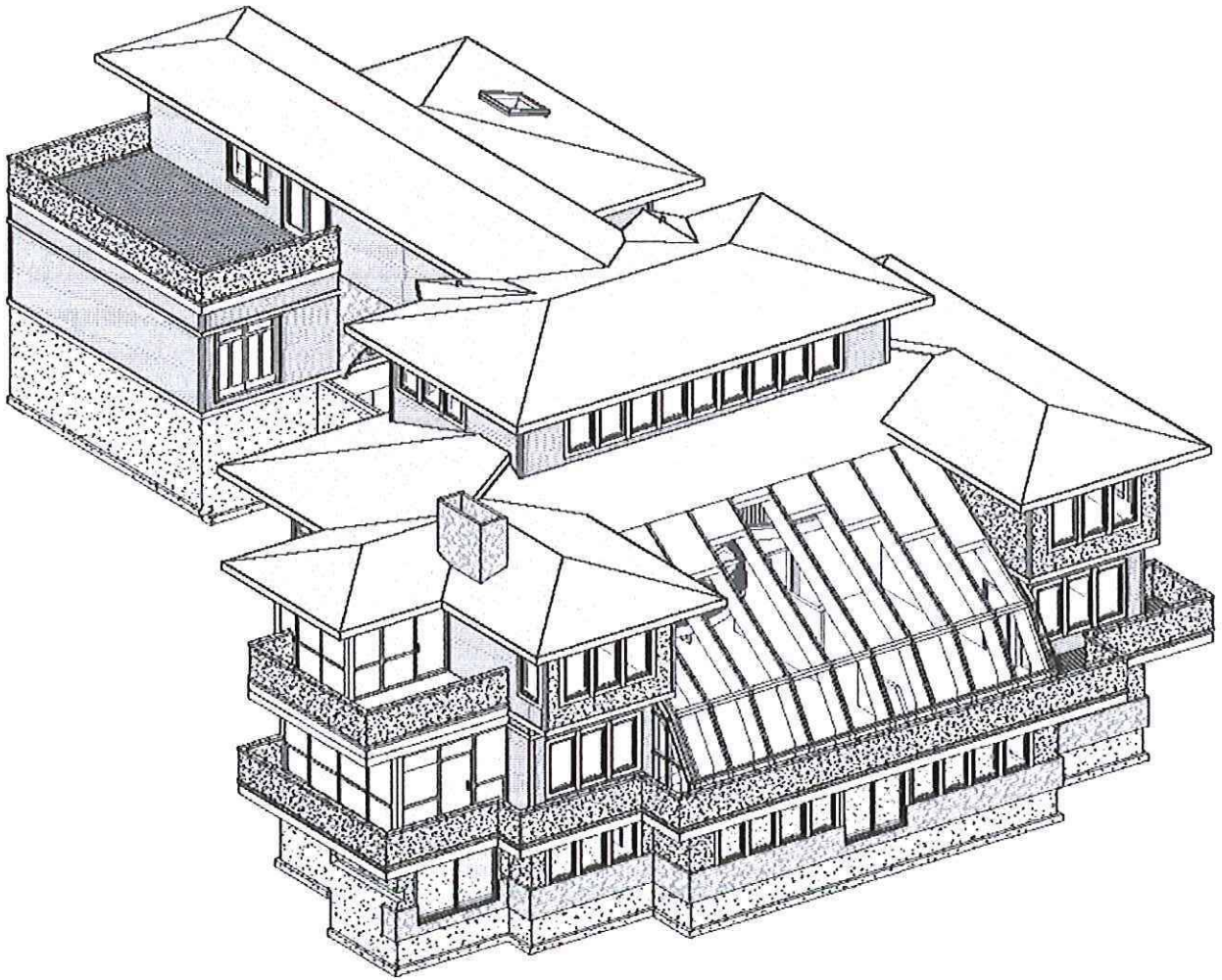
Said parcel is subject to a road right-of-way across its Southern and Eastern sides, for County Trunk Highway "A" and Tipperary Road, respectively.

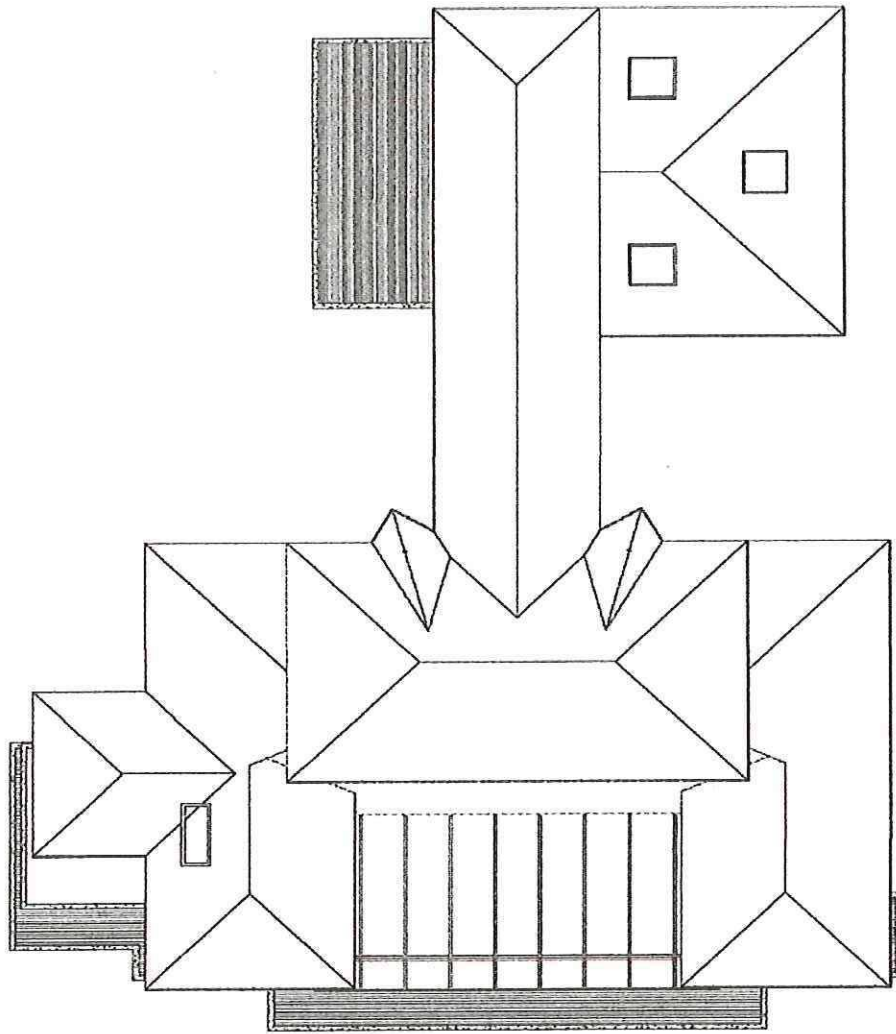
Approx PROPERTY LINE
1" = 178' ○ = BUILDING SITE

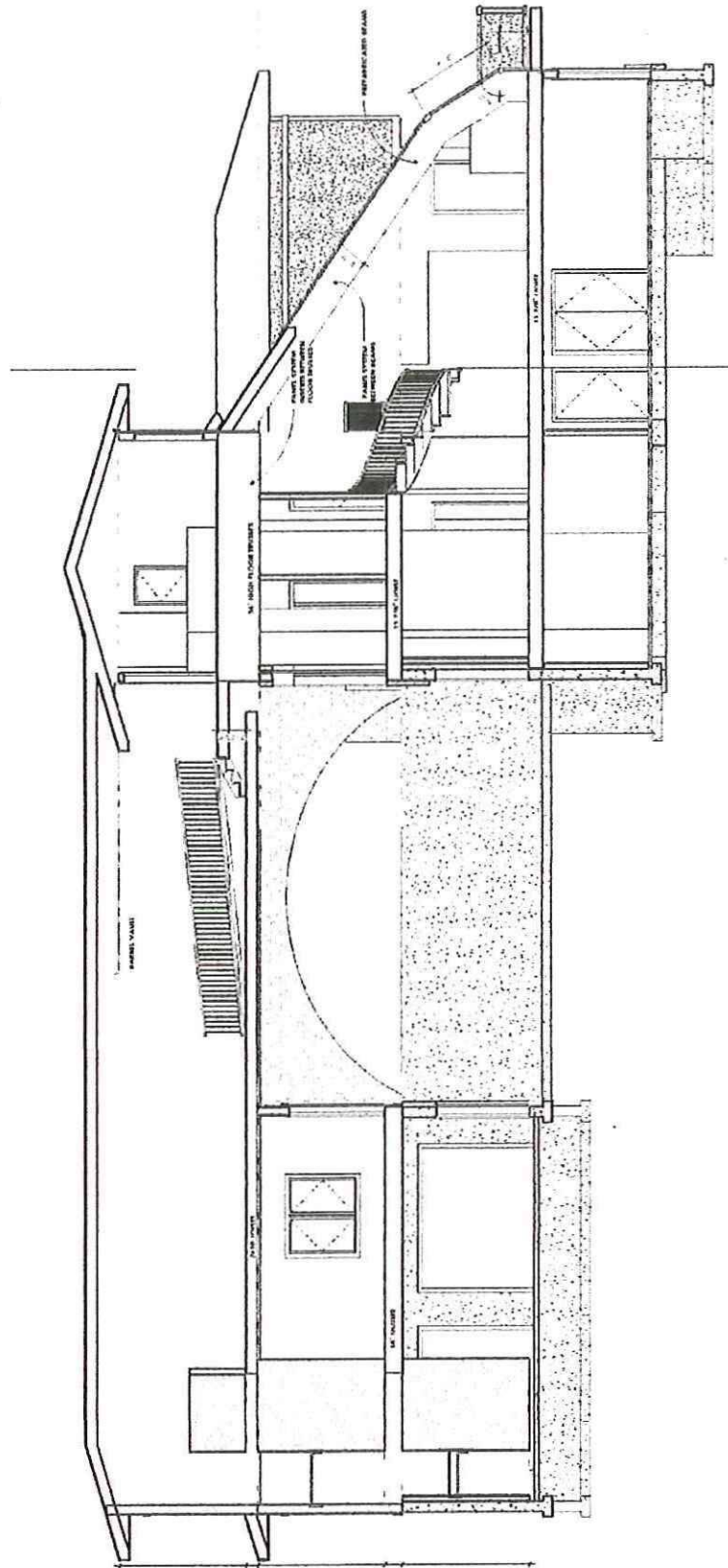
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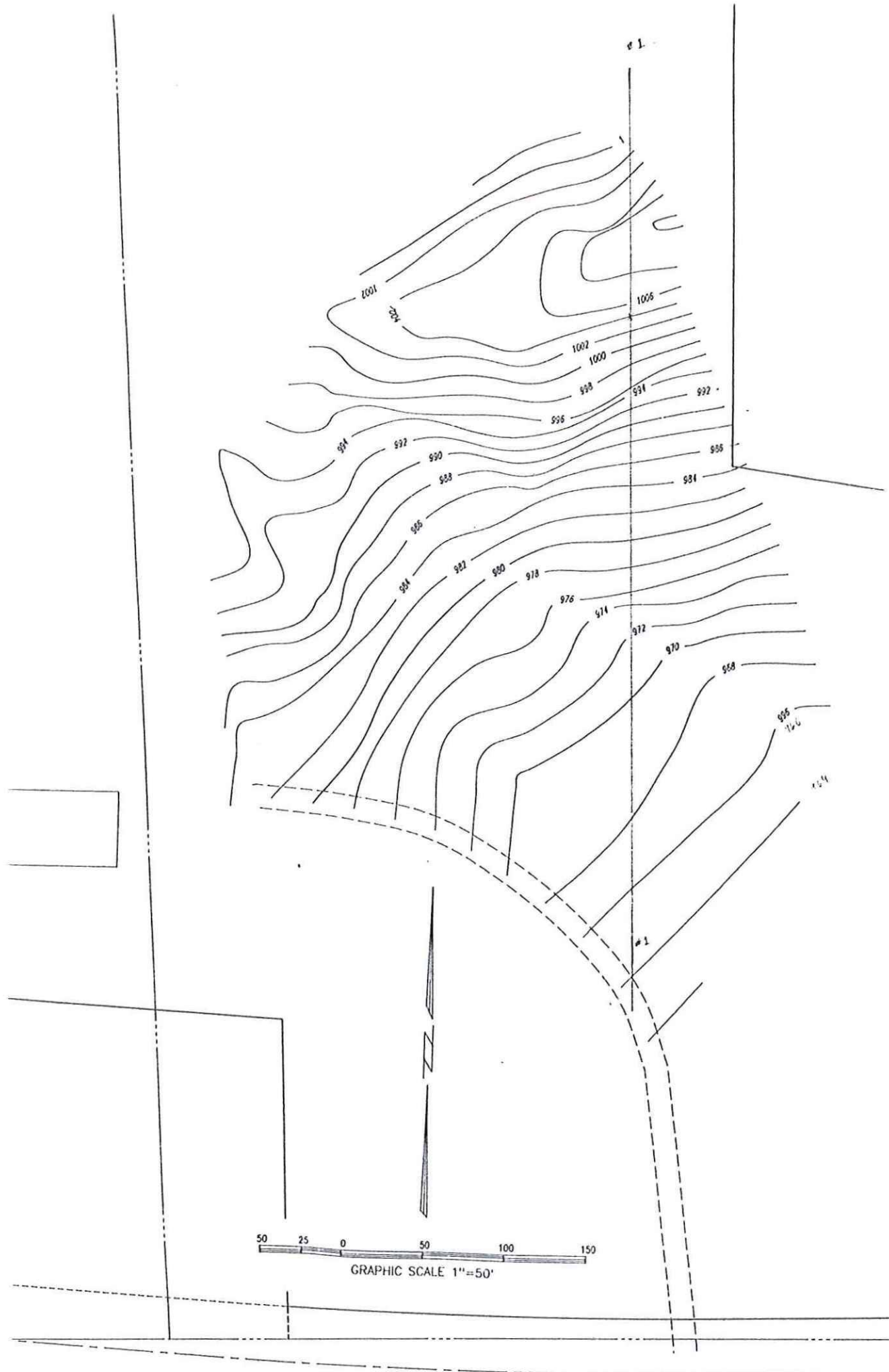


Imagery ©2017 Google, Map data ©2017 Google 500 ft









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:  Date: 11/8/17

Print Name: Robert T Dicke

Specify Owner or Agent: Owner

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

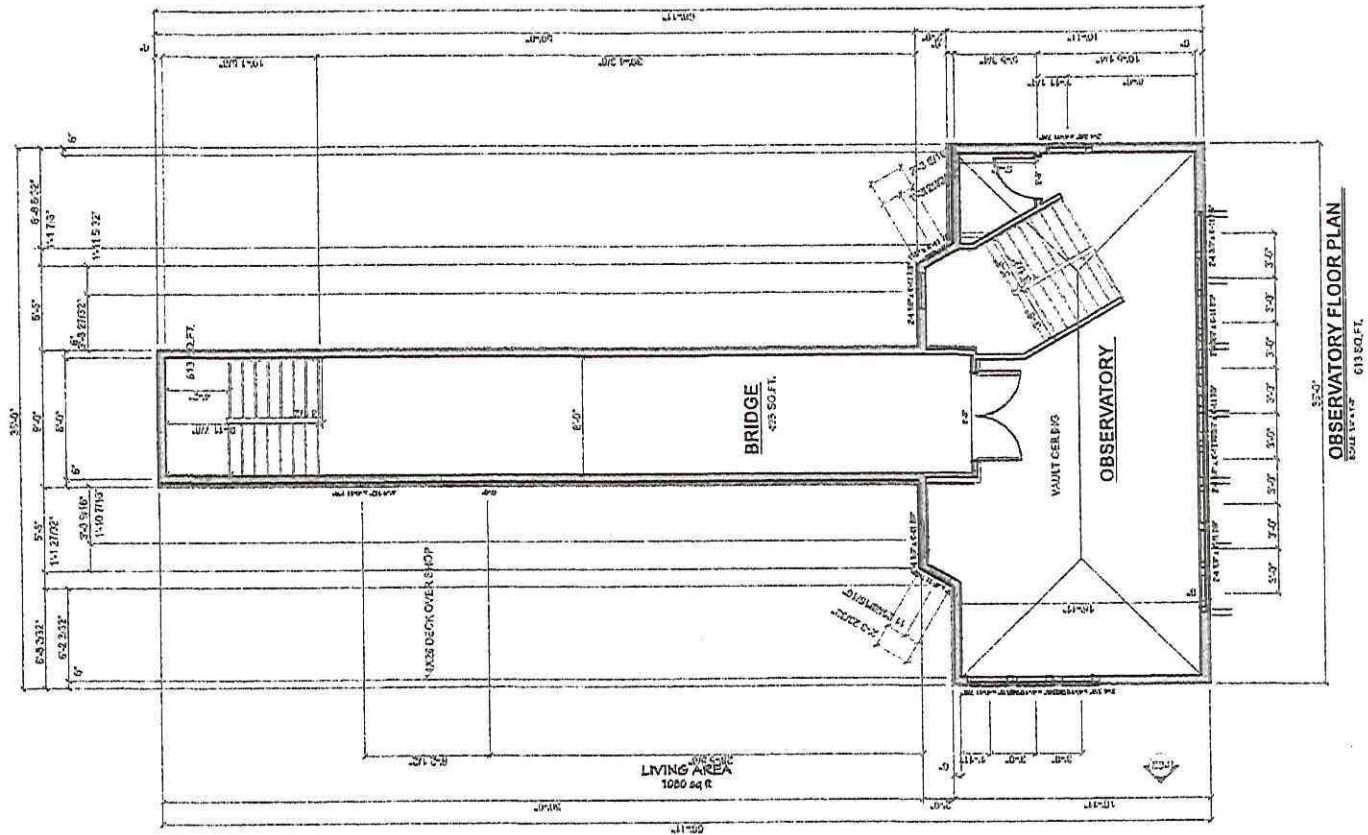
Town Action Received Date:

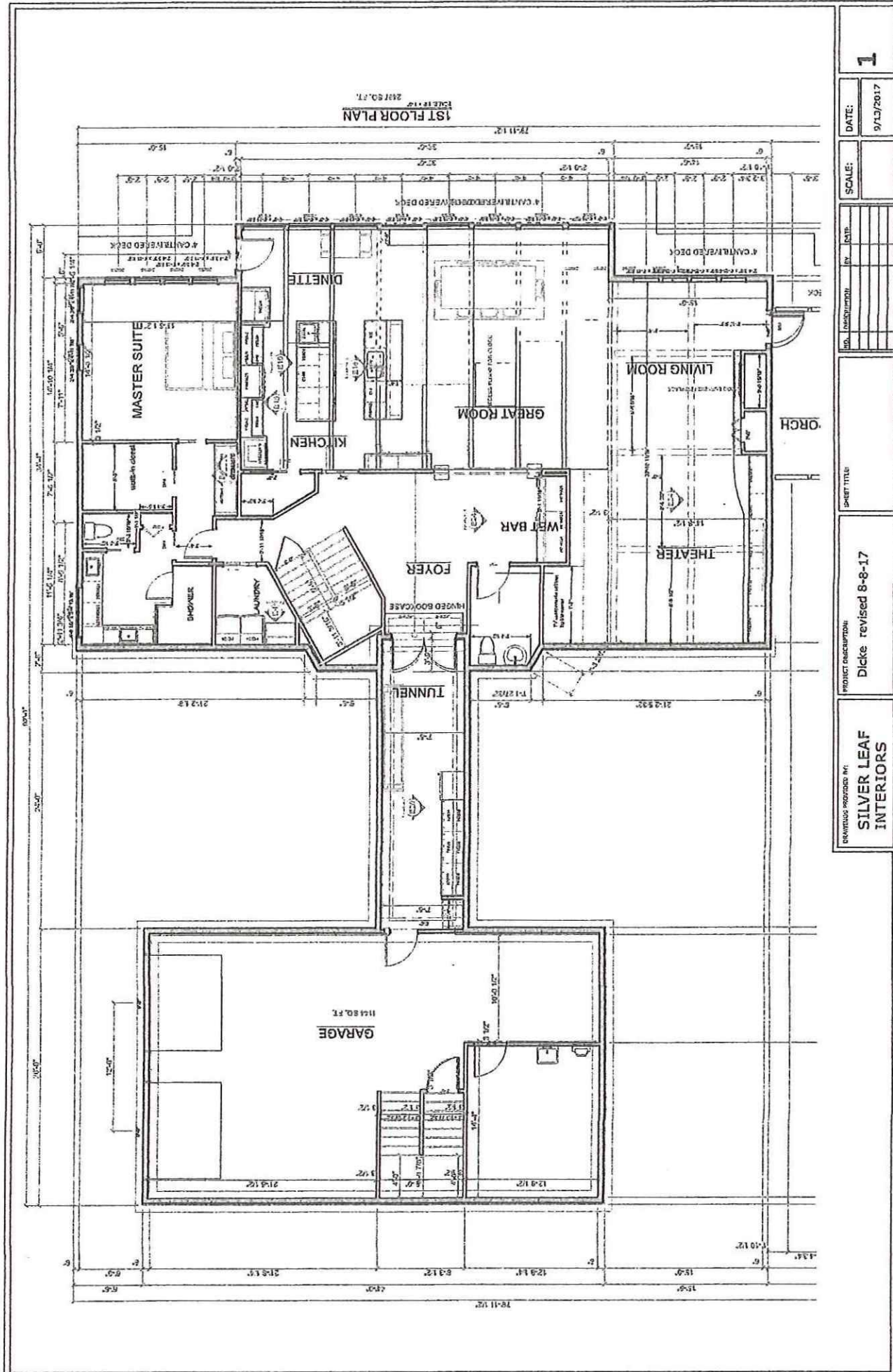
Public Hearing Date

Action by B.O.A. _____

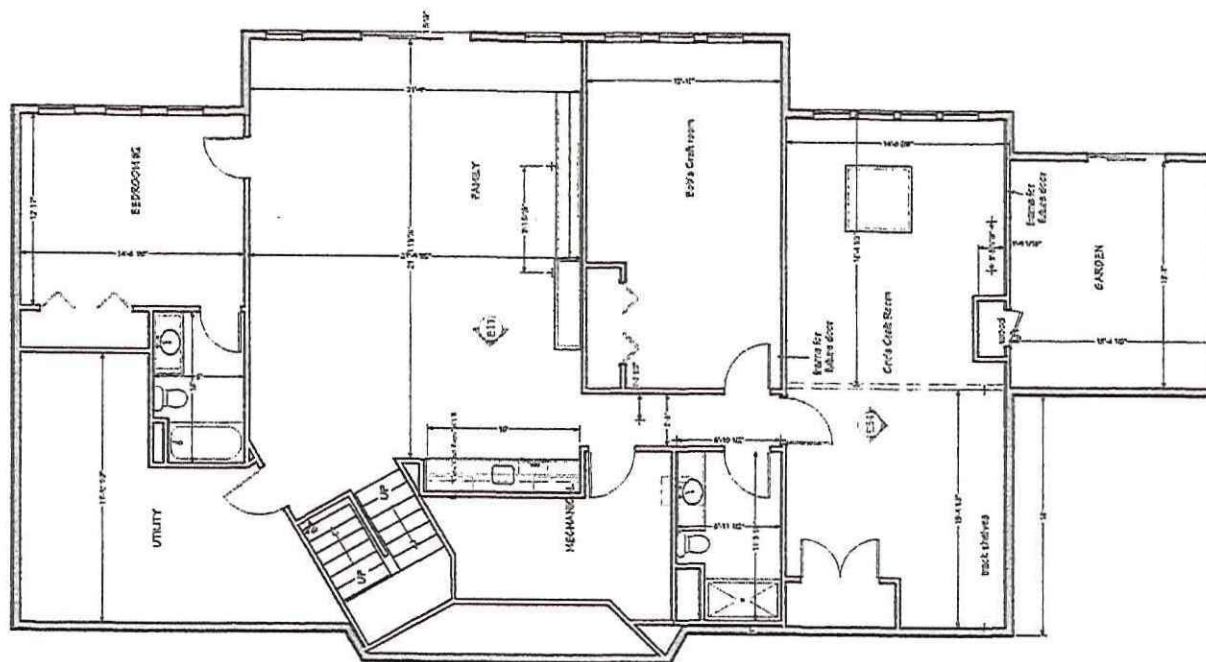
Approved by: _____ Date: _____

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





DATE: 9/13/2017		1	
SCALE:			
BY:			
DATE:			
ID:			
DESCRIPTION:			
PROJECT DESCRIPTION:		Dicke revised 8-8-17	
DRAWING PROVIDED BY:		SILVER LEAF INTERIORS	



DRAWINGS PROVIDED BY:

**SILVER LEAF
INTERIORS**

PROJECT DESCRIPTION:

Dicke revised 8-8-17

SHEET TITLE:

NO.	DESCRIPTION	QTY	DATE

SCALE:

DATE:

9/13/2017

25



Town of Oregon

1138 Union Road
Oregon, WI 53575

Phone (608) 835-3200

Fax (608) 835-2235

Web Site: www.town.oregon.wi.us

e-mail: townoforegon@mailbag.com

Wayne L. Ace, Chairman
Phil Van Kampen, Supervisor
Fred Clark, Jr., Supervisor
Steve Root, Supervisor
Arlen Christensen, Supervisor
Denise R. Arnold, Clerk
Jennifer J. Hanson, Treasurer
Andrew R. Blomstrom, Assessor
Kurt Maher, Constable

November 8, 2017

To Whom It May Concern:

At the Town of Oregon Board Meeting held November 7, 2017 Mr. Robert Dicke and wife Christine Dicke addressed the Town Board. Dicke explained that he wants to build a house on parcel number 0509-201-8601-0 in the Town of Oregon located at 5890 County Highway A. The dwelling plans exceed the height limitation established by Dane County for the RH-4 Rural Homes District. The Town Board did not express any opposition to the dwelling plans exceeding the maximum height of thirty-five feet by approximately six and a half feet.

The petitioner must apply at Dane County for a variance. In addition, the dwelling project must go before the Plan Commission on November 21st and the Town Board on December 5th, 2017.

Respectfully Submitted,

Denise R. Arnold
Clerk