## AGENDA CITY OF STURGEON BAY ZONING BOARD OF APPEALS

Tuesday, October 2, 2018 12:00 Noon Council Chambers, City Hall 421 Michigan Street

- 1. Roll call.
- 2. Adoption of agenda.
- 3. Approval of minutes from August 28, 2018.
- 4. Public Hearing:

Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road.

5 Consideration of:

Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road.

6. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

ZBA Board Members
William Murrock, Chair
James Goodwin
Andrew Starr
Bill Chaudoir
Wayne Spritka
Dave Augustson, Alternate
Justin Kirwen, Alternate

09/26/18 9:30 a.m. CN

#### ZONING BOARD OF APPEALS Tuesday, August 28, 2018

The City of Sturgeon Bay Zoning Board of Appeals meeting was called to order at 12:00 noon by Chairperson William Murrock in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members James Goodwin, William Murrock, Andrew Starr, Bill Chaudoir, and Alternate Dave Augustson were present. Excused: Member Wayne Spritka. Also present were DNR representative Michelle Staff, Planner/Zoning Administrator Chris Sullivan-Robinson and Community Development Secretary Cheryl Nault.

**Adoption of agenda:** Moved by Mr. Starr, seconded by Mr. Goodwin to adopt the following agenda:

- 1. Roll call.
- 2. Adoption of agenda.
- 3. Approval of minutes from Tuesday, July 24, 2018.
- 4. Public Hearing: Petition for variance from Sections 23.04(3)(a)(1), 23.06(1)(b)(4), and 23.06(3)(a) of the Municipal Code (Floodplain Zoning Code) for a 22' x 40' addition, located at 719 Memorial Drive.
- 5. Consideration of: Petition for variance from Sections 23.04(3)(a)(1), 23.06(1)(b)(4), and 23.06(3)(a) of the Municipal Code (Floodplain Zoning Code) for a 22' x 40' addition, located at 719 Memorial Drive.
- 6. Adjourn.

Carried.

**Approval of minutes from Tuesday, July 24, 2018:** Moved by Mr. Murrock, seconded by Mr. Augustson to approve the minutes from July 24, 2018. All ayes. Carried.

Public Hearing: Petition for variance from Sections 23.04(3)(a)(1), 23.06(1)(b)(4), and 23.06(3)(a) of the Municipal Code (Floodplain Zoning Code) for a 22' x 40' addition, located at 719 Memorial Drive: Chairperson Murrock opened the public hearing at 12:02 p.m.

Bob LeCapitaine, 719 Memorial Drive, stated that this is his summer home. The house was built in the 1950's. It is not adequate in size. He would like to add an addition, which would include a bathroom and enlarging the existing bedroom. The addition would be 40 feet from the water. He does not want to raise the house, since it couldn't be guaranteed that there would be no issues with cracked walls, etc. If raised to an elevation of 587', the house would be higher than the rest of the homes. His neighbor to the north already has have water problems in their basement. Raising the house would make it worse. It would be more feasible just to add the addition at the current level. He would also like to revise their patio and add some type of covering for it also.

Mr. Sullivan-Robinson stated that the issue is the Floodplain code. The base flood elevation is 585'. The bottom floor needs to be at 587'. Fill is required 15 feet around the structure.

The addition is slab on grade, and will match the floor elevation of the existing building at 585°. This addition will need a variance from the flood protection elevation. The second variance request is to not add any fill under or around the structure. Mr. LeCapitaine had said that there is no room to extend 15 feet out with fill. The third variance is requesting to exceed 50% of the tax assessed value of the dwelling. The addition would cost over \$100,000. The current assessed value for the dwelling is \$126,000.

Mr. Sullivan-Robinson read sections of a letter received from Michelle Staff, State National Flood Insurance Program Coordinator, Dam Safety and Floodplain Section. The letter stated that the intent of the Floodplain Ordinance provision is to prevent existing buildings from being turned into a new or substantially improved building. Increasing the value of the structure without protecting them from flood risk does not meet new development standards. The applicant must demonstrate unique property conditions which are not common to adjacent lots or premises. There are no unique characteristics to the property in this case that differs from any other property within the floodplain. A variance may not be granted which results in harm to public interest. The incremental benefits of allowing the development are outweighed by the increased costs of future flood damage. An unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance. A variance is intended to provide only the minimum relief necessary to preserve a reasonable use of the property. Floodplain variances should be a rare occurrence and should not be used as a tool for relief of the two feet of freeboard in this situation.

The letter continued to say that Wisconsin Statutes provides the opportunity for certiorari review of the variance under s. 62.23(7)(e). NR116.22 outlines additional enforcement actions that the department may take to ensure community compliance with the ordinance. In addition, if the variance was granted as is, the ZBA may encounter difficulty meeting NFIP standards. FEMA (Federal Emergency Management Agency) can review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, FEMA may take appropriate action up to and could suspend the community from the National Flood Insurance Program.

Board members discussed the letter. Mr. Sullivan-Robinson said if the variance is approved, FEMA could audit the City and ultimately cut the City from the program or the DNR could legally appeal the City's decision. He felt that it was in the City's best interest to deny the variance request.

Mr. Goodwin thought this should be tabled to obtain an opinion from the City Attorney.

Ms. Staff stated that the statutory requirements for floodplain variances are in the City's ordinance, which are a combination of state and federal regulations. The reason for the floodplain protection elevation is that the floodplain is not designed for ice or other anomalies that would go over that base. It gives that added protection if it does go over that 1% chance it will be protected.

Mr. Starr stated that if the issue of the 50% was met, it doesn't seem that the issue of the grade was as concerning. Ms. Staff agreed. If it was only the fill, you wouldn't see her at the meeting. It is an accumulative type of process over the lifetime.

Ms. Staff stated that she works with FEMA. The property has limitations. The purpose of the ordinance is to keep from putting money into nonconforming uses. The ZBA needs to decide if the variance request meets all requirements. She gets concerned when structures go over the 50% rule. Using the current value and estimated amount of improvements, it's an accumulative at the time of permitting. If the variance is granted, Mr. LeCapitaine will be locked on that. If a future owner wants to do another addition, they cannot because the 50% had already been granted.

Mr. Starr felt that the assessment was too low for the structure. He asked what would happen if they granted the variance.

Ms. Staff said it was not uncommon to raise the structure. It cannot be a financial situation. There is a 30 day appeal process, if it has not met the statutory requirements, through the Dept. of Justice or the DNR. All correspondence is submitted to FEMA. They may audit the City's permits. She urged the Board to review the criteria in the Floodplain Ordinance. Everything must be met, not only part of it.

Dave Corbisier, 729 Memorial Drive, said he had no problems with the variance request.

Mr. Goodwin read an email from Bob & Terri Starr stating that since the request is to allow for an addition to an existing home, they were in favor of granting the request.

No one spoke in opposition. There were no letters in opposition.

Chairperson Murrock offered rebuttal testimony to Mr. LeCapitaine.

Mr. LeCapitaine stated that he was told that FEMA is in the process of lowering the floodplain level. He wasn't sure why the DNR or FEMA was involved. He does not plan on obtaining flood insurance.

Mr. Sullivan-Robinson stated that FEMA is in the process of going through a floodplain map revision. They may be lowering the level a couple of feet. As of now, we need to continue going off of the current maps and ordinance.

Ms. Staff added that it may be two years before the maps are completed. The preliminary maps may be coming out in spring. It may be harder to sell a home without flood insurance.

Mr. LeCapitaine added that he will probably make other modifications to the existing home to match the addition. He did not think that he would come anywhere close to the 50%.

Chairperson Murrock closed the public hearing at 12:53 p.m.

Consideration of: Petition for variance from Sections 23.04(3)(a)(1), 23.06(1)(b)(4), and 23.06(3)(a) of the Municipal Code (Floodplain Zoning Code) for a 22' x 40' addition, located at 719 Memorial Drive: Board members agreed that it would be easier to approve with a plan that had an exact cost figure rather than an estimated cost for the addition.

Mr. Starr stated that this is a tough situation for the homeowner. He understands the 50% rule. The ideal situation would be to raise the level of the whole building.

Mr. Chaudoir said that he hasn't heard anything that would encourage him to vote for this request given the liability that it puts the City in.

Mr. Le Capitaine stated that most contractors did not even want to take a look at raising the home. They could not offer a guarantee that there would be no cracked walls, being uneven, etc. There is not 15 feet available to fill around the structure.

After further discussion, it was moved by Mr. Goodwin, seconded by Mr. Augustson to deny the request for variances since there is not sufficient information in which to base the decision on. There is no hardship presented since the home is still usable as is. It does not meet the floodplain requirements. This is causing liability for the City as far as legal costs defending the position with the DNR and potentially risking our participation with the federal flood insurance program for the entire community. The lot has no physical restrictions. There are other options.

Roll call vote: All ayes. Carried.

**Adjourn:** Moved by Mr. Starr, seconded by Mr. Augustson to adjourn. All ayes. Carried. Meeting adjourned at 1:04 p.m.

Respectfully submitted,

Cheryl Nault

Community Development Secretary

Christopher Sullivan-Robinson Planner/Zoning Administrator 421 Michigan Street Sturgeon Bay, WI 54235



Phone: 920-746-2907
Fax: 920-746-2905
E-mail: csullivan-robinson@sturgeonbaywi.org
Website: www.sturgeonbaywi.org

## **MEMO**

To: Zoning Board of Appeals

From: Christopher Sullivan-Robinson

Date: September 20, 2018

Subject: Variance from S. 20.34(1) for Gregory and Karen Daanen

The Daanen's are seeking a variance from S. 20.34(1) of Municipal Code (Zoning Code) to replace an existing single-family home with a new home as shown on the site plan. S. 20.34(1) states between the west city limits and the Bayview Bridge such setback shall be 50 feet from the edge of the right-of-way...

The existing building is a 2700 square feet manufactured home, and is considered a nonconforming structure due to this rule. This building would be replaced with a 3769 square feet single-family dwelling. The highway setback would be 10 feet at the closest point, which means the building will encroach on the highway setback by 40 feet. The proposed location is on the water side of the property.

The highway setback was based on future needs for highway expansion into a 4 lane system. The likelihood for expanding any further is very minimal. The other reason for this ordinance is to protect public interest.

There are a few other factors to consider when looking at this application. Under the nonconforming structure rules the applicant could rebuild at the existing footprint as long as the new structure doesn't further diminish the required setbacks and the floor area can't exceed 1.5 times the original floor area. Staff calculated that number to be 4044 square feet. The total square footage of the proposed building is 3769 square feet not including the attic. The new structure is approximately 28 feet tall and would not be visible from the highway. This is due to the elevation difference between the property and the highway. Also, the trees located within the right-of-way screen the property. This property does have a unique situation because of the location of the highway right-of-way in relation to the property. Typically, if a property in Sturgeon Bay has a highway setback; it is located off of the rear lot line.

If we treated the highway right-of-way like a normal street setback, this construction would still not comply. Looking at the property's buildable area, there is still approximately 47,000 square feet. Most of that buildable space is on the south side of the property closest to Tacoma Beach Rd.

## CITY OF STURGEON BAY VARIANCE APPLICATION ZONING BOARD OF APPEALS

Date Received: 9.17.18

Fee Paid \$ 200 + 50 DEPOSIT

Received By: CHECYL N.

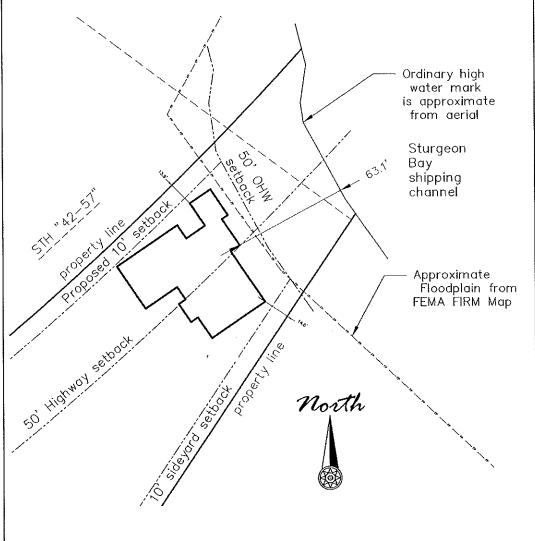
	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)	
Name	Andrew Hockberger	Gregory and Karen Daanen	
Company	Midwest Design Homes		
Street Address	N2335 W. Frontage Rd	W175 N7503 Wilson Dr	
City/State/Zip	Kaukauna, WI 54130	Menomonee Falls, WI 53051	
Daytime Telephone No.	920-246-1499	262-844-1372	
Fax No.			
STREET ADDRESS OF SUBJECT PROPERTY: 920 Tacoma Beach Rd Location if not assigned a common address:			
TAX PARCEL NUMBER: _ 2816491000114			
CURRENT ZONING CLASSIFICATION: R-1			
CURRENT USE AND IMPROVEMENTS:  There is an older trailor home currently on the property that the Daanen's use only seasonally. They are wanting to build a new home that will become their full time residence.			
IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM BEING REQUESTED FOR REVIEW: Zoning Ordinance 20.34 (1)  50' setback from the edge of the right of way from Highway 42/57			
ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:  North: Water Front  South: Agricultural  East: R-2  West: PUD			

a. Protection of public interest: We are proposing to build a beautiful home that will bring in more tax revenue for the city. The home will not effect the neighbors or the highway in any way. In fact, you will not even see the house from the highway.  HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? No IF YES, EXPLAIN:  Littach an 8-1/2" X 11" detailed site plan (If site plan is larger than 8-1/2" x 11", also include 15 large sized copies all legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertiner tructures and buildings, proposed site improvements, signature of person who drew plan, atc.  For Eggru On A Company of the proposed project in the pro	
property in half, making the property virtually unbuildable.  2. Unique physical property limitation: By cutting the buildable land in half, the only structure that could be built would be impracticle and an eye sore on the water front.  3. Protection of public Interest: We are proposing to build a beautiful home that will bring in more tax revenue for the city. The home will not effect the neighbors or the highway in any way. In fact, you will not even see the house from the highway.  HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? No IF YES, EXPLAIN:  Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies all legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed projed Agreement for Relimbursement of expenses. Site plan shall include dimensions of property, pertiner tructures and buildings, proposed site improvements, signature of person who drew plan, etc.  A caccy and known and the plan of the check list in the check list in the property of the propert	Please address how the proposed variance meets each of the three required standards for authorizing
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Procedure & Check List Agreement For Reimbursement of Expenses  AFFUSE ONLY Application conditions of approval or denial:	and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.  9-12-18
Application conditions of approval or denial:	ttachments: Procedure & Check List Agreement For Reimbursement of Expenses
	AFF USE ONLY
Date Community Development Director	Application conditions of approval or denial:
Date Community Development Director	
	Date Community Development Director



## **Exhibit for Varriance**

Gregory and Karen Dannen 920 Tacoma Beach Road City of Sturgeon Bay Door County Wisconsin



#### **NOTES**

The information used to produce this map was acquired form the Internet. Sources Door County G.I.S. R.O.D. Land information departments and FEMA's web site.

Scale: 1" = 50'

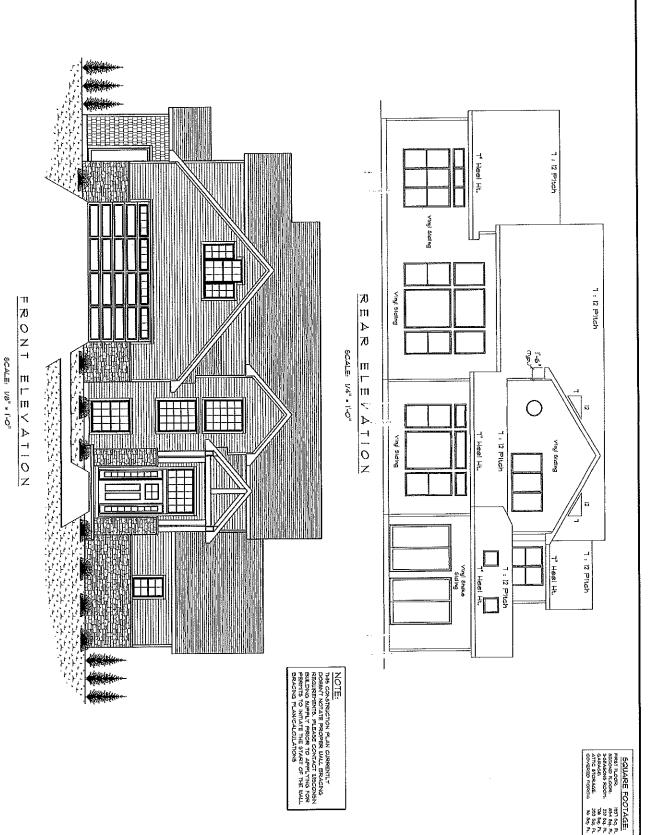
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Client: Jon Huss Tax Parcel: 281 64910001142017 Drafted By: JRW File: D-818Exhlblt 082718.dwg Data File: D-818.TXT

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Mau & Associates, LLP
LAND SURVEYING & PLANNING
CIVIL & WATER RESOURCE ENGINEERING
Phone: 920-434-9670 Website: www.mau-associates.com
400 Security Blvd, Green Bay, WI 54313

Sheet One of One Project No.: D-818 Drawing No.: L-10470





1990 LARSEN ROAD P.O. BOX. 1000T GREEN BAY, WI 5430T

COMPONENTS: PHONE (920) 496-5094 FAX (920) 498-1219 IT45 MORAINE TERRACE GREEN BAY, UI 54303

## JON HUSS CUSTOM HO! IZS

USTOM DESIGNED FOR:

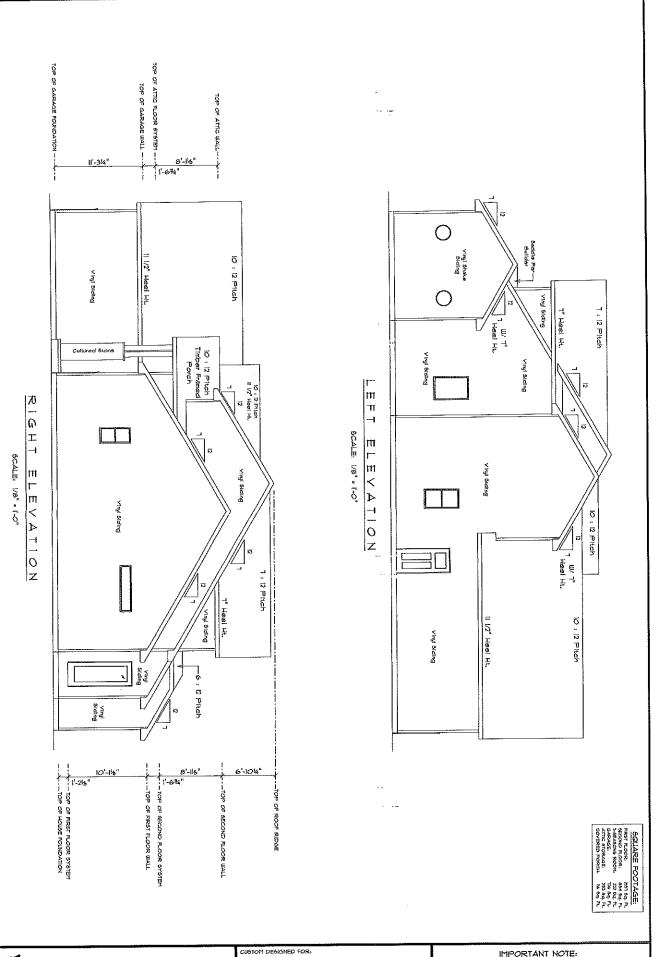
IOB NAME: Greg & Karen Daanen (Sturgeon Bay, III) SQ. FT.: See Plan

#### DRAWN BY: Jsson Leick SCALE: As Noted DATE: November 1, 2011 REVISIONS: 4/30/18 JAL 6/77/18 JAL 17-482-T (15-390-TL) 5/II/IS JAL

#### IMPORTANT NOTE:

IT IS AGREED THAT ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING AND CHECKING THESE PLANS FOR ACCURACY, THE GENERAL CONTRACTORIOUNER MUST REVIEW ALL DIMENSIONS, DETAIL AND NOTES BEFORE BESINNING ANT CONSTRUCTION AND IS HEREBY HELD RESPONSIBLE FOR ANY DISCOVERED DISCREPANCIES.

IT IS UNDERSTOOD THAT THE UISCONSIN UNIFORM DUELLING CODE AND LAYOUT DRAWINGS FOR FLOOR AND ROOF TRUSSES SHALL TAKE FINAL PRECEDENCE OVER THESE ARCHITECTURAL FLANS,





1950 LARSEN ROAD P.O. BOX. 10001 GREEN BAY, WI 54301

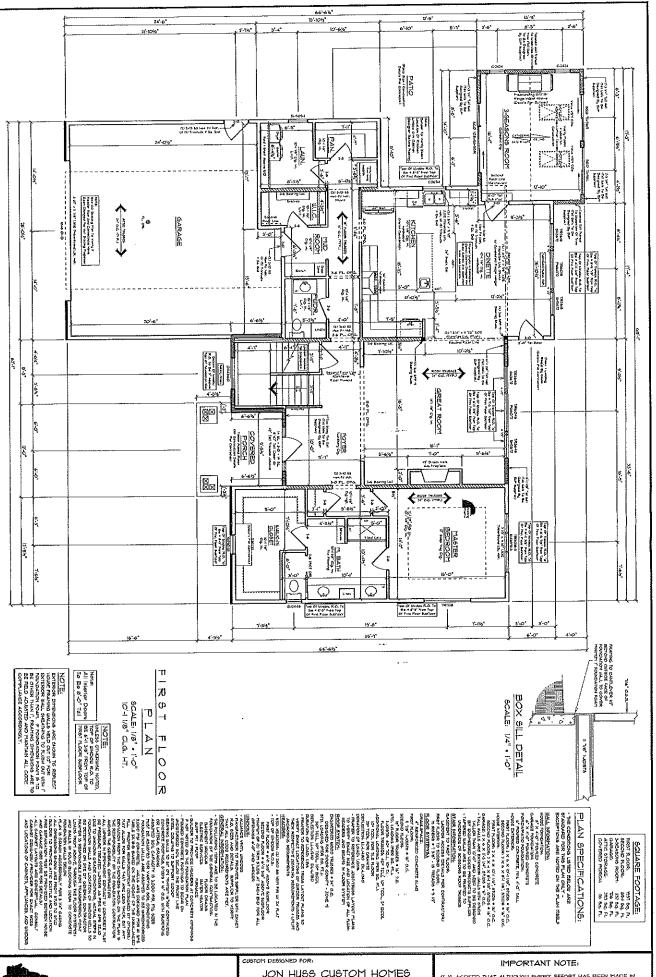
COMPONENTS: PHONE (920) 496-5094 FAX (920) 498-1219 TI45 MORANIE TERRACE

JON HUSS CUST	OH HOHES	
JOB NAME: Greg ( Karen Daznen (Sturgeon Bay, UR)		
	44 T 4 DIV	

SCALE: As Noted DATE: November 1, 2017 REVISIONS: 4/30/18 JAL 6/21/18 JAL 17-482-T

#### IMPORTANT NOTE:

IT IS UNDERSTOOD THAT THE WISCONSIN UNFORM DWELLING CODE AND LAYOUT DRAWINGS FOR FLOOR AND ROOF TRUSSES SHALL TAKE FINAL PRECEDENCE OVER THESE ARCHITECTURAL PLANS.





#### JON HUSS CUSTOM HOMES

IOB NAME: Greg & Keren Daaren (Sturgeon Bay, WI) SQ. FT.: See Plan DATE: Noverber 1, 2017 SCALE: As Noted

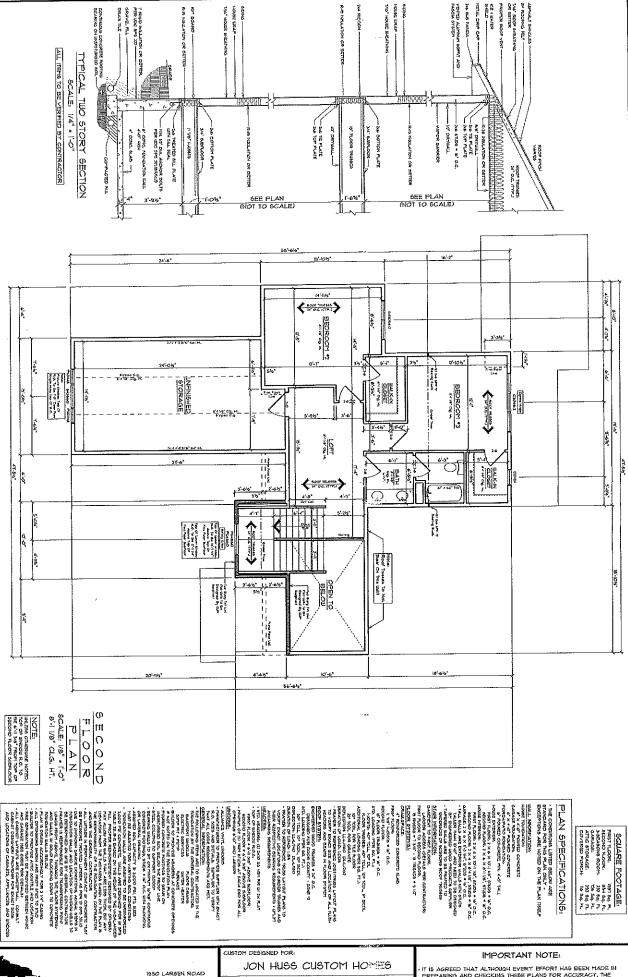
17-482-T

REVISIONS: 4/30/18 JAL 6/27/18 JAL

(15-390-TL) 5/11/18 JAL

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1990 LARSEN ROAD P.O. BOX. 10001 GREEN BAY, WI 54301

COMPONENTS: PHONE (920) 496-5094 FAX (920) 498-1219 THS MORAINE TERRAC

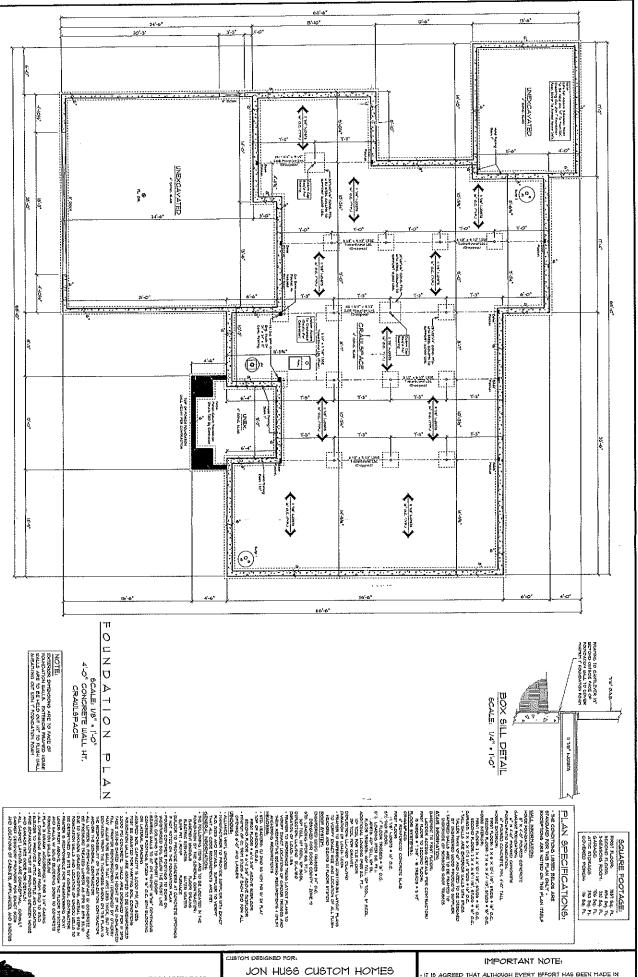
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IOB NAME: Grag ( Karan Daanan (Sturgeon Bay, III) 50. FT.: See Plan DATE: November 7, 2011 REVISIONS, 4/30/16 JAL 6/21/18 JAL

17-482-T

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1990 LARSEN ROAD P.O. BOX. 10001 GREEN BAY, III 5430

DATE: November 1, 2011 REVISIONS: 4/30/18 JAL 6/21/18 JAL

DB NAME: Greg ( Karen Daanen (Sturgeon Bay, 187)

5Q, FT,, See Plan SCALE: As Noted T-482-T AGREED THAT ALTHOUGH EYERY EFFORT HAS BEEN MADE IN PARRIG AND CHECKING THESE PLANS FOR ACCURACY, THE ERAL CONTRACTORYOURER HUST REVIEW ALL DIFERSIONS, DETA NOTES BEPORE BEGNINGS ANY CONSTRUCTION AND 16 HERED D RESPONSIBLE FOR ANY DISCOVERED DISCREPANCIES.

IT IS UNDERSTOOD THAT THE INISCONSIN UNIFORM DUELLING CODE AND LAYOUT DRAWINGS FOR FLOOR AND ROOF TRUSSES SHALL TAKE FINAL PRECEDENCE OVER THESE ARCHITECTURAL PLANS.

#### NOTICE OF PUBLIC HEARING

The City of Sturgeon Bay Zoning Board of Appeals will hold a public hearing in the Council Chambers, 421 Michigan Street, Sturgeon Bay, Wisconsin on Tuesday, October 2, 2018 at 12:00 Noon or shortly thereafter, regarding a request from Gregory and Karen Daanen (Andrew Hockberger, agent) for a variance from Section 20.34(1) of Municipal Code (Zoning Code), which requires all buildings to be setback 50 feet from the State Highway 42/57 right-of-way. The request is to build a new residential home with a 10-foot setback, at the closest point, from the State Highway 42/57 right-of-way. The property is located at 920 Tacoma Beach Road, tax parcel #281-64-91000114. The variance application is on file with the Community Development Department and can be viewed at City Hall, 421 Michigan Street, weekdays between 8:00 a.m. and 4:30 p.m. The public is invited to attend the hearing and give testimony in favor or against the proposed variance either in person at the hearing or in writing.

By order of: City of Sturgeon Bay Zoning Board of Appeals

# Location Map Notice of Public Hearing Variance Request







City of Sturgeon Bay Community Development Dept. 421 Michigan Street Sturgeon Bay, WI 54235

Re: Variance request 920 Tacoma Beach Rd.

My wife Nancy and I, Robert Petersen, reside at 938 Tacoma Beach Rd, two properties from the referenced property and would like to support the variance request of Gregory and Karen Daanan. For over 17 years or more they have had to live with the property reduced due to the construction of the Bay View bridge and the highway right of way which cut deeply into their property. Approving the requested variance will allow them to build a new residential home suited to the property.

Robert Petersen

Mancy Petersen