

**CITY OF ALBERT LEA  
BOARD OF APPEALS  
ADVISORY BOARD**

*July 21, 2021 – 12:00 p.m.  
ZOOM – Virtual Meeting*

AGENDA

A. CALL TO ORDER AND ROLL CALL

B. APPROVAL OF THE AGENDA

C. APPROVAL OF MINUTES  
a. November 24, 2020

D. PUBLIC HEARINGS  
a. 106-108 North Shore Ave  
b. 1503 Oakwood Dr

E. NEW BUSINESS

F. COMMISSIONER COMMUNICATIONS

G. STAFF COMMUNICATIONS  
a. Two vacant board positions

H. ADJOURNMENT



CITY OF ALBERT LEA  
BOARD OF APPEALS  
MEETING MINUTES

November 24, 2020 - 9:00 am  
ZOOM

**Board Members Present**

Rachelle Bizjak  
Colby Cunningham  
Steve Guenthner  
Craig Hoium, Chair

**Board Members Absent**

Larry Baker, Ex-Officio  
Rich Sydnes

**Staff in Attendance**

Megan Boeck, City Planner

**Interested Parties**

None

Board of Appeals Chair, Craig Hoium, called the meeting to order at 9:07 a.m.

**Approval of the Agenda**

Guenthner made a motion to approve the agenda and Cunningham seconded the motion. The agenda was approved unanimously on a voice vote.

**Approval of Minutes**

Guenthner made a motion to approve the minutes from May 27, 2020. Cunningham seconded the motion. The minutes were approved unanimously on a voice vote.

**Staff report prepared by Megan Boeck, City Planner, is to become part of these minutes by reference.**

**Appeal: VA2020-002**

Boeck stated that Ron Eriksmoen, property owner of 106 Ridge Road, has made application for a variance from the front setback requirement to allow for an accessory structure. Boeck also stated that the structure is a 30x30 garage to be located 29.3 ft. from the front line where a maximum setback of 60 ft. is normally required. Lastly, Boeck stated that the property slopes towards Lakewood Blvd and a large oak tree sits closer to the middle of the lot which makes expansion in the rear and side yard difficult.

**Public Hearing opened at 9:27 a.m.**

No comments made.

**Public Hearing closed at 9:28 a.m.**

Guenthner made a motion, seconded by Bizjak, to recommend to City Council the approval of a variance from the R-1 accessory structure setback of 29.3 ft. minimum lot width to allow for a 30x30 garage with the following conditions:

1. None.

The motion passed on a 4-0 voiced vote.

### **New Business**

None

### **Commissioner Communications**

Hoium mentioned that the Board of Appeals is in need of two more members.

### **Staff Communications**

None.

### **Adjournment**

The meeting was adjourned at 10:32 a.m. The motion to adjourn was made by Cunningham and seconded by Guenthner. The motion to adjourn was approved unanimously on a voice vote.

Respectfully submitted,

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Megan Boeck  
City Planner

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Craig Hoium  
Chair, Board of Appeals



## GENERAL INFORMATION

Applicant: Lynn Kelley

Property Owner: JD Kelley Properties

Purpose: A variance from impervious limits to allow for a paved driveway.

Address: 106-108 North Shore Avenue, Albert Lea, MN

Parcel Number(s): 34.129.0170

Zoning: R-1 Single-Family Residence District

Surrounding Land Use: R-1 Single-Family Residence District

Overlay Zoning: Shoreland Management Area-Tier 1

File Date/Publication Date: July 7, 2021

## BACKGROUND

The property owner has plans to pave an existing gravel driveway into a horse-shoe shaped driveway that will surround a water retention basin to eliminate added run off. The paved driveway will result in an increase to impervious surfaces which requires a variance.

## POLICY CONSIDERATIONS

Chapter 50 – Zoning – Sec. 50.0791 Shoreland Development Standards (5) Stormwater Management (b) states that impervious surface coverage of lots must not exceed thirty-five percent of the lot area in residential areas.

The existing property is 8,100 sq ft which would allow for 2,835 sq ft (thirty-five percent) in impervious surface. The paved horse-shoe driveway will increase the impervious surface calculation to 3,685 sq ft or an added 850 sq ft. As a safeguard, the property owner hired Jones, Haugh & Smith Inc. to draw a basin detail and determine how much water would need to be retained in order to avoid additional run off into Fountain Lake.

## REVIEW OF VARIANCE STANDARDS

Article II Administration and Enforcement

Section 50.0080 (3) states:

The Board of Appeals may recommend and the City Council may issue variances from the provisions of the zoning code. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinances; and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties are as follows:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

Staff agrees that the petitioner uses the property in a reasonable residential manner. Additionally, a paved driveway is required per the R-1 Off-Street Parking and Loading— if not for the increase in impervious surface, the proposed driveway would actually bring the property further into compliance.

**(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

Although not uncommon throughout the community, a gravel driveway is considered a non-conformity and would not be permitted in any new construction. Staff believes that the applicant has proposed a solution which creates the least amount of zoning relief and remedies any additional run off created by the increase in impervious surface.

**(3) The variance, if granted, will not alter the essential character of the locality.**

The driveways along North Shore Avenue and Lakewood Avenue are all paved. The paved driveway will make it so that the property in question more so meets the character of the locality.

**(4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

The paved horse-shoe driveway will not impair adequate air or light to adjacent properties and there are no anticipated impact to property values or the overall public health, safety and welfare of the area.

## **RECOMMENDATION**

Staff recommends that the Board of Zoning Appeals consider the legal standards set forth by Minnesota Statute 462.357 subd 6 when considering variance applications. This includes the three factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner that creates the circumstance?
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?

If the Board of Zoning Appeals approves this variance request based on the criteria for consideration, staff recommends the following conditions:

1. The paved horse-shoe driveway be graded in such a way that the water runs to the design detention basin.

## **ATTACHMENTS**

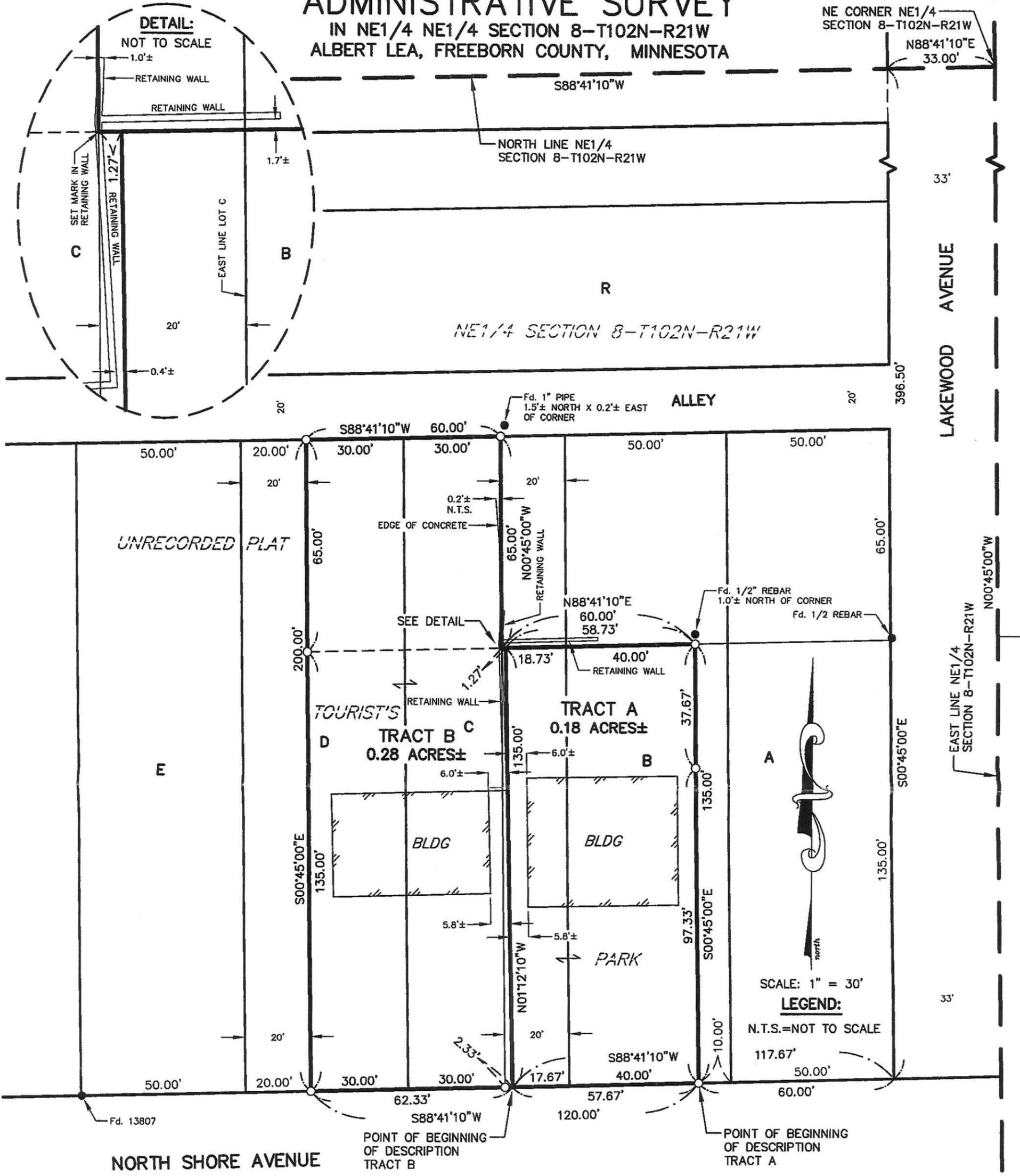
1. Boundary Survey
2. Detention Basin Detail
3. Sketch

# ADMINISTRATIVE SURVEY

## IN NE1/4 NE1/4 SECTION 8-T102N-R21W

### ALBERT LEA, FREEBORN COUNTY, MINNESOTA

NE CORNER NE1/4  
SECTION 8-T102N-R21W  
N88°41'10"E  
33.00'



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This drawing and format are protected by Copyright and all rights are reserved. The use of this drawing and format is strictly prohibited without the written consent and permission of Jones, Haugh & Smith Inc.

<p><b>LOCATION MAP</b></p> <p>Scale: 1"=4000'</p>	<p><b>MONUMENTS</b></p> <ul style="list-style-type: none"> <li>○ = 5/8" x 16" iron stake monument (Capped RLS 22705)-Placed</li> <li>● = iron stake monument-Found</li> <li>⊗ = DRILL HOLE</li> </ul>	<p>I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.</p> <p>STEVEN J. THOMPSON Date: _____ Reg. No. 22705</p>
<p><b>SURVEY FOR:</b> <b>LYNN KELLEY</b></p> <p>Date of survey: 8-05-09 Revised date: - Drawn by: ADM Survey: SJT/TTB Book: 545 Page: 59 Coord-System: MNDOT CO. NAD83 (96) Job No: 09-263</p>		<p><b>JONES, HAUGH &amp; SMITH INC.</b> Civil Engineers &amp; Land Surveyors Albert Lea, Minnesota</p>

**SUGGESTED CONSTRUCTION SEQUENCING** (*note to designer: edit as needed to meet project requirements*)

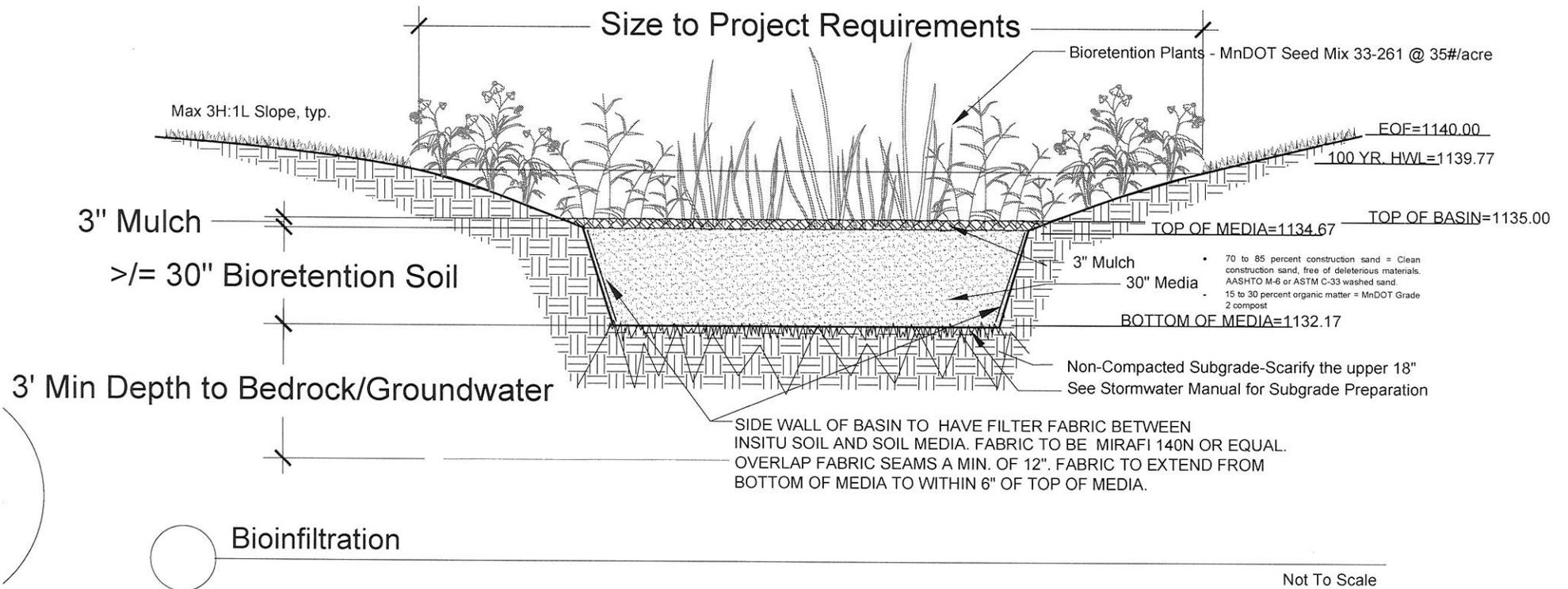
1. Install appropriate temporary erosion control devices to prevent sediment from leaving or entering the practice during construction.
2. All down-gradient perimeter sediment control bmp's must be in place before any up gradient land disturbing activity begins.
3. Perform continuous inspections of erosion control practices, especially after each rainfall event.
4. Install all utilities (water, sanitary sewer, electric, natural gas, phone, fiber optic, etc) prior to setting final grade of bioretention device.
5. Rough grade the site. If bioretention areas are being used as temporary sediment basins during construction, leave a minimum of 1 feet of cover over the practice to protect the underlying soils from clogging.
6. Complete, stabilize, and vegetate all other site improvements.
7. Construct and vegetate bioretention device following stabilization of contributing drainage area. Ensure that critical elevations, such as underdrain invert, top of media, top of mulch, and invert of overflow structure (if present) are correct.
8. Remove temporary erosion control devices after the contributing drainage area is adequately vegetated.

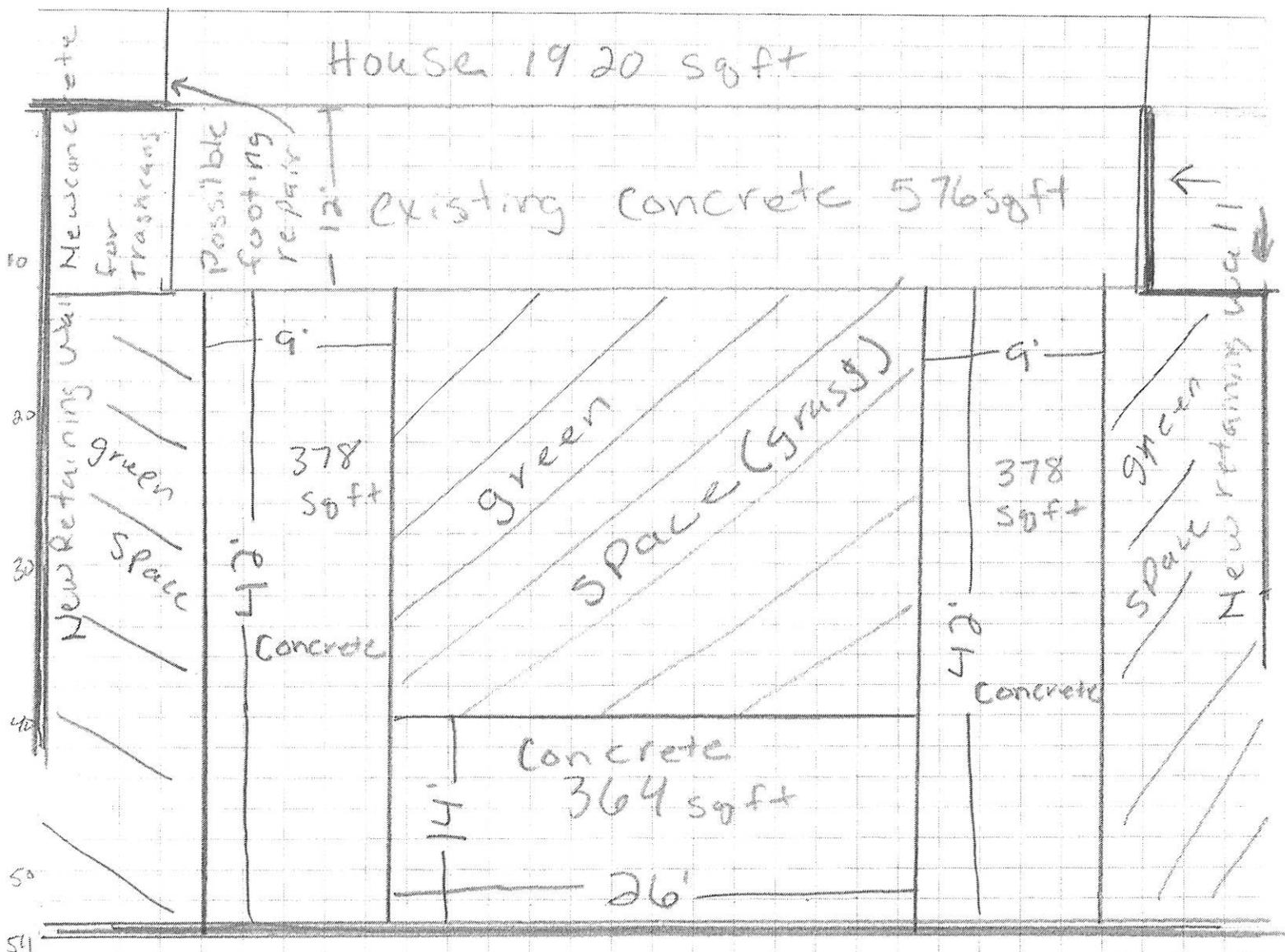
**GENERAL NOTES** (*note to designer: edit as needed to meet project requirements*)

1. In the event that sediment is introduced into the bmp during or immediately following excavation, this material shall be removed from the practice prior to continuing construction.
2. See Minnesota Stormwater Manual for subgrade preparation.

**MATERIAL SPECIFICATIONS**

1. See Minnesota Stormwater Manual for material specifications recommendations for bioretention soil, mulch, underdrains, etc.





### Road

Road elevation is Higher than Proposed Project... Water will not go to lake, it travels to the west if it get that High



## GENERAL INFORMATION

Applicant: Robert Boelter

Property Owner: Robert & Linda Boelter

Purpose: A variance from the front setback requirement to allow an accessory structure (retaining wall) within City Right-of-Way.

Address: 1503 Oakwood Drive, Albert Lea, MN

Parcel Number(s): 34.101.0130

Zoning: R-1 Single-Family Residence District

Surrounding Land Use: R-1 Single-Family Residence District

Overlay Zoning: Shoreland Management Area-Tier 1

File Date/Publication Date: July 7, 2021

## BACKGROUND

The property owner constructed a 3ft retaining wall with steps to create a better access to Oakwood Drive. For zoning purposes, Oakwood Drive is considered the rear yard. The retaining wall structure is mostly constructed on private property with steps that encroach into City Right-of-Way and is setback a distance of zero feet from the rear (NE) property line which requires a variance.

## POLICY CONSIDERATIONS

**Chapter 50 – Zoning – Sec. 50-0018 (b) (2).**

*All accessory buildings or structures shall be no less than three (3) feet from a side or rear lot line or less than five (5) feet from any alley property line.*

As shown on the attached Boundary Survey, the accessory structure is curved and not setback the same distance throughout the length of the structure. Staff agrees that the cleanest way to present this information would be to include a zero foot setback.

## REVIEW OF VARIANCE STANDARDS

Article II Administration and Enforcement

Section 50.0080 (3) states:

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**(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.**

Staff agrees that the petitioner uses the property in a reasonable residential manner and that the retaining wall structure provides a safer walkway access to Oakwood Drive rather than maneuvering down a steep slope.

**(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

The property slopes significantly toward Oakwood Drive which creates establishing a normal sidewalk, walkway or approach more difficult.

**(3) The variance, if granted, will not alter the essential character of the locality.**

A number of properties along Oakwood Drive (staff estimates five or so) have constructed similar retaining wall structures that are close to or within the City Right-of-Way; this structure will not alter the character of the locality.

**(4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

The structure is not large enough to impair adequate air or light to adjacent properties. There are concerns about placement within City Right-of-Way and the close proximity to sanitary sewer lines but there are no anticipated impact to property values or the overall public health, safety and welfare of the area.

## **RECOMMENDATION**

Staff recommends that the Board of Zoning Appeals consider the legal standards set forth by Minnesota Statute 462.357 subd 6 when considering variance applications. This includes the three factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner that creates the circumstance?
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?

If the Board of Zoning Appeals approves this variance request based on the criteria for consideration, staff recommends the following conditions:

1. Due to positioning within the Right-of-Way, the City can require that the retaining wall be removed at any time and for any reason.

## **ATTACHMENTS**

1. Boundary Survey

# CERTIFICATE OF SURVEY

## IN LOT 15, EAST BLOCK, OAKWOOD PARK ADDITION ALBERT LEA, FREEBORN COUNTY, MINNESOTA

### LEGAL DESCRIPTION OF RECORD

Lot 15 in East Block of Oakwood Park Addition to the City of Albert Lea, Minnesota, according to the recorded plat thereof,  
LESS

Beginning at the Northwest corner of Lot 15 in East Block, Oakwood Park Addition to the City of Albert Lea, as platted and recorded;

thence in a southeasterly direction along the West boundary line of said Lot 15 a distance of 7 feet;

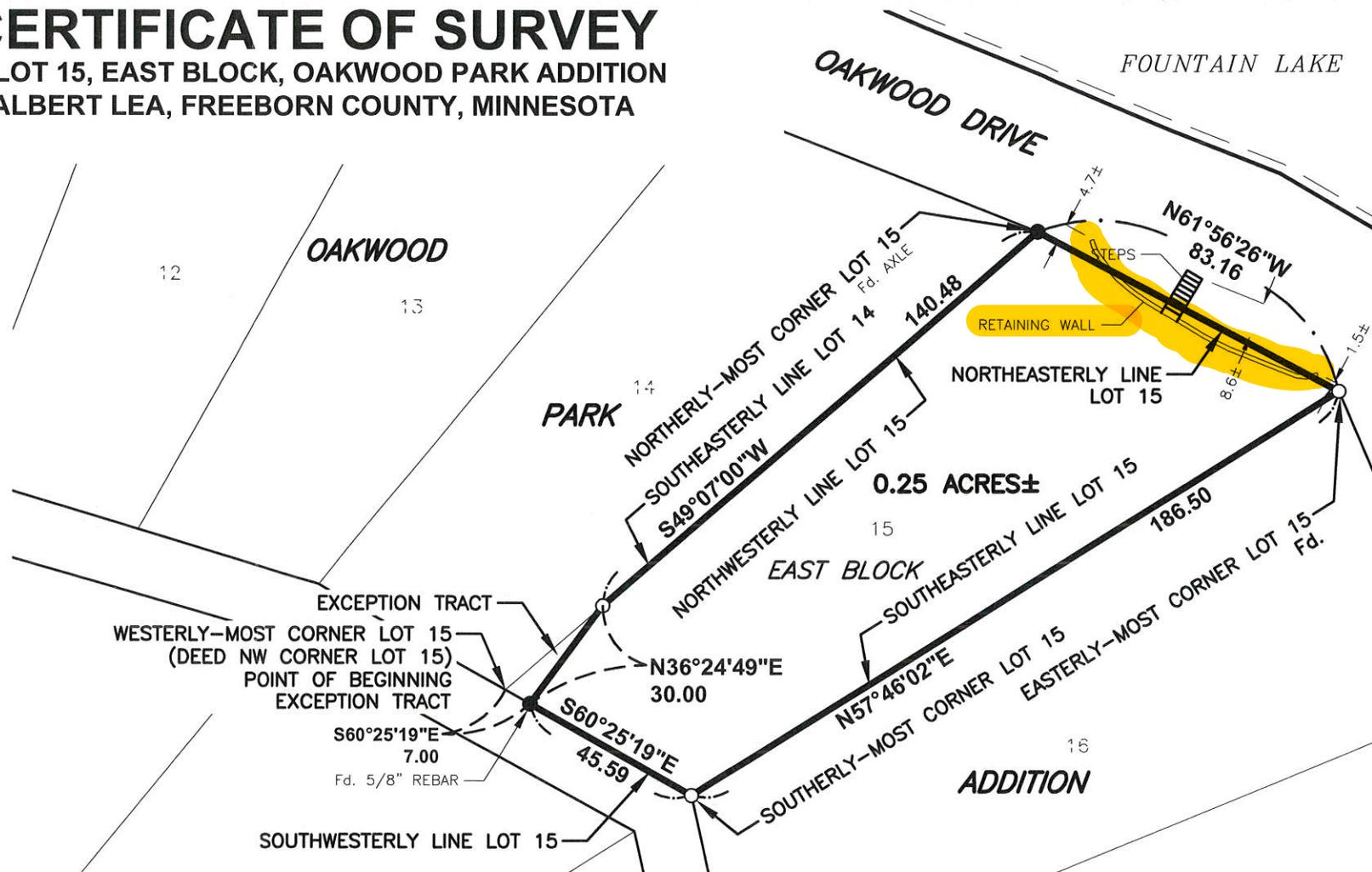
thence Northeasterly a distance of 30 feet to intersect the Lots 14 and 15 of said East Block;

thence Southwesterly along the North line of said Lot 15 to the place of beginning;

being a triangular parcel of land located in the Northwest corner of Lot 15, 7 feet in width at its western extremity and tapering to a point at its eastern extremity.

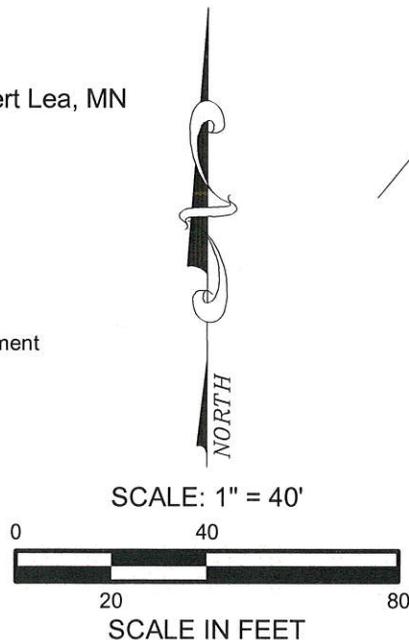
(Abstract)

Property also known as: 1503 Oakwood Drive, Albert Lea, MN 56007



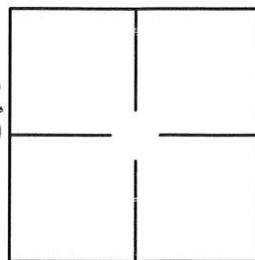
### LEGEND:

- = 5/8 Inch x 16 Inch iron stake monument (Capped SJT 22705)-Placed
- = Iron stake monument-Found



### FOR: ROBERT BOELTER

#### LOCATION MAP



Date: 6/28/2021  
 Revised date: -  
 Drawn by: SJT  
 Survey: SJT  
 Coord-System: MNDOT CO. NAD83 1996  
 Page 1 of 1  
 Job No: 21-190.DWG

#### COPYRIGHT

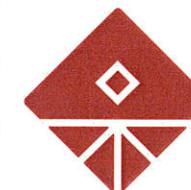
This document is the property of Jones, Haugh & Smith Inc. and may not be used, copied or duplicated without prior written consent.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

  
 Steven J. Thompson, L.S. No. 22705

7-6-21

Date



JONES  
HAUGH  
SMITH

Engineers + Surveyors

515 South Washington Ave.  
 Albert Lea, MN 56007  
 507-373-4876

415 West North Street  
 Owatonna, MN 55060  
 507-451-4598