



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

CITY OF MILACA
PLANNING COMMISSION AGENDA
October 11, 2022
6:00 P.M.
255 1ST ST E, CITY HALL COUNCIL ROOM

1. Open Regular Planning Commission Meeting
2. Call to Order/Roll Call
3. Approve minutes from September 28, 2022 (Handout at meeting)
4. Open Public Hearing;
 - a. Conditional Use Permit request from Lutheran Social Service of MN obo Arlene Trebesch-260 5th Ave SE
 - b. Conditional Use Permit request from CKW Developers-555 Hwy 23 E
 - c. Variance request from CKW Developers-355 3rd Ave SE
 - d. Variance request from Ethel Hakes, David Hakes, Daniel Hakes and Donald Hakes-315 3rd Ave NW
 - e. Variance request from Daniel & Lisa Hakes-325 3rd Ave NW
5. Close Public Hearing
6. New Business
 - a. Conditional Use Permit request from Lutheran Social Service of MN obo Arlene Trebesch-260 5th Ave SE
 - b. Conditional Use Permit request from CKW Developers-555 Hwy 23 E
 - c. Variance request from CKW Developers-355 3rd Ave SE
 - d. Variance request from Ethel Hakes, David Hakes, Daniel Hakes and Donald Hakes-315 3rd Ave NW
 - e. Variance request from Daniel & Lisa Hakes-325 3rd Ave NW
7. Miscellaneous
8. Adjourn



Planning Report

Date: October 11, 2022

To: Milaca Planning Commission

From: Phil Carlson, AICP, Phil Gravel, PE, Stantec

Request: Conditional Use Permit (CUP) for 4 Units in R-2 District

Owner: Arlene Trebesch

Applicant: Lutheran Social Service of MN, Conservator for Arlene Trebesch

Address: 260 5th Ave SE

PID: 21-043-0340

Zoning: R-2 One and Two Family Residential District

INTRODUCTION

Lutheran Social Services is applying on behalf of owner Arlene Trebesch for a conditional use permit (CUP) at 260 5th Ave SE. The request is to allow four dwelling units in the existing single family home. There are currently three units in the home – one on the first floor and two on the second floor. The fourth unit would be a new unit in the basement.

The Milaca Zoning Code allows a two family residence as a permitted use in the R-2 district. It allows multi-family dwellings or more than two units as a conditional use, but not in a converted single family home which can only be converted to two units. The City has not approved the conversion of the home to the existing three units. The request for four units, or even the existing three units, is not allowed by code and we recommend denial of the request.



Separately, we will consult with the city attorney and the city building official on any next steps needed on the situation with this property.



Re: 260 5th Avenue SE, CUP for Multiple Units

ZONING CODE STANDARDS

Section 156.036(C) of the Milaca Zoning Code lists permitted uses in the R-2 district, including single family residence and two family residence. In 156.036(E) conditional uses are listed, including multiple family dwellings. Section 156.036(E)(9) allows conversion of a single family home into multi-family dwellings as a conditional use, but lists other conditions:

- (9) Conversions of single family units into multi-family dwellings provided that:
 - (a) No existing single family dwelling shall be converted into more than two dwelling units;
 - (b) Lot size shall be at least 10,000 square feet with public sewer;
 - (c) Adequate off-street parking is provided in accordance with this chapter;
 - (d) Each unit shall meet the minimum health and safety requirements as provided for in the Minnesota State Building Code and Minnesota State Fire Code;

Section 156.036(B) requires 10,000 sq ft of lot area for a two family dwelling and 5,500 sq ft of lot area per unit for townhouses.

The City has no record of the home at 260 5th Ave SE being approved for conversion to two or more units. Conversion to three or four units is not allowed at all, as stated in the above code provision.

The Mille Lacs County Assessor's information classifies the property as "residential/single unit".

The lot is 9,802 sq ft in size, so even if a request were made to the City to convert the structure from one unit to two, it does not meet the lot size minimum and would need a variance in addition to the conditional use permit. A variance has not been applied for.

Parking requirements for residential units in Milaca are 2 spaces per unit, so 4 spaces are needed for two units, 6 spaces for three units, and 8 spaces for four units.

Section 156.078(A) requires all parking spaces to be paved.

EXISTING HOUSE & PROPOSED UNITS

The existing house has one unit on the first floor and two units on the second floor. The garage has two 16-ft-wide doors and can accommodate four cars. Aerial photos and street view photos of the property at various times show cars parked on the north side of the house on gravel and grass areas.

The City building inspector visited the property on 9/21/2022. His notes are attached. He indicated the existing three units are in good condition but that the basement would need considerable work to bring it up to code as a separate unit and is probably not feasible, even if allowed by zoning.

The request is to add a fourth unit in the basement, which is not allowed by zoning code standards. Even keeping the existing three units is not allowed under the R-2 zoning standards.



Re: 260 5th Avenue SE, CUP for Multiple Units

RECOMMENDATION

We recommend denial of the conditional use permit for three or four units at 260 5th Ave SE because the Milaca Zoning Code does not allow the single family structure to be more than a single unit or converted to a two family unit by conditional use permit with variances.

Findings of Fact

- 1) The property at 260 5th Avenue SE is zoned R-2 One and Two Family Residential District.
- 2) The lot at 260 5th Avenue SE is approximately 9,802 square feet in size and 66 feet wide. Minimum lot standards in the R-2 district for single family or two family homes are 10,000 square feet lot area and 80-foot lot width. The existing lot does not meet the minimum standards for conversion to a two family structure.
- 3) The existing structure at 260 5th Ave SE was built as a single family home and is classified as one single family housing unit by the Mille Lacs County assessor.
- 4) The Milaca Zoning Code allows conversion of a single family home to two units with a conditional use permit if it meets the minimum lot area standard. Use of the property for a single unit or two units is a reasonable use.
- 5) The City building inspector confirmed in September 2022 that the structure is now divided into three separate living units.
- 6) There is no record the City of Milaca approved or issued a conditional use permit for two or more dwelling units on the property.
- 7) The property as currently used does not conform to the Milaca Zoning Code.
- 8) The request for three units or four units in the structure is not allowed by the standards of the R-2 district in the Milaca Zoning Code.

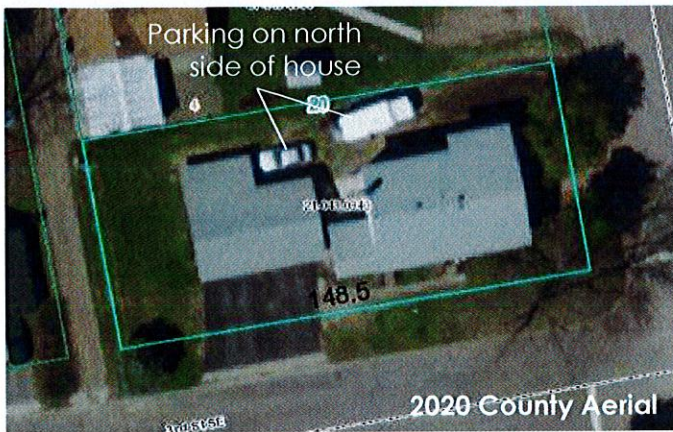
PLANNING COMMISSION MOTION TEMPLATES

The Planning Commission recommends to the City Council, which has final authority on the CUP.

- *Denial Per Planner's Recommendation*
The Planning Commission recommends that the City Council deny the conditional use permit for the proposed four units at 260 5th Avenue SE with the Findings of Fact in the Planner's report of October 11, 2022.
- *Approval*
[The requested use is not allowed by code. Approval of the CUP is not an option. There may be other ways for this property to continue or expand its use, but not with this request.]

60-DAY DEADLINE

The application was received on September 13, 2002. The deadline for final action by the City Council per State statute 15.99 is November 13, 2022.



260 5th Ave SE, Milaca



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

APPLICATION FOR CONDITIONAL USE PERMIT

260 5th Ave SE

ADDRESS OF PROPERTY FOR CONDITIONAL USE PERMIT REQUEST

PIN # 21.043.0340

PROPERTY OWNER INFORMATION

NAME: Arlene Trebesch

ADDRESS: 260 5th Ave SE

STREET ADDRESS

Milaca MN 56353
CITY ST ZIP CODE

TELEPHONE: () 320-983-3618 HOME

() _____ CELL

E-Mail Address _____

The following information is submitted in support of this application:

APPLICANT INFORMATION (IF DIFFERENT FROM PROPERTY OWNER INFORMATION)

NAME: Lutheran Social Service of MN, Conservator for Arlene Trebesch

ADDRESS: PO Box 477, 731 Western Ave

STREET ADDRESS

Fergus Falls MN 56538
CITY ST ZIP CODE

TELEPHONE: () 218-321-0379 HOME

() 218-955-0210 CELL

E-Mail Address cassandra.jahnke@lssmn.org

- Completed Application for Conditional Use Permit
- Fee of \$200.00 - Ad. Receipt # 116827
- Full legal description of property (Not from your property tax statement)
- Depending on the Conditional Use Permit requested, the following may be required:
 - 16 copies of a Site Plan
 - 16 copies of a Sign Plan
 - 16 copies of any other appropriate plans or drawings
- A narrative explaining the purpose of the request, the exact nature of the Conditional Use Permit and the justification of the request
- Other

.....
I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.

Property Owner Signature

Armine Tabatabaie by ISS by Camarina Qubark

Applicant Signature (If different from Property Owner Signature)

Date

COMMENTS/REVISIONS: _____ _____ _____

CITY STAFF RECEIVING APPLICATION:

[Signature]
Deloris Katke

DATE:

09.13.22

Commencing at the Southeast corner of Lot 4, Block 20, Third Addition to the Village of Milaca;

thence running in a Northerly direction 66 feet;

thence running in a Westerly direction 148-1/2 feet;

thence running in a Southerly direction 66 feet;

thence running in an Easterly direction 148-1/2 feet to the point of beginning, according to the Plat thereof on file and of record in the Office of the Register of Deeds in and for Mille Lacs County, Minnesota.

09-21-22

Tad Winterfield, Building Inspector, met Gene Powell at 260 5th Ave SE to do a building inspection for the Conditional Use Permit that is being requested.

Per Tad, there are currently 3 units. All units have their own entrance.

Unit #1 – Arlene Trebesch, owner, lives in this unit. There are 3 bedrooms, living room, etc. There is also an interior entrance that leads to the basement from this unit.

Units #2 and #3 are both one-bedroom apartments with kitchen, living room, etc. IF it was consensus of the Planning Commission and they want to change this from a 3-unit apartment and make it more conforming to only 2 units, Tad felt you could take out a wall and these 2 units could be made into one bigger unit.

The garage is actually a four-car garage as there are 2 – 16-foot garage doors.

Basement is unfinished but if approved for a multi-unit dwelling, it will require egress windows and the concrete flooring will need to be dug up to get the plumbing to code. There is one functioning toilet in the basement but that is not to code. Tad did not feel it was feasible to have an apartment in the basement just because of the alterations that would need to be done. Basement has an entrance from the outside and an interior entrance from Unit 1.

Tad said all in all the units were in nice shape.



2 of 5000+ Checked 0 All · None · Page ·



Criteria

Results

Jump to Address



Property Type is 'Single Family'
Found 5000 results in 0.02 seconds.

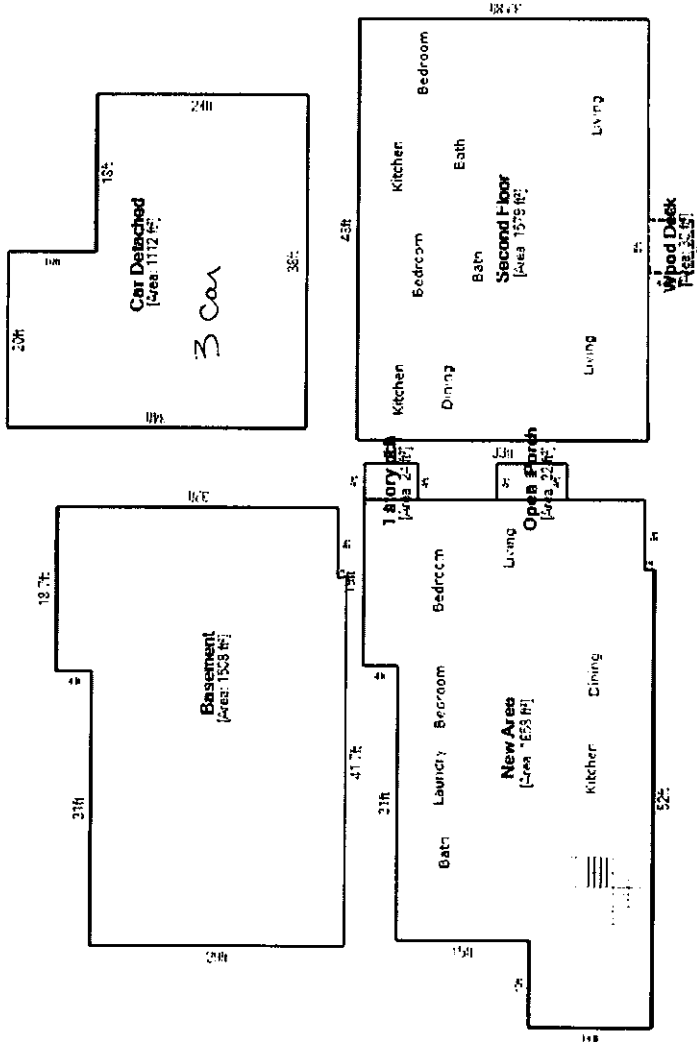
Map data ©2022 Imagery ©2022 20 ft

FLOORPLAN SKETCH

Borrower: Arlene M Trebesch
 Property Address: 260 5th Ave SE
 City: Milleca
 Lender: Luthern Social Services of MN & Guib

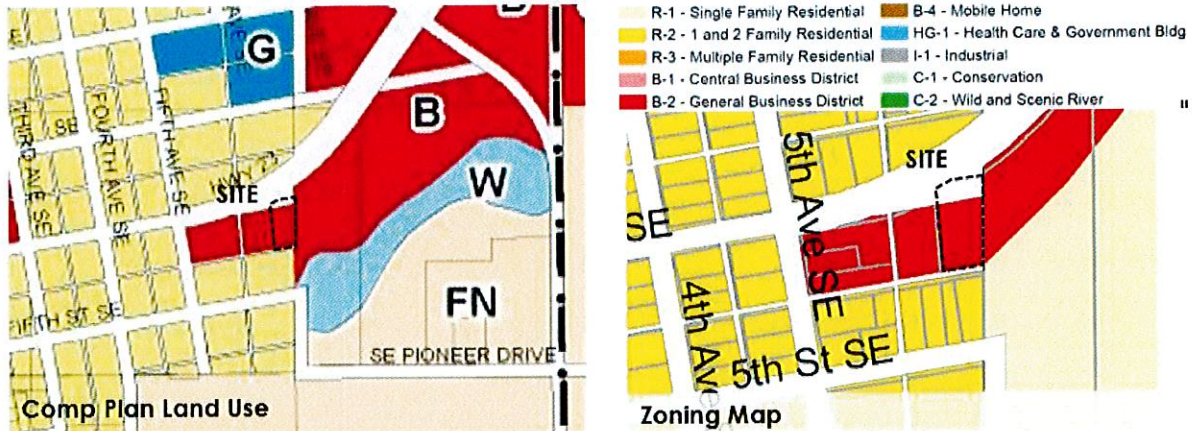
File No.: 2022-032a
 Case No.:
 State: MN
 Zip: 56353

Sketch





Re: 555 State Highway 23, CUP for Apartment Building



CUP Criteria

A conditional use in planning practice is considered a *permitted use* to which *reasonable conditions* can be attached based on findings of fact. The Milaca Zoning Code in Section 156.150(D) defines the Planning Commission’s role in the CUP process:

(D) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- (1) Relationship to the city's growth management system/Comprehensive Plan;*
- (2) The geographical area involved;*
- (3) Whether the use will tend to or actually depreciate the area in which it is proposed;*
- (4) The character of the surrounding area; and*
- (5) The demonstrated need for the use.*

A reasonable analysis of the above factors would conclude that the proposed use meets all these criteria – the parcel is now vacant and would aid the city's growth; the geographic area would support the use; the use would not depreciate the area; the character of the area is a combination of commercial and residential uses; and there is a definite need for multi-family housing in Milaca.



Re: 555 State Highway 23, CUP for Apartment Building

SITE ISSUES

Setbacks

The proposal meets the required setbacks, as illustrated on the graphic at the end of this report and on the applicant's materials:

- 25 ft front setback
- 10 ft side setback
- 10 ft rear setback

Height

The building is 31'-7" at the peak of the roof and meets the zoning code height limit of 35 feet.

Parking

The proposal meets the parking standard of 2 spaces per unit:

- 8 spaces, surface lot
- 2 handicapped spaces, surface lot
- 6 garage spaces
- 16 spaces total for 8 units = 2/unit

Landscaping

The landscape plan shows a mix of trees, shrubs and grass areas and is acceptable. There is a 6-ft tall privacy fence along the middle part of the west property line to provide screening between the properties.

Lighting

All site lighting, including the lighted sign for the project on Highway 23, should be downcast, cutoff type fixtures such that the light source is not visible beyond the property line.

Building Materials

The exterior building materials will be steel siding in both a lap siding style and shakes, with a wainscot base of manufactured stone. The roof will be shingles. The building materials are typical, durable, and reasonable.

Lot Coverage

The site plan indicates 54.5% of the site is hardcover – building, garages, sidewalk, paving, etc. The remainder, 45.5% of the site, is green or landscaped. The Milaca code for residential zones allows no more than 60% hardcover. This property is zoned B-2, but multi-family residential is allowed, so it is indirectly a "residentially zoned property". In any event, it meets this 60% lot coverage standard.

Engineering Comments

- Applicants will provide a Certificate of Survey.
- Sewer and water connection plans shall be approved by the Public Works Director.
- No site drainage shall be directed toward adjacent properties.
- The Building Official and Fire Chief will review the plans.



Re: 555 State Highway 23, CUP for Apartment Building

RECOMMENDATION

We recommend approval of the conditional use permit for the 8-unit apartment building at 555 Highway 23 with the following Conditions and Findings of Fact, as illustrated on drawings submitted by the applicant:

- Site Plan, Keenan Architectural Group, dated 8/25/2022
- Landscaping Site Plan, Keenan Architectural Group, dated 9/28/2022
- Wall elevations, Keenan Architectural Group, dated 9/28/2022

Conditions of Approval

- 1) Landscaping for the project will be maintained for the life of the project as illustrated on the approved landscape plan.
- 2) The privacy fence on the west side of the lot will be maintained for the life of the project in an attractive manner.
- 3) All lighting on site will be downcast cutoff type fixtures, including the lighted sign on Highway 23, such that the light source is not visible beyond the property line.
- 4) The project sign will meet the size and location standards for the B-2 district.
- 5) All requirements of the City Engineer and Public Works Director will be followed with respect to grading, stormwater, utilities, and other issues.

Findings of Fact

- 1) The property is zoned B-2. Multi-family residential is a conditional use in that district. The use is presumed to be a permitted use to which reasonable conditions may be attached.
- 2) Criteria for considering a conditional use are found in Section 156.150(D) of the Milaca Zoning Code. The proposed project meets all of these criteria – the parcel is now vacant and would aid the city's growth; the geographic area would support the use; the use would not depreciate the area; the character of the area is a combination of commercial and residential uses; and there is a definite need for multi-family housing in Milaca.
- 3) Conditions of approval related to maintenance of landscaping, site lighting, and other site features are reasonable and necessary to preserve the character of the area.
- 4) Adherence to the City's engineering standards is reasonable and necessary to promote orderly development in the City.



October 11, 2022
Milaca Planning Commission
Page 5 of 6

Re: 555 State Highway 23, CUP for Apartment Building

PLANNING COMMISSION MOTION TEMPLATES

The Planning Commission is charged with making a recommendation to the City Council, which has final authority to approve or deny the CUP. Options for Planning Commission recommendations and motions might include the following, with Findings of Fact:

- *Approval As Submitted Per Planner's Recommendation*
The Planning Commission recommends that the City Council approve the conditional use permit for the proposed apartment building at 555 Highway 23 as submitted, with the Conditions and Findings of Fact in the Planner's report of October 11, 2022.
- *Approval With Revisions*
The Planning Commission recommends that the City Council approve the conditional use permit for the proposed apartment building at 555 Highway 23 with the following Conditions *[revise the conditions as needed]* and Findings of Fact *[revise the Findings as needed]*.

Denial

We do not recommend that the Planning Commission recommend denial of the CUP request outright. Since a conditional use is considered a permitted use, the presumption is that there is some way to allow the use with certain conditions. We would urge the Planning Commission to craft reasonable conditions to address concerns, rather than deny the request.

60-DAY DEADLINE

The application was received on September 16, 2022, and revised plans were received on September 22, 2022. The deadline for final action by the City Council per State statute 15.99 is November 22, 2022.



Re: 555 State Highway 23, CUP for Apartment Building

Conditional Use Permit Conditions

Section 156.150(G) of the Zoning Code notes the kinds of conditions to be considered in reviewing a Conditional Use Permit, not all of which apply to this request:

- (G) For all conditional uses, the following conditions shall be met:
- (1) The land area and setback requirements of the property containing the use or activity shall be the minimum established for the district.
 - (2) Where applicable, all city, state, and federal laws, regulations, and ordinances shall be complied with and all necessary permits secured.
 - (3) Adequate off-street parking and loading shall be provided in accordance with §§ 156.075et seq. This parking and loading shall be screened and landscaped from abutting residential uses in compliance with this subchapter.
 - (4) The proposed water, sewer, and other utilities shall be capable of accommodating the proposed use.
 - (5) The street serving the proposed use or activity shall be of sufficient design to accommodate the proposed use or activity, and the use or activity shall not generate such additional extra traffic to create a nuisance or hazard to existing traffic or to surrounding land uses.
 - (6) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.
 - (7) All open and outdoor storage, sales, and service areas shall be screened from view from the public streets and from abutting residential uses or districts.
 - (8) All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.
 - (9) The use or activity shall be properly drained to control surface water runoff.
 - (10) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
 - (11) Where structures combine residential and non-residential uses, these uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.

CITY OF MILACA



255 1st ST E
MILACA MN 56353
(320) 983-3141
(320) 983-3142 FAX

APPLICATION FOR CONDITIONAL USE PERMIT

Application is hereby made for a Conditional Use Permit for (description of Conditional Use Permit)

8 UNIT APARTMENT BUILDING

PARKING

6 UNIT GARAGE

Address of Property: 555 STATE HWY 23 / P.I.D.# 21-043-1270

Owner Name: SHAWN WILLIAMS / CKW DEVELOPERS

Owner Address: 11428 293RD AVE

Street Address

PRINCETON

City

MN

State

55371

Zip Code

Telephone: (612) 282-6260

Applicant's Name: SHAWN WILLIAMS / ATW CONTRACTING

Applicant's Address: 11428 293RD AVE

Street Address

PRINCETON

City

MN

State

55371

Zip Code

Applicant Telephone: (612) 282-6260

The following information is submitted in support of this application:

Completed Application for Conditional Use Permit

Fee of \$200 P.D. Ch # 5325 Receipt # 16828

Legal Description of property attached

Depending on the Conditional Use Permit requested, the following may be required:

_____ 16 copies of a Site Plan

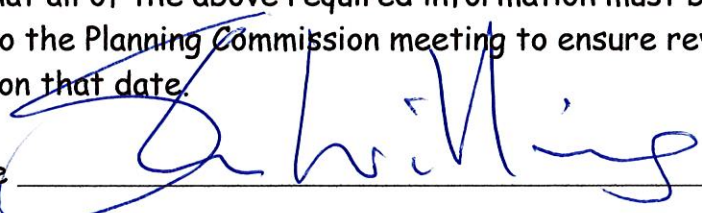
_____ 16 copies of a Sign Plan

_____ 16 copies of any other appropriate plans or drawings

A narrative explaining the purpose of the request, the exact nature of the Conditional Use Permit, and the justification of the request.

Other

I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.

Applicant's Signature 

Date 9/11/22

Comments/Revisions WOULD LIKE TO START

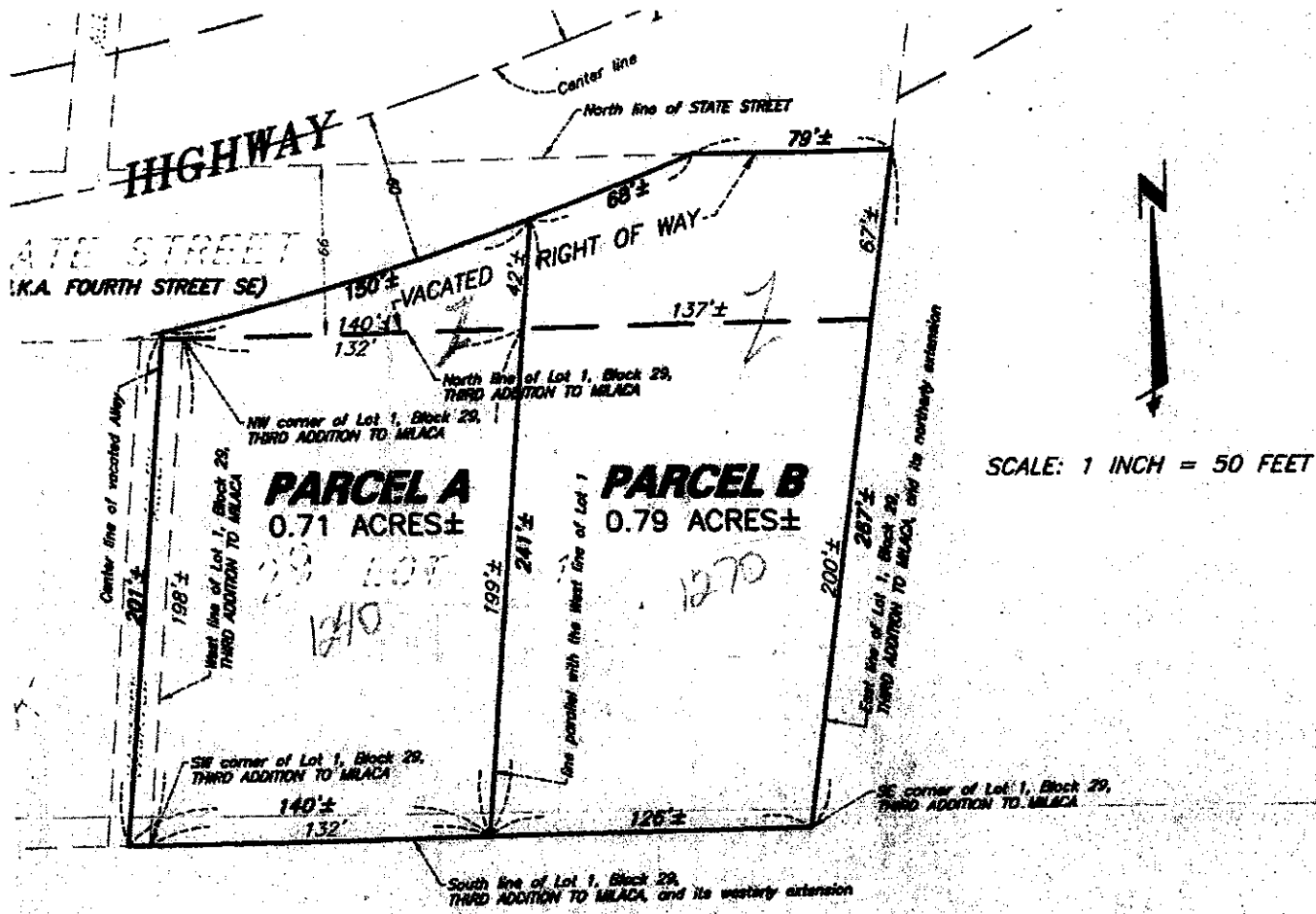
CONSTRUCTION THIS FALL IF POSSIBLE.

8 UNIT APARTMENT & 6 GARAGE STALLS

Received By:

City Agent's Signature 

Date 09.16.2022



SCALE: 1 INCH = 50 FEET

EXISTING PARCEL B DESCRIPTION:

Lot 1, Block 29, Third Addition to the Village of Milaca, Mille Lacs County, Minnesota. EXCEPT: The West 132 feet of Lot 1, Block 29, Third Addition to the Village of Milaca, which exception tract is also described as follows: Beginning at the Southwest corner of Lot 1, Block 29, Third Addition to the Village of Milaca; thence running Easterly on and along the Southerly boundary line of said Lot 1 a distance of 132 feet; thence Northerly in a straight line and parallel to the Westerly boundary line of said Lot 1 to Northerly boundary line of said Lot 1; thence Westerly on and along the Northerly boundary line of said Lot 1, a distance of 132 feet to the Northwest corner of said Lot 1; thence Southerly on and along the Westerly boundary line of said Lot 1 to the point of beginning, according to the plat thereof on file and of record in the office of the County Recorder in and for Mille Lacs County, Minnesota.

DESCRIPTION OF VACATED RIGHT OF WAY (lying North of Parcel B):

All that part of vacated State Street, as described per City of Milaca Resolution No. 06-26, as dedicated in the plat of THIRD ADDITION TO MILACA, according to said plat on file and of record in the office of the County Recorder, Mille Lacs County, Minnesota, which lies Southeastery of a line drawn parallel with and distant 60.00 feet Southeastery of the center line of State Highway No. 23 and which lies easterly of the following described line: Commencing at the southwest corner of Lot 1, Block 29, THIRD ADDITION TO MILACA, according to the recorded plat thereof, Mille Lacs County, Minnesota; thence easterly along the South line thereof, a distance of 132.00 feet; thence northerly and parallel with the West line of said Lot 1 to the point of intersection with the North line of said Lot 1 and to the point of beginning of the line being described; thence continuing northerly along said parallel line to the point of intersection with said line drawn parallel with and distant 60.00 feet Southeastery of the center line of State Highway No. 23 and said line there terminating; and which lies westerly of the northerly extension of the East line of said Lot 1.

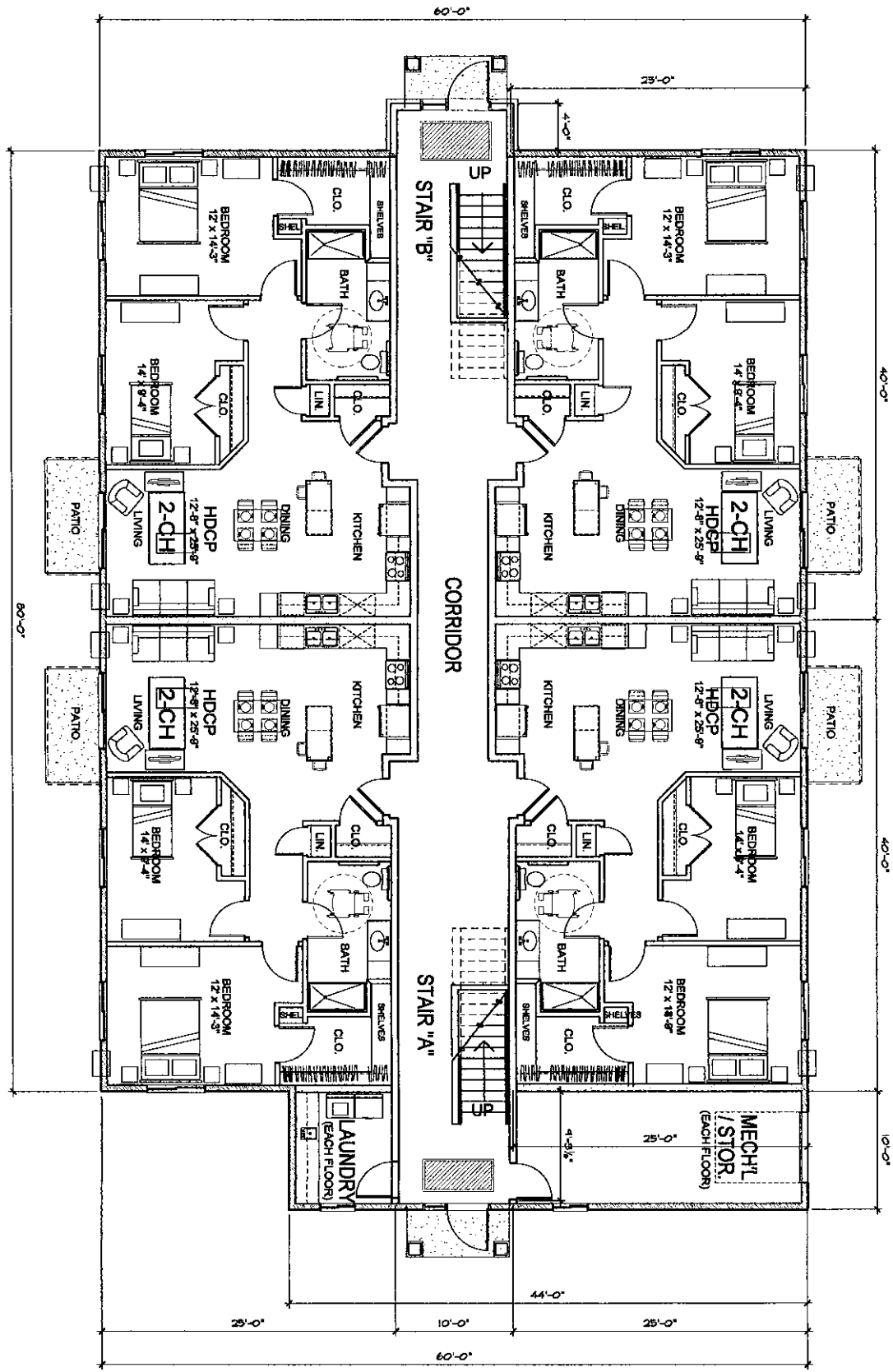
REVISED PARCEL B:

That part of Lot 1, Block 29, THIRD ADDITION TO MILACA, according to the recorded plat thereof, Mille Lacs County, Minnesota, together with that part of the vacated State Street, as dedicated in said THIRD ADDITION TO MILACA, and being fully described as follows: Commencing at the southwest corner of said Block 29; thence easterly along the South line thereof a distance of 132.00 feet to the point of beginning of the property being described; thence northerly and parallel with the West line of said Lot 1 to the point of intersection with a line distant 60.00 feet Southeastery of and parallel with the center line of State Highway No. 23; thence Northeastery along said parallel line to the point of intersection with the North line of said vacated State Street; thence easterly along said North line of State Street to the point of intersection with the northerly extension of the East line of said Lot 1; thence southerly along said East line and its northerly extension, to the southeast corner of said Lot 1; thence westerly along said South line of Lot 1 to said point of beginning.

Village of Milaca, Mille Lacs County, Minnesota. Beginning at the Village of Milaca; thence f said Lot 1 a parallel to the ne of said Lot 1; said Lot 1, a distance Southerly on and along lining according to register of Deeds in

Parcel A): of Milaca Resolution MILACA, according to Recorder, Mille Lacs if the center line of Block 29, said THIRD drawn parallel with and Highway No. 23 and cing of the southwest eing to the recorded long the South line offer with the West line e of said Lot 1 and to ontinuing northerly e drawn parallel with ate Highway No. 23

ording to the with that part of the O MILACA, and the East t 1 and Lot 2, said the point of aid Lot 1 with the ty along said South said Lot 1; thence e point of intersection with the center line of el line to the point of of the North-South e northerly extension,



FIRST FLOOR PLAN - OPTION "C"
 SCALE: 3/8"=1'-0"
 1" = 10'

PARCEL AREA
.77 ACRES +/- = 33,571 S.F.

NO. OF APARTMENTS = 8
APARTMENTS = 5,282 SF

DETACHED GARAGES = 1,632 SF

PARKING SPACES-REG = 9
HANDICAP = 1
DETACHED GARAGES = 6
TOTAL PARKING SPACES = 16

BUILDING AREAS:

APARTMENT BUILDING = 5,282 SF 15.7 %
DETACHED GARAGES = 1,632 SF 4.9 %

PAVEMENT/SIDEWALKS/PATIOS AREA = 11,369 SF 33.9 %

TOTAL GREEN/LANDSCAPE AREA = APPROX. 15,288 SF 45.5 %

Planning Report

Date: October 11, 2022

To: Milaca Planning Commission

From: Phil Carlson, AICP, Stantec

Request: Variance to Corner Side Setback

Owner: Leam M. LaBlanc

Applicant: Shawn Williams, CKW Developers

Address: 355 3rd Avenue SE

PIDS: 21-043-0790

Zoning: R-2 One and Two Family Residential District

INTRODUCTION

Shawn Williams wants to build a new home on the vacant lot at 355 3rd Ave SE, owned by Leam LaBlanc. The short side of the lot fronts 3rd Ave SE, the long side is along Highway 23. The original lot is 66 ft wide by 147 ft deep but there is a 10-ft wide easement for Highway 23, making the lot only 56 ft wide from where setbacks are measured. If the required setbacks were to be met the buildable area of the lot would be very narrow and small, as illustrated on the graphics on the next page. A variance to the required 30 ft corner side setback to Highway 23 is being requested.

Building almost anything reasonable on this lot would require a variance – the question is how much of a variance? The existing structures along Highway 23 in the two blocks east of this lot do not meet the required setback, as illustrated on the next page. What is being proposed with this request encroaches less than most of the existing homes and garages along this stretch of roadway. It would be fair and reasonable to allow the home to be built at a 14 ft setback, which is 16 ft inside the required setback. The encroachment of the other homes and garages east of this property ranges from 7 ft to 47 ft into the same setback. The 16 ft encroachment proposed is reasonable and better than all but one of the existing structures.

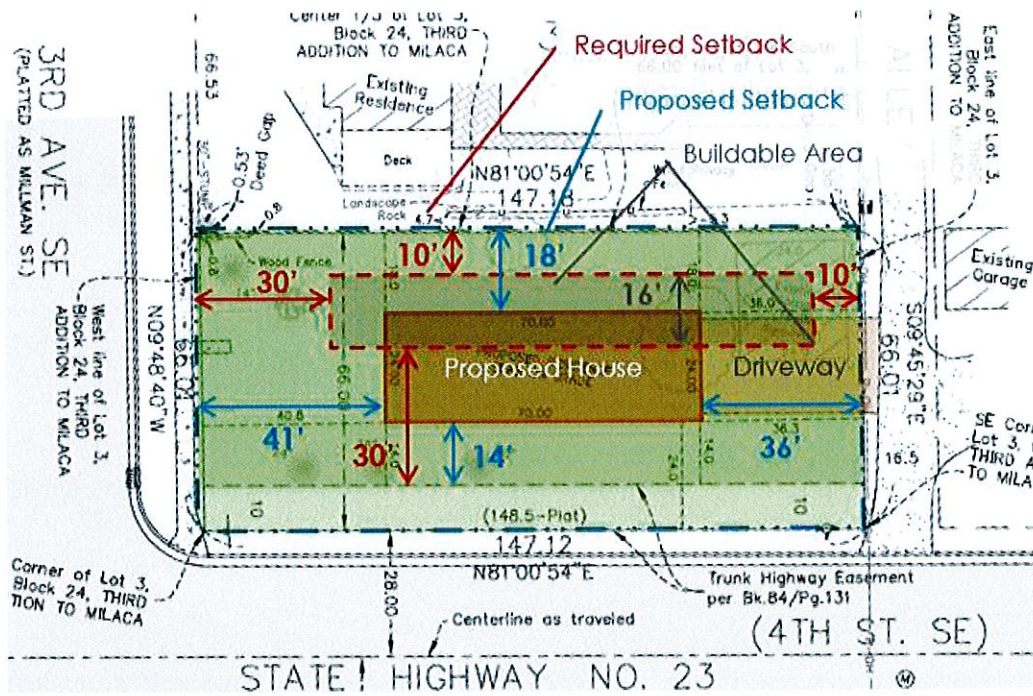




Re: 355 3rd Ave SE, Variance to Corner Side Setback

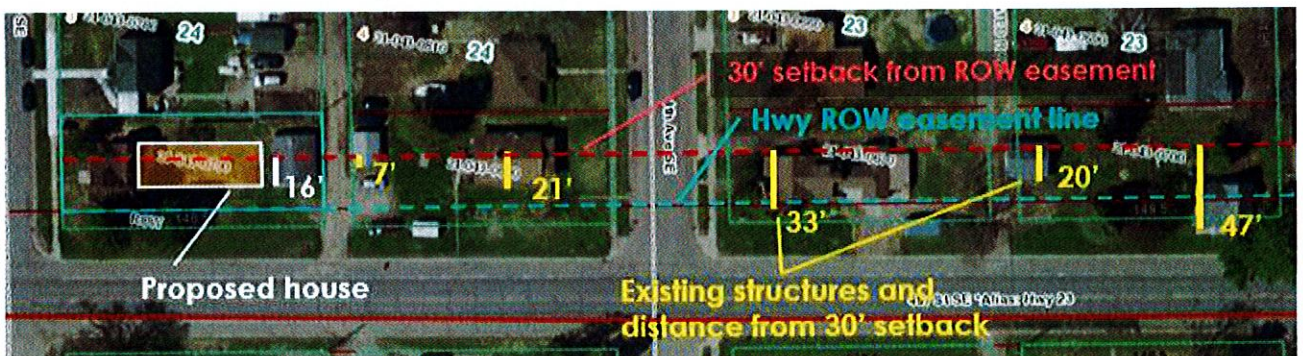
REQUESTED VARIANCE

The new house proposed on the lot is illustrated below along with the setbacks – red dimensions show the required setbacks, blue dimensions note the proposed setbacks. The front, rear, and north side setbacks are met with the proposed house; only the setback to Highway 23 needs a variance. The gray shaded area would be the buildable area meeting the required setbacks, only 16 ft wide. As seen in the graphic at the bottom of the page, the proposed setback encroaches less than almost all other structures nearby (assuming the County aerial is up to date). Placing the house closer to Highway 23 also allows there to be more back/side yard space on the north side of the house away from the noise of the highway.



Highway 23 Frontage in the Vicinity of 355 3rd Ave SE

Yellow lines: distance of existing structure encroachment into 30 ft setback





Re: 355 3rd Ave SE, Variance to Corner Side Setback

VARIANCE CRITERIA

The criteria for considering variances to the zoning code standards are included at the end of this report. *Section 156.166* has seven criteria dealing with light and air, congestion, fire and public safety, property values, municipal facilities and services, and the City's growth management plan. The requested variance would not cause any of the noted problems.

Section 156.167 lists the conditions for granting variances that are almost verbatim from State statute governing variances. The basic standard is that there are "practical difficulties" in meeting the ordinance, which means:

- The proposed use of the property is reasonable. i.e., it is an acceptable use of the property and not something out of the ordinary that might impact surrounding properties.
What is proposed is a new home on a vacant lot, a reasonable use, with setbacks that are better than other existing structures along this frontage.
- There are circumstances unique to the property not created by the applicant. i.e., something in the property itself and not in the proposed action.
The lot dimensions are existing and not created by the applicant, nor is the additional encroachment of the 10-ft highway ROW easement. Meeting the code would require a home that is significantly narrow than typical or practical. This is a unique circumstance to this property not shared by most other lots in Milaca.
- The variance would not alter the essential character of the locality, i.e., it wouldn't be dramatically out of place in terms of size, height, appearance, etc.
The proposed home would be situated further back from the highway than all of the existing homes in the two blocks to the east. It would not be out of character.
- Economic considerations alone are not justification for a variance, i.e., could the applicant spend more money and meet the code.
Spending more money would not fix this; allowing a variance to the setback will.

A reasonable reading of these standards would conclude that the current request meets them all. The variance is justified.



Re: 355 3rd Ave SE, Variance to Corner Side Setback

RECOMMENDATION

We recommend approval of the variance to allow a corner side setback of 14 ft for a new house at 355 3rd Avenue SE as illustrated on the Site Plan dated 9/30/22 prepared by Rum River Land Surveyors & Engineers.

Findings of Fact for Approval

- 1) The lot at 355 3rd Avenue SE is 66 feet wide with a 10-foot-wide right-of-way easement for Highway 23 making the lot width 56 feet for purposes of calculating setbacks.
- 2) The required corner side setback in the Milaca Zoning Code for the Highway 23 side of the lot in questions is 30 feet. The required side setback for the interior north side yard is 10 feet, resulting in a buildable lot width meeting the required setbacks of 16 feet.
- 3) The dimensions of the lot and the imposition of the highway right-of-way easement are circumstances not shared by many lots in Milaca and not created by the applicant.
- 4) The applicant proposes to build a new 24-foot-wide house at a 14-foot setback from the highway 23 right-of-way easement, a variance of 16 feet from the required setback.
- 5) There are five existing structures – houses and a garage – identified on the Mille Lacs County aerial in the two blocks east of the subject property. All of these structures extend into the required 30-foot setback by 7 feet to 47 feet, four of them by more than the proposed house.
- 6) Allowing the house to be located closer to the highway than required by zoning code standards allows more yard space on the north side of the home away from the noise of the highway, a reasonable accommodation in this environment.
- 7) Allowing a 24-foot-side house on the parcel in question closer to the highway than the required setback would not alter the character of this area.
- 8) The proposed variance meets the criteria in Sections 156.166 and 156.167 of the Milaca Zoning Code for granting variances.



Re: 355 3rd Ave SE, Variance to Corner Side Setback

PLANNING COMMISSION MOTION TEMPLATES

The Planning Commission is charged with making a recommendation to the City Council, which has final authority to approve or deny the variance. Options for Planning Commission recommendations and motions might include the following, with Findings of Fact:

- *Approval As Submitted Per Planner's Recommendation*
The Planning Commission recommends that the City Council approve the variance to the corner side setback for a new house at 355 3rd Avenue SE as submitted, with the Findings of Fact in the Planner's report of October 11, 2022.
- *Approval With Revisions*
The Planning Commission recommends that the City Council approve the variance to the corner side setback for a new house at 355 3rd Avenue SE with the following Conditions [add conditions as needed] and Findings of Fact [revise the Findings as needed].
- *Denial*
The Planning Commission recommends that the City Council deny the variance to the corner side setback for a new house at 355 3rd Avenue SE, with [Findings of Fact].

Findings are needed in writing for denial of the variance. There appears to be little justification for denying the variance, however, as outlined in this report.

60-DAY DEADLINE

The application was received on September 22, 2022. The deadline for final action by the City Council per State statute 15.99 is November 22, 2022.



Re: 355 3rd Ave SE, Variance to Corner Side Setback

VARIANCES & APPEALS

§ 156.166 FINDING OF FACT.

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals [City Council] shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or
- (G) Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.

§ 156.167 CONDITIONS FOR GRANTING VARIANCES.

(A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

(1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;

(2) Exceptional topographic or water conditions of a specific parcel of land or lot; or

(3) Inadequate access to direct sunlight for solar energy systems.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a "non-use variance," and the use of the variance procedure does not authorize any kind of unlawful "spot zoning."

CITY OF MILACA



255 1ST ST E
MILACA MN 56353
(320) 983-3141
(320) 983-3142 FAX
www.cityofmilaca.org

APPLICATION FOR VARIANCE

Application is hereby made for a Variance from (description of variance)

WE NEED TO VERIFY NEW HOME FITS ON
LOT.

Address of Property: 355 3RD AVENUE SE } 21-043-0790

Owner Name: LEAM M LABLANC / CKW DEVELOPERS

Owner Address: 355 3RD AVENUE } 11428 293RD AVE
Street Address
Milaca MN 56353 } Princeton MN 55371
City State Zip Code

Telephone: () 612 282 6260

Applicant's Name: CKW DEVELOPERS / SHAWN WILLIAMS

Applicant's Address: 11428 293RD AVE
Street Address
PRINCETON MN 55371
City State Zip Code

Applicant Telephone: (612) 282 -6260

The following information is submitted in support of the application as described on the attached "Variance Procedures":

- Completed Application for Variance
- Fee of \$200 PD. 09.22.22 Receipt #17065
- Legal Description of property attached

Depending on the variance requested, the following may be required:

- _____ 16 copies of a Site Plan
- _____ 16 copies of a Sign Plan
- _____ 16 copies of any other appropriate plans or drawings

A narrative explaining the purpose of the request, the exact nature of the Variance, and the justification of the request.

Other

I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.

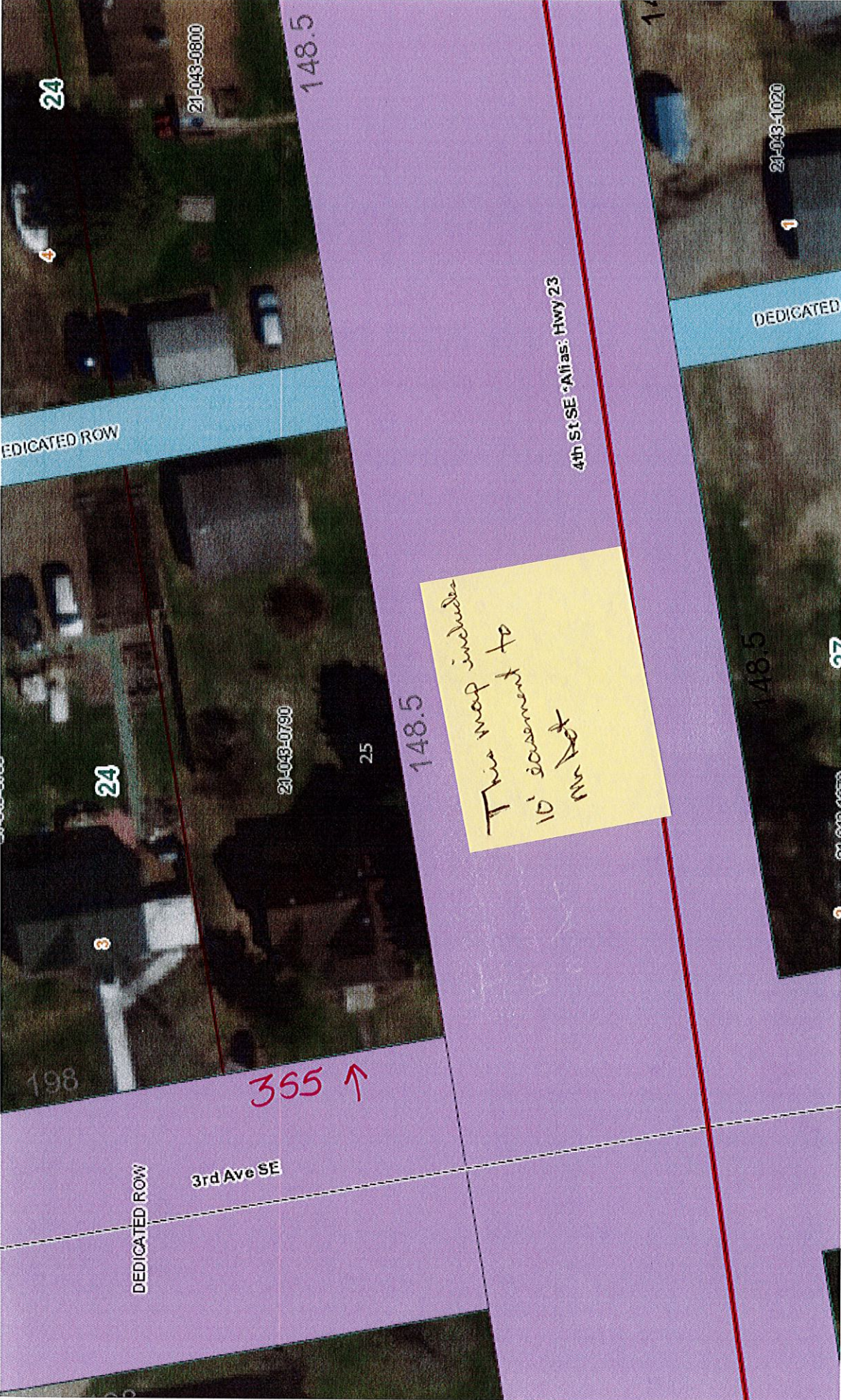
Applicant's Signature [Signature]

Date 9/22/22

Comments/Revisions Project is Scheduled to close on 10/14 Then we would like to Apply For A Permit ASAP Thanks, [Signature]

Received By: City Agent's Signature [Signature]

Date 09.22.22



24

21-043-0800

148.5

21-043-1020

DEDICATED ROW

4th St SE - Alias: Hwy 23

DEDICATED

24

21-043-0790

25

148.5

This map includes
10' easement to
Market

148.5

67

198

355 ↑

DEDICATED ROW

3rd Ave SE

mentioned.

Said lands are situate in Mille Lacs County, Minnesota, and are described as follows:

Parcel 1 S.P. 4802-03(23=23) 901

The southerly 8 feet of the following described tract:

Block 46, Fifth Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County;

together with the southerly 10 feet of the following described lot:

Lot 12, Block 25, Third Addition to Milaca, according to said plat;

also together with all right of access, being the right of ingress to and egress from all that portion of said Block 46 and said Lot 12 of Block 25, not acquired herein, to Trunk Highway No. 23.

Parcel 1A S.P. 4802-03 (23=23) 901

All right of access, being the right of ingress to and egress from the following described tract to Trunk Highway No. 23;

The Easterly 50 feet of Lot 16, Block 50, Fifth Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County.

Parcel 1B S.P. 4802-03 (23=23) 901

All right of access, being the right of ingress to and egress from the following described tract to Trunk Highway No. 23;

Lot 1, Block 50, Fifth Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County.

Parcel 2 S.P. 4802-03 (23=23) 901

The southerly 10 feet of the following described tract:

The south one-third of Lot 5, Block 25, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County;

together with all right of access, being the right of ingress to and egress from all that portion of the above described tract, not acquired herein, to Trunk Highway No. 23.

Parcel 2A S.P. 4802-03 (23=23) 901

All right of access, being the right of ingress to and egress from the following described tract, to Trunk Highway No. 23;

Lot 7, Block 26, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County.

Parcel 2B S.P. 4802-03 (23=23) 901

All right of access, being the right of ingress to and egress from the following described tract, to Trunk Highway No. 23;

The northerly one-third of Lot 6, Block 26, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County;

except that the abutting owner shall retain the right of access on the westerly 13.5 feet of said tract.

Parcel 3 S.P. 4802-03 (23=23) 901

The southerly 10 feet of the following described tract:

The South one-third of Lot 3, Block 24, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County.

together with all right of access, being the right of ingress to and egress from all that portion of the above described tract, not acquired herein to Trunk Highway No. 23.

Parcel 3A S.P. 4802-03 (23=23) 901

All right of access, being the right of ingress to and egress from the following described tract, to Trunk Highway No. 23:

The northerly one-third of Lot 2, Block 27, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County.

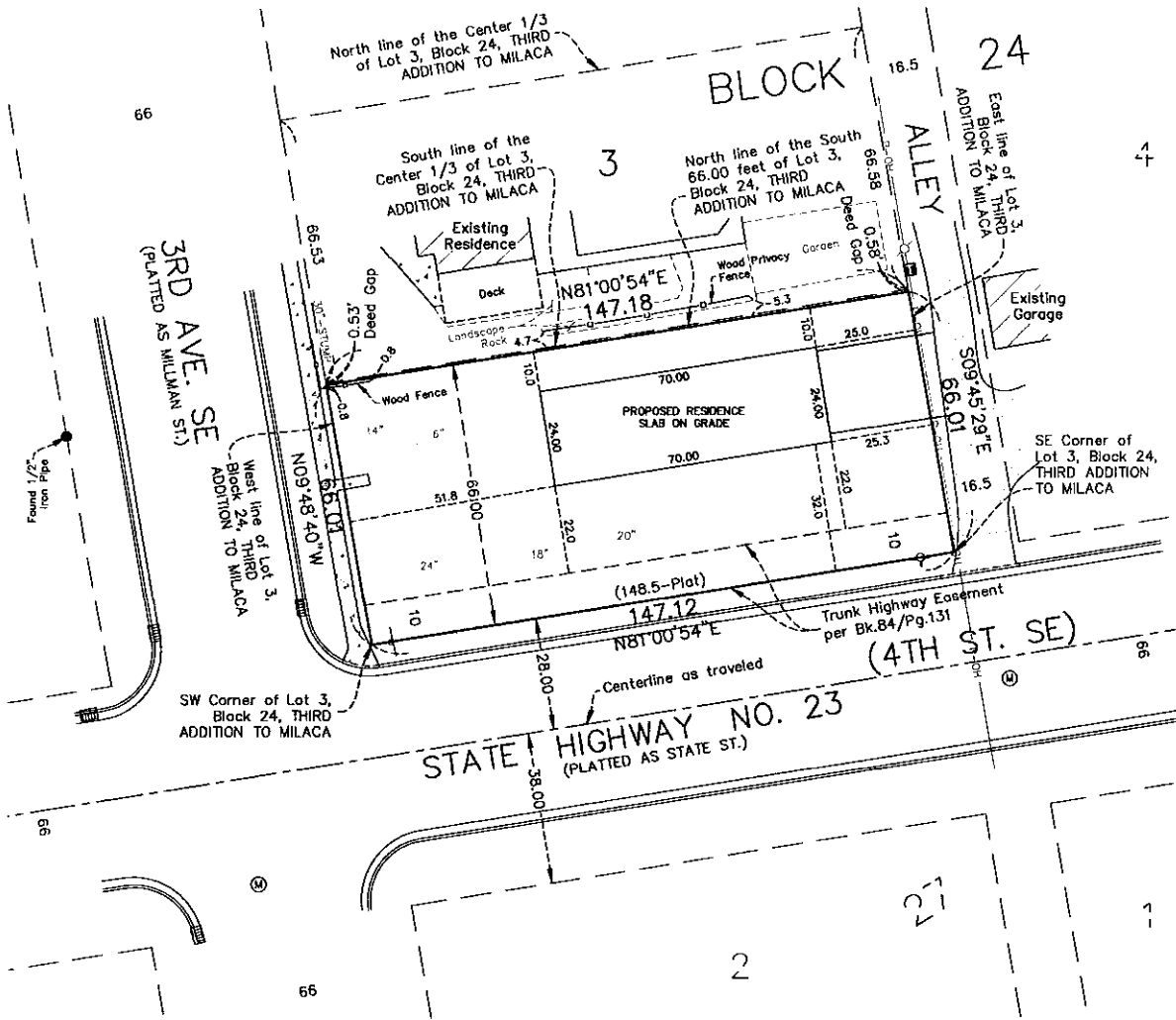
Parcel 4 S.P. 4802-03 (23=23) 901

The southerly 10 feet of the following described tract:

The south one-third of Lot 4, Block 24, Third Addition to Milaca, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Mille Lacs County;

together with all right of access, being the right of ingress to and egress from all that

Site Plan for AJW Contracting



EXISTING PROPERTY DESCRIPTION:
 (PID NO. 21-043-0790)-PER DOC. NO. A423567

The South 66 feet of Lot 3, Block 24, Third Addition to the City of Milaca, Mille Lacs County, Minnesota and also described as follows:

Commencing at the Southwest corner of said Lot 3; thence in a northerly direction along and upon the west line of said Lot 3, a distance of 66 feet; thence in an Easterly direction and parallel with the South line of said Lot 3, to the East line of said Lot 3; thence in a southerly direction along and upon the East line of said Lot 3, a distance of 66 feet to the Southeast corner of said Lot 3; thence in a westerly direction along and upon the south line of said Lot 3 to the point of beginning.

NOTES:

1. In providing this survey no attempt has been made to obtain or show data concerning existence, size, depth, condition, capacity or location of any utility existing on the site, whether private, municipal or public owned.
2. The professional surveyor has made no investigation or independent search for easements of record, encumbrance, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
4. Area of surveyed property is 9,712 Sq.Ft. or 0.22 Acres.
5. Surveyed property is in Section 25 Township 38 Range 27.
6. Bearings are based on the Mille Lacs County Coordinate System.



1 INCH = 30 FEET

LEGEND

- = Denotes Iron Monument Found
- ⊕ = Denotes Hydrant
- ⊙ = Denotes Manhole
- ⊞ = Denotes Catchbasin
- ⊠ = Denotes Communication Pedestal
- ⊡ = Denotes Utility Pole
- = Denotes Overhead Utility Line

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 Professional Land Surveyor under the laws of the State of Minnesota.

Brian Person

Brian Person MN License No. 49138

09/22/22

Date



RUM RIVER
 LAND SURVEYORS + ENGINEERS

505 First Street, Princeton, MN 55371
 O - 763.389.4476 RRLSE.com

Job No.: P-3949.19

Sep 22, 2022 - 1:17pm Sutm
 K:\sd_surv\Land Desktop 2009\3949.19\dwg\3949.19.dwg

EXISTING PROPERTY DESCRIPTION:
(PID NO. 21-043-0790)-PER DOC. NO. A423567

The South 66 feet of Lot 3, Block 24, Third Addition to the City of Milaca, Mille Lacs County, Minnesota and also described as follows:

Commencing at the Southwest corner of said Lot 3; thence in a northerly direction along and upon the west line of said Lot 3, a distance of 66 feet; thence in an Easterly direction and parallel with the South line of said Lot 3, to the East line of said Lot 3; thence in a southerly direction along and upon the East line of said Lot 3, a distance of 66 feet to the Southeast corner of said Lot 3; thence in a westerly direction along and upon the south line of said Lot 3 to the point of beginning.

Planning Report

Date: October 11, 2022

To: Milaca Planning Commission

From: Phil Carlson, AICP, Stantec

Request: Variances with Lot Line Adjustment

Owners: Ethel, David, Daniel, and Donald Hakes

Applicant: Ethel, David, Daniel, and Donald Hakes

Address: 315 & 325 3rd Avenue NW

PIDS: 21-041-0610, 21-041-0590

Zoning: R-2 One and Two Family Residential District

INTRODUCTION

Members of the Hakes family own three adjacent parcels on 3rd Avenue NW – 315, 325, and 335. Two of these properties – 315 and 325 – are involved in the current request for variances in connection with a lot line adjustment, a minor subdivision.

Due to an error some years ago the house on 315 encroaches onto the lot at 325 by 1.6 ft. The owners wish to rectify the situation by adjusting the lot line between the two lots, as illustrated on the graphics at the end of this report. There are no plans at this time to make changes to the structures, adding or demolishing anything, just adjusting the lot line.



Normally, adjusting the line between two existing lots is a simple matter approved by the City Council without any special process. But that can only happen when *"the newly created property lines will not cause any resulting lot to be in violation of these regulations"*, in the words of the zoning code. The regulations referred to include the zoning code standards for lot width, lot size, and setbacks. In this case, all three of those standards come into play, so variances are being requested to allow the lot line adjustment.



Re: 315 & 325 3rd Avenue NW, Variances with Lot Line Adjustment

ZONING STANDARDS

The Zoning Code standards in the R-2 District involved in this request are:

- Lot size: 10,000 sq ft minimum
- Lot width: 80 ft minimum
- Side setback: 10 ft

The 315 lot now has less than a zero side setback – the house is over the lot line. Both lots are under the 10,000 sq ft lot size, and lot widths are 33 ft and 66 ft for 315 and 325, respectively.

With the requested lot line adjustment, both lots would still be below the lot size and lot width standards, but the side setbacks would be conforming. The numbers are as follows:

	<i>Lot Size</i>	<i>Lot Width</i>	<i>Side Setback</i>
Zoning Code Standard	10,000 sq ft	80 ft	10 ft
315 3 rd Ave NW			
Existing	4,902 sq ft	33.0 ft	-1.6 ft
Proposed	6,624 sq ft	44.6 ft	10.0 ft
325 3 rd Ave NW			
Existing	9,791 sq ft	66.0 ft	23.6 ft
Proposed	8,069 sq ft	54.4 ft	12.0 ft

We do not know how the original error came about, but the house on 315 has been there for over 100 years. A lot line adjustment was recorded with the County some years ago but there is no record of city approval. We consider the existing situation to be legal non-conforming. The current request will improve the situation and is a reasonable solution.

VARIANCE CRITERIA

The criteria for considering variances to the zoning code standards are included at the end of this report. They are almost verbatim from State statute governing variances. The basic standard is that there are "practical difficulties" in meeting the ordinance, which means:

- The proposed use of the property is reasonable. i.e., it is an acceptable use of the property and not something out of the ordinary that might impact surrounding properties.
What is proposed is simply moving the lot line – invisible to anyone viewing the property.
- There are circumstances unique to the property not created by the applicant. i.e., something in the property itself and not in the proposed action.
The lot lines are where they are through no fault of the current owners as far as we can tell. They did not create the situation and it is certainly unique.



Re: 315 & 325 3rd Avenue NW, Variances with Lot Line Adjustment

- The variance would not alter the essential character of the locality, i.e., it wouldn't be dramatically out of place in terms of size, height, appearance, etc.
There would no outward sign that anything had changed – the lot line adjustment is invisible; therefore, the character of the locality is not changed.
- Economic considerations alone are not justification for a variance, i.e., could the applicant spend more money and meet the code.
Spending more money would not fix this; adjusting the lot line will.

A reasonable reading of these standards would conclude that the current request meets them all. The variances are justified.

RECOMMENDATION

The variance requests involve moving one lot line, but it affects three zoning standards on one of the lots and two on the other. The decision affects both properties and each would need to record the lot line adjustment for that property with the County. Since both lots meet the minimum 10 ft side setback after the lot line adjustment, no variance action is needed for the setback issue.

We recommend approval of the lot line adjustment with variances to the lot size and lot width at 315 3rd Avenue NW and 325 3rd Avenue NW as depicted on the certificate of survey from Rum River Land Surveyors dated 9/22/22, resulting in a lot at 315 3rd Avenue NW that is 6,624 sq ft in area and 44.59 ft wide at the street, with a north side setback of 10 feet, and a lot at 325 3rd Avenue NW that is 8,069 sq ft in area and 54.38 ft wide at the street, with a south side setback of 12.2 ft.

Findings of Fact

- 1) The parcels in question are single family lots at 315 and 325 3rd Avenue NW in Milaca.
- 2) The current common side lot line between the properties was established some years ago and recorded with the county, but it is not known how that lot line was established and approved.
- 3) The north sides of the house and garage structures on 315 3rd Avenue NW encroach 1.6 feet and 1.5 feet onto the lot at 325 3rd Avenue NW. The respective owners wish to alleviate this situation by adjusting the common side lot line 11.6 feet to the north.
- 4) The lots currently do not meet the Milaca zoning code standards for minimum lot size of 10,000 square feet and minimum lot width of 80 feet. The property at 315 3rd Avenue NW does not meet the Milaca zoning code standard for side setback of 10 feet.



October 11, 2022
Milaca Planning Commission
Page 4 of 6

Re: 315 & 325 3rd Avenue NW, Variances with Lot Line Adjustment

- 5) the request to adjust the lot line is reasonable and is due to circumstances unique to these properties not created by the applicants. The change will be invisible on the ground and will therefore not alter the essential character of the locality.
- 6) The request meets the standards for approving a variance in Section 156.167 of the Milaca Zoning Code.

PLANNING COMMISSION MOTION TEMPLATES

The Planning Commission is charged with making a recommendation to the City Council, which has final authority to approve or deny the variances and lot line adjustment. Options for Planning Commission recommendations and motions might include the following, with Findings of Fact:

- *Approval As Submitted Per Planner's Recommendation*
The Planning Commission recommends that the City Council approve the lot line adjustment with variances to the lot size and lot width at 315 3rd Avenue NW and 325 3rd Avenue NW as submitted, with the Conditions and Findings of Fact in the Planner's report of October 11, 2022.
- *Approval With Revisions*
The Planning Commission recommends that the City Council approve the lot line adjustment with variances to the lot size and lot width at 315 3rd Avenue NW and 325 3rd Avenue NW with the following Conditions [*revise the conditions as needed*] and Findings of Fact [*revise the Findings as needed*].
- *Denial*
The Planning Commission recommends that the City Council deny the lot line adjustment with variance to the lot size and lot width at 315 3rd Avenue NW and 325 3rd Avenue NW, with [*Findings of Fact*].

Findings are needed in writing for denial of the variance. There appears to be little justification for denying the variances, however, as outlined in this report.

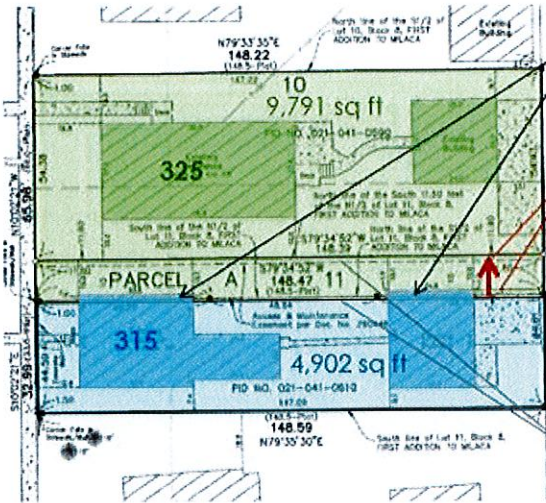
60-DAY DEADLINE

The application was received on September 22, 2022. The deadline for final action by the City Council per State statute 15.99 is November 22, 2022.



Re: 315 & 325 3rd Avenue NW, Variances with Lot Line Adjustment

Existing



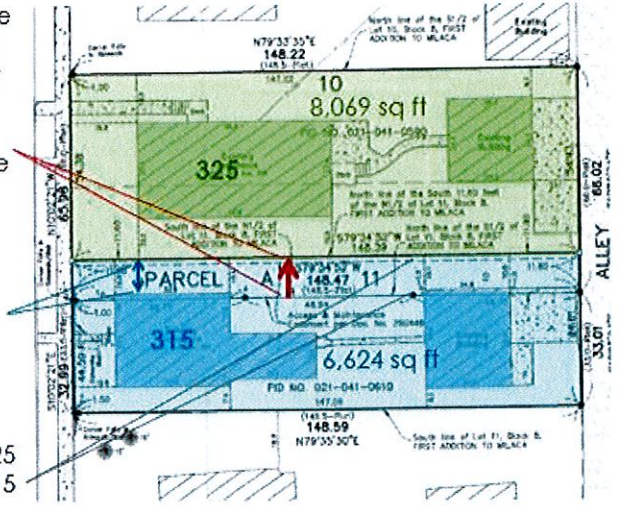
House & garage encroach 1.6 ft on adjacent lot

Adjust interior common lot line by 11.6 ft

Lot line adjustment gives 315 lot a 10 ft setback

Parcel A = 1,722 sq ft deduct from 325 add to 315

Proposed





Re: 315 & 325 3rd Avenue NW, Variances with Lot Line Adjustment

§ 155.126 MINOR SUBDIVISIONS.

In the case of a subdivision resulting in three or fewer lots, situated in a neighborhood where conditions are well defined, the City Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or Chapter 156 of this code, the division may be approved by the City Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

VARIANCES & APPEALS

§ 156.166 FINDING OF FACT.

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals [City Council] shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or

(G) Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.

§ 156.167 CONDITIONS FOR GRANTING VARIANCES.

(A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a "non-use variance," and the use of the variance procedure does not authorize any kind of unlawful "spot zoning."

THE FOLLOWING INFORMATION IS SUBMITTED IN SUPPORT OF THIS APPLICATION:

- COMPLETED APPLICATION FOR VARIANCE
- FEE OF \$200.00 *Pd. 09.22.22 Receipt #17064*
- LEGAL DESCRIPTION OF PROPERTY ATTACHED
- DEPENDING ON THE VARIANCE REQUESTED, THE FOLLOWING MAY BE REQUIRED:
 - 16 COPIES OF SITE PLAN
 - 16 COPIES OF SIGN PLAN
 - 16 COPIES OF ANY OTHER APPROPRIATE PLANS OR DRAWINGS
- A NARRATIVE EXPLAINING THE PURPOSE OF THE REQUEST, THE EXACT NATURE OF THE VARIANCE AND THE JUSTIFICATION OF THE REQUEST
- OTHER _____

I FULLY UNDERSTAND THAT ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED AT LEAST 15 DAYS PRIOR TO THE PLANNING COMMISSION MEETING TO ENSURE REVIEW BY THE PLANNING COMMISSION ON THAT DATE.

APPLICANT'S SIGNATURE *Daniel & Ethel Hakes* _____

DATE *9/20/2022* _____

COMMENTS/REVISIONS _____

RECEIVED BY: *Darius Latke* _____ *09.22.22* _____
 CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR DATE

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- A NARRATIVE EXPLAINING THE PURPOSE OF THE REQUEST, THE EXACT NATURE OF THE VARIANCE AND THE JUSTIFICATION OF THE REQUEST
- OTHER _____

 I FULLY UNDERSTAND THAT ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED AT
 LEAST 15 DAYS PRIOR TO THE PLANNING COMMISSION MEETING TO ENSURE REVIEW BY THE
 PLANNING COMMISSION ON THAT DATE.

APPLICANT'S SIGNATURE *Daniel J. Hakes Ethel Hakes*
Authentic _____
 DATE *9/20/2022* *David Hakes* *DONALD J HAKES*
Authentic _____
 COMMENTS/REVISIONS _____

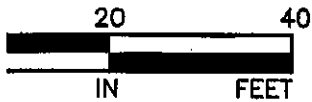
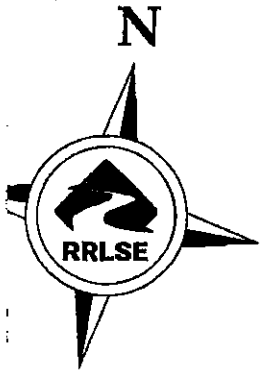
 RECEIVED BY: *Deloris Katke* *09.22.22*
 CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR DATE



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Date: 9/22/2022

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.



EXISTING PROPERTY DESCRIPTION:

(PID NO. 21-041-0590) - 325 3RD AVE. NW
PER DOC. NO. 290448 - 9,791 SQ.FT.

The South Half (S1/2) of Lot Ten (10) and the North Half (N1/2) of Lot Eleven (11), all in Block Eight (8) of the First Addition to the City of Milaca (formerly Village of Milaca) according to the Plat thereof on file in the office of the Mille Lacs County Recorder.

EXISTING PROPERTY DESCRIPTION:

(PID NO. 21-041-0610) - 315 3RD AVE. NW
PER DOC. NO. A374566 - 4,902 SQ.FT.

South Half of Lot 11, Block 8, First Addition to the Village of Milaca, according to the plat thereof on file and of record in the office of the Register of Deeds within and for said County and State.

PROPOSED PARCEL A DESCRIPTION:

(FROM PID NO. 21-041-0590 TO
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6,624 SQ.FT.

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DESIGNED BY	SMM
DRAWN BY	SMM
CHECKED BY	BP
BOOK	
PAGE	
SCALE	1"=20'
DATE	09/22/22
FILE NO.	P-4853.01

REVISION	
DATE	

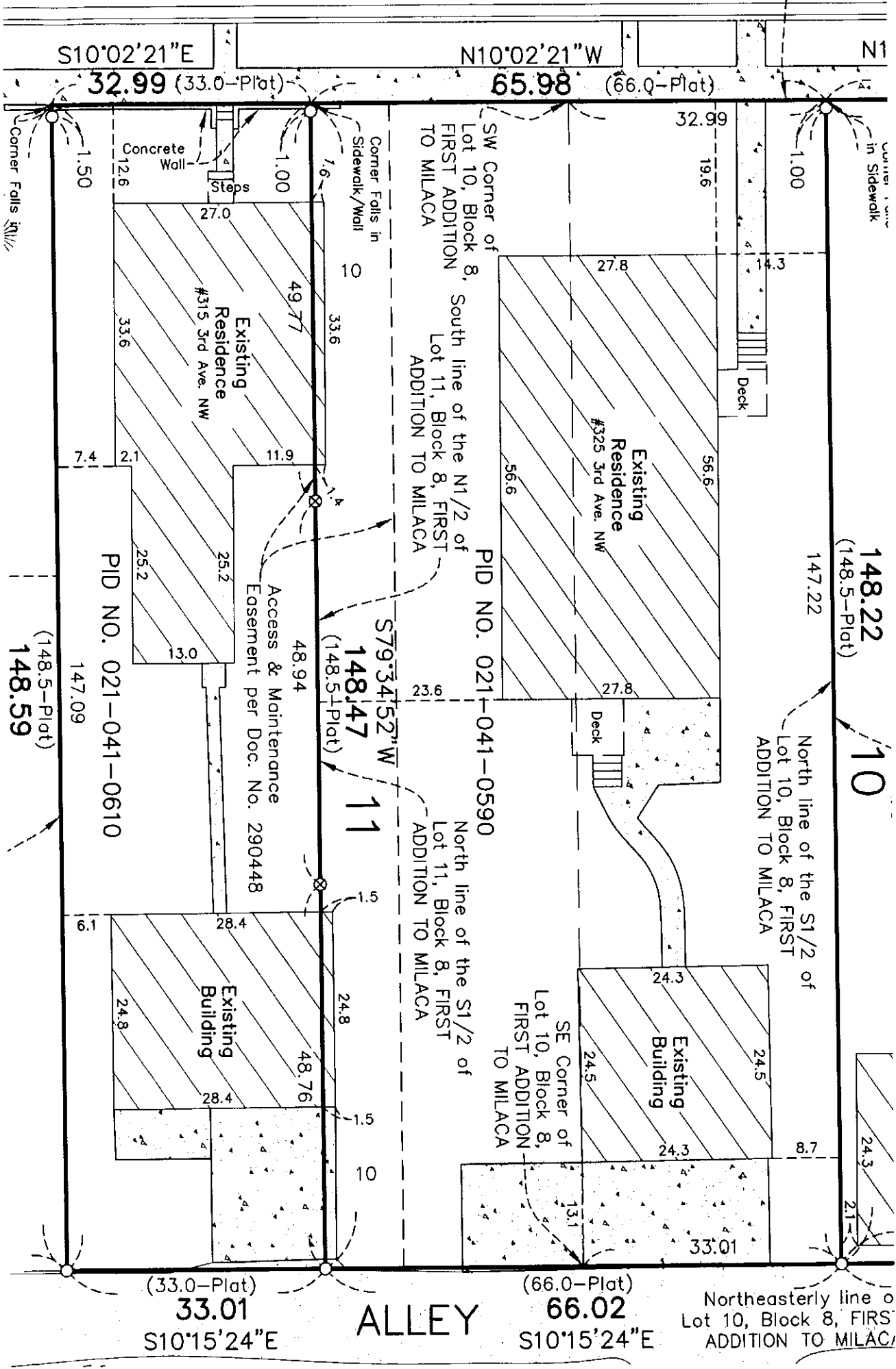
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.

Brian Person, PLS
Date 09/22/22
MN License No. 49138

RUM RIVER
LAND SURVEYORS + ENGINEERS
505 First Street, Princeton, MN 55371
O - 763.389.4476 RRLSE.com

9

10



S10°02'21"E

N10°02'21"W

N1

32.99 (33.0-Plat)

65.98 (66.0-Plat)

Corner Falls in Sidewalk

Corner Falls in Sidewalk

SW Corner of Lot 10, Block 8, South line of the N1/2 of Lot 11, Block 8, FIRST ADDITION TO MILACA

North line of the S1/2 of Lot 10, Block 8, FIRST ADDITION TO MILACA

SE Corner of Lot 10, Block 8, FIRST ADDITION TO MILACA

Northeasterly line of Lot 10, Block 8, FIRST ADDITION TO MILACA

(148.5-Plat)
148.59

PID NO. 021-041-0610
147.09

S79°34'52"W
(148.5-Plat)
148.47

PID NO. 021-041-0590

148.22
(148.5-Plat)

10

ALLEY

(33.0-Plat)
33.01
S10°15'24"E

(66.0-Plat)
66.02
S10°15'24"E

Existing Residence #315 3rd Ave. NW

Existing Residence #325 3rd Ave. NW

Existing Building

Existing Building

Access & Maintenance Easement per Doc. No. 290448

Deck

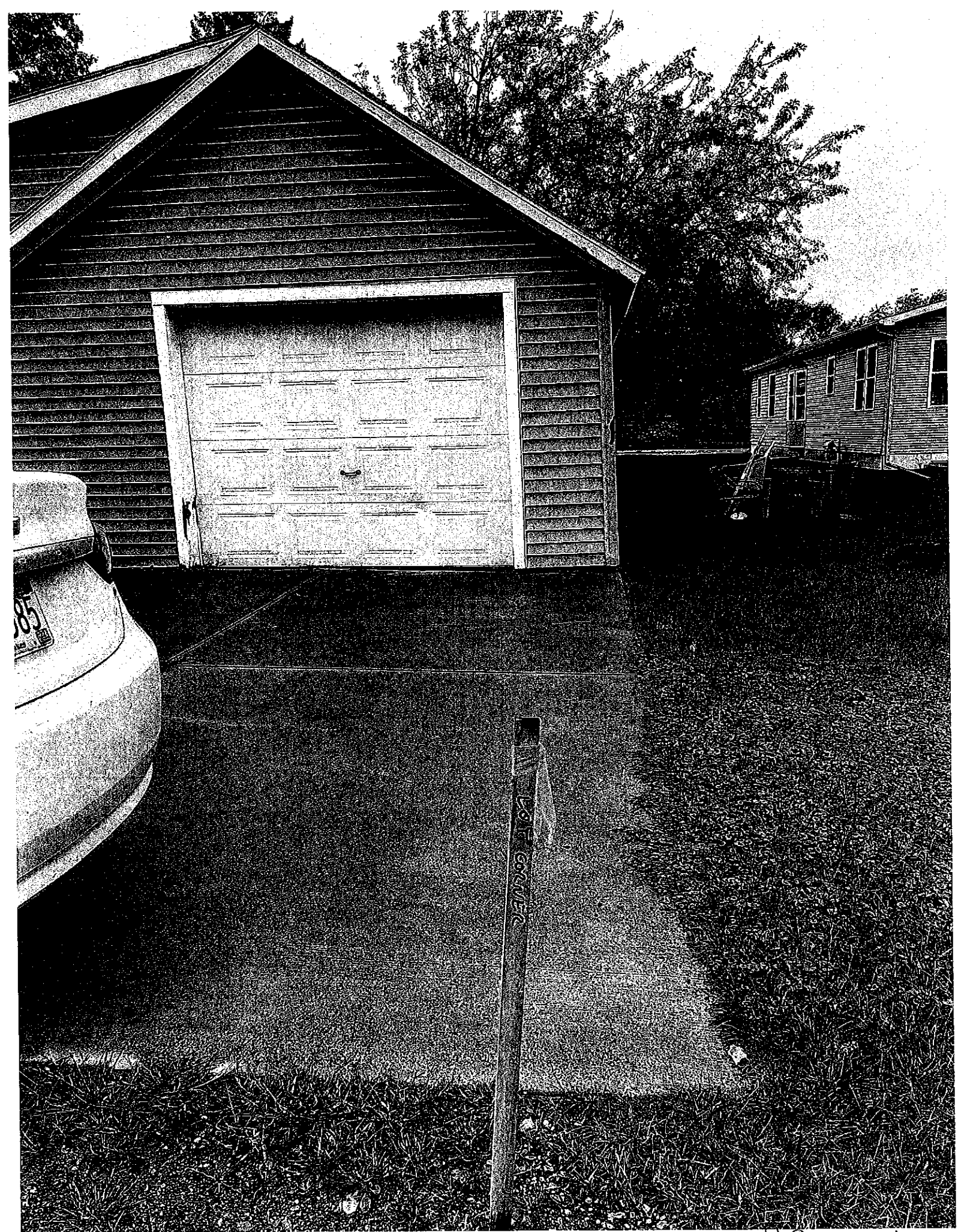
Deck

Concrete Wall

Steps



315 3rd Ave NW



315 3rd Ave NW



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

VARIANCE APPLICATION

Application is hereby made for Variance from (Description of Variance)

Hardship for lot line adjustment due
to property line encroaching into
315 3rd Ave NW PID 21-041-0610

ADDRESS OF PROPERTY 325 3rd Ave NW, Milaca

PIN 21-041-0590

OWNER

NAME Daniel & Lisa Hakes

OWNER

ADDRESS 325 3rd Ave NW, Milaca

STREET ADDRESS

Milaca

Mn

56353

CITY

ST

ZIP CODE

TELEPHONE (320) 469-2322

APPLICANT

NAME Daniel & Lisa Hakes

APPLICANT
ADDRESS

325 3rd Ave NW

STREET ADDRESS

Milaca

Mn

56353

CITY

ST

ZIP CODE

TELEPHONE (320) 469-2322

THE FOLLOWING INFORMATION IS SUBMITTED IN SUPPORT OF THIS APPLICATION:

- COMPLETED APPLICATION FOR VARIANCE
- FEE OF \$200.00 Pd. 09.22.22 Receipt #17064
- LEGAL DESCRIPTION OF PROPERTY ATTACHED
- DEPENDING ON THE VARIANCE REQUESTED, THE FOLLOWING MAY BE REQUIRED:
 - 16 COPIES OF SITE PLAN
 - 16 COPIES OF SIGN PLAN
 - 16 COPIES OF ANY OTHER APPROPRIATE PLANS OR DRAWINGS
- A NARRATIVE EXPLAINING THE PURPOSE OF THE REQUEST, THE EXACT NATURE OF THE VARIANCE AND THE JUSTIFICATION OF THE REQUEST
- OTHER _____

 I FULLY UNDERSTAND THAT ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED AT
 LEAST 15 DAYS PRIOR TO THE PLANNING COMMISSION MEETING TO ENSURE REVIEW BY THE
 PLANNING COMMISSION ON THAT DATE.

APPLICANT'S SIGNATURE Daniel J. Hobbes [Signature]

DATE 9/20/2022

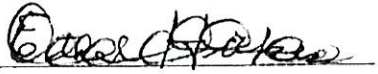
COMMENTS/REVISIONS _____

 RECEIVED BY: Duloris Kather 09.22.22
 CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR DATE

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APPLICANT'S SIGNATURE Daniel J. Hakes 
Authenti

DATE 9/20/2022 Lisa Hakes

COMMENTS/REVISIONS _____

RECEIVED BY: Debra Kotte 09.22.22
CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR DATE

290448

EXHIBIT A

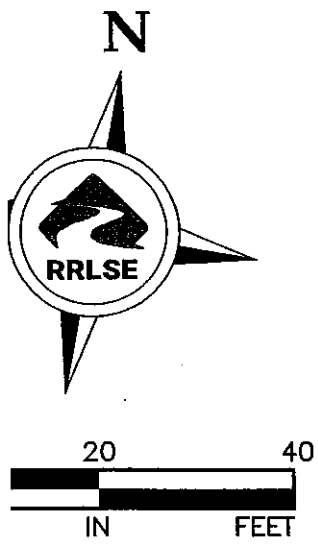
Said property legally described as follows in the attached Quit Claim Deed between Jay G. Hakes and Ethel Hakes, grantors, and Daniel J. Hakes and Lisa K. Hakes, grantees:

The South Half ($S\frac{1}{2}$) of Lot Ten (10) and the North Half ($N\frac{1}{2}$) of Lot Eleven (11), all in Block Eight (8) of the First Addition to the City of Milaca (formerly Village of Milaca) according to the Plat thereof on file in the office of the Mille Lacs County Recorder.

is subject to the following easement for purposes of access and maintenance of an existing structure which adjoins said property:

The south ten (10) feet of the North Half ($N\frac{1}{2}$) of Lot 11, Block Eight (8) of the First Addition to the City of Milaca (formerly Village of Milaca) according to the Plat thereof on file in the office of the Mille Lacs County Recorder.

Lot 66 wide, now per easement, ~~_____~~
per neighbors house built over original
property line by about 2 feet.



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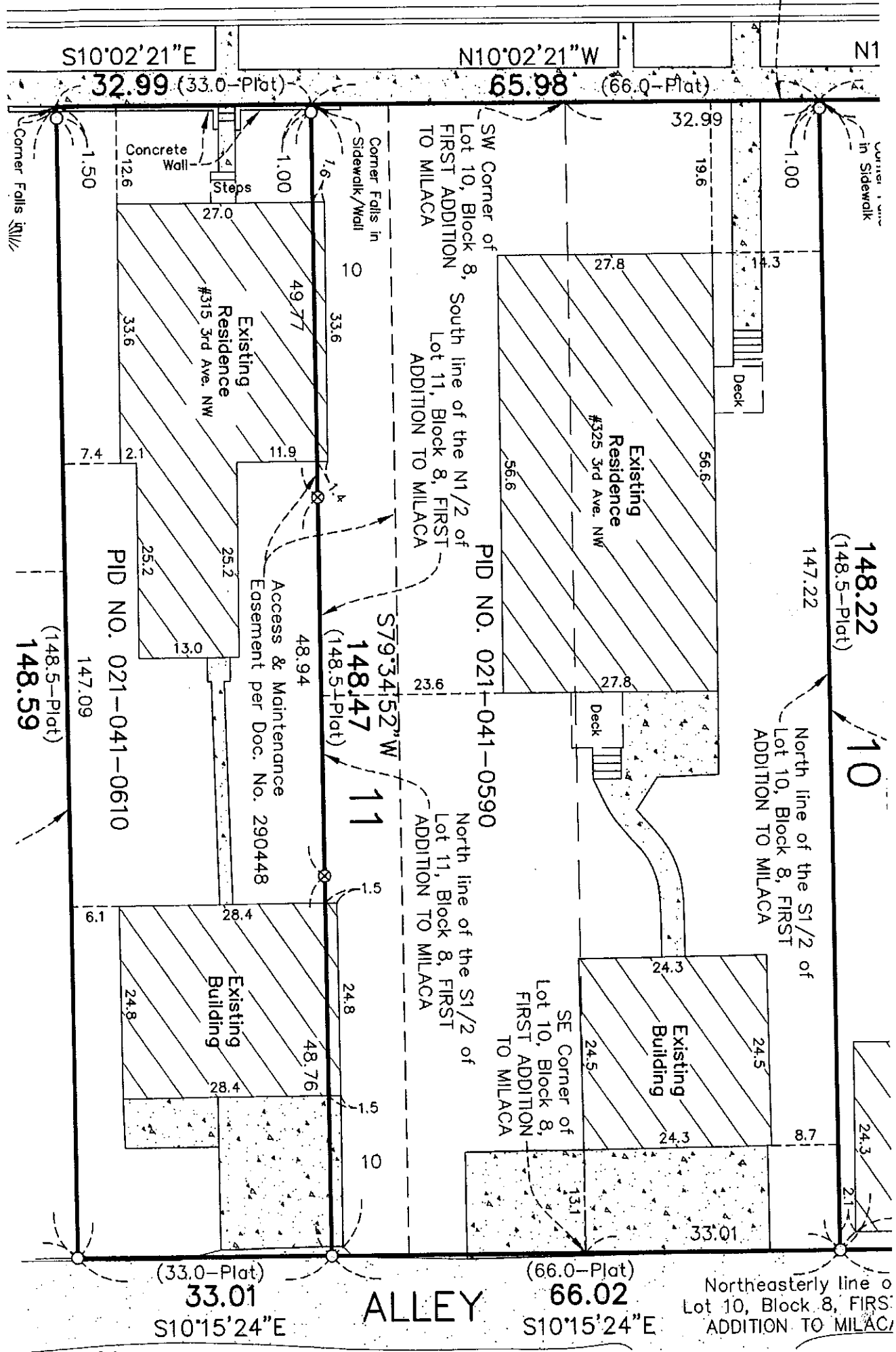
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.

Brian Person
 Brian Person, PLS
 MN License No. 49138
 Date 09/22/22

RUM RIVER
LAND SURVEYORS + ENGINEERS
 505 First Street, Princeton, MN 55371
 O - 763.389.4476 RRLSE.com

10

10



S10°02'21"E

N10°02'21"W

N1

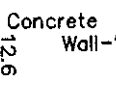
32.99 (33.0-Plat)

65.98 (66.0-Plat)

32.99

1.00

1.50



1.6

1.00

Corner Falls in Sidewalk/Wall

SW Corner of Lot 10, Block 8, South line of the N1/2 of Lot 11, Block 8, FIRST ADDITION TO MILACA

PID NO. 021-041-0590

S79°34'52"W

148.47 (148.5-Plat)

11

North line of the S1/2 of Lot 11, Block 8, FIRST ADDITION TO MILACA

147.22

148.22 (148.5-Plat)

10

North line of the S1/2 of Lot 10, Block 8, FIRST ADDITION TO MILACA

7.4

2.1

148.59 (148.5-Plat)

147.09

PID NO. 021-041-0610

25.2

13.0

25.2

13.0

Access & Maintenance Easement per Doc. No. 290448

48.94

1.5

1.5

24.8

24.8

48.76

1.5

10

(33.0-Plat)

33.01

S10°15'24"E

(66.0-Plat)

66.02

S10°15'24"E

ALLEY

Northeasterly line of Lot 10, Block 8, FIRST ADDITION TO MILACA



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