

BOARD OF APPEALS OF THE CITY OF HUDSON, WISCONSIN

Thursday, January 7, 2021 5:00 p.m.

To access the meeting please use the link or phone number below. If you cannot access the meeting via the methods below or need any special accommodations please contact Aaron Reeves at 715-716-5741 or areeves@hudsonwi.gov.

Join Zoom Meeting

<https://us02web.zoom.us/j/81084366665?pwd=VURMaUI4cmVMbIBXR1FTRzQvdHU2dz09>

Meeting ID: 810 8436 6665

Password: 170017

Call-In Phone Number: 1-312-626-6799

AGENDA

(Click on agenda items highlighted in blue to access documents related to that item)

1. Call to Order
2. Discussion and possible action on September 17, 2020 meeting minutes.
3. Public hearing on a variance application by Bruce & Dawn Kolander & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 2.5 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1458 Lee Circle – Appeal No. 252.
4. Discussion and possible action on a variance application by Bruce & Dawn Kolander & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 2.5 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1458 Lee Circle – Appeal No. 252.
5. Public hearing on a variance application by Brian and Stephanie Defore & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 3.9 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1454 Lee Circle – Appeal No. 251.
6. Discussion and possible action on a variance application by Brian and Stephanie Defore & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 3.9 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1454 Lee Circle – Appeal No. 251.
7. Communications and Items for Future Agendas
8. Adjournment

Emily Boles, Acting Secretary

Posted in on City of Hudson website and emailed to *Star Observer* on 12/21/2020

Notice is hereby given that a majority of the City Council or an official City Committee/Commission may be present at the aforementioned meeting of the Plan Commission to gather information about a subject over which they have decision making responsibility. This constitutes a meeting of the City Council pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis. 2d 553, 494 N. W. 2d 408 (1993), and must be noticed as such, although the Council or City Committee/Commission will not take any formal action at this meeting.



REGULAR MEETING OF THE BOARD OF APPEALS
CITY OF HUDSON
Thursday September 17, 2020

The meeting was held via Zoom Video Conference and was made accessible through the Zoom meeting log-in, call-in phone number. The Board of Appeals meeting was called to order by Chairman Hallbeck at 5:07 p.m.

BOARD MEMEBERS PRESENT. Breanne Berning, Nick Hallbeck, Julie Heifner, and Mary Claire Potter.

BOARD MEMBERS ABSENT. Jon Huhn and Carah Koch.

STAFF MEMBERS IN ATTENDANCE: Emily Boles, David Gray, and Tiffany Weiss.

OTHERS PRESENT. Bruce Kolander, Heidi Becken, Doug Rowen, and others present.

Discussion and possible action on June 22, 2020 meeting minutes. Motion by Potter, seconded by Heifner to approve the minutes of the June 22, 2020 Board of Appeals meeting. All ayes (4-0). Motion carried.

Public hearing on a variance application by Heidi and Eric Becken for the repair and reconstruction of a nonconforming accessory structure (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.08(3)) at 1090 Front Street – Appeal No. 253. Discussion was held regarding the presence of applicants. Heidi Becken was in attendance as the owner for 1090 Front Street and consented to proceed with four Board members. Chairman Hallbeck opened the public hearing stating that persons desiring to speak shall direct their comments to the Board. Emily Boles, City of Hudson Executive Assistant, noted that city staff received one phone call from Richard Pearson, 1109 Crest View Drive, stating he had no problem with the project. Doug Rowen, 295 Riverview Drive, stated that he believed the request to be reasonable maintenance in the riverway. Motion by Potter, seconded by Heifner to close the hearing. All ayes (4-0). Motion carried.

Discussion and possible action on a variance application by Heidi and Eric Becken for the repair and reconstruction of a nonconforming accessory structure (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.08(3)) at 1090 Front Street – Appeal No. 253. David Gray, City of Hudson Building Inspector, reviewed the staff report and applicant request. Gray noted that the project was a big financial endeavor to replace the 50-year-old walls and was being done out of necessity. He reviewed the signs of settlement at patio and driveway and stated a variance was necessary to replace the wall in its entirety. The walls would be in the same location and approximately same height. The existing, failing natural limestone would be replaced with manufactured stone of similar appearance with a greater lifespan. Gray stated the project was reasonable and out of necessity.

Chairman Hallbeck requested the applicant present their requested variance. Heidi Becken, owner of 1090 Front Street, stated that they have experienced settling and a post supporting overhanging part of house is also settling. Becken said that driveway access is becoming an issue. Becken discussed the natural limestone material and stated that the masonry company was surprised the stones are still there. She continued stating that they are trying to make it look as natural as it does now. The project is only being pursued because it is necessary.

Hallbeck asked for discussion about the five decision criteria and asked the Board for further discussion. Potter stated that denial of the variance would lead to wall failure and crumbling and a safety issue. Hallbeck confirmed that maintenance is allowed but complete replacement of the walls needs a variance. Hallbeck stated that he believes the request is in the spirit of the ordinance and is required due to nature of material and



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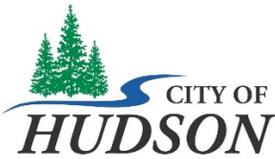
unique location on Front Street. Discussion was held regarding property value and increased erosion control. Hallbeck reiterated that the applicant gave testimony to the need for the project.

Motion by Heifner, seconded by Potter to grant variances for the repair and reconstruction of a nonconforming accessory structure (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.08(3)) (Appeal No. 255) at 1090 Front Street.

Decision Criteria:

- I) *Literal enforcement of the code would result in unnecessary hardship to the property owner.*
Strict adherence to the requirements of City of Hudson Code would prevent the replacement of the retaining walls. Physical characteristic of the sight requires the utilization of retention walls. Without repair and replacement, the walls will continue to deteriorate and pose a safety hazard. The applicant has made statements that the project is necessary to ensure the residence is not damaged due to settling, the driveway wall supports the only access to the residence via automobile, and the walls at road level support the driveway and protect the site from erosion.
- II) *The conditions upon which a petition for a variance is based are unique to the property for which variation is being sought.*
The proximity to the St. Croix River, age of the existing walls, and necessary site access are unique to the property. The existing limestone wall material is failing. The variance is being requested for structures that already exist at the property and that are necessary for the on-going soundness of and access to primary and accessory structures that already exist on the property. None of the limitations were created by the circumstances of the property owner.
- III) *The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.*
There is no indication that the purpose of the requested variance is based exclusively upon economic considerations. Testimony was given that the variance was requested to maintain the existing structures at the property so that the property remains sound and safe. It is not requested to increase the value of the property.
- IV) *The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*
The requested variance is not believed to be detrimental to adjacent properties or the public welfare. The project does not encroach onto other properties and is not injurious to the public. The property owners have provided a mitigation plan including design, ground vegetation, trees, and erosion control.
- V) *The proposed variance will not jeopardize the spirit and general and specific purposes of the Code.*
The requested variances are not believed to undermine the spirit of the Code. The variance is requested to maintain the safety and longevity of the walls. The project plan selected attempts to minimize profile change and vegetation disruption as well as maintain the natural appearance of the St. Croix River Valley.

Approval is granted to permit variance from City of Hudson Municipal Code 255-18(A) and Wisconsin Administrative Code NR 118.08(3) for the repair and reconstruction of a nonconforming accessory structure (Appeal No. 253) at 1090 Front Street with the following conditions:



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1. Property owner to obtain Building Permit as needed prior to construction activities.
2. Property owner must obtain necessary Conditional Use Permit approval from the Plan Commission and Common Council.
3. Any omissions of any conditions not listed shall not release the property owner/developer from abiding by City Ordinances.
4. All conditions run with the land and are binding upon the property owner and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original property owner from meeting any conditions.

Ayes (4-0). Motion carried.

Public hearing on a variance application by Bruce & Dawn Kolander & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 2.5 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1458 Lee Circle – Appeal No. 252.

General discussion was held regarding the attendance of the applicant. Bruce Kolander stated he was the owner of the home, but Creative Homes Inc. applied for the variance as the home builder. David Gray, City of Hudson Building Inspector, stated that the application fee was waived because the requested variance was at no fault of the property owner and the Wisconsin Department of Natural Resources suggested the fee be waived.

Chairman Hallbeck opened the public hearing stating that persons desiring to speak shall direct their comments to the Board. Doug Rowen, 295 Riverview Drive, stated that the decision criteria do not allow for a situation where the city staff or builder makes a mistake that a variance should be granted. Boles read the following items into the record including a letter by Doug Rowen, 295 Riverview Drive, an email from Jeff Mizinski, 1417 Wheat Grass, and an email from Tom Schmelz, 305 Riverview Drive.

Chairman Hallbeck requested to hear from the applicant. Bruce Kolander, owner of 1458 Lee Circle, stated that Creative Homes Inc. filed for the variance.

Gray reviewed the staff report and site history. He stated that when the Summit Ridge Development was annexed and planned the City was aware of St. Croix Riverway 35 feet maximum structure height. The R-1, One-Family Residential, zoning district has a 35 feet maximum structure height as well. Gray described the history of the neighboring residents challenging the building height as they felt the homes were too tall. City staff research found that the methodology the DNR uses to measure maximum height was different than the City's methodology. The City measures maximum height from average grade to average height while the DNR measures from average grade to maximum height. Gray stated that both 1454 and 1458 Lee Circle meet height requirements for the local city methodology, but not the DNR measurement methodology.

Discussion was held regarding measurement methodology. Gray confirmed that the measurements were done off the house plans and not field measured. He continued to state that he believed there is no reason to believe the building was built inaccurately as no building component was left out of the measurement. Gray described other home heights that were verified. Gray responded to Mr. Rowen's letter acknowledging that "rules are rules for a reason", however we "cannot turn back time". Gray stated recommending the structures to be changed would be a great hardship. He continued to state that Mr. Rowen does not have authority to make recommendations on solutions as his grading recommendation is not an easy solution. General discussion



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about grading was held. Gray stated that the current property owners are not at fault and have nothing to financially gain with the variance.

Potter inquired if other homes in the development were too tall. Gray said that the measurement methodology practice was changed by the City, so the problem would not occur again. Hallbeck reminded the Board that the topic of discussion was structure height of the homes and not other development concerns in the area.

Doug Rowen, 295 Riverview Drive, asked about excavation on site for the deck and if the height had been remeasured. Gray stated that house was not measured, and the construction reflects the site survey and grading plans. Motion by Potter, seconded by Heifner to close the hearing. All ayes (4-0). Motion carried.

Discussion and possible action on a variance application by Bruce & Dawn Kolander & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 2.5 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1458 Lee Circle – Appeal No. 252. Hallbeck asked for discussion about the decision criteria and asked the Board for further discussion. Discussion was held regarding the current measurement methodology used. Heifner asked how tall a home could potentially be using the city's measurement method. Hallbeck stated that tonight's discussions were focused on the 1454 and 1458 Lee Circle properties and not the city's maximum height definition.

Gray reviewed his lengthy discussions with Ms. Kay Lutz with the Wisconsin DNR with respect to the variances. He added that the hearing notice and materials were sent to the DNR and they opted to make no comment which often indicates they do not have concerns.

Hallbeck said he believed denial of the variance would be a hardship to the owners and stated that the DNR suggested this variance to the City. He continued that the Building Inspection Department error occurred which does happen and created a hardship. Hallbeck said a variance does not increase value. He brought attention to the spirit of the code which is to maintain scenic waterway to protect the views of what can be seen from air or from the bluff.

Heifner stated that she felt that redoing the grade was a better solution however it would not change how tall the structure is. She continued stating that to solve the problem and reduce the roof height is a serious hardship. Hallbeck stated the error was a mathematical error. Doug Rowen, 295 Riverview Drive, said that the total surface area of the backside of the house was large. He stated that increased grade would result in more natural material and less house to view. Rowen also commented on the overall development landscaping plan. Heifner requested to explore solutions that would soften the look of the structure. Gray said the landscaping plan is for the overall development and not specific to individual lots.

Boles stated that one Board member had commitments and needed to leave the meeting. Discussion was held regarding the timeframe of scheduling a meeting to continue discussion. **Motion by Hallbeck, seconded by Heifner to postpone discussion on Appeal No. 252 for 1458 Lee Circle as well as the public hearing and discussion and possible action on Appeal No. 241 for 1454 Lee Circle. Ayes (4-0). Motion carried.**

Public hearing on a variance application by Brian and Stephanie Defore & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 3.9 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1454 Lee Circle – Appeal No. 251. Item postponed.

Discussion and possible action on a variance application by Brian and Stephanie Defore & Creative Homes Inc. to exceed the maximum structure height of 35 feet by 3.9 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1454 Lee Circle – Appeal No. 251. Item postponed.



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COMMUNICATIONS AND ITEMS FOR FUTURE AGENDAS.

Hallbeck requested staff confirm with the City Attorney regarding procedures if five board members attend the next meeting.

ADJOURNMENT.

Motion by Heifner, seconded by Hallbeck to adjourn at 6:15 p.m. All ayes (4-0). Motion carried.

Respectfully submitted,
Emily Boles, Acting Secretary

DRAFT



505 Third Street
Hudson, Wisconsin 54016-1694
FAX: (715)386-3385
www.hudsonwi.gov

Mike Johnson
*Assistant City Administrator/
Community Development Director*
mjohnson@hudsonwi.gov
(715)386-4776, ext. 166

Nick O'Brien
*Associate City Planner/
GIS Coordinator*
nobrien@hudsonwi.gov
(715)386-4776, ext. 143

Tiffany Weiss
Associate City Planner
tweiss@hudsonwi.gov
(715)386-4776, ext. 161

Emily Boles
Executive Assistant
eboles@hudsonwi.gov
(715)386-4776, ext. 116

NOTICE OF PUBLIC HEARING BOARD OF APPEALS, CITY OF HUDSON, WISCONSIN

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the City of Hudson, Wisconsin will hold a public hearing on **Thursday, January 7, 2021 at 5:00 p.m.** to invite public comment in regard to the consideration of a variance application by Creative Homes Inc and Bruce & Dawn Kolander for a structure to exceed the maximum structure height of 35 feet by 2.5 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1458 Lee Circle, Hudson, St. Croix County, Wisconsin. The consideration of the variance application is being continued from the previous City of Hudson Board of Appeals meeting. The property is located within the Lower St. Croix Riverway Rural Residential Management Zone and is subject to the requirements of the City of Hudson Riverway Code and the State of Wisconsin NR 118. The usual in-person meeting will be conducted in the form of videoconferencing. Citizens can participate in the hearing by live video or over the phone by voice. The video conference link will be available on the meeting agenda found at the following website: <https://www.hudsonwi.gov/agendacenter>. If you have any questions regarding this matter you may contact Mike Johnson, Community Development Director, at 715-386-4776.

Dated this 7th day of October 2020
Emily Boles, Executive Assistant

Publish Class II notice, December 17 & 24, 2020 in the *Star-Observer*; send affidavit of publication

Forwarded to Star-Observer, 12/7/2020,
Posted in city hall lobbies 12/7/2020

cc: Mike Johnson, Community Development Director
Rich O'Connor, City Mayor
Aaron Reeves, City Administrator
Becky Eggen, City Clerk
Cathy Munkittrick, City Attorney
Kay Lutze, Wisconsin DNR
Michael Rogney, Wisconsin DNR
Kyle Kulow, St. Croix County Land & Water Conservation
Lisa Ruth, West Wisconsin Regional Planning Commission



505 Third Street
Hudson, Wisconsin 54016
ph: (715)-386-4765 fx: (715)386-3385
www.hudsonwi.gov

REPORT TO THE HUDSON BOARD OF APPEALS

Item: Appeal No. 252

Meeting Date: January 7, 2021 (postponed on 9/17/2020 & 11/19/2020)

Applicant and Property Owner: Bruce & Dawn Kolander (homeowners)
Creative Homes Inc. (builder)

Site Address: 1458 Lee Circle, Hudson, WI 54016

Current Zoning District: R-1, One-Family Residential District

Adjacent Land Uses: Residential

Petitioner's Request:

The applicant is requesting the following variance:

1. Relief from City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) to exceed the maximum structure height of 35 feet by 2.5 feet.

Background:

The property in question is 1458 Lee Circle. The parcel is located in the Summit Ridge development which was first annexed into the City of Hudson in 2018 for development. The entire development is located within the Lower St. Croix Riverway Rural Residential management zone. The application is for a variance through the City of Hudson in relation to the structure height requirements of NR-118. The home is too tall according to maximum building height as defined by the NR-118.

When the property was annexed, and the height restrictions from the rural residential was established at 35 feet, City staff relaxed assuming that the height restriction was no different than the City's existing residential district maximum structure height of 35 feet. **However, the City ordinance measures from average grade to average height. The NR 118 measured from average grade to maximum height.**

It was not until 1458 Lee Circle was built that the City realized the error of our application of these two, very similar, rules and methodologies to determine building height.

The home meets the City's height restrictions, but not the NR 118. City staff has since changed our review process and will apply the NR 118 height restrictions to all future homes on Lee Circle. The builder and homeowner were not aware of this issue until after the homes were built. Correcting the problem now would entail removing the entire roof structure and lowering the roof pitch with completely new roof trusses. Therefore, correcting the issue at this time would be unduly burdensome to the homeowner and contractor. The Department of Natural Resources (DNR) has encouraged the City to pursue a zoning variance to resolve the issue. **City staff support the variance request.**

A copy of the City of Hudson Municipal Code and the St Croix Scenic Riverway Code NR118 below.

CITY OF HUDSON - BUILDING HEIGHT

The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the decline of mansard roofs or to the average height of the highest gable of a pitched or hipped roof. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall.

NR 118 - BUILDING HEIGHT

(d) Maximum structure height. The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure excluding chimneys. The maximum structure height for each management zone shall be as follows:

- 1. In the river town management zone, the maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of s. NR 118.07 (4) (c) and (d).*
- 2. In the small town, small town historic and rural residential management zones, the maximum structure height shall be 35 feet except for wireless communication service facilities in the rural residential management zone which meet the height requirements of s. NR 118.07 (4) (c), (d) and (e)*

Public Hearing Notice:

A Public Hearing notice for the requested variance was published on December 17, 2020 and December 24, 2020 in the *Star-Observer*. The notice was posted in city hall lobbies on December 7, 2020.

The notice and application materials were sent to the Wisconsin Department of Natural Resources, St. Croix County, and West Central Wisconsin Regional Planning Commission on December 4, 2020.

Section of Zoning Code from Which Variance is requested:

City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) defines a maximum structure height in the St. Croix Riverway Rural Residential management zone of 35 feet. City of Hudson Municipal Code § 255-18 and Wisconsin Administrative Code NR 118.09(4) allows variances provided that all decision criteria are met.

Decision Criteria:

The applicant has requested a variance from City of Hudson § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) which will permit the maximum structure height to exceed 35 feet by 2.5 feet.

For the Board of Appeals to grant a variance, it must find that **all** the following criteria are met:

- I) *Literal enforcement of the code would result in unnecessary hardship to the property owner.*

- II) *The conditions upon which a petition for a variance is based are unique to the property for which variation is being sought.*

- III) *The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.*

- IV) *The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*

However – as a public hearing will be held, testimony from the public should be listened to and considered before deciding on the requested variance.

- V) *The proposed variance will not jeopardize the spirit and general and specific purposes of the Code.*

NR118 Considerations:

NR118 further requires that the local zoning authority's record of decision shall address the following:

- *Preservation of the scenic and recreational resources of the riverway, especially in regard to the view from and use of the river;*
- *The maintenance of safe and healthful conditions;*
- *The prevention of and control of water pollution, including sedimentation*
- *The location of the site with respect to floodways, floodplains, slope preservation zones and blufflines;*
- *The erosion potential of the site based on degree and direction of slope, soil type and vegetative cover;*
- *Potential impact on terrestrial and aquatic habitat;*
- *Location of the site with respect to existing or future access roads;*
- *Adequacy of proposed wastewater treatment*
- *Compatibility with adjacent land uses.*

Staff Recommendation:

Staff recommends approval of the requested variance with the following Conditions of Approval:

1. Any omissions of any conditions not listed shall not release the property owner/developer from abiding by City Ordinances.
2. All conditions run with the land and are binding upon the property owner and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original property owner from meeting any conditions.

Prepared by: Emily Boles, Executive Assistant

Reviewed by: David Gray, Building Inspector

2. 'Permitted structures.' The following structures are allowed in all management zones if the standards in s. NR 118.06 are met:

- a. Single-family residences and accessory structures.
- b. Piers or wharves that have required state and federal permits or that meet statutory criteria or administrative rule standards and do not require a state or federal permit.
- c. Signs.
- d. Structural erosion control measures constructed outside of slope preservation zones. Rock rip-rap may be allowed within a slope preservation zone and in the ordinary high water mark setback area if the local zoning authority determines that rip-rap is necessary to prevent erosion in flood-prone areas, and either a state permit is granted for the rip-rap or statutory criteria or administrative rule standards are met and a state permit is not required for the rip-rap.

(b) *River town management zone.* In the river town management zone, other uses and structures that are allowed by the local unit of government's underlying zoning ordinance may be allowed as permitted uses and structures provided that the permitted uses and structures are listed in the local zoning ordinance with standards for those uses and structures that satisfy all of the following criteria:

1. Protect the natural and scenic qualities of the Lower St. Croix riverway.
2. Protect public health and safety.
3. Prevent erosion and water pollution.

(2) **CONDITIONAL USES.** (a) *All management zones.* The following uses and structures are conditionally permitted uses in all management zones. Conditional use permits for these uses and structures shall comply with the applicable requirements in ss. NR 118.06 and 118.07.

1. Land divisions.
2. Planned cluster developments for single-family residences.
3. Transmission services.
4. Wireless communication service facilities.
5. Filling and grading within slope preservation zones.
6. Structural erosion control measures constructed in slope preservation zones.
7. Stairways.
8. Lifts.
9. Public roads and private roads serving 2 or more properties or single-family residences.
10. Bed and breakfast operations.
11. Home occupations.
12. Nature-oriented educational, non-profit facilities.

(b) *River town, small town and small town historic management zones.* In the river town management zone, small town management zone and small town historic management zone, other uses and structures that are listed as conditional uses or special exceptions in the local unit of government's underlying zoning ordinance may be allowed as conditional uses provided that they are listed in the local unit of government's riverway ordinance with standards for those conditional uses that satisfy all of the following criteria:

1. Protect the natural and scenic qualities of the Lower St. Croix riverway.
2. Protect public health and safety.
3. Prevent erosion and water pollution.

(3) **PROHIBITED USES.** All uses and structures not listed as permitted or conditional shall be prohibited.

History: Cr. Register, June, 1980, No. 294, eff. 7-1-80; am. Register, February, 1984, No. 338, eff. 3-1-84; am. (2) (a) (intro.) and 5., (b) (intro.) and (c) (intro.), Register, August, 1986, No. 368, eff. 9-1-86; CR 03-054: r. and recr. Register October 2004 No. 586, eff. 11-1-04.

NR 118.06 General provisions. (1) DIMENSIONAL AND OTHER STANDARDS. (a) *Minimum lot size.* The minimum lot size for parcels that are allowed to be used as building sites in each management zone shall be as follows:

1. In the river town, small town and small town historic management zones, the minimum lot size shall be established in the local riverway ordinance.

2. In the rural residential and conservation management zones, the minimum lot size shall meet the following standards:

a. The minimum lot size shall have at least one acre of net project area.

b. If the lot is not served by a public sewage system or community sewage collection and treatment services, the lot shall have adequate room for one single-family residence and 2 private on-site wastewater treatment systems.

(b) *Density standard.* In the rural residential and conservation management zones, there may not be more than one single-family residence on each lot.

(c) *Minimum lot width.* The minimum lot width shall apply at the building line and at the side of the lot nearest the river. The minimum lot width for each management zone shall be as follows:

1. In the river town and small town management zones, the minimum lot width shall be established by local ordinance.

2. In the small town historic management zone, the minimum lot width shall be 100 feet.

3. In the rural residential management zone, the minimum lot width shall be 200 feet.

4. In the conservation management zone, the minimum lot width shall be 250 feet.

(d) *Maximum structure height.* The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure excluding chimneys. The maximum structure height for each management zone shall be as follows:

1. In the river town management zone, the maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of s. NR 118.07 (4) (c) and (d).

2. In the small town, small town historic and rural residential management zones, the maximum structure height shall be 35 feet except for wireless communication service facilities in the rural residential management zone which meet the height requirements of s. NR 118.07 (4) (c), (d) and (e).

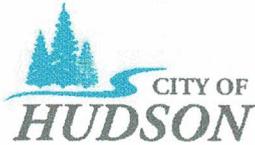
3. In the conservation management zone, the maximum structure height shall be 25 feet except for wireless communication service facilities which are subject to the height requirement of s. NR 118.07 (4) (c) and (e).

(e) *Ordinary high water mark setback.* Except as provided in par. (g), the ordinary high water mark setback shall be measured on a horizontal plane from the point of the structure that is nearest the ordinary high water mark, including roof overhangs and any cantilevered portions of the structure. The ordinary high water mark setback for each management zone shall be as follows:

1. In the river town, small town and small town historic management zones, all structures, except piers, wharves, structural erosion control measures, stairways and lifts, shall be set back at least 100 feet from the ordinary high water mark.

2. In the rural residential and conservation management zones, all structures, except piers, wharves, structural erosion control measures, stairways and lifts, shall be set back at least 200 feet from the ordinary high water mark.

(f) *Bluffline setback.* Except as provided in par. (g), the bluffline setback shall be measured on a horizontal plane from the point of the structure that is nearest the bluffline, including roof overhangs and any cantilevered portions of the structure. The bluffline setback for each management zone shall be as follows:

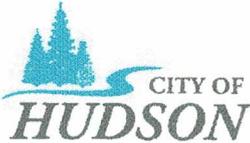


Application to:
BOARD OF APPEALS
 (As per Municipal Code § 255-91)

505 Third Street • Hudson, WI 54016 • (715)386-4776

www.hudsonwi.gov

Date 1/13/2020	
Applicant Name(s) Creative Homes Inc.	
Mailing Address 707 Commerce Dr. STE 410 Woodbury, MN 55125	
Phone 651-289-6813	Email olivia@creativehci.com
Property/Building Owner	
Address of Subject Property 1458 (number) Lee Circle (street) (other information)	
Zoning of Subject Property	
Explain your proposed plans and reason for a variance request: Variance requested to allow building height to be above NR-118 allowable height, due to misinterpretation of calculation method required by DNR vs. City of Hudson.	
The following are to be included with the application: <ul style="list-style-type: none"> • A site plan drawn to scale showing dimensions of the parcel. • Location of existing and proposed structures with the square footage and distance from property lines. • Applicable setbacks. • Other supporting items may include, but is not limited to, pictures, survey, neighbors(s) comments, etc. • Application fee (nonrefundable) of \$300.00 payable to "City of Hudson". → FEE WAIVED BY CITY OF HUDSON. 	
All items submitted become City of Hudson file records.	
I (WE) UNDERSTAND CITY STAFF AND/OR BOARD MEMBERS MAY INSPECT THE SITE, AND I (WE) GIVE PERMISSION TO DO SO.	
Creative Homes Inc. - <u>Olivia Baric</u> Homeowner(s) - <u>Bruce Kolander</u> Applicant Signature(s) <u>Dawn Kolander</u>	



Pursuant to Wisconsin Statutes and the City of Hudson Municipal Code, the Board of Appeals has the authority to issue a variance only when the following criteria are met. **It is the responsibility of the applicant(s) to explain how the statutory standards are met (attach additional paper if necessary).**

Unnecessary Hardship – Describe how literal enforcement of the code would result in hardship to the property owner due to the physical characteristics of the site. An unnecessary hardship that prevents the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome must be present and cannot be self-imposed.

The contractor that built the home was provided a building permit per the constructed plan set. It was later identified (post construction) that the calculation method for the NR-118 requirement was different from that used by the Building dept. at the City. Hardship would occur as major reconstruction would be required, as the home is complete.

Unique Property Limitation – Please describe how the conditions upon which a petition for a variance is based are unique to the property for which the variance is being sought. Were any of these limitations created by the circumstances of the property owner?

The cause of the overage in height of the home is primarily due to the fact that the home has a walkout basement, so the grade in the rear of the home is dropped. The elevation and height at the streetscape is consistent with the other homes in the neighborhood. The property owner and contractor (Creative Homes) were unaware of this effect on the calculation at the time of the building permit application.

Protection of the Public Interest – Explain how the granting of a variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

The front elevation at the streetscape is consistent with all neighboring homes. Also, there are no obstructed views, nor does the building height impose any limits of use or enjoyment by the neighboring owners.



Application to:
BOARD OF APPEALS
(As per Municipal Code § 255-91)

505 Third Street • Hudson, WI 54016 • (715)386-4776

www.hudsonwi.gov

Financial Gain or Loss – Explain how the petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.

There is no material effect on the value of the home or parcel with the height variance. The overall structure, design, and finishes of the home would have remained consistent to what was built, just minor tweaks of roof pitch or heights would be adjusted if it were identified in the planning stages.

Spirit of the Code – Describe how the proposed variance will not jeopardize the spirit and general and specific purposes of the code or ordinance.

The spirit of the code is to avoid obstruction of views and maintain the natural character of the St. Croix River. The height of this home does not negatively impact either of these things, as the home is not visible from the riverway. It also does not negatively affect the neighboring properties, and is consistent with the surrounding homes.

OFFICE USE ONLY

Appeal No. _____

Parcel No. _____

Legal Description of Property _____

Code Chapter and Section _____

Notice Publication Date(s) _____

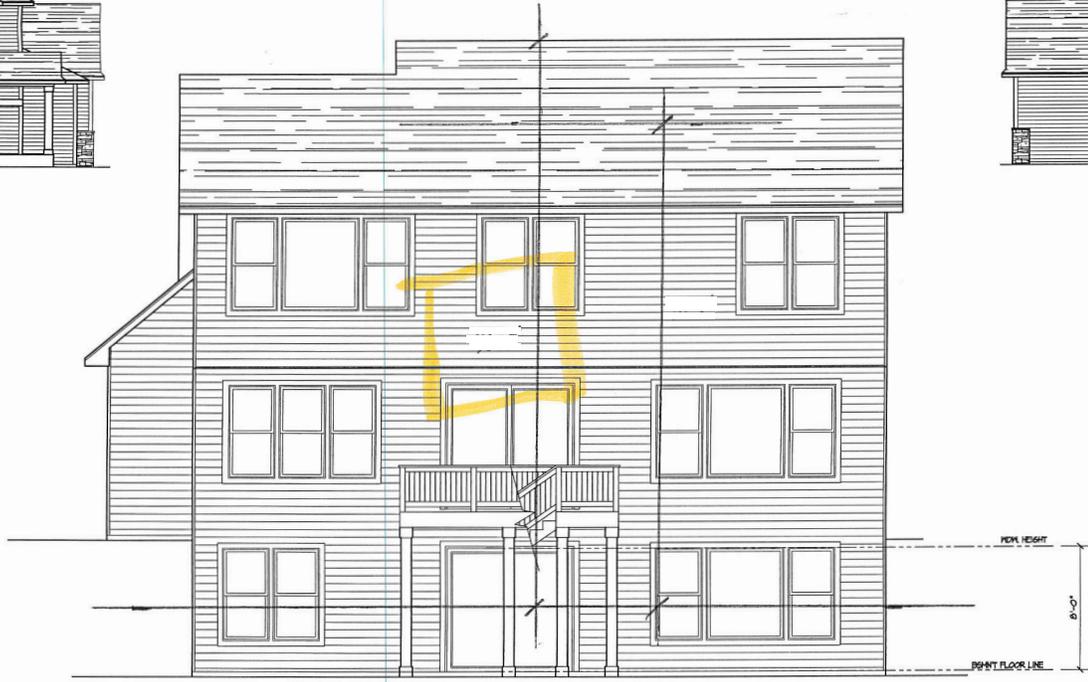
Application #

Receipt #

Date

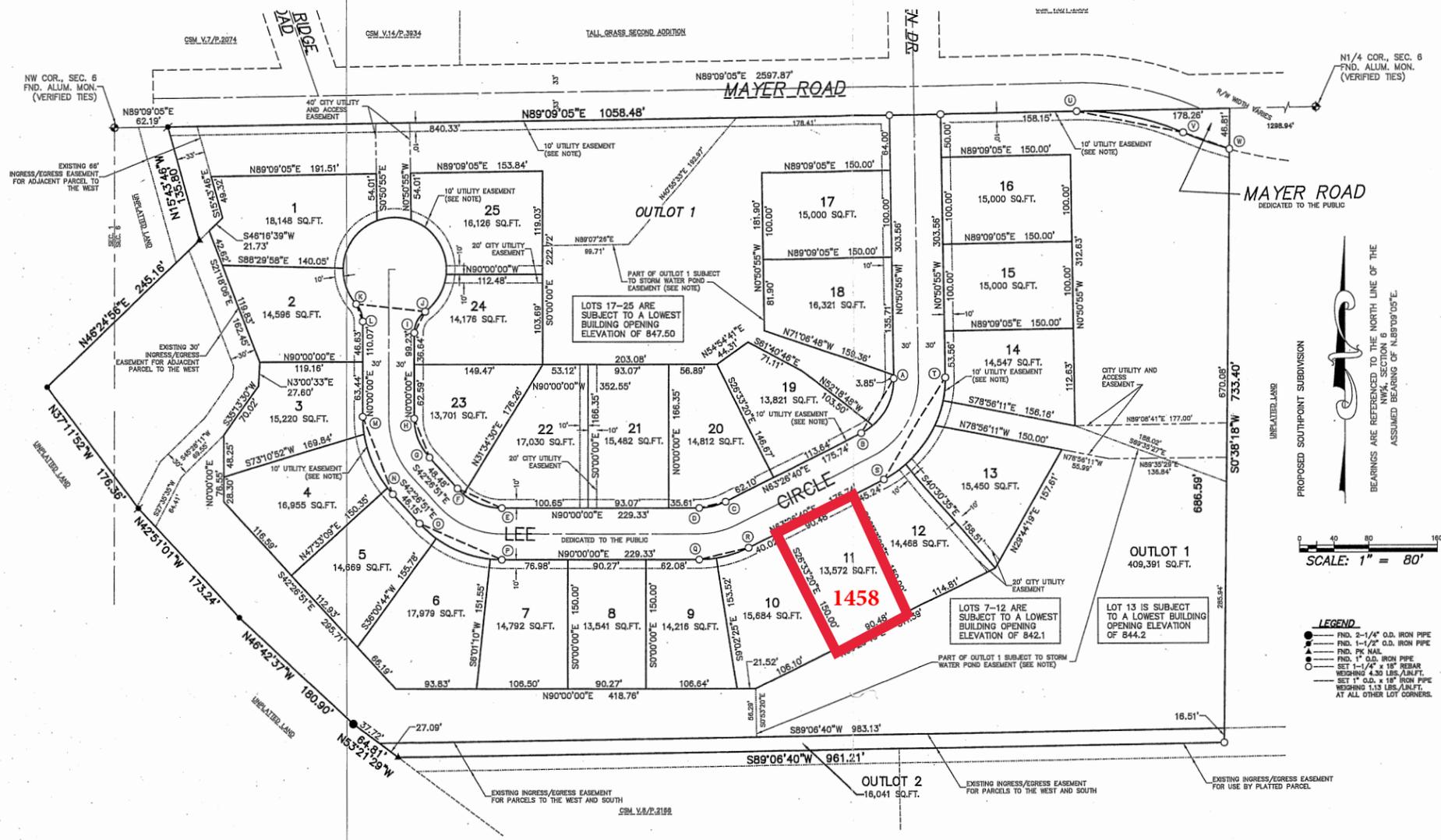


FRONT ELEVATION
1/4" = 1'-0"



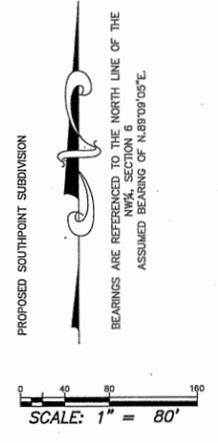
REAR ELEVATION
1/4" = 1'-0"

1458



NOTES:
 UTILITY EASEMENTS:
 UTILITY EASEMENTS ARE FOR THE USE OF THOSE GRANTED PERMISSION
 IN THE UTILITY EASEMENT PROVISIONS AS SHOWN ON SHEET 2. NO NEW
 UTILITY LINES OR FACILITIES SHALL BE PLACED WITHIN 3 FEET OF ANY
 LOT CORNER.

STORM WATER POND EASEMENT:
 THIS EASEMENT IS FOR THE BENEFIT OF THE CITY OF HUDSON AND IS
 SUBJECT TO THE TERMS AND CONDITIONS AS RECORDED IN DOCUMENT
 # _____



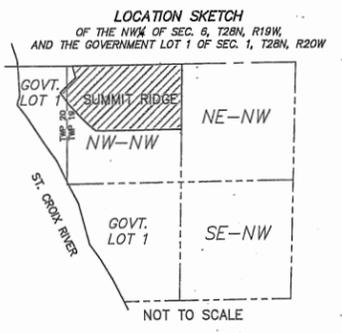
- LEGEND**
- FND. 2-1/4" O.D. IRON PIPE
 - FND. 1-1/2" O.D. IRON PIPE
 - ▲ FND. PK. NAIL
 - △ FND. 1" O.D. IRON PIPE
 - SET 1-1/4" x 18" REBAR WEIGHING 4.30 LBS./LN.FT.
 - SET 1" O.D. x 18" IRON PIPE WEIGHING 1.13 LBS./LN.FT. AT ALL OTHER LOT CORNERS.

CURVE TABLE							
CURVE	LOT	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING	1ST TANGENT 2ND TANGENT
A-B		78.55'	70.00'	064°17'36"	74.49'	N31°17'53"E	N63°26'40"E N00°50'55"W
OL 1		62.33'	70.00'	051°01'18"	60.30'	N24°39'44"E	
	19	16.21'	70.00'	013°16'17"	16.18'	N56°48'32"E	
C-D	20	32.44'	70.00'	026°33'20"	32.15'	N76°43'20"E	N90°00'00"E N63°26'40"E
E-F		58.10'	70.00'	047°33'09"	56.44'	S66°13'26"E	S42°26'51"E N90°00'00"E
	22	48.56'	70.00'	039°44'56"	47.59'	S70°07'32"E	
	23	9.53'	70.00'	007°48'12"	9.53'	S46°20'57"E	
G-H	23	49.64'	67.00'	042°26'51"	48.51'	S21°13'26"E	S00°00'00"E S42°26'51"E
I-J	24	28.35'	30.00'	054°08'37"	27.31'	S27°04'18"W	S54°08'37"W S00°00'00"E
J-K		288.78'	60.00'	275°45'45"	80.48'	N83°44'16"W	N54°08'37"E S41°37'08"E
	24	50.80'	60.00'	048°30'42"	49.30'	N29°53'16"E	
	25	80.64'	60.00'	077°00'34"	74.71'	N32°52'22"W	
OL 1		40.78'	60.00'	038°56'33"	40.00'	S89°09'05"W	
	1	71.40'	60.00'	068°10'47"	67.26'	S35°35'25"W	
	2	45.15'	60.00'	043°07'10"	44.10'	S20°03'33"E	
K-L	2	21.79'	30.00'	041°37'08"	21.32'	N20°48'34"W	N00°00'00"E N41°37'08"W
M-N		98.53'	133.00'	042°26'51"	96.30'	S21°13'26"E	S00°00'00"E S42°26'51"E

CURVE TABLE							
CURVE	LOT	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING	1ST TANGENT 2ND TANGENT
	3	20.51'	133.00'	008°50'10"	20.49'	S04°25'05"E	
	4	68.40'	133.00'	029°27'55"	67.65'	S23°34'07"E	
	5	9.63'	133.00'	004°08'47"	9.62'	S40°22'28"E	
O-P		107.89'	130.00'	047°33'09"	104.82'	S66°13'26"E	S42°26'51"E N90°00'00"E
	5	26.18'	130.00'	011°32'24"	26.14'	S48°13'03"E	
	6	68.05'	130.00'	029°59'34"	67.28'	S68°59'03"E	
	7	13.66'	130.00'	006°01'10"	13.65'	S86°59'25"E	
Q-R		60.25'	130.00'	026°33'20"	59.71'	N76°43'20"E	N90°00'00"E N63°26'40"E
	9	20.51'	130.00'	009°02'25"	20.49'	N85°28'47"E	
	10	39.74'	130.00'	017°30'54"	39.59'	N72°12'08"E	
S-T		145.88'	130.00'	064°17'36"	138.34'	N31°17'53"E	N63°26'40"E N00°50'55"W
	12	31.66'	130.00'	013°57'15"	31.58'	N56°28'03"E	
	13	56.91'	130.00'	025°05'04"	56.46'	N36°56'53"E	
OL 1		30.27'	130.00'	013°20'33"	30.20'	N17°44'05"E	
	14	27.03'	130.00'	011°54'44"	26.98'	N05°06'27"E	
U-V	OL 1	127.47'	300.00'	024°20'41"	126.51'	N78°40'35"W	N66°30'14"W S89°09'05"W
V-W	OL 1	57.09'	442.26'	007°23'44"	57.05'	S70°12'06"E	S66°30'14"E S73°53'58"E

ABBREVIATIONS:
 ALUM. - ALUMINUM
 CSM - CERTIFIED SURVEY MAP
 COR. - CORNER
 FND. - FOUND
 GOVT. - GOVERNMENT
 LBS./LF. - POUNDS PER LINEAR FOOT
 MON. - MONUMENT
 N/4 - NORTH QUARTER
 NE - NORTHEAST
 NW - NORTHWEST
 O.D. - OUTSIDE DIAMETER
 R/W - RIGHT OF WAY
 R/W - RANGE # WEST
 SE - SOUTHWEST
 SEC. - SECTION
 SQ.FT. - SQUARE FEET
 SW - SOUTHWEST
 TWP. - TOWNSHIP # NORTH
 V.#/P.# - VOLUME #/PAGE #

There are no objections to this plat with respect to s. 236.15, 236.16, 236.20 and 236.21 (1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.
 Certified January 17th, 2019
Renee M. Poyas
 Department of Administration



SUMMIT RIDGE
 IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 6,
 TOWNSHIP 28 NORTH, RANGE 19 WEST,
 AND IN GOVERNMENT LOT 1, SECTION 1,
 TOWNSHIP 28 NORTH, RANGE 20 WEST,
 CITY OF HUDSON, ST. CROIX COUNTY, WISCONSIN
 SHEET 1 OF 2

PREPARED BY REAL LAND SURVEYING
 CADD NO. 17444 FINAL-SINGLE.DWG
 REVISED 01-07-19



505 Third Street
Hudson, Wisconsin 54016-1694
FAX: (715)386-3385
www.hudsonwi.gov

Mike Johnson
*Assistant City Administrator/
Community Development Director*
mjohnson@hudsonwi.gov
(715)386-4776, ext. 166

Nick O'Brien
*Associate City Planner/
GIS Coordinator*
nobrien@hudsonwi.gov
(715)386-4776, ext. 143

Tiffany Weiss
Associate City Planner
tweiss@hudsonwi.gov
(715)386-4776, ext. 161

Emily Boles
Executive Assistant
eboles@hudsonwi.gov
(715)386-4776, ext. 116

NOTICE OF PUBLIC HEARING BOARD OF APPEALS, CITY OF HUDSON, WISCONSIN

NOTICE IS HEREBY GIVEN, that the Board of Appeals of the City of Hudson, Wisconsin will hold a public hearing on **Thursday, January 7, 2021 at 5:00 p.m.** to invite public comment in regard to the consideration of a variance application by Creative Homes Inc. and Brian & Stephanie Defore for a structure to exceed the maximum structure height of 35 feet by 3.9 feet (City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2)) at 1454 Lee Circle, Hudson, St. Croix County, Wisconsin. The consideration of the variance application is being continued from the previous City of Hudson Board of Appeals meeting. The property is located within the Lower St. Croix Riverway Rural Residential Management Zone and is subject to the requirements of the City of Hudson Riverway Code and the State of Wisconsin NR 118. The usual in-person meeting will be conducted in the form of videoconferencing. Citizens can participate in the hearing by live video or over the phone by voice. The video conference link will be available on the meeting agenda found at the following website: <https://www.hudsonwi.gov/agendacenter>. If you have any questions regarding this matter you may contact Mike Johnson, Community Development Director, at 715-386-4776.

Dated this 7th day of December 2020
Emily Boles, Executive Assistant

Publish Class II notice, December 17 & 24, 2020 in the *Star-Observer*; send affidavit of publication

Forwarded to Star-Observer, 12/7/2020,
Posted in city hall lobbies 12/7/2020

cc: Mike Johnson, Community Development Director
Rich O'Connor, City Mayor
Aaron Reeves, City Administrator
Becky Eggen, City Clerk
Cathy Munkittrick, City Attorney
Kay Lutze, Wisconsin DNR
Michael Rogne, Wisconsin DNR
Kyle Kulow, St. Croix County Land & Water Conservation
Lisa Ruth, West Wisconsin Regional Planning Commission



505 Third Street
Hudson, Wisconsin 54016
ph: (715)-386-4765 fx: (715)386-3385
www.hudsonwi.gov

REPORT TO THE HUDSON BOARD OF APPEALS

Item: Appeal No. 251

Meeting Date: January 7, 2021 (postponed on 9/17/2020 & 11/19/2020)

Applicant and Property Owner: Brian & Stephanie Defore (homeowners)
Creative Homes Inc. (builder)

Site Address: 1454 Lee Circle, Hudson, WI 54016

Current Zoning District: R-1, One-Family Residential District

Adjacent Land Uses: Residential

Petitioner's Request:

The applicant is requesting the following variance:

1. Relief from City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) to exceed the maximum structure height of 35 feet by 3.9 feet.

Background:

The property in question is 1454 Lee Circle. The parcel is located in the Summit Ridge development which was first annexed into the City of Hudson in 2018 for development. The entire development is located within the Lower St. Croix Riverway Rural Residential management zone. The application is for a variance through the City of Hudson in relation to the structure height requirements of NR-118. The home is too tall according to maximum building height as defined by the NR-118.

When the property was annexed, and the height restrictions from the rural residential was established at 35 feet, City staff relaxed assuming that the height restriction was no different than the City's existing residential district maximum structure height of 35 feet. **However, the City ordinance measures from average grade to average height. The NR 118 measured from average grade to maximum height.**

It was not until 1454 Lee Circle was built that the City realized the error of our application of these two, very similar, rules and methodologies to determine building height.

The home meets the City's height restrictions, but not the NR 118. City staff has since changed our review process and will apply the NR 118 height restrictions to all future homes on Lee Circle. The builder and homeowner were not aware of this issue until after the homes were built. Correcting the problem now would entail removing the entire roof structure and lowering the roof pitch with completely new roof trusses. Therefore, correcting the issue at this time would be unduly burdensome to the homeowner and contractor. The Department of Natural Resources (DNR) has encouraged the City to pursue a zoning variance to resolve the issue. **City staff support the variance request.**

A copy of the City of Hudson Municipal Code and the St Croix Scenic Riverway Code NR118 below.

CITY OF HUDSON - BUILDING HEIGHT

The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the decline of mansard roofs or to the average height of the highest gable of a pitched or hipped roof. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall.

NR 118 - BUILDING HEIGHT

(d) Maximum structure height. The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure excluding chimneys. The maximum structure height for each management zone shall be as follows:

- 1. In the river town management zone, the maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of s. NR 118.07 (4) (c) and (d).*
- 2. In the small town, small town historic and rural residential management zones, the maximum structure height shall be 35 feet except for wireless communication service facilities in the rural residential management zone which meet the height requirements of s. NR 118.07 (4) (c), (d) and (e)*

Public Hearing Notice:

A Public Hearing notice for the requested variance was published on December 17, 2020 and December 24, 2020 in the *Star-Observer*. The notice was posted in city hall lobbies on December 7, 2020.

The notice and application materials were sent to the Wisconsin Department of Natural Resources, St. Croix County, and West Central Wisconsin Regional Planning Commission on December 4, 2020.

Section of Zoning Code from Which Variance is requested:

City of Hudson Code § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) defines a maximum structure height in the St. Croix Riverway Rural Residential management zone of 35 feet. City of Hudson Municipal Code § 255-18 and Wisconsin Administrative Code NR 118.09(4) allows variances provided that all decision criteria are met.

Decision Criteria:

The applicant has requested a variance from City of Hudson § 255-18(A) and Wisconsin Administrative Code NR 118.06(1)(d)(2) which will permit the maximum structure height to exceed 35 feet by 3.9 feet.

For the Board of Appeals to grant a variance, it must find that **all** the following criteria are met:

- I) *Literal enforcement of the code would result in unnecessary hardship to the property owner.*

- II) *The conditions upon which a petition for a variance is based are unique to the property for which variation is being sought.*

- III) *The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.*

- IV) *The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*

However – as a public hearing will be held, testimony from the public should be listened to and considered before deciding on the requested variance.

- V) *The proposed variance will not jeopardize the spirit and general and specific purposes of the Code.*

NR118 Considerations:

NR118 further requires that the local zoning authority's record of decision shall address the following:

- *Preservation of the scenic and recreational resources of the riverway, especially in regard to the view from and use of the river;*
- *The maintenance of safe and healthful conditions;*
- *The prevention of and control of water pollution, including sedimentation*
- *The location of the site with respect to floodways, floodplains, slope preservation zones and blufflines;*
- *The erosion potential of the site based on degree and direction of slope, soil type and vegetative cover;*
- *Potential impact on terrestrial and aquatic habitat;*
- *Location of the site with respect to existing or future access roads;*
- *Adequacy of proposed wastewater treatment*
- *Compatibility with adjacent land uses.*

Staff Recommendation:

Staff recommends approval of the requested variance with the following Conditions of Approval:

1. Any omissions of any conditions not listed shall not release the property owner/developer from abiding by City Ordinances.
2. All conditions run with the land and are binding upon the property owner and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original property owner from meeting any conditions.

Prepared by: Emily Boles, Executive Assistant

Reviewed by: David Gray, Building Inspector

2. 'Permitted structures.' The following structures are allowed in all management zones if the standards in s. NR 118.06 are met:

- a. Single-family residences and accessory structures.
- b. Piers or wharves that have required state and federal permits or that meet statutory criteria or administrative rule standards and do not require a state or federal permit.
- c. Signs.
- d. Structural erosion control measures constructed outside of slope preservation zones. Rock rip-rap may be allowed within a slope preservation zone and in the ordinary high water mark setback area if the local zoning authority determines that rip-rap is necessary to prevent erosion in flood-prone areas, and either a state permit is granted for the rip-rap or statutory criteria or administrative rule standards are met and a state permit is not required for the rip-rap.

(b) *River town management zone.* In the river town management zone, other uses and structures that are allowed by the local unit of government's underlying zoning ordinance may be allowed as permitted uses and structures provided that the permitted uses and structures are listed in the local zoning ordinance with standards for those uses and structures that satisfy all of the following criteria:

1. Protect the natural and scenic qualities of the Lower St. Croix riverway.
2. Protect public health and safety.
3. Prevent erosion and water pollution.

(2) **CONDITIONAL USES.** (a) *All management zones.* The following uses and structures are conditionally permitted uses in all management zones. Conditional use permits for these uses and structures shall comply with the applicable requirements in ss. NR 118.06 and 118.07.

1. Land divisions.
2. Planned cluster developments for single-family residences.
3. Transmission services.
4. Wireless communication service facilities.
5. Filling and grading within slope preservation zones.
6. Structural erosion control measures constructed in slope preservation zones.
7. Stairways.
8. Lifts.
9. Public roads and private roads serving 2 or more properties or single-family residences.
10. Bed and breakfast operations.
11. Home occupations.
12. Nature-oriented educational, non-profit facilities.

(b) *River town, small town and small town historic management zones.* In the river town management zone, small town management zone and small town historic management zone, other uses and structures that are listed as conditional uses or special exceptions in the local unit of government's underlying zoning ordinance may be allowed as conditional uses provided that they are listed in the local unit of government's riverway ordinance with standards for those conditional uses that satisfy all of the following criteria:

1. Protect the natural and scenic qualities of the Lower St. Croix riverway.
2. Protect public health and safety.
3. Prevent erosion and water pollution.

(3) **PROHIBITED USES.** All uses and structures not listed as permitted or conditional shall be prohibited.

History: Cr. Register, June, 1980, No. 294, eff. 7-1-80; am. Register, February, 1984, No. 338, eff. 3-1-84; am. (2) (a) (intro.) and 5., (b) (intro.) and (c) (intro.), Register, August, 1986, No. 368, eff. 9-1-86; CR 03-054: r. and recr. Register October 2004 No. 586, eff. 11-1-04.

NR 118.06 General provisions. (1) DIMENSIONAL AND OTHER STANDARDS. (a) *Minimum lot size.* The minimum lot size for parcels that are allowed to be used as building sites in each management zone shall be as follows:

1. In the river town, small town and small town historic management zones, the minimum lot size shall be established in the local riverway ordinance.

2. In the rural residential and conservation management zones, the minimum lot size shall meet the following standards:

a. The minimum lot size shall have at least one acre of net project area.

b. If the lot is not served by a public sewage system or community sewage collection and treatment services, the lot shall have adequate room for one single-family residence and 2 private on-site wastewater treatment systems.

(b) *Density standard.* In the rural residential and conservation management zones, there may not be more than one single-family residence on each lot.

(c) *Minimum lot width.* The minimum lot width shall apply at the building line and at the side of the lot nearest the river. The minimum lot width for each management zone shall be as follows:

1. In the river town and small town management zones, the minimum lot width shall be established by local ordinance.

2. In the small town historic management zone, the minimum lot width shall be 100 feet.

3. In the rural residential management zone, the minimum lot width shall be 200 feet.

4. In the conservation management zone, the minimum lot width shall be 250 feet.

(d) *Maximum structure height.* The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure excluding chimneys. The maximum structure height for each management zone shall be as follows:

1. In the river town management zone, the maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of s. NR 118.07 (4) (c) and (d).

2. In the small town, small town historic and rural residential management zones, the maximum structure height shall be 35 feet except for wireless communication service facilities in the rural residential management zone which meet the height requirements of s. NR 118.07 (4) (c), (d) and (e).

3. In the conservation management zone, the maximum structure height shall be 25 feet except for wireless communication service facilities which are subject to the height requirement of s. NR 118.07 (4) (c) and (e).

(e) *Ordinary high water mark setback.* Except as provided in par. (g), the ordinary high water mark setback shall be measured on a horizontal plane from the point of the structure that is nearest the ordinary high water mark, including roof overhangs and any cantilevered portions of the structure. The ordinary high water mark setback for each management zone shall be as follows:

1. In the river town, small town and small town historic management zones, all structures, except piers, wharves, structural erosion control measures, stairways and lifts, shall be set back at least 100 feet from the ordinary high water mark.

2. In the rural residential and conservation management zones, all structures, except piers, wharves, structural erosion control measures, stairways and lifts, shall be set back at least 200 feet from the ordinary high water mark.

(f) *Bluffline setback.* Except as provided in par. (g), the bluffline setback shall be measured on a horizontal plane from the point of the structure that is nearest the bluffline, including roof overhangs and any cantilevered portions of the structure. The bluffline setback for each management zone shall be as follows:



Application to:
BOARD OF APPEALS
 (As per Municipal Code § 255-91)

505 Third Street • Hudson, WI 54016 • (715)386-4776

www.hudsonwi.gov

Date 1/13/2020

Applicant Name(s) Creative Homes Inc.

Mailing Address 707 Commerce Dr. STE 410 Woodbury, MN 55125

Phone 651-289-6813 Email olivia@creativehci.com

Property/Building Owner _____

Address of Subject Property 1454 (number) Lee Circle (street) (other information)

Zoning of Subject Property _____

Explain your proposed plans and reason for a variance request:

Variance requested to allow building height
to be above NR-118 allowable height, due to
misinterpretation of calculation method required
by DNR vs. City of Hudson.

The following are to be included with the application:

- A site plan drawn to scale showing dimensions of the parcel.
- Location of existing and proposed structures with the square footage and distance from property lines.
- Applicable setbacks.
- Other supporting items may include, but is not limited to, pictures, survey, neighbors(s) comments, etc.
- Application fee (nonrefundable) of ~~\$300.00~~ payable to "City of Hudson". → **FEE WAIVED BY CITY OF HUDSON.**

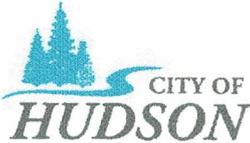
All items submitted become City of Hudson file records.

I (WE) UNDERSTAND CITY STAFF AND/OR BOARD MEMBERS MAY INSPECT THE SITE, AND I (WE) GIVE PERMISSION TO DO SO.

Creative Homes Inc. - Olinovic

Homeowner(s)

Applicant Signature(s)



Pursuant to Wisconsin Statutes and the City of Hudson Municipal Code, the Board of Appeals has the authority to issue a variance only when the following criteria are met. **It is the responsibility of the applicant(s) to explain how the statutory standards are met (attach additional paper if necessary).**

Unnecessary Hardship – Describe how literal enforcement of the code would result in hardship to the property owner due to the physical characteristics of the site. An unnecessary hardship that prevents the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome must be present and cannot be self-imposed.

The contractor that built the home was provided a building permit per the constructed plan set. It was later identified (post construction) that the calculation method for the NR-118 requirement was different from that used by the Building dept. at the City. Hardship would occur as major reconstruction would be required, as the home is complete.

Unique Property Limitation – Please describe how the conditions upon which a petition for a variance is based are unique to the property for which the variance is being sought. Were any of these limitations created by the circumstances of the property owner?

The cause of the overage in height of the home is primarily due to the fact that the home has a walkout basement, so the grade in the rear of the home is dropped. The elevation and height at the streetscape is consistent with the other homes in the neighborhood. The property owner and contractor (Creative Homes) were unaware of this effect on the calculation at the time of the building permit application.

Protection of the Public Interest – Explain how the granting of a variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

The front elevation at the streetscape is consistent with all neighboring homes. Also, there are no obstructed views, nor does the building height impose any limits of use or enjoyment by the neighboring owners.



Application to:
BOARD OF APPEALS
(As per Municipal Code § 255-91)

505 Third Street • Hudson, WI 54016 • (715)386-4776

www.hudsonwi.gov

Financial Gain or Loss – Explain how the petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.

There is no material effect on the value of the home or parcel with the height variance. The overall structure, design, and finishes of the home would have remained consistent to what was built, just minor tweaks of roof pitch or heights would be adjusted if it were identified in the planning stages.

Spirit of the Code – Describe how the proposed variance will not jeopardize the spirit and general and specific purposes of the code or ordinance.

The spirit of the code is to avoid obstruction of views and maintain the natural character of the St. Croix River. The height of this home does negatively impact either of these things, as the home is not visible from the riverway. It also does not negatively affect the neighboring properties, and is consistent with the surrounding homes.

OFFICE USE ONLY

Appeal No. _____

Parcel No. _____

Legal Description of Property _____

Code Chapter and Section _____

Notice Publication Date(s) _____

Application #

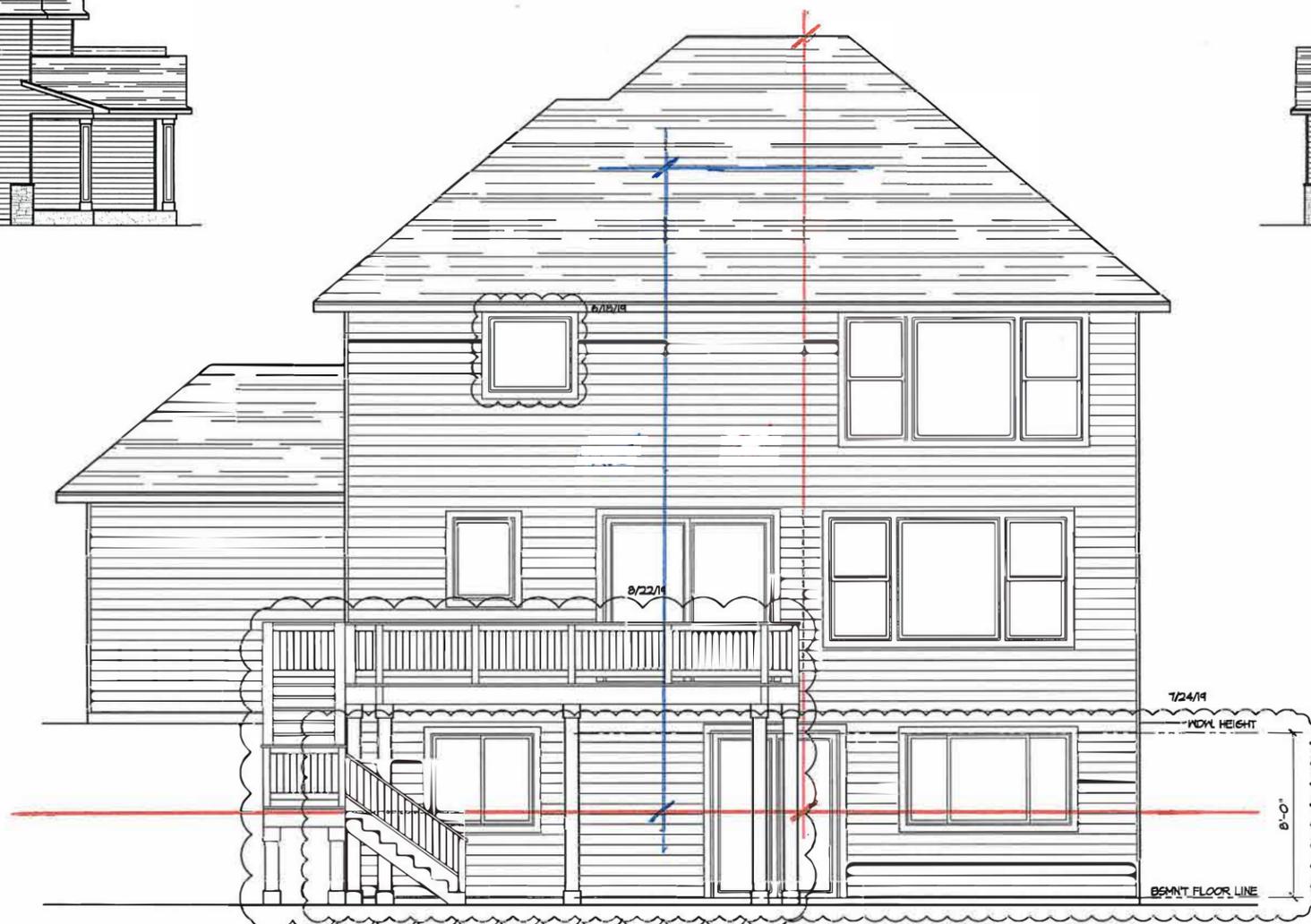
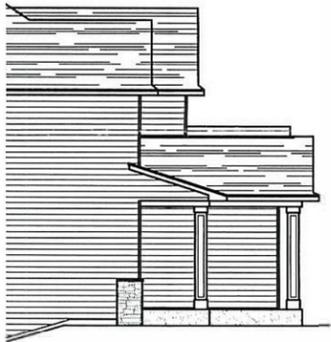
Receipt #

Date



FRONT ELEVATION

1/4" = 1'-0"



REAR ELEVATION

1/4" = 1'-0"

1
1

2
1

RIG
1/8" = 1'-0"

1454

CERTIFICATE OF SURVEY for: CREATIVE CUSTOM HOMES, INC.

LOCATED IN THE NW¼ OF
THE NW¼, SECTION 6,
TOWNSHIP 28 NORTH,
RANGE 19 WEST,
CITY OF HUDSON, ST.
CROIX COUNTY, WISCONSIN

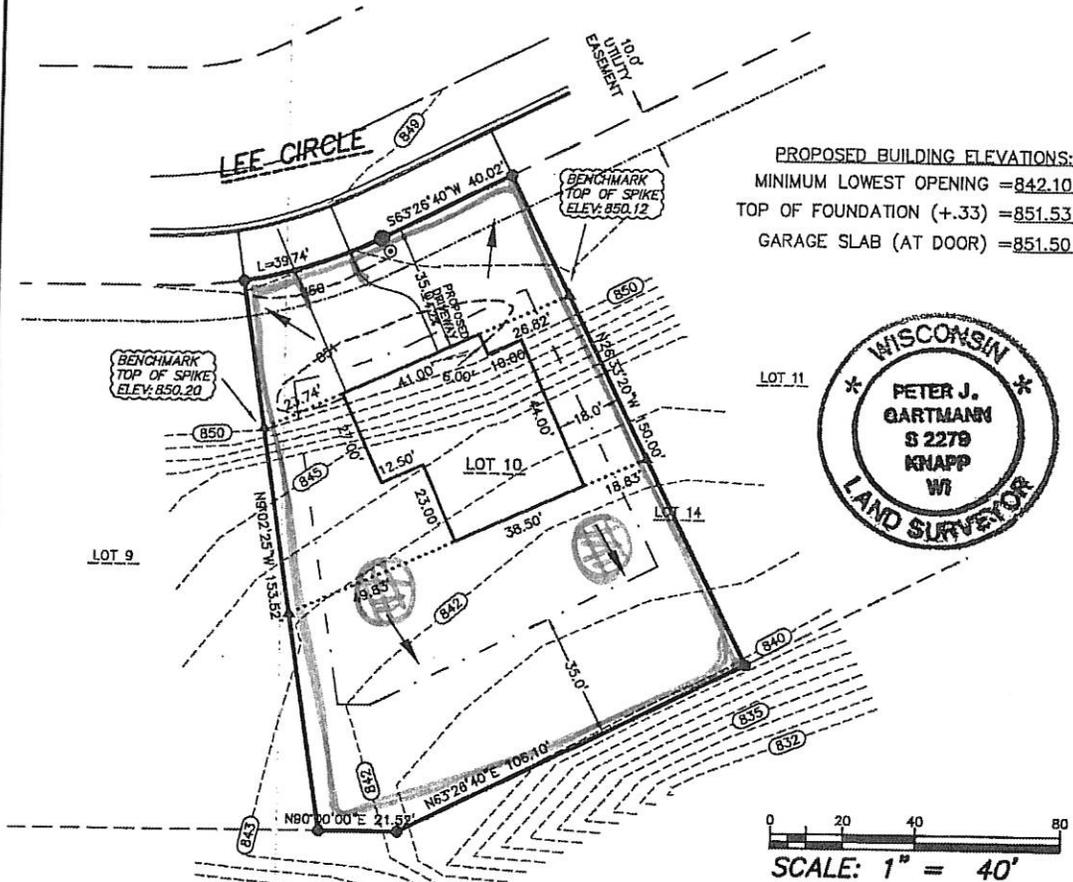
HOUSE ADDRESS: 1454 LEE CIRCLE

HOUSE MODEL: SUTHERLAND

TOTAL LOT AREA	TOTAL SOD AREA	DRIVEWAY AREA TO BACK OF CURB
15,684 SQUARE FEET	12,579 SQUARE FEET	1,018 SQUARE FEET

SETBACKS:
FRONT.....30 FEET
SIDE (HOUSE).....10 FEET
REAR.....35 FEET

EXCAVATION QUANTITIES:
CUT 250 CUBIC YARDS
FILL 233 CUBIC YARDS



LEGEND

- ← PROPOSED DRAINAGE
- ▲ SET SURVEY SPIKE
- ⊙ EXISTING CURBSTOP
- FOUND 1" OUTSIDE DIAMETER IRON PIPE

FIELDWORK
COMPLETION
DATE: 05/31/19

LEGAL DESCRIPTION:
LOT 10, SUMMIT RIDGE
ST. CROIX COUNTY, WISCONSIN

- NOTES:**
1. PROPOSED BUILDING SITE GRADING IS IN ACCORDANCE WITH THE GRADING PLANS PREPARED BY ADVANCED ENGINEERING CONCEPTS, LLC, REVISED 01/18/19.
 2. CONTRACTOR MUST VERIFY SEWER DEPTH.
 3. DRIVEWAYS SHOWN ARE FOR GRAPHIC PURPOSES ONLY. FINAL DRIVEWAY DESIGN AND LOCATION TO BE DETERMINED BY OWNER/BUILDER.
 4. ALL BUILDING FOUNDATION DIMENSIONS SHOWN ON THIS SURVEY INCLUDE EXTERIOR FOUNDATION INSULATION WIDTHS, IF APPLICABLE. REFER TO FINAL BUILDING PLANS FOR FOUNDATION DETAILS.

CADD No. 19096 LOT 10

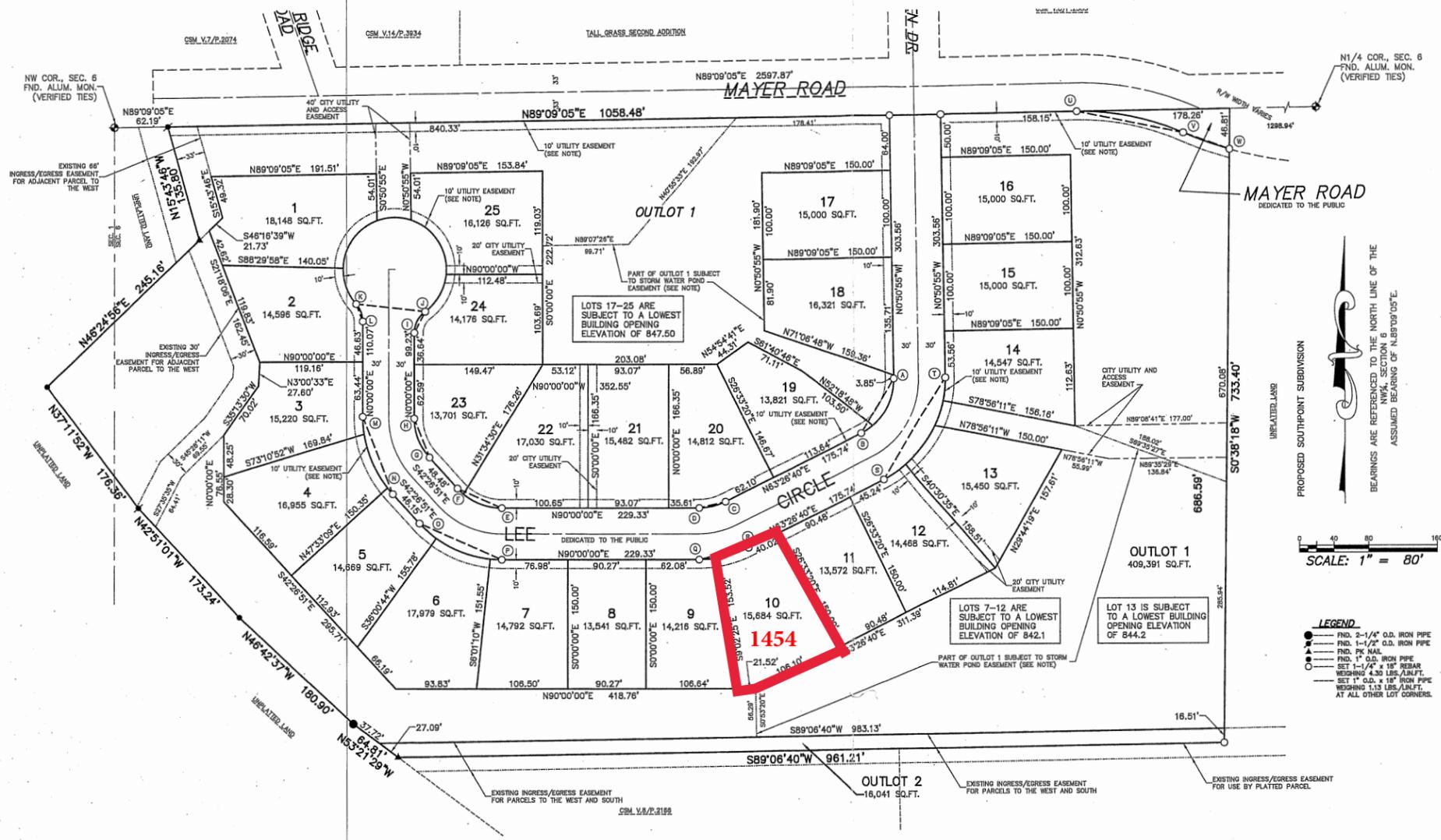
REAL LAND SURVEYING
1360 INTERNATIONAL DRIVE
SUITE #2
EAU CLAIRE, WI 54701
(715) 514-4116

Web: rls-aec.com
COPYRIGHT 2011,
REAL LAND SURVEYING LLC

I HEREBY CERTIFY TO CREATIVE HOMES, INC. THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF WISCONSIN.

6/4/2019
DATE

[Signature]
PETER GARTMANN PLS #2279



NOTES:
 UTILITY EASEMENTS:
 UTILITY EASEMENTS ARE FOR THE USE OF THOSE GRANTED PERMISSION
 IN THE UTILITY EASEMENT PROVISIONS AS SHOWN ON SHEET 2. NO NEW
 UTILITY LINES OR FACILITIES SHALL BE PLACED WITHIN 3 FEET OF ANY
 LOT CORNER.

STORM WATER POND EASEMENT:
 THIS EASEMENT IS FOR THE BENEFIT OF THE CITY OF HUDSON AND IS
 SUBJECT TO THE TERMS AND CONDITIONS AS RECORDED IN DOCUMENT
 # _____



SCALE: 1" = 80'

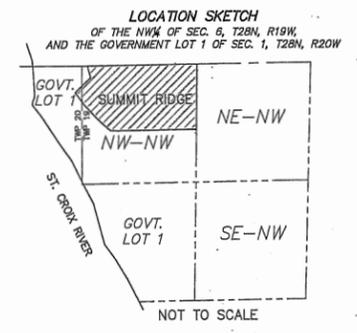
- LEGEND
- FND. 2-1/4" O.D. IRON PIPE
 - FND. 1-1/2" O.D. IRON PIPE
 - ▲ FND. PK. NAIL
 - ▲ FND. 1" O.D. IRON PIPE
 - SET 1-1/4" x 18" REBAR WEIGHING 4.30 LBS./LN.FT.
 - SET 1" O.D. x 18" IRON PIPE WEIGHING 1.13 LBS./LN.FT. AT ALL OTHER LOT CORNERS.

CURVE TABLE							
CURVE	LOT	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING	1ST TANGENT 2ND TANGENT
A-B		78.55'	70.00'	064°17'36"	74.49'	N31°17'53"E	N63°26'40"E N00°50'55"W
OL 1		62.33'	70.00'	051°01'18"	60.30'	N24°39'44"E	
	19	16.21'	70.00'	013°16'17"	16.18'	N56°48'32"E	
C-D	20	32.44'	70.00'	026°33'20"	32.15'	N76°43'20"E	N90°00'00"E N63°26'40"E
E-F		58.10'	70.00'	047°33'09"	56.44'	S66°13'26"E	S42°26'51"E N90°00'00"E
	22	48.56'	70.00'	039°44'56"	47.59'	S70°07'32"E	
	23	9.53'	70.00'	007°48'12"	9.53'	S46°20'57"E	
G-H	23	49.64'	67.00'	042°26'51"	48.51'	S21°13'26"E	S00°00'00"E S42°26'51"E
I-J	24	28.35'	30.00'	054°08'37"	27.31'	S27°04'18"W	S54°08'37"W S00°00'00"E
J-K		288.78'	60.00'	275°45'45"	80.48'	N83°44'16"W	N54°08'37"E S41°37'08"E
	24	50.80'	60.00'	048°30'42"	49.30'	N29°53'16"E	
	25	80.64'	60.00'	077°00'34"	74.71'	N32°52'22"W	
OL 1		40.78'	60.00'	038°56'33"	40.00'	S89°09'05"W	
	1	71.40'	60.00'	068°10'47"	67.26'	S35°35'25"W	
	2	45.15'	60.00'	043°07'10"	44.10'	S20°03'33"E	
K-L	2	21.79'	30.00'	041°37'08"	21.32'	N20°48'34"W	N00°00'00"E N41°37'08"W
M-N		98.53'	133.00'	042°26'51"	96.30'	S21°13'26"E	S00°00'00"E S42°26'51"E

CURVE TABLE							
CURVE	LOT	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING	1ST TANGENT 2ND TANGENT
	3	20.51'	133.00'	008°50'10"	20.49'	S04°25'05"E	
	4	68.40'	133.00'	029°27'55"	67.65'	S23°34'07"E	
	5	9.63'	133.00'	004°08'47"	9.62'	S40°22'28"E	
O-P		107.89'	130.00'	047°33'09"	104.82'	S66°13'26"E	S42°26'51"E N90°00'00"E
	5	26.18'	130.00'	011°32'24"	26.14'	S48°13'03"E	
	6	68.05'	130.00'	029°59'34"	67.28'	S68°59'03"E	
	7	13.66'	130.00'	006°01'10"	13.65'	S86°59'25"E	
Q-R		60.25'	130.00'	026°33'20"	59.71'	N76°43'20"E	N90°00'00"E N63°26'40"E
	9	20.51'	130.00'	009°02'25"	20.49'	N85°28'47"E	
	10	39.74'	130.00'	017°30'54"	39.59'	N72°12'08"E	
S-T		145.88'	130.00'	064°17'36"	138.34'	N31°17'53"E	N63°26'40"E N00°50'55"W
	12	31.66'	130.00'	013°57'15"	31.58'	N56°28'03"E	
	13	56.91'	130.00'	025°05'04"	56.46'	N36°56'53"E	
OL 1		30.27'	130.00'	013°20'33"	30.20'	N17°44'05"E	
	14	27.03'	130.00'	011°54'44"	26.98'	N05°06'27"E	
U-V	OL 1	127.47'	300.00'	024°20'41"	126.51'	N78°40'35"W	N66°30'14"W S89°09'05"W
V-W	OL 1	57.09'	442.26'	007°23'44"	57.05'	S70°12'06"E	S66°30'14"E S73°53'58"E

- ABBREVIATIONS:
 ALUM. - ALUMINUM
 CSM - CERTIFIED SURVEY MAP
 COR. - CORNER
 FND. - FOUND
 GOVT. - GOVERNMENT
 LBS./LF. - POUNDS PER LINEAR FOOT
 MON. - MONUMENT
 N/4 - NORTH QUARTER
 NE - NORTHEAST
 NW - NORTHWEST
 O.D. - OUTSIDE DIAMETER
 R/W - RIGHT OF WAY
 RANGE # WEST
 SE - SOUTHEAST
 SEC. - SECTION
 SQ.FT. - SQUARE FEET
 SW - SOUTHWEST
 T8N - TOWNSHIP #8 NORTH
 V.8/P.8 - VOLUME #/PAGE #

There are no objections to this plat with respect to s. 236.15, 236.16, 236.20 and 236.21 (1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.
 Certified January 17th, 2019
Renee M. Poyas
 Department of Administration



SUMMIT RIDGE
 IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 6,
 TOWNSHIP 28 NORTH, RANGE 19 WEST,
 AND IN GOVERNMENT LOT 1, SECTION 1,
 TOWNSHIP 28 NORTH, RANGE 20 WEST,
 CITY OF HUDSON, ST. CROIX COUNTY, WISCONSIN
 SHEET 1 OF 2

PREPARED BY REAL LAND SURVEYING
 CAD0 NO. 17444 FINAL-SINGLE.DWG
 REVISED 01-07-19