



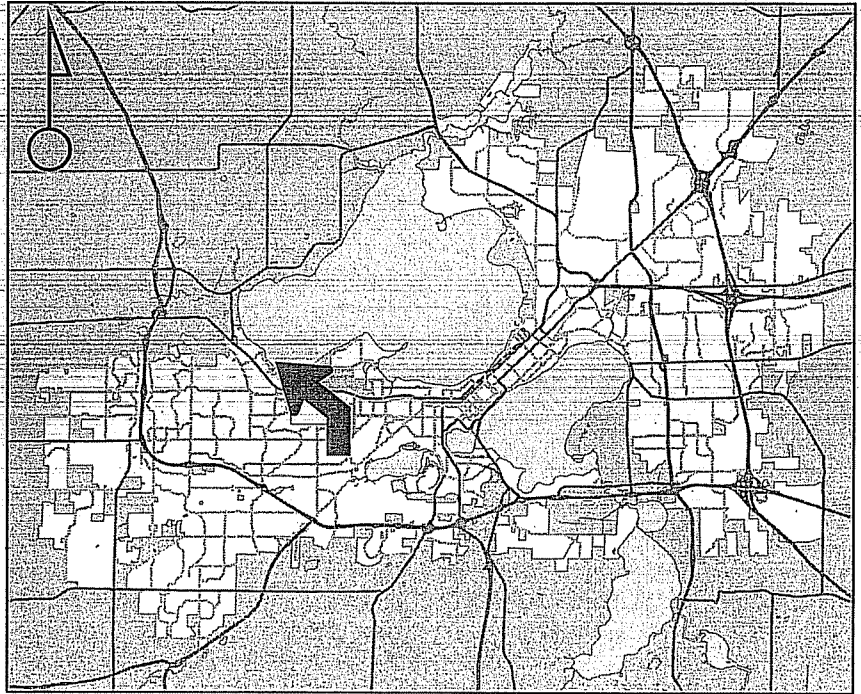
Location
5438 Lake Mendota Drive

Project Name
Tierney House
Applicant
Mike & Jeanette Tierney/Mike
Houswerth - Nicholas Construction

Existing Use
Single-Family Residence

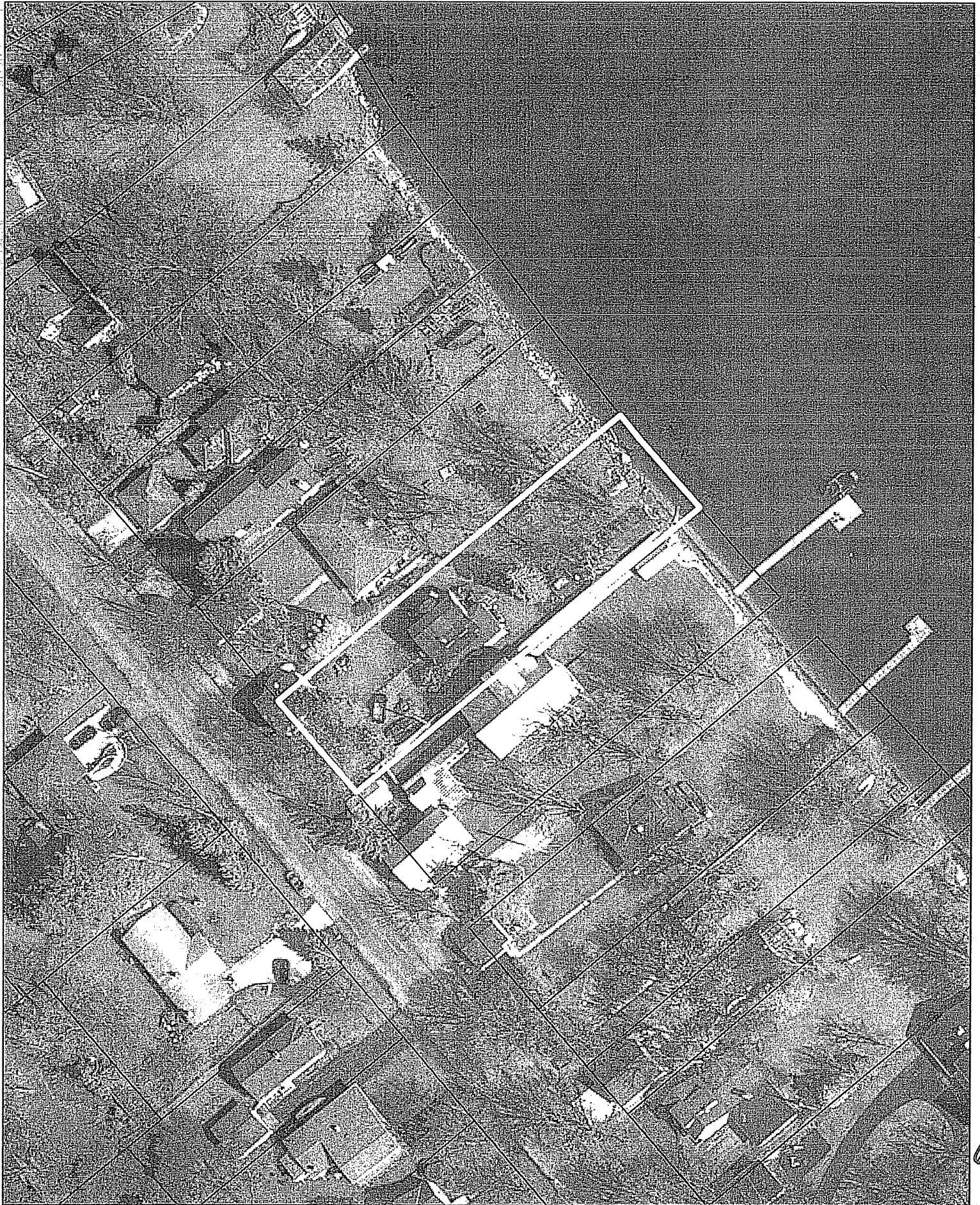
Proposed Use
2nd Floor Addition to Existing Lakefront
Residence and Detached Garage

Public Hearing Date
Plan Commission
19 November 2007



For Questions Contact: Kevin Firchow at: 267-1150 or kfirchow@cityofmadison.com or City Planning at 266-4635







LAND USE APPLICATION Madison Plan Commission

215 Martin Luther King Jr. Blvd; Room LL-100
PO Box 2985; Madison, Wisconsin 53701-2985
Phone: 608.266.4635 | Facsimile: 608.267.8739

- The following information is required for all applications for Plan Commission review except subdivisions or land divisions, which should be filed with the Subdivision Application.
- Before filing your application, please review the information regarding the **LOBBYING ORDINANCE** on the first page.
- Please read all pages of the application completely and fill in all required fields.
- This application form may also be completed online at www.cityofmadison.com/planning/plan.html
- All zoning applications should be filed directly with the Zoning Administrator.

JR OFFICE USE ONLY:	
Amt. Paid	\$ 550. ⁰⁰ Receipt No. 85906
Date Received	10/4/07
Received By	JFK
Parcel No.	0709-181-0307-2
Aldermanic District	19 - Mark Cleary
GQ	flood plain, waterfront
Zoning District	R1
For Complete Submittal	
Application	<input checked="" type="checkbox"/> Letter of Intent <input checked="" type="checkbox"/>
IDUP	<input type="checkbox"/> Legal Descript. <input checked="" type="checkbox"/>
Plan Sets	<input type="checkbox"/> Zoning Text <input type="checkbox"/>
Alder Notification	9/24 Waiver 9/29
Ngbrhd. Assn Not.	9/24 Waiver
Date Sign Issued	10/4/07

1. Project Address: 5438 LAKE MENDOTA DR Project Area in Acres: _____
Project Title (if any): TIERNEY HOUSE

2. This is an application for: (check at least one)

<input type="checkbox"/> Zoning Map Amendment (check only ONE box below for rezoning and fill in the blanks accordingly)	
<input type="checkbox"/> Rezoning from _____ to _____	<input type="checkbox"/> Rezoning from _____ to PUD/ PCD-SIP
<input type="checkbox"/> Rezoning from _____ to PUD/ PCD-GDP	<input type="checkbox"/> Rezoning from PUD/PCD-GDP to PUD/PCD-SIP
<input checked="" type="checkbox"/> Conditional Use	<input type="checkbox"/> Demolition Permit
<input type="checkbox"/> Other Requests (Specify): _____	

3. Applicant, Agent & Property Owner Information:

Applicant's Name: MIKE HEUSWORTH Company: NICOLAS CONSTRUCTION
Street Address: 824 LINCOLN GREEN RD. City/State: DEFOREST WI Zip: 53532
Telephone: (608) 846-7417 Fax: () SAME Email: MHEUSWORTH@YAHOO.COM
Project Contact Person: MIKE HEUSWORTH Company: SAME
Street Address: _____ City/State: S Zip: _____
Telephone: () Fax: () Email: _____
Property Owner (if not applicant): MIKE + JENNETTE TIERNEY
Street Address: 5438 LAKE MENDOTA DR. City/State: MADISON WI Zip: 53708

4. Project Information:

Provide a general description of the project and all proposed uses of the site: 2ND FLOOR ADDITION WITH A ELEVATOR AND ALSO A 1 STORY GARAGE

Development Schedule: Commencement DEC 07 Completion MARCH 08

5. Required Submittals:

- Site Plans** submitted as follows below and depicts all lot lines; existing, altered, demolished or proposed buildings; parking areas and driveways; sidewalks; location of any new signs; existing and proposed utility locations; building elevations and floor plans; landscaping, and a development schedule describing pertinent project details:
 - **Seven (7) copies** of a full-sized plan set drawn to a scale of one inch equals 20 feet (collated and folded)
 - **Seven (7) copies** of the plan set reduced to fit onto 11 inch by 17 inch paper (collated, stapled and folded)
 - **One (1) copy** of the plan set reduced to fit onto 8 1/2 inch by 11 inch paper
- Letter of Intent: Twelve (12) copies** describing this application in detail but not limited to, including: existing conditions and uses of the property; development schedule for the project; names of persons involved (contractor, architect, landscaper, business manager, etc.); types of businesses; number of employees; hours of operation; square footage or acreage of the site; number of dwelling units; sale or rental price range for dwelling units; gross square footage of building(s); number of parking stalls, etc.
- Legal Description of Property:** Lot(s) of record or metes and bounds description prepared by a land surveyor. For any application for rezoning, the description must be submitted as an electronic word document via CD or e-mail.
- Filing Fee:** \$ _____ See the fee schedule on the application cover page. Make checks payable to: *City Treasurer.*

IN ADDITION, THE FOLLOWING ITEMS MAY ALSO BE REQUIRED WITH YOUR APPLICATION; SEE BELOW:

- For any applications proposing demolition of existing buildings, **photos** of the interior and exterior of the structure(s) to be demolished shall be submitted with your application. Be advised that a **Reuse and Recycling Plan** approved by the City's Recycling Coordinator is required prior to issuance of wrecking permits.
- A project proposing **ten (10) or more dwelling units** may be required to comply with the City's Inclusionary Zoning requirements outlined in Section 28.04 (25) of the Zoning Ordinance. A separate **INCLUSIONARY DWELLING UNIT PLAN** application detailing the project's conformance with these ordinance requirements shall be submitted concurrently with this application form. Note that some IDUP materials will coincide with the above submittal materials.
- A **Zoning Text** must accompany **all** Planned Community or Planned Unit Development (PCD/PUD) submittals.

FOR ALL APPLICATIONS: All applicants are required to submit copies of all items submitted in hard copy with their application (including this application form, the letter of intent, complete plan sets and elevations, etc.) as **INDIVIDUAL** Adobe Acrobat PDF files compiled either on a non-returnable CD to be included with their application materials, or in an e-mail sent to pcapplications@cityofmadison.com. The e-mail shall include the name of the project and applicant. Applicants who are unable to provide the materials electronically should contact the Planning Unit at (608) 266-4635 for assistance.

6. Applicant Declarations:

- Conformance with adopted City plans:** Applications shall be in accordance with all adopted City of Madison plans:
 - The site is located within the limits of the: _____ Plan, which recommends: _____ for this property.
- Pre-application Notification:** Section 28.12 of the Zoning Ordinance requires that the applicant notify the district alder and any nearby neighborhood or business associations by mail no later than **30** days prior to filing this request:
 - List below the Alderperson, Neighborhood Association(s), Business Association(s) AND dates you sent the notices:

NOTE: If the alder has granted a waiver to this requirement, please attach any such correspondence to this form.

- Pre-application Meeting with staff:** Prior to preparation of this application, the applicant is required to discuss the proposed development and review process with Zoning Counter and Planning Unit staff; note staff persons and date.

Planner Parkes Date _____ | Zoning Staff Tucker Date 10-3-07

The signer attests that this form is accurately completed and all required materials are submitted:

Printed Name MIKE HOUSWERTH Date _____

Signature [Signature] Relation to Property Owner CONTRACTOR

Authorizing Signature of Property Owner [Signature] Date 10-3-07

Effective June 26, 2006 [Signature] 10-3-2007

To: City of Madison Plan Commission

From: Applicants: Michael and Jeanette Tierney at 5438 Lake Mendota Dr., Madison WI
Mike Houswerth, Nicolas Construction

Re: Residential House Addition, Garage Construction, Boathouse Foundation Repair

Date: October 3, 2007

Site Plan: The current house is a 1938 house with a gambrel roof on a portion of the second level, and a low pitched roof on the other portion. The house dimensions are 34.5' x 38'. The first floor has a brick façade with siding on the second level. Other permanent buildings on the lot include a 20 x 26 house, and a 11 x 25 boathouse. There is no garage on the property. The total square feet of the lot is 16,500 with a total 2,107 sq. ft. footprint of buildings or 12.7%. The house is set back 114 feet from the water meeting the average setbacks of 10 adjacent (5 left and 5 right) houses. The 8 by 16 ft deck area is part of the existing house and will be excavated for footings and crawl space, so an erosion control permit and a plan with a silt barrier will be in place. Existing trees on the entire lot will be protected from damage, and no trees will be removed. We have been working on shoreline restoration for several years with guidance and a wave barrier permit exemption from the Wisconsin DNR. Construction will have no effect on these efforts.

House addition: We propose to replace the current second story and lower deck on an engineered floor truss platform placed over the current footprint of the house. This will improve the entire home's existing structural strength and update the second story to meet or exceed current height, insulation and other energy and electrical building standards. A 96% efficient gas furnace and high efficiency air conditioner was installed in September and a 200 amp underground electrical service is connecting in October. A whole house fan is planned in the attic as an alternative to air conditioning. We are designing the house and garage roof at angles compatible for possible (cost permitting) photovoltaic solar and solar domestic hot water. The insulated garage floor and a new concrete floor in the crawl space will have radiant heating tubes embedded to allow for a future solar mass storage space heating. No additional impervious areas will be added but 3 rain gardens have been built over the last several years on this gradually sloping 250 ft deep lot. The total net area of the addition is 600 sq. ft. The number of bedrooms remains at three but two are larger with a master bath and another bath for general use and an adjacent laundry area. Anticipate using additional space for office music/TV/workout room. We will also be changing to an energy efficient front door, upgrading downstairs bathroom tile walls and window plus minor kitchen renovations. Depending on bid costs we propose to include an attached elevator on the roadside between the garage and house but may remove later. The roof's pitch at 9/12, allows for design and accommodation of solar panels for photovoltaic and hot water heating either now or in the future. The roof will be either a truss design or alternatively a 10 inch thick structurally integrated panels SIP (R50) with factory manufactured I wood trusses sandwiched in polystyrene between OSB for both house and garage roofs.

Garage: The garage will be a two stall, single story 21' x 28' feet (588 sq. ft). This adds to the building footprint from 2107 to 2695 sq. ft. or 16.3% of the lot. The garage is 10.2 feet from the house but approximately 5 ft from the elevator shaft and will meet firewall code requirements. It will be the specified 6 feet from the east property line and 51.5 feet setback from the street side property line. We propose a roof pitch equivalent to the house pitch for solar application, with an interior stairway to the garage attic to access the rafter storage area. We propose including a sewer connection in the garage to clean cars and boats. Water connections for a utility sink would also be available on the first level. A 3 inch PVC sewer connection, water, gas would connect to the house basement via a heavily insulated connection tunnel that also provides the required elevator pit.

Materials: Exterior materials for the house and garage are EIFS siding on the house addition and portions of the garage sidewalls. Brick trim to match the house façade may be incorporated into the garage facing on the front and west sides. Alternatively, cement-fiber siding may replace the brick trim and EIFS on house or garage.

Boathouse: Boathouse foundation is currently loose-stack block foundation. We will add 8 concrete 1 ft by 6 ft support piers because the current foundation is rapidly being caved in by adjacent yard drainage. It will not increase the size and height of boathouse.

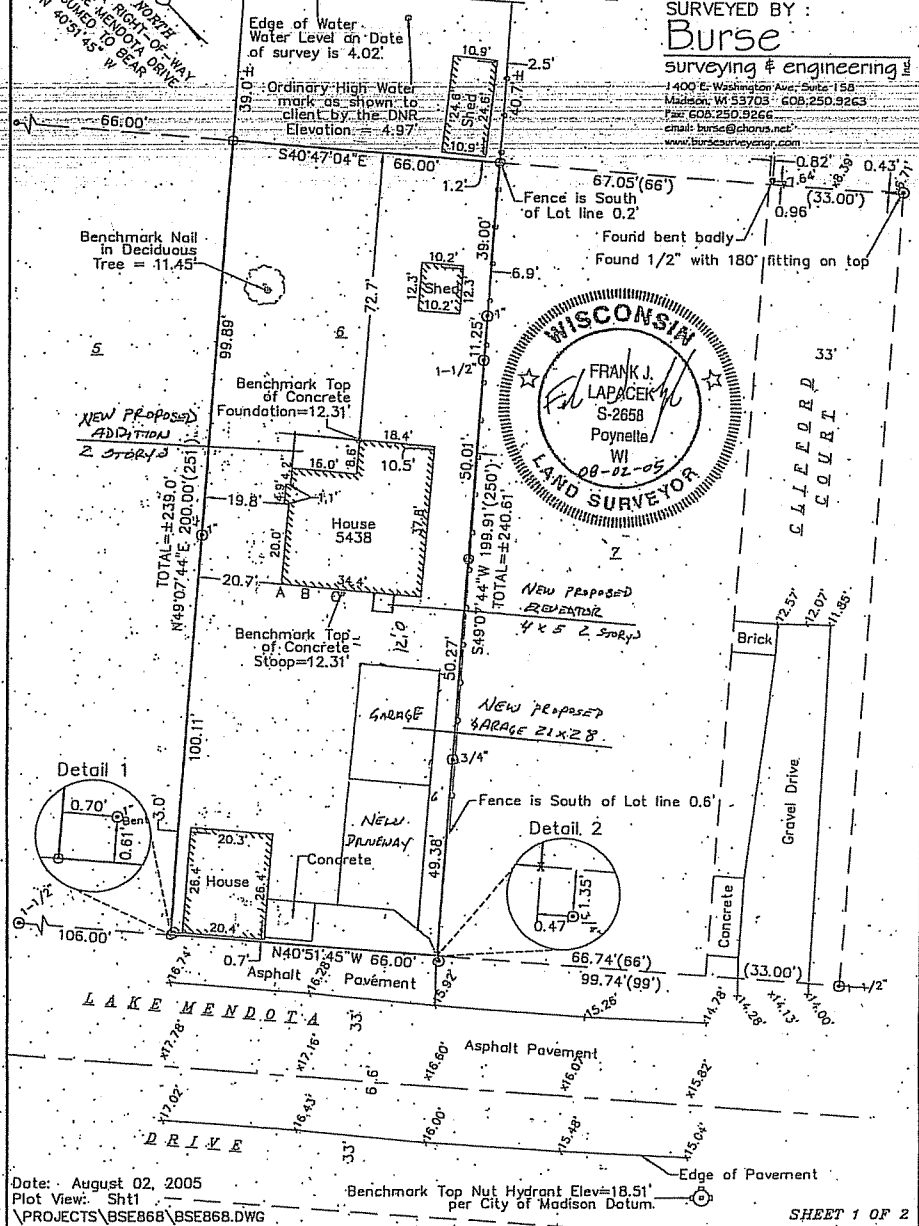
PLAT OF SURVEY

LOT 6, BLOCK 6, MENDOTA BEACH SUBDIVISION, AS RECORDED IN VOLUME 4 OF PLATS, ON PAGE 27, AS DOCUMENT NUMBER 213041, DANE COUNTY REGISTRY, LOCATED IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 07 NORTH, RANGE 09 EAST, CITY OF MADISON, DANE COUNTY, WISCONSIN.

THE NORTHEAST CORNER OF LOT 6 IS ASSUMED TO BE AT THE INTERSECTION OF THE RIGHT-OF-WAY LINE OF LAKE MENDOTA DRIVE N 40°51'45" W

SCALE: ONE INCH = THIRTY FEET
L A K E M E N D O T A

SURVEYED FOR :
Michael Tierney
3309 Tallyho Lane
Madison, WI 53705
SURVEYED BY :
Burse
surveying & engineering
1400 E. Washington Ave., Suite 158
Madison, WI 53703 • 608.250.3263
Fax: 608.250.3266
email: burse@chorus.net
www.burse-surveying.com



PLAT OF SURVEY

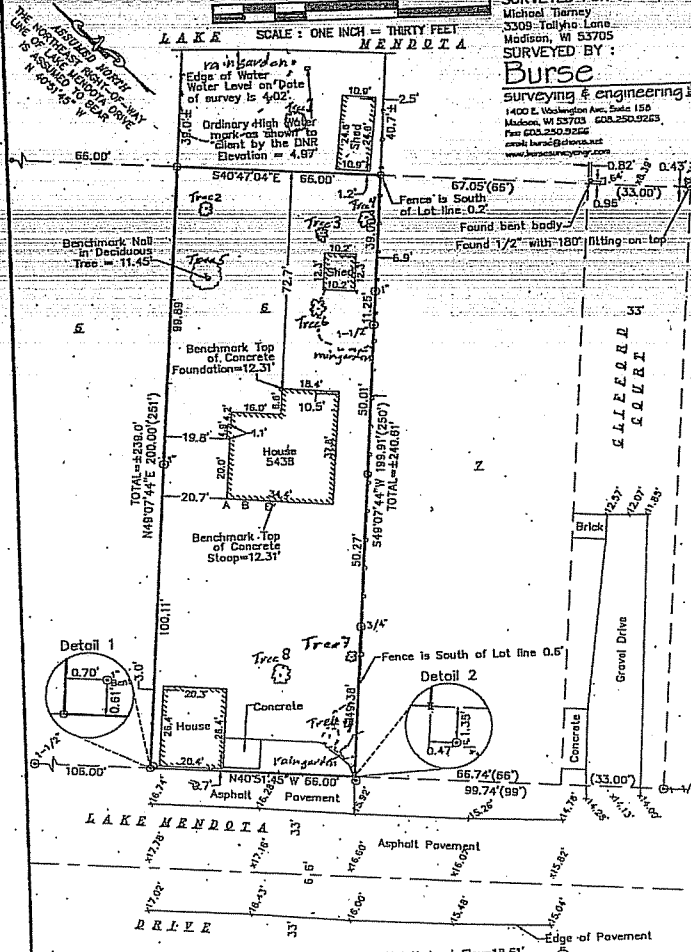
LOT 6, BLOCK 6, MENDOTA BEACH SUBDIVISION, AS RECORDED IN VOLUME 4 OF PLATS, ON PAGE 27,
AS DOCUMENT NUMBER 213041, DANE COUNTY REGISTRY, LOCATED IN THE NORTHWEST QUARTER OF
SECTION 18, TOWNSHIP 07 NORTH, RANGE 09 EAST, CITY OF MADISON, DANE COUNTY, WISCONSIN.

L A K E M E N D O T A

SCALE: ONE INCH = THIRTY FEET

SURVEYED FOR:
Michael Barney
2309 Tollyho Lane
Madison, WI 53705

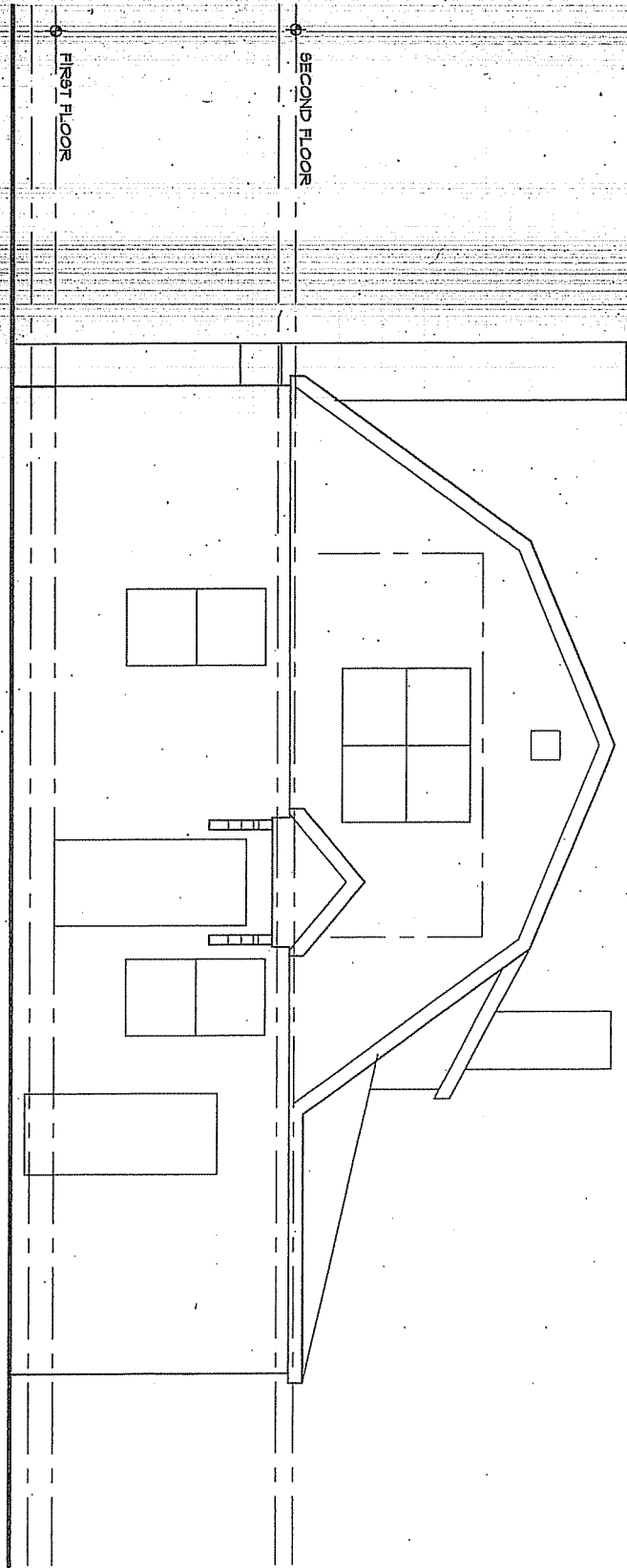
SURVEYED BY:
Burse
surveying & engineering s
1400 E. Washington Ave., Suite 150
Madison, WI 53703 608.250.9263
Fax 608.230.3356
web burse@surveys.com
www.bursesurveying.com



Date: August 02, 2005
Plot View: Sht1
PROJECTS\BSEBBA\BSEB56.DWG
Benchmark Top Nut Hydrant Elev=18.51 per City of Madison Datum
SHEET 1 OF 2

Trees on Tierney Plot
5438 Lake Mendota Drive, Madison WI
Wednesday, October 03, 2007

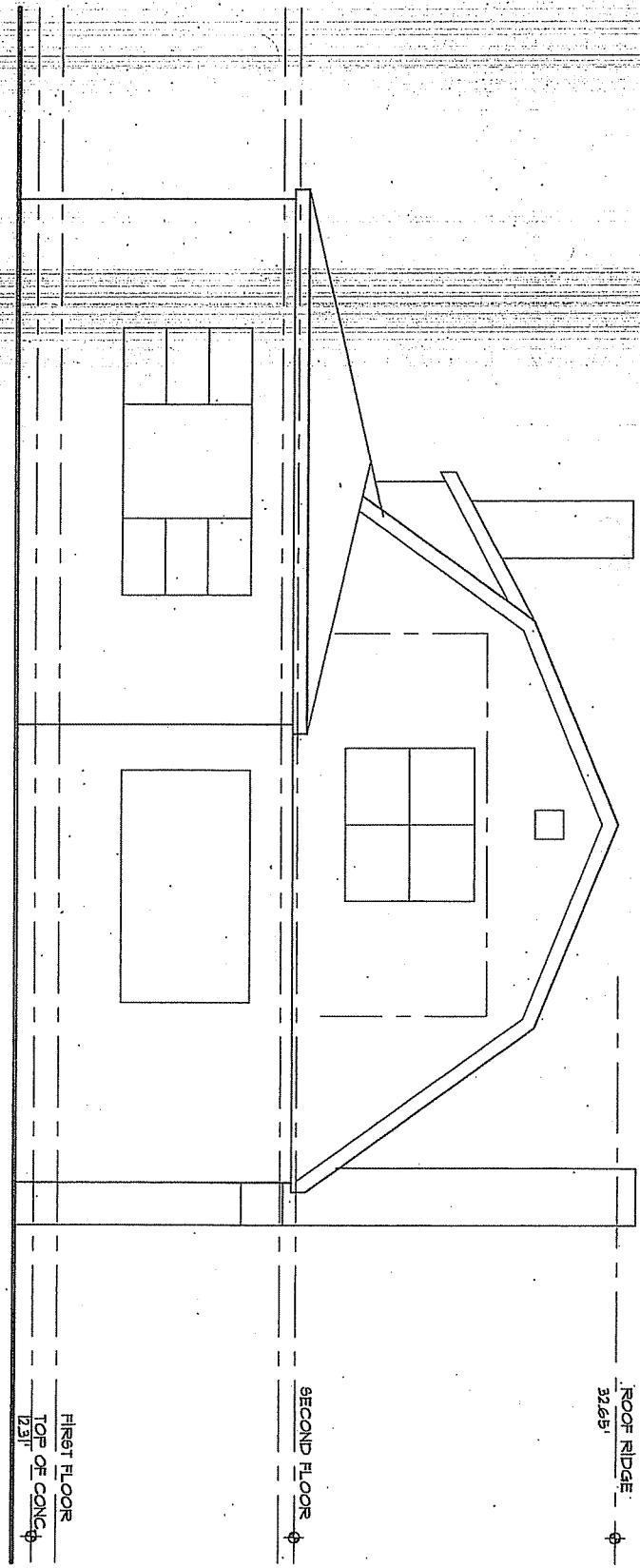
Map #	Variety	Diameter (feet)	Est. Height (feet)
1	Silver Maple	5.9	75
2	Pine	1.0	42
3	Crimson Maple	1.5	40
4	Paper Birch Clump	3 branches 1 to 1.5	30
5	Silver Maple	2.5	55
6	Pine	1.3	40
7	Conifer	0.74	32
8	Blue Spruce	1.2	45
9	Silver Maple	2.7	55



1
A3

EXISTING SOUTHWEST ELEVATION
SCALE: 1/4" = 1'-0"

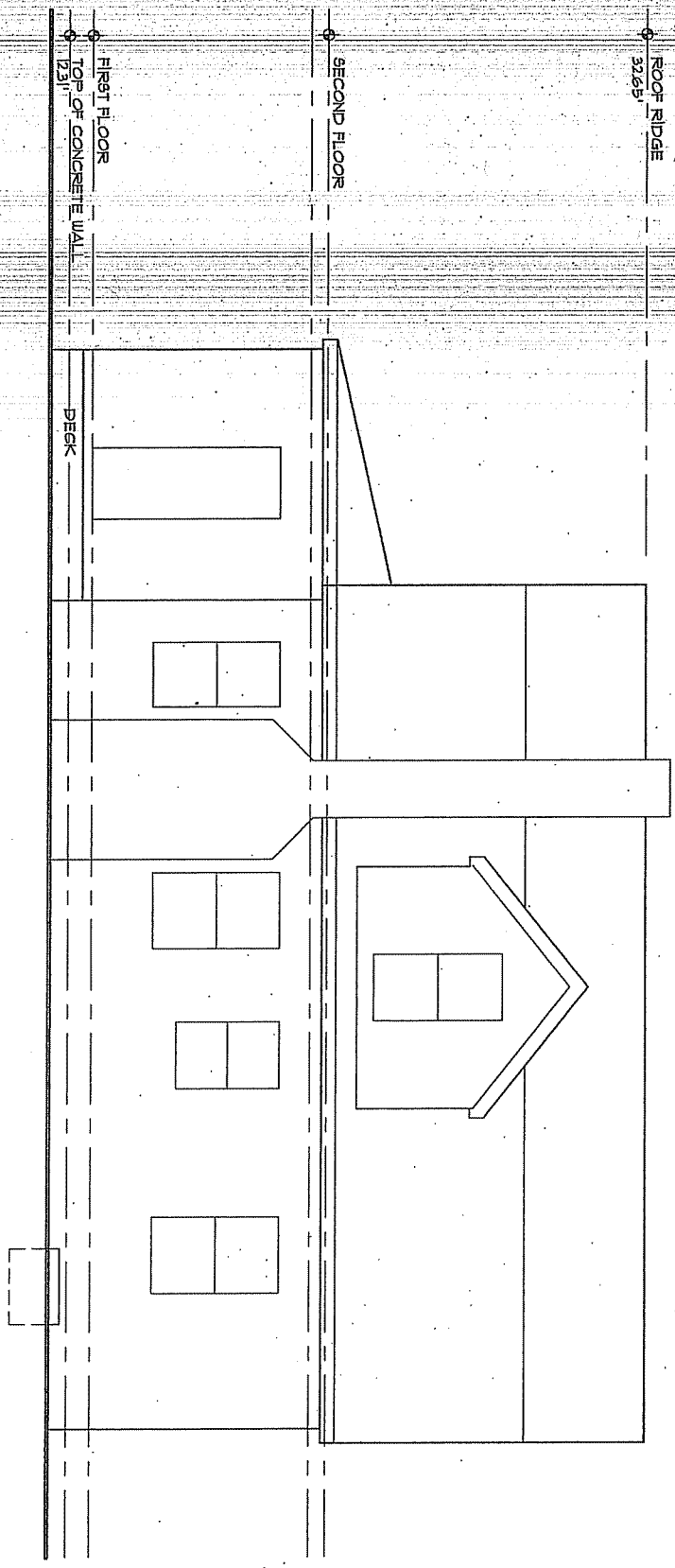
11 EXISTING NORTHEAST ELEVATION
SCALE: 1/4" = 1'-0"



ROOF RIDGE
32.65'

SECOND FLOOR
12.31'

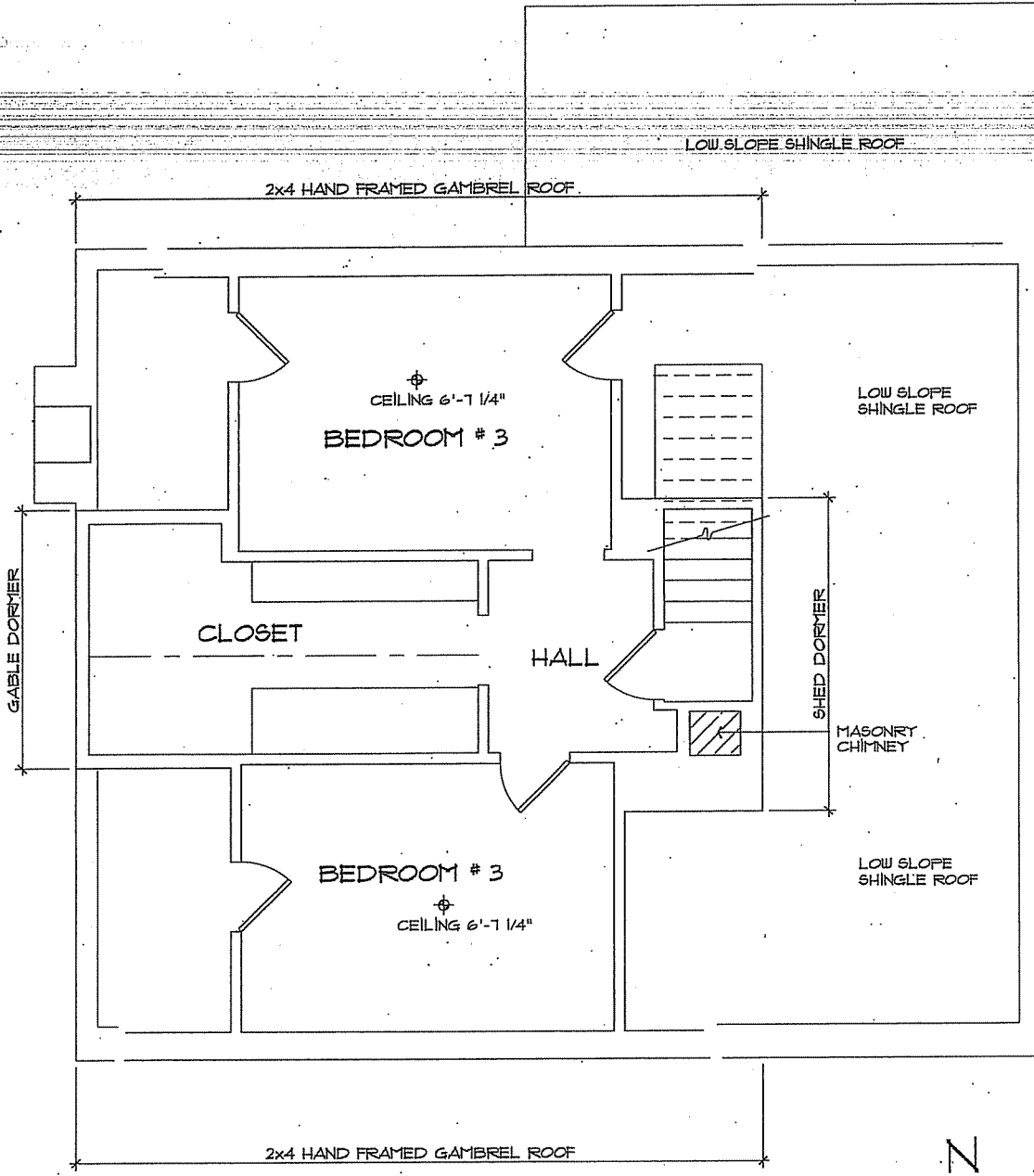
FIRST FLOOR
TOP OF CONC.
12.31'



2
A3

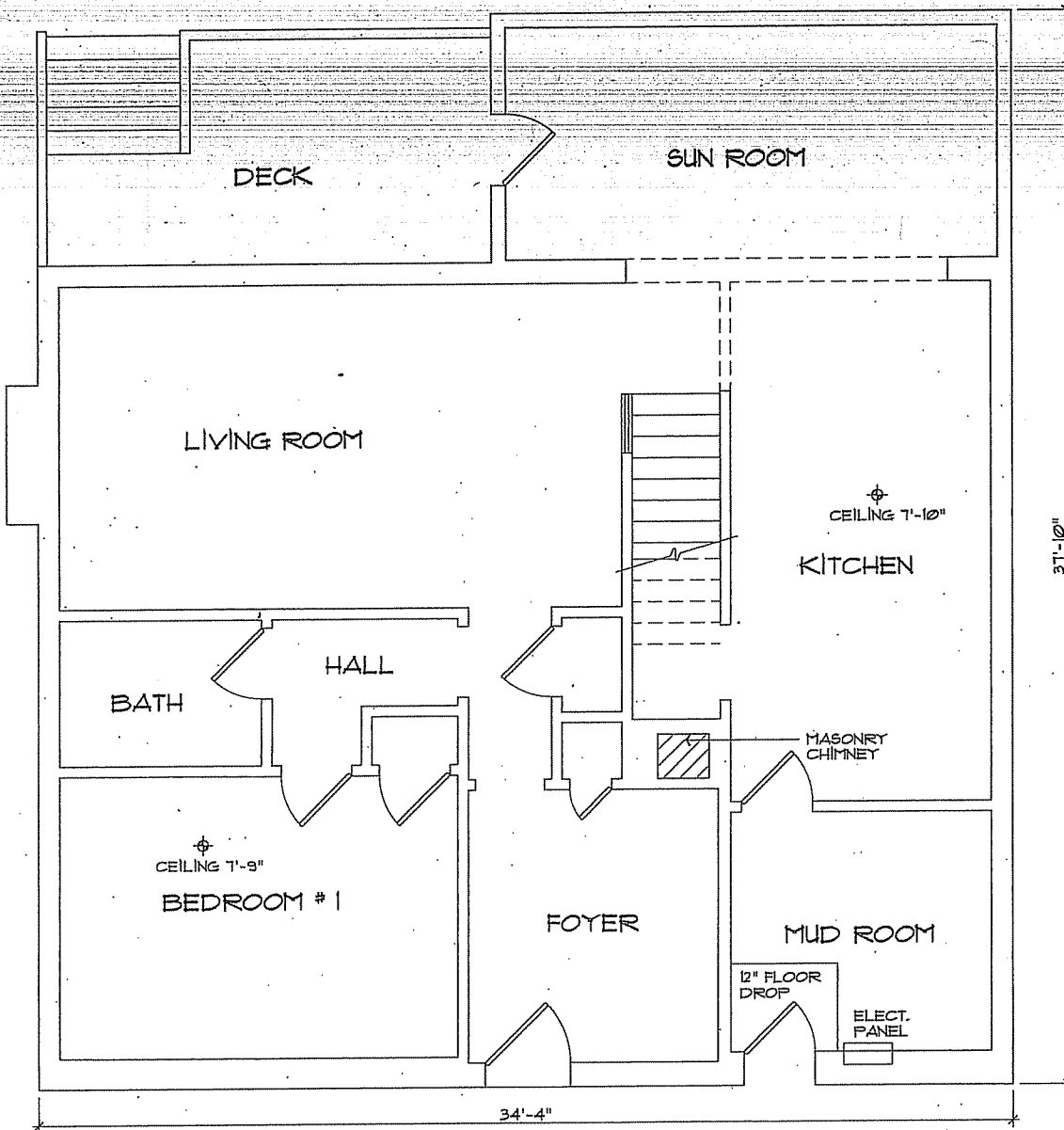
EXISTING NORTHWEST ELEVATION

SCALE: 1/4" = 1'-0"



2
A2
EXISTING SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-0"





1
A2

EXISTING FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"



Nicoles Construction
 824 Lincoln Green Rd.
 Deforest, WI 53532

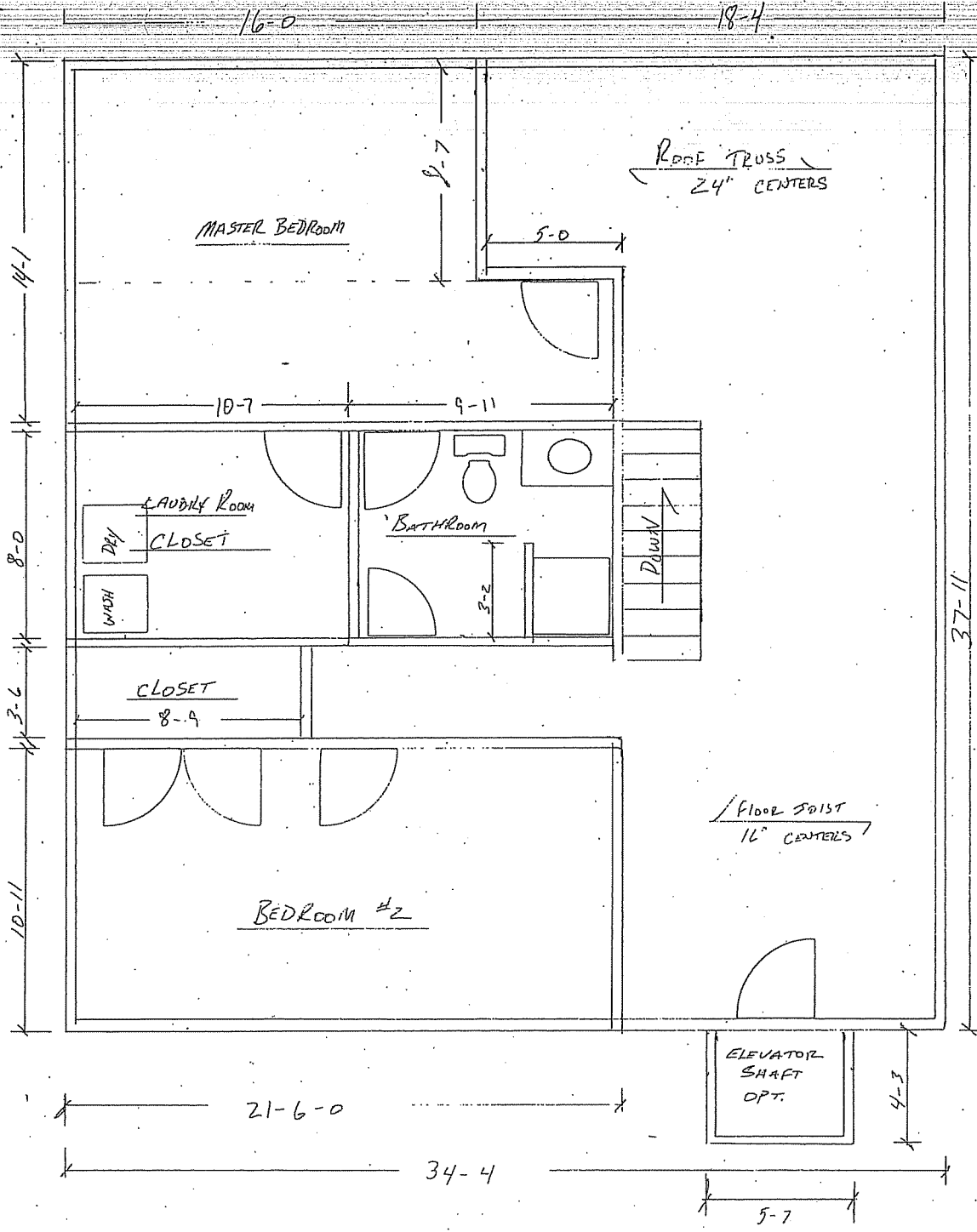
Mike & Jeanette Tierney
 5438 Lake Mendota Dr.
 Madison, WI 53708

NEW FLOOR PLAN 2ND FLOOR

Drawn by
 MIA

Date
 9-17-07

Scale
 1/4" = 1'-0"



NOTES:

FRAMING WALLS 2x4 16" CENTERS W/ 1/2" OSB SHEATHING AND 1" STYROFOAM FOR INSULATION + VAPOR BARRIER

FRAMING: 2x4 ROOF TRUSSES -> SPEC. IN W/ JOIST TRUSS W/ 7" ENERGY BEEC
 ROOF 1/2" OSB W/ RAFTER CLIPS

ROOFING: 6" ICE + WATER SHIELD FROM EYE'S
 15 LB FELT PAPER
 35 YR. ART. SHINGLES

HEADERS: 2x10 W/ SINGLE SHOULDER, ANYTHING OVER 5'-0" = 2 SHOULDERS

FLOOR JOIST: 22" ENGINEERED FLOOR TRUSS -> SPACING 24" x 4"
 2x6 PLATE ON EXISTING FLOOR JOIST / JOINTED EVERY 16" ON CENTER

INSULATION:

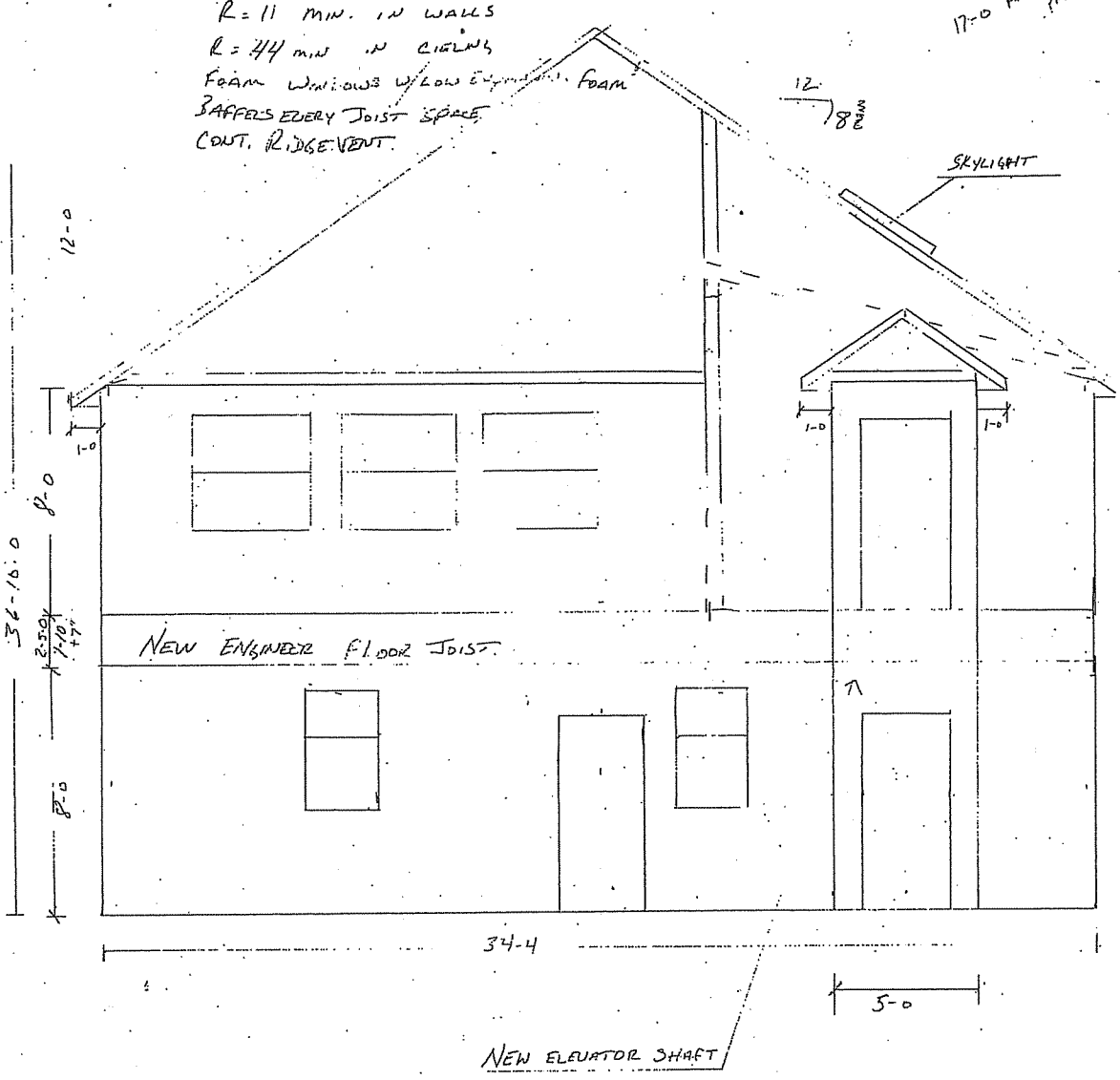
R = 11 MIN. IN WALLS
 R = 44 MIN. IN CEILING
 FOAM WINDOWS W/ LOW EXPANSION FOAM
 BARRIERS EVERY JOIST SPACE
 CONT. RIDGE VENT

17'-0" FOR 12/2 PITCH

Micon Construction
 824 Lincoln Green Rd.
 Delforest, WI 53532

Miller & Jeanette Terney
 5438 Lake Mendota Dr.
 Madison, WI 53708

PROPOSED FRONT ELEVATION
 SOUTHWEST ST

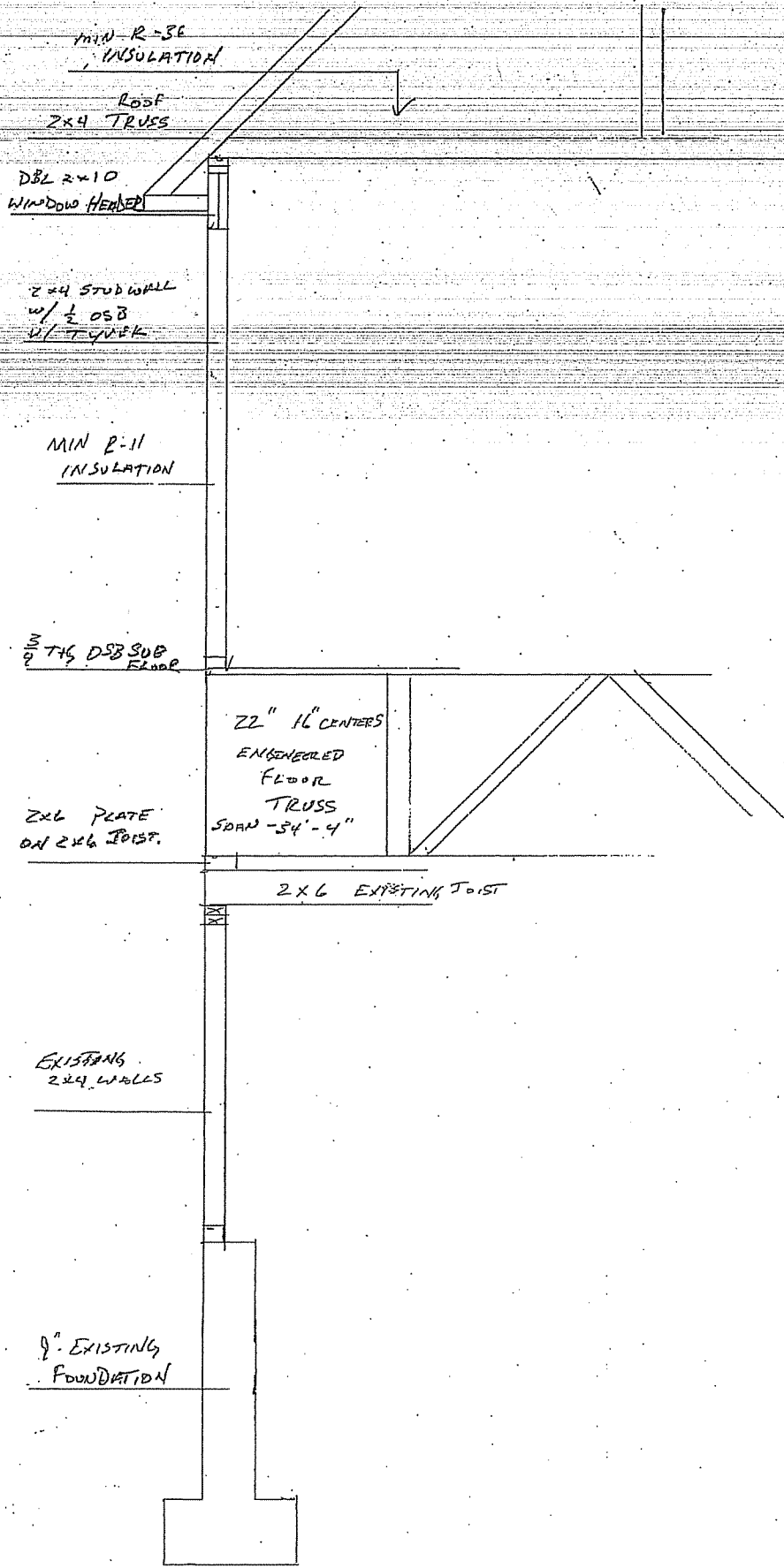


DATE	9-17-07
SCALE	1/4" = 1'-0"
DRAWN BY	MJD

Nicoas Construction
 824 Jameda Green Rd.
 Delorest, WI 53632

Mike & Jeanette Tierney
 5438 Lake Mendota Dr.
 Madison, WI 53708

WALL SECTION



MIN R-36
 INSULATION

ROOF
 2x4 TRUSS

DBL 2x10
 WINDOW HEADER

2x4 STUD WALL
 w/ 1/2 OSB
 V/T/W/E/K

MIN R-11
 INSULATION

2x6
 T/G DSB SUB
 FLOOR

22" 16" CENTERS
 ENSHEATHED
 FLOOR
 TRUSS
 SPAN - 54'-4"

2x6 PLATE
 ON 2x6 JOIST.

2x6 EXISTING JOIST

EXISTING
 2x4 WALLS

8" EXISTING
 FOUNDATION

DRAWN BY

DATE

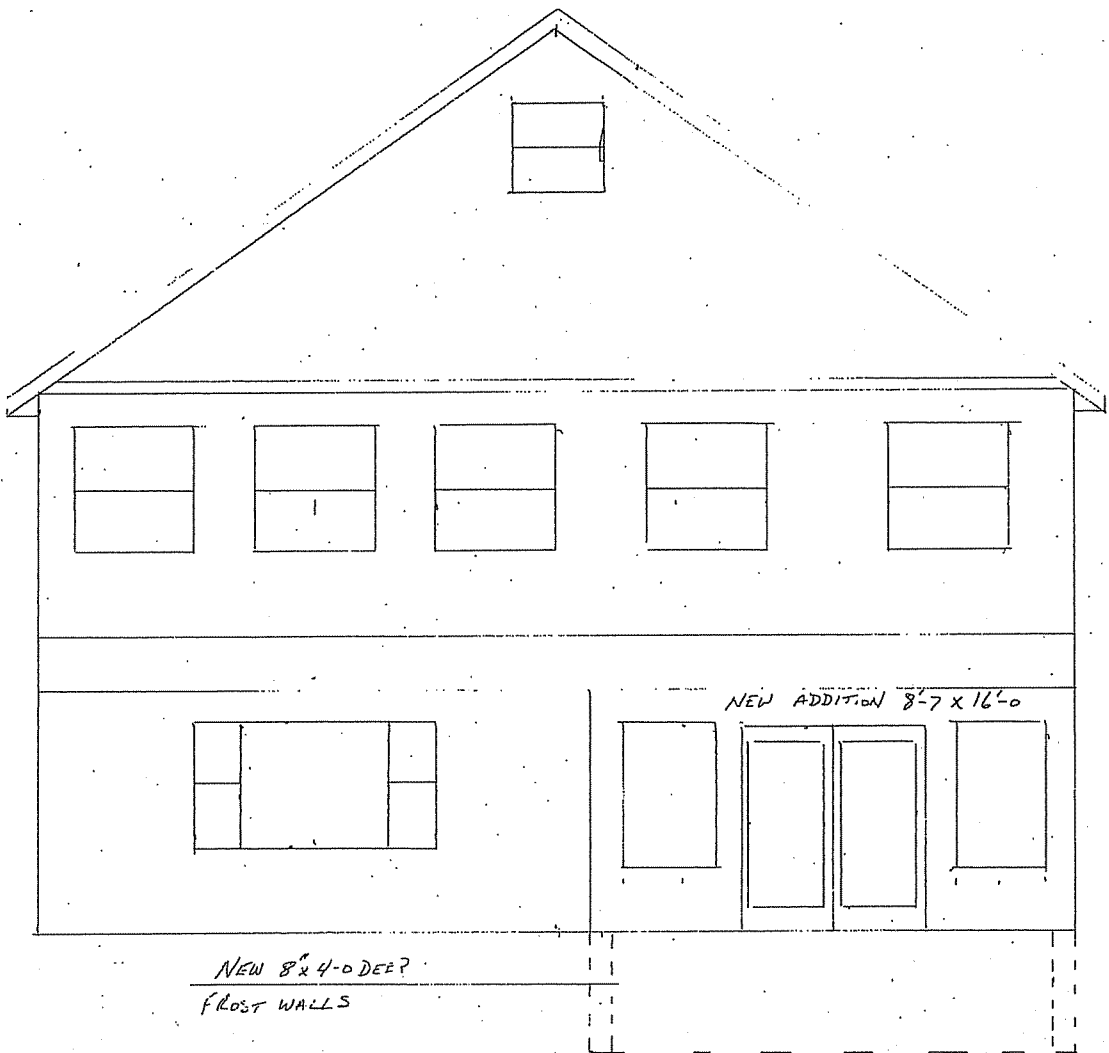
SCALE

1/2" = 1'-0"

Nikos Construction
 824 Lincoln Green Rd.
 DeForest, WI 53532

Mike & Jeanette Tierney
 6438 Lake Mendota Dr.
 Madison, WI 53708

BALSIDE ADDITION



W.H.	DRAWING BY	DATE	SCALE
		9-17-07	1/4" = 1'-0"

12" SOLAR TUBE

35-YR. SHINGLE
W/15LB FELT

9 / 12 / 36°
ROOF PITCH

TRUSS FLEATED ROOF
24" SW CENTER

8" FASCIA

NEW 2ND FLOOR
ADDITION

NEW ADDITION
8-7 X 16-0 137 SQ. FT.

NEW FIRST WALLS
48" DOWN +
CLEAN SPACE

NEW ENGINEERED FLOOR JOISTS 22" HBT

NEW WINDOW

EXISTING
FIRE PLACE

ELEVATOR
SHAFT

37-11

8-7

4-0

PROPOSED NORTH WEST ELEVATION

Mike & Jeanette Tierney
5438 Lake Mendota Dr.
Madison, WI 53708

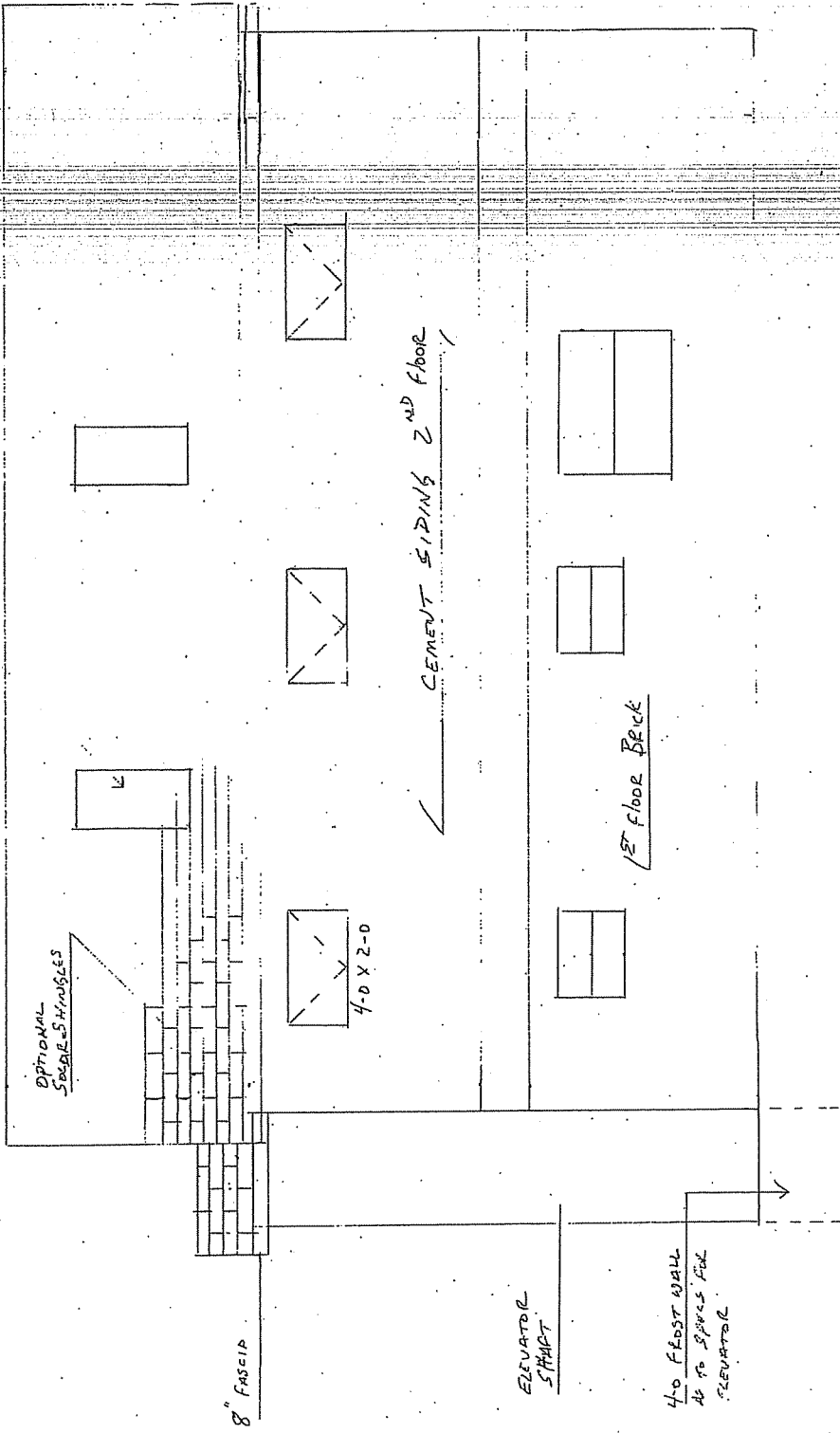
Nicoas Construction
824 Lincoln Green Rd.
DeForest, WI 53532

DRAWING BY
MFC

DATE
9-17-07

SCALE
1/4" = 1'-0"

NEW 2' x 4' SKYLIGHTS



CEMENT SIDINGS 2ND FLOOR

1ST FLOOR BRICK

ELEVATOR SHAFT

4-0 FEET WALL
4-0 TO SPACES FOR
ELEVATOR

SOUTH EAST ELEVATION

Mike & Jeanette Tierney
5498 Lake Mendota Dr.
Madison, WI 53708

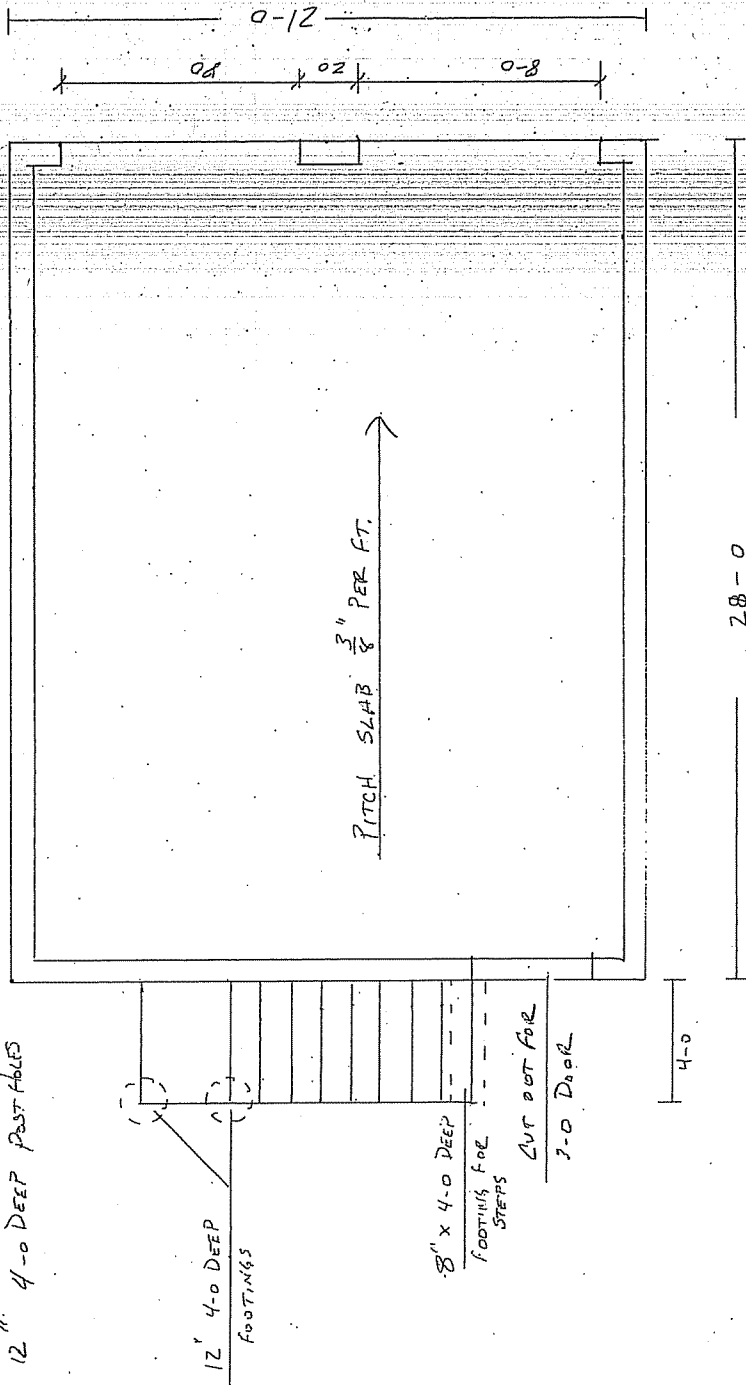
Nicoas Construction
824 Lincoln Green Rd.
DeForest, WI 53532

DRAWN BY	SCALE
MA	1/4" = 1'-0"
DATE	
9-17-06	

NOTES:

- 8" X 4-0 DEEP WALLS
- SLAB 4" COMPACT GRAVEL
2" FOAM OVER GRAVEL
PEX TUBING IN CONCRETE
4" CONCRETE

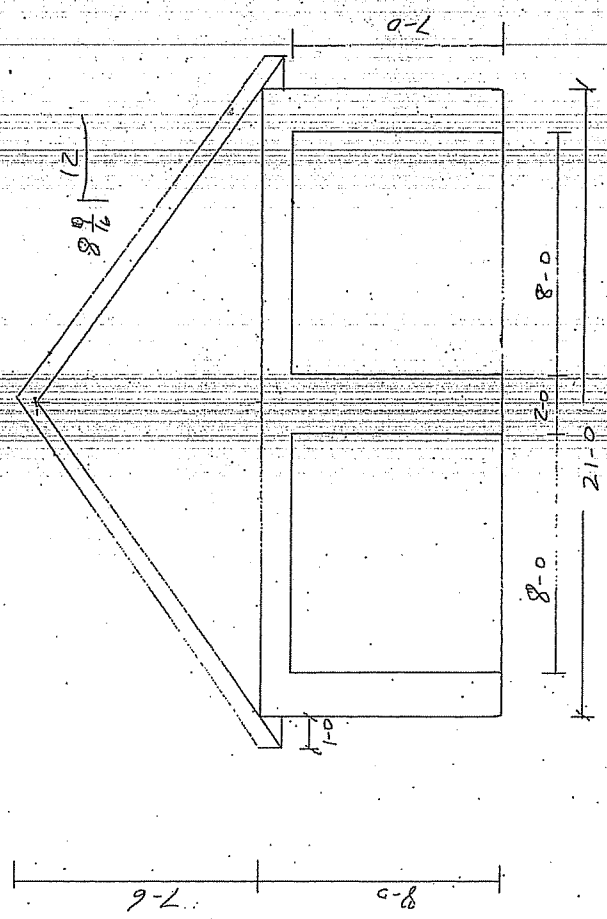
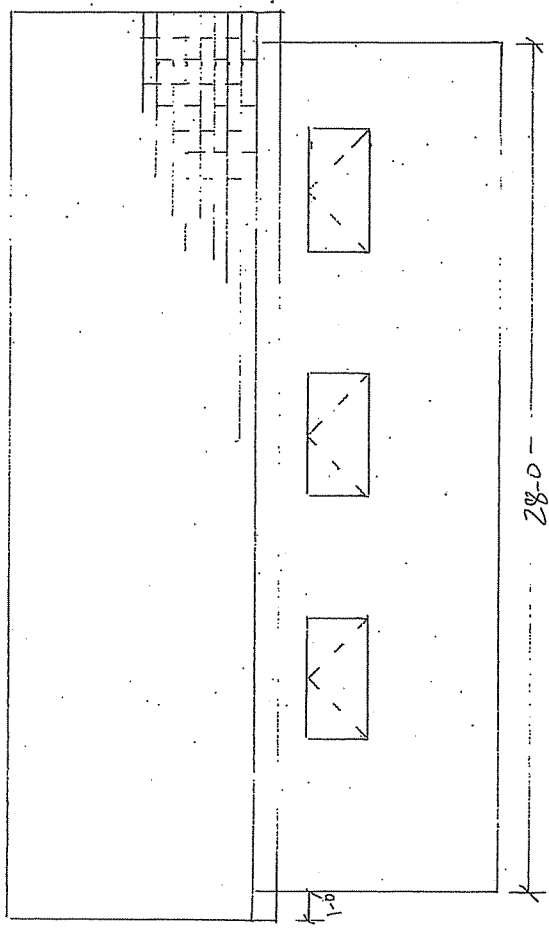
DECK 2 12" 4-0 DEEP POST HOLES



DRAWINGS BY	MHA	DATE	9-17-07
SCALE			$\frac{1}{4} = 1-0$
GARAGE CONCRETE PLAN			
<p>Mike & Jeanette Tierney 5438 Lake MENDOTA Dr. Madison WI 53705 608-238-9084</p>			

NOTES:

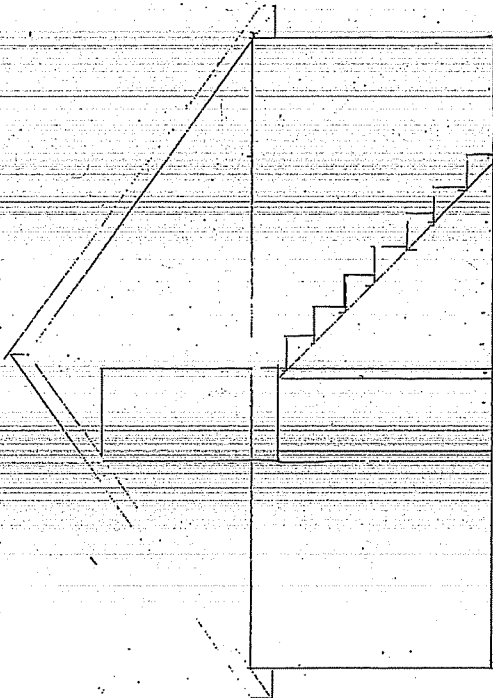
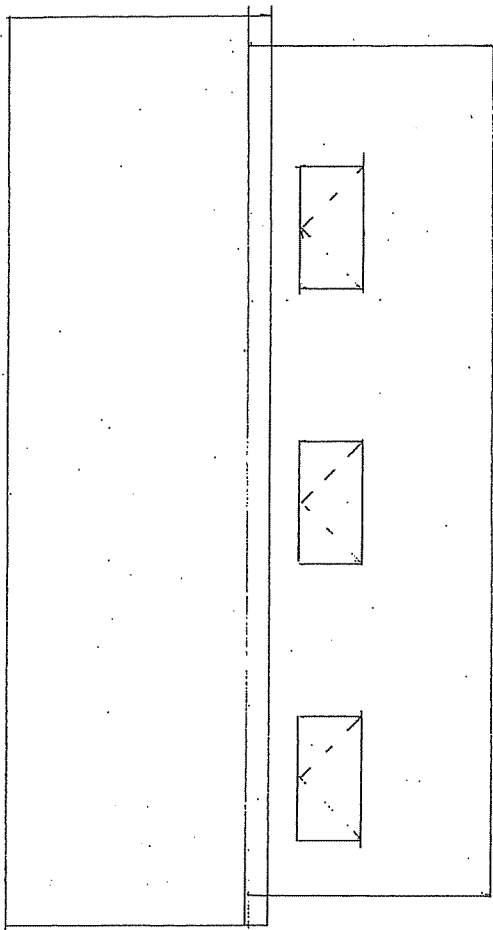
- BRICK VENEER LOWER LEVEL
- SIDING CEMENT BONED UPPER SABLE
- OPTIONAL STUCCO UPPER SABLE
- SOFFIT + FASCIA ARE WRAPPED IN ALUMINUM



Mike & Jeanette Tierney
 5438 Late MENDOTA Dr.
 Madison WI 53705
 608-238-9084

GARAGE ELEVATION

Drawn By	DATE	SCALE
MM	9-17-07	1/4" = 1'-0"



Mike & Jeanette Tierney
 5438 Lake MENDOTA Dr.
 Madison WI 53705
 608-238-9084

GARAGE ELEVATIONS

DRAWING BY M.H.	DATE 9-17-07	SCALE 1/4" = 1'-0"
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From TIERNEY100@aol.com

Sent Monday, September 24, 2007 4:58 pm

To district19@cityofmadison.com

Cc jmtierney@wisc.edu

Subject Permit denial for remodeling plan under 500 square ft and Plan Commission waiver

Attachments Hillis vers Fox Point 2004.pdf

61K

Greetings Alderperson Clear,

Thanks for agreeing to meet with us Tuesday morning to discuss a waiver signature we need to meet the October 3 submission date for a permit application to the Plan Commission. Yesterday, after a previous plan review earlier in the week, our contractor, Mike Housworth, owner of Nicolas Construction, presented the final requested setback measurements to the zoning department for our house addition building permit. The plan met all area and height requirements for waterfront development but zoning refused to issue it based on "volume" and is requiring we go to the Plan Commission. This places a burden on us but more importantly it appears to establish a new non-codified precedence for waterfront development. Of course we will go to the Plan Commission with the house plan if that is what it takes to get the house permit, and we are able to meet any new last minute requirements that might be before the October 3 submittal date. However, as part of their oversight role, we think it is important for the Madison City Council to establish what part of the zoning code addresses volume other than the volume that is already defined in the code by building height time area. We realize that maintaining the lake view is an issue that has been controversial in the Spring Harbor neighborhood and we are in agreement that variances that create a walled lakefront should be carefully considered because of the damage it does to the aesthetic/economic values of the neighborhood. However, we are not looking for any variances for this project. I wondered if you would ask if we have been singled out for this "volume" based permit refusal, or is this being asked of all other waterfront building permit applicants in Madison.

We have been planning this addition for several years and thought the issue regarding the ability to replace and add on less than 500 square feet on to the upper story of this 1938 vintage house had been resolved in Robert J. Hillis vs Village of Fox Point Board of Appeals - Appeal Number 2004AP001787. As we understand it, this March 2005 decision changed the treatment of formally non-complying properties like ours based on continuing use as a residence if they had been meeting zoning requirements prior to enactment of new ordinances establishing conditions they did not comply with. I have attached an electronic copy of this decision and these URLs of two news articles describing its impact. <http://www.news.wra.org/story.asp?a=212> http://www.boardmanlawfirm.com/muni_newsletter/muniMay05.pdf

We meet the zoning lakefront setback requirements, the side yard setbacks are ample at 20 ft and 11 feet; there is no change in the 1938 house footprint, no vegetation is disturbed and no change occurs in our current drainage. In fact Jeanette built a rain garden to accommodate roof runoff. Zoning agreed that we comply with the under 500 square ft addition requirement and we are well under the 35 ft (mid-gable) height requirement. The combination of compliance with the square footage and height give a maximum volume of an addition but in no part of the Zoning code is some unspecified volume addressed as a basis to deny a permit and require it to go to Plan Commission. The existing house square footage is what we have paid property taxes on for many years, not the volume. Our proposed building height is modest compared to our adjacent neighbor and similar to many other neighbor houses. The square footage is a **net area** second story addition of less than 500 Ft square. We tried to modify the existing gambrel roof but structurally it was not as reasonable to patch in new rafters and create code complying ceiling heights and improve energy efficiency as building a new a new second story with a net increase of under 500 square feet. We also just upgraded our furnace to a 96% efficient unit and the AC is far more efficient than existing window AC units. New Windows and doors, extra insulation (R50 ceiling) is being added beyond code requirements. We are removing no vegetation and are in fact, involved in restoring our lakefront to natural aquatic vegetation and building a more native plant populated lawn.

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There seems no code based justification to deny our house permit at this time and send it to the Plan Commission. The "volume" has been addressed by our compliance to the 500 square foot rule and height requirements. We have met the zoning code and we plan to go beyond the Plan Commission mailed hearing notice requirement (for all but one of our neighbor within 200') by talking with them and showing them our proposed plan. The plan is a lower profile house, no obstructing fences and we have and are working to maintain lake views along Lake Mendota Drive to a far greater extent than most other properties along Lake Mendota Drive.

Time is of the essence with the approaching winter and October 3 submittal deadline for the Plan Commission. We have signed a construction contract and believe it would be reasonable for a house permit to be issued at this time to prevent our financial damage to our remodeling project and the jobs of the carpenters building this addition in a tight construction market. Can you ask the City Attorney handling these matters if our denial, based on a non-defined term vaguely called "volume" (area X height), is defensible when we have complied with area and height requirements in the code that exempts us from.

We plan to submit plans for a garage and minor boathouse foundation repairs to the November 15th Plan Commission. If we have no choice, we will try to get our house plan submittal ready for the October 3, 2007 deadline for the meeting. I understand we need a signed waiver from you to meet that deadline. Our meeting is to inform you and see if we can resolve any questions that you might have. The Plan Commission authority only calls for a notice of a hearing mailed to neighbors within 200 ft. However, we plan to go well beyond this to visit most of these neighbors with both our house and garage plans to inform them and answer questions. Our neighbors to the west and some to the easterly side

already know in general terms that we are remodeling our house and building a garage. The Neighborhood Association was verbally informed we will be doing a house remodeling and garage addition. We are confident that the neighborhood will feel it is an improvement and will avoid/forestall the teardown of a 1932 cottage type home site that otherwise could be replaced by a 50 foot or so tall structure on a 66 ft. lot with big fences that wall off the lake to neighbors, walkers, runners, cyclers who enjoy our scenic drive.

Best Regards,

Mike and Jeanette Tierney
5438 Lake Mendota Drive
Madison, WI 53705
(608) 238-9084

(19) Waterfront Development . (Cr. by Ord. 4664, 8-5-74)

- (a) Statement of Purpose . This subsection is established to further the maintenance of safe and healthful conditions, prevent and control water pollution, protect spawning grounds, fish and aquatic life by controlling building sites, the placement of structures and land users and reserving shore cover and natural beauty for all waterfront and shoreland development.
- (b) General Regulations . The following regulations shall apply to all new development except a Civic Auditorium Complex. No building permit shall be issued for any new development of a waterfront or shoreland zoning lot without first obtaining a conditional use permit therefore. For purposes of this section, new development shall be a new principal building, an addition or additions to an existing principal building totaling in excess of five hundred (500) square feet of floor area during any ten (10) year period, or an accessory building. The conditional use permit shall be issued pursuant to the procedure set forth in Section 28.12(11) of this ordinance. In addition to the review standards set forth in Subdivision (g) therein all waterfront development shall be subject to the following standards. (Am. by Ord. 10,713, 8-27-93; Ord. 12,598, 3-3-00; ORD-05-00191, 12-20-05)
1. For purposes of this section, the existing development pattern shall mean the average setback of the five (5) developed zoning lots to each side of the proposed development lot. For all zoning lots, the principal building setback shall be not less than the existing development pattern. (Am. by Ord. 12,598, 3-3-00)
 2. Upon the filing of an application for a conditional use permit, the development plan shall show a complete inventory of shoreline vegetation in any area proposed for building, filling, grading or excavating. In addition, the development plan shall indicate those trees and shrubbery which will be removed as a result of the proposed development. The cutting of trees and shrubbery shall be limited in the strip thirty-five (35) feet inland from the normal waterline. On any zoning lot not more than thirty percent (30%) of the frontage shall be cleared of trees and shrubbery. Within the waterfront setback requirements tree and shrub cutting shall be limited by consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.
 3. Any building development for habitation shall be served with public sanitary sewer.
 4. Filling, grading and excavation of the zoning lot may be permitted only where protection against erosion, sedimentation and impairment of fish and aquatic life has been assured. (Am. by Ord. 12,183, 8-31-98)
 5. Where the City's adopted Master Plan includes a pedestrian walkway or bike path along the shoreline, the proposed development shall not interfere with its proposed location.
 6. Construction of marine retaining walls or bulkhead may be permitted providing such construction does not protrude beyond the established shoreline of the adjacent properties. Said retaining walls and bulkheads will be permitted only for the purpose of preventing shoreline recession. The filling and grading of the shoreline shall occur only in the construction of such retaining walls or bulkheads.
 7. In addition to complying with the above standards, boathouses shall not be constructed for human habitation.
- (c) Waterfront Development Less than 500 Square Feet . All development less than 500 square feet in floor area on the water side of an existing building, including additions to an existing building, shall conform to the setback requirements in Sec. 28.04(19)(b)1. above. (Cr. by Ord. 11,591, 6-3-96)

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From: JLoewi@aol.com

Sent: Wednesday, September 26, 2007 2:22 pm

To: district19@cityofmadison.com

Cc: k2berly2@hotmail.com , cdunning@usgs.gov , Fitzengr@aol.com , sharybisgard@charter.net , JLoewi@aol.com , carriedellinger@charter.net , jmtierney@wisc.edu , dbally@capital-fire-security.com , jiyanna@att.net , ssmiley1@charter.net

Subject: Re: Info on Tierney project

Mark,

The Tierney's did call and meet with me this morning regarding their plans. As mentioned, they hope to expand the second floor of their existing home by changing from a gambrel roof to a conventional pitched roof, and adding a small portion over an existing one story portion of their home. Also, they hope to add a separate garage, and repair their boat house.

They mentioned that they were originally told they could do the second story construction without going to the plan commission as it adds less than 500 sf of space, but they were just recently told this is not the case. I'm not sure if this was because of the additional area added by the change from a gambrel roof, which I believe typically adds square footage to the home, or if it's because zoning thought it best to consider the garage project at the same time. I'll try to call zoning to get some clarification.

In my role as I see it, to warn of possible questions that may come up as they go through the Conditional Use approval process, I mentioned that there may be concern about adding a detached garage to this site. Questions may arise about having that many structures on a property: I'm not sure what zoning allows. In addition to their residence, there currently is also a residence that has been used as an income property, a shed, and a small boat house on the property. Historically I was told that when either the house or income property was changed that the other of these two structures would have to be removed. The Tierney's believe this has changed, referring to the court case you forwarded to me (from them). I'm not sure how that court case is relevant in this situation: that seems to be an issue for attorneys. From the article they sent:

"The Court did not declare that local units of government have no authority to regulate homes or structures that do not conform to a setback or other dimensional requirement (referred to as "nonconforming structures"). While this authority may exist, the Court stated that such authority is not found in the nonconforming use statutes. "

They mentioned they have requested a review by the city attorney. I would like to receive a copy of the opinion when it's issued.

It is my understanding from them that they would like to submit the request for the remodel and addition to the second floor of their home and the request for the construction of a new garage structure (with limited plumbing), and repair of their existing boat house at the November 15 Plan Commission meeting, and that they need a waiver of the 30 day notice requirement from you to do so. As we've mentioned in other recent requests, the SHNA Board has in the past encouraged the Alder not to waive 30 day notices (although it has been done when a project does not appear controversial). This is not personal to this project, and we understand you have the right to issue a waiver if you believe it's appropriate.

I applaud the Tierney's efforts to limit the size of the proposed addition to their house, keep the existing house in tact, and to make the home as "green" as possible. They mentioned they will approach as many neighbors as they can with information. I look forward to seeing final plans and elevations which include the proposed garage structure.

Regards,
Janet Loewi
President, Spring Harbor Neighborhood Association

In a message dated 9/25/2007 2:43:22 P.M. Central Daylight Time, district19@cityofmadison.com writes:

This is mostly about the house; mention of the garage and boathouse is at the end. My understanding is that will be a separate submittal.

Mark C.

Alder Mark Clear
19th District, Madison, WI
district19@cityofmadison.com
608-310-8792

From: TIERNEY100@aol.com [mailto:TIERNEY100@aol.com]
Sent: Mon 9/24/2007 4:58 PM
To: Clear, Mark
Cc: jmtierney@wisc.edu
Subject: Permit denial for remodeling plan under 500 square ft and Plan Commission waiver

Greetings Alderperson Clear,

Thanks for agreeing to meet with us Tuesday morning to discuss a waiver signature we need to meet the October 3 submission date for a permit application to the Plan Commission. Yesterday, after a previous plan review earlier in the week, our contractor, Mike Housworth, owner of Nicolas Construction, presented the final requested setback measurements to the zoning department for our house addition building permit. The plan met all area and height requirements for waterfront development but zoning refused to issue it based on "volume" and is requiring we go to the Plan Commission. This places a burden on us but more importantly it appears to establish a new non-codified precedence for waterfront development. Of course we will go to the Plan Commission with the house plan if that is what it takes to get the house permit, and we are able to meet any new last minute requirements that might be before the October 3 submittal date. However, as part of their oversight role, we think it is important for the Madison City Council to establish what part of the zoning code addresses volume other than the volume that is already defined in the code by building height time area. We realize that maintaining the lake view is an issue that has been controversial in the Spring Harbor neighborhood and we are in agreement that variances that create a walled lakefront should be carefully considered because of the damage it does to the aesthetic/economic values of the neighborhood. However, we are not looking for any variances for this project. I wondered if you would ask if we have been singled out for this "volume" based permit refusal, or is this being asked of all other waterfront building permit applicants in Madison.

We have been planning this addition for several years and thought the issue regarding the ability to replace and add on less than 500 square feet on to the upper story of this 1938 vintage house had been resolved in Robert J. Hillis V. Village of Fox Point Board of Appeals - Appeal Number 2004AP001787. As we understand it, this March 2005 decision changed the treatment of formally non-complying properties like ours based on continuing use as a residence if they had been meeting zoning requirements prior to enactment of new ordinances establishing conditions they did not comply with. I have attached an electronic copy of this decision and these URLs of two news articles describing its impact. <http://www.news.wra.org/story.asp?a=212>
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Best Regards,

Mike and Jeanette Tierney
5438 Lake Mendota Drive
Madison, WI 53705
(608) 238-9084

(19) Waterfront Development . (Cr. by Ord. 4664, 8-5-74)

(a) Statement of Purpose . This subsection is established to further the maintenance of safe and healthful conditions, prevent and control water pollution, protect spawning grounds, fish and aquatic life by controlling building sites, the placement of structures and land users and reserving shore cover and natural beauty for all waterfront and shoreland development.

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From: TIERNEY100@aol.com

Sent: Thursday, September 27, 2007 6:37 pm

To: district19@cityofmadison.com

Cc: jmtierney@wisc.edu, mhouswerth@yahoo.com

Subject: Re: Your house and garage project/reply

Alderpersion Clear:

Thank you for your outline of how to proceed. Jeanette and I spoke to Janet Lowe Wednesday and Mr. Tim Parks today. From what we can determine, it sounds like a very workable solution you and he propose for taking the entire remodeling project to the November 19th Plan Commission while looking at the issues we raised. We have some final design work to do for the garage addition and some house design revisions but we will make it on time. We will also be requesting some building permits for immediately replacing doors and windows, improving crawlspaces, and doing some bathroom work in case anyone has concerns that we have jumped the gun on the conditional use permits. We would apply for an over the counter permit to do this inside work regardless of whether the conditional use permit is granted.

Would you like a formal hardcopy request letter for a waiver of the 30 day waiting period or did our email correspondence suffice?

Mr Parks also noted we should discuss the garage sewer and water plans with the City Engineering department to obtain a sewer connection permission and we gave him assurances our garage loft was primarily for storage, since we had limited basement storage available along the lakeshore.

Janet Lowe sent correspondence to the SHNA about the status of our project and we will be certain she gets a complete copy of our plans as we submit the application before the October 2 deadline.

We will also meet with our neighbors within the 200 ft radius to explain our project well before the hearing.

We have a social issue with our neighbors immediately to the east, in that we are unable to communicate with them. This was at their request and occurred some time back. We will send them a note to describe what we intend to do soon, so they hear about our plans before they get the hearing notice letter from planning. The project should be a big improvement in appearance from their viewpoint and we have incorporated high placed clerestory windows and skylights to the eastside in our plans to help reestablish some of the privacy that once existed between these formally wooded lot lines.

I have been in contact with Focus on Energy, MG&E and our electrician to see if we can make the 10 KW photovoltaic system a reality. We are also looking at affordability of a solar hot water system. So far, it looks hopeful that we will be able to install both technologies. We will include the location of the photovoltaic roofing and solar hot water as a possibility in the application plans.

We discussed setting precedence with Mr Parks regarding the waterfront development ordinance and I believe we agreed the issue deserved a close look. Over the years we had carefully looked at this issue and the idea that it was net square footage that was involved appeared to be the policy. The gambrel roofed area is all heated and used like any other closet area that is taxed as living space. The approach we took allowed us to bring all of the upstairs into compliance with building codes and make the upper story more attractive. We took an old 1938 house and are making it a highly efficient and attractive home that still fits the character of the neighborhood. I hope we are accurate that he noted zoning (and I presume their attorneys) will examine the issue after our Plan Commission application and see if the house plan permit could have been issued as a normal building permit.

Our appreciation for your public service.

Mike and Jeanette Tierney
5438 Lake Mendota Drive
Madison, WI 53705
(608) 238-9084

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From tierney100@aol.com

Sent Saturday, September 29, 2007 1:38 pm

To: district19@cityofmadison.com

Cc: mhouswerth@yahoo.com, jmtierney@wisc.edu, JLoewi@aol.com

Subject: Fwd: 5438 Lake Mendota Drive/reply

I embedded our reply in the message you sent.

-----Original Message-----

From: Clear, Mark <district19@cityofmadison.com>

To: TIERNEY100@aol.com; Parks, Timothy <TParks@cityofmadison.com>; Tucker, Matthew <MTucker@cityofmadison.com>

Sent: Fri, 28 Sep 2007 6:01 pm

Subject: 5438 Lake Mendota Drive

Mike,

You may consider this e-mail notification of my consent to the waiver for your project. Here are my conditions/recommendations, some (maybe all?) of which you have already done:

1. Meet with planning staff to explain your project and seek their guidance. Provide a copy of the plans (even if preliminary). [Jeanette and I spoke at length with Tim Parks on Thursday and he felt we had fulfilled the preliminary meeting intent. We are making final revision of plans this weekend and I will get a PDF copy of plans to them as soon as we get them scanned, which should be Monday or early Tuesday.]
2. Notify the neighborhood association president and provide a copy of the plans. Ask if they would like you to hold a neighborhood meeting. If yes, invite me too. [We spoke to Janet Loewi Wednesday and noted the possibility of a neighborhood meeting. We have cc'd her on this correspondence so she can determine if a neighborhood meeting is something she would want to seek.]
3. Notify each of your adjacent neighbors and provide them with a copy of the plans. If possible, solicit letters of support which you can include with your submission to Plan Commission. [We have spoken to several neighbors recently and over the past several years regarding our general plans to remodel our house and build a garage and the reaction was positive. When our neighbors at 5434/5436 started their house addition a couple of years ago we had told them of our intentions to build a garage and remodel our home and we will inform them again as a condition for the waiver. We will have the elevation views and a plot plan, similar to those the city sends neighbors as part of its variance process, ready by the submission deadline on Wednesday, October 3rd. We will then share them with adjacent neighbors. I also understand that the city now provides the detailed signs posted 21 days prior to the public hearing. This comparatively modest garage and house remodeling does not require a variance but we would have, as a matter of courtesy, provided a heads up to our neighbors regarding the design. We will ask if they would be willing to take the time to submit a support letter before the November 19th Plan Commission meeting]

Good luck and let me know if I can be of further help.

Mark C.

Alder Mark Clear
19th District, Madison, WI
district19@cityofmadison.com
608-310-8792

Addendum: Tim Parks mentioned that they would get a legal opinion when they have a final plan. (I assume from the City Attorney's office), regarding if our less than 500 sq. foot house addition should be considered a conditional use. Madison is build around the lakes so we assume the waterfront development code is commonly used and evenly applied. If the determination is made that this house addition is not a conditional use then the application to the Plan Commission will be revised to involve only a 2 stall garage and perhaps some foundation reinforcements for our boathouse. We think there is an important principle here to resolve as well as the assurance of equitable treatment.
Thanks

Email and AIM finally together. You've gotta check out free AOL Mail!

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