



CITY OF ORONO

Street Address:
2750 Kelley Parkway
Orono, MN 55356

Mailing Address:
P.O. Box 66
Crystal Bay, MN 55323

Telephone (952) 249-4600
Fax (952) 249-4616
www.ci.orono.mn.us

23 August 2022

Courtney Paulson
1090 Wildhurst Trl
Mound, MN 55356

**RE: Original Variance File #LA21-000048; Resolution No. 7214
Approval Extension File #LA22-000044**

By Resolution No. 7214, the Orono City Council granted approvals for average lakeshore setback, hardcover, and side yard setback for the property addressed 1090 Wildhurst Trail (File #LA21-000048). We have received your request dated August 16, 2022 for an extension of the approval which was to expire on September 13, 2022.

Pursuant to City Code Section 78-129 staff may grant a 12-month extension of the approval granted by Resolution No. 7214. Because nothing has changed since the time of the original request approval your extension approval has been granted. Your variance will now expire on **September 13, 2023**. The terms and approvals granted in Resolution No. 7214 (attached) still apply.

Any subsequent request for an additional 12-month extension beyond September 13, 2023 must be received at least 60 days prior to the new expiration date. Please note, this additional 12-month extension will be at the discretion of the City Council. Please contact me at 952.249.4627 or at mcurtis@ci.orono.mn.us if you have any questions.

Sincerely,

CITY OF ORONO

Melanie Curtis
Planner

Attachment



LAND TYPE Torrens (T)

DOC NUM 5892236

Certified, filed and/or recorded on
Oct 29, 2021 2:21 PM

Office of the Registrar of Titles
Hennepin County, Minnesota
Amber Bougie, Registrar of Titles
Mark Chapin, County Auditor and Treasurer

Deputy 144

Pkg ID 2344952E

Document Recording Fee	\$46.00
------------------------	---------

<i>Document Total</i>	\$46.00
------------------------------	----------------

Existing Certs
1516748



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7214

**A RESOLUTION
APPROVING VARIANCES FROM
MUNICIPAL ZONING CODE
SECTIONS 78-330; 78-1279; 78-1700**

FILE NO. LA21-000048

WHEREAS, on June 23, 2021, Courtney Paulson (hereinafter the "Applicant"), applied for variances from the City Code for the property addressed **1090 Wildhurst Trail** and legally described as:

Lot 7, Tonkaview Gardens Hennepin County Minnesota except that part of the Southerly 15 feet of said Lot 7 lying Westerly of the following described line: Commencing at the Southwesterly corner of said Lot 7; thence Easterly along the Southerly line of said Lot 7 a distance of 55 feet to the point of beginning of the line being described; thence deflecting left 104 degrees 54 minutes to the Northerly line of said Southerly 15 feet and there ending, Hennepin County, Minnesota (hereinafter the "Property");

WHEREAS, the Applicant has made application to the City of Orono for variances to Orono Municipal Zoning Code Section 78-330 to allow a second story addition to be constructed above the existing home footprint 2.6 feet from the north lot line and construct a new deck within the required 7.5 foot side setback; and

WHEREAS, the Applicant has made application to the City of Orono for variance to Orono Municipal Zoning Code Section 78-1279 to allow the new second story and new deck to encroach entirely lakeward of the average lakeshore setback line; and

WHEREAS, the Applicant has made application to the City of Orono for variance to Orono Municipal Zoning Code Section 78-1700 to allow reduction of 105 square feet of hardcover as part of the project resulting in 31.0% hardcover where 31.6% currently exists and 25% is the maximum permitted by Code; and

WHEREAS, on July 19, 2021, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

WHEREAS, on July 19, 2021, the Planning Commission recommended approval of the variances subject to the new deck meeting the 7.5 foot side yard setback; and



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7214

WHEREAS, on August 23, 2021, the City Council reviewed the application reviewed the application and the recommendations of the Planning Commission and City staff, including changes made to the deck footprint by the Applicant resulting in a 2.8 foot side yard setback from the north lot line, and directed preparation of findings for approval of the variances; and

NOW, THEREFORE, BE IT RESOLVED that on September 13, 2021, the City Council of Orono, Minnesota hereby approves the requested variances as described above based on one or more of the following findings of fact concerning the Property:

FINDINGS OF FACT:

1. This application was reviewed as Zoning File #LA21-000048. The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.
2. The Property is located in the LR-1B One Family Lakeshore Residential Zoning District.
3. The Property contains 0.47 acres in area and has a defined lot width of 61 feet.
4. The Property is within Tier 1 and hardcover is limited to 25% according to the Stormwater Quality Overlay District.
5. Applicant has applied for the following variances:
 - a. Side Yard Setback Variance
 - b. Hardcover Variance
 - c. Average Lakeshore Setback Variance
6. In considering this application for variances, the Council has considered the advice and recommendation of the Planning Commission and the effect of the proposed variances upon the health, safety and welfare of the community, existing and anticipated traffic conditions, light and air, danger of fire, risk to the public safety, and the effect on values of property in the surrounding area.

ANALYSIS:

1. "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance" The requested hardcover level (with proposed reductions), side setback, and average lakeshore setback variances are in harmony with the Ordinance. The existing home is entirely lakeward of the average lakeshore setback line. The neighbors have not indicated that the upward expansion will negatively impact



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7214

their existing views of the lake, and new hardcover resulting from the new deck will be offset by removals.

2. "Variances shall only be permitted . . . when the variances are consistent with the comprehensive plan." The requested average lakeshore setback, side yard setback, and hardcover variances are consistent with the Comprehensive Plan. The deck results in a new average lakeshore setback encroachment beyond the existing footprint, however does not appear to further impact the adjacent neighbors' views from the north side.
3. "Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. 'Practical difficulties,' as used in connection with the granting of a variance, means that:
 - a. *The property owner in question proposes to use the property in a reasonable manner, however, the proposed use is not permitted by the official controls.*

The request to expand the volume of the existing nonconforming home upwards with the addition of a deck lakeward of the average lakeshore setback appears to be reasonable on the Property as there are no options for a conforming expansion of any portion of the home. The curved shoreline and extreme setbacks of the neighboring homes result in the existing non-conforming condition. The Applicant has proposed 105 square feet of hardcover removals to offset the new deck hardcover.

- b. *The plight of the landowner is due to circumstances unique to his property not created by the landowner.*

The location of the existing home, the curved shoreline, and extreme setback location of the neighboring homes, and existing hardcover are conditions not created by the landowners; and

- c. *The variance, if granted, will not alter the essential character of the locality."*

It does not appear that the requested average lakeshore setback variance to expand the home over the existing footprint will adversely impact views of the lake currently enjoyed by the adjacent property owners or alter the character of the locality as many of the homes in the neighborhood have a 2nd story. Further, the Applicant's proposed hardcover removals will offset the new hardcover resulting from the deck.

4. "Economic considerations alone do not constitute practical difficulties." Economic considerations have not been a factor in the variance approval determination.



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7214

5. "Practical difficulties also include but are not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in Minn. Stat. § 216C.06, subd. 2, when in harmony with Orono City Code Chapter 78." This condition is not applicable.
6. "The board or the council may not permit as a variance any use that is not permitted under Orono City Code Chapter 78 for property in the zone where the affected person's land is located." This condition is not applicable, as residential improvements are allowed in the LR-1B District.
7. "The board or council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling." This condition is not applicable.
1. "The special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property." The location of the existing improvements on the Property, the orientation and extreme setback of the location of the neighboring homes, and existing hardcover are conditions unique to the Property.
8. "The conditions do not apply generally to other land or structures in the district in which the land is located." The location of the existing improvements on the Property and the orientation and extreme setback of the home to the south are conditions unique to the Property.
9. "The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant." The existing home is nonconforming with respect to the average lakeshore and side yard setbacks. There are no options for a conforming expansion of the home's footprint or volume upward that do not require variances. The variances are necessary.
10. "The granting of the proposed variance will not in any way impair health, safety, comfort or morals, or in any other respect be contrary to the intent of this chapter." Granting the requested variances will not adversely impact health, safety, comfort, or morals; nor will it be contrary to the intent of the Code.
11. "The granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable difficulty." The average lakeshore setback line on the Property eliminates the options for expanding and/or improving the home; the granting of the requested variances are necessary to alleviate a practical difficulty resulting from the location of the existing home in relation to the neighboring homes. The existing



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7214

hardcover exceeds permitted levels; the Applicant's proposed removals will result in a 105 square foot reduction.

CONCLUSIONS, ORDER AND CONDITIONS:

Based upon one or more of the above findings, the Orono City Council hereby grants variances to Orono Municipal Zoning Code Section 78-330; and a variance to Section 78-1279 to allow the new second story and new deck to encroach entirely lakeward of the average lakeshore setback line; and a variance to Section 78-1700 to allow reduction of 105 square feet of hardcover as part of the project resulting in 31.0% hardcover where 31.6% currently exists and 25% is the maximum permitted by Code to allow a second story addition to be constructed above the existing home footprint 2.6 feet from the north lot line and to construct a new deck 2.8 feet from the north lot line where a 7.5 foot setback is required, subject to the following conditions:


1. Council approval is based on the entire record, above Findings.
2. The approved project shall conform to the survey dated 08/23/2021 and building plans submitted by the Applicant and annotated by City staff, attached to this Resolution as **Exhibits A & B**.
3. Any amendments to the plans which are not in conformity with City codes may require further Planning Commission and City Council review.
4. Authorities granted by this resolution run with the Property not with the Applicants, but are permissive only and must be exercised by obtaining a building permit for the new construction and commencing construction of said project. A building permit must be obtained within one year of the date of Council approval, or the variance will expire on that date (September 13, 2022).
5. Violation of or non-compliance with any of the terms and conditions of this resolution may result in the termination of any authority granted herein.

ADOPTED by the Orono City Council on this 13th day of September 2021.

ATTEST:

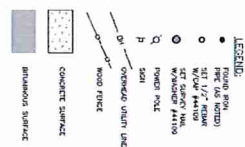

Anna Carlson, City Clerk

CITY OF ORONO:


Dennis Walsh, Mayor

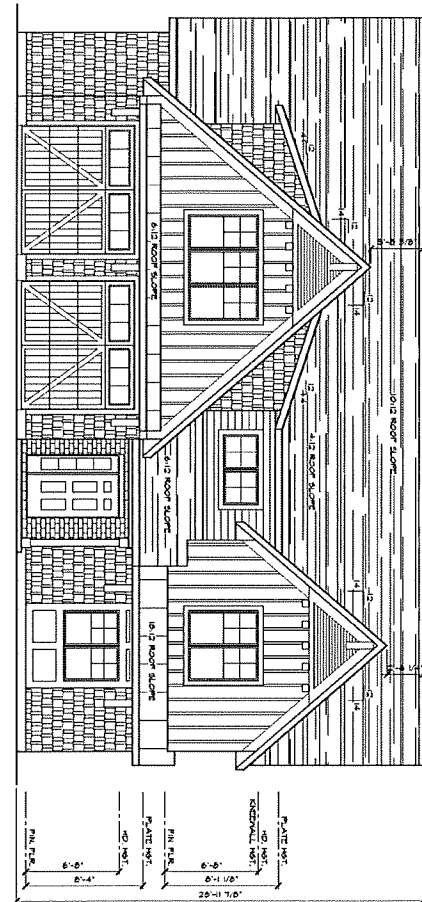
PREPARED FOR:
COURTNEY MARIE PAULSEN
CASEY LEE PAULSEN
1090 WILDMANST TR
WOUND MT 55364

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) ADDRESS OF THE SUBJECT PROPERTY:
P.L.D.: 07-117-23-24-0041
- 3) PARCEL AREA (ABOVE ORDINARY HIGH WATER LINE): 20,652 SQ. FT.
- 4) BEARING BASIS IS ASSUMED.
- 5) DATE OF FIELDWORK: 6-16-2021

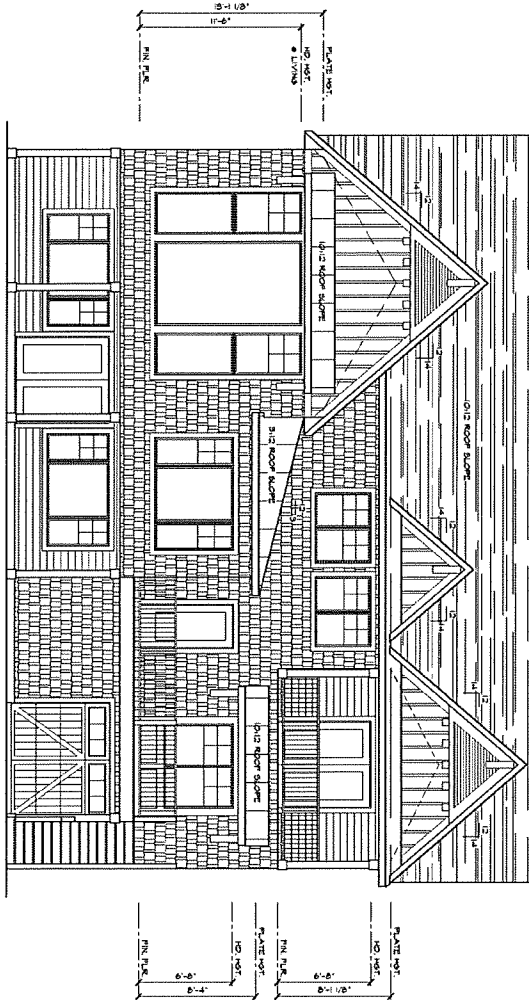


PROPOSED HARDCOVER CALCULATIONS:	
HOUSE (INCLUDING CANTILEVER):	2942 SQ. FT.
DECK/PAT:	2247 SQ. FT.
CONCRETE GARAGE APRON:	86 SQ. FT.
COVERED CONCRETE STOOP:	44 SQ. FT.
PATIOS:	119 SQ. FT.
SCREEN:	228 SQ. FT.
TOTAL:	5406 SQ. FT. OR 31.0%

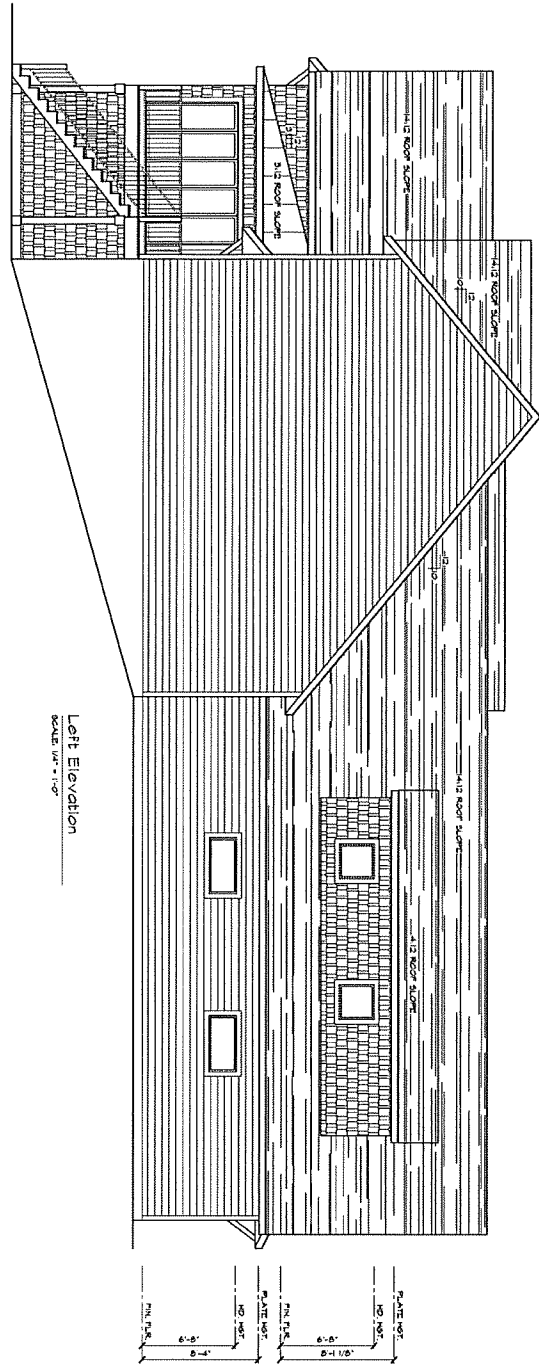
DATE	1/20/21	ISSUED	6-13-2021
DRAWN BY	PMW	REV	0-12-2021
SCALE: 1"=20' FEET			



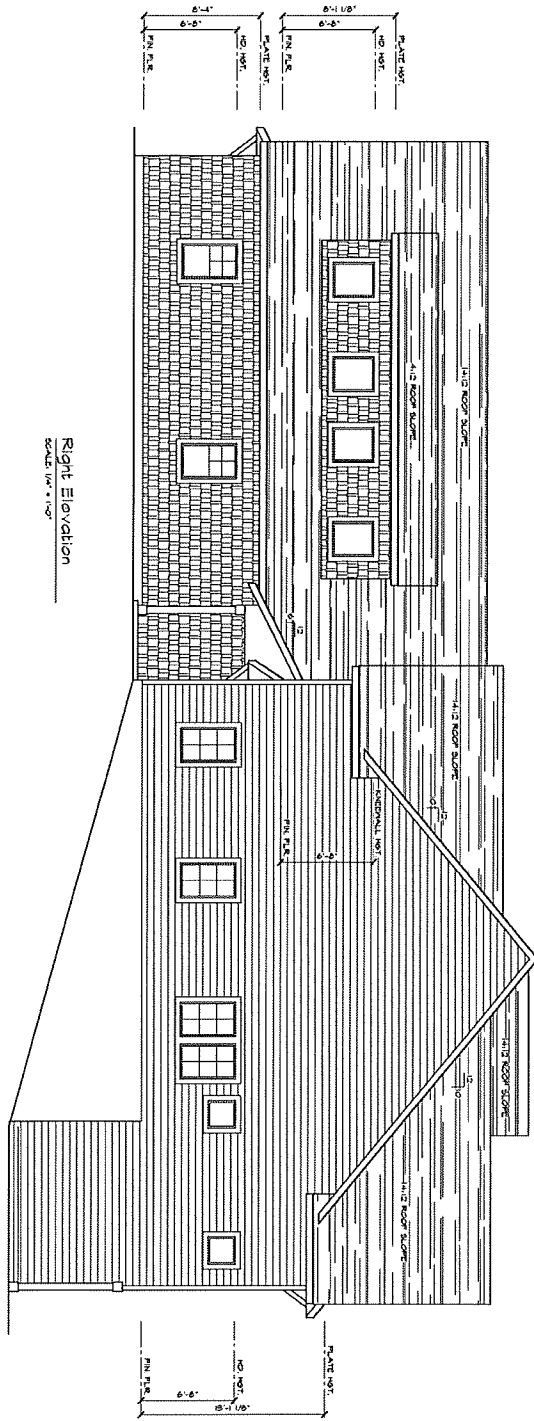
Front Elevation
SCALE: 1/4\"/>



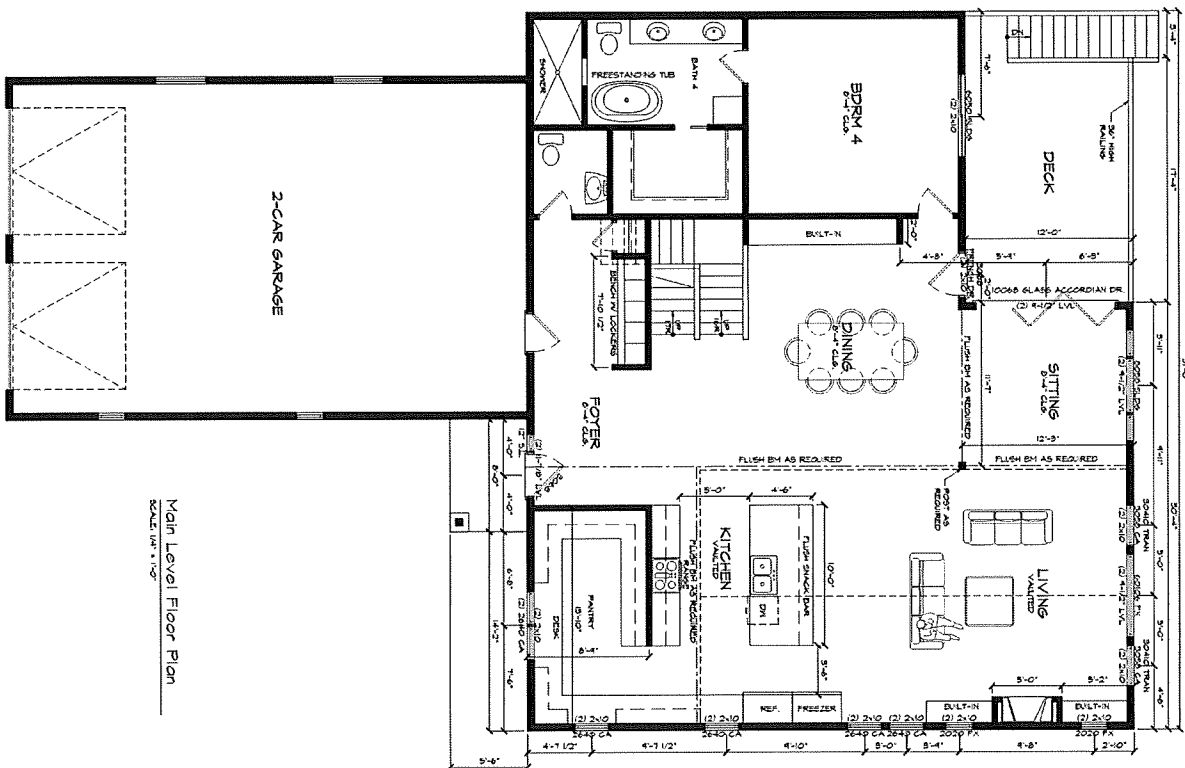
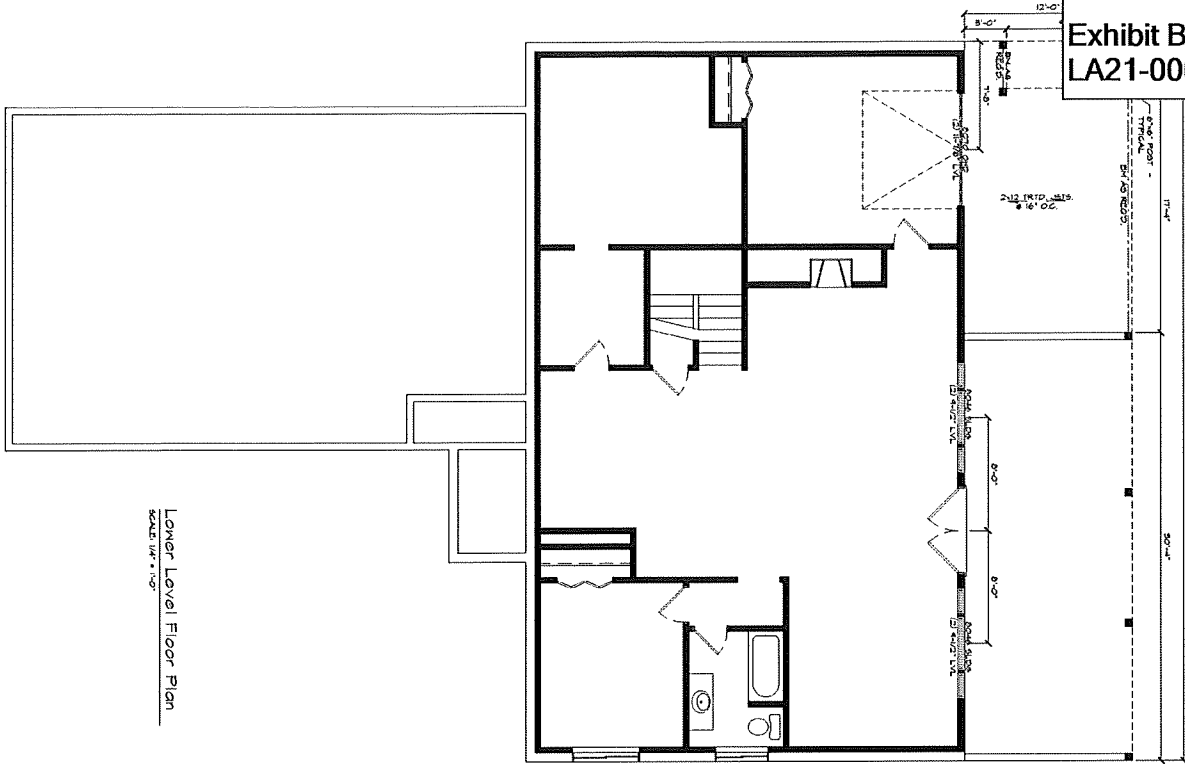
Rear Elevation
SCALE: 1/4\"/>

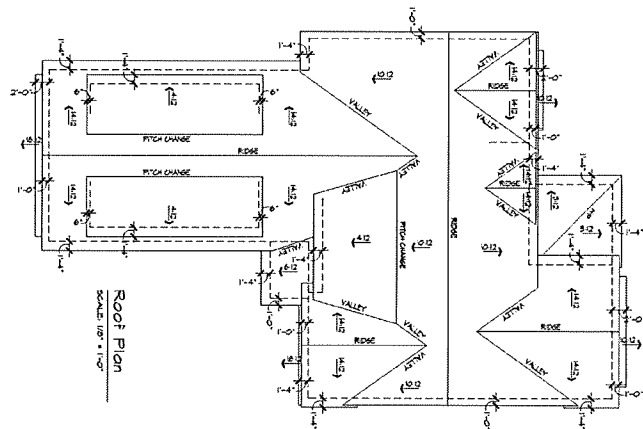


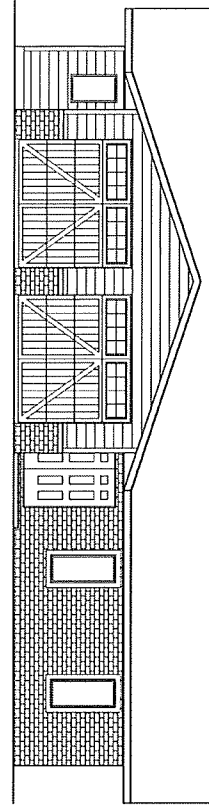
Left Elevation
SCALE 1/4" = 1'-0"



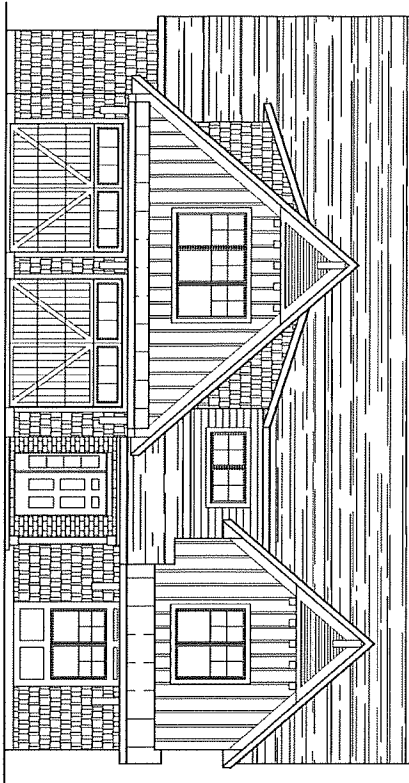
Right Elevation
SCALE 1/4" = 1'-0"



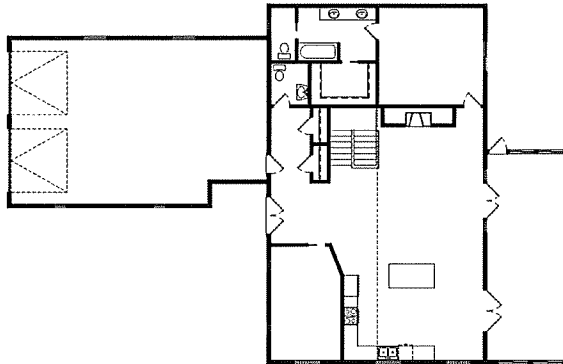




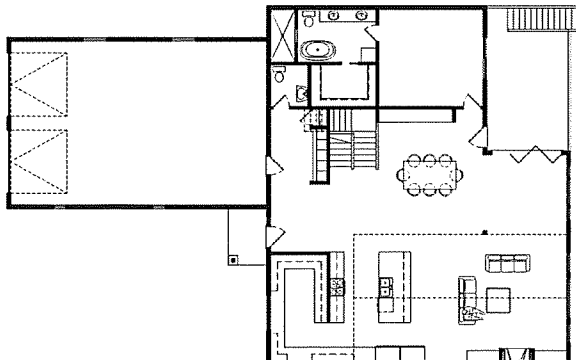
Existing Front Elevation
SCALE 1/4" = 1'-0"



Proposed Front Elevation
SCALE 1/4" = 1'-0"



Existing Floor Plan
SCALE 1/8" = 1'-0"



Proposed Floor Plan
SCALE 1/8" = 1'-0"


Paulsen Residence

1090 Wildhurst Trail, Orono, MN

[illegible]

The undersigned, being duly qualified and appointed City Clerk of the City of Orono, Minnesota, certifies that I compared the foregoing Resolution adopted at the meeting of the Orono City Council on September 13, 2021 with the original thereof on file in my office, and the same is a correct transcription thereof.

WITNESS my hand officially as such City Clerk and the Corporate seal of the City this 26th day of October, 2021.


Anna Carlson, City Clerk

(seal)

