



# COUNTY OF KENOSHA

December 2012

## Department of Planning and Development

### VARIANCE APPLICATION

Owner: David M. Heiring & Ann E. Henry

Mailing Address: 3119 136th Avenue

Kenosha WI 53144

Phone Number(s): 262-914-1274

RECEIVED

JUL 21 2017

Kenosha County  
Planning and Development

*To the Kenosha County Board of Adjustment:*

*Please take notice that the undersigned was refused a Zoning Permit by the Kenosha County Department of Planning and Development for lands described below for the reason that the application failed to comply with the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance. The owner or assigned agent herewith appeals said refusal and seeks a variance.*

Parcel Number: 45-4-221-252-0200

Zoning District: R-1

Property Address: 3119 136th Avenue

Shoreland: NO

Subdivision: -

Lot(s): -

Block: -

Current Use: Single-Family Residence & Pole Barn (2005)

Proposal: To construct a pole barn addition.

#### REQUIRED BY ORDINANCE

Section: V.A.12.27-6(c) - Detached accessory buildings in the R-1 Rural Residential District are permitted. There shall be a maximum of three detached accessory buildings, excluding gazebos and pool houses not more than 150 square feet in area and 12 feet in height. One accessory building shall be limited to a maximum of 150 square feet in area and a maximum of 12 feet in height. The other two buildings shall be limited to a total of 1,800 square feet in area and shall not exceed 20 feet in height.

Section: \_\_\_\_\_

Section: \_\_\_\_\_

#### VARIANCE REQUESTED

One large 3,000 sq. ft.

An Area Variance is authorization by the Kenosha County Board of Adjustments to vary one or more of the dimensional or physical requirements of the applicable zoning law, code or ordinance in connection with some proposed construction.

The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:

(A) Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

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(B) Alternatives you considered that require a lesser variance. If you reject such alternatives, provide the reasons you rejected them.

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(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

*Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.*

*An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.*

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VARIANCE APPLICATION

- (3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain.

*Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.*

The size of my property (5 acres) should allow a larger accessory square-footage.

- (4) What would be the effect on this property, the community or neighborhood and the public interest if the variance was granted? How can these impacts be mitigated.

*These interests are listed as objectives in the purpose statement of an ordinance and may include: drainage, visual impact, and fire safety and building code requirements.*

None.

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*The undersigned hereby attests that the above stated information is true and accurate and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.*

Owners Signature: X Daniel M. Harris

Agent: \_\_\_\_\_ Signature: \_\_\_\_\_

Agents Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

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# COUNTY OF KENOSHA

## Department of Public Works & Development Services

### ZONING PERMIT APPLICATION

19600 - 75th Street, Suite 185-3  
Bristol, Wisconsin 53104  
Telephone: (262) 857-1895  
Facsimile: (262) 857-1920

Owner \_\_\_\_\_ Date \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone # \_\_\_\_\_

THE UNDERSIGNED HEREBY APPLIES FOR A PERMIT TO DO THE WORK HEREIN DESCRIBED, AND AS SHOWN ON THE REQUIRED SITE PLAN FORM OR ATTACHED REGISTERED SURVEY HEREOF, AND HEREBY AGREES THAT ALL WORK WILL BE DONE IN ACCORDANCE WITH ALL THE LAWS OF THE STATE OF WISCONSIN AND ALL THE ORDINANCES OF THE COUNTY OF KENOSHA, APPLICABLE TO THE FOLLOWING DESCRIBED PREMISES:

Parcel No. \_\_\_\_\_ Zoning District(s) \_\_\_\_\_

Property Address \_\_\_\_\_

Subdivision Name \_\_\_\_\_ CSM # \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ Unit \_\_\_\_\_

STRUCTURE DESCRIPTION	TYPE OF CONSTRUCTION	SIZE (L' @ H')	SIZE (L' x W')	AREA (sq feet)	HEIGHT (feet)	# OF STORIES

Contractor \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

Agent \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

#### For Office Use Only

Permit No. \_\_\_\_\_

Foundation Survey Due Date \_\_\_\_\_

Waiver of Liability Due Date \_\_\_\_\_

Board Of Adjustments Approval Date \_\_\_\_\_

Conditional Use Permit Approval Date \_\_\_\_\_

Sanitation Approval \_\_\_\_\_

Receipt # \_\_\_\_\_ Check # \_\_\_\_\_

Amount \_\_\_\_\_

THIS ZONING PERMIT IS ISSUED SUBJECT TO:

1. ANY FEDERAL, STATE OR LOCAL RESTRICTIONS AND/OR DEED RESTRICTIONS.
2. EACH APPLICANT FOR A ZONING PERMIT IS CHARGED WITH KNOWLEDGE OF THE COUNTY ZONING ORDINANCE. COPIES OF THE TEXT OF THIS OR PORTIONS THEREOF AND COPIES OF THE OFFICIAL ZONING MAPS ARE AVAILABLE FOR SALE, COPYING OR INSPECTION UPON REQUEST. ANY STATEMENT MADE, SITE PLAN SUBMITTED, ASSURANCE GIVEN OR PERMIT ERRONEOUSLY ISSUED CONTRARY TO THIS ORDINANCE IS NULL AND VOID.
3. THIS PERMIT SHALL EXPIRE EIGHTEEN (18) MONTHS FROM DATE OF ISSUANCE.

4. REMARKS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTICE:** YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE <http://dnr.wi.gov/topic/wetlands/locating.html> OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER (262) 884-2300.

Date Permit Issued \_\_\_\_\_

THE UNDERSIGNED HEREBY ATTESTS THAT THE ABOVE INFORMATION IS TRUE, ACCURATE AND HAS RECEIVED THE ABOVE NOTICE.

Director of Planning Operations \_\_\_\_\_

Owner/Agent \_\_\_\_\_ Date \_\_\_\_\_

## **BOARD OF ADJUSTMENTS SCHEDULE FOR 2017 PUBLIC HEARINGS**

*Third Thursday of each month at 6:00 p.m.  
Kenosha County Center, 19600 75th Street, Bristol, Wisconsin  
Conference Room A (unless published otherwise)*

*This schedule includes all areas under general zoning regulations in the following townships:  
BRIGHTON, PARIS, RANDALL, SOMERS, WHEATLAND*

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### **HEARING DATES**

<b><u>JANUARY 19</u></b>	Filing Date: Published:	December 19 Jan. 6 & Jan. 11	<b><u>JULY 20</u></b>	Filing Date: Published:	June 20 July 7 & July 12
<b><u>FEBRUARY 16</u></b>	Filing Date: Published:	January 16 Feb. 3 & Feb. 8	<b><u>AUGUST 17</u></b>	Filing Date: Published:	July 17 Aug. 4 & Aug. 9
<b><u>MARCH 16</u></b>	Filing Date: Published:	February 16 March 3 & March 8	<b><u>SEPTEMBER 21</u></b>	Filing Date: Published:	August 21 Sept. 8 & Sept. 13
<b><u>APRIL 20</u></b>	Filing Date: Published:	March 20 April 7 & April 12	<b><u>OCTOBER 19</u></b>	Filing Date: Published:	September 19 Oct. 6 & Oct. 11
<b><u>MAY 18</u></b>	Filing Date: Published:	April 18 May 5 & May 10	<b><u>NOVEMBER 16</u></b>	Filing Date: Published:	October 16 Nov. 3 & Nov. 8
<b><u>JUNE 15</u></b>	Filing Date: Published:	May 15 June 2 & June 7	<b><u>DECEMBER 14</u></b>	Filing Date: Published:	November 14 Dec. 1 & Dec. 6

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### **CHAPTER 12, KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE STATES:**

12.06-4 LEGAL NOTICE REQUIREMENTS AND TIME LIMITS: Any petition or other matter requiring the publication of a legal notice must be submitted at least one month prior to the requested hearing date as scheduled by the Planning, Development & Extension Education Committee or Board of Adjustments. For purposes on this section, "one month prior to the requested hearing date" shall be defined to mean not later than 4:30 p.m. on the same calendar date of the month preceding the scheduled hearing, or the last day county offices are open prior to the aforementioned deadline. For purposes of the Open Meetings Law, the Director of the Department of Planning and Development shall be delegated the responsibility of informing the County Clerk of both scheduled open and closed meetings so that proper notices may be given.



# COUNTY OF KENOSHA

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## Department of Planning and Development

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### VARIANCE PROCEDURES BEFORE THE BOARD OF ADJUSTMENTS

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- ☐ 1. Contact the Department of Planning & Development and set an appointment. Bring the following for your pre-application meeting.
- ☐ 2. Complete a Zoning Permit Application at the Department of Planning & Development.
- ☐ 3. Complete a Variance Application.
  - ☐ A. A copy of your Tax Bill or a copy of the recorded Deed of Transfer if you have owned the property for less than a month. (This is to provide proof of ownership) If you are in the process of purchasing the property you need to provide a signed and accepted purchase agreement or if you are a realtor or contractor, a letter from the current owner granting you agent status to act on their behalf.
  - ☐ B. A Survey of the property with the following information provided. **NOTE:** The Board of Adjustments strongly advises that for any new residential construction an area for a detached or attached garage should be shown for present or future construction.
    - ☐ ❖ Size and location of all existing structures on the property and their distances from property lines -- (street yard setback should be taken from the edge of the road right of way).
    - ☐ ❖ Location and dimensions of the proposed structure(s) or where the addition is to be placed on an existing structure.
    - ☐ ❖ Show what the resulting setbacks will be for proposed structure.
    - ☐ ❖ Location of the well and on-site waste disposal system -- (septic systems must show both the septic tank size and dimensions of the field).
  - ☐ C. A filing fee of \$550 (non-refundable) is required at application time to cover the costs of publishing.
- ☐ 4. Submit the above information by the filing deadline (see Board of Adjustment Schedule handout) with the Department of Planning and Development.
- ☐ 5. Submit the above information to your local Township for placement on the agenda of the Town Planning Commission and/or the Town Board.
- ☐ 6. Your first meeting will be with the Town Planning Commission, except for the Town of Wheatland. The Town of Somers has a Board of Appeals. **NOTE:** You must attend or the Commission/Board will not be able to act on your request.

**VARIANCE PROCEDURES &  
PUBLIC HEARING VARIANCE STANDARDS**

- ☐ 7. Your second meeting will be with the Town Board. **NOTE:** You must attend or the Board will not be able to act on your request.
- ☐ 8. Your third meeting will be with the County Board of Adjustments. **NOTE:** You must attend or the Board of Adjustments will not be able to act on your request. At this meeting you will be asked to brief the Board on your request for a variance and state your reasons for hardship (see Public Hearing Variance Standards handout).
- ☐ 9. If the Board of Adjustments grants your variance request you may obtain your Zoning Permit from the Office of Planning and Development the day after the meeting. The permit will be issued if all requirements from this office have been addressed, including sanitation, if you are the current owner of the property, and subject to signing the Statement of Appeal Process (see attached handout). If you do not sign the Statement of Appeal Process you will need to wait 30 days from the date of approval before the zoning permit can be issued. PLEASE NOTE, THAT ACCORDING TO SECTION VII.B.12.36-15(c) VARIANCES GRANTED BY THE B.O.A. SHALL EXPIRE WITHIN SIX (6) MONTHS FROM THE DATE OF APPROVAL, UNLESS A ZONING PERMIT HAS BEEN ISSUED AND "SUBSTANTIAL CONSTRUCTION" – THE VALUE OF SUCH WORK THAT HAS COMMENDED EQUIVALENT TO 25% OF THE PROJECTED COST OF THE PROJECT AS NOTED ON THE APPLICATION FOR THE ZONING PERMIT, HAS COMMENCED.
- ☐ 10. Follow the Permitting Process for New Construction or for Additions to Existing Structures, Accessory Structures, Decks, Pools, and/or Fences (see handout).
- ☐ 11. If the Board of Adjustments denies your variance you have thirty (30) days to file an appeal with circuit court (see Statement of Appeal Process handout).

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**IMPORTANT TELEPHONE NUMBERS**

Kenosha County Center	
Department of Planning & Development	
19600 - 75 <sup>th</sup> Street, Post Office Box 520	
Bristol, Wisconsin 53104-0520	
Division of County Development (including Sanitation & Land Conservation) .....	<b>857-1895</b>
Facsimile #.....	857-1920
Public Works Division of Highways.....	857-1870
Administration Building	
Division of Land Information .....	653-2622
Brighton, Town of.....	878-2218
Paris, Town of .....	859-3006
Randall, Town of .....	877-2165
Salem, Town of .....	843-2313
Utility District .....	862-2371
Somers Town of .....	859-2822
Wheatland, Town of .....	537-4340
Wisconsin Department of Natural Resources - Sturtevant Office .....	884-2300
Wisconsin Department of Transportation - Waukesha Office .....	548-8722

## **PUBLIC HEARING VARIANCE STANDARDS**

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- ❑ YOUR PUBLIC HEARING WILL BE BASED ON THE FOLLOWING STANDARDS FROM THE KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE.

### **CHAPTER 12.36-1**      **INTENT**

- ❑ It is the intent of this section of the Ordinance to recognize that under certain conditions and circumstances, it may be necessary to obtain a variance from the terms of this Ordinance so long as said variance will not be contrary to the public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship or practical difficulties and where the granting of such variance will uphold the spirit of this Ordinance and contribute to the justice of the particular case in question. Any variance granted under the terms of this ordinance shall, however, relate only to area requirements and not to use. Furthermore, it is the intent of this section to establish a Board of Adjustments for the purpose of reviewing applications for variances as well as reviewing orders and decisions made by the Office of Planning and Development.

### **CHAPTER 12.36-13**      **STANDARDS AND GUIDELINES**

- ❑ In determining whether a variance is to be granted, the following standards and guidelines must be met in view of the evidence presented and in making its decision, these standards and guidelines shall be addressed by the board of adjustment:
  1. The existence of special conditions or exceptional circumstances on the land in question.
  2. The experiencing of unnecessary hardships or practical difficulties on the land in question either presently or in the future.
  3. That these hardships or difficulties are the result of the aforementioned special conditions existing on the land and are not self-inflicted.
  4. That the existence of these special conditions will restrict the use of the land if the Ordinance is applied literally so as to render the land useless.
  5. That the limitation on the use of the land does not apply generally to other properties in the district.
  6. That limiting the use of the property does not afford compensating gains to the public health, safety and welfare.
  7. That the variance(s) requested are the minimum variance(s) needed to alleviate difficulties or hardships.
  8. That the use of the parcel in question presently does conform to the ordinance.



9. That granting the variance applied for will not affect the public health, safety, morals and welfare of the community and other properties in the area.
10. That with respect to those areas located within the floodland districts, a variance would not permit filling and development contrary to the purpose and intent of the Camp Lake/Center Lake FWO Floodway Overlay District; would not permit a change in the boundaries of the FPO Floodplain Overlay District, FWO Camp Lake/Center Lake Floodway Overlay district or the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District; would not permit a lower degree of flood protection in the floodland districts than the residential, commercial, institutional, or park basement or crawlway to be located below the 100-year recurrence interval flood elevation; would not allow a change or alteration of an historic structure, including its use, which would result in the structure; further, that the variance for the proposed action would not require amendment to the floodplain zoning ordinance' and furthermore, that the variance would not have the effect of granting or increasing a use property which is prohibited in the floodland districts or any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code.

- ☐ Variances may be granted for example for reasons of topography, environmental protection or where permitted by state statute but in no event may a variance be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction errors, economic reasons, self-created hardships, or where the property is presently a non-conforming use. Furthermore, variances may not be granted for the purpose of altering the sanitary requirements of this ordinance except for existing structures.
- ☐ The Board of Adjustments in considering the propriety of granting a variance shall not consider the number of persons for or against the granting of a variance but shall base their decision solely upon the equities of the situation involved.
- ☐ Variances may be granted in the form of an area or distance variance, however, use variances shall be specifically prohibited under this Ordinance.

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### **Statutory Standards**

- ☐ The applicant for a variance must clearly show the Board of Adjustments that three statutory standards that govern granting a variance will be met. These three standards require the existence of an unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest.
- ☐ Unnecessary Hardship
  - ❖ A situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome.
  - ❖ The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of other parcels, not one which affects all parcels similarly.

**VARIANCE PROCEDURES &  
PUBLIC HEARING VARIANCE STANDARDS**

- ❑ Unique Property Limitation
  - ❖ Unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance.
- ❑ Protection of the Public Interest
  - ❖ Granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners.
  - ❖ Conditions may be attached to a variance to protect adjoining properties and to preserve the essential character of the neighborhood.
  - ❖ A variance should include only the minimum relief necessary to allow reasonable use of a property.

**NOTES**

# VARIANCE WORKSHEET

YOUR THREE STATUTORY STANDARDS TO PROVE BEFORE THE BOARD OF  
ADJUSTMENTS. (BE READY TO DISCUSS AT THE MEETING)

UNNECESSARY HARDSHIP -

UNIQUE PROPERTY LIMITATION -

PROTECTION OF THE PUBLIC INTEREST -

Zoning Permit # 9230

**LOCATION:** 3119 136th Avenue, Paris, Wisconsin

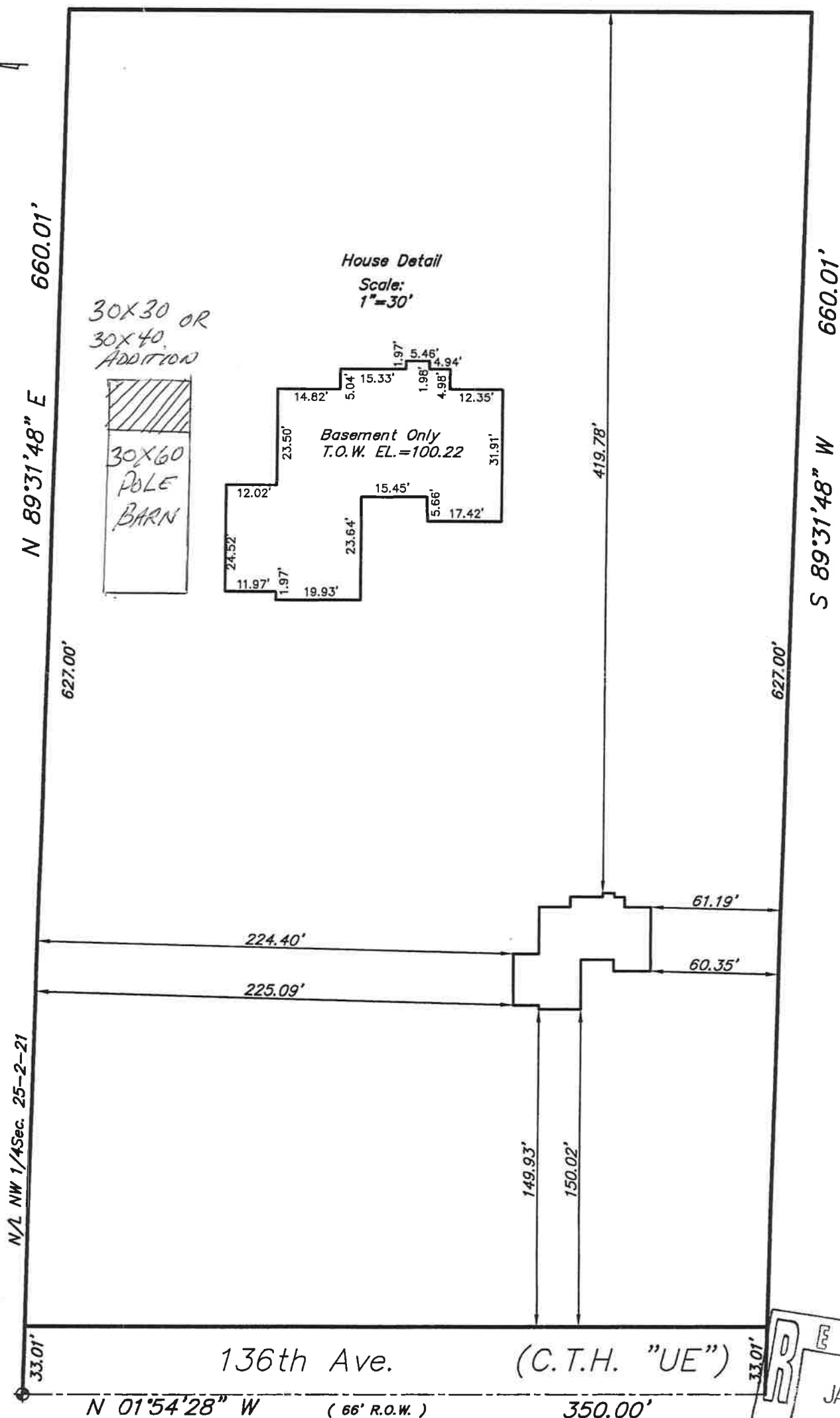
**LEGAL DESCRIPTION:** That part of the Northwest 1/4 of Section 25, Town 2 North, Range 21 East of the Fourth Principal Meridian, and being more particularly described as follows: Beginning at the Northwest corner of said 1/4 section; thence N 89°31'48" E along the North line of said 1/4 section 660.01 feet; thence S 1°54'28" E parallel to the West line of said 1/4 section, 350.00 feet; thence S 89°31'48" W parallel to the North line of said 1/4 section 660.01 feet to the West line of said 1/4 section; thence N 1°54'28" W along said West line 350.00 feet to the point of beginning. Said land lying and being in the Town of Paris, County of Kenosha and State of Wisconsin.

January 3, 2005

S 01°54'28" E

350.00'

Survey No. 98127

Scale:  
1"=60'**METROPOLITAN SURVEY SERVICE, INC.**

REGISTERED LAND SURVEYORS AND CIVIL ENGINEERS

5200 W. LOOMIS ROAD GREENDALE, WI 53129

PH. (414) 529-5380

FAX (414) 529-9787

email address survey@bizwi.rr.com



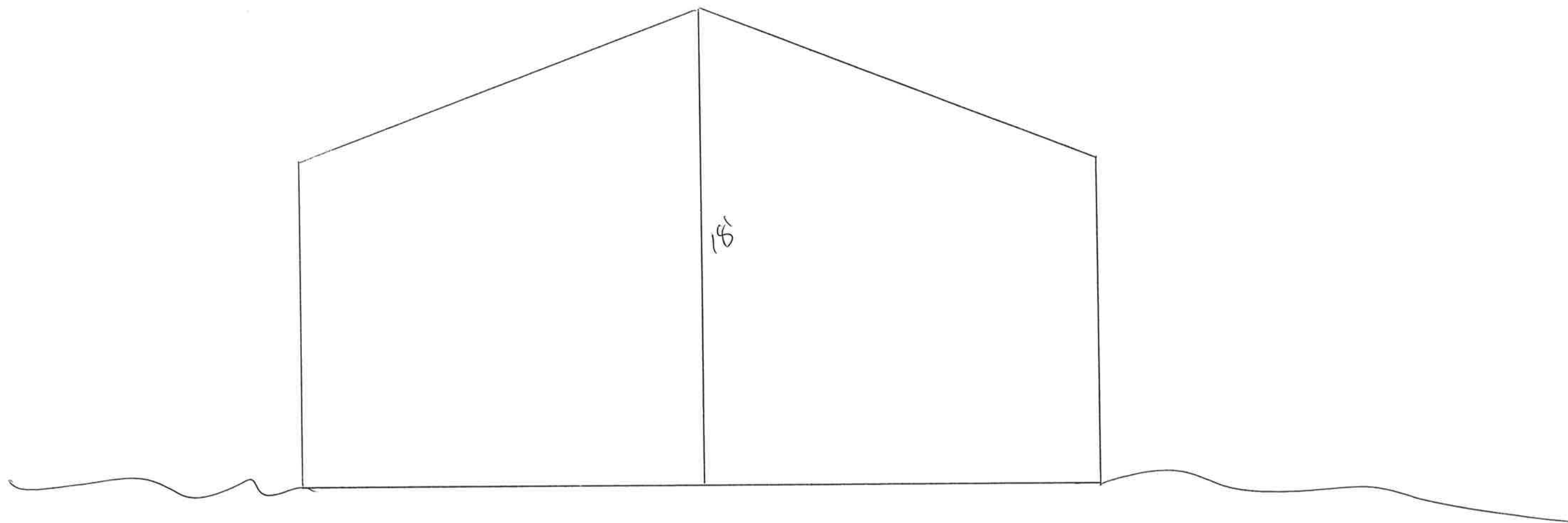
I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY. ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENT, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM THE DATE HEREOF.

SIGNED

  
Dennis C. Sauer

Registered Land Surveyor S-2421



STREET-FACING FACADE