



## HYBRID ZONING BOARD OF APPEALS MEETING AGENDA

Wednesday, February 19, 2025 at 6:15 P.M.

Large Meeting Room – Sister Bay-Liberty Grove Fire Station  
2258 Mill Road, Sister Bay, WI

If you are unable to attend the meeting in person, the following link will allow access to it electronically:  
<https://zoom.us/j/4439901723?pwd=yAVpi40M1OlqgNufcVUE8XWCUSkKaH.1&omn=97063638580>

Meeting ID: **443 990 1723** Password: **304078**

To connect by telephone, please dial 1-301-715-8592 - Meeting ID: 443 990 1723#

For additional meeting information visit: [www.sisterbaywi.gov](http://www.sisterbaywi.gov), click 'Agendas and Minutes' or watch the meeting video online.

**A video of this meeting will be available for viewing on the Village's website ASAP**

For additional information check: <http://www.sisterbaywi.gov>

### AGENDA

1. Call Meeting to Order
2. Roll Call

|   |                                           |   |                       |
|---|-------------------------------------------|---|-----------------------|
| 1 | <b>Chairperson – TOM SADLER</b>           | 2 | <b>PAT WISNER</b>     |
| 3 | <b>DEB DUREN</b>                          | 4 | <b>HRISTO BLAGOEV</b> |
| 5 | <b>ELIZABETH HECHT</b>                    | 6 | <b>TERRY KELLY</b>    |
| 7 | <i>One "Alternate" Position is Vacant</i> |   |                       |

3. Approval of the Agenda.
4. Approval of the minutes for the December 19, 2024 meeting of the Zoning Board of Appeals and the related document that is entitled, Findings of Fact, Conclusions of Law & Formal Determination That "No Decision" Could Be Reached.
5. Public Hearing on the Petition for Grant of Variance for the property located at 10631 Little Sister Road that was filed by Attorney Daniel Gawronski on behalf of Douglas B. Roberts and Ellen B. Roberts.
6. Discussion regarding the Petition for Grant of Variance for the property located at 10631 Little Sister Road that was filed by Attorney Daniel Gawronski on behalf of Douglas B. Roberts and Ellen B. Roberts; Consider a motion for action if appropriate.
7. Adjournment.

### Public Notice

Questions regarding the nature of the Agenda items or more detail on the items listed can be directed to Julie Schmelzer, Village Administrator, at [julie.schmelzer@sisterbaywi.gov](mailto:julie.schmelzer@sisterbaywi.gov). Testimony, include e-mail, will be accepted per the Public Hearing Notice. It is possible that members of and possibly a quorum of members of other governmental bodies may attend the meeting to gather information; no action will be taken by any governmental body other than the body specifically referred to above. Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid or accommodation at no cost to the individual. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferably a minimum of 48 hours. For additional information or to request this service, contact the Sister Bay Village Administration Office at 854-4118, (FAX) 854-9637, or by writing to the Village Administration Building, 2383 Maple Drive, PO Box 769, Sister Bay, WI 54234. Copies of reports and other supporting documentation are available for review at the Village Administration Building during operating hours (8 a.m. – 4 p.m. weekdays).

*The Village of Sister Bay is an Equal Opportunity Provider.*

POSTED DATE/SIGNATURE \_\_\_\_\_

**VIRTUAL ZONING BOARD OF APPEALS MEETING MINUTES**  
**THURSDAY, DECEMBER 19, 2024**  
**LARGE MEETING ROOM – SISTER BAY-LIBERTY GROVE FIRE STATION**  
**2258 Mill Road, Sister Bay, WI**  
**APPROVAL PENDING**

**Agenda Item 1. Call Meeting To Order:** The December 19, 2024 virtual meeting of the Sister Bay Zoning Board of Appeals was called to order by Chairperson Tom Sadler at 6:03 P.M.

**Agenda Item 2. Roll Call:** Chairperson Sadler and Board members Pat Wisner, Deb Duren, Hristo Blagoev, and Liz Hecht. Board member Terry Kelly arrived at 6:08 P.M.

**Staff Members:** Village Administrator/Zoning Administrator Julie Schmelzer, Administrative Assistant Janal Suppanz, and Village Attorney Randy Nesbitt.

**Others:** The Appellant, Ellen Roberts, Attorney Thomas Gartner, Attorney Dan Gawronski, Kurt and Laurel Harff, Mark Waeghe, and “Barb”.

**Agenda Item No. 3. Approval of the Agenda:**

*Motion by Wisner, second by Hecht that the Agenda for the December 19, 2024 meeting of the Village of Sister Bay Zoning Board of Appeals be approved as presented. Motion carried – All ayes.*

**Agenda Item No. 4. Approval of the minutes for the last meeting of the Zoning Board of Appeals:**

*Motion by Sadler, second by Duren that the minutes for the September 30, 2024 meeting of the Zoning Board of Appeals be approved as presented. Motion carried – All ayes.*

**Agenda Item No. 5. Administrative Appeal – Douglas B. Roberts and Ellen B. Roberts; 10631 Little Sister Road; R-1 Zoning District:**

Sadler, who is the Chair of the Village’s Zoning Board of Appeals, introduced himself as well as the other Zoning Board of Appeals members and the Village Attorney, Randy Nesbitt, and briefly explained the procedures that would be adhered to during this hearing. He also noted that the members of the Board of Appeals, who are bound by the provisions of the Wisconsin Statutes, are appointed by the Village Board, and they have been charged with hearing appeals of decisions that are made by the Village Administrator and/or the Village’s Plan Commission as well as requests for variances.

On November 6, 2024 Attorney Thomas Gartner filed an appeal of the decision of Julie Schmelzer, the Village Administrator/Zoning Administrator, that a Zoning Permit could not be issued for the home that Douglas and Ellen Roberts would like to construct at 10631 Little Sister Road because the height of that residence would exceed the allowable building height of 35 feet that is delineated in the Village’s Zoning Code. (That property is located in the R-1 - Single Family Residence Zoning District, and all the required documentation was filed in a timely fashion and was included in the digital packets for this meeting.)

Sadler explained that a Public Hearing would be conducted regarding this matter, and also indicated that anyone who was present who wished to testify in favor of Mr. and Mrs. Roberts’ appeal would be given an opportunity to do so after Attorney Gartner has presented Mr. and Mrs.

1 Roberts' case to the Board. After the Board has heard from everyone who is in favor of granting  
2 the appeal, the Village Administrator as well as those who are opposed to it will be given an  
3 opportunity to testify, and finally, each side will be allowed to briefly present rebuttal testimony;  
4 after which the hearing will be closed and the members of the Board will commence their  
5 deliberations.

6  
7 *At 6:06 P.M. Sadler called the Public Hearing on the appeal that was filed by Attorney Gartner on*  
8 *behalf of Mr. and Mrs. Roberts to order, and then requested that Suppanz read the Notice of Public*  
9 *Hearing that was published and posted aloud, and she complied with that request.*

10  
11 *Attorney Gartner was subsequently sworn in by Attorney Nesbitt, and he explained that he would*  
12 *be representing Mr. and Mrs. Roberts at this hearing and would be serving in an "of counsel"*  
13 *capacity on behalf of the law firm of Michael, Best & Friedrich. He went on and explained that he*  
14 *would be joined by Attorney Dan Gawronski of Michael, Best & Friedrich as well as Mark Waeghe,*  
15 *the builder who has been hired to construct Mr. and Mrs. Roberts' new home.*

16  
17 *Attorney Gartner stated that he believes this is technically "a very simple case" as the Sister Bay*  
18 *Zoning Code contains a clear and unambiguous definition of "building height", which clearly sets*  
19 *forth how building height is to be measured. That definition is also referenced in an illustration*  
20 *which graphically depicts exactly how such measurements are to be made, and it is Mr. and Mrs.*  
21 *Roberts' position that their proposed building elevation drawings clearly show that the height of*  
22 *their new home will be 27' 5", (give or take 1 ¼") as there might be a slight height deviation once*  
23 *the final grade is established, but no matter what, the height of their new home will not exceed*  
24 *the maximum allowable building height of 35'. He then requested that the Board members refer*  
25 *to the Notice of Appeal that was filed with respect to this issue as well as Exhibit A (the decision*  
26 *that was received from Schmelzer that is dated October 30, 2024), Exhibit B (the definition of*  
27 *"Building Height" that appears in the Village's Zoning Code), Exhibit C ("Illustration No. 6" that*  
28 *also appears in the Zoning Code), and the related elevation drawings and floor plans that have*  
29 *been labeled Exhibit D. In conclusion he indicated that because the measurements submitted to*  
30 *the Village are consistent with the provisions of the Zoning Code, the Roberts are contending that*  
31 *the Zoning Board of Appeals must find that the Village Administrator erred by determining that*  
32 *the height of their new home will exceed 35'.*

33  
34 *Mr. Waeghe was sworn in by Attorney Nesbitt and he confirmed that he is the builder who will be*  
35 *working on Mr. and Mrs. Roberts' new home. He went on and indicated that based upon his*  
36 *understanding of the provisions of the Village's Zoning Code and the prescribed methodology to*  
37 *be utilized when making building height calculations, the highest point of Mr. and Mrs. Roberts'*  
38 *new home, excluding the chimney, will be 27' 5". He also indicated that the grade at the*  
39 *foundation line of the new home will be a couple inches below the top of the foundation and will*  
40 *slope outward, which could add approximately 1 ¼" to the home, but the grade will actually vary*  
41 *depending upon the type of landscaping that is utilized.*

42  
43 *Sadler asked what the measurement will actually be at the back of Mr. and Mrs. Roberts' new*  
44 *home, and Mr. Waeghe responded that he does not know what that measurement will be as it*  
45 *was determined by the draftsman that worked on the plans originally, but it appears to have been*  
46 *taken from the patio grade, which is essentially the floor grade of the basement.*

1 *Attorney Gawronski was sworn in by Attorney Nesbitt, and he stated that it is his understanding*  
2 *that the measurement from the basement walkout grade to the highest elevation on the back of*  
3 *Mr. and Mrs. Roberts' new home will be 37' 11". He also pointed out that copies of letters which*  
4 *were sent by Lance and Bridget Crane, T.A. and R.M. Downey, David and Carole Frykman, Nicholas*  
5 *and Katherine Gerrits, John and JoEllen Stollenwerk, David and Randall Johnson, Paul and Cathy*  
6 *Luber, and Michael and Sarah Mercurio, were all included in the digital meeting packets. (In their*  
7 *letters all of the previously mentioned individuals indicate that they own property on Little Sister*  
8 *Road and support the Roberts' appeal. They also indicate that they not only believe Mr. and Mrs.*  
9 *Roberts' home is "consistent" with the existing neighboring homes, but also believe it will be "a*  
10 *wonderful addition to their neighborhood".)*

11  
12 *Attorney Gartner stressed that the height at the rear of the building is irrelevant as the Village's*  
13 *Zoning Code clearly states that measurements must be made from the "front of the building", and*  
14 *then indicated that the appellants did not wish to present any further testimony at this time.*

15  
16 *Sadler asked if anyone else would like to comment in favor of granting Mr. and Mrs. Roberts'*  
17 *appeal, and when no one responded he noted that Schmelzer would then be given an opportunity*  
18 *to present rebuttal testimony.*

19  
20 *Schmelzer was subsequently sworn in by Attorney Nesbitt, and she explained that the plans for*  
21 *Mr. and Mrs. Roberts' new home were originally prepared by the employees at Great Northern*  
22 *Construction. There have been allegations that the Roberts' home will be a one story building, but*  
23 *there is a set of stairs in the home, and the previously mentioned plans clearly indicate that it will*  
24 *contain two floors. Portions of the home are also "stepped" or "sloped". She then read a prepared*  
25 *statement aloud, and a copy of that document is hereby attached and incorporated by reference.*  
26 *In conclusion Schmelzer pointed out that Sister Bay is a community that prides itself on being a*  
27 *very scenic area, and also noted that Village officials have "gone on record" as stating that they*  
28 *definitely want to protect the fantastic views that can be afforded from many different vantage*  
29 *points throughout the Village. To that end the maximum allowable building height that is allowed*  
30 *in the Village is "35' period". Village officials did determine that "averaging" could be done across*  
31 *the front of buildings because they realize there are topographical variances, but in this case Mr.*  
32 *and Mrs. Roberts' home was designed in such fashion that it simply does not satisfy the provisions*  
33 *of the Zoning Code, and, therefore she could not grant the required approvals that would*  
34 *ultimately lead to the issuance of a related Zoning Permit.*

35  
36 *Sadler asked if the Zoning Board of Appeals members had any questions for Schmelzer, and when*  
37 *no one responded he asked if anyone else who was present would like to testify against the*  
38 *granting of the previously mentioned appeal. No one responded, and, therefore, he asked if*  
39 *Attorney Gartner, Attorney Gawronski, or Mrs. Roberts would like to present any rebuttal*  
40 *testimony.*

41  
42 *Attorney Gartner noted that he firmly believes Mr. and Mrs. Roberts have a vested right in being*  
43 *able to rely on the Village's Zoning Code "as it is written", and reiterated that the previously*  
44 *mentioned definition of "building height" clearly states that any measurements that are taken of*  
45 *a building must be made from the highest point at the "front" of that building. In conclusion he*  
46 *noted that whether the Roberts' home is stepped or terraced, or contains one or two stories, the*  
47 *maximum height requirements that are clearly delineated in the Zoning Code will not be*



exceeded. The Zoning Board of Appeals has been charged with determining whether Schmelzer's interpretation of the height of Mr. and Mrs. Roberts' new home will be "consistent" with the definition of that term "as it appears in the Zoning Code at this time", and the Roberts are contending that Schmelzer's interpretation is clearly erroneous. They also believe that since the previously mentioned illustration is included in the Zoning Code, it must be taken into consideration when the Board members conduct their deliberations.

Attorney Gawronski pointed out that the stairs that Schmelzer referred to lead to an unfinished basement, and Mr. Waeghe confirmed that fact. He also noted that no "segment" of the proposed building will be over 35' high.

Sadler asked if Schmelzer would like to present any rebuttal testimony, and she stressed that Illustration No. 6 was merely intended to be utilized as a "guide", but also noted that there is no reference to that illustration in the Zoning Code. She then read the definition of Building Height that appears in the Zoning Code aloud, and pointed out that the previously mentioned plans indicate that a "segment" of the rear elevation "is hitting on 37'6". She also indicated that there is no definition for the term "segment" in the Zoning Code, and stated that she does not understand how anyone cannot consider the lower level of Mr. and Mrs. Roberts' home to be "living area" as the rooms depicted on the previously mentioned plans have clearly been labelled "Bedroom 3", "Bedroom 4", "Rec. Room", and "Bar Area".

*On several occasions Attorney Gawronski attempted to make interjections while Schmelzer was presenting her rebuttal testimony or ask her questions, and at one point he indicated that he wanted the record to show that Schmelzer had referred to an "incorrect number". Schmelzer raised objections to all of this behavior, and her objections were ultimately upheld by Sadler.*

*At 7:04 P.M. Sadler declared that the Public Hearing was officially closed.*

#### **Agenda Item No. 6. – Administrative Appeal Discussion and Action:**

Discussion took place regarding Mr. and Mrs. Roberts' appeal, and during that time Sadler requested that each of the Board members voice their opinions about this issue and the testimony that had been presented this evening, and they all complied with that request.

*A motion was made by Wisner, seconded by Sadler that the Zoning Board of Appeals finds that Julie Schmelzer, the Village of Sister Bay Administrator/Zoning Administrator, did not err when she decided that a Zoning Permit could not be issued for the home that Douglas and Ellen Roberts would like to construct at 10631 Little Sister Road, as the height of the proposed residence would exceed the allowable building height of 35 feet that is delineated in the Village's Zoning Code. Now, therefore, the Zoning Board of Appeals hereby upholds said determination.*

*A roll call vote was taken on that motion, and the Board members voted in the following fashion:*

*Sadler – Aye; Blagoev – Aye; Hecht – Nay; Duren – Nay; Kelly – Nay; Wisner – Aye.*

*At that point Sadler declared that since there had been a "tie vote" the previously mentioned motion had failed.*

1 A motion was then made by Kelly, seconded by Duren that the Zoning Board of Appeals finds that  
 2 Schmelzer erred when she decided that a Zoning Permit could not be issued for the home that  
 3 Douglas and Ellen Roberts would like to construct at 10631 Little Sister Road as the height of the  
 4 proposed residence would exceed the allowable building height of 35 feet that is delineated in the  
 5 Village's Zoning Code. Now, therefore, the Zoning Board of Appeals hereby grants Mr. and Mrs.  
 6 Roberts' appeal.

7  
 8 Another roll call vote was taken, and the Board members then voted in the following fashion:  
 9

10 Sadler - Nay; Blagoev - Nay; Hecht - Aye; Duren - Aye; Kelly - Aye; Wisner – Nay  
 11

12 Since there was also a "tie vote" on that motion, Sadler declared that it had likewise failed.  
 13

14 Sadler asked if any of the Board members felt that further discussion on this issue would be fruitful,  
 15 or, if they didn't deem that action to be necessary, if any of them would consider changing their  
 16 vote on either of the previously mentioned motions, but no one responded. At that point Nesbitt  
 17 explained that because both of the previously mentioned motions had failed, and it did not appear  
 18 that any of the Board members were interested in having further deliberations or would change  
 19 their minds, a motion to adjourn would be in order.  
 20

21 Suppanz stated that it is her understanding that if the meeting is adjourned at this point a Findings  
 22 of Fact and Conclusions of Law will still be required, but in light of the circumstances, that  
 23 document must reflect that the because there were "tie votes" on both of the previously  
 24 mentioned motions the members of the Zoning Board of Appeals determined that they will not be  
 25 in a position to reach a decision on the previously mentioned appeal, and, therefore, a formal  
 26 Decision document will not be drafted and/or filed. Attorney Nesbitt confirmed that that would  
 27 be the proper course of action.  
 28

29 **Adjournment:**

30 At 7:19 P.M. a motion was made by Duren, second by Kelly that the December 19, 2024 meeting  
 31 of the Village of Sister Bay Zoning Board of Appeals be adjourned. Motion carried – All ayes.  
 32

33 Respectfully submitted,

34 

35 Janal Suppanz,  
 36 Administrative Assistant  
 37  
 38  
 39  
 40  
 41  
 42  
 43

**VILLAGE OF SISTER BAY ZONING BOARD OF APPEALS  
HEARING ON AN APPEAL OF AN OFFICIAL ORDER OF THE  
VILLAGE ADMINISTRATOR/ZONING ADMINISTRATOR.  
FINDINGS OF FACT, CONCLUSIONS OF LAW & FORMAL  
DETERMINATION THAT "NO DECISION" COULD BE REACHED**

Village of Sister Bay, Door County, Wisconsin

Application/Petition # 2024-05

Date and Time of Hearing: Thursday, December 19, 2024 at 6:00 P.M.

*(Because a winter weather advisory had been issued and it was anticipated that travel conditions would become hazardous this hearing was only conducted virtually.)*

Zoning Board of Appeals members present: Chairperson Tom Sadler, and members  
Pat Wisner, Deb Duren, Liz Hecht, Hristo Blagoev and Terry Kelly

**APPELLANT:**

Applicant/Petitioners: Attorney Thomas O. Gartner on behalf of Douglas & Ellen Roberts

Mailing Address: c/o Michael, Best & Friedrich  
790 N. Water Street – Suite 2500  
Milwaukee, WI 53202

Filing Date: November 6, 2024

**FINDINGS OF FACT:**

After having reviewed the official file that is maintained in the Administration Office for the Village of Sister Bay that pertains to the above referenced appeal, as well as letters submitted, and giving careful consideration to the testimony presented at a related public hearing, the Zoning Board of Appeals hereby determines that the facts related to the appeal are as follows:

**PETITION:**

Attorney Thomas O. Gartner, on behalf of Douglas & Ellen Roberts, appealed the decision of Julie Schmelzer, the Village of Sister Bay Administrator/Zoning Administrator, that a Zoning Permit would not be issued for the residence Mr. and Mrs. Roberts would like to construct at 10631 Little Sister Road because the height of the residence would exceed the allowable building height of 35 feet that is delineated in the Village's Zoning Code. Attorney Gartner alleged that Ms. Schmelzer erred because her decision was based upon a height calculation that is not in accord with the definition of "Building Height" and/or "Illustration No. 6 – Building Height" that appear in the Village's Zoning Code.

**PROPERTY DESCRIPTION:**

Parcel No. 181-23-0006 in the Village of Sister Bay. That parcel has been assigned an address of 10631 Little Sister Road, and is located in the Single Family Residence (R-1) Zoning District.

**NOTICE:**

A Class 2 Notice was published in The Peninsula Pulse on November 29, 2024 and December 6, 2024, and that Notice was posted on November 25, 2024. Neighbors within 300' of the previously mentioned property were also mailed a Public Hearing Notice on December 9, 2024, and an Affidavit of Publication is available in the Village Administration Office.

Zoning Board of Appeals Findings of Fact & Conclusions of Law & Formal Determination That "No Decision" Could Be Reached –  
Appeal Filed By Attorney Thomas O. Gartner on Behalf of Douglas & Ellen Roberts

### **CONCLUSIONS OF LAW:**

Based upon the previously mentioned Findings of Fact:

*A motion was made by Wisner, seconded by Sadler, that the Zoning Board of Appeals finds that Julie Schmelzer, the Village of Sister Bay Administrator/Zoning Administrator, did not err when she determined that a Zoning Permit could not be issued for the home that Douglas and Ellen Roberts would like to construct at 10631 Little Sister Road, as the height of the proposed residence would exceed the allowable building height of 35 feet that is delineated in the Village's Zoning Code. Now, therefore, the Zoning Board of Appeals hereby upholds said determination.*

*Ayes: Sadler, Blagoev and Wisner*

*Nays: Hecht, Duren and Kelly*

***Because there was a "tie vote" Chairperson Sadler declared that this motion had failed.***

*A motion was then made by Kelly, seconded by Duren that the Zoning Board of Appeals finds that Julie Schmelzer, the Village of Sister Bay Administrator/Zoning Administrator, did err when she determined that a Zoning Permit could not be issued for the home that Douglas and Ellen Roberts would like to construct at 10631 Little Sister Road, as the height of the proposed residence would exceed the allowable building height of 35 feet that is delineated in the Village's Zoning Code. Now, therefore, the Zoning Board of Appeals grants Mr. and Mrs. Roberts' appeal.*

*Ayes: Hecht, Duren and Kelly*

*Nays: Sadler, Blagoev and Wisner*

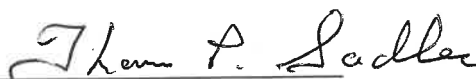
***Because there was another "tie vote" this motion likewise failed.***

### **ORDER AND DETERMINATION:**

*On the basis of the above Findings of Fact, Conclusions of Law, and the record in the matter of the appeal noted herein, the members of the Zoning Board of Appeals for the Village of Sister Bay hereby find that because there were "tie votes" on both of the previously mentioned motions they will not be in a position to reach a decision on the previously mentioned appeal, and, therefore, a formal Decision document will not be drafted and/or filed.*

Dated this 19th day of December, 2024.

VILLAGE OF SISTER BAY ZONING BOARD OF APPEALS  
By:



Thomas Sadler  
Chairperson

Attest:

  
Janal Suppanz, Administrative Assistant  
Secretary for the Zoning Board of Appeals

Filed:

January 15, 2025



## **Zoning Board of Appeals Public Hearing Notice**

**NOTICE IS HEREBY GIVEN** that the Village of Sister Bay Zoning Board of Appeals will hold a Public Hearing on **Wednesday, February 19, 2025, at 6:15 p.m.** for the purpose of considering a petition for grant of variance. The petition will be heard at the Sister Bay-Liberty Grove Fire Station at 2258 Mill Road, Sister Bay.

Douglas B. Roberts and Ellen B. Roberts petition for a variance from Section 66.0311(d) of the Municipal Code which limits the height of a principal building to a maximum height of 35'. The Roberts propose to build a home with an overall maximum height of 37'11". This property is located at 10631 Little Sister Road in a Single-Family Residence (R-1) zoning district.

The purpose of this public hearing is to hear testimony from the petitioner or agent(s), and from any party in favor or opposed to the petition. Interested parties are urged to participate in the public hearing and give testimony. Written testimony, including email, will be accepted at the Administration Office, 2383 Maple Drive, PO Box 769, Sister Bay, WI, FAX (920) 854-9637, or by emailing [janal.suppanz@sisterbaywi.gov](mailto:janal.suppanz@sisterbaywi.gov). Deadline to submit correspondence is 2:00 pm, Wednesday, February 12, 2025. Letters will be available for public inspection during normal business hours until the close of business on the day of the hearing. Letters will be entered into the record and a summary presented at the hearing, but individual letters may not be read aloud. Anonymous correspondence will not be accepted.

A copy of the petition, zoning code and zoning map are on file at the Village Administration Office, 2383 Maple Drive, Sister Bay, and may be viewed Monday through Thursday, between 8:00 a.m. and 4:00 p.m.

Julie Schmelzer  
Village Administrator/Zoning Administrator  
[julie.schmelzer@sisterbaywi.gov](mailto:julie.schmelzer@sisterbaywi.gov)



**Village of Sister Bay**  
 2383 MAPLE DRIVE • SISTER BAY, WI 54234  
 PHONE: (920) 854-4118 • FAX: (920) 854-9637  
 E-MAIL: [INFO@SISTERBAYWI.GOV](mailto:INFO@SISTERBAYWI.GOV)  
 WEB SITE: [WWW.SISTERBAYWI.GOV](http://WWW.SISTERBAYWI.GOV)

## Appeals and Variances

| THIS AREA FOR OFFICE USE ONLY |                      |
|-------------------------------|----------------------|
| Account No.                   | Issue Date:          |
| Fee Amount Paid: \$1,000.00   | Receipt #: 1,000,059 |

Appeals may be made from a decision of the Zoning Administrator concerning the literal enforcement of the Village Zoning Code. Appeals shall be filed within thirty days of the date of written notice of the decision or order of the Zoning Administrator.

Area variances may be granted if there are unusual circumstances that apply to a lot, structure or use that don't apply to other properties or uses in the district; granting a variance would not adversely impact the purposes of the ordinance; strict application of the ordinance provisions would result in exceptional difficulties or hardship; and literal interpretation of the ordinance would leave the owner with no practical use of his land or buildings.

A variance may not be granted to increase the profitability of the property, because of personal inconvenience, because of construction errors, for personal economic gain, because of self created hardships, or if the present use of the property is nonconforming.

| NAMES & MAILING ADDRESSES                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  | PROPERTY DESCRIPTION                                                                        |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------|--|
| Appellant (Agent)<br>Douglas B. Roberts and Ellen B. Roberts                                                                                                                                                                                                                                                                                                                                                                                                                             |  | Parcel Identification Number (PIN)<br>181- 23-0006                                          |  |
| Street Address<br>33 Franklin Court S                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  | Subdivision or CSM (Volume/Page/Lot)<br>Lot 6, according to the recorded Little Sister Plat |  |
| City • State • Zip Code<br>St. Petersburg, FL 33711                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | Address Of Property (DO NOT Include City/State/Zip Code)<br>10631 Little Sister Road        |  |
| Property Owner (If different from appellant)                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                             |  |
| Street Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                             |  |
| City • State • Zip Code                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |                                                                                             |  |
| CONTACT PERSON                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                             |  |
| Name and daytime phone number (include area code) of a person we can contact if we have any questions about your appeal or variance.                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                             |  |
| Name <u>Dan Gawronski</u> Daytime Phone ( <u>414</u> ) <u>232 - 6212</u> Email <u>djgawronski@michaelbest.com</u>                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                             |  |
| CERTIFICATE                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                             |  |
| I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Sister Bay Plan Commission, members of the Zoning Board of Appeals and the Zoning Administrator to enter the above described property for purposes of obtaining information pertinent to my application/appeal/variance request. |  |                                                                                             |  |
| Appellant <u>Daniel Gawronski</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  | Date <u>January 15, 2025</u>                                                                |  |
| Daytime Contact Number ( <u>414</u> ) <u>232</u> - <u>6212</u>                                                                                                                                                                                                                                                                                                                                                                                                                           |  | Email <u>djgawronski@michaelbest.com</u>                                                    |  |

*Michael Best & Friedrich LLP  
 Attorney for Appellant*

**APPEAL****VARIANCE**

I hereby appeal the following decision: \_\_\_\_\_

I hereby appeal for the following variance: \_\_\_\_\_

That, despite the confusing and  
inconsistent definition of "Building  
Height" as set forth in the Village of  
Sister Bay Zoning Code, the  
construction plans attached hereto as  
"Exhibit A" be approved with an overall  
maximum height of 37' 11".

DECISION MADE BY: \_\_\_\_\_

Reason for Variance: \_\_\_\_\_

See Attachment 1 on the following page.

REASONS STATED: \_\_\_\_\_

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**ATTACHMENT 1**  
to  
Variance Appeal

RECEIVED JAN 16 2025

**Reason for Variance:**

Summary:

The literal enforcement of the definition of "Building Height" as set forth in Section 66.2001 of the Village of Sister Bay Zoning Code (the "Code"), combined with the unique sloped incline of the Roberts' lot, presents a practical difficulty and unnecessary hardship to the Roberts' ability to construct a new home that preserves their enjoyment of substantial property rights possessed by other residents in the same zoning district.

Brief Background:

The existing structure located on the property is 100 years old and is not suitable for year-round occupancy and use. Therefore, a newly constructed single-family home is required to permit the Roberts' occupancy and use of the property for its permitted purpose.

The construction plan previously submitted to Ms. Schmelzer for review and approval (attached hereto as "Exhibit A" as updated to clearly show building heights) was rejected due to Ms. Schmelzer's decision that the overall height of the home exceeded the maximum building height allowed by the Code when measuring from the rear basement walkout grade to the highest point of the home. The Roberts appealed Ms. Schmelzer's interpretation of the Code before the Village Board of Appeals (the "Board") on December 19, 2024 (the "Appeal Hearing"). Such appeal was unsuccessful as the result of a 3-3 split vote by the Board.

Reasoning:

The natural topography of the Roberts' property presents a significant sloped incline with no level area that would accommodate construction of a new single-family home without an exposed foundation. See the attached site plan attached hereto as "Exhibit B". In fact, the incline of the lot changes 14 to 15 feet within the applicable setbacks where construction is permitted. This unique circumstance and condition creates an unnecessary hardship in constructing a single-family home that meets the 35' height requirement imposed by the Code. The steep slope of the lot necessitates a design with an exposed foundation that, while exceeding 35' by only 2'11", is essential for the functional and accessible use of the home on such property without disturbing the natural topography of the terrain. The construction plan presented to Ms. Schmelzer for approval is crucial to ensure that the home is functional and safe. Lowering the highest roofline below 35' would require a significant reduction to the pitch of the roof, thus resulting in a substandard building design that presents practical difficulties and compromises the safety of the new home. If the lot was not sloped, such exposed foundation would not be necessary, and the overall height of the home would be well below 35' (27' 5" to be exact).

Notwithstanding, Mr. Roberts is handicapped by a prosthetic leg. Altering the natural topography of the terrain to somehow raise the rear elevation of the home may pose a significant risk to Mr. Roberts' safe navigation of the property by foot.



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This variance is necessary for the Roberts' preservation and enjoyment of substantial property rights possessed by other residents in the same zoning district. In fact, during the Appeal Hearing, a Board member mentioned that her lower-level walk-out home is likely over 35' when applying the Village's interpretation of the definition of "Building Height."

In addition, the granting of such variance does not create a substantial detriment to any adjacent property, nor is it contrary to the spirit of the code or the public interest. In fact, eight of the nearest neighboring shoreland property owners fully support the construction plans presented by the Roberts. Those letters are attached hereto as "Exhibit C".

Architectural drawing of the right side elevation of a house. The drawing includes red dimension lines and callouts for specific measurements:

- A vertical dimension line on the left side of the main structure is labeled **24'11"**.
- A vertical dimension line on the right side of the main structure is labeled **34'2"**.
- A horizontal dimension line at the top of the main structure is labeled **3'-0"**.
- A vertical dimension line on the far right side of the drawing is labeled **4'-0"**.

The drawing shows a house with a gabled roof, a chimney, and a stone foundation. The text **RIGHT SIDE ELEVATION** and **SCALE: 1/8" = 1'-0"** is present at the bottom.

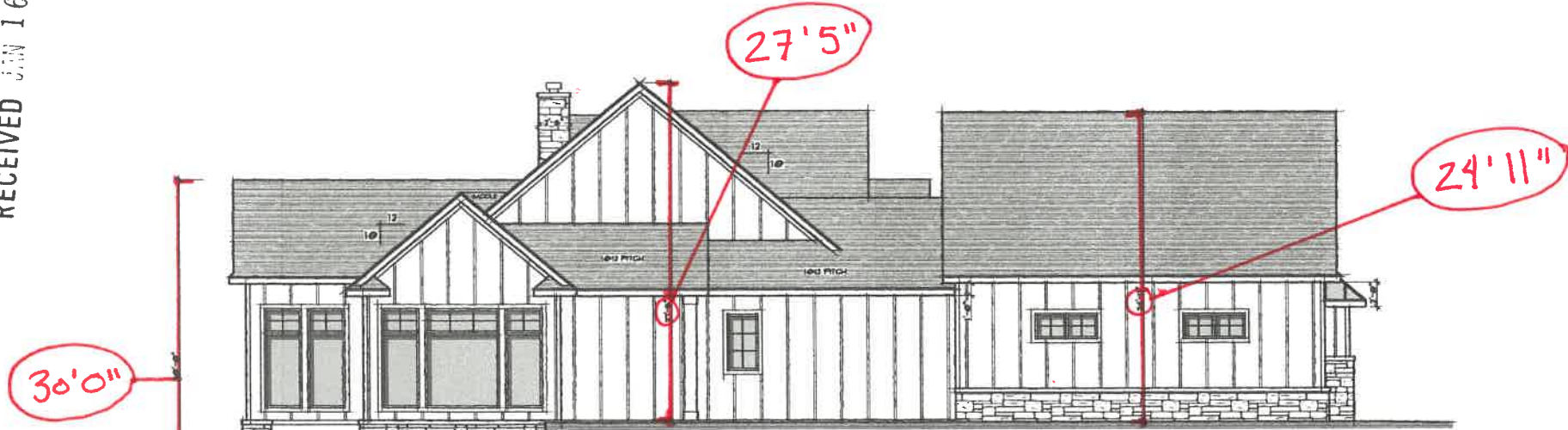
**WST HOME DESIGNS**  
a

**ROBERTS - SISTER BAY COTTAGE**  
**MARK WAEGHE BUILDERS**

|                               |                                                                     |                            |          |                                             |
|-------------------------------|---------------------------------------------------------------------|----------------------------|----------|---------------------------------------------|
| SHEET NO.:<br><b>14</b><br>OP | LAYER BALANCE<br>SEPTEMBER 4, 2004<br>Project No.:<br><b>23-677</b> | PRIMA PLAN <del>2004</del> |          | PRELIMINARY PLAN<br>PLANS CONTRACT OFFER    |
|                               |                                                                     | 8/23/2004                  |          | PRAISING PLAN<br>1200 PLAN FOR SECOND DRAFT |
|                               |                                                                     | 8/30/2004                  |          |                                             |
|                               |                                                                     | 11/10/2005                 | <b>X</b> | CONSTRUCTION PLAN<br>TOTAL PLAN             |

"Exhibit A- Page 2"

RECEIVED JAN 16 2025



LEFT SIDE ELEVATION  
SCALE 1/2" = 1'-0"



REAR ELEVATION  
SCALE 1/2" = 1'-0"

WESTWOOD DESIGNS  
ARCHITECTS & INTERIORS

ROBERTS - SISTER BAY COTTAGE  
MARK WAEGHE BUILDERS

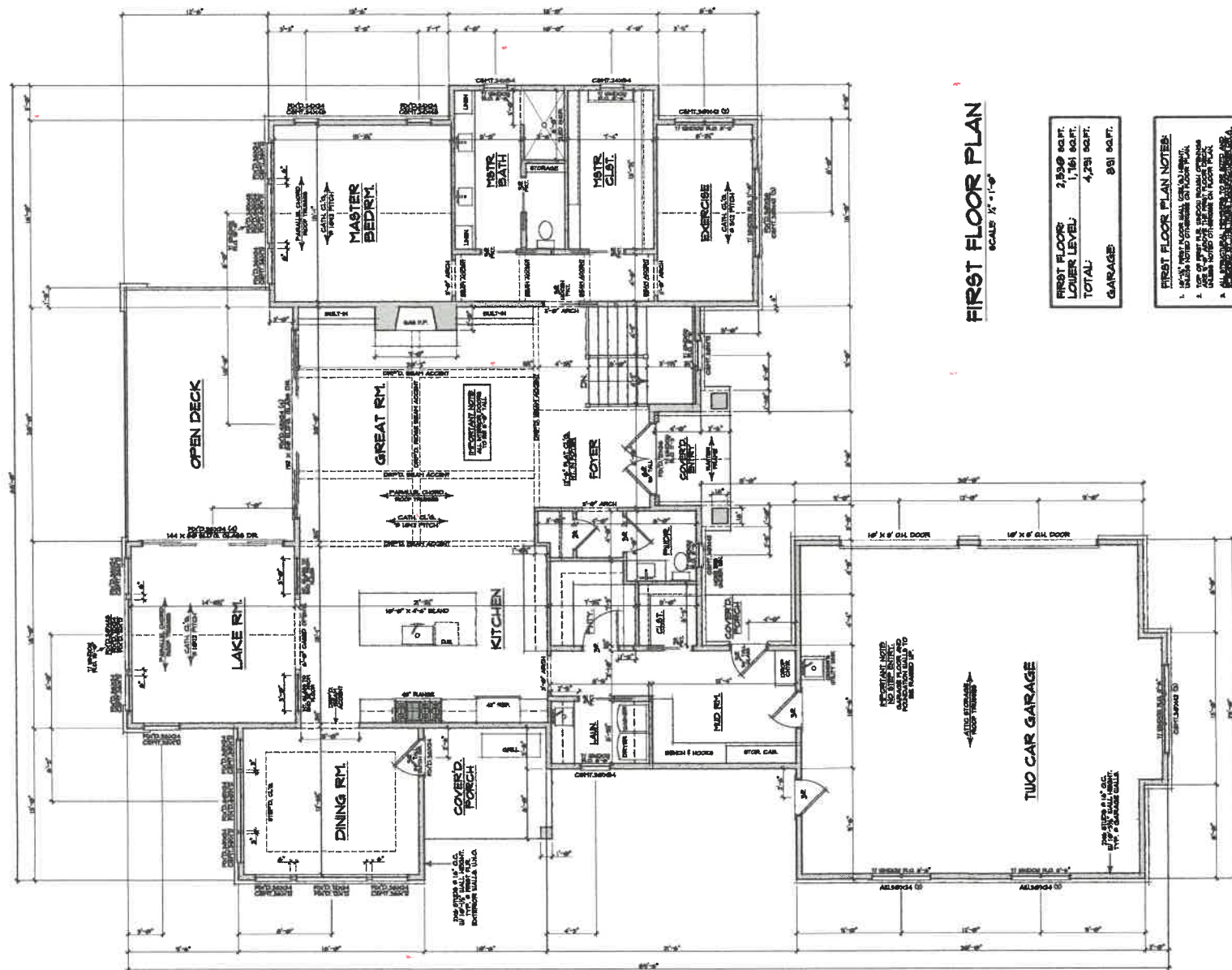
|                   |   |
|-------------------|---|
| PRELIMINARY PLAN  |   |
| PENDING PLAN      |   |
| CONSTRUCTION PLAN | X |

|                    |                   |
|--------------------|-------------------|
| PROPOSED PLAN DATE | SEPTEMBER 4, 2024 |
| DATE OF PLAN       | 2/28/2024         |
| DATE OF PLAN       | 11/15/2024        |

SHEET NO. 2 of 4  
PROJECT NO. 23-677



"Exhibit A - Page 3"



**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

|              |       |        |
|--------------|-------|--------|
| FIRST FLOOR: | 2,530 | SQ.FT. |
| LOWER LEVEL: | 1,161 | SQ.FT. |
| TOTAL:       | 4,291 | SQ.FT. |
| GARAGE:      | 881   | SQ.FT. |

**FIRST FLOOR PLAN NOTED:**

- 10-11. FIRST FLOOR SHALL CONTAIN (2) LIFELINES;  
LIFELINES NOTED ON FLOOR PLAN.
12. TOP OF FIRST F.L.R. SLOUCH ROOMS OFFSHORE  
AND 1' ABOVE THE FIRST FLOOR LEVEL  
INLAND. NOISED OFFSHORE ON FLOOR PLAN.
13. ALL STRUCTURAL MEMBERS TO BE NOTED AND  
Labeled WITH THE FOLLOWING: MEMBER TYPE, SIZE,  
SCHEDULE, ETC. (SEE PLAN, STRUCTURAL LAYOUT).

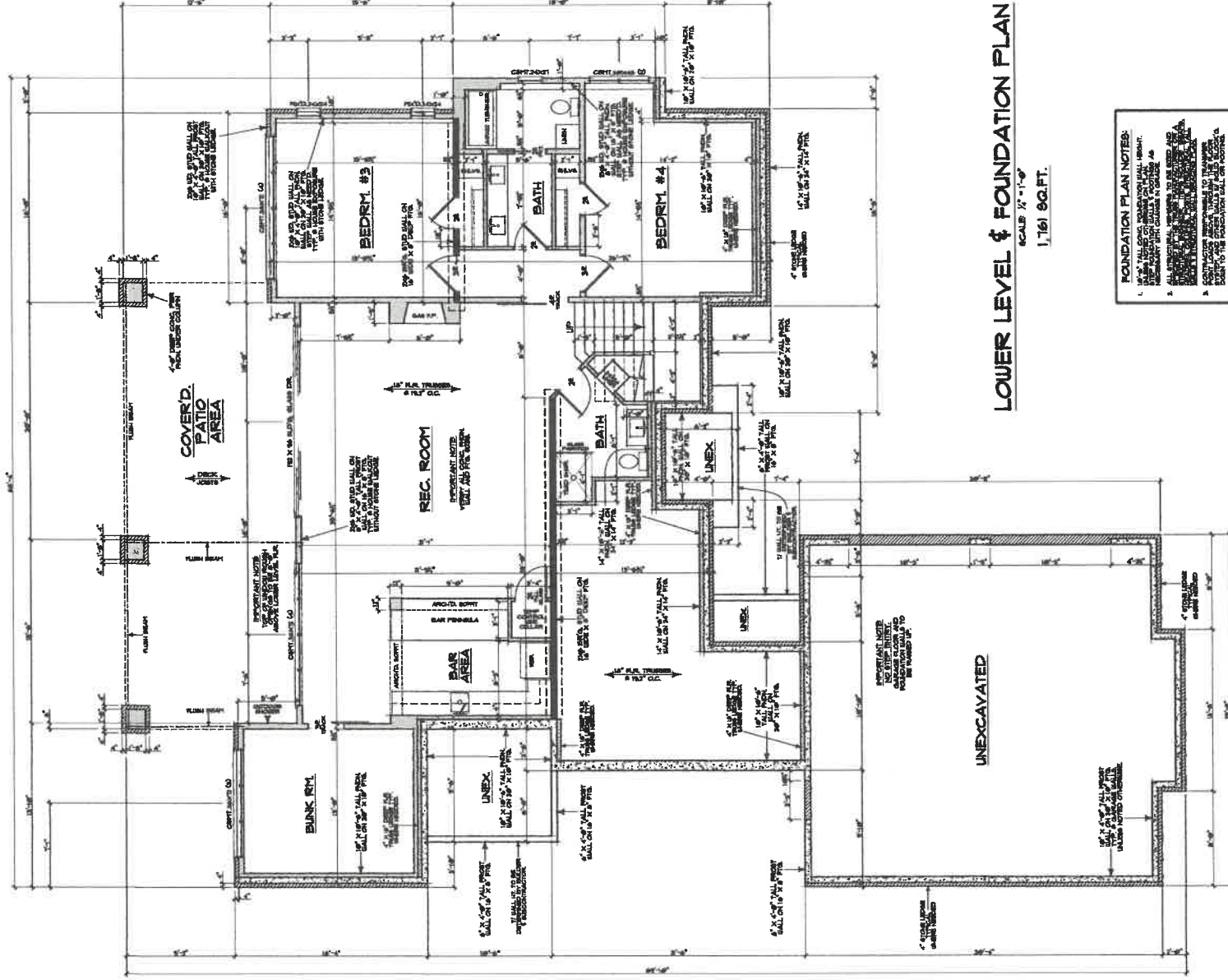
**IMPORTANT NOTES:**

HE IS ASSURED THAT ALTHOUGH EVERY INDIVIDUAL HAS BEEN PLACED IN THE BEST POSSIBLE POSITION, THE GOVERNMENT WILL BE ABLE TO CONTINUE TO TAKE CARE OF THE NEEDS OF ALL CITIZENS. HE STATED THAT THE GOVERNMENT WILL BE ABLE TO TAKE CARE OF THE NEEDS OF ALL CITIZENS, AND THAT THE GOVERNMENT WILL BE ABLE TO TAKE CARE OF THE NEEDS OF ALL CITIZENS.

**IMPORTANT NOTES:**

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 11-19-2001 BY 60322  
UCBAW/STP/STP/STP/STP/STP

" Exhibit A- Page 4 "



RECEIVED JUN 16 2025

## "Exhibit B"

## PROPOSED SITE PLAN

LOT 6 OF THE RECORDED "LITTLE SISTER PLAT" (VOLUME 2, PLATS, PAGE 2, DOCUMENT NO. 182625, DOOR COUNTY RECORDS), LOCATED IN GOVERNMENT LOT 4 OF SECTION 6, T31N-R28E, VILLAGE OF SISTER BAY, DOOR COUNTY, WISCONSIN.

ADDRESS: 10631 LITTLE SISTER ROAD TAX PARCEL: 181230006

## IMPERVIOUS SURFACES

## PROPOSED

FOUNDATION FOOTPRINT: 4034.5 SQ. FT.

DRIVEWAY: 2395.0 SQ. FT.

## EXISTING

GARAGE: 200.0 SQ. FT.

TOTAL: 6629.5 SQ. FT. (35.2% OF PARCEL)

## SITE PLAN LEGEND

⊙ BENCHMARK-TAG BOLT  
ON HYDRANT ELEV: 622.23

— EROSION CONTROL

— TRACKING PAD

— PROPOSED CONCRETE

— PROPOSED BUILDING

— EXISTING CONTOURS

— 820 — PROPOSED CONTOURS\*

2.92% PROPOSED SLOPE ARROWS

748.61 PROPOSED SPOT ELEVATIONS

\*PROPOSED CONTOURS ARE FOR GUIDANCE ONLY. EXCAVATOR  
TO DIVERT WATER FLOW AWAY FROM NEW CONSTRUCTION.

## NOTES

BEARINGS ARE BASED ON THE SCHROEDL PLAT OF  
SURVEY, JOB # 20-0496(6).

FOOTPRINT OF PROPOSED HOUSE IS FOUNDATION  
PLAN FROM WST HOME DESIGNS, PROJECT # 23-677.  
REVISION DATE 5/23/2024.

ELEVATIONS ARE REFERENCED TO THE NAVD 88  
BENCHMARK DATUM.

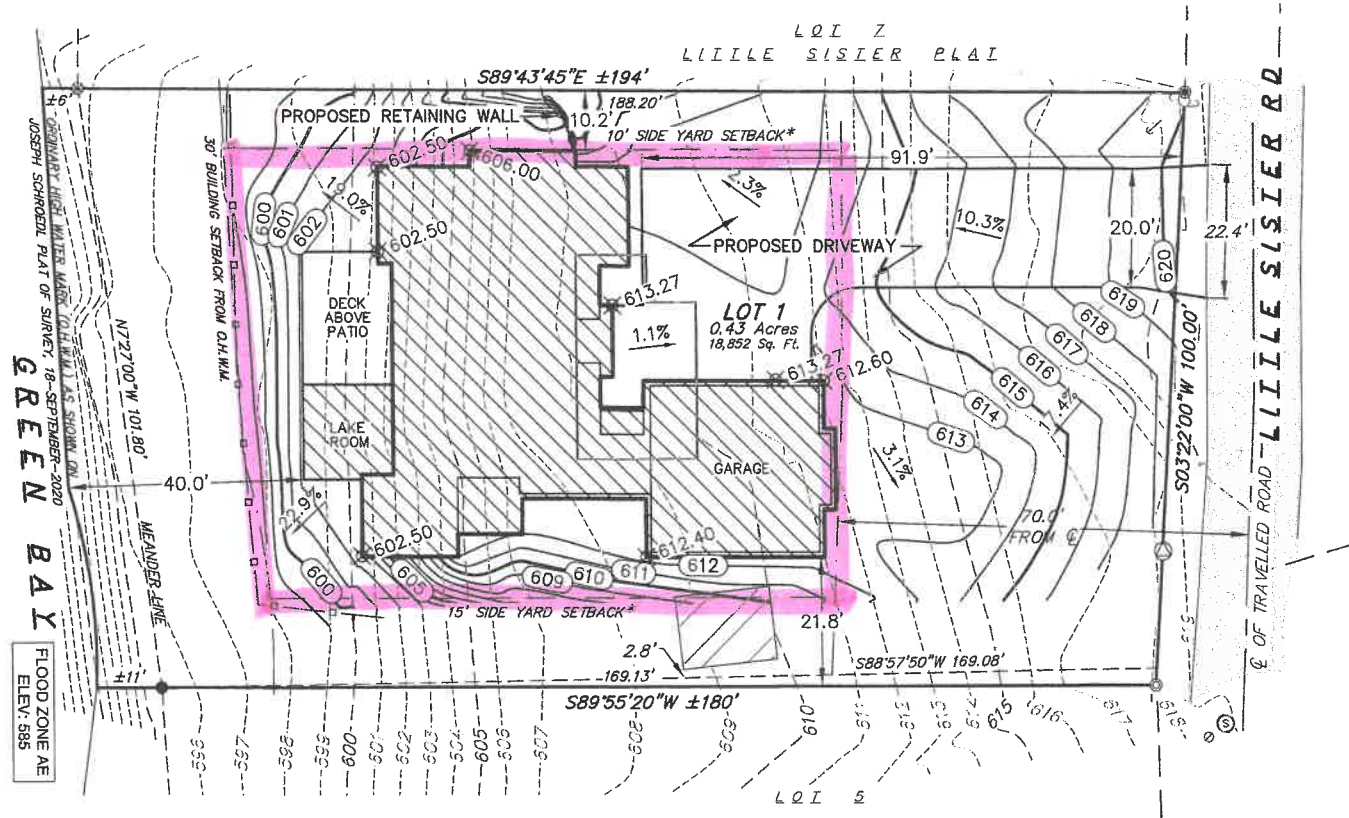
BENCHMARK IS TIED TO NGS POINT QL0251.

GRAPHIC SCALE: 1" = 20'



## EROSION &amp; SEDIMENT CONTROL NOTE

FOLLOW THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
TECHNICAL STANDARDS AS FOUND AT:  
[dnr.wisconsin.gov/topic/Stormwater/standards/const\\_standards.html](http://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html)



vierbicher  
planners  
engineers  
advisors

## RESIDENTIAL SITE PLAN

PREPARED FOR  
DOUG & ELLEN ROBERTS

| REVISIONS   | REMARKS                   |
|-------------|---------------------------|
| DATE        | DATE                      |
| 10/10/2024  | IMPERVIOUS AREAS, GRADING |
| DRAFTER     | BBI                       |
| CHECKED     | MAND                      |
| PROJECT NO. | 240516                    |
| SHEET       | 2 of 2                    |

DRAWING # X-1913

RECEIVED JUN 16 2025

**“EXHIBIT C”**

Supporting Letters

(see attached)

RECEIVED JAN 16 2025

December 12, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own the immediately adjacent property located at 10637 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,

Michael & Sarah Mercurio

*Michael Mercurio*

*Sarah Mercurio*



RECEIVED JAN 16 2025

December 1, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

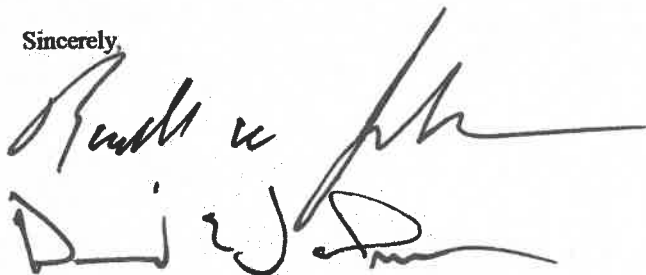
Re: 10631 Little Sister Road

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own property located at 10643 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,

The block contains two handwritten signatures in black ink. The top signature is written in a cursive, flowing style and appears to be 'Doug Roberts'. The bottom signature is also in cursive and appears to be 'Ellen Roberts'. Both signatures are written over the word 'Sincerely,'.

RECEIVED JAN 16 2025

December 10, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own property located at 10683 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,



RECEIVED JAN 16 2025

December 12, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

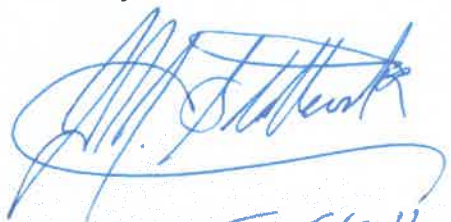
**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

10673, 10661 + 10647  
We own property located at \_\_\_\_\_ Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,



John J. Stollenwerk

RECEIVED JAN 16 2025

December 11, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own properties located at 10607, 10611 and 10627 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,

  
Lance and Bridget Crane

RECEIVED JAN 16 2025

December 11, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

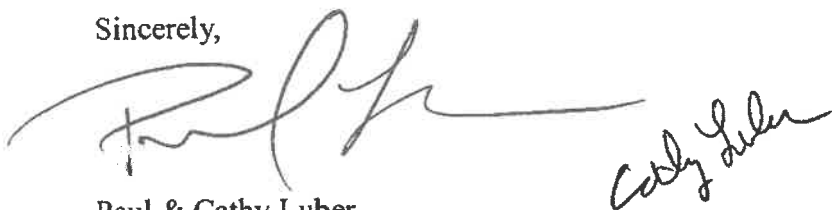
**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own property located at 10709 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,

A large, stylized handwritten signature in dark ink, appearing to be 'Paul & Cathy Lubber', with a long horizontal flourish extending to the right.

Paul & Cathy Lubber

A smaller, cursive handwritten signature in dark ink, appearing to be 'Cathy Lubber', located below the main signature.

RECEIVED JAN 10 2025

December \_11\_, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

**Re:10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own property located at 10691 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,  
David and Carole Frykman



RECEIVED JAN 16 2025

December 11, 2024

Zoning Board of Appeals, Village of Sister Bay  
Attn: Ms. Janal Suppanz  
2383 Maple Drive  
Sister Bay, WI 54234

**Re: 10631 Little Sister Road**

Dear Board Members:

Doug and Ellen Roberts own the property located at 10631 Little Sister Road in Sister Bay, and they have filed plans for the construction of a new home at that location. It is our understanding that an appeal of the Village of Zoning Administrators interpretation on the height of the proposed new home at 10631 Little Sister Road is scheduled for public hearing on December 19, 2024.

We own property located at 10721 Little Sister Road, Sister Bay, and we have been provided with a copy of the Roberts' appeal package. We are writing in support of the Roberts and their appeal. Not only is their proposed new home consistent with the existing neighboring homes, but their home will also be a wonderful addition to the neighborhood.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicholas Gerrits", with a stylized flourish at the end.

Nicholas Gerrits and Katherine Gerrits  
10721 Lt. Sister Rd., Sister Bay



# **REQUEST FOR VARIANCE**

## **Supporting Materials**

On behalf of Doug and Ellen Roberts

February 19, 2025

# Contents



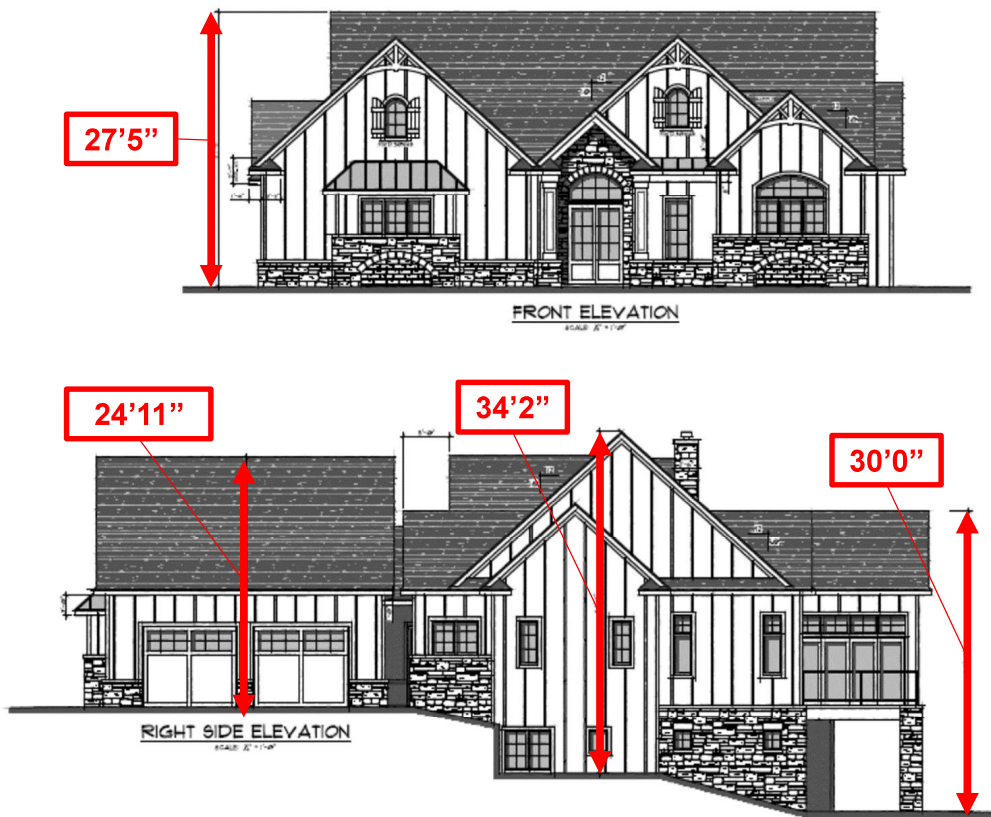
- **Variance Request**
- **Summary of Reason for Variance Request**
- **Background**
- **Variances**
  - Background
  - Elements
- **Detailed Reasoning**
  - Unnecessary Hardship and Burden
  - Public Interest
  - Preservation of Intent
  - Preservation of Property Rights
- **Conclusions of Law**
- **Remarks from Doug and Ellen Roberts**



## Our Variance Request

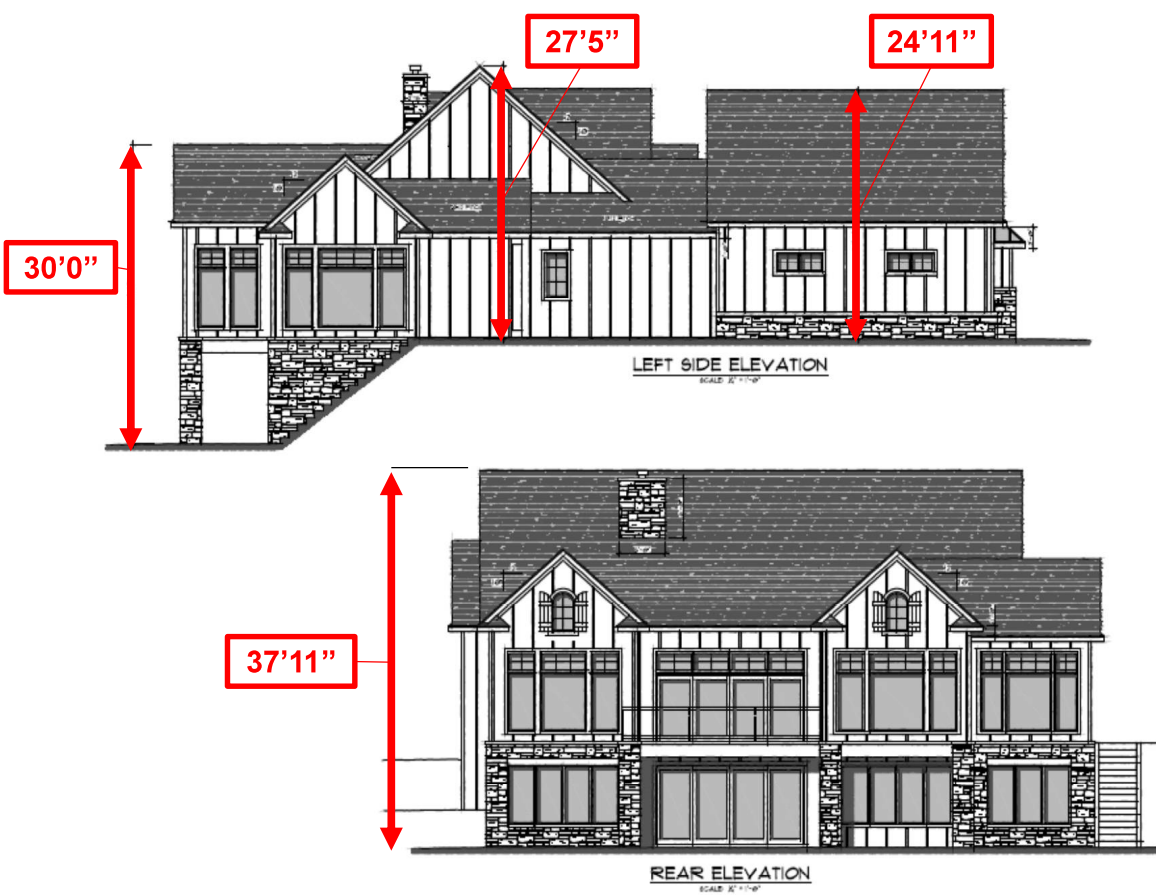
**Doug and Ellen Roberts (the “Roberts”) are appealing for the following variance:**

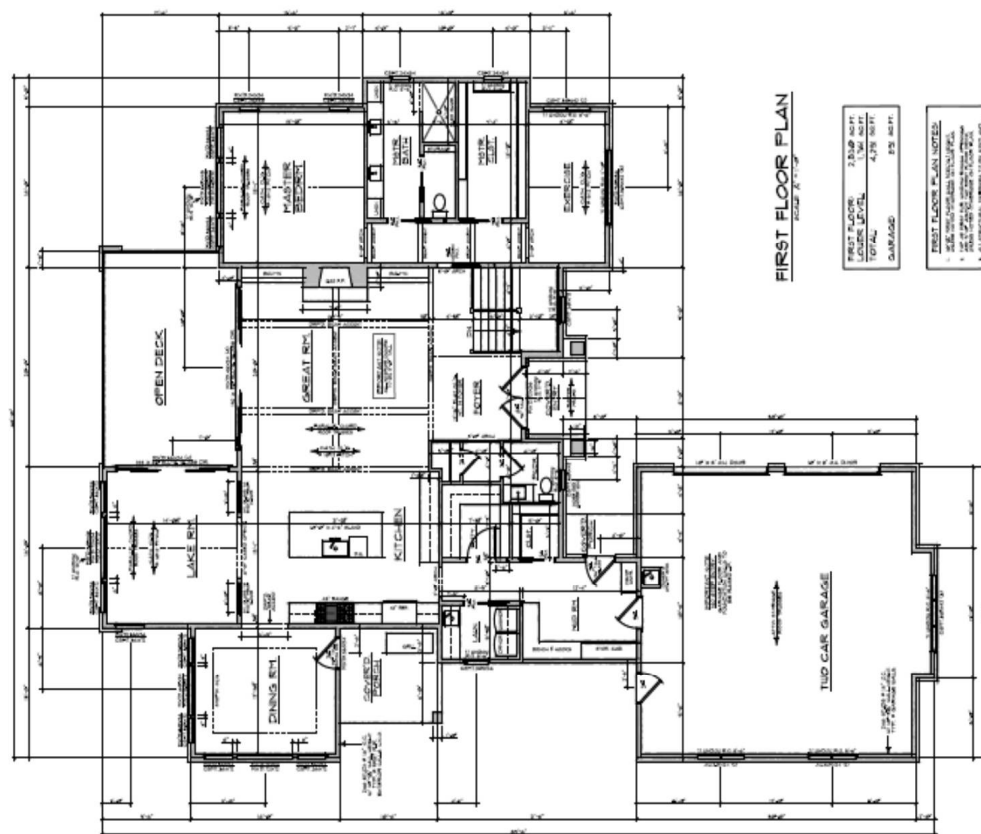
That, despite the Village’s literal interpretation of “Building Height” as set forth in the Village of Sister Bay Zoning Code (the “Code), the following construction plans be approved with an overall permitted maximum height of 37 feet 11 inches.



|                              |                 |
|------------------------------|-----------------|
| WESTWOOD DESIGNS             |                 |
| ROBERTS - SISTER BAY COTTAGE |                 |
| MARK WAUGH BUILDERS          |                 |
| DATE: 10/1/2019              | BY: MWD         |
| REVISION: 1                  | DATE: 10/1/2019 |
| REVISION: 2                  | DATE: 10/1/2019 |
| REVISION: 3                  | DATE: 10/1/2019 |
| REVISION: 4                  | DATE: 10/1/2019 |
| REVISION: 5                  | DATE: 10/1/2019 |
| REVISION: 6                  | DATE: 10/1/2019 |
| REVISION: 7                  | DATE: 10/1/2019 |
| REVISION: 8                  | DATE: 10/1/2019 |
| REVISION: 9                  | DATE: 10/1/2019 |
| REVISION: 10                 | DATE: 10/1/2019 |
| REVISION: 11                 | DATE: 10/1/2019 |
| REVISION: 12                 | DATE: 10/1/2019 |
| REVISION: 13                 | DATE: 10/1/2019 |
| REVISION: 14                 | DATE: 10/1/2019 |
| REVISION: 15                 | DATE: 10/1/2019 |
| REVISION: 16                 | DATE: 10/1/2019 |
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| REVISION: 98                 | DATE: 10/1/2019 |
| REVISION: 99                 | DATE: 10/1/2019 |
| REVISION: 100                | DATE: 10/1/2019 |



[illegible]



FIRST FLOOR PLAN

|                            |               |
|----------------------------|---------------|
| FIRST FLOOR<br>LOWER LEVEL | 2,839 SQ. FT. |
|                            | 1,761 SQ. FT. |
| TOTAL                      | 4,599 SQ. FT. |
| OUR AGED                   | 875 SQ. FT.   |

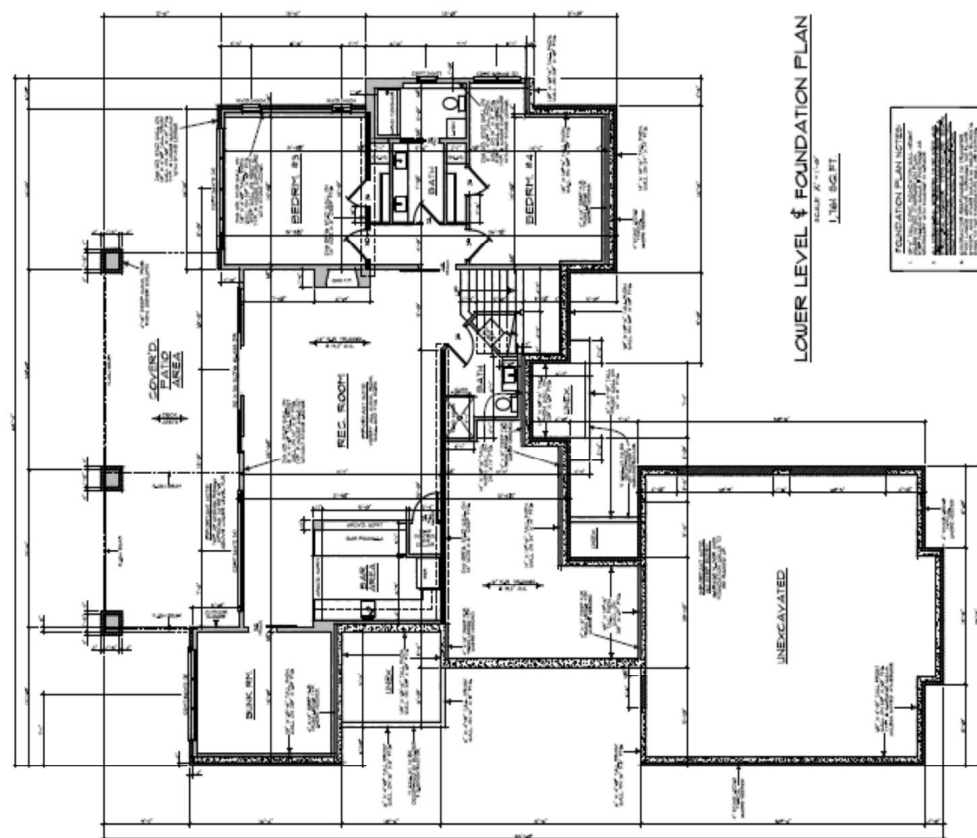
[illegible]

**IMPORTANT NOTICE:**  
It is advised that all those who wish to attend this course should contact the organizers as early as possible to ensure that they can book a place. The organizers will be happy to provide information and answer any queries. A limited number of places are available and the course is free of charge. The organizers will be happy to provide information and answer any queries. A limited number of places are available and the course is free of charge.

**IMPORTANT NOTICE:**  
 8-1-2009  
 1-1-2010

[illegible]





LOWER LEVEL & FOUNDATION PLAN

1,764 SQ. FT.

**FOUNDATION PLAN NOTES:**

1. ALL FOUNDATION WALLS SHALL BE CONCRETE.
2. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.
3. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.
4. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.
5. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.
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9. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.
10. ALL FOUNDATION WALLS SHALL BE MINIMUM 12" THICK.

**IMPORTANT NOTES:**

6 MONTHS  
1 YEAR  
2 YEARS  
3 YEARS  
4 YEARS  
5 YEARS

[illegible]



## Summary of Reason for Variance Request

The literal enforcement of the definition of “Building Height” as set forth in Section 66.2001 of the Village of Sister Bay Zoning Code (the “Code”), combined with the unique sloped incline of the Roberts’ lot, presents a practical difficulty and unnecessary hardship to the Roberts’ ability to construct a new home that preserves their enjoyment of substantial property rights possessed by other residents in the same zoning district.

## Background

- The existing structure located on the property is 100 years old, 616 sq. ft., and is not suitable for year-round occupancy and use.
- Therefore, a newly constructed single-family home is required to permit the Roberts' occupancy and year-round use of the property for its permitted purpose.



View from  
Front Yard



View from  
Back Yard/  
Lake Bluff



## Background Continued...

- The construction plan previously submitted to Ms. Schmelzer for review and approval was rejected due to Ms. Schmelzer's decision that the overall height of the home exceeded the maximum building height allowed by the Code when measuring from the rear basement walkout grade to the highest point of the home.
- The Roberts appealed Ms. Schmelzer's interpretation of the Code before the Village Board of Appeals (the "Board") on December 19, 2024 (the "Appeal Hearing").
- The Roberts' appeal was unsuccessful as the result of a 3-3 split vote by the Board.
- No "formal decision" was issued on the matter, leaving the Roberts with no legal recourse pursuant to the Wisconsin Statutes.

**TO BE CLEAR, WE ARE NOT ARGUING TODAY THAT THE VILLAGE'S INTERPRETATION OF THE TERM "BUILDING HEIGHT" IS INCORRECT, BUT RATHER APPEALING FOR A VARIANCE**



## Variance Background

A variance authorizes the board of appeals to grant the construction of a building or structure in a manner that deviates from the dimensional standards of the Village of Sister Bay Zoning Code (the “Code”). See *Section 66.2100, Definition of “Variance”*.

Pursuant to Wisconsin Stat. 63.23(7)(e)7.a., there are two types of variances:

- (1) **Area Variance.** A modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals.
- (2) **Use Variance.** An authorization by the board of appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

**FOR CLARITY, THIS IS AN APPEAL FOR AN “AREA VARIANCE” AS THE PROPERTY IS ALREADY ZONED AS R1 - SINGLE-FAMILY RESIDENCE DISTRICT**



# Variance Elements

Pursuant to Wisconsin Stat. Section 63.23(7)(e), an “area variance” can be granted if:

- (1) The variance from the code will **not be contrary to the public interest**, where, owing to conditions, **a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship**, so that the **spirit of the ordinance shall be observed**, public safety and welfare secured, and substantial justice done.
- (2) For an “area variance”, there is a “unnecessary hardship” as demonstrated that **strict compliance with the Code would:**
  - (a) unreasonably prevent the property owner from using the property for a permitted purpose, or
  - (b) **render conformity with the Code unnecessarily burdensome.**
- (3) The unnecessary hardship is **based on conditions unique to the property**, rather than considerations personal to the property owner.

Variances run with the land (such that the variance permission stays with the property, not the owners).



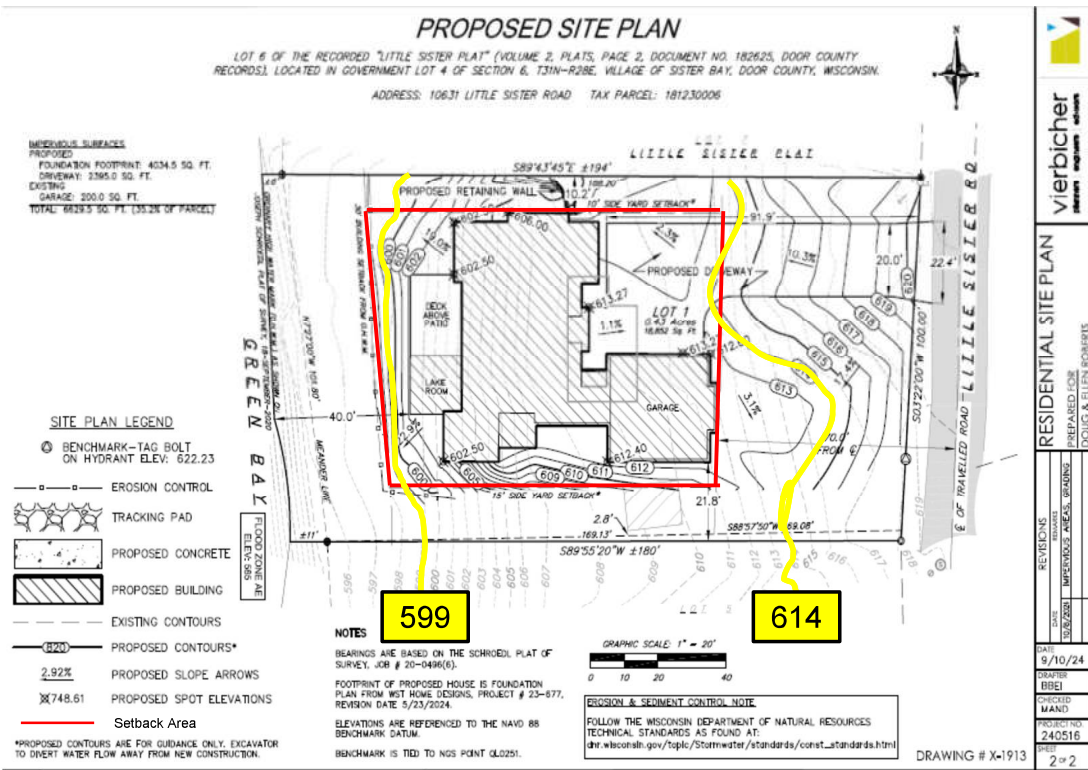
# Detailed Reasoning



## Unnecessary Hardship and Burden

- **The literal enforcement of the Village's interpretation of the 35' maximum height requirement results in a practical and unnecessary hardship and burden to the Roberts' ability to construct a single-family home that meets such height requirements.**
- **The Roberts have the legal right to build within the permitted setbacks on the property.**

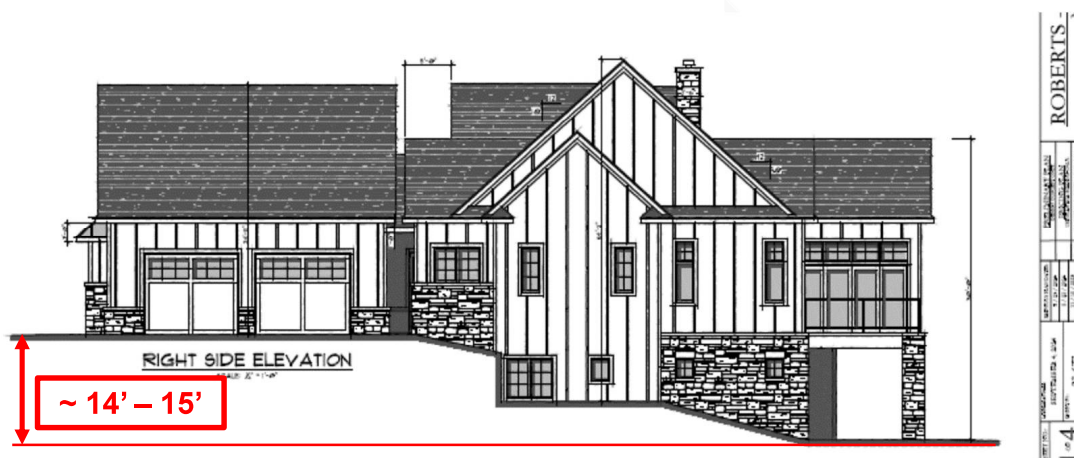




- The unique God-given topography of the Roberts' property presents a significant sloped incline from the lake with no significant level area that would accommodate construction of a new single-family home without an exposed foundation.
- In fact, the incline of the lot changes 14 to 15 feet within the applicable setbacks where construction is permitted (over 23 feet from road to bluff).
- Within setback parameters, many neighboring properties either (i) do not have such significant slope, or (ii) have greater level area with no requirement for an exposed foundation.



Continued...



**A new construction on this property without an exposed foundation is impossible without severely disrupting the natural God-given topography.**



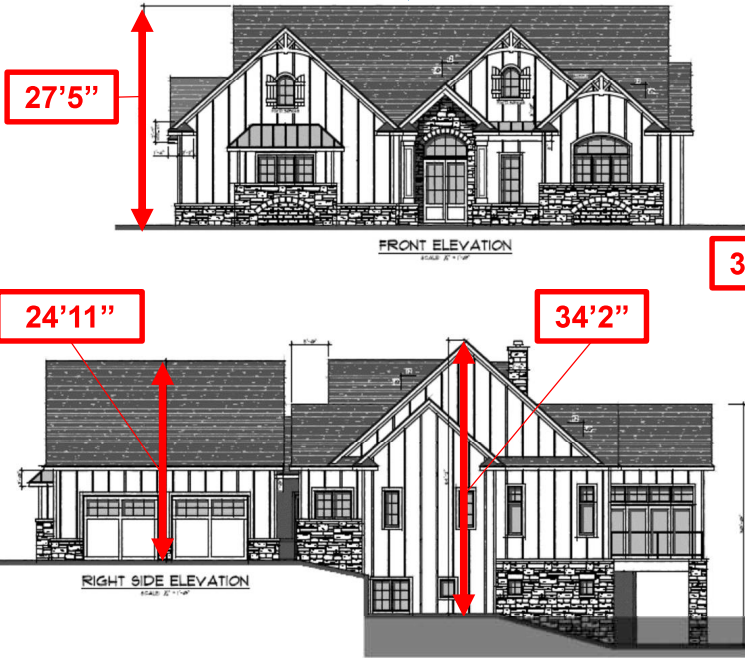
## Continued...

- **If the property was level, or presented a less significant incline, the existing building plans would be fully compliant with the 35' maximum height requirement.**
- **Pursuant to the Village's literal interpretation of the maximum height requirements, the height of the home is already approximately 14 ft. high before a single brick is laid at the front foundation.**
  - This leaves only approximately 21 feet to build a single-story home.
  - It is common for today's ranch homes to average height from 22 to 25 feet from front foundation.



In all cases,  
under the 35'  
height maximum

Assuming Completely Level Property



Assuming Less Elevation of Property

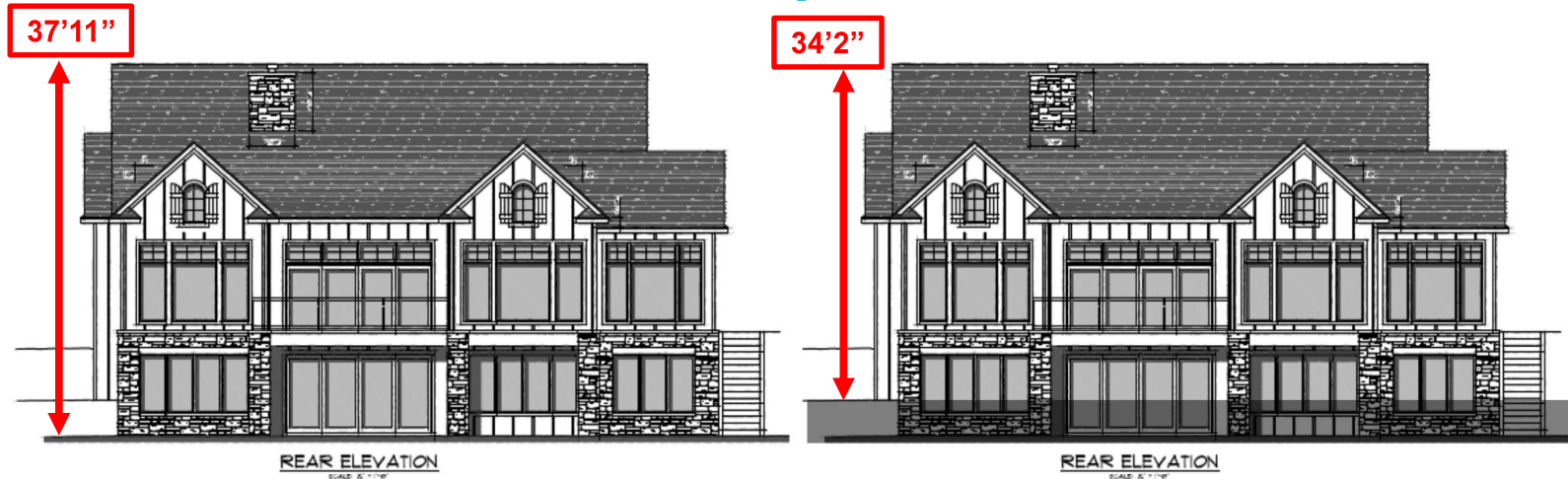
## Continued...



- While the building plans exceed the Village's interpretation of the maximum building height of 35' by only 2'11", such design is essential for the safe, functional and accessible use of the home on such property without disrupting the natural God-given topography of the terrain.
- Alternatives are unnecessarily burdensome:
  - (1) Lowering the highest roofline below 35' would require a significant reduction to the pitch of the roof, thus resulting in a substandard building design that presents practical difficulties and compromises the safety of the new home. For example, a roof pitch below 10/12 reduces space for insulation, leads to snow load concerns, can cause slow snow/water runoff that can lead to ice dam formation and/or water damage, and creates maintenance challenges.
  - (2) Backfilling the exposed foundation to create a higher foundation level changes the natural God-given topography and slope of the property, thus leading to, among other things, drainage and erosion control issues and disjointed elevations with neighboring properties. Such change in topography could also pose safety issues in navigating the rear terrain of the property – especially for children, elderly and those with disabilities (including Mr. Roberts).

**THESE ALTERNATIVES ARE UNNECESSARITLY BURDENSOME TO  
THE PROPERTY OWNERS**

# Reasonableness Comparison



**Proposed Construction Plan**

- Uses standard building design, 10/12 roof pitch.
- Maintains natural pitch / topography of property.
- This is not unreasonably different from what would otherwise be deemed compliant.

**Construction Plan Showing Burdensome Alteration**

- This would comply with the Code, but as previously noted would require either substandard roof pitch and/or backfill that would change natural pitch/topography of property and negatively affect neighboring properties and lead to safety issues.

**All other height measurements of the home would be identical**



## Public Interest

- **This variance is neither contrary to the public interest nor creates any detriment to neighboring properties.**
- Little Sister Road is not a through street, but instead a relatively private and unfrequented dead-end with access to only private residences and condominiums.
- From the public street view, the Roberts' proposed home will be well below 35 feet (27 feet 5 inches to be exact). Thus, such home is not of such an offensive height or design that detracts from the beauty, appeal or quaintness of the Village of Sister Bay.
- The Roberts' building plans are supported by the eight families who own the directly-neighboring 13 properties. These neighbors previously voiced their support for the Roberts' building plans via letters in connection with the Appeal Hearing. Those letters are attached to the Roberts' filed variance appeal. All such neighbors have confirmed their continued support in connection with this variance hearing.



## Preservation of Intent

- **This variance preserves the intent of the height requirements of the Code.**
  - Pursuant to Section 66.0103 of the Code, its intent is to, among other things: regulate size to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage; stabilize and protect existing property values; and preserve and promote the beauty of the community.
  - The design of the Roberts' proposed home is consistent with those values. Again, such home is not of such an offensive height or design that it impairs or is contrary to the purpose and spirit of the Code.





## Preservation of Property Rights

- **This variance is necessary for the preservation and enjoyment of the Roberts' substantial property rights possessed by other properties in the same zoning district and same vicinity.**
  - The existing structure on the Roberts' lot is the last of the homestead cottages located on Little Sister Road, where all other lots contain modern or updated structures.
  - The existing structure is 100 years old and not suitable for year-round use and enjoyment.
  - The Roberts have every right to construct a new home within the permitted setback area to preserve the enjoyment of their property.
  - At the Appeal Hearing, a Board member mentioned that her lower-level walk-out home is likely over 35 feet when applying the Village's interpretation of "Building Height" as set forth in the Code.

## Conclusions of Law



1. **The requested variance is consistent with the purpose and intent of the regulations for the R-1 Zoning District.** It is permissible to build a single-family home on such property.
2. **Exceptional Circumstances apply to the property that don't generally apply to other properties.** Further, the granting of the variance is not of so general or recurrent a nature as to suggest that the Zoning Code should be amended.
3. **Unnecessary hardship exists because compliance with the Village's literal interpretation of the 35' height requirement would render conformity with such restrictions unnecessarily burdensome.** Further, the variance will not harm the public interest.
4. **The variance is necessary for the preservation and enjoyment of the substantial property rights that are possessed by others in the area.** The construction plans will not negatively impact the enjoyment of the surrounding properties and/or lots.
5. **The area variance will not create substantial detriment to any adjacent property and will not impair or be contrary to the purposes and spirit of the Code.** Eight adjacent property owners are in support of the Roberts' construction plans.



## Remarks from Doug and Ellen Roberts



## Email Exhibit 1

**From:** Julie Schmelzer <julie.schmelzer@sisterbaywi.gov>  
**Sent:** Wednesday, October 30, 2024 8:11 PM  
**To:** Daniel Gawronski <djgawronski@michaelbest.com>  
**Subject:** 10631 Little Sister Road

Hi Daniel,

I wanted to get back to you regarding the required water setback and height limitation for the property at 10631 Little Sister Road. I started a new email string in the event you opt to appeal my decision.

I think we both can agree the zoning code is not clear on what is a 'development pattern', and admittedly it would be difficult to defend if challenged absent a clear definition. As such, the way the code is currently written, the setback recently proposed on the site plan provided to me can be approved at this time.

However, I cannot approve the height of the building. The building is limited to 35', minus anything above the roof, such as a chimney.

Julie Schmelzer, Village Administrator  
Sister Bay, WI



## Email Exhibit 2

**From:** Rankin, Kristin <[krankin@co.door.wi.us](mailto:krankin@co.door.wi.us)>  
**Sent:** Tuesday, September 17, 2024 12:28:22 PM  
**To:** 'Mark Waeghe' <[mpw1138@gmail.com](mailto:mpw1138@gmail.com)>  
**Subject:** RE: shoreland zoning building heights

Hi Mark,

The county utilized the 35' height restriction in the same way as the comprehensive – it is an average. The only difference is that within 75', all portions of the house need to be shown (ie chimneys, antennas). Outside of 75' from the OHWM, just the peak of the roof needs to be used to determine averaging for heights.

(Please keep in mind that all voicemails/emails/applications are processed in the order they are received, thank you for your patience!)

Thanks,

*Kristin Rankin* | Code Administrator | [Door County Land Use Services](#)

421 Nebraska Street | Sturgeon Bay, WI | Direct line: (920) 746-2266

Office Hours: M-W: 7am-4:30 pm, TH: Inspection Day, F: 7am-11am

[Click Here to Apply for a Permit](#)

## ROBERTS PETITION FOR GRANT OF VARIANCE

### STAFF REPORT

Hearing Date: February 19, 2025

Author: Julie Schmelzer, Village Zoning Administrator

#### **Introduction**

Per State Statutes and the Municipal Code, a variance can only be issued if the following apply. I have presented the below in a format so you can 'check the boxes' to determine if the variance meets statutes and the requirements of the code.

Wisconsin Stats. 62.23(7)(e)7 explains you can approve a variance only if:

1. The variance from the code will not be contrary to the public interest, where, owing to conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.  
☐ *(Check if the request meets this requirement.)*
2. The statutes further read a property owner bears the burden of proving 'unnecessary hardship' by demonstrating the strict compliance with the zoning code would unreasonably prevent the property owner from using the property for the permitted use or would render conformance with the code to be unnecessarily burdensome. The owner must therefore demonstrate strict conformance means we would leave the owner with no other reasonable use of the property (except of course unless they got a variance).  
☐ *(Check if the request meets this requirement.)*
3. Lastly, statutes require: The owner bears the burden of proof to prove the unnecessary hardship is based on conditions unique to the property, rather than personal to the property owner, and, that the hardship was not created by the property.  
☐ *(Check if the request meets this requirement.)*
4. Lastly, remember variances run with the land, so any decision will mean the variance(s) are warranted forever.  
☐ *(Check if the request meets this requirement.)*

The code requires:

#### Sec. 66.1607 Findings

No area variance to the provisions of this chapter shall be granted by the Board unless it finds by a preponderance of the evidence that **all** [emphasis added] the following facts and conditions exist and so indicates such in the minutes of its proceedings.

1. Preservation of intent. No area variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. ☐ *(Check if the request meets this requirement.)*

2. Exceptional circumstances. There must be unique circumstances or conditions applying to the lot or parcel or structure that do not apply generally to other properties or uses in the same zoning classification within 1,000 feet of the subject property, and the granting of the area variance should not be of so general or recurrent a nature as to suggest that the zoning chapter should be changed.  
☐ *(Check if the request meets this requirement.)*
3. Hardship. **Economic hardship and self-imposed hardship are not grounds for an area variance.** [Staff did not add this emphasis, rather that is how the code is written.] No area variance shall be granted solely based on economic gain or loss. The hardship must be based upon conditions unique to the property rather than considerations personal to the owner.  
☐ *(Check if the request meets this requirement.)*
4. Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.  
☐ *(Check if the request meets this requirement.)*
5. Absence of detriment. No area variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.  
☐ *(Check if the request meets this requirement.)*

### **Petition**

The petition for variance submitted explained the request is made based on the following:

1. The petitioner argues topography and the steep slope create an unnecessary hardship preventing the Roberts from complying with the 35' height limit.
2. They also argue complying with the height limit on this particular lot would require a significant reduction to the pitch of the roof, resulting a substandard building design and compromises the safety of the home.
3. The petitioner has a prosthetic leg and altering the natural topography of the terrain to raise the rear elevation may pose a risk to Mr. Roberts' safe navigation of the property by foot.
4. The variance is necessary for their preservation and enjoyment of substantial property rights possessed by other residents in the same zoning district.
5. The proposed height does not create a substantial detriment to any adjacent property, nor is it contrary to the spirit of the code or the public interest. Eight neighbors support the request.

### **Staff Information**

In response to Petitioner's statement that the topography creates an unnecessary hardship preventing the owner from complying with the height limit:

While topography can be a unique property feature preventing someone from complying with the code, regulations state that a unique property feature warrants a variance if:

- a) State Statutes: *The code would **unreasonably** prevent the property owner **from using the property for the permitted use or would render conformance with the code to be unnecessarily burdensome**. The owner must therefore demonstrate strict **conformance means we would leave the owner with no other reasonable use of the property**.* [Bold font emphasis added]

So, the question then is, is the topography so severe it would prevent the property from being developed with a permitted use [home], or would conformance to the height limit leave them no reasonable use of the property?

Below is the topography on the Roberts' lot, per Door County's GIS site and contour maps. It may be difficult to read, but by the road the lot is between 618'-620' in elevation, and at the building setback line, it is about 612'-613'. By the water, it is about 592' at the building setback line. So, there is a grade change of about 20' in elevation. But....



On October 10, 2024 staff received plans from the owner's own engineering firm (Verbeicher) which actually showed the home laid out on the lot (a site plan) and a grade change of just 14' where the home would be built. And, the plan (Exhibit B) submitted by the Roberts, with the Petition for Grant of Variance, showed a grade change of 612.6 at the corner of the garage and 602 at the westernmost side of the home/lake room, showing a grade change of even less – *just 10.6'*.

So now we have to look at the above and determine if this 10.6' elevation change is unique *to this property*, and does it prevent them from having a *reasonable use of the property* (a home). Well the first obvious fact is, if they didn't build to the maximum allowable setbacks, and instead build in line with the adjacent neighbor, the home could be 87' deep – which is quite a spacious



home – and, the grade change – if we use the GIS data -- would be just 14'. (For purposes of comparing 'apples to apples' I'll use the GIS data herein.)

Let's look at the adjacent neighbor to the north: Their grade change is 13' (this doesn't include the deck).



Based on this, a home can be built on the lot, so the topography isn't unique to the Roberts, and because a reasonable use of the property exists, the variance is not justified. (I argue a 'more than reasonable' size single family residence can be built on the lot, that being a home 75' wide and 87' deep, which is a 6500 square foot home).

Even two lots north, the grade change at the home is about 14'. So it's not the topography that creates a hardship, rather it's the owner's personal preference to build to the maximum limits of the lot, where the lot starts getting steeper. As shown below, the closer you get to the water, the steeper the lots get, and, neighboring lots to the north are actually steeper by the water than the petitioner's lot. Simply, if the owner's preference wasn't to be as close as possible to the water, or build such a large home, their topography wouldn't be an issue (and arguably above, it isn't a unique characteristic). (Note, on the below contour map the closer the lines, the steeper the lot.)



Let's assume for a second the topography does create a unique situation. Did it result in the neighboring homes also having to exceed 35' in height? The following is from the Village files:

Fire No. 10611 – New home – Similar rooflines as 10637 with a mix of pitches and flat roofs. Road max height is 18', rear max height is 27'6".

10627 – Grandfathered home, no heights in file.

10637 – New home – Application says 16', but plans show three 'heights' (two pitches and a flat roof). Road is 16' and highest point in rear is 29'. Plans show a sloped/stepped lot, much like the appellant.

10643 – New home – 25'6" road, 26'6" highest point on rear.

10647 – Grandfathered, no applications indicating height.

10652 – Grandfathered home but rebuilt. New home is 23'6" both sides.

10661 – Grandfathered. 1 remodel with no elevation drawings (looks like all work was within existing walls/roof).

10670 – Grandfathered home. One addition – plans show both sides 15'.

10673 (2 units) – Guesthouse 33'8" at highest point. Home – 33' both sides.

10674 – 2 additions – each 15'.

10683 – Addition, application says 28'. Plans show a sloped/stepped lot, much like the appellant. Home height is 23' road, 32' rear.

10691 – New home – 18'.

10709 – Replace burned home – 24'.

10717 – New Home- No elevation views – application says 2 story, 31'. Tax photos show a 'standard' home with steep pitch roof, front appears to be about the same as the back.

10721 – New home, no plans, file says 22'. Addition – 24' front and back plus 5' crawlspace. 2 remodels.

10723 – Grandfathered home. One addition – 12'.

10725 – Grandfathered home. One addition – 16'.

10727 – New home – 17'9". Attached garage addition – 18'. Addition – 18' plus a 3' crawl space.

10729 – Grandfathered home. Porch addition – 10'6".

10733 – New Home – Road 27'/Water 28.5".

Based on what others with similar lots have now, or have built after zoning, it's very plausible to build a home on the lot/these lots and not exceed 35' in height. Simply, if the neighbors can all build on their property - which is sloped - and not exceed 35' in height, the topography is NOT a unique property feature or hardship warranting a variance, it also doesn't require a home to exceed 35'.

This data also counters the petitioner's argument (no. 2 above) that "complying with the height limit on this particular lot would require a significant reduction to the pitch of the roof, resulting in a substandard building design and compromises the safety of the home". Interestingly though,

the adjacent neighbor's new home – which was built per the Wisconsin Uniform Dwelling Code – which is a code to ensure homes are built to specific health and safety standards - has a maximum roof pitch of 3:12 (meaning the roof rises 10 inches for every 10 inches of horizontal run). The petitioner proposes roof pitches of 10:10, and 12:10. (I understand the Roberts' may not like the adjacent neighbor's design, but my point is, the new homes in the area all have been able to design their homes to meet Wisconsin's health and safety approval, and remain under 35' in height, so the argument any other design would compromise safety is simply not true.)

35' high buildings are not necessary for a 'reasonable use' of the property, nor are they required due to unique property features, but appear instead to solely be a matter of personal preference. Undoubtedly plans show a gala, beautiful home, but the design is not the *only* design that can be built on this lot, and is not necessary for safety, as alleged.

I think we are all aware, and neighboring homes prove, homes can be built on sloped lots, and can meet the state's safety standards (Uniform Dwelling Code), without being limited solely to the design proposed by the Roberts. The design appears to be one's personal preference, and not caused by the topography of the lot.

Thirdly, the petitioner says they need a variance because the owner has a prosthetic leg and "altering the natural topography of the terrain to raise the rear elevation may pose a risk to Mr. Roberts' safe navigation of the property by foot". As much as we empathize with the owner, the Board has been trained and understands variances cannot be granted based on personal or economic hardship. Additionally, the village isn't requiring them to alter the topography. If elevation changes are a mobility concern, the owner may want to consider a one level home, instead of a home with stairs, or forego the sliding doors on the lowest level which open to the steep slope by the water.

Fourth, they state the variance is necessary "for their preservation and enjoyment of substantial property rights possessed by other residents in the same zoning district". What are the property rights possessed by others in the same district? It is the ability to use their lot for the same permitted uses, which in this case is a single-family home. What it is not: building whatever someone wants without regard for codes. Again, this is a buildable lot, and can accommodate a very large home, and no one is denying them the right to develop their property.

Lastly, they argue, "the proposed height does not create a substantial detriment to any adjacent property, nor is it contrary to the spirit of the code or the public interest" and support their point by providing letters of support from eight neighbors. Unfortunately, 'public interest' isn't determined by how many letters one submits, or the number of people that speak in support of a variance. Afterall, the *public* includes those traversing roads or water who may not be supportive of a taller building.

According to the League of Wisconsin Municipalities, all variance applicants must show that the requested variance will not be contrary to the 'public interest', and requires the Zoning Board to consider the purposes of the ordinance at issue and determine "whether the relief requested is consistent with the public interest such that the variance should be granted, or whether a variance would subvert the purpose of the zoning restriction to such an extent that it must be denied". So, let's look at the zoning ordinance and the purpose of the zoning restriction:

Purpose (Ch. 66, Sec. 66.0102): *The purpose of this chapter is to promote the health, safety, aesthetics and general welfare of this community.*

Height Purpose (height is discussed in the Architectural Standards section of Ch. 66, Sec. 66.1050(6): *The purpose of these standards is to assist the Village Plan Commission, the Architectural Review Board, and the public with a standard to achieve quality in architectural design and to create a sense of place through appropriate use and composition of materials, architectural styles, and land use planning and design.*

Based on the League's explanation that when considering whether a variance should be granted the Board must consider public interest and whether it would meet the purpose of the zoning restriction, the Board needs to determine if a variance from the height limitation still meets those purposes outlined above.

### **Conclusion**

Based on the above, staff argues the petition for grant of variance submitted by the Roberts does not satisfy **all** of the required findings in Wisconsin Stats. 62.23(7)(e)7 and Ch. 66, Sec. 66.1607, and the variance should therefore be denied.