

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: Monday, September 18, 2023

Time: 6:00 p.m. (doors open at 5:45)

Location: Nicollet County Board Room, 501 S. Minnesota Avenue, St. Peter, MN

Copies of the meeting agenda and packet are available on the Nicollet County website at:

<https://mn-nicolletcounty.civicplus.com/AgendaCenter>

Questions or comments regarding the meeting can be directed to Spencer Crawford, Deputy Zoning Administrator, at 507-934-7071, or spencer.crawford@co.nicollet.mn.us

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: *August 21, 2023*
5. Approval of Findings of Fact: 8/21/2023
 - **PLN 23-10, Long**
6. Public Appearances
7. **PUBLIC HEARING: PLN 23-16**
 - Applicant: R&G Construction
 - Landowner: Kevin Johnson
 - Request: Reduction of the temporary mineral extraction county road setback from 100 feet to 30 feet in the Agricultural Preservation Zoning District
 - Location: Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, Section 07-111-27, Lake Prairie Township
 - Parcel Number: 07.007.1100
8. **PUBLIC HEARING: PLN 23-17**
 - Applicant: Thomas Clement
 - Landowner: Thomas & Mary Clement
 - Request: After-the-fact reduction of the side yard setback from 10 feet to 4 feet in the Urban/Rural Residential Zoning District
 - Location: Beren - Weber Subdivision Lot 8, Section 05-108-27, Belgrade Township
 - Parcel Number: 01.451.0080
9. **PUBLIC HEARING: PLN 23-15**
 - Applicant: Ken Opitz
 - Landowner: MN Valley Lutheran High School
 - Request: Increase the maximum multi-faced sign square footage from 40 square feet to 192.5

Mission Statement

Providing efficient services with innovation and accountability.

Vision Statement

Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse society.

Core Values

Leadership. Integrity. Accountability. Efficiency. Innovation.

Request (cntd.): square feet, and increase the maximum number of allowed signs per property from 2 to 3 in the Conservancy Zoning District

Location: Northeast ¼ of the Southeast ¼, Section 35-110-35, Courtland Township

Parcel Number: 04.035.1905

10. Old Business
11. Other Business
12. Communications
13. Adjourn



BOARD OF ADJUSTMENT & APPEALS REGULAR MONTHLY MEETING MINUTES

AUGUST 21, 2023	7:00 PM	NICOLLET COUNTY BOARD ROOM
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ROLL CALL	BOARD MEMBERS PRESENT	BOARD MEMBERS ABSENT EXCUSED	NICOLLET COUNTY STAFF PRESENT
	☒ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☒ Jon Thoreson ☒ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	☒ Spencer Crawford, Deputy Zoning Administrator (DZA) ☒ Shana Jackson, County Assessor (Assessor) ☒ Roxann Klein, Assistant County Attorney (ACA) ☒ Crystal Madden, Recording Secretary ☐ Other Staff: ☐ Other Staff:

REVIEW OF CANCELLATIONS & ADDITIONS	None.
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APPROVAL OF JULY 17, 2023 MINUTES	MOTION	2 ND
APPROVE	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Dave Ubel ☐ Jon Thoreson ☐ Randy Schwab
VOTE TO APPROVE MINUTES	☒ PASS ☐ FAIL	VOTE: 5 - 0

PUBLIC APPEARANCES	None.
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PUBLIC HEARINGS – Variance		
PLN23-10	APPLICANT/LANDOWNER: Daniel Long / Daniel & Julie Long	
DESCRIPTION	Request for a reduction of the ordinary high water level setback from 200 feet to 70.8 feet for the purpose of constructing a 30 foot by 30 foot shed in the Shoreland Zoning District.	
CONFLICT OF INTEREST	None.	
SITE VISIT & PUBLIC CONTACT	Board Members Hoffmann & Schwab visited the site. There was no contact with the Board from members of the public.	
STAFF REPORT PRESENTED BY	DZA Crawford	
APPLICANT TESTIMONY	Present to represent the application was Daniel Long, 41427 595 th Lane, New Ulm.	
PUBLIC TESTIMONY	No one was present to provide public testimony. No other correspondence was received.	
BOARD DISCUSSION	Further discussion between the Applicant, the Board, and Staff took place. A motion was made by Board Member Ubel to amend staff recommended condition #4 to include that the storm water retention plan must be reviewed and approved by the DNR, and was seconded by Board Member Hoffmann. Vote to amend staff recommended condition #4 passed 5-0.	
BOARD ACTION	MOTION	2 ND
APPROVE VARIANCE WITH CONDITIONS, as amended	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel

VOTE TO APPROVE REQUEST	☒ PASS	☐ FAIL	VOTE: 5 - 0
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ADDITIONAL ITEMS			
OLD BUSINESS	None.		
OTHER BUSINESS	None.		
COMMUNICATIONS	None.		
MOTION TO ADJOURN MEETING	MOTION	2 ND	
07:41 PM	☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	
VOTE TO ADJOURN MEETING	☒ PASS	☐ FAIL	VOTE: 5 - 0

CRYSTAL MADDEN, RECORDING SECRETARY		DATE	9/18/2023
JUSTIN LAVEN, CHAIR		DATE	9/18/2023

DRAFT



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant Daniel Long Hearing August 21, 2023
Property Owner Daniel & Julie Long Continuation N/A
File PLN23-10 Parcel ID 06.108.3600

Variance Request Reduction of the ordinary high water level setback from 200 feet to 70.8 feet in the Shoreland Zoning District for the purpose of constructing a 30' x 30' shed.

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The intent of the official control is protect and preserve the surface waters in the natural environment. This project is consistent with Nicollet County building regulations, and the property is no longer in the floodplain.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☐	☒	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
					No - The variance would have a detrimental environmental effect on the Shoreland Impact Zone.

2. The variance is consistent with the intent of the Comprehensive Plan.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The Comprehensive Plan is intended to protect and preserve the natural environment. If the Applicant follows all conditions the shed will be consistent with the Comprehensive Plan.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☐	☒	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	
					No – The variance will have a negative impact on the Shoreland area.

3. The variance establishes a practical difficulty in complying with the official controls.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☐	☒	☐	☐	The difficulties that exist are the creek setback, the bluff setback, underground utilities and a septic system.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☐	☒	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	No- The Applicant is not denied reasonable use on the property.

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The circumstances are unique to the property because of Fritsche Creek to the west and a bluff to the east. These obstacles were not created by the landowner. Required setbacks cannot be met anywhere on the property.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The size and shape of the shed is typical for this location. There are other sheds in the area. The primary structure is already located within the setbacks. No mature trees will be removed.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The practical difficulty is due to the location of the creek to the property. There seems to be no economic benefit for the completion of this project.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☒ APPROVES THE REQUESTED VARIANCE ☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|--|--|
| ☒ Application | ☒ Site visit |
| ☒ Information received at public hearing | ☒ Staff Report |
| ☒ Photographs | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Chair: _____

DRAFT



VARIANCE

REDUCTION OF THE TEMPORARY MINERAL EXTRACTION COUNTY ROAD SETBACK

R&G Construction

PLN23-16

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	Variance PLN23-16
APPLICANT:	R&G Construction
LANDOWNER:	Kevin Johnson
LOCATION:	Northeast ¼ of the Southwest ¼, Section 07-111-27, Lake Prairie Township
PARCEL NO:	07.007.1100
EXISTING ZONING:	Agricultural Preservation
HEARING DATE:	09/18/23
60 DAYS FROM REQUEST:	10/22/23

REQUEST

R&G Construction is requesting a variance to reduce the right of way setback from one hundred (100) feet to thirty (30) feet for a temporary mineral extraction pit along County Road 3 / 425th Avenue.

ORDINANCE

Nicollet County Zoning Ordinance 724.5 (17) *Setbacks D*: One hundred (100) feet from the right-of-way line of any existing or platted street, road, or highway, except for maintenance activities.

PROJECT HISTORY & DESCRIPTION

R&G Construction submitted a zoning permit application for a temporary mineral extraction permit on April 17, 2023. The purpose was to obtain material for the CSAH 8 project in Sibley County. The request was denied for failing to meet Zoning Ordinance standards, one of them being the right of way setback.

An amended application was submitted and approved on July 20, 2023. The updated plan showed the extraction site running flush with the right of way setback and directly through a knoll in the field. The reclamation plan indicated the knoll would remain untouched within the setback, while the remainder would be smoothed out with a downward slope.

The property owner, Kevin Johnson, was under the assumption the knoll would be flattened entirely by the project. He became aware of the amended plan after the operation had begun, and expressed his concern that leaving half of the knoll within the setback would make the field difficult to farm. Reducing the setback to thirty (30) feet will allow the knoll to be flattened insofar that it is favorable to farming when the extraction operation is complete.

Temporary Mineral Extraction permits are valid for ninety (90) days per Nicollet County Zoning Ordinance 724.9. R&G Construction has been granted a pause on their permit from August 22 to September 19, 2023 to provide time for the variance request. Operations will resume once the suspension is lifted and may continue up until November 15, 2023.

EXISTING LAND USE

The existing land use is primarily agricultural (farm field) with a small borrow pit.

SURROUNDING LAND USE

The surrounding land use is agricultural with farm fields in all directions. There are some homes to the southwest and a feedlot to the northeast.

SITE REVIEW

Staff visited the site and took photographs on August 31, 2023. Staff also visited the site on August 7th to discuss options with the contractor and property owner.

NICOLLET COUNTY PUBLIC WORKS COMMENT

Joel Hawbaker, Assistant Public Works Director, did not have any concerns after reviewing the variance request.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota Statutes Section 394.26.

VARIANCE CRITERIA

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the official control creates practical difficulties for the property owner in the use of their land. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. No variance shall permit standards lower than those required by state law. A variance may be granted only in the event that the following circumstances exist:

1. The variance is in harmony with the general purposes and intent of the official control?

- The intent of the official control is to prevent mineral extraction operations from harming the right of way.
- Nicollet County Public Works did not have any concerns with the request.

2. The variance is consistent with the intent of the Comprehensive Plan?

- The Comprehensive Plan states:
 - Right of ways are a valuable public asset to be maintained.
 - Nicollet County will continue to work with aggregate businesses, such as this one, to ensure that these operations can continue in a sustainable and environmentally friendly manner.
- The request appears to be a reasonable way for the aggregate business to ensure the sustainability of the field for farming in the future without harming the right of way.

3. The variance establishes a practical difficulty in complying with the official controls?

- Leaving part of the knoll intact after reclamation due to complying with the official controls would make that part of the field more difficult or impossible to farm.
- Without a variance, the Applicant is not denied reasonable use of the property. Several fields in Nicollet County contain some areas which are not suitable to farming.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner?

- The plight of the landowner is related to:
 - The location of the knoll, which is a unique physical feature not created by the landowner.
 - Miscommunication between the contactor and property owner, which appears to have been accidental and not intentionally created.

5. The variance will not alter the essential character of the locality?

- The field should look typical for the area after restoration is complete.

6. The practical difficulty includes more than economic considerations alone?

- The property owner may gain some economic benefit by making the field more farmable. However, the primary consideration is the feasibility of putting the land to viable use if half of the knoll remains.

RECOMMENDED CONDITIONS

Staff recommends the attachment of the following conditions if the variance request is approved:

1. The Applicant undertakes the project according to the plans and specifications submitted to the County with the application.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The Applicant must obtain the appropriate zoning permits prior to construction.

**Applicant/Property Owner:
R&G Construction / Kevin Johnson**

PLN23-16

ATTACHMENT A	Application
ATTACHMENT B	Location Map
ATTACHMENT C	Submitted by Applicant
ATTACHMENT D	Site Photographs
ATTACHMENT E	Neighbor Notification List
ATTACHMENT F	Criteria for a Variance



PROPERTY SERVICES DIVISION
501 S MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

VARIANCE APPLICATION

TOTAL FEES: \$496.00

Map#: 707400010

Parcel#: 07.007.1100

Permit#: PLN23-16

Date: 8/23/2023

Applicant: R&G Construction

Telephone: 507-829-1049

Owner: Kevin Johnson

Property Address: n/a

Abbreviated Legal Description: NESW 7-111-27

Township: Lake Prairie Township

Zoning District(s): AGRICULTURAL

Record Type: Variance

Subtype: Alteration

Category: Cutting/Filling >50yds

Description: Reduction of mineral extraction setback

ATTACHMENT A
Application

PERMIT EXPIRATION DATE: 8/23/2024

Erika Coudron

Aug 23, 2023

APPLICANT SIGNATURE

DATE

James Gaudin

PROPERTY SERVICES

08/23/23

DATE

PLN23-16 App

Final Audit Report

2023-08-23

Created:	2023-08-23
By:	Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqAcYEBBnU1Wall0eaBV72ZucuLobAfF6

"PLN23-16 App" History

-  Document created by Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
2023-08-23 - 8:10:50 PM GMT
-  Document emailed to Erika Coudron (erikac@randgconstruction.com) for signature
2023-08-23 - 8:11:21 PM GMT
-  Email viewed by Erika Coudron (erikac@randgconstruction.com)
2023-08-23 - 8:14:54 PM GMT
-  Document e-signed by Erika Coudron (erikac@randgconstruction.com)
Signature Date: 2023-08-23 - 8:15:47 PM GMT - Time Source: server
-  Agreement completed.
2023-08-23 - 8:15:47 PM GMT



Adobe Acrobat Sign

County Road 3 / 425th Avenue

Variance property

ATTACHMENT B
Location Map

0 250 500 1,000 Feet



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, reliability, or validity of this data for any purpose. The user acknowledges that the user's use of this data is at their own risk and that the user agrees to hold the provider harmless for any and all damages, including consequential damages, arising from the use of this data. The user agrees not to transmit this data or provide access to it to any third party.



VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

APPLICANT NAME: R&G Construction Co. DATE: 8-22-2023
REQUEST: Temporary Mineral Extraction Setback Variance

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

R&G Construction Co. is requesting a variance to work in the 100' ROW(Right-Of-Way) Setback of Parcel 07.007.1100 in Nicollet County. There is a knoll within that 100' ROW Setback that after R&G Construction Co. restores the borrow site location will create difficulties for the current landowner to farm as well be a potential snow trap and safety issue for the traveling public on 425th Avenue in Nicollet County. There is no personal gain for R&G Construction Co to do this work but we feel there is a need for this work to be completed for all parties involved.

ATTACHMENT C
Submitted by Applicant

APPLICANT NAME: R&G Construction Co. DATE: 8-22-2023
REQUEST: Temporary Mineral Extraction Setback Variance

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

1. The variance is in harmony with the general purposes and intent of the official control.

The purpose of the permit was for R&G Construction to use parcels 07.007.0800 and 07.007.1100 for a borrow site and restore site to the condition of equal or better condition. This variance will allow for that to take place and improve the environment around it.

2. The variance is consistent with the intent of the Comprehensive Plan.

The variance is asking to remove a knoll is parcel 07.007.1100 that will create difficulties for the landowner to farm as potential snow trap for traveling public. If the variance is approved, the intent to restore area to equal or better condition will be executed.

3. The variance establishes a practical difficulty in complying with the official controls.

If we were to leave conditions as the permit states, we would be creating a potential safety hazard. Thus, would not be compliant.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

This knoll that R&G Construction Co wants to remove and blend environment around it was not created by landowner or any other man. If you were to look

at the contours on the Nicollet County, MN GIS map in parcel 07.007.1100 you were clearly see the location in question that has been there for years.

5. The variance will not alter the essential character of the locality.
When the work is completed under this variance, there will be no character change the environment in this area.
6. The practical difficulty includes more than economic considerations alone.
Yes, R&G Construction Co. is taking in consideration the difficulties the landowner will have farming this area, improving the sight lines for equipment traveling in and out of the driveway and the potential safety issues for the traveling public in the winter time creating this potential snow trap.

ALL SIX VARIANCE CRITERIA MUST BE MET IN ORDER FOR THE REQUEST TO BE APPROVED.



Aug 31, 2023 at 9:52:46 AM



Aug 31, 2023 at 9:53:08 AM



Aug 31, 2023 at 9:53:13 AM



Aug 31, 2023 at 9:54:11 AM



Aug 31, 2023 at 9:55:07 AM



Aug 31, 2023 at 9:56:21 AM



DISPLAYNAME	MAILINGADDR	MAILINGCITYSTATEZIP
R and G Construction Co	2694 County Road 6	Marshall, MN 56258
Karen Brancamp- Lake Prairie Township	33952 348th St	Le Sueur, MN 56058
JOHNSON KEVIN C	34908 425TH AVE	LE SUEUR MN 56058
DAVIS JEFFREY S REVOCABLE TRUST	34997 425TH AVE	LE SUEUR MN 56058
HENRY ALLEN A & JACQUELYN A HENRY	35674 COUNTY ROAD 63	SAINT PETER MN 56082
JOHNSON STEVE & MARY JOHNSON	35771 425TH AVE	SAINT PETER MN 56082
POPE SUE A & JOSEPH F	35857 425TH AVE	SAINT PETER MN 56082
NORELL BRUCE & BYRON C & BURTON A NORELL	36256 425TH AVE	SAINT PETER MN 56082
GRAN DAVID D	37135 425TH AVE	SAINT PETER MN 56082
ANNEXSTAD JENNIFER L	38123 STATE HIGHWAY 22	SAINT PETER MN 56082
KROHN DIANE K TRUST AGREEMENT	40778 465TH AVE	NICOLLET MN 56074
JOHNSON CARL M TRUST	710 DOVER CT	SAINT PETER MN 56082-1781



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant R&G Construction

Hearing September 18, 2023

Property Owner Kevin Johnson

Continuation N/A

File PLN23-16

Board Member

Variance Request Reduction of the right of way setback from one hundred (100) feet to thirty (30) feet for a temporary mineral extraction pit in the Agricultural Preservation Zoning District

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

YES ☐ NO ☐ REASON: _____

2. The variance is consistent with the intent of the Comprehensive Plan.

YES ☐ NO ☐ REASON: _____

3. The variance establishes a practical difficulty in complying with the official controls.

YES ☐ NO ☐ REASON: _____

ATTACHMENT F
Criteria for a Variance

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

YES ☐ NO ☐ REASON: _____

5. The variance will not alter the essential character of the locality.

YES ☐ NO ☐ REASON: _____

6. The practical difficulty includes more than economic considerations alone.

YES ☐ NO ☐ REASON: _____

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☐ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|---|---------------------------------------|
| ☐ Application | ☐ Site visit |
| ☐ Information received at public hearing | ☐ Staff Report |
| ☐ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Board Member: _____



VARIANCE

AFTER-THE-FACT REDUCTION OF THE SIDE YARD SETBACK

Thomas Clement

PLN23-17

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	After-the-Fact Variance; PLN23-17
APPLICANT:	Thomas Clement
LANDOWNER:	Thomas & Mary Clement
LOCATION:	Beren - Weber Subdivision Lot 8, Section 05-108-27, Belgrade Township
PARCEL NO:	01.451.0080
EXISTING ZONING:	Urban/Rural Residential Zoning District
HEARING DATE:	09/18/23
60 DAYS FROM REQUEST:	10/24/23

REQUEST

The Applicant is requesting an after-the-fact variance to reduce the accessory structure side yard property line setback in the Urban/Rural Residential Zoning District. The request is for a detached garage which is four (4) feet away from the side property line, whereas the Zoning Ordinance requires a ten (10) foot setback.

ORDINANCE

Nicollet County Zoning Ordinance 604.4 *Dimensional Standards 4 Side Yard B*: Ten (10) foot setback for detached accessory buildings.

PROJECT HISTORY & DESCRIPTION

The Applicant obtained a permit from the Property Services Department to construct a 24' x 39' detached garage to the south of his home on June 16, 2022. The approved site plan depicted the garage meeting the ten (10) foot side yard setback. The Applicant created the plan by digitally drawing the structure and setbacks on top of an aerial image provided by Property Services Department staff, which contained the approximate location of the property lines and other features.

The Property Services Department received a complaint on October 19, 2022 disputing the location of the property line, and alleging the garage was constructed within the side yard setback. Staff followed up with a site visit and found the garage appeared to have been placed per the approved site plan. The exact location of the property line in relation to the garage was unverifiable in the absence of a survey. Both parties were informed that property line disputes are a civil matter, and the Applicant was advised at the time that there appeared to be no violation.

A survey was submitted on May 12, 2023 showing the garage was four (4) feet away from the side property line, which does not meet the setback standard. The Applicant was informed of the violation and discussed compliance options with staff. An after-the-fact variance request was submitted on August 25, 2023.

The Applicant states that removing the non-compliant portion of the garage would be both impractical and detrimental to its structural integrity; this is due to load bearing beams spanning the structure and the presence of heat pipes buried beneath the floor. Moreover, the Applicant asserts that they attempted to comply with the Ordinance by consulting with County staff, and by creating the site plan using a map provided by the County. These items, combined with the structural impact of altering the garage, culminate to a practical difficulty from the prospective of the Applicant.

Staff concurs the permit was obtained in good faith, but it should be noted that the map used for the site plan contained the following disclaimer:

“The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user’s reliance on this data. The user accepts the data as is and assumes all risks associated with its use...”

Moreover, it is the responsibility of the property owner to know the location of their property line and maintain the setback as listed in the Zoning Ordinance. In this instance, the location of the property line was not known to staff or the Applicant until after the garage was constructed. The request should not simply be weighed on its errors which led to the violation, but rather the claim of practical difficulty in relation to the variance criteria and the burden of compliance.

EXISTING LAND USE

The approximately two (2) acre property sits at the end of a cul-de-sac in the Beren-Weber Subdivision. The property is predominately bluff, with the slopes smoothing out in the areas containing the home, garage, yard, and driveway.

SURROUNDING LAND USE

The surrounding land use is predominantly residential in all directions. There is also a steep forested ravine to the east.

SITE REVIEW

Staff visited the site and took photographs on August 31, 2023.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota Statutes Section 394.26.

VARIANCE CRITERIA

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the official control creates practical difficulties for the property owner in the use of their land. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. No variance shall permit standards lower than those required by state law. A variance may be granted only in the event that the following circumstances exist:

1. The variance is in harmony with the general purposes and intent of the official control?

- The intent of the official control is to separate land uses for the purpose of health, safety, and welfare, among other things.
- The proposal is an accessory structure and does not appear to threaten health, safety, or welfare.

2. The variance is consistent with the intent of the Comprehensive Plan?

- The Comprehensive Plan states:
 - The major purpose of this district (Urban/Rural Residential) is to provide areas within the county where urban development can take place and where urban services can be readily extended and provided.
- Urban development is often associated with a higher density, and thus lesser setbacks than rural development.

3. The variance establishes a practical difficulty in complying with the official controls?

- The Applicant's property is primarily bluff. There are little to no areas in which a structure the size and shape of the garage could be placed without being within a setback.
- One option for complying with the setback would be to remove a portion of the garage. This is not practical due to the design of the structure.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner?

- The garage was placed in its original location in order to meet the bluff setback. Bluffs are a natural feature not created by the landowner.
- The plight is also related to a misunderstanding over the location of the property line. The property line was not created by the landowner.

5. The variance will not alter the essential character of the locality?

- Per the Nicollet County Comprehensive Plan, the Urban/Rural Residential Zoning District is associated with urban development. Urban environments have a higher density, which often results in lesser setbacks.
- There are other accessory structures within the Beren-Weber Subdivision that appear to be within the required setbacks.

6. The practical difficulty includes more than economic considerations alone?

- Although it would be an economic burden to the Applicant to comply with the setback, it is not the only consideration. The location of the bluff and the design of the garage are other factors.

In consideration of an after-the-fact variance request, and in addition to the criteria listed in Section 503.1, the Board shall take into consideration the following:

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

- The Applicant obtained a zoning permit and constructed the garage per the approved plan.

8. In relation to the subject variance, are there similar structures in the area?

- There are other accessory structures within the Beren-Weber Subdivision that appear to be within the required setbacks.

9. Does the burden on the applicant of compliance outweigh the benefit to the County?

- The burden of compliance does outweigh the benefit to the County for the following reasons:

- o The structure appears to pose no threat to the health, safety, and welfare of the public.
- o The Applicant appears to have made a good faith attempt to comply with the ordinance by obtaining a permit and constructing per the approved plan.
- o There are other accessory structures within the Beren-Weber Subdivision that appear to be within the required setbacks.

10. Was the act of the violation by the applicant unintentional?

- The Applicant obtained a zoning permit and constructed the garage per the approved plan.
- The location of the property line was not fully known until a survey was completed.

RECOMMENDED CONDITIONS

Staff recommends the attachment of the following conditions if the variance request is approved:

1. The Applicant shall comply with the required setbacks for the placement or modification of any structures in the future.

**Applicant/Property Owner:
Thomas Clement / Thomas & Mary Clement**

PLN23-17

ATTACHMENT A	Application
ATTACHMENT B	Aerial Map
ATTACHMENT C	Location Map
ATTACHMENT D	Submitted by Applicant
ATTACHMENT E	Zoning Permit
ATTACHMENT F	Site Photographs
ATTACHMENT G	Neighbor Notification List
ATTACHMENT H	Criteria for a Variance



PROPERTY SERVICES DIVISION
501 S MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS APPLICATION

Map#: 21-05-351-010
Parcel#: 01.451.0080
Permit#: PLN23-17
Date: 8/24/2024

Applicant: Tom Clement
Telephone: 218-791-7528
Owner: Thomas & Mary Clement
Property Address: 01.451.0080
Abbreviated Legal Description: Weber Subd Lot 8
Township: Belgrade Township
Zoning District(s): URBAN RURAL RESIDENTIAL

Record Type: Variance
Subtype: New
Category: RES Garage
Description: ATF variance for side yard setback reduction

ATTACHMENT A
Application

Thomas Clement
Thomas Clement (Aug 25, 2023 12:38 CDT)
APPLICANT SIGNATURE

Aug 25, 2023
DATE

James Mueller
PROPERTY SERVICES

08/24/23
DATE

PLN23-17 App

Final Audit Report

2023-08-25

Created:	2023-08-24
By:	Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAABWsw9xSf9SvJ7UpB1XF6UkI5IZ9NOI0J

"PLN23-17 App" History

 Document created by Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
2023-08-24 - 7:19:11 PM GMT

 Document emailed to tomclement171@gmail.com for signature
2023-08-24 - 7:19:46 PM GMT

 Email viewed by tomclement171@gmail.com
2023-08-24 - 8:27:59 PM GMT

 Signer tomclement171@gmail.com entered name at signing as Thomas Clement
2023-08-25 - 5:38:23 PM GMT

 Document e-signed by Thomas Clement (tomclement171@gmail.com)
Signature Date: 2023-08-25 - 5:38:25 PM GMT - Time Source: server

 Agreement completed.
2023-08-25 - 5:38:25 PM GMT



Adobe Acrobat Sign



01.451.0070

01.451.0080

Garage

01.451.0090

01.451.0100

ATTACHMENT B
Aerial Map

0 10 20 40 Feet

N

 NICOLLET
COUNTY

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Variance property

Judson Bottom Rd

ATTACHMENT C
Location Map

0 75 150 300 Feet

N

 NICOLLET COUNTY

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AFTER-THE-FACT VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

APPLICANT NAME: Tom and Mary Jean Clement DATE: 08/25/2023
REQUEST: Variance for a 4' side yard setback

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

We respectfully ask the board to grant a variance reducing the side-yard setback distance from 10' to 4' to bring a current, permitted detached garage into compliance with the zoning ordinance. On June 16, 2022, a zoning permit was issued to the applicants for the purpose of building the garage. The permit application and site map were based on information provided by the county. The property line has since been challenged by a neighbor, who privately ordered their own survey. This survey has demonstrated that the information the county provided about the property line was incorrect and has, thus, resulted in a setback violation. The attached questionnaire, history, photos, and copies of emails to and from the county provide detail as to the circumstances and practical difficulty of moving and/or structurally modifying the garage. The garage provides our family a space to work on projects, store items, and park vehicles inside, out of the elements, during inclement weather.

ATTACHMENT D
Submitted by Applicant

AFTER-THE-FACT VARIANCE APPLICANT QUESTIONNAIRE

APPLICANT NAME: Tom and Mary Jean Clement DATE: 08/25/2023
REQUEST: Variance for a 4' side yard setback

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

1. The variance is in harmony with the general purposes and intent of the official control.
Yes, the applicants took steps to follow the permit and setback process at the start of construction and were granted a permit by Nicollet County. The applicants are simply asking for a variance to bring the structure into compliance with the ordinance. The structure fits in with the existing structures and does not alter the character of the neighborhood.
2. The variance is consistent with the intent of the Comprehensive Plan.
Yes. The Comprehensive Plan states, "Nicollet County will work to preserve infrastructure, the natural environment, and access to a high quality of life." The variance merely reduces the property line setback to 4' and will not negatively impact the goals of the Comprehensive Plan.
3. The variance establishes a practical difficulty in complying with the official controls.
Yes. The variance allows the garage to remain structurally unaltered. As described in the attached document, making physical changes to the structure of the garage presents a practical difficulty due to its design and in accordance with acceptable building practices. Structural changes would also negatively affect the appearance and character of the garage.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Yes. The original zoning permit was based on property information provided to the applicants by the county. The applicants made every effort to comply with the setback ordinance. This was confirmed by the county in October 2022. The property line was since challenged by a neighbor's privately ordered survey.

5. The variance will not alter the essential character of the locality.

The variance will not alter the essential character of the locality. The garage is finished to match the existing house, with similar color/style of siding, identical garage door, and decorative stone. The garage has enhanced the look of the property overall.

6. The practical difficulty includes more than economic considerations alone.

The practical difficulty is physically moving or structurally altering the garage. As previously stated in this document and the attached affidavit, it would be extremely difficult to make changes to the existing structure without affecting the structural integrity and aesthetic.

ADDITIONAL AFTER-THE-FACT CRITERIA FOR USE ONLY WHEN FIRST SIX CRITERIA ARE MET:

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

Yes, the applicants originally obtained a zoning permit. As detailed in the affidavit, the applicants followed the permit process, as prescribed, and were granted a zoning permit to construct the garage on June 16, 2022. The garage was confirmed to be in compliance with the original permit application in October 2022 after a complaint was filed regarding the setback distance.

8. In relation to the subject variance, are there similar structures in the area?

Yes, there are detached garage/shop/shed structures located at 52098 DEERWOOD TRL, 52618 DEERWOOD TRL, 52794 DEERWOOD TRL, 52816 DEERWOOD TRL, 52820 DEERWOOD TRL, 52947 DEERWOOD TRL, and 52672 VALLEY VIEW CIR

9. Does the burden on the applicant of compliance outweigh the benefit to the County?

Yes. Without the variance, strict compliance with the existing setback ordinance would require difficult and impractical modifications to the garage. These modifications could impact the square footage of the structure which would, in turn, impact the assessed tax value of the property.

10. Was the act of the violation by the applicant unintentional?

Yes. The applicants had no intention of violating any ordinances. Through process and communication with county officials, the applicants made every good faith effort to comply with all existing ordinances.

Garage History

52991 Deerwood Trl

North Mankato, MN 56003

Background and Timeline

On January 3, 2022, we purchased a new home/property at 52991 Deerwood Trl, North Mankato, MN 56003. Besides a family residence, the primary reason was to construct a detached garage/outbuilding to use as a woodworking/project/storage shop.

Shortly after the purchase of the property, on January 18, 2022, I began communicating with Deputy Zoning Administrator Pete Otterness regarding the garage permitting process (see attached emails). In March 2022, Pete visited our property and did a walk-around. He also took measurements and explained the setback ordinances. Otterness also explained the variance procedure if I decided to go through that process. The next couple of months were spent planning and estimating the garage.

On June 1, 2022, I emailed Pete requesting a copy of the regular zoning permit application and I indicated that I did not wish to pursue a variance (see attached emails). We shared a phone conversation that day and I asked Pete what I had to do to acquire a traditional permit. He subsequently sent me two scaled aerial images of my property. In the phone conversation, Pete said to use the scaled aerial images to indicate the setback distances for a site plan. These were the same images a previous owner of my home used to acquire a zoning permit for a 6-foot privacy fence along the same property line. On June 13, 2022, I submitted the permit application, including a site plan using the scaled images. On June 16, 2022, the permit was ready, which I paid for, and began work on the project.

Site preparation, including the removal of an existing patio, gazebo, a portion of the aforementioned fence, a tree, and topsoil took approximately two weeks, from June 16 to June 29, to complete. Next, the garage footprint was staked, and the foundation/floor was formed, including rigid foam insulation, hydronic heat pipe, and rebar. On July 16, the concrete floor/foundation was poured. Framing began over the next few days. Construction continued through October 2022 until the garage was complete, except for grass and landscaping, due to freezing weather.

Interactions with Neighbor, Mr. Prah

I met Paul Prah in February 2022 and briefly discussed the garage project. He was aware of my intentions. Mr. Prah offered no objections to the project. Initially, Mr. Prah and I had a good neighborly relationship. My wife and I were invited to Mr. Prah's 80th birthday party on June 11, 2022. I attended the party, and my wife and I went back in the evening for a beer and conversation. At no time through late July did Mr. Prah give any indication that he was unhappy with us or the garage project.

On Saturday, July 23, 2022, Mr. Prah came to speak with me. He summoned me to the property line in question, where he had pushed a metal rod into the ground. He indicated that was where he believed the actual property line was and that my garage was only about four feet from that line. He said, "I never protested this because I had no idea it was going to be a two-story garage." I explained that the garage was not two-story. It was a garage with a storage attic above and the roofline was 6/12 pitch, the same as the house. He told me how frustrated he was that the county issued me a permit based on the information they provided. I explained that was outside of my purview, and that I did what the county

asked of me. I expressed frustration because the garage had been under construction for over a month, and this was the first time Mr. Prah! had ever mentioned any issues.

I explicitly asked Mr. Prah! what his specific issue was, as I suspected it had little to do with the property line setback and more to do with aesthetics. He thought about it for a few seconds and said, "Well, I guess it would be vision." I tried to explain to him that the garage was in the shadow of our home, which is a two-story structure. Finally, I explicitly asked him what I could do to make him happy. Mr. Prah! shrugged his shoulders and said, "I guess there isn't a whole lot you can do at this point, is there?" I stressed, again, that if "I have to start moving walls around or anything else, now is the time before it goes any further." Mr. Prah! indicated he didn't want me to have to do that. The entire conversation was about 10 minutes.

My wife and I discussed Mr. Prah!'s concerns. We decided to alter the roof pitch on the front gable of the garage, as well as reduce the overhangs and soffits to appease his concerns about "vision." The week following the July 23, conversation, I approached Mr. Prah! and told him what we planned to do with the roof. I also reiterated that the structure was not meant to be two-story. He indicated that he had been confused about that. He seemed pleased that we had reconsidered the garage design to appease his concerns. That was the last time we spoke about the garage.

Structural Considerations

The garage was constructed on a monolithic, concrete floor, commonly referred to as a "thickened edge" slab. There are footings around the perimeter of the garage footprint, as well as under the wall framing the stairs to the attic. Most critically, two separate LVL beams carry the attic floor, eliminating the need for support posts in the garage. Both run left to right across the structure, one on the streetside of the garage, and the other towards the back. The beam at the front of the garage also carries the rafters for the main roof. Photos are included showing the beams, some framing in the attic, and the layout of the garage.

In addition, there is 1200' of pex hydronic plastic heat pipe buried beneath the floor. The pipe is organized into six separate looping zones, with one of those zones running around the whole perimeter of the garage. There is 1 ½" rigid foam insulation under and around the floor/foundation.

Beyond economics, modifying the garage's footprint would be very difficult without impacting its structural integrity and exposing portions of the heated floor to the elements of Mother Nature. It is simply impractical. In accordance with the universal plumbing code, pex pipes should not have fittings below concrete. So, even if the pex pipe could be exposed there is no way to relocate the pipe without using fittings, which presents a serious risk of leakage or breakage. The streetside corner of the garage with the walk-in door was specifically and deliberately stepped back or notched in design to conform to the property line information provided by the county at the time of the permit application. A modification to the garage would have a negative impact on the aesthetic of the structure and would have no benefit to the county, as the reduced square footage would be reflected in the tax assessment.

What started as a dream and happy experience has turned into an unnecessarily stressful and unfortunate ordeal for my family. While the relationship with the Prah!'s will likely not be repaired, this variance will bring much-needed closure to this project.



Left and Right Photos. View of design and LVL beam across the front (street side) of the garage.



Another view of the LVL at the front (streetside) of the garage.



Left photo view of roof rafters resting on the front LVL beam. Right photo a view of the attic storage space.



Left photo is view towards the back of the garage showing the rear LVL beam. Right photo shows the heat pipe entering the floor.



PROPERTY SERVICES DIVISION
501 SOUTH MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

ZONING PERMIT APPLICATION

Total Fees: \$ 520⁰⁰

Map#: 2105351010
Parcel#: 014510080
Permit#: BLD22-00132
Date: June 16, 2022

Applicant: CLEMENT MARY JEAN & THOMAS ALLEN CLEMENT, , 52991 DEERWOOD TRL, NORTH MANKATO MN 56003

Applicant Phone:

Owner: CLEMENT MARY JEAN & THOMAS ALLEN CLEMENT, 52991 DEERWOOD TRL, NORTH MANKATO MN 56003

Property Address: 52991 DEERWOOD TRL, N MANKATO, MN 56003

Abbreviated Legal Description: SubdivisionName BEREN - WEBER SUBD. SubdivisionCd 01451 LOT 8

Township: Belgrade Township

Zoning District: URBAN/RURAL RESIDENTIAL T

Record Type: Structure Permit

Record Type Subtype: New

Category: RES Garage

Project Description: Construct a new detached 24x39 garage.

Job Cost: 25000

Required Setback	Actual Setback
Required Side 2 - 20 P, 10 A	10 S
Required Front - 35 Feet	124 W
Required Side 1 - 20 P, 10 A	155 N
Required Rear - 40 P, 10 A	180 E
Bluff - 30 Feet	30 E
Wetland - 75 Feet	320 E
OHWL Setback - 200 Feet	360 E
20' Drainfield - Structure	50 N
10' Tank - Structure	70 N

Permit Expiration Date: 6/16/2023

Thomas Clement
Thomas Clement

APPLICANT SIGNATURE

06/16/2022

DATE

PROPERTY SERVICES

DATE

ATTACHMENT E
Zoning Permit



Township Disclaimer

Name: Tom + Mary Clement
Address: 52991 Denmark Trl
Township: Belgrade
Permit #: BLD22-00132



This is to formally advise you that your permit application has been evaluated according to criteria set forth in the Nicollet County Zoning Ordinance. Evaluation of your application as it may relate to any **TOWNSHIP ZONING ORDINANCES** will not be done by this office and it is **your responsibility** as applicant herein to determine the applicability of any township zoning ordinances which may be in effect. If you have any questions regarding the existence or effect of any township zoning ordinance which may be in effect, please contact the appropriate township officials and / or private counsel for advice.

Thomas Clement
Thomas Clement

Applicant

6/16/2022

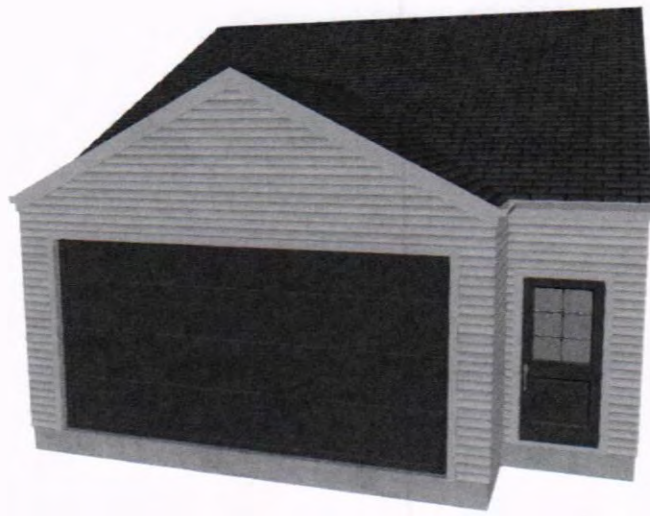
Date

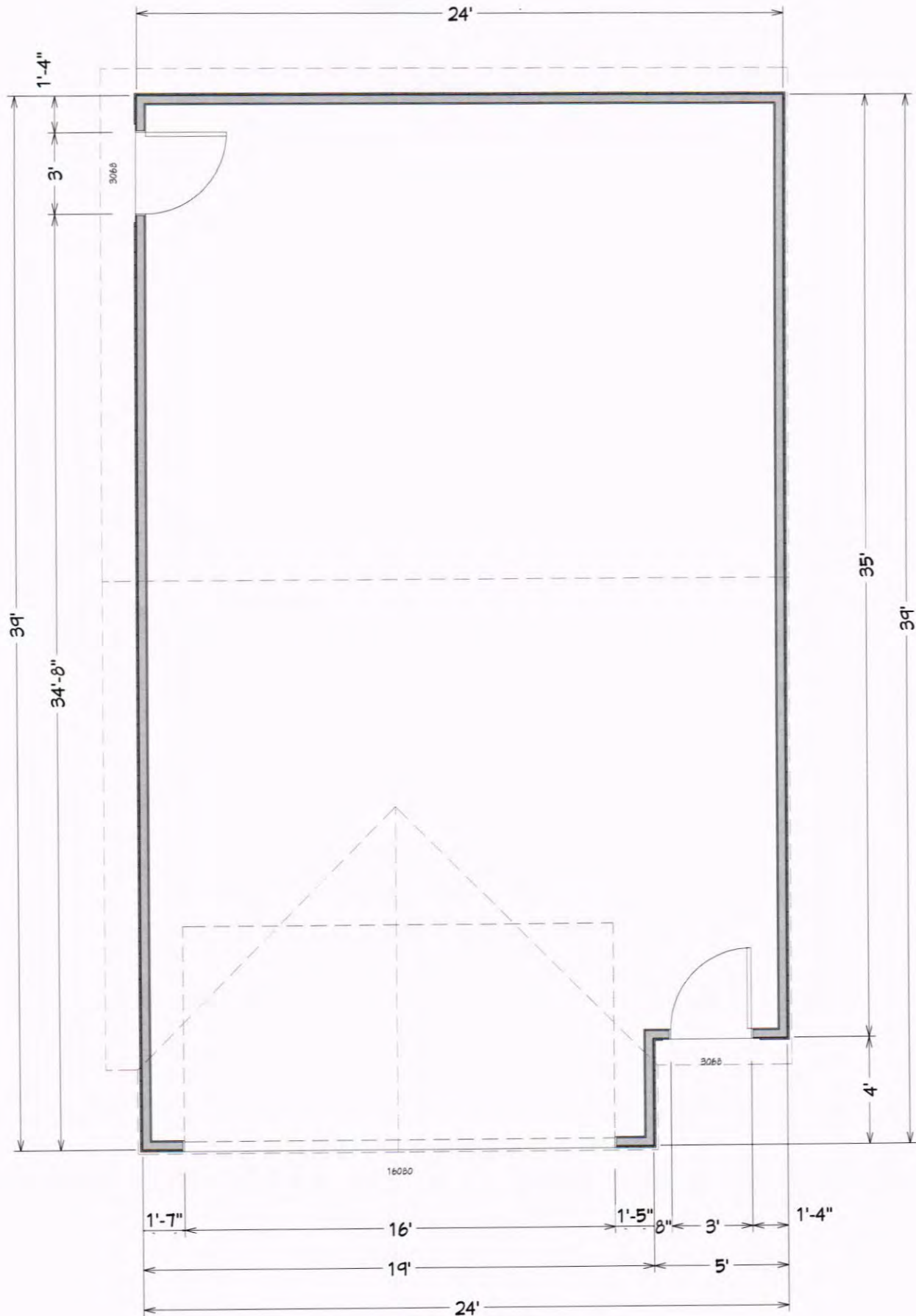
[Signature]

Property Services

6/16/2022

Date





~~LIVING AREA~~
916 SQ FT



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1 inch equals 35 feet

Printed by Nicollet County ESD

Pete Otterness

From: tac@gra.midco.net
Sent: Tuesday, June 14, 2022 5:14 PM
To: Pete Otterness
Subject: Project information

Pete,

Here is the information you asked for.

My contracting company is Minnesota Valley Craftsman, LLC. The Minnesota contractor's license number is BC773515. The business has the same phone number and address as my home.

The estimated cost of construction is about \$25,000.

Let me know when you're ready on Thursday and I can zip up to St. Peter and drop off a check. I just want to get rolling with this, just in time for the 90-degree weather! Talk to you soon.

Tom Clement

Total Control Panel

[Login](#)

To: pete.otterness@co.nicollet.mn.us [Remove](#) this sender from my allow list
From: tac@gra.midco.net

You received this message because the sender is on your allow list.

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ATTACHMENT F
Site Photographs





DISPLAYNAME	MAILINGADDR	MAILINGCITYSTATEZIP
OAK GROVE CEMETERY ASSOC	123 UNKNOWN	UNKNOWN MN 00000
AHL DAVID H	41896 JUDSON BOTTOM RD	NORTH MANKATO MN 56003
HOLCOMB MARION J	42024 JUDSON BOTTOM RD	NORTH MANKATO MN 56003
VOIGHT CODY J	42030 JUDSON BOTTOM RD	NORTH MANKATO MN 56003
Joan Untiedt- Belgrade Township	42394 Kerns Drive	North Mankato, MN 56003
LINDSAY A LOREN	52621 VALLEY VIEW CIR	NORTH MANKATO MN 56003
CARLSTROM LEE R & JANE F DE GROOD CARLSTROM	52720 MINNEWAUKON	NORTH MANKATO MN 56003
NIXT STEVEN A & MICHELLE M NIXT	52888 MINNEWAUKON CT	NORTH MANKATO MN 56003
RASMUSSEN GORDON GAY M TRUST	52898 MINNEWAUKON CT	NORTH MANKATO MN 56003
GETTLE RANDALL M	52909 DEERWOOD TRL	NORTH MANKATO MN 56003
GILBERTSON BRYAN A & SARAH J GILBERTSON	52917 DEERWOOD TRL	NORTH MANKATO MN 56003-4003
MINNEWAUKON ESTATES COOP & ASSOCIATION INC	52940 MINNEWAUKON DR	NORTH MANKATO MN 56003
FLOOD JEFFREY W & JAYNE T FLOOD	52944 DEERWOOD TR	NORTH MANKATO MN 56003
WACHTER TIMOTHY J & KRISTINA M	52947 DEERWOOD TRL	NORTH MANKATO MN 56003
LANGDON THOMAS E & KATHRYN P LANGDON	52952 DEERWOOD TRL	NORTH MANKATO MN 56003
KELLEN JOAN & JOSEPH POSTELS	52966 DEERWOOD TRL	NORTH MANKATO MN 56003
BRAEKKAN KRISTIAN F & CHANELLE BRAEKKAN	52979 DEERWOOD TRL	NORTH MANKATO MN 56003
GROEBNER ROBERT J & DEBORAH S	52988 DEERWOOD TR	NORTH MANKATO MN 56003
CLEMENT MARY JEAN & THOMAS ALLEN CLEMENT	52991 DEERWOOD TRL	NORTH MANKATO MN 56003
PRAHL PAUL H & DONNA M PRAHL	52995 DEERWOOD TRL	NORTH MANKATO MN 56003-0168
AHL SHARON	52998 MINNEWAUKON DR	NORTH MANKATO MN 56003
HALL JASON E & KAYLA J HALL	52999 DEERWOOD TRL	NORTH MANKATO MN 56003



BOARD OF ADJUSTMENTS AND APPEALS

CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant Thomas Clement
Property Owner Thomas & Mary Clement
File PLN23-17

Hearing September 18, 2023
Continuation N/A
Board Member

Variance Request After-the-fact variance to reduce the accessory structure side yard property line setback from ten (10) feet to four (4) feet for a detached garage in the Urban/Rural Residential Zoning District

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

YES ☐ NO ☐ REASON: _____

2. The variance is consistent with the intent of the Comprehensive Plan.

YES ☐ NO ☐ REASON: _____

3. The variance establishes a practical difficulty in complying with the official controls.

YES ☐ NO ☐ REASON: _____

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

YES ☐ NO ☐ REASON: _____

ATTACHMENT H
Criteria for a Variance

5. The variance will not alter the essential character of the locality.

YES ☐ NO ☐ REASON: _____

6. The practical difficulty includes more than economic considerations alone.

YES ☐ NO ☐ REASON: _____

Additional After-the-Fact Criteria for use ONLY when the first six criteria are met:

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

YES ☐ NO ☐ REASON: _____

8. In relation to the subject variance, are there similar structures in the area?

YES ☐ NO ☐ REASON: _____

9. Does the burden on the applicant of compliance outweigh the benefit to the County?

YES ☐ NO ☐ REASON: _____

10. Was the act of the violation by the applicant unintentional?

YES ☐ NO ☐ REASON: _____

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☐ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|---|---------------------------------------|
| ☐ Application | ☐ Site visit |
| ☐ Information received at public hearing | ☐ Staff Report |
| ☐ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Board Member: _____

DRAFT



VARIANCE

**INCREASE THE MAXIMUM MULTI-FACED
SIGN SQUARE FOOTAGE & INCREASE THE
MAXIMUM NUMBER OF ALLOWED SIGNS
PER PROPERTY FROM 2 TO 3**

Minnesota Valley Lutheran High School

PLN23-15

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	Variance; PLN23-15
APPLICANT:	Minnesota Valley Lutheran High School
LANDOWNER:	Minnesota Valley Lutheran High School
LOCATION:	Northeast ¼ of the Southeast ¼, Section 35-110-35, Courtland Township
PARCEL NO:	04.035.1905
EXISTING ZONING:	Conservancy Zoning District
HEARING DATE:	9/18/2023
60 DAYS FROM REQUEST:	10/28/2023

REQUEST

Minnesota Valley Lutheran High School (MVL) is requesting a variance to increase the maximum multi-faced sign square footage from 40 square feet to 192.5 square feet, and increase the maximum number of allowed signs per property from two (2) to three (3.)

ORDINANCE

Nicollet County Zoning Ordinance 735.7 *District Standards* (1) *C Size*: Not more than a total of twenty (20) square feet with a five (5) foot maximum for any dimension.

Nicollet County Zoning Ordinance 735.7 *District Standards* (1) *A Surfaces*: No sign shall be constructed as to have more than two (2) surfaces. Multifaced signs shall not exceed two (2) times the allowed square footage of single faced signs.

Nicollet County Zoning Ordinance 735.7 *District Standards* (1) *B Number Per Property*: Two (2) signs per property, excluding exempted signs.

PROJECT DESCRIPTION

The proposal includes two sets of signs; the first of which is a pair of ground mounted 19' 3" x 5' panels joined at a right angle, to be located near the entrance of the school by 561st Ave. The signs would be set into a brick mount with posts extending 6 feet below ground level. Lighting would consist of ground mounted LED floodlights directed at each sign face.

This sign was formerly located in the southeast of the property near Highway 14, but it was removed due to the highway expansion project. A variance was granted in 1986 to increase the maximum allowed square footage, but it does not apply to this proposal as the location is different. It does not appear that any alterations have been made to the sign since it was removed.

The Applicant cites the expansion of Highway 14 as the source of their practical difficulty for the ground mounted sign. It was previously approved and remained at its old location for many years, but its removal was required when the right of way was expanded for the highway. Returning it to the same location is both impossible due to Minnesota Department of Transportation regulations, and impractical due to a planned highway sound barrier.

The proposed second set of signs consists of two 23' 7.81" x 7' illuminated wall mounted signs located on the southern and western side of the recently constructed gymnasium. The internally illuminated channel letters and logo cabinet would have a brightness of 15.1 foot candles per square foot. The majority of the sign is dark blue in color.

The Applicant also cites Highway 14 as the source of their practical difficulty for the wall mounted signs. As the signs cannot be placed along the highway, MVL wishes to increase their allowed square footage and illuminate the signs, so they may be seen from the road. Wall mounting also allows them to be seen over the highway's future sound barrier.

EXISTING LAND USE

The seventy (70) acre lot contains bluff, wetlands, and a school with its associated features such as sports fields and parking lots.

SURROUNDING LAND USE

The surrounding land use is varied, with New Ulm Quartzite Quarries to the south, a subdivision to the west, and farm fields with residential homes beyond the bluff to the north and east.

SITE REVIEW

Staff visited the site and took photographs of the request on August 31, 2023.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota Statutes Section 394.26.

VARIANCE CRITERIA

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the official control creates practical difficulties for the property owner in the use of their land. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. No variance shall permit

standards lower than those required by state law. A variance may be granted only in the event that the following circumstances exist:

1. The variance is in harmony with the general purposes and intent of the official control?

- The intent of the official control is to preserve the character of the County, to protect the public from hazardous and distracting displays, and to create an attractive environment for citizens and visitors alike, which is conducive to business, industry, and recreation.
- The ground mounted sign was previously granted a variance and remained at the old location without issue for several years.
- The wall mounted signs would be conducive to the interests of the school by increasing their visibility. However, the wall mounted signs may not fit with the character of the area as there are no comparable signs of the proposed size and illumination within unincorporated Courtland Township.

2. The variance is consistent with the intent of the Comprehensive Plan?

- The Comprehensive Plan does not directly address signage, but it does call for orderly development and the preservation of the natural and scenic beauty of the County.

3. The variance establishes a practical difficulty in complying with the official controls?

- The ground mounted sign was approved in 1986 and remained at its former location for many years. The location of the highway right of way and installation of the sound barrier makes the previous sign location non-viable to return to.
- The highway expansion and sound barrier may cause some difficulty for the Applicant, but that does not necessarily present a practical difficulty in regard to the number and size of signage on the property.
- Without a variance, the Applicant is not denied reasonable use of the property as a school.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner?

- The plight is related to the landowner's desire for signage and the expansion of Highway 14.

5. The variance will not alter the essential character of the locality?

- Increasing the allowed square footage for the ground mounted sign would not change the character of the locality, as it was previously located on the property for many years.
- The wall mounted signs may change the character of the area, as there are no comparable signs of the proposed size and illumination within unincorporated Courtland Township.

6. The practical difficulty includes more than economic considerations alone?

- The practical difficulty, if one exists, is due to landowner's desire for signage and the expansion of Highway 14.

RECOMMENDED CONDITIONS

Staff recommends the attachment of the following conditions if the variance request is approved:

1. The Applicant undertakes the project according to the plans and specifications submitted to the County with the application.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The Applicant must obtain the appropriate zoning permits prior to construction.
4. All signs shall comply with the illumination and maintenance regulations outlined in Nicollet County Zoning Ordinance 735.

**Applicant/Property Owner:
Minnesota Valley Lutheran High School**

PLN23-15

ATTACHMENT A	Application
ATTACHMENT B	Aerial Map
ATTACHMENT C	Location Map
ATTACHMENT D	Submitted by Applicant
ATTACHMENT E	Site Photographs
ATTACHMENT F	Neighbor Notification List
ATTACHMENT G	Criteria for a Variance



PROPERTY SERVICES DIVISION
501 S MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS APPLICATION

TOTAL FEES: \$496.00

Map#: 10-35-400-030
Parcel#: 04.035.1905
Permit#: PLN23-15
Date: 8/29/2023

Applicant: Ken Opitz
Telephone: (320)296-0293
Owner: MN Valley Lutheran High School
Property Address: 45638 561st Ave
Abbreviated Legal Description: NESE 35-110-30
Township: Courtland Township
Zoning District(s): CONSERVANCY

Record Type: Variance
Subtype: New
Category: Other
Description: Sign Variance- see packet for details
G.C. Licence#: n/a
Job Cost: n/a

PERMIT EXPIRATION DATE: 8/29/2024

Ken Opitz
Ken Opitz (Aug 28, 2023) (0234021)

APPLICANT SIGNATURE

Aug 29, 2023

DATE

James Gendler

PROPERTY SERVICES

08/29/23

DATE

ATTACHMENT A
Application

PLN23-15 App

Final Audit Report

2023-08-29

Created:	2023-08-29
By:	Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAImjIQTa5yJjhpps4y9eq3fsn6ut5AD6

"PLN23-15 App" History

-  Document created by Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
2023-08-29 - 4:58:58 PM GMT
-  Document emailed to kopitz@mvlhs.org for signature
2023-08-29 - 4:59:21 PM GMT
-  Email viewed by kopitz@mvlhs.org
2023-08-29 - 5:52:32 PM GMT
-  Signer kopitz@mvlhs.org entered name at signing as Ken Opitz
2023-08-29 - 5:53:10 PM GMT
-  Document e-signed by Ken Opitz (kopitz@mvlhs.org)
Signature Date: 2023-08-29 - 5:53:12 PM GMT - Time Source: server
-  Agreement completed.
2023-08-29 - 5:53:12 PM GMT





ATTACHMENT C
Location Map



This information is provided for informational purposes only. It is not intended to be used as a legal document. The user agrees to hold Nicollet County harmless for any errors or omissions. The user agrees to hold Nicollet County harmless for any damages, including but not limited to, consequential damages, arising from the use of this information.



VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: 8-18-2023
REQUEST: Variance for School Sign

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

"Need" rather than "Want"

Because of the expansion of Highway 14, the Minnesota Department of Transportation purchased eight acres of land from Minnesota Valley Lutheran High School for that project. This dual sided concrete sign had been located on the corner of Highway 14 and 561st and was approved in the past by Nicollet County.

When that sign had to be moved, we considered several options. As we considered where to locate the sign, we had to consider the fact that MN DOT planned to construct a 10 foot high wall that would run parallel to highway 14 and would serve as a sound barrier. An additional challenge to the new location of the sign was the length of the sound barrier in regard to the amount of MVL owned property and where along that property we could erect the sign. To put one part of the sign on the east end of the property and then on the southwest corner along highway 14 would have required significant added expense in setting a foundation for each of those signs, as well as getting electrical service to both areas for night lighting. We also would have wanted to landscape around both signs. That would have required getting water to both locations. That would not have been an easy task in and of itself. We also did not foresee that they would be easily seen from the road.

The proposed home for this dual-sided sign would be at the intersection of 561st Ave. and the driveway into MVLHS on the southwest corner of that Intersection.

ATTACHMENT D
Submitted by Applicant

This project is a "need" rather than a "want" because we have already had this sign approved in the past by Nicollet County. These signs are in need of a home that would allow our visitors to be sure that they were coming to our school.

Explored Alternatives and Accompanying Rationales

The original location of the sign had to be moved because of the expansion of Highway 14. When that sign had to be moved, we considered several options. As we considered where to locate the sign, we had to consider the fact that MNDOT planned to construct a 10 foot high wall that would run parallel to highway 14 and would serve as a sound barrier. An additional challenge to the new location of the sign was the length of the sound barrier in regard to the amount of MVL owned property and where along that property we could erect the sign. To put one part of the sign on the east end of the property and then on the southwest corner along highway 14 would have required significant added expense in setting a foundation for each of those signs, as well as getting electrical service to both areas for night lighting. We also would have wanted to landscape around both signs. That would have required getting water to both locations. That would not have been an easy task in and of itself. We also did not foresee that they would be easily seen from the road.

The Uses the Project will Provide

Currently there is no sign on our property (besides on the school building itself, identifying who we are. This sign will serve that purpose. Our plans to include landscaping and a solid foundation for this sign will add to the appeal of the on campus building construction in which we are currently engaged.



VARIANCE APPLICANT QUESTIONNAIRE

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: 8-18-2023
REQUEST: Variance for School Sign

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

1. The variance is in harmony with the general purposes and intent of the official control.

This is an accurate statement. The sign has been on campus for more than 20 years and is unassuming and blends in well with the landscape.

2. The variance is consistent with the intent of the Comprehensive Plan.
Yes.

3. The variance establishes a practical difficulty in complying with the official controls.

The fact that we are held accountable by the county to produce these documents and put into writing why we are requesting this variance suggests that there is a practical difficulty in fulfilling the requirements of the controls and variance.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The sign had to be moved when the expansion of Highway 14 was begun. As a result, we have to find a location for this sign that will serve its intended purpose. If all would have worked out, we would have been happy to leave the sign in its former location.

5. The variance will not alter the essential character of the locality.

We believe that this sign and the landscaping we have planned will actually improve the character of the locality. With the softball fields being moved and updated and the new construction in process, the overall impression of Minnesota Valley Lutheran High School should be quite striking.

6. The practical difficulty includes more than economic considerations alone.

We had to decide where the best location for the sign was. While economic considerations were present, the actual logistics and visibility of the sign created some challenges. After multiple meetings, we were able to agree on this location and plan.

ALL SIX VARIANCE CRITERIA MUST BE MET IN ORDER FOR THE REQUEST TO BE APPROVED.



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VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: 8-18-2023
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■

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The whole text doesn't
point out so I'm showing this.

"Need" rather than "Want"

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2

VARIANCE APPLICANT QUESTIONNAIRE

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: 8-18-2023
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WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

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This is an accurate statement. The sign has been on campus for more than 20 years and is unassuming and blends in well with the landscape.

2. The variance is consistent with the intent of the Comprehensive Plan.

Yes.

3. The variance establishes a practical difficulty in complying with the official controls.

The fact that we are held accountable by the county to produce these documents and put into writing why we are requesting this variance suggests that there is a practical difficulty in fulfilling the requirements of the controls and variance.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The sign had to be moved when the expansion of Highway 14 was begun. As a result, we have to find a location for this sign that will serve its intended purpose. If all would have worked out, we would have been happy to leave the sign in its former location.

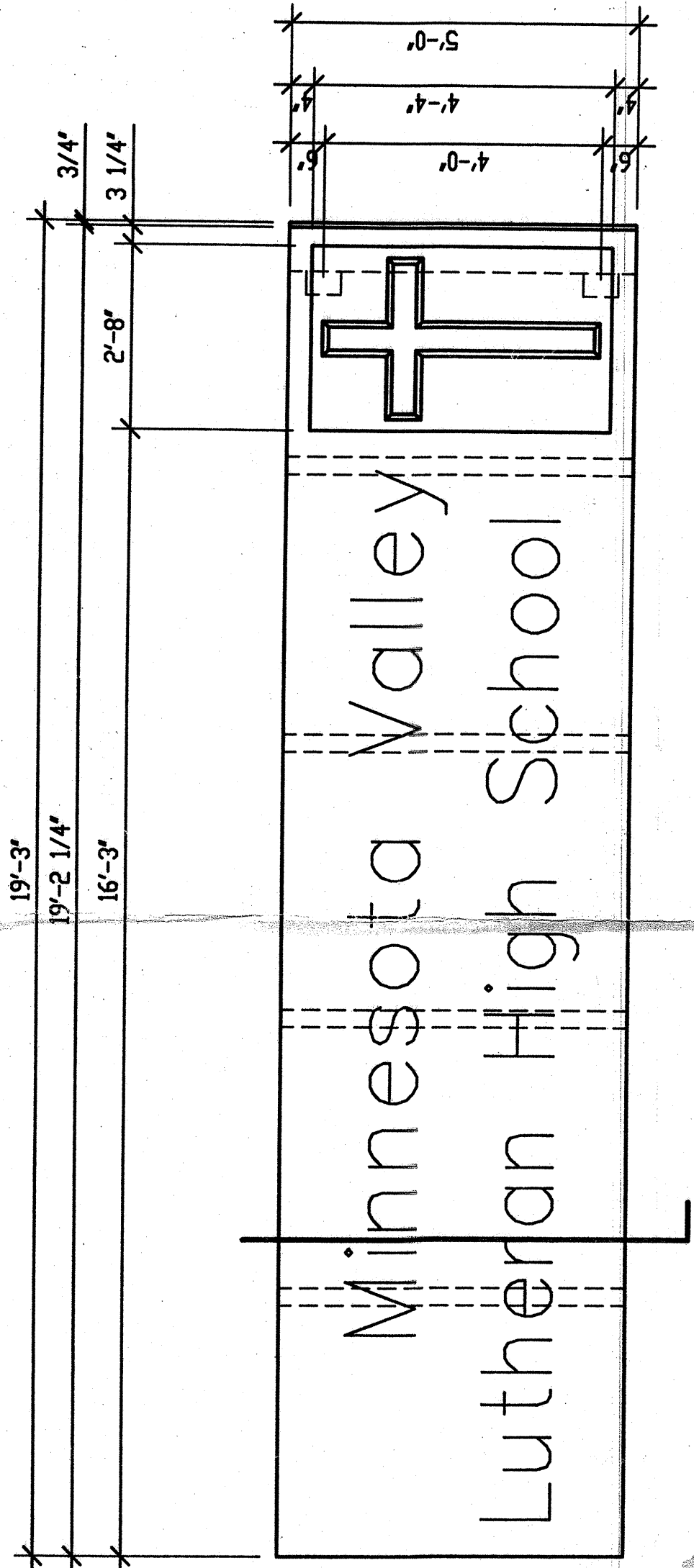
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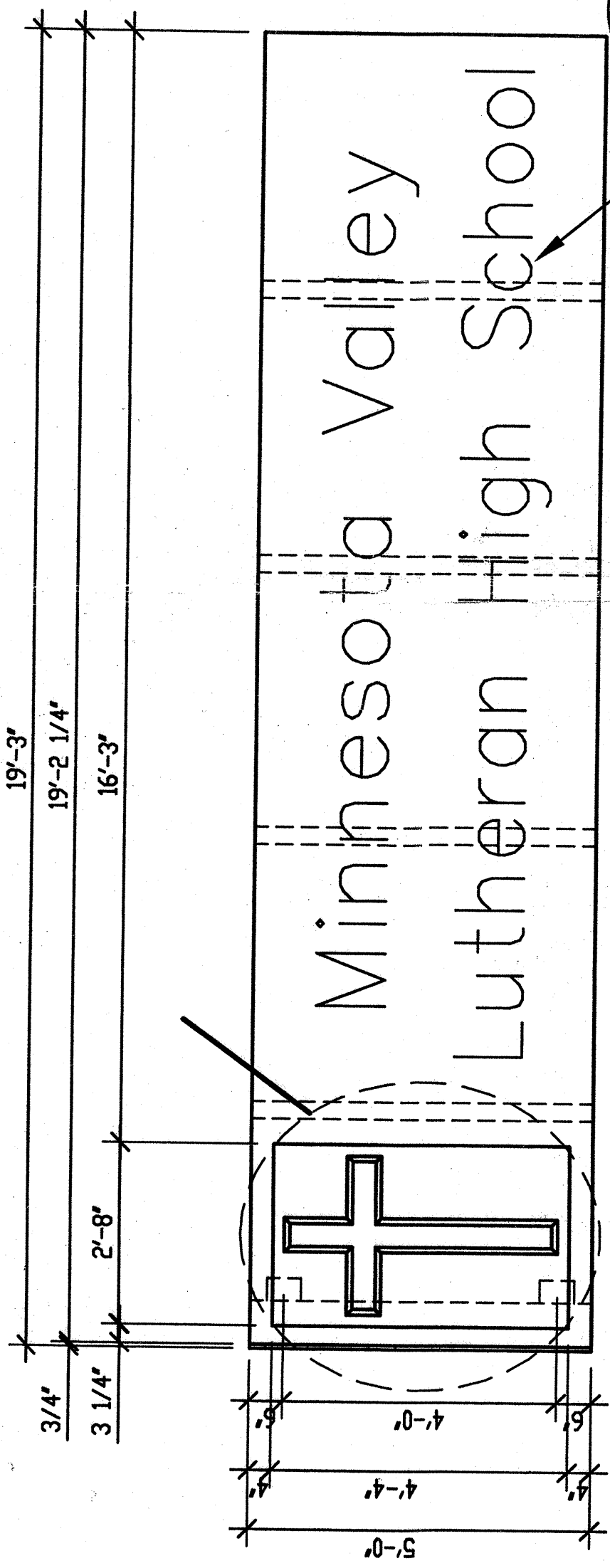
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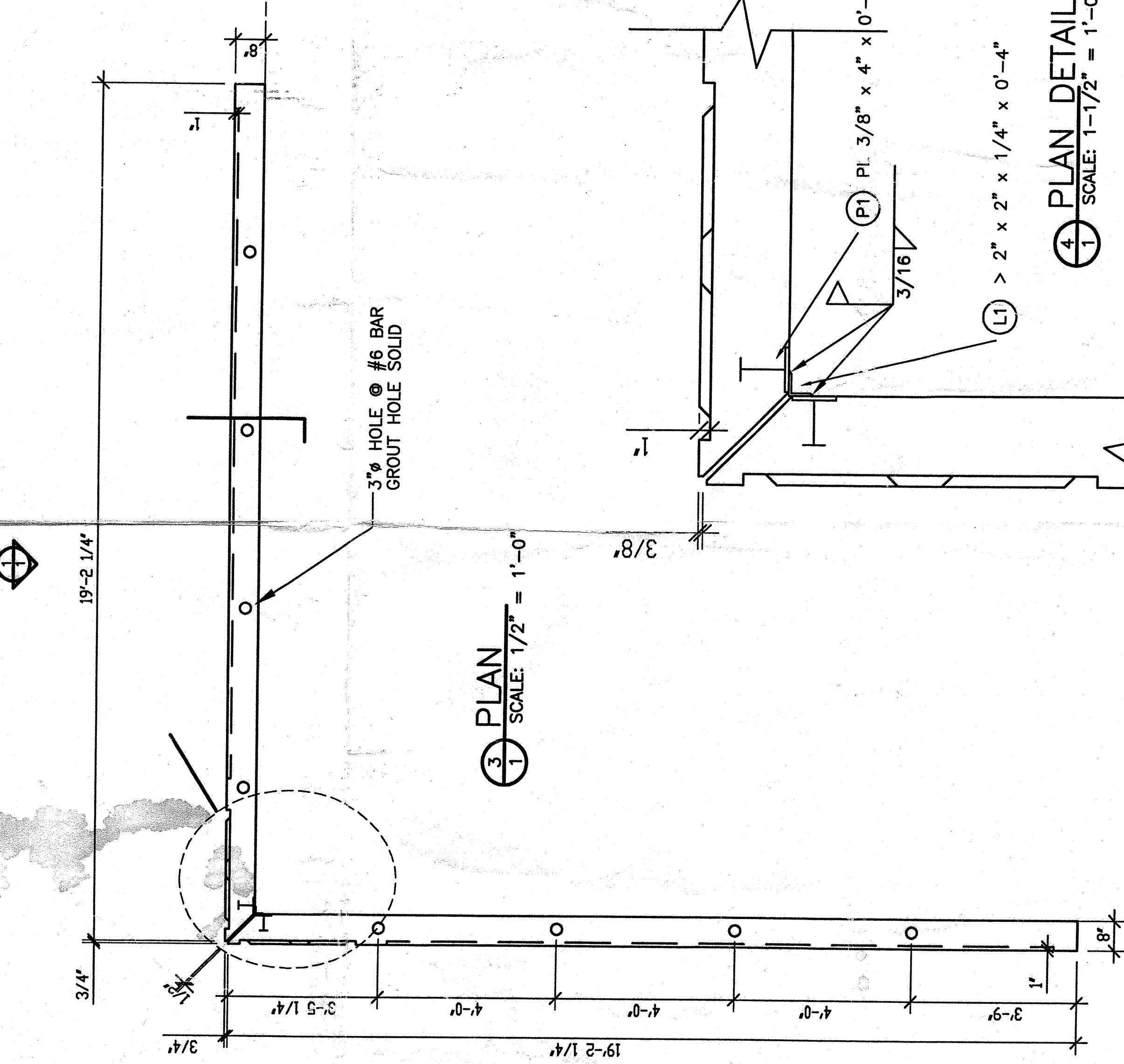


1 ELEVATION
SCALE: 1/2" = 1'-0"

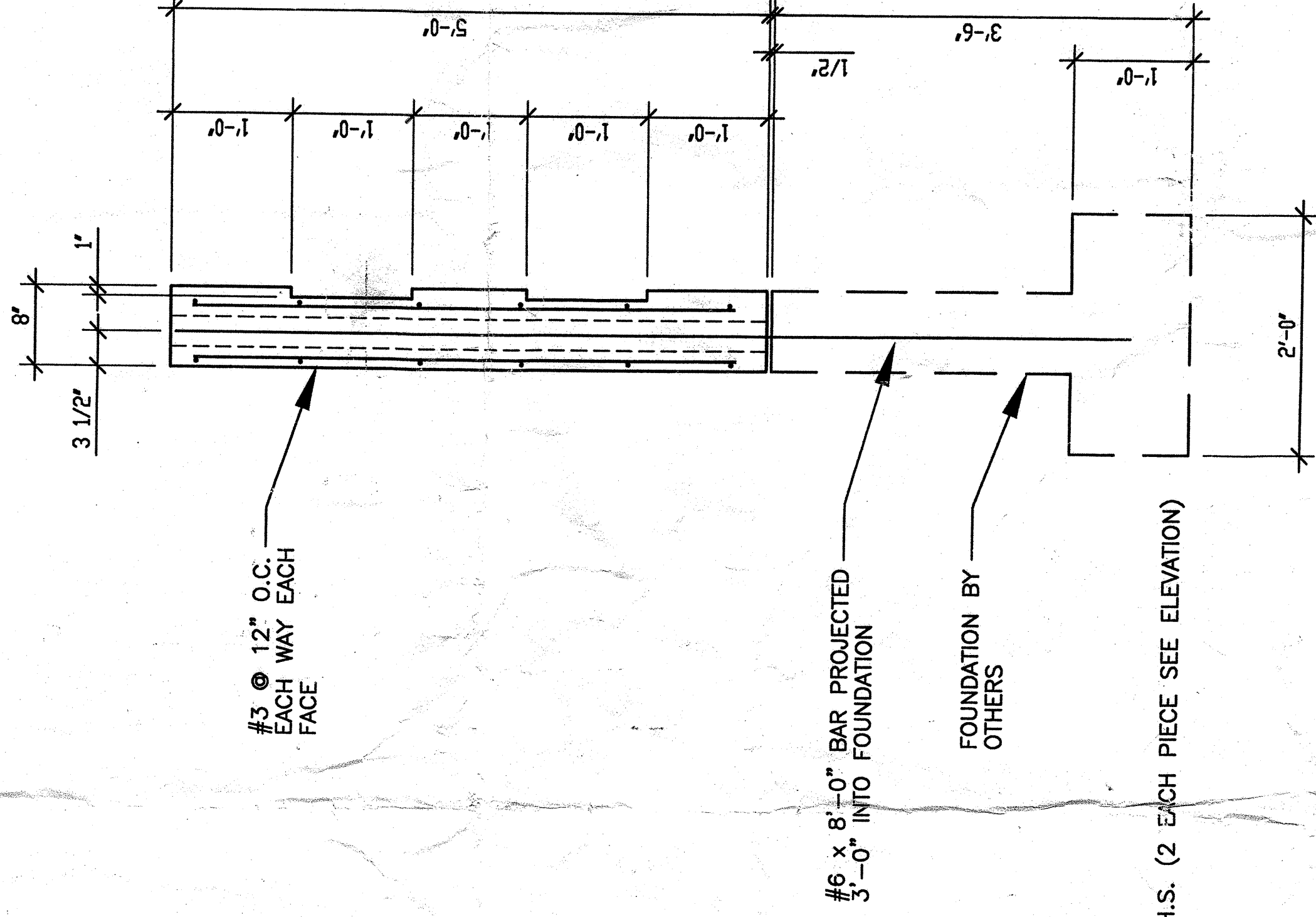


2 ELEVATION
SCALE: 1/2" = 1'-0"

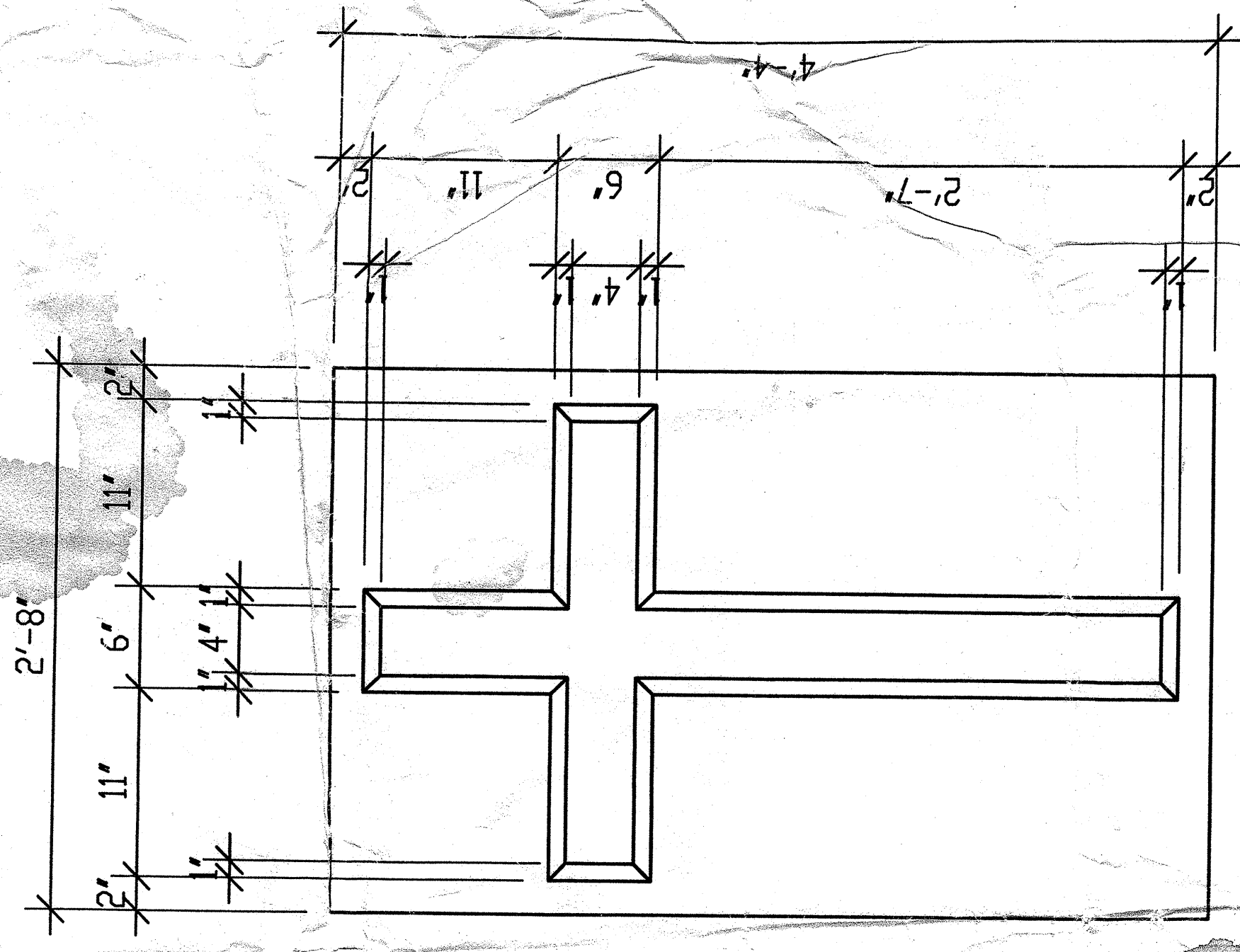
FULL SCALE TEMPLATE
PROVIDED BY OTHERS
WITH FONT



3 PLAN
SCALE: 1/2" = 1'-0"



5 SECTION
SCALE: 1" = 1'-0"



6 CROSS DETAIL
SCALE: 1-1/2" = 1'-0"

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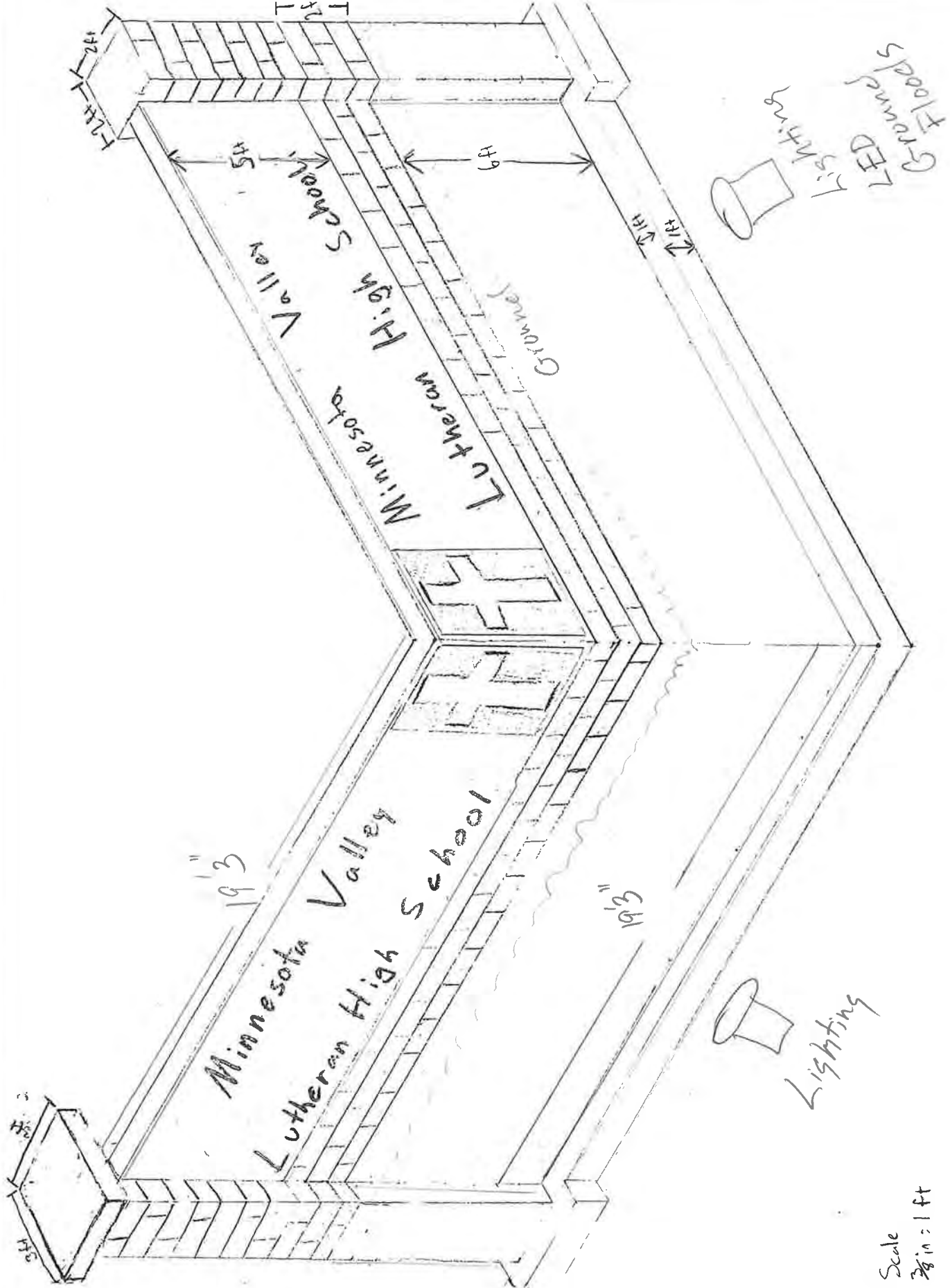
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DESIGNED BY: 1-27-00 TMB
DRAWN BY: 3-17-00 JAD
CHECKED BY: 4-20-00
APPROVED BY: 4-20-00

PROJECT: MVL HIGH SCHOOL
NEW ULM MN

ARTSTONE, INC.
PHONE (800) 987-2075
FAX (800) 364-7771

JOB NO. 6104
SHEET 1 OF 1



Scale
3/8" = 1 ft



1. ISG located lath that was placed on site by MVL staff to determine proposed sign location. Survey work was completed on August 24, 2023. Additional site features were completed in June of 2023.

- 2. Evidence of underground utilities existing on or serving the surveyed property was determined by:**

(b) markings coordinated by the surveyor pursuant to a private utility locate request:

Hance Locating & Services, Inc. performed a private utility locate on May 30, 2023.

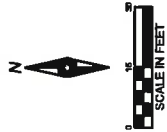
Location of all utilities shown and plotted as approved by the City of Gopher State One Call on May 24, 2023. Ticket Number 231441191. Location of all utilities shown and plotted are based on visible surface identification, and/or drawings provided by utility companies contained by the Gopher State One Call. Utility lines in street right-of-way are not necessarily complete. Private utility lines, may not be located for the Gopher State One Call, available record drawings were used in preparing the location of these lines. Excavations were not made during the process of this survey to locate underground utilities and/or structures. Additional underground utilities and/or structures may be encountered. Contact Gopher State One Call Notification Center for verification of utility type and field location, prior to excavation. Per Gopher State One Call Ticket Number 231441191, the following utilities were notified:

Name	Phone No.
Brown County REA	800-659-2388
Comcast	800-778-8140
Greater MN Transmission	868-931-3411
MNDOT	651-368-5750
Nuvera	763-682-3514
United Natural Gas	507-647-6602

3. Orthometric photo taken by ISG with a drone on June 1, 2023.

LEGEND

- | Symbol | Meaning |
|---|---------------------------|
|  | Sign |
|  | Light Pole |
|  | Underground Gas Line |
|  | Underground Electric Line |
|  | Storm Line |



SITE SKETCH

INVESTMENT COMPANY THAT THE COMPANY, SHALL NOT EXCEED THE
 PROVIDED BY THE SEC UNDER THE ACT OF 1933 AND THE SEC
 SHALL EXAMINE AND SIGNIFY UNDER THE LAWS OF THE STATE OF
 MINNESOTA.

DANIELL STUEVER

DS

DATE 8/28/23 UG NO. 43110

THIS DOCUMENT IS THE PROPERTY OF L & B GROUP, INC. AND MAY NOT BE USED, COPIED OR DUPLICATED WITHOUT PRIOR WRITTEN CONSENT.

PROJECT	MINNESOTA VALLEY LUTHERAN	FIELDHOUSE EXPANSION AND RENOVATION	MINNESOTA
NEW ULM			REVISION SCHEDULE

[illegible]



VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: August 23, 2014
REQUEST: Lighted sign on fieldhouse

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

MNDOT made the decision to add the sound barrier wall. With all the setbacks at the intersection of Hwy 14 and 561st Ave., there is no logical location for a sign along Highway 14. As a result, we had to get creative. We hope that, with the approval of this variance, we will be able erect a sign that would allow people to see MVL.

Our committees have experimented with a variety of different locations, but keep coming back to the design of a lighted sign on the new fieldhouse. The distance between the fieldhouse and the relocation of Highway 14 is hundreds of yards - hence the additional size so it can actually be seen.

The addition of this sign will allow visitors to MVL the ability to zero in on our location from Highway 14. I'm sure that there are additional impacts to be felt once the construction of Highway 14 is complete.



VARIANCE APPLICANT QUESTIONNAIRE

APPLICANT NAME: Minnesota Valley Lutheran HS DATE: 8-23-2023
REQUEST: Proposed sign on top of new

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

1. The variance is in harmony with the general purposes and intent of the official control.

We believe that the variance is in harmony with the official control.

2. The variance is consistent with the intent of the Comprehensive Plan.

Yes

3. The variance establishes a practical difficulty in complying with the official controls.

The fact that we are held accountable by the county to produce these documents and put into writing why we are requesting this variance suggests that there is a practical difficulty in fulfilling the requirements of the controls and variance.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

With the expansion of Highway 14, it was determined by MNDOT that a sound barrier wall be erected that would be 1000 feet long and ten feet high. This wall will remove the sight lines to our school from Highway 14 and we would like visitors to be able to know that they are visiting MVL.

5. The variance will not alter the essential character of the locality.

The addition of this sign on top of the fieldhouse will not have any more impact on the locale than do the parking lot lights for security purposes.

6. The practical difficulty includes more than economic considerations alone.

The location and size of the sign are related much more to logistics and sight lines than anything else. With the placement of that wall, we have few, if any options for sign placement.

ALL SIX VARIANCE CRITERIA MUST BE MET IN ORDER FOR THE REQUEST TO BE APPROVED.

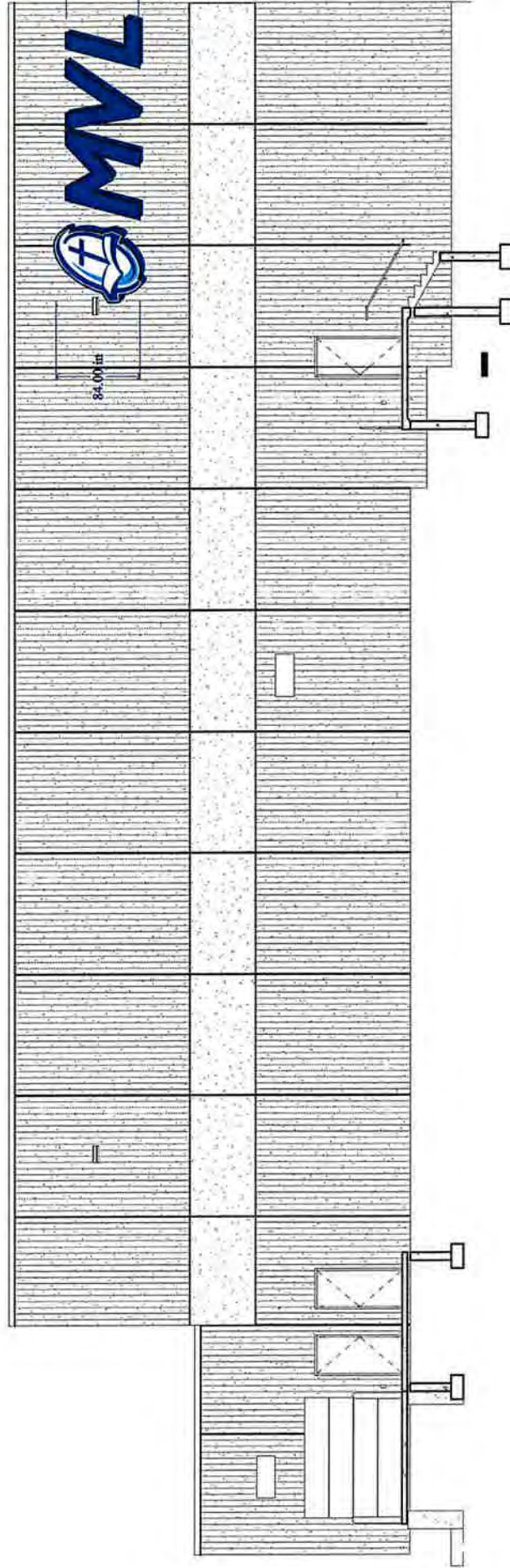
72.00 in



MVL

84.00 in

72.00 in



283.81 in



84.00 in

MANL

72.00 in

From: [Ken Opitz](#)
To: [Spencer Crawford](#)
Subject: MVL Sign
Date: Monday, July 31, 2023 1:09:17 PM

Caution! This message was sent from outside your organization.

[Allow sender](#) | [Block sender](#)



Sid's Signs On Broadway

11:24 AM (1 hour ago)



to me



Ken ok here is the verdict on just doing the Logo w MVL

Here are the values for Lumens per square foot and Footcandles per square foot.

1. For the MVL sign with logo, you are using Qwik Mod 2 modules at 94.1 Lumens per module
2. For these channel letters and logo cabinet, you have 192.95 Lumens per square foot
3. This converts to **15.1 Footcandles per square foot.**
4. They all have faces with vinyl on them so you can **take up to approx. 25% on white areas and up to approx. 35% for a full color vinyl covering**

I hope this helps out. Let me know if you need anything further. Thanks.

--

Ken Opitz
[Minnesota Valley Lutheran High School](#)
Facilities Maintenance
(507)233-8654
(320)296-0293 Cell
kopitz@mvlhs.org

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ATTACHMENT E
Site Photographs



Aug 29, 2023 at 9:28:40 AM



Aug 29, 2023 at 9:32:37 AM



DISPLAYNAME	MAILINGADDR	MAILINGCITYSTATEZIP
TIM HARMENING- COURTLAND TOWNSHIP	43370 541ST AVE	COURTLAND, MN 56021
CURTIS & KRISTIN FORBROOK	45261 JEREMY DR	NEW ULM, MN 56073
AARON & LEAH WIDMARK	45309 JEREMY DR	NEW ULM, MN 56073
NICHOLAS STEVENSEN & CHELSEY BODE	45402 JEREMY DR	NEW ULM, MN 56073
SCHROEDER LAND LLC	45408 551ST AVE	COURTLAND, MN 56021
MARY WAIBEL	45438 541ST ST	COURTLAND, MN 56021
DAVID & CHRISTENE ROLLOFF	45452 JEREMY DR	NEW ULM, MN 56073
HOWARD BLUME	45458 561ST AVE	NEW ULM, MN 56073
MARCELLA BODE	45479 561ST AVE	NEW ULM, MN 56073
JEFFREY & WENDY BERTRANG	45493 JEREMY DR	NEW ULM, MN 56073
DAVID & PATRICE DITTRICH	45508 JEREMY DR	NEW ULM, MN 56073
DOUGLAS & KATHLEEN LUND	45541 JEREMY DR	NEW ULM, MN 56073
MN VALLEY LUTHERAN HIGH SCHOOL	45638 561ST AVE	NEW ULM, MN 56073
BRIAN & JUDY RAHE	45691 561ST AVE	NEW ULM, MN 56073
RUTH REWITZER	55921 US HIGHWAY 14	NEW ULM, MN 56073
NEW ULM QUARTZITE QUARRIES INC	PO BOX 55038	LEXINGTON, KY 40555



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant	Ken Opitz	Hearing	September 18, 2023
Property Owner	MN Valley Lutheran High School	Continuation	N/A
File	PLN23-15	Board Member	
Variance Request	Increase the maximum multi-faced sign square footage from 40 to 192.5 square feet, and increase the maximum number of allowed signs per property from two (2) to three (3) in the Conservancy Zoning District		

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

YES ☐ NO ☐ REASON: _____

2. The variance is consistent with the intent of the Comprehensive Plan.

YES ☐ NO ☐ REASON: _____

3. The variance establishes a practical difficulty in complying with the official controls.

YES ☐ NO ☐ REASON: _____

ATTACHMENT G
Criteria for a Variance

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

YES ☐ NO ☐ REASON: _____

5. The variance will not alter the essential character of the locality.

YES ☐ NO ☐ REASON: _____

6. The practical difficulty includes more than economic considerations alone.

YES ☐ NO ☐ REASON: _____

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☐ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|---|---------------------------------------|
| ☐ Application | ☐ Site visit |
| ☐ Information received at public hearing | ☐ Staff Report |
| ☐ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Board Member: _____