



# ST. LOUIS COUNTY BOARD OF ADJUSTMENT STAFF REPORT

**INSPECTION DATE:** 7-24-2023

**REPORT DATE:** 7-26-2023

**MEETING DATE:** 8-17-2023

## APPLICANT INFORMATION

**APPLICANT NAME:** Ann Chouinard

**APPLICANT ADDRESS:** 7656 Barrs Lake Road, Duluth, MN 55803

**OWNER NAME:** same as applicant  
(IF DIFFERENT THAN ABOVE)

**SITE ADDRESS:** 7656 Barrs Lake Road, Duluth, MN 55803

**LEGAL DESCRIPTION:** Lots 4 & 5 of Barrs Lake Plat, S22, T53N, R13W (North Star).

**PARCEL IDENTIFICATION NUMBER (PIN):** 488-0020-00050 & 488-0020-00040

**VARIANCE REQUEST:** The applicant is requesting after-the-fact relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a dwelling at a reduced shoreline setback.

**PROPOSAL DETAILS:** The applicant is requesting after-the-fact approval for a variance to allow a replacement dwelling at a reduced shoreline setback. The former dwelling was located 60 feet from the shore where 100 feet is required. The applicant was granted a variance for a basement foundation and additions to the existing dwelling on December 10, 2020 with the conditions that (1) the dwelling shall be relocated 15 feet further back and must be a minimum of 75 feet from the lake, and (2) if the structure was deemed unsound, a replacement dwelling would have to meet all zoning ordinance standards.

A land use permit for the basement and additions was issued in July 2022. Construction began in April 2023. The existing dwelling was deemed unsound for being added on to or moved. The basement was excavated and ICF walls poured at the reduced setback of 74 feet (field measured) from the shore. Construction of a new dwelling continued until the applicant was informed in June 2023 that a new structure is not allowed with the 2020 variance and 2022 land use permit.

## PARCEL AND SITE INFORMATION

**ROAD ACCESS NAME/NUMBER:** Barrs Lake Rd

**ROAD FUNCTIONAL CLASS:** Local

**LAKE NAME:** Barrs Lake

**LAKE CLASSIFICATION:** RD

**RIVER NAME:** N/A

**RIVER CLASSIFICATION:** N/A

**DESCRIPTION OF DEVELOPMENT ON PARCEL:** There is existing septic and accessory structures on the property. Basement walls have been installed.

**ZONE DISTRICT:** SMU 7

**PARCEL ACREAGE:** 1.45 ACRES

**LOT WIDTH:** 174 FEET

## **PARCEL AND SITE INFORMATION**

**VEGETATIVE COVER/SCREENING:** There is good screening from neighboring properties and partial screening from the lake. The property has good screening from Barrs Lake Rd.

**TOPOGRAPHY:** There is steep slope from the site of the former dwelling to the lake. The rest of the property is relatively flat.

**FLOODPLAIN ISSUES:** N/A

**WETLAND ISSUES:** N/A

**ADDITIONAL COMMENTS ON PARCEL:** There are two platted lots associated with the proposal.

## **FACTS AND FINDINGS**

### **A. Official Controls:**

1. Barrs Lake is a Recreational Development Lake which requires a shoreline setback of 100 feet.
  - a. The after-the-fact dwelling is located at a shoreline setback of 74 feet (field measured).
2. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.ii, states:
  - a. "The plight of the landowner is due to circumstances unique to the property not created by the landowner."
  - b. "Economic considerations alone shall not constitute practical difficulties if a reasonable use for the property exists under the terms of this ordinance."
3. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.iv, states:
  - a. When an applicant seeks a variance for additions or alterations to a lot or structure that have already commenced, it shall be presumed that the changes to the lot or structure were intentional and the plight of the landowner was self-created, as per MN Statutes, Section 394.27, Subd. 7 and all acts amendatory thereof.
4. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
5. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
6. Objective LU-3.3 of the St. Louis County Comprehensive Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.

### **B. Practical Difficulty:**

1. There are no unique physical circumstances of the property.
2. The property has suitable buildable area that conforms to ordinance standards.
3. A new dwelling may be relocated at a conforming location with a land use permit.

### **C. Essential Character of the Locality:**

1. The applicant is not proposing a new use to the area as there are other residential properties in the area.

2. The area consists of developed lakeshore lots with both conforming and nonconforming structures.
3. In addition to the variance granted on the property in 2020, there had been three similar variances approved within the plat for additions that reduced the shoreline setback on nonconforming principal structures and for accessory structures at a reduced shoreline setback.
4. An adjacent property was denied a variance for a replacement dwelling at a reduced shoreline setback in April 2023.

**D. Other Factor(s):**

1. The applicant received a variance to add on to the former dwelling in December 2020 with the condition that the if the structure was deemed unsound to add on to or moved, a new structure may be allowed provided all setback and ordinance requirements are met.
  - a. A land use permit for the project was issued in July 2022.
  - b. The existing dwelling was determined unsound to add on to or move and construction of the new dwelling at the reduced shoreline setback began in April 2023.
2. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

**E. Was the construction completed prior to applying for the variance? If not, what extent of the construction has been completed?**

1. The basement was excavated and ICF walls poured prior to County staff notifying the applicant in June 2023 that the project is outside the scope of the approved land use permit. Construction has since stopped.
2. The applicant ceased construction and applied for a variance for an after-the-fact replacement dwelling at a reduced shoreline setback.

**F. How would the county benefit by enforcement of the ordinance if compliance were required?**

1. The county would benefit by enforcement of the Ordinance because it would promote the regulation of setbacks and land use in accordance with the St. Louis County Comprehensive Land Use Plan and Zoning Ordinance 62.
2. Approval of an after-the-fact variance for a structure that was not permitted without sufficient practical difficulty is not in keeping with the intent of the St. Louis County Zoning Ordinance or St. Louis County Comprehensive Land Use Plan.

**BOARD OF ADJUSTMENT CRITERIA FOR APPROVAL OF A VARIANCE**

- 1. Is the variance request in harmony with the general purpose and intent of official controls?**
- 2. Has a practical difficulty been demonstrated in complying with the official controls?**
- 3. Will the variance alter the essential character of the locality?**
- 4. What, if any, other factors should be taken into consideration on this case?**

## CONDITIONS

Conditions that may mitigate the after-the-fact variance to allow a dwelling at a reduced shoreline setback as proposed, include but are not limited to:

1. The stormwater runoff from the existing structure shall not directly discharge into the lake or onto adjacent parcels.
2. The shore impact zone shall be preserved in a natural state and screening shall be retained.
3. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
4. St. Louis County On-site Wastewater SSTS standards shall be followed.





# Land Use Permit

## APPLICATION St. Louis County, Minnesota

Permit # Permit # 

**About:** This application is used to apply for a Land Use Permit. Applicants will need to attach the appropriate worksheet(s) in order to process. For more information, see our website at: [www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

### PROPERTY IDENTIFICATION NUMBER (PIN) PIN is found on your Property Tax Statement

*Primary PIN	488 - 0020 - 00050	Associated PIN																		
Associated PIN	488 - 0020 - 00040	Associated PIN																		

E.g. 123-1234-12345. Primary PIN: Parcel where Structure/SSTS are located. Associated PIN: Additional and/or adjacent property that you own or that is related to the project. County Land Explorer: <https://gis.stlouiscountymn.gov/landexplorer/> Property Lookup: <http://apps.stlouiscountymn.gov/auditor/parcelInfo2005iframe/>

### APPLICANT

*Applicant Name Ann Chouinard		I am a... <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Homeowner <input type="checkbox"/> Other		*Daytime # 218-940-1586	Date 6/27/2023
*Applicant Address <i>Where to send permit.</i> 7656 Barrs Lake Road			*City Duluth	*State MN	*ZIP 55803
Applicant Email ann.kuettele@hotmail.com					
Contact Person <i>If applicable.</i>			Contact Person #		
Mailing Address <i>If different than above.</i>			City	State	ZIP
Email Address <i>Where to email permit. Providing an email address will expedite the time in which a permit is received by an applicant.</i>					

### SITE INFORMATION

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	*Is there a site address for this property? (If no, the application will be forwarded to 911/Communications to assign one.)
If yes above, please list site address: 7656 Barrs Lake Road Duluth MN 55803		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	*Is this leased property? If yes, leased from: <input type="checkbox"/> MN Power <input type="checkbox"/> MN DNR <input type="checkbox"/> US Forest Service <input type="checkbox"/> St Louis County <input type="checkbox"/> Other
<input type="checkbox"/> Yes	<input type="checkbox"/> No	*Do you have written authorization from the leased property owner? If yes, you must attach written authorization form.
*How is the property accessed? <input checked="" type="checkbox"/> Public Road <input type="checkbox"/> Private Road <input type="checkbox"/> Easement <input type="checkbox"/> Water <input type="checkbox"/> Other		

### PROJECT INFORMATION

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	*Is this project on a parcel less than 2.5 acres?
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	*Is this project within 300 feet of a stream/river or 1,000 feet of a lake?
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	*Is this project adding a bedroom? <b>Include home, garage, &amp; accessory dwelling.</b>
#	3	*Total # of bedrooms on property after project completion. <b>Include home, garage, &amp; accessory dwelling.</b>
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	*Does this project include plumbing or pressurized water in proposed structure? If yes, please explain: We are adding a pump in the basement to pump up to the septic. Plumbing will be throughout the house. ?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	*Is the property connected to a municipal or sanitary district system?

If you answered "Yes" to any of the project information questions above, it is required that you submit a copy of a septic permit to construct or certificate of compliance approval or municipal/sanitary district approval when applying for a land use permit.

### AGREEMENT

By submitting this application, I certify and agree that I am the owner or the authorized agent of the owner of the above property, and that all uses will conform to the provisions of St. Louis County. I further certify and agree that I will comply with all conditions imposed in connection with the approval of the application. Applicants may be required to submit additional property descriptions, property surveys, site plans, building plans and other information before the application is accepted or approved. **Intentional or unintentional falsification of this application or any attachments thereto will make the application, any approval of the application and any resulting permit invalid.** I authorize St. Louis County staff to inspect the property to review the application and for compliance inspections. Furthermore, by submitting this application, I release St. Louis County and its employees from any and all liability and claims for damages to person or property in any manner or form that may arise from the approval of the application or any related plans, the issuance of any resulting permit or the subsequent location, construction, alteration, repair, extension, operation or maintenance of the subject matter of the application.

\*Indicates required field. Incomplete applications will be returned.





# Land Use Permit WORKSHEET

St. Louis County, Minnesota

**About:** Land Use Permits are required for most building construction activities. They are also required for a variety of other uses. For more information, check out our website at: [www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

**WHAT ARE YOU APPLYING FOR** *Check all that apply to the project.* **PLEASE MAKE CHECKS TO: ST. LOUIS COUNTY AUDITOR**

**#1 New Buildings Less than/equal to 1,200 square feet-\$165**  
**Greater than 1,200 square feet-\$325**

Dwelling-Home, Mobile Home, Hunting Shack, or Cabin. (Includes attached deck, if applicable.)

Replacement of Existing Dwelling-Home, Mobile Home, Hunting Shack, or Cabin.  
 Will the old dwelling be removed from the property?  Yes  No

*If yes, an affidavit must be filled out stating when the old dwelling will be removed.*

*If this dwelling is a mobile home, there is a special mobile home affidavit to be filled out.*

Accessory Dwelling-Guest cottage or bunkhouse. Must follow administrative standards.

Accessory Structure- Garage, Pole Building, shed, sauna, screenhouse or gazebo that either meets lake or river setback or not located in a shoreland area.

Water-oriented Accessory Structure-Boathouse, Sauna, Screenhouse/gazebo on a lake or river located at reduced shoreline setback. Must follow administrative standards.

Commercial Structure

Other Principal Structure

**#2 Other Construction/Change in Use-\$85**

Addition(s) to Dwelling  
 Is the dwelling location on a lake or river?  Yes  No  
 If Yes above, does the structure meet the required shoreline setback?  Yes  No If No, structure does not meet the shoreline setback, a performance standard permit or variance may be required. See box #4 or #7.  
*(previously approved)*

Addition(s) to Accessory Structure

New Deck Only or Deck Replacement

Combination Addition(s) & Deck on the same structure

Moving a Structure

Sign

Structure Alteration or Component Replacement

Change in Use (i.e. converting an old cabin to storage)

What will the new use of the structure be?  
 Explain the current and proposed use.  
 Current: \_\_\_\_\_ Proposed: \_\_\_\_\_

**Other-\$60**

Permit extension beyond 2 years

**#4 Performance Standard-\$385**  
**Additional Worksheets Required**

Borrow/Gravel Pit

Home Business

Land Alteration

Nonconforming Structure Replacement

Addition to a structure that does not meet shoreline setback

Other

**#5 Site Evaluation**

Site Visit/Evaluation-\$165

**#6 Wetland Reviews**  
**Additional Worksheets Required**

No Loss/Exemption/Replacement Plan-\$165

Wetland Delineation Review-\$385

Wetland Banking Plan Review-\$1,140

**#3 Subdivisions/Parcel Reviews**  
**Additional Worksheets Required**

Plat-Minor Subdivision-\$650

Conventional or Conservation Plat-Less than or equal to 3 lots-\$650

Conventional or Conservation Plat-Greater than 3 Lots-\$1,300

Lot Line Adjustment-\$85

Parcel Review-\$85

Performance Standard Subdivision-\$385

**#7 Public Hearings**  
**Additional Worksheets Required**

Administrative Appeal-\$1,275

Environmental Assessment-\$1,140

Conditional Use Permit-\$650

Conditional Use Permit Rehearing-\$210

Interim Use Permit-\$650

Interim Use Permit Rehearing-\$210

General Purpose Borrow Pit-\$650

Variance-\$650

Variance Rehearing-\$210

Multiple Hearing (Variance/conditional use)-\$980

Rezoning-\$650

**TYPE OF PROPOSED STRUCTURES** *Check all that apply to the project.*

<input checked="" type="checkbox"/> New Structure(s)	*Structure Type (Same as box #1 or 2 above)	*Foundation Type (Basement, Slab, Pier, etc)	*Maximum Length (Exterior Footprint Only)	*Maximum Width (Exterior Footprint Only)	*Maximum Sq. ft (Exterior footprint only)	*Maximum Height (Ground Level to Roof Peak)
	Replacement of Dwelling	ICF	43'-11" Feet	30'-5" Feet	1342 Sq. ft.	32 Feet
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet
<input type="checkbox"/> Structure Additions	*Structure Type (Same as box #2 above)	*Foundation Type (Basement, Slab, Pier, etc)	*Maximum Length (Exterior Footprint Only)	*Maximum Width (Exterior Footprint Only)	*Maximum Sq. ft (Exterior footprint only)	*Maximum Height (Ground Level to Roof Peak)
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet

\*Indicates required field. Incomplete applications will be returned.

**CONTACT:** Planning and Community Development Department

**Technical Assistance**  
 Toll Free: 1-800-450-9777  
 Land Use Information  
[www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

**Duluth**  
 Government Services Center  
 320 West 2<sup>nd</sup> Street, Suite 301  
 Duluth, MN 55802  
 (218) 725-5000

**Virginia**  
 Government Services Center  
 201 South 3<sup>rd</sup> Avenue West  
 Virginia, MN 55792  
 (218) 749-7103

**Office Use Only**

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

Receipt Date RECEIVED

Payment Amount \_\_\_\_\_

Paid By JUN 30 2023



# Site Sketch Form

The sketch is to graphically illustrate your proposed project(s)

## Draw and Label on Sketch (in feet)

- \*All Structures on the Property and Dimensions
- \*All Driveways, Access Roads, and Wetlands
- \*All Proposed Structures and Dimensions

- \*Distance of Proposed Structures to Shoreline (Closest Point)
- \*Distance of Proposed Structures to Septic System and Tank
- \*Distance of Proposed Structures to Property Lines
- \*Distance of Proposed Structures to Road Centerline and Right-of Ways

You may submit your own site sketch **IF it has the required information indicated above.**

\*Applicant Name:

\*Site Address:

\*PIN:



See attached Site Plan + Certificate of Survey.

### \*\*\*Sanitary Authority Use Only\*\*\*

**Sanitary Review:** (To be determined by appropriate sanitary authority.)

Will the proposal, as shown above, negatively impact the SSTS/sanitary line or replacement area?  Yes  No

**Sign off:**

Signature \_\_\_\_\_

Title \_\_\_\_\_



# Variance

## Worksheet St. Louis County, Minnesota

**About** A variance allows the use of property in a manner otherwise forbidden by a zoning ordinance by varying one or more of the performance standards such as lot size, setbacks, etc.

Variations from official zoning controls are defined under Minnesota Statutes 394.27 and require the landowner to prove that the property could not otherwise be used or enjoyed in the proposed way by complying with ordinance requirements and that there will be no negative impact on surrounding properties.

It is advisable that you discuss your request with Planning and Community Development staff prior to submitting the application. Approval or denial of your request is dependent on the justification you provide in answering the questions on this application. For more information, check out our website at: [www.stlouiscountymn.gov/VarianceRequired](http://www.stlouiscountymn.gov/VarianceRequired)

### APPLICANT

Applicant Name (Last, First)

Chouinard, Ann

### VARIANCE REQUEST *Complete this form along with the Land Use Permit Application*

1. Describe what you are varying from and the situation that makes it difficult to comply with county ordinances?

We are building a new structure because our current structure was deemed unsound for being added on to or moved. We would like to stay in the same confines of our first permit and variance. We are staying within the original footprint, moving 15ft back from the original spot and being 75ft from the lake per our previously approved variance. We cannot go further back because our leaching field and septic are behind the house. There is not any other good spot on the property to move the house with out taking down over 100 trees, (mature maples, birch and balsam.) We have already had to take down trees to be in compliance with the first variance,when we were pouring our ICF basement walls.

2. Describe the intended/planned use of the property.

We are using the property as our home. We are taking steps to not alter the area as much as possible.

3. Describe the current use of your property.

Originally the property was a cabin that my grandfather built back in the 50's. It has been a family cabin ever since. In 2016 my husband and I relocated back to Minnesota. We purchased the cabin from my parents with the intention of making it our family home. We intend to raise our two daughters on the lake and carry on a 70 year family tradition.

4. Describe other alternatives, if any.

5. If approved, how will the proposed use, with the variance, fit into the character of the neighborhood/area?

It would become a year round home. The home is the same size foot print as the original cabin. A large portion of the old cabin was taken down to be reused in the new structure, the exterior aluminum siding, the half log siding, the window and window frames, the doors and the door frames, the maple flooring, the trim, the tongue and groove paneling, the mechanical equipment, and the metal roof. We decided to stay with in the small footprint of this home so the exterior and view was unaltered front and back. We did not wait to disturb the septic system and leaching field. We also did not want to lose our mature sugar maples.



6. Describe how neighboring properties and the use of those properties will be impacted by the proposed use with the variance.  
 The neighboring properties will not be impacted by our variance. The new structure would fit into what other owners have constructed on the lake. We wanted to just upgrade the cabin into a house but it was found to be structurally unsound and rodent infested. We have kept the foot print of the original cabin square and we have tried to keep the look of the property as original as possible. When we decide to have a family we started looking into our options to build. We had a professional surveyor company come and survey the land to show how far our buildings were from property lines and how far the cabin was from the lake. The surveyor has us 71feet from the lake. Knowing that we put in for a variance. (See attached Certificate of Survey.)

7. Describe how negative impact to the local environment and landscape will be avoided.  
 We want to minimally impact the site. We will be leaving the natural vegetation, trees and shrubs. All the trees on the higher ground will not be disturbed. Moving the footprint back 15 feet has allowed us to put in bearing walls on each side of the basement to prevent washout and it has given us more access for erosion control shrubs and trees. The property originally sloped towards the lake. With putting in the new basement we have been able to raise the grade enough to slope away from the lake. Fortunately, we have areas of our property that can accommodate large amounts of snow and rain run off with out impeding neighbors property. (See attached site pictures.)

8. Describe the expected benefits of a variance to use of this property.  
 It will minimize the trees that we would have to cut down. It will allow us to raise grade to prevent run off from Barrs Lake Road. We would be able to keep our septic and leaching field intact which has been inspected and passed. Removal of the septic and leaching field would force us to remove a significant amount of the forest and soil.

9. Include additional comments that will clarify your request for the Planning and Community Development staff members and the Board of Adjustment.  
 We started the project with our original variance and permit. We followed what we thought the permit stated, when we found out the the structure was unsound. "In the event that it is determined that the structure is not structurally sound to be added onto or moved, a new structure may be allowed on the parcel with a land use permit, provided all setback and ordinance requirements are met." We read the permit as, we could still build a new structure as long as we stick to the original parameters of the permit and variance that we already received. The basement was excavated and the ICF walls poured. It was brought to our attention that we misinterpreted the permit. We had no intention of removing the cabin due to the fact of the financial strain of building new and the strong attachment that our family holds on the cabin and property after 70 years of use. So much so that most of the old cabin is in parts on site to incorporate back into the house.

**OFFICE USE ONLY**

Principal Structures	Principal Structure Additions	Accessory Structures	Accessory Structures Additions	Other
<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> 40% of Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Bluff <input type="checkbox"/> 2nd Principal Structure <input type="checkbox"/> % Lot Coverage <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> One Addition Allowed <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> 40% of Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> Foundation from Lake <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width and/or Area <input type="checkbox"/> Height Limit <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Bluff	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Height Limit <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Subdivision Plat <input type="checkbox"/> Exceeding Lot Coverage <input type="checkbox"/> Exceeding Maximum Buildable Area <input type="checkbox"/> Other Standard Not Listed (Explain below)

**CONTACT: Planning and Community Development Department**

**Technical Assistance**  
 Toll Free: 1-800-450-9777  
 Land Use Information  
[www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

**Duluth**  
 Government Services Center  
 320 West 2<sup>nd</sup> Street,  
 Suite 301  
 Duluth, MN 55802  
 (218) 725-5000

**Virginia**  
 Government Services Center  
 201 South 3<sup>rd</sup> Avenue West  
 Virginia, MN 55792  
 (218) 749-7103

**Office Use Only**  
 Receipt # \_\_\_\_\_  
 Receipt Date \_\_\_\_\_  
 Payment Amount \_\_\_\_\_  
 Paid By \_\_\_\_\_





# Variance After-the-Fact

## Worksheet St. Louis County, Minnesota

**About** A variance allows the use of property in a manner otherwise forbidden by a zoning ordinance by varying one or more of the performance standards such as lot size, setbacks, etc.

Variations from official zoning controls are defined under Minnesota Statutes 394.27 and require the landowner to prove that the property could not otherwise be used or enjoyed in the proposed way by complying with ordinance requirements and that there will be no negative impact on surrounding properties.

It is advisable that you discuss your request with Planning and Community Development staff prior to submitting the application. Approval or denial of your request is dependent on the justification you provide in answering the questions on this application. For more information, check out our website at: [www.stlouiscountymn.gov/VarianceRequired](http://www.stlouiscountymn.gov/VarianceRequired)

### APPLICANT

Applicant Name (Last, First)

Chouinard, Ann

### VARIANCE REQUEST *Complete this form along with the Land Use Permit Application*

1. Describe what you are varying from and the situation that makes it difficult to comply with county ordinances?

2. Describe the intended/planned use of the property.

3. Describe the current use of your property.

4. Describe other alternatives, if any.

5. If approved, how will the proposed use, with the variance, fit into the character of the neighborhood/area?

6. Describe how neighboring properties and the use of those properties will be impacted by the proposed use with the variance.

7. Describe how negative impact to the local environment and landscape will be avoided.

8. Describe the expected benefits of a variance to use of this property.

9. Include additional comments that will clarify your request for the Planning and Community Development staff members and the Board of Adjustment.

**IF YOU ARE RESPONDING TO A PERMIT VIOLATION, PLEASE ANSWER THESE ADDITIONAL QUESTIONS**

10. Describe your reasons county zoning ordinance requirements were not followed.

We thought that we were following the previous variance/permit that we were issued last year. When we read - "In the event that it is determined that the structure is not structurally sound to be added onto or moved, a new structure may be allowed on the parcel with a land use permit, provided all setback and ordinance requirements are met." We misread it and interpreted that we could replace the structure because it was not structurally sound as long as we stayed with in all of the parameters of our original permit. Even the floor layout in the home did not change because we are planning to reuse what we can of the old structure in the new structure.

11. Describe your effort to comply with the ordinance and to obtain a land use permit and/or other required permits.

We had a variance and a permit issued last year. When we found out we were not in compliance we stopped construction and are now applying for another variance.

12. Describe any substantial investments, construction and/or repairs made to the property before you discovered you needed a variance.

We have dug the basement, excavated the area around the house, poured the footings, ran the new line from the well, poured the ICF basement walls and fixed the landscaping around the house to prevent erosion and water run off into the lake.

13. If there was construction or repair, on what date did it begin?

We began construction on April 17th, 2023.

14. If there was construction or repair, on what date did it end?

We stopped construction on June 23rd, 2023.

15. Who performed the construction or repair work?

We are acting as our own general contractor.

16. Was a survey of your property boundaries obtained?

Yes it was.

17. Prior to the construction or repair work did you speak with anyone from the Planning and Community Development Department?

Yes, in May of 2022 we were working with George Knutson on getting the permits issued. Also, in July of 2022 we were working with Jason Walsh and making sure our septic system was in compliance and passed.

**OFFICE USE ONLY**

Principal Structures	Principal Structure Additions	Accessory Structures	Accessory Structures Additions	Other
<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> 40% of Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Bluff <input type="checkbox"/> 2nd Principal Structure <input type="checkbox"/> % Lot Coverage <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> One Addition Allowed <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> 40% Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> Foundation from Lake <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width and/or Area <input type="checkbox"/> Height Limit <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Bluff	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Height Limit <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Subdivision Plat <input type="checkbox"/> Exceeding Lot Coverage <input type="checkbox"/> Exceeding Maximum Buildable Area <input type="checkbox"/> Other Standard Not Listed (Explain below)

**CONTACT: Planning and Community Development Department**

**Technical Assistance**  
Toll Free: 1-800-450-9777  
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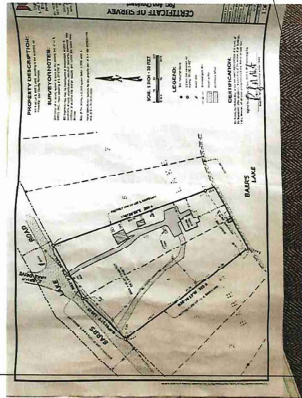
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(218) 725-5000

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Receipt # \_\_\_\_\_  
Receipt Date \_\_\_\_\_  
Payment Amount \_\_\_\_\_  
Paid By \_\_\_\_\_

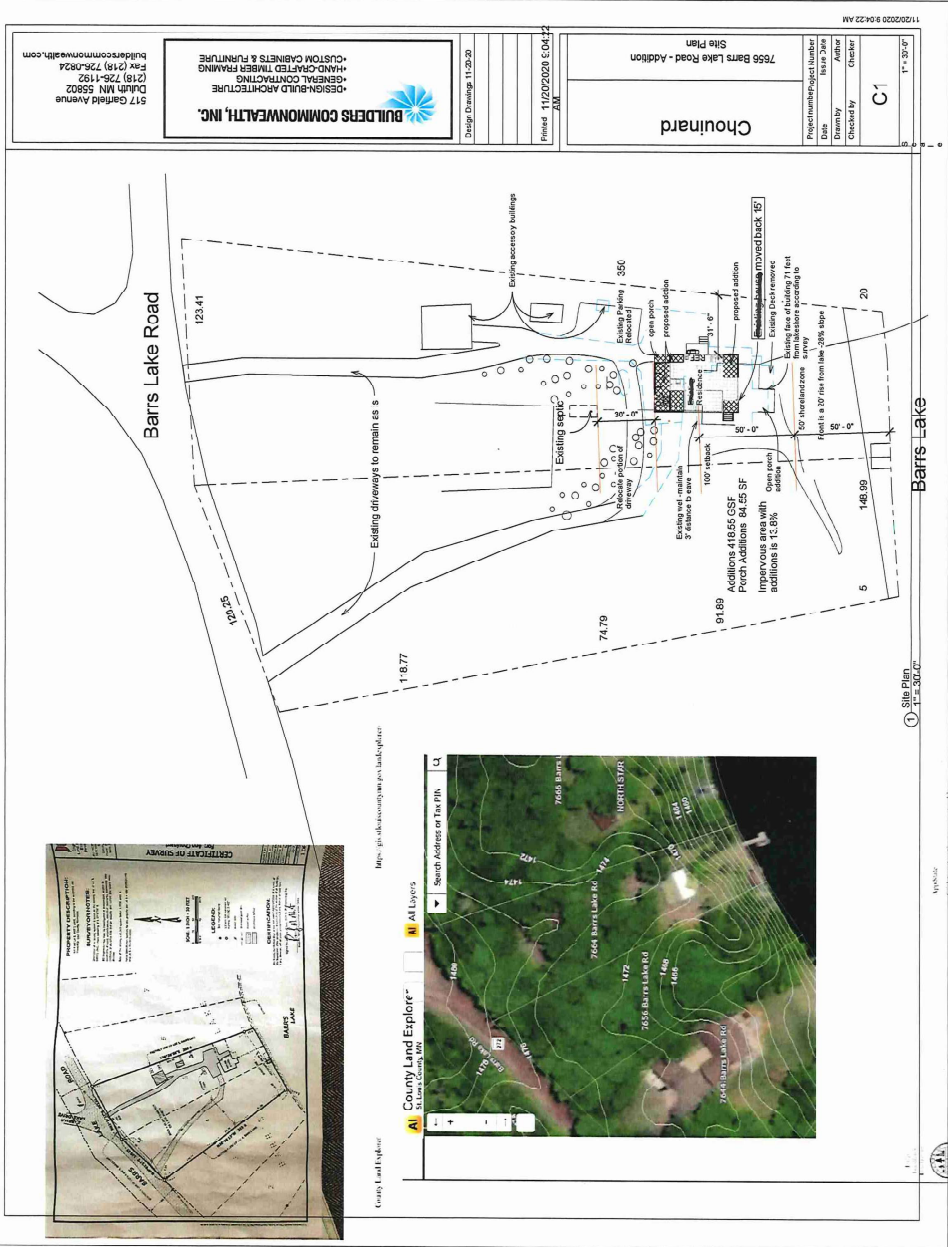




County Land Explorer



<https://gis.mn.gov/countyexplorer/index.html>



<p><b>BUILDERS COMMONWEALTH, INC.</b>          DESIGN/BUILD ARCHITECTURE          GENERAL CONTRACTING          HAND-CRAFTED TIMBER FRAMING          CUSTOM CABINETS &amp; FURNITURE          517 Garfield Avenue          Duluth, MN 55802          (218) 726-1192          Fax: (218) 726-8924          builderscommonwealth.com</p>		<p>Design Drawing: 11-22-20</p> <p>Printed: 11/20/2020 3:04:12 AM</p>	<p><b>Chouinard</b></p> <p>7556 Barrs Lake Road - Addition</p> <p>Site Plan</p>	<p>Project/Sheet/Project Number          Issue Date          Date          Designer          Checker          C1</p>	<p>11/20/2020 9:04:23 AM</p> <p>1" = 30'-0"</p>
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Engineering  
Land Surveying  
Economic  
Development

JPJ ENGINEERING, INC  
5670 Miller Trunk Hwy  
Suite A  
Duluth, MN 55811  
Phone: 218-720-6219  
www.jpjeng.com

# CERTIFICATE OF SURVEY

For: Ann Chouinard

7656 Barr's Lake Road, Duluth, Minnesota 55803  
Lots 4 and 5, BARR'S LAKE, St. Louis County, Minnesota.

SURVEY BY:	JMH
DRAWN BY:	RMM
DESIGNED BY:	
APPROVED BY:	RMM
DATE:	6/24/2020
PROJECT NUMBER:	
SHEET NUMBER:	20-733
	1 OF 1

## PROPERTY DESCRIPTION:

Lot 4 and Lot 5, BARR'S LAKE, according to the recorded plat thereof, St. Louis County, Minnesota.

## SURVEYOR NOTES:

Orientation of the bearing system is based on the easterly line of Lot 5, BARR'S LAKE, to have a bearing of S20°26'58" E.

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Area of this property is 65,053 square feet or 1.4936 acres ±.

Parcel Identification Numbers for this property are Lot 4 = 488-0020-00040 and Lot 5 = 488-0020-00050.



## LEGEND:

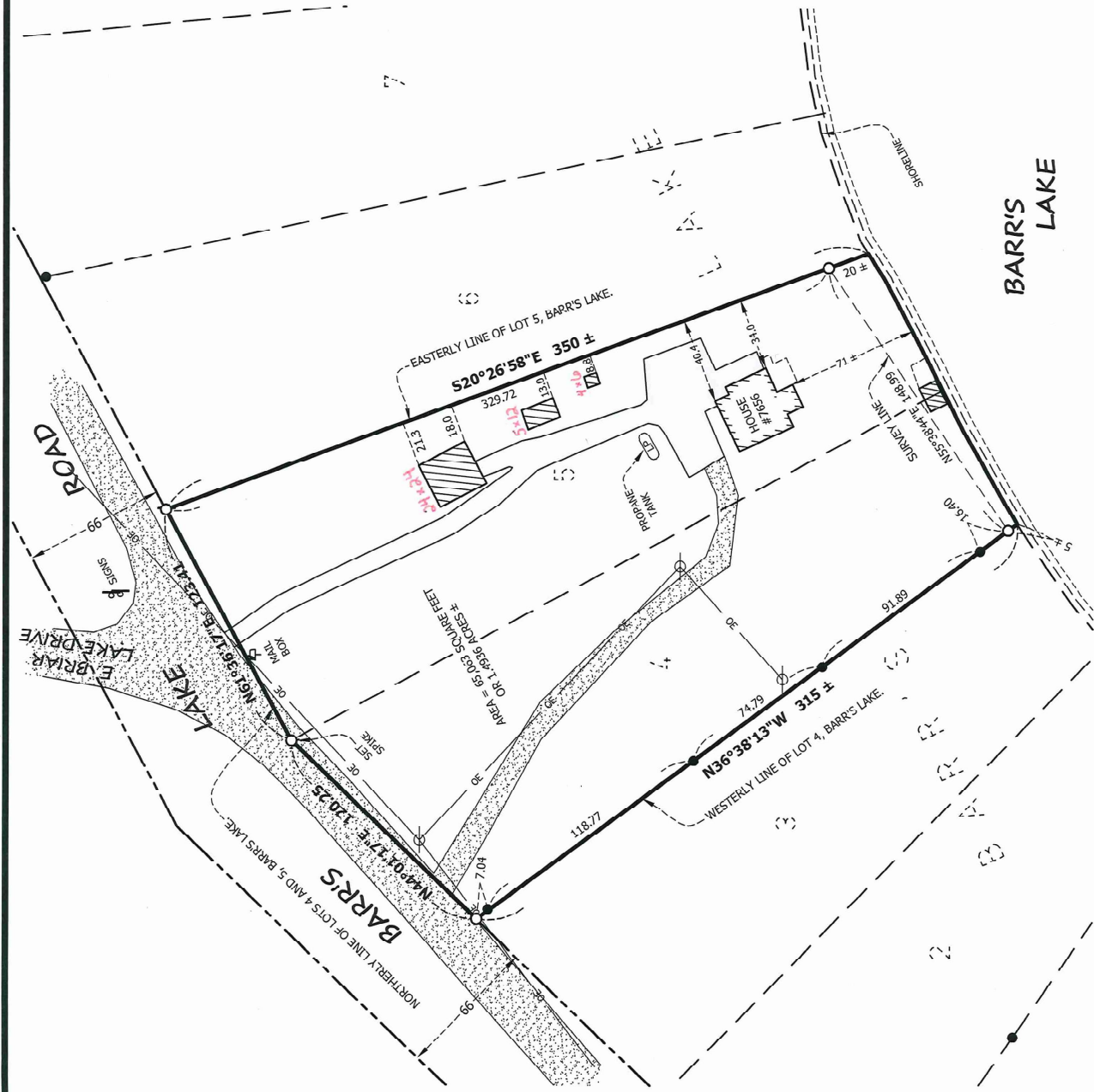
- Iron monument found
- 1/2 inch iron monument set, marked 'JPJ ENG 21401'
- ∅ Power pole
- 0E Overhead power line
- ▨ Gravel surface
- ▭ Bituminous surface

## CERTIFICATION:

We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encumbrances, if any, from or on said land.

Signed this 24th day of June, 2020 for JPJ Engineering, Inc.

Randy M. Morton, PLS License Number 21401





# Saint Louis County

Planning and Community Development Department • [www.stlouiscountymn.gov](http://www.stlouiscountymn.gov)  
[landuseinfo@stlouiscountymn.gov](mailto:landuseinfo@stlouiscountymn.gov)

**Matthew E. Johnson**  
Director

DATE: December 17, 2020

TO: Hugh Reitan  
Via email: [hugh@builderscommonwealth.com](mailto:hugh@builderscommonwealth.com)

FROM: George Knutson, Planner

SUBJECT: **DECISION OF THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT**

Following is a brief summary of the decision from your variance hearing held Thursday, December 10, 2020. You will be receiving the formal, signed and notarized Findings of Fact, Conclusions and Decision once the Board has formally approved them, which will be in **approximately one month**.

Case 6234 – Hugh Reitan S22, T53N, R13W (North Star)

Approved a variance to allow the addition of a permanent foundation to a nonconforming principal dwelling that does not meet the minimum shoreline setback requirement; to allow multiple additions to a nonconforming principal dwelling where one is allowed without variance; and to allow the height to exceed the 25 foot maximum for a principal structure located between the shore impact zone and the shoreline setback, based on the following facts and findings:

A. Official Controls:

1. Barrs Lake is classified as a Recreation Development Lake.
  - a. Zoning Ordinance 62 Article III, Section 3.4, requires a minimum 100 foot shoreline setback for Recreation Development Lakes and the Shore Impact Zone is 50 feet.
  - b. The current structure is located 60 feet from Barrs Lake.
  - c. The applicant is proposing to move the structure back 15 feet to an approximate setback of 75 feet from Barrs Lake.
2. One of the goals of the ordinance supports land use in the county in accordance with the Comprehensive Land Use Plan which seeks to manage and minimize nonconformities. A second review of this variance shows the applicant's effort to maximize the shoreline setback nonconformity.

B. Practical Difficulty:

1. The location of the septic tank, the circular driveway and trees dictate the building's location at a shoreline setback of 75 feet.

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C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the locale as there are other residential properties in the area.
2. There have been three similar variances approved in the area;
  - a. In 2005, the E 1/2 of Lot 10 and all of Lot 11 of Barrs Lake Plat was granted a variance for a 1,416 square foot addition to the side of an existing nonconforming structure, a permanent foundation 45 feet from the shoreline where 50 feet was required, and a 160 square foot addition to the front of a nonconforming structure located where no addition is allowed. Staff recommended denial based on alternatives existing.
  - b. In 2005, Lots 14 and 15 of Barrs Lake Plat was granted a variance for a second addition to a nonconforming structure by removing a 14 foot by 12 foot porch and replacing it with a 16 foot by 18 foot addition, and adding an 8 foot by 10 foot addition. The variance was approved based on staff recommendation.
  - c. In 2018, Lots 4 and 5 of Sheltons Beach Plat was granted a variance to allow the expansion of a nonconforming principal structure that has been previously expanded and to allow a nonconforming principal structure height of 32 feet between the shore impact zone and the required shoreline setback. The nonconforming principal structure was located 95.5 feet from the shoreline where 100 feet was required.
3. There are a number of residences/cabins on the same side of the lake as the applicant's property.

D. Other Factors:

1. This is the second review of the applicant's plan.
2. There have been three similar variances granted in the area.
3. Neighbors have been in support of the variance request.

The following conditions shall apply:

1. The stormwater runoff from the existing structure shall not directly discharge into the lake or onto adjacent parcels.
2. An erosion control plan shall be submitted, approved by the Planning and Development Director, and implemented prior to the issuance of a land use permit.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
5. In the event that it is determined that the structure is not structurally sound to be added onto or moved, a new structure may be allowed on the parcel with a land use permit, provided all setback and ordinance requirements are met.
6. Land use permits shall be obtained for the previous addition and other structures that did not receive permits prior to a land use permit for any further additions.
7. All SSTS sewage treatment standards shall be met.
8. Any demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

**Motion by McKenzie/Svatos**

**In Favor:** Filipovich, McKenzie, Skraba, Svatos, Werschay - 5

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If your application for variance was approved, keep in mind that you **cannot begin** your construction project until your Land Use Permit and/or Sewage Treatment System Permit has been **paid for and issued** (these fees are **in addition** to the variance fee you already paid).

There may be items listed as conditions of your variance that you may have to accomplish **prior** to the Permit(s) being issued. If you have any questions, please contact this Department in Virginia at the number shown below.

cc. Clerk, Town of North Star (via email: [brittonX277@yahoo.com](mailto:brittonX277@yahoo.com))

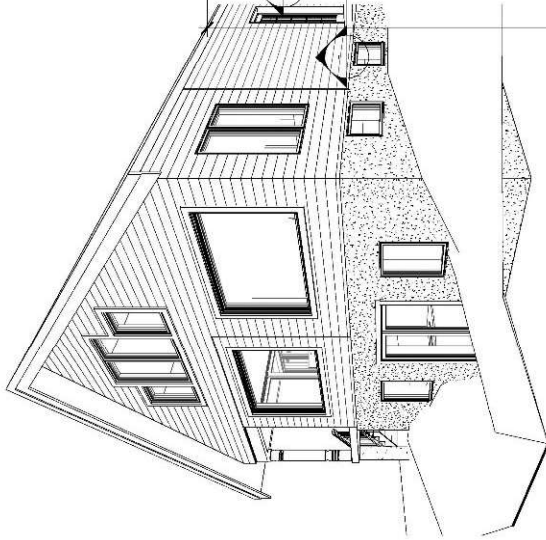
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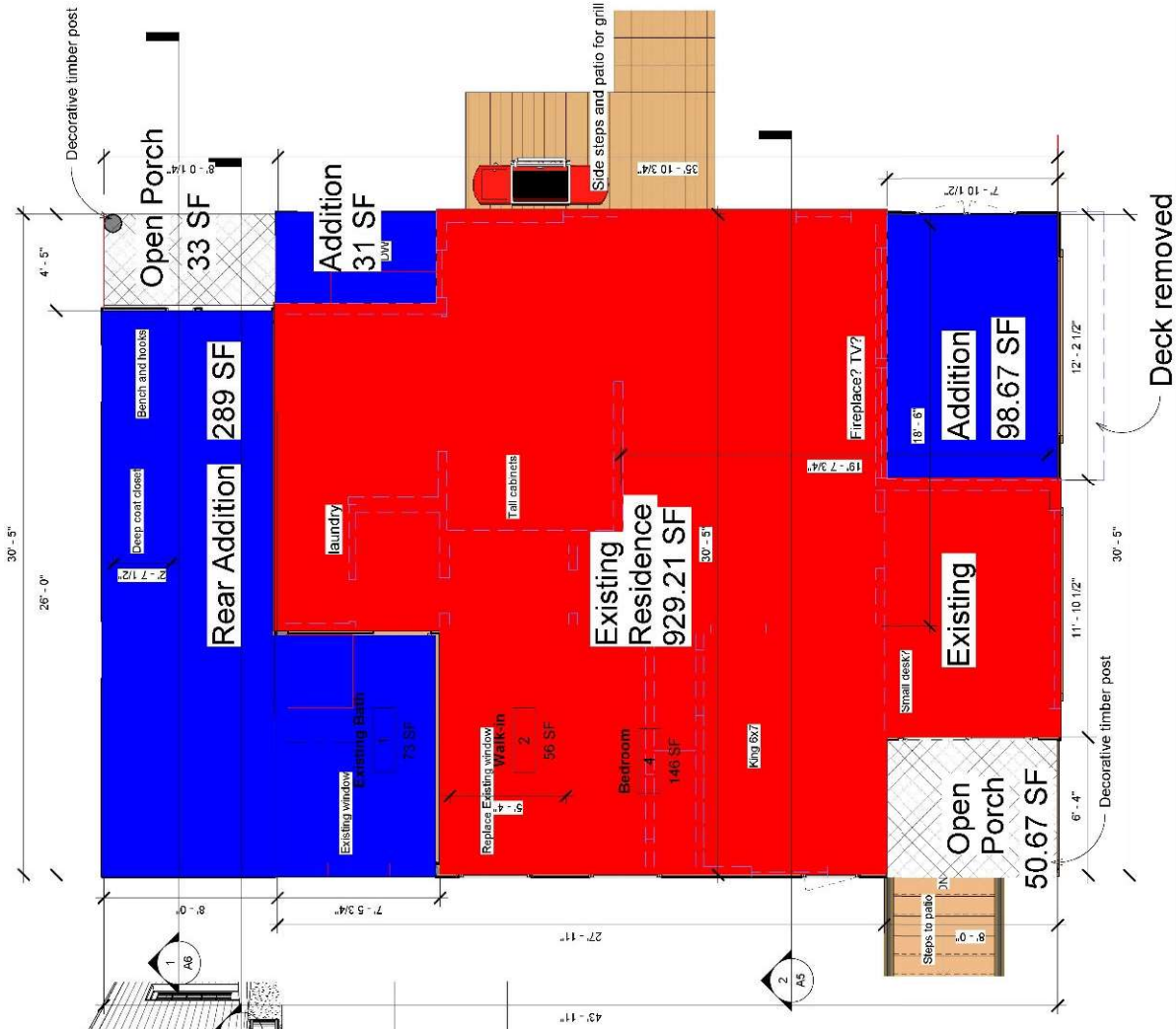


# Sketch from 2020 Variance



height of 32 feet

(2) 3D View 1



(1) First Floor  
1/4" = 1'-0"

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Design Drawings 9-22-20

Printed: 10/11/2020 2:52:38 PM

**Chouinard**

7656 Barrs Lake Road - Addition  
First Floor Plan

Project number: \_\_\_\_\_  
Issue Date: \_\_\_\_\_  
Date: \_\_\_\_\_  
Drawn by: \_\_\_\_\_  
Author: \_\_\_\_\_  
Checked by: \_\_\_\_\_  
Checker: \_\_\_\_\_

**A1**

1/4" = 1'-0"

# Applicant Photos



Grade change of 3-1/2ft., to detour runoff SW of property approximately 200ft. before it reaches the new foundation.











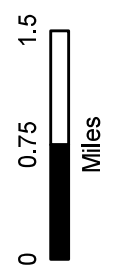
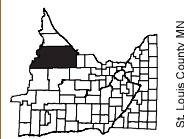
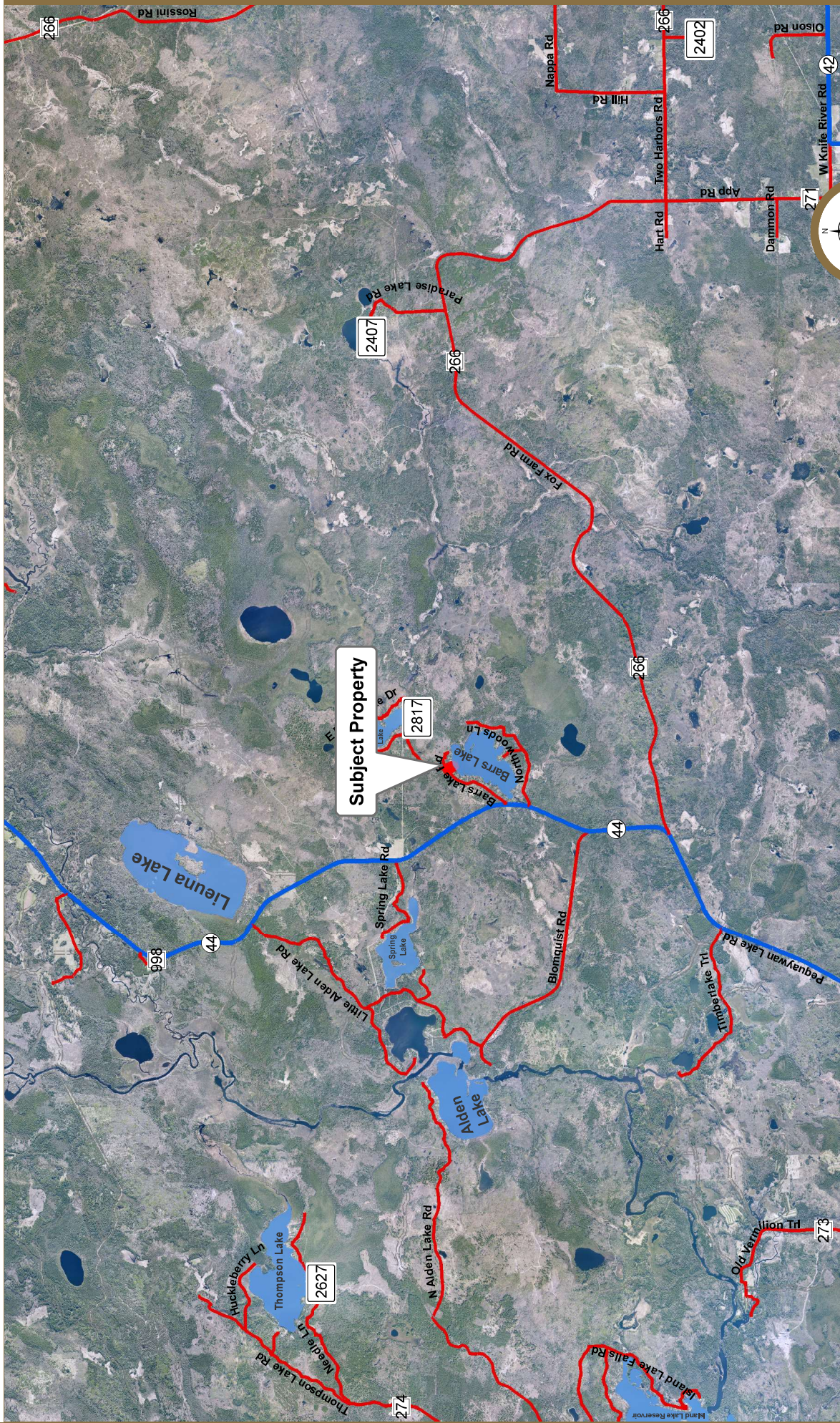


Due to the cease construction we will be installing a second silt fence to prevent more run off from the unfinished basement.



# St. Louis County

## August BOA Meeting



**Ann Chouinard**  
**Location Map**  
**488-0020-00050**



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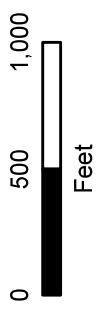
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# St. Louis County

## August BOA Meeting



**Ann Chouinard**  
**Location Map**  
**488-0020-00050**

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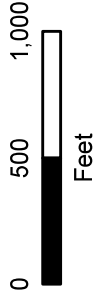
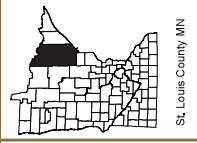
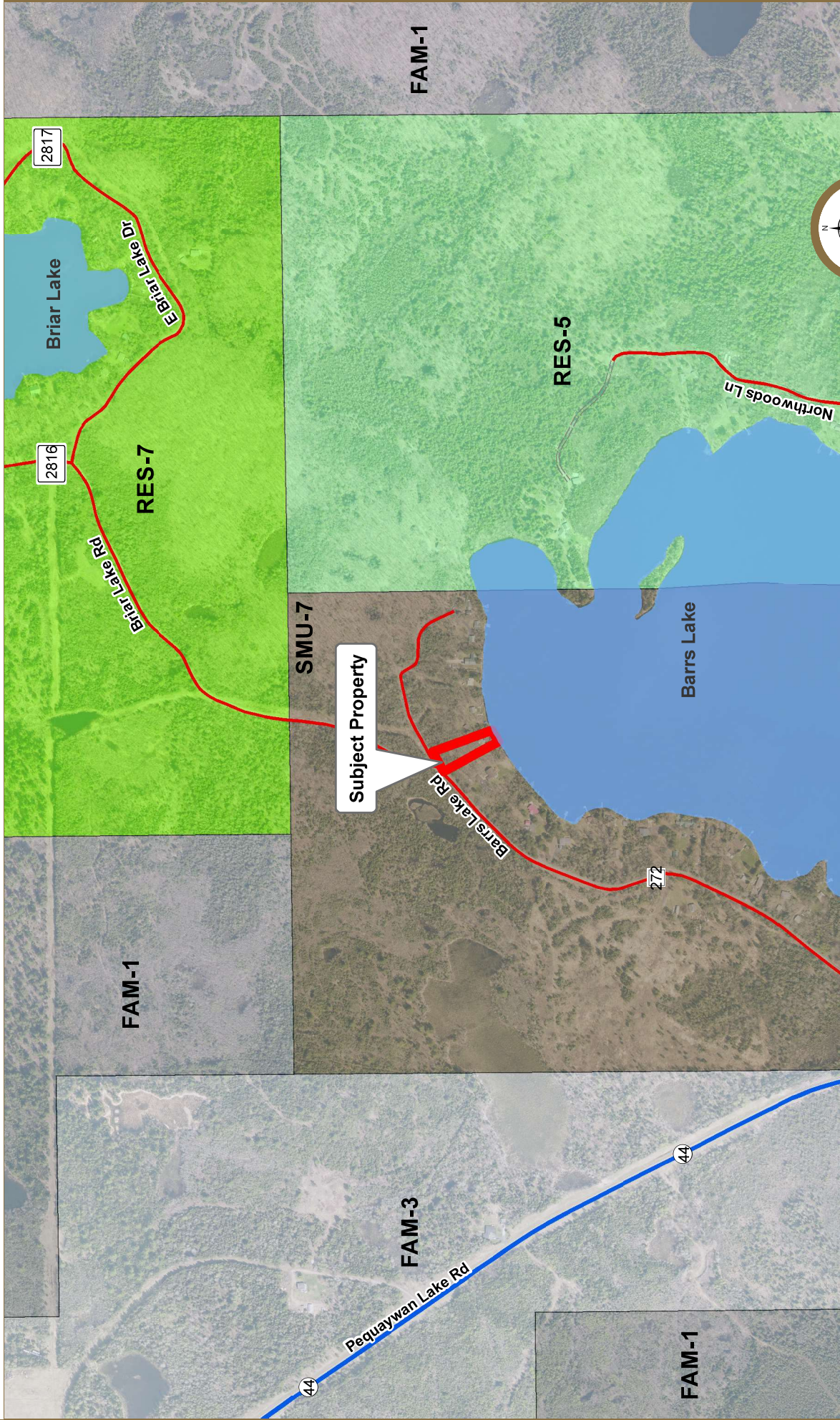
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**Zoning Map**  
**488-0020-00050**

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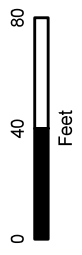
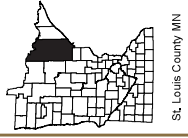
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August BOA Meeting



**Ann Chouinard**  
 Site & Elevation Map  
 PIN: 488-0020-00050 & 488-0020-00040



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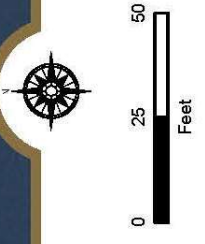
# St. Louis County

August BOA Meeting



100' lake setback

Shore impact zone



## Ann Chouinard Proposal Map

PIN: 488-0020-00050 & 488-0020-00040

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Dwelling – lake side

Front of former dwelling ~ 18'  
to current dwelling







Dwelling to Septic – 32'



Dwelling – road side