



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA – *AMENDED
WORK SESSION AND FORMAL MEETING
LAKE MINNETONKA CONSERVATION DISTRICT
Wednesday, March 10, 2021

Join Zoom Meeting

<https://us02web.zoom.us/j/83400802441?pwd=K0ZoS1NNczBvRy9EV295QTBKR2t2UT09>

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 834 0080 2441

Passcode: 471772

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting will be conducted remotely using electronic means. The LMCD's usual meeting room will not be open to the public or the Directors. The LMCD will be using Zoom platform to conduct the meeting remotely. More details about how to use Zoom is available on the website at www.lmcd.org.

PUBLIC PARTICIPATION

Those desiring to participate in the meeting should complete the online form by 2:00 p.m. prior to the meeting. If you are invited to speak at the *Public Comments* Section or *Agenda* Item: 1) Indicate your desire to be heard by "raising hand" through Zoom, 2) Direct comments to Chair Gregg Thomas, 3) Be concise and courteous. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. People who are disruptive will be expelled from the meeting. If you have questions, please email the Executive Director at vschleunig@lmcd.org.

WORK SESSION AGENDA

6:30 p.m.

The purpose of the Work Session is to allow staff to seek input from the Board and for the Board to discuss matters in greater detail than generally available at the formal Board Session. The Board may give staff direction or express a preference, but does not formally vote on matters during Work Sessions. While all meetings of the Board are open to the public, Work Session discussions are generally limited to the Board, staff, and designated representatives. Work Sessions are not videotaped. The work session may be continued after the formal meeting, time permitting.

1. Discussion Regarding Proposed Minnesota State Legislation Regarding Wake Surfing

FORMAL MEETING AGENDA
7:00 p.m.

The purpose of the Formal Session is to allow the Board to conduct public hearings and to consider and take formal action on matters coming before the LMCD.

- 1) **CALL TO ORDER**
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **ROLL CALL**
- 4) **APPROVAL OF AGENDA**
- 5) **CHAIR ANNOUNCEMENTS**, Chair Gregg Thomas
- 6) **PUBLIC PRESENTATIONS**
 - A) Senator Ann Johnson Stewart
 - B) Representative Jerry Hertaus
- 7) **APPROVAL OF MINUTES** (02/10/2021 LMCD Regular Board Meeting)
- 8) **APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (02/16/2021 – 02/28/2021) and (03/01/2021 – 03/15/2021)
- 9) **PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes and should not be used to make personal attacks or to air personality grievances. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*
- 10) **PUBLIC HEARING**
 - A) Public Hearing for Variance Request for 5310 Eastview Avenue for Adjusted Dock Use Area, Length, Minnetrista
 - ~~B) Public Hearing for Variance Request for Parcel ID# 1711722210090, Trustees of 17009 Grays Bay Boulevard, for Adjusted Dock Use Area, Side Setbacks and Length, Minnetonka~~
APPLICATION WITHDRAWN
- 11) **OTHER BUSINESS**
- 12) **OLD BUSINESS**
- 13) **NEW BUSINESS**
 - A) Board Member Expectations

14) TREASURER REPORT

15) EXECUTIVE DIRECTOR UPDATE

16) STANDING LMCD COMMITTEE UPDATE

- Aquatic Invasive Species
- Communications
- Finance
- Operations
- Save the Lake

17) ADJOURNMENT

Future Items for Review – Tentative

- Lake Use Vision and Policy Discussion Continuing Series
 - Watercraft Density
 - Lake Sales and Services
 - Water Skier Observer Requirements
 - Deicing Eligibility Expansion Review
 - Review of Types of Watercraft and Prototypes
- Reserve Fund Balances

LMCD OPPOSES HF 1606 and SF 1639 AS CURRENTLY DRAFTED (Original Version)

Lake Minnetonka is often called the crown jewel of the twin cities. It is the largest lake in the metro area and the busiest lake in the State. Lake Minnetonka is a unique natural resource encompassing:

- 125 miles of shoreline
- 14,000 acres of water
- Over 4,500 residential and commercial properties
- 14 cities and 2 counties
- 10 summer and 15 winter access points

The Lake Minnetonka Conservation District (LMCD) is also unique. We are one of only 2 Conservation Districts in the state. We are a legislatively created body with specific statutory authority to regulate boats and lake use on Lake Minnetonka to ensure safety and access. In consideration of these facts, it is of paramount importance that any new state-wide regulations do not restrict the LMCD's authority to pass ordinances that preserve the safety and well-being of Lake Minnetonka users.

HF 1606 and SF 1639 eliminate local control of important issues. For example, LMCD Ordinance 9-1.01 specifically requires an observer who is at least 12 years of age to observe when any watercraft is towing a person. This current bill contradicts the LMCD rule and specifically allows wake surfing if the boat is equipped with an appropriate mirror (lines 1.17-2.4). A mirror is simply not enough. Lack of an observer is a major safety concern on Lake Minnetonka.

HF 1606 and SF 1639 specifically provide local discretion or control of only one issue: the distance from shore at which wake surfing can occur. (lines 3.3-3.5)

*Subd. 4. **No preemption.** Nothing in this section shall be construed to prevent a local government from regulating wake surfing more than **200 feet from shore** in accordance with this chapter.*

If the state legislature considers HF 1606 and SF 1639, because of the unique nature of lakes in Minnesota, including, but not limited to Lake Minnetonka, at the very minimum **the LMCD would highly recommend the words "more than 200 feet from shore" are removed from this state-wide legislation to allow local governments, including counties, cities, townships, and the LMCD, the option for greater flexibility in further regulating this activity on their local waters.**

The LMCD is currently working with Lake Minnetonka stakeholders gathering information about the safe distance from shore at which wake surfing can occur, both in terms of public safety and environmental safety. Among other data collection efforts, the LMCD contributed to a scientific study that is currently being conducted by the University of Minnesota that is studying the effects of waves and prop wash on the shoreline and lake bottom. The preliminary results of this study are tentatively anticipated to be released in April. The study the boating industry conducted, and is apparently the basis for the proposed 200' from shore distance, was based on a wave created by a boat that is significantly less powerful than the standard wake generating capabilities of the wake boats existing today. The LMCD will continue to gather and review information, including information provided by wake boat manufacturers, however, it is premature to stipulate a safe distance from shore until more information is available.



MINNESOTA DIVISION IZAAK WALTON LEAGUE OF AMERICA

Our Mission: To conserve, restore, and promote the sustainable use and enjoyment of our natural resources, including soil, air, woods, waters, and wildlife

March 5, 2021

Minnesota State Senate
Environment and Natural Resources Policy and Legacy Finance Committee

Madam Chairwoman and Members of the Committee,

On behalf of the Executive Board of the Minnesota Division of the Izaak Walton League of America, I am contacting you regarding SF 1639. At our annual meeting in April 2020, our members unanimously approved the **Resolution to Restrict Watercraft that Create Artificial Wakes** that follows this letter . We agree that the enhanced wake water-sports of wake surfing AND wake boarding need to be regulated to protect our lakes and navigable rivers, and the safety of other users. Unfortunately, the provisions of SF 1639 do not provide the meaningful and effective protections necessary and we ask that you do not move forward with this Bill.

You are likely aware that the University of Minnesota's St. Anthony Falls Laboratory is conducting a "Wake and Prop-wash Study". They completed their on-the-water testing of four boats, including two wake boats, in October 2020. Since then, they have been analyzing the data and preparing a first report that they plan to release by the end of April of this year. They also plan to submit this report to the appropriate scientific journal(s) for peer review. This study was funded by over 200 individuals and organizations, with over \$143,000 raised against a goal of \$94,000. We think you'll agree that this fundraising result is an indication of the concern these donors have for Minnesota's lakes and rivers and their desire to bring impartial scientific research to this issue. Out of respect for these citizens, it seems only right to wait for the results of this Minnesota based research.

As the Environment Committee, we would hope that you would see the fallacy of the 200' regulation being championed by the Boating Industry. Their now six-year-old study tested just one wake boat. For argument sake, even if this 200' distance was adequate for the wakes created by that boat, many makes and models of wake boats designed, engineered and manufactured since then are longer, heavier, have greater ballast capacity, higher horsepower engines and advanced wake enhancing technology, resulting in creating higher and more powerful wakes than those created by the boat the Industry tested. Clearly, a 200' regulation would not be adequate for all wake boats and the massive wakes they create.

Again, we request that you do not move forward on SF 1639 and that you wait for the report from the St. Anthony Falls Laboratory.

Respectfully,

John Russ
President, Minnesota Division

MINNESOTA DIVISION IZAAK WALTON LEAGUE OF AMERICA

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February 1, 2020

Minnesota State Senate
Environment and Natural Resources Policy and Legacy Finance Committee

Madam Chairwoman and Members of the Committee,

On behalf of MN COLA, I am contacting you about SF 1639, the wake surfing bill. We ask that you do not move forward with the bill as it does not address the complexity of our wake surfing concerns and is premature since relevant University of Minnesota research will be released in the next few months.

Caring individuals and lake associations from around the country have donated over \$142,000 to the St. Anthony Falls Laboratory at the U of MN to help fund this important research. Donations for the study were received from nearly 100 individuals representing 53 different cities and towns across Minnesota and 54 lake associations and coalitions of lake associations in Minnesota. In addition, donations were received from another 36 individuals plus lake-related organizations in 8 other states.

This U of MN independent research is intended to provide data about the impact of the waves affecting the lake shore and water safety, as well as the impact of the propellor thrust on the lakebed affecting submerged plants and turbidity.

We specifically note the independence of this forthcoming research as we are aware that an industry-financed study was the basis for the bill's 200' restriction from shore. While that specific data point in the bill could possibly be valid, it is highly suspect.

We know that wake surfing has become a very desirable element of boating recreation and we urge you to find an appropriate solution that protects the public waters of the State of Minnesota as well as the safety of the public who are trying to share the waters.

Sincerely,

A handwritten signature in black ink that reads "Joe Shneider".

Joe Shneider
President, MN COLA

WS ITEM 1

Office of the Revisor of Statutes

HF 1606 Status in the House for the 92nd Legislature (2021 - 2022)

Current bill text: [As Introduced](#)

[Add HF 1606 to MyBills](#)

[Version List](#)

[Long Description](#)

Companion: [SF1639](#)

[Companion Text](#)

[Senate Search](#)

[Further Committee Actions](#)

Revisor number: 21-01123

[House Research Summary](#)

[Fiscal Notes](#)

Bill Text Versions

Engrossments

[Introduction](#)



Posted on 02/25/2021

Description

Wake surfing regulated on Minnesota waters.

Authors (2)

[Koegel](#); [Stephenson](#)

Actions

Separated [Chronological](#)

House

02/25/2021 Introduction and first reading, referred to [Environment and Natural Resources Finance and Policy](#) pg. [631](#) [Intro](#)

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETY-SECOND SESSION

H. F. No. **1606**

02/25/2021 Authored by Koegel and Stephenson
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to natural resources; regulating wake surfing on waters of this state;
1.3 amending Minnesota Statutes 2020, sections 86B.005, by adding subdivisions;
1.4 86B.315, subdivisions 1, 2, by adding subdivisions.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 86B.005, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 17a. **Wake surfer.** "Wake surfer" means a person who wake surfs.

1.9 Sec. 2. Minnesota Statutes 2020, section 86B.005, is amended by adding a subdivision to
1.10 read:

1.11 Subd. 17b. **Wake surf.** "Wake surf" means:

1.12 (1) to surf a wake, regardless of whether the surfer is being pulled by a tow rope attached
1.13 to the watercraft that is producing the wake; or

1.14 (2) to operate a boat that creates a wake that is, or is intended to be, surfed by another
1.15 person.

1.16 Sec. 3. Minnesota Statutes 2020, section 86B.315, subdivision 1, is amended to read:

1.17 Subdivision 1. **Observer or mirror required.** A person may not wake surf on waters
1.18 of this state or operate a watercraft on waters of this state and create a wake for a wake
1.19 surfer or tow while towing a person on water skis, an aquaplane, a surfboard, a saucer, or
1.20 a similar device unless:

2.1 (1) there is another person in the watercraft in addition to the operator who is in a position
2.2 to continually observe the person being towed; or

2.3 (2) the boat is equipped with a mirror providing the operator a wide field of vision to
2.4 the rear.

2.5 Sec. 4. Minnesota Statutes 2020, section 86B.315, subdivision 2, is amended to read:

2.6 Subd. 2. **Prohibited night activities.** (a) On waters of this state, from one-half hour
2.7 after sunset to sunrise of the following day, a person may not:

2.8 (1) wake surf;

2.9 (2) operate a watercraft creating a wake for a wake surfer;

2.10 (3) be towed by a watercraft; or

2.11 (4) operate a watercraft towing a person on water skis, an aquaplane, a surfboard, a
2.12 saucer, or another device.

2.13 (b) On waters of this state, a person may not wake surf on:

2.14 (1) a lake or bay of 50 acres or less; or

2.15 (2) a waterway where the waterway is less than 500 feet wide.

2.16 (c) On waters of this state, a person may not wake surf at greater than slow-no wake
2.17 speed within 200 feet of a:

2.18 (1) shoreline;

2.19 (2) dock;

2.20 (3) swimmer;

2.21 (4) raft used for swimming or diving; or

2.22 (5) moored, anchored, or nonmotorized watercraft.

2.23 Sec. 5. Minnesota Statutes 2020, section 86B.315, is amended by adding a subdivision to
2.24 read:

2.25 Subd. 3. **Requirements for wake surf watercraft.** A person may not wake surf unless
2.26 the watercraft used to wake surf is powered with a propeller that is forward of the watercraft's
2.27 transom or swim platform or powered by a jet drive.

3.1 Sec. 6. Minnesota Statutes 2020, section 86B.315, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 4. **No preemption.** Nothing in this section shall be construed to prevent a local
3.4 government from regulating wake surfing more than 200 feet from shore in accordance with
3.5 this chapter.

Office of the Revisor of Statutes

SF 1639 Status in the **Senate** for the 92nd Legislature (2021 - 2022)

Current bill text: [As Introduced](#)
[Add SF 1639 to MyBills](#)
[Version List](#)
[Long Description](#)

Companion: [HF1606](#)
[Companion Text](#)
[House Search](#)
[Committee Hearings and Actions](#)

Revisor number: [21-01123](#)

[Senate Counsel & Research Summary](#)
[Fiscal Notes](#)

Bill Text Versions

Engrossments

[Introduction](#)



Posted on 02/26/2021

Description

Wake surfer regulation on state waters establishment

Authors (1)

[Johnson](#)

Actions

Separated [Chronological](#)

Senate

03/01/2021	Introduction and first reading	pg. 620 Intro
03/01/2021	Referred to Environment and Natural Resources Policy and Legacy Finance	

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1639

(SENATE AUTHORS: JOHNSON)

DATE
03/01/2021

D-PG
620

OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

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2.2 to continually observe the person being towed; or

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2.4 the rear.

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2.6 Subd. 2. **Prohibited night activities.** (a) On waters of this state, from one-half hour
2.7 after sunset to sunrise of the following day, a person may not:

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3.2 read:

3.3 Subd. 4. **No preemption.** Nothing in this section shall be construed to prevent a local
3.4 government from regulating wake surfing more than 200 feet from shore in accordance with
3.5 this chapter.

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., February 10, 2021
Wayzata City Hall

1. CALL TO ORDER

Chair Thomas called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and, Matt Cook, Environmental Administrative Technician.

Members absent: None.

Persons in Audience: John Bendt, Eric Evenson, Gabriel Jabbour, Cpt. Shane Magnuson, Jill Sims, David Spatafore, Craig Swanson, Luann Tolliver, and Jake Youngren.

4. APPROVAL OF AGENDA

MOTION: Baasen moved, Kroll seconded to approve the agenda as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

- A) Oath of Office to Jake Walesch (City of Deephaven)
- B) Oath of Office to Gregg Thomas (City of Tonka Bay)
- C) Oath of Office to Dan Baasen (City of Wayzata)

Gilchrist administered the Oath of Office to Walesch, Thomas and Baasen. He noted that this is a ceremonial swearing in and the officers reappointed will still need to sign the oath in front of a notary.

6. APPROVAL OF MINUTES- 01/13/2021 LMCD Regular Board Meeting

MOTION: Baasen moved, Kirkwood seconded to approve the 01/27/2021 LMCD Regular Board Meeting minutes as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Cook moved, Walesch seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (02/01/2021 – 02/15/2021); **7B)** LMCIT Liability Waiver Form; **7C)** New Residential Association Multiple Dock License for Crosby Cove Homeowners Association, 16139 Crosby Cove, Minnesota; **7D)** Variance for Adjusted Dock Use Area, Length, 975 Heritage Lane, Orono; and **7E)** Resolution Accepting Save the Lake Contributions (01/01/2021 – 01/31/2021).

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

8. PUBLIC COMMENTS- Persons in attendance, subjects not on the agenda (limited to 5 minutes)

There were no public comments.

9. PUBLIC PRESENTATIONS

A) Hennepin County Sheriff's Office Water Patrol Annual Update

Captain Shane Magnuson commented that 2020 was an incredibly busy summer, most likely a record year as to the number of people on the water. He reported that one Deputy was funded full-time on the water through Save the Lake and provided an overview of that activity. He stated that because it was such a busy year there were two additional deputies on the water for the season as well, funded through the DNR. He also reviewed totals for search and rescue hours during the season, which equate to 2.5 deputies continuously on the water for just search and rescue. He continued with the summary of activity for 2020 and compared those figures to 2019. He noted that 45 percent of enforcement was related to jet ski activity. He stated that in mid-May he was able to pull the School Resource Officer to be on the water full-time and in mid-summer he was able to pull an additional Officer to be on the lake three days per week. He commented that people did tend to spread out more on the lake and the higher density activity was more related to family activities within bays.

Kirkwood commented that the statistics in the presentation do not seem to match the handout.

Magnuson clarified that the handout is related to the Save the Lake Deputy and his presentation also included the statistics for the entire Water Patrol activity.

Kirkwood stated that it would be helpful to have all of that information within the staff report. He asked if there is a sense as to the jet skis that were privately owned and those that were rentals.

Magnuson commented that he did stop some rentals, noting that the rentals tend to stay within a localized area but stated that he does not track rentals versus ownership.

Baasen commented that he was glad that the Board stepped up to increase the contribution for Water Patrol in order to support the increased water activity. He asked if Magnuson would be comfortable with him using this data in order to support the request for continued and perhaps increased funding.

Magnuson confirmed that the data could be used and confirmed that additional funding will help. He stated that they will also continue to look at other resources that they can creatively pull such as the School Resource Officer and Administrative Officers. He noted that there will be a challenge this year because of the coverage that will be needed for the upcoming trial.

Anderson asked for clarification on the funding from Save the Lake and whether that was slightly short of the needed funds.

Magnuson provided additional details on the funding and the training that is necessary to bring a Deputy up to speed, noting that training period is covered by Hennepin County. He confirmed that he is comfortable continuing to supply the necessary training hours and only using the Save the Lake funds for times the Deputy is able to provide service on the lake.

Schleuning confirmed that she emailed the full statistics to the Board. She noted that portions of the report may be confusing as it includes all Water Patrol activity on all the lakes Hennepin County provides service to. She noted that there is a section of the report specific to Lake Minnetonka activity.

Kirkwood stated that he enjoys this report and would like to look at it further in order to learn more. He referenced the search and rescue hours and asked for more specifics on the different categories that fall under that description.

Magnuson provided additional details related to boating fatality, drowning, and missing child. He stated that Hennepin County also assisted Ramsey County in a water plane crash. He noted that those were multi-day searches and were not all completed on Lake Minnetonka. He confirmed that the department also responds to drownings in swimming pools as the department is responsible for responding to anything that occurs in water from a hot tub and larger.

Chair Thomas congratulated Magnuson on his promotion and read aloud a letter that will be sent to him thanking him and the Water Patrol for helping to make Lake Minnetonka safe.

Magnuson thanked the LMCD and noted that he will continue to work with the LMCD on the educational campaigns.

B) Wake Surfing Education Program Update

Schleuning provided a brief introduction and turned the presentation over to Jill Sims.

Jill Sims, National Marine Manufacturers Association (NMMA) recognized that there are intense feelings on both sides related to wake surfing and wake boats. She stated that a working group was created involving different stakeholders and reviewed the organizations she has been working with, or attempting to work with, on this topic. She stated that the goal was to create a model that could be shared and potential classes to be held in order to spread education on the topic. She stated that this is the base model, and they hope to continue to work with the partners and build upon it. She provided an overview of the educational model including information on safe wake surfing, Own Your Wake, lower music noise, proper driving for wake surfing, launching boats, AIS awareness, and wake responsibly.

Chair Thomas asked if the intent would be to have the Communications Committee review this information.

Hoelscher commented that the group could review it as the Committee meets the following day and will continue to discuss the process for the Board to receive wake input. She stated that she would be interested as to what other Board members think.

Anderson commented that the Finance Committee discussed the desire to hold at least three educational seminars, which he believed are hosted by Save the Lake. He stated that in his opinion this could be held via Zoom to allow increase participation.

Walesch commented that the educational component is great, whether or not the LMCD is a partner. He stated that the messaging seems beneficial for the LMCD to convey. He stated that if the LMCD is going to consider a partnership he would want to know if NMMA is still lobbying for 200 feet from shore.

Sims stated that the boating industry supports a 200-foot setback. She stated that at this time there is not currently any legislation introduced for Minnesota. She stated that there is legislation through seven different bills in four different states currently. She stated that the NMMA position is based on the available science. She stated that they are interested in seeing the results from the University of Minnesota study. She stated that the 200 feet is a baseline and boaters are recommended to be at least 200 feet from shore.

Walesch commented that he believes that this information would be helpful in asking people to wake surf responsibly. He stated that his concern would be that the advocacy would not imply support for other policies NMMA may support. He suggested that the Communications Committee and Board further discuss potential partnership.

Kroll stated that he would also share that concern. He stated that the education program is fantastic and stated that he would support the educational campaign but would not want that to imply that the LMCD supports other efforts or legislative positions of the NMMA.

Chair Thomas stated that the language clearly states that "the industry" recommends a distance of at least 200 feet from shore and not that all the partners share that position.

Kirkwood stated that perhaps an additional footnote could be added differentiating that recommendation and specifying that is only the position of the industry.

Walesch stated that the LMCD does not have a consensus or policy on the distance endorsed at this time which would make it difficult to add that language. He stated that there would need to be discussion as some people on the Board have a concern about 200 feet and therefore, he would want to ensure that the support of the education is not implied as support for that recommendation.

Cook commented that the LMCD currently plans to hold one boater safety course but both the Finance and Save the Lake Committees have discussed holding additional courses. He stated that he would like permission to use this information in the courses, noting that if there is something controversial that could be mentioned in the course.

Hoelscher stated that she likes this as an educational campaign and continuing the conversation about lake safety. She stated that she likes the comments related to noise and suggested including the antidote that if you cannot hear people on the boat or your surfer, the music is too loud. She stated that she would be happy to have this discussed in the Communications Committee meeting the following day.

Klohs commented that if anyone comes up with a number it has to be easy to interpret and not misunderstand. He stated that if a number is given, that is the only thing a person will remember. He stated that is the language is 200 feet from shore or a dock, people will only remember 200 feet from shore. He suggested that 300 feet from shoreline be used as some docks can extend out 100 feet.

Magnuson commented that Water Patrol supports an easy to enforce rule and something that can be easily remembered. He stated that he would caution against 300 feet. He noted that some gas docks extend 225 feet and therefore the language should be that you must stay 200 feet away from anything else on the water, whether that is the shoreline, dock, or other boaters. He stated that he would hope to continue to spread this information noting that marinas have been a partner in the past and could be a partner in handing out flyers.

Klohs agreed that 200 feet from anything else on the lake would be a great example.

Magnuson stated that there could then be further information under that general recommendation detailing docks, gas docks, boats, and paddle craft. He recognized that many people on both sides of the issue have provided input and worked together to develop this language in the educational model.

Chair Thomas stated that this is being offered as a model and increased education is a benefit to the lake.

Newell agreed that this should not be locked into a number, as the 200-foot talking point arose from a study the industry provided that used a 27-inch wake. He stated that a bigger wake would take longer to wash out compared to a smaller wake.

MOTION: Hoelscher moved, Anderson seconded to support this educational program as set forth in this presentation with authorization for NMMA to use the LMCD logo as a collaborator.

Further discussion: Klohs asked if it would be called out that the LMCD does not endorse the 200-foot recommendation.

Kirkwood stated that he is concerned not with education but that some of the content is not universally agreed upon by the Board and therefore would prefer the Communications Committee review this further and bring back a recommendation to the Board.

Hughes commented that the red lettering is difficult to read and stated that he agrees that the Communications Committee should discuss this.

Brandt stated that input was received from Sims and Magnuson. He asked if it would be appropriate to receive input from Mr. Bendt as well.

John Bendt stated that the position of his organization is that they do not endorse the 200-foot setback from the shoreline and they made that clear in their collaboration. He stated that the last slide makes it clear that the recommendation is of the industry and his organization felt that did not commit them to that distance. He stated that the qualifiers that follow that make it clear that there is personal responsibility, and 200 feet is not the sole standard. He stated that his organization thinks that the Saint Anthony Falls Study should be heavily used for the eventual guides on the distance from shorelines. He stated that his organization felt that the educational content is worthy and addresses a number of their concerns and were insistent that the slide make it clear that the distance recommendation was of the industry and not the other partners.

Chair Thomas stated that it also how he interpreted the language.

Kroll stated that he likes the educational program but agreed that people will only remember the 200 feet and not the language that it is only recommended by the industry. He stated that he would feel better if that sentence is followed by something stating that further research may support greater distances. He stated that perhaps this motion is premature as it appears additional discussion would be needed.

Walesch commented that this is a great program with many positives, but if the LMCD is going to endorse something with its logo, the Board would be making a commitment to that and believes it then warrants more discussion on what that would mean. He stated that many people have expressed concern tonight related to the 200-foot language and it would be more powerful to have consensus. He stated that he supports education and collaboration and appreciated those that have worked together to develop this model, but it is clear there is concern about the 200-foot language and therefore could not support this as written tonight. He stated that perhaps additional tweaking or qualifying statements are added that could secure consensus support from the Board.

Anderson stated that he is pro wakeboard boats and that is well known, therefore when Chris Bank suggested this concept to spread education through wakeboard retailers, he thought it was a good idea to proactively educate boaters. He stated that when Magnuson came forward with his wake program, Stacia Bank signed on to help create the video for Own Your Wake along with other partners. He stated that it appears the Board

is stuck on the 200-foot language and noted that line could be removed, leaving the other two statements which still convey the message of safety and distance from other things on the lake. He believed that the Board should endorse this educational campaign with that line removed.

Hoelscher stated that her motion to support this was with the understanding that this is an educational program in process, and this is not a final draft. She stated that if the LMCD supports the motion it would simply be recognizing that education is important, and this would continue to be a collaborative effort that the LMCD would be involved with. She stated that she would hope that if the motion is supported, the Communications Committee would continue discussions and the LMCD would collaborate with the other partners.

Kroll stated that he would also support removing that statement as recommended by Anderson.

MOTION: Anderson moved, Kroll seconded to amend the motion to strike the first sentence on the Reminder: Wake Responsibly slide.

Further discussion: Chair Thomas asked Sims for input.

Sims stated that NMMA represents 1,300 members and therefore she represents all users of lakes. She stated that the intent was to gain approval for the LMCD to join the working group. She did not see a problem removing the statement but noted that she would need support from the other stakeholders working on this. She stated that she does not confuse education and policy and intends to keep those issues separate. She confirmed that the colors could be changed to make it more readable as well. She confirmed that her intent was not for the language to be approved tonight 100 percent but to gain the LMCD as a collaborative partner.

Gabriel Jabbour stated that it is imperatively important that the Board have more input from the other stakeholders. He stated that education is phenomenal and from experience that this would be one tool in a larger toolbox. He stated that this should not be confused for managerial education and operator permitting. He commented that the industry has a total buy-in for the 200-foot standard. He stated that he is supportive of the comments made tonight by Board members expressing concerns with that 200-foot regulation. He commented that the LMCD could do its own program without endorsing something created by the boating industry. He stated that relationships need to be maintained in order for the LMCD to continue to spread educational efforts. He stated that he is a part of the industry and a large stakeholder on the lake, noting that he was not invited to be a part of this process. He stated that the LMCD should continue to be involved in education but again cautioned against supporting something created by the industry that continues to support the 200-foot recommendation. He asked the Board to slowdown and continue its current path that involves a listening session as previously discussed. He clarified that he does not trust NMMA under any circumstances. He stated that if the organization means well it can address the concern and bring the item back to the next meeting.

Anderson stated that to clarify, the intent of his proposed amendment would be to remove the line with the 200 feet and keep the other two statements on that slide.

Jabbour confirmed that he would be okay with that but believed the NMMA to be acting in bad faith and therefore would caution against partnership at this time.

Chair Thomas asked for a roll call vote on the amendment to the motion.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	nay
Klohs	aye
Kroll	aye
Newell	aye
Stone	nay
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried.

Hoelscher clarified that the intention of her motion would be to collaborate on this program, contingent upon that line being removed from the slide as adopted in the previous amendment.

Walesch asked if the motion would provide the NMMA with authorization to use the LMCD logo.

Hoelscher commented that her intent was that the logo could be used for this program if the 200-foot statement is removed.

Klohs stated that he would want to ensure that if the logo is used there cannot be a reference to 200 feet. He stated that if this approval is contingent upon the 200-foot language being removed, and therefore he wants it very clear that the LMCD logo could not be used unless that language is removed.

Chair Thomas asked for a roll call vote on the motion as amended.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye

Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

10. PUBLIC HEARING

There were none.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

- A) Ordinance and Summary Resolution Making Corrective Amendments to Sites with 50 Feet of Width or Less and Correcting a Cross Reference

MOTION: Walesch moved, Zorn seconded to adopt the Ordinance Making Corrective Amendments to the Lake Minnetonka Conservation District Code of Ordinances.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye

Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

Gilchrist stated that there should also be a second action related to the summary resolution.

MOTION: Kroll moved, Baasen seconded to adopt the Resolution Approving Summary Language for Publication of Ordinance No. 240.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

B) Nomination and Election of 2021 LMCD Board Officers

Zorn stated that the Nominating Committee included their recommendation within the Board packet, which was also sent to the Board on January 29th. She reported that the Nominating Committee met several times in January and provided details on the process that the group followed in order to develop its recommendation. She stated that unanimous agreement was reached on the recommendation of Gregg Thomas for Chair, Ann Hoelscher for Vice Chair, Dan Baasen for Secretary and Rich Anderson for Treasurer. She stated that the recommendation was based on continuity, succession planning, individuals requested to be considered for specific positions, and shared vision and alignment for unity. She reviewed key areas for the LMCD in 2021.

Chair Thomas stated that a resolution was approved in 2016 for a nomination process, which was included in the Board packet. He thanked the Nominating Committee for their time and effort in developing its

recommendation. He welcomed any additional nominations for any of the Officer positions.

Baasen nominated Bill Cook for Treasurer.

Anderson nominated Mike Kirkwood for Secretary.

Kirkwood declined the nomination.

Chair Thomas called for a motion and vote on the uncontested positions of Chair, Vice Chair and Secretary.

MOTION: Kroll moved, Kirkwood seconded to elect Gregg Thomas as Chair, Ann Hoelscher as Vice Chair, and Dan Baasen as Secretary for 2021.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

Chair Thomas invited the nominees for Treasurer to each make a statement.

Anderson stated that he submitted his resume to the Nominating Committee, noting that he has completed his own books for his business for 25 years and uses the same program that LMCD staff uses, therefore he could provide assistance to staff if needed. He reviewed some of his recent activities related to the Lake including assisting to bring forward the wake surf boat educational campaign, contributing additional funds from his pocket (along with Jabbour) to fully fund the Water Patrol position for 2020, and involvement in the completion of the Flowering Rush Program with Jabbour and LMA. He believes that he adds value on the Lake and believes that he could add additional value to the Treasurer position for the Board. He recognized the skills and contributions of Cook but believed he could add value to the position.

Cook commented that he has been the Treasurer for some time and would like to continue a careful and mindful approach to managing the finances, budget, and reserve accounts. He recognized that he is not an expert with the technology used by staff but believed the role is more strategic and forward thinking. He stated that he would like to continue as the Treasurer for the next year but would then expect transition after that period.

Chair Thomas thanked both members for their willingness to serve. He asked staff to take a roll call vote with members voting for either Anderson or Cook.

VOTE: A roll call vote was performed:

Anderson	Anderson
Baasen	abstain
Brandt	Anderson
Cook	Cook
Hoelscher	Cook
Hughes	Cook
Kirkwood	Anderson
Klohs	Cook
Kroll	Cook
Newell	abstain
Stone	Anderson
Thomas	Cook
Walesch	Anderson
Zorn	Anderson

The vote was tied at 6-6.

Gilchrist stated that this decision will likely come down to one or both of the members that passed having to vote and confirmed that another vote should be taken.

VOTE: A roll call vote was performed:

Anderson	Anderson
Baasen	abstain
Brandt	Anderson
Cook	Cook
Hoelscher	Cook
Hughes	Cook
Kirkwood	Anderson
Klohs	Cook
Kroll	Cook
Newell	abstain

Stone	Anderson
Thomas	Cook
Walesch	Anderson
Zorn	Anderson

The vote again was tied at 6-6.

Chair Thomas suggested that the vote be taken again.

Gilchrist really encouraged the members that abstained to vote so that the vote does not deadlock. He stated that it is the duty of the Board to make tough decisions.

VOTE: A roll call vote was performed:

Anderson	Anderson
Baasen	Anderson
Brandt	Anderson
Cook	Anderson
Hoelscher	Anderson
Hughes	Cook
Kirkwood	Anderson
Klohs	Anderson
Kroll	Anderson
Newell	Anderson
Stone	Anderson
Thomas	Anderson
Walesch	Anderson
Zorn	Anderson

Rich Anderson was elected as Treasurer with a vote of 13-1.

Chair Thomas recognized Cook for his years of service as Treasurer and looked forward to working with Anderson in the position.

Anderson thanked the Nominating Committee for their support as well as the support of the Board for the position.

13. NEW BUSINESS

There was none.

14. TREASURER REPORT

No report.

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- What's in Your Bucket Seminar registration is open for one additional week
- Ice depths continue with the colder weather
- Follow winter weather precautions to avoid frostbite

16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: No report.

Communications: Hoelscher reported that the Committee has recognized that making contacts with the legislative delegation is important and therefore have, or will be, inviting those legislators to attend an LMCD meeting. She encouraged the Board to reach out to any legislative connections they may have in order to increase the network of the LMCD. The Committee began discussion on the process for gathering input related to wakes and will continue the discussion at its meeting the following day.

Finance: Cook reported that the audit for 2020 is underway and once completed the Committee will review that information.

Operations: Zorn reported that the group will meet the following Tuesday and she is working to develop the agenda.

Save the Lake: Baasen reported that the group will meet in the beginning of March.

Nomination: Chair Thomas reported that this group will sunset for the remainder of the year.

17. ADJOURNMENT

MOTION: Kroll moved, Kirkwood seconded to adjourn the meeting at 8:57 p.m.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye

Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary

DRAFT

11:10 AM
02/17/21

Lake Minnetonka Conservation District
Check Detail
February 16 - 28, 2021

ITEM 8A

Date	Num	Name	Memo	Account	Class	Paid Amount
02/17/2021	EFT-21-22	ADP Service Fee		Alerus Checking		
			Payroll 2/16/21 - 2/28/21	4180M10 · Professional Services - Admin.	Admin.	-80.53
TOTAL						-80.53
02/24/2021	EFT-21-23	Frontier Communications		Alerus Checking		
			Phone and Internet 2/4/21 - 3/3/21	4060M10 · Telephone - Admin.	Admin.	-214.47
TOTAL						-214.47
02/24/2021	EFT-21-24	SelectAccount Group Service Fee		Alerus Checking		
			HSA Administrative fee for January & February 2021	4380M10 · Employee Benefits - Admin.	Admin.	-3.20
TOTAL						-3.20
02/24/2021	EFT-21-25	Health Partners		Alerus Checking		
			Dental Insurance, March 2021	4380M10 · Employee Benefits - Admin.	Admin.	-170.85
TOTAL						-170.85
02/24/2021	EFT-21-26	P.E.R.A		Alerus Checking		
			Payroll 2/16/21 - 2/28/21	2020 · Payroll Liabilities -	Admin.	-1,233.72
TOTAL						-1,233.72
02/24/2021	EFT-21-27	SWWC Service Cooperatives		Alerus Checking		
			Health Insurance, March 2021 - Updated Monthly Charge	4380M10 · Employee Benefits - Admin.	Admin.	-3,212.00
			Health Insurance Retro for Sarah November - February	4380M10 · Employee Benefits - Admin.	Admin.	-4,190.00
TOTAL						-7,402.00
02/24/2021	EFT-21-28	US Bank		Alerus Checking		
			Lysol Wipes	4220M10 · Office Supplies -Admin.	Admin.	-19.32
			Survey Monkey Annual Plan	4530M10 · Comp. Sftwr & Hdwr - Admin.	Admin.	-384.00
			Bass Pro Shops Nils Auger Adapter	4520M10 · Furniture & Equip - Admin.	Admin.	-21.49
			Consumer Cellular 11/24/20 - 12/23/20	4060M10 · Telephone - Admin.	Admin.	-29.80
			ESRI Annual Renewal 4/1/21 - 3/31/22	4531M30 · Software & Hardware/Training	AIS	-404.00
			Best Buy - Balance Due for exchange of Webcams	4530M10 · Comp. Sftwr & Hdwr - Admin.	Admin.	-5.00
TOTAL						-863.61

Lake Minnetonka Conservation District
Check Detail
February 16 - 28, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
02/26/2021	EFT-21-29	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,854.66
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,233.72
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-660.93
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medicare	Admin.	-674.16
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	78.08
			MN SUI-ER	4023M10 · SUI MN	Admin.	-8.80
TOTAL						-8,886.75
02/25/2021	21918	FRANCOTYP-POSTALIA, INC.		Alerus Checking		
02/24/2021	Inv.#RI104789083		Quarterly Rental Fee for Postage Meter	4080M10 · Postage - Admin.	Admin.	-86.85
TOTAL						-86.85
02/25/2021	21919	LMCC		Alerus Checking		
02/24/2021	Inv.#1402		VOD Services for Meeting 2/10/21	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
02/25/2021	21920	Lynette M. Rohde Bookkeeping		Alerus Checking		
02/24/2021	Inv.#2021-12		Bookkeeping Services 2/4/21 - 2/5/21	4410M10 · Training/Prof. Devel. - ADM	Admin.	-510.81
TOTAL						-510.81
02/25/2021	21921	City of Mound		Alerus Checking		
02/24/2021	March 2021		Rent, March 2021	4320M10 · Office Rent - Admin.	Admin.	-1,649.96
TOTAL						-1,649.96
02/25/2021	21922	TimeSaver Off Site Secretarial, Inc.		Alerus Checking		
02/24/2021	Inv.#M26223		Board Minutes 2/10/21	4230M10 · Meeting Exp. - Admin.	Admin.	-302.75
TOTAL						-302.75

4:12 PM

03/02/21

Lake Minnetonka Conservation District
Check Detail
 March 1 - 15, 2021

ITEM 8A

Date	Num	Name	Memo	Account	Class	Paid Amount
03/15/2021	EFT-21-30	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,577.95
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,193.40
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-639.33
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/M...	Admin.	-652.14
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	89.41
			MN SUI-ER	4023M10 · SUI MN	Admin.	-8.52
TOTAL						-8,595.13
03/11/2021	EFT-21-31	ADP Service Fee		Alerus Checking		
			Payroll 3/1/21 - 3/15/21	4180M10 · Professional Services - Adm...	Admin.	-80.53
TOTAL						-80.53
03/11/2021	EFT-21-32	SelectAccount Group Service Cent...		Alerus Checking		
			HSA Employer Contribution for March 2021 (Vickie ...	4380M10 · Employee Benefits - Admin.	Admin.	-116.67
			HSA Employer Contribution for March 2021 (Tamm...	4380M10 · Employee Benefits - Admin.	Admin.	-116.67
TOTAL						-233.34
03/11/2021	EFT-21-33	P.E.R.A		Alerus Checking		
			Payroll 3/1/21 - 3/15/21	2020 · Payroll Liabilities -	Admin.	-1,193.40
TOTAL						-1,193.40
03/11/2021	EFT-21-34	Unum Life Insurance		Alerus Checking		
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	-160.69
TOTAL						-160.69
03/11/2021	21923	AIS Advanced Imaging Solutions		Alerus Checking		
03/11/2021	Inv.#437049737		Copier Contract 2/20/21 - 3/20/21	4140M10 · Equipment R&M - Admin.	Admin.	-1,060.01
TOTAL						-1,060.01

4:12 PM

03/02/21

Lake Minnetonka Conservation District
Check Detail
 March 1 - 15, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
03/11/2021	21924	ECM Publishers, Inc.		Alerus Checking		
03/11/2021	Inv.#821967,968,966		March 10 Public Hearing Kiley Variance	4110M10 · Public Info./Legal - Admin.	Admin.	-71.40
			March 10 Public Hearing Ernzer Variance	4110M10 · Public Info./Legal - Admin.	Admin.	-71.40
			Ordinance No. 240	4110M10 · Public Info./Legal - Admin.	Admin.	-47.60
TOTAL						-190.40
03/11/2021	21925	Giant Voices		Alerus Checking		
03/11/2021	Inv.#INV-047606		Website design and development - in process	4070M10 · Web Page / Internet - Admin.	Admin.	-1,517.50
TOTAL						-1,517.50
03/11/2021	21926	Kennedy & Graven		Alerus Checking		
03/11/2021	January 2021		Legal Fees January 2021	4620M10 · Legal Fees - Admin.	Admin.	-4,096.10
TOTAL						-4,096.10
03/11/2021	21927	NCPERS Group Life Insurance		Alerus Checking		
03/11/2021	March 2021		Life Insurance, March 2021	4380M10 · Employee Benefits - Admin.	Admin.	-48.00
TOTAL						-48.00



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: March 10, 2021 (Prepared March 4, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Variance Request for Adjusted Dock Use Area for length, 5310 Eastview Avenue, Minnetrista

ACTION

Board consideration of a variance request for an adjusted dock use area for length for 5310 Eastview Avenue on Jennings Bay in the City of Minnetrista (PID 12-117-24-24-0012), and receive public input as part of the public hearing process.

The following motions are offered depending on whether the Board wishes to approve or deny the request:

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Shayne Ernzer of 5310 Eastview LLC for the property located at 5310 Eastview Ave for final action at the March 24, 2021 LMCD Board meeting <subject to the following conditions>...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Shayne Ernzer of 5310 Eastview LLC for the property located at 5310 Eastview Ave for final action at the March 24, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Shayne Ernzer of 5310 Eastview LLC ("Applicant"), submitted a variance application for 5310 Eastview Ave on Jennings Bay (PID 12-117-24-24-0012; "Site") for an adjusted dock use area for length. The Applicant's property has approximately 435 feet of 929.4-foot elevation contour / OHW shoreline.

Site Background

The Applicant seeks to store watercraft off the east side of the site. In that area, the water depths are shallow, and the Applicant seeks a length variance to reach adequate depth for watercraft storage.

Proposed Setbacks

The proposed dock meets or exceeds the standard setback requirements. The proposed setbacks from the dock structure are 177.2 feet from the northern side site line and 304.3 feet from the western / southern side site line. The required setbacks for a structure this long would be 20 feet.

Proposed Dock Length

The Applicant proposes a dock structure of approximately 156 feet in length as measured from the 929.4-foot elevation contour / OHW. The applicant's dock installer submitted depth measurement readings which indicate the water depths around the proposed BSUs of between 3.88 and 4.29 feet as measured from 929.4 feet of elevation.

Proposed BSUs

The Applicant site has 435 feet of lakeshore. The Applicant proposes to store four (4) watercraft at the site, which would meet LMCD Code requirements for watercraft density.

Three (3) of the boat storage units (BSUs) are enclosed on three sides by dock structure; the fourth BSU would be a "tie-up" slip along the dock. The enclosed BSUs measure as follows:

- 13 feet wide by 30 feet long
- 13 feet wide by 30 feet long
- 13 feet wide by 42 feet long

CONSIDERATIONS OF VARIANCE

The following items should be considered when considering granting a variance:

1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
2. Is the Applicant proposing a use not allowed under the code?
3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Minnetrista were provided information regarding the applications on February 26, 2021. City and agency comments were due by March 8, 2021. Comments received as of March 5, 2021 are

summarized below. Any comments received after March 5, 2021 will be provided at the Board meeting for review.

- Staff from the City of Minnetrista have noted that the Applicant’s proposal would require a variance from the City.
- Staff from the MCWD stated that the proposed dock would not require MCWD approvals.

Written comments submitted by members of the general public to LMCD staff as of noon March 5, 2021 are attached to this memo. Written comments received after noon on March 5 will be shared at the March 10 Board meeting. Other members of the public stated they plan to be at the meeting to give their comments during the public hearing.

PUBLIC HEARING

The public hearing provides an opportunity for interested individuals to present their views to the Board for consideration. This is an important part of reviewing the impact of a project. Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision.

A hearing notice was published in the February 25, 2021 edition of the Sun Sailor (official LMCD newspaper) and the February 27, 2021 edition of the Laker Pioneer. On February 24, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

LMCD staff recommend denial of the variance based on the items listed below:

1. Water depths were not provided for other locations within the Applicants dock use area that may have better water depths closer to shore, allowing for a minimized dock footprint. This would lessen the degree to which a length variance is necessary or potentially negate the need for a length variance. This is based on staff inspection of the site and information provided by the Applicant.
2. The platform of a size of 8 feet by 46 feet seems unnecessary for a reasonable use of lake, given the requested length variance.

BUDGET

N/A

STRATEGIC PRIORITIES

Operational Effectiveness Clear & Timely Communications Effective Governance Lake Protection Other

ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Imagery of Site
3. Site Plan

Application for Variance at 5310 Eastview Ave, Minnetrista
LMCD Board Meeting
March 10, 2021

4. Variance Application
5. SOS Site Excerpt – confirmation of Manager of LLC
6. Public Hearing Notice (Sun Sailor & Laker Pioneer)
7. Public Hearing Notice Mailing
8. Public Comments Received as of 12:00 PM, 03/05/2021

LMCD Code Excerpts



Section 2-3.03. Determination of Authorized Dock Use Area.

Subd. 1. Generally. The dimensions of an authorized dock use area for sites bordering the Lake are determined in accordance with this Section. The authorized dock use area shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum of 1929 (“NGVD”). The authorized dock use area includes the area on, under, and over the surface of the Lake.

Subd. 2. Length. The length of the authorized dock use area is measured on a line parallel to the site side lines as extended into the Lake and is limited as provided in this subdivision.

- (a) General Limit. The length of an authorized dock use area extends into the Lake a distance equal to the length of shoreline frontage of the site as measured at right angles to the side site lines as extended into the Lake. The total length of the authorized dock use area shall not extend beyond 100 feet, even if the site has more than 100 feet of shoreline frontage, unless otherwise specifically provided in this Section.

Section 2-3.03. Determination of Authorized Dock Use Area.

Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision.

- (a) Setbacks. The width of an authorized dock use area is limited by the following setbacks, which are measured from the side site lines as extended in the Lake:

For that portion of the length of the authorized dock use area which extends from the shore:	The setback from the side site line as extended in the Lake shall be:
Zero to 50 feet	10 feet
50 to 100 feet	15 feet
100 to 200 feet	20 feet

Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not

located adjacent to another multiple dock, mooring area, or commercial single docks.

- (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.

Section 2-4.05. General Density Rule.

Subd. 1. How Density is Determined. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, a site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Chapter are moored, docked, anchored, or secured at the site, for any period of time, on three or more calendar days in any 14-day period.

Subd. 2. General Density Rule. A site is allowed one restricted watercraft density for each 50 feet of continuous shoreline. If the site has continuous shoreline greater than 100 feet and the shoreline measurement would result in the allowance of a fractional restricted watercraft density, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one additional restricted watercraft density.

Subd. 3. Compliance with Density. No docks or mooring areas shall be constructed, established or maintained that provide space for, or are used for, mooring or docking a greater number of restricted watercraft than is allowed under this Section unless authorized to do so by special density license issued in accordance with Sections 2-4.11 and 6-2.13.

Section 2-4.09. Special Density Rules.

The number of restricted watercraft stored at a site under the general density rules may be increased as provided in this Section. With respect to residential sites, the homestead or non-homestead status of property for ad valorem real estate tax purposes has no bearing on or application to this Section.

Subd. 1. Additional Watercraft Density. Unless a greater number is authorized under this Section, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site if all of the conditions of this subdivision are met.

(a) There must be one, and no more than one, single-family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel, or other piece of property may be designated to be a part of one site by the owner for purposes of this subdivision if it:

- (1) Is legally subdivided and recorded in the office of the County Recorder;

- (2) Adjoins the site or is separated from the site only by a public right-of-way;
- (3) Is under common ownership and unified use with the site; and
- (4) Is occupied by one single-family residential structure.

(b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph (a) of this subdivision is located.

(c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph (a) of this subdivision.

Subd. 2. Sites in Existence on August 30, 1978. Unless a greater number is authorized by the provisions of this Section, up to two restricted watercraft may be moored or docked at any dock or mooring facility that is located on a site that was in existence on August 30, 1978.

Section 6-5.01. Variances.

Subd. 1. Authorized. Where practical difficulties occur or where necessary to provide access to persons with disabilities, the Board may permit a variance from the requirements of this Code or may require a variance from what is otherwise permitted by this Code, provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners. Except as otherwise provided in this Code, all variances granted by the LMCD shall be governed by the provisions of this Section.

Subd. 2. Unusual Configurations. Where the provisions of this Code would cause the authorized dock use area of two or more sites to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby sites as the use of the same area of the Lake for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected sites may apply to the Board for a variance. A variance may be to permit the Applicant to locate a dock, mooring area, or other structure in a location different from that permitted by this Code or to permit or require the owner of any adjacent or nearby site to do so.

Subd. 3. Length Variances. The length limitations prescribed by this Code may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock.

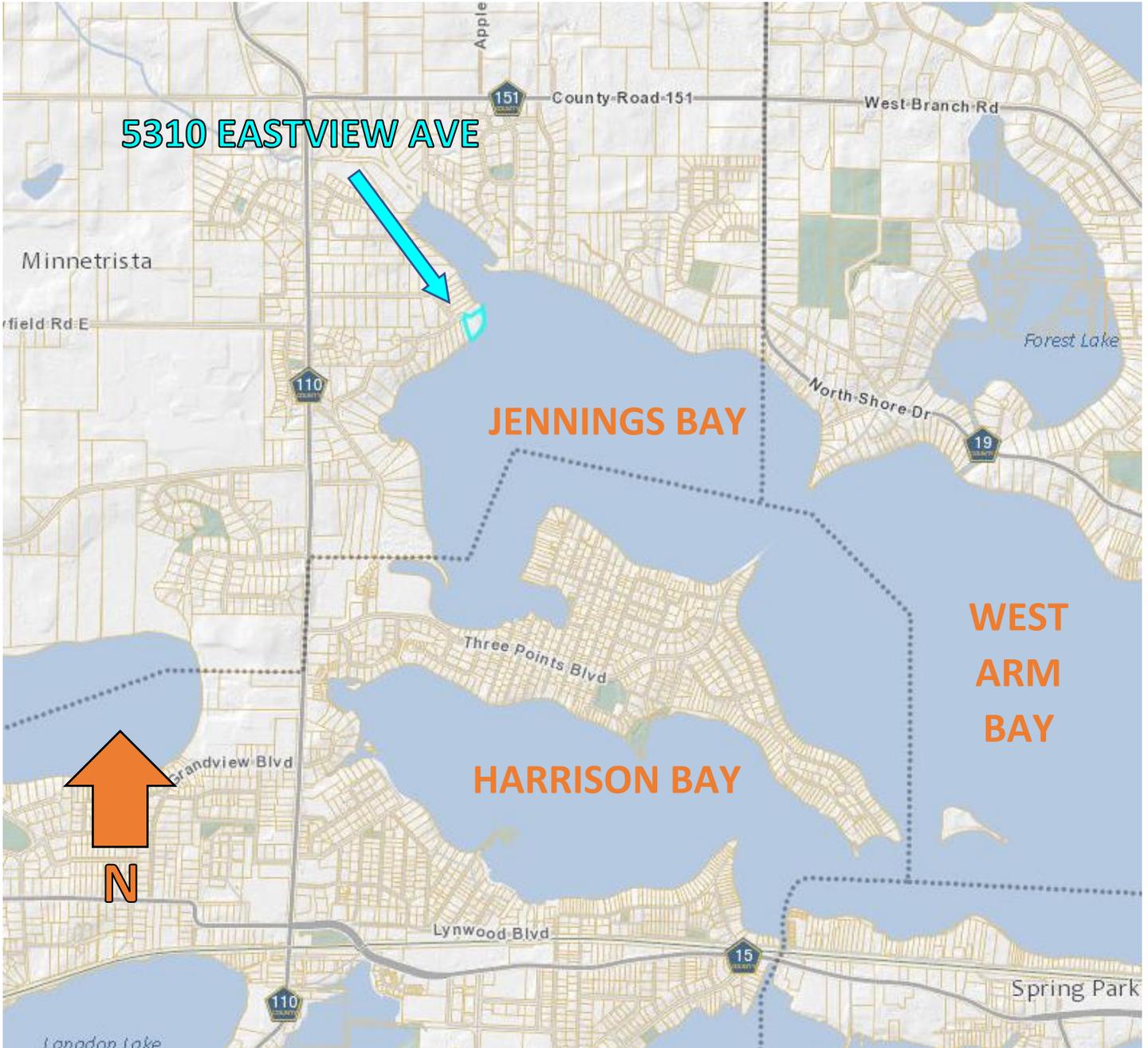
Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that were not created by the property owner, the proposed use is reasonable under the circumstances,

Application for Variance at 5310 Eastview Ave, Minnetrista
LMCD Board Meeting
March 10, 2021

and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.

Shayne Ernzer of 5310 Eastview Ave LLC, 5310 Eastview Ave in Minnetrista | Variance Application
For illustrative purposes only. Taken from Hennepin County Property Information Map 02/23/2021.

ITEM 10A ATTACHMENT 2



Shayne Ernzer of 5310 Eastview Ave LLC, 5310 Eastview Ave in Minnetrista | Variance Application
For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information
Map 02/23/2021.





**FOR ILLUSTRATIVE PURPOSES ONLY
PREPARED BY LMCD STAFF**

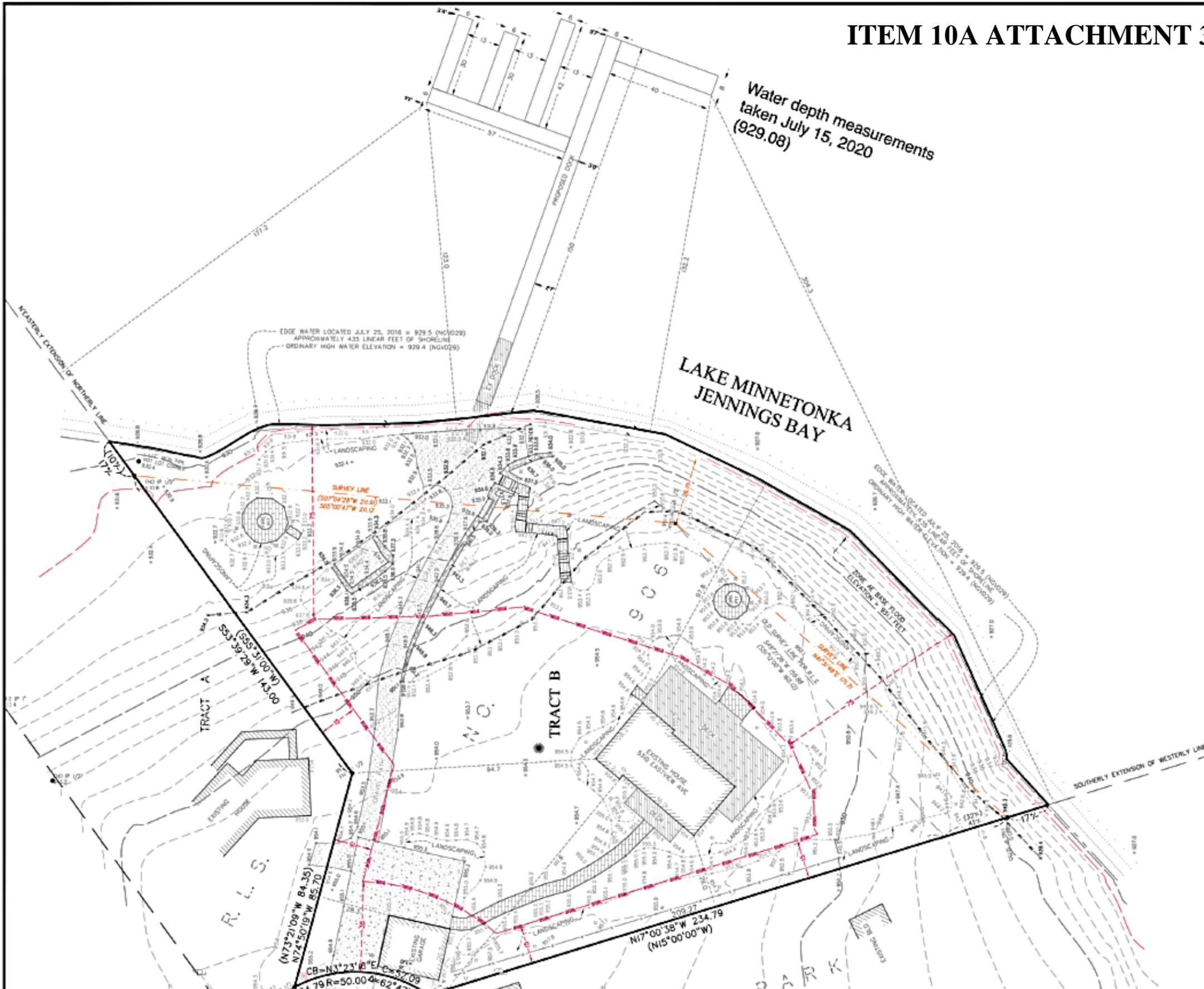
ITEM 10A ATTACHMENT 3

DESCRIPTION OF PROPERTY SURVEYED

Tract B, Registered Land Survey No. 906, according to the recorded plat thereof, Hennepin County, Minnesota

STANDARD SURVEY NOTES

- Site Address:** 5310 Eastview Avenue, Minneapolis, Minnesota
 - Flood Zone Information:** This property appears to lie in Zone X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Area subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevation (BFE) = 931.1. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Map, Community Panel No. 270175 0283 F, effective date of November 4, 2016.
 - Parcel Area Information:** Gross Area: 49,168 s.f. = 1.129 acres *Area above Ordinary High Water
 - Benchmark:** Elevations are based on Hennepin County Control Point Station Name: MOUND which has an elevation of 937.69 (NGVD09) (converted from NAVD88 = 937.83 feet).
 - Zoning Information:** The current Zoning for the subject property is R-1 (Low Density Single Family Residence) per the City of Minneapolis's zoning map dated 2015 and the Shoreland Overlay District. The setback, height, and floor space area restrictions for said zoning designation were obtained from the City of Minneapolis found on their web site on the date of June 13th, 2018 and are as follows:
Principal Structure Setbacks - Front: 35 feet (Eastview Avenue)
Side: 15 feet
Rear: 75 feet (From Ordinary High Water Line)
- Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site.
- We have not received the current zoning classification and building setback requirements from the insurer.
- Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651-454-6002.



(N73°21'09"W 84.35) DENOTES A DIMENSION PER R.L.S. NO. 906



SURVEY LEGEND

● CAST IRON MONUMENT	⊠ A/C UNIT	▨ BITUMINOUS
⊠ CATCH BASIN	⊠ CABLE TV PEDESTAL	▨ BUILDING SETBACK LINE
◁ FLARED END SECTION	⊠ ELECTRIC TRANSFORMER	▨ PAVEMENT
⊠ GATE VALVE	⊠ ELECTRIC MANHOLE	▨ CONCRETE CURB
⊠ GUY WIRE	⊠ ELECTRIC METER	▨ CONCRETE
⊠ HYDRANT	⊠ GAS METER	▨ CONTOUR EXISTING
⊠ SURVEY MONUMENT SET	⊠ GAS VALVE	▨ CONTOUR PROPOSED
● SURVEY MONUMENT FOUND	⊠ GUARD RAIL	▨ DRAIN TILE
⊠ SURVEY CONTROL POINT	⊠ HAND HOLE	▨ ELECTRIC UNDERGROUND
⊠ LIGHT POLE	⊠ SPEAKER	▨ FENCE
⊠ POWER POLE	⊠ TREE CONIFEROUS	▨ FIBER OPTIC UNDERGROUND
⊠ SANITARY MANHOLE	⊠ TREE DECIDUOUS	▨ GAS UNDERGROUND
⊠ SANITARY CLEANOUT	⊠ TELEPHONE MANHOLE	▨ OVERHEAD UTILITY
⊠ SIGN	⊠ TELEPHONE PEDESTAL	▨ RAILROAD TRACKS
⊠ GROUND ELEVATION	⊠ UTILITY MANHOLE	▨ SANITARY SEWER
⊠ STORM DRAIN	⊠ UTILITY PEDESTAL	▨ STORM SEWER
⊠ STORM MANHOLE	⊠ WELL	▨ TELEPHONE UNDERGROUND
⊠ YARD LIGHT		▨ UTILITY UNDERGROUND
		▨ WATERMAIN

FIELD CREW	NO.	BY	DATE	REVISION
AT, JV				
DRAWN				
ENW, JJA				
CHECKED				
DLB				
DATE				
1-19-21				

USE INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF INFORMATION OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHRE-BERGQUIST, INC.'S EXPRESS WRITTEN AUTHORIZATION. USE WITHOUT SAID AUTHORIZATION CONSTITUTES AN ILLEGITIMATE USE AND SHALL THEREBY INDEMNIFY SATHRE-BERGQUIST, INC. OF ALL RESPONSIBILITY. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
 Dated this 26th day of January, 2021. *Field work completed on September 27, 2019.
Daniel L. Schmitt
 Daniel L. Schmitt, P.L.S. Minnesota License No. 26147
 dschmitt@sathre.com

ENGINEERS SURVEYORS DESIGNERS PLANNERS

SATHRE-BERGQUIST, INC.
 150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6009
 WWW.SATHRE.COM

TWP 117 - RGE 24 - SEC 12
 Project City: Minneapolis
 Hennepin County

LMCD DOCK EXHIBIT
 PREPARED FOR:
TONKA BUILT

FILE NO.
 90796-001
 1
 1

ITEM 10A ATTACHMENT 4



VARIANCE APPLICATION

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Phone: (952)745-0789
Fax: (952)745-9085



LMCD Receipt # _____

In accordance with LMCD Code Section 1.07, where practical difficulties occur or where necessary to provide access to the handicapped, the Board may permit a variance from the requirements of the Code, or may require a variance from what is otherwise permitted the Code provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this ordinances, the public health, safety, and welfare, and reasonable access to or use of the Lake by public or riparian owners. The following application, when completed, shall be filed with the Executive Director of the District along with surveys, photos, and such other information as required.

Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.

The person completing this form is the authorized agent or property owner (select one).

Applicant: Tonka Built, LLC

Address: 6225 SUNNY FIELD RD. E

City, State, Zip: MINNETRISTA, MN, 55364

Phone: 952-221-3340 Fax: _____ Email: tonka@tonka-built.com

Property owner (if different from applicant): SHARNE ENZER / MOK MOORAGE

Address: 505 SOUTH WILLOW DRIVE

City, State, Zip: ORONO, MN, 55356

Phone: 763-227-1622 Fax: _____

PROPERTY LOCATION:

Located in the city of: MINNETRISTA

Address & Property Identification No (PID): 5310 FOREVIEW AVE : 1211 724240012

Address

PID#

TYPE OF VARIANCE: LENGTH VARIANCE

State practical difficulties causing variance to be required:

GENERALLY SHALLOW WATER FOR BOATS TO GET ON AND OFF BOOZLIFTS.

ABUTTING LAKESHORE PROPERTY OWNERS:

North or West: JUD GRIFFIN / 5330 EDGEVIEW AVE, MINNETONKA, MN 55
(Name and mailing address)

South or East: BISSEL SCHUBACH / 1200 MORNING VIEW DRIVE, 55324
(Name and mailing address)

Other affected parties (attach sheet if necessary):

- see attached

(Name and mailing address)

Please submit names and mailing addresses of owners within a 350-foot radius of the property. Such owners must be verified by checking with the Hennepin County Auditors Office, (612) 348-5910 (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.

Documents listed below are required; check that they are attached:

- Locator Map** (U.S.G.S area map with scale, North direction, Site clearly marked, Name or Title, LMCD Area Name, LMCD number)
- County Plat Map** (Site clearly marked, Name, LMCD area name, LMCD number)
- Certified Land Survey** (Legal description, Name, LMCD area name, LMCD number, 929.4 N.G.V.D. shoreline)
- Proposed facility site plan** (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- Existing facility site plan**, if applicable (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- Scaled drawing of docks on abutting properties** and other affected dockage

Absence of significant data requested above could result in a processing delay.

FEE CALCULATION

APPLICATION FEE(non-refundable) \$250.00

DEPOSIT (refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required) +\$250.00

Variance Application

TOTAL FEE ENCLOSED..... (this fee is for processing of the application and does not entitle the applicant to a variance) .. \$500.00

I certify that the information provided herein and the attachments hereto are true and correct; I understand that any variance granted may be revoked by the District for violation of the LMCD code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the application fee. I consent to permitting officers and agents of the District to enter the premises at reasonable times to investigate and to determine whether or not the Code of the District is being complied with.

I agree to submit a certified, as-built survey upon completion of the docks.


Authorized Signature

Jan 25, 2021
Date

Authorized Rep
Title

Representative
Relationship to Owner

Return this application, attachments and fee to:

**Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Fax: (952) 745-9085**

Map layers

RECEIVED
JAN 26 2021
By _____



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Property

Go to Property links

Clear results

PID: 1211724240012

5310 Eastview Ave
Minnetrista, MN 55364

Owner/Taxpayer

Owner: 5310 Eastview Llc
Taxpayer: 5310 EASTVIEW LLC
505 WILLOW DR S
ORONO MN 55356

Tax Parcel

Parcel Area: 1.15 acres
49,987 sq ft
Torrrens/Abstract: Torrens
Addition: Reg. Land Survey No. 0906
Lot:
Block:

Metes & Bounds: Tract B



Map layers

RECEIVED
JAN 26 2021
By _____

ITEM 10A ATTACHMENT 5

Business Filing Details

mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=d13a4da4-e85d-e811-915e-00155d0deff0

Final-LMCD-Code-... DOCSOPEN-51534... DOCSOPEN-51534... - Lake Minnetonka... Residential-Docks... Word Press Carver Cty Property... Property Interactive... Natural Resources ... Locate & Notify | H... LMCD Staff Calendar GoDaddy Webmail

Business Filings Online UCC / Tax Liens Online CNS Liens Online Online Subscriptions UCC, CNS & Tax Liens Help UCC, Tax & CNS Forms & Fees Start a Business Business Help Business Forms & Fees

Business Record Details | Print | Order Certificate | File Amendment / Renewal | Order Copies | Back to Search Results

Minnesota Business Name
5310 Eastview, LLC

Business Type Limited Liability Company (Domestic)	MN Statute 322C
File Number 1017952100024	Home Jurisdiction Minnesota
Filing Date 5/22/2018	Status Active / In Good Standing
Renewal Due Date 12/31/2021	Registered Office Address 505 South Willow Drive Orono, MN 55356 USA
Registered Agent(s) (Optional) Currently No Agent	Manager Shayne A. Ernzer 505 South Willow Drive Orono, MN 55356 USA
Principal Executive Office Address 505 South Willow Drive Orono, MN 55356 USA	

Filing History | Renewal History

Select the Item(s) you would like to order: [Order Selected Copies](#)

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	5/22/2018	Original Filing - Limited Liability Company (Domestic) (Business Name: 5310 Eastview, LLC)	

10:26 AM
2/17/2021



ITEM 10A ATTACHMENT 6

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 18, 2021

TO: Sun Sailor
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (02/25/2021 Edition)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, March 10, 2021

**Shayne Ernzer of 5310 Eastview LLC
5310 Eastview Ave Minnetrista, MN 55364
Jennings Bay, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from Shayne Ernzer for 5310 Eastview Ave in Minnetrista. An application has been submitted to adjust the site's dock use area (length). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 18, 2021

TO: Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (02/27/2021 Edition)

**LAKE MINNETONKA CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, March 10, 2021**

**Shayne Ernzer of 5310 Eastview LLC
5310 Eastview Ave Minnetrista, MN 55364
Jennings Bay, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from Shayne Ernzer for 5310 Eastview Ave in Minnetrista. An application has been submitted to adjust the site's dock use area (length). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

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ITEM 10A ATTACHMENT 7

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 24, 2021
TO: Property Owner or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for an adjusted dock use area (dock length) variance. The site is located at 5310 Eastview Ave in Minnetrista on Jennings Bay.

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. All interested persons will be given an opportunity to comment.

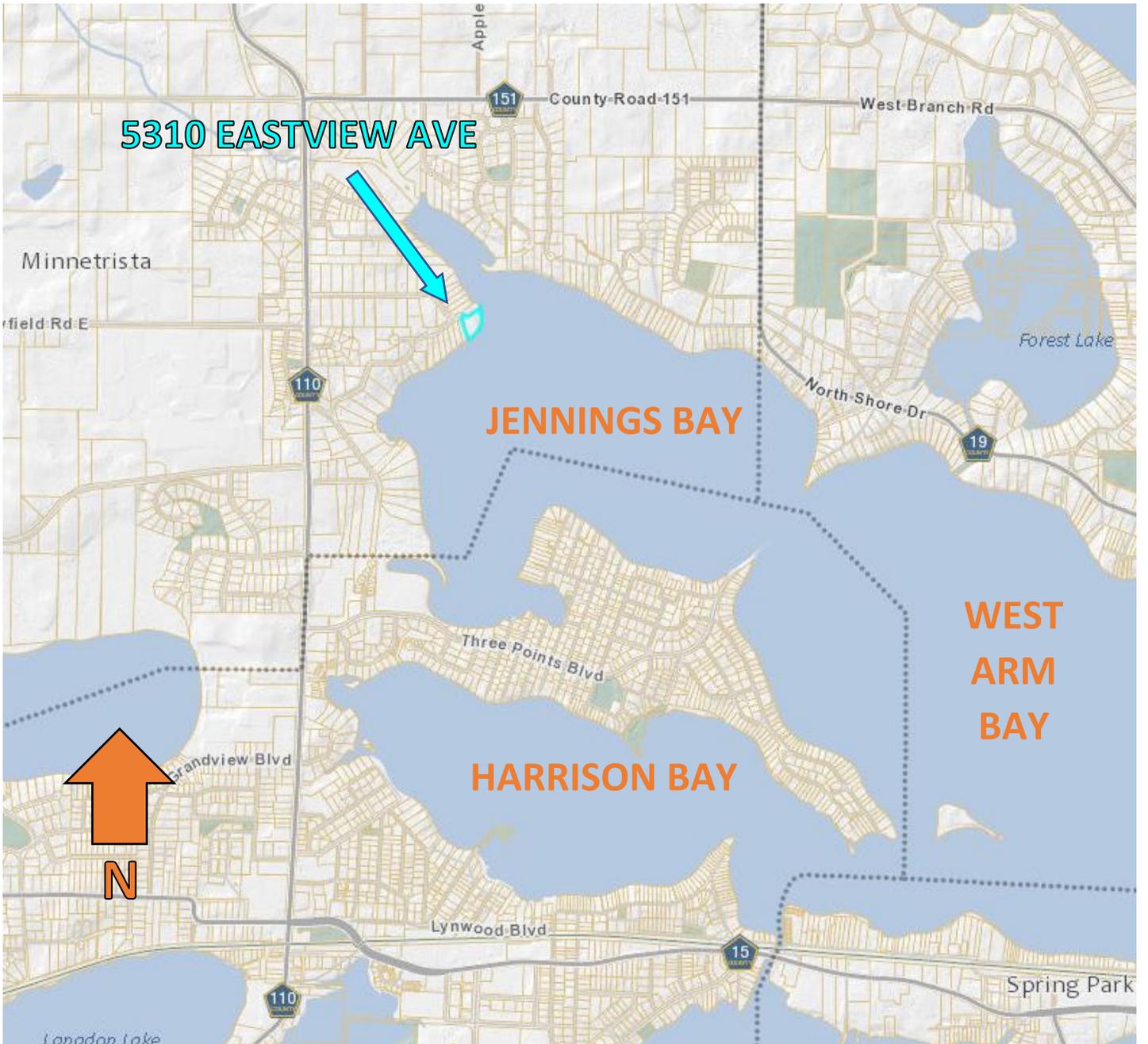
Public Hearing Information

A public hearing will be held at 7:00 PM, March 10, 2021. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Shayne Ernzer of 5310 Eastview Ave LLC, 5310 Eastview Ave in Minnetrista | Variance Application
For illustrative purposes only. Taken from Hennepin County Property Information Map 02/23/2021.



Shayne Ernzer of 5310 Eastview Ave LLC, 5310 Eastview Ave in Minnetrista | Variance Application
For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information
Map 02/23/2021.



DESCRIPTION OF PROPERTY SURVEYED

Tract B, Registered Land Survey No. 906, according to the recorded plat thereof, Hennepin County, Minnesota

STANDARD SURVEY NOTES

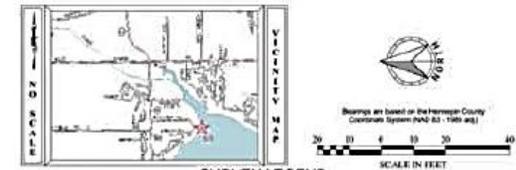
- Site Address:** 1110 Eastview Avenue, Minneapolis, Minnesota
- Flood Zone Information:** This property appears to be in Zone X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (area subject to inundation by the 1 percent annual-chance flood event determined by detailed methods). State Flood Insurance (SFPA) - 031.1. Minnesota flood insurance purchase requirements and floodplain management standards apply. (per Flood Insurance Rate Map, Community Plan No. 27075-003 F, effective date of September 4, 2016).
- Parcel Area Information:** Gross Area: 49.308 ± ± - 1.129 acres *Area above Ordinary High Water
- Benchmark:** Elevations are based on Hennepin County Control Point Station Name: MCK3HD which has an elevation of: 917.66 (NAD83) (converted from NAVD83 = 917.63 feet).
- Zoning Information:** The current zoning for the subject property is R-1 (Low Density Single Family Residential) per the City of Minneapolis's zoning map dated 2013 and the Standard Overlay District. The setbacks, height, and floor space area restrictions for said zoning designation were obtained from the City of Minneapolis based on they were set on the date of June 13th, 2019 and are as follows:
Principal Structure Setbacks: Front, 35 feet (Eastview Avenue)
 Side, 15 feet
 Rear, 75 feet (From Ordinary High Water Line)

Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site.

We have not received the current zoning classification and building setback requirements from the owner.

- Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property that are not shown. Please note that we have not placed a Gopher State One Call for this survey. There may be or may not be underground utilities in the mapped area, therefore caution must be exercised before any excavation where plans place lines near the site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 612-434-0002.

(N73°21'09" W 84.10) DENOTES EMISSION PERMITS, NO. 90



SURVEY LEGEND

<ul style="list-style-type: none"> CAST IRON MONUMENT CADASH BASIN FLARED END SECTION GATE VALVE GUY WIRE HYDRANT SURVEY MONUMENT SET SURVEY MONUMENT FOUND SURVEY CONTROL POINT LIGHT POLE POWER POLE SANITARY MANHOLE SANITARY CLEANOUT SIGN GROUND ELEVATION STONE DRAIN STONE MANHOLE YARD LIGHT 	<ul style="list-style-type: none"> A/C UNIT CABLE TV PEDESTAL ELECTRIC TRANSFORMER ELECTRIC MANHOLE ELECTRIC METER GAS METER GAS VALVE GUARD RAIL HAND HOLE SPEAKER TREE ENCLOSURE TRIPLE ENCLOSURE TELEPHONE MANHOLE TELEPHONE PEDESTAL TRAFFIC SIGNAL UTILITY MANHOLE UTILITY PEDESTAL WELL 	<ul style="list-style-type: none"> BITUMINOUS BUILDING SETBACK LINE PAVERS CONCRETE CURB CONCRETE EXISTING CONTOUR PROPOSED DRINK TILE ELECTRIC UNDERGROUND FENCE FIBER OPTIC UNDERGROUND GAS UNDERGROUND OVERHEAD UTILITY RAILROAD TRACKS SANITARY SEWER TELEPHONE UNDERGROUND UTILITY UNDERGROUND WATERWAY
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FIELD CREW	MC.	BY	DATE	REVISION
AT, M.				
DRAWN				
CHECKED				
DATE				

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I hereby certify that the survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
 Dated this 26th day of January, 2021. *Field work completed on September 27, 2019.

 Daniel L. Schmidt, PLS
 Minnesota License No. 20147
 ds@minnsv.com

SATHRE-BERGQUIST, INC.
 150 SOUTH BROADWAY WATZATA, MN 55391 (952) 476-0000
 WWW.SATHRE.COM

TWP 117 - RGE 24 - SEC 12	FILE NO.
Project City: Minneapolis	80795-001
Hennepin County	1
LMCD DOCK EXHIBIT	1
PREPARED FOR:	1
TONKA BUILT	



**FOR ILLUSTRATIVE PURPOSES ONLY
PREPARED BY LMCD STAFF**

ITEM 10A ATTACHMENT 8

LMCD Public Hearing / March 10, 2021 7pm / 5310 Eastview Dock Length Variance Request

Respectfully submitted by: Tom & Cindy Notch, 1250 Morningview Dr, Minnetrista 952-297-7443

EMAIL TO: mcook@LMCD.org FROM: notchengineering@mchsi.com

We are respectfully requesting that all LMCD board members and other pertinent participants receive and review this input regarding the 5310 Eastview Dock Length Variance Application.

Over the past few years, we have observed the dock on this property has grown significantly wider and longer every season, see attached satellite photo.

In researching rules on maximum dock lengths which govern this parcel on Lake Minnetonka, the City of Minnetrista statute allows a maximum dock length of 100'; LMCD statute allows 100'; DNR statute allows 100'. This proposal is not consistent with the governing statutes or the neighborhood,

When you measure the applicant's LMCD dock submission exhibit, it shows the dock length at 157' and the width at 103' (57+ 6 + 40), far in excess of governing statutes. The dock platform on the south side of this dock is 381 square feet compared to the DNR allowable size of 170 square feet. Not only should the dock length be addressed, the dock platforms should also be reviewed for conformance.

From our observation, all other docks in the area conform to the maximum allowed 100' dock length. It is also important to note that around 50 boats on the westerly side of Painter's Creek must pass through this area to access the lake.

The applicant's LMCD dock exhibit plan indicates the minimum depth of water at one end of the dock was 3'4" and the other side was 3'7" deep. These depths were taken on 7/15/2020 when the water level was at 929.08'. Since the ordinary high-water elevation is 929.4', that would add 4 inches of depth measurements on the applicant's documents. This would equate to minimum depth of 3'8" on one side and 3'11" on the other side. Minnetrista's dock rules do not allow for dock length extensions over 100' unless the water depth at the end of the dock is less than 3'. From the elevations on the dock exhibit, one can see that at the 100' dock length limit, the water depth would be over 3'. In other words, navigation is not impaired which makes the stated 'hardship' invalid.

If the applicant feels that more water depth is needed to functionally operate the hydraulic boat lifts currently located on the property, there are many different lifts available to mitigate this problem.

The biggest issue is that if one property owner gets permission to have docks significantly over the 100' length with widths over the permitted size, then it doesn't take much imagination to see that all other properties will eventually follow. If this precedent is set, over time, navigation will be impaired.

The waters of Lake Minnetonka are owned by the citizens of Minnesota. Every time we allow docks and platforms to obstruct use of the waters by the public, we must remember that we are infringing on the public's right of water usage.

A 100 foot dock length is totally functional in the Jennings Bay / Painter's Creek area.

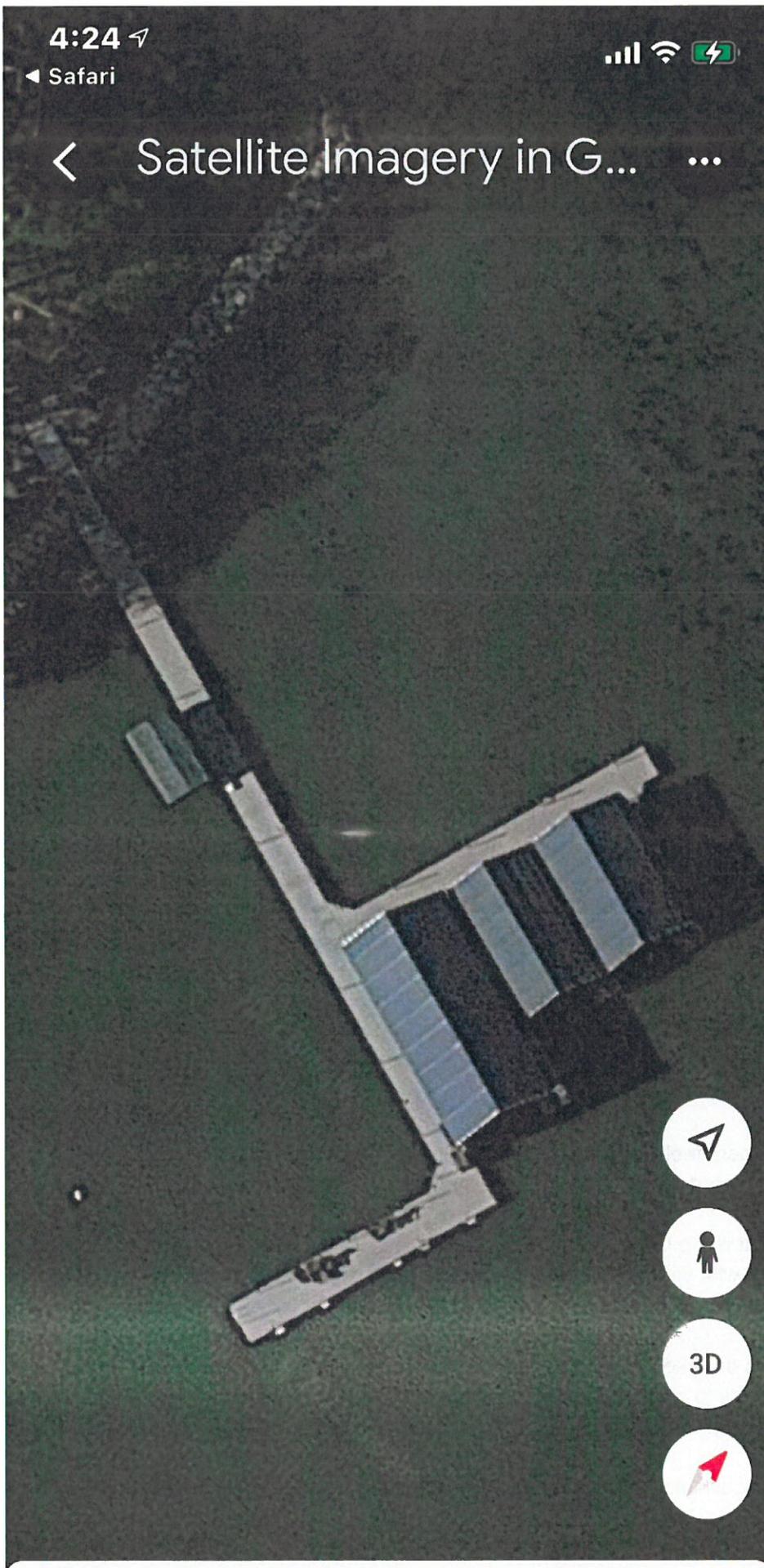
Please do not set a bad precedent. We encourage all decision makers to deny this application.

4:24 ↗

◀ Safari



< Satellite Imagery in G... ...



Google ...'25"N 93°39'27"W) 1,432 ft

From: [juddrith](#)
To: [Matthew Cook](#)
Subject: Tonka Built/5310 Eastview Ave Dock Variance Meeting of March 10, 2021
Date: Thursday, March 4, 2021 5:11:32 PM
Attachments: [20210304_154531\(1\).jpg](#)
[20210304_154642.jpg](#)

Matt, per our discussion last week I am wanting to submit several comments to be presented at the open meeting, and to all those participants involved in the review process for the Tonka Built/5310 Eastview Dock length variance application. I would much prefer to present them in person but travels won't allow it, even remotely.

Thank you for your help, respectfully,

Judd Griffith
5330 Eastview Ave
Minnesota, MN. 55364

I believe the 157 foot dock length variance should be denied for the following reasons:

1) The excessive length being requested extends northeast towards the Painters Creek channels' first no wake bouy. The additional extension causes safety issues to all boaters. Keep in mind that the particular dock being asked a variance for was in fact installed for all of last year. The dock seemed to compress the boating traffic into a smaller area for entry and exit into the channel and end of bay. It bears remembering the multi dock of the Jennings Cove Association is on the immediate other side of the channel so it can be a very congested area. In addition, the docks excessive length along the canopy side and oversized platform side, push canoeists and kayakers out into more traditional boating lanes of the bay. Having watched traffic last year with this configuration I believe it raises safety issues for the public and perhaps liability issues for the owner; 5310 Eastview Llc.

2) The request is for nearly 160' actually versus the 100' dock length code, nearly a 60% increase in dockable area size. My recollection of the aforementioned Jennings Cove Dock Association, was that they were limited to the 100' dock length for all 20 slips. They too have had depth issues but none that have necessitated enormous variance requests.

3) Not only is this request asking for a length variance but approving it as presented would in effect grant two more variances, they are:
A. Platform size over 200 % of DNR codes for platform and oversized by LMCD. code.
B. Platform width exceeds that of request and LMCD code requiring only one. dimension of platform exceed

The applicant for the Llc owner requests a enormous dock length variance for the following reason; "Generally shallow water for boats to get on and off boatlifts".

No where does the DNR, City of Minnetrista or the LMCD guarantee or represent navigatable water for all boats and lifts. The property owners have numerous options to remedy their perception of shallow water.

Options include:

- 1) Lower profile lifts that are recently available, or lowering existing lift additionally.
- 2) Relocation and/or different configuration of dock within the standard use areas as defined by code.
- 3) Eliminating boat lift
- 4) Get a boat with less draft or move present boat to a commercial marina more apt to handle a larger boat.

We ask that the variance be denied for the earlier reasons. If the variance were approved, significant precedence would be made for many others on each and every bay of Lake Minnetonka. To expand on this would create significant detrimental changes. I am not aware of any other dock getting variances of this number and magnitude.

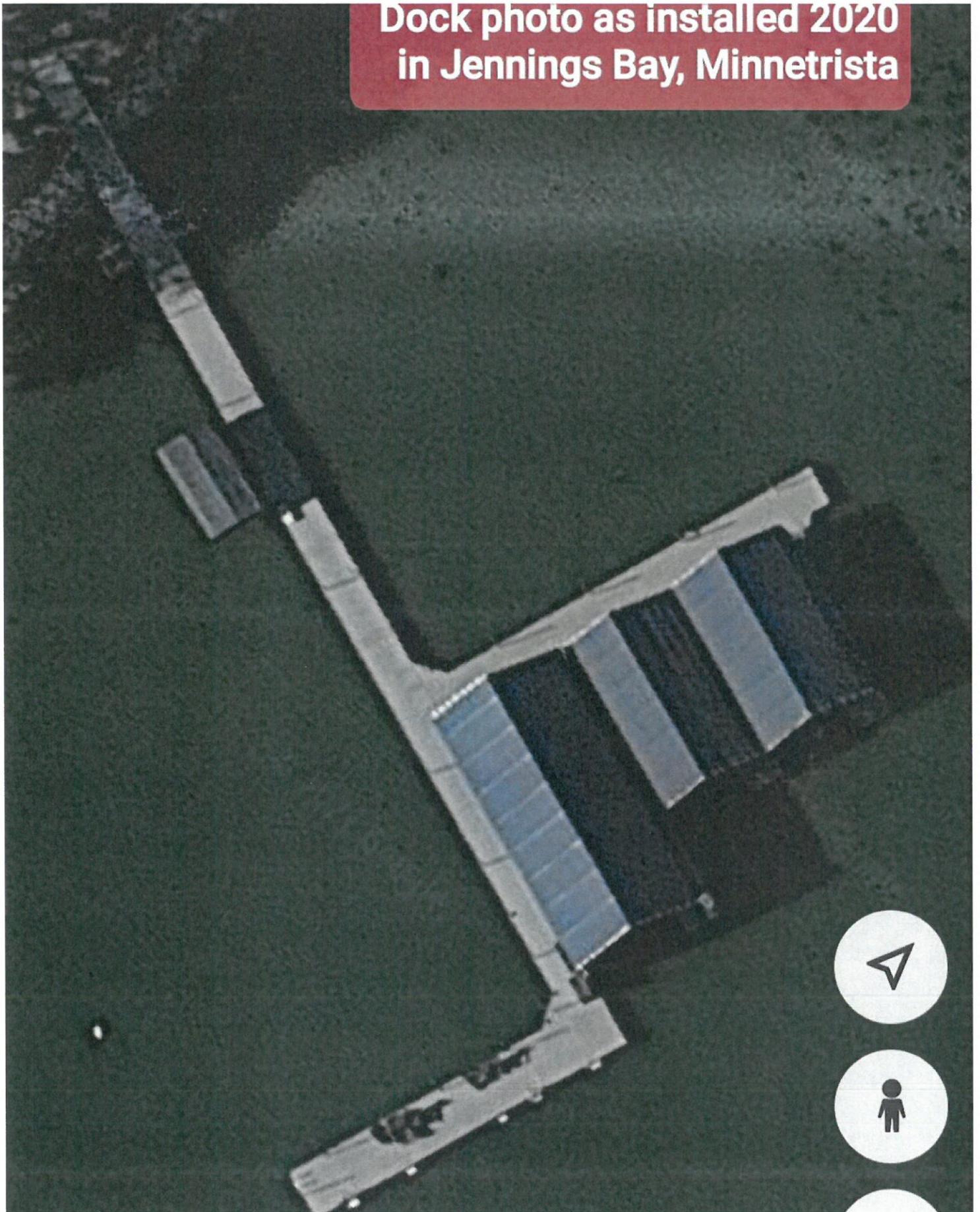
Thank you for your consideration of our concerns.

Judd and Chris Griffith

Please see the attached photos of the actual dock installed in the 2020 season to appreciate the scale of the dock, canopies and accessed sized platform which is large enough for two full patio sets with room to spare.

Sent from my Galaxy Tab® S2

Dock photo as installed 2020
in Jennings Bay, Minnetrista





#3

Comments #1-2 included in Board packet released 03/05/2021

DATE: March 6, 2021

TO: LMCD Board Members and mcook@lmcd.org

FROM: Tom & Peggy James, 5350 Eastview Ave., Minnetrista, MN

CC: City of Minnetrista, nolson@ci.minnetrista.mn.us

SUBJECT: Tonka Built/5310 Eastview Ave. Dock Length Variance Application

We request the subject 157-foot dock length variance be denied. Our comments and observations related to this application are as follows:

1. Hardship is not justified: The application states “Generally shallow water for boats to get on and off boat lifts”
 - a. Boat lifts are a luxury, not having one is not a hardship.
 - b. The water depth is in excess of 3 feet which is adequately navigable by boat, which obviously allows them to get to their boat lifts.
2. Obstructed view: The extra length requested directly impacts and takes away a good portion of lake view for us and our neighbors. In addition, the canopies obstruct the view of on-coming boats around the point which creates a serious safety concern. We would recommend they explore alternative placement.
3. Dock Size: The dock size is excessive; the platform exceeds the size and width maximum allowed by the DNR, LMCD and Minnetrista codes.
4. Dock storage: The dock storage is a nuisance and an obnoxious eyesore when stored on shore for about 8 months of the year. See ‘Exhibit A’.
5. Precedent: Approving this variance would set a bad precedent.

Again, we request this variance be denied.

EXHIBIT A

5310 Eastview Ave., Minnetrista, MN – Dock Storage 3/6/2021



#4

Matthew Cook

From: jlmin82@aol.com
Sent: Sunday, March 7, 2021 8:32 AM
To: Matthew Cook
Cc: Nickolas Olson
Subject: Variance request -5310 Eastview Minnetrista

Follow Up Flag: Follow up
Flag Status: Flagged

We are in receipt of info for above sent to us by LMCD/Minnetrista. We want to express our concern for further enlargements of the current dock configuration. This area of the lake has been getting increased boating activity from the recently built Orchard subdivision off of Painters Creek. The creek ultimately joins Lk. Mtka at this location. In addition this is already a congested area since it sits directly across and in close proximity to the Jennings Cove 12-15 boat docking structure. Further encroachment in this area by an expanding Dockage System seems excessive, since it is of significant size already. Storage of these docking components is already unsightly to those in close proximity without further addition of a 157 ft extension of this System. As a result, we request this variance be denied. John and Kathleen Minahan

#5

From: [Bryan Ophaug](#)
To: [Matthew Cook](#); [Vickie Schleuning](#); [Bryan Ophaug](#); [Kristen Erickson](#)
Cc: [Nickolas Olson](#)
Subject: Variance at 5310 Eastview
Date: Sunday, March 7, 2021 9:19:05 PM
Attachments: [Variance.docx](#)

**Please forward to all LMCD Board members. Please contact me if you have any difficulty viewing attached videos.

Mr. Cook, This is Bryan Ophaug at 5360 Eastview Avenue. I am sending you this email with attached documentation in opposition to the proposed variance at 5310 Eastview Avenue. I have attached a letter which states our opposition to this variance with relevant photographs. Also attached are 3 short video files which document our accurate measurement of depths at the existing dock site taken both at 100' and 157'. Also included is a video taking depth measurements at an alternate dock site 100' from the applicants shoreline where the water is much deeper. A dock placed here would give the applicant the deeper water that is desired without the need for a variance. In addition, the alternate dock site is FAR more respectful of the bay views of the neighboring properties. Thank you for your consideration.

Bryan and Kristen Ophaug
5360 Eastview Avenue



URLS to Links above (added by LMCD staff):

- https://drive.google.com/file/d/1O3egMgP_wdXMbfBR99M4ZXwzO7O4QhVz/view
- <https://drive.google.com/file/d/1xrApCyASL21tPWXRPhdmYtqIWKGNKJMs/view>
- <https://drive.google.com/file/d/1BWHOYhWIRH7-bL6AaqX5mOYjuxVO-6Op/view>

Ladies and Gentlemen of the LMCD board:

There is no need for a dock extension variance at 5310 Eastview. (Please see attached photos / videos)

- 1) At the proposed dock site 100' from shore, the water measures 3'8". This is plenty deep for a boat lift. At my house (5360 Eastview) our water measures less than 3' and we have never had a problem getting on or off our boat lift with our 21' deep v-hull boat with a 300 HP engine. I have several neighbors on Eastview with boat lifts in water no deeper than mine who have no difficulties as well. 3'8" is plenty deep for a boat lift. There is simply no need for a variance to extend this dock over 100 feet. If the applicant still seeks deeper water for his/her lifts, there is a far simpler solution that requires no harmful precedent-setting variance. Simply move the dock to deeper water on the property. **(Exhibit A) – See accompanying videos for proof of measurements.
- 2) 5310 Eastview has an alternate site for a dock where the water is 5'4" deep measured 100 feet from shore. Placement of a 100' dock in this alternate site would require no variance, is respectful of all required setbacks and would provide the applicant with the deep water that is sought for their dock and lifts. I have labeled this alternate dock site sketched in red on the Variance notification that we received. **(Exhibit A) - See accompanying videos for proof of measurements.
- 3) **It should be noted this dock was clearly 157' last year. Satellite images from last summer show the proposed 157' dock already fully built. This variance request is clearly an "after the fact" application to try to make their illegal 157' dock, retroactively legal. **(Exhibit B)
- 4) **The current 157' dock is excessively large and effectively blocks the views of Jennings Bay for the neighbors located at 5370, 5360, 5350, 5340 and 5330 Eastview. In addition, the storage of such a large dock for 6-7 months of year constitutes an eyesore for neighboring residents on par with that of a small marina. I have no doubt that should this excessively large dock be allowed it would have a largely negative impact on the immediate neighbors' property values and views of Jennings Bay. **(Exhibit C and D)
- 5) **The property at 5310 belongs to a property developer who does not reside at the property full-time. I am sure that a variance allowing a dock of this magnitude would increase the value of this property/investment. This increase in property value however, would come directly at the expense of the neighboring permanent residents who would see their property values decreased by the excessively large dock structure directly in their line of sight.
- 6) **A dock structure of this size, length and width is completely out of character for the area and is wholly unnecessary. It has been shown that the applicants claimed hardship can be adequately addressed without a precedent-setting variance to unnecessarily lengthen the dock beyond 100 feet. **(Exhibit E)
- 7) **The best solution would be to move the dock to the alternate site listed. This would require no variance and would give the applicant the deeper water that is desired for

their boat lifts and would be entirely more respectful of the views of the neighboring properties. If not, it has been shown that in its current location, a dock of 100 feet is in water that is sufficiently deep for operation of a boat lift. If the mission of the LMCD is to "preserve and enhance the Lake Minnetonka experience", then under no circumstances should this variance be allowed. It is completely unnecessary and sets a very bad precedent that will be exploited by others in the future.

Respectfully,

Bryan and Kristen Ophaug

5360 Eastview Avenue

Exhibit A: Depth measurements taken at proposed dock site (3/6/21) and alternative site.

***See accompanying videos for proof of accuracy of measurements.

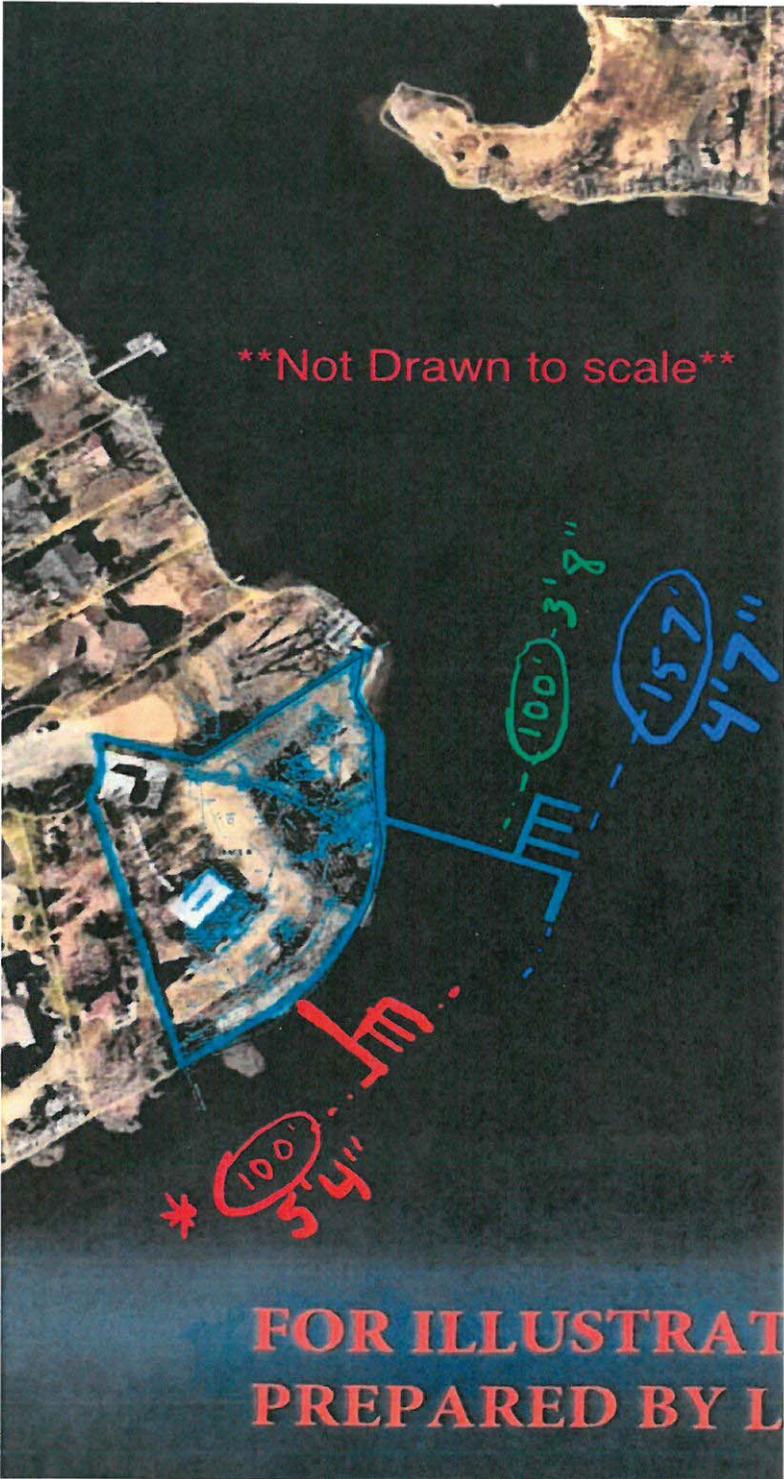


Exhibit B: Comparison of the Variance Proposal with a Satellite image from Summer 2020 clearly shows that the applicant installed their 157' dock last year despite not having a variance to do so.

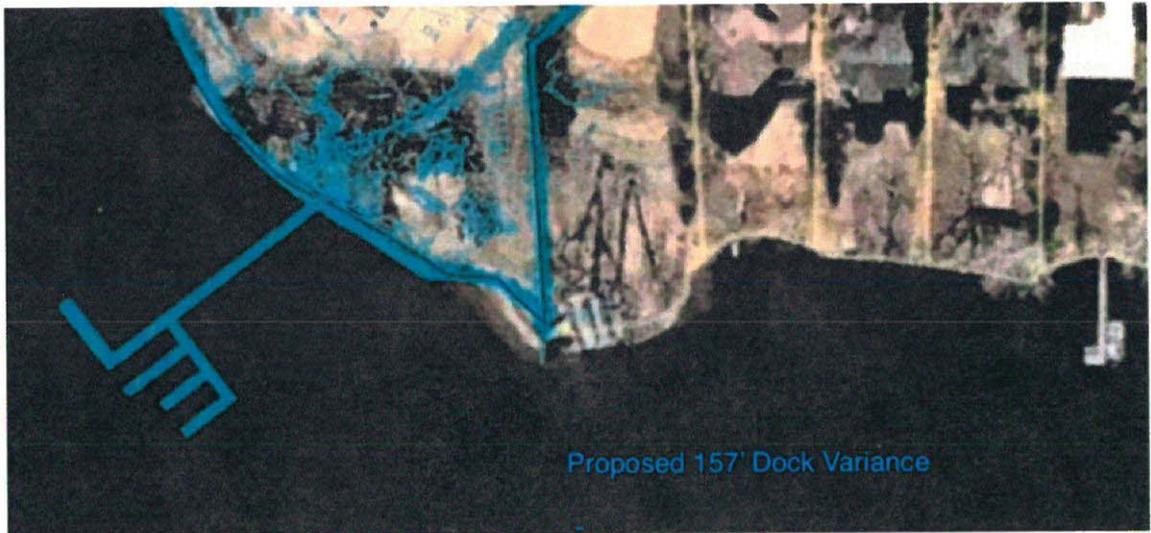


Exhibit C: Angled Satellite rendering from Summer 2020 demonstrating severe impairment of neighboring sight lines due to 157' dock complex.

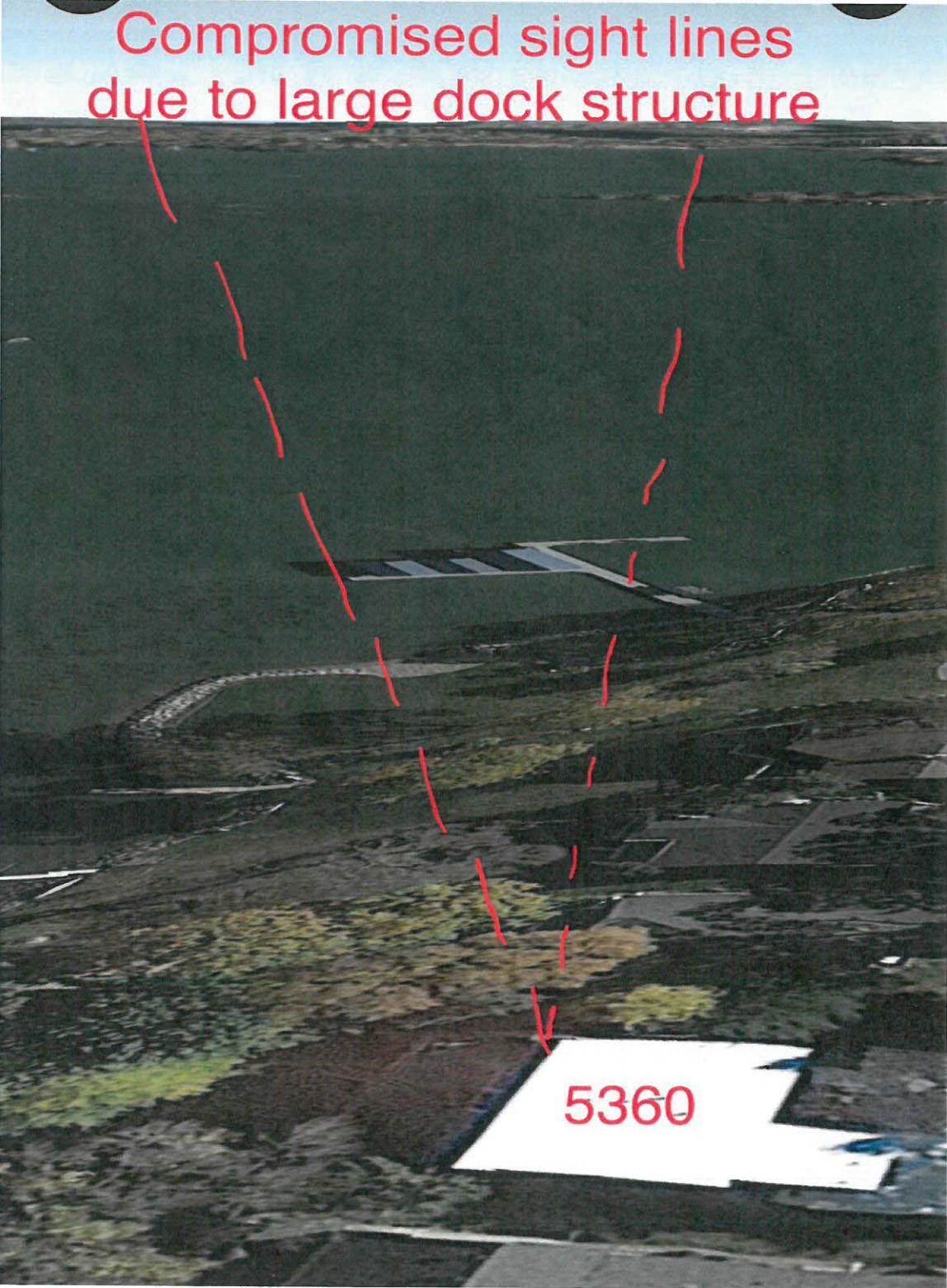


Exhibit D: Massive pile of docks from the 157' structure create a months long eyesore in the same sight line of Jennings Bay for the neighboring properties. My wife is standing to the right of the pile for reference as to the size of the pile.

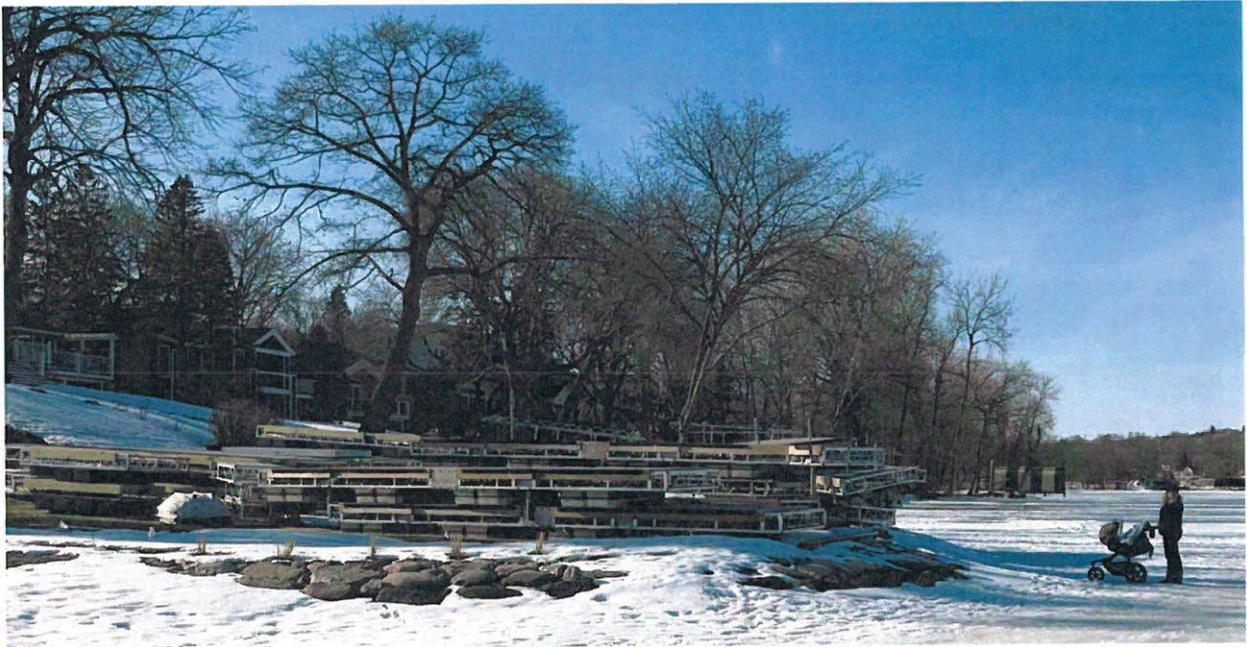
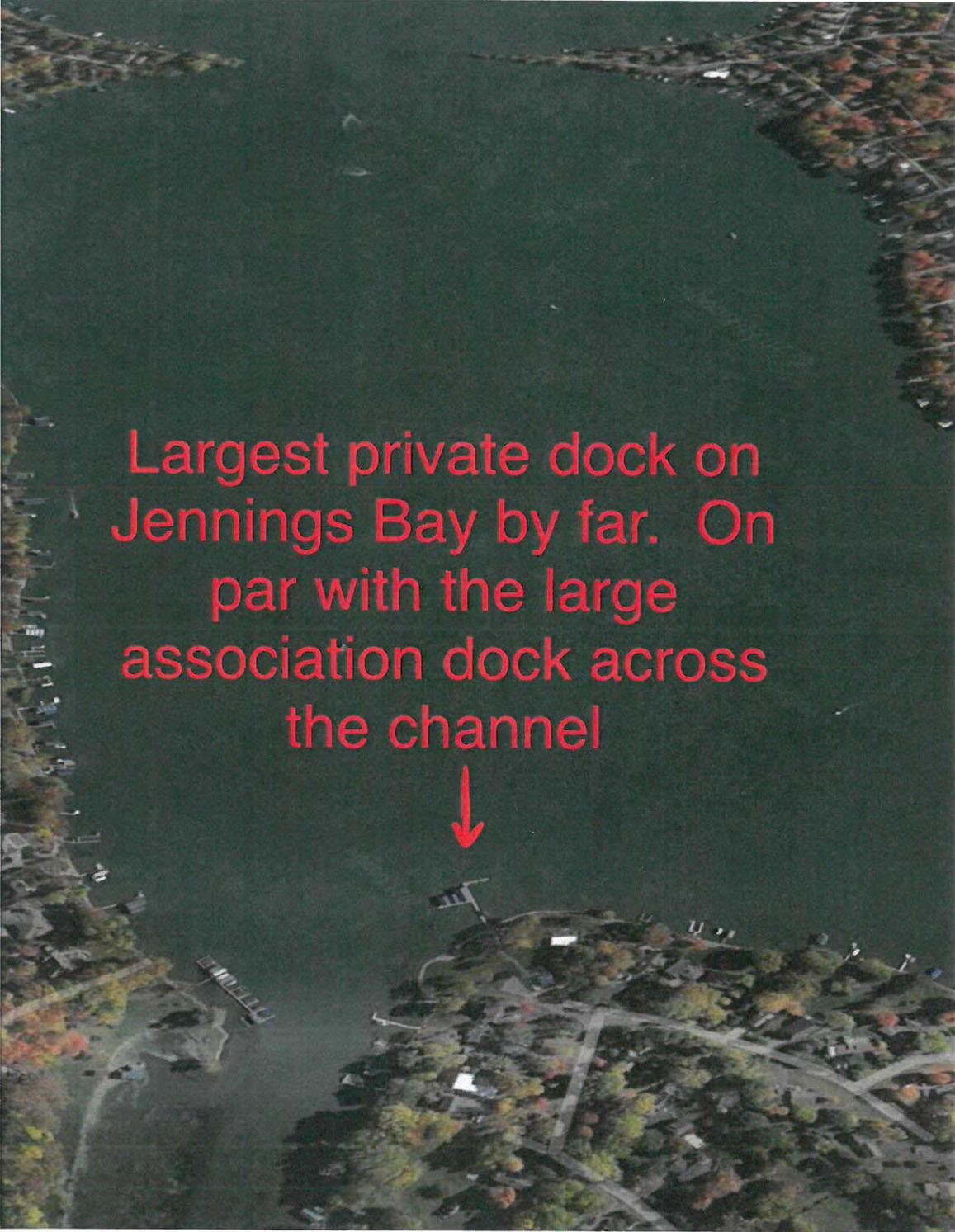


Exhibit E: 5310 Eastview's 157' dock is out of character for the area and far and away the largest private dock on the bay. Many neighbors on both sides of the property, including those with shallower water than the applicant, have and use boat lifts with no problem whatsoever.



Largest private dock on
Jennings Bay by far. On
par with the large
association dock across
the channel

#6

Matthew Cook

From: DeVinck, Kristine M. <kmdevinck@stthomas.edu>
Sent: Monday, March 8, 2021 8:41 AM
To: Matthew Cook; LMCD
Subject: Tonka Built/5310 Eastview Ave. Dock Length Variance Application

Follow Up Flag: Follow up
Flag Status: Flagged

This letter is in reference to the adjusted dock use area variance being proposed for 5310 Eastview Avenue in Minnetrista on Jennings Bay. To say I am concerned would be a grave underestimation.

As a captain (OUPV 8443563) and avid boater, it is my professional responsibility to ensure the safety and security of my vessel and passengers. In my opinion, the variance application being considered for approval would severely impair boaters' access to and use of this area and poses a possible safety risk to many. Upon visiting the site and measuring the proposed variance length and breadth, it became apparent that the 57 foot variance allowance is excessive, requiring all vessels in this area to travel further out into already congested waters on Jennings Bay. Specifically smaller boats—jet skis, kayaks, SUPs, canoes—coming out of the Painters' Creek Channel, desiring to travel south into Jennings Bay, will be negatively impacted, being forced out 57 additional feet into the traffic flow.

In my professional opinion, acceptance of this variance would greatly impair the usage and access of all vessels using the Jennings Bay area, in particular those accessing the Painters' Creek Channel. In addition, approval of such a variance would set precedence that each individual homeowner on the lake has the privilege of extending their property use and rights to the detriment of other boaters and recreational users.

I trust you will take into consideration *all* boaters and users of our lake, that you will agree this proposal is excessive, and you will deny the variance as submitted. Please feel free to reach out to me if you would like to discuss further.

Thank you,

Dr. Kristine DeVinck

5335 Eastview Avenue
Minnetrista, MN 55364
kmdevinck@stthomas.edu
952-221-6864

Kristine DeVinck, EdD, CPA

Professor of Accounting
Opus College of Business
kmdevinck@stthomas.edu
(952) 221-6864

University of St. Thomas | stthomas.edu

#7

Matthew Cook

Scanned

From: Mike Hecker <mhecker1@hotmail.com>
Sent: Monday, March 8, 2021 3:54 PM
To: Matthew Cook
Subject: Dock Extension Variance at 5310 Eastview

Mr. Cook,

*The 100 foot dock in this location is sufficient for any Lake Minnetonka boat. Additional length is intrusive plus sets an unneeded precedent.

*Variance request is obviously to legalize what was already installed last year. Rather than granting a variance it would be more appropriate to impose a fine.

*Please also address the "party dock" platform that is double the allowable size. Where else on Lake Minnetonka is a dock of this size allowable?

*This property has Seasonal-Residential Rec Status. There isn't any hardship involved and should not be granted preferential treatment.

*Please protect Lake Minnetonka.

Thank you,
Mike & Iris Hecker
1240 Morningview Dr.

Michael Hecker
mhecker1@hotmail.com
H-952-472-6997
C-952-388-3873



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: March 10, 2021 (Prepared March 5, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Variance Request for Adjusted Dock Use Area, length and side setbacks, PID 17-117-22-21-0090 on Grays Bay Boulevard, Minnetonka

ACTION

Board consideration of a variance request for an adjusted dock use area for length and side setbacks for PID 17-117-22-21-0090 on Grays Bay Boulevard on Grays Bay in the City of Minnetonka, and consideration of public input as part of the public hearing process.

The following motions are offered depending on whether the Board wishes to approve or deny the request:

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Craig Peterson and Mary Kiley for the property located at PID 17-117-22-21-0090 on Grays Bay Blvd for final action at the March 24, 2021 LMCD Board meeting <subject to the following conditions>...

Continuation

I make a motion to continue the public hearing for the variance application from Craig Peterson and Mary Kiley for the property located at PID 17-117-22-21-0090 on Grays Bay Blvd at the March 24, 2021 LMCD Board meeting in order to...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Craig Peterson and Mary Kiley for the property located at PID 17-117-22-21-0090 on Grays Bay Blvd for final action at the March 24, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Craig Peterson and Mary Kiley ("Applicant") submitted a variance application for PID 17-117-22-21-0090 on Grays Bay Blvd on Grays Bay (PID 17-117-22-21-0090; "Site") for an adjusted dock use area for length and side setbacks. The Applicant's property has approximately 12 feet of 929.4 Foot OHW shoreline. The site is 10 feet wide measured from the extended side site lines.

The Applicant's site is a separate parcel, created originally in 1944 based on documentation supplied by the Applicant. Property records do not indicate that the parcel dimensions have

changed since the 1950s (if not since 1944). The previous watercraft and docking arrangement existed on the site prior to 2016 when the Applicant purchased the site. Aerial imagery from Hennepin County indicates dockage has existed at this site since 2002. In general, it is challenging to verify historical uses in previous years.

LMCD staff have spent a considerable amount of time discussing the docking arrangement in and around the site with the Applicant and the owners of the two immediately adjacent sites, 16940 and 16930 Grays Bay Blvd. After multiple attempts to reach a resolution between the three parties, all three parties applied for separate variances. The property owners of 16940 and 16930 Grays Bay Blvd have since withdrawn their applications.

The Applicant has proposed three dock “options” for LMCD Board consideration. Each of the three options represents a smaller total footprint of structures and watercraft than the Applicant currently has installed on site – the Applicant’s current structures extend past both the west and east extended lot lines. The Applicant’s proposed dock dimensions are described per “option” below based on general guidance provided to all parties.

OPTION 1

- A dock extending approximately 48 feet into the lake as measured along the west extended lot line, or approximately 58 feet as measured along the east extended lot line.
- Overall width of structures and watercraft storage is 12 feet, two (2) feet wider than the space between the site’s extended lot lines.
- One (1) boat storage unit (BSU) measuring 10 feet wide and 25 feet long.
- The proposed dock and watercraft would be set back 0 feet from the west extended lot line and would extend 2 feet beyond the east extended lot line.

OPTION 2

- A dock extending approximately 30 feet into the lake as measured along the west extended lot line, or approximately 40 feet as measured along the east extended lot line.
- Overall width of structures and watercraft storage is 9.75 feet.
- One (1) BSU measuring 9.75 feet wide and 24 feet long.
- The proposed dock and watercraft would be a minimal setback within the extended side site lines.

OPTION 3

- A dock extending approximately 25 feet into the lake, or approximately 35 feet as measured along the east extended lot line.
- Overall width of structures and watercraft storage is 10 feet.
- One (1) BSU measuring 8 feet wide and approximately 20 feet long. The lift measures 8 feet wide by 12 feet long.
- The proposed dock and watercraft would be set back 0 feet from the west extended lot line and 0 feet from the east extended lot line.

VARIANCE STANDARDS

The following items need to be considered when considering granting a variance:

1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
2. Is the Applicant proposing a use not allowed under the code?
3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Minnetonka were provided information regarding the applications on February 26, 2021. City and agency comments were due by March 8, 2021. Comments received as of March 5, 2021 are summarized below. Any comments received after March 5, 2021 will be provided at the Board meeting for review.

- No public agency comments have been received at this time.

As of March 5, 2021, the LMCD has received some comments from the legal representative of the adjacent property owners in opposition and some from other public parties in support. These comments are attached. Comments received after noon on March 5, 2021 will be shared at the March 10, 2021 Board meeting. See attached comments.

PUBLIC HEARING

The public hearing provides an opportunity for interested individuals to present their views to the Board for consideration. This is an important part of reviewing the impact of a project. Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision.

A hearing notice was published in the February 25, 2021 edition of the Sun Sailor (official LMCD newspaper) and the February 27, 2021 edition of the Laker Pioneer. On February 24, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

Staff have consulted with LMCD legal counsel regarding the site, proposal, and overall legal consequences based on the LMCD code and in consideration of case law. Riparian owners have a right to use the lake in front of their properties, subject to reasonable regulation by the LMCD. The Minnesota Court of Appeals has previously noted that the “LMCD regulations cannot so restrict [owners’] riparian rights as to deny them access to the navigable waters of the lake.” *LMCD v. Canning*. The court instructed that the LMCD needs to apply its regulations in a fair and equitable manner that does not cut off reasonable access to navigable water. As always, the Board needs to consider the standards in the LMCD Code in light of the unique conditions and circumstances presented it and decide accordingly.

Based on information available at the time of this report, LMCD staff recommends Board consideration of Option 2 or 3 with the minimum following conditions listed below. The recommendation may change based on information reviewed or presented as part of the public hearing process.

1. This recommendation would not alter the dock use areas of the adjacent sites as prescribed by LMCD Code and would provide reasonable access to the lake for the adjacent property owners.
2. All structures and watercraft must be located within the extended side site lines and no more than 44 feet in length from the OHW as measured from the eastern side site line.
3. Monuments shall be placed on the land to indicate location and angle of the extended side site lines for proper placement of seasonal dock each year.
4. Only one (1) BSU is allowed.
5. Canopies, as defined by the LMCD Code, are not allowed.
6. Standard variance conditions are applied.

Additional review will be provided to the Board regarding the request as it pertains to the variance criteria.

BUDGET

N/A

STRATEGIC PRIORITIES

Operational Effectiveness Clear & Timely Communications Effective Governance Lake Protection Other

ATTACHMENTS

1. LMCD Code Excerpts
2. Location Map
3. Site Plans
4. Application Narrative (as submitted by Applicant)
5. Variance Application
6. Public Hearing Notice (Sun Sailor & Laker Pioneer)
7. Public Hearing Notice Mailing
8. Statement of Opposition by Neighboring Site Owners
9. Statements of Support by Public Parties

ITEM 10B ATTACHMENT 1

LMCD Code Excerpts



Section 2-3.03. Determination of Authorized Dock Use Area.

Subd. 1. Generally. The dimensions of an authorized dock use area for sites bordering the Lake are determined in accordance with this Section. The authorized dock use area shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum of 1929 (“NGVD”). The authorized dock use area includes the area on, under, and over the surface of the Lake.

Subd. 2. Length. The length of the authorized dock use area is measured on a line parallel to the site side lines as extended into the Lake and is limited as provided in this subdivision.

(a) General Limit. The length of an authorized dock use area extends into the Lake a distance equal to the length of shoreline frontage of the site as measured at right angles to the side site lines as extended into the Lake. The total length of the authorized dock use area shall not extend beyond 100 feet, even if the site has more than 100 feet of shoreline frontage, unless otherwise specifically provided in this Section.

(d) Existing Site – February 5, 1970. The authorized dock use area for a site in existence on February 5, 1970 shall be determined as follows:

(1) Over 40 feet of Frontage. If the site has a Lake frontage of 40 feet or more, but less than 60 feet, the authorized dock use area extends into the Lake a distance of 60 feet.

(2) Under 40 feet of Frontage. If the site has a Lake frontage of less than 40 feet, the authorized dock use area extends into the Lake to the point necessary to reach a water depth of four feet, measured from 929.4 NGVD, except that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed unless the Board issues a setback variance under Section 6-5.01.

Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision.

(a) Setbacks. The width of an authorized dock use area is limited by the following setbacks, which are measured from the side site lines as extended in the Lake:

For that portion of the length of the authorized dock use area which extends from the shore:	The setback from the side site line as extended in the Lake shall be:
Zero to 50 feet	10 feet
50 to 100 feet	15 feet
100 to 200 feet	20 feet

Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.

(b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.

(1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.

(c) Sites with 50 feet of Width or Less – February 2, 1970. If a site in existence on February 2, 1970 has an authorized dock use area with a width of 50 feet or less, the authorized dock use area may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.

(d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

Section 2-4.05. General Density Rule.

Subd. 1. How Density is Determined. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, a site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Chapter are moored, docked, anchored, or secured at the site, for any period of time, on three or more calendar days in any 14-day period.

Subd. 2. General Density Rule. A site is allowed one restricted watercraft density for each 50 feet of continuous shoreline. If the site has continuous shoreline greater than 100 feet and the shoreline measurement would result in the allowance of a fractional restricted watercraft density, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one additional restricted watercraft density.

Subd. 3. Compliance with Density. No docks or mooring areas shall be constructed, established or maintained that provide space for, or are used for, mooring or docking a greater number of restricted watercraft than is allowed under this Section unless authorized to do so by special density license issued in accordance with Sections 2-4.11 and 6-2.13.

Section 2-4.09. Special Density Rules.

The number of restricted watercraft stored at a site under the general density rules may be increased as provided in this Section. With respect to residential sites, the homestead or non-homestead status of property for ad valorem real estate tax purposes has no bearing on or application to this Section.

Subd. 1. Additional Watercraft Density. Unless a greater number is authorized under this Section, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site if all of the conditions of this subdivision are met.

(a) There must be one, and no more than one, single-family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel, or other piece of property may be designated to be a part of one site by the owner for purposes of this subdivision if it:

- (1) Is legally subdivided and recorded in the office of the County Recorder;
- (2) Adjoins the site or is separated from the site only by a public right-of-way;
- (3) Is under common ownership and unified use with the site; and
- (4) Is occupied by one single-family residential structure.

(b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph (a) of this subdivision is located.

(c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph (a) of this subdivision.

Subd. 2. Sites in Existence on August 30, 1978. Unless a greater number is authorized by the provisions of this Section, up to two restricted watercraft may be moored or docked at any dock or mooring facility that is located on a site that was in existence on August 30, 1978.

Section 6-5.01. Variances.

Subd. 1. Authorized. Where practical difficulties occur or where necessary to provide access to persons with disabilities, the Board may permit a variance from the requirements of this Code or may require a variance from what is otherwise permitted by this Code, provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners. Except as otherwise provided in this Code, all variances granted by the LMCD shall be governed by the provisions of this Section.

Subd. 2. Unusual Configurations. Where the provisions of this Code would cause the authorized dock use area of two or more sites to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby sites as the use of the same area of the Lake for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected sites may apply to the Board for a variance. A variance may be to permit the Applicant to locate a dock,

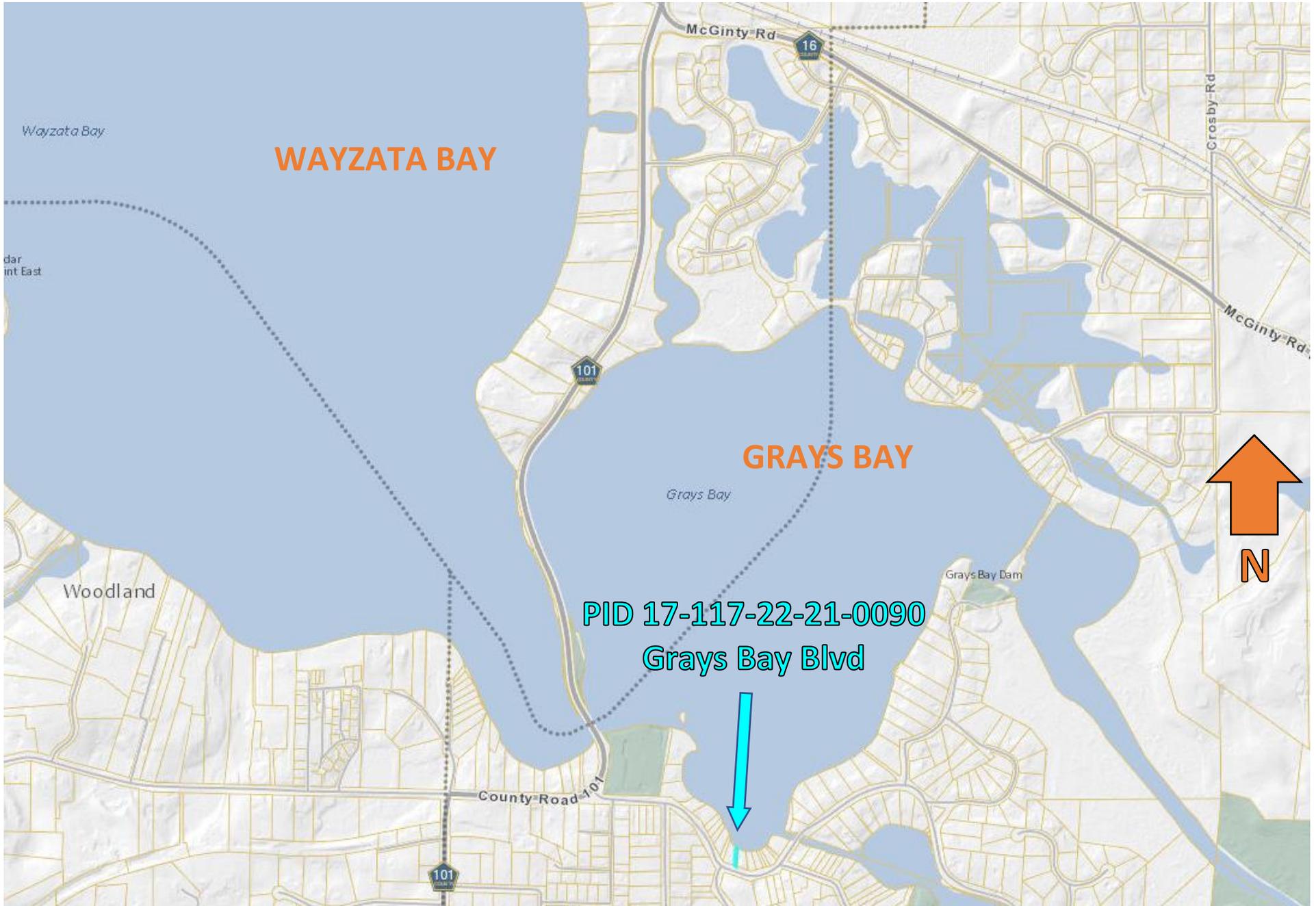
mooring area, or other structure in a location different from that permitted by this Code or to permit or require the owner of any adjacent or nearby site to do so.

Subd. 3. Length Variances. The length limitations prescribed by this Code may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock.

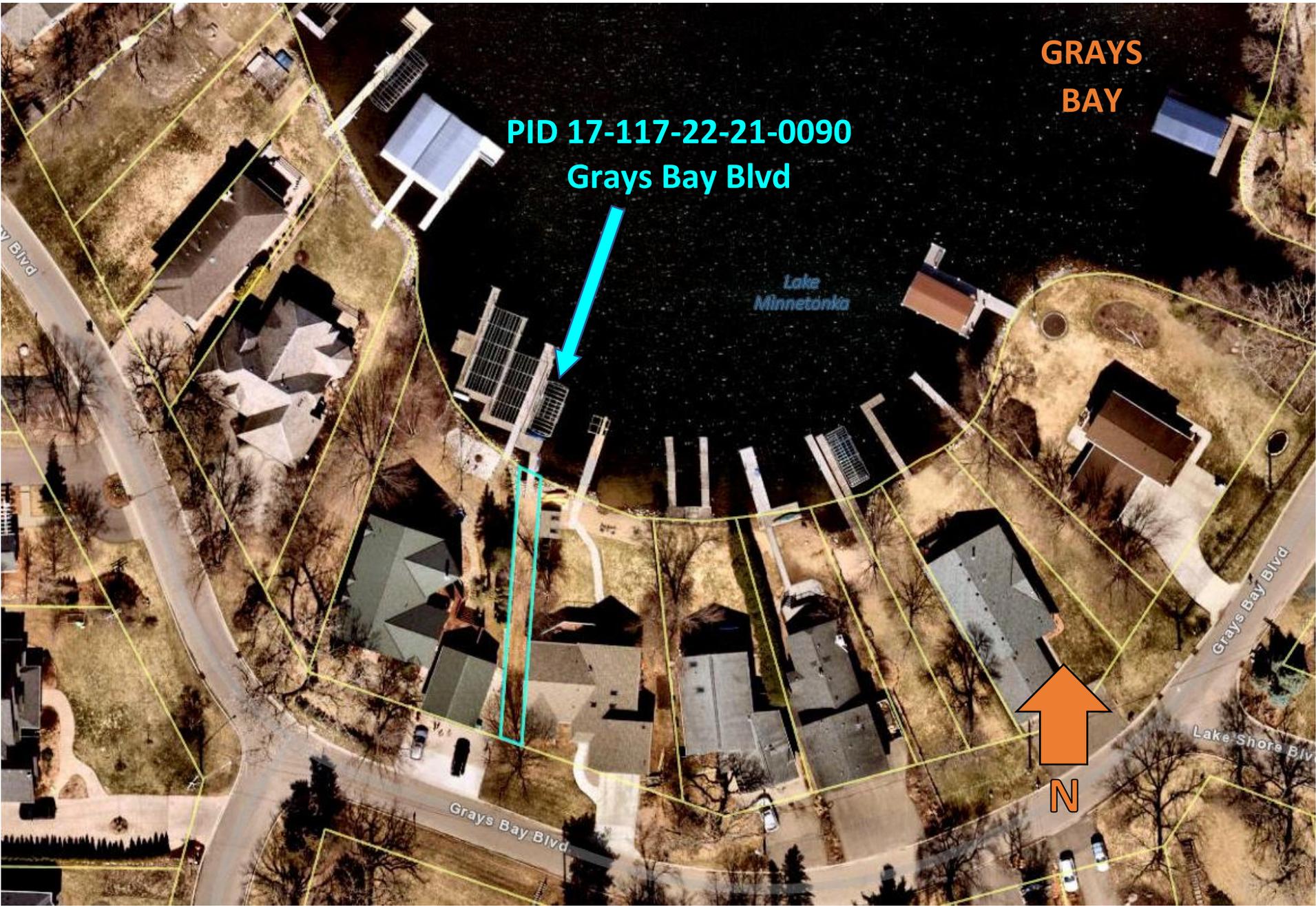
Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that were not created by the property owner, the proposed use is reasonable under the circumstances, and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.

ITEM 10B ATTACHMENT 2

Craig Peterson and Mary Kiley, PID 17-117-22-21-0090 Grays Bay Blvd in Minnetonka | Variance Application
For illustrative purposes only. Taken from Hennepin County Property Information Map 02/23/2021.



Craig Peterson and Mary Kiley, PID 17-117-22-21-0090 Grays Bay Blvd in Minnetonka | Variance Application
For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information Map 02/23/2021.



CERTIFICATE OF SURVEY

OPTION 1

LEGAL DESCRIPTION:

PID #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PID #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PID #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

MARCIA STONE & JOEL STONE
 16930 GRAYS BAY BLVD
 WAYZATA MN 55391

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

THOMAS M MURDYCH
 KIM-THU T MURDYCH
 16940 GRAYS BAY BLVD
 WAYZATA MN 55391

LEGEND:

- FOUND IRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020



EXHIBIT "A"

SIGNED: *Travis W Van Neste*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Michigan Professional Surveyor #46695

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TAWN	REV: 12-17-2020
SCALE: 1"=10 FEET	

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384
 (952) 686-3055 VANNESTESURVEYING.COM



CERTIFICATE OF SURVEY

OPTION 2

LEGAL DESCRIPTION:

P.I.D. #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

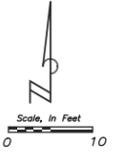
P.I.D. #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.I.D. #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

- LEGEND:
- FOUND IRON PIPE (AS NOTED)
 - SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

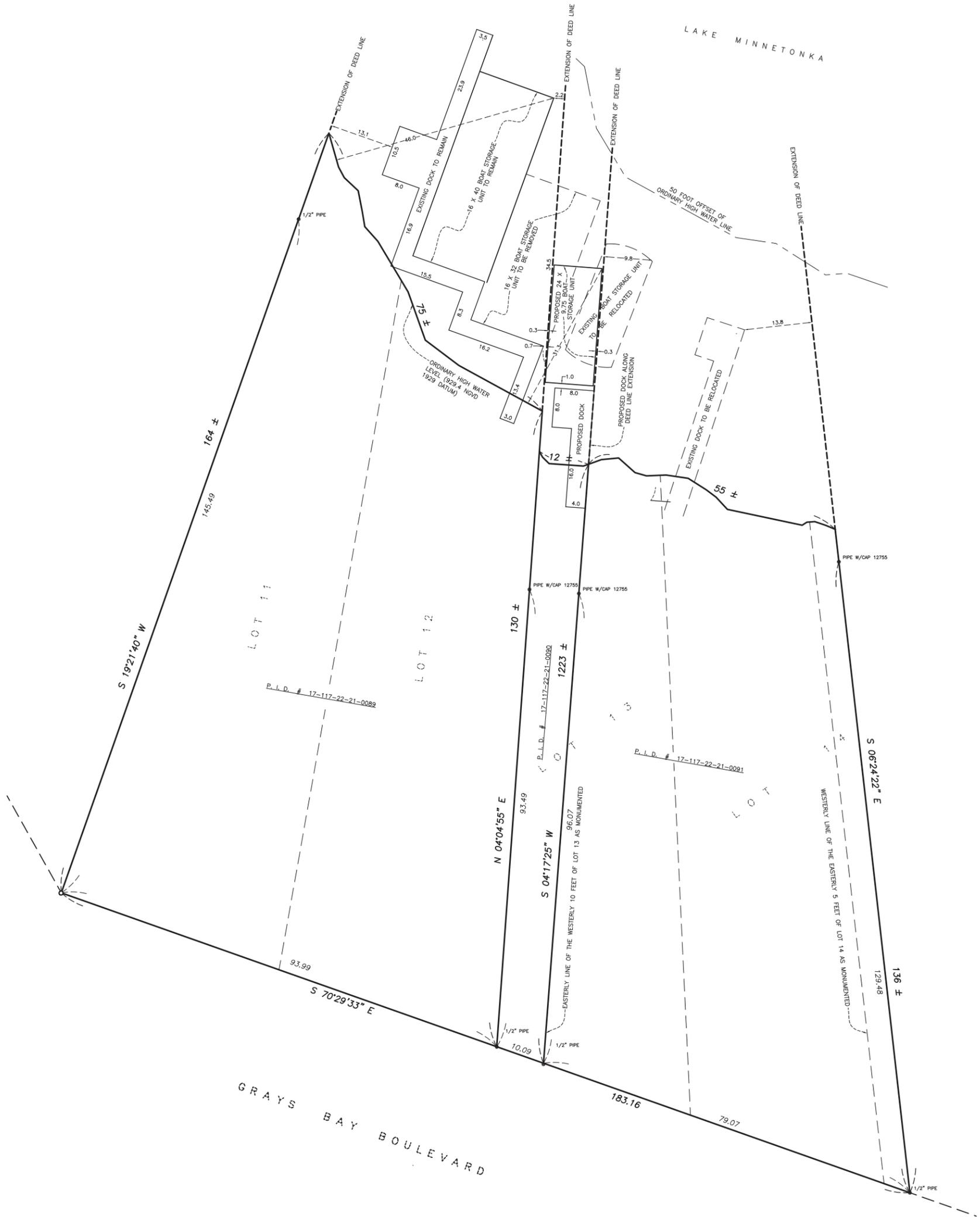


EXHIBIT "B"

SIGNED: *Travis W. Van Neste*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Michigan Professional Surveyor #46695

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 2-3-2020
SCALE: 1"=10 FEET	

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 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384
 (952) 686-3055 VANNESTESURVEYING.COM

CERTIFICATE OF SURVEY

OPTION 3

LEGAL DESCRIPTION:

PID #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

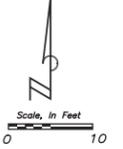
PID #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PID #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

- LEGEND:
- FOUND IRON PIPE (AS NOTED)
 - SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

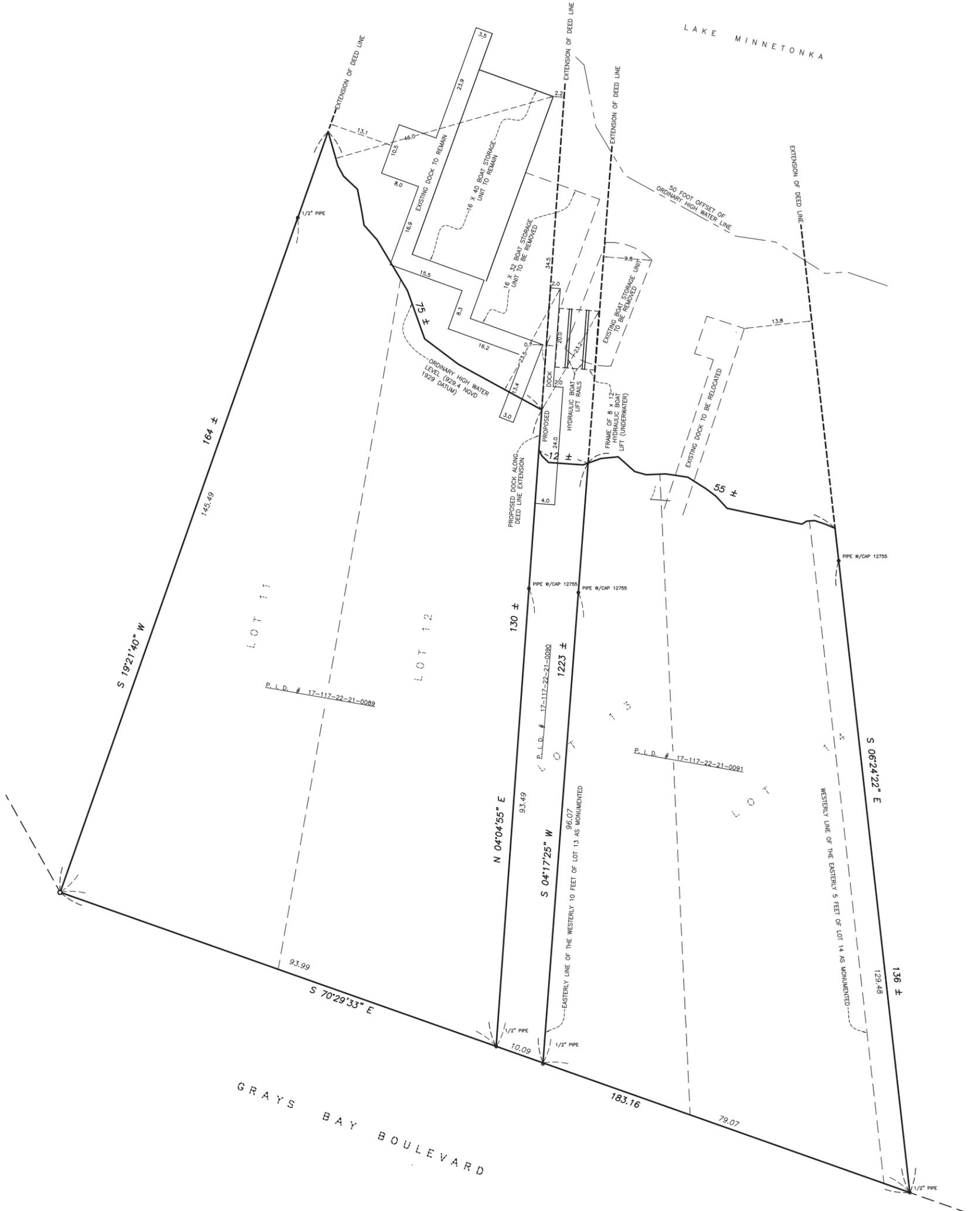


EXHIBIT "C"

SIGNED: *Travis W. Van Neste*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Michigan Professional Surveyor #46695

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 2-4-2020
SCALE: 1"=10 FEET	

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 PROFESSIONAL SURVEYING SERVICES
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 (952) 686-3055 VANNESTESURVEYING.COM



ITEM 10B ATTACHMENT 4

CURRENT NARRATIVE

Amended Narrative and First Amendment to Variance Application for Craig Peterson and Mary Kiley, as Trustees to the 17009 Grays Bay Revocable Trust Parcel ID# 1711722210090

This Amended Variance Application, made on February 11, 2021 (“Amended Application”), hereby amends the application originally submitted on or around December 22, 2020 (“Original Application”) by applicants Craig Peterson and Mary Kiley (herein “Applicants”), on behalf of the 17009 Grays Bay Revocable Trust, Parcel ID# 1711722210090.

Please take notice that Applicants’ Original Application was joined by their westerly neighbors Tomas and Kim Murdych. However, Tomas and Kim Murdych no longer join Craig Peterson and Mary Kiley in their variance application and have withdrawn their variance application altogether.

Background

In 1944 the predecessor owners of parcel owned by easterly neighbors Joel and Marcia Stone (the “Stones”), Parcel ID No. 171172220091, 16930 Grays Bay Blvd, Wayzata, MN 55391, carved from their property the parcel now owned and utilized by Applicants. Since 1944, the parcel has regularly been used to gain access to the water, access docks, boats, and boat lifts, and to enjoy views of the water by the parcel owners. The Stones purchased their property in 2012 and for several years rented it to third parties. The Murdychs purchased their property in 2015, while the Applicants purchased their property in 2016. The docking configuration for all three parcels has been unchanged by their current owners. The current configuration is as follows:



Applicants’ have submitted their variance application in response to a complaint and variance application submitted by easterly neighbors Joel and Marcia Stone (the “Stones”), Parcel ID No. 171172220091, 16930 Grays Bay Blvd, Wayzata, MN 55391. The Stones had wished to expand their historic use by adding a boat house to their docking configuration. The added boat house would a set-back variance and would also require Applicants to move their dock

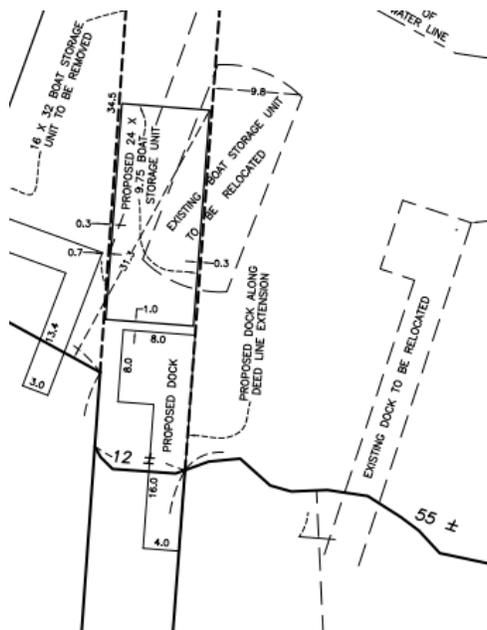
- Western boundary side setback side set back to 0 feet. Historic and current configuration at 0 feet.
- Eastern boundary side setback to -2 feet. Historic and current configuration at -9.8 feet.

Applicant's Proposal #1 is a nearly 8-foot reduction from its current and historic configuration, which extended 9.8 feet into the Stone's LMCD defined dock area. Proposal #1 is a substantial reduction in Applicant's historic riparian use, and results in a 2 feet intrusion into the LMCD defined docking guidelines, down from 9.8 feet.

In a conference call including Applicants, the Stones, the Murdychs, LMCD staff members, its Board Chairman, LMCD Executive Director Vickie Schleuning stated that absent stipulation by the parties the LMCD staff would likely recommend against granting Applicant's variance Proposal #1 request as it related to the -2 easterly boarder set back. Applicants greatly respect the guidance provided by Ms. Schleuning, but nonetheless would like to give the board the opportunity to consider granting Proposal #1 because 1) it is a dramatic reduction in their historic riparian use, 2) is a reasonable resolution to the current predicament, which is not of their making, and 3) provides Applicants with unfettered navigable waters and ease of access for elderly and/or disabled individuals to board their boat.

Variance Proposal #2:

In the event that Proposal #1 is denied, Applicants respectfully request the LMCD grant them a variance for the below, reduced request:



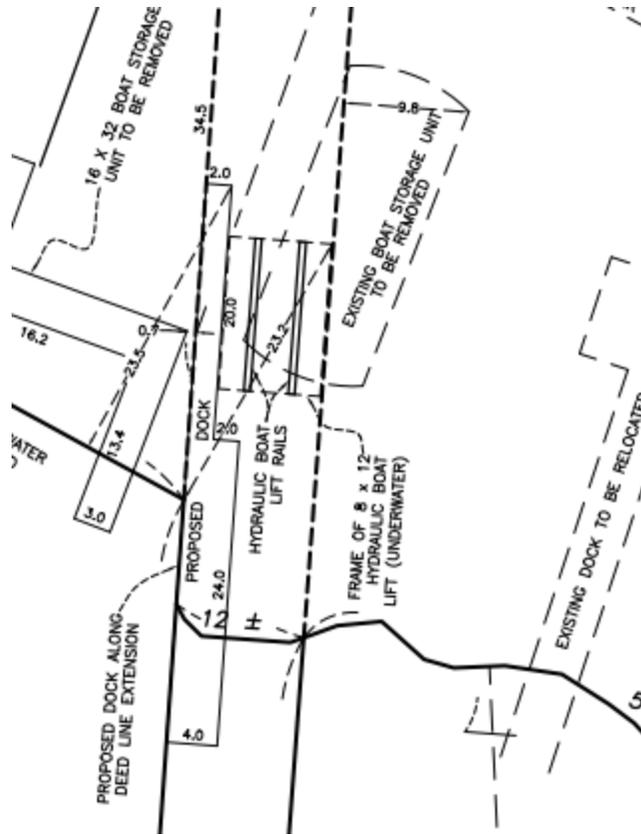
(See Exhibit A, to the attached Amended Narrative). On information and belief, Applicant's Proposal #1 would require variances for the following,

- Proposal #2 would not exceed length from the shoreline of 50 feet (as shown above it appears to approximately 41 feet from the shoreline).
- Western boundary side setback side set back to 0 feet. Historic and current configuration at 0 feet.
- Eastern boundary side setback to 0 feet. Historic and current configuration at -9.8 feet.

Proposal #2 is a substantial reduction in length and footprint from Applicant's historic configuration. It is intended to be a minimal configuration that allows storage and minimal access to navigable waters. It eliminates some of the riparian uses Applicants are accustomed to (fishing and swimming off their dock, ease of access to board their boat at the end of the lift, etc.) yet still allows Applicants to maintain their primary riparian uses (covered boat storage, side loading access, etc.). It also dramatically reduces any impact on views for all neighboring properties. Proposal #2 would require that the easterly side set-back be maintained so that Applicants to navigate their boat to the dock platform for ingress and egress of elderly and disabled friends and family.

Variance Proposal #3:

In the event that Proposal #1 and Proposal #2 are denied, Applicants respectfully request the LMCD grant them a variance for the below, reduced request:



Proposal #3 was prepared in response to a request by LMCD Staff. It does not include a canopy, but does include an underwater lift, and maintains all structures within Applicants' 10-foot parcel and has a total length of approximately 44 feet.

Governing Law

The owner of riparian land enjoys the right of exclusive access to water that is directly in front of his or her waterfront property. *State, by Head v. Slotness*, 289 Minn. 485, 487, 185 N.W. 2d 530, 532 (1971). Riparian rights include the right to build and maintain suitable "wharves, piers, landings, and docks on and in front of" riparian land to the point of navigability. *Id.*; *State v. Korner*, 127 Minn. 60, 71-72, 148 N.W. 617, 622 (1914).

The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate:

1. that granting the variance will be in keeping with the spirit and intent of this Code,
2. the plight of the property owner is due to circumstances unique to the property that were not created by the property owner,
3. the proposed use is reasonable under the circumstances, and
4. the variance, if granted, would not alter the essential character of the area.

L.M.C.D. § 6-5.01, subd. (6). The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. *Id.*

Applicants' Proposals #1-3 all meet the elements necessary for this Board to grant any of the requested variances. First, each proposed variance would allow Applicants to reasonable access to Lake Minnetonka and in manner consistent with, albeit substantially reduced, the riparian experiences of all previous owners' historic riparian uses. Second, all proposed variances dramatically reduce the footprint into the water from the current and historic configuration; none expand Applicants' uses in any capacity from the current and historic uses. Third, all proposed variances are to resolve disputes not created by Applicants. Rather, they are reactionary and defensive in nature, and reduce conflict from their current, historic riparian uses. Finally, granting any of the requested variances would not alter the essential character of the area; to the contrary, each would they reduce the footprint of Applicants, not expand it.

For the above reasons, Applicants request the Board grant their Application in a manner consistent with this Amended Narrative, reserving all rights corresponding to their current and/or historic configuration.

CERTIFICATE OF SURVEY

LEGAL DESCRIPTION:

P.D. #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

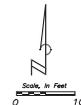
P.D. #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 9 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

LEGEND:

- FOUND BRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

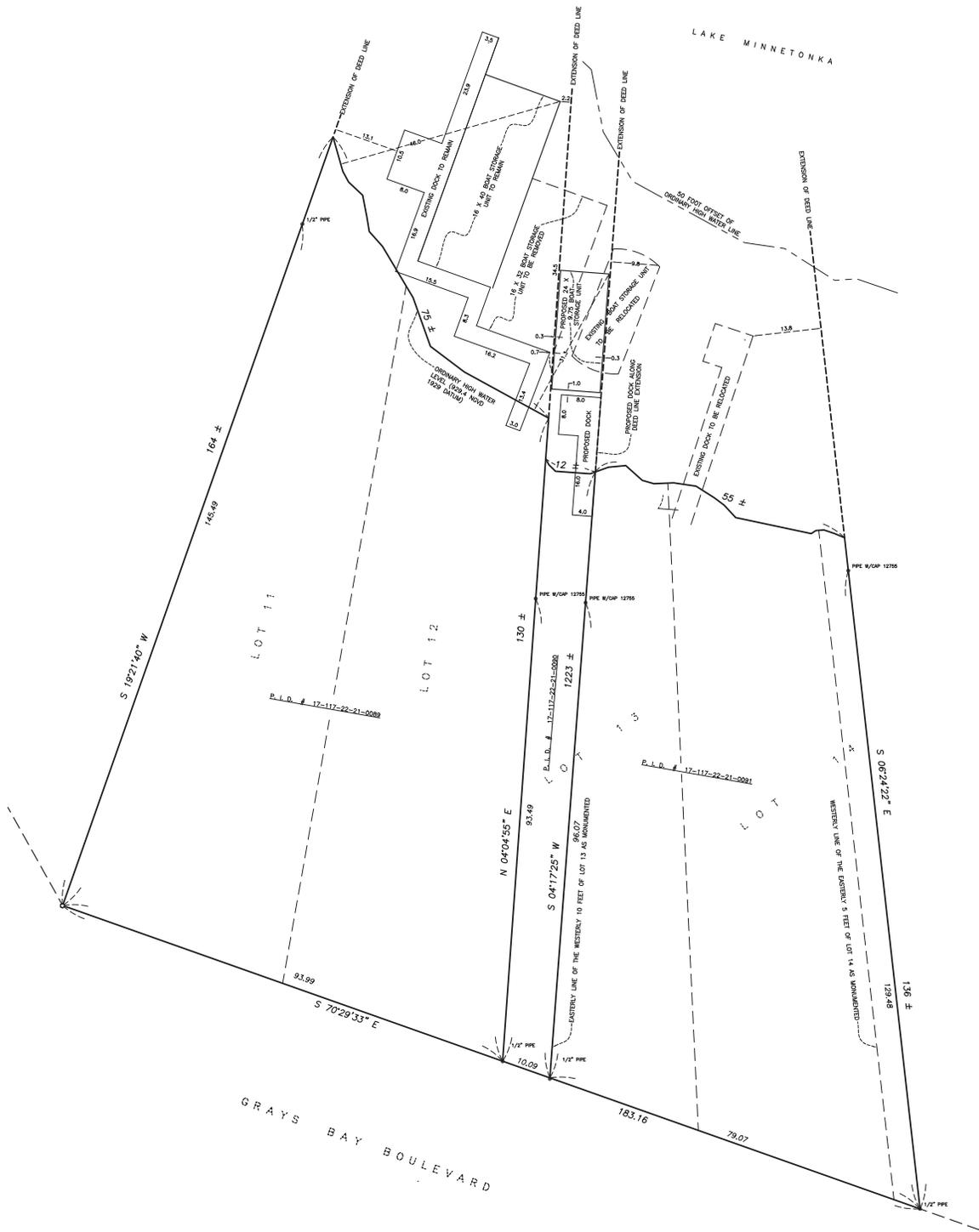


EXHIBIT "B"

SIGNED: *FANIS W VAN NESTE*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Multiple Professional Surveyor #4685

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 2-3-2020
SCALE: 1"=10 FEET	

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384
 (952) 686-3050 VANNESTESURVEYING.COM



CERTIFICATE OF SURVEY

LEGAL DESCRIPTION:

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 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

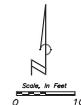
P.D. #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

LEGEND:

- FOUND BRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

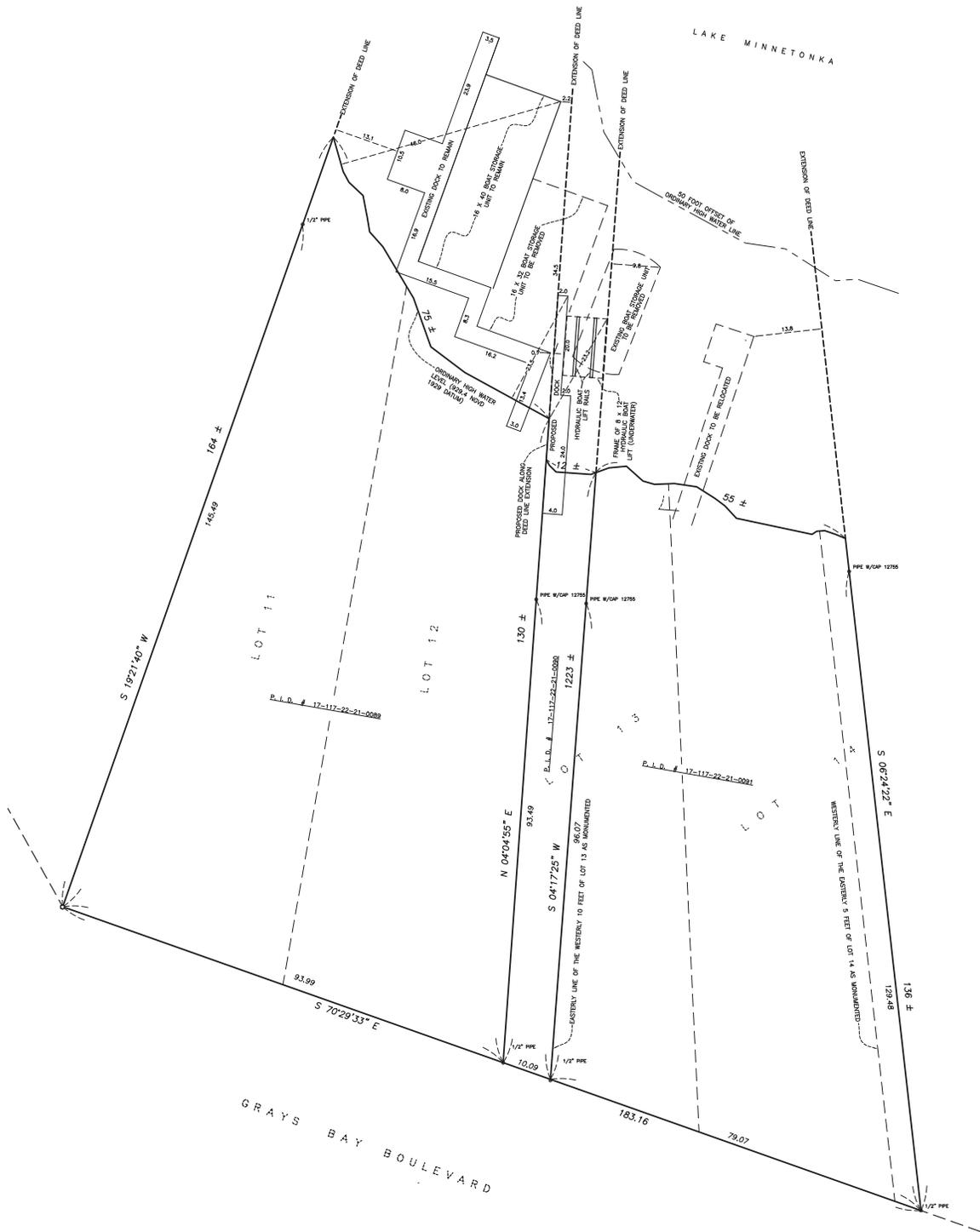


EXHIBIT "C"

SIGNED: *FANIS W VAN NESTE*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Multiple Professional Surveyor #4685

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 2-4-2020
SCALE: 1"=10 FEET	

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384
 (952) 686-3050 VANNESTESURVEYING.COM



ITEM 10B ATTACHMENT 5

MINNESOTA

6200 EXCELSIOR BLVD., #104
ST. LOUIS PARK, MN 55416
(952) 475-0059

THE FOSSEY LAW FIRM, PLLC

Dustin@Fosseylaw.com
WWW.FOSSEYLAW.COM

WISCONSIN

1545 ARBORETUM DRIVE, #229
OSHKOSH, WI 54901
(920) 279-3756

December 22, 2020

VIA EMAIL & USPS

mcook@lmcd.org

Lake Minnetonka Conservation District
Attn: Matthew Cook
5341 Maywood Rd
Mound, MN 55364

ck 5719 JK
\$ 500

Re: 17009 Grays Bay Rev Trust – Variance Application

Mr. Cook,

Enclosed please find the variance application for Craig Peterson and Mary Kiley as Trustees to 17009 Grays Bay Rev Trust. Also enclosed is a check for \$500.00 for the application processing fee. Please feel free to contact me with any questions.

Sincerely,



Dustin Fossey



ORIGINAL -- SINCE REVISED

**Joint Variance Application for
Craig Peterson and Mary Kiley, as Trustees to the 17009 Grays Bay Revocable Trust
Parcel ID# 1711722210090**

**Tomas and Kim Murdych
Parcel ID# 1711722210089.**

Factual Summary

Applicants Craig Peterson and Mary Kiley, as trustees to the 17009 Grays Bay Revocable Trust, and Tomas and Kim Murdych (collectively "Applicants") respectfully submit this joint variance application.

Applicants make this joint variance request in response to a variance request recently submitted by easterly neighbors Joel and Marcia Stone (the "Stones"), Parcel ID No. 171172220091, 16930 Grays Bay Blvd, Wayzata, MN 55391. Mr. Stone has communicated to Applicants his intent to seek a variance from the LMCD which may require reconfiguration of the Applicant's historic and current dock structure configurations, and that he ultimately will initiate an enforcement action to require the reconfiguration of the long existing dock configurations making up this particular section of Gray's Bay on Lake Minnetonka. Applicants submit this application in anticipation that the LMCD Board of Directors may soon consider the Stones' application, and respectfully request they simultaneously take into consideration the requests made herein.

In 1944 the predecessor owners of parcel owned by the Stones carved from their property the parcel now owned and utilized by 17009 Grays Bay Rev. Trust. Since 1944, the parcel has regularly been used to gain access to the water, access docks, boats, and boat lifts, and to enjoy views of the water by the parcel owners. The Stones purchased their property in 2012 and have rented it out until approximately 2019. The Murdychs and Craig Peterson and Mary Kiley each purchased their respective properties in 2015 and have occupied the same since acquiring the respective properties. To the best of the Applicants' knowledge, none of the parties have changed the current configurations since purchase.

In an effort to accommodate the requests of the Stones, Applicants are willing to reconfigure their historic and potentially nonconforming riparian configurations to those consistent with this application.

Variance Requested:

17009 Grays Bay Rev. Trust:

- See attached survey
- Allowance for structure length to 70.5 feet, as shown in attached survey from 929.4 NGVD. Historic and current configuration at approximately 68 feet.
- Western boundary side setback side set back to 0 feet. Historic and current configuration at 0 feet.

- Eastern boundary side setback to -2 feet. Historic and current configuration at -9.8 feet.

Murdychs

- See attached survey
- Eastern side setback for structure to 2.2 feet at the end of the boat house with canopy. Historic and current configuration at approximately -8 feet.
- Eastern side setback for dock nearest to OHW at .7 feet. Historic and current configuration at approximately .7 feet.
- Allowance for Western platform width to 11.5 feet. Historic and current configuration at approximately at 11.5 feet.

Applicants make this variance request without prejudice to their rights to maintain their current configuration under riparian common law and/or laws applying to non-conforming uses.



VARIANCE APPLICATION

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Phone: (952)745-0789
Fax: (952)745-9085

LMCD Receipt # _____

In accordance with LMCD Code Section 1.07, where practical difficulties occur or where necessary to provide access to the handicapped, the Board may permit a variance from the requirements of the Code, or may require a variance from what is otherwise permitted the Code provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this ordinances, the public health, safety, and welfare, and reasonable access to or use of the Lake by public or riparian owners. The following application, when completed, shall be filed with the Executive Director of the District along with surveys, photos, and such other information as required.

Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.

The person completing this form is the **authorized agent** or **property owner** (select one).

Applicant: Craig Peterson and Mary Kiley, Trustees to 17009 Grays Bay Rev Trust

Address: 17009 Grays Bay Blvd.

City, State, Zip: Wayzata, MN. 55391

Phone: (630) 248-2209 Fax: _____ Email: cspeterson52@gmail.com mary.kiley@me.com

Property owner (if different from applicant): _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

PROPERTY LOCATION:

Located in the city of: Wayzata, MN

Address & Property Identification No (PID): PID171172210 : _____
Address PID#

TYPE OF VARIANCE: Configuration Variance

State practical difficulties causing variance to be required:

This application is submitted along with westerly neighbors Tomas and Kim Murdych requesting variances to various set back requirements in order to accomodate changes to historic riparian use in response to efforts by easterly neighbors Joel and Marcia Stone to force reconfiguration. See also attached Factual Summary.

Variance Application

ABUTTING LAKESHORE PROPERTY OWNERS:

North or West: Tomas Murdych and Kim Murdych 16940 Grays Bay Blvd. Wayzata, MN 55391
(Name and mailing address)

South or East: Joel Stone and Marcia Stone 16930 Grays Bay Blvd. Wayzata, MN 55391
(Name and mailing address)

Other affected parties (attach sheet if necessary):

None
(Name and mailing address)

Please submit names and mailing addresses of owners within a 350-foot radius of the property. Such owners must be verified by checking with the Hennepin County Auditors Office, (612) 348-5910 (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.

Documents listed below are required; check that they are attached:

- Locator Map** (U.S.G.S area map with scale, North direction, Site clearly marked, Name or Title, LMCD Area Name, LMCD number)
- County Plat Map** (Site clearly marked, Name, LMCD area name, LMCD number)
- Certified Land Survey** (Legal description, Name, LMCD area name, LMCD number, 929.4 N.G.V.D. shoreline)
- Proposed facility site plan** (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- Existing facility site plan**, if applicable (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- Scaled drawing of docks on abutting properties** and other affected dockage

Absence of significant data requested above could result in a processing delay.

FEE CALCULATION

APPLICATION FEE..... (non-refundable).....\$250.00

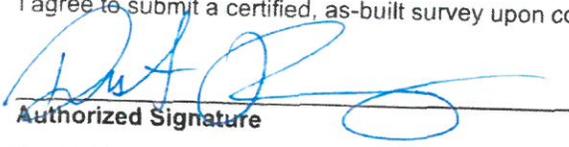
DEPOSIT..... (refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required).....+\$250.00

Variance Application

TOTAL FEE ENCLOSED..... (this fee is for processing of the application and does not entitle the applicant to a variance)..... **\$500.00**

I certify that the information provided herein and the attachments hereto are true and correct; I understand that any variance granted may be revoked by the District for violation of the LMCD code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the application fee. I consent to permitting officers and agents of the District to enter the premises at reasonable times to investigate and to determine whether or not the Code of the District is being complied with.

I agree to submit a certified, as-built survey upon completion of the docks.


Authorized Signature

12/18/20
Date

Dustin Fossey, for Applicants
Title

Attorney
Relationship to Owner

Return this application, attachments and fee to:

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Fax: (952) 745-9085

CERTIFICATE OF SURVEY

LEGAL DESCRIPTION:

PLS #171172210208
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 PLS #171172210209
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 PLS #171172210201
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 8 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

MARISA STONE & JOEL STONE
 18840 GRAVE BAY BLVD
 WATZLAH MN 55381
 CRAIG PETERSON & EMERY HOLEY
 17008 GRAVE BAY BLVD
 MINNETONKA MN 55361
 THOMAS M. MURPHY
 18840 GRAVE BAY BLVD
 WATZLAH MN 55381

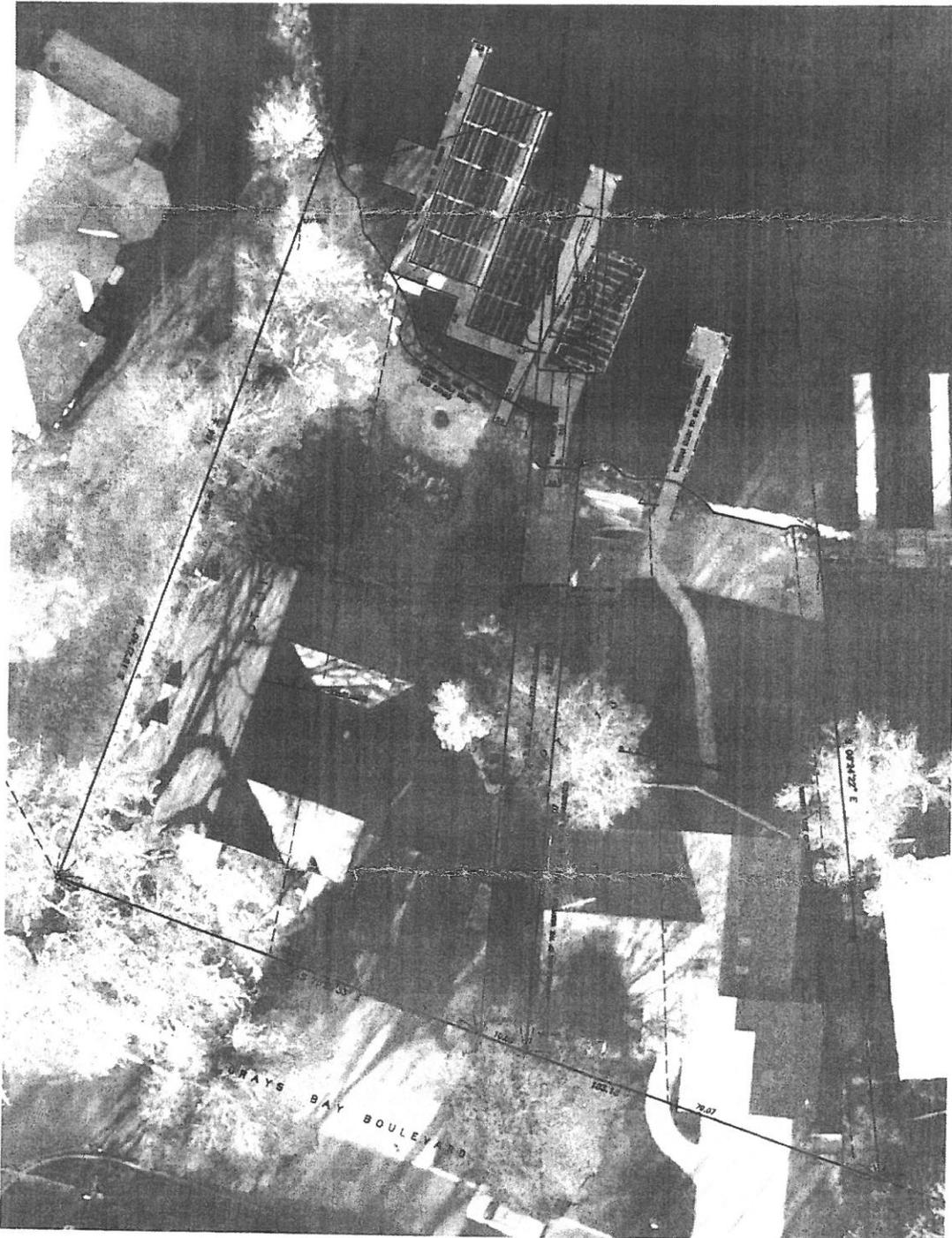
LEGEND:

- FOUND IRON PIPE (AS NOTED)
- SET 1/2" IRON NICKER #14118



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASE IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020



SIGNED:

Thomas M. Murphy, Minnesota Professional Surveyor #2122

CERTIFICATION:

I hereby certify that this survey plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB NUMBER:	0242-19-13-0220
DRAWN BY TECH:	REV 13-17-2020
SCALE:	1"=60' PER

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4420 WEST AVE. RD. UNIT 175, SHINOBU PARK, MN 55364
 (952) 886-3200 VANNESTE@VANNESTE.COM



This Indenture, Made this 30th day of August, 1944

between
KARL D. TROXEL and MARGARETAV. TROXEL, his wife,
of the County of Hennepin and State of Minnesota, parties
of the first part, and WALTER BROMS and NELLIE H. BROMS, his wife,
of the County of Hennepin and State of Minnesota, parties of the second part,

Witnesseth, That the said parties of the first part, in consideration of the sum of One (\$1.00) Dollar and other good and valuable considerations to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said parties of the second part as joint tenants and not as tenants in common, their assigns, the survivor of said parties, and the heirs and assigns of the survivor, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit:

Lots Thirteen (13) and Fourteen (14), Block One (1), Thorpe Bros. Re-arrangement Groveland Shores, Hennepin County, Minn., excepting therefrom a strip of land ten (10) feet wide along the Westerly line of said Lot Thirteen (13), bordering Lot Twelve (12) running from the Street (Grays Bay Boulevard) to the lakeshore, according to the plat thereof on file and of record in the office of the Register of Deeds in and for said Hennepin County, - Subject to certain restrictions as contained in deed No. 182532, files of Registrar of Titles, the same being registered land.



To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said parties of the second part, their assigns, the survivor of said parties, and the heirs and assigns of the survivor, Forever, the said parties of the second part taking as joint tenants and not as tenants in common.

And the said Karl D. Troxel and Margaret V. Troxel, his wife, parties of the first part, for themselves, their heirs, executors and administrators do covenant with the said parties of the second part, their assigns, the survivor of said parties, and the heirs and assigns of the survivor, that they are well seized in fee of the lands and premises aforesaid and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances.

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said parties of the second part, their assigns, the survivor of said parties, and the heirs and assigns of the survivor, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinbefore mentioned, the said parties of the first part will Warrant and Defend.

In Testimony Whereof, The said parties of the first part have hereunto set their hands the day and year first above written.

In Presence of
Helen Moart

Karl D. Troxel
Margaret V. Troxel

State of Minnesota,

County of HENNEPIN

On this 20th day of September, 1944, before me, Notary Public, within and for said County, personally appeared KARL D. TROXEL and MARGARET V. TROXEL, his wife, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that she executed the same as their free act and deed.

Notary Public signature: Helen Moor

Notary Public, Hennepin County, Minn. HELLEN MOOR, Notary Public, Hennepin County, Minn. My commission expires July 2nd, 1950

NOTE: The blank lines marked "See Note" are for use when the instrument is executed by an attorney in fact.

Doc. No. 89130-198590

OFFICE OF REGISTER OF TITLES STATE OF MINNESOTA. I hereby certify that the within instrument was filed in this office on the 25th day of OCT A.D. 1944 at 2:50 o'clock P.M. By David C. Ramsey, Register of Titles

TAXES PAID AND TRANSFER ENTERED SEP 21 1944

AL. P. ERICKSON, AUDITOR HENNEPIN COUNTY, MINN. BY [Signature]

TAXES PAID ON THE WITHIN DESCRIBED PROPERTY FOR 1943

[Signatures of Treasurer and Auditor]

Doc. No. WARRANTY DEED Individual to Joint Tenants KARL D. TROXEL and Wife

TO WALTER BROMS and Wife Office of Register of Deeds, State of Minnesota.

County of Hennepin. I hereby certify that the within Deed was filed in this office for record on the 25th day of October, 1944, at 2:50 o'clock P.M., and was duly recorded in Book of Deeds, page

Register of Deeds, Deputy. Taxes for the year 1943 on the lands described within, paid this 21st day of September, 1944.

County Treasurer, Deputy. Taxes paid and Transfer entered this 21st day of September, 1944.

County Auditor, Deputy.

This Indenture, Made this 2nd day of September, 1942

between

THORPE BROS.

a corporation under the laws of the State of Minnesota, party of the first part, and

KARL D. TROXEL

of the County of Hennepin and State of Minnesota
part. Y. of the second part,

Witnesseth, That the said party of the first part, in consideration of the sum of ONE DOLLAR (\$1.00) AND OTHER VALUABLE CONSIDERATIONS - - - - - ~~THEY~~ to it in hand paid by the said part. Y. of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said part. Y. of the second part, his heirs and assigns, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit: Lots Thirteen (13) and Fourteen (14), Block One (1), Thorpe Bros. Re-arrangement Groveland Shores, Hennepin County, Minn., according to the plat thereof on file and of record in the office of the Register of Deeds in and for said County and State.

Subject to all taxes and assessments on said premises for the year 1938 and subsequent years, together with assessments and deferred installments thereof, if any, heretofore levied against said land, payable without penalty other than interest.

This Deed is given in pursuance of a Contract for Deed bearing date January 7th, 1938 between the grantor herein, as vendor, and the grantee herein, as vendee; and there is expressly excepted from the warranties hereof any liens or encumbrance caused by any act or neglect of parties other than the grantor herein since said date.

This Deed is made subject to the following restrictions, which, by the acceptance of this deed are agreed and assented to by the party of the second part, for himself and for his heirs and assigns, as part of the consideration hereof, to-wit:

That no building shall be placed nearer than twenty-five (25) feet from the front street line.

Said lot to be used for residence purposes only.

That no house shall be erected thereon to cost less than Fifteen Hundred (\$1500.00) Dollars, and no dwelling house, building, or other structure heretofore constructed or built, of any character whatsoever, shall be moved or placed thereon.

That at no time shall any part of said land be used or occupied for the manufacture, brewing, distilling and sale of spirituous or malt liquors, nor shall the said lot, or any part thereof or any building erected thereon at any time hereafter, be used or occupied as a tavern, drinking saloon, bone boildng establishment, tannery, slaughter house, glue, soap, candle, starch or gunpowder manufacture, or for any other offensive or dangerous purposes, nor for the keeping of pigs, nor for the use of burial or cemetery purposes.

That no barn, stable, coop or other out building shall be erected nearer to the main road or avenue on which said lot fronts than fifty (50) feet, or nearer to any other road or avenue than twenty five (25) feet, and said barn, stable, coop or other out building shall not be used for dwelling purposes.

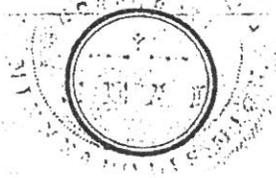
That any house built or erected on said premises shall be complete on the outside, and if tar paper is used it shall be sheeted and hidden from view.

To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to the said party.....of the second part.....his.....heirs and assigns, forever. And the said.....THORPE BROS.....

party of the first part, for itself and its successors, does covenant with the said part.....of the second part.....his.....heirs and assigns, that it is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances.....except as above stated.



And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party.....of the second part.....his.....heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinbefore mentioned, the said party of the first part will Warrant and Defend.



In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its..... President and its.....Treasurer.....and its corporate seal to be hereunto affixed the day and year first above written.

THORPE BROS.
By Norman L Newhall
Its.....President.
By.....
Its.....Treasurer

In Presence of
George B. Pulean
J. W. Evans

State of Minnesota,

County of HENNEPIN

On this 14th day of September, 1942, before me, a Notary Public within and for said County, personally appeared NORMAN L. NEWHALL and ROY A. MOBERG to me personally known, who, being each by me duly sworn each did say that they are respectively the President and the Treasurer of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said NORMAN L. NEWHALL and ROY A. MOBERG acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, County, Minn.

My commission expires 19

P. W. EVANS
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. 15, 1948.

OFF. NO. 81619 1825082

OFFICE OF REGISTER OF TITLES
STATE OF MINNESOTA
I hereby certify that the within instrum was filed in this office on the 27th day of Oct. A. D. 1942 at 9:29 o'clock A. M.

By [Signature] REGISTRAR OF TITLES

INDEXED AND RECORDED
OCT 13 1942
M. P. BUCHHEIM, CLERK

TAXES PAID ON THE VALUE OF DESCRIBED PROPERTY FOR 1941
[Signature]

MINNESOTA Form No. 7.
WARRANTY DEED
Corporation to Individual.
TORFFE, BROS.
KARL D. TORFFE
Office of Register of Deeds, State of Minnesota.
I hereby certify that the within Deed was filed in this office for record on the 19th day of _____, 19____, at _____ o'clock _____ M., and was duly recorded in Book _____ of Deeds, page _____.
By _____ Register of Deeds.
Deputy _____
Taxes for the year 19____ on the lands described within, paid this _____ day of _____, 19____.
By _____ County Treasurer.
Deputy _____
Taxes paid and Transfer entered this _____ day of _____, 19____.
By _____ County Auditor.
Deputy _____
Recording Fee \$1.25.

Interactive Maps

Type an address or a property

Tools

Legend

Print

Share

Help

Property

Go to Property links

Clear results

PID:
17117222100

34 Address
Unassigned
Minnetonka,
MN 00000

Owner/Taxpayer

Owner:

Taxpayer:

Tax Parcel

Parcel Area:

Torrens/Abstract:

Addition:

Lot:

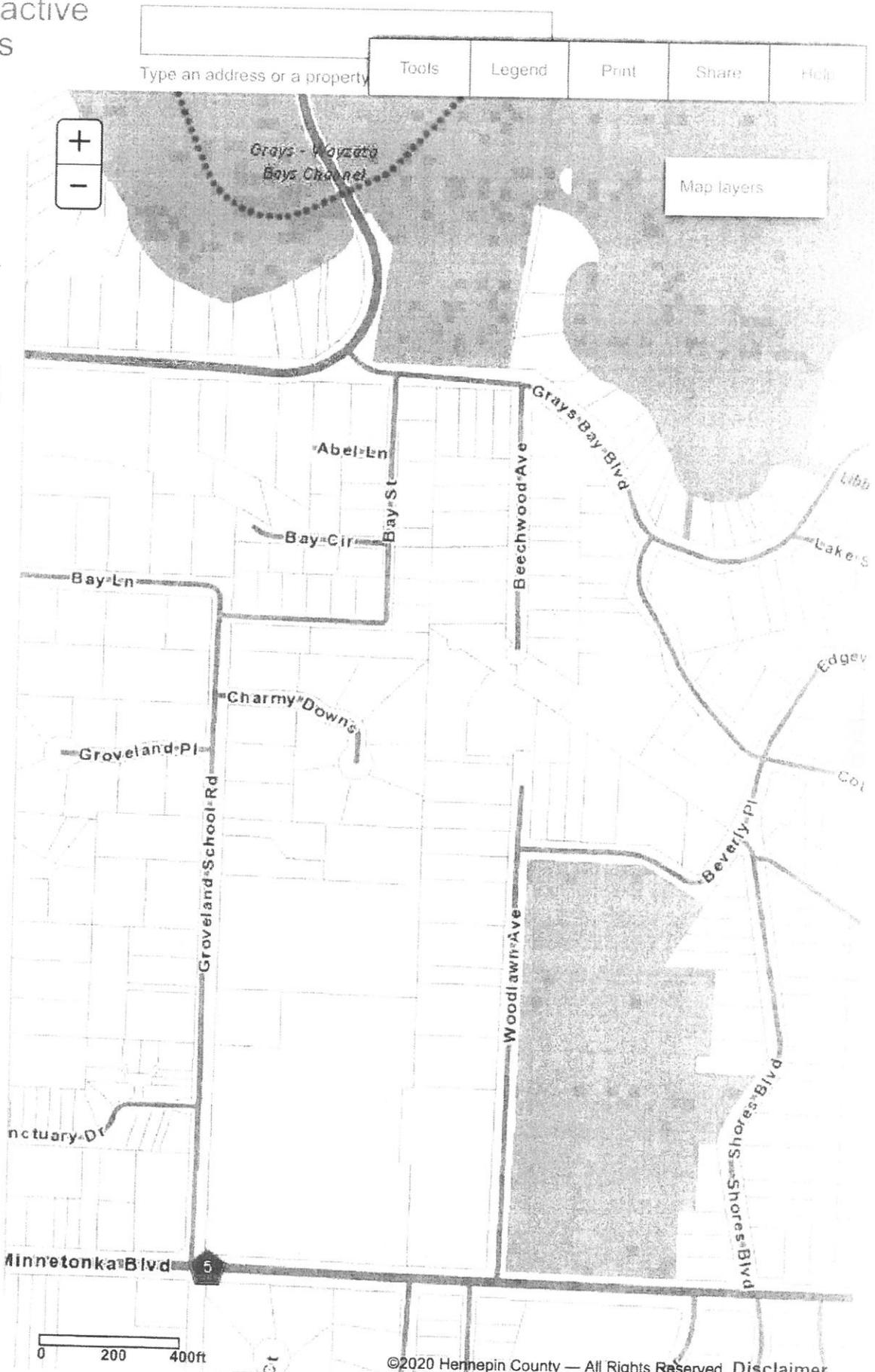
Block:

Metes & Bounds:

Tax Data (Assessable/ Payable)

Market Value:

Go to...



MARCIA STONE & JOEL STONE
16930 GRAYS BAY BLVD
WAYZATA MN 55391

THOMAS M MURDYCH
KIM-THU T MURDYCH
16940 GRAYS BAY BLVD
WAYZATA MN 55391

DRU L WESTCOTT
6173 S MAGNOLIA CT
CENTENNIAL CO 80111

DANIEL E & MARY K WALSH
16922 GRAYS BAY BLVD
WAYZATA MN 55391

JULIE B WHISLER
16919 GRAYS BAY BLVD
WAYZATA MN 55391

JOHN WALL & PATRICIA E WALL
16915 GRAYS BAY BLVD
WAYZATA MN 55391

PAUL W CHAMBERLAIN
16912 GRAYS BAY BLVD
WAYZATA MN 55391

PAUL R & RACHEL A HARRIS
16911 GRAYS BAY BLVD
WAYZATA MN 55391

DOUGLAS P WEIRAUCH
CYNTHIA K WEIRAUCH
16904 GRAYS BAY BLVD
WAYZATA MN 55391

THOMAS M MURDYCH
KIM-THU T MURDYCH
16940 GRAYS BAY BLVD
WAYZATA MN 55391

16935 GRAYS BAY LLC
4234 GRIMES AVE SO
EDINA MN 55416

ARDALAN GHANBAR
MARYAM OUJI
17008 GRAYS BAY BLVD
WAYZATA MN 55391

DARRYL C LANDSTROM
17012 GRAYS BAY BLVD
WAYZATA MN 55391

JOHN F DAVIS
17021 GRAYS BAY BLVD
WAYZATA MN 55391

JAMES H POHTILLA
KRISTINA M ERICSON
17025 GRAYS BAY BLVD
WAYZATA MN 55391

ELIF CANAN CINGI
CEVDET IVAN CINGI
17028 GRAYS BAY BLVD
WAYZATA MN 55391

KATHARINE ROBINSON
17036 GRAYS BAY BLVD
WAYZATA MN 55391

JONATHAN & JANE LINDSAY
17202 GRAYS BAY BLVD
WAYZATA MN 55391



ITEM 10B ATTACHMENT 6

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 18, 2021

TO: Sun Sailor
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (02/25/2021 Edition)

**LAKE MINNETONKA CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, March 10, 2021**

**Craig Peterson and Mary Kiley
PID 17-117-22-21-0090 Minnetonka, MN 55391
Grays Bay, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from Craig Peterson and Mary Kiley for PID 17-117-22-21-0090 in Minnetonka. An application has been submitted to adjust the site's dock use area (length and setbacks). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 18, 2021

TO: Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (02/27/2021 Edition)

**LAKE MINNETONKA CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, March 10, 2021**

**Craig Peterson and Mary Kiley
PID 17-117-22-21-0090 Minnetonka, MN 55391
Grays Bay, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from Craig Peterson and Mary Kiley for PID 17-117-22-21-0090 in Minnetonka. An application has been submitted to adjust the site's dock use area (length and setbacks). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.



ITEM 10B ATTACHMENT 7

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: February 24, 2021
TO: Property Owner or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for an adjusted dock use area (length and side setbacks) variance. The site is located at PID 17-117-22-21-0090 on Grays Bay Blvd in Minnetonka. The site has lake frontage on Grays Bay.

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. All interested persons will be given an opportunity to comment.

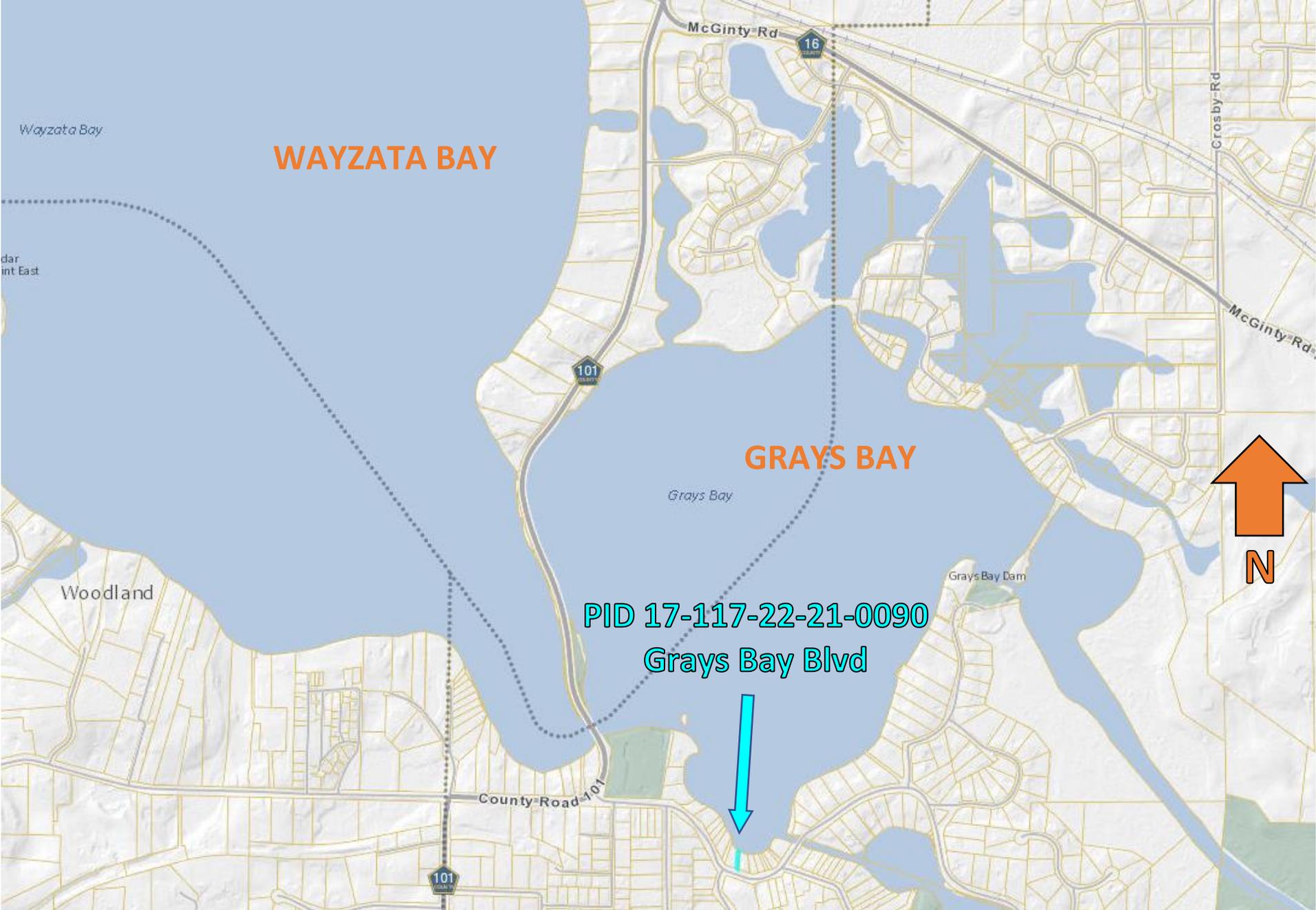
Public Hearing Information

A public hearing will be held at 7:00 PM, March 10, 2021. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

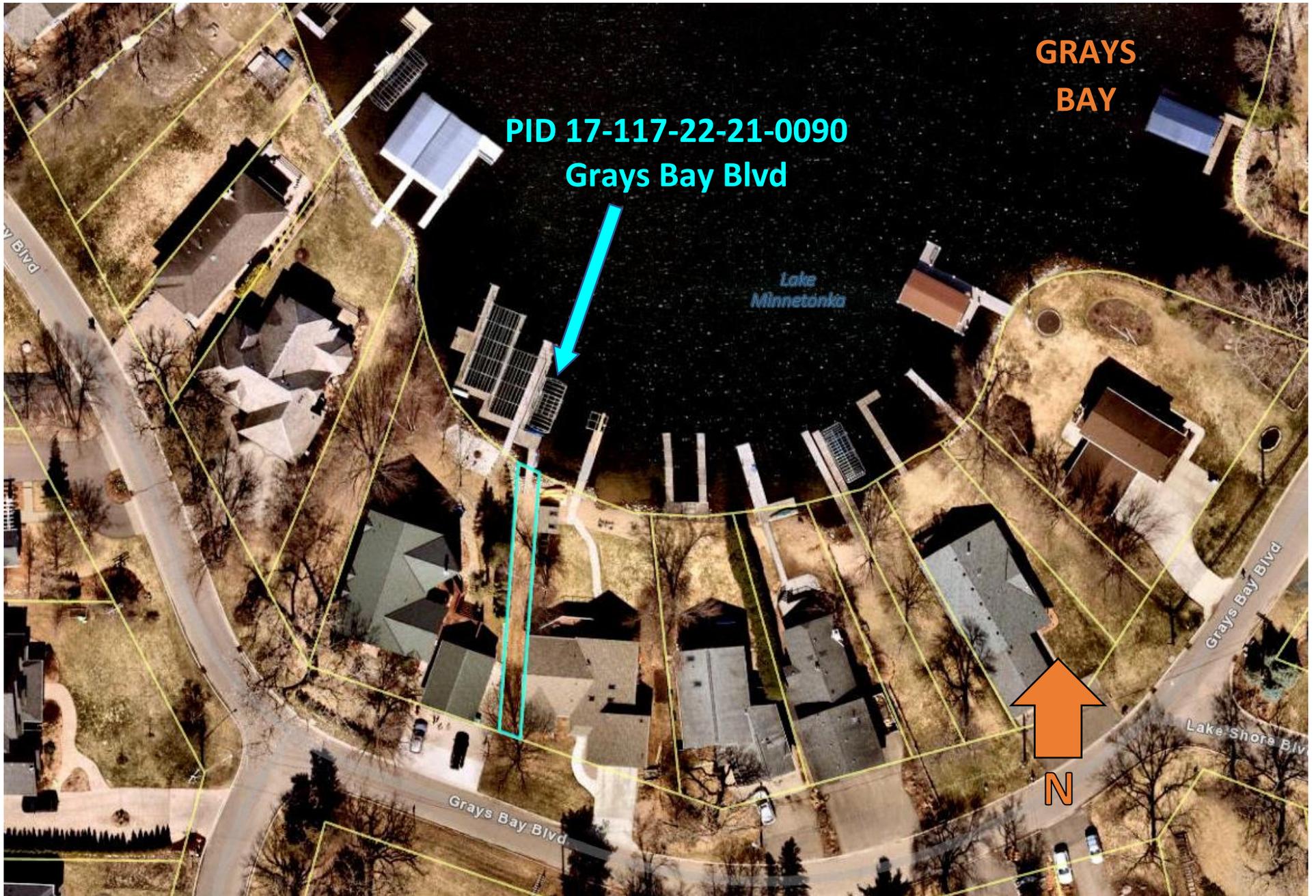
Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Craig Peterson and Mary Kiley, PID 17-117-22-21-0090 Grays Bay Blvd in Minnetonka | Variance Application
For illustrative purposes only. Taken from Hennepin County Property Information Map 02/23/2021.



Craig Peterson and Mary Kiley, PID 17-117-22-21-0090 Grays Bay Blvd in Minnetonka | Variance Application
For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information Map 02/23/2021.



CERTIFICATE OF SURVEY

LEGAL DESCRIPTION:

P.D. #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

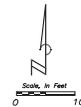
MARCIA STONE & JOEL STONE
 16930 GRAYS BAY BLVD
 WAYZATA MN 55391

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA MN 55391

THOMAS M MURDOCH
 KIM-THU T MURDOCH
 16940 GRAYS BAY BLVD
 WAYZATA MN 55391

LEGEND:

- FOUND BRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

OPTION 1 OF 3
AS PROPOSED BY APPLICANT



EXHIBIT "A"

SIGNED: *FAVIS W VAN NESTE*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Multiple Professional Surveyor #46855

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 12-17-2020
SCALE: 1"=10 FEET	

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4400 WEST ANN RD, UNIT 120, SPRING PARK, MN 55384
 (952) 686-3006 VANNESTESURVEYING.COM



CERTIFICATE OF SURVEY

LEGAL DESCRIPTION:

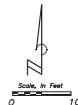
P.D. #1711722210089
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 P.D. #1711722210090
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 P.D. #1711722210091
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 9 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

CRAIG PETERSON & MARY KILEY
 17009 GRAYS BAY BLVD
 MINNETONKA, MN 55391

LEGEND:

- FOUND BRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

OPTION 2 OF 3
AS PROPOSED BY APPLICANT

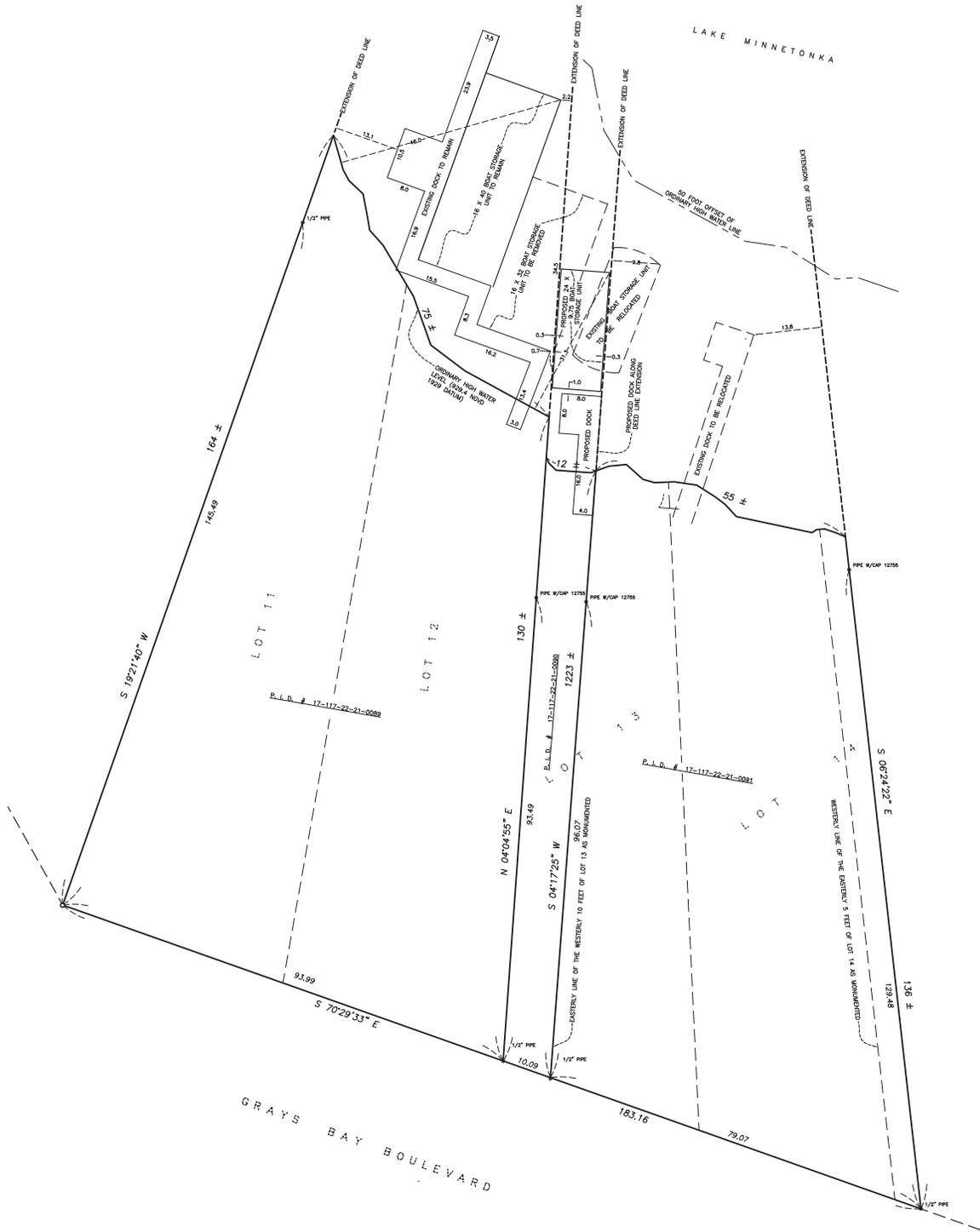


EXHIBIT "B"

SIGNED: *FANIS W VAN NESTE*
 Travis W. Van Neste, Minnesota Professional Surveyor #44109
 Multiple Professional Surveyor #4685

CERTIFICATION:
 I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 2-3-2020
SCALE: 1"=10 FEET	
VAN NESTE SURVEYING PROFESSIONAL SURVEYING SERVICES	
4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384 (952) 686-3050 VANNESTESURVEYING.COM	



ITEM 10B ATTACHMENT 8

OBJECTIONS TO:

**Amended Narrative and First Amendment to Variance Application for Craig Peterson and Mary Kiley, as Trustees to the 17009 Grays Bay Revocable Trust
Parcel ID# 1711722210090**

By Dr. Tomas and Kim Murdych and Joel and Marcia Stone

Dr. Tomas and Mrs. Kim Murdych, with a residence at 16940 Grays Bay Blvd, Minnetonka, PID# 171122210089 (“Murdychs”) and Mr. Joel and Mrs. Marcia Stone, with a residence at 16930 Grays Bay Blvd, Minnetonka, PID# 171122210091 (“Stones”) join together to oppose the Amended Narrative and First Amendment to Variance Application for Craig Peterson and Mary Kiley, as Trustees to the 17009 Grays Bay Revocable Trust (“Peterson-Kiley Amended Application”) regarding Parcel ID# 1711722210090, which is a 10-foot-wide parcel (“10-Foot-Wide Parcel”), and respectfully request that the LMCD Board deny all three options for the reasons cited herein and to be argued orally at the public hearing on March 10, 2021.

Minnesota law is clear that “one owner of riparian rights may not unduly interfere with another’s enjoyment of riparian rights.” *Schussler v. LMCD*, 2021 WL 668078, *5. Because all three of the Peterson-Kiley variance options unduly interfere with both the Stones’ and the Murdychs’ enjoyment of their riparian rights, all three should be denied. In addition, and as in *Schussler*, all three of the options presents “an unreasonable risk of danger to swimmers entering the lake from [the Stones’ and Murdychs’] property and to users of non-motorized watercraft in the area.” *Id.* at *6. Also, as in *Schussler*, the Murdych’s and Stones’ property lines as extended into the Lake, converge. The Peterson-Kiley 10-Foot-Wide Parcel’s property lines are parallel, and as they extend into the Lake, they cut across and in front of the Murdychs’ lake frontage and view. Thus, a dock from the 10-Foot-Parcel that extends beyond a few feet from shore greatly and negatively impacts and impairs the Murdych’s view and would also prevent them “from navigating motorized boats into the portion of the lake in front of their home.” *Id.*

For all these reasons, the three options must be denied.

Introduction

The Peterson-Kiley 10-Foot-Wide Parcel provides foot access to the Lake for carrying a canoe, kayak or paddleboard, and is not wide enough to safely accommodate a dock or storage for a motorized boat. The recently-installed Peterson-Kiley dock, canopy/canvas and boat lift are non-compliant with the LMCD Code as to width, length and side setbacks, unduly and unreasonably interfere with the riparian rights of both neighboring properties, pose a significant risk of danger, and greatly *exceed* the width of their lakeshore; it must, therefore, be removed.

There is no ‘historic’ or ‘nonconforming’ use of the dock or boat lift extending from the 10-Foot-Wide Parcel as Peterson-Kiley have claimed. As recently as 2000, *no dock* extended from the 10-Foot-Wide Parcel, and no dock should be allowed there in 2021. *See* Sections 1-3, below.

The Stones and Murdychs respectfully requested that Peterson-Kiley remove their non-

compliant dock, but they refused. The LMCD then gave notice to Peterson-Kiley that they must bring their dock into compliance by June 15, 2021 or remove it.

As a result of the LMCD's notice, Peterson-Kiley submitted three options for variances. The three options are improper as to form, and on that basis alone their application should be denied. Further, the first two options are so egregious that they appear to be a smokescreen designed to make the third variance request seem less outrageous by comparison – but it is also unreasonable and illegal as described herein and should be denied. Because none of the three options are reasonable or comply with LMCD Code (*see* Section 1-2, below), they should all be denied.

Further, while the Board may grant a variance from the provisions of the LMCD Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration, the Board may *only* grant a variance if the property owner is able to demonstrate:

1. that granting the variance will be in keeping with the spirit and intent of this Code;
2. the plight of the property owner is due to circumstances unique to the property that were not created by the property owner;
3. the proposed use is reasonable under the circumstances; and
4. the variance, if granted, would not alter the essential character of the area.

L.M.C.D. § 6-5.01, subd. (6). Here, because Peterson-Kiley cannot demonstrate these four requirements, the Board must deny all three options.

Specifically, the requested variances are not in keeping with the spirit and intent of the Code, because the variance requests intentionally and dramatically seek to expand the applicant's use of the Lake by taking away areas belonging to neighboring residential property owners, pose grave safety issues, and unduly interfere with both neighboring property owners' riparian rights.

Secondly, there is no "plight" associated with the 10-Foot Wide Parcel; it was designed to provide foot access to the Lake for carrying a canoe, kayak or paddleboard, not for a dock or boat storage. Peterson-Kiley have created the issue because they did not purchase a parcel wide enough for an authorized dock use area that can accommodate the swimming area, long dock, and large boat storage that they desire, and/or did not want to pay the property taxes associated with more frontage. Further, Peterson-Kiley *knew* that they needed neighbors' consent to have a dock and boat storage and knew they did not have that consent. They should not be allowed to circumvent the consent process and obtain a variance from the Board that would endanger their neighbors and unduly interfere with their neighbors' rights. *See* Section 3, below.

The circumstances here are not unique to this property – they are consistent with *all* properties that are only 10 feet in width or less. A search of variances requested and granted by the LMCD, show that *no property* that is only 10-feet wide has been granted a variance for side-setbacks by the LMCD. *See* Sections 1 and 2, below. Further, the adjacent parcel to the west of Murdychs', also on Grays Bay and approximately 18 feet wide, has *no* dock and *no* boat storage. In addition, the only side-setback variances that have been granted by the LMCD for narrow properties (less than 30 feet but greater than 10 feet wide) were *with* neighbors' consent.

Third, the proposed use in the variance options are not only unreasonable under the circumstances, but create grave safety hazards for both neighboring property owners.

Fourth, the requested variances would greatly alter the essential character of the area as well as the historic and protected character of Grays Bay, that is already over-crowded. Just as the property to the west of the Murdychs', which is wider than the 10-Foot-Wide Parcel has no dock and no boat storage, the 10-Foot-Wide Parcel should not have a dock or boat storage.

Because all three variance options unfairly, unreasonably, unduly and illegally invade, encroach, interfere and infringe on the Murdychs' and Stones' riparian and property rights, and because all three pose a safety hazard, they must be denied. Peterson-Kiley have not submitted an application for a variance that is reasonable and that does not unduly interfere with the rights of the Stones' and Murdychs' riparian rights.

Background

Peterson-Kiley purchased their single-family home, located at 17009 Grays Bay Blvd in Minnetonka, (PID #1711722210108) in 2016 for just under a million dollars, outlined in yellow, below, together with the 10-Foot-Wide Parcel of vacant land (PID #171122210090):



The Peterson-Kiley residence is not on Lake Minnetonka; rather, their home is more than 400 feet from the lakeshore of their 10-Foot-Wide Parcel. Their home is also located 700 feet from the Grays Bay Public Boat Launch. As shown, the Peterson-Kiley residence is also separated by more than a “public right-of-way” from the parcel at issue, as defined by the LMCD Code. *See* LMCD 2-4.09, Subd. 1(1)(2).

Peterson-Kiley have known that they needed the consent of the neighboring property owners who live adjacent to the 10-Foot-Wide Parcel in order to have a dock extend into the Lake. In 2017, the LMCD informed Craig Peterson that even if a previous neighbor had provided consent for a dock in the past, that consent could be revoked and he would need to remove the dock and boat lift. At all times since purchasing their property, Peterson-Kiley knew that the dock and newly-added boat lift (in 2015) did not comply with the LMCD Code, and that no variance had ever been granted for that parcel. They also knew that the owners of the adjacent properties to the 10-Foot-Wide Parcel, the Murdychs and the Stones, had never consented to the Peterson-Kiley dock and/or to any boat storage or boat lift.

Further, neither the Stones nor the Murdychs ever agreed to any of the Variance Options that have been submitted by Peterson-Kiley. There was also no “joint application” by the Murdychs and Peterson-Kiley, as the Amended Application suggests. Rather, the Murdychs were misled by Peterson-Kiley in the fall of 2020; then, after learning of Peterson-Kiley’s untenable intentions to greatly invade the riparian rights of the Murdychs’ and the Stones’ with demands for a very large and long dock, very large boat lift and for a swimming area that posed a safety hazard to both the Stones and Murdychs, both have opposed the Peterson-Kiley applications.

Also contrary to the Amended Application, the Stones have never desired or even contemplated expanding their use by “adding a boat house to their docking configuration” as Peterson-Kiley falsely assert. *See* Amended Application, pp. 1-2. Further, the LMCD staff never made “a request” to Peterson-Kiley to submit Proposal #3 as the Amended Application purports, regarding a 44-foot long dock, which does not comply with the LMCD Code and poses a grave safety concern and unduly and unreasonably interferes with the Stones’ and Murdychs’ riparian rights.

These false statements and others in the Amended Application are designed to prejudice the Board in favor of Peterson-Kiley and against Murdychs and Stones, and are completely improper.

The Murdychs and Stones requested that Peterson-Kiley comply with the Code, but Peterson-Kiley refused. The Murdychs and Stones tried to work with Peterson-Kiley for a resolution regarding their use of the 10-Foot-Wide Parcel, but Peterson-Kiley have unreasonably demanded to *increase* their area, include a very long dock, a very long and wide boat storage area for their adult relative’s boat (who does not live at their residence), a swimming area for their grandchildren and other guests, and a viewing area, that unduly and unreasonably interferes with the Murdych’s and Stones’ riparian and property rights and that also poses a grave safety concern.

Further, the Murdychs and Stones had to place Peterson-Kiley on Notice to stop trespassing onto their respective properties. Peterson-Kiley and their guests, including their sometimes-unaccompanied grandchildren, have repeatedly trespassed over the Stones’ and Murdychs’ properties and have used their docks, and the Stones’ beaches, swimming, and boating areas. They have also utilized the Stones’ and/or Murdychs’ personal property, such as dock chairs, kayaks, life preservers, and other items, without permission.

Both the Murdychs and the Stones will comply with the LMCD Code.¹ The Murdychs and the Stones request that the Board ensure that Peterson-Kiley also comply with the LMCD Code and that the applications for variance requests be denied.

If Peterson-Kiley desire to own property that has a large authorized dock use area for a long dock and boat storage, then they must purchase more lakeshore, like everyone else. The 10-Foot-Wide Parcel is not entitled to have a dock or boat storage, and Peterson-Kiley must abide by the Code and bear the consequence of their purchase that allows them foot access to the Lake with non-motorized watercraft.

The Murdychs’ residence has 70 feet of lakeshore and the Stones’ residence has 55 feet of lakeshore which entitles both the Murdychs’ and Stones’ to have authorized dock use areas. However, both the Murdychs’ and the Stones’ properties have converging lines, which means their areas narrow as their property lines extend into the Lake. The LMCD Board has no authority to further reduce the riparian rights or frontage area of the Stones’ and Murdychs’ properties which runs with their land in perpetuity, and to arbitrarily and capriciously grant *additional* rights or additional area to Peterson-Kiley for which there is no justification or basis.

¹ When the Murdychs’ purchased their lakefront residence in 2015, they were not aware that their two canopies and dock were not compliant with the LMCD Code. The Murdychs will ensure that their dock configuration and boat storage is compliant by June 15, 2021. Peterson-Kiley must also be compliant with the Code; no special privileges should be extended to Peterson-Kiley.

Opposition to Peterson-Kiley Variance Requests

1. The 10-Foot-Wide Parcel has No Authorized Dock Use Area. A Parcel with No Authorized Dock Use Area Cannot Obtain a Variance.

The LMCD Board “may permit a variance from the requirements of the Code” related to an authorized dock use area (ADUA) in terms of expanding a given property’s ADUA’s width or length pursuant to specific qualifying circumstances. *See* LMCD Variance Application. LMCD 6-5.01 states that “No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances **to ensure compliance and to protect other riparian owners and users of the lake.**” [Emphasis added]. Thus, while the LMCD Board has the authority to grant variances to *modify* an existing ADUA as circumstances require, there is no authority to “create” an ADUA for a property where none exists.

The Peterson-Kiley 10-Foot-Wide Parcel has no ADUA as defined by the LMCD Code. The LMCD Code defines the authorized dock use area for each property in terms of width and length for its ADUA, depending upon the property’s linear feet of lakeshore at 929.4 NGVD. *See* LMCD Code § 2-3.03. The length of the ADUA for a site that existed before February 5, 1970 and is under 40 feet of frontage, “extends into the Lake to the point necessary to reach a water depth of four feet, measured from 929.4 NCVD, except that no such dock shall be located or extended more than 60 feet into the Lake.” LMCD Code 2-3.03 Subd. 2 (d)(1). Here, a depth of four feet is reached at approximately 22 feet from the Peterson-Kiley shoreline.

The width of ADUA is “limited by the following setbacks, which are measured from the side site lines as extended in the Lake.” LMCD Code § 2-3.03, Subd. 3(a). For a parcel that existed prior to February 2, 1970, the minimum side setback is 5 feet on each side.

It is undisputed that the width of the 10-Foot-Wide Parcel at 929.4 NGVD is 10 feet. It is also undisputed that the parcel existed prior to 1970. Therefore, using the width calculation of ADUA, this parcel has an ADUA of zero width, which means it does not have an ADUA and cannot have a dock:

$$\begin{array}{rclcl} \text{Linear Ft of Lakeshore} & - & 2*(\text{Minimum Side Setbacks}) & = & \text{Width of ADUA} \\ 10 \text{ Feet} & - & 2*(5 \text{ feet}) & = & 0 \text{ (no ADUA)} \end{array}$$

Because the 10-Foot-Wide Parcel has no ADUA, no variance can be granted to lengthen or widen it. No property on Lake Minnetonka that is only 10 feet wide has ever been granted a variance by the LMCD for this reason.²

2. No Owner of a 10-Foot-Wide Parcel has Ever Requested or Received a Variance.

The LMCD Code has established requirements for determining the “authorized dock use

² Peterson-Kiley requesting a variance for this 10-Foot-Wide Parcel that has no ADUA, is the equivalent of them purchasing an unbuildable lot, but then requesting that the city grant them a variance for a building permit. No city has the authority to grant a variance for a building permit regarding a property that has been deemed to be “unbuildable.” Likewise, here, Peterson-Kiley cannot obtain a variance to an ADUA for a property that has no ADUA. Peterson-Kiley are not entitled to a dock or boat storage, except with the consent of the neighboring property owners. *See* LMCD Code § 2-3.05, Subd. 3.

area” of every property on the Lake, as described above. A review of all residential variances applied for and granted on Lake Minnetonka shows that *no* parcel with only 10-feet (or less) of lakeshore has ever received a variance by the LMCD Board for a dock and/or boat storage without neighboring consent. As discussed above, no ADUA exists for narrow properties under which a variance could be considered. Further, most property owners with only 10 feet or less of lakeshore know that access to the lake is by foot only; a dock is permitted only with the consent of neighboring property owners and not by unilaterally demanding a variance from the LMCD. Those owners also know and understand that placing a dock and boat storage in a narrowly confined area is unsafe and poses a safety hazard to neighboring property owners while also encroaching on those neighbors’ rights. Therefore, without neighbors’ consent, no dock has been placed on a parcel on Lake Minnetonka that is only 10-feet wide.

The narrowest property to ever receive a variance by the LMCD, and only as a result of a Court-Ordered Settlement, was in the case of *LMCD v. Canning*, 2006 WL 173852 (Minn. Ct. App. 2006). The Canning property, however, measured 11.8 feet wide (greater than 10 feet), and a dock existed there since the 1930s, unlike here where there was no dock at all until 2002. Therefore, using the same formula to determine ADUA width as described above with 5-foot side setbacks, the Canning property had an original ADUA with a width (11.8 feet – 2*(5-foot side setbacks)) that was 1.8 feet wide. Because the Canning property had an existing ADUA, the LMCD Board had the authority to consider granting a variance for it. Although the Board originally denied the Canning variance application, the court found that other considerations, including the historic use of a dock extending from that property since the 1930s, and also the fact that Canning’s extended lines into the Lake converged making access to navigable water impossible, played an important consideration. Here, no such historic dock use exists and the Peterson-Kiley lines are parallel, enabling access to the Lake and navigable waters without any changes. *See* Section 3.

3. The Peterson-Kiley 10-Foot-Wide Parcel has NOT Historically Included a Dock.

Peterson-Kiley have not had an “historic” or “non-conforming”³ dock or boat lift as defined by the LMCD Code. Contrary to the narrative in the Peterson-Kiley Amended Application, the 10-Foot-Wide Parcel has *not* “regularly been used to...access docks, boats and boat lifts...” *See* Amended Application Narrative, pp 1-2.

In 2000, the Hennepin County GIS shows that *no dock* extended from the 10-Foot-Wide Parcel, that is highlighted in blue. This was/is consistent with the LMCD Code, because this property is not wide enough to accommodate a dock and/or boat storage.



2000 Hennepin County GIS

³ LMCD Code 1-3.01, Subd. 61 states: ““Non-conforming structures’ mean docks, mooring areas, and other structures, including seasonal structures, which were legal structures immediately prior to the effective date of an ordinance with

While the 10-Foot-Wide Parcel enabled its owners to access the lake by walking down to the water with a canoe, kayak or paddleboard, etc., and then from shore traveling over the water and within its extended boundary lines to reach ‘navigable water,’ there was no dock and no boat storage extending from this property.

In 2002, only a very narrow and very short, approximately 8-foot-long dock, extended from the 10-Foot Wide Parcel, as shown by the Hennepin County GIS, and circled in yellow. Again, *no* boat storage existed in this area or for this parcel in 2002.



2002 Hennepin County GIS

In 2004, the then-owner created a platform that connected the short dock with the neighboring owner’s dock to the west. *See* below. No variance was ever requested from the LMCD and so the neighboring property owner must have agreed to this arrangement. However, both of those property owners have since sold their properties. In any event, pursuant to the LMCD Code, “Consent to the adjustment (regarding side setbacks) is revocable by any party to the agreement at any time.”

LMCD Code 2-3.05, Subd. 3 (c). Even with the widened platform, no boat lift and no boat storage extended from the 10-Foot-Wide Parcel in 2004 through 2015. That configuration did not change and looked similar in 2015:



2004 Hennepin County GIS



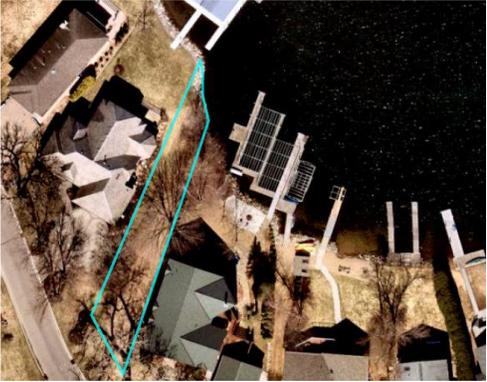
2015 Hennepin County GIS

which the structures do not conform, and which are permitted to continue by the terms of such ordinances subject to limitations or restrictions contained therein.” Here, every dock extending from the 10-Foot-Wide Parcel was illegal and never conformed to the Code. No variance was granted.

No boat lift was attached to any dock extending from this Parcel into the water until 2015-16, when an illegal boat lift that is more than 10 feet wide, was placed in its current position.

The LMCD Code contemplates and provides non-conforming docks that have been in existence *prior* to the 1970s with special exceptions, but there is *no special provision or exception* in the Code for a parcel that is only 10 feet wide and where no dock existed until 2002. Because no historic dock use exists for the 10-Foot-Wide Parcel and because it has never received a variance from the LMCD, no dock or boat storage can be allowed on this site without neighboring property owners’ consent. *See* Sections 5-7, below.

It should also be noted that the narrow parcel adjacent to the west of the Murdychs’ property, outlined in blue, which has *more* Lake frontage than the 10-Foot-Wide Parcel, has no dock and no boat storage, as shown in the 2020 Hennepin County GIS.



Further and as stated above, Peterson-Kiley *knew* that they needed to have neighbors’ consent for a dock to be extended from the 10-Foot Wide Parcel. Without neighbors’ consent, there can be no dock and no boat storage. After Peterson-Kiley realized that the Stones and Murdychs would not give up their property and riparian rights to accommodate his outrageous demands that exceeded any reasonable use of the 10-Foot-Wide Parcel, Peterson-Kiley then submitted three applications for variances to the Board.

Because the claim of an “historic use” is entirely unfounded, all references to an “historic use” of any dock extending from the 10-Foot-Wide Parcel cannot be considered.

4. Current Configuration of Peterson-Kiley Dock, Canopy/Fabric and Boat Lift is Non-Compliant, Extends Over its Boundaries as Extended into the Lake and Poses a Grave Safety Concern.

The current configuration of the Peterson-Kiley dock(s) and boat lift shows that it is more than 14 feet wide (four feet *wider* than the area owned by Peterson-Kiley), and extends almost 10 feet *over* the Peterson-Kiley easterly property line as it extends into the Lake, as shown in red below, greatly encroaching on the Stones’ and Murdychs’ riparian rights.



The LMCD has already notified Peterson-Kiley that their dock configuration is not in compliance and that it must be changed to comply with the Code by June 15, 2021 or removed.

To date, Peterson-Kiley have not presented a reasonable option for a variance for this Board’s consideration. Rather, the three variances requested by Peterson-Kiley pose serious safety concerns and unreasonably encroach upon the Stones’ and Murdychs’ riparian and property rights and must therefore be denied. The Stones and Murdychs should not be penalized by another property owner who is

in the area – and violates the LMCD Code for dock length, side setbacks, and exceeds the maximum allowed for length/width. The Code explicitly requires that “no such dock shall be located or extended more than 60 feet into the Lake” for properties that have less than 40 feet of Frontage. LMCD Code 2-3.03, Subd. 2(d)(2). Therefore, Option 1 must be denied.

Option #1, however, also requests a zero side-setback on the west side (Murdychs’) and encroaches over its eastern sideline boundary, into the Stones’ riparian rights area, by 2 feet, violating the LMCD Code for minimum side setback requirements and violating both the Stones’ and Murdychs’ riparian and property rights. Neither the Stones’ nor the Murdychs’ consent to waiving side-setbacks, and in fact, affirmatively state that side-setbacks are required on all properties for the safety of their families.

No variance of this kind that detrimentally affects other property owners has ever been granted by the LMCD. A zero-side setback on one side, and a negative side setback on the other, has never been granted by the LMCD without converging lines. Here, the Peterson-Kiley lines do not converge, but *both* the Murdychs’ and the Stones’ lines converge as they extend into the Lake.

This option also includes an outrageously large boat lift that is 25’ x 10.’ The Board has required that the total area including any boat lift and dock shall not exceed the ADUA. Here, the boat lift alone exceeds the allowable length and width for the ADUA. When additional area is added for the dock, and for maneuvering to/from the area with a motorized boat, this concept gravely violates the standards that must be maintained for safety.

Peterson-Kiley is not allowed any boat storage to extend from this 10-Foot-Wide Parcel, and certainly not a dock *and* a boat lift that is more than seven (7) times the amount of lakeshore they own, and that is opposed by both neighboring property owners.

Option 2. The Peterson-Kiley Variance Option #2 requests a structure length that is 50 feet from shore, with a zero side-setback on the west, and a zero side-setback on the east. The boat lift as suggested is the entire width of the Peterson-Kiley property area as its boundaries extend into the Lake. No property has ever been granted a variance to have a structure’s width to be the entire width of the property’s shoreline. This presents an untenable and unreasonable option that needlessly endangers neighboring property owners and unduly and unreasonably interferes with the rights of the Stones’ and Murdychs’.

For the LMCD to grant such a request to Peterson-Kiley, would open the door for all other property owners to add structures onto their docks that are the entire width of their shoreline, which would be absurd and would destroy the character of the Lake. Option 2 must be denied.

Option 3. Peterson-Kiley Variance Option #3, was *not* due to a “request” from the LMCD staff as its Amended Application asserts, but rather is another attempt by Peterson-Kiley to mislead the Board, prejudice the Stones and Murdychs, and to force the Board into granting them a variance for an unreasonable dock and boat storage when no such right exists. Option 3, like the others, violates the LMCD Code as to length, width, and side-setbacks, requesting more than four times its shoreline, and zero side-backs on both sides, which is not allowed without neighbors’ consent. It leaves no room for Peterson-Kiley to maneuver a boat without violating the rights of neighboring property owners or endangering others. Therefore, it must also be denied.

Dr. Murdych, as a physician and father, can attest that a zero side-setback variance for a dock with a motorized boat poses a grave safety hazard to his family’s use of his lakefront for swimming and non-motorized activities. Further, Dr. Murdych states:

As legal immigrants to this country and property owners on Lake Minnetonka, my wife and I deserve to be treated equally and fairly to Peterson-Kiley. No special privileges or variances should be granted to Peterson-Kiley that will negatively impact our riparian rights. Peterson-Kiley chose to purchase only 10 feet of lakeshore, for which they pay about \$1,160 in property taxes *per year*. We pay more than *double* that amount *every month* – approximately \$27,674 for 2021 – in property taxes. If Peterson-Kiley desire to have a long dock, boat storage for his adult son-in-law and a swimming area for his grandchildren, then he must purchase more lakeshore to accommodate a larger ADUA, and must be willing to pay his fair share of property taxes. The Board should protect our riparian and property rights.

No Reasonable Variance Option Was Presented. Peterson-Kiley have not presented an option for a “reasonable” dock to extend from the 10-Foot-Wide Parcel. This site did not have a dock prior to 2002 and there is no precedent or case law that supports any of the Peterson-Kiley options to allow zero side setbacks on both sides and/or boat storage.

No Boat Storage Should be Allowed. “As part of regulating use of the Lake, the LMCD has identified the specific portion of the Lake adjacent to riparian properties that may be used to place structures, which is called the authorized dock use area. In addition to placing limitations on the structures themselves, the LMCD also imposes limitations on the number (density) of restricted watercraft that may be stored at a dock, which is referred to as boat storage units and is generally based on the amount of shoreland at a site.” LMCD Code § 2-1.01. Here, the Board has the authority to determine that the Peterson-Kiley 10-Foot-Wide Parcel cannot accommodate storage for a motorized boat for safety reasons. As shown in Section 3 above, the parcel to the west of the Murdychs, which is 18 feet wide, has no dock and no boat storage.

6. All Other Variances Granted by LMCD for Side Setbacks Have Had Neighbors’ Consent.

As shown on the attached spreadsheet, other parcels that were given variances for side setbacks had their neighboring property owners’ consent pursuant to LMCD Code 2-3.05 Subd. 3.

Here, both neighboring property owners *oppose* any side setback allowance for the Peterson-Kiley 10-Foot-Wide Parcel, because any boat storage poses a health and safety concern and unreasonably interferes with the Murdychs’ and Stones’ riparian and property rights.

7. The Peterson-Kiley Property Lines as Extended into the Lake Are Parallel. Both the Murdychs’ and Stones’ Extended Property Lines Converge. Peterson-Kiley’s Parcel

is Not Entitled to Reduced Side Setbacks. No Property has Been Granted a Zero Side-Setback Variance Whose Extended Lines Did Not Converge.

The LMCD has never granted a variance request to move the property lines as extended into the Lake unless they converge or otherwise did not allow a navigable path into the Lake. Here, the Peterson-Kiley extended lines are parallel and so no allowance for a zero or negative side setback is allowed. Furthermore, *both* the Stones' and the Murdychs' extended lines *do* converge – thus, any changes to widen the lines of Peterson-Kiley or allow them a zero side-setback, would negatively and dramatically impact the Stones and Murdychs.



The only property owners who should be considered for a zero or negative side-setback, are the Stones' and Murdychs', due to their converging extended lines. *See Schussler v. LMCD* and *LMCD v. Canning*. Note, however, that neither the Stones nor the Murdychs are requesting a zero or negative side-setback that would encroach into the Peterson-Kiley area.

Conclusion

The LMCD is the regulatory body for Lake Minnetonka. *Schussler v. Minnetonka Beach*, 2021 SL 668078 (Minn. Ct. App. 2021) *2. “The LMCD has authority to regulate private docks on Lake Minnetonka.” *LMCD v. Canning*, 2006 WL 173852 (Minn. Ct. App. 2006) *3. This includes the “**size of boats that may be moored to private docks.**” *Id.* *See also* Minn. Stat. § 103B.611. subd. 3(6) [emphasis added].

In addition, “because riparian rights are always subject to state regulation in the public interest, a landowner's preexisting and continuing use of his or her lakeshore property **is not a lawful non-conforming use if the LMCD finds other factors, such as public safety, more important.**” *See Bartell v. State*, 284 N.W.2d 834, 838 (Minn. 1979).” *LMCD v. Canning*, *3 [emphasis added].

The Peterson-Kiley parcel is too narrow to safely accommodate a dock or any storage for a motorized boat without endangering others or unreasonably and negatively affecting other owners of their riparian rights. Those negative impacts include health and safety concerns, obstruction of views, devaluation of property, an unreasonable risk of danger to swimmers entering the lake from the Stones' and Murdychs' property and to users of non-motorized watercraft in the area, and prohibiting the Murdychs and Stones from navigating motorized boats into the portion of the lake in front of their home.

LMCD Code § 2-6.15 states that “No dock, mooring area, or similar structure shall be located or designed so that it unnecessarily requires or encourages boats using it to encroach into

any other authorized dock use area.” All three of the options submitted by Peterson-Kiley unnecessarily encroach into both the Murdychs’ and Stones’ dock use area.

Minnesota law is clear, that “one owner of riparian rights may not unduly interfere with another’s enjoyment of riparian rights.” *Schussler v. LMCD*, 2021 WL 668078, *5. Because all three of the Peterson-Kiley variance options unduly interfere with both the Stones’ and the Murdychs’ enjoyment of their riparian rights and pose a dangerous risk, all three must be denied.

The 10-Foot-Wide Parcel allows foot access to the Lake; the extended parallel lines of the Peterson-Kiley property allow access to navigate into the Lake. No practical difficulties exist for the applicant except those that were “created by the property owner” by purchasing a very narrow property that had no history of a dock and that needs neighboring property owners’ consent for a dock and/or boat storage. These “economic considerations,” are invalid reasons to grant a variance. LMCD Code § 1-3.01, Subd. 73.

Peterson-Kiley or their relatives can use the public launch, or rent slip space, or purchase, just as the Stones and Murdychs have, longer shoreline to obtain the swimming area, viewing area, dock length and boat storage that they desire. Peterson-Kiley cannot, however, obtain a larger area by taking it away from either the Murdychs’ or Stones’ as they have proposed. Any of the three Peterson-Kiley’s Variance Options, if granted, would unreasonably, unfairly, and illegally interfere with and encroach upon the Stones’ and Murdychs’ riparian and property rights, and pose grave safety concerns. Because there is no basis to grant any of the options requested by Peterson-Kiley, the Murdychs and Stones respectfully request that the LMCD Board deny all three options.

Thank you for your consideration.

Respectfully Submitted,

/s/ Beverly J. Aho

Beverly J. Aho, JD/MBA, Attorney for the Stones and Murdychs
Law Office of Beverly J. Aho, PLLC
12700 Anderson Lakes Pkwy, Suite 150
Eden Prairie, MN 55346
612-270-2828 bevaho@baholaw.com

/s/ Tomas Murdych

Tomas Murdych

/s/ Kim Murdych

Kim Murdych

/s/ Joel Stone

Joel Stone

/s/ Marcia Stone

Marcia Stone

LMCD VARIANCE APPLICATION REQUESTS OVERVIEW 2008 - 2021

Case#	LMCD Hearing Date	Address		Applicant (Owner)	Bay	Frontage Ft	Converging Lines?	Side Setback	Other Side Setback
2021-B	3/10/2021	17009 Grays Bay Blvd	Minnetonka	Peterson-Kiley	Grays	10	N	0 0 0	-2 0 0
2007-A	1/9/2008	21100 Excelsior Blvd	Greenwood	Canning	StAlbans	11.8	Y	1	1
2007-A	1/9/2008	5600 Maple Heights Road	Greenwood	Johnson (part of Canning Settlement)	St Albans	68		1	0
2007-A	1/9/2008	21120 Excelsior Boulevard	Greenwood	O'Gara (part of Canning Settlement)	StAlbans	40		1	0
	4/9/2008	16915 Grays Bay Blvd	Minnetonka	Gary Knight	Grays	17	N	0	2.2
2008-A	4/9/2008	16919 Grays Bay Blvd	Minnetonka	Bill and Julie Rolfe	Grays	17	N	0	2.2
2009-A	1/14/2009	1700 Jones Lane	Mound	Brad Stannard	Harrisons	40	Y		
2016-A	7/13/2016	10 Crabapple Lane	Tonka Bay	Jerry Martin	Gideon	44	Y	2.7	0
2010-A	4/14/2010	2900 Gale Road	Woodland	Brad Hoyt	Robinson	50	Y	3	3
2020-C	1/13/2021	435 Lakeview Ave	TonkaBay	Carol Larsen	Gideon	53	Y	12	5
2014-A	4/9/2014	4644 Carlow	Mound	Bernard Wessendorf	Set on Black Lake	57	Y	24	36
2019-A	6/12/2019	5345 Cedar Point Road	Minnetrista	Eric Funderburk	Main	57	N	17	20
2011-B	6/8/2011	5351 Three Points	Mound	Tom Niccum	Jennings	58	Y		
2009-C	12/9/2009	444 Lafayette Avenue	Excelsior	Kurt Wehrmann	Gideon	60	Y		
2013-A	5/22/2013	912 East Shady Lane	Wayzata	Dan & Anne Baasen	Wayzata	65	N	20	20
2011-C	10/12/2011	4658 Kildare Road	Mound	Russ & Gina Nettle	BlackLake	67	N		
2012-A	1/25/2012	5341 Three Points Blvd	Mound	William Memik	Harrisons	67	N		
2009-B	4/8/2009	3800 Sunset Drive	Spring park	Charles &Shanda Shannon	WestArm	79	Y	4.1	0
2013-B	7/10/2013	245 West Point Road	Tonka Bay	Michael & Holli Johander	Echo	80	N		
2011-A	3/23/2011	16901 Grays Bay Blvd	Minnetonka	Mark Olshansky	Grays	81	N	10	10
2020-B	10/14/2020	1657 Dove Lane	Mound	Neal Netsch	Jennings	116	comer	12	0
2019-B	10/23/2019	870 Windjammer Lane	Orono	Ben Mittyng	NorthArm	134	Y	9.5	
2017-A	8/23/2017	4726 Carlow Road	Mound	Cynthia Lilligren	Black lake	160	N	20+	20+
2014-B	8/13/2014	3705 Northome Road	Deephaven	Richard & Michele Meyer	St Louis	210			
2020-A	4/22/2020	980 Heritage Lane	Orono	Tiffane Ferrer	Tanager	231	Y	29	29
2012-B	4/25/2012	655 Bushaway Road	Wayzata	Brian & Carolyn Taylor	Wazata	267	N		
2014-C	11/12/2014	2050 Shoreline Drive	Orono	Berta Kvamme	Smiths	291	N	20	200
2021-A	2/10/2021	975 Heritage Lane	Orono	Mark Schindele	Tanager	340	N	48	110
2015-A	9/23/2015	1450 Eastman Lane	Wayzata	Robert Sabes	Wayzata	529	N		
2012-C	4/25/2012	2558 Crosby Road	Minnetonka	Ben & Judy Simmons	Grays/ Crosby Cove	731		Vaiance Not Granted	

ITEM 10B ATTACHMENT 9

Public Comments Received as 03/05/2021 12:00pm

Public Hearing for PID 17-117-22-21-0090 Grays Bay Blvd

#1

From: Darryl Landstrom <darryl@dlandstrom.com>

Sent: Wednesday, March 3, 2021 9:00 AM

To: Vickie Schleuning <vschleuning@lmcd.org>

Cc: Darryl Landstrom <Darryl@dlandstrom.com>

Subject: March 10 Public Hearing re: PID 17-117-22-21-0090 Grays Bay Blvd

Vickie: I am writing in response to the Public Hearing notice I received regarding the subject PID. Having lived at 17012 Grays Bay Blvd since 1985, I have never experienced property and lake access actions like what is currently being pursued by the Stones and Murdych's. While not unprecedented I'm sure, this action has disrupted what has been a friendly and welcoming lake front neighborhood. My property is West of the PID in question and I support all 3 options that have been presented by Craig Peterson and Mary Kiley. To take away a boat dock and lift from a home owner than purchased the property with these assets that were also there for previous owners is unfair.

I encourage the LMCD to serve as a mediator during the hearing to facilitate approval of one of the options presented.

Respectfully,
Darryl Landstrom
Be Well - Stay Safe!

Darryl Landstrom
952-941-9400 O/612-770-0320 C
D. Landstrom Associates | <https://dlandstrom.com>
5555 W. 78th Street, Suite L
Minneapolis, MN 55439

#2

From: Colleen Nelson <colleen@dlandstrom.com>

Sent: Wednesday, March 3, 2021 5:46 PM

To: Vickie Schleuning <vschleuning@lmcd.org>; Colleen Nelson <colleen@dlandstrom.com>

Subject: Peterson Kiley variance hearing

Dear LMCD,

Thank you for the notice of the variance hearing for the Peterson- Kiley neighboring property. All 3 of the proposals look to be acceptable and reasonable.

These seem consistent with other properties that have limited setback variances for docks & boat lifts on Lake Minnetonka and Grays Bay.

Best regards,

Colleen Nelson

612-805-2915

Simplyfood

(mailing address only)

17012 Grays Bay Blvd

Wayzata MN 55391

For shipments - please see PO for ship to address.

#3

From: Ouji, Maryam <MOUJI@travelers.com>
Sent: Thursday, March 4, 2021 3:37 PM
To: Vickie Schleuning <vschleuning@lmcd.org>; Ghanbar, Ardy <ardy.ghanbar@castlelake.com>
Cc: Matthew Cook <mcook@lmcd.org>
Subject: RE: Craig Peterson and Mary Kiley | PID 17-117-22-21-0090

Good afternoon Vickie,

It looks like my husband has missed to add my name to the below statement. Please consider that from both of us as we co-own our property.

regards,

Maryam Ouji, CIP | Account Executive Officer | Construction
Travelers
385 Washington Street | SB04H
St. Paul, MN 55102
W: 651.310.8721 | C: 612.434.2820



From: Vickie Schleuning <vschleuning@lmcd.org>
Sent: Thursday, March 4, 2021 2:25 PM
To: Ghanbar, Ardy <ardy.ghanbar@castlelake.com>
Cc: Ouji, Maryam <MOUJI@travelers.com>; Matthew Cook <mcook@lmcd.org>
Subject: [External] RE: Craig Peterson and Mary Kiley | PID 17-117-22-21-0090

External Sender - Please Exercise Caution

Hi Ardy,

We received your comments and will provide them as part of the public hearing for the Board.

Thank you,

Vickie Schleuning

Executive Director | Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200 | Mound, MN 55364
Ph 952-745-0789 | Fx 952-745-9085 | vschleuning@lmcd.org
www.lmcd.org

CONNECT WITH US  



To preserve and enhance the Lake Minnetonka experience

From: Ghanbar, Ardy <ardy.ghanbar@castlelake.com>
Sent: Thursday, March 4, 2021 2:11 PM
To: Vickie Schleuning <vschleuning@lmcd.org>
Cc: Oujj, Maryam <MOUJI@travelers.com>
Subject: Craig Peterson and Mary Kiley | PID 17-117-22-21-0090

Dear Executive Director,

We are writing you with regards to the public hearing notice we received with respect to Craig Peterson and Mary Kiley (PID 17-117-22-21-0090). Based on our review, we are supportive of any of the three options and will defer to yourself and the Board of Directors to determine which of these would be most appropriate given the facts and circumstances.

Having had the privilege of living at our current residence (17008 Grays Bay Blvd) for nearly four years now, we have gotten to know the parties involved in this matter as well as other residents of our bay. Based on our observations Craig Peterson and Mary Kiley have been upstanding members of the community and consistently courteous and respectful of all neighbors. They make an exceptional effort to maintain their property (and lakeshore) and promote the health and safety of not just themselves but the rest of us in the community.

We personally frown upon this litigious behavior as it massively degrades the sense of community and family in the neighborhood.

Best,

Ardy Ghanbar | Castlelake

4600 Wells Fargo Center | 90 South 7th Street | Minneapolis, MN 55402

Office: +1-612-851-3113 | Mobile: +1-612-965-6782

ardy.ghanbar@castlelake.com

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#4

From: Maggie Dalton <maggiefinzendalton@gmail.com>

Sent: Friday, March 5, 2021 9:31 AM

To: LMCD <lmcd@lmcd.org>; Vickie Schleuning <vschleuning@lmcd.org>

Subject: Comments regarding adjusted dock use area variance application for PID 17-117-22-21-0090

To the Executive Director and the Board of the LMCD:

We are in receipt of the LMCD's February 24, 2021 notice regarding the proposed adjusted dock use area variance located at PID 17-117-22-21-0090 on Grays Bay Boulevard in Minnetonka. We live across from and next to the affected properties and appreciate this opportunity to submit our comments. We can appreciate that conflicts can arise between neighboring property owners due to competing land use priorities, perhaps particularly when riparian rights are implicated. We have reviewed the three options proposed by the applicants and believe they present reasonable solutions for resolving the existing conflict while simultaneously preserving the riparian usage for all involved. The fact that there are multiple options to consider indicates that there is a reasonable solution to be had. We hope the LMCD will adopt one of the options proposed by Craig Peterson and Mary Kiley, which we believe will permit all of the affected owners and their families to continue to enjoy the lake access that they purchased.

Regards,

Matt and Maggie Dalton
16989 Cottage Grove Avenue

#5

Comments #1-4 included in Board packet released 03/05/2021

Matthew Cook

From: John Wall <john@wallcompanies.com>
Sent: Monday, March 8, 2021 12:34 AM
To: Vickie Schleuning
Cc: Matthew Cook; Patricia Wall
Subject: Public Hearing Peterson/Kiley (PID 17-117-22-21-0090)

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Vicki:

We are one of the newest families to the neighborhood, at 16915 Grays Bay Blvd. We had extensive discussions with you and Matt regarding our Dock Use Area last year. Thank you for helping us come up with a solution that complies with our variance and allows us to enjoy our dock despite the best efforts of our neighbor to keep us from doing so. We ended up doing unspeakable things to our dock in order to comply, but with the rules on our side, we are able to keep our lift.

Which would make you think we support the Peterson/Kiley request. However, after reading the response by the Murdock/Stone attorney provided on your website, we find it hard to imagine how you could even consider any one of the "3 Options". These reasons were most compelling:

1. The LMCD has never granted a Dock Use Area for a 10' wide lot, anywhere on the lake, ever (interesting that the application doesn't even mention DUA).
2. There is no Dock Use Area that fits in 10', so there is nothing to grant a variance for.
3. There was no boat lift there when the applicants purchased the property.
4. The Applicants have refused to negotiate with the neighbors, and just hired a lawyer to bully their way in.

We have found the parties involved to be very nice people. And we know how hard, and expensive, it is to find a place for a boat on the Lake. It is too bad that a compromise couldn't have been reached without involving the board, however, the law is on not on the side of the Applicants, and unless the Applicants can convince their neighbors to give up their rights, then they will just have to settle for a nice place to put in their canoe, and watch the sunset.

And if, for some reason, the Board can justify giving away 2' of the Stone's property, so the Applicants can fit a boat lift with no setback, we would like to talk to you about getting 2' feet from our neighbor, so we can widen our dock back to a normal size.

John Wall

The Wall Companies
811 LaSalle Avenue #210
Minneapolis, MN 55402
Direct: 612.767.4001 | Cell: 612.791.0716

Office: 612.767.4000

john@wallcompanies.com



#6

Matthew Cook

From: palexander6@comcast.net
Sent: Monday, March 8, 2021 8:15 AM
To: Vickie Schleuning; Matthew Cook
Cc: Joel Stone
Subject: Variance for Craig Peterson/Mary Kiley

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Vicki and Matthew,

First, thank you for your hard work done in our behalf, and all of those who believe in saving beautiful Lake Minnetonka.

We've been residents on Grays Bay for 31 years now and feel blessed to be here, even with the extremely high property taxes that we pay.

A neighbor, Joel Stone, who lives on Grays Bay asked if I would look at his property and dock situation along with a notes on another neighbors variance application. The other neighbors Craig Peterson and Mary Kiley live three doors down and across the street.

Even though I know and enjoy many neighbors up and down both sides of the street , since these are relatively new neighbors, I can't say I really am familiar with any of the parties here. I'm hoping you have looked at the intrusive nature that this variance would cause, or please would take the time to look it over.

Granting this variance would set a huge precedent for all of Lake Minnetonka.

From what I know 10 ft. of land following LMCD regulations, doesn't even allow for a setback much less a dock that's required by all lakeshore owners. Joel mentioned his neighbor also wanting to add a boat lift to his dock along with storage facility. Joel mentioned a seemingly long dock that would have floats jet skiis and whatever attached to it that would ultimately not only crowd immediate neighbors , but also two or three adjacent households north and south of the proposed variance, as I could see from a neighbors deck four or five doors north. I'm hoping you'll deny this variance.

Thank you for your time and consideration.

Mary C. (Bunny) Alexander

#7

Matthew Cook

Scanned

From: Peter Ecklund <peter.ecklund@gmail.com>
Sent: Monday, March 8, 2021 11:32 AM
To: Matthew Cook; Vickie Schleuning; Nicole Stone
Subject: Opposition to Craig Peterson Mary Kiley Variance Application

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

My name is Peter Ecklund. I live at 16935 Grays Bay Blvd. I recently talked to my neighbor across the street, Joel Stone, about the boat slip dock variance situation he is dealing with to the West of his property. From the sound of it, Peterson is requesting a variance for more than a reasonable share of lakeshore and dock space at the expense of the neighbors on either side, and has conducted himself in a rather unneighborly manner. Because of this, I am voicing my opposition to the board granting this variance application.

Sincerely,

Peter

#8

Matthew Cook

From: Jen Bryce <jenniferjbryce@gmail.com>
Sent: Tuesday, March 9, 2021 8:46 PM
To: Vickie Schleuning; Matthew Cook; nwtone@lmcd.org
Subject: Dock issue Grays Bay Blvd
Attachments: Dock issue LMCD letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please see attached letter regarding the dock variance request on Grays Bay Blvd, set to be discussed at the board meeting tomorrow evening. Thank you.

Terry and Jennifer Bryce
16828 Grays Bay Blvd
Wayzata, MN 55391

Sent from my iPad

March 9, 2021

Vicki Schleuning chleuning@lmcd.org
Matthew Cook cook@lmcd.org
Nicole Stone nstone@lmcd.org

From:

Terry and Jennifer Bryce
16828 Grays Bay Blvd

Re: Dock Variance Request at 17009 Grays Bay Blvd
Parcel ID# 1711722210090

To Whom it May Concern,

As long time Grays Bay residents (40+ years), we have observed the growth of boat size, water toys, dock size - and attendant issues. It's heartening to see the appreciation and use of the lake expand over time. However, with growth comes problems, and the lake isn't getting any bigger. We are not adjacent to the property, but we are weighing in as longtime lake health and safety advocates.

We request that the board DENIES the Peterson/Kiley variance application. Instead, we support the neighbor's suggested proposal from the Stones and Murdychs.

This is why:

1. Any reasonable reading of the code must start with an understanding that, given the 10 feet of space, no dock of any kind would be the only thing that meets code requirements. Any use of 10 feet of shoreline, save swimming from shore or launching canoes and kayaks, is inherently an imposition on neighbors. The space simply doesn't support the usage requested without impeding neighbors and overcrowding an already tightly curving shoreline, full of smaller lots and their docks.
2. It's unfortunate that the owners were unaware of the limitations, due to former owners usage and the kindness of their neighbors in not objecting, until now. It isn't incumbent upon neighbors to give up their rights for the enjoyment of others, especially when the tax burden rests especially heavily on those with more lake frontage and space is already tight.
3. Granting of the variance requested could well result in a flurry of litigation. Already there has been discussion in the neighborhood of a domino effect, as neighbors see a need to change their docks to accommodate the proposed variance, which then impedes on the next neighbor. Also, granting of the original requestor's variance proposal will likely embolden other property owners, who would like to enjoy larger boats, docks, jet skis and swim platforms, outsize to their shore length, but have thus far held back because of the specifics of the relevant code and/or out of respect for their neighbors.
4. It is difficult to achieve safety of egress and ingress as it is. As retirees, we spend a great deal of time on our boat and dock, in our yard and on our deck, with excellent views of the area in dispute. It is quite dense, and children also swim where boats pull in and out. The tight curve of the shoreline, along with the high number of boats and docks, makes for

quite a stew. Because of the tight curve, pulling a boat straight out from dockage isn't always possible. So - children swimming, boats backing out at a curve, then add in the ever growing number of incoming kayaks, paddle boarders and boaters from Libbs Lake Channel, and the situation becomes tricky, to say the least.

5. We believe the counter proposal from the adjacent neighbors is quite generous. While it doesn't grant all of the applicant's wishes, it does allow him a dock and boat-lift (although perhaps uncovered and not side loading) where none should be, given any code adherence, common sense and concern for safety. It seems unreasonable to expect your neighbors to literally give up their purchased land and their riparian rights to views and usage of their waterfront, which they have paid dearly for, to accommodate the desires of some one who bought 10 feet of shoreline.
6. As neighbors who value the sense of community in our neighborhood, it is our hope that this is resolved amicably, with reasonable retention of property owners rights, as the outcome will send a message to all in the area, and could set off a string of strife and litigation.
7. As neighbors who have experienced, (or witnessed other resident's experiences), with some of the issues stated by the original applicant, we have some helpful ideas:
 - A. Storage of gear: many with houses across from their water access use a wagon or small cart, or store gear on their boat, when a shed isn't allowed or practical.
 - B. A quality attached boat cover, which I personally used on a previous property, where my shoreline was too small to accommodate a side loading covered boat house.
 - C. Access for elderly and disabled: (we are particularly empathetic to this challenge, as are most of us with friends and relatives who live with mobility issues). We drive Grandma (who uses a wheelchair or walker, depending on the day) over to Grays Bay Marina, or meet our friends at the dock in Wayzata. While consuming a bit more time, both prove superior to the ingress and egress available through our yard and on our dock, even with side loading.
 - D. Access for swimming: we have used an inflatable platform that we pull in after use (our swimming area can impede on the Libbs Lake Channel opening). Also, many use a LilyPad type of platform, which is lightweight and easy to roll up and store on a boat or take home.

Again, we hope these issues are resolved amicably. We want people to enjoy all that our beloved lake offers, in sustainable ways. While we see Mr. Peterson's original requests as somewhat fantastical, given his 10 feet of shoreline located on a tight curve and next to modest sized lots, we are really glad that his two adjacent neighbors have come up with a plan that allows Mr. Peterson reasonable access. While it may not be the champagne Mr. Peterson desires, it is a great deal more than the beer he has paid for. He would have access not generally allowed, and owe the adjacent property owners some gratitude for their generosity.

We wish all an enjoyable and safe summer on the lake.

Terry and Jennifer Bryce
16828 Grays Bay Blvd.
Wayzata, MN 55391



ITEM 13

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: March 10, 2021
TO: Board of Directors
FROM: Vickie Schleuning, Executive Director *Vickie Schleuning*
SUBJECT: Board Member Expectations

ACTION _____

Board consideration of inclusion of Board Member Expectations in the LMCD Board of Directors Guidebook.

The following motions are offered depending on whether the Board wishes to approve or deny the request.

Approval:

I make a motion to approve the inclusion of Board Member Expectations in the Board of Directors Guidebook <with the following changes>.

Denial:

I make a motion to deny the inclusion of Board Member Expectations in the Board of Directors Guidebook for the following reasons...

BACKGROUND _____

The LMCD Board has had previous discussions about expectations of Board Members. Chair Thomas prepared a summary document compiling these expectations, which was then reviewed by the Board Officers. Chair Thomas would like input from the Board Members. If acceptable, this information would replace the applicable section in the Board of Directors Guidebook.

BUDGET _____

N/A

STRATEGIC PRIORITIES _____

Operational Effectiveness Clear & Timely Communications Effective Governance Lake Protection Other

ATTACHMENTS/SUPPLEMENTARY INFORMATION _____

- Board Member Expectations

ATTACHMENT

DRAFT

Lake Minnetonka Conservation District (LMCD) Board Member Expectations

General Expectations

1. Support the LMCD's mission and vision.
2. Serve actively on committees and workgroups of the Board.
3. Attend activities and events sponsored by the LMCD whenever possible.
4. Provide feedback for the Executive Directors performance appraisal and the Board's self-appraisal.
5. Act as an ambassador for the LMCD and the Lake area community.
6. Communicate effectively in all directions: with the LMCD staff, the Board, member cities, the public, other agencies and the media when authorized.
7. Help strengthen relationships with all Lake area constituents, stakeholders and legislators.
8. Actively and regularly communicate with the city you represent to keep them informed and solicit their ideas.

Meetings

1. Prepare for and participate in the Board meetings and scheduled committee and workgroup meetings.
2. Ask timely and substantive questions at Board, committee and workgroup meetings consistent with personal conscience, convictions, and ethics.
3. Participate in meetings in a professional manner that respects the diverse opinions of members and the public.
4. Support the majority decision on issues decided by the Board.
5. Maintain confidentiality of the Board's closed sessions, and speak for the LMCD and Board only when authorized to do so.
5. Suggest agenda items for Board and committee meetings to ensure that significant policy-related matters are addressed.

Avoiding Conflicts

1. Serve the LMCD as a whole rather than any special interest group or constituency.
2. Avoid even the appearance of a conflict of interest that might compromise the Board or the LMCD, and disclose any possible conflicts to the Board in a timely fashion.
3. Never accept or offer any favors or gifts from or to anyone who does business with the LMCD.

Fiduciary Responsibility

1. Exercise prudence and sound fiscal practices with the Board in the control of and transfer of LMCD funds.
2. Read and understand the LMCD's financial statements and audit reports and otherwise help the Board fulfill its fiduciary responsibility.

Fund Raising

1. Support the Save the Lake fund raising activities.

DRAFT

COMMUNICATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

9:00 a.m., January 28, 2021

Virtual

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

1. CALL TO ORDER

2. ROLL CALL

Members Present: Dan Baasen, Ann Hoelscher, Mike Kirkwood, Dennis Klohs, Jake Walesch, and Gary Hughes. Also Present: Executive Director Vickie Schleuning.

3. CHAIR ANNOUNCEMENTS

Committee requests the Board provide a formal thank you to Captain Shane Magnuson. Walesch will draft for Vickie to present at the February 10 LMCD board meeting.

4. APPROVAL OF MINUTES (12/10/2020 LMCD Communications Committee Meeting)

Motion to approve minutes was made and seconded. Motion passed.

5. TOPICS

A) Public Relations – Save the Lake Article

Save the Lake committee will coordinate publication in coordination with Spring Save The Lake fundraiser.

B) Networking with Elected Officials

i. January letter & meetings

Staff will send a letter to elected officials with jurisdictions around the lake inviting them to a LMCD meeting. Board members will reach out to legislators. At a later date should also connect with county and agencies.

Contacts assignments:

- Hoelscher: Senator Julia Coleman, Representative Greg Boe, Representative Kelly Morrison
- Klohs: [in conjunction with Nicole Stone]: Senator Ann Johnson Stewart, Representative Patty Acomb
- Baasen: Representative Jerry Hertaus
- Kirkwood: Senator David Osmek

ii. Talking points and action items

Vickie will send out draft to Committee with fact sheet.

iii. Legislative monitoring - Goff proposal

Tabled until next meeting due to urgency of other agenda items.

C) Minnesota Lakes & Rivers Advocates – Jeff Forester

<http://mnlakesandrivers.org/>

Tabled until next meeting due to urgency of other agenda items.

D) Monthly Articles & Videos

Tabled until next meeting due to urgency of other agenda items.

E) Amazon Smile Charity

Save the Lake Committee will review.

F) Social Media Intern

Tabled until next meeting due to urgency of other agenda items.

G) Other

i. Communication committee asked by Board to address format for “listening sessions” regarding Wake issues:

- Process clarity: Format, structure, time limits, nature of inputs and decision making from stakeholders?
- Timing: now or after completion of U of MN St. Anthony Falls study?
- What outcomes do we seek?
- What are the boundaries we need to establish?

Committee discussed goals and concerns. Walesch will approach other agencies for an update. Additional meeting of this Committee will be held to discuss this issue on February 11th, at 9 AM.

ii. Website Status

Vickie provided brief update. Will discuss at February meeting.

H) Secretary for Next Meeting (2/25/2021)

Dan Baasen

6. ADJOURNMENT

Motion to adjourn was made and seconded. Meeting adjourned at 10:03am.

Respectfully Submitted,

Mike Kirkwood

LMCD Communications Committee Member

COMMUNICATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

9:00 a.m., February 11, 2021

Virtual

1. CALL TO ORDER

The meeting called to order at 9:00 a.m.

2. ROLL CALL

Members Present: Ann Hoelscher, Michael Kirkwood, Gary Hughes, Jake Walesch, Dennis Klohs, and Dan Baasen.

3. APPROVAL OF MINUTES

Meeting minutes from 1/28/2021 Communications Committee meeting were approved following a motion by Baasen to approve as submitted.

4. TOPICS

A) Wakes and Wake Boats

Hoelscher identified the meeting focus as communication with the public and interested parties from the LMCD Directors and staff regarding the Lake controversy of Wakes and Wake Boat challenges for Lake users.

Walesch spoke to process for securing input:

- Continued feedback via LMCD website
- Guidelines and structure for potential public forum
- Use of available studies and actions local & national
- Review boat manufacturers proposed education power point position statement and potential for widespread boater education regarding respect for other boaters and boat manufacturers stance on “200 foot respect zone”

Klohs & Walesch spoke to current LMCD policies and the need to be careful not to get ahead of the process. Hughes identified the widely distributed Summer Rules booklet as a means of posturing LMCD on wake & noise for summer 2021.

Committee confirmed support for removal of line in wake boat manufacturers education piece as relates to 200-foot recommendation.

Committee recommended tabling future public hearing for now.

5. ADJOURNMENT

The meeting was adjourned at 9:45 a.m.

Respectfully Submitted,

Dan Baasen,
LMCD Communications Committee Member