

CITY OF TONKA BAY ITEM NO. 7A

Tonka Bay City Council Agenda Item Executive Summary

Title of Item: **VARIANCE REQUEST:** Application from M. Mitchell Davis for a 4,424 square foot variance to the required 20,000 square foot lot size in order to increase impervious surface on a non-conforming single lot of record within the shoreland area– R-1A zoning –PID: 27-117-23-32-0025

Meeting Date: **9-11-12**

Staff/Guest Jack Corkle, AICP, PTP – Interim City Planner
Reporting: Justin Messner, PE – City Engineer

Summary: The applicant is seeking to construct an addition to the home at 415 Lakeview Avenue. The addition, based on the plans submitted by the property owner and the builder, will require one variance. The requested variance is as follows:

- A 4,424 square foot variance from the required lot area of 20,000 square feet.

Recommendation: Staff believes that the applicant has met the Statutory and City Criteria for approving the variance. Staff has provided findings of fact for approval on page 7.

City of Tonka Bay Planning Department
Variance Report

To: **City Council**

From: Jack Corkle, AICP, PTP – Interim City Planner
Justin Messner, PE – City Engineer

Meeting Date: **9-11-12**

Applicant: Richard Storlein, RDS Architects

Owner: M. Mitchell Davis

Location: **415 Lakeview Avenue**

Zoning: **R-1A**

Introductory Information

<i>Proposed Project:</i>	The applicant is seeking to construct an addition to the existing home at 415 Lakeview Avenue.
<i>Variance Request(s):</i>	The proposed action will require the following variance: 1. A 4,424 square foot variance from the required 20,000 square foot for minimum lot size.

Findings

<i>Site Data:</i>	Lot Size –15,576 square feet Existing Use – Single Family Home Existing Zoning – R-1A Property Identification Number (PID): 27-117-23-32-0025
<i>Comp Plan Guidance:</i>	<ul style="list-style-type: none">▪ The comprehensive plan guides this lot for single family use.▪ The corresponding zoning assigned to this property (R-1A) allows for single family homes.
<i>Lot Area:</i>	<ul style="list-style-type: none">▪ The lot area requirement in the R-1A Districts is 20,000 square feet. The lot of record is 15,576 square feet.▪ The lot is a non-conforming lot of record and is allowed to be used for

its intended zoning under city ordinances.

- State Statutes require a variance for lot area on properties within the shoreland district that do not meet setback requirements or have impervious surface coverage that exceeds 25 percent. The addition proposed by the applicant will result in impervious surface over 25 percent.

Hardcover Analysis:

- The maximum hardcover permitted on this lot without any additional review is 25 percent; hardcover between 25 and 35 percent can be administratively approved by the City Engineer and City Administrator provided that there are structures and practices in place for treating storm water runoff.
- The applicants are proposing hardcover in the amount of 5,375 square feet. Based on a lot size of 15,576 square feet, the hardcover on the lot is 34.5 percent.
- The applicants will be required to treat storm water runoff.

Application Review:

**Applicable Code
Definitions:**

Addition. Any physical enlargement of an existing structure.

Lot (of Record). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Ordinance, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the Council.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple family dwellings, but not including hotels, motels, boarding houses, or manufactured housing.

Lot Area. The total land area of a horizontal plane within the lot lines.

Impervious Surface. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to, roofs, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools, or any other similar surface.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such deviation will not be contrary to the public interest and where, owing to conditions unique to the individual property under

	<p>consideration and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.</p>
<p>Applicable Codes:</p>	<p>1017.06 Lot Area and Setback Requirements; subdivision (1). Lots in the R-1A Zoning District shall have a lot area of not less than twenty thousand (20,000) square feet.</p> <p>1070.11 Impervious Surface Coverage; subdivision (1)(a)(1). Impervious surface coverage for lots in all zoning districts shall not exceed twenty-five (25) percent of the lot area, except as provided below:</p> <ol style="list-style-type: none"> 1. Where appropriate and where structures and practices are in place for the treatment of storm water runoff and/or prevent storm water from directly entering a public water, impervious surface coverage may be allowed to exceed twenty-fiver (35) percent to a maximum of thirty-five percent on any one site with approval of the City Engineer and City Administrator.
<p>State Statute:</p>	<p>State Statute 462.357, Subdivision 1e. Nonconformities (e). A non-conforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements provided that:</p> <ol style="list-style-type: none"> 1. All structure and septic system setback distance requirements can be met; 2. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer, and; 3. The impervious surface coverage does not exceed 25 percent of the lot.
<p>Variance Criteria Review (findings of fact):</p>	<p>By state statute, there are three definitive criteria that all variances must address: consistency with the ordinance, consistency with the comprehensive plan, and the establishment of “practical difficulties.” Presuming a request meets statutory criteria, city code also requires that the proposal will NOT impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in the public street, increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the neighborhood.</p> <p>The requested variance:</p> <ol style="list-style-type: none"> 1. A 4,424 square foot variance to the minimum required lot area of 20,000 square feet.

Staff's analysis of the request under the review criteria is as follows:

A. Statutory Criteria

1. *The request is in harmony with the general purposes and intent of this ordinance.*

State Statutes require the applicants to apply for a lot area variance due to the amount of impervious surface on the site (exceeds 25 percent). Under City Code, the property would be treated as a non-conforming lot and would be allowed for single family use (as it is currently occupied) as long as the lot's area and frontage were within 60 percent of the district's requirements. The lot meets at least 60 percent of the district's (R-1A) requirements.

The City's intent of establishing minimum lot sizes is to ensure that land does not become overcrowded with structures and that the lake does not get polluted. The house already exists and the owners propose to use the property in the same manner in the future. The property owners will be required to treat water runoff from the site in order to prevent runoff from going directly into the lake. Staff finds that the expansion of an existing single family home in this location would not contribute to overcrowding and that the appropriate water runoff treatment plan will prevent lake pollution.

Criteria met.

2. *The variance is consistent with the comprehensive plan.*

The Comprehensive Plan calls for this area of the City to be used for single family dwellings, and for the development to occur in an orderly fashion in a manner best for the community. The plan also recognizes that the redevelopment of existing homes is anticipated to continue in the future, and such improvements are encouraged. Staff finds the variance request **meets this criteria**.

3. *The property in question meets the "practical difficulties" test:*

- a.) *The property owner proposes to use the property in a reasonable manner.*

The property owner is seeking to make improvements to the home by constructing an addition. The use of the property will remain the same. As the proposed use conforms to the allowed uses in the R-1A zoning district, the proposal is reasonable.

Criteria met.

- b.) *There are unique circumstances to the property not created by the landowner.*

The subject property is 15,576 square feet. There is nothing the property owner can do to increase the size of the lot. City code allows for the use of the property as a single-family lot as long as 60 percent of the R-1A district's lot area is met. The property exceeds the 60 percent requirement, as such, should be allowed to be used for a home. It should be noted that the property was a platted lot of record when the City increased lot requirements to 20,000 square feet. This was not a situation created by the current land owner. **Criteria met.**

c.) *The variance will maintain the essential character of the locality.*

The proposed addition will be in character with other homes within the neighborhood. **Criteria met.**

B. City Tests:

1.) *Will the variance impair an adequate supply of light and air to adjacent property?*

No. Granting the variance request will not diminish the amount of sunlight, nor prevent an adequate amount of air to reach the neighboring property.

2.) *Will the variance unreasonably increase the congestion in the public street?*

No. The continued use of the property for a single family dwelling is not anticipated to unreasonably increase congestion in the public street. **Criteria met.**

3.) *Will the variance increase the danger of fire or endanger the public safety?*

No. The continued use of the property for a single family dwelling is not anticipated to increase the risk of fire or endanger the public safety. **Criteria met.**

4.) *Will the variance unreasonably diminish or impair established property values within the neighborhood?*

No. The proposed improvements to the home will undoubtedly increase the property value which in turn will support or boost the value of surrounding properties. Second, the intent of the ordinance is:

To protect the public, such provisions are intended to provide for adequate light and air, safety from fire and other danger; prevent undue concentration of population; provide ample parking

facilities; regulate the location and operation of businesses, industries, dwelling and buildings for other specified purposes; preserve property values by providing for orderly and compatible development of the various land uses; encourage energy conservation and the use of renewable energy resources; provide for administration of this Ordinance and all amendments hereto.

Staff does not foresee any way in which the requested variance will be in direct conflict with the above intent. **Criteria met.**

Resident Concerns: • Staff is not aware of any concerns raised to this date.

Additional Information: • The DNR hydrologist Jack Gleason was asked to comment on the application, and had no objections to the request (as of the writing of this report).

Engineering Reports: As noted previously, calculations for this property indicate that approximately 34.5 percent of the property is hardcover. This exceeds the 25 percent maximum and requires approval from the City Engineer and City Administrator. As of the writing of this report, no plan for treating stormwater runoff has been submitted. Such a plan needs to be submitted and approved prior to issuing a building permit.

Conclusion

Council Options: The City Council has the following options:

- A) **DIRECT STAFF TO PREPARE A RESOLUTION APPROVING THE REQUEST based on the applicant's submittals and findings of fact.**
- B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUEST based on the applicant's submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

The 60-day review period for this application expires on 10-20-12, but can be extended for an additional 60 days if more time is needed. A final decision must be made prior to 12-19-2012.

Template Denial Motion: "I move that we direct staff to prepare a resolution of denial for the requested lot size variance based on the following findings of fact:"
(Not recommended) • *(provide findings to support your conclusion)*

***Template Approval
Motion:
(Recommended)***

“I move that we direct staff to prepare a resolution of approval for the requested lot size variance based on the findings of fact listed in the report. Furthermore, the approval shall include the conditions listed within the staff report as may have been amended here tonight.”

- a. The continued use as a signal-family home is consistent with the comprehensive plan.
- b. Granting the variance will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the variance will not unreasonably increase congestion in the public street. The continued use is a single family home which will not generate traffic volumes that would increase congestion.
- d. Granting the variance will not increase the danger of fire or endanger the public safety.
- e. Granting the variance will not diminish or impair established property values in the neighborhood. The proposed addition should increase property values in the neighborhood.
- f. Granting the variance will not alter the essential character of the locality.
- g. The topography of the site and the size of the parcel were not created by the current owners. These are circumstances unique to the property.
- h. The variance request is in harmony with the general intent of the Ordinance. The Ordinance permits single-family homes that meet 60 percent of the district’s requirements. Overcrowding of homes will not occur.
- i. The variance request is in harmony with the general intent of the Ordinance. The Ordinance requires the property owner to treat water runoff due to the fact that there is more than 25 percent impervious surface on the lot. The property owner will be required to treat water runoff.
- j. The variance request is in harmony with the general intent of the Ordinance. The proposed addition will bring the home into compliance with required setbacks.

***Recommended
Conditions:***

1. The applicant shall submit a stormwater management plan acceptable to the City Engineer, and include a maintenance agreement for such plan, and that no building permit will be issued until this condition is met;
2. The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any construction.
3. The MCWD shall review and approve the final grading plans prior to any work being authorized (which may require an erosion control permit). Proof of MCWD approval shall be provided to the city prior to a building permit being authorized.
4. Silt fencing shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
5. A sump pump inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
6. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
7. Building of structures shall not occur within any existing or proposed easements on the property.
8. The City Engineer will verify and approve ingress and egress areas for City access to the stormwater treatment areas/system prior to issuing a building permit.
9. The City Engineer shall inspect the property at the property owner's expense during the construction process to ensure on-going compliance with all engineering requirements.
10. The variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.

blank

The Gregory Group
d.b.a.
LOT SURVEYS COMPANY, INC.
LAND SURVEYORS

REGISTERED UNDER THE LAWS OF STATE OF MINNESOTA
7601 73rd Avenue North
Minneapolis, Minnesota 55428 (763) 560-3093
Fax No. 560-3523

Surveyors Certificate
for

JOHN KRAEMER & SONS, INC

Property located in Section 27, Township 117, Range 23,
Hennepin County, Minnesota.

Property Address: 415 Lakeview Ave., Tonka Bay, MN

INVOICE NO. 79876 / 80350

F.B.NO. 1057-16

SCALE: 1" = 20'

- Denotes Found Iron Monument
- Denotes Iron Monument
- Denotes Wood Hub Set for excavation only
- 000.0 Denotes Existing Elevation
- 00.0 Denotes Proposed Elevation
- Denotes Surface Drainage
- Denotes Existing Contour
- - - Denotes Proposed Contour

Benchmark: Invert of manhole in front of property on Lakeview Ave. as shown.
Elevation = 924.63 feet

EXISTING HARDCOVER

Residence = 1679 sq.ft
Deck = 1104 sq.ft
Shed = 60 sq.ft
Pavers+steps = 1675 sq.ft
Total = 4518 sq.ft
Area of Parcel = 15576 sq.ft
Percentage of Hardcover = 29.0%

PROPOSED HARDCOVER

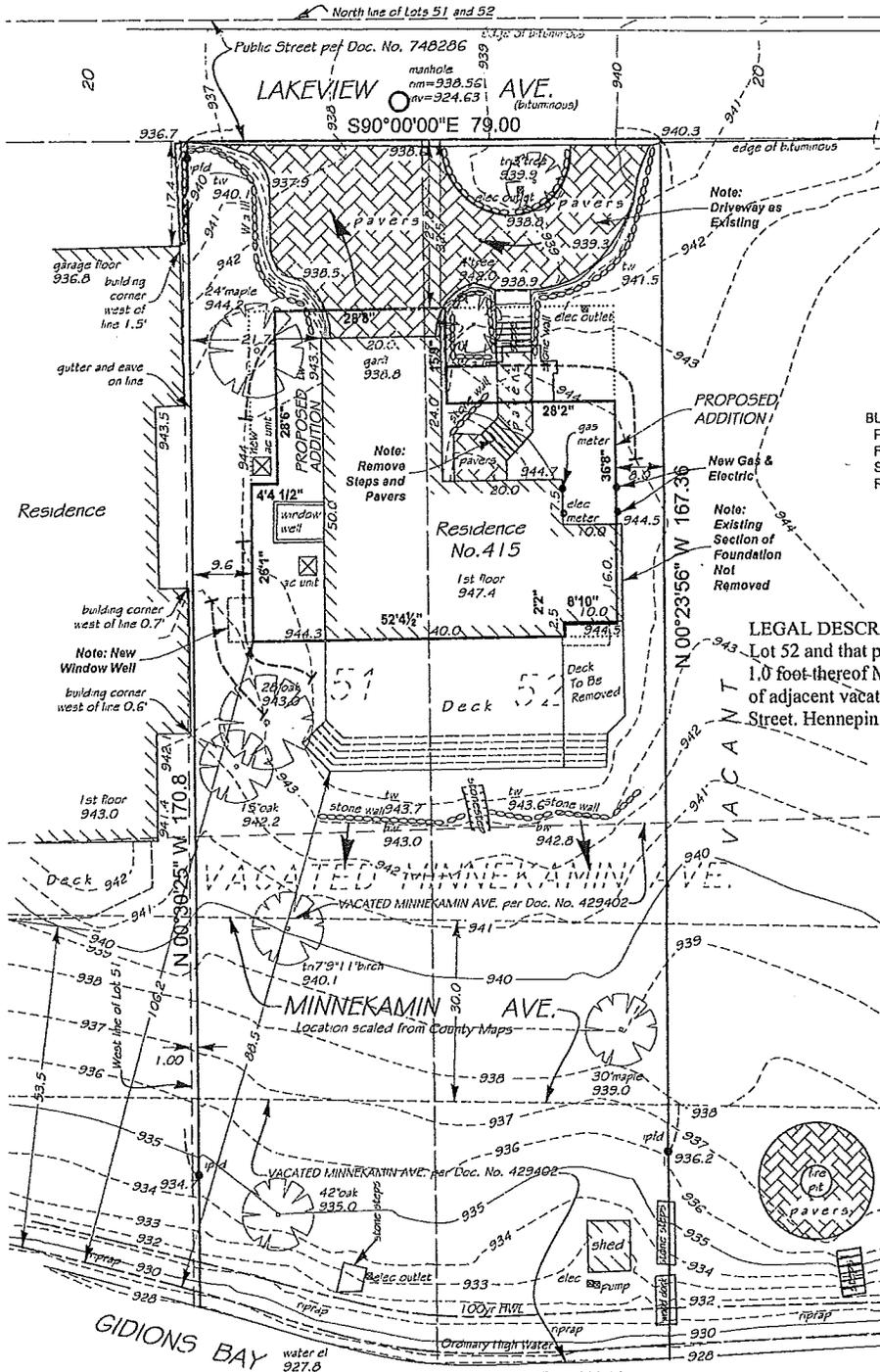
Residence = 2753 sq.ft
Deck = 1038 sq.ft
Shed = 60 sq.ft
Pavers+steps = 1524 sq.ft
Total = 5375 sq.ft
Area of Parcel = 15576 sq.ft
Percentage of Hardcover = 34.5%

BUILDING SETBACK REQUIREMENTS

Property zoned R-1A
Front - 50 feet
Side - 8 feet
Rear - 25 feet

Proposed Basement 938.8

LEGAL DESCRIPTION FROM TAX RECORDS
Lot 52 and that part of Lot 51 lying East of the west 1.0 foot thereof Minnetonka Lake Park including all of adjacent vacated Minnekamin Avenue, Subject to Street, Hennepin County, Minnesota.



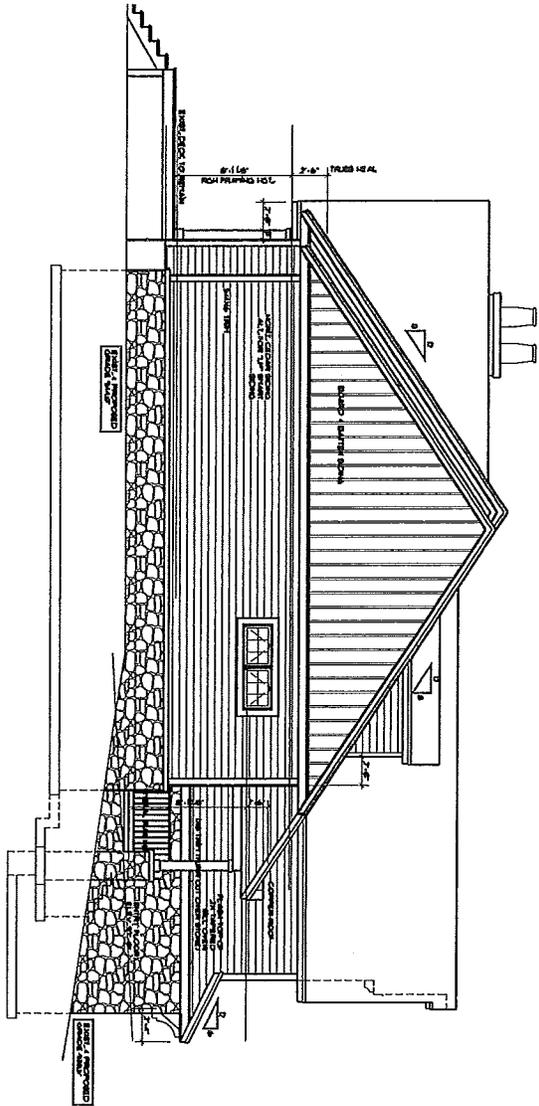
Ordinary High Water Elev. = 929.4 feet
100 yr Flood Elevation per FEMA = 931.0
100 yr Flood per City of Tonka Bay = 931.5
Minimum Floor Elevation = 933.0 per City

The only easements shown are from plats of record or information provided by client.
I certify that this plan, specification, 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

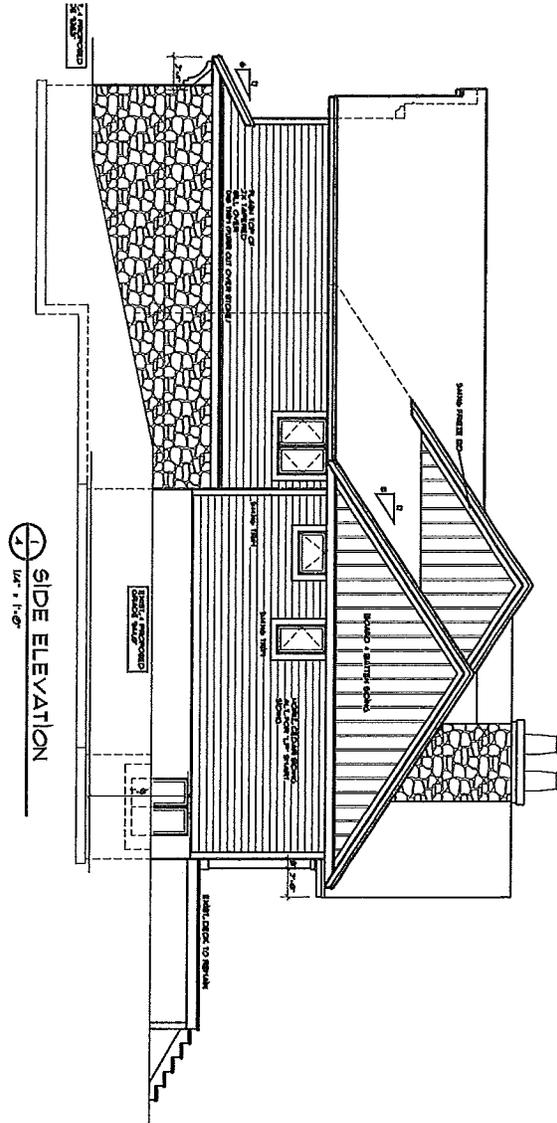
Surveyed this 14th day of December 2011.	Drawn By J. Munson
Rev 7-19-2012 new house dimensions	File Name Mlp-51-52-lb105716inv79876.dwg

Signed *Gregory R. Praszky*
Gregory R. Praszky, Minn. Reg. No. 24992

RECEIVED
AUG 21 2012



2 SIDE ELEVATION
1/4" = 1'-0"



1 SIDE ELEVATION
1/4" = 1'-0"

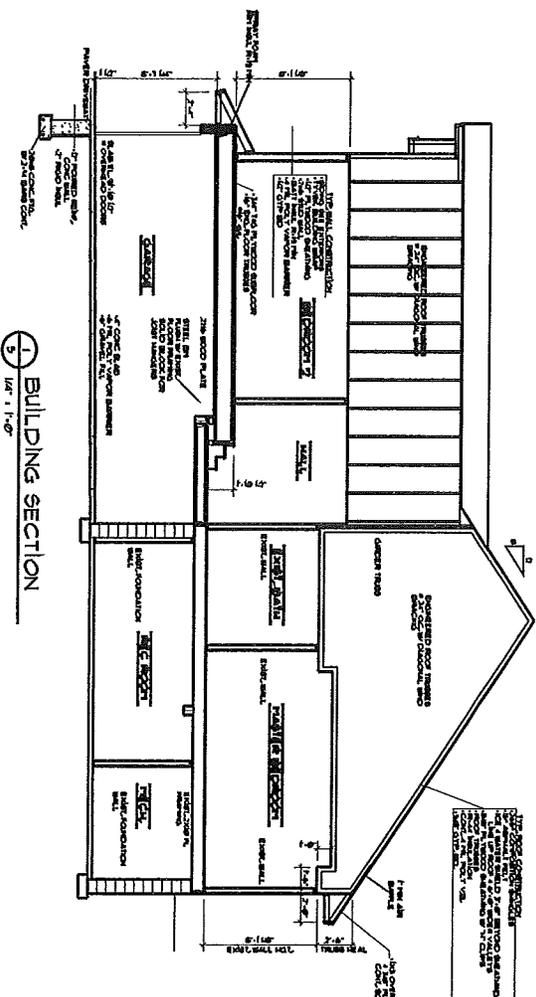
JOB #1173
SHEET #
4
OF 5

DATE
AUGUST 11, 2010
REVISIONS

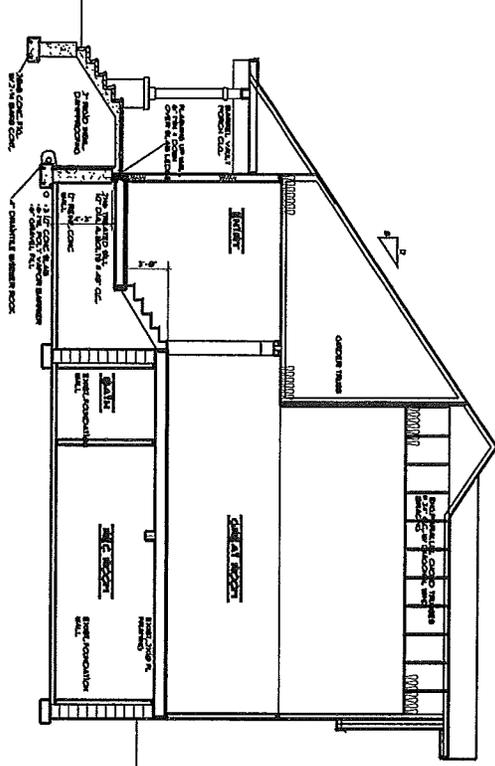
REMODELING FOR THE
DAVIS RESIDENCE
415 LAKEVIEW AVE
TONKA BAY, MINNESOTA

KRAEMER
SONS INC.
CUSTOM BUILDERS

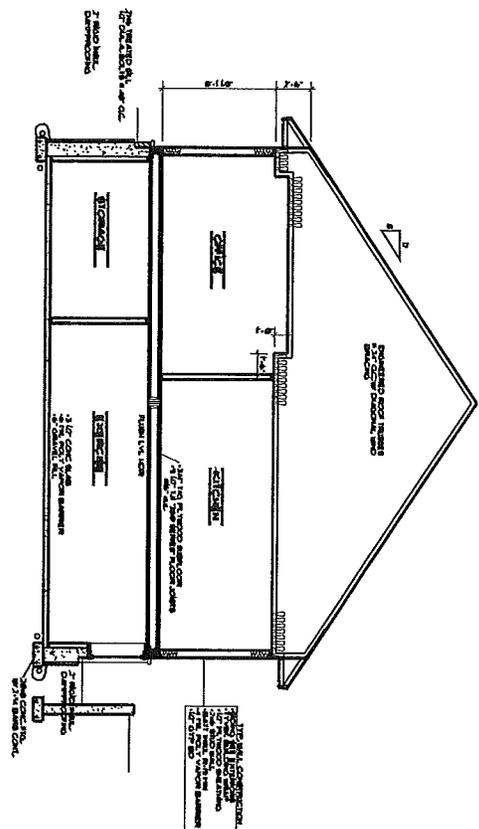
4906 LINCOLN DRIVE
EDINA, MINNESOTA 55436
952-935-9100



1 BUILDING SECTION
1/4" = 1'-0"



2 BUILDING SECTION
1/4" = 1'-0"



3 BUILDING SECTION
1/4" = 1'-0"

JOB #1785
SHEET #
5
OF 5

ISSUE
AUGUST 17, 2006
REVISED

REMODELING FOR THE
DAVIS RESIDENCE
415 LAKEVIEW AVE
TONKA BAY, MINNESOTA

JOHN
**KRAEMER
SONS** INC.
CUSTOM BUILDERS

4906 LINCOLN DRIVE
EDINA, MINNESOTA 55436
952-935-9100