



**County of Door
PLANNING DEPARTMENT**

County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235

Kay Miller
Zoning Administrator II
Phone: (920) 746-2323
FAX: (920) 746-2387

Website: map.co.door.wi.us/planning

April 1, 2014

Brian McDonald
2831 Parkwood Drive
Green Bay, WI 54313

Re: 028-04-28343011B1

The application submitted for a Door County Regular Zoning Permit to construct an irregular shaped addition to the southerly residence is hereby denied for failure to comply with Sections 3.07(1) and 4.08(8)(h)2. of the Door County Zoning Ordinance which requires a structure in a non-core multiple occupancy development to be located 75' from the ordinary high water mark. The proposed addition would be located 54' 3" from the ordinary high water mark.

You may petition the Door County Board of Adjustment for a Grant of Variance from the terms of the Door County Zoning Ordinance. Be advised that the Door County Board of Adjustment cannot grant the variance unless:

- 1) Application of the zoning ordinance creates an unnecessary hardship;
- 2) Unique physical characteristics of the property prevent the applicant from developing in compliance with the zoning ordinance;
- 3) Granting of the variance does not harm the public interest.

The applicant must provide evidence to the Board of Adjustment that their situation meets all three standards in order for the variance to be granted.

Please feel free to call with any questions.

Sincerely,

Kay Miller
Zoning Administrator II

PROCEDURE FOR APPLICATIONS REQUIRING PUBLIC HEARING

Name of Applicant: Brian McDonald

Tax Parcel No: 028-04-28 343011 B 1

Petition for Zoning Amendment - Map Application for Conditional Use Permit

Petition for Zoning Amendment - Text Petition for Grant of Variance

Appeal

3-25-14 Date Application Submitted to DCPD

4-1-14 Date Reviewed by DCPD Staff Km - need to-scale plans
(Initial)

Was Letter From Town Submitted with Application: Yes No

4-9-14 Date Mailed to Town

Town Representative Val Carpenter
(Name)

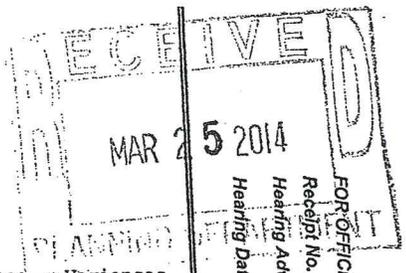
5-7-14 Earliest date by which the county will begin public hearing notice procedures

Additional Comments:

please see attachment A

DOOR COUNTY PLANNING DEPARTMENT
421 Nebraska Street
Door County Government Center
Sturgeon Bay, Wisconsin 54235
(920-746-2323)

PETITION FOR GRANT OF VARIANCE



A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

PETITION: (I) (We)

Full Name Brian McDonald Telephone No. 920-265-2831
Mailing Address 2831 Parkwood Drive
City Greer Bay State WI Zip 54313
hereby petition(s) the Door County Board of Adjustment for a variance from Section (s) 3.07(1) + 4.08(8)(h)2.

of the Door County Zoning Ordinance which requires See attachment A

(I) (We) propose to see attachment A

LOCATION:

The description of the property involved in this petition is located at:
Fire # 2014 Road Indian Point Rd Township Washington
Govt Lot 1 or $\frac{1}{4}$ - $\frac{1}{4}$ Section 28 Town 34 North, Range 30 East
Tax Parcel No. 028-04-28343011 B1
Zoning District RC Lot Size 1.52 acres
Existing use of structure or land in question MOD short-term cottage rental

ATTACHMENTS:

- 1) A site plan, drawn to-scale, indicating lot size, size of buildings and decks, distances between buildings and the centerlines of all abutting roads, ordinary high water mark, lot lines (identify lot markers), the sanitary waste disposal system and well. If a survey is available, please submit the survey. IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".
- 2) Building plans, drawn to scale, of the proposed project, including floor plans and elevation views. The application will not be processed without scaled drawings. (Plans submitted with this petition will be the only plans reviewed by the Board of Adjustment. A change in plans will warrant a new petition, fee, and public hearing.) IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".
- 3) Please provide complete responses regarding a), b), and c) below. Attach additional pages if necessary. To qualify for a variance, the applicant must demonstrate that their request/situation meets the following three requirements:
 - (a) Unique property limitations
Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unique features of this property prevent compliance with the terms of the ordinance, including:

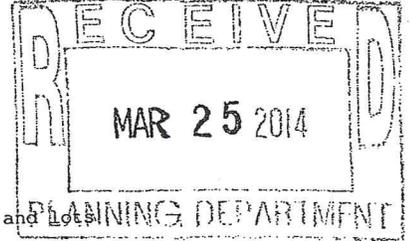
See attachment

FOR OFFICE USE ONLY
Receipt No. _____ Date _____
Hearing Advertised Dates: _____
Hearing Date _____
Decision _____
Fee _____
TOWN OF: _____
OWNER: _____
SECTION: 7 N R _____ E
PARCEL NO.: 0

(b) No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Adjustment must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures and lots
- Any other public interest issues



A variance will not be contrary to the public interest because:

See attachment

(c) Unnecessary hardship

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Unnecessary hardship is present because:

See attachment

- 4) A non-refundable \$450.00 fee payment to defray the cost of publishing the legal notice and mailing to all interested parties.

AUTHORIZATION FOR INSPECTION:

I hereby authorize the Zoning Administrator to enter upon the premises for which this petition is made at any reasonable time for all purposes of inspection related to this petition.

CERTIFICATION:

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

SIGNATURE OF PETITIONER/AGENT:

BK McDonald

DATE:

3-23-2014

SCHEDULING:

This petition will be scheduled for the next available Door County Board of Adjustment meeting. Approximately two weeks prior to that meeting, a legal notice will be mailed to you providing further information regarding the time and location of the meeting. It is recommended that the petitioner attend the Board of Adjustment meeting to present the case and to answer any questions the Board of Adjustment may ask. If you are unable to attend the meeting, you may want to have your attorney or contractor present on your behalf.

PETITION FOR GRANT OF VARIANCE

McDonald

ATTACHMENT A

The applicant hereby petitions the Door County Board of Adjustment for a variance from Sections 3.07(1) and 4.08(8)(h)2. of the Door County Zoning Ordinance which states that the required setback for all structures in a non-core area Multiple Occupancy Developments shall be 75' from the ordinary high water mark.

The applicant proposes to construct an irregular shaped 499 square foot addition to the existing southerly single family residence which would be located 54' 3" from the ordinary high water mark.

Attachment for Petition to Grant Variance

Language addressing questions on application

We propose to: construct an addition to an existing 586 square foot cottage on this parcel. This existing 78-year-old cottage was built 30 feet from what is now the Ordinary High Water Mark (OHM). This addition would consist of a 6'8" wide enclosed walkway extending from the back of the existing cottage to a new sleeping addition which would be constructed outside the OHM. The entire addition, including enclosed walkway and new sleeping addition, will be less than 500 square feet in size.

The petition for variance from the standard ordinance is to allow approximately 138 square feet of the proposed enclosed walkway addition to be inside the 75 foot OHM setback; this will enable the remaining addition of 361 square feet to begin at the standard setback minimum. The addition, proposed here, is cottage #1, and site plan is included.

Fire #: 2014 Road: Indian Point Road

Township: Washington

Gov't Lot: 1 Section/Tier/Range: 28/34/30

Latitude: 45.4045 Longitude: -86.8533

Tax Parcel: 028 0428343011 B1

Zoning District: RC Recreational Commercial

Existing use of structure or land in question: MOD – short-term (weekly to monthly) cottage rentals

3(a) Unique Property Limitations:

Unique features of this property prevent compliance with the terms of the ordinance, including:

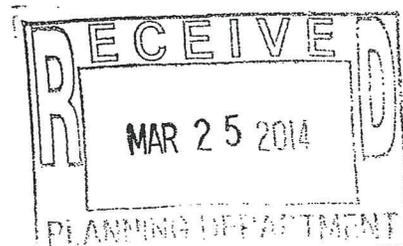
The physical limitation of the property is three fold: 1) the long-standing and continuous use of existing rental cottages, built in 1935, which epitomize the character of Washington Island, thereby promoting tourism to the island; and 2) wetlands exist on the western portion of the property, impacting approximately 25 percent of the parcel, inclusive of setback requirements to the west. A new MOD building may be conditionally permitted, but this option is more impactful on the property and is not in keeping with the character of the property or the island. We believe that in light of these physical limitations, the proposed use of the property is reasonable.

3(b) No Harm to Public Interests:

A variance will not be contrary to the public interest because:

The property is a long-standing MOD of rental cottages.

The property is zoned in a Recreational Commercial.



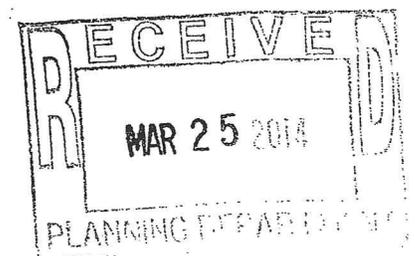
The property is identified in the Door County/Washington Island Comprehensive Plan 2030 as having a continued and future use category as "commercial."

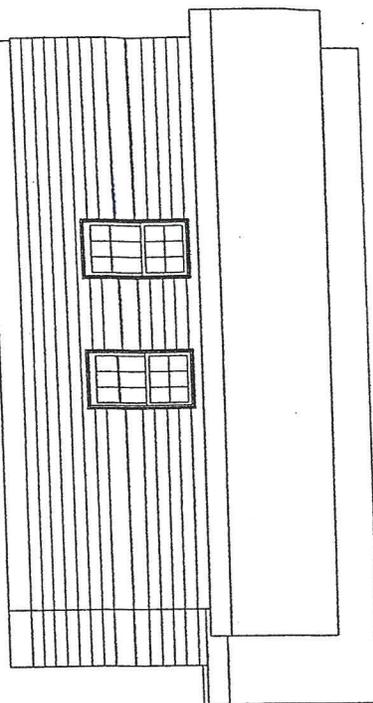
No significant expansion or burden is being planned – a 499 square foot addition in order to meet contemporary expectations of renters. The variance being sought is desired to be the least impactful of available options and is respectful of the need to minimize the impact on the land within the 75 foot setback. Only 138 square feet of the addition is within the setback requirement. Additionally, of the options available to the property for MOD development, this variance will maintain the scenic beauty of the area best.

3(c) Unnecessary Hardship

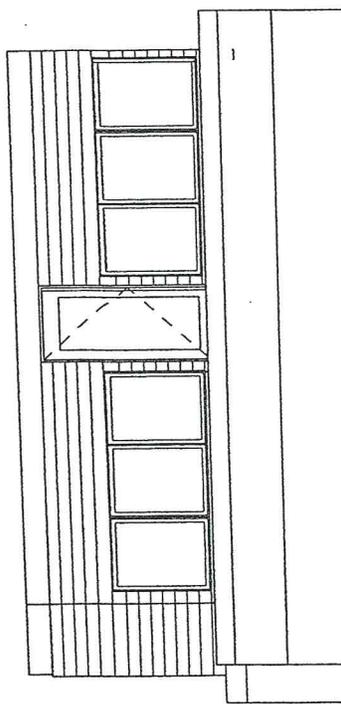
Unnecessary hardship is present because:

The hardship is that the existing cottage is constructed entirely within the OHM setback, and cannot be added to without a variance. The existing cottage does not meet the standard needs and expectations of today's occupants. To move this cottage in order to comply with OHM setbacks would destroy the character of this complex of small beachfront cottages that has become entwined with the character of the waterfront area of the island itself. Other permitted options for buildings are more impactful. We desire to maintain the historic character of the cottages while making them more amenable for today's uses. The hardship is due to circumstances unique to the property as well as its long-standing use. The cottages and property have been owned by our family for decades, and while offered as rental cottages, they also reflect our desire to maintain and extend this legacy of a quiet Door County waterfront retreat to our children. We are committed that the variance will not alter the essential character of the area.

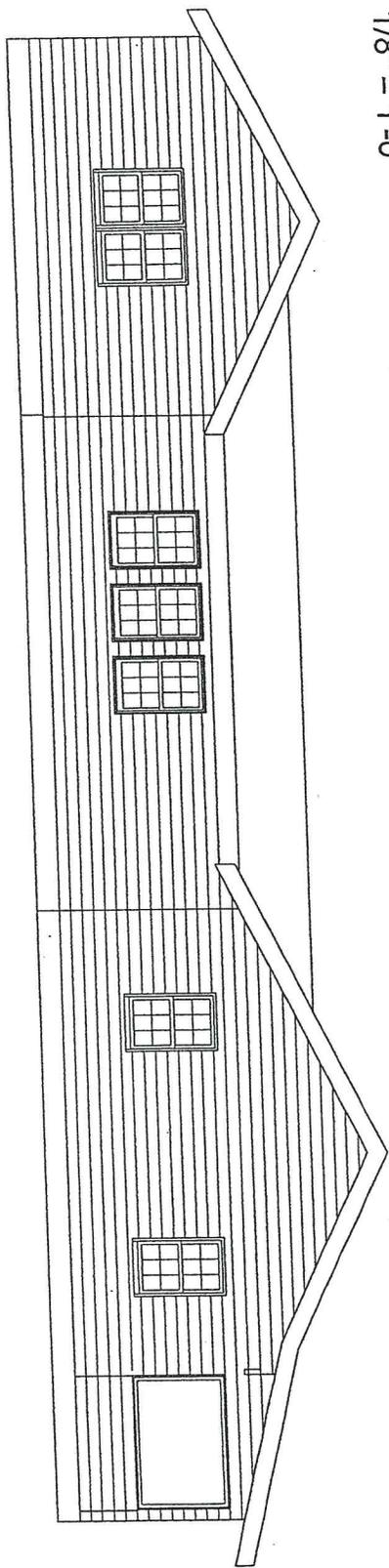




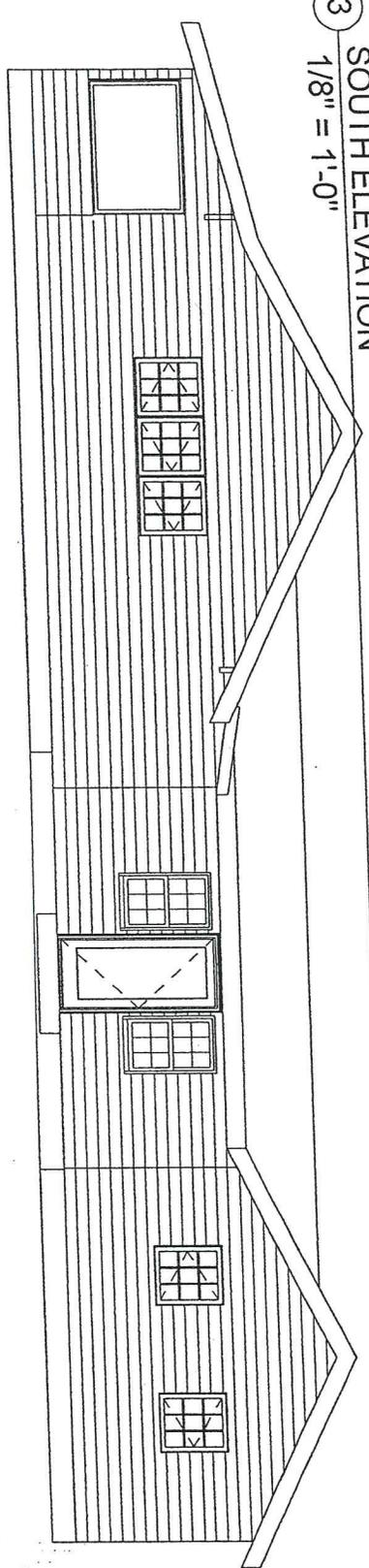
1 WEST ELEVATION
1/8" = 1'-0"



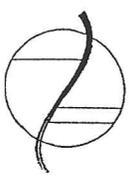
2 EAST ELEVATION
1/8" = 1'-0"



3 SOUTH ELEVATION
1/8" = 1'-0"



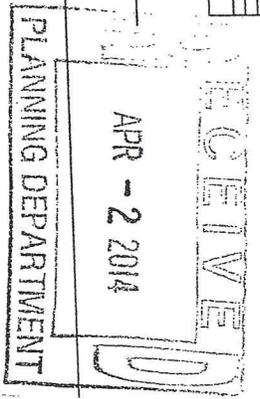
4 NORTH ELEVATION
1/8" = 1'-0"

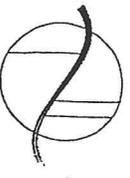


VIRGE TEMME ARCHITECTURE
Sturgeon Bay, WI
virge@virgetemme.com

McDonald
Cottage
ELEVATIONS

10.31.2013



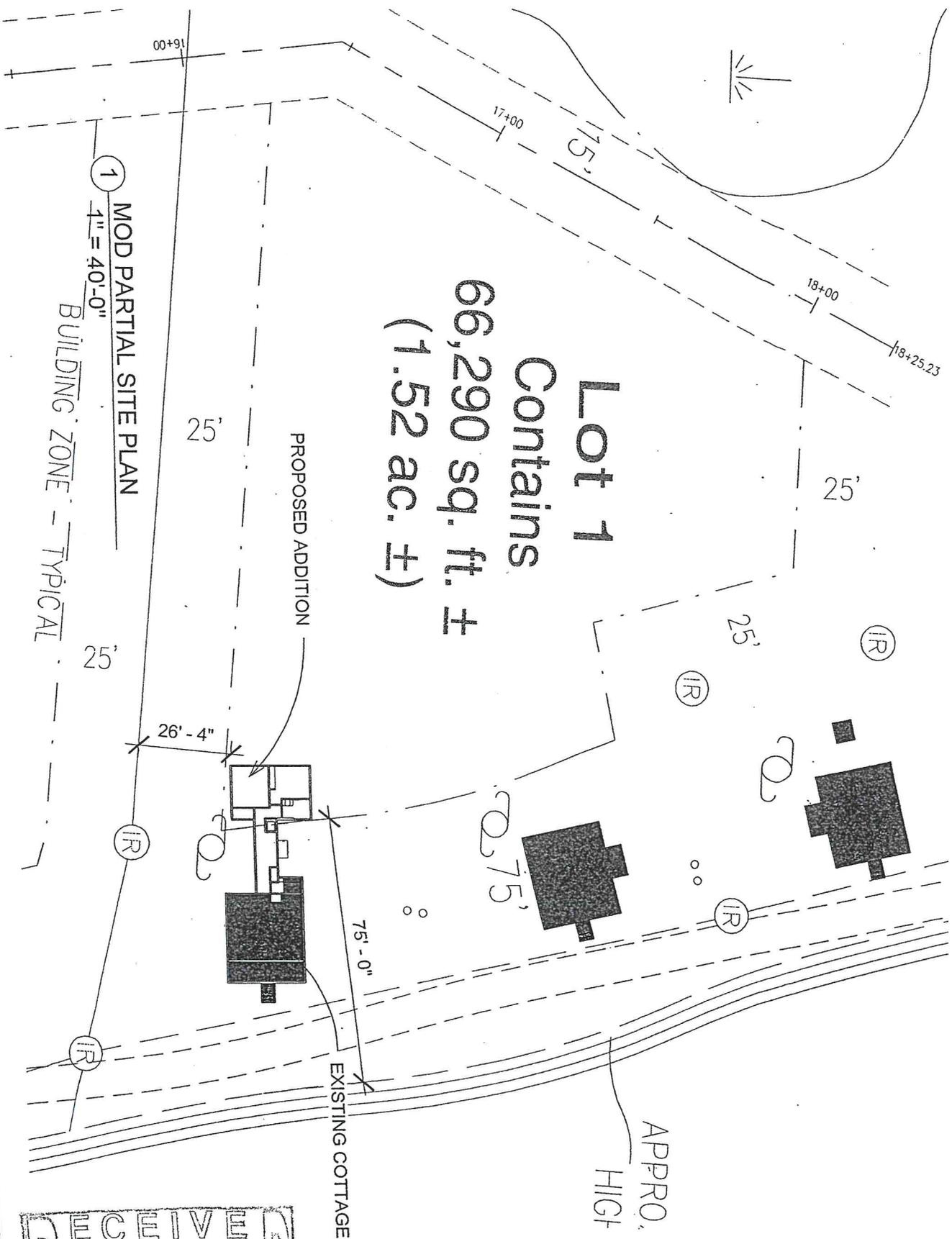


VIRGE TEMME ARCHITECTURE
 Sturgeon Bay, WI
 virge@virgetemme.com

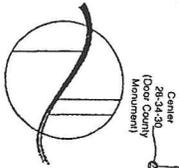
McDonald
 Cottage
 PARTIAL SITE PLAN

10.31.2013

P3



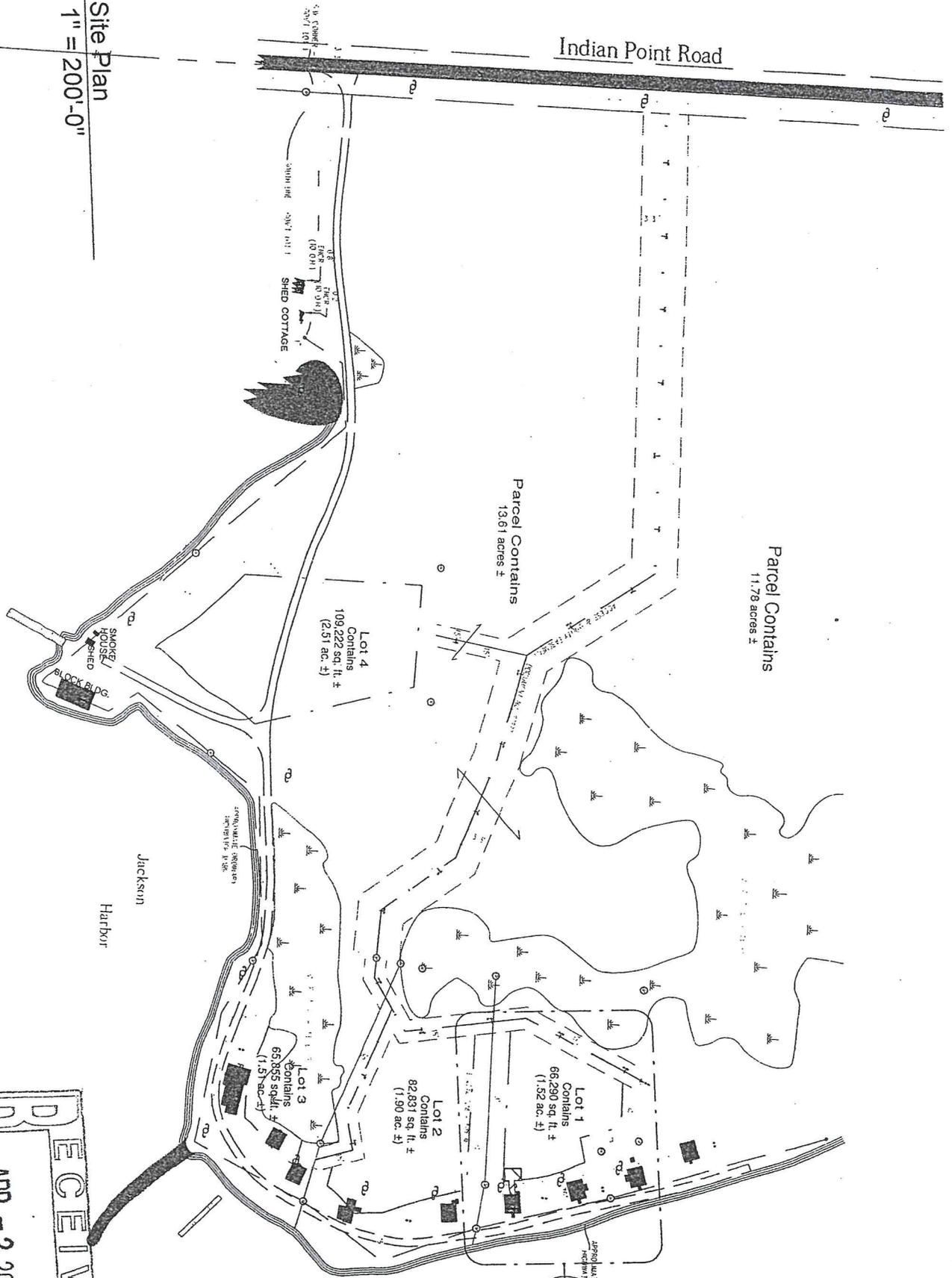
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 APR - 2 2014
 PLANNING DEPARTMENT



Center
28-34-38
Door County
Wisconsin

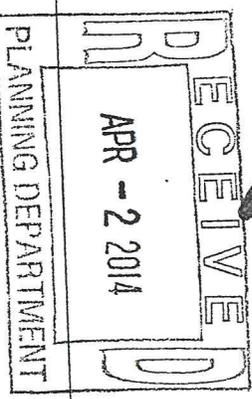
VIRGE TEMME ARCHITECTURE
Sturgeon Bay, WI
virge@virgetemme.com

1 Site Plan
1" = 200'-0"



McDonald
Cottage
LOCATC. PLAN

10.31.2013



P4

Zoning Variance Petition

This is a request to relax a high water mark setback requirement.

The cottage in question is a 600 square foot cabin built in the 1930s by my grandparents as one of “six large modern cottages” known as McDonald’s Cottages. By today’s rental standards, the cottage is small and spartan. To accommodate more modern living, more space is needed. The cottage would continue to have only two bedrooms.

For the reasons stated below, we believe that the best method to obtain additional room would be to build an addition to the cottage. Therefore, we are requesting a variance to build a 500 (499) square foot addition to the back of cottage.

- A. Why We Need a Variance. The cottage is set back 30+ feet from the high water mark. Current zoning requires that structures be at least 75 feet from the high water mark. Although in certain cases there is an exception to the 75-foot setback requirement based upon the average setback of structures on adjoining properties and such an exception would have accommodated our needs had it applied, it is our understanding that setback averaging normally would not apply in our situation.
- B. The Portion of the Addition for Which a Variance is Necessary is Small. We kept the portion of the addition for which a variance is required small. Of the 500 square foot addition, 130 square feet would consist of a narrow structure that connects the existing cottage to the remaining 370 square feet of the addition. That 370 square foot portion of the addition would satisfy the 75’ setback requirement. Therefore, the variance is required only for the 130 square foot connecting structure. An addition of 500 square feet or less would otherwise be permitted under a regular zoning permit for an MOD.
- C. Why We Believe a Variance Should be Granted. We believe that granting the variance will serve an **overriding public interest**. First, granting the variance with respect to the small, 130 square foot connecting structure would result in much less disruption to the natural surroundings than the available alternatives. For example, moving the cottage beyond the 75’ setback and expanding it or, alternatively, razing

the cottage and replacing it with a larger cottage beyond the 75' setback would require the removal of many more trees.

Second, as evidenced by the setback averaging rules, having a relatively uniform setback for structures on adjoining properties has aesthetic appeal. Although the averaging rules apparently do not apply in this case, the policy behind those rules would support our variance request. That is, our proposed plan preserves the relatively uniform setback of the current cottages and, as a result, the beautiful view of the shore and the cottages from Lake Michigan. The proposed addition will sit directly behind the existing cottage.

Third, the cottages have historic value that reference Jackson Harbor as much as the fish sheds in the harbor. We believe the preservation of the cottages with modest modifications serve the public interest, and is more in character with the area and traditions than other possible options.

We also do not believe this plan will have any negative impact on any **public interest**. The property has been used as a commercial rental property for more than 85 years, so this proposed addition represents no change in use relative to nearby property owners or the Island community.

Our parcel does present **physical limitations** that include: wetlands on the western border; and a driveway easement on the western border of the parcel.

We believe that "**unnecessary hardship**" is present by not permitting a variance. The cottages that stand have great bones and history. They are standing examples of the history of the cottage industry in Door County. As a matter of fact, five of six are made of redwood. As noted above, full compliance with the ordinance would mean that the existing cottage would be moved or torn down, although other cottages adjacent to the parcel would remain equally close to the high water mark. In contrast to other options, the addition as proposed is the least intrusive to the natural area as well as most consistent with character of McDonald's Cottages and the Jackson Harbor neighborhood.

Therefore, we respectfully ask that you grant our request for variance.

To: Washing ton Island Zoning & Planning Committee

Re: Request for a variance by Brian & MaryBeth McDonald

From: Michael B & Dolores McDonald

April 26, 2014

We have seen the proposed plans in question and find them in keeping with the idea of not only bringing the property up to code for a residence but of preserving the character of the original McDonald's Cottages. The only concerns we have heard is that this will affect the property values and taxes on the other properties. Since the property was grandfathered in and has been a positive asset to the Island since at least the 1930's we do not see this as an issue.

Sincerely,

Michael B & Dolores McDonald

Handwritten signatures of Michael B. McDonald and Dolores McDonald. The signature of Michael B. McDonald is written in a large, flowing cursive script, and the signature of Dolores McDonald is written in a smaller, more compact cursive script below it.