



Sawyer County

Agenda

Zoning Board of Appeals Meeting
Tuesday, November 16, 2021 @ 6:00 PM
Large Courtroom; Sawyer County Courthouse

Page

1. PRELIMINARY MATTERS

- a. Call to Order and Roll Call
- b. State of Committee and Hearing Procedure and Statement of Hearing Notice
- c. Approval of Minutes from October 19, 2021
[10-19-2021 BOA Minutes](#)

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2.

*The public is strongly encouraged to access the public hearing remotely due to public health and safety concerns. To view or participate in the **virtual meeting** from a computer, iPad, or Android device please go to <https://zoom.us/j/91511740175>. You can also use the dial in number for listening only at [1-312-626-6799](tel:1-312-626-6799) with the Webinar ID: 915.1174.0175. If additional assistance is needed please contact the Zoning & Conservation Department at 715-634-8288 prior to the meeting.*

3. VARIANCE APPLICATIONS

- a. A Public Hearing in the Town of Radisson. VAR #21-008. Owner: David & Susan Schreiner Trust. Part of Government Lot 4, Lot A CSM 2/24 #233; S09, T39N, R07W; Parcel #022-739-09-5407; 1.07 total acres; Zoned Residential/Recreational One (RR-1). Application requested: Construction of a two story 33'x5' (35'x7') with eaves, dwelling addition which is located 52' to the OHWM of Blueberry Lake. Only 23'x5' of this would only be considered for this variance as the remaining 10' is beyond the required setback. All other setbacks would be met for this project. Variance requested as: section 6.1, Sawyer County Zoning Shoreland Wetland Protection Ordinance, Shoreland Setbacks would require the prior granting of a variance for any structure less than 75' to the OHWM. The proposed variance is requesting a 52' setback to the OHWM. This structure would not be eligible for the 200' square foot lateral expansion. (Discussion/Action)
[VAR #21-008, David & Susan Schreiner pkt.](#)

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4. NEW BUSINESS

- a. November 15, 2022 meeting date conflict. (Discussion/Action)
- b. Proposes Legal Counsel Requirements & Associated Fees.
(Discussion)
- c. Any other business that may come before the Board for discussion.

5. ADJOURNMENT

MINUTES
PUBLIC HEARING BEFORE THE
SAWYER COUNTY BOARD OF APPEAL
Tuesday October 19, 2021 at 6PM

Board of Appeals

Al Gerber, Chairman
Laura Rusk, Vice Chairman
Mark Olson
Steve Kelsey
Dee Dobilas
Gordon Christians, Alternate
Jim Tiffany, Alternate

Zoning Administration

Jay Kozlowski, Zoning & Conservation Administrator
Pat Brown, Assistant Zoning Administrator

PRELIMINARY MATTERS

- 1) Call to Order and Roll Call
Gerber called the Public Hearing before the Sawyer County Zoning Board of Appeals to order at 6:00 P.M. in the Sawyer County Courthouse, 10610 Main St., Hayward, Wisconsin. Roll is called finding present: Gerber, Rusk, Olson, Kelsey and Dobilas. Kozlowski and Brown are present from the Zoning office.
- 2) Statement of Board and Hearing Procedures and Statement of Hearing Notice.
Those wishing to speak will be afforded the opportunity provided they identify themselves. Gerber gave order of submitting files to BOA, taking testimony, and making a decision. He requests orderly procedure and gives appeal deadline. The Public Hearing Notice was published as a Class 2 Notice in accordance with Chapter 985 of the Wisconsin Statutes in the Sawyer County Record and Gazette.
- 3) Approval of August 17, 2021 meeting minutes. Motion by Rusk to approve the August 17, 2021 meeting minutes, second by Gerber. All in favor.

VARIANCES

- 1) A Public Hearing in the Town of Hayward. VAR #21-007. Owner: Patrick Costello and Katherine Julie. Round Lake Park, Part Lot 8; S23, T41N, R08W; Parcel #010-171-00-0802; 2.22 total acres; Zoned Residential/Recreational One (RR-1). Application requested for: Relocation of existing 34.5' x 35.5' cabin 16' further back from the water. The existing cabin is currently at 31' to the OHWM of Round Lake. With the relocation 16' further back the applicants are requesting to add a 12' x 34.5' deck. The deck would be located at 35' from the OHWM. With relocation of the cabin it would be proposed that the area outside of the existing footprint would total 295 sq. ft. inside of 75' of which only a 7.5' x 7' area would be the only addition added. Variance requested as: There are two portions of the Sawyer County Zoning Shoreland-

Wetland Protection Ordinance that may be applied which would require the prior granting of a variance. Section 11.3 would be for a lateral expansion resulting in 294 sq. ft. would be allowed OR Section 6.1 for any new structures located closer than 75' to the OHWM. Kozlowski reads application, staff report Town opinion and Opinion letters. Patrick Costello, owner speaks in favor of the application. Discussion with Board and Kozlowski held. No other audience comments. Discussion by Board held. Motion by Olson to deny the application, second by Gerber. No further discussion held. Five to Zero in favor of denial.

Findings of Fact:

1) Due to conditions unique to property: No, this is not a unique property. This property is similar to other adjacent properties in the area, the shoreland bank is not unique to this property. There are compliant areas to build. As noted in *Snyder v. Waukesha County Zoning Board of Adjustment* "Practical difficulties or unnecessary hardship do not include conditions personal to the owner of the land, but rather to the conditions especially affecting the lot in question."

2) Unnecessary Hardship: No, as stated in *Snyder v. Waukesha County Zoning Board of Adjustment*: specific circumstances of applicant, such as a growing family or desire for a larger garage are not a factor in deciding variances. A variance should provide minimum relief to satisfy hardship. The variance requested would be for the convenience of the owner as numerous other compliant options are available to the applicant:

The applicants desire for a 12' x 34.5' (414 square foot) deck, or the proposed changes tonight to the application, are not a necessity nor minimum relief when there are three other options and would be for the convenience of the owner.

3) No Harm to Public Interests: No, the variance is contrary to and will cause harm to the public interest. The property does have numerous other feasible building areas, which do not require a variance. That would not impact the public interest negatively.

The purpose and intent of Sawyer County Zoning Shoreland-Wetland Protection Ordinance is for promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters. If approved this variance would not:

1.31(4) Further the maintenance of safe and healthful conditions and prevent and control water pollution through limiting impervious surfaces to control runoff which carries pollutants.

This variance as requested would add impervious surface within 75' of OHWM with land slope leading directly to water. Options are available to the applicant which would not increase impervious surface runoff.

NEW BUSINESS

1) Approval of 2022 meeting dates. Kozlowski asks for approval of the 2122 meeting dates. Discussion is held. Motion by Olson to change the April meeting to be change to the 22nd, second by Rusk. Five to zero. All in favor.

2) Proposed Legal Counsel Requirements & Associated Fee. Kozlowski explains why fee changes need to be made and for needing Legal Counsel at meetings. Discussion held. Will be added back on the agenda for November.

3) Conclusion of Law form. Kozlowski explains the form and why it should be used. Discussion held.

4) Decision of the Miller case. Kozlowski explains the reconsideration of the decision back to the BOA and proper procedures. Discussion held.

5) Any other business that may come before the Board for discussion.

ADJOURNMENT

Motion made by Gerber to adjourn the meeting at 6:59pm, second by Dobalis.

Minutes by Pat Brown, Assistant Zoning Administrator and Kathy Marks, Deputy Zoning & Conservation Administrator



Sawyer County Zoning & Conservation Department

10610 Main Street, Suite 49

Hayward, WI 54843

pat.brown@sawyercountygov.org

Fax (715) 638-3277

(715) 634-8288

VARIANCE REQUEST STAFF REPORT

Applicant:

David & Susan Schreiner
N3778 Scenic Dr
La Crosse, WI 54601

Property Location:

6739N Brecke Ln Couderay, WI 54828
Parcel # 022-739-09-5407

Summary of Request:

The applicants, David & Susan Schreiner, are requesting a variance to build a 5' x 23' (with eaves) cabin addition which is located 25' at the closest point to the OHWM of Blueberry Lake. This Cabin addition would be 52' to the OHWM and on the non-lakeside of the existing cabin. All other setbacks would be met.

Project History:

This property has the existing non-conforming cabin and not been issued any land use permits in the past. It appears to have been built pre-zoning. Being that this structure is not completely located beyond 35' from the OHWM it is not eligible for the "200 Sq. Ft rule" A CST has been submitted for a future Mound system to be located west of the existing garage.

The applicant, is applying for relief of Section 6.1, Sawyer County Zoning Shoreland-Wetland Protection Ordinance for a reduced OHWM setback. The required setback for new structures here would be 75' from the OHWM.

On-site Notes/Comments:

See attached inspection report completed by Pat Brown.

As part of the onsite visit on 08/12/21 Pat Brown helped the applicants, David & Susan Schreiner, stake out a spot for the proposed dwelling addition. The planned mound soil absorption system has eliminated expansion to the west beyond the 75' setback.

Hardship/Justification:

Variances seek a relaxation of a standard in the code. The decision to grant a variance must be supported by practical justification, which includes 1.) That the code is unnecessarily burdensome and the landowner is not able to enact a permitted use without a relaxation of the standard; 2.) There are unique limitations on the property that prevent the landowner from meeting the required dimensional standard; and 3.) if the variance is granted, no harm will be done to the public interest or the zoning code. It is the applicants' responsibility to present the case and provide the "burden of proof" as to why the variance should be granted. The personal situation of the applicant, financial hardship, convenience, a growing family, or nearby violations cannot be considered as valid reasons to grant a variance.

Board Decision Checklist:

(Approval Reasons): An unnecessary **hardship is present** and the current code requirements would be **unnecessarily burdensome** and **prevent** the applicant from using the property for a permitted use because: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. No other alternatives exist.
2. The impacts of construction are being minimized by mitigation.
3. A minimal relaxation of code is being granted.
4. A permitted use is not possible on this property without a variance approval.
5. The circumstances are beyond the control of the applicant, and are unique to the property not the applicant.
6. The lot predates zoning regulations.
7. The construction matches the lot and available area.

The **hardship/unreasonably burdensome limitation of setbacks is due to unique physical features or limitations of the property** and not the circumstances of the applicant as follows: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. Very little or no buildable area exists.
2. The buildable area lot is very narrow.
3. The lot depth is very shallow.
4. Steep slopes exist.
5. The setbacks overlap here.
6. There is no other room for a septic system.
7. Overall small lot size.
8. Erosion exists.

The variance **will not harm the public interest or neighboring land uses**, and damage the intent of the zoning code because: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. Visibility is good at the driveway location.
2. Traffic is light.
3. The septic will be upgraded.
4. Traffic is slowed here.
5. A turnaround is proposed.

6. This would make a bad situation better.
7. Good vegetation exists or is proposed.
8. The proposed use will not harm the public, zoning code, or neighboring land uses if conditions are followed.
9. A literal enforcement of the zoning code would be unnecessarily burdensome.
10. The testimony in opposition has been considered but no valid reasons could be found to deny.

(Approval Conditions): Therefore, the requested variance is hereby **approved** with the following conditions: **(add or delete as needed)**:

1. The development must be in substantial compliance with the site plan and testimony provided at the public hearing.
2. The first floor elevation and filling and grading shall be done in accordance with the site plan and additional information provided at the public hearing.
3. The non-conforming _____ must be removed within ____ days from the time the Land Use Permit is submitted.
4. All other required setbacks must be complied with.
5. All permits must be obtained, including land use, building, and sanitary.
6. All code requirements must be complied with.
7. It is the responsibility of the builder and landowner to protect the neighboring lots, lake, and road during construction.
8. Standard or Individual (pick one) erosion control and/or stormwater management plans (again either or both can be picked) must be in place prior to construction starting.
9. The driveway shall meet all code specifications and shall provide suitable turnaround to prevent backing onto the road.
10. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County codes, and state and federal Laws.
11. The Board agrees with the concerns of DNR but on-site observations and conditions of approval should mitigate those.
12. Shoreline buffer zone mitigation is required in front of the LCE area of Unit #1

(Denial Reasons): Unnecessary hardship is not present and the code requirements are not unnecessarily burdensome and **will not prevent the owner from using the property for a permitted use because (Board of Appeals to choose specific conditions unique to property) :**

1. The land owner has reasonable use already.
2. Cumulative impacts can be foreseen.
3. A self-imposed hardship cannot be grounds for an approval.
4. The Board concurs with the concerns expressed by _____.
5. Other alternatives exist such as building in another location or building a smaller structure.
6. A loss of profit or inconvenience is not a hardship.

The hardship is not due to unique physical features or limitations of the property and appear to be unique to the applicant as follows (Board of Appeals to choose specific conditions unique to property):

1. There are many other similar lots in area.
2. The code requirements are not unnecessarily burdensome and should be adhered to.
3. The hardship is unique to the property owner.

4. This is a self-imposed hardship.
5. No hardship noted.
6. A loss of profit is not a hardship.
7. No unique lot features were noted by the Board.

The variance **will harm the public interest or neighboring land uses**, and damage the intent of the zoning code because **(Board of Appeals to choose specific conditions unique to property)**:

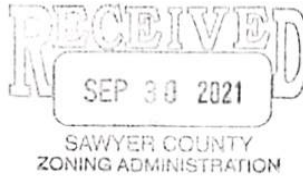
1. An approval would set a precedent.
2. Public safety could be compromised.
3. This would make a bad situation worse.
4. An increase in water runoff and erosion is anticipated.
5. Harm to water quality is anticipated.
6. The proposal appears to be for convenience to the landowner only.
7. An approval would undermine the code and harm the neighboring properties and public interest at large.
8. The landowner should pursue other locations or building plans.

(Denial Conditions): Therefore, the requested variance is hereby **denied** with the following conditions **(Board of Appeals to choose specific conditions unique to property)**:

1. The _____ must be removed within _____ days
2. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County Codes, and State and Federal Laws.

(Tabled): The requested variance is **tabled** to the () business meeting or () public hearing scheduled for _____, 2020.

1. This will allow the applicant to complete the following:
2. The applicant is instructed to contact the _____ to attempt a resolution.
3. A plat of survey or Certified Survey Map must be made to accurately locate lot lines, buildings, and ROW's.
4. A better site plan with elevations drawings is necessary.
5. An erosion control and stormwater management plan is required, and must be approved by ZAC to address those issues.



Variance Application Request

Property Owner: David & Susan Schreiner Trust

Address: N3778 Scenic Dr LaCrosse, WI 54601

Phone: 608-792-1607

Email:

Property Description: Prt Govt Lot 4 Lot A CSM 2/24 #233 Sec 09 T39N R07W Parcel # 022-739-09-5407 #6739N Brecke Ln

Acreage: 1.076

Zoned: Residential/Recreational One (RR-1)

Application requested:

Construction of a two story 33'x 5' (35' x 7') with eves dwelling addition which is located 52' to the OHWM of Blueberry Lake. Only 23' x 5' of this would only be considered for this variance as the remaining 10' beyond the required setback. All other setbacks would be met for this project.

Variance requested as: Section 6.1, Sawyer County Zoning Shoreland Wetland Protection ordinance, Shoreland Setbacks would require the prior granting of a variance for any structure less than 75' to the OHWM. The proposed variance is requesting a 52' setback to OHWM. This structure would not be eligible for the 200 square foot lateral expansion.

Property Owner(s) Signature

David Schreiner

Print & Sign David Schreiner
d.schreiner@gmail.com

Susan Schreiner

Print & Sign Susan Schreiner

Agent Signature(s), address, phone &

Email:

Date of Meeting

Fee: \$500.00

The above person(s) hereby make application for a variance. The above certify that the listed information and intentions are true and correct. The above person hereby gives permission for access to the property for onsite inspection.
(January 2021) \$500.00

APPLICATION FOR VARIANCE
SAWYER COUNTY BOARD OF APPEALS
ADDITIONAL INFORMATION
(To be completed by applicant)

Completed by David C. Schreiner
(First Name) (MI) (Last Name)
Susan E Schreiner

The purpose of this form is to provide you with information that pertains to the granting of "area/dimensional" variances and to assist you in preparing for your presentation before the Sawyer County Board of Appeals. Use additional paper for responses if required. Example responses are not related to any variance ever reviewed by the Board of Appeals. This form will become a part of your application packet and is to be returned to the Zoning Department by the variance application deadline.

Part 1. Applicant supplied Information.

Current use of your property & improvements - (e.g., "Property contains a residential home with a detached garage.").

Property contains a residential home with attached garage

Describe the variance requested - (e.g., "Add a 15' x 20' addition to the side of the home."). Add a 5'x33' addition to the south side of the home and garage (5'x9' home, 5'x24' garage). Area 5'x23' is within 75' of OHWM. Garage to be rebuilt as 2 story structure.

Describe the effects on the property if the variance is not granted - (e.g., "The addition is required for year-round living and protecting property value.").

The addition would make the property suitable for year round living by providing increased living area and more accessible garage space.

Describe alternatives to the requested variance such as other locations, designs and construction techniques. Attach a site map showing alternatives that you considered in each category below.

- a) Alternatives you considered that will comply with existing standards. If you find such an alternative, you may move forward with this option with a regular permit. If you rejected compliant alternatives, provide the reasons that you rejected them.
(e.g., "Space is not available to expand in any other direction or location. House is too close to the side lot lines and the lake.")
- a) alternatives considered and rejected:
- 1) Expansion of garage eastward toward Brecke Lane rejected as this is the only site suitable for a planned mound septic system
 - 2) Expansion of garage northward toward lot line rejected as area not large enough due to lot line setbacks, and need to remove large trees. This option would also require a variance (see back of page)

a) alternatives considered and rejected:

- 3) Build a separate storage building East of Brecke Lane rejected as roadway setbacks (30' from right-of-way), road right-of-way (66'; 33' each side of center), and DNR wetland setback (40') restrict ability to build in this area,
- 4) Build a separate storage building on south side of driveway rejected as road right of way, roadway setback, and lot line set back restrict ability to build in this area
- 5) Add second story to current garage rejected as the layout of the current residence does not allow for a stairway to access the second floor.
- 6) Relocate current driveway to increase building area on north side of lot rejected as need for a septic system prohibit relocation of driveway

Rejected options shown on drawing as 

- b) Alternatives you considered that require a lesser variance and reasons you rejected them.
(e.g., "Addition is the minimum size that is required.").
- after consideration of all other alternatives, the variance being requested is the minimum size needed

Describe the impact on your property and adjacent properties if the variance is granted.

(e.g., "Erosion during construction – will be controlled with silt fencing.

After construction there will be a greater impervious surface area.

Gutters and downspouts will be used to divert water away from other properties and the lake. Shoreline buffer zone will be planted with native vegetation, trees and shrubs.").

Construction will be done by a licensed contractor and will be expected to abide by all current standards to avoid erosion. Runoff from the structure will be directed away from the lake and away from other properties due to natural slight slope of property away from the lake

Part 2: Three-Step Test.

To qualify for your requested variance, you must demonstrate that your property meets the following three requirements. This is known as the "three-step test."

1) 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 a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors or the Town Board do not provide a basis for granting a variance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

☒ Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives considered.

(e.g., "There is a wetland area that extends around one side of the house and also behind the house.").

- 1) Brecke Lane (a town of Radisson road) cuts through the property. Road right-of-way and roadway setbacks inhibit ability to build.
- 2) DNR wetland setbacks inhibit ability to build

☐ No. A variance cannot be granted.

- 3) Septic System requirements and soil tests show septic system must be located east of current garage

2) 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 Appeals must consider impacts of your proposal and the cumulative impacts of similar projects on the interests of the neighbors and the entire community. Some, but not necessarily all of these considerations are: (1) Public health, safety and welfare, (2) water quality, (3) fish and wildlife habitat, (4) natural scenic beauty, (5) minimization of property damages and (6) achievement of eventual compliance for nonconforming uses, structures and lots.

Explain how the granting of this variance would not harm the public interests or how it may even enhance the public interests.

- 1) variance requested is for 23' x 5' area on landward side of residence and will not affect lakeshore/lake front.
- 2) addition is on already developed area of lot so will not affect wildlife or habitat.
- 3) addition to south side of garage preserves trees and scenery for neighbors and public.

3) Unnecessary Hardship.

An applicant may not claim 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 just a portion of the parcel.

You are applying for an "area variance." An area variance relaxes a dimensional standard such as a setback, frontage, lot area, or height. For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The importance of the public purposes of the ordinance, the degree to which the restriction supports those purposes and the extent of the relaxation of the restriction are weighed against the limitations full compliance would impose on use of the property.

Is unnecessary hardship present?

☒ Yes. Describe.

Many parts of the property are not buildable due to road right-of-way and roadway setbacks. DNR wetland on the east part of lot causes all land east of

☐ No. A variance cannot be granted.

Brecke Lane to be unbuildable.

The property currently has holding tanks only for septic system. Approval has been obtained for a mound septic system to be installed. The site approved for the system reduces buildable choices.

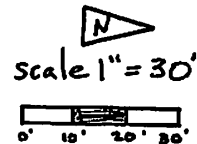
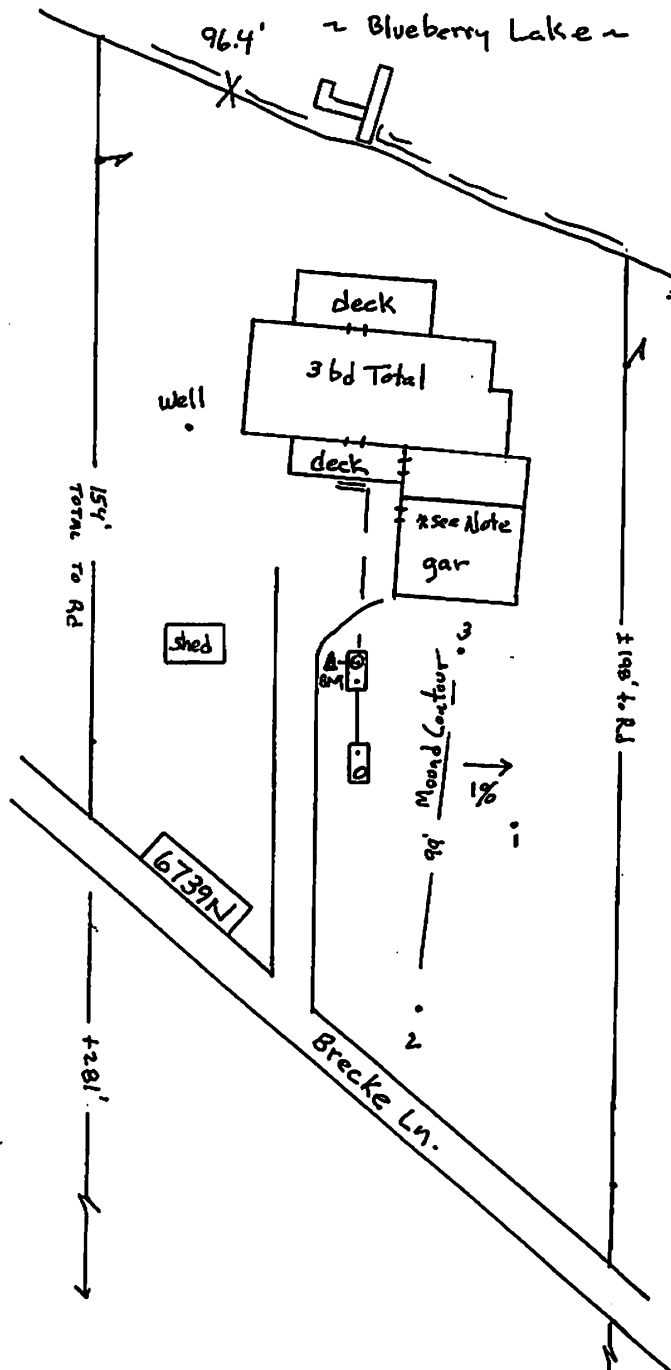
~~There is no other information to be provided.~~

owner:

David C., Susan E. Schreiner Trust
N 3778 Scenic Dr
La Crosse, WI 54601
site: 6739 N Brecke Ln

Legal:

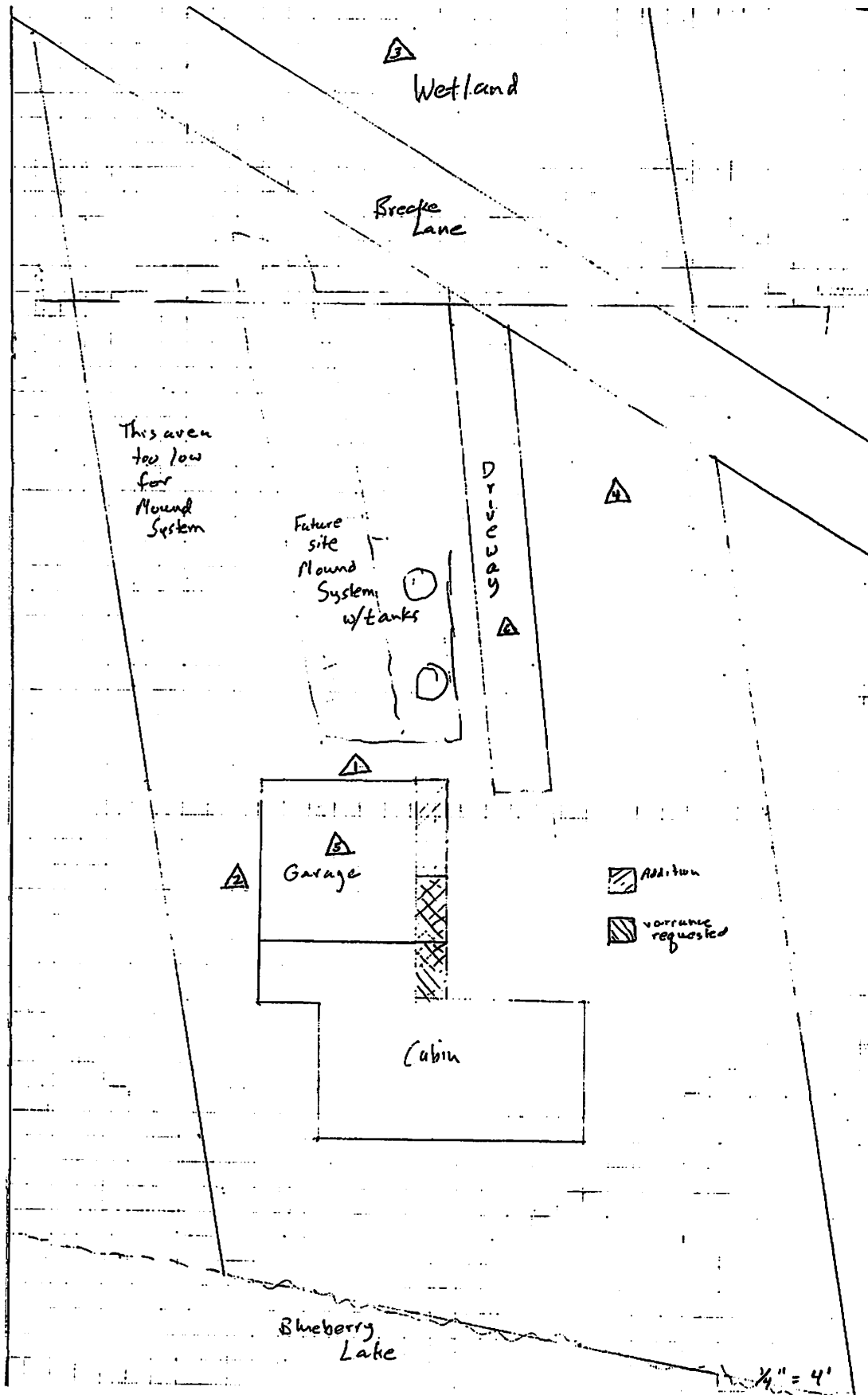
Sawyer Co., Radisson
PIN # 022-739-09-54
S 09 T 39 N R 07 W
Lot A CSM 2/24 # 233



BM 100', Top of 1st H.T. Lid
B1. 98.8'
2. 99'
3. 99'
.750's Mound required
inlet on 1st H.T. 96.6'
Plbr to instal C-O-mat
Plbr to select mound elev.
contour elev 99'

- ** note: garage to be removed and rebuilt into 2 story w/ 3rd bedroom
- * Existing 2 1500gal H.T to be converted in 1500 S.T & 1500 P.T.

Merton Maki
Merton Maki
CST 224901
8-29-21'



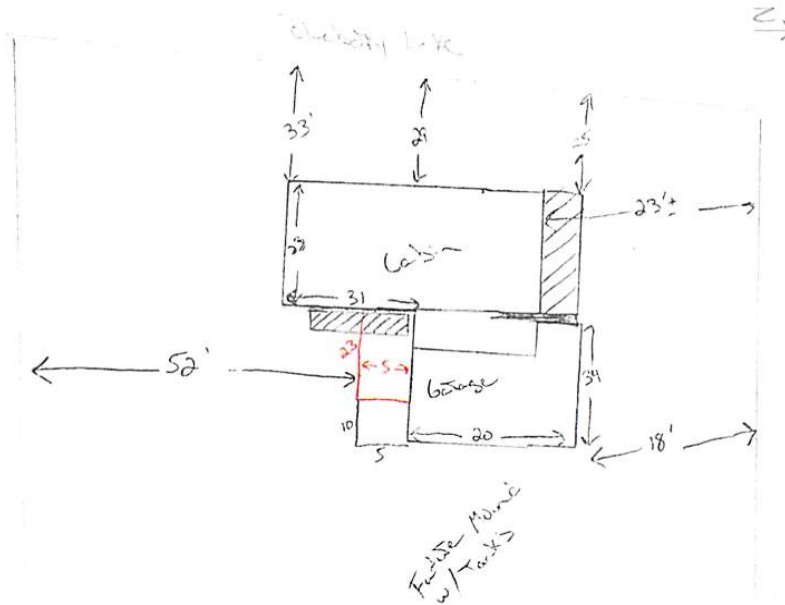
**Sawyer County Zoning Administration
Inspection Report**

Owner(s) David & Susan Schreiner Trust
 Address N3778 Scenic Dr LaCrosse, WI 54601
 Agent/Purchaser N/A
 Address N/A
 Bldr/Plbr/CST N/A
 Address N/A

Inspection ☒ Private ☐ Public Violation ☒ Zoning ☐ Sanitation

☐ Dwelling ☐ Mobile Home ☐ Commercial ☐ Garage ☒ Addition
☒ Setback - Lake ☐ Setback - Road ☒ Setback - Lot Line ☐ Soils Verification
☐

6739N Brecke Ln Couderay, WI 54828 Prt Gov't Lot 4 Lot A CSM 2/24 #233



Discussed with Pat Brown, David and Susan Schreiner
 Date & Time August 12th 2021 10am
 Signature of Inspector [Signature]

Owner(s) David & Susan Schreiner Trust Town of Radisson Govt Lot Prt Lot 4 1/4 1/4 S 09 T 39 N R 07 W
 Lot(s) N/A Blk(s) N/A Subdivision Computer # 022-739-09-5407 Parcel(s) 14.7









