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**CITY OF CROSSLAKE**

**PLANNING COMMISSION/BOARD OF ADJUSTMENT**

**June 24, 2022**

**9:00 A.M.**

Crosslake City Hall  
13888 Daggett Bay Rd, Crosslake MN 56442  
(218) 692-2689

**PUBLIC HEARING NOTICE**

**Applicant:** Eric Kemp

**Authorized Agent:** N/A

**Site Location:** 12391 Anchor Point Rd, Crosslake, MN 56442 on Rush Lake-GD

**After-the-Fact Variance for:**

- Road Right-of-Way setback of 25 feet where 35 feet is required to the structure
- Road Right-of-Way setback of 31 feet where 35 feet is required to the structure
- Lake setback of 63 feet where 75 feet is required to the structure
- Septic tank setback of 6 feet where 10 feet is required to the dwelling structure

**To allow:**

- 119 square foot porch (existing 17.5' x 6.8')
- 133 square foot porch (existing 9.0' x 14.8')
- Existing septic tank at 6 feet from the dwelling structure

**Notification:** Pursuant to Minnesota Statutes Chapter 462, and the City of Crosslake Zoning Ordinance, you are hereby notified of a public hearing before the City of Crosslake Planning Commission/Board of Adjustment. Property owners have been notified according to MN State Statute 462 & published in the local newspaper. Please share this notice with any of your neighbors who may not have been notified by mail.

**Information:** Copies of the application and all maps, diagrams or documents are available at Crosslake City Hall or by contacting the Crosslake Planning & Zoning staff at 218-692-2689. Please submit your comments in writing including your name and mailing address to Crosslake City Hall or ([crosslakepz@crosslake.net](mailto:crosslakepz@crosslake.net)).



## STAFF REPORT

Property Owner/Applicant: Eric Kemp

Parcel Number(s): 14070575, 14070579

Application Submitted: May 5, 2022

Action Deadline: July 3, 2022

City 60 Day Extension Letter sent/ Deadline: N/A / N/A

Applicant Extension Received / Request: N/A / N/A

City Council Date: N/A

**Authorized Agent:** N/A

**After-The-Fact Variance for:**

- Road Right-of-Way setback of 25 feet where 35 feet is required to the structure
- Road Right-of-Way setback of 31 feet where 35 feet is required to the structure
- Lake setback of 63 feet where 75 feet is required to the structure
- Septic tank setback of 6 feet where 10 feet is required to the dwelling structure

**To allow:**

- 119 square foot porch (existing 17.5' x 6.8')
- 133 square foot porch (existing 9.0' x 14.8')
- Existing septic tank at 6 feet from the dwelling structure

**Current Zoning:** Shoreland District

**Existing Impervious Coverage:**

24.2%

**Proposed Impervious Coverage:**

24.2%

- A stormwater management plan was submitted with the variance application
- A compliant septic compliance inspection is on file dated 9-26-2019

**Development Review Team Minutes held on 10-12-21:**

- Property is located on Rush Lake at 12391 Anchor Point Road with a lake setback of 75 feet
- The ATF variance for covered open porch/entries will need a lake and possible ROW setback; the side porch was constructed over a step/patio area; road porch is added impervious
- Variance for future proposed 30x40 accessory structure/garage with removal of impervious
- All setbacks shall be measured to the vertical side of the structure. No part of the structure, such as eaves, can overhang or reduce such setback by more than three feet (Sec. 26-308)
- If the eaves exceed 36" the setback and the impervious coverage shall be measured from the dripline

- Impervious maximum of 25% and if impervious exceeds 20% a Shoreline Rapid Assessment Model form will be completed (Sec. 26-518); impervious will need to be watched
- The parcel is located within a plat and/or an organization that may have restrictions, you would need to verify those restrictions and clarify that your request is approved by the organization or allowed in the plat
- Design and implement a stormwater management plan (gutters, berm & rain gardens) or update any existing plan, which is required with all variance applications per Article 8, section 26-222, (2), 1).
- A compliant septic compliance inspection is on file dated 9.26.2019
- Wetland Delineation is on file from Mitch Brinks (Brinks Wetland Services, Inc.) dated 10.8.2021
- A grade and elevation illustration along with a cut and fill calculation is required for a complete variance application when and if the accessory structure variance is applied for; pictures for the ATF variance are sufficient
- Discussion on application requirements, procedure, schedule, fee and the requirements/need for a complete application packet by 4:30 PM of the deadline date; payment policy; notification methods; variances are limited to 2 years with substantial completion
- A Land Use Permit will be required prior to construction

Property owner was informed that before they could be placed on a public hearing agenda the following information is required:

1. A certificate of survey meeting the requirements outlined in Article 8, Sec. 26-222 of the City Land Use Ordinance
2. Grade and Elevation illustration, along with the Cut and fill calculations for garage only
3. Wetland delineation or a no wetland statement/letter
4. A septic compliance inspection is on file
5. A complete Variance application with the \$500.00x3 ATF=\$1,500.00 public hearing fee

#### **Parcel History:**

- Seekel established in 1938
- December 2006 – Variance  

NOW, THEREFORE BE IT RESOLVED, the Board of Zoning Adjustment shall APPROVE Variance 2006-004 for Dennis Kolbrek to construct a 16 ft. by 36 ft. residential addition 20.6 feet from the public right-of-way of Anchor Point Road and approximately 13 feet from the septic drainfield in the R-3, Medium Density Residential Zoning District, due to the fact that all variance criteria have been met.

WHEREAS, City Ordinance requires a setback of 10 feet from the septic tank to the dwelling structure; with the addition, the setback will only be six feet, and

WHEREAS, City Ordinance allows the Zoning Administrator to approve a setback minimum of five feet from the septic tank to the dwelling structure without a variance if no other alternative is available, and
- August 2006 – Construction of a 16'x36' addition with 16'x36' basement
- May 2008 – Add 6 inches of sand to the beach on the NE corner of the property
- May 2012 – Extension of parking area by garage; repair of beach area
- September 26, 2019 – Compliant septic compliance inspection

#### **Agencies Notified and Responses Received:**

**County Highway Dept: N/A**

**DNR: No comment received before packet cutoff date**

**City Engineer: N/A**

**Lake Association: No comment received before packet cutoff date**

**Crosslake Public Works: No comment received before packet cutoff date**

**Crosslake Park, Recreation & Library: N/A**

**Concerned Parties: No comment received before packet cutoff date**

**POSSIBLE MOTION:**

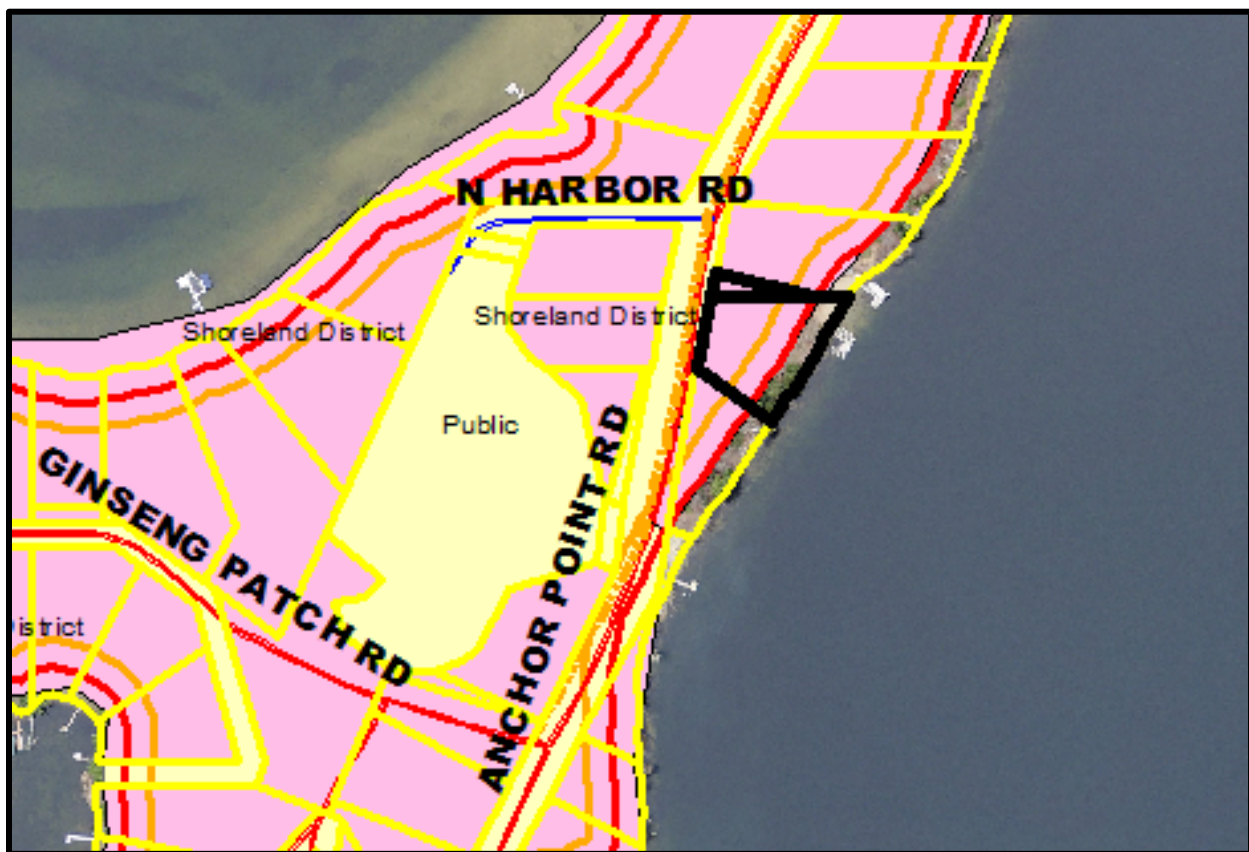
To approve/table/deny the after-the-fact variance for:

- Road Right-of-Way setback of 25 feet where 35 feet is required to the structure
- Road Right-of-Way setback of 31 feet where 35 feet is required to the structure
- Lake setback of 63 feet where 75 feet is required to the structure
- Septic tank setback of 6 feet where 10 feet is required to the dwelling structure

To allow:

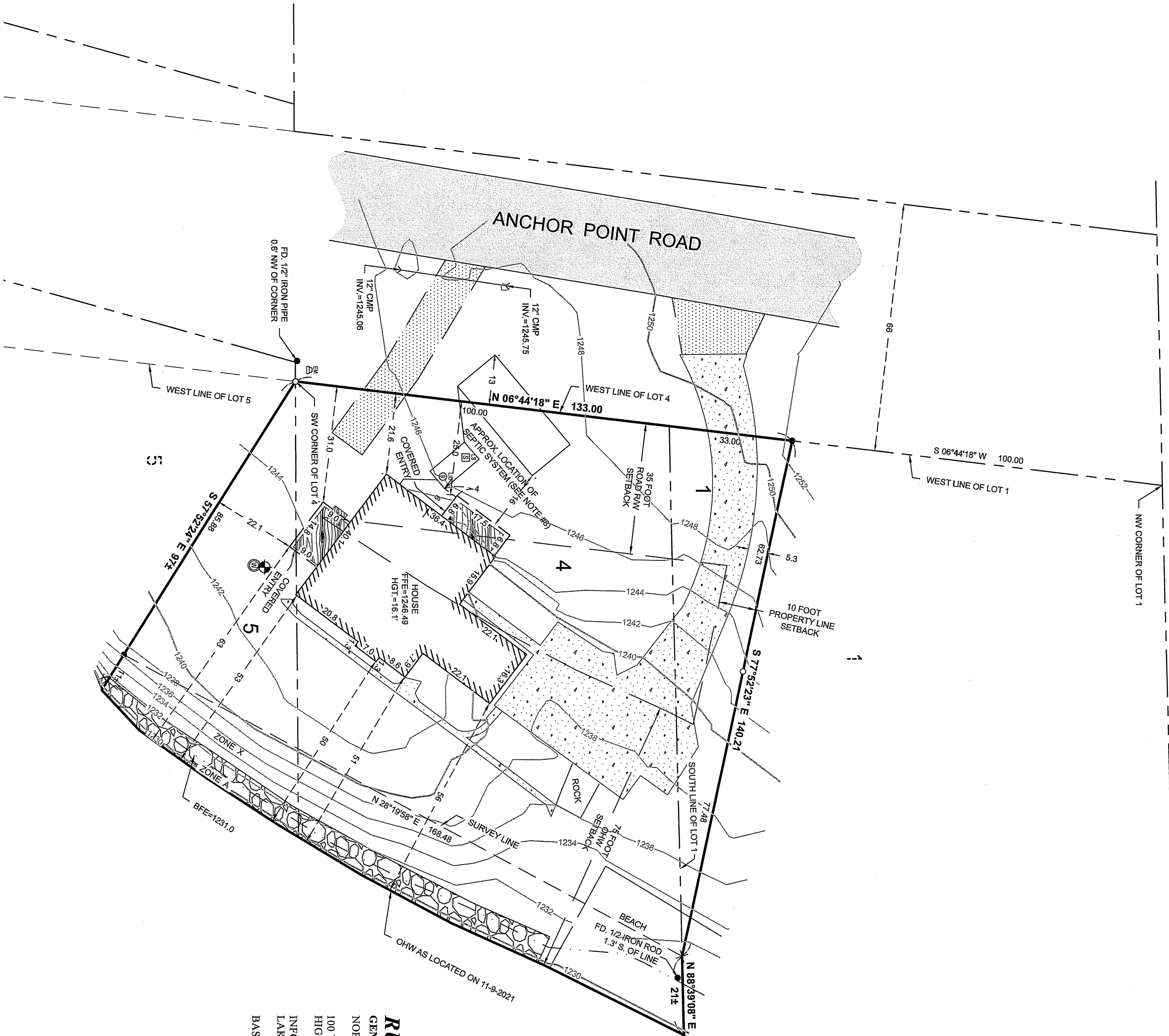
- 119 square foot porch (existing 17.5' x 6.8')
- 133 square foot porch (existing 9.0' x 14.8')
- Existing septic tank at 6 feet from the dwelling structure

As shown on the certificate of survey dated 4-26-2022



CERTIFICATE OF SURVEY

PART OF LOT 1, ALL OF LOT 4 AND PART OF LOT 5, SEKEL,  
SECTION 7, TOWNSHIP 137 NORTH, RANGE 27 WEST,  
CROW WING COUNTY, MINNESOTA  
TOTAL AREA = 19,855± / 0.5 ACRES±  
BUILDABLE AREA = 2,533 SQ. FT.



IMPERVIOUS CALCULATIONS			
EXISTING AREA (sq. ft.)	Net Area (sq. ft.)	Imperious (sq. ft.)	Percent
House w/ Covered Porches	2,084	19,855	10.5%
Concrete	2,548	19,855	12.8%
Gravel	170	19,855	0.9%
Total	4,802	19,855	24.2%

LEGAL DESCRIPTION PER DOCUMENT NUMBER 933161

All that part of Lot 1, SEKEL, lying South of the following described line: Commencing at the Northwest corner of said Lot 1; thence South 07 degrees 30 minutes West, along the West line of said Lot 1, 100 feet, the point of beginning of the line to be described; thence South 77 degrees 06 minutes 41 seconds East 140.21 feet to the South line of said Lot 1; thence North 89 degrees 24 minutes 50 seconds East 12 feet, more or less, to the shoreline of RUSH LAKE and said line there ending. All of Lot 4, SEKEL. All that part of Lot 5, SEKEL, lying North of the following described line: Beginning at the Southwest corner of Lot 4, SEKEL, and assuming the West line of said Lot 4 bears North 06 degrees 44 minutes 18 seconds East, thence South 57 degrees 52 minutes 24 seconds East 94 feet, more or less, to the shoreline of RUSH LAKE and said line there ending. Crow Wing County, Minnesota. (Abstract)

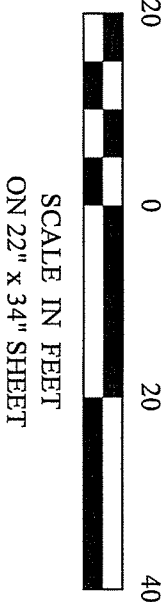
together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: Subject to reservations, restrictions and easements of record if any.

LEGEND

- DENOTES EDGE OF EXISTING BITUMINOUS
- DENOTES EDGE OF EXISTING GRAVEL
- DENOTES EDGE OF EXISTING CONCRETE
- DENOTES EDGE OF EXISTING WOODEN DECKING
- DENOTES EDGE OF EXISTING RP-RAP
- DENOTES EXISTING INTERMEDIATE CONTOURS
- DENOTES EXISTING INDEX CONTOURS
- DENOTES EXISTING ELECTRIC METER
- DENOTES EXISTING WELL
- DENOTES EXISTING SEPTIC VENT, SEPTIC CLEANOUT, & SEPTIC TANK LID
- DENOTES EXISTING SEPTIC LIFT STATION
- BENCHMARK HIGH POINT OF WELL ELEV = 1244.63
- BASED ON NGVD 29 DATUM
- DENOTES CALCULATED POSITION
- DENOTES MONUMENT FOUND
- DENOTES IRON MONUMENT SET MARKED BY LICENSE No. 44881
- ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE WEST LINE OF LOT 1 TO HAVE AN ASSUMED BEARING OF N 06°44'18" E.

NOTES:

- Contour interval as shown = 2 foot. Based on NGVD 29 datum. Contours shown have been obtained using standard survey topographic methodologies. Field located on 11-9-2021.
- Zoning for subject tract = "Shoreland District".
- There are no bluffs within surveyed property.
- Property is in "Zone X" and "Zone A" as per the FIRMA, Flood Insurance Rate Map. "Zone A" definition: Areas of 100-year flood base elevations and flood hazard factors not determined. "Zone X" definition: Areas of minimal flooding.
- No wetlands were found on 10-24-2021 at the site per Ben Meister, Master Environmental, LLC.
- NN Certified Wetland Delineator #1031.
- Parcel IDs of subject parcel: 14070575 & 14070579.
- The E911 address of subject parcel: 12391 Anchor Point Road.
- Approximate location of septic system per sketch prepared by Martin Joyce, Martin Joyce Septic Service, LLC.

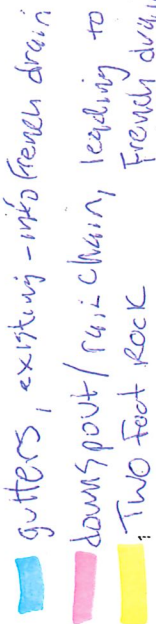


SCALE IN FEET  
ON 22" x 34" SHEET

SHEET 1 OF 1	CERTIFICATE OF SURVEY	PROJECT MANAGER: CMH	PROJECT No.: 21376	DATE: 2-18-2022	REVISIONS		I HEREBY CERTIFY THAT THIS SURVEY, PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.		30206 Rasmussen Road Suite 1 P. O. Box 874 Pequot Lakes, MN 56472 218-568-4940 www.stonemarksurveying.com	
		CHECKED BY: CMH	FILE NAME: C21376.dwg	SCALE: HORIZ. 1"=20'	DATE 4-26-2022	DESCRIPTION Revised per County Comments				BY RJF
		DRAWN BY: RJF	FIELD BOOK: BOOK 466 PG. 49	VERT. NONE						



## 10



retaining from driveway existing

1. Contour interval as shown = 2 feet, based on NGVD 1929 altitudes. Contour shows have been obtained using standard survey topographic map techniques. Field located on 11-9-2021.
2. Zoning for subject tract = "Shoreland District".
3. There are no bluffs within subject tract.
4. Property is in "Zone 1" as shown on the FEMA Flood Insurance Rate Map. "Zone 1" is the "Zone A" flood hazard area, which is an area of moderate flood hazard, as determined. "Zone X" is the "Zone X" flood hazard area, which is an area of minimal flooding.
5. No wetlands were found on 10-24-2021 at the site per Ben Metzler, Mettler Environmental, LLC.
6. Parcel ID of subject parcel: 140705752 & 14070579.
7. The E911 address of subject parcel: 12391 Anchor Point Road.
8. Approximate location of septic system per sketch prepared by Martin Joyce.

All that part of Lot 1, SEKKEL, lying South of the following described line: Commencing at the Northwest corner of said Lot 1; thence South 07 degrees 30 minutes West, along the West line of said Lot 1, 1180 feet, the point of beginning; thence South 78 degrees 34 minutes West, 77 feet; thence North 89 degrees 40-41-1/2 feet to the South line of the West line of said Lot 1; thence North 89 degrees 40-41-1/2 feet to the shore line of RUSH LAKE and said line thence ending.

All of Lot 4, SEKKEL.

All that part of Lot 3, SEKKEL, lying North of the following described line: Beginning at the Southwest corner of said Lot 4, SEKKEL, and assuming the West line of said Lot 4 bears North 06 degrees 44 minutes 18 seconds East; thence South 57 degrees 25 minutes 24 seconds East 94 feet, more or less, to the shoreline of RUSH LAKE and said line thence ending.

[illegible]

0 20 40  
SCALE IN FEET  
ON 22" x 34" SHEET



**CERTIFICATE**  
Eric Kemp  
15839 Lincoln  
Ham Lake, MN

CERTIFICATE OF SURVEY

30206 Rasmussen Road  
Suite 1  
P.O. Box 874  
Pequot Lakes, MN 56472  
218-568-4910  
www.stonemartsurvey.com

[illegible]







12391 Anchor Pt Rd

PID: 14070575





12391 Ancho Pt.

Kemp  
Residence

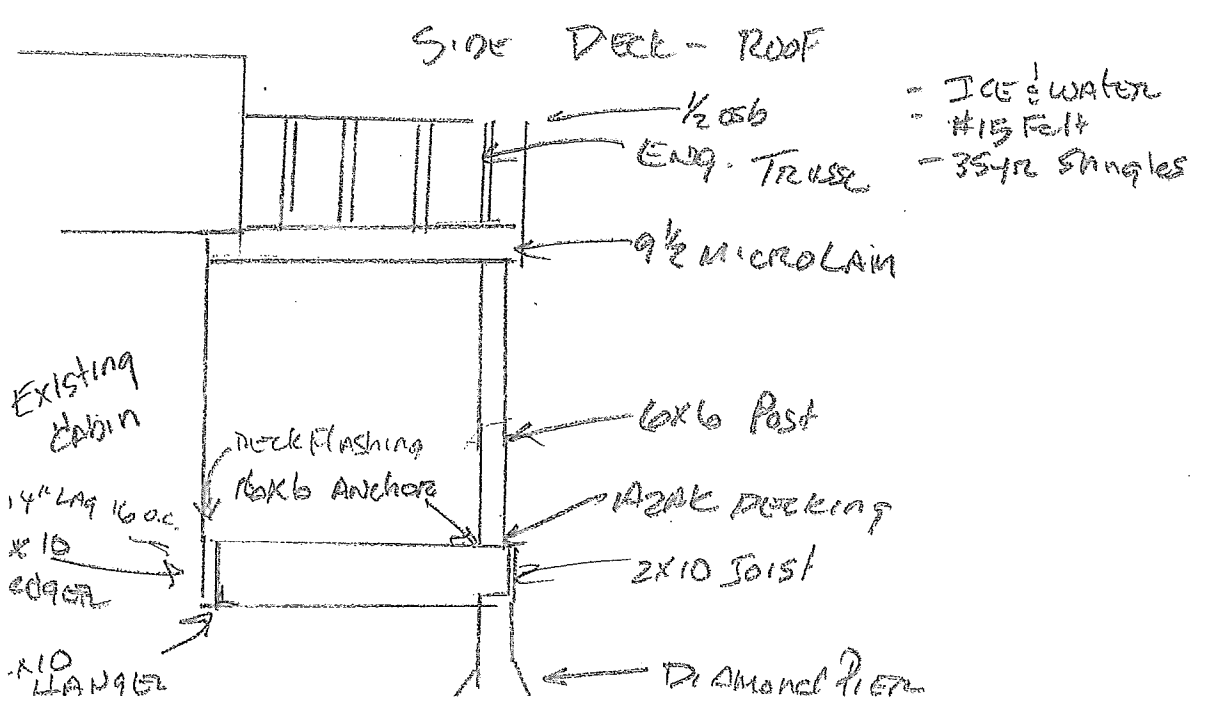
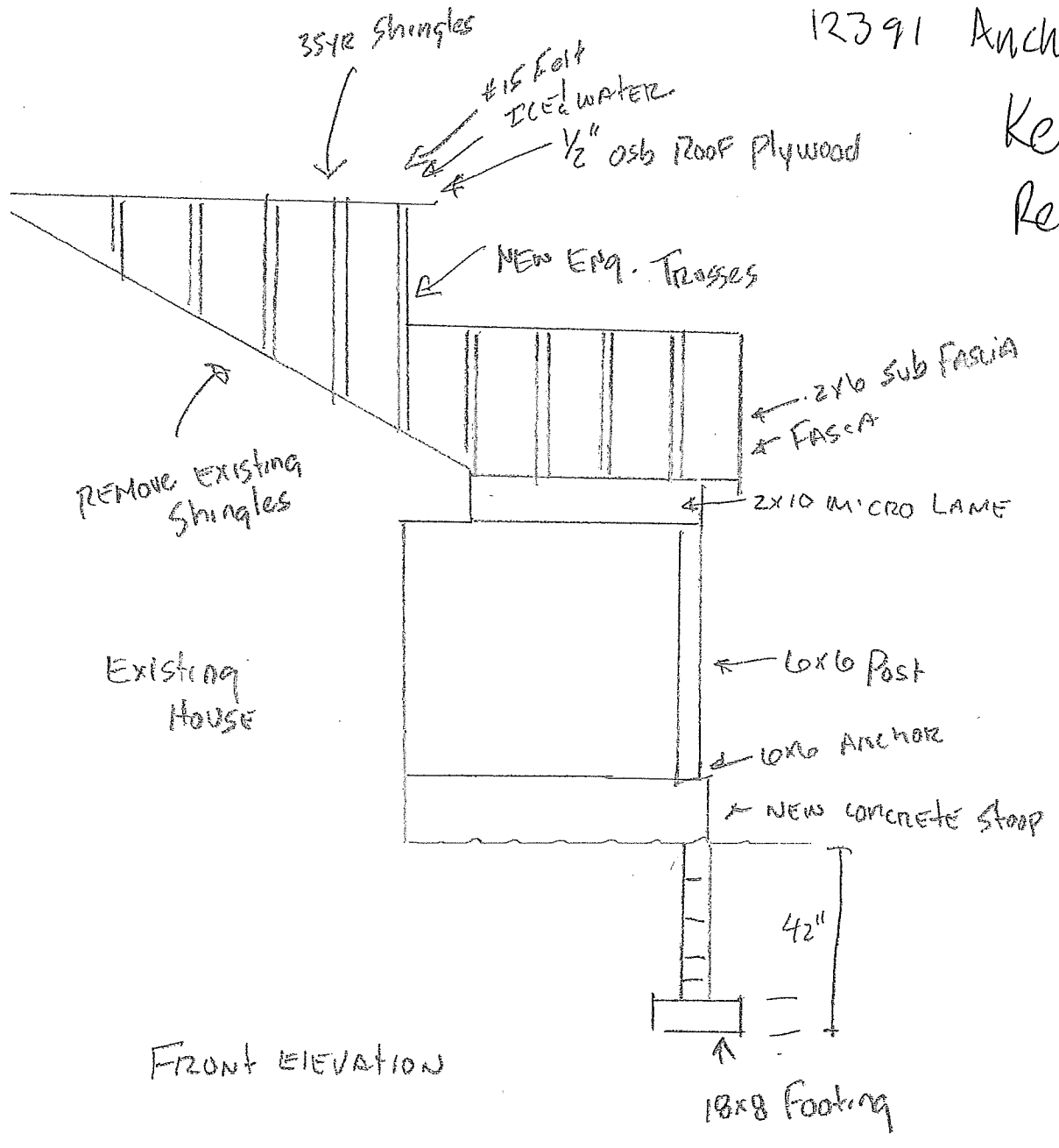


Exhibit B

Crow Wing County

K

E

M

P

H

O

U

S

E



Approximately Road

Setback

Approximate 75 Fte

Setback

Exhibit A

Scale 1: 1200





# ATF Variance Application

Planning and Zoning Department  
13888 Daggett Bay Road, Crosslake, MN 56442  
218.692.2689 (Phone) 218.692.2687 (Fax) [www.cityofcrosslake.org](http://www.cityofcrosslake.org)

Receipt Number: 969976 <sup>\$1500.00 ATF</sup>

Permit Number: 220055V

Property Owner(s): Eric Kemp

Mailing Address: 15839 Lincoln St NE, Ham Lake MN 55304

Site Address: 12391 Anchor Point Rd, Crosslake MN 56442

Phone Number: 6122825854

E-Mail Address: dustbusters93@gmail.com

Parcel Number(s): 14070575 & 14070579

Legal Description: Part of Lot 1, All of Lot 4 and Part of Lot 5, Seekel

Sec 7 Twp 137 Rge 26 ☐ 27 ☒ 28 ☐

Lake/River Name: Rush lake

Do you own land adjacent to this parcel(s)? Yes ☒ No ☐

If yes list Parcel Number(s) \_\_\_\_\_

Authorized Agent: n/a

Agent Address: n/a

Agent Phone Number: \_\_\_\_\_

## Variances

(Check applicable requests)

- ☒ Lake/River Setback  
*63' requires 75'*
- ☒ Road Right-of-Way Setback  
*25' & 31' requires 35'*
- ☐ Bluff Setback
- ☐ Side Yard Setback
- ☐ Wetland Setback
- ☒ Septic Tank Setback  
*4' requires 10' porch*
- ☒ Septic Drainfield Setback  
*6' to structure*  
*16' requires 20'*
- ☐ Impervious Coverage
- ☐ Accessory Structure
- ☐ Building Height
- ☐ Patio Size
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

Signature of Property Owner(s) [Signature] Date 4-22-22

Signature of Authorized Agent(s) \_\_\_\_\_ Date \_\_\_\_\_

- All applications must be accompanied by a signed Certificate of Survey
- Fee \$500 for Residential and Commercial Payable to "City of Crosslake"
- No decisions were made on an applicant's request at the DRT meeting. Submittal of an application after DRT does not constitute approval. Approval or denial of applications is determined by the Planning Commission/Board of Adjustment at a public meeting as per Minnesota Statute 462 and the City of Crosslake Land Use Ordinance.

For Office Use:

Application accepted by [Signature] Date 5/5/2022 Land Use District SD

Lake Class SD Septic: Compliance 9/24/19 SSTS Design \_\_\_\_\_ Installation \_\_\_\_\_

*41500 ATF App*  
*#6 Copies*



City of Crosslake Planning Commission/Board of Adjustment

After-The-Fact Variance Application

Findings of Fact

Supporting/Denying an After-The-Fact Variance

*An After-the-Fact Variance may be granted by the Planning Commission/Board of Adjustment when it is found that strict enforcement of the Land Use Ordinance will result in a "practical difficulty" according to Minnesota Statute Chapter 462. The Planning Commission/Board of Adjustment should weigh each of the following questions to determine if the applicant has established that there are "practical difficulties" in complying with regulations and standards set forth in the Land Use Ordinance.*

1. Is the After-the-Fact Variance request in harmony with the purposes and intent of the Ordinance?

Yes ☒ No ☐

Why?

Defer to the Board of Adjustment

2. Is the After-the-Fact Variance consistent with the Comprehensive Plan?

Yes ☒ No ☐

Why?

Defer to the Board of Adjustment

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

Yes ☒ No ☐

Why?

I used the existing setback calculation of the existing improvements and did not exceed them. I used the existing footprint of the side entry stairs, landing and sidewalk. Front Porch is further than the house setback which was given a 20Ft setback to the road and 6ft to the septic tank. I tried minimize the impact and stay within what was allowed in the previous variance.



4. Will the issuance of an After-the-Fact Variance maintain the essential character of the locality?

Yes ☒ No ☐

Why?

Most of the homes in the area do not meet current setback ordinances. At some point the Road ROW increased to 66FT prior to my ownership & I used the old survey stakes in my calculations. Some neighboring homes are 50%+/- into the road ROW. My covered entries provide safety while maintaining this character.

5. Is the need for an After-the-Fact Variance due to circumstances unique to the property and not created by the property owner?

Yes ☒ No ☐

Why?

Yes, the home was built prior to the current ordinances. I did not increase the non-conformity. There is a 20' variance for the front of the house & built at 21.6' & a 6' variance from the tank. There was not another way to provide safe access to the home. We had fallen on icy deteriorating steps & landings several times.

6. Does the need for an After-the-Fact Variance involve more than economic considerations?

Yes ☒ No ☐

Why?

By rebuilding the step area to the same dimensions and reopening the front entrance to the same dimensions on the side, & minimal size on roadside, impact is negligible & reasonable. I thought it was ok to replace the side entry to previous size, and recreate a safe covered front entry. Lakeside setback of 63' was kept the same as before, & road side entry was kept greater than SW corner of the house & same septic tank distance, as allowed in prior variance.

7. Did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? (Whether the applicant acted in good faith should be considered in the analysis of this factor)

Yes ☒ No ☐

Why?

I did not think I needed a permit to replace the side entry improvements. I did get an electrical permit to relocate the power into the house affected by the side entry so expected my work to be seen. The roadside entry had previously existed & was covered up. Jon Kolstad met me at my home last fall, and he said I could do it. I should have went to the city to confirm what I may need for permits, etc. My contractor had a sudden opening in his shedule & I got ahead of myself & was concerned about winter appraoching. Totally my mistake. I homestead here now.

8. Did the applicant attempt to comply with the Ordinance by obtaining the proper permits?

Yes ☒ No ☒  
Why?

I did not think I need any at the time. Again, I thought replacing to existing sizes and setbacks was ok without permitting. I took my conversation with Jon as it being ok, and not ask if it

9. Did the applicant make a substantial investment in or improvement to the property?

Yes ☒ No ☐  
Why?

We renovated the house for our new permanent residence, and live there full time. the porches were added for safety & minimal sizes to reduce any impact.

10. Are there other similar structures in the neighborhood?

Yes ☒ No ☐  
Why?

Many homes in the area do not meet all setbacks. Note home to the south has no setback building envelope.

11. Would the minimum benefits to the City appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure?

Yes ☒ No ☐  
Why?

Removing the improvements would cause unsafe ingress/egress to the home and unsightly visual appearance.

Please see Exhibits A+B





## City of Crosslake Planning Commission/Board of Adjustment

### After-The-Fact Variance Application

#### Findings of Fact

#### Supporting/Denying an After-The-Fact Variance

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1. Is the After-the-Fact Variance request in harmony with the purposes and intent of the Ordinance?

Yes                  No  
Why?

2. Is the After-the-Fact Variance consistent with the Comprehensive Plan?

Yes                  No  
Why?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

Yes                  No  
Why?

4. Will the issuance of an After-the-Fact Variance maintain the essential character of the locality?

Yes                      No  
Why?

5. Is the need for an After-the-Fact Variance due to circumstances unique to the property and not created by the property owner?

Yes                      No  
Why?

6. Does the need for an After-the-Fact Variance involve more than economic considerations?

Yes                      No  
Why?

7. Did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? (Whether the applicant acted in good faith should be considered in the analysis of this factor)

Yes                      No  
Why?

8. Did the applicant attempt to comply with the Ordinance by obtaining the proper permits?

Yes                      No

Why?

9. Did the applicant make a substantial investment in or improvement to the property?

Yes                      No

Why?

10. Are there other similar structures in the neighborhood?

Yes                      No

Why?

11. Would the minimum benefits to the City appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure?

Yes                      No

Why?