



AGENDA
MANDAN PLANNING & ZONING COMMISSION
COMMISSION ROOM 5:15 P.M.
OCTOBER 24, 2016

Roll Call, Reading and Approval of the August 29, 2016 minutes.

NEW BUSINESS

1. A request from Timothy & Janice Kubik for a variance on the location of an accessory building. Said property is Lot 12, Block 1, Patti's Acres 1st Addition in Section 17, Township 139N, Range 81W. The property is located at 4008 Old Red Trail NW.

OTHER BUSINESS

1. Consider draft of Ordinance No. 1241 amending Section 105-1-2 and creating Section 105-1-15 of the Mandan Municipal Code related to signs.

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL BUILDING
August 29, 2016

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on August 29, 2016, at 5:15 p.m. CDT.

Commissioners Present: Klemisch, Klein, Knoll, Helbling, Laber, Beach, Liepitz, Frank, Robinson

Commissioners Absent: Zachmeier, Kelly, Leingang,

Commissioner Knoll motions to approve the July 25, 2016 minutes. Commissioner Frank seconds. Upon vote, the motion receives unanimous approval of the Board.

President Robinson introduces Bob Klemisch to the board as the school district representative. Mayor Helbling is also introduced.

Commissioner Beach arrives at 5:18 p.m.

NEW BUSINESS

1.A request from Verity Homes for PUD revision of all lots in Block 1, Lakewood 9th Addition in Section 1, Township 138N, Range 81W. Property is located west of 40th Avenue SE & south of 19th Street SE.

Bob Decker, City Planner, describes the request. When the PUD (planned unit development) was created for this development, a specific side yard was missed for Block 1. Currently, the side yard standard is 20% of the average width. When you have odd shaped lots the 20% average is difficult to compute. They are requesting a minimum setback of 5' for each sideyard. This minimum does not require a fire rated wall. The state code allows for 2' roof overhang. Because of the fire code, the 5' would be the minimum standard.

Commissioner Liepitz motions to approve the PUD revision for Block 1 to a minimum sideyard setback of 5'. Commissioner Knoll seconds. Upon vote, motion passes unanimously.

Commissioner Laber arrives at 5:22 p.m.

2. A request from Mother Teresa Outreach, LLC, for a variance to reduce on-site parking from 2 units per dwelling to 1.5 units per dwelling and to take credit for additional parking provided in the boulevard. The property is all of Block 55, Mandan Proper in Section 27, Township 139N, Range 81W. Property is located at 406 4th Street NW in the former Mandan Junior High building.

Bob Decker, City Planner, describes the request. The school district sold the former junior high to a private developer. It has sat for several years. The Spirit of Life Church has taken ownership and is developing the property into a 39 unit affordable housing community with an elevator and community amenities. The request is to lower the parking space standard from 2 spaces per unit to 1.5 spaces per unit and take credit for additional parking provided in the boulevard.

Erin Anderson, Commonwealth Development Corporation, provides background on affordable housing and a presentation of the project. Her company is based out of Wisconsin. They are a construction, architecture and property management firm. They are going to be working with Metro Plains Management on this project. They have offices in several states and have done projects in these states as well. She worked on the 100 West Main project in Bismarck. They work with the Section 42 low income housing program. This program encourages developers to create affordable housing. In return, the developers receive tax credits. The standard for ND is 31 years minimum to provide the affordable housing in return for the tax credits. The approved applicant has a fixed rent for one year. The lease is annual. The applicants must meet income requirements. Backgrounds checks are done on the applicants. This kind of development usually has a positive influence on surrounding property values. Traditional students are not allowed, however, married students or single parent students are considered. Six units will be dedicated for homeless individuals/families. These tenants will be screened and monitored in conjunction with the church. There will be a little more flexibility in screening and selection criteria for this group. All occupants are asked to be a good neighbor, pay rent on time and take care of their home. There is a list of criminal convictions that will result in denial of an applicant. There is stringent screening on other arrests and misdemeanors. They are taking down the newest gym addition to provide fire turn around, parking and green space. The development will have 39 parking stalls in the courtyard (2 of which are handicap), 20 stalls on the east side and 28 stalls in the boulevard for a total of 87. The old gym will provide a child care center (free of charge), fitness and wellness center, community room and management office.

President Robinson says the hardship criteria are pointed out in Item A from the Spirit of Life letter.

Commissioner Laber says the Main Street boulevard parking is counted as part of the allowance. Residential is different.

Bob Decker says the downtown fringe has different criteria and does not have specific parking requirements.

Commissioner Liepitz wants to make sure the variance is specifically tied to this specific project only.

Commissioner Laber motions to approve the parking variance. Commissioner Liepitz seconds. Upon vote, the motion passes unanimously.

OTHER BUSINESS

1. Consider approval of Ordinance No. 1241 creating Section 15 of Article 1, Chapter 1058 of the Mandan Municipal Code related to signs.

A working group was formed to go through the revisions on this ordinance. The working group had 5 working sessions on this. This is the updated draft. There are a couple of additional questions that have come up recently. One being the sight distance triangle. It is currently defined off of the property boundary. The Building Official's office recommends measuring the sight triangle from the curb. The size of the boulevards in town varies. Measuring off the curb would provide more consistency. The current standard is 25' from the

property boundary. This applies for signs, trees and anything that may block the view. Anything in the sight triangle would have a restricted maximum size. The question is 25' or 35', if measured from the curb.

The other question is on temporary signage. Right now the draft says they can be displayed for up to 90 days a year. The intent is that they are used on a temporary basis for a specific reason. There is a lot of clutter out there with this type of sign.

Commissioner Laber asks if the 5000 NITS can be converted to lumens, under the electronic sign section. Bob says a cross reference can be inserted.

Commissioner Knoll asks if the 90 days would be site specific. Bob says site specific. The sign companies would also have to register where their signs are with the building official department.

Bruce Strinden, Neuman Signs, "I've been with Neuman for about 25 years. There's a difference in signs and you probably have worked this ordinance enough so you're familiar and that difference is that between on-premise signs and off-premise signs, basically, an on-premise sign is one that Mayor Helbling might use at his business to advertise something. It could be a portable sign, which this ordinance addresses. If that same sign then, in turn, were used at his business for a restaurant down the street, then it becomes an off-premise sign. Our concern is with the federal aid system roads. Those are controlled by the rules the Department of Transportation has to go by and those are passed down by the federal government. So the federal aid system roads, once you go from an on-premise sign to an off-premise sign, at that point the sign becomes almost the same thing as a billboard. Then you're looking at a permit that would also need to be issued by the state. We did visit with somebody with the Department of Transportation today and they did confirm that was the case. At this point in time, I would recommend that you contact the Department of Transportation with this ordinance to look at that."

Commissioner Laber asks Bruce to clarify what he is asking. He is asking the city to make sure the city's rules and the federal rules are aligned. A billboard would be an off-premise sign on a federal aided road. Bob says there is a section dedicated to billboards. The temporary sign section can be looked at.

Wayne Munson, Indigo Signs, "NITS is the unit of measurement electronic sign companies are using in their federal laws. The sight triangle, I appreciate you are looking at going from the curb because that does give a sight triangle. I would like to see that 25'. If you move to 35', what you're doing is asking the business owner to put up a taller and bigger sign so that sign can be read from the travelling public to be safe. I don't think that is what we are trying to do."

Kim Hegel, Awesome Signs, "We've owned this business going on ten years. I was at the city commission meeting about a month into us buying this business. Our biggest question with this whole thing because I feel like I'm fighting a battle for people that are not meeting our standards. Our signs don't get sent out, not maintained, faded lettering or anything like that. I'm driving all over and I'm seeing them. The biggest question we've had all these years is what is the problem? Nobody has been able to tell us that."

Duane Hegel, Awesome Signs, "We've asked three times in meetings and nobody has given us a direct....we've offered to help. To figure it out."

Kim and Duane Hegel say they maintain their signs and they are proud of how they take care of them. The best form of advertising is in front of your business. Duane says the city is trying to take away his bread and butter. The market is flooded with signs that are not being maintained. It is causing problems for businesses like theirs that take good care of their signs. Kim says a lot of the portable signs on the strip are the businesses own signs. They sit there permanently. They should have to follow the same regulations. They have a sign at Wal-Mart that is nicely maintained. Does Wal-Mart have to pay a lot of money for a permanent sign nobody will look at?

Commissioner Laber asks Kim and Duane Hegel if the only problem they have is with the length of time the portable signs are allowed. They say that is the main issue they have with this ordinance. Kim would also like to have business owned portable signs follow the same regulations.

Commissioner Laber says the temporary/portable signs need a time limit otherwise they become permanent. There is a lot of clutter out there.

Kim and Duane say there are issues in both Bismarck and Mandan with off-premise signs.

Duane says the time limit was changed from 240 days a year to 180 days a year. Now the city wants to reduce it to 90 days. That puts a hardship on his business.

Commissioner Beach thinks 90 days probably works for a majority of the signs. It sounds like there are probably a couple exceptions. Wal-Mart being one.

It is suggested that for those who want to extend the time past 90 days maybe they could apply for a special permit. This is sent back to the committee to review a possible exception permit.

Dave Mees, DHS Signs, "I pay over \$30,000 in taxes on my commercial property and it's all rental property. I do place a sign out once in a while when I have too many vacancies. If I couldn't put that out when needed, that would hurt my commercial business. His sign business does work for Dakota Travel Nurse. They have three locations in Mandan and have classes all the time. He is always changing what the signs say year round."

Bob suggests this goes back to the subcommittee before the next Planning & Zoning meeting. This can be tabled until then.

Commissioner Klemisch motions to table until the next meeting. Commissioner Frank seconds. Motion passes unanimously. Meeting adjourns at 7:10 p.m.

Commissioner Laber motions to adjourn. Commissioner Knoll seconds. Motion passes unanimously. Meeting adjourns at 7:10 p.m.

NEW BUSINESS ITEM # 1

NEW BUSINESS ITEM # 1



**CITY OF MANDAN
PLANNING AND ZONING COMMISSION
STAFF MEMORANDUM**

To: Planning & Zoning Commissioners
From: Robert Decker, Principal Planner
Meeting Date: October 24, 2016
Subject: Request for Variance for 4008 Old Red Trail NW

The request is to allow a shed to be located closer to the road than the primary structure on the lot.

The variance procedure in the code does not require P & Z participation but normally city commission expects comments from P & Z.

Sec. 105-1-12. - Board of Adjustment.

- (a) *The board of city commissioners may create a board of adjustment as authorized by N.D.C.C. or may perform the functions themselves.*
- (b) *The board of adjustment is an administrative board whose powers and duties are limited generally by state laws and particularly by the powers and duties set forth in this section. The board of adjustment shall not have the power to amend this chapter on zoning, nor to permit nor prohibit any actions which accomplish an amendment of this chapter on zoning, nor to permit any action nor fail to prohibit any action which would violate this chapter. However, it is the declared intent of this section that any actions taken by the board of adjustment, in full compliance with the provisions of this section, shall be deemed to be administrative actions and shall not be interpreted as unauthorized amendments to the chapter. In addition to the powers provided by law, the board of adjustment shall have the following powers and duties:*
 - (1) *Variances.*
 - a. *On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the chapter would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.*
 - b. *No adjustment in the strict application of any provisions of this chapter shall be granted by the board of adjustment unless it finds that:*
 - 1. *There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not;*

2. *For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;*
3. *The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

BACKGROUND:

The code specifies that accessory buildings be located to the rear of the primary structure.

Sec. 105-1-2. - Supplementary provisions.

(5) Accessory buildings.

a. Location.

2. *In R7, R3.2, RH and RMH residential districts, accessory buildings shall be located in the rear yard and shall be not less than three feet from a rear or side lot line or less than five feet from an alley line. In the case of a corner lot, accessory buildings, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street property line or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater.*

This lot is zoned R7.

There are 12 houses located along the east side of Old Red Trail between 37th St. NW and Highland Rd. NW. Only one other house sits farther off the road than this one. The garage for this house is approximately 156 feet from the curb. The house is behind the garage. The neighboring house is approximately 100 feet from the curb.

The land drops away behind the houses.

There is a small shed already on the property that is closer to the road than the neighboring house and only about 10 feet from the property line.

The location of the proposed shed is approximately 55 feet from the side property line and approximately 120 feet from the curb line.

The location of the proposed shed was selected to avoid most of the numerous trees in the side yard and to place the shed close to the driveway.

October 6, 2016

RE: Variance

To Whom it May Concern:

We recently moved to 4008 Old Red Trail NW. As we are settling in, we are discovering that we are in need of more storage space that is easily accessible. It is our desire to move a pre-built storage shed onto the property.

Our property consists of 1.9 acres, and, as with most people, it would be ideal to locate the shed in the back yard. However, as you can see by the enclosed photos, our back yard consists of a relatively steep slope. Placing a shed in this location just would not be feasible.

Our property is ideal to place a shed on another location. Our house is located toward the back of the property with a large circular driveway leading to it. On the south side of the property is another space that is 88 feet wide and 156 feet deep. It is on this side yard that we are hoping to place the shed. We have enclosed two photos of the side yard indicating the space where we would like to locate the shed. It is our intent to place it at the back of this space so it does not sit closer to the front curb than our neighbor's house.

We have enclosed the brochure that shows the shed we are hoping to purchase. It is the Side Lofted Barn, and we are hoping to purchase one that measures 12 feet by 20 feet.

We have also enclosed a drawing of the space, indicated the measurements of the space indicated.

We truly appreciate the city's enforcement of the zoning restriction. However, we also believe that the layout of our property provides for a special circumstance where we could request a variance from these restrictions.

We hope that with the photos, brochure, and drawing that we have enclosed, we have provided you with enough evidence to lead you to agree to grant us this variance.

Thank you very much for your time and consideration.


Tim and Janice Kubik

CITY OF MANDAN	
Development Review Application	
Minor Plat (\$100)	Zone Change (\$500)
Preliminary Plat up to 20 acres (\$200)	Zone Change with Final Plat (\$100)
Preliminary Plat more than 20 acres (\$300)	Vacation (\$400)
Final Plat up to 20 lots (\$200)	Variance (\$400)
Final Plat 21 to 40 lots (\$425)	Special Use Permit (\$400)
Final Plat more than 40 lots (\$650)	Stormwater submittal (\$150)
Annexation (\$400)	Stormwater 2 nd & subsequent resubmittal (\$50)
Annexation with Final Plat (\$100)	Construction plans per plan & profile sheet (\$25)
Summary of Request	
MOVING 12 X 20 SHED IN	

Engineer/Surveyor			Property Owner or Applicant		
Name:			Name		
			TIMOTHY AND JANICE KUBIK		
Address			Address		
			4008 OLD RED TRAIL N.W.		
City	State	Zip	City	State	Zip
			MANDAN	N.D	58554
email			email		
			TIMK@ASSOCIATEDPOULBUILDS.COM		
Phone			Phone	Fax	
			220-9083	224-9129	
If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request.					

Location		Type		Existing Zone	Proposed Zone	Project Name
City	ETA	New	Addition			
Property Address				Legal Description		
Current Use						
Proposed Use						
				Section	Township	Range
Parcel Size	Building Footprint	Stories	Building SF	Required Parking		Provided Parking

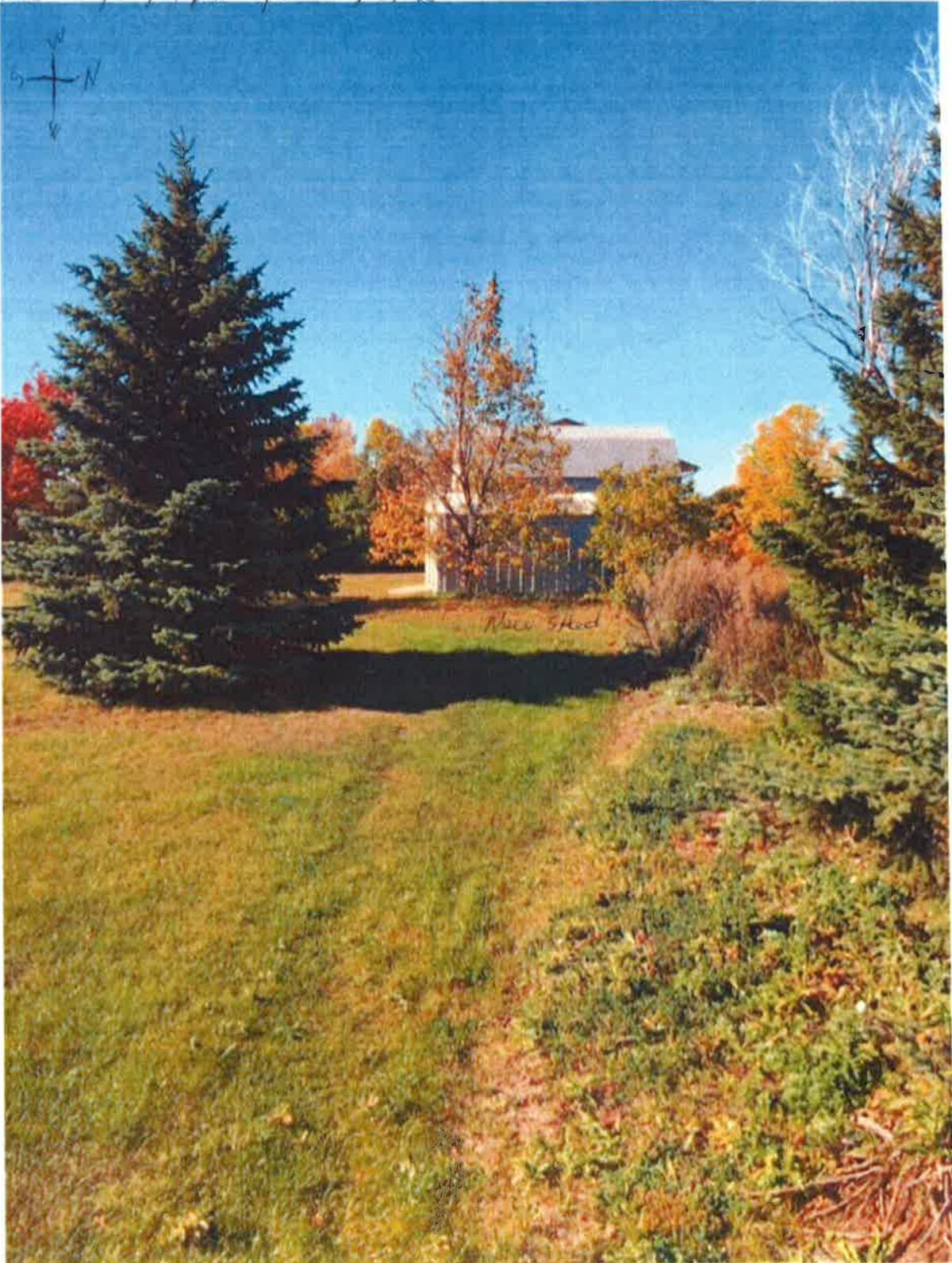
Print Name	Signature	Date
TIMOTHY A KUBIK	<i>Timothy A Kubik</i>	10-07-16

Office Use Only					
Date Received:	Initials:	Fees Paid:	\$	Date	
Notice in paper	Mailed to neighbors		P&Z meeting		
Approved	Approved with conditions:				
Denied					

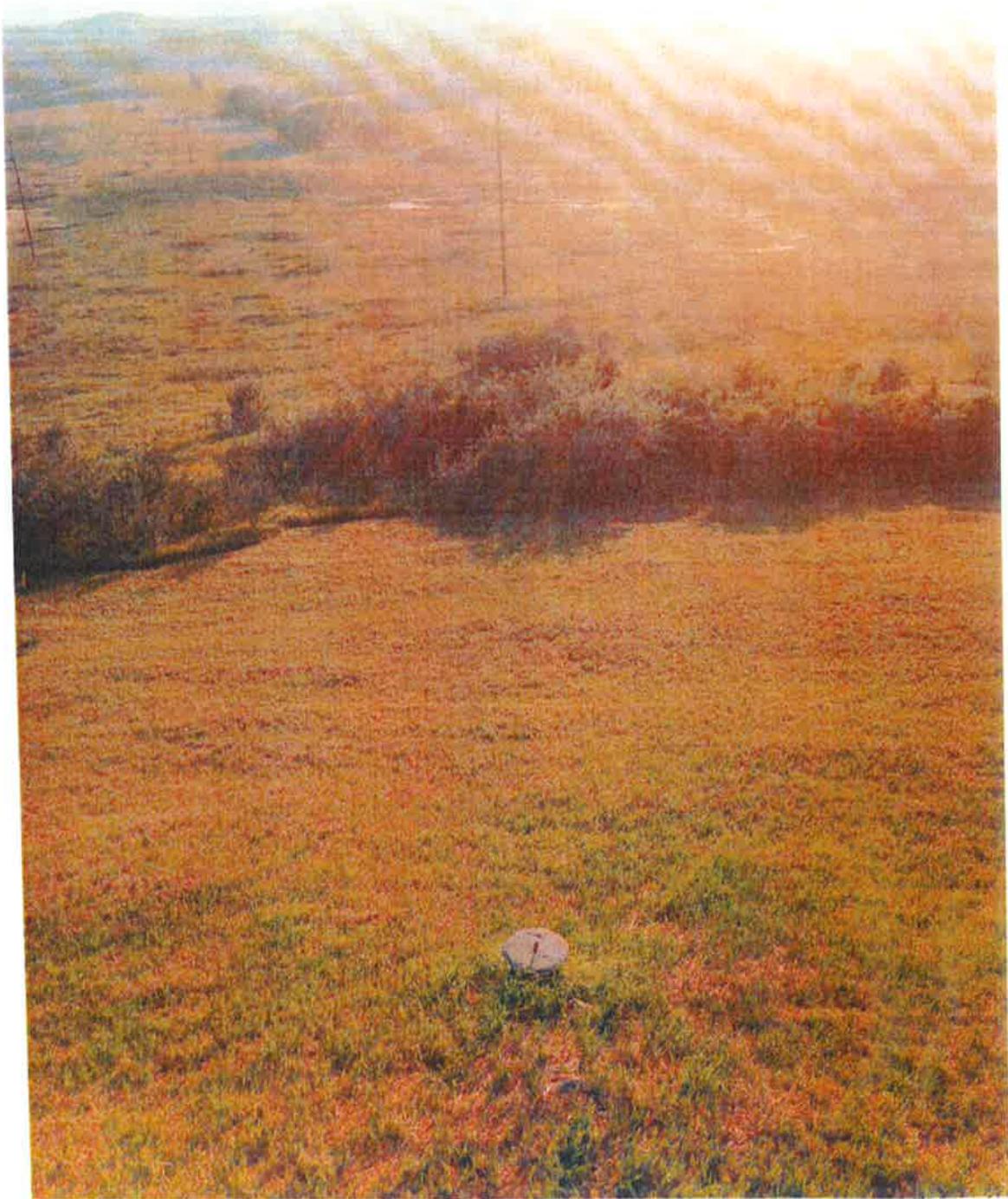
SPRING NEXT TO 45' DIAMETER W/10' 2" EXISTING STAKE, NEW STAKE BEING SET EAST & WEST



New Building to sit EAST of EXISTING Shed



BACK YARD



Back yard





UTILITY

Standard with
double door.

Minimum 7'8" interior wall height.
Standard with 70" wide double door.

48 mo.	Size	Price	36 mo.	48 mo.
\$101.46	8x12	\$2,185	\$106.16	\$96.04
\$128.13	10x10	\$2,565	\$123.75	\$111.88
\$136.88	10x12	\$2,825	\$135.79	\$122.71
\$143.33	10x14	\$3,035	\$145.51	\$131.46
\$174.38	10x16	\$3,190	\$152.69	\$137.92
\$152.71	10x20	\$3,935	\$187.18	\$168.96
\$168.96	12x12	\$3,415	\$163.10	\$147.29
\$180.21	12x14	\$3,805	\$181.16	\$163.54
\$206.04	12x16	\$4,075	\$193.66	\$174.79
\$230.42	12x20	\$4,695	\$222.36	\$200.63
\$286.25	12x24	\$5,280	\$249.44	\$225.00
\$310.42	12x32	\$6,620	\$311.48	\$280.83
\$343.75	12x36	\$7,200	\$338.33	\$305.00
\$302.08	12x40	\$8,000	\$375.37	\$338.33
\$377.08	14x24	\$7,000	\$329.07	\$296.67
\$418.75	14x32	\$8,800	\$412.41	\$371.67
\$456.25	14x36	\$9,800	\$458.70	\$413.33
	14x40	\$10,700	\$500.37	\$450.83

SIDE LOFTED BARN

Minimum 6'6" height under loft. Standard with
two 2'x3' windows and a 70" wide double door.

Size	Price	36 mo.	48 mo.
8x12	\$2,535	\$122.36	\$110.63
10x12	\$3,240	\$155.00	\$140.00
10x14	\$3,515	\$167.73	\$151.46
10x16	\$3,625	\$172.82	\$156.04
10x20	\$4,455	\$211.25	\$190.63
12x12	\$3,895	\$185.32	\$167.29
12x14	\$4,275	\$202.92	\$183.13
12x16	\$4,605	\$218.19	\$196.88
12x20	\$5,485	\$258.94	\$233.54
12x24	\$6,315	\$297.36	\$268.13
12x32	\$7,575	\$355.69	\$320.63
12x36	\$8,340	\$391.11	\$352.50
12x40	\$8,940	\$418.89	\$377.50
14x24	\$7,665	\$359.86	\$324.38
14x32	\$9,750	\$456.39	\$411.25
14x36	\$10,830	\$506.39	\$456.25
14x40	\$11,880	\$555.00	\$500.00

LOFTED BARN

Minimum 6'6" height
Standard with 70"

Size	Price
8x12	\$2
10x10	\$2
10x12	\$3
10x14	\$3
10x16	\$3
10x20	\$4
12x12	\$3
12x14	\$4
12x16	\$4
12x20	\$5
12x24	\$6
12x32	\$7
12x36	\$8
12x40	\$8
14x24	\$7
14x32	\$9
14x36	\$10
14x40	\$11

All prices subject to change. 8' and 10' wide buildings are measured from exterior. 12'+ wide buildings are



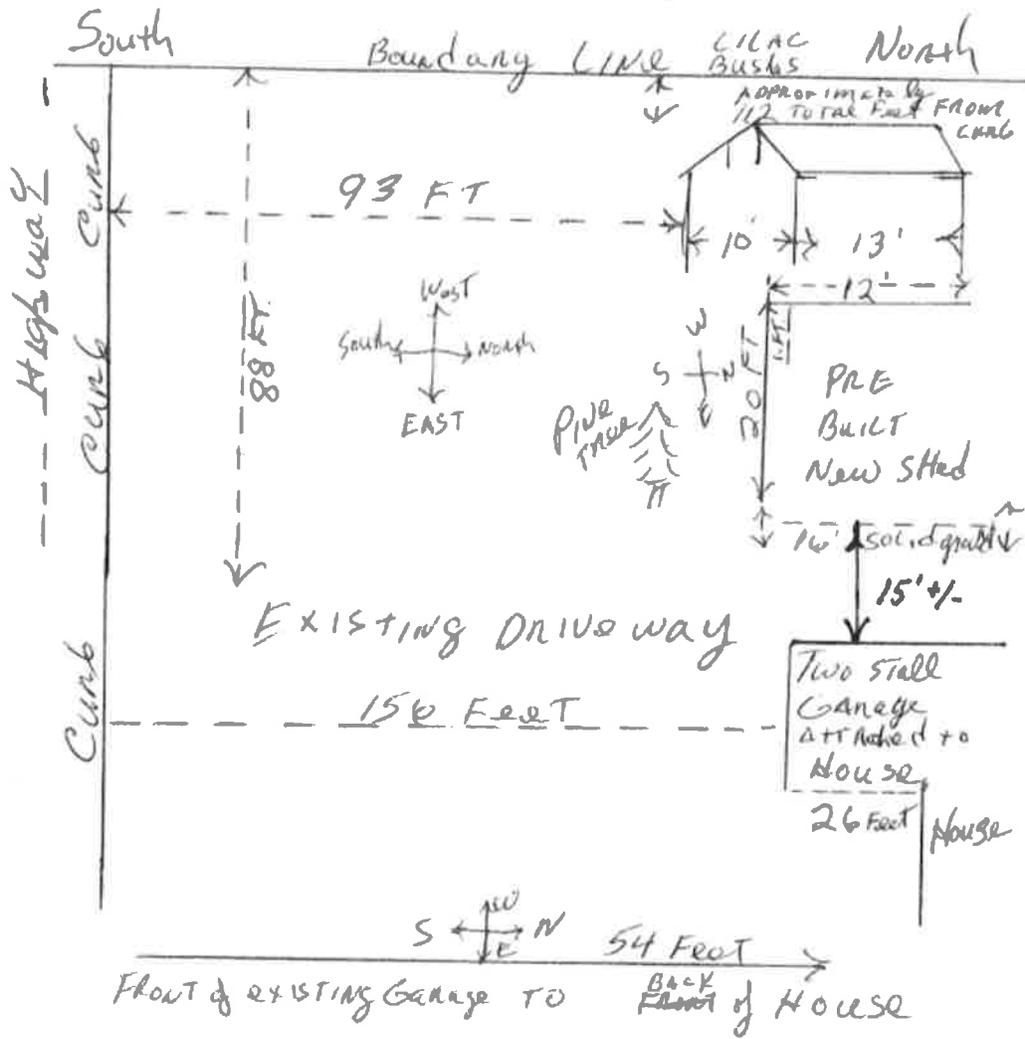
METAL SIDING

Upgrade option
on all Buildings

Rent to OWN

- Own in 36 to 48 Months
- No Credit Check
- No Early Payoff Fees
- Low monthly payments

EXISTING shed
10-w X 13 long



Neighbors House West of us
We set back 26 Feet from their
BACK of the House TO the Front of our Garage



