



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the City Clerk

BOARD OF APPEALS
Thursday, January 2, 2025
6:00 PM
Christine Nuernberg Hall

Agenda

- 1) **Call to Order**
- 2) **Approve meeting minutes of December 5, 2024**
- 3) **Hear evidence concerning; debate, deliberate and decide the request of:**
 - a) **Applicant:** Jeffrey & Susan Konkel
 - Owners:** Jeffrey & Susan Konkel
 - Appeal:** Opportunity will be given to all interested in being heard concerning the petition by Jeffrey and Susan Konkel to request a variance to Mequon Code Sec 58-419(a) regarding the placement of their existing generator at 10808 N Lake View Road.
- 4) **Ordinance:**
 - a) Ordinance 2024-1672 - An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals.
- 5) **Adjourn**

Dated: January 2, 2025

/s/ Kathleen Massey, Chair

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM



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BOARD OF APPEALS
Thursday, December 5, 2024
6:00 PM
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Minutes

1) Call to Order

Present:

- Chair Kathleen Massey
- Vice Chair Thomas Flanagan
- Board Member Ramona Larson
- Board Member Robert Stern
- Board Member James Wawrzyn
- Board Member Steve Helfer -- **Excused**
- Board Member Kirsten Hildebrand -- **Excused**

Also present: City Attorney Sajdak, City Clerk Fochs, Director of Community Development Tollefson and interested public.

2) Approve meeting minutes of November 7, 2024

Motion to approve meeting minutes.

RESULT: Approved by Vote Count [Unanimous]
MOVED BY: Board Member Flanagan
SECONDED BY: Board Member Larson

AYES:	Massey, Flanagan, Larson, Stern, Wawrzyn
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3) Hear evidence concerning; debate, deliberate and decide the request of:

- a. Applicant:** Jeremy Gonzalez
- Owners:** Jeremy Gonzalez
- Appeal:** Opportunity will be given to all interested in being heard concerning the petition by Jeremy Gonzalez to request a variance for a shed and dog run at the property located at 11329 N Meadowbrook Drive.

Attachment: Gonzalez Minutes Final (9946 : BOA minutes December)

Chairman Massey explained the guidelines for the Board of Appeals as well as the process for the meeting. All parties appearing before the Board of Appeals were sworn.

Jeremy Gonzalez	11329 N Meadowbrook Drive
Kim Tollefson	11333 N Cedarburg Road
Gary Norton	11323 N Meadowbrook Drive

Director of Community Development Tollefson explained that the applicant had requested three variances related to two structures. Two variances relate to an accessory structure, which is a shed at the rear of the property. The subject lot is narrow and current placement of the shed does not meet two offset requirements (rear is at 18 feet rather than 25 feet and side is at 15.5 feet rather than 19 feet).

During the review process, it was determined that neither the shed nor the dog run had been installed with permits. While staff can work with the homeowner to resolved the permit issue, the setbacks are still out of compliance. The shed could be relocated within the yard to meet required offsets.

The third variance is for a dog run located in the side yard that is currently 600 square feet when code limits a dog run to no more than 150 square feet. The dog run is used for a K-9 unit dog for the Milwaukee Police Department. While the height and location of the current dog run are acceptable, the overall size is not allowed by the current ordinance. The Milwaukee Police Department provides guidelines for a K-9 unit / service animal, but a required size for a dog run is not defined.

Chair Massey pointed out that the term “dog run” and “kennel” have differing definitions. City Attorney Sajdak said the municipal code does not define a “dog run” but says a “kennel” is something that can house four dogs or more. The applicant’s structure should not be referred to as a “kennel” as that does not apply since this is just regarding one dog.

Board Member Flanagan said Section 58-532 does not specify anything regarding a service dog or K-9, and he asked how it can be amended by the Common Council to address this type of situation. Director Tollefson said that a policy analysis could be initiated to review this circumstance or other K-9 or service dog requirements.

Mr. Gonzalez explained that when they purchased the property, it had an existing shed that was dilapidated. They purchased and installed a replacement shed without realizing the need for a permit. Their new shed was placed further from the lot line than the old one (which improved the offset). The new location was selected as it was the flattest area of the yard and is now placed on a gravel pad. They wanted to keep an open space for their children to play without affecting the wooded area of the yard. The neighbors signed off that this current location was acceptable.

Knox is an eight-year-old German Shepherd that works as K-9 for the Milwaukee Police Department. Due to his training, Knox constantly runs and paces within the dog run. Mr. Gonzalez built the dog run to provide much-needed extra space for Knox to safely move and expend energy outside. They do not have space in their basement for Knox to use for exercise. The neighbor closest to the dog run also does not have any issue with the size or location of the current dog run.

Attachment: Gonzalez Minutes Final (9946 : BOA minutes December)

The Board asked if the Milwaukee Police Department sets any other requirements or provided any of the supplies since the K-9 is technically their property. Gonzalez purchased and installed the dog run at his own expense. The size and location were selected because of the open area that was available with access closest to the house. The shed had been up for two years and the fence for 7 years before Mr. Gonzalez received any notice that he was out of compliance with the ordinance.

Chair Massey said it would be useful to know the additional requirements needed for a working or K-9 dog or service animal. Mr. Gonzalez explained Knox must have a lot of exercise to release his energy, and the house does not lend itself to having an interior area for exercise.

Board Member Wawrzyn questioned why the size area is specified for a dog run but residents can fence in an entire yard for their pet (and that is not considered a dog run). Director Tollefson agreed there can be different interpretations within the codes, so it may be necessary to revisit the guidelines within this code.

Gary Norton is a neighbor at 11323 North Meadowbrook Drive and wanted to say that there have been many improvements to the property since the Gonzalez family arrived. He believes Mr. Gonzalez has already had enough of a hardship with paying for a survey and investing in a new shed that was a great enhancement within the neighborhood. The dog is well-behaved and does not bark. Mr. Norton asked the Board to grant an exception for the existing shed and dog run for this K-9 while the Gonzalez family owns this residence.

Motion to close the hearing.

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Stern
SECONDED BY: Board Member Wawrzyn

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

The Board discussed that they cannot change a city ordinance. They can determine if the property itself is causing a hardship and approve a variance. While the dog run location is acceptable, its size is larger than the maximum allowed. If this was considered a kennel, there would be no limitations on the size of the dog run.

The Board agrees that there needs to be more clarification from the Common Council regarding how the ordinance could be expanded for a working animal. The needs of a service dog should make this a “canine exercise facility” rather than a dog run as the requirements of this K-9 are different from a house pet or family dog. However, this Board is limited by the narrow role it must work within. It must consider the municipal ordinances as they are written and make a decision based on that.

Motion to deny all three requests for variance.

RESULT: Approved by Vote Count [Unanimous]
MOVED BY: Chair Massey

Attachment: Gonzalez Minutes Final (9946 : BOA minutes December)

SECONDED BY: Board Member Wawrzyn

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

After the vote, the Board reviewed the procedures for bringing ordinance changes to the Common Council. Director Tollefson said her department would hold off on any enforcement regarding the dog run or shed while these changes are being pursued.

4) Ordinance

- a. **ORDINANCE 2024-1672** An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals.

City Attorney Sadjak stated it is necessary to have a timely turnaround when making a decision, but it has been too aggressive at times and has made it hard to meet. The request is to extend the deadline by five days but would not go past 60 days without the Board’s approval. This is just an initial discussion and it can be revisited at the January 2025 meeting.

Chair Massey said she read the proposed change would allow 15 days plus 5 days (20 days total) for the work to be completed following a meeting. If there is an extension approved of 60 days, that can mean a delay of 80 days which is too long. Chair Massey wanted to clarify who should have the authority to delay getting a decision finalized and determine what amount of time is reasonable. She believes the Common Council or Mayor should be tasked with making an allowance if the 20-day deadline cannot be met.

The Board believes the wording of the proposed ordinance should be reviewed to make it clearer who has the role of writing up the decision and the timeline allotted. The top of page 36 should be amended to say “the attorney representing the board shall render a decision”. City Attorney said that the point of the ordinance is to make sure that it is clear what the decision process is and how a “reasonable time” is defined. Board members had to respond within five days or they will be passed over (and presumed as having approved the decision).

5) Adjourn

Motion to adjourn at 7:50 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Wawrzyn
SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

Respectfully Submitted,
Beth Kong
Deputy Clerk

Attachment: Gonzalez Minutes Final (9946 : BOA minutes December)

BOARD OF APPEALS VARIANCE APPLICATION

CITY OF MEQUON, WISCONSIN

Applicant: Jeffrey and SUSAN Konkel Address: 10808 N. Lake View Rd.
City/zip: MEQUON, WI 53092

Owner: -same as above- Address: -same as above-
City/zip: _____

Contact Person/Name: Susan Konkel

Phone Number: H: 262-241-3711 Email: suekonkel@hotmail.com
(Landline)

TO THE BOARD OF APPEALS:

*PER Attached email -
Table 58-249 PER Greg Cole
Section 58-419(a) Cole
Section 58-8*

The above hereby requests a variance to City of Mequon Code Sec. #: _____
regarding: _____

10808 N. Lake View Rd - MEQUON - WI - 53092
(street address or legal description)

in order to: allow existing placement of Konkel generator
due to property hardship, as explained, in our letter
dated: October 29th 2024

Attachment: Konkel Application 1 (9950 : Konkel Application)

APPLICANT MUST PROVIDE:

Application form
\$250 filing fee

1 copy each of the following documents

1. Copy of denial letter if any, or a description of the denial
2. Letter explaining hardship or practical difficulty in complying with the ordinance requirement(s)
3. Detailed dimension drawing of/and indicating area where appeal/variance is requested
4. Elevation drawings if appropriate (4 views)

FOR OFFICE USE ONLY

Receiving Officer: <u>CF</u>	Received Date: _____
Parcel #: <u>15-084-03-08-000</u>	Hearing Date: <u>1-2-2025</u>
Zoning District: <u>R3</u>	Receipt #: _____
Alderman & District #: <u>8 Bill Gebhardt</u>	Published: <u>12-19-2024</u>

c: Notice of scheduled hearing to DISTRICT ALDERPERSON, OWNER(S) OF RECORD as listed in the Office of the Assessor and all parcels in the City of Mequon as per state statute and City of Mequon Communication Policy.

Cover Letter

Date: October 29th 2021

To: City of Mequon
Board of Appeals
11333 N. Cedarburg Rd.
Mequon, WI 53092

From: Jeffrey and Susan Konkel
10808 N. Lake View Rd.
Mequon, WI 53092
H: (262) 241-3711 (Landline)

RE: Board of Appeal Variance Application

To Whom It May Concern:

Please find the following, as part of the application and review process for our property variance request:

- Variance Application
- Compliance denial (email) per Greg Golden
- Code(s) sited per a (email) per Greg Golden
- Letter explaining hardship to include an attachment
- Survey in larger envelope, labeled Exhibit #1
- Exhibit and Photo Binder, to include 8 Exhibits and 19 Photos

Thank you.

Sincerely,


Jeffrey and Susan Konkel

Attachment: Konkel Application 1 (9950 : Konkel Application)



Jeffrey Konkels SR <j.konkelsr@gmail.com>

10808 N. Lakeview Rd.

1 message

Greg Golden <ggolden@ci.mequon.wi.us>
To: "jberg@jrbelectric.com" <jberg@jrbelectric.com>
Cc: Jeffrey Konkels SR <J.konkelsr@gmail.com>

Mon, Sep 30, 2024 at 3:24 PM

Good afternoon,

I performed a final inspection of the generator installation at 10808 N. Lakeview Rd. on Friday, 9-27-24, and have some issues to correct:

- Generator is in the front 50' setback; it will need to be relocated.*
- Grounding electrode conductor to be terminated within 5' of water pipe entering building.
- Expose both ground rods for inspection.
- Main bonding jumper in panel still touching neutral bar; remove screw and three bonding jumpers.

*Please call me or set up a time to meet with me in my office to discuss where the generator can be located.

Thanks,



Greg Golden

Building Inspections Supervisor

City of Mequon

Master Electrician

11333 N. Cedarburg Rd. | Mequon, WI 53092

262-236-2921 | ggolden@ci.mequon.wi.us

Central Scheduling: (262)236-2930

Attachment: Konkels Application 1 (9950 : Konkels Application)

Outlook

RE: Generator Setbacks

From Greg Golden <ggolden@ci.mequon.wi.us>
Date Tue 10/1/2024 12:14 PM
To Susan Konkel <suekonkel@hotmail.com>
Cc Jeffrey Konkel <j.konkelsr@gmail.com>

Susan and Jeff,

Table 58-249 of the Mequon Code of Ordinances (link [here](#)) gives the technical requirements for residential zoning districts. Your property is zoned R-3. Using the table, the required setback from local streets is 50 feet. Then we need to go to Section 58-419(a) which covers structures other than buildings and states "all structures shall be subject to the setback, offset..." Finally, we look at Section 58-8, Definitions; Structure: a combination of materials other than natural terrain or plant growth erected or constructed to form among other things, a building, shelter, sign, enclosure, retainer, container, support, base, or decoration. Air conditioners and generator fall under this definition of a structure. Let me know if you need anything else.

Thanks,

Greg Golden
Building Inspections Supervisor
City of Mequon
Master Electrician
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2921 | ggolden@ci.mequon.wi.us
Central Scheduling: (262)236-2930

From: Susan Konkel <suekonkel@hotmail.com>
Sent: Tuesday, October 1, 2024 11:30 AM
To: Greg Golden <ggolden@ci.mequon.wi.us>
Cc: Jeffrey Konkel <j.konkelsr@gmail.com>
Subject: RE: Generator Setbacks

Hi Greg,

Jeff & I would like the actual written City of Mequon code compliance document that sites the 50' setback for residential home generators, as indicated in your recent correspondence.

Attachment: Konkel Application 1 (9950 : Konkel Application)

October 29th 2024

Jeffrey and Susan Konkell
10808 N. LakeView Rd.
Mequon, WI 53092

City of Mequon
Board of Appeals
11333 N. Cedarburg Rd.
Mequon, WI 53092

To the Board of Appeals,

We are hereby requesting consideration for a lot/property variance allowing for the current placement of our generator on our west side, side-lot due to the following property hardships.

1. Our lot/property is uniquely shaped. It fronts (3) streets—Lake View Road to the (W), Ravine Drive to the (S), and Ravine Court to the (E). Our lot has been referred to as a triple-frontage lot. It also has a severely curved tapered (radius), along Ravine Drive and Lake View Road, extending to the (NW) corner of our lot/property—offering us only a (1) 20' offset on our (N) lot/property line. It is because of our unique lot/property configuration combined with required setback and offset that lessens usage to only 22.1% of our total lot/property. (RA Smith, our surveyor, calculated this percent.) This leaves more than three-quarters of our lot/property unusable. This alone is a significant property hardship. (Exhibit #1, Survey)

2. Also, our lot/property sits below road grade on the entire (SW,W) side-lot of property to the street(s) Ravine Drive and Lake View Road. A deep open culvert (on the SW radius) bridges both the street and west, side lot/property. (Our west-side lot to the field stone bed along the west side of house is original grade—never filled or altered.) During spring thaw and heavy rainfall events, water spillage, runoff and ponding extends beyond the culvert to our (NW corner) and west, side lot/property, flowing and draining along the (N) fence line, to the (E) and then to the ravine. Our lot pitches (W) to (E) and (S) to (N). (Exhibit #1, Survey and Photo's #1,2,3,6,7,9,12)

(Please note: One of the driest, high-ground areas on our west, side-lot (original grade area), is a ridge along the (S) birch garden bed, which includes—where our generator is placed. At this point water sheds to the (N,NE) back around to the (NE) corner of our house--then draining along the (N) fence line (E) to the ravine.) (Photo #12)

3. In addition to the below grade and water/drainage issues, on our west, side lot/property, our entire property serves as a watershed, drainage way accommodating water from all sides/directions eventually draining to the ravine—which is the vacated portion of Ravine Court, attached to our lot/property. (Exhibit #1, Survey) (4) Buried culverts pipes indicate again (per our survey) that all water flows to our property and not

-2-

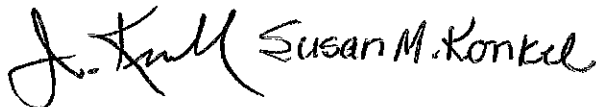
a way. This includes all properties to the west and beyond, to the north, to the south, draining northern portions of Virmond Park, and to the east, as indicated by a *storm water catch basin—which is also shown on our survey. (Photo's #1,2,4,5)

(*Please note: This storm water, catch-basin was placed (in the mid 90's) without permission and without an easement agreement by the City of Mequon—thus becoming an encroachment onto our (E) lot/property. (Exhibit #1, Survey and Photo #5) To this day, The City of Mequon is not able to identify the source of water that is being drained onto our property. As stated, per a recent conversation with Cole McCraw, Assistant City Engineer, the file/records may no longer be available due to the length of time when installed. He also said that he would refer our inquiry to the Public Works Department... But received no call back, to date.)

Even though these property hardships are exclusive to our variance request, there are other important placement and clearance factors, along with safety considerations key to the placement of our generator. They are listed and referenced on Attachment #1, which follows this letter.

It is our hope that with your review of all documents, exhibits, and statements presented, that they will provide for a more clear and better understanding as to why we are seeking/requesting a variance for the current placement of our generator. Our current placement creates no harm (detriment) to any adjacent or neighboring properties, including our own. It is also our hope that we have met the threshold for unnecessary property hardship and that our request for a variance will be granted.

Respectfully submitted,



Jeffrey and Susan Konkel

Attachment #1

(Exhibit/Photo Reference(s) for: Placement, Clearance, and Safety Criteria)

1. Kohler Generator Specs (Exhibit #2, and Photo #10)

2. Location/Mounting/Placement Criteria: (Exhibit #3,7)

- Flat surface
- Access for Maintenance and service
- Support the weight of the generator and mounting pad (Total Weight: 1500 lbs)
- Support the generator set weight for the lifetime of the generator set—which is 25-40 years
- Meet applicable building code
- Not subject to flooding

3. Also: Kohler-Generator Location Criteria: (Exhibit #3)

- Install the generator set outdoors and near incoming gas service. The generator set location must also allow easy access for maintenance and service....
- Locate the generator set so the hot exhaust does not blow on plants or other combustible materials. No plants, shrubs, or other combustible are allowed within 1.2m (4 ft.) of the exhaust end of the generator set.
- Do not install the generator set where exhaust gas could accumulate and seep inside or be drawn into a potentially occupied building....

4. Clearance Allowance(s) for ****Homeowners safety: (Exhibit #3,4,5,6)**

- For Windows: 5' clearance allowance (3 double- windows)
- For window wells: 5' clearance allowance (1 vented window well)
- For furnace vent: 4' clearance allowance, per phone conversation with Dave, Cliff Bergin & Associates, Monday, 10-07-24
- For furnace vent: 10' clearance allowance, per Kohler spec sheet
- For cold air intake: 10' clearance allowance, also per same phone conversation with Dave, Cliff Bergin & Associates, Monday, 10/07/24

4. Well and Utility Maintenance: (Exhibit #1, Survey and Photo #7,9,13,15,16,17,18)

For the maintenance of our well per a recent phone conversation with our well servicer Fred Groth of Groth Water Well—he stated that a service pathway should

-2-

allow for a 10-11' wide pathway (for his smaller rig truck) and a 25' wide service pathway (for his larger rig truck). The current service pathway begins to the west of our front walkway, continuing westward, between the (SW) corner of our house and the (S) birch tree bed (where our generator is located) then a sharp 45 degree turn (N) to the well pipe. We are currently on our 3rd well pump.

There are also many other utilities feeding into the west side to house that are also subject to access and maintenance allowances—including the ability to access buried lines through trenching, if necessary. All are listed on our survey. (Exhibit #1, Survey)

The utilities from (N) to (S) on west side of house are as follows... (Exhibit #1, Survey, Photo #14)

Utilities North of Chimney:

- Air Conditioning unit and control box to house
- Furnace exhaust vent
- Fresh air intake

Utilities South of Chimney:

- Well waterline
- Secondary ground (recently placed)
- Back flow preventer
- Irrigation supply line
- Spectrum cable line
- AT&T landline
- Electric meter
- Electric line feeding from the west, newly relocated/placed
- Abandoned old electric line
- Electric line to generator
- Gas meter
- Gas supply line to generator

5. ****Safety and Health and protocols: (Exhibit #3,7,8)**

WARNING (Statement from Kohler) (Exhibit #3)

--**Do not** locate the generator set near patios, decks, play areas, or animal shelters. Keep items such as lawn furniture, toys, sports equipment and all combustible materials away from the generator exhaust outlet.

-3-

--Remind family members, children, and visitors to use caution near the generator set. Generator components become hot when generator set is running and remain hot for a time after the generator set shuts down.

--NFPA 37 Overview and Requirements: All listed on Exhibit #7

--Kohler Safety Precautions and Warnings: All listed on Exhibit #8

PLAT OF SURVEY

Lot Eight (8) of Block Three (3) in MICHIVUE, being a subdivision in the Northwest 1/4 of Section 28, Township 9 North, Range 22 East, in the City of Mequon, Ozaukee County, Wisconsin, and the West 1/2 of the vacated Street adjoining Lots 7 and 8 on the East, as noted in Order of Discontinuance of Highway recorded on June 7, 1951 in Volume 13 of Miscellaneous on pages 333 to 338, as Document No. 146099.

Tax Key No. 15-084-03-08-000
Property Address: 10808 Lake View Road, Mequon, WI 53092

Bearings are based on the Wisconsin County Coordinate System, Ozaukee County.

This survey was prepared based on Chicago Title Insurance Company title commitment number 02-23285, effective date March 30, 1992, which lists the following easements and/or restrictions from schedule B-II. (Note, any easements which may have been recorded after the effective date are not shown):

9. Easements, if any, of the public or any school district, utility, municipality or person, as provided in Section 80.32(4) of the Statutes, for the continued use and right of entrance, maintenance, construction and repair of underground or overground structures, improvements or service in that portion of the above-described premises which were formerly a part of street now vacated. **Lies within or crosses the surveyed property - its location is shown.**

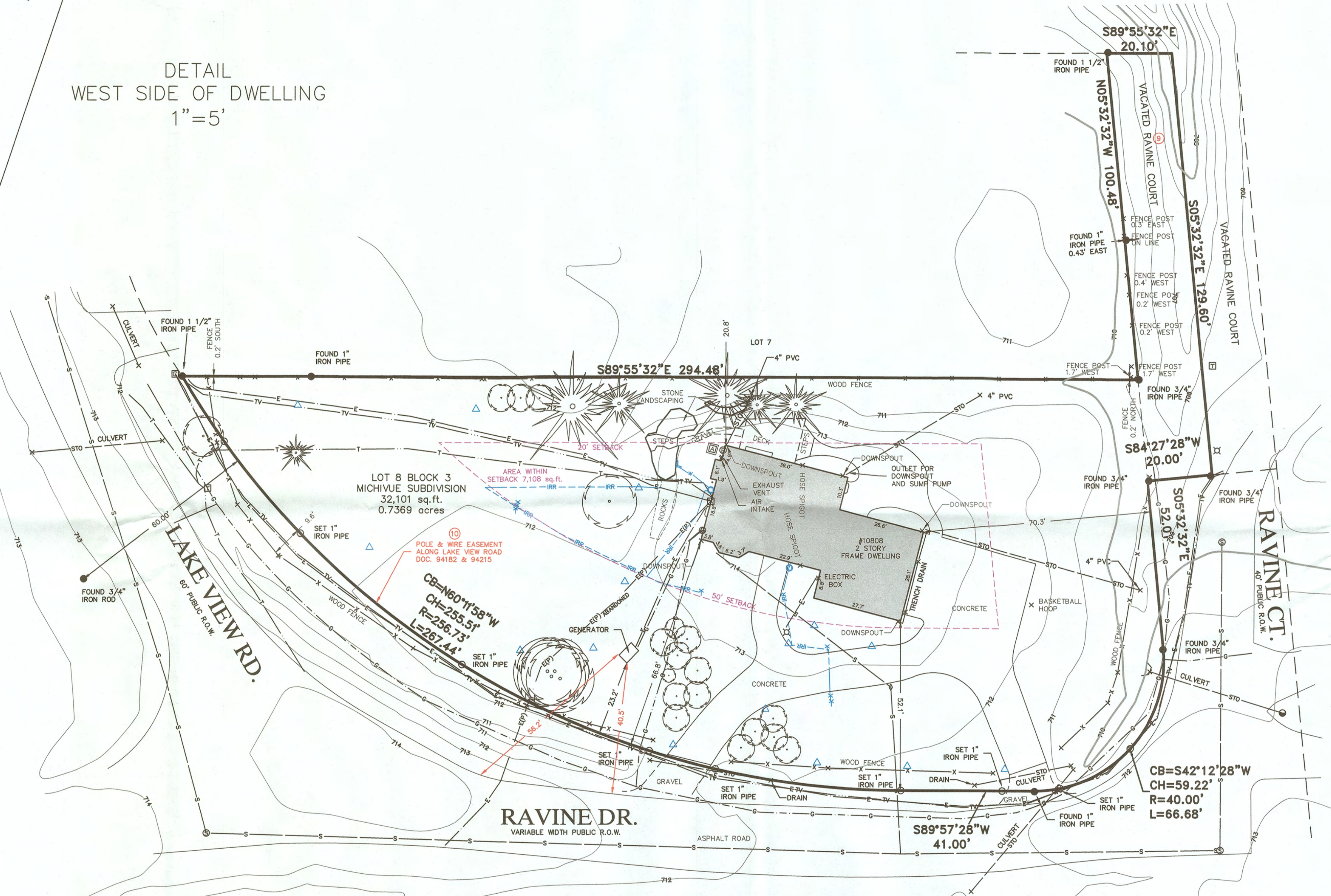
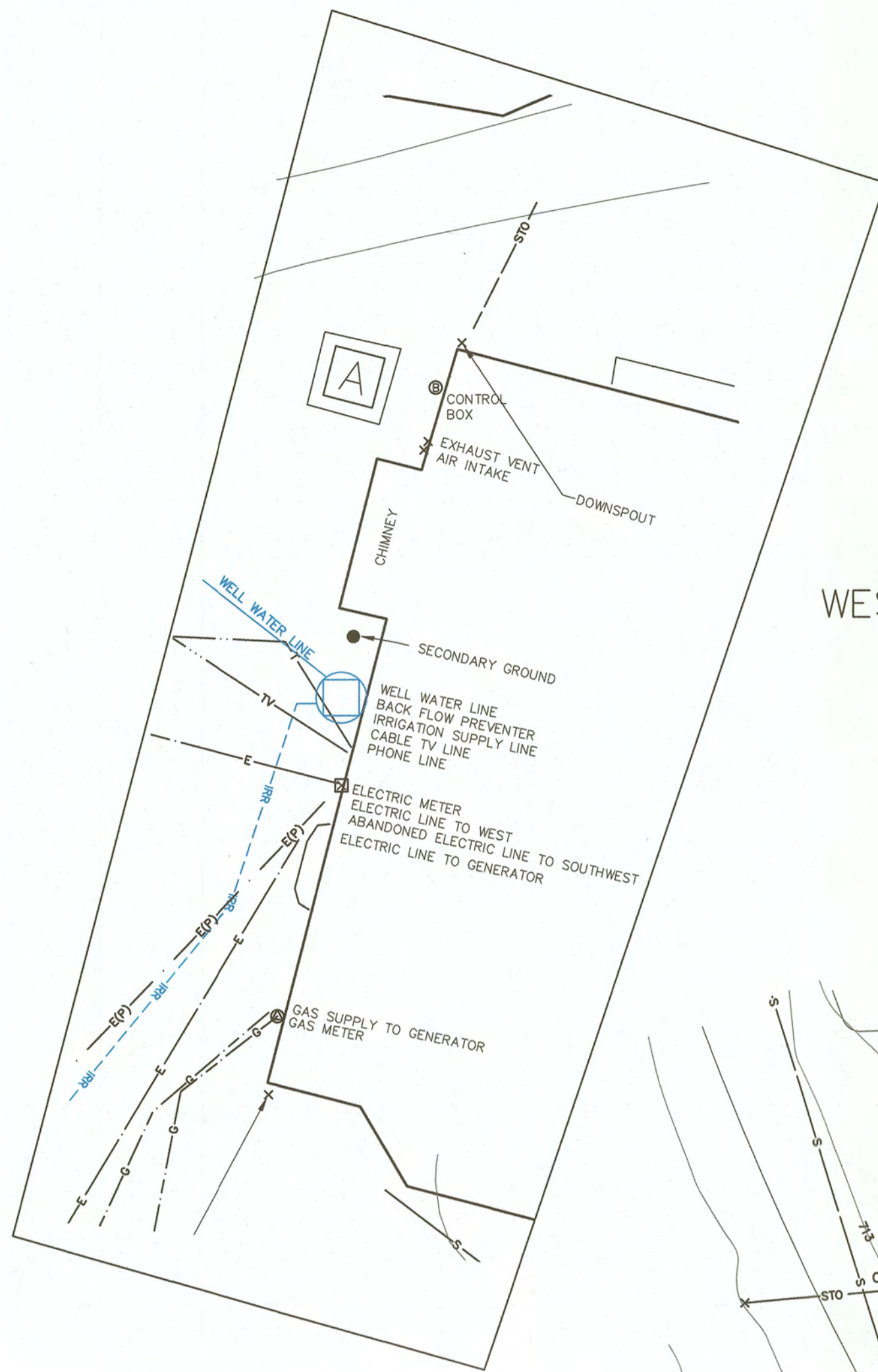
10. Utility easement granted by Shorewood Realty Company to The 1.11waukee Electric Railway and Light Company and Wisconsin Telephone Company by an instrument dated March 10, 1927 and recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin on March 12, 1927 in Volume 7 of Miscellaneous on page 295, Document No. 94182 and re-recorded as utility easement granted by Shorewood Realty Company to Wisconsin Gas and Electric Company and Wisconsin Telephone Company by an instrument dated March 10, 1927 and recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin on March 22, 1927 in Volume 7 of Miscellaneous on page 297, Document No. 94215. **Lies within or crosses the surveyed property - it is a blanket easement - its location is not shown.**

Elevations refer to NAVD88 Datum.

In accordance with Chapter A-E 7.01 (2) of the Wisconsin Administrative Code, R. A. Smith, Inc. has executed an agreement to waive the setting of monuments on the above described property. Signatures on file with Surveyor.

USEABLE AREA: 7,108 sq. ft. = 22.1%
32,101 sq. ft.

DETAIL
WEST SIDE OF DWELLING
1"=5'

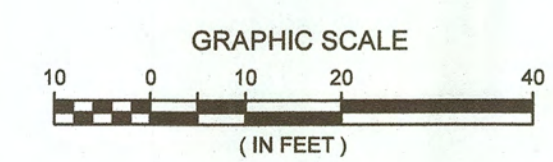


- LEGEND**
- AIR CONDITIONER
 - BACK FLOW PREVENTOR
 - ⊕ LIGHT POLE
 - ⊠ ELECTRIC METER
 - ⊞ TELEPHONE PEDESTAL
 - ⊙ CONTROL BOX
 - ⊕ WELL
 - ⊙ GAS METER
 - ⊙ ROUND INLET
 - ⊙ STORM SEWER END SECTION
 - ⊙ SANITARY MANHOLE
 - ⊕ IRRIGATION CONTROL BOX
 - ⊕ SPRINKLER HEAD
 - ⊕ CONIFEROUS TREE
 - ⊕ DECIDUOUS TREE
 - S — SANITARY SEWER
 - STO — STORM SEWER
 - W — WELL LATERAL
 - IRR — IRRIGATION LINE
 - G — MARKED GAS MAIN
 - E — MARKED ELECTRIC
 - T — MARKED TELEPHONE
 - TV — PROPOSED CABLE TV

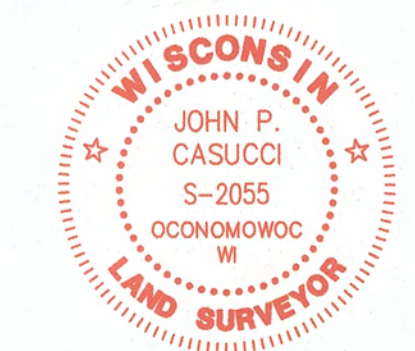
DIGGERS HOTLINE TICKET NO. 20244210118

THE UNDERGROUND UTILITY INFORMATION AS SHOWN HEREON IS BASED, IN PART, UPON INFORMATION FURNISHED BY UTILITY COMPANIES AND THE LOCAL MUNICIPALITY. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, ITS ACCURACY AND COMPLETENESS CANNOT BE GUARANTEED NOR CERTIFIED.

R.A.SMITH, INC. ASSUMES NO RESPONSIBILITY FOR DAMAGES, LIABILITY OR COSTS RESULTING FROM CHANGES OR ALTERATIONS MADE TO THIS PLAN WITHOUT THE EXPRESSED WRITTEN CONSENT OF R.A.SMITH, INC.



I CERTIFY, that this survey was prepared under my supervision and is correct to the best of my professional knowledge and belief and complies with Chapter A-E 7 of the Wisconsin Administrative Code.
Date: October 16, 2024



John P. Casucci
JOHN P. CASUCCI
WISCONSIN PROFESSIONAL LAND SURVEYOR S-2055

raSmith
CREATIVITY BEYOND ENGINEERING
16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com

Attachment: Konkel Survey Exhibit 1 (9953 : Konkel Survey Exhibit 1)

Exhibits and Photos

Please note: Exhibits and photos are all listed, labeled in same order—some exhibits may contain more than (1) page.

- Exhibit #1: Survey by R.A. Smith (Not included in binder—separate labeled envelope)
- Exhibit #2: Kohler Generator Specs
- Exhibit #3: Kohler Installation (Key Specifications)
- Exhibit #4: Carrier Important Information
- Exhibit #5: Setback Requirements
- Exhibit #6: West Side House Elevation, Architectural Drawing, Waldemar Lange
- Exhibit #7: NFPA 37 Overview (National Fire Protection Association's Standards)
- Exhibit #8: Kohler Safety Precautions

- Photo #1: (NW) corner of our lot/property during spring thaw
- Photo #2: (NW) corner of our lot/property—Watershed-drainage, ponding, after spring rain
- Photo #3: Edge of Road, beginning at Ravine Drive—Open culvert bridging road to our West, side lot/property
- Photo #4: Water drainage from Virmond Park to our (S) buried culvert pipe
- Photo #5: Encroachment onto our (E) lot/property—Storm water, catch-basin installed by The City of Mequon
- Photo #6: View of our (N) lot/property line, looking (NW—Pitch is (W) to (E) to ravine
- Photo #7: Well service area—Also, showing (S) to (N) pitch to fence line and then to ravine
- Photo #8: (SW) corner view of our house and sloping garden bed—also open down-spout
- Photo #9: Again, well service area—and pitch (S) to (N)
- Photo #10: The placed Kohler Generator in birch bed—looking (SE) to Virmond Park
- Photo #11: Edge of road to property line to generator...
- Photo #12: Generator showing high-ground placement in birch garden be—also showing Pitch (S) to (N)
- Photo #13: Generator service pathway, per labeled photo
- Photo #14: West side view of house, all utilities listed per labeled photo
- Photo #15: Well pipe placement
- Photo #16: Well servicer on well cap
- Photo #17: New electric service to house by WE Energies—trench along house
- Photo #18: Again, new electric feed to house—trench abutting house 6-7' deep

Exhibit #2



Home Energy

Products

Parts & Accessories

Buyer's Guide

Owner Support

Find a Dealer

Get a FREE Quote

For Professionals

Search



26 kW Generator

26RCA with KOHLER Energy Management mobile app

Starting at ~~\$10,699~~ ^{MSRP} (i)

Model Number 26RCA

Fuel Type Natural Gas | LPG

Phase Single Phase

Remote Monitoring Included

GET A QUOTE

Features

Specs

Model	26RCA
Rated kW LP	26 kW
Rated kW NG	24 kW
Amps LP	109 amps
Amps NG	100 amps
Peak Motor Starting kVA @240 V	39 kVa
Alternator Note	All information shown is for 1 Phase 60 Hz generator with the largest alternator option available.
Displacement	999 cm ³ (61 cu. in.)
Horsepower	NG 33.0 HP, LP 36.4 HP
Enclosure Material	Aluminum
Sound Output During Weekly Exercise	56 dB(A)
Sound output During Full-speed Operation	67 dB(A)
Response Time	10 seconds
Warranty	Premium five-year limited warranty
Country of Origin	US
Certifications/Listings	cUL ListedEPAUL 2200
Automatic Transfer Switch Included	Included
Remote Monitor Available	Included
Off Grid / Utility backup	Utility Backup



Dimensions - NEXT Page
W: 47"
D: 26"
H: 32.3



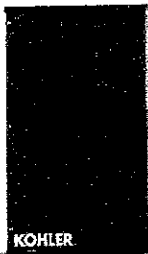
Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Weight	625 lbs. (625 kg)
Alternator Type	2-Pole, Rotating Field
Fuel Consumption on NG at 50% Load?	180 cfh
Fuel Consumption on LP at 50% Load?	85 cfh
Controller	RDC2 Controller
Cylinder Arrangement	V-2
Dimensions	1193 mm x 660 mm x 820 mm (47 in. x 26.0 in. x 32.3 in.)
Engine Manufacturer/Description	KOHLER
Engine Model	CH1006
Engin/Alternator RPM	3600
Fuel Type	Natural Gas LPG
Frequency	60 Hz
Phase	Single Phase
Voltage @60 Hzs	120/240
Digital Voltage Regulation	±1.0%
Built in Mounting pad	Yes

Technical Documents

Accessories & Controllers

Designed for style, performance and accessibility, these are the accessories that make the ordinary extraordinary



Automatic Paralleling Module, 200A

Installation

Residential/Commercial Generator Sets



Models:

14RCA
14RCAL
20RCA
20RCAL
26RCA
26RCAL

Controller:

RDC2

KOHLER®

TP-7091 4/23d

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Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

1.3 Generator Set Inspection

Complete a thorough inspection of the generator set.

Check for the following:

1. Inspect the generator set for loose or damaged parts or wires. Repair or tighten any loose parts before installation.
2. Check the engine oil. Fill, if necessary, with the recommended viscosity and grade of oil. Use synthetic oil, API (American Petroleum Institute) Service Class SG or higher. See the Operation Manual for additional information.

1.4 Location and Mounting

- Install the generator set outdoors near the incoming gas service. The generator set location must allow easy access for maintenance and service. The required distance from a structure is dependent on state and local codes. See the dimension drawing in the **Drawings and Diagrams** section for the minimum clearance from structures and non-combustible materials.

Locate the generator set so that the hot exhaust does not blow on plants or other combustible materials. No plants, shrubs, or other combustible materials are allowed within 1.2 m (4 ft.) of the exhaust end of the generator set.

- Do not install the generator set where exhaust gas could accumulate and seep inside or be drawn into a potentially occupied building. Furnace and other similar intakes must be at least 3 m (10 ft.) from the exhaust end of the generator set.

WARNING

DO NOT locate the generator set near patios, decks, play areas, or animal shelters. Keep items such as lawn furniture, toys, sports equipment, and all combustible materials away from the generator set exhaust outlet.

Remind family members, children, and visitors to use caution near the generator set. Generator sets connected to automatic transfer switches start automatically during exercise periods and power outages. Some generator set components become hot when the generator set is running and remain hot for a time after the generator set shuts down.

1.4.1 Mounting Area

Prepare the generator set mounting area. The mounting area must:

- 1. Provide a flat, level surface for the generator set.
- 2. Allow easy access for maintenance and service.
- 3. Support the weight of the generator set with related equipment, such as the battery and mounting pad.
- 4. Support the generator set weight for the lifetime of the generator set.
- 5. Meet applicable building codes.
- 6. Not be subject to flooding.

Clear all combustible materials, including plants and shrubs, building materials, and lawn furniture, from an area at least 1.2 m (4 ft.) beyond the exhaust end of the generator set. See the dimension drawing in the **Drawings and Diagrams** section.

The generator set is shipped on an aluminum base. Set the base directly on the mounting area or on an optional concrete mounting pad.

1.4.2 Exhaust Requirements

Figure 5 gives the exhaust temperature at rated load. The engine exhaust mixes with the generator set cooling air at the exhaust end of the enclosure. Mount the generator set so that the hot exhaust does not blow on plants or other combustible materials. Maintain the clearances shown in the dimension drawing.

Exhaust	Temperature, °C (°F)
Exhaust gas exiting the enclosure at rated kW, °C (°F)	260 (500)

Figure 5 Exhaust Flow and Temperature

The generator set requires correct air flow for cooling and combustion. The inlet and outlet openings in the sound enclosure provide the cooling and combustion air. Figure 6 shows the locations of the cooling air intake and exhaust vents. Inspect the air inlet and outlet openings inside and outside the enclosure to ensure that the air flow is not blocked.

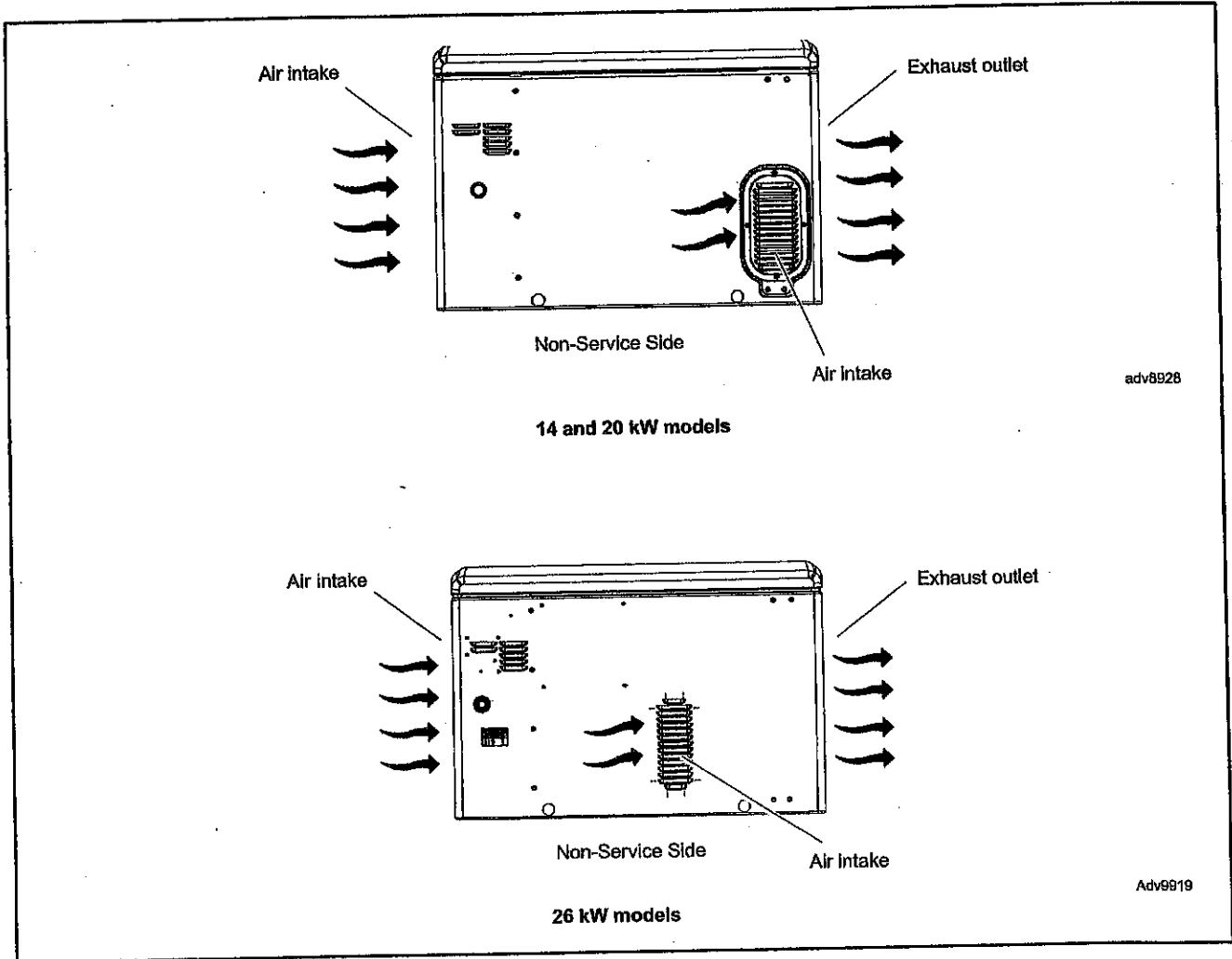
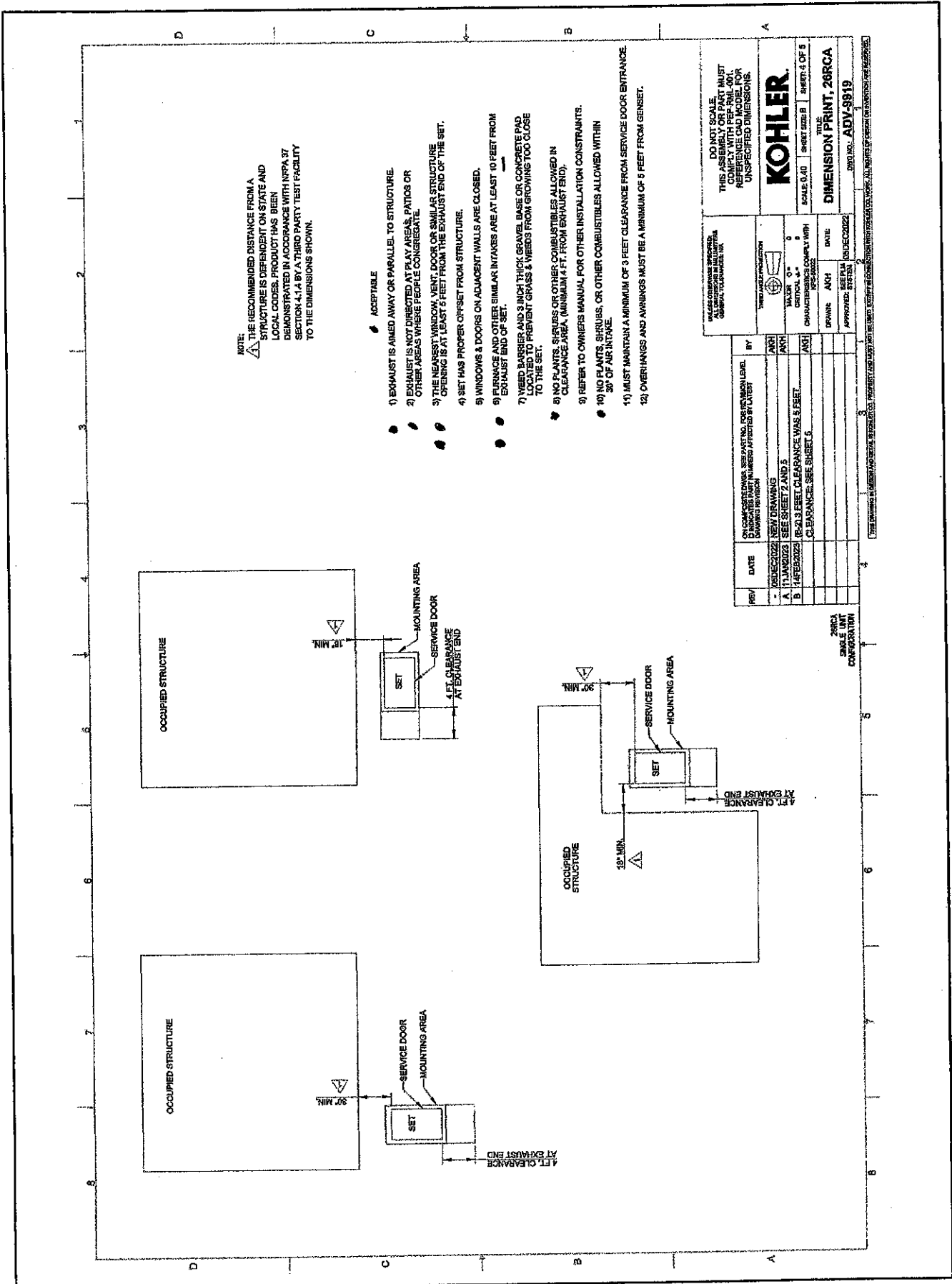


Figure 6 Cooling Air Intake and Exhaust

1.5 Dimension Drawings

See the dimension drawings in the **Drawings and Diagrams** section for the generator set dimensions, fuel and electric inlet locations, and recommended clearance.

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)



NOTE:
 ▲ THE RECOMMENDED DISTANCE FROM A STRUCTURE IS DEPENDENT ON STATE AND LOCAL CODES. PRODUCT HAS BEEN DEMONSTRATED IN ACCORDANCE WITH NFPA 37 SECTION 4.1 BY A THIRD PARTY TEST FACILITY TO THE DIMENSIONS SHOWN.

- ACCEPTABLE
- 1) EXHAUST IS AIMED AWAY OR PARALLEL TO STRUCTURE.
 - 2) EXHAUST IS NOT DIRECTED AT PLAY AREAS, PATIOS OR OTHER AREAS WHERE PEOPLE CONGREGATE.
 - 3) THE NEAREST WINDOW, VENT, DOOR OR SIMILAR STRUCTURE OPENING IS AT LEAST 5 FEET FROM THE EXHAUST END OF THE SET.
 - 4) SET HAS PROPER OFFSET FROM STRUCTURE.
 - 5) WINDOWS & DOORS ON ADJACENT WALLS ARE CLOSED.
 - 6) FURNACE AND OTHER SIMILAR INTAKES ARE AT LEAST 10 FEET FROM EXHAUST END OF SET.
 - 7) WEED BARRIER AND 3 INCH THICK GRAVEL BASE OR CONCRETE PAD LOCATED TO PREVENT GRASS & WEEDS FROM GROWING TOO CLOSE TO THE SET.
 - 8) NO PLANTS, SHRUBS OR OTHER COMBUSTIBLES ALLOWED IN CLEARANCE AREA. (MINIMUM 4 FT. FROM EXHAUST END).
 - 9) REFER TO OWNERS MANUAL FOR OTHER INSTALLATION CONSTRAINTS.
 - 10) NO PLANTS, SHRUBS, OR OTHER COMBUSTIBLES ALLOWED WITHIN 30' OF AIR INTAKE.
 - 11) MUST MAINTAIN A MINIMUM OF 3 FEET CLEARANCE FROM SERVICE DOOR ENTRANCE.
 - 12) OVERHANGS AND ANCHORS MUST BE A MINIMUM OF 5 FEET FROM GENSET.

THIS ASS'Y OR PART MUST COMPLY WITH PER-RAIL-001. REFERENCE CAD MODEL FOR UNSPECIFIED DIMENSIONS.	
KOHLER	
DO NOT SCALE THIS ASS'Y OR PART MUST COMPLY WITH PER-RAIL-001. REFERENCE CAD MODEL FOR UNSPECIFIED DIMENSIONS.	TITLE DIMENSION PRINT, 26RCA
SCALE 0.40 SHEET SIZE B SHEET 1 OF 5	SHEET NO. ADV-9919
THIS DRAWING IS THE PROPERTY OF KOHLER. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ALL RIGHTS OF INVENTION ARE RESERVED.	APPROVED: [Signature]

Figure 70 Dimension Drawing, 26RCA/L, ADV-9919 Sheet 4

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EXHIBIT
#4

3.c.3.a



turn to the experts

THIS BOOKLET CONTAINS IMPORTANT INFORMATION

INSTALLER: USE THE INFORMATION IN THIS BOOKLET TO INSTALL THE APPLIANCE AND AFFIX THIS BOOKLET ADJACENT TO THE APPLIANCE AFTER INSTALLATION.

USER: KEEP THIS BOOKLET OF INFORMATION FOR FUTURE REFERENCE.

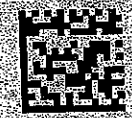
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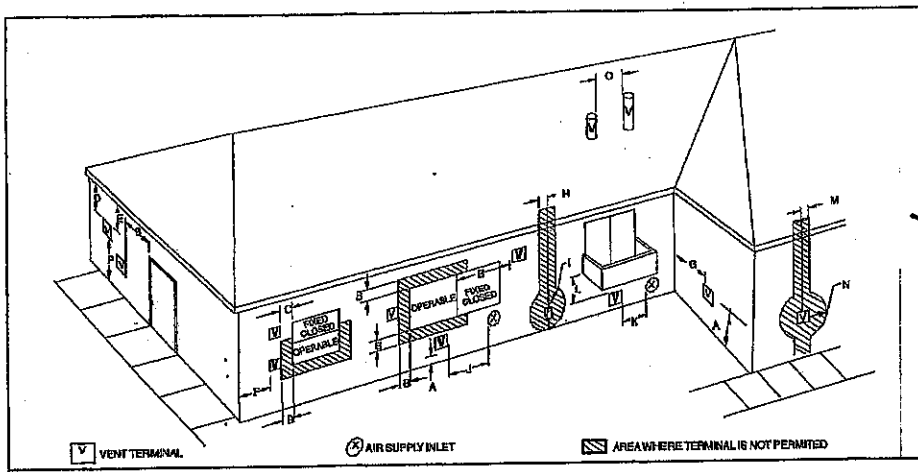


Printed on recycled paper.

NOTE TO INSTALLER: this manual must be left with the equipment owner.

Packet Pg. 24

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A12325

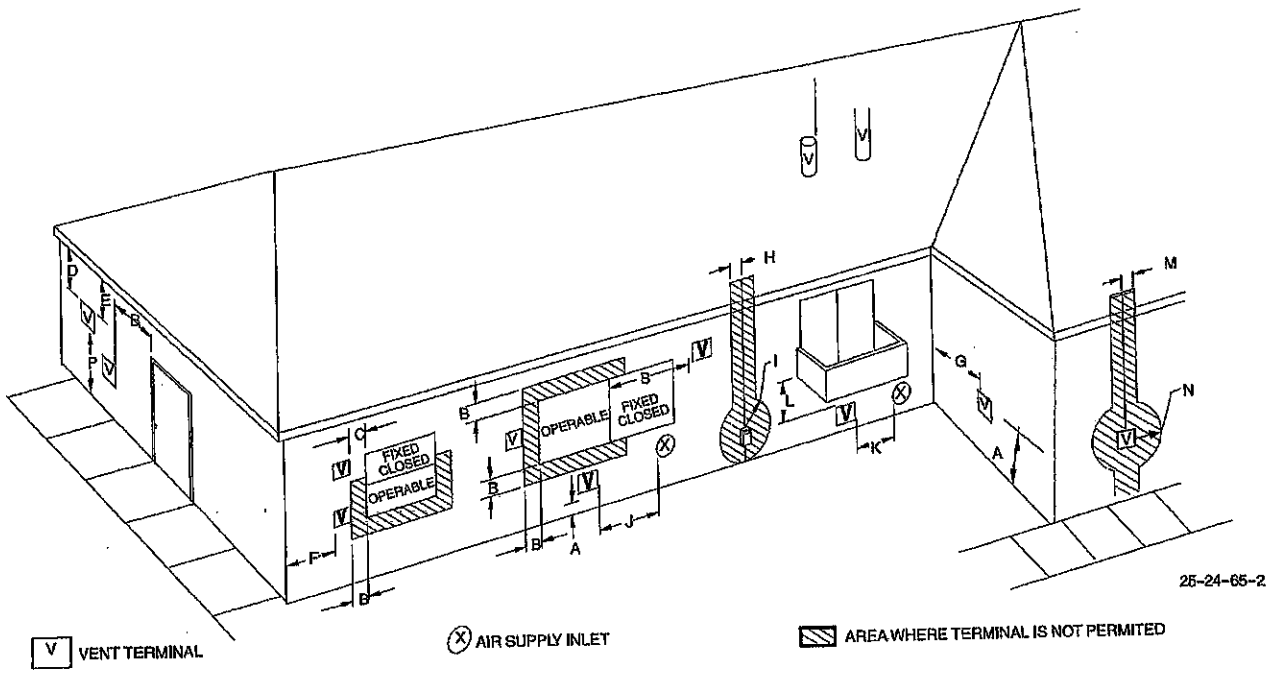
Fig. 45 - Ventilated Combustion Air and Non-Direct Vent Termination Clearance

NOTE: The following is based upon National codes for gas appliances and is provided as a reference. Refer to local codes which may supersede these standards and/or recommendations.

Item	Clearance Description	Canadian Installations (1) (per CAN/CSA B149.1)	U.S. Installations (2) (per ANSI Z223.1/NFPA 54)
A	Clearance above grade, veranda, porch, deck, balcony or anticipated snow level	12 in. (305 mm) 18 in. (457 mm) above roof surface.	12 in. (305 mm)
B	Clearance to a window or door that may be opened	12 in. (305 mm) for appliances >10,000 Btuh (3 kW) and <= 100,000 Btuh (30 kW), 36 in. (914 mm) for appliances >100,000 Btuh (30 kW)	4ft. (1.2M) below or to the side of the opening, 1 ft (.3M) above the opening. Manufacturer's Recommendation: See Note 8.
C	Clearance to a permanently closed window		
D	Vertical clearance to a ventilated soffit located above the terminal within a horizontal distance of 2 feet (61 cm) from the centerline of the terminal	For clearances not specified in ANSI Z223.1/NFPA 54 or CAN/CSA B149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions. Manufacturer's Recommendation: See Notes 3-8.	
E	Clearance to an unventilated soffit		
F	Clearance to an outside corner		
G	Clearance to an inside corner		
H	Clearance to each side of the centerline extended above electrical meter or gas service regulator assembly		
	Clearance to service regulator vent outlet	3ft. (.9 M)	See Note 4.
	Clearance to non-mechanical air supply inlet to building or the combustion air inlet to any other appliance	12 in. (305 mm) for appliances >10,000 Btuh (3 kW) and <= 100,000 Btuh (30 kW), 36 in. (914 mm) for appliances >100,000 Btuh (30 kW)	4ft. (1.2M) below or to the side of the opening, 1 ft (.3M) above the opening. Manufacturer's Recommendation: See Note 8
	Clearance to a mechanical air supply inlet	6 ft. (1.8 M)	3ft. (.9 M) above if within 10 ft. (3 M) horizontally
	Clearance under a veranda, porch, deck, or balcony	12 in. (305 mm). Permitted only if veranda, porch, deck, or balcony is fully open on a minimum of two sides beneath the floor.	See Note 4. Manufacturer's Recommendation: See Notes 3-8.
	Clearance to each side of the centerline extended above or below vent terminal of the furnace to a dryer or water heater vent, or other appliance's direct vent intake or exhaust	12 in. (305 mm)	12 in. (305 mm)
	Clearance to a moisture exhaust duct (dryer vent, spa exhaust, etc.)	12 in. (305 mm) See Note 4	12 in. (305 mm) See Note 4
	Clearance from a plumbing vent stack	3 ft. (.9 M)	3 ft. (.9 M)
	Clearance above paved sidewalk or paved driveway located on public property	7 ft. (2.1 M). Vent shall not terminate above a sidewalk or paved driveway that is located between two single-family dwellings and serves both dwellings.	7ft. (2.1M)

greater than, > greater than or equal to, <= less than, < less than or equal to

- Notes:
1. In accordance with the current CAN/CSA B149.1, Natural Gas and Propane Installation Code.
 2. In accordance with the current ANSI Z223.1/NFPA 54, National Fuel Gas Code
 3. **NOTE: This table is based upon National codes for gas appliances, and are provided as a reference. Refer to Local codes which may supersede these standards and/or recommendations.**
 4. For clearances not specified in ANSI Z223.1/NFPA 54 or CAN/CSA B 149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions.
 5. When locating vent terminations, consideration must be given to prevailing winds, location, and other conditions which may cause recirculation of the combustion products of adjacent vents. Recirculation can cause poor combustion, inlet condensation problems, vent termination icing, and/or accelerated corrosion of the heat exchangers.
 6. Design and position vent outlets to avoid ice build-up on and moisture damage to surrounding surfaces.
 7. The vent for this appliance shall not terminate:
 - a. Near soffit vents or crawl space vents or other areas where condensate or vapor could create a nuisance or hazard or property damage; or
 - b. Where condensate vapor could cause damage or could be detrimental to the operation of regulators, relief valves, or other equipment.
 8. These National standards apply to all non-direct-vent gas appliances. Contact Local code officials for additional requirements and/or exclusions.



25-24-65-2

V VENT TERMINAL X AIR SUPPLY INLET [Hatched] AREA WHERE TERMINAL IS NOT PERMITTED

Item	Clearance Description	Canadian Installation (1)	U.S. Installation (2)
A	Clearance above grade, veranda, porch, deck, balcony or anticipated snow level	12 in. (305 mm), 18 in. (457 mm) above roof surface.	12 in. (305 mm)
B	Clearance to a window or door that may be opened	6 in. (152 mm) for appliances $\leq 10,000 \text{ Btuh (3kW)}$ 12 in. (305 mm) for appliances > 10,000 Btuh (3kW), and $\leq 100,000 \text{ Btuh (30kW)}$, and $\leq 100,000 \text{ Btuh (30 kW)}$	4 ft. (1.2 M) below or to the side of the opening. 1 ft. (.3 M) above the opening.
C	Clearance to a permanently closed window		
D	Vertical clearance to a ventilated soffit located above the terminal within a horizontal distance of 2 feet (61 cm) from the centerline of the terminal	For clearances not specified in ANSI Z223.1/NFPA 54 or CSA B149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions.	For clearances not specified in ANSI Z223.1/NFPA 54 or CSA B149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions.
E	Clearance to an unventilated soffit		
F	Clearance to an outside corner		
G	Clearance to an inside corner		
H	Clearance to each side of the centerline extended above electrical meter or gas service regulator assembly	3 ft. (.9 M) within 15 ft. (4.6 M) above the meter/regulator assembly	3 ft. (.9 M) within 15 ft. (4.6 M) above the meter/regulator assembly.
I	Clearance to service regulator vent outlet	3 ft. (.9 M)	* 3 ft. (.9 M) * For clearances not specified in ANSI Z223.1/NFPA 54 or CSA B149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions.
J	Clearance to non-mechanical air supply inlet to building or the combustion air inlet to any other appliance	6 in. (152 mm) for appliances $\leq 10,000 \text{ Btuh (3kW)}$ 12 in. (305 mm) for appliances > 10,000 Btuh (3kW), and $\leq 100,000 \text{ Btuh (30kW)}$, and $\leq 100,000 \text{ Btuh (30 kW)}$	4 ft. (1.2 M) below or to the side of the opening. 1 ft. (.3 M) above the opening.
K	Clearance to a mechanical air supply inlet	6 ft. (1.8 M)	3 ft. (.9 M)
L	Clearance under a veranda, porch, deck, or balcony	12 in. (305 mm). Permitted only if veranda, porch, deck, or balcony is fully open on a minimum of two sides beneath the floor.	For clearances not specified in ANSI Z223.1/NFPA 54 or CSA B149.1, clearances shall be in accordance with local installation codes and the requirements of the gas supplier and the manufacturer's installation instructions.
M	Clearance to each side of the centerline extended above or below vent terminal of the furnace to a dryer or water heater vent, or other appliance's direct vent intake or exhaust	12 in. (305 mm)	12 in. (305 mm)
N	Clearance to the vent terminal of a dryer vent, water heater vent, or other appliances direct vent intake or exhaust	3 ft. (.9 M)	3 ft. (.9 M)
O	Clearance from a plumbing vent stack	3 ft. (.9 M)	3 ft. (.9 M)
P	Clearance above paved sidewalk or paved driveway located on public property	7 ft. (2.1 M). A vent shall not terminate above a sidewalk or paved driveway that is located between two single family dwellings and serves both dwellings.	7 ft. (2.1 M).

(1) In accordance with the current CSA B149.1, Natural Gas and Propane Installation Code.
(2) In accordance with the current ANSI Z223.1, NFPA 54, National Fuel Gas Code

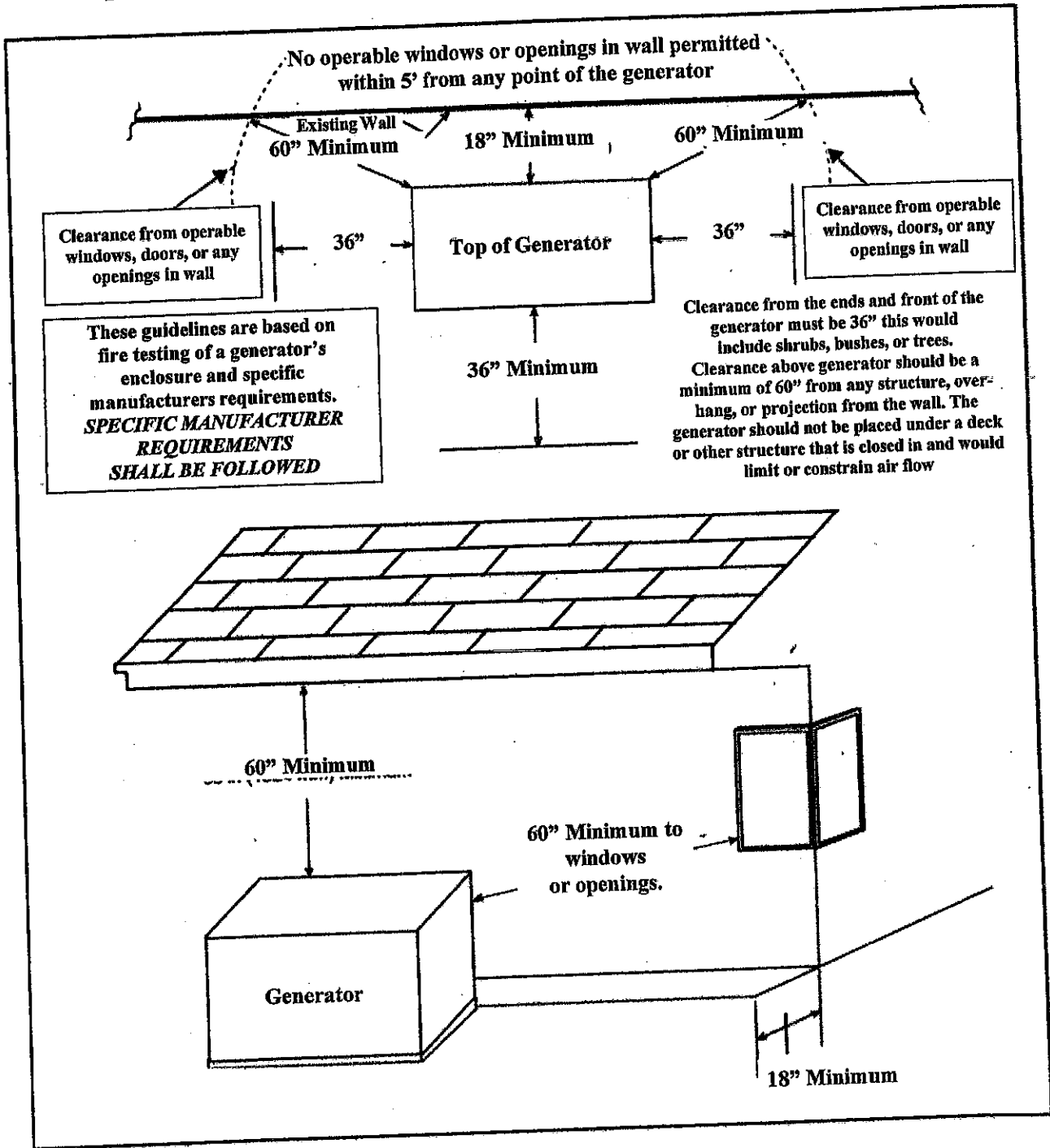
- Notes:
1. The vent for this appliance shall not terminate:
 - a. Over public walkways; or
 - b. Near soffit vents of crawl space vents or other areas where condensate or vapor could create a nuisance or hazard or property damage; or
 - c. Where condensate vapor could cause damage or could be detrimental to the operation of regulators, relief valves, or other equipment.
 2. When locating vent terminations, consideration must be given to prevailing winds, location, and other conditions which may cause recirculation of the combustion products of adjacent vents. Recirculation can cause poor combustion, inlet condensate problems, and accelerated corrosion of the heat exchangers.
 3. Avoid venting under a deck or large overhang. Recirculation could occur and cause performance or system problems.

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Fig. 46 - Ventilated Combustion Air and Non-Direct Vent Termination Clearance

EXHIBIT #5

Typical setback requirements are outlined below,
- **Specific Manufacturer Installation Requirements Shall be followed-**

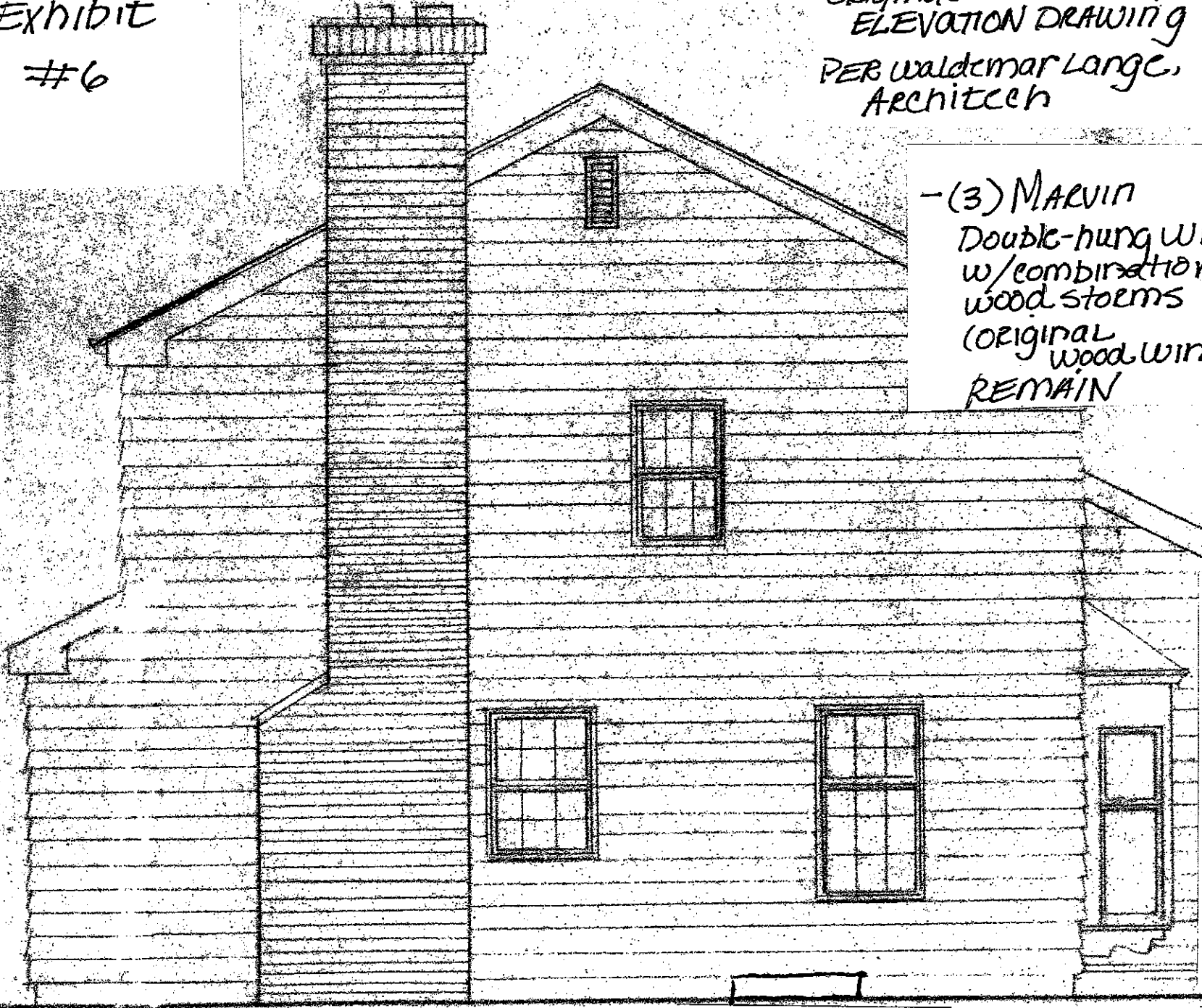


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Exhibit
#6

Original West Side
ELEVATION DRAWING
PER Waldemar Lange,
Architect

3.c.3.a



-(3) MARVIN
Double-hung windows
w/combination
wood stoems
(original
wood windows)
REMAIN

Now:
- Full Bay Restoration
- MARVIN-Clad
Dbl-hung windows
w/combination
STOEMS

Basement
vented
window-well ELEVATION

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Exhibit
#7

Search topics, products

What Should I Know About Clearance Requirements When Installing My Generator?

🕒 Jun 21, 2024 · Knowledge

- Always check local codes as those will trump these recommendations.
- Do NOT install a home standby generator under a wooden deck or platform.
- Units that do not feature the SwRI logo must be installed 5 ft. from combustible materials and 3 ft. from non-combustible materials.

Home Standby Generator Clearance Requirements

Clearance requirements ensure the generator is operated at a safe distance where heat and fumes will not cause fires or health hazards. The exhaust gets extremely hot and remains hot after shutdown. Flammable material may ignite and burn from the heat of the exhaust system.

* NFPA 37 Overview

- The National Fire Protection Association's standard for the installation and use of stationary generators.

- Its requirements limit the spacing of the generator from a structure or wall.
- The unit must be located where it's readily accessible for maintenance, repair, and first responders.
- Minimum clearance requirements are for adequate airflow, maintenance, and safety.

NFPA 37 Requirements

For a complete and updated list, see the NFPA 37 web page (<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=37>).

- * • 5ft. from openings in walls (operable windows, doors, vents, window wells, or openings in the wall).
- 18 in. of clearance from the back of the generator to a stationary wall or building (based on testing done by the Southwest Research Institute or SwRI).
- 5 ft. of clearance above the generator.
- * • 3 ft. of clearance at the front and both ends. This includes trees, shrubs, and bushes. Vegetation not in compliance could obstruct airflow and exhaust fumes could inhibit plant growth.
- * • In addition to these requirements, verify all potential for water intrusion is directed away from the generator enclosure: sprinklers, roof run-off, down spouts, and sump pump discharge.

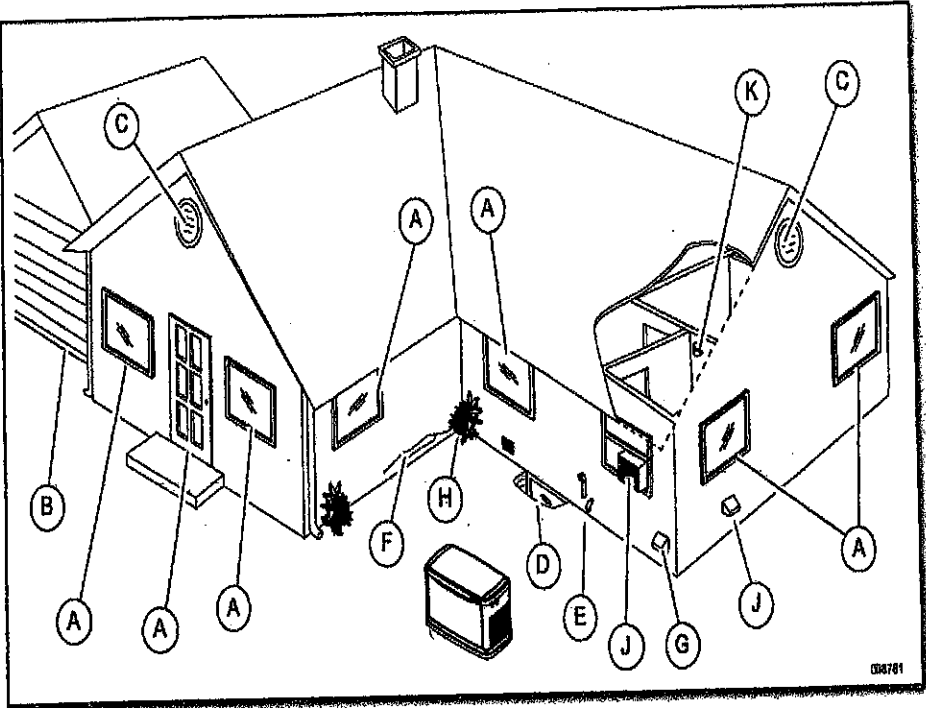
Site selection and preparation

Potential CO entry points

Generator exhaust can enter a structure through large openings, such as windows and doors. However, exhaust and CO can also seep into the structure through smaller, less obvious openings.

Protect the structure

Verify the structure itself as correctly caulked and sealed to prevent air from leaking in or out. Voids, cracks, or openings around windows, doors, soffits, pipes, and vents can allow exhaust gas to be drawn into the structure. Some examples of entry points are described and included in, but not limited to, the accompanying table.



ID	Entry Point	Description / Comments
A	Windows and doors	Architectural details which can be (or are) opened to admit fresh air into the structure.
B	Garage door	CO can leak into garage if door is open, or does not seal correctly when closed.
C	Attic vent	Attic vents, ridge vents, crawl space vents, and soffit vents can all admit generator exhaust.
D	Basement windows	Windows or hatches allowing ventilation to or from lower level of a structure.
E	Furnace intake/exhaust vent	Air intake and exhaust pipes for furnace.
F	Wall cracks	Includes (but not limited to) cracks in wall, foundation, mortar, or air gaps around doors, windows, and pipes. See <i>Protect the Structure</i> .
G	Dryer vent	Exhaust duct for clothes dryer.
H	Airflow restrictions	Structural features, including but not limited to: corners, alcoves, fences, courtyards, and areas with heavy vegetation can restrict correct airflow around unit. Exhaust gases can be collected in these areas.
J	HVAC components	Do not direct generator discharge into HVAC components, including but not limited to: make up air systems, AC condensers, and window AC units. IMPORTANT NOTE: Mechanical and gravity outdoor air intake openings for HVAC supply air systems shall be located according to Section 401 in the ICC Mechanical Code. See ICC Mechanical Code for any additional requirements.

What about other requirements and codes?

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Codes vary by region - Contact your local building inspection department. This department can usually be contacted through your local city government web site.

Permitting varies by region - This includes the time frame to receive a permit, what permits must be pulled, and the costs of the permits. See [What factors influence the cost of installing a home standby system? \(/s/article/How-Much-Does-the-Installation-of-a-Home-Standby-Generator-Typically-Cost\)](#)

Plumbing and electrical - Generator installation involves plumbing and electrical work. This should be performed by experienced professionals. We recommend contacting a local certified dealer: [How Can I Find a Generac Service Dealer in My Area? \(/s/article/How-Can-I-Find-a-Generac-Service-Dealer-in-My-Area\)](#)

Further information, such as the distance from the gas meter, can be found in the installation manuals. See the [How Do I Find a Copy of My Home Standby Generator Owner's Manual, Spec Sheets, or Installation Manual? \(/s/article/How-Do-I-Find-a-Copy-of-My-Home-Standby-Generator-Owner-s-Manual-and-Spec-Sheets\)](#) article for more information. Note that local codes should always be followed.

Safety Precautions and Instructions

INSTRUCTIONS. Electromechanical equipment, including generator sets, transfer switches, switchgear, cause bodily harm and pose life-threatening danger when improperly installed, operated, or maintained. Be aware of potential dangers and act safely. Read and follow all safety precautions and instructions.

SAVE THESE INSTRUCTIONS.

This manual has several types of safety precautions and instructions: Danger, Warning, Caution, and Notice.



DANGER indicates a hazardous situation which, if not avoided, will result in death or serious injury.



WARNING indicates a hazardous situation which, if not avoided, could result in death or serious injury.



CAUTION indicates a hazardous situation which, if not avoided, could result in minor or moderate injury.

NOTICE

NOTICE is used to address practices not related to physical injury.

Safety decals affixed to the equipment in prominent places alert the operator or service technician to potential hazards and explain how to act safely. The decals are shown throughout this publication to improve operator recognition. Replace missing or damaged decals.





Accidental Starting

	<p>Accidental starting. Can cause severe injury or death.</p>
	<p>Disconnect the battery cables before working on the generator set. Remove the negative (-) lead first when disconnecting the battery. Reconnect the negative (-) lead last when reconnecting the battery.</p>

Disabling the generator set. Accidental starting can cause severe injury or death. Before working on the generator set or equipment connected to the set, disable the generator set as follows: (1) Press the generator set off/reset button to shut down the generator set. (2) Disconnect the power to the battery charger, if equipped. (3) Remove the battery cables, negative (-) lead first. Reconnect the negative (-) lead last when reconnecting the battery. Follow these precautions to prevent the starting of the generator set by the remote start/stop switch.

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Battery

 WARNING	Sulfuric acid in batteries. Can cause severe injury or death.
	Wear protective goggles and clothing. Battery acid may cause blindness and burn skin.
 WARNING	Explosion. Can cause severe injury or death. Relays in the battery charger cause arcs or sparks.
	Locate the battery in a well-ventilated area. Isolate the battery charger from explosive fumes.



Battery electrolyte is a diluted sulfuric acid. Battery acid can cause severe injury or death. Battery acid can cause blindness and burn skin. Always wear splashproof safety goggles, rubber gloves, and boots when servicing the battery. Do not open a sealed battery or mutilate the battery case. If battery acid splashes in the eyes or on the skin, immediately flush the affected area for 15 minutes with large quantities of clean water. Seek immediate medical aid in the case of eye contact. Never add acid to a battery after placing the battery in service, as this may result in hazardous spattering of battery acid.

Battery acid cleanup. Battery acid can cause severe injury or death. Battery acid is electrically conductive and corrosive. Add 500 g (1 lb.) of bicarbonate of soda (baking soda) to a container with 4 L (1 gal.) of water and mix the neutralizing solution. Pour the neutralizing solution on the spilled battery acid and continue to add the neutralizing solution to the spilled battery acid until all evidence of a chemical reaction (foaming) has ceased. Flush the resulting liquid with water and dry the area.

Battery gases. Explosion can cause severe injury or death. Battery gases can cause an explosion. Do not smoke or permit flames or sparks to occur near a battery at any time, particularly when it is charging. Do not dispose of a battery in a fire. To prevent burns and sparks that could cause an explosion, avoid touching the battery terminals with tools or other metal objects. Remove all jewelry before servicing the equipment. Discharge static electricity from your body before touching batteries by first touching a grounded metal surface away from the battery. To avoid sparks, do not disturb the battery charger connections while the battery is charging. Always turn the battery charger off before disconnecting the battery connections. Ventilate the compartments containing batteries to prevent accumulation of explosive gases.

Battery short circuits. Explosion can cause severe injury or death. Short circuits can cause bodily injury and/or equipment damage. Disconnect the battery before generator set installation or maintenance. Remove all jewelry before servicing the equipment. Use tools with insulated handles. Remove the negative (-) lead first when disconnecting the battery. Reconnect the negative (-) lead last when reconnecting the battery. Never connect the negative (-) battery cable to the positive (+) connection terminal of the starter solenoid. Do not test the battery condition by shorting the terminals together.

Engine Backfire/Flash Fire



 WARNING	<p>Risk of fire. Can cause severe injury or death. Do not smoke or permit flames or sparks near fuels or the fuel system.</p>
	

Servicing the fuel system. A flash fire can cause severe injury or death. Do not smoke or permit flames or sparks near the carburetor, fuel line, fuel filter, fuel pump, or other potential sources of spilled fuels or fuel vapors. Catch fuels in an approved container when removing the fuel line or carburetor.

Servicing the air cleaner. A sudden backfire can cause severe injury or death. Do not operate the generator set with the air cleaner removed.

Combustible materials. A fire can cause severe injury or death. Generator set engine fuels and fuel vapors are flammable and explosive. Handle these materials carefully to minimize the risk of fire or explosion. Equip the compartment or nearby area with a fully charged fire extinguisher. Select a fire extinguisher rated ABC or BC for electrical fires or as recommended by the local fire code or an authorized agency. Train all personnel on fire extinguisher operation and fire prevention procedures.

Exhaust System

 WARNING	<p>Carbon monoxide. Can cause severe nausea, fainting, or death. The exhaust system must be leakproof and routinely inspected.</p>
	

Generator set operation. Carbon monoxide can cause severe nausea, fainting, or death. Carbon monoxide is an odorless, colorless, tasteless, nonirritating gas that can cause death if inhaled for even a short time. Avoid breathing exhaust fumes when working on or near the generator set. Never operate the generator set inside a building unless the exhaust gas is piped safely outside. Never operate the generator set where exhaust gas could accumulate and seep back inside a potentially occupied building.

Carbon monoxide detectors. Carbon monoxide can cause severe nausea, fainting, or death. Install carbon monoxide detectors on each level of any building adjacent to the generator set. Locate the detectors to adequately warn the building's occupants of the presence of carbon monoxide. Keep the detectors operational at all times. Periodically test and replace the carbon monoxide detectors according to the manufacturer's instructions.

Carbon monoxide symptoms. Carbon monoxide can cause severe nausea, fainting, or death. Carbon monoxide is a poisonous gas present in exhaust gases. Carbon monoxide is an odorless, colorless, tasteless, nonirritating gas that can cause death if inhaled for even a short time. Carbon monoxide poisoning symptoms include but are not limited to the following:

- Light-headedness, dizziness
- Physical fatigue, weakness in joints and muscles
- Sleepiness, mental fatigue, inability to concentrate or speak clearly, blurred vision
- Stomachache, vomiting, nausea

If experiencing any of these symptoms and carbon monoxide poisoning is possible, seek fresh air immediately and remain active. Do not sit, lie down, or fall asleep. Alert others to the possibility of carbon monoxide poisoning. Seek medical attention if the condition of affected persons does not improve within minutes of breathing fresh air.

Photo
#1

Springthaw

3.c.3.a



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#2



Attachment: Konkell Exhibits 2-8 Photos 1-18 (9954 : Konkell full binder of Exhibits)

Watershed-Drainage
 - Spring Rainfall and saturated soil
 - FROM (W) CULVERT PIPE
 - FROM (N) CULVERT PIPE

Photo
#3

3.c.3.a

Edge of Road - Ravine
to west, side Dr.
Lot/Property

- Open Culvert
bridging Road to our
side Lot/Property
- Side Lot sits below
grade - original
Grade

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#4

Facing: (S)
Draining under
Pavine Drive
to our (S)
Property

Water Drainage
from (S) Buried
culvert pipe
- FROM VIRMOND
PARK to our (S)
Property

3.c.3.a

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#5

Facing:
(N)
along our (E)
Property

Encroachment
(PER City of Mequon)
- Storm water outflow
onto our property
- Drains under road
connected to
catch-basin
at property to the
east

3.c.3.a

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#6

Looking
toward (NW)
corner of our
Lot-Property

North-Fence
Property Line
Pitch (W) to (E)

3.c.3.a



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#7

3.c.3.a

WEST
Side
Pitch (S) to (CN)

ALSO:
WELL SERVICE
area



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#8

3.c.3.a

West House
Elevation

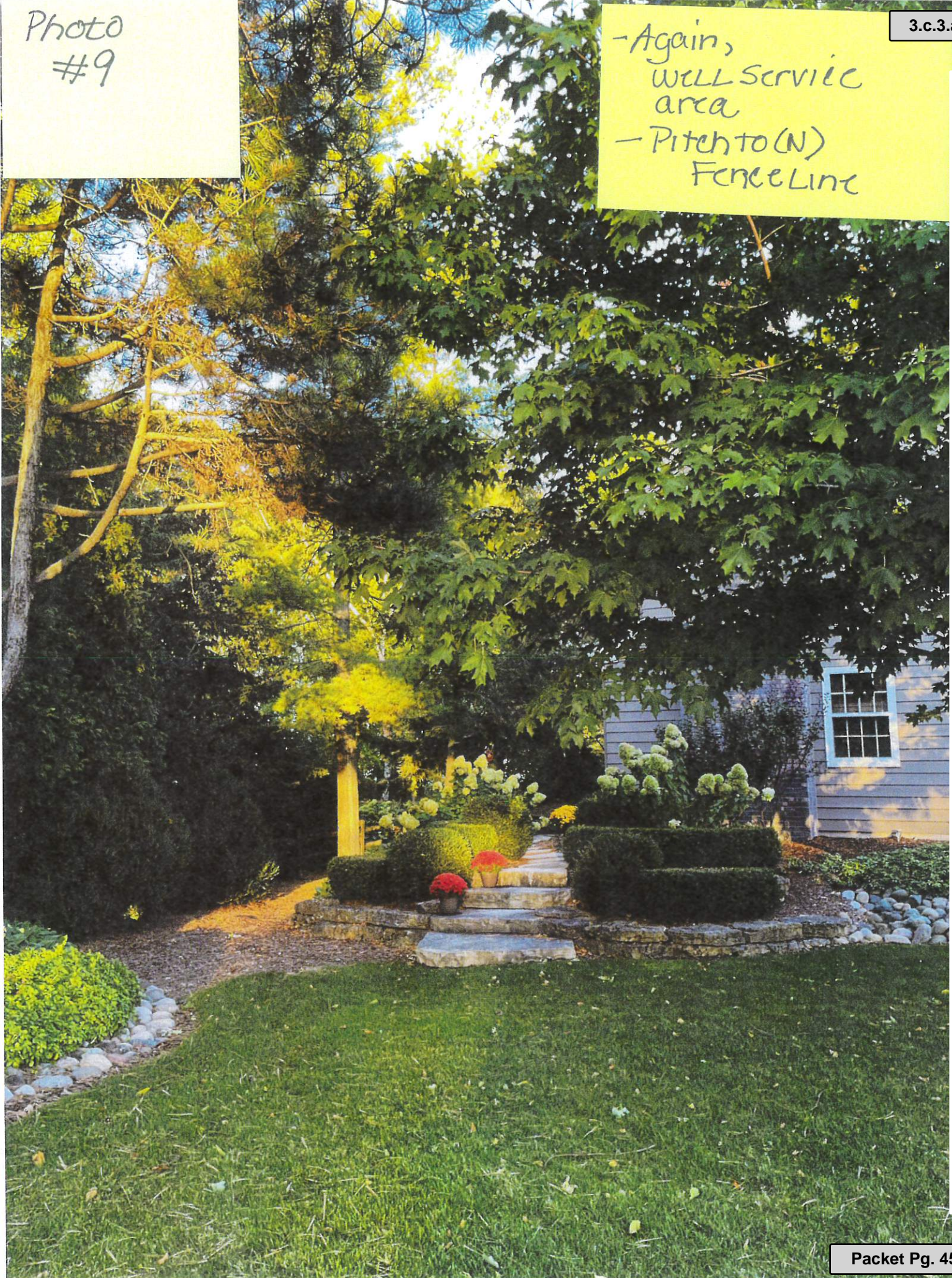
- Slopping Bed
- Open Downspout
drains along
Garden Bed
perimeter
to fence

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#9

3.c.3.a

- Again,
WELL SERVICE
area
- Pitch to (N)
FENCE LINE



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#10

Looking (SE)
Vermont Park
across
Ravine Dr.

Generator
- Placement
in garden Bed

3.c.3.a



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#11

Looking (E)

Edge of Road
to property line
to generator

3.c.3.a



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

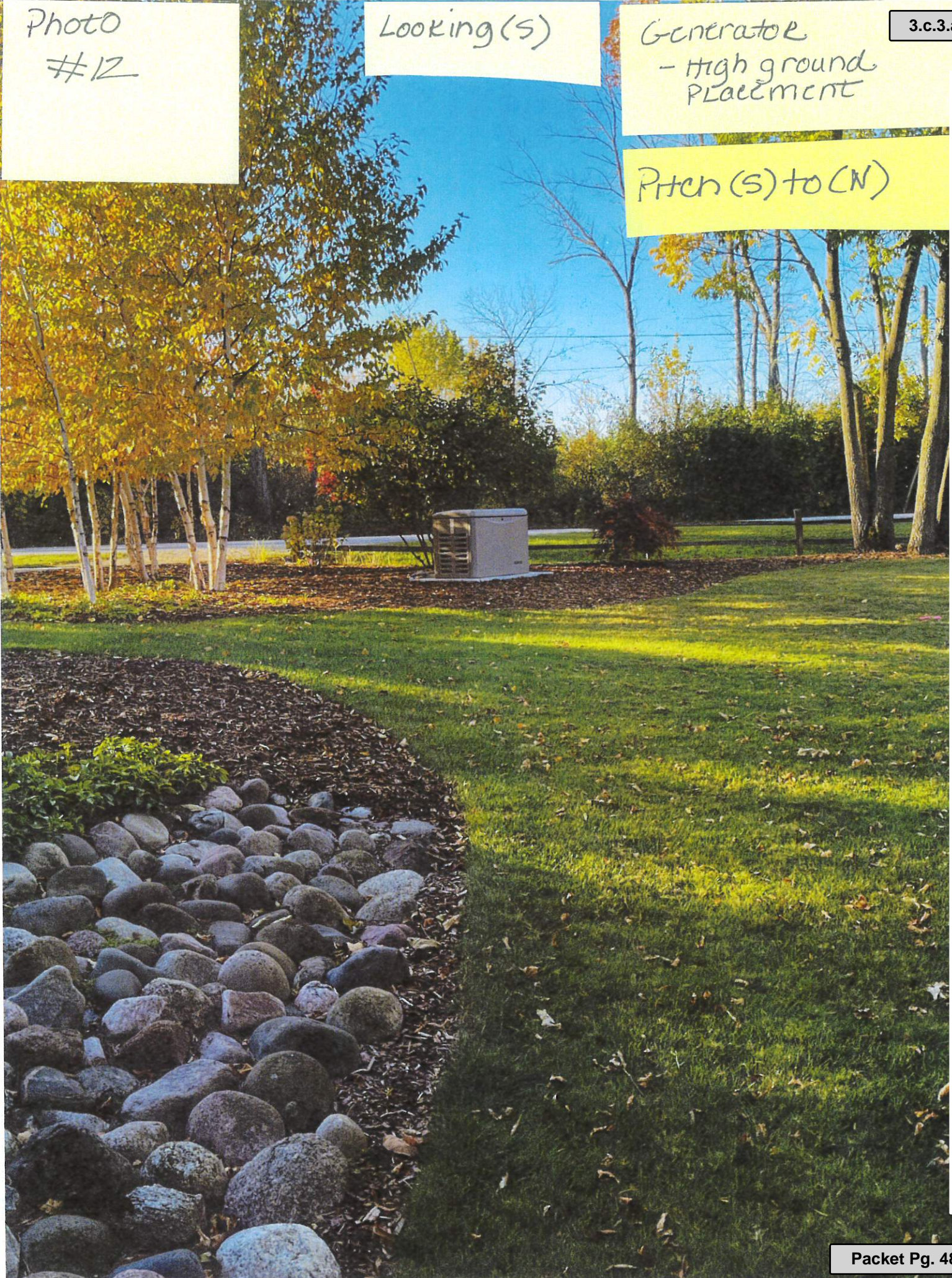
Photo
#12

Looking(s)

Generator
- High ground
Placement

3.c.3.a

Pitch (s) to (N)



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
13

Generator
- Street View

3.c.3.a

NEWLY
Planted
- (2) Japanese
Maples -
"Blood Dragon
(5) of Generator

ALSO: WELL
- Service Pathway
between (SW)
corner of House
and
Beech Garden Bed

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#14

WEST SIDE HOUSE 3.c.3.a

- Partial Elevation
- Slopping Bed
- Pitched Lot to (NE) CORNER OF house-to-fence

WEST SIDE UTILITIES

(N) of chimney:

- A/C unit CONTROL BOX
- Furnace Exhaust Vent
- Fresh air intake

(W) of chimney:

- WELL PIPE

(S) of chimney:

- WELL water Line
- secondary ground
- Back flow preventer
- Irrigation Supply Line
- Cable Spectrum
- AT&T Landline
- Electric meter
- ELECTRIC LINE feeding TO METER from WEST
- Abandoned ELECTRIC LINE TO (S) property
- ELECTRIC to generator
- Gas Meter
- Gas Line supply

Photo
#15

WELL PIPE
- Behind
Upper Boxwood
Hedge

3.c.3.a



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo

#16

WELL Pipe

3.c.3.a

- WELL
SERVICE

CROTH
WATER WELL INC.



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#17

Utility
Maintenance

NEW ELECTRIC
Feed to House
WE ENERGYS
TRENCHING
HOLE



Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)

Photo
#18

NEW ELECTRIC
Fed to house
WEENERGIES

- TRENCH Area
next to house
- 6-7' gapping
hole abutting
house

Attachment: Konkel Exhibits 2-8 Photos 1-18 (9954 : Konkel full binder of Exhibits)



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Office of Inspections

TO: Board of Appeals
FROM: Greg Golden, Building Inspections Supervisor
DATE: December 19, 2024
SUBJECT: Appeal of Jeffrey and Susan Konkel 10808 N. Lake View Road

Background: The appellant is requesting a variance to the front yard setback for a back-up generator already installed. The violation was noted during the final inspection for the generator installation with proper permit.

Variance:

The appellant is requesting a front yard setback variance to Section 58-238 R-3 single family suburban residential district.

Per Table 58-249 Technical requirements of residential districts, the R-3 zoning district requires the following (see R-3 column of Exhibit A):

- Required front yard setback= 50'
- Proposed front yard setback for generator= 23.2'

Analysis:

Per Section 58-41 of Chapter 58, Zoning Code, the Board of Appeals shall determine if such variance will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

The appellant's variance application includes a survey confirming a front yard setback of 23.2 feet from the front property line to the generator (50' required).

Based on staff's analysis, the appellant could relocate the generator to achieve compliance with the required setback. After a recent site visit, staff identified alternate locations for the generator which comply with the required setback. These locations are highlighted yellow in exhibit B. In addition, the appellant does not substantiate a unique condition to the property, nor have they identified a hardship that is not self-imposed regarding the current location of generator. The two locations identified by staff as compliant options for location also do not generate a hardship.

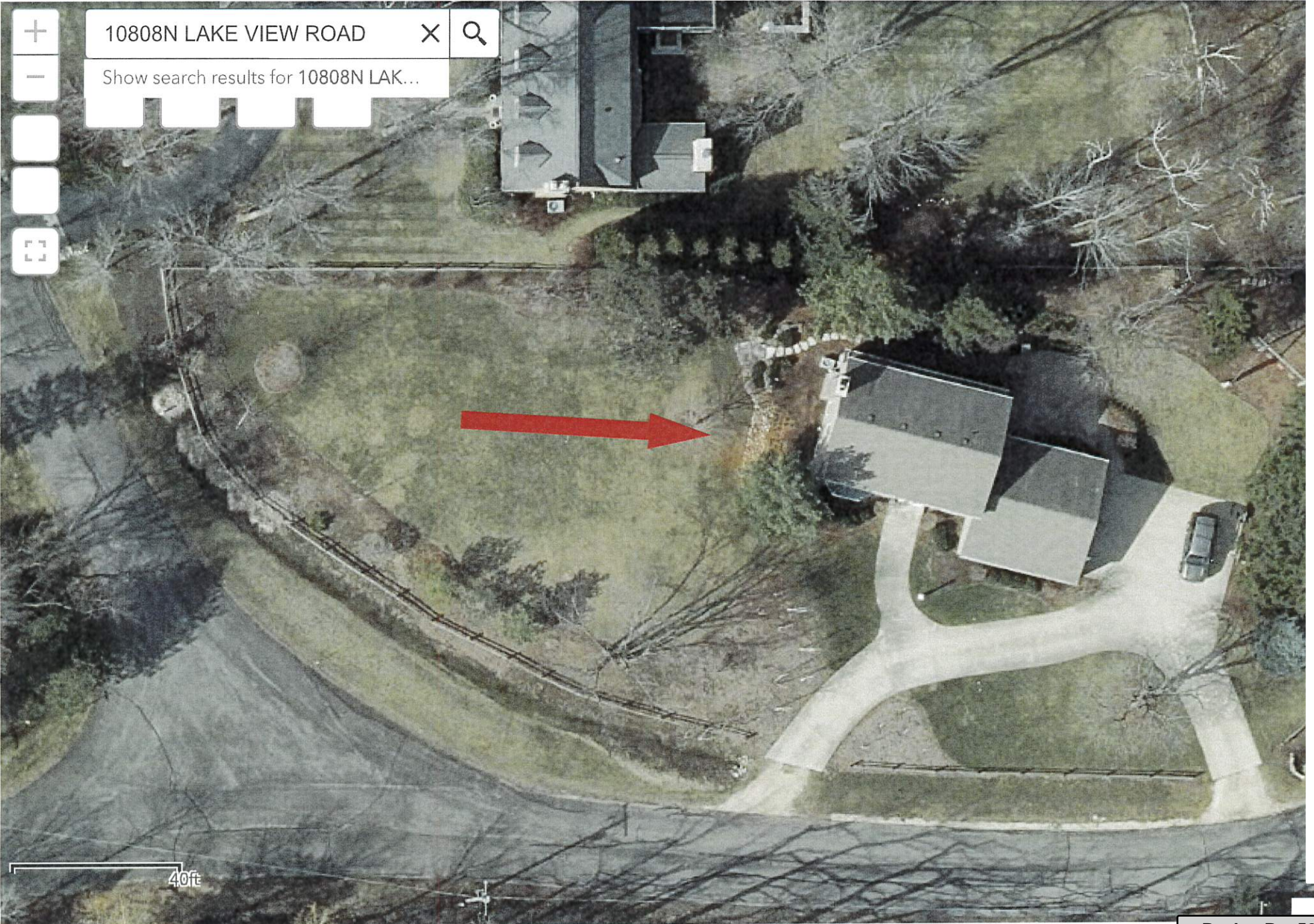
Staff Recommendation:

Staff recommends **denial** of the variance for a reduction to the front yard setback due to lack of hardship and the fact that there are alternate locations identified which are compliant.

Attachments:

10808 N Lake View Rd. BOA Exhibit B (PDF)

 Ozaukee County Parcel GIS



Attachment: Konkel GIS (9955 : Konkel GIS)

 Ozaukee County Parcel GIS



Attachment: Konkel GIS (9955 : Konkel GIS)

Sec. 58-249. Technical requirements of residential districts.

(a) *Generally.* Table 58-249 sets forth the technical requirements for each residential zoning district.

Table 58-249	R-1		R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
	Estate Lot Design	Conservation								
Minimum Lot Size	5.0 acres (217,800 sq. ft.)	0.75 acres (32,670 sq. ft.)	2.5 acres (108,900 sq. ft.)	2.0 acres (87,120 sq. ft.)	1.5 acres (65,340 sq. ft.)	1.0 acre (43,560 sq. ft.)	0.75 acres (32,670 sq. ft.)	0.5 acres (21,780 sq. ft.)	1.0 acre (43,560 sq. ft.)	One-bedroom units, 6,000 square feet (i.e., 7.26 units per acre) Two-bedroom units, 7,000 square feet (i.e., 6.2 units per acre) Three-bedroom units, 10,000 square feet (i.e., 4.35 units per acre)
Density	N/A	One dwelling per five acres	N/A	N/A	N/A	N/A	N/A	N/A	Four units per acre	N/A
Minimum Living Area										
Single-family dwelling units	1,800 sq. ft.	1,800 sq. ft.	1,600 sq. ft.	1,800 sq. ft.	1,400 sq. ft.	1,800 sq. ft.	1,600 sq. ft.	1,400 sq. ft.	N/A	N/A
One-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,000 sq. ft.	900 sq. ft.
Two-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,200 sq. ft.	1,100 sq. ft.
Three-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,400 sq. ft.	1,300 sq. ft.
Maximum Building Height*										
Dwelling Height	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.
Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.
Minimum Average Lot Width and Minimum Average Lot Length	300 ft.	N/A	200 ft.	200 ft.	175 ft.	150 ft.	130 ft.	120 ft.	150 ft.	150 ft.
Minimum Building Setbacks										
Local Streets	100 ft.	See text	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 feet (planning commission may vary to no less

Attachment: Code Sec. 58_249. Technical requirements of residential districts. (9960 : Codes Sec. 58_249)

										than 25 feet)
Expressways— Freeways	100 ft.	See text	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.	100 ft.	100 ft.
Primary Arterials	100 ft.	See text	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.
Secondary Arterials	100 ft.	See text	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.
Local Arterials	100 ft.	See text	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.
Minimum Building Offset										
Generally	30 ft.	30 ft.	25 ft.	25 ft.	25 ft.	20 ft.	20 ft.	20 ft.	20 ft. (side); 35 ft. (rear)	15 ft.
Building or structures housing livestock	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	N/A	N/A	N/A
Maximum Lot Coverage Percentage	5%	10%	10%	10%	15%	15%	15%	20%	30%	30%

* See section 58-418(d)

(b) *Explanations.* As used in Table 28-248:

- (1) Minimum living area shall be measured from the outside of exterior walls (excluding cellars, basements, open porches, breezeways, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes).
- (2) Minimum building setback shall be measured from the ultimate right-of-way line of each public street, road, or highway which abuts the subject property.
- (3) Minimum building offset shall be measured from each side and rear lot line other than a lot line subject to a minimum building setback.
- (4) Maximum lot coverage percentage shall be the percentage of a property covered by buildings and structures.

(c) *Special maximum lot coverage standards.*

- (1) Maximum lot coverage percentage shall not apply to a residential planned unit development unless the common council determines otherwise in the ordinance that creates the planned unit development.
- (2) If a property is in the R-1 through R-3 zoning districts and the property is smaller than the minimum lot size for the zoning district in which it is located, the maximum lot coverage percentage shall be the percentage applicable to the zoning district with a minimum lot size smaller than, but closest in size to, the property.

(Ord. No. 2021-1591, § I(Exh. A), 6-8-2021; Ord. No. 2023-1642, § I(Exh. A), 4-11-2023)

Sec. 58-419. Structures other than buildings.

- (a) All structures shall be subject to the setback, offset, building size and open space requirements of this chapter except as otherwise specifically provided by ordinance.
- (b) Structures not classified as buildings and less than six inches in height from the surface of the ground shall not require a building permit nor be subject to the setback or offset requirements of this chapter except as otherwise specifically provided by ordinance.
- (c) Fences, walls and other architectural screening devices, when anchored to supports, imbedded in the ground shall be considered permanent structures and shall be subject to the following:
 - (1) No structure shall be permitted that by reason of noise, dust, odor, appearance or other objectionable factor creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property.
 - (2) Any such structure less than four and one-half feet in height may be permitted anywhere on the lot.
 - (3) Any such structure in excess of four and one-half feet in height may be permitted provided it conforms to the open area, height, setback, and offset requirements of the zoning district in which it is located.
 - (4) Any such structure in excess of four and one-half feet, but not more than six feet in height, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped and subject to approval by the building inspector.
 - (5) Any such structure in excess of four and one-half feet in height may be permitted closer than the required offset from an adjoining lot line, other than a street line, with the written consent of the adjoining property owner. Such structure shall not project forward of the building setback line.
- (d) Basketball structures (poles) may be located within the setback and/or offset areas if the basketball structure is located closer to the house than to the side, rear, or front property lines. Other recreational and miscellaneous structures greater than four and one-half feet in height shall be permitted provided such structure conforms to the open space, height, offset and setback requirement of the zoning district in which it is located and also conforms with section 58-171.

(Code 1957, § 3.03(8); Ord. No. 96-878, 5-14-1996; Ord. No. 2016-1488, § I(Att.), 1-10-2017



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Office of City Attorney

TO: Board of Appeals
FROM: Brian Sajdak, City Attorney
DATE: December 19, 2024
SUBJECT: ORDINANCE 2024-1672 An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals

Update

Following discussion last month, the proposed ordinance has been updated and included. The current version of the ordinance cleans up the language to make it clear that the intent is that the decision should be finalized within 15 days, but that it may extend to 60 days (not 80 as there was discussion about last month). The second change includes a placeholder for who makes the various decisions in the process. While the initial feedback from the Board was a desire to have the Mayor and Common Council make the decision on any extension, I have left it as placeholders for three main reasons.

First, recognizing that under the statute the Council can set some rules for the Board, the Board remains an independent body and the issuing of a decision should comply with any rules set by the Council, but also should reflect the Board's determinations, not the Council's. Second, part of the concern was the reading of the code that it was 80 days after the hearing. With the language being modified to reflect that it is only 60 days (which is within the range of reasonableness set in other communities), the Board may be more comfortable with the original language (Chair authorizes anything between 15 and 60 days, the Full Board addresses requests beyond that).

Finally, one of the goals of this amendment was to provide flexibility to be able to deviate from the fixed standard where it makes sense. As part of the discussion last month, it occurred to me that requiring a meeting to address an extension might defeat the purpose and may not be possible depending on the timing unless special meetings are called. For example, if 60 days expires on the 3rd day of the month, but the next meeting to consider a valid extension is not until the 5th day of the month, there is no way to timely consider the request without a special meeting. Based upon this, I thought one approach could be a slight combination of the two previously discussed.

I would propose that an initial delay (between 15 and 60 days) would be approved by the Chair. Any delay beyond 60 days would require the approval of the Mayor. Under this approach, the Council has still set the boundaries of what is reasonable in most circumstances (usually 15 days, but no more than 60 days), while also allowing the highest ranking elected official to determine

on a case-by-case basis whether additional time is reasonable. This would also avoid the necessity of having a meeting which might be difficult based on timing.

Background

The purpose of this item is to obtain the Board's input on a proposed change to the provisions of the Municipal Code relating to the finalization of decisions of this Board. By way of background, the Code presently provides that the Board's written decision be completed within 10 days of the hearing, which is the circulated for 5 days and finalized. IN other words, the decision is issued 15 days after the hearing.

There are a couple of challenges to this approach. First, based upon the current meeting schedule wherein the Board meets on the first Thursday of the month, other business required at that time of the month often creates additional demands on this office's time. Within the City of Mequon, I am responsible for reviewing all resolutions and ordinances that are placed on the Common Council agenda of its meeting on the second Tuesday of the month. That agenda usually goes out on the Thursday before the meeting. As such, much of the time between a hearing before this Board and the Common Council meeting is spent getting items ready for Council consideration. In addition, each of the other municipal entities the City Attorney's firm represents likewise have meetings of their governing bodies during this same time period. In short, the first part of the month is an extremely busy time which requires balancing of competing needs.

The second challenge to the current Code language is that it ignores the potential complexity of a case. In a complex case, there may be additional legal research necessary to add legal standards to a proposed decision. Similarly, some cases might require obtaining a transcript to appropriately complete the decision. The Walanta decision earlier this year is an example of this. In these circumstances, obtaining a transcript and completing the decision within 10 days would be extremely difficult.

Based upon these issues, I am proposing a change to the code. The proposed change provides an additional few days to complete the decision. It also provides for a process to deviate from the typical process where appropriate. These changes are shown in the proposed ordinance in the packet. All told, the proposed change adds five days to the process.

There may be some members who are concerned about extending the time for completing a decision. However, the proposed code does not run afoul of the any legal requirement or standard. Under the controlling statute, Wis. Stat. § 62.23(7)(e)6, the only requirement is that the Board decide the appeal "within a reasonable time." A survey of other Wisconsin municipalities reveals that most communities fall one of two categories: those that either expressly or impliedly adopt the statutory language of "within a reasonable time" and those that utilize 30 days. Out of 30 other municipalities surveyed, 12 use reasonable time, 13 use 30 days, 2 use 15 days, and 3 use 60 days. These are listed in the attached chart. The proposed keeps the City's typical process below the 30 days used by many. At the same time, it provides flexibility where it is needed.

Recommendation

A motion to recommend approval of the proposed change to the Common Council.

Attachments:
Chart of Other Community Standards (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2024-1672

An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals

RECITALS

A. Under Wis. Stat. § 62.23(7)(e) the City is authorized to establish various rules and procedures related to the operation of the Board of Appeals, provided ultimately that any decision issued by the Board is issued within a reasonable time.

B. The Common Council previously adopted section 58-41(g) of the Mequon Municipal Code which provides for a timeline for the Board of Appeals to issue decisions on matters it hears.

C. Based upon various considerations raised by the City Attorney, the Common Council desires to amend this timeline to provide additional flexibility while still meeting the statutory requirement of reasonableness.

D. The Board of Appeals recommended approval of these changes at its meeting on January 2, 2025.

E. The Planning Commission recommended approval of these changes at its meeting on _____, 2025.

F. The Public Welfare Committee recommended approval of these changes at its meeting on _____, 2025.

F. A Public Hearing on the proposed changes was held on _____, 2025.

G. Based upon the information provided by the City Attorney, the recommendations of the Board of Appeals, Planning Commission and the Public Welfare Committee, and the testimony provided at the Public Hearing, the Common Council finds that the proposed changes are appropriate and in the best interests of the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

Section I

Section 58-41(g) of the Mequon Municipal Code is amended to read as follows (NOTE: Added text is **bold underlined**; Deleted text is ~~struck through~~):

58-41(g) *Decision.* The board shall issue its decision within a reasonable time upon the final conclusion of the hearing. In general, the ~~The~~ attorney representing the board or the chair (if no attorney has represented the board at a hearing) should ~~shall~~ render a written decision within ~~ten~~ fifteen days after completion of the hearing. The time for rendering the decision may be extended with the concurrence of the (chair/mayor) based upon the complexity of the matter, the need to obtain and utilize a transcript of the hearing, workload or time conflicts, or similar considerations except that any delay in rendering the decision beyond 60 days after the date of the hearing shall require approval of the (full board/mayor/common council). Upon rendering the decision, ~~the~~ city clerk shall promptly circulate the decision to all members of the board who were present for the hearing for their review. The decision shall be deemed final unless, prior to the close of business on the fifth day following such circulation, a member who voted in the majority files a written objection with the city clerk. Upon receipt of an objection, the city clerk shall schedule another meeting of the board for the purposes of considering the objection and finalizing the decision. Within two business days following such additional meeting, the board shall file the final decision with the city clerk.

SECTION II

The terms and provision of this ordinance are severable. Should any term of provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: January 2, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on January 2, 2025.

Caroline Fochs, City Clerk

Published: _____

Chart of Comparable Communities

15 Days:	Lannon	New Berlin		
30 Days:	Germantown	Franklin	Greenfield	Cedarburg
	Elkhorn	Glendale	Hartland	Pewaukee
	Sun Prairie	Thiensville	Verona	Waunakee
	Oconomowoc ¹			
60 Days:	Grafton	Oshkosh	Wausau	
“Reasonable Time”	Madison	Delafield	Middleton	Middleton
	Waukesha			
“Per Statute”	Brown Deer	Fitchburg		
None:²	Beloit	Green Bay	Menomonee Falls	Random Lake
	West Allis	Wauwatosa		

¹ Authorizes additional time if approved by Board and Applicant

² With none, the statutory timeline ultimately applies