
ZONING BOARD OF APPEALS MEETING

VILLAGE OF HARRISON

From:

Trish Nau, Assistant Planner

Meeting Date:

August 2, 2022

Title:

Variance - Carnahan

Issue:

Should the Zoning Board issue a variance from the rear yard setback for a shed addition?

Background and Additional Information:

The applicant, Garret Carnahan, is requesting a variance to construct a 45'x 60' accessory building closer to the rear lot line than the required 25-foot setback. The property is located at N6515 State Hwy 55, Tax ID# 38622, and is currently zoned General Agricultural [AG]. The property is a farmhouse with farm buildings. One farm building currently sits approximately 48-51 feet from the rear property line and is 162 feet from the house.

The zoning ordinance requires a 25-foot setback from the rear property line. The applicant wishes to add an additional farm building 32 feet south of the existing farm building. The new building would be set back further from the existing structure to allow for a needed turn radius of farm equipment in the driveway. The applicant is suggesting a rear yard setback of 10 feet for the new building to assist with farming operations of loading and offloading hay/cattle from trailers.

This property is identified as Agricultural in the Comprehensive Plan. The applicant states that the slope of the property makes it difficult to move the existing shed or to make the driveway wider. Elevation at the rear property line is 998'. There is no harm to the public as the land to the west (behind the rear property line) is woodlands. The attached 2018 aerial photo shows the location of where the new building would be placed. Staff finds that an adjacent property north of the applicant's has an accessory building approximately 5-10 feet from the property line in the same zoning district.

Zoning Ordinance:

117--80 (m)(2)(c) General Agricultural | AG [32.16.060(m)(2)(c)]

M. Yard Requirements:

(2.) Accessory structures.

- (a) *Front yard.* There shall be a minimum front yard of 50 feet, measured from the front lot line or right-of-way line, or from the right-of-way line of an officially mapped street.
- (b) *Side yard.* There shall be a minimum side yard of 25 feet on each side, measured from the side lot line.

(c) **Rear yard.** There shall be a minimum rear yard of 25 feet, measured from the rear lot line.

(d) *Distance from other structures.* Accessory buildings or structures shall not be constructed or located closer than ten feet to any other structure on the lot, unless such building or structure receives a Village building permit that meets the provisions of COMM 21.08, Wis. Admin. Code, relating to fire separation and dwelling unit separation.

Sec. 117-32. - Variances. (a) The purpose of a variance is to allow relief from the strict application of this chapter as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this chapter would result in unnecessary hardship or in a practical difficulty for the property owner. Refer to article XII, Zoning Board of Appeals, for procedures for variances. (b) All variances shall be granted by the zoning board of appeals unless authority is specifically granted to the town board or plan commission as listed in this chapter. (Ord. No. 10-147, § 2.0(7), 7-27-2010)

Conclusions of Law/Requirements for a Variance [Section 117-360.]:

Variances shall only be granted when the Zoning Board finds that:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance.
Staff finds that the variance does not affect other lands or the public interest due to the minimal change in setback and the existing trees west of the rear property line.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
Staff finds that farm building additions within the AG zoning district are permissible.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Staff finds the house and other farm building are setback 614 feet from the centerline of the road. The slope of the land would make widening of the driveway difficult to accommodate for the new structure.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
Staff finds that other homes in the area have farm buildings to perform their operations where the strict rear setback is not an issue.
5. The hardship is not shared generally by other land or buildings in the area.
Staff finds that other properties were developed within the regulations of the zoning ordinance. On this lot, the distance of 25' for current loading and unloading cattle, would result in difficulty to run farming operations based on the location of the rear lot line.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
Staff finds that the variance is not self-imposed.

Recommended Action:

Based on the information provided, staff recommends approval of the Variance request to allow a 10-foot setback for the farm building addition with the condition that all other building codes

must be met. Staff recommends that the building be located as far from the rear property line as possible, but no closer than the requested 10-feet.

Attachments:

- Variance Application
- Aerial Maps
- Application
- Project Plans

Application

Village of Harrison

W5298 Hwy 114
Harrison, WI 54952
Phone: 920-989-1062

**VARIANCE &
ADMINISTRATIVE APPEAL
APPLICATION**

Applicant Information			
Applicant Name (Indiv., Org. or Entity) <i>Garret Carnahan</i>		Authorized Representative	Title
Mailing Address <i>N6515 State Hwy 55</i>		City <i>Hilbert</i>	State <i>WI</i> Postal Code <i>54129</i>
E-mail Address <i>garretcarnahan@gmail.com</i>		Telephone (include area code) <i>920-572-0988</i>	Fax (include area code)
Landowner Information (if different than Applicant)			
Name (Organization or Entity)		Contact Person	Title
Mailing Address		City	State Postal Code
E-mail Address		Telephone (include area code)	Fax (include area code)
Project or Site Location			
Site Name (Project): <i>shed/pole barn</i>		Location ID(s): <i>38622</i>	
Site Address / Location: <i>N6515 State Hwy 55</i>		Plat / CSM / Lot No.: <i>CSM# 3831, Lot 1</i>	
Quarter: <input type="checkbox"/> NW <input type="checkbox"/> NE <input checked="" type="checkbox"/> SW <input checked="" type="checkbox"/> SE	Section: <i>12</i>	Township: <i>19 N</i>	Range: <i>18 E</i>
Legal Description: <i>J2311-46, J2689-45, J4473-25</i>			
Current Zoning: <i>AG</i>		Proposed Zoning: <i>AG</i>	
Current Uses: <i>AG</i>		Proposed Uses: <i>AG</i>	
Lot Dimensions: Front: <i>1497</i> Side: <i>1235</i> Rear: <i>1327</i> Side: <i>517</i> Lot Area: <i>26.1</i> <input checked="" type="checkbox"/> acres or <input type="checkbox"/> square feet			
Variance or Administrative Appeal Petition (see reverse side also)			
List which code section(s) requesting variance from or decision appealing:		Describe the Reason(s) for the Request (attach separate document if needed):	
<i>Sec. 117-32</i>		<i>Difficult to turn around with trailers load/unloading of Hay is difficult.</i>	
<i>117-90 (m)(2)(c)</i>		<i>Setback change from 25' to 10'</i>	
Fees			
<input checked="" type="checkbox"/> \$350.00			
Certification & Permission			
Certification: I hereby certify that I am the landowner of the property which is the subject of this Application. I certify that the information contained in this form and attachments is true and accurate. I understand that failure to comply with any or all of the provisions of the ordinances and/or permit may result in notices, fines / forfeitures, stop work orders, permit revocation and cease & desist orders.			
Permission: As landowner of the property, I hereby give the permit authority permission to enter and inspect the property to evaluate this application, to determine compliance with the ordinances and to perform corrective actions after issuing proper notice to the landowner.			
Applicant Signature 		Date Signed <i>6-22-22</i>	
Landowner Signature (required)		Date Signed	

LEAVE BLANK - FOR MUNICIPAL USE ONLY			
Application Withdrawal Signature (required):		Date Signed:	Reason:
RECEIVED			
Date Complete Application Received:		Fee Received \$ <i>350.00</i>	Receipt No: <i>14837</i>
JUN 23 2022		Date Paid: <i>6/23/22</i>	Taken By: <i>TV</i>
HARRISON PLANNING			

Required Information The following items are required attachments. An application will not be considered complete until all attachments are filed. (Please attach additional sheets if more room is needed.)

Site Plan. A detailed drawing, drawn to scale, indicating lot lines, roads, driveways, buildings/structures, setbacks and any other pertinent information shall be submitted.

Project Plans. A detailed drawing, drawn to scale, indicating all floor plans, elevations and any other pertinent information shall be submitted.

Photos (Optional). Photographs of the site, building or project may be submitted as part of the application.

Written Statements Statements responding to the following criteria shall be submitted.

1. **Unique Property Limitations.** Unique physical limitations of the property (i.e. steep slopes, wetlands, etc.) that prevent compliance with ordinance requirements can be considered for a grant of a variance. The circumstances of an applicant (i.e. growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by an ordinance amendment request.

Unique features of this property which prevent compliance with the terms of the ordinance include:

The slope of the land makes it difficult to
move shed or make driveway bigger

2. **No Harm to Public Interests.** A variance may not be granted which results in harm to public interests. In applying this test, the Zoning Board of Appeals must consider the impact of the proposal and the cumulative impacts of similar projects on the interest of the neighbors, the entire community and the general public. These interests are listed in the Purpose and Intent section of the ordinance.

A variance will not be contrary to the public interests because: There is no harm to anyone
because the only thing on the other side of property is a woods
it wouldn't affect anyone or anything in any way.

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

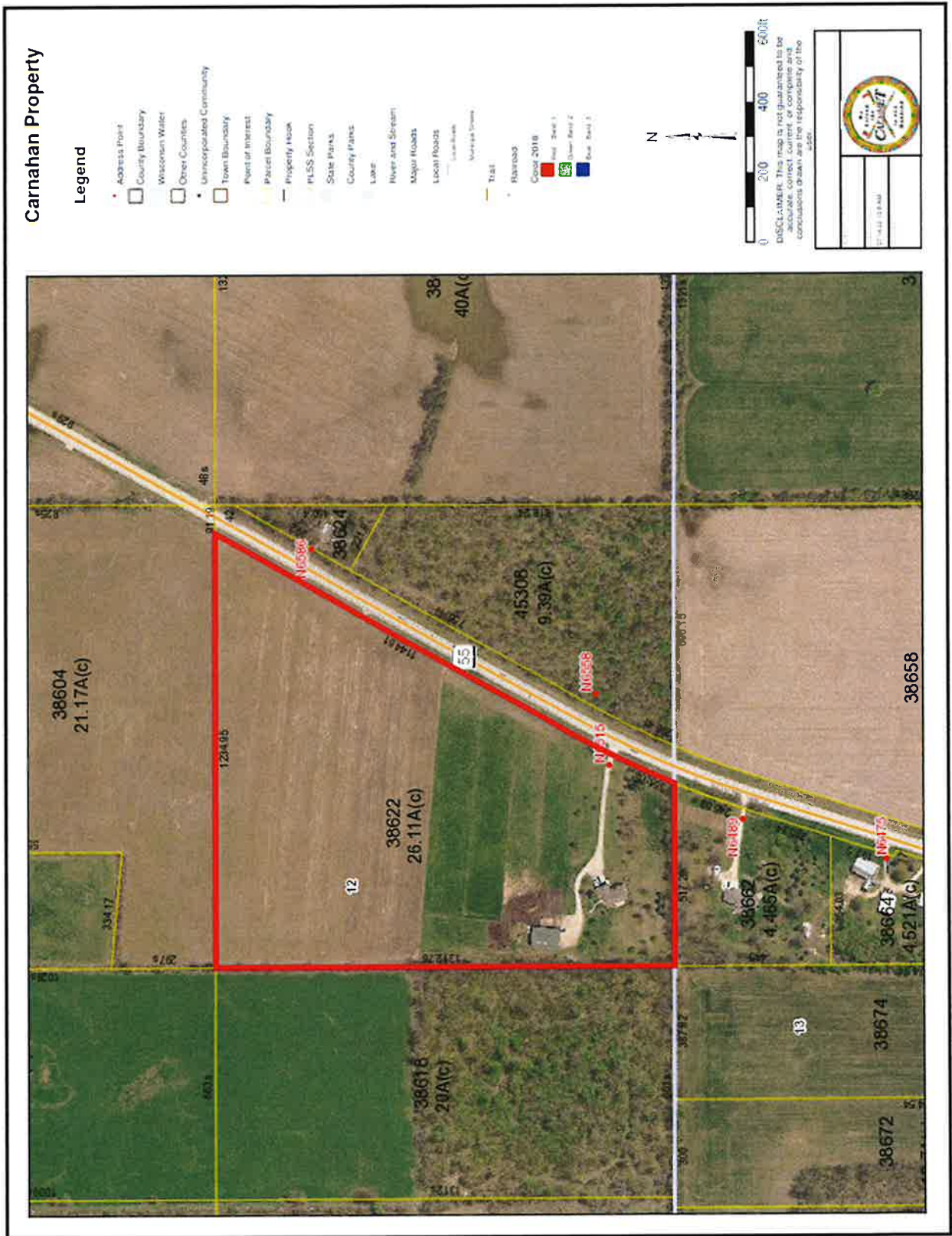
For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.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

The unnecessary hardship is, and is present because: Having a setback of 25 Feet
makes a turning radius difficult to get around with a cattle
trailer to load/unload cattle & makes difficult to unload hay
from trailer. Having a setback of 10 Feet would solve this
problem.

Basis for Approval: Variances shall only be granted when the Zoning Board finds:

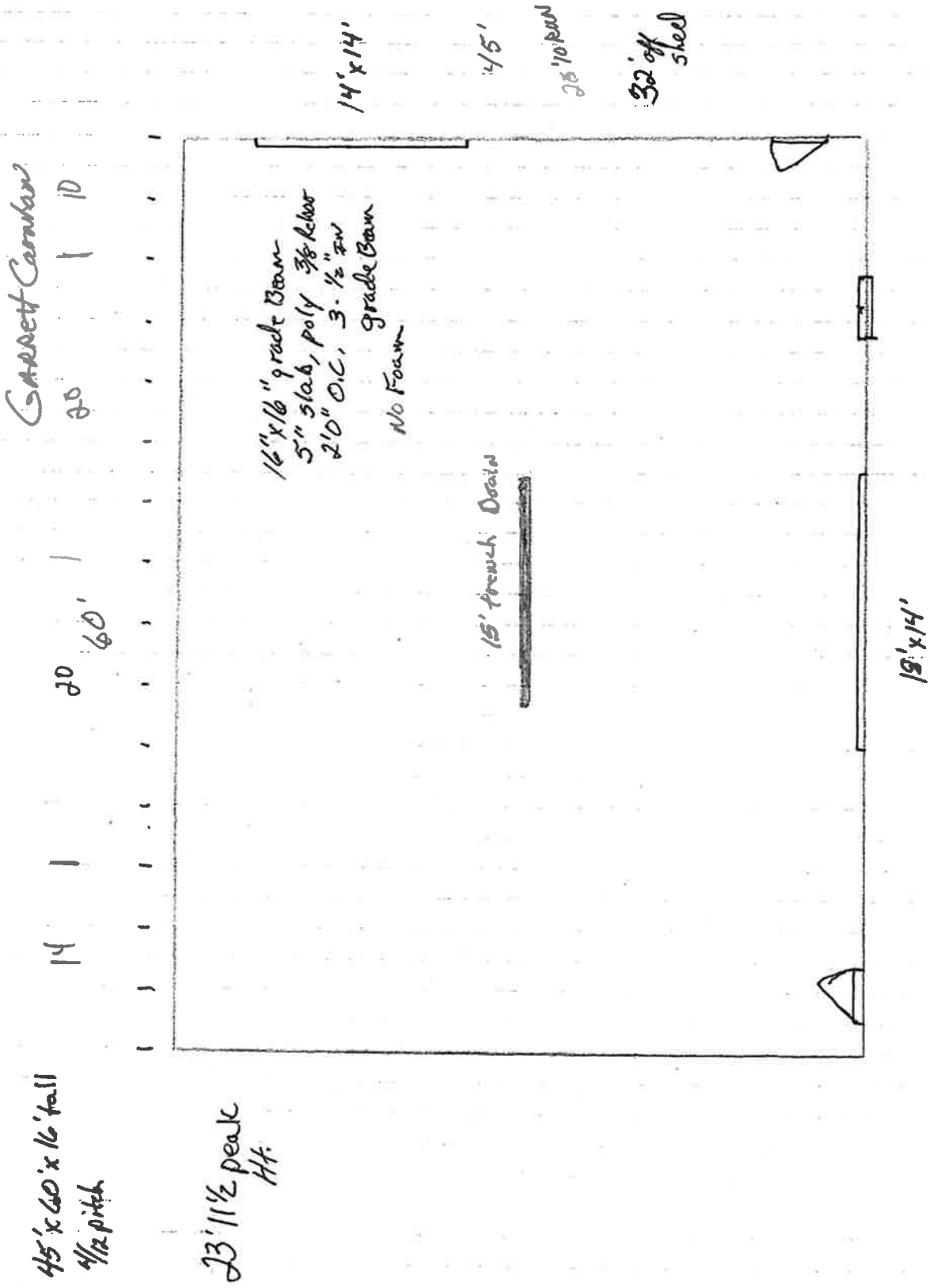
1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this ordinance.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
4. The liberal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
5. The hardship is not shared generally by other land or buildings in the area.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.

Aerial #1

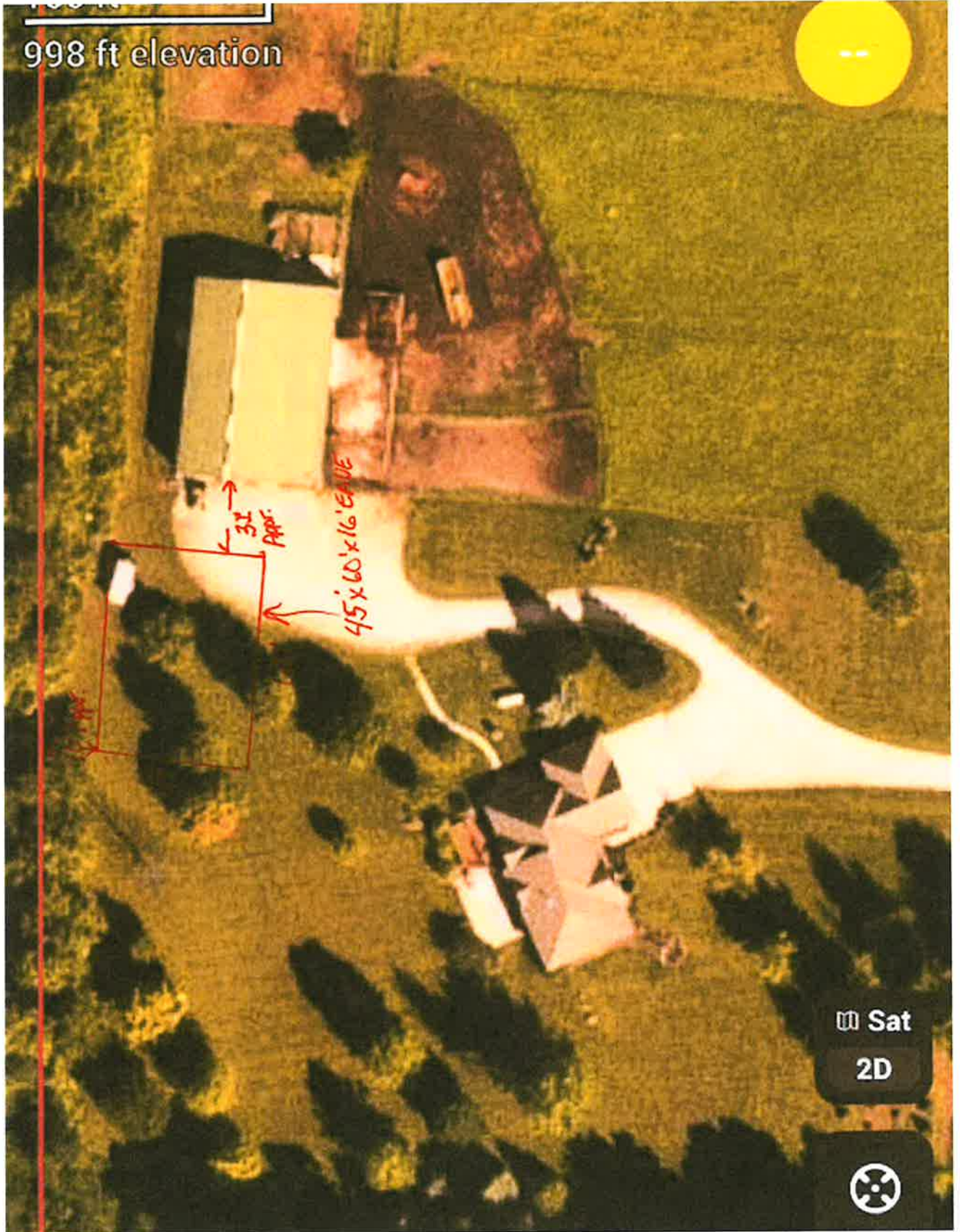




Project Plans



998 ft elevation



31'
Appx.

45' x 60' x 16' EAVE

Sat

2D

