

**BOARD OF APPEALS
OF THE CITY OF PLATTEVILLE**



AGENDA

Monday, July 18, 2022 at 7:00 p.m.

Council Chambers at City Hall
75 N. Bonson Street
Platteville, Wisconsin 53818

1. Call to Order
2. Approve Minutes: May 23, 2022
3. Variance: 265 N. Second Street/135 E. Cedar Street – (BA22-VA05-05)
 - a. Staff Presentation
 - b. Applicant Statement
 - c. Public Statements in Favor
 - d. Public Statements Against
 - e. Public Statements in General
 - f. Applicant Rebuttal
 - g. Board of Appeals Discussion & Action
 - h. Findings of Fact
4. Adjournment

If you have concerns or comments related to an item on this agenda, but are unable to attend the meeting, please send the comments to carrollj@platteville.org or call 608-348-9741 x 2235.

MINUTES
CITY OF PLATTEVILLE ZONING BOARD OF APPEALS

May 23, 2022 at 6:00 p.m.
Council Chambers at City Hall

MEMBERS PRESENT: Joie Schoonover, Todd Kasper, Dana Niehaus, Gene Weber
ALTERNATE MEMBERS PRESENT: None
MEMBERS ABSENT: None
STAFF PRESENT: Joe Carroll (Community Development Director), Ric Riniker (Building Inspector)

A regular Board of Appeals meeting was held at 6:00 p.m., May 23, 2022.

APPROVAL OF MINUTES:

Motion by Schoonover, second by Kasper, to approve the minutes of the March 21, 2022 meeting.
Motion approved.

VARIANCE REQUEST:

Laura Roberts – 575 Camp Street

Carroll introduced the variance request from Laura Roberts who seeks permission to install a fence on the property at 575 Camp Street that will not be in conformance with Chapter 22.04(B)(3) of the City of Platteville Municipal Code.

The property is located on the southeast corner of Camp Street and Lancaster Street. The owner would like to install a 6' tall solid wood fence on the side (west) and rear (south) yards of the property. The portion of the fence to be installed to the side of the house will be located between the house and Lancaster Street. By definition, any portion of the property located between the house and the street is considered a street yard. The zoning ordinance limits the height of fences in the street yard of residential properties to 4 feet maximum. Since the applicant would like to install a fence that is 6 feet in height, a variance is required to allow an additional 2 feet of height.

Carroll addressed the three standards that must be considered for each variance request. He stated that it is questionable if the variance request meets all the standards needed for approval.

Riniker mentioned that the code requirement not allowing six foot tall fences in the street yard is very common in other communities. He also mentioned that he has had several requests recently from residents for building permits to install six foot tall fences in the street yard. He also discussed the several calls he has received from residents regarding concerns about a fence installed on a property on Elm Street that is only four feet tall, but the callers did not like the appearance of the fence and thought it was illegal.

Applicant statement.

Clay Skaggs was present to discuss the request. The shape of the lot doesn't provide much space in the rear yard, so they would like the fence to extend into the street yard along Lancaster Street. A shorter fence would not be tall enough to contain their dog, and they are also concerned about the safety of kids. The fence will not extend all the way to the property along Lancaster Street, and will not extend into the street yard along Camp Street. The fence will not create a sight line issue.

Public statements in favor. None

Public statements against. None

Public statements in general. None

Applicant Rebuttal. None

Board Discussion.

The Board had questions regarding the location of the fence. The applicant further described the location and showed the Board the fence location on the aerial photo.

There were some comments about the shape of the lot, the small back yard and the need for privacy from Lancaster Street. There were no concerns regarding blocking visibility from the intersection.

Motion by Weber to approve the variance as presented. Second by Niehaus. Upon roll call vote, motion was approved 4-0.

The Findings of Fact were discussed:

The property has an unusual shape and a small rear yard.
Only a small amount of the street yard will be impacted.
Lancaster Street is very busy and the need for screening is a real issue.
The fence will not be in the street yard in front of the house, which would have more of an impact on the appearance of the property.
The fence will not create a safety or visibility issue.

ADJOURN:

Motion by Schoonover, second by Kasper, to adjourn. Motion carried unanimously.

Joe Carroll
Community Development Director

Approved: _____

STAFF REPORT TO THE BOARD OF APPEALS

From: Community Planning & Development Department

Date: July 18, 2022

Re: Variance from Zoning Ordinance

Case #: BA22-VA05-05

Request: Variance from Section 22.052 of the Zoning Ordinance regarding the minimum lot area.

Applicant: Barb Cook

Location: 265 N. Second Street/135 E. Cedar Street

Surrounding Uses and Zoning:

Direction	Land Use	Zoning	Comprehensive Plan
Property in Question	Single-family Residential	R-2	Medium Density Residential
North	Two-family Residential	R-2	Medium Density Residential
South	Single-family Residential	R-2	Medium Density Residential
East	Single-family Residential	R-2	Medium Density Residential
West	Single-family Residential	R-2	Medium Density Residential

BACKGROUND

1. The applicant owns an existing single-family home at 135 E. Cedar Street. She would like to purchase some land from the property at 265 Second Street to increase the size of her lot. This change will result in the creation of a lot that is below the minimum requirements of the zoning ordinance.

PROJECT DESCRIPTION

2. The applicant's property at 135 E Cedar Street has an area of approximately 5,450 sq. ft. and has a width of 49.87 feet. Both of these dimensions are below the minimum lot size required for a single-family home in the R-2 district, so it is considered a legal-nonconforming lot. The property is also non-conforming due to the building setbacks being below the minimum.

3. The applicant would like to purchase some land from the property at 265 N. Second Street and increase the size of her lot. The area to be purchased would be approximately 1,469 sq. ft. The property at 265 N. Second Street is currently 6,996 sq. ft. in area and has a width of 66 ft. This lot meets the minimum size requirements of 6,000 sq. ft. of area and 60 ft. of width. However, reducing the size of this lot by 1,469 sq. ft. will reduce the size of the lot to 5,527 sq. ft., which is below the minimum lot size requirement, so the sale would create a non-conforming lot. The structure at 265 N. Second Street also currently meets the rear-yard setback requirement of 25 feet but will not meet this requirement with the new setback of 5 feet, so the structure will also become non-conforming.
4. Section 22.052(E) of the Zoning Ordinance requires all lots that are used as single-family dwellings to have a minimum of 6,000 square feet, but the proposed lot after the land sale would have an area of only 5,527 square feet. The rear-yard setback will be reduced from 26.5 feet to 5 feet, so it will no longer meet the minimum 25 ft. setback. Since the proposed lot will not meet the minimum area requirement of the zoning ordinance, and the minimum rear-yard setback, the applicant is requesting a variance to allow the creation of a non-conforming property.

STAFF ANALYSIS

5. As with any variance request, there are three standards that must be considered. The first standard requires the applicant to show that a strict application of the dimensional standards in the Zoning Ordinance would lead to an unnecessary hardship. The Wisconsin State Supreme Court has determined that a hardship exists only when the applicant can show that the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The applicant has an existing house that is currently being used, and that can continue to be used. The property is non-conforming with the ordinance requirements, but it can continue to be used without any changes. Adding the land to her lot would increase the size of the lot and increase the setback from her house, so it would improve this property. However, since the applicant already has a reasonable use for this property, it is questionable if a hardship is present.
6. The second standard requires the applicant to show that the hardship is due to some unique feature of the property, such as an odd shape or the presence of natural features. As mentioned above, the 135 E. Cedar Street lot is smaller than most other parcels in the City and is non-conforming for lot area, lot width, and building setback. Approving the variance and allowing the land purchase would improve this situation. The property at 265 N. Second Street is somewhat small for a lot in the City but is currently legal, so is not necessarily unique. It is questionable if this situation meets the legal uniqueness standard.
7. The third standard requires the applicant to show that the variance, if granted, will not have a negative impact on the public interest. Since the structures already exist, the only impact will be on the two properties involved in the land sale. There should not be any negative impact on other properties in the area. There could be some concern with setting a precedent for the creation of a non-conforming property, however the transaction will improve the situation with an existing non-conforming property, so this concern is partially offset. It appears that the third standard may be met for the variance.

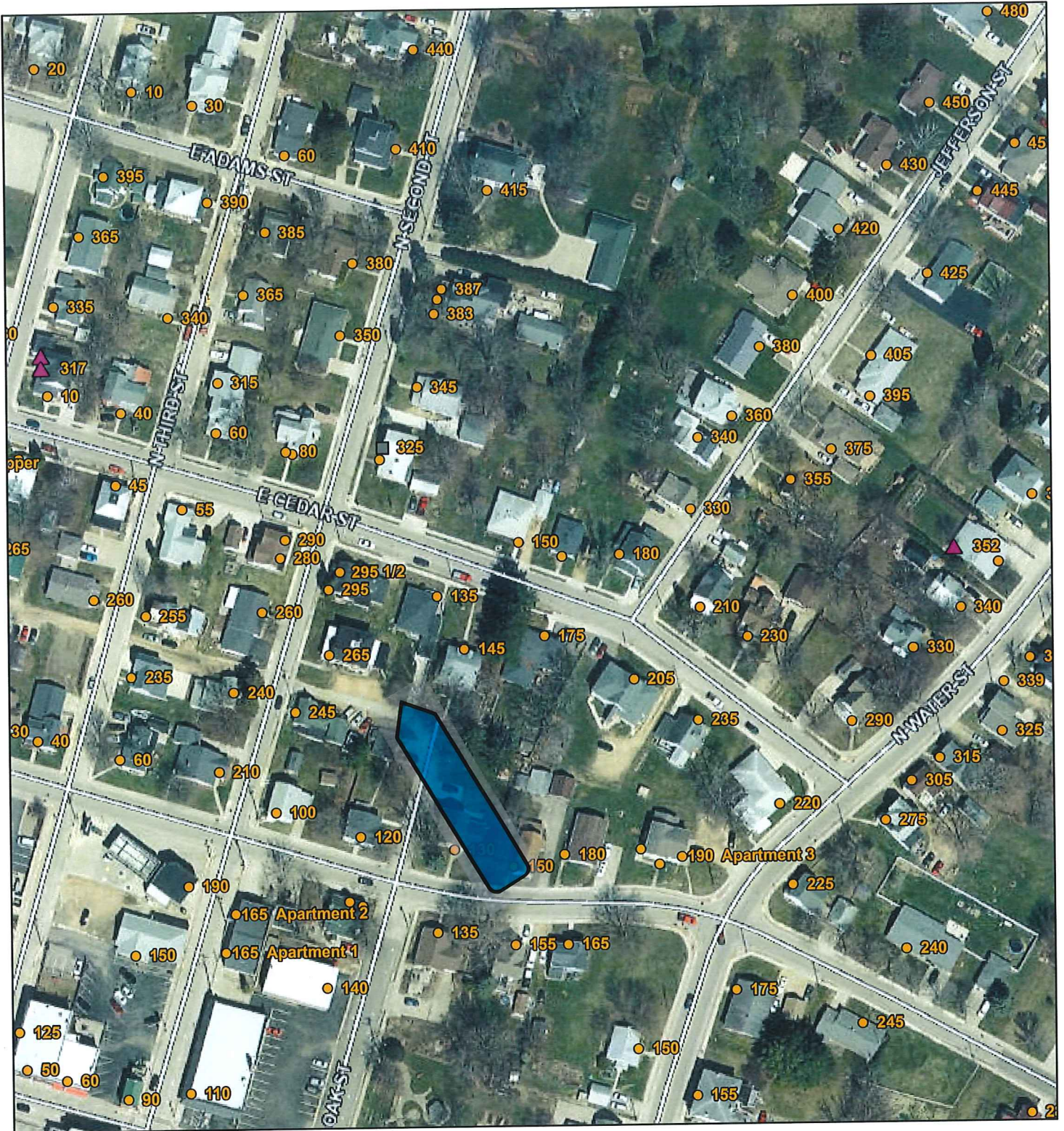
STAFF RECOMMENDATION

8. It is questionable if this request meets all the standards needed for approval.

The above constitutes the opinion and report of the Community Planning and Development Department.

ATTACHMENTS: Application, Location Map, Existing Property Map, Proposed Property Map

City of Platteville



6/28/2022, 9:22:06 AM

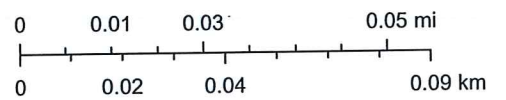
1:2,257

- Centerlines
- City Boundary

- Inactive/Retired
- Question/Needs Review

Address Points (Data in Progress)

- Active



City of Platteville

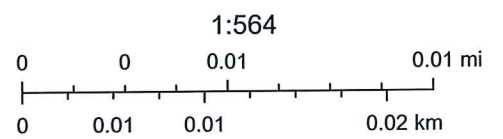


6/28/2022, 9:20:10 AM

- Centerlines
- City Boundary

Address Points (Data in Progress)

- Active



APPLICATION TO THE
BOARD OF APPEALS
 CITY OF PLATTEVILLE, WISCONSIN



General Information (please type or print clearly)

	Applicant/Agent	Owner
Name	Barbara J. Cook	Allison M Schemerhorn
Address	135 E Cedar St	265 N 2nd Str.
Phone	608-348-9061	
Email		

Type of Request: Variance from Code Requirements
 Appeal of Administrative Decision

Property Information (Attach additional sheets if necessary)

Address of Property in Question: 265 N 2nd Street, Platteville, WI

Legal Description: ORIGINAL PLAT; S 1/2 LOT 100; W 40' OF S 1/2 LOT 99

Current Use and Improvements: S.F. RESIDENTIAL

Proposed Use and Improvements: S.F. RESIDENTIAL

Dimensions:	Required	Requested
Street Yard	ft.	ft.
Left Side Yard	ft.	ft.
Right Side Yard	ft.	ft.
Rear Yard	25 ft.	5 ft.
Area	6,000 sq. ft.	5,527 sq. ft.
Other		

Is this a corner lot? YES NO

Zoning District: R-2

Code Reference (Section No.):

26.052(E)

OFFICE USE ONLY

Date Application Filed: 6/28/2022

File Number: BA22-VA05-05

Board of Appeals Action & Date: 7/18/22

Fee Paid/Receipt #: CASH

Conditions: _____

Justification for the Request (Attach additional sheets if necessary)

APPEAL OF AN ADMINISTRATIVE DECISION: Provide a description of your appeal.

City official(s) who made the decision you are appealing: _____

Decision of official(s): _____

Describe your appeal: _____

VARIANCE: State in the spaces below how your variance request conforms to the Three Standards Test as described in the attached Q&A document. Attach a separate sheet if necessary.

1) Unnecessary Hardship is present because... I don't have a yard. I would have difficulty in maintaining my house is one reason I would like to buy this. I have been living at 135 E Cedar st., and have been maintaining it for 27 yrs to make my house and their back yard look nice.

2) The hardship is due to unique features of the property in that... I have a side walk and driveway, and no back yard, I also have a dog which needs some space to run.

3) The variance will not be contrary to the public interest because... this property has been sold four times, and no one had interest in this part of the land. With maintaining this land, with maintaining this yard it has improved the look of the neighbor hood.

Signatures

The undersigned person(s) hereby give notice to the Board of Zoning Appeals of the City of Platteville, Wisconsin, of an appeal and/or request for a variance.

APPELLANT: Barbara J. Cook DATE: 6-28-2022

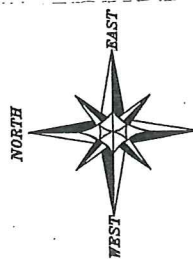
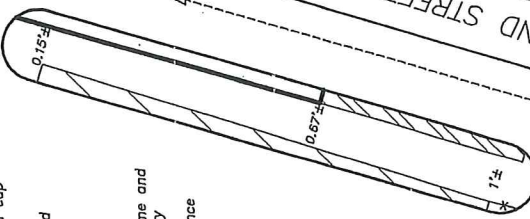
APPELLANT: _____ DATE: _____

PLAT OF SURVEY

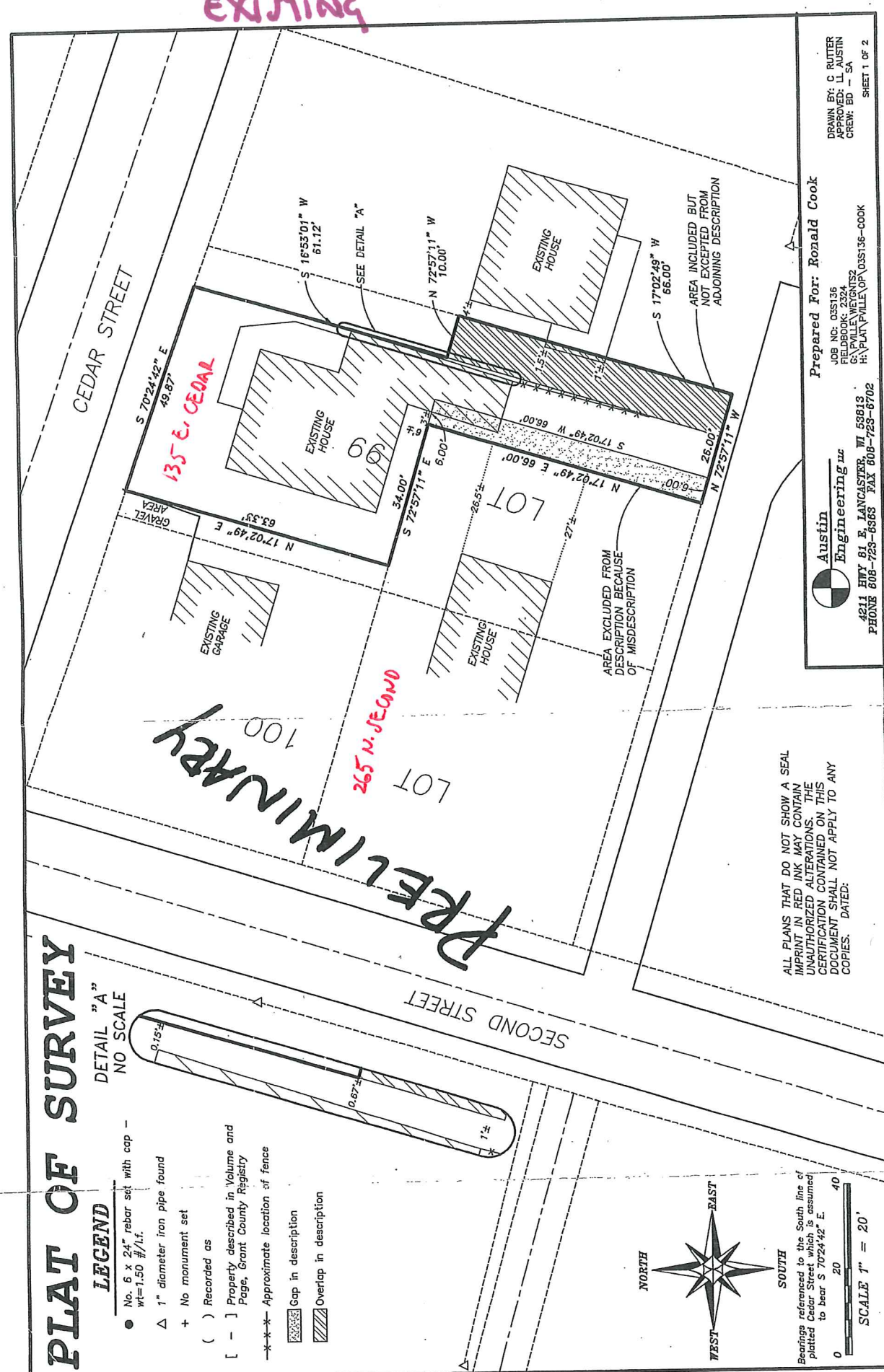
LEGEND

- No. 6 x 24" rebar set with cap - wt=1.50 #/l.f.
- △ 1" diameter iron pipe found
- + No monument set
- () Recorded as
- [-] Property described in Volume and Page, Grant County Registry
- Approximate location of fence
- ▨ Gap in description
- ▩ Overlap in description

DETAIL "A"
NO SCALE



Bearings referenced to the South line of Platted Cedar Street, which is assumed to bear S 70°24'42" E.



ALL PLANS THAT DO NOT SHOW A SEAL IMPRINT IN RED INK MAY CONTAIN UNAUTHORIZED ALTERATIONS. THE CERTIFICATION CONTAINED ON THIS DOCUMENT SHALL NOT APPLY TO ANY COPIES. DATED:

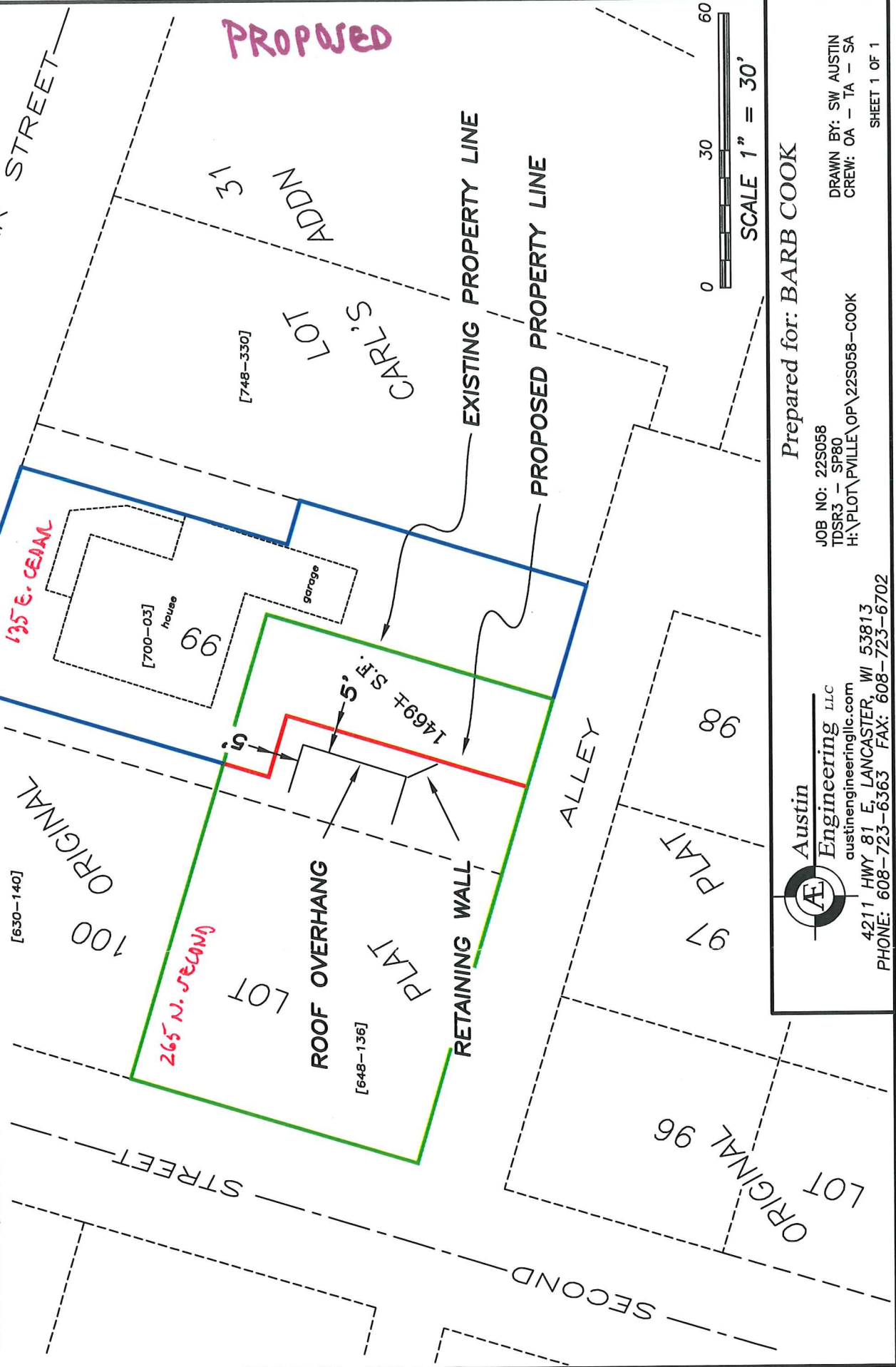
Austin Engineering, Inc.
4211 HWY 81 E. LANCASTER, WI 53813
PHONE 808-723-6363 FAX 808-723-8702

Prepared For: Ronald Cook
JOB NO. 035136
FIELDBOOK 2324
G:\PILLEN\WETONS
H:\PLAN\VILLE\035136-COOK

DRAWN BY: C RUTTER
CHECKED BY: L L AUSTIN
CREATED BY: ED - SA
SHEET 1 OF 2

PRELIMINARY MAP

ALL DIMENSIONS AND AREAS SHOWN ARE APPROXIMATE PENDING FINAL SURVEY - AUSTIN ENGINEERING, LLC IS NOT RESPONSIBLE FOR ACCURACY OR UNAUTHORIZED USE OF THIS MAP



Prepared for: BARB COOK

JOB NO: 22S058
 TDSR3 - SP80
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Drawn by: SW AUSTIN
 Crew: OA - TA - SA

SHEET 1 OF 1