



CPED STAFF REPORT

Prepared for the Zoning Board of Adjustment
BOA Agenda Item #3
July 16, 2015
BZZ-7256

LAND USE APPLICATION SUMMARY

Property Location: 1446 West Minnehaha Parkway
Project Name: 1446 West Minnehaha Parkway Patio and Retaining Wall
Prepared By: Janelle Widmeier, Senior City Planner, (612) 673-3156
Applicant: David Wicklund
Project Contact: David Wicklund
Request: To allow a patio and retaining wall.
Required Applications:

Variance	To reduce the minimum front yard requirement adjacent to West Minnehaha Parkway to allow a 250 square foot patio.
Variance	Of the SH Shoreland Overlay District standards to allow development within 40 feet of the top of a steep slope.

SITE DATA

Existing Zoning	RI Single-family District SH Shoreland Overlay District
Lot Area	8,073 square feet
Ward(s)	13
Neighborhood(s)	Lynnhurst
Designated Future Land Use	Urban Neighborhood
Land Use Features	Not applicable
Small Area Plan(s)	Not applicable

Date Application Deemed Complete	June 19, 2015	Date Extension Letter Sent	Not applicable
End of 60-Day Decision Period	August 18, 2015	End of 120-Day Decision Period	Not applicable

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The existing use is a single-family dwelling. It was remodeled and expanded in 2014. The site is a through lot with frontage on West Minnehaha Parkway and Girard Avenue South. The subject property is located within the SH Shoreland Overlay District because it is within 1,000 feet of Lake Harriet.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties are predominantly single-family dwellings. The subject property is across the street from the channel that connects Lake Harriet and Minnehaha Creek.

PROJECT DESCRIPTION. A patio and retaining wall are located between the existing single-family dwelling and West Minnehaha Parkway located at the property of 1446 West Minnehaha Parkway. The decorative stone patio is 250 square feet in area. The approximately 2.5 foot tall, Cor-Ten steel retaining wall is more or less parallel to the front lot line and extends almost the full width of the property. Both were installed without obtaining required zoning approvals. A steep slope (an average 18 percent slope or greater measured over a horizontal distance of 50 feet or more, with a height of 10 feet or greater) is located between the dwelling and the parkway. In the SH Shoreland Overlay District, a variance is required to allow development on or within 40 feet of a steep slope. The minimum front yard setback requirement along West Minnehaha Parkway is approximately 53 feet, which is created by the established setbacks of the residences on the adjacent properties. Ground-level patios up to 100 square feet, constructed of decorative concrete, pavers or stone, may extend into the required front yard accessory to single-family dwellings provided the patio is located not less than 10 feet from a public sidewalk and shall be designed in a manner that would prevent the patio from being used for off-street parking. Because the patio is larger than 100 square feet in area, a variance is required to reduce the minimum front yard requirement.

RELATED APPROVALS. The proposal for the previous variance application did not include the patio or retaining wall.

Planning Case #	Application	Description	Action
<u>BZZ-5902</u>	Variance of the SH overlay district standards to allow development within 40 feet of a steep slope	Second-story and rear additions to a single-family dwelling	<u>Approved at the 1/31/13 BOA meeting</u>

PUBLIC COMMENTS. As of the writing of this report, no comments have been received. Any correspondence received prior to the public meeting will be forwarded on to the Zoning Board of Adjustment for consideration.

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance to reduce the minimum front yard requirement adjacent to West Minnehaha Parkway to allow a 250 square foot patio based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

Ground-level patios up to 100 square feet, constructed of decorative concrete, pavers or stone, may extend into the required front yard accessory to single-family dwellings provided the patio is located not less than 10 feet from a public sidewalk and shall be designed in a manner that would prevent the patio from being used for off-street parking. The patio is constructed of decorative stone. At its closest point, the patio is set back 32 feet from the front lot line. Its location does not allow it to be used for off-street parking. The requested variance is to increase the maximum size to 250 square feet.

Practical difficulties exist in complying with the ordinance because of circumstances unique to the property that were not created by the applicant. The property is a through lot with two required front yards. The minimum front yard requirements are established by the adjacent residential structures. The required yards, including the side yards, cover 80 percent of the subject property. The existing dwelling occupies almost the entire buildable area outside of the required yards.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Because the site is a through-lot, there are limited options where a patio can be located. At its closest point, the ground level patio is set back 32 feet from the front lot line. It is also set back 7 feet from the south side lot line and over 25 feet from the north side lot line. The existing patio replaced a patio that was previously located north of the front entrance. The patio size did not increase. The patio is constructed of decorative stone. Its location does not allow it to be used for off-street parking. The proposal will have no impacts on the adjacent properties access to light, air and open space. The request is reasonable and consistent with the intent of the ordinance and the comprehensive plan.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The granting of the variance will not affect the character of the area or be injurious to the use or enjoyment of other property in the vicinity and will not be detrimental to the health, safety or welfare of the public or those utilizing the property. At its closest point, the ground-level patio is set back 32 feet from the front lot line. It is also set back 7 feet from the south side lot line and over 25 feet from the north side lot line. The existing patio replaced a patio that was previously located north of the front entrance. The patio size did not increase. The patio is constructed of decorative stone. Its location does not allow it to be used for off-street parking. The proposal will have no impacts on the adjacent properties access to light, air and open space.

Additional Standards for Variances within the SH Shoreland Overlay District

In addition, the Zoning Board of Adjustment shall consider, but not be limited to, the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

According to the applicant, there was no soil erosion or other possible pollution of public waters during the construction of the patio. The location of the new patio did not require the removal of any trees. A retaining wall and sod has been installed around the patio to prevent erosion now that construction is complete.

2. *Limiting the visibility of structures and other development from protected waters.*

Lake Harriet is the protected water in this location. The property is on the far edge of the SH overlay district and is not visible from the lake due to existing development and vegetation.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of the SH Shoreland Overlay District standards to allow development within 40 feet of the top of a steep slope based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

Practical difficulties exist in complying with the ordinance because of circumstances unique to the property that were not created by the applicant. Development on a steep slope or within 40 feet of a steep slope is not allowed in the SH Overlay District without a variance. Approximately half of the site is located on a steep slope or within 40 feet of the steep slope. Almost all of the area not on the steep slope or within 40 feet of the steep slope is subject to the front yard requirements. Almost no development would be possible on the subject property without a variance. The existing steel retaining wall replaced a failing retaining wall composed of boulders and timbers. The patio replaced another patio of the same size that was to the north of the front entrance.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The SH Shoreland Overlay District is established to preserve and enhance the environmental qualities of surface waters and the natural and economic values of shoreland areas within the city, to provide for the efficient and beneficial utilization of those waters and shoreland areas, to comply with the requirements of state law regarding the management of shoreland areas, and to protect the public health, safety and welfare. In order to ensure that adverse environmental impacts are minimal, development on or within 40 feet of a steep slope in the SH Overlay District can only be approved through a variance. Development allowed by variance is subject to the following conditions:

1. *Development must currently exist on the steep slope or within forty (40) feet of the top of a steep slope within five hundred (500) feet of the proposed development.*

Development currently exists on the subject property and adjacent properties that are located on the steep slope and within 40 feet of the steep slope.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The foundation and underlying material of the patio and retaining wall are adequate for the slope condition and soil type.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

The development does not present danger of falling rock, mud, uprooted trees, or other environmental issues as minimal disturbance of the soil resulted in their installation. The retaining wall and sod were installed to address a preexisting erosion issue on the slope.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical context.*

Lake Harriet is the protected water in this location. The surrounding properties are predominantly larger-scale single-family dwellings. There are no nearby historic districts or landmarks. The property is on the far edge of the SH overlay district and is not visible from the lake due to existing development and vegetation.

The request is reasonable and consistent with the intent of the ordinance and the comprehensive plan.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The granting of the variance would not affect the character of the area or be injurious to the use or enjoyment of other property in the vicinity and will not be detrimental to the health, safety or welfare of the public or those utilizing the property. The Cor-Ten steel retaining wall is approximately 2.5 feet tall. The decorative stone patio sits above the retaining wall. Both complement the existing dwelling and are compatible with surrounding properties. The retaining wall and sod were installed to address a preexisting erosion issue on the slope.

Additional Standards for Variances within the SH Shoreland Overlay District

In addition, the Zoning Board of Adjustment shall consider, but not be limited to, the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

According to the applicant, there was no soil erosion or other possible pollution of public waters during the construction of the patio and retaining wall. A retaining wall and sod has been installed around the patio to prevent erosion now that construction is complete.

2. *Limiting the visibility of structures and other development from protected waters.*

Lake Harriet is the protected water in this location. The property is on the edge of the SH overlay district and is not visible from the lake due to existing development and vegetation.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application(s) by David Wicklund for the properties located at 1446 West Minnehaha Parkway:

A. Variance to reduce the minimum front yard requirement.

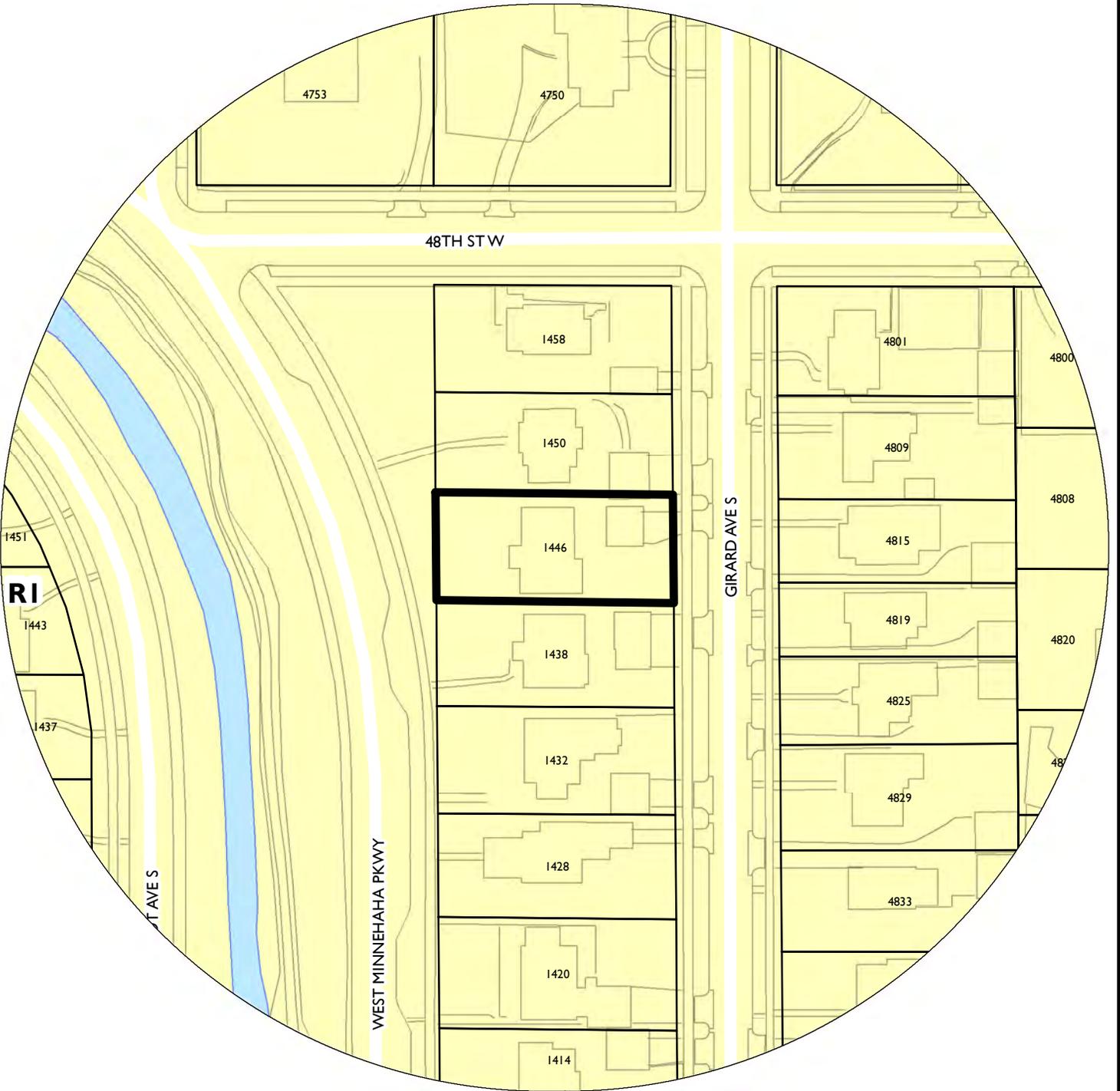
Recommended motion: **Approve** the application for a variance to reduce the minimum front yard requirement adjacent to West Minnehaha Parkway to allow a 250 square foot patio.

B. Variance of the SH Shoreland Overlay District standards.

Recommended motion: **Approve** the application for a variance of the SH Shoreland Overlay District standards to allow development within 40 feet of the top of a steep slope.

ATTACHMENTS

1. Written description and findings submitted by applicant
2. Zoning map
3. Site survey
4. Site plan
5. Photos



ADVANCE SURVEYING & ENGINEERING CO.

1000 County Road 101 E., Mendota, WI 53121 (Phone: 937.472.7500, Fax: 937.472.7501, Email: info@advancesurvey.com, Web: advances.com)

Survey for: FEEHAN DESIGN BUILD, INC.

PROJECT NO: MAJ-010 DRAFTING NO: 12-011 SURVEYING DATE: 10/30/12 TRIMMED AREA: 10/30/12

LEGAL DESCRIPTION: Lot 4 and the South Half of Lot 5, Block 14, Subdivision of the First Precinct of American Men, Township of Cherry, Wisconsin

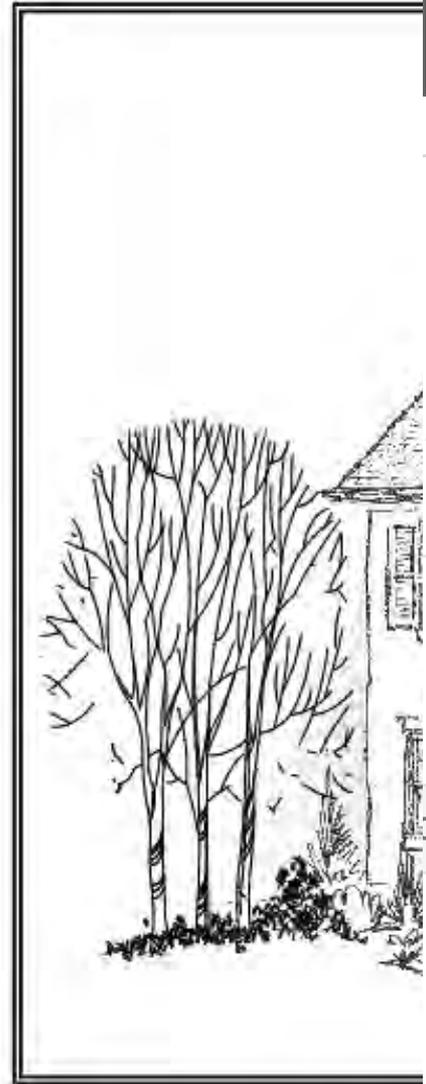
SCOPE OF WORK, LIMITS AND LIMITATIONS:

1. While we have been and will be surveying the above legal description, our responsibility is to provide a true and correct survey of the property lines and boundaries. We do not warrant the accuracy of the survey data or the accuracy of the survey data for any other purpose.
2. We have not been and will not be responsible for any errors or omissions in the survey data or the accuracy of the survey data for any other purpose.
3. We have not been and will not be responsible for any errors or omissions in the survey data or the accuracy of the survey data for any other purpose.
4. We have not been and will not be responsible for any errors or omissions in the survey data or the accuracy of the survey data for any other purpose.
5. We have not been and will not be responsible for any errors or omissions in the survey data or the accuracy of the survey data for any other purpose.

CERTIFICATIONS:

I hereby certify that this plan and data, reports or survey was prepared by me or under my direct supervision and that I am a Licensed Professional Engineer and Professional Surveyor under the laws of the State of Wisconsin.

Thomas W. Fisher
 Thomas W. Fisher P.E. & S., No. 0333



EXTERIOR

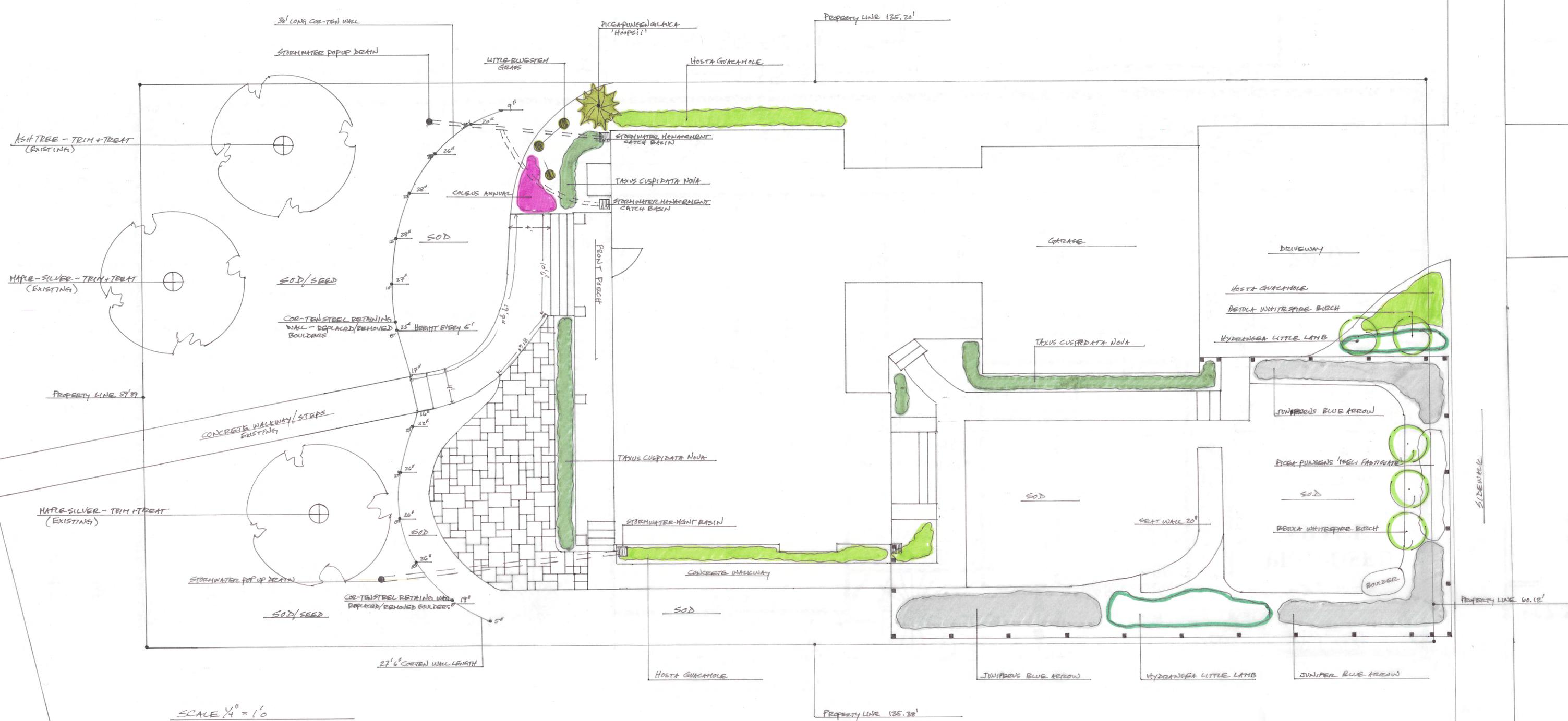


GRAPHIC SCALE



120726 10 30 2012 A JP

SITE PLAN / SURVEY



SCALE 1/4" = 1'0"

DAVID + JULIE WICKLUND
 1446 MINNEHAHA DRIVE W.
 MPLS, MN 55419















