
**Hamburg Township
Zoning Board of Appeals
Wednesday, March 10, 2021
Virtual Meeting using GoToMeeting platform**

To participate in the public hearing go to <https://global.gotomeeting.com/join/907813757>

You can also dial into the meeting using your phone +1 (571) 317-3122
Access code: 907-813-757

AGENDA

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**
 - a) **ZBA 2021-0003**

Owner: Jessica Fister
Location: 10331 Strawberry Lane, Pinckney MI 48169
Parcel ID: 15-28-202-007
Request: Variance application to permit an elevated deck on the east façade with a 3.5-foot setback from the north side yard setback (8-foot setback required, Section 8.18.2.), and a 34-foot setback from the OHM of Strawberry Lake (44-foot OHM setback required, Sections 7.6.1.fn 4 and 8.18.2.).
- 8. New/Old business**
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: March 10, 2021

SUBJECT: ZBA 21-0003

PROJECT SITE: 10331 Strawberry Lane
Pinckney, MI 48169
TID 15-28-202-007

APPLICANT/OWNER: Rob and Jessica Fister

PROJECT: Variance application to permit an elevated deck on the east façade with a 3.5-foot setback from the north side yard setback (8-foot setback required, Section 8.18.2.), and a 34-foot setback from the OHM of Strawberry Lake (44-foot OHM setback required, Sections 7.6.1.fn 4 and 8.18.2.).

ZONING: Waterfront residential (WFR)

Project Description

The subject site is a narrow 10,000 square foot site that fronts onto Strawberry Lane to the west and Strawberry Lake to the east; single-family dwellings are located to the north, south, and west. The site is improved with an existing 1,500-square foot dwelling and a 400-square foot detached garage.

If approved, the variance request would permit an elevated deck on the east façade with a 3.5-foot setback from the north side yard setback where an 8-foot setback is required, per section 8.18.2., and a 34-foot setback from the OHM of Strawberry Lake where a 44-foot OHM setback is required, per sections 7.6.1.fn.4 and 8.18.2.

Property History

Early fall of 2020 it was brought to the zoning department's attention that a new expanded deck had been constructed without permits at the property. The current property owner had been sent a code violation

warning letter to obtain valid permits for the deck. The deck had been constructed by the previous homeowner. When applying for the land use permit, the requirements for a deck are to provide plans for the deck. The plans showed the work entailed widening the deck by approximately 3 feet so the existing side steps could be rebuilt and turned to line up with the existing walkway along the side of the house, and add an additional 4.5 feet to the back, as well as replacing rotted top boards and hand rails on the wood deck (which is approximately 30 inches above the existing grade). Upon applying for a permit it was discovered that the expansion of the deck did not meet the ordinance requirements for an elevated deck.

Standards of Review

In accordance with Section 6.5.C of the Hamburg Township Zoning Ordinance, the ZBA's decision on this matter is to be based on findings of fact to support the standards provided below. The applicable discretionary standards are listed below in **bold typeface**, followed by Staff's analysis of the request as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following standards are met:

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

An elevated deck is defined as: *A platform elevated over 24 inches in height above grade at any point, no part of which is roofed, which is more than five (5) feet in any horizontal direction. An elevated deck may be cantilevered from the building or attached to the ground.* The eight-foot side yard setback required for elevated structures under section 8.18.2 and the 44-foot ordinary high water mark setback per section 7.6.1.fn 4 of the Zoning Ordinance applies generally to all properties in the WFR District and Township-wide rather than just the subject site. However, the subject site is exceptionally narrow with an average lot width of just 40 feet. Because the existing rear exterior door on main floor of the dwelling is elevated over 24 inches above the grade, this results in the necessity to construct an elevated deck to access the rear yard area. A compliant elevated deck in this location may be no larger than 4.5 feet in length by 20.5 feet wide. According to the Zoning Ordinance, an at-grade deck may be as close to any property line as 5 feet. Although an at-grade deck would be permitted, there is minimal impact in the constructed deck, just because it is more than 24 inches above grade.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

Granting this variance request is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity as an at grade deck or patio could be built on the subject site without the requirement of a variance to the setback regulations. However, the nominal impact of the constructed deck slightly higher than 24 inches above the grade within the setbacks could be considered a minor deviation from the ordinance.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The use of the deck will be similar to that of an at-grade patio or deck. The elevated deck and steps will have minimal impact to the public welfare and will not be materially injurious to the property nor other surrounding properties.

4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

The subject site is a waterfront lot on Strawberry Lake. Parcels in this area are primarily residential and zoned in the waterfront residential district. The master plan recommends setback standards be preserved on waterfront lots. This variance request will not affect the purpose or objectives of the master plan.

5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

The condition or situation of the subject property for which the variance is sought is not of so general or recurrent nature in light of the subject site's exceptionally narrow average lot width of 40 feet.

6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.

The use of the subject site is presently single-family residential, which is a use permitted by right in the WFR District in which it is located, and granting a variance to permit an elevated deck structure will not change the present use.

7. The requested variance is the minimum necessary to permit reasonable use of the land.

With the dwelling and garage currently existing on the property, reasonable use of the land has been permitted. Prior to the construction of the new deck the previous deck was just 10 feet by 20 feet. The existing deck was non-conforming to the Zoning Ordinance before because it still was not meeting the required 44-foot setback from the lake. However, adding an additional 4.5 feet to the deck and adding steps to access the side yard of the property has minimal impact and is a reasonable use of the land.

Recommendation

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project, the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report.

Approval Motion

Motion to approve variance application ZBA 21-0003 to permit an elevated deck on the east façade with a 3.5-foot setback from the north side yard setback (8-foot setback required, Section 8.18.2.), and a 34-foot setback from the OHM of Strawberry Lake (44-foot OHM setback required, Sections 7.6.1.fn 4 and 8.18.2.).

The variances do meet variance standards one through seven of Section 6.5 of the Hamburg Township Zoning Ordinance, and a practical difficulty exists on the subject site when strict compliance with the

Zoning Ordinance standards is applied, as discussed at the meeting this evening and as presented in this staff report. *ZBA members to state specific findings of fact in the motion.*

Exhibits:

Exhibit A: Application materials, site plan, and photos.

ZBA Case Number 21-0003
\$550

March 10th

HAMBURG TOWNSHIP
Date 02/04/2021 4:15:35 PM
Ref ZBA2100-03
Receipt 1244832
Amount \$550.00



FAX 810-231-4295
PHONE 810-231-1000

P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)
VARIANCE/INTERPRETATION
(FEE \$500, plus \$50 each additional)**

1. Date Filed: 1/28/2021

2. Tax ID #: 15- 28-202-007 Subdivision: Collums Beach Lot No.: 7

3. Address of Subject Property: 10331 Strawberry Ln Lakeland, Mich 48143

4. Property Owner: Jessica Fister Phone: (H) 520-609-3900

Email Address: jessicamfister@gmail.com (W) 520-907-2112

Street: 5160 N Apache Hills Tr City Tucson State AZ

5. Appellant (If different than owner): _____ Phone: (H) _____

E-mail Address: robfister@gmail.com (W) _____

Street: _____ City _____ State _____

6. Year Property was Acquired: 3/2020 Zoning District: _____ Flood Plain _____

7. Size of Lot: Front 40 Rear 43 Side 1 254 Side 2 246 Sq. Ft. .23 Acres

11. Dimensions of Existing Structure (s) 1st Floor _____ 2nd Floor _____ Garage _____

12. Dimensions of Proposed Structure (s) 1st Floor _____ 2nd Floor _____ Garage _____

13. Present Use of Property: summer vacation home

14. Percentage of Existing Structure (s) to be demolished, if any _____ %

15. Has there been any past variances on this property? Yes No ?

16. If so, state case # and resolution of variance application _____

17. Please indicate the type of variance or zoning ordinance interpretation requested:

After the fact - side yard set back of 3.5 ft (8ft required) and a water set back of 34 ft (44 ft required)

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

The Shape of the Lot at the Water Front

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

Aesthetic Designed, Our Property is maintained to enhance the neighborhood

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

It will NOT

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

It will not adversely affect anything

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

It is NOT

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

It will NOT

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

Yes

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after one (1) year (12 months), unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Jessica Jister 2/1/21

Owner's Signature

Date

Appellant's Signature

Date

Attached is the information for the requested variances. We have attached a site plan, pictures of the original deck that was replaced and pictures of the new deck. Please let us know if any other information is needed. We look forward to the March 10th meeting.

Thank You

Rob & Jessica Fister

STRAWBERRY LN

D
R
I
V
E
W
A
Y

GARAGE

246

256 TOTAL FEET

EXISTING WALKWAY

GARAGE

WELL

E
A
S
E
M
E
N
T

FRONT
DOOR

HOUSE

S
H
E
D

SCALE
1SQ = 1FT

3.5 FT
VARIANCE
REQUEST
(8 FT REQUIRED)

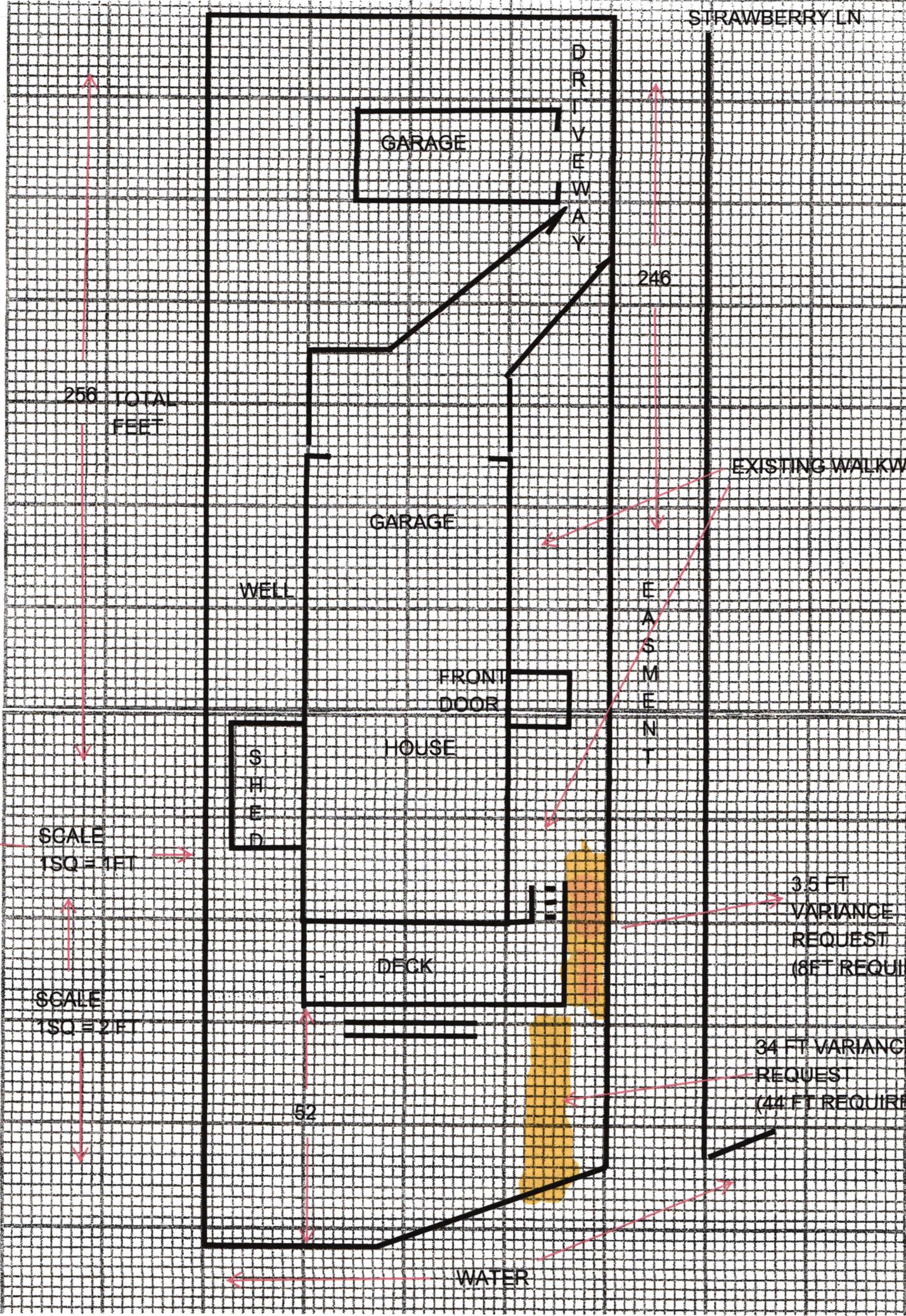
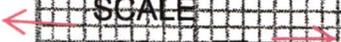
SCALE
1SQ = 2 FT

34 FT VARIANCE
REQUEST
(44 FT REQUIRED)

DECK

52

WATER



10331 strawberry

Rob Fister <robfister@gmail.com>
To: robfister@gmail.com

Thu, Dec 31, 2020 at 2:12 PM

Old Deck

Sent from my iPhone

4 attachments



IMG_1477.JPG
38K



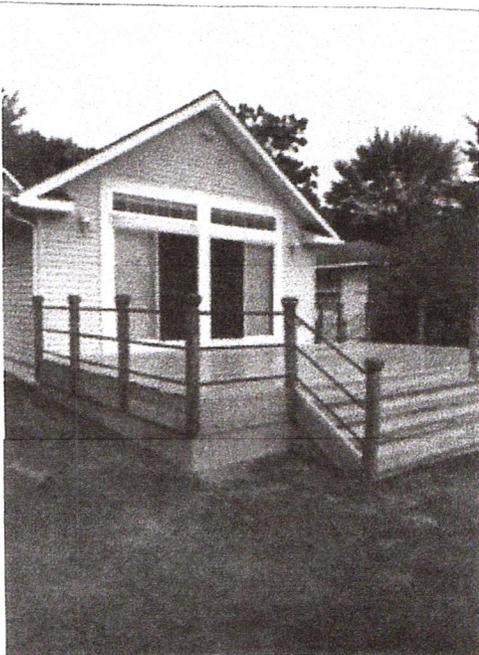
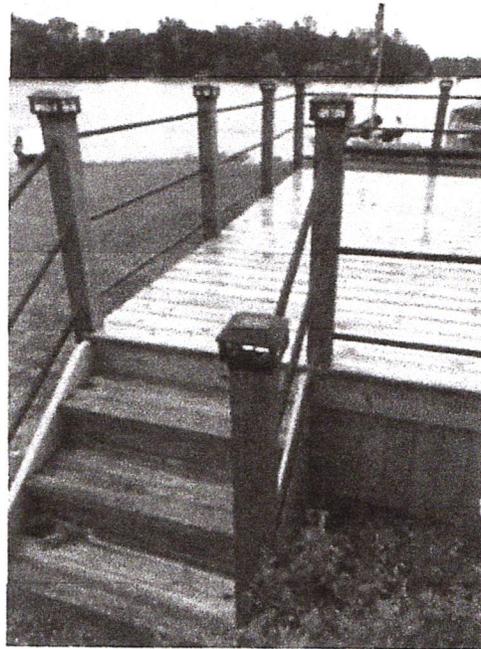
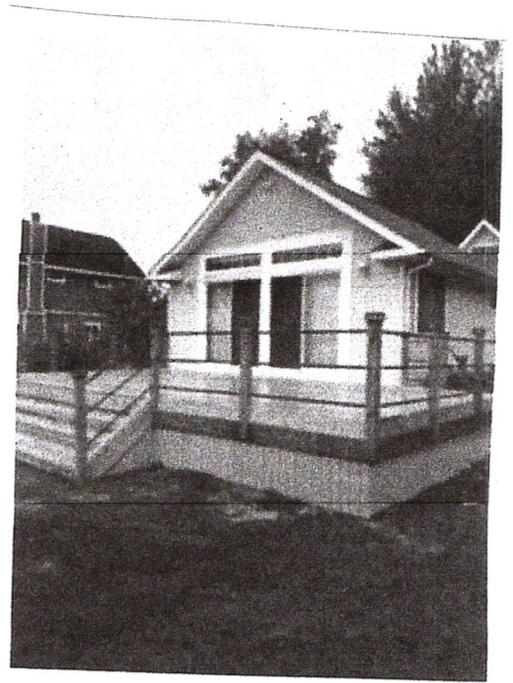
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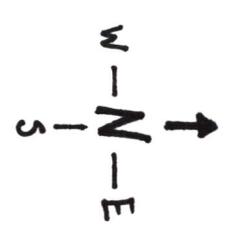
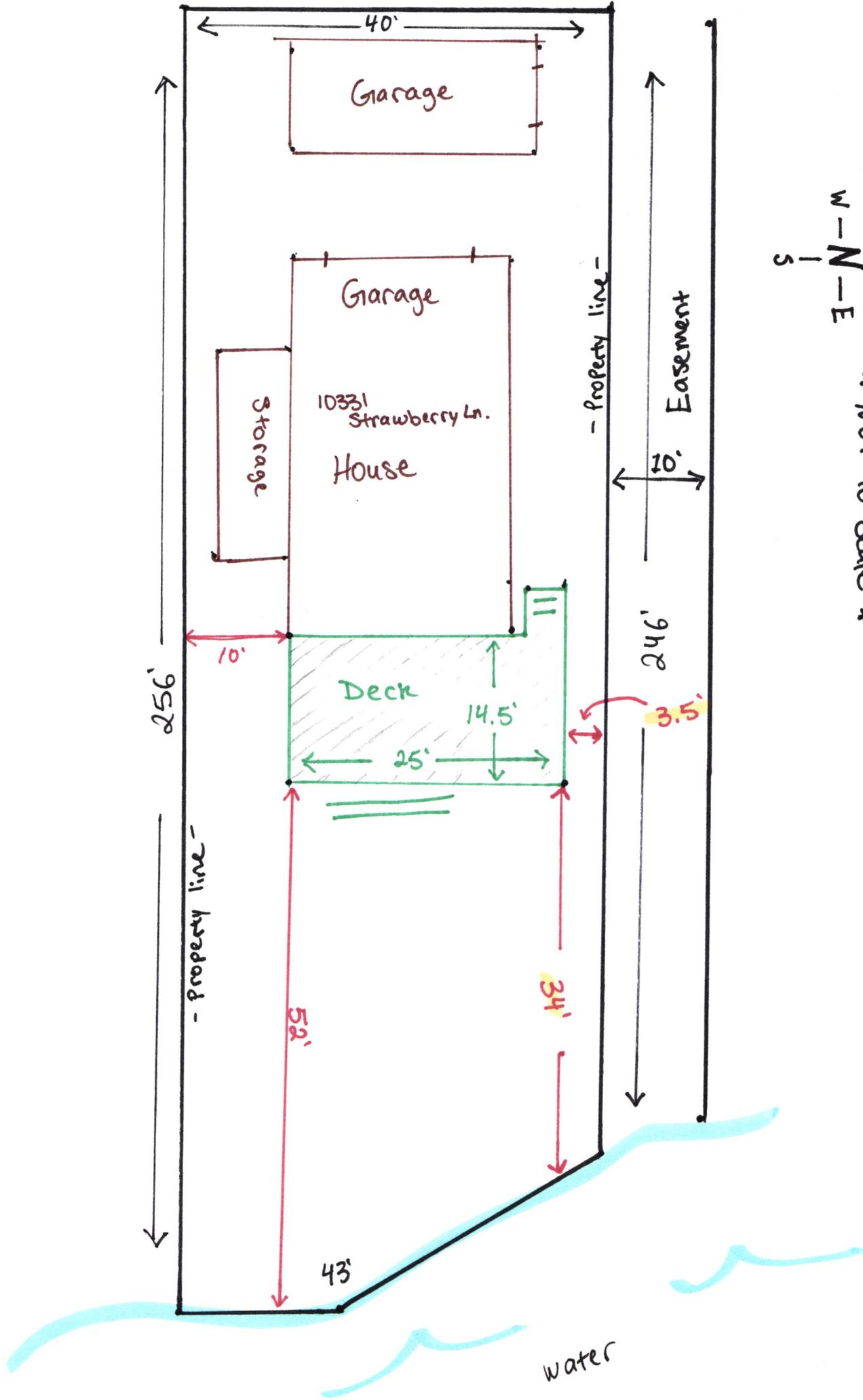


IMG_1468.JPG
42K

||
4

New Deck
14.5 FT X 25 FT





* NOT TO SCALE *



BEFORE



AFTER

2020/09/15 03:47





AFTER