

156 East First Street  
New Richmond, WI 54017  
Ph 715-246-4268 Fax 715-246-7129  
www.newrichmondwi.gov

July 20, 2018

**TO ALL MEMBERS OF THE BOARD OF APPEALS**

Bob Peirson                      Sarah Mellerud  
Jane Hansen                      Dick Nelson  
Bernard Peterson

This is to notify you that there will be a meeting of the Board of Appeals of the Building and Zoning Codes of the City of New Richmond Tuesday, August 7, 2018 at 4:00 p.m. in the Civic Center, 156 East First Street.

**BOARD MEMBERS ONLY: Please notify me, as soon as possible, if you are unable to attend, so I can arrange for an alternate. Thank you.**

**AGENDA:**

1. Roll Call
2. Adoption of Agenda
3. Approval of the minutes from the Previous Meeting, July 9, 2018
4. Election of Chairman and Vice-Chairman
5. Public Hearing to discuss the following:
  - a) a) A petition from Jerry Halbert for a Variance from shore land setbacks to allow replacement of an existing non-conforming detached accessory building. Property is located at 158 Williams Avenue and described as Outlot 336.
6. Action on Public Hearing Agenda
7. Communications and Miscellaneous
8. Adjournment

Tanya Batchelor,  
City Clerk

If you need a sign language interpreter or other special accommodations, please contact the City Clerk at 246-4268 or Telecommunications Device for the Deaf (TDD) at 243-0453 at least 48 hours prior to the meeting so arrangements can be made.

**Copies:**

The News	Northwest Community Communications	Jerry Halbert
City Website	Mary Kida RVCBL Living Trust	Donna Skoglund
Kenneth Rudau	Heinz Rudau	Erma Goodman
Tim Sullivan	Tracy Witek	Tyler Abel
Lisa Alvarez	Craig Kittel	Rollyn Wold

BOARD OF APPEALS  
JULY 9, 2018 - 4:00 P.M.

Members Present: Bob Pierson, Jane Hansen and Sarah Mellerud

Others Present: Tanya Batchelor, Dan Licht, Beth Thompson and Jeremy Wilson

The meeting of the Board of Appeals was called to order by Jane Hansen.

Roll call was taken.

Bob Pierson moved to adopt the agenda as presented, seconded by Sarah Mellerud and carried.

Bob Pierson moved to approve the minutes from the previous Board of Appeals meeting on September 22, 2015, seconded by Bob Sarah Mellerud and carried.

**Election of Chairman**

Sarah Mellerud nominated Jane Hansen for chairman. Sarah moved to close nominations and cast a unanimous ballot for Jane Hansen for chairman, seconded by Bob Pierson and carried.

**Public Hearing**

Jane Hansen declared the Public Hearing open to consider the following:

- a) A petition for Variance from Jeremy Wilson to allow encroachment of 7.27 feet into the required 20 foot rear yard setback for construction of an elevated deck onto the rear of the principal building. Property is located at 1323 Osprey Court and described as: FKA PAPERJACK CREEK TOWHHOME COMMUNITY LOT 5 INCLUDES PT OUTLOT 1; NKA PAPERJACK CREEK VILLAS (07) LOT 25

Dan Licht explained that a 20 foot setback is required in this location. The house setback is 24.73 feet from the rear lot line. The deck Jeremy would like to build is 12 feet deep and would encroach 7.27 feet into the setback. A 12 foot deck would be set back 12.73 feet from the rear lot line. Staff recommended denial of the variance request because the variance request does not demonstrate an undue hardship justifying approval according to the criteria established by the Zoning Ordinance. Variance criteria include exceptional circumstances that apply to the lot, and conditions that are unique to the lot, need is not based only on economic reasons. Approval will not threaten public health safety and welfare and approval is consistent with the intent of the Zoning Ordinance. Discussion followed. Staff reviewed options for possible limitations to keep the deck within eight feet of the property line which would be consistent with the previous deck that was approved. Jane Hansen declared the Public Hearing closed.

Sarah Mellerud moved to deny the variance request because the hardship requirements have not been met and the intent of the zoning ordinance has not been met, seconded by Jane Hansen and carried. Bob Pierson voted no.

Bob Pierson moved to adjourn the meeting, seconded by Sarah Mellerud and carried.

Meeting adjourned at 4:20 p.m.

Tanya Reigel  
City Clerk



3601 Thurston Avenue  
Anoka, MN 55303  
763.231.5840  
TPC@PlanningCo.com

## MEMORANDUM

TO: Beth Thompson

FROM: D. Daniel Licht, AICP

DATE: 25 July 2018

RE: New Richmond – Halbert variance

TPC FILE: 164.02

## BACKGROUND

Mr. Gerald Halbert owns the lot at 158 Williams Avenue abutting Mary Park Pond. The property is developed with a single family dwelling and a detached accessory building. Mr. Halbert would like to demolish the existing detached accessory building, which was constructed in 1930, due to deteriorating condition. Mr. Halbert would propose to construct a new detached accessory building on approximately the same location as the existing detached accessory building.

The existing detached accessory building is located within the 75 foot setback required from the Ordinary High Water Level of Mary Park Pond and is deemed a legal non-conforming structure regulated by Section 109.555 of the City Code. As a legal non-conforming structure, the existing detached accessory structure is allowed to be continued at its location in its current state. Removal of the existing structure (including the foundation) forfeits the continued use rights for the non-conforming setback and requires that the proposed new detached accessory building comply with applicable setback requirements.

Mr. Halbert has requested approval of a variance to allow removal of the existing detached accessory building and construction of a new detached accessory building at the same setback from Mary Park Pond. Applications for variance are subject to review and approval by the Board of Appeals in accordance with Section 121-33 of the Zoning Ordinance. A public hearing to consider the application has been noticed for 7 August 2018.

## ANALYSIS

**Comprehensive Plan.** The 2018 Comprehensive Plan guides the subject site for low density residential uses. The existing single family dwelling upon the property is a land use consistent with the Future Land Use Plan.

**Zoning.** The subject site is zoned Z5: Traditional Neighborhood District. Single family dwellings and detached accessory buildings are permitted uses within the Z5 District. The subject site is also within the Shoreland-Wetland District established by Section 109-255.5 of the Zoning Ordinance. The Shoreland-Wetland District allows development of the subject site with performance standards, including a minimum setback from the ordinary high water level intended to preserve the shoreland area as natural.

**Non-Conforming.** Section 109.255.5(e)(1) of the City Code requires a minimum setback of 75 feet from the ordinary high water level of protected waterbodies. Provisions within Section 109.255.5 of the City Code allow for reductions in the required setback, but not less than a 35 foot setback is required. The existing detached accessory building is setback approximately 27 feet from the waterline of Mary Park Pond according to information provided by the applicant.

Section 121-17 of the Zoning Ordinance provides that non-conforming structures may be continued provided that any expansion or addition comply with the provisions of the Zoning Ordinance and City Code. The applicant is proposing to completely remove the existing detached accessory building including the foundation. A new detached accessory structure that is expanded on the landward side of the subject site is proposed to be constructed at the same approximate 27 foot setback from the waterline of Mary Park Pond. The Zoning Ordinance requires that the new detached accessory building comply with all applicable setback requirements.

**Variance.** Approval of a variance requires that the applicant demonstrate that special conditions exist that are unique to the property and cause an undue hardship in the development of the property. Section 121-33.D.1 of the Zoning Ordinance states that for the Board of Appeals to grant a variance, it must find that:

- a. *Denial of variation may result in hardship to the property owner due to geographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the zoning code should be changed.*
- b. *The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is*

*necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.*

- c. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.*
- d. The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*
- e. The proposed variation will not undermine the spirit and general and specific purposes of the zoning code.*

The side lot lines of the subject site between the right-of-way of Williams Avenue to the waterline of Mary Park Pond measure approximately 50 feet on the north and 124 feet on the south. As such there is very limited area within the lot for a principal or accessory building that complies with the 75 foot setback from the ordinary high water level of Mary Park Pond. The existing single family dwelling is setback 10 feet from the south lot line and occupies the deepest portion of the lot. The location of the existing detached accessory building and proposed detached accessory building is within the more shallow north portion of the subject site. There is no area between the existing single family dwelling and north property line to allow for construction of a detached accessory building that complies with the 75 foot setback requirement from Mary Park Pond. The site plan and information submitted by the applicant indicates that the proposed detached accessory building will comply with the 25 foot setback from Williams Avenue and 10 foot setback from the north property line.

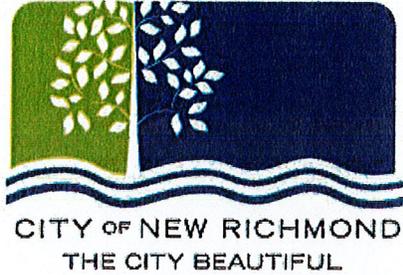
The limitations for construction of a attached or detached accessory structure incidental to the allowed single family dwelling imposed on the lot by the 75 foot setback from the ordinary high water level of Mary Park Pond creates an undue hardship due to the shallowness of the lot. The applicant is proposing to construct a new detached accessory building at a location within the lot not closer to the ordinary high water level of Mary Park Pond than the existing detached accessory building; the removal of the existing detached accessory building and construction of a new detached accessory building does not increase the non-conforming condition. Furthermore, the proposed location of the new detached accessory building will also comply with the required setbacks from Williams Avneue and north property line. The requested variance is the minimum necessary to allow for construction of the proposed detached accessory building.

## **RECOMMENDATION**

The Development Review Committee considered the application at their meeting on 19 July 2018. City staff recommends approval of the requested variance based on an undue hardship in complying with the required 75 foot setback from the ordinary high water level of Mary Park Pond due to the shallowness of the lot.

## **POSSIBLE MOTIONS**

- A. Motion to **approve** a variance allowing construction of an detached accessory building setback a minimum of 27 feet from the ordinary high water level of Mary Park Pond.
  - B. Motion to **deny** the application for variance based on a finding that the criteria established by the Zoning Ordinance are not satisfied.
  - C. Motion to **table**.
- 
- c. Michael Darrow, City Administrator  
Nick Vivian, City Attorney  
Jeremiah Wendt, Public Works Director



## VARIANCE APPLICATION

City Ordinance Section 121-33  
www.newrichmondwi.gov

### City of New Richmond

156 East First Street ❖ New Richmond, WI 54017  
Phone: (715) 246-4268 ❖ Fax: (715) 246-7129

**APPLICATION FEE: \$250 1<sup>st</sup> Request \$300.00 2<sup>nd</sup> Request**  
**ESCROW: \$500**

*Application fee should be made payable to City of New Richmond upon submittal of completed application. Escrow funds will be drawn to cover project-related costs. Additional funds may be required; surplus funds will be returned.*

Please complete the application by typing or printing in ink. Use additional paper if necessary.

#### 1. Property Owner Information:

Last name: Halbert First name: Gerald (Jerry)  
Address: 158 Williams Avenue City/State/Zip: 54107  
Phone number: 651 442-4802 Email address: jerry\_halbert@icloud.com

#### 2. Applicant Information: (if different from above)

Last name: \_\_\_\_\_ First name: \_\_\_\_\_  
Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

#### 3. Address(es) of Property Involved: (if different from above)

\_\_\_\_\_

4. Legal Description Residence Outlot 336 Assessors Plat 1928

\_\_\_\_\_

5. Variance Requested Garage Rebuild, replace original garage from 1930. Current structure doesn't fit the new shore land setbacks. Structure is 27' 4" and 32' 3" from Mary Park Pond.

Meet with Sarah Skinner to discuss option for updating/replacing structure. June 30th

6. Lot Size 1560 Square Feet Width 120' Length 130'

Setback: Front 29' 4" Rear 27' 4" Left 10' Right 10'

**Variance applications must be received by the first Thursday of each month; applications received after this date cannot be heard at the Board of Appeals meeting the following month.**

7. **Proposed Use** Garage - storage for car, motorcycle, kayaks, hockey and other yard equipment.

8. **Reason (hardship, unique situation, etc.)** Current structure was built in 1930, won't support the weight or fit a vehicle. Structures footings are sinking into the ground or pushing out from the walls. Roof is in need of extensive repair. See attached inspection report.

9. **Additional Required Information:**

- a. **Written Narrative:** The narrative should describe in detail the nature of the intended use, why you believe the variance should be granted.
- b. **Consultant Fees:** Whenever third party consultants are utilized in the preparation of application materials (e.g., a traffic study) or the City's review of an application (e.g., traffic study analysis) the applicant shall be responsible for paying the entirety of those costs.

10. **Other Information:** In addition to the written narrative, a scale map of the lot and how existing buildings are laid out on that lot, as well as, where the addition or new building would be placed if the variance is granted.

11. **Signature(s):** By signing below, you attest that the information above and attached is true and correct to the best of your knowledge.

Property Owner: Yvett L. Hill

Date: July 5/2018

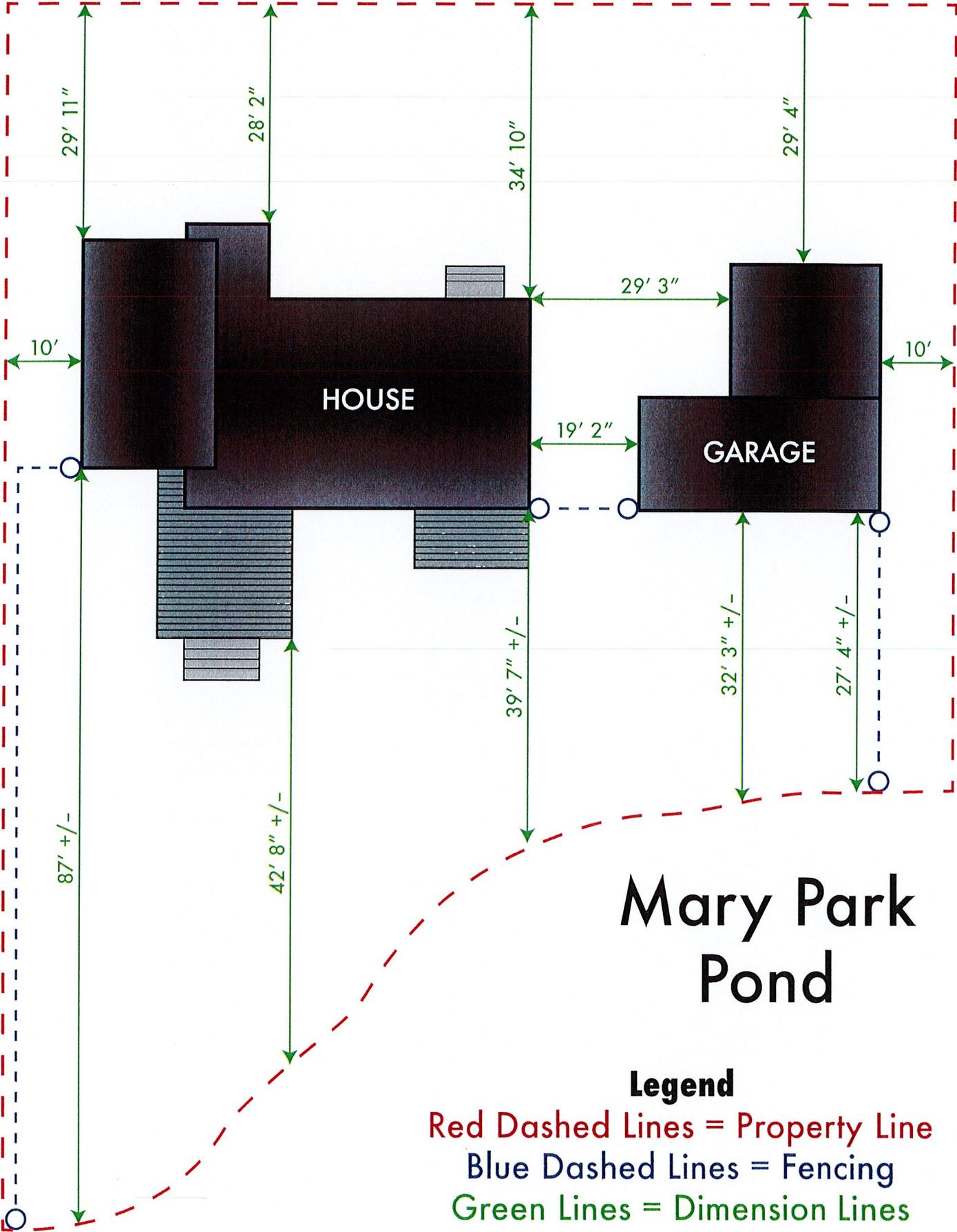
Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Fee Paid: \$250      Date: 7-6-18      Receipt # 67625

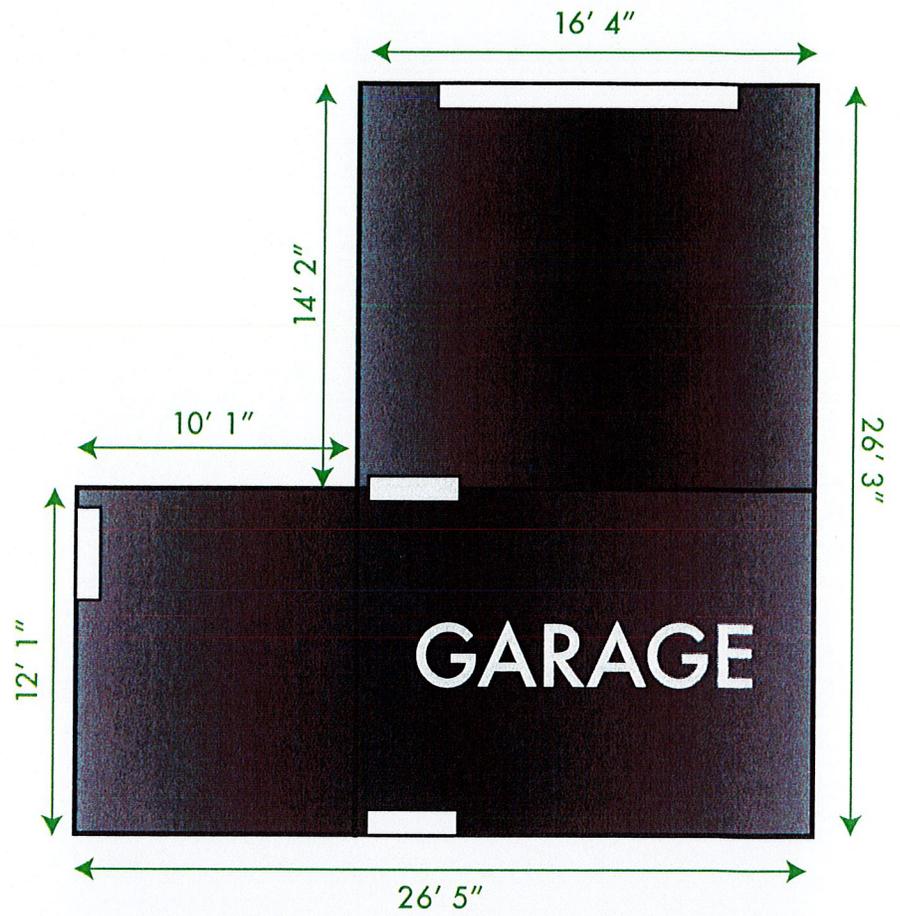
Escrow Paid: \$500      Date: 7-6-18      Receipt # 67625

# Williams Avenue



# Current

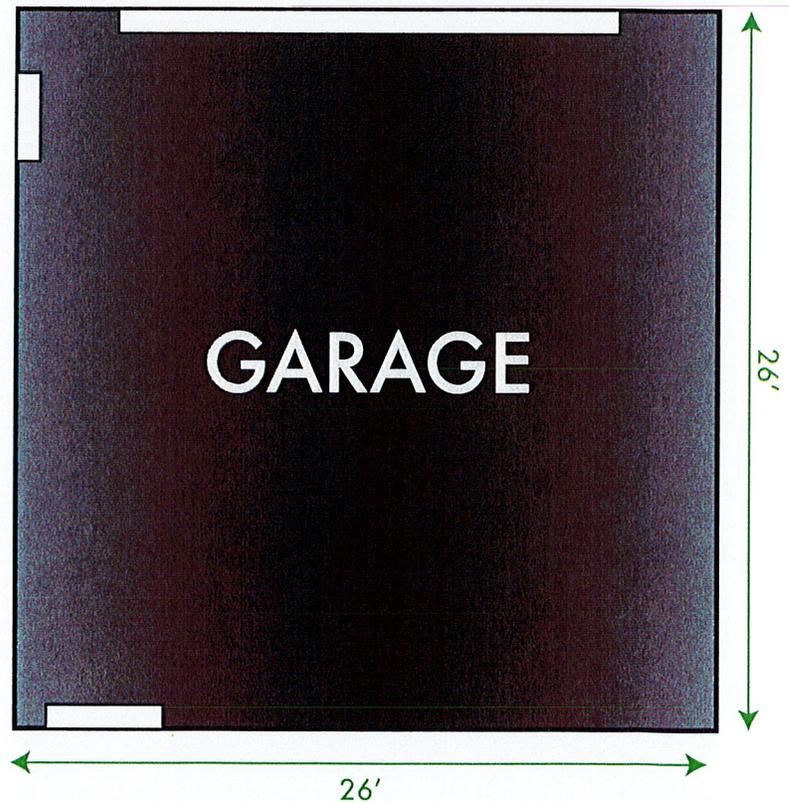
26' 5" x 26' 3"



# Proposed New

26' x 26'

2 Car Garage  
Concrete Slab and  
Block or Poured  
foundation.



Williams Avenue

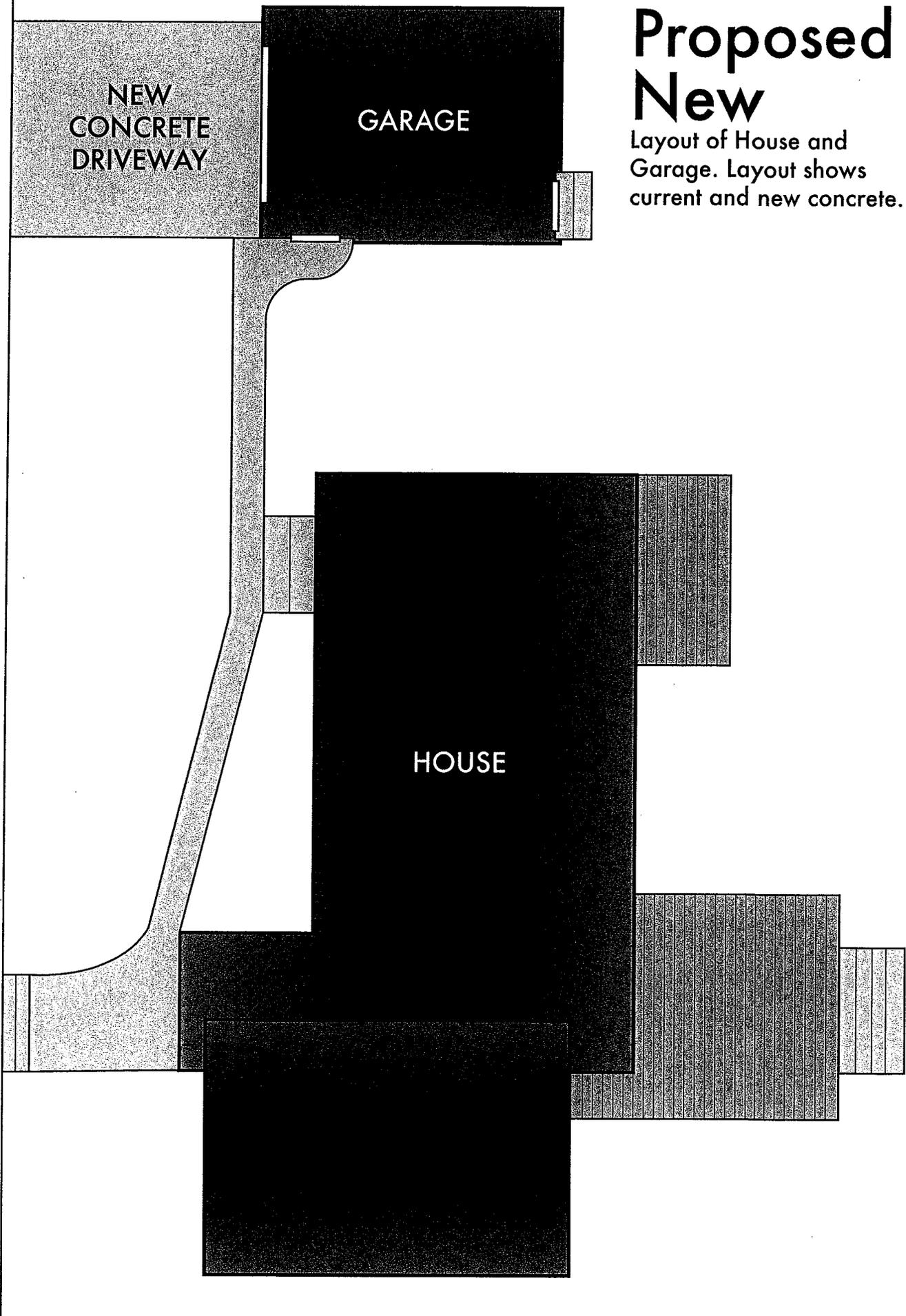
NEW  
CONCRETE  
DRIVEWAY

GARAGE

HOUSE

# Proposed New

Layout of House and  
Garage. Layout shows  
current and new concrete.



## 158 Williams Garage Intended Use

The 2-car garage would be used for the following:

Stall one would be used for my every day vehicle, to keep it from the elements and secure.

The back of stall one would have a workbench and storage for my hand and power tools. If room allows I would like to move my stain glass studio from my second bedroom to this area also.

Stall two would be a multi use area.

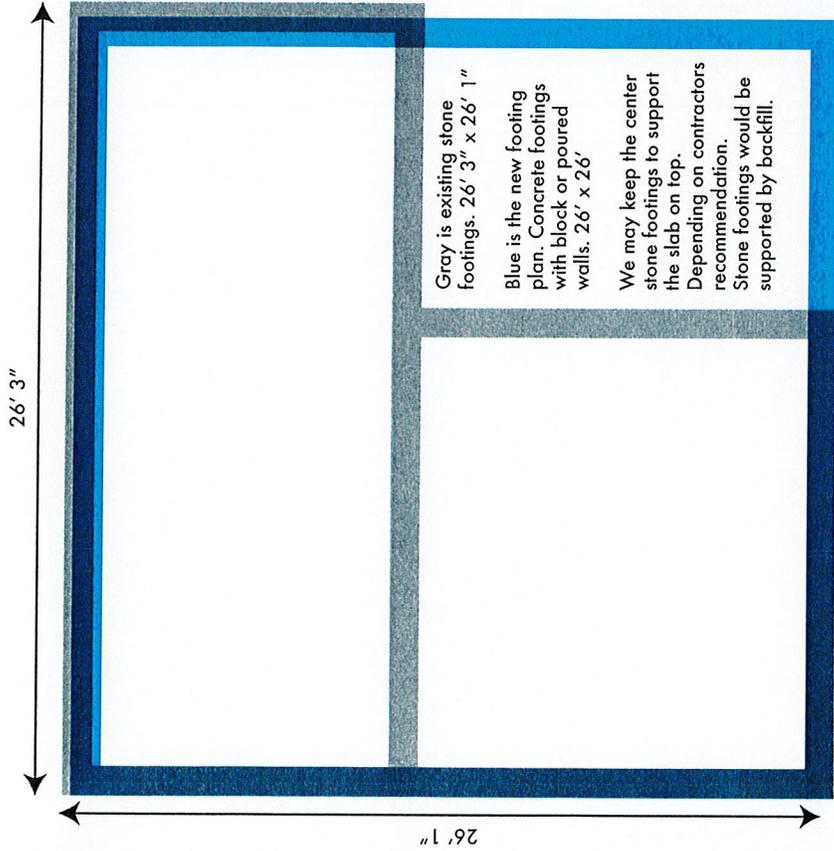
The forward section on the second stall would be for storing Hockey equipment. And have a seating area for trying on equipment. The floor would have a rubber surface to protect the ice skates.

I'm the Head Coach of the Minnesota Wild Special Hockey Team and the equipment manager. *(Not a business, volunteer position to equip the teams. All equipment is donated.)*

The middle of stall two would be storage for my GoldWing motorcycle and small trailer.

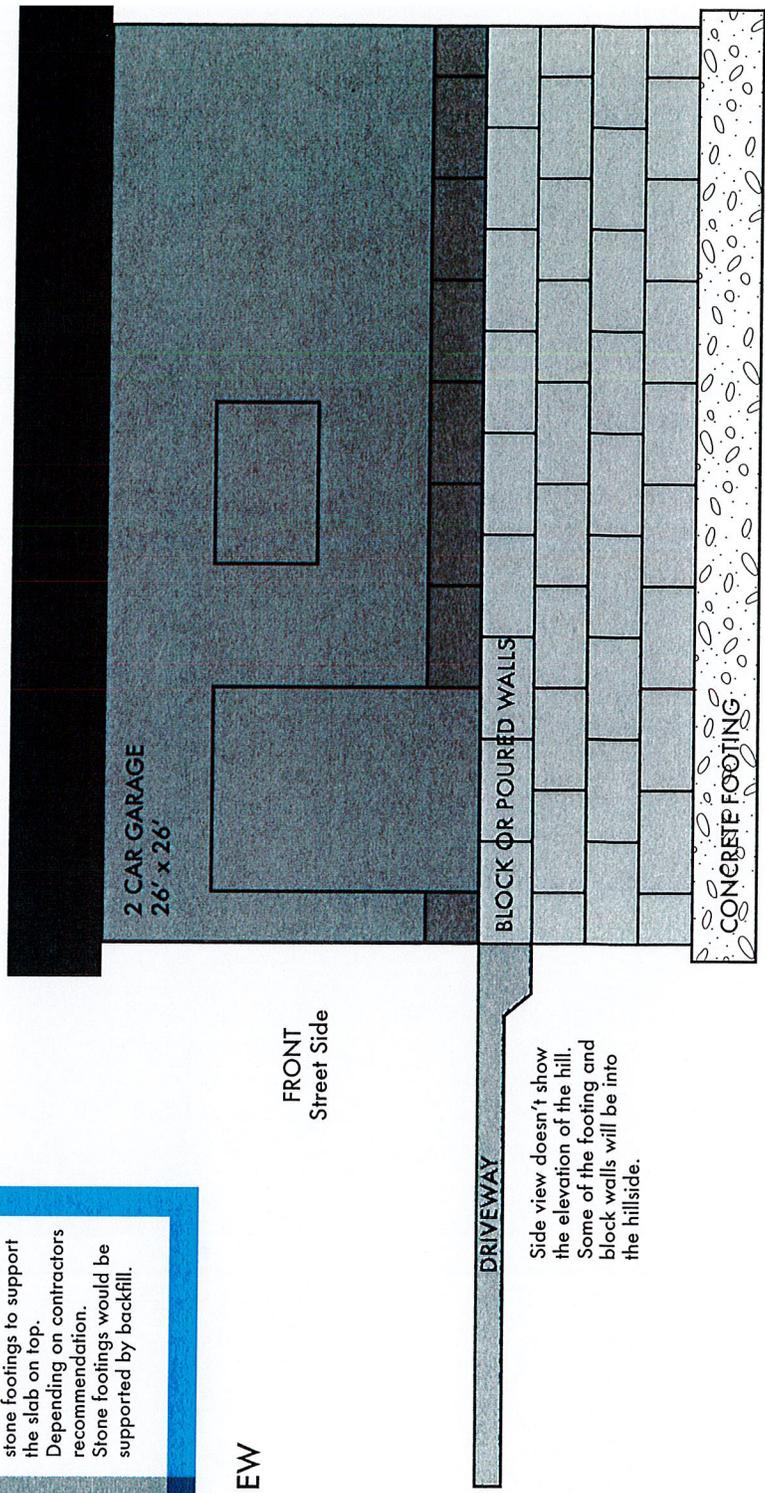
The back of stall two would be for lawn mower, snow blower, weed whacker and other yard and garden items.

The rafters would be for my kayaks and other misc. stuff.



FRONT - TOP VIEW

Current structure would be removed. New garage would be built where the old structure was taken down. Garage is slightly smaller and wouldn't be any closer to the pond or property line. New concrete footings, block or poured foundation. Concrete slab on top of blocks and garage constructed on top of the slab. Have a elevation change of about 6-8 feet from road to pond. Some of the footings and block work will be into the hillside.



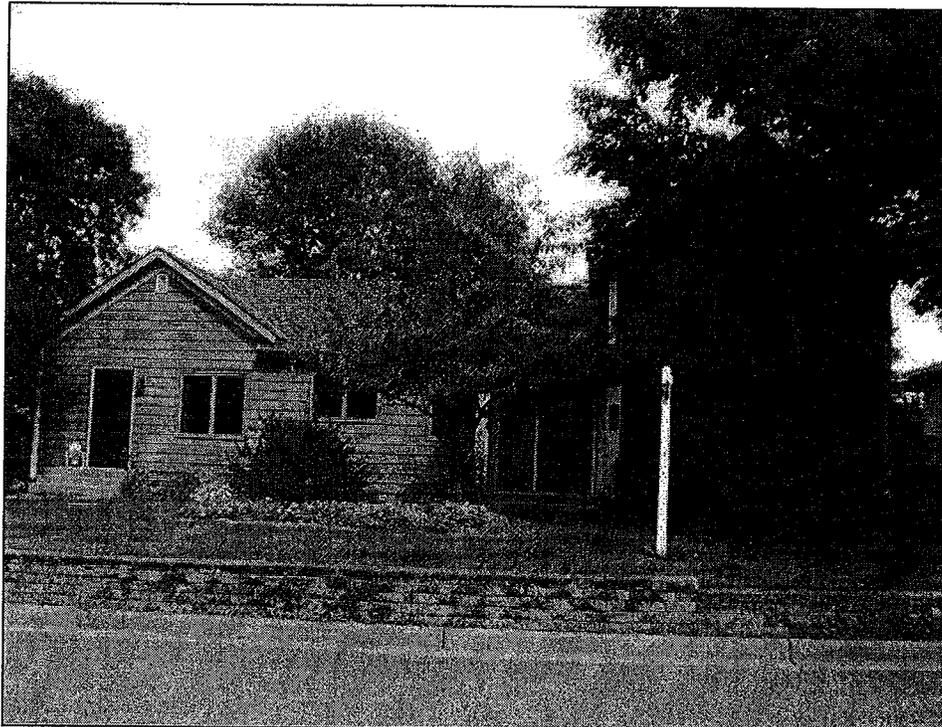
SIDE VIEW



## Inspection Report

**Gerald Halbert**

**Property Address:**  
158 Williams Avenue  
New Richmond WI 54017



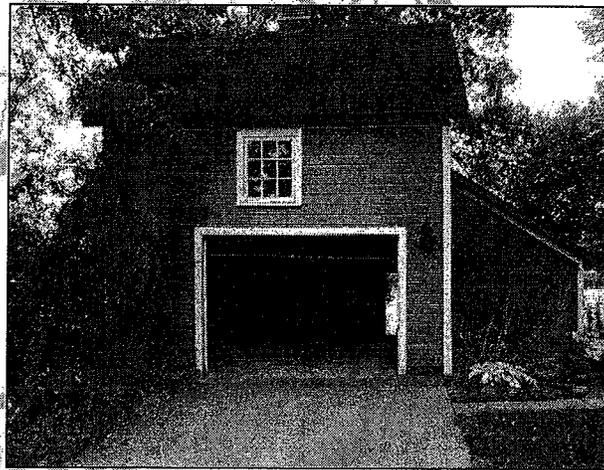
Front of Residence

		IN	NI	NP	RR
3.0	Garage Door		•		
3.1	Garage Door Opener		•		
3.2	Garage Door Operators (Report whether or not doors will reverse when met with resistance)		•		
3.3	Occupant Door (from garage to inside of home)		•		
3.4	Fire Separation		•		
3.5	Ceiling		•		
3.6	Garage Floor		•		
3.7	Garage overhead storage		•		
3.8	Other				•
3.9	Garage Foundation				•
		IN	NI	NP	RR

IN= Inspected, NI= Not Inspected, NP= Not Present, RR= Repair or Replace

**Comments:**

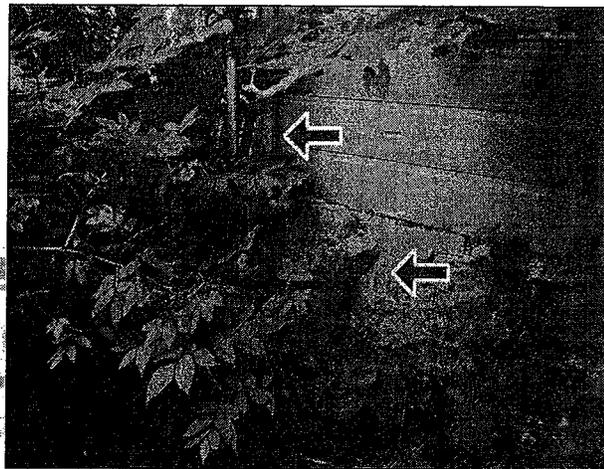
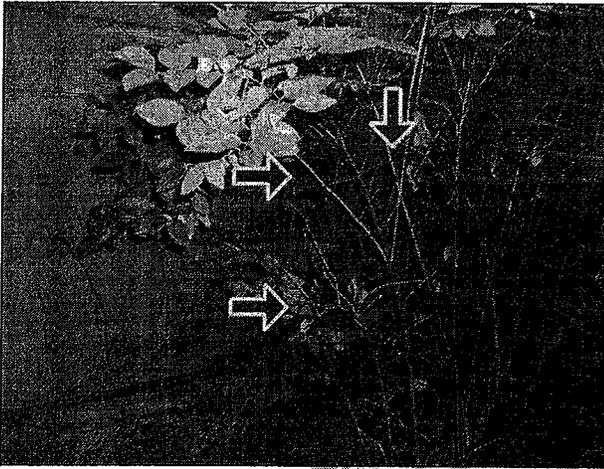
**3.8** Garage- This garage appears to have been converted from a mother-in-law style house to a garage. We are unsure if this assessment is accurate regarding the original reason for the building. The garage does not appear to be able to sustain car parking and is in distress. We would recommend a professional contractor evaluate the building and repair and or replace as necessary.



3.8 Garage-

**3.9 Garage Foundation-** The foundation of the garage is in distress. There is evidence of heaving, cracking and displacement. We would recommend a professional evaluate the foundation and see if it is repairable or will need to be replaced.

Garage Foundation- The foundation of the garage is in distress. There is evidence of heaving, cracking and displacement. We would recommend a professional evaluate the foundation and see if it is repairable or will need to be replaced.



3.9 Garage Foundation-

3.9 Garage Foundation

## 4. Interiors

The home inspector shall observe: Walls, ceiling, and floors; Steps, stairways, balconies, and railings; Counters and a representative number of installed cabinets; and A representative number of doors and windows. The home inspector shall Operate a representative number of windows and interior doors; and Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components. The home inspector is not required to observe: Paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors; Carpeting; or Draperies, blinds, or other window treatments.

### Styles & Materials

**Occupied or Vacant:**

Vacant

**Ceiling Materials:**

Gypsum Board  
Plaster  
Wood

**Wall Material:®**

Gypsum Board  
Plaster  
Paneling

**Kitchen Cabinets:**

Wood

**Kitchen Floor:**

Tile

**Kitchen Counter Top:**

Laminate

**Bathroom Floor:**

Linoleum

**Bathroom Counter Top:**

Cultured Marble  
Laminate

**Interior Doors:**

Hollow core

**Window Material::**

Vinyl  
Wood  
Steel

**Window Operation::**

Casement

**Window Types:**

AGED  
Thermal/Insulated



Dynamo Station

331

334

189-32

830514

1210220

336

346

30000

30001

USA Aerials. This map is not guaranteed to be accurate and is for informational purposes only. Liability is limited to the best of the knowledge of the provider.

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