



## PLANNING AND ZONING Cerro Gordo County Courthouse

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### SPECIAL EXCEPTION STAFF REPORT

#### SUMMARY OF REQUEST

**Case No.:** 23-19

**Hearing Date:** August 29, 2023

**Staff Contact:** Michelle Rush, Zoning Assistant

**Applicant**

John and Angela Skarlis  
918 Barrington Drive  
Cedar Falls, IA 50613

**Owner**

Same

**Property Address:** 15494 Bayside Avenue

**Brief Legal Description:** Lot 19, Bayside Park

**Zoning:** R-3 Single Family Residential

#### Background

The applicant proposes to replace the existing house with a new 32'x49' house and a deck with a 4'x15' section and an 8'x20' section on the rear side of the house (See Figure 1). There is a storage building located on the southwesterly side of the property the crosses the southwest side lot line (See Figure 2). According to the applicant, this building will be removed, so as a result, the analysis of this report assesses the proposed house with this in mind. There is further discussion of the storage building in the impacts section later.

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
House	3' southwest & east side yard setbacks 15' rear yard setback	6' side yard setback (11.6-B) 30' rear yard setback (11.6-C)

\*See Figures 3-7

#### FINDINGS OF FACT

1. John G. Skarlis and Angel L. Skarlis are the owners of the subject property.
2. The property is zoned R-3 Single Family Residential.
3. The proposed house is 3' from the easterly side property line and 15' from the rear lot line.
4. A minimum 6' side yard setback and a 30' rear yard setback are required in the R-3 District.
5. The application was filed on July 28, 2023 with the Planning and Zoning Office.

## ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

### **Discussion of Standards of Review**

***Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.***

The parcel is awkwardly shaped—narrow on the street side and wide on the lake side. The 30' rear yard setback requirement renders the northern portion of the lot essentially unbuildable and restricts any house to the south part of the property as a result. The southern side of the property also has less depth at 75.2' length along the southwest lot line. A 12.2' portion of that lot line is actually below the high water mark (which is most of the beach area) and not practicable to the physical characteristics onsite (See Figures 7 & 8). Factoring in the front and rear yard setback requirements, in reality, the parcel is limited to a 21'-wide house at its narrowest point, which is less than the minimum width for a dwelling as required by the Zoning Ordinance.

The proposed house and deck are 3' from either side lot line and 15' from the rear lot line (high water mark of the lake) at its closest point, which equals 50 percent of the respective required setbacks. The standard appears to be met.

***The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.***

A single family house is a principal permitted use in the R-3 District. The standard appears to be met.

***The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.***

As described above regarding the atypical shape of the lot, a house would not be able to be constructed on the property without at least a slight exception to the Zoning Ordinance requirements. The proposed house is generally in line with the size of other dwellings in the neighborhood. The standard appears to be met.

***A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.***

The request for special exception is not due to any circumstances caused by the applicant themselves and entirely due to the shape of the lot. The standard appears to be met.

***Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.***

There are no practical alternatives to overcome zoning standards other than an exception. The standard appears to be met.

***Relief can be granted in a manner that will not alter the essential character of the locality.***

The proposed house is similar in character as the vicinity. The standard appears to be met.

#### **Discussion of Potential Impacts to Immediate Area**

The use of the shed that crosses the southwest side lot line is shared with the adjacent neighbor. According to the applicants, the shed will be removed for the construction of the proposed house. Given the nature of the situation, it is recommended that the Board request the applicants to provide a signed statement from the adjacent owners to confirm they are in support of the shed's removal and do not object to this request. If the neighbor objects to the sheds removal or there is uncertainty to its status, the Board would be justified to table/continue the public hearing to a later date to have any unresolved questions answered or to deny the request. There would a different analysis to consider if that is the case.

Otherwise, this request is not likely to block any neighbors' view to the lake. The grade of the property is not proposed to be significantly altered, so there are no foreseeable drainage impacts.

#### **Staff Conclusions and Recommendation**

All standards of review appear to be met. Assuming that the adjacent neighbor does not object to the shed being remove, staff recommends approval as recommended.

#### **BOARD DECISION**

The Board of Adjustment may consider the following alternatives:

#### **Alternatives**

1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
2. Grant relief less or different from the requested special exception.
3. Deny the requested special exception.

The following motions are provided for the Board's consideration:

Provided motion of approval:

- I move to adopt the staff report as the Board's findings and to approve the special exception as requested by John and Angela Skarlis, subject to the following conditions:
  1. All construction shall comply with the site plan submitted with the application.
  2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

- I move to adopt the staff report as the Board's findings and to deny the special exception as requested by John and Angela Skarlis for the following reasons:  
[STATE REASONS FOR DENIAL]

<b>EXHIBITS</b>
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- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Aerial photo of site

**Figure 1**  
Looking at the existing house



August 10, 2023, J. Robbins

**Figure 2**  
Looking at the existing storage shed that is built across the southwest side lot line



August 10, 2023, J. Robbins

**Figure 3**

Looking northwest along the southwest side lot line



August 10, 2023, J. Robbins

**Figure 4**

Looking southeast along the southwest lot line



August 10, 2023, J. Robbins

**Figure 5**

Looking northerly along the east side lot line



August 10, 2023, J. Robbins

**Figure 6**

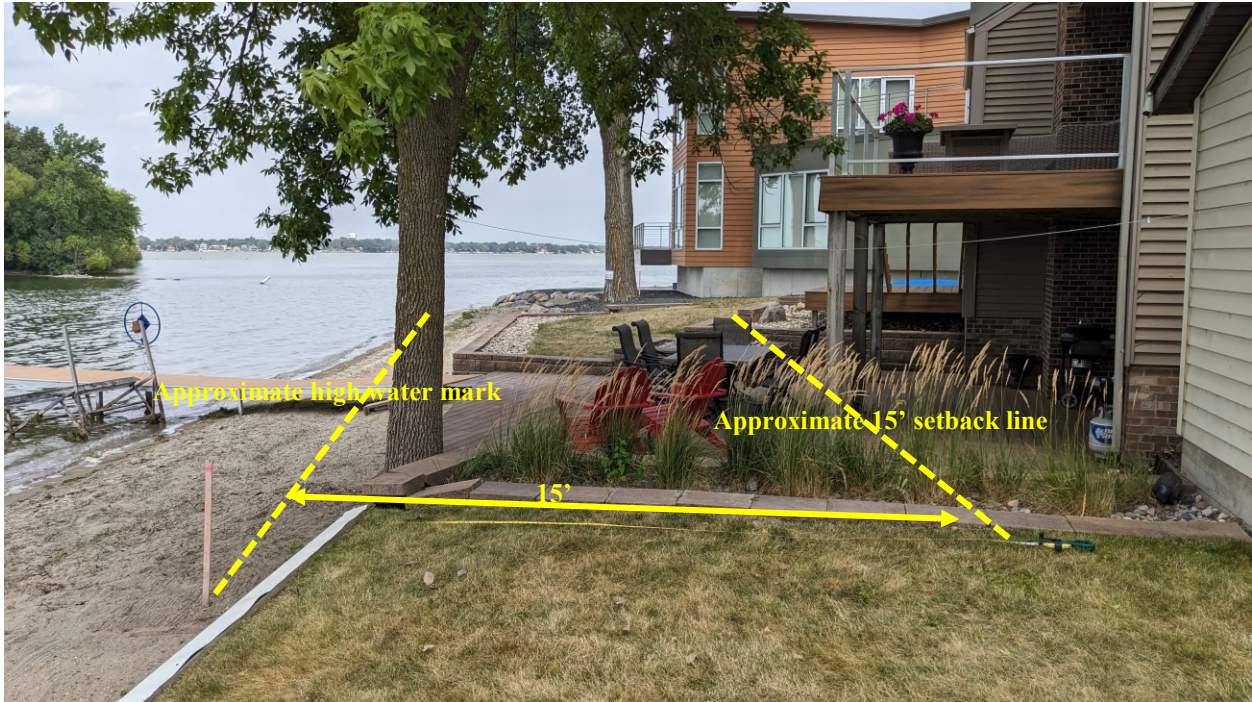
Looking southerly along the east side lot line



August 10, 2023, J. Robbins

**Figure 7**

Looking northeast along the rear lot line (high water mark)



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**Figure 8**

Looking at the stake identifying the high water mark



August 10, 2023, J. Robbins



SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 7-28-23 Date Set for Hearing 8-29-23 Case Number: 23-19

Applicant Name: John Skarlis Phone: (515) 201-0350 E-Mail: jskarlis@makarkeyroofing.com
Mailing Address: 918 Barrington Drive, Cedar Falls, IA 50613
Property Owner Name: John Skarlis Phone: same E-Mail: same
Property Owner Address: 15494 Bayside Ave, Clear Lake Iowa 50428
Property Description (Not to be used on legal documents): Parcel # Township
Property Address: 15494 Bayside Ave, Clear Lake, IA Zoning:
Brief Legal Description:

Project Description New Home Decision Date:

Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)

We are requesting a special exemption being granted of a 50% reduction on both side (North and South) setbacks, as well as the rear setback for the construction of our new home. Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)

These three reductions in setbacks are requested due to practical difficulties due to the size and shape of our building lot. It is not only a narrow lot at the front (East side) but also restricted in the depth of the lot because of the proximity of the shoreline. Also, this will serve as our primary residence and we are purposely limiting the home to one garage stall to create additional bedroom.

I am the [X] Owner [ ] Contract Purchaser [ ] Other (Explain)

of the property affected.

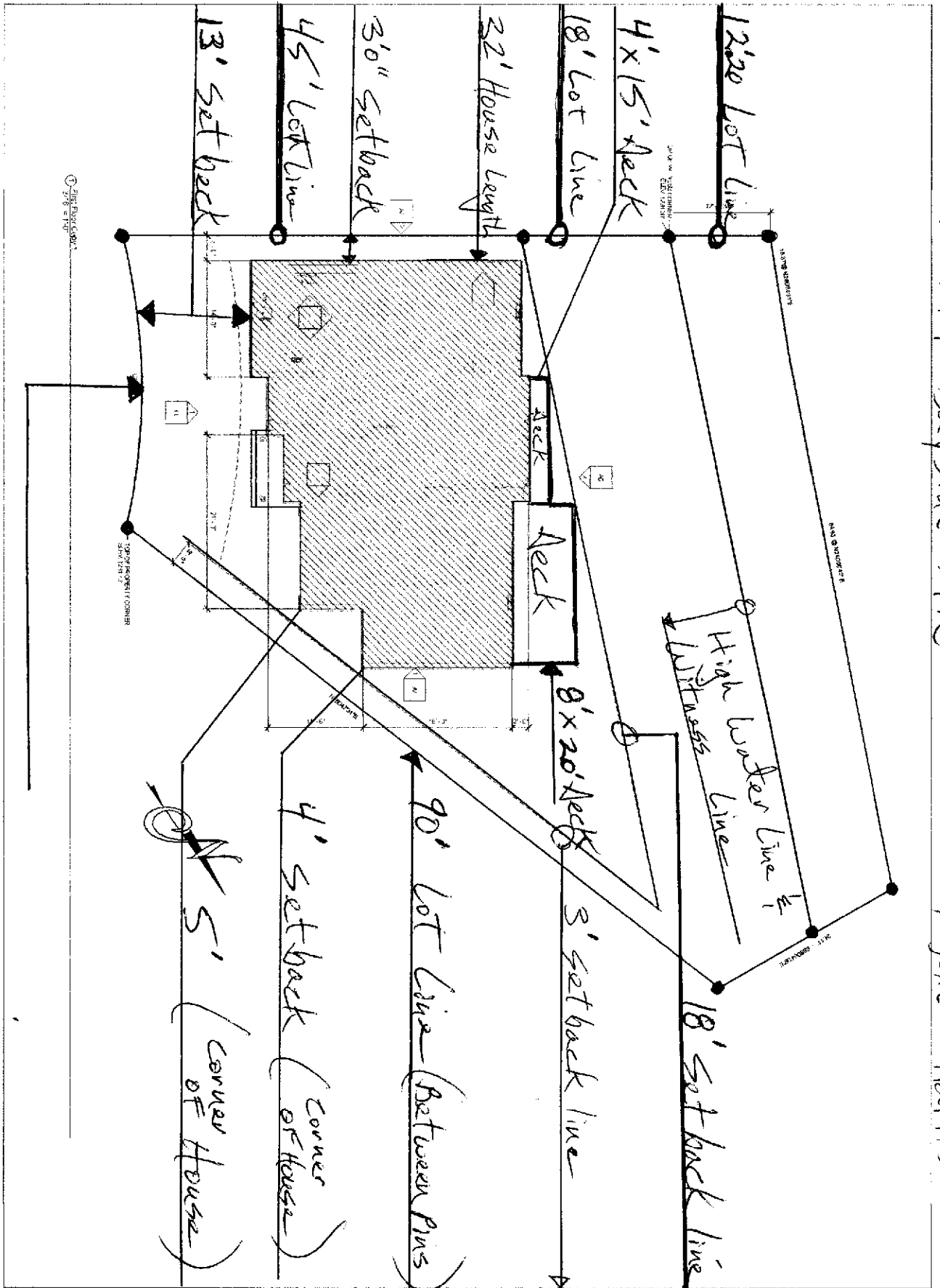
I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; that the application and plan are true and contain a correct description of the proposed building, lot, work, and use to which the structure is to be placed if a special exception is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.

Applicant Signature

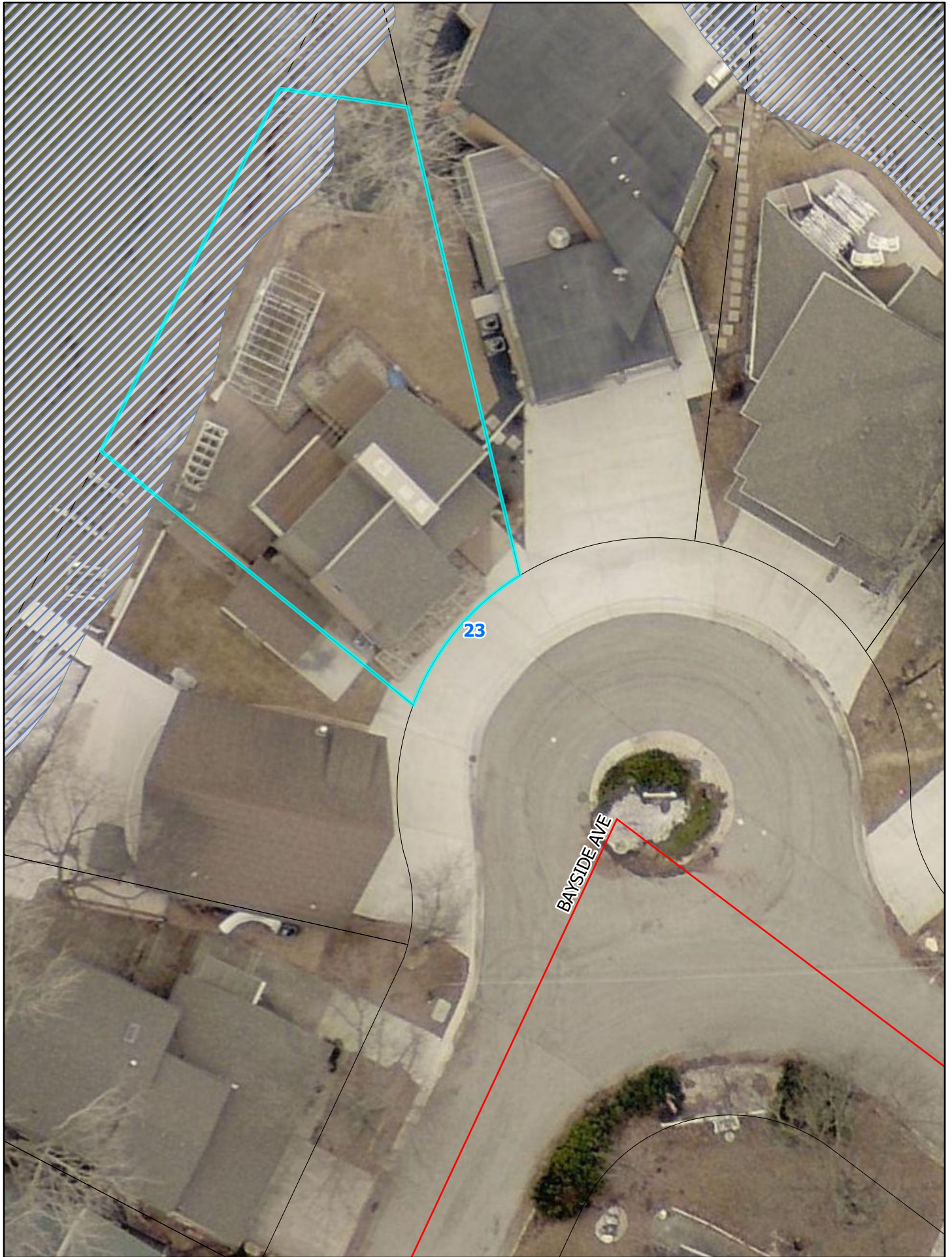
[Handwritten Signature]

Date 07-27-2023

15494 Bayside Ave John and Angela Skarlis



<b>STANDARD SPEC</b> <b>RESUBMIT</b>	
JOHN & ANGELA SKARLIS NEW HOME Site Plan	
No. _____ Description _____ Date _____	No. _____ Description _____ Date _____
<b>C1</b> 2015-1-20	



23

BAYSIDE AVE