

**GREEN LAKE COUNTY  
BOARD OF ADJUSTMENT  
Meeting Minutes – Friday, May 20, 2016**

**CALL TO ORDER**

The meeting of the Board of Adjustment was called to order by Matt Kirkman at 9:01 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende, Janice Hardesty, Nancy Hill, Kathleen Moore

Absent: Ron Triemstra

Also present: Matt Kirkman, Interim Land Development Director/Code Enforcement Officer

Carole DeCramer, Board Secretary

Kate Worth, Worth Court Reporting

Attorney Kristin Galatowitsch, representing the applicants

**APPROVAL OF AGENDA**

**Motion by Hardesty/Hill, unanimously carried, to approve the agenda noting that the minutes, inadvertently not included with the meeting packet, be approved at the next meeting.**

**APPROVAL OF MINUTES**

Per the previous motion, the minutes of June 19, 2015 and January 15, 2016 will be approved at the next scheduled meeting.

**APPROVE THE 2016 BOARD OF ADJUSTMENT CALENDAR**

**Motion by Hill/Moore, unanimously carried, to approve the 2016 Board of Adjustment calendar.**

**ELECTION OF A BOARD OF ADJUSTMENT CHAIR**

Kirkman asked for nominations for Chair.

Nomination of Janice Hardesty as Chair offered by Nancy Hill. No other nominations.

**Motion by Hardesty/Hill, unanimously carried, to close nominations and cast a unanimous ballot for Janice Hardesty.**

Chair Hardesty conducted the remainder of the meeting.

**ELECTION OF BOARD OF ADJUSTMENT VICE CHAIR**

Hardesty asked for nominations for Vice Chair.

Nomination of Nancy Hill as Vice Chair offered by Moore.

Nomination of Kathleen Moore as Vice Chair offered by Hardesty. Moore respectfully declined.

**Motion by Moore/Hill, unanimously carried, to close nominations and cast a unanimous ballot for Nancy Hill.**

**BOARD OF ADJUSTMENT REQUESTS FOR WI-DNR'S VARIANCE OPINIONS**

**See subsequent corrected 05/20/16 minutes. Also, minutes of 6/16/16 and 07/20/18.**

Kirkman – Explained that, with the implementation of Act 170, the state legislature has mandated that the WI-DNR can no longer appeal Board of Adjustment decisions. Further, the WI-DNR cannot send their opinions to the Board of Adjustment unless expressly asked by the Board of Adjustment.

**Motion by Hardesty/Hill, unanimously carried, to request an opinion from the WI-DNR for issues that appear before the Board.** A copy of the letter is filed with the 05/20/16 minutes.

### **RECESS FOR FIELD INSPECTION**

Time: 9:11 a.m.

*Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.*

### **PUBLIC HEARING MATTERS**

Board reconvened at 10:25 a.m.

Chair Hardesty read the Rules of Order.

**Item I: Owner:** Steven & Kathleen Semler **Agent:** Davis Custom Builders, Inc. **Site Description:** N4486 S. Lakeshore Dr., Parcel #016-01510-0100, Part of the NE<sup>1</sup>/<sub>4</sub>, Section 9, T15N, R12E, Town of Princeton **Request:** The owners are requesting a variance from Section 338-23 of the Green Lake County Shoreland Zoning Ordinance to construct a new home within the 25' street-yard setback.

- a. Public hearing.

A new site plan, provided by the builder, was emailed to staff who then forwarded the plans to the Board of Adjustment via email two days prior to the public hearing date.

Hill asked that the meeting packet pages be re-numbered to include the newly-submitted site plan. The board went through the information and numbered the pages accordingly.

Attorney Kristin Galatowitsch, representing Mr. and Mrs. Semler - Spoke for the request. Provided **Exhibit 1** – Soil boring of the site by Kinas Excavating.

Jim Davis, Davis Custom Builders, Inc. – Spoke for the request.

John Nelson, N4462 S. Lakeshore Drive, neighbor located south of the Semler property - Spoke for the request.

Attorney Kristin Galatowitsch, representing Mr. and Mrs. Semler – Commented about the harm to public criteria.

Hardesty reported that the Board of Adjustment received a letter from Town of Princeton Chairman Alan Weckwerth asking that the variance request be denied. **Exhibit 2**

**11:15 a.m. Motion by Hardesty/Hill, unanimously carried to close the public hearing portion of the request.**

- b. Board discussion and deliberation to include relevant correspondence.

**Motion by Hill/Hardesty, unanimously carried, to suspend the rules to allow the Board to ask the audience questions.**

Also present in the audience were Mr. and Mrs. Semler.

The Board discussed at length the following with the builders, owners, neighbor, and attorney:

- Road right-of-way
- Locations of easements, if any
- Soil borings
- The patio, as pictured on the newly-submitted site plan
- Habitation on the north side of the residence
- Erosion and storm water practices
- The slab height for the garage
- The differences in the two building site plans that were provided by the builder.

**Motion by Hill/Moore, unanimously carried, to close the discussion.**

- c. Board decision.

**Motion by Hill to grant a variance from Section 338-23 of the Shoreland Zoning Ordinance to construct a new home within the 25' streetyard setback.**

**The approval would include the following conditions:**

- 1. The property owners install storm water practices that will infiltrate all of the storm water run-off from a two-year rain-fall event.**
- 2. No additional impervious surfaces be created in the form of patios, decks, the 8'X10' patio (if impervious), i.e. anything thing that falls outside of the footprint of the house.**

Kirkman reminded the Board that, with the storm water plan, they are taking the water from the house and eliminating it from running into the lake (for a two-year storm even). You could instead, rather than eliminating any impervious surface, implement a storm water management plan that deals with the principal structure and accessory structures pervious and the lot. That way, if the applicants would want to put in a patio, they can but, it would have to be incorporated into the storm water management plan.

Attorney Galatowitsch suggested that the Board limit the impervious surface to what is listed on the plan (Exhibit 3, page A0.1).

Mr. Semler, earlier in the discussion, stated that these plans are not the final plans because they are paying a lot of money for plans to be drawn; they could change again. The Board members agreed that they are not comfortable with just recently receiving the new plans and now finding out they could change. A decision cannot be made unless the plans are final. Mrs. Semler replied that the newly submitted plans are the final plans. Hill said Mrs. Semler's statement was something that the Board needed to hear. These are the plans that the Board will use to make a final decision. Attorney Galatowitsch agreed that they are the final plans, if the Semler's are granted the variance. Mr. Semler's comment about the plans changing referred to a denial of the variance request. He further stated that the Semlers are comfortable with the new plans with which the Board will make a decision.

Hardesty asked the procedural question as to whether or not this could be adjourned to a later date and not make a decision until the Board has firm plans. Mrs. Semler stated that these are the firm plans and it is now on the record as being such. The new plans are dated 05/03/16. Hardesty asked that the four-page plans be labeled *Exhibit 3*.

**On a motion by Hill/Moore, unanimously carried, to withdraw the previous motion.**

**Motion by Hill/Hardesty, to approve the variance, based on the site plan dated 05/03/16 (*Exhibit 3*), with the following conditions:**

- 1. Record a deed restriction, in accordance with the 05/03/16 plans, stating that a patio, no more than 8'X10', can be allowed.**
- 2. Record a deed restriction stating that, if the Town of Princeton or subsequent municipality finds it necessary to expand the right-of-way, the improvement that is within that expansion and authorized by this variance approval, be removed at the owners' expense.**
- 3. The vegetative buffer be maintained on the north side of the property when construction is complete.**
- 4. The property owners will work with the Green Lake County Land Conservation Department to install storm water practices that will infiltrate all of the storm water runoff from a two-year rain-fall event.**

Further discussion:

The Board discussed the following:

1. Is there unnecessary hardship in this case?

Hardesty – Read the definition of the unnecessary hardship criteria.

Moore – It's not necessary to have a 3-car garage. They have an adequate building envelope. They have a slope, but so do adjacent properties and those property owners have dealt with it. The garage to the south is pushed way back.

Hill – As discussed before, by creating a level area from 25' to the structure, so that it's level so there is no runoff to the house, would require more terracing of the house in some way as they would have to move the side of the house up. The Board does not deal with whether or not that would add increased expense to the property owner.

Kirkman reminded the Board that they can consider the expense; it just can't be their only consideration. He added that the unnecessary hardship is to be derived from the uniqueness of the property.

Hill – It would create a hardship for applicants because they're receiving water, not only from the impervious surface that they currently have, but they're also dealing with water that is running onto their property.

Hardesty – Stated that she doesn't feel that this would be a unique situation; they will still have the runoff. It's not a hardship because it already exists.

2. Are there physical limitations of the property?

Moore – One physical limitation would be the soil boring that was submitted. It is in proximity to the floodplain; the soil profile shows water seeping in at 36". The footings would be sitting in groundwater. If they move the house lake ward, they'll probably have an issue. Alternate locations have been considered.

**See subsequent corrected 05/20/16 minutes. Also, minutes of 6/16/16 and 07/20/18.**

This isn't an extremely large house. There would be a large amount of green space, which is floodplain, which is what needs to be preserved. Slopes on adjoining properties are not different; they've dealt with those.

Hardesty – If the home is moved 25' away from the road, the driveway would have to be pitched down toward the house.

Moore – The applicants did not provide evidence that they couldn't make it smaller or move it forward.

*3. Is there harm to the public interest if the request is approved?*

Hardesty – The board has already discussed access for emergency vehicles.

Moore - You can't get positive drainage on that road. There won't be harm to public if you put the deed restriction on it.

Hill – There is no harm to the public interest; it's beneficial to the public because it is preventing more runoff to the lake. Land Conservation will be used to help design and implement this plan.

**Roll call: Hardesty – nay, Hill – aye, Moore – aye.**

**Variance granted with conditions.**

**ADJOURN**

**On a motion by Hill/Moore, unanimously carried, to adjourn.**

Time: 12:26 a.m.

**RECORDED BY:**

Carole DeCramer

Board of Adjustment Secretary

**APPROVED ON:**

November 18, 2016

# Kinas Excavating, Inc.

Basements • Driveways • Septic systems - all types • Mound Systems  
Site Preparation • Land Clearing • Demolition • Topsoil • Trucking  
Soil and Site Evaluation • Sewer & Water - mains, laterals, repairs • Ponds  
Rip-rapping • Ditch Cleaning  
N6205 N. Lawson Drive, Green Lake, WI 54941  
Green Lake (920) 294-3879 • Markesan (920) 398-3431 • Fax (920) 294-3455

May 11, 2016

Davis Custom Builders  
Attn: Jim  
PO Box 537  
Ripon, WI 54971

Re: Semler Site

On May 4, 2016 Bill Kinas, of Kinas Excavating, dug an auger bore at N4486 Lakeshore Dr., Princeton at the request of Davis Custom Builders.

A bore was dug approximately 30' east of the present house location. The bore was dug to a depth of 40". The first 18" was sand fill before going into the original sand. This showed some Mottling. From 18" to 36" the soil was mottled heavily with free water running in at a depth of 36".

The purpose of the bore was to determine the depth to free water. The bore was not done with the intention for any structural bearing capabilities.

  
Bill Kinas  
Kinas Excavating

**EXHIBIT**  
Semler 5-20-16  
Ex. 1 KFW

Town of Princeton  
Green Lake County, WI

May 12, 2016

Hello:

The board for the Town of Princeton has reviewed the variance request for Mr. Steven and Kathleen Semler at N4486 South Lakeshore Dr. in the Town of Princeton. The Town Board would ask the variance be denied to construct a new home within the 25' street yard setback.

A road way is built within a road right of way with a crown in a road so storm water drains from the road way into the right of way which is to convey water down away from the road bed. In the winter time snow is pushed from the roadway into the right of way clearing the pavement.

When a house is built right on the edge of the right of way, there is no place for personal property to park off the right of way on private property; rather these personal items are parked within the right of way.

One reason for a 25' setback is a front yard for personal property. The right of way is part of the storm water management and storage of snow in winter. When the right of way is plugged with driveways and personal property this cannot happen.

The town would ask for consideration of the intent of right of way as part of storm water management and not a place for personal property.

Thank you,

Allan Weckwerth

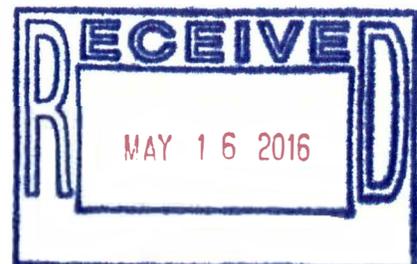
Town of Princeton Chair

W4350 Old Green Lake Rd.

Princeton, WI 54968

920-295-4057

**EXHIBIT**  
*Semler 5-2016*  
*Ex. 2 KFW*





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PROJECT No.  
**16.2.01**

STAFF CREDITS  
DRAWN  
**Paul Fikse**  
PROJECT MANAGEMENT  
**Paul Fikse**

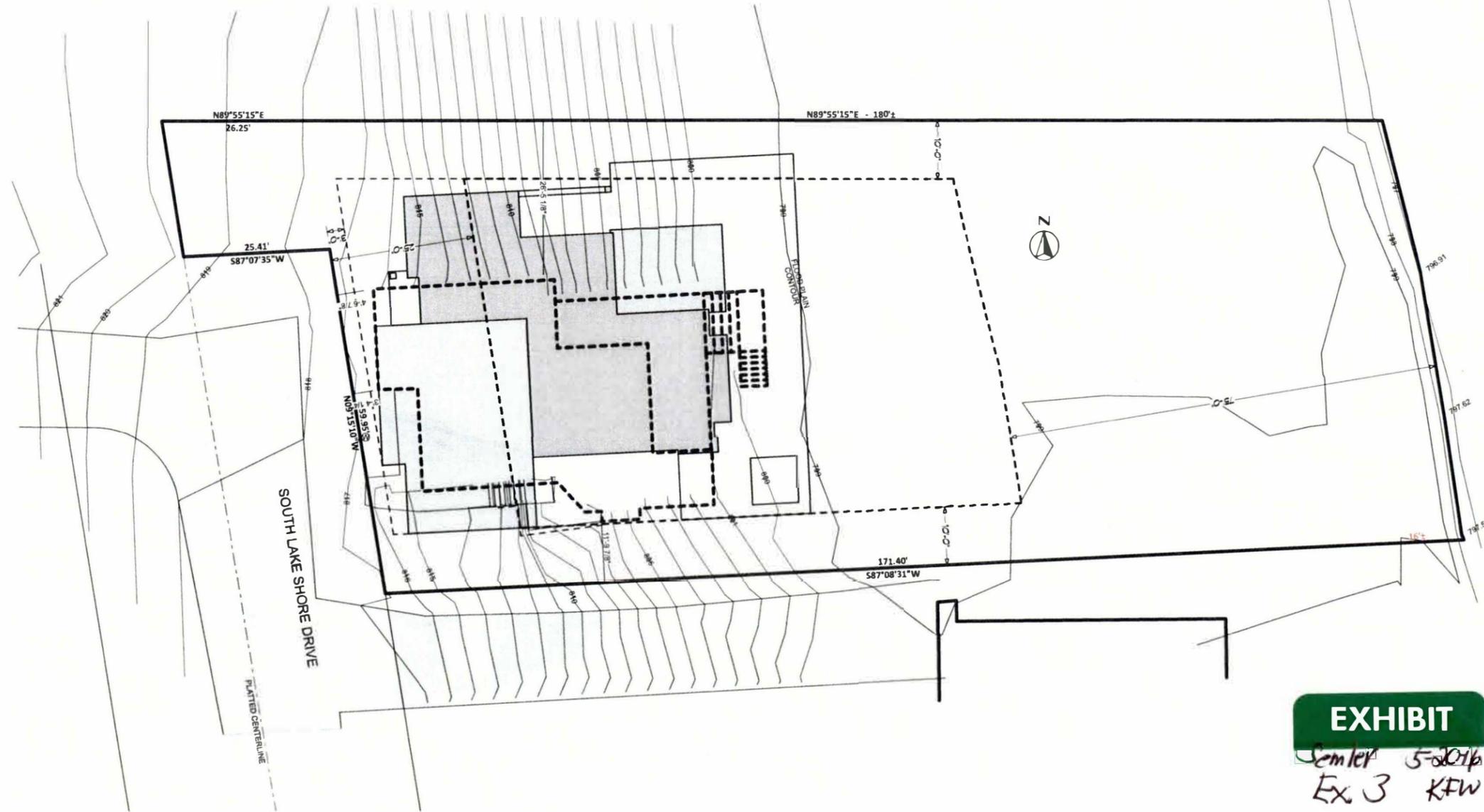
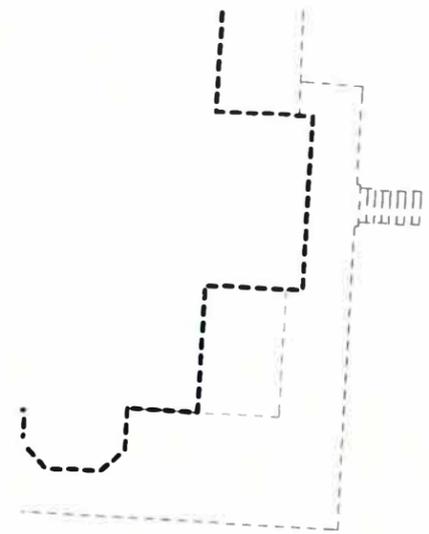
PROJECT  
**Steve &  
Kathleen  
SEMLER  
Cottage**  
**GREEN LAKE  
Wisconsin**

SHEET TITLE  
**SITE  
PLAN**

DATE  
**5/3/16**

ISSUE DESCRIPTION  
**DESIGN  
DEVELOPMENT**

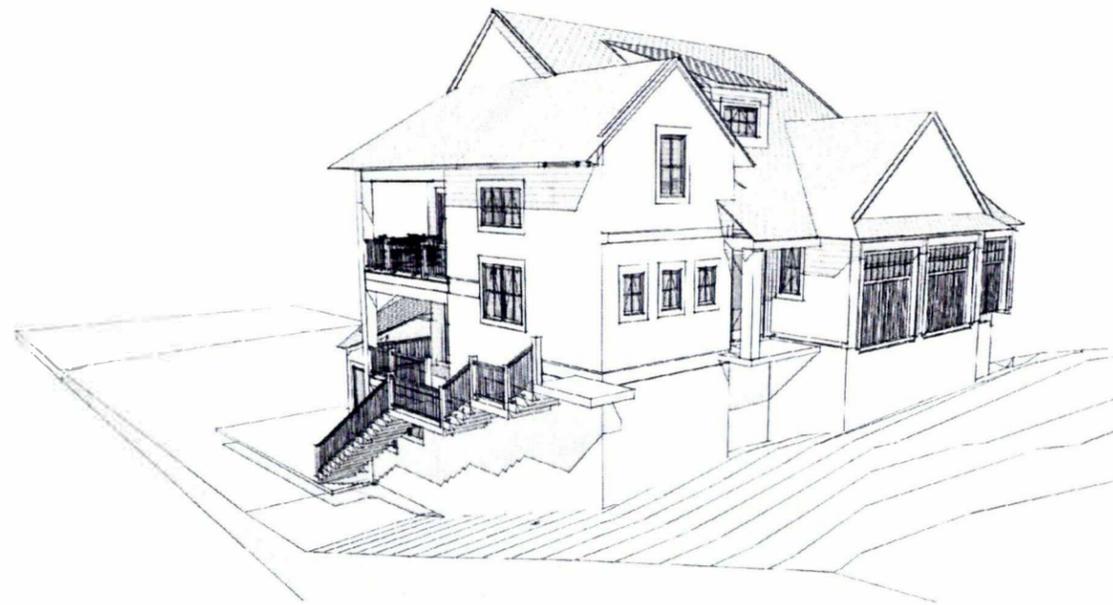
SHEET NO.  
**A0.1**



**EXHIBIT**  
*Semler 5-2016*  
*Ex. 3 KFW*



**1 SITE PLAN**  
SCALE: 1"=10'



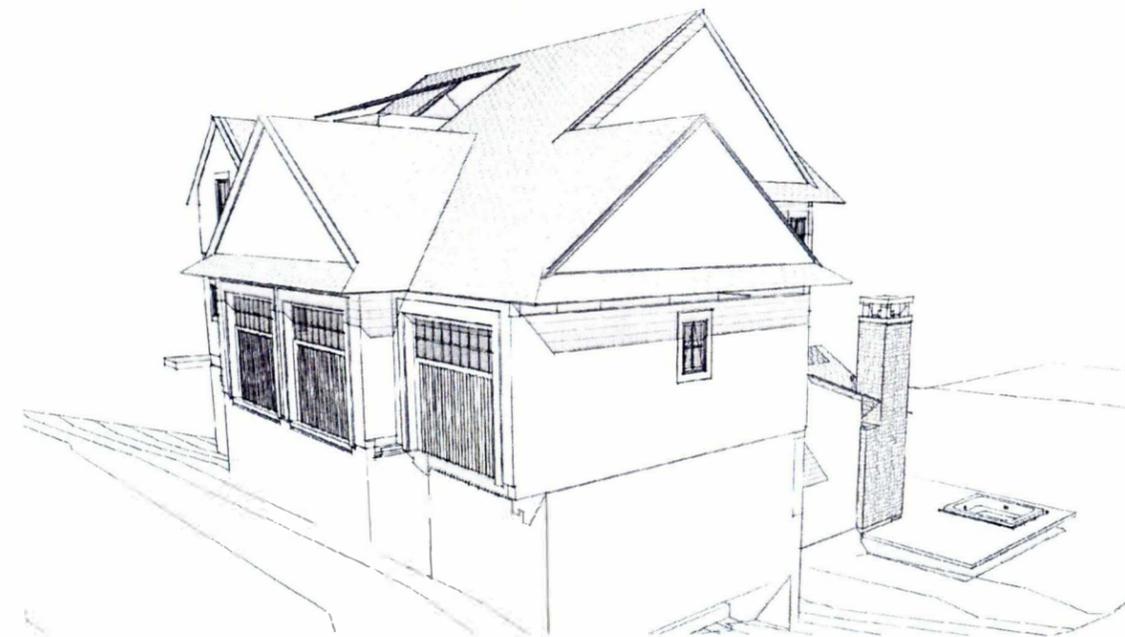
1 NORTH WEST



2 NORTH EAST



3 SOUTH EAST



4 SOUTH WEST



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PROJECT  
**16.2.01**

STAFF CREDITS  
DRAWN **DF +**  
PROJECT MANAGEMENT  
**Paul Fikse**

PROJECT  
**Steve &  
Kathleen  
SEMLER  
Cottage**

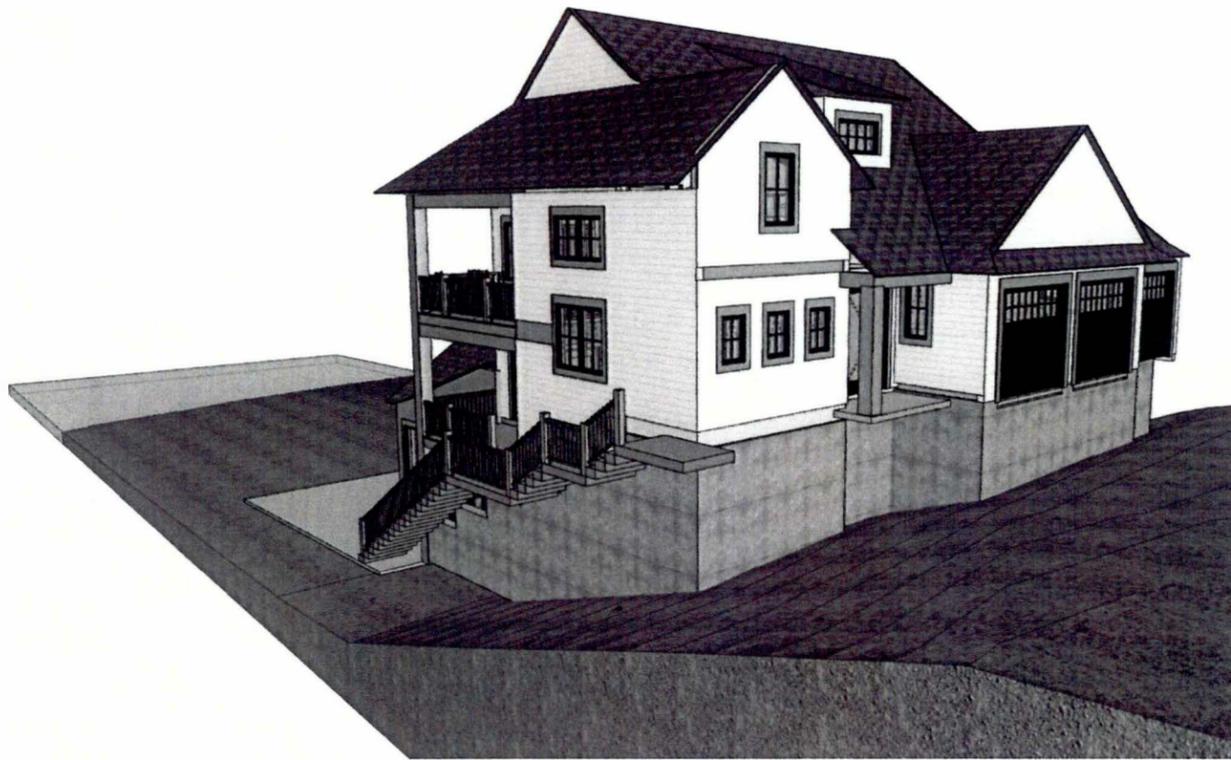
**GREEN LAKE  
Wisconsin**

SHEET TITLE  
**CADD  
MODEL  
VIEWS  
Rendered  
Type**

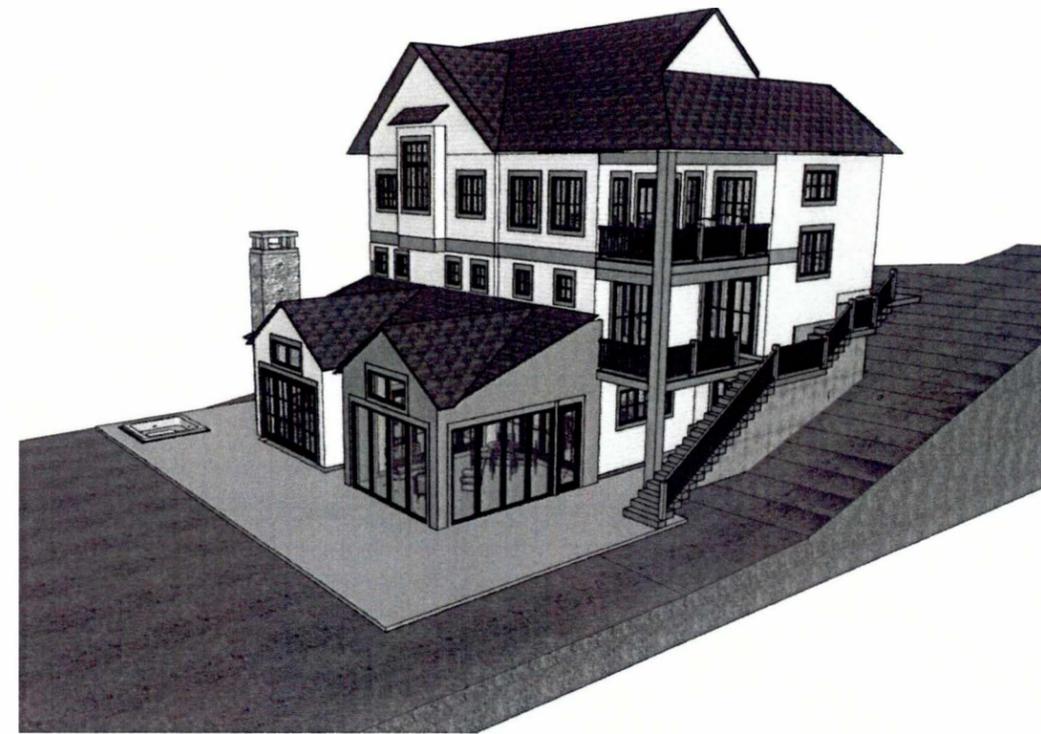
DATE  
**5/3/16**

ISSUE DESCRIPTION  
**DESIGN  
DEVELOPMENT**

SHEET NO.  
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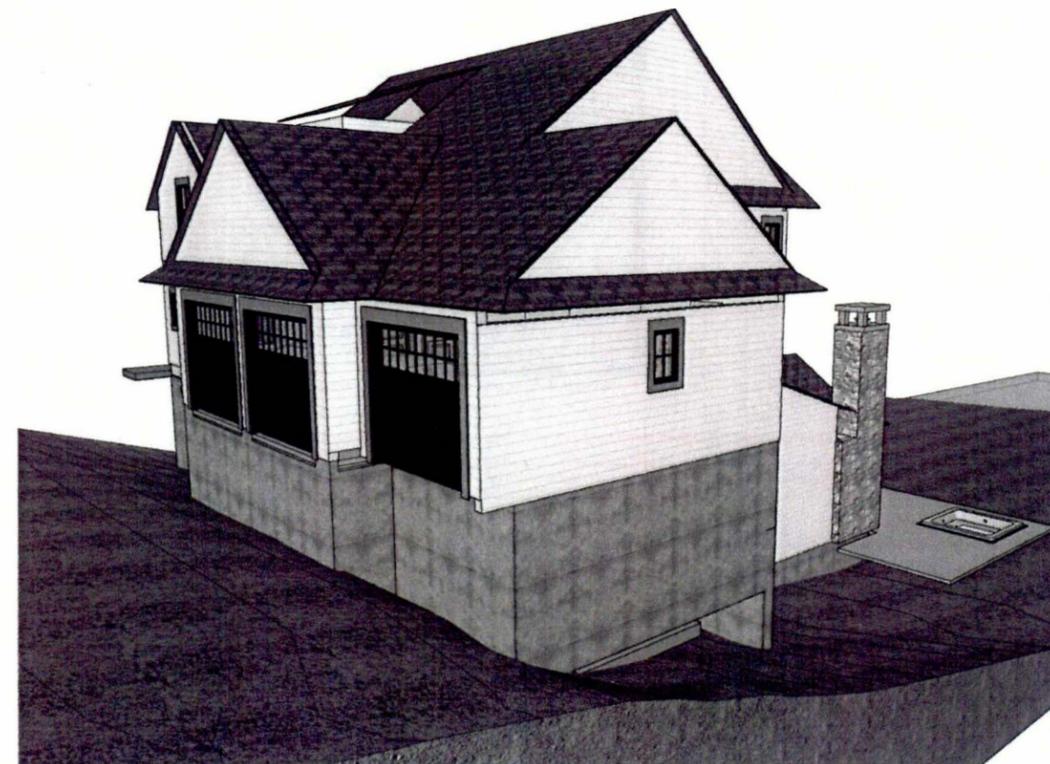
① NORTH WEST



② NORTH EAST



③ SOUTH EAST



④ SOUTH WEST



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PROJECT No.  
**16.2.01**

STAFF CREDITS  
DRAWN: **PF**  
PROJECT MANAGEMENT:  
**Paul Fikse**

PROJECT  
**Steve &  
Kathleen  
SEMLER  
Cottage**  
  
GREEN LAKE  
Wisconsin

SHEET TITLE  
**CADD  
MODEL  
VIEWS**  
Model Type

DATE  
**5/3/16**

ISSUE DESCRIPTION  
**DESIGN  
DEVELOPMENT**

SHEET NO.  
**A0.5**



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PROJECT NO.  
**16.2.01**

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DRAWN  
**Paul Fikse**  
PROJECT MANAGEMENT  
**Paul Fikse**

PROJECT  
**Steve &  
Kathleen  
SEMLER  
Cottage**  
**GREEN LAKE  
Wisconsin**

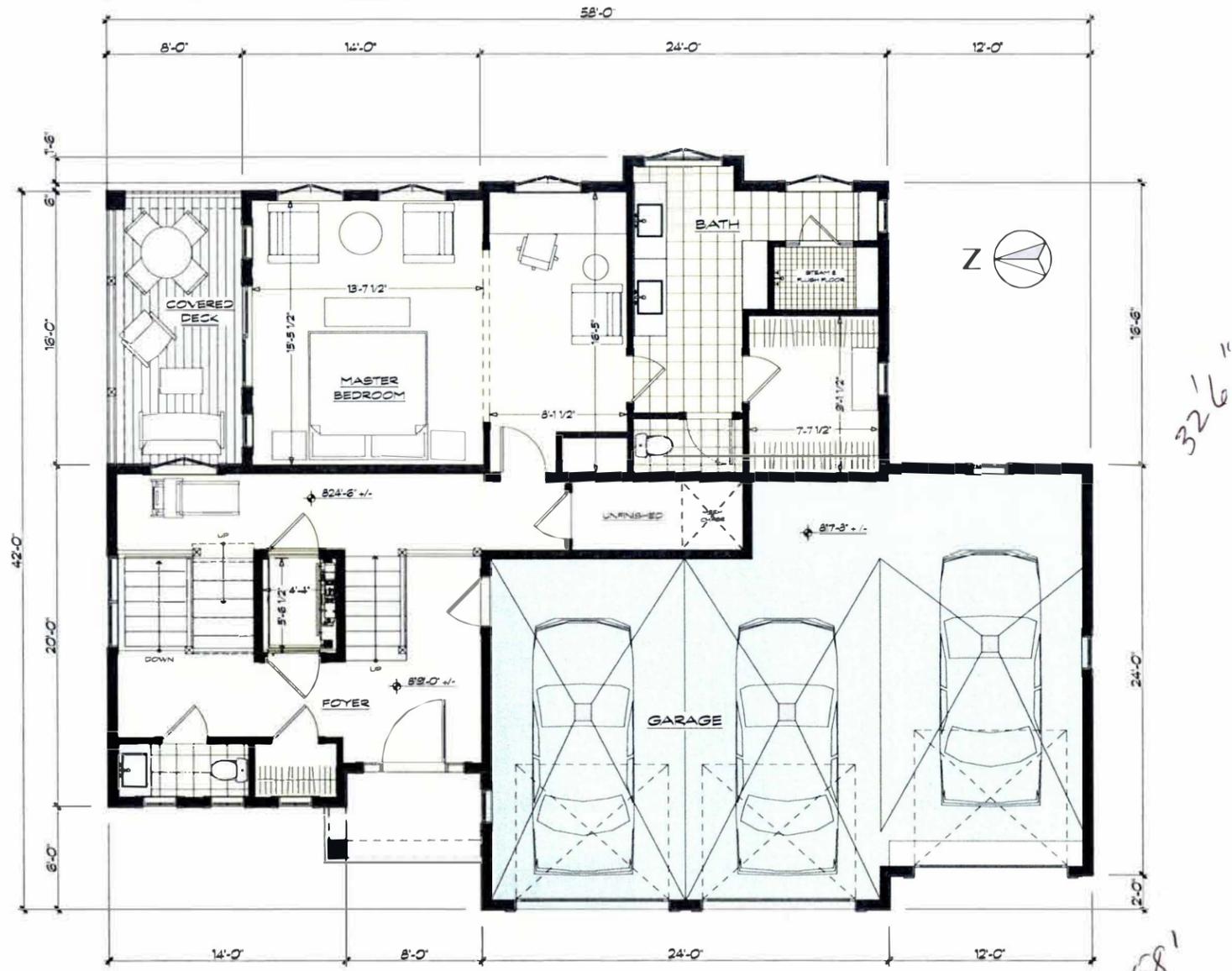
SHEET TITLE  
**ENTRY &  
UPPER  
LEVEL  
DESIGN  
FLOOR  
PLAN**

DATE  
**5/3/16**

SHEET DESCRIPTION  
**DESIGN  
DEVELOPMENT**

SHEET NO.  
**A2.1**

Square Footage:	
INTERIOR	817 sq ft
ENTRY LEVEL	235 sq ft
GARAGE	790 sq ft
UNFINISHED	48 sq ft



**1 ENTRY & UPPER LEVEL DESIGN FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



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PROJECT No.:  
**16.2.01**

STAFF CREDITS  
DRAWN: **Paul Fikse**  
PROJECT MANAGEMENT:  
**Paul Fikse**

PROJECT:  
**Steve & Kathleen  
SEMLER  
Cottage**  
  
GREEN LAKE  
Wisconsin

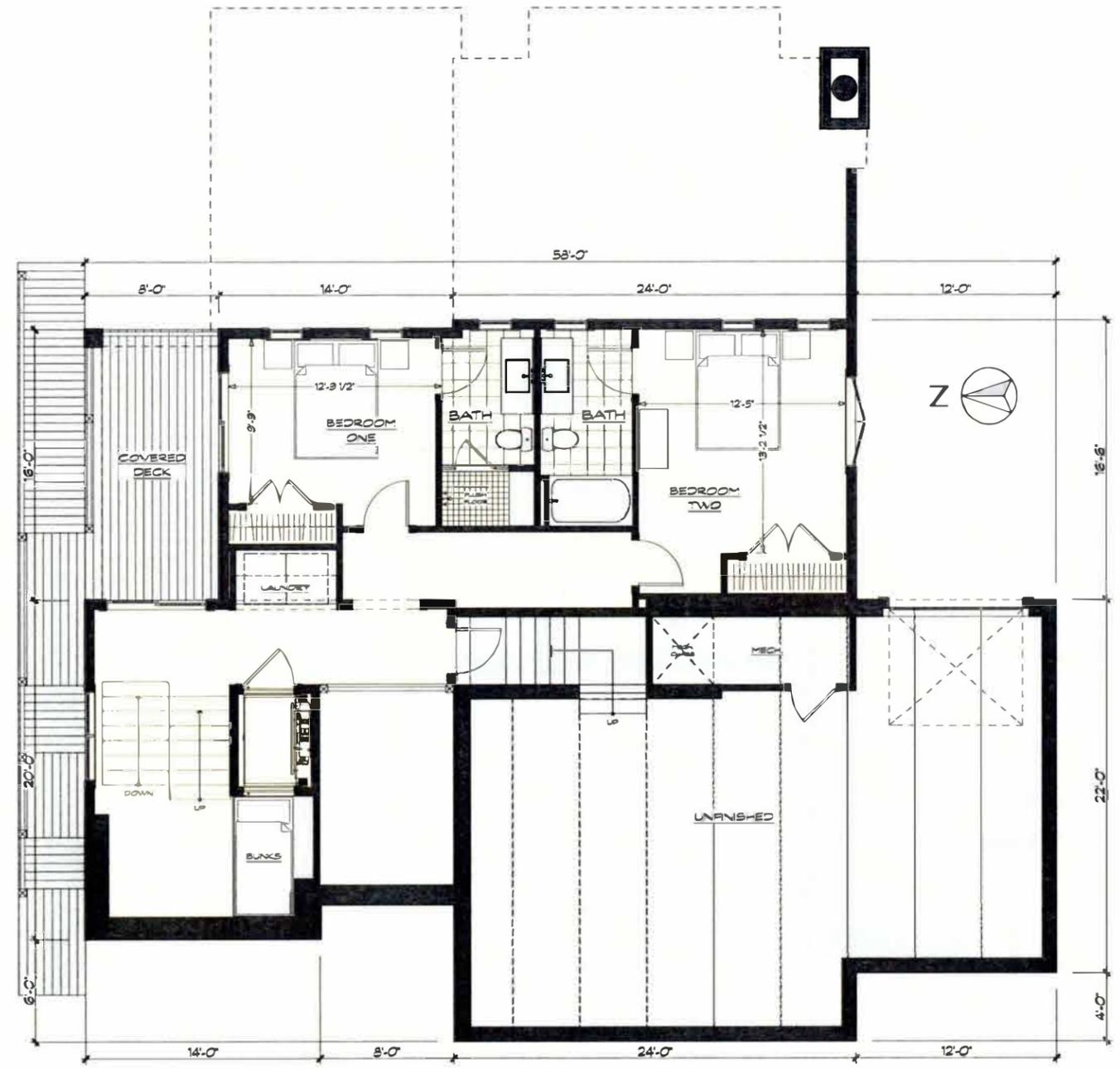
SHEET TITLE:  
**MID  
LEVEL  
DESIGN  
FLOOR  
PLAN**

DATE:  
**5/3/16**

ISSUE DESCRIPTION:  
**DESIGN  
DEVELOPMENT**

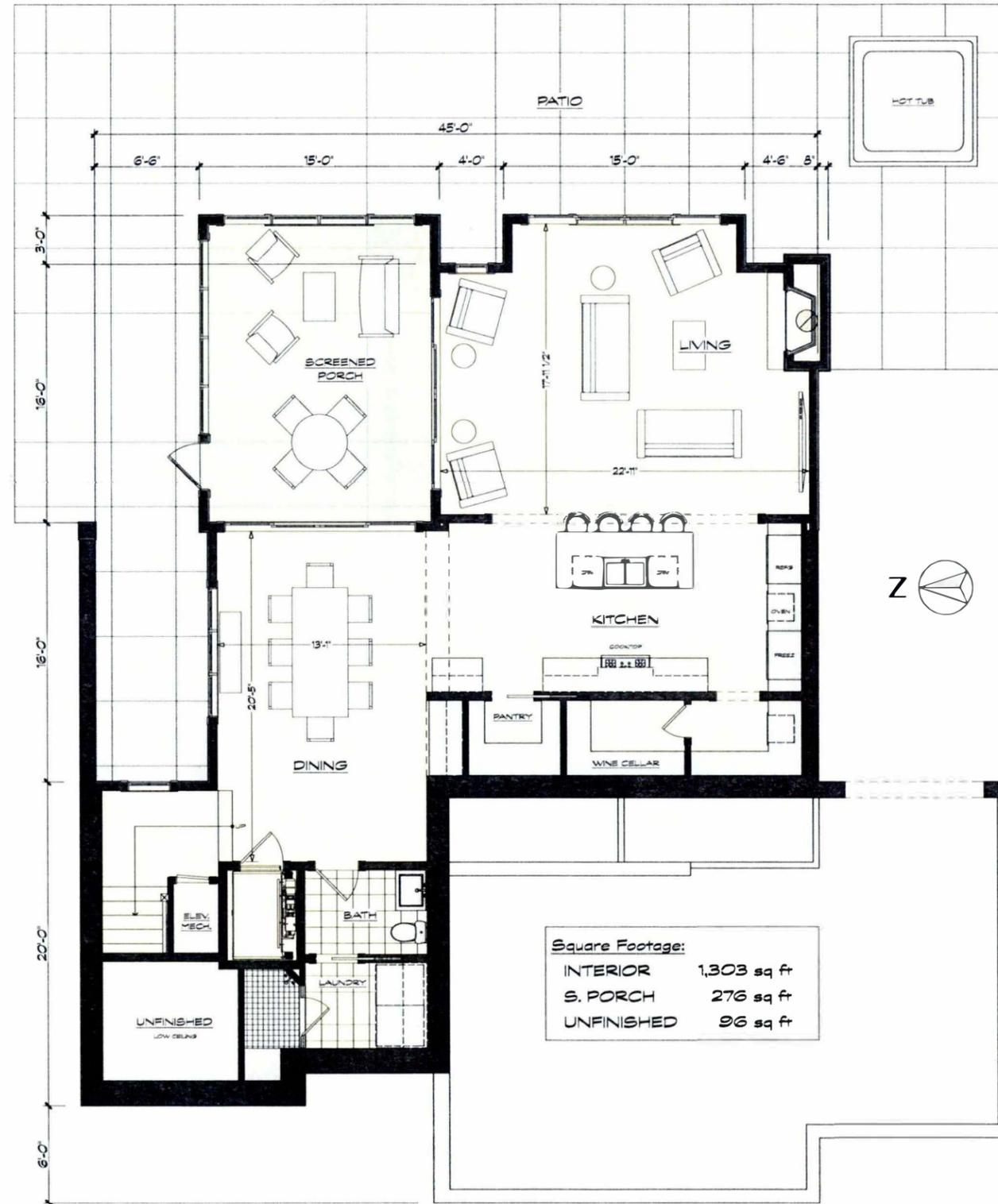
SHEET NO.:  
**A2.2**

Square Footage:  
INTERIOR 917 sq ft  
UNFINISHED 778 sq ft



1 MID LEVEL DESIGN FLOOR PLAN  
SCALE 1/4" = 1'-0"





**Square Footage:**

INTERIOR	1,303 sq ft
S. PORCH	276 sq ft
UNFINISHED	96 sq ft

**2 LOWER LEVEL DESIGN FLOOR PLAN**

SCALE 1/4" = 1'-0"



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PROJECT No.  
**16.2.01**

STAFF CREDITS  
DRAWN  
**Paul Fikse**  
PROJECT MANAGEMENT  
**Paul Fikse**

PROJECT  
**Steve & Kathleen  
SEMLER  
Cottage**  
  
GREEN LAKE  
Wisconsin

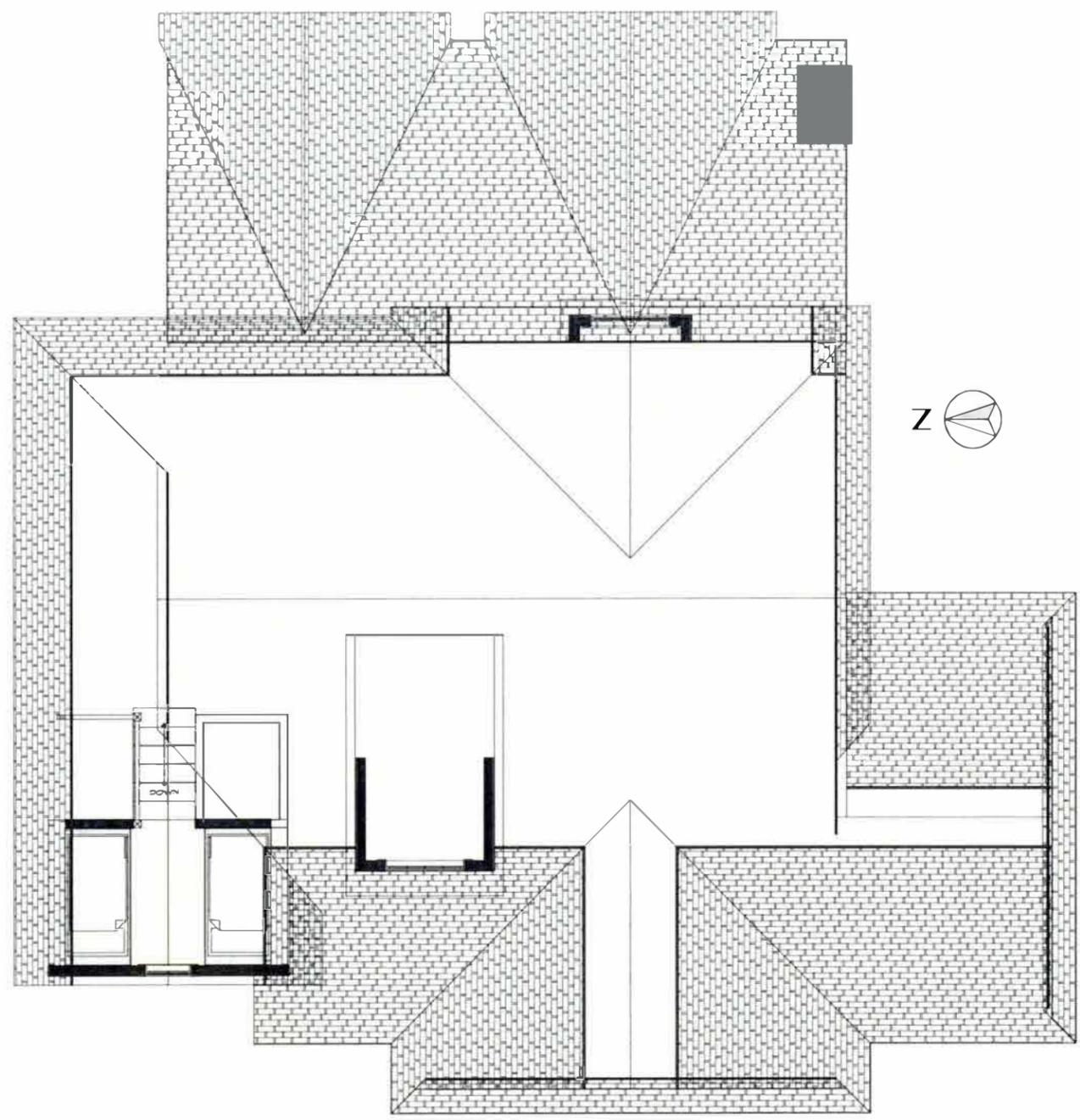
SHEET TITLE  
**LOWER  
LEVEL  
DESIGN  
FLOOR  
PLAN**

DATE  
**5/3/16**

ISSUE DESCRIPTION  
**DESIGN  
DEVELOPMENT**

SHEET NO.  
**A2.3**

Square Footage:  
INTERIOR 107 sq ft



1 LOFT LEVEL DESIGN FLOOR PLAN  
SCALE 1/4" = 1'-0"



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PROJECT No.:  
**16.2.01**

STAFF CREDITS  
DRAWN: **Paul Fike**  
PROJECT MANAGEMENT: **Paul Fike**

PROJECT:  
**Steve &  
Kathleen  
SEMLER  
Cottage**  
  
**GREEN LAKE  
Wisconsin**

SHEET TITLE:  
**LOFT  
LEVEL  
DESIGN  
FLOOR  
PLAN**

DATE:  
**5/3/16**

ISSUE DESCRIPTION:  
**DESIGN  
DEVELOPMENT**

SHEET NO.:  
**A2.4**

## Corrected Minutes

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BOARD OF ADJUSTMENT  
Meeting Minutes – Friday, May 20, 2016**

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Absent: Ron Triemstra

Also present: Matt Kirkman, Interim Land Development Director/Code Enforcement Officer  
Carole DeCramer, Board Secretary  
Kate Worth, Worth Court Reporting  
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- The slab height for the garage
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Kirkman reminded the Board that, with the storm water plan, they are taking the water from the house and eliminating it from running into the lake (for a two-year storm even). You could instead, rather than eliminating any impervious surface, implement a storm water management plan that deals with the principal structure and accessory structures pervious and the lot. That way, if the applicants would want to put in a patio, they can but, it would have to be incorporated into the storm water management plan.

Attorney Galatowitsch suggested that the Board limit the impervious surface to what is listed on the plan (Exhibit 3, page A0.1).

Mr. Semler, earlier in the discussion, stated that these plans are not the final plans because they are paying a lot of money for plans to be drawn; they could change again. The Board members agreed that they are not comfortable with just recently receiving the new plans and now finding out they could change. A decision cannot be made unless the plans are final. Mrs. Semler replied that the newly submitted plans are the final plans. Hill said Mrs. Semler's statement was something that the Board needed to hear. These are the plans that the Board will use to make a final decision. Attorney Galatowitsch agreed that they are the final plans, if the Semler's are granted the variance. Mr. Semler's comment about the plans changing referred to a denial of the variance request. He further stated that the Semlers are comfortable with the new plans with which the Board will make a decision.

## Corrected Minutes

Hardesty asked the procedural question as to whether or not this could be adjourned to a later date and not make a decision until the Board has firm plans. Mrs. Semler stated that these are the firm plans and it is now on the record as being such. The new plans are dated 05/03/16. Hardesty asked that the four-page plans be labeled *Exhibit 3*.

*Please see notes following this motion/discussion regarding subsequent corrections.*

**On a motion by Hill/Moore, unanimously carried, to withdraw the previous motion.**

**Motion by Hill/Hardesty, to approve the variance, based on the site plan dated 05/03/16 (*Exhibit 3*), with the following conditions:**

- 1. Record a deed restriction, in accordance with the 05/03/16 plans, stating that a patio, no more than 8'X10', can be allowed.**
- 2. Record a deed restriction stating that, if the Town of Princeton or subsequent municipality finds it necessary to expand the right-of-way, the improvement that is within that expansion and authorized by this variance approval, be removed at the owners' expense.**
- 3. The vegetative buffer be maintained on the north side of the property when construction is complete.**
- 4. The property owners will work with the Green Lake County Land Conservation Department to install storm water practices that will infiltrate all of the storm water runoff from a two-year rain-fall event.**

Further discussion:

The Board discussed the following:

*1. Is there unnecessary hardship in this case?*

Hardesty – Read the definition of the unnecessary hardship criteria.

Moore – It's not necessary to have a 3-car garage. They have an adequate building envelope. They have a slope, but so do adjacent properties and those property owners have dealt with it. The garage to the south is pushed way back.

Hill – As discussed before, by creating a level area from 25' to the structure, so that it's level so there is no runoff to the house, would require more terracing of the house in some way as they would have to move the side of the house up. The Board does not deal with whether or not that would add increased expense to the property owner.

Kirkman reminded the Board that they can consider the expense; it just can't be their only consideration. He added that the unnecessary hardship is to be derived from the uniqueness of the property.

Hill – It would create a hardship for applicants because they're receiving water, not only from the impervious surface that they currently have, but they're also dealing with water that is running onto their property.

Hardesty – Stated that she doesn't feel that this would be a unique situation; they will still have the runoff. It's not a hardship because it already exists.

*2. Are there physical limitations of the property?*

## Corrected Minutes

Moore – One physical limitation would be the soil boring that was submitted. It is in proximity to the floodplain; the soil profile shows water seeping in at 36”. The footings would be sitting in groundwater. If they move the house lake ward, they’ll probably have an issue. Alternate locations have been considered. This isn’t an extremely large house. There would be a large amount of green space, which is floodplain, which is what needs to be preserved. Slopes on adjoining properties are not different; they’ve dealt with those.

Hardesty – If the home is moved 25’ away from the road, the driveway would have to be pitched down toward the house.

Moore – The applicants did not provide evidence that they couldn’t make it smaller or move it forward.

3. Is there harm to the public interest if the request is approved?

Hardesty – The board has already discussed access for emergency vehicles.

Moore - You can’t get positive drainage on that road. There won’t be harm to public if you put the deed restriction on it.

Hill – There is no harm to the public interest; it’s beneficial to the public because it is preventing more runoff to the lake. Land Conservation will be used to help design and implement this plan.

**Roll call: Hardesty – nay, Hill – aye, Moore – aye.**

**Variance granted with conditions.**

*The conditions, as listed above, were corrected at subsequent meetings.*

***Note 1: At the 06/16/16 meeting, the Board of Adjustment reviewed the conditions and, ultimately, deleted the condition that read: “Record a deed restriction stating that, if the Town of Princeton or subsequent municipality finds it necessary to expand the right-of-way, the improvement that is within that expansion and authorized by this variance approval, be removed at the owners’ expense.”***

***Note 2: In June, 2018, upon reviewing the 5/20/16 audio tape of this meeting, the conditions of approval were found to be recorded incorrectly. The following is the list of corrected conditions as listed on the audio tape:***

1. The property owners will install stormwater management practices that will infiltrate all of the stormwater run-off from the impervious surfaces of the principal building structure for a two-year rain-fall event.
2. Record a deed restriction, in accordance with the 05/03/16 plans, stating that a patio, no more than 8’X10’, can be allowed.
3. ~~Record a deed restriction stating that, if the Town of Princeton or subsequent municipality finds it necessary to expand the right-of-way, the improvement that is within that expansion and authorized by this variance approval, be removed at the owners’ expense.~~
4. The vegetative buffer be maintained on the north side of the property when construction is complete.

***The Board of Adjustment, at its July 20, 2018, meeting, took action to correct the May 20, 2016 minutes and the June 16, 2016 minutes to reflect the aforementioned corrections.***

## Corrected Minutes

### **ADJOURN**

**On a motion by Hill/Moore, unanimously carried, to adjourn.**

Time: 12:26 a.m.

### **RECORDED BY:**

Carole DeCramer

Board of Adjustment Secretary

### **APPROVED ON:**

November 18, 2016