

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: September 20, 2022

RE: Variance Application for 1040 E. Florida Ave. (31-1-5011-00)

**Description of Proposal**

The applicant proposes to erect a six (6) foot fence on the front property line. Section 23-44(a)(1)(a) of the Zoning Ordinance limits fence height to three (3) feet in the front yard. The fence is in the vision corner. Section 23-50(g)(2) of the Zoning Ordinance limits fence height to three (3) feet in the vision corner.

**Impact on the Neighborhood**

In the application, the applicant states that the fence does not infringe on any major views, nor does it cause any traffic safety issues.

**Unique Condition**

In the application, the applicant states that the lot is irregular, and the backyard can be viewed by numerous neighbors.

**Hardship**

In the application, the applicant states that if they have to move the fence in any way, they will lose the use of the lot that they are accustomed to utilizing.

**Staff Analysis**

This lot is 14,842 sq. ft. The minimum size lot in the R1A zoning district is 8,000 sq. ft.

The fence was along the front property line. The fence could be moved back twenty (20) feet and the applicant could still utilize their back yard and be provided privacy. No hardship based on dimensional limitations was noted in the application. The review criteria has not been met.

Return to: Department of Public Works  
 Inspection Division  
 100 North Appleton Street  
 Appleton, Wisconsin 54911  
 (920) 832-6411

## City of Appleton Application for Variance

Application Deadline August 29, 2022 Meeting Date September 19, 2022 7pm

Please write legibly and also submit a complete reproducible site plan (maximum size 11" x 17"). A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each. There is a non-refundable \$125.00 fee for each variance application. The nonrefundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) <b>1040 E FLORIDA AVE</b>	Parcel Number <b>31-1-5011-00</b>
Zoning District <b>R1A</b>	Use of Property <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial

Applicant Information	
Owner Name <b>Michael Jameson</b>	Owner Address <b>1040 E FLORIDA AVE APPLETON WI 54911</b>
Owner Phone Number	Owner E Mail address (optional)
Agent Name <b>Monica <del>Baird</del> Bailled</b>	Agent Address <b>1040 E FLORIDA AVE APPLETON WI 54911</b>
Agent Phone Number <b>715-340-8825</b>	Agent E Mail address (optional) <b>Moniema88@gmail.com</b>

Variance Information
Municipal Code Section(s) Project Does not Comply <b>Section 23-44(a)(1)(a) Fence may be no higher than three (3) feet in the front yard setback.            Section 23-50(g)(2) Fence erected in vision corner of private drive may be no higher than three (3) feet.</b>
Brief Description of Proposed Project <b>Erect a six (6) foot fence on the front property line. Section 23-44(a)(1)(a) of the Zoning Ordinance requires that fences in the front yard setback are no higher than three (3) feet.            Erect a six (6) foot fence in the vision corner of a private drive. Section 23-50(g)(2) of the Zoning Ordinance limits fences in the vision corner to three (3) feet.</b>

Owner's Signature (Required): *Michael Jameson* Date: *8/29/22*

Recp 3983-0003

Return to: Department of Public Works  
Inspection Division  
100 North Appleton Street  
Appleton, Wisconsin 54911  
(920) 832-6411

Please See Attached

## Questionnaire

In order to be granted a variance each applicant must be able to prove that an unnecessary hardship would be created if the variance were not granted. The burden of proving an unnecessary hardship rests upon the applicant. The attached sheet provides information on what constitutes a hardship. (Attach additional sheets, if necessary, to provide the information requested. Additional information may be requested as needed.

1. Explain your proposed plans and why you are requesting a variance:
2. Describe how the variance would not have an adverse impact on the surrounding properties:
3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:
4. Describe the hardship that would result if your variance were not granted:

Monday, August 29th, 2022

Application Deadline: August 29th, 2022

Meeting Date: September 19, 2022 (Subject to Change)

## City of Appleton Application of Variance Fence Questionnaire Answers

- **Address of Property (Variance Requested):**
  - 1040 E Florida Ave., Appleton, WI 54911
- **Use of Property**
  - Residential
- **Parcel Number:**
  - 31-1-5011-00
- **Zoning District:**
  - R1A

### Applicant Information:

**Owner:** Michael Jameson.  
**Owner Address:** 1040 E Florida Ave, Appleton, WI 54911  
**Owner Phone No.:** 714-498-1218  
**Owner Email Address:** [shaqman@icloud.com](mailto:shaqman@icloud.com)

**Agent Name:** Monica Baillod  
**Agent Address:** 1040 E Florida Ave., Appleton, WI 54911  
**Agent Phone No.:** 715-340-8825  
**Agent Email Address:** [moniemae88@gmail.com](mailto:moniemae88@gmail.com)

**Please see Public Works Worksheet for Variance Information such as:**

- *Municipal Code Section(s) / Project Compliancy*
- *Brief Description of Proposed Project*
- *Questionnaire*
  - *Please see attached sheets for Questionnaire answers*

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1: The proposed plan is to keep the property's fence as is. This variance is being requested because as homeowners we did do our due diligence in regards to taking all mandatory and necessary steps prior to building the fence. We were sure we were under full compliance with the City of Appleton. We first had the land of the property surveyed by Carlow Land Surveying Co., Inc. to be definite and assured as to the legal boundaries of the address that pertains to this application for variance. When we were in the process of shopping for our forever home, we took into consideration at each property we looked at in terms of the lot size, especially the backyard, where we would be spending the majority of our time as a family. The yard, especially the backyard, was just as important to us as the house itself, because we already had plans to make our back yard somewhat of a serene getaway. Two large requirements of our home buying process included both security and privacy. We asked our real estate agent about installing a privacy fence on the lot of this property and she insured us there were no legal reasonings as to why we shouldn't be able to (unlike the block across the street from us on Marnie Lane) and there weren't any legal limitations in doing so. She knew from the beginning of our homebuying process we were planning on emplacing a pool in our backyard. For insurance purposes a fence is necessary when obtaining a pool. Again, we were under the impression we were being compliant with building a fence. We asked certain compliance questions to the real estate agent (she answered to the best of her ability), the fence builders and surveyor, and yet not one person notified us that we were placing our fence onto our "front yard". We even brought our fence in further in from the street (15 feet) to make sure we were being more than compliant. Please note there is not a sidewalk on our side of the street on neither E. Florida Ave. nor Marnie Lane. The day of our build date of our fence our builders from Crown Fencing wasn't able to commence building until after noon although they were scheduled to start at 8:00 am. This is because we received a phone call from the city of Appleton due to our neighbors having

reservations as to where the legal lot lines were although we had our land surveyed. I, Monica Baillod, spoke with the City of Appleton's Inspection Supervisor, Kurt W. Craanan several times prior to the builders started to build the fence. Kurt explained he needed the lot drawings from the Surveyor we hired prior to him signing off on the permit. Once Carlow Land Surveying Co. provided Kurt Craanan with all the necessary paperwork he had asked for, he himself signed off on the permit and the fence builders started their job sometime after noon. So you can see it was a surprise to us when he showed up to our home more than several weeks later letting us know we were not in compliance when he himself signed off on the permit. We were very confused as to how this part of our yard could be considered part of our front yard when to the eye it very much resembles the back yard, not to mention not a single person involved let us know this portion of the yard was considered to be part of the front yard; not the real estate agent who sold us the house, not the fencing company who could have mentioned something from the start of the estimate portion of our workings, and not even the City of Appleton's Inspection Supervisor who signed off on the permit - who was reluctant to do so until he felt he had all necessary documentation. We would definitely have maybe perused buying a different property altogether if we would have known we would have major limitations due to what the city considers what part of our yard to be the front yard and the backyard, especially when this part of the yard most certainly appears to be part of the backyard with it being off of Marnie Lane, along with being completely separated by both our garage and driveway, which is in contact of the front yard, located on E. Florida Ave. Our front door and our mailbox is on E. Florida Ave. Our walkway/sidewalk from our front door to our mailbox is 38' long; you actually cannot see the fence at all while standing at our mailbox in our front yard located on E. Florida Ave. We share four children; a 7 year old daughter, a 9 year old son, a 13 year old daughter and 14 year old son. We also share two dogs, a miniature Sheltie and a Lab Retriever, and they love the freedom of a yard to

freely roam around in. In addition, we utilize all of the yard that is fenced in. We currently have a large trampoline, we play badminton and volleyball. We love to play corn hole and croquet. We grill out several nights a week and eat at our outdoor dining set. We have a large deck and patio. We have a large, beautiful and mature Maple tree with a landscaped circumference of 11' surrounding it, which is located about 28' from the left side of our garage and 5' from the right of our patio; this tree alone takes up a major footprint of our backyard. So with the deck, patio, landscaping around our maple tree, our hot tub, trampoline/other backyard toys, and our soon to be installed 24' round pool, we won't have much grassy backyard for our family to safely enjoy and with the privacy we seek. There is both a church and a school down both blocks, therefore; we believe privacy is not only valued by our family but by our neighbors and community as well.

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2: We have had many neighbors, with the exception of one, welcome the fence along with the other outdoor home improvements that has been added to the lot (12) with the intent to provide pleasant aesthetics to the appearance of both the house and the lot. These updates, including the fence, doesn't infringe on any major views nor does it cause any traffic safety issues or concerns. Not one of our neighbors have complained about our fence in any way; in fact we have had many neighbors come up to us and complement us on the fence letting us know that they think the fencing company (Crown Fencing, LLC.) did a very nice job. Please note that our neighbor who did have reservations about our fence did so due to the fact that they believed our surveyor was incorrect in regards to the final outcome of the legal lot lines provided by the surveyor we hired. They have since hired their own surveyor and we have not heard a word from them on the matter since.

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3: Our lot is larger on Marnie Ave. and the street starts a curve about halfway up our lot. Florida Ave. makes a hard turn just east of our property. This makes the configuration of the neighborhood/city block a bit irregular. Being it is the southwest corner and based on the design of the streets, this lot has a much more wide open viewpoint and exposure to more homes than any other property on our block and in our neighborhood entirely. Not only is our entire yard visible to our several neighbors, but it is visible to anyone and everyone who drives and/or walks down either E. Florida Ave and/or Marnie Lane. Without the privacy fence, our backyard is wide open and viewable to seven different neighbors from all sides of our home, including the back of our home as well: the surveying plan clearly exhibits. Our home is on lot 12; if you look at the surveyor's blueprint, you will notice how many other lots who have visible viewpoints that stairs straight into the back of our yard which is a concern for the safety and privacy to our children.

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4: The main hardship of having to move our fence in any way will be the loss of the utility of the lot we are already accustomed to utilizing. We will not be able to have the utility of the lot as we anticipated when we purchased the house/land.

- ie:

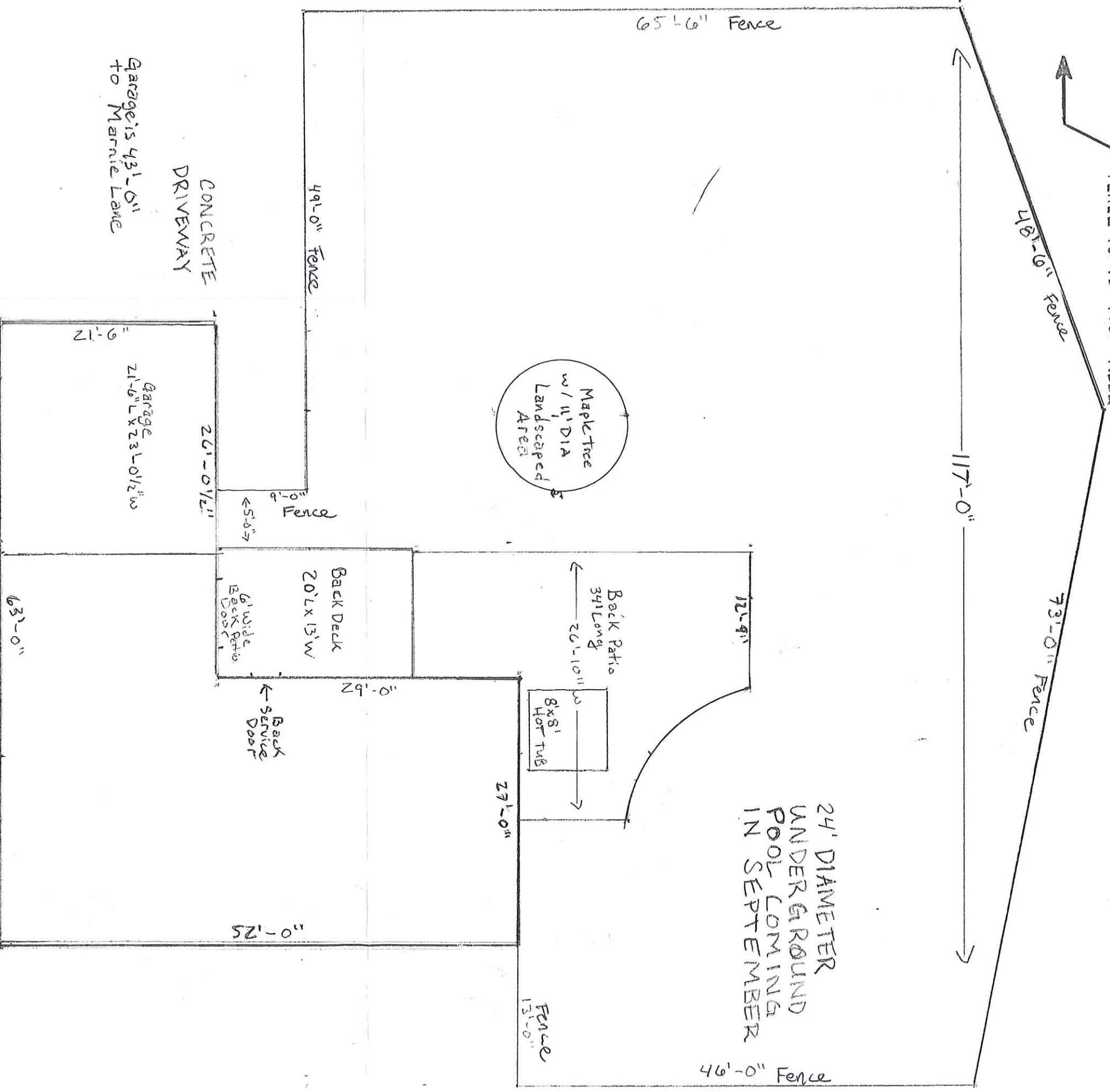
- Soon, half the backyard will be taken up by a swimming pool, concrete apron and the landscaped tree. The pool was planned during the home buying process. There was once a pool placed exactly where we are placing ours. Unfortunately, the previous owners took the pool out and filled it in. However, they left the necessities, such as a concrete apron, natural gas and adequate electrical components.

-Once granted the permit for the fence, we then planned out the grassy part of the backyard for a trampoline, badminton net, volleyball net, swing set and next summer a vegetable garden. The dogs won't have nearly as much room to roam and do their "business".

- We very much wanted to provide our four children a private place to play at home while feeling safe in the process. Not only are they active children, but we are an active family who likes to play catch, corn hole, croquet, badminton, etc. together. Our 7 year old daughter is very much into gymnastics and is all over the yard performing her "moves". If we have to move our fence we are completely taking away the lifestyle we have been living since we've erected our fence because we will be losing much of the grassy area where we share these activities together.



**MARNIE LANE**  
Fence is 15' from Road



**FRONT YARD**

BAILLOD/JAMESON RESIDENCE  
1040 E. FLORIDA AVE  
APPLETON, WI 54911

E. FLORIDA AVE.  
SCALE: 3/32" = 1'-0"

13

11

# BLOCK 9

12

13,710 SQ.FT.  
[0.3147 ACRES]

DOCUMENT NO.  
2267502

N28°39'28"E  
50.000'

8'±

N63°44'40"E

74.714'

1.6'±

S38°09'44"E

0.2'±

120.000'

RADIUS = 760.00'  
CHORD =

CURVE 1

N47°35'11"W

87.727'

RADIUS = 760.00'  
DELTA = 7°09'43"  
ARC LENGTH = 95.00'  
CHORD = S48°15'24.5"W 94.938'

EAST FLORIDA AVE

MARNIE LANE

LANE

LANDSCAPING

DECORATIVE FENCE

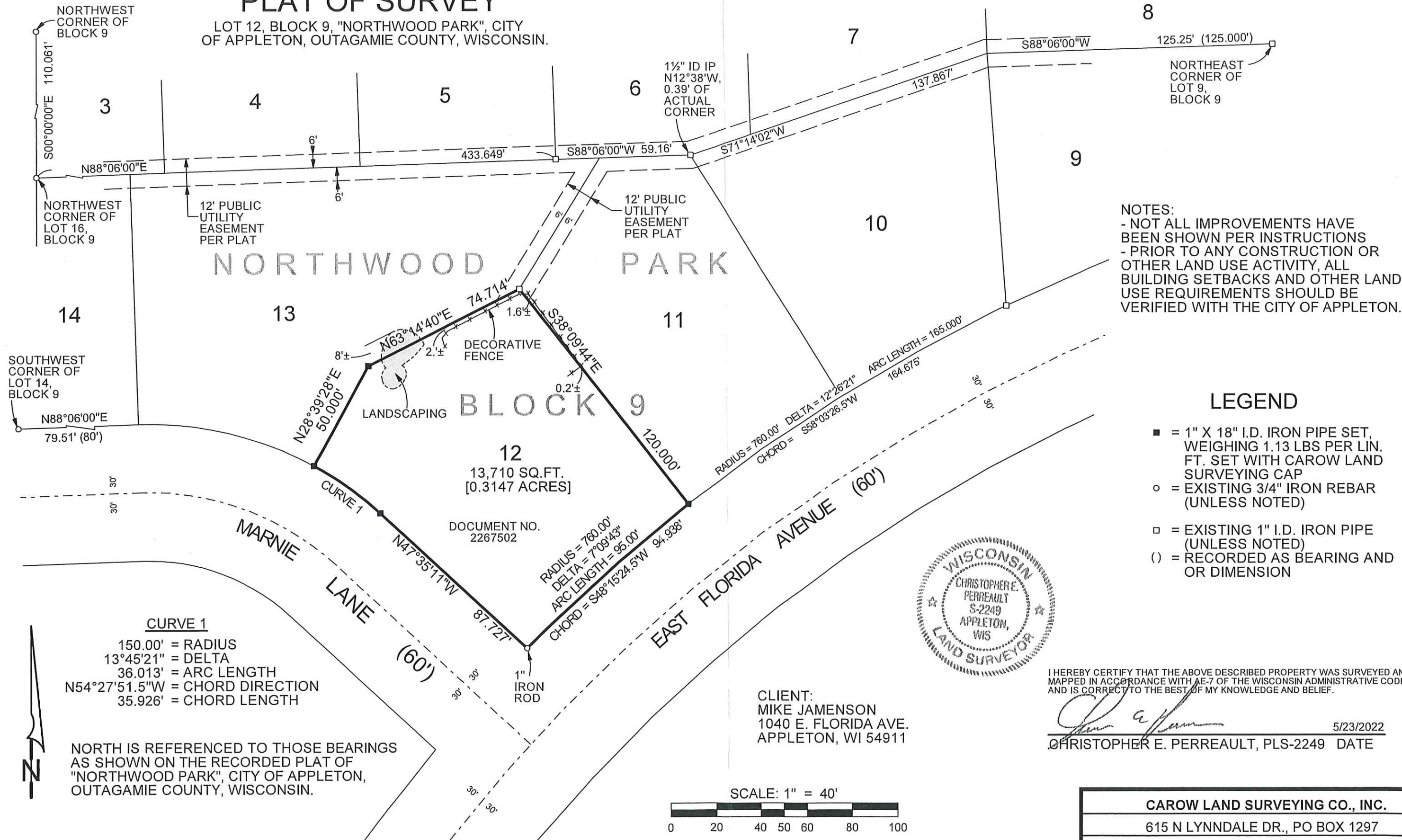
2.1'±

1  
RADIUS  
DELTA

(6)

# PLAT OF SURVEY

LOT 12, BLOCK 9, "NORTHWOOD PARK", CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



NOTES:  
 - NOT ALL IMPROVEMENTS HAVE BEEN SHOWN PER INSTRUCTIONS  
 - PRIOR TO ANY CONSTRUCTION OR OTHER LAND USE ACTIVITY, ALL BUILDING SETBACKS AND OTHER LAND USE REQUIREMENTS SHOULD BE VERIFIED WITH THE CITY OF APPLETON.

## LEGEND

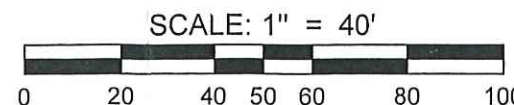
- = 1" X 18" I.D. IRON PIPE SET, WEIGHING 1.13 LBS PER LIN. FT. SET WITH CAROW LAND SURVEYING CAP
- = EXISTING 3/4" IRON REBAR (UNLESS NOTED)
- = EXISTING 1" I.D. IRON PIPE (UNLESS NOTED)
- ( ) = RECORDED AS BEARING AND OR DIMENSION



I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED AND MAPPED IN ACCORDANCE WITH AE-7 OF THE WISCONSIN ADMINISTRATIVE CODE AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Christopher E. Perreault*  
 CHRISTOPHER E. PERREAULT, PLS-2249 DATE 5/23/2022

CLIENT:  
 MIKE JAMENSON  
 1040 E. FLORIDA AVE.  
 APPLETON, WI 54911



**CURVE 1**  
 150.00' = RADIUS  
 13°45'21" = DELTA  
 36.013' = ARC LENGTH  
 N54°27'51.5"W = CHORD DIRECTION  
 35.926' = CHORD LENGTH

NORTH IS REFERENCED TO THOSE BEARINGS AS SHOWN ON THE RECORDED PLAT OF "NORTHWOOD PARK", CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

A2205.5

CAROW LAND SURVEYING CO., INC.		
615 N LYNNDAL DR., PO BOX 1297		
APPLETON, WI 54912-1297		
DATE: 5/23/2022	SCALE: 1" = 40'	DRAWN BY: CP