

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning  
Telephone: 651.385.3104  
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS  
Telephone: 651.385.3223  
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**To:** Board of Adjustment  
**From:** Land Use Management  
**Report Date:** October 14, 2016  
**Meeting Date:** October 24, 2016

## **Application Information:**

Applicant: Gary Anderson  
Address of Zoning request: 31701 Lakeview Ave., Red Wing, MN 55066  
Zoning district: R1  
Township Information: Wacouta Township has signed the application and has no comments.

## **Attachments:**

Application  
Applicant Statement  
Proposed building expansion  
Beau Kennedy's Comments  
Site Map  
Goodhue County Zoning Ordinance: Articles 12, Section 4, Subdivision 2

**Notice:** Gary Anderson Variance request from the Bluff Impact Protection's General Regulations 30' set back from the top of the bluff for an addition onto a dwelling that is currently encroaching into the 30' setback at 31701 Lakeview Ave.; Lot 1 Block 1 of Kann's Lakeview Subdivision in Wacouta Township.

**Background:** The purpose of this variance is to construct an expansion to the dwelling on parcel 43.350.0010. Parcels under Article 12 Bluff Land Protection, Section 4 General Regulation, Subdivision 2 are required to maintain a setback from the top of the bluff to any structure in any district no less than thirty (30) feet. The Applicant's home currently encroaches about half way into the 30 foot bluff impact zone, and the proposed addition would encroach no further. Mr. Anderson's dwelling was constructed in 1991 and was legally permitted.

## **Soil and Water Conservation District Office Beau Kennedy**

I visited with Gary Anderson in Wacouta this morning regarding a bluff setback issue. Mr. Anderson would like to put an addition on the east side of his home (garage). The slope to the north does meet the definition of a bluff; has a rise of ~35 feet and the average slope is more than 30%. I flagged the top of the bluff and a 30' setback from the top for his information. The house and garage currently sits within the bluff impact zone as shown in one of the attached photos. Pink flags are on top of the bluff; yellow is the

30' setback. Like many homes on Lakeview, the homes were built prior to the shoreland/bluffland zoning ordinances were adopted.

Mr. Anderson is limited to where he can build an addition due to the size constraints of the lot. The proposal is to build on the east side of the existing garage, and the plans that I saw on site showed no further encroachment on the bluff to the north (just extending the wall to the east).

Like other projects this close to a bluff, we'd like to see special attention be placed on temporary erosion control measures as well as proper control of storm runoff on the north side of the home. Preventing concentrated flow from flowing over the bluff will help keep the bluff stabilized.

I directed Mr. Anderson to start the conversation with your office to determine if an administrative permit or a variance would be possible for his project.

**Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) They are in harmony with the general purposes and intent of the official control;  
**The intent of the Bluff Land Protection Ordinance is to “recognize the historic and economic values of the bluffs that line the many rivers and valleys of the County. These standards set out to protect and preserve the sensitive physical features of the bluffs by regulating development, preventing erosion and controlling the cutting of timber on the slopes and tops of the bluffs.”**

**Beau Kennedy’s statement supports the expansion so long as special attention is placed on temporary erosion control measures as well as proper control of storm water runoff on the north side of the home. These measures should keep the bluff stabilized and meet the intent of the provisions.**

- 2) The variances are consistent with the comprehensive plan;  
**The 2016 Comprehensive Plan supports the preservation of the natural resources of the bluffs and the development of private property. With the control measures identified by Beau Kennedy, the expansion will be consistent with the 2016 Comprehensive Plan.**
- 3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.  
**The intent of the provisions is to protect the natural and historic resources of the bluffs. The property was platted before the provisions were established and became legal non-conforming upon adoption.**

- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and  
**The Applicant is requesting the variance due to the location of the bluff and existing dwelling that were platted and built before the provisions were put into place.**
- 5) The variance, if granted, will not alter the essential character of the locality.  
**The surrounding neighborhood's character will not change.**
- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.  
**There is no use change.**
- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.  
**If the variance is approved, the Board of Adjustment may include conditions recognizing that the variance is being granted to allow the specific addition being proposed by Mr. Anderson at this time and that the variance would be subject to compliance with other applicable regulatory requirements.**

*The following should be edited to reflect any concerns raised at the October 23, 2016 BOA meeting and public hearing:*

**Staff Recommendation:**

Staff recommends the Board of Adjustment:

- Adopt the staff report into the record (dated October 14, 2016);
- Adopt the findings of fact; and
- Based on the application, testimony, exhibits, and other evidence presented:

APPROVE the variance request of Gary Anderson from the Bluff Impact Protection's General Regulations 30' set back from the top of the bluff for an addition onto a dwelling that is currently encroaching into the 30' setback at 31701 Lakeview Ave.; Lot 1 Block 1 of Kann's Lakeview Subdivision in Wacouta Township;

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated September 15, 2016,
2. Compliance with all necessary state and federal permits and licensing,

# variance

VARIANCE NUMBER: 216-0071  
 For Staff Use only  
 \$350 RECEIPT# 15539 DATE 9/15/16

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME: Gary Anderson	
PROPERTY OWNER'S ADDRESS: 31701 LAKEVIEW AVE RED WING, MN 55066	TELEPHONE: [REDACTED]
	EMAIL: [REDACTED]

APPLICANT OR AUTHORIZED AGENT'S NAME: <div style="text-align: right;">Same as Above <input checked="" type="checkbox"/></div>	
APPLICANT'S ADDRESS:	TELEPHONE: ( )
	EMAIL:

CONTACT FOR PROJECT INFORMATION: <div style="text-align: right;">Same as Above <input checked="" type="checkbox"/></div>	
ADDRESS:	TELEPHONE: ( )
	EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 31701 Lakeview Ave, Red Wing, MN	ZIP CODE: 55066
LEGAL DESCRIPTION: KANN'S LAKEVIEW SUB, LOT 1 BLK 1 DOC #13343	Attached <input type="checkbox"/>

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES				
PID#: <u>R43.350.0010</u>	ZONING DISTRICT	LOT AREA (SQ FT): <u>39000sq'</u>	LOT DIMENSIONS: <u>227' x 173'</u>	STRUCTURE DIMENSIONS (if applicable): <u>37' x 71' (42' x 90' PROPOSED)</u>
( Please check all that apply )		PRESENT OR PREVIOUS USE: <u>RESIDENTIAL</u>		
ADDITIONS TO BUILDING:		PROPOSED USE: <u>Storage RESIDENTIAL WITH ADDITIONAL STORAGE</u>		
<input type="checkbox"/> New Building on vacant land	<input type="checkbox"/> Rear	BUILDING APPLICATION PERMIT NO. (if filed)		
<input checked="" type="checkbox"/> New Addition to existing building	<input type="checkbox"/> Front	DATE FILED:		
<input type="checkbox"/> Animal Building	<input checked="" type="checkbox"/> Side			
<input type="checkbox"/> Storage building	<input type="checkbox"/> Other Please clarify			

TOWNSHIP: By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.			Attached <input type="checkbox"/>
TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE: <u>Douglas J McLean / Township Supervisor</u>	TOWNSHIP OFFICAL'S SIGNATURE: 	DATE: <u>9-12-16</u>	

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: Gary Anderson Date: 9/12/16  
GARY A ANDERSON

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Bluff Impact – Article 12 Section 4 Subdivision 2

### Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).  
This property has bluff where others aren't influenced by the new bluffland zoning ordinances.  
The bluff on this property does not include any water frontage.
2. Who or What created the circumstances?  
Desire for additional storage for normal residential uses. The existing structure does not conform to the current standards related Bluff Impact zone.
3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?  
Sparse residential with bluffs and heavily wooded. The intended addition is consistent with residential uses.
4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.  
The Bluff Impact standards have been enacted since the original structure was built.  
Others are not impacted by the new Bluff Impact regulations.
5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.  
The proposed location is the only reasonably accessible area for the addition and this will impact the bluff. New zoning standards have been enacted since the existing structure was built.
6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.  
Yes. The proposed addition has been designed for minimal impact to property, bluff and foliage. Alternatives would require excusive removal of trees negatively impacting the bluff region.  
Currently the natural drainage goes over the bluff. With the proposed addition the drainage will be controlled away from the bluff area.
7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.  
No financial gain is expected.

**Subject:** Anderson Bluff \_ Wacouta

**Date:** Monday, September 12, 2016 at 9:43:55 AM Central Daylight Time

**From:** Kennedy, Beau

**To:** MacCallum, Casey

**CC:** [REDACTED]

Casey

I visited with Gary Anderson in Wacouta this morning regarding a bluff setbacks. Mr Anderson would like to put an addition on the east side of his home (garage). The slope to the north does meet the definition of a bluff; has a rise of ~35 feet and the average slope if more than 30%. I flagged the top of the bluff and a 30' setback from the top for his information. The house and garage currently sits within the bluff impact zone as shown in one of the attached photos. Pink flags are top of bluff, yellow is the 30' setback. Like many homes on Lakeview, the homes were built prior to the shoreland/bluffland zoning ordinances were adopted. Mr Anderson is limited to where he can build an addition due to the size constraints of the lot. The proposal is to build on the east side of the existing garage, and the plans that I saw on site showed no further encroachment on the bluff to the north (just extending the wall to the east).

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I directed Mr. Anderson to start the conversation with your office to determine if an administrative permit or a variance would be possible for his project.

I put the files in our shared drive under \County Permit Reviews\G\_anderson\_bluff

Let me know if you have any questions.

b

Beau Kennedy

**Goodhue SWCD**

651-923-5286

[bkennedy@goodhueswcd.org](mailto:bkennedy@goodhueswcd.org)

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SIGHTSEER



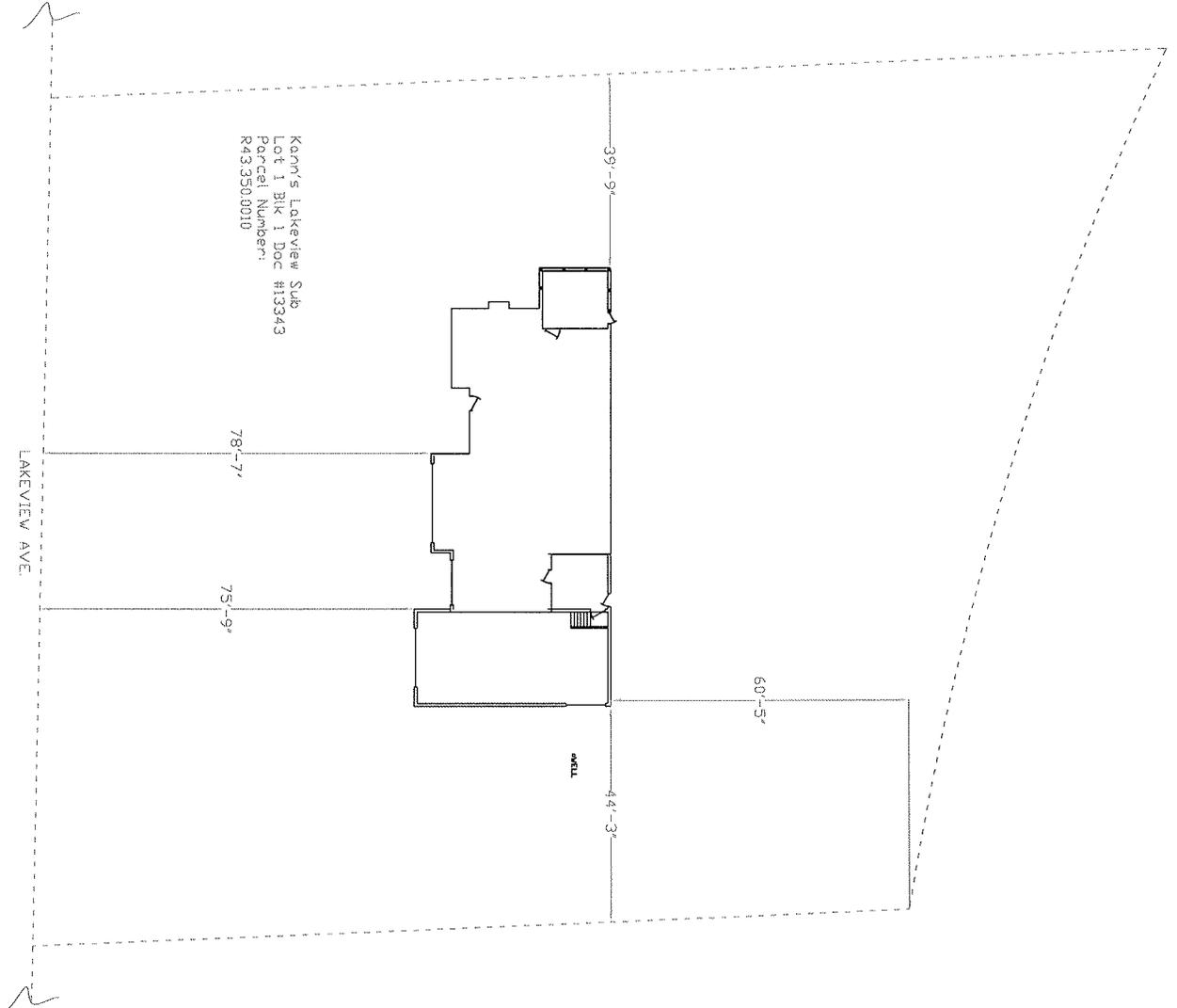
**Legend**

**Anderson GPS Points**

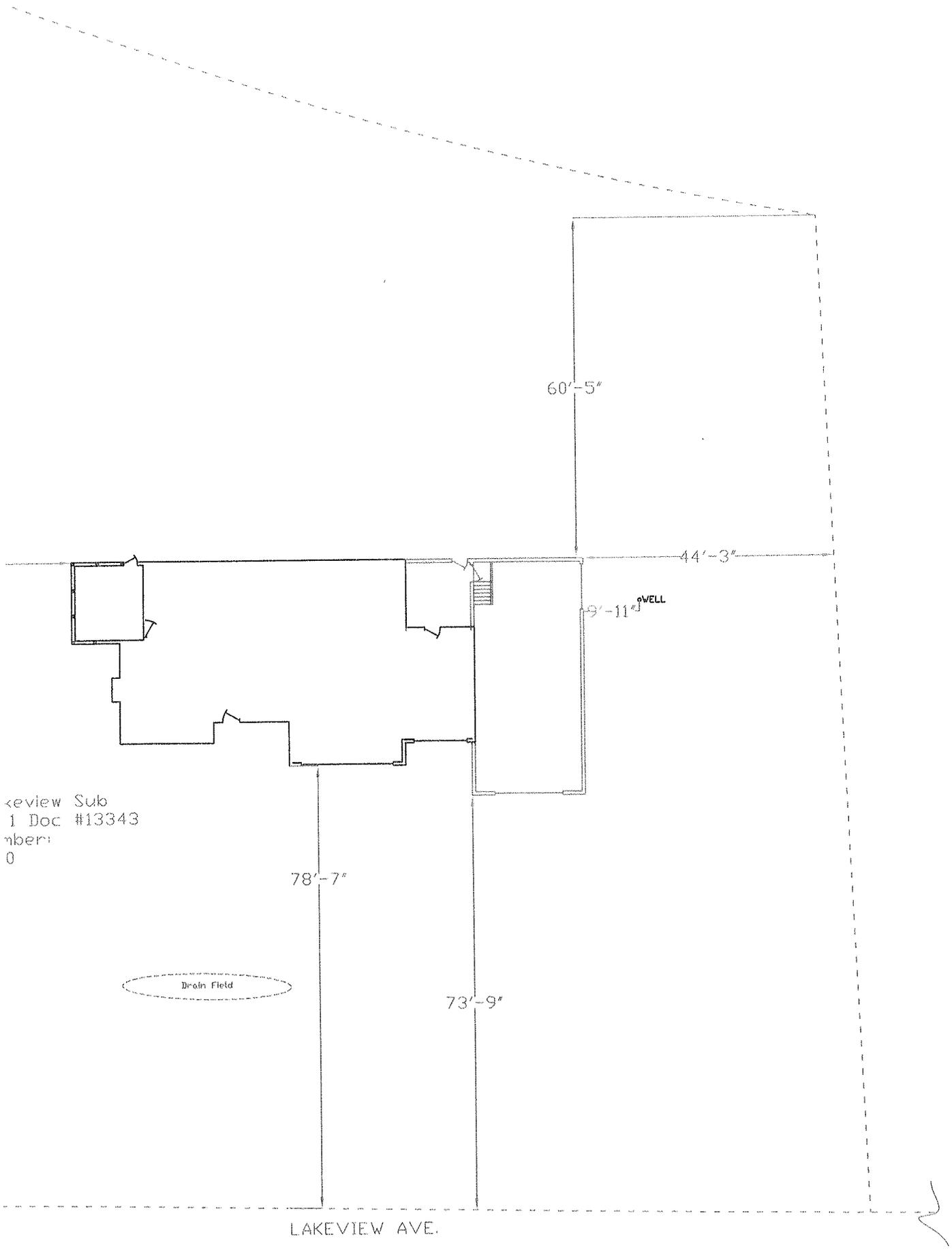
- ⊙ 30' offset
- ⊕ top bluff
- well
- ▭ Parcels
- Contours

Gary Anderson - Sec. 32 Wacouta TWP  
Bluff Review



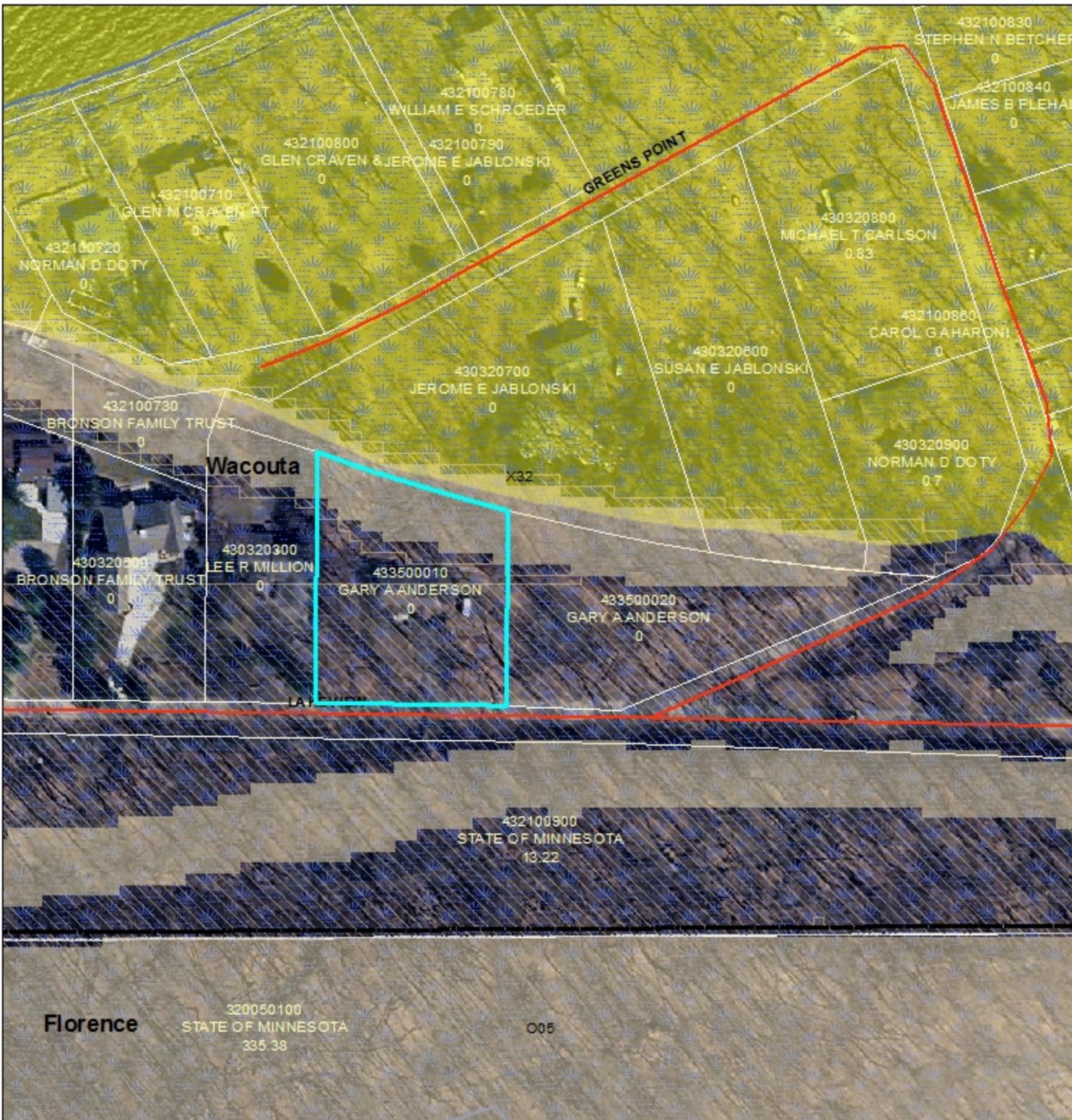


Karr's Lakeview Sub  
Lot 1 Blk 1 Doc #13343  
Parcel Number:  
R433508010



Review Sub  
1 Doc #13343  
Number:  
0

LAKEVIEW AVE.



**PUBLIC HEARING: Gary Anderson –**  
 Variance request from the Bluff Impact Protection's General Regulations 30' setback from the top of the bluff for an addition onto a dwelling that is currently encroaching into the 30' setback at 31701 Lakeview Ave. in Wacouta Township.

**Legend**

- Utility Encroachment
- Road
- Easement Line
- Bluff Impact
- % Slope**
- 25
- 30
- 35
- Structure
- Special Flood Hazard Areas**
- FLOOD ZONE**
- 1% ACF ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- X



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 Map Created 2016 Kate Eiynek