



BOARD OF ADJUSTMENT

Thursday, October 15, 2020 - 5:00 pm

200 Civic Center Drive, Lake Saint Louis, Missouri 63367

For more information or if individual accommodations are required, contact Brenda Cueller at 636-625-7936 or bcueller@lakesaintlouis.com.

AGENDA

I. CALL TO ORDER

II. ROLL CALL

	Present	Absent
Mark Peterson, Chairman	_____	_____
Thomas Bach	_____	_____
Benjamin Borengasser	_____	_____
Robert Carrothers	_____	_____
Diane Mispagel	_____	_____

Also present: Louis Clayton, AICP, Director of Community Development
Brenda Cueller, Recording Secretary
Patricia Beckerle, City Attorney

III. APPROVAL OF AGENDA

IV. APPROVAL OF MEETING MINUTES

Regular meeting of September 17, 2020

V. PUBLIC HEARING - NEW BUSINESS

- 330 Myna Drive (Lot E-612 Heritage at Hawk Ridge Subdivision)**
Consideration of an appeal submitted by James Summers, applicant, on behalf of Raymond and Diana Yarck, property owners, for a 1.5-foot variance from the required rear yard setback of 15 feet (pursuant to the Development Plan for the Heritage at Hawk Ridge Planned Residential District).

VI. BOARD AND STAFF COMMENTS

VII. ADJOURNMENT

**CITY OF LAKE SAINT LOUIS
BOARD OF ADJUSTMENT
MEETING AND PUBLIC HEARING
SEPTEMBER 17, 2020
JOURNAL AND MINUTES**

The Board of Adjustment for the City of Lake Saint Louis, Missouri met in regular session and for a public hearing on Thursday, September 17, 2020, at 5:00 p.m. in City Hall, 200 Civic Center Drive, Lake Saint Louis, Missouri.

ROLL CALL:

Mark Peterson, Chairman, presided over the meeting. The members present were: Thomas Bach, Robert Carrothers, and Diane Mispagel. Absent: Benjamin Borengasser. Also present were: Louis Clayton, Director of Community Development; Harry M. Murray IV, Board Attorney; Brenda Cueller, Community Development Assistant; and Laura Lynn Murphy, Certified Court Reporter.

APPROVAL OF AGENDA: September 17, 2020

Robert Carrothers made a motion to approve the Board of Adjustment agenda as submitted. The motion was seconded by Diane Mispagel and passed unanimously.

THE AGENDA FOR THE SEPTEMBER 17, 2020 BOARD OF ADJUSTMENT HEARING STANDS APPROVED AS SUBMITTED.

MINUTES FROM: April 28, 2020 Board of Adjustment Hearing

Rob Carrothers made a motion to waive the reading of the minutes from the April 28, 2020 hearing and approve same as submitted. The motion was seconded by Thomas Bach and passed unanimously.

THE MINUTES FROM THE APRIL 28, 2020 BOARD OF ADJUSTMENT HEARING STAND APPROVED AS SUBMITTED.

PUBLIC HEARING:

Consideration of an appeal submitted by Rowles Company, property owner and applicant, for a 0.48-foot variance from the required rear yard setback of 25 feet (pursuant to the Development Plan for the Mason Glen Planned Development District).

Adam Baer with Rolwes Company was sworn in and testified that the prospective buyers' original home design was approximately 2-feet over the rear setback. Mr.

**CITY OF LAKE SAINT LOUIS
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SEPTEMBER 17, 2020**

(JOURNAL AND MINUTES)

Baer testified that the prospective buyer selected a different home style that was approximately one-half foot over the rear left setback.

Jennifer McCormick, prospective buyer, was sworn in and testified that they have been looking for their forever home for 5 years. She testified that they met with Rolwes Homes because their current home is a Rolwes Home. She and her husband located Lot 72, which they believed to be a perfect lot, for their home. Mrs. McCormick testified the original home they selected did not fit on the lot. She stated they sold their home of 17 years and put the money down on the new home. They have been waiting to move forward with their new home. Mrs. McCormick testified they received a call that the home was over by 6 inches. Mrs. McCormick testified that this has been emotional and stressful to move forward with a 6-inch variance required in the back.

Thomas Bach stated he viewed the lot and noted the 6 inches would not be noticeable on how the home would sit on the lot. He said the prospective homebuyers made a good, honest effort to change their home design to go from 2 feet to 6 inches.

Harry M. Murray IV, Board Attorney, presented the following items to be entered into the record. The items accepted, marked, and entered into evidence were:

- Exhibit 1 – Lake Saint Louis City Municipal Code
- Exhibit 2 – The Request for Variance to Board of Adjustment, City of Lake Saint Louis, Missouri submitted by the Applicant.
- Exhibit 3 – A survey of Brookfield Crossing Plat One Lot 72 prepared by Burdine and Associates, Inc., dated June 22, 2020, Project No. 18078.
- Exhibit 4 – Board of Adjustment Staff Report dated September 17, 2020 prepared by Louis Clayton, Director of Community Development.
- Exhibit 5 – Special Warranty Deed dated November 10, 2014, 6 pages Book Deed 6267 Page 136 by which Applicant acquired title to Lot 72 Brookfield Crossing Plat One.

Public hearing closed.

NEW BUSINESS:

Consideration of an appeal submitted by Rowles Company, property owner and applicant, for a 0.48-foot variance from the required rear yard setback of 25 feet

**CITY OF LAKE SAINT LOUIS
BOARD OF ADJUSTMENT
MEETING AND PUBLIC HEARING
SEPTEMBER 17, 2020**

(JOURNAL AND MINUTES)

(pursuant to the Development Plan for the Mason Glen Planned Development District). Application submitted by Rolwes, owner.

GENERAL DISCUSSION:

The Board discussed the testimony given for a 0.48-foot variance from the required rear yard setback of 25 feet.

The Board reviewed the evidence.

MOTION TO APPROVE VARIANCE: (101 Brookfield Crossing Dr – Lot 72 Brookfield Crossing Plat One Subdivision)

Robert Carrothers made a motion to grant a 0.48-foot variance from the required rear yard setback of 25 feet as presented. The motion was seconded by Diane Mispagel. The poll of the Board being ayes: Robert Carrothers, Diane Mispagel, Thomas Bach, and Mark Peterson; nays: none. The vote was 4 to 0 in favor and the variance is granted.

ADJOURNMENT:

There being no further business to come before the Board of Adjustment, the hearing was, on motion duly made, seconded, and unanimously voted on, adjourned.

THE HEARING ADJOURNED.

The hearing adjourned at approximately 5:17 p.m.

Brenda Cueller, acting as recording secretary



BOARD OF ADJUSTMENT

STAFF REPORT

MEETING DATE	October 15, 2020
PROJECT LOCATION	<p>330 Myna Drive (Lot E-612 Heritage at Hawk Ridge Subdivision)</p>
APPLICANT	James Summers
PROPERTY OWNER:	Raymond and Diana Yarck
ZONING	"PR" Planned Residential District
PROPOSAL	Construction of a 288-square-foot addition and 192-square-foot deck.
VARIANCE REQUEST	A 1.5-foot variance from the required rear yard setback of 15 feet (pursuant to the Development Plan for the Heritage at Hawk Ridge Planned Residential District).
STAFF	Louis Clayton, AICP, Director of Community Development

PROJECT DESCRIPTION & VARIANCE REQUEST

The subject property measures 9,273 square feet and is located on the east side of Myna Drive. The property is improved with a 2,731-square-foot single-family home that was constructed in 2018. The subdivision is zoned “PR” Planned Residential District, and the approved Final Development Plan establishes the required setbacks and development standards for the subdivision. Adjacent land uses and zoning designations are summarized below:

Direction	Land Use	Name/Subdivision	Zoning
North	Single-Family	Heritage of Hawk Ridge	“PR” Planned Residential
East	Common Ground	Heritage of Hawk Ridge	“PR” Planned Residential
South	Single-Family	Heritage of Hawk Ridge	“PR” Planned Residential
West	Single-Family	Heritage of Hawk Ridge	“PR” Planned Residential

The applicant proposes the construction of a 288-square-foot addition and 192-square-foot deck at the rear of the home. The addition will encroach 1.5 feet into the required rear yard setback of 15 feet. The owner has submitted an appeal to the Board of Adjustment for the following:

A 1.5-foot variance from the required rear yard setback of 15 feet (pursuant to the Development Plan for the Heritage at Hawk Ridge Planned Residential District).

STANDARDS FOR VARIANCES

Staff’s analysis is based on a preliminary assessment of the applicable ordinances, information provided by the applicant, and observations made of the site and its environs. As specified in Section 405.380.B of the Municipal Code, the Board of Adjustment shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it that support the following conclusions:

- 1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant;**

APPLICANT RESPONSE: *Refer to application.*

STAFF OBSERVATIONS: The property is somewhat irregularly shaped; however, it is larger than other regularly shaped lots on the same street.

- 2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;**

APPLICANT RESPONSE: *Refer to application.*

STAFF OBSERVATIONS: The proposed addition encroaches 1.5 feet into the rear yard setback. The encroachment will be visible from the adjacent homes to the north and the south. The property to the east (rear) is subdivision common ground.

- 3. The strict application of the provisions of this Chapter from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;**

APPLICANT RESPONSE: *Refer to application.*

STAFF OBSERVATIONS: Strict application of the setback requirements would not prohibit the construction of an addition to the home; however, it would result in an irregularly shaped addition or a smaller addition than currently proposed.

- 4. The variance desired will not adversely affect the public health, safety, order, convenience or general welfare of the community; and**

APPLICANT RESPONSE: *Refer to application.*

STAFF OBSERVATIONS: The proposed addition will be visible from adjacent properties to the north and south but overall will not have adverse impacts on the community.

- 5. Granting the variance desired will not violate the general spirit and intent of this Chapter.**

APPLICANT RESPONSE: *Refer to application.*

STAFF OBSERVATIONS: The intent of the setback requirements is to maintain open yard areas that are not obstructed by buildings or accessory structures. The proposed addition will encroach 1.5 feet into the rear yard setback, which is relatively minor. The encroachment will be visible from the adjacent homes to the north and south.

REVIEW CONSIDERATIONS

As specified in Section 405.380.C of the Municipal Code, the Board of Adjustment shall consider the extent to which the evidence presented demonstrates that:

1. The particular physical surroundings, shape or topographical condition of the property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of this Chapter were literally enforced;
2. The request for a variance is not based exclusively upon the desire of the owner, lessee, occupant or applicant to secure a greater financial return from the property;
3. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located; and
4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

BOARD ACTION

The Board of Adjustment should consider all testimony and relevant facts to render its decision. The Board should articulate its findings of fact based on the criteria for consideration of variances into the record in support of its decision. After hearing the testimony and all relevant facts, the Board of Adjustment may, at its discretion:

1. Approve the requested variance as presented or with specific conditions.
2. Table this item for further review.
3. Deny the requested variance as presented.



BOARD OF ADJUSTMENT APPLICATION

APPLICATION SUBMITTAL REQUIREMENTS

The following shall be submitted at least 24 days before the scheduled meeting date of the Board of Adjustment. The meetings are held the third Thursday of each month. Submittals lacking any one of the submittal requirements will be considered incomplete and will not be accepted.

Submittal Requirements	Format	Details
Application	PDF ^[1]	Completed applications are required 24 days in advance of the meeting date. The meetings are held the 3rd Thursday of each month.
Plans	PDF ^[1]	
Application Fee	Check or Online ^[2]	The fee is \$150.
Advertising, Mailing and Court Reporter Fee ^[3]	Check or Online ^[2]	The fee is \$600. Once all invoices have been received, the applicant will be notified regarding any balance due or refund owed. There will be no refund of overpayments that are less than \$3.00.

Notes

[1] Email PDFs to bcueller@lakesaintlouis.com.

[2] Pay online at with [Official Payments](#). Email confirmation to bcueller@lakesaintlouis.com.

[3] May not be required for appeals of administrative decisions and other requests other than variances.



BOARD OF ADJUSTMENT APPLICATION

Updated September 3, 2020

Application is hereby made to the Board of Adjustment of the City of Lake Saint Louis to approve the following request as described below.

Applicant

Name	JAMES SUMMERS
Address	18 N Central DR. Ofallon MO 63366
Email	JSUMMERS1212@gmail.com
Phone Number	314- 223 223-3966
Interest in Property	Contractor

Property Owner

Name	Raymond and Diana YARCK
Address	330 MYNA DR. Lake St Louis MO 63367
Email	
Phone Number	636 734-3416
Name, address, and title of all officers, partners, or control persons who have any interest in the application	

Property Information

Property Address or General Location	330 MYNA DR. Lake St Louis MO 63367
Legal Description	
Size	
Zoning	Residential
Deed Restrictions. Attach a copy if applicable.	



BOARD OF ADJUSTMENT APPLICATION

Updated September 3, 2020

Requested Action

Application Type	Fee	
Variance	\$150	
Appeal of Administrative Decision	\$150	
Other	\$150	

Description of Proposed Project and/or Request

INSTALL New Four Seasons Room and Deck

I, James Summers, hereby certify that the information given above is true and accurate and that I have reviewed the applicable land development regulations.

James Summers
Name of Owner/Agent


Signature of Owner/Agent

9-21-20
Date



BOARD OF ADJUSTMENT APPLICATION

Updated September 3, 2020

Standards for Variances

In accordance with Section 405.380.B of the Municipal Code, the Board of Adjustment shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it that support the following conclusions (provide a response for each):

1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant.

EXISTING RESIDENCE IS TOO DEEP FOR THE LOT WHICH DOESN'T ALLOW ENOUGH ROOM FOR THE ADDITION

2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents. **NO**

3. The strict application of the provisions of this Chapter from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

DUE TO RAYMOND'S HEALTH ISSUES AND PHYSICAL LIMITATIONS THE NEW FOURSEASONS ROOM AND DECK ARE NECESSARY SO HE CAN ENJOY THE OUTDOORS ON ONE LEVEL.

4. The variance desired will not adversely affect the public health, safety, order, convenience or general welfare of the community. **NO**

5. Granting the variance desired will not violate the general spirit and intent of this Chapter. **NO**



BOARD OF ADJUSTMENT APPLICATION

Updated September 3, 2020

REAL ESTATE OWNER AFFIDAVIT

I, James Summers, am the owner or authorized agent of the owner of the parcel, which is the subject matter of the above application, and swears upon my oath that:

1. All taxes, fees and assessments, due and assessed by the City of Lake Saint Louis, have been paid with regard to the parcel, which is the subject matter of this application.
2. All taxes, fees and assessments, due and assessed by the City of Lake Saint Louis, have been paid with regard to all parcels in the City of Lake Saint Louis, owned by the same owner of the parcel of land which is the subject matter of this application.
3. All taxes, fees and assessments, due and assessed by the City of Lake Saint Louis, have been paid with regard to all parcels of land owned by the control entities of the owner of the parcels which are the subject matter of this application.
4. All taxes and fees due and assessed by the City of Lake Saint Louis have been paid with regard to all parcels in the City of Lake Saint Louis owned by affiliates of the owner of the parcels which are the subject matter of this application, including those entities which are controlled by owner.

James Summers [Signature] 9-21-20
 Name of Owner/Agent Signature of Owner/Agent Date



BOARD OF ADJUSTMENT APPLICATION

Updated September 3, 2020

Owner

STATE OF MISSOURI)
COUNTY OF ST. CHARLES)

On this ___ day of ___, 20___, before me, a notary public in and for the State of Missouri, personally appeared ___, known to me to be the person who executed the within Real Estate Owner Affidavit and acknowledged to me that he/she executed the same for the purpose stated therein and as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal this ___ day of ___, 20___, in the County of St. Charles, State of Missouri.

Notary Public

My Commission Expires: _____

Authorized Agent

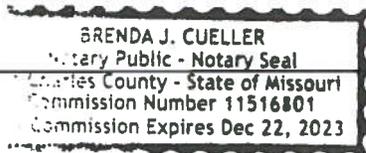
STATE OF MISSOURI)
COUNTY OF ST. CHARLES)

On this 25th day of September, 2020, before me, a notary public in and for the State of Missouri, personally appeared James Summers, who stated that he/she is the Contractor of Raymond and Diana Yarck, Position for Corporation, Partnership, Association, etc. Property Owners and that he/she has been authorized to make this application, and is further known to me to be the person who executed the within Real Estate Owner Affidavit and acknowledged to me that he/she executed the same for the purpose stated therein and as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal this 25th day of September, 2020, in the County of St. Charles, State of Missouri.

Brenda J. Cueller
Notary Public

My Commission Expires: _____



20181220000710820 W D
Bk:DE7017 Pg:1085
12/20/2018 02:23:50 PM 1/2
\$24.00
CERTIFIED-FILED FOR RECORD
Barbara J. Hall
Recorder of Deeds
St. Charles County, Missouri
BY:DCARROLL

Synergy Title#: SYN1810804

**GENERAL WARRANTY DEED
(Limited Liability Company)**

This Deed, Made and entered into this 20 of December, 2018, by and between **Lombardo Homes of Missouri, LLC**, a Missouri Limited Liability Company, organized and existing under the laws of the State of Missouri with its principal office at 2299 Technology Dr Ste 150, O Fallon, MO 63368, in the county of St Charles, State of Missouri, party or parties of the first part, Grantor(s), and **Ray Yarck and Diana Yarck, husband and wife**, whose mailing address is: 330 Myna Drive, Lake Saint Louis, MO 63367 in the County of Saint Charles, State of MO, party (or parties) of the second part, Grantee(s).

WITNESSETH, that the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations paid by the said party or parties of the second part, the receipt of which is hereby acknowledged, does by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM unto the said party or parties of the second part, the following described Real Estate, situated in the County of Saint Charles, State of Missouri, to-wit:

Lot E-612 of Heritage of Hawk Ridge Plat Six, a Subdivision in St. Charles County, Missouri, according to the plat thereof recorded in Plat Book 48 page 334 of the St. Charles County Records.

Subject to building lines, conditions, easements, restrictions of record, and any zoning laws or ordinances affecting this property, if any.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the said party or parties of the second part, and to the heirs and assigns of such party or parties forever.

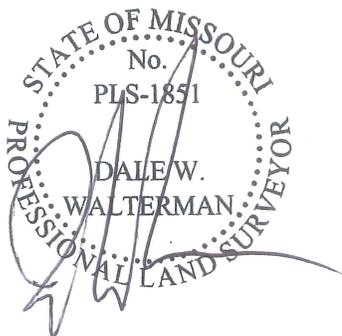
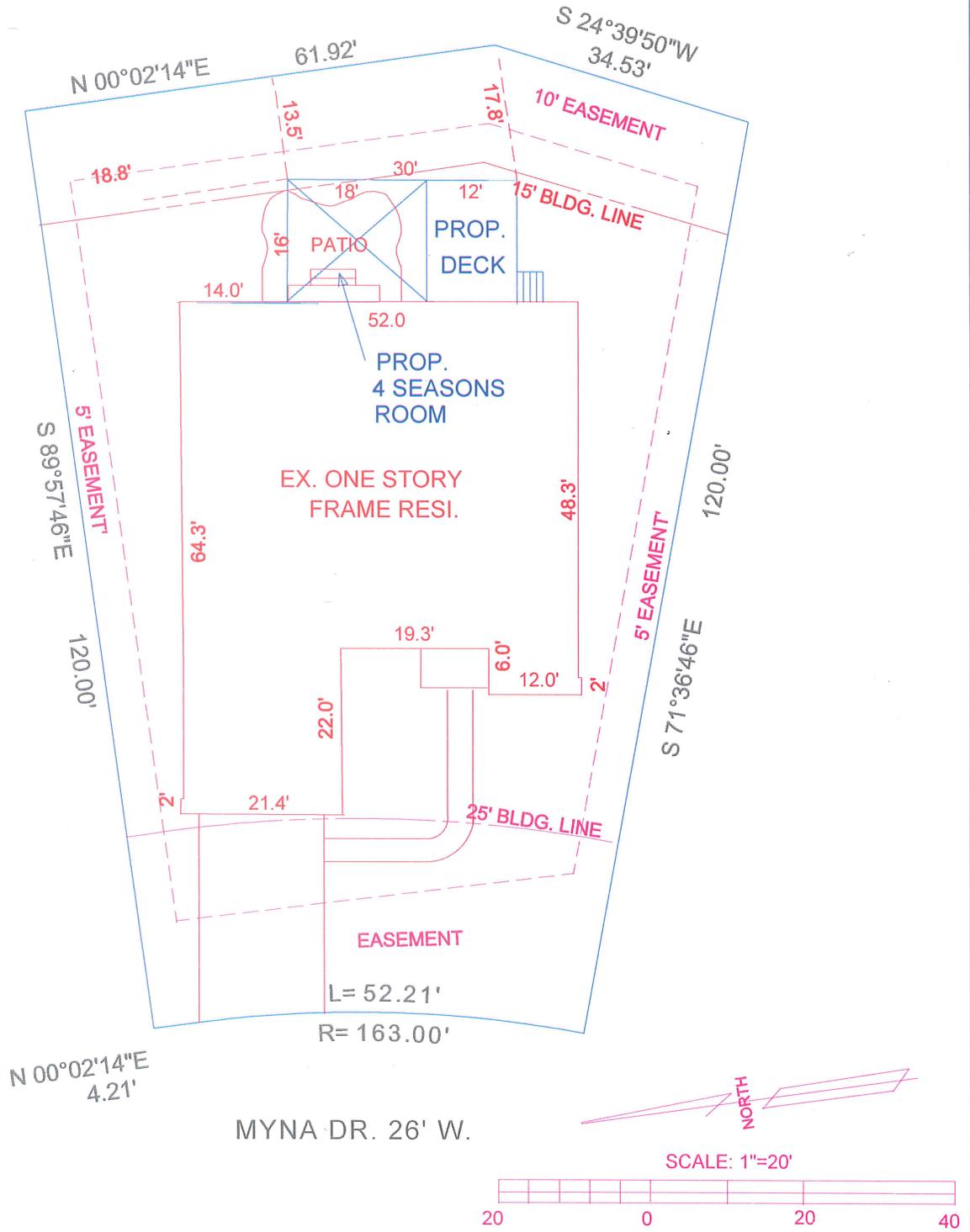
The said party of the first part hereby covenanting that it and its successors, shall and will **WARRANT AND DEFEND** the title to the premises unto the said party or parties of the second part, and to the heirs and assigns of such party or parties forever against the lawful claims of all persons whomsoever, excepting, however, the general taxes for the calendar year 2019 and thereafter, and special taxes becoming a lien after the date of this deed.

HERITAGE OF HAWK RIDGE PLAT 6

LOT E-612

CITY OF LAKE SAINT LOUIS, ST. CHARLES CO., MO.

PLAT BK. 48, P. 334



LANDMARK SURVEYING CO.			
802 E. Main St., Wentzville, Mo., 63385 636-332-9190 327-5853 FAX: 332-9285 SHANE@LANDMARKSURVEYMO.COM			
SITE PLAN FOR BUILDING ADDITION			
dwtn: DWW	chd:	rev: DWW	job no:
date: 9-19-20	date:	date: 9-23-20	
PREPARED FOR: RAY & DIANA YARCK			