

NOTICE OF MEETING AND BOARD OF ADJUSTMENT AGENDA



CITY OF OSAGE BEACH BOARD OF ADJUSTMENT MEETING

1000 City Parkway
Osage Beach, MO 65065
573-302-2000
www.osagebeach.org

TENTATIVE AGENDA

Regular Meeting

July 20, 2022 - 4:00 p.m.
CITY HALL

****Note:** All cell phones should be turned off or on a silent tone only. Complete meeting packets are available on the City's website at www.osagebeach.org.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF MINUTES FROM THE DECEMBER 15, 2021 MEETING
5. NEW BUSINESS
 - A) Variance Case No. 346 Joseph M. Holliday
6. ADJOURN MEETING

Remote viewing is available on Facebook at *City of Osage Beach, Missouri* and on YouTube at *City of Osage Beach*.

Representatives of the news media may obtain copies of this notice by contacting the following:
Tara Berreth, City Clerk
1000 City Parkway
Osage Beach, MO 65065
573-302-2000 ex 1020

If any member of the public requires a specific accommodation as addressed by the Americans with Disabilities Act, please contact the City Clerk's office 48 hours in advance of the meeting at the above telephone number.

**PUBLIC HEARING FOR VARIANCE CASE #345
OF THE BOARD OF ADJUSTMENT
FOR THE CITY OF OSAGE BEACH, MISSOURI**

December 15, 2021

Call to Order

Chairman Randy Gross called the Board of Adjustment Commission of the City of Osage Beach, Missouri, to order at the regular meeting on December 15, 2021 at 4:00 p.m.

Chairman Randy Gross asked that everyone stand for the Pledge of Allegiance.

Roll Call (Chairman Randy Gross didn't announce for the Roll Call to be taken)

The following Board Members were present: Chairman Randy Gross, Karen Bowman, Fred Catcott, Gloria O'Keefe and Louis Mayer. Also, present City Planner Cary Patterson, Ed Rucker City Attorney and Planning Department Secretary Pam Campbell. Capital City Court Reporting Court Reporter Shelly Stewart was also present.

Minutes – 11/17/2021

Chairman Randy Gross asked if there were any corrections or comments regarding the November 17, 2021 minutes. There were none. *Board member Karen Bowman made a motion to approve the November 17, 2021 minutes and Board member Gloria O'Keefe seconded the motion which passes unanimously.*

New Business

Chairman Randy Gross presided, read the Statutes of Missouri and read the criteria for granting a variance, went over the rules that special circumstances must exist and established that a quorum had been met.

A) Variance Case No. 345 Craig & Brooke Loo

Chairman Randy Gross called Case No. 345 and asked Planner Patterson if all legal requirements have been met.

Planner Patterson replied yes sir.

Chairman Randy Gross asked if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson replied yes sir we have.

Chairman Randy Gross asked if there were any written responses from the affected property owners.

Planner Patterson replied there were none.

The Code Book and file containing Variance Case No. 345 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Chairman Randy Gross asked Planner Patterson to please describe the Variance request.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: December 15, 2021 **Case Number:** **345**

Applicant: Craig & Brook Loo

Location: 4507 Cove Road (behind 4505 Cove Road)

Petition: Variance from minimum setback requirements

Purpose: Rebuild dwelling on an existing foundation (structure destroyed by fire)

Existing Use: Single-family home

Zoning: R-1a (Single Family)

Tract Size: 13,977 sq ft

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Cove Road

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 1 of Frank Clark's Subdivision" and is designated with the physical address 4507 Cove Road.
2. The dwelling structure at the subject location was destroyed by fire in June of 2021. At the time it was destroyed, the dwelling was a legal non-conforming structure. The applicants are requesting a variance from setback regulations to rebuild the structure on the existing foundation. The applicants have had an engineer do a structural evaluation of the existing foundation and it was found to be capable of handling the new structure. That report and statement will be submitted to the Building Official with the building permit application if the requested variance is approved.
3. The applicant is requesting a variance to rebuild a dwelling on an existing foundation that will be 6.25 ft. from the side property line and 23.88 ft. from the rear property line at its closest point. Approval of the requested variance will allow the city to issue a legal building permit to construct the dwelling as per the submitted site plan. The minimum required side

yard setback in the R-1a zone is ten (10') feet from the side property line and the required setback in the rear is thirty (30') feet from the lakeside property boundary.

4. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

Chairman Randy Gross asked the applicant if he wanted to amend, add to or clarify anything on the application.

The applicant, Brooke Loo stepped up and was sworn in. She thanked the Board for their consideration. She stated the fire started the weekend before the 4th of July and it's been undetermined by Osage Beach Fire Protection District. The Request is to re-build in the same place it was.

Chairman Randy Gross asked if there were any comments in favor, there were none. He then asked if there were any comments in opposition.

Vicky Simbro stepped up to the podium and was sworn in. She stated she lives at 4505 Cove, second tier and behind the Loo house. Her concerns were that the road is a private drive and wants it safe and secure, the owners do not live here, when it's being rebuilt, the road will be damaged by cement trucks and other equipment, they are running a business out of the home, kids live on this road, security issues and asked the need for a Variance.

Board Member Gloria O'Keefe stated she lives in a subdivision near and asked what the By-Laws for the subdivision were and this is a private street.

Board Member Karen Bowman asked what business she is talking about.

Vicky replied VRBO.

Board Member Fred Catcott stated that to rebuild within the lot lines is not within our scope of approval.

Chairman Randy Gross stated the Board isn't allowed to approve or disapprove a VRBO.

Planner Patterson stated the Board can approve the structure itself, to rebuild on the foundation. They have no authority regarding land use as a VRBO, that would be something for the Planning Commission or Board of Aldermen.

Vicky stated if she had known it would be used as a VRBO, the subdivision By-Laws should be re-done and then left the podium.

Chairman Randy Gross asked if anyone else was in opposition.

Rick Beckmann stepped up to the podium and was sworn in. He stated his concerns were safety.

Planner Patterson stated the new home would have to meet the new building codes, 2018 International Building Codes.

Georgeanna Aldy then stepped up to the podium and was sworn in. She stated she saw the fire and called it in. The Fire Dept. never interviewed her. She is a local realtor. Also, the structure is too close on both sides and homes were damaged by the fire and the owners didn't offer to pay for the damages.

Chairman Randy Gross asked if there were any questions from the Board.

Board Member Karen Bowman stated if no Variance is granted, they still can re-build within their lot lines.

Planner Patterson stated they could even re-build a bigger house on a new foundation within the lot lines with no Variance required. The frustrated concerns from the neighbors are not issues for this Board.

Ed Rucker City Attorney stated the file is complete and is at the discretion of the Board.

Chairman Randy Gross asked if there were any questions from other staff, there were none, and stated the Chair will accept a Motion on the Variance Request for Case 345.

Board member Fred Catcott made a motion to approve Variance Case No. 345 and Board member Gloria O'Keefe seconded the motion. A roll call vote was taken, and Variance Case No. 345 was unanimously passed.

Adjourn (Chairman Randy Gross didn't ask for a Motion to Adjourn)

There being no further business to come before the Board of Adjustment, Chairman Randy Gross adjourned the meeting at 4:40 p.m.

I, Pam Campbell, Planning Department Secretary, for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Zoning Adjustment of the City of Osage Beach, Missouri, held on December 15, 2021.

Pam Campbell/Planning Department Secretary

Randy Gross, Chairman

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: July 20, 2022

Case Number: 346

Applicant: Joseph M. Holliday
Location: 5055 Draskey Lane
Petition: Variance from minimum setback requirements
Purpose: Construction of a deck
Existing Use: Single-family home
Zoning: R-1b (Single Family)
Tract Size: Approximately 12,500 sq ft

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Draskey Ln.

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot known as Lot 10 of Palmer Subdivision and is designated with the physical address 5055 Draskey Lane.
2. The applicant is requesting a variance to build a deck on the side of the existing home that will be 10.34 feet from the front property line and 8.14 feet from the side property line. As you can see on the submitted site plan, the existing home is very close to the front property line at its closest point which is what makes the home a legal non-conforming structure. With that being the case, a variance is required to enlarge or add on to a legal non-conforming structure as is being requested in this case. Approval of the requested variance will allow the city to issue a legal building permit to construct the deck as per the submitted site plan. In the R-1b zone, the minimum required front yard setback is twenty-five (25') feet from the front property line and the side yard setback requirement is ten (10') feet from the side property line.
3. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

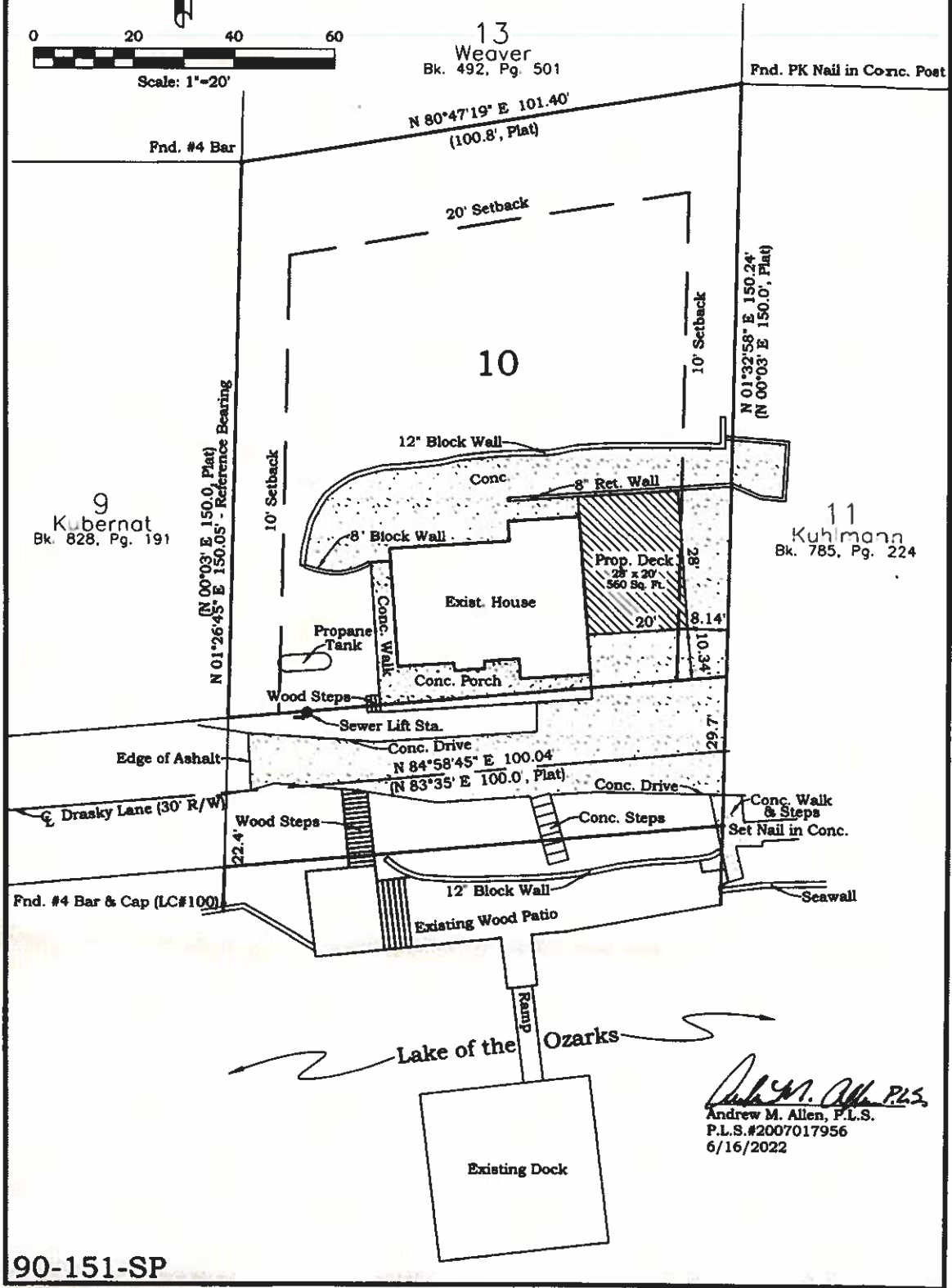
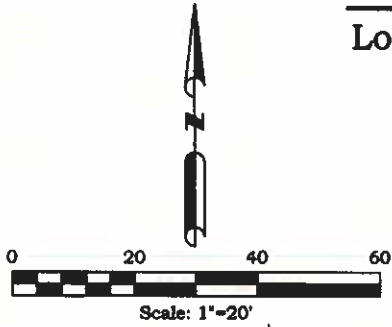


**Variance Case
346 Location Map**



SITE PLAN

Location: Lot 10 "PALMER SUBDIVISION"
 Owner: Joseph Holliday
 Surveyor: Allen Surveying, Inc.



Andrew M. Allen P.L.S.
 Andrew M. Allen, P.L.S.
 P.L.S.#2007017956
 6/16/2022

Date Submitted June 16, 2022

**CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
REQUEST FOR REVIEW**

NAME OF APPLICANT: Joseph M. Holliday

MAILING ADDRESS: 2749 Hwy 89 N Linn, Mo 65051

TELEPHONE: 573-897-2064 (Home) / 573-821-0948 (cell)

LOCATION OF PROPERTY: Be specific. Give directions to property. Include Lake Road and lot number. Attach legal description of property to this application. Please mark property in some way, i.e., distance from property lines with red paint, flags or stakes, indicating location of proposed variance.

South on highway 54. Cross Glaize Bridge, exit on Jeffery Road to business
54 south. Left on lake road 54-40 (Winn Road). First road on left,
Drasky Ln to 5055. Lot #10 Palmer Sub.

VARIANCE FOR/FROM:

APPEAL FOR/FROM:

*List names and mailing addresses of the current adjoining property owners:
(Attach a separate sheet if necessary)*

NAME COMPLETE ADDRESS/WITH ZIP CODE

Gary Kubernot 5061 Drasky Ln Osage Beach, MO 65065

Rick Kuhlmann 5045 Drasky Ln Osage Beach, MO 65065

Daniel Weaver 5068 Parrish Ln. Osage Beach, Mo 65065

CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
QUESTIONNAIRE

1. SIZE OF PROPERTY: 100 X 150
2. SOURCE OF UTILITIES: WATER GAS: propane
SEWER ELECTRIC:
3. PRESENT USE OF PROPERTY: Residential
4. PRESENT ZONING OF PROPERTY: Residential
5. HAVE YOU PREVIOUSLY APPLIED FOR A VARIANCE ON THIS PROPERTY? NO
IF SO, WHEN?
6. HOW LONG HAVE YOU OWNED THE SUBJECT PROPERTY? July 2000
7. PLEASE LIST ANY EXISTING STRUCTURES ON THE PROPERTY AND THE YEAR BUILT. House 1963
8. DO YOU OWN ANY PROPERTY ADJACENT TO THE SUBJECT PROPERTY? NO
9. WHY, IN YOUR OPINION IS YOUR CURRENT SITUATION, AND OR THE EXISTING
SIZE /EXTENT OF THE USE NOT ACCEPTABLE? The non conforming structure
situation was not mentioned when we bought the house in 2000. My
house was built in 1963 and now I'm told I have special restrictions.
10. IS THERE ANY PARTICULAR HARDSHIP RELATED TO YOU OR YOUR PROPERTY OF
WHICH THE BOARD SHOULD BE AWARE? Yes, due to the layout of the
property, a side deck is my only option.
11. LIST SPECIAL CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND STRUCTURE
OR BUILDING IN QUESTION AND DO NOT GENERALLY APPLY TO THE NEIGHBORING
LANDS, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT OR VICINITY. House was built
in 1963 with the easement in front of my house and Kubernots. New house on other
side was built in 2017. Easement stops at Kuhlmanns property. They now say
my house was built to close to easement. The city does not maintain
this easement. We three property owners do.

12. LIST REASONS WHY STRICT APPLICATION OF THE PROVISIONS OF THE ZONING ORDINANCE WOULD DEPRIVE YOU OF REASONABLE USE OF THE LAND, STRUCTURE OR BUILDING IN A MANNER EQUIVALENT TO THE USE PERMITTED TO BE MADE BY OTHER OWNERS OF NEIGHBORING LANDS, STRUCTURES OR BUILDINGS IN THE SME

DISTRICT. Have plans for future expansion that may not be possible and that are already on other homes in the area.

13. WERE THESE SPECIAL CIRCUMSTANCES THE RESULT OF ANY ACTION TAKEN

SUBSEQUENT TO MAY 10, 1984?

YES

NO

NOTE: Applications must be accompanied by additional information as outlined in the Board of Adjustment Application Procedures. (Page 1 of this packet). The Administrative Officer of the Zoning Ordinance will review the application for Variance and determine if sufficient data is contained to adequately describe the situation to the Board of Adjustment. If the data is not adequate, the Administrative Officer shall return the application to the applicant for additional information. Only completed applications shall be forwarded to the Board of Adjustment.

SIGNATURE OF APPLICANT:

Joseph M. Kelly

SIGNATURE OF PROPERTY OWNER:

Joseph M. Kelly

Checks should be made payable to the City of Osage Beach. Postage costs should be calculated and submitted with the \$330.00 filing fee.

STATE OF MISSOURI,

COUNTY OF CAMDEN,

Subscribed and sworn to me before me, the 16th day of June 20 22

Notary Public Pamela S Campbell

My Commission expires: (stamp) (seal)

3-11-2024

PAMELA S CAMPBELL
Notary Public - Notary Seal
STATE OF MISSOURI
Comm. Number 20562455
Camden County
My Commission Expires: Mar. 11, 2024

Joseph M. Holliday
5055 Drasky Lane
Osage Beach, MO 65065

January 3, 2022

Osage Beach Planning Department
1000 City Parkway
Osage Beach, MO 65065

RE: Variance Request

Dear Members of the Board of Adjustment:

This letter is in regard to a proposed building project at my property located at 5055 Drasky Lane in Osage Beach. After reviewing my permit submitted in October of 2021, I was told by the city engineer that I have a non-conforming structure. My understanding of that term is my home is in violation of a city ordinance because of the easement in front of the home. The City of Osage Beach has never maintained this easement/road that services three homes and actually stops at the property line between my property and the Kuhlmann's property.

This home was built in 1963 and I purchased the home in July of 2000 and was not made aware of this issue at that time. This information may have impacted our decision to purchase the home. Again, I was never told there was an issue even after obtaining several building permits for past projects. My neighbor on the other side of my home who also utilizes the easement, was also never told of this "non-conforming issue."

I feel strongly that my home should have been grandfathered in when these guidelines were instituted. However, if that is not a possibility, we believe the variance request should be approved without question.

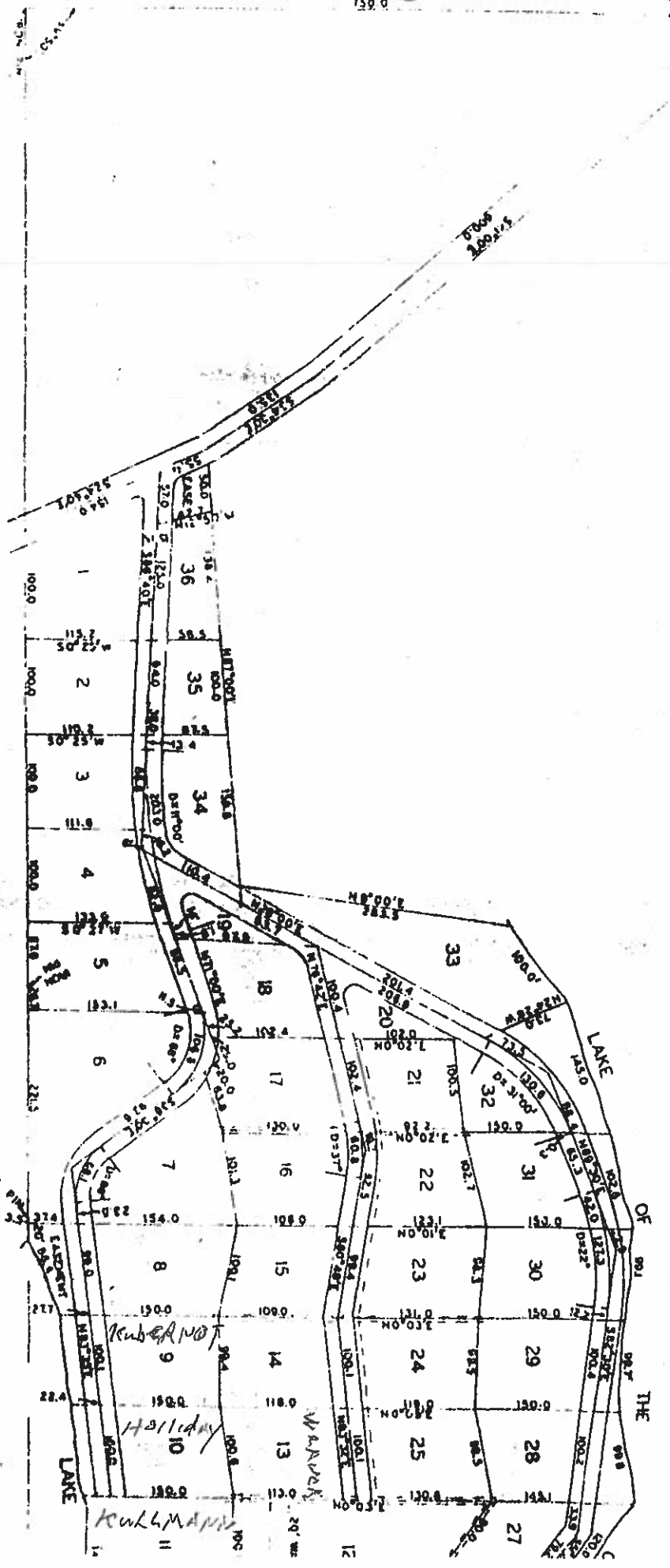
I hope to hear from you soon on this matter and am available to answer any questions that you may have.

Sincerely,

Joseph M. Holliday
573-821-0948

LEGAL DESCRIPTION

Lot 10 - Palmer Subdivision



PALMER SUBDIVISION
 BY CHARLES PALMER JR.

WE, THE UNDERSIGNED OWNERS OF THE TRACT OF LAND DESCRIBED IN THE ADJACENT SURVEYS
 HERETOFORE CAUSED SAID TRACT TO BE SURVEYED AND SUBDIVIDED AS SHOWN ON THE PLAT
 AND SAID SUBDIVISION IS HEREAFTER TO BE KNOWN AS PALMER SUBDIVISION.
 ROADS AS SHOWN ON THE PLAT ARE 20 FEET WIDE AND ARE HEREBY DEDICATED TO THE USE OF
 OWNERS IN THIS SUBDIVISION.
 ALL LOTS IN SAID SUBDIVISION ARE SUBJECT TO AN EASEMENT 5 FEET WIDE FROM WATER LINE
 AS DESIGNATED ON THE PLAT.
 THE WELL, AS LOCATED ON THE PLAT IS HEREBY DEDICATED TO THE USE AND BENEFIT OF
 OWNERS IN THIS SUBDIVISION.
 IN WITNESS WHEREOF, I HAVE HERETO SIGNED AND SEALED THE FOREGOING THIS 22ND DAY OF JULY 1981.

THIS IS TO CERTIFY THAT I, R. W. VINCENT, REGISTERED LAND
 SURVEYOR, BY ORDER OF THE OWNERS WHOSE NAMES APPEAR AS
 MADE A 20-FOOT AND SUBDIVISION OF A TRACT OF LAND SITUATED IN
 SOUTH PART OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 38
 COUNTY MISSOURI.
 IN WITNESS WHEREOF, I HAVE SIGNED AND SEALED THE FOREG
 THIS 22ND DAY OF JULY 1981.

Charles Palmer Jr.
 CHARLES PALMER JR.
Elise M. Palmer
 ELISE M. PALMER

7/30

 Notary Public