

**VILLAGE OF WINDSOR  
BOARD RESOLUTION 2019-83**

**APPROVAL OF A SPECIAL EXCEPTION FOR PLACEMENT OF A FENCE AT  
4310 AUTUMN FIELDS ROAD,  
IN THE VILLAGE OF WINDSOR, DANE COUNTY**

**WHEREAS**, Brian and Dawn Lobenstein request approval of a Special Exception for 4310 Autumn Fields Road (the "Property") in the Village of Windsor to permit the construction of a fence within the public recreational easement; and

**WHEREAS**, the Village Director of Planning / Zoning Administrator has reviewed the Petitioners' request for Special Exception and prepared a Staff Report dated July 26, 2019 (the "Staff Report") recommending approval, subject to certain conditions specified in the Staff Report; and

**WHEREAS**, following review of information presented at the Village Board meeting and the Staff Report, the Village Board approves the Special Exception, subject to the conditions specified in the Staff Report and as set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Village Board of the Village of Windsor as follows:

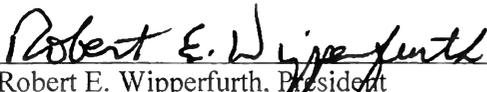
The Village of Windsor Board **Approves** the Special Exception request for Brian & Dawn Lobenstein located 4310 Autumn Fields Road, Windsor, WI 53598, subject to the following conditions:

1. The Village Board determined that the Special Exception request is based on the following facts:
  - a. The 15-foot-wide public recreational trail easement is not a utility easement as described per Sec. 38-579 of the Code of Ordinances; therefore, placement of the 4-foot-vinyl privacy fence will not impact poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines;
  - b. The 10-foot-wide asphalt multi-use path is located in Outlot 2 of the Wolf Hollow subdivision and not in the 15-foot-wide public recreational trail easement of 4310 Autumn Fields Road; and
  - c. The Petitioners acknowledge the Village of Windsor retains the right to the 15-foot-wide public recreational trail easement for public use and can require removal the 4-foot-vinyl privacy fence at the sole expense of the Petitioners within 30 days of request. If the Petitioners fail to timely remove the fence, they hereby consent to the Village employees or agents entering upon the Property, removing the fence, and the imposition of a special charge against the Property for the entire cost incurred by the Village in doing so.
2. The Special Exception hereby granted is expressly limited to permitting the construction of a 4-foot-high vinyl privacy fence within the public recreational trail easement on the Subject Property as described in Exhibit A attached hereto.

3. The Special Exception hereby granted is revocable by the Village at any time for any reason. The Petitioners acknowledge the Village of Windsor retains the right to the 15-foot-wide public recreational trail easement for public use and can require removal the 4-foot-vinyl privacy fence at the sole expense of the Petitioners within 30 days of request. If the Petitioners fail to timely remove the fence, they hereby consent to the Village employees or agents entering upon the Property, removing the fence, and the imposition of a special charge against the Property for the entire cost incurred by the Village in doing so.
4. The Petitioners shall record a copy of this resolution in the office of the Dane County Register of Deeds prior to commencing construction of the fence.
5. The Petitioner shall promptly reimburse the Village of Windsor for all costs and expenses incurred by Windsor in connection with the review and approval of the Special Exception request, including, but not limited to, the cost of professional services incurred by the Village of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.

The above and foregoing Resolution was duly adopted at a meeting of the Village Board of the Village of Windsor held on August 1, 2019, by a vote of 5 in favor and 0 opposed.

**VILLAGE OF WINDSOR**

  
\_\_\_\_\_  
Robert E. Wipperfurth, President

*Attested by:*

  
\_\_\_\_\_  
Christine Capstran, Village Clerk

**INCORPORATED BY REFERENCE:**  
Exhibit A – Staff Report & Petitioners Application



DEED RESTRICTION  
AND NOTICE OF TERMS A SPECIAL EXCEPTION  
FOR A FENCE

The undersigned ("the Owners"), constituting all of the owners of the below described real property located in the Village of Windsor, Dane County, Wisconsin ("the Property"), hereby declare the Property to be subject to the following restrictions:

Property:

Lot 356, of the Plat of Wolf Hollow at Pleasant Prairie Creek, recorded in the Dane County Register of Deeds as Document # 5171521.

The Owner petitioned for and obtained a special exception from the Village of Windsor to permit the uses stated therein. The terms and conditions of the special exception imposed restrictions upon the use of the Property and are set forth in the attached Village Board resolution.

The restrictions set forth therein run with the land and are binding on and inure to the benefit of the heirs, personal representatives, successors and assigns; and shall only be modified or released with the prior written consent of the Village of Windsor and recording of same in the Dane County Register of Deeds office.

KRISTI CHLEBOWSKI  
DANE COUNTY  
REGISTER OF DEEDS

DOCUMENT #  
5515579  
08/22/2019 12:28 PM  
Trans Fee:  
Exempt #:  
Rec. Fee: 30.00  
Pages: 9

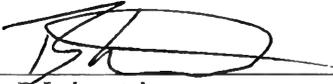
THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:  
Amy Anderson Schweppe  
Village of Windsor  
4084 Mueller Road  
DeForest, WI 53532

DRAFTED BY:  
Amy Anderson Schweppe  
Village of Windsor  
4084 Mueller Road  
DeForest, WI 53532

PARCEL IDENTIFICATION NUMBERS:

196/0910-294-5356-0

By:   
Brian D Lobenstein

8/8/19  
Date

By:   
Dawn E Lobenstein

8/8/19  
Date

STATE OF WISCONSIN )  
                                  ) ss.  
DANE COUNTY            )

Personally came before me this 8 day of August, 2019, the above-named individual(s), to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



*Amy Anderson Schweppe*  
Notary Public, State of Wisconsin

*Amy Anderson Schweppe*

My commission expires: *May 23, 2021*



To: Village of Windsor Board  
Cc: Robert Wipperfurth, Tina Butteris, Christine Capstran, William Cole  
From: Amy Anderson Schweppe, Jamie Rybarczyk  
Rpt Date: July 26, 2019  
Mtg Date: August 1, 2019  
Submtl Date: June 28, 2019  
Re: Brian & Dawn Lobenstein – Special Exception for Fence

**BACKGROUND:**

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Petitioner: Brian & Dawn Lobenstein  
Property Owner: Brian & Dawn Lobenstein  
Location / Address: 4310 Autumn Fields Road, Windsor, WI 53598 (Lot 356)  
Taxkey Number: 0910-294-5356-0  
Area: 0.38ac  
Existing Zoning: R-2, Single Family Residential District  
Proposed Zoning: N/A  
Future Land Use: Traditional Single Family Residential

**REQUEST (Exhibit A):**

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The Petitioners request approval of a Special Exception by the Village Board for the placement of a 4-foot-high vinyl privacy fence in a 15-foot-wide public recreational trail easement. See Exhibit A for additional information regarding the Petitioner's request.

**OVERVIEW:**

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The Petitioners wish to construct a 4-foot-high vinyl privacy fence located at 4310 Autumn Fields Road in the Wolf Hollow subdivision. The Plat of Survey identifies a 15-foot-wide public recreational trail easement along the northern lot line. The Plat of Survey also confirms the 10-foot-wide asphalt multi-use path was not constructed in the 15-foot-wide public recreational trail easement. The 10-foot-wide asphalt multi-use path was constructed in Outlot 2 of the Wolf Hollow subdivision. Outlot 2 is dedicated to the public for parkland, greenspace, stormwater management and environmental corridor purposes.

## VILLAGE STAFF COMMENTS:

The Planning, Zoning and Development Department provides the Village of Windsor Board with the following **planning, zoning and development** comment(s):

1. *Village of Windsor Code of Ordinances: Chapter 10 Buildings and Building Regulations*

As presented, the proposed 4-foot-high vinyl privacy fence complies with the setback and height requirements per Sec. 10-187 of the Code of Ordinance.

2. *Village of Windsor Code of Ordinances: Chapter 38 Planning and Development*

Per Sec. 38-579 of the Code of Ordinances, the Village Board, on the recommendation of appropriate agencies serving the Village, may require dedication of utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. The land divider shall establish easements so as to ensure proper grade, ensure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prohibit the planting of trees in the easement area.

The construction of permanent fences within utility easements is prohibited per Sec. 38-579 of the Code of Ordinances. It is the opinion of the Petitioners that approval of a Special Exception to Sec. 38-579 of the Code of Ordinances is appropriate based on a several factors which the Village Board will need to discuss as a Village Policy Comment/Concern.

3. *Village of Windsor Code of Ordinances: Chapter 52 Zoning Districts*

As presented, the proposed 4-foot-high vinyl privacy fence is a permitted use in the R-2, Single Family Residential District.

## VILLAGE POLICY COMMENTS/CONCERNS:

As stated above, the Village Board shall determine if the request for Special Exception to Sec. 38-579 of the Code of Ordinances is appropriate based on the following facts provided by the Petitioners:

1. The Plat of Survey identifies the easement as a recreational trail easement and not a utility easement; therefore, the placement of a 4-foot-vinyl privacy fence will not impact poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines;
2. The Plat of Survey identifies the location of the 10-foot-wide asphalt multi-use path in Outlot 2 of the Wolf Hollow subdivision and not in the 15-foot-wide public recreational trail easement of 4310 Autumn Fields Road; and
3. The Petitioners acknowledge the Village of Windsor retains the right to the 15-foot-wide public recreational trail easement for public use and can require removal the 4-foot-vinyl privacy fence at the sole expense of the Petitioners.

## **VILLAGE STAFF RECOMMENDATION:**

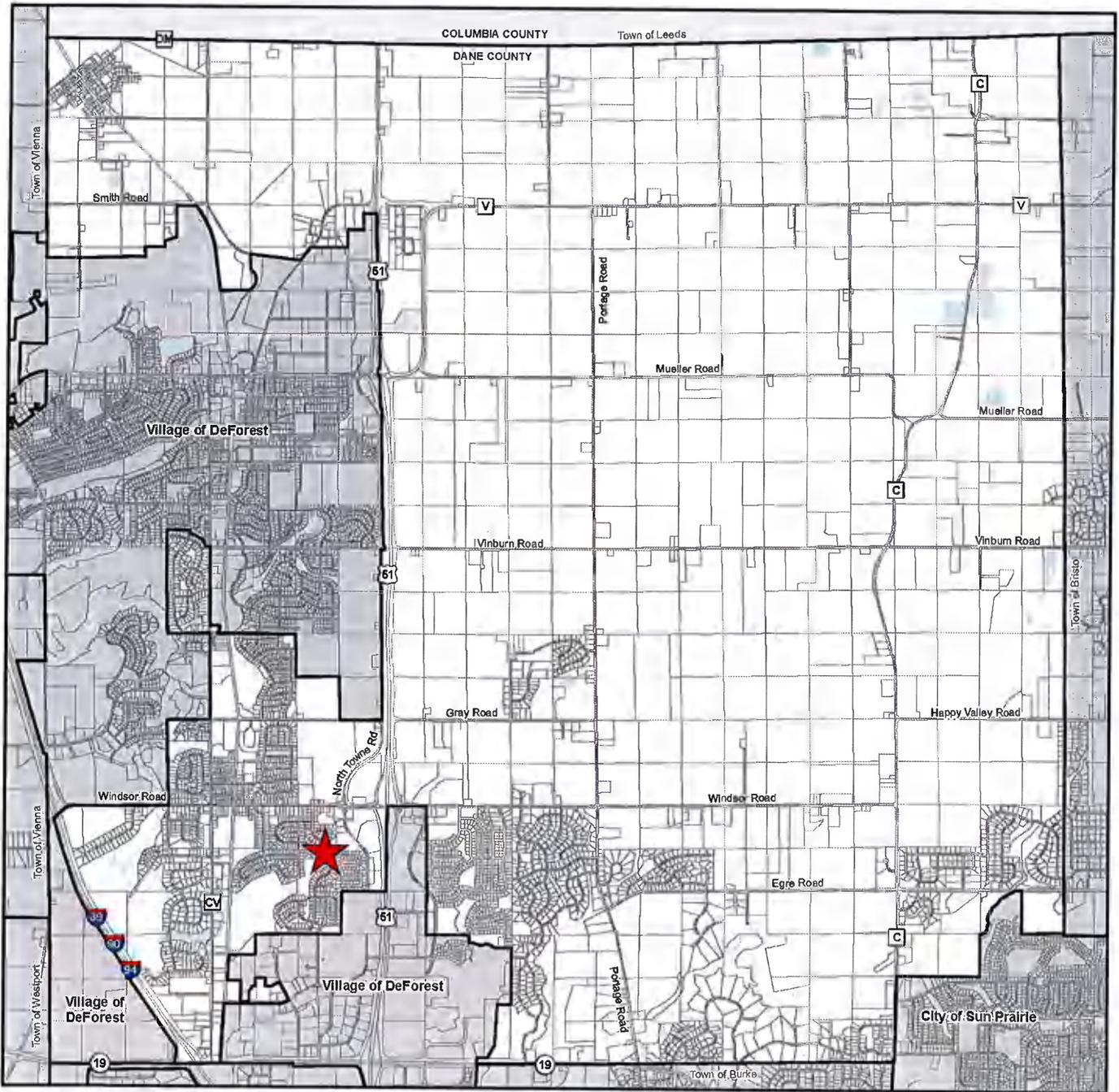
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Depending on confirmation by the Village of Windsor Board of the above described comments, the Village of Windsor Board may take the following action:

The Village of Windsor Board **Approves** the Special Exception request for Brian & Dawn Lobenstein located 4310 Autumn Fields Road, Windsor, WI 53598, subject to the following conditions:

1. The Village Board determined that the Special Exception request is based on the following facts:
  - a. The 15-foot-wide public recreational trail easement is not a utility easement as described per Sec. 38-579 of the Code of Ordinances; therefore, placement of the 4-foot-vinyl privacy fence will not impact poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines;
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**LOCATION MAP:**



**EXHIBIT:**

A. Petitioners Application





# BIRRENKOTT SURVEYING, INC.

P.O. Box 237  
1677 N. Bristol Street  
Sun Prairie, WI. 53590  
Phone (608) 837-7463  
Fax (608) 837-1081

## PLAT OF SURVEY

### SURVEYOR'S CERTIFICATE:

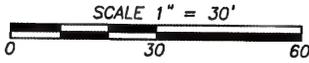
I, Daniel V. Birrenkott, hereby certify that this survey is in compliance with the Wisconsin Administrative Code, Chapter A-E7. I also certify that I have surveyed and mapped the lands described hereon and that the map is a correct representation in accordance with the information provided and is correct to the best of my knowledge and belief.

Daniel V. Birrenkott  
Wisconsin Professional Land Surveyor No. S-1531

6-26-2019

### Description:

LOT 356, WOLF HOLLOW AT PLEASANT PRAIRIE CREEK, LOCATED IN THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, SECTION 29, T9, R10E, VILLAGE OF WINDSOR, DANE COUNTY, WISCONSIN.



### Notes:

This survey is subject to any and all easements and agreements both recorded and unrecorded.

The disturbance of a survey stake by anyone is in violation of Section 236.32 of Wisconsin Statutes.

Wetlands, if present have not been delineated.

This survey shows visible, above-ground improvements only. No guarantee is made for below-ground structures.

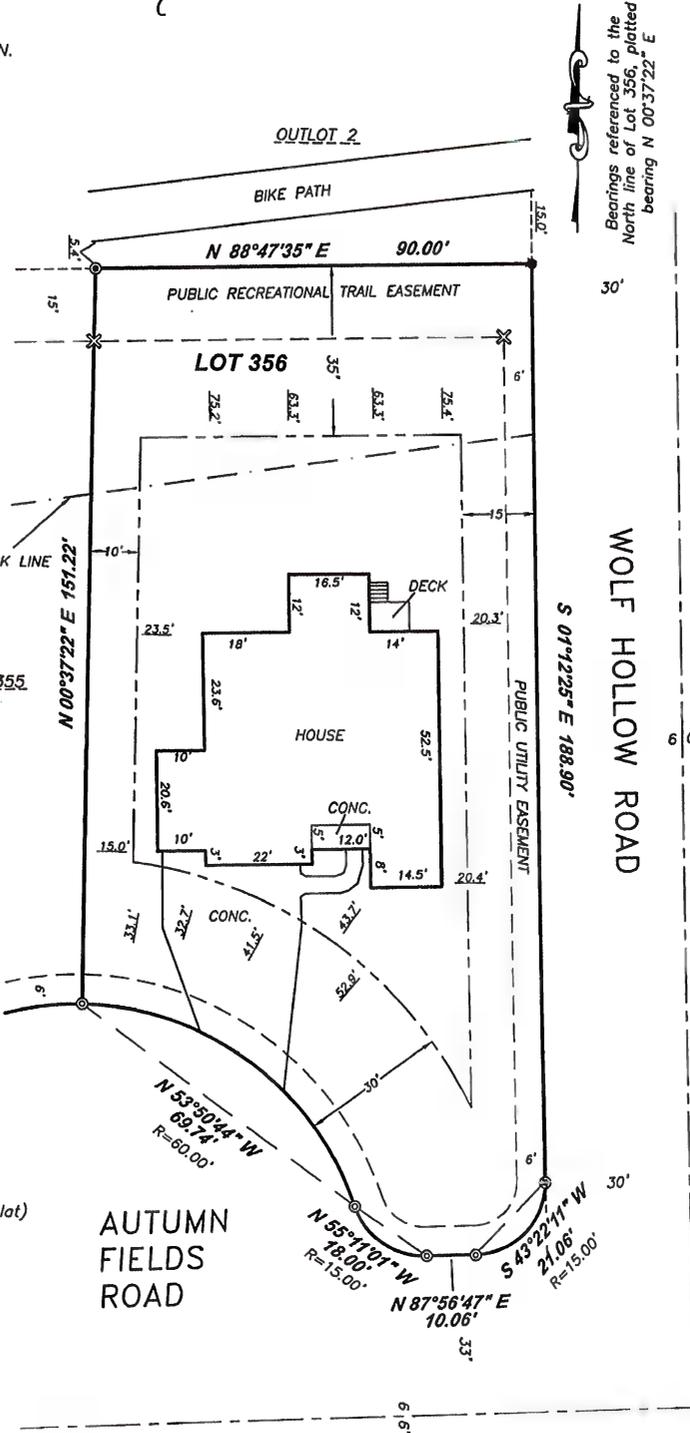
Date of Survey: June 18, 2019

### Legend:

- = Direction of Drainage (per plat)
- = Building Setback Line
- = Found 3/4" Iron Bar
- = Found 1 1/4" Iron Bar
- = Found 1" Iron Pipe
- = Set Lath at 15' Public Recreational Trail Easement

Dated: June 26, 2019  
Surveyed: T.A.S.  
Drawn: B.T.S.  
Checked: D.V.B.  
Approved: D.V.B.  
Field book:  
Comp. File: J:\2019\CARLSON  
Office Map No. 190484

Prepared For:  
Brian Lobenstein  
677 Willow Brook Trail  
Sun Prairie, WI 53590  
(608)-852-6910



OP

DEVELOPER APPROVAL



**BIRRENKOTT  
SURVEYING, INC.**

P.O. Box 237  
1677 N. Bristol Street  
Sun Prairie, WI. 53590  
Phone (608) 837-7463  
Fax (608) 837-1081

**PLAT OF SURVEY**

**SURVEYOR'S CERTIFICATE:**

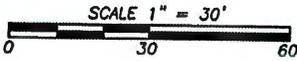
I, Daniel V. Birrenkott, hereby certify that this survey is in compliance with the Wisconsin Administrative Code, Chapter A-67. I also certify that I have surveyed and mapped the lands described hereon and that the map is a correct representation in accordance with the information provided and is correct to the best of my knowledge and belief.

Daniel V. Birrenkott  
Wisconsin Professional Land Surveyor No. S-1531. 5-18-2018

Developed by:  
Don Esposito 7/15/2019  
1098E37E1CCA421  
D.A. ESPOSITO, JR. DATE

**Description:**

LOT 356, WOLF HOLLOW AT PLEASANT PRAIRIE CREEK, LOCATED IN THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, SECTION 29, T9, R10E, VILLAGE OF WINDSOR, DANE COUNTY, WISCONSIN.



**Surveyed For:**

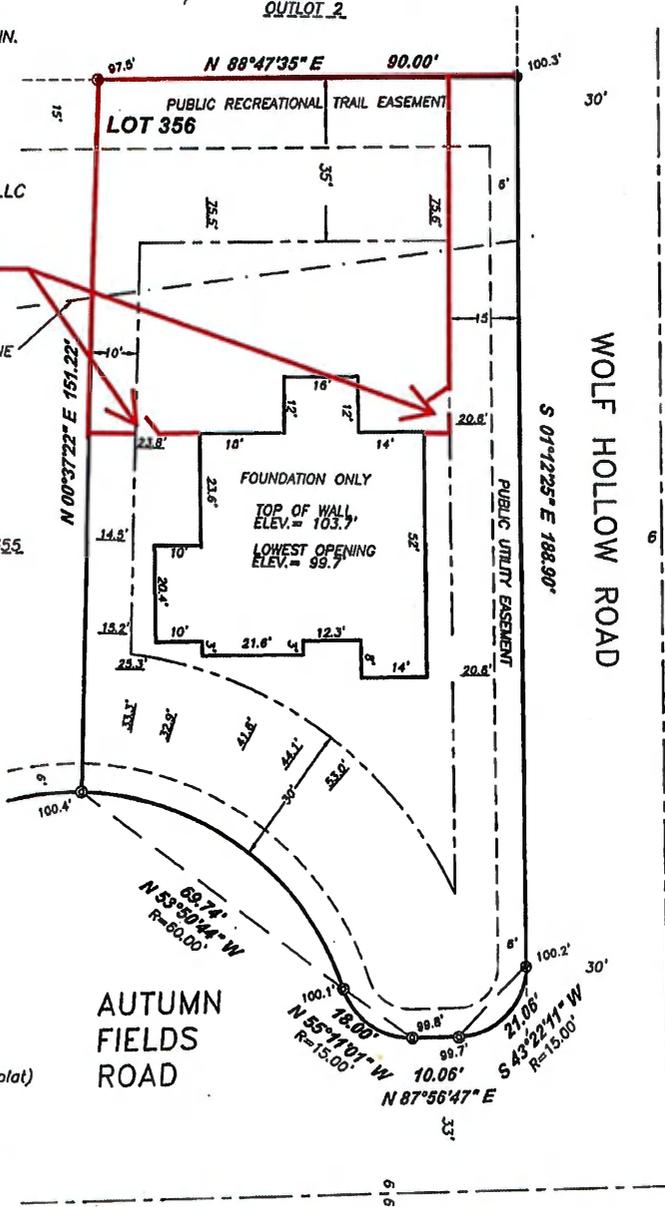
Tim O'Brien Homes of Madison, LLC  
2601 Crossroads Dr., Suite 140.  
Madison, WI 53718-7981  
(608) 661-1100

gate

WETLAND SETBACK LINE



LOT 355



**Legend:**

- ← = Direction of Drainage (per plat)
- - - = Building Setback Line
- = Found 3/4" Iron Bar
- ⊙ = Found 1 1/4" Iron Bar
- ⊙ = Found 1" Iron Pipe
- + xxx.x' = Existing Elevations

**AUTUMN  
FIELDS  
ROAD**

**Notes:**

This survey is subject to any and all easements and agreements both recorded and unrecorded.

The disturbance of a survey stake by anyone is in violation of Section 236.32 of Wisconsin Statutes.

Wetlands, if present have not been delineated.

This survey shows visible, above-ground improvements only. No guarantee is made for below-ground structures.

No driveway in at the time of survey: May 15, 2018

Elevations Referenced To: ASSUMED DATUM.

Dated: May 18, 2018  
Surveyed: J.E.G.  
Drawn: B.T.S.  
Checked: D.V.B.  
Approved: D.V.B.  
Field book:  
Comp. File: J:\2018\CARLSON  
Office Map No. 180063A

Bearings referenced to the North line of Lot 355, platted bearing N 00°37'22" E

# WOLF HOLLOW

## ARCHITECTURAL REVIEW FORM

Name: BILLIAN & DHUM LOBENSTEIN Lot #: 356  
 Present Address: 4310 Autumn Fields Road  
 Home Phone: 773-316-4082 Work Phone: \_\_\_\_\_ Email: dec.thomas@wolfhollow.com  
 Builder: TIM O'BRIEN HOMES

A. Please supply two complete sets of house plans showing all exterior details, materials, materials mfg. style, type, and colors used for the following:

Exterior siding: _____	Exterior Brick/Stone: _____	TYPE: _____
Roof: _____	Exterior Trim: _____	4' white
Soffit: _____	Fascia: _____	Vinyl
Front Entrance Door: _____	Overhead Garage Door: _____	Privacy
Gutter/Downspouts: _____	Shutters: _____	Flush
Wood Trim Color: _____	Wood Wrap Color: _____	

GATES 2-5 located near house (rear)

B. Please supply two site plans to scale detailing the location of the following:

- House and driveway on the lot showing the setbacks and lot grades.
- Landscaping
- Retaining walls
- Other features pertinent to your plan
- Elevation drop, (from top of the foundation wall to the top of the street curb)

As Lot Owner, I/We agree to have my/our house built according to the plans and information herein submitted.

It is agreed and understood that Purchaser and Builder understand the recorded Restrictions and Covenants for Wolf Hollow Subdivision including, but not limited to, landscaping and driveway requirements.

By approval of the plans submitted to the Developer, Developer shall be responsible for obtaining any approval necessitated Town and County ordinances and the Developer will not give any opinion nor make any representation as to soil conditions; that the building built pursuant to the plans will be structurally sound; or that the plans or site plan meet any town, county, or state codes or ordinances. Developer shall not have any liability to any builder or lot owner with respect to the construction of the materials used in any building on a lot within a plat. It shall be the Builder and Lot Owner's sole responsibility to obtain all permits for the construction of any improvements on a lot in the plat.

I agree to have my house built according to the plans and information herein submitted.

Presented By:

Accepted By:

[Signature]  
Lot Owner's Signature

5/15/19  
Date

Developer

DocuSigned by:  
Don Esposito 7/15/2019  
1098F37E1CCA423... Date

Please submit to:

**Wolf Hollow Architectural Control Committee**  
**C/O Wolf Hollow Windsor, LLC.**  
 2601 Crossroads Blvd, Ste 140  
 Madison, WI 53719-7981  
 608.661.1101 Fax: 608.661.1110

