

City of West Branch

~A Heritage for Success~

110 N. Poplar Street • PO Box 218 • West Branch, Iowa 52358
(319) 643-5888 • Fax (319) 643-2305 • www.westbranchiowa.org • city@westbranchiowa.org

ZONING BOARD OF ADJUSTMENT MEETING

Wednesday, May 27, 2015 • 6:30 p.m.

West Branch City Council Chambers, 110 N. Poplar St.

Council Quorum May Be Present

1. Call to Order
2. Roll Call
3. Approve minutes from the April 22, 2015 Zoning Board of Adjustment meeting./Move to action.
4. Approve variance of City Code Section 165.44.8 for a building permit application for a fence at 508 N. Oliphant Street./Move to action.
5. Chair Walker - Update on Chapter 29 - Zoning Board of Adjustment
6. Adjourn

Board of Adjustment Members: Chair Craig Walker, Jennie Embree, Wayne Frauenholtz, Frank Frostedstad, Kami Poppen

Zoning Administrator: Paul Stagg • **Deputy City Clerk:** Leslie Brick

Mayor: Mark Worrell • **Council Members:** Jordan Ellyson, Colton Miller, Brian Pierce, Tim Shields & Mary Beth Stevenson

City Administrator/Clerk: Matt Muckler • **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin • **Parks &**

Rec Director: Melissa Russell • **Police Chief:** Mike Horihan • **Public Works Director:** Matt Goodale

CITY OF WEST BRANCH

RECEIVED
5/12/15

FENCE PERMIT APPLICATION

Fence Location Address 508 N Oliphant St.
Property Owner Devin Lewis Phone (319) 430-1650
Fence Material Cedar/Wood Fence Height 6'

Confirming property lines, buried utilities, easements, restrictive covenants, or association requirements are strictly the responsibility of the owner and/or contractor.

It is advised that the affected neighbor(s) be consulted if the fence will be placed right on the property line or if two or more fences will be joined structurally.

CODE OF ORDINANCES, WEST BRANCH, IOWA

165.44 FENCES. Fences and hedges located within a front, side or rear yard or within five (5) feet of a lot line shall be subject to the following location, height, and building permit requirements

1. Fences, hedges, and walls shall be located so no part thereof is within two (2) feet of any alley, sidewalk, or a street right-of-way line.
2. No portion of a fence, hedge, or wall located in a residential or agriculture district, or adjoining a residential use area shall be erected in excess of six (6) feet on side or rear yards.
3. Maximum heights for fences, hedges, and walls in all other districts not adjoining a residential use area shall not exceed twelve (12) feet.
4. Fences, hedges, and walls shall not exceed four (4) feet in height in any front yards in any zoning district within the City.
5. At street intersections, no fence, hedge, or wall more than three (3) feet in height above the street level shall be located within a triangular area composed of two of its sides twenty-five (25) feet in length and measured along the right-of way lines from the point of intersection of the above-referenced lines. No portions of the fence, hedge, or wall located within the designated twenty-five (25) foot triangular area shall be more than ten percent (10%) solid.
6. Fences, hedges, and walls shall be entirely located within the confines of the property.
7. Front yards shall be determined by where the side yard and front building line meet or intersect.
8. On corner lots, the portion of a fence, hedge, or wall that is located in the designated backyard shall not be erected in excess of four (4) feet. No portion of said fence shall be more than ten percent (10%) solid.

*I have read and agree to the above listed provisions and will construct said project accordingly

Signature of Applicant Devin Lewis Date 5/12/2015

FOR OFFICE USE ONLY

Approved Denied Permit No. _____ Fee: \$25.00
Zoning Administrator MA Date 5-15-15

110 North Poplar
West Branch, IA 52358
319-643-5888
319-643-2305 FAX

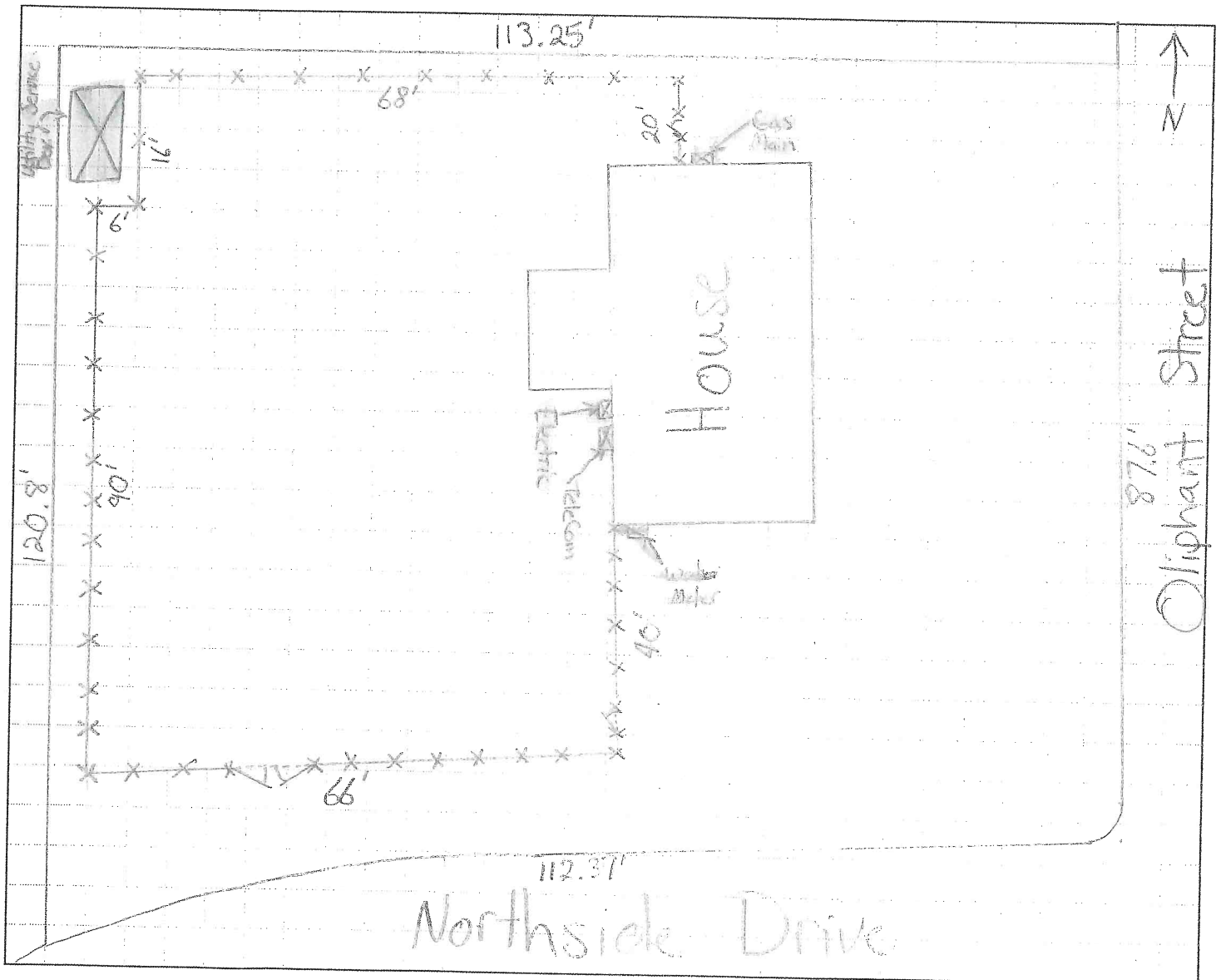
CITY OF WEST BRANCH APPLICATION FOR BUILDING PERMIT

APPLICANT Devin + Breanna Lewis

ADDRESS 508 Oliphant st. West Branch, IA 52358

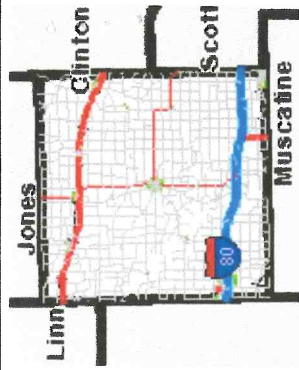
Please submit below, a sketch plan in support of your building permit application, showing the actual shape and dimensions of the lot on which construction will take place

1. Show street(s), with street name(s), if any, on proper side(s).
2. Show property lines and dimensions of the lot.
3. Show location of main structure (if any) from lot lines.
4. Show location of accessory structure(s) (if any) from the main structure and lot lines.
5. Show location of utility or access easements.
6. Show detail of fence (if any). (Format: x — x — x — x)



Cedar County, IA

563-370-5469



Legend

- Road
 - County Roads / City Streets
 - INTERSTATE
 - STATE HIGHWAY
 - U.S. HIGHWAY
- Railroad
- Parcel
 - Parcel Number/Acres
 - Leased Land
 - Corporate Limit Line
 - Land Hook
 - Subdivision
 - Park
- Section
- County Boundary

Notes

65.8 0 32.92 65.8 Feet

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 395

COPY

City of West Branch

~A Heritage for Success~

APPLICATION FOR VARIANCE TO BOARD OF ADJUSTMENT

Date May 22, 2015
Name Devin Lewis
Address 508 N. Oliphant Street

THE PROPERTY OWNER OR APPLICANT IS TO FILL OUT THE FOLLOWING FORM, EXPLAINING FULLY ALL REASONS FOR SAID REQUEST. PLEASE READ THE EXPLANATORY INFORMATION PRIOR TO FILLING OUT THE LINE ITEM.

CITY CODE OF WEST BRANCH, IOWA. CHAPTER 165. ZONING REGULATIONS.

165.22 POWERS OF THE BOARD. The Board of Adjustment shall have the following powers:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellants that there is error in any order, requirement, permit, decision, determination or refusal made by the zoning officer or other administrative official in the carrying out or enforcement of any provision of this chapter, and for interpretation of the Zoning Map.
2. Vote Required. The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order or decision of an administrative official.
3. Special Exceptions. To hear and decide applications for special exceptions as specified in this chapter and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
4. Variance. To hear and decide applications for variance from the terms of this chapter because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present.
 - A. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.

(EXPLAIN HOW THIS APPLIES TO YOU) See attached

B. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this chapter.

(EXPLAIN HOW THIS APPLIES TO YOU) See attached

C. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.

(EXPLAIN HOW THIS APPLIES TO YOU) See attached

5. Financial disadvantage to the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

6. The Board does not possess the power to permit a use not generally or by special exception, permitted in the district involved.

7. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this chapter. Violation of any of these conditions or safeguards shall be deemed violation of this chapter.

<u>SIGNATURE OF BOARD MEMBERS</u>	<u>DATE</u>	<u>APPROVED</u>	<u>DENIED</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Name) _____ VARIANCE REQUEST
 _____ approved / _____ denied on the _____ day of _____,
 _____. Building Permit No. _____.

BEINE & ROBERTS
LAW FIRM, PLC

419 Cedar St, PO Box 270
Tipton, IA 52772
Phone 563-886-2107
Fax 563-886-2591
www.beineroberstlaw.com

Lee W. Beine
lee@beineroberstlaw.com

Tamra J. Roberts
tamra@beineroberstlaw.com

Elizabeth O'Donnell
liz@beineroberstlaw.com

May 22, 2015

Board of Adjustment
City of West Branch
110 N Poplar St.
PO Box 218
West Branch, Iowa 52358

Re: *Fence at 508 N. Oliphant St*

Dear Board of Adjustment:

Devin Lewis submitted a fence permit application on May 12, 2015, which was denied by the Zoning Administrator on May 15, 2015. The reason for the denial was Code of Ordinance Section 165.44(8) concerning corner lots.

Appeal

Mr. Lewis would like the board to consider and administrative review of his appeal. The application should not have been denied for two reasons.

First, the application should not have been denied due to mistake of law. His property contains two lots. Lot 10 is on the corner of Northside Drive and Oliphant Street. Lot 11 is west of Lot 10 and does not meet the definition of a corner lot pursuant to Code of Ordinance Section 165.12. Mr. Lewis plans to build the fence on Lot 11. The Zoning Administrator explained that it was denied because it was a corner "parcel." Mr. Lewis agrees that it is taxed as one parcel, but the Code of Ordinance Section 165.44(8) clearly applies to "corner lots" and not "parcels." If a person were to own 5 adjacent

Second, the application should not have been denied as it was permitted under the same ordinance four years ago. Mr. Lewis and his wife previously applied for a building permit for the same fence in 2011. They paid the \$83.25 permit fee. This permit was approved by the prior Zoning Administrator. This permit contained no expiration, so when the family decided to proceed with the building phase, they were quite surprised that the City required that they go through the application process again and pay the permit fee again. The Ordinance 165.44 does not appear to be amended since 1999 upon their adoption (based on the version published on the City's website). It does not seem fair that the property once qualified, but no longer does due to a change in the Administrator.

Variance

If the Board of Adjustment is inclined to deny the appeal, Mr. Lewis requests a variance because of unnecessary hardship. Mr. Lewis meets all three conditions required by the variance ordinance.

First, the conditions and circumstances are peculiar to the land. The fence will be on the back lot (Lot 11), which means there will be no sight or distance issues with turning from Northside Drive onto Oliphant St. Due to the curvature of Northside Drive, the fence will not create a sight or distance issue when turning from Oliphant St onto Northside Drive. The curvature of Northside Drive makes this corner different from other corners in the city.

Second, strict application of the provisions of Chapter 165 would deprive the applicant of reasonable use of the land equivalent to the use made by neighboring lands. The adjacent property owners may all construct a fence with the same specifications as they ordinance does not prohibit it. Mr. Lewis and his family would like to enjoy use of their backyard without interference from neighboring dogs. This use is reasonable.

Third, the peculiar conditions and circumstances are not the result of actions the applicant has taken subsequent to the adoption of this chapter. Mr. Lewis has not created the peculiar circumstance, but rather it arose from the City's planning of streets. Further, he has not subdivided the property to create the additional lot since he purchased the property in 2008.

Attached you will find the supporting documentation including the legal description to the property (Exhibit 1), Survey (Exhibit 2), City of West Branch Application for Building Permit from 2011 (Exhibit 3), and Proposed Fence Line (Exhibit 4).

Mr. Lewis requests that you grant his permit for reasons listed in his appeal section above. In the alternative, Mr. Lewis requests that you grant a variance.

Best,

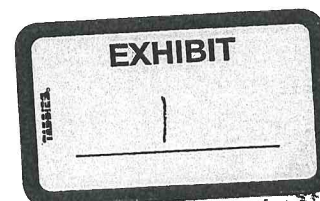
A handwritten signature in black ink, appearing to read 'T Roberts', with a stylized, cursive script.

Tamra J. Roberts

Abstract of Title

To the following described Real Estate:

Lots Ten (10) and Eleven (11), North Side Second Addition
to West Branch, Cedar County, Iowa.

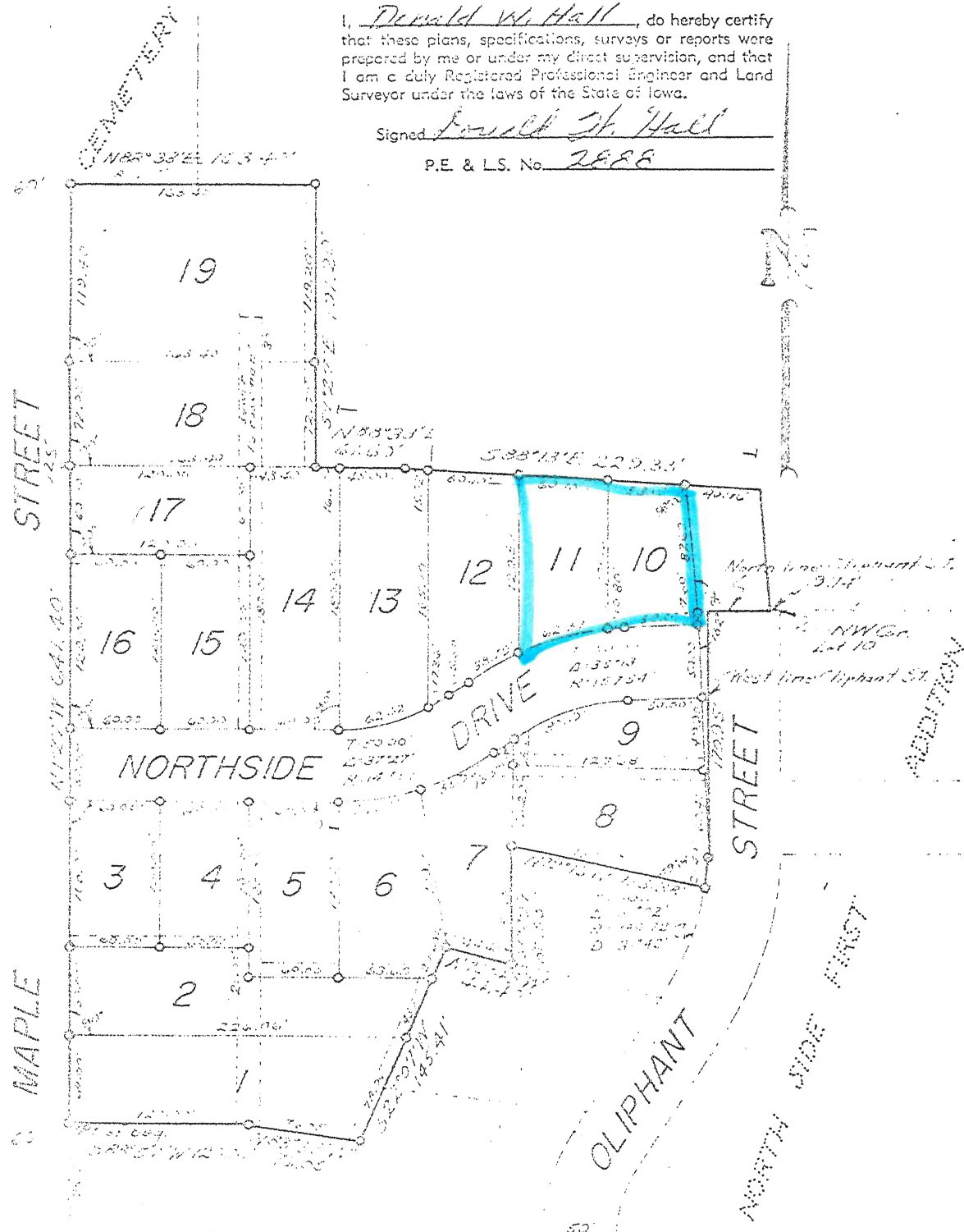


Date 7-6-67

I, Donald W. Hall, do hereby certify
that these plans, specifications, surveys or reports were
prepared by me or under my direct supervision, and that
I am a duly Registered Professional Engineer and Land
Surveyor under the laws of the State of Iowa.

Signed Donald W. Hall

P.E. & L.S. No. 2888



110 North Poplar
West Branch, IA 52358
319-643-5888
319-643-2305 FAX

CITY OF WEST BRANCH APPLICATION FOR BUILDING PERMIT

1. Location

508 Oliphant street Residential
Street Address Zoning Classification
10 + 11 2nd Northside
Lot Number Block Addition

2. Property Owner

Devin + Breanna Lewis (319) 430-1650
Name Telephone
508 Oliphant street, West Branch, IA
Address

3. Contractor

Devin Lewis (319) 430-1650
Name & Address Telephone

4. Architect

Devin Lewis (319) 430-1650
Name & Address Telephone

5. Reason for permit

☐ New Building ☒ Fence ☐ Conversion of Use
☐ Bldg. Addition ☐ Bldg. Relocation ☐ Old
☐ New Outbldg. ☐ Sign ☐ New

6. Building Use

Residential / Privacy

7. Residence

of families or housekeeping units the building will accommodate N/A

8. Construction Type

Wood / cedar Cost \$3,000.00
Excluding Land

9. Dimensions

Floor Sq. Ft. 300 Height from Final Grade 6' Lot Sq. Ft. 12,547
Depth of Yard: Front 112.4' Sides 0120.8' Rear 113.25'
Off Street Parking Spaces N/A 87.6'
Sign Dimensions and Square Feet N/A

10. Indicate who will do the following tasks:

Self

Licensed Installer

Electric Wiring Installation
Plumbing Installation
Gas Installation
Water Installation
Sanitary Sewer Installation

☒
☒
☒
☒
☒

11. Other Permits: Check here for other permits you or the contractor will be requesting

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Excavation & Curb Cut
Electric Wiring
Electric Wiring Approval & Insp.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Plumbing Permit & Insp.
Water Permit & Insp.
Sign Permit

EXHIBIT

3

Devin Lewis
Signature of Applicant

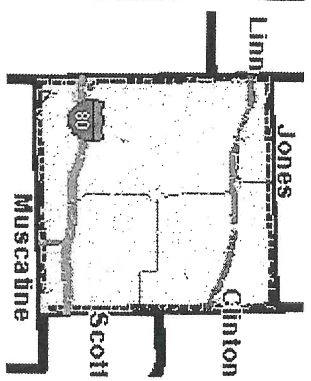
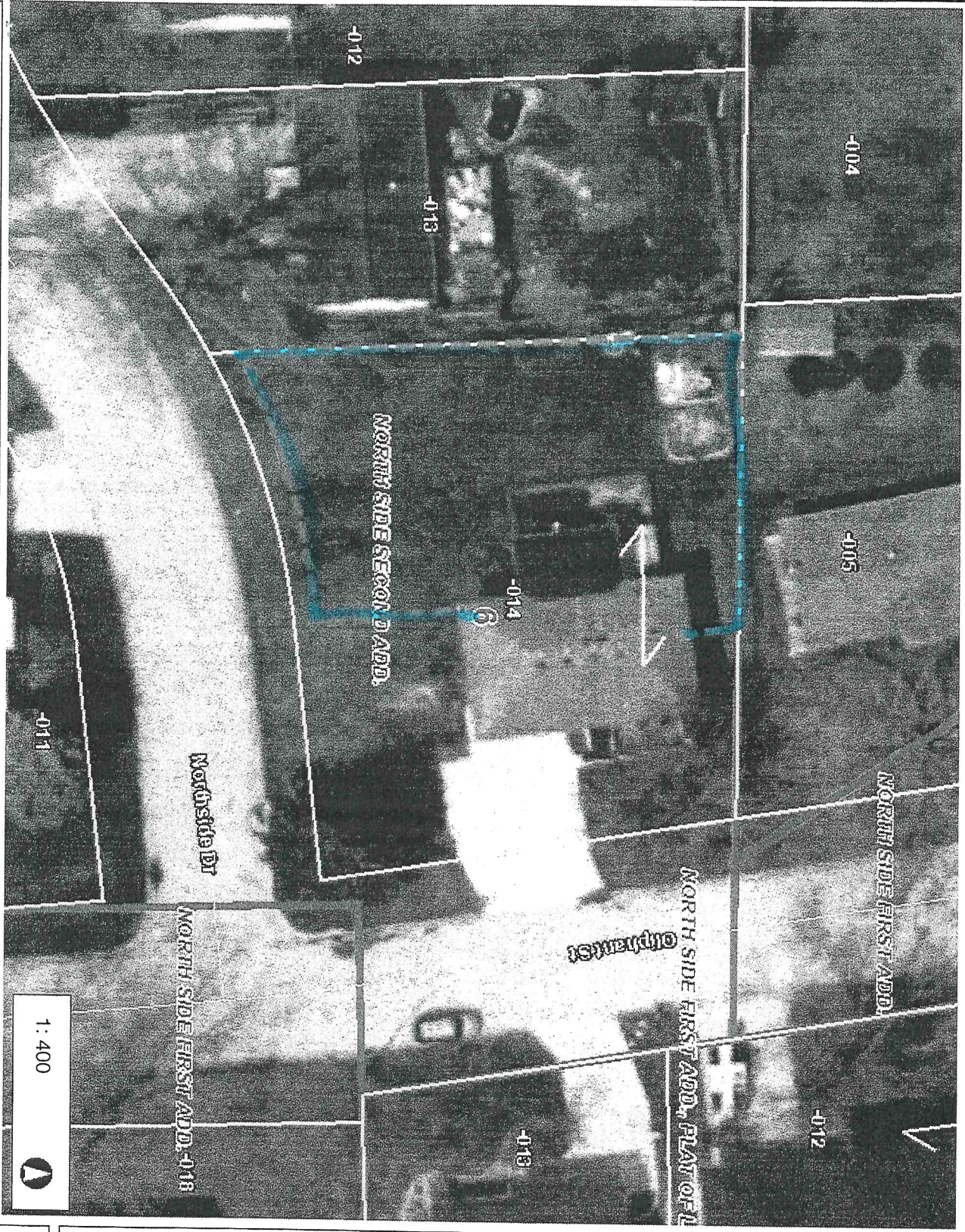
☒ Approved
☐ Denied

M. S. Wood
Zoning Administrator

Permit Fee \$83.25

(make check payable to City of West Branch) Date 5-23-11

508 N Oliphant Street - Fence



Legend

- Road
 - County Roads / City Streets
 - INTERSTATE
 - STATE HIGHWAY
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66.6 0 33.29 66.6 Feet

1 : 400

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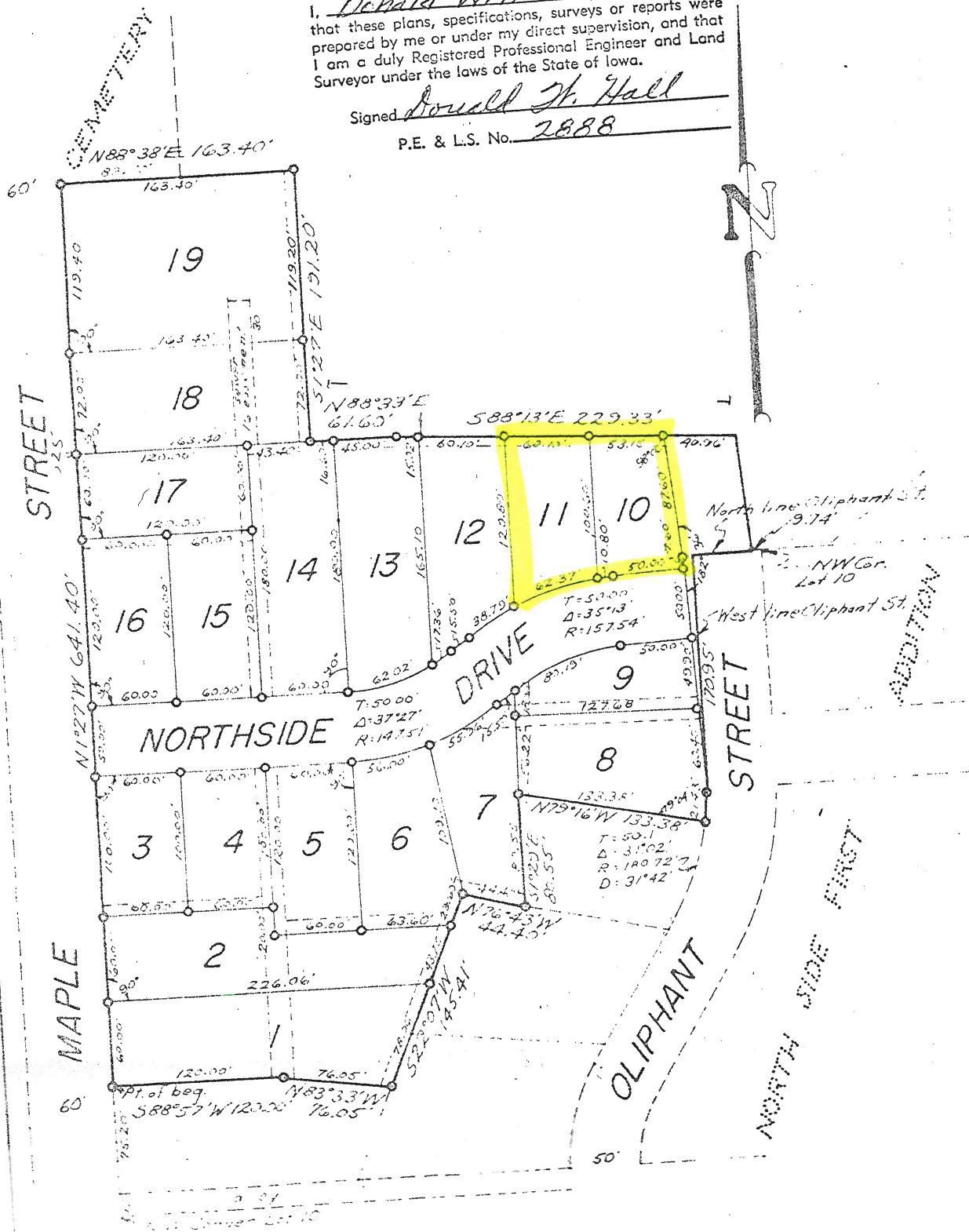
Not

EXHIBIT

4

I, Donald W. Hall, do hereby certify that these plans, specifications, surveys or reports were prepared by me or under my direct supervision, and that I am a duly Registered Professional Engineer and Land Surveyor under the laws of the State of Iowa.

P.E. & L.S. No. 2888



J. M. MITCHELL ADD.

**Parcel Number:** 0500-13-06-427-014-0**Deed Holder:** LEWIS DEVIN J**Property Address:**

508 N OLIPHANT ST

WEST BRANCH, IA 52358- [MAP THIS ADDRESS](#)**Class:** RESIDENTIAL**Map Area:** WEST BRANCH**Tax District:** 500**Plat Map:** 345**Legal Description:** NORTHSIDE 2ND ADDITION LOTS 10 & 11**Property Report:** [PROPERTY REPORT \(PDF FILE\)](#)**Current Value as of January 1, 2015; Taxes Payable 2016 & 2017**

Land Value	Dwelling Value	Improvement Value	Total Value
\$29,730	\$130,750	\$0	\$160,480

[Get Current Year Tax Estimate](#)**Prior Year Value Information**

Year	Land Value	Dwelling Value	Improvement Value	Total Value
2014	\$29,730	\$129,520	\$0	\$159,250
2013	\$29,730	\$129,520	\$0	\$159,250

▼ More Years...

Land Front Foot Information

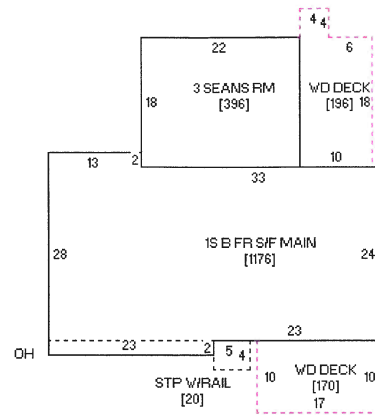
Lot	Front	Rear	Side 1	Side 2	Eff Frontage
Main Lot	112.40	119.10	120.80	96.00	104.32

Residential Building Information

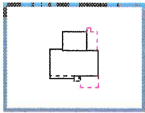
Occupancy	Style	Year Built	Total Living Area
▼ Single-Family / Owner Occupied	1 Story Frame	1968	1,176

Sale Information

Sale Date	Amount	Non-Useable Transaction Code	Recording
▼ 06/23/2008	\$129,000	000 - Normal Arms-Length Transaction	902 122-4
▼ 08/05/1997	\$114,000	000 - Normal Arms-Length Transaction	362 151
▼ 06/07/1996	\$96,500	000 - Normal Arms-Length Transaction	326 333



1 / 1



Sketch

110 North Poplar
West Branch, IA 52358
319-643-5888
319-643-2305 FAX

CITY OF WEST BRANCH APPLICATION FOR BUILDING PERMIT

APPLICANT Devin + Breanna Lewis

ADDRESS 508 Oliphant st. West Branch, IA 52358

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6. Show detail of fence (if any). (Format: x x x x)

