



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: PLANNING COMMISSION
FROM: EVAN GARIEPY – PLANNER
SUBJECT: REQUEST FOR VARIANCE #V8-2025 TO CONSTRUCT AN IN-GROUND SWIMMING POOL AT A MINIMUM DISTANCE OF 4’ FROM THE HOUSE AT 1109 PARK LANE SE., AS PROPOSED BY BEN AND ANNE SCHEFFLER
DATE: AUGUST 20, 2025

Background / History

The applicants, Ben and Anne Scheffler, are requesting a variance to allow for a reduction in the setback requirements for an in-ground swimming pool. The Zoning Ordinance mandates that all swimming pools, both above ground and in-ground, are a minimum of 10 feet from any principal structure, building, or frost footings. The applicants wish to construct an inground pool with a minimum distance of 4 feet from their house and its foundation.

The property 1109 Park Lane SE is zoned RL90 Single Family Residential and has an abnormally large drainage and utility easement due to Settler’s Park wetlands being located north of the property and the easement covering the required wetland buffer area. Swimming pools are not permitted to be constructed within easements or buffers. For this reason, moving the swimming pool further north in the yard and away from the house is not possible. The applicant considered applying for a re-evaluation of the wetlands north of the property instead, but this process costs \$3,000-\$4,000 and may result in no change, or an even larger required setback from the wetlands. If so, then the applicant would have to pursue a variance anyway.

This leaves the applicant with a small permissible portion of the yard for constructing a swimming pool. A pre-existing concrete patio and deck further restricts where the swimming pool may currently be built in the yard.

The International Code Council (ICC) does not mandate a minimum setback for swimming pools from any building foundation. No engineering background or reasoning was found as to why the City’s Zoning Ordinance requires a 10-foot setback from structures.

Legal Description

Lot 5, Block 5, Prague Estates Eighth Addition, according to the plat thereof, LeSueur County, Minnesota.

Neighborhood Conditions and Nearby Land Uses

North – Settler’s Park, wetlands. Further north is more residential homes in the RL90 Single Family Residential Zoning District.

South – Residential homes in the RL90 Single Family Residential Zoning District

East – Residential homes in the RL90 Single Family Residential Zoning District

West – Residential homes in the RL90 Single Family Residential Zoning District, 10th Ave. SE across which is the RM Medium Density Residential Zoning District.

Zoning

The property is located in the RL90 Single Family Residential Zoning District.

Swimming pools are permitted in RL90 Single Family Residential Zoning Districts.

Zoning Ordinance Section 735(1)(L) states that “All swimming pools shall be at minimum of 10 feet away from any principal structure, building, or frost footing.”

Building Official Comments

The City Building Official, Scott Sasse, was consulted regarding the minimum distance from a building and its foundation and a swimming pool. He looked into building code and found no minimum required distance from a building to a swimming pool. He recommended a minimum distance of 48”, or 4 feet, due to the presence of frost coverage over building footings. He also acknowledged that there still may be an increased structural risk due to this closer proximity due to the outward force the pool may exert on the building’s frost footing and foundation.

General Community Development Staff Comments

As noted earlier in this report, staff does not have specific answers as to why the ordinance requirement of 10’ exists when the building code does not require it. In researching the topic for this report, 10’ does seem to be a common setback for in-ground pools from homes in Minnesota, but the requirements do vary from 4’ to 10’. In the UDC draft, staff is recommending moving the setback from in-ground or above ground pools from 10’ to 6’.

Staff also reiterates that while building code does not require a minimum setback and that the Building Official is recommending a minimum of 4’ setback, staff makes no guarantees about

structural risk to the home and would advise the applicant to consider a structural engineer review the 4' setback for peace of mind, if nothing else.

Statement of Practical Difficulties

From Ben Sheffler on 08/2/2025;

Following the dig of the hole and painted outline of our initially planned pool we realized how small the actual pool would be. A larger size will better accommodate our large immediate and extended family. Due to the restrictions of the wetland setback and current frost footing requirement, we are not allowed to increase size and shift the pool further into our yard.

Criteria for Granting Variances - Section 507

The Zoning Ordinance defines a variance as follows: A modification or variation of the provisions of this Ordinance where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties. Practical difficulties is a legal standard set forth in law that cities must apply when considering applications for variances. To constitute practical difficulties, all three factors of the test must be satisfied, which are reasonableness, uniqueness and essential character. The Zoning Ordinance's criteria addresses these standards.

The Zoning Ordinance identifies criteria for granting variances as noted below. These items must be evaluated by the Planning Commission and City Council when considering variance requests. It is important to note that variances should only be granted in situations of practical difficulties. A variance may be granted only in the event that all of the circumstances below exist. Staff has attempted to evaluate the established criteria for this specific request. Staff's comments are highlighted in yellow below:

- A. The variance is in harmony with the general purposes and intent of this Ordinance. (The variance is in harmony with the general purposes and intent of the Ordinance because the RL90 Single Family Residential Zoning District allows swimming pools as a permitted use.)
- B. The variance is consistent with the comprehensive plan. (The proposed variance is consistent with the comprehensive plan because the RL90 Single Family Residential Zoning District allows swimming pools as a permitted use.)
- C. The applicant proposes to use the property in a reasonable manner not permitted by this Ordinance, the City Code or the City Subdivision Ordinance. (The applicant proposes to use the property in a reasonable manner by reducing the setback of an in-ground swimming pool from a house and its foundation from a 10 foot minimum setback to a 4 foot minimum setback.)
- D. Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property since enactment of

this Ordinance has had no control. The unique circumstances do not result from the actions of the applicant. (Unique circumstances apply to this property in that the property has a very large easement/buffer in the rear yard due to wetlands located north of the property.)

- E. The variance does not alter the essential character of the neighborhood. (The variance does not alter the essential character of the neighborhood because swimming pools are a permitted use in the RL90 Single Family Residential Zoning District.)
- F. That the variance requested is the minimum variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties. (The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow the applicant to construct a larger in-ground swimming pool in a yard with a larger than normal easement/buffer due to wetlands located on an adjacent property.)
- G. The Board of Adjustment may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by federal, state or local law. (No additional conditions are imposed.)

Staff Recommendation

Staff recommend **approval** of Variance #V8-2025 to allow a variance to construct an in-ground swimming pool at a minimum distance of 4' from the house at 1109 Park Lane SE., as proposed by Ben and Anne Scheffler, for the following reasons:

- A. The variance to allow freestanding signage to exceed 100 sq. ft. is in harmony with the general purposes and intent of the Zoning Ordinance because the RL90 Single Family Residential Zoning District allows swimming pools as a permitted use.
- B. The proposed variance is in the harmony with the comprehensive plan because the RL90 Single Family Residential Zoning District allows swimming pools as a permitted use.
- C. The applicant proposes to use the property in a reasonable manner by reducing the setback of an in-ground swimming pool from a house and its foundation from a 10 foot minimum setback to a 4 foot minimum setback.

- D. Unique circumstances apply to this property in that the property has a very large easement/buffer in the rear yard due to wetlands located north of the property.
- E. The variance does not alter the essential character of the neighborhood because swimming pools are a permitted use in the RL90 Single Family Residential Zoning District.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow the applicant to construct a larger in-ground swimming pool in a yard with a larger than normal easement/buffer due to wetlands located on an adjacent property.

Attachments

- 1. Site Aerial Map – Dated 08/12/2025
- 2. Zoning map – Dated 08/12/2025
- 3. Plat depicting wetlands – Dated 05/2004
- 4. Survey of the property with permissible pool locations – Dated 08/2023
- 5. Proposed pool location – Dated 08/04/2025
- 6. Proposed pool location, overlaid with aerial map – 08/12/2025
- 7-9. Google Street Map – Dated 10/2013
- 10. North from back yard – Dated 08/19/2025
- 11. West from back yard – Dated 08/19/2025
- 12. East from back yard – Dated 08/19/2025

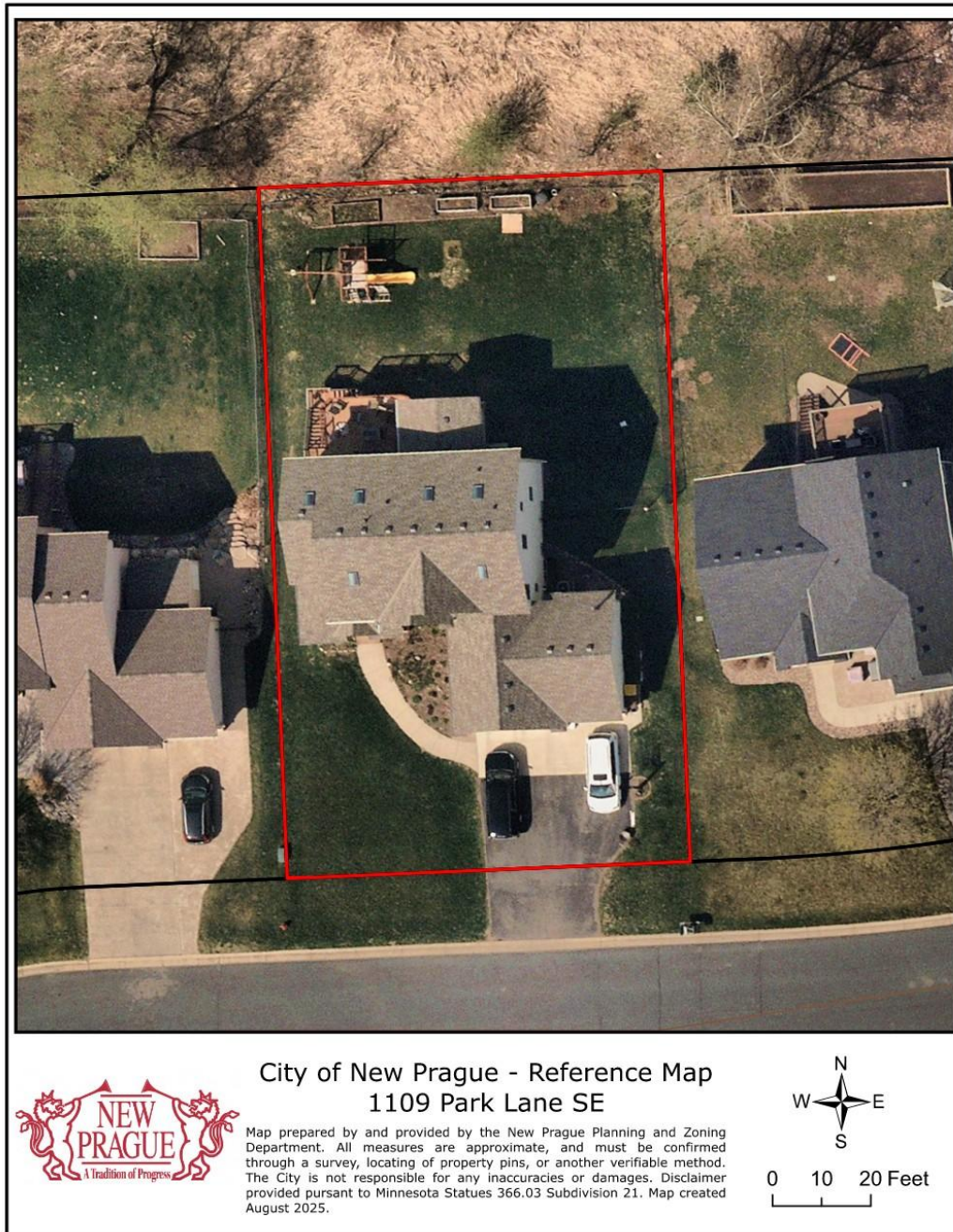


Figure 1. Reference aerial map of 1109 Park Lane SE.

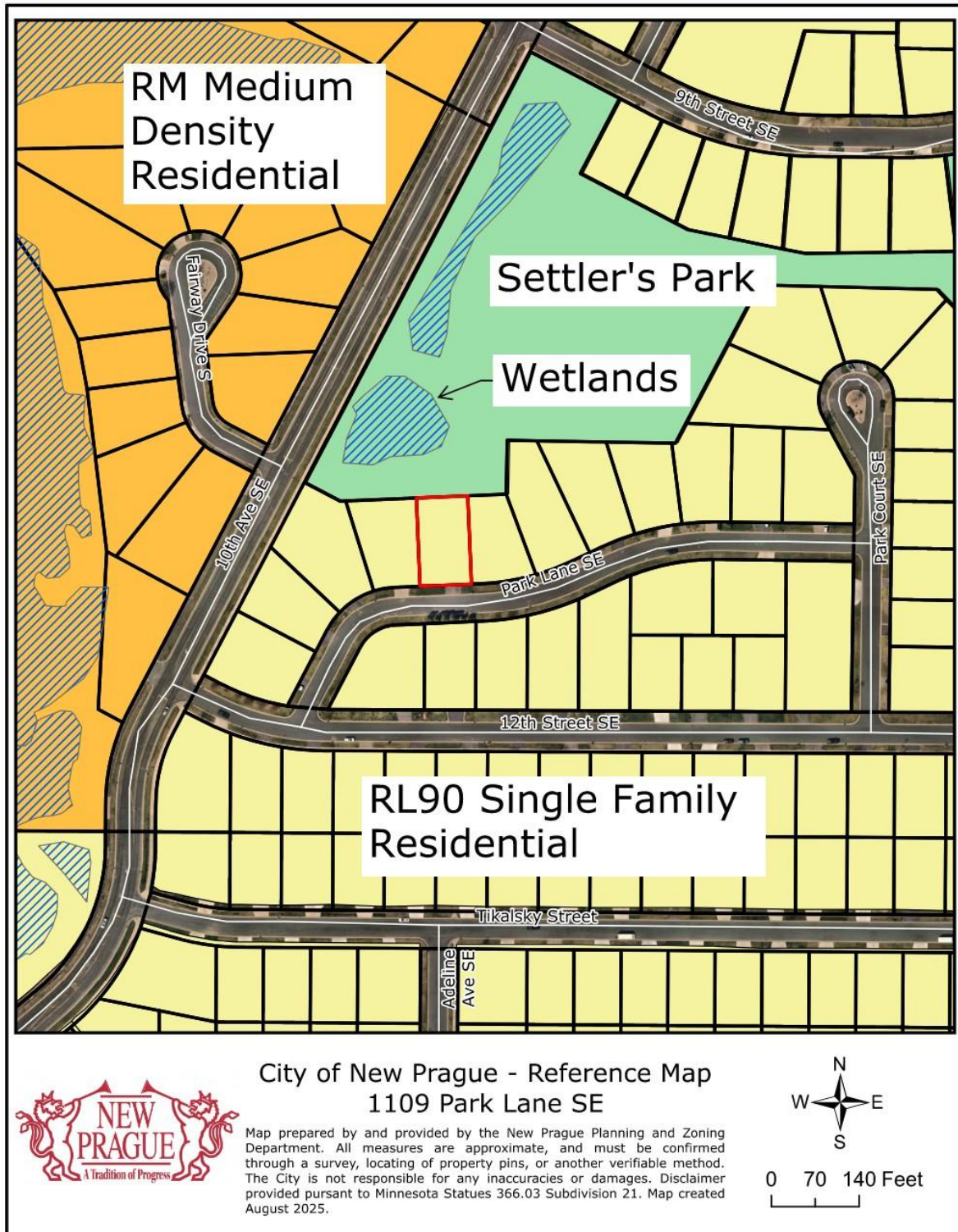


Figure 2. Zoning map of the property and surrounding area

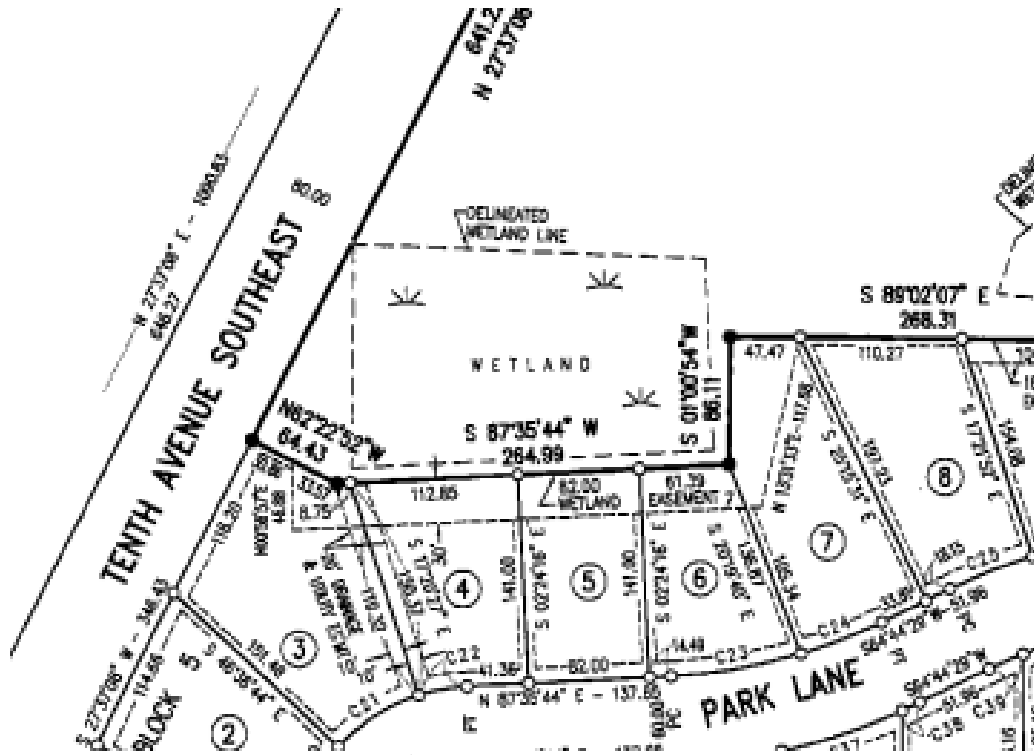
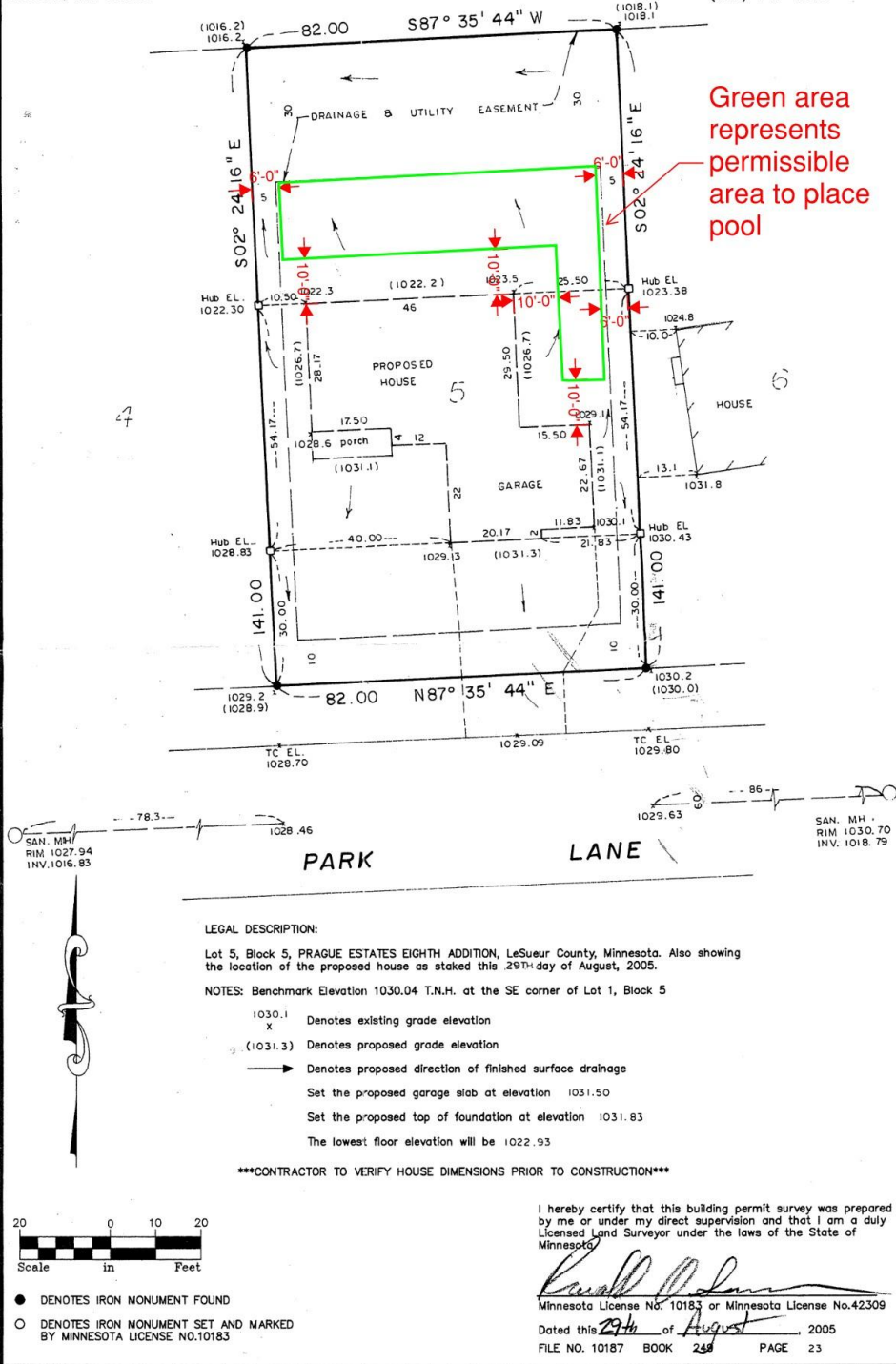


Figure 3. Clip of the plat for Prague Estates 8th Addition, depicting the delineated wetlands. 1109 Park Lane SE is Lot 5.

BUILDING PERMIT SURVEY PREPARED FOR:
RIVER VALLEY HOMES
 110 1ST STREET EAST
 JORDAN, MN. 55352

VALLEY SURVEYING CO., P.A.
 16670 FRANKLIN TRAIL SE
 SUITE 230
 PRIOR LAKE, MN 55372
 (952) 447-2570



Mockup from 8/28/2023

Figure 4. Permissible area for a swimming pool at 1109 Park Lane SE.

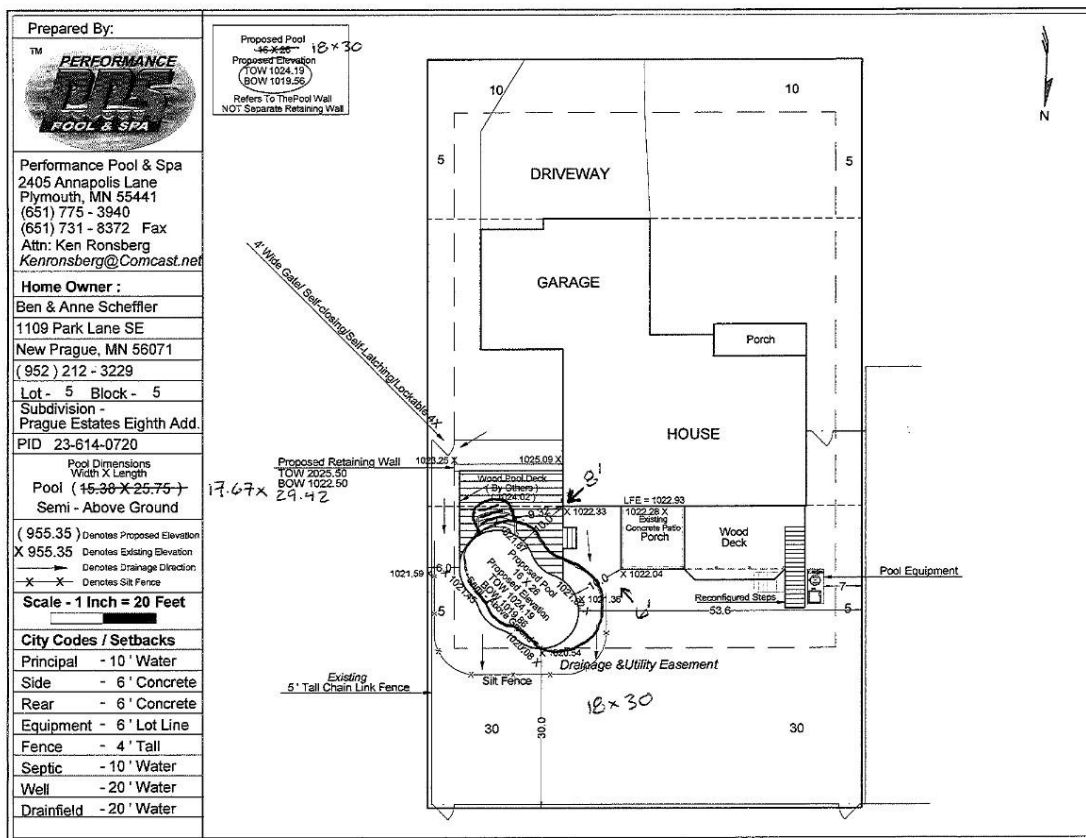


Figure 5. Proposed pool location and expansion.



Figure 7. 1109 Park Lane SE, as seen from Park Lane SE



Figure 8. Looking west from the property



Figure 9. Looking east from the property



Figure 10. Looking north from deck in back yard



Figure 11. Looking west from deck



Figure 12. Looking east from deck. Note the current excavated area is larger than the actual pool itself, as well as the slope on the side of the house.