

AGENDA

1. Call to order
2. Confirmation of Public Hearing Notice
3. A request for an additional 980 square feet of an accessory structure to be used for a cottage industry purposes above the 2,400 square feet allowed (Town of Brunswick)
/ Discussion – Action PAGES 2-17
4. Review / Approval of Minutes from March 13, 2019 / Discussion – Action PAGES 18-19
5. Adjournment

VARIANCE NUMBER: VAR-0003-19

COMPUTER NUMBERS: 004-1030-05-010

PUBLIC HEARING DATE: May 13, 2019

STAFF CONTACT: Jared Grande, Land Use Manager

OWNER: Thomas and Cara Rathbun Trust

APPLICANT: John Kappus IV

SITE LOCATION: W 7301 State Road 85, Eau Claire, WI 54701

ZONING DISTRICT: A-P Agricultural Preservation

LEGAL DESCRIPTION: NW-NE EX THE FOL: COM AT NE COR TN W 476' TO POB TN S 330' TN W 322.5' TN N 110.5' TN W 110.5' TN N 219.5' TN E 433' TO POB & EX STH 85 R/W CONT 1.19 ACRE, Town of Brunswick, Eau Claire County, Wisconsin.

REQUEST: Request for an additional 980 square feet of an accessory structured to be used for cottage industry purposes above the 2,400 square feet allowed.

SUMMARY

The application materials provide background on the current location of the business (Fast Freddie's Rod Shop) in the City of Eau Claire. The applicant has been looking to relocate the business to better suit business needs; the desired property has an existing accessory building (9,108 square feet) that was permitted as a commercial building in 2006. The owner of the property also received a conditional use permit in 2006 for a home occupation (contractor's office); at that time, home occupations devoting greater than 500 square feet required a conditional use permit. There was not a limitation on the floor area devoted to the home occupation.

The applicant, at the appropriate time of purchasing the property, has indicated he would be applying for a conditional use permit for a cottage industry. The property is currently zoned AP – Agricultural Preservation. AP is the County's certified district for Farmland Preservation and therefore shall follow Wis. Stat. 91; the property will be required to be rezoned to a different zoning district for the cottage industry. The applicant has indicated he would be looking to rezone to A2 – Agricultural Residential. The cottage industry allows the use of an accessory building for the business, but not to exceed 2,400 square feet. The applicant is requesting for an additional 980 square feet of an accessory structured to be used for cottage industry purposes above the 2,400 square feet allowed.

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	A-P	Agricultural/Single Family
West	A-P	Agricultural
South	A-P	Agricultural/open space
East	A-P	Agricultural/Single Family

AUTHORITY

Chapter 18.31 of the zoning code establishes the Board of Land Use Appeals and its authority. Variances granted by the Board of Land Use Appeals are required to meet the standards as defined by the code. The board must find that due to literal enforcement of the code an “unnecessary hardship” would result. Unnecessary hardship is defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district, caused by such facts as rough terrain or soil conditions uniquely applicable to the property and not generally other properties in the same zoning district.

The statutory authority for the Board of Land Use Appeals is found in Wis. Stats. 59.694.

APPLICABLE ZONING REGULATIONS

Section 18.01.010 Purpose. This section describes the purpose of the zoning code. Generally, the purpose of the zoning ordinance is as follows: to separate incompatible land uses from one another; to maintain public health and safety; to protect and conserve natural resources; to prevent overcrowding; to preserve property values; and to maintain the general welfare of the citizens.

Section 18.05.001 Purpose. The A-2 agriculture-residential district is established to: A.) Provide an area for limited residential and hobby farm development in a rural atmosphere; B.) Preserve the county's natural resources and open space;

Section 18.23.001 Purpose. The purpose of this chapter is to set standards under which home occupations, home businesses and cottage industries may be conducted so that such occupations, businesses and industries do not undermine the purpose and intent of this subtitle and the purposes of all agricultural and residential districts.

Section 18.23.030.E Building size. The appurtenant and accessory structure used as a cottage industry shall not occupy a total area greater than 2,400 square feet. If located within a dwelling unit, the total area of the cottage industry shall not occupy more than 50% of the floor area of the dwelling unit.

Section 18.32.001 Purpose. The A-P Agricultural Preservation District is established to:

- A. *Preserve and protect those areas best suited for agricultural, forestry or open-space uses by minimizing fragmentation of contiguous agricultural or forest lands for the benefit and use of current and future generations;*

- B. Provide for a wide range of agricultural uses typically associated with the continued production of food and fiber while recognizing that such uses may involve noise, dust, odor, or operation of heavy equipment for long periods of time;
- C. Strengthen and diversify a predominately agricultural and forestry-based economy by providing for a range of economic opportunities for property owners which are generally compatible with and supportive of agriculture or forestry operations as either permitted or conditional uses;
- D. Comply with standards contained in Wis. Stat. ch. 91 to permit eligible landowners to receive tax credits under Wis. Stat. § 71.09, in conjunction with their agricultural operations;
- E. Preserve rural character and promote the efficient use of public infrastructure and utilities by minimizing the adverse effects of urban sprawl along with its associated expense;
- F. Promote environmental quality through the use of conservation practices designed to minimize erosion of productive soils and deter the delivery of sediment and nutrients to the waters of our state;
- G. Minimize land use conflicts which occur when agricultural and non-agricultural uses are intermixed or not adequately separated; and
- H. Provide for carefully regulated extraction of nonmetallic mineral resources through Eau Claire County's permitting processes to ensure compatibility with adjacent land uses, minimize impacts to natural resources, and to restore lands to productive agricultural use consistent with locally approved reclamation plans.

VARIANCE STANDARDS

Section 18.31.020 C. 6. Standards for Granting Variances. The following are standards and principals to guide the board's decisions:

a. *The burden is upon the appellant to prove the need for a variance.*

The petitioner must prove that the strict letter of the restrictions governing an accessory structure used as a cottage industry not to exceed 2,400 square feet would unreasonably prevent them from using the property for the uses that are allowed in the zoning district or would render conformity with such restrictions unnecessarily burdensome.

b. *Pecuniary hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales are not sufficient reasons for getting a variance.*

The applicant outlined the state of the current location and the reasons for searching for a new location. There does not appear to be a self-imposed hardship, proceeding without a permit, or illegal sale per the request. Staff does believe, based on the application, there could be a connection of pecuniary hardship to the request. The business would seem to be typical of a commercial business suited for a commercial district.

c. *The plight of the applicant must be unique, such as a shallow or steep parcel of land or situation caused by other than his or her own action.*

There is no indication of a unique situation on the property, such as a shallow or steep slope. The property has an existing accessory structure that was permitted as a commercial building; therefore, the building is favorable for the applicant and business.

d. *The hardship justifying a variance must apply to the appellant's parcel or structure and not generally to other properties in the same district.*

Granting of this variance may lead to other similar variance requests in the future given the fact there are other parcels that may allow for a cottage industry use. A property owner, in the same district, could apply for a permit for an accessory structure and build that structure to commercial codes if they desired; there is not a restriction under current county code on the maximum square footage of a building.

e. Variances allowing uses not expressly listed, as permitted or conditional uses in a given zoning district shall not be granted.

This is not a use variance request. The underlying A-P District and proposed A-2 District allows cottage industry as a conditional use.

f. The variance must not be detrimental to adjacent properties.

It does not appear that granting the variance would be detrimental to adjacent properties.

g. The variance must by standard be the minimum necessary to grant relief.

It is unknown if the minimum necessary to grant relief has been requested. The applicant did not indicate the reason(s) for the requested 980 square feet of additional space for the business. It was found that there is an existing separation wall inside the building which may contribute to the requested square footage.

h. The variance will not be in conflict with the spirit of this subtitle or other applicable ordinances, nor contrary to state law or administrative order.

It is questionable if the variance request conflicts with the purpose of the section 18.05.001, 18.23.001, and 18.332.001. The variance request will not be contrary to state law or administrative order.

i. The variance shall not permit any change in established flood elevations or profiles.

The request does not impact the floodplain.

j. Variances shall not be granted for actions, which require an amendment to Chapter 18.20, the Floodplain Overlay District.

This variance request does not require amendments to Chapter 18.20.

k. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.

The request does not involve the construction of a structure. The structure has already been reviewed and approved for floodplain purposes.

l. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

It is unknown if the minimum necessary to grant relief has been requested; the applicant did indicate the reasons for the requested additional square footage or why specifically the amount; there is an existing separation wall in the building. There does not appear to be increased risks to public safety or nuisance costs for rescue and relief efforts.

RELEVANT CASE LAW

In 2004, the Wisconsin Supreme Court decided two cases of relevance regarding area variances. In the first case, STATE EX REL. ZIERVOGEL V. WASHINGTON COUNTY BOARD OF ADJUSTMENT, CASE NO. 02-1618 (2004), the Supreme Court reaffirmed the definition of the statutory term “unnecessary hardship” set forth in the Snyder case as follows: “We have stated that unnecessary hardship is present when compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner for using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.”

In the second case, STATE OF WISCONSIN VS. WAUSHARA COUNTY BOARD OF ADJUSTMENT, CASE NO. 02-2400 (2004), the Supreme Court stated that the Board of Adjustment should focus on the purpose of the zoning law at issue in determining whether an unnecessary hardship exists for the property owner seeking the variance.

In the second case in 2005, LAMAR CENTRAL OUTDOOR, INC. VS. BOARD OF ZONING APPEALS OF CITY OF MILWAUKEE, 2005 WI 117 (Wis. Sup. Ct. July 12, 2005), the Supreme Court held that a board of appeals may not simply grant or deny an application with conclusory statements that the application does or does not satisfy the statutory criteria, but shall express, on the record, its reasoning why an application does or does not meet the statutory criteria.

STAFF REVIEW AND CONCLUSIONS:

In evaluating this variance application, the Board must consider the twelve ordinance standards for granting a variance and relevant Wisconsin case law. An approval or denial requires that the board state its reasoning why an application did or did not meet the statutory criteria.

There are arguments in support and in opposition to the requested variance. The board must carefully weigh each argument and fact against the appropriate variance standards, the purpose statement of the respective ordinance and relevant case law before making a decision to grant or deny the request. An unnecessary hardship exists when compliance would render conformity with such restrictions unnecessarily burdensome. To determine if a hardship is present, an evaluation of the purpose statements for the zoning code and section 18.05 and 18.23 is required.

A hardship is not present because compliance with the strict letter of the restriction governing square footage of an accessory structure used for a cottage industry would not render conforming to such restriction unnecessarily burdensome.

A consideration for granting a variance is to determine if unique physical property limitations exists.

The hardship is not unique to this property. Other properties with accessory structures may have similar circumstances and granting this variance may set a precedent for future variance requests.

The variance request is not related to unique physical characteristics of the property, but rather, to a condition the property has an accessory structure deemed valuable and required to the applicant.

Granting this variance will not result in harm to public interests.

The variance would not likely cause an increased risk to public safety or result in harm to public interests, but granting of this variance may lead to other variances requests in similar circumstances.

FINDINGS

The board must create findings to support its decision to grant or deny the variance request per LAMAR CENTRAL OUTDOOR, INC. VS. BOARD OF ZONING APPEALS OF CITY OF MILWAUKEE, 2005 WI 117 (Wis. Sup. Ct. July 12, 2005).

If the Board denies the variance request, the Board may incorporate any or all of the following findings in its decision:

- The literal enforcement would not create an unnecessary hardship that would prevent the applicant from using the property and accessory building for cottage industry purposes. A reasonable use of the property has already been established.
- No unique physical limitation exists on this property, such as a steep slope, wetland, drainage area that would prevent the compliance with the ordinance.
- Pecuniary hardship or self-imposed hardship, such as that caused by ignorance, are not sufficient reasons for granting a variance.
- The hardship justifying a variance is not specific to the appellant's parcel or structure. Other properties in the same district could have a commercial building; such properties could be rezoned and a cottage industry proposed use with a conditional use permit could be granted.

If the Board approves the variance request, the Board may incorporate any or all of the following findings in its decision:

- The literal enforcement of the ordinance would require that the applicant have only 2,400 square feet and it may not be enough for the business.
- The applicant has searched multiple years for a shop and residence with no other location found.
- The request would not likely cause an increase risk to public safety or result in harm to public interests.
- There are no safety related matters that would impact those traveling along State Road 85.

Conditions

- The applicant shall obtain all necessary permits/approvals, including but not limited to the following: receive approval for a petition to rezone from AP – Agricultural Preservation to A2 – Agricultural Residential and receive approval for a conditional use permit for a cottage industry.

EXHIBITS

1. Staff report
2. Variance application

Eau Claire County
Department of Planning and Development
 Eau Claire County Courthouse
 721 Oxford Avenue, Room 3344
 Eau Claire, Wisconsin 54703
 (715) 839-4741

Application Accepted: 4/9/2019
Accepted By: Jared Grande
Receipt Number: 59638
Town Hearing Date:
Scheduled Hearing Date: 5/13/2019
Application No: VAR-0003-19
Appl Status: Pending

Eau Claire County Variance Application

Owner\Applicant Name(s): John F. Kappus Iv Thomas H & Cara D Rathbun Trust (ow)	Address: (appl) 3204 109TH ST CHIPPEWA FALLS W 7301 STATE ROAD 85 EAU CLAIRE	Telephone: 715-456-3949(C) 715-828-5013(C)
Agents Name:		
Site Address(es): W 7301 STATE ROAD 85 EAU CLAIRE		
Zoning District(s): AP	Code Section(s): 18.23.030.E	
Property Description: Sec 07 Twn 26 Rge 10	Town of Brunswick	Lot Area: 35.810 ACRES
Overlay District: Check Applicable	<input type="checkbox"/> Shoreland	<input type="checkbox"/> Flood Plain
	<input type="checkbox"/> Airport	<input type="checkbox"/> Wellhead Protection
		<input type="checkbox"/> Non-Metallic Mining
PIN 1800422610071200002	Alternate No 004103005010	Parcel No 26.10.7.1-2-B
	Legal (partial) NW-NE EX THE FOL: COM AT NE COR TN W 476' TO POB TN S :	
General Description: REQUEST FOR AN ADDITIONAL 980 SQUARE FEET OF AN ACCESSORY STRUCTURED TO BE USED FOR A COTTAGE INDUSTRY PURPOSES ABOVE THE 2,400 SQUARE FEET ALLOWED. THE PROPERTY WOULD NEED TO BE REZONED OUT OF AP AND A CONDITIONAL USE PERMIT OBTAINED FOR A COTTAGE		
Code Description: 18.23.030.E; ACCESSORY STRUCTURE USED AS A COTTAGE INDUSTRY SHALL NOT OCCUPY A TOTAL AREA GREATER THAN 2,400 SQUARE FEET.		

I certify by my signature that all the information presented herein is true and correct to the best of my knowledge. I give permission for the staff of the Eau Claire County Department of Planning and Development to enter my property for the purpose of collecting information to be used as part of the public hearing process. I further agree to withdraw this application if substantive false or incorrect information has been included.

Owner/Agent Signature _____ Date _____
 Check if DATCAP must be notified _____ Check if DNR to Receive Copy _____

At the public hearing, the applicant may appear in person or through an agent or an attorney of his/her choice. The applicant/agent/attorney may present testimony, evidence and arguments in support of the application. All site plans, pictures, etc. become the property of the Department, and will remain in the file.



Eau Claire County
Department of Planning and Development
 Eau Claire County Courthouse
 721 Oxford Avenue, Room 3344
 Eau Claire, Wisconsin 54703
 (715) 839-4741

Application Accepted:	4/9/19
Accepted By:	Jaed Grande
Receipt Number:	
Town Hearing Date:	-
Scheduled Hearing Date:	

VARIANCE APPLICATION

Property Owner Name: <u>Thomas Rathbun</u>	Phone# <u>715-828-5013</u>
Mailing Address: <u>7301 W. Hwy 85 Eau Claire, WI 54701</u>	
Email Address: <u>thrathbun@rexsystems.com</u>	

Agent Name: <u>John F. Kappus IV</u>	Phone# <u>715-456-3949</u>
Mailing Address: <u>3204 109th St Chippewa Falls, WI 54729</u>	
Email Address: <u>jkappus@gmail.com</u>	

SITE INFORMATION

Site Address: <u>7301 W. Hwy 85 Eau Claire, WI 54701</u>	
Property Description: <u>A</u> $\frac{1}{4}$ $\frac{1}{4}$ Sec. <u>7</u> , T. <u>26</u> N, R. <u>10</u> W, Town of <u>Brunswick</u>	
Zoning District: <u>AP</u>	Code Section(s):
Overlay District: Check Applicable	<input type="checkbox"/> Shoreland <input checked="" type="checkbox"/> Floodplain <input type="checkbox"/> Airport <input type="checkbox"/> Wellhead Protection <input type="checkbox"/> Non-Metallic Mining
Computer #(s):	<u>004 - 103 - 005 - 010</u>

GENERAL APPLICATION REQUIREMENTS

- Applications will not be accepted until the applicant has met with department staff to review the application and determine if all necessary information has been provided. All information from the checklist must be included.
- A detailed written statement that specifically identifies what is being requested.
 - Written argument that justifies the need for the variance and addresses the variance standards. It is the applicant's responsibility to prove that an "unnecessary hardship" exists and that a variance can be granted. (See reverse for additional information.)
 - The applicant must flag/stake the property/project corners and label them accordingly (e.g. NE Lot corner, NE building corner).
 - A scaled site plan of the site and surrounding area for a distance of 100 feet, including buildings and other structures. Also, include the proposed addition/structure/location of septic system, well, driveway, property lines, navigable water ways, wetlands, floodplains, slopes in excess of 20% , and any other unique limiting condition of the property. All maps and engineering data to be no larger than 11" x 17".
 - Provide a \$500.00 application fee (non-refundable), payable to the Eau Claire County Treasurer.

I certify by my signature that all information presented herein is true and correct to the best of my knowledge. I give permission for the staff of the Eau Claire County Department of Planning and Development to enter my property for the purpose of collecting information to be used as part of the public hearing process. I further agree to withdraw this application if substantive false or incorrect information has been included.

Owner/Agent Signature: [Signature] Date: 3/15/2019
 Buyer: [Signature] 3/15/2019

At the public hearing, the applicant may appear in person or through an agent or an attorney of his/her choice. The applicant/agent/attorney may present testimony, evidence and arguments in support of the application. All site plans, pictures, etc. become the property of the Department, and will remain in the file.

7301 W Hwy 85 Eau Claire, WI 54701

Variance Application

This Variance application is in regards to the property located at 7301 W Hwy 85, currently owned by Thomas Rathbun

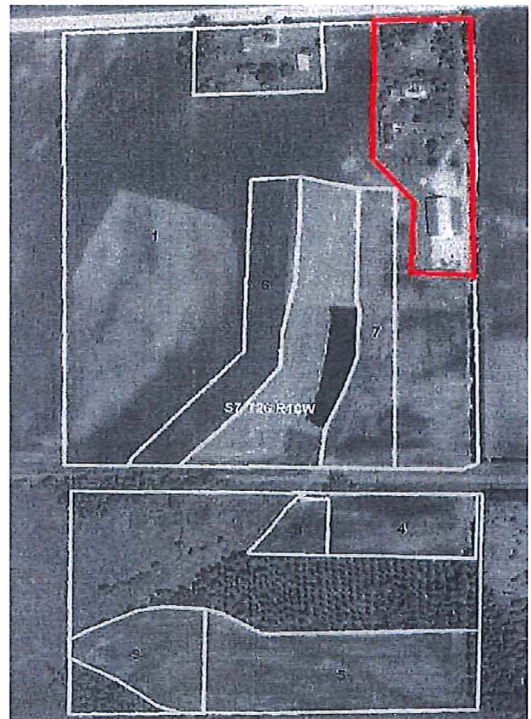
It is the goal of John (Fred) Kappus IV to purchase the property to use as his home and operate his automotive restoration business (Fast Freddie's Rod Shop) in the existing outbuilding on the property.

Property Outline

Diagram on right indicates current CRP outlines based on current conservation plan.

Current zoning is Ag Preservation

- Area outlined in red contains residence and workshop
- The proposed re-zone would convert area in red to Ag 2 in order to obtain a CUP, which allows up to 2,400 sq. ft of business space.
- A variance is needed to utilize the 3,380 sq. ft. of current shop space or an increase of just 980 sq ft.



John F. Kappus 715-456-3949, jfkappus@gmail.com

7301 W Hwy 85 Eau Claire, WI 54701

Fast Freddie's Rod Shop

Currently operating at 1125 Starr Avenue, Eau Claire, WI 54703

Scope of activities:

- Welding & Fabrication
- Mechanical and electrical work
- General assembly of classic automobiles
- Does not offer body & paint service or upholstery service

FFRS Current Shop

- 105 year old building with leaking roof and outdated electrical.
- Building shared with 6 other tenants, sharing one bathroom.
- Retail location, not desired, many daily distractions from general public.
- Currently using 3,000 sq ft shop space.
- Shop is rented, not owned. Building owner has no desire to sell.



John F. Kappus 715-456-3949, jfkappus@gmail.com

7301 W Hwy 85 Eau Claire, WI 54701

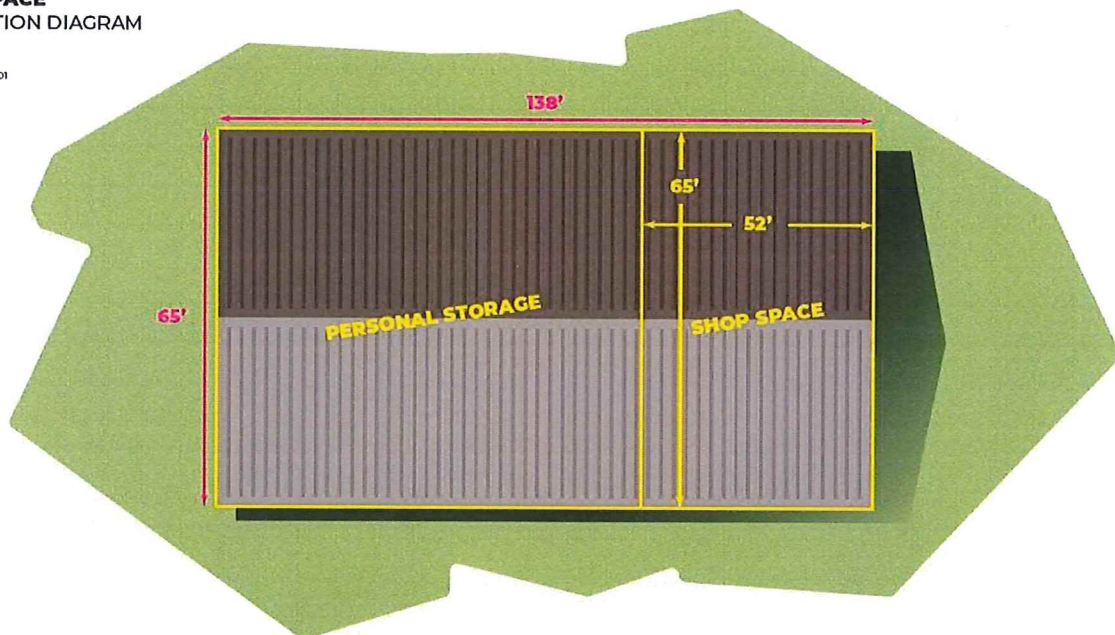
Proposed new location of FFRS



- Newer shop space, built in 2009
- Non-retail location for decreased foot traffic and distractions
- Updated appearance for attracting higher-end clients
- ADA compliant restroom
- Air make up system already installed

SHOP SPACE ALLOCATION DIAGRAM

7301 W HWY 85
Eau Claire, WI 54701



John F. Kappus 715-456-3949, jfkappus@gmail.com

7301 W Hwy 85 Eau Claire, WI 54701

The variance will not be in conflict with the spirit of this subtitle or other applicable ordinances, nor contrary to state law or administrative order.

Because FFRS does not offer body & paint services, there will not be any change to air quality or chemical/solvent use.

Besides an occasional UPS or Fedex truck, there will be ZERO change to the current state of the property.

Since most of Fast Freddie's clients are from out of the area, there will not be an increase in vehicle traffic to the property, other than the 4 current employees.

Arguments for approving the requested variance:

- An exhaustive, multiple-year search for a suitable shop location with a residence has only produced one result and this is it. My realtor, Jason Griepentrog can attest to this.
 - The shop is currently divided into the aforementioned dimensions and this would follow the guideline of "The minimum necessary to grant relief".
 - The request is only for a nominal increase in useable shop space over the 2,400 outlined in the current zoning ordinances.
 - "The variance request will not be detrimental to adjacent properties" as outlined in previous slides.
-
- The seller (Thomas Rathbun) has listed the property for sale for a 12 month period and has not found any potential buyers other than myself. Thomas Rathbun has an active Conditional Use Permit that does not have a restriction on shop size, however the ordinance has changed since his filing and it is our desire to use the existing footprint of shop size.

7301 W Hwy 85 Eau Claire, WI 54701

Summary:

I would like to urge you to consider the approval of this variance so I can bring my business to the next level and continue bringing out of state revenue and increased tax base to EC County

The Eau Claire area has been home for the last 40 years and I wish to continue calling it my home for at least another 40!

Thank you for your time and your consideration.

~John F. Kappus IV

Eau Claire County Parcel Mapping



1 inch = 200 feet

Legend

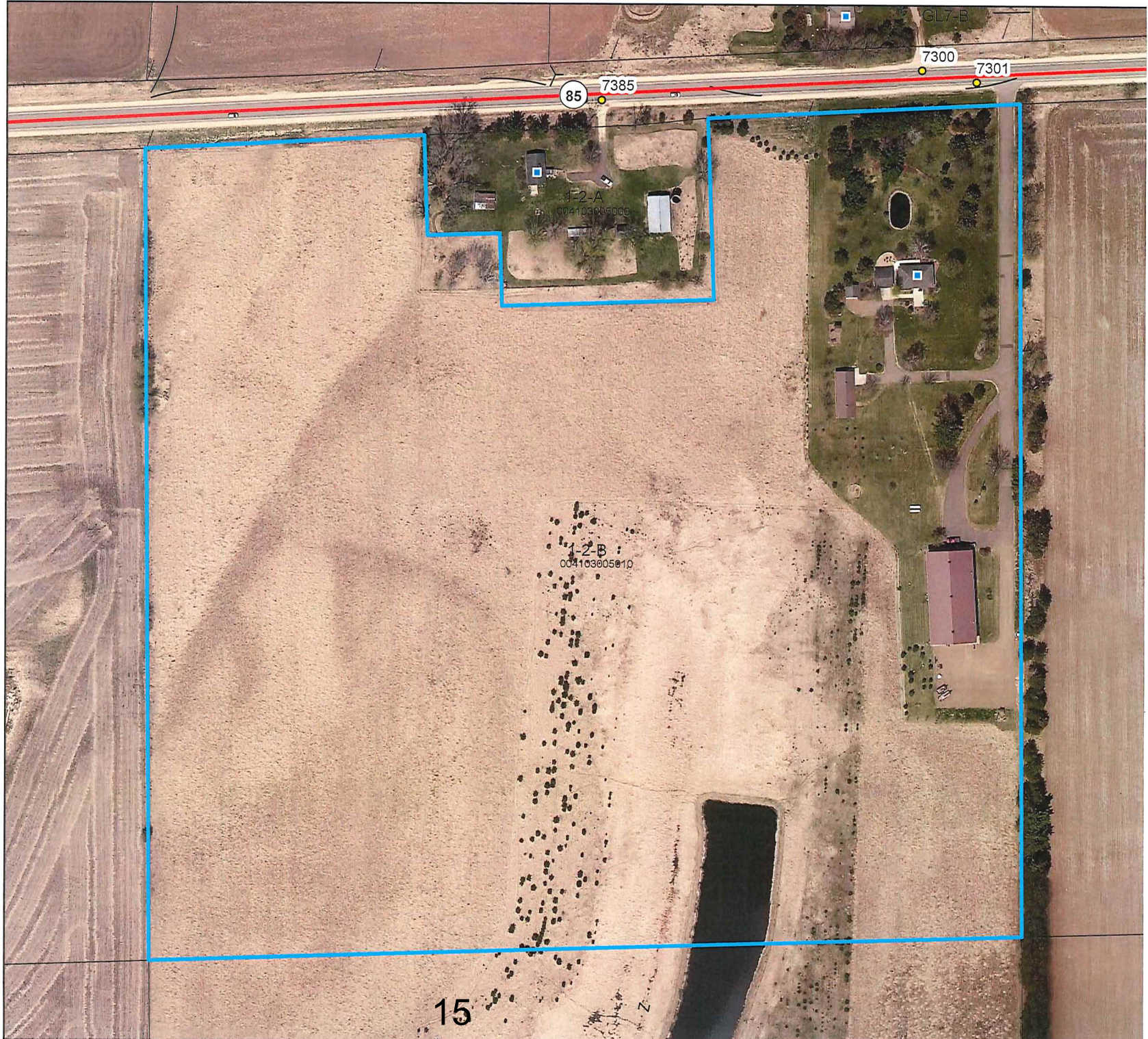
Parcel Mapping Notes:

The horizontal datum is based on the Eau Claire County Coordinate System NAD_1983_HARN_Adj_WI_EauClaire_Feet

This map is a collection of public record information and was prepared as an ongoing commitment to provide quality and up-to-date information to the public. This map is intended for information use only. Although significant care has been exercised to produce maps that satisfy mapping accuracy standards, these maps are only as accurate as the source data from which they were compiled. These maps are intended to be advisory and are NOT designed or intended to be used as a substitute for an accurate field survey, as performed by a Wisconsin Credentialed Land Surveyor, to determine precise property location.

Eau Claire County does not warrant, guarantee or make any representations regarding the use of, or results from the use of the data in terms of correctness, accuracy, reliability, currentness, or otherwise; and the user relies on the map and results solely at their own risk.

Date: Spring 2018
January 1, 2018
Aerial Photography Flight
Information Current



Legend

- 700' Buffer
- Subject Parcel
- Parcels in buffer
- Civil Divisions
- Parcels



ComputerNu	FirstName	LastName	Address	City	State	Zip
4103005000	SETH	DUX	W 7385 STATE ROAD 85	EAU CLAIRE	WI	54701-9539
4103002000	BETTY	HADDEMAN	W 7125 STATE ROAD 85	EAU CLAIRE	WI	54701-9539
4102808000		HUNTSINGER FARMS INC	PO BOX 360	EAU CLAIRE	WI	54702-0360
4103101020		MATHY CONSTRUCTION CO	920 10TH AVE N	ONALASKA	WI	54650-2166
4103006010	DEPT NATURAL RESOURCES	STATE OF WISCONSIN	101 S WEBSTER PO BOX 7921	MADISON	WI	53707
4103006000		THOMAS H & CARA D RATHBUN TRUST	W 7301 STATE ROAD 85	EAU CLAIRE	WI	54701-9539
4102809010	NICHOLAS	WELSH	W 7300 STATE ROAD 85	EAU CLAIRE	WI	54701-9538
4103101000	JEFFREY T & JENNIFER A	WHITE	E 3057 550TH AVE	MENOMONIE	WI	54751-4742

Members Present: Karen Meier-Tomesh, Judy Berchard, Darrin Schwab (alternate)

Members Absent: Randall Stutzman, Gary Eslinger, Pat Schaffer

Staff Present: Jared Grande, Chad Berge

1. Call to order

Alternate Chair Karen Meier-Tomesh called the meeting to order at 5:32 p.m. and verified that the meeting was properly noticed. Ms. Meier-Tomesh reviewed the order of proceedings for the applicant and owners.

2. Appointment of interim – secretary (clerk) / Discussion – Action

Action: Motion by Judy Bechard, seconded by Darrin Schwab to appoint Jared Grande as interim – secretary (clerk). Motion carried, 3-0-0.

3. A request for an after the fact variance to disturb slopes in excess of 30% for the purpose of constructing an accessory structure (Town of Washington - Maurice Minnefield, LLC) / Discussion – Action

Chad Berge, Conservation Technician for Eau Claire County, was sworn in by the chair. Mr. Berge reviewed the request for the variance, discussed the staff report and the items submitted by the applicant, and showed a video of the site. The requested variance is for approval to disturb slopes in excess of 30% for the purpose of constructing an accessory structure. Additionally, Mr. Berge reviewed the intent of Title 17.

Land Conservation staff outlined reasons for approval and denial of the request, but did not provide a recommendation specifically for approval or denial. Chad stated the department did not receive an erosion control plan identifying how the erosion onsite would be managed until March 12, 2019, therefore it did not make it in the packet. Chad indicated that the county's storm water ordinance may supersede erosion control standards.

Ben Awes, applicant representing Maurice Minnefield, LLC, was sworn in by the chair and spoke in favor of the request. Ben gave the background how he was involved with the project and property; he was brought on two years ago. Mr. Awes discussed the owner's intent with the property and being a steward of the land. During Ben Awes presentation, he accidentally knocked down the recording device which missed time from 5:54-6:19. Ben outlined the details why they chose the location of the echo chamber room; not having the floors on the same level would be a major inconvenience for moving equipment (i.e. piano).

Chad clarified that if the board approves the request, the site will be required to be reviewed under 17.06 for storm water purposes.

No one else spoke in favor of the request.

No one spoke in opposition of the request.

Deliberations began at 6:21 p.m.

Deliberations ended at 6:45 p.m.

ACTION: Motion by Judy Bechard, seconded by Darrin Schwab, to deny a variance request to disturb slopes greater than 30%. Motion carried, 3-0-0.

Findings that support the variance denial:

Subject to the following conditions:

1. The Board does not feel that the applicant has exhausted all options as to why a hardship is present.
 2. According to Title 17, disturbing slopes of 30% or greater is a prohibited activity. The board's decision to approve the variance could set precedent for future development on this property. 28% of the property is comprised of slopes greater than 30%.
 3. There are areas of the property that have slopes of 30% or less. The applicant has not communicated as to why the structures can't be built in areas that avoid 30% slopes.
4. Review / Approval of Minutes from January 28, 2019 / Discussion – Action
ACTION: Motion by Darrin Schwab, seconded by Karen Meier-Tomesh, to approve the minutes as submitted. Motion carried, 3-0-0.
5. Adjournment
ACTION: Motion by Judy Bechard to adjourn the meeting at 6:47 p.m. Motion carried by unanimous consent.

Respectfully submitted,

Jared Grande
Acting Clerk, Board of Land Use Appeals