

AGENDA

Eau Claire County

• BOARD OF LAND USE APPEALS •

Date: Wednesday, September 04, 2019

Time: 5:30 p.m.

Location: *Eau Claire County Courthouse, 721 Oxford Ave, Room 1277, Eau Claire, Wisconsin 54703*

1. Call to Order and confirmation of meeting notice
2. Public Comment **(15 minute maximum)**
3. Appointment of Clerk / Discussion – Action
4. Public Hearings
 - a. A variance request for one-half (0.5) foot separation distance variance to ground water and a 23-foot variance from the minimum front yard setback for a class C Highway for the construction of a livestock building over an existing manure pit.
(Town of Drammen) / Discussion – Action **PAGES 2-30**
5. Review/Approval of May 13, 2019 Meeting Minutes / Discussion – Action **PAGES 31-33**
6. Adjourn



EAU CLAIRE COUNTY BOARD OF LAND USE APPEALS

STAFF ANALYSIS AND RECOMMENDATION

VARIANCE NUMBER: VAR-0004-19

COMPUTER NUMBERS: 008-1086-04-000

PUBLIC HEARING DATE: July 16, 2018

STAFF CONTACT: Jared Grande, Land Use Manager

OWNER: Timothy & Angela Dutter

APPLICANT: owner

SITE LOCATION: S 15918 Dutter Rd, Eleva, WI 54738

ZONING DISTRICT: A-P Agricultural Preservation

LEGAL DESCRIPTION: SE-SW Section 35, T25N-R10W, Town of Drammen, Eau Claire County, Wisconsin.

REQUEST: One-half (0.5) foot separation distance to ground water and a 23-foot front yard setback off a class C Highway for construction of a livestock building.

SUMMARY

The applicant is requesting a one-half (0.5) foot separation distance to ground water and a 23-foot front yard setback off Dutter Road in the A-P Agricultural Preservation District to construct a livestock building on the existing manure pit. The minimum setback from a Class C Highway is 83 feet from the centerline or 50 feet from the road right-of-way line, whichever is greater. This staff analysis will only cover the request for a 23-foot front yard setback variance relating to zoning.

On May 17, 1999, the property owners David and Carol Dutter were approved a variance from the 23-foot front yard setback off Dutter Road. Following the approved variance, a 60-foot by 112-foot by 8-foot concrete-lined manure storage facility was constructed at the above address. The facility was originally constructed to provide storage for manure and milkhouse wastewater for approximately 140 head of dairy cows in a nearby tie stall barn. Manure and wastewater generated in the barn were pumped into the facility and provided storage for 160 days, until manure could be land applied.

The Dutter family no longer milks cows at this facility for financial reasons and have made the transition to raising beef cattle. To facilitate this transition, the Dutter family is interested in repurposing the existing manure storage facility to hold manure generated by their beef steers. Due to the design of the existing tie stall barn and the size of the animals, the existing barn cannot be retrofitted to house beef steers.

The application materials include a narrative, statement from Wieser Concrete, site plan, photo of the existing manure pit, soil logs, soil tests, and proposed alteration to the existing manure pit.

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	A-P	Agriculture
West	A-P	Agriculture
South	Buffalo County	Agriculture
East	A-P	Agriculture

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 18.22.001 Purpose. The purpose of this chapter is to promote the public safety, welfare and convenience by easing congestion on the public highways through a system of standards and regulations for limiting access to public highways and establishing setbacks from highway right-of-way.

Section 18.22.020 C. Class C Highways. All lettered county highways and town roads are designated as Class C highways.

1. Setbacks. The minimum setback from a Class C highway shall be 83 feet from the centerline or 50 feet from the right-of-way line, whichever is greater.

Section 18.32.001 Purpose. A-P Agricultural Preservation District. 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

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 highway setbacks for the proposed livestock building 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.

A variance was approved on May 17, 1999 for a 23-foot setback variance for the existing manure pit. The new proposal is for a livestock building which would not fall under the existing variance that was approved. The applicant indicated there is limited room for the proposed building due to the existing buildings onsite and topographic challenges. Therefore, in order to assist with the farm converting from milking cows to beef cattle, a new facility is needed; the existing barn will not work for what they would like to accomplish.

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 are steep slopes on the property and with the existing buildings onsite, there is limited room for any new construction of the building. The area the property is located does have characteristics of challenging topography for building construction and farming. The conversion from milking cows to beef cattle coupled with facility they need to for what they would like to accomplish makes the situation unique.

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.

The property has rolling hills and difficult terrain; there are properties in this area that may also have similar topography. In addition to the topography, there are existing buildings that limit the area for any new structures. The conversion of the manure pit into the livestock building will assist in the transition from milking cows to beef cattle. It may be difficult to find another property with the same circumstances involved.

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 allows agricultural buildings as a permitted 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. The intent with the livestock building being constructed over the existing manure pit is to further protect the environment and adjacent properties.

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

The proposed livestock building is being proposed over an existing manure pit that received a variance to the Class C highway setback in the same footprint. Staff believes the minimum necessary to grant relief is being requested.

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.

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 property is not in 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 property is not in the floodplain.

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.

The applicant indicated that . It is unknown if the minimum necessary to grant relief has been requested; the applicants did indicate there are restrictions that will not allow further expansion to the house. 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 18.07 and 18.22 is required.

A hardship is not present because compliance with the strict letter of the restrictions governing setbacks 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 in this district may have similar issues 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 was developed prior the town adopting county zoning.

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 similar variance requests in other zoning districts in the future given the fact there are other parcels that are a corner lot with nonconforming structures.

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 for the allowable uses in the A-P District. A reasonable use of the property has already been established.
- There is an existing barn onsite that may be used for the operation converting milking cows to beef cattle, though it may not allow the owner to accomplish all of what they would like to do.
- There may be an area to the north-west of the existing buildings that a new livestock building could be built for the operation. Slopes do not exceed 30 percent; therefore they may be able to be disturbed.
- Pecuniary hardship is not sufficient a reason for granting a variance.

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

- The request follows Title 18 purpose statement in parent A., B., G., and H.,
- The request follows the A-P Agricultural Preservation purpose statement in parent A., E., and F.
- The request allows for construction of a new livestock facility better suited for beef cattle while providing safeguards for the environment.
- The existing topography and structures onsite limit the location of a new facility; utilizing the existing manure pit uses existing infrastructure onsite while also reducing potential negative impacts by enclosing the manure pit open.
- The home and proposed construction conforms to all other zoning setbacks.
- The literal enforcement of the ordinance would require that the applicant move the existing structure to a code compliant location on the property which would be impracticable.
- 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 White Oak Drive.

Conditions

- The applicant shall obtain all necessary permits/approvals, including but not limited to the following:
 - Land use permit from the Planning and Development Department
 - Manure storage construction permit from the Land Conservation Division. All other applicable standards in the NRCS 313 Waste Storage Facility technical standard must be met.

EXHIBITS

1. Staff report
2. Previous Variance Request
3. Variance application



EAU CLAIRE COUNTY BOARD OF LAND USE APPEALS STAFF ANALYSIS AND RECOMMENDATION

VAR-0004-19

VARIANCE NUMBER: VAR-0004-19

COMPUTER NUMBERS: 008-1086-04-000

PUBLIC HEARING DATE: September 4, 2019

STAFF CONTACT: Amanda Peters, Agronomist

OWNER: Timothy & Angela Dutter

APPLICANT: Owner

SITE LOCATION: S 15918 Dutter Rd, Eleva, WI 54738

ZONING DISTRICT: A-P Agricultural Preservation

LEGAL DESCRIPTION: SE-SW Section 35, T25N-R10W, Town of Drammen, Eau Claire County, Wisconsin.

REQUEST: One-half (0.5) foot separation distance to groundwater and a 23-foot front yard setback off a class C Highway for construction of a livestock building.

SUMMARY

The applicant is requesting a one-half (0.5) foot separation distance to ground water and a 23-foot front yard setback off Dutter Road in the A-P Agricultural Preservation District to construct a livestock building on the existing manure pit. This staff analysis will only address the request for a one-half (0.5) foot separation distance to ground water.

As outlined in Chapter 17.04 Agricultural Performance Standards and Manure Storage, a “significantly altered” manure storage facility requires a permit from the Land Conservation Division before construction activities may begin. Furthermore, Chapter 17.04 references technical standards in the Natural Resource Conservation Service (NRCS) Technical Guide for the design and construction of a manure storage facility, including NRCS 313 Waste Storage Facility and NRCS 522 Pond Sealing or Lining, Concrete. These NRCS technical standards require that a manure storage facility lined with reduced-seepage concrete, utilizing waterstop, have a separation distance of greater than or equal to 2.5 feet to subsurface saturation.

BACKGROUND

A 60-foot by 112-foot by 8-foot concrete-lined manure storage facility was previously constructed onsite in 1999. Then Land Conservation Division employee, Mark Grabarczyk, designed and oversaw construction of the facility. The facility was designed and installed according to the 09/98 version of the NRCS 313 Waste Storage Facility technical standard. The facility was originally constructed to provide storage for manure and milkhouse

wastewater for approximately 140 head of dairy cows housed in the tie stall barn to the north of the facility. Manure and wastewater generated in the barn were pumped into the facility and provided storage for five to six months, until manure is removed and land applied according to a nutrient management plan.

The Dutter family no longer milks cows at this facility and have since transitioned into raising beef cattle. To facilitate this transition, the Dutter family is interested in repurposing the existing manure storage facility to hold manure generated by their beef steers. Due to the design of the existing tie stall barn, the number of animals proposed to be housed, and the size of the animals, the existing barn cannot be retrofitted to house beef steers. Due to the layout of the existing buildings and the steep slopes surrounding them, there is no room to construct another livestock building on the farm, other than on top of the existing manure storage facility.

The proposed livestock building has the same dimensions as the existing manure storage facility. It has slatted floors to facilitate manure collection and can house up to 335 beef steers. The walls are supported by the foundation of the waste storage facility, and the slatted floors will be supported by columns resting on the waste storage facility floor. The existing manure storage facility would provide enough storage for approximately nine months of storage before the manure is removed and land applied, according to a nutrient management plan.

Constructing a livestock building on top of an existing manure storage facility is a significant alteration that requires a construction permit. Land Conservation Division staff must currently review the submitted plans and design documents for this facility to the Updated: October 2017 version of NRCS 313 Waste Storage Facility and the Updated: October 2017 version of NRCS 522 Pond Sealing or Lining, Concrete standards.

Design and setback requirements for manure storage facilities have changed since the facility was constructed in 1999. With the help of Patrick Schultz, an Engineer with the Department of Agriculture, Trade, and Consumer Protection (DATCP), the original design and construction documents were reviewed to the current technical standards to determine if the existing facility meets current standards. Onsite soils investigations and lab testing were also performed to determine if new soil liner requirements could be met.

Through these investigations, it was found that the existing manure storage facility does not meet the separation distance to subsurface saturation outlined in the updated NRCS 313 standard. It does, however, meet all other updated design criteria.

The 09/98 version of the NRCS 313 Waste Storage Facility technical standard required a two-foot separation distance to subsurface saturation. By reviewing the soil logs that were filled out at the time of design and the onsite soils investigation conducted with Schultz, it was determined that the facility was installed with two feet of separation to subsurface saturation. However, the current NRCS 313 and NRCS 522 technical standards require a two-and-a-half-foot separation distance to subsurface saturation. Therefore, the existing manure storage facility does not meet current technical standards, and a permit cannot be issued for the alteration of the manure storage facility.

ADJACENT LAND USE AND ZONING

The adjacent parcels to the north, west, and east are zoned AP-Agricultural Preservation in Eau Claire County. The parcels to the south are located in Buffalo County. All adjoining parcels are in agricultural land use with a mix of pasture, row crops, and woodlands.

AUTHORITY***Section 17.04.001 Authority and name.***

This ordinance is adopted under authority granted by Wis. Stat. §§ 59.70, 59.02, 59.03, 92.15, and 92.16, and Wisconsin Administrative Code (“Wis. Admin. Code”) Wis. Admin. Code ch. ATCP 50.56 and NR 151.05.

ORDINANCE REQUIREMENTS AND VARIANCE ANALYSIS***Section 17.04.010 Purpose.***

The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, and use of manure storage facilities; ensure the proper application of waste and manure from all storage facilities covered by this Ordinance, and prescribe performance standards and prohibitions related to manure and other agricultural management and use of manure storage facilities in order to prevent water pollution and thereby protect the health of Eau Claire County residents and visitors; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Eau Claire County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation. (163-08, Sec. 2, 2019)

Section 17.04.080 Performance standards and prohibitions.

H.1.a. New or substantially altered manure storage facilities shall be designed, constructed, and maintained to minimize the risk of structural failure of the facility and to minimize leakage of the facility in order to comply with groundwater standards. The levels of materials in the storage facility may not exceed the margin of safety level. Storage facilities that are constructed or significantly altered on or after January 1, 2011, shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.

Section 17.04.090 Standards.

B. Standards for Design and Construction of Manure Storage Facilities. The standards for design and construction of manure storage facilities shall be the current standards in the NRCS Technical Guide, including but not limited to 313 Waste Storage Facility; 367 Roofs and Covers; 520 Pond Sealing or Lining, Compacted Soil Treatment; 521 Pond Sealing or Lining, Geomembrane or Geosynthetic Clay Liner; 522 Pond Sealing or Lining, Concrete; 558 Roof Runoff Structure; 634 Waste Transfer; and 629 Waste Treatment and any amendments to these standards.

Section 17.04.110 Application for Issuance of Permits.

A. Permit Required. No person may do any of the following without first obtaining a permit in accordance with this Subchapter:

1. Construct a new manure storage facility or substantially alter an existing manure storage facility, including the construction or substantial alteration of waste transfer systems connected to a manure storage facility.

G. Manure Storage Construction Plan Requirements. A complete permit application for a new or modified storage facility shall meet or exceed the minimum established limits and specific criteria within NRCS Technical Standard 313 Waste Storage Facility, and additional Technical Standards, including, but not limited to; 367 Roofs and Covers; 520 Pond Sealing or Lining, Compacted Soil Treatment; 521 Pond Sealing or Lining, Geomembrane or Geosynthetic Clay Liner; 522 Pond Sealing or Lining, Concrete; 558 Roof Runoff Structure; 634 Waste Transfer; and 629 Waste Treatment where they apply.

VARIANCE STANDARDS***Section 17.04.150 Appeals***

A. Authority. Under authority of Wis. Stat. Ch. 68, the Eau Claire County Board of Land Use Appeals, created under Wis. Stat. § 59.694, and under 18.31.020 and acting as an appeal authority under Wis. Stat. § 59.694, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the land conservation division in administering this ordinance.

B. Procedure. The rules, procedures, duties and powers of the board of land use appeals and Wis. Stat. Ch. 68, shall apply to this ordinance. The statutory authority for the Board of Land Use Appeals is found in Wis. Stats. 59.694.

STAFF REVIEW AND CONCLUSIONS

In evaluating this variance application, the Board must consider the County Code's prohibited activities for granting a variance. An approval or denial requires that the board state its reasoning why an application did or did not meet the statutory criteria.

The Land Conservation Division recommends approval of the variance due to the evidence that the project meets the general purpose of Chapter 17.04. The general purpose of the ordinance is to regulate manure storage facilities and the application of wastes from storage facilities to prevent water pollution and thereby protect the health of Eau Claire County residents and visitors. Specifically, staff recommends approval because:

1. The probability the project negatively impacts public health and safety is low.
2. The manure storage facility met all applicable technical standards at the time it was designed and constructed.
3. The manure storage facility is properly maintained and operated to minimize the risk of leakage or overflow.

Staff also recommends that the variance be approved with the following conditions:

1. A professional engineer provides documentation that the alteration of the manure storage facility will not harm the structural integrity of the facility to minimize the risk of structural failure and minimize the leakage in order to comply with groundwater standards before a Manure Storage Construction Permit may be obtained.
2. A professional engineer certifies that there is no significant cracking or signs of leakage from the currently manure-covered surfaces of the facility.

FINDINGS

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

- The manure storage facility exceeded applicable technical standards when it was originally designed and constructed in 1999.
- Groundwater levels have not changed since the pit was installed.

- The manure storage facility has been operated in accordance with the Operation and Maintenance plan and has been maintained in a manner that avoids causing water quality problems.
- Investigations have been conducted to determine that the soils located underneath the manure storage facility meet today's applicable technical standards
- The manure storage facility was originally placed in the best possible location due to the topography of the surrounding area and existing building locations. Although the location of the facility remains unchanged, the use of the facility is being altered to reflect the changes in the farming economy.

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

- The applicant did not prove that an unnecessary hardship is present.
- The project does not follow the Updated: October 2017 version of NRCS 313 Waste Storage Facility and the Updated: October 2017 version of NRCS 522 Pond Sealing or Lining, Concrete technical standards, and is therefore in violation of Chapter 17.04 Agricultural Performance Standards and Manure Storage.
- The manure storage facility has exceeded the 10-year operation and maintenance plan.

Conditions

- The applicant shall obtain all necessary permits/approvals, including but not limited to the following:
 - Land use permit from the Planning and Development Department
 - Manure storage construction permit from the Land Conservation Division. All other applicable standards in the Updated: October 2017 version of NRCS 313 Waste Storage Facility and the Updated: October 2017 version of NRCS 522 Pond Sealing or Lining, Concrete technical standards must be met. This includes certification from a professional engineer that:
 - the alteration of the manure storage facility will not harm the structural integrity of the facility to minimize the risk of structural failure and minimize the leakage in order to comply with groundwater standards before a Manure Storage Construction Permit may be obtained.
 - there is no significant cracking or signs of leakage from the currently manure-covered surfaces of the facility.

EXHIBITS

1. Staff report
2. Variance application

District # 9: Mowry

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:	7/30/2019
Accepted By:	Jared Grande
Receipt Number:	60894
Town Hearing Date:	
Scheduled Hearing Date:	9/4/2019
Application No:	VAR-0004-19
Appl Status:	Pending

Eau Claire County Variance Application

Owner/Applicant Name(s): Timothy & Angela Dutter Trust	Address: (ow) S 15918 DUTTER RD ELEVA	Telephone: 715-287-4565(C)
Agents Name:		
Site Address(es): S 15916 DUTTER RD ELEVA	S 15918 DUTTER RD ELEVA	
Zoning District(s): AP	Code Section(s): 17.04.090.B 18.22.020.C.1	
Property Description: Sec 35 Twn 25 Rge 10	Town of Drammen	Lot Area: 40.000 ACRES
Overlay District: <input type="checkbox"/> Shoreland <input type="checkbox"/> Flood Plain <input type="checkbox"/> Airport <input type="checkbox"/> Wellhead Protection <input type="checkbox"/> Non-Metallic Mining	Check Applicable	
PIN 1800822510353400001	Alternate No 008108604000	Parcel No 25.10.35.3-4
Legal (partial) SE-SW DAVID & CAROL DUTTER RETAIN LIFE ESTATE PER I		
General Description: ONE-HALF (.5) FOOT SEPARATION DISTANCE TO GROUND WATER AND 23 FOOT FRONT YARD SETBACK OFF OF A CLASS C HIGHWAY FOR CONSTRUCTION OF A LIVESTOCK BUILDING.		
Code Description: 17.04.090.B; STANDARDS FOR DESIGN AND CONSTRUCTION OF MANURE STORAGE FACILITIES 18.22.020.C.1; CLASS C HIGHWAY SETBACK		

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 See Original Application Date 7/30/19
 Check if DATCAP must be notified _____ Check if DNR to Receive Copy _____



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:	7/30/19
Accepted By:	Jared Grande / Amanda Peters
Receipt Number:	60894
Town Hearing Date:	
Scheduled Hearing Date:	9/4/19

VARIANCE APPLICATION

VAR-0004-19

Property Owner Name:	Tim Dutter	Phone#	715-267-4565
Mailing Address:	S15918 Dutter Rd Elava WI 54738		
Email Address:	dutterj@yahoo.com		

Agent Name:	Dan McKinney	Phone#	715-647-2311
Mailing Address:	W 3716 U.S. Hwy 10 Madison Rock WI 54750		
Email Address:	dmckinney@wiesarconcrete.com		

SITE INFORMATION

Site Address:	S15918 Dutter Rd Elava WI 54738		
Property Description:	SE 1/4 SW 1/4 Sec. 35, T 25 N, R 10 W, Town of Drummen		
Zoning District:	AP	Code Section(s):	18.22.020 C.1. and 17.04.090
Overlay District:	<input type="checkbox"/> Shoreland <input type="checkbox"/> Floodplain <input type="checkbox"/> Airport <input type="checkbox"/> Wellhead Protection <input type="checkbox"/> Non-Metallic Mining		
Computer #(s):	008 - 1066 - 04 - 000		

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). NA
 - 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 Timothy Dutter, Dan McKinney Date 7-29-19

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.

Dutter Variance

We currently have a concrete manure storage pit on our farm that we would like to put a building over top of with a slatted floor to house beef cattle. We are switching over from milking cows to raising beef but our dairy barn will not work for what we would like to accomplish. One step we would take to complete this project is having Wieser concrete come in and place concrete pads on the floor of the manure pit. The pads would then have a concrete column placed on top of them followed by the placement of concrete floor slats on top of the columns. There is no anchoring necessary with this floor system. It is designed to stabilize itself with the use of the pads, columns, and by resting up against existing walls. From there we would have the building constructed over the top to house the cattle. With the completion of the project the cattle would be able to move freely throughout the building on the new floor system. All animal waste would fall through the slits in the floor into the storage pit below which we would pump out and apply to our fields. Pumping would occur twice a year once in the spring and once in the fall.

We have been working with Wieser concrete to get the right design for the floor system. We also hired an engineer from Gary K. Munkelt & Associates LLC to review our manure pit construction plan to make sure it is strong enough to handle what we intend to do. Along with working closely with Wieser Concrete we have also been working with Amanda Peters from Eau Claire County and Engineer Pat Schultz from the Department of Agriculture. While working with Amanda and Pat they visited the site of our manure pit and dug soil pits around the outside of the manure pit to take soil samples. The results from those samples showed that the percent of fines in the soil under the manure pit meet the current standards. While the soil pits were open they did a visual inspection of the concrete footings and outer walls. It was determined that the footings and the walls looked good and showed no signs of damage or leaking. The original construction plan was also reviewed to the current NRCS standards and upon that review it was discovered that the concrete and rebar meet the current standards and setbacks.

When the pit was constructed in 1999 it met the NRCS standards at that time now that we are altering the pit we are required to submit a new permit and the county will review it to the current standards. During Amanda and Pats visit while taking measurements we found out that the soil thickness to ground water does not meet the current NRCS standard. The current standard says that the pit needs to have a 2.5ft separation distance to ground water and our pit measured at only 2ft of separation distance to ground water which met the standards when it was built. Separation distance to ground water is the only piece of the project that does not meet the current standard. Because our pit cannot meet the current standards we are dealing with an unnecessary hardship that does not allow us to move forward with our project. There is really no way to correct the issue that we are dealing with because we can't go in and

excavate under the pit to physically raise it up to meet current standards. It seems the only way possible for us to move forward is to be granted a variance from Chapter 17.04. We feel that if we are granted a variance that we will have no negative impact on the people or environment surrounding our manure pit. We have enough acres to safely apply the manure without over spreading. With the manure pit being built the way it was and with the visual inspection showing no signs of damage along with the physical work that was put in taking samples that should ensure we do not go outside the purpose of the current 313 standard and continue our operation while keeping the environment safe and clean.

In 1999 when the manure pit was being constructed a 23' variance from the centerline of Dutter Road to the manure pit was requested and granted. The reason for this variance is that it was decided this was the best possible location for the manure pit based on other buildings located on the farm and the slope of the land surrounding the other buildings. Along with our request for a variance from Chapter 17.04 we would like to also request a 23' variance from the centerline of Dutter Road to the building that we are planning on constructing over the top of our existing manure pit. Constructing the building over the pit would allow us to feed the cattle with a specialized feed ration something we are unable to do in our old dairy barn because of the design we are unable to drive through the barn with a tractor and feed mixer. Drive through feeding will be accomplished by having a feed alley located on the outside of the building. The new building would have an open concept with curtain sidewalls allowing for proper ventilation something that the old dairy barn does not offer. The combination of us being able to feed the cattle a specialized ration and the open concept building with proper ventilation the cattle would be able to thrive and grow while being protected from the elements allowing us to produce healthier better animals to market. Because our daily operations have changed granting us a 23' variance from the centerline of Dutter Road to our new structure would allow us to continue on with our project and reach our goal of raising beef cattle on a slatted floor pit barn while also ensuring we do not encroach more than the 60' from the centerline with our new structure like the original variance that was granted for the manure pit during construction back in 1999.

Thank You

Tim Dutter , James Dutter

WIESER CONCRETE PRODUCTS, INC.

W3716 U.S. HWY 10 • MAIDEN ROCK, WI 54750
(715) 647-2311 800-325-8456 Fax (715) 647-5181

Website: www.wieserconcrete.com

July 26, 2019

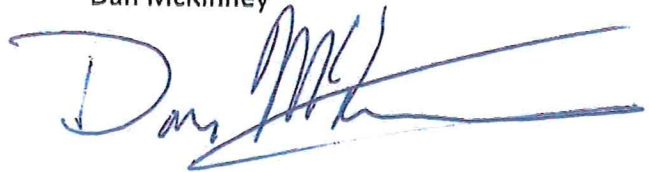
To Whom It May Concern,

My name is Dan McKinney and I have worked for Wieser Concrete Products Inc. for over 22 years. In that time I have been part of the installation of hundreds of manure pits. At the Dutter farm we are attempting to alter the structure from an open lagoon pit to an enclosed pit with a building above it. This plan has been reviewed and approved by a licensed engineer and meets all necessary requirements.

Based on my years of experience I have no concerns regarding the success of this project. Some of the benefits of this conversion will be no manure runoff such as in an open feed lot, no stacking of manure from used bedding, and it will allow the farm to get the most benefit from the recycling of the manure. These benefits will also have a positive impact on the surrounding environment.

Sincerely,

Dan McKinney



DM/sb



"Where Quality Is A Standard, Not An Extra"





DUTTER RD

003108607000

003108604000



DISCLAIMER: This map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user.





APPENDIX C

SOIL INVESTIGATION LOG

(for waste management practices)

Date 5/31/19
 Landowner Outlier
 Site Location SE Cornes
 Practice _____

Depth/Elev. to Perched Water 6.9 - 3.1
 Depth/Elev. to Saturation 6.9
 Depth/Elev. to Bedrock n/a
 Karst w/in 1,000'? YES NOT VISIBLE

Type¹ moistening w/ isolated seeps
 Type¹ Free water
 Type _____
 Type _____

Test Pit # 1 SE Corner
 Logged By DS & AP
 Elevation Datum N/A
 Soil Map Unit _____
 Landscape Position T3

Depth (D) Elev. (E)	Texture USCS	Munsell Colors		Mottles	Gradation					Plasticity Dilatancy	Structure Consistency	Sample	
		Matrix	Mottles		abundance / size / contrast / location	% Fine < #200	% S #200-14"	% G 1/4-3"	% C 3-12"			% B >12"	#
D= 0 E= ~93.5	ML Moist	7.5YR 3/2	n/a	n/a / n/a / n/a / n/a	80	20	∅	∅	∅	Non none	blocky n/a		
Comments ² : A-topsoil													
D= 1.4 E= 92.1	SW V-moist	7.5YR 4/6 10YR 5/6	n/a	n/a / n/a / n/a / n/a	20	75	5	∅	∅	Non granular seep	Fill n/a		
Comments ² : B - All material small seep @ 3.1'													
D= 3.4 E= 90.1	CL moist	10YR 5/3 7.5YR 4/6	10YR 5/2	60% / med / distinct / matrix 10% / fine / prominent / matrix	75	25	∅	∅	∅	low none	blocky firm	1	4.6
Comments ² : C - Subsoil, silt cap - heavily mottled. Small seep @ 4.9'. Clay content increases @ depth. Crack @ 6.9' due to water seep													
D= 6.9 E= 86.6	SW Sats			/ / /	10	90	∅	∅	∅	non react	n/a n/a		
Comments ² : D - saturated sand. Free water in entire layer no bedrock.													
D= 8.3 E= 85.2				/ / /									
Comments ² : Footing approximately 3' down w/ 6" sand below it, then into CL layer.													

Note 1 Free water and/or Munsell color components (i.e. gleyed soil, gray redoximorphic features, depleted matrices, etc.)

Note 2 Suggested items include soil horizon & feature (i.e. A - topsoil); USCS soil description (i.e. silt w/ sand); odor (if present); saturation type and time (i.e. free water seep at 3 hrs); bedrock condition & ability to excavate; and geology/parent material (i.e. alluvium)

SOIL INVESTIGATION LOG

(for waste management practices)

Date 5/31/19
 Landowner Outlet
 Site Location NE Corner
 Practice _____

Depth/Elev. to Perched Water 5' - 6'
 Depth/Elev. to Saturation n/a
 Depth/Elev. to Bedrock nk
 Karst w/in 1,000'? YES NO NOT VISIBLE

Type¹ Mottling
 Type¹ _____
 Type _____
 Type _____

Test Pit # 2
 Logged By PJS + AP
 Elevation Datum n/a
 Soil Map Unit _____
 Landscape Position TS

Depth (D) Elev. (E)	Texture USCS	Munsell Colors		Mottles	Gradation					Plasticity	Structure	Sample	
		Matrix	Mottles		abundance / size / contrast / location	% Fine < #200	% S #200-149	% G 1/4-3"	% C 3-12"			% B >12"	Dilatancy
D= 0 E= ~93.5	ML moist	7.5YR 3/2	n/a	- / - / - / -	80	20	Ø	Ø	Ø	non none	blocky n/a		
Comments ² : A - Topsoil													
D= 1.3 E= 92.2	SW V-Moist	7.5YR 4/6	n/a	n/a / - / - / -	20	75	5	Ø	Ø	non none	fill n/a		
Comments ² : B - Fill													
D= 4.0 E= 89.5	ML/CL moist	10YR 2/2	n/a	- / - / - / -	80	20	Ø	Ø	Ø	low none	blocky Firm		
Comments ² : C - Black non-organic silt/clay, previous basement area likely caused black color.													
D= 5.0 E= 88.5	CL moist	10YR 5/3	10YR 5/8	60 / med / dist / matrix	75	25	Ø	Ø	Ø	low none	blocky Firm	2	5-6'
Comments ² : D - Subsoil. Silt, cap - Heavily mottled. No seeds or free water observed. No bedrock.													
D= 6.0 E= 87.5				/ / / /									
Comments ² : Footing approximately 3' down w/ sand base below it, then ML/CL layers													

Note 1 Free water and/or Munsell color components (i.e. gleyed soil, gray redoximorphic features, depleted matrices, etc.)

Note 2 Suggested items include soil horizon & feature (i.e. A - topsoil); USCS soil description (i.e. silt w/ sand); odor (if present); saturation type and time (i.e. free water seep at 3 hrs); bedrock condition & ability to excavate; and geology/parent material (i.e. alluvium)

SOIL INVESTIGATION LOG

LANDOWNER Dave Dutler
 LEGAL DESC: Sec 35, T25N-810W
 COUNTY Eau Claire, Wis.
 LOGGED BY Larry Natzke
 PRACTICE MANURE STORAGE STRUCTURE

DATE 11-9-98
 HOLE NO. 1 (S.W. CORNER PIT)
 ELEVATION 96.6
 TOTAL DEPTH 10'
 SAMPLE DEPTHS: _____

SOIL NAME Arenosols
 POS. IN LANDSCAPE upland drainage
 OBS. WATER DEPTH _____
 ELE. HGW. DEPTH 96.1
 EST. HGW DEPTH 8.5 TYPE Apparent
 DEPTH TO B.R. _____ TYPE _____

PIT FLOOR ELE. 92.0

DEPTH (ft.)	USCS	USDA	MOISTURE	MUNSELL COLOR		MOTTLES	STRUCTURE	SAMPLE NO.	COMMENTS
				MATRIX	MOTTLE				
96.6			dry moist wet.			abundance size type	grade size type		
94.6	0-2	ML	s.l	M	10YR 2/1	10YR 2/2	common fine		F.11 Material
93.1	2-3.5	CL	s.l	M	10YR 5/4 10YR 2/4				
92.1	3.5-4.5	ML/CL	s.l	M	10YR 2/4	7.5YR 5/6	common med.		
89.6	4.5-7	ML/CL	s.l	M	10YR 2/4				
88.1	7-8.5	ML	s.l	M	10YR 2/1				
87.6	8.5-9	PT/ML	Mucky s.l	M	2.5Y 9/0		platy		original surface
86.6	9-10	ML	s.l	very moist	2.5Y 4/1				

SOIL INVESTIGATION LOG

LANDOWNER Dave Dutka
 LEGAL DESC: Sec 35, T25N-R10W
 COUNTY Eau Claire
 LOGGED BY Larry Natche
 PRACTICE MAJINE STORAGE STRUCTURE

DATE 11-9-98
 HOLE NO. 2 (N.E. CORNER PIT)
 ELEVATION 93.5
 TOTAL DEPTH 6.5
 SAMPLE DEPTHS _____

SOIL NAME _____
 POS. IN LANDSCAPE _____
 OBS. WATER DEPTH _____
 ELE. HGW DEPTH 90.0
 EST. HGW DEPTH 3.5 TYPE hydraulic
 DEPTH TO B.R. _____ TYPE _____

PIT FLOOR ELE. 92.0

DEPTH (ft.)	USCS	USDA	MOISTURE	MUNSELL COLOR		MOTTLES	STRUCTURE	SAMPLE NO.	COMMENTS
				MATRIX	MOTTLE				
93.5			dry moist wet.			abundance size type	grade size type		
91.5	0-2	ML	s.l	m	10YR 7/2				fill material
90	2-3.5	ML	s.l	M	10YR 7/1				
89	3.5-4.5	ML	s.l	M	7.5YR 5/4	7.5YR 5/2 7.5YR 4/2	comp, med few fine		
87	4.5-6.5	ML	s.l	M	7.5YR 5/2	7.5YR 5/6	many med		5YR 7/0 iron concretions Also: some Mn concretions at 5' → 88.5'



Professional Service Industries, Inc.
12839 30th Avenue, Chippewa Falls, Wisconsin 54729
Phone: (715) 738-2770
Fax: (715) 738-2771

June 4, 2019

Mr. Tim Dutter
S15918 Dutter Road
Eleva, WI 54738

Re: **Laboratory Testing**
Tim Dutter Soil Sample
PSI Project Number: 00951216

Dear Mr. Dutter:

In accordance with your request, Professional Service Industries, Inc. (PSI), has completed the soil testing on the samples delivered to our office. The results are as follows:

Sample Number	P200	LL	PI
TP# 1 @ 4 - 6'	83	*TNP	*TNP
TP# 2 @ 5 - 6'	75	*TNP	*TNP

*Testing Not Performed

Should any questions arise concerning the information presented, or if we may be of any further assistance, please call at any time.

Sincerely,

PROFESSIONAL SERVICE INDUSTRIES, INC.

Jeffrey A. Manninen
Branch Manager

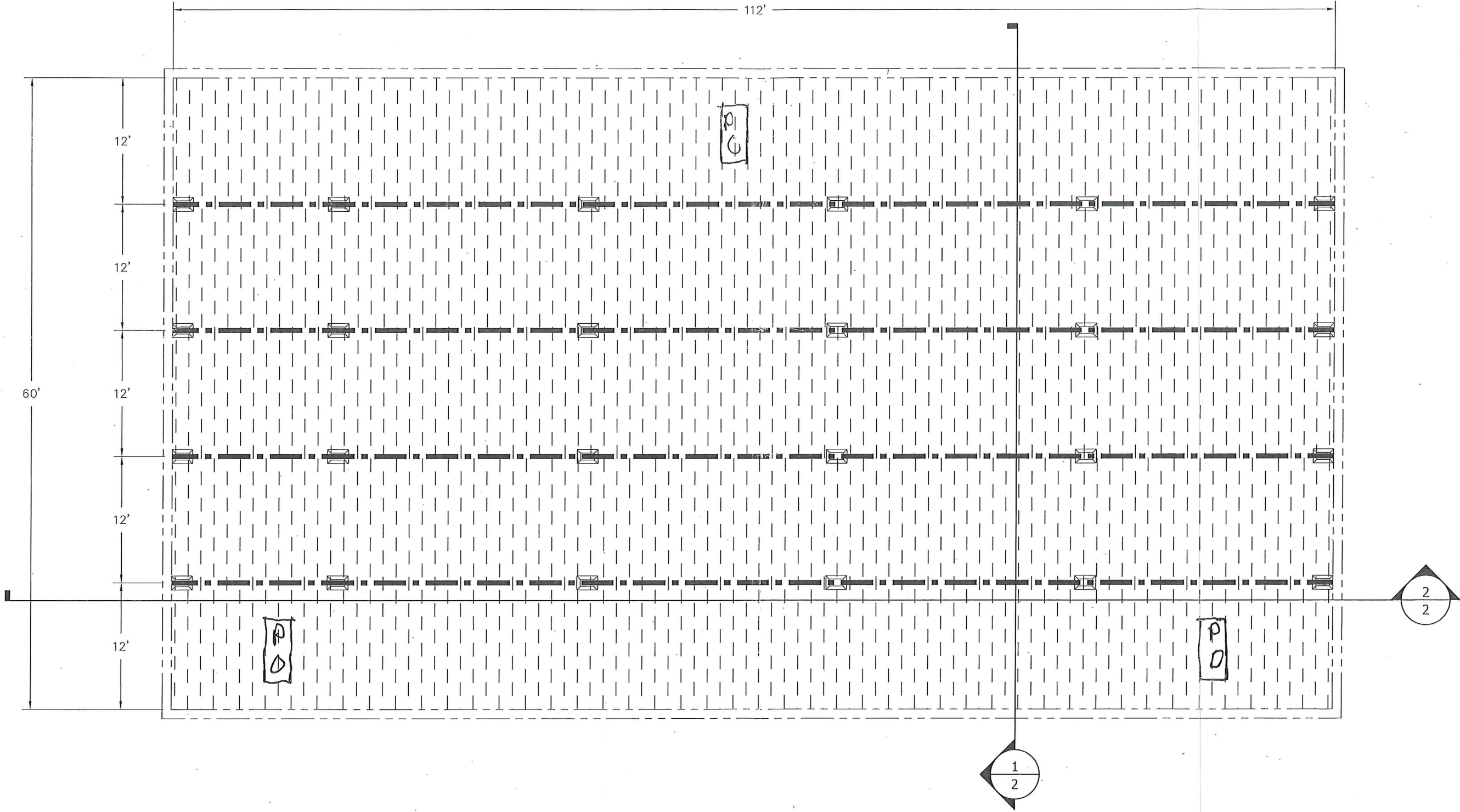


REVIEWED BY: _____
REVIEW DATE: _____

**DRAWINGS SUBMITTED
FOR APPROVAL**

APPROVED BY: _____
APPROVAL DATE: _____
PRODUCTS NEEDED BY: _____

PAN-L-BILT
MANURE SYSTEM
OPTION #2
PLAN VIEW



DATE:

REV NO.

SCALE: 1" = 10'

DRAWN BY: SWT

DATE: 10/10/18

FILE: i:\auto cad\pan-l-bilt\pan l bilt 2018\mcs p1\mcs p10\mcs p10.dwg

WIESER CONCRETE
W3716 US HWY10, MAIDEN ROCK, WI 54750
800-325-8456

TIM DUTTER
MONDOVI, WI

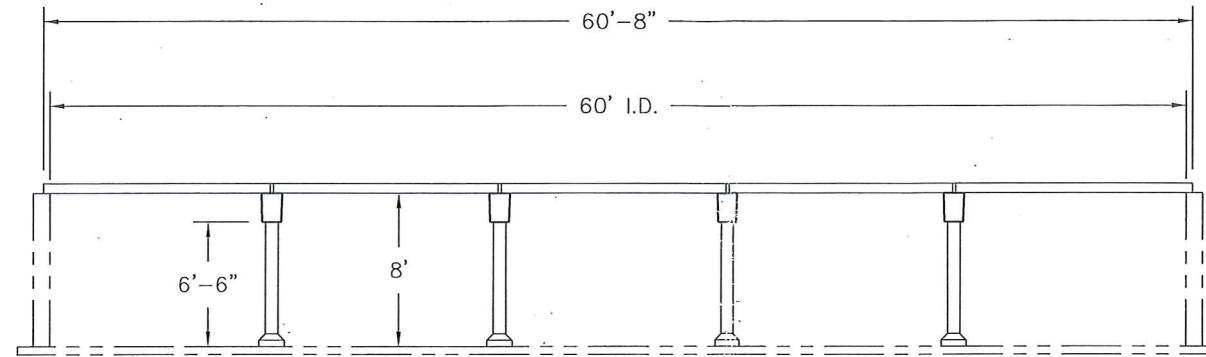
SHEET NO.
1
OF
27 2

REVIEWED BY _____
REVIEW DATE _____

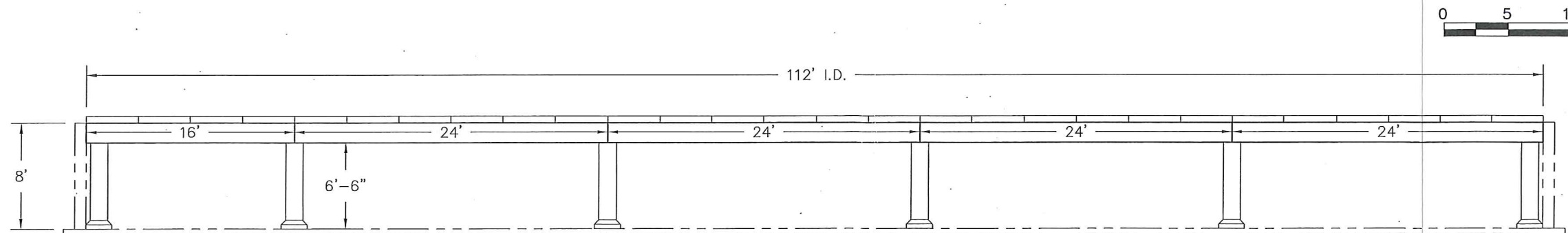
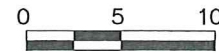
**DRAWINGS SUBMITTED
FOR APPROVAL**

APPROVED BY: _____
APPROVAL DATE: _____
PRODUCTS NEEDED BY: _____

PAN-L-BILT
MANURE SYSTEM
OPTION #2
SECTION VIEWS



SECTION VIEW #1



SECTION VIEW #2



DATE:

REV NO.:

SCALE: 1" = 10'

DRAWN BY: SWT

DATE: 10/10/18

FILE: -----E:\auto cad\pan-l-bilt\pan l bilt 2018\misc ppt\im dutter\im dutter.dwg

WIESER CONCRETE

W3716 US HWY10, MAIDEN ROCK, WI 54750
800-325-8456

TIM DUTTER
MONDOVI, WI

SHEET NO.
2
OF
28 2

Legend

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



1 inch = 500 feet

FirstName	LastName	Address	City	State	Zip
DAVID J & CAROL J	DUTTER	S 15916 DUTTER RD	ELEVA	WI	54738-9387
DONALD	MCKILLIP	E 8474 180TH AVE	MONDOVI	WI	54755-8869

Eau Claire County - Board of Land Use Appeals

MINUTES

721 Oxford Avenue, Room 1301-1302 • Law Enforcement Center, Eau Claire, Wisconsin
Monday, May 13, 2019 • 5:30 p.m.

Members Present: Randall Stutzman, Karen Meier-Tomesh, Judith Bechard, Gary Eslinger
Patrick Schaffer

Members Absent: Choose an item. Choose an item. Choose an item.

Staff Present: Jared Grande, Rod Eslinger

1. Call to order
Chairperson Stutzman called the meeting to order at 5:30 pm. and reviewed the order of proceedings for those in attendance.
2. Confirmation of Public Hearing Notice
Chairperson Stutzman confirmed compliance the public hearing notice requirement.
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

Jared Grande, Land Use Manager for Eau Claire County, was sworn in by the chair. Mr. Grande reviewed the request for the variance, discussed the staff report, and displayed a video of the site. The requested variance is for a (980 advertised) 1032-square foot variance from the allowable 2,400 square feet for an accessory structure that will be used for a cottage industry. The property is zoned AP District, which is the farmland preservation district for the State of Wisconsin. He provided background information regarding history of the building and the previous conditional use permit that was granted by the Committee on Planning and Development in 2006. The building at the time was constructed as a commercial building. Jared indicated that Mr. Rathbun dissolved his business in 2007. Jared said the applicant sought this property due to the size of the existing building for the purpose of operating an automotive repair shop out of the building known as “Fast Freddie’s Rod Shop”. The business activities include welding and fabrication, mechanical and electrical work, and general assembly of classic automobiles.

Mr. Grande concluded with a review of the variance standards and relevant case law with the board.

Thomas Rathbun, property owner, was sworn in by the chair. Mr. Rathbun stated that he’s had the property listed for sale for two years. Mr. Rathbun explained that he constructed the building in 2006 and it was used for his excavation business, which was approved as a home-based business at the time by the County.

Jason J. Griepentrog, was shown in by the chair, he is representing the applicant, John Kappus IV, as his realtor. Mr. Griepentrog stated that the assessment of the building is

Eau Claire County - Board of Land Use Appeals

MINUTES

721 Oxford Avenue, Room 1301-1302 • Law Enforcement Center, Eau Claire, Wisconsin
Monday, May 13, 2019 • 5:30 p.m.

over the top because the outbuilding is assessed greater than house by 2 to 1. He stated that Mr. Kappus is super meticulous and builds great cars. He concluded with the and that 90% of his clients is out of state and that this use should not be disruptive to the area.

John Kappus IV, aka Fred, was shown by the chair, applicant, he owns an automotive restoration business in Eau Claire with four other individuals. Start to finish restoration. Market out of state race cars, and other unique cars for specific buyers. He gave a power point presentation to the Board. He is currently located in a 105 building off of Starr Ave. that no longer meets his needs. He stated that they won't have any outside storage of vehicles to have a higher end imagine.

Mr. Kappus presented arguments for approving the requested variance to the board.

Mr. Gary Eslinger asked a clarifying question regarding the building space where the wall was placed inside the building.

Thomas Rathun indicated that the original building was too large to heat and that he put the wall so his work area was smaller.

Seth Dux, was shown in by the chair, and indicated that he was a neighbor to the property. He doesn't object to the request.

No one else spoke in favor of the request.

No one spoke in opposition of the request, nor were there any questions asked by the audience.

The board entered deliberations at 6:09 p.m.

The board exited deliberations at 6:49 p.m.

Mr. Shaffer asked who the applicant. Jared Grande stated he felt that the agent is Mr. Kappus. Mr. Stutzman gave some clarification on Waushara County case law.

The board entered deliberations again at 6:57 p.m.

The board exited deliberations at 7:11 p.m.

ACTION: Motion by **Karen Meier-Tomesh** seconded by **Gary Eslinger** to approve requested variance for an additional 1,032 (980 advertised) square feet of an accessory structure to be used for a cottage industry purposes above the 2,400 square feet allowed by code.

Eau Claire County - Board of Land Use Appeals

MINUTES

721 Oxford Avenue, Room 1301-1302 • Law Enforcement Center, Eau Claire, Wisconsin
Monday, May 13, 2019 • 5:30 p.m.

An amendment to the original motion was offered by **Judy Bechard** seconded by **Gary Eslinger** to include staff's recommended condition: 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.

The amendment motion was approved, motion carried, 5-0-0.

The original motion was approved, motion carried, 5-0-0.

4. Review / Approval of Minutes from March 13, 2019 / Discussion – Action

ACTION: Motion by **Karen Meier-Tomesh** seconded by **Patrick Schaffer** to approve the minutes as corrected. Motion carried 5-0-0. Board member Bechard's name was spelled incorrectly.

5. Adjournment

ACTION: Motion by Judy Bechard to adjourn the meeting at 7:14 p.m. Motion carried by unanimous consent.

Respectfully submitted,

Rodney J. Eslinger
Acting Clerk, Board of Land Use Appeals