

AGENDA

Eau Claire County

- BOARD OF LAND USE APPEALS •

Date: Wednesday, October 23, 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. Public Hearings
 - a. A variance request for a 30-foot variance to the 50-foot setback for highly susceptible wetlands and a 50-foot yard setback off of a class B highway for a proposed plat, lots 34 and 35. (Town of Washington) / Discussion – Action **PAGE 2-26**
 - b. A variance request for an 83-foot front yard setback off of a class B highway for an existing commercial structure. (Town of Clear Creek) / Discussion – Action **PAGE 27 -53**
4. Review/Approval of September 04, 2019 Meeting Minutes / Discussion – Action **PAGE 54-56**
5. Adjourn

Prepared by: Samuel Simmons, Administrative Specialist III, Planning & Development

Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710 (FAX) 839-1669 or (TDD) 839-4735 or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Ave., Eau Claire, Wisconsin 54703



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

VAR-0005-19

VARIANCE NUMBER: VAR-0005-19
COMPUTER NUMBERS: 024117307010
PUBLIC HEARING DATE: October 23, 2019

STAFF CONTACT: Liz Fagen, Environmental Engineer
OWNER: Southside EC Properties LLC
APPLICANT: Owner
SITE LOCATION: Talmadge Rd and CTH II, Town of Washington
ZONING DISTRICT: A2 – Agriculture/Residential
LEGAL DESCRIPTION: NE-NW EX LOT 1 of CSM V 13 PG 208 (#2443), Sec 14, T26N, R09W, Town of Washington, Eau Claire County, Wisconsin.
REQUEST: 30 foot variance to the 50 foot highly susceptible wetland setback for the construction of a new town road in the proposed Trilogy development.

SUMMARY

The applicant is requesting a variance from the Board of Land Use Appeals (Board) of 30 foot variance to the 50 foot highly susceptible wetland setback in Title 17 for the construction of a new town road in the proposed Trilogy development (17.05.085.A.2.b)

County Code Chapter 17.05.085.A.2 Protective Areas, prohibits land disturbing activities adjacent to wetlands. For determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code ch. NR 103. The wetlands onsite at the Trilogy Subdivision are considered highly susceptible wetlands based on the wetland delineation and Department of Natural Resource (DNR) wetland confirmation letter, requiring a 50 foot setback.

BACKGROUND

The proposed Trilogy development is located in the Town of Washington south of County Highway II, East of State Highway 93 and west of Talmadge Road. The property is approximately 95 acres, with an estimated 26 acres of disturbance. The site has historically been crop fields with several wetland areas as determined through a wetland

delineation completed in June 2016 and confirmed by DNR on August 17, 2016. Wetland D is the wetland related to this variance request (See Map).

The development project will construction approximately 3,800-linear feet of new town road for the development of 44 single family lots, two commercial lots, and 5 out lots. Two access (ingress/egress) points are required, by the Town of Washington. One access location will be from Deerfield Road/CTH II. The second access road is proposed to be off Talmadge Road on the east portion of the site. Due to sight distance constrains related to the road grade of Talmadge, the new town road siting is limited.

The Town of Washington, Eau Claire County Land Conservation, Eau Claire County Highway Department, the landowner and the landowner's engineers met onsite on August 26, 2019 to discuss the siting constraints. The Town requested that the new town road be placed as far south as possible to reduce sight distance and speed reduction issues, as Talmadge Road slopes up to the north of the access point. The speed is currently unposted and assumed to be 55 MPH. Land Conservation staff reviewed the wetland quality in the field and while we found a lack of invasive wetland species meaning a higher quality wetland, we did see there were parts of the wetland had been historically tilled as crop field and potentially degraded wetlands. Land Conservation staff make the determination of wetland setback distances based on information provided in the wetland delineation report and field observations. The new town road placement does not meet the setback requirements (50 feet) for highly susceptible wetlands, but does meet the setback requirements (10 to 30 feet) for degraded wetlands.

ADJACENT LAND USE AND ZONING

The adjacent parcels to the south are zoned A2-Agriculture/Residential, the parcels to the east are zoned A3-Agricultural in Eau Claire County. All adjoining parcels are in agricultural/residential land use with a mix of residential, row crops, and woodlands.

AUTHORITY

Chapter 17.05.010

This ordinance is adopted by the county board under the authority granted by Wis. Stat. §§ 59.693, 92.07(6), 92.07(15) and Wis. Stat. Ch. 236.

ORDINANCE REQUIREMENTS AND VARIANCE ANALYSIS

Section 17.05.030 Purpose

- A. The general purpose of this ordinance is to establish regulatory requirements for land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Eau Claire County from construction site erosion. Specific purposes are to:
1. Further the maintenance of safe and healthful conditions.
 2. Prevent and control the adverse effects of soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.

3. Reduce sedimentation in existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.
 - a. Through this erosion control permit process, this ordinance is intended to meet the current construction site erosion control regulatory requirements of Wis. Admin. Code ch. NR 151 on the effective date of this ordinance. Nothing in this ordinance prevents the Wisconsin Department of Natural Resources (WDNR) from adopting or enforcing more stringent soil erosion or storm water management requirements in future revisions of Wis. Admin. Code.
 - b. Provisions have also been incorporated to coordinate the erosion control permit requirements of this ordinance with other county and town zoning and land division regulations. (Ord. 158-26, 2015; Ord. 150-36, 2006)

Section 17.05.060. Definitions

“Environmentally Sensitive Area” means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and urban runoff. Examples include environmental corridors, slopes of 20% and greater, direct hydrologic connections to lakes, streams, wetlands, groundwater or other water resources, or very coarse or shallow soils above groundwater or bedrock.

“Protective areas” means an area of land that commences at the top of the channel of lakes, streams, and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, for purposes of this Chapter, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

“Wetlands” means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

17.05.085 Protective Areas:

1. Land disturbance activities are prohibited in the following areas unless otherwise stated:
 2. Wetlands. For determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code ch. NR 103. Within:
 - a. 75 feet for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code ch. NR103.
 - b. 50 feet for highly susceptible wetlands, as determined by LCD. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes, and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code ch. NR 103 and performed by a certified wetland delineator. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with

all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

- c. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

VARIANCE STANDARDS

17.05.150.C. Variances and Appeals.

1. Authority. The Board of Land Use Appeals (BLUA) shall act as the review and appeal authority for any order, requirement, decision or determination by the LCD under this ordinance.
2. Procedure. The rules, procedures, duties and powers of the BLUA shall be as provided in the county code of ordinances and the provisions of Wis. Stat. § 59.694, shall apply to any review or appeal under this ordinance.
3. Variances. Upon appeal, the BLUA may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.
4. Who May Appeal. Appeals to the BLUA may be taken by any aggrieved person or by an officer, department, board, or bureau of the county affected by any decision of the LCD. (Ord. 158-26, 2015; Ord. 156-002, Sec. 48 & 49, 2012; Ord. 153-27, Sec. 9, 2010; Ord. 150-36, 2006)

STAFF REVIEW AND CONCLUSIONS

In evaluating the variance application, the Board must consider the County Code's Erosion Control variance standards 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.

Staff recommends approval of the variance due to evidence that the project meets the general purpose of Chapter 17.05. The general purpose of the ordinance is to establish regulatory requirements for land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Eau Claire County from construction site erosion. Specifically, staff recommends approval because:

1. All options for new town road siting have been exhausted. The Town of Washington provided a shift of 15 feet to the north allowing for the 20 foot setback distance (30 foot variance). The second access for the new town road is limited to Talmadge Road, by Eau Claire County Highway ordinance and there is no other alternative for road placement along Talmadge Road.
2. The new town road location has been sited in the proposed location due to safety concerns, including roadway sight and stopping distances.
3. The Town of Washington has provided a letter of support for the requested variance.
4. The setback of 20 feet has been maximized by the design engineers, by reducing the width of the road side slope to protect the existing wetland to the maximum extent possible.

STAFF REVIEW AND CONCLUSIONS (CONT.)

5. The wetland delineation stated there were indicators, plant species and historic land use, that could consider the wetland to be degraded, allowing for a wetland setback of 10 to 30 feet. Land Conservation Staff were not comfortable making a precedence setting decision related to wetland setbacks.
6. Project engineers have provided erosion control Best Management Practices documentation and have stated the disturbed areas will be restored as soon as possible, minimizing any potential impacts to the wetland.

FINDINGS

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

- The wetland setbacks for degraded wetlands will be met.
- The variance will maintain the intent of The Erosion Control Ordinance by upholding the Code's purpose statement.
- A Stormwater and Erosion control permit application has been submitted by the landowner's engineer. The Stormwater and Erosion Control Plan will be installed and maintained in accordance with Eau Claire County Title 17 until the site is stabilized by the landowner's contractors.

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

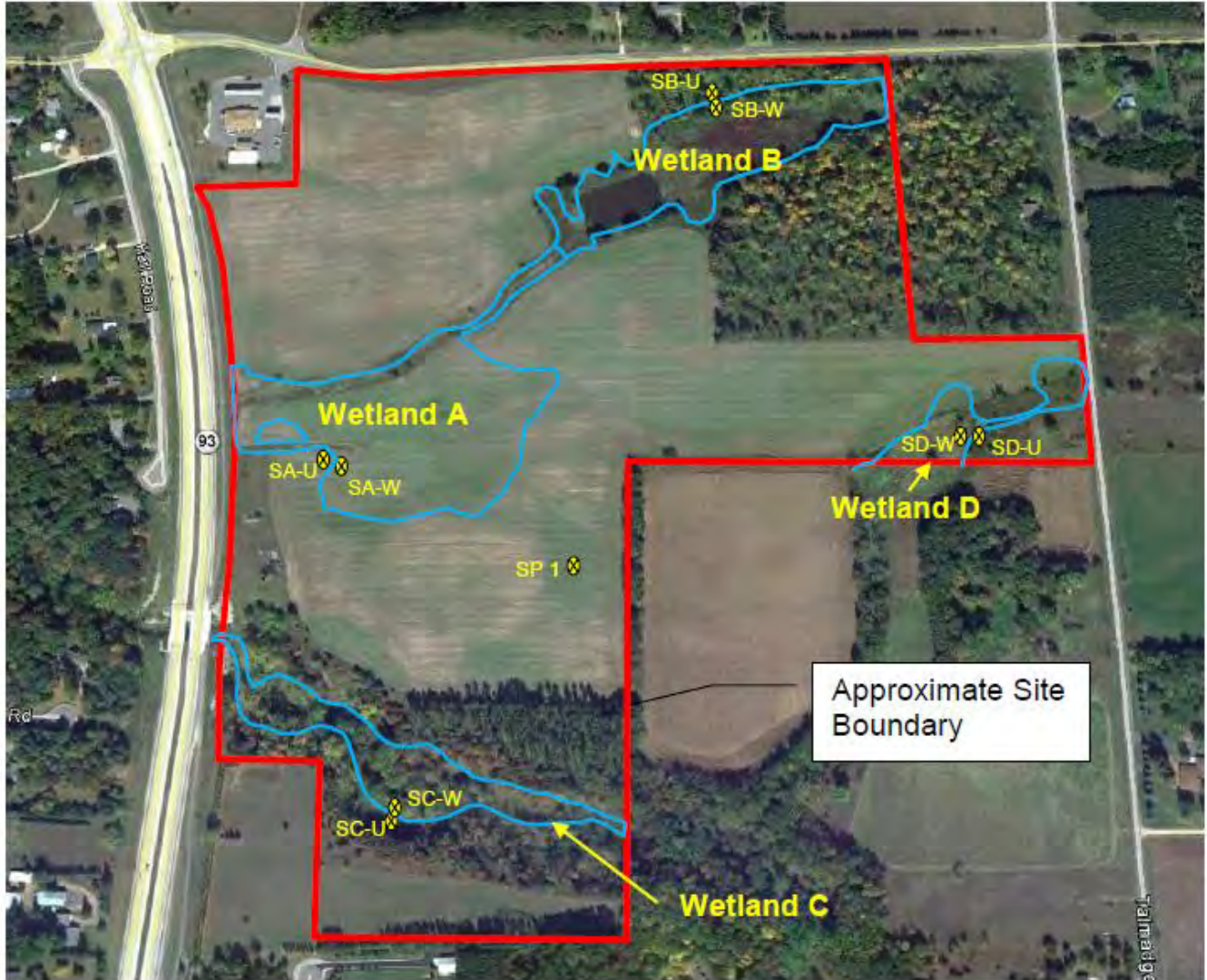
- According to Title 17, disturbing areas within 50 feet of wetlands is a prohibited activity.
- The proposed new town road location is within 50 feet of a highly susceptible wetland.

EXHIBITS

1. Staff report
2. Variance application
3. Town of Washington letter dated October 10, 2019

TRILOGY DEVELOPMENT SITE MAP

From the June 16, 2016 Bopray Environmental Services, LLC Wetland Delineation Report





EAU CLAIRE COUNTY BOARD OF LAND USE APPEALS

STAFF ANALYSIS AND RECOMMENDATION

VARIANCE NUMBER: VAR-0005-19

COMPUTER NUMBERS: 024-1173-07-010 & 024-1173-08-000

PUBLIC HEARING DATE: October 23, 2019

STAFF CONTACT: Jared Grande, Land Use Manager

OWNER: Southside EC Properties LLC, 6176 Sandstone Rd, Eau Claire, WI 54701

APPLICANT: Real Land Surveying

SITE LOCATION: Talmadge Rd and CTH II, Town of Washington

ZONING DISTRICT: R-1-L

LEGAL DESCRIPTION: NW-NW EX LAND FOR HWY & EX THE N 330' OF W 264' EX HWY R/W CONT 2.75 AC M/L CONVEYED IN 1622/534, Town of Washington, Eau Claire County, Wisconsin.

REQUEST: 50-foot variance from the required 100-foot right-of-way setback to a Class B highway for a proposed plat, lots 34 and 35.

SUMMARY

The applicant is requesting a 30-foot variance to the 50-foot setback for highly susceptible wetlands and a 50-foot variance from the required 100-foot right-of-way setback to a Class B highway for a proposed plat, lots 34 and 35. The minimum setback from a Class B Highway is 100 feet from the right-of-way. This staff analysis will only cover the request for a 50-foot front yard setback variance relating to zoning.

On August 9, 2019 an application for a preliminary plat "Trilogy" was submitted to the Planning and Development Department. The Trilogy development is located in the Town of Washington south of County Highway II, East of State Highway 93 and west of Talmadge Road. The preliminary plat was heard before the Committee on Planning and Development on September 10, 2019. Dean Roth, County Surveyor, presented the Preliminary Plat Report outlining review comments; additionally, he presented items that were not included in the report. The Committee on Planning and Development conditionally approved the preliminary plat according to the Preliminary Plat Report and additional items presented by Dean. An item that was not presented during the meeting was on the face of the preliminary plat, a box outlining setbacks indicated "State Road 93 = 50' ". It was identified staff is unable to grant such relief. The surveyor has indicated that without a reduction to the 100-foot right-of-way setback to a Class B highway for a proposed plat, lots 34 and 35, both lots would be unbuildable.

The application materials include a narrative, site map, and preliminary plat.

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	C-3	Gas Station
West	R-H	Residential
South	R-H	Residential
East	A-3/A-1	Residential/Forested

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 18.08.001 Purpose. The R-1-L Single Family Residential District, Large Lot is established to: provide an area for large-lot development on public sewer and water systems or where public facilities may be feasibly extended.

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 B. Class B Highways. All federal or state highways not designated as Class A highways are designated as Class B highways.

1. Setbacks. The setback for Class B highways shall be 150 feet from the centerline or 100 feet from the right-of-way line, whichever is greater.

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 lots 34 and 35 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 State Road 93 was reconstructed into a 4-land split highway with an existing 250-foot right of way. WisDOT requires a 50-foot setback from right-of-way and Eau Claire County has a 100-foot setback that is not justified leaving lot 34 and 35 unbuildable of the remaining proposed 46 buildable lots.

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 applicant has stated the 100-foot setback is not justified therefore leaving lots 34 and 35 unbuildable. The property is currently in the plat process; preliminary plat has been conditionally approved. The final plat has not been submitted at this time.

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 front along class B Highways. As noted above, the preliminary plat has been conditionally approved, but no submittal of the final plat. There is an increase to the right-of-way of State Road 93 along lot 34 and 35.

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 R-1-L district is able to be subdivided with a plat.

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 indicate the request for a 50-foot variance to the 100-foot setback would follow WisDOT setbacks of 50 feet. A site map outlining the difference between a 50-foot setback and 100-foot setback was provided for illustration purposes.

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 does not appear the variance request conflicts with the purpose of section 18.08.001. It is questionable if the variance request conflicts with the purpose of section 18.22.001. The variance request will not be contrary to state law.

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 impact 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.

It is unknown if the minimum necessary to grant relief has been requested; the applicant indicates the current 100-foot setback for class B Highways under Eau Claire County Code is not justified; There does not appear to be increased risks to public safety or nuisance costs for rescue and relief efforts. It does not appear the variance request is contrary to the purpose of 18.08.001, but it's questionable if the request is contrary to the purpose outlined in 18.22.001.

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 18.08.001 and 18.22.001 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 adjacent to class B Highways may have similar circumstances and granting this variance may set a precedent for future variance requests. There does appear to be variations to the right-of-way width along State Road 93.

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 being developed with a plat (Trilogy).
- 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 may be adjacent to a class B Highway.

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 restrict lots 34 and 35 as unbuildable.
- Granting of the variance request would follow WisDOT setbacks of 50 feet from right-of-way.
- The request would not likely cause an increase risk to public safety or result in harm to public interests.

Conditions

- None

EXHIBITS

1. Staff report
2. Variance application

District # 10 : Coffey

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: 9/27/2019
Accepted By: Jared Grande
Receipt Number: 61658
Town Hearing Date:
Scheduled Hearing Date: 10/23/2019
Application No: VAR-0005-19
Appl Status: Pending

Eau Claire County Variance Application

Owner/Applicant Name(s): Real Land Surveying Southside Ec Properties Llc	Address: (appl) 1360 INTERNATIONAL DR EAU CLAIRE (ow) 6176 SANDSTONE RD EAU CLAIRE	Telephone: 715-514-4116(W) 715-456-0548(W)	
Agents Name:			
Site Address(es):			
Zoning District(s): A2 A2 RH	Code Section(s): 17.05.085.A.2.b. 18.22.020.B.1.		
Property Description: Sec 14 Twn 26 Rge 09	Town of Washington	Lot Area: 28.700 ACRES 35.250 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	Alternate No	Parcel No	Legal (partial)
1802422609142100002	024117307010	26.9.14.2-1-B	NE-NW EX LOT 1 OF CSM V 13 PG 208 (#2443)
1802422609142200001	024117308000	26.9.14.2-2-A	NW-NW EX LAND FOR HWY & EX THE N 330' OF W 264' EX HW
General Description: 30-FOOT VARIANCE TO THE 50-FOOT SETBACK FOR HIGHLY SUSCEPTIBLE WETLANDS AND A 50-FOOT FRONT YARD SETBACK OFF OF A CLASS B HIGHWAY FOR A PROPOSED PLAT, LOTS 34 AND 35.			
Code Description: 17.05.085.A.2.b.; 50-FOOT SETBACK FOR HIGHLY SUSCEPTIBLE WETLANDS 18.22.020.B.1.; CLASS B HIGHWYA 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 9/27/19
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:	
Accepted By:	
Receipt Number:	
Town Hearing Date:	
Scheduled Hearing Date:	

VARIANCE APPLICATION

Property Owner Name: Southside EC Properties LLC	Phone# (715) 456-0548
Mailing Address: 6176 Sandstone Road Eau Claire WI 54701	
Email Address: cody@candmhomebuilders.com	

Agent Name: Pete Gartmann / Real Land Surveying	Phone# (715) 514-4116
Mailing Address: 1360 International Drive Eau Claire WI 54701	
Email Address: pgartmann@rls-aec.com	

RECEIVED

SITE INFORMATION

SEP 24 REC'D

Site Address: Talmadge Road	
Property Description: <u>NE</u> $\frac{1}{4}$ <u>NW</u> $\frac{1}{4}$ Sec. <u>14</u> , T <u>26</u> N, R <u>9</u> W, Town of <u>Washington</u>	
Zoning District: <u>R1-L</u>	Code Section(s):
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 <input type="checkbox"/> Check Applicable	
Computer #(s): <u>024</u> - <u>1173</u> - <u>07</u> - <u>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 Date 9-19-19

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.



September 4, 2019

RE: Trilogy Variance Request

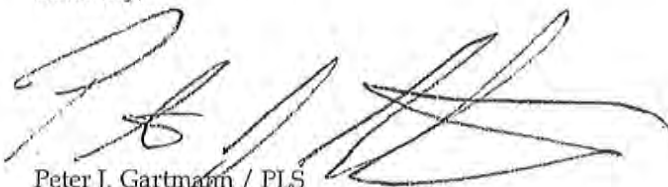
Southside EC Properties LLC is requesting a variance from the 50' wetland setback requirement to a lesser setback requirement of 20' for the construction of a new Town Road within the Trilogy residential sub-division. Both the Town of Washington and the Eau Claire County Planning and Development support the proposed development, and both have approved the Preliminary Plat. The Town of Washington's Transportation Plan shows road connectivity to Talmadge near this location.

The reasoning for the request is for safety concerns. The proposed subdivision is 95.7 acres with 47 lots, of which 45 lots are single family. Access into the site is proposed off CTH II with a secondary access along Talmadge Road. With approximately 3,800 LF of roads it is imperative that a secondary access be provided for emergency services. Since the site is bordered on the south by Willow Creek and on the west by STH 93, the only other access for the subdivision will be to the east on Talmadge Road.

The location of the intersection on Talmadge road was chosen by the Town of Washington and Advanced Engineering Concepts. This location was chosen because it provides the maximum sight distance and stopping distance necessary for both vehicles traveling on or just entering Talmadge Road; the location, however, is close to a delineated wetland. It was determined, after meeting with Town of Washington and Eau Claire County staff, that the road could shift an additional 15-feet to the north and still provide the necessary sight and stopping distances needed for vehicular safety.

Southside EC Properties LLC is hereby requesting a variance from the wetland setback from 50-feet to 20-feet in order to provide a secondary road access into the Trilogy subdivision. This secondary access in addition to the location of the intersection will provide for the safety for the residents in and around the sub-division.

Sincerely,


Peter J. Gartmann / PLS
Real Land Surveying

RECEIVED

SEP 4 2 REC'D

RECEIVED

SEP 24 REC'D

STANDARDS FOR VARIANCES

The Board of Land Use Appeals has the authority to issue variances only when the standards are met. The variance standards are located in Section 18.31.020 C. 6. Of the Eau Claire County Code. Those standards are as follows:

1. The burden is upon the appellant to prove the need for a variance.
2. 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.
3. The plights of the applicant must be unique, such as a shallow or steep parcel of land or a situation caused by other than his or her own action.
4. The hardship justifying a variance must apply to the appellant's parcel or structure and not general to other properties in the same district.
5. Variances allowing uses not expressly listed as permitted or conditional uses in a given zoning district shall not be granted.
6. The variance must not be detrimental to adjacent properties.
7. The variance must be standard be the minimum necessary to grant relief.
8. 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.
9. The variance shall not permit any change in established flood elevations or profiles.
10. Variances shall not be granted for actions, which require an amendment to Chapter 18.20, the Flood Plain Overlay District.
11. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
12. 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 Wisconsin Supreme Court's opinion in State Ex. rel. Ziervogel v. Washington County Board of Adjustment, found that the property owner will have to prove unnecessary hardship utilizing the 1976 Snyder Wisconsin Supreme Court decision. In the 2004 Ziervogel decision, the Supreme Court reaffirmed the 1976 Snyder standard for determining the existence of an unnecessary hardship stated as "...whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." (at pages 3-4) Whether the standard is met depends upon "...a consideration of the purpose of the zoning restriction in question, its effect on the property, and the effect of a variance on the neighborhood and the larger public interests." (at page 4) The hardship must be unique to the property and not self-created (at page 4). The burden of proving unnecessary hardship remains on the property owner (at page 4). In the Ziervogel decision the Supreme Court affirmed the following rules of unnecessary hardship:

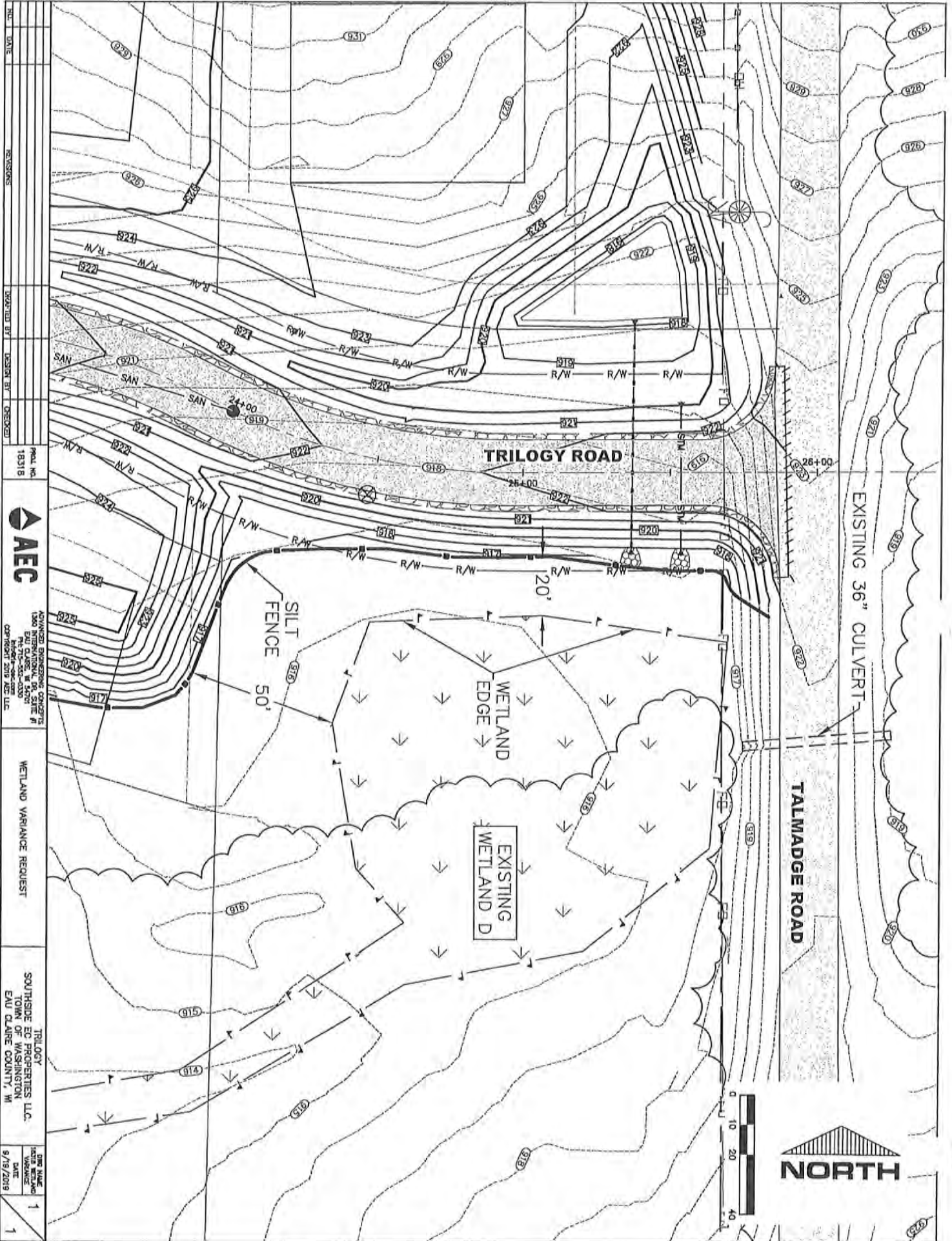
1. The hardship must be based on conditions unique to the property rather than considerations personal to the property owner.
2. The hardship cannot be self-created.
3. The Board is to evaluate the hardship in light of the purpose of the zoning restriction at issue.
4. The variance cannot be contrary to the public interest.
5. The property owner bears the burden of proving unnecessary hardship.

RECEIVED
SEP 24 REC'D

If it is found that there is a hardship and that the other criteria are present, the Board can grant a variance. In that case, the variance should only provide for the minimum relief needed to overcome the hardship. (Anderson, American Law of Zoning 3d, (9189) Vol. 3, S.20.86, pp. 624-5).

A variance grants relief from a **numerical standard**, such as a setback, that allows development that is inconsistent with the dimensional standards contained in the ordinance. Variances cannot be issued to approve uses that are inconsistent with the ordinance. The Board of Land Use Appeals is authorized by statute to grant variances to the strict terms of the Eau Claire County Zoning Ordinance only when certain criteria exist. Those criteria are listed above. It is the applicant's responsibility to prove that those criteria exist at the site and that a variance can be granted.

If you believe your request meets the criteria necessary to grant a variance, please summarize your request, the facts that show those standards have been satisfied, and arguments that support this conclusion.



DATE	REVISIONS	DESIGNED BY	CHECKED BY
18/31/18			

AEC
 ADVANCED ENGINEERING CONSULTANTS
 1300 INTERNATIONAL BLVD. SUITE #1
 THE CLAYTON, MD 21036
 TEL: 410-326-6000
 FAX: 410-326-6001
 COPYRIGHT 2018 AEC LLC

WETLAND VARIANCE REQUEST

TRILOGY
 SOUTHSIDE DEVELOPMENTS LLC.
 1000 W. CLAYTON BLVD.
 ELM CLAYNE COUNTY, MD

DATE MADE	1
DATE REVISION	
DATE	9/19/2018



Amendment to application received 9/24/19



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:	9/22/19
Accepted By:	Jared Gende
Receipt Number:	
Town Hearing Date:	
Scheduled Hearing Date:	

VARIANCE APPLICATION

Property Owner Name: Southside EC Properties LLC	Phone# (715) 456-0548
Mailing Address: 8176 Sandstone Road Eau Claire WI 54701	
Email Address: cody@candmhomebuilders.com	

Agent Name: Pete Gartmann / Real Land Surveying	Phone# (715) 514-4116
Mailing Address: 1360 International Drive Eau Claire WI 54701	
Email Address: pgartmann@rls-aec.com	

SITE INFORMATION

Site Address: Talmadge Road	
Property Description: SW 1/4 NW 1/4 Sec. 14, T26 N, R9 W, Town of Washington	
Zoning District: R1-L	Code Section(s):
Overlay District: Check Applicable	<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):	024 - 1173 - 10 - 000
	024 - 1173 - 08 - 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).
 - 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". *PRO-PLAN*
 - Provide a \$500.00 application fee (non-refundable), payable to the Eau Claire County Treasurer. *NA*

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

Date 9-27-19

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.

September 27, 2019

Eau Claire County Planning office

RE: variance from 100' highway setback to 50' along Highway "93"

The request for the variance is based on the newly construction of Highway 93" and the land acquisitions that were acquired at that time.

Highway "93" was reconstructed into a 4-lane split highway with an existing 250' right of way. The State acquired additional lands to build the new road at that time. The edge of the driving lane to the right of way is 60' allowing for additional lane widening.

The State DOT requires a 50' setback from the right of way for future widening or expansion if needed. We feel the County's requirement of 100' setback is not justified and leaves Lots 34 and 35 in the Plat of Trilogy unbuildable.

We feel this variance will not be detrimental to the adjoining land owners.

The 50' reduction is needed to allow for a building pad large enough to support a typical home.

The variance Would not be in conflict with the spirit of the County Code as the existing Right of way is large enough to support widening and meets the State of Wisconsin DOT requirements.

No Flood plain variance is needed.

That the Variance will not affect the health and safety of the Town of Washington.

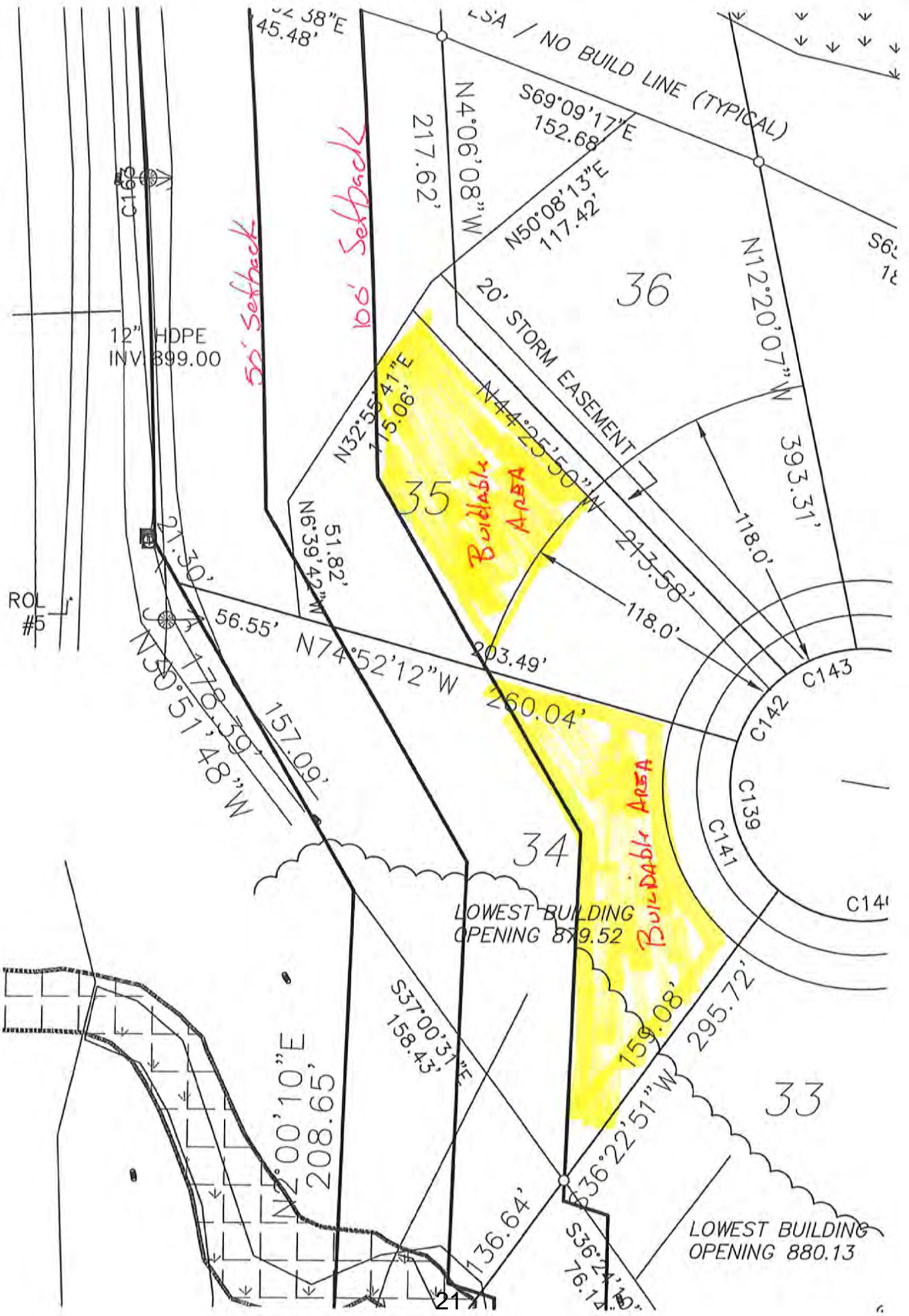
A Variance to this setback was given to lands at 815 Margret Lane.

Thank you,



Peter J. Gartmann

Real Land Surveying.

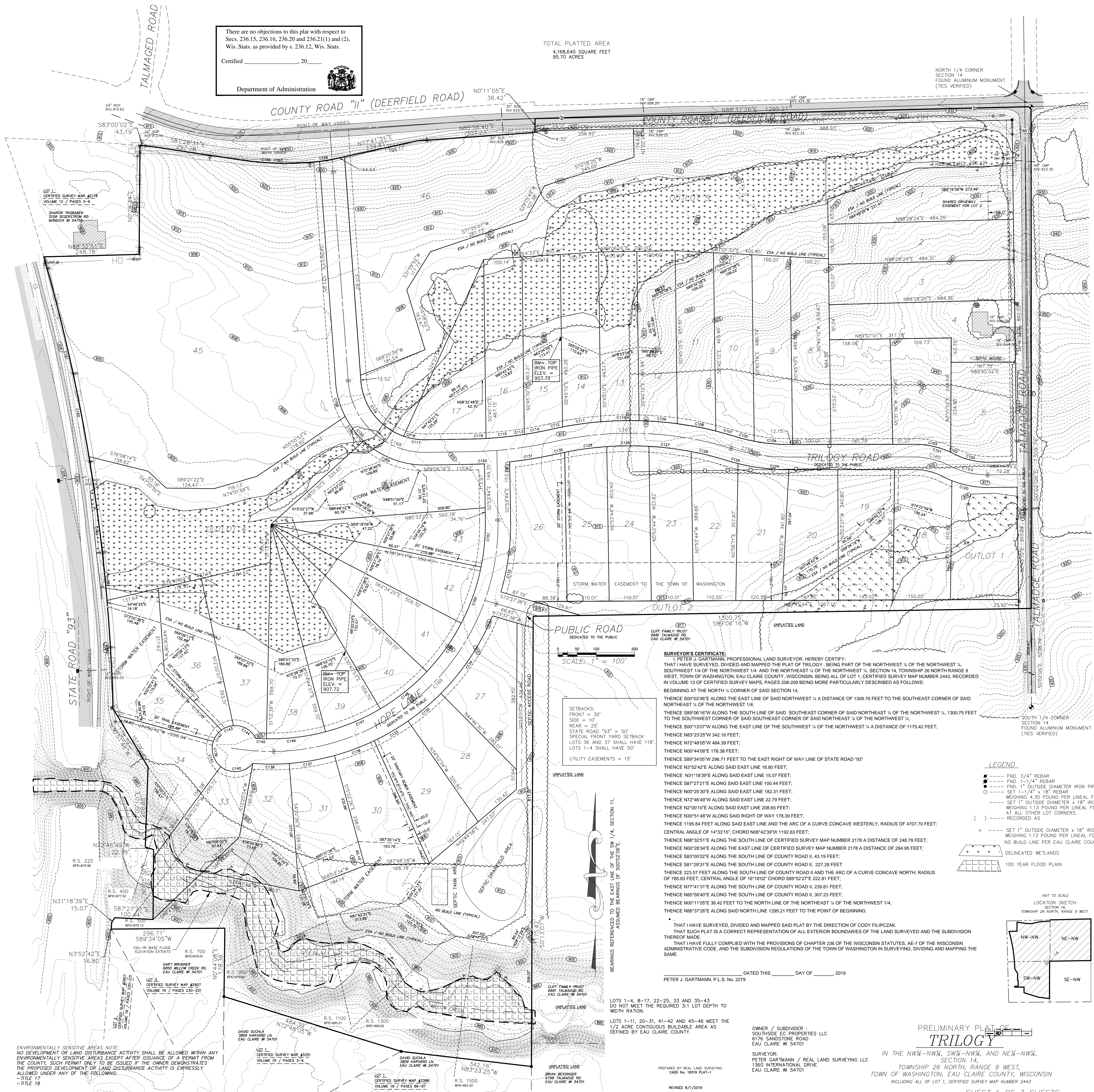


There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____ 20____

Department of Administration

TOTAL PLATTED AREA
4,168,640 SQUARE FEET
95.70 ACRES



CURVE	LOT NO.	LENGTH	RADIUS	DELTA	CHD	CHD BR.	1ST TAN	2ND TAN
C100	93.47	192.00	22733.50	92.50	57648.22	56251.50	N8914.50	
C101	110.51	233.00	22710.31	109.48	57618.50	N8915.54	56251.50	
C102	11.13	233.00	20244.16	11.13	56413.42	56251.50	56251.50	
C103	99.38	233.00	22733.50	88.63	57749.96	N8915.54	56251.50	
C104	88.49	401.00	21051.31	88.35	58459.42	S7910.42	57910.42	
C105	51.73	467.00	20620.48	51.70	57903.92	S7249.52	57910.42	
C106	52.11	930.25	20321.34	52.10	57490.12	S7610.29	57249.52	
C107	102.12	930.25	20617.24	102.07	57911.11	S8219.53	57610.29	
C108	100.48	930.25	20611.20	100.43	58253.32	S8231.13	58219.53	
C109	100.06	930.25	20619.41	100.01	N8923.74	N8919.01	N8919.01	
C110	108.81	930.25	20611.20	108.76	N8217.42	N7910.42	N8919.01	
C111	29.88	930.25	20750.48	29.88	N7911.02	N7710.42	N7910.42	
C112	214.25	1036.52	21150.35	214.25	N8910.58	N8906.16	N7910.42	
C113	71.68	1036.52	20374.44	71.67	N7814.33	N8113.22	N7710.42	
C114	100.46	1036.52	20331.11	100.42	N8400.01	N8446.37	N8113.22	
C115	42.11	1036.52	20219.40	42.11	N8736.26	N8906.16	N8446.37	
C116	252.79	167.00	28643.50	229.34	S4731.48	S4939.52	N8906.16	
C117	28.47	167.00	22023.78	28.17	S8019.42	S7200.01	N8906.16	
C118	194.33	167.00	28640.17	183.55	S3730.01	S4939.52	S7200.01	
C119	125.60	258.00	22733.50	124.36	N7848.22	S8914.50	N8251.54	
C120	131.64	533.00	21499.00	131.31	S8253.31	S7510.31	N8915.54	
C121	28.39	533.00	20370.08	28.38	S7431.28	S7249.52	S7510.31	
C122	88.08	864.25	20630.09	88.03	S7610.42	S7200.01	S7249.52	
C123	111.12	864.25	20722.01	111.08	S8310.31	S8442.02	S7200.01	
C124	110.08	864.25	20717.52	110.00	N8928.58	N8920.01	S8442.02	
C125	110.85	864.25	20720.58	110.77	N8219.35	N7839.01	N8920.01	
C126	20.97	864.25	20123.28	20.97	N7737.24	N7710.42	N7839.01	
C127	124.89	1022.52	20829.25	124.82	N8230.24	N8340.61	N7710.42	
C128	188.58	625.70	21716.08	187.87	S0744.19	S0053.44	S1622.21	
C129	785.51	625.70	21959.45	724.83	S8923.37	S2225.54	N8928.58	
C130	244.80	625.70	22247.88	243.24	S3328.00	S2225.54	S4450.27	
C131	112.21	625.70	21016.29	112.06	S4958.52	S4450.27	S5507.08	
C132	110.67	625.70	21008.04	110.53	S8933.52	S6429.31	S7437.34	
C133	120.18	625.70	21100.19	120.00	S8070.44	S7437.34	S8373.54	
C134	95.28	625.70	20843.30	95.19	S8939.39	S8073.54	N8938.36	
C135	307.04	60.00	29311.34	66.00	S0838.50	N2640.07	S4402.01	
C136	93.00	60.00	20833.50	84.00	N8439.42	S1303.11	N4020.21	
C137	72.53	60.00	20815.33	68.19	S1625.22	S1812.22	S5103.11	
C138	37.40	60.00	20342.56	36.80	S3010.50	S3530.18	S1812.22	
C139	33.32	60.00	21492.22	32.80	S6949.58	S8444.41	S3530.18	
C140	70.69	60.00	20730.13	66.67	N6230.13	N2640.07	S8444.41	
C141	28.09	559.70	20252.31	28.08	N8210.29	N8947.21	N8934.58	
C142	155.77	559.70	21556.46	155.27	S8341.76	N8947.21	N8947.21	
C143	155.77	559.70	21556.46	155.27	S6713.30	S5919.07	S7915.54	
C144	155.77	559.70	21556.46	155.27	S3120.44	S4322.21	S5919.07	
C145	155.77	559.70	21556.46	155.27	S3273.58	S2725.54	S4322.21	
C146	155.77	559.70	21556.46	155.27	S1927.12	S1218.49	S2725.54	
C147	120.80	559.70	21222.33	120.66	S0517.32	S0053.44	S1218.49	
C148	38.88	1102.52	20154.50	38.48	N8919.01	N8906.16	N8919.01	
C149	352.70	233.00	20843.50	319.88	S4731.48	S4939.52	N8906.16	
C150	178.73	233.00	20437.02	174.38	N8910.58	S8906.16	N4856.42	
C151	80.37	233.00	21945.47	79.97	N3703.48	N4856.42	N2710.54	
C152	93.60	233.00	22301.01	92.97	N1540.24	N2710.54	N4919.53	
C153	223.07	785.83	21618.02	222.81	S8932.27	S8145.26	N8138.32	
C154	21.84	785.83	20735.33	21.84	N8246.16	N8334.58	N8138.32	
C155	201.72	785.83	21442.78	201.17	S8142.02	S8138.32	N8138.32	
C156	1195.84	4707.70	21433.17	1192.83	N8242.58	N0726.02	N15591.70	
C157	534.93	4707.70	20630.38	534.65	N1543.58	N0928.59	N15591.70	
C158	378.41	4707.70	20436.20	378.31	N0710.29	N0452.07	N0928.59	
C159	282.50	4707.70	20328.18	282.46	N0309.11	N0128.02	N0452.07	

PARCEL TABLE	PARCEL TABLE	PARCEL TABLE			
LOT NO.	AREA (SQ.FT.)	LOT NO.	AREA (SQ.FT.)	LOT NO.	AREA (SQ.FT.)
1	58,025	21	43,988	41	43,563
2	50,800	22	43,678	42	43,593
3	50,804	23	43,763	43	43,561
4	58,473	24	48,575	44	48,573
5	43,562	25	43,717	45	506,776
6	43,636	26	50,457	46	204,797
7	43,852	27	43,664	DL1	51,529
8	48,721	28	43,618	DL2	37,148
9	49,024	29	44,348	DL3	420,258
10	47,659	30	43,633	DL4	146,482
11	45,753	31	47,021	DL5	382,815
12	44,581	32	46,910		
13	44,105	33	46,874		
14	44,580	34	44,489		
15	45,721	35	58,145		
16	46,599	36	44,239		
17	52,113	37	56,243		
18	49,993	38	43,593		
19	48,448	39	43,593		
20	46,955	40	43,593		

- LEGEND**
- EXISTING BITUMINOUS SURFACE
 - EXISTING OVERHEAD LINES
 - EXISTING UNDERGROUND ELECTRIC
 - EXISTING UNDERGROUND GAS
 - EXISTING UNDERGROUND TELEPHONE
 - EXISTING GUY WIRE
 - EXISTING TELEPHONE PEDESTAL
 - EXISTING POWER POLE
 - EXISTING POWER POLE W/ LIGHT
 - EXISTING UNDERGROUND CABLE
 - EXISTING UNDERGROUND FIBER OPTIC
 - EXISTING TRAFFIC SIGN
 - EXISTING ELECTRIC PEDESTAL
 - EXISTING WATER VALVE
 - EXISTING CABLE PEDESTAL
 - EXISTING TREE LINE
 - EXISTING FENCE

SURVEYOR'S CERTIFICATE

I, PETER J. GARTMANN, PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED THE PLAT OF TRILOGY, BEING PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE NORTHWEST 1/4, SECTION 14, TOWNSHIP 26 NORTH, RANGE 9 WEST, TOWN OF WASHINGTON, EAU CLAIRE COUNTY, WISCONSIN, BEING ALL OF LOT 1, CERTIFIED SURVEY MAP NUMBER 2443, RECORDED IN VOLUME 13 OF CERTIFIED SURVEY MAPS, PAGES 208-209 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- BEGINNING AT THE NORTH 1/4 CORNER OF SAID SECTION 14,
- THENCE S00°02'08" E ALONG THE EAST LINE OF SAID NORTHWEST 1/4 A DISTANCE OF 1309.76 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4;
 - THENCE S89°18'19" W ALONG THE SOUTH LINE OF SAID SOUTHEAST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4, 1300.75 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHEAST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4;
 - THENCE S00°13'07" W ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 1175.42 FEET;
 - THENCE N83°23'25" W 342.16 FEET;
 - THENCE N72°48'05" W 484.39 FEET;
 - THENCE N00°44'08" E 178.38 FEET;
 - THENCE S89°34'05" W 296.71 FEET TO THE EAST RIGHT OF WAY LINE OF STATE ROAD 93;
 - THENCE N51°52'42" E ALONG SAID EAST LINE 16.80 FEET;
 - THENCE N31°18'39" E ALONG SAID EAST LINE 15.07 FEET;
 - THENCE N87°27'21" E ALONG SAID EAST LINE 100.44 FEET;
 - THENCE N00°25'30" E ALONG SAID EAST LINE 182.31 FEET;
 - THENCE N7°46'49" W ALONG SAID EAST LINE 22.79 FEET;
 - THENCE N2°00'10" E ALONG SAID EAST LINE 208.65 FEET;
 - THENCE N30°51'48" W ALONG SAID RIGHT OF WAY 178.39 FEET;
 - THENCE 1195.64 FEET ALONG SAID EAST LINE AND THE ARC OF A CURVE CONCAVE WESTERLY, RADIUS OF 4707.70 FEET, CENTRAL ANGLE OF 14°33'11", CHORD N88°42'39" W 1192.63 FEET;
 - THENCE N88°32'51" E ALONG THE SOUTH LINE OF CERTIFIED SURVEY MAP NUMBER 2178 A DISTANCE OF 248.78 FEET;
 - THENCE N00°28'34" E ALONG THE EAST LINE OF CERTIFIED SURVEY MAP NUMBER 2178 A DISTANCE OF 284.96 FEET;
 - THENCE S83°00'22" E ALONG THE SOUTH LINE OF COUNTY ROAD II, 43.19 FEET;
 - THENCE S81°28'31" E ALONG THE SOUTH LINE OF COUNTY ROAD II, 227.28 FEET;
 - THENCE 223.57 FEET ALONG THE SOUTH LINE OF COUNTY ROAD II AND THE ARC OF A CURVE CONCAVE NORTH, RADIUS OF 785.83 FEET, CENTRAL ANGLE OF 10°18'02", CHORD S89°52'27" E 222.81 FEET;
 - THENCE N74°11'31" E ALONG THE SOUTH LINE OF COUNTY ROAD II, 228.81 FEET;
 - THENCE N88°58'40" E ALONG THE SOUTH LINE OF COUNTY ROAD II, 307.23 FEET;
 - THENCE N00°11'05" E 36.42 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4;
 - THENCE N88°37'26" E ALONG SAID NORTH LINE 1295.21 FEET TO THE POINT OF BEGINNING.

THAT I HAVE SURVEYED, DIVIDED AND MAPPED SAID PLAT BY THE DIRECTION OF CODY FILIPCZAK THAT SUCH PLAT IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE SUBDIVISION THEREOF MADE

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES, AE-7 OF THE WISCONSIN ADMINISTRATIVE CODE, AND THE SUBDIVISION REGULATIONS OF THE TOWN OF WASHINGTON IN SURVEYING, DIVIDING AND MAPPING THE SAME.

DATED THIS _____ DAY OF _____, 2019

PETER J. GARTMANN, P.L.S. No. 2279

LOTS 1-4, 8-17, 22-25, 33 AND 35-43 DO NOT MEET THE REQUIRED 3:1 LOT DEPTH TO WIDTH RATION.

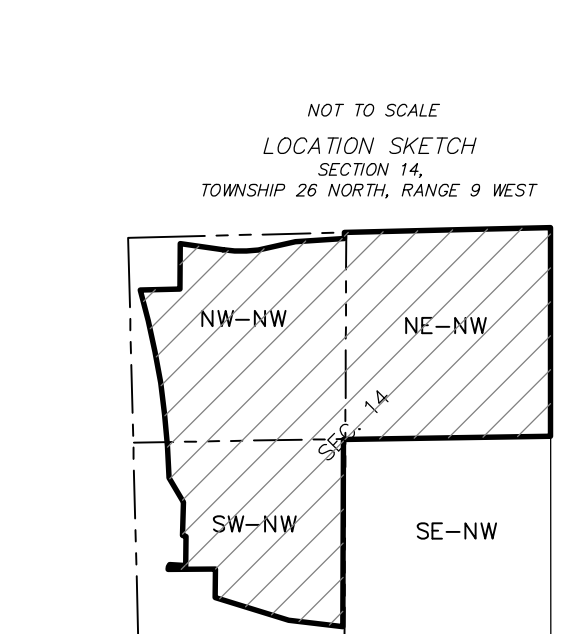
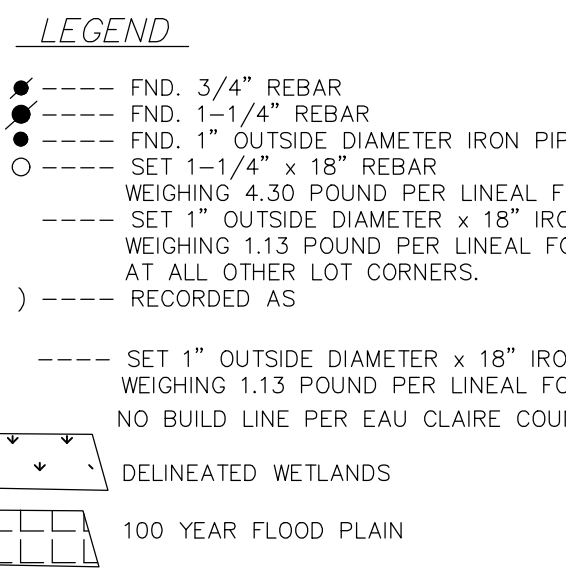
LOTS 1-11, 20-31, 41-42 AND 45-46 MEET THE 1/2 ACRE CONTIGUOUS BULLEAD AREA AS DEFINED BY EAU CLAIRE COUNTY.

OWNER / SUBDIVIDER :
SOUTHSHORE EOP PROPERTIES LLC
6176 SANDSTONE ROAD
EAU CLAIRE WI 54701

SURVEYOR:
PETER GARTMANN / REAL LAND SURVEYING LLC
1360 INTERNATIONAL DRIVE
EAU CLAIRE WI 54701

PREPARED BY REAL LAND SURVEYING
CAD No. 18319 PLAT-1

REVISED 8/7/2019
REVISED 8/14/2019
REVISED 9/06/2019
REVISED 9/16/2019



PRELIMINARY PLAT

IN THE NW 1/4-NW 1/4, SW 1/4-NW 1/4, AND NE 1/4-NW 1/4, TOWNSHIP 26 NORTH, RANGE 9 WEST, TOWN OF WASHINGTON, EAU CLAIRE COUNTY, WISCONSIN INCLUDING ALL OF LOT 1, CERTIFIED SURVEY MAP NUMBER 2443

SHEET 1 OF 3 SHEETS

OUTLOT 3 IS SUBJECT TO A SANITARY AND SEWER EASEMENT.

STORMWATER EASEMENTS ARE FOR THE BENEFIT OF ALL LOTS IN THIS PLAT. AFTER INSTALLATION OF STORMWATER FACILITIES WITHIN THIS PLAT (AS PER PLAN FILED WITH EAU CLAIRE COUNTY) THE ELEVATIONS OF THE GROUND WITHIN THESE EASEMENTS CANNOT BE ALTERED WITHOUT PRIOR APPROVAL FROM EAU CLAIRE COUNTY AND THE TOWN OF WASHINGTON. NO IMPROVEMENT OF OBJECT MAY BE PLACED WITHIN THESE EASEMENTS THAT WOULD IMPEDE THE FLOW OF WATER.

THE DEVELOPER WILL MAINTAIN THE STORMWATER FACILITIES AS PROVIDED IN THE TOWN'S CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT. FOR THE GREATER OF 3 YEARS AFTER THE POST CONSTRUCTION INSPECTION BY EAU CLAIRE COUNTY LAND CONSERVATION OR UNTIL THE DEVELOPER HAS SOLD 50% OF THE LOTS, AFTER WHICH TIME IT WILL BE MAINTAINED BY THE TOWN.

EAU CLAIRE COUNTY AND THE TOWN OF WASHINGTON HAS THE PERPETUAL RIGHT PRIVILEGE AND EASEMENT TO ENTER UPON ANY OUTLOT AND STORMWATER MANAGEMENT FACILITY TO OPERATE, REPAIR, MAINTAIN, RELOCATE, RECONSTRUCT AND REPLACE SAID FACILITIES AS DIRECTED BY THEM IN THEIR SOLE DISCRETION, DETERMINES THAT ANY SUCH ACTION IS NECESSARY OR DESIRABLE TO ACCOMMODATE ANTICIPATED FLOWS OF STORM WATER OR MELT WATER.

BASEMENT FLOORS SHALL BE BUILT 1' ABOVE THE SEASONAL HIGH WATER TABLE ELEVATION.

ALL OUTLOTS WITHIN THIS PLAT ARE NOT APPROVED FOR BUILDING PURPOSES UNTIL THEY MEET THE REQUIREMENT OF A LOT PER CODE.

UTILITY EASEMENT IS FOR THE USE OF THOSE UTILITIES LISTED IN THE UTILITY EASEMENT PROVISIONS ON SHEET 2. NO UTILITY LINES, PEDESTALS OR ANY APPURTENANCES SHALL BE PLACED WITHIN 3 FEET OF ANY LOT CORNER.



TOWN OF WASHINGTON ♦ EAU CLAIRE COUNTY, WISCONSIN
5750 Old Town Hall Road ♦ Eau Claire WI 54701
(715)834-3257 ♦ Fax (715)834-3325 ♦ www.townofwashington.org

October 10, 2019

Rod Eslinger
Director, Eau Claire County Planning & Development
721 Oxford Avenue
Eau Claire, WI 54703-5478

Dear Mr. Eslinger and Land Use Appeals Board:

I am writing in reference to the Eau Claire County Variance Application filed by Real Land Surveying and Southside EC Properties LLC for a 30 foot variance to the 50 foot setback for wetlands which is scheduled to be heard on October 23, 2019. The variance is a result of the Trilogy subdivision and the officially mapped road system therein.

In 2016 The Town of Washington with the assistance of WRWCPC and Eau Claire County Planning & Development established an Official Map for properties likely to develop near STH 93. The purpose of this initiative was to map a road system that provided for adequate ingress/egress, connectivity, emergency services delivery and roadway safety in a regional corridor of increasing density and mixed land uses.

Trilogy is located on one such property. The official map indicates an access onto CTH II and Talmadge Road. It has been identified the construction of Trilogy Rd to Talmadge Road falls within a wetland setback area. The applicant, Town Staff, and staff from Eau Claire County Planning and Development and Highway Department met to evaluate and discuss alternatives. Given the topography of Talmadge Road adjacent the Trilogy subdivision, the access per the Official Map remains the only viable option. A closer review of roadway sight and stopping distances allowed us to shift the intersection approximately 15 feet to the north. Hence the request of the 30 foot variance.

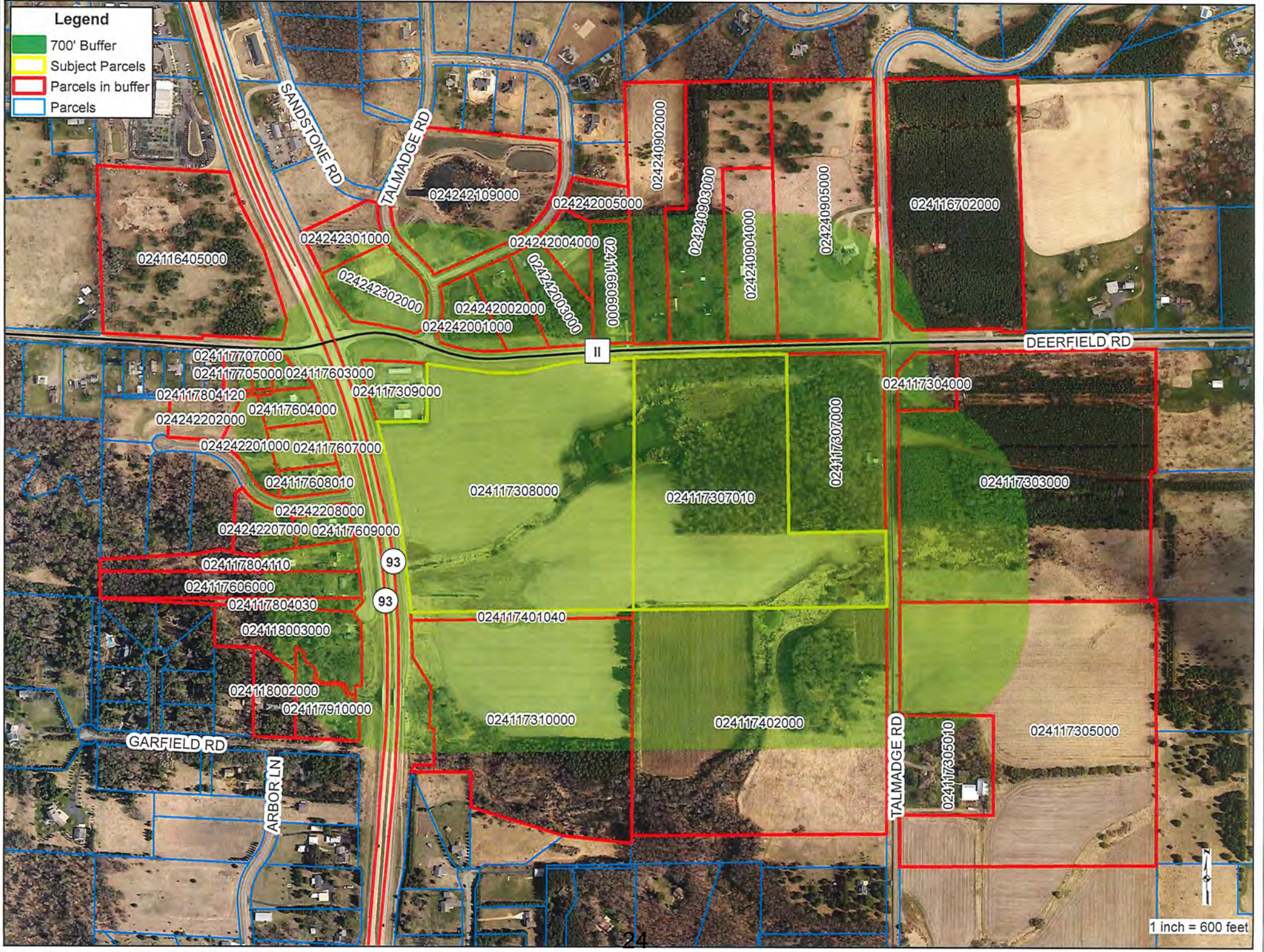
Thank you for your consideration. This access to Talmadge Rd via Trilogy Rd is of significant importance from a road system and roadway safety standpoint.

Sincerely,

Janelle L. Henning
Town of Washington
Administrator/Clerk/Treasurer

Legend

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



FirstName	LastName	Address	City	State	Zip
MICHAEL	BURAGLIO	6218 WHITE OWL LN	EAU CLAIRE	WI	54701-2722
	CLIFF FAMILY TRUST	6681 TALMADGE RD	EAU CLAIRE	WI	54701-8811
	CMJM PROPERTIES LLC	9305 MURPHY LN	EAU CLAIRE	WI	54703-9173
COLIN	DAVISON	3721 DEERFIELD RD	EAU CLAIRE	WI	54701-8579
LOREN	DEBORD	6394 HART RD	EAU CLAIRE	WI	54701-5095
HELEN	DOOLEY	4346 DEERFIELD RD	EAU CLAIRE	WI	54701-8504
JORDAN	DOW	6150 WHITE OWL LN	EAU CLAIRE	WI	54701-2723
THERESA	EDWARDS	6346 TALMADGE RD	EAU CLAIRE	WI	54701-8811
RANDY	FENNER	6500 HART RD	EAU CLAIRE	WI	54701-5097
KIRT	GARRISON	11073 164TH ST W	LAKEVILLE	MN	55044-9281
JUSTIN	GREENAWALD	6454 HART RD	EAU CLAIRE	WI	54701-5096
THOMAS P & MARJORIE H	HOFSLIEN	4450 DEERFIELD RD	EAU CLAIRE	WI	54701-8504
ERNEST H & DONNA D	JOHNSON	6570 HART RD	EAU CLAIRE	WI	54701-5097
KIRK	KARG	3711 DEERFIELD RD	EAU CLAIRE	WI	54701-8579
RYAN	KING	6198 WHITE OWL LN	EAU CLAIRE	WI	54701-2723
ANDREW	KOLAR	3830 GARFIELD RD	EAU CLAIRE	WI	54701-8958
JOHN P & MELISSA A	LINN	3750 GARFIELD RD	EAU CLAIRE	WI	54701-8958
DANIEL	MAUER	PO BOX 1987	EAU CLAIRE	WI	54702-1987
DAVID	MCCABE	PO BOX 1769	EAU CLAIRE	WI	54702-1769
DENNIS	MYHRE	4398 DEERFIELD RD	EAU CLAIRE	WI	54701-8504
JOHN	PETERKA	6174 WHITE OWL LN	EAU CLAIRE	WI	54701-2723
JUSTIN	POSPISHIL	6236 WHITE OWL LN	EAU CLAIRE	WI	54701-2722
	RAETHER PROPERTIES LLC	N 1234 COUNTY HIGHWAY MD	SARONA	WI	54870-9261
	RIDGEVIEW INVESTMENTS GROUP LLC	1105 S EDGEWATER DR	EAU CLAIRE	WI	54701-8313
JOHN F & JAMIE A	RIGGS	6590 HART RD	EAU CLAIRE	WI	54701-5097
	SOUTHSIDE EC PROPERTIES LLC	6176 SANDSTONE RD	EAU CLAIRE	WI	54701
KYLE	STELTER	14686 46TH AVE N	CHIPPEWA FALLS	WI	54729-4864
STEVEN	STRAND	6550 HART RD	EAU CLAIRE	WI	54701-5097
SHARON	THOBABEN	S 158 SEGERSTROM RD	MONDOVI	WI	54755-7856
	TOWN OF WASHINGTON	5750 OLD TOWN HALL RD	EAU CLAIRE	WI	54701-8948
	TRILLIUM BUSINESS PARK LLC	6176 SANDSTONE RD	EAU CLAIRE	WI	54701-5138
MICHAEL	WALBECK	6014 TALMADGE RD	EAU CLAIRE	WI	54701-2220
JASON	WEAVER	6400 HART RD	EAU CLAIRE	WI	54701-5096

GRANT

WEWERKA
WURZER BUILDERS INC

4650 S OAKWOOD HILLS PKWY
4319 JEFFERS RD STE 150

EAU CLAIRE
EAU CLAIRE

WI 54701-7797
WI 54703-3926



EAU CLAIRE COUNTY BOARD OF LAND USE APPEALS

STAFF ANALYSIS AND RECOMMENDATION

VARIANCE NUMBER:	VAR-0006-19
COMPUTER NUMBERS:	006-1037-07-000
PUBLIC HEARING DATE:	October 23, 2019

STAFF CONTACT:	Jared Grande, Land Use Manager
OWNER:	Foster Bar LLC, S 12800 US Highway 53, Osseo, WI 54758
APPLICANT:	Dells Construction, 4220 Cardell Rd, Eau Claire, WI 54703
SITE LOCATION:	S 12800 USE Highway 53
ZONING DISTRICT:	C-2
LEGAL DESCRIPTION:	PRT SW-SE COM AT A PT 67 RDS (1,105.5') E OF NW COR & C/L OF HWY RUNNING E&W TN SLY ALG C/L OF HWY 53 78' TO POB TN CONT S TO A PT 15 RDS (247.5') S OF N LN OF 40 TN W 264' TN N 169.5' TN W TO POB (THIS DESC IS COMBINATION OF DESC'S FROM 566/660 IT APPEARS THE DESC IN 566/660 ASSUMES HWY 53 TO RUN N & S THROUGH SD 40 WHILE IT RUNS SWLY), Town of Clear Creek, Eau Claire County, Wisconsin.
REQUEST:	83-foot variance from the required 100-foot right-of-way setback to a Class B for an existing commercial structure and addition.

SUMMARY

The applicant is requesting an 83-foot variance from the required 100-foot right-of-way setback to a Class B highway for an existing commercial structure and addition. The minimum setback from a Class B Highway is 100 feet from the right-of-way. The proposed addition is 80-foot by 50-foot (total 4,000 square feet).

Located on the corner of US Highway 53 and County Road HH, there is an existing principal structure that has been used as a bar for decades currently known as Foster Bar. The principle structure has been there prior to Clear Creek adopting and opting into Eau Claire County zoning on May 16, 1983; As part of the zoning code, highway setbacks were established. Principal structures existing within the required highway setbacks are considered nonconforming and shall follow 18.24.015 which allows a one time, 500 square foot addition or alteration to the principle structure. Everyday Surveying and Engineering surveyed the right-of-way and identified the existing bar is 17 feet from the right-of-way, therefore restricting the addition under county code to 500 square feet.

The applicant is requesting tearing down the existing attached garage and detached creamery buildings as shown on "existing site condition – proposed razed building" plan. Following the razing of the buildings, an 80-foot by 50-foot banquet hall addition would be constructed to the south.

If the variance request were to be approved, the existing principle structure with the addition would be considered a conforming principal structure, therefore the proposed addition being allowed greater than 500 square feet.

As a note, 2017 Wisconsin Act 67 was published November 28, 2017; specifically 59.69(10e)(b) which states, “An ordinance may not prohibit, limit based on cost, or require a variance for the repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure.” The department has discussed with Corporation Counsel and has interpreted the legislation as referring to the three-dimensional footprint of a nonconforming structure.

The application materials include a narrative(s), site map(s), Letter of Map Amendment removing the area from floodplain regulation based on 2017 WI Act 242, survey provided by Everyday Surveying and Engineering, and building elevation drawings.

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	C-3/R-H	Residential
West	R-H	Residential
South	A-1	Agricultural
East	A-1	US Highway 53/Residential/Agricultural

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 18.13.001 Purpose. The C-2 General Business District is established to: provide an area for retail businesses of a community-wide range.

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 B. Class B Highways. All federal or state highways not designated as Class A highways are designated as Class B highways.

1. Setbacks. The setback for Class B highways shall be 150 feet from the centerline or 100 feet from the right-of-way line, whichever is greater.

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 existing principal structure and proposed addition 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 stated outlines the existence of the structures prior to the Town of Clear Creek adopting county zoning. The restrictive features onsite are the creek and the mapped floodplain.

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 compared to other properties in the Town of Clear Creek or Eau Claire County. At the time of Town's adopting county zoning in the early 80's, there were many structures that did not meet setbacks, whether off of public roadways or other setbacks, that rendered them nonconforming.

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 front along class B Highways that have navigable waterways adjacent or within the property. The property does have limited area for development due to US Highway 53 on the east and the unamend creek to the west.

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 C-2 district allows for a bar.

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. There was no mention of how the request is the minimum necessary to grant relief. 2017 WI Act 67 allows for replacement within the three-dimensional footprint.

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 does not appear the variance request conflicts with the purpose of section 18.13.001. It is questionable if the variance request conflicts with the purpose of section 18.22.001. The variance request will not be contrary to state law.

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

The request does not impact the floodplain following 2017 WI Act 242

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 following 2017 WI Act 242.

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; 2017 WI Act 67 would allow the current structure to be replaced within the existing three-dimensional footprint and the county would not be able to require a variance. There does not appear to be increased risks to public safety or nuisance costs for rescue and relief efforts. The applicant has indicated within the proposal to remove some existing outdated buildings; removing them may provide some positive environmental impact, but that is unknown. It does not appear the variance request is contrary to the purpose of 18.13.001, but it's questionable if the request is contrary to the purpose outlined in 18.22.001.

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 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 adjacent to class B Highways may have similar circumstances and granting this variance may set a precedent for future variance requests. 2017 WI Act 67 would allow the existing principle structure to be replaced within the three-dimensional footprint.

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 as currently situated.
 - No unique physical limitation exists on this property, such as a steep slope, that exist on the property. There is an unnamed creek on the west side of the property and the structure was built before zoning was adopted by the Town, but these limiting factors are on other properties.
 - 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 may be adjacent to a class B Highway.
 - 2017 WI Act 67 allows the existing nonconforming structure to be remodeled, rebuilt, or replaced without a variance required by the county.
-

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

- Granting of the variance request would allow for the addition, therefore the owner would remove the old creamery buildings on the property.
- The town supports the request and would like the old buildings taken down.
- The request would not likely cause an increase risk to public safety or result in harm to public interests.

Conditions

- The existing principal structure and addition be verified to be removed from floodplain determination with Letter of Map Amendment following 2017 WI Act 242
 - The variance request is specifically for the existing structure and addition; any other additions would require a variance.
 - Applicant shall obtain all necessary permits, including but not limited to; Land Use, Commercial Building Permit Approval, Shoreland, Commercial Electrical, Erosion Control, Storm Water and Sanitary approvals.
-

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:	9/27/2019
Accepted By:	Jared Grande
Receipt Number:	61501
Town Hearing Date:	
Scheduled Hearing Date:	10/23/2019
Application No:	VAR-0006-19
Appl Status:	Pending

Eau Claire County Variance Application

Owner/Applicant Name(s): Dell Construction Foster Bar Llc	Address: (appl) 4220 CARDELL RD EAU CLAIRE (ow) S 12800 US HIGHWAY 53 OSSEO	Telephone: 715-834-0501(W) 715-597-6627(W)
Agents Name:		
Site Address(es): S 12800 US HIGHWAY 53 OSSEO		
Zoning District(s): C2	Code Section(s): 18.22.020.B.1.	
Property Description: Sec 14 Twn 25 Rge 08	Town of Clear Creek	Lot Area: .960 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 1800622508144300004	Alternate No 006103707000	Parcel No 25.8.14.4-3-D,E
Legal (partial) PRT SW-SE COM AT A PT 67 RDS (1,105.5') E OF NW COR & C/L		
General Description: 83-FOOT FRONT YARD SETBACK OFF OF A CLASS B HIGHWAY FOR AN EXISTING COMMERCIAL STRUCTURE.		
Code Description: 18.22.020.B.1.; CLASS B 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 9/30/19
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 ~~be~~ 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:	9/13/19
Accepted By:	Jenna
Receipt Number:	61501
Town Hearing Date:	
Scheduled Hearing Date:	

VARIANCE APPLICATION

Property Owner Name: <u>Shawn Holden</u>	Phone# <u>715 597-6627</u>
Mailing Address: <u>512800 US-53 Osseo, WI 54758</u>	
Email Address: <u>n/a</u>	

Agent Name: <u>Dell Const</u>	Phone# <u>715 834-0501</u>
Mailing Address: <u>4220 Cardell Rd, Eau Claire, WI 54703</u>	
Email Address: <u>drodgers@dellconstruction.com</u>	

SITE INFORMATION


Site Address: <u>512800 US-53 Osseo WI 54758</u>
Property Description: <u>SW 1/4 SE 1/4 Sec. 14, T 25 N, R 8 W, Town of Clear Creek</u>
Zoning District: <u>C3</u> Code Section(s): _____
Overlay District: Check Applicable <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): <u>006 - 1037 - 07 - 000</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  Date ~~7-19-19~~
9-13-19
DELL CONST CO INC

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.

STANDARDS FOR VARIANCES

The Board of Land Use Appeals has the authority to issue variances only when the standards are met. The variance standards are located in Section 18.31.020 C. 6. Of the Eau Claire County Code. Those standards are as follows:

1. The burden is upon the appellant to prove the need for a variance.
2. 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.
3. The plights of the applicant must be unique, such as a shallow or steep parcel of land or a situation caused by other than his or her own action.
4. The hardship justifying a variance must apply to the appellant's parcel or structure and not general to other properties in the same district.
5. Variances allowing uses not expressly listed as permitted or conditional uses in a given zoning district shall not be granted.
6. The variance must not be detrimental to adjacent properties.
7. The variance must by standard be the minimum necessary to grant relief.
8. 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.
9. The variance shall not permit any change in established flood elevations or profiles.
10. Variances shall not be granted for actions, which require an amendment to Chapter 18.20, the Flood Plain Overlay District.
11. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
12. 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 Wisconsin Supreme Court's opinion in State Ex. rel. Ziervogel v. Washington County Board of Adjustment, found that the property owner will have to prove unnecessary hardship utilizing the 1976 Snyder Wisconsin Supreme Court decision. In the 2004 Ziervogel decision, the Supreme Court reaffirmed the 1976 Snyder standard for determining the existence of an unnecessary hardship stated as "...whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." (at pages 3-4) Whether the standard is met depends upon "...a consideration of the purpose of the zoning restriction in question, its effect on the property, and the effect of a variance on the neighborhood and the larger public interests." (at page 4) The hardship must be unique to the property and not self-created (at page 4). The burden of proving unnecessary hardship remains on the property owner (at page 4). In the Ziervogel decision the Supreme Court affirmed the following rules of unnecessary hardship:

1. The hardship must be based on conditions unique to the property rather than considerations personal to the property owner.
2. The hardship cannot be self-created.
3. The Board is to evaluate the hardship in light of the purpose of the zoning restriction at issue.
4. The variance cannot be contrary to the public interest.
5. The property owner bears the burden of proving unnecessary hardship.

If it is found that there is a hardship and that the other criteria are present, the Board can grant a variance. In that case, the variance should only provide for the minimum relief needed to overcome the hardship. (Anderson, American Law of Zoning 3d, (9189) Vol. 3, S.20.86, pp. 624-5).

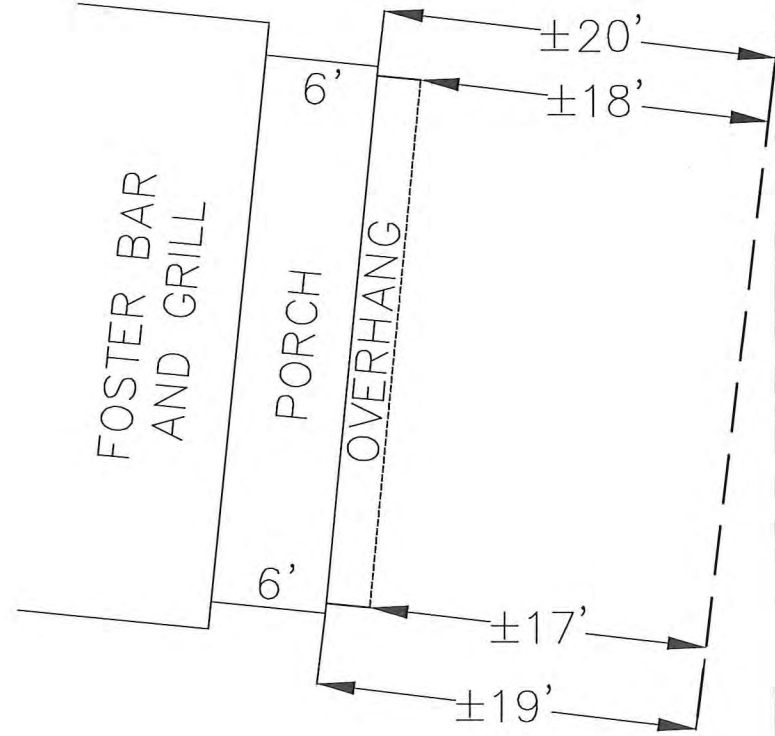
A variance grants relief from a **numerical standard**, such as a setback, that allows development that is inconsistent with the dimensional standards contained in the ordinance. Variances cannot be issued to approve uses that are inconsistent with the ordinance. The Board of Land Use Appeals is authorized by statute to grant variances to the strict terms of the Eau Claire County Zoning Ordinance only when certain criteria exist. Those criteria are listed above. It is the applicant's responsibility to prove that those criteria exist at the site and that a variance can be granted.

If you believe your request meets the criteria necessary to grant a variance, please summarize your request, the facts that show those standards have been satisfied, and arguments that support this conclusion.

We would like to remove the existing "Garage" and existing creamery buildings and in a much smaller floor plan build an open meeting room.

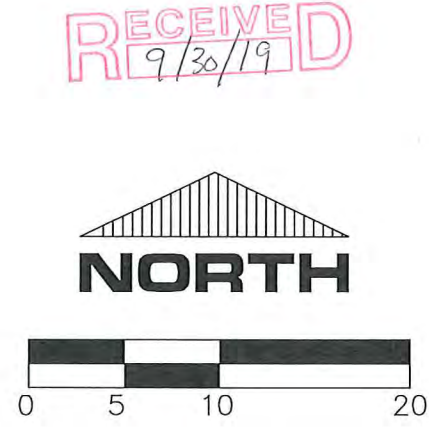
The justification for needing this variance are as follows:

1. Buildings were built as conforming structures. It was only in the early eighties that they were made non-complying.
2. Buildings cannot be moved back due to the creek and flood plain.
3. Township supports this and would like old buildings taken down.
4. Brings current building into ADA compliance.



33'

U.S.H. "53"
REFERENCE LINE



DELL Construction Co., Inc.

GENERAL CONTRACTORS • CONSTRUCTION MANAGEMENT

September 13, 2019

EC County Land Use

RE: Foster – Proposed Remodel

Existing Structures proposed to be removed: 6557 sft

Proposed Addition : 3200 sft

As per conversation with DNR, the creek setback cannot be used, leaving no building envelope that complies.

The setback off of current road right of way and current front porch is 20'-0".

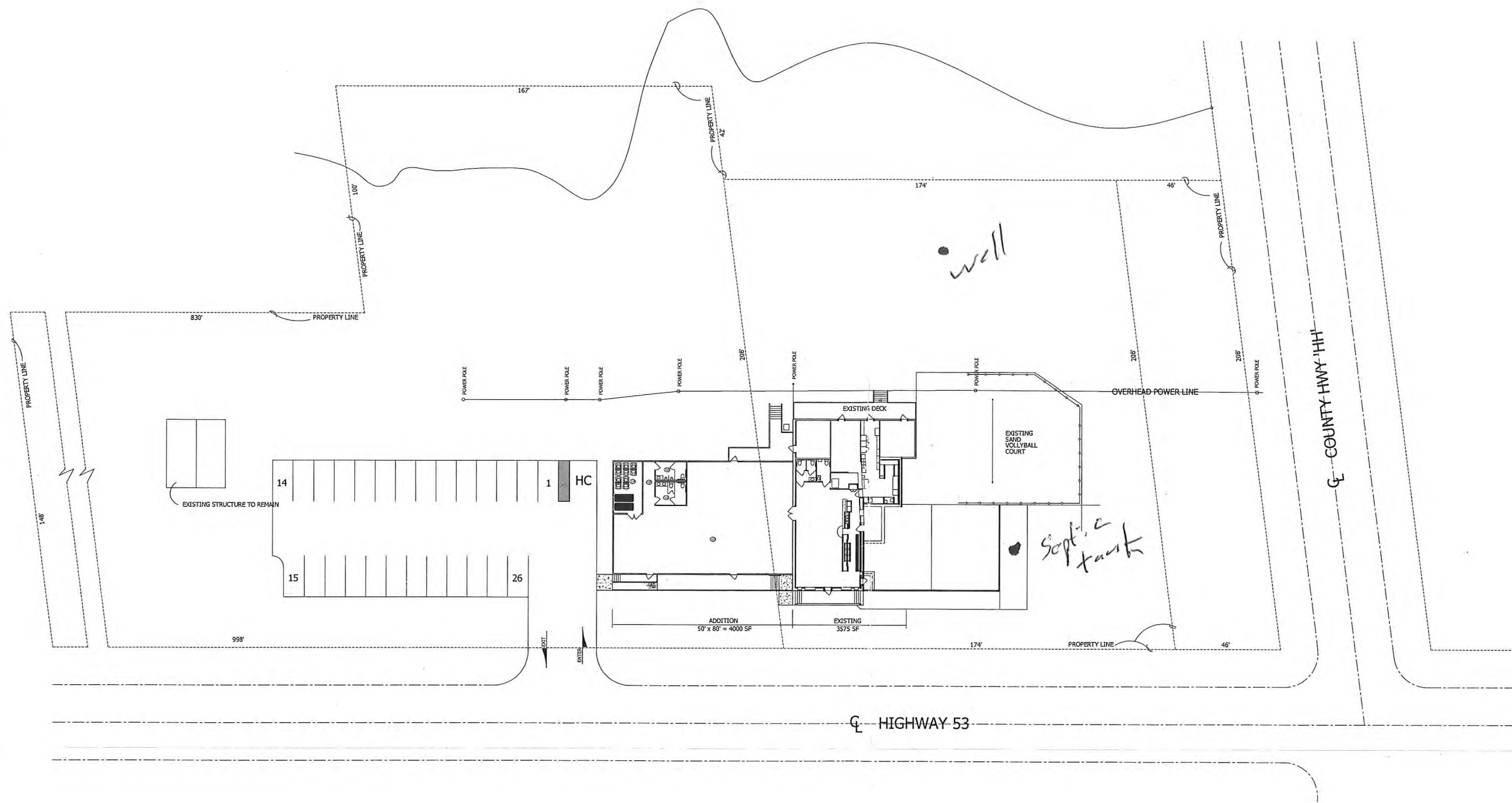
Septic tank is off the north end of the existing bar building and will not be impacted at all by the proposed addition.

Call if you have any questions.

Sincerely,
DELL CONSTRUCTION CO., INC.

T Biegel

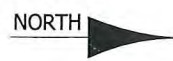
Toby Biegel



PROPOSED ADDITION - 4000 SF

SCALE: 1" = 30'

NORTH



HIGHWAY 53

COUNTY HWY 111

well

septic tank

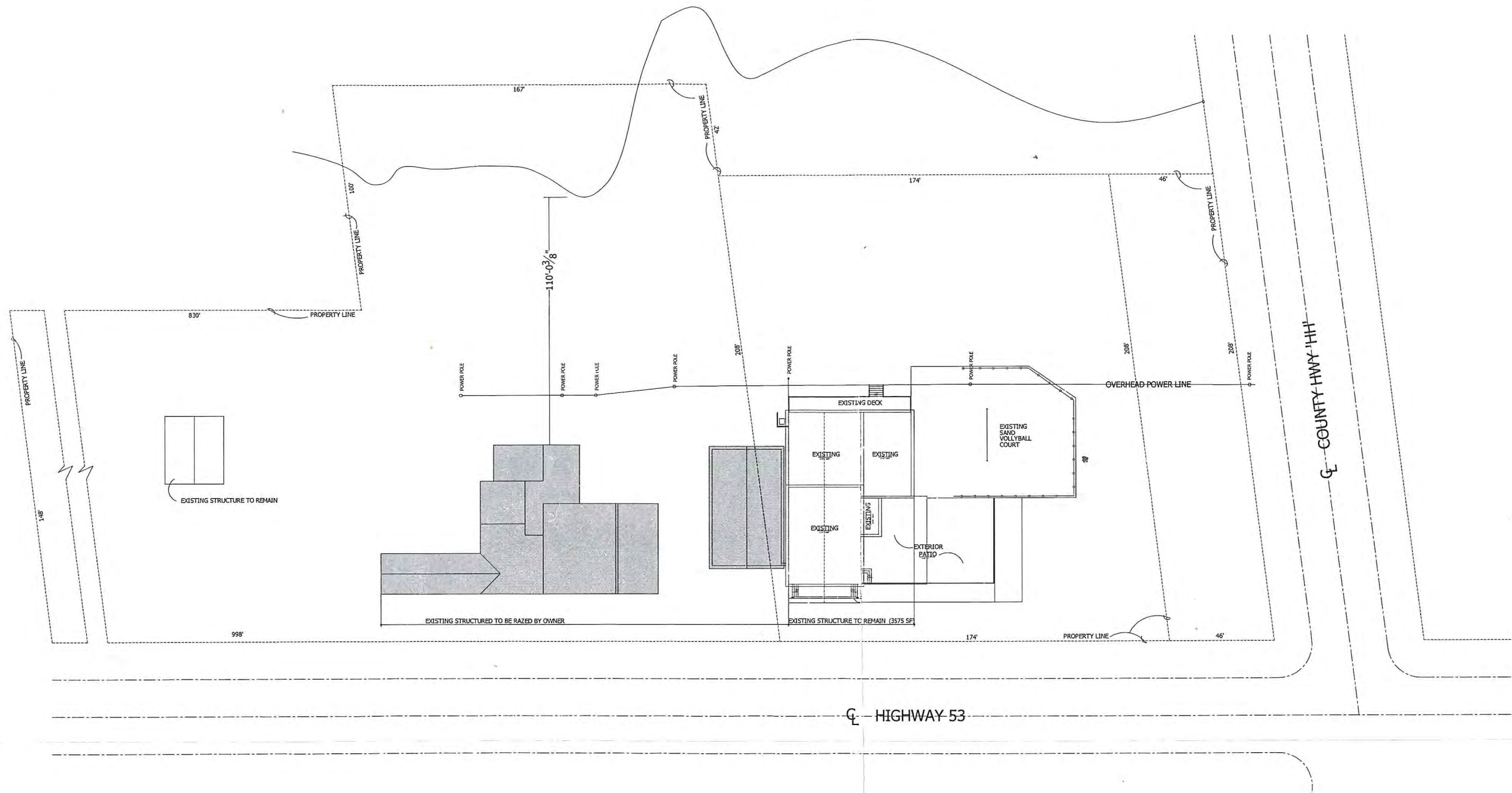
REVISION	NO.	DATE	COMMENTS

DATE PLOTTED: 04/22/2019

DELL CONSTRUCTION COMPANY, INC.
 4200 MARSHALL ROAD LAKE CHARLES, LA 70601 PHONE: (713) 684-0021
 COMMERCIAL • INDUSTRIAL

FOSTER BAR and GRILL - BANQUET HALL ADDITION 2019
 S12800 US HWY 53, OSSEGO, WISCONSIN

A2



EXISTING SITE CONDITION - PROPOSED RAZED BUILDING
SCALE: 1" = 32'-0"



REVISION:	DATE:	BY:	DATE:

DATE PLOT: 10/27

DELL CONSTRUCTION COMPANY, INC.
420 CARROLL ROAD LAKE CHARLE, WI 54501 PHONE (715) 844-0701
COMMERCIAL - INDUSTRIAL

FOSTER BAR and GRILL - BANQUET HALL ADDITION 2019
S12800 US HWY 53, OSSECO, WISCONSIN

A1

Jared Grande

From: greg <greg@raymond-surveying.com>
Sent: Wednesday, September 18, 2019 7:54 AM
To: Jared Grande
Subject: RE: LOMA
Attachments: 19045 Map.pdf; LOMA.pdf

WARNING!! This email originated outside Eau Claire County. Do not click any links or attachments unless you know the sender.

Hello Jared,

The original signed map went to FEMA. Attached un-signed is same map that was submitted.

Gregory J. Raymond
Raymond Surveying, LLC
715-533-5351
greg@raymond-surveying.com
www.raymond-surveying.com

From: Jared Grande <Jared.Grande@co.eau-claire.wi.us>
Sent: Tuesday, September 17, 2019 1:32 PM
To: greg <greg@raymond-surveying.com>
Subject: LOMA

Greg,

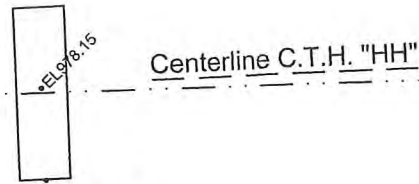
Please forward all supplemental information submitted as part of Case No. 19-05-3070A LOMA approval dated June 28, 2019 (street S 12800, S 12830, & S 12770 US Highway 53) in the Town of Clear Creek.

Thank you,

Jared Grande

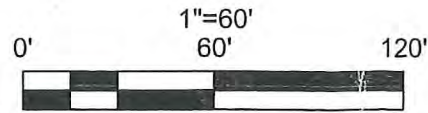
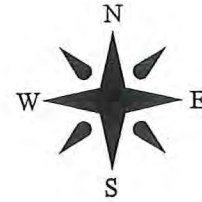
Land Use Manager – Eau Claire County
Department of Planning and Development
721 Oxford Avenue, Room 3344, Eau Claire, WI 54703
715.839.4743
Jared.Grande@co.eau-claire.wi.us

This communication constitutes an electronic communication within the meaning of the Electronic Privacy Act, 18 USC 2510 and its disclosure is strictly limited to the recipient intended by the sender of this message. This communication is confidential and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Receipt by anyone other than the intended recipient does not constitute waiver or loss of the confidential or privileged nature of the communication. If the person receiving this message is not the intended recipient or you have received this message in error, any review, publication, copying or other distribution of this information is strictly prohibited. If you received this communication in error, please notify the sender immediately at the email address



Box Culvert
16' Wide X
Low Chord = 974.08'
Stream Bottom = 968.65'
Water Surface = 696.48'
Centerline of Road = 978.15'

Centerline C.T.H. "HH"



LEGEND

☒ Found Eau Claire County Aluminum Monument

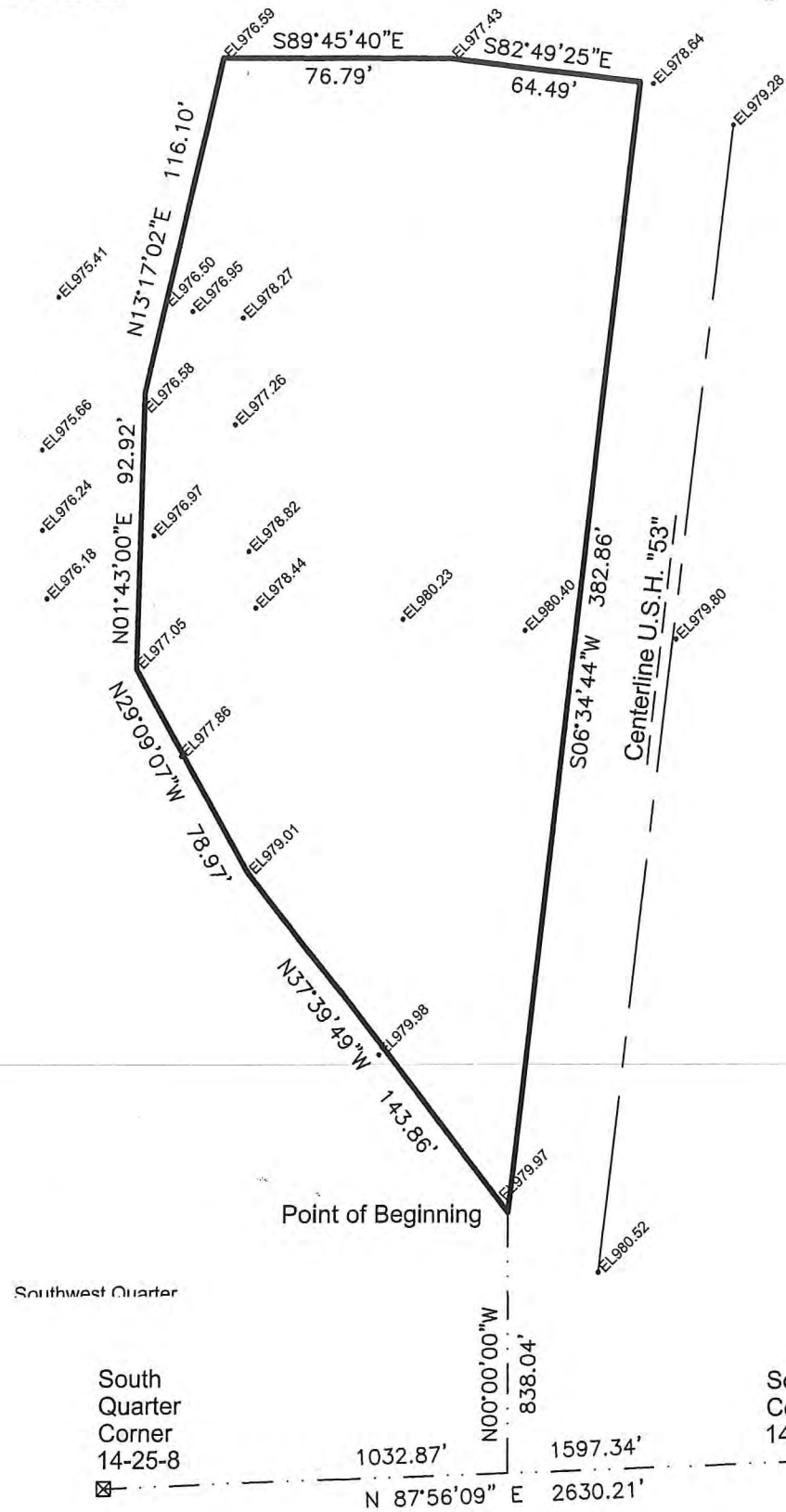


Exhibit Map

Part of the Southwest Quarter of the Southeast Quarter,
Section 14, Township 25 North, Range 8 West,
Town of Clear Creek, Eau Claire County, Wisconsin.

AREA TO BE REMOVED FROM SPECIAL FLOOD HAZARD ZONE

Part of the Southwest Quarter of the Southeast Quarter, Section 14, Township 25 North, Range 8 West,
Town of Clear Creek, Eau Claire County, Wisconsin.

Commencing at the South Quarter corner of said Section 14;
Thence N87°56'09"E, on the South line of the Southeast Quarter, 1032.87 feet;
Thence N00°00'00"W, 838.04 feet to the point of beginning;
Thence N37°39'49"W, 143.86 feet;
Thence N29°09'07"W, 78.97 feet;
Thence N01°43'00"E, 92.92 feet;
Thence N13°17'02"E, 116.10 feet;
Thence S89°45'40"E, 76.79 feet;
Thence S82°49'25"E, 64.49 feet;
Thence S06°34'44"W, 382.86 feet to the point of beginning.

I, Gregory J. Raymond, Professional Land Surveyor #2506, Hereby Certify:

That the attached survey and plat were prepared by me or under my direct supervision.
That the attached survey and plat meet or exceed the Minimum Standards for Land Surveying
in the State of Wisconsin and complies with AE-7 of the Wisconsin Administrative Codes.
That all information contained within the attached survey and plat is correct to the best of
my knowledge and belief.

Dated this _____ day of _____, 2019

Gregory J. Raymond, Wisconsin Professional Land Surveyor #2506
Project Number: 19045

Southwest Quarter

South
Quarter
Corner
14-25-8



1032.87'
N 87°56'09" E 2630.21'

N00°00'00"W
838.04'

Southeast
Corner
14-25-8



FIRM Information

Map Number
55035C0265F

Effective Date
April 16, 2014

Survey performed for:
Shawn Holden
S12735 Wren Road
Osseo, WI 54758

Data Fieldwork Completed:
4/13/19

RAYMOND SURVEYING, LLC

W19343 Hwy 10
Strum, WI 54770

www.raymond-surveying.com



Federal Emergency Management Agency

Washington, D.C. 20472

June 28, 2019

MR. GREGORY RAYMOND
RAYMOND SURVEYING, LLC
W19343 HIGHWAY 10
STRUM, WI 54770

CASE NO.: 19-05-3070A
COMMUNITY: EAU CLAIRE COUNTY, WISCONSIN
(UNINCORPORATED AREAS)
COMMUNITY NO.: 555552

DEAR MR. RAYMOND:

This is in reference to a request that the Federal Emergency Management Agency (FEMA) determine if the property described in the enclosed document is located within an identified Special Flood Hazard Area, the area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood), on the effective National Flood Insurance Program (NFIP) map. Using the information submitted and the effective NFIP map, our determination is shown on the attached Letter of Map Amendment (LOMA) Determination Document. This determination document provides additional information regarding the effective NFIP map, the legal description of the property and our determination.

Additional documents are enclosed which provide information regarding the subject property and LOMAs. Please see the List of Enclosures below to determine which documents are enclosed. Other attachments specific to this request may be included as referenced in the Determination/Comment document. If you have any questions about this letter or any of the enclosures, please contact the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 3601 Eisenhower Ave Ste 500, Alexandria, VA 22304-6426.

Sincerely,

Luis V. Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration

LIST OF ENCLOSURES:

LOMA DETERMINATION DOCUMENT (REMOVAL)

cc: State/Commonwealth NFIP Coordinator
Community Map Repository
Region



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	EAU CLAIRE COUNTY, WISCONSIN (Unincorporated Areas)	A portion of Section 14, Township 25 North, Range 8 West; as described in the Deeds recorded as Document No. 863709, in Volume 1583, Pages 593 and 594; and Document Nos. 1108801 and 1157415; all in the Office of the Register of Deeds, Eau Claire County, Wisconsin (PIN: 006-1037-06; 18006-2-250814-430-0005; 18006-2-250814-430-0004)
	COMMUNITY NO.: 555552	
AFFECTED MAP PANEL	NUMBER: 55035C0265F; 55035C0275F DATE: 4/16/2014; 4/16/2014	
FLOODING SOURCE: TRIBUTARY TO OTTER CREEK		APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 44.642498, -91.312676 SOURCE OF LAT & LONG: LOMA LOGIC DATUM: NAD 83

DETERMINATION

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
--	--	--	S12800, S12830, & S12770 US Highway 53	Portion of Property	X (unshaded)	--	--	976.5 feet

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

ADDITIONAL CONSIDERATIONS (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

LEGAL PROPERTY DESCRIPTION
PORTIONS REMAIN IN THE SFHA
ZONE A

STATE LOCAL CONSIDERATIONS

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Amendment for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the described portion(s) of the property(ies) is/are not located in the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document amends the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 3601 Eisenhower Ave Ste 500, Alexandria, VA 22304-6426.

Luis V. Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LEGAL PROPERTY DESCRIPTION (CONTINUED)

The portion of property is more particularly described by the following metes and bounds:

COMMENCING at the South Quarter corner of said Section 14; Thence N87°56'09"E, on the South line of the Southeast Quarter, 1032.87 feet; Thence N00°00'00" W, 838.04 feet to the POINT OF BEGINNING; Thence N37°39'49"W, 143.86 feet; Thence N29°09'07"W, 78.97 feet; Thence N01°43'00"E, 92.92 feet; Thence N13°17'02"E, 116.10 feet; Thence S89°45'40"E, 76.79 feet; Thence S82°49'25"E, 64.49 feet; Thence S06°34'44"W, 382.86 feet to the POINT OF BEGINNING

PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

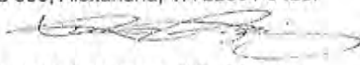
ZONE A (This Additional Consideration applies to the preceding 1 Property.)

The National Flood Insurance Program map affecting this property depicts a Special Flood Hazard Area that was determined using the best flood hazard data available to FEMA, but without performing a detailed engineering analysis. The flood elevation used to make this determination is based on approximate methods and has not been formalized through the standard process for establishing base flood elevations published in the Flood Insurance Study. This flood elevation is subject to change.

STATE AND LOCAL CONSIDERATIONS (This Additional Consideration applies to all properties in the LOMA DETERMINATION DOCUMENT (REMOVAL))

Please note that this document does not override or supersede any State or local procedural or substantive provisions which may apply to floodplain management requirements associated with amendments to State or local floodplain zoning ordinances, maps, or State or local procedures adopted under the National Flood Insurance Program.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 3601 Eisenhower Ave Ste 500, Alexandria, VA 22304-6426.


Luis V. Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

ADDITIONAL INFORMATION REGARDING LETTERS OF MAP AMENDMENT

When making determinations on requests for Letters of Map Amendment (LOMAs), the Department of Homeland Security's Federal Emergency Management Agency (FEMA) bases its determination on the flood hazard information available at the time of the determination. Requesters should be aware that flood conditions may change or new information may be generated that would supersede FEMA's determination. In such cases, the community will be informed by letter.

Requesters also should be aware that removal of a property (parcel of land or structure) from the Special Flood Hazard Area (SFHA) means FEMA has determined the property is not subject to inundation by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This does not mean the property is not subject to other flood hazards. The property could be inundated by a flood with a magnitude greater than the base flood or by localized flooding not shown on the effective National Flood Insurance Program (NFIP) map.

The effect of a LOMA is it removes the Federal requirement for the lender to require flood insurance coverage for the property described. The LOMA *is not* a waiver of the condition that the property owner maintain flood insurance coverage for the property. *Only* the lender can waive the flood insurance purchase requirement because the lender imposed the requirement. *The property owner must request and receive a written waiver from the lender before canceling the policy.* The lender may determine, on its own as a business decision, that it wishes to continue the flood insurance requirement to protect its financial risk on the loan.

The LOMA provides FEMA's comment on the mandatory flood insurance requirements of the NFIP as they apply to a particular property. A LOMA is not a building permit, nor should it be construed as such. Any development, new construction, or substantial improvement of a property impacted by a LOMA must comply with all applicable State and local criteria and other Federal criteria.

If a lender releases a property owner from the flood insurance requirement, and the property owner decides to cancel the policy and seek a refund, the NFIP will refund the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy during the current policy year. The property owner must provide a written waiver of the insurance requirement from the lender to the property insurance agent or company servicing his or her policy. The agent or company will then process the refund request.

Even though structures are not located in an SFHA, as mentioned above, they could be flooded by a flooding event with a greater magnitude than the base flood. In fact, more than 25 percent of all claims paid by the NFIP are for policies for structures located outside the SFHA in Zones B, C, X (shaded), or X (unshaded). More than one-fourth of all policies purchased under the NFIP protect structures located in these zones. The risk to structures located outside SFHAs is just not as great as the risk to structures located in SFHAs. Finally, approximately 90 percent of all federally declared disasters are caused by flooding, and homeowners insurance does not provide financial protection from this flooding. Therefore, FEMA encourages the widest possible coverage under the NFIP.

LOMAENC-1 (LOMA Removal)

The NFIP offers two types of flood insurance policies to property owners: the low-cost Preferred Risk Policy (PRP) and the Standard Flood Insurance Policy (SFIP). The PRP is available for 1- to 4-family residential structures located outside the SFHA with little or no loss history. The PRP is available for townhouse/rowhouse-type structures, but is not available for other types of condominium units. The SFIP is available for all other structures. Additional information on the PRP and how a property owner can qualify for this type of policy may be obtained by calling the Flood Insurance Information Hotline, toll free, at 1-800-427-4661. Before making a final decision about flood insurance coverage, FEMA strongly encourages property owners to discuss their individual flood risk situations and insurance needs with an insurance agent or company.

FEMA has established "Grandfather" rules to benefit flood insurance policyholders who have maintained continuous coverage. Property owners may wish to note also that, if they live outside but on the fringe of the SFHA shown on an effective NFIP map and the map is revised to expand the SFHA to include their structure(s), their flood insurance policy rates will not increase as long as the coverage for the affected structure(s) has been continuous. Property owners would continue to receive the lower insurance policy rates.

LOMAs are based on minimum criteria established by the NFIP. State, county, and community officials, based on knowledge of local conditions and in the interest of safety, may set higher standards for construction in the SFHA. If a State, county, or community has adopted more restrictive and comprehensive floodplain management criteria, these criteria take precedence over the minimum Federal criteria.

In accordance with regulations adopted by the community when it made application to join the NFIP, letters issued to amend an NFIP map must be attached to the community's official record copy of the map. That map is available for public inspection at the community's official map repository. Therefore, FEMA sends copies of all such letters to the affected community's official map repository.

When a restudy is undertaken, or when a sufficient number of revisions or amendments occur on particular map panels, FEMA initiates the printing and distribution process for the affected panels. FEMA notifies community officials in writing when affected map panels are being physically revised and distributed. In such cases, FEMA attempts to reflect the results of the LOMA on the new map panel. If the results of particular LOMAs cannot be reflected on the new map panel because of scale limitations, FEMA notifies the community in writing and revalidates the LOMAs in that letter. LOMAs revalidated in this way usually will become effective 1 day after the effective date of the revised map.

DELL CONSTRUCTION CO. INC.

Construction Services and Management

4220 Cardell Road • Eau Claire, Wisconsin 54703-9602 • Phone 715-834-0501 • Fax 715-834-0213

October 2, 2019

Eau Claire County
Land Use Department
720 Oxford Avenue
Eau Claire, WI 54701

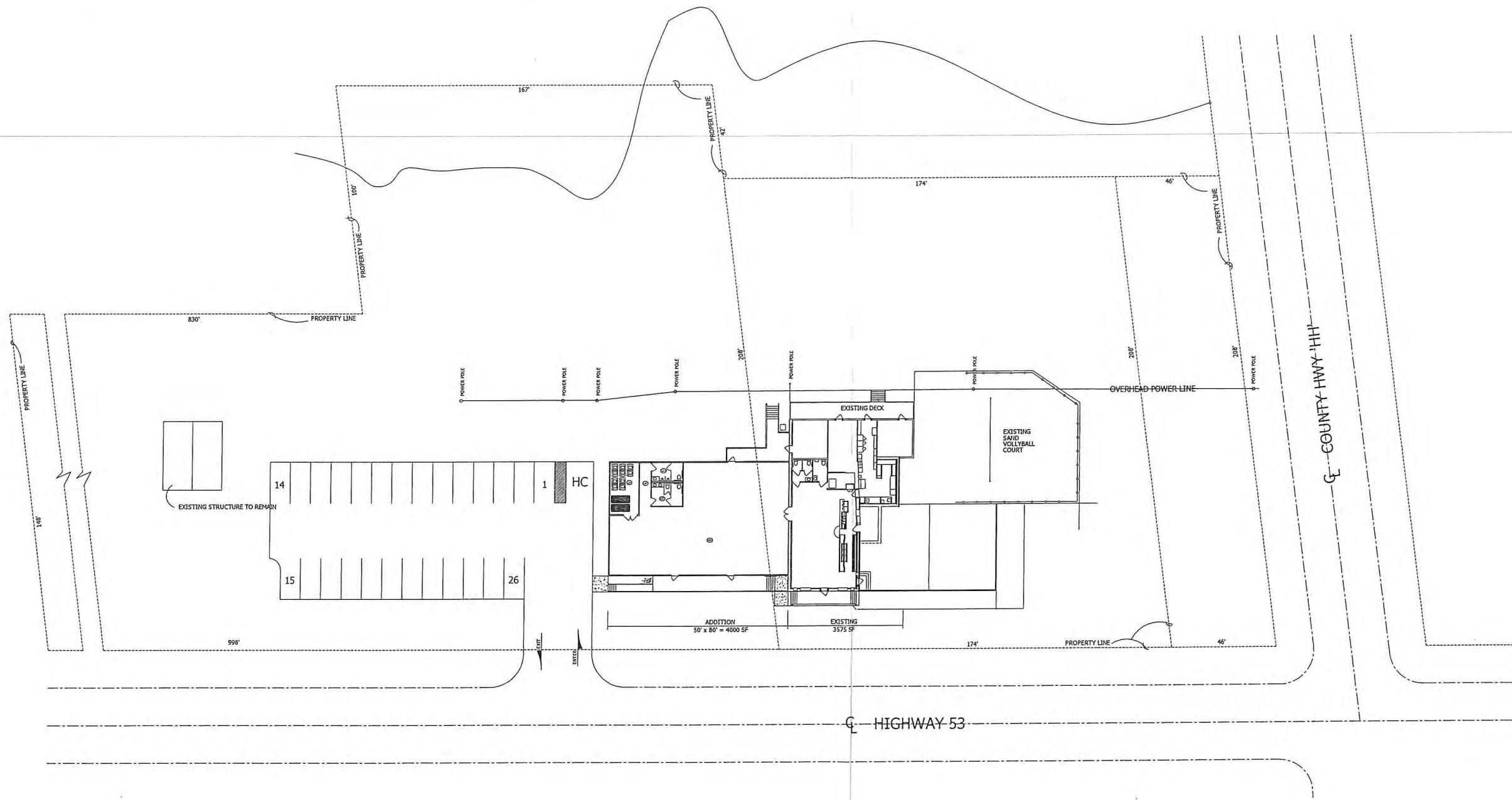
RE: Foster Bar & Grill – Variance

To Jared Grande,

We wish to clarify that the proposed addition to the Foster Bar & Grill is to be 4000 square feet.

Sincerely,

Susan M. Kumferman
Dell Construction Co., Inc.



PROPOSED ADDITION - 4000 SF
SCALE: 1" = 32'-0"



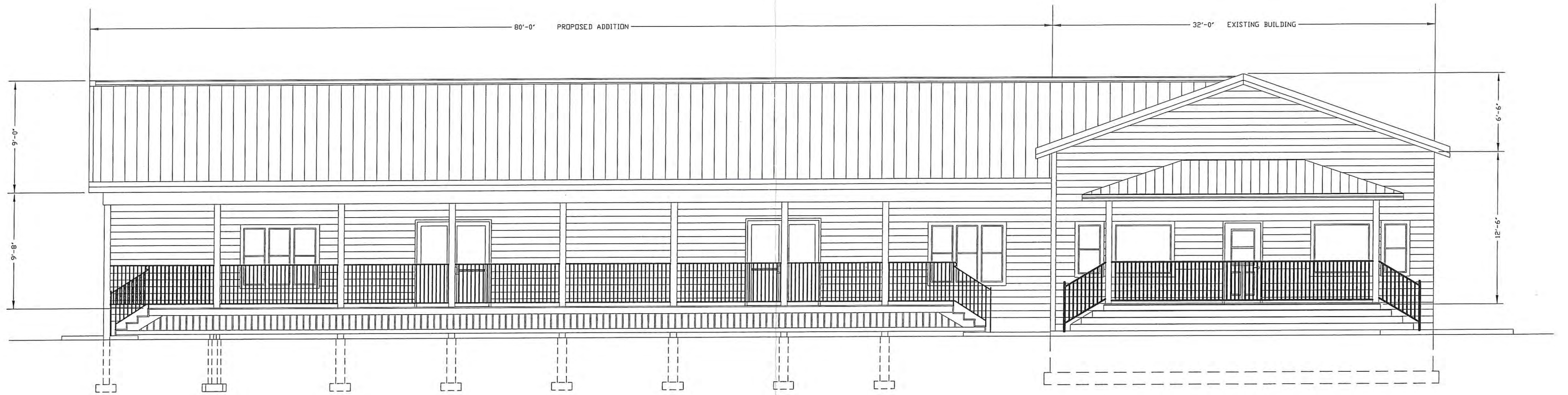
PROJECT:	DATE:	DRAWN BY:
NO.:	DATE:	CHECKED BY:

DATE PLOTTED:

DELL CONSTRUCTION COMPANY, INC.
1220 CHAMBERLAIN BLVD. SUITE 100
MILWAUKEE, WISCONSIN 53212-1004
COMMERCIAL - INDUSTRIAL

FOSTER BAR and GRILL - BANQUET HALL ADDITION 2019
512800 US HWY 53, OSSEO, WISCONSIN

A2

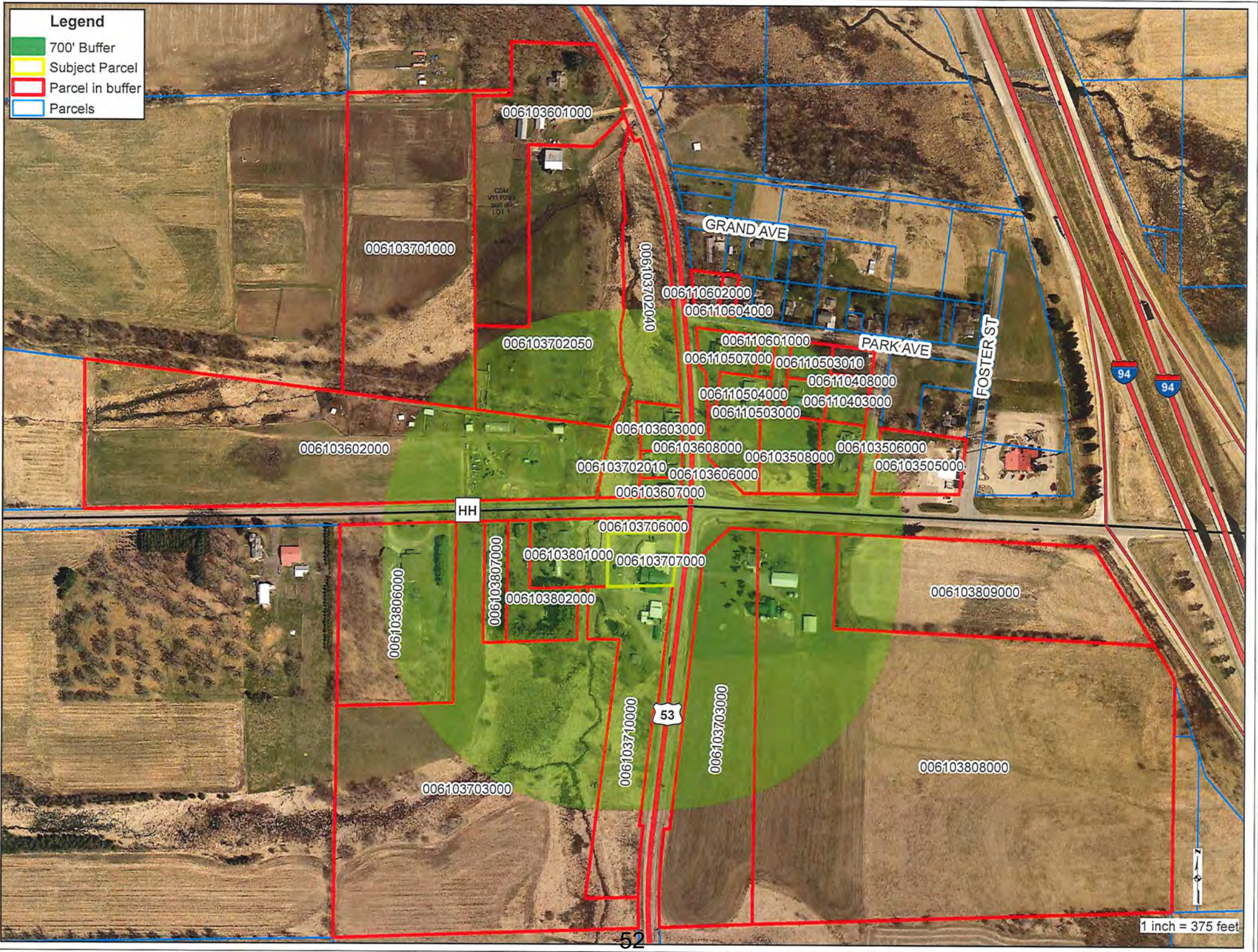


FOSTER BAR and GRILL
BANQUET HALL ADDITION
EAST ELEVATION

SCALE: 1/8" 1'-0"

Legend

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



FirstName	LastName	Address	City	State	Zip
MARTIN H & VIRGINIA L	ABLEY	E 10830 PARK AVE	OSSEO	WI	54758-8826
GARY R & PATRICIA J	BURNAM	S 12500 US HIGHWAY 53	OSSEO	WI	54758-8892
DELORIS	COMPEAU	E 10827 PARK AVE	OSSEO	WI	54758-8827
	COUNTRYSIDE CO-OP TRANSPORT OF WISCONSIN	PO BOX 250	DURAND	WI	54736-0250
ANDREW J & MICHELLE L	DEINHAMMER	E 10745 COUNTY ROAD HH	OSSEO	WI	54758-8857
THOMAS	DEWITZ	E 10775 COUNTY ROAD HH	OSSEO	WI	54758-8857
	F AND D INC	5839 NORTH SHORE DR	EAU CLAIRE	WI	54703-2078
	FOSTER BAR LLC	S 12800 US HIGHWAY 53	OSSEO	WI	54758-8809
ANTHONY M & HEIDI S	HALL	E 10824 PARK AVE	OSSEO	WI	54758-8826
PAMELA	HOLDEN	S 12735 WREN RD	OSSEO	WI	54758-9790
SHAWN	HOLDEN	S 12735 WREN RD	OSSEO	WI	54758-9790
PAUL L & MARCELLA M	ISAACSON	S 12775 US HIGHWAY 53	OSSEO	WI	54758-8810
DEBRA	JOHNSON	N 51698 ANDERSON RD	OSSEO	WI	54758-9769
SUSAN	KUBASKIE	S 12674 ELM ST	OSSEO	WI	54758-8828
JOHN	LOWE	918 LAKESIDE AVE	EAU CLAIRE	WI	54703-5522
LINNETTE	MORAN	S 12748 US HIGHWAY 53	OSSEO	WI	54758-8811
PAUL	RAUTER	S 12752 COON ST	OSSEO	WI	54758-8831
KENNETH	RINDAL	S 12702 ELM ST	OSSEO	WI	54758-8828
SCOTT J & CHERYL A	SCHMIDT	951 SAN JUAN RD	ALTOONA	WI	54720-1146
DANIEL C & TAMMY J	SOUSEK	8466 W BEAVER CREEK RD	FALL CREEK	WI	54742-9741
	ST LUKE LUTHERAN CHURCH	S 12680 COON ST	OSSEO	WI	54758-8831

MINUTES

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*

Members Present: Gary Eslinger, Patrick Schaffer, Karen Meier-Tomesh, Judith Bechard, Darrin Schwab

Members Absent: Randall Stutzman

Staff Present: Rod Eslinger, Amanda Peters, Sam Simmons

1. Call to Order and confirmation of meeting notice

Karen Meier-Tomesh called the meeting to order at 5:33pm and confirmed that the meeting was properly noticed.

2. Public Comment **(15 minute maximum)**

None.

3. Appointment of Clerk / Discussion – Action

Rod Eslinger introduced Sam Simmons as the new Administrative Specialist and that he will now be clerk of the Board.

ACTION: Motion by Judy Bechard, seconded by Darrin Schwab, to appoint Sam Simmons as Clerk of the Board of Land Use Appeals. Motion carried, 5-0-0.

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

Rod Eslinger, Director of Planning & Development, was sworn in by Karen Meier-Tomesh. Mr. Eslinger explained that there are two requests in this Variance. The first request is for a 0.5 foot separation distance variance to groundwater, the second is 23-foot variance from the minimum front yard setback. He provided a brief history of the manure storage facility and the original Variance that was approved in 1999. It was noted that the 2019 Variance request will be changing the request approved in 1999. Eslinger showed images of the parcel map, slope locations, and facility locations and showed a site video. He mentioned that the Variance request is in compliance with zoning setbacks, and again mentioned that the Variance request is because there will be additional construction to the existing manure pit.

There were no questions from the Board for Mr. Eslinger.

Amanda Peters, Agronomist for the Eau Claire County Land Conservation Division, was sworn in by Karen Meier-Tomesh. Ms. Peters walked through the application process for manure storage and explained NRCS standards that are set by the state. The construction plans of the current manure pit at

the property is in compliance with NRCS standards. Peters did explain that the current manure pit is closer to the groundwater than when it was first installed. She explained that the southeast corner of the pit does not meet subsurface saturation requirements and that there is water at the bottom of the southeast corner. Otherwise, all wall footings are dry and in good condition. Peters explained that the 0.5 Variance is being requested because separation requirement is now 2 ½ feet, instead of 2 feet when first approved in 1999. She then explained the manure storage ordinances.

Ms. Peters recommends that the Variance request be approved. There are no public health impacts and she explained that the Dutter's properly maintain the property. She recommends approval on the conditions of obtaining a permit and having an engineer certify the structural integrity of the facility and verifying no concrete cracking.

Gary Eslinger asked Peters to confirm that she had no issues with the request. Peters answered in the affirmative.

Karen Meier-Tomesh asked if the Variance is approved, would there be a new maintenance plan. Peters explained that there would be a new nutrition plan on an annual basis.

There were no further questions for Ms. Peters from the Board.

James Dutter was sworn in by Karen Meier-Tomesh. Mr. Dutter spoke in favor of the Variance request. He stated that the Variance would help them switch from dairy to beef production. Mr. Dutter gave a brief history of the property and how the new building would be constructed.

Gary Eslinger asked Dutter if there would be more or less animals on the property after switching to beef production. He answered that there would be more animals, but less manure production. Eslinger also asked Dutter to describe the site limitations. Dutter described that the property is on a valley and how that limits construction.

There were no further questions for Mr. Dutter from the Board.

Dan McKinney was sworn in by Karen Meier-Tomesh. Mr. McKinney spoke in favor of the request. He explained that either way, there will be manure production at the property and what the Dutter's want to do is best practice.

Patrick Schaffer asked McKinney if construction processes for a manure pit are the same today as in 1999. McKinney explained that overall it is the same, but this Variance construction will make the building stronger.

There were no further questions for Mr. McKinney from the Board.

Nobody else spoke in favor of the request.

None spoke in opposition of the request.

The Board entered deliberations at 6:10pm.

Prepared by: Samuel Simmons, Clerk, Board of Land Use Appeals

Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710 (FAX) 839-1669 or (TDD) 839-4735 or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Ave., Eau Claire, Wisconsin 54703

The Board exited deliberations at 6:39pm.

ACTION: Motion by Gary Eslinger, seconded by Judith Bechard, to approve 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. Approval will be with all conditions in the staff reports. Motion carried, 5-0-0.

ACTION: Motion by Patrick Schaffer, seconded by Darrin Schwab, to approve a variance request for one-half (0.5) foot separation distance variance to ground water. Approval will be met with conditions on page 13 of the staff report, obtaining a Land Use Permit, and staff findings. Motion carried, 5-0-0.

5. Review/Approval of May 13, 2019 Meeting Minutes / Discussion – Action

Karen Meier-Tomesh noted a few typos, but otherwise saw no problems with the minutes. Rod Eslinger will correct the typos.

ACTION: Motion by Judy Bechard, seconded by Darrin Schwab, to approve the May 13, 2019 minutes. Motion carried, 5-0-0.

Mark Zuber, Clerk of the Town of Drammen, spoke and thanked the Board for approving the Variance request.

6. Adjourn

ACTION: Motion by Patrick Schaffer, seconded by Gary Eslinger, to adjourn the meeting. Motion carried, 5-0-0.

Meeting adjourned at 6:43pm.

Respectfully submitted,

Samuel Simmons

Clerk, Board of Land Use Appeals