

AGENDA

Eau Claire County

- BOARD OF LAND USE APPEALS •

Date: Tuesday, April 4, 2023

Time: 5:30 p.m.

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

*Event link below can be used to connect to meeting and interact (by the chair) from computer or through the WebEx Meeting smartphone app.

Join WebEx Meeting: <https://eauclairecounty.webex.com> Meeting ID: 2590 251 7853

Password: x23nT3MB3jc

*Meeting audio can be listened to using this Audio conference dial in information.

Audio conference: +1-415-655-0001 Access Code: 25902517853##

For those wishing to make public comment, you must e-mail Holly Weigand at

holly.weigand@eauclairecounty.gov

at least 60 minutes prior to the start of the meeting.

**Please mute personal devices upon entry*

1. Call to Order and confirmation of meeting notice
2. Public Comment **(15 minute maximum)**
3. Public Hearings
 - a. A variance request to reduce the setback from a class A highway (State Road 93) from 100 feet from the right-of-way line to 50 feet from the right-of-way line. (Town of Washington) VAR-0001-23 / Discussion – Action **Pages 2-23**
4. Review/Approval of May 23, 2022 Meeting Minutes / Discussion – Action **Pages 24-25**

Adjourn

Prepared by: Holly Weigand

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 715-839-6945 (FAX) 715-839-1669 or (TDD) 715-839-4735 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

VARIANCE NUMBER: VAR-0001-23
COMPUTER NUMBERS: 024-1164-07-050
PUBLIC HEARING DATE: April 04, 2023

STAFF CONTACT: Ben Bublitz, Land Use Manager
OWNER: Norvy Properties LLC, 6123 Sandstone Road, Eau Claire, WI 54701
APPLICANT: Cedar Falls Building Systems, 5455 Freitag Drive, Menomonie, WI 54751
SITE LOCATION: 6123 Sandstone Road, Eau Claire, WI 54701
ZONING DISTRICT: C-3 Highway Business District
LEGAL DESCRIPTION: Lot 1 CSM 3804, Volume 22 Page 165, #1239220 in the SE ¼ of the SE ¼, Section 10, Township 26 North, Range 9 West, Town of Washington, Eau Claire County, Wisconsin.
REQUEST: A 50-foot variance to reduce the setback from a Class A Highway (State Road 93) from 100-feet from the right-of-way line to 50-feet from the right-of-way line.

SUMMARY

The applicant is requesting a 50-foot variance from the required 100-foot right-of-way setback to a Class A Highway for a 6,000 square foot addition to an existing commercial structure. Max-Bilt Off Road is the name of the business that's housed on the lot along with a single-family dwelling. The business consists of breaking down motor vehicles and completing custom restoration and rebuilds for clients. The business operations have outgrown the current structure, and the owner needs to expand into a larger building to accommodate additional shop space and indoor storage for ongoing projects and equipment. The application states the proposed length of the building is needed to allow for adequate work area with tool storage, enough space to allow employees to safely perform daily work, project staging, and a large enough turn radius to accommodate vehicle projects. Currently some vehicle dismantling takes place outdoors which has an increased safety risk for employees and isn't always aesthetically appealing to passing by motorists and nearby property owners. When looking at the aerial photo of the property there is a relatively open area on the Northern portion of the lot. The application indicates this area is reserved for a replacement septic system for the dwelling when the time comes that one is needed. Along with the limitation of needing a replacement drainfield area, constructing a new structure of this size wouldn't fit once the setback from Sandstone road is accounted for.

Previously WisDOT granted a variance to their setback standards reducing it from 50-feet to 15-feet. The initial planning by the applicant and property owner was under the assumption that the 15-foot setback also reduced the setback for zoning standards. The original site plan obtained by Planning and Development indicated encroachments to both the Class A Highway and side (South) property line. To accommodate the side yard setback the property owner acquired additional land from the property owner to the South through certified survey map and plat revision

approvals. The initial site plan showed the addition being 48 feet from HWY 93, but through some plan modification the applicant was able to move the addition an additional two feet from the right-of-way. The proposed addition would be at the minimum setback from Sandstone Road, so the minimum relief needed is to reduce the road setback to 50-feet from HWY 93.

Another item for consideration is the comprehensive update to the County Zoning Code (Title 18). The setback from Class A Highways is proposed to be reduced from 100-feet from road right-of-way to 50-feet from road right-of-way. Should the code be approved and adopted as currently drafted the current plan would meet setbacks and not require a variance. The applicant and owner came to the conclusion they have a strong enough case for variance approval, so they decided to move forward with this application.

The application materials include a narrative(s) and site map(s).

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	C-3	Commercial
West	HWY 93/C-3	Commercial
South	C-3	Commercial
East	C-3	Commercial

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 18.31.040 permits required. This section describes when permits are required. Section 18.21.040.A.1 specifies when land use permits are required. A land use permit shall be issued before any building or structure is erected, moved or structurally altered, or any use of a building, structure or land is changed to another use, including the development or use of vacant land.

Section 18.02.020.A Definition. This section defines a structure as the following:

"Structure" means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Section 18.14.001 Purpose. The C-3 highway business district is established to provide an area for the development of those commercial activities that require large lots or attract concentrations of automobile traffic which make the uses incompatible with the predominantly retail uses in other commercial districts.

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 A. Class A Highways. The following highways in Eau Claire County are designated at Class A highways: Interstate Highway 94; USH 53 from I-94 northwesterly to USH 12; USH 53 from Main Street in Eau Claire northerly to the north county line; and STH 37-85 from I-94 northeasterly to USH 12.

18.22.020 A(1). Setbacks. Setbacks. The setback for all structures from a Class A highway shall be 150 feet from the centerline or 100 feet from the right-of-ways 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 structure 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 hardship doesn't appear to be pecuniary or self-imposed. The property owner has demonstrated a willingness to take steps needed to be in compliance with the zoning code. For example, acquiring additional land from a neighboring property owner, and modifying the original placement of the addition to reduce its overall encroachment offering the minimum relief necessary. The applicant did not start the project without a permit.

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.

The request appears to be unique to this property. Having an unsewered single-family dwelling and two road frontages greatly reduces the buildable area of the lot. A business expansion will need to be located in the general area requested in the application.

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

The applicant has identified the need to construct the addition to accommodate a growing client base and to provide a safer working environment for employees. Having a dwelling onsite that requires a septic system is a unique feature not typical to other properties zoned C-3 in this immediate area and throughout the County.

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-3 district allows for automotive repair service and automotive sales and service as a permitted use.

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

It does not appear granting the variance would be detrimental to adjacent properties. WisDOT previously granted this property a variance from their setback standards, demonstrating WisDOT is of the same opinion along HWY 93.

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

The application indicates the proposed length of the structure is the minimum needed to effectively accommodate business activity in an indoor setting.

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

It is questionable if the variance request conflicts with the purpose of section 18.22.001 since a setback will still exist and is consistent with the proposed language in the updated title 18 draft. It does not appear the variance request conflicts with the purpose of section 18.14.001. 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.

I. 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.

Through statements in the application, efforts by the applicant to modify the original application, and the owner acquiring additional land to the South. It appears the structure size in the application is the minimum size needed, requiring the setback to be reduced by 50-feet.

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.

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 18.14 and 18.22 is required.

A hardship appears to be present. The combination of two road setbacks and the area needed to accommodate an unsewered single-family dwelling minimizes the applicant’s ability to expand any business operations onsite.

A consideration for granting the variance is to determine if unique physical limitations exist

The lot is unique in its relatively narrow configuration between two roads while accommodating two uses (dwelling and business).

Granting this variance will not result in harm to public interests

The variance doesn't appear to cause an increased risk to public safety or result in harm to public interests. The WisDOT has previously approved a variance from HWY 93 indicating there wouldn't be an increased safety risk to traveling motorists.

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 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, allowing the owner to provide a safer indoor working conditions for the employees.
- The application indicates the Town is in support of the application.
- The request would not likely cause an increase risk to public safety or result in harm to public interests.
- The property has unique physical features making additional construction difficult within the confines of zoning code setbacks.

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.
- The hardship justifying a variance is not specific to the appellant's parcel or structure.

EXHIBITS

1. Staff report
2. Variance application



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

Office Use Only

Date Application Accepted:	2-10-2023,
Accepted By:	HP
Receipt Number:	072870
Town Hearing Date:	03/16/2023?
Scheduled Hearing Date:	04/04/2023

VARIANCE APPLICATION

Property Owner Name: Norvy Properties LLC Phone# 715-225-0493
 Mailing Address: 6123 Sandstone Road, Eau Claire, WI 54701
 Email Address: phil@legends715.com

Agent Name: Cedar Falls Building Systems, Inc. Phone# 715-308-0949
 Mailing Address: 5455 Freitag Drive, Menomonie, WI 54751
 Email Address: markl@cfbsi.com

SITE INFORMATION

Site Address: 6123 Sandstone Road

Property Description: SE ¼ SE ¼ Sec. 10, T 26 N, R 9 W, Town of Washington

Zoning District: C3 Code Section(s):

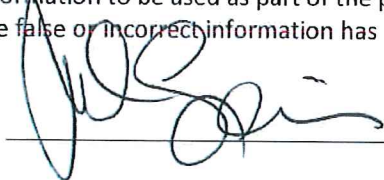
Overlay District: Shoreland Floodplain Airport Wellhead Protection Non-Metallic Mining
 Check Applicable

Computer #(s): 024116407000
 or
 PIN #(s): 1802422609104409001

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 \$525.00 application fee (non-refundable). Send application to landuse@co.eau-claire.wi.us or to the address above.

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 2-7-23

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 sated 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 inters." (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.

February 7th, 2023

Re: Norvy Properties LLC
6123 Sandstone Rd
Eau Claire, WI 54701

To: Board of Land Use Appeals of Eau Claire County
721 Oxford Ave
Eau Claire, WI 54703

Hardship Description:

Please accept the following as our description of hardships for the building expansion 6123 Sandstone Rd.

1. The proposed location of the building is the only possibility due to soil conditions existing on site. We investigated siting the building further north on the lot but this is the only area where the new septic system for the dwelling can be located due to perk conditions
2. The length of the building is required to allow for work area, turn radius, tool storage, safety and staging space. 125 feet is the minimum length required for the current operation.
3. The nature of this business involves breaking down vehicles. The building addition will allow this to be done indoors greatly reducing environmental risk.
4. Building this addition will help clean up their lot as they will have more storage inside. This will be beneficial for all due to increased residential traffic in the area.

For these reasons we are requesting the DOT setback of 50' be applied to the property.

Please feel free to contact me with any questions or concerns.

Mark Lewis
President
Cedar Falls Building Systems, Inc.
(715) 308-0949
markl@cfbsi.com

February 7, 2023

Re: Norvy Properties LLC
6123 Sandstone Rd
Eau Claire, WI 54701

To: Board of Land Use Appeals of Eau Claire County
721 Oxford Ave
Eau Claire, WI 54703

Request and Location

I am writing to you regarding a building variance application for property setback on parcel #024116407000 owned by Norvy Properties LLC. Cedar Falls Building Systems is the general contractor hired to build a 6,000 sq. ft. addition onto the building operated by Max-Bilt Off Road & Mfg. The construction is for additional shop space as the company's operations have outgrown the current space. The lack of sufficient space for the company's operations presents an overpopulated parking lot and work space, causing safety issues and is visually unappealing.

We are requesting a reduction from the 100' requirement of Eau Claire County to the WisDOT requirement of 50'. There is a right of way variance that was granted in 2004 for a reduced right of way to 50'. We have received assurance from the WisDOT that this is, in fact, still valid for our parcel on the HWY 93 side. Our survey team has provided the current locations of the property lines and provided a final survey finding report included in this submittal. This will remain consistent with the proposed Eau Claire County zoning revision with an expected adoption later in 2023. Additionally, we have spoken with the Township of Washington and they are in favor of this variance contingent on Eau Claire County approval.

This variance is critical as we are matching the new building to the existing building for structural purposes. Given that this is the zoning of C3, we are trying to provide our client with the correct minimum amount of building space needed for their business.

As shown on attachment 2, the proposed building does not affect the size of the parking lot, nor will it impact the adjacent public sidewalk. Disturbed land will be limited to the existing gravel storage yard. This property is not in a flood plain area; therefore, no changes are necessary to any existing flood plain elevations or profiles. Water will continue to flow into the storm drain located in the southwest corner of the property.

Please feel free to contact me with any questions or concerns.

Mark Lewis
President
Cedar Falls Building Systems, Inc.
(715) 308-0949
markl@cfbsi.com

Legal Description

SE-SE, Section 10, T26N, R9W

Zoning

C3

General Site Description and Project Proposal

The property includes five existing dwellings located in the Town of Washington district. The general character of the area is newly developed farm pastures and rural businesses with easy access to HWY 93. The applicant is presenting a variance request to reduce the required setback from 100' to 50' for the placement of a proposed 48' by 125' building addition. Please note the set back issue on the south boundary was remedied by purchasing additional property.

Existing Land Use Within ¼ Mile

North: Newly built business, Empty lot with trees, Roadway, Residential dwelling, Business warehouse

South: Empty lots, Newly built business, Roadway – HWY 93 Intersection

East: Newly built business, Ponds, Residential dwellings

West: Large business, Large empty lot with trees (slightly southwest)

Access

There will be no change in access points in the proposed addition. Existing access is to and from Sandstone Road.

Town of Washington Approval

I have spoken with the Township of Washington and they are in favor of this variance contingent on Eau Claire County approval.

Natural Resources Information

Topography: The proposed addition's topography is relatively flat, with a slight slant from north to south. A berm on the south end of the property is dividing from the southern vacant parcel.

Floodplain: The proposal is not within a floodplain area.

Attachments

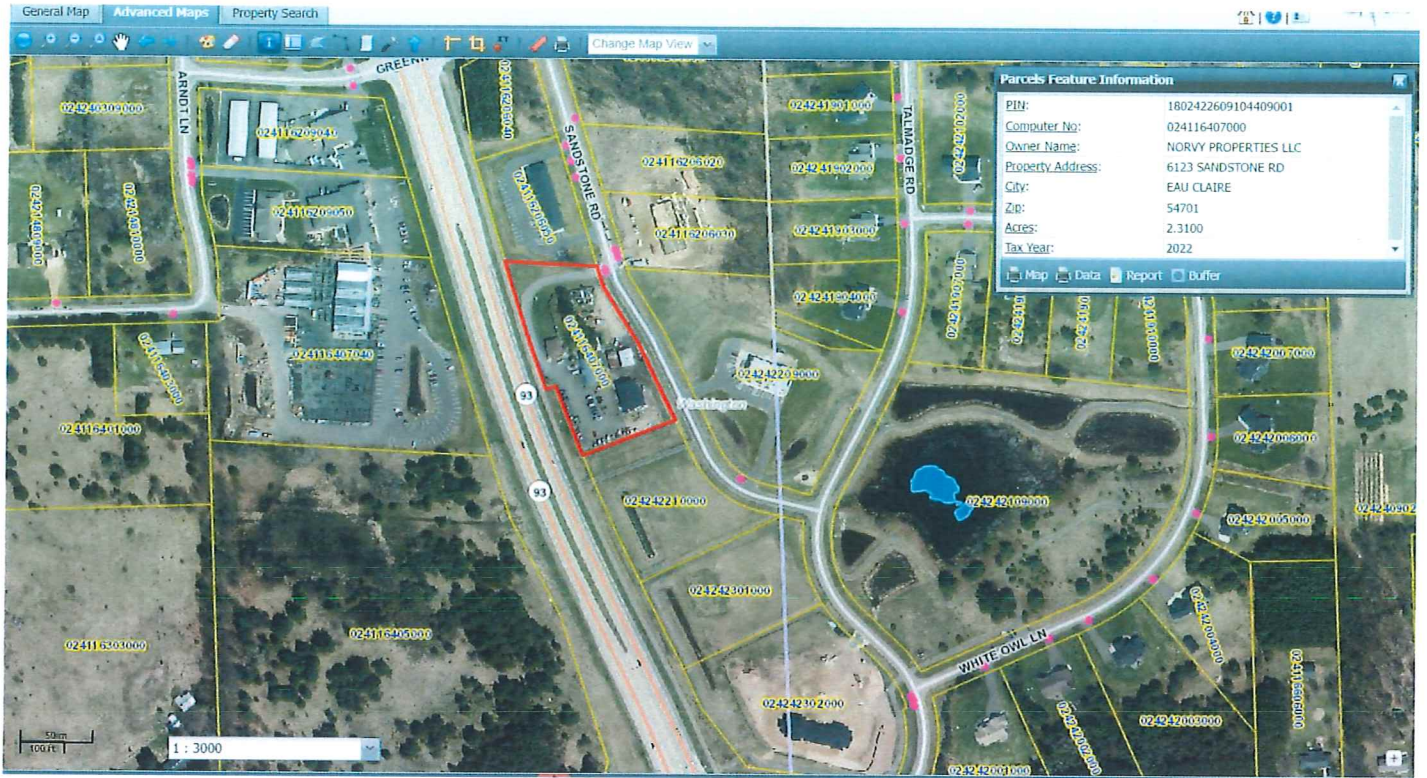
A-1 General Location Map

A-2 Site Map

A-3 Site Survey ROW Dimension Map

A-4 Survey Findings Report

A-1 General Location Map



A-2 Site Map



SITE PLAN
1"=30'-0"
↑
N

A-4 Survey Findings Report

SURVEYORS REPORT:

On July 27, 2022 I was contacted by Dylan Schmidt, Project Manager for Cedar Falls Building Systems, Inc. to identify a proposed building addition in relationship to existing property lines and associated building setbacks.

The subject property is located in part of the Southeast Quarter of the Southeast Quarter, Section 10, Township 26 North, Range 9 West, Town of Washington, Eau Claire County, Wisconsin. The subject property is more specifically described in Warranty Deed Document Number 1151593 and recorded at the Eau Claire County Register of Deeds September 21, 2017 the legal description of which is shown here:

LEGAL DESCRIPTION

Lot 1 of Certified Survey Map No. 2134 as recorded in Volume 11 of Certified Survey Maps on Page 311 as Document No. 894787; being a part of the SE¼ of the SE¼ of Section 10, Township 26 North, Range 9 West, Town of Washington, Eau Claire County, Wisconsin.

AND

A part of Outlot 1 of Certified Survey Map No. 2134 as recorded in Volume 11 of Certified Survey Maps on Page 311 as Document No. 894787; being a part of the SE ¼ of the SE ¼ of Section 10, Township 26 North, Range 9 West, Town of Washington, Eau Claire County, Wisconsin, described as follows:

Commencing at the Southwest corner of Lot 1 of Certified Survey Map No. 2134; thence North 68° 23' 09" East 228.48 feet to the Southeast corner of said Lot 1; thence South 25° 13' 47" East 60.00 feet; thence South 68° 23' 09" West to the Westerly line of said Outlot 1; thence North along said Westerly line to the point of beginning.

Research documents obtained from the Eau Claire County Register of Deeds include:
Warranty Deed Document Number 1151593.

Certified Survey Map No. 2134, Volume 11, Page 311, Document No. 894787.

Certified Survey Map No. 3376, Volume 19, Page 55, Document No. 1160650.

The Plat of Trillium Estates II, Volume 13, Pages 72B, 73A of Plats, Document No. 1163977.

Prior to arrival on the subject property the above documents were drawn in AutoCAD and referenced to the published Eau Claire County Public Land Survey System coordinates of said Section 10. The bearing basis for all appear to be in common.




On Friday, July 29, 2022 I arrived at the subject property. Utilizing a Sokkia GRX3 Global Navigation Satellite System(GNSS) receiver connected to the

WISCORS (Wisconsin Continuously Operating Reference Station) Network I set out to find the end points of the north line of Lot 40 of said Trillium Estates II which is in common to the south line of the part of Outlot 1, Certified Survey Map No. 2134 described in Warranty Deed No. 1151593. At each end of the line I discovered the 1 inch outside diameter iron pipes as shown on said plat of Trillium Estates II. I found each pipe undisturbed and to be less than 0.10 feet of the record distance. I further verified these positions by searching north and again found iron monuments very near the record dimensions.

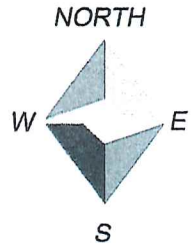
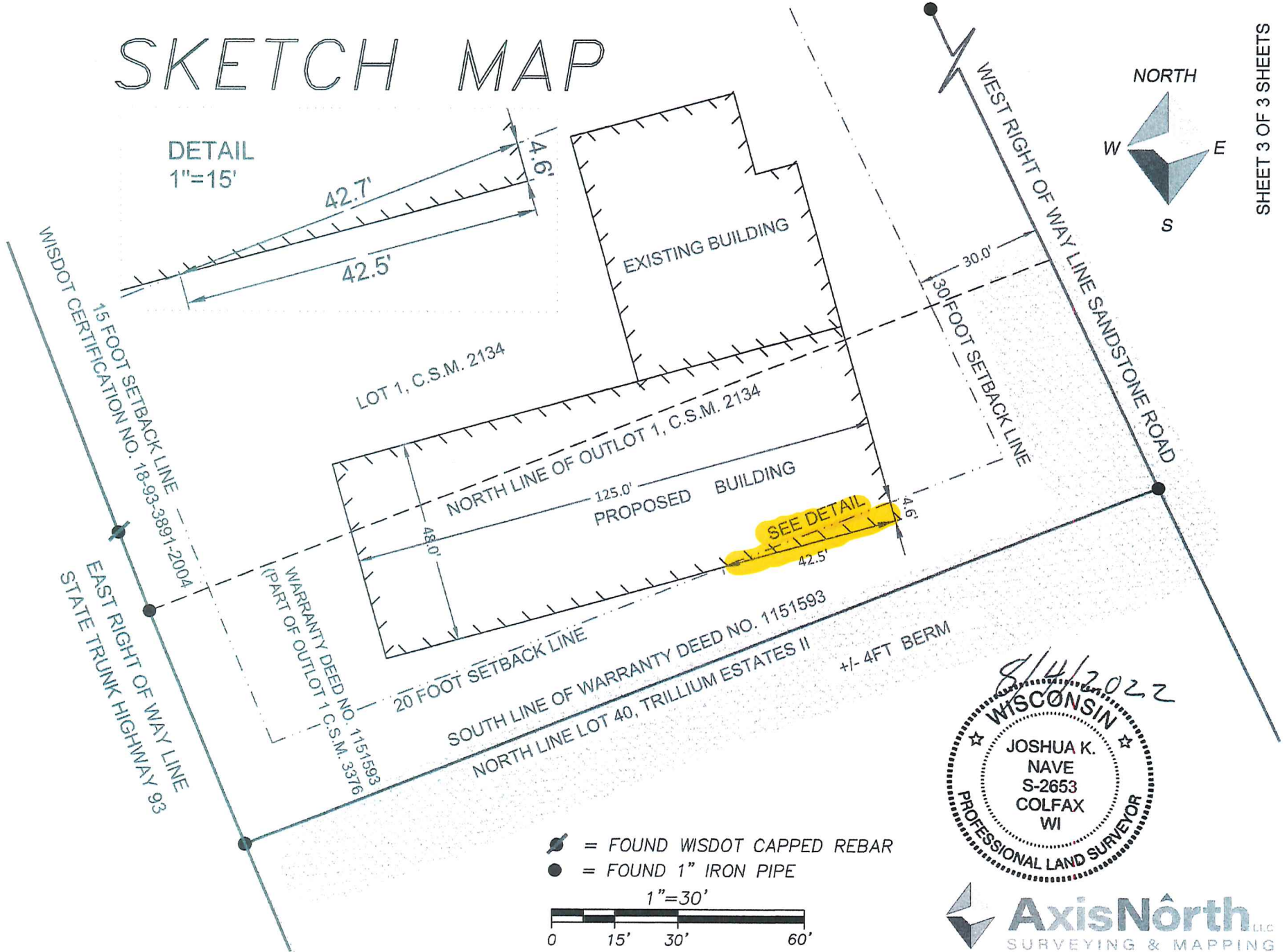
The accompanying sketch shows various dimensions in relationship to the boundary of the subject parcel and the proposed building based on the location of the existing building being added to.

I, Joshua K. Nave, Wisconsin Professional Land Surveyor do hereby certify: That I have created this survey report and sketch developed from documents described herein and that this survey report and sketch is a correct representation of said documents to the best of my knowledge and belief and that this survey report complies with Chapter A-E 7 of the Wisconsin Administrative Code.

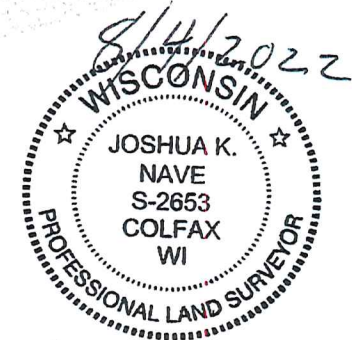

Joshua K Nave, S-2653
August 4, 2022
AxisNorth LLC
N8648 690th St
Colfax, WI 54730
715-308-5890



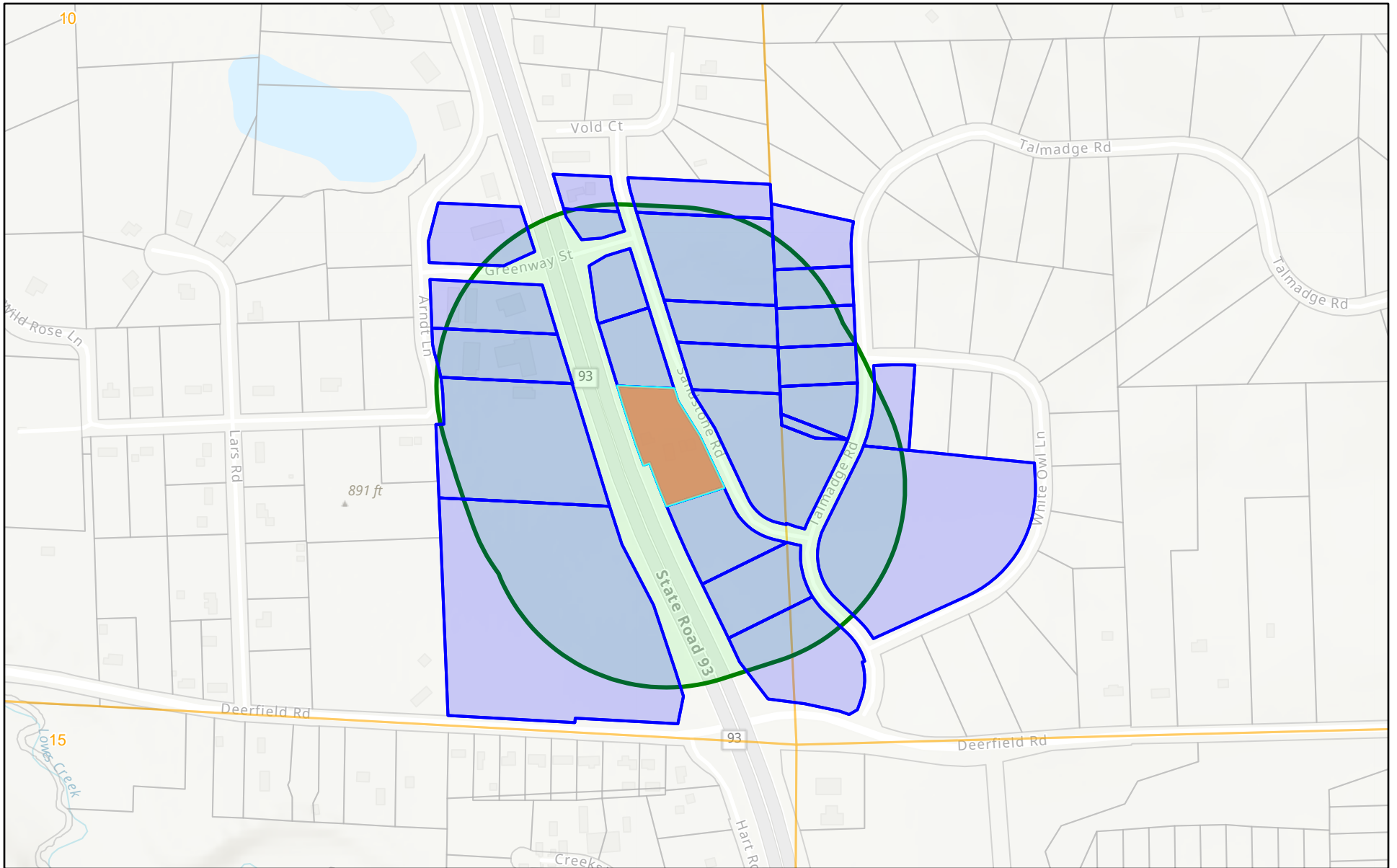
SKETCH MAP






SHEET 3 OF 3 SHEETS

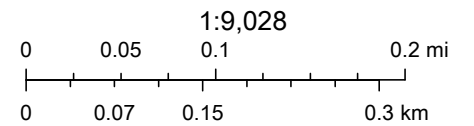


Public Notification



2/10/2023, 12:52:31 PM

-  County Boundary
-  Tax Parcel
-  Section



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FirstName LastName	Address	City State Zip
OLADAPO IGANDAN	4052 TALMADGE RD	EAU CLAIRE WI 54701
DEVAEN RANDALL	3998 TALMADGE RD	EAU CLAIRE WI 54701
RICHARD LUDWIKOSKI	3972 TALMADGE RD	EAU CLAIRE WI 54701
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
MATTHEW LYONS	4030 TALMADGE RD	EAU CLAIRE WI 54701-2737
DANIEL BAUMANN	4014 TALMADGE RD	EAU CLAIRE WI 54701-2737
BRYAN RENTON	6007 WHITE OWL LN	EAU CLAIRE WI 54701-4489
SANDSTONE INVESTMENTS LLC	E6295 EVERGREEN RD	ELEVA WI 54738-9405
KERRY KJELSTAD	2301 DEERFIELD RD W	EAU CLAIRE WI 54701-8969
HILLVIEW PROPERTIES LLC	S 11890 HILLVIEW RD	ELEVA WI 54738-9157
VECTOR PARTNERS LLC	3653 GREENWAY ST	EAU CLAIRE WI 54701-5148
R TOM TOY	7252 HICKORY RD	EAU CLAIRE WI 54701-8820
FROM THE ROOTS REAL ESTATE LLC	6025 ARNDT LN	EAU CLAIRE WI 54701-9742
DAVID D KONWINSKI	705 E MILL ST	WITHEE WI 54498-9719
BRIAN BERGMAN	3345 EVERGREEN LN	EAU CLAIRE WI 54701-5912
GROUNDLED INVESTMENTS LLC	3345 EVERGREEN LN	EAU CLAIRE WI 54701-5912
THE HAVEN CHRISTIAN CHURCH INC	1231 MENOMONIE ST STE G	EAU CLAIRE WI 54703-6336
CMJM PROPERTIES LLC	6176 SANDSTONE RD	EAU CLAIRE WI 54701-5138
ROBERT TOY	7252 HICKORY RD	EAU CLAIRE WI 54701-8820
NORVY PROPERTIES LLC	E9893 408TH AVE	EAU CLAIRE WI 54703-9407
DOWN TO EARTH REAL ESTATE LLC	6025 ARNDT LN	EAU CLAIRE WI 54701-9742

Holly Weigand

From: Rod Eslinger
Sent: Friday, March 31, 2023 8:36 AM
Subject: FW: Norvy property variance, Board of Land Use appeals

Below is an email I received from Dan Baumann regarding the Norvy variance request the Board of Land Use Appeals will consider on Tuesday, April 4th. This email will be included in the official public hearing record.

Thank you,

Rodney J. Eslinger
Planning and Development Director
721 Oxford Ave., Suite 3344 • Eau Claire, WI 54703
Direct: 715-839-1657 **Cell:** 715-210-3624 **Fax:** 715-831-5802
Email: rod.eslinger@eauclairecounty.gov



Planning and Development

"Success is not the key to happiness. Happiness is the key to success. If you love what you are doing, you will be successful." -- Albert Schweitzer

From: dgbaumann@charter.net <dgbaumann@charter.net>
Sent: Thursday, March 30, 2023 8:42 PM
To: Rod Eslinger <Rod.Eslinger@eauclairecounty.gov>
Cc: 'dgbaumann@charter.net' <dgbaumann@charter.net>
Subject: Norvy property variance, Board of Land Use appeals

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

Mr. Eslinger. I am unable to attend the public hearing of the Board of Land Use Appeals on April 4th due to work commitments, but I would like to comment on the variance request and ask for additional considerations of the Board. If you're able, please share my comments with members of the Board.

I am a neighbor to this business. I live at 4014 Talmadge road. I support the variance request and the business, and think due to the uniqueness of the work done at this site, and the layout of the existing buildings and open areas, it makes sense to allow flexibility with this site layout. I am encouraged that the application identifies that the addition of a new structure will allow for more of their outside storage to be brought inside and give the appearance of the property a consistent look with surrounding structures. The folks at Max Bilt are good people that do great work.

With that, since this is a variance request, and I believe conditions can be placed on variances, I would ask that this business follow the exterior lighting conditions that exist at the surrounding structures, dark sky lighting. I think having all exterior lighting directed down vertically, to lessen the impacts of the current directional lighting would be consistent with structures adjacent to this business while still providing security, similar to neighboring businesses.

Thank you for the opportunity to comment on this variance request, and my apologies for not being able to appear in person to support this variance, with consideration of the lighting changes on this property.

Dan Baumann
4014 Talmadge Road

Holly Weigand

From: Rod Eslinger
Sent: Monday, April 3, 2023 8:58 AM
Subject: FW: Max Bilt zoning hearing

Here is a second email I received on Friday regarding the Norvy variance request the Board of Land Use Appeals will consider tomorrow. This email will be included in the official public hearing record.

Thank you.

Rodney J. Eslinger
Planning and Development Director
721 Oxford Ave., Suite 3344 • Eau Claire, WI 54703
Direct: 715-839-1657 **Cell:** 715-210-3624 **Fax:** 715-831-5802
Email: rod.eslinger@eauclairecounty.gov



Planning and Development

"Success is not the key to happiness. Happiness is the key to success. If you love what you are doing, you will be successful." -- Albert Schweitzer

From: Matt Lyons <mlyons15@gmail.com>
Sent: Friday, March 31, 2023 11:10 AM
To: Rod Eslinger <Rod.Eslinger@eauclairecounty.gov>
Subject: Max Bilt zoning hearing

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

Good Morning Rod and Happy Friday

I am just writing you a quick note about the upcoming hearing on Max Bilt (norvy property variance) on 4/4. I am all for them adding on w/ one condition. Can we make sure they put in dark sky exterior lighting? The lights they have now are quite bright.

Thank you

--
Matthew M. Lyons

920-213-3671

MLyons15@gmail.com

MINUTES

Eau Claire County

• BOARD OF LAND USE APPEALS •

Date: Monday, May 23, 2022

Time: 5:30 p.m.

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

Members Present: Gary Gibson, Gary Eslinger, Randy Stutzman, Patrick Schaffer, Karen Meier-Tomesh

Members Absent:

Staff Present: Holly Weigand, Ben Bublitz, Rod Eslinger

1. Call to Order and confirmation of meeting notice

Chair Stutzman called the meeting to order at 5:30 p.m. and confirmed the meeting was properly noticed.

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

None (Garby Gibson arrived 5:32 p.m.)

3. Public Hearings

- a. A variance request to reduce the minimum lot width requirement from 660 feet to 0 feet in the exclusive forestry district (F1). (Town of Lincoln) / Discussion – Action

Chairman Stutzman swore in Ben Bublitz, Land Use Manager for Eau Claire County Planning & Development, to provide background on the Variance request. Gary Gibson asked if there is an easement on the property. Ben Bublitz explained there is an easement on the property, though in the F1 district an easement doesn't count as road frontage or access. The Planning & Development department does not oversee easement/covenant.

Nathan Risberg spoke in favor. He purchased the land not knowing he needed a certain amount of road frontage; he assumed while doing title work they would catch an issue as such. The person he purchased the property from stated before he sold the property, he found out he did not have access to his own property and had to petition the neighbors to purchase it because he couldn't legally sell it without an easement. During the process of applying for a Building Permit they realized that he had no road frontage, and he was land locked, therefore he should have never been able to purchase the land.

No one spoke in opposition.

Ben Bublitz's staff summary: There are some hardships, but the final decision is up to the Board of Land Use Appeals. Chairman Stutzman asked Rod Eslinger (Director of Planning & Development) about provision on land locked parcels and previous cases. Rod stated that it aligns with the district road frontage requirements, though was not familiar on the particular case Chairman Stutzman asked about. The board deliberated the request.

ACTION: Motion by Karen Meier-Tomesh, to deny the Variance request based on finding in the staff report seconded by Patrick Schaffer. Motion carried 5-0-0.

- b. A variance request to reduce minimum required road right-of-way setback from 50 feet to 46 feet. (Town of Washington) / Discussion – Action

Chairman Stutzman swore in Ben Bublitz, Land Use Manager for Eau Claire County Planning & Development, to provide background on the Variance request. Ben Bublitz went over that the structure was approved by a

Condition Use Permit (structure over 1,200 sq. ft.). The Site Plan indicated the shed would be 84' from front property line. Conditional Use Permit was granted, and a Land Use Permit was still needed. Once that was applied for, Jared Grande, previous Land Use Manager went out to do a setback check. The property irons were not located, so a survey was needed to find property lines. Applicant and owner got a survey done, then Ben Bublitz went out to do a setback check and the slab was 4' too close.

Teresa Nanstad spoke in favor. Stated they applied for a Land Use Permit and had a Zoom meeting, so they thought it was approved. Jared Grande, previous Land Use Manager for Eau Claire County, went out to the property. She stated they are the last house on a dead-end road. They got a survey done after the cement was already poured. It was stated that the cement has in floor heat, the tubing is already in and do not want to move the slab.

Ronald Hicks spoke in favor. Ronald is a neighbor to the east of the property. He indicated that all lot lines are wrong, and the road is not where it is supposed to be. Ronald states that lot lines and setbacks don't matter to him, and he does not care.

Douglas Radke spoke in favor. Douglas is also a neighbor to the property. Douglas also spoke about the lot lines being wrong and says their lot line is on his property by 50 feet. He bought his house back in 1986 and his realtor told him about the lot line issue at the time.

No one spoke in opposition.

Ben Bublitz went over his staff summary which recommended denial. Gary Gibson asked who decided where to put the slab. Ben Bublitz answered the owners. Karen Meier-Tomesh asked if it is a platted subdivision. Ben Bublitz and Rod Eslinger answered that it is not a subdivision.

The board deliberated the request.

ACTION: Motion by Patrick Schaffer, to deny the Variance request based on finding in the staff report seconded by Gary Gibson. Motion carried 5-0-0.

Lee Nicolet was abrupt after the motion and expressed his frustrations. Lee Nicolet was asked to leave the meeting.

4. Review/Approval of December 13, 2021 Meeting Minutes / Discussion – Action

The board reviewed the December 13, 2021 Meeting Minutes.

ACTION: Motion by Karen Meier-Tomesh, seconded by Patrick Schaffer, to approve the December 13, 2021 Meeting Minutes as presented. Motion carried 5-0-0.

5. Adjourn

ACTION: Motion by Gary Gibson, seconded by Gary Eslinger, to adjourn the meeting. Motion carried 5-0-0. Meeting adjourned at 6:44 p.m.

Respectfully submitted,

Holly Weigand
Clerk, Board of Land Use Appeals