

AGENDA

Eau Claire County

- BOARD OF LAND USE APPEALS •

Date: Thursday, August 29, 2024 **Time:** 5:30 p.m.

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

Join WebEx Meeting: <https://eau Claire County.webex.com>

Meeting ID: 2545 955 2053 Password: BsYGs9JF9A4

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

Audio conference: +1-415-655-0001 Access Code: 25459552053##

For those wishing to make public comment, you must e-mail Holly Weigand at holly.weigand@eau Claire County.gov at least 60 minutes prior to the start of the meeting.

A majority of the county board may be in attendance at this meeting, however, only members of the committee may take action on an agenda item.

1. Call to Order and confirmation of meeting notice
2. Roll Call
3. Public Comment **(15 minute maximum)**
4. Public Hearings
 - a. A 250-foot variance request in the A-2 Agriculture-Residential District to create two buildable lots with zero road frontage (Town of Brunswick) VAR-0003-24 / Discussion – Action
Pages 2-20
5. Review/Approval of June 19, 2024 Meeting Minutes / Discussion – Action **Pages 21-22**
6. Adjourn

Prepared by: Holly Weigand

PLEASE NOTE: Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through sign language, interpreters, remote access, or other auxiliary aids. Contact the clerk of the committee or Administration for assistance (715-839-5106). For additional information on ADA requests, contact the County ADA Coordinator at 839-7335, (FAX) 839-1669 or 839-4735, TTY: use Relay (711) or by writing to the ADA Coordinator, Human Resources, Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, WI 54703.



EAU CLAIRE COUNTY BOARD OF LAND USE APPEALS

STAFF ANALYSIS AND RECOMMENDATION

VARIANCE NUMBER: VAR-0003-24

COMPUTER NUMBERS: 004-1003-08-040, 004-1004-02-010

PUBLIC HEARING DATE: August 29, 2024

STAFF CONTACT: Ben Bublitz, Land Use Manager

OWNER: Doug and Mary Carlson, S4500 County Road B, Eau Claire, WI 54701

APPLICANT: Owner

SITE LOCATION: S4500 County Road B, Eau Claire, WI 54701

ZONING DISTRICT: Agriculture-Residential District, A-2

LEGAL DESCRIPTION: Lot 1 CSM 2238 (Vol 12 P 129), and part of the NE ¼ of the NW ¼ of Section 1, Township 26 North, Range 10 West, Town of Brunswick, Eau Claire County, Wisconsin.

REQUEST: The request is for a 250-foot variance to create two buildable lots with zero road frontage.

SUMMARY

The applicant currently owns 62.22 acres of land with approximately 1,800 feet of frontage on State Road 37, and 90 feet of frontage along County Road B with access to County Road B. The A2 zoning district requires a lot width of 250 feet. Lot width is comprised of road frontage with road access. This proposal would create a total of three lots. One will retain the road frontage along State Road 37 and County Road B while the remaining two lots will have zero road frontage. The two proposed lots with no frontage will be accessed via an access easement that will be recorded with the Register of Deeds at the time of land division.

The applicant purchased the property in 1989 with access permits to both County Road B and State Road 37. The Wisconsin Department of Transportation (WDOT) permit allowing access to State Road 37 expired 30 days after permit approval. In 2004 the applicant reapplied to WDOT for a driveway at the same location as originally permitted in 1989 but was denied. Had the applicant installed the driveway at the time of permitting in 1989 dividing of the land would have been feasible under current county code, since there would have been an additional access location along State Road 37. The applicant has provided additional information showing he appealed the 2004 denial, and a final ruling was determined in 2007 by Judge Mark Kaiser determining the applicant has reasonable access to his property off County Road B. Since there was reasonable access, no additional access locations would be permitted along their 1,800 feet of frontage along State Road 37.

In addition to the large amount of road frontage, this property also has unique features created by steep slopes and Taylor Creek that make dividing the property difficult.

BACKGROUND

ADJACENT ZONING & LAND USES:

DIRECTION	ZONING	LAND USE
North	A-P	Agriculture
West	R-H/I1	Residential Commercial
South	A-1	Vacant/Forest
East	R-H/A-2	Residential

AUTHORITY

Chapter 18.144 of the land use and development ordinance 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 18.02 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 18.15.010 Purpose. The A-2 Agriculture-Residential district is established to:

- A. Provide an area for limited residential and hobby farm development in a rural atmosphere; and
- B. Preserve the county's natural resources and open space

Section 18.15.030 Purpose. This section outlines all the dimensional standards for the A2 zoning district:

18.15.030 Dimensional standards. (Ord. 167-3, Sec. 1, 2023)

Lot Area (min)	5 ac
Lot Width (min)	250 ft
Height (max):	
<i>Agricultural Structures</i>	No max
<i>Residential Structures</i>	35 ft
<i>Accessory Structures</i>	25 ft
Street Yard:	
<i>Highway Setback (min)</i>	See Chapter 18.71 , Access Management & Driveways
<i>Accessory Structures</i>	Cannot be located within the required street yard
Side Setback (min):	
<i>Residential Structures</i>	20 ft
<i>Private Garages</i>	20 ft
<i>All Other Structures</i>	50 ft
Rear Setback (min):	
<i>Residential Structures</i>	20 ft
<i>Private Garages</i>	20 ft
<i>All Other Structures</i>	50 ft

Notes: “min” = minimum required | “max” = maximum allowed | “ac” = gross acres | “ft” = feet

VARIANCE STANDARDS

Section 18.109.070 D 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 lot width for the existing property would unreasonably prevent them from using and dividing the property 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 applicants statement outlines how current access regulations prohibit them from having any additional access locations to State Road 37 which they have approximately 1,800 feet of frontage. There was a 2007 judge ruling that reinforced this.

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.*

Being over 60 acres, the property in question is a relatively large lot. Generally, lots of this size with over 1,800 feet for road frontage could be divided into three approximately 20-acre parcels with review and approval of a certified survey map. This lot is unique, since there is only approximately 90 feet of frontage that can also have direct access granted to it.

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 unique nature of this request appears to be specific to this property and not generally applied to other lots in the A2 zoning district.

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.

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

It does not appear that granting the variance would be detrimental to adjacent properties. The applicant also indicates they spoke with several of the adjacent property owners, and they had no additional concerns.

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

This appears to be the minimum relief necessary. The A2 zoning district has a minimum lot size of 5 acres, and the applicant is proposing three 20 acre lots rather than numerous five acre lots.

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 18.15 or the remainder of the Land Use and Development Ordinance.

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 18.200, the Floodplain Overlay District.

This variance request does not require amendments to Chapter 18.200.

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 proposal isn't impacting 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 appears the request is the minimum necessary to grant relief has been requested; the number of lots proposed appears to be the minimum that the land can accommodate leading to the request of zero road frontage for two additional lots. 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 18.15.

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 deciding 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 18.02 and 18.15 is required.

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 division of the existing 60 acres allowing the owner reasonable use of their property.

- The request is unique to this property and will not be broadly applied to other properties zoned A2.
- The request would not likely cause an increase risk to public safety or result in harm to public interests.
- The literal enforcement would create an unnecessary hardship that would prevent the applicant from dividing the property as proposed.
- No longer having access approval to State Road 37 has created an undue hardship on the applicant and their property.

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 applicant still has reasonable use of the property in its current state.
 - The hardship is self-imposed since the access wasn't installed after approval in 1989.
-



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:	07/12/2024
Accepted By:	Ben Bublitz
Receipt Number:	078084
Town Hearing Date:	n/a
Scheduled Hearing Date:	08/29/2024

VARIANCE APPLICATION

Property Owner Name: Doug and Mary Carlson	Phone# 715-833-7123
Mailing Address: S 4500 County Road B Eau Claire, WI 54701	
Email Address: corvette99@gmail.com	

Agent Name: Self	Phone#
Mailing Address:	
Email Address:	

SITE INFORMATION

Site Address: S4500 County Road B Eau Claire, WI 54701			
Property Description: SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 01 , T 26 N, R 10 W, Town of Brunswick			
Zoning District: A2		Code Section(s): 18.15.030	
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			
Check Applicable			
Computer #(s):			
or			
PIN #(s):	004100402010	004100308040	

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 \$550.00 application fee (non-refundable). Send application to landuse@eauclairecounty.gov 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 _____

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.

APPROVAL CRITERIA FOR VARIANCES (NOTE: Embedded comments are by Applicant Carlson)

The Board of Land Use Appeals has the authority to issue variances only when the approval criteria is met. The approval criteria is located in Section 18.109.070 Of the Eau Claire County Code. The board of land use appeals may approve a variance if the property owner demonstrates that the application complies with the requirements of Wis. Stat. § 59.694(7)(c).

A variance shall:

1. Only be granted upon a showing of good and sufficient cause,
2. Be the minimum relief necessary,
3. Not cause increased risks to public safety or nuisances' costs for rescue and relief efforts, and
4. Not be contrary to the purposes of the ordinance, other applicable ordinances, or state law or administrative order.

A variance shall not:

1. Allow in any district uses not permitted in that district; or (A2 Zoning of 60 acres will remain in effect for the proposed 3 lots)
2. Allow any alteration of an historic structure, including its use, that would preclude its continued designation as an historic structure; or (No designated historic structures on the property)
3. Damage the rights or property values of other persons in area; or (I believe no damage to neighbors, I met with 5 to east, all said OK)
4. Be granted for a hardship that is self-created; or (not having 250' lot frontage was caused by WI DOT Judge ruling no Hwy37 access)
5. Be granted for a hardship based solely on an economic gain or loss; or (Realtor advised same property value whether 1 60 or 3 20's)
6. Be granted for actions that require an amendment to Chapter 18.200; or (None known)
7. Permit any change in established flood elevations or profiles; or (None known)
8. Otherwise violate Wisconsin law. (None known)

The following principles shall guide the board's decisions:

1. The burden is upon the appellant to prove the need for a variance.
2. Pecuniary hardship; loss of profit; or self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales are not sufficient reasons for granting a variance.
3. 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.
4. The hardship justifying a variance must apply to the appellant's parcel or structure and not generally to other properties in the same district.
5. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE. (Ord. 167-3, Sec. 1, 2023)

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.

WHAT VARIANCE IS BEING REQUESTED?

Allow our 60 acres to be split into three 20 acre parcels without 250 feet minimum road frontage for each parcel as specified for A2 Zoning in Chapter 18.15, Dimensional Standards 18.15.030, shown below.

18.15.030 Dimensional standards. (Ord. 167-3, Sec. 1, 2023)

Lot Area (min)	5 ac
Lot Width (min)	250 ft
Height (max):	
<i>Agricultural Structures</i>	No max
<i>Residential Structures</i>	35 ft
<i>Accessory Structures</i>	25 ft
Street Yard:	
<i>Highway Setback (min)</i>	See Chapter 18.71 , Access Management & Driveways
<i>Accessory Structures</i>	Cannot be located within the required street yard
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<i>Private Garages</i>	20 ft
<i>All Other Structures</i>	50 ft
Rear Setback (min):	
<i>Residential Structures</i>	20 ft
<i>Private Garages</i>	20 ft
<i>All Other Structures</i>	50 ft

JUSTIFICATION

- My wife and I are looking ahead 5-10 years when we’ll need to move out of our home (age, health, death) and we want to be able to sell the house with 20 acres, while keeping family ownership of the remaining two 20 acre lots for our 2 children & 5 grandchildren. The large lot sizes will preserve the peaceful rural environment. The land is unique with its varying elevations, creek, woods, wildlife, isolation, and history, just 1 mile out of Eau Claire.
- The 60 acres has over 1800 feet of frontage on State Hwy 37, but WI DOT denied highway access in a 2007 Administrative Law Judge ruling, in spite of a driveway permit having been issued in 1989. After 3 years of driveway permit applications, denials, and Appeals, WI Law Judge Mark Kaiser ruled “*Douglas Carlson has reasonable ingress and egress from the property described in the findings of fact, from CTH “B”. Driveway access from STH 37 to his property is unnecessary and would adversely impact highway safety on STH 37.*”

NOTES: 1) Access at County Road B is a 90 foot wide strip of land we own, and per 11/28/2023 on-site review by County Access Coordinator Ben Klitzke, the 1989 CTH B Driveway Permit readily supports 3 lots/future residences ... no new action needed.

2) Reviewed proposed split with Eau Claire Planner Ryan Petrie on 6/10/2024 for any possible issues since our land is within the City’s Extraterritorial Jurisdiction zone and within the Sewered Service Area plan boundaries. Following the review, he said “I don’t see an issue with it”.



Section 1, Town of Brunswick

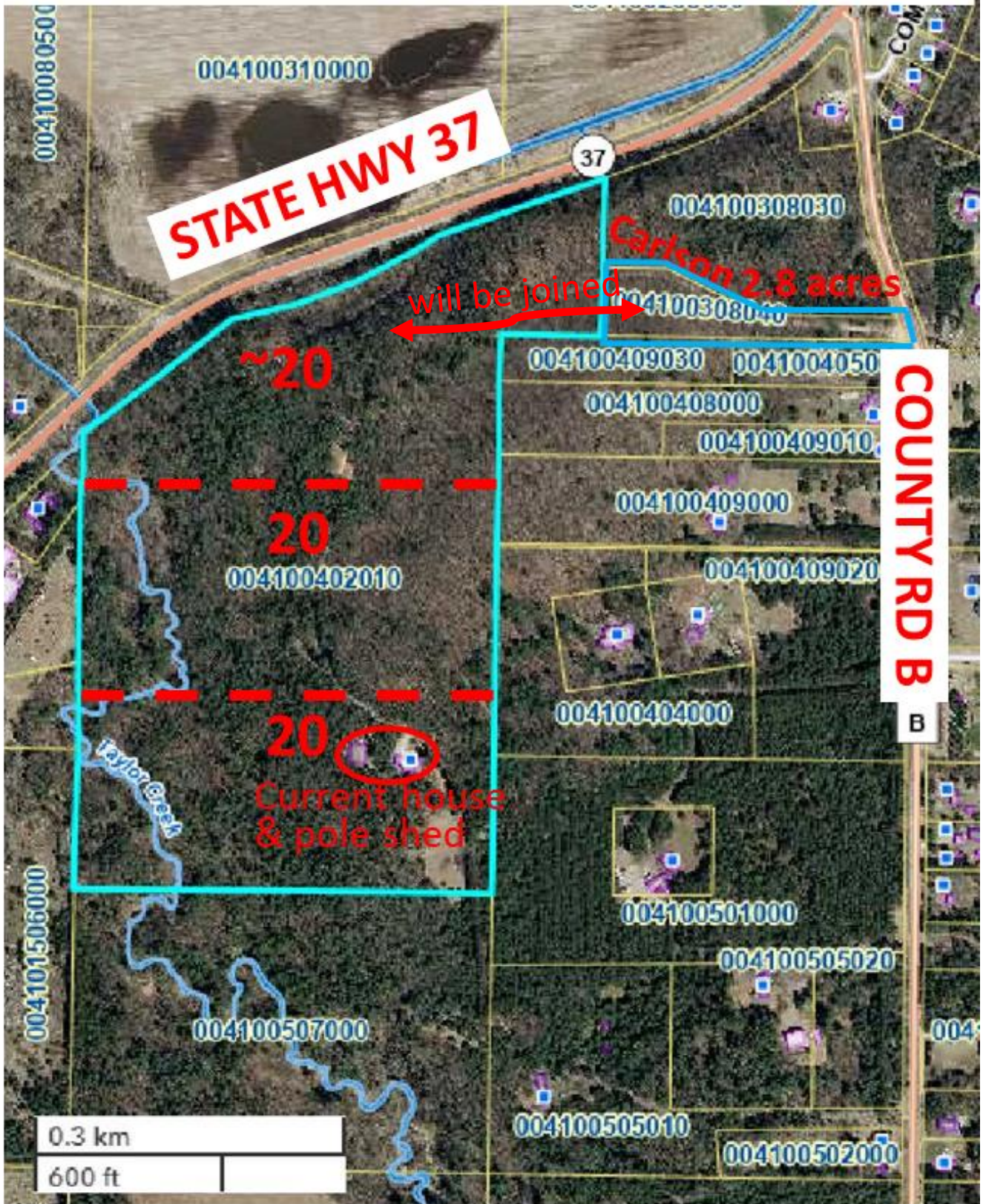




Beacon™

Eau Claire County, WI

Proposed split 60 acres into three ~20's




ADDITIONAL REFERENCE INFORMATION

BACKGROUND

- We bought the 60 acres in 1989, requiring the seller to get driveway permits from the State AND the County:
1) Hwy 37 driveway permit from WI DOT 2) CTH B driveway permit from Eau Claire County.
- The DOT driveway permit to Hwy 37 expired in 30 days, & the next year we used the driveway from CTH B & built our house. I re-applied to WI DOT in ~2004 for Hwy 37 driveway & the final Law Judge denial ruling was in 2007.

1989 State DOT driveway permit onto Hwy 37, as we were buying the 60 acres



Wisconsin Department of Transportation

October 12, 1989

TRAN
718 V
Eau Claire, WI 54701-6143

Original driveway
permit granted
to Hwy 37 as
I was buying the
land in 1989 (1)

J 36 - 2891

Nancy Bruss
1110 Kane Rd.
Eau Claire, WI 54701

Dear Ms. Bruss:

SUBJECT: File 0605-50-44
Maintenance Permits
18-05-89
Private Entrances
Eau Claire County

We have attached a permit to construct an access driveway to STH 37 from your property in the Town of Brunswick, Eau Claire County. It is necessary that you sign all four copies and return the pink, blue and yellow copies to this office in the enclosed self-addressed envelope. This permit is not valid until the copies are received in this office. *SIGNED IN OFFICE, IGNORE*

Please note carefully the Permit Requirements listed on the reverse side of the permit and conform to the construction details.

Please advise this office upon completion, and a representative of the Division of Highways will inspect the driveway.

Sincerely,

Thomas E. Carlsen, P.E.
District Director

Thomas H. Rohrer
Thomas H. Rohrer, P.E.
Area Maintenance Supervisor

BJF:THR:veg
Attach.

Bruce Eastman

DT&2

1989 State DOT driveway permit on Hwy 37, as I was buying the land

PERMIT FOR ACCESS DRIVEWAY TO STATE TRUNK HIGHWAY

DISTRIBUTION: (Sec. 86.07(2), Statutes, & Ch. HY-31, Wis. Adm. Code)

- White - Applicant
- Pink - Central Office
- Blue - District
- Canary - County

Installation of Driveway by State Applicant

NAME AND ADDRESS OF APPLICANT		HIGHWAY	COUNTY
Nancy Bruss 1110 Kane Road Eau Claire, WI 54701		STH 37	Eau Claire
		TOWN - VILLAGE - CITY	
		Brunswick	
NUMBER OF DRIVEWAYS	TYPE OF DRIVEWAYS	PROPOSED LAND USE	COMPLETION DATE
1	NCR	Residential	* 11-15-89

Location of Driveways

South side of the highway Approx. 250 Ft. East of B-18-0936 Taylor Creek Bridge

Quadrant SW of NW Section 1 Township 26 North Range 10 West

REQUIRED DRAINAGE STRUCTURE	IF NO DRAINAGE STRUCTURE, STATE WHY.
18-inch Culvert Pipe	

DESCRIPTION OF PROPOSED WORK (INCLUDE SPECIAL RESTRICTIONS, INTERSECTION CLEARANCES, OTHER DETAILS, AND REFERENCE TO ANY SKETCHES WHICH MAY BE ATTACHED.)

At a distance of 15 feet from the edge of pavement, the finished grade of the driveway shall be at least 6-inches below the existing edge of pavement.

The Fill Slopes will be a minimum of 4:1

* NOTE: Vertical rock, bituminous, concrete, timber or other embankment retention or driveway marking treatments are prohibited.

If the driveway described above is not completed by the "Completion Date" specified, this permit is null and void and the driveway shall not be constructed unless authorized through a subsequent permit.

Any driveways shall be constructed in accordance with all requirements printed on the reverse side, and any special conditions stated herein. The maintenance of the driveways shall be the responsibility of the applicant.

Issuance of this permit shall not be construed as a waiver of the applicant's obligation to comply with any more restrictive requirements imposed by local ordinances.

Nancy Bruss 10-13-89
 SIGNATURE OF APPLICANT DATE
 (NOT REQUIRED IF INSTALLATION BY STATE)

APPROVED BY DIVISION OF HIGHWAYS AND TRANSPORTATION FACILITIES

DISTRICT DIRECTOR	DATE	PERMIT NUMBER
<u>Rz Thomas Dolan</u>	<u>10/16/89</u>	<u>18-05-89</u>

Jun 1 , 2007 Denial of Driveway Appeal



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Denial of a Driveway Permit to
Douglas M. Carlson

Case No.: TR-06-0039

PROPOSED DECISION

By letter dated September 9, 2006, Douglas M. Carlson requested a hearing pursuant to Wis. Stat. § 86.073(3) to review the Department of Transportation's denial of his application for a permit to construct a driveway access to his property from State Trunk Highway 37 in the Town of Brunswick in Eau Claire County. Pursuant to due notice, the Division of Hearings and Appeals held a hearing on February 7, 2007, in Eau Claire, Wisconsin. Mark J. Kaiser, Administrative Law Judge, presided. The parties filed post-hearing briefs. The last submission was received on April 23, 2007.

In accordance with Wis. Stat. §§ 227.47 and 227.53(1)(c), the PARTIES to this proceeding are certified as follows:

Douglas Carlson
S4500 County Road B
Eau Claire, WI 54701

Wisconsin Department of Transportation, by

Attorney Frederick G. Wisner
Department of Transportation
P. O. Box 7910
Madison, WI 53707-7910

Proposed Conclusions of Law

1. Douglas Carlson has reasonable ingress and egress from the property described in the findings of fact from CTH "B." Driveway access from STH 37 to his property is unnecessary and would adversely impact highway safety on STH 37.
2. Pursuant to Wis. Stat. §§ 86.07(3) and 227.43(1)(bg), the Division of Hearings and Appeals has the authority to issue the following order.

Proposed Order

The Department of Transportation's denial of Douglas Carlson's application for driveway access to State Trunk Highway 37 is reasonable and consistent with the standards of Wis. Stat. § 86.07. The decision of the Department is AFFIRMED.

Dated at Madison, Wisconsin on June 1, 2007.

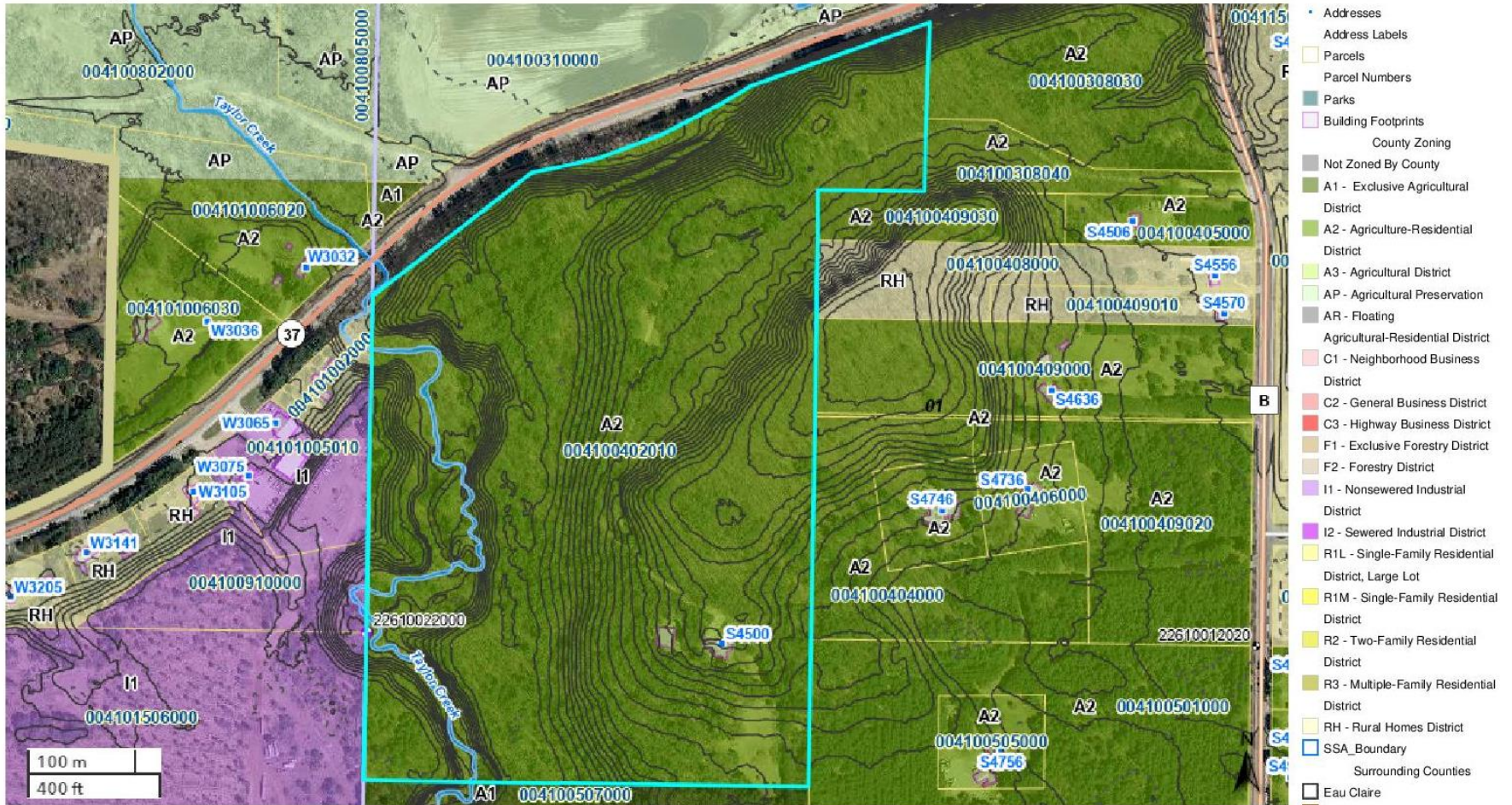
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: _____
Mark J. Kaiser
Administrative Law Judge

Zoning is A2

Zoning map

Created by: undefined



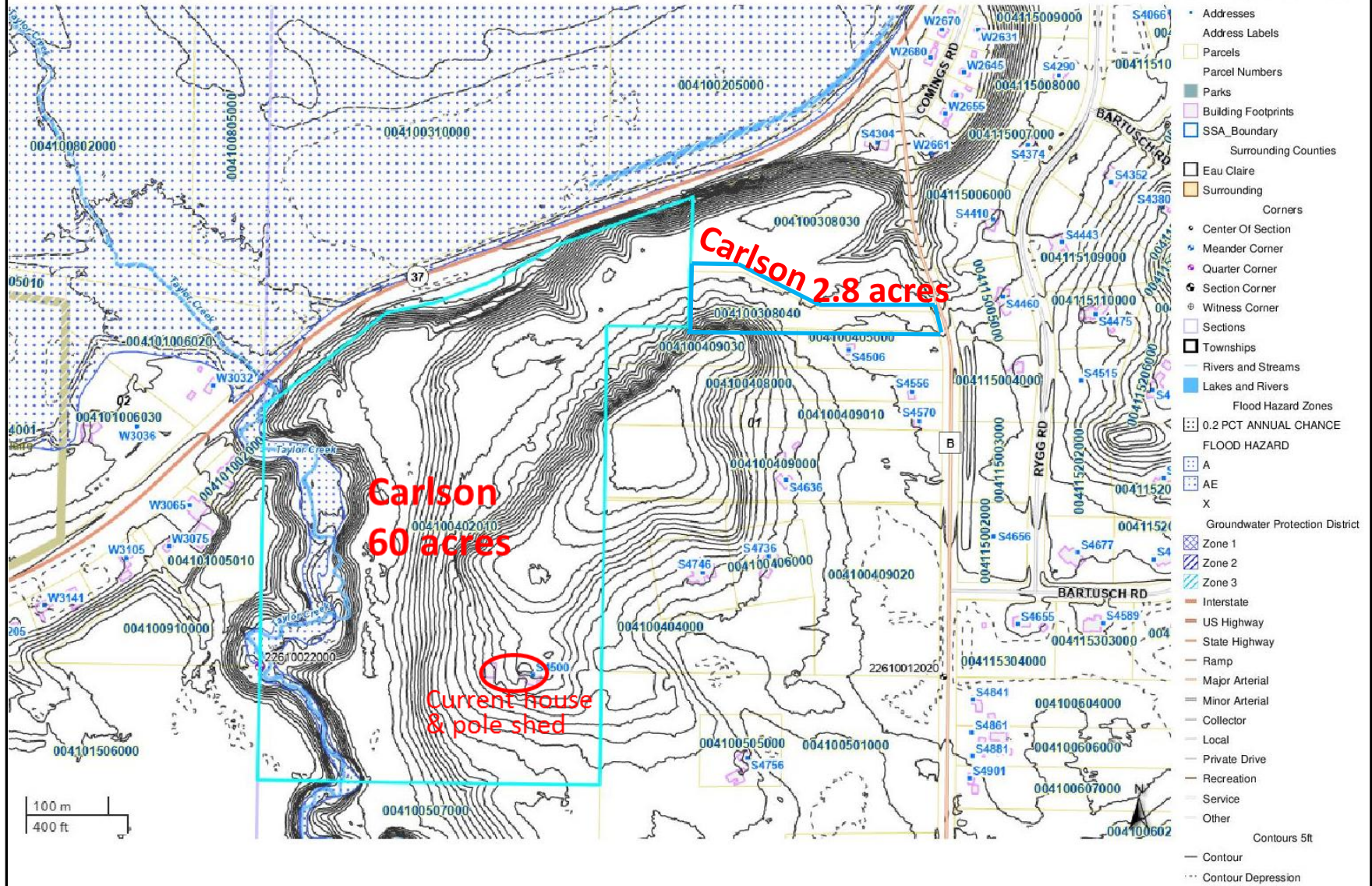
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Last Data Uploaded: 3/18/2024 7:49:53 AM
Developed by



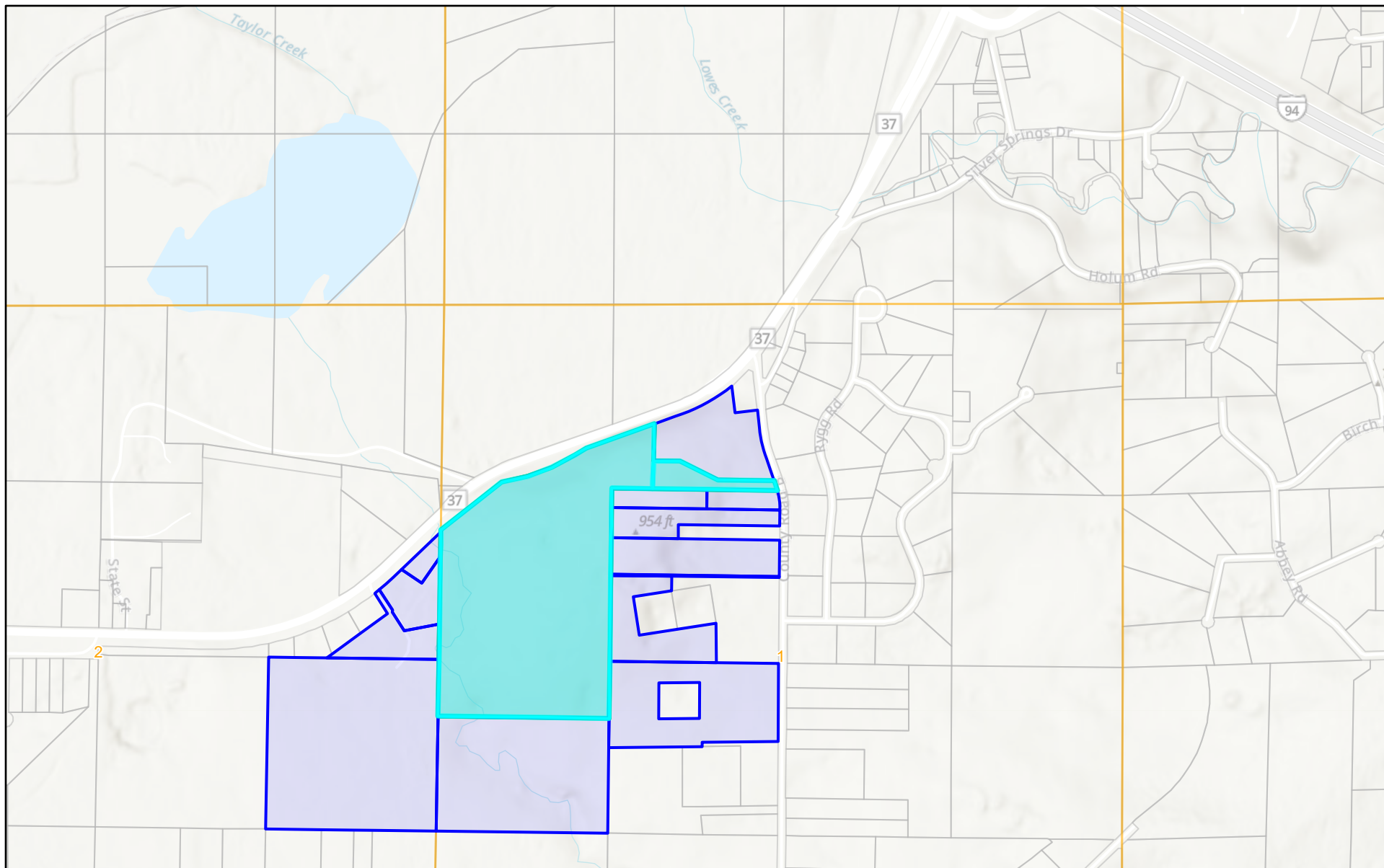
- Addresses
- Address Labels
- Parcels
- Parcel Numbers
- Parks
- Building Footprints
- County Zoning
 - Not Zoned By County
 - A1 - Exclusive Agricultural District
 - A2 - Agriculture-Residential District
 - A3 - Agricultural District
 - AP - Agricultural Preservation
 - AR - Floating Agricultural-Residential District
 - C1 - Neighborhood Business District
 - C2 - General Business District
 - C3 - Highway Business District
 - F1 - Exclusive Forestry District
 - F2 - Forestry District
 - I1 - Nonsewered Industrial District
 - I2 - Sewered Industrial District
 - R1L - Single-Family Residential District, Large Lot
 - R1M - Single-Family Residential District
 - R2 - Two-Family Residential District
 - R3 - Multiple-Family Residential District
 - RH - Rural Homes District
- SSA_Boundary
- Surrounding Counties
 - Eau Claire
 - Surrounding
- Corners
 - Center Of Section
 - Meander Corner
 - Quarter Corner
 - Section Corner
 - Witness Corner
 - Sections

View of 60 acres out to B - with elevations & Flood zones




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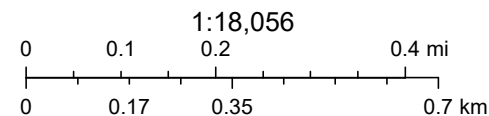


Public Notification



8/14/2024, 10:13:08 AM

 County Boundary  Tax Parcel
 Section



Esri, NASA, NGA, USGS, FEMA, Esri Community Maps Contributors, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS,

FirstName LastName	Address	City State Zip
BLUESTONE LLC	PO BOX 100	MARATHON WI 54448-0100
STUART SANDLER	W3045 STATE ROAD 37	EAU CLAIRE WI 54701-9517
BRET HETZEL	W 2610 MITCHELL RD	EAU CLAIRE WI 54701-8601
DOUGLAS M & MARY E CARLSON	S 4500 COUNTY ROAD B	EAU CLAIRE WI 54701-8637
ROBERT D & SUSAN A THOMPSON	S 4746 COUNTY ROAD B	EAU CLAIRE WI 54701-8687
AARON EISOLD	S 4506 COUNTY ROAD B	EAU CLAIRE WI 54701-8637
DAVID D & KIMBERLY J WALKER	S 4636 COUNTY ROAD B	EAU CLAIRE WI 54701-8637
LAHNER IRREVOCABLE TRUST	1727 HATCH ST	EAU CLAIRE WI 54701-7515
DANIEL RAMBO	S4556 COUNTY ROAD B	EAU CLAIRE WI 54701-8637
MALL 37 LLC	W3065 STATE ROAD 37	EAU CLAIRE WI 54701

MINUTES

Eau Claire County

• BOARD OF LAND USE APPEALS •

Date: Wednesday, June 19, 2024

Time: 5:30 p.m.

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

Members Present: Randy Stutzman, Gary Gibson, Gary Eslinger, Patrick Schaffer

Members Absent: Karen Meier-Tomesh

Staff Present: Holly Weigand, Chad Berge, Zach Mohr

1. Call to Order and confirmation of meeting notice

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

2. Election of Chair and Vice Chair

Gary Gibson nominates Randy Stutzman for Chair.

ACTION: Motion by Gibson to approve Randy Stutzman as Chair, seconded by Schaffer. Motion carried 4-0-0.

Randy Stutzman nominates Karen Meier-Tomesh for Vice-Chair.

ACTION: Motion by Stutzman to approve Karen Meier-Tomesh for Vice-Chair, seconded by Gibson. Motion carried 4-0-0.

3. Appointment of Clerk

Randy Stutzman nominates Holly Weigand for Clerk.

ACTION: Motion by Stutzman to approve Holly Weigand for Clerk, seconded by Schaffer. Motion carried 4-0-0.

4. Rules and By-Laws Update

Chair Stutzman swore in Ben Bublitz, Land Use Manager, to provide a summary of the updates to the Rules and By-Laws. There were no questions about any of the updates.

ACTION: Motion by Stutzman to approve the updated Rules and By-Laws as presented, seconded by Gibson. Motion 4-0-0.

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

None

6. Public Hearings

- a. A variance request to disturb a slope of 30% or greater. Land development activities on 30% slopes and greater is a prohibited activity under Eau Claire County Code Title 17.05.080. (Town of Washington) VAR-0002-24 / Discussion – Action

Chair Stutzman swore in Zachary Mohr, Conservation Technician, to provide background on the variance request. Zachary Mohr presented the staff report and the purpose for the variance. The variance is for an after the fact to maintain a 22,500 square foot area. The area was disturbed to create a driveway. A preliminary CSM was sent in, which notified Planning & Development and Land Conservation that the driveway goes directly through a steep slope. Mohr presented photos and videos of the property and driveway.

Chair Stutzman swore in Marty McSharry, property owner. McSharry states he submitted an application for a driveway permit with the Highway Department. McSharry met with the Highway Department on two different occasions to approve the driveway. Highway Department stated that a 600-foot guardrail goes north and south on the road, so that location (current location) was the safest option. The Highway Department issued the driveway permit. Loren from Northland Excavating put in the driveway, then the embankment was seeded and has vegetation on it already. The main hardship pointed out is the guardrail and that being the only location on his property for a driveway.

Chair Stutzman asked about what culvert the Highway Department specified to put in. McSharry stated a 16-inch culvert was required, which is what was installed.

Gibson asked if the Highway Department mentioned anything about the 30% slopes. McSharry answered that there was no mention of steep slopes, and he thought he was doing everything correctly since he got approval from the Highway Department prior.

No one was in opposition.

Zachary Mohr goes over the staff report which includes reasons for denial; CSM hasn't been approved, Title 17, 30% steep slopes is prohibited, applicant may not have exhausted all options as to why a hardship is present, and the applicant has not demonstrated how long-term maintenance will be carried out for the driveway. Reasons for approval; the applicant can get an erosion control plan designed and stamped by a P.E. and provide knowledge slope can be stable.

ACTION: Motion by Schaffer to deny the Variance request based on the findings in the staff findings, seconded by Gibson. Motion carried 4-0-0.

7. Review/Approval of September 27, 2023 Meeting Minutes / Discussion – Action

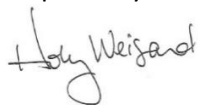
The board reviewed the September 27, 2023 Meeting Minutes.

ACTION: Motion by Gibson to approve the September 27, 2023 meeting minutes as presented, seconded by Schaffer. Motion carried 4-0-0.

8. Adjourn

ACTION: Chair Stutzman adjourned the meeting at 6:10 p.m.

Respectfully submitted,



Holly Weigand
Clerk, Board of Land Use Appeals