



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, FEBRUARY 20, 2023, 4:30 PM

**In person at City Hall, Room 604 - The Harry Maier Room.
Virtual attendance is also available via Zoom.**

A. ZOOM MEETING INFORMATION.

I. This item contains Zoom information, instructions, and a link to the Virtual Comment Form.

B. ROLL CALL.

I. Members: Tommy Everman - Chair, Noel Halvorsen - Vice Chair, Barb Dorff, Steven Schuchart, Joshua Koch

Alternate: Corey Bogenschutz

Present: Tommy Everman, Noel Halvorsen, Barbara Dorff, Corey Bogenschutz, Joshua Koch

Excused: Steven Schuchart

Alternate Corey Bogenschutz will be a voting Board member.

Others Present - City Attorney Lindsay Mather, City Attorney Logan Wood

C. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the February 20, 2023, meeting of the Zoning & Planning Board of Appeals.

Moved by Joshua Koch, seconded by Corey Bogenschutz to approve the agenda. Motion passed.

Yes- None, No- None, Abstain- None.

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the December 19, 2022, meeting of the Zoning & Planning Board of Appeals.

Moved by Barbara Dorff, seconded by Tommy Everman to approve the minutes. Motion Passed.

Yes- None, No- None, Abstain- None.

E. REGULAR BUSINESS.

1. (Appeal 23-01) Tom and Tina Hoffman, applicants and property owners of 898 Hubbard Street, request relief to allow an uncovered parking space. They are requesting a setback fewer than 2.5 ft. from the side yard setback and extending a front yard uncovered parking space greater than 8 ft. in width beyond the garage door opening. The applicants request to deviate from requirements in Chapter 44, Green Bay Zoning Code, Section 44-1747 (3) b. and Section 44-1747 (3) f. (Ald. R. Scannell, District 7).

Chair Tommy Everman affirmed and swore in the Board members. Staff and the applicants.

Speakers:

Jon LeRoy

Tina Hoffman

Tom Hoffman

Moved by Corey Bogenschutz, seconded by Joshua Koch to deny the variance requesting a setback fewer than 2.5 ft. from the side yard setback and extending a front yard uncovered parking space greater than 8 ft. in width beyond the garage door opening. The applicants did not satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed.

Yes- Tommy Everman, Corey Bogenschutz , Joshua Koch, No- Noel Halvorsen, Barbara Dorff, Abstain- None.

2. (Appeal 23-02) Luke Papillon of ISG, applicant; Dan Ditschiet, City of Green Bay Parks Department, Property Owner, request relief to allow for the placement of a new park shelter within the 15 ft. front yard setback within the PI Public Institutional District at 128 Dousman Street (Leicht Park). The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-858, Table 44-15 Front Yard Setback (Ald. R. Scannell, District 7).

Chair Tommy Everman recused himself from this variance request. Vice Chair Noel Halvorsen took over for Chair Tommy Everman. Atty Lindsay Mather affirmed and swore in staff, Board members and the applicants.

Speakers:

Jon LeRoy

Dan Detschiet

Mark Chambers

Moved by Joshua Koch, seconded by Barbara Dorff to grant the variance to allow for the placement of a new park shelter within the 15 ft. front yard setback within the PI Public Institutional District at 128 Dousman Street (Leicht Park). The applicants did satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Barbara Dorff, Corey Bogenschutz, Joshua Koch, No- None, Abstain- None.

3. (Appeal 23-03) John Jeanquart of Brander Engineering, Inc, applicant; John Nundahl of Georgia-

Pacific Corporation, property owner; request relief to allow for a driveway entrance to exceed 35 ft. at the property line and 45 ft. at the curb. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-1773 (d) 3. (Ald. B. Johnson, District 9).

Chair Tommy Everman affirmed and swore in Board members, staff and the applicant.

Speakers:

Jon LeRoy

John Jeanquart

Moved by Barbara Dorff, seconded by Noel Halvorsen to grant the variance to allow for a driveway entrance to exceed 35 ft. at the property line and 45 ft. at the curb. The applicants did satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Barbara Dorff, Corey Bogenschutz , Joshua Koch, No-None, Abstain- None.

F. INFORMATIONAL.

1. Discussion on procedural items related to the Zoning & Planning Board of Appeals.

A discussion started regarding BOA procedures. This discussion was stopped by Atty Lindsay Mather and informed Board members and staff that separate discussion items need to be noticed on the agenda.

2. Date of the next meeting: March 20, 2023.

G. ADJOURNMENT.

Moved by Barbara Dorff, seconded by Corey Bogenschutz to adjourn. Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Barbara Dorff, Corey Bogenschutz , Joshua Koch, No-None, Abstain- None.

VERBATIM MINUTES

- Where is the packet? How come I'm not finding the packet? I have the agenda.

- Oh, it's in...

- You better get Sharon to mute.

- Yeah, I'll mute you, Sharon. There we go. All right. Well, let's go ahead and call this meeting to order, the Board of Appeals on February 20th. Noel, you're here. That's great. Hi, Noel. Welcome, Barb. Thanks for being here.

- I'm present. Thank you.

- Thank you. Corey, thank you for being here too as well.

- Here.
- Weren't you gonna be, oh, it was Steven that got called away. Got it. So Corey, do you want to stay as a alternate or do you want to jump in and actually be a voting member tonight to kind of step in for Steven?
- If I'm needed for voting, I will vote.
- Well, we have a quorum without you, so we don't need it. But if you want, you can jump in, right?
- Okay.
- If you want. It's up to you. You're here.
- I'm here.
- Chair, I would suggest he vote.
- Okay, let's pop you in. So we've got a five person board here. So roll call's done. We need to first, next step on the agenda here, we need to approve our agenda for tonight. We have three items of regular business it looks like. And then some information at the end. Any motion to approve?
- I will move.
- Oh, by the way, those online, we have our new member here.
- Hello, everybody. Josh Koch.
- That's how you say Koch. I would've said...
- It's good for telemarketers.
- Yeah. You know exactly when they're calling, right?
- Absolutely.
- They get it wrong. Just like I was about to get it wrong. That's good. Well, welcome. He just joined us in December, so we'll get him up to speed. Are you feeling good and up to speed, ready to go? Any questions before we start about what we're gonna do today? Okay. Have you done this before?
- I've not been on this board or this type of board before, but I'm familiar with the issues.
- Great.
- Should be all set to go. Okay. Perfect. So, moved, Josh moved, did I have a second for the agenda?
- Second.
- Okay, Corey.
- I didn't hear what he said.
- I got confused there for a moment. Apologize.

- Yeah, me too.

- All right, so we got approval. All those in favor of approving the agenda tonight say aye?

- [Board Members] Aye.

- All those opposed? Okay, great. The minutes from last meeting, which was back in December. Any notes on that stuff there? I didn't see any notes when I looked at it, but. You weren't even here.

- I wasn't here.

- Anybody online, any thoughts? Otherwise approval of the minutes?

- Move to approve.

- Thank you, Barb. Second? I can second. They just told me I can second. So I'll second it. All those in favor say aye?

- [Board Members] Aye.

- Any opposed? Okay. Housekeeping is out of the way. So thank you for all being here. So kind of give everybody an overview of this process. Kind of who we are and what we are. So we are, and you said there's people online as well? Okay. So we are like a quasi-judicial, we're not like, we are a quasi-judicial board. We're not elected officials. We're just appointed by the mayor, and we are public servants. We're just here to try and help and listen. We treat this as best we can. It's still, obviously, clearly you can see, a bit informal with me. Could be probably a little more formal, but that's just not my style. But think of it as presenting a case in court. You're here to come present to the board. Here are the facts, here are the findings. Jon's gonna present from the city's point of view. Here's the steps you've taken, here's alternatives we'd look at. And then we will swear in the witness. It won't be super formal, but we'll definitely ask if your testimony's gonna be true. And then our goal here is to look at facts. Facts of the property, the use of the property, how the property is laid out, and listen to the case being made. It's a majority vote. So there's five people currently here tonight that are voting. Three votes yes and the appeal goes through. We have Legal here because we have been working really hard to make it a bit more formal versus kind of where we were a little bit ago, which wasn't as structured. So we might fumble through, I might ask for a question. I might say, "Hey, I need to read my script a bit more to get it real dialed in." But other than that, when it comes time for your time to present your business, if there is anything additional that if someone's here to speak for or against, we will call for that. But what we want to hear first is the people presenting the case for the appeal. Once we're done with that, anybody that wants to speak, that's part of the case, right? Think of it as like, "Hey, this is my case and I've brought people along with me." If there are other people that need to speak, they will be separate and we'll call upon them. And we'll open the floor for the public comment, if you will. Okay. Any questions from anybody? Anybody online have any questions about that process?

- The line's not open. Oh, I can't ask them. Nevermind I can't ask you that. See little things like that. But I got some non-verbal cues. All right. Other than that, is there anything I am missing that we need to go over prior to hearing the regular business?

- No, go ahead.

- Okay. Everybody feel good? Again, it'll go, we'll read what it is. We will have the city kind of take us through the facts and then some details, and then we'll call you up. If you're here in person, we'll have you come sit up here, if that's okay, and we'll go from there. All right. Feel good? Yeah? All right, let's jump right in. Oh. Is that my script right there that I should have read?

- Oh, it's just, yep.
- Sorry, totally wasted your time.
- No, it's all good.
- All right, so let's go to regular business here. First before we start, is there anybody that needs to...
- You'll do that item by item, remember? So you should just read-
- Where am I at in my script that I clearly totally screwed up?
- So just read the agenda, for regular business, the agenda item first, that's the very top paragraph.
- Yep. On the regular business here?
- Yes. So on the first page. So each of those is identical for each of the three items.
- Oh, there's multiple pages here.
- Yes.
- This is literally my script?
- Yes.
- Wow. For each agenda item?
- Yes. So I explain the procedure on every one, huh?
- If everybody's here at the beginning, there's less of a need to do it. We just like to make sure that the structure remains the same.
- Just in case someone comes late?
- Yeah.
- Copy that. Okay, great. All right, so let's jump in. Regular item number one. Thank you, everybody, online. Sorry, just trying to get my bearings. It's been two months. So Appeal 23-01, Tom and Tina Hoffman, the applicants and property owners of 898 Hubbard Street. They request relief to allow an uncovered parking space. They are requesting a setback fewer than 2.5 feet from the side yard setback and extending a front yard, uncovered parking space greater than eight feet in width beyond the garage door opening. The applicants request to deviate from requirements, Chapter 44, Green Bay Zoning Code, Section 44-1747 b, and Section 44-1747 f, in District 7. It is the goal of the Board of Appeals to provide and conduct a hearing that is both fair in form, appearance, and substance. To ensure that this satisfies these goals, each member of the personnel committee can confirm the following by stating I confirm. One, I do not have an interest or conflict in this matter. Or two, I have not received any communication from any person or party on this matter. I'll start with...
- Josh.
- Josh, thank you.

- I confirm.
- Perfect.
- Barb?
- I confirm.
- Corey?
- I confirm.
- And Noel?
- I confirm for the Zoning Board of Appeals, not the Personnel Committee.
- Oh, thank you. It's the second para under, Yes. And I confirm for this first agenda item.
- We'll fix it. Sorry, everybody. We're a work in progress too over here.
- Yeah, working through this, trying to make it a bit more formal. All right. So now the board will hear from the staff on this agenda item first. The applicant will then have their opportunity to present evidence and testimony. In its discretion, the board may also choose to hear input from the public. Staff, go ahead.
- And I swear to tell the truth and give knowledge to the best of my knowledge. So right here, we're at 898 Hubbard. It's a single family home. The corner lot. So what you're seeing right here is a street view image from a few years ago. This property completed without permits or a site plan, an addition to their outdoor parking spaces for the property. So you can see this is an attached garage.
- Sorry to interrupt. Are you the Hoffman's?
- [Tina] I am, yes. Tom and Tina.
- You guys can come up here. I'm so sorry. That way you guys can see and you can be part of this. If you wanna come sit up here. I apologize. Is that okay?
- No. Thank you.
- Great.
- So going back, this from years ago, you can see the attached garage and the house. In the past year, there was an addition to the driveway itself, adding about 18 feet or so of additional driveway parking. So with the code, this lot itself, it is an attached garage with a single stall. With that in mind, code does allow for one additional parking stall to happen to the side of the garage itself. It's a front yard exception. The limits on it, however, are, the max it can be is eight feet from the garage door opening. And with that, this expansion went beyond that, up towards the side yard itself. Additionally, when it came to this expansion, with a legal parking stall, if it was a legal parking stall, you can be within 2.5 feet of the property line, if it were legal. This is not. This is approaching 2.5 feet from the property line itself. Here's an additional image of the property as is right now. So you'll note right here, this concrete that's near the door, that's actually just a sidewalk that would lead to the door. Then there's your parking stall in front of the garage. You are allowed to legally have one parking stall then to the side. But it can't keep on going in perpetuity off to the side. Right here, you can gonna go ahead and see some of the dimensions. It's 35 feet from the foundation of the house itself to the edge of the driveway. Not all that is parking, but some of it is sidewalk space. And then it's a little over 18 feet from the

garage to the edge of the driveway right now. As alternatives, see this right here, that would be within the code, you are allowed to go ahead and have a surface parking stall once you get past the front of the garage, on the side of the garage. That parking stall does not need to go ahead and be eight feet. It can be up to 12 feet wide off the side of the garage. So there is room to go ahead and put a legal parking stall on this property. That would be the same one of the parking stalls that are shown right here. However, those two exceptions that come to play here, and the applicant is asking for relief, to allow for the initial space beyond the exceptions for front yard parking space, and then the additional space within the setback of a legal parking stall.

- Mr. Chair?

- Yes.

- Can I ask a question of staff?

- Yep, absolutely.

- Okay. So if the garage, Jon, were expanded, as it was, when I read through this, that's the plan. So if the garage were made bigger, then could they have this pad here? Or is it still too far over?

- It would be too far over. So if this was a double wide garage, you would lose your single front yard exception space on that. So you could have a driveway entrance into the second garage stall, but then allowing for the front yard exception to happen further, so the house is south, the property line off to the left is north. The property to the north would not be within the rule at that point. The furthest you can go would be staying in line with the garage. The only way that could happen is that if for some reason the property were to be bigger, 'cause at that point we'd be going into different types of exceptions here with the code, to where it wouldn't be 2.5 feet for a legal parking stall. We'd actually have to go to side yard setbacks for primary buildings, which for this would actually be eight feet at that point. There's a lot of ifs, ands, and buts, but the answer in general is no. It could not just be wider right there with a second garage stall.

- Thank you.

- Does anybody else have questions for staff before we hear the case from the applicants? To be clear, there's two variances here, correct?

- There are two with what we have right now with this. Yes.

- Okay, so let's go over those very clearly.

- Right. So the first one being, if you have a attached garage, and only one stall, there is a special exception to have a front yard parking space then. So it does not need to go, a driveway that goes beyond the garage itself, it can stay in front of the garage. That exception allows you to have a parking stall that has a max width of eight feet from the garage opening.

- And this one currently is 12 feet?

- This one's 18 feet.

- 18 feet. Got it. Okay. So it's 10 feet beyond the exception.

- Correct.

- Okay.

- The 12 feet comes into play with, if it was a legal parking stall beyond the front of the garage, that was on the width, 'cause it's a corner lot, it's just a bit different, side of the rear, the north side of the garage itself, that could be 12 feet because we don't have a set standard as far as saying it has to a maximum of eight feet. We have a general policy of those stalls being 12 feet wide. Because somebody might come in and say, "I have a parking stall and it's 60 feet wide." We do so limit it, the width to 12 feet. But that's our first one. The second one is if it is a legal parking stall, the furthest it can be, or the max can be to the property line itself, you must have a minimum 2.5 feet. This right here is within 2.5 feet off the property line for a parking stall.

- Do we know exactly what the property line is and how close we are to it? 'Cause I believe someone took that measurement at one point.

- Yeah.

- So I'll, just as far as just noting this right here. So to keep in light on this, we can go ahead and discuss the questions here back and forth. But just to go ahead and address this right now. We believe the property line is around the fence line, but it hasn't been surveyed here to go ahead and know for certain where the property line is.

- So there's not an official survey to know the measurement?

- Correct.

- Okay, great. Roughly, how far, roughly do we know?

- Roughly if we're using-

- If they did that earlier.

- Yeah,

- We're using the fence at about the property line right there, is what the projected area is.

- Yeah. Okay. So it's butt up against the property line pretty fine.

- It's pretty close, yeah.

- About a foot.

- About a foot? Okay. So like in this picture here, for that variance to come off, it would need to be basically past that blue trashcan.

- Somewhere in that area.

- Somewhere in that area. Then that one would not be an also variance, correct?

- If it's deemed that it's a legal parking stall and it's got a variance on the other for the rest of it, yes, that would be 2.5 feet, it would be your standard then for a legal parking stall off the side yard setback.

- Yeah. So it's two things.

- Yeah.

- Combined. Okay. Any other questions for staff before we hear from the applicants? Okay. Go ahead and present your case. Yeah, that's- Oh. We need to swear people in. Do you swear or affirm that the testimony you're about to give will be the truth?

- I do.

- Great. Thank you.

- Thank you.

- I don't really know what else to say. That's exactly what it is. We hope to be able to extend that closer than we should be. If you could go back to that first picture.

- Sure.

- With the trees still in it. We had to clean all that up. That was really, we widened our driveway one time already since this picture was taken, right?

- I think that is the new one there, 'cause you can see the new apron.

- That's the new apron. But we didn't have that green truck then.

- This is 2012.

- Yeah, that's way old. So we already had widened our driveway almost up to the trees and we widened the apron, I wanna say four years ago or so. And then, so our cars, our driveway then was like right up against those trees.

- Go back one image, that you were just at. You probably see it in that slab there, right? Where the new concrete is.

- Right, exactly.

- Okay.

- So that's what we recently did. And if you go back to where the, well, even on this one, it just, anything that we could get there, I don't know what we would do with that tiny strip by the fence. It seems like the best solution ease-wise for shoveling and just taking care of the property. I don't know what we would put there. It would just be a foot of mud along the side of the fence. We could try to get grass I guess. So that's really why we, that we're just hoping that, we have an extra driver in our house now, and there's just need for more parking there. As you can see, it's kind of a really thin, like shallow driveway. You can't fit two cars in. And then we did think about going back, and behind the fence is our garden. So even if we don't expand the garage for a while, we still have a garden back there that we use, and we just didn't really wanna lose that for parking.

- We can put a fence directly pretty much connecting the white garage and the tan garage. We have pets also. So part of our thought process also-

- It just made the most sense. So I don't know what else I should be saying.

- Well, again, it's up to you. We can ask questions of you guys as well.

- Yeah.

- The goal is for us is we have a checklist of different things that we have to hear in the testimony. So we can ask questions to help you get there, if we need to. Our goal is not to try and get you to the finish line. Ultimately it's up to you to get us to say this makes sense. Right now, what I would like to hear a little bit more on is the limitations, not of the use, but the limitations of the property that doesn't allow you to comply with the variance. So for example, the current slab that was in, and again we're using mouse measuring right now, but if they kept half of that slab, so it was 2.5 feet off, you're saying that they allow, the parking garage is here, there's enough that they can do, eight feet, beyond the side of the garage and not have to go back. Is that correct?

- Right. So the legal way to go ahead and do this without coming to this board here is at the garage door opening, you are allowed an exception to have eight additional feet for a parking stall beyond the garage door opening. And that's from taking measurements-

- That's the measurement of the door, not the edge of the garage.

- Not the wall,

- Yeah.

- And for this one it's the door itself, not the wall. So when it comes to, if you were, so that is one option. There's a front yard space exception. Also, there could be a parking stall on this side of the garage.

- Yep.

- That can be 12 feet. It's a whole different part of the code right there. So that can be a wider, we're just thinking it could be 12 feet before the size of a stall. Keep in mind there you're putting your door to a garage, or your car door could hit a garage.

- That's why it's four additional feet.

- Yeah.

- Okay. So this is 18 feet. You said roughly past the door?

- Past the garage itself.

- So the total wall.

- Yeah, the garage wall.

- So for this to comply and not be here, they would have to remove, my math's really bad right now.

- About 11 feet.

- 11 feet.

- Almost all of it.

- And is that all of it? 'Cause it looks like, it doesn't look like the, if you see that cut that's right there, actually, that doesn't look like, yeah. Would that be where it would be? Roughly?

- Give or take.

- Yeah. Right around it. Not enough for an extra parking spot. If we had to take anything.
- We'd have to park in front of our entrance door.
- You would have two parking stalls that would go right there. The one that's roughly in front of the garage door and one then to the north space.
- And then one inside the garage.
- And one inside the garage.
- So that'd be total-
- Yeah.
- Okay. So that's one option that they have to comply. Right? And then the other one is to then build a 12 foot behind, but the garden's there.
- And in addition, we hope to eventually put a two car garage on this property. Like it would be, if we end up staying here, which we hope to, that was the next of our plans. We've had people come over and give us quotes on putting a two car.
- Which would in theory be similar to the 12 foot side setback.
- Not knowing just how much, this goes into other types of codes then too, as far as meeting our minimum green space requirements for impervious surfacing. But let's just say you can do that. That two stall attached garage here can go ahead and be met on the property, it looks to be, without any issue. At that point, because it's attached, we'd still need to go ahead and meet the side yard setback.
- About 2.5 feet.
- That's different right there, it'd be eight feet, because that's the actual building itself.
- Oh, eight feet.
- Yeah. The 2.5 feet all comes into play with an actual legal parking stall, where it'd be 2.5 feet into the side yard.
- Okay.
- So many setbacks.
- Yeah. Different requests.
- Okay, so my question, in hearing all that stuff, so what are the reasons why those options are not possible on this property?
- Well, putting up an extra garage takes a little saving up. So financially-
- More specifically, the removing the six to eight feet, 10 feet, whatever it is, of the current concrete that's there to get it to comply. That one, or then building something on the backside. Again, we have to look, just to kind of give you clues, what we're hearing, is that... The property itself is gonna live on in perpetuity. Okay? So you sell the house.

- Yep.

- And that property and what we do with that property exists for the next five, 10, I don't know how long, forever, right? And so whatever we approve has to kind of sit with the property. Now of course you own it, so you're trying to do something with it. But we have to consider not necessarily your individual case. What we have to do is look at the property and say, "Hey, I want to use the property as such." And the property dimension, the property sizes, does not allow, because of the unique shape or what's happening, this to happen here. And right now I'm lacking, and I'm telling you where I'm at, the case to be made, that this situation, beyond the personal use, that the property can do something and have an additional spot. It's just not gonna be the most ideal. Does that make sense?

- Mm hm.

- So our thing is always ask, okay, alternatives, what are those there, and why are those alternatives not an option?

- If we expand our garage at some point, we're gonna have to have some type of cross wall, just because of where we are and it's connected to our home. So it's gonna need to be tied into our house. And then if we don't, then it becomes a detached garage. And I believe there's limits or side limits that a garage needs to be these days. It has to be like 800 plus square feet, give or take. I forgot from my schooling days. And if that's detached, that gets pushed to the side. And then we have a four foot walkway in between, at least to the backyard.

- Yeah. And the people who have given us quotes just tell us that our ideal scope of what we wanna do for building out there, isn't ideal unless we...

- We put another garage next the garage. We'd tear this one up and then if we'd expand, then we'd have to tear that up, and yeah, it's just repeat.

- Could I ask a question, Mr. Chair?

- Yeah. Hold on one second. Let me just get clarity for mine, if that's-

- Okay.

- I just wanna be clear. Forget the expanding of the garage for a second. I'm speaking about the two, which is extending the driveway next, so that you can get that extra spot next to it. You'd have to take out the garden, right? But then you would have a 12 foot spot next to the garage. And then, or, looking at the current concrete and removing X amount of feet, whatever that number, what was it again?

- Approximately 11 feet.

- 11 feet to get it back into code. So what are the reasons why that those alternatives, that get compliance with code, are not options, based on the property?

- Well, I don't know where else we can park if we were to take that off. Like right now we can legally park one car there. We've lived there 17 years. We've never pulled a car in the garage 'cause it's too small. Our cars don't fit in the garage. So for us it's storage of our patio furniture and our grills and all that stuff. So I don't know what our other options are if we can't leave that there for parking. The property is on a corner, and the way our property is fenced, the whole corner as well. So it just, there's nowhere else to go except, yes, except like right there and over, if we want more than one car and it's a three family home. This house was built in

1920 or '21, I think. And at that time maybe they just needed that one car and they didn't drive bigger trucks. But now, our daughters are a little older. We have the need for more space there.

- We know there's, properties have their built-in thing. Like our neighbor, their driveway is right against our property line from the similar situations along our entire lot.

- I understand your questions, but we could of course take it out. We could take out that 11 feet. But then it doesn't serve us at all. It doesn't add anything to our property when it's just like it was, those old trees. That was useless space to us and this is not.

- Okay. Barb, you said you had a question.

- I wanted to ask, is this property significantly different than the other properties in the same neighborhood? Is it a smaller property? Is there something different about this property that would make it necessary for a driveway to be put in there like that?

- Definitely. You can see all of the neighbors around us have longer driveways. You can see the one behind our house. Everyone can park cars, pull in two, three behind each other and just shuffle it around. Our driveway just happens to be just one car length. So I feel that it is different.

- Is that different from other corner lots in the area?

- I guess the lady right across has one, but the people down on Woodlawn have a bigger driveway. The people that are on the corner of Dousman have a parking pad that goes way far over as well. It's like the corner of Dousman and Allard, and they have campers and stuff that they park out there. So that one has extra space, but a short driveway.

- To continue with my question. So that to have the same substantial property rights that are possessed by other properties in the same district and vicinity, you either, you can't have a longer driveway, because the garage is there.

- They could.

- They could.

- Well, I suppose they could if they put the 12 feet over the garden, right? Is that what we're thinking?

- Or they came off the other street.

- But the garage isn't on that side.

- No, but they don't use the garage. So it's a shed.

- You would give us another parking apron off of Hubbard?

- Instead of. I'm just looking at other possibilities for the laying out. If you wanted a longer driveway, like some of the neighbors have, you could have your driveway come off the side street and go deeper into the lot behind your house.

- Can we put the picture back up? The picture disappeared on here.

- We have a deck off the back. It wouldn't give us-

- And we'd have to take our deck off. We'd have to take our trees down.

- Yeah. And I'm not saying that as a recommendation. I'm just looking at other possibilities for parking cars. So that's part of what we're asking petitioners to do in this is, what are the exploration of alternatives that you've got other than not complying with the code?

- Yeah.

- The driveway could go to like the side of the house there. There's a deck on the back that goes to that.

- And it's hard to see here.

- Where the tree is, past the star.

- Just right past the star, yeah.

- Yeah, right there.

- Yeah. Our deck comes all the way to the end of our house and .

- Did anybody have any more questions for the applicants? Obviously, I don't know, Noel, or not Noel, Jon sent out kind of the categories of feedback that we're looking for. I'm not sure if you've seen this?

- Yep.

- Okay. So we're looking for evidence in these five categories. Do we have any more questions for the applicants? Any questions for the city before we start deliberating? Okay. Usually this is the part where, you've said everything you need to say, if there's anything else you want to add, what we'll do is we'll discuss our thoughts and come up with our quote unquote findings and we'll make a ruling. So this is kind of that last step to say, is there anything else you want to say? Or Jon, anything else you wanna add to the discussion before we kind of throw the ball around and see what we come up with here.

- We know this is the city's vote, but the city's the only people we've heard from about it. Everyone else, we have not heard-

- Yeah, we have a lot of compliments on it, and it did, we feel, cleaned up the area. I sure hope that an approval can be made, 'cause we really don't wanna move. We've lived there a long time. Our neighbors are like our family. So we hope that we can have that so that... And even in the future, for a value of the house, moving forward for any future occupants, I think that that's also the best use of that space. I don't think that it deters from the value of the house at all. I don't think it hurts the neighbors. We haven't had anybody. We've got a lot of compliments.

- So let me, on that note, 'cause I'm trying to get some information. Right now it's violating two pieces. Okay? So two and a half yards and it we're basically all agreeing that it would be a parking spot, right? If we approved the past the eight feet thing, then it would be used as a parking spot, right? Which then we would have to be 2.5 feet off. So they're kind of connected.

- Yes.

- So what's, why not at least get rid of one of the variances and take 2.5 feet off?

- So when we redid our driveway the first time, we got approval to widen the driveway. Just two cars wouldn't fit. It wouldn't be a parking spot by the time our one is in there. If you saw how wide it was, like eight feet doesn't do it. You can't really get in there because-

- Well if we decided to say, "Hey, let's go as far as they want, up to 2.5 feet", they would only now, instead we're removing 11 feet, they'd be removing 2.5 feet.

- You would need to have both. Because you're in violation of the eight foot max for a front yard second parking stall.

- Yep.

- So you need to go ahead and have both, it's both, zero or none. Or sorry, it's all or none with this one right here, because you no longer have a legal parking space if you don't go ahead and give the two and a half foot setback-

- Because it's not wide? I'm confused now. It's not wide enough? 'Cause how many feet was added past the garage door?

- About 18 feet.

- So if you took off 2.5 feet, it's still, I guess now it's eight and a half feet.

- Eight of that-

- It's not legal parking stall at that point. A legal parking stall is eight feet. So you've added extra space there to where that's not part of the actual question. The additional part of this as far as 2.5 feet was just noting that if you were to go ahead and grant the eight foot exception, say that's fine, it's adding additional space to have 2.5 feet into the side yard setback as well for this property. So both are in violation right now. So it's not as though by moving it 2.5 feet, you'd still have the issue here with your initial eight foot rule that you have right there then as well.

- Yeah.

- So they are one thing?

- Yeah, they're one thing.

- All right.

- I would clarify that the parking spot needs to meet the legal definition of a parking spot, which is the eight foot width. And therefore because it doesn't meet the legal parking, the 18 feet doesn't matter, really.

- Correct, 'cause at that point, if it's not a legal parking stall, we now go into side yard setbacks. Which would mean that the actual setback is eight feet for that stall right there. If it's a legal parking stall, that makes it 2.5 feet right there. There's a lot of convolution to this right here.

- Yes, I'm confused.

- Me too.

- To me it's... Well, I'm trying to find a compromise, and it's not my job to do that.

- Our garage door, I don't think it's even eight foot. So technically in front of the garage is one spot, is that correct?
- Correct.
- Because there's technically a sidewalk to our entrance.
- Yes.
- Yes.
- So then we have one spot that's eight foot, but maybe not even eight foot from that garage door from our add-on. So theoretically that's not even two parking spots in front of the garage, if I'm understanding all this correctly.
- Right. So what you have right there is you have your entrance point for your sidewalk.
- Correct.
- Then you have a regular parking stall in front of the garage. And you're allowed to have one extra parking stall off that garage itself, eight feet. They're off the parking garage door, eight feet right now. Which is totally doable. That's what is, within the code itself, legal.
- But they've never had that? You've never had eight feet off of the garage?
- I'd have to measure it.
- When you guys added the second step, it was only a couple of feet.
- No, because we still had the trees there.
- Right.
- So no.
- So eight feet would go almost up to the trees probably.
- That's what I think.
- In this image, right?
- Yeah.
- And so you would just remove X amount of concrete to get it to comply.
- Yes, correct.
- And then we're done.
- Okay. I'm not confused anymore. Thank you.
- Yep.

- So just, do I still have the opportunity to talk?
- Yeah, 'cause we'll excuse you and then we'll deliberate, whatever, but yeah, go ahead.
- Okay. So I just would like to say too, just once more that I feel like having it paved is the best use for what's there. If we were to have to take some out, it's just, I don't know, it just is grass there. It'd be nice to, you can't use it for a yard, you can't really do anything with it. As a parking spot it works.
- Yep.
- For us to have a little extra room that's usable over there.
- Okay.
- Last chance for questions? Jon, I have one more for you, and then I'm done.
- I have one.
- Yep, go ahead. Go ahead Barb.
- Thank you. Typically when we meet, things are brought to the city because there's been a complaint made. So is this one of those circumstances where there was a complaint made and that's why this is brought here? Or did the city discover this? 'Cause typically the city doesn't just discover things.
- Right, it was discovered. Oh, go ahead.
- No, well you were just gonna say what I was gonna say.
- Yeah, it was discovered that there was no site plan or permit for this. And so with that in mind, this is where the purposely happened where the site plan was not reviewed and the work was done before that.
- But how did it get discovered?
- I think they were doing like canvassing, around our neighborhood for some kind of... Historical...
- I don't think so.
- I guess he was just-
- Inspections Department-
- Someone was there searching-
- Would apply to this in subject or form, that there was a new site being used.
- Yeah, Barb, they, it's complaints sometimes, but there is a lot of times where Inspections is out doing canvas for certain areas, and they'll see something.
- Okay.
- People do stuff to their properties. I've been doing this, I don't know, how many years now? Not as the chair, but for a while, and there's a large mix of stuff where people have done stuff, and it's been there for four years.

And then someone finally discovers it, 'cause it was done without inspections or whatever. So that does happen too.

- Okay. That's why we expect people to get permits, right? So that they don't get themselves into the situation right in the beginning. So somehow their construction company or they didn't get a permit.

- Right.

- And this occurred. Thanks. That's helpful.

- Okay. All right. Thank you for your testimony.

- Thank you.

- We're gonna deliberate. So we're gonna turn over to the board members. And reminder, guys, again that our, you guys can grab a seat if you'd like. Thank you again.

- Thank you.

- Determining whether to grant a variance, the board must consider five factors. One, it's up on the screen right now, preservation of intent. Two, exceptional circumstances. Three, preservation of property rights. Four, absence of detriment. And five, hardship. And I will remind the board that these are the only elements we should be considering when deliberating right now. If we are making a motion to approve, we need to walk through those. Whoever, Noel, you've been so gracious in the past to be our checklist guy there. But it doesn't have to be you, but let's just start seeing where we're at.

- Can I, I just wanna ask a question of, oh, I guess, or point of order or, when you phrase a motion, are you supposed to phrase it in the positive? Like move to approve and then it could fail? Or do you say, I move to not approve? And then it's like it'd pass? I was always taught you're supposed to phrase it in the positive.

- No, you can motion to deny.

- You can?

- Yes, we've done that. And then you just have to vote the opposite.

- Right. But technically, I'm asking Legal, what-

- Oh, Legal.

- Yeah, what Legal or, technically how are you supposed to phrase your motion? And I've been used to move to approve, and then sometimes the motion fails, it didn't approve.

- Sure. So Tommy got it right on the money. Because this is an application, it's appropriate to have, sorry if I'm shouting, I don't know where the microphone is. I hope you can hear me.

- You're not shouting.

- I feel like I'm shouting. Because it's an actual application that you're being asked, an application for a variance, that you're being asked to either approve or deny, it's appropriate to phrase the motion in either way.

- Got it. Okay. I don't need anymore. Thank you.

- Okay.

- All right. Anybody wanna jump out there first?

- I'll put it out there. My feeling is if the permit process had been followed, that they probably would've been advised to probably do it differently. The property can satisfy either the requirement of having the eight foot on the side for one stall or extending it on the side of the building to the 12 feet with a walkway. So there's other ways of doing it other than what they did. I believe that I would not approve, I would deny this request.

- Thank you, Corey.

- And I tend to agree, I'm kind of working my way backwards here, but it seems to me like the hardship here is largely self-created, where there were a number of other options available. Maybe not as preferable, but there were certainly other reasonable alternatives. So I would join Corey in denying the request.

- And reminder as well, thank you, Josh. But since you're on here, it seems like you've got a grasp right out of the gate. Thank you. For approval we need to kind of have line of sight on all five of our requirements. So if we feel four of the five are met, it's still a denial, we have to see evidence and testimony that can say, Hey, I can check this off, all five of the different options that are listed on the screen. So if you're saying, hey, right outta the gate, hardship, that fails one of the five. And so just reminding everybody it has to be all five. Anybody else have a counterpoint or agreement with what's being discussed?

- I can come up with one, but I can't come up with five.

- Okay. Did you want to go over that Barb? Or you're okay?

- Well, I don't, yeah, I guess, I don't think there's a substantial detriment to adjacent property. And well, that's about, it's about all I can come up with, that it would meet, the rest of them, I don't, I can't see how it would meet more. The preservation of intent or exceptional circumstances, preservation of property rights, or hardship, I can't find a way to do that.

- Yeah. Noel, did you have any thoughts?

- I do have some, I tried to share some of those as they came up. And also, I do think there are some alternative approaches to parking here that Jon had illuminated. Not sure, I don't believe that the petitioners made the case under these five clauses that we've got here. However, I'm also leery of denying and then forcing them to get the saw out and start busting up pavement, without maybe giving them another chance to look at it and see if they can't come up with something that might comply or might be more compliant. That would be something related to perhaps exceptional circumstances, in that this is a fairly small parcel. But that might be a stretch for me, but I'd be willing to kick the can down the road if the petitioners thought they had an alternative that, while it might not get them completely consistent with the code, it might get us closer and we could find our way to see it in the light of these five conditions. But if they just want an up or down vote, I think I gotta be a down.

- Okay. Yeah, I tend to lean where the board's at. I can get there probably on two of the five, maybe three of the five. But I just, I see compliance as an option obviously. I grew up with three brothers, two parents, five cars, and one house, and it was a morning game that we had to play, and it was really frustrating. So I get the use, which is where I can say number three, preservation of property rights and the idea of using a property for a growing family is always heartfelt to me. But I feel like there's alternative solutions that can be done to get it close to a better situation than the current property, well, not the current, but like a way that it can be used to create more parking for the family. But I'm in the same boat. And I know we hate voting no on these, 'cause it impacts people. But I think if we're doing our due diligence right now, and really trying to wrap

ourselves around these five, what I'm hearing is that we're probably gonna deny. So if that's the case and there's no other arguments, we should probably have a motion to vote.

- I'll motion to deny the request for variance.

- I'll second the motion.

- All right, so a motion to deny by Corey, and a second by Josh. Any other deliberation, comments, concerns, thoughts before we finally vote?

- Again, just my comment that I would be willing to approve tabling this to give the petitioner more time to see if they can't work out an alternative solution, to just a simple denial. Because I do understand that if we deny the request, they cannot come in with another request for this related matter for at least a calendar year. Is that correct?

- Is that correct, Jon?

- Yes, yeah.

- They can't come for a variance, but they could file a permit to comply, correct?

- Well, yes, yeah.

- Yeah.

- The compliance, let's entertain Noel's thing. He's brought it up twice. What does that, I wanna better understand what that looks like in terms of, at the end of the day, Noel, I wanna make sure I'm understanding what you're doing, because I love getting people out. But what are you seeing with the current structure that you're like, hey, right, it's still gonna have to meet certain requirements, or are you saying that there's, I guess I don't see with the current setup with the concrete a way out of the concrete being moved or cut to get closer to a solution. So do you see something that you can allude to without giving answers here?

- No, again, my point was that, we expect our petitioners to maybe, in concert with staff, come up with some notions, or at least evaluate alternatives or talk with a contractor or somebody to maybe come up with a way that something could work, and these folks haven't done that other than to hold with what they did without seeking a permit. And we could just say no to their request tonight. Or we could hold off and entertain anything that they might come up with. Because although I do not think they made the case with regard to hardship tonight, there might be an argument that could persuade me that there is a hardship. And I do think that variances would not be inconsistent with the spirit of the regs. The size of the parcel could be a case for an exceptional circumstance, the preservation of property rights. Of course we're doing that with all of these things that we're working on, that there isn't necessarily a detriment to the neighbors by doing this. Although I do like trees. And so maybe there's a path there. It can't be solely based on economic grounds, but maybe there's some argument there. And again, I haven't been persuaded. And so if it's an up or down, I'm a no, as I said. But again, I don't wanna try and convince you all to do something different than you're ready to take action on right now. Just saying, I'm just expressing my willingness to entertain a table as opposed to a no.

- And for the record, I do believe the board is always trying to find ways to come up with alternatives and solutions. We understand the impact it has on people. We understand the impact it has on the city if we decide, let's approve this one, and then 20 show up. So it is a consideration that we have. And I always appreciate, Noel, you're the best I think on the team, of trying to find compromise and solutions, and I always appreciate that. Is there anybody feeling, based on what Noel is saying, that that would change? We already have a motion and a second on the floor to deny. Is that swaying anybody to maybe consider an alternative?

- I guess I'd be open to it, but it sounds to me, and correct me if I'm hearing it wrong, but it sounds to me like the solution is to go through the permit process for that 12 foot side setback back next to the garage, or something along those lines?

- Mm hm.

- And that's certainly-

- What Noel is saying is he just wants time to present a better case. I think if I'm summarizing what you're saying, Noel, is that fair?

- It is something I guess I'm saying, but I'm not seeing any evidence that the petitioner's interested in that.

- Well, they, we technically aren't, they're not allowed to speak anymore. I can make that exception and hear their thoughts on that if you'd like?

- You're on mute.

- Maybe you should just call the question.

- What did he say?

- I don't know.

- He wants you to vote.

- Okay, let's vote. If you are leaning, I'll say this, if you are leaning towards the Noel thing, then obviously a no vote for this motion would then open that conversation back up, which is actually interesting. If we no vote a denial, does that mean it gets approved? No, right? You'd have to then vote in the affirmative.

- Right.

- Okay, so that opens discussion back up, Noel, if we get a no vote here. So that's the fun part of voting. All right, are we ready to vote? Okay, all those in favor of voting to deny the variance request as currently applied for go ahead and signal by saying aye or raising your hand?

- [Board Members] Aye.

- And those opposed?

- Nay.

- No.

- Okay, so three-two. Okay so that means the variance is denied as it's currently done.

- So we have to wait a calendar year and we can come back? Did I understand that correctly?

- Jon, the city can go over all of that as the application is currently set up. And that's the minutiae that I don't know exactly, is it a calendar year for this exact thing?

- I believe it's a calendar year.

- But if they change what they're doing, then it's technically a different thing, correct?
- Substantial enough changes, yes.
- Right.
- Yeah.
- So if you're coming back and you're saying, the idea is, I want to come back and fill out an application to try and get the exact same thing that we already denied, then it's a calendar year. Does that make sense? But if you come back and say, "Hey, here's what we're going to do, and it's still gonna have maybe this variance that's needed, so it's different." That's a different application. Does that make sense?
- That would make it a lot simpler.
- Yeah.
- I would suggest any further conversations and questions be directed at staff outside of the meeting room.
- Yeah.
- Feel free to call tomorrow.
- Okay. All right, let's move on to number two. Appeal 23-02, Luke Papillon of ISG, applicant, and Dan, why do I always mess this up?
- Ditscheit.
- Ditscheit, City of Green Bay Parks Department, Property Owner, request relief to allow for the placement of a new park shelter within the 15 foot front yard setback within the PI Public Institutional District at 128 Dousman Street, which is Leicht Park. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-858, Table 44-15, Front Yard Setback, in District 7. It is the goal of the Board of Appeals to provide and conduct a hearing that is both fair in form and appearance and substance to ensure that hearing satisfies these goals. Each member of the person, not the personnel, it's all good? Board of Appeals, please confirm the following by stating I confirm. One, I do not have interest of conflict in this matter, and two, I have not received any communication from any person or party about this matter. I will start, I cannot confirm that, so I'm gonna opt out. I serve on a committee, have a very clear insight onto this project, and I cannot vote on this one. Anybody else?
- I guess I'll go.
- I confirm.
- I confirm.
- Confirm.
- Is there a vice chair?
- Yep, Noel.
- Noel, as vice chair, you should run this portion of the meeting please.

- Oh, so he just takes over, even right here with the confirms? All right, so I'm out.
- I'm sorry. Yeah, you can finish confirming everybody.
- That's what I was gonna do, and then I was gonna stop.
- I'm sorry.
- I'm just gonna confirm everybody and then opt out. So Noel, you're gonna have to run the discussion. You good with that, buddy? All right, thanks. I cannot confirm. Josh?
- I confirm.
- Confirm, Noel?
- Confirm.
- Corey?
- I can confirm.
- Barb?
- I can confirm.
- Okay. Great. So the Board will hear staff, oh, we'll give them a script, can I read the script at least?
- I'll read the script.
- Okay.
- Just, since you don't have it, Noel. In the future we'll make sure that you get it as well, just in case.
- One legal thing before, I don't know if it makes any difference, Luke is from our office, but I'm Mark Chambers with ISG. So I don't know if he's the one that's, if I can speak on his behalf?
- Oh, okay.
- I just wanna make sure that that's-
- It's part of the case.
- That should be no problem. I guess that's designated for Noel. Okay. So the procedure for this one is going to be the same as the last one. The board will hear from staff, and then the applicant will have the opportunity to present evidence and testimony and the board may choose to hear from the public if there's any interest. Okay, Noel, are you okay if I administer the oath, since you're not here? Okay.
- Certainly.
- All right, so we'll start with staff. Do you swear or affirm that the testimony you're about to give will be the truth?
- I do.

- Fabulous.

- Okay. So Leicht Park. As noted, the issue here is the front yard setback for a Public Institution District. That front yard setback is 15 feet. So even though this is a city project, still gotta go through and meet the code itself. So we have talked back and forth with Planning staff, with Parks, and with DPW over the course of time. So you'll see the parcel right here. Initially in site plans, this building itself was going over the property line into the public right-of-way. That can't happen though. The building has to go ahead and be onto an actual parcel itself. So with that, there were some discussions in the past as far as site plan to go ahead and to actually gain some the right-of-way that is occurring over here on the southern part of the right-of-way by the northern part of the bridge. However, that can't happen either, due to some issues with soils and past agreements that DPW has here. So the property line as is has to stay. Now you'll note the property itself is a bit different than a typical property. It is not parallel to the road itself. There is a bit of a deviation that makes this right-of-way different compared to other right-of-ways of sorts. This right-of-way gets to be about 175 feet wide at the bridge. And if you go west down Dousman, that's typically 80 feet wide. If you compare it to comparable bridges throughout the county, being Walnut and the Main Street bridge in De Pere, those are also about 80 to 100 feet wide for the right-of-ways. This one is a different case. So with that in mind in the site plans, Parks Department came through, oh, this is the street view of the property itself, this past fall. Parks Department came through, and it is a request to go ahead and have a site plan that has a building that is within the 15 foot setback for Public Institutional. And that is a move for the site plan here, over the course of time that moved it still further to the north, just past the property line but not over the property line itself. So this is a view of the park. The park, you might see it as being the whole broad space that's out there, but this is actually private owned and held. This park is owned by the city Parks Department. This is a closeup of the concession stand building, and where Parks would like to go ahead and place it within the setback itself. You'll note there are some issues, or not issues, but there are some different improvements that go past the property line. Those are walkways, they're not subject to the conditions here. This is just the building itself. Additionally, the applicant supplied a number of renderings of what the site would go ahead and look like. You'll note around here is the property line that I was discussing a moment ago. So this is the building that's in question that's up against the property line. And a few more shots here of what the overall developments would go ahead and look like in the future if this were to be allowed for .

- Jon, I don't understand. So the square building, right? This, no, go to the, go back. Go back to where you were. The square building. Another, go back again. One more. Where...

- One more?

- Well, yeah, where does it have to be? Yeah, right there. Right there. Okay. What's the front yard again? By the parking lot spaces. Is that the front yard setback?

- No, the front yard is, I hope you can see my mouse. Yeah, you can.

- Yes.

- The fence, along Dousman, that's your front yard right there.

- So that is not 15 feet from the edge of the building, and that's the problem?

- No, so the issue that comes with Leicht here is the property line is just, is different than you might expect. The property line, up in this area, that's a sizeable gap right there, compared to the actual roadway improvements. There's a triangle or so, that's in front of the property, that's part of the public right-of-way.

- So how far away is it?

- Yeah, what's the distance between the property line and the actual road?
- Right?
- Oh, it varies. Right.
- At the closest point to the building.
- At the closest point of the property line, about one foot or so.
- How about to the road?
- No, no, to the roof.
- Yeah.
- Where the side roof-
- It varies.
- We're probably close-
- That front corner, that's one foot off the property line. It was 1.75 or whatever like that. So yeah, kind of there. What is the actual distance from the road?
- Right about 30 feet or so off the road.
- Okay.
- Yep.
- This is a very unusual shaped property, right? Extraordinarily unusual?
- Yes. Extraordinarily.
- Extraordinarily unusual. Okay.
- So if this was a typical property line, which was right up against the actual roadway, there'd be no issue.
- With where the placement of the building is right now? Yeah, wouldn't have any issue, but this way-
- Okay, so if this was a normal property line, okay.
- And in the case too, even if it were a normal city street, but with this weird property line, I would imagine Parks could say to DPW, "Hey, quitclaim some of that excess right-of-way that you don't need." But in this case, that right-of-way is part of state property, I'm assuming, because it's a state highway there?
- So that's public-
- Or is it US highway there?
- Yeah-

- So who's got control of that?
- Yeah, there's different entities that have it, but it's still public right-of-way. It's not necessarily a parcel, it's not property, it's public right-of-way.
- Right.
- Yeah.
- And you mentioned something with the soils.
- Oh, it's US 141. So you'd probably have to get a whole bunch of different folks involved in order to quitclaim some of that excess right-of-way there. All right. So Jon, do you have anything else to present in terms of setting this up for us?
- The last thing to go ahead and say, so this is a PI property, that's why's in play. You do consider properties, both the west and east, those are downtown properties. Downtown properties don't have a setback on the public right-of-way, which is why they can go and be up against it. This is a PI, so it is different.
- Right. And do we have anybody else from the city that would like to speak on this?
- Yes, I'm Dan Ditscheit. I'm the Parks Director.
- Dan, you'll have to speak technically as the applicant. So I'll just, if there aren't any more questions for staff, I'll do the, we'll turn-
- Oh yeah, sorry. Are there any other questions for staff before we head on to the petitioner? Okay, so we've got a weird parcel. We've got an unnecessarily large right-of-way. And we've got a building that would be an enhancement to this facility there, but it's too close to the lot line. So no other questions for staff right now. Okay. Then let's hear from the petitioner. Dan, go ahead.
- If I could just do the oath for each of you, and what I forgot in the first one, if you could just state your name for the record and then do, I'll ask another question. So whichever of you are going first.
- You can.
- I'm Dan Ditscheit. I'm the Green Bay Parks Recreation Forestry Director.
- Do you swear or affirm that the testimony you're about to give will be the truth?
- I do.
- I'll swear-
- Go ahead, Dan.
- Mark Chambers with ISG Architect.
- And do you swear that the testimony you're about to give will be the truth?
- I do.
- Fabulous, thank you both.

- Okay.

- Yeah, I just wanted to just maybe add a little bit to what Jon stated to give you a little more background information. And Luke is here. He's our Engineering Architectural Consultant, ISG. They're the ones working on the design for us. So he can add on to what I have to say, but I just wanted to clarify that lot line a little bit, the road right-of-way and why it's so extensively large in this location. There was contaminations within the right-of-way that were found when they built that bridge. And so they proactively changed the dimensions of the right-of-way line when they built the bridge to accommodate a storage location for those poor soils. So right now there's contaminated soils within the right-of-way. They're all contained. It's a closed DNR site. But that is why it's so unusually large, which is adding a hardship to our project. So I just wanted to clarify the reasons why that's such a strange shape and as big as it is. So it's not necessarily needs for the right-of-way, it's needed storage space for contaminated soils that were found during construction. So what we're proposing to do is to add this building with basically a zero setback, to be consistent with the adjacent downtown areas. So right now we're zoned as Public Institution, which has the setback, but the adjacent properties are all downtown and those have a zero. So we're proposing to kind of match the setbacks to there. I guess the question becomes, why is this a hardship? And why can't we just push it 15 feet over into the park? A couple of reasons for that. One is there's a financial reason, which is pretty significant. So if you look at the renderings for this, if you go to maybe the next one, where you can see just the building itself. One more. You can see that there's a rooftop seating area. So we're proposing to actually add fill so you can get a handicapped walkway up to that rooftop seating. Now if we were to push it 15 feet over further north, that would significantly add a lot of fill that we would have to bring to the site, which would drastically increase the cost of this proposal. Or we would have to, if we couldn't find the money to do that improvement, we would potentially have to lose that seating on the top of the deck there. The second reason, if you go to the site plan, maybe the previous image, you'll see that, go to the rendering, that's probably a better view. You'll see that what we're proposing on the other end of the site is a formal stage. Right now we don't have a formal stage, and by bringing that building closer to the stage, you're actually reducing a significant capacity of the number of patrons that can attend those concert venues. So you're actually affecting the public's use and enjoyment of that concert space by moving it 15 feet closer. Now you might ask, well why can't you just move the stage further to the north? Because in this view there seems like there's a lot of green space where you could adequately do that. Well, when you look at the actual plan view, if you want to just go there, this one, you'll see a dashed line behind the stage that runs through the entire parcel from east to west. That's a major utility easement. And so we are not allowed to build that building, that stage, within that easement or beyond the easement. So we're really locked into that stage location, that stage location is set, and if we want to go with this configuration, with the building closest to the road so that we can take advantage of people accessing the rooftop from the sidewalk, we can't move that stage any further north than what it's currently shown. So that would be the hardship I guess. Have I forgotten anything to add, Luke? Do you have anything?

- I don't have anything. I don't have anything else, but, yeah, very much to your point, we can't push us any further to the north because of that additional utility easement that actually crosses through this property line. And we need to look at that as well. I don't know if you can zoom in a little bit for the people that are online.

- No, I can see it clearly.

- So that's the new water sewer line. So there's a lift station that's actually within that property easement as well. So we've had constant conversations with them. And then the other thing, just regarding the contaminated soils. So again, we're actually providing probably a betterment by bringing that additional fill in over the top of that and then capping it more, keeping it within the DNR recommendations and the efforts for that component as well.

- Sure. So just to help me understand one of the pieces that you were talking about, Dan, is that curved sidewalk at the southern most extent of this that then turns as a sharp switchback back towards the building? Is that the ramp you were talking about?

- Yes. That will be a fully ADA compliant ramp so that somebody can get from the parking lot direct-
- Up to the roof of that building?
- Access without an elevator.
- And that other angled bit sticking out, looks like some sort of retaining wall, that's helping contain that fill?
- That's correct.
- Okay. All right. Questions for our petitioner? Questions for our petitioner, or have they made such an excellent presentation that you don't have any questions? I have to confess, it's a petition that's come prior to the actual things being poured in concrete on the ground, and they can demonstrate they've explored some alternatives. They've looked at things. They've cleared some stuff up here. I think we might have a petition application here that might meet these tests. Might. I want to hear if anybody out there on the rest of the team thinks that's the case, if we're ready to go to that phase of the deliberation?
- And I would say if there is any questions to any of those, we can answer additional questions you might have to help make our case that we do meet all five.
- That's following.
- Yeah, very, it strikes me that it's consistent with all five of our factors here. It's an unusual parcel in a downtown area. The parcel itself, that goofy right-of-way, sure makes it an unusual circumstance and condition. I think frankly we're checking all of the boxes here. I think that this is necessary to preserve the property rights to allow maximum public access and use of the facility. And certainly it's not a self-imposed hardship by any means. I guess I would move to approve the variance as requested.
- I'd second that.
- We have a motion and a second to approve the variance as requested, based on the findings of preservation of intent, exceptional circumstances, property rights, absence of detriment, and the hardships, particularly as presented with regard to contaminated soils and major utility easements on a very interesting site. Is there any further discussion on the motion?
- Just really quickly, I think Josh did a really great job of articulating the elements. I'm not sure if I heard all five of them, so just correct me if I'm wrong, but I just wanna make sure the record is clear as to all five elements before it's granted.
- Well, I thought I heard all five, but let's go over 'em again. Preservation of right-
- Absence of detriment was the one that I don't know if it was discussed in detail.
- Oh yeah, no, actually-
- I think it enhances the property.
- Yeah, I think it enhances it too. There is no detriment. It makes it also look like the other lots that are downtown or I don't know, it was in the description. I can't think of the exact wording that was said, but it makes it similar to the others.

- Well, let me just clarify for the motion then. Is it one of your findings in making that motion that this variance will not create a substantial detriment to adjacent property, nor will it materially impair or be contrary to the spirit, purpose, and intent of this chapter or the public interest?

- That was absolutely part of my motion.

- Okay.

- Barb, you understood that to be part of the motion too?

- Yes, part of my second, absolutely, part of my second.

- Okay.

- And the reason why that was part of my motion is because it's consistent with that downtown district that the location is, where we have a lot of other zero lot line properties. So it is part of my motion.

- Yeah. All right. So is there any further discussion on the motion as presented, with the clarification that we do have a hit on all of the findings? All right, let me just say before we take that vote, then, that I found the presentation and application package to be exceptionally well prepared. Thank you. All right, all those in favor say aye?

- [Board Members] Aye.

- Opposed? The variance is granted. Thank you.

- Thank you.

- Obviously no next steps. Continue to work with the city as we were saying, to get permits and all that stuff.

- Yes.

- Thank you.

- Thank you. I love it.

- Congrats.

- Okay. All right. So let's move on to number three here. And this would be our last item here. Thank you, Noel, for taking over there. Appeal 23-03, John Jeanquart?

- Jeanquart.

- I've never heard, why don't you just give up, John J. of Brander Engineering, Inc, applicant, John Nundahl of Georgia-Pacific Corporation, property owner, request relief to allow for a driveway entrance to exceed 35 feet at the property line and 45 feet at the curb. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-1773 3. And this is in District 9. So the goal of the Board of Appeals is to conduct a hearing that is both fair in form, appearance, and substance. To ensure that this hearing satisfies these goals, each member of the Board of Appeals shall please confirm the following by stating I confirm. One, I don't have an interest or conflict of interest in this matter, and two, I have not received any communication from any person or party about this matter. I can confirm.

- I confirm.

- I confirm.
- I confirm.
- I confirm.
- To speed that up, can we just say, I cannot confirm, and then assume that everybody's confirming them?
- No.
- You have to say I confirm?
- Yeah.
- Okay. All right.
- However, you could do it all at once.
- Oh, we could? Let's do that moving forward. Well, we'll all just say "I confirm" at the same time, and like a yes or no vote. It sounds good. All right. So same stuff. We're gonna hear from the staff. I kind of prep us, and then we'll hear testimony. We'll ask questions of both city and staff, and then we'll say, okay, thank you, we'll deliberate, and then we'll vote, okay?
- Sounds good.
- Great. Thank you. Let's go ahead and, Jon, first, do you swear or affirm that the testimony you're about to give will be the truth?
- I do.
- Great. Thank you.
- All right. 1919 South Broadway. This is the Georgia Pacific facility. It is a big facility that has a lot of different areas along Broadway itself. The area we're talking about in particular is the left part of the star. It's along Broadway. So the issue at hand is a driveway expansion, so Georgia Pacific can gonna go ahead and make a new security gatehouse down this area. But limits on driveways as far as overall width in the Industrial Zone for three lanes is 35 feet at the right-of-way and 45 feet at, sorry, 35 feet at the, yeah, sorry, at the right-of-way and 45 feet at the curb itself. Where this comes into play is, there can be three lanes with then in the middle of it a three-foot wide rumble strip. This is different because rather than having a rumble strip, it's a security gatehouse that takes place of what's separating the three lanes from one another. And you can see that more clearly on their site plan and the exhibit down there on the bottom left. So what GP is looking to go ahead and do would be an 88 foot wide driveway up at the sidewalk, at the right-of-way, and then 100 foot wide over at the roadway itself. So as far as notice of what could be done for alternative options would be going ahead and making this a smaller area, but you'll always have a gatehouse that is wider than three feet in the middle of the overall drive. And as explored by the application itself, there could be potentially a different driveway down, along Joannes right here, that could go ahead and funnel out some traffic. But with the gatehouse taking the place of the rumble strip, it does make this wider than . Typically speaking, these three foot wide driveways come into play, say your Kwik Trips, places where it might be a decent amount of traffic, where you have one lane coming in and then a left turn lane and a right turn lane. And that does account, then, for truck traffic, but it's not accounting for a security gatehouse. So with that in mind, that would be the variance that the applicant is seeking.

- And the alternative to comply is to get rid of this, the security house, right?
- Mm hm.
- Could then it comply? Or just based on the size of the semis and the traffic coming in, there's really no way to accomplish this without creating two separate driveways? Is that what I'm hearing?
- Right. So if there was no gatehouse here at all, there are times where we do have three lanes that will come in that can accommodate semi truck traffic. But the gatehouse is a different exception compared to what we typically have for a driveway entrance, because that's not part of the code. The code accounts for the three foot rumble strip is why, with the code itself, it's not trying to go ahead and make it wider and wider and wider, but most properties don't have security gatehouses that are put in front of their overall facility.
- Got it. Okay. Corey, you have a question?
- Is the gatehouse itself in compliance?
- Yes.
- Okay.
- Any other questions for staff? Just kind of getting your heads wrapped around the application here.
- I seem to recall, sorry to just jump in.
- No, that's great.
- Okay. I seem to recall that we recently discussed this property, looking more at the north end of it, and this looks like just kind of further development of the planning around that site. Is that correct?
- That's correct, Noel. So if you go back to that, Jon.
- I thought it looked familiar as well.
- Yes. We did it in July last year.
- Yep. Okay. If there's no other questions for staff, we'll turn it over to the applicant. Name and address for the record, address too, right? Usually, typically?
- Sure.
- And then the swearing in, is that okay?
- Okay, that's fine.
- All right. So name and address for the record, and then do you swear and affirm, well go ahead. Your name and address.
- Yeah. John Jeanquart, 2425 Sandy Lane, Green Bay, Wisconsin.
- Thank you. Do you swear or affirm that the testimony you're about to give will be the truth?
- I do.

- Great, thank you.

- Okay.

- All right. Let's hear your presentation, your testimony.

- Thanks, Jon, for a thorough description. But maybe we can go back to that plan, the topographic plan, and I'll answer Noel's question. So this is actually the second part of a two-phase project. So Noel, you are correct. On the north end, we, last summer, we created a long driveway to get the semitrailers off of Broadway Street. And the idea is it's one way in and one way out, particularly for the, what we call the over-the-road semitrailers. The over the road are the sleeper trailers with the sleeper cabs and they're real, quite a bit longer than the shuttle trailers or trucks. So what we're trying to show in this picture is the red trucks are actually the over-the-road, the ones with the sleeper cabs behind with the trucks. They go in and take the long driveway in. They check in, drop off their trailers, and then they come out past the security on the right side of the gatehouse, or the south side of the gatehouse. There's four other blue trucks that go around the Georgia Pacific property, and those are what we call jockey drivers or shuttle drivers. And what they do is they jockey trailers in and out 140 times a day. So Georgia Pacific is a unique piece of property, probably the most unique piece in Green Bay, right? It's over 100 years old. It's in the General Industry district. It's on both sides of Broadway Street. It has an overhead conveyor that comes over the top of Broadway Street. And in this case, Joannes Street, I think is the property line between Broadway, or between Green Bay, City of Green Bay and Ashwaubenon. So right to the south we investigated to see, could we do something different and maybe take some of the, can you go back to that one plan again, Jon? Could we go back and make a driveway on Joannes Street as kind of a out and still have the security gate there, but maybe let the shuttle drivers go on to Joannes. And that became really difficult because Super Value's to the south of that as well. And they use Joannes as their personal parking lot for semitrailers. That's their main entrance in and out of their plant. So that would become way too much of a semitruck and semitrailer traffic. And because it's between Green Bay and Ashwaubenon, I'm not sure who has jurisdiction in there, right? So, that being said, the whole goal of this is to make the logistics and the traffic on Broadway Street between Joannes and Lombardi more fluid and the driveway opening is increased to the size so that when the truck and trailers come out, they don't have to use the entire width of Broadway to turn. You can see, we show you the turning radiuses of the trucks coming in and out. And the goal here is, is to keep traffic moving on Broadway and Broadway's also a bike lane, right? So we don't want those semitrailers using that whole road to turn in and out. I go down, we do a lot of work at George Pacific. I'm on Broadway all the time. And as that driveway currently sits now, if we can go back to that one photograph we got, Jon, let's see, yeah, right there, those trucks are using that whole width coming out of there. As you know, Georgia Pacific has a large expansion going on on the north end of the property, and truck traffic's gonna increase on Broadway Street by quite a bit. So I think if ever there was a chance for a hardship condition and uniqueness of the property, this property is truly it. So I guess I'm open for questions. I'm hope I answered everything. And the whole goal of it is for safety in mind of the public. I guess one more thing to add, Jon, if you go back to that overall layout, that what we talked about in July, we actually did some auto parking lot as well as part of this for the employees. And the employees will exit right onto Lombardi Street, kind of at the top, Jon.

- Move on from-

- Oh, no, to the right, the top right. So right in there. So that parking lot there, all the employee traffic will exit onto Lombardi, and then they'll all head left onto Ashland, so they'll avoid Broadway as well. So there was quite a bit of thought that was done by quite a few engineers to try and get this right and to make it as safe for the public, including Georgia Pacific employees, as well as logistically being really efficient with the semitrailer traffic.

- I don't know if this is, I just feel compelled to ask. So like what I feel like is happening is the security gate itself is creating part of the problem. So what I haven't heard is, yet, at least for me, the need for a security gate.

- The need for the security gate?
- Yeah.
- Right.
- So versus a berm, like you were talking about. So they're wanting to have some check-in checkout person, staff there?
- So that gate's gonna be manned 24 hours a day every day of the week.
- I just was missing that part for me.
- Yeah.
- It was assumed in my head, but I just wanted to hear the why.
- Yeah. And they'll actually be monitoring the trucks in and out. There's no security gate where the trucks file in on that long driveway. And they'll be checking out on the way out with their product and their load. So that'll be-
- Right, so that's-
- Their binder.
- So that's, the basis for the need is they want to have better security of what's coming in and out of their facility. They want to have people checking in, checking out. That currently doesn't exist. And if we went to something that was smaller, you wouldn't be able to have that security gate there?
- Correct. Yep. And then there's a trucker, so if you want to hear the long story short, so there's also a restroom in there for the truckers, for the over-the-road guys, so they have somewhere to relieve themselves. Otherwise they were having a hard time with some of the truckers on Potts Avenue, where they would, they got the bottles they use and they'd throw 'em all over the street. So this way the truckers have a spot to relieve themselves and then of course the security guard has to have a bathroom, and it's a pretty condensed security area, but yet it's an efficient one.
- Yeah. I just wanted to make sure that was in there.
- Yeah.
- I felt like I was making that assumption, but I wanted to make sure that it's spoken.
- No, you're 100% correct. So the other thing is there's a easement, and we talked about utility easement on another one, but there's a sanitary and sewer easement that doesn't show up on here, and it goes right to the east through that gatehouse, where that is. And I think that's 35 feet wide, but...
- What is this zoned, Jon?
- I presume General Industrial. What we are going for right here, zoning is not an issue. It's just a general driveway restraint for uses with, industrial uses for trucks.

- The reason why I ask is Green Bay has, so sometimes we see this, and so like we talked Lambeau, Georgia Pacific, I know Green Bay Packaging, there are these large, large, there's probably 10 that I just didn't name, but like whatever, I know I've seen these here. And you're at the point with some of these properties where it's almost like they need their own kind of idea. Does at some point that kick in with these properties, where it's like, okay, they don't fit within this general idea and they can work to come up with their own code, if you will.

- Well, yeah, and I, Mr. Chairman, I think that would be the case if this was being developed anew. We've got Planned Unit Districts and things like that, that are tools that the city has in their toolbox. But when something's evolving over time, I think that's, yeah, you kinda hit these needs for variances.

- Okay.

- Just to elaborate on it. It's land specific, as far as what individual parcels have for individual needs.

- Yeah.

- And as noted in the first part of this, we are applying this to the 35 and 45 foot rule for a three-lane entryway that accounts for a rumble strip, not for-

- The security gatehouse right here.

- Yeah.

- Okay.

- Okay, any questions for the applicant or the staff?

- No.

- Okay. Thank you for the testimony. If there's anything else we need, we'll ask again, but I think we'll deliberate for a bit, if that's okay.

- Yeah, yeah. I'm here to answer any questions you might ask.

- Yeah. Well, thank you for your testimony and the presentation. And let's go through this.

- I'll just say, once upon a time almost getting hit at that entrance, I like this.

- Let's try something, because what I want to get to with this group is that in our motion, we're not trying to fit in all five things, but the motion is that we've covered, the point is we've covered those things and we feel that we've discussed and deliberated those five things, and then we feel compelled to vote yay or nay, right? Towards an approval or denial. So instead of just one person trying to figure out a way to like package all that into a motion, I don't think the motion should include that there. The discussion needs, the record needs to have that, that, hey, I think we've covered this. Let's call for a vote.

- Sure. So when you make the motion, ultimately, you'll need to either, if you don't articulate it there, you'll need to say for the reasons discussed, whatever. They, ultimately, what we're ultimately moving toward is some sort of more formal findings of fact, conclusions of law, that articulates all of that in it. You don't have that yet. So the way that we're making sure that criteria gets met is by doing it on the record at the meeting.

- Yeah. But not in the motion, right? Like that's where we get hung up. The person who's making the motion to approve is like, I'm trying to approve all five of these things and get through. If we discuss, if I say, okay, cool, guys, let's go through preservation of intent. We discuss, we feel good about that.

- Let's do that.
- That sounds good.
- That sounds good.
- Just make sure that the motion itself that.
- Includes the discussion.
- Right, yes.
- Yeah, yeah, of course. We just don't have to list it in motion like we were trying to do earlier. Fair? Good. All right. So preservation and intent. The variance would not be inconsistent with the spirit, purpose, and intent of the regulations of the district in which it's requested.
- Yeah, they're shipping stuff, you've gotta manage the trucks, and with that many going in and out, you gotta be on top of those logistics, and the security and fleet management and all that stuff seems like that's what you need to be able to do if you're gonna be operating a business like that.
- And to go a step further, I think it's also consistent to try to improve public safety on the road access area too.
- Yeah. Except that would be under number four in my mind.
- Okay. Anybody have any counterpoints or disagreements with those findings or discussion points with that idea? That first step, preservation of intent? Okay. B, exceptional circumstances. Exceptional, extraordinary, unusual circumstances or conditions apply to the lot or the intended use that do not apply generally to the other properties or uses in the same district. And the variance is not of so general or recurrent a nature to suggest this chapter should be changed.
- Well, I have a, if I may, Mr. Chairman, I do have a little bit of a thought that we are looking at something that is of a nature that's recurrent to suggest that zoning ordinance ought to be changed in this. We have had several times over the last few years discussions about industrial areas and semitruck access and the width of driveways, and there not being, them necessarily not being sufficient. It seems like code could be modified to take into consideration gatehouses or other things like that, not just a single rumble strip in between a couple of lanes of traffic. Not necessarily something that's gonna come up every day, but we do have a lot of industrial property in the city and a lot of trucks moving around town and that might be something we wanna do. That being said, I do think the petitioner made their case that this is a unique property in the city. And although we're looking at a piece of it that's fairly rectangular and somewhat conventional, there's a lot of stuff that goes on there that doesn't happen everywhere in town. We need to take that into consideration as we're looking at this.
- I would even think the street that it's coming off of, Broadway itself, right, has some limitations for trucks coming and goings. So I think some of that is in consideration as well, that the street it lives on is narrow enough that they need a wider berth to get larger trucks in and out.
- Yeah, I would agree.
- I'd also mention, too, since you mentioned being against the property between Ashwaubenon and Green Bay on the Joannes, with regard to the adjacent property owner, where they would not be able to do a second

driveway out or would create additional problems. So that attributes to exceptional circumstances of the way they had to go about designing this.

- Agreed.

- Any counter arguments or discussion or deliberation against exceptional circumstances?

- No.

- Okay. C, preservation of property rights. The variance is necessary for the preservation and enjoyment of the same substantial property rights which are possessed by other properties in the same district or vicinity.

- I'm not sure about the ones that have the gatehouse situation, but, it's suiting, as Noel mentioned before, their business needs. So I think it's in line with preservation, what they need to do for their business.

- And it's in line with being able to get the trucks in and out in a safe manner, in and out of the property. So that would be, other places have to get the vehicles onto the property. So I think it, for me, it preserves that property right.

- Agreed.

- Any other comments, discussion there? I would argue that any business that is doing trucking in that area would be granted, I would think, or is currently using some sort of rights or something to try and get trucks on and off that property in an efficient way. So I don't see it as something that's exceptional outside of what's potentially happening, especially in an area that is so industrial.

- Mm hm. = D, absence of detriment. The variance will not create substantial detriment to the adjacent property and will not materially impair or be contrary to the spirit, purpose, and intent of this chapter or the public interest.

- Well, to the extent that I jumped the gun a bit, I think that that has been satisfied here. We're taking these big trucks off of Broadway as quickly as possible, getting them into the facility. As far as detriment to adjacent property, well we've got Ashwaubenon here, we don't exactly know what's happening there, but we're talking about the border, the border property in Green Bay. We know that the area there on Joannes isn't accessible, isn't feasible here. So I think that that probably is satisfied.

- Yeah, I would agree. I think that not only the safety issues, but the litter issue that was raised, in terms of having the restroom at the guardhouse and some other things, I think are all in line with the advancing of the public interest. And certainly I think these improvements to the property, especially with such a large industrial property, where there's massive investment going on in our community, that other enhancements to that overall site that make it more efficient, appealing, and useful, not only for the business operators, but for the community that has to move around, in among the site itself, that there is no detriment, and in fact a significant improvement to the public interest.

- Well stated by both. Thank you. I'll move on. E, hardship. Alleged difficulty in complying with the Municipal Code is not self-imposed, nor is it based solely on economic grounds.

- Yeah, this one is always the tricky one, I think. Looking at this and thinking, well, could they do other things where they move the gatehouse farther back on the property, and you've gotta drive in aways before you get to it or you've gotta stop at something and check out before you get to the driveway. And other things like that, I think are all elements that we could consider or explore. But I think that control points need to be at the point of control where you go from, say, the public right-of-way to the private property. And they can't do that and still comply with the code in this case. And I think we've already argued in the previous points that a

business like this needs to be able to do this sort of thing with regard to security. So therefore they have hardship if they want to comply with the code.

- And to take that a step further, I would encourage that, I don't think we heard anything about the economic burden this entire presentation. So it doesn't seem like it's based on economic grounds much.

- Okay.

- I agree.

- Any other discussion for counterpoints? "Hey, I don't agree with this or I don't think it satisfies this area", that we can consider?

- No. And based on that, I'd like to make a motion to approve.

- I concur.

- Just make sure I clear.

- Based on the fact that all those, we've met all those findings.

- Yes, a motion to approve, because I think during our discussion we've met all of those findings.

- Perfect. There we go. Based on the discussion, the motion is to approve. Very good. Okay, do I have a second?

- Second.

- That was by Noel?

- Yep.

- Thanks, Noel. All right. So we have a motion on the floor to approve the variance as requested. Any other discussion before we vote or any comments, concerns, conditions? Okay, all those in favor of approving the variance say aye?

- [Board Members] Aye.

- Opposed? None. Okay, so the variance approves five-zero. So you're good to go. So continue to work with the city on the plans and all of that good stuff. It sounds like you're already doing that, which is great, Jon can be a great point of contact for that. And we appreciate your time coming in and doing your presentation and being last. It's always fun to be last.

- That's alright.

- Hopefully you got done in time for some dinner.

- Yeah, I'll be fine. Thank you.

- Okay.

- Much appreciate it.

- Yep, thank you. Have a great night.

- You too.

- We don't have to close the floor tonight because we never opened it for other discussion. So look, we improved there. Noel, I see your hand. Go ahead sir.

- Yeah, just wanted to say, I think both of these last two applications and presentations were very good at illuminating the stuff that we need to be concerned about in our deliberations. And I wonder if, is it because those are large institutions with hired consultants and other things, and it's just really tough for the individual homeowner or the smaller operation? Or maybe, we need to do something ultimately that showcases some of the better prepared applications we got or generic versions thereof and share them with folks who are seeking to petition us so that they can have an example of what a really good one looks like, and what they ought to think about as they're putting these together. Just instead of like, "Well I want more room or I want another place to park a car." And that's the extent of their argument.

- Well, I think the other complication is, these folks, the last two folks were asking for permission rather than forgiveness.

- That actually, that was gonna be my question to Jon with regard to that one. When they discovered that, how does that process begin with them with regard to, do we take them through like, "Well if you had done this appropriately, basically as a blank slate, how would you have approached this?" Or was there a different way that could set them up better for success versus failure?

- Right. So when it was discovered by the inspectors of this issue, orders were put out to go ahead and make that driveway compliant. With that, we gave the option as far as saying, what could comply? That would be your driveway, the parking spot north of said garage. If they would've come to us in the first place, it would've been, this is how things could go ahead and work within the code. Or if they felt there was an necessary hardship to go ahead and make what was done right there, they'd come in and apply for a variance at that point.

- Yeah. But I'm just saying that like, is there a way to approach them with that? Like okay, how would you have, if you knew these were the rules, how would you have approached this? Something to that effect.

- That's the sort of thing I'm getting at, Corey. Thank you.

- Yeah.

- Yeah. Could we, I don't know, I'm not familiar right off the top of my head with the way that question's written on the form, for example, but that sort of question I think is the sort of thing we need to be asking folks. It's like what other ways do you think this could be done that might be, you know?

- At Josh's point, they're asking for forgiveness for something they've already done. But let's, I guess how do we give them the tools? Say, well again, how would you have done it if you knew these were what the rules are?

- Right. And so the form that they use right there was one of our older forms, 'cause they actually applied for this back in December. We put it off one month because there was only one on last month, and theirs, they had right there, until this month. I'd suggest this is more of a, when talking to staff at the site plan level, which has been more of a priority here in the past few months, is exploring those different options. Which is why in the updated packet, which will come out here for next month, there is no more state your alternatives, because it's, we're discussing some alternatives with them at the point of application to say, these are what you

could go ahead and do. Let's avoid the variance to begin with. Not when the situation a bit different because of the actions being taken before.

- Yeah.

- Sort of.

- Well, Jon, would that mean then you'd be coming back in the future and saying, well we discussed with the petitioner these couple of different alternatives, but we couldn't come to an agreement and so they're here today asking for a variance along these lines?

- That is, I can speak, 'cause me and Jon have had some lengthy discussion about this. But everybody's talking about, I think everything we've been trying to solve for two years, is what we don't want. Noel, you're probably the second longest on here now. We've seen so many that are similar to this first one, which is something either happened or they're coming in and saying, "Hey we would like to do this", and it's very heartfelt and it feels really bad, 'cause you're saying no. It's already been, the concrete's already been poured. And so trying to get that, to not get to this place, where it's like, "Well, you can try your hand at a variance." And that's what the first one felt like, it was, "Well, you can try your hand." And I think Jon and the team are really trying to work hard on the application piece. Like removing the alternates. If you actually read their application, it doesn't even really answer the questions. the three questions that we used to have, the three step, which then turned into five, right? So the case was out of the gate, or I love what you're saying, Noel, in terms of what can we do that's proactive, in terms of "Here's what a great presentation would look like." Shoot a promo video with really good actors. I don't know what it is. But something people prepared, because I think, I think what you're talking about, Noel, is you have these large companies that understand this process. That ISG, the city, Brander, they come in and they know, and then you have everyday people, they don't know how to go to the city and get a permit. They don't know that that's probably the first step they should do. They talk to a contractor, they sell them on a process that's probably poor, they end up in a bad spot, then they get cited, and it's just negative, negative, negative, negative.

- Yeah.

- And then it ends with us, and you didn't see, but they left a bit dejected. I think that's a fair statement to say. And I just think everything we're trying to talk to, and what you're speaking to, is get that proactive approach out there. Talk to them before they come here to try and suss out every one of those alternatives, and us be the last resort.

- Right.

- And I think for a new applicant who hasn't done their project from, even what Jon had presented at the beginning there.

- Oh sorry, one second.

- I think this is a really worthwhile discussion that the board is absolutely welcome to have as a whole. It's not been noticed on the agenda. So I would suggest that if you want to continue having this discussion, that we put it on the agenda for the next meeting.

- Well it's discussion on procedural items related to the Zoning Board of Appeals.

- It isn't?

- It's not on the agenda as that, right?

- No, that is, yeah, it's there. We always do this.

- Yeah, we do. Procedural.

- If it's a generic item that appears on the agenda, that's, we can talk about that later, but that's, in general, if we're going to talk about the specific process that we wanna engage in or you want applicants to engage in, these are specific conversations that should be noticed formally, and not just with a generic reference to procedural discussions.

- Okay.

- I suppose that's fair. So I won't make my recommendation that all city vehicles have a bumper sticker that says, "Get a permit before you pour". So I don't have to wait until the next time we talk about this.

- Yeah, I'll circle back about that. 'Cause I feel like that that's gonna hamstring us a bit. So we'll touch base about that after the meeting. Other than that, when do we plan on having the application that you were talking about?

- Next month you're gonna see folks with that, using that application.

- Okay, they're using it. Are we gonna see it first, or is that something we need to be involved in?

- We discussed back over October, November it was-

- Yeah, we saw-

- In the past when they made changes we had to like approve it first. Is that not the case?

- So we made a formatting change here and some changes back in January.

- Yep.

- And I don't think for this one, we went over what it was back in October. It's essentially the way that we had it at that point.

- Yeah.

- We're just formally going through it because we were receiving applications for months November and December, already using the application that we had. But now it's pushing through it.

- No, it's great. I just, last time we did a change we had to go through this formal process of approving it, reviewing it, looking at it. So if we're not doing that-

- It was presented-

- I don't know that that's necessary.

- The changes.

- Was it?

- Yeah, we just, and so we just made some slight changes to go ahead for-

- I don't know if it was a formal approval process, but the changes were-

- Were noted, yeah.

- Yeah.

- Okay.

- We talked about it. I remember where it was specific to that.

- So it's in play?

- It's in play.

- Great. We'll start to see that come through for next month.

- Yeah, love it.

- Yeah.

- Yeah, I think in general, we're making we're determining whether or not there's a sufficient rationale for making or denying an appeal. And the city staff should do everything they can to make that job easier for us. And if that means updating forms or other other things like that. Yeah, I appreciate the heads up, but I think that's something that we should trust that they're gonna do to make our lives easier too.

- Yep. And I think it's started. Again, Noel, you've been here longer than I, but we should, eight, nine on a given night, and we didn't have a meeting last week and we're here and we're down to three. Now that could just be timing in the city. But I also think, Jon, the team has done a great job and they need to be commended, that they are trying to be a much more proactive and not just say, "Well, here's your variance. Okay. I fill out an application, here you go. We'll see you next month." And I'm not saying that's what was happening prior. I'm just saying it seems like there's an effort maybe happening, to be clear on that.

- Pretty certain, Tom.

- All right. Anything else?

- Just one question from the new guy here, as far as other, the prior meeting minutes, are those something that's part of this packet? Or are those to be found in BoardDocs?

- It should be part of the packet. When you get it, you should get the agenda. You should get the previous minutes for the notes.

- I didn't see the minutes in there. Maybe I missed that.

- We don't typically put the minutes in.

- How are they approving the minutes if they don't see them?

- We do, they're on the website. You got to just look back to the last meeting, and they are gonna be on the website.

- The chief of the board, I always thought the minutes were included. Okay. So do you have the CivicClerk login?

- Yep.
- Okay.
- I can can find it in there. I just wanted to make sure where to find them.
- Okay.
- Still learning that program.
- Yep. All right. Anything else? Corey, thanks for-
- Motion to adjourn.
- I appreciate it. Yep. Thank you. You got a motion to adjourn. Thank you, Barb.
- Second.
- Thank you, Corey. All those in favor?
- [Board Members] Aye.
- All those opposed nay? Great. We'll see you on the 20th.