



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, MARCH 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, Corey Bogenschutz

Present: Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz

Excused: Tommy Everman, Joshua Koch

Alternate Corey Bogenschutz became a voting member.

C. APPROVAL OF THE AGENDA.

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

Moved by Barbara Dorff, seconded by Steven Schuchart to approve the agenda. Motion Passed.

Yes- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain- None.

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the February 20, 2023, meeting of the Zoning & Planning Board of Appeals.

Moved by Barbara Dorff, seconded by Corey Bogenschutz to approve the minutes. Motion Passed.

Yes- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain- None.

E. REGULAR BUSINESS.

1. (Appeal 23-04) Joua Moua, property owner and applicant, requests relief to allow for the creation of a parking stall within the sideyard setback at 1696 Deckner Avenue. They are requesting a setback fewer than 2.5 ft. from the side yard setback. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-1747(b)(3)c. (Ald. C. Stevens, District 5)

Vice Chair Noel Halvorsen affirmed and swore in the Board members. Staff and the applicants.

Speaker(s)

Jon LeRoy

Joua Moua

Lindsay Mather

Moved by Corey Bogenschutz , seconded by Steven Schuchart to hold over the variance request until the next scheduled meeting. Motion Passed.

Yes- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain-None.

2. (Appeal 23-05) Joshua Depouw, applicant on behalf of Green Bay Area Public School District, property owner, requests relief to allow impervious surface coverage exceeding that permitted in the most restrictive abutting district and minimum requirements for interior parking lot landscaping for planting areas, landscape islands, and landscape medians at 2222 Deckner Avenue in a PI District. The applicant seeks to deviate from Green Bay Municipal Code Section 44-856, 44-1965 (1-2). (Ald. C. Stevens, District 5)

Vice Chair Noel Halvorsen affirmed and swore in the Board members. Staff and the applicants.

Speakers:

Jon LeRoy

Joshua Depouw

Alyssa Campbell

Moved by Corey Bogenschutz, seconded by Barbara Dorff to grant the variance to allow impervious surface coverage exceeding that permitted in the most restrictive abutting district and minimum requirements for interior parking lot landscaping for planting areas, landscape islands, and landscape medians at 2222 Deckner Avenue in a PI District. 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- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain-None.

3. (Appeal 23-06) John Hansen, property owner and applicant, requests relief to allow a deck within the front yard setback in R1 Low-Density Residential Zoning District at 951 Waverly Place. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-554. Lot dimension and building bulk requirements, Table 44-2 Note C. Front Yard Setback. (Ald. B. Johnson, District 9)

Vice Chair Noel Halvorsen affirmed and swore in the Board members. Staff and the applicants.

Speakers:

Jon LeRoy
John Hansen

Moved by Barbara Dorff, seconded by Steven Schuchart to grant the variance to allow a deck within the front yard setback in R1 Low-Density Residential Zoning District at 951 Waverly Place. The applicant 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 (3-1).

Yes- Noel Halvorsen, Steven Schuchart, Barbara Dorff, No- Corey Bogenschutz, Abstain- None.

4. (Appeal 23-07) Josh Depouw of GBAPS, applicant on behalf of Green Bay Area Public School District, property owner, requests relief to allow improvements to stadium facilities within both front and side yard setbacks at parcels 21-2678-D-9 and 21-2285 at Danz Avenue (Preble HS Stadium) in a PI district. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-856, Table 44-15 Building setbacks-minimum 10 foot side yard setback. (Ald. C. Stevens, District 5)

Vice Chair Noel Halvorsen affirmed and swore in the Board members. Staff and the applicants.

Speakers:

Jon LeRoy
Josh Depouw
Mike H.

Moved by Steven Schuchart, seconded by Corey Bogenschutz to grant the variance to allow improvements to stadium facilities within both front and side yard setbacks at parcels 21-2678-D-9 and 21-2285 at Danz Avenue (Preble HS Stadium) in a PI district. 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- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain- None.

F. INFORMATIONAL.

I. Date of the next meeting: April 17, 2023.

Noel Halvorsen stated he will not be attending the April 17, 2023 meeting.

G. ADJOURNMENT.

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

Yes- Noel Halvorsen, Steven Schuchart, Barbara Dorff, Corey Bogenschutz , No- None, Abstain- None.

VERBATIM MINUTES

- I am the vice chair serving to chair this meeting today because Tommy is not available, and I call this meeting of the Zoning Board of Appeals to order. In terms of members present, I think both Tommy and Josh are not here today, is that correct, but everybody else is?

- Correct, they're excused.
- I see Barb and Steve and Cory, so believe we've got a quorum. We can proceed with business, is that correct?
- [Lindsay] Correct.
- Does anybody need to abstain from voting on any of the items we're going to have before us today? No? Okay.
- No, sir.
- Has anybody visited any of these properties? I'll just note that it seems like it's almost the all Deckner agenda today. And so as a resident of Deckner Avenue, I am driving past Preble High School as well as the house further down the street that's on one of our items on a regular basis, so certainly aware of the properties, but did not specifically visit them.
- I will have to tell you that in back in 1998, I was an associate principal and I was the person who oversaw parking, had to open that parking lot for the first time, and I had to do the entire traffic pattern so cars didn't turn into each other, so I'm very familiar. I have a special relationship with the Preble parking lot.
- And I used to live on the corner of Newberry and Lau Street a block from Preble for 17 years, so I think we're all pretty familiar with the area.
- All pretty familiar with that. All right.
- Noel?
- Did anybody speak-
- [Lindsay] It's Lindsay. I just wanna remind you, you will need to ask about conflicts on each of the individual agenda items that's on the script that John sent you earlier this afternoon.
- Sure, okay. So we should probably scrap this then on the first slide here.
- Move to approve the agenda. Is that what you...?
- Sure. That's next up. Barb made a motion to approve the agenda. Is there a second to approve the agenda?
- Second.
- By Steven. Any discussion? Hearing none, all in favor say, "Aye."
- [Board Members] Aye.
- Opposed? Motion carries. Now regarding the minutes of the last meeting.

- Move to approve.

- Is there a second?

- Second.

- Motion by Barb, second by Cory. Any further discussion? Hearing none, all in favor say, "Aye."

- [Board Members] Aye.

- Opposed? Motion carried. All right. Now a regular order of business here, a regular business. We've got this first item here, and let me get my script open. So the Zoning and Planning Board of Appeals hears an acts on appeals for variances from city zoning requirements. The members of this board are appointed, and the board acts as a quasi judicial body during these appeals, which means that appeals are presented like a case is presented in court, and the board acts as the judge and determines whether to grant the appeal by majority vote. For each item we will hear from the appellant and staff as well as any additional witnesses where appropriate. If you are the appellant, meaning if you're the person who's making the appeal for an item on tonight's agenda, please come take a seat at the table when your item is called, or, you know, if you're on camera, I suppose just sit up straight. So for this agenda item, and I gotta hop back and forth between screens here. Number one, Appeal 23-04, Joua Moua, my apologies if I did not pronounce that correctly, property owner and applicant, requests relief to allow for the creation of a parking stall within the side yard setback at 1696 Deckner Avenue. They are requesting a setback fewer than 2.5 feet from the side yard setback. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-1747 c, and Alderman Stevens is the presiding alder for this district, District 5. And let me just also say, it is the goal of the Board of Appeals to provide and conduct a hearing that is fair in form, appearance, and substance. To ensure that this hearing satisfies these goals, each member of the Board of Appeals, please confirm for this appeal by stating, "I confirm," and I will ask you all and you can say it at the same time. I think I do not have a conflict of interest in this matter.

- I confirm.

- I confirm.

- I confirm, but I do have a quick question.

- Yes, sir.

- Since we're at, if I am voting on these items, as an alternate, should I refrain from voting, given that it's three?

- No.

- You mean? Sorry.

- [Lindsay] You can vote, because anytime there's any vacancy less than five you can vote.

- Okay.
- All right.
- Yeah, I can confirm.
- Great. Thanks, Cory. And then I have not received any communication from any person or party about this matter.
- I confirm.
- I confirm.
- I confirm.
- I also confirm both of those items. All right, let me scroll down here a little bit. So we're gonna hear from staff first. I'm assuming that it will be John. John, do you swear or affirm that the testimony you are about to give will be the truth?
- I affirm.
- Great. Take it away, John.
- Okay.
- Can we have them come up?
- Sure.
- Who has to come up? They can see them where you're standing.
- Thanks.
- Okay.
- So the property that you're looking at here is over on Deckner. This is a 2020 aerial. So you are not seeing a house on this aerial, but there is a house, both in this property and off to the west at this point. You can see the overall Deckner landscape right there next to the woods. We have been working as a city here with the Mouas, trying to find a way to their site plans to make this work without any sort of variance, however, we could not get to that point for trying to expand their driveway over on the properties. What you're seeing right now is an image from back in February or so of the property. It is a single stall garage on a 60-foot-wide box with a single driveway that leads to the single stall. As you can see, it can go ahead and park three cars pretty easily in the stack method outside of the garage itself. You'll note a fence along the property line, off to the, on the western part of the property. We're looking south right here. As far as trying to find legal parking stalls, in the code itself, you can have a parking stall off the side of the garage itself, but it must meet a standard of being 8-foot wide and 16-feet deep. The garage edge and the property line being the fence itself is just over eight feet, so a legal parking stall could go there with the exception of the

following. Those stalls then must maintain a 2.5-foot minimum of where the concrete is at and the property line. This property cannot go ahead and have that, and this is where the request for a variance comes into play. The following is a site plan that the family has submitted here. You'll note in the dash lines eight-feet wide towards the fence, which will go right up to the fence itself, and 16-feet wide. They're looking to go ahead and avoid the 2.5 feet there at the garage. So what they go ahead and look to do here is to make a parking stall just to the west of the garage, then have a triangle taper to create a 17.5-foot wide driveway. If you have a 2.5-foot distance between the property line and the driveway, that 17.5 feet then allows for a legal driveway stall to access a legal parking stall, if the 2.5-foot distance is granted right there. Finally, down at the end of the property down by the roadway itself, there would need to be another triangle taper to match what's existing on the driveway if this site plan were to be granted the variance. So there could have been a number of different variances that were put forward. This is the one with the least amount, but it is still a variance. The code does require the 2.5 feet there on a parcel that is 60 feet or more in width. I want to note we have received some communications from neighbors on this property. We received one from Robert Fuller at 1716 Deckner, and I want to note he was initially under the impression that this was his neighbor, but still probably appropriate to go ahead and put these words into play. "My wife and I own the vacant property Parcel 21-2298 adjacent to the east, and wish not to see any variance granted for the creation of an additional parking stall. This would only allow more encroachment crowding to our property line. The space already between the edge of their driveway and our property line is too narrow, and does not compare with the home to our east side yard setback. We also believe that this would devalue our property's value should we decide to build or sell. Regards, Robert Fuller" So he is not actually adjacent to this property, but he is two houses down, and he still believes that the overall sentiment, as far as wishing that a appeal would not be granted to allow for a stall to be that close to the property line. That's what I got.

- And is the petitioner here?

- Yes. If you guys wanna go ahead and speak, as far as stating why you feel you need to have variance, this is your time where you can go ahead and speak.

- And we should have them swear or affirm that the testimony they're about to give is the truth.

- Yeah, that's true. I cannot speak in very well because tonight, my son, he is in school, so...

- Okay.

- Yeah.

- Do you speak English particularly well?

- No.

- Okay. All right. So we can try-

- [Lindsay] My recommendation to the board would be to hold this. If there's a language barrier issue, we wanna make sure that you understand what's happening and you have an opportunity to participate as much as you want to. And if we're not able to do that tonight, we wanna give you the opportunity to do that at the next meeting.

- So we can postpone this until April, if that's okay with you and your son, who we've spoken with in the past. If he can be here that night, on April 17th.

- My son .

- Or if you have somebody who can go ahead and speak the language well, not to-

- [Lindsay] We can look into getting someone from the city as well to help. So on April...

- 17th.

- [Lindsay] 17th. Okay? Is that? The board will have to vote on that, but.

- Move to hold this item till the next meeting.

- I second.

- There's a motion and a second to hold this item for the next meeting, for the purposes of getting a translator available, I'm assuming. Is there any further discussion? Hearing none, all in favor say, "Aye." But Barb, do you have something?

- A little, just a little. I mean, I think this is a really valid request and I'd probably be ready to vote in the affirmative tonight, but I guess we should probably wait until there is an interpreter here, so yeah, I guess I'll go along with it.

- Is this something that we rely, I guess I've got a question too for staff. Is this something we rely on the petitioner to request, or do we wait until they appear and decide like that tonight? 'Cause this could be avoided if we knew we might have a language issue.

- I think the issue becomes, we were working with the family before, as far as there was always a member of the family who spoke English pretty well, comparable as far as language, and he couldn't make it here tonight. I didn't realize he could not make it here tonight due to schooling conflicts, so.

- [Lindsay] As a general rule, this city has an obligation to provide interpreter services if they are requested. So one of the things that we are working on is making sure that the forms that go out that are made available to applicants have some sort of reference to a request for interpretation services, and so that is something that's in progress that, so as long as they request it, we we will provide it. So it's an issue that we're aware of, especially since the last time that this happened with the Spanish speaking applicant, so we have been working on it and hopefully are close to a resolution on that, so.

- Yeah, well, I think it's certainly important to be able to, you know, talk with the petitioner in as clear manner as we can, and if we need to wait for an interpreter, I think that's prudent. So any further discussion on the motion on the table to hold this over for our next meeting? Hearing none, all in favor say, "Aye."

- [Board Members] Aye.

- Opposed? Motion carries. Thank you. Petitioners, we'll talk to you next month.
- Thank you.
- Thank you.
- Our next item, Appeal 23-05 by Joshua, and I'm gonna try my best on this name too, Depouw, applicant... I'm sorry?
- You did it perfect.
- Awesome. ...applicant on behalf of Green Bay Area Public School District, property owner, requests relief to allow impervious surface coverage exceeding that permitted in the most restrictive abutting district, and minimum requirements for interior parking lot landscaping for planting areas, landscape islands, and landscape medians at 2222 Deckner Avenue in a public institution district. The applicant seeks to deviate from Green Bay Municipal Code Section 44-856 and 44-1965 . Again, Alder Stevens, District 5. All right. And I believe we'll open with staff. And John, do you swear or affirm that the testimony you're about to give will be the truth?
- I affirm.
- Great. Let's hear from you.
- Do I have to confirm that I don't have any...?
- Oh yeah. We've gotta ask that again too. Does anybody...? Please confirm for this appeal by stating, "I confirm," if this is true. I do not have a conflict of interest in this matter.
- [Board Members] I confirm.
- I have not received any communication from any person or party about this matter.
- [Board Members] I confirm.
- Great. Thanks, John. Take it away.
- Okay, so we're at Preble High School. This would be the parcel that you are noting where the green star is at, it's a bit of a C shape. That would be your main parking lot on the north, the building, the school building itself, some grass goes off to the east, and then tennis courts that go over property lines off to the east with the City of Green Bay and the Parks Department off that way. So what we're looking at is based off of a parking lot reconstruction. So the school district has come in and asked to go ahead and do some reconstruction that takes the pavement down to the gravel, down to the base. When that happens, it's considered brand new reconstruction. And at that point, parking lots need to go ahead and meet up with the current code. As Barbara noted, the parking lot was done decades ago, and the code has changed since then. With that in mind, today staff were working with the folks from over at the Green Bay Area Public School District to find a way to make this parking lot work with the site plan with as little variance request as possible. So

you're seeing right now the existing parking lot. This right here is the proposed changes to the parking lot itself. So there are some improvements that go ahead and meet up to standards, but all in all, they do not all do that, however. So I'm gonna go through one by one here, each one of the three requests here. The first one is 44-856, impervious servicing. So in this district you must go ahead in PI and be in alignment with the most restrictive nearby zoning, which is RI zoning, which is the folks that are off here at the northeast. With that in mind, the impervious service maximum on a property is 50% of the property itself. So as this property stands right here, with the parking lot in play, this property is over 50% impervious servicing. So the request to go to allow for that to go ahead and vary up for what's there right now. Secondly, when it comes to the landscape code at 44-1965, when your interior parking lot area is large enough, it kicks into where 10% of your interior landscape space area must be landscape itself. So looking onto this image right here, the parking lot itself is about 3% of the entire overall interior parking is landscaped. The mineral requirement is 10% on that. Finally, landscape islands are required at the end of each row. And so note with this, landscape islands have been provided here and added to the middle to the drive lanes, but not to each and every row on the property. So as we are discussing this, you'll note that with these changes there are 471 stalls existing and 471 proposed. That might seem odd compared to the lack of islands that are occurring here in the existing photo. This was done in part through finding creative ways to go ahead and make the parking stalls and aisles fit within the existing code to where the district went ahead and got a few more parking stalls to keep this plan that they purport right now to have the same amount of stalls in both the existing and proposed, and then stepping up what they have here for islands to within our board. They do not quite meet what we have for the code overall. So with this in mind, because we're doing the new reconstruction, these three items need to be addressed here through this variance right here.

- Can I request that you keep the plan up? For some reason I can't download, that particular addition just keeps failing to load for me. I apologize.

- No problem. And then just to add one more thing. We did hear feedback from one neighbor, who when shown the update was neutral on what was happening here, is not against the variance request.

- Right. And then the petitioner, or I guess first, questions for staff before we hear from the petitioner. Cory.

- If a different code were used from a standpoint of not using the RI, but if this were to use like a more relevant code to the type of property it is, what kind of changes or variances would that actually account for?

- I would, I guess I disagree with that... RI is what is, it's either RI or PI that are abutting this property, so RIs were the only applicable other zoning district that actually can be used right here in this particular instance. PI does not have its own individual metrics or impervious. It goes on to whatever the most restrictive is. If you were talking about, let's just say this was up against a commercial property. Yeah, the threshold would be higher for impervious servicing. We're talking more like 78%.

- Okay, so if this weren't like in a residential area, the actual impervious probably wouldn't be much of a factor.

- If this were up against more of a commercial district? No, it would not be.

- Yeah, okay.

- And I'll note that the impervious surfacing that they are requesting right now is actually slightly less as far as impervious services compared to what is there right now because of the addition of landscaping. The parking lot does not expand per se with the exception of a bit of expansion with the driveway entrance up at Deckner, but the actual footprint of where the parking facility is at remains how it is right now.

- I don't know if this-

- And Barbara's next with a question.

- Thank you, Noel. My question was, I think it was actually answered, but with noting the islands of green in there, there's actually less impervious surface now than there was before. Is that accurate?

- That is correct.

- Okay. So they're trying to come up with a compromise. So I like that. Thank you.

- Steven?

- I don't know if this is a question for staff or for the applicant, but were there any plans drawn up that actually conformed? And how many parking spaces did you get out of it?

- Right, so we didn't see any that would conform per se. I mean, I will note that if you were to take out this entire parking lot, you would get pretty close to conforming, but it would mean the elimination of the entire parking lot at that point, which would lead to different code variances, because we wouldn't meet our minimum required standards for parking stalls on the site, so essentially-

- Can you explain that? I don't understand.

- Sure.

- So the impervious surface, obviously if you added more islands you could fix.

- Yeah, so I've taken this back to the actual parcel itself, the 24 acres. Right now, there're around 58% or so impervious on the whole property. If you were to remove this entire parking lot, you would get just under the threshold for impervious service on the property itself. So essentially by removing the parking lot, we're having a few dozen stalls, you would meet the impervious standard threshold at that point, but then you would, at that point also, kick into play another variance that would come to play as far as minimum requirements thresholds for parking requirements for the school itself, which for that-

- Ah, okay, okay. Now I get what you mean.

- In other words, pretty much any parking lot brings them over the limit for impervious service.

- Fair enough, fair enough. Gotcha. I understand now.

- So John, go back to that last picture, because I've got a question here, is, you know, I can see that you're using the Green Bay Area Public School District, Preble High School parcel or parcels as you're looking at this. Are you excluding the City of Green Bay parcel that looks like it's part of their tennis courts and parking lot?

- Right, so as far as the impervious standards right there, we're not including that with this. No, we're not. So the schools and the city do have a number of these arrangements where improvements such as parking lots happen to cross over onto either City of Green Bay or City of Green Bay Parks properties throughout the community. We're not including that southeast corner of the parking lot as part of the impervious number, no.

- Yeah, I just, I wonder, and this is maybe more for the sort of future exploration we do when we look at some of these things, but, you know, looking at the entire campus and property that's being used by the school, perhaps including that City of Green Bay parcel, you know, maybe ought to be the basis for looking at something like impervious surface, but just, I get what you're doing here, and that's what we're gonna work with today, but it seems like it's a little bit more nuanced than just the single tax parcel or the single lot we're looking at there.

- Yeah, I would agree.

- So are there any other questions for staff before we go forward here? I guess, John, I have one more, and that is, can you show us again, you said there were some changes to the driveway. Can we take a look at that? So it looks like they're adding an additional, is that an additional lane? What is that there?

- Right, so you're seeing right here, one ingress in, one out on the existing. This right here would have the one in, and a left out or right out on a sidewalk that goes out to Deckner Avenue.

- Yeah, and at the end of the school day, a traffic cop would be helpful there. You get a little crazy there.

- Or an associate principal, which that was my job, to direct the traffic.

- To direct the traffic? Great. All right. Thank you, John. Anybody else with any questions? Last chance and then we'll go to the petitioner. All right. Josh, do you swear or affirm that the testimony you're about to give will be the truth?

- I do.

- Great. Tell us about this project.

- We're trying to do this, put as much green space in as we can and keep the same amount of parking spaces since we need them all. We have 1,248 students that are of driving age, and we only have 400 some odd stalls. Kids have to walk several blocks away to park on the street. It's a tight spot. So we're trying to, you know, comply as much as we can, but keep the same amount of parking spaces

to keep the school functioning properly.

- Right. Does anybody have any questions for the petitioner? For the appellant?

- If you do wanna speak just swear in.

- Okay, sure.

- No problem.

- That's fine.

- Yeah, do you swear to go ahead and tell-

- Alyssa Campbell with ISG Consultants on this project.

- [Lindsay] Noel, can you swear her in please?

- Alyssa, do you swear or affirm that the testimony you're about to give will be the truth?

- Yes.

- Great.

- I simply wanted to add the additional hardship of adding additional green spaces. I know the variance is to not have the islands on either end of the drive lanes, and the purpose to not do that is it will also impact the storm, the watershed on the parking. Obviously the original parking lot was without any green space, and so it's designed to flow that way, that all your water is shedding to catch basins and off to your storm. When you include additional islands, now you're gonna have to recontour the site so that the water drains where it needs to, so it's an additional hardship and potential loss of stalls.

- And John, you've got a picture in the packet of the catch basins, I believe. Can we see that slide?

- I don't have the slide up here, but I can go ahead and put one up here momentarily.

- Sure.

- I just have a quick question while you're pulling that up.

- Go ahead, Cory.

- Answer. From a standpoint of like, do you have a lot of minor fender benders and everything in there with regard to the tight space that's in the parking lot?

- Yeah, they have a number of issues with teenage drivers being teenage drivers, and yeah. And so adding the green space, we do have to tighten up the stalls and the drive lanes and stuff like that. So it might create a couple more bumps and dings, but that's what we have to do to keep the amount of

spaces that we need.

- Noel?

- Barb.

- I can tell you that the rule was, when I was there, that you had to back in in the morning because everyone isn't coming at the same time in the morning. And so then at the end of the day, you're driving straight out. So that reduced, we just, we didn't have hardly, I don't even remember any accidents in the four years I was there, because they back into the spot and then they pull straight out so that they have a better line of sight at the end of the day when everybody wants to go.

- The requirement also is a 24-foot wide drive lane for two-way traffic, and we did make the proposal to keep it at 26.5, so it does give a little bit more wiggle room for those early drivers. It's not as tight. I've been in a couple parking lots where it is tight and kids don't always drive the smallest of vehicles either.

- Great. Any other questions for staff or the petitioners or the team on the petitioner's side? All right, let me go back to the script here for a second and just say, you know, we've got this situation where they're looking for several variances to reconstruct this parking lot, and when determining whether to grant the variance, we must consider five factors, the preservation of intent, any exceptional circumstances, preservation of property rights, absence of detriment and hardship, and those are the only elements we should be considering. So let's talk amongst ourselves about this. Oh, I am sorry. And I'm also not there. So was there anybody from the community that wished to speak? Did we have any public input beyond the petitioner and staff? All right. Let's move on then. Barb, did I see your hand go up? Yes, go ahead.

- You did. I think I can speak to exceptional circumstances, because if they don't have enough parking spaces, then they're not complying with the ordinances regarding the amount of parking they must have for the size of the school, the size of the building. And I think that what, for me, it qualifies as meaning, yes, there's an exceptional circumstance there. I believe that there's a preservation of intent because it's not inconsistent for the spirit, purpose, and intent for the district in which it's requested, which is PI. I mean it's, I know that we're using the rules for RI, we have to use the rules for RI, right, but it's a PI district. And as far as preservation of property rights, I believe it is necessary for the enjoyment of the same substantial property rights which are possessed by other properties in the district, as people can park the cars in their driveways, in their garages, at the church up the road, they can park in the parking lot. So I, for me, one, two, and three, I would have to say I am satisfied that the answer is yes, and I'll let someone else do the other ones or disagree with me.

- I agree with you on all three cases.

- Okay.

- And I think I can, you know, I think in a lot of ways you've covered preservation of intent there. What we have is we have, you know, we have two city codes that are basically going against each other, and between staff and the applicant, they've spent a great deal of time trying to come up with a circumstance in which both of those requirements can be taken care of. And at least in my mind, in terms of that, they've satisfied that preservation of intent. The way they're doing it, to me, makes a

great deal of sense in terms of, you know, in some ways, in my mind, the preservation of keeping that many parking spaces for Preble in a lot of ways is more important than we preserve that much green space. The fact that they're act as adding green space to that area and they've increased the impervious, to me, they're acting with the proper intent. So that would be that. I could also go into property rights, unless someone else wants to speak. I don't wanna hog either.

- No, I think, I mean, I think Barb covered one, two, and three just fine with what she stated. I think for absence of detriment, I mean, it's a parking lot for a school. I think the spirit of what it should be, it needs to be that large because you have a lot of people coming and going. You have staff, you have students, you have visiting, I mean, for sporting events and everything like that. Having that parking lot right next to the school is obviously in the public interest from, as I mentioned before, safety reasons for accidents and basically just letting others from the community have access to the building.

- Yeah, and I think hardship falls under that too. I mean, essentially, you know, this is them making the best of the property they have within the code. You know, it's not self-imposed, nor is it based on simply what's best for the Green Bay School District. This is what is best for the community in general, including the Green Bay School District, given the restrictions we have on the property we have and the codes we have.

- I'm hearing, you know, some of these loud and clear. I think we expect our schools to be able to have off-street parking, and this is an effort to provide off-street parking. It is exceptional circumstances. The fact that like any parking lot would probably be non-compliant in terms of impervious surface, that this is a property that has adjacent parcels that are being used in part by the school that are not owned by the school for tennis courts, and part of this parking lot and other things, it's certainly a unique property. The public institution zoning district, which inherits characteristics for its requirements from adjacent zoning districts, I think by itself is an exceptional circumstance. Certainly we would expect that property owner to be able to enjoy parking on the property that they're operating. And absence of detriment in that, you know, no detriment to the public good here. I think, you know, a really critical aspect of this project from my perspective is that, you know, if we refuse to grant a variance here and they were unable to make the changes for the reconstruction, the other option then is just to leave it as is, and continue operating in, you know, a deteriorating parking lot in perpetuity until it's undriveable, because that is, you know, a choice, to do nothing and let it ride as it is, and I don't think that's in the interest of anybody who's gonna visit that school, anybody who's trying to attend that school, or, you know, the neighbors who would have to deal with, you know, gravel getting kicked out into the parking lot as the thing deteriorates and starts coughing up chunks. So I think that there's a number of things there. And I think the hardship in this case, too, is that, you know, this is a unique circumstance. They cannot provide parking without violating the impervious service requirement. Given the way we're calculating the area of the school or the parcel that the school is, this isn't just a financial thing, and in order to comply, they might need to acquire a bunch of additional property that would have no other use than to add green space to the lot to get it the overall use under impervious surface. Yet at the same time, there's multiple adjacent parcels that are natural right now. And one would argue, I think the folks who probably live in the neighborhood look at that area, the woods and the other grass that's outside of the school property proper, consider that part of the campus, right? That's part of, you know, what they envision of as the school property, and I think that, you know, to change, make them buy that or something so as to get this impervious surface bit down. The other things I think are more logistics and detail oriented. I think the team's done a good job demonstrating that, you know, they've made the best without any net loss or gain in parking stalls and increasing the green

space. Those are all, I think, you know, kudos to the folks working on this effort. So I believe I've heard from all of you, adequate addressing of preservation of intent, exceptional circumstances, preservation of property rights, absence of detriment and hardship. Is there any other discussion before we take a motion here? Cory?

- I was gonna actually move to approve based on the discussion related to approving the request for variance.

- Second.

- Okay, we have a motion and a second based on the test that we are to perform. We feel that this is met, and so Cory and Barb have so moved. Is there any further discussion on the motion? Hearing none, all in favor say, "Aye."

- [Board Members] Aye.

- Opposed? Motion carries. Thank you. Let me hop back and forth between my... Can we pop up the next item on the share?

- Will do. Poppin' it up.

- That's one last screen I've gotta flip around between. All right, our next item under regular business is Appeal 23-06, John Hansen, property owner and applicant, requests relief to allow a deck within the front yard setback in the R1 Low-Density Residential Zoning District at 951 Waverly Place. The applicant seeks to deviate from the Green Bay Zoning Code, Section 44-554. Lot dimension and building bulk requirements, and Table 44-2 Note C. Front yard Setback. This Alderman Johnson's district. All right, let's hear first from staff, and John?

- I affirm to go ahead.

- Yeah, hang on a second here. I want to say it. Do you swear or affirm that the testimony you're about to give will be the truth?

- I do.

- All right. Let's hear from you.

- I'm so sorry, Noel.

- I affirm. We have to affirm.

- Oh yeah, we've gotta do our bit, too. I'm sorry. Yeah. All right. I'll get the hang of this. So, and I'm gonna ask two questions, and please, if you're able, say, "I confirm." I do not have a conflict of interest in this matter. I confirm.

- I confirm.

- I confirm.

- I have not received any communication from any person or party about this matter. I confirm.

- [Board Members] I confirm.

- Great. All right.

- Okay, so the property in question here is at 951 Waverly on the west side. This is an aerial image from 2020. So what you're gonna note right here is the applicant has already built onto the front property with a deck. With that in mind, decks are considered to be part of the overall building structure itself, so this would be like adding onto the front of your home with a foundation model. So when that comes to play, this is an infill within a neighborhood itself. So front yard setbacks are calculated by taking the average of the existing homes and improvements on the existing block. So we would take it from 951 right here, back over here to this corner line. So for these five homes that are all in line, they're all approximately 31 feet or so from the property line, which is that black line that's about three feet or so from the edge of the sidewalk. Finally we have this corner line right here, which is about 15 feet or so. So to go ahead and calculate a front yard setback, you take the average of the lots, and you can based off of what is more advantageous for what you want to go in and do, you can subtract or add off of this average any weird lots that don't match the rest of the averaging. So with this in mind, that property that's at the corner is 15 feet or so. It's advantageous for any applicant to go ahead here in this situation and add on that building, 'cause is closer to the front yard setback. Overall that makes the front yard setback on this block right here approximately 28.3 feet from the property line. So you see over here, this is supplied by the applicant. So a deck has been made over 25 square feet on the front of the house itself. The deck, not including the actual stairs as well, which are part of this overall conversation, is 27 feet from the sidewalk. Noting back to that aerial image, the property line is not directly about along the sidewalk it appears, so this overall deck is about five meters, so from where the front yard setback line is adjusted to based off of where the homes are existing off to the west. So as you see here, this is a deck itself. So we do have an exception within the code itself, that if you're building a deck or a stoop that is less than 25 square feet to access the front door, that is acceptable, but once you get above 25 square feet, this is considered a deck, and that's not allowed to be in the front yard setback. Here's more additional photos here of the deck as it was being built. So with that, if you have any questions, I'd be happy to answer them.

- Noel?

- Yes, ma'am.

- So if it was a tiny bit smaller, not that I'm suggesting that happened, but if it was, how much smaller would it have to have been to be acceptable?

- Right, so the overall size of the deck itself is 17 by 6 along with then some stairs itself. That puts the overall deck size around 100 or so square feet, so it's about four times the side that is allowed.

- Okay.

- I mean that's, correct me if I'm wrong, that's a five by five square, right?

- Right, exactly. Yeah. Five by five square. Yes.
- So like if a person had a covered front porch, would that count? I suppose it would, right?
- Right, so covered front porches are a different part of the code, to where if you go past the front yard setback and it is a covered front porch, that can be with a CUP pass the front yard setback, but it requires a conditional use permit to be in place before building.
- And is that, just say in the realm of possibility, to add a cover to that porch?
- I don't know if, necessarily with the house that'd be particularly applicable based off it being a single story building.
- Hmm, okay.
- Cory?
- Are there other rules with regards to any type of handicap requirements? I know the applicant mentioned in there that the wife has an injury, that she has trouble going up and down steps. I don't know if it qualifies for that or not, but I'm just curious with regard to if there's any variance or deviation with regard to ADA requirements.
- Right, there's nothing in particular, 'cause this is going more towards the, it's not so much who's in the house, or a matter of, say, going back to our kids with adding on more folks who are driving the household. It still goes back to the parcel itself, not particularly to who happens to be inside of the house for these type of code situations.
- Okay.
- Oh, Noel? So even if there was a ramp? What if there's a ramp? Is there any exceptions for ramps?
- Top of the head, I do not know about that, but I do know that decks, as far as the sizing goes, about 25 is we get to where we're at right now.
- Steven?
- So the deck itself is just too big.
- The deck itself.
- The deck itself is too big to be accepted from the setback? Yes? that's what we were saying?
- Correct. So if the deck itself was back behind the setback of that 28.3 feet, you can put a deck as large as you want then, as long as it's behind
- Behind.
- the setback.

- So we're basically talking about 3.3 feet, most of which is the stairs.
- No, so the 3.3 feet would be still the deck itself, approximately that much that goes to the line. I can't give you a for certain on that, 'cause this property was not surveyed. So we are looking at the aerial photos with our GIS. We do know it encroaches, though, onto it. So somewhere between and three and five feet is approximately where this encroaches over the front yard setback.
- Okay. But that's it? That's the only code it violates is the depth from the front yard setback.
- Yeah, the front yard setback being established with the block itself. Yes, that's right. That's what's in question here.
- Thank you so much.
- Yeah, one more quick.
- Cory, go ahead.
- If for instance, with the averaging of all the new property distances, how does that now affect, like taking the deck, say it existed when you made the calculation, how does that then affect the average?
- Oh, so.
- So yeah, I mean you had 15 feet, 27, 27, 27, 27. now this one is, say, 24, does that I guess new average line come into play?
- It would only come into play here in the future with a different property.
- The next one.
- Yeah, the next one, but not as we have it right now, no.
- Okay.
- Yeah, and doing the math in my head, I don't think that, it wouldn't comply even if you factored it in.
- Yeah. So I have one more question.
- Go ahead, Steven.
- I'm a little concerned. So I understand the math involving you take the average of the homes in terms of the front setback, and then you determine that average. But basically what you're telling me is that no one's measured any of this. You don't actually know how far it encroaches over because no one's measured anything, and the city's guessing.
- So I apologize right now for, my internet on my computer is not working great.

- Okay.
- But I do have, I can go back to what we have here that was supplied here for the applicant himself.
- So it has to be down to what? 'Cause I just did the math in my calculator. I came up with 25.
- I guessed those numbers, so those weren't accurate numbers, Barb.
- Got it. Okay.
- I was just throwing out what I remembered from just kind of looking at it at the first onset, so.
- Okay.
- Oddly close.
- What we have here. The house itself is approximately 31 feet off of the property line itself, okay? Deck goes out six feet from the house itself. That then measures out to 27 feet to the sidewalk. This plays right, because it appears as though from the GIS that this deck itself goes out over and has about a two-foot difference between the right of way and the sidewalk, the back of walk that's right there. So that would place the deck, without the stairs, which we have to include as well. It's a part of the structure. The deck without the stairs is at 25 feet. If you add in the stairs, it's approximately two more feet right there. That's 23 feet in total. The buildings on this block are all approximately 31 feet off the right of way. If you toss in the corner lot off of the west, at 15 feet or so, that makes the average of 28.3 feet, which puts us approximately five feet or so over the front yard setback. It's not exact, but it's definitely over the line.
- I mean, yeah, I get you and I believe you. Okay? I mean, I believe you there. It just, you know, we're talking about having a man tear a deck down, and we couldn't even get anybody to go out there with a tape measure. I'm not particularly happy about that, if I'm being honest with you. That seems, I mean, I understand he's in violation, and the degree actually to me does matter. I am also unhappy that it was, I mean, this was put up without a permit, I assume?
- Correct.
- Okay, I mean, I'm not about that either, but, I mean, if this is a quasi-judicial proceeding and we're trying to do this by the book and by the rules, and we're guessing based on a satellite map, it seems to me he would have recourse. I mean, I don't know. I'm not a lawyer, but I'm not, to me, you know, trying to solve the problem that is acceptable to both the city and the applicant is kind of like where I'd like to be. I mean, obviously we wanna enforce code everywhere we can, but, I don't know, I just feel a little odd about not actually knowing where any of this was. So that's all I really have to say about it at this point.
- Barb?
- So I'm gonna try to speak in favor of some of these items. Let's.

- Don't we have to let the applicant speak?

- Well, I think we're still kind of talking to staff here about their presentation of information, I think, before we go on.

- Thank you, Steve, though, for your words. I appreciated your words.

- Thanks, Barb.

- Any other questions for staff? Steven, is this something where you would be in favor of holding this up so that we can get some more precise measurements and know the degree of compliance?

- I mean, and on one hand I think it might be smart in terms of just from a purely legal standpoint. I think from a purely practical standpoint, I actually, you know, John knows his work, and I understand that it's probably not in compliance anyway. It's an unfortunate situation. I don't think that my opinion about this would change a great deal if I had a precise measurement. I just, I think in future, I mean, when we have something like this and we're guesstimating up and down the block for averages, and, you know, if he hadn't built a deck yet, I probably wouldn't have cared. But since we're gonna order him to tear it down if we deny, to me that becomes a little more serious then.

- Sure. All right. Anything else for staff? All right. We can hear from the petitioner. John was it?

- Yes.

- John, do you swear or affirm that the testimony you're about to give will be the truth?

- I do.

- Great.

- Obviously you've gotten the application. I've briefly kind of gone through what was going on. Again, the deck was intended to try to resolve more than just a single issue. I grew up just two blocks from this house here, and this whole neighborhood, when all those foundations were built, whoever did the construction back then did pours over two days. You have so many of these homes that have seepage and severe water issues, so that was one of the things that I was hoping to try to alleviate when I constructed the deck. I did not provide a photo of the home as to how it looked prior, but prior, here in the front of the house, you can see, one, the shrubbery and bushes and the landscaping. I was trying to get rid of the shrubbery and bushes

- Thanks, John.

- around that area of the house. You can also see the current concrete porch, and you can see the severe sinking that's occurring, especially along the western edge or it'd be the left side of the photo there. So I was trying to also then, how can I remedy the situation with that porch sinking in like that? And then third, the other issue that I was having was water. You can just see the neighbor's driveway there, and that runs along the whole length of my western foundation wall. Obviously that driveway being built properly, it's pitched, so any runoff is gonna come right towards my foundation. And I've actually had, in the basement, the wall is bulging and moving inward. It's probably shifted a

good, at least an inch and a half to two inches already in the center of the foundation. So I'm experiencing seepage with water, cracks in the foundation, and I had already taken steps and tried to remedy that in the basement. I was just looking for additional ways to keep water drainage away from my foundation. In this instance, it's critical. The deck kind of helps do that as well because it does create a rain shield, and now you can also see, and John had one of the photos in the PowerPoint, I made sure that when I graded and put in the gravel bed underneath the deck, that number one, I was addressing that drainage and making sure that the grade went upwards, at least a good six to eight inches from the front edge. And I also used heavyweight landscape fabric, so again, the whole intent is keeping water away from my foundation. The other issue that I was having besides poor entry and the porch sinking, and the difficulty with my wife getting in, I got that big old oak tree that you can see when John shows you the overhead. And that northwest corner of my home is shaded quite frequently throughout the day. So the combination of shade, that big old oak tree, and just water pretty much being present, carpenter ants had become an issue, and were beginning to infest my home. A couple years back, they were even up in my attic when I was up there. So those were the things I was trying to remedy with the deck. Again, it is built, and I did so without following proper procedures. I'm to blame for that, and I take full responsibility for that. But you can see also in John's photo, I think I've addressed the issues, one, that were unique. I mean, the driveway next door, the drainage, many homes are built that way and have to deal with that issue, but what's compounding the situation for me and what makes it unique is that neighborhood, not everyone's foundations were poured over two days, and have been dealing with cracks and foundation issues. As a matter of fact, the neighbor next door to me already had his foundation redone where they had to excavate and put in a waterproofing system and take care of the cracking and such that way. Even my mom's neighborhood home two blocks away, J. Basten came way back when I was 16 years old and did extensive excavations. So this issue of the foundations is a neighborhood issue, and there isn't much I can do with that. It's unique to this block, unique to this situation here. And the biggest issue, too, was my wife's medical, I shouldn't say medical, but her permanent partial disability of having a total knee replacement due to work injury that she suffered. She could not really get up and down through that front door much at all without just trying to ease what the rise and run of the steps were and eliminating that high step into the house. I don't have an exact measurement, but using this particular photo here, which I had given to John, I used the 2 x 8, which is the ledger board for the deck itself, and that rise from the seal plate of the door on the open end, which is the left end, down to the concrete porch, is nearly 13 inches and 13 5/8 inches, which is really exceeding what the standards would be just for a rise and step into a house, or even if you were building steps. And that was the one issue I was trying to alleviate. The deck allows really for nothing more than just an 1 1/2 inch, 1 3/4 inch step up over the seal plate of the front door. And, you know, with my wife's knee the way it is, she's never completely healed and fully gotten back to 100%, even after the knee replacement. In dealing with the sinking concrete porch, in dealing with the water issues, the cracked foundation issues that are occurring in this foundation. And, you know, I did try to build it in such a manner that maybe down the road I could put a cover over it, because you can see, again, with the one photo, there is a pitch that could conveniently take and could be then become a covered porch. So now hindsight being 20/20, and I didn't follow the proper steps, at least we can look at it, we can see it's a very nice deck. I mean, I'm someone who loves to sit on the front porch and wave hi to all my neighbors, and the deck allows me to be that neighborhood beer-drinking fellow who likes to wave to his friends. And I think in that sense it provides, I think, positive community influence for the neighborhood. And, I think, you know, some of the situations, again, that I had to deal with were unique in regards to the cracking foundation, the driveway, the drainage, the ant infestation, all those things that I was trying to address. So, thank you.

- Thank you, John. Any questions for the petitioner? Cory?

- Did the improvements you made with regard to the grade as well as the underlayment of the gravel address and fix some of the water issues?

- Yes, along with improvements that I did in the basement itself. I literally had to go in, knock out mortar that was within the existing wall repair. I repaired that with a two-part epoxy, with a very strong hydrostatic paint. And also then trying to reinforce the wall with 2 x 6 construction sistered up into the joist underneath. Combined that with grading, which you don't see in those photos that I also tried to do along that western wall, and along with the front, yes. I haven't had any seepage through this thaw season. I haven't been into the heavy rain seasons yet that could possibly come end of May, June, July. But I haven't had any issues with any seepage at all since taking care of the grading and other items.

- Any other questions? Barb, anything?

- I don't have questions. No.

- All right. Well, thank you. And let's, is there is, and before we move on to our discussion, is there anybody else present who wishes to speak related to this matter?

- No.

- All right.

- We didn't have any community input from the neighbors?

- Nope. Nothing for this one.

- Okay. Again, so we're going to deliberate, and again, we wanna consider these five factors and only these five factors, the preservation of intent, exceptional circumstances, preservation of property rights, absence of detriment, and the hardship. Anybody wanna start?

- I will.

- Go ahead.

- I will say that number four, I can answer yes to, that I believe this variance will not create a substantial detriment to adjacent property and will not materially impair or be contrary to the spirit, purpose, and intent of this chapter of the public interest. I think that there is good reason to have this deck and those steps on that property, and the hardship that I would like to address, while possibly part of it is self-imposed, because the deck is already built, I wonder, I think that I would've probably voted to give a variance in this case. It's not based solely on economic grounds, and it does more than just aid a person with some physical needs to get into the home. It also has prevented damage to the house, to the property, because of the way of the drainage coming in from the side, so I will also say that I personally can say yes to the hardship component. Preservation of property rights, is it necessary for the same substantial property rights which are possessed by other properties? Yeah, a lot of properties have front porches, front decks. People can sit on them, people

can greet their neighbors. So I would say yes to number three as well. Who would like to answer one and two, or disagree with me?

- So I'll take a shot at one and two. So, you know, would a variance be inconsistent with the spirit, purpose, and intent of the regulations of the district in which it is requested? The spirit, and purpose, and intent, and please, you know, if anybody on the board would like to contradict me on this, please do, is the idea there is to make sure that there is some continuity in the neighborhood, that no one builds anything that is either harmful to the neighbor's property, harmful to maybe persons, or harmful to the look of the neighborhood, to remain consistent with the looks of that particular older neighborhood. And I do not think a variance would be inconsistent with the spirit and purpose. You know, as Barb said, I am distressed that there wasn't a permit beforehand, but, you know, the deck's built at this point. And in terms of exceptional circumstances, I think in this particular case, to me, the exceptional circumstance is the location of his house on the corner there. That makes it much more difficult for him to, and this also goes to preservation of property, right? So it makes it much more difficult for him to properly take care, or properly, you know, do things with that house that other people can do because he's got, you know, sidewalks on both sides and he's required to maintain both those sidewalks. Having lived in a corner house, that's not an inconsiderable amount of work, but ultimately I think that it does preserve intent, and I would say that also that this is an unusual circumstance considering the age of the neighborhood and, you know, the character of the rest of the neighborhood and the corner lot. I do think it comes at that. And other than that I agree with Barb.

- Thank you.

- Cory, any thoughts or comment?

- I'm torn. I can't really speak to which one exactly, but, I mean, the water issue could have been addressed specifically by just regrading it without the deck. He could have put on a 5 x 5, basically, what's the word I'm looking for?

- Porch.

- Well, I mean, there's another... Landing, a 5 x 5 landing at that with the steps going down, so it's possible to be within the scope of what the code is here. There's also the back deck, so I'm torn with regard to that aspect of it, 'cause he can comply with regard to just having the access to the door with a 5 x 5 deck. The back deck is there for sitting and enjoying neighborhood company and everything like that. So, I mean, that's where I'm torn. Like, I think, I mean, I'm happy that the grading took care of the water issue, 'cause I had a house that like that once upon a time too, and just being able to get it taken care of is huge, because that's gonna affect a lot of just living in there and not having to worry about that type of aspect. But again, just grading it properly like he did took care of that situation, not the deck itself.

- And my 2 cents on this, folks, I generally don't think that front decks, you know, are as attractive as a covered porch or a canopy porch, other things, and it's just something that, you know, I struggle with sometimes, particularly when they require a variance to have them, I'm inclined to not, you know, like it. However, the petitioner's arguments for why, and notwithstanding the fact that he built this without a permit, but if he had come before us prior to building it and said I want to address some water issues in my basement and some other things, you know, and this is part of the

way I want to take care of it, and, you know, made some of the case that he made today, I might have been persuaded, you know, to support the granting of a variance in this case. So, you know, well done in the argument there. And yeah, I am hearing, at least between Barb and Steven, an argument for finding favorably in all five of the categories that we're looking at in terms of testing to whether to grant these variances. So I suggest that maybe one of you take a chance on making a motion one way or the other, and we can see.

- I move to approve.

- I second.

- So there's a motion and a second to approve. Any further discussion? Hearing none, all in favor say "Aye."

- Aye.

- Aye.

- Opposed?

- Nay.

- All right. Motion carries.

- Thank you.

- And now I'm scrambling for my... We've got one last petition before us. John or other staff, could you pop that up on the screen so I can read it? And Josh, we made him sit through that one, and then we're gonna get him in this last one. Maybe should have grouped these together at the top of the agenda when we approved the agenda. Sorry about that. I missed that. Appeal 23-07, Josh Depouw, I probably pronounced it a different way this time, Josh. I'm sorry if I screwed it up that time, of Green Bay Area Public Schools, applicant on behalf of Green Bay Area Public School District, property owner, requests relief to allow improvements to the stadium facilities within both front and side yard setbacks at parcels 21-2678-D-9 and 21-2285 at Danz Avenue, the Preble High School Stadium in a public institution district. The applicant seeks to deviate from Green Bay Zoning Code, Section 44-856, Table 44-15 building setbacks- minimum 10-foot side yard setback. All right, and I'm going to ask you all, members of the board, if you have any conflicts or challenges here. And please confirm by stating, "I confirm." I do not have a conflict of interest in this matter. I confirm.

- I confirm.

- I confirm.

- I confirm.

- I have not received any communication from any person or party about this matter. I confirm.

- I confirm.

- I confirm.

- Great. And we'll hear from staff first. John, do you swear or affirm that the testimony you're about to give will be the truth?

- I do.

- Great. Take it away.

- Okay, so looking back on this, back over on the west side of the property over at the stadium parcels that comprise the Preble High School Stadium, the issue is on the west side of stadium and the side yard setback. This right here is an aerial of the stadium as it is right now. We have our stands, we have some improvements as far as paving throughout the area. Where this comes into play, why we're here today, is that this already is over the 10-foot side yard setback, but because the district is looking to go ahead and do a number of things, one, replace the grandstands, two, replace the press box, and, three put in a bit more hardscaping for entry to this area, those things end up being over the setback itself. So what I'm showing you right here is the existing press box and stands. So why does this come into play? Well, the school district is looking to go ahead and replace these bleachers and the grandstands with new ones, so they'll be down to where, rather than being supported, it'll be a cantilever system, so you're making a brand new grandstand and bleachers out in this area. With that comes into the setbacks that we have in play here today and addressing it. Right now, the existing setback does go over bits into the 10-foot side yard setback. The request for this will put it just over six feet with the grandstand and the bleachers from the side yard setback. And then in addition, you can go ahead and see an overhead photo right here. There'd be some hardscaping that would also go over the side yard setback with this request. There are existing buildings that are in play, although not in question at all 'cause they're not being changed. And do wanna note that working with the school district here on this one as well, to where there could have been a few more variance requests for improvements, but it was whittled down to where we just have this one to allow for improvements here on the western side yard setback.

- Thank you, John. Anybody have any questions for staff?

- So just so that I have it in my head, it's going to intrude more than it is now, or it's gonna intrude the same amount?

- Right.

- But we have to consider it because it's...

- Yeah, so it's gonna intrude a bit more than what it is. Right now it already is over the 10-foot side yard setback. It can go a few more feet over to be about six foot eight inches or so from the side yard for the grandstand and the press box. And then when it comes to the hardscaping, that's down over the southwest corner of the property, or the lower right, those are improvements too that we have to keep in mind as far as how close that gets into the setback itself, so there'd be some more hardscaping that would connect the southern parking lot up to the stands for the stadium itself.

- Other questions?

- I don't know if this was... I'm sorry, go ahead.
- I'll just say was there any community input with regard to those neighbors on the backside?
- Nope. We have not heard anything at all from anybody on this.
- Steven?
- The question was, so I don't know if this is for you or for the applicant, but I understand you wanna rebuild the press box there. Why? What is the reason? It doesn't look like it's falling down to me.
- So I'll let the applicant go ahead and give more
- Okay.
- on that.
- So let's hold that one for the petitioner. Any other questions for staff?
- I just, as far as where people walk, is there...? I've never been to the stadium before. So do people walk behind the current grandstand at all, or is that no access behind there?
- Right, so right now they do have some paved areas that are underneath the stands itself to go ahead and access different, what do you call it, tunnels, different parts of the section to get the stands themselves.
- Okay, so the normal flow of people is behind there to get up into them, not into the front?
- Yeah.
- Okay.
- Any other questions for staff? All right, let's hear from the petitioner. Do I need to swear Josh in again, or is he still...?
- [Lindsay] You need to swear him in again. There's also another gentleman sitting at the table.
- Okay. So for both of-
- One at a time please.
- Sure. Josh, do you swear or affirm that the testimony you're about to give will be the truth?
- I do.
- And your partner there, whose name I do not know?

- Mike Helmrick.

- Mike, do you swear or affirm that the testimony you are about to give will be the truth?

- I do.

- Oh, it's good enough for me. All right, go ahead gentlemen.

- I would like to let Mike do a lot of the talking here since he designed a lot of this, so.

- Sure. Maybe the one that I could ask Josh or the district to speak on would just be the need for the replacement. If you could just address that one question that came up.

- Sure.

- Please.

- Yeah, the need for the replacement of the press box is, I believe we're replacing the whole grandstand and we're gonna try and make a press box that is actually a little bit bigger and works a little bit better for the people that use it, I believe.

- Yep, and I can expand that, Josh, a little bit. With the space constraints on Preble site, with the time of redevelopment of the track and running facility, that doing that hand-in-hand with the grandstand press box from limited access, where we are so tight and with the hillside, not trying to work those all logistically within one project. And if I could speak on the piece about the access, I had, John included one picture in the backside there, and then we included two section views. So one other piece with redevelopment of the structure is we're trying to omit some of the support legs that come down into that rear walkway area. One, that'll improve access for spectators and for egress and ingress to the structure from a safety standpoint, and then also will allow for maintenance to be able to move through that area. And then from the neighbor perspective, it'll actually omit some of that structure that's there currently. Then our proposal is that we are moving any of the structure that goes down to grade outside of the 10-foot setback, and then cantilevering back into that space, and we have included a section view in the packet.

- So the structure itself will be slightly closer to the lot line, but the support mechanisms underneath will be farther away from the lot line.

- Correct.

- Yeah.

- Steve? Steven?

- Did I see you're gonna put up a fence as well between the neighbors and the...? Or did I hallucinate that?

- I think there's a fence there currently.

- The fence is already there. Yes.
- Oh, the fence is already there. Okay, fair.
- And that'll be maintained as part of the project.
- What is the purpose of replacing the grandstands? Getting more seating or...?
- Yeah, we're trying to gain more seating. Also it's a way for us to, I believe, move the light structures are gonna be moved out of there also. And just to gain more space underneath the grandstands for storage and movement.
- They're damaged.
- Okay.
- Oh, and they're damaged? Oh, and the current bleachers are damaged.
- That's what I was gonna ask. Is there any safety or damage on the existing ones that also is leading to replacement?
- Yeah, that's kind of what I was going for is, you know, are you gonna get more seating and is the current structure deteriorating? Okay.
- Yeah, and then also we would be bringing, the grandstands would bring us up to current ADA codes.
- Good to know.
- Questions for the petitioner? Other questions for the petitioner?
- In terms of what you were doing, and you were, obviously, you know, the staff does a great job of helping try and come up with solutions that don't violate. I assume that there's nothing about the cantilever design or anything else that makes this any better or any worse? I mean, if you went with a standard support structure, would you be only violating as much as you are now? Or does the cantilevered structure require more of a setback, or just the size of the press box?
- It wouldn't affect the seating and the press box itself. It would just be the structure underneath. I would say the district, with the cantilever design, is possibly spending a little bit more money to allow for that.
- Yeah.
- To do the cantilever portion, but it wouldn't affect the seating on top.
- Okay, but would it affect the depth that you're into the setback?
- The framing structure wouldn't adjust that in either case of the framing, whether it's cantilever or

framed straight down, but we would just to not be in the setback, we would have to lose rows to get to the 10 feet and add those on the ends. And on the north end, the constraint is the existing concession restroom building. And then on the south end, in the layout plan, we can see with the proposed structure, we're already to the end of the soccer and football field. So the added seats as you'd go that way, it'll get very far away from the north end zone from a viewing perspective.

- And it wouldn't matter if you made the press box smaller?

- No, I don't believe so.

- Okay. All right. I kind of figured that was the case, I just wanted to get it straight in my head.

- Yeah, we're not very deep already. We're only eight feet in depth. So to go down to, let's say, a five-foot deep or six-foot deep press box would get very tight for having a counter and seats and a walkway behind those coaches and folks around the scoreboard.

- Any other questions for the petitioners?

- I have one more for staff that I didn't ask before that I remembered, but nothing for petitioners.

- Go ahead, Barb.

- Okay. Should I ask it?

- Yes, please.

- Okay, so I was trying to wrap my brain around a legal nonconforming structure, and that's what this is. It's legally non-conforming, that means legally it's not meeting the codes, right? Is that what that means?

- Right. And why are we even here if this is the case? It's because you're starting essentially from scratch right here. It expands a slight amount, and you're taking it down to where there'll be no more grandstands, there'll be no more actual building, you're going down to the base. And so when it comes to... We get it. Like a stadium is different than a house and stuff, but you're gonna be improving this structure here, more than 50% of its value, by replacing all these different components. So with that in mind, this is why we need to be here today, to go ahead and discuss this application.

- And so it was legally, it was already set back of, it was already within that 10-foot setback by maybe even two feet, so we're talking about maybe a six inches? Is that what we're talking about?

- No, not two feet. I don't have the exact, do you have the exact number?

- But, I mean, I'm looking at what we have. It already was granted, the existing structure appears to be eight to nine feet from the property line, and now it's gonna be 7.5 feet. But we're starting from scratch. We have to look at it as...

- We have to imagine it's brand new, that nothing was there before.

- And the people before us imagined that it was fine to be at eight. So, okay. Thank you. My questions have been answered.

- Thanks, Barb.

- Can you bring up that shot of the fence again?

- Sure.

- How tall is that fence?

- It's eight feet tall.

- You gonna get a variance for that?

- It was just replacing existing...

- Right.

- As far as...

- The subtle joking there aside, my main concern looking at this is for the people who have houses on the other side, but there's an eight-foot fence. I don't know that encroaching, at least for my part, encroaching another foot or two feet, or honestly right up to the fence, I don't know that they'd notice.

- Right.

- You know, it looks like a fairly nice vinyl eight-foot fence there already. It's not gonna be any quieter. When there's a game you can hear it for four blocks, so that's not really a, you know, the stands aren't gonna make any difference there. Yeah.

- Right, and those support elements we see below the press box in this photo, off in the distance there, those won't be there. And if they go forward with this plan, and that, you know, pedestrian pathway through here will be wider, which would mean that folks could walk under the bleachers, but further away from the fence line, you know, so that might even reduce the impact on the adjacent property owners.

- Yeah.

- All right, so it sounds like we're starting to get into deliberations about this. Is there...? One last call. Any questions for staff or the petitioners? All right. So I will just remind everybody that when we're determining whether to grant this variance, we should consider, we must consider these five factors, preservation of intent, exceptional circumstances, preservation of property rights, absence of detriment, and hardship. Thoughts?

- I'll go with, first of all, the preservation of intent. I think they're just replacing the existing, basically

bleacher functions. So basically they're in the spirit and purpose of what they are intending to do with this property, so I don't see any issue with regard to that one.

- Thanks, Cory. Others?

- I would also say that, you know, in this case, we do have a little bit of exceptional circumstances in terms of the existing structures deteriorating. That's, of course, a health and safety issue, and the existing structure's also not ADA-compliant, which makes it less functional for the public. You know, I don't know if that's an exceptional circumstance or possibly even a preservation of property rights in terms of the school being able to serve more of the community because they can now access it in a space where they were unable to access it before. I don't see any substantial detriment to the adjacent properties or materially impairing them being contrary to the spirit and purpose. So if you bought a house by that stadium, and since I lived three houses from there, you know what you signed up for you. You bought a house next to a high school. And honestly, I lived there 17 years. It's really not that bad. The kids are actually pretty nice. But, you know, the fence is there to keep them from having to deal directly with any walkers, and it's been there like that, and they put in a nice fence, and I don't see another foot or two closer to the fence in terms of the top of the structure making any material difference for them. And then I think of the fact to address hardship, it seems to me that if we were to ask the school district to put up a structure that was within code, you would have a pretty serious loss of capacity in that area.

- Thanks, Steven. Other thoughts?

- I think I did also notice that the actual fence line is off of the actual property line, so even though they're, I mean, closer there, stuff like that, I mean, it seems to be within keeping the structure itself within the property, not really trying to impose on the adjacent property.

- I just agree with what you guys said.

- Yeah, and I'll echo some of your thoughts and add some of my own ideas or opinions here based on the evidence we heard. But I think granting the variance is not inconsistent with the spirit and purpose and intent of the regulations, and particularly in the case where you're replacing something. I think the exceptional circumstances, again, I would argue that schools in general, and public institutions in general, they're kind of exceptional. They're odd creatures within the fabric of our neighborhoods, and some of the, as we talked earlier, some of the code is related to, you know, the requirements of adjacent districts and things like that. I think that a track, field, and grandstand is a unique asset in that neighborhood for the school and for the community. The preservation of property rights? Well, I would say, you know, if you've got a football field with bleachers for your stadium, yeah, I want to make sure that you're able to have folks viewing it. I would say that the other high schools have bleachers, so Preble should be able to have bleachers by their football field as well. I think the absence of detriment is a real win here for this request. In addition to the other things we've discussed, making it ADA-compliant, improving it by, you know, getting rid of deteriorated or broken elements, widening the area underneath whereby people can walk without bumping into structural elements, and moving the support pillars or whatever those elements are called further away from the lot line here is, I think, all evidence that this is advancing the public good as opposed to moving away from it. And, you know, and the hardship is, I mean, you know, not necessarily self-imposed, but it's imposed by perhaps, you know, the fact that they're trying to put a football stadium on just a half a block wide parcel. It's just the nature of the way we've laid out our

city that that's how much they've got. And unlike other stadiums, they aren't able to have bleachers on both sides of the field because of that, and can only have 'em on this one side, so I think that's a bit of a challenge. But, you know, I think also that this community has supported this in the past because, like in the parking lot issue we saw earlier, this thing wouldn't be allowed today even as it is without some sort of a variance, so, you know, I think we can stand on the shoulders of the folks who've come before us in a sense, and say, "All right, not only have you met these tests, but it seems to be consistent with what we've done in the past, or somebody's done in the past to do this." So I think we've met all the tests. I would be interested in hearing if any of you think you're ready to make a motion on this matter.

- Yeah, I would motion to approve the request as is.

- Second.

- Okay, is there any further discussion? Hearing none, and again, based on the tests that we have confirmed, Steven has made the motion, Cory seconded to approve this request as presented. All those in favor, signify by saying, "Aye."

- [Board Members] Aye.

- Opposed? Motion carries. Thank you all so much, and thank you, Green Bay Area Public Schools for reinvesting in your facilities.

- Thank you.

- I think the last item is just note for our next meeting, right? And, if I may, I will be unavailable for that meeting, so please note that I need to be excused, or I will be requesting to be excused. I guess it's up to you guys to excuse me, but I will not be available on the 17th.

- Sounds good.

- Okay.

- Anything else related to the date of the next meeting? All right. So at this point we are ready to adjourn. Would somebody care to make a motion to adjourn?

- Move to adjourn.

- Second.

- I have a motion and a second to adjourn. And all those in favor, signify by saying, "Bye."

- [Board Members] Bye.