



# **AGENDA OF THE ZONING & PLANNING BOARD OF APPEALS**

**MONDAY, JUNE 19, 2023, 4:30 PM**  
**City Hall, Room 604 - The Harry Maier Room.**  
**Virtual attendance is also available via Zoom.**

**A. Zoom Meeting Information.**

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

**B. Roll Call.**

1. Members: Noel Halvorsen - Chair, Barb Dorff, Steven Schuchart, Corey Bogenschutz, Joshua Koch, Benjamin Andrews

**C. Approval of the Agenda.**

1. Approval of the agenda for the June 19, 2023, meeting of the Zoning & Planning Board of Appeals.

**D. Approval of Minutes.**

1. Approval of the minutes from the May 15, 2023, meeting of the Zoning & Planning Board of Appeals.

**E. Regular Business.**

1. Election of Vice-Chair of Board of Appeals.
2. (Appeal 23-15) Consideration with possible action on the variance request submitted by Kyle Bunker and Richard Bunker, property owner and applicants, to create a primary residence within the front yard setback in a Low-Density Residential Zoning District (R1) in the 400 Block of S Huron Road (Parcel 21-7785-1) (Ald. J. Hutchison, District 2).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

3. (Appeal 23-16) Consideration with possible action on the variance request submitted by Tom and Nancy Dudek, property owners and applicants, to create an accessory building within a Floodway District at 2468 West Point Road (Ald. J. Brunette, District 12).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

4. (Appeal 23-18) Consideration with possible action on the variance request submitted by Ben Vanderkinter, property owner and applicant, to create a wider parking stall within the front yard setback at a single or two family residence at 3035 Brook Park Drive (Parcel 21-3718 ) (Ald J. Grant, District 1).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

## **F. Informational.**

1. Date of the next meeting: July 17, 2023.

## **G. Adjournment.**

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT [www.greenbaywi.gov](http://www.greenbaywi.gov)
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Zoning & Planning Board of Appeals meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

# Virtual Meeting Instructions

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## Zoning & Planning Board of Appeals

### Zoom Meeting Information

#### Join Zoom Meeting

<https://us02web.zoom.us/j/85419145658?pwd=VWxYY1FIRXBMcXU3dzU0VU0xQ1NKdz09>

**Meeting ID: 854 1914 5658**

**Passcode: 735080**

#### One tap mobile

+13126266799,,85419145658# US (Chicago)

+16468769923,,85419145658# US (New York)

#### Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 854 1914 5658

Passcode: 735080

Find your local number: <https://us02web.zoom.us/j/kcPZFUwg9G>

## Public Comments

If you wish to speak at this public meeting or leave a comment, please fill out the online [Comment Form](#) prior to the meeting.

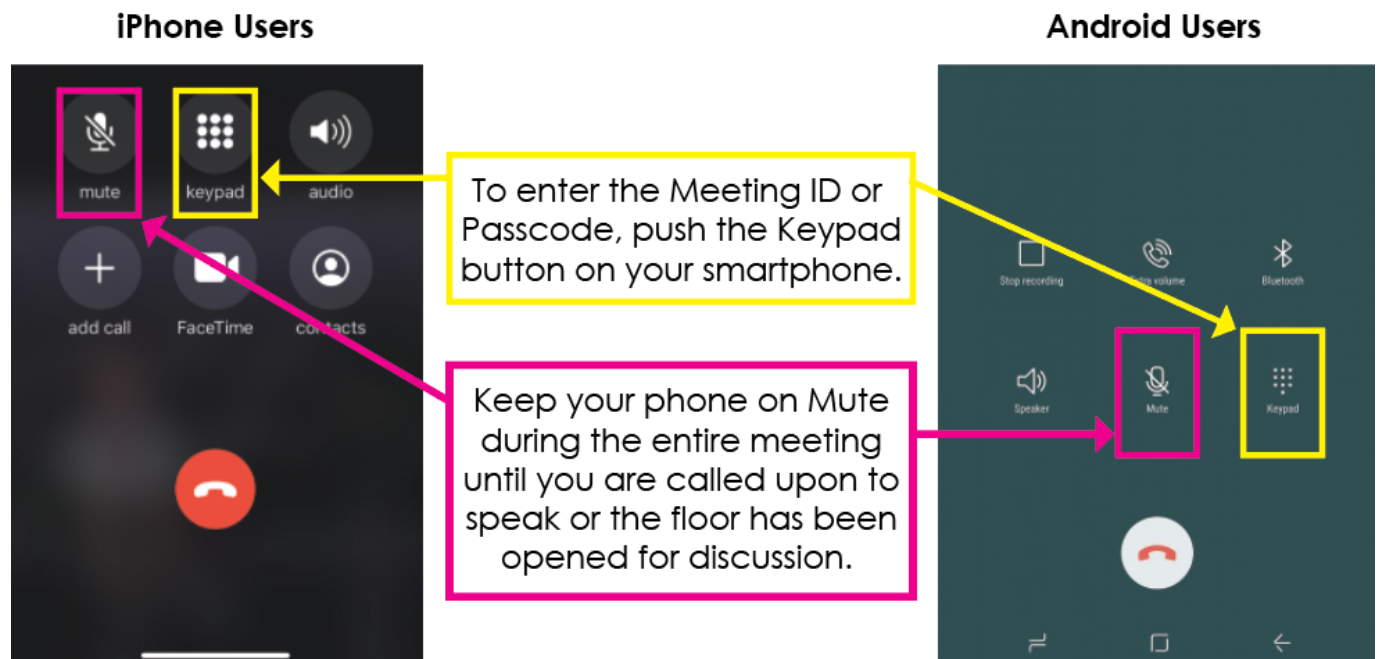
## Additional Information

1. Wisconsin Open Meetings Law still applies
  - a. Persons interested in speaking to an item must state their name and address for the minutes.
  - b. Committee/Commission/Board members will still follow *Roberts Rules of Order Newly Revised 12<sup>th</sup> edition*.
2. Please log into the Zoom meeting at least 10 minutes before the meeting begins to ensure a proper connection and that your technology is working.
  - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
3. Once you are in the meeting please mute yourself.
  - a. You may unmute yourself when you are called upon to speak.
4. Waiting room
  - a. When you call in or connect via web or Zoom app, you will be placed in a "waiting room."
  - b. The meeting host will then admit you to the meeting, and mute you upon entrance (you will still be able to hear and or otherwise observe the meeting).
5. Registering
  - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You'll receive another email confirming that you're registered for the meeting.
  - b. If you're using a phone, your registration will be tied to an email.
6. Raising your hand
  - a. Committee/Commission/Board members—you can either use CivicClerk and request to speak or you can also utilize the "raise your hand" tool in the Zoom platform (you'd need to use a computer or tablet) to let the host know you would like to speak. You can also un-mute yourself and start speaking.
  - b. Persons with items on the agenda or other interested parties —you can also utilize the "raise your hand" tool on the Zoom platform via computer or mobile device. You will be allowed to speak once the committee, commission, or board has moved to "open the floor for interested parties to speak." Once discussion on your agenda item has concluded, the host will mute you, unless the committee opens the floor again.
7. What devices should I use?
  - a. Smart phone (please see more detailed instructions on page 3)
  - b. Land line
  - c. Tablet—in advance of the meeting, please download the Zoom Meeting app by using either the Apple Store or the Play Store. You will be asked to input your name, to identify you for the meeting.
  - d. Computer—you can access the meeting through a web browser by clicking on the meeting link, or through the Zoom Meeting app. If using the app, please download it in advance of the meeting. You will be asked to input your name, to identify yourself for the meeting.
  - e. For tablet and computer users—if you download the app you may be asked to verify your email.

8. Zoom etiquette
  - a. Muting yourself when you're not speaking will prevent your background noise from interfering with others' ability to listen to and participate in the meeting.
  - b. If you're using a telephone, please identify yourself with your phone number and state your name and address before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourself.
9. Closed session
  - a. Persons in the Zoom meeting will be put into a waiting room while the committee/commission/board meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
  - b. Persons watching a Common Council meeting live on YouTube will see a gray screen with the City logo during closed session.
10. Persons interested in attending anonymously or listening to the meeting may call in by dialing \*67 followed by the phone number in the Zoom Meeting Information box.

### Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not wish to speak, please make sure your phone is on **Mute**
  - a. If you're using a smartphone, look at your screen and click the Mute button





Report to the  
**Zoning & Planning Board of Appeals**  
of the City of Green Bay

**MEETING DATE**

June 19, 2023

**PREPARED BY**

Jon LeRoy, Zoning Administrator

**AGENDA ITEM # E.I**

Election of Vice-Chair of Board of Appeals.

**BACKGROUND**

**RECOMMENDATION**

**FISCAL IMPACT**

**ATTACHMENTS**

None



## Report to the Zoning & Planning Board of Appeals of the City of Green Bay

### MEETING DATE

June 19, 2023

### PREPARED BY

Jon LeRoy, Zoning Administrator

### AGENDA ITEM # E.2

(Appeal 23-15) Consideration with possible action on the variance request submitted by Kyle Bunker and Richard Bunker, property owner and applicants, to create a primary residence within the front yard setback in a Low-Density Residential Zoning District (R1) in the 400 Block of S Huron Road (Parcel 21-7785-1) (Ald. J. Hutchison, District 2).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

### BACKGROUND

The Bunker Family is seeking relief to the front yard setback for a primary residence within a Low-Density Residential District (R1) to construct a new primary residence at the 400 block of South Huron Road (Parcel 21-7785-1).

The applicant is seeking to deviate from one section of the Green Bay Zoning Code:

Section 44-554 Table 44-2(c.) Where at least 50 percent of the front footage of any block is built up with principal structures, the front yard setback for new structures shall be equal to the average of the existing structures, except that any structure which is setback 20 percent more or less than the average may be discounted from the formula.

Parcel 21-7785-1 is an anomaly within the city. The parcel is large and has an existing legal non-conforming 2000 square foot accessory building on the property. The building is setback approximately 80 feet from the front property line. The applicant is seeking to create a primary residence on the property in front of the accessory building.

Front yard setback for the building is based off existing average conditions because more than half of the block has been built up. As of June 2023, only two parcels on the block remain without a primary use. Any new primary buildings built on either of the two remaining lots are required by code to fit within the average of the existing primary buildings. This portion of South Huron is not particularly uniform as the houses range from 19 to 123 feet off of the right of way.

The applicant initially sought the front of the house at 15 feet off the right of way. If less than half of the parcels on the block were not developed with primary buildings, then 15 feet would be the minimum setback. After conversations with the applicant explaining averages and intent of the average code, the applicant revised his request to ask for a variance to place the home 22 feet from the property line.

The existing average for the homes is 37 feet. This was derived from taking the average distance of the existing homes and then excluding anomalies over 20% of the average setback. The applicant is seeking front

yard placement at 22 feet rather than the prescribed 37 feet. This would align the front of the home with the neighboring property to the south.

## RECOMMENDATION

## FISCAL IMPACT

## ATTACHMENTS

1. 23-15 Application
2. 23-15 Aerial
3. 23-15 Plans
4. 23-15 Front Yard Aerial Footage
5. 23-15 Neighbor Street View
6. 23-15 Street View at 400 Block of Huron



## ZONING BOARD OF APPEALS VARIANCE APPLICATION

Application Deadline: First Tuesday of the Month at 12:00 Noon.

|                                                                                                                                                                                                                                                        |            |           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| DATE: 6-1-23                                                                                                                                                                                                                                           | PROJECT #: | APPEAL #: |
| <b>APPLICANT INFORMATION:</b>                                                                                                                                                                                                                          |            |           |
| Name: KYLE BUNKER / RICHARD BUNKER                                                                                                                                                                                                                     |            |           |
| Business Name:                                                                                                                                                                                                                                         |            |           |
| Address: 470 EARNHARDT CT                                                                                                                                                                                                                              |            |           |
| City, State, Zip: GREEN BAY WI 54311                                                                                                                                                                                                                   |            |           |
| Phone: 920-634-5808                                                                                                                                                                                                                                    |            |           |
| Email: kyle.bunker@gmail.com                                                                                                                                                                                                                           |            |           |
| <b>PROPERTY OWNER INFORMATION (if different from above):</b>                                                                                                                                                                                           |            |           |
| Name:                                                                                                                                                                                                                                                  |            |           |
| Business Name:                                                                                                                                                                                                                                         |            |           |
| Address:                                                                                                                                                                                                                                               |            |           |
| City, State, Zip:                                                                                                                                                                                                                                      |            |           |
| Phone:                                                                                                                                                                                                                                                 |            |           |
| Email:                                                                                                                                                                                                                                                 |            |           |
| <b>HAS A SITE PLAN BEEN REVIEWED BY PLANNING STAFF?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO                                                                                                                            |            |           |
| If you checked "NO", do not proceed. You must contact a member of the Planning staff to review your site, identify issues with the Zoning Code, and seek potential alternatives. Upon denial of a site plan, a formal variance submission may proceed. |            |           |
| <b>PLEASE FILL OUT INFORMATION BELOW REGARDING THE PROPOSED DIMENSIONAL VARIANCE:</b>                                                                                                                                                                  |            |           |
| Location/Address: 400 Black S. Huron                                                                                                                                                                                                                   |            |           |
| Tax Parcel Number(s): 21-7785-1                                                                                                                                                                                                                        |            |           |
| Describe the Variance Request: TO MATCH THE CURRENT SET BACK OF THE NEIGHBOR TO THE SOUTH WITH A 22 FOOT SET BACK. WE HAVE THE "SHOP" BUILDING TO THE WEST CURRENTLY THERE WOULD BE 10 FEET OF SPACE BETWEEN.                                          |            |           |
| Densing Host et 18 120' Deep                                                                                                                                                                                                                           |            |           |

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).

44-554 T-54 44-2(c)

44-550 (b)(2) (Disregard 44-590 (b) (2) Legal non-conforming, per JL)

**THREE STEP TEST - To qualify for a variance, the applicant must demonstrate that their property meets the following three (3) requirements:**

Does unique physical characteristics of your property prevent the compliance with the ordinance? Explain

OUR PROPOSED STRUCTURE IS EXTREMELY CLOSE TO EXISTING STRUCTURE, WE ARE SHARING A DRIVEWAY TO USE THE SPACE EFFICIENTLY

Would granting the variance be contrary to the public interest? Explain.

NO WE ARE MATCHING THE SOUTHERN NEIGHBOR MEETING PRIOR COMPLIANCE

Why would not getting the variance unreasonably prevent you from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome?

FOR FIRE SAFETY BETWEEN THE TWO STRUCTURES CURRENTLY IT WOULD BE TIGHT TO "SAY INCHES NOT FEET."

I HEREBY CERTIFY THAT I HAVE READ AND FULLY UNDERSTAND THE VARIANCE PROCEDURE AND FAILURE TO COMPLY WITH CITY REQUIREMENTS WILL RESULT IN THIS APPLICATION BEING WITHHELD FROM CONSIDERATION BY THE ZONING BOARD OF APPEALS.



Signature of the Property Owner

Signature of Applicant (working as "Agent" for owner)

KYLE BUNKER

Print Name

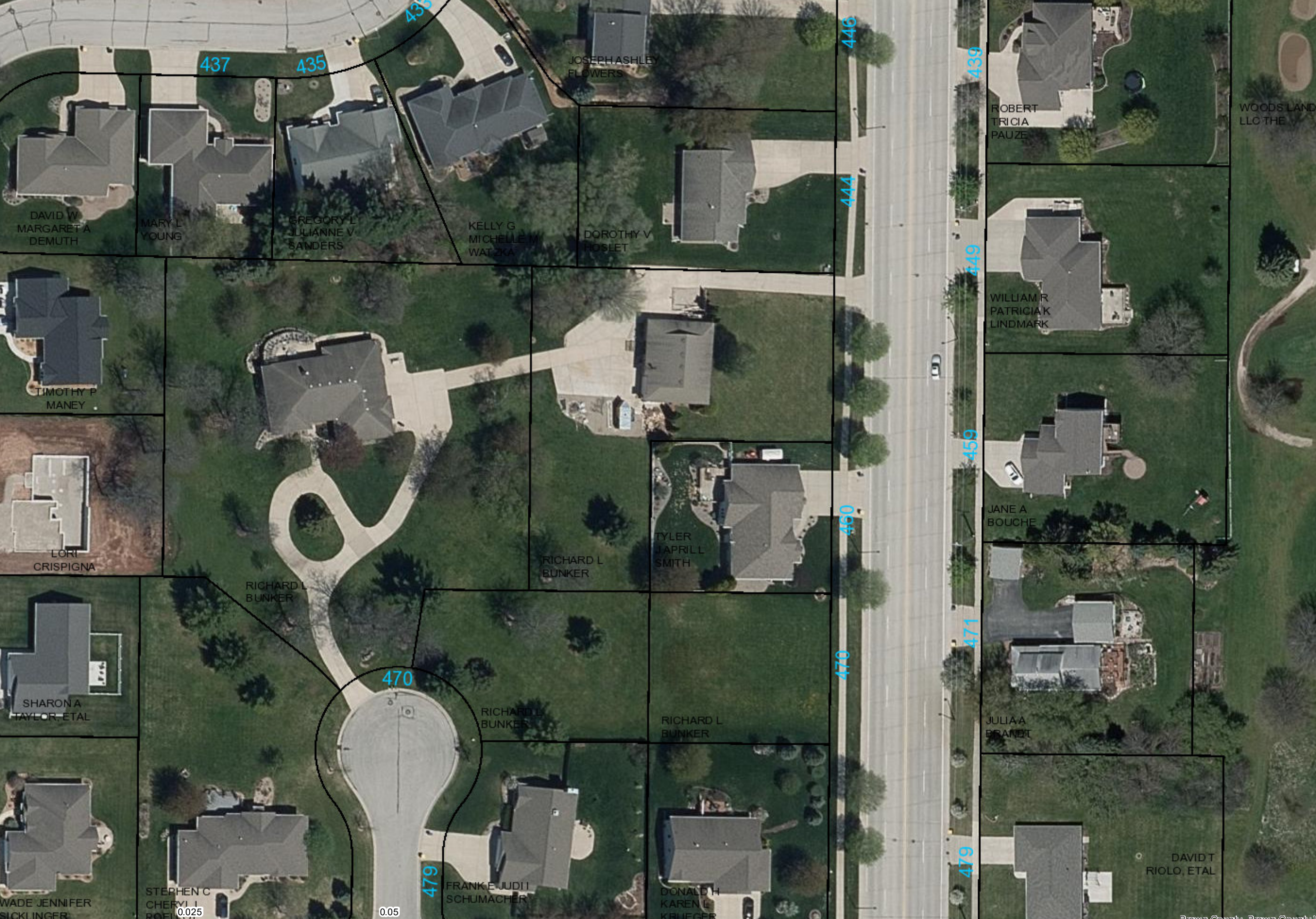
Print Name

6-1-2023

Date

Date

|                  |                  |                                            |                                           |
|------------------|------------------|--------------------------------------------|-------------------------------------------|
| OFFICE USE ONLY: | Parcel #:        | Residential \$125 <input type="checkbox"/> | Commercial \$250 <input type="checkbox"/> |
| District:        | Zoning:          | Meeting Date:                              | Receipt #:                                |
| Submittal Date:  | Staff Signature: |                                            |                                           |



DAVID W  
MARGARET A  
DEMUTH

MARY L  
YOUNG

GREGORY L  
JULIANNE V  
SANDERS

KELLY G  
MICHELLE M  
WATZKA

DOROTHY V  
HOSLET

JOSEPH ASHLEY  
FLOWERS

ROBERT  
TRICIA  
PAUZE

WILLIAM R  
PATRICIA K  
LINDMARK

JANE A  
BOUCHE

JULIA A  
BRANDT

DAVID T  
RIOLO, ETAL

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WADE JENNIFER  
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STEPHEN C  
CHERYL I  
ROEL

FRANK E JUDI J  
SCHUMACHER

DONALD H  
KAREN L  
KRUEGER

SHARON A  
TAYLOR, ETAL

LORI  
CRISPIGNA

TIMOTHY P  
MANEY

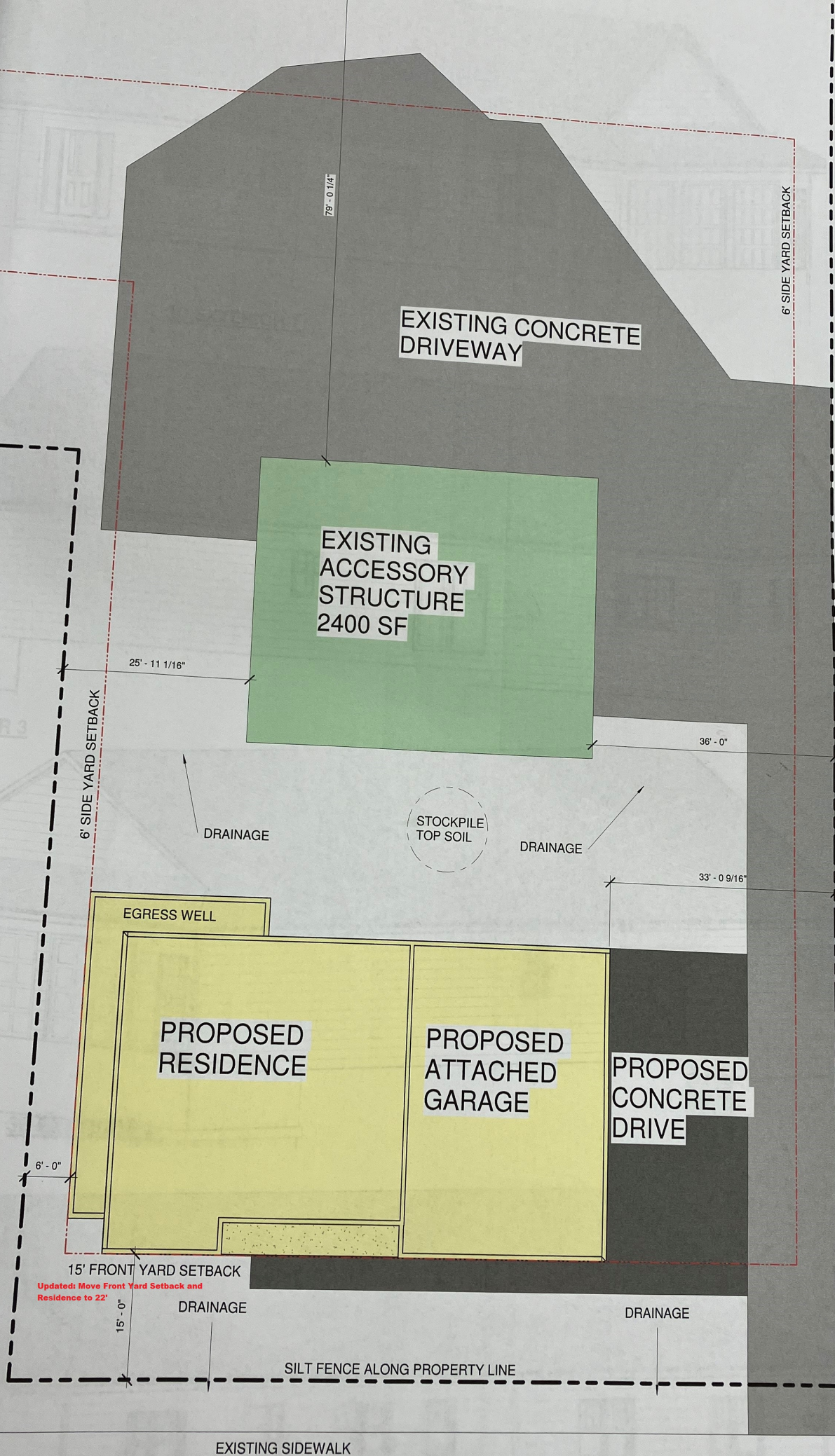
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JEANNE C  
BRUETTE

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JOSEPH ASHLEY  
FLOWERS

446

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DOROTHY V  
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55'

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22'

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RICHARD L  
BUNKER

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E JUDI I  
ACHER

DONALD H  
KAREN L  
KRUEGER

3289

38'







## Report to the Zoning & Planning Board of Appeals of the City of Green Bay

### MEETING DATE

June 19, 2023

### PREPARED BY

Jon LeRoy, Zoning Administrator

### AGENDA ITEM # E.3

(Appeal 23-16) Consideration with possible action on the variance request submitted by Tom and Nancy Dudek, property owners and applicants, to create an accessory building within a Floodway District at 2468 West Point Road (Ald. J. Brunette, District 12).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

### BACKGROUND

The Dudek family is seeking relief to place a building within a Floodway District at 2468 West Point Road.

The applicant is seeking to deviate from one section of the Green Bay Zoning Code:

#### Sec. 44-1169

Permitted uses within a Floodway District. 11 limited uses are permitted within a Floodway District. Accessory buildings are not a permitted use. The back of the property at 2468 West Point Road is in a Floodway District. The applicant seeks relief to place an accessory building in an area within the floodway.

#### Background:

The applicant applied for a building permit in 2018 to place an accessory shed in the backyard of the property. Site plans were submitted and approved allowing the construction of an accessory building within an area of the backyard which was not in the floodway or the adjacent floodplain. A portion of the backyard is in the upland and not apart of either floodway or floodplain and accessory buildings are permitted in outside of the floodway area.

The Floodplain Overlay District is an additional overlay which regulates development as uncontrolled development and use of floodplains and rivers of the municipality impairs public health, safety, convenience, general welfare, and tax base. The waters of Beaver Dam Creek are adjacent to the property and the floodway runs into the back of the property. Development and grading within a floodway are heavily regulated through the code in accordance with Wisconsin Statutes. The following uses are permitted within a floodway provided they meet design standards:

(1) Agricultural uses such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.

(2) Nonstructural industrial and commercial uses such as loading areas, parking areas, and airport landing strips.

(3) Nonstructural recreational uses such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap, and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of Section 44-1170.

- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with Sections 44-1170 and 44-1171.
- (5) Extraction of sand, gravel, or other materials that comply with Section 44-1170(d).
- (6) Functionally water-dependent uses such as docks, piers, or wharves, dams, flowage areas, culverts, navigational aids, and river crossings of transmission lines, and pipelines that comply with Wis. Stats. Chs. 30 and 31.
- (7) Public utilities, streets, and bridges that comply with Section 44-1170(c).
- (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code SPS ch. 383.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code NR Chs. NR 811 and 812.
- (10) Wastewater treatment ponds or facilities permitted under Wis. Admin. Code NR § 110.15(3)(b).
- (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that comply with the regulations for the floodplain area occupied.

An accessory shed is not a permitted use.

The applicants built a shed after receiving an approved building permit, but built it within the floodway area rather than the approved site location. The City ordered removal of the shed or placement to where the shed was granted approval in 2018. An elevation certificate was done on the property and resulted in determining the shed to be at an elevation which was within the floodway.

Floodway maps are derived from FEMA Flood Maps. These flood maps are periodically updated. The latest update occurred in May 2023. Before this, the maps were updated in 2009. The applicant was initially seeking to come forth with a variance application in 2021, but because local municipalities knew that FEMA Flood Maps would be updated within the coming months, it was determined that a stay on the orders could occur until the maps updated in case the backyard mapping resulted in a change of the boundary which removed/alterd the floodway or floodplain. As noted, the Flood Maps update occurred last month. However, the update did not result in a change of the mapping of the backyard. The structure remains within the boundaries of the floodway. The same area of upland in the backyard exists outside of the floodway or floodplain. The applicant is seeking a variance to allow the accessory building to remain in place within the floodway.

A handful of accessory buildings are located within the floodway in this area along Beaver Dam Creek. Legal non-conforming accessory structures which were built before Floodway District zoning was in place do exist. However, those parcels have limits on the amount of improvements that can occur to said buildings. Once a building has met improvement caps and cannot be maintained, the buildings must be removed if within the floodway.

## RECOMMENDATION

## FISCAL IMPACT

## ATTACHMENTS

1. 23-16 Application
2. 23-16 Approved 2018 Building Permit Layout
3. 23-16 FEMA FIRM Floodway Overlay with Aerial 2020
4. 23-16 Neighborhood Aerial
5. 23-16 Shed Photo from Elev Cert





## ZONING & PLANNING BOARD OF APPEALS VARIANCE APPLICATION

APPLICATION DEADLINE: FIRST TUESDAY OF THE MONTH AT 12 NOON. <sup>23-16</sup>

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|
| DATE: <sup>Updated:</sup> JUN 5, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                          | PROJECT #: 74090 | APPEAL #: 21-021 |
| <b>APPLICANT INFORMATION:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                  |                  |
| Name: Tom & NANCY Dudek                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                  |                  |
| Business Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                  |                  |
| Address: 2468 West Point Road                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                  |                  |
| City, State, Zip: GREEN Bay Wi. 54304                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                  |                  |
| Phone: 920-499-7140                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |                  |
| Email: NONE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                  |                  |
| <b>Property Owner Information (if different from above):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |                  |                  |
| Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                  |                  |
| Business Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                  |                  |
| Address:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                  |                  |
| City, State, Zip:                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                  |                  |
| Phone:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                  |                  |
| Email:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                  |                  |
| <b>PLEASE FILL OUT INFORMATION BELOW REGARDING THE PROPOSED DIMENSIONAL VARIANCE:</b>                                                                                                                                                                                                                                                                                                                                                                                                          |                  |                  |
| Location/Address: 2468 West Pt Rd.                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                  |                  |
| Tax Parcel Number(s):                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                  |                  |
| Describe the Variance Request: LOCATION of 12' X 16' Storage shed located on AREA declared "Flood PLANE". This, and the adjoining Property have been our residence for 50+ years. NEVER during that time has there been any water to come within 30" of the elevation, of the shed. City of. say "FEMA" RULES will not allow the shed at present location, However, FEMA REPS say, "AS LONG AS it does not obstruct a natural flow of water" they have NO CONCERN, and this is a local matter. |                  |                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |                  |

Site plan reviewed? x yes

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).

Located in Floodway  
44-1169

#### ALTERNATIVES:

Describe alternatives to your proposal, to include other locations, designs, construction techniques, etc.

Bldg. is now sitting well above any high water that has occurred from BEAVER DAM CREEK, EVEN THOUGH CITY HAS NOT DONE A GOOD JOB KEEPING THE CULVERT AT HOBART DR. CLEAR.

Alternatives that you considered that comply with existing regulations:

X

Reasons for not pursuing the alternative(s) listed above:

Y

**THREE STEP TEST - To qualify for a variance, the applicant must demonstrate that their property meets the following three (3) requirements:**

Does unique physical characteristics of your property prevent the compliance with the ordinance? Explain

THERE IS ONLY 1 REMAINING SHADE TREE IN OUR BACKYARD WHICH WILL NEED TO BE CUT DOWN TO FACILITATE MOVING THE SHED.

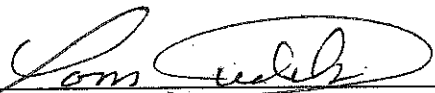
Would granting the variance be contrary to the public interest? Explain.

NO

Why would not getting the variance unreasonably prevent you from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome?

NO valid REASON exists to re-locat Bldg. AND  
only option for me will be: DISTRUCTION AND LANDFILL.  
WHAT HAPPENED TO the RIGHT TO PRIVATE PROPERTY?  
ZBA: view - ON-SITE will confirm OWNER request.

I HEREBY CERTIFY THAT I HAVE READ AND FULLY UNDERSTAND THE VARIANCE PROCEDURE AND FAILURE TO COMPLY WITH CITY REQUIREMENTS WILL RESULT IN THIS APPLICATION BEING WITHHELD FROM CONSIDERATION BY THE ZONING BOARD OF APPEALS.

  
Signature of the Property Owner

\_\_\_\_\_  
Signature of Applicant (working as "Agent" for owner)

Tom Dudek  
Print Name:

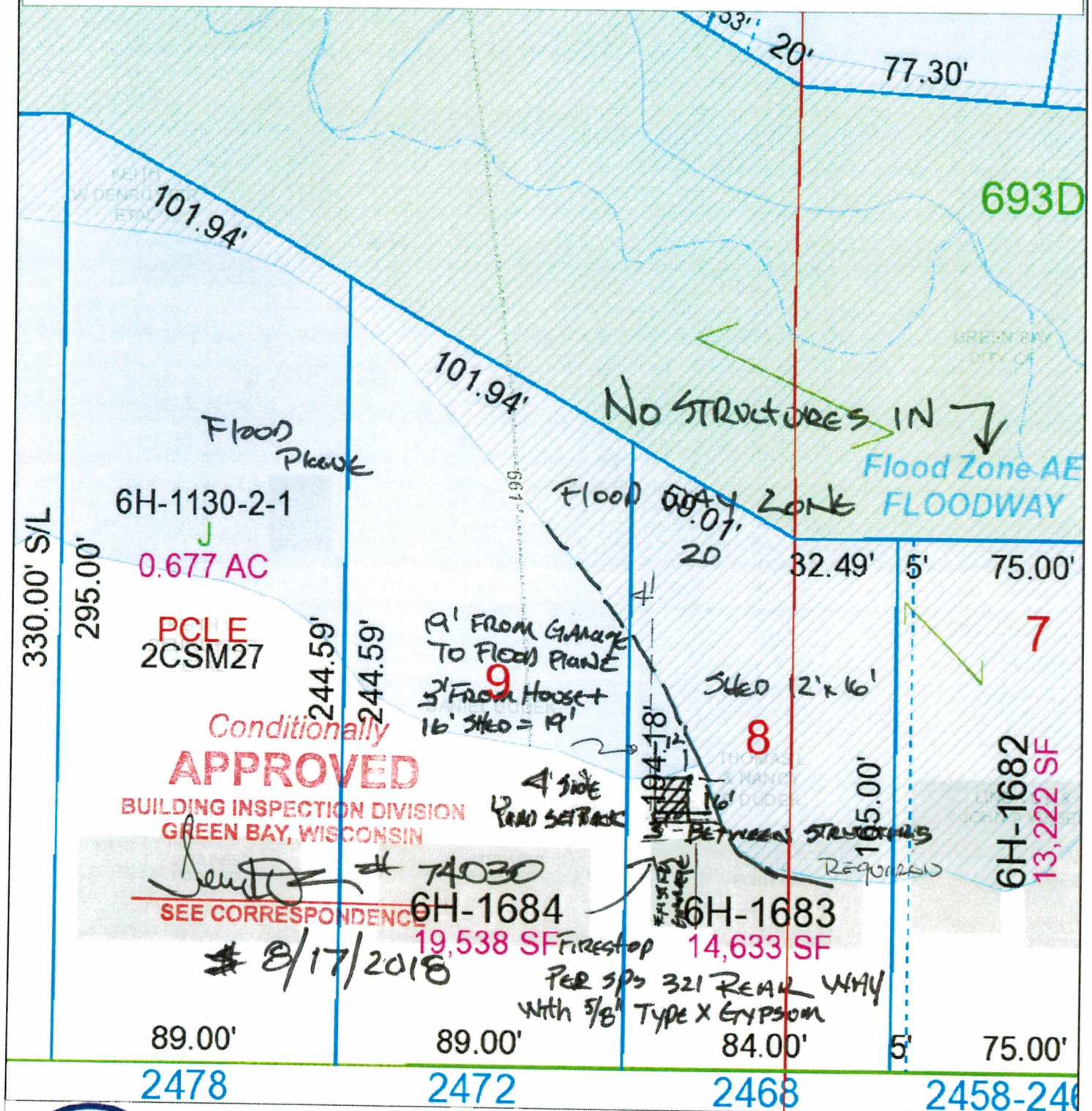
\_\_\_\_\_  
Print Name:

5-19-21 June 5, 2023  
Date ND

\_\_\_\_\_  
Date

|                         |                          |                                               |
|-------------------------|--------------------------|-----------------------------------------------|
| OFFICE USE ONLY:        | Parcel# 64-1683          | Residential \$75 _____ Commercial \$150 _____ |
| District: 12 Zoning: R1 | Meeting Date: 6/19/23    | Receipt #: 2763535-40                         |
| Submittal Date:         | Staff Signature: 6/19/23 |                                               |

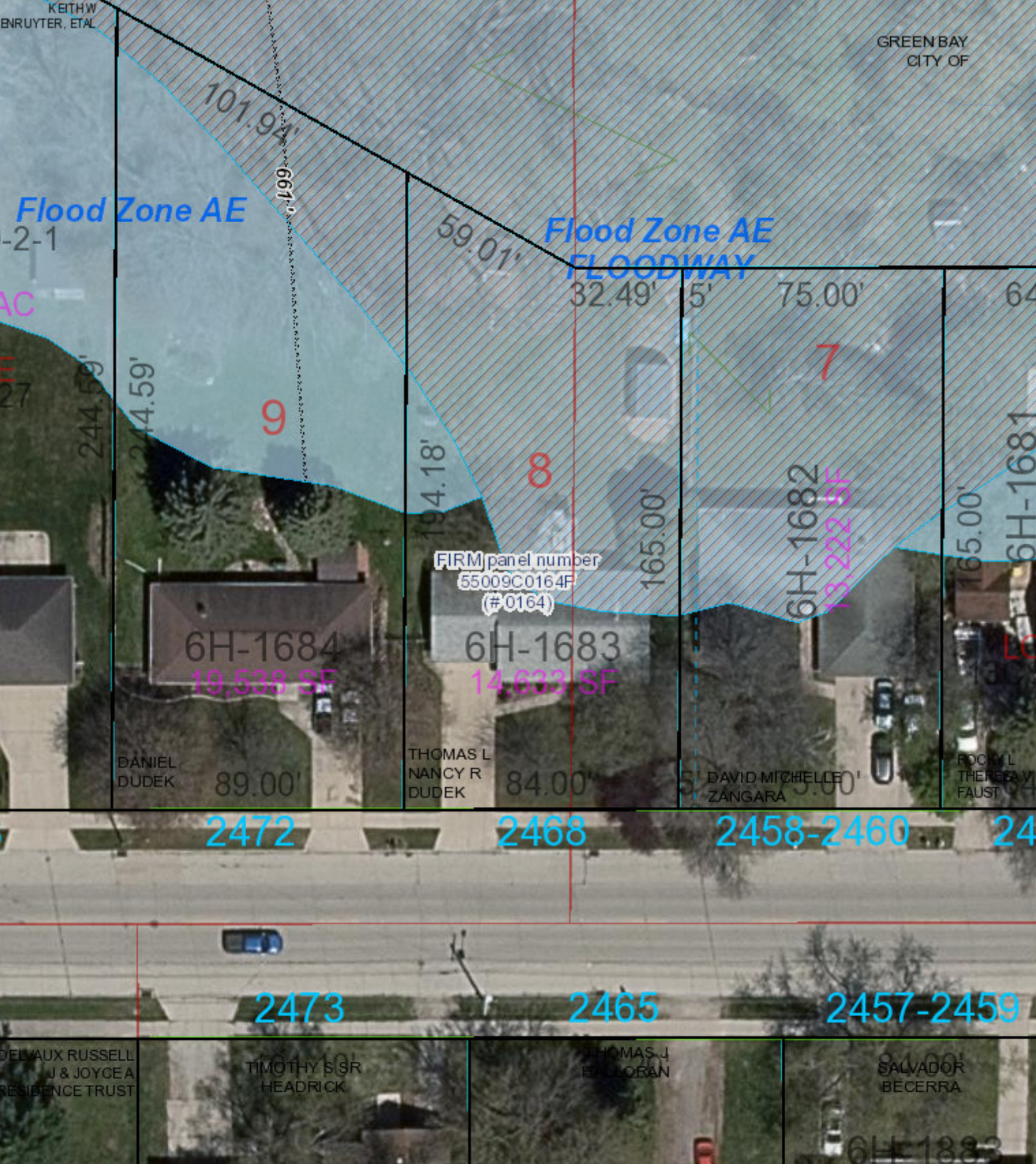
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A map key (legend) and other information about this map is available at: [maps.gis.co.brown.wi.us](http://maps.gis.co.brown.wi.us)  
Geographic Information System (GIS) data provided by: Brown County Planning & Land Services Department  
Brown County is not responsible for user-drawn graphics that may have been added to this GIS base map.  
This map is intended for advisory purposes only. It is based on sources believed to be reliable, but Brown County distributes this information on an "As is" basis. No warranties are implied. Boundaries shown on this map are general representations only and should not be used for legal documentation, boundary survey determinations, or other property boundary issues.

08/17/2018  
Scale 1:480

SEE ATTACHED SHED



[illegible]





## Report to the Zoning & Planning Board of Appeals of the City of Green Bay

### MEETING DATE

June 19, 2023

### PREPARED BY

Jon LeRoy, Zoning Administrator

### AGENDA ITEM # E.4

(Appeal 23-18) Consideration with possible action on the variance request submitted by Ben Vanderkinter, property owner and applicant, to create a wider parking stall within the front yard setback at a single or two family residence at 3035 Brook Park Drive (Parcel 21-3718 ) (Ald J. Grant, District I).

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

### BACKGROUND

Ben Vanderkinter is seeking a driveway expansion in the front yard of his property at 3035 Brook Park Drive.

The applicant is seeking to deviate from multiple sections of the Green Bay Zoning Code:  
Section 44-1746: Driveways shall lead from public right of way directly to a garage door opening plus 24 inches on either side of said door or to a legal parking space.

Section 44-1746 (3)c.: Where the width of the driveway at the garage.. the driveway shall be tapered between the garage or edge of legal uncovered parking space and the property line starting a minimum of five feet from the parcel. When leading to a legal uncovered space, the driveway width shall be the least possible needed and shall not exceed 25 feet in width at the property line.

The petitioner (as shown the proposed site plan(s)) requests an expansion of the existing driveway. The existing two stall 17 foot wide driveway leads to a two stall garage. The applicant is seeking an expansion of the driveway within the front yard setback to create a third surface parking stall which does not lead to a legal parking space. Section 44-1746 allows for an expansion of a driveway 2 feet past a garage door opening in the front yard, but not a full stall unless it is a driveway leading to a fully legal stall (either a garage stall or uncover spaces in the rear or side yard). The only time a front yard parking space exception comes into play in the code is 44-1747 (3.)d. when a single/two family home has an attached single stall garage. This property has a two stall garage along with two stalls in the driveway.

An option for the applicant to accomplish gaining a full legal stall is to apply 44-1747(3)c. and create one uncovered parking space alongside a garage provided said space is not located between the street and is setback from side and rear lot lines. If the applicant were to move the shed along side the garage to a different part of the property, a permitted parking stall could be created. A drive lane accessing a new stall could be created so long as it met the standards of 44-1746 (3)c.

The applicant has supplied two designed layouts:

In Option 1, the triangle taper occurs beyond the property line and into the right of way. Code limits max width of a driveway to be 25 feet at the property line and then begin a taper outward to extend to 30 feet

(5' feet beyond what the driveway is at the sidewalk cake, 2.5' flares on both ends of a driveway apron) at the curb/gutter line. This would create a 28 foot wide driveway, which extends past the right of way and creates an inverse taper to the existing curb flares. This is the opposite of the intended purpose of flares within an apron. Flares extending outward, rather than inward allow automobiles berth to turn out of a driveway without running over a curb and potentially damaging both infrastructure and vehicles.

In Option 2, the driveway is expanded to 28 feet wide through the driveway and does not show any sort of flare at the right of way. Department of Public Works policy for any new driveway entrance requires a 2.5' flare on both ends of a driveway at the curb.

Planning staff has provided two options to the applicant in which a driveway expansion which meets specifications of the code. "23-18 Legal Option for Driveway Expansion 1" shows an expansion of the driveway for non-covered parking stalls within the side or rear yard setback which does not change the existing driveway apron. This option calls for triangle tapers 5 feet past the property line and non covered parking stall on the side of the garage. "23-18 Legal Option for Driveway Expansion 2" demonstrates an apron expansion which allows for the curb cuts on the street at 30 feet wide, tapering to 25 feet wide at the sidewalk cake and expanding with a typical triangle taper on both sides of the driveway five feet past the property line.

## RECOMMENDATION

## FISCAL IMPACT

## ATTACHMENTS

1. 23-18 Original Application
2. 23-18 Aerial
3. 23-18 Street View Driveway Side
4. 23-18 Street View Front Side
5. 23-18 Proposed Site Plans
6. 23-18 Applicant Submitted Neighborhood Examples
7. 23-18 Legal Option for Driveway Expansion 1
8. 23-18 Legal Option for Driveway Expansion 2



Community & Economic Development Department  
100 North Jefferson Street - Room 608  
Green Bay, Wisconsin 54301-5026  
[www.greenbaywi.gov](http://www.greenbaywi.gov)

Phone 920.448.3400  
Fax 920.448.3426

Dear Zoning Board of Appeals Variance Applicant:

In this packet you will find a variance application form as well as detailed information by which the Zoning Board of Appeals (ZBA) bases its decisions. Please review all the information regarding variance standards. Perhaps you have a few general questions about the ZBA process, so here's some of the basics about the variances.

*What is a variance?* It's an authorization granted by the ZBA to construct or alter a building or structure in a manner that deviates from the dimensional standards of the Zoning Code.

*What is the ZBA?* It's a quasi-judicial body that functions much like a court. The ZBA reviews variance applications. The ZBA has the power to grant variances when special conditions unique to the property itself will not allow the property owner to meet dimensional standards of specific ordinances. It is the job of the ZBA to **not** compromise Zoning Code provisions for a property owner's convenience. Variance approvals are meant to be used infrequently as a remedy when an ordinance imposes a unique and substantial burden.

The ZBA has the power to grant a variance when special and unique conditions exist on a property and the property owner cannot meet the dimensional standards of a specific ordinance. To demonstrate these conditions, you as the applicant need to explain the following standards:

- Unnecessary Hardship
- Unique Property Limitation
- Protection of the Public Interest

In the attached packet, please reference Part 3: Criteria for Variance for further details on these standards. The ZBA must uphold the intent of the zoning ordinance in its decision.

You must contact our office to discuss your project before you intend to apply for a variance. You must provide a site plan to staff to discuss your project. To apply for a variance, a site plan must be denied. During this process, staff will discuss alternatives which could avoid a variance request. Please contact me if you have any questions or concerns about the materials provided in this packet or any other aspects of the City's appeal process.

Sincerely,

Jon LeRoy  
Zoning Administrator / Senior Planner  
Phone: (920) 448-3405  
Email: [jon.leroy@greenbaywi.gov](mailto:jon.leroy@greenbaywi.gov)

## Zoning Board of Appeals (ZBA)

The five members of the ZBA are citizens appointed by the Mayor and approved by the City Council, who give their time without compensation. Cases are generally heard in the order as they appear on the agenda. As an applicant you will be invited to present information regarding your request. City staff may provide factual evidence regarding your request. Neighboring property owners have been sent notice of your project and will also be allowed an opportunity to speak.

The ZBA decision is based on the evidence and testimony received as part of the application and through the public hearing process. The ZBA may impose special conditions on any use or development being proposed in order to ensure that these criteria can and will continue to be met. Only the minimal amount of relief necessary to allow reasonable use or development of the property will be granted. Unless otherwise stipulated by a condition of approval, variances that permit some type of building or development will expire after twelve (12) months unless the building or development commences within 12 months and continues in reasonable manner toward completion.

### Part 1: Application Requirements

The ZBA meets the third Monday of each month starting at 4:30 p.m. The meetings are held both in person at City Hall, Room 604, and virtually through Zoom. Instructions to access the meeting will be provided in advance of the meeting. For an appeal to be heard at any monthly hearing, an application must be on file in the Community and Economic Development Department, City Hall, 100 N Jefferson Street, Room 608, by **12:00 Noon on the first Tuesday of the month.**

The following items must be addressed, prepared, and submitted as part of your appeal application. Some of the items may not apply to all appeals. Incomplete applications will be returned and will affect the scheduling and processing of your appeal before the ZBA. A site plan must first be filed with the Community and Economic Development Department prior to application. The Zoning Administrator may grant an exemption from this requirement based on evidence provided by the applicant.

At the direction of the ZBA, the following information is required to be submitted with the application (**plans are not to be larger than 11 x 17**):

1. The parcel in question with property boundaries and dimensions.
2. Abutting streets, properties, natural features, structures and their dimension to the site in question.
3. Location and size (with dimensions and area) of any existing buildings or structures.
4. Ordinary High-water Mark, 100-year Flood Elevation, 2-ft. above the 100-year Flood Elevation, Easements, etc.
5. Location and size of culverts, ditches, trees, wells, septic system, retaining wall, driveways, sidewalks, patios, or any other items pertinent to the variance requested – **including area calculations.**
6. Elevations at corners of parcel, building corners, grade breaks and other elevations pertinent to the variance requested.
7. Proposed building, structure or appurtenance for which the variance is being requested.
8. Additional requirements may apply when considering variance requests in floodplain districts.
9. A narrative and/or supporting photos, documents, paperwork, etc. that may have a bearing on the variance request.

Fee in the amount of \$250 for Commercial Properties and \$125 for Residential Properties, which is non-refundable once the hearing has been noticed. Contact the Zoning Administrator, Jon LeRoy, at (920) 448-3405 or [Jon.leroy@greenbaywi.gov](mailto:Jon.leroy@greenbaywi.gov) to discuss your appeal.

Please submit completed City of Green Bay Zoning Board of Appeals Variance Application (attached as part of this packet) to:

Community and Economic Development Department  
Attn: Jon LeRoy, Zoning Administrator / Senior Planner  
100 North Jefferson Street, Room 608  
Green Bay, WI 54301

## Part 2: Review Process

Please check with the Zoning Administrator for further information on application deadlines, meeting dates, times, and when your appeal may be scheduled. Appeal applications are reviewed and scheduled on a first come first served basis. Once an appeal is scheduled, public hearing notices for that appeal will be (1) published in the City's official newspaper, (2) mailed to property owners who are within 100 feet; and (3) mailed to you along with an agenda for the meeting your appeal is scheduled. On or prior to the meeting date, ZBA members may visit your property prior to conducting a public hearing of your appeal.

Once the public hearing and testimony have been completed, the ZBA will act on your appeal (or continue to the next meeting if additional information or clarification is needed). Once decided, an Appeal summary will be prepared by the Zoning Administrator and will be recorded in the minutes as part of the proceeding of the ZBA meeting.

Each applicant (or a representative of the applicant) is required to attend the hearing, or the appeal may be denied by the ZBA. In granting variances, the ZBA may impose special conditions to ensure that public interest and welfare will not be threatened. Variances granted by the ZBA remain valid for one year from the hearing date or as stipulated in the decision. If work to implement the variance has not begun within that time, the variance shall expire requiring the ZBA to re-approve the variance should the applicant wish to implement the plan.

If necessary, an applicant may postpone the hearing of an appeal provided it is received by staff in writing prior to the hearing. The appeal will be postponed for one month or at a future meeting agreed upon by the ZBA. An application for appeal may be withdrawn provided it is received by staff in writing prior to the hearing date.

No application which has been denied by the ZBA shall be reconsidered without material alteration or revision within one year of the board's decision, except pursuant to a court order or motion to reconsider made by a member voting with the majority. The ZBA may refuse to act upon an appeal if the applicant has failed to implement previously granted appeals.

## Part 3: Criteria for Variance

To qualify for a variance, an applicant must demonstrate that all three statutory standards will be met:

1. **Unnecessary Hardship.** A matter to be determined from the facts and circumstances of each individual appeal, including:
  - A. Unnecessary hardship is situation where, in the absence of a variance, an owner can make no feasible use of a property or strict conformity is unnecessarily burdensome. *A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with a zoning ordinance.*
  - B. Hardship must be peculiar to the parcel in question and different from that of other parcels. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the zoning ordinance.
  - C. Self-imposed hardship is not grounds for a variance. Improvements that were made in violation of the ordinance are generally considered to be self-imposed hardships.
  - D. Hardships cannot be one that would have existed in the absence of a zoning code.
2. **Unique Property Limitation.** Unique physical characteristics of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. These features may be a wetland, soil type, parcel shape, or a steep slope that limits the reasonable use of the property.
3. **Protection of the Public Interest.** Granting of a variance must neither harm the public interest nor undermine the purpose of the ordinance. The public interest includes the interest of the public at large, not just that of nearby property owners. Lack of local opposition does not in itself mean that a variance will not harm public interest. Property owners within 100 ft. of the property area and Alderpersons will be noticed of the request prior to the meeting.

#### **Part 4: Findings by the ZBA**

No variance shall be granted by the ZBA unless it finds the following facts and conditions exist and so indicates in the minutes of its proceedings:

- 1) *Preservation of Intent.* A variance would not be inconstant with the spirit, purpose, and intent of the regulations for the district in which it is requested.
- 2) *Exceptional Circumstances.* Exceptional, extraordinary, or unusual circumstances or conditions apply to the lot or intended use that do not apply generally to other properties or uses in the same district, and the variance is not of so general or recurrent a nature to suggest that this chapter should be changed.
- 3) *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 and vicinity.
- 4) *Absence of detriment.* The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the spirit, purpose, and intent of this chapter or the public interest.
- 5) *Hardship.* The alleged difficulty in complying with the Municipal Code is not self-imposed nor is it based solely on economic grounds.

[illegible]

[illegible]

I HEREBY CERTIFY THAT I HAVE READ AND FULLY UNDERSTAND THE VARIANCE PROCEDURE AND FAILURE TO COMPLY WITH CITY REQUIREMENTS WILL RESULT IN THIS APPLICATION BEING WITHHELD FROM CONSIDERATION BY THE ZONING BOARD OF APPEALS.

Ben VanderKinter

Ben VanderKinter

Signature of the Property Owner

Signature of Applicant (working as “Agent” for owner)

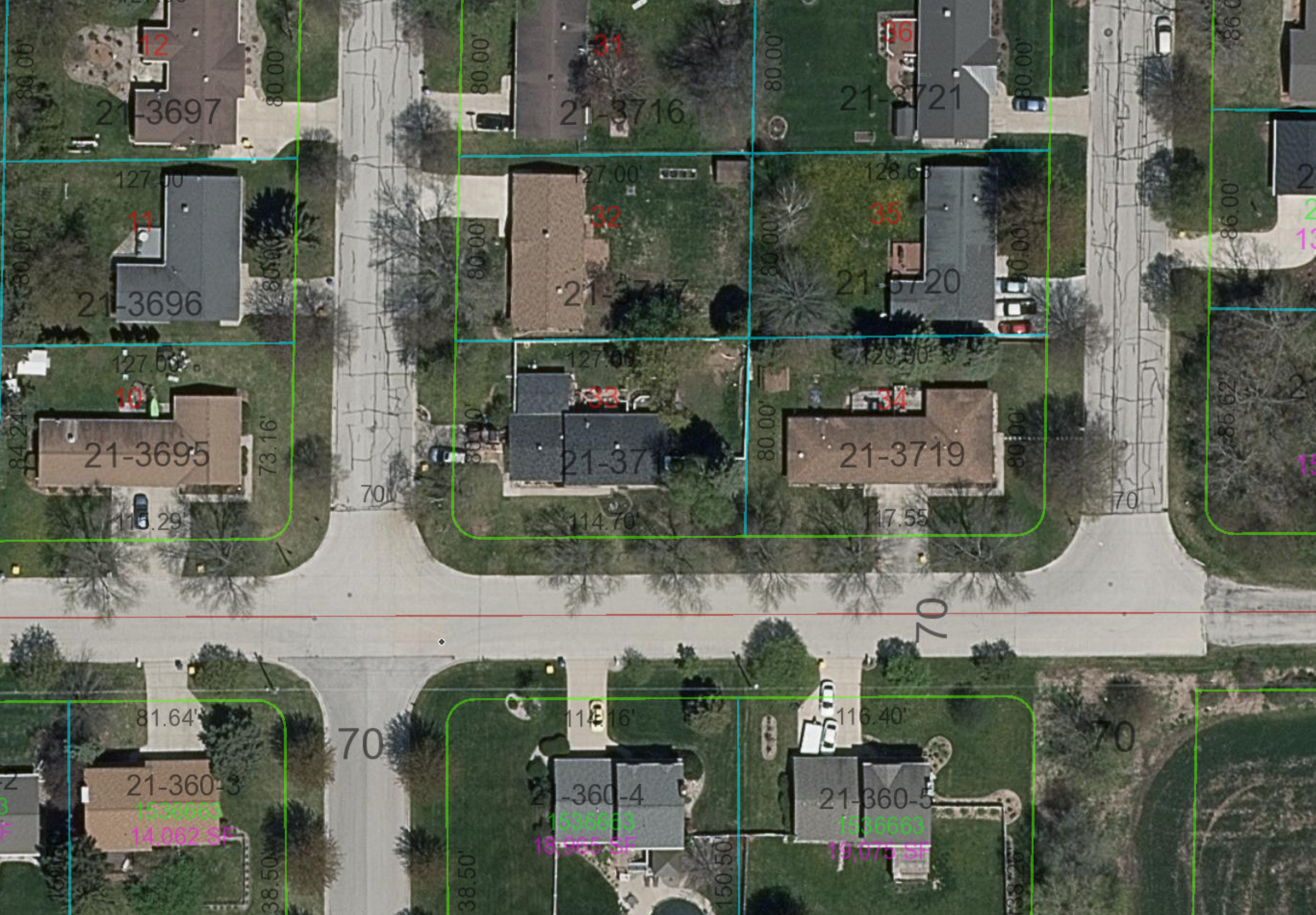
Print Name

Print Name

Date

Date

|                                        |                  |                   |                  |
|----------------------------------------|------------------|-------------------|------------------|
| OFFICE USE ONLY:                       | Parcel #:        | Residential \$125 | Commercial \$250 |
| District:                      Zoning: | Meeting Date:    | Receipt #:        |                  |
| Submittal Date:                        | Staff Signature: |                   |                  |



12

21-3697

31

21-3716

36

21-3721

11

21-3696

32

21-3717

35

21-3720

10

21-3695

33

21-3718

34

21-3719

2

13

15

70

70

70

81.64'

21-360-3

1536663

14,062 SF

114.16'

21-360-4

1536663

18,385 SF

116.40'

21-360-5

1536663

19,075 SF



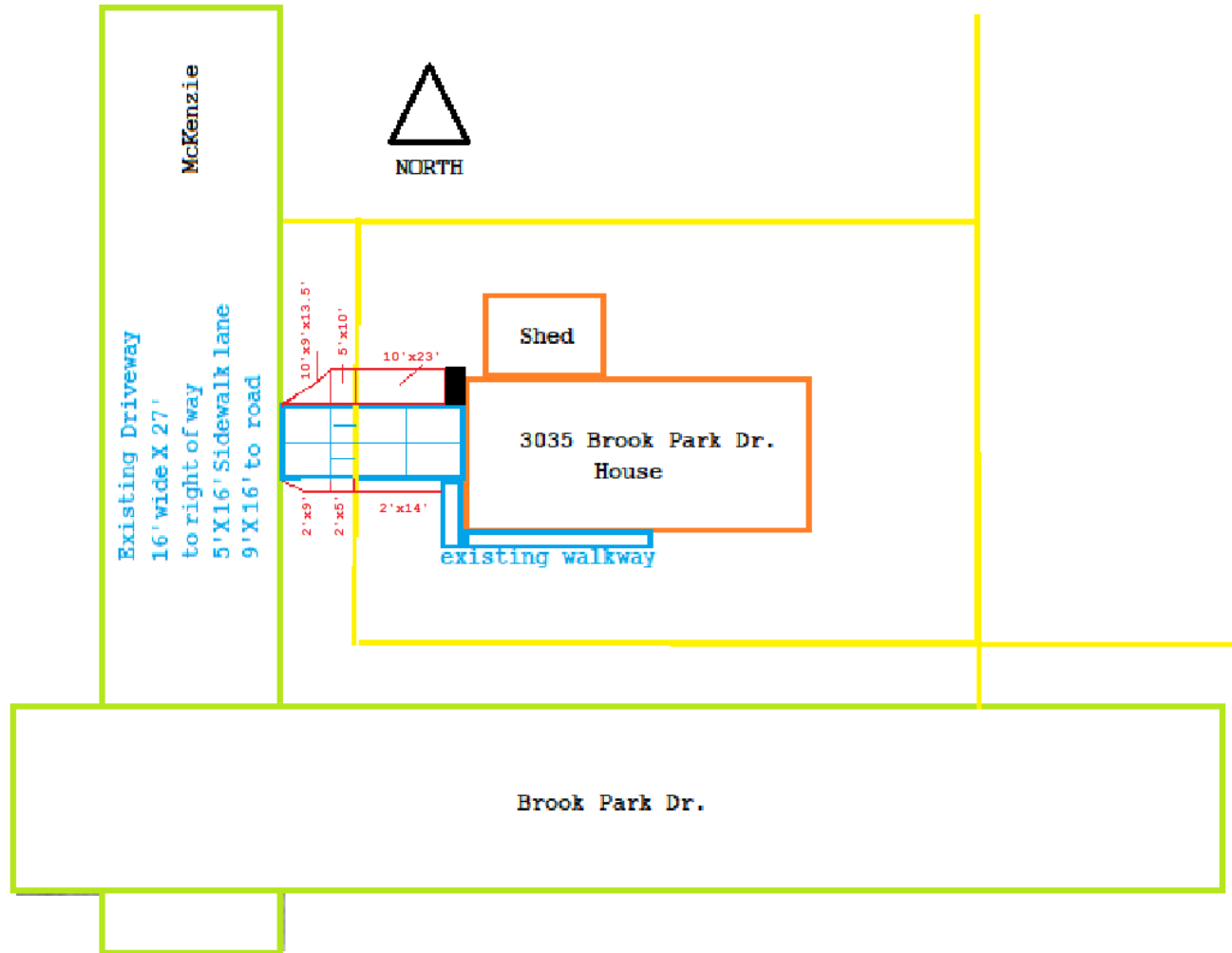


**SITE PROPOSAL 3035 Brook park Dr. Driveway** NOTE: Not Drawn to Scale

**OPTION 1: (Preferred) minimizes disruption to Mailbox and vegetation**

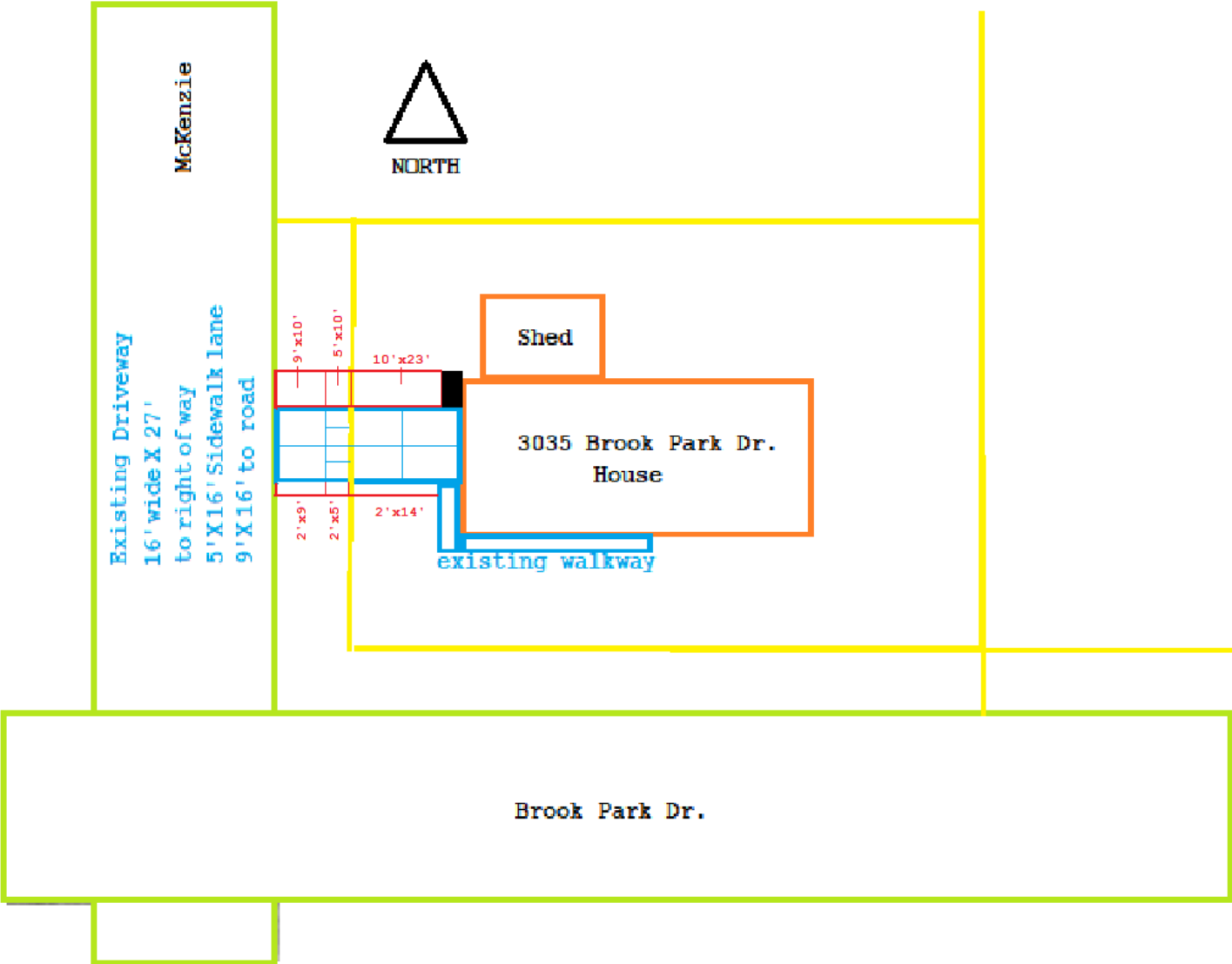
Pour new Slab on North side of existing Driveway (10' Wide x 37') with taper from right of way to existing curb.

Add 2'x 28' skirt on south side of driveway



**OPTION 2:**

Pour new Slab on North side of existing Driveway (10' Wide x 37') straight to the road with new apron for a full 3<sup>rd</sup> row.  
Add 2'x 28' skirt on south side of driveway with new apron



## Current Layout



BLUE Indicates New Pour



SAMPLE Showing Car Parking Configuration



**Similar Examples of Single-Family homes within 1 block of 3035 Brook Park Dr.**

315 Van Caster: Apron tappers to existing curb



400 Van Caster: No Parking spot along side property



420 McKenzie: Apron tappers to existing curb



3006 Colleen Dr.: Apron tappers to existing curb





Create triangle taper extending 5 feet past property line to a new north plane to match edge of new legal parking stall.

2 feet added to the southern portion of the driveway, past the garage door opening.  
Triangle taper occurs past the property line to keep the existing apron in alignment.



Legal parking stall created in side/rear yard along side the garage.

Apron expands to 30' at curb.  
Apron expands to 25' feet at front of walk and property line.  
Triangle taper extends to create driveway a total of 37' feet once taper is 5' feet past property line.

2' feet added to southern portion of driveway, past the garage door opening.  
Triangle taper occurs past the property line to keep the existing apron in alignment



Report to the  
**Zoning & Planning Board of Appeals**  
of the City of Green Bay

**MEETING DATE**

June 19, 2023

**PREPARED BY**

**AGENDA ITEM # F.I**

Date of the next meeting: July 17, 2023.

**BACKGROUND**

**RECOMMENDATION**

**FISCAL IMPACT**

**ATTACHMENTS**

None