



AGENDA OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, OCTOBER 16, 2023, 4:30 PM
City Hall, Room 604 - The Harry Maier Room.
Virtual attendance is also available via Zoom.

A. Zoom Meeting Information.

- I. Join Zoom Meeting Online:
<https://us02web.zoom.us/j/85419145658?pwd=VWxYYlFIRXBMcXU3dzU0VU0xQlNKdz09>

Or call in by phone: +1 312 626 6799

Meeting ID: 854 1914 5658

Passcode: 735080

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

B. Roll Call.

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

C. Approval of the Agenda.

- I. Approval of the agenda for the October 16, 2023, meeting of the Zoning & Planning Board of Appeals.

D. Approval of Minutes.

- I. Approval of the minutes from the September 18, 2023, meeting of the Zoning & Planning Board of Appeals.

E. Regular Business.

- I. (Appeal 23-30) Consideration with possible action on a variance request submitted by Samuel Luchterhand, applicant and property owner; to request a variance to allow driveway parking within required setbacks of a one or two family residence at 550 Lorraine Lane. (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.

2. **(Appeal 23-31) Consideration with possible action on a variance request submitted by Robert Noack, applicant and property owner, to request to exceed accessory building standards within a Low Density Residential (RI) Zoning District at 1570 E Mason Street. (Ald.B. Galvin, District 4).**

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3. **(Appeal 23-32) Consideration with possible action on a variance request submitted by Jason Frisch of HJ Martin and Sons, applicant and David Martin of E&P Properties LLP, property owner; addressing variances related to driveway entrance distance for multiple-family, mixed-use, institutional, commercial or industrial uses along Western Avenue at 1598 and 1609 Western Avenue. (Ald. M. Eck, District 11)**

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F. Informational.

- I. The date of the next meeting: November 20, 2023.

G. Adjournment.

- 1) **THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT 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.



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

MEETING DATE

October 16, 2023

PREPARED BY

Jon LeRoy, Zoning Administrator

AGENDA ITEM # E.1

(Appeal 23-30) Consideration with possible action on a variance request submitted by Samuel Luchterhand, applicant and property owner; to request a variance to allow driveway parking within required setbacks of a one or two family residence at 550 Lorraine Lane. (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.

BACKGROUND

Samuel Luchterhand is seeking a variance to allow the construction of driveway parking within required setbacks of a one or two family residence at 550 Lorraine Lane.

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

Section 44-1746 (2) c. Driveways shall lead from the public right of way directly to a garage door opening plus 24 inches to either side of said door or to a legal surface parking space. Driveways are regulated as follows: Attached garages: Driveways leading to attached garages shall meet the applicable side or rear setbacks for principal structures in the in which it is situated or shall meet the side setback of the existing attached garage, whichever is less.

The applicant is seeking to add pavement area to an existing driveway servicing a two-stall garage. The existing driveway is approximately 16.5 feet and leads directly to the opening of the garage doors. Within the code, a new expansion allows for 2 feet of additional width on either end of the driveway leading to a garage door with a sufficient triangle taper if the apron is not expanded. The applicant is seeking to add 1.5 feet with a triangle taper to the southern edge of the driveway. The triangle taper proposed along with the 1.5 additional feet on the south end of the driveway fits within the code.

The applicant is also seeking to add 7 feet to the northern edge of the driveway, creating some 25 feet for the overall driveway space. 25 feet is sufficient width for 3 parking stalls. The proposed driveway edge is in line with the sidewalk which exists at the northwestern edge of the attached garage and the mandoor. This leaves about 4.8 feet between the edge of pavement and the property line. The request for variance exists because the additional space does not lead to a legal parking space as it exceeds past 2 feet of the edge of the garage door opening and does not lead to a legal parking stall located at the side of the garage. At least 10.5 feet of space are needed to create a space along side a garage door in this district (8.0' width for the parking stall and 2.5' setback for such stalls). This creates a parking space in the front yard setback.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. 23-30 Application
2. 23-30 Aerial
3. 23-30 550 Lorraine Ln Street View 2016



ZONING BOARD OF APPEALS VARIANCE APPLICATION

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

DATE: 9-24-23	PROJECT #: 114151	APPEAL #: 23-30
APPLICANT INFORMATION:		
Name: Samuel L. Luchterhand		
Business Name:		
Address: 550 Lorraine Lane		
City, State, Zip: Green Bay WI 54311		
Phone: 920 615 7215		
Email: sluchterhand81@gmail.com		
PROPERTY OWNER INFORMATION (if different from above):		
Name:		
Business Name:		
Address:		
City, State, Zip:		
Phone:		
Email:		
HAS A SITE PLAN BEEN REVIEWED BY PLANNING STAFF? ☒ YES ☐ 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.		
PLEASE FILL OUT INFORMATION BELOW REGARDING THE PROPOSED DIMENSIONAL VARIANCE:		
Location/Address: 550 Lorraine Lane Green Bay WI 54311		
Tax Parcel Number(s): 21-4343		
Describe the Variance Request: I would like to widen the width of the Driveway on the South Side by the allowed Two feet. On The North Side of the driveway I would like to widen the driveway by seven feet to line up with the sidewalk leading to the North Service entrance to the garage. The extension will only be down to the sidewalk at the end of the driveway.		

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

44-1746 (2) c.

~~XXXXXXXXXX~~

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

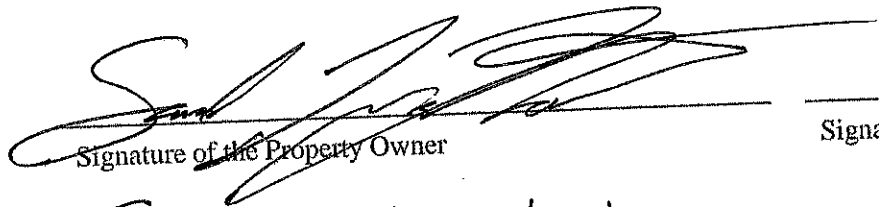
Does unique physical characteristics of your property prevent the compliance with the ordinance? Explain

Yes. From The North Side of the garage wall to the North Side of our property line is only 8.5 feet.

Would granting the variance be contrary to the public interest? Explain. No. I have a Couple of Neighbors with the Same Style of Driveway. I have talked with all of my surrounding neighbors about my plans for the Driveway and they like the idea. My neighbor on the North Side of my property has that style of driveway and loves the idea of mine matching his. It adds the Space to open Vehicle doors all of the way open and not bump into the other Vehicle in the driveway. I'm also staying over four feet from my neighbors property line.

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? Not getting this variance would make getting in and out of our Vehicles a bit more challenging when parked next to each other. Walking around the Vehicles in winter with the snowblower cannot happen without the variance as well.

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

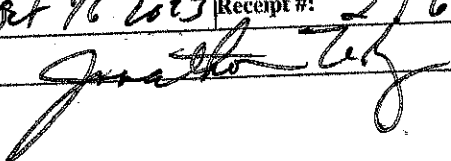
Signature of Applicant (working as "Agent" for owner)

Samuel L Luchterhand
Print Name

Print Name

9-24-23
Date

Date

OFFICE USE ONLY:		Parcel #: <u>21-4343</u>	<u>Residential \$125</u> Commercial \$250
District: <u>1</u>	Zoning: <u>21</u>	Meeting Date: <u>Oct 16 2023</u>	Receipt #: <u>2764271</u>
Submittal Date: <u>9/24/23</u>	Staff Signature: 		



Existing

Adding

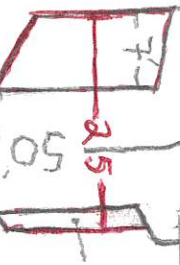
Property Line

8'6"

550

Parcel # 21-4343

10'1"



Sidewalk

16'8"

Lorraine Lane









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

MEETING DATE

October 16, 2023

PREPARED BY

Jon LeRoy, Zoning Administrator

AGENDA ITEM # E.2

(Appeal 23-31) Consideration with possible action on a variance request submitted by Robert Noack, applicant and property owner, to request to exceed accessory building standards within a Low Density Residential (R1) Zoning District at 1570 E Mason Street. (Ald.B. Galvin, District 4).

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

Robert Noack is seeking a variance to allow the continuation of three accessory buildings, one of which being a carport in a Low Density Residential District (R1) at 1570 E Mason Street.

The applicant is seeking to deviate from two sections of the Green Bay Zoning Code

44-590 In general. In all residential districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The building materials, roof style and colors shall be similar to the main building or shall be commonly associated with residential construction.

44-590 (c), Table 44-4. Number of structures allowed: 2

The applicant has constructed a carport on the property without documentation for building approval. The carport appears to have been added between 2014 and 2017 based off aerial images of the property. This situation came into the foreview of the city because of a complaint in February 2022. The owner was ordered to remove the carport by March 15, 2022. There has been no documentation with the city or provided to the city that the carport was approved by the city. The case has been cited in Municipal Court where a stipulation was placed that the owner must apply for a variance to address the third accessory structure.

The carport structure itself is a basic metal structure which does not match the building materials, roof style or colors of the primary building. The existing primary building is a 2-story wood sided, yellow-painted structure. The carport measures approximately 20 by 18 feet. The carport structure itself appears to be on or near the property line and encroaching on the sideyard setback. The sideyard setback is 2.5 feet for accessory structures with lot widths less than 60 feet. The owner has stated in conversations that the carport could be shifted to have the structure at 2.5 feet or more from the sideyard setback. Additionally, all structures must be 3 feet from other structures on a parcel or neighboring parcel.

Two other metal accessory structures exist on the parcel. The buildings are approximately 16 x 12 and 8 x 10 feet respectively. Code allows for up to two structures and any metal structure over 120 square feet requires a conditional use permit. The other two sheds appear to have been in place since before 2005

based off aerial images. If a structure was in place before 2006 (the last major code rewrite), staff considers it to be a legal non-conforming structure.

The applicant seeks two variances. Allowance for a third structure and allowance for the design and appearance of a carport in its existing state.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. 23-31 Application
2. 23-31 Street View 1570 E Mason St
3. 23-31 Photo A
4. 23-31 Photo B
5. 23-31 Aerial 2023
6. 23-31 Aerial 2017
7. 23-31 Aerial 2014
8. 23-31 Aerial 2005



ZONING BOARD OF APPEALS VARIANCE APPLICATION

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

DATE: 9-7-23	PROJECT #: complaint	APPEAL #: 23-31
APPLICANT INFORMATION:		
Name: Robert Leon Noack		
Business Name:		
Address: 1570 E mason st		
City, State, Zip: Green bay wis 54302		
Phone: 920-544-0429		
Email: BobNoack71at@gmail.com		
PROPERTY OWNER INFORMATION (if different from above):		
Name:		
Business Name:		
Address:		
City, State, Zip:		
Phone:		
Email:		
HAS A SITE PLAN BEEN REVIEWED BY PLANNING STAFF? ☒ YES ☐ 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.		
PLEASE FILL OUT INFORMATION BELOW REGARDING THE PROPOSED DIMENSIONAL VARIANCE:		
Location/Address: 1570 E Mason St		
Tax Parcel Number(s): 8-403		
Describe the Variance Request:		
I have 2 sheds and 1 carport on my property and wish to keep all three structures.		

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

Sec. 44-590

Sec. 44-590 (c), Table 44-4, Residential accessory buildings. Number of structures allowed - 2. I have 2 sheds and 1 carport and wish to keep all three.

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

The 2 sheds were there about 20 years

The 2 sheds are used for storing tools

Paint building materials car parts and

my daughter's toys and motorcycle parts

I have no where else to store them

I'm on a limited budget I'm on SSDI

now A lot of stuff is stored for upstairs

Rental that I need

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

I try to keep my property looking as good as I can I ask my neighbors all the time if it bothers them they say no problem at all No mess out side like before sheds

I Theresa Ann Staudenmann don't have a problem with Rob's sheds and Joseph Carl Staudenmann's

My L. Gail Sr. / Bertha King his building don't bother us. He's protecting 1000's of dollars worth of Antiques.

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?

I wouldn't have the supply's I would need should something need to be fixed

All my stuff is in the sheds to Repair

What needs to be repaired I just

Repaired the upstairs and painted the whole house and roof repairs that came out of sheds

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.

Robert L Noack

Signature of the Property Owner

Robert L Noack

Print Name

9-7-23

Date

Robert L Noack

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

Robert L Noack

Print Name

9-7-23

Date

OFFICE USE ONLY:	Parcel #: 8-403	Residential \$125 ☒ Commercial \$250 ☐
District: 4 Zoning: R1	Meeting Date: 10/23	Receipt #:
Submittal Date: 9/7/23	Staff Signature: <i>[Signature]</i>	







1566

1570

1574

D JONES PROPERTIES LLC

City of Green Bay

ROBERT L
NOACK

JOSEPH E THERESA A
STAUDENMAIER

JOSEPH E THERESA A
STAUDENMAIER

ROBERT K
JENNIFER L
ALLEN

LORI
MCELTRONE

GBHA PROPERTIES I INC

1566

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1574

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GBHA PROPERTIES I INC



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

MEETING DATE

October 16, 2023

PREPARED BY

Jon LeRoy, Zoning Administrator

AGENDA ITEM # E.3

(Appeal 23-32) Consideration with possible action on a variance request submitted by Jason Frisch of HJ Martin and Sons, applicant and David Martin of E&P Properties LLP, property owner; addressing variances related to driveway entrance distance for multiple-family, mixed-use, institutional, commercial or industrial uses along Western Avenue at 1598 and 1609 Western Avenue. (Ald. M. Eck, District 11)

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BACKGROUND

Jason Frisch is seeking a variance to allow construction of driveway entrances in the right of way which exceed size limits within Industrial Districts at parcels along Western Avenue for HJ Martin facilities.

The applicant is seeking to deviate from one section of the Green Bay Zoning Code in multiple driveways along Western Avenue:

44-1773 (a.) 1. *Multiple two-way driveways may be permitted on one street frontage, provided the distance between the driveway centerlines is no less than 200 feet.*

HJ Martin is seeking to reconstruct driveway entrances along Western Avenue at parcels located within the HJ Martin campus located on both the south and north side of Western Avenue. David Martin of E & P Properties is the property owner for all parcels related to this variance. The applicant is seeking to reconstruct seven drive entrances into parking lots which meet sizing standards, but do not meet the standards provided that driveway centerlines are no less than 200 feet. HJ Martin is seeking to reconstruct existing driveway entrances which are less than 200 feet apart in two separate areas on the south and north sides of the street. The parking lots that the driveways are leading to are generally in a legal non conforming state, but the reconstruction of the driveways will not impact more than 500 square feet on each parcel.

Two separate drive entrances are in question:

On the north side of Western Avenue at Parcel 6-133, the centerline of drives are approximately 85 feet separated for driveways which are located on the eastern portion of the parcel. Additionally, another existing drive entrance exists approximately 50 feet away from the eastern most proposed reconstructed driveway on parcel 6-134-C. This also is a property owned by E & P Properties. The applicant is seeking to reconstruct the three drive entrances on Parcel 6-133. The applicant is not seeking to reconstruct the driveway on 6-134-C at this time.

One south side of the street at Parcel 6-119-A, three separate driveways exist. The applicant is seeking to reconstruct the two easternmost driveways on the parcel. The centerline of the reconstructed drives is approximately 110 feet. This leads to a warehousing area. Another existing drive on western part of the property is approximately 135 feet from the westernmost of the two proposed reconstructed driveways.

Furthermore, an existing curb cut exists between these two existing curb cuts, but does not lead to a driveway. The applicant plans on removing this curbcut. Additionally, noted on the plans, the applicant is planning on reconstructing the driveway at Parcel 6-119, east of the variance-questioned driveways. This driveway does not require a variance.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. 23-32 Variance Application - Parcel #6-119-A
2. 23-32 Variance Application Parcel #6-133
3. 23-32 Aerial Image of Parcels
4. 23-32 Driveway Openings in Question
5. 23-31 Street View North Side of Western
6. 23-31 Street View South Side of Western
7. 23-32 Variance Application - Parcel #6-119-A



Community & Economic Development Department
100 North Jefferson Street - Room 608
Green Bay, Wisconsin 54301-5026
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

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 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.

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).
44-1773(a)(1)
Multiple driveways may be permitted on one street frontage, provided the distance between the driveway centerlines is no less than 200 feet.
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
This building is used primarily as a glass fabricating shop. We have a fenced off area where the (2) newly constructed driveways would be versus the western most driveway which is outside of the fenced area. The building on parcel #6-119-A contains (9) loading docks which is particularly unusual to this site and creates an exceptional circumstance. Losing one driveway would reduce the existing function of the site. The purpose and intent of this building site, and the (2) driveways, are overwhelmingly to utilize those (9) loading docks.
Would granting the variance be contrary to the public interest? Explain.
In order to preserve the enjoyment and intended use of the site, and for the safety of the semi-trucks and traffic on Western Ave., one driveway is used to access the loading docks in front of it, and the other for the loading docks in front of that driveway. To have semi-trucks lined up for use of one driveway could cause a safety hazard and congestion on Western Ave. We will be protecting public interest by reducing the number of curb cuts and allowing for easier and safer access to the site with autos and semis while providing for the parking and loading needs of our facility. Truck traffic to and from the site will impede traffic less with the proposed driveway reconfiguration.
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?
Due to how the parcels are configured, the western most driveway is primarily for the benefit of parcel #6-149 and 6-150-1, which is a unique situation to this lot, as well, and would be detrimental to the use of parcels #6-149 and 6-150-1. The existing curb cut is being closed which will also bring the site more into compliance. The intent of the municipal zoning ordinance is to alleviate or prevent congestion of the public right of way, provide for the parking and loading needs of uses and structures, and enhance the compatibility between parking and loading areas and their surroundings. A complete reconstruction of the fence would be required for semi-trucks to access the loading docks via one driveway. It would be difficult and can be categorized as a hardship for us to remove a driveway for semi-truck circulation and access the building due to its location, not allow for the preservation and enjoyment of this parcel as other parcel owners enjoy. We believe this driveway is not contrary to the spirit of the ordinance.

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.

David Martin

Signature of the Property Owner

David Martin

Print Name

10.3.2023

Date

Jason Frisch

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

Jason Frisch

Print Name

10.3.2023

Date

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



Community & Economic Development Department
100 North Jefferson Street - Room 608
Green Bay, Wisconsin 54301-5026
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

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 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.
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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.

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).
44-1773(a)(1)
Multiple driveways may be permitted on one street frontage, provided the distance between the driveway centerlines is no less than 200 feet.
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
Although this driveway is on the 6-133 parcel, it is utilized for parcel #6-134-C for box truck deliveries to the office building as well as employee parking due to the zero lot line of parcel #6-134-C. When the lot lines were established as parcels were purchased, it was the spirit, purpose and intent for this driveway, although on the 6-133 parcel, to service the needs of box trucks and employee parking. Looking at the entire picture of use between parcel #6-133 and 6-134-C, this is unusual circumstance as it is evident that this driveway is used solely to service the office building on parcel #6-134-C due to where the parcel lines lie. For the preservation and enjoyment of parcel #6-134-C as those possessed by the parcels around it, and with employee parking up against the office building and on the north side of the office building of parcel #6-134-C, this driveway is needed, regardless of it being on parcel #6-133.
Would granting the variance be contrary to the public interest? Explain.
For safety reasons, it was established as a secondary driveway for parcel #6-134-C, further from the intersection of Military and Western so as not to have abrupt stops. Additionally, the driveway immediately to the west is used by semi-trucks accessing the warehouse. It is not safe for employees to access the office building from the same driveway that semi-trucks access the warehouse. We do not believe there is any detriment created as instead of having (2) driveways right next to each other servicing the same office building, the 20' driveway would be eliminated on parcel #6-134-C, and the employees and box trucks servicing the office building on parcel #6-134-C would instead use this one 35' driveway to access the office building, even it is on parcel #6-133. Truck traffic to and from the site will impede traffic less with the proposed driveway reconfiguration, and, no substantial detriment will be imposed on adjacent property and the driveway is not contrary to the spirit, purpose and intent of the municipal code.
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?
It would be a hardship to lose this driveway to service the office building on parcel #6-134-C as it is a safer access to the office building than immediately when traffic crosses the intersection or in the same path as semi-trucks accessing the warehouse. As the driveway configuration previously was permitted during the 1999-2000 building and site expansion, losing this driveway would impair the existing use of the office on parcel #6-134-C. There is a long history of the Martins on this corner predating most of the current, surrounding development. We believe the intent of the zoning ordinance is to alleviate or prevent prevent congestion of the public right of way, provide the parking and loading needs of uses and structures, and enhance the compatibility between parking and loading areas and their surroundings. The current configuration will reduce one driveway on the side of Western Ave., allow for easier and safer access to the site with automobiles and box trucks, while providing for the parking and loading needs of our corporate office building on parcel #6-134-C.

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.

David Martin

Signature of the Property Owner

David Martin

Print Name

10.3.2023

Date

Jason Frisch

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

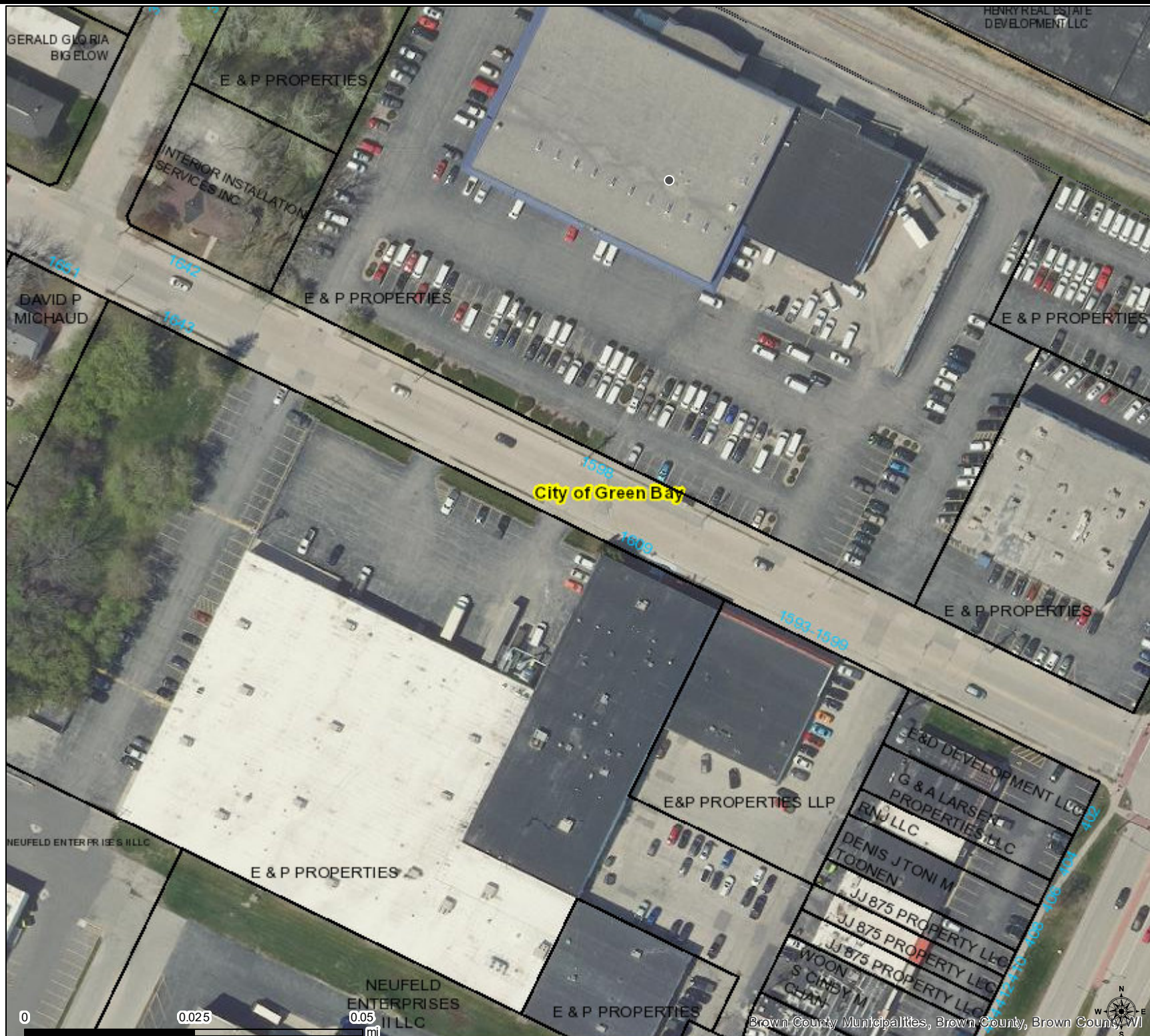
Jason Frisch

Print Name

10.3.2023

Date

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



Map printed on
10/12/2023

1:1,200

1 inch = 100 feet*

1 inch = 0.0189 miles*

*original page size is 8.5" x 11"

Appropriate format depends on zoom level

A legend (map key) is available at:
tinyurl.com/BrownDogLegend

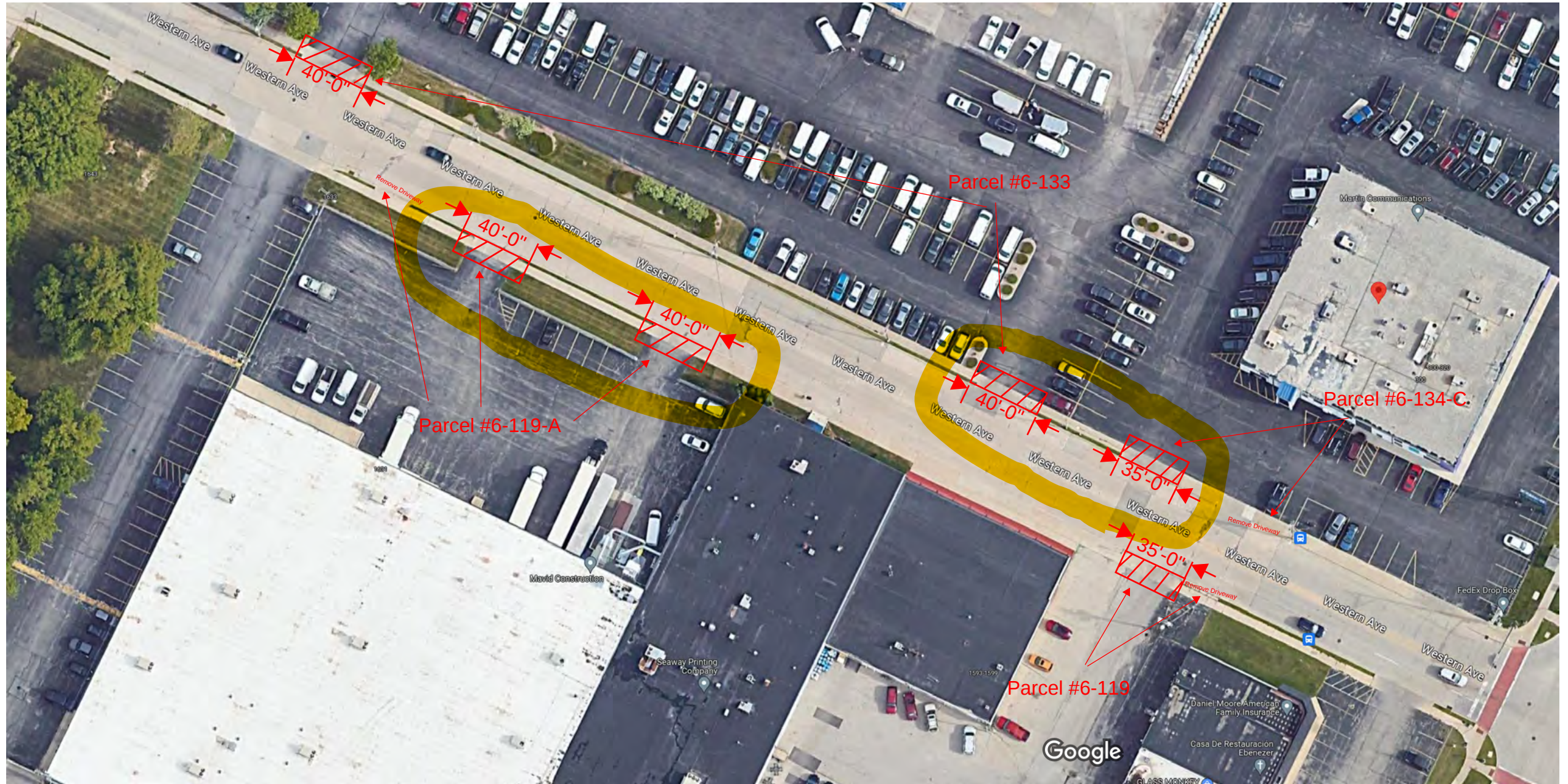
Brown County Wisconsin
Planning & Land Services
Department



(920) 448-6480

www.browncountywi.gov

Brown County Municipalities, Brown County, Brown County, WI







135'

110'

Western Ave

Google



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100 North Jefferson Street - Room 608
Green Bay, Wisconsin 54301-5026
www.greenbaywi.gov

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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

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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.*
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- 5) *Hardship.* The alleged difficulty in complying with the Municipal Code is not self-imposed nor is it based solely on economic grounds.

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).
44-1773(a)(1)
Multiple driveways may be permitted on one street frontage, provided the distance between the driveway centerlines is no less than 200 feet.
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
This building is used primarily as a glass fabricating shop. We have a fenced off area where the (2) newly constructed driveways would be versus the western most driveway which is outside of the fenced area. The building on parcel #6-119-A contains (9) loading docks which is particularly unusual to this site and creates an exceptional circumstance. Losing one driveway would reduce the existing function of the site. The purpose and intent of this building site, and the (2) driveways, are overwhelmingly to utilize those (9) loading docks.
Would granting the variance be contrary to the public interest? Explain.
In order to preserve the enjoyment and intended use of the site, and for the safety of the semi-trucks and traffic on Western Ave., one driveway is used to access the loading docks in front of it, and the other for the loading docks in front of that driveway. To have semi-trucks lined up for use of one driveway could cause a safety hazard and congestion on Western Ave. We will be protecting public interest by reducing the number of curb cuts and allowing for easier and safer access to the site with autos and semis while providing for the parking and loading needs of our facility. Truck traffic to and from the site will impede traffic less with the proposed driveway reconfiguration.
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?
Due to how the parcels are configured, the western most driveway is primarily for the benefit of parcel #6-149 and 6-150-1, which is a unique situation to this lot, as well, and would be detrimental to the use of parcels #6-149 and 6-150-1. The existing curb cut is being closed which will also bring the site more into compliance. The intent of the municipal zoning ordinance is to alleviate or prevent congestion of the public right of way, provide for the parking and loading needs of uses and structures, and enhance the compatibility between parking and loading areas and their surroundings. A complete reconstruction of the fence would be required for semi-trucks to access the loading docks via one driveway. It would be difficult and can be categorized as a hardship for us to remove a driveway for semi-truck circulation and access the building due to its location, not allow for the preservation and enjoyment of this parcel as other parcel owners enjoy. We believe this driveway is not contrary to the spirit of the ordinance.

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.

David Martin

Signature of the Property Owner

David Martin

Print Name

10.3.2023

Date

Jason Frisch

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

Jason Frisch

Print Name

10.3.2023

Date

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



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

MEETING DATE

October 16, 2023

PREPARED BY

AGENDA ITEM # F.I

The date of the next meeting: November 20, 2023.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None