

PUBLIC MEETING

**DOOR COUNTY BOARD OF ADJUSTMENT
421 NEBRASKA STREET – DOOR COUNTY GOVERNMENT CENTER
STURGEON BAY, WI 54235**

The Door County Board of Adjustment will hold a meeting on **Tuesday, February 25, 2020**, at **6:30 p.m.** in the **Peninsula Room (C121), Door County Government Center**, Sturgeon Bay, Wisconsin 54235.

AGENDA

- 1.0 Call to order and declaration of quorum.
- 2.0 Discuss and arrive at a decision on a Petition for Grant of Variance.
 - 2.1 Town of Baileys Harbor; encroach into setback from road right-of-way; 2404 Park Road; Baileys Harbor.
- 3.0 Old Business.
 - 3.1 Read and act on Minutes of February 11, 2020, special meeting.
 - 3.2 Read and act on Minutes of February 11, 2020, regular meeting.
 - 3.3 Final disposition of the following appeal considered by the Board of Adjustment at the January 28, 2020, Meeting and again at their meeting held on February 11, 2020: Stephan B. Nordstrom, Graycliffe, LLC, Carl M. Curry, and Cynthia M. Curry.
 - 3.4 Final disposition of the following case considered by the Board of Adjustment at the February 11, 2020, meeting: Richard H. Barker and Julie E. Davis.
- 4.0 Other Matters.
 - 4.1 Announce next meeting.
- 5.0 Vouchers.
- 6.0 Adjournment.

** Deviation from the order shown may occur. **

Fred Frey, Chair
Board of Adjustment 2/12/20

*Materials regarding these agenda items may be viewed at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, Wisconsin during normal business hours, 8:00 a.m. to 4:30 p.m., Monday-Friday. Application materials may also be viewed on-line beginning approximately four business days before the hearing at: <http://map.co.door.wi.us/Agendas-Minutes/Zoning%20Board%20of%20Adjustment/>

In compliance with the Americans with Disabilities Act: Any person needing assistance to participate in this meeting should contact the Office of the County Clerk at (920) 746-2200. Notification 48 hours prior to a meeting will enable the County to make reasonable arrangements to ensure accessibility to that meeting.

PUBLIC HEARING BEFORE
THE DOOR COUNTY BOARD OF ADJUSTMENT

Door County, Wisconsin

A public hearing will be held by the Door County Board of Adjustment on **Tuesday, February 25, 2020, at 6:30 p.m.** in the **“Peninsula Room” (C121) – First Floor** of the **Door County Government Center**, 421 Nebraska Street, Sturgeon Bay, Wisconsin. The purpose of this hearing is to give consideration to the following County zoning ordinance variance petitions as specified in the County zoning ordinance.

Starting at 6:30 p.m.

Town of Baileys Harbor

The Town of Baileys Harbor petitions for a variance from section 3.05(5) of the Door County Comprehensive Zoning Ordinance which requires structures in areas designated as “Core” to be setback at least 25 feet from the edge of the road right-of-way. The petitioners propose to construct a new Town of Baileys Harbor Emergency Response Facility as close as 9 feet from the edge of the right-of-way of Park Road. This property is located at 2404 Park Road in Section 20, Town 30 North, Range 28 East, and in the Mixed Use Commercial (MC) zoning district.

Interested parties may give oral testimony. Written testimony will be accepted on 8 1/2" x 11" paper only at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, WI 54235 (Fax 920-746-2387) until **3:30 p.m.** the day before the hearing. Anonymous correspondence will not be accepted. **Please note that any correspondence or testimony you may have submitted for any town-level proceedings regarding this matter does NOT get forwarded to the county.**

All application/petition materials may be viewed at the Door County Land Use Services Department, 421 Nebraska Street, Sturgeon Bay, Wisconsin during normal business hours, 8:00 a.m. to 4:30 p.m., Monday-Friday. Application/petition materials may also be viewed on-line beginning approximately four business days before the hearing at:

<http://map.co.door.wi.us/Agendas-Minutes/Zoning%20Board%20of%20Adjustment/>

Fred Frey, Chairman
Door County Board of Adjustment

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01/27/20

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DOOR COUNTY LAND USE SERVICES DEPARTMENT

DOOR COUNTY LAND USE SERVICES
421 Nebraska Street
Door County Government Center
Sturgeon Bay, Wisconsin 54235
(920-746-2323)

PETITION FOR GRANT OF VARIANCE

A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

PETITION: (I) (We)
Full Name Town of Baileys Harbor Telephone No. 920-839-9509
Mailing Address 2392 Cty Rd F
City Baileys Harbor State WI Zip 54202
hereby petition(s) the Door County Board of Adjustment for a variance from Section (s) 3.05(5)

of the Door County Zoning Ordinance which requires a 25' building setback, measured from the right-of-way, within areas designated "Core" in the Door County Comprehensive and Farmland Preservation Plan.

(I) (We) propose to construct the new Town of Baileys Harbor Emergency Response Facility at distance equal to 9' from the Park Road right-of-way.

LOCATION:
The description of the property involved in this petition is located at:
Fire #2404 Road Park Road Township Baileys Harbor
Govt Lot 1 or 1/4 - 1/4 Section 20 Town 30 North, Range 28 East
Tax Parcel No. 002-0320302811J
Zoning District MC (Mixed Use Commercial) Lot Size 51,777 S.F.
Existing use of structure or land in question Emergency Response Facility

- ATTACHMENTS:
1) A site plan, drawn to-scale, indicating lot size, size of buildings and decks, distances between buildings and the centerlines of all abutting roads, ordinary high water mark, lot lines (identify lot markers), the sanitary waste disposal system and well. If a survey is available, please submit the survey. IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".
2) Building plans, drawn to scale, of the proposed project, including floor plans and elevation views. The application will not be processed without scaled drawings. (Plans submitted with this petition will be the only plans reviewed by the Board of Adjustment. A change in plans will warrant a new petition, fee, and public hearing.) IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".
3) Please provide complete responses regarding a), b), and c) below. Attach additional pages if necessary. To qualify for a variance, the applicant must demonstrate that their request/situation meets the following three requirements:
(a) Unique property limitations
Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unique features of this property prevent compliance with the terms of the ordinance, including:

See attached.

FOR OFFICE USE ONLY
Receipt No.
Hearing Advised Dates:
Hearing Date
Fee
Date
Decision

TOWN OF:
OWNER:
SECTION 1
N/R
E

PARCEL NO.: 0

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DOOR COUNTY
LAND USE SERVICES DEPARTMENT

PETITION FOR GRANT OF VARIANCE - PAGE 2

(b) No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Adjustment must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures and lots
- Any other public interest issues

A variance will not be contrary to the public interest because:

See attached.

(c) Unnecessary hardship

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner 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. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Unnecessary hardship is present because:

See attached.

- 4) A non-refundable \$500.00 fee payment to defray the cost of publishing the legal notice and mailing to all interested parties.

AUTHORIZATION FOR INSPECTION:

I hereby authorize the Zoning Administrator to enter upon the premises for which this petition is made at any reasonable time for all purposes of inspection related to this petition.

CERTIFICATION:

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

SIGNATURE OF PETITIONER/AGENT:

DATE:



01-22-20

SCHEDULING:

This petition will be scheduled for the next available Door County Board of Adjustment meeting. Approximately two weeks prior to that meeting, a legal notice will be mailed to you providing further information regarding the time and location of the meeting. It is recommended that the petitioner attend the Board of Adjustment meeting to present the case and to answer any questions the Board of Adjustment may ask. If you are unable to attend the meeting, you may want to have your attorney or contractor present on your behalf.

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DOOR COUNTY
LAND USE SERVICES DEPARTMENTa) Unique property limitations

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unique features of this property prevent compliance with the terms of the ordinance, including:

The unique features of this property that prevent compliance with the terms of the ordinance are the overall property area, the unique shape of the property and the location of two existing private wells on the property that are currently used by the Town of Baileys Harbor Fire Department.

Parcel Area and Shape

Based on the Town's needs for emergency vehicles, the portion of the proposed Emergency Response Facility that will house emergency vehicles, referred to as the vehicle shed, is required to have 10 bays for emergency vehicles. If the vehicle bays were to be constructed side by side and orientated east and west on the property, with the Emergency Response office space located behind (north) of the vehicle shed, the resultant overall length of the vehicle shed would need to be approximately 178 feet. This concept is shown on the included Conceptual Building Layout. As shown on the Conceptual Building Layout, if the proposed building were positioned outside of the required 25-foot front yard building setback from Park Road, the parcel is not wide enough to accommodate the Town's proposed Emergency Response Facility as there would not be enough remaining space between the building and the east and west property lines to install two-way access drives to provide access to the area behind the proposed facility. The remaining space is dimensioned as 16 feet on the Conceptual Building Layout. Not having access to the area behind the proposed facility would be problematic as this area would have to be utilized as a parking area for emergency responders and staff. In addition, the Town would prefer the building be located a distance further than 25 feet from Park Road, at approximately 50 feet, to provide enough space between Park Road and the proposed buildings for emergency vehicles to park outside the building if need be. If the building were positioned further to the north the remaining space along the east and west sides of the building becomes less as the parcel tapers in width as you proceed to the north. At

As a result, the Town is proposing to construct the proposed Emergency Response Facility with a north-south orientation as shown on the included Proposed Site Plan. The vehicle bays that will house the emergency vehicles will be constructed back to back and the office space will be constructed adjacent and to the south side of the vehicle bays. The building configuration shown on this Proposed Site Plan consists of an approximate 122-foot vehicle shed (north-south) and an approximate overall building length of approximately 180 feet (north-south). The building width is approximately 80 feet.

The proposed configuration, as shown on the Proposed Site Plan requires emergency vehicle access along both the east and west sides of the vehicle shed and requires two points of emergency access to Park Road. The configuration also requires that access for emergency vehicles be provided along the north side of the building. The reason for access along the north side of the building is to provide a secondary emergency access point to Park Road for emergency vehicles exiting either the west or east side of the building in case one access points to Park Road becomes blocked and/or unusable.

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LAND USE SERVICES DEPARTMENT

As shown on the proposed site plan, a 25-foot-wide drive aisle for emergency vehicles is provided between the proposed building and proposed emergency vehicle parking stalls along the north property line.

Existing Private Wells

There are two existing wells that serve the existing Town of Baileys Harbor Fire Department, one for domestic water and one for providing water for the Town's fire trucks and firefighting needs. The location of the two wells are more clearly labeled on the second page of the included Proposed Site Plan. The domestic well is located approximately 38 feet south of the north property line and 66 feet east of the west property line. The well that is used for filling the Town's fire trucks and underground water storage tank is currently located inside the existing Fire Department building. The well is located approximately 50 feet west of the east property line and 102 feet north of the south property line. The Town would like to utilize the existing two wells to avoid significant costs associated with the abandonment of the wells and permitting and drilling of new wells. The Town of Baileys Harbor does not have a public water system that could be used as an alternate water source and they rely heavily on the wells for fire protection and domestic use.

The configuration of the site and building as shown on the Proposed Site Plan provides adequate maneuverability and safe access for emergency vehicles and provides adequate parking spaces for both emergency vehicles and passenger vehicles. By positioning the building where it is shown on the Proposed Site Plan, the Town can also avoid the unnecessary expenditure of additional tax payer dollars that would be required if the existing wells had to be abandoned and new wells drilled.

Summary

It is the Town of Baileys Harbor's goal to construct a new Emergency Response Facility that meets the Town's growing needs while providing adequate room for emergency vehicle maneuvering, emergency vehicle access and adequate parking stalls for emergency vehicles and passenger vehicles. It is also the Town's goal to provide the above at as low of cost as possible to save tax payers dollars. To accomplish this goal, the Town is requested that the County allow the proposed Emergency Response Facility to be constructed approximately 9 feet (southwest corner) from the Park Road right-of-way as shown on the proposed site plan. The southeast corner of the building would be located 26 feet from the Park Road right-of-way which is compliant with the County's ordinance that requires a 25-foot front yard building setback.

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LAND USE SERVICES DEPARTMENT

b) No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Adjustment must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures and lots
- Any other public interest issues

A variance will not be contrary to the public interest because:

The variance being requested is to allow the reduction of the required front yard building setback for a portion of the proposed Town of Baileys Harbor Emergency Response Facility.

The variance will not have an adverse effect on public health, safety and welfare. The variance will in fact allow the Town of Baileys Harbor to construct a new state of the art Emergency Response Facility which will allow the Town of Baileys Harbor to improve public health, safety and welfare. Overall, the project will benefit the community.

The proposed Emergency Response Facility is located on Park Road which is not a heavily traveled roadway in the Town of Baileys Harbor. If the variance is granted, the building will be positioned 9 feet from the roadway right-of-way line which is adequate for public safety and the traveling public. There will be ample room for snow storage between Park Road and the proposed building. Furthermore, vision lines for vehicular traffic on Park Road will not be impacted if the variance is approved.

The variance will not have an adverse effect on water quality. The proposed project will ultimately improve water quality as a biofiltration device will be installed as part of the project to meet Wisconsin Department of Natural Resources requirement for water quality, i.e. Total Suspended Solids removal.

The variance will not have an adverse effect on fish and wildlife habitat. The proposed project is a redevelopment of the parcel which currently houses the Town of Baileys Harbor's Fire Department. There are no areas on the property that support fish and wildlife habitat and therefore the variance will not impact habitat that supports fish and wildlife.

The variance will not have an adverse impact on the natural scenic beauty of the surrounding area. As mentioned above, the proposed project is the redevelopment of an existing Fire Department building. The project overall will not have a adverse impact on the natural scenic beauty of the parcel or the surrounding area as very little vegetation will be impacted. It is our opinion that once landscaping is completed the natural scenic beauty will be enhanced. On another note, the building will have architectural features that will closely match other Town of Baileys Harbor municipal

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LAND USE SERVICES DEPARTMENT

buildings in the surrounding area. The project will enhance the architectural beauty of the surrounding area.

The variance will not contribute to property damages of any sort.

The variance will not have an impact on the efficiency of public facilities and utilities. The project will in fact improve the efficiency of public facilities as the proposed Emergency Response Facility is a publicly owned facility that will replace an aged and inefficient building. With respect to public utilities, the project utilities will tie into the existing public utilities that are in the Park Road right-of-way. The variance will not have an adverse impact on the public utilities.

The variance will not have an impact on existing nonconforming uses, structures or lots. The variance is for a front yard building setback which will not impact any adjacent lots, adjacent uses and any current nonconforming uses that may exist on the adjacent lots.

c) Unnecessary hardship

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner 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. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Unnecessary hardship is present because:

The Emergency Response Facility is proposed on the property that has housed the Town of Baileys Harbor's existing Fire Department for decades. The location of the Town's emergency response services is established near the center of Baileys Harbor along with other Town facilities. The properties that are located to the east, west, south, and southeast of the subject property are all owned by the Town of Baileys Harbor. The Town of Baileys Harbor's goal is to keep their new Emergency Response Facility centrally located, near the Town Hall, and on property that is already owned by the Town to save tax payer dollars.

Significant efforts have been spent on the planning and design of the proposed Emergency Response Facility to ensure that the Town's immediate and future emergency response needs are accommodated. The design team has looked at ways to decrease the building footprint and the overall footprint of the site. The team has determined that the building configuration shown on the included floorplan drawing best suits the Town's needs and that the proposed site layout shown on the included Proposed Site Plan provides minimum, but sufficient, room for the large emergency vehicle maneuvers, emergency vehicle access, and parking. If the Town is required to conform with the County's 25-foot front yard building setback requirement within the Mixed-Use Commercial "Core"

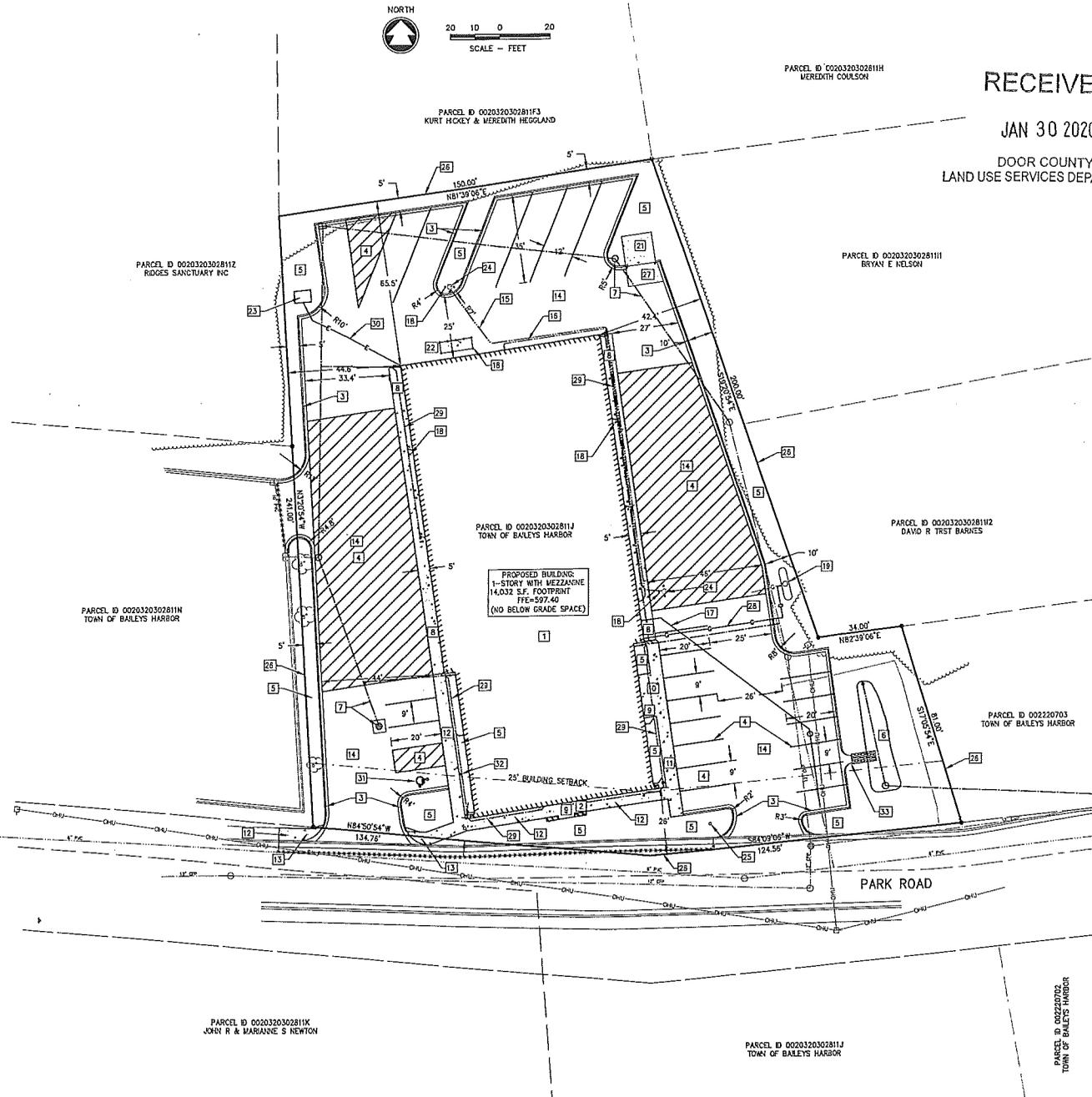
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LAND USE SERVICES DEPARTMENT

District, it is our opinion that the Town of Baileys Harbor would be unnecessarily prevented from constructing an Emergency Response Facility that will meet the Town's emergency services needs and benefit the public's health, safety and welfare for years to come.

The purpose of most front yard building setback requirements within communities is to promote safety along roadways, to establish consistency throughout zoning districts and neighborhoods, to prevent crowding along roadways, to provide green space along roadway corridors and to serve as an area for utility easements. It is our opinion that a reduction to the front yard building setback, for the southwest portion of the proposed building, would not have adverse impacts on the primary goals for establishing front yard setback restrictions. Proper vision lines for vehicular traffic on Park Road would remain, green space throughout the Park Road corridor would be increased by the project, and utility easements do not exist and are not anticipated to be needed. Furthermore, as mentioned previously, the property that the proposed Emergency Response Facility will be constructed on is located adjacent to and across the street from other Town owned properties that are primarily developed properties. As such, in our opinion, an approval of the variance for a relaxation of the front yard setback requirement for this property would not result in crowding of the roadway right-of-way. It is our opinion that conforming to the required front yard building set is unnecessarily burdensome for the project at hand. The short-term, long-term and cumulative effects of variance on the neighborhood, the community and on the public interests are minimal and, in our opinion, relaxing the front yard building setback is a small concession that will result in a tremendously positive impact on the community and public interests. Approval of the variance would provide a means for the Town of Baileys Harbor to construct a new state of the art Emergency Response Facility that will meet the Town's needs and benefit the welfare of the community for many years.



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 JAN 30 2020
 DOOR COUNTY
 LAND USE SERVICES DEPARTMENT

GENERAL PROJECT NOTES:

PROJECT NAME: BAILEYS HARBOR FIRE DEPARTMENT
 PROPERTY ADDRESS: 2404 PARK ROAD
 TOWN OF BAILEYS HARBOR, DOOR COUNTY, WI
 TAX KEY NUMBER: 002-032030281J
 LEGAL DESCRIPTION: TR IN GOVT LOTS 1 & 2 SECTION 20-30-28 ON N & S SIDE OF STENKE AVE.
 ZONING DESCRIPTION: MC (MIXED USE COMMERCIAL)
 PROPOSED USE: GOVERNMENT/INSTITUTIONAL
 OCCUPANCY CLASSIFICATION: S2, LOW HAZARD STORAGE
 B, BUSINESS
 R1, RESIDENTIAL (ACCESSORY USE)
 FIRE PROTECTION: NON-SPRINKLERED
 ZONING INFORMATION:
 LOT SIZE: PROVIDED 51,780 S.F. REQUIRED 16,200 S.F.
 LOT WIDTH: 150' REQ'D MIN = 90'
 BUILDING HEIGHT: 28'-4" MAXIMUM 35'
 BUILDING SETBACKS:
 FRONT YARD: 5' REQ'D MIN = 25'
 SIDE YARD: 5' REQ'D MIN = 10'
 EAST: 42.4' REQ'D MIN = 10'
 WEST: 44.5' REQ'D MIN = 20'
 REAR YARD: 65.5' REQ'D MIN = 20'
 PARKING CALCULATIONS: TOTAL SPACES PROVIDED = 27 INCLUDING 1 HANDICAP SPACE
 ADDITIONAL PARKING IS AVAILABLE ON THE TOWN OWNED PARCELS TO THE WEST AND SOUTHEAST.
 LOADING AND UNLOADING AREA: PROVISIONS FOR LOADING AND UNLOADING SPACE ARE NOT REQUIRED FOR THE PROPOSED USE.

PARCEL AREAS

TOTAL PROPERTY:	51,780 S.F.	(1.188 AC)
ZONING DISTRICT:	MC - MIXED USE COMMERCIAL	
GREEN SPACE REQUIREMENT:	55%	

EXISTING SITE:			
EXISTING GREENSPACE	7,841 S.F.	0.180 AC	15.14%
EXISTING PAVEMENT	37,505 S.F.	0.861 AC	72.43%
EXISTING BUILDING	6,434 S.F.	0.147 AC	12.43%

PROPOSED SITE:			
BUILDING FOOTPRINT	14,032 S.F.	0.322 AC	27.10%
PAVEMENT & SIDEWALK	28,038 S.F.	0.643 AC	54.15%
TOTAL IMPERVIOUS	42,070 S.F.	0.965 AC	81.25%
GREEN SPACE PROVIDED	9,710 S.F.	0.223 AC	18.75%
GREEN SPACE REQ'D	28,479 S.F.	0.653 AC	55%

GENERAL SITE PLAN NOTES:
 NO PRODUCTS WILL BE MANUFACTURED, SOLD, OR STORED ON SITE.

- SITE PLAN KEY NOTES:**
- PROPOSED BUILDING - REFER TO ARCHITECTURAL AND STRUCTURAL PLANS FOR ADDITIONAL INFORMATION
 - KNOX BOX
 - CONCRETE CURB & GUTTER, 18-INCH
 - 4" PAINT STRIPE (YELLOW)
 - LANDSCAPE AREA
 - STORMWATER BIOFILTRATION DEVICE
 - NEW STORM SEWER PIPE/STRUCTURE (TYP)
 - CONCRETE APRON - REFER TO STRUCTURAL PLANS
 - CONCRETE STOP - REFER TO STRUCTURAL PLANS FOR EXACT SIZE AND LOCATION
 - CONCRETE PATIO
 - CURB FACED CONCRETE SIDEWALK
 - CONCRETE SIDEWALK
 - DETECTABLE WARNING FIELDS
 - ASPHALTIC PAVEMENT
 - WATER LINE (POTABLE)
 - WATER LINE (NON POTABLE)
 - SANITARY SEWER LATERAL
 - BOLLARD (TYPICAL)
 - UNDERGROUND LP TANK (EXISTING)
 - NOT USED
 - BOUMPSTER ENCLOSURE - REFER TO STRUCTURAL PLAN AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - EMERGENCY GENERATOR - REFER TO STRUCTURAL PLAN FOR CONCRETE PAD INFORMATION
 - ELECTRICAL TRANSFORMER - REFER TO STRUCTURAL PLAN FOR CONCRETE PAD INFORMATION
 - PRIVATE WATER WELL (EXISTING TO REMAIN)
 - FLAG POLE
 - PROPERTY LINE
 - CONCRETE APRON FOR DIAPHRAGM ENCLOSURE - REFER TO STRUCTURAL PLAN FOR ADDITIONAL INFORMATION
 - 1" LP GAS LINE - REFER TO HVAC PLANS AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - STORM SEWER FOR DOWNSPOUT COLLECTION (TYP)
 - ELECTRICAL SERVICE - REFER TO ELECTRICAL PLAN AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - INTERNATIONAL SYMBOL OF ACCESSIBILITY PARKING SPACE MARKING
 - HANDICAP ACCESSIBLE PARKING STALL SIGN
 - FLUME AND RIPRAP

Keller
 PLANNERS | ARCHITECTS | BUILDERS

FOX CITY: 2015 East Road #2 P.O. Box 613 Madisara, WI 53150 PHONE (262) 244-6211 FAX (262) 244-6214

MILWAUKEE: 1058 BISHOP GARDNER ROAD GERMANTOWN, WI 53122 PHONE (262) 858-9710 FAX (262) 246-6234

MADISON: 711 East Street Sun Prairie, WI 53180 PHONE (608) 318-2728 FAX (608) 318-2337

WAUSAU: 1605 LINDA AVE WAUSAU, WI 54985 PHONE (715) 848-3441 FAX (715) 845-3181

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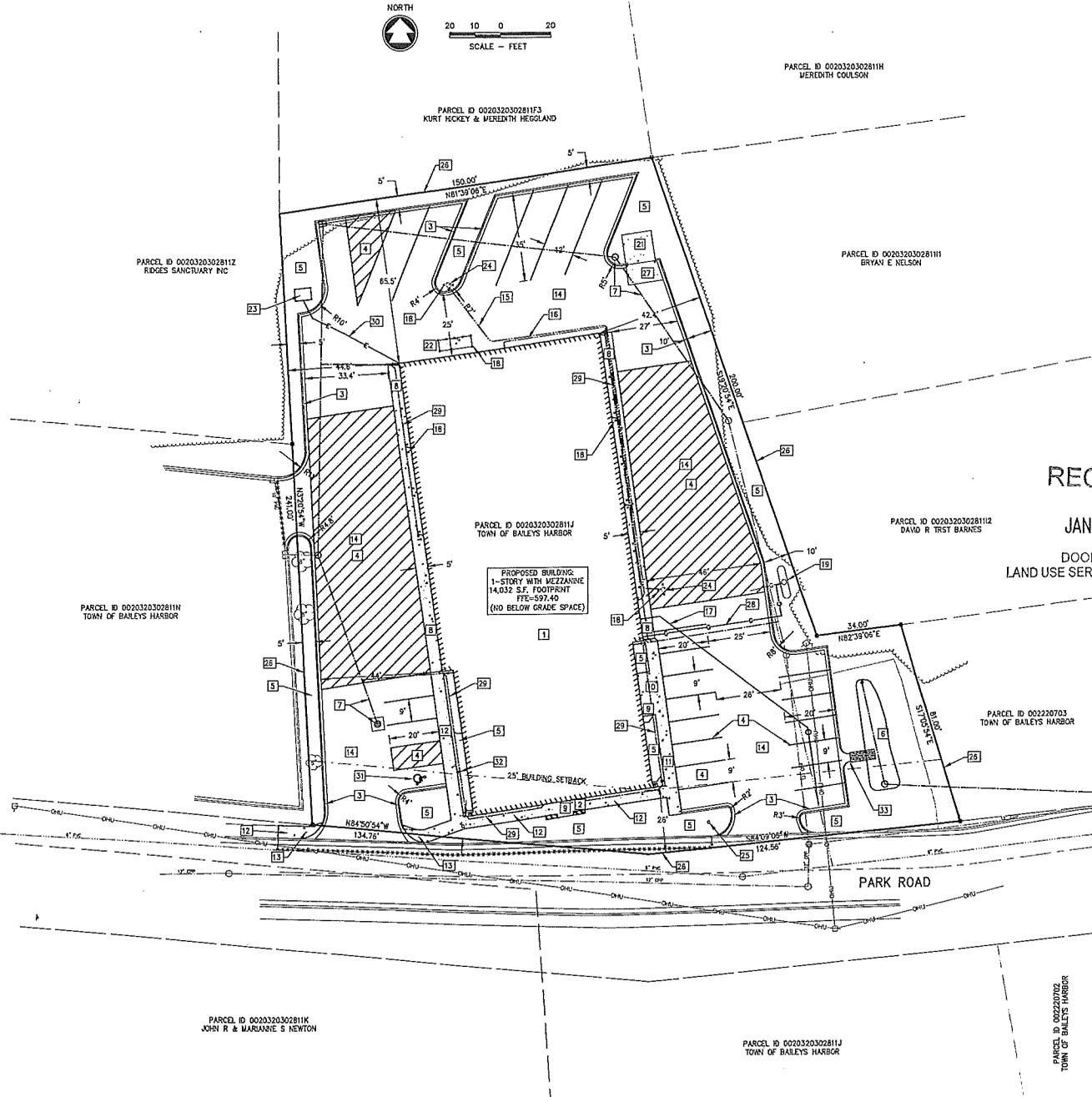
PROPOSED PROPOSED SITE PLAN FOR:
BAILEYS HARBOR FIRE DEPARTMENT
 2404 PARK RD.
 BAILEYS HARBOR, WISCONSIN 54202

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REVISIONS

"ISSUED FOR CONSTRUCTION"

PROJECT MANAGER: K. CLAFIN
 DESIGNER: M. KOHLBECK
 LEAD PROJECT MANAGER: S. CRAMER
 EXPEDITOR: S. LAUGH
 SUPERVISOR: D. DYCE
 CONTRACT NO: 68185
 IED NO: 19185
 ISSUED DATE: JANUARY 21, 2020
 SHEET: **C-06**



GENERAL PROJECT NOTES:

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 TOWN OF BAILEYS HARBOR, DOOR COUNTY, WI
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 ZONING DESCRIPTION: MC (MIXED USE COMMERCIAL)
 PROPOSED USE: GOVERNMENT/INSTITUTIONAL
 OCCUPANCY CLASSIFICATION: S2, LOW HAZARD STORAGE & BUSINESS R1, RESIDENTIAL (ACCESSORY USE)
 FIRE PROTECTION: NON-SPRINKLERED
 ZONING INFORMATION:
 LOT SIZE: 51,780 S.F.
 LOT WIDTH: 150'
 BUILDING HEIGHT: 28'-4"
 BUILDING SETBACKS: FRONT YARD: 9' SIDE YARD: EAST 42.4' WEST 44.8' REAR YARD: 65.5'
 REQUIRED: 16,200 S.F. RECD MIN. = 90' MAXIMUM 35' RECD MIN. = 25' RECD MIN. = 10' RECD MIN. = 10' RECD MIN. = 20'
 PARKING CALCULATIONS: TOTAL SPACES PROVIDED = 27 INCLUDING 1 HANDICAP STALL. ADDITIONAL PARKING IS AVAILABLE ON THE TOWN OWNED PARCELS TO THE WEST AND SOUTHWEST.
 LOADING AND UNLOADING AREA: PROVISIONS FOR LOADING AND UNLOADING SPACE ARE NOT REQUIRED FOR THE PROPOSED USE.

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PARCEL AREAS

TOTAL PROPERTY:	51,780 S.F.	(1.188 AC)
ZONING DISTRICT:	MC - MIXED USE COMMERCIAL	
CREDIT SPACE REQUIREMENT:	55%	

EXISTING SITE			
EXISTING GREENSPACE	7,841 S.F.	0.180 AC	15.14%
EXISTING PAVEMENT	37,605 S.F.	0.861 AC	72.43%
EXISTING BUILDING	6,434 S.F.	0.147 AC	12.43%

PROPOSED SITE			
BUILDING FOOTPRINT	14,032 S.F.	0.322 AC	27.10%
PAVEMENT & SIDEWALK	28,038 S.F.	0.643 AC	54.15%
TOTAL IMPERVIOUS	42,070 S.F.	0.965 AC	81.25%
GREEN SPACE PROVIDED	9,710 S.F.	0.223 AC	18.75%
GREEN SPACE REQ'D	28,479 S.F.	0.653 AC	55%

GENERAL SITE PLAN NOTES:
 NO PRODUCTS WILL BE MANUFACTURED, SOLD, OR STORED ON SITE.

- SITE PLAN KEY NOTES:**
- PROPOSED BUILDING - REFER TO ARCHITECTURAL AND STRUCTURAL PLANS FOR ADDITIONAL INFORMATION
 - KNOX BOX
 - CONCRETE CURB & GUTTER, 18-INCH
 - 4" PAINT STRIPE (YELLOW)
 - LANDSCAPE AREA
 - STORMWATER BIOPILTRATION DEVICE
 - NEW STORM SEWER PIPE/STRUCTURE (TYP)
 - CONCRETE APRON - REFER TO STRUCTURAL PLANS FOR EXACT SIZE AND LOCATION
 - CONCRETE STOOP - REFER TO STRUCTURAL PLANS FOR EXACT SIZE AND LOCATION
 - CONCRETE PATIO
 - CURB FACED CONCRETE SIDEWALK
 - CONCRETE SIDEWALK
 - DETECTABLE WARNING FIELDS
 - ASPHALTIC PAVEMENT
 - WATER LINE (POTABLE)
 - WATER LINE (NON POTABLE)
 - SANITARY SEWER LATERAL
 - BOLLARD (TYPICAL)
 - UNDERGROUND LP TANK (EXISTING)
 - NOT USED
 - DUMPSTER ENCLOSURE - REFER TO STRUCTURAL PLAN AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - EMERGENCY GENERATOR - REFER TO STRUCTURAL PLAN FOR CONCRETE PAD INFORMATION
 - ELECTRICAL TRANSFORMER - REFER TO STRUCTURAL PLAN FOR CONCRETE PAD INFORMATION
 - PRIVATE WATER WELL (EXISTING TO REMAIN)
 - FLAG POLE
 - PROPERTY LINE
 - CONCRETE APRON FOR DUMPSTER ENCLOSURE - REFER TO STRUCTURAL PLAN FOR ADDITIONAL INFORMATION
 - 1" LP GAS LINE - REFER TO HVAC PLANS AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - STORM SEWER FOR DOWNSPOUT COLLECTION (TYP)
 - ELECTRICAL SERVICE - REFER TO ELECTRICAL PLAN AND SPECIFICATIONS FOR ADDITIONAL INFORMATION
 - INTERNATIONAL SYMBOL OF ACCESSIBILITY PARKING SPACE MARKING
 - HANDICAP ACCESSIBLE PARKING STALL SIGN
 - FLUME AND RFRAP

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MILWAUKEE: 1000 Wisconsin Center Blvd, Germantown, WI 53032
 PHONE (262) 250-4710
 FAX (262) 250-4748

WAUSAU: 1000 Lake Ave, Waupun, WI 54981
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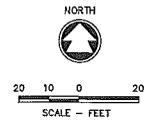
PROPOSED PROPOSED SITE PLAN FOR:
BAILEYS HARBOR FIRE DEPARTMENT
 2404 PARK RD.
 BAILEYS HARBOR,
 WISCONSIN 54202

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REVISIONS

"ISSUED FOR CONSTRUCTION"

PROJECT MANAGER: K. CLAFIN
 DESIGNER: M.KOHLBECK
 LEAD PROJECT MANAGER: S. CRAMER
 EXPEDITOR: S. LAMON
 SUPERVISOR: D. DYCE
 CONTRACT NO: 68165
 IED NO: 15185
 ISSUED DATE: JANUARY 21, 2020
 SHEET: **C-06**



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WAUSAU
8222 Lake Ave
Wausau, WI 54485
PHONE (715) 842-3141
FAX (715) 842-3181

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PROPOSED CONCEPTUAL BUILDING LAYOUT FOR:
BAILEY'S HARBOR FIRE DEPARTMENT
2404 PARK RD.
BAILEY'S HARBOR,
WISCONSIN 54202

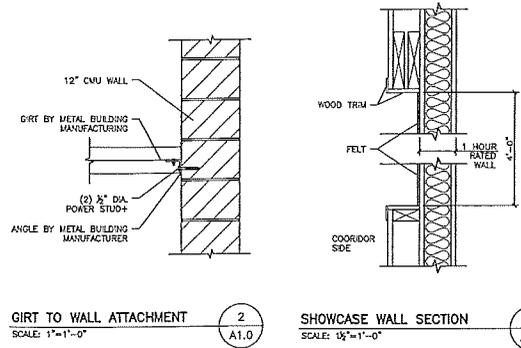
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PROJECT MANAGER: K. CLAFIN
DESIGNER: M. KORBLECK
LEAD PROJECT MANAGER: S. GRAMER
EXPEDITOR: S. LAMON
SUPERVISOR: D. DYCE
CONTRACT NO: 68166
ED NO: 19185
ISSUED DATE: JANUARY 21, 2020
SHEET: --

RECEIVED
JAN 30 2020
DOOR COUNTY
LAND USE SERVICES DEPARTMENT



WALL TYPE SCHEDULE					
NO.	DESCRIPTION	WALL DIAGRAM	NO.	DESCRIPTION	WALL DIAGRAM
1	5/8" GYPSUM BOARD 2x4 WOOD STUDS AT 16" O.C. BATT INSULATION 5/8" GYPSUM BOARD IN SOME LOCATIONS THIS WALL TYPE REQUIRES A FIRE RATING AS INDICATED BY THIS HATCH. [Hatched Box] 1-HOUR FIRE RATING PER UL DESIGN NO. U305. HEIGHT: 11'-6"		2	5/8" GYPSUM BOARD 2x6 WOOD STUDS AT 16" O.C. BATT INSULATION 5/8" GYPSUM BOARD IN SOME LOCATIONS THIS WALL TYPE REQUIRES A FIRE RATING AS INDICATED BY THIS HATCH. [Hatched Box] 1-HOUR FIRE RATING PER UL DESIGN NO. U305. HEIGHT: 11'-6"	
2	8" CMU HEIGHT: 10'-4"		3	12" CMU 1 1/2" 25 GA. VERTICAL METAL STUDS AT 16" O.C. 5/8" GYPSUM BOARD HEIGHT: FULL HEIGHT	
3	8" CMU 1 1/2" 25 GA. VERTICAL METAL STUDS AT 16" O.C. 5/8" GYPSUM BOARD HEIGHT: 11'-6"		4	5/8" GYPSUM BOARD 3/4" 25 GA. METAL STUDS AT 16" O.C. BATT INSULATION 5/8" GYPSUM BOARD HEIGHT: FULL	

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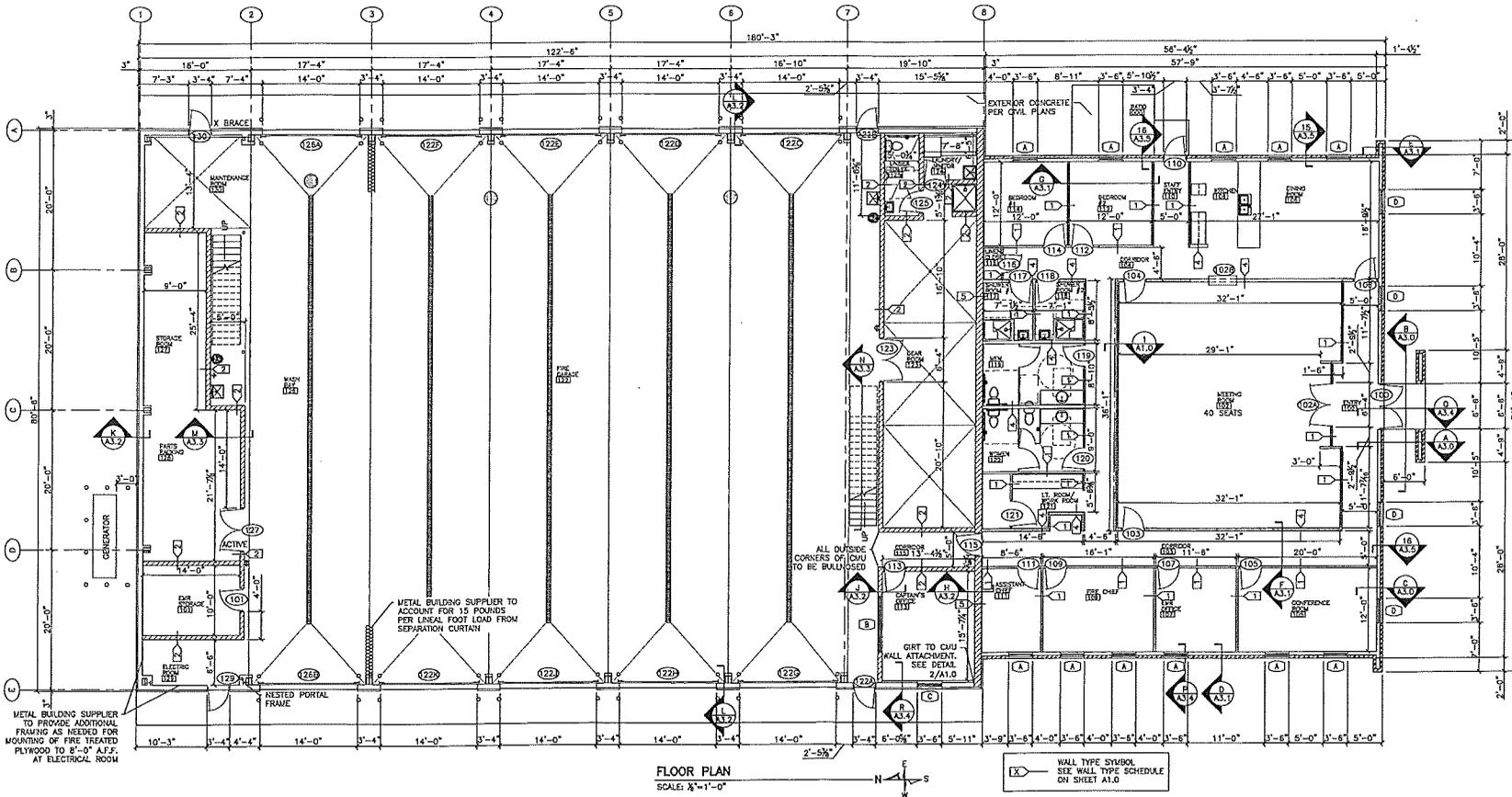
FOX CITIES
6315 Eagle Road SE
P.O. Box 429
Madison, WI 53718
PHONE (608) 218-2238
1-800-238-2234
FAX (608) 218-9224

MILWAUKEE
10241130 Gateway Road
Greenfield, WI 53222
PHONE (212) 225-8118
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MADISON
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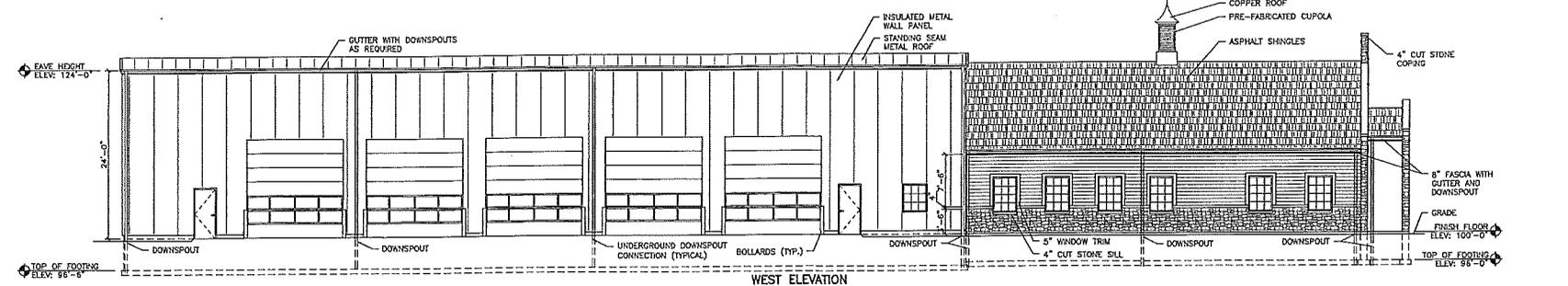
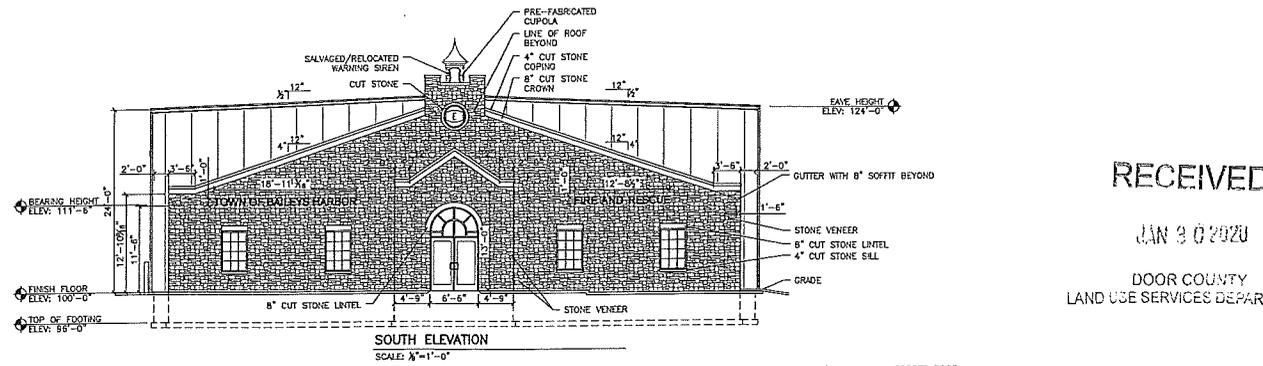
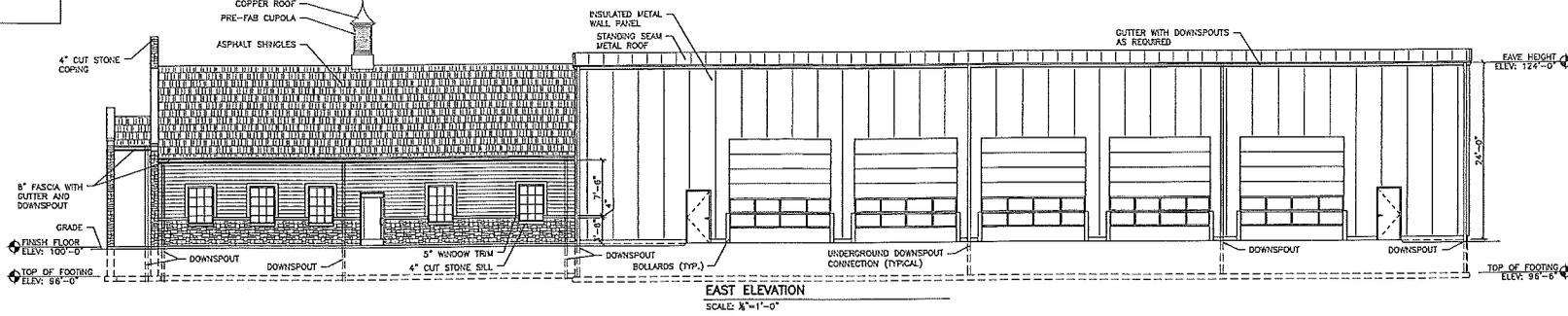
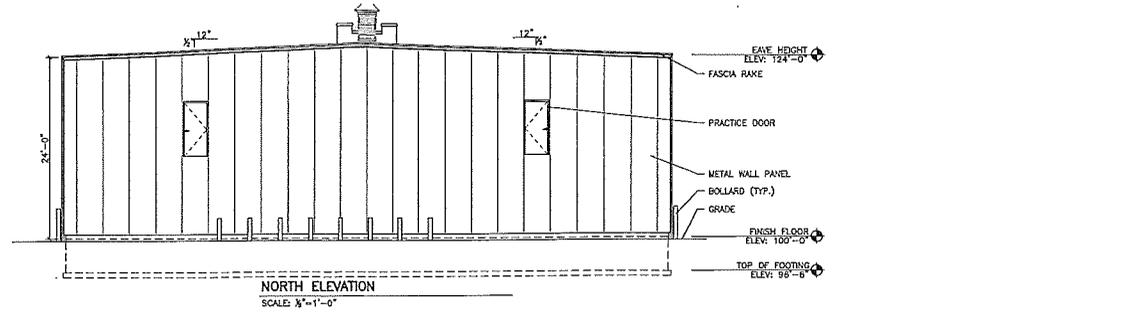
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FAX (715) 848-3111

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HATCH PATTERN SCHEDULE

	STONE VENEER WITH 4" CUT STONE SILL ON TOP WHERE REQUIRED		INSULATED METAL WALL PANEL
	ASPHALT SHINGLES		STANDING SEAM METAL ROOF
	6" LP SMART SIDING		



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PROPOSED BUILDING FOR:
BAILEY'S HARBOR FIRE DEPARTMENT
 2404 PARK RD.,
 BAILEY'S HARBOR,
 WISCONSIN 54202

RECEIVED
 JAN 30 2020
 DOOR COUNTY
 LAND USE SERVICES DEPARTMENT

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REVISIONS

"ISSUED FOR CONSTRUCTION"

PROJECT MANAGER: K. CLAFIN
 DESIGNER: S. KLESIO
 LEAD PROJECT MANAGER: S. CRAVER
 EXPEDITOR: S. LAMON
 SUPERVISOR: D. DYCE
 CONTRACT NO: 68166
 IED NO: 19185
 ISSUED DATE: JANUARY 21, 2020
 SHEET: **A2.0**

These minutes have not been reviewed by the oversight committee and are subject to approval or revision at the next regular committee meeting.

**MINUTES OF SPECIAL MEETING
DOOR COUNTY BOARD OF ADJUSTMENT**

February 11, 2020

1.0 Call to order and declaration of quorum.

Chairperson Fred Frey and Vice Chairperson Aric Weber were excused. In accordance with Section B(2)(a) of the Door County Board of Adjustment Rules of Procedure, "The board shall elect a member to assume the duties of the chairperson for the applicable meeting. The term of this chairperson shall not extend beyond the meeting for which the member was elected chairperson."

The meeting was called to order by Ryan, who had acted as chair at the previous meeting regarding this matter, at 5:00 p.m. in the Peninsula Room (C121), Door County Government Center, Sturgeon Bay, Wisconsin.

Motion by John Young, seconded by Chris Anderson, to elect Bob Ryan to assume the duties of Chairperson for the February 11, 2020 Door County Board of Adjustment special meeting. Motion carried unanimously (5-0).

Board of Adjustment Members

Present:

Bob Ryan
John Young
Monica Nelson
Arps Horvath, First Alternate
Chris Anderson, Second Alternate

Staff

Mariah Goode, Land Use Services Director
Rick Brauer, Zoning Administrator

2.0 Discuss and arrive at a decision on an appeal that was heard by the Board of Adjustment at a public hearing held on January 28, 2020.

2.1 Stephan B. Nordstrom, Graycliffe, LLC, Carl M. Curry, and Cynthia M. Curry; appeal zoning administrator decision whereby the zoning administrator authorized the construction of a single family residence; Gibraltar.

County Corporation Counsel Grant Thomas joined the board for discussion of this matter, as he had asked both parties to the appeal at the previous meeting to provide additional legal briefs for him to consider in order that he could provide legal advice to the Board of Adjustment on two matters. His research and opinions on these two matters were detailed in a 02-11-2020 Memorandum to the Board, attached to and incorporated into these minutes.

Thomas reviewed with BOA members his legal analysis and conclusions regarding the appellants' standing as persons aggrieved and whether there was a defect or error in the condominium declaration. In short, Thomas concluded: 1) that the appellants do have standing as aggrieved persons; and 2) that the condominium declaration had a defect or error (i.e., it was not executed or recorded by the owners of the property) and was therefore void and otherwise ineffective.

After some discussion with Thomas about the two legal findings, BOA members turned to the bases of decision-making for appeals of zoning administrator decisions, as outlined in the BOA Rules of Procedure.

The decision-making basis for such appeals is described as follows:

- (a) Whether the officer kept within its/his/her jurisdiction.
- (b) Whether the officer acted according to applicable laws and common law concepts of due process and fair play.
- (c) Whether the officer's action was arbitrary, oppressive, or unreasonable and represented the officer's will and not the officer's judgment.
- (d) Whether the evidence was such that the officer might reasonably make the order or determination in question.

While the BOA members believed that the zoning administrator's action was within his jurisdiction, wasn't arbitrary, oppressive, or unreasonable, and was based on evidence provided to him, it was determined that the zoning permit was issued under a mistake of fact and/or law. Specifically, the property was not, contrary to the zoning administrator's belief, subject to the condominium form of ownership due to the defect in the condominium declaration. Motion by Horvath, seconded by Young, to grant the appeal. Motion carried 4-1 (Nelson "nay").

3.0 Old Business.

3.1 Read and act on Minutes of January 28, 2020, meeting.

Motion by Nelson, seconded by Anderson, to approve the minutes as presented. Motion carried unanimously (5-0).

4.0 Vouchers.

The Board members present submitted vouchers.

5.0 Adjournment.

Motion by Young, seconded by Nelson, to adjourn. Motion carried unanimously (5-0). Chairperson Ryan declared the meeting adjourned at 5:40 p.m.

Respectfully submitted,

Mariah Goode
Director, Land Use Services Dept.

**DOOR COUNTY BOARD OF ADJUSTMENT
DECISION**

Tax Parcel No. 014-67-0003

PETITION: Stephan B. Nordstrom, Graycliffe, LLC, Carl M. Curry, and Cynthia M. Curry appeal the decision of the Door County Zoning Administrator whereby the Zoning Administrator authorized the construction of a single-family residence. The specific reasons for the appeal are available for review at the Door County Land Use Services Department. This property is located south of and adjacent to 9091 Cottage Row Road in Section 6, Town 30 North, Range 27 East, and in a Single Family Residential-20,000 (SF20) zoning district.

HEARING: After due notice a public hearing was held by the Door County Board of Adjustment on January 28, 2020, at 6:30 p.m. in the Peninsula Room, Door County Government Center, Sturgeon Bay, WI, to consider this appeal. At a subsequent meeting held on February 11, 2020, the Board of Adjustment continued their discussion on this matter with Door County Corporation Counsel Grant Thomas. Testimony by all involved has been carefully considered.

DECISION: The Door County Board of Adjustment voted to grant the appeal submitted by Stephan B. Nordstrom, Graycliffe, LLC, Carl M. Curry, and Cynthia M. Curry by the following vote:

Monica Nelson:	Deny
Arps Horvath:	Grant
Bob Ryan:	Grant
Chris Anderson:	Grant
John Young:	Grant

REASONS: The appeal was granted for the following reason(s):

The zoning permit was issued in error, under a mistake of fact and law. Specifically, the condominium declaration is defective, in that it was not executed by any (or all) owners of the property. As a result of this defect the property was not subject to the condominium form of ownership. This defect has not been cured. But-for the mistaken belief that the property was subject to the condominium form of ownership, the zoning administrator would not have issued the zoning permit at issue here.

DOOR COUNTY BOARD OF ADJUSTMENT

Signed: _____
Chairman

Attest: _____
Recording Secretary

Dated: February 25, 2020
Filed: February 26, 2020

A party aggrieved by the decision of the Board of Adjustment may appeal to the Circuit Court under Wisconsin Statutes 801.02(5) and 59.694(10) within thirty (30) days after filing of the decision.

**MINUTES OF MEETING
DOOR COUNTY BOARD OF ADJUSTMENT**

February 11, 2020

1.0 Call to order and declaration of quorum.

The meeting was called to order by Chairperson Frey at 6:30 p.m. on Tuesday, February 11, 2020, in the Peninsula Room (C121) of the Door County Government Center, Sturgeon Bay, Wisconsin.

Board of Adjustment Members

Staff

Present:

Fred Frey, Chairperson

Richard D. Brauer, Zoning Administrator

Monica Nelson

John Young

Bob Ryan

Arps Horvath, First Alternate

Excused:

Aric Weber, Vice-Chairperson

Chris Anderson, Second Alternate

2.0 Discuss and arrive at a decision on a Petition for Grant of Variance.

2.1 Richard H. Barker and Julie E. Davis; floodplain fill requirement, ordinary high water mark setback for principal and accessory structures; Nasewaupsee.

Motion by Ryan, seconded by Young, to grant the petition for grant of variance. Motion carried unanimously (5-0).

Aye: Frey, Young, Nelson, Ryan, Horvath.

The basis for the decision is set forth on the attached Board of Adjustment decision making worksheets.

3.0 Other Matters.

3.1 Announce next meeting.

Staff announced that the next meeting would be held on February 25, 2020. One variance case has been scheduled for public hearing that evening. Arps Horvath and Bob Ryan informed staff that they would be unable to attend that meeting.

4.0 Vouchers.

All of the board members present submitted vouchers.

5.0 Adjournment.

Motion by Ryan, seconded by Horvath, to adjourn. Motion carried unanimously (5-0). Chairperson Frey declared the meeting adjourned at 7:20 p.m.

Respectfully submitted,

Richard D. Brauer
Zoning Administrator

RDB
02/12/20

DOOR COUNTY BOARD OF ADJUSTMENT
Decision – Area Variance

Hearing Date: February 11, 2020 Decision Date: February 11, 2020

Applicants: Richard H. Barker and Julie E. Davis

Property: PIN 020-65-04011 / 4142 Snake Island Road

Description of variance requested:

Richard H. Barker and Julie E. Davis petition for a grant of variance from Section 4.3(1)(a) of the Door County Floodplain Zoning Ordinance which requires fill be placed at least 15 feet beyond the limits of a residence located in the floodplain and Sections IV.B.2.b. and IV.B.2.c.1) of the Door County Shoreland Zoning Ordinance which require a residence on the lot be setback at least 49.5 feet from the ordinary high water mark of Green Bay and an accessory structure on the same lot to be setback at least 75 feet from the ordinary high water mark. The applicants propose to relocate the existing residence in order to bring it closer to compliance with the Floodplain Zoning Ordinance. The relocated home would comply with the elevation standards of this ordinance; however, floodplain fill would extend only 13.22 feet from the west side of the residence and only 10.88 feet from the east side of the residence. In addition, the relocated residence would be located as close as 40.8 feet from the ordinary high water mark. The project would also include retaining walls (accessory structures) that will allow the applicants to provide fill up to the edge of the property. A retaining wall along the western property line would be located as close as 32.42 feet from the ordinary high water mark and a retaining wall along the eastern property line would be located as close as 24.83 feet from the ordinary high water mark. This property is located at 4142 Snake Island Road in Section 30, Town 28 North, Range 25 East in the shorelands of the Town of Nasewaupsee.

DECISION:

On the basis of the Decision Making Worksheet (attached hereto and incorporated herein by reference as if set forth in full) and the record in this matter the Board of Adjustment finds and determines that:

- A. The requested variance does meet the criteria set forth in Section 59.694(7) Wisconsin Statutes.

The Board of Adjustment voted to grant the petition for grant of variance by the following vote:

Fred Frey: Aye
Bob Ryan: Aye
John Young: Aye
Monica Nelson: Aye
Arps Horvath: Aye

Signed _____

Chairperson

Signed _____

Recording Clerk

Dated: February 25, 2020

Filed: February 26, 2020

Appeals. This decision may be appealed by a person aggrieved by this decision by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The County of Door assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30 day period.

The privileges granted by this decision shall become void after one year unless the zoning permits for the authorized project have been obtained within such time.

**DOOR COUNTY BOARD OF ADJUSTMENT
DECISION-MAKING WORKSHEET**

APPLICANTS NAMES: Richard H. Barker and Julie E. Davis

PROPERTY ADDRESSES / P.I.N.s: 4142 Snake Island Road / 020-65-04011

HEARING DATE: February 11, 2020

To grant an area variance, all three of the standards enumerated below must be met. In addressing each standard, express the reasons for the decision, i.e., why the facts did or did not satisfy the standards, the weight and credibility of the evidence presented (or lack thereof), and any other relevant considerations.

1. UNIQUE PHYSICAL PROPERTY LIMITATIONS.

Are there unique physical property limitations such as steep slopes, wetlands, or parcel shape that prevent compliance with the ordinance? The circumstances of an applicant (growing family, need for a larger garage, etc.) are not factors in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. The variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.

In order for a variance to satisfy the unique physical property limitation test, the question below must be answered affirmatively.

Does this property contain unique physical property limitations (e.g., wetland presence, parcel shape, steep slope, etc.) that would prevent compliance with the ordinance?

YES X NO _____

EXPLAIN: The parcel gets quite narrow toward the road and curved near the water which results in an ordinary high water mark setback of three sides. The house was built quite close to the property lines prior to the adoption of county zoning. This leaves no room for the required 15 feet of floodplain fill.

2. UNNECESSARY HARDSHIP.

Unnecessary hardship exists when a literal enforcement of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or when conformity with ordinance standards would be unnecessarily burdensome.

Considerations:

- Unnecessary hardship should be determined in light of the purpose and intent of the zoning ordinance in question, as well as any statute or administrative rule upon which the ordinance is based. (See page 4.) The facts of the case should be analyzed in light of these purposes. Only after considering the purpose(s) of the statute and/or ordinance, and the nature of the specific restriction(s) at issue, may a decision be made as to whether or not failure to grant a variance will cause an unnecessary hardship.

- Unnecessary hardship may arise due to a unique property limitation of a parcel (see #1, above). A variance is not warranted if the physical character of the property allows a landowner to develop or build in compliance with the zoning ordinance.
- Unnecessary hardship does not include considerations personal to the property owner (e.g., personal preference, desire to maximizing the economic value of the property, or financial hardship caused by ordinance compliance).
- Any self-created hardship, and/or any hardship that existed irrespective of the zoning ordinance in question are not proper grounds upon which to grant a variance.
- Alternatives to a variance (e.g., conditional use permit or restrictive covenant) may, as neither runs with the land, be preferable to accommodate a disability of the owner or owner's dependent.

In order for a variance to satisfy the unnecessary hardship test, one of the questions below (A or B) must be answered affirmatively.

- A. Does denial of the variance -- i.e., requiring compliance with the strict letter of the ordinance provision(s) in question (e.g., setbacks, height limitations, etc.) -- unreasonably prevent the owner from using the property for a permitted purpose?**

YES X NO

EXPLAIN: The denial of a variance would result in a continued hardship. The applicants have demonstrated that rotating the home and providing the required fill is prudent and necessary in order to avoid loss of property. The property has already flooded twice.

OR

- B. Is conformity with the regulation(s) unnecessarily burdensome?**

YES X NO

EXPLAIN: The denial of a variance would be unnecessarily burdensome in that it would prevent the owners from bringing the properties closer to compliance with the floodplain ordinance standards and would eventually result in an uninhabitable home. The property cannot be improved or repaired without the granting of a variance.

3. PUBLIC INTEREST/SPIRIT AND INTENT OF THE ORDINANCE.

A variance may not be granted which results in harm to public interests, nor thwarts the spirit and intent of the ordinance. In applying this test, the board should review the purpose statements of the ordinance (and any statute or administrative rule upon which the ordinance is based) in order to identify public interests. (See page 4.) The short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state, should be considered. Review should focus on the general public interest, rather than just the narrow interests or impacts on neighbors, patrons, or residents in the vicinity of the project.

Cumulative effects are a proper consideration. For instance, in the context of shoreland zoning, the general availability of variances permitting the horizontal expansion of structures so close to the water's edge may have the cumulative effect of enclosing our lakes within a wall of impermeable surfaces to the exclusion of vegetation and impairing the ecological functions of the shoreland buffer.

A variance is not a popularity contest. The mere fact of public support or opposition is not, in and of itself, determinative of whether or not a variance is contrary to the public interest.

The board may grant only the minimum variance needed, i.e., the minimum variance necessary to relieve the unnecessary hardship. For instance, if the request is for a variance of 30 feet from the minimum setback, and a finding is made that a 10-foot setback reduction would allow the petitioner to use the property for a permitted purpose, then only a 10-foot setback reduction may be authorized.

Distinguish between hardships that are unnecessary in light of the unique conditions of the property and the purpose of the zoning ordinance from hardships that are inconsequential or not unique or because a variance would unduly undermine the purpose of the ordinance or the public interest.

In order for a variance to satisfy the public interest test, the question below must be answered negatively.

Does the granting of the variance result in harm to the public interest?

YES _____ NO X _____

EXPLAIN: The footprint of the home will not change and therefore, there is no additional impervious surface. The granting of a variance will result in a structure that complies with the provisions of the Door County Floodplain Zoning Ordinance. Walls along the property lines will prevent erosion onto the neighbor's lots. The proposed elevation will be more consistent with the neighbors who are in support of the project. The granting of a variance will protect property values and the property tax base. The proposal will aid in the protection of groundwater and surface water. The project will promoted planned and orderly land use development.

Has the applicant seeking a variance demonstrated that each of the three standards has been satisfied in this case? YES X _____ NO _____. If yes, then substantial justice will be done by granting the variance.

The privileges granted by this decision shall become void after one year unless the property owners obtain the appropriate zoning permits within such time.

Dated this February 12, 2020

Door County Zoning Ordinance Purpose Statements

"1.04 Purpose. The purpose of this Ordinance is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare. Further purposes of this Ordinance are to:

- (1) Aid in implementing the county development plan.
- (2) Promote planned and orderly land use development.
- (3) Protect property values and the property tax base.
- (4) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
- (5) Prevent overcrowding of the land.
- (6) Advance uses of land in accordance with its character and suitability.
- (7) Provide property with access to adequate sunlight and clean air.
- (8) Aid in protection of groundwater and surface water.
- (9) Preserve wetlands.
- (10) Protect the beauty of landscapes.
- (11) Conserve flora and fauna habitats.
- (12) Preserve and enhance the county's rural characteristics.
- (13) Protect vegetative shore cover.
- (14) Promote safety and efficiency in the county's road transportation system.
- (15) Define the duties and powers of administrative bodies in administering this Ordinance.
- (16) Prescribe penalties for violation of this Ordinance."

Wisconsin Statutes Purpose Statement

281.31. Navigable waters protection law

"(1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." *(Emphasis added.)*

Examples as to how to use the above in conjunction with analysis of a variance request

When considering a variance request to relax the required ordinary high water mark setback, county zoning ordinance purposes (8), (10), (11), and (13) are likely relevant to consider. Purposes (2), (3), (4), and (5) may also be relevant. Depending upon the nature of the variance request, any of the components of the statutory purposes behind shoreland zoning (above) may be relevant to consider.

When considering a variance request to relax a required yard (setback), county zoning ordinance purposes (2), (3), (4), and (5) are likely relevant to consider.