



GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting and public hearing that is scheduled for **Friday, July 20, 2018**. The business meeting begins at 9:00 a.m. The public hearing will begin at 10:30 a.m.

Packet Pages:

1. Agenda
- 2-4. Minutes of 04-20-18
5. Public Hearing Notice
- 6-15. **Public Hearing Item I:**
Owner/Applicant: Randy S & Linda J Matzke **Site Description:** W2072 Melmar Dr, Parcel #006-01409-0000, Frei's Plat, Lot 18, Part of Government Lot 3 of Section 32, T15N, R13E **Request:** Variance from Section 350-38.D.(1)(c) of the Zoning Ordinance and Section 338-32.C(3) of the Shoreland Zoning Ordinance to construct an attached garage with breezeway that would be set back 10' from the street right-of-way/front-lot line; whereas, a 25' setback is required.
- 16-25. **Public Hearing Item II:**
Owner/Applicant: Steven C Blaha & Nancy J Ausloos **Site Description:** W2416 Eagles Roost Ln, Estates of Lawsonia, Lot 41, Parcel #004-02141-0000 (±.51 acres), Part of the NW¼ of Section 30, T16N, R13E **Request:** Variance from Section 350-38.E(1) of the Zoning Ordinance to place an accessory building 14' from the rear-yard lot line; whereas, a 25' rear-yard setback is required.



GREEN LAKE COUNTY

Board of Adjustment

571 County Road A, Green Lake, WI 54941

Office: (920) 294-4156
 FAX: (920) 294-4198

Board of Adjustment Meeting Notice

Date: July 20, 2018 Time: 9:00 AM

**Green Lake County Government Center, Room #0902
 571 County Road A, Green Lake, WI 54941**

AGENDA

Board of Adjustment Members:

*Janice Hardesty
 Board Chair*

*Ron Triemstra
 Board Vice Chair*

Kathleen Moore

*John Gende
 Alternate 1*

*Vacant
 Alternate 2*

*Carole DeCramer,
 Board Secretary*

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Election of Chair and Vice Chair
6. Agenda
7. Minutes: 04/20/18
8. Correct minutes of 05/20/16 and 06/16/16
9. Adjourn for field inspection

Public hearing matters will not begin before 10:30 a.m.

10. Public hearing matters

Item I: Owner/Applicant: Randy S & Linda J Matzke **Site Description:** W2072 Melmar Dr, Parcel #006-01409-0000, Frei's Plat, Lot 18, Part of Government Lot 3 of Section 32, T15N, R13E **Request:** Variance from Section 350-38.D.(1)(c) of the Zoning Ordinance and Section 338-32.C(3) of the Shoreland Zoning Ordinance to construct an attached garage with breezeway that would be set back 10' from the street right-of-way/front-lot line; whereas, a 25' setback is required.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

Item II: Owner/Applicant: Steven C Blaha & Nancy J Ausloos **Site Description:** W2416 Eagles Roost Ln, Estates of Lawsonia, Lot 41, Parcel #004-02141-0000 (±.51 acres), Part of the NW¼ of Section 30, T16N, R13E **Request:** Variance from Section 350-38.E(1) of the Zoning Ordinance to place an accessory building 14' from the rear-yard lot line; whereas, a 25' rear-yard setback is required.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

11. Correspondence
12. Next meeting date
13. Adjourn

Please Note: Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Carole DeCramer at 920-294-4156 the day before the meeting no later than noon.

**GREEN LAKE COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes – Friday, April 20, 2018**

CALL TO ORDER

The meeting of the Board of Adjustment was called to order by Chair Hardesty at 9:01 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende (alternate), Janice Hardesty, Kathleen Moore, Ron Triemstra

Absent:

Also present: Matt Kirkman, Land Use Planning and Zoning Director

Krista Kamke, Code Enforcement Officer

Carole DeCramer, Board Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Motion by Moore/Hardesty, unanimously carried, to approve the agenda.

APPROVAL OF MINUTES

Motion by Triemstra/Hardesty, unanimously carried, to approve the 11/17/17 minutes.

ELECTION OF BOARD OF ADJUSTMENT CHAIR AND VICE CHAIR

Hardesty explained that the terms are up July 1st and elections should take place at that time.

2018 BOARD OF ADJUSTMENT CALENDAR

The Board accepted the proposed calendar as presented.

RECESS FOR FIELD INSPECTION

Time: 9:04 a.m.

Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.

PUBLIC HEARING MATTERS

Board reconvened at 10:05 a.m.

Chair Hardesty read the Rules of Order.

Item I: Owner/Applicant: Steven & Terrie Sterett **Site Description:** W2848 Oak Terrace Ln, Parcel #006-00810-0000, ±.335 acres, Part of Government Lot 4 of Section 12, T15N, R12E **Request:** Variance from Section 350-38.E.(1) of the Zoning Ordinance to construct a detached accessory structure that would be set back five feet from the side lot line; whereas, a 10-foot setback is required.

- a. Public hearing

Steven Sterett, W2848 Oak Terrace Lane – Explained the request.

Chair Hardesty read into the record a letter that the Board of Adjustment received (Exhibit A) from one of Mr. Sterett's neighbor, Jody Factor, W2844 Oak Terrace Lane, who is in favor of the request.

10:51 a.m. Public hearing closed.

- b. Board discussion and deliberation to include relevant correspondence.

The Board discussed with Mr. Sterett and staff further details of the request and the criteria which must be used when considering variance requests. Mr. Sterett shared with the Board a copy of Certificate of Survey 1731 (Exhibit B) and explained, using the survey, where the general proximity of the utility easements are located.

- c. Board decision.

Motion by Moore/Triemstra to grant the variance request from 350-38.E.(1) of the Zoning Ordinance to construct a detached accessory structure that would be set back 5 feet from the side lot line; whereas, a 10-foot setback is required. The variance is approved with the following conditions:

1. Certified Survey Map to be recorded and provided to the Department prior to issuance of a Land Use Permit to construct the garage.
2. The property owners must mitigate any increase in impervious surfaces according to the Shoreland Zoning Ordinance.
3. A Certificate of Survey (COS) to be completed and submitted to the Land Use Planning & Zoning Department once the detached garage has been constructed. The COS must include exact location and size of the detached garage, and the placement of utilities authorized by this variance as well as any infiltration practices/structures.

Motion by Moore/Hardesty, unanimously carried, to approve a friendly amendment to expand condition #1 to read as follows:

1. Certified Survey Map to be recorded and provided to the Department prior to issuance of a Land Use Permit to construct the garage. The survey must include the incorporation of the road into the lot area, all utility easements, and all physical improvements.

Chair Hardesty called for a vote to approve the three conditions as amended:

1. Certified Survey Map to be recorded and provided to the Department prior to issuance of a Land Use Permit to construct the garage. The survey must include the incorporation of the road into the lot area, all utility easements, and all physical improvements.
2. The property owners must mitigate any increase in impervious surfaces according to the Shoreland Zoning Ordinance.
3. A Certificate of Survey (COS) to be completed and submitted to the Land Use Planning & Zoning Department once the detached garage has been constructed. The COS must include exact location and size of the detached garage, and the placement of utilities authorized by this variance as well as any infiltration practices/structures.

Motion carried on a 2:1 voice vote: Hardesty – aye, Moore – nay, Triemstra – aye.

Chair Hardesty called for a vote to grant the variance request from 350-38.E.(1) of the Zoning Ordinance to construct a detached accessory structure that would be set back 5 feet from the side lot line; whereas, a 10-foot setback is required. The variance is approved with the following conditions:

1. Certified Survey Map to be recorded and provided to the Department prior to issuance of a Land Use Permit to construct the garage. The survey must include the incorporation of the road into the lot area, all utility easements, and all physical improvements.
2. The property owners must mitigate any increase in impervious surfaces according to the Shoreland Zoning Ordinance.
3. A Certificate of Survey (COS) to be completed and submitted to the Land Use Planning & Zoning Department once the detached garage has been constructed. The COS must include exact location and size of the detached garage, and the placement of utilities authorized by this variance as well as any infiltration practices/structures.

Roll call: Hardesty – nay, Triemstra – aye, Moore – nay.

Motion denied.

On a motion by Moore/Triemstra to reconsider the previous vote to approve the request subject to adding a fourth condition limiting the size of the garage to 24' wide with a code-compliant overhang. The conditions would read as follows:

1. Certified Survey Map to be recorded and provided to the Department prior to issuance of a Land Use Permit to construct the garage. The survey must include the incorporation of the road into the lot area, all utility easements, and all physical improvements.
2. The property owners must mitigate any increase in impervious surfaces according to the Shoreland Zoning Ordinance.
3. A Certificate of Survey (COS) to be completed and submitted to the Land Use Planning & Zoning Department once the detached garage has been constructed. The COS must include exact location and size of the detached garage, and the placement of utilities authorized by this variance as well as any infiltration practices/structures.
4. The code-compliant accessory structure must not exceed 24' in width, excluding one-foot overhangs.

Roll call: Triemstra – aye, Moore – aye, Hardesty – nay.

Motion carried.

CORRESPONDENCE - None

NEXT MEETING DATE

To be determined.

ADJOURN

Motion by Triemstra/Moore, unanimously carried, to adjourn.

Time: 11:15 a.m.

RECORDED BY:

Carole DeCramer

Board of Adjustment Secretary

APPROVED ON:

NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on **Friday, July 20, 2018, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

Item I: Owner/Applicant: Randy S & Linda J Matzke **Site Description:** W2072 Melmar Dr, Parcel #006-01409-0000, Frei's Plat, Lot 18, Part of Government Lot 3 of Section 32, T15N, R13E **Request:** Variance from Section 350-38.D.(1)(c) of the Zoning Ordinance and Section 338-32.C(3) of the Shoreland Zoning Ordinance to construct an attached garage with breezeway that would be set back 10' from the street right-of-way/front-lot line; whereas, a 25' setback is required.

Item II: Owner/Applicant: Steven C Blaha & Nancy J Ausloos **Site Description:** W2416 Eagles Roost Ln, Estates of Lawsonia, Lot 41, Parcel #004-02141-0000 (±.51 acres), Part of the NW¼ of Section 30, T16N, R13E **Request:** Variance from Section 350-38.E(1) of the Zoning Ordinance to place an accessory building 14' from the rear-yard lot line; whereas, a 25' rear-yard setback is required.

The Board of Adjustment will reconvene at approximately **10:30 a.m.** to consider the item listed above. All interested persons wishing to be heard at the public hearing are invited to be present. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute.* Call the Green Lake County **Land Use Planning and Zoning Department at (920) 294-4156** for further detailed information concerning this notice, to verify that the agenda item you may be interested in has not been withdrawn from the agenda, or for information related to the outcome of the public hearing item.

Publish: July 5, 2018 and July 12, 2018

ITEM I: VARIANCE

OWNER: Randy & Linda Matzke

APPLICANT: Same

REQUEST: The owners/applicants are requesting a variance from Section 350-38.D.(1)(c) of the Zoning Ordinance and Section 338-32.C(3) of the Shoreland Zoning Ordinance to construct an attached garage with breezeway that would be set back 10 feet from the street right-of-way/front-lot line; whereas, a 25-foot setback is required.

PARCEL NUMBER / LOCATION: Parcel #006-01409-0000, is located in Government Lot 3 of Section 32, T15N, R13E, Frei's Plat, Lot 18, Town of Green Lake, and located at W2072 Melmar Drive.

EXISTING ZONING AND USES OF ADJACENT AREA: The subject site is located on the south shore of Little Green Lake, along Melmar Drive. The surrounding properties are entirely zoned R-1, Single-Family Residence District. The subject site and adjacent lots are used as part-time residences.

Due to the subject site's proximity to Little Green Lake, it is within the jurisdiction of the County's Shoreland Zoning Ordinance and does have mapped flood-fringe on the parcel; however, the flood fringe is limited to the shoreline area and is not over the area of interest for this request. No mapped wetlands appear to be present on this parcel.

ADDITIONAL INFORMATION / ANALYSIS: According to the variance application, the owners are proposing to construct a detached garage in conflict with the Zoning and Shoreland Zoning Ordinance standards related to setbacks from front lot lines. The applicants would like to build this accessory structure within 10 feet of the south lot line; whereas, the Zoning and Shoreland Zoning Ordinance requires all structures to be setback 25 feet from front lot lines. The proposed location meets three of the four required setbacks. The subject site is roughly 7,870 sqft in size (0.18 acres). The request for a 16-foot wide structure is typical sizing of a one-car garage.

In the fall of 2017, the applicants applied for a land use permit to construct this accessory structure. They retained Professional Engineer Randy Douglas (Badger Engineering & Construction, LLC) to assist in meeting the Shoreland Zoning Ordinance's criteria for impervious surfaces. Mr. Douglas engineered the plan for an infiltration area on the north (lake) side of the home, maximizing the water infiltration capacity of the lot. By December of 2017, this Department issued a land use permit for the proposed structure, with a required setback of 25 feet from Melmar Drive right-of-way. This was based upon a misreading of the site plan, showing a distance to the edge of pavement, not the distance to the lot line/right-of-way.

In the spring of 2018, when the applicants looked to break ground for construction, their contractor advised against abutting the garage against the home, due to the pressure this proposed structure would inflict upon the home's walls and foundation because of the elevation/slope of the lot. It was then that the issued permit error was found, and determined the applicants could not build their structure as proposed and still meet required setbacks.

The applicants are looking to add a secure parking space to their lot, as they are one of the only homes in their neighborhood without a garage or parking area. As noted in their application, this lack of secure space has caused substantial property damage as their daughter's vehicle and their own vehicle were hit while parked on their property by an errant driver along Melmar Drive.

VARIANCE CRITERIA: To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) **Unnecessary Hardship**
 - compliance with standards would be unreasonably burdensome (Snyder)
 - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
 - circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)
 - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
 - economic or financial hardship is not a justification (State v. Winnebago County)

- 2) **Unique Property Limitations**
 - limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
 - limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
 - alternative designs and locations on the property have been investigated (State v. Winnebago County)

- 3) **No Harm to Public Interest**
 - ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
 - short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
 - only allow minimal relief for use of property, may include conditions (Robert M. Anderson, American Law of Zoning)

STAFF COMMENTS:

1) Unnecessary Hardship

- To comply with all setback standards, a structure of this size is not allowed on the parcel in this configuration. It is possible that the garage could be constructed parallel to the house, with an L-shaped driveway to access. The BOA has to determine if that configuration, with the site conditions, presents as unreasonably burdensome.
- If there are “reasonable” alternative locations, then the hardship is self-created, so long as the garage is of reasonable size. However, if there are no other reasonable locations, then the hardship is derived from the uniqueness of the parcel and, therefore, not self-created. In this case, the setbacks allow for a code-compliant building depth that is roughly 15ft (home to road right-of-way setback).
- The applicants’ wish to construct the detached garage that is 16 feet wide by 24 feet deep. It is the applicants’ belief that any homeowner would request to have this size garage for storage.
- As a whole, the lot is in a position that the shore yard is unbuildable due to proximity to the Ordinary High Water Mark (OHWM) of Little Green Lake.
- The owners are not claiming an economic / financial hardship.

2) Unique Property Limitations

- The applicants have identified limiting conditions of shallow lot depth and location slope. Staff’s perspective concurs with these limiting conditions.
- This parcel is more unique from its neighbors’ in that of the 38 total properties along Melmar Drive with structures, the applicants own one of the three parcels without vehicular access or garage space.

- ❑ The variance application indicates that the property owners have looked at their entire property in their effort to identify other locations on which to build their garage.

3) Harm to Public Interest

- ❑ Both the Zoning Ordinance and Shoreland Ordinance have street setbacks from right-of-way of 25 feet for waterfront lots. This setback attempts to balance the state-mandated 75ft setback from the waterway with property owners' rights to develop the lot. This proposed structure will adhere to three of the four required setbacks (two sides and one shore). The applicants have accounted for the increase in impervious surfaces through the engineered design by Randy Douglas, P.E., which will preserve infiltration capacity of the lot and help minimize surface runoff and erosion to the lake. For these reasons, it is staff's belief the granting of this variance would not harm the public interest.
- ❑ The effects of granting a variance of this nature are that similar requests will also be heard by the BOA. No precedent is set and no harm to public interest is observed as long as each future request meets the variance criteria. The BOA is the judge as to whether the request meets the variance criteria. If the BOA approves a variance for a property that does not meet all three statutory criteria, then the short- and long-term effects will be significant.
- ❑ Minimal relief needs to resolve the proven hardship. It is staff's opinion that the variance request does not exceed the minimal relief necessary to overcome the hardship.

Variance Conditions:

1. The property owners must mitigate any increase in impervious surfaces according to the Shoreland Zoning Ordinance.
2. A Certificate of Survey (COS) to be completed and submitted to the Land Use Planning & Zoning Department once the detached garage has been constructed. The COS also to include exact location and size of the detached garage authorized by this variance as well as any infiltration practices / structures.

**GREEN LAKE COUNTY
VARIANCE APPLICATION**

Provide the following information and any other detailed information related to the variance.

Date Received: 5/14/18

Fee Received: \$375.00

Randy & Linda Matzke
Owner Name

Randy & Linda Matzke
Applicant Name

Randy & Linda Matzke 5-14-18
Owner Signature Date

Linda Matzke 5-14-18
Applicant Signature Date

589 S. Fawn Ave
Mailing Address

589 S. Fawn Ave.
Mailing Address

Grand Marsh, WI 53934
City State Zip

Grand Marsh, WI 53934
City State Zip

608-584-4632
Home Phone Work/Cell Phone

608-290-6619
Home Phone Work/Cell Phone

Site Address W2072 Melmar Dr.
Tax Parcel ID # DD4 - D1409 - DDD0

Lot 18 Block _____ Subdivision/Plat Frei's Plat
Lot _____ CSM # _____ Town of Green Lake

For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected.

The burden of proof rests upon the property owner to show all 3 criteria are being met.

A variance is not a convenience to the property owner and should not be granted routinely.

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

We are asking for a one-car garage that meets the required 10 foot side yard setbacks from both the east and west lot lines, but does not meet the required 25ft street right-of-way setback. The setback from the road will be 12 feet off the right-of-way. The slope in the project area is 11%. Our contracted services (builder and engineer) have agreed that a 4 foot offset from the home would protect the structural integrity of the home's foundation and wall strength. A 4 foot wide covered breezeway will then connect the garage to the home, meeting the current roof line of the home.

2. Explain the hardship imposed by the Ordinance:

The home is located at 60ft from the Ordinary High Water Mark, effectively removing any of the shore-yard from buildable area on the lot (required 75ft setback for new construction). The home is located 40ft from the road right-of-way, leaving 15 feet of code-conforming buildable area. As referenced above, the contracted services have advised against building immediately adjacent to the home footprint. As the Ordinance is written, there is no code-conforming area to build any garage structure.

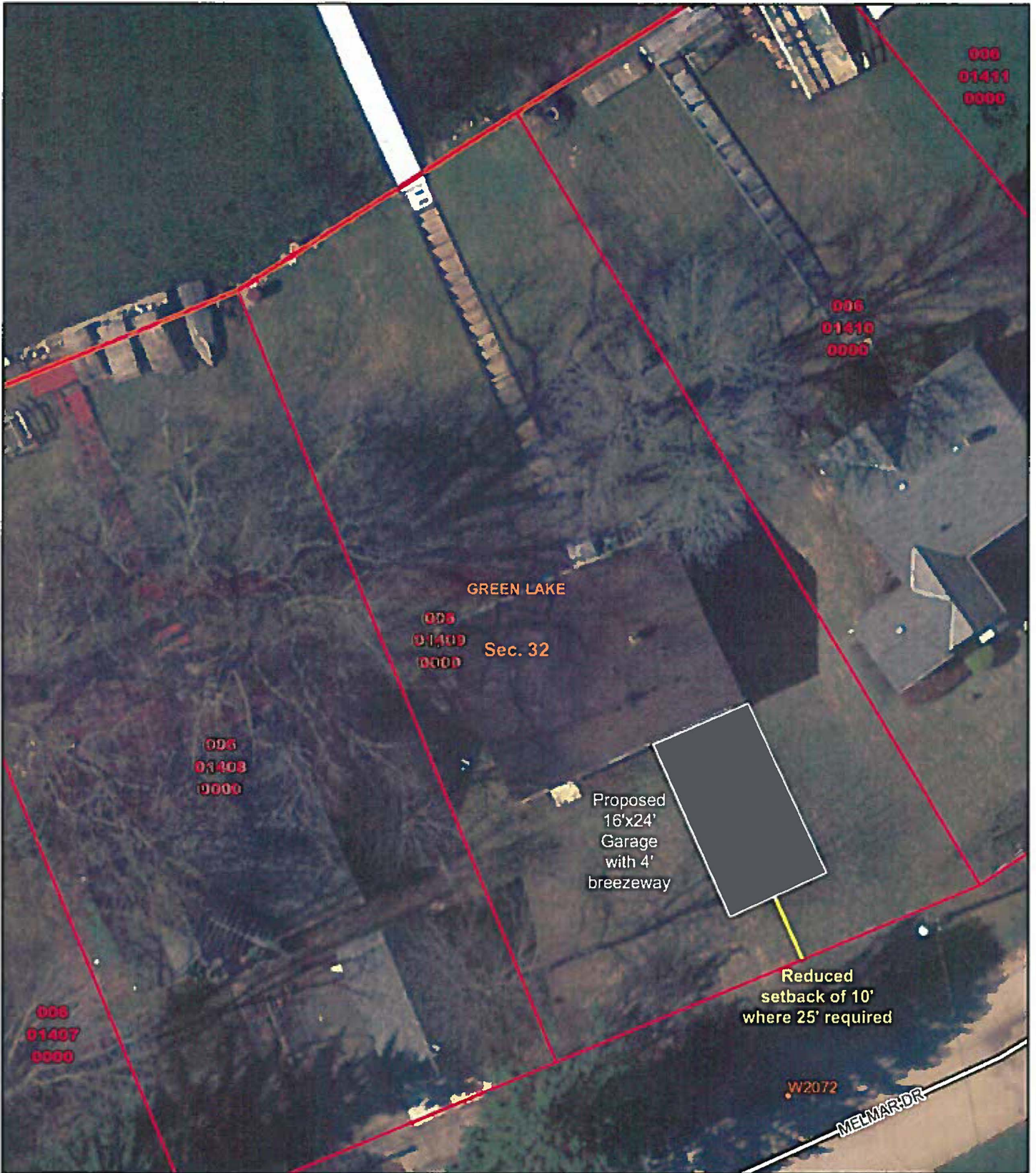
3. Describe unique property feature(s) that create the hardship:

Due to the location of the dwelling and the shallow depth of the lot (130ft average), a portion of the home would need to be removed to meet the 25ft setback from the right-of-way. The slope from the road to the home is 11%, which is not unique to the individual property but does highlight this property as the only lot without vehicular access from the road. This lack of safe parking area has resulted in direct property damage to the current homeowners through a drunk driver hitting their own vehicle and totaling their daughter's vehicle in the recent past.

4. Explain why the proposed variance will not harm the public interest:

The granting of this variance will not set a precedence as other garages/accessory structures exist closer to the right-of-way lines along Melmar Drive. There are also garages along Melmar Drive that encroach into the street right-of-way. It is our belief that this variance will provide the minimum relief necessary to protect property and provide safe access to the home as well as reducing obstructions from motorists along Melmar Drive.

Randy S. & Linda J. Matzke



Green Lake
County

1 inch = 21 feet

Geographic Information System (GIS)
<https://gis.co.green-lake.wi.us/>

GIS Viewer Map
Green Lake County, WI

Time: 3:54:55 PM
Date: 5/30/2018

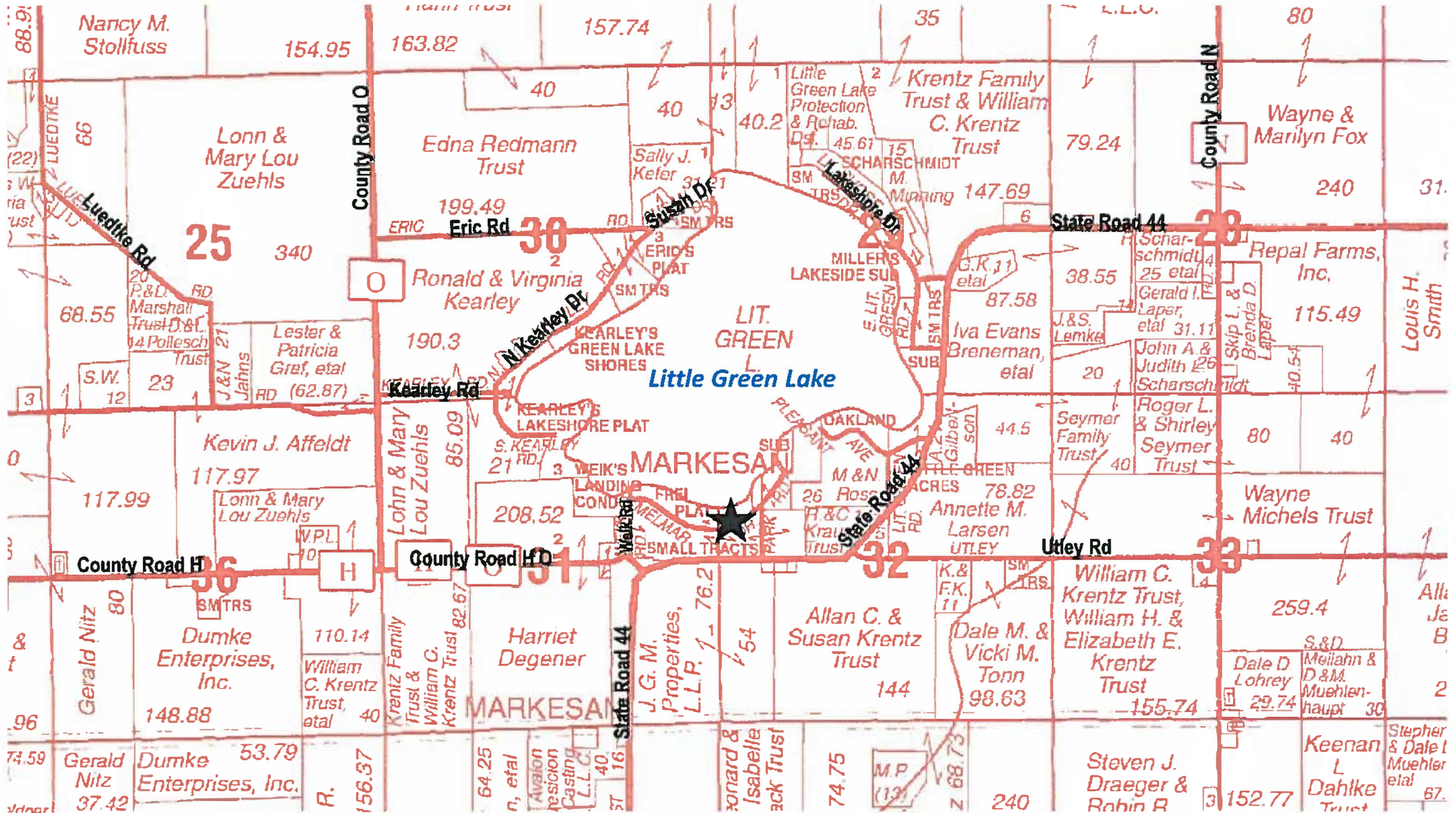
Note:
W2072 Melmar Drive
Frei's Plat, Lot 18
Town of Green Lake



Randy S. & Linda J. Matzke – Town of Green Lake

W2072 Melmar Drive, Frei's Plat, Lot 18, Parcel #006-01409-0000, Part of Government Lot 3 of Section 32, T15N, R13E

Variance request to build a garage 10' from the front-lot line setback; whereas, a 25' street-yard setback is required.



Randy S. & Linda J. Matzke – Town of Green Lake

W2072 Melmar Drive, Frei's Plat, Lot 18, Parcel #006-01409-0000, Part of Government Lot 3 of Section 32, T15N, R13E
 Variance request to build a garage 10' from the front-lot line setback; whereas, a 25' street-yard setback is required.



**Randy S. & Linda J. Matzke – Town of Green Lake
W2072 Melmar Drive, Frei's Plat, Lot 18, Parcel #006-01409-0000, Part of Government Lot 3 of Section 32, T15N, R13E
Variance request to build a garage 10' from the front-lot line setback; whereas, a 25' street-yard setback is required.**



Randy S. & Linda J. Matzke – Town of Green Lake

**W2072 Melmar Drive, Frei's Plat, Lot 18, Parcel #006-01409-0000, Part of Government Lot 3 of Section 32, T15N, R13E
Variance request to build a garage 10' from the front-lot line setback; whereas, a 25' street-yard setback is required.**



ITEM II: VARIANCE

OWNERS/APPLICANTS: Steven Blaha; Nancy Ausloos

REQUEST: The owners/applicants are requesting a variance from Section 350-38.E.(1) of the Zoning Ordinance to construct a 16ft x 16ft accessory structure that would be set back 14 feet from the rear lot line; whereas, a 25-foot setback is required.

PARCEL NUMBER / LOCATION: Parcel #004-02141-0000, is located in the Estates of Lawsonia, Lot 41, being in the SW¼ of the NW¼ of Section 30, T16N, R13E, Town of Brooklyn. Property is located at W2416 Eagles Roost Lane.

EXISTING ZONING AND USES OF ADJACENT AREA: The subject site is located within the Lawsonia golf course grounds, just off Shore Drive. The surrounding properties are, therefore, a mix between R-1, Single-Family Residence District, and RC, Recreation District. The subject site is used as a full-time residence. No mapped wetlands appear to be present on this parcel. There are no mapped floodplains on this parcel.

ADDITIONAL INFORMATION / ANALYSIS: According to the variance application, the owner is proposing to construct a shed in conflict with the zoning ordinance standard related to setbacks from rear lot lines. The applicant would like to build this accessory structure within 14 feet of the rear (north) lot line; whereas, the zoning ordinance requires all structures to be setback 25 feet from rear lot lines. The proposed location meets three of the four required setbacks. The subject site is roughly 22,300 sqft in size (0.512 acres).

The applicant is looking to adhere to all the Lawsonia Estates covenant restrictions and as many of the County ordinance requirements as possible. Accounting for the covenant restrictions, County ordinances, and completed development of the lot, the available area for an accessory structure is limited to the northern third of this parcel.

Upon site inspection, it was verified by Department staff that the concrete slab has already been poured. Staff has recommended, in the conditions, how to account for this detail. It should be noted that the request is to keep the slab where it is currently, regardless of the actual setback distance from lot lines. Staff has estimated through field verification that the actual setback will be closer to 12.5ft from the rear lot line, rather than the stated 14ft. However, this measurement did not use survey-grade equipment and is subject to human error.

VARIANCE CRITERIA: To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) Unnecessary Hardship
 - compliance with standards would be unreasonably burdensome (Snyder)
 - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
 - circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)
 - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
 - economic or financial hardship is not a justification (State v. Winnebago County)

- 2) Unique Property Limitations
 - limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)

- ❑ limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
 - ❑ alternative designs and locations on the property have been investigated (State v. Winnebago County)
- 3) No Harm to Public Interest
- ❑ ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
 - ❑ short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
 - ❑ only allow minimal relief for use of property, may include conditions (Robert M. Anderson, American Law of Zoning)

STAFF COMMENTS:

1) Unnecessary Hardship

- ❑ The purpose of rear setbacks is to respect the surrounding properties, prevent creation of unusable space between adjacent structures along lot lines, and promote health and safety standards in regards to fire suppression. The request to construct within this rear setback derives from the applicant's stated property limitation regarding slope and path of stormwater. The existing home experiences frost and water issues on the north side of the structure, and the applicant foresees these issues compounding if the only available placement for a new structure is closer to the house than desired. The BOA must determine if these concerns are based upon the uniqueness of the lot and not the actions of the applicant. The BOA cannot approve an unnecessary hardship that was created by the property owner.
- ❑ If there are "reasonable" alternative locations, then the hardship is self-created, so long as the structure is of reasonable size. However, if there are no other reasonable locations, then the hardship is derived from the uniqueness of the parcel and, therefore, not self-created. In this case, the setbacks indicate a code-compliant building location that is substantially closer to the home and patio area than requested.
- ❑ The applicants wish to construct the detached shed on a 16 foot square concrete slab, with a 12 foot square shed aligned along two sides, allowing for a 4 foot walk around area on the other two sides. It is the applicants' belief that any owner of this property would request to place a shed within the rear setback.
- ❑ In looking at the lot as a whole, County ordinances allow for placement of structures without a variance elsewhere on the lot. Per the application form, the code-compliant areas are situated such that building in those areas would inhibit water drainage away from the home, and placement in code-conforming areas would result in water problems against the home foundation.
- ❑ The owners are not claiming an economic / financial hardship.

2) Unique Property Limitations

- ❑ The applicants have identified limiting conditions, first of elevation contours as related to water drainage on the lot, and second of preserving the views from their lot and on behalf of the neighboring lots (#16 fairway and the green and water hazards). The BOA has to determine if these, or other conditions as discovered through the public hearing process, would create an unnecessary burden on any owner of this lot.
- ❑ This parcel shares identical setback requirements with the nearby similarly-zoned parcels (R-1 Single Family Residential District). The BOA must determine if this lot is substantially different and therefore unique from neighboring properties.

- ❑ The variance application indicates that the property owners have looked at buildable areas on their entire property that conform to the property covenant restrictions. Of the County ordinances enforced by this Department, no ordinance is concerned with or influenced by property restrictions assigned and recorded by an independent developer.

3) Harm to Public Interest

- ❑ The applicants have identified in their application that they are taking steps to safeguard the value of the neighboring lot through preserving the views from the buildable area of Lot 40. This is their way to protect the public interest while still utilizing their property, by not using their property to harm valuation or desirability of another property. Based on this, the applicants allude there would be a harm to public interest in NOT granting the variance and instead only allow development where general zoning ordinances dictate.
- ❑ The effects of granting a variance of this nature are that similar requests will also be heard by the BOA. No precedent is set and no harm to public interest is observed *as long as each future request meets the variance criteria*. The BOA is the judge as to whether the request meets the variance criteria. If the BOA approves a variance for a property that does not meet all three statutory criteria, then the short- and long-term effects will be significant.
- ❑ When a hardship has been proven, resolution comes through minimal relief from the ordinance. It is always staff's opinion that minimal relief should be balanced with protection of the public interest.

Variance Conditions:

1. As the concrete slab has already been sited on the property prior to land use permit issuance, an After-the-Fact fee shall be collected, per Section 350-76.A.(3).

GREEN LAKE COUNTY

VARIANCE APPLICATION

Provide the following information and any other detailed information related to the variance.

Date Received: 3/29/18

Fee Received: \$375.00

NANCY AUSILIOS / STEVEN BLAHA

STEVEN BLAHA

Owner Name

Applicant Name

Nancy / Steve Blaha 3-29-18

SB 3-29-18

Owner Signature

Date

Applicant Signature

Date

W2416 EAGLES ROOST LANE

W2416 EAGLES ROOST LANE

Mailing Address

Mailing Address

GREEN LAKE WI 54941

GREEN LAKE WI 54941

City

State

Zip

City

State

Zip

(STEV) 920 361 5760 / (STEV) 920 410 2502

(NANCY) 920 279 0197 / (STEV) 920 410 2502

Home Phone

Work/Cell Phone

Home Phone

Work/Cell Phone

Site Address W2416 Eagles Roost Ln

Tax Parcel ID # 004 - 02141 - 0000

Lot 41 Block SW 1/4, NW 1/4 Section 30 T 16 N, R 13 E

Subdivision/Plat Estates of Lawsonia
Town of Brooklyn

For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected.

The burden of proof rest upon the property owner to show all 3 criteria are being met.

A variance is not a convenience to the property owner and should not be granted routinely.

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

WE WOULD LIKE TO PLACE THE 16 FOOT X 16 FOOT SHED WITH 4 FOOT OF THE 16 FOOT AS OVERHANG ON THE SOUTH AND EAST SIDE IE 12' X 12' SHED WITH 4' OVER ON SOUTH AND EAST SIDE BASE OF 16' X 16' ELEVEN FEET CLOSER TO THE NORTH OR BACK LOT LINE WHERE THERE IS A 25' SET BACK REQUIREMENT BECAUSE THE PLACED PER ZONED SETBACK THIS WOULD BRING THE SOUTH SIDE OF SHED TO 23' OF HOUSE AND DIRECT WATER FLOW TO FOUNDATION OF HOME ON NORTH SIDE MORE PRONE TO FROST AND BASEMENT CONCRETE

2. Explain the hardship imposed by the Ordinance: DAMAGE AND RESTRICTED VIEW OF LOT #40

AS ABOVE THERE IS A 2' GROUND ELEVATION ON THE NORTHWEST CORNER OF LOT 41 (DEMARKED DOUBLE DASH LINE ON A COMPANY LOT SHEET) IF SHED IS PLACED WITH NORTH SIDE 25' FROM REAL PROPERTY LINE INSTEAD OF REQUIRED 14' SETBACK VARIANCE IT WOULD RESULT IN WATER FLOW REDIRECTED TO THE NORTH SIDE OF HOME SINCE SHED WOULD BE LOCATED 23' FROM NORTH SIDE OF HOME WHERE

3. Describe unique property feature(s) that create the hardship: FROST HAS BEEN AN ISSUE INSTEAD OF 34 FOOT

AS ABOVE THE NORTHWEST PORTION OF THE LOT IS THE BEST LOCATION OF A SHED SINCE PLACEMENT THERE WOULD NOT RESTRICT THE VIEW OF #16 FAIRWAY AND GREEN / U SHAPED WATER HAZARD FROM LOT # 40

4. Explain why the proposed variance will not harm the public interest:

AS ABOVE ROBERT AND SANDY KLEIN PASTE WHO OWN LOT #40 ARE AGREEABLE TO 14' SETBACK VARIANCE OF SHED SINCE IF SHED WAS PLACED AT THE ZONED 25' SETBACK IT WOULD IMPERE ^(RESTRICT) THEIR VIEW OF #16 FAIRWAY GREEN

5. Explain why the property can not be utilized without a variance: A U SHAPED WATER HAZARD THE OWNER OF LOT # 40 AN BEN MOYR THE PRESIDENT OF THE ABA HAVE GIVEN APPROVAL FOR HIS BASIC VARIANCE

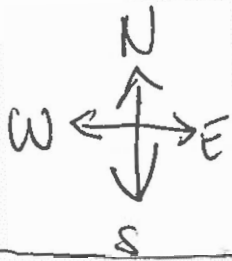
IT WOULD RESULT IN CLOSER PLACEMENT OF SHED TO HOME AND REDIRECT WATER FLOW WHICH COULD RESULT IN BASEMENT FLOODING OF THE HOME. PLACEMENT OF PROPOSED SHED DIRECTLY BEHIND CONCRETE DECK OR BEHIND SCREEN ROOM WOULD RESULT IN DECREASED VIEW OF FAIRWAY / GREEN #16 WOODLAND TO OWNER LOT # 40

(LOT SHEET)

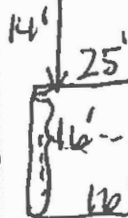
BEN MOTT / ABA

WATER FLOW

VIEW #11



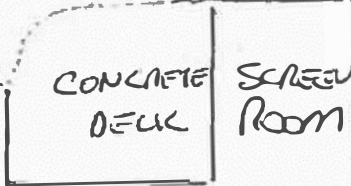
PROPOSED SHED



IF BACK 11
2' LESS RISE
ON SOUTH BOUNDARY

WATER FLOW

54'



CONCRETE DECK SCREEN ROOM

200'

BEN MOTT
ABA

SANDY AND ROBERT.

KLEIN PASTE

THIS LOT IS 1-2 FOOT HIGHER.

HOUSE

LOT 40

WATER FLOW

LOT 41

LO 4

100'

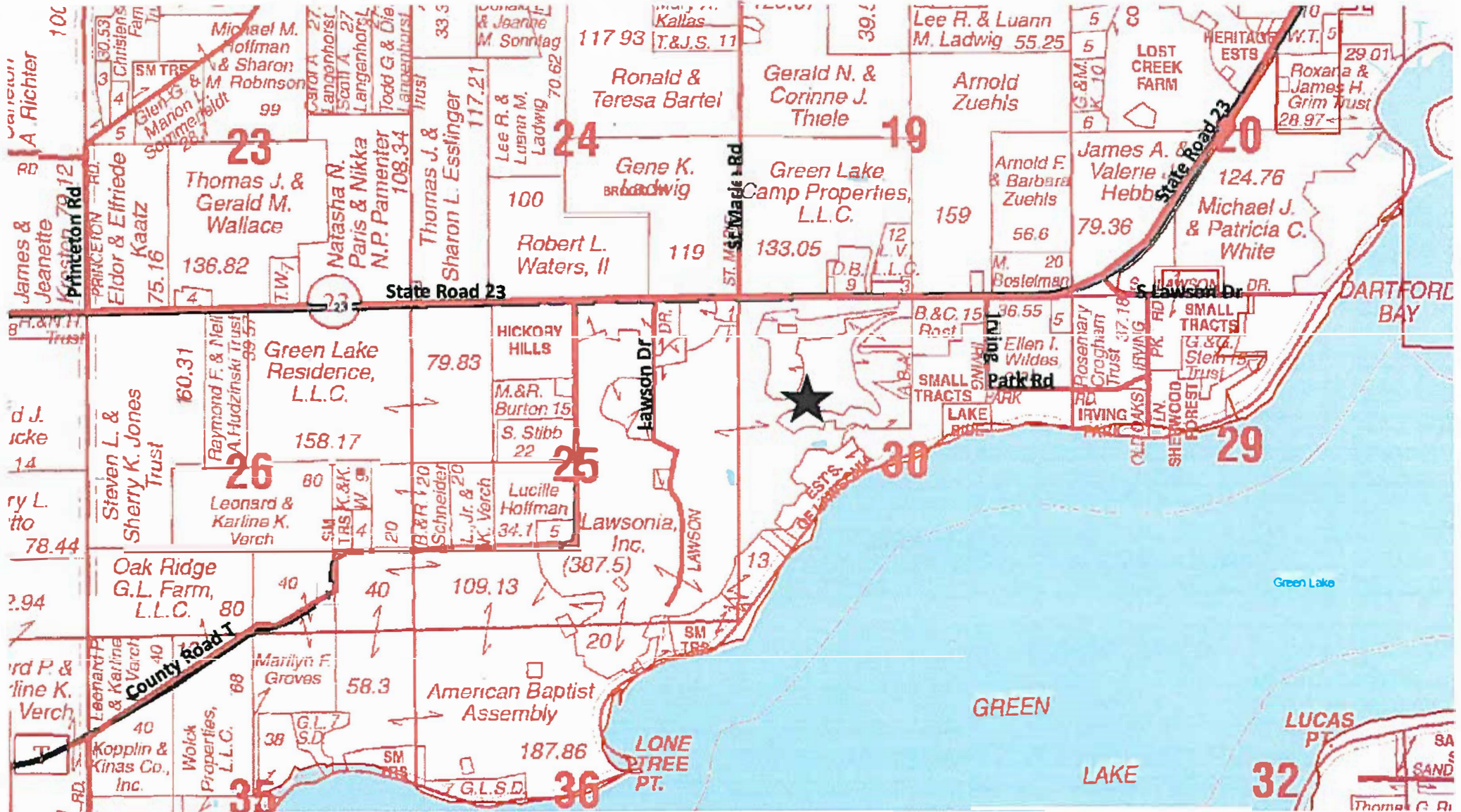
(') = (FOOT)

EAGLES ROOST LANE

Steven C. Blaha & Nancy J. Ausloos – Town of Brooklyn

W2416 Eagles Roost Lane, Parcel #004-02141-0000, (±.51 acres), Part of the NW¼ of Section 30, T16N, R13E

Variance request to place an accessory building within 14' of the rear-yard lot line; whereas, a 25' setback is required.





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