



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/public hearing that is scheduled for Friday, February 19, 2021. The business meeting begins at 9:00 a.m. The public hearing will not begin before 9:20 a.m.

Packet Pages:

2-3 Agenda

4 Minutes (September 2020)

5 Public Hearing Notice

6-13 Item I: Owner: KDR Woodworking, LLC **Applicant:** Kaleb Ranker **Site Description:** W1238 N. Lawson Dr., Parcel #004-00312-0000, located in NW-SW, Sect. 15, T16N, R13E, ±2 acres, Town of Brooklyn **Request:** Variance to locate a building addition and a shipping container to be setback 12ft from the highway right-of-way, whereas a 67ft highway 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

Email: zoning@co.green-lake.wi.us

Board of Adjustment Meeting Notice	
Date: February 19, 2021 Time: 9:00 AM Green Lake County Government Center, Room #0902 571 County Road A, Green Lake, WI 54941	
<u>AGENDA</u>	
<p><i>Board of Adjustment Members:</i></p> <p><i>Janice Hardesty</i> <i>Board Chair</i></p> <p><i>Ron Triemstra</i> <i>Board Vice Chair</i></p> <p><i>Ed Roepsch</i> <i>Member</i></p> <p><i>Rick Dornfeld</i> <i>Alternate</i></p> <p><i>Brian Zimmerman</i> <i>Alternate</i></p> <p><i>Liz Otto,</i> <i>County Clerk,</i> <i>as BOA</i> <i>Secretary</i></p>	<ol style="list-style-type: none"> 1. Call to order 2. Roll call 3. Pledge of Allegiance 4. Certification of open meeting law 5. Approve 09/17/20 minutes 6. Recess for field inspection <p><u>Public hearing matters will not begin before 9:20 a.m.</u></p> <ol style="list-style-type: none"> 7. Public hearing matters: <p style="margin-left: 40px;">Item I: Owner: KDR Woodworking LLC Applicant: Kaleb Ranker Site Description: W1238 N. Lawson Dr., parcel # 004-00312-0000, located in the NW¼, of SW¼, Sec. 15, T16N, R13E, ±2 acres, Town of Brooklyn Request: Variance to locate a building addition and a shipping container to be setback 12ft from the highway right-of-way, whereas a 67ft highway setback is required.</p> <ol style="list-style-type: none"> a. Public Hearing b. Board Discussion & Deliberation c. Board Decision 8. Adjourn
	<p>Please Note: Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Matt Kirkman at 920-294-4175 the day before <i>the meeting no later than noon.</i></p>
Page 1 of 2	



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Board of Adjustment
571 County Road A, Green Lake, WI 54941

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

Email: zoning@co.green-lake.wi.us

Date: February 19, 2021 Time: 9:00 AM

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

AGENDA

Due to the COVID-19 pandemic, this meeting will be conducted and available through in person attendance (6 ft. social distancing and face masks required) or audio/visual communication.

Remote access can be obtained through the following link:

If you care to join via Zoom please follow these instructions:

Join Zoom Meeting click on link:

<https://zoom.us/j/96814303646?pwd=TnVHK2dpamFYSk04VmVmWmZQSHNWQT09>

Meeting ID: 968 1430 3646

Passcode: 375443

Or Dial 1-312-626-6799

Meeting ID: 968 1430 3646

Passcode: 375443

Please Note: Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Matt Kirkman at 920-294-4175 the day before *the meeting no later than noon.*

BOARD OF ADJUSTMENT
September 18, 2020

The meeting of the Green Lake County Board of Adjustment was called to order by Chairperson, Janice Hardesty on Friday, September 18, 2020 at 9:00 AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI. The requirements of the open meeting law were certified as being met. The pledge of allegiance was recited.

Present: Janice Hardesty
Ron Triemstra
Mike Lehner
Ed Roepsch. Alternate

Absent: None
Others present: Matt Kirkman, P&Z Director
Aaron Ogle, P&Z employee
Sue Kiener, Secretary

MINUTES

Motion/second (Lehner/Triemstra) to approve the minutes of August 21, 2020 with no additions or corrections. Motion carried.

RECESS FOR FIELD INSPECTION – 9:02AM

PUBLIC HEARING

Board of Adjustment reconvened at 10:00 AM for the Public Hearing. Chair Hardesty read the guidelines for the Public Hearing.

Item I: Owner: Jayne Plaganz, et al **Applicant:** Cathy Kohl **Site Description:** W1768 Sandstone Ave, parcel # 006-01026-0000, located in the NW, SE Sect. 32, T16N, R13E, ±1.35 acres, Town of Green Lake **Request:** Variance to divide parcel with a 90’ width instead of the required 100’ width.

Secretary Kiener read the request for variance. Stefanie Meeker gave an explanation of the request. No one spoke in opposition; no others spoke in favor. Director Kirkman provided details from the staff report. Public comments closed. Committee discussion. *Motion/second (Triemstra/Lehner)* for the request of the petitioner to be granted. Hardesty amended the motion to add # 1 & 2 of the staff suggestions as conditions. Triemstra seconded the amendment. Roll call vote on variance: Lehner: yes, Triemstra: yes, Hardesty: yes. Variance approved.

OTHER BUSINESS

Kirkman announced that Ed Roepsch was appointed to the BOA committee as an alternate by the County Board on 9/15/20. Lehner announced he would be available until his house sells.

NEXT MEETING

No meeting in October nor November at this time; that may be subject to change.

ADJOURNMENT

Chair Hardesty adjourned the Board of Adjustment meeting at 10:33 AM.

Submitted by,
Sue Kiener, Secretary

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, February 19, 2021, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

Item I: Owner: KDR Woodworking LLC **Applicant:** Kaleb Ranker **Site Description:** W1238 N. Lawson Dr., parcel # 004-00312-0000, located in the NW¹/₄, of SW¹/₄, Sec. 15, T16N, R13E, ±2 acres, Town of Brooklyn **Request:** Variance to locate a building addition and a shipping container to be setback 12ft from the highway right-of-way, whereas a 67ft highway setback is required.

The Board of Adjustment will reconvene at approximately **9:20 a.m.** to consider the items 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 and to verify that the agenda item you may be interested in has not been withdrawn from the agenda.

Publish: February 4, 2021

BOARD OF ADJUSTMENT

Public Hearing

February 19, 2021

Item I: Variance

Owners:

KDR Woodworking

Applicant:

Kaleb Ranker

Request: The owners/applicant are requesting a variance to locate a building addition and a shipping container to be setback 12ft from the highway right-of-way, whereas a 67ft highway setback is required.

Parcel Number/ Location: The request affects parcel 004-00312-0000 (±2.0 acres) located in the NW¼ of the SW¼ of Section 15, T16N, R13E, Town of Brooklyn. The site address is W1238 N Lawson Dr.

Existing Zoning and Uses of Adjacent Area: The subject site is currently zoned as I-Industrial District. Neighboring properties to the north and northwest are also zoned I-Industrial. Neighboring properties to the south and the east are zoned as C2- Extensive Commercial district. There are some properties to the northeast zoned as A2- General Agriculture district.

General zoning and Shoreland zoning apply to the subject site.

Additional Information/ Analysis: This site has been used industrially for at least 30 years. There are currently two structures on the property and a third permitted building under construction. There is one house on the property, a pole shed which is used as a woodworking shop and storefront, and a storage building/sawmill is currently being built. There is also a shipping container within the street yard setback.

The proposed woodshop addition would be 60'x30' and would be completely within the 67' setback off of State Highway 49. The addition instead would be 12' off the right of way which is what the current building is at. This addition would be used for the dry storage of lumber and refinishing projects.

The shipping container is 40'x8' and is currently in the State highway setback off of State Highway 49. The owner would like a variance for the shipping container until the woodshop addition is completed. Once the addition to the woodshop is done, then the shipping container would be removed from the property. The container is now being used as dry storage.

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 the sole 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 sole 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 / 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

- Compliance would eliminate the parcel from being further developed. However, the parcel is zoned Industrial, near other industrial uses, and is in an ideal location for the owner's planned use. The BOA could see the elimination of development on this particular parcel as being unreasonable burdensome.
- The addition is meant to expand the current business on this property, the necessity for business expansion is the reality of maintaining a business and is not self-created.
- The circumstances could be the pressures of running a business and therefore the need for more space in which to operate.
- Due to the shape of the parcel it is almost impossible for any new buildings/additions to meet current ordinance setback standards. All the existing buildings are non-conforming structures.
- Economics, when it comes to running a business, is always a consideration, but the main purpose of the addition is to provide internal material and project storage.

2) Unique Property Limitations

- The property is unique due to the setback standards of the current county ordinance. The long narrow shape of the parcel causes the setbacks to take up most of the space on the property. There is a narrow sliver of buildable area (see map attached) on the whole parcel that fits within the county setbacks.
- This corner property is impacted by two street yard setbacks, one being a State Highway setback. This is a characteristic not shared by adjoining properties.
- If the addition was added onto any other part of the existing workshop it would still be within the right of way setback. There is space for a smaller building, however that currently is the parking lot/ driveway for the property.

3) Harm to Public Interest

- The purpose of the road right-of-way setback is to allow for the safe flow of traffic on highways and roads within the county. The current pole shed on the property has been entirely within the current 67' setback since it was first built and has not ever been damaged as a result of an accident.
- By adding more structure in the highway setback there is an obvious increase in susceptibility to accidental vehicular damage, however, the slight uphill grade leading to the intersection at North Lawson Dr. does create a reason to decelerate in the vicinity of the subject site. Likely the reason for the accident-free result in this area so far.
- In the event that the BOA is in favor of granting the variance, the BOA should only grant minimal relief to alleviate the unnecessary hardship. Presently the developed portion of the parcel is 30.8%. With the proposed addition the parcel will be at 36.3%. The BOA should provide the owner and Department staff an indication as to whether minimal relief has or will be met.

VARIANCE CONDITIONS: In the event that the Board finds that the variance application meets the required criteria, the Land Use Planning & Zoning Staff suggests the following conditions:

- 1). Prior to land permit issuance, the subject site shall be surveyed by a State of Wisconsin Professional Land Surveyor. The surveyor shall create a Certificate of Survey (C.O.S.) map that identifies all existing buildings, building setback dimensions to lot (or parcel) boundary lines, structural encroachments, access locations, easements, well(s) and approximate location of the septic tank and drain field.
- 2). As the variance application proposes a building addition (and shipping container) that would likely be accessed from the north, a variance condition requiring the owner/applicant to obtain an easement for vehicular access to the northerly portion of their property would be appropriate. The language could be: "Prior to land use permit issuance the property owner shall provide a copy of the easement that allows ingress and egress to and from the northern portion of the subject site, to the Land Use Planning & Zoning Department."
- 3). As the purpose of the variance is to store and contain materials used for manufacturing / production, it would seem appropriate to clarify if outside wood / material storage is allowed on this site. The Board could restrict outside storage of wood or other business related materials as a method of reducing the negative optics / attractive nuisance associated with these materials. The language could be: "All wood or other materials used in conjunction with the wood shop /wood-working / manufacturing business shall be stored within a building."
- 4). The owner / applicant is on the Land Use Planning & Zoning Committee's March 4th, 2021 public hearing agenda requesting a conditional use permit to expand a wood-working business including adding a sawmill use. Being that the use / building expansion is subject to the approval of the Committee, a condition nullifying the approval of this variance, in the event that the Committee denies that CUP, would be appropriate. The Language could be: "The approval of this variance is contingent on the owner / applicant obtaining a conditional use permit to expand the wood-working business."
- 5). Once the proposed building addition is constructed the shipping container, also authorized by this variance, shall be removed from the property.



Code Conforming Buildable Area
(3,281 Square Feet)

Green Lake County

1 inch = 65 feet

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

GIS Viewer Map
Green Lake County, WI

Time: 1:31:06 PM
Date: 1/15/2021

Note:



APPLICATION FOR VARIANCE

A request for variance to the Board of Adjustment shall be filed in the Land Use Planning and Zoning Department, Code Enforcement Office, on forms provided by the County, after consultation with a Code Enforcement Officer.

Before the Board of Adjustment may grant a variance, the owner/applicant must show that the following criteria have been met (also, see handout):

- 1) The owner/applicant must present evidence of "unnecessary hardship."
- 2) The hardship must be the result of a unique condition on the owner/applicant property,
- 3) The variance may not be granted if it will be contrary to the public interest or undermine the purpose and intent of the ordinance.

The appropriate filing fee shall be paid as specified in Chapter 350 ARTICLE XII, Fee Schedule, of the County Zoning Ordinance and provide the following when filing the variance application:

- Completed Land Use Permit Application to include parcel number(s) of affected property as assigned by Real Property Lister as well as an exact legal description,
- Detailed Site Plan drawn to scale including, but not be limited to, the following:
 - location of lot lines with dimensions
 - location of all buildings and structures
 - location of structures on adjacent premises, if requested
 - location of lakes, ponds, streams, flowage, drainage ways, etc.
 - location of septic tank, holding tank, drain field or mound system
 - location of public or private roads including access easements
 - setbacks - distance between proposed project and all of the above
 - submit 15 copies if larger than 11 x 17 or in color
- Completed Application for Variance including proposed use, attaching additional sheets if necessary.

If any of the above items are incomplete, the application and fee will be returned to the owner/applicant requesting the missing information, which may delay scheduling for public hearing.

Variations Require Public Hearing by Green Lake County Board of Adjustment

The owner and/or a representative of the owner are encouraged to attend the public hearing to answer questions of the Board and present their request. The Board may choose to approve, deny, or lay-over a request based on the information the board has received.

GREEN LAKE COUNTY VARIANCE APPLICATION

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

Date Received: 12-28-20

Fee Received: 375

Kaleb Ranker

Owner Name

Applicant Name

Kaleb Ranker 12/28/2020

Owner Signature

Date

Applicant Signature

Date

11238 N Lawson Dr

Mailing Address

Mailing Address

Green Lake WI 54941

City

State

Zip

City

State

Zip

920-229-9663

Home Phone

Work/Cell Phone

Home Phone

Work/Cell

Site Address 11238 N Lawson Dr Green Lake, WI 54941
Tax Parcel ID # 004 - 60312 - 0600

Lot _____ 1/4, _____ 1/4, Section _____, T _____ N, R _____ E
Block _____ Subdivision/Plat _____
Lot _____ CSM # _____ Town _____
of _____

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:

Have a shipping container on site behind shop for lumber and customer refinishing storage until storage addition can be added on to back of shop as indicated in drawing. due to the hwy setback there is no place to add on or expand on the property even though it is a 2 acre parcel. We are also looking to add a 10' patio on the front of the store for the use of displaying outdoor furniture we make in the shop.

2. Explain the hardship imposed by the Ordinance:

the set back requirement states that we would need to be 65' off the R/W line which covers 75% of the property and with it being zoned industrial we have to stay 10' off the parallel lot line which essentially restricts any further use of the property and growth of our business here in Green Lake.

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

This lot has a very long and narrow shape that follows hwy 49, when the property was first built on. The restrictions from the R/W were not impeding use of the property like they are today

4. Explain why the proposed variance will not harm the public interest:
The intention of the cold storage addition is to help
create a more visally appealing property instead of having
- to store lumber outside. It also will be a continuation
of the existing building so it will have no obstruction of view
for the hwy.
5. Explain why the property can not be utilized without a variance: (USE VARIANCES ONLY)
As stated before the shape and location of this
property leave a 10' strip down the middle that would
not require a variance. The rest of the property is
restricted by setbacks

VARIANCE HANDOUT

A variance is a relaxation of a **dimensional standard** in the land use regulations. The Green Lake County Board of Adjustment is the body, acting on behalf of the local government, not the property owner, that decides variance requests. It is their duty to uphold the intent of the land use regulations and decisions must comply with specific criteria as provided in state law. Variances are meant to be an infrequent relief remedy when an ordinance imposes a unique or unreasonable burden.

THREE STEP TEST

1. Unnecessary Hardship

Unnecessary hardship exists when strict compliance of ordinance standards would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The property owner bears the burden of proving unnecessary hardship.

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.

An applicant may not claim unnecessary hardship because of conditions that are self-imposed or created by a prior owner.

The circumstances of an applicant (growing family, need a larger garage, etc) are not a factor in deciding variances.

Courts have also determined that economic or financial hardships do not justify a variance.

When determining whether unnecessary hardship exists, the property, as a whole, is considered rather than a portion of the parcel.

2. Unique Property Limitations

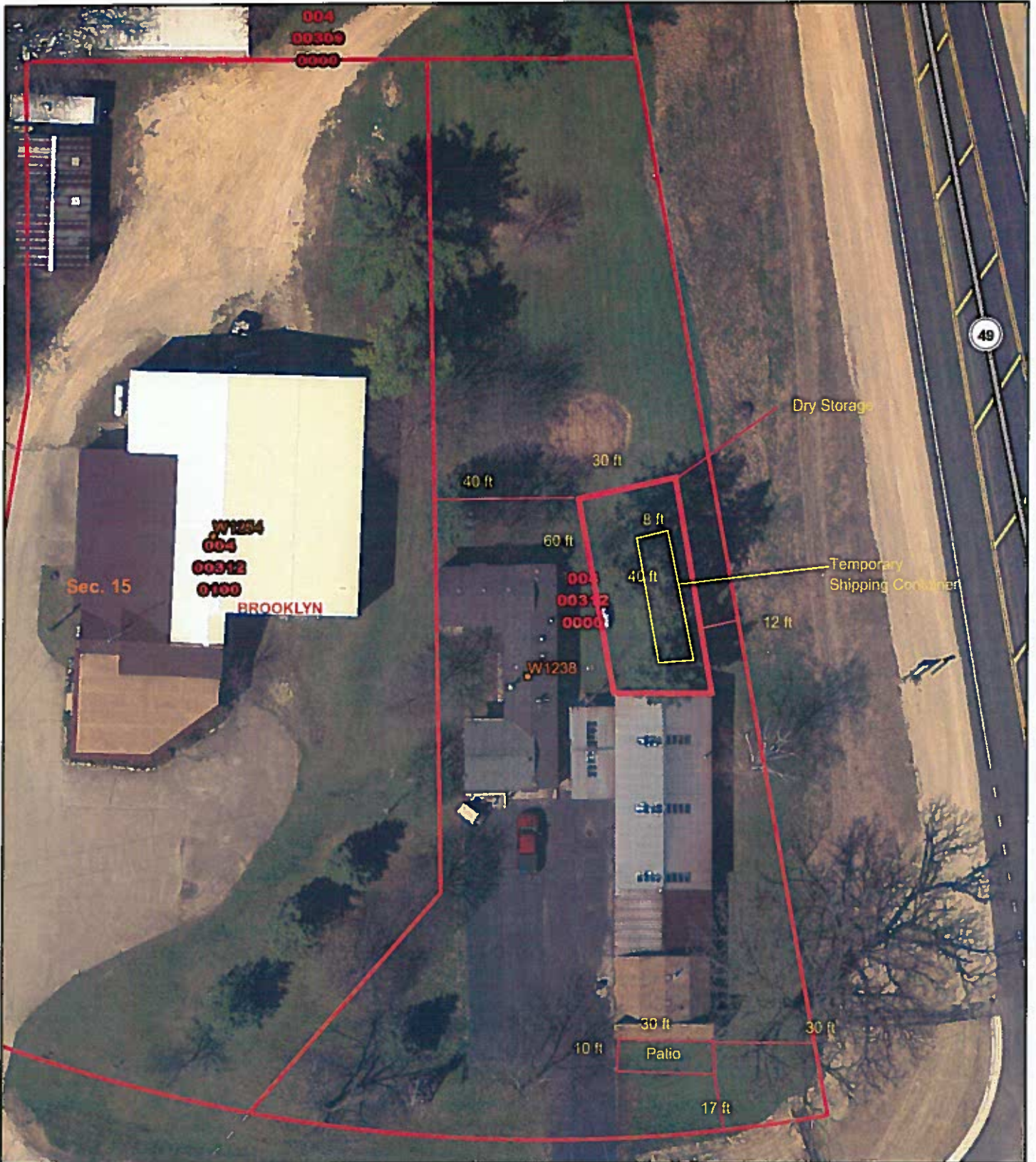
Unique physical limitations of a property, such as steep slope, wetland, shape or size that are not generally shared by other properties and limits reasonable use of the property must prevent compliance with ordinance requirements.

Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

The applicant must demonstrate that alternative project designs and/or locations on the property that comply with the ordinance requirements have been investigated.

3. No Harm to Public Interest

In applying this test, the Board must consider the public interest factors listed in the purpose and intent statement of the ordinance and any related statutes. A variance may not be granted that results in harm to the



Green Lake County

1 inch = 41 feet

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

GIS Viewer Map
 Green Lake County, WI

Time: 12:09:06 PM
 Date: 9/9/2020

Note:

