

AGENDA
CITY OF STURGEON BAY
ZONING BOARD OF APPEALS
Wednesday, May 11, 2016
7:00 p.m.
Council Chambers, City Hall
421 Michigan Street

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from April 12, 2016.
4. Reconsideration of: Denial of variances from s. 23.04(3)(a)1. of the Floodplain Zoning Code regarding placement of fill and from s. 20.07(7)(f) of the Zoning Code relating to length to ratio for a dwelling for Nancy Schopf and Fred Bowen, petitioners.
5. Public hearing: Petition from Nancy Schopf and Fred Bowen for variances from s. 23.04(3)(a)1. of the Floodplain Zoning Code to extend fill less than the minimum 15-foot required from a dwelling in the floodplain and from s. 20.07(7)(f) of the Zoning Code for a dwelling whose length is more than the maximum 2.5 times its width, for a vacant parcel located on W. Juniper St. (tax parcel #281-64-61001702).

(Note: The public hearing is only for rebuttal testimony from the April 12, 2016 initial hearing.)

5. Consideration of: Petition from Nancy Schopf and Fred Bowen for variances from s. 23.04(3)(a)1. of the Floodplain Zoning Code to extend fill less than the minimum 15-foot required from a dwelling in the floodplain and from s. 20.07(7)(f) of the Zoning Code for a dwelling whose length is more than the maximum 2.5 times its width, for a vacant parcel located on W. Juniper St. (tax parcel #281-64-61001702).
6. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

ZBA Board Members
William Murrock, Chair
James Goodwin
Andrew Starr
Bill Chaudoir
Wayne Spritka
Richard Jennings, Alternate

5/6/16
12:30 p.m.
CN

ZONING BOARD OF APPEALS
Tuesday, April 12, 2016

The City of Sturgeon Bay Zoning Board of Appeals meeting was called to order at 12:04 p.m. by Chairperson Bill Murrock in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members Jack Gigstead, James Goodwin, Bill Murrock, and Alternate Wayne Spritka were present. Excused: Member Andrew Starr. Member Bill Chaudoir entered the meeting at 12:12 p.m. Also present were Alderman Jerry Stults, City Engineer Chad Shefchik, Planner/Zoning Administrator Ryan Kernosky, Community Development Director Marty Olejniczak, Community Development Secretary Cheryl Nault, and several members of the public.

Adoption of agenda: Moved by Mr. Spritka, seconded by Mr. Gigstead to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from March 22, 2016.
4. Consideration of: Petition for variance from the Sturgeon Bay Sign Code to allow an electronic variable message sign in the Single-Family Residential (R-2) district for St. Peters Evangelical Lutheran Church, 108 W. Maple St.
5. Public Hearing: Petition for a variance from the Municipal Code (Zoning Code) to utilize an existing log building as an accessory dwelling, which would be the third dwelling on the lot without a Planned Unit Development, and contains less than the minimum square feet of floor area for Russell Cihlar, 1623 Clay Banks Rd.
6. Consideration of: Petition for a variance from the Municipal Code (Zoning Code) to utilize an existing log building as an accessory dwelling, which would be the third dwelling on the lot without a Planned Unit Development, and contains less than the minimum square feet of floor area for Russell Cihlar, 1623 Clay Banks Rd.
7. Public Hearing: Petition for variance from the Floodplain Zoning Code to extend fill less than the minimum 15-foot requirement and from the Municipal Code (Zoning Code) for a building length that is 2.7 times its width for Nancy Schopf and Fred Bowen, for a vacant parcel located between 129 W. Juniper St. and 147 W. Juniper St.
8. Consideration of: Petition for variance from the Floodplain Zoning Code to extend fill less than the minimum 15-foot requirement and from the Municipal Code (Zoning Code) for a building length that is 2.7 times its width for Nancy Schopf and Fred Bowen, for a vacant parcel located between 129 W. Juniper St. and 147 W. Juniper St.
9. Adjourn.

Carried.

Approval of minutes from March 22, 2016: Moved by Mr. Goodwin, seconded by Mr. Gigstead to approve the minutes from March 22, 2016. Carried.

Consideration of: Petition for variance from the Sturgeon Bay Sign Code to allow an electronic variable message sign in the Single-Family Residential (R-2) district for St. Peters Evangelical Lutheran Church, 108 W. Maple St.: Mr. Murrock stated that a public hearing was held at the last meeting, but due to lack of quorum there was no consideration held.

St. Peters Evangelical Lutheran Church President Bob Schlicht stated that in regard to hours of use, the sign will not cast light to offend neighbors. The sign has an auto dimming feature. They had no problem with the sign being static for 6 seconds. Some of the messages may not even change for a week.

The Board discussed the variance request. Mr. Spritka mentioned that it defeats the purpose of the message sign if it were not lit.

Mr. Kernosky stated that the proposed sign meets the sign code and that staff had no problems with the proposal.

Moved by Mr. Spritka, seconded by Mr. Chaudoir to approve the variance for an electronic message sign, based on the proposed location being adjacent to Commercial properties and that the sign complies with setbacks. Roll call vote. All ayes. Carried.

Public Hearing: Petition for a variance from the Municipal Code (Zoning Code) to utilize an existing log building as an accessory dwelling, which would be the third dwelling on the lot without a Planned Unit Development, and contains less than the minimum square feet of floor area for Russell Cihlar, 1623 Clay Banks Rd.: Chairperson Murrock opened the public hearing at 12:25 p.m.

Russ Cihlar, 1623 Clay Banks Rd., explained that in 2000, he talked with the previous building inspector in regard to rebuilding a log structure on his property that was being torn down on Shiloh Road. He wished to salvage the original 1882 homestead and use for a guest house. He wanted to preserve the home and keep the same footprint. He was told by the building inspector at that time that it could be done with a variance. In 2002 he went to obtain a permit to start the project and was told he should get a sanitary permit for a separate sanitary system. He got approval for an addition sanitary system, but found that he could only reconstruct the log building as an accessory building. His goal is to preserve the log building and use as a guesthouse for family and friends and not just a yard ornament. His lot size is 2.3 acres, with his home, workshop, and rental unit located on the lot. He did not request dividing the lot since the log building is only 468 square feet and would be too small for one lot.

Mr. Olejniczak stated that under the zoning code, a PUD would normally be needed. In the Agricultural district, 1000 square feet is the minimum size restriction. Until recently, the City did not allow short term rentals. A variance had been granted in 2005 for an accessory dwelling on a lot. The building meets all setbacks. To use as a dwelling, a variance is needed.

Mr. Cihlar said the main intent is to assemble the log building as a historic home or use when family comes home and also as supplemental income when he retires.

Mr. Olejniczak added that 150 feet of frontage is needed for a lot in the Agricultural district. All the buildings on the property, except for the homestead, existed before zoning. The hardship is that he was told a PUD wasn't needed. Mr. Cihlar wants permission to complete the building. In 2000, the building inspector said it wouldn't be a problem.

No one spoke in support of the variance. Secretary James Goodwin read four letters in support from Dorothy Cihlar, 1728 Clay Banks Road, Jim and Margaret Buhk, 1535 Clay Banks Road., Bob and Mary Perlewitz, 1762 Clay Banks Road, and Dale and Jennifer Pollack, 1633 Clay Banks Road.

No one spoke in opposition of the variance. There were no letters in opposition.

The public hearing was closed at 12:45 p.m.

Consideration of: Petition for a variance from the Municipal Code (Zoning Code) to utilize an existing log building as an accessory dwelling, which would be the third dwelling on the lot without a Planned Unit Development, and contains less than the minimum square feet of floor area for Russell Cihlar, 1623 Clay Banks Rd.: The Board discussed the request. Mr. Goodwin thought that adding square footage to make the building 1000 square feet would make it unnatural.

Mr. Gigstead added that the logs are in nice shape and the property is taken care of. The property should only be rented by the week or month, not like a hotel.

After further discussion, it was moved by Mr. Chaudoir, seconded by Mr. Goodwin to approve the request for the third principal building on one lot. Encouragement was provided by previous administration. The

subject lot has enough area to divide, but not enough width. The owner must comply with City codes. Roll call vote. All ayes. Carried.

Public Hearing: Petition for variance from the Floodplain Zoning Code to extend fill less than the minimum 15-foot requirement and from the Municipal Code (Zoning Code) for a building length that is 2.7 times its width for Nancy Schopf and Fred Bowen, for a vacant parcel located between 129 W. Juniper St. and 147 W. Juniper St.: Chairperson Murrock opened the public hearing at 12:50 p.m. Adam Kozlowski, C & C Custom Builders, and property owner Nancy Schopf and Fred Bowen, 2468 Ironwood Dr., Green Bay, WI, presented the variance request.

Mr. Kozlowski explained that the owners would like to build a 27-foot high dwelling on a very narrow vacant lot. The property is entirely in the flood zone. The neighbors have concerns about the 13 trees on the treeline. The house will be built on a slab, with a 4 foot frostwall, to keep 2 feet above the flood plain. Storage will be lost with no crawlspace. There is no utility easement between properties. They are asking for a variance to create a steeper slope than required, extending the fill 10 feet instead of the required 15 feet. Roof water will be piped underground to prevent water from going onto the neighbor's property.

Mr. Shefchik stated that there is a catch basin that water can be directed to.

Mr. Kernosky stated that the maximum height allowed is 35 feet. The proposed dwelling meets the 10-foot side yard and the 25-foot street and rear yard setbacks. It also meets the 587' elevation for the first floor. The 15-foot radius is difficult to meet with the narrow lot. A variance is also needed for the length to width ratio. They are proposing a ratio of 2.7 to 1, with the maximum allowed being 2.5 to 1. Mr Olejniczak added that the reason for the 2.5 to 1 ratio is for aesthetics so a home doesn't look like a modular home. The deepest part of the house is narrower.

Mr. Kernosky added that Miles Winkler of the DNR had been contacted and had no objections to the request.

Mr. Chaudoir mentioned that one side of the proposed dwelling had more windows than the other side. He thought there should be more windows to break it up. Mr. Kozlowski responded that there is mostly garage on the side with the least amount of windows, but will find ways to break it up.

Ms. Schopf and Mr. Bowen stated they want to be in walking distance to the downtown. They have been living in Green Bay for the past 40 years.

Mr. Olejniczak stated that the flood plain is designed to minimize impacts of flooding and the fill is to protect the home.

Mr. Shefchik added that the grades are low and flat. The 587' puts the dwelling 3 feet above the existing grade. To keep an elevation of 586', a 3-foot tall retaining wall would have to be placed 15 feet away. Without a variance this is an unbuildable lot.

No one spoke in favor of the variance. Mr. Goodwin read one letter in support from Miles Winkler of the DNR.

Steve Bousley, 150 W. Larch Street, stated his opposition. He was concerned about the new construction as he is adjacent to the property. Considerations need to be made before the purchase of the property.

Kay Brauer, 140 W. Larch St., stated that her property is located in the backyard of the applicant. Based on hardship, the owners purchased the property before they knew what the rules were.

Don Healy, 129 W. Juniper, and owner of the lot on the east side of the proposed lot, said the proposed

home is long and narrow and built up. He had huge concerns about runoff and flooding. He has a row of trees that will be flooded out. According to the arborist, he will lose that row of trees. The size of the home is out of character with the neighborhood.

Steve Mann, 123 N. Lansing Avenue, gave a history on the area. The house on the proposed property previously had a small bungalow that burned down. The City had given permission to rebuild the same footprint.

S. Dean Pies, 147 W. Juniper Street, stated the lot can be built on with a much smaller design. Something will have to carry the water to the storm system and wondered how it will be maintained.

Bill Mundy, 6460 Whitefish Bay Road, stated that homes need to follow the rules. The proposal does not meet the standards.

Ted Brauer, 140 W. Larch Street, verified there was a flood in that area in 1986.

Mr. Chaudoir left the meeting at 1:45 p.m.

Mr. Goodwin gave a summary of the letters in opposition from Torren Pies, who objected to the variance requests, along with letters in opposition from Ted and Kay Brauer, 140 W. Larch Street, Donald and Christina Healy, 129 W. Juniper Street, and Jerry and Rhoda Wierer, 132 W. Larch Street.

The public hearing was declared closed at 1:47 p.m.

Consideration of: Petition for variance from the Floodplain Zoning Code to extend fill less than the minimum 15-foot requirement and from the Municipal Code (Zoning Code) for a building length that is 2.7 times its width for Nancy Schopf and Fred Bowen, for a vacant parcel located between 129 W. Juniper St. and 147 W. Juniper St.: Board members discussed the variance requests. Moved by Mr. Goodwin, seconded by Mr. Gigstead to deny the variance due to no hardship being demonstrated and the public interest would be harmed. There is also a high water situation to consider. Roll call vote. All ayes. Carried.

Adjourn: Moved by Mr. Gigstead, seconded by Mr. Spritka to adjourn. Carried. Meeting adjourned at 1:50 p.m.

Respectfully submitted,


Cheryl Nault
Community Development Secretary



MEMO

To: Zoning Board of Appeals
From: Ryan Kernosky, Planner & Zoning Administrator
Date: May 6, 2016
Subject: ZBA – Schopf Variance Reconsideration Request

During the April 12, 2016 ZBA meeting, members considered a double-variance from the Floodplain Zoning Code and Zoning Code regarding the length to width ratio for a proposed single-family dwelling for Nancy Schopf and Fred Bowen (Adam Kozlowski, Agent). The ZBA denied the double-variance because members felt there was no unnecessary hardship, and that the public interest would be harmed. During the public hearing portion, the applicants were not given a chance to rebut the testimony given by those opposed to the variance.

The applicant has requested reconsideration of the denial in order to be given the opportunity for rebuttal testimony. The City Attorney reviewed the matter and recommends that the applicant be given a chance to rebut the opponents' testimony. Even though the public hearing process explanation read by the Chairman states that rebuttal testimony is at the discretion of the Chair, whenever there is substantial testimony during the hearing, an opportunity to refute such testimony should be offered. This ensures legal due process for the applicant.

Therefore, the item has been placed on the agenda for potential reconsideration. Your first vote will be to either to allow or deny reconsideration of the previous decision. Approval of the reconsideration opens up the opportunity for the applicant to give their rebuttal testimony. The applicant may not provide any new issues to the ZBA; they are only to rebut specific points that were brought up during the public hearing. After rebuttal testimony, the ZBA will then deliberate and would have the options to again reject both variances or approve one or both of the variances with or without conditions.

If the ZBA elects not to reconsider the denial of the variances, then there is no more testimony or actions by the Board and the original action to deny the variances stands. Staff's recommendation is follow the advice of the City Attorney to reconsider the variance in order to allow for rebuttal testimony.

Summary for Schopf/Bowen
West Juniper St
281-64-61001702

Nancy Schopf and Fred Bowen (Adam Kozlowski, Agent) are petitioning for a double-variance from chapter 23 (Floodplain Zoning Code) and chapter 20 (Zoning Code) of the Municipal Code for a new single-family residential dwelling on an existing vacant lot located on West Juniper Street (between 129 and 147 W Juniper St). Because of the narrowness of the existing lot (~53'), and the location within the floodplain, it is difficult for the owners to build. They are asking for a variance from c. 23.04(3)(a)(1) and c. 20.07(7)(f). They are described as follows:

c. 23.04(3)(a)(1) states the following:

"The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure."

Because of the narrowness of the lot and the City's sideyard setback requirements, it is difficult to fill for 15' outside of the home. The builder is proposing to grade the from the first floor height of 587.4' to the existing grade of 584' for 10' surrounding the home. The ZBA recently heard similar cases during the March 8th meeting.

c. 20.07(7)(f) states the following:

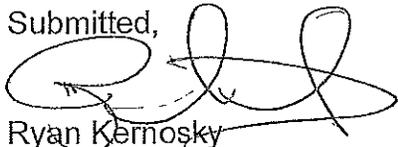
(7) Aesthetic Requirements. All dwellings located in the R-1, R-2, R-3 and R-4 residential districts shall comply with the following requirements:

(f) Have a ratio of the dwelling's length to width of no greater than 2.5 to one

Similar to the floodplain variance, the narrowness of this lot makes it difficult to build on while meeting the setback requirements set forth within our zoning code. The proposed dwelling meets all of the setback requirements, but has a length to width ratio of 2.7 to one, which is higher than the 2.5 to one ratio maximum set within our code.

Building and site plans have been submitted to the WI-DNR, and the DNR has no objections to the variance. Please let me know if you have any further questions.

Submitted,


Ryan Kernosky

Planner / Zoning Administrator

Storm Water Review

April 7, 2016

Owner: Nancy Schopf

Location: Parcel #281-64-61001702

Per the undated site plan from Mau & Associates (Drawing No X-747 with a seal dated 3-10-16) it appears the floor slab of the home will be at an elevation of 587.5' which is 0.5' higher than required. With regards to the exterior grading, the site plan calls for the finished grading to be at an elevation of 586.0' or higher from the home out 15' at the front and back yards. However, on the sides of the home portions of the building will only be approximately 10' from the lot line. Along the lot lines the elevations range anywhere from 583.98' to 585.31'. Therefore, if the grades tapered out from the house starting from an elevation of 587.40' as shown on the site plan there could be between 3.42' and 2.09' of elevation change over the 10' distance. This could lead to minimum slopes of 34.2% to 20.9% (33% is generally considered a maximum for grass). Generally, grades should be held down approximately 6" from the bottom of any wall framing or siding, therefore, it may make sense to lower the fill elevation at the house to 587.0' which would reduce the potential side yard slopes to a range between 30.2% and 16.9%.

Per the site plan it appears that the current property lines are the low points between the property in question and the adjacent properties. In addition it appears that there is drainage occurring along the property lines that goes from the South end of the property traveling North to the roadway. However, the entire area is very flat and with the very low amount of slope aiding the drainage described it is likely that most of the water infiltrates into the grass in the area and that the area is typically relatively wet without long periods of dry conditions. The additional impervious areas (house and driveway) will reduce the areas available to infiltrate water. In addition, downspouts from the house could cause concentrated flows of water. These two factors may cause ponding conditions along the property lines due to the relatively flat contours of the area. To help minimize this concern the downspouts of the home could be connected to drainage piping that could be tied into storm sewer catch basin that is located within the curbing near the NE corner of the property. Another option to help minimize ponding along the property lines would be to run a drain tile just below the ground under the property lines that also ties into the storm sewer catch basin.

Possible suggestions and/or requirements:

- 1) Reduce the fill elevation around the house from 587.4' to 587.0'
- 2) Tie the downspouts of the home to drainage piping that gets tied into the storm sewer catch basin that is located within the curbing near the NE corner of the property.
- 3) Run a drain tile just below the ground under the property lines that ties into the storm sewer catch basin that is located within the curbing near the NE corner of the property.

Chad Shefchik

City Engineer

**CITY OF STURGEON BAY
VARIANCE APPLICATION
ZONING BOARD OF APPEALS**

Date Received: 3/18/16
 Fee Paid \$ 300.00
 Received By: EN

	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)
Name	Adam Koelowski	Nancy Schopf & Fred Bowen
Company	C & C Custom Builders	
Street Address	930 CHALLENGER DR.	2468 Ironwood Dr.
City/State/Zip	Green Bay, WI 54311	Green Bay, WI 54304
Daytime Telephone No.	920-360-0529	920-499-5819
Fax No.	920-468-3242	

STREET ADDRESS OF SUBJECT PROPERTY: VACANT LOT BETWEEN 129 W. JUNIPER &
 Location if not assigned a common address: 197 W. JUNIPER

TAX PARCEL NUMBER: 281 6461001702

CURRENT ZONING CLASSIFICATION: R-2

CURRENT USE AND IMPROVEMENTS:
VACANT LOT

IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM
 BEING REQUESTED FOR REVIEW: C. 23.04 (3)(a)(1), C. 20.07(7)(d)

ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:
 North: WAGE
 South: R-2 Single family home
 East: R-2 Single family home
 West: R-2 Single family home

VARIANCE STANDARDS

Please address how the proposed variance meets each of the three required standards for authorizing variances. (Attach additional sheets, if necessary)

1. Unnecessary hardship: See ATTACHMENT

2. Unique physical property limitation: _____

3. Protection of public interest: _____

HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? NO IF YES, EXPLAIN: _____

Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies), full legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project, and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertinent structures and buildings, proposed site improvements, signature of person who drew plan, etc.

Nancy E. Schopf _____ Nancy E. Schopf _____ 3-17-16
Property Owner (Print Name) Signature Date

Adam Korlowski _____ _____ 3-17-16
Applicant/Agent (Print Name) Signature Date

I, Adam Korlowski, have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.
3-18-16 _____ [Signature] _____ [Signature]
Date of review meeting Applicant Signature Staff Signature

- Attachments:
Procedure & Check List
Agreement For Reimbursement of Expenses

STAFF USE ONLY
Application conditions of approval or denial:

Date _____ Community Development Director

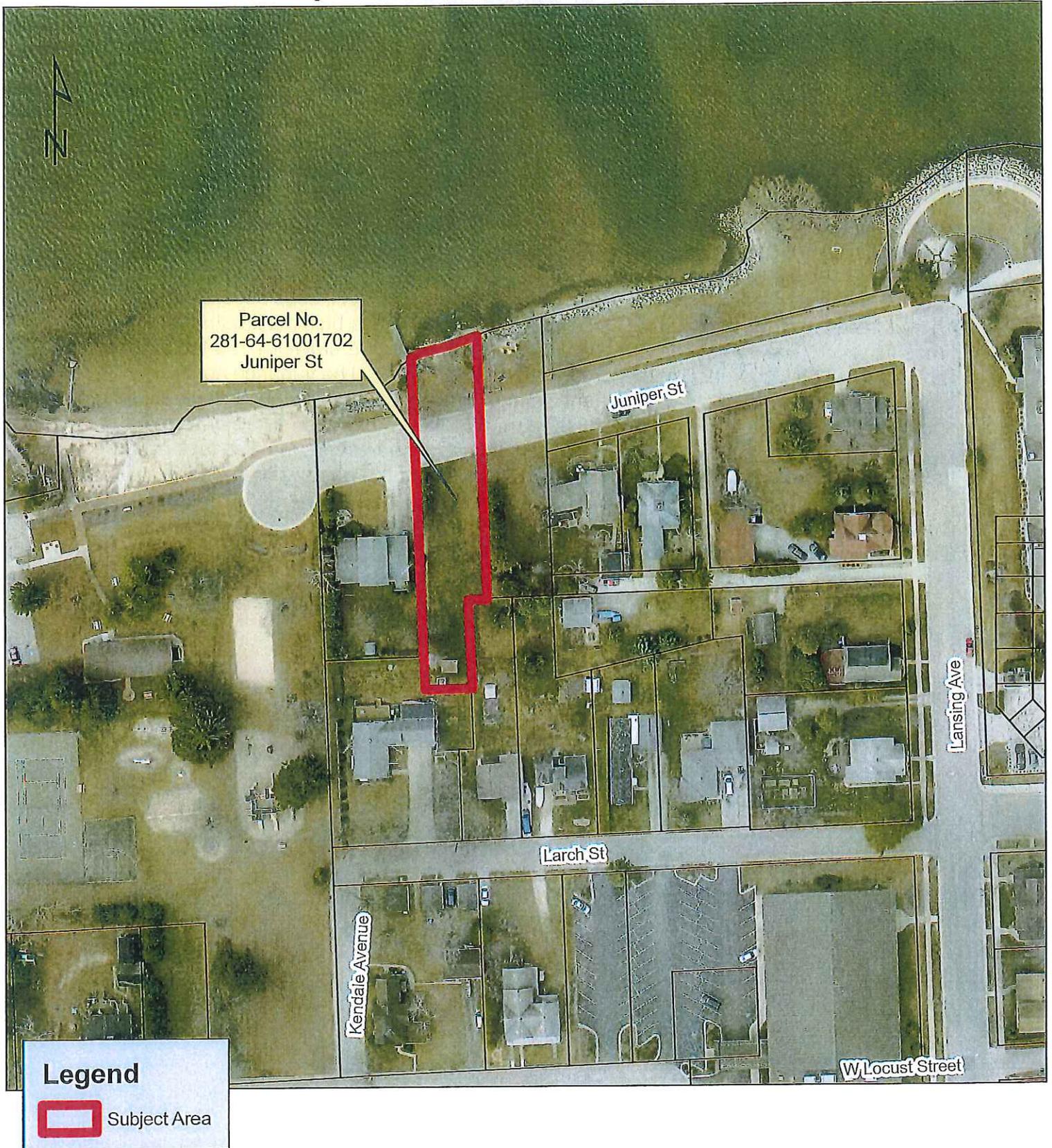
1. Unnecessary Hardship: We are looking to build a conforming, single-family new residence on a very narrow lot which resides almost entirely within the floodplain and we are requesting a fill requirement variance. The lot is very narrow (approximately 52' wide) and we have designed a house to fit within all building setbacks and would like to slope the grade from the lowest opening back to the existing grade at the lot lines. The house is designed with 4' frost walls and slab at grade to keep the height of the structure to minimum a based on the lowest opening requirements. In addition, we are also requesting a variance on the length to width ratio for the house due to the narrowness of the lot. The house, as designed to fit within the buildable setbacks, is less than 32' wide and has a 2.73 to 1 ratio.
2. Unique physical property limitation: The property is less than 52' wide which only allows a structure that is less than 32' wide to be built on it. Also, the property is almost completely within the flood plain. We don't have enough room to keep the grade 1' above flood plain, 15' away from the structure, so we are asking to slope the grade back to existing levels on the property line to have minimal impact on neighbors trees located right at the property line.
3. Protection of public interest: The proposed house is designed to fall within all building setbacks and the roof water will be collected and piped underground and ejected directly into the storm water line to minimize any additional water being shed onto neighbor's property. Discussions were had with the neighbors and plans have been redesigned and retaining walls eliminated in an effort to minimize any impact on existing houses. Historically, the lot had a house on it that was only a few feet off of the west property line. The lot has been vacant since that house was lost due to a fire. The proposed house will be more conforming to current setbacks than the previous house was.

C

Location Map

Public Hearing - Nancy Schopf

Floodplain Zoning & LW Ratio



NOTE: Public Hearing to be held April 12, 2016 at 12 Noon in the City Council Chambers (City Hall, 421 Michigan St)

From: Winkler, Miles A - DNR [<mailto:Miles.Winkler@wisconsin.gov>]
Sent: Monday, March 28, 2016 9:20 AM
To: Kernosky, Ryan
Subject: RE: Floodplain Variance Request

Hi Ryan

We would have no objection to placement of the fill as proposed.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Miles A. Winkler

Phone: (920) 662-5195

Miles.winkler@wisconsin.gov

From: Kernosky, Ryan [<mailto:rkernosky@sturgeonbaywi.org>]
Sent: Monday, March 28, 2016 9:00 AM
To: Winkler, Miles A - DNR
Subject: Floodplain Variance Request

Miles,

Attached are plans for a variance from the floodplain zoning code. Please review and give comment.

Ryan

Ryan J Kernosky
City of Sturgeon Bay, WI
City Planner / Zoning Administrator
920-746-2907 | rkernosky@sturgeonbaywi.org
www.sturgeonbaywi.org

ANDERSON**O'BRIEN**

BERTZ, SKRENES & GOLLA, LLP

ATTORNEYS SINCE 1886

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www.andlaw.comTorren K. Pies
Attorney

E-mail: tkp@andlaw.com

April 7, 2016

City of Sturgeon Bay
Zoning Board of Appeals
421 Michigan Street
Sturgeon Bay, WI 54235Mr. Marty Olejniczak
Community Development Director
City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235Mr. Ryan Kernosky
Planner/Zoning Administrator
City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235Mr. Chad Shefchik
City Engineer
421 Michigan Street
Sturgeon Bay, WI 54235In Re: Schopf/Bowen Variance Request
Vacant Lot Located Between 129 and 147 W Juniper Street
Our File: 23874

Dear All:

Marvin's Bay LLC is the owner of the home and lot located at 147 W. Juniper Street. My sister (Kaare A. Auditore) and I (Torren K. Pies) are the owners of the LLC. I have received the notice of public hearing for two variances requested by Schopf/Bowen for construction on the vacant lot ("Schopf/Bowen Lot") located between 147 W. Juniper ("Marvin's Bay Lot") and 129 W. Juniper ("Healy Lot"). I have also reviewed copies of the Schopf/Bowen Variance application, site plan and drawings of the home.

Based upon the review of that information, I am forwarding this letter on behalf of Marvin's Bay to object to the granting of both of the variances. First, we do not believe the applicant has met the burden of showing undue hardship. The lot was purchased with knowledge of the existing zoning laws. The lot size itself does allow the owners to build a home, albeit smaller, and therefore does not deny all reasonable use of the property.

However, even if unnecessary hardship is shown, our objection further relates to the issue of water runoff that will occur from the Schopf/Bowen Lot to adjoining properties that border the lot, and the redirection of the natural water runoff onto the Marvin's Bay Lot and the Healy Lot to W. Juniper Street. A reduction from the required 15 feet slope from the structure to 10 feet is substantial and will likely cause the type of situation the zoning ordinance was intended to avoid. The purpose of Chapter 23 of the Flood Plain Zoning Code includes the protection of property, and my concern is that granting such variances may result in harm to properties in the neighborhood.

City of Sturgeon Bay, et al

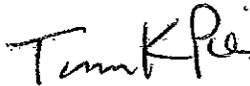
April 7, 2016

Page 2

Although the variance request provides that all roof water will be collected, piped underground and ejected directly into the storm water line, this does not address the natural water runoff from the higher ground to the south of the properties to the lower ground where W. Juniper Street is located. We are not convinced that this measure alone will prevent water accumulation. Further, how does the City of Sturgeon Bay enforce the future maintenance and repair of the proposed roof water drainage system?

Based upon the above, Marvin's Bay LLC objects to the granting of the two requested variances. I will not be able to attend the zoning board of appeals public hearing on April 12th. Please consider our objections at that time.

Sincerely,



Torren K. Pies

TKP:eao/556476

cc: Ms. Kaare A. Auditore

April 6, 2016

Sturgeon Bay Zoning Board of Appeals
421 Michigan Street
Sturgeon Bay, WI 54235

Members of the Board,

We received the City of Sturgeon Bay's Notice of Public Hearing related to the vacant parcel between 129 W Juniper Street and 147 W Juniper Street, parcel #281-64-61001702 and would like to go on record as being **against** the proposed variances. Our property, at 140 W Larch Street, is located directly to the south of the vacant parcel referenced above.

It is our feeling that the need to request two different variances is a direct result of the house being the wrong "fit" for this lot. If the owners wanted to build that large of a home, they should have purchased a larger lot. The overall look of a house with a length 2.7 times its width is unappealing.

Historically, when lake levels are high, the area in the back of our lot will flood. Over-building this parcel would inevitably have a negative effect on our property since the elevation of our property will be lower than the elevation of the parcel in question after the home is built.

This case highlights the necessity of city ordinances on items such as ratios, flood plains and other "wetland" issues.

Please note: Although the formal notice stated that we could view the variance application online, we searched the website thoroughly but were unable to locate the application documents.

Respectfully,


Ted and Kay Brauer
140 W Larch Street
Sturgeon Bay, WI 54235

Donald and Christina Healy
129 W. Juniper St.
Sturgeon Bay, WI. 54235
donhealy@pcmc.com
(920) 737-7906

April 11, 2016

Attention : City of Sturgeon Bay -Zoning Board of Appeals
421 Michigan St. Sturgeon Bay, WI. 54235

Mr. Marty Olejniczak (Community Developer Director)
Mr. Ryan Kernosky (Planner/Zoning Administrator)
Mr. Chad Shefchik (City Engineer)

In Re: Schopf / Bowen Variance Request
File # 23874

Dear Board Members

We (Donald and Christina Healy) are the owners of the home and property located at 129 W. Juniper St. Sturgeon Bay.

We received notice of the public hearing for the two variance requests by Schopf/Bowen for the proposed build of a new residence on the vacant lot located between us, 129 W. Juniper St., and the home at 147 W. Juniper St. Sturgeon Bay WI. After reviewing the Schopf/Bowen variance application and site plan drawings for this residence, we respectfully request that the variance permit for this property be rejected and would like to go on record as being AGAINST the proposed variances. We believe a variance, in this individual case, will not only have a significantly negative effect on our property, but the adjoining neighboring properties as well. --- Both visually and financially.

We believe there is serious concern for drainage, flooding and continual damage caused by the elevation of this proposed build. We are STRONGLY AGAINST any variance from the required 15' property slope from the proposed structure. A slope change from the required 15 ft. to 10 ft. is significant and does bring up concerns of continual washout/flooding issues for our landscaping. Secondly, any length variance increase removes any land area to absorb excess water from the properties to the south of this raised build site. With our property at a lower elevation any excess water from the properties to the south may be forced through our property and the property at 147 Juniper St. (Marvin's Bay LLC). We understand the roof water will be brought to the storm sewers so that also brings up the question of maintaining the drainage system. The variances (Schopf/Bowen) are asking for may cause continual negative consequences to surrounding homes and properties.

In addition, this new build will be a direct cause of the destruction and killing of our 13 mature trees, which runs almost the entire length of our property which provides a natural privacy between the lots.

As a result of the Schopf/Bowen build -- it is likely we are to endure over \$ 5000.00 in damages and replacement.

* See attached estimate forms from "Daves Tree Service" -- providing their licensed professional opinion and estimate of damage/replacement cost.

We believe that the zoning laws and regulations are designed to protect all home/property owners, and preserve the integrity of the neighborhood. This small lot purchased by Schopf/Bowen does make it more challenging for building a home here but these laws and regulations were in place at the time.

We believe making an exception, in this individual case, could cause genuine risk to properties and home values.

Once again, we respectfully ask the Sturgeon Bay Board Members to Reject the proposed variance of the Schopf/Bowen build. And we are AGAINST any and all variances proposed for that lot.

Respectfully,
Donald and Christina Healy

Donald J. Healy
Christina Healy



Dave's Tree Services, Inc
Trusted Professionals Since 1967
www.davestreeservice.com
6511 Elm Dr.
Egg Harbor, WI 54209
920-323-2269
920-323-2905

March 9, 2016

Healy Project

129 W. Juniper St.

Sturgeon Bay, WI 54235

To whom it may concern,

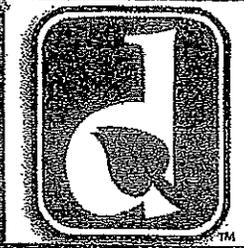
In February 2016, I met with Don and Christina Healy at their home at 129 W. Juniper Street in Sturgeon Bay, WI. At that time, they had expressed their concerns regarding the new neighbor to the west of their property and the proposed house they want to build.

To my understanding, the proposed home on the neighboring property would be a very large house for the space it will occupy, making for some challenges for the neighboring properties- which is the case for the Healy's. In this case, the digging for the build would be extremely close to a row of trees that are close to the property line. Trees that provide a screen between the Healy's and the adjacent property and shade- shade that is utilized by a shade garden under the trees. These trees also add a great deal of property value.

After looking at the Healy's property and the neighboring property, the location of the proposed construction site in relationship to the existing trees, I can see why there is concern. What I found is the following:

- 13 trees in total ranging in size from approximately 6"-18" dbh (diameter at breast height). 1 White Cedar and 12 Spruce planted in a row close to the property line.
- The first tree (Spruce) closest to the road is basically on the property line. The last tree in the row of trees is basically 6ft from the property line.
- Two of the Spruce, the two biggest ones, have a considerable amount of dead in them and may only have a few growing years left in them. The approx. age of these trees are 80 years. The other trees younger- approx. age- 25-54 years. The method used for aging the trees was taking the diameter at breast height and multiplying it by its growth factor of 4.5. This method gives a fairly close estimate. In normal circumstances, these trees would be around for a many years. The exact number of years is hard to gauge because of many man-made or environmental factors.

It is my understanding, from information that was provided to me by the Healy's, that there would be digging 4 ft. from the lot line and 3 ft. down. This would mean the digging would be done in the critical root zone of these trees, which will have a negative effect on them. For the most part, half of all of the tree's root systems will be dug up, considering the absorbing root will go out well beyond the canopy of the tree.



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Trusted Professionals Since 1967
www.davestreeservice.com
6711 Elm Dr
Egg Harbor, WI 54209
920-893-2250
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March 9, 2016

Healy Project

129 W. Juniper St.

Sturgeon Bay, WI 54235

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To my understanding, the proposed home on the neighboring property would be a very large house for the space it will occupy, making for some challenges for the neighboring properties- which is the case for the Healy's. In this case, the digging for the build would be extremely close to a row of trees that are close to the property line. Trees that provide a screen between the Healy's and the adjacent property and shade- shade that is utilized by a shade garden under the trees. These trees also add a great deal of property value.

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Here are the major issues that will be affecting these trees if building close to the lot line is allowed-

1. The tree's roots provide anchorage, water absorption and oxygen. Fifty percent of a tree's root system is in the top 12" of the soil. About ninety percent of the roots are in the top 3 ft.
2. Tree roots are very sensitive. Even a vehicle driving over the root system can damage them to a point where there is noticeable decline in the tree, especially construction equipment.
3. Tree roots can grow out 2 to 3 times the height of the tree. In a perfect situation, I would suggest not to disturb anything within 30 feet of those trees.
4. With digging so close, not only will this cause the tree's decline, but it will make for a much weaker root system. In return, thus making them much easier to blow down at high winds.
5. With a proposed building that close to those trees, there would be trimming done. Quite a bit, in fact, making the appearance of them unsightly.

The fact of the matter is, the trees will not live with that much damage. I know that there are set back issues on where the exact digging location is- whether it is 4ft, 8ft, 10ft. Obviously, the further you can stay away from the trees, the better. If the digging was 10ft away versus 4ft or 6ft, that would help, but either way, there will be an extensive amount of damage. Not only will there be damaged root systems, but there is the factor of soil compaction with the added height of the buildup material (fill) to bring their project up to desired height.

There is also a good possibility of water runoff that could be a flooding issue into the neighboring yards, drowning out plants and tree roots. That runoff could also be a problem for the planting of new replacement trees.

In my professional opinion, I believe that the row of trees on the Healy's property will definitely decline and die prematurely due to a damaged root system if the proposed construction goes forward.

Respectfully Submitted,

Todd Burke pres.

Todd Burke

President, Dave's Tree Services, Inc.

ISA Certified Arborist & Utility Specialist WI-0767AU

April 11, 2016

Sturgeon Bay Zoning Board of Appeals
421 Michigan Street
Sturgeon Bay, WI 54235

Members of the Board,

We received the City of Sturgeon Bay's Notice of Public Hearing related to the vacant parcel between 129 E Juniper Street and 147 W Juniper Street, parcel #281-64-61001702 and would like to go on record as being **against** the proposed variances. Our property, at 132 W Larch Street, WI located directly SE of the vacant parcel indicated above.

With the increased lake levels, we are already struggling with continual excess moisture seeping in the basement floors. We are concerned that if the property's elevation is allowed to be raised, these conditions will intensify. We are also concerned with the possibility of our back property flooding, which we have just been made aware of having happened in the past.

Respectfully,

Jerry W. Wierer
Rhoda M. Wierer

Jerry and Rhoda Wierer
132 W Larch Street
Sturgeon Bay, WI 54235

Zoning Board of Appeals

April 12, 2016

Public Hearing Testimony From Schopf/Bowen Variance Request

(Please note: There was a malfunction with the recording system and the hearing was not recorded. The following is a summary from the citizens that spoke at the hearing.)

Adam Kozlowski, C & C Custom Builders, Nancy Schopf, property owner, and Fred Bowen introduced themselves.

Mr. Kozlowski explained that the property owner wants to build a house on a narrow vacant lot. It is entirely in the flood zone. It would have to be built higher since there is not enough property. The neighbors have concerns about the 13 trees on the treeline. The majority are on the neighbor's property. The house would be built on a concrete slab, with 4 foot frostwalls, to keep 2 feet above the floodplain. They are losing space without a crawlspace. The garage is 2 stalls deep. They tried to obtain property in the rear from the neighbor or an easement. The roof water will be piped underground to prevent water from going to neighbors. The house will be 27 feet high.

City Planner/Zoning Administrator Ryan Kernosky stated that 35 feet high is the maximum height allowed. The plans meet the 10 foot sideyard setbacks, as well as the 25 foot street and rear yard setbacks. It also meets the 587' elevation for the first floor. They are also proposing a 2.7 to 1 length to width ratio. The maximum code requirement is 2.5 to 1. The DNR had been contacted and Miles Winkler had no objections to the variance.

Community Development Director Marty Olejniczak stated that in regard to the length to width ratio, these aesthetic requirements are so homes don't look like modular homes.

Mr. Kozlowski will find ways to break up the garage.

Nancy Schopf and Fred Bowen want to be in walking distance to downtown. They have been living in Green Bay for the past 40 years.

City Engineer Chad Shefchik stated that the grades are low and flat. A 587' elevation puts it 3 feet above the existing grade. To keep a 586' elevation, a 3 foot retaining wall would have to be built 15 feet away. Without a variance, this would be an unbuildable lot. They could shrink the house in 10 feet, but would be the worst case scenario.

Steve Bousley – 150 W. Larch St. – His concern was new construction adjacent to his property. Some requirements are met and some are not met. The land was purchased with the intent to build a home. Considerations need to be made before purchasing the property. He is in opposition of the variance request.

Kay Brauer – 140 W. Larch St. – Their backyards adjoin each other. Based on hardship, the owners of the property purchased the lot before they knew what the rules were.

Don Healy – 129 W. Juniper St. – Owns a lot on the east side of the proposed lot. He had no problem with buying the lot, but will infringe on what is already there. The 3,442 sq. ft. home plus garage is long and narrow and will be built up. He had huge concerns regarding runoff and flooding. There is a row of trees that will be flooded out. The dig will be about 8 feet. The arborist said they will lose a row of trees. He wanted to know what the plans are to collect water before it gets to them. A nearly 3500 square-foot home is out of character with the neighborhood. They will be collecting a lot of water in their basement. They will be losing their tree line. It was told that the lot was unbuildable for a reason. They were not approached by the owners about selling property or obtain an easement in the back.

Steve Mann – 123 N. Lansing Ave. – He gave a history on the area. The house on the property had a small bungalow that was burned down. The City gave permission to rebuild the same footprint. Water is a big problem there.

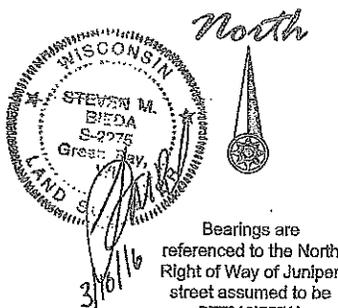
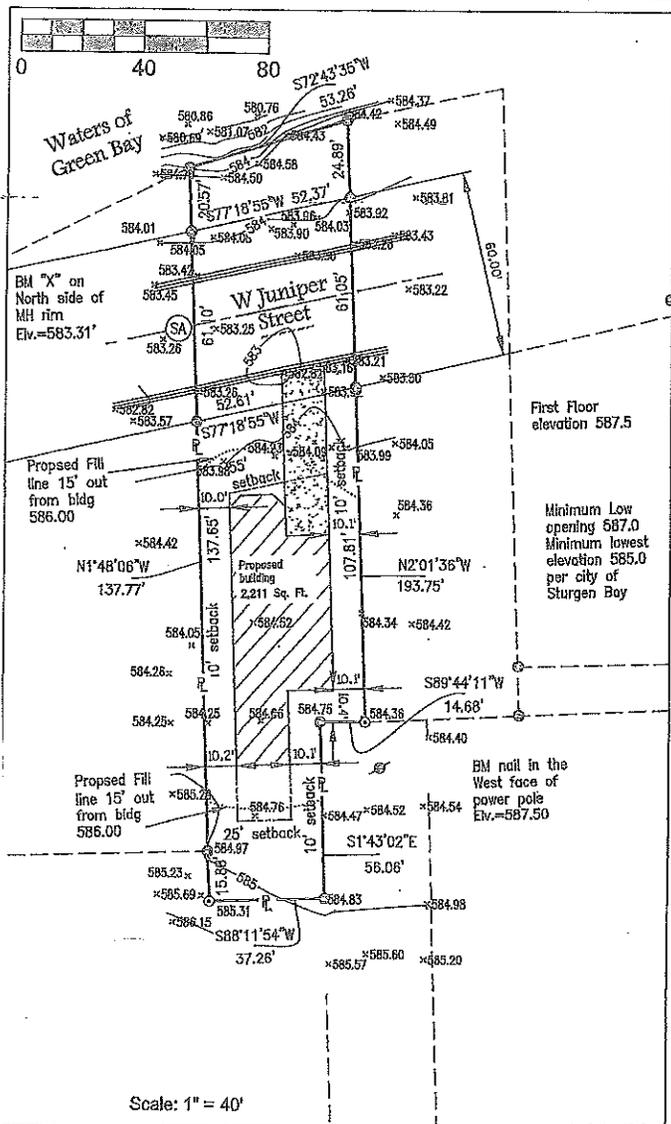
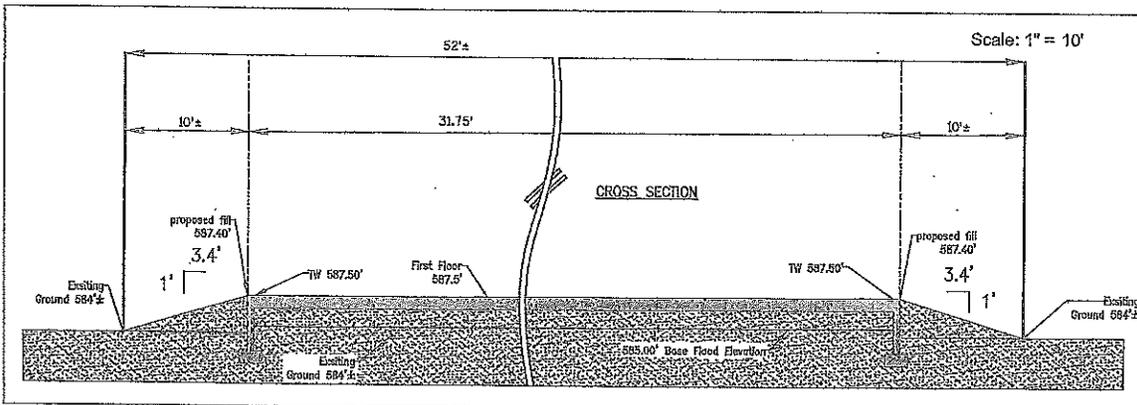
S. Dean Pies – 147 W. Juniper St. – He is a retired attorney from Kewaunee. His son owns 147 W Juniper St. He felt that the lot can be built on with a much smaller design. Something will have to take the water to the storm system from the runoff on the 147 W. Juniper side and the front and back area of the proposed long house. He wants to know how it will get piped into the storm sewer. How will it be maintained?

Bill Mundy – 6460 Whitefish Bay Rd. – He said homes need to follow the rules. This proposal does not meet the standards.

Ted Brauer – 140 W. Larch St. – Verified that there was a flood in 1986 in that area.

Site Plan

Part of Lots 17 and 18, Subdivision 61, according to the recorded Assessor's Map of the City of Sturgeon Bay of the City of Sturgeon Bay, Door County, Wisconsin.
"West Juniper Street"



Bearings are referenced to the North Right of Way of Juniper street assumed to be $S77^{\circ}18'55''W$. Elevations are referenced to the NAVD88 Benchmark Datum.

Note: Variance will be needed for fill less than 15 feet from the structure at 1' above flood elevation.

Legend

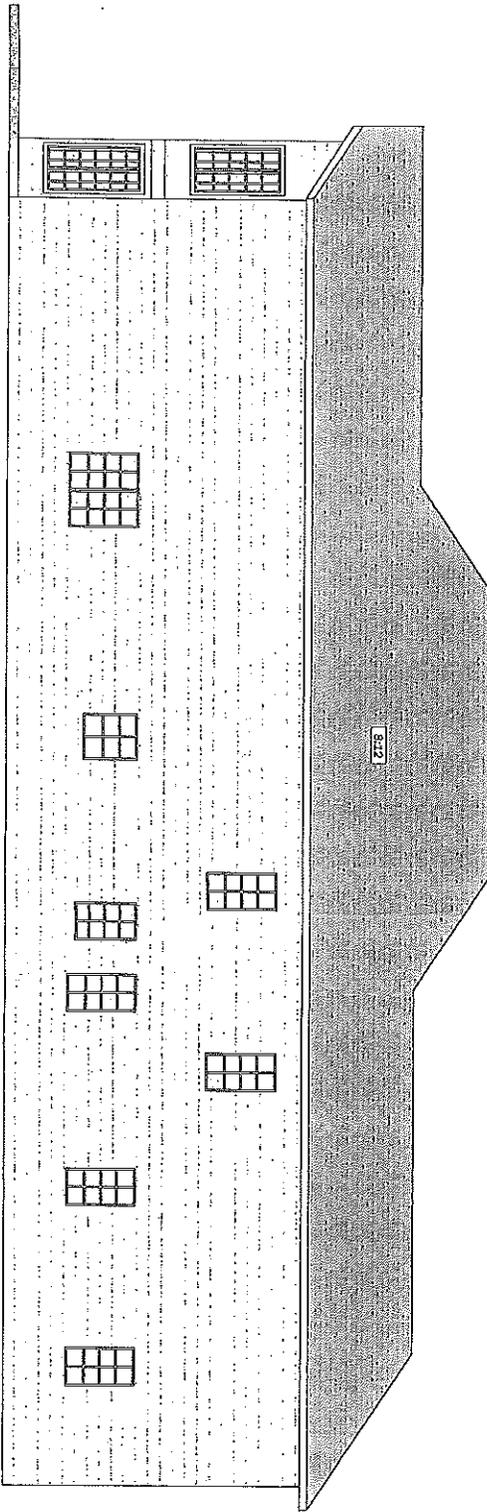
- proposed building
- proposed drive way
- iron pipe found
- iron rod found
- +100.00 existing elevations.

Flood elev. = 585.00'
Per Door County Zoning Inspector

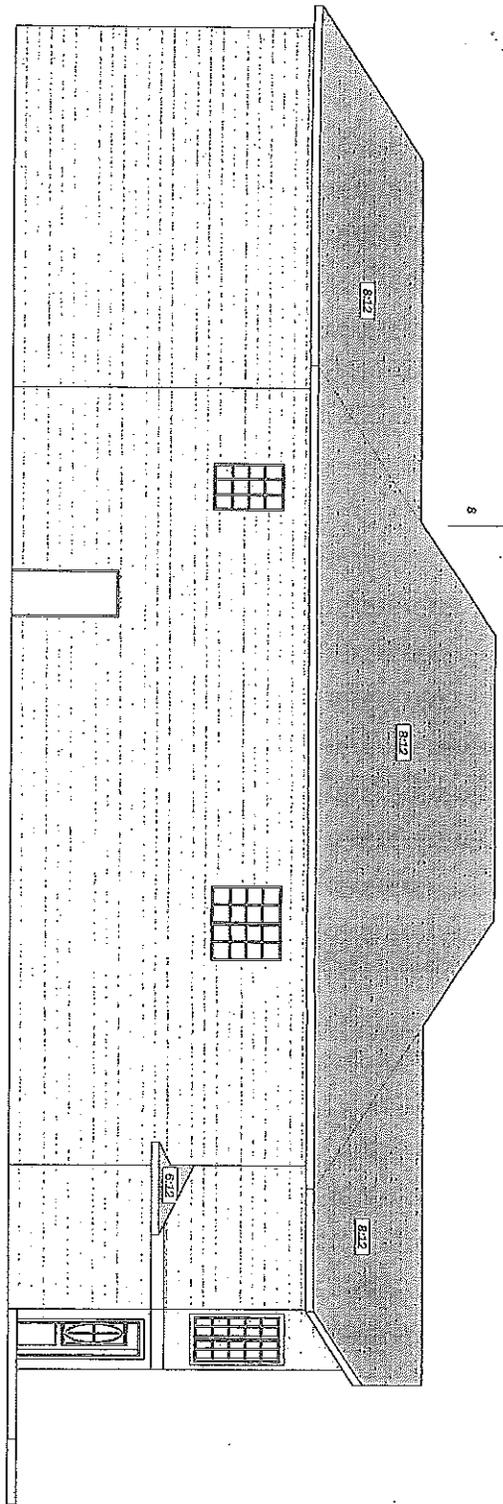
Client: C & C Custom Homes
Tax Parcel: 281-64-61001702
Drafted By: JRW
File: C-8215Site Plan 021616.dwg

Mau & Associates
LAND SURVEYING & PLANNING
CIVIL & WATER RESOURCE ENGINEERING
Phone: 920-434-9670 Fax: 920-434-9572

Sheet One of One
Project No.: C-8215
Drawing No.: X-747



Right Elevation
 Scale
 1/4" = 1'



Left Elevation
 Scale
 1/4" = 1'