

## CITY OF DODGEVILLE

### Board of Zoning Appeals Meeting Minutes Monday, April 19, 2021 5:00 p.m.

The Board of Zoning Appeals was called to order by William Helin at 5:00 PM with the following members present: Robert Metcalf, William Helin, Jim Short, Jean Luecke, David Wilke and Ted Chitwood.

Others Present: Jeffrey & Michelle Weber & Eugene Dougherty, Deputy Clerk Treasurer, Julie Abing and Building Inspector, Larry Gilles.

Confirmed the compliance of the Open Meeting Law. Virtual meeting attendance was offered due to COVID19.

The Board of Appeals heard the appeal of Jeffrey and Michelle Weber for the denial of a building permit by the Building Inspector per Zoning Code 17.13 (3) to build a deck and ramp with possibly a roof over them to the front of the existing house at 218 E Dodge St. on property described as: LOT 89 MADDIN'S ADDITION. The deck built last year without permits is now 17' from the front lot line, so a variance of 8 feet is being sought.

Ted Chitwood stated that he & Jim Short drove over and reviewed the property and that the additional deck appears to line up with the rest of the properties in the area. In this older part of the city there are several homes in the area that are not meeting the 25' property set back requirement. His opinion is that it does not create an eye sore and that the property owners did not really have another option as there is a gas meter in the way so that the ramp could not have gone any closer to the house. David Wilke stated that it is a violation of the ordinance but not a noticeable difference in look. There are no neighbors that object to the ramp. Robert Metcalf verified that the Weber's have been cooperative and received the proper building permit after the fact and have paid for the Board of Zoning Appeals Meeting. Larry verified that they have been cooperative and have done everything that was asked of them.

Ted Chitwood made a motion to approve the requested variance of 8' variance from the front lot line. Robert Metcalf seconded the motion. Roll call: Robert Metcalf; Yes, William Helin; Yes, Jim Short; Yes, Jean Luecke; Yes, David Wilke; Yes, and Ted Chitwood; Yes. Motion carried 6-0.

The Board of Appeals heard from representative Eugene Dougherty, acting as agent for Stanley Peterson (Owner), from meeting the required rear setback of 25' per Zoning Code 17.13(3), and having a variance of 5' so that the back of a proposed new home can be set at 20 feet from the rear lot line in order to have the driveway come off of Garden Lane instead of Fountain Lane which would result in a steeper driveway. This lot is on the NE corner of Garden Lane and Fountain Lane and described as LOT 3 CSM 502 PT OF LOT 37 BLACK'S ADDITION CRANE'S MAP.

The Petersons are looking to build a new home and would like to have the driveway come off of Garden Lane instead of Fountain Lane so they would have a zero entry into the garage versus several steps to get into the home if entering on the Fountain Lane side due to the slope of the land. House will be approximately a 30' x 54' with 1500 square foot upstairs. There will be a basement under the home.

Robert Metcalf made a motion to approve the requested variance of 5' so that the back of the proposed home can be set at 20 feet from the rear lot line instead of the Zoning Code requirement of 25'. David Wilke seconded the motion.

William Helin made the motion to adjourn the meeting at 5:30 PM. Ted Chitwood seconded the motion. Motion carried. Roll call: Robert Metcalf; Yes, William Helin; Yes, Jim Short; Yes, Jean Luecke; Yes, David Wilke; Yes, and Ted Chitwood; Yes. Motion carried 6-0.

Respectfully Submitted,  
Julie A. Abing, Deputy Clerk-Treasurer

DRAFT

## *Variance Application*

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

### **Process**

At the time of application you will be asked to:

1. **Complete an application** form and submit a \$300 fee;
2. **Provide detailed plans** describing your lot and project (location, dimensions and materials);
3. **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three Step Test in Part 2); and
4. **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the zoning board may inspect the site.

Following these steps, the Zoning Administrator will publish notice of your request for a variance in the county's official newspaper noting the location and time of the required public hearing before the zoning board. The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

Text in **Red** was added by the  
Zoning Administrator - Larry  
Gilles

### Variance Application

City of Dodgeville Zoning Board of Appeals

#### Part 1: General information and alternatives analysis

To be completed jointly by the applicant and zoning staff.

Petition # \_\_\_\_\_ Date filed 9/14/2022 \$ 300 fee paid (payable to City of Dodgeville)

	Owner/agent	Contractor
Name	<u>Jim Short</u>	<u>MYSELF</u>
Address	<u>538 POWELL ST.</u>	
	<u>DODGEVILLE, WI</u>	
Phone	<u>608-516-1404</u>	
Email		

Legal description:  1/4,  NE 1/4, S  28, T  6 N, R  3 E

City/Village/Town of DODGEVILLE

Address 538 POWELL ST. Tax parcel number # 216-1379

Lot area & dimensions: 18,750 sq. ft., 125 x 150 ft.

Zoning district ??? **R-1**

Current use & improvements:

LAWN **House with attached garage, accessory building, and swimming pool**

Description of any prior petition for appeal, variance or conditional use:

**None**

Description and location of all nonconforming structures & uses on the property:

**None**

Ordinance standard from which variance is being sought (section number and text):

17.13(3) total garage sq. footage Allowed is 900 sq. ft. (attached & detached combined) & height of **15 feet**

Describe the variance requested:

REQUESTING FOR MOR SQ. FT. IN AN OUT BUILDING FOR PONTON BOAT. ALSO FOR 10' OVER HEAD DOOR. (21'-4" X 36' OUT BUILDING.)

Type of variance requested:

**use variance** – Use variances are not granted.

**area variance** – provides an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback.

Describe the effects on the property if the variance is not granted:

*NO EFFECTS*

Alternatives

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below.

- a. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

- b. Alternatives you considered that require a lesser variance and reasons you rejected them. If you reject such alternatives, provide the reasons you rejected them.

## Part 2: Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

1) Unique property limitations *(To be completed by the applicant)*

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

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

Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives you considered.

No. A variance cannot be granted.

2) No Harm to Public Interests *(To be completed by zoning staff)*

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

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

Ordinance purpose:

This part of the zoning ordinance is to regulate the size and height of garages in 1 and 2 family dwelling areas.

Purpose(s) of standard from which variance is requested:

1. To keep the house and garage sizes proportional to each other, so that the primary use of the R-1 lot is for a dwelling and not garage functions.
2. To limit the amount of impervious surfaces on a lot so that rain run-off has more area to penetrate the soil instead of running off the property.
3. To have more green space for occupants and neighbors to enjoy being outside. Some studies suggest green spaces benefit mental health.

Analysis of impacts

Discuss impacts that would result if the variance was granted. For each impact, describe potential mitigation measures and the extent to which they reduce project impact (completely, somewhat, or minor). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term and cumulatively.

Short term impacts: (through the completion of construction)

Impact 1:	Impact 2:
Mitigation 1:	Mitigation 2:
Extent to which mitigation reduces project impact	Extent to which mitigation reduces project impact:

Long term impacts: (after construction is completed)

Impact 1:	Impact 2:
Mitigation 1:	Mitigation 2:
Extent to which mitigation reduces project impact:	Extent to which mitigation reduces project impact:

Cumulative impacts: (What would happen if a similar variance request was granted for many properties?)

Impact 1:

There would be less impervious surfaces to absorb stormwater.

Mitigation 1:

Require more controlled run-off by mandating gutters on buildings and directing that water to retention ponds or other stormwater drains

Extent to which mitigation reduces project impact:

Depending on lot contours and the amount of rain in an event, it may offset the impact completely or have little to no impact.

Impact 2:

There would be less green space in the one and 2 family areas of the City

Mitigation 2:

Require more areas be set aside for green spaces in future residential developments.

Extent to which mitigation reduces project impact:

Public green space is not as desirable as privately owned green space as it is generally underutilized

Will granting the variance harm the public interest?

- Yes. A variance cannot be granted.
- No. Mitigation measures described above will be implemented to protect the public interest.

3) Unnecessary hardship (To be completed by the applicant)

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

- For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.<sup>1</sup> The Wisconsin Supreme Court also determined that living without a lakeside porch was a personal inconvenience and did not constitute unnecessary hardship.<sup>2</sup> 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.

**Is unnecessary hardship present?**

Yes.

Describe:

No. A variance cannot be granted

<sup>1</sup> *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514

<sup>2</sup> *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)



**Part 3: Construction Plans**

To be completed and submitted by the applicant.

Attach construction plans detailing:

- Property lines
- Vegetation removal proposed
- Contour lines (2 ft. interval)
- Floodplain & wetland boundaries
- Dimensions, locations & setbacks of existing & proposed structures
- Utilities, roadways & easements
- Location & extent of filling/grading
- Location & type of erosion control measures
- Any other construction related to your request
- Anticipated project start date

I certify that the information I have provided in this application is true and accurate.

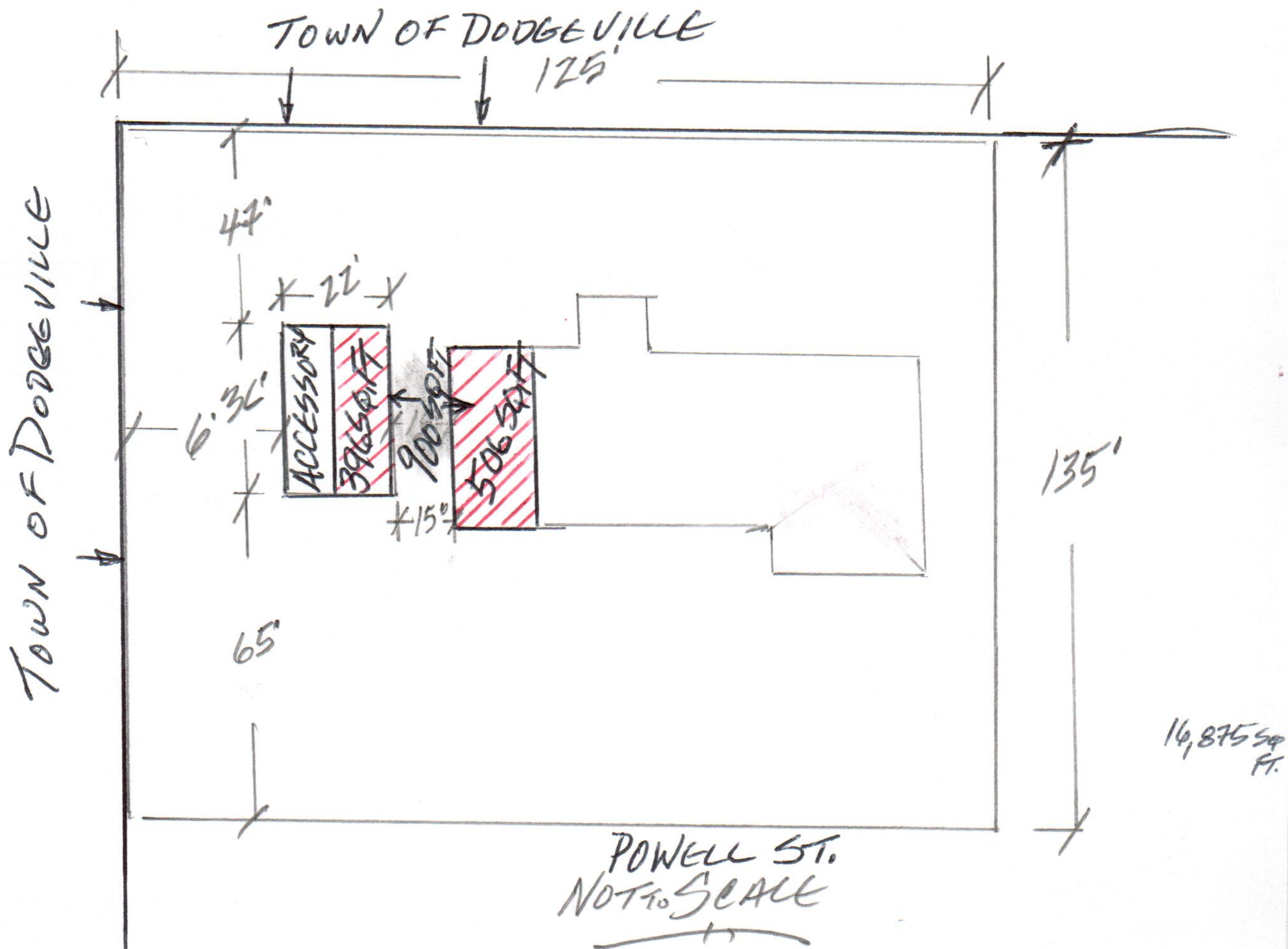
Signed: (applicant/agent/owner)

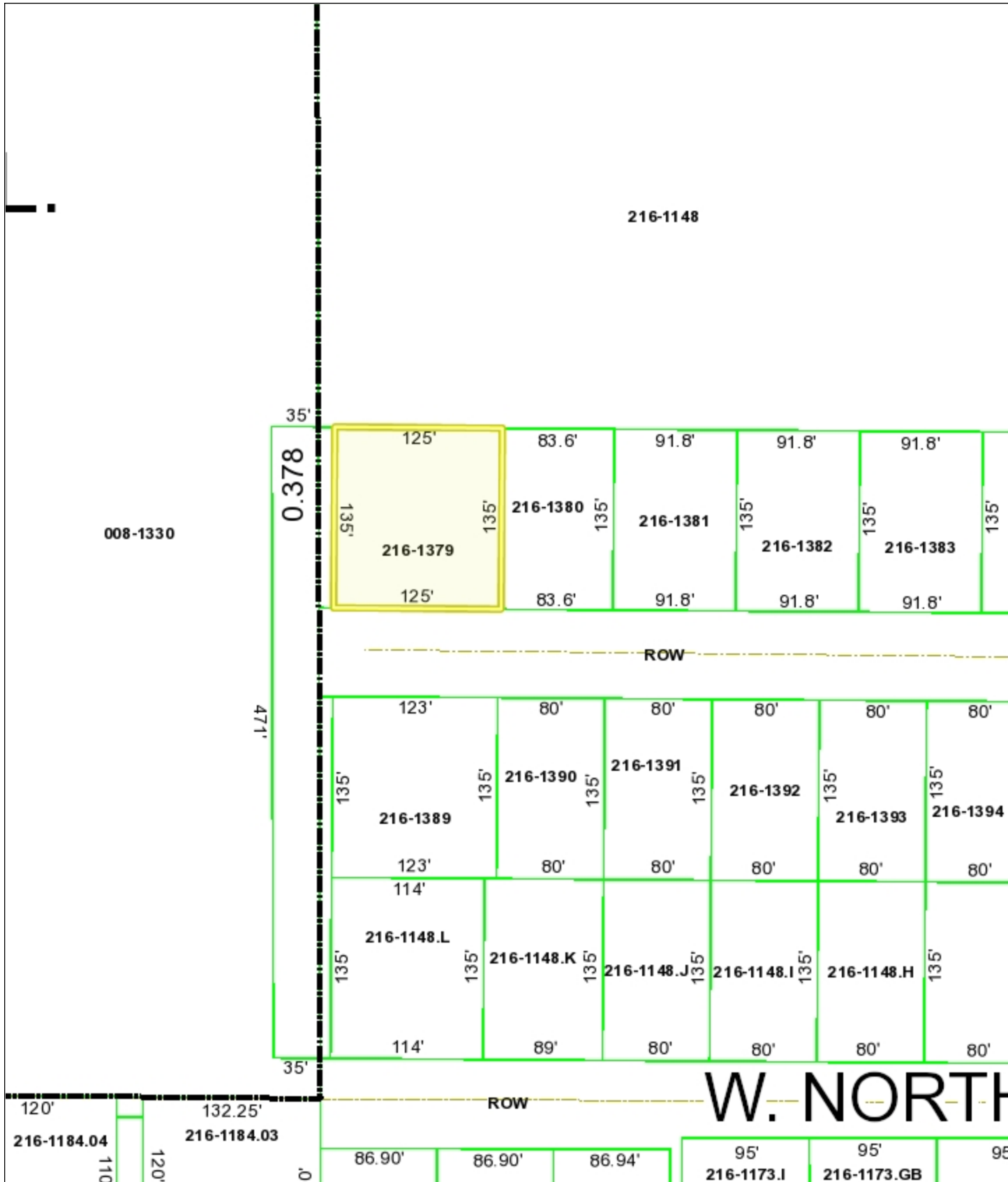
*James Short*

Date:

9/14/22

Remit to: Building Inspector  
100 E Fountain St. Dodgeville, WI 53533  
buildinginspector@dodgevillewi.gov





SW WI GIS

DISCLAIMER: No guarantee in the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1" = 100'

Print Date: 9/14/2022

Owners within 100 feet of Jim Short at 538 Powell St.

<b>Owner</b>	<b>Property Address</b>	<b>Parcel #</b>	<b>Mailing Address</b>	<b>City, St. Zip</b>
BEVERLY A ZIMMERMAN	not assigned-Agricultural	216-1148	804 S. Lindsey St.	Dodgeville, WI 53533
CHRISTIE GEISKING	530 Powell St.	216-1381	530 Powell St.	Dodgeville, WI 53533
NEAL A GLUNN	534 POWELL ST	216-1380	534 Powell St.	Dodgeville, WI 53533
JAMES L RUPP	531 POWELL ST	216-1391	531 Powell St.	Dodgeville, WI 53533
TRAVIS KITELINGER	535 POWELL ST	216-1390	535 Powell St.	Dodgeville, WI 53533
ADAM R GUNDERMAN	539 POWELL ST	216-1389	539 Powell St.	Dodgeville, WI 53533
GREGORY J LEE	not assigned- vacant land	216-1379.02	1994 Long Valley Rd	Hollandale, WI 53544
GREGORY J LEE	not assigned- vacant land	008-1330	1994 Long Valley Rd	Hollandale, WI 53544
JAMES R POWELL	not assigned - Agricultural	008-1330	804 S. Lindsey St.	Dodgeville, WI 53533

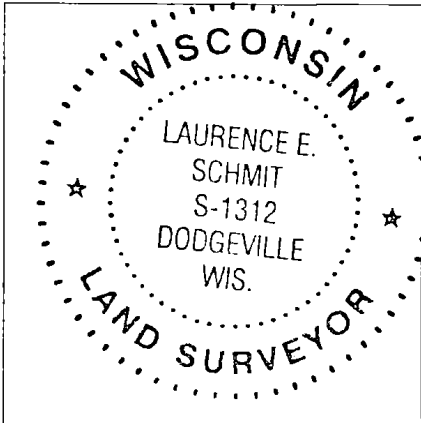
# IOWA COUNTY C.S.M. 1612

Being Lot 1, the West 8.2' of Lot 2, both in Block 1, and lot 1 Block 2, of School Heights Subdivision as recorded in Document 130656, that part of a 25' wide vacated and future Street on the west end of School Heights Subdivision, and a unplatted lot lying immediately south of said Lot 1, Block 2, all in part of the SW 1/4 of the NE 1/4 of Section 28, T6N, R3E, City of Dodgeville, Iowa County, Wisconsin

sheet 1 of 3

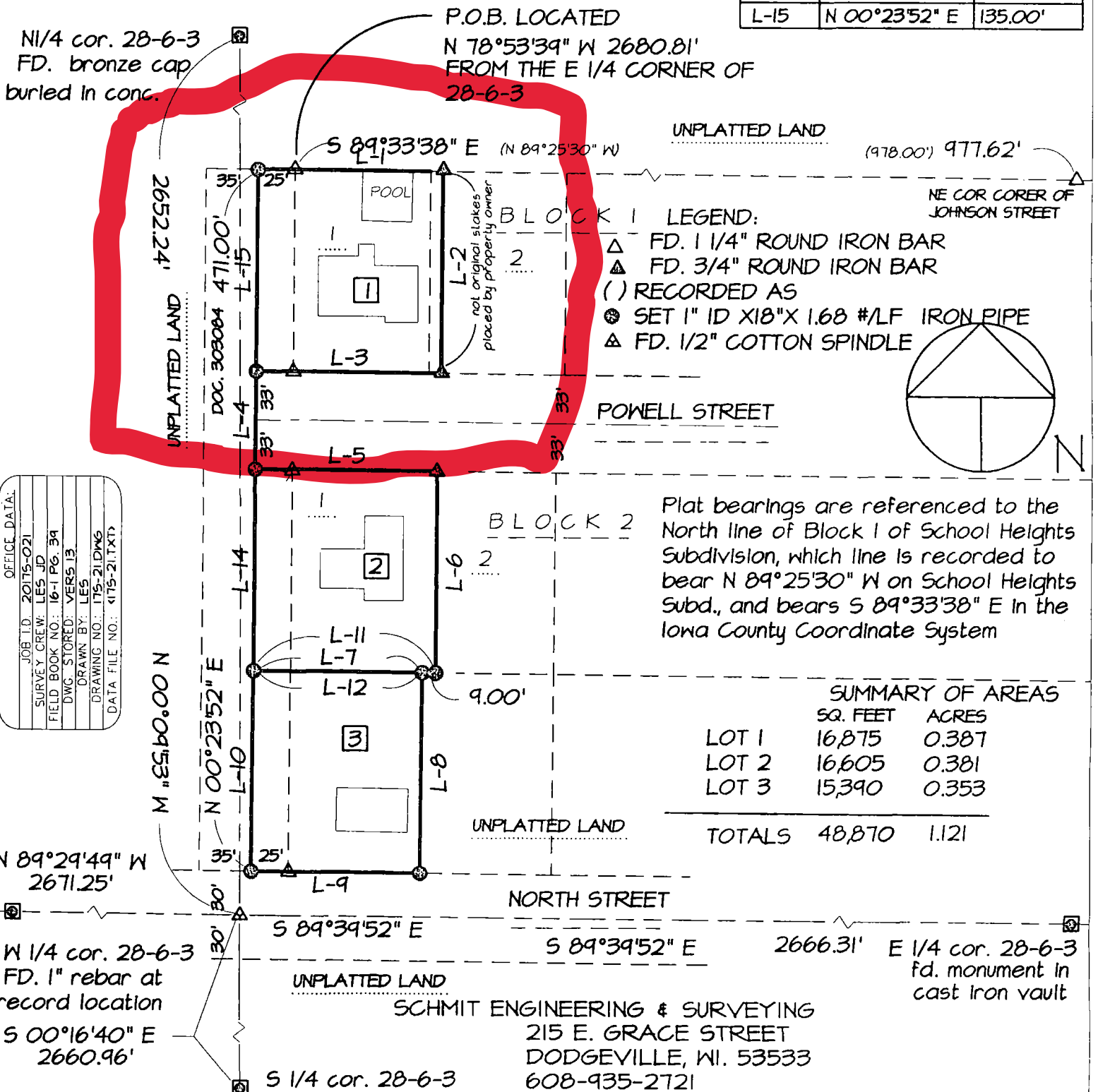


Scale 1" = 100'



NUMBER	BEARING	DISTANCE
L-1	S 89°33'38" E	100.00'
L-2	S 00°23'52" W	135.00'
L-3	N 89°33'38" W	125.00'
L-4	S 00°23'52" W	66.00'
L-5	S 89°33'38" E	123.00'
L-6	S 00°23'52" W	135.00'
L-7	S 89°33'38" E	114.00'
L-8	S 00°23'52" W	135.00'
L-9	N 89°33'38" W	114.00'
L-10	N 00°23'52" E	135.00'
L-11	S 89°33'38" E	123.00'
L-12	S 89°33'38" E	114.00'
L-14	N 00°23'52" E	135.00'
L-15	N 00°23'52" E	135.00'

*Laurence E. Schmit 6-6-17*



IOWA COUNTY C.S.M. 1612

Being Lot 1, the West 8.2' of Lot 2, both in Block 1, and lot 1 Block 2, of School Heights Subdivision as recorded in Document 130656, that part of a 25' wide vacated and future Street on the west end of School Heights Subdivision, and a unplatted lot lying immediately south of said Lot 1, Block 2, all in part of the SW 1/4 of the NE 1/4 of Section 28, T6N, R3E, City of Dodgeville, Iowa County, Wisconsin

SURVEYOR'S CERTIFICATE:

I, Laurence E. Schmit, Professional Land Surveyor hereby certify that under the direction of Greg Lee, I have made a survey, division, and map. Subject map is a correct representation of all the exterior boundaries of the land surveyed and the division thereof, and that I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes in the dividing, mapping of the land which is described as being

Lot 1, the West 8.2' of Lot 2, both in Block 1, and lot 1 Block 2, of School Heights Subdivision as recorded in Document 130656, that part of a 25' wide vacated and future Street on the west end of School Heights Subdivision, and a unplatted lot lying immediately south of said Lot 1, Block 2, all in part of the SW 1/4 of the NE 1/4 of Section 28, T6N, R3E, City of Dodgeville, Iowa County, Wisconsin, to wit:

Commencing at the E 1/4 corner of said Section 28; thence N 78°53'39" W, 2680.81' to the NW corner of Lot 1, Block 1, School Heights Subdivision, said point being the POINT OF BEGINNING; thence S 89°33'38" E, 100.00' along the north line of Block 1 to a point 8.2' east of the NE corner of Lot 1, Block 1, from said point a 3/4" rebar bears N 32°27'E, 0.78'; thence S 00°23'52" W, 135.00' to a point lying 8.2' east of the SE corner of Lot 1, Block 1, from said point a 3/4" rebar lies N 86°03' E, 0.32'; thence N 89°33'38" W, 125.00' to the east line of that parcel described in Document 303084; thence S 00°23'52" W, 66.00' along the west line of Powell Street; thence S 89°33'38" E, 123.00 along the south line of Powell Street to the NE corner of Lot 1 of Block 2 of School Heights Subdivision; thence S 00°23'52" W, 135.00' the SE corner of said Lot 1, Block 2; thence N 89°33'38" W, 9.00' to the NE corner of an unplatted lot adjoining the south line of said lot 1 block 2; thence S 00°23'52"W, 135.00' along the east line of said unplatted lot to the north right of way line of North Street; thence N 89°33'38" W, 114.00' along North Street to the east line of that Parcel described in Document 303084; thence N 00°23'52" E, 471.00' along said east line; thence S 89°33'38" E, 25' to the POINT OF BEGINNING. Containing 48,870 square feet, or 1.121 acres, more or less.

*Laurence E. Schmit*

6-6-17

Laurence E. Schmit

Date:

sheet 2 of 3



NOTES

- SEE DOC. 318453 FOR CITY OF DODGEVILLE RESOLUTION 799 TO DISCONTINUE AN UNNAMED STREET IN THE CITY OF DODGEVILLE
- Existing numbered lots shown are from "School Heights" Subd. recorded as Document 130656
- School Heights Subdivision tie to the E1/4 corner of 28-6-3 differs as measured from the current monumented E 1/4 corner of 28-6-3. The corner used for School Heights plat is S 01°06'44" E, 11.02' from the current monumented E 1/4 corner of 28-6-3
- The west 12.5' of lots 1 and 3 need to be conveyed to the owners lots 1 & 3. Currently the 12.5' is owned by the adjoiner described in Document 303084 as 1/2 interest in the discontinued street.

SCHMIT ENGINEERING & SURVEYING  
215 E. GRACE STREET  
DODGEVILLE, WI. 53533  
608-935-2721

OFFICE DATA:	
JOB I.D.	20175-021
SURVEY CREW:	LES JD
FIELD BOOK NO.:	16-1 PG. 39
DWG. STORED:	VERS 13
DRAWN BY:	LES
DRAWING NO.:	175-21.DWG
DATA FILE NO.:	175-21.TXT

IOWA COUNTY C.S.M. 1612

Being Lot 1, the West 8.2' of Lot 2, both in Block 1, and lot 1 Block 2, of School Heights Subdivision as recorded in Document 130656, that part of a 25' wide vacated and future Street on the west end of School Heights Subdivision, and a unplatted lot lying immediately south of said Lot 1, Block 2, all in part of the SW 1/4 of the NE 1/4 of Section 28, T6N, R3E, City of Dodgeville, Iowa County, Wisconsin

OWNERS' CERTIFICATE

As owner(s), I hereby certify that I caused the land described on the plat to be surveyed, divided, mapped, and restricted as represented on the plat. I also certify that this plat is required by s.236.10 or s.236.12 to be submitted to the following for approval or objection: none

James Short 6/9/17  
James G. Short date:

Deborah Short 6/9/17  
Deborah A. Short date:

Gregory Lee 6/9/17  
Gregory J. Lee date:

Sandra J. Lee 6-9-17  
Sandra J. Lee date:

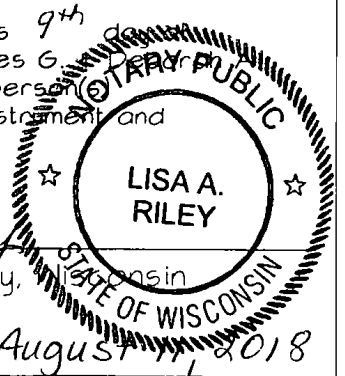
Randall C. Borne 6-09-17  
Randall C. Borne date:

Lisa Mary Borne 6-9-17  
Lisa Mary Borne date:

STATE OF WISCONSIN)  
IOWA COUNTY)

Personally came before me this 9<sup>th</sup> day of June, 2017, the named James G. Short, to me known to be the person who executed the foregoing instrument and acknowledged the same

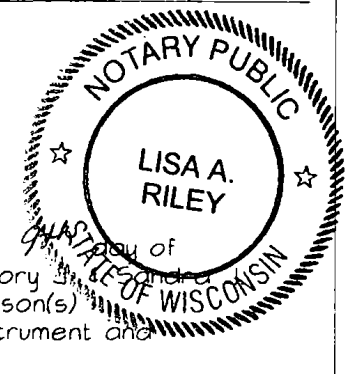
Lisa A. Riley  
Notary Public, Iowa County, Wisconsin  
My Commission expires August 11, 2018



STATE OF WISCONSIN)  
IOWA COUNTY)

Personally came before me this 9<sup>th</sup> day of June, 2017, the named Gregory J. Lee, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same

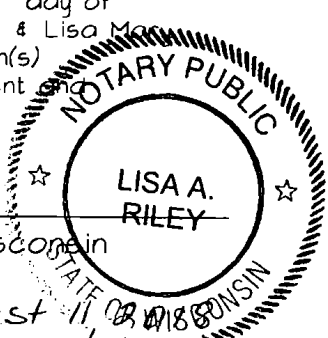
Lisa A. Riley  
Notary Public, Iowa County, Wisconsin  
My Commission expires August 11, 2018



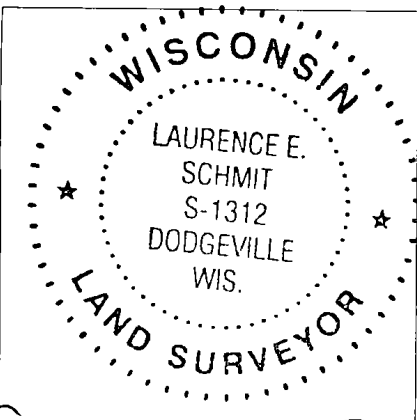
STATE OF WISCONSIN)  
IOWA COUNTY)

Personally came before me this 9<sup>th</sup> day of June, 2017, the named Randall C. & Lisa Mary Borne, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same

Lisa A. Riley  
Notary Public, Iowa County, Wisconsin  
My Commission expires August 11, 2018



sheet 3 of 3



Laurence E. Schmit 6-6-17

REGISTER OF DEEDS

Received for recording this 9<sup>th</sup> day of June, 2017 at 3:15 O'clock P M and recorded in Volume 11 of Certified Survey Maps of Iowa County on page(s) 223-225

Taylor J. Campbell Deputy  
Dixie Edge - Register of Deeds

### **17.33 BOARD OF ZONING APPEALS.**

(1) MEMBERSHIP. See sec. 1.17 of this Code.

(2) POWERS OF ZONING BOARD OF APPEALS. In addition to these powers enumerated elsewhere in this Code of Ordinances and in the Wisconsin Statutes, the Board of Appeals shall have the following powers:

(a) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official of the City, including but not limited to the Zoning Administrator or Building Inspector.

(b) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and substantial justice done. Use variances shall not be granted.

(c) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts.

(d) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Common Council has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

(e) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Common Council has made a review and recommendation.

(f) **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed six (6) months.

(g) **Public Utility.** To permit, in appropriate cases and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the zoning code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

(h) To grant a permit for the extension of a district boundary for a distance of not more than 25 feet where the boundary of a district divides a lot in single ownership at the time of the adoption of this chapter.

(i) To permit the temporary storage, as defined herein, of an item otherwise prohibited under sec. 17.08 of this chapter.

(j) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the Official Map accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout on the aforesaid map.

(k) After public hearing, to grant a permit for the construction or erection of a building or structure located within 3 miles of the boundary line of any airport to a height greater than that permitted by this chapter, provided that the Board shall first have determined that the height, use and location of such building or structure will not constitute a hazard to the normal, safe operation of aircraft.

(l) The Board shall have the power to call on any other City department for assistance in the performance of its duties and it shall be the duty of such other department to render such assistance as may be reasonably required.

(3) **POWERS LIMITED.** Except as specifically provided, no action of the Board shall have the effect of permitting in any district uses prohibited in such district; nor shall such Board be permitted to take any action which would, in effect, create a buildable lot smaller than the minimum lot size or area otherwise required by the City; nor may such Board rule on conditional uses.

(4) **VARIANCES.**

(a) **Purpose.**



(i) A request for an area variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. For purposes of this Article, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk or density restriction for a structure; and “use variance” means an authorization for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. The Board of Appeals may not grant use variances.

(ii) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed, public safety and welfare secured, and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(iii) The property owner bears the burden of proving “unnecessary hardship,” as that term is defined in section 62.23(7)(e)7.d of the Wisconsin Statutes, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. The property owner also bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(b) Application for Variance. The application for a variance shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

(i) Name and address of applicant and all abutting and opposite property owners of record.

(ii) Statement that the applicant is the owner or the authorized agent of the owner of the property.

(iii) Address and description of the property.

(iv) A site plan showing an accurate depiction of the property.

(v) Additional information required by the City Engineer, Zoning Board of Appeals or Zoning Administrator.

(vi) Fee in an amount established by the Common Council.

(c) Notice of and Public Hearing on Application.

(i) (Cr. Ord. #886) In all cases in which a variance is applied for, the City Clerk shall promptly provide copies of the notice of appeal, the application for variance and supporting documents to each of the following City officials:

Director of Public Works  
Chair of Board of Appeals  
Building Inspector

(ii) The Board of Appeals shall conduct at least one (1) public hearing on the proposed variance. The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than five (5) days prior thereto and cause notice to be given to the applicant by regular mail or by personal delivery not less than five (5) days prior to the date of hearing. Notice shall also be mailed not less than five (5) days prior to the hearing to the fee owners of record of all land within one hundred (100) feet of any part of the subject building or premises involved in the application. At the hearing the appellant or applicant may appear in person, by agent or by attorney.

(d) Action of the Board. For the Board to grant a variance, it must find that:

(i) Denial of variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

(ii) The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought.

(iii) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

(iv) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

(v) The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code.

(e) Conditions. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

(5) APPEALS TO BOARD.

(a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or other body of the City responsible for administration of this Chapter. Such appeal shall be taken within 30 days from either the date of actual notice of said decision to the person aggrieved or from the date of the mailing of a copy of said decision to him or her, whichever is earlier, by filing with the officer or body from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. Filing with the Board shall be accomplished by filing with the City Clerk.

(b) The officer or body from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(c) The Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof by publication once in the Dodgeville Chronicle, said publication to be not less than 5 days before said hearing nor more than 15 days before said hearing and shall give notice to the parties in interest and shall decide the same within a reasonable time.

(d) (Am. Ords. #1025, #2015-1343) A fee shall be paid as provided under s. 25.045 of this Code.

(e) The City Clerk shall promptly provide copies of the notice of appeal and supporting documents to the Building Inspector, Zoning Administrator and the Director of Public Works.

(f) An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal has been filed with that officer that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(6) DECISIONS OF BOARD OF APPEALS.

(a) Timeframe. The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(b) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.

(c) Validity. Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(d) Methods. In exercising its powers, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

(e) Listed Property. In any action involving property listed on the national register of historic places in Wisconsin or the state register of historic places, the Board shall consider any suggested alternatives or recommended decision submitted by the Historic Preservation Commission (if any) or the Plan Commission.

(7) REVIEW BY COURT OF RECORD.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may, within 30 days after the filing of the decision in the office of the Board of Appeals, commence an action in circuit court seeking the remedy available by certiorari.

Owners within 100 feet of Jim Short at 538 Powell St.

<b>Owner</b>	<b>Property Address</b>	<b>Parcel #</b>	<b>Mailing Address</b>	<b>City, St. Zip</b>
BEVERLY A ZIMMERMAN	not assigned-Agricultural	216-1148	804 S. Lindsey St.	Dodgeville, WI 53533
CHRISTIE GEISKING	530 Powell St.	216-1381	530 Powell St.	Dodgeville, WI 53533
NEAL A GLUNN	534 POWELL ST	216-1380	534 Powell St.	Dodgeville, WI 53533
JAMES L RUPP	531 POWELL ST	216-1391	531 Powell St.	Dodgeville, WI 53533
TRAVIS KITELINGER	535 POWELL ST	216-1390	535 Powell St.	Dodgeville, WI 53533
ADAM R GUNDERMAN	539 POWELL ST	216-1389	539 Powell St.	Dodgeville, WI 53533
GREGORY J LEE	not assigned- vacant land	216-1379.02	1994 Long Valley Rd	Hollandale, WI 53544
GREGORY J LEE	not assigned- vacant land	008-1330	1994 Long Valley Rd	Hollandale, WI 53544
JAMES R POWELL	not assigned - Agricultural	008-1330	804 S. Lindsey St.	Dodgeville, WI 53533