

## AGENDA

**City of Whitewater, Board of Zoning Appeals  
On September 26, 2013  
6:00 p.m., Community Room  
Whitewater Municipal Building  
Whitewater WI**

1. Call to order and roll call.
2. Secretary presents the cases to be heard:
  - a. Land & Water Investments LLC., (Matt Kuehl and Robert Freiermuth), 224-226 S. Wisconsin Street, variance to Section 19.51.080(C), to increase the maximum number of vehicles to be parked in the front and side yard area in an R-3 Zoning District, to allow for changes to the design of the current parking (7 parking stalls and dumpster to be located in the street yard area and 1 parking stall in the side yard). (Tax Parcel # /TRA 00040)
  - b. Lee L. Daniels Revocable Trust (Robert Kantin, Trustee), 240 N. Prince Street, variance to Section 19.21.050 (D) to reduce the lot width requirement of 100 feet to 77.49 feet to allow for the construction of a three unit apartment (Tax Parcel # /WUP 00180).
4. Testimony of appellant (after being sworn in).
5. Testimony of building inspector.
6. Objections in writing or in person.
7. Questions, rebuttals as necessary.
8. Adjourn to closed session, under WIS Stats. 19.85(1)(a) "deliberating concerning a case which was the subject of the quasi-judicial hearing before the board, NOT TO RECONVENE.
9. Notification of decision in writing to appellant, news media, etc. will follow.

Anyone requiring special arrangements is asked to call the Zoning and Planning Office 72 hours prior to the meeting.



Neighborhood Services Department  
*Planning, Zoning, Code Enforcement, GIS  
and Building Inspections*

[www.whitewater-wi.gov](http://www.whitewater-wi.gov)  
Telephone: (262) 473-0540

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To: City of Whitewater Board of Zoning Appeals  
From: Latisha Birkeland, Neighborhood Services Director/ City Planner  
Meeting Date: September 26, 2013  
Re: Request a variance to allow for changes to the design of the current parking (7 parking stalls and dumpster to be located in the street yard area and 1 parking stall in the side yard) located at 224-226 S. Wisconsin Street

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### Summary of Request

**Location:** 224-226 S. Wisconsin Street

**Current Land Use:** Two-family dwelling unit

**Current Zoning:** R-3 Multi-Family Residential

#### Description

In 2009, the Plan Commission approved an addition onto an existing duplex location at 224-226 S. Wisconsin Street. Six (6) parking stalls would be located in the front yard and two (2) parking stalls would be located in the rear yard, totaling eight (8) stalls. The dumpster was approved to be located in the front yard, just east of the dwellings. This site plan has been included in the packet.

A two-family dwelling may have up to six (6) vehicles parking in any combination of the front and side yard areas. Land and Water Investments, LLC (Matt Kuehl and Robert Freiermuth) are asking for a variance to allow seven (7) parking stalls and a dumpster to be located in the street yard and one (1) parking stall to be located in the side yard.

The front yard parking area has a length of 60 feet. Reducing the parking stall width to the allowable minimum width, allows the additional stall to fit within this area. The edge of the parking area is 64 feet from the front property line. The side yard length is 14 feet from the sidewalk to the property line. The proposed stall is 9 feet wide. This would provide enough room so that the car is not parking closer than three feet to any abutting property line (19.51.080).

The new proposed dumpster location would be located 59 feet from the front property line, if the dumpster were five (5) feet in width. Dumpsters may be located in the street yard if screened from the public view. Please view the pictures that have been included in the packet.

#### **The proposed variance requested:**

- 1) Request a variance to allow for changes to the design of the current parking (7 parking stalls and dumpster to be located in the street yard area and 1 parking stall in the side yard) located at 224-226 S. Wisconsin Street

Regardless if the variance is granted or denied, the applicant needs to pave the parking area in accordance to the City Code.

**Analysis of Proposed Project**

No variance to the provisions of this title shall be granted by the board unless it finds beyond a reasonable doubt that all of the following facts and conditions exist:

Standard	Evaluation	Comments
<b>Findings prerequisite to grant a variance (see section 19.72.080 of zoning ordinance)</b>		
The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;	Yes	The applicant states that the two parking stalls in the rear of the property cause difficulty driving out of the rear parking area in the winter.
The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification	No	Other properties in the City have different grade from the rear to the front yards. This may be applicable to other properties.
The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner	Yes	The applicant states this parking change improves the view from the lake, reduces difficulty driving from the rear of the property in the winter, and that changing the dumpster location is beneficial for garbage truck access.
The hardship is not one that is self-created	Yes	The two-family structure already exists on the property.
The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhoods	Maybe	Adding a parking stall to the front and side yard may affect the neighboring properties. As of 12:00 PM on 9/17/13, no comments were made from the public.
The proposed variance will not have the effect of permitting a use which is not otherwise permitted in the district	Yes	The use is already existing in the district.

Standard	Evaluation	Comments
No variance shall be granted in a floodland district where not in compliance with Section <a href="#">19.46.070(C)(4)</a> of this title.	NA	This property is not in a flood plain

PUBLISH IN WHITEWATER REGISTER ON SEPTEMBER 5, 2013 AND  
SEPTEMBER 12, 2013

NOTICE OF ZONING HEARING

TO ALL CONCERNED:

A public hearing will be held by the Board of Zoning Appeals of the city of Whitewater on September 26, 2013 at 6:00 p.m. in the Whitewater Municipal Building Community Room, 312 W. Whitewater Street, Whitewater, Wisconsin.

The purpose of this hearing is to consider a request for a variance to Section 19.51.080 (C) to allow for changes to the design of the current parking (7 parking stalls and dumpster to be located in the street yard area and 1 parking stall in the side yard) located at 224-226 S. Wisconsin Street for Land and Water Investments LLC. (Matt Kuehl and Robert Freiermuth).

This notice is being mailed to owners of record within 300 feet of the property in question, to the City Planner and the Plan Commission in accordance with Section 19 of the Code of Ordinances. THE PROPOSAL FILED BY THE OWNER IS NOW OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE CITY PLANNER DURING NORMAL BUSINESS HOURS (Monday – Friday 8:00 a.m. to 5:00 p.m.)

BOARD OF ZONING APPEALS

By: Michele Smith  
Michele Smith, Secretary

Dated: August 30, 2013

224/226 S. Wisconsin St.

/ Duplicates

DEAN K GIESE  
200 EAST CLAY ST  
WHITEWATER WI, 53190

ROBERT F GABBEY  
N421 MARIPOSA LANE  
WISCONSIN DELLS WI, 53965

WWBC LLC  
N7771 RIDGE RD  
WHITEWATER WI, 53190

JUSTIN L PETITT  
LAURA J PETITT  
224 S GREEN ST  
WHITEWATER WI, 53190

NELS R WIBERG  
GRETA M WIBERG  
W8131 BAY VIEW DR  
WHITEWATER WI, 53190

RICHARD D VULTAGGIO  
P. O. BOX 29  
WHITEWATER WI, 53190

THOMAS E OWENS  
212A CLAY ST #3  
WHITEWATER WI, 53190

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WHITEWATER WI, 53190

GERALD SHROBLE ESTATES LLC  
2400 S 84TH ST  
WEST ALLIS WI, 53227

LAND & WATER INVESTMENTS LLC  
503 CENTER ST  
LAKE GENEVA WI, 53147

TERESA VERDUZCO  
ROSA MARGARITA VERDUZCO  
232 WISCONSIN ST  
WHITEWATER WI, 53190

CHASE J KINCAID  
W377 S2283 KINCAID LN  
DOUSMAN WI, 53118

RYAN RICHARD TEVIS  
246 S WISCONSIN ST  
WHITEWATER WI, 53190

SHERI BRONSTAD  
254 WISCONSIN ST  
WHITEWATER WI, 53190

JOHN C KIENBAUM, SR  
JANICE K KIENBAUM  
N7351 STATE RD 89  
WHITEWATER WI, 53190

AMERICAN LEGION POST  
#173, WILLIAM GRAHAM  
292 S. WISCONSIN ST  
WHITEWATER WI, 53190

TERRY A JAECKS  
7849 W PARK HILLS DR  
BLOOMINGTON MN, 55438

JANICE M KOSHAREK  
210 S. GREEN ST  
WHITEWATER WI, 53190

M&F RENTALS LLC  
555 E CLAY ST  
WHITEWATER WI, 53190

WWBC LLC  
N7771 RIDGE RD  
WHITEWATER WI, 53190

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WHITEWATER WI, 53190~~

**NOTICE:** The Board of Zoning Appeal meetings are scheduled on the 4<sup>th</sup> Thursday of the month. All complete plans must be in by 9:00 a.m. Monday prior to the 1<sup>st</sup> Thursday of the month. If not, the item will be placed on the next available Board of Zoning Appeals meeting.

CITY OF WHITEWATER  
BOARD OF ZONING APPEALS APPLICATION PROCEDURE

1. File the application with the Code Enforcement Director's Office at least four weeks prior to the meeting. \$200.00 fee. Filed on 7-29-13.
2. Class 2 Notice published in Official Newspaper on 8-1-13 9-5-13 and 8-8-13 9-12-13. The last publication to be at least 10 days prior to the meeting.
3. Notices of the Public Hearing mailed to property owners within 300 feet of the property involved in the application on 8-6-13 9-11-13.
4. Board of Zoning Appeals holds the PUBLIC HEARING on 8-22-13 9-26-13. They will hear comments of the Petitioner and comments of property owners. Comments may be made in person or in writing.
5. At the conclusion of the Public Hearing, the Board of Zoning Appeals will deliberate and render its decision.

PLEASE COMPLETE THE FOLLOWING APPLICATION.

Refer to Chapter 19.72 of the City of Whitewater Municipal Code of Ordinances, entitled BOARD OF ZONING APPEALS, for more information on the application.

CITY OF WHITEWATER  
APPLICATION FOR VARIANCE

IDENTIFICATION AND INFORMATION ON APPLICANT(S)

Applicant's Name: Lovel + Water Investments LLC

Applicant's Mailing Address 503 Center Street, Lake Geneva, WI 53147

Owner of Property Site as of date of application, according to current property tax records: Same

Street Address of Property (if vacant land, describe in detail the property location): 294 Wisconsin Street  
Whitefish, WI 53190

Legal Description of Property (Name of Subdivision, Block and Lot, or other legal description):  
provided upon request

Agent or Representative Assisting in the Application (Engineer, Architect, Attorney, Etc.)

Name WA Firm \_\_\_\_\_

Office Address \_\_\_\_\_

Contractor \_\_\_\_\_

EXISTING AND PROPOSED USES

Current Principal Use: Residential

Accessory or Secondary Uses: WA

Proposed Use (Describe need for Variance): Residential See attached narrative

Have you been granted any variances in the past, on any properties, whether fully or partially owned by you.  
 Yes  No

If YES, list addresses of those properties and whether the requirements of the variance granted have been completed.

I believe we were granted a set back variance at  
446 Franklin Street

PLANS TO ACCOMPANY APPLICATION

Applications for permits shall be accompanied by drawings of the proposed work, drawn to scale, showing, when necessary, floor plans, sections, elevations, structural details, computations and stress diagrams as the building inspector may require.

PLOT PLAN

When required by the building inspector, there shall be submitted a plot plan in a form and size designated by the building official for filing permanently with the permit record, drawn to scale, with all dimension figures, showing accurately the size and exact location of all proposed new construction and its relationship to other existing or proposed buildings or structures on the same lot, and other buildings or structures on adjoining property, within 15 feet of the property lines. In the case of demolition, the plot plan shall show the buildings or structures to be demolished and the buildings or structures on the same lot that are to remain.

Zoning District in which the property is located: D3

No. of Occupants Proposed to be Accomodated: 8 No. of Employees, if applicable: n/a

Section of the City of Whitewater Zoning Ordinance that prohibits the proposed usage of the property. It is this section of the Ordinance for which a variance is requested: Ordinance concerning front + side yard parking

**STANDARDS**

The following are Standards that the City of Whitewater Zoning Ordinance sets for decisions on variances. Explain how your proposal meets these standards

STANDARD	APPLICANT'S EXPLANATION
<p>A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from mere inconvenience, if the strict letter of the regulations were to be carried out</p>	<p>Yes. See attached Narrative</p>
<p>B. The conditions upon which the application for a variance are based would not be applicable generally to other property within the same zoning classification</p>	<p>Yes. See attached Narrative</p>
<p>C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.</p>	<p>Correct.</p>
<p>D. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire or endanger the public safety, or substantially diminish or impair property values within the neighborhood.</p>	<p>Correct</p>



## Tips for Minimizing Your Development Review Costs: A Guide for Applicants

requirements. Therefore, such plans must be prepared with care. Regardless of the complexity, all site, building, and floor plans should:

1. Be drawn to a recognized scale and indicate what the scale is (e.g., 1 inch = 40 feet).
2. Include titles and dates on all submitted documents in case pieces of your application get separated.
3. Include clear and legible labels that identify streets, existing and proposed buildings, parking areas, and other site improvements.
4. Indicate what the property and improvements look like today versus what is being proposed for the future.
5. Accurately represent and label the dimensions of all lot lines, setbacks, pavement/parking areas, building heights, and any other pertinent project features.
6. Indicate the colors and materials of all existing and proposed site/building improvements. Including color photos with your application is one inexpensive and accurate way to show the current condition of the site. Color catalog pages or paint chips can be included to show the appearance of proposed signs, light fixtures, fences, retaining walls, landscaping features, building materials, or other similar improvements.

### Submit your application well in advance of the Plan and Architectural Review Commission meeting

The City normally requires that a complete application be submitted four weeks in advance of the Commission meeting when it will be considered. For simple submittals not requiring a public hearing, this may be reduced to two weeks in advance. The further in advance you can submit your application, the better for you and everyone involved in reviewing the project. Additional review time may give the City's planning consultant and staff an opportunity to communicate with you about potential issues with your project or application and allow you time to efficiently address those issues before the Plan and Architectural Review Commission meeting. Be sure to provide reliable contact information on your application form and be available to respond to such questions or requests in a timely manner.

### For more complex projects, submit your project for conceptual review

A conceptual review can be accomplished in several ways depending on the nature of your project and your desired outcomes.

1. Preliminary plans may be submitted to City staff and the planning consultant for a quick, informal review. This will allow you to gauge initial reactions to your proposal and help you identify key issues;
2. You may request a sit-down meeting with the Neighborhood Services Director and/or planning consultant to review and more thoroughly discuss your proposal; and/or
3. You can ask to be placed on a Plan and Architectural Review Commission meeting agenda to present and discuss preliminary plans with the Commission and gauge its reaction before formally submitting your development review application.

Overall, conceptual reviews almost always save time, money, stress, and frustration in the long run for everyone involved. For this reason, the City will absorb up to \$200 in consultant review costs for conceptual review of each project.



## Typical City Planning Consultant Development Review Costs

The City often utilizes assistance from a planning consultant to analyze requests for land development approvals against City plans and ordinances and assist the City's Plan and Architectural Review Commission and City Council on decision making. Because it is the applicant who is generating the need for the service, the City's policy is to assign most consultant costs associated with such review to the applicant, as opposed to asking general taxpayer to cover these costs.

The development review costs provided below represent the planning consultant's range of costs associated with each particular type of development review. This usually involves some initial analysis of the application well before the public meeting date, communication with the applicant at that time if there are key issues to resolve before the meeting, further analysis and preparation of a written report the week before the meeting, meeting attendance, and sometimes minor follow-up after the meeting. Costs vary depending on a wide range of factors, including the type of application, completeness and clarity of the development application, the size and complexity of the proposed development, the degree of cooperation from the applicant for further information, and the level of community interest. The City has a guide called "Tips for Minimizing Your Development Review Costs" with information on how the applicant can help control costs.

Type of Development Review Being Requested	Planning Consultant Review Cost Range
<b>Minor Site/Building Plan</b> (e.g., minor addition to building, parking lot expansion, small apartment, downtown building alterations)	
When land use is a permitted use in the zoning district, and for minor downtown building alterations	Up to \$600
When use also requires a conditional use permit, and for major downtown building alterations	\$700 to \$1,500
<b>Major Site/Building Plan</b> (e.g., new gas station/convenience store, new restaurant, supermarket, larger apartments, industrial building)	
When land use is a permitted use in the zoning district	\$700 to \$2,000
When land use also requires a conditional use permit	\$1,600 to \$12,000
<b>Conditional Use Permit with no Site Plan Review</b> (e.g., home occupation, sale of liquor request, substitution of use in existing building)	\$up to \$600
<b>Rezoning</b>	
To a standard (not PCD) zoning district	\$400 to \$2,000
To Planned Community Development zoning district, assuming complete GDP & SIP application submitted at same time	\$2,100 to \$12,000
<b>Land Division</b>	
Certified Survey Map	Up to \$300
Preliminary Subdivision Plat	\$1,500 to \$3,000
Final Plat (does not include any development agreement time)	\$500 to \$1,500
<b>Annexation</b>	\$200 to \$400
<p>Note on Potential Additional Review Costs: The City also retains a separate engineering consultant, who is typically involved in larger projects requiring stormwater management plans, major utility work, or complex parking or road access plans. Engineering costs are not included above, but will also be assigned to the development review applicant. The consultant planner and engineer closely coordinate their reviews to control costs.</p>	



# Cost Recovery Certificate and Agreement

## Section B: Applicant/Property Owner Cost Obligations

----- To be filled out by the City's Neighborhood Services Director -----

Under this agreement, the applicant shall be responsible for the costs indicated below. In the event the applicant fails to pay such costs, the responsibility shall pass to the property owner, if different. Costs may exceed those agreed to herein only by mutual agreement of the applicant, property owner, and City. If and when the City believes that actual costs incurred will exceed those listed below, for reasons not anticipated at the time of application or under the control of the City administration or consultants, the Neighborhood Services Director or his agent shall notify the applicant and property owner for their approval to exceed such initially agreed costs. If the applicant and property owner do not approve such additional costs, the City may, as permitted by law, consider the application withdrawn and/or suspend or terminate further review and consideration of the development application. In such case, the applicant and property owner shall be responsible for all consultant costs incurred up until that time.

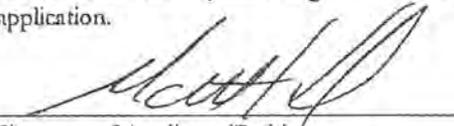
- A. Application Fee.....\$ \_\_\_\_\_
- B. Expected Planning Consultant Review Cost.....\$ \_\_\_\_\_
- C. Total Cost Expected of Applicant (A+B).....\$ \_\_\_\_\_
- D. 25% of Total Cost, Due at Time of Application.....\$ \_\_\_\_\_
- E. Project Likely to Incur Additional Engineering or Other Consultant Review Costs?  Yes  No

The balance of the applicant's costs, not due at time of application, shall be payable upon applicant receipt of one or more itemized invoices from the City. If the application fee plus actual planning and engineering consultant review costs end up being less than the 25% charged to the applicant at the time of application, the City shall refund the difference to the applicant.

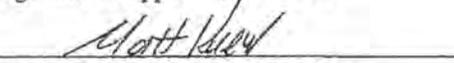
## Section C: Agreement Execution

----- To be filled out by the Applicant and Property Owner -----

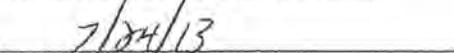
The undersigned applicant and property owner agree to reimburse the City for all costs directly or indirectly associated with the consideration of the applicant's proposal as indicated in this agreement, with 25% of such costs payable at the time of application and the remainder of such costs payable upon receipt of one or more invoices from the City following the execution of development review services associated with the application.

  
\_\_\_\_\_  
Signature of Applicant/Petitioner

\_\_\_\_\_  
Signature of Property Owner (if different)

  
\_\_\_\_\_  
Printed Name of Applicant/Petitioner

\_\_\_\_\_  
Printed Name of Property Owner (if different)

  
\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature

**NARRATIVE**  
**VARIANCE APPLICATION**  
**224-226 WISCONSIN STREET**

This application for a variance is intended to amend the design of the parking at the subject property to address and correct certain unintended consequences of the original plan, which has proved impractical.

The current plan calls for six parking spots on the street side of the property, two parking spots in the rear (lake side) of the property, and the garbage dumpster to be located on the north side of the property.

The first issue that was created by this arrangement results from the fact that, because this is a lake front property, which is visible across the lake from the downtown area, unlike the vast majority of other properties in the city, the most noticeable part of this property to the public is the rear of the property – not the street side of the property. Therefore, having parking in the rear of the property has resulted in a less attractive property than could be attained by having all of the parking on the street side. Removing the rear parking area would improve the property's appearance from the downtown area.

The second issue is that, because the slope of this property runs towards the lake, we have discovered that cars that are parked in the rear often times have difficulty driving out of the rear parking area in the winter. It is for this reason that we decided to leave the driveway as gravel, rather than paving it. Moving all of the parking to the street side would eliminate the problem of cars getting stranded during the winter months.

The third issue is that, the proposed location of the garbage dumpster became too difficult for the garbage truck to access. We have created an area within the street side parking area that is more easily accessible and remains largely out of view from the street.

The proposed amended plan, would call for the existing street side parking area to be re-arranged to allow for one additional parking stall, thus increasing the amount of parking stalls from six to seven. This can be done without enlarging the current parking area. The garbage dumpster would be located at the end of this parking area, behind the shrubbery, hidden from the street. The final parking stall would be located on north side of the property. Ironically, this plan is very similar to the plan that the city originally recommended for this project. We proposed the plan for rear parking against the city's advice.

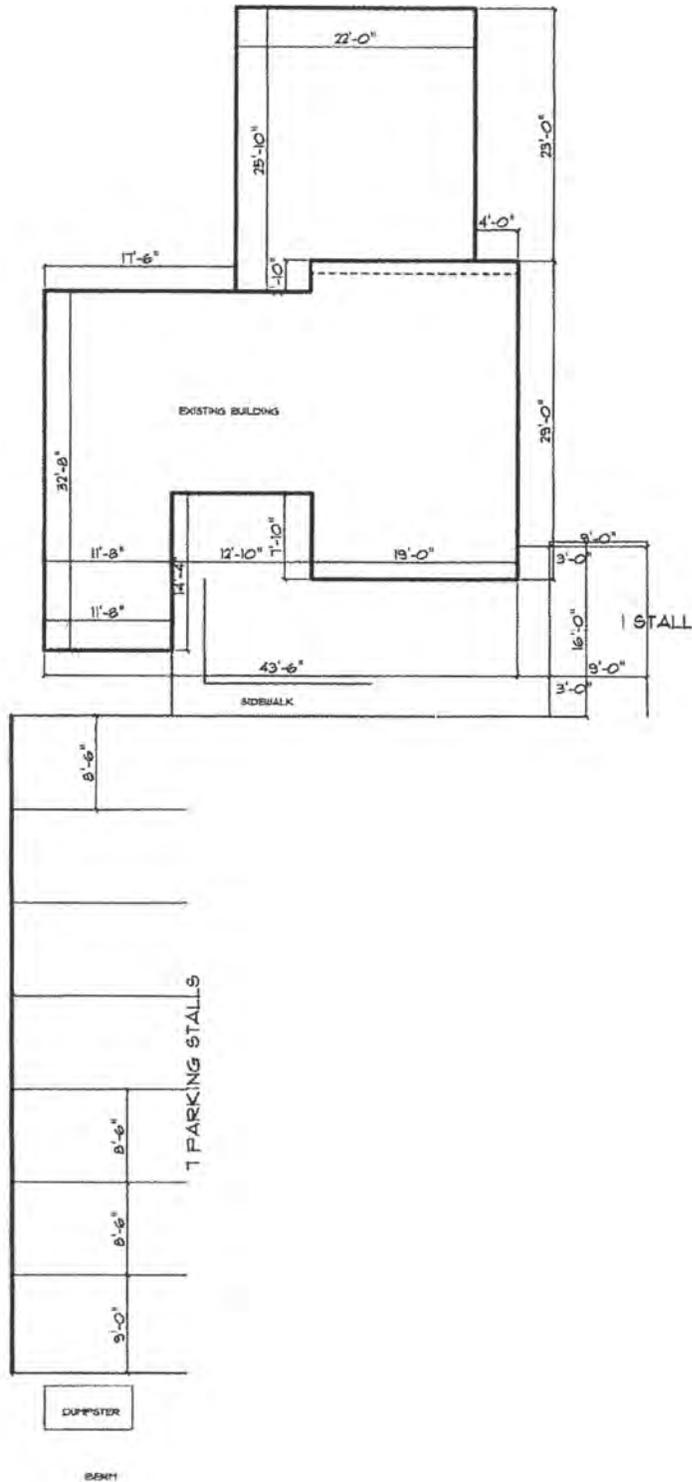
The reasons for the proposed changes are unique to this property and would not be transferrable to other properties within the city. We are not aware of another property that, at present, is similarly situated. Additionally, the proposed plan would be more consistent with the surrounding properties, all of which have primarily front yard parking.

**19.51.080 - Front and side yard parking limitation.**

- A. In all residential districts, except as provided in subsections B, C and D below or as otherwise allowed by a previously granted zoning permit, not more than three vehicles shall be parked in any combination of the front or side yard area. In no case shall vehicles be parked closer than three feet to any abutting property line (except for shared parking areas for which a zoning permit has been granted) or any lawn or landscaped area. All parking must take place in legally established and maintained parking areas or driveways outside of any required vehicular circulation areas.
- B. A legally established two-family dwelling may have up to six vehicles parked in any combination of the front and side yard area.
- C. In the R-3 Multifamily Residence District, except for legally established two-family dwellings or otherwise allowed by a zoning permit, not more than five vehicles may be parked in any combination of the front or side yard area. Newly constructed or reconstructed properties as of the date of this chapter may have no more than three vehicles in front and side yards.
- D. The number of vehicles allowed within front and side yard areas of lots occupied by single family residences may be increased to one per licensed driver legally occupying the property, not to exceed five vehicles.

*(Ord. 1082 § 8, 1986)*

*(Ord. No. 16884, 5-17-2008; Ord. No. 1715A, 2-3-2009)*



DATE 10/2/2012	SHEET NUMBER 1 OF 1	SCALE: 1/8" = 1'-0"
		SHEET TITLE:
		DRAWN BY: STEFANIE STIBB

**PARKING FOR:**

224 + 226 WISCONSIN STREET  
WATERLOO, WI 53190

REVISIONS:


**HOME LUMBER CO.**

489 Whitewater Street  
Ph (262) 473-3538  
www.homeslumber.com

Whitewater, WI 53190  
Fax: 262-473-5028  
Email: sstibb@homeslumber.com







Approved 2009

**LAND-MARK SURVEYING**  
Mark L. Miritz

Wisconsin Registered Land Surveyor S-2582

N9330 Knuteson Drive  
Whitewater, WI 53190  
Phone: (262) 495-3284  
FAX: (262) 495-8421  
LAND-MARKSURVEYING.COM

**PLAT OF SURVEY**

**LEGAL DESCRIPTION**

AS FOUND IN DOCUMENT NO. 737138 OF WALWORTH COUNTY RECORDS

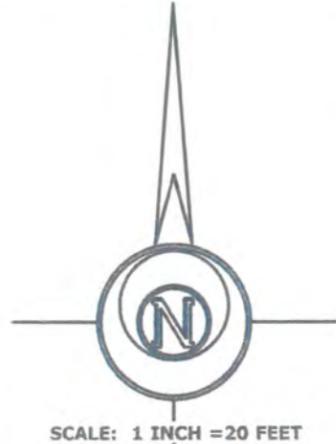
ALL OF LOT 6 IN BLOCK 4 IN TRIPP'S SECOND ADDITION TO THE VILLAGE, NOW CITY, OF WHITEWATER, WALWORTH COUNTY, WISCONSIN, LYING NORTH OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON STAKE 57 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 6, RUNNING THENCE WESTERLY 8 RODS AND 1 LINK TO AN IRON STAKE, THENCE SOUTH 5 FEET AND 9 INCHES TO AN IRON STAKE; THENCE WESTERLY 50 FEET TO AN IRON STAKE; THENCE NORTH 2 FEET AND 5 INCHES TO A STAKE; THENCE WESTERLY PARALLEL WITH THE SOUTH LINE OF LOT TO THE MILL POND.

OWNER: LAND & WATER INVESTMENTS LLC  
503 CENTER STREET  
LAKE GENEVA, WI 53147

**SURVEYOR'S NOTES:**

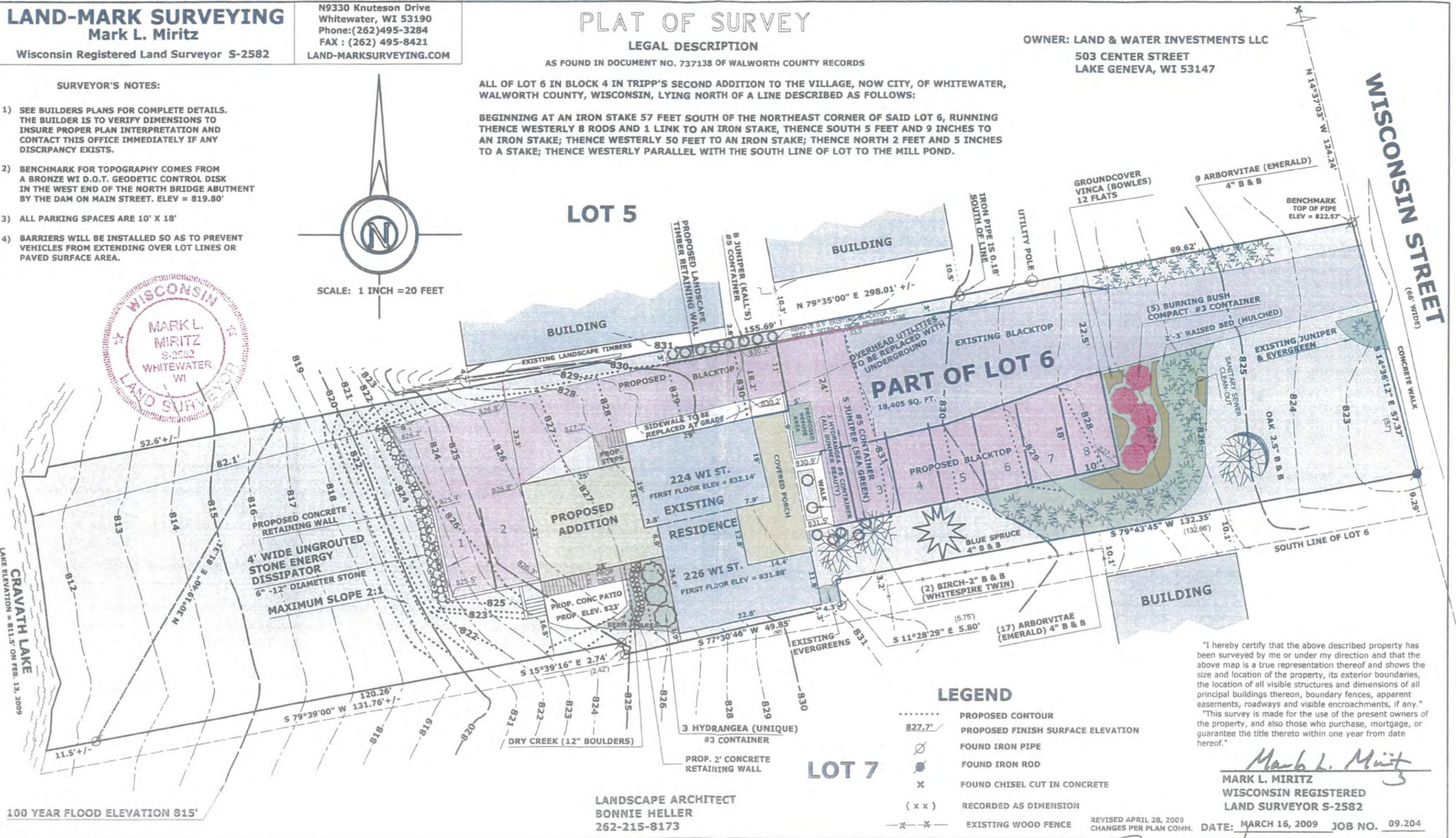
- 1) SEE BUILDERS PLANS FOR COMPLETE DETAILS. THE BUILDER IS TO VERIFY DIMENSIONS TO INSURE PROPER PLAN INTERPRETATION AND CONTACT THIS OFFICE IMMEDIATELY IF ANY DISCREPANCY EXISTS.
- 2) BENCHMARK FOR TOPOGRAPHY COMES FROM A BRONZE WI D.O.T. GEODETIC CONTROL DISK IN THE WEST END OF THE NORTH BRIDGE ABUTMENT BY THE DAM ON MAIN STREET. ELEV = 819.80'
- 3) ALL PARKING SPACES ARE 10' X 18'
- 4) BARRIERS WILL BE INSTALLED SO AS TO PREVENT VEHICLES FROM EXTENDING OVER LOT LINES OR PAVED SURFACE AREA.



**LOT 5**

**PART OF LOT 6**  
18,405 SQ. FT.

**LOT 7**



**LEGEND**

- ..... PROPOSED CONTOUR
- 827.7' PROPOSED FINISH SURFACE ELEVATION
- ⊗ FOUND IRON PIPE
- FOUND IRON ROD
- x FOUND CHISEL CUT IN CONCRETE
- ( x x ) RECORDED AS DIMENSION
- x-x- EXISTING WOOD FENCE

"I hereby certify that the above described property has been surveyed by me or under my direction and that the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location of all visible structures and dimensions of all principal buildings thereon, boundary fences, apparent easements, roadways and visible encroachments, if any."  
"This survey is made for the use of the present owners of the property, and also those who purchase, mortgage, or guarantee the title thereto within one year from date hereof."

*Mark L. Miritz*  
MARK L. MIRITZ  
WISCONSIN REGISTERED  
LAND SURVEYOR S-2582

LANDSCAPE ARCHITECT  
BONNIE HELLER  
262-215-8173

REVISED APRIL 28, 2009  
CHANGES PER PLAN COMM. DATE: MARCH 16, 2009 JOB NO. 09.204

*Pamela Verdugo  
Hanna Verdugo*

100 YEAR FLOOD ELEVATION 815'

CRAVATH LAKE  
LAKE ELEVATION = 811.5' ON FEB. 13, 2009



Neighborhood Services Department  
*Planning, Zoning, Code Enforcement, GIS  
 and Building Inspections*

[www.whitewater-wi.gov](http://www.whitewater-wi.gov)  
 Telephone: (262) 473-0540

To: City of Whitewater Board of Zoning Appeals  
 From: Latisha Birkeland, Neighborhood Services Director / City Planner  
 Meeting Date: September 26, 2013  
 Re: Request to reduce the lot width requirement from 100 feet to approximately 77.49 feet to allow for the construction of a three-unit apartment building located in an R-3 (multifamily) Zoning District for 240 N. Prince Street.

**Summary of Request**

**Location:** 240 N. Prince Street  
**Current Land Use:** Single Family  
**Current Zoning:** R-3 Multi-Family Residential

**Description**

Mr. Robert Kantin (trustee for the Lee L. Daniels Revocable Trust) would like to raze the existing single family home on this property and construct a three-unit apartment building. To construct this structure, the first approval Mr. Kantin needs is a variance to reduce the minimum width requirement from 100 feet to 77.49 feet. The proposed structure will meet or exceed the setback requirements for the R-3 Multifamily Residence District.

The second approval Mr. Kantin needs is an approved Conditional Use Permit application to allow construction of this multi-family building. A Conditional Use Permit application will be reviewed at the October 14, 2013 Plan and Architectural meeting, if an approved variance is granted by the Board of Zoning appeals. The Plan and Architectural Review Commission will review the landscaping, parking, etc. The Board of Zoning Appeals is only reviewing the variance requested.

**The proposed variance requested:**

1. Request to reduce the lot width requirement from 100 feet to approximately 77.49 feet to allow for the construction of a three-unit structure in an R-3 (multifamily) Zoning district. The variance requested would be for 22.51 feet.

**Analysis of Proposed Project**

No variance to the provisions of this title shall be granted by the board unless it finds beyond a reasonable doubt that all of the following facts and conditions exist:

Standard	Evaluation	Comments
----------	------------	----------

Standard	Evaluation	Comments
<b>Findings prerequisite to grant a variance (see section 19.72.080 of zoning ordinance)</b>		
The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;	No	Physical surroundings, shape and topography of the lot are average.
The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification	No	The structure does not currently meet the required lot width of the R-3 district. These conditions may be applicable for others in this zoning district if the lot width does not meet the 100 feet requirement for a multi-family structure.
The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner	No	The applicant desired to remove an older existing structure and replace it with a newer building. The new building would allow for additional residents.
The hardship is not one that is self-created	No	The lot width is meets the requirement for a single family home. Increasing the units located on this lot creates the need for a variance.
The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhoods	Yes	The proposed variance should not impair the supply of light or air to the adjacent properties.
The proposed variance will not have the effect of permitting a use which is not otherwise permitted in the district	Yes	The use is appropriate for the R-3 Multifamily residence district. This district is established to provide high density residential areas and to allow mixing of certain compatible land uses.
No variance shall be granted in a floodland district where not in compliance with Section <a href="#">19.46.070(C)(4)</a> of this title.	NA	This property is not in a flood plain

PUBLISH IN WHITEWATER REGISTER ON SEPTEMBER 5, 2013 AND  
SEPTEMBER 12, 2013

NOTICE OF ZONING HEARING

TO ALL CONCERNED:

A public hearing will be held by the Board of Zoning Appeals of the city of Whitewater on September 26, 2013 at 6:00 p.m. in the Whitewater Municipal Building Community Room, 312 W. Whitewater Street, Whitewater, Wisconsin.

The purpose of this hearing is to consider a request for a variance to Section 19.21.050 (D) lot width requirement of 100 feet to 77.49 feet to allow for the construction of a three unit apartment to be located at 240 N. Prince Street for Lee L. Daniels Revocable Trust (Robert Kantin, Trustee).

This notice is being mailed to owners of record within 300 feet of the property in question, to the City Planner and the Plan Commission in accordance with Section 19 of the Code of Ordinances. THE PROPOSAL FILED BY THE OWNER IS NOW OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE CITY PLANNER DURING NORMAL BUSINESS HOURS (Monday – Friday 8:00 a.m. to 5:00 p.m.)

BOARD OF ZONING APPEALS

By: Michele Smith  
Michele Smith, Secretary

Dated: August 30, 2013

240 N. Prince St.

~~Duplicates~~

~~CATCON WHITEWATER LLC  
225 E MASON ST STE 600  
MILWAUKEE WI, 53202~~

~~BOARD OF REGENTS STATE UNIVERS  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS UNIVERSITY OF  
1746 VAN HISE HALL  
1220 LINDEN DR  
MADISON WI, 53706~~

~~BOARD OF REGENTS STATE UNIVERS  
PO BOX 912  
MADISON WI, 53702~~

~~BOARD OF REGENTS UNIVERSITY OF  
1930 MONROE ST.  
P.O. BOX 8010  
MADISON WI, 53708~~

~~BOARD OF REGENTS STATE COLLEGE  
800 W MAIN STREET  
WHITEWATER WI 53190~~

~~BOARD OF REGENTS UNIVERSITY OF  
P.O. BOX 8010  
MADISON WI, 53708~~

~~BOARD OF REGENTS STATE COLLEGE  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS OF STATE COLL  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS OF STATE UNIV  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS OF UNIVERSITY  
P.O. BOX 8010  
MADISON WI, 53708~~

~~BOARD OF REGENTS OF STATE UNIV  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS OF STATE UNIV  
WHITEWATER WI, 53190~~

~~BOARD OF REGENTS OF STATE UNIV  
WHITEWATER WI, 53190~~

~~BOARD OF STATE COLLEGES  
WHITEWATER WI, 53190~~

~~LEE L DANIELS TRUST  
ROBERT F KANTIN  
3445 CEDAR DR  
PARK CITY UT, 84098~~

~~DLK ENTERPRISES INC  
141 W. WHITEWATER ST  
PO BOX 239  
WHITEWATER WI, 53190~~

~~CATCON WHITEWATER LLC  
225 E MASON ST STE 600  
MILWAUKEE WI, 53202~~

~~JOHN J TINCHER  
N1190 CO RD N  
WHITEWATER WI, 53190~~

~~WHITEWATER DEVELOPMENT, LLC  
P. O. BOX 239  
WHITEWATER WI, 53190~~

~~LEE L DANIELS TRUST  
ROBERT F KANTIN  
3445 CEDAR DR  
PARK CITY UT, 84098~~

~~248 N PRINCE LLC  
W9597 BREIDSAN HILLS DR  
WHITEWATER WI, 53190~~

~~LEE L DANIELS TRUST  
ROBERT F KANTIN  
3445 CEDAR DR  
PARK CITY UT, 84098~~

~~STARIN PRINCE RENTALS LLC  
W9597 BREIDSAN HILLS DR  
WHITEWATER WI, 53190~~

~~DLK ENTERPRISES INC  
P. O. BOX 239  
WHITEWATER WI, 53190~~

~~LEE L DANIELS TRUST  
ROBERT F KANTIN  
3445 CEDAR DR  
PARK CITY UT, 84098~~

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3445 CEDAR DR  
PARK CITY UT, 84098~~

~~WHITEWATER DEVELOPMENT, LLC  
PO BOX 239  
WHITEWATER WI, 53190~~

~~WHITEWATER DEVELOPMENT, LLC  
PO BOX 239  
WHITEWATER WI, 53190~~

WHITEWATER DEVELOPMENT, LLC  
PO BOX 239  
WHITEWATER WI, 53190

CAROL A CARSON  
1017 ARTHUR LN  
DARLINGTON WI, 53530-1600

WHITEWATER DEVELOPMENT, LLC  
PO BOX 239  
WHITEWATER WI, 53190

**CITY OF WHITEWATER  
APPLICATION FOR VARIANCE**

**IDENTIFICATION AND INFORMATION ON APPLICANT(S)**

Applicant's Name: Lee L. Daniels Revocable Trust (Robert Kantin, Trustee  
3445 Cedar Drive, Park City, UT 84098)

Applicant's Mailing Address 435 Starin Road, Whitewater, WI 53190

Owner of Property Site as of date of application, according to current property tax records: \_\_\_\_\_

Street Address of Property (if vacant land, describe in detail the property location): 240 N. Prince Street,  
Whitewater, WI 53190

Legal Description of Property (Name of Subdivision, Block and Lot, or other legal description):  
Lot 1 of Certified Survey Map No. 1228

Agent or Representative Assisting in the Application (Engineer, Architect, Attorney, Etc.)

Name Sam J. Sofa Firm SOFFA & DEVITT LLC

Office Address 332 W. Whitewater Street, Whitewater, WI 53190

Contractor Modular Construction Company

**EXISTING AND PROPOSED USES**

Current Principal Use: Single Family Dwelling (Student Housing)

Accessory or Secondary Uses: \_\_\_\_\_

Proposed Use (Describe need for Variance): New three apartment modular structure

Have you been granted any variances in the past, on any properties, whether fully or partially owned by you.  
 Yes  No

If YES, list addresses of those properties and whether the requirements of the variance granted have been completed.

**PLANS TO ACCOMPANY APPLICATION**

Applications for permits shall be accompanied by drawings of the proposed work, drawn to scale, showing, when necessary, floor plans, sections, elevations, structural details, computations and stress diagrams as the building inspector may require.

**PLOT PLAN**

When required by the building inspector, there shall be submitted a plot plan in a form and size designated by the building official for filing permanently with the permit record, drawn to scale, with all dimension figures, showing accurately the size and exact location of all proposed new construction and its relationship to other existing or proposed buildings or structures on the same lot, and other buildings or structures on adjoining property, within 15 feet of the property lines. In the case of demolition, the plot plan shall show the buildings or structures to be demolished and the buildings or structures on the same lot that are to remain.



# Cost Recovery Certificate and Agreement

## Section B: Applicant/Property Owner Cost Obligations

----- To be filled out by the City's Neighborhood Services Director -----

Under this agreement, the applicant shall be responsible for the costs indicated below. In the event the applicant fails to pay such costs, the responsibility shall pass to the property owner, if different. Costs may exceed those agreed to herein only by mutual agreement of the applicant, property owner, and City. If and when the City believes that actual costs incurred will exceed those listed below, for reasons not anticipated at the time of application or under the control of the City administration or consultants, the Neighborhood Services Director or his agent shall notify the applicant and property owner for their approval to exceed such initially agreed costs. If the applicant and property owner do not approve such additional costs, the City may, as permitted by law, consider the application withdrawn and/or suspend or terminate further review and consideration of the development application. In such case, the applicant and property owner shall be responsible for all consultant costs incurred up until that time.

- A. Application Fee.....\$ 200.00
- B. Expected Planning Consultant Review Cost.....\$ Ø
- C. Total Cost Expected of Applicant (A+B).....\$ Ø
- D. 25% of Total Cost, Due at Time of Application.....\$ ~~50.00~~ 200.00
- E. Project Likely to Incur Additional Engineering or Other Consultant Review Costs?  Yes  No

The balance of the applicant's costs, not due at time of application, shall be payable upon applicant receipt of one or more itemized invoices from the City. If the application fee plus actual planning and engineering consultant review costs end up being less than the 25% charged to the applicant at the time of application, the City shall refund the difference to the applicant.

## Section C: Agreement Execution

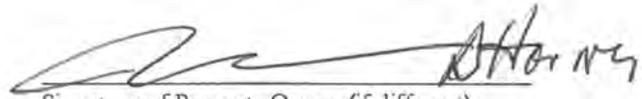
----- To be filled out by the Applicant and Property Owner -----

The undersigned applicant and property owner agree to reimburse the City for all costs directly or indirectly associated with the consideration of the applicant's proposal as indicated in this agreement, with 25% of such costs payable at the time of application and the remainder of such costs payable upon receipt of one or more invoices from the City following the execution of development review services associated with the application.

\_\_\_\_\_  
Signature of Applicant/Petitioner

Lee L. Daniels Revocable Trust  
Printed Name of Applicant/Petitioner

August 30 2013  
Date of Signature

  
Signature of Property Owner (if different)

Sam J. Soffa, Attorney  
Printed Name of Property Owner (if different)

August 30 2013  
Date of Signature



# Cost Recovery Certificate and Agreement

The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, and recreation specialists) to assist in the City's review of an application for development review coming before the Plan and Architectural Review Commission, Board of Zoning Appeals, and/or Common Council. In fact, most applications require some level of review by the City's planning consultant. City of Whitewater staff shall retain sole discretion in determining when and to what extent it is necessary to involve a professional consultant in the review of an application.

The submittal of an application or petition for development review by an applicant shall be construed as an agreement to pay for such professional review services associated with the application or petition. The City may apply the charges for these services to the applicant and/or property owner in accordance with this agreement. The City may delay acceptance of an application or petition (considering it incomplete), or may delay final action or approval of the associated proposal, until the applicant pays such fees or the specified percentage thereof. Development review fees that are assigned to the applicant, but that are not actually paid, may then be imposed by the City as a special charge on the affected property.

## Section A: Background Information

----- To be filled out by the Applicant/Property Owner -----

### Applicant's Information:

Name of Applicant: Lee L. Daniels Revocable Trust

Applicant's Mailing Address: 435 Starin Road  
Whitewater, WI 53190

Applicant's Phone Number: 473-2445

Applicant's Email Address: \_\_\_\_\_

### Project Information:

Name/Description of Development: New 3-Unit Modular Building

Address of Development Site: 240 N. Prince Street

Tax Key Number(s) of Site: WUP 00181

### Property Owner Information (if different from applicant):

Name of Property Owner: \_\_\_\_\_

Property Owner's Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_

Zoning District in which the property is located: R-3

No. of Occupants Proposed to be Accomodated: 10 No. of Employees, if applicable: \_\_\_\_\_

Section of the City of Whitewater Zoning Ordinance that prohibits the proposed usage of the property. It is this section of the Ordinance for which a variance is requested: \_\_\_\_\_

<u>STANDARDS</u>	
The following are Standards that the City of Whitewater Zoning Ordinance sets for decisions on variances. Explain how your proposal meets these standards.	
STANDARD	APPLICANT'S EXPLANATION
A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from mere inconvenience, if the strict letter of the regulations were to be carried out	Lot in question is inadequate to accommodate the proposed modular structure by approximately 22½ feet present area is occupied by student housing
B. The conditions upon which the application for a variance are based would not be applicable generally to other property within the same zoning classification	All existing structures would not be affected by the small variance requested
C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.	The variance is needed to accommodate the modular structure for three units The city will gain in tax assessment which will be almost 2½ times the present assessment on the old structure which is to be razed
D. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire or endanger the public safety, or substantially diminish or impair property values within the neighborhood.	The new building would enhance the value of the neighborhood as the existing building is very old and is not attractive in its present location

**CONDITIONS**

The City of Whitewater Zoning Ordinance authorizes the Board of Zoning Appeals to place conditions on approved variances. Please keep this in mind & supply ALL pertinent information.

Lee L. Daniels Revocable Trust by Sam J. Soffa, Attorney

Signature of Applicant  Date August 30 2013

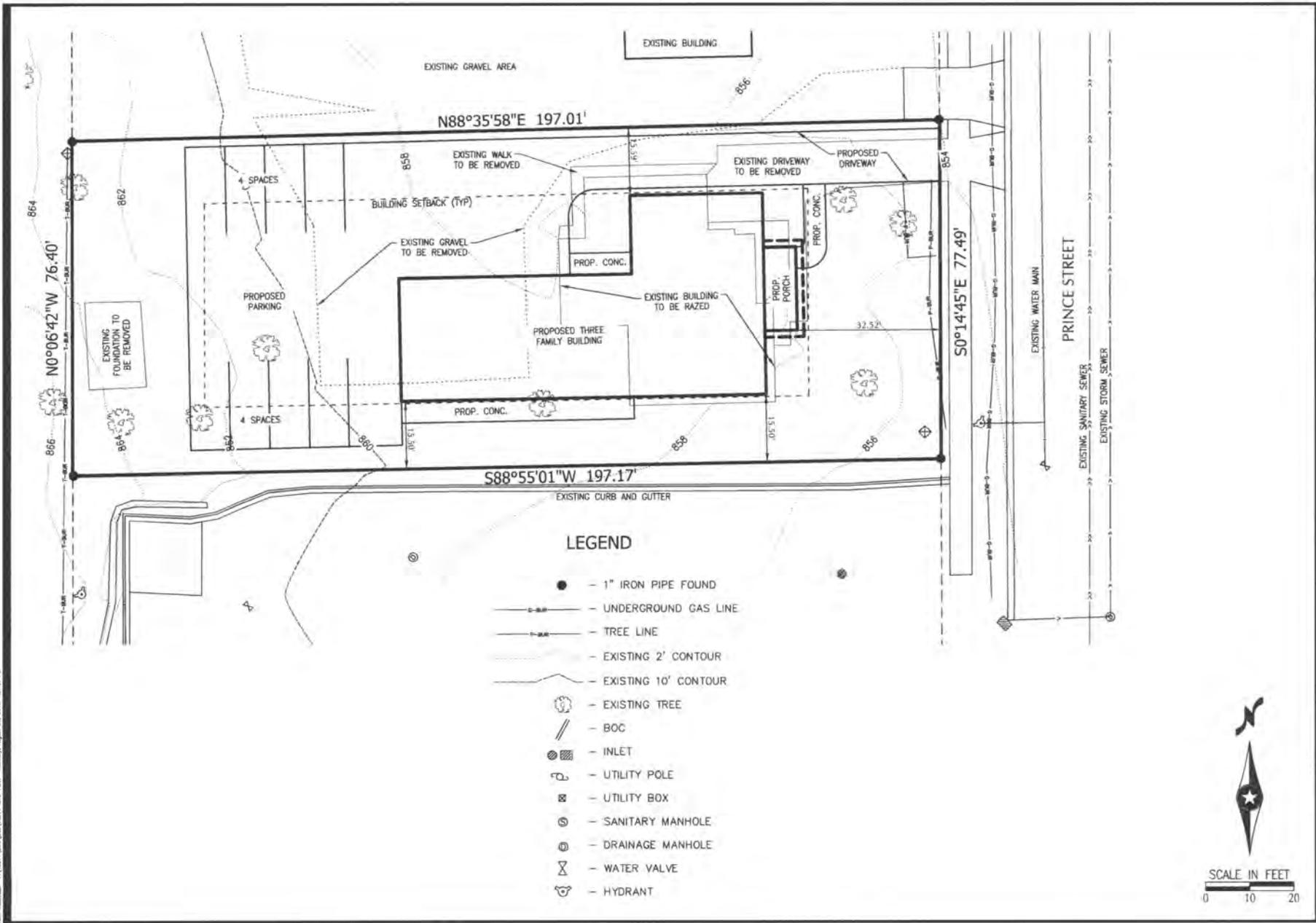
**APPLICATION FEES**

(to be completed by City)

*Fee for Variance application - \$200.00*

Date fee received by City 8-30-13 Receipt # 6.010717  
Received by: J. Wegner  
Date Notice sent to owners of record: 9-11-13 By J. Wegner  
Date(s) published in Whitewater Register: Sept 5 + Sept 12, 2013  
Date set for Hearing before Board of Zoning Appeals: Sept. 26, 2013

Title: Whitewater - P:\10071\DWG\10071-001-PLAN Thursday, August 23, 2013 1:52:57 PM



- LEGEND**
- - 1" IRON PIPE FOUND
  - — — — — UNDERGROUND GAS LINE
  - — — — — TREE LINE
  - - - - - EXISTING 2' CONTOUR
  - - - - - EXISTING 10' CONTOUR
  - ⊙ - EXISTING TREE
  - ▨ - BOC
  - ⊗ - INLET
  - ⊕ - UTILITY POLE
  - ⊞ - UTILITY BOX
  - ⊙ - SANITARY MANHOLE
  - ⊕ - DRAINAGE MANHOLE
  - ⊗ - WATER VALVE
  - ⊕ - HYDRANT

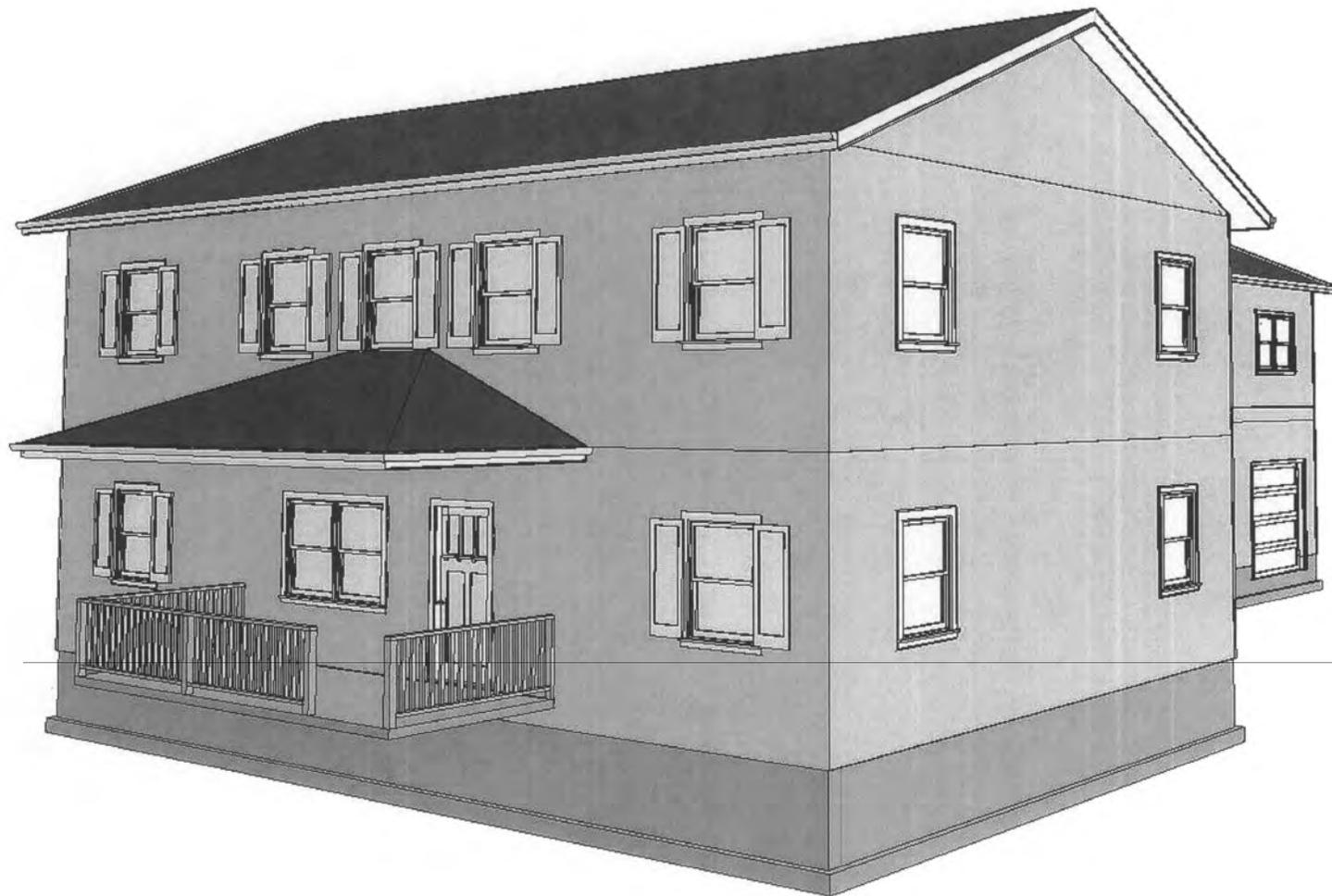


ENGINEERS  
 LANDSCAPE ARCHITECTS  
 SURVEYORS PLANNERS  
 101 MAPLE AVENUE  
 DUNBAR, WISCONSIN 53018  
 TEL: 262-244-8855 FAX: 262-244-8854  
 EMAIL: INFO@YAGGYCOLBY.COM



**WHITESTER MULTI-FAMILY HOUSING PLAN**  
 WHITESTER, WISCONSIN  
 SITE PLAN

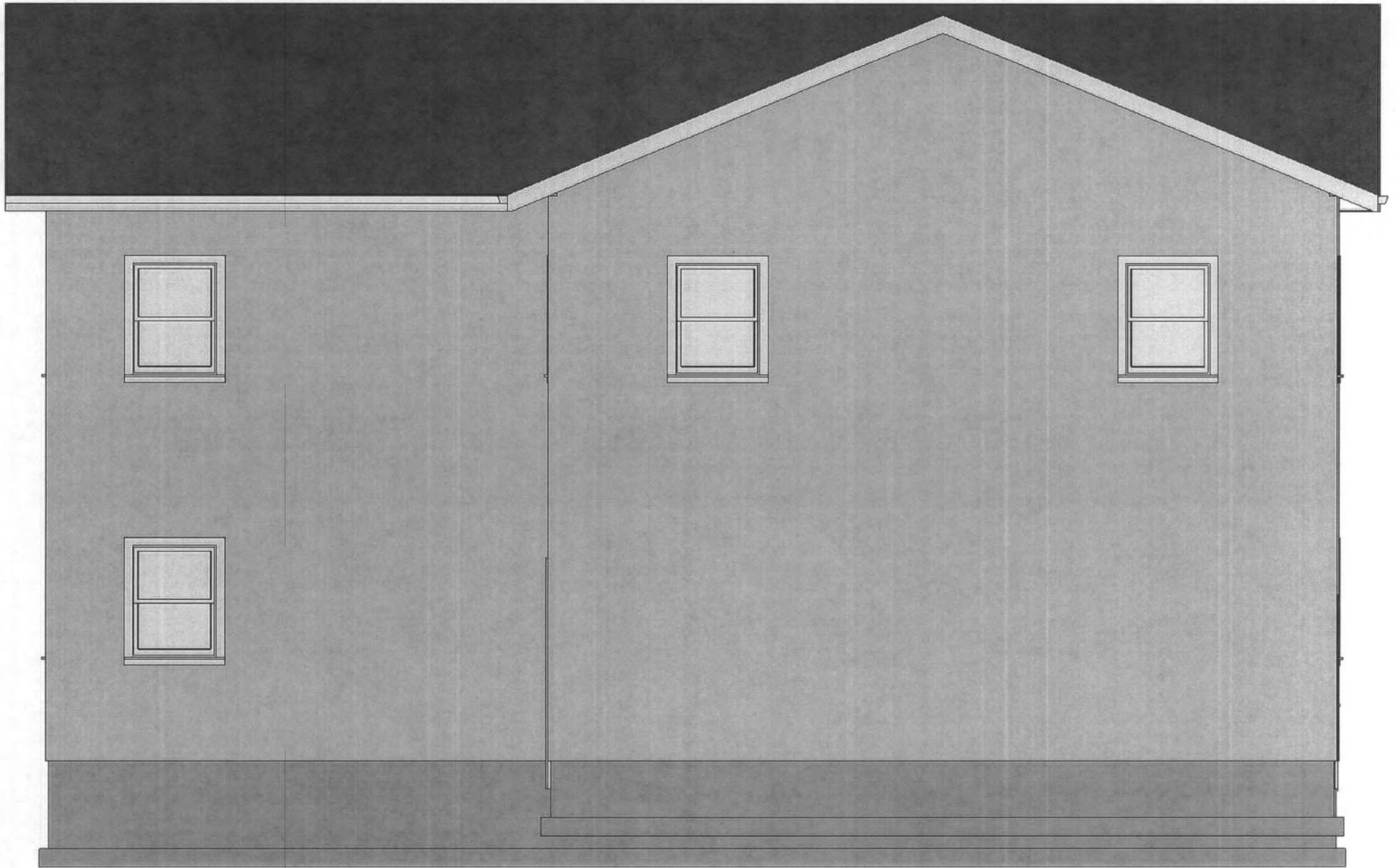
PROJECT NUMBER	16071
DATE	AUGUST 2013
DRAWN BY	T. WILLIAMSON
CHECKED BY	M. COURY
DESIGNED BY	
SHEET NUMBER	1



Front



Side View



End View



Back



Garage Side

