

## AGENDA

**City of Whitewater, Board of Zoning Appeals  
On March 28, 2013  
7:00 p.m., Community Room  
Whitewater Municipal Building  
Whitewater WI**

1. Call to order and roll call.
2. Secretary presents the cases to be heard:

The purpose of this hearing is to consider a request for a variance for the property located at 155 S Maple Lane for Dean Fischer.

- a. To allow for a proposed three season room addition to the rear of the home, making the rear yard setback 21 feet. The variance requested if a 9 foot variance to the rear yard setback requirement of 30 feet.  
(19.18.060C)

4. Testimony of appellant (after being sworn in).
5. Testimony of Zoning Administrator.
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.

PUBLISH TWO TIMES IN WHITEWATER REGISTER  
ON MARCH 7, 2013 AND MARCH 14, 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 March 28, 2013 at 7:00 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 for the property located at 155 S. Maple Lane for Dean Fischer. The following variance is requested:

To allow a proposed three season room addition to the rear of the home, making the rear yard setback 21 feet. Variance requested: A 9 foot variance to the rear yard setback requirement of 30 feet. (19.18.060C)

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: Michelle Smith  
Secretary

Dated: March 4, 2013

JESUS BARAJAS  
TERESA GOMEZ BARAJAS  
127 MAPLE LN  
WHITEWATER WI, 53190

LEE J CUSHMAN  
SHANNON L CUSHMAN  
137 MAPLE LANE  
WHITEWATER WI, 53190

THEODORE W KRAUS  
ANN M KRAUS  
143 S MAPLE LN  
WHITEWATER WI, 53190

BRIAN G LYND  
EMILY F LYND  
161 S MAPLE LN  
WHITEWATER WI, 53190

DONALD M KELLEY  
CYNTHIA A KELLEY  
169 S MAPLE LN  
WHITEWATER WI, 53190

ROGELIO RODRIGUEZ  
CLAUDIA RODRIGUEZ  
175 N MAPLE LN  
WHITEWATER WI, 53190

KYLE P ANDERSON  
SHAWYN ANN I ANDERSON  
176 MAPLE LN  
WHITEWATER WI, 53190

JOHN A HOUWERS  
AMY K HOUWERS  
168 S MAPLE LANE  
WHITEWATER WI, 53190

CORY W BRUMMEYER  
160 S. MAPLE LN  
WHITEWATER WI, 53190

FEDERAL HOME LOAN MORTGAGE  
5000 PLANO PKWY  
CARROLLTON TX, 75010

TROY J PAGENKOPF  
JENNIFER H PAGENKOPF  
144 S MAPLE LN  
WHITEWATER WI, 53190

DEBORAH S H KRUSE  
136 S MAPLE LN  
WHITEWATER WI, 53190

MICHAEL E SMITH  
THERESA M SMITH  
128 S MAPLE LN  
WHITEWATER WI, 53190-7200

SHA YANG  
YOUA YANG  
135 S LOCUST LN  
WHITEWATER WI, 53190

JOHN J SCHIMMING  
DENA R SCHIMMING  
145 LOCUST LN  
WHITEWATER WI, 53190

KENNETH E GOODMAN  
DONNA D GOODMAN  
153 S LOCUST LN  
WHITEWATER WI, 53190

THOMAS J CONRAN TRUST  
161 LOCUST LN  
WHITEWATER WI, 53190

PATRICIA J BONGIORNO  
167 S LOCUST LN  
WHITEWATER WI, 53190

COREY T BRUNS  
177 LOCUST LN  
WHITEWATER WI, 53190

EDWIN L KOWALSKI TRUST  
RUTH H KOWALSKI TRUST  
13502 E L&J TOWNLINE RD  
WHITEWATER WI, 53190

EDWIN L KOWALSKI TRUST  
RUTH H KOWALSKI TRUST  
13502 E L&J TOWNLINE RD  
WHITEWATER WI, 53190

SCOTT M KOWALSKI  
N6417 DELANEY RD  
DELANA WI, 53115

CITY OF WHITEWATER, IN TRUST  
WHITEWATER WI, 53190

RICHARD A SAROW  
W8060 BLUFF RD  
WHITEWATER WI, 53190

JERRY C KOLLWELTER  
DONNA L KOLLWELTER  
W7977 BLUFF RD  
WHITEWATER WI, 53190

RICHARD A SPAETH  
JANE M SPAETH  
N9391 HOWARD RD  
WHITEWATER WI, 53190

DAVID L MORSE  
SUSAN R MORSE  
N9371 HOWARD RD  
WHITEWATER WI, 53190

March 28~~th~~

**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 2-20-13.
2. Class 2 Notice published in Official Newspaper on March 7, 2013 and March 14, 2013. 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 3-11-13.
4. Board of Zoning Appeals holds the PUBLIC HEARING on 3-28-13. 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 SITE PLAN SUBMITTAL REQUIREMENTS

1. **Site Plan**, including the location and dimensions of all buildings, parking, loading, vehicle and pedestrian circulation, signs, walls, fences, other structures, outdoor storage areas, mechanicals, and dumpsters. Adjacent streets and uses and methods for screening parking, loading, storage, mechanical, and dumpster areas should be shown. Statistics on lot area, green space percentage, and housing density should be provided. The Plan Commission encourages compliance with its adopted parking lot curbing policy.
2. **Natural Features Inventory Map**, showing the existing limits of all water bodies, wetlands, floodplains, existing trees with trunks more than 4 inches in diameter, and any other exceptional natural resource features on all or part of the site.
3. **Landscape Plan**, prepared by a professional, and showing an overhead view of all proposed landscaping and existing landscaping to remain. The species, size at time of planting, and mature size should be indicated for all plantings. Areas to be left in green space should be clearly delineated. The Plan Commission encourages compliance with its adopted landscaping guidelines, available from the Zoning Department.
4. **Grading and drainage plan**, meeting the City's stormwater management ordinance if required. The plan should show existing and proposed surface elevations on the site at two foot intervals or less, and proposed stormwater management improvements, such as detention/retention facilities where required. Stormwater calculations may be required.
5. **Utilities plan**, showing locations and sizes of existing and proposed connections to sanitary sewer, water, and storm sewer lines, along with required easements. Sampling manholes may be required for sanitary sewer. The City's noise ordinance must be met.
6. **Building elevations**, showing the dimensions, colors, and materials used on all sides of the building. The Plan Commission encourages variety and creativity in building colors and architectural styles, while respecting the character of the surrounding neighborhood.
7. **Sign plan**, meeting the City's sign ordinance, and showing the location, height, dimensions, color, materials, lighting and copy area of all signage.
8. **Lighting plan**, meeting the City's lighting ordinance, and showing the location, height, type, orientation, and power of all proposed outdoor lighting—both on poles and on buildings. Cut sheets and photometric plans may be required for larger projects.

Twenty complete sets of all plans should be submitted. All plans should be drawn to a scale of not less than 50 feet to the inch; represent actual existing and proposed site conditions in detail; and indicate the name, address, and phone number of the applicant, land owner, architect, engineer, landscape designer, contractor, or others responsible for preparation. It is often possible and desirable to include two or more of the above 8 plans on one map. The Zoning Administrator or Plan and Architectural Review Commission may request more information, or may reduce the submittal requirements. If any of the above 8 plans is not submitted, the applicant should provide a written explanation of why it is not submitted.

10/6/04

TO: THOSE REQUESTING A VARIANCE OF ZONING REQUIREMENTS

FROM: THE BOARD OF ZONING APPEALS

**THINGS YOU WILL HAVE TO PROVE TO BE GRANTED A VARIANCE**

The Board of Zoning Appeals has the power *“to hear and grant applications for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of the ordinance shall be observed and the public safety, welfare and justice secured.”* USE VARIANCES WILL NOT BE GRANTED.

**Findings prerequisite to granting of a variance**

**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, and so indicates in the minutes of its proceedings:**

- A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a practical hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification;
- C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner;
- 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.

Please consider the above items in presenting your oral testimony, for a lack of such testimony may result in denial of the variance.

***All questions in the application must be answered.***

CITY OF WHITEWATER  
APPLICATION FOR VARIANCE

IDENTIFICATION AND INFORMATION ON APPLICANT(S)

Applicant's Name: Dean Fischer

Applicant's Mailing Address 155 Maple Lane, Whitewater

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

Street Address of Property (if vacant land, describe in detail the property location): \_\_\_\_\_  
155 Maple Lane

Legal Description of Property (Name of Subdivision, Block and Lot, or other legal description): \_\_\_\_\_  
1 PB 00004

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

Name NA Firm \_\_\_\_\_

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

Contractor \_\_\_\_\_

EXISTING AND PROPOSED USES

Current Principal Use: Primary residence

Accessory or Secondary Uses: None

Proposed Use (Describe need for Variance): construct three season room.  
Need for variance is due to rear yard setback  
restriction. Please see attached sheet for further explanation.

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.

Zoning District in which the property is located: R-2  
 No. of Occupants Proposed to be Accomodated: 2 No. of Employees, if applicable: NA  
 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: 19.18.060 Yard requirement

**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>Correct</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>Correct</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>

**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.

Signature of Applicant

*Don Fuchs*

Date

*2/20/13*

**APPLICATION FEES**

(to be completed by City)

*Fee for Variance application - \$200.00*

Date fee received by City *2-20-13*

Receipt # *6.010262*

Received by: *J. Wegner*

Date Notice sent to owners of record : *3-11-13* By *J. Wegner*

Date(s) published in Whitewater Register: *3-7-13 + 3-14-13*

Date set for Hearing before Board of Zoning Appeals: *3-28-13*



# 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: \_\_\_\_\_

*Dean Fischer*

Applicant's Mailing Address: \_\_\_\_\_

*155 S. Maple Lane*

Applicant's Phone Number: \_\_\_\_\_

*262-903-9505*

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

*deanofisch@hotmail.com*

### Project Information:

Name/Description of Development: \_\_\_\_\_

Address of Development Site: \_\_\_\_\_

Tax Key Number(s) of Site: \_\_\_\_\_

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

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

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



# 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.

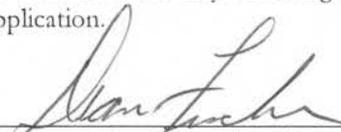
- A. Application Fee.....\$ \_\_\_\_\_
- B. Expected Planning Consultant Review Cost.....\$ \_\_\_\_\_
- C. Total Cost Expected of Applicant (A+B).....\$ \_\_\_\_\_
- D. 25% of Total Cost, Due at Time of Application.....\$ \_\_\_\_\_
- E. Project Likely to Incur Additional Engineering or Other Consultant 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

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

2/20/12  
\_\_\_\_\_  
Date of Signature

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

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

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

## Variance request for Code Section 19.18.060 – Rear yard set back

Dean Fischer  
155 S. Maple Lane  
262-903-9505

I am requesting a variance of the rear yard setback. I would like to add 10 feet onto the existing screen porch with the addition extending to the east. The screen porch would be enclosed to become a three season room. The existing rear yard setback is 31 feet. I am requesting a variance that will allow a 21 foot rear yard setback.

I reviewed the parcel layout on the Walworth County GIS site. Please review exhibit #1. I found that there is a 27 foot area of land between me and the neighbor, who's property is located in the Town of Whitewater. The 27 foot wide parcel notes that there is a gap in the existing legal descriptions of the adjoining properties. I spoke with the neighbor (Dave Morse) and he indicated that this gap has been in limbo as long as he has lived there (1992). He questioned the placement of property pins when the Pine Bluff subdivision was laid out with property pins placed and did not get an answer approximately 1999.

I had Mark Miritz, Land Mark Surveying, do some research. He told me the existing Morse property description does not include the 27 foot gap parcel. He felt strongly that the Morse property description was in error from many years back. He indicated that the Morse property description starting point was from the center line of Howard Rd and not from the section line as it should be, which would make the difference in the 27 foot gap. What Mark is telling me, he is very confident that Morse owns the 27 foot gap.

To make the correction of the Morse property description would require the Title company to review the survey and title. Mark felt the Title company would not make any movement on this issue seeing how the property has been in ownership by Dave Morse since 1992. It would require Dave Morse to spend monies to have the survey and title researched and corrected. He would not be interested in doing this.

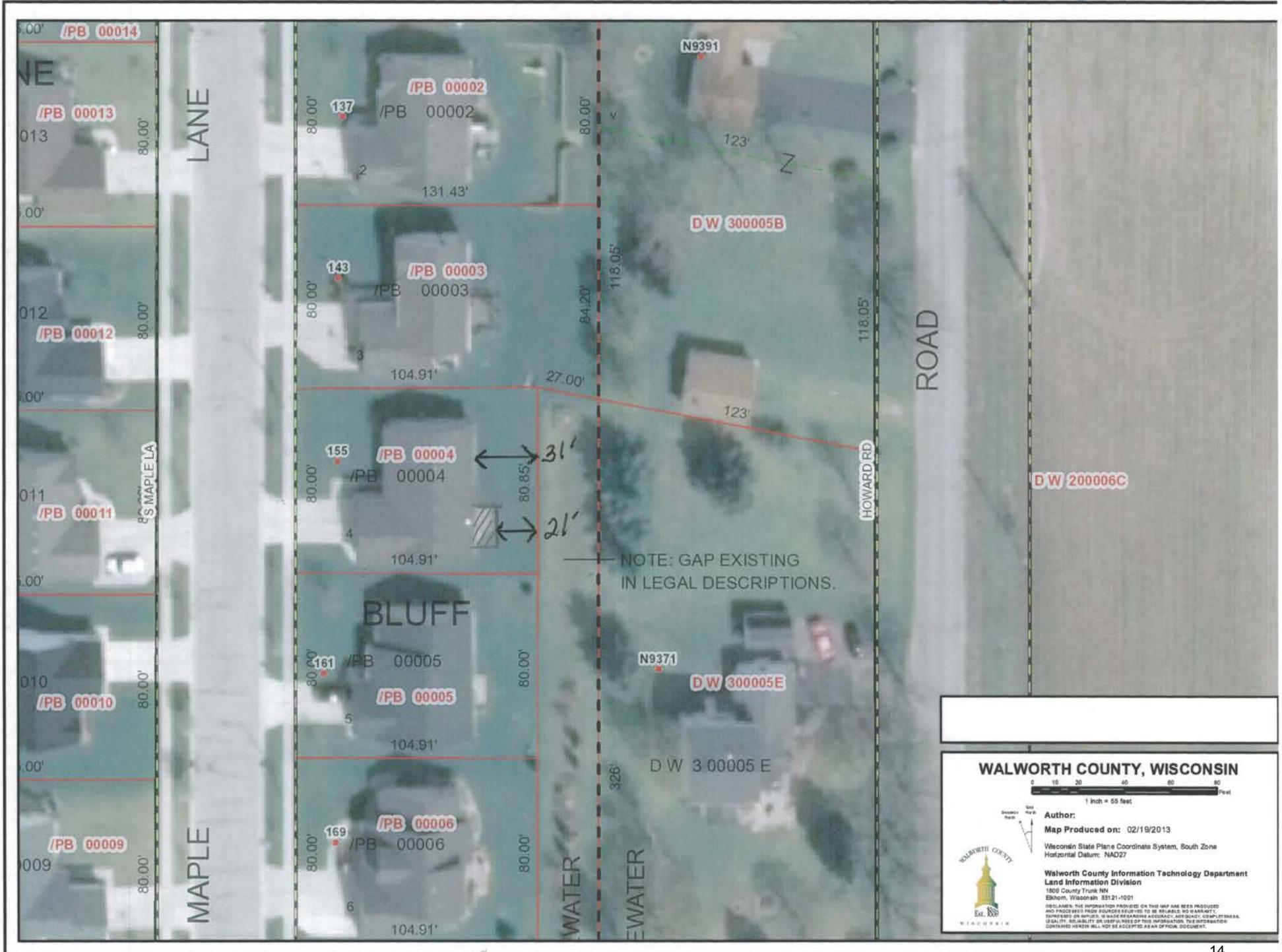
Another issue that was raised was whether the City Boundary line is correct as shown on the Walworth County GIS site. Mark Miritz feels that the City Boundary description is incorrect due to the Morse property description discrepancy.

The before mentioned items are the reasons I am requesting a variance to the rear yard setback. I have spoken to the three adjacent neighbors about my plans and none of them have express any concerns with the plan addition.

The addition will not affect any light or air movement to the neighbors' properties.

Exhibit #2: Shows the proposed addition along with the existing and proposed rear yard setbacks.  
Exhibit #3: Blown view of the layout of the proposed addition and again showing the rear yard setbacks.  
Exhibit # 4: Computer generated rendering of north elevation  
Exhibit # 5: Computer generated rendering of east elevation  
Exhibit # 6: Computer generated rendering of south elevation





**WALWORTH COUNTY, WISCONSIN**

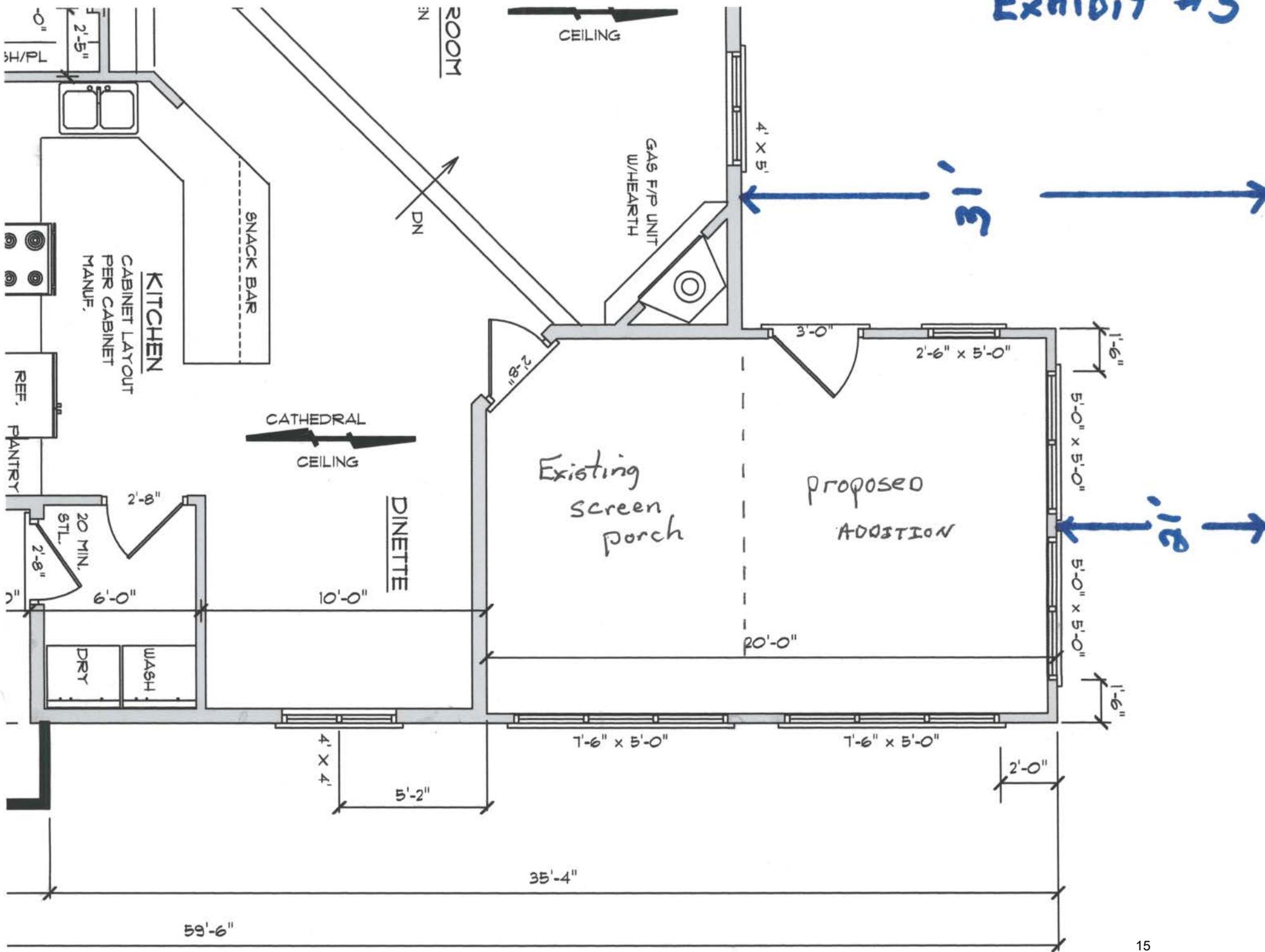
0 10 20 40 60 80 Feet  
1 inch = 66 feet

**Author:**  
**Map Produced on:** 02/19/2013  
 Wisconsin State Plane Coordinate System, South Zone  
 Horizontal Datum: NAD27

**Walworth County Information Technology Department  
 Land Information Division**  
 1800 County Trunk NW  
 Elkhorn, Wisconsin 53121-1001

DISCLAIMER: THE INFORMATION PROVIDED ON THIS MAP HAS BEEN PRODUCED AND PROCESSED FROM SOURCES BELIEVED TO BE RELIABLE. NO WARRANTY, EXPRESSED OR IMPLIED, IS MADE REGARDING ACCURACY, ADEQUACY, COMPLETENESS, QUALITY, RELIABILITY OR USE OF THIS INFORMATION. THE INFORMATION CONTAINED HEREIN WILL NOT BE ACCEPTED AS AN OFFICIAL DOCUMENT.

# Exhibit #3





LEFT ELEVATION

North

1/4" = 1'-0"

Exhibit #5



REAR ELEVATION

East 1/4" = 1'-0"



RIGHT ELEVATION  
*South*      1/4" = 1'-0"



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 Manager / City Planner  
Meeting Date: March 28, 2013  
Re: Request a variance for the property located at 155 Maple Lane for Dean Fischer.

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### Summary of Request

**Location:** 155 Maple Lane

**Current Land Use:** Single family residential

**Current Zoning:** R-2 One and Two Family Residence District

#### Building Dimensions and Yard Requirements

Mr. Dean Fischer's single family home was built in 2001. The lot size is slightly over the minimum 8,000 square feet requirement. The home meets the required R-2 Zoning District requirements. The setbacks of the structure are as follows:

Front: 25 feet    Left side: 11 feet

Rear: 31 feet    Right side: 11 feet

#### Description

Mr. Fischer would like to add 10 feet onto the existing screen porch, extending to the east, to be enclosed and become a three season room addition. The proposed addition would need to meet the R-2 Zoning District rear yard setback of 30 feet. Mr. Fischer's existing structure only leaves one (1) additional foot to use before the rear yard setback requirement is met. Mr. Fischer's statement of use and elevations of the proposed addition has been included in the packet.

Mr. Fischer discussed purchasing additional property to the east of his lot so that he would not need a variance with the property owner, Mr. Morse. Walworth County's GIS site has identified the property to the east of Mr. Fischer's property as "a gap in legal descriptions." During this research, it was found that there is an error in the writing of the deed during the transaction of real estate for the neighboring property. The legal description omits wording that would include the 27 feet along the west side of Mr. Morse's property. The 27 feet is directly to the east of Mr. Fischer's property. Mark Miritz of Land-Mark Surveying is confident that the 27 feet in question is owned by Mr. Morse and not a gap. This information has been included in the packet.

Even if Mr. Morse was willing to sell land to Mr. Fischer, the title of Mr. Morse's property would need to be researched and corrected. Also, confirmation would be needed that any sale of land would conform to Walworth County zoning regulations. Lastly, the Town of Whitewater and the City of Whitewater would need to agree to the annexation of the land; the City of Whitewater's boundary is Mr. Fischer's rear property line.

**The proposed variance requested:**

Because purchasing additional land to the east of this property is not an option, Mr. Fischer has requested a variance for the following:

- 1) To allow for a proposed three season room addition to the rear of the home, making the rear yard setback 21 feet. The variance requested is a 9 foot variance to the rear yard setback requirement of 30 feet. (19.18.060C)

**Analysis of Proposed Project**

As of 2pm on 3/21/13 the City has not received any comments regarding this variance application.

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;	No	The lot meets the minimum zoning requirements of the City Code. 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	Yes	Four properties are adjacent to the 27 feet of land discussed previously in this report. If the Board of Zoning Appeals grants this variance request, three other properties may want a variance as well. No additional variance applications have been submitted at the time this report was written.
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 addition would be used as a three-season room addition.
The hardship is not one that is self-created	No	The structure currently exists within the required setbacks. Adding onto the structure, within the required setback, would require a variance to be granted.

Standard	Evaluation	Comments
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 three properties directly north of 155 Maple Lane have more land to the east. It is possible for their homes to extend to the 'green' line indicating a 30 foot setback on the aerial included in packet, which could be more intrusive than Mr. Fischer's proposal.
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 district
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

-  City Limits
-  Parcels
-  21'
-  30'
-  Gap
-  30'





Greenway Ct.

Bluff Rd

Ash Ln

Locust Ln

Maple Ln

Howard Rd

Jakes Way

## Latisha Birkeland

---

**From:** Mark Miritz [MarkMiritz@Land-MarkSurveying.com]  
**Sent:** Wednesday, March 20, 2013 3:12 PM  
**To:** Latisha Birkeland  
**Subject:** Re: NO gap  
**Attachments:** Morse0001.pdf

The city limit is the rear line of Deans property and the subdivision line...confirmed by the legal description from Jacobs to the City

Jacobs then sold to Brokmeier...." along the South line of Krahn AND A CONTINUATION THEREOF 150' "

Brokmeier then sold it to Morse.... Along the South line of Krahn 123' to the SW corner of Krahn..

The Morse deed omits the continuation part and reduces the distance to only go to Krahns SWvcorner. I believe this is an error in the writing of the deed. If not Brokmeier still owns the 27' strip.

639-11572

THIS INDENTURE, Made this 31st day of August A.D. 1966  
between Donald J. Jacobs and Harriet Jacobs, his  
wife,

parties of the first part and  
Robert Brookmeier

part Y of the second part  
Witnesseth, That the said parties of the first part for and in consideration  
of the sum of One Dollar (\$1.00) and other good and  
valuable consideration

RETURN TO  
JOHNSON & DeBAUFER  
ATTORNEYS AT LAW  
WHITEWATER, WISCONSIN

to them in hand paid by the said part Y of the second part the receipt  
whereof is hereby confessed and acknowledged have given granted bargained sold remise released aliened conveyed  
and confirmed, and by these presents do give grant bargain sell remise release alien convey and confirm unto  
the said part Y of the second part, his heirs and assigns forever the following described  
real estate, situated in the County of Walworth and State of Wisconsin, to-wit

Commencing at the Southeast corner of Section 3; Town 4 North, Range 15  
East, thence North 1029.75 feet to the place of beginning being the South-  
east corner of Otto Krahn's land; thence West along the South line of  
said Otto Krahn's land and a continuation thereof 150 feet; thence South  
and parallel to the center of the North and South road 326 feet; thence  
East ~~and parallel to the South line of said Krahn land 150 feet~~ to the  
center of the North and South road; thence North 298 feet along the center  
of said road to the point of beginning.

ALL NECESSARY CONTINUED DESCRIPTIONS ON REVERSE SIDE

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise  
appertaining; and all the estate, right, title, interest, claim or demand whatsoever, of the said parties of the  
first part, either in law or equity, either in possession or expectancy of, in and to the above bargained premises, and  
their hereditaments and appurtenances.

To Have and to Hold the said premises as above described with the hereditaments and appurtenances, unto  
the said part Y of the second part, and to his heirs and assigns FOREVER.

And the said Donald J. Jacobs and Harriet Jacobs, his wife,

for themselves, their heirs, executors and administrators, do covenant, grant, bargain, and agree  
to and with the said part Y of the second part, his heirs and assigns, that at the time of the ensembling  
and delivery of these presents they are well seized of the premises above described, as of a good, sure,  
perfect, absolute and indefeasible estate of inheritance in the law, in fee simple, and that the same are free and clear from  
all incumbrances whatever.

and that the above bargained premises in the quiet and peaceable possession of the said part Y of the second  
part, his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part  
thereof, they will forever WARRANT AND DEFEND.

In Witness Whereof, the said parties of the first part have hereunto set their hand and seal  
this 31st day of August, A. D., 1966

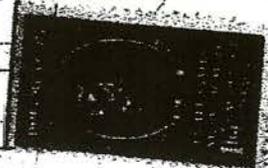
SIGNED AND SEALED IN PRESENCE OF

Easton Johnson  
Easton Johnson

Marion J. Burrows  
Marion J. Burrows

Donald J. Jacobs  
Donald J. Jacobs (SEAL)

Harriet Jacobs  
Harriet Jacobs (SEAL)



State of Wisconsin,

Walworth County

Personally came before me, this 31st day of August, A. D., 1966,  
the above named Donald J. Jacobs and Harriet Jacobs, his wife,

to me known to be the person(s) who executed the foregoing instrument, and acknowledged the same.

DOCUMENT NO.

238518

STATE BAR OF WISCONSIN FORM 1 - 1982  
WARRANTY DEED

VOL 581 PAGE 293

THIS SPACE RESERVED FOR RECORDING DATA

RECORDED IN VOL 581  
PAGE 293

'92 JUL 29 PM 2 23

LOIS M. REITZEL  
REG. OF DEEDS  
WALWORTH COUNTY, WIS

This Deed, made between Robert J. Brokmeier and  
Janice K. Brokmeier, husband and wife  
Grantor,  
and David L. Morse and Susan R. Morse, Joint Survivorship  
Marital Property

Grantee,  
Witnesseth, That the said Grantor, for a valuable consideration.....  
conveys to Grantee the following described real estate in Walworth  
County, State of Wisconsin:

RETURN TO SEWT T-71515C  
10.00

Tax Parcel No:

A parcel of land located in the SE 1/4 of the SE 1/4 of Sec. 3, T. 4 N., R. 15 E., Town of Whitewater, Walworth County, Wisconsin, and described as follows: Commencing at the SE corner of said Section 3; thence N. 1029.75 feet along the E. line of said Sec. 3, which line is also the W. line of a public road, to the place of beginning, being also the SE corner of lands owned by Otto A. Krahn and Mildred E. Krahn, his wife; thence N. 79° 14' W. 123 feet along said Krahn's S. line to the SW corner of said Krahn's land; thence S. and parallel with the E. line of said Sec. 3, 326 feet; thence due E. to the E. line of said Sec. 3, being a point approximately 298 feet S. from the point of beginning; thence N. along the E. line of said Sec. 3 to the place of beginning.

Tax Key No. D W 300005E

TRANSFER  
\$ 235.50  
FEE

This is homestead property.  
(is) (X) (is not)

Together with all and singular the hereditaments and appurtenances thereunto belonging;  
And warrants that the title is good, indefeasible in fee simple and free and clear of encumbrances except easements, restrictions, covenants, and rights-of-way of record, if any  
and will warrant and defend the same.

Dated this 28th day of July, 1992

(SEAL) Robert J. Brokmeier (SEAL)  
Robert J. Brokmeier  
(SEAL) Janice K. Brokmeier (SEAL)  
Janice K. Brokmeier

AUTHENTICATION

ACKNOWLEDGMENT

Signature(s) \_\_\_\_\_  
authenticated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
TITLE: MEMBER STATE BAR OF WISCONSIN  
(If not, authorized by § 706.00, Wis. Stats.)

STATE OF WISCONSIN }  
Walworth County. } es.  
Personally came before me this 28th day of July, 1992, the above named Robert J. Brokmeier and Janice K. Brokmeier  
to me known to be the person who executed the foregoing instrument and acknowledge the same.  
Nancy S. Duniven  
Nancy S. Duniven  
Notary Public Walworth County, Wis.  
My Commission is permanent. (If not, state expiration date: July 16, 1995)

THIS INSTRUMENT WAS DRAFTED BY  
Ryan Zenk, Attorney  
Elkhorn, Wisconsin  
(Signatures may be authenticated or acknowledged. Both are not necessary.)

\*Names of persons signing in any capacity should be typed or printed below their signatures.  
WARRANTY DEED STATE BAR OF WISCONSIN Walworth Legal Book Co. Inc.

I hereby certify that I have on this 30th day of July, 1992 microphotographed the above document in accordance with standards established by Sec. 228.03 (1) of Statutes with established