

AGENDA

**City of Whitewater, Board of Zoning Appeals Meeting
On January 30, 2014
6:00 p.m., Community room
Whitewater Municipal Building
Whitewater WI**

Amended Agenda as of January 20, 2014.

1. Call to order and roll call.
2. Secretary presents the first case to be heard:
 - a. Michael and Maria Cervantez, 235 N. Newcomb Street (Tax Parcel /PC 0005A) and 236 N. Queen Street (Tax Parcel /PC 00006), variance to Section 19.18.040 Minimum lot area of 8000 square feet, to reduce the minimum lot area to 7,993 square feet to complete lot line adjustment (from 236 N. Queen Street parcel to 235 N. Newcomb Street parcel) to resolve garage and shed encroachment issue.
3. Open public hearing and provide general description of hearing procedures.
4. Presentation by applicant.
5. Statement by Neighborhood Services Director.
6. Comments by any member of the public wishing to speak and a description by the Chairperson of any written submissions from the public that will be received into the record.
7. Provide applicant a response opportunity.
8. Board deliberations of case and Board issues a decision and oral findings supporting the decision on variance request.
A written decision and written findings will be issued on a later date.
9. Secretary presents the second case to be heard:
 - a. 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).
10. Open public hearing and provide general description of hearing procedures.
11. Presentation by applicant.

12. Statement by Neighborhood Services Director.
13. Comments by any member of the public wishing to speak and a description by the Chairperson of any written submissions from the public that will be received into the record.
14. Provide applicant a response opportunity.
15. Board deliberations of case and Board issues a decision and oral findings supporting the decision on variance request.
A written decision and written findings will be issued on a later date.
16. Adjourn.



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

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: January 30th, 2014
 Re: Variance request for 236 N. Queen Street for Michael and Maria Cervantez to reduce the minimum lot area requirement of 8,000 square feet to 7,993 square feet for a lot line adjustment to resolve a garage and shed encroachment issue.

Summary of Request

Location: 235 N. Newcomb Street
 236 N. Queen Street

Current Land Use: Single Family

Current Zoning: R-2 One and Two Family Residence

Description

Michael and Maria Cervantez have requested a variance to reduce the minimum lot area requirement of 8,000 square feet to 7,993 square feet for a lot line adjustment to resolve a garage and shed encroachment issue located at 236 N Queen Street. City Code Section 19.18.040 (A) states that the minimum lot area in the R-2 district is 8,000 square feet for a single family residence.

The garage was built on top of the property line between 235 N. Newcomb Street and 236 N. Queen Street. The shed was built on the other side of the property line. A survey from 2006 has been included in the packet. The applicant would like move the property line to allow both accessory structures to be located on 235 N Newcomb Street. The minimum setback for accessory structures is five (5) feet.

If the Board of Zoning Appeals approves this variance, the applicant will need to submit a certified copy of the lot line adjustment and properly record the adjustment with Walworth County.

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
Findings prerequisite to grant a variance (see section 19.72.080 of zoning ordinance)		

Standard	Evaluation	Comments
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 structure has already been built. Moving the lot line is one option to remedy this situation.
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	This request is very specific to these two 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 that this variance is requested so that the parcel owner and neighbor can clear up the title to their property.
The hardship is not one that is self-created	Yes	The structures already exist. To allow the structure to be located on one lot, without moving it, a lot line adjustment would be needed.
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 structures already exist.
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 19.46.070(C)(4) of this title.	NA	The west side of this property is not located in a floodland nor a shoreland.

PUBLISH IN WHITEWATER REGISTER ON JANUARY 9, 2014,
JANUARY 16, 2014 AND JANUARY 23, 2014

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 January 30, 2014 at 6:00 p.m. in the Whitewater Municipal Building Community Room, 312 W. Whitewater Street, Whitewater, Wisconsin.

Applicant: Michael and Maria Cervantez

Property Location: 235 N. Newcomb Street (Tax Parcel /PC 0005A) and
236 N. Queen Street (Tax Parcel /PC 00006)

Applicable Code: 19.18.040 requires minimum lot area of 8000 square feet.

Variance Requested: Reduction of minimum lot area to 7,993 square feet.

Reason for Request: To complete lot line adjustment (from 236 N. Queen Street parcel to 235 N. Newcomb Street parcel) to resolve garage and shed encroachment issue.

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, Secretary, BZA

Dated: January 7, 2014

TaxKey	Owner1	Owner2	Address1	City	State	Zip
/A 3500001	DORIS MCQUILLIN		306 N. NEWCOMB ST	WHITEWATER	WI	53190-0000
/A 3500002	ROGER C TOPP	LULA J TOPP	642 E. CRAVATH ST	WHITEWATER	WI	53190-0000
/BEL 00001	ELIZABETH L MEYER TRUST	STANLEY C MEYER TRUST	645 W HARPER	WHITEWATER	WI	53190-6611
/BEL 00002	WAYNE R WILSON	KARLEEN J WILSON	214 N. NEWCOMB ST	WHITEWATER	WI	53190-0000
/BEL 00002A	BEVERLY J STONE	DAVID N STONE	PO BOX 291	WHITEWATER	WI	53190-0291
/BEL 00003	HARRIET J STRITZEL TRUST		530 SOUTH JANESVILLE AVE	WHITEWATER	WI	53190-0000
/BEL 00006	MARY SQUIRE ESTATE LLC	DALE R WOLF	1645 W WILDWOOD DR	WHITEWATER	WI	53190-0000
/BEL 00007	CAROLL KOCH	ROMELLE KOCH	1180 BLOOMINGFIELD DR #101	WHITEWATER	WI	53190-0000
/BEL 00007A	FEDERAL HOME LOAN MORTGAGE		2001 BISHOPS GATE BLVD	MT LAUREL	NJ	08054-0000
/PC 00002	ROY D GARLOCK	KAREN S GARLOCK	327 NEWCOMB ST	WHITEWATER	WI	53190-0000
/PC 00003	JACQUELINE L GREEN		110 WESTMORE DR	DES PLAINES	IL	60016-0000
/PC 00004	LINDA L LOOMER TRUST		726 E CRAVATH ST	WHITEWATER	WI	53190-1444
/PC 00005	JANET L KYLE		241 N NEWCOMB ST	WHITEWATER	WI	53190-0000
/PC 00005A	DEAN A HOLLINGER		235 N NEWCOMB ST	WHITEWATER	WI	53190-1429
/PC 00006	MICHAEL CERVANTEZ	MARIA D VERDUZCO	236 QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00007	THOMAS D SWAN	RAYLENE A BRUNER	228 N QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00008	JAMES E LAMPEN		229 N. NEWCOMB ST	WHITEWATER	WI	53190-0000
/PC 00009	MARY ANN HIGGINS		P. O. BOX 411	WHITEWATER	WI	53190-0411
/PC 00010	JAMES E OLSEN	MICHELLE L OLSEN	216 N. QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00011	JULIE GAPP		104 E HILLTOP TR	FORT ATKINSON	WI	53538-0000
/PC 00012	BETTY PFEIFER		204 N. QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00012A	MIGUEL GOMEZ		201 N NEWCOMB ST	WHITEWATER	WI	53190-0000
/PC 00013	LEE L DANIELS TRUST	ROBERT KASTIN, TRUSTEE	3445 CEDAR DR	PARK CITY	UT	84098-0000
/PC 00014	HOWARD J HIGGINS	SUSAN E HIGGINS	233 N. QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00014A	MARK S WILLEY	DEBBIE R WILLEY	241 N. QUEEN ST	WHITEWATER	WI	53190-0000
/PC 00015	EUGENE MADAJ	TERESA MADAJ	W4285 SPORLEDER RD	ELKHORN	WI	53121-0000
/PC 00016	CAROLL KOCH	ROMELLE KOCH	1180 BLOOMINGFIELD DR #101	WHITEWATER	WI	53190-0000
/PC 00017	DEAN A HOLLINGER		235 N NEWCOMB ST	WHITEWATER	WI	53190-1429
/PC 00018	CAROLL KOCH	ROMELLE KOCH	1180 BLOOMINGFIELD DR #101	WHITEWATER	WI	53190-0000
/PC 00019	ROBERT J BUGHMAN	MARY PAT BUGHMAN	W6260 BLUFF RD	WHITEWATER	WI	53190-0000
/WUP 00029	THOMAS R TILLUNG		324 N. NEWCOMB ST	WHITEWATER	WI	53190-0000
/WUP 00030	DOROTHY A POEHLER		318 N. NEWCOMB ST	WHITEWATER	WI	53190-1432
/PC 00013	LEE L DANIELS TRUST	LEE DANIELS	435 W. STARIN ROAD	WHITEWATER	WI	53190-0000
/PC 00013A	JUDIE L OSGOOD		249 QUEEN ST	WHITEWATER	WI	53190-0000

Seymour, Kremer, Koch, Lochowicz & Duquette LLP.
Attn: Kathilynne A. Grotelueschen
23 N. Wisconsin Street
P.O. Box 470
Elkhorn, WI 53121

**CITY OF WHITEWATER
APPLICATION FOR VARIANCE**

IDENTIFICATION AND INFORMATION ON APPLICANT(S)

Applicant's Name: Michael and Maria Cervantez

Applicant's Mailing Address 236 N. Queen St., Whitewater, WI 53190

Owner of Property Site as of date of application, according to current property tax records: _____
Michael and Maria Cervantez

Street Address of Property (if vacant land, describe in detail the property location): _____
236 N. Queen St., Whitewater, WI 53190

Legal Description of Property (Name of Subdivision, Block and Lot, or other legal description):
THE NORTH 1/2 OF THE EAST 1/4 OF LOT 5, BLOCK 1 IN THE PLAT OF CORYDON PRATTS
ADDITION, CITY OF WHITEWATER, COUNTY OF WALWORTH, STATE OF WISCONSIN

Agent or Representative Assisting in the Application (Engineer, Architect, Attorney, Etc.)
Name Kathilynne Grotelueschen Firm Seymour, Kremer, Koch, Lochowicz & Duquette LLP

Office Address 23 N. Wisconsin St. P.O. Box 470, Elkhorn, WI 53121

Contractor _____

EXISTING AND PROPOSED USES

Current Principal Use: Residential

Accessory or Secondary Uses: n/a

Proposed Use (Describe need for Variance): _____

Residential. Variance is needed so that the lot complies with area size ordinances after a proposed lot line adjustment is completed.
Specifically, the lot line adjustment would leave the property at 7,993 square feet, in violation of the 8,000 square foot minimum requirement
found in section 19.18.040(A) of the City of Whitewater Municipal Code.

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 District

No. of Occupants Proposed to be Accomodated: 2 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: section 19.18.040(A)

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>If the strict letter of the lot area regulations were to be carried out on this property, the applicants would not be able to make the requested lot line adjustment. This in turn, would result in the applicants owning property on which their neighbor inadvertently built part of his garage and a shed. The value of both this parcel and the neighbors parcel would be reduced and the applicants or any successive owners would have difficulty selling the property in the future.</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>This application is made based upon the unique circumstances in this case. The applicants are requesting a variance in regards to lot area requirements so that they can execute a lot line adjustment, selling the part of their parcel on which their neighbor built part of his garage and shed to said neighbor. It is unlikely that many other R-2 zoned properties would be in the same situation where a neighbor built upon their property.</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>The variance requested by the parcel owner is not based exclusively upon a desire for economic or other material gain. This variance is requested so that the parcel owner and neighbor can clear up the title to their property. With both parcels in their current state, property values are lower and litigation is ongoing.</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>The proposed variance will have little effect on the current state of affairs. It will simply allow the parcel owners to transfer ownership of a small portion of their property to the neighbor who has already built part of his garage and a shed on that portion of the property. The lot area difference of 7 square feet will not impair the supply of light and air to adjacent property, will not increase congestion in public streets, or endanger public safety. It also will not substantially impair or diminish property values within the neighborhood. To the contrary, allowing the variance for the proposed lot line adjustment will increase the property values of the two parcels at issues, and therefore, increase the property values within the neighborhood.</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

Kathleen Stratton
Attorney for Applicants

Date

11/20/13

APPLICATION FEES

(to be completed by City)

Fee for Variance application - \$200.00

Date fee received by City 11-21-13

Receipt # 6.010882

Received by: J. Wegner

Date Notice sent to owners of record: 12-23-13 By J. Wegner

Date(s) published in Whitewater Register: December 26, 2013 + January 2, 2014

Date set for Hearing before Board of Zoning Appeals: January 16, 2014

Date set for Hearing before the Board of Zoning Appeals: Changed to January 30, 2014
Dates published in the Whitewater Register: Jan. 9, Jan. 16, & Jan. 23, 2014
Date Notices were sent to owners of record: January 14, 2014

AGREEMENT OF SERVICES

REIMBURSABLE BY THE PETITIONER/APPLICANT. The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission, Board of Zoning Appeals and/or Common Council. The submittal of a development proposal application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. The City may apply the charges for these services to the Petitioner and/or property owner. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until the Petitioner pays such fees. Review fees which are applied to a Petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property. The Petitioner shall be required to provide the City with an executed copy of the following form as a prerequisite to the processing of the proposed application (Architectural Review, B.Z.A., Planning, Zoning Change):

Maria and Michael Cervantez, the applicant/petitioner for

(Owner's Name): Maria and Michael Cervantez, dated: November 13, 2013

Phone # 920-650-5703, tax key #(s) PC 00006

Agrees that in addition to those normal costs payable by an applicant/petitioner (e.g. filing or permit fees, publication expenses, recording fees, etc.), that in the event the action applied or petitioned for requires the City of Whitewater, in the judgement of its staff, to obtain additional professional service(s) (e.g. engineering, surveying, planning, legal) than normally would be routinely available "in house" to enable the City to properly address, take appropriate action on, or determine the same, applicant/petitioner shall reimburse the City for the costs thereof.

Dated this 13th day of November, 200¹³.

 (Signature of Applicant/Petitioner)

Maria Cervantez (Printed Name of Applicant/Petitioner)

 (Signature of Owner of Property & Date Signed)

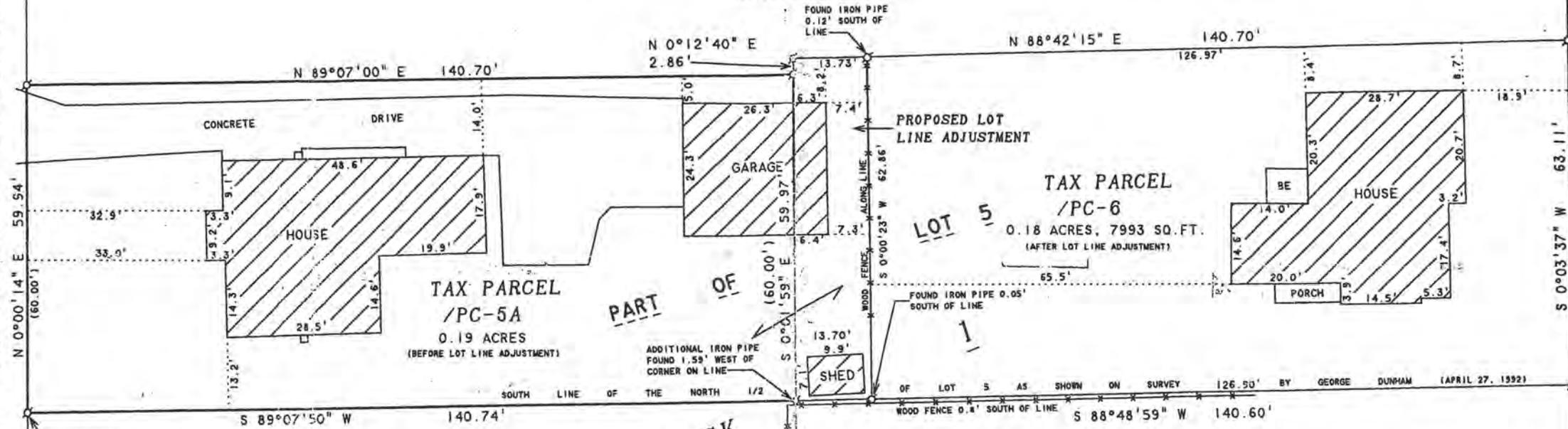
Michael Cervantez (Printed Name of Owner of Property)

ABELL SURVEYING & MAPPING

1140 SEQUOIA STREET • DELAWARE, WISCONSIN 53115
262-726-6737

NORTH NEWCOMB STREET

NORTH QUEEN STREET



PLAT OF SURVEY OF

THE SOUTH 60.00 FEET OF THE NORTHWEST 1/4 OF LOT 5, BLOCK 1, CORYDON PRATTS ADDITION, CITY OF WHITEWATER, WALWORTH COUNTY, WISCONSIN.

TOGETHER WITH A PROPOSED LOT LINE ADJUSTMENT BETWEEN THE ABOVE DESCRIBED PARCEL (TAX PARCEL /PC-5A) AND TAX PARCEL /PC-6. THE PROPOSED LOT LINE ADJUSTMENT IS DESCRIBED AS FOLLOWS: A PARCEL OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 3, T4N, R15E, CITY OF WHITEWATER, WALWORTH COUNTY, WISCONSIN AND BEING PART OF LOT 5, BLOCK 1, CORYDON PRATTS ADDITION TO THE CITY OF WHITEWATER AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON PIPE MARKING THE SOUTHWEST CORNER OF THE NORTH 1/2 OF LOT 5, BLOCK 1 OF SAID CORYDON PRATTS ADDITION; THENCE N 89°07'50" E 140.74 FEET ALONG THE SOUTH LINE OF SAID NORTH 1/2 TO AN IRON PIPE AND THE PLACE OF BEGINNING; THENCE N 0°01'59" W 59.97 FEET TO AN IRON PIPE; THENCE N 0°12'40" E 2.86 FEET TO AN IRON PIPE; THENCE N 88°42'15" E 13.73 FEET TO AN IRON PIPE; THENCE S 0°00'23" W 62.86 FEET TO AN IRON PIPE; THENCE S 88°48'59" W 13.70 FEET TO AN IRON PIPE AND THE PLACE OF BEGINNING, CONTAINING 0.02 ACRES OF LAND.

BLOCK

BEARINGS ARE REFERENCED TO EXISTING SURVEY RECORDS.



SCALE 1" = 20'

LEGEND

- ⊙ - IRON PIPE FOUND
- BE - BASEMENT ENTRY
- () - RECORDED AS

THIS IS A RETRACEMENT OF A SURVEY BY GEORGE DUNHAM DATED APRIL 27, 1992

ORDERED BY: ATTY. SAM SOFFA
SOFFA, DEVITT & SPEAR
332 W. WHITEWATER STREET
WHITEWATER, WI 53190

OWNERS: DEAN AND HARRIET HOLLINGER

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY 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, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

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 (1) YEAR FROM DATE HEREON.

David F. Abell

DAVID F. ABELL
WISCONSIN REGISTERED LAND SURVEYOR, S-1596

March 23, 2006

DATE _____ JOB NUMBER - 06021
NOTE: THIS IS NOT A CERTIFIED COPY UNLESS SEALED.



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

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: January 30, 2014
 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 March 10, 2014 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
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Standard	Evaluation	Comments
Findings prerequisite to grant a variance (see section 19.72.080 of zoning ordinance)		
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 19.46.070(C)(4) of this title.	NA	This property is not in a flood plain

PUBLISH IN WW REGISTER NEXT THREE WEEKS (JAN 9, JAN 16 & JAN 23)

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 January 30, 2014 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, Secretary, BZA

Dated: January 7, 2014

TaxKey	Owner1	Owner2	Address1	Address2	City	State	Zip
/A43860001	CATCON WHITEWATER LLC		225 E MASON ST STE 600		MILWAUKEE	WI	53202-0000
/WUP 00132A	BOARD OF REGENTS STATE UNIVERSITIES		800 W. MAIN ST		WHITEWATER	WI	53190-0000
/WUP 00132B	BOARD OF REGENTS UNIVERSITY OF WISCONSIN		1746 VAN HISE HALL	1220 LINDEN DR	MADISON	WI	53706-0000
/WUP 00133	BOARD OF REGENTS STATE UNIVERSITIES		PO BOX 912		MADISON	WI	53702-0000
/WUP 00134	BOARD OF REGENTS UNIVERSITY OF WISCONSIN		1930 MONROE ST.	P.O. BOX 8010	MADISON	WI	53708-0000
/WUP 00134A	BOARD OF REGENTS STATE COLLEGES				WHITEWATER	WI	53190-0000
/WUP 00135	BOARD OF REGENTS UNIVERSITY OF WISCONSIN SYSTEM		P.O. BOX 8010		MADISON	WI	53708-0000
/WUP 00137	BOARD OF REGENTS STATE COLLEGES				WHITEWATER	WI	53190-0000
/WUP 00138	BOARD OF REGENTS OF STATE COLLEGES				WHITEWATER	WI	53190-0000
/WUP 00138A	BOARD OF REGENTS OF STATE UNIVERSITIES				WHITEWATER	WI	53190-0000
/WUP 00138B	BOARD OF REGENTS OF UNIVERSITY OF WISCONSIN SYSTEM		PO BOX 8010		MADISON	WI	53708-0000
/WUP 00138C	BOARD OF REGENTS OF STATE UNIVERSITIES				WHITEWATER	WI	53190-0000
/WUP 00138D	BOARD OF REGENTS OF STATE UNIVERSITIES				WHITEWATER	WI	53190-0000
/WUP 00138E	BOARD OF REGENTS OF STATE UNIVERSITIES				WHITEWATER	WI	53190-0000
/WUP 00139A	BOARD OF STATE COLLEGES				WHITEWATER	WI	53190-0000
/WUP 00150	LEE L DANIELS TRUST	Robert Kantin, Trustee	3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00150A	DLK ENTERPRISES INC		141 W. WHITEWATER ST	PO BOX 239	WHITEWATER	WI	53190-0000
/WUP 00178A	CATCON WHITEWATER LLC		225 E MASON ST STE 600		MILWAUKEE	WI	53202-0000
/WUP 00178B	JOHN J TINCHER		N1190 CO RD N		WHITEWATER	WI	53190-0000
/WUP 00179	WHITEWATER DEVELOPMENT LLC		P. O. BOX 239		WHITEWATER	WI	53190-0000
/WUP 00180	LEE L DANIELS TRUST		3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00181	248 N PRINCE LLC		W9597 BREIDSAN HILLS DR		WHITEWATER	WI	53190-0000
/WUP 00181A	LEE L DANIELS TRUST		3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00182	STARIN PRINCE RENTALS LLC		W9597 BREIDSAN HILLS DR		WHITEWATER	WI	53190-0000
/WUP 00182A	DLK ENTERPRISES INC		P. O. BOX 239		WHITEWATER	WI	53190-0000
/WUP 00183C	LEE L DANIELS TRUST		3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00183D	LEE L DANIELS TRUST		3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00183E	LEE L DANIELS TRUST		3445 CEDAR DR		PARK CITY	UT	84098-0000
/WUP 00183F	WHITEWATER DEVELOPMENT LLC		PO BOX 239		WHITEWATER	WI	53190-0000
/WUP 00183H	WHITEWATER DEVELOPMENT LLC		PO BOX 239		WHITEWATER	WI	53190-0000
/WUP 00183I	WHITEWATER DEVELOPMENT LLC		PO BOX 239		WHITEWATER	WI	53190-0000
/WUP 00183K	CAROL A CARSON		1017 ARTHUR LN		DARLINGTON	WI	53530-1016
/WUP 00184	WHITEWATER DEVELOPMENT LLC		PO BOX 239		WHITEWATER	WI	53190-0000
	LEE L DANIELS TRUST	LEE L DANIELS	435 W. STARIN ROAD		WHITEWATER	WI	53190-0000

**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. Soffa 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\$ ~~0~~
- C. Total Cost Expected of Applicant (A+B).....\$ ~~0~~
- 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

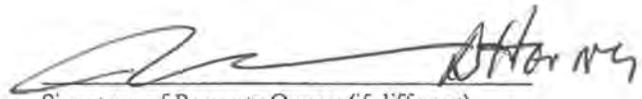
----- To be filled out by the Applicant and Property Owner -----

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: _____

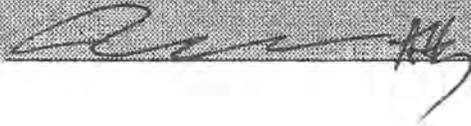
STANDARDS	
The following are Standards that the City of Whitewater Zoning Ordinance sets for decisions on variances. Explain how your proposal meets these standards.	
STANDARD	APPLICANT'S EXPLANATION
A. The particular physical surroundings, shape, or topographical conditions of the specific property 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
Received by: J. Wegner

Receipt # 6.010717

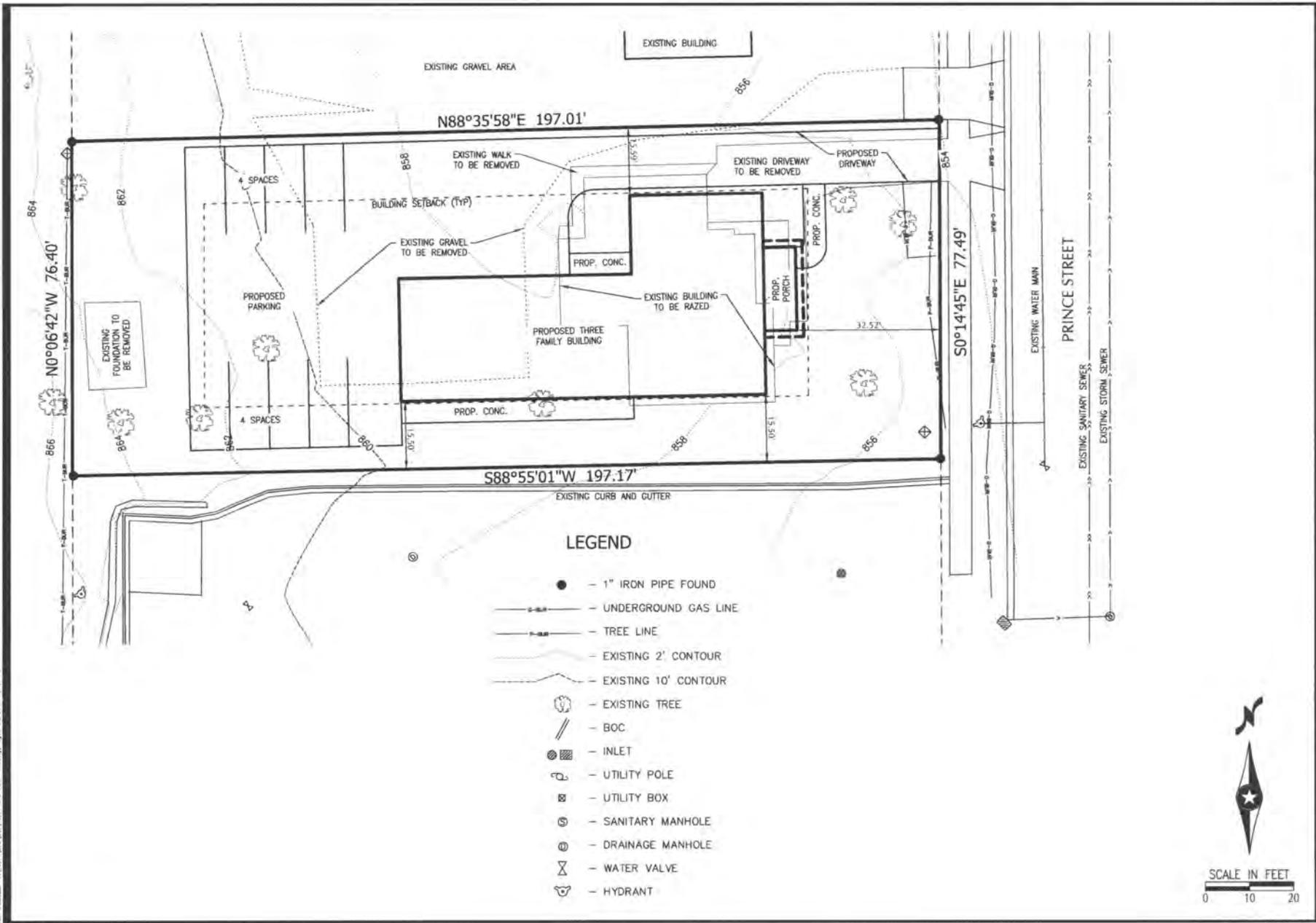
Date Notice sent to owners of record: 9-11-13 By J. Wegner

Date(s) published in Whitewater Register: Sept 5 + Sept 12, 2013

Date set for Hearing before Board of Zoning Appeals: Sept. 26, 2013

Second Hearing before the Board of Zoning Appeals: January 30, 2014
Dates published in the Whitewater Register: Jan. 9, Jan. 16, & Jan. 23, 2014
Date Notices were sent to owners of record: January 14, 2014

Date: 8/20/2013 11:50:11 AM P:\10071\DWG\10071\DWG\10071.dwg Thursday, August 29, 2013 12:52:57 PM



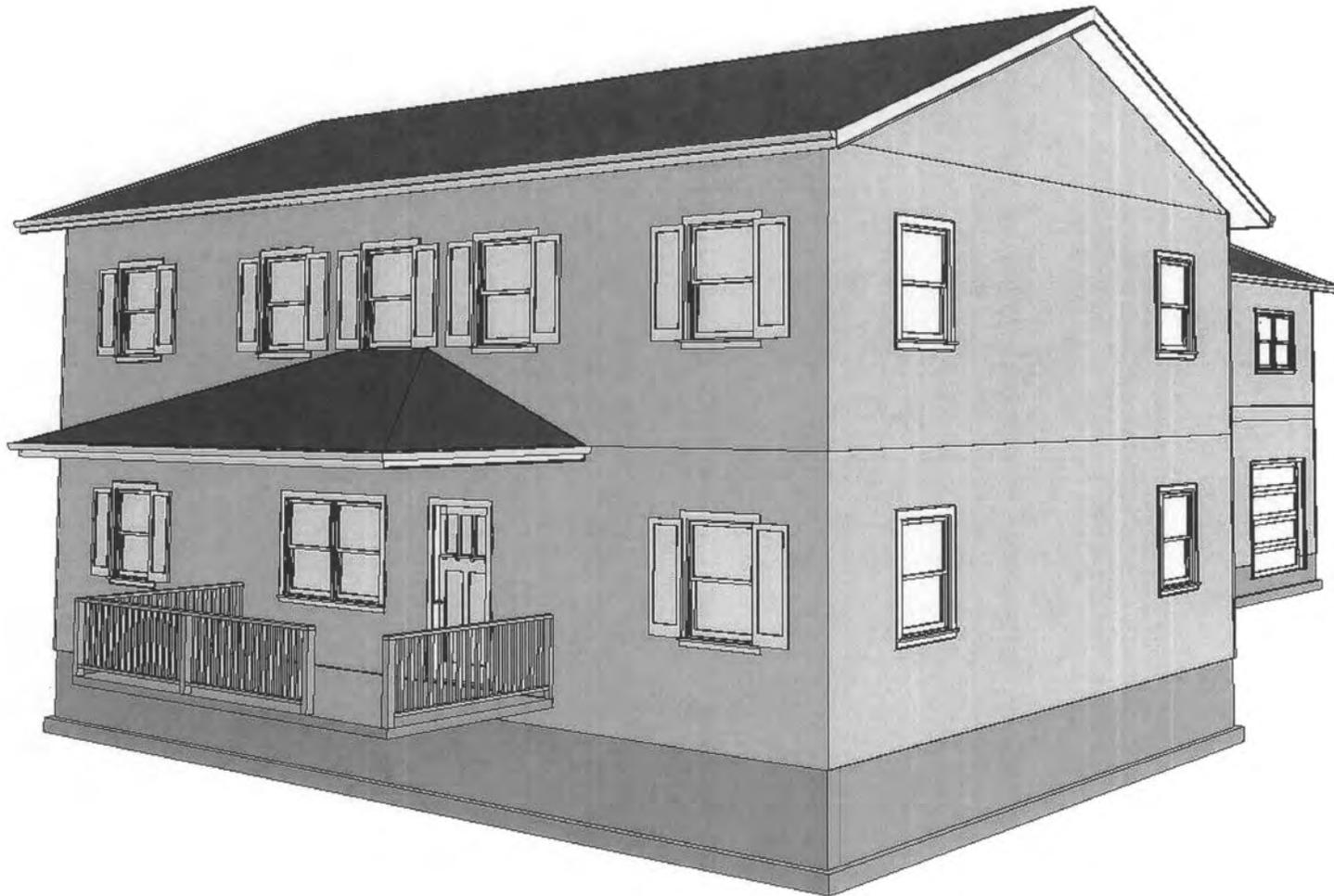
- LEGEND**
- - 1" IRON PIPE FOUND
 - — — — — UNDERGROUND GAS LINE
 - — — — — TREE LINE
 - — — — — EXISTING 2' CONTOUR
 - — — — — EXISTING 10' CONTOUR
 - 🌳 - EXISTING TREE
 - ▨ - BOC
 - ⊗ - INLET
 - 📍 - UTILITY POLE
 - ⊠ - UTILITY BOX
 - ⊙ - SANITARY MANHOLE
 - ⊕ - DRAINAGE MANHOLE
 - ⌘ - WATER VALVE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



ENGINEERS
 LANDSCAPE ARCHITECTS
 SURVEYORS PLANNERS
 101 MAPLE AVENUE
 GREEN TIER
 GREEN TIER

WHITEWATER MULTI-FAMILY HOUSING PLAN
 WHITEWATER, WISCONSIN
 SITE PLAN

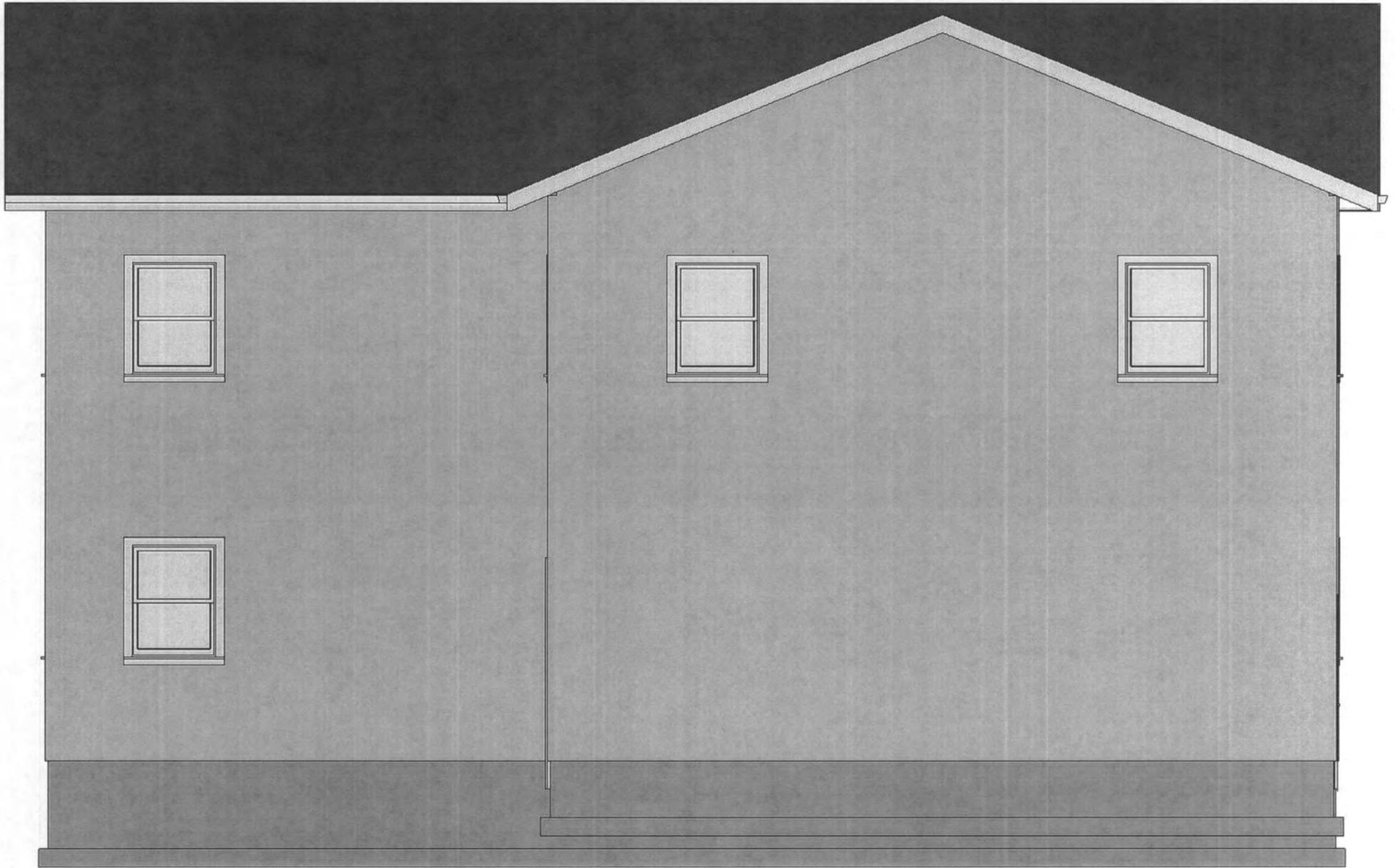
PROJECT NUMBER	18071
DATE	AUGUST 2013
DRAWN BY	T. WILLIAMSON
CHECKED BY	M. COONEY
BY VISUAL DESIGN	
SHEET NUMBER	1



Front



Side View



End View



Back



Garage Side

